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Monday
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Presidential Documents

Title 3—

The President

Proclamation 4899 of February 18, 1982

Red Cross Month, 1982

By the President of the United States of America

A Proclamation

The Red Cross provides help to the destitute, the suffering, and the distressed and, in so doing, nourishes those basic attitudes and values essential to mankind's survival.

For 101 years the American Red Cross has provided a humanitarian banner under which men and women of goodwill unite. By joining and serving, each American can become a "Good Neighbor."

As our Nation looks increasingly to the dynamic forces of the private sector to address the problems of our communities, the Red Cross' role of channeling and coordinating volunteer efforts into productive activities will grow. Recognizing its expanding responsibilities, the Red Cross has recently undertaken an ambitious, ten-year program to help improve the health of every American. This program is based on the simple concept that individuals play the principal role in reducing major health risks to themselves.

Through membership in the Red Cross, we can reach out to the world, to our country, and to our community—not only to help those in adversity but also to arm ourselves and others with information to deal effectively in matters of health and safety. Moreover, we can help the Red Cross fulfill its traditional responsibility of providing essential communication, welfare, and educational services to members of our Armed Forces in time of peace or war.

Although chartered by Congress to perform specific duties, the Red Cross relies upon the time and funds of each of us to carry out its work. I urge the American people to assist our Red Cross by giving financial aid and volunteering their time so that, as the 1982 Red Cross theme says, "Together We Can Change Things."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America and Honorary Chairman of the American National Red Cross, do hereby designate March 1982 as Red Cross Month.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of Feb. in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-4848
Filed 2-18-82; 4:05 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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Monday, February 22, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 318 and 381

[Docket No. 81-043F]

Use of Fumaric Acid in Meat and Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal meat inspection regulations and the poultry products inspection regulations to permit the use of fumaric acid as a cure accelerator in cured, comminuted meat and poultry products. The use of fumaric acid for this purpose will result in shorter preparation times and other production efficiencies.

EFFECTIVE DATE: March 24, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. Daniel D. Jones, Chief, Standards Branch, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-7503.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has made a determination that this final rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The Agency considered the following alternatives:

1. Denying the use of fumaric acid in meat and poultry products.

2. Proposing an amendment to the regulations to permit the use of fumaric acid as a cure accelerator in comminuted cured meat and poultry products. Alternative 2 was selected and proposed to provide industry with an additional cure accelerator at the option of the processor. If the processor decides to use the curing accelerator, he would incur the cost of reordering new labels to identify fumaric acid as an ingredient. However, the option to use fumaric acid is voluntary.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601). It is anticipated that the economic impact on small entities would be minimal since it merely provides an additional substance which may be used at the discretion of the affected establishments. The only new costs identified are those due to the reordering of labels which would specify fumaric acid as an ingredient. The processor's choice to use fumaric acid in the product formulation and incur new labeling costs is voluntary and he can still choose to not use fumaric acid until his current label supply is utilized, which would lessen the cost of labeling. Therefore, the cost of labeling to small processing plants is optional and not substantial as it can be minimized.

Background

This final rule provides for the addition of fumaric acid to the tables of approved substances as a curing accelerator in cured, comminuted meat and poultry products. The Federal meat inspection regulations (9 CFR 318.7(c)(4)) presently permit the use of the following substances as curing accelerators in meat or meat food products: Ascorbic acid, erythorbic acid, glucono delta lactone, sodium acid pyrophosphate, sodium ascorbate, sodium erythorbate, and citric acid or sodium citrate. The Federal poultry products inspection regulations (9 CFR 381.147(f)(3)) presently permit the use of the following substances as curing accelerators in poultry or poultry products: Ascorbic acid, erythorbic acid, sodium ascorbate, sodium erythorbate, and citric acid or sodium citrate.

The Proposal

On January 6, 1981, the Agency published a proposal in the Federal Register (46 FR 1286) to permit the use of fumaric acid as a cure accelerator in cured, comminuted meat and poultry products. The proposal discussed results of tests conducted by the Meat and Poultry Inspection Program (MPI) in 1968, which confirmed proponent's claims that fumaric acid accelerates color fixing in such products, allows the use of higher cooking temperatures and correspondingly shorter preparation time, and improves the "peelability" of cooked sausages making automatic peeling machines more efficient. Data from various processors using fumaric acid submitted also in 1968 supported the above claims.

The comment period for the proposal ended on April 6, 1981. The Agency received only three comments which were from consumers expressing a general opposition to the use of food additives. They questioned the safety of fumaric acid, as well as the justification for its use in cured, comminuted meat and poultry products.

Adoption of Final Rule

Food additives are closely regulated and must be shown to be safe as well as functional under the Federal Food, Drug, and Cosmetic Act before they may be used in food. Both the Federal Meat Inspection Act and the Poultry Products Inspection Act, and the regulations promulgated pursuant thereto, prohibit the use of food additives in meat food products and poultry products, which are prohibited under section 409 of the Federal Food, Drug, and Cosmetic Act. Additionally, even if a food additive is not prohibited under that section, the Secretary may prohibit the use of such additive in meat and poultry products. Under the regulations promulgated under the Federal Meat Inspection Act and the Poultry Products Inspection Act, no substance may be used in the preparation of meat or poultry products unless its use is specifically approved in the regulations.

When used in accordance with the applicable regulations, food additives serve to promote the technical quality

and consumer acceptability of processed foods and to minimize economic losses due to spoilage. Before approving a food additive, the Food and Drug Administration (FDA) gives full consideration to the specific biological properties of the food additive and the adequacy of the methods employed to demonstrate its safety. In addition, FDA gives due consideration to the anticipated patterns and levels of consumption of the food additive either specified or reasonably inferred.

Fumaric acid is a food additive regulated for use by FDA (21 CFR 172.350). When prepared according to specifications, it is safe for use in food "at a level not in excess of the amount reasonably required to accomplish the intended effect."

The efficacy of fumaric acid as a curing accelerator in cured, comminuted meat and poultry products has been established in tests conducted by the MPI in 1968.[1]

Therefore, after thorough review of the comments received on the proposal, the Agency concludes that the amount and specificity of data on the safety, efficacy and history of the use of fumaric acid justify the adoption of the final rule as proposed.

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

Accordingly, the Federal meat and poultry products inspection regulations are amended as follows:

1. The authority citation for 9 CFR Part 318 is amended to read as follows:

Authority: 34 Stat. 1260, 70 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

2. In that portion of the chart in § 318.7(c)(4) of the Federal meat inspection regulations (9 CFR 318.7(c)(4)) dealing with the "Class of substance" identified as "Curing accelerators; must be used only in combination with curing agents," the following information is added to the appropriate columns in alphabetical order:

§ 318.7 Approval of substances for use in the preparation of products.

(c) * * *

(4) * * *

Class of substance	Substance	Purpose	Products	Amount
Curing accelerators; must be used only in combination with curing agents.	Fumaric acid	To accelerate color fixing.	Cured, comminuted meat or meat food products.	0.065 percent (or 1 oz to 100 lb) of the weight of the meat or meat byproducts, before processing.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for 9 CFR Part 381 is amended to read as follows:

Authority: Section 14, Poultry Products Inspection Act, as amended by the Wholesome Poultry Products Act (21 U.S.C. 451 *et seq.*); Talmadge-Aiken Act of September 18, 1962 (7 U.S.C. 450); and subsection 21(b), Federal Water Pollution Control Act, as amended by Pub. L. 91-224 and by other laws (33 U.S.C. 1254).

4. In that part of the chart in § 381.147(f)(3) of the poultry products inspection regulations (9 CFR 381.147(f)(3) dealing with the "Class of substance" identified as "Curing accelerators; must be used only in combination with curing agents," the following information is added to the appropriate columns in alphabetical order:

[1] Copies of the test results may be obtained from the Standards and Labeling Division, Meat and Poultry Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

§ 381.147 Restrictions on the use of substances in poultry products.

(f) * * *

(3) * * *

Class of substance	Substance	Purpose	Products	Amount
Curing accelerators; must be used only in combination with curing agents.	Fumaric acid	To accelerate color fixing.	Cured, comminuted poultry or poultry products.	0.065 percent (or 1 oz to 100 lb) of the weight of the poultry or poultry byproducts, before processing.

Done at Washington, D.C., on February 2, 1982.

L. L. Gast,

Acting Administrator, Food Safety and Inspection Service.

[FR Doc. 82-4734 Filed 2-19-82; 8:45 am]

BILLING CODE 3410-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 15

Debt Collection Procedures

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations by adding a new Part which establishes the procedures that NRC will follow to collect debts which are owed to it. The procedures are based upon the Federal Claims Collection Standards issued by the General Accounting Office (GAO) and the U.S. Department of Justice (DOJ), as amended on July 31, 1981. The Federal Claims Collection Act provides that these precedures be issued as regulations. The procedures will enable the NRC to improve its collection of debts.

EFFECTIVE DATE: March 24, 1982.

FOR FURTHER INFORMATION CONTACT: Graham D. Johnson, Deputy Director, Division of Accounting, Office of the Controller, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (Telephone 301-492-7535).

SUPPLEMENTARY INFORMATION:

Background

On September 23, 1981, the Nuclear Regulatory Commission published a proposed rule (46 FR 46960-46964) inviting comments for 45 days ending November 9, 1981.

Recent studies by the Executive Branch Debt Collection Project and the GAO reveal that more than $25 billion of the $175 billion in debts owed to the United States are either delinquent or in default. The President directed in the 1982 Budget Revisions that the collection of amounts owed to the Government be improved. The Supplemental Appropriations and Rescission Act, 1980 (Pub. L. 96-304), requires agencies covered by the Act, including the NRC, to improve the collection of overdue debts owed to the United States and to bill interest on delinquent debts. This part improves NRC's collection of debts by—

(a) Informing debtors that NRC's collection procedures are based upon the Federal Claims Collection Standards;

(b) Specifying the content of progressively stronger demand letters;

(c) Informing debtors that late payment charges are added if debts are not paid on the due date;

(d) Advising debtors in certain instances to provide affidavits, cancelled checks, or other evidence to support assertions that a debt is not owed, the debt is less than the amount claimed, or the debtor is unable to pay in full or in installments;

(e) Requiring payments in installments to include interest and, if appropriate, to be secured;

(f) Giving debtors the right to an interview and the right to notice of an offset;

(g) Giving debtors the opportunity for a hearing if issues of credibility and veracity are involved; and

(h) Referring debts for collection by a private agency.

This Part applies to the collection of a debt initially asserted by the NRC after March 24,1982.

Response to Comments

In response to the comments received during the comment period, the NRC has amended the proposed rule.

One comment indicated that § 15.29 of the proposed rule could be construed as allowing suspension or revocation of any licensed activity under any circumstances for non-payment of any ordinary fee, and, if so construed, § 15.29 would be inconsistent with 4 CFR 102.8. The commenter requested that § 15.29 be reworded to provide only that a license may be withheld until the prescribed fee for that license has been paid. In response, §§ 15.21(b)(3)(iii) and 15.29 have been reworded to limit a suspension or revocation to the license involved in the non-payment of a debt. However, in the case of any inexcusable, prolonged or repeated failure of a debtor to pay a debt, the NRC may suspend or revoke licenses unrelated to the debt. In either situation, the suspension or revocation would not occur until after the debtor has had an opportunity to respond to an order to show cause.

Another comment indicated that § 15.37 of the proposed rule could be construed to allow the imposition of late payment charges on a debt initially asserted by the NRC before the effective date of the rule. To negate such a possibility, § 15.37 had been amended to limit its application to debts initially asserted after the effective date of the final rule.

Regulatory Impact. The NRC has determined that this rule does not impose unnecessary burdens on the economy or on individuals. The rule sets out the procedures that NRC uses in collecting debts which are owed the NRC. The procedures, based on the Federal Claims Collection Standards, will improve NRC's debt collection efforts while providing due process protections for the debtor.

Environmental Impact Statement. This rule does not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act. This rule contains no new reporting and recordkeeping requirements and therefore is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act, Pub. L. 96.511.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis has not been prepared. Interest and late payment charges imposed on a small entity will ordinarily not exceed $100 per year. This rule affects small entities billed for byproduct material inspection fees established under 10 CFR 170.32,

Category 3, and for Freedom of Information Act computer tapes, and other reproduction costs. About 1600 billings are issued annually to small entities including physicians in private practice, small hospitals, universities, small consulting firms, public interest groups and other entities involved with radiography and research. Total annual billings to any one small entity are less than $1,000. Past experience shows that 98 to 99% of billings are paid within 120 days after the billing date. The late payment charges imposed on a small entity which pays the debt of $1,000 120 days after the billing date will be $40.47 assuming a current Treasury annual interest rate of 16.19%.

This rule allows a small entity to pay a debt on an installment basis if it is unable to pay a debt in full prior to the due date (ordinarily 30 days after billing date). Such an arrangement requires the payment of interest on the unpaid debt. The annual interest charges imposed on a small entity will be less than $100 assuming maximum billing of $1,000 paid in 12 monthly installments of less than $100 per month and an annual interest rate of 16%. To date no small entities have requested payment of a debt on an installment basis.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, the Federal Claims Collection Act of 1966 (31 U.S.C. 952) and section 553 of Title 5 of the United States Code, notice is hereby given that the NRC is adding a new Part 15 to 10 CFR Chapter 1, as follows:

PART 15—DEBT COLLECTION PROCEDURES

Subpart A—Application and Coverage

Sec.
15.1 Application.
15.3 Communications.
15.5 Claims that are covered.
15.7 Monetary limitation on NRC's authority.
15.9 Omissions not a defense.
15.11 Conversion claims.
15.13 Subdivision of claims.

Subpart B—Administrative Collection of a Claim

15.21 Written demands for payment.
15.23 Telephone inquiries and investigations.
15.25 Personal interviews.
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15.29 Suspension or revocation of a license.
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15.33 Collection by offset.
15.35 Payments.
15.37 Interest and late payment charges.
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Subpart C—Compromise of a Claim

Sec.
15.41 When a claim may be compromised.
15.43 Reasons for compromising a claim.
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15.47 Finality of a compromise.

Subpart D—Suspension or Termination of Collection Action

15.51 When collection action may be terminated or suspended.
15.53 Reasons for suspending collection action.
15.55 Reasons for terminating collection action.
15.57 Termination of collection action.
15.59 Transfer of a claim.

Subpart E—Referral of a Claim

15.61 Prompt referral.
15.63 Referral of a claim to private agencies for collection.
15.65 Referral of a compromise offer.
15.67 Referral to the Department of Justice.

Authority: Secs. 161, 186, 68 Stat. 948, 955, as amended (42 U.S.C. 2201, 2236); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 3, Pub. L. 89-508, 80 Stat. 309 (31 U.S.C. 952); Federal Claims Collection Standards, 4 CFR 101-105.

Subpart A—Application and Coverage

§ 15.1 Application.

(a) These procedures apply to claims for the payment of debts owed to the United States in the form of money or property unless a different procedure is specified in a statute, regulation, or contract. For some debts these procedures apply after special statutory and administrative procedures are exhausted.

(b) The following are examples of kinds of debts to which special statutory and administrative procedures apply:

(1) A claim against an employee for erroneous payment of pay and allowances subject to waiver under 5 U.S.C. 5584 (travel and transportation expenses and allowances and relocation expenses are not subject to waiver under 5 U.S.C. 5584).

(2) A claim involved in a case pending before any Federal Contract Appeals Board or Grant Appeals Board. However, nothing in this part prevents negotiation and settlement of a claim pending before a Board.

§ 15.3 Communications.

Unless otherwise specified, all communications concerning the regulations in this part should be addressed to the Controller, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Communications may be delivered in person at the Commission's offices at 1717 H Street, NW, Washington, D.C. or at 7920 Norfolk Avenue, Bethesda, Md.

§ 15.5 Claims that are covered.

(a) These procedures generally apply to any claim for payment of a debt which—

(1) Results from activities of the NRC; or

(2) Is referred to the NRC for collection.

(b) These procedures do not apply to—

(1) A claim based on a civil monetary penalty for violation of a licensing requirement. Procedures for this type of claim are provided for in § 2.205 of this chapter;

(2) A claim as to which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim;

(3) A claim based in whole or in part on conduct in violation of the antitrust laws; and

(4) A tax claim, as to which differing exemptions, administrative considerations, enforcement considerations, and statutes apply.

§ 15.7 Monetary limitation on NRC's authority.

The NRC's authority to compromise a claim or to terminate or suspend collection action on a claim covered by these procedures is limited by 31 U.S.C. 952(b) to claims that—

(a) Have not been referred to another Federal Agency, including the GAO, for further collection action; and

(b) Do not exceed $20,000, exclusive of interest (the monetary limitation).

§ 15.9 Omissions not a defense.

(a) The failure of the NRC to include in this part any provision of the Federal Claims Collection Standards does not prevent the NRC from applying the provision.

(b) A debtor may not use the failure of the NRC to comply with any provision of this part or of the Federal Claims Collections Standards as a defense.

§ 15.11 Conversion claims.

These procedures are directed primarily to the recovery of money on behalf of the Government. The NRC may demand—

(a) The return of specific property; or

(b) Either the return of property or the payment of its value.

§ 15.13 Subdivision of claims.

The NRC shall consider a debtor's liability arising from a particular transaction or contract as a single claim in determining whether the claim is less than the monetary limitation for the purpose of compromising or suspending or terminating collection action. A claim may not be subdivided to avoid the monetary limitation.

Subpart B—Administrative Collection of a Claim

§ 15.21 Written demands for payment.

(a) The NRC shall make appropriate written demands upon the debtor for payment of money or the return of specific property in terms which specify—

(1) The basis of the indebtedness;

(2) The amount claimed;

(3) A description of any property which is to be returned by a date certain;

(4) The date payment is due (The due date is normally 30 days from the date of the initial written demand. The NRC may determine that circumstances warrant an earlier or later due dated);

(5) The rate of interest used to determine the late payment charge if the debt is not paid in full on or before the due date; and

(6) The applicable policy for reporting the delinquent debt to commercial credit bureaus.

(b) Unless a debtor is a current NRC employee, the NRC shall normally send three progressively stronger written demands at approximately 30-day intervals, unless circumstances indicate that alternative remedies better protect the Government's interest, that the debtor has explicitly refused to pay, or that sending additional demands is useless. Depending upon the circumstances of the particular case, the second and third demands may—

(1) Offer or seek to confer with the debtor;

(2) State the amount of the late payment charge that will be added to the debt each 30 days until the debt is paid (the charge for a full 30-day period will also be applicable to periods of less than 30 days); and

(3) State that the authorized collection procedures include any procedure authorized in this part including—

(i) Contacts with the debtor's employer when the debtor is employed by the Federal Government or is a member of the military establishment or the Coast Guard;

(ii) Possible referral of the debt to a private agency for collection;

(iii) The suspension or revocation of a license or other remedy under § 15.29;

(iv) Installment payments possibly requiring security; and

(v) The right to refer the claim to the GAO or the DOJ for litigation.

(c) The NRC shall normally send only one written demand to a debtor who is a current NRC employee. The NRC follows the procedures described in § 15.33 if full payment is not received by the due date specified in the written demand. If the NRC cannot obtain full payment by following the procedures described in § 15.33, the NRC may follow other collection procedures described in this subpart.

(d) The failure to state in a letter of demand a matter described in § 15.21 is not a defense for a debtor and does not prevent the NRC from proceeding with respect to that matter.

§ 15.23 Telephone inquiries and investigations.

(a) If a debtor has not responded to one or more written demands, the NRC shall make reasonable efforts by telephone to determine the debtor's intentions. If the debtor cannot be reached by telephone at the debtor's place of employment, the NRC may telephone the debtor at his or her residence between 7:00 a.m. and 10:00 p.m.

(b) The NRC may undertake an investigation to locate a debtor if the whereabouts of a debtor is a problem, or if a debtor cannot be contacted by telephone.

(c) The NRC, under 15 U.S.C. 1681(f), may obtain consumer credit information from private firms, including the name, address, former addresses, place of employment, and former places of employment of a debtor.

§ 15.25 Personal interviews.

(a) The NRC shall seek an interview with the debtor at the office of the NRC when—

(1) A matter involved in the claim needs clarification;

(2) Information is needed concerning the debtor's circumstances; or

(3) An agreement for payment might be negotiated.

(b) The NRC shall grant an interview with a debtor upon the debtor's request. The NRC will not reimburse a debtor's interview expenses.

§ 15.27 Contact with debtor's employing agency.

If a debtor is employed by the Federal government or is a member of the military establishment or the Coast Guard, and collection by offset cannot be accomplished in accordance with 5 U.S.C. 5514, the NRC shall contact the employing agency to arrange with the debtor for payment of the indebtedness by allotment or otherwise.

§ 15.29 Suspension or revocation of license.

If an applicant or a licensee fails to pay a debt by the due date, the NRC may suspend or revoke the license or approval involved, if any. For any inexcusable, prolonged or repeated failure of a debtor to pay a debt, NRC may suspend or revoke any license or other privilege which NRC has granted to the debtor. Prior to suspending or revoking any license for failure to pay a debt, the NRC will issue to the debtor an order to show cause why the license or approval should not be suspended or revoked.

§ 15.31 Disputed debts.

(a) A debtor who disputes a debt shall explain why the debt is incorrect in fact or in law before the due date specified in the initial demand letter. The debtor may support the explanation by affidavits, cancelled checks, or other relevant evidence.

(b) If the debtor's arguments appear to have merit, the NRC may extend the due date pending a final determination of the existence or amount of the debt.

(c) The NRC may investigate the facts involved in the dispute and, if it considers it necessary, arrange for a conference at which the debtor may present evidence and any arguments in support of the debtor's position.

§ 15.33 Collection by offset.

(a) The NRC may administratively undertake collection by offset on each claim which is liquidated or certain in amount.

(b) The following procedures apply when the NRC seeks to collect a debt by offset against accrued pay, compensation, accrued benefits or the amount of retirement credit due to a present or former Government employee.

(1) The NRC shall effect collection by offset from a person receiving pay or compensation from the Federal Government over a period not greater than the period during which such pay or compensation is to be received. If the debt arises out of an erroneous payment made by NRC to or on behalf of an employee, collection by offset is made in accordance with 5 U.S.C. 5514 and the provisions of paragraph (b) of this section.

(2) If employment is expected to continue during the period of the anticipated collection by offset—

(i) The NRC shall provide the debtor a written demand as provided in § 15.21(a) prior to collecting any indebtedness by offset. The NRC shall also include in the written demand—

[A] Notice of the NRC's intention to collect by offset;

(B) An opportunity to request reconsideration of the debt, or if

provided for by statute, waiver of the debt; and

(C) An explanation of the debtor's rights under this subpart.

(ii) The NRC shall accord the debtor an opportunity for a pre-offset oral hearing when—

(A) The debtor requests a waiver of indebtedness and the waiver determination turns on an issue of credibility or veracity; or

(B) The individual requests reconsideration of the debt and the NRC determines that the question of the indebtedness cannot be resolved by review of the documentary evidence.

(iii) If a determination that a debt exists and is certain an amount can be satisfactorily made by review of the documentary evidence and no issues of credibility and veracity exist, then the NRC provides the debtor a written demand as provided in paragraph (b)(2)(i) of this section but does not provide an opportunity for an oral hearing before offsetting the debt.

(3) If the time prior to termination of a debtor's employment does not permit a pre-offset hearing to which the debtor is otherwise entitled under paragraph (b)(2)(ii) of this section, the following provisions apply:

(i) The NRC shall send or provide the debtor a written demand as provided in paragraph (b)(2)(i) of this section.

(ii) The NRC may withhold a sum not greater than the amount of the alleged indebtedness from the amounts accruing to the individual on termination if the NRC determines that—

(A) Amounts accruing to the debtor on termination are available for offset to satisfy the alleged indebtedness; and

(B) The amounts would not be available for offset after termination.

(iii) The NRC shall promptly provide an opportunity for an oral hearing to resolve the issue of indebtedness or waiver after termination of the debtor's employment.

(iv) The NRC shall promptly refund any amount withheld but later determined not owed the United States.

(4) The form of hearings, when granted, depends on the nature of the transactions giving rise to the debts and the complexity of the issues in dispute. For the vast majority of claims, informal conferences before an official of the NRC is sufficient. Conferences may be conducted by telephone if the debtor elects not to appear in person at the debtor's expense at the place designated for the conference or hearing. The NRC shall maintain at least a summary record of the hearing accorded to the debtor.

(c) If the debtor has obtained a judgment against the United States, any offset against the judgment is accomplished in accordance with the Act of March 3, 1875, 18 Stat. 481, as amended, 31, U.S.C. 227.

(d) The NRC shall make appropriate use of the cooperative efforts of other agencies, including use of the Army Holdup List, in effecting collections by offset. The Army Holdup List is a list of contractors indebted to the United States.

§ 15.35 Payments.

(a) *Payment in full.* The NRC shall collect a claim in full prior to the due date whenever possible. If a debt is paid in one lump sum after the due date, the NRC shall impose a late payment charge. The NRC may waive a late payment charge if it is determined that the amount is negligible in relation to the administrative cost of processing installment payments or that waiver is advisable to induce payment in full.

(b) *Payment in installments.* If a debtor furnishes satisfactory evidence of inability to pay a claim in full prior to the due date, payments in installments may be arranged. Evidence may consist of a financial statement or a signed statement that the debtor's application for a loan to enable the debtor to pay the claim in full was rejected. Except for a debt described at 5 U.S.C. 5514, all installment payment arrangements shall be reduced to writing and require the payment of interest. Installment note forms, including confess judgment notes, may be used. If the debtor's financial statement discloses the ownership of assets which are free and clear of liens or security interests, or assets in which the debtor owns an equity, the debtor may be asked to secure the payment of an installment note by executing a Security Agreement and Financing Statement transferring to the United States a security interest in the assets until the debt is discharged.

(c) *To whom payment is made.* Payment of a debt is made by check, draft, or money order payable to the United States Nuclear Regulatory Commission, and mailed or delivered to the Division of Accounting, Office of the Controller, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, unless payment is—

(1) Made pursuant to arrangements with GAO or DOJ;

(2) Ordered by a Court of the United States; or

(3) Otherwise directed in any other part of this chapter.

§ 15.37 Interest and late payment charges.

(a) Interest begins to accrue from the due date specified in the initial written demand unless a different date is specified in a statute, regulation, or contract.

(b) If a debt, initially asserted by the NRC after the effective date of this Part, is not paid in full on or before the due date, the NRC shall assess a late payment charge based upon the prevailing rate of interest [updated quarterly] required by the Treasury Fiscal Requirements Manual (I TFRM 6-8000), unless a different rate is prescribed by statute, regulation, or contract. This rate reflects the short-term value of funds to the Treasury Department and is publicized by the Treasury Department in the Federal Register. A late payment charge is assessed for each full or partial 30-day period after the due date. Any partial payment is applied first to the payment of accrued late payment charges and then to principal [in accordance with the so-called "U.S. Rule"), unless a different rule is prescribed by statute, regulation or contract.

(c) When arrangements are made to pay a debt in installments over a period of time, the NRC shall charge interest at the rate prescribed by the Treasury Department in its current monthly "Schedule of Certified Interest Rates With Range of Maturities" for a similar period of time. Installment payments are applied first to the payment of accrued interest and then to principal, unless a different rule is prescribed by statute, regulation, or contract. Interest is calculated on a daily (365 days per year) basis and applied to the unpaid balance.

(d) The NRC may waive either the imposition or collection of interest on an installment payment or a late payment charge if the amount is negligible in relation to the cost of billing and collecting the amount, or if it is in the best interests of the Government to do so.

§ 15.39 Bankruptcy claims.

When the NRC receives information that a debtor has filed a petition in bankruptcy or is the subject of a bankruptcy proceeding, it shall furnish information concerning the debt owed the United States to the appropriate United States Attorney to permit the filing of a claim.

Subpart C—Compromise of a Claim

§ 15.41 When a claim may be compromised.

The NRC may compromise a claim not in excess of the monetary limitation if it has not been referred for litigation to the GAO or the DOJ. Only the Comptroller General or designee may effect the compromise of a claim that arises out of an exception made by the GAO in the account of an accountable officer, including a claim against the payee, prior to its referral by GAO for litigation.

§ 15.43 Reasons for compromising a claim.

A claim may be compromised for one or more of the reasons set forth below:

(a) The full amount cannot be collected because—

(1) The debtor is unable to pay the full amount within a reasonable time; or

(2) The debtor refuses to pay the claim in full and the Government is unable to enforce collection in full within a reasonable time by enforced collection proceedings.

(b) There is a real doubt concerning the Government's ability to prove its case in Court for the full amount claimed either because of the legal issues involved or a bona fide dispute as to the facts.

(c) The cost of collecting the claim is likely to exceed the difference between the proposed compromise amount and the full amount of the claim.

(d) The debtor's inability to pay, the Government's ability to enforce collection, and the amounts which are acceptable in compromise shall be determined in accordance with the Federal Claims Collection Standards, 4 CFR Part 103. Compromises payable in installments are discouraged, but, if necessary, shall provide that in the event of default—

(1) The entire balance of the debt becomes immediately due and payable; and

(2) The Government has the right to enforce any security interest.

§ 15.45 Restrictions on the compromise of a claim.

(a) The NRC may not accept a percentage of a debtor's profits or stock in a debtor corporation in compromise of a claim. In negotiating a compromise with a business concern, consideration is given to requiring a waiver of the tax-loss-carry-forward and tax-loss-carry-back rights of the debtor.

(b) If two or more debtors are jointly and severally liable, collection action is not withheld against one debtor until the other or others pay their proportionate share. The amount of a compromise with one debtor is not considered a precedent or as morally binding in determining the amount which will be required from other debtors jointly and severally liable on the claim.

§ 15.47 Finality of a compromise.

An offer of compromise must be in writing and signed by the debtor. An offer of compromise which is accepted by the NRC is final and conclusive on the debtor and on all officials, agencies, and courts of the United States, unless obtained by fraud, misrepresentation, the presentation of a false claim, or mutual mistake of fact.

Subpart D—Suspension or Termination of Collection Action

§ 15.51 When collection action may be suspended or terminated.

The NRC may suspend or terminate collection action on a claim not in excess of the monetary limitation if it has not been referred for litigation to the GAO or the DOJ.

§ 15.53 Reasons for suspending collection action.

Collection action may be suspended temporarily—

(a) When the debtor cannot be located after diligent efforts and there is reason to believe that future collection action may be sufficiently productive to justify periodic review and action on the claim considering the size of the claim and the amount which may be realized on it; or

(b) When the debtor owns no substantial equity in realty and is unable to make payments on the Government's claim or effect a compromise on it at the time but the debtor's future prospects justify retention of the claim for periodic review and action and—

(1) The applicable statute of limitations has been tolled or started anew; or

(2) Future collection can be effected by offset notwithstanding the statute of limitations.

§ 15.55 Reasons for terminating collection action.

Collection action may be terminated—

(a) When it becomes clear that the Government cannot collect or enforce collection of any significant sum from the debtor having due regard for the judicial remedies available to the Government, the debtor's future financial prospects, and the exemptions available to the debtor under State and Federal law;

(b) When the debtor cannot be located, there is no security remaining to be liquidated, the applicable statute of limitations has run, and the prospects of collecting by offset notwithstanding the bar of the statute of limitations is too remote to justify retention of the claim; or

(c) When it is likely that the cost of collection action will exceed the amount recoverable.

§ 15.57 Termination of collection action.

Collection action shall be terminated—

(a) Whenever it is determined that the claim is legally without merit; or

(b) When it is determined that the evidence necessary to prove the claim cannot be produced or the necessary witnesses are unavailable and efforts to induce voluntary payments have been unavailing.

§ 15.59 Transfer of a claim.

The NRC may transfer a claim to the GAO for advice when there is doubt whether collection action should be suspended or terminated.

Subpart E—Referral of a Claim

§ 15.61 Prompt referral.

(a) A claim which requires enforced collection action is referred to a private collection agency, to the GAO, or to the DOJ for litigation. A referral is made as early as possible consistent with aggressive collection action and in any event well within the time required to bring a timely suit against the debtor.

(b) The NRC may refer a claim to the GAO or the DOJ even though the termination of collection activity might otherwise be given consideration under § 15.55(a) or (c) if—

(1) A significant enforcement policy is involved in reducing a statutory penalty or forfeiture to judgment; or

(2) Recovery of a judgment is a prerequisite to the imposition of administrative sanctions, such as suspension or revocation of a license or the privilege of participating in a Government sponsored program.

§ 15.63 Referral of a claim to private agencies for collection.

The NRC may contract with one or more private agencies to supplement, but not replace, the NRC basic collection program. The NRC retains the authority to resolve disputes, compromise claims, terminate collection action, and initiate enforced collection through litigation.

§ 15.65 Referral of a compromise offer.

The NRC may refer a debtor's firm written offer of compromise which is substantial in amount to the GAO or to the DOJ if the NRC is uncertain whether the offer should be accepted.

§ 15.67 Referral to the Department of Justice.

(a) A claim of less than $600, exclusive of interest, is not referred for litigation unless—

(1) Referral is important to a significant enforcement policy; or

(2) The debtor not only has the clear ability to pay the claim but the Government can effectively enforce payment.

(b) A claim on which the NRC holds a judgment is referred to the DOJ for further action if renewal of the judgment lien or enforced collection proceedings are justified under the criteria discussed in this part.

Dated at Bethesda, Md. the 8th day of February, 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-4727 Filed 2-19-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-NM-02-AD; Amdt. 39-4322]

Airworthiness Directives; Lockheed-California Company Model L-1011 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires that certain Flight Management Computer(s) in airplanes equipped with Flight Management Systems (FMS) be modified or removed from the airplane. This action is necessary to prevent a failure in the Flight Management Computer which could result in loss or tuning capability (both automatic and manual) of the VOR and DME equipment.

DATE: Effective date March 4, 1982. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63-11, U-33, B-1. This information also may be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT: Lonnie Tarver, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, Federal Aviation Administration, Northwest Mountain Region, Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2831.

SUPPLEMENTARY INFORMATION: There has been one (1) reported instance of the loss of the flight crew's ability to tune both VOR and DME radio navigation systems, either automatically or manually, due to a shorted noise suppression zener diode in the Flight Management Computer. Although some aircraft are equipped with dual Flight Management Systems, a failure of this type in either Flight Management Computer would have the same results as in aircraft equipped with a single FMS installation.

To preclude further incidents of the type described, Lockheed issued L-1011 Service Bulletin 093-34-146, dated August 21, 1981, and subsequently Revision No. 1, dated September 17, 1981, and Revision No. 2, dated December 14, 1981, which provide for the modification of the Flight Management Computers in accordance with ARMA Service Bulletin 6360100-34-42, or replacement with Flight Management Computers modified by ARMA.

Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires modification of the Flight Management Computer(s), or removal of the computers from the equipment racks with concurrent deactivation of the Flight Management System. Removal of unmodified computers from the equipment racks will maintain operability of the VOR and DME equipment.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Lockheed-California Company: Applies to Lockheed Model L-1011-385 series airplanes certificated in all categories equipped with 1 or 2 Flight Management Computers having ARMA Part Number 3-00068-801-3 or higher ending dash number. Compliance required within 30 days from the effective date of this AD, unless already accomplished.

To prevent loss of the ability to tune all VOR and DME radio navigation systems, accomplish the following:

A. Remove Flight Management Computer(s) and replace with unit(s) modified in accordance with Part 2, Accomplishment Instructions, in Lockheed L-1011 Service Bulletin 093-34-146, dated August 21, 1981, or Revision No. 1, dated September 17, 1981, or Revision No. 2 dated December 14, 1981, or later revisions approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region, or

B. Remove Flight Management computer(s), and deactivate the FMS.

C. Alternative means of compliance with this AD which provide an equivalent level of safety may be used when approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

This Amendment becomes effective March 4, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, and evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under section 1006(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle Washington, on February 9, 1982.

Robert O. Brown,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-4602 Filed 2-19-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 82-NM-07-AD, Amdt. 39-4321]

Airworthiness Directives: Canadair Model CL-600 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires replacement of the aileron power control unit centering springs at specific intervals on all Canadair Model CL-600 airplanes. Spring failures have occurred during the manufacturer's tests after 1000 simulated flights. If a spring failure should occur during actual flight, a partial loss of lateral control could occur.

DATE: Effective date March 4, 1982.

ADDRESSES: The service bulletin specified in this Airworthiness Directive may be obtained upon request to Canadair Ltd., Commercial Aircraft Technical Services, Box 6087, Station A, Montreal, Canada, PQ H3C3G9 or may be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, ANM-150S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2530.

SUPPLEMENTARY INFORMATION: The Canadian Department of Transport (DOT) has issued an Airworthiness Directive which requires replacement of the four aileron power control unit centering springs on all Canadair Model CL-600 airplanes at intervals not to exceed 300 flight hours. Tests performed by the manufacturer revealed that some of the springs failed after experiencing 1000 simulated flights. Loss of these springs could result in a partial loss of lateral control of the airplane. In order to prevent this from occurring, the DOT, which is the Civil Air Authority of Canada, is requiring replacement of the four aileron power control unit centering springs (P/N 2771931-101) at intervals not to exceed 300 flight hours, in accordance with the instructions given in Canadair Service Bulletin A600-0027, Revision 2, dated March 30, 1981.

This airplane model is manufactured in Canada and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition was likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is being issued which requires the replacement of the four centering springs in the aileron power control unit on all Canadair CL-600 airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Canadair: Applies to Model CL-600 airplanes S/N 1002 and on. To prevent the failure of the aileron power control unit centering springs, accomplish the following prior to the accumulation of 300 flight hours or within the next 20 flight hours after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 300 flight hours.

1. Replace all Aileron Power Control Springs (4 per PCU) with springs having the same part number (2771931-101) in accordance with the instructions contained in Canadair Alert Service Bulletin No. A600-0027, Revision 2, dated March 30, 1981, or later approved revisions.

2. The springs must continue to be replaced at the 300 flight hour intervals indicated above until such time as modification action, approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region is incorporated.

3. Alternate methods of compliance with this AD may be used when they provide an equivalent level of safety and are approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

4. Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, may adjust the compliance time in this AD.

5. Airplanes may be flown in accordance with FAR 21.197 to a maintenance base for the accomplishment of this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the addresses listed above. These documents may also be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective March 4, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Wash., on February 9, 1982.

Robert O. Brown,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-4601 Filed 2-19-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 81-NM-09-AD, Amdt. 39-4320]

Airworthiness Directives: McDonnell Douglas Model DC-10-40 Airplanes Equipped with Pratt and Whitney JT9D-20 Series Engines.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires replacement of the 20 nose cowl attachment bolts and nuts with higher strength parts on each wing-mounted engine installed on McDonnell Douglas Model DC-10-40 airplanes equipped with Pratt and Whitney JT9D-20 series engines. This AD is needed to minimize the possibility of nose cowl separation from the engine in the event of a fan blade failure during high power operation.

DATE: Effective date March 4, 1982. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108,

or 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT: Duane Naff, Supervisory Aerospace Engineer, Propulsion Branch, ANM-140L, Federal Aviation Administration, Northwest Mountain Region, Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2835.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive to require replacement of the nose cowl attachment bolts and nuts with higher strength parts on DC-10-40 airplanes equipped with JT9D-20 series engines was published in the **Federal Register** on October 8, 1981, (46 FR 49909).

This proposal was prompted by an occurrence of nose cowl separation from the aircraft as a result of a fan blade failure. Investigation revealed that several attachment bolts were sheared and/or pulled from the nutplates as a result of the initial impact of the failed blade. The remaining fasteners were unable to retain the nose cowl with the combination of aerodynamic load and imbalance forces.

The stronger bolts and nuts which would be required under this AD will minimize the possibility of nose cowl separation resulting from similar occurrences.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Two comments to the proposed rule were received. One operator of the affected aircraft stated they were already beginning to accomplish the modifications and they did not expect any difficulty completing their fleet within the period allowed. The National Transportation Safety Board (NTSB) also commented in concurrence with the proposed rule. In view of these comments and after review of all available data, the FAA has determined that sufficient evidence exists in the public interest in aviation safety to adopt the proposed rule with no changes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-10-40 airplanes equipped with Pratt and Whitney JT9D-20 series engines, certificated in all categories. Compliance required within twelve (12) calendar months from the effective date of this AD, unless already accomplished.

To minimize the possibility of separation of the nose cowl from the aircraft in the event of fan blade failure accomplish the following:

A. Replace the nose cowl attaching bolts and nuts on engines 1 and 3 as outlined in the Accomplishment Instructions and Material Information in McDonnell Douglas DC-10 Service Bulletin 71-123 dated June 23, 1981, or later revisions approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

B. Alternate means of compliance with this AD which provide an equivalent level of safety may be used when approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808.

This amendment becomes effective March 4, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). I certify that this rule will not have a significant economic effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, since it involves few, if any, such entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Wash., on February 8, 1982.

Robert O. Brown,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-4600 Filed 2-19-82; 8:45 am]

BILLING CODE 4910-13-M

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 82-ASO-2]

Alteration of VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment realigns alternate VOR Federal Airway V-71E between Natchez, MS, and Baton Rouge, LA. This action is necessary to correct an error in the present airway description.

DATES: Effective date—March 18, 1982; Comments must be received on or before March 24, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 82-ASO-2, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Robert Maxey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves a realignment of alternate VOR Federal Airway V-71E, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic and energy aspects of the rule that might suggest the need to modify the rule. Send comments on environmental and land use aspects to: Directory, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 82-ASO-2, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The Rule

The purpose of this amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the alignment of V-71E between Natchez, MS, and Baton Rouge, LA. During the recent magnetic change applied to the Natchez VORTAC, it was discovered that the true radial describing the airway from Natchez VORTAC to LESTER intersection was not correct. This action amends the description of V-71 east alternate to correct this error. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in the **Federal Register** on January 2, 1981 (46 FR 409). Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to redescribe V-71 east alternate between Natchez, MS, and Baton Rouge, LA. Therefore, I find that notice or public procedure under 5 U.S.C. 533(b) is impracticable and contrary to the public interest.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409), is amended, effective 0901 G.m.t., March 18, 1982, as follows:

V-71 [Amended]

By deleting the words "including an E alternate via INT Baton Rouge 028° and Natchez 156° radials" and substituting for them the words "including an E alternate via INT Baton Rouge 026° and Natchez 157° radials"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 9, 1982.

John W. Baier,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-4518 Filed 2-19-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 22586, Amdt. No. 1210]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase.—Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication (February 22, 1982) and contains separate SIAPs which have compliance dates stated as effective dates based on related changes

in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR–VOR/DME SIAPs identified as follows:

* * * Effective April 15, 1982:

Akron, CO—Akron-Washington County, VOR Rwy 27, Amdt. 4
Canton, IL—Ingersoll, VOR–A, Amdt. 5
Joliet, IL—Joliet Park District, VOR Rwy 12, Amdt. 8
Manito, IL—Waddell, VOR–A, Amdt. 2
Hibbing, MN—Chisholm-Hibbing, VOR or TACAN Rwy 13, Amdt. 10
Hibbing, MN—Chisholm-Hibbing, VOR or TACAN Rwy 31, Amdt. 14
Clinton, NC—Sampson County, VOR/DME–A, Amdt. 2
Port Clinton, OH—Carl R. Keller Field, VOR/DME–A, Amdt. 3
Logan, UT—Logan-Cache, VOR–A, Amdt. 5
Logan, UT—Logan-Cache, VOR–C, Amdt. 2

* * * Effective April 1, 1982:

El Dorado, AR—Downtown, VOR/DME–A, Original
Flippin, AR—Marion County Regional, VOR–A, Amdt. 9
Mena, Ar—Intermountain Regional, VOR/DME–A, Amdt. 4
Mountain Home, AR—Baxter County Regional, VOR–A, Amdt. 4
Rogers, AR—Rogers Muni Arpt-Carter Fld, VOR Rwy 1, Amdt. 6
Rogers, AR—Rogers Muni Arpt-Carter Fld, VOR/DME Rwy 19, Amdt. 5
Palm Springs, CA—Palm Springs Muni, VOR Rwy 30, Original, cancelled
Palm Springs, CA—Palm Springs Muni, VOR–B, Original
Watsonville, CA—Watsonville Muni, VOR/DME–A, Amdt. 3, cancelled,
Daytona Beach, FL—Daytona Beach Regional, VOR Rwy 34, Amdt. 2
Columbus, GA—Columbus Metropolitan, VOR–A, Amdt. 20
Frankfort, IL—Frankfort, VOR Rwy 27, Amdt. 8
Greenwood/Wonder Lake, IL—Galt Field, VOR–A, Amdt. 6
Monee, IL—Sanger, VOR Rwy 5, Amdt. 1
Romeoville, IL—Lewis University, VOR Rwy 9, Amdt. 1
Gaithersburg, MD—Montgomery County Airpark, VOR Rwy 14, Amdt. 1
Albion, NY—Pine Hill, VOR/DME–A, Original
Raeford, NC—Raeford Muni, VOR/DME–A, Amdt. 1
Duncan, OK—Halliburton Field, VOR Rwy 35, Amdt. 6
Amarillo, TX—Amarillo International, VOR Rwy 22, Amdt. 23
Boscobel, WI—Boscobel, VOR/DME–A, Amdt. 1

* * * Effective March 18, 1982:

Fullerton, CA—Fullerton Muni, VOR–A, Amdt. 3
Indianapolis, IN—Indianapolis International, VOR Rwy 13, Amdt. 20
St. Louis, MO—Weiss, VOR–A, Amdt. 1

* * * Effective February 4, 1982:

Lihue, HI—Lihue, VOR/DME or TACAN Rwy 21, Amdt. 2, cancelled
Lihue, HI—Lihue, VOR/DME or TACAN–A, Amdt. 7, cancelled
Lihue, HI—Lihue, VOR or TACAN–B, Amdt. 4, cancelled
Chesterfield, VA—Chesterfield County, VOR Rwy 15, Amdt. 6
Richmond, VA—Richard Evelyn Byrd Intl, VOR Rwy 2, Amdt. 3
Richmond, VA—Richard Evelyn Byrd Intl, VOR Rwy 15, Amdt. 22
Richmond, VA—Richard Evelyn Byrd Intl, VOR Rwy 20, Amdt. 5
Richmond, VA—Richard Evelyn Byrd Intl, VOR Rwy 24, Amdt. 10
Richmond, VA—Richard Evelyn Byrd Intl, VOR Rwy 33, Amdt. 17

2. By amending § 97.25 SDF–LOC–LDA SIAPs identified as follows:

* * * Effective April 15, 1982:

Hibbing, MN—Chisholm-Hibbing, LOC BC Rwy 13, Amdt. 7

* * * Effective April 1, 1982:

Daytona Beach, FL—Daytona Beach Regional, LOC BC Rwy 24R, Amdt. 10
Columbus, GA—Columbus Metropolitan, LOC BC Rwy 23, Amdt. 10
Fayetteville, NC—Fayetteville Muni (Grannis Field), LOC BC Rwy 22, Amdt. 3
Duncan, OK—Halliburton Field, LOC Rwy 35, Original
Amarillo, TX—Amarillo International, LOC BC Rwy 22, Amdt. 14
Houston, TX—William P. Hobby, LOC BC Rwy 22, Amdt. 20, cancelled

* * * Effective March 18, 1982:

Fullerton, CA—Fullerton Muni, LOC Rwy 24, Original
Indianapolis, IN—Indianapolis International, LOC BC Rwy 13, Amdt. 9
Oneonta, NY—Oneonta Muni, LOC Rwy 24, Original
Dayton, OH—Dayton General Arpt (South), LOC Rwy 20, Original

* * * Effective February 4, 1982:

Chesterfield, VA—Chesterfield County, SDF Rwy 33, Amdt. 2

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * Effective April 15, 1982:

La Junta, CO—LaJunta Muni, NDB Rwy 6, Amdt. 4
Flora, IL—Flora Muni, NDB Rwy 21, Amdt. 1
Aitkin, MN—Aitkin Municipal, NDB Rwy 16, Amdt. 1
Marshall, MO—Marshall Meml Muni, NDB Rwy 17, Original
Marshall, MO—Marshall Meml Muni, NDB Rwy 35, Original
Clinton, NC—Sampson County, NDB Rwy 6, Amdt. 2
Port Clinton, OH—Carl R. Keller Field, NDB Rwy 26, Amdt. 6
Logan, UT—Logan-Cache, NDB–B, Amdt. 4

* * * Effective April 1, 1982:

Mena, AR—Intermountain Regional, NDB–B, Amdt. 2
Rogers, AR—Rogers Muni Arpt-Carter Fld, NDB Rwy 19, Amdt. 1
Holyoke, CO—Holyoke Muni, NDB Rwy 17, Amdt. 1
Holyoke, CO—Holyoke Muni, NDB Rwy 35, Amdt. 1
Daytona Beach, FL—Daytona Beach Regional, NDB Rwy 6L, Amdt. 19
Columbus, GA—Columbus Metropolitan, NDB Rwy 5, Amdt. 25
Columbus, IN—Columbus Bakalar Muni, NDB Rwy 22, Amdt. 7
Minneapolis, MN—Minneapolis-St. Paul Intl/Wold-Chamberlain/, NDB Rwy 4, Amdt. 14
Fayetteville, NC—Fayetteville Muni (Grannis Field), NDB Rwy 4, Amdt. 11
Amarillo, TX—Amarillo International, NDB Rwy 4, Amdt. 14

* * * Effective March 18, 1982:

Ambler, AK—Ambler, NDB Rwy 36, Original

* * * Effective February 4, 1982:

Chesterfield, VA—Chesterfield County, NDB Rwy 33, Amdt. 4

* * * Effective February 1, 1982:

Rialto, CA—Rialto Muni/Miro Fld, NDB–A, Amdt. 2

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

Effective April 15, 1982:

Hibbing, MN—Chisholm-Hibbing, ILS Rwy 31, Amdt. 7

Effective April 1, 1982:

Oakland, CA—Metropolitan Oakland Intl, ILS Rwy 29, Amdt. 20
Daytona Beach, FL—Daytona Beach Regional, ILS Rwy 6L, Amdt. 23
Columbus, GA—Columbus Metropolitan, ILS Rwy 5, Amdt. 20
Columbus, IN—Columbus Bakalar Muni, ILS Rwy 22, Amdt. 4
Minneapolis, MN—Minneapolis-St. Paul Intl/Wold-Chamberlain/, ILS Rwy 4, Amdt. 19
Fayetteville, NC—Fayetteville Muni (Grannis Field), ILS Rwy 4, Amdt. 11
Greensboro, NC—Greensboro-High Point-Winston Salem Regional, ILS Rwy 5, Amdt. 1
Greensboro, NC—Greensboro-High Point-Winston Salem Regional, ILS Rwy 14, Amdt. 15
Amarillo, TX—Amarillo International, ILS Rwy 4, Amdt. 18

Effective February 4, 1982:

Richmond, VA—Richard Evelyn Byrd Intl, ILS Rwy 6, Amdt. 22
Richmond, VA—Richard Evelyn Byrd Intl, ILS Rwy 15, Amdt. 4
Richmond, VA—Richard Evelyn Byrd Intl, ILS Rwy 33, Amdt. 8

5. By amending § 97.31 RADAR SIAPs identified as follows:

Effective April 1, 1982:

Louisville, KY—Standiford Field, RADAR–1, Amdt. 19
Amarillo, TX—Amarillo International, RADAR–1, Amdt. 12

Effective March 18, 1982:

Indianapolis, IN—Indianapolis International, RADAR–1, Amdt. 24

6. By amending § 97.33 RNAV SIAPs identified as follows:

Effective April 15, 1982:

Joliet, IL—Joliet Park District, RNAV Rwy 12, Amdt. 9

Effective April 1, 1982:

Columbus, IN—Columbus Bakalar Muni, RNAV Rwy 22, Amdt. 6
Gaithersburg, MD—Montgomery County Airpark, RNAV Rwy 14, Amdt. 3

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on February 12, 1982.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1981.

John M. Howard,
Acting Chief, Aircraft Programs Division.

[FR Doc. 82-4388 Filed 2-19-82; 8:45 am]
BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13
[Docket C-3082]

American Honda Motor Co., Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.
ACTION: Rescission of previously published Final Order and publication of new Final Order.

SUMMARY: This document rescinds the Commission's Final Order previously published on Tuesday, February 9, 1982, 47 FR 5885 and publishes a new final order. This Order concerns settlement of alleged violations of Federal law prohibiting unfair practices and unfair methods of competition. This consent order requires, among other things, a Gardena, California motor vehicle dealer to cease failing to mail to each owner of a Honda automobile which was purchased as new, or is currently registered in certain states, a "notice package" containing information regarding the company's redress program for premature fender rusting. The company must timely remove and replace, at no cost to the owner, the front fenders of any Honda automobile experiencing premature rusting within 36 months-in-service, and reimburse eligible owners of affected vehicles for monies spent in trying to correct the premature rusting problem. Modifications to the "agreement" incorporated into the Final Order were not reflected in the Commission's previously published document. This new order corrects that oversight.

DATES: Complaint and order issued January 22, 1982.[1]

FOR FURTHER INFORMATION CONTACT:
FTC/PE, Joel Winston, Washington, D.C. 20580. (202) 724–9002.

SUPPLEMENTARY INFORMATION: FR Doc. 82–3318, appearing in the Federal Register issue for Tuesday, February 9, 1982, 47 FR 5885, is hereby rescinded.

On Wednesday, August 5, 1981, there was published in the Federal Register, 46 FR 39633, a proposed consent agreement with analysis In the Matter of American Honda Motor Co., Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. Based on the comments received, the Commission modified the agreement and ordered the issuance of the complaint in the form contemplated by the modified agreement, made its jurisdictional findings and entered its order to cease and desist, the text of which is set forth below, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–20 Disclosures; § 13.533–25 Displays, in-house; § 13.533–35 Employment of independent agencies; § 13.533–45 Maintain records; § 13.533–55 Refunds, rebates and/or credits; § 13.533–57 Restitution.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

United States of America Before Federal Trade Commission

Commissioners: James C. Miller, III, Chairman; Michael Pertschuk, David A. Clanton, Patricia P. Bailey.

In the Matter of American Honda Motor Co., Inc., a corporation. Docket No. C–3082.

Decision and Order

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorneys, and counsel for the Commission having thereafter executed an agreement containing all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes

[1] Copies of the Complaint and Decision and Order previously filed with FR Doc. 82–3318.

only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter by interested persons pursuant to § 2.34 of its Rules, now in further conformity with the procedure prescribed in § 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent American Honda Motor Co., Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 100 West Alondra Boulevard, in the City of Gardena, State of California.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

Order

For the purposes of this Order, the following definitions shall apply:

1. *"Honda automobile(s)"* shall mean all 1973, 1976, 1977 and 1978 model year Civics and all 1976, 1977 and 1978 model year Accords sold or distributed by respondent in the United States.

2. *"Premature rusting"* shall mean the presence of hole(s), blister(s) or bubble(s) in the exterior paint or metal of the front fender, (a) which is caused by rusting of the metal from the underside of the fender, (b) any part of which is within two feet of the rear edge and one foot of the top edge of the fender, and (c) that appeared within the automobile's first thirty-six (36) months-in-service.

3. *"Remove and replace"* shall mean removal of the fender and replacement with a new fender which has been treated with a zinc coating process similar to Zincrometal with a nominal thickness of 0.5 mils or greater; *Provided,* That if said new fender is not reasonably available due to circumstances beyond respondent's control, respondent may use a fender which has been one-side galvanized with a nominal weight of 60 grams per square meter (gm/m2) or greater and which has been primed using a cathodic electrodeposition process. This term shall also include all parts and labor necessary to (a) install and paint the replacement fender in as close to a matching color as possible, (b) re-affix all pre-existing trim and accessory items and replace any such items damaged during removal and replacement with identical items, if reasonably available, or similar items, if identical items are not reasonably available, (c) make all adjustments to the automobile necessitated by the removal and replacement of the fender, and (d) repair or replace, as is appropriate, any rusted structural or support component for the fender to the extent necessary to permit proper and sound installation of the fender.

4. *"Dealer(s)"* shall mean all persons, partnerships, firms or corporations which, pursuant to a Honda Automobile Dealer's sales and service agreement with respondent, receive on consignment or purchase new Honda automobiles from respondent for resale or lease to the public, including any person(s), partnership(s), firm(s) or corporation(s) owned or operated by respondent.

5. *"Owner(s)"* shall mean any person, partnership, firm or corporation having custody and/or possession of a Honda automobile, including those automobiles held for resale. This term shall include, but not be limited to, any registered owner or lessee, or person acting on their behalf. This term shall not include insurers, warrantors or automobile repair facilities which are not registered owners or lessees of the automobile, whether or not acting on behalf of an owner.

6. *"Past or current owner(s)"* shall mean any person, partnership, firm or corporation having custody and/or possession of a Honda automobile, or which had at any time in the past custody and/or possession of a Honda automobile, including those automobiles held for resale. This term shall include, but not be limited to, any registered owner or lessee, or person acting or who acted on their behalf. This term shall not include insurers, warrantors or automobile repair facilities which are not and were not, registered owners or lessees of the automobile, whether or not acting on behalf of a past or current owner.

7. *"Months-in-service"* shall be calculated as beginning on the date on which respondent began warranty coverage on the automobile. If that date cannot be established by respondent, the months-in-service shall be calculated as beginning not earlier than:

1975:
Civic 1200, Civic CVCC and Civic Wagon, November 26, 1975

1976:
Civic 1200, Civic CVCC and Accord, December 6, 1976
Civic Wagon, December 8, 1976

1977:
Civic 1200, December 14, 1977
Civic CVCC, December 20, 1977
Civic Wagon and Accord, December 5, 1977

1978:
Civic 1200, October 12, 1978
Civic CVCC and Civic Wagon, October 20, 1978
Accord, October 17, 1978

I

It is ordered that respondent American Honda Motor Co., Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or indirectly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any motor vehicle in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Failing to send by first-class mail, within sixty (60) days after the date of service of this Order, a notice package consisting of (i) a copy of the letter attached to this Order as Attachment A, incorporated herein by reference, (ii) a copy of the form attached to this Order as Attachment B, incorporated herein by reference, and (iii) a self-addressed, postage-paid envelope. Respondent shall complete all insertions in Attachment A and the top portion of Attachment B for each such notice package. The notice package shall be sent in one envelope, similar in all material respects to Attachment C of this Order, incorporated herein by reference. The notice package shall be mailed to each current registered owner of a Honda automobile which was purchased as new, or is currently registered, in any of the following states. Such owners shall be determined by current state motor vehicle records of a commercial locator service and by respondent's warranty registration records.

Connecticut	Missouri
Delaware	Nebraska
District of Columbia	New Hampshire
Illinois	New Jersey
Indiana	New York
Iowa	Ohio
Kansas	Pennsylvania
Kentucky	Rhode Island
Maine	Vermont
Maryland	Virginia
Massachusetts	West Virginia
Michigan	Wisconsin
Minnesota	

Respondent shall also send or cause to be sent a notice package, with all insertions provided for in Attachment A and the top portion of Attachment B completed, to the extent that information provided by the inquiring past or current owner permits, within thirty (30) days of the inquiry, or sixty (60) days after the date of service of this Order, whichever date is later, to each past or current owner of a Honda automobile who inquires before May 1, 1982 to respondent or a dealer about respondent's redress program for premature fender rusting, and who:

i. Was sent a notice package but has not received it by the seventieth (70th) day after the date of service of this Order;

ii. Was not sent, and is not scheduled to be sent, a notice package; or

iii. Received a notice package but subsequently lost it.

B. Failing to remove and replace, at no cost to the owner, within 180 days after the owner presents the automobile to a dealer for an inspection with his or her pre-printed Attachment B form, the front fender(s) of any Honda automobile experiencing premature rusting. Said inspections shall be available at all times during the dealer's normal service hours and shall be performed within a reasonable period of time. At the inspection, respondent shall cause to be returned to each owner three copies of Attachment B with all appropriate insertions completed. Except as otherwise provided by this Order, no owner shall be required to submit an automobile for any purpose or at any time, to a dealer or respondent, in order to receive any benefits under this Order, other than on one occasion for an inspection, and one occasion, at a time mutually agreed upon between the owner and the dealer, for removal and replacement. Each removal and replacement shall be completed within a reasonable period of time after the owner presents the automobile to a dealer for the removal and replacement at a time mutually agreed upon between the owner and the dealer.

Provided further, That in each instance where a dealer rejects a request for removal and replacement, respondent shall cause to be provided to each such owner a written report, completed and signed by the dealer, describing in detail the reasons why the request was rejected and containing instructions on how the owner can seek a review of the rejection by respondent. In each case where the rejection is based upon a determination that the front fender(s) are not experiencing premature rusting, as defined by this Order, said written report shall describe in detail the condition of the fender(s) and all tests performed to determine the cause or source of any rusting. Respondent shall review each rejected request within a reasonable time after an owner requests a review from respondent's zone office. In each case where the rejection was based solely upon the dealer's determination that the hole(s), blister(s) or bubble(s) in the exterior paint or metal of the fender were not caused by rusting of the metal from the underside, and unless said rejection is reversed, said review shall include, if requested by the owner, an inspection of the fender(s) by an employee of respondent. Respondent shall provide to each such owner a second written report describing in detail the findings of this inspection.

Provided further, That in each instance where the fender(s) on a Honda automobile have not been replaced within 180 days after the owner presented the automobile with the pre-printed Attachment B form to a dealer for an inspection, respondent shall offer the owner the option of receiving either a cash settlement of $150 per rusted fender, or replacement of the fender within a reasonable period of time set by the dealer. Within sixty (60) days after respondent receives from the owner a completed and signed copy of Attachment B requesting the cash settlement, respondent shall mail to each such owner a check for $150 for each front fender experiencing premature rusting. Respondent's obligation under this proviso to offer the cash settlement shall not extend to any owner who fails to present his or her Honda automobile for removal and replacement, within said 180 days period, at the time(s) mutually agreed upon between the owner and the dealer or reasonably scheduled by the dealer if the owner will not agree to a reasonable time.

Provided further, That respondent may require any owner whose automobile exceeds thirty-six (36) months-in-service to sign the statement, contained in Attachment B, certifying that the automobile experienced premature rusting, and that the individual was an owner of the automobile, within its first thirty-six (36) months-in-service and is currently an owner.

Provided further, That respondent shall not offer any form of compensation for premature rusting to any such owner other than the compensation specifically provided for by this Order.

C. Failing to reimburse any past or current owner of a Honda automobile for all expenses incurred for repairs or replacements which were intended to eliminate premature rusting, whether or not they eliminated the premature rusting. Such reimbursement shall consist of all monies expended by the past or current owner, if the services were performed by a dealer or subcontractor of the dealer; or all monies expended by the past or current owner, or the usual and customary charges in the past or current owner's trade area for the work performed, whichever is lower, if the services were performed by a person, partnership, firm or corporation other than a dealer or subcontractor of the dealer.

Such reimbursement shall be made within sixty (60) days after respondent receives from the past or current owner (i) a completed and signed copy of Attachment B, certifying that the automobile experienced premature rusting, and that the individual was a past or current owner of the automobile, within its first thirty-six (36) months-in-service, and (ii) reasonable evidence of repair or replacement expenses.

Provided, That respondent's obligations under this Paragraph shall apply only if such repairs or replacements were made prior to the past or current owner's receipt of a notice package from respondent as provided for by Paragraph A of Section I of this Order.

Provided further, That respondent may require any owner to submit his or her Honda automobile to a dealer for an inspection as a condition of reimbursement under this Paragraph.

D. Failing to provide all dealers with adequate supplies of, or in the alternative to reimburse all dealers to the extent of respondent's normal warranty reimbursement policy and procedures for obtaining, new front fenders and all other items necessary to effectuate the reasonably foreseeable removal and replacement of the fenders.

E. Failing to provide all dealers with adequate supplies of Attachment B, with pre-printed portions blank.

F. Failing to notify all dealers in writing within ten (10) days after the date of service of this Order of the existence of premature rusting, of the terms and conditions of respondent's obligations under this Order, and of the necessity for dealers to avoid any practices which might hinder, delay, restrict or frustrate the proper administration of this Order.

II

It is further ordered that respondent's obligations under this Order shall not extend to the following:

A. Under Paragraph B of Section I of this Order, (i) to those owners who

initially present their automobile to a dealer for an inspection after their automobiles have reached forty-two (42) months-in-service or after six (6) months after the date of service of this Order, whichever date is later; (ii) to those owners who fail, before May 1, 1983, to present their automobiles for removal and replacement at a time mutually agreed upon between the owner and a dealer, or to mail to respondent a completed and signed copy of Attachment B requesting a cash settlement; or (iii) to more than one owner for each Honda automobile.

B. Under Paragraph C of Section I of this Order, to those past or current owners who mail Attachment B to respondent after their automobiles have reached forty-two (42) months-in-service, or after six (6) months after the date of service of this Order, whichever date is later.

III

It is further ordered that respondent shall provide to each dealer, within thirty (30) days after date of service of this Order, a display poster, no smaller than 30 inches by 40 inches, in the form of Attachment D to this Order, incorporated herein by reference. Respondent shall advise dealers to place the poster in a conspicuous and accessible location in the service writer's area of the dealership, and to keep the poster posted until July 15, 1982.

IV

It is further ordered that respondent maintain documents demonstrating compliance with this Order for a period not less than three (3) years. Such documents shall be made available to the Commission or its staff for inspection and copying upon reasonable request, and shall include, but are not necessarily limited to, those revealing:

A. The name and last known address of each owner who was sent the notice package required by Paragraph A of Section I of this Order.

B. The name and last known address of each owner whose notice package was returned by the U.S. Postal Service undelivered.

C. The name and last known address of each owner who requested removal and replacement.

D. The name and last known address of each owner whose fender(s) were removed and replaced, pursuant to Paragraph B of Section I of this Order, within 180 days after the owner presented the automobile to a dealer for an inspection with his or her Attachment B form.

E. The name and last known address of each owner whose fender(s) were removed and replaced more than 180 days after the owner presented the automobile to a dealer for an inspection with his or her Attachment B form, and the number of days in excess of 180 that the fender(s) of each such owner were replaced.

F. The name and last known address of each owner who received a cash settlement due to a dealer's inability to remove and replace the fender(s) within said 180 day period.

G. The name and last known address of each past or current owner who requested reimbursement for prior repairs or replacement of front fender(s) with premature rusting.

H. The name and last known address of each past or current owner who was reimbursed for prior repairs or replacement of premature rusted fender(s), pursuant to Paragraph C of Section I of this Order.

I. All communications between respondent and any zone representative, dealer or past or current owner concerning removal and replacements or reimbursements for repairs or replacements made to Honda automobiles affected by premature rusting. Such documents shall include, but not be limited to (a) all written communications; and (b) all oral communications which are reduced to writing and maintained in the ordinary course of business.

J. Each instance arising under Paragraph C of Section I of this Order where respondent reimbursed a past or current owner of a Honda automobile for less than one hundred percent (100%) of the actual charges for parts and labor, and those documents revealing the underlying basis for determining the usual and customary charges in each such instance.

K. Each instance arising under Paragraphs B or C of Section I of this Order involving a dispute over months-in-service of ownership within the first thirty-six (36) months, unless respondent determined to remove and replace front fenders, make a cash settlement or reimburse an owner in accordance with said paragraphs, notwithstanding said dispute.

L. Each instance arising under Paragraph B of Section I of this Order where respondent failed to remove and replace the front fenders of any Honda automobile, and the underlying basis for each such failure. Such documents shall include all written reports required by Paragraph B of Section I of this Order.

M. Each instance arising under Paragraph C of Section I of this Order where respondent failed to reimburse any past or current owner, and the underlying basis for each such failure.

N. The number of one-side galvanized fenders used by respondent for replacements and the underlying basis for the unavailability of fenders treated with a zinc coating process similar to zincrometal.

V

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to any proposed change in its structure, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation, which may affect compliance obligations arising out of this Order.

VI

It is further ordered that respondent shall, within sixty (60) days after the date of service of this Order, and at one year intervals thereafter through 1983, file with the Commission a report, in writing, signed by respondent, setting forth in detail the manner and form in which it has complied and will comply with this Order.

By the Commission.

Issued: January 22, 1982.

Carol M. Thomas,

Secretary.

BILLING CODE 6750-01-M

— Attachment A —

AMS 3081 8167

HONDA

AMERICAN HONDA MOTOR CO., INC
100 WEST ALONDRA BOULEVARD, GARDENA, CALIFORNIA 90247
AUTOMOBILE SERVICE DEPARTMENT, P.O. BOX 50 - GARDENA, CALIF.
CABLE ADDRESS - AMEHON, GARDENA, CALIFORNIA (213) 327-8280

IMPORTANT: FREE FENDER REPLACEMENT OFFER

Dear Honda Owner:

We have become aware of a condition in some Honda cars which you should know about. This condition may result in the front fenders of some 1975–1978 cars rusting prematurely. By agreement with the Federal Trade Commission, American Honda will correct this problem free, if you qualify. If we cannot replace the fenders within six months of when you apply (see paragraph 3), we will offer you the option of receiving a cash settlement (see paragraph 4). Also, if you paid for repair or replacement of rusted fenders in the past, American Honda will repay you, if you qualify. We are doing this because we want to satisfy our customers and keep them satisfied.

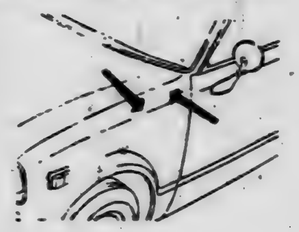

Please read this letter carefully and follow the steps listed to make sure you get the new fender(s) or refund. We are sorry this letter is so long, but we want to make sure you have all the information you need.

HONDA'S PROGRAM FOR FRONT FENDER RUST

1. **How to Tell If Your Car Has The Front Fender Rust Condition**

   This program covers rust on the top part of the front fender, within about two feet of the windshield. The rust first appears in the form of bubbles or blisters in the paint. Soon after, holes in the metal develop. The drawing above shows the problem area.

   Only rust which began on the underside of the fender is covered by this program. Conditions *not* covered are:

   a. rust on any other part of your car;
   b. surface rust;
   c. rust due to unrepaired (or poorly repaired) stone chips or collision damage.

2. **How to Determine If You Qualify For The Replacement Program**

   We will replace the rusted fender(s) free, if you meet *all* of these conditions:

   a. Your car is a 1975, 1976, 1977 or 1978 Honda, any model;
   b. The rust began on the underside of the fender and is in the top, rear part of the front fender (see the drawing);
   c. The first signs of rust (usually paint bubbling) appeared within your car's first three years of service. See the dates at the top of the enclosed Application Form. If you first noticed the problem before the "ended" date, you qualify; and
   d. You now own (or lease) the car, and owned (or leased) it at some time during its first three years.

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3. What You Should Do If You Meet These Qualifications – How to Apply

a. Visit any Honda new car dealer any time during normal service hours to get your car's fenders inspected. *You must* bring the Application Form with you. (If you lost it, contact your local Honda zone office listed at the end of this letter.) Although the inspection should only take a few minutes, you may want to call the dealer before coming, to avoid possible delays. If the dealer agrees after inspecting your car that you qualify, an appointment will be set for your fender replacement.
b. At the inspection, the dealer will ask you to sign the statement in the "Replacement" section of the Application Form. This certifies that the rust appeared within your car's first three years, and that you owned it at some point during those three years. The dealer will fill in the inspection and appointment dates on your Form. He will also fill in a date exactly six months from the inspection. If the dealer cannot install your new fender(s) by this six-months date, you have the right to a cash settlement (see paragraph 4 below). *Be sure* to keep your copies of the Form. Mark the date on your calendar so that you know when the six months have passed.
c. If the dealer says that you do not qualify, ask him for a copy of his inspection report. If you still think you qualify, you have the right to get a review of your case by a Honda zone representative. Contact your local Honda zone office. If the dealer's report says you do not qualify because the rust did not begin on the underside of the fender, you can ask the zone office to do another inspection.
d. Bring your Application Form with your car to the dealer on your appointment date. The fender(s) will be replaced at no charge to you. Because of the time needed for the paint to dry, it will usually take three or four working days to replace the fender(s). In some cases, it may take even longer. Ask your dealer. Also, you should know that it is not always possible to match exactly the fender paint or accent items. If you cannot make your appointment, call your dealer well in advance to reschedule it.

4. If The Dealer Can't Replace The Fender(s) Within Six Months

If we receive many requests for new fenders under this Program, your dealer may not be able to install your new fender(s) within six months of the inspection date. If your fenders have not been installed by the six-months date on the Application Form, you will have a choice. You can either wait to have the fender(s) replaced when the dealer can schedule the work, or you can receive a check from us for $150 for each rusted fender.

It is *very important* that you keep your copies of the Application Form and mark the six-months date on your calendar. Then, on that date, or as soon as possible after that, make your choice. If you want to wait to get your fender(s) replaced, call your dealer to set an appointment. If you choose instead to take the money, fill out and sign the "Cash Settlement" section of the Application Form, and mail the white copy to us in the enclosed envelope. We will then mail you a check within 60 days. Only one cash settlement per automobile is permitted.

Remember, you don't have to accept the $150 per fender. If you prefer, you can choose to wait and have your fender(s) replaced. You *cannot* get both new fenders and the money. The $150 will only be offered if the dealer can't replace the fender(s) within six months. If you miss an appointment and do not reschedule it within the six months you become ineligible for the cash settlement. You should also know that a body shop would probably charge you more than $150 to replace your fender. If you lose your Application Form call the dealer who did your inspection.

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5. What You Should Do If You Already Paid For Repairs or Replacement – Before You Got This Letter

We will repay you for reasonable repair or replacement bills which you paid in trying to fix the rusted fender(s). *But*, we will repay you only if you had the repairs or replacement *before* you got this letter.

To get repaid, you must:
a. Meet all the conditions in paragraph 2, *except* you are still eligible even if you don't own the car anymore.
b. Carefully read the statement in the "Repayment" section of the Application Form and sign it. Also, fill in the amount you spent for the repairs or replacement.
c. Send the pink copy of the Form to us in the enclosed envelope, along with a copy of your repair or replacement bill. If you don't have your bill, try to get a copy from the repair shop. If you can't get a copy of the bill, send us a copy of your cancelled check or charge receipt, and a statement from the repair shop describing the repair or replacement and the cost, if you can get one. If you can't, send us the name and address of the repair shop and the date of repair, so we can check the information.
d. We will then repay you within 60 days. If you still own the car, we may ask to inspect it before we repay you. This offer cannot be transferred to anyone else.

6. IMPORTANT REMINDERS

Act promptly. After you find that your car has front fender rust, contact a Honda dealer right away. This program will end May 1, 1983. BUT YOU MUST APPLY BEFORE (six months after Order served), OR YOUR CAR IS 3 1/2 YEARS OLD, WHICHEVER DATE IS LATER, TO BE ELIGIBLE.

Although there is no guarantee, the new fender(s) which we will give you should not develop this type of rust for at least three years, whether or not you have them "rustproofed." The fenders have been factory-treated to resist rust. However, the metal may rust eventually. The effectiveness of rustproofing will depend on many factors. Before purchasing rustproofing, you should consider the age and general condition of your car and how much longer you plan to keep it. Also, keep in mind that you will be charged the rustproofer's regular price if you decide to purchase it. In this instance, we would not generally recommend it.

If you have any questions or problems with our program, call or write your local Honda zone office listed on the next page. We deeply regret any inconvenience this rust condition or our program may cause you.

Sincerely,

AMERICAN HONDA MOTOR CO., INC.

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If you are dissatisfied with the service you received at an authorized Honda dealership, you should review the matter with that dealership's Service Manager. This will normally resolve your problem. If it does not, you should appeal the decision with the owner of the dealership.

After following these steps, if you wish to obtain assistance from American Honda you should contact the appropriate Zone Office. The Zone Office to contact is the one covering the area where you are now located. Each Zone's address and area of responsibility is shown on the map.

Please include the following information when you contact the Zone Office:

1. Vehicle Identification Number (VIN)
2. Date of Purchase
3. Servicing Dealer Name and Address
4. Your Name and Address

The Zone Office is staffed to assist Honda owners.

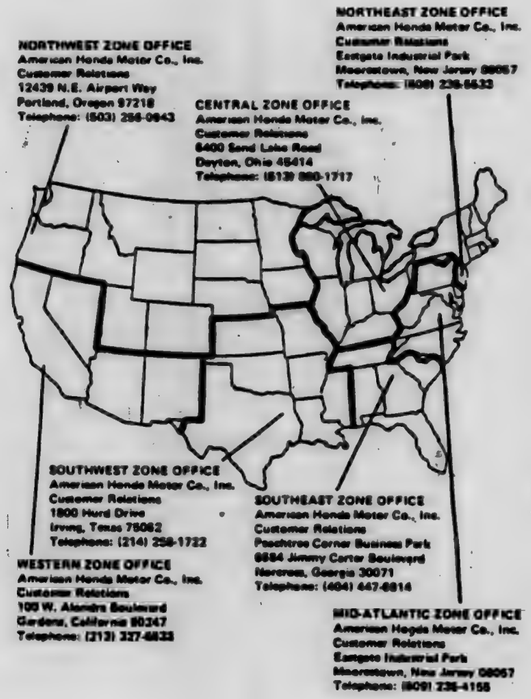

NORTHWEST ZONE OFFICE
American Honda Motor Co., Inc.
Customer Relations
12439 N.E. Airport Way
Portland, Oregon 97218
Telephone: (503) 256-0943

CENTRAL ZONE OFFICE
American Honda Motor Co., Inc.
Customer Relations
6400 Sand Lake Road
Dayton, Ohio 45414
Telephone: (513) 860-1717

NORTHEAST ZONE OFFICE
American Honda Motor Co., Inc.
Customer Relations
Eastgate Industrial Park
Moorestown, New Jersey 08057
Telephone: (609) 235-5533

SOUTHWEST ZONE OFFICE
American Honda Motor Co., Inc.
Customer Relations
1800 Hurd Drive
Irving, Texas 75062
Telephone: (214) 258-1722

SOUTHEAST ZONE OFFICE
American Honda Motor Co., Inc.
Customer Relations
Peachtree Corner Business Park
6884 Jimmy Carter Boulevard
Norcross, Georgia 30071
Telephone: (404) 447-6814

WESTERN ZONE OFFICE
American Honda Motor Co., Inc.
Customer Relations
100 W. Alondra Boulevard
Gardena, California 90247
Telephone: (213) 327-6833

MID-ATLANTIC ZONE OFFICE
American Honda Motor Co., Inc.
Customer Relations
Eastgate Industrial Park
Moorestown, New Jersey 08057
Telephone: (609) 235-4155

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HONDA

— Attachment B —

1975–78 FENDER RUST APPLICATION FORM

AMS 2418-3456

You must bring all copies of this form to your dealer when you have the car inspected.

PRE-PRINTED

Write Name/Address Corrections here:

3 years-in-service began PRE-PRINTED ; ended PRE-PRINTED

Complete and sign the applicable sections:

I. REQUEST REPLACEMENT

I request that one ☐, or both ☐ front fenders be replaced. I certify that fender rust or bubbling appeared within my car's first three years-in-service and that I owned or leased the car during that period, and still own or lease it.

(Owner's Signature) (date)

Date car inspected: (date)

Six months from that date is: (date)

Repair appointment: (time) (date)

Dealer Name/Number

(Dealer's Verification Signature) (date)

II REQUEST CASH SETTLEMENT

My fenders could not be replaced by (6 months date)

Therefore, I request a cash settlement of:

☐ $150 (one rusted fender) or ☐ $300 (two rusted fenders)

(Owner's Signature) (date)

Mail white copy to American Honda.

III REQUEST REPAYMENT

I paid $_____ to have my rusted front fender(s) repaired before I received the letter from American Honda. Therefore, I request repayment for that amount. I certify that the rust began on the underside of the fender, and appeared within my car's first three years-in-service and that I owned or leased the car during that period.

(Owner's Signature) (date)

NOTE: To request repayment, you must enclose a copy of the paid repair bill or other proof of repair and mail it with the pink copy of the form to American Honda.

This column for AHM/Dealer Use Only:

CLAIM NO.	DEALER NO.	REPAIR CODE
MODEL V.I.N.		
DEALER R.O. NO.	DEALER R.O. DATE	DATE WORK COMPLETED
AIR CONDITIONER MANUFACTURER		SERIAL NO.

Which fender replaced? LEFT BOTH RIGHT

HONDA/C	QTY.	PARTS DESCRIPTION	DLR. NET

(A) DEALER NET PARTS TOTAL (DOES NOT INCLUDE HANDLING)	
(B) PARTS HANDLING	
(C) SUBLET	
SUB TOTAL Lines A & C	
(D) LABOR TOTAL F.R.T. _____	$ -
(E) CLAIM TOTAL	

SUBLET WORK EXPLANATION — SUBLET INVOICE NO.

DEALER CERTIFICATION

DEALER HEREWITH CERTIFIES THAT ALL PARTS AND/OR LABOR DESCRIBED HERE WERE FURNISHED AT NO CHARGE TO THE CUSTOMER PURSUANT TO AMERICAN HONDA MOTOR COMPANY, INC. WARRANTY POLICIES. ALL CREDITED ITEMS SUBJECT TO AUDIT AND PARTS RETURN.

SERVICE MANAGER SIGNATURE

FACTORY COMMENTS

AHM SIGNATURE

AUTHORIZATION SIGNATURE DATE

CODES A ☐ B ☐ C ☐ D ☐ E ☐

COPIES: WHITE OWNER MAILS TO HONDA FOR CASH SETTLEMENT or DEALER MAILS TO HONDA FOR FENDER CLAIM — PINK OWNER SENDS TO HONDA FOR REPAYMENT — GREEN DEALER INSPECTION COPY — GOLD OWNER COPY — YELLOW DEALER COPY

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HONDA

AMERICAN HONDA MOTOR CO., INC.

IMPORTANT!

FIRST CLASS

-Attachment C-

ATTACHMENT D

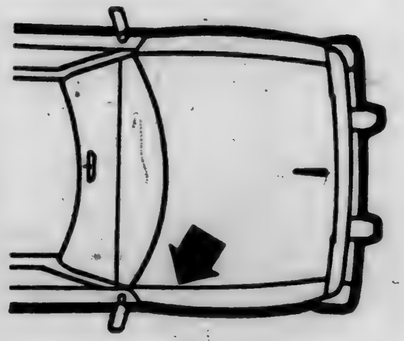

Fender Rust Covered Free

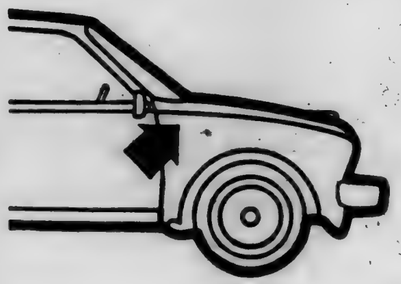

If your 1975—78 Honda car front fender rusted in this area in its first three years of operation,

you may be eligible for a free replacement fender (or a refund for your costs, if you've already had it repaired).

Ask your Honda dealer for more information.

HONDA

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[FR Doc. 82-4746 Filed 2-19-82; 8:45 am]
BILLING CODE 6750-01-C

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 140

Reports by Traders; Calls for Series '03 Reports; Delegation of Authority

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: Pursuant to Commission rule 18.00, traders with a reportable futures position or those who have held a reportable futures position are required to file series '03 reports concerning such positions within 24 hours of a special call by the Commission or its designee. The Commission is hereby amending Part 140 of its regulations to delegate authority to the Director of the Division of Economics and Education or his designee to issue special calls for series '03 reports.

EFFECTIVE DATE: February 22, 1982.

FOR FURTHER INFORMATION CONTACT: John Mielke, Associate Director for Market Surveillance, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254–3310.

SUPPLEMENTARY INFORMATION: On December 8, 1981, the Commission published in the **Federal Register** final rules which, among other things, eliminate the requirement for large traders to routinely file series '03 reports.[1] 46 FR 59960. Under these rules, however, traders are required to file such reports within 24 hours of a special call by the Commission or its designee. These amendments became effective on January 1, 1982. At this time the Commission is delegating its authority to make special calls for series '03 reports under Rule 18.00 to the Director of the Division of Economics and Education or his designee.

As the Commission noted in its August 21, 1981, **Federal Register** release which proposed the changes to the large trader reporting requirements, the Commission now collects much of the information currently contained on series '03 reports through the series '01 reports and Forms 102 and 40.[2] 46 FR 42463. However, generally more complete information concerning a trader's position is reported on the series '03 reports than on the series '01 reports.[3] Therefore, when circumstances dictate, the Commission may need to obtain from specific traders the additional information covered by the series '03 reports.

The primary purposes for requiring such reports on call will include conducting surveillance of maturing futures and determining compliance with Commission speculative position limits. Both functions are routine matters conducted on a day-to-day basis by the Commission's Division of Economics and Education. Procedures that require Commission review of the routine issuance of each special call for series '03 reports are therefore unnecessary and could become unduly burdensome. In addition, in the Commission's view, delegating the authority to the staff to make special calls under Rule 18.00 for series '03 reports would facilitate surveillance procedures by reducing the time required to transmit and receive the necessary information.

PART 140—ORGANIZATION, FUNCTIONS AND PROCEDURES OF THE COMMISSION

In consideration of the foregoing and pursuant to its authority under sections 2a(11) and 4i of the Commodity Exchange Act, 7 U.S.C. 4a(j) and 6i (1976), the Commission hereby amends Part 140 of Chapter I of Title 17 of the Code of Federal Regulations by creating a new § 140.74 to read as follows:

§ 140.74 Delegation of authority to issue special calls for Series '03 reports.

(a) The Commodity Futures Trading Commission hereby delegates, until such time as the Commission orders otherwise, to the Director of the Division of Economics and Education or his designee, the authority to issue special calls under Commission Rule 18.00 for series '03 reports.

(b) The Director of the Division of Economics and Education may submit any matter which has been delegated to him under paragraph (a) of this section to the Commission for its consideration.

(c) Nothing in this section may prohibit the Commission, at its election, from exercising the authority delegated to the Director of the Division of Economics and Education under paragraph (a) of this section.

The foregoing rule is effective immediately. The Commission finds that the rule relates solely to agency practice and procedure and that notice of proposed rulemaking and opportunity for public participation are not required. The foregoing is in accordance with the Administrative Procedure Act, as codified, 5 U.S.C. 553.

Issued in Washington, D.C., on February 16, 1982, by the Commission.

Jane K. Stuckey,

Secretary for the Commission.

[FR Doc. 82-4666 Filed 2-19-82; 8:45 am]

BILLING CODE 6351-01-M

[1] The series '03 reports were required to be filed with the Commission by traders who own or control a reportable futures position whenever such traders made a futures transaction in the commodity in which they held reportable positions. A reportable futures position is a futures position in any one future of a commodity on any one contract market which equals or exceeds certain levels as set forth in Commission Rule § 18.03(a) 46 FR 59964, December 8, 1981. The information requested on the series '03 reports includes trades, positions (classified as speculative or hedging), exchanges of futures for physicals and deliveries. 17 CFR 18.00.

[2] Under Commission Rule § 17.00, clearing members, FCMs and foreign brokers must report daily each reportable position as well as delivery information and exchanges of futures for physicals. 46 FR 59965 (December 8, 1981). These positions are reported on series '01 forms. Form 102 is filed with the Commission by clearing members, FCMs and foreign brokers and identified accounts which are reported to the Commission on series '01 reports. 46 FR 59966. Form 40 is provided by a reportable trader and gives certain background information on the trader.

[3] Only those traders' positions in a commodity which are above the reporting level carried by a single futures commission merchant must be reported on series '01 reports. In contrast, on series '03 reports, traders, if they are reportable in that commodity, must report all of their futures positions and transactions in a commodity carried by all futures commission merchants.

RAILROAD RETIREMENT BOARD

20 CFR Parts 208, 210, 216, 217, 219, 221, 230, 232, 237, and 238

Annuities Under the Railroad Retirement Act

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board amends several parts of its regulations concerning annuities under the Railroad Retirement Act. Amendment of the regulations is a part of an ongoing project of the Railroad Retirement Board to review, revise and reorganize its regulations.

EFFECTIVE DATE: February 22, 1982.

ADDRESS: Secretary, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Marilyn Berg or Eloise Sandle, Bureau of Retirement Claims, Railroad Retirement Board, Room 943, 844 Rush Street, Chicago, Illinois 60611, (312) 751–4818 (FTS 387–4818).

SUPPLEMENTARY INFORMATION: The Board has determined that this is not a major rule within the meaning of Executive Order 12291 and that this rule has been handled in accordance with that Order.

Proposed rulemaking was published on pages 78704–78726 of the **Federal Register** of November 26, 1980, and a public comment period of 60 days was afforded. No comments were received. Final publication was delayed due, in part, to a shortage of funds for publication expenses.

The Board amends the following regulations:

(1) Regulations on eligibility for annuities to be designated as Part 216;

(2) Regulations on applications for benefits to be designated as Part 217;

(3) Regulations on evidence required for payment of benefits to be designated as Part 219; and

(4) Regulations on determinations of Railroad Retirement Board jurisdiction to pay benefits to be designated as Part 221.

New Part 216 contains the basic eligibility requirements for the various types of annuities provided under the Railroad Retirement Act of 1974. The amendment to the annuity eligibility regulations is necessary to update the regulations to the requirements imposed under the Railroad Retirement Act of 1974. The former regulations were issued under the Railroad Retirement Act of 1937 and are, in certain respects, obsolete. In addition, Part 216 has been written in plain English and the eligibility requirements for the various types of annuities, which under former regulations are spread over several parts, have been consolidated under a single part to make these regulations more usable and understandable.

Part 217 sets forth and explains the requirements for the filing of applications for benefits under the Railroad Retirement Act of 1974. Application forms discussed in this part were utilized under former regulations and have been approved by the Office of Management and Budget. Substantial changes to the former regulations were made; in § 217.9(b), to provide that a disability application will not be denied if the claimant becomes disabled before a final decision is made in § 217.16, to provide for the use of the date an application was mailed as the filing date, if it will prevent the loss of benefits; and in §§ 217.20 and 217.21, to allow a filing date to be established based on a written or verbal statement. In addition, the new part explains when, how, and where to file an application, details how and when an application may be cancelled, and sets forth the reasons why applications may be denied. The amendment to the annuity application regulations is necessary to update the regulations to the requirements imposed under the Railroad Retirement Act of 1974. The former regulations were issued under the Railroad Retirement Act of 1937 and are, in certain respects, obsolete. In addition, Part 217 has been written in plain English and the application requirements, which under former regulations were spread over several parts, have been consolidated under a single part to make these regulations more usable and understandable.

Part 219, Evidence Required for Payment, which would replace the former Part 239, Proofs Required in Support of Claims for Benefits, describes the amount and type of evidence required by the Board for the payment of the different benefits provided under the Railroad Retirement Act of 1974. The amendment to the evidence regulations is necessary to update the regulations to the requirements imposed under the Railroad Retirement Act of 1974. The former regulations were issued under the Railroad Retirement Act of 1937 and are, in certain respects, obsolete. In addition, Part 219 has been written in plain English and should be more usable and understandable.

Part 221, Jurisdiction Determination, is totally new. There was no similar part under former regulations. The new part explains the factors involved in deciding whether the Railroad Retirement Board or the Social Security Administration will pay benefits to a railroad employee, and the employee's family, both before and after death. The new Part 221 is necessary to administer the Railroad Retirement Act of 1974 and explains in a simple, straightforward manner how determinations on Railroad Retirement Board jurisdiction are made.

Amendment of the above-described regulations is a part of an ongoing project of the Railroad Retirement Board to review, revise and reorganize its regulations. As a result, the new parts were written to be an integral part of the revised and reorganized regulations and may, in certain cases, refer to parts or sections of regulations which are not currently in effect. The Board believes that the minor inconveniences that may arise as a result of publishing the regulations on a part-by-part basis are outweighed by the benefits derived from publishing current, more easily usable and understandable regulations.

Although no public comment was received concerning the notice of proposed rulemaking, certain minor changes have been made in the regulations to conform to changes in the law and to changes in related regulations of the Social Security Administration. These changes are as follows:

(1) Subpart H part 216 and § 219.32 which concerned windfall dual benefits, have been deleted and reserved in view of amendments to the Railroad Retirement Act made by the Omnibus Budget Reconciliation Act of 1981;

(2) Sections 216.51(b) and 216.53 were changed slightly to conform to amendments to §§ 404.355 and 404.357 of the regulations of the Social Security Administration; and

(3) Section 216.99(f) was changed to conform to the Staggers Rail Act of 1980.

Several minor conforming and clerical changes were also made.

Title 20, Chapter II, is amended as follows:

PART 208—DISABILITY

§§ 208.1, 208.2, 208.5, and 208.7 [Removed]

1. Part 208 is amended by (a) revising the title of this part from "Eligibility for An Annuity" to "Disability", and (b) removing §§ 208.1, 208.2, 208.5, and 208.7.

PART 210—[REMOVED]

2. Part 210 is removed.

3. The current Part 216 is revised to read as follows:

PART 216—ELIGIBILITY FOR AN ANNUITY

Subpart A—General

Sec.
- 216.1 Introduction.
- 216.2 Definitions.
- 216.3 Other regulations related to this part.

Subpart B—Employee Annuity

- 216.5 Who is eligible for an age annuity.
- 216.6 Who is eligible for a disability annuity.
- 216.7 What is required for payment.
- 216.8 What work may affect eligibility.
- 216.9 Giving up the right to return to work.

Subpart C—Supplemental Annuity

- 216.11 Introduction.
- 216.12 Who is entitled to a supplemental annuity.
- 216.13 Supplemental annuity closing date.
- 216.14 Relationship between supplemental annuity and other benefits.
- 216.15 What is a private pension.
- 216.16 Effective date of private pension.

Subpart D—Spouse Annuity

- 216.20 Who is eligible for a spouse annuity.
- 216.21 What is required for payment.
- 216.22 Who is the employee's wife or husband.
- 216.23 When a spouse is living with an employee.
- 216.24 Contributing to support, defined.

Subpart E—Surviving Spouse Annuity

- 216.30 Who is eligible for a surviving spouse annuity.

Sec.
216.31 What is required for payment.
216.32 Who is the employee's surviving spouse.
216.33 Marriage defined.
216.34 Relationship as wife, husband, widow or widower under State law.
216.35 Deemed marriage.
216.36 "Child in care" when child is living with spouse or surviving spouse.
216.37 "Child in care" when child is not living with spouse or surviving spouse.
216.38 Disability period for surviving spouse.

Subpart F—Child's Annuity

216.45 General.
216.46 Who is eligible for a child's annuity.
216.47 What is required for payment of a child's annuity.
216.48 Who may be reentitled to a child's annuity.
216.49 Child defined.
216.50 Relationship as a child under State law.
216.51 Who is the employee's natural child.
216.52 Who is the employee's legally adopted child.
216.53 Who is the employee's stepchild.
216.54 Who is the employee's grandchild or stepgrandchild.
216.55 Who is the employee's equitably adopted child.
216.56 When a child must be dependent.
216.57 When a natural child is dependent.
216.58 When a legally adopted child is dependent.
216.59 When a stepchild is dependent.
216.60 When a grandchild or stepgrandchild is dependent.
216.61 When an equitably adopted child is dependent.
216.62 When a child is living with an employee.
216.63 One-half support, defined.
216.64 When a child is a full-time student.
216.65 When a child is a full-time student during a period of non-attendance.

Subpart G—Parent's Annuity

216.70 Who is eligible for a parent's annuity.
216.71 What is required for payment.
216.72 Who is the employee's parent.

Subpart H—[Reserved]

Subpart I—Eligibility for More Than One Annuity

216.90 Employee and spouse or survivor annuity.
216.91 Spouse and survivor annuity.
216.92 Two survivor annuities.

Subpart J—Current Connection With the Railroad Industry

216.95 General.
216.96 When required.
216.97 Regular current connection test.
216.98 Special current connection test.
216.99 What is regular non-railroad employment.
216.100 What amount of regular non-railroad employment will break a current connection.
216.101 Regular non-railroad employment that will not break a current connection.

Authority: Sec. 2, Pub. L. 93-445, 88 Stat. 1312-1319 (45 U.S.C. 231a), unless otherwise noted. Subpart J also issued under sec. 1, Pub. L. 93-445, 88 Stat. 1311 (45 U.S.C. 231). Sec. 7, Pub. L. 93-445, 88 Stat. 1339 (45 U.S.C. 231f).

Subpart A—General

§ 216.1 Introduction.

This part explains when a person is eligible for a monthly annuity under the Railroad Retirement Act.

(a) *Regular annuity.* A regular monthly annuity is provided for—

(1) An employee who retires because of age or disability;

(2) An employee's wife or husband (spouse); and

(3) The widow, widower, child, or parent of an employee who died.

(b) *Supplemental annuity.* A supplemental annuity is provided for an employee who is entitled to an age or disability annuity.

§ 216.2 Definitions.

As used in this part—

"Apply" means to sign a form or statement that the Railroad Retirement Board accepts as an application for an annuity under the rules set out in Part 217 of this chapter.

"Current Connection" means that the employee was working in or was considered to be working in the railroad industry when he or she became entitled to an annuity or died. An employee has a current connection if he or she meets the conditions described in Subpart J of this part.

"Eligible" means that a person would meet all the requirements for payment of an annuity for a period of time but has not yet applied.

"Entitled" means that a person has applied and has proven his or her right to have the annuity begin.

§ 216.3 Other regulations related to this part.

This part is related to several other parts. Part 217 of this chapter tells how to apply for an annuity. Part 218 of this chapter sets the beginning and ending dates of an annuity. Part 219 of this chapter sets out what evidence is necessary to prove eligibility. Parts 225-228 of this chapter describe the computation of an annuity. Part 229 of this chapter tells when and how an employee and spouse annuity can be increased under the social security overall minimum provision.

Subpart B—Employee Annuity

§ 216.5 Who is eligible for an age annuity.

(a) *General.* An employee is eligible for an age annuity if he or she stops all work for pay as described in § 216.8, and is—

(1) Age 65 or older and has completed 10 years of service; or

(2) Age 60 or older and under 65 and has completed 30 years of service; or

(3) Age 62 or older and under 65 and has completed 10 years but less than 30 years of service. This type of annuity is reduced for each month the employee is entitled before he or she becomes 65 years old. The reduction is described in Part 226 of this chapter.

(b) *Change from employee disability to age annuity.* A disability annuity that is paid through the end of the month before the employee becomes 65 years old automatically becomes an age annuity beginning with the month he or she is 65 years old. However, the age annuity cannot be paid until the employee gives up the right to return to work as described in § 216.7.

§ 216.6 Who is eligible for a disability annuity.

The Railroad Retirement Act provides two types of disability annuities. One type is where the employee's disability prevents work in his or her regular railroad occupation. The other type is where the employee's disability prevents work in any regular employment.

(a) *Disabled for work in regular occupation.* An employee is eligible for a disability annuity if he or she is disabled for work in his or her regular occupation, as defined in Part 220 of this chapter, is under age 65, stops all work for pay, has a current connection with the railroad industry, and either—

(1) Has completed 20 years of service; or

(2) Has completed 10 years of service and is 60 years old or older.

(b) *Disabled for work in any regular employment.* An employee is eligible for a disability annuity if he or she is disabled for work in any regular employment, as defined in Part 220 of this chapter, is under 65, stops all work for pay, and has completed 10 years of service.

§ 216.7 What is required for payment.

The following conditions are necessary for payment of an employee annuity:

(a) An eligible employee must apply to be entitled to an annuity.

(b) If the employee applies for an age annuity, he or she must give up the right to return to work before any annuity to which he or she is entitled can be paid.

(c) If the employee applies for a disability annuity, the annuity may be paid without the need to give up the right to return to work. However, the annuity cannot be paid, beginning with the month the annuitant is 65 years old, until the annuitant gives up the right to return to work. The disability annuitant must give up the right to return to work before he or she is 65 years old to permit payment of a supplemental annuity under Subpart C of this part or a spouse annuity under Subpart D of this part. The disabled employee can give the Board the authority to give up the right to return to work for him or her when it is required.

§ 216.8 What work may affect eligibility.

Most types of work for pay must be stopped before an employee is eligible for an age or disability annuity, as explained below:

(a) *Work an employee must stop.* Except as shown in paragraph (b) of this section the employee must stop working for—

(1) Any employer under the Railroad Retirement Act; and

(2) Any non-railroad employer.

(b) *Work an employee need not stop.* The employee may continue the following work and still be eligible for an age or disability annuity:

(1) Work for a local lodge or division of a railway labor organization if the pay is under $25 a month unless the work performed is solely for the purpose of collecting insurance premiums.

(2) Self-employment, as defined in paragraph (c) of this section.

(3) Work as an elected public official of the United States, a State, or any political subdivision of a State.

(c) *Self-employment, defined.* Self-employment is work performed in a person's own business, trade, or profession, rather than for an employer. A person is not self-employed, for purposes of this section, if he or she works in an incorporated business. In that case, the corporation is the person's employer. An independent contractor or consultant is considered to be self-employed only if he or she is not supervised by an employer and is not a regular member of the employer's staff. The following factors indicate that a person working as a contractor or consultant may be self-employed:

(1) The person has an office separate from that of an employer.

(2) The person performs similar services for several employers.

(3) The person is free to choose his or her own working hours.

(4) The person performs specific services for a limited time on a particular project.

(5) The person receives payment for a particular project, rather than on a regular basis.

§ 216.9 Giving up the right to return to work.

The employee must give up the right to return to work before an annuity can be paid as explained in § 216.7.

(a) *What return to work rights must be given up.* Except for the type of work shown in § 216.8(b), the employee must give up any seniority or other rights to return to work for—

(1) Any employer under the Railroad Retirement Act; and

(2) Any non-railroad employer with whom the employee—

(i) Last worked before the annuity beginning date; or

(ii) Has the right to return to work on the annuity beginning date; or

(iii) Stopped working to permit the annuity to begin.

(b) *When the right to return to work ends.* An employee's right to return to work for a railroad or non-railroad employer ends when—

(1) The employer reports to the Board that the employee no longer has that right; or

(2) The employee or an authorized agent of the employee gives the employer an oral or written notice of the employee's wish to give up that right and—

(i) The employee certifies to the Board that the right has been given up;

(ii) The Board notifies the employer of the employee's certification; and

(iii) The employer either confirms the employee's right has been given up or fails to reply within 10 days following the day the Board mailed the notice to the employer; or

(3) An event occurs which under the established rules or practices of the employer automatically ends that right; or

(4) The employer or the employee or both take an action which clearly and positively ends that right; or

(5) The employee never had that right and permanently stops working; or

(6) The Board gives up that right for the employee, having been authorized to do so by the employee; or

(7) The employee dies.

Subpart C—Supplemental Annuity

§ 216.11 Introduction.

A career railroad employee may qualify for a supplemental annuity in addition to the regular employee annuity. Supplemental annuities are paid out of a separate trust fund established through employer taxes. The Board reduces a supplemental annuity if the employee receives a private pension based on contributions from a railroad employer. Supplemental annuities are subject to federal income tax.

§ 216.12 Who is entitled to a supplemental annuity.

An employee is entitled to a supplemental annuity, if he or she—

(a) Does not work past his or her supplemental annuity closing date as shown in § 216.13; and

(b) Is entitled to the payment of an employee annuity under subpart B of this part; and

(c) Has a current connection with the railroad industry when the employee annuity begins; and either

(d) Is age 65 or older, has completed 25 years of service, and the employee annuity begins on or after July 1, 1966; or

(e) Is age 60 or older and under age 65, has completed 30 years of service, and the employee annuity begins on or after July 1, 1974. If that annuity is a disability annuity, the annuitant must give up the right to return to work as shown in §§ 216.7 and 216.9 before any supplemental annuity due him or her can be paid.

§ 216.13 Supplemental annuity closing date.

(a) *General.* An employee's supplemental annuity closing date is the last day the employee can work for a railroad employer and still be entitled to a supplemental annuity. There are two types of closing dates—the regular closing date for most career employees and the special closing date for an employee who did not complete the 25 years of service required to qualify for a supplemental annuity on his or her regular closing date.

(b) *Regular closing date.* If the employee has completed 25 years of railroad service or is eligible for an old-age benefit under section 202(a) of the Social Security Act, the regular closing date is the last day of the month after the month he or she becomes 65 years old. However, various closing dates were established if the employee became 65 years old in or before 1973. If the employee was—

(1) 65 years old in 1973, the closing date was January 31, 1974;

(2) 66 years old in 1973, the closing date was the last day of the month after the month he or she was 66 years old;

(3) 66 years old in 1972, the closing date was January 31, 1973;

(4) 67 years old in 1972, the closing date was the last day of the month after the month he or she was 67 years old;

(5) 67 years old in 1971, the closing date was January 31, 1972;

(6) 68 years old in 1971, the closing date was the last day of the month after the month he or she was 68 years old; or

(7) 68 years old before 1971, the closing date was January 31, 1971.

(c) *Special closing date.* If the employee has completed at least 23 years or service but less than 25 years of service and is not eligible for an old-age benefit under section 202(a) of the Social Security Act on his or her regular closing date, the employee's special closing date is the earliest of the following dates:

(1) The last day of the month before the employee becomes eligible for an old-age benefit under section 202(a) of the Social Security Act; or

(2) The last day of the first month in which the employee has enough months of railroad service to be entitled to a supplemental annuity (see § 216.12).

§ 216.14 Relationship between supplemental annuity and other benefits.

(a) *Employee annuity.* A supplemental annuity that begins after December 31, 1974 does not affect the payment of a regular employee annuity.

(b) *Employer pension.* A supplemental annuity is reduced for any private pension the employee is receiving based on a railroad employer's contributions. The reduction is equal to the amount of the pension based on the employer's contributions, less any amount the private pension is reduced because of the supplemental annuity. The supplemental annuity is not reduced for the amount of a private pension paid for by the employee's contributions. Private pension is defined in § 216.15.

(c) *Spouse or survivor annuity.* The payment of a supplemental annuity does not affect the amount of a spouse or survivor annuity.

(d) *Residual lump sum.* The amount of a supplemental annuity is not deducted from the gross residual lump-sum benefit. See Part 234 of this chapter for an explanation of the residual lump-sum benefit.

§ 216.15 What is a private pension.

The Board determines whether a pension established by a railroad employer is a private pension that will cause a reduction in the employee's supplemental annuity. A private pension is based on a pension plan that—

(a) Is a written plan or arrangement which is communicated to the employees to whom it applies; and

(b) Is established and maintained by a railroad employer for a defined group of employees; and

(c) Provides for the regular payment of benefits to employees under a set formula over a period of years.

§ 216.16 Effective date of private pension.

A private pension is effective, for purposes of reducing a supplemental annuity, on the first day of the month after the month the Board determines that it is a private pension, as shown in § 216.15.

Subpart D—Spouse Annuity

§ 216.20 Who is eligible for a spouse annuity.

A person is eligible for a spouse annuity if the person—

(a) Is the wife or husband, as defined in § 216.22, of an employee who is entitled to an annuity under Subpart B of this part;

(b) Stops the same type of work for pay that an employee must stop, as described in § 216.8; and

(c) Meets the age requirements. The spouse's age requirement depends upon when the employee's annuity begins and the employee's age, as follows:

(1) If the employee's annuity begins July 1, 1974 or later, the employee has completed 30 years of railroad service and the employee is 60 years old or older, the spouse must be—

(i) 60 years old or older; or

(ii) Less than 60 years old and a wife with the employee's child who is under 18 years old or disabled in her care. "In care" is defined in §§ 216.36 and 216.37. Subpart F of this part tells who is the employee's child.

(2) If the employee's annuity begins January 1, 1975 or later, the employee has completed less than 30 years of railroad service and the employee is 62 years old or older, the spouse must be—

(i) 65 years old or older; or

(ii) Less than 65 years old and a wife with the employee's child who is under 18 years old or disabled in her care; or

(iii) 62 years old or older and under 65. This type of annuity is reduced for each month the spouse is entitled before he or she becomes 65 years old. The reduction is described in Part 226 of this chapter.

(3) If the employee's annuity began before July 1, 1974, or it began in the period after June 30, 1974 and before January 1, 1975, the employee has less than 30 years of railroad service, and the employee is 65 years old or older, the spouse must be—

(i) 65 years old or older; or

(ii) Less than 65 years old and a wife with the employee's child who is under 18 years old or disabled in her care; or

(iii) 62 years old or older and under 65. This type of annuity is reduced for each month the spouse is entitled before he or she becomes 65 years old. The reduction is described in Part 226 of this chapter.

§ 216.21 What is required for payment.

An eligible spouse must—

(a) Apply to be entitled to an annuity; and

(b) Give up the right to return to work as described in § 216.9, in the same manner as if the spouse were an employee, before any annuity to which he or she is entitled can be paid.

§ 216.22 Who is the employee's wife or husband.

An employee's wife or husband is a person who—

(a) Is married to the employee, as described in § 216.33;

(b) Is living with the employee, as defined in § 216.23, on the date the spouse applied for the annuity; and

(c) Has been married to the employee, for at least one year before the date the spouse applied for the annuity; or

(d) Is the natural parent of the employee's child; or

(e) Was entitled to or, if the spouse had applied and been old enough he or she could have been entitled to, an annuity as a surviving spouse, a parent, or a disabled child under this part in the month before he or she married the employee.

§ 216.23 When a spouse is living with an employee.

(a) *General.* A spouse is living with the employee if—

(1) The employee and spouse are members of the same household; or

(2) The employee is contributing to the support of the spouse, as shown in § 216.24; or

(3) The employee is under court order to contribute to the spouse's support.

(b) *Members of the same household.* The employee and spouse are members of the same household if they normally live together as husband and wife in the same home. The employee and spouse are also considered members of the same household when they live apart but they expect to continue living together after a temporary separation. A temporary separation may be caused by military service, working away from home, hospitalization, or imprisonment. A separation of six months or less for any one of the above reasons or a separation of any length because of military service will be considered a temporary separation unless there is evidence that the employee and spouse do not intend to continue living together. A separation for more than six months, for other than military service, will be considered temporary only if there is evidence that the employee and spouse expect to live together in the near future. In general, a separation will not be considered temporary if the employee and spouse reside in different countries.

§ 216.24 Contributing to support, defined.

An employee is contributing to the support of a person if the employee gives some of his or her own cash, goods, or services to help support the person. Support includes food, clothing, housing, routine medical care, and other ordinary items needed for a person's well being. Contributions must be made regularly and must be large enough to meet an important part of a person's ordinary living costs. Benefits the person receives based on the employee's military service record and spouse benefits under the Railroad Retirement Act are contributions to the person's support. A spouse social security benefit on the employee's earnings record is a contribution toward the spouse's support only if the spouse met one of the "living with" requirements shown in § 216.23 when the spouse application was filed. The employee's contributions must be made on a regular basis. However, temporary interruptions caused by circumstances beyond the employee's control, such as illness or unemployment, are disregarded unless someone else takes over responsibility for supporting the person on a permanent basis.

Subpart E—Surviving Spouse Annuity

§ 216.30 Who is eligible for a surviving spouse annuity.

A person is eligible for a surviving spouse annuity if the person—

(a) Is the widow or widower, as defined in § 216.32, of an employee who has completed 10 years of railroad service and had a current connection with the railroad industry when he or she died;

(b) Has not remarried; and

(c) Meets one of the following conditions—

(1) Is 60 years old or older;

(2) Is 50 years old or older and under 60 years old and he or she has a disability as defined in Part 220 of this chapter that began before the end of the period described in § 216.38. A surviving spouse annuity that is paid on the basis of disability up to the month the annuitant is 60 years old automatically becomes an age annuity beginning with the month he or she is 60 years old; or

(3) Is under 65 years old and has "in care" the deceased employee's child who is entitled to an annuity under Subpart F of this part because he or she is under 18 years old or is disabled. Sections 216.36 and 216.37 describe when a child is "in care."

§ 216.31 What is required for payment.

An eligible widow or widower must apply to be entitled to an annuity.

§ 216.32 Who is the employee's surviving spouse.

A surviving spouse is the deceased employee's widow or widower who—

(a) Was married to the employee for at least nine months before the day the employee died; or

(b) Was married to the employee less than nine months before the employee died but, at the time of marriage, the employee was reasonably expected to live for nine months, and—

(1) The employee's death was accidental; or

(2) The employee died in the line of duty while he or she was serving on active duty as a member of the armed forces of the United States; or

(3) The surviving spouse was previously married to the employee for at least nine months; or

(c) Is the natural parent of the employee's child; or

(d) Was married to the employee when either the employee or the surviving spouse legally adopted the other's child or they both legally adopted a child who was then under 18 years old; or

(e) Was, in the month before the month of marriage, entitled to or, if the surviving spouse had applied and been old enough, he or she could have been entitled to—

(1) A widow's, widower's, father's, mother's, wife's, parent's, or disabled child's benefit under section 202 of the Social Security Act; or

(2) A widow's, widower's, parent's or disabled child's annuity under this part.

§ 216.33 Marriage defined.

Marriage is a relationship based on—

(a) A "deemed marriage" which may be established as described in § 216.35; or

(b) The laws of the state in which the employee has a permanent home. The employee's permanent home is his or her true and fixed home (legal domicile). It is the place to which a person intends to return whenever he or she is absent. A valid marriage under State law may be established if—

(1) The employee and spouse are married in a civil or religious ceremony; or

(2) The spouse could inherit a wife's, husband's, widow's, or widower's share of the employee's personal property if the employee were to die without leaving a will; or

(3) The employee and spouse live together in a common-law marriage relationship which is recognized under State law.

§ 216.34 Relationship as wife, husband, widow or widower under State law.

To decide a person's relationship as the wife or husband of an employee, the Board applies the laws of the State where the employee had a permanent home when the spouse applied for his or her annuity. To decide a person's relationship as the widow or widower of an employee, the Board applies the laws of the State where the employee had a permanent home when the employee died. If the employee's permanent home is not in one of the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa, the Board applies the laws of the District of Columbia. See § 216.33(b) for a definition of "permanent home."

§ 216.35 Deemed marriage.

(a) *General.* If a marriage relationship cannot be established under State law, as shown in § 216.33, a person may be eligible for an annuity based on a deemed marriage. A person is deemed to be the wife, husband, widow, or widower of an employee if the person's marriage to the employee would have been valid under State law except for a legal impediment (see paragraph (b) of this section) and all of the following requirements are met:

(1) The person married the employee in a civil or religious ceremony.

(2) The person went through the marriage ceremony in good faith and did not know of the legal impediment at the time of the marriage. Good faith means that the person believes the marriage is legal.

(3) The person was living in the same household with the employee when he or she applied for the spouse annuity or when the employee died. "Living in the same household" is defined in paragraph (a) of this section.

(4) At the time the person applies for his or her annuity, no other person has a relationship under State law, as shown in § 216.33(b), as the employee's wife, husband, widow or widower and is or has been entitled to an annuity or social security benefit based on that relationship.

(b) *Legal impediment.* A legal impediment means that there was a defect in the procedure followed in the marriage ceremony or that a previous marriage of the employee or spouse had not ended at the time of the ceremony.

(c) *Living in the same household.* A husband and wife are "living in the same household" if they are "members of the same household" as shown in § 216.23(b).

§ 216.36 "Child in care" when child is living with spouse or surviving spouse.

A child who has been living with a person for at least 30 consecutive days is in that person's care if—

(a) The child is under 18 years old; or

(b) The child is 18 years old or older with a mental disability and the person supervises the child's activities and makes important decisions about the child's needs either alone or with another person; or

(c) The child is 18 years old or older with a physical disability and the person performs personal services for the child. Personal services are such services as dressing, feeding, and managing money, which the child cannot do alone because of a disability; and

(d) The child is not in active military service.

§ 216.37 "Child in care" when child is not living with spouse or surviving spouse.

(a) *When child in care.* A child living apart from a person is in that person's care if—

(1) The child lives apart or is expected to live apart from the person for not more than 6 months; or

(2) The child is under 18 years old, the person supervises the child's activities and makes important decisions about his or her needs, and one of the following circumstances applies:

(i) The child is living apart because of school but spends a vacation of at least 30 consecutive days with the person each year, unless some event makes the vacation unreasonable. If the person and the child's other parent are separated, the school must look to the person for decisions about the child's welfare.

(ii) The child is living apart because of the person's employment but the person makes regular and substantial contributions to the child's support. "Contributing to support" is defined in § 216.24.

(iii) The child is living apart because of the child's or the person's physical disability; or

(3) The child is 18 years old or older and is mentally disabled and the person supervises the child's activities, makes important decisions about the child's needs, and helps in the child's upbringing and development.

(b) *Child not in care.* A child living apart from a person is not in the persons's care if—

(1) The child is in active military service; or

(2) The child is living with his or her other parent; or

(3) A court order removed the child from the person's custody and control; or

(4) The child is 18 years old or older, does not have a mental disability, and has been living apart or expects to live apart from the person for more than 6 months; or

(5) The person gave the right to custody and control of the child to someone else.

§ 216.38 Disability period for surviving spouse.

A survfving spouse who has a disability as defined in Part 220 of this chapter is eligible for an annuity only if the disability began before the end of a period which—

(a) Begins with the later of—

(1) The month in which the employee died; or

(2) The last month the surviving spouse was entitled to an annuity for having the emloyee's child "in care"; or

(3) The last month the surviving spouse was entitled to a previous annuity based on disability; and

(b) Ends with the earlier of—

(1) The month before the month in which the surviving spouse is 60 years old; or

(2) The last day of the 84th month (7 years) following the month in which the period began.

Subpart F—Child's Annuity

§ 216.45 General.

The Railroad Retirement Act provides an annuity for the child of a deceased employee but not for the child of a living employee. However, the Act does provide that the child of a living employee can establish eligibility for a spouse annuity, or cause an increase in the annuity of an employee and spouse. The eligibility requirements described in this subpart for the annuity of a child of a deceased employee apply also for the following purposes, except as otherwise indicated in this part:

(a) To establish annuity eligibility for a wife under § 216.20 if she has the employee's eligible child "in care";

(b) To provide an increase in the employee's annuity under the social security overall minimum provision by including the eligible child. (See Part 229 of this chapter); and

(c) To allow payment of a spouse windfall benefit before age 62, as shown in § 216.83(b).

§ 216.46 Who is eligible for a child's annuity.

A person is eligible for a child's annuity if the person—

(a) Is a child, as defined in § 216.49, of an employee who has completed 10 years of railroad service and had a current connection with the railroad industry when he or she died;

(b) Is not married at the time the application is filed;

(c) Is dependent upon the employee as defined in §§ 216.56–216.61; and

(d) Meets one of the following at the time the application is filed—

(1) Is under 18 years old;

(2) Is 18 years old or older and either—

(i) Has a disability as defined in Part 220 of this chapter that began before the child became 22 years old; or

(ii) Is under 22 years old and is a full-time student as defined in § 216.64 and § 216.65; or

(iii) Becomes 22 years old in a month in which he or she is a full-time student and has not completed the requirements for, or received a degree from, a 4-year college or university.

§ 216.47 What is required for payment of a child's annuity.

An eligible child of a deceased employee must apply to be entitled to an annuity.

§ 216.48 Who may be reentitled to a child's annuity.

If a person's entitlement to a child's annuity has ended, the person may be reentitled if he or she has not married and he or she applies to be reentitled. The reentitlement may begin with—

(a) The first month the person is a full-time student if he or she is under 22 years old or is 22 years old and has not completed the requirements for, or received a degree from, a 4-year college or university; or

(b) The first month the person is disabled, if the disability began before he or she became 22 years old; or

(c) The first month the person is under a disability that began before the end of the 84th month after the month in which the previous spouse or child's annuity ended, the person was no longer included as a disabled child under the social security overall minimum (see Part 229 of this chapter), or a spouse windfall based on a child was no longer payable because the person was no longer disabled.

§ 216.49 Child defined.

As used in this chapter, child means—

(a) The natural or legally adopted child of the employee; or

(b) The stepchild of the employee; or

(c) The grandchild or stepgrandchild of the employee or spouse; or

(d) The equitably adopted child of the employee.

§ 216.50 Relationship as a child under State law.

To decide a person's relationship as the child of an employee, the Board applies the laws of the State in which the employee has a permanent home when the wife applies for a spouse annuity for having the employee's child "in care," when the employee's annuity can be increased under the social security overall minimum provision, when a spouse windfall benefit can be paid because of the child, or when the employee dies, if the person is applying for a child's annuity. If the employee's permanent home is not one of the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa, the Board applies the laws of the District of Columbia. See § 216.33(b) for a definition of "permanent home."

§ 216.51 Who is the employee's natural child.

A person may be eligible as an employee's natural child if one of the following conditions is met:

(a) The child could inherit, under State law, a share of the employee's personal property as the employee's natural child if the employee were to die without leaving a will.

(b) The child is the employee's son or daughter and the employee and the child's mother or father went through a marriage ceremony which would have been valid except for a legal impediment, as defined in § 216.35(b).

(c) The child's mother has not married the employee, but—

(1) The employee has stated in writing that the person is his child; or

(2) A court order states that the employee is the father of the child; or

(3) A court ordered the employee to contribute to the child's support because the employee is the child's father.

(d) The child's mother has not married the employee, but—

(1) The person has acceptable evidence other than that shown in paragraph (c) of this section, that the employee is his or her father; and

(2) The employee was living with the child or contributing to the child's support, as shown in §§ 216.62 and 216.24, when—

(i) The wife applied for her annuity for having the employee's child "in care;" or

(ii) The employee's annuity can be increased under the social security overall minimum provison as explained in Part 229 of this chapter; or

(iii) A spouse windfall benefit can be paid because of the child; or

(iv) The employee died, if the person is applying for a child's annuity.

§ 216.52 Who is the employee's legally adopted child.

A person may be eligible as the employee's child if the employee adopted the child under the State laws which apply, as shown in § 216.50. A child adopted by the surviving spouse after the employee's death is considered the employee's child if—

(a) Either the child is adopted within two years after the day the employee died or the employee began proceedings to adopt the child before death; and

(b) The child is living in the employee's household at the time of the employee's death; and

(c) The child is not receiving regular support contributions from any person other than the employee or spouse at the time of the employee's death.

§ 216.53 Who is the employee's stepchild.

A person may be eligible as an employee's stepchild if—

(a) The child's natural or adoptive parent married the employee after the child's birth; and

(b) The marriage between the employee and the child's parent is a valid marriage under State law or would be valid except for a legal impediment as defined in § 216.35(b); and

(c) The employee and the child's parent were married at least one year before the date the wife applies for her annuity for having the employee's child "in care", before the date the employee's annuity can be increased under the social security overall minimum provision, or before the date a spouse windfall benefit can be paid based on the child; or

(d) The employee and the child's parent were married at least nine months before the date the employee died, if the person is applying for a child's annuity. If they were married less than nine months, the conditions described in § 216.32(b) must be met.

§ 216.54 Who is the employee's grandchild or stepgrandchild.

A person may be eligible as the grandchild or stepgrandchild of an employee or of an employee's spouse if the requirements in paragraph (a) and either paragraph (b) or (c) of this section are met:

(a) The person is the natural child, adopted child, or stepchild of the child of an employee or employee's spouse as defined in §§ 216.51–216.53 or in § 216.55.

(b) The person's natural or adoptive parents are deceased or are disabled as defined in section 223(d) of the Social Security Act in the month in which—

(1) The employee, who is entitled to an annuity under subpart B of this part, would be entitled to an age benefit under section 202(a) or a disability benefit under section 223 of the Social Security Act if his or her railroad service were wages under that Act; or

(2) The employee dies; or

(3) The employee's period of disability begins, if he or she is entitled to an annuity and has a period of disability which continues until he or she could be entitled to a social security benefit as described in paragraph (b)(1) of this section. "Period of disability" is explained in Part 220 of this chapter.

(c) The person was legally adopted in the United States by the employee's surviving spouse after the employee's death and the child's natural or adoptive parent or stepparent was not living in the employee's household and making regular contributions to the child's support at the time the employee died.

§ 216.55 Who is the employee's equitably adopted child.

A person may be eligible as the equitably adopted child of an employee if the employee had agreed to adopt the child but the adoption did not occur. The agreement to adopt must be recognized under State law so that the child could inherit a share of the employee's personal property as the employee's child if the employee were to die without leaving a will. The State law to be followed is explained in § 216.50.

§ 216.56 When a child must be dependent.

(a) *Employee is alive.* A child must be dependent upon the employee in the month in which—

(1) The wife's annuity as described in § 216.45(a) begins; or

(2) The employee's annuity can be increased under the social security overall minimum as described in § 216.45(b); *or*

(3) A spouse windfall benefit can be paid based on the child; or

(4) The employee's period of disability begins or the employee could become entitled to a social security benefit as described in §216.54(b)(1), if the employee has a period of disability that continues until he or she could become entitled to that benefit.

(b) *Employee is dead.* A child must be dependent upon the employee in the month in which—

(1) The employee dies; or

(2) The employee's period of disability begins or the employee could become entitled to a social security benefit as described in § 216.54(b)(1), if the employee has a period of disability that continues until he or she could become entitled to that benefit or dies.

§ 216.57 When a natural child is dependent.

The employee's natural child, as defined in § 216.51, is considered dependent on the employee at the time shown in § 216.56. However, if the child is legally adopted by another person

during the employee's lifetime, the child is considered dependent on the employee only if the employee was living with the child or contributing to the support of the child at one of the times shown in § 216.56.

§ 216.58 When a legally adopted child is dependent.

(a) *General*—(1) *During employee's lifetime.* If an employee legally adopts a child before the employee could become entitled to a social security benefit as described in § 216.54(b)(1), and no other person adopts the child during the employee's lifetime, the child is considered dependent on the employee at the time shown in § 216.56(a). If the employee adopts a child who is not his or her natural child or stepchild after the employee could become entitled to a social security benefit, as described in § 216.54(b)(1), the child is considered dependent on the employee only if the requirements in paragraph (b) of this section are met. If another person adopts the child during the employee's lifetime, the child is considered dependent on the employee as shown in § 216.57.

(2) *After employee's death.* If an employee legally adopted a child, including a natural child, stepchild, or grandchild, and no other person adopted the child during the employee's lifetime, the child is considered dependent on the employee at the time shown in § 216.56(b). If a surviving spouse adopted a child after the employee's death, the child is considered dependent on the employee if the requirements in § 216.52 are met. If another person adopted the child during the employee's lifetime, the child is considered dependent on the employee as shown in § 216.57.

(b) *Child adopted after employee could become entitled to a social security benefit.* A child who is not the employee's natural child, stepchild, grandchild, or stepgrandchild, and who is adopted by an employee after the employee could become entitled to a social security benefit as described in §216.54(b)(1), is considered dependent on the employee during the employee's lifetime only if the requirements in paragraphs (b) (1) and either (3) or (4) of this section are met:

(1) The child is adopted in the United States.

(2) The child began living with the employee before the child became age 16.

(3) The child is living with the employee in the United States and receives at least one-half of his or her support from the employee for the year before—

(i) The employee could become entitled to a social security benefit, as described in § 216.54(b)(1); or

(ii) The employee becomes entitled to a period of disability that continues until he or she could become entitled to a social security benefit as described in § 216.54(b)(1).

(4) A child born in the one-year period mentioned in paragraph (b)(3) of this section lives with and receives at least one-half of his or her support from the employee for "substantially all" of the period that begins on the date the child is born. "Substantially all" means—

(i) The child is living with and receiving one-half support from the employee when the employee could become entitled to a social security benefit, as described in § 216.54(b)(1), or a period of disability; and

(ii) Any period during which the child was not living with or receiving one-half support from the employee is not more than one-half the period from the child's birth to the employee's date of entitlement or three months, whichever is less.

(c) *Grandchild adopted after employee could become entitled to a social security benefit.* If an employee legally adopts his or her grandchild or the spouse's grandchild after the employee could become entitled to a social security benefit, as described in § 216.54(b)(1), the grandchild is considered dependent on the employee during the employee's lifetime only if the requirements in paragraphs (c) (1), (2), and (3) or (4) of this section are met:

(1) The grandchild is adopted in the United States.

(2) The grandchild began living with the employee before the grandchild became age 16.

(3) The grandchild is living with the employee in the United States and receives at least one-half of his or her support from the employee for the year before—

(i) The employee's annuity can be increased under the social security overall minimum (see Part 229 of this chapter) by including the grandchild; or

(ii) The employee could become entitled to a social security benefit, as described in § 216.54(b)(1); or

(iii) The employee becomes entitled to a period of disability that continues until he or she could become entitled to a social security benefit, as described in § 216.54(b)(1).

(4) A grandchild born in the one-year period mentioned in item (3) lives with and receives at least one-half of his or her support from the employee for "substantially all" of the period that begins on the date the grandchild is born. "Substantially all" is defined in paragraph (b)(4) of this section.

§ 216.59 When a stepchild is dependent.

An employee's stepchild, as described in § 216.53, is considered dependent on the employee if the stepchild is living with or receiving at least one-half of his or her support from the employee at one of the times shown in § 216.56.

§ 216.60 When a grandchild or stepgrandchild is dependent.

An employee's grandchild, as described in § 216.54, is considered dependent on the employee if the requirements in paragraphs (a) and (b) or (c) of this section are met:

(a) The grandchild or stepgrandchild began living with the employee before the grandchild or stepgrandchild became age 16.

(b) The grandchild or stepgrandchild is living with the employee in the United States and receives at least one-half of his or her support from the employee for the year before—

(1) The employee could become entitled to a social security benefit as described in § 216.54(b)(1); or

(2) The employee dies; or

(3) The employee becomes entitled to a period of disability that lasts until he or she could become entitled to a social security benefit, as described in § 216.54(b)(1), or dies. "Period of disability" is explained in Part 220 of this chapter.

(c) A grandchild or stepgrandchild born in the one-year period mentioned in paragraph (b) of this section lives with and receives at least one-half of his or her support from the employee for "substantially all" of the period that begins on the date the grandchild or stepgrandchild is born. "Substantially all" is defined in § 216.58(b)(4).

§ 216.61 When an equitably adopted child is dependent.

(a) *During employee's lifetime.* An employee's equitably adopted child, as defined in § 216.55, is not considered dependent on the employee during the employee's lifetime if the adoption takes place after the employee could become entitled to a social security benefit, as described in § 216.54(b)(1). If the equitable adoption took place before the employee could become entitled to a social security benefit, the child is considered dependent on the employee if the employee was living with or contributing to the support of the child at one of the times shown in § 216.56(a).

(b) *After employee's death.* An employee's equitably adopted child, as defined in § 216.55, is considered dependent on the employee if the employee was living with or contributing to the support of the child when the employee died.

§ 216.62 When a child is living with an employee.

A child is living with the employee if the child normally lives in the same home with the employee and the employee has parental control and authority over the child's activities. The child is considered to be "living with" the employee while they are living apart if they expect to live together again after a temporary separation. A temporary separation may include the employee's absence because of active military service, working away from home, hospitalization, or imprisonment. However, the employee must have parental control and authority over the child during the period of temporary separation. A child who is in active military service or in prison is not "living with" the employee, since the employee does not have parental control over the child.

§ 216.63 One-half support, defined.

The employee is providing one-half support to a person if the employee makes regular contributions to the person's support and the amount of the contributions is equal to or more than one-half of the person's ordinary living costs. Ordinary living costs are the costs for necessities such as food, clothing, housing, and routine medical care. A contribution may be in cash, goods, or services. The employee is providing one-half support only if he or she has done so for a reasonable period of time. Ordinarily, a reasonable period is the 12-month period immediately before the time the one-half support requirement must be met, as shown in §§ 216.58–216.60, 216.70, 216.82(c), 216.83(c) and 216.85 of this chapter. A shorter period will be considered reasonable if—

(a) The employee starts or stops providing one-half or more of a person's support on a permanent basis sometimes during the 12-month period and this is a change in how the person was supported up to then. In this case, the time from the change up to the end of the 12-month period is considered a reasonable period.

(b) The employee provided one-half or more of a person's support for at least 3 months of the 12-month period, but had to stop or reduce the amount of the contributions because of circumstances beyond his or her control, such as illness or unemployment, and no other person took over the responsibility for providing one-half support on a permanent basis. A reasonable period, in this case, is that part of the 12-month period before the employee had to stop providing one-half support.

§ 216.64 When a child is a full-time student.

A full-time student is a person who is in full-time attendance at an educational institution. A person is not a full-time student if he or she is paid while attending an educational institution by an employer who has requested or required that the person attend the educational institution. A person is not considered a full-time student while he or she is confined in a penal institution or correctional facility because he or she committed a felony after October 19, 1980.

(a) *Full-time attendance, defined.* Full-time school attendance means that a student is enrolled in a non-correspondence course which is considered full-time for day students under the practices and standards of the educational institution. If the student is enrolled in a junior college, college, or university, the course must last at least 13 weeks. If the student is enrolled in any other educational institution, the course must last at least 13 weeks and the student's scheduled rate of attendance must be at least 20 hours a week. A student whose full-time attendance either begins or ends in a month is in full-time attendance for the entire month. A student is in full-time attendance in the month he or she graduates if classes end in the month before graduation. A student is not in full-time attendance after his or her classes end if they end two or more months before the month of graduation.

(b) *Educational institution, defined.* An educational institution is a school (including a technical, trade, or vocational school), junior college, college, or university that meets any one of the following requirements:

(1) It is operated or directly supported by the United States, by any State or local government, or by a political subdivision of a State or local government.

(2) It is approved by a State or accredited by a State or nationally-recognized accrediting body. Approval by a State means that a State agency or local governmental unit recognizes a school, college, or university as an educational institution or approves one or more of the courses offered by a school, college, or university. A State-recognized accrediting body is one designated or recognized by a State as the proper authority for accrediting schools, colleges or universities. A nationally-recognized accrediting body is one that has been recognized by the U.S. Commissioner of Education.

(3) It is a nonaccredited school, college, or university but its credits are accepted by at least 3 educational institutions that have been accredited by a State or nationally-recognized accrediting body.

§ 216.65 When a child is a full-time student during a period of nonattendance.

A student who has been in full-time attendance at an educational institution is considered a full-time student during a period of nonattendance (including part-time attendance) if—

(a) The period of nonattendance is 4 consecutive months or less; and

(b) The student shows the Board that he or she intends to return or the student does return to full-time attendance at the end of the period; and

(c) The student has not been expelled or suspended from the educational institution.

Subpart G—Parent's Annuity

§ 216.70 Who is eligible for a parent's annuity.

A person is eligible for a parent's annuity if there is no surviving spouse or child who is or who could ever be entitled to an annuity under Subpart E or F of this part and the person—

(a) Is a parent as defined in § 216.72 of a deceased employee who had completed 10 years of railroad service and had a current connection with the railroad industry when he or she died;

(b) Is 60 years old or older;

(c) Has not married since the employee died; and

(d) Was receiving at least one-half support from the employee when he or she died. One-half support is defined in § 216.63.

§ 216.71 What is required for payment.

An eligible parent must apply to be entitled to an annuity.

§ 216.72 Who is the employee's parent.

An employee's parent is a person who—

(a) Is the natural mother or father, who is considered the employee's parent under the laws of the State where the employee had a permanent home when he or she died; or

(b) Is a person who legally adopted the employee before the employee became 16 years old; or

(c) Is a stepparent who married the employee's natural or adoptive parent before the employee became age 16. The marriage must be valid under the laws of the State where the employee had a permanent home when the employee died. See § 216.33(b) for a definition of permanent home.

Subpart H—[Reserved]

Subpart I—Eligibility for More Than One Annuity

§ 216.90 Employee and spouse or survivor annuity.

Under the 1937 Act, a person receiving an employee annuity who was also entitled to an annuity as a spouse or survivor could receive both annuities. Under section 2(h)(3) of the 1974 Act, if a person is entitled to both an employee annuity and a spouse or survivor annuity, the spouse or survivor annuity must be reduced by the amount of the employee annuity. However, this reduction does not apply if the employee or the person on whose wage record the spouse or survivor benefit is payable worked for a railroad employer or as an employee representative before January 1, 1975.

§ 216.91 Spouse and survivor annuity.

If a person is entitled to both a spouse and survivor (child's or parent's) annuity, only the larger of the two annuities will be paid. However, if the person chooses, he or she can receive the smaller of the two annuities.

§ 216.92 Two survivor annuities.

If a person is entitled to two survivor (surviving spouse, child's, or parent's) annuities, only the larger of the two annuities will be paid. However, if the person chooses, he or she can receive the smaller of the two annuities.

Subpart J—Current Connection With the Railroad Industry

§ 216.95 General.

A current connection with the railroad industry is clear in most cases where entitlement or death immediately follows continuous years of railroad employment. However, there are cases in which the employee did not work for a railroad employer for a period of time before entitlement or death. In this situation, a test is provided to determine whether the employee can be considered to have a current connection with the railroad industry.

§ 216.96 When required.

(a) A current connection is required to qualify a person for the following types of railroad retirement benefits:

(1) An employee occupational disability annuity as described in § 216.6(a).

(2) A supplemental annuity, as described in Subpart C of this part.

(3) An employee or spouse windfall benefit, as described in §§ 216.82 and 216.83, in certain cases.

(4) A survivor annuity, as described in Subparts E, F, and G of this part.

(5) The lump-sum death payment described in Part 234 of this chapter.

(b) A current connection established when an employee's annuity began is effective for—

(1) Any annuity under this part for which the employee later becomes eligible; and

(2) Any survivor annuity under this part or a lump-sum death payment under Part 234 of this chapter.

§ 216.97 Regular current connection test.

An employee has a current connection with the railroad industry if he or she meets one of the following requirements:

(a) The employee works in creditable railroad service in at least 12 of the 30 consecutive months immediately before the earlier of—

(1) The month his or her annuity begins; or

(2) The month he or she dies.

(b) The employee works in creditable railroad service in at least 12 months in a period of 30 consecutive months and does not work in any regular non-railroad employment in the interval between the month the 30-month period ends and the earlier of—

(1) The month his or her annuity begins; or

(2) The month he or she dies.

§ 216.98 Special current connection test.

An employee who does not have a current connection under the regular test has a current connection only to qualify a person for a survivor annuity if—

(a) The employee would not be fully or currently insured under section 214 of the Social Security Act if his or her railroad service after 1936 were treated as social security earnings; or

(b) The employee has no quarters of coverage as defined in section 213 of the Social Security Act.

§ 216.99 What is regular non-railroad employment.

Regular non-railroad employment is full- or part-time employment for pay but not any of the following types of employment:

(a) Self-employment.

(b) Temporary work provided as relief by an agency of a Federal, State, or local government.

(c) Service inside or outside the United States for an employer under the Railroad Retirement Act, even if the employer does not conduct the main part of its business in the United States.

(d) Involuntary military service not creditable under the Railroad Retirement Act.

(e) Employment with the following agencies of the United States Government:

(1) Department of Transportation.

(2) Interstate Commerce Commission.

(3) National Mediation Board.

(4) Railroad Retirement Board.

(f) Employment entered into after early retirement by an employee who is receiving an annuity under ConRail's voluntary annuity program. This program is provided under the Staggers Rail Act of 1980 (Pub. L. 96–448).

§ 216.100 What amount of regular non-railroad employment will break a current connection.

The amount of regular non-railroad employment needed to break a current connection depends on when the 30-month period described in § 216.97 ends, as follows:

(a) If the 30-month period ends in the year before or in the same year as the month the annuity begins or the month the employee dies, the current connection is broken if the employee—

(1) Works in each month in the interval after the end of the 30-month period and before the month the annuity begins or the employee dies; or

(2) Works and earns at least $200 in wages in any three months within the interval described in paragraph (a)(1) of this section.

(b) If the 30-month period ends more than a year before the year in which the annuity begins or the employee dies, the current connection is broken if the employee—

(1) Works in any two consecutive years wholly or partially within the interval after the end of the 30-month period and before the month the annuity begins or the employee dies; and

(2) Earns at least $1,000 in wages in any year wholly or partially within the interval described in paragraph (b)(1) of this section, even if that year is not one of the two consecutive years described in paragraph (b)(1) of this section.

§ 216.101 Regular non-railroad employment that will not break a current connection.

Regular non-railroad employment will not break an employee's current connection if it is performed during the 30-month period described in § 216.97(b), in or after the month the annuity begins, or in the month the employee dies.

PARTS 217—[REDESIGNATED AS PART 230]

4. The current Part 217 is redesignated as Part 230. A new Part 217 is added to read as follows:

PART 217—APPLICATION FOR ANNUITY OR LUMP SUM

Subpart A—General

Sec.
217.1 Introduction.
217.2 Definitions.
217.3 Need to file an application.

Subpart B—Applications

217.5 When an application is a claim for an annuity or lump sum.
217.6 What is an application filed with the Board.
217.7 Claim filed with the Social Security Administration.
217.8 When one application satisfies the filing requirement for other benefits.
217.9 Effective period of application.
217.10 Application filed after death.
217.11 "Good cause" for delay in filing application.

Subpart C—Filing An Application

217.15 Where to file.
217.16 Filing date.
217.17 Who may sign an application.
217.18 When application is not acceptable.
217.19 Representative of the claimant selected after application is filed.
217.20 When a written statement is used to establish the filing date.
217.21 Deterred from filing.

Subpart D—Cancellation of Application

217.25 Who may cancel an application.
217.26 How to cancel an application.
217.27 Effect of cancellation.

Subpart E—Denial of Application

217.30 Reasons for denial of application.
217.31 Applicant's right to appeal denial.

Authority: Sec. 5, Pub. L. 93–445, 88 Stat. 1332 (45 U.S.C. 231d). Sec. 7, Pub. L. 93–445, 88 Stat. 1339 (45 U.S.C. 231f).

Subpart A—General

§ 217.1 Introduction.

This part describes how to apply for an annuity or lump-sum payment under this chapter. It contains the rules for the filing and cancellation of an application and the period of time the application is in effect.

§ 217.2 Definitions.

The following definitions are used in this part:

"Applicant" means a person who signs an application for an annuity or lump sum for himself or herself or for some other person.

"Application" refers only to a form described in § 217.6.

"Apply" or "File" means to sign a form or statement that the Railroad Retirement Board accepts as an application.

"Award" means to process a form to make a payment. An annuity is awarded on the date the payment form is processed.

"Claimant" means a person who files for an annuity or lump sum for himself or herself or the person for whom an application is filed.

§ 217.3 Need to file an application.

In addition to meeting other requirements, a person must file an application to become entitled to an annuity or lump sum. Filing an application will—

(a) Permit a formal decision on whether the person is entitled to an annuity or lump sum;

(b) Protect a person's entitlement to an annuity for as many as 12 months before the application is filed; and

(c) Provide the right to appeal if the person is dissatisfied with the decision (see Part 260 of this chapter).

Subpart B—Applications

§ 217.5 When an application is a claim for an annuity or lump sum.

An application is a claim for an annuity or lump sum if it meets all of the following conditions:

(a) It is on an application form completed and filed with the Board as described in § 217.6;

(b) It is signed by the claimant or by someone described in § 217.17 who can sign the application for the claimant;

(c) It is filed with the Board on or before the date of death of the claimant. (See § 217.10 for limited exceptions.)

§ 217.6 What is an application filed with the Board.

(a) *General.* An application filed with the Board is generally one that is filed on a form set up by the Board for that purpose. See Part 200 of this chapter for a list of application forms.

(b) *Claim filed with the Social Security Administration.* An application filed for benefits under Title II of the Social Security Act on one of the forms set up by the Social Security Administration for that purpose (except an application for a disability insurance benefit that terminated before the employee completed his or her 120th month of creditable railroad service) is also considered an application for an annuity or lump sum if it is filed as shown in § 217.7.

(c) *Claim filed with the Veterans Administration.* An application filed with the Veterans Administration on one of its forms for survivor benefits under section 3005 of Title 38, United States Code, is also considered an application for a survivor annuity.

§ 217.7 Claim filed with the Social Security Administration.

(a) *Claim is for life benefits.* An application for life benefits under Title II of the Social Security Act is an application for an annuity if the conditions either in paragraphs (a)(1), (a)(2), and (a)(3) or in paragraph (a)(4) of this section are met:

(1) The application was filed because the applicant did not know he or she was eligible for an annuity under the Railroad Retirement Act. The Board must have or receive evidence indicating why the applicant thought that he or she lacked eligibility for an annuity.

(2) The claimant would have been entitled to and would currently be entitled to an annuity under Subparts B or D of Part 216 of this chapter if the applicant had applied for the annuity on the date the social security application was filed.

(3) The applicant asks the Board in a written statement to consider the application for social security benefits as an application for an employee or spouse annuity.

(4) The application was filed because the employee had less than 10 years of creditable railroad service, and having established entitlement to social security benefits and continued working in railroad service, subsequently acquired 10 years of railroad service.

(b) *Claim is for death benefits.* An application for death benefits under Title II of the Social Security Act is an application for an annuity or lump sum if—

(1) The application is filed based on the death of an employee and the Board has jurisdiction for the payment of survivor benefits based on the compensation record of the deceased employee; and

(2) The claimant is eligible for an annuity or a lump-sum death payment on the date the application is filed.

§ 217.8 When one application satisfies the filing requirement for other benefits.

An annuity application filed with the Board is generally considered as an application for other benefits to which a person is or may be eligible. Therefore a claimant does not need to file another application to be entitled to any of the following types of benefits:

(a) An employee age annuity if—

(1) The employee's application for a disability annuity is denied and the employee is eligible for the age annuity on the date the application is filed; or

(2) The employee is entitled to a disability annuity in the month before the month he or she is 65 years old.

(b) An employee disability annuity if an application for an age annuity is denied and the employee is eligible for

the disability annuity on the date the application is filed.

(c) An accrued employee or supplemental annuity, or a residual lump sum, if a claimant is eligible for one of these payments when he or she files an application for a survivor annuity or lump-sum payment under this chapter.

(d) A surviving spouse annuity if he or she is entitled to a spouse annuity in the month before the month the employee died.

(e) A child's annuity if the wife of the employee had the child "in care" and was entitled to a spouse annuity in the month before the month the employee died.

(f) A surviving spouse annuity based on age, if the surviving spouse was entitled to a surviving spouse annuity based on disability in the month before the month he or she is 60 years old.

(g) A surviving spouse annuity based on age or disability if a widow or widower, who was receiving an annuity under § 216.30 (c)(3) of this chapter because he or she had the employee's child "in care", is eligible for an age or disability annuity when he or she no longer has an eligible child "in care".

(h) A spouse annuity based on age if a wife, who was receiving an annuity because she had the employee's child in her care, is eligible for an unreduced age annuity when she no longer has an eligible child in her care.

(i) A surviving spouse annuity under § 216.30 (c)(3) of this chapter if during the time the surviving spouse is entitled to an annuity based on disability, he or she has "in care" a child of the deceased employee.

(j) A benefit under Title II of the Social Security Act unless the applicant restricts the application only to an annuity.

§ 217.9 Effective period of application.

(a) *When effective period ends.* The effective period of an application ends on the date of the notice of an initial decision denying the claim. If a timely appeal is made (see Part 260 of this chapter) the effective period of the application ends on the date of the notice of the decision of the referee, on the date of the notice of the final decision of the Board, or when court review of the denial has been completed. After the effective period of an application ends, the person must file a new application for any annuity or lump sum to which the claimant believes he or she is eligible.

(b) *Application filed before claimant is eligible.*

(1) *General rule.* Except as shown in paragraph (b) (2) of this section, an application for an annuity must be denied if it is filed with the Board more than three months before the date an annuity can begin.

(2) *Application for disability annuity.* If the Board determines that a claimant for a disability annuity is disabled under Part 220 of this chapter, beginning with a date after the application is filed and before a final decision is made, the application is treated as though it was filed on the date the claimant became disabled. The claimant may be an employee, surviving spouse, or surviving child.

(c) *Application filed after the claimant is eligible.*

(1) *Application for lump-sum death payment.* An application for a lump-sum death payment under Part 234 of this chapter must be filed within two years after the death of the employee. This period may be extended under the Soldiers' and Sailors' Civil Relief Act of 1940, or when the applicant can prove "good cause" under § 217.11 of this chapter for not filing within the time limit.

(2) *Application for annuity unpaid at death.* An application for an annuity due but unpaid at death under Part 234 of this chapter must be filed within two years after the death of the person entitled to the annuity. This period may be extended under the Soldiers' and Sailors' Civil Relief Act of 1940, or when the applicant can prove "good cause" under § 217.11 of this chapter for not filing within the time limit.

(3) *Application for residual lump sum.* An application for a residual lump sum under Part 234 of this chapter may be filed at any time after the death of the employee.

§ 217.10 Application filed after death.

The claimant must generally be alive when an application is filed. The following are exceptions to this rule:

(a) A survivor eligible for an annuity or lump sum under this chapter may file an application to establish a period of disability if the employee dies before filing an application for a disability annuity. A period of disability is defined in Part 220 of this chapter. The application must be filed within three months after the month the employee died.

(b) A person who could receive payment for the estate of a person who paid the burial expenses of the deceased employee may file an application if the person who paid the burial expenses dies before applying for the lump-sum death payment under Part 234 of this chapter. The application must be filed within the two-year period shown in § 217.9 (c)(1).

(c) A surviving spouse may file an application for a spouse annuity after the death of the employee, if the surviving spouse was eligible for a spouse annuity in any month before the month the employee died. The spouse annuity is payable for any month of eligibility during the 12-month period before the application was filed.

§ 217.11 "Good cause" for delay in filing application.

(a) An applicant has "good cause" for a delay in the filing of an application for a lump-sum death payment or an annuity unpaid at death, as shown in § 217.9(c) (1) and (2), if the delay was due to—

(1) Circumstances beyond the applicant's control, such as extended illiness, mental or physical incapacity, or communication difficulties; or

(2) Incorrect or incomplete information furnished by the Board; or

(3) Efforts by the applicant to secure evidence without realizing that evidence could be submitted after filing an application; or

(4) Unusual or unavoidable circumstances which show that the applicant could not reasonably be expected to have been aware of the need to file an application within the set time limit.

(b) An applicant does not have good cause for a delay in filing if he or she was informed of the need to file within the set time limit but neglected to do so or decided not to file.

Subpart C—Filing An Application

§ 217.15 Where to file.

(a) *Applicant in U.S. or Canada.* An applicant who lives in the United States or Canada may file an application at any Board office in person or by mail. An applicant may also give the application to any Board field employee who is authorized to receive it at a place other than a Board office.

(b) *Application Outside U.S.* An applicant who lives outside the United States or Canada may file an application at any United States Foreign Service office. An applicant may also send the application to an office of the Board.

§ 217.16 Filing date.

An application filed in a manner and form acceptable to the Board is officially filed with the Board on the earliest of the following dates:

(a) On the date it is received at a Board office.

(b) On the date it is delivered to a field employee of the Board as described in § 217.15.

(c) On the date it is received at any office of the U.S. Foreign Service.

(d) On the date the application was mailed, as shown by the postmark, if using the date it is received will result in the loss or reduction of benefits.

(e) On the date the Social Security Administration considers the application filed, if it is filed with the Social Security Adminstration or the Veterans Administration.

§ 217.17 Who may sign an application.

An application may be signed according to the following rules:

(a) A claimant who is 18 years old or older, competent (able to handle his or her own affairs), and physically able to sign the application, must normally sign in his or her own handwriting. However, a parent or a person standing in place of a parent may sign an application for a student under 22 years old. A parent or a person standing in place of a parent must sign the application for a child who is not yet 18 years old, except as shown in paragraph (d) of this section.

(b) A claimant who is unable to write must make his or her mark. A Board representative or two other persons must sign as witnesses to a signature by mark.

(c) A claimant's representative, as described in Part 266 of this chapter, must sign the application if the claimant is incompetent (unable to handle his or her own affairs).

(d) A claimant who is a child between the ages of 16 and 18, is competent, as defined in paragraph (a) of this section, has no court appointed representative, and is not in the care of any person, may sign the application.

§ 217.18 When application is not acceptable.

(a) *Not properly signed.* The Board will ask the applicant to prepare a corrected application if—

(1) The original application was signed by someone other than the claimant or a person described in § 217.17; or

(2) The signature has been changed; or

(3) The signature is not readable or does not appear to be authentic.

(b) *Incomplete or not readable.* The Board will ask the applicant to prepare a supplemental application with certain items completed if—

(1) Any entries on the application are not readable or appear to be incorrect; or

(2) An important part of the aplication was not completed.

(c) *Obtaining corrected application.* If an application is not properly signed, the applicant must prepare a new application with a corrected signature. If the Board receives the corrected application within 30 days after the applicant is asked to prepare it, the Board will use the filing date of the original application to pay benefits. If the Board receives the corrected application more than 30 days after the notice to the applicant, the Board will use the filing date of the corrected application to pay benefits.

§ 217.19 Representative of the claimant selected after application is filed.

(a) *Before benefits awarded.* If the Board selects a representative for an incompetent claimant (see Part 266 of this chapter) after an application is filed but before the benefit is awarded, a new benefit application must be filed by the representative. However, benefits will be paid using the filing date of the original benefit application.

(b) *After benefits awarded* If the Board selects a representative after a monthly annuity was awarded to another person, the representative must apply as a substitute payee on a form specifically designed for that purpose. A new annuity application is not required.

§ 217.20 When a written statement is used to establish the filing date.

(a) *Statement filed with the Board.* A written statement indicating an intent to file a claim for an annuity or lump sum, filed with the Board as provided in §§ 217.15 and 217.16, can establish the filing date of an application. A form set up by the Board to obtain information about persons who may be eligible for an annuity or lump sum in a particular case is not by itself considered a written statement for the purpose of this section. The Board will use the filing date of the written statement if all of the following requirements are met:

(1) The statement gives a person's clear and positive intent to claim an annuity or lump sum for himself or herself or for some other person.

(2) The claimant or a person described in § 217.17 signs the statement.

(3) The person who signed the statement files an application with the Board on one of the forms described in Part 200 of this chapter within 90 days after the date a notice is sent advising the person of the need to file an application.

(4) The claimant is alive when the application is filed except as provided in § 217.10.

(b) *Statement filed with the Social Security Administration.* A written statement filed with the Social Security Administration can be used to establish the filing date of an application if, assuming the statement were an application, the conditions under § 217.7 are met and—

(1) The statement gives a clear and positive intent to claim benefits under Title II of the Social Security Act;

(2) The claimant or a person described in § 217.17 signs the statement;

(3) The statement is sent to the Board by the Social Security Administration;

(4) The person who signed the statement files an application with the Board on one of the forms described in Part 200 of this chapter within 90 days after the date a notice is sent advising the person of the need to file an application; and

(5) The claimant is alive when the application is filed except as provided in § 217.10.

§ 217.21 Deterred from filing.

A person who telephones or visits a Board office stating that he or she wishes to file for an annuity or lump sum, but puts off filing because of an action or lack of action by an employee of the Board, can establish a filing date based on that oral notice if the following conditions are met:

(a) There is evidence which establishes that the employee of the Board failed to—

(1) Tell the person that it was necessary to file an application on the proper form; or

(2) Tell the person that a written statement could protect the filing date; or

(3) Give the person the proper application form; or

(4) Correctly inform the person of his or her eligibility.

(b) The person files an application on one of the forms described in Part 200 of this chapter within 90 days after the date a notice is sent advising the person of the need to file an application.

(c) The claimant is alive when the application is filed except as provided in § 217.10.

Subpart D—Cancellation of Application

§ 217.25 Who may cancel an application.

An application may be cancelled by the claimant or a person described in § 217.17. If the claimant is deceased, the person who is or could be eligible for any annuity accrual under Part 234 of this chapter may cancel the application for the annuity.

§ 217.26 How to cancel an application.

An application may be cancelled under the following conditions:

(a) *Before an annuity is awarded.* The application may be cancelled if—

(1) The applicant files a written request with the Board at a place described in § 217.15 asking that the application be cancelled or stating that he or she wants to withdraw the application;

(2) The claimant is alive on the date the written request is filed or the claimant is deceased and the rights of no person other than the person requesting the cancellation will be adversely affected; and

(3) The applicant files the written request on or before the date the annuity is awarded.

(b) *After an annuity is awarded.* The application may be cancelled if—

(1) The conditions in paragraph (a) (1) and (2) of this section are met;

(2) Any other person who would lose benefits because of the cancellation consents to the cancellation in writing; and

(3) All annuity payments already made based on the application being cancelled are repaid or will be recovered.

§ 217.27 Effect of cancellation.

When a person cancels an application the effect is the same as though an application was never filed. When an employee cancels his or her application, any application filed by the employee's spouse is also cancelled. However, a request to cancel a survivor's application will cancel only the application of the survivor named in the written request. A person who cancels an application may reapply by filing a new application under this part.

Subpart E—Denial of Application

§ 217.30 Reasons for denial of application.

The Board will deny each application filed by or for an employee, spouse or survivor for one or more of the following reasons:

(a) The claimant does not meet the eligibility requirements for an annuity or lump sum under this chapter.

(b) The applicant files an application for other than a disability annuity more than three months before the date on which the eligible person's annuity can begin.

(c) The applicant does not submit the evidence required under this chapter to establish eligibility for an annuity or lump sum.

§ 217.31 Applicant's right to appeal denial.

Each applicant is given the right to appeal the denial of his or her application if he or she does not agree with the Board's decision. The appeals process is explained in Part 260 of this chapter.

5. A new Part 219 is added to read as follows:

PART 219—EVIDENCE REQUIRED FOR PAYMENT

Subpart A—General Evidence Requirements

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219.2 Definitions.
219.3 Who is responsible for furnishing evidence.
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219.20 When evidence of a parent or child relationship is required.
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219.30 Evidence of "living with".
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219.34 Evidence of responsibility for, or payment of burial expenses.
219.35 Evidence of relationship of a person other than a parent or child.
219.36 Evidence of where the employee had a permanent home.
219.37 Evidence of "good cause".

Authority: Sec. 7(b)(1), Pub. L. 93-445, (45 U.S.C. 231f(b)(1))

Subpart A—General Evidence Requirements

§ 219.1 Introduction.

This part contains the basic rules for the evidence which is required to support a person's claim for monthly or lump-sum benefits under the Railroad Retirement Act as described in Parts 216 and 234 of this chapter and Medicare coverage (see Parts 270–271 of this chapter) under title XVIII of the Social Security Act. Special evidence requirements for disability annuities are found in Part 220 of this chapter.

§ 219.2 Definitions.

As used in this subpart—

"Applicant" means the person who signs an application for an annuity or lump sum for himself, herself or for some other person.

"Apply" means to sign a form or statement that the Board accepts as an application.

"Benefits" means any employee annuity, spouse annuity, survivor annuity, or lump-sum payment under the Act.

"Convincing evidence" means one or more pieces of evidence that proves to the satisfaction of the Board that an individual meets a requirement for eligibility. See § 219.7 for the guides the Board uses in deciding whether evidence is convincing.

"Eligible" means a person meets all of the requirements for payment of an annuity, a lump sum or a benefit under section 202 of the Social Security Act but has not yet applied.

"Entitled" means that a person has applied and has proved his or her rights to benefits.

"Evidence" means any record, document or signed statement that helps to show whether a person is eligible for benefits. It may also be used to establish whether the person is still entitled to benefits.

§ 219.3 Who is responsible for furnishing evidence.

When evidence is required to prove a person's eligibility for, or right to continue to receive, annuity payments, that person or his or her representative (See Part 260 of this chapter) is responsible for obtaining the evidence and submitting it to the Board. An employee of the Board will advise each applicant what is needed and how to get it. If the evidence submitted is a foreign-language record or document, the Board will have it translated. All evidence and documents given to the Board are kept confidential and are not disclosed to anyone but the person who submitted them, except under the rules described in § 262.16 of this chapter. Section 13 of the Railroad Retirement Act provides criminal penalties for any persons who misrepresent the facts or make false statements to obtain retirement benefits for themselves or someone else.

§ 219.4 When and where to furnish evidence.

When a person applies for benefits, the Board will ask that person for evidence to prove that he or she is eligible for the benefits.

After a person establishes entitlement to an annuity, the Board may ask for evidence to show that the person may continue to be entitled to an annuity or that his or her annuity payments should not be reduced or stopped. Part 218 of this chapter shows when annuity payments will be stopped. A person who lives inside the United States shall give his or her evidence to an employee of the Railroad Retirement Board office where the person files the application. Persons who live in an area where there is no Board office or persons who are unable to travel to a Board office may send evidence to the Board office closest to where they live. Persons who live outside the United States may take evidence to the Foreign Service Office closest to where they live, or send it to the headquarters office of the Board.

§ 219.5 Failure to furnish requested evidence.

(a) *Evidence to prove initial eligibility.* Usually the Board will ask a person to furnish specific kinds of evidence or information by a certain date, to prove initial eligibility for benefits. If the evidence or information is not received by that date, the Board may decide that the person is not eligible for benefits and will deny his or her application.

(b) *Evidence to prove continued entitlement.* When a person is already receiving an annuity, a Board employee may ask that person to produce by a certain date information needed to decide whether that person can continue to receive an annuity or whether the annuity should be reduced or stopped. If the information is not received by the date given, the Board may decide that the person is no longer entitled or that his or her annuity should be stopped or reduced under the Act.

(c) *What to do when required evidence will be delayed.* When the required evidence cannot be furnished within the specified time, the person who was asked to give the evidence or information should notify the Board and explain why there will be a delay. If this delay is caused by illness, failure to receive the information from another source, or a similar situation, the person will be given additional time to secure the evidence or information. If the information is not received within a reasonable time, as determined by the Board, the person who was asked to give the evidence or information will be notified of the effect that his or her failure to furnish the evidence or information will have on his or her receiving or continuing to receive benefits.

§ 219.6 Original records or copies as evidence.

(a) *General.* An applicant or an annuitant may be asked to show an original document or record as evidence to prove eligibility or continued entitlement to benefits. A Board employee will make a photocopy or transcript of these original documents or records and return the documents to the person who furnished them. A person may also submit copies of original records that are properly certified and some uncertified birth notifications. These types of records are described below in this section.

(b) *Certified copies of original records.* The Board will accept copies of original records or extracts from records if they are certified as true and exact copies of the original by—

(1) The official custodian of the record;

(2) A Board employee who is authorized to certify copies;

(3) A Veterans Administration employee, if the evidence was given to that agency to obtain veteran benefits;

(4) A Social Security Administration employee, if the evidence was given to that agency to obtain social security benefits;

(5) A United States Consular Officer or employee of the Department of State authorized to certify evidence received outside the United States; or

(6) An employee of a State agency or State Welfare Office authorized to certify copies of original records in the agency's or office's files.

(c) *Uncertified copies of original records.* The Board may accept uncertified photo copies of birth registration notifications as evidence when it is the practice of the local birth registrar to issue them in this manner.

§ 219.7 How the Board decides what is convincing evidence.

When the Board receives evidence, a Board employee examines it to see if it is convincing evidence. If it is, no other evidence is needed. In deciding whether the evidence is convincing, the Board employee decides whether—

(a) The information contained in the evidence was given by a person in a position to know the facts;

(b) There was any reason to give false information when the evidence was created;

(c) The information contained in the evidence was given under oath or in the presence of witnesses, or with the knowledge that there was a penalty for giving false information;

(d) The evidence was created at the time the event took place or shortly after;

(e) The evidence has been altered or has any erasures on it; and

(f) The information contained in the evidence agrees with other available evidence, including existing Board records

§ 219.8 Preferred evidence and other evidence.

When a person submits the type of evidence shown as "preferred" in §§ 219.11(a), 219.12(a)(1), 219.15(b), 219.16(b), 219.17(b), 219.18(b), 219.21(a), 219.23(b), 219.24(b), or 219.33(c) of this part, the Board will generally find it is convincing evidence. This means that unless there is information in the Board's records that raises a doubt about the evidence, other evidence to prove the same fact will not be needed. If preferred evidence is not available, the Board will consider any other evidence a person furnishes. If the other evidence consists of several different records or documents which all show the same information, the Board may determine that it is convincing evidence even though it is not "preferred" evidence. If the other evidence is not convincing by itself, the person will be asked to submit additional evidence. If the additional evidence shows the same information, all the evidence considered together may be convincing evidence. When the Board has convincing evidence of the facts that must be proven, or when it is clear that the evidence provided does not prove the necessary facts, the Board will make a formal decision about the applicant's rights to benefits.

Subpart B—Evidence of Age, Marriage, and Death

§ 219.10 When evidence of age is required.

(a) Evidence of age is required when the employee applies for an annuity under the Railroad Retirement Act or for Medicare coverage under title XVIII of the Social Security Act.

(b) Evidence of age is also required from a person who applies for a spouse's annuity, widow's, widower's parent's or child's annuity under the Railroad Retirement Act, or for

Medicare coverage under title XVIII of the Social Security Act.

§ 219.11 Types of evidence to prove age.

(a) *Preferred evidence.* The best type of evidence to prove a person's age is—

(1) A birth certificate or hospital birth record recorded before age 5;

(2) A church record of birth or baptism recorded before age 5; or

(3) Notification of registration of birth made before age 5.

(b) *Other evidence of age.* If an individual cannot obtain "preferred" evidence of age, he or she will be asked to submit other convincing evidence to prove age. The other evidence may be one or more of the following records with the records of highest value listed first; they are—

(1) Physician's or Midwife's birth record;

(2) Bible or other family record;

(3) Naturalization record;

(4) Military record;

(5) Immigration record;

(6) Passport;

(7) Census record or World War I draft registration;

(8) School record;

(9) Vaccination record;

(10) Insurance record;

(11) Labor Union or fraternal record;

(12) Employer's record; or

(13) A statement signed by the individual giving the reason why he or she cannot obtain other convincing evidence of age and the sworn statements of two other persons who have personal knowledge of the age that the individual is trying to prove.

§ 219.12 Evidence to prove death.

(a) *When evidence of the employee's death is required.* Evidence to prove the employee's death is always required for payment of any type of survivor benefit based on the deceased employee's record. See Part 216 for types of survivor benefits payable.

(1) Preferred evidence of death. The best evidence of a person's death is—

(i) A certified copy of or extract from the public record of death, coroner's report of death, or verdict of the coroner's jury of the State or community where death occurred; or a certificate by the custodian of the public record of death; or a certificate or statement of death issued by a local registrar or public health official;

(ii) A signed statement of the funeral director, attending physician, or intern of the institution where death occurred;

(iii) A certified copy of, or extract from, an official report or finding of death made by an agency or department of the United States; or

(iv) If death occurred outside the United States, an official report of death by a United States Consul or other employee of the State Department; or a copy of the public record of death in a foreign country.

(2) Other evidence of death. If the "preferred" evidence of death cannot be obtained, the individual who must furnish evidence of death will be asked to explain why and submit other convincing evidence such as sworn statements of two persons who have personal knowledge of the death. These persons must be able to swear to the date, time, place and cause of death.

(b) *When evidence to prove death of other persons is required.* Evidence to prove the death of persons other than the employee is required when—

(1) A person, who is eligible for survivor benefits, dies after the employee;

(2) A residual lump sum (See Part 234 of this chapter) is payable and a person whom the employee named to receive all or part of this benefit dies before the employee; or dies after the employee but before receiving his or her share of the benefit; or

(3) There is reasonable doubt of the death of—

(i) Any person who, if alive, has priority over the applicant;

(ii) Any spouse whose death is alleged to have ended a previous marriage; or

(iii) Any person whose end of entitlement would increase benefits to other entitled persons.

§ 219.13 Evidence of presumed death.

When a person cannot be proven dead but evidence of death is needed, the Board may presume he or she died at a certain time if the Board receives the following evidence:

(a) A certified copy of, or extract from, an official report or finding by an agency or department of the United States that a missing person is "presumed" to be dead as stated in Federal law (5 U.S.C. 5565). Unless other evidence is submitted showing an actual date of death, the Board will use the date on which the person was reported missing as the date of death.

(b) Signed statements by those in a position to know the facts and other records which show that the person has been absent from his or her residence for no apparent reason and has not been heard from for at least 7 years. If there is no evidence available that he or she is still alive, the Board will use as the date of death either the date he or she left home, the date ending the 7-year period, or some other date depending upon what the evidence shows is the most likely date of death.

(c) When a person has been missing for less than 7 years but may be presumed dead due to drowning or common disaster, (fire, accident, etc.), the Board will ask for signed statements from the applicant and individuals who know the circumstances surrounding the person's disappearance. The best evidence is statements from individuals who witnessed the drowning or saw the missing person at the scene of the accident shortly before it happened.

(d) If the applicant is the employee's grandchild or stepgrandchild but the evidence does not identify a parent, the grandchild or stepgrandchild's parent will be presumed to have died in the first month in which the employee became entitled to benefits.

§ 219.14 When evidence of marriage is required.

Documentary evidence of marriage is required when an applicant for a monthly annuity, lump-sum death payment, residual lump sum or Medicare coverage, claims to be the wife, husband, widow, widower or stepparent of the employee. An applicant may also be required to submit evidence of another person's marriage when that person's marriage is necessary to determine the applicant's entitlement to benefits under the Railroad Retirement Act. In deciding whether the marriage to the employee is valid or not in a life case, the Board will follow the law of the State where the employee had a permanent home when the applicant filed an application; in a death case, the Board will follow the law of the State where the employee had a permanent home when he or she died. See § 216.33(b) of this chapter for a definition of permanent home. What evidence will be required depends on whether the employee's marriage was a ceremonial marriage, a common-law marriage, or a marriage that can be deemed to be valid.

§ 219.15 Evidence of a valid ceremonial marriage.

(a) *Definition of valid "ceremonial marriage."* A valid "ceremonial marriage" is one that follows procedures set by law in the State or foreign country where the ceremony takes place. These procedures cover who may perform the marriage ceremony, what licenses or witnesses are needed and similar rules. A ceremonial marriage can be one that follows certain tribal Indian custom, Chinese custom or similar traditional procedures.

(b) *Preferred evidence.* Preferred evidence of a ceremonial marriage is—

(1) A copy of the public record of the marriage, certified by the custodian of the record or by a Board employee;

(2) A copy of the church record of the marriage certified by the custodian of the record or by a Board employee; or

(3) The original certificate of marriage.

(c) *Other evidence of a ceremonial marriage.* If preferred evidence of a ceremonial marriage cannot be obtained, the applicant must state why, in writing, and submit either—

(1) A sworn statement of the clergyman or official who performed the marriage ceremony; or

(2) Other convincing evidence such as the sworn statements of two persons who have knowledge of the marriage; preferably eyewitnesses to the marriage ceremony.

§ 219.16 Evidence of a common-law marriage.

(a) *Definition of "common-law marriage."* A "common-law" marriage is one considered valid under the law of certain States even though there was no formal ceremony. It is a marriage based upon an agreement to be married between two persons free to marry, who consider themselves married, and who live together as husband and wife. In some States certain other requirements (as dictated by the laws of the State) must be met.

(b) *Preferred evidence.* Evidence of a common-law marriage must give the reasons why the informant believes that a marriage exists. If the information described in this paragraph is not furnished on a form provided by the Board, it must be submitted in the form of a sworn statement. Preferred evidence of a common-law marriage is one of the following:

(1) If both the husband and wife are alive, each shall sign a statement and get signed statements from one blood relative of each. The statement of another individual may be submitted for each statement the husband or wife is unable to get from a relative. Each signed statement should show that—

(i) The husband and wife have a present agreement to be married and that they believe they are married; and

(ii) The husband and wife present themselves to the public as husband and wife.

(2) If either the husband or wife is dead, the surviving spouse shall sign a statement and get signed statements from two blood relatives of the dead spouse. The surviving spouse's statement should show that he or she and the dead spouse had an agreement that they believed themselves to be married and that they presented themselves to the public as husband and wife. The statements from relatives of the dead spouse should support the surviving spouse's statement.

(3) If both husband and wife are dead, the applicant shall get a signed statement from one blood relative of each dead spouse. Each statement should show that the husband and wife had an agreement that they believed themselves to be married and that they presented themselves to the public as husband and wife.

(4) Statements by relatives and other individuals described in paragraphs (b) (1), (2), and (3) of this section are not required when—

(i) The husband and wife entered into a ceremonial marriage which was void because of a legal impediment to the marriage. See § 216.35 for definition of legal impediment;

(ii) After the impediment was removed, the husband and wife continued to live together as man and wife until the employee filed an application or one of them died; and

(iii) A valid common-law marriage was established, under the law of the State in which they lived, by their continuing to live together as man and wife.

(c) *Other evidence of common-law marriage.* When preferred evidence of a common-law marriage cannot be obtained, the applicant will be asked to explain why and to furnish other convincing evidence of the marriage.

§ 219.17 Evidence of a deemed valid marriage.

(a) *Definition of "deemed valid marriage."* A "deemed valid marriage" is a ceremonial marriage entered into in good faith which would be valid if a legal impediment did not exist. An applicant may be the deemed spouse or widow or widower only if the applicant lives in the same household and no other person has been or is entitled to benefits as the legal spouse, widow, or widower.

(b) *Preferred evidence.* Preferred evidence of a deemed valid marriage is—

(1) Evidence of the ceremonial marriage as described in § 219.15(b);

(2) If both the employee and spouse are alive, the spouse's signed statement that he or she went through the ceremony in good faith and his or her reasons for believing the marriage was valid; or if the employee is dead, the widow or widower's signed statement that he or she went through the marriage ceremony in good faith and his or her reasons for believing it was valid;

(3) If required to remove a reasonable doubt, the signed statements of other persons who might have information about what the parties knew about any previous marriage or other facts showing whether the parties went through the marriage ceremony in good faith; and

(4) Evidence that the parties were living in the same household, if the employee is alive, when he or she applied for benefits or, if the employee is dead, when he or she died. See § 219.30(c) for the evidence required to demonstrate living in the same household.

(c) *Other evidence of a deemed valid marriage.* If preferred evidence of a deemed valid marriage cannot be obtained, the applicant must explain why and submit other convincing evidence of the marriage.

§ 219.18 Evidence that a marriage has ended.

(a) *When evidence is required.* Evidence of how a previous marriage ended may be required to determine whether a later marriage is valid. If a widow or widower remarried after the employee's death and that marriage was annulled, evidence of the annulment is required.

(b) *Preferred evidence.* Preferred evidence that a marriage has ended is—

(1) A certified copy of the decree of divorce or annulment; or

(2) Evidence of the death (See § 219.12(b)) of a party to the marriage.

(c) *Other evidence that a marriage has ended.* If preferred evidence that the marriage has ended cannot be obtained, the applicant must explain why and submit other convincing evidence that the marriage has ended.

Subpart C—Evidence for Child's and Parent's Benefits

§ 219.20 When evidence of a parent or child relationship is required.

A person who applies for parent's or child's benefits or for Medicare coverage is required to submit evidence of his or her relationship to the deceased employee. A spouse, under age 60, who applies for a spouse annuity because she has a child of the employee in care, is required to submit evidence of the child's relationship to the employee. The evidence the Board will request depends on whether the person is the employee's natural child, adopted child, stepchild, grandchild or stepgrandchild; or whether the person is the employee's natural parent or adopting parent.

§ 219.21 Evidence of natural parent or child relationship.

(a) *Preferred evidence.* If the eligible person is the natural parent of the employee, preferred evidence of the relationship is a copy of the employee's public or religious birth record. If the eligible person is the natural child of the

employee, preferred evidence of the relationship is a copy of the child's public or religious birth record.

(b) *Other evidence of parent or child relationship.* When preferred evidence of a parent or child relationship cannot be obtained, the Board may ask the applicant for evidence of the employee's marriage or of the marriage of the employee's parents if that is needed to remove any reasonable doubt of the relationship. To show that a person is the child of the employee, the person may be asked for evidence that he or she would be able to inherit the employee's personal property under State law where the employee had a permanent home (See § 216.33(b) of this chapter). When a spouse applies for benefits because of a child in care, the employee may be asked for a copy of any court order showing that he has been declared to be the natural parent of the child or a court order requiring the employee to contribute to the child's support because the child is his son or daughter.

§ 219.22 Evidence of stepparent or stepchild relationship.

If the eligible person is a stepparent or stepchild of the employee, the Board will ask for the evidence described in § 219.21 or § 219.23 which shows the person's natural or adoptive relationship to the employee's husband, wife, widow or widower. The Board will also ask for evidence of the husband's, wife's, widow's or widower's marriage to the employee. (See § 219.14–219.17).

§ 219.23 Evidence of relationship by legal adoption—parent or child.

(a) *Definition of legally adopted child.* A child who is legally adopted by the employee under applicable State law is a "child" of the employee. Legal adoption is different from equitable adoption in that the adoption proceedings are completed under applicable State law and are not defective. A child adopted after the employee's death by the widow or widower, under certain conditions, is deemed to be the employee's child. (See Part 216 Subpart F of this chapter).

(b) *Preferred evidence.* Preferred evidence of legal adoption is—

(1) A copy of the decree or order of adoption, certified by the custodian of the record;

(2) A photocopy of the decree or order of adoption; or

(3) If the widow or widower adopted the child after the employee's death, the evidence described in paragraph (b)(1) or (2) of this section; the widow's or widower's statement as to whether the child was living in the same household with the employee when he or she died (See § 219.30); what support the child was getting from another person or organization; whether the widow or widower had a deemed valid marriage with the employee; and evidence of that marriage (See § 219.17).

(c) *Other evidence of legal adoption.* In some States, the record of adoption proceedings is sealed and cannot be obtained without a court order. In this event, the Board will accept as proof of adoption an official notice received by the adopting parents at the time of adoption that the adoption has been completed; or a birth certificate issued as a result of the adoption proceeding.

§ 219.24 Evidence of relationship by equitable adoption.

(a) *Definition.* An equitably adopted child is a child who cannot qualify as a legally adopted child because the adoption proceedings are defective under State law; or a contemplated adoption was never completed. In some States, the law will consider a person to be the child of another if the other person agreed to adopt the child, the natural parents or the person caring for the child agreed to the adoption, the person and the child then lived together as parent and child, and certain other requirements are met.

(b) *Preferred evidence.* If the applicant is a child who had this type of relationship to the employee (or to the employee's wife, widow, widower, or husband), as defined in paragraph (a) of this section, the Board will ask for evidence of the agreement if it is in writing. The Board will also ask for written statements from the child's natural parents.

(c) *Other evidence.* If the agreement to adopt was not in writing, the Board will ask for other convincing evidence about the child's relationship to the adopting parents.

§ 219.25 Evidence of relationship of grandchild or stepgrandchild.

If the child is the grandchild or stepgrandchild of the employee, the Board will require the kind of evidence described in §§ 219.21–219.22 that shows the child's relationship to his or her parents and his or her parents' relationship to the employee.

§ 219.26 Evidence of a child's dependency.

(a) *When evidence of a child's dependency is required.* Evidence of a child's dependency on the employee is required when—

(1) The employee is receiving an annuity that can be increased under the Social Security Act Overall Minimum (See Part 229 of this chapter) by including a child, grandchild or a spouse who has a child in her care;

(2) A wife under age 65 applies for a full spouse annuity because she has a child or a grandchild of the employee in her care;

(3) A spouse windfall benefit may be payable based on a child; or

(4) A child or someone in behalf of a child applies for a child's annuity based on the deceased employee's record.

(b) *When the dependency requirement must be met.* Usually the dependency requirement must be met at one of the times shown in § 216.56 of this chapter.

(c) *Natural or adopted.* If the child is the employee's natural or adopted child, the Board may ask for the following evidence:

(1) A signed statement by someone who knows the facts that confirms this relationship and which shows whether the child was legally adopted by someone other than the employee. If the child was adopted by someone else while the employee was alive but the adoption was annulled, the Board may require a certified copy of the annulment decree or other convincing evidence of the annulment.

(2) A signed statement by someone in a position to know showing when and where the child lived with the employee and when and why they may have lived apart; and showing what contributions the employee made to the child's support and how the contributions were made.

(d) *Stepchild.* If the child is the employee's stepchild, the Board may ask for the following evidence:

(1) A signed statement by someone in a position to know showing when and where the child lived with the employee and when and why they may have lived apart.

(2) A signed statement by someone in a position to know showing that the child received at least one-half of his or her support from the employee for the year before one of the times shown in § 216.56 of this chapter and showing the income and support the child received in this period from any other source.

(e) *Grandchild or stepgrandchild.* If the child is the employee's grandchild or stepgrandchild, the Board will ask for evidence described in paragraph (d) of this section showing that the child was living with the employee and receiving at least one-half of his or her support from the employee for the year before one of the times shown in § 216.60 of this chapter. The Board will also ask for evidence of the employee's death or disability.

§ 219.27 Evidence of school attendance for child age 18 or older.

If a child age 18 or older applies for benefits as a student, the Board will ask for evidence that the child is attending school. After the child has started his or her school attendance, the Board will also ask (twice yearly) for evidence that he or she is continuing to attend school full time. The child will be asked to submit (on a form furnished by the board or other form acceptable to the Board) the following evidence:

(a) A signed statement that he or she is attending school full time and is not being paid by an employer to attend school.

(b) A statement from an official of the school verifying that the child is attending school full time. The Board will also accept as evidence a letter of acceptance from the school, receipted bill, or other evidence showing that the child has enrolled or been accepted at that school or is continuing in full-time attendance.

Subpart D—Other Evidence Requirements

§ 219.30 Evidence of "living with."

(a) *Definition of "living with."* A spouse, widow or widower is "living with" the employee if—

(1) He or she and the employee are living in the same household together;

(2) The employee is contributing to the spouse's, widow's or widower's support (see § 216.24 of this chapter); or

(3) The employee is under court order to contribute to the spouse's, widow's or widower's support.

The court order for support must be in effect on the day the spouse applies for a spouse's annuity or, if the employee is dead, the day of the employee's death. This type of evidence does not apply for a "deemed" widow or widower (see § 216.35 of this chapter) because he or she must have been living in the same household as the employee.

§ 219.31 Evidence of a parent's support.

If a person applies for a parent's annuity, the Board will ask for evidence to show that the parent received at least one-half support from the employee in the one-year period before the employee died. The Board may also ask the parent for signed statements from other people who know the facts about his or her sources of support. The Board will ask for the following evidence:

(a) The parent's signed statement showing his or her income, any other sources of support, and the amount from each source during the one-year period; and

(b) The parent's signed statement showing his or her expenses during the one-year period.

(c) If the statement described in paragraphs (a) and (b) of this section cannot be obtained, other convincing evidence that the parent received one-half of his or her support from the employee.

§ 219.32 [Reserved]

§ 219.33 Evidence of having a child in care.

(a) *Definition.* "Child in care" means that the mother or father exercises parental control and responsibility for the welfare and care of a child under age 18 or a mentally incompetent child age 18 or over or performs personal services for a mentally competent child age 18 or over who is disabled.

(b) *When evidence of having a child in care is required.* A person under age 65 who applies for a spouse's annuity on the basis of caring for a child, for an increase under the social security overall minimum based on a child, or for a mother's or father's annuity as a widow or widower, is required to furnish evidence that he or she has in care an eligible child of the employee as described in §§ 216.36–216.37 of this chapter. What evidence the Board will ask for depends on whether the child is living with the applicant or with someone else.

(c) *Preferred evidence of having a child in care.* Preferred evidence of having a child in care is—

(1) If the child is living with the applicant, the applicant's signed statement showing that the child is living with him or her.

(2) If the child is living with someone else—

(i) The applicant's signed statement showing with whom the child is living and why. The applicant must also show when the child last lived with him or her, how long the separation will last and what care and contributions he or she provides for the child; and

(ii) The signed statement of the person with whom the child is living showing what care the applicant provides and the sources and amounts of support received by the child. If the child is in an institution, an official there should sign the statement. If there is a court order or written agreement showing who has custody of the child, the Board will ask for a copy of this.

(d) *Other evidence.* If the preferred evidence described in paragraph (c)(2)(ii) of this section cannot be obtained, the Board will ask for other convincing evidence that the applicant has the child in care.

§ 219.34 Evidence of responsibility for or payment of burial expenses.

(a) *When evidence of burial expenses is required.* If a person applies for the lump-sum death payment because he or she is responsible for paying the funeral home or burial expenses of the employee or because he or she has paid some or all of these expenses, the Board will ask for evidence of this.

(b) *Type of evidence required.* The Board will ask for the following evidence: (1) The applicant's signed statement showing—

(i) That he or she accepted responsibility for the funeral home expenses or paid some or all of these expenses or other burial expenses; his or her relationship to the employee; and, if not related by blood or marriage, why he or she accepted responsibility for, or paid, these expenses;

(ii) Total funeral home expenses and, if necessary, the total of other burial expenses; and if someone else paid part of the expenses, the person's name, address, relationship to the employee, and the amount he or she paid;

(iii) The amount of cash or property the applicant expects to receive as repayment for any burial expenses he or she paid; and whether anyone has applied for any burial allowance from the Veterans' Administration or other governmental agency for these expenses; and

(iv) If the applicant is an owner or offical of a funeral home, a signed statement from anyone, other than an employee of the home, who helped make the burial arrangements showing whether he or she accepted responsibility for paying the burial expenses.

(2) Unless the person is applying as an owner or offical of a funeral home, a signed statement from the owner or official and, if necessary, from those who supplied other burial goods or services which shows—

(i) The name, address, and relationship to the employee of everyone who accepted responsibility for, or paid any part of, the burial expenses; and

(ii) Information which the owner or offical of the funeral home and, if necessary, the supplier has about the expenses and payments mentioned in paragraphs (b)(i)(ii) and (b)(i)(iii) of this section.

§ 219.35 Evidence of relationship of a person other than a parent or child.

When any person other than a child or parent applies for benefits due because of the employee's death or because of the death of a beneficiary, the Board may ask the applicant for evidence of

relationship. The type of evidence requested is dependent upon the amount of benefit payable and the applicant's relationship to the deceased employee or beneficiary. If there is more than one person eligible for the benefit, and all eligible persons agree on the relationship of each other eligible person, only one of the persons will be asked to furnish proof of relationship.

§ 219.36 Evidence of where the employee had a permanent home.

(a) *When evidence of the employee's permanent home is required.*

The Board may ask for evidence to prove where the employee had a permanent home at the time his or her spouse filed an application or, if earlier, the time the employee died if—

(1) The entitled person is applying for benefits as the employee's wife, husband, widow, widower, parent or child; and

(2) The entitled person's relationship to the employee depends upon the laws of the State where the employee had his or her permanent home when his or her wife or husband applied for benefits or when the employee died.

(b) *What evidence is required.* The Board will ask for the following evidence to establish the employee's permanent home:

(1) The eligible person's signed statement showing what the employee considered to be his or her permanent home.

(2) If the statement in paragraph (b)(1) of this section or other evidence of record raises a reasonable doubt in establishing the employee's permanent home, evidence of where the employee paid personal property taxes, or real estate taxes, or income taxes; or voted; or other convincing evidence may be required.

§ 219.37 Evidence of "good cause".

The principle of "good cause" is applied by the Board in determining whether to allow an application which is submitted after the statutory time limits to be acceptable for the lump-sum death payment or an annuity unpaid at death.

(a) *When evidence of "good cause" is required.* The Board may ask for evidence the applicant had "good cause" for delay as defined in Part 217 of this chapter when the applicant is applying for the lump-sum death payment or annuity unpaid at death described in Part 234 of this chapter more than two years after the employee dies.

(b) *What evidence is required to establish "good cause".* The Board will ask for the following evidence of "good cause":

(1) The applicant's signed statement explaining why he or she did not file the application for lump-sum death payment or annuity unpaid at death within the specified 2-year period.

(2) If the statement in paragraph (b)(1) of this section or other evidence raises a reasonable doubt whether there was good cause, other convincing evidence to establish "good cause."

6. A new Part 221 is added to read as follows:

PART 221—JURISDICTION DETERMINATIONS

Sec.
221.1 Introduction.
221.2 Railroad Retirement Board jurisdiction.
221.3 Social Security Administration jurisdiction.
221.4 When a jurisdiction decision may be reversed.

Authority: Sec. 7(b)(1), Pub. L. 94-547 (45 U.S.C. 231f(b)(1)).

§ 221.1 Introduction.

This part explains the factors involved in deciding whether the Social Security Administration or the Railroad Retirement Board will pay benefits to a railroad employee, and his or her eligible family members, both before and after the employee's death. The agency that has jurisdiction over the payment of benefits also has jurisdiction of the applicant's medicare coverage (see Part 270 of this chapter). The Board is responsible for making this decision.

§ 221.2 Railroad Retirement Board jurisdiction.

(a) *Life cases.* The Board has jurisdiction to pay monthly benefits to each living employee who has completed at least ten years (120 months) of creditable service under the Railroad Retirement Act, and to his or her eligible spouse. Creditable service is described in Part 220 of this chapter.

(b) *Death cases.* The Board has jurisdiction to pay monthly benefits or lump-sum death benefits to eligible survivors of a deceased employee, when the deceased employee has at least ten years (120 months) of service that is creditable under the Railroad Retirement Act and a current connection as described in Part 216 of this chapter. Lump-sum death benefits are described in Part 234 of this chapter. The Board also has jurisdiction to pay any residual benefits that may become payable at the death of an employee. Residual benefits are described in Part 234 of this chapter. The Board retains jurisdiction to pay any residual that may be payable even after jurisdiction has been transferred to the Social Security Administration as described in § 221.3.

§ 221.3 Social Security Administration jurisdiction.

The Board transfers jurisdiction (railroad service and compensation credits earned by the employee which the Social Security Administration considers in determining benefits payable) to the Social Security Administration when—

(a) *Life and death cases.* A living or deceased employee has less than 120 months of service that is creditable under the Railroad Retirement Act; or

(b) *Death cases.* A deceased employee has at least 120 months of service that is creditable under the Railroad Retirement Act (see Part 220 of this chapter) but does not have a current connection with the railroad industry as described in Part 216 of this chapter.

§ 221.4 When a jurisdiction decision may be reversed.

The Board may reverse a jurisdiction decision whenever evidence is received by the Board indicating that the original decision was incorrect.

PART 230—[REDESIGNATED FROM PART 217]

7. Former Part 217 titled Months Annuities Not Payable by Reason of Work is redesignated as Part 230. A new Part 217 titled Application for Annuity or Lump Sum was added (as explained in item 4 above).

PART 232—SPOUSES' ANNUITIES

Subpart A—[Removed]

§§ 232.201-232.204 [Removed]

8. Part 232 is amended by removing Subpart A and §§ 232.201 through 232.204 of Subpart B.

PART 237—INSURANCE ANNUITIES AND LUMP SUMS FOR SURVIVORS

Subparts C and H—[Removed]

§§ 237.401, 237.404, and 237.406-237.410 [Removed]

9. Part 237 is amended by removing Subpart C, §§ 237.401, 237.404, and 237.406 through 237.410 of Subpart D, and Subpart H.

PART 238—RESIDUAL LUMP-SUM PAYMENTS

§ 238.5 [Removed]

10. Part 238 is amended by removing § 238.5.

PART 239—[Removed]

11. Part 239 is removed.

Dated: December 14, 1981.
By authority of the Board.
James T. Brown,
Chief Executive Officer.

[FR Doc. 82-4587 Filed 2-19-82; 8:45 am]
BILLING CODE 7905-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 84

[CGD 81-008]

Annex I to Inland Navigation Rules; Positioning and Technical Details of Lights and Shapes; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects the authority citation given at the end of the final regulations giving the positioning and technical details of navigation lights and shapes for the new Inland Navigation Rules. The regulations were published on December 24, 1981, at 46 FR 62443. Only the citation to the Pub. L. was given; the parallel citation to the United States Code should also have been given, as was done in the citation following the listing of section numbers and titles at the beginning of the regulation. Part 84 is to be contained in Subchapter E—Inland Navigation Rules—of Title 33, Code of Federal Regulations.

FOR FURTHER INFORMATION CONTACT:
Mr. Chris Llana, Project Manager, Office of Navigation, Room 1606, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593, (202) 245-0108.

PART 84—ANNEX I: POSITIONING AND TECHNICAL DETAILS OF LIGHTS AND SHAPES

Accordingly, the authority citation at the end of Part 84 of Title 33, Code of Federal Regulations, is corrected to read as follows:

(Sec. 3, Pub. L. 96-591, 33 U.S.C. 2071; 49 CFR 1.46(n)(14))

Dated: February 16, 1982.

R.A. Bauman,
Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 82-4743 Filed 2-19-82; 8:45 am]
BILLING CODE 4910-14-M

33 CFR Part 85

[CGD 81-006]

Annex II to the Inland Navigation Rules—Additional Signals for Fishing Vessels Fishing in Close Proximity; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects the authority citation following the listing of section numbers and titles at the beginning of the regulations providing trawlers and purse seiners with standardized signals to indicate specific fishing operations under the new Inland Navigation Rules. The regulations were published on December 21, 1981, at 46 FR 61845. Only the citation to the Public Law was given; the parallel citation to the United States Code should also have been given, as was done in the citation at the end of the regulations. Part 85 is to be contained in Supchapter E—Inland Navigation Rules—of Title 33, Code of Federal Regulations.

FOR FURTHER INFORMATION CONTACT:
Mr. Chris Llana, Project Manager, Office of Navigation, Room 1606, U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, D.C. 20593, (202) 245-0108.

PART 85—ANNEX II, ADDITIONAL SIGNALS FOR FISHING VESSELS FISHING IN CLOSE PROXIMITY

Accordingly, the authority citation following the listing of section numbers and titles at the beginning of Part 85 of Title 33, Code of Federal Regulations, is corrected to read as follows:

Authority: Sec. 3, Pub. L. 96-591, 33 U.S.C. 2071; 49 C.F.R. 1.46(n)(14).

Dated: February 16, 1982.

R. A. Bauman,
Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 82-4744 Filed 2-19-82; 8:45 am]
BILLING CODE 4910-14-M

33 CFR Part 86

[CGD 81-009]

Annex III to the Inland Navigation Rules—Technical Details of Sound Signal Appliances; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final Rule; correction.

SUMMARY: This document corrects the authority citations given in the regulations establishing the technical details for the vessel sound signal appliances prescribed by the new Inland Navigation Rules. The regulations were published on December 21, 1981, at 46 FR 61845. The authority citations appear in two places—(1) following the listing of section numbers and titles at the beginning of the regulations, and (2) at the end of the regulations. Only the citation to the Public Law was given; the parallel citation to the United States Code should also have been given. Part 86 is to be contained in Subchapter E—Inland Navigation Rules—of Title 33, Code of Federal Regulations.

FOR FURTHER INFORMATION CONTACT:
Mr. Chris Llana, Project Manager, Office of Navigation, Room 1606, U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, DC 20593, (202) 245-0108.

PART 86—ANNEX III: TECHNICAL DETAILS OF SOUND SIGNAL APPLIANCES

Accordingly, Part 86 of Title 33, Code of Federal Regulations, is corrected as follows:

1. The authority citation following the listing of section numbers and titles at the beginning of the part is corrected to read:

Authority: Sec. 3, Pub. L. 96-591, 33 U.S.C. 2071; 49 CFR 1.46(n)(14)

2. The authority citation at the end of the part is corrected to read:

(Sec. 3, Pub. L. 96-591, 33 U.S.C. 2071; 49 CFR 1.46(n)(14))

Dated: February 16, 1982.

R. A. Bauman,
Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 82-4745 Filed 2-19-82; 8:45 am]
BILLING CODE 4910-14-M

33 CFR Part 117

[CGD5 80-22R]

Drawbridge Operation Regulations; Stoney Creek, Md.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Maryland State Highway Administration, the Coast Guard is establishing new regulations governing operation of the drawbridge on Maryland Route 173 across Stoney Creek, mile 0.9, at Riviera Beach, Maryland, to permit the draw to remain closed to pleasure craft during peak vehicular traffic periods. This change is being made because significant vehicular traffic congestion has resulted at the bridge during morning and

evening rush hours when the draw has been opened to allow passage of a small number of boats. This action will accommodate the needs of vehicular traffic while providing for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment becomes effective on March 24, 1982.

FOR FURTHER INFORMATION CONTACT:
Ann B. Deaton, Bridge Specialist, Office of Commander (oan), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23703, telephone (804) 398–6222.

SUPPLEMENTARY INFORMATION: On July 9, 1981, the Coast Guard published a proposed rule (46 FR 35532) concerning this amendment. The Commander, Fifth Coast Guard District, also published this proposal in Public Notice (5–489) dated July 22, 1981, which was included in Local Notice to Mariners No. 30 dated July 28, 1981. Interested persons were requested to submit comments, and three comments were received.

Drafting Information

The principal person involved in drafting this rule is Ann B. Deaton, Bridge Specialist, Fifth Coast Guard District, Aids to Navigation Branch, 431 Crawford Street, Portsmouth, Virginia 23705.

Discussion of Rule

The Maryland State Highway Administration requested the Coast Guard to establish new regulations governing operation of their drawbridge on Maryland Route 173 across Stoney Creek, mile 0.9, at Riviera Beach, Maryland. The request was made because significant vehicular traffic congestion resulting from opening of the draw had developed at the bridge during morning and evening rush hours. Currently, the bridge is required to be opened on signal for any vessel that wishes to pass. The Coast Guard evaluated the problem, and is now establishing a new regulation for this bridge whereby the draw will be opened only once during morning rush hours and once during evening rush hours for the passage of any accumulated pleasure craft. Vessels owned by the United States, commercial vessels and any vessel involved in an emergency will not be affected by this change. The draw shall continue to be opened on signal at any time for these vessels, and will be opened on signal for the passage of pleasure craft at all times not covered by the new restrictions. This cutback on the number of draw openings during rush hours will help to relieve traffic congestion during these peak vehicular traffic periods without unduly restricting navigation.

The regulation, as originally proposed, restricted all vessel traffic during morning and evening rush hours, with one opening during each period for any accumulated vessels. Three public comments were received in response to the proposed rule. One was from a private citizen in support of the proposed regulation. One was from a commercial waterway user requesting that commercial vessels be excluded from the restrictions since the restricted openings would hurt their business. One was from the Maryland Natural Resources Police who requested an exemption from the restrictions for emergency response vessels. These comments were considered, and the Coast Guard determined that these exemptions would be in the public interest. Accordingly, the restrictions will apply to pleasure craft only, and the Final Rule has been changed to reflect the exemptions for commercial and emergency response vessels.

There are no known businesses that will be economically impacted by the new regulation. Commercial vessels will be excluded from the restrictions. Only pleasure boats will be affected by the new regulation, and the only cost to these entities that could result would be from time delays and fuel consumption. However, pleasure boat operators may plan their trips around the new schedule, thus avoiding any delays or expense. Motor vehicle operators will be beneficially effected from an economic standpoint since motor vehicular delays at the bridge causing fuel consumption will be reduced.

Evaluation

This regulation has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule. In addition, this regulation is considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is certified that this rule will not have a significant economic impact on a substantial number of small entities.

Final Regulation

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations is amended as follows:

By adding a new § 117.307 to read as follows:

§ 117.307 Stoney Creek, MD; bridge.

(a) The draw shall be opened on signal except that:

(1) From 6:30 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday through Friday except Federal and State Holidays, the draw need be opened only once at 7:30 a.m. and once at 5 p.m. if any pleasure craft are waiting to pass.

(2) The drawbridge shall be opened on signal at any time for vessels owned by the United States, commercial vessels and any vessel in an emergency involving danger to life or property. The signal to request an emergency opening is four or more short blasts of a whistle or horn.

(b) A copy of the regulations in this section shall be posted in a conspicuous place on both the upstream and downstream sides of the bridge.

(Sec. 5, 28 Stat. 362, as amended (33 U.S.C. 499); Sec. 6(g)(2), Pub. L. 89–670, 80 Stat. 937, as amended (49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(g)(3))

Dated: November 30, 1981.

John D. Costello,
Rear Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 82-4707 Filed 2-19-82; 8:45 am]
BILLING CODE 4910-14-M

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33 CFR Part 165

[CGD17-81-03R2]

Safety Zone; Gastineau Channel, Juneau, Alaska

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the City and Borough of Juneau, Alaska the Coast Guard is establishing a Safety Zone in Gastineau Channel, Juneau Harbor, Juneau, Alaska. In the past it has been the practice of small vessels to anchor in Juneau Harbor in the area normally utilized for anchoring and maneuvering by large passenger vessels and Alaska Marine Highway System Ferries. These small, privately owned vessels create a hazardous situation for any large cruise ships or ferries attempting to moor at or anchor near the passenger terminals. This regulation is necessary to prohibit any small vessel from anchoring in the harbor area during the cruise ship season and, thereby, to eliminate the hazardous condition.

EFFECTIVE DATE: This amendment becomes effective on June 1, 1982.

FOR FURTHER INFORMATION CONTACT:
Commander H. D. Jacoby, Captain of the Port, Southeast Alaska, 612 Willoughby Ave., Juneau, Alaska 99801; (907) 586–7298.

SUPPLEMENTARY INFORMATION: On November 5, 1981, the Coast Guard published a notice of proposed rulemaking (46 FR 54973) concerning these regulations. The Coast Guard Captain of the Port, Southeast Alaska, also published this proposal in Local Notice to Mariners No. 46, dated November 24, 1981 and in a public notice dated November 25, 1981. No public hearings were held; however, interested persons were given an opportunity to submit written comments.

The preamble to the notice of proposed rulemaking provides a thorough explanation of the background and need for this regulation and the effect of this safety zone on small vessel owners and other entities.

Drafting Information

The principal persons involved in drafting this regulation are CDR H. D. Jacoby, Captain of the Port, Southeast Alaska, and LCDR John Unricker, Project Attorney, Assistant Legal Officer, Seventeenth Coast Guard District.

Discussion of Comments

A total of six comments from groups and individuals were received on this rulemaking. The Coast Guard has given consideration to these comments in formulating this final rule. They are discussed generally in the following paragraphs.

Three comments were supportive of the regulation without reservation.

One comment expressed a concern that smaller transient vessels will be barred from anchorage anywhere in the main harbor area of Juneau. This commenter suggested that the limits of the zone be changed to allow for small vessel anchorage near the southwest shore of Gastineau Channel along Douglas Island. Another commenter requested that small, private vessels be allowed to anchor temporarily in the zone for the purpose of fishing. In view of the above comments and the fact that most of the maneuvering of large vessels takes place near the passenger terminals, the size of the zone has been reduced. The final rule will permit vessels to anchor in the southwest half of the channel for any purpose without contributing to a hazardous situation in the harbor area.

The Captain of the Port does not agree that the safety zone is unjustified, as one commenter suggested, and has rejected the following comments in support of that commenter's position:

1. That the safety zone provides no additional margin of safety and is solely an accommodation to local pilots;

2. That it will prohibit the use of the harbor by other vessels;

3. That the area has not been designated in any manner as an approved anchorage;

4. That the regulation does not limit the use of the area by small aircraft;

5. That the regulation does not limit the size or number of large vessels permitted within the zone; and

6. That the proposal does not fully explain the criteria the Captain of the Port will use in exercising his discretion.

With respect to the preceding comments, the Captain of the Port has identified a hazardous situation—small vessels that anchor in the Juneau harbor during the summer adversely affect the safe maneuvering of large passenger vessels—and has drafted regulations to deal with this hazard. He will continue to monitor activities within the Zone and be responsive to safety needs in the least intrusive manner available.

One comment suggested that the regulation define "large passenger vessel". The final rule specifically defines those vessels to which the regulation applies.

Only one commenter requested a public hearing. Since interest in a public hearing is minimal and there has been no showing that an oral presentation will aid the rulemaking process, no public hearing will be held.

Summary of Final Evaluation

This regulation has been reviewed under the provisions of E.O. 12291 and has been determined not to be a major rule. This document has been prepared and reviewed under the Department of Transportation's Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.5 dated May 22, 1980), and is considered to be nonsignificant. An economic evaluation has not been conducted because the expected economic impact is so minimal as not to warrant the evaluation. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this rule will not have a significant economic impact on a substantial number of small entities.

Final Regulation

PART 165—SAFETY ZONES

In consideration of the foregoing, § 165.1702 is added to Part 165 of Title 33, Code of Federal Regulations to read as follows:

§ 165.1702 Gastineau Channel, Juneau, Alaska.

(a) The waters within the following boundaries are a Safety Zone: A line beginning at the Standard Oil Company Pier West Light (LLNR 3217) located at position 58°17.9' N. latitude, 134°24.8' W. longitude; to Rock Dump Lighted Buoy 2A (LLNR 3213) located at position 58°17.2' N. latitude, 134°23.8' W. longitude; thence northwest along the north shore of Gastineau Channel to the point of origin. This zone is effective 24 hours per day from June 1 through September 30, annually.

(b) *Special Regulations:* (1) All vessels may transit or navigate within the safety zone.

(2) No vessel, other than passenger carrying vessels of 500 gross tons and over (including cruise ships and ferries), may anchor within the safety zone without the express consent of the Captain of the Port, Southeast Alaska.

(92 Stat. 1475 (33 U.S.C. 1225); 49 CFR 1.46(n)(4))

Dated: February 2, 1982.

H. D. Jacoby,
Commander, U.S. Coast Guard, Captain of the Port, Southeast Alaska.

[FR Doc. 82-4708 Filed 2-19-82; 8:45 am]
BILLING CODE 4910-14-M

DEPARTMENT OF EDUCATION

34 CFR Parts 539, 650, 695, 706, 714, and 740

Removal of Miscellaneous Regulations

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends Title 34 of the Code of Federal Regulations (CFR) by removing certain obsolete parts. These regulations are no longer needed for the reasons described in this document. The Secretary takes this action to eliminate unnecessary regulations.

EFFECTIVE DATE: Part 539 is removed effective October 1, 1982. Parts 650, 695, 706, 714, and 740 are removed effective February 22, 1982.

FOR FURTHER INFORMATION CONTACT:
A. Neal Shedd, Director, Division of Regulations Management, 400 Maryland

Avenue SW. (Room 2129, FOB-6), Washington, D.C. 20202–6261. Telephone: (202) 245–7091.

SUPPLEMENTARY INFORMATION: Under Executive Order 12291, effective February 17, 1981, we are reviewing, and, where possible, eliminating existing Department regulations. After reviewing certain Department regulations, we have determined that they are now obsolete. The purpose of this document is to remove these regulations from Title 34 of the CFR. Grants previously awarded by the Department of Education remain subject to the regulations in effect at the time the grants were made.

We are removing the following parts:

Part 539—Educational Services for Cuban and Haitian Entrant Children. These regulations were issued under the authority of Section 303 of Title III of the Elementary and Secondary Education Act of 1965, as amended. Title III is repealed by the Education Consolidation and Improvement Act of 1981, effective October 1, 1982. These regulations are therefore removed as of that date.

Part 650—Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships. Revised regulations for this program were published on January 14, 1981 at 46 FR 3400, as part of the regulations for Graduate and Professional Study Fellowships in 34 CFR Part 649. Part 650 was inadvertently not removed after issuance of the new regulations.

Part 695—Incentive grants for State student financial assistance training program. These regulations are obsolete. The program has expired.

Part 708—Research grants program. These regulations are obsolete. Projects are now funded under more specific program regulations.

Part 714—Education and work grants program. These regulations are obsolete. Projects are now funded under more specific program regulations.

Part 740—National alcohol and drug abuse prevention program. These regulations apply to grants and are therefore unnecessary. This program is implemented only through contracts.

The publication of this document as a proposed rule for public comment is unnecessary because it concerns only the removal of obsolete regulations from the CFR.

(Catalog of Federal Domestic Assistance Numbers 84.139, 84.065, 84.096, 84.117, 84.008)

Dated: February 12, 1982.

T. H. Bell,

Secretary of Education.

Title 34 of the Code of Federal Regulations is amended as follows:

PART 539—EDUCATIONAL SERVICES FOR CUBAN AND HAITIAN ENTRANT CHILDREN [REMOVED]

1. Part 539 is removed effective October 1, 1982.

PART 650—DOMESTIC MINING AND MINERAL AND MINERAL FUEL CONSERVATION FELLOWSHIPS [REMOVED]

2. Part 650 is removed.

PART 695—INCENTIVE GRANTS FOR STATE STUDENT FINANCIAL ASSISTANCE TRAINING PROGRAM [REMOVED]

3. Part 695 is removed.

PART 708—RESEARCH GRANTS PROGRAM [REMOVED]

4. Part 708 is removed.

PART 714—EDUCATION AND WORK GRANTS PROGRAM [REMOVED]

5. Part 714 is removed.

PART 740—NATIONAL ALCOHOL AND DRUG ABUSE PREVENTION PROGRAM [REMOVED]

6. Part 740 is removed.

[FR Doc. 82-4697 Filed 2-19-82; 8:45 am]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL-2049-6]

Approval and Promulgation of Implementation Plans; Alabama: SO_2 Revision for Jackson County

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: After an eighteen-month extension granted by EPA (to July 1, 1980), Alabama on June 9, 1980, submitted a plan revision showing attainment of the secondary sulfur dioxide standard in Jackson County, as required by Part D of Title I of the Clean Air Act. EPA today announces its approval of the revision.

EFFECTIVE DATE: This action will be effective on April 23, 1982 unless notice is received by March 24, 1982 that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to Archie Lee of EPA Region IV's Air Programs Branch (See EPA Region IV address below). Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Library, EPA, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365

Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005

Division of Air Pollution Control, Alabama Air Pollution Control Commission, 645 S. McDonough Street, Montgomery, Alabama 36130.

FOR FURTHER INFORMATION CONTACT: Mr. Archie Lee, Air Programs Branch, EPA Region IV at the above address and telephone number 404/881–3286 or FTS 257–3286.

SUPPLEMENTAL INFORMATION: On September 6, 1979, Alabama submitted to EPA Part D implementation plan revisions for the attainment of the national standards for sulfur dioxide in Jackson, Colbert, and Lauderdale Counties. These revisions satisfactorily showed attainment of both the primary and secondary standards in Colbert and Lauderdale Counties, but only of the primary standard in Jackson County. The state obtained an eighteen-month extension (to July 1, 1980) for the submittal of the secondary plan for Jackson County. A revision showing attainment of the secondary sulfur dioxide standard in this area was submitted on June 9, 1980.

The Jackson County control strategy demonstration uses air quality diffusion modeling of TVA's Widows Creek plant to show attainment of the 24-hour primary and 3-hour secondary standard for sulfur dioxide. The modeling was done with a re-calculated good engineering practice (GEP) stack height based on a re-evaluation of the plant facility's height.

After re-examining the building dimensions and re-calculating the GEP height and inputting the revised GEP height into the model, the current emission limit was found to be sufficient to attain the secondary ambient standard.

Action. Based on the foregoing, EPA hereby approves Alabama's revision for the attainment of the secondary sulfur dioxide standard in Jackson County.

The public should be advised that this action will be effective April 23, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Clean Air Act, judicial review of EPA's approval of this revision is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before April 23, 1982. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provisions of 5 U.S.C. section 605(b) I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action only approves state actions. It imposes no new requirements. In addition, this action only applies to one facility.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Secs. 110 and 172, Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: February 16, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Alabama was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

In § 52.50, paragraph (c) is amended by adding subparagraph (35) as follows:

§ 52.50 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * * *

(35) Revision for Jackson County secondary sulfur dioxide nonattainment area, submitted on June 9, 1980, by the Alabama Air Pollution Control Commission.

[FR Doc. 82-4730 Filed 2-19-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A-5-FRL-2047-3]

Approval and Promulgation of Implementation Plan; Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: On August 25, 1981, the State of Michigan submitted Consent Order No. 16–1981 for the Marathon Oil Company as revisions to the State Implementation Plan (SIP). Consent Order No. 16–1981 satisfies EPA's conditional approval of Michigan's R336.1603 by providing detailed compliance schedules for the Marathon Oil Company in Muskegon County containing the increments of progress required by 40 CFR Part 51.15. EPA has reviewed this consent order and approves it as a revision to the Michigan SIP. The purpose of this notice is to announce receipt of this consent order, discuss the results of EPA's review, and to announce final approval of this SIP revision request.

EFFECTIVE DATE: This final rulemaking action will be effective on April 23, 1982, unless notice that someone wishes to submit adverse or critical comments is received within 30 days.

ADDRESSES: Copies of this SIP revision are available for review at the following addresses:

U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Michigan Department of Natural Resources, Air Quality Division, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48917.

Written comments on these actions should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6037.

SUPPLEMENTARY INFORMATION:

Muskegon County (Order No. 16–1981)—Marathon Oil Company

On August 25, 1981, the State of Michigan submitted Consent Order No. 16–1981 for the Marathon Oil Company in Muskegon County, concerning the Volatile Organic Compounds (VOC) emissions from the company's truck gasoline loading rack. Michigan's Rule 336.1609 sets forth limitations for VOC emissions from gasoline bulk terminals handling over 5,000,000 gallons of gasoline per year. This rule is one of 18 rules containing stationary source controls representing Reasonably Available Control Technology (RACT), effective January 18, 1980, and is part of the federally approved Michigan SIP. EPA conditionally approved R336.1603 based on the State of Michigan's commitment to submit detailed compliance schedules containing the increments of progress required by 40 CFR Part 51.15.

Consent Order No. 16–1981 contains a compliance schedule which includes the following increments: (1) Dates by which the company shall submit plans, specifications, and applications for an installation permit, (2) dates for control device manufacturers orders, (3) dates for notification of installation, (4) a date of notification of equipment operation, (5) a date for submission of detailed report of equipment testing and (6) a date by which proof of attainment of required VOC emission limitations shall be submitted. The final compliance date is December 31, 1982 and the emission limitation is 0.7 pounds of organic vapor per 1000 gallons of organic compound loaded. This final compliance date is consistent with the attainment date of the ozone NAAQS. In addition, this revision will not adversely affect Michigan SIP's meeting the "reasonable further progress" requirement of the Act.

Conclusion—EPA Evaluation

EPA has reviewed Consent Order No. 16–1981 for the Marathon Oil Company, Muskegon County. EPA has determined that this order contains enforceable emission limitations and control measures. EPA has also determined that Consent Order No. 16–1981 was found to be consistent with applicable States rules (Michigan R336.1609 and R336.1603) and federal regulations (40 CFR 51.15 and 51.1(Q)).

EPA, therefore, approves Consent Order No. 16–1981 as part of the Michigan SIP. EPA believes that this is a noncontroversial rulemaking action, and is taking immediate final rulemaking action. On September 4, 1981 (46 FR 44476) EPA published a general notice explaining this special rulemaking procedure. This action will be effective April 23, 1982. However, if EPA is notified within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and a new rulemaking will propose the action and establish a comment period.

Pursuant to the provisions of 5 U.S.C. Section 605(b), the Administrator certified on January 27, 1981 (46 FR 8709), that approvals or conditional approvals of SIP's under Sections 110 and 172 of the Clean Air Act and revisions of attainment status designations under section 107(d) would not, if promulgated, have a significant economic impact on a substantial number of small entities. Today's action approves an action submitted by the State pursuant to the provisions of Section 110 of the Act and imposes no new requirements beyond those which the State has already imposed.

This regulation was exempted from review by the Office of Management and Budget (OMB) under section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before April 23, 1982. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(Sec. 110, Clean Air Act (42 U.S.C. Section 7410))

Dated: February 12, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

Note.—Incorporation by reference of the SIP for the State of Michigan was approved by the Director's of Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1, Title 40 Code of Federal Regulations is amended as follows:

1. Section 52.1170 is amended by adding paragraph (c)(43) as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

* * * * *

(43) On August 25, 1981, the State of Michigan, Department of Natural Resources (MDNR), submitted to EPA Consent Order No. 16–1981 for the Marathon Oil Company in Muskegon County. Consent Order No. 16–1981 satisfies USEPA's conditional approval of R336.1603 by providing detailed compliance schedules containing the increments of progress required by 40 CFR Part 51.15.

* * * * *

2. Section 52.1175 is amended by adding a compliance schedule for the Marathon Oil Company to paragraph (e).

§ 52.1175 Compliance schedules.

* * * * *

(e) * * *

* * * * *

MICHIGAN

Source	Location	Regulations involved	Date schedule adopted	Final compliance date
Muskegon County				
Marathon Oil	Muskegon	336.1603	July 31, 1981	Dec. 31, 1982.

[FR Doc. 82-4738 Filed 2-19-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A-2-FRL-2016-5]

Approval and Promulgation of Implementation Plans; Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces approval by the Environmental Protection Agency of a revision to the New York State Implementation Plan (SIP). This action has the effect of allowing the Consolidated Edison Company of New York, Inc. to burn fuel oil with a maximum sulfur content of 1.5 percent, by weight, in units 2 and 3 of its Arthur Kill generating facility and in unit 3 of its Ravenswood generating facility, all located in New York City, for up to two years from February 22, 1982. Receipt of this implementation plan revision request from New York State was announced in the Federal Register on September 28, 1981 at 46 FR 47470, where a full description of the proposed revision is contained.

EFFECTIVE DATE: This action becomes effective February 22, 1982.

ADDRESSES: Copies of the SIP revision submitted by New York State, public comments received and a "Technical Support Document" to today's action are available for inspection during normal business hours at the following addresses:

Environmental Protection Agency, Air Programs Branch, Room 1005, Region II Office, 26 Federal Plaza, New York, New York 10278;

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

Copies of the State's submission are also available for inspection during normal business hours at the following location: The Office of the Federal Register, 1100 L Street N.W., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278 (212) 264–2517.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1981 New York State submitted to the Environmental Protection Agency (EPA) a proposed revision to its State Implementation Plan (SIP). The State's revision request was submitted in accordance with all EPA requirements under 40 CFR Part 51, including a public hearing which was held by the State on July 27, 1981. The State requested EPA approval of a "special limitation," issued by the State under the provisions of Part 225.2, Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York. The effect of this "special limitation" is to allow the Consolidated Edison Company of New York, Inc. (Con Edison) to use fuel oil with maximum sulfur content of 1.5 percent, by weight, in units 2 and 3 of its Arthur Kill generating facility and in unit 3 of its Ravenswood generating facility, all located in New York City. The current, normally applicable regulatory limitation on fuel oil sulfur content is 0.3 percent, by weight. A similar SIP revision of one-year duration had been previously approved by EPA on August 11, 1980 (45 FR 53138). With the addition of several new conditions imposed by the State, this current SIP revision is a continuation of the earlier one.

A notice of proposed rulemaking on the State's SIP revision request was published in the Federal Register on September 28, 1981 (46 FR 47470). The reader is referred to this September 28 notice for a detailed description of the State's revision request. In its September 28 notice EPA advised the public that comments would be accepted as to whether the proposed revision to the New York SIP should be approved or disapproved. During the comment period, which ended on October 28, 1981, EPA received five comments.

II. Discussion of Comments Received

Comments were received from the Office of the Attorney General of the State of Connecticut, the New Jersey Department of Environmental Protection, the Middlesex County Air Quality Planning Committee, the Department of Political Studies, Adelphi University, and the Consolidated Edison Company of New York, Inc.

Certain of these comments will be briefly discussed in today's notice. However, a complete discussion of all the comments received and EPA's response to them appears in a separate "Technical Support Document" to today's notice. This document is available for public review at the locations identified in the "Addresses" section of today's notice.

A. The Office of the Attorney General of the State of Connecticut

1. Comments. The Office of the Attorney General of the State of Connecticut in a letter dated October 22, 1981 expressed its opposition to EPA's proposal to approve the New York SIP revision affecting Con Edison. The State asserted that increased air pollution emissions from the Con Edison facilities would exacerbate an existing violation of the secondary particulate matter national ambient air quality standard in Connecticut and, therefore, would interfere with Connecticut's attempts to attain this standard. It is also claimed by Connecticut that the New York SIP revision would interfere with Connecticut's maintenance of the primary sulfur dioxide and particulate matter national ambient air quality standards, and would interfere with the State's plan to prevent significant deterioration of air quality and to protect visibility.

Connecticut further contended that, if EPA approves the New York SIP revision for a maximum period of up to two years from today's date instead of from the date when the last SIP revision affecting Con Edison expired (August 11, 1981), it would constitute EPA approval of a violation of federal law. Connecticut requested that the EPA Administrator immediately require Con Edison to comply with the existing federally approved New York SIP which, since August 11, 1981, has prohibited Con Edison from using fuel oil with a sulfur content greater than 0.3 percent, by weight, at the affected Con Edison facilities. Connecticut claimed that Con Edison has burned nonconforming fuel oil after the SIP approval to do so expired.

2. EPA Response. It should be noted that New York has not requested a change to the 0.1 pounds per million BTU particulate matter emission limitation as contained in its SIP. This limitation is not being changed as a result of today's action and is applicable to Con Edison's emissions regardless of what sulfur content fuel oil is being burned. Additional discussion of this issue with respect to predicted particulate matter impacts in Connecticut is contained in the "Technical Support Document" to today's action.

Additionally, Connecticut has not shown and EPA cannot find any basis for determining that the increases in particulate matter or sulfur dioxide emissions which would result from EPA approval of the New York SIP revision will prevent attainment or maintenance of national ambient air quality standards or will interfere with measures to prevent significant deterioration of air quality or to protect visibility in Connecticut. EPA notes that the prevention of significant deterioration (PSD) baseline has not been triggered in Connecticut

In light of today's action to approve the use of 1.5 percent sulfur content fuel oil at the affected Con Edison units, EPA believes that Connecticut's request that EPA order Con Edison to burn fuel oil with a maximum sulfur content of 0.3 percent is unwarranted. Also, EPA believes that it is appropriate to begin its two year approval of New York's SIP revision request as of the effective date of its approval rather than as of some earlier date. This does not constitute an approval by EPA of the use by Con Edison of nonconforming fuel during the period between the expiration of EPA's approval of New York's earlier SIP revision and the effective date of today's action. The SIP revision which is the subject of today's action was not submitted by New York until August 7, 1981 and has been processed as rapidly as possible.

B. New Jersey State Department of Environmental Protection

1. Comments. In its October 27, 1981 letter the New Jersey State Department of Environmental Protection (NJDEP) stated its belief that the New York SIP revision represents an inequitable use of the available sulfur dioxide increment in the New Jersey-New York-Connecticut Interstate Air Quality Control Region. NJDEP also expressed concern that approval of the Con Edison "special limitation" would threaten the maintenance of New Jersey and national ambient air quality standards in the vicinity of Perth Amboy, New Jersey. NJDEP also pointed out that EPA's notice of proposed rulemaking incorrectly noted that the New Jersey 24-hour secondary sulfur dioxide standard had not been violated during the period when the earlier Con Edison "special limitation" was in effect. Violations were recorded in December 1980 and January 1981, according to the NJDEP. NJDEP expressed its desire for implementation of several of the conditions placed by New York on the "special limitation." Therefore, NJDEP has requested that EPA clearly specify the extent to which the conditions on the "special limitation" are federally enforceable SIP provisions. Finally, NJDEP expressed its support of EPA's proposal to limit its approval of the New York SIP revision to a maximum period of two years.

2. EPA Response. With regard to New Jersey's comments concerning interstate "equity" of air quality impacts, particularly the consumption of available sulfur dioxide PSD increments, this temporary relaxation is not expected to impede growth in New Jersey. Furthermore, EPA is aware that the States of New York and New Jersey are currently discussing common policies for interstate air pollution problems, including equitable allocation of PSD increments, in the context of permanent coal conversions.

As indicated in its notice of proposed rulemaking, EPA is concerned over the unusually high 24-hour concentrations of sulfur dioxide recorded on a few recent occasions at Perth Amboy, New Jersey. Although no violations of the national ambient air quality standards have occurred, the high concentrations require further investigation. To this end, the State of New York has required as a condition on its "special limitation" that Con Edison conduct a comprehensive evaluation of these high concentrations by December 31, 1981.

EPA acknowledges that it incorrectly stated in its notice of proposed

rulemaking that the New Jersey 24-hour secondary sulfur dioxide ambient air quality standard had not been violated. In the last twelve consecutive months there have been 24-hour concentrations in excess of the State standard of 260 ug/m³. However, under Section 110(a)(2)(E) of the Clean Air Act EPA is required to consider only the impact on national ambient air quality standards and not stricter state standards. Consequently, based on the available information, EPA has determined that it has not been shown that the increased emissions from the Con Edison "special limitation" prevents the maintenance of sulfur dioxide national ambient air quality standards in New Jersey.

The nineteen conditions specified by New York State as part of the Con Edison "special limitation" were submitted to EPA for approval as a revision to the New York SIP. Upon EPA approval they are federally enforceable to the extent that they are necessary to meet the criteria of section 110 of the Clean Air Act.

C. Middlesex County Air Quality Planning Committee

1. Comments. In an October 21, 1981 letter the Middlesex County Air Quality Planning Committee also brought up the comment raised by the NJDEP regarding the elevated concentrations of sulfur dioxide at Perth Amboy, New Jersey. They also expressed concern that the Con Edison "special limitation" would use up a large portion of the available sulfur dioxide 24-hour PSD increment in the Perth Amboy, New Jersey area and thereby limit future economic growth.

2. EPA Response. EPA acknowledges that the use of higher sulfur fuel oil at the Con Edison facility would temporarily consume up to 41 percent of the available 24-hour sulfur dioxide PSD increment in a small portion of New Jersey. Despite this temporary increment consumption, the proposed New York SIP revision is unlikely to preclude new source growth. This is because under the Con Edison "special limitation" the use of higher sulfur content fuel oil is only authorized for a two-year period. Therefore, any proposed new or modified source affected by EPA's PSD regulation which would commence operation after this two-year period could be reviewed as if the "special limitation" did not exist.

D. Department of Political Studies, Adelphi University

1. Comments. The Department of Political Studies at Adelphi University in a letter dated October 23, 1981 raised several issues concerning the technical rationale for extending the Con Edison "special limitation." One of the issues concerned whether the existing sulfur dioxide monitoring network operated by the New York State Department of Environmental Conservation is adequate for assessing the air pollution impact in New York from Con Edison's use of high sulfur content fuel oil.

2. EPA Response. EPA has conducted an independent review and analysis of sulfur dioxide data measured at all impacted sites in New York. Based on this review, EPA concludes that the data base from New York operated monitors is adequate for determining that the sulfur dioxide national ambient air quality standards are being attained throughout this impact area.

E. Consolidated Edison Company of New York, Inc.

1. Comments. Con Edison, in a letter dated October 27, 1981, stated that the continued use of high sulfur fuel oil should be approved as it will result in substantial fuel cost savings for the Company's customers without either causing a violation of any national ambient air quality standard or impeding regional economic growth. According to Con Edison, recently analyzed air quality data support the conclusion that no violations of national ambient air quality standards have occurred and, in fact, indicate that the annual average sulfur dioxide levels at the critical monitoring stations in New York City have continued on a downward trend for the past two years.

Con Edison also noted that it is actively pursuing its coal conversion application now pending before the State of New York, and intends to submit applications and environmental impact statements for the conversion of the affected units to coal by November 10, 1981 as required by Condition (1) of the pending "special limitation."

2. EPA Response. EPA supports the need to reduce energy costs and believes that this goal is not inconsistent with the air quality goals contained in the Clean Air Act. However, the Clean Air Act does not authorize EPA to apply such considerations in evaluating SIP revision requests. EPA has determined that measured sulfur dioxide levels at the most critical monitors in Manhattan have remained at or below the levels measured one year ago.

EPA notes that, according to New York State, Con Edison did submit by November 10, 1981 applications and environmental impact statements for the conversion of the affected units to coal as required by Condition (1) of the pending "special limitation."

III. Final Determination

Based on EPA's review of the New York submittal and the comments received, EPA has concluded that: (1) The revision will not violate the national ambient air quality standards in New York; (2) the revision will not prevent attainment or maintenance of national ambient air quality standards in Connecticut or New Jersey; and (3) the revision will not interfere with Connecticut or New Jersey's PSD measures since the entire increment for sulfur dioxide is available. Therefore, the revision meets the requirements of section 110 of the Clean Air Act, including section 110(a)(2)(E), and is approved.

Furthermore, this action is being made effective immediately because it imposes no hardship on the affected sources, and no purpose would be served by delaying its effective date.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within sixty days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action only approves state actions. It imposes no new requirements.

The Office of Management and Budget (OMB) has exempted this regulation from the OMB review requirements of Executive Order 12291.

Dated: February 12, 1982.

John W. Hernandez, Jr.,

Acting Administrator, Environmental Protection Agency.

(Secs. 110 and 301, Clean Air Act, as amended (42 U.S.C. 7410 and 7601))

Note.—Incorporation by reference of the State Implementation Plan for the State of New York was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Chapter 1, Subchapter C, Part 52, Code of Federal Regulations is amended as follows:

1. Section 52.1670, paragraph (c) is amended by adding new subparagraph (64) as follows:

§ 52.1670 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(64) Revision submitted on August 7, 1981 by the New York State Department of Environmental Conservation which grants a "special limitation" to relax to 1.5 percent, by weight, for up to two years from February 22, 1982, the sulfur-in-fuel oil limitation applicable to units 2 and 3 of Consolidated Edison of New York State, Inc.'s Arthur Kill generating facility and to unit 3 of its Ravenswood generating facility, all located in New York City.

[FR Doc. 82-4729 Filed 2-19-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 60

[A-6-FRL-2055-6]

Delegation of Authority to the State of Louisiana for New Source Performance Standards (NSPS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA, Region 6, has delegated the authority for implementation and enforcement of NSPS to the Louisiana Department of Natural Resources (LDNR), Air Quality Division. Except as specifically limited, all of the authority and responsibilities of the Administrator or the Regional Administrator which are found in 40 CFR Part 60 are delegated to the LDNR. Any of such authority and responsibilities may be redelegated by the Department to its Director or staff.

EFFECTIVE DATE: January 25, 1982.

ADDRESS: Copies of the State request and State-EPA agreement for delegation of authority are available for public inspection at the Air Branch, Environmental Protection Agency, Region 6, First International Building, 28th Floor, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: William H. Taylor, Air Branch, Environmental Protection Agency, Region 6, First International Building, 28th Floor, 1201 Elm Street, Dallas, Texas 75270; (214) 767-1594 or (FTS) 729-1594.

SUPPLEMENTARY INFORMATION: On December 17, 1981, the State of Louisiana submitted to EPA, Region 6, a request for delegation of authority to the LDNR for the implementation and enforcement of the NSPS program. After a thorough review of the request and information submitted, the Regional Administrator determined that the State's pertinent laws and the rules and regulations of the LDNR were found to provide an adequate and effective procedure for the implementation and enforcement of the NSPS program.

The Office of Management and Budget has exempted this information notice from the requirements of Section 3 of Executive Order 12291.

Effective immediately, all information pursuant to 40 CFR Part 60 by the sources locating in the State of Louisiana should be submitted directly to the State agency at the following address: Louisiana Department of Natural Resources, Air Quality Division, P.O. Box 44066, Baton Rouge, Louisiana 70804.

(Sec. 111 of the Clean Air Act, as amended (42 U.S.C. 7411))

Dated: February 9, 1982.

Frances E. Phillips,

Acting Regional Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Part 60 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Section 60.4 paragraph (b) is amended by revising subparagraph (T) to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(A) – (S)

(T) State of Louisiana, Program Administrator, Air Quality Division, Louisiana Department of Natural Resources, P.O. Box 44066, Baton Rouge, Louisiana 70804.

* * * * *

[FR Doc. 82-4728 Filed 2-19-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Parts 60 and 61

[A-6-FRL-2057-1]

New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to the State of Arkansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA has delegated the authority for implementation and enforcement of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (except demolition and renovation of buildings containing asbestos) to the Arkansas Department of Pollution Control and Ecology (ADPCE). The State specified in its request that delegation of authority for demolition and renovation of buildings containing asbestos, would not be accepted. Except as specifically limited, all of the authority and responsibilities of the Administrator or the Regional Administrator which are found in 40 CFR Part 60 and 40 CFR Part 61 are delegated to the ADPCE. Any of such authority and responsibilities may be redelegated by the Department to its Director or staff.

EFFECTIVE DATE: September 14, 1981.

ADDRESS: Copies of the State request and State-EPA agreement for delegation of authority are available for public inspection at the Air Branch, Environmental Protection Agency, Region 6, First International Building, 28th Floor, 1201 Elm Street, Dallas, Texas 75270; (214) 767-1594 or (FTS) 729-1594.

FOR FURTHER INFORMATION CONTACT: William H. Taylor, Air Branch, address above, Telephone: (214) 767-1594 or (FTS) 729-1594.

SUPPLEMENTARY INFORMATION: On July 1, 1981, the State of Arkansas submitted to EPA, Region 6, a request for delegation of authority to the ADPCE for the implementation and enforcement of the NSPS and NESHAP programs (except demolition and renovation of buildings containing asbestos). After a thorough review of the request and information submitted, the Regional Administrator determined that the State's pertinent laws and the rules and regulations of the ADPCE were found to provide an adequate and effective procedure for implementation and enforcement of the NSPS and NESHAP programs.

Under Executive Order 12291, EPA must judge whether a publication is "major" and therefore subject to the requirements of a regulatory impact analysis. The delegation of authority is not "major", because it is an administrative change, and no additional burdens are imposed on the parties affected.

The delegation letter to Arkansas was submitted to OMB and determined not to be a major rule under E.O. 12291.

Effective immediately, all information pursuant to 40 CFR 60 and 61 by sources locating in the State of Arkansas should be submitted to the State agency at the following address: Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209.

(Secs. 101 and 301 of the Clean Air Act, as amended (42 U.S.C. 7401 and 7601))

Dated: February 2, 1982.

Frances E. Phillips,

Acting Regional Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Part 60 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Section 60.4 paragraph (b) is amended by revising subparagraph (E) to read as follows:

§ 60.4 Address.

* * * * * *

(b) * * *

(E) State of Arkansas, Program Administrator, Air and Hazardous Materials Division, Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209.

* * * * * *

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Part 61 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Section 61.04 paragraph (b) is amended by revising subparagraph (E) to read as follows:

§ 61.4 Address.

* * * * * *

(b) * * *

(E) State of Arkansas, Program Administrator, Air and Hazardous Materials Division, Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209 (with the exception of (1)(d) Demolition and Renovation of Buildings Containing Asbestos).

* * * * * *

[FR Doc. 82-4701 Filed 2-19-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 62

[A-4-FRL-2047-2]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Alabama: Plans for Control of Sulfuric Acid Mist and Phosphate Fluorides; and Florida: Plan for Control of Sulfuric Acid Mist

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Pursuant to section 111(d) of the Clean Air Act and EPA's implementing guidelines, the States of Alabama and Florida have adopted and submitted to EPA plans for the control of "designated" pollutants. The Alabama Air Pollution Control Commission has submitted plans for the control of phosphate fluorides and sulfuric acid mist from existing facilities. The Florida Department of Environmental Regulation (DER) has submitted a plan for the control of sulfuric acid mist. EPA today announces its approval of these plans.

EFFECTIVE DATE: This action will be effective on April 23, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the materials submitted by the respective States may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005

Division of Air Pollution Control, Alabama Air Pollution Control Commission, 645 S. McDonough Street, Montgomery, Alabama 36130

Bureau of Air Quality Mgmt., Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301

FOR FURTHER INFORMATION CONTACT: Mr. Archie Lee, EPA Region IV, Air Programs Branch, at the above listed address and phone 404/881-3286 or FTS 257-3286.

SUPPLEMENTAL INFORMATION: In accordance with section 111 of the Clean Air Act (amended August 1977, Pub. L. No. 95-95), "Standards of Performance for New Stationary Sources," EPA has promulgated standards of performance for certain pollutants (those for which National Ambient Air Quality Standards have been published) and non-criteria pollutants, and apply to "new" sources (i.e., new, modified, or reconstructed sources) which commenced construction after the date on which EPA proposed standards for that particular source category.

Paragraph (d) of section 111 requires States to develop plans for the control of emissions of the same non-criteria, or designated, pollutants from existing sources, which are regulated from the new source category. "Existing" sources were defined as those which are present prior to the date on which EPA proposed new source performance standards for that particular source category. The requirements for such plans are set forth in subpart B of 40 CFR Part 60 (November 17, 1975; 40 FR 53340).

On May 18, 1976, Alabama submitted a plan for controlling sulfuric acid mist from existing sulfuric acid producers pursuant to 111(d) of the Clean Air Act. Sulfuric acid mist limitations were adopted by the Alabama Air Pollution Control Commission in 1972 as part of the original State Implementation Plan approved by EPA on May 31, 1972. The established acid mist emission limitation for sulfuric acid producers (0.25 kg/metric ton or 0.5 pounds per ton) is consistent with the recommended emission limitation in EPA's final guideline document. This regulation specifies emission standards and test methods. The three sulfuric acid producers in the State of Alabama are reported to be in compliance with the applicable emission standards.

On December 14, 1978, Florida submitted a plan for controlling sulfuric acid mist emissions from sulfuric acid producers. An additional submittal was made on March 17, 1979. Legal authority to carry out the plan is provided by the Florida statutes. The submitted regulations also specify emission standards and test methods. The plan provides for an emission limit of 0.30 pounds per ton except for that portion of the Jacksonville (Florida)—Brunswick (Georgia) Interstate Air Quality Control Region, as defined in 40 CFR 81.91, for which the emission limit is 0.50 pounds per ton. EPA has evaluated the Alabama and Florida plans by comparing them with the requirements for the State plans for designated facilities, as set forth in subpart B of 40 CFR Part 60, Adoption and Submittal of State Plans for Designated Facilities, and with the EPA guideline document, Control of Sulfuric Acid Mist Emissions from Existing Production Units (EPA-450/2-77-019).

The Alabama and Florida plans control acid mist emissions from sulfuric acid producers that were in operation or were under construction before August 17, 1971. The acid production processes that are controlled are described in 40 CFR 60.81(a). These sources must conduct continuous emission monitoring as provided in Appendix P of 40 CFR Part 51. EPA approves the Alabama and Florida plan since they completely satisfy EPA requirements.

On April 10, 1980, Alabama submitted a 111(d) plan for controlling fluoride emissions from the phosphate fertilizer industry. This plan was reviewed in the light of the previously referenced requirements set forth in subpart B of 40 CFR Part 60. The fluoride emission limits are equivalent to those recommended by the EPA guideline document, Controlling Fluoride Emissions from Phosphate Fertilizer Plants (EPA-450/2-77-005).

It should be pointed out that at the time of State adoption, there were no existing phosphate fertilizer plants subject to these regulations. However, the modification of an existing superphosphate unit to produce triple superphosphate was possible. Therefore, Alabama adopted fluoride emission limiting regulations for existing fertilizer plants instead of issuing a negative declaration.

Action: EPA is today approving the Alabama and Florida plans for the control of sulfuric acid mist from existing sulfuric acid plants and the Alabama plan for the control of fluorides from existing phosphate fertilizer plants. This is being done without prior proposal because the changes are noncontroversial and have limited impact and no comments are anticipated as all affected sources are reported to be in compliance with the applicable State regulation.

The public should be advised that this action will be effective on April 23, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Clean Air Act, judicial review of EPA's approval of this revision is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before April 23, 1982. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provisions of 5 U.S.C. section 605(b) I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action only approves State actions. It imposes no new requirements. In addition, this action only applies to sources that are reported in compliance with the applicable regulations.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Incorporation by reference of State plans for designated facilities and pollutants was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 111 and 301(a) of the Clean Air Act (42 U.S.C. 7411 and 7601(a))

Dated: February 12, 1982.

Anne M. Gorsuch,

Administrator.

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

Part 62 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

1. Subpart B, consisting of §§ 62.100 and 62.110, is added as follows:

* * * * * *

Subpart B—Alabama

Sulfuric Acid Mist from Existing Sulfuric Aid Plants

Sec.

62.100 Identification of plan.

Fluoride Emissions from Phosphate Fertilizer Plants

Sec.

62.110 Indentification of plan.

* * * * * *

Subpart B—Alabama

Sulfuric Acid Mist from Existing Sulfuric Acid Plants

§ 62.100 Identification of plan.

(a) Title of plan: "State of Alabama Plan for Control of Sulfuric Acid Mist Emissions from Existing Sulfuric Acid Production Units."

(b) The plan was officially submitted on May 18, 1980.

(c) The plan includes the following types of sulfuric acid plants:

(1) Acid plants operated by Reichhold Chemical Company in Tuscaloosa, Stauffer Chemical Company in Mobile, and Estech Chemical in Dothan.

(2) There are no oleum plants.

(3) There are no sulfur burning plants.

(4) There are no bound sulfur feedstock plants.

Fluoride Emissions from Phosphate Fertilizer Plants

§ 62.110 Identification of plan.

(a) Title of plan: "State of Alabama Plan for Control of Flouride Emissions from Existing Phosphate Fertilizer Plants."

(b) The plan was officially submitted on April 10, 1978.

(c) The plan currently does not identify any sources subject to its fluoride emission limits.

2. Subpart K, consisting of § 62.2350, is added as follows:

Subpart K—Florida

Sulfuric Acid Mist from Existing Sulfuric Acid Plants

§ 62.2350 Identification of plan.

(a) Title of plan: "State of Florida Plan for Control of Sulfuric Acid Mist Emissions from Existing Sulfuric Acid Production Units."

(b) The plan was officially submitted on December 14, 1978.

(c) The plan includes the following types of sulfuric acid plants.

(1) Acid plants operated by Occidental Petroleum Company in Hamilton County, AMAX Phosphate Inc. in Manatee County, Conserv Chemical in Nichols, Farmland Industry in Bartow County, W.R. Grace Company in Polk County, Royster Fertilizer in Polk County, USS Agrichemicals in Polk County, Central Farmers Co-op in Polk County, Agrico Chemical Company in Polk County, Gardinier, Inc., in Hillsborough County, and ESTECH in Polk County.

(2) There are no oleum plants.

(3) There are no sulfur burning plants.

(4) There are no bound sulfur feedstock plants.

[FR Doc. 82-4698 Filed 2-19-82; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6118

[OR-6911]

Oregon; Partial Revocation of Executive Order

Correction

In FR Doc. 82-3654, published at page 5422, on Friday, February 5, 1982, on page 5423, in the first column, in the first indented paragraph, in the second line "Section 205" should be corrected to read "Section 204".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Parts 71, 201, 208, and 1392

Deletion of Regulations Pertaining to Certain Social Services Programs Under the Social Security Act

AGENCY: Office of Human Development Services, HHS.

ACTION: Final rule.

SUMMARY: Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981, combined the social services programs administered under title XX of the Social Security Act in the States and in the Territories under titles I, IV–A, X, XIV and XVI(AABD), into a single block grant known as "The Title XX Block Grant to States for Social Services." The block grant program is effective October 1, 1981. Since existing regulations governing those programs do not apply to the block grant program, this rule deletes both entire Parts and references within a Part that apply to the above grant-in-aid programs. These regulations also remove the Department's day care requirements which were issued under statutory authorities that no longer exist as a result of various changes made by Pub. L. 97–35.

EFFECTIVE DATE: This rule is effective on February 22, 1982.

FOR FURTHER INFORMATION, CONTACT: Mrs. Johnnie U. Brooks, Room 722–E, Hubert H. Humphrey Building, Department of Health and Human Services, 200 Independence Avenue SW., Washington, D.C. 20201.

SUPPLEMENTARY INFORMATION:

I. Removal of 45 CFR, Subtitle A, Part 71—HHS Day Care Requirements

45 CFR Part 71, the HHS Day Care requirements, contains the conditions that child day care services provided to children outside their own homes must meet in order to be eligible to receive Federal funds from the Department. The HDS programs to which these rules applied were title XX of the Social Security Act (SSA) in the States; title IV–A Services in the Territories; the Work Incentive Program (WIN); title IV–B, Child Welfare Services; and the Developmental Disabilities Program (DD).

Sections 2351 through 2354 of Pub. L. 97–35, The Omnibus Budget Reconciliation Act of 1981, amended title XX of the SSA to establish the social services block grant program effective October 1, 1981. It combined social service programs under title XX of the SSA in the States and under titles I, IV–A, X, XIV, and XVI(AABD) in the Territories, into a single block grant program. Social services in the States and Territories formerly provided under those titles are now governed by the authorizing statute and block grant rules at 45 CFR Part 96 (46 FR 48582, October 1, 1981). One of the purposes of the block grant is to increase State flexibility and to allow States to establish and maintain their own standards for certain services. In keeping with this thrust, section 2005(a)(7) of the SSA, as amended, states that when social services block grant funds are used to provide child day care services, the service must meet applicable standards of State and local law. A conforming amendment to the Social Security Act (Section 2353(s) of Pub. L. 97–35), repeals the provision that requires day care services provided under titles IV–A and B of of the SSA to meet the same requirements as day care funded under the title XX grant-in-aid program. Therefore, there is no longer a legislative basis for the application of Federal day care rules to child day care services funded with titles XX, IV–A and IV–B funds.

The Department's decision to apply the HHS day care rules to the DD and WIN programs was based on Section 582(d) of title V of the Economic Opportunity Act of 1964 (42 USC 2932(d)) which required the Secretary as far as possible to apply a common set of program standards and regulations to day care provided by programs under his jurisdiction. Section 683(a) of Pub. L. 97–35 repealed title V of the Economic Opportunity Act. Since the statutory authority under which we issued Federal standards for day care funded under WIN and DD no longer exists, we are therefore removing 45 CFR Part 71.

II Changes to 45 CFR, Chapter II: Part 201—Grants to States for Public Assistance Programs; and Part 208—Assistance to Aged Individuals in Institutions for Mental Diseases

As described above, Pub. L. 97–35, combined certain social services programs, including the former title XX categorical grant-in-aid program, into a title XX social services block grant to the States and Territories. 45 CFR Part 201, which is only applicable to grant-in-aid programs, still contains certain references to title XX in those sections related to State plans, deferral of claims, etc. We are therefore amending §§ 201.15 and 201.66 to delete references to title XX, since it is no longer a categorical grant-in-aid program.

In addition, we are using this opportunity to delete references inadvertently left in 45 CFR 201.15 and 201.66 which refer to title VI—Grants to States for Services to the Aged, Blind, or Disabled which was repealed by Pub. L. 93–647, effective October 1, 1975.

Part 208 required State plans under titles I and XVI (ADBD) of the Social Security Act to provide among other things, social services, individual treatment plans, etc., for aged individuals living in mental institutions. Section 2184 of Pub. L. 97–35 amended titles I and XVI to remove the program which was implemented by 45 CFR Part 208. Therefore, Part 208 is removed and reserved.

III Changes to 45 CFR, Chapter XIII—Office of Human Development Services

Subchapter J—Social Services for Individuals and Families Under Titles I, IV–A, X, XIV and XVI (AABD) of the Social Security Act.

45 CFR Part 1392 is amended to delete references to the HHS Day Care Requirements at 45 CFR Part 71. We are also deleting reference to the Federal Interagency Day Care Requirements (FIDCR), which are no longer in effect. These references were in §§1392.10 and 1392.18. They were published in final form on July 17, 1981 (46 FR 37049). We will make additional changes to Part 1392 when the Child Welfare Regulations are published elsewhere in the CFR.

IV Waiver of Notice and Comment Procedures

Since these regulations either simply delete rules which implemented statutory provisions that have been deleted or make only technical changes, we have determined that it is unnecessary to use notice and comment procedures in issuing these regulations.

V Impact Analysis

The Department has determined that this is not a major rule as defined in Executive Order 12291. Therefore, a regulatory impact analysis is not required.

Consistent with the provisions of The Regulatory Flexibility Act (5 U.S.C. Sec. 605(b)), the Secretary certifies that this rule will not have significant economic impact on a substantial number of small entities.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))

(Catalog of Federal Domestic Assistance Programs No. 13.642, Social Services for Low Income and Public Assistance Recipients; No. 13.630, Developmental Disabilities—Basic Support, and 13.631, Developmental Disabilities—Special Projects; No. 13.646 Work Incentive Program (WIN)).

Dated: January 18, 1982.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

Approved: February 1, 1982.

Richard S. Schweiker,

Secretary.

For the reasons set forth in the Preamble, the following changes to Title 45 of the CFR are made:

1. Changes to 45 CFR Subtitle A

PART 71—HHS DAY CARE REQUIREMENTS [RESERVED]

Department of Health and Human Services, General Administration, Part 71—*HHS Day Care Requirements* is removed and the Part is reserved.

2. Changes to 45 CFR Chapter II

PART 201—GRANTS TO STATES FOR PUBLIC ASSISTANCE PROGRAMS

a. 45 CFR 201.15(a) is revised to remove references to titles VI and XX to read as follows:

§ 201.15 Deferral of claims for Federal financial participation.

(a) *Scope.* Except as otherwise provided, this section applies to all claims for Federal financial participation submitted by States pursuant to titles I, IV, X, XIV, XVI, or XIX of the Social Security Act.

* * * * *

b. 45 CFR 201.66(a) is revised to remove references to titles VI and XX to read as follows:

§ 201.66 Repayment of Federal funds by installments.

(a) *Basic Conditions.* When a State has been reimbursed Federal funds for expenditures claimed under titles I, IV–A, X, XIV, XVI, (AABD), or XIX which are later determined to be unallowable for Federal financial participation, the State may make repayment of such Federal funds in installments provided:

* * * * *

PART 208—ASSISTANCE TO AGED INDIVIDUALS IN INSTITUTIONS FOR MENTAL DISEASES

c. 45 CFR Part 208 is removed and the Part reserved.

3. Changes to45 CFR, Chapter XIII—Office of Human Development Services

PART 1392—SERVICE PROGRAM FOR FAMILIES AND CHILDREN; TITLE IV PARTS A AND B OF SOCIAL SECURITY ACT

45 CFR 1392.10 and 1392.18(c) are revised to remove reference to the HHS day care requirements which are removed by these regulations and to the obsolete Federal Interagency Day Care requirements (FIDCR) to read as follows:

§ 1392.10 Training.

(a) For social services programs under title IV–A, the State agency shall:

(1) Provide for a training program to improve the operation of the program and to assure a high quality of service; and

(2) Implement its training program in accordance with the requirements of 45 CFR 235.61 through 235.65, except that copies of the annual training plan required by 45 CFR 235.62(c) shall be made available upon request to the Regional Administrator, Office of Human Development Services.

(b) For child welfare services programs under title IV–B, there must be staff development on a continuing, progressive and comprehensive basis for all staff responsible for the development and provision of services. Such staff development shall include orientation, in-service training and educational leave. Provision shall be made for increasing each year the number of educational leaves for professional training to assure an adequate number of professional staff for these programs.

§ 1392.18 Child care services.

* * * * *

(c) All child care services must meet the following standards:

(1) *In-home care.* (i) Homemaker service under agency auspices must meet the standards established by the State agency which must be reasonably in accord with the recommended standards of related national standard setting organizations, such as the Child Welfare League of America and the National Council for Homemaker Services.

(ii) Child care provided by relatives, friends, or neighbors must meet standards established by the State agency that, as a minumum, cover age, physical and emotional health, capacity and time of the caretaker to provide adequate care; hours of care; maximum number of children to be cared for; feeding and health care of the children.

(2) *Out-of-home care.* Effective July 1, 1980, FFP is available for the costs of out-of-home child day care services if the services meet applicable State and local standards.

* * * * *

[FR Doc. 82-4740 Filed 2-19-82; 8:45 am]

BILLING CODE 4130-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 80-422; RM-3190]

Bio Medical Telemetry Operations; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: On April 21, 1981, the Federal Communications Commission published regulations amending the Special Emergency Radio Service rules to permit the use of F2 and F9 emission on certain frequencies in the 155 MHz range within 50 miles of cities having populations in excess of 600,000. The first Errata made certain necessary corrections to the frequency list which appeared as Appendix B to that Report and Order but inadvertently included an inappropriate limitation on one frequency. This Second Errata removes that limitation.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur C. King, Private Radio Bureau (202) 632–6497.

SUPPLEMENTARY INFORMATION:

Released: February 3, 1982.

Appendix B to the Report and Order in this proceeding (published April 20, 1981, 46 FR 22586, adopted March 26, 1981) detailed changes to the Special Emergency Radio Service frequency table. The Errata to that Report and Order (46 FR 31422; June 16, 1981) made corrections to five 155 MHz frequencies and included a limitation on the frequency 155.340 MHz which was inappropriate, specifically, limitation (25). This Errata deletes limitation (25) from that frequency. In § 90.53(a), revise the Special Emergency Radio Service frequency table to remove limitation 25 as follows:

Frequency or band	Class of station	Limitations
155.340	do	10,25

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-4494 Filed 2-19-82; 8:45 am]

BILLING CODE 4712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 172, 173, and 179

[Docket No. HM–166H; Amdt. Nos. 172–70, 173–150, and 179–29]

Dispersant and Refrigerant Gases; Removal of Obsolete Compliance Reporting Requirements; (Correction)

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule issued under Docket HM–166H; Dispersant and Refrigerant gases; Removal of Obsolete Compliance Reporting Requirements, which was published in the **Federal Register** on Thursday, October 8, 1981 (46 FR 49883). This action is necessary to correct minor errors that were made in the publication process and in the original document. This correction will not impose an undue burden on persons affected by the regulations.

EFFECTIVE DATE: July 1, 1982. However, compliance with the regulations as amended herein, is authorized immediately.

ADDRESS: Copies of supporting documents, Regulatory Evaluation and Environmental Assessment are available for inspection and reproduction at the following address: Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Room 8426, 400 Seventh Street, S.W., Washington, D.C. 20590. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday. Telephone (202) 426–3148.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Chief, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Washington, D.C. 20590 (202–472–2726).

SUPPLEMENTARY INFORMATION: Except for the preamble, the entire final rule is being republished because several entries printed in the § 172.101 Hazardous Materials Table were underlined instead of being in italics and because of other minor noncontroversial omissions and errors. Changes which have been made by this correction are (1) certain words and numbers in Column (2) of the § 172.101 Table which were underlined are now in italics; (2) reference to § 173.314 and § 173.315 has been added to Column (5)(b) of the § 172.101 Table and to the § 173.314 and § 173.315 Tables in order to completely eliminate the need for DOT–E 3193 and DOT–E 5200, for the entries Chloropentafluoroethane (*R–115*) and Chlorotrifluoromethane (*R–13*); (3) Dichlorodifluoromethane and Difluoroethane mixture (constant boiling mixture) (R–500) has been deleted from the § 173.304(a)(2) Table because of the reference in § 172.101 to Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.; (4) the deletion entry for Dichlorodifluoromethane and dichloroethane mixture (constant boiling mixture) in the § 173.314(a) Table has been corrected by changing "dichloroethane" to read "difluoroethane". Also, in the § 173.314(a) Table, reference to Note 25 has been added to Bromotrifluoromethane in order to provide for shipments by cargo vessel, as authorized by DOT–E 3193. Note 23 has been added after DOT–105A100W for Chlorodifluoroethane (R–142b) (1-Chloro-1,1-difluoroethane) reflect new construction requirements and the reference to DOT–114A340 has been corrected to read DOT–114T340W and 114]340W. Reference to Note 28 has been deleted for Chlorodifluoromethane (R–22) since it is not a flammable gas, and Note 13 added to simplify tank car marking requirements. Reference to Note 28 has been deleted for Dichlorodifluoromethane (R–12) because this material is a nonflammable gas. For Difluoroethane (R–152a), a flammable gas, reference to DOT–114A340W has been corrected to read DOT–114T340W and 114]340W and Note 23 has been deleted as no longer necessary. For Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s., reference to Note 13 has been added to simplify tank car marking requirements and reference to Notes 23 and 27 have been deleted because they are not applicable; (5) paragraph (h) in § 173.315 has been added as proposed in the notice. This paragraph was inadvertently omitted during the rulemaking process; and (6) Note 9 has been added to Difluoroethane (R–152a) and to Refrigerant gas, n.o.s. or dispersant gas, n.o.s. in the § 173.315 Table to simplify tank marking requirements.

Except for the preamble, the final rule published at page 49883 of the issue of October 8, 1981 is corrected to read as follows:

In consideration of the foregoing, 49 CFR Parts 172, 173 and 179 are amended to read as follows:

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

1. In § 172.101 the Hazardous Materials Table is amended by deleting or adding as indicated by the entries listed below:

§ 172.101 Hazardous Materials Table

(1) +EAW	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging: Exceptions (a)	(5) Packaging: Specific requirements (b)	(6) Maximum net quantity in one package: Passenger carrying aircraft or railcar (a)	(6) Maximum net quantity in one package: Cargo only aircraft (b)	(7) Water shipments: Cargo vessel (a)	(7) Water shipments: Passenger vessel (b)	(7) Water shipments: Other requirements (c)
	• • •	•	•	•	•		•	•			
	(Delete)										
	• • •	•	•	•	•		•	•			
	Dichlorodifluoromethane	Nonflammable gas.	UN1028	Nonflammable gas.	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Dichlorodifluoromethane and difluoroethane mixture (*constant boiling mixture*).	Nonflammable gas.	UN2602	Nonflammable gas.	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Dichlorodifluoromethane-dichlorotetrafluoroethane mixture.	Nonflammable gas.	NA1956	Nonflammable gas.	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	

(1) +EAW	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging: Exceptions (a)	(5) Packaging: Specific requirements (b)	(6) Maximum net quantity in one package: Passenger carrying aircraft or railcar (a)	(6) Maximum net quantity in one package: Cargo only aircraft (b)	(7) Water shipments: Cargo vessel (a)	(7) Water shipments: Passenger vessel (b)	(7) Water shipments: Other requirements (c)
	Dichlorodifluoromethane-monochlorodifluoromethane mixture.	Nonflammable gas.	NA1958	Nonflammable gas.	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Dichlorodifluoromethane-trichlorofluoromethane mixture.	Nonflammable gas.	NA1956	Nonflammable gas.	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Dichlorodifluoromethane-trichlorofluoromethane-monochlorodifluoromethane mixture.	Nonflammable gas.	NA1956	Nonflammable gas.	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Dichlorodifluoromethane-trichlorotrifluoroethane mixture.	Nonflammable gas.	NA1958	Nonflammable gas.	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	1,1-Difluoro-1-chloroethane. *See* Difluoro-monochloroethane.										
+	Difluoroethane	Flammable gas.	UN1030	Flammable gas.	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	
+	Difluoromonochloroethane	Flammable gas.	UN2517	Flammable gas.	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	
	Dispersant gas *or* Refrigerant gas. *See* 173.314 Note 13 *and* 173.315 Note 9.										
	Monobromotrifluoromethane	Nonflammable gas.	UN1009	Nonflammable gas.	173.306	173.304 173.314	150 pounds	300 pounds	1,2	1,2	
	Monochlorodifluoromethane	Nonflammable gas.	UN1018	Nonflammable gas.	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Monochloropentafluoroethane	Nonflammable gas.	UN1020	Nonflammable gas.	173.306	173.304	150 pounds	300 pounds	1,2	1,2	
	Monochlorotetrafluoroethane	Nonflammable gas.	UN1021	Nonflammable gas.	173.306	173.304 173.314	150 pounds	300 pounds	1,2	1,2	
	Monochlorotrifluoromethane	Nonflammable gas.	UN1022	Nonflammable gas.	173.306	173.304	150 pounds	300 pounds	1,2	1,2	
	Refrigerant gas. *See* Dispersant Gas										
	• • •	•	•	•	•		•	•			
	(Add)										
	• • •	•	•	•	•		•	•			
	Bromotrifluoromethane (*R–1301 or H–1301*)	Nonflammable gas.	UN1009	Nonflammable gas.	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	1-Chloro-1,1-difluoroethane. *See* Chlorodifluoroethane (*R–142b*).										
	Chlorodifluoroethane (*R–142b*) *or* (1-Chloro-1,1-difluoroethane).	Flammable gas.	UN2517	Flammable gas.	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1	
	Chlorodifluoromethane (*R–22*)	Nonflammable gas.	UN1018	Nonflammable gas.	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1	
	Chlorodifluoromethane and chloropentafluoroethane mixture (*constant boiling mixture*) (*R–502*). *See* Refrigerant gas, n.o.s.										
	Chloropentafluoroethane (*R–115*)	Nonflammable gas.	UN1020	Nonflammable gas.	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Chlorotetrafluoroethane (*R–124*)	Nonflammable gas.	UN1021	Nonflammable gas.	173.306	173.304 173.314	150 pounds	300 pounds	1,2	1,2	
	Chlorotrifluoromethane (*R–13*)	Nonflammable gas.	UN1022	Nonflammable gas.	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Dichlorodifluoromethane (*R–12*)	Nonflammable gas.	UN1028	Nonflammable gas.	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Dichlorodifluoromethane and difluoroethane mixture (*constant boiling mixture*) (*R–500*). *See* Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.										
	Dichlorodifluoromethane (*R–12*) and dichlorotetrafluoroethane. (*R–114*) mixture. *See* Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.										
	Dichlorodifluoromethane (*R–12*) and chlorodifluoromethane (*R–22*) mixture. *See* Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.										
	Dichlorodifluoromethane (*R–12* and trichlorofluoromethane (*R–11*) mixture. *See* Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.										
	Dichlorodifluoromethane (*R–12*), trichlorofluoromethane (*R–11*) and chlorodifluoromethane (*R–22*) mixture. *See* Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.										

(1)	(2)	(3)	(3A)	(4)	(5)		(6)		(7)		
					Packaging		Maximum net quantity in one package		Water shipments		
+EAW	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	Exceptions	Specific requirements	Passenger carrying aircraft or railcar	Cargo only aircraft	Cargo vessel	Passenger vessel	Other requirements
					(a)	(b)	(a)	(b)	(a)	(b)	(c)
	Dichlorodifluoromethane (*R-12*) and trichlorotrifluoroethane (*R-113*) mixture. *See* Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.										
	Difluoroethane (*R-152a*)	Flammable gas.	UN1030	Flammable gas.	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1,2	
	Dispersant gas, n.o.s. *See* Refrigerant gas, n.o.s.										
	Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.	Nonflammable gas.	UN1078	Nonflammable gas.	173.306	173.304 173.314 173.315	150 pounds	300 pounds	1,2	1,2	
	Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s.	Flammable gas.	NA1954	Flammable gas.	173.306	173.304 173.314 173.315	Forbidden	300 pounds	1,2	1,2	
	Trifluoromethane and chlorotrifluoromethane mixture (*constant boiling mixture*) (*R-503*). *See* Refrigerant gas, n.o.s.										

PART 173—SHIPPERS—GENERAL REGULATIONS FOR SHIPMENTS AND PACKAGINGS

2. In § 173.300, paragraph (i) is added to read as follows:

§ 173.300 Definitions.

* * * * *

(i) *Refrigerant gas or Dispersant gas.* The term "Refrigerant gas" or "Dispersant gas" applies to all flammable or nonflammable, nonpoisonous refrigerant gases, dispersant gases (fluorocarbons) listed in §§ 172.101, 173.304(a)(2), 173.314(c), 173.315(a)(1) and 173.315(h), and mixtures thereof, or any other compressed gas meeting one of the following:

(1) A nonflammable mixture containing not less than 50% fluorocarbon content, having a vapor pressure not exceeding 260 psig at 130° F.

(2) A flammable mixture containing not less than 50% fluorocarbon content, not over 40% by weight of a flammable component, having a vapor pressure not exceeding 260 psig at 130° F.

3. In § 173.304, the following named gases listed in the Table in paragraph (a)(2) are deleted or added to read as follows:

§ 173.304 Charging of cylinders with liquefied compressed gas.

(a) * * *

(2) * * *

Kind of gas	Maximum permitted filling density (see Note 1)	Containers marked as shown in this column or of the same type with higher service pressure must be used except as provided in § 173.34 (a), (b), § 173.301(j) (see notes following table)
[Delete]		
Dichlorodifluoromethane (see Note 8)	119	DOT-3A225; DOT-3AA225; DOT-3B225; DOT-4A225; DOT-4B225; DOT-4BA225; DOT-4BW225; DOT-4B240ET; DOT-4E225; DOT-8; DOT-38; DOT-41; DOT-3E1800.
Difluoroethane (see Note 8)	79	DOT-3A150; DOT-3AA150; DOT-3B150; DOT-4B150; DOT-4BA225; DOT-4BW225; DOT-3E1800.
Difluoromonochloroethane (see Note 8)	100	DOT-3A150; DOT-3AA150; DOT-3B150; DOT-4B150; DOT-4BA225; DOT-8E1800; DOT-38.
Monochlorodifluoromethane (see Note 8).	105	DOT-3A240; DOT-3AA240; DOT-3B240; DOT-4B240; DOT-4BA240; DOT-4BW240; DOT-4B240ET; DOT-4E240; DOT-39; DOT-41; DOT-8E1800.
Monochloropentafluoroethane (see Note 8).	110	DOT-3A225; DOT-3AA225; DOT-3B225; DOT-4A225; DOT-4B225; DOT-4BA225; DOT-4BW225; DOT-3E1800; DOT-39.
Monochlorotrifluoromethane (see Note 8).	100	DOT-3A1800; DOT-3AA1800; DOT-8; DOT-3E1800; DOT-39.
[Add]		
Bromotrifluoromethane (R-1381 or H-1301).	124	DOT-3A400; DOT-3AA400; DOT-3B400; DOT-4A400; DOT-4AA480; DOT-4B400; DOT-4BA400; DOT-4BW400; DOT-3E1800; DOT-39.
Chlorodifluoroethane (R-142b) 1-chloro-1, 1-difluoroethane) (see Note 8).	100	DOT-3A150; DOT-3AA150; DOT-3B150; DOT-4B150; DOT-4BA225; DOT-4BW225; DOT-3E1800; DOT-39.
Chlorodifluoromethane (R-22) (see Note 8).	105	DOT-3A240; DOT-3AA240; DOT-3B240; DOT-4B240; DOT-4BA240; DOT-4BW240; DOT-4B240ET; DOT-4E240; DOT-39; DOT-41; DOT-3E1800.
Chloropentafluoroethane (R-115) (see Note 8).	110	DOT-3A225; DOT-3AA225; DOT-3B225; DOT-4A225; DOT-4B225; DOT-4BA225; DOT-4BW225; DOT-3E1800; DOT-39.

Kind of gas	Maximum permitted filling density (see Note 1)	Containers marked as shown in this column or of the same type with higher service pressure must be used except as provided in § 173.34 (a), (b), § 173.301(j) (see notes following table)
Chlorotrifluoromethane (R-13) (see Note 8).	100	DOT-3A1800; DOT-3AA1800; DOT-3; DOT-3E1800; DOT-39.
Dichlorodifluoromethane (R-12) (see Note 8).	119	DOT-3A225; DOT-3AA225; DOT-3B225; DOT-4A225; DOT-4B225; DOT-4BA225; DOT-4BW225; DOT-4B240ET; DOT-4E225; DOT-8; DOT-38; DOT-41; DOT-3E1800.
Difluoroethane (R-152a) (see Note 8)	79	DOT-3A150; DOT-3AA150; DOT-3B150; DOT-4B150; DOT-4BA225; DOT-4BW225; DOT-3E1800.
Refrigerant gas, n.o.s. or Dispersant gas, n.o.s. (see Note 8).	Not liquid full at 130°F.	DOT-3A240; DOT-3AA240; DOT-3B240; DOT-3E1800; DOT-4A240; DOT-4B240; DOT-4BA240; DOT-4BW240; DOT-4E340; DOT-8; DOT-38.
* * * *		

4. In § 173.314, the following named gases listed in the Table in paragraph (c) are deleted or added as indicated; Note 4 is revised; and Notes 28 and 29 are added to read as follows:

§ 173.314 Requirements for compressed gases in tank cars.

(a) * * *

Kind of gas	Maximum permitted filling density, Note 1	Required tank car, see § 173.31(a) (2) and (3)
* * * *		
(Delete)		
* * * *		
Dichlorodifluoromethane; Note 13	119	DOT-106A500X, 110A500W, Note 25.
	125	DOT-105A300W.
	123	DOT-112A340W, 114A340W.
Dichlorodifluoromethane and difluoroethane mixture (constant boiling mixture); Note 13.	Note 22	DOT-106A500X, 110A500W, Note 25. DOT-105A300W.
Dichlorodifluoromethane-dichlorotetrafluoroethane mixture; Note 13.	119	DOT-106A500X, 110A500W, Note 25.
	125	DOT-105A300W.
	Note 21	DOT-112A340W, 114A340W.
Dichlorodifluoromethane-monochlorodifluoromethane mixture; Note 13.	119	DOT-106A500X, 110A500W, Note 25.
	125	DOT-105A300W.
	123	DOT-112A340W, 114A340W.
Dichlorodifluoromethane-monofluorodichloromethane mixture; Note 13.	Note 22	DOT-106A500X, 110A500W, Note 25.
	Note 21	DOT-105A300W. DOT-112A340W, 114A340W.
Dichlorodifluoromethane-trichlorofluoromethane mixture; Note 13.	119	DOT-106A500X, 110A500W, Note 25.
	125	DOT-105A300W.
	123, Note 21	DOT-112A340W, 114A340W.
Dichlorodifluoromethane-trichlorotrifluoroethane mixture; Note 13.	119	DOT-106A500X, 110A500W, Note 25.
	125	DOT-105A300W.
	123	DOT-112A340W, 114A340W.
Difluoroethane	79	DOT-106A500X, 110A500W, Note 25.
	79	DOT-112T400W, 112J400W.
	84	DOT-105A300W, Note 23.
Difluoromonochloroethane; Note 13	100	DOT-106A500X, 110A500W, Note 25. DOT-105A100W, Notes 4 and 23.
Monobromotrifluoromethane	124	DOT-110A800W, Note 7 and 13.
	140	DOT-105A500W, Note 13.
Monochlorodifluoromethane; Note 13	105	DOT-106A500X, 110A500W, Note 25.
	110	DOT-105A300W.
	108	DOT-112A400W.
Monochlorotetrafluoroethane; Note 13	125	DOT-106A500X, 110A500W, Note 25.
	126	DOT-112A400W.
* * * *		
(Add)		
* * * *		
Bromotrifluoromethane (R-1381 or H-1301).	124	DOT-100A800W, Notes 13 and 25.
	140	DOT-105A500W, Note 13.
Chlorodifluoroethane (R-142b) (1-Chloro-1,1-difluoroethane); Notes 4, Note 13.	100	DOT-106A500X, 110A500W, Note 25. DOT-105A100W, Note 23. DOT-114T340W, 114J340W, Notes 28 and 29.
Chlorodifluoromethane (R-22); Note 13	105	DOT-106A500X, 110A500W, Note 25.
	110	DOT-105A300W.
	108	DOT-112A400W.
	Note 21	DOT-114A340W, Note 29.
Chloropentafluoroethane (R-115); Note 13.	Note 21	DOT-106A500X, 110A500W, Note 25. DOT-105A300W, Note 23. DOT-114A340W, Note 29.
Chlorotetrafluoroethane (R-124); Note 13.	125	DOT-106A500X, 110A500W, Note 25.
	126	DOT-112A400W.
Chlorotrifluoromethane (R-13); Note 13	Note 21	DOT-106A500X, 110A500W, Note 25. DOT-105A300W, Note 23. DOT-114A340W, Note 29.
Dichlorodifluoromethane (R-12); Note 13.	119	DOT-106A500X, 110A500W, Note 25.
	123	DOT-112A340W, 114A340W, Note 29.
	125	DOT-105A300W.

Kind of gas	Maximum permitted filling density, Note 1	Required tank car, see § 173.31(b) (2) and (5)
Difluoroethane (R-152a); Note 4, Note 13.	79	DOT-106A500X, 110A500W, Note 25.
	79	DOT-112T400W, 112J400W, 114T340W, 114J340W, Notes 28 and 29.
	84	DOT-105A300W, Note 23.
Refrigerant gas, n.o.s. *or* Dispersant gas, n.o.s. Note 13.	Note 21	DOT-106A800X, 110A500W, Note 25.
		DOT-105A300W, Note 23.
		DOT-112A340W, 114A340W, Notes 28 and 29.

Note 4: For tank cars other than DOT-106A and DOT-110A used for the transportation of liquefied flammable gases, interior pipes of loading and unloading valves must be equipped with excess-flow valves of approved design.

Note 28: DOT-114A340W tank cars may be equipped with bottom outlets, except that the bottom outlets must be rendered inoperative and effectively sealed to preclude bottom unloading when transporting flammable gases.

Note 29: A maximum safety relief valve setting of 260.5 psig is authorized on DOT Specification 114A340W tank car tanks.

5. In § 173.315, the following named gases listed in the Table in paragraph (a)(1) are deleted or added as indicated; the Table in paragraph (h) is revised by changing the heading in the second column and the named gases are deleted or added to read as follows:

§ 173.315 Compressed gases in cargo tanks and portable tank containers.

Kind of gas	Maximum permitted filling density		Specification container required	
	Percent by weight (see Note 1)	Percent by volume (see par. (f) of this section)	Type (see Note 2)	Minimum design pressure (psig)
(Delete)				
Dichlorodifluoromethane (See Note 9)	119	do	DOT-51, MC-330, MC-331.	150.
Dichlorodifluoromethane and difluoroethane mixture (constant boiling mixture) (See Note 9).	See par. (c) of this section.	do	MC-330, MC-331	250.
Dichlorodifluoromethane-dichlorotetrafluoroethane mixture (See Note 9).	119	do	DOT-51, MC-330, MC-331.	150.
Dichlorodifluoromethane-monofluorotrichloromethane mixture (See Note 9).	See par. (c) of this section.	do	do	150.
Difluoroethane	79	do	MC-330, MC-331	150.
Difluoromonochloroethane (See Note 9)	100	do	MC-330, MC-331	180.
Monofluorotrifluoromethane (See Note 9).	133	See Note 7	DOT-51, MC-330, MC-331.	365.
Monochlorodifluoromethane (See Note 9).	105	See Note 7	DOT-51, MC-330, MC-331.	250.
(Add)				
Bromotrifluoromethane (R-1381 or H-1301); (See Note 9).	130	See Note 7	DOT-51, MC-330, MC-331.	365.
Chlorodifluoroethane (R-142b) (1-Chloro 1,1-difluoroethane); (See Note 9).	100	See Note 7	DOT-51, MC-330, MC-331.	100.
Chlorodifluoromethane (R-22); (See Note 9).	105	See Note 7	DOT-51, MC-330, MC-331.	250.
Chloropentafluoroethane (R-115); (See Note 9).	See par. (c) of this section.	See Note 7	DOT-51, MC-330, MC-331.	See par. (c)(1) of this section.
Chlorotrifluoromethane (R-13); (See Note 9).	See par. (c) of this section.	See Note 7	DOT-51, MC-330, MC-331.	See par. (c)(1) of this section.
Dichlorodifluoromethane (R-12); (See Note 9).	119	See Note 7	DOT-51, MC-330, MC-331.	150.
Difluoroethane (R-152a); (See Note 9)	79	See Note 7	DOT-51, MC-330, MC-331.	180.
Refrigerant gas, n.o.s. or Dispersant gas, n.o.s. (See Note 9).	See par. (c) of this section.	See Note 7	DOT-51, MC-330, MC-331.	See par. (c)(1) of this section.

(h) * * *

Kind of gas	Gaging device permitted for filling purposes
(Delete)	
Dichlorodifluoromethane and difluoroethane mixture (constant boiling mixture).	None.
Dichlorodifluoromethanedichlorotetrafluoroethane mixture.	None.
Dichlorodifluoromethane-monofluorotrichloromethane mixture.	None.
(Add)	
Refrigerant gas, n.o.s. or Dispersant gas, n.o.s.	None.

PART 179—SPECIFICATION FOR TANK CARS

6. Section 179.105–9 is removed.

§ 179.105–9 [Reserved]

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1)

Note.—The Materials Transportation Bureau has determined that this document will not result in a "major rule" under the terms of Executive Order 12291 and is not a significant regulation under DOT's regulatory policy and procedures (44 FR 11034, nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321) et seq.)). A regulatory evaluation and an environmental assessment are available for review in the docket. I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

Issued in Washington, D.C. on February 9, 1982.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 82–4219 Filed 2–19–82; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 675

Foreign Fishing and Groundfish of the Bering Sea and Aleutian Islands Area; Reserve Retention

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of reserve retention.

SUMMARY: This notice announces the retention of reserve amounts of fish that were eligible on February 2, 1982, for apportionment to the total allowable level of foreign fishing (TALFF) or domestic annual harvest (DAH), under provisions of the fishery management plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands Area and implementing regulations. Due to uncertainty about the adequacy of initial estimates of DAH, the Secretary of Commerce is retaining all of the specified reserves for possible later apportionment. This action will ensure that fish are available for increased U.S. harvest later in 1982.

EFFECTIVE DATE: February 22, 1982.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone: 907–586–7221.

SUPPLEMENTARY INFORMATION: The Director, Alaska Region, National Marine Fisheries Service, after considering all factors specified by regulation, has determined that the U.S. fishing effort is insignificant at this time in the management area but is expected to increase rapidly as seasonal weather conditions improve, and that large amounts of fish are expected to be harvested by U.S. vessels in 1982. The Regional Director has received no comments with respect to this action, as solicited in 50 CFR 611.93(b)(2)(iii)(D) and 675.20(b)(3)(iv).

This action is taken under authority of the regulations specified at 50 CFR 611.93(b)(2) and 675.200b) and is taken in compliance with Executive Order 12291. It is not subject to the requirements of the Regulatory Flexibility Act. In addition, it does not contain any collection of information request, as defined in the Paperwork Reduction Act of 1980.

(16 U.S.C. 1801 et seq.)

Dated: February 17, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82–4735 Filed 2–19–82; 8:45 am]

BILLING CODE 3510–22–M

50 CFR Part 671

Tanner Crab Off Alaska

Correction

In FR Doc. 82–2814, appearing at page 5008, in the issue of Wednesday, February 3, 1982, make the following change:

On page 5009, in the third column, the file line should read:

[FR Doc. 82–2814 Filed 2–20–82; 5:04 pm]

BILLING CODE 1505–01–M

Proposed Rules

Federal Register
Vol. 47, No. 35
Monday, February 22, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 945

Irish Potatoes Grown in Certain Designated Counties in Idaho and Malheur County, Oreg.; Proposed Change in Fiscal Period and Budget Increase

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would change the Idaho-Eastern Oregon Potato Committee's fiscal period to August 1 through July 31 of the following year. By making this change the committee's annual audit and total disposition figures will more nearly reflect the actual operation of the order during the season. It would also amend the current budget to increase allowable expenses for the 1981–82 fiscal period. An increase is necessary because the change in fiscal period would add two months to the current fiscal period.

DATE: Comments due March 30, 1982.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447–2615. The Draft Impact Analysis relating to this rule is available upon request from Mr. Porter.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

Marketing Agreement No. 98 and Order No. 945, both as amended (7 CFR Part 945) regulate the handling of potatoes grown in designated counties in Idaho and Malheur County, Oregon. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Idaho-Eastern Oregon Potato Committee, established under the order, is responsible for its local administration.

The committee has requested that the fiscal period be changed from June 1–May 31 to August 1–July 31 of each year. The current fiscal period of June 1–May 31 has been in effect for more than three decades. During that time better varieties and newer storage techniques and equipment have extended the shipping season for Idaho potatoes until today these potatoes are available all year. The first of the new crop potatoes are usually harvested in early August. The committee could begin operations on assessment income generated during that fiscal period, and not need to rely on a reserve from the previous year's funds for the first two months. The committee believes that the proposed change in the fiscal period would make the fiscal year concurrent with the crop year. Because of this, the fiscal and statistical information generated during the year would more closely follow the actual shipping season. Both the financial audit performed at the end of the year and the total disposition figures would more nearly coincide.

Because the current fiscal period would be extended for two months, it would be necessary to increase the committee's budget in order to provide for the necessary expenses incurred during this period. The committee therefore recommends the budget be increased from $68,487 to $80,487, an increase of $12,000. The rate of assessment of $0.0026 per hundredweight would remain unchanged.

PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

Sections 945.111 and 945.234 would be revised to read as follows:

§ 945.111 Fiscal period.

The fiscal period that began June 1, 1981, shall end July 31, 1982. Each year thereafter "fiscal period" shall mean the period beginning August 1 and ending the following July 31.

§ 945.234 Expenses and assessment rate.

Expenses of $80,487 by the Idaho-Eastern Oregon Potato Committee are authorized, and an assessment rate of $0.0026 per hundredweight is established for the fiscal period ending July 31, 1982. Unexpended funds shall be carried over as a reserve.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 16, 1982.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-4732 Filed 2-19-82; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 1094

Milk in the New Orleans-Mississippi Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend certain order provisions affecting the regulatory status of milk plants under the New Orleans-Mississippi Federal milk order. This action was requested by a cooperative association operating a balancing plant located in the marketing area. The proposed suspension would remove for March and April 1982 the requirement that a cooperative must deliver at least 50 percent of its members' producer milk to pool distributing plants each month to qualify its balancing plant as a pool plant under the order.

DATE: Comments are due no later than March 1, 1982.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 447–4829.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified "not significant" and, therefore, not a major action.

It also has been determined that any need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the required suspension procedures and the inclusion of March 1982 in the suspension period if this is found necessary. The initial request for the action was received on February 11, 1982.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the New Orleans-Mississippi marketing area is being considered for March and April 1982: In § 1094.7(c) the words "50 percent or more of the."

All persons who want to comment on the proposed suspension should send two copies of their comments to the Hearing Clerk, U.S. Department of Agriculture, Washington, DC 20250, not later than March 1, 1982. The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include March 1982 in the suspension period.

The comments that are sent will be made available for public inspection in the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would make inoperative for March and April 1982 the provision requiring a cooperative to deliver at least 50 percent of its producer milk to pool distributing plants to qualify its supply-balancing plant as a pool plant. The suspension was requested by Gulf Dairy Association, Inc., a cooperative that operates a pool balancing plant under the New Orleans-Mississippi order.

In support of its request, the cooperative contends that it was barely able to meet the 50 percent delivery standard for its balancing plant in the spring of 1981. With its milk production virtually unchanged but deliveries to pool distributing plants down substantially, the association claims it will probably be unable to qualify such plant as a pool plant during March and April this year without making uneconomic milk movements.

Market data indicate producer deliveries for January-November 1981 were up about 2 percent from the same period a year ago while the market's Class I sales were down 3.4 percent. Specifically, with respect to the proponent cooperative, its production for the last four months (October 1981-January 1982) was essentially unchanged from the same 4-month period a year ago. However, deliveries to pool distributing plants, which are used to qualify the cooperative's balancing plant, decreased significantly. For instance, during that same 4-month period, the cooperative's deliveries to pool distributing plants were down almost 10 percent from a year earlier.

Thus, the cooperative estimates that it may be necessary to haul as many as 50 loads of milk per month to distributing plants during March and April in order to maintain pool status for its balancing plant at Kentwood, Louisiana. The cooperative states that it would get a transportation allowance to so move the milk because the federal order uniform price at the distributing plants supplied by the association is 18 cents higher than at the balancing plant. In effect, other producers would be paying through the marketwide pool much of the cost to move the milk to distributing plants when it was not needed there. Additional plant handling also would be involved in that the milk would have to be unloaded and received at the distributing plants and then reloaded and shipped back to the cooperative's balancing plant. The association maintains that this would be an inefficient way to pool milk.

To the extent possible, the association wants to avoid such uneconomic movements. However, the association intends to pool all of its milk and move its producer milk supplies in such a manner that pool status for its balancing plant will be maintained. Proponent states that the suspension is warranted to assure that producers regularly supplying a portion of the market's fluid milk needs will continue to share in the proceeds of the market's Class I sales during March and April of this year without the necessity of inefficient handling and transportation of the milk.

Signed at Washington, D.C., on February 17, 1982.

William T. Manley,
Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-4731 Filed 2-19-82; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 82-AWP-1]

Proposed Alteration of VOR Federal Airway V-190

Correction

In FR Doc. 82-3667, published at page 6284, on Thursday, February 11, 1982, on page 6285, in the second column in the first paragraph under *"V-190 [Amended]"*, in the second to last line "290°" should be corrected to read "269°".

BILLING CODE 1505-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 34

Commodity Option Transactions on Exempted Securities; Certificates of Deposit and Foreign Currencies

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed Rules.

SUMMARY: The Commodity Futures Trading Commission ("CFTC") is proposing to adopt a new Regulation § 34.1 for the purpose of exempting from Parts 32 and 33 of the CFTC's regulations, any transaction in an option on exempted securities (as defined in section 3 of the Securities Act of 1933, as amended, 15 U.S.C. 77c, and in section 3(a)(12) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. 78c(a)(12)), on a certificate of deposit, or on a foreign currency, if such transaction is conducted on a national securities exchange registered with and regulated by the Securities and Exchange Commission ("SEC"). If adopted, regulation § 34.1 would further

the recently announced jurisdictional agreement between the CFTC and the SEC, which contemplates the trading of such options on national securities exchanges.

DATE: Comments must be received on or before March 24, 1982.

ADDRESS: Send comments to: Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Mark D. Young, Assistant General Counsel, Commodity Futures Trading Commission, Office of the General Counsel, 2033 K Street NW., Washington, D.C. 20581, (202) 254–9880.

SUPPLEMENTARY INFORMATION: On December 7, 1981, the CFTC and the SEC announced that they have reached agreement on a range of jurisdictional issues and that the agencies would begin to implement that agreement to the full extent permitted by existing law. One aspect of the agreement provides that the SEC will regulate trading in options on exempted securities, on certificates of deposit, and on foreign currencies if conducted on registered national securities exchanges. Options on foreign currencies not conducted on a registered national securities exchange continue to be subject to CFTC regulation under the agreement.

Section 4c(c) of the Commodity Exchange Act, 7 U.S.C. 6c(c) (Supp. III 1979), and CFTC Rule 32.11, 17 CFR 32.11 (1981) generally prohibit trading in options on commodities[1] unless specified requirements are met. Part 33 of the CFTC's Regulations adopted in part under sections 4c(b) and 4c(c) of the Act, 7 U.S.C. 6c(b) and 6c(c), has established numerous requirements for permissible trading in certain commodity options. 46 FR 54500 (Nov. 3, 1981). Proposed regulation § 34.1, if adopted, would exempt from the prohibition of section 4c(c) and from Parts 32 and 33 of the Regulations any transaction in an option on exempted securities, certificates of deposit, and foreign currency if conducted on a national securities exchange registered with and regulated by the SEC.[2] Other option transactions in commodities would remain subject to all of the provisions of sections 4c(b) and 4c(c) of the Act, as well as Parts 32 and 33 of the CFTC's Regulations.

To the extent it is applicable, pursuant to Section 3(a) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman, on behalf of the CFTC, certifies that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities, particularly since no substantive regulation by the CFTC is contemplated by the rule.

In consideration of the foregoing, the CFTC, pursuant to the authority contained in sections 2(a)(1), 4c(b), 4c(c) and 8a(5) of the Commodity Exchange Act, 7 U.S.C. 2, 6c(b), 6c(c) and 12a(5) (1976 and Supp. III 1979) hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations by adding a new Part 34 as follows:

PART 34—COMMODITY OPTION TRANSACTIONS EXEMPTED FROM COMMISSION REGULATION

Sec.

34.1 Commodity option transactions on exempted securities, certificates of deposit and foreign currencies.

Authority: Secs. 2(a)(1), 4c(b), 4c(c) and 8a(5) of the Commodity Exchange Act, 7 U.S.C. 2, 6c(b), 6c(c) and 12a(5) (1976 and Supp. III 1979).

§ 34.1 Commodity option transactions on exempted securities, certificates of deposit and foreign currencies.

The provisions of Parts 32 and 33 of this chapter shall not apply to any commodity option transaction involving an option on any exempted security, as defined in Section 3 of the Securities Act of 1933, as amended, 15 U.S.C. 77c, and section 3(a)(12) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. 78c(a)(12), on any certificate of deposit, or on any foreign currency, that is traded on a national securities exchange registered with the Securities and Exchange Commission under Section 6 of the Securities Exchange Act of 1934, as amended, 15 U.S.C. 78f.

Issued in Washington, D.C., on February 16, 1982, by the Commission.

Jane K. Stuckey,

Secretary of the Commission, Commodity Futures Trading Commission.

[FR Doc. 82-4888 Filed 2-19-82; 8:45 am]

BILLING CODE 6351-01-M

[1] Certain exempted securities (e.g., Treasury securities and debt securities guaranteed by the Government National Mortgage Association), certificates of deposit, and foreign currencies are within the definition of "commodity" under the Commodity Exchange Act since they are the subject of a futures contract. See section 2(a)(1) of the Act, 7 U.S.C. 2 (1976).

[2] The issues of whether these provisions of the Act and the CFTC's regulations now apply to the trading of options on exempted securities on national securities exchanges and the authority of the SEC to regulate option transactions in exempted securities have been fully briefed and argued and are under review by the U.S. Court of Appeals for the Seventh Circuit in "Board of Trade of the City of Chicago v. Securities and Exchange Commission," No. 81-1668. In that case, on November 4, 1981, the Court stayed the SEC's order approving options on exempted securities, specifically, options on certificates issued or guaranteed by the Government National Mortgage Association. In the event that the stay is vacated, proposed Regulation § 34.1 would remove any possibility that the prohibitions in section 4c(c) and CFTC § 32.11 as well as Parts 32 and 33 of the CFTC's regulations would impede trading in options on exempted securities on national securities exchanges subject to regulation by the SEC. Promulgation of the proposed regulation would not, of course, affect the issue of the SEC's authority.

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 219

National Forest System Land and Resource Management Planning

AGENCY: Forest Service, USDA.

ACTION: Proposed Rule.

SUMMARY: In March 1981, the Presidential Task Force on Regulatory Relief identified as a high priority for review the rule which guides land and resource management planning on the National Forest System. As a result of this review, the Secretary is proposing changes in the existing rule to streamline the land management planning process and better direct the process towards the desired result of maximizing net public benefits from management of National Forest System lands. The major changes are revisions in the content and purpose of the regional plan, reorganization of the material, and other technical revisions which are intended to clarify and simplify planning procedures.

DATE: Comments must be received by April 23, 1982.

ADDRESS: Comments may be mailed to: R. Max Peterson, Chief (1920), Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Charles R. Hartgraves, Director, Land Management Planning, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013, Telephone (202) 447–6697.

SUPPLEMENTARY INFORMATION: Prior to the issuance of 36 CFR 219, Subpart A, the Forest Service updated and improved land use and resource plans under instructions in Title 8200 of the Forest Service Manual. These plans provided for multiple use direction for public lands. Building on existing Forest Service planning practice, the National Forest Management Act of 1976 established comprehensive guidance for National Forest System land and resource management planning. The regulation to implement planning provisions of the Act was issued

September 17, 1979, at 44 FR 53928–53999. Under this regulation, each National Forest and Region is currently developing updated land and resource management plans. The existing National Forest System land and resource management planning regulation was identified by the Presidential Task Force on Regulatory Relief for reassessment and possible modification.

Objective

The Administration is committed to streamlining the regulatory process as well as to adoption of regulations that promote management efficiency and maximize net public benefits. The Forest Service's experience in implementing the existing land and resource management planning regulation has revealed areas where the planning process can be improved. This proposed revision of the existing planning regulation is intended to clarify and simplify planning procedures, thereby improving planning efficiency. It is also intended to improve the process of analyzing resource management opportunities and evaluating the economic effects of alternatives. The proposed changes will promote better public understanding as well as facilitate agency interpretation and implementation of the planning process. The changes are responsive to the President's Executive Order 12291 to develop regulations that have the objective of maximizing net public benefits.

Summary of Proposed Changes

1. Reorganization of Text. The proposed rule would revise the table of contents to improve the organization of text and to reduce some of the misinterpretation of the existing regulation which stems from the present outline. There are four major changes in the organization of the Table of Contents. They are (1) addressing the regional planning process separately from the forest planning process, (2) changing the heading of § 219.13 to reduce the present confusion between overall management requirements and specific standards and guidelines to be developed in regional and forest plans, (3) clarifying forest planning requirements, and (4) changing the sequence of material to provide a more logical flow and progression of information.

The following redesignation table allows comparison of the existing Table of Contents for 36 CFR 219, Subpart A, to that in the proposed rule:

Existing Rule (September 17, 1979)	Proposed Rule
219.1 Purpose	219.1 Purpose.
219.2 Scope and Applicability.	219.2 Scope and Applicability.
219.3 Definitions	219.3 Definitions and Terminology.
219.4 Planning Levels	219.4 Planning Levels.
219.5 Regional and Forest Planning Process.	219.5 Interdisciplinary Approach.
219.6 Interdisciplinary Approach.	219.6 Public Participation.
219.7 Public Participation	219.7 Coordination of Public Planning Efforts.
219.8 Coordination of Public Planning Efforts.	219.8 Regional Planning—General Procedure.
219.9 Regional Planning Procedure.	219.9 Regional Plan Content.
219.10 Regional Planning Actions.	219.10 Forest Planning—General Procedure.
219.11 Forest Planning Procedure.	219.11 Forest Plan Content.
219.12 Forest Planning Actions.	219.12 Forest Planning Process.
219.13 Management Standards and Guidelines.	219.13 Forest Planning—Resource Integration Requirements.
219.14 Research	219.14 Management Requirements.
219.15 Revisions of Regulations.	219.15 Research.
219.16 Transition Period	219.16 Transition Period.

2. Section 219.1—Purpose. Along with minor editorial changes, § 219.1 would be amended by deleting §219.1 (b) because the principles cited repeat language in statutes and statements made in other sections of the regulation. The primary amendment is the addition of language to support the President's Executive Order 12291 on regulatory review that resulting plans will be designed to maximize net public benefits from the National Forest System.

3. Section 219.2—Scope and Applicability would be amended to delete unnecessary language.

4. Section 219.3—Definitions and Terminology. The following terms and their definitions would be added:

"Cost efficiency", which is replacing the term "economic efficiency" throughout the text of the proposed rule, so that all resources will not be required to be valued where values are not quantifiable;

"Net public benefits"; and "Receipt shares."

Definitions for the following terms would be clarified: "even-aged system", "silvicultural system", and "uneven-aged system."

The following terms and their definitions would be deleted and, if used, standard dictionary definitions will apply:

"Guideline", "Policy", and "Standard".

The following terms and their definitions would also be deleted for the following reasons:

"Assessment" and "Program"—these terms are covered in specific detail in proposed § 219.4;

"Integrated pest management"—this term would no longer be used in the text of the regulations. The concept, however, would be incorporated into proposed § 219.14.

Definitions for the following terms would be amended for clarification: "Corridor", "Goal", "Goods and services", "Long-term sustained yield capacity", "Management concern", "Management intensity", "Management practice", "Objective", "Real dollar value", and "Suitability".

The following two terms would be amended to be consistent with statutory language:

"Base timber harvest schedule" and "timber harvest schedule", which are changed to read respectively "base sale schedule" and "sale schedule."

5. Section 219.4—Planning Levels would redescribe forest and regional planning levels more succinctly and clearly. The section on forest level planning would delete detailed requirements which are contained in other sections of these regulations.

6. Section 219.5—Regional and Forest Planning Process would be established as two separate sections. The text of the existing regulation applies specifically to forest planning and should be moved to a new proposed § 219.12—Forest Planning—Process. This planning process does not apply to the development of a regional plan, which is not a statutory requirement.

7. Section 219.6—Interdisciplinary Approach. This section is being renumbered § 219.5. It would be streamlined by deleting a list of functions of the interdisciplinary team. The list is more appropriately Forest Service Manual material.

8. Section 219.7—Public Participation. This section is being renumbered § 219.6. Several editorial changes are being made, including the elimination of nonsubstantive language and repetitive language that is contained elsewhere in the regulation. References to Forest Service handbooks are also being deleted.

Detailed material, which is more appropriate as manual or handbook direction, is being deleted.

Reference to national planning is being deleted because these rules apply specifically to the development of forest and regional plans.

Public notice given for forest planning activities is being increased to 30 days, which is more consistent with other time frames required by the Council of Environmental Quality in the environmental analysis process.

The amount of time allowed for written response on regional planning activities is being reduced to 60 days, which is considered a more reasonable amount of time. The time allowed for

public review of the draft environmental impact statement and draft plan remains 3 months.

9. Section 219.8—Coordination of Public Planning Efforts. This section is being renumbered § 219.7.

Specific procedural requirements relating to public participation are being eliminated, which will allow for greater flexibility to meet changing situations.

The requirement of "notifying" owners of intermingled private lands has been eliminated. This had become an almost impossible requirement. The requirement to coordinate Forest Service activities to the extent practical has been retained.

10. Section 219.9—Regional Planning Procedure. This section would be redesignated as § 219.8—Regional Planning—General Procedure, and amended to clarify the role of the regional plan.

Minor editorial changes are being made. Language repeated elsewhere in the existing regulation or which can be covered through reference to the National Environmental Policy Act would be deleted.

Under the existing rules, approval of regional plans is not subject to the Forest Service administrative appeals procedures (36 CFR 211.19). The proposed rule would make the appeals provision applicable to regional plans and, thus, provide consistent appeal procedures for both forest and regional plans.

Section 219.9(e) is being amended to clarify that the standard for determining significance of amendments for planning purposes is different than that for determining significance for purposes of preparing environmental documents under National Environmental Policy Act provisions.

11. A new § 219.9—Regional Plan Content is being added, which basically incorporates the existing § 219.9(b) and includes specific standards and guidelines to be addressed in the regional plan, now contained in existing § 219.10.

12. Section 219.10—Regional Planning Actions. This section would be removed because (1) its requirements are repeated elsewhere in this regulation and (2) the list of management concerns was not all-inclusive and is more appropriately Forest Service Manual material.

13. Section 219.11—Forest Planning Procedure. This section would be redesignated § 219.10—Forest Planning—General Procedure and amended to make editorial changes and to remove unnecessary language.

Revisions in the forest plan approval process (§ 219.11 (c)) would provide that the Record of Decision will be prepared according to the National Environmental Policy Act procedures and will accompany the environmental impact statement. In addition to NEPA procedures, the record of decision for approval of a plan includes a comparison of the net public benefits of the selected alternative.

Revisions remove language which add provisions to the Forest Service administrative appeal process pursuant to 36 CFR 211.19. The amendment would result in a consistent application of the Forest Service administrative appeal procedures.

Section 219.11(e) would be revised to clarify that the standard for determining the significance of amendment for planning purposes is different than that for preparation of environmental documents under the National Environmental Policy Act provisions.

Section 219.11(g) is being revised to clarify the original intent of the Forest Service that "alternatives" are to be considered by the interdisciplinary team and separate "alternative plans" are not required to be developed.

14. A new § 219.11—Forest Plan Content is being added. Revisions would be made in requirements for forest plan content, now contained in existing § 219.11(b). The existing rule requires inclusion of material in the plan content which is also contained in the environmental statement document. This proposed rule removes duplicative material from the plan document, resulting in a streamlined, easier-to-read document.

15. A new § 219.12—Forest Planning-Process, is being added which basically incorporates the existing § 219.5, and also includes monitoring requirements which are now in various sections of the existing regulations.

16. Section 219.12—Forest Plan Actions. This section would be redesignated § 219.13 and retitled Forest Planning—Resource Integration Requirements. This section would be amended to make several changes, correct section references, and include a section subheading for "timber." Within this section several amendments have been made to make it clear that plans should be designed to maximize net public benefits.

An additional criterion for examination of a departure alternative was included under the existing § 219.12(d)(1)(iii). The inclusion of this criterion directs all National Forests to analyze the effects of a nondeclining flow policy, if it appears that an increase in net public benefits will result.

Section 219.12(b)(1)(ii) would be amended to specify that 20 cubic feet per acre is the minimum standard for biological growth potential. This measurement is consistent with the *An Analysis of the Timber Situation in the United States Report*, 1952–2030.

Section 219.12(b)(2)(iii) is being amended to refer to a "financial analysis" rather than "economic analysis", which is consistent with Forest Service economic policy.

Section 219.12 (d)(1)(ii) (D)(iii) (C)(2) is being amended to delete the requirement that forest plans containing a departure from the base timber harvest schedule (proposed to be called base sale schedule) must be approved by the Chief, Forest Service. This revision will allow all forest plan approvals to be processed in the same manner. The appeals process would also apply consistently to all plans.

Section 219.12(e)—Wilderness Designation is being amended to limit the size of roadless areas to be evaluated for wilderness when the Forest Plan is revised. The proposed 5,000-acre limitation is consistent with RARE II criteria. Section 219.12(e) may be further revised in response to pending legislation which, if enacted, may significantly change the process of evaluating lands for wilderness designation. Ongoing litigation may also result in further revision of this section.

17. Section 219.13—Management Standards and Guidelines is being redesignated § 219.14 and retitled "Management Requirements" to more clearly convey their intent. Redundant text would be eliminated and some editorial changes made.

Section 219.13(b)(6) would be transferred to § 219.10.

Section 219.13(d)(1) would be amended to provide minimum criteria for openings to be used in regional planning.

Section 219.13(d)(2)(i) would be amended to provide a more specific and correct definition of "total costs."

Section 219.13(h)(2) would be amended to add a requirement to the suitability test that harvest flows be able to be planned for periodic yields.

Section 219.13(h)(4) would be amended to describe the meaning of "adequately" stocked (restocking) following final timber harvest.

18. Section 219.14—Research is being redesignated § 219.15.

19. Section 219.15—Revisions of Regulations is being deleted because review of regulations is already required by Executive Order.

20. Section 219.16—Transition Period. This section would be amended to add

provisions and requirements applicable to the land management plan for the Mount St. Helens area, Gifford Pinchot National Forest, Washington.

Environmental Impact

An environmental assessment and report addressing the impacts of the proposed regulation and the need for a fuller analysis has been prepared and is printed as Appendix A.

In summary, the regulations in their present form are considered "major" under the criteria listed in Executive Order 12291, Section 1, Item b. Nevertheless, the specific effects of implementing them, or their revisions in whatever form, are virtually impossible to quantify. These regulations are formulated to direct the process of preparing and revising land management plans. Consequently, they have no direct effect on the quality of the environment or the economy. They only establish procedures, standards and guidelines for planning future commitments.

Four alternatives for revision of the regulation were considered. These include (1) completely rewrite regulations for the purpose of changing basic planning concepts and methodology and management requirements; (2) revise regulations to be more responsive to the President's Executive Order to develop regulations that maximize net public benefits and to clarify and simplify planning procedures; (3) continue with the current regulations and do not make any changes until after the first cycle of forest planning (1983), and (4) seek revisions of the NFMA (which mandates promulgation of planning regulations) to permit development and implementation of land and resource management planning procedures through agency manuals or handbooks rather than through a formal regulatory process.

Considering the volume and intensity of planning activity undergone since September 1979, the compelling need to meet statutory planning deadlines, and the public' stated commitment to "see through" the first cycle of planning under the NFMA regulations, Alternative 2 is proposed as the preferred alternative. It promises simplicity, accountability, mimimum conflict, and precise direction, all in a context of maximizing net public benefits.

Regulatory Impact

The Assistant Secretary for Natural Resources and Environment has determined that the regulations in their present form are considered "major" as defined in Executive Order 12291. Normally this would require that a regulatory impact analysis be prepared. However, the specific effects of implementing the regulations, or revisions in whatever form, are virtually impossible to quantify. This regulations is formulated to direct the process of preparing and revising land management plans. Consequently, they have no direct effect on the quality of the environment or the economy. They only establish procedures, and standards and guidelines for planning future commitments. Proposed revisions to these regulations do not impact the economy nor increase cost of prices for consumers, individual industries, Federal, State, or local government agencies of geographic regions. They do not adversely affect competition, employment, investment productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export-based markets. Since the intent of these regulations is that the forest plan would be based on the type of analysis which would be required in a regulatory impact analysis, the Office of Management and Budget has waived the requirement to carry out a regulatory impact analysis.

Small Entity Impact

The Assistant Secretary of Natural Resources and Environment has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities. The proposed rule imposes no direct or indirect costs on small entities. It requires no paperwork or recordkeeping; it does not affect the competitive position of small entities in relation to large entities; it does not affect the ability of a small entity to stay in the market; and it does not require that small entities obtain professional assistance to meet regulatory requirements.

For the reasons set forth in the preamble, it is proposed to revise Part 219—Planning, Subpart A—National Forest System Land and Resource Management Planning, Title 36 of the Code of Federal Regulations, and the accompanying Table of Contents to read as follows:

1. The Table of Contents for 36 CFR, Part 219—Planning, Subpart A—National Forest System Land and Resource Management Planning, is revised to read as follows:

PART 219—PLANNING

Subpart A—National Forest System Land and Resource Management Planning

Sec.
219.1 Purpose.
219.2 Scope and applicability.
219.3 Definitions and terminology.
219.4 Planning levels.
219.5 Interdisciplinary approach.
219.6 Public participation.
219.7 Coordination of public planning efforts.
219.8 Regional planning—general procedure.
219.9 Regional plan content.
219.10 Forest planning—general procedure.
219.11 Forest plan content.
219.12 Forest planning—process.
219.13 Forest planning—resource integration requirements.
219.14 Management requirements.
219.15 Research.
219.16 Transition period.

Authority:—Secs. 6 and 15, 90 Stat. 2949, 2952, 2958 (16 U.S.C. 1604, 1613); and 5 U.S.C. 301.

2. 36 CFR 219, Subpart A—National Forest System Land and Resource Management Planning, is revised to read as follows:

Subpart A—National Forest System Land and Resource Management Planning

§ 219.1 Purpose.

The regulations in this subpart set forth a process for developing, adopting, and revising land and resource management plans for the National Forest System as required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (hereafter, "RPA"). These regulations prescribe how land and resource management planning is to be conducted on National Forest System lands. The resulting plans shall be designed to maximize net public benefits in an environmentally sound manner, and provide for multiple use and sustained yield of goods and services from the National Forest System.

§ 219.2 Scope and applicability.

The regulations in this subpart apply to the National Forest System, which includes special areas, such as wilderness, wild and scenic rivers, national recreation areas, and national trails. Whenever the special area authorities require additional planning, the planning process under this subpart shall be subject to those authorities.

§ 219.3 Definitions and terminology.

For purposes of this subpart the following words shall have these meanings:

Allowable sale quantity: The quantity of timber that may be sold from the area of capable, available, and suitable land covered by the forest plan for a time period specified by the plan. This quantity is usually expressed on an annual basis as the average annual allowable sale quantity.

Base sale schedule: The timber sale schedule in which the quantity of timber planned for sale and harvest for any future decade is equal to or greater than the planned sale and harvest for the preceding decade of the planning period and this planned sale and harvest for any decade is not greater than the long-term sustained yield capacity.

Biological growth potential: The average net growth attainable in a fully stocked natural forest stand.

Capability: The potential of an area of land to produce resources, supply goods and services, and allow resource uses under an assumed set of management practices and at a given level of management intensity. Capability depends upon current conditions and site conditions such as climate, slope, landform, soils and geology, as well as the application of management practices, such as silviculture protection from fire, insects, and disease.

Corridor: A linear strip of land identified for the present or future location of transportation or utility rights-of-way within its boundaries.

Cost efficiency: The usefulness of specified inputs (costs) to produce specified outputs (benefits). In measuring cost efficiency, some outputs (such as environmental, economic, or social impacts) are not assigned monetary values, but are achieved at specified levels in the least cost manner. Cost efficiency is usually measured using present net value, although use of benefit-cost ratios and rates-of-return may sometime be appropriate.

Diversity: The distribution and abundance of different plant and animal communities and species within the area covered by a land and resource management plan.

Even-aged system: The combination of actions that results in the creation of stands in which trees of essentially the same age grow together. Managed even-aged forests are characterized by a distribution of the stands of varying ages (and therefore tree sizes) throughout the forest area. The difference in age between trees forming the main canopy level of a stand will not exceed 20 percent of the age of the stand at maturity. Regeneration in a particular stand is obtained during a short period at or near the time that a stand has reached the desired age or size for regeneration and is harvested. Cutting methods producing even-aged stands are clearcut, shelterwood, or seed tree.

Goal: A concise statement that describes a desired condition to be achieved sometime in the future. It is normally expressed in broad, general terms, and is timeless in that it has no specific date by which it is to be completed. Goal statements form the principal basis from which objectives are developed.

Goods and services: The various outputs including on-site uses produced by forest and rangeland resources.

Long-term sustained yield capacity: The highest uniform wood yield from lands being managed for timber production that may be sustained under a specified management intensity consistent with multiple-use objectives.

Management concern: An issue or problem requiring resolution, or a condition which constrains the range of management practices identified by the Forest Service in the planning process.

Management direction: A statement of multiple-use and other goals and objectives, the management prescriptions, and the associated standards and guidelines for attaining them.

Management intensity: The management practice or combination of management practices and their associated costs designed to obtain different levels of goods and services.

Management practice: A specific activity, measure, or treatment.

Management prescription: Management practices and intensity selected and scheduled for application on a specific area to attain multiple-use and other goals and objectives.

Multiple use: The management of all the various renewable surface resources of the National Forests System so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some lands will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.

Net public benefits: The overall value to the nation of all outputs and positive effects (benefits) less all associated inputs and negative effects (costs) whether they can be quantitatively valued or not. Net public benefits are measured by both quantitative and qualitative criteria rather than a single measure or index. The maximization of net public benefits to be derived from management of units of the National Forest System is consistent with the principles of multiple use and sustained yield.

Objective: A concise time specific statement of measurable planned results that respond to pre-established goals. It forms the basis for further action planning that defines precise steps to be taken and resources to be used in controlling work to be done to achieve identified goals.

Planning area: The area of the National Forest System covered by a regional or forest plan.

Present net value: The difference between the discounted value (benefits) of all outputs to which monetary values or established market prices are assigned and the total discounted costs of managing the planning area.

Public issue: A subject or question of widespread public interest relating to management of the National Forest System.

Public participation activities: Meetings, conferences, seminars, workshops, tours, written comments, survey questionnaires, and similar activities designed or held to obtain comments from the general public and specific publics about National Forest System land management planning.

Real dollar value: A monetary value which compensates for inflation.

Receipt shares: The portion received by State and county governments of receipts received from Forest Service resource management; such as the Forest Service 25 percent fund payments.

Responsible line officer: The Forest Service employee who has been delegated the authority to carry out a specific planning action.

Sale schedule: The quantity of timber planned for sale by time period, from the area of land covered by the forest plan. The first period, usually a decade, of the selected sale schedule provides the allowable sale quantity. Future periods are shown to establish that sustained yield will eventually be achieved and maintained.

Silvicultural system: The entire process by which forest stands are tended, harvested, and replaced. It includes all cultural practices performed during the life of the stand such as regeneration cutting, fertilization, thinning, improvement cutting, and use of genetically improved sources of tree seeds and seedlings to obtain multiple resource benefits. Silvicultural systems can be distinguished as either even or uneven-aged.

Suitability: The appropriateness of applying certain resource management practices to a particular area of land, as determined by an analysis of the economic and environmental consequences and the alternative uses foregone. A unit of land may be suitable for a variety of individual or combined management practices.

Sustained-yield of the several products and services: The achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the National Forest System without impairment of the productivity of the land.

Timber production: The growing, tending, harvesting and regeneration of regulated crops of industrial wood. Industrial wood includes logs, bolts or other round sections cut from trees for industrial or consumer use, except fuelwood.

Uneven-aged system: The combination of actions needed to simultaneously maintain continuous high-forest cover, recurring regeneration of desirable species, and the orderly growth and development of trees through a range of diameter or age classes to provide a sustained yield of forest products. Cutting is usually regulated by specifying the number or proportion of trees of particular sizes to retain within each area, thereby maintaining a planned distribution of size classes. Cutting methods that develop and maintain uneven-aged stands are single-tree selection and group selection.

§ 219.4 Planning levels.

(a) Planning requires a continuous flow of information and management direction among the three Forest Service administrative levels: national, regional, and forest. Management direction shall include requirements for analysis to determine programs that produce maximum net public benefits, consistent with locally derived information about production capabilities; reflect conditions and circumstances observed at all levels; and become increasingly specific as planning progresses from the national to the forest level. In this structure, regional planning is a principal process for conveying management direction from the national level to the forest level and for conveying information from Forest level to the national level. The process is essentially iterative in that the information from the forest level flows up to the national level where in turn information in the RPA Program flows back to the forest level.

(b) *Planning levels and relationships.* (1) *National.* The Chief, Forest Service, shall develop the RPA Renewable Resource Assessment and Program (hereafter, "Assessment and Program") according to sections 3 and 4 of the RPA.

(i) *Assessment.* The Assessment shall include analysis of present and anticipated uses, demand for, and supply of the renewable resources of forest, range, and other associated lands with consideration of, and an emphasis on, pertinent supply and demand and price relationship trends; and inventory of present and potential renewable resources and an evaluation of opportunities for improving their yield of tangible and intangible goods and services, together with estimates of investment costs and direct and indirect returns to the Federal Government; a description of Forest Service programs and responsibilities in research, cooperative programs, and management of the National Forest System; and analysis of important policy issues and consideration of laws, regulations, and other factors expected to influence and affect significantly the use, ownership, and management of forest, range and other associated lands. The Assessment shall be based on the future capabilities of forest and rangelands and shall include information generated during the regional, forest, and other planning processes.

(ii) *Program.* The Program shall consider the costs of supply and the relative values of both market and nonmarket outputs. The alternatives considered shall include national renewable resource goals and quantified objectives for resource outputs and other benefits and shall be designed to represent a range of expenditure levels sufficient to demonstrate full opportunities for management. A portion of each national objective developed in the selected Program shall be distributed to each region and be incorporated into each regional plan. Resource production objectives shall be tentatively selected for each forest planning area. In formulating the objectives for each region and forest planning area, local supply capabilities and market conditions will be considered.

(2) *Regional.* Each Regional Forester shall develop a regional plan. The regional plan shall respond to and incorporate direction established under the Program. Consistent with resource capabilities, regional plans reflect the goals and objectives of the Program. Regional plans shall establish regional standards and guidelines required by § 219.9(a)(4). For planning purposes, the regional plan shall display tentative resource production objectives for each Forest from the RPA Program. The plan shall also provide guidance for resolving major regional public issues and management concerns, and provide for general coordination of National Forest System, State and Private Forestry (S&PF) and Research programs.

(3) *Forest.* Forest plans will be developed for administrative units of the National Forest System. One forest plan may be prepared for all lands for which a Forest Supervisor has responsibility; or separate forest plans may be prepared for each National Forest, or combination of National Forests, within the jurisdiction of a single Forest Supervisor. A single forest plan may be prepared for the entire Tongass National Forest. These forest plans shall constitute the land and resource management plans as required under sections 6 and 13 of the RPA. A range of resource production alternatives shall be formulated and evaluated, including at least one alternative which responds to and incorporates the tentative RPA Program resource production objectives displayed in the regional plan. Based on this evaluation, the Forest Supervisor shall recommend, and the Regional Forester will select, objectives for incorporation into the forest plan. The Regional Forester will approve the forest plan.

§ 219.5 Interdisciplinary approach.

(a) A team representing several disciplines shall be used for regional and forest planning to insure coordinated planning of the various resources. The team is to coordinate and integrate planning activities. Through interactions among its members, the team shall integrate knowledge of the physical, biological, economic and social sciences, and the environmental design arts in the planning process. The team shall consider problems collectively, rather than separating them along disciplinary lines.

(b) The responsible line officer, in appointing team members, shall determine and consider the qualifications of each team member on the basis of the complexity of the issues and concerns to be resolved through the plan. The team shall collectively represent diverse specialized areas of professional and technical knowledge applicable to the area. The responsible line officer may use whatever combination of Forest Service staff and

other Federal government personnel as necessary to achieve an interdisciplinary approach. The team is encouraged to consult other persons when required specialized knowledge does not exist within the team itself.

§ 219.6 Public participation.

(a) Public participation throughout the planning process is encouraged.

(b) Public involvement in the preparation of draft environmental impact statements for forest and regional plans shall conform to the requirements of the National Environmental Policy Act and associated implementing regulations (hereafter, "NEPA procedures"). Public comments shall be analyzed according to NEPA procedures.

(c) Public participation activities, as deemed appropriate by the responsible line officer, shall be used early and often throughout the development of plans.

(d) Requests by the public to discuss the progress of the planning or to review informal planning documents shall normally be honored. The responsible line officer may deny part or all of a request if complying with the request would unreasonably burden, inhibit or interfere with the planning or decisionmaking process, and if that denial is permitted under the Freedom of Information Act.

(e) The primary purpose of public participation is to broaden the information base upon which planning decisions are made. Public participation activities also will help in monitoring and evaluation of implemented plans.

(f) All scheduled public participation activities shall be documented by a summary of the principal issues discussed, comments made, and a register of participants.

(g) At least 30 days' public notice shall be given for public participation activities associated with the development of regional and forest plans. Any notice requesting written comments on regional planning shall allow at least 60 calendar days for responses. A similar request on forest planning shall allow at least 30 calendar days for responses. Draft regional and forest plans and environmental impact statements shall be available for public comment for at least 3 months (refer to §§ 219.8(c) and 219.10(b)).

(h) The responsible line officer shall attend or provide for adequate representation at public participation activities.

(i) Copies of approved plans shall be available for public review.

(1) The Assessment and the Program shall be available at national headquarters and all Regional Offices, Research Stations, S&PF Area Offices, Forest Supervisors' offices, and in all District Rangers' offices;

(2) The regional plan shall be available at national headquarters, that regional office and regional offices of contiguous regions, each Forest Supervisor's office of forests within and contiguous to that region, and each District Ranger's office in that region;

(3) The forest plan shall be available at the regional office for the forest, the Forest Supervisor's office, Forest Supervisors' offices contiguous to the forest, District Rangers' offices in the forest, and at least one additional location determined by the Forest Supervisor, which shall offer convenient access to the public; and

(4) The above plans may be made available at other locations convenient to the public.

(j) Documents considered in the development of plans shall be available at the office where the plans were developed.

§ 219.7 Coordination of public planning efforts.

(a) The responsible line officer shall coordinate regional and forest planning with the equivalent and related planning efforts of other Federal agencies, State and local governments, and Indian tribes. Coordination shall comply with NEPA procedures.

(b) The responsible line officer shall give notice of the preparation of a land and resource management plan, along with a general schedule of anticipated planning actions, to the State Clearinghouse (OMB Circular A-95) for circulation among State agencies. The same notice shall be mailed to all Tribal or Alaska Native leaders whose tribal lands or treaty rights are expected to be impacted, and to the heads of county boards for the counties involved. These notices shall be issued simultaneously with the publication of the notice of intent to prepare an environmental impact statement required by NEPA procedures (40 CFR 1501.7).

(c) The responsible line officer shall review the planning and land use policies of other Federal agencies, State and local governments and Indian tribes. The intensity of the review shall be appropriate to the planning level and requirements of the envisioned plan and shall include:

(1) Consideration of the objectives of other Federal, State and local governments, and Indian tribes, as expressed in their plans and policies;

(2) An assessment of the interrelated impacts of these plans and policies;

(3) A determination of how each Forest Service plan should deal with the impacts identified; and

(4) Where conflicts with Forest Service planning are identified, consideration of alternatives for their resolution.

(d) Forest planning activities should be coordinated to the extent practical with owners of lands that are intermingled with, or dependent for access upon, National Forest System lands. The results of this coordination shall be included in the plan as part of the review required in paragraph (c) of this section. The responsible line officer may individually notify these owners of forest planning activities where he determines that notice provided for the general public in these regulations is likely to be inadequate.

(e) In developing the forest plan, the responsible line officer shall seek input from the other Federal, State and local governments and universities to help resolve management concerns in the planning process and to identify areas where additional research is needed. This input should be included in the discussion of the research needs of the designated forest planning area.

§ 219.8 Regional planning—general procedure.

(a) *Regional plan.* A plan shall be developed for each administratively designated region in the National Forest System. Regional planning shall provide regional standards and guidelines for regional issue resolution, and reflect general coordination of National Forest System, State and Private Forestry, and Research programs.

(b) *Responsibilities.* The Chief, Forest Service, shall establish agency-wide policy for regional planning and approve all regional plans. The Regional Forester is responsible for the preparation and implementation of the regional plan and for preparation of the environmental impact statement for the regional plan.

(c) *Public review of plan and environmental impact statement.* A draft and final environmental impact statement shall be prepared for the proposed standards and guidelines in the plan according to NEPA procedures. To the extent feasible, a single process shall be used to meet planning and NEPA requirements. The draft statement shall indentify a preferred alternative. Beginning on the date of publication of the notice of availability of the draft environmental impact statement in the Federal Register, the statement and the proposed plan shall be available for public comment for at least 3 months at convenient locations in the vicinity of the lands covered by the plan. During this period, and in accordance with the provisions in § 219.6, the Regional Forester or his designee shall publicize and hold public participation activities as deemed appropriate for adequate public input.

(d) *Plan approval.* The Chief, Forest Service, shall review the proposed plan and the final environmental impact statement and either approve or disapprove the plan.

(1) *Approval.* The Chief, Forest Service, shall prepare, to accompany the plan and the final environmental impact statement, a concise public record of decision which documents the approval. The record of decision shall be prepared according the NEPA procedures (40 CFR 1505.2). The approved plan shall not become effective until at least 30 days after publication of the notice of availability of the final environmental impact statement in the Federal Register.

(2) *Disapproval.* The Chief, Forest Service, shall return the plan and final environmental impact statement to the Regional Forester with a written statement of the reasons for disapproval. The Chief, Forest Service, may also specify a course of action to be undertaken by the Regional Forester in order to remedy the deficiencies, errors, or omissions of the plan or environmental impact statement.

(e) *Public appeal of approval decisions.* The provisions of 36 CFR 211.19 apply to any administrative appeal of the Chief's decision to approve a regional plan. Decisions to disapprove a plan, and other decisions made during the regional planning process prior to issuance of a record of decision approving the plan, are not subject to administrative appeal.

(f) *Amendment.* The Regional Forester may amend the regional plan. Based on an analysis of the objectives, guidelines, and other contents of the regional plan, the Regional Forester shall determine whether the proposed amendment would result in a significant change in the plan. If the change resulting from the proposed amendment is determined to be significant, the Regional Forester shall follow the same procedure for amendment as that required for development and approval of a regional plan. If the change resulting from the amendment is determining not to be significant for the purposes of the planning process, the Regional Forester may implement the amendement following appropriate public notification and satisfactory completion of NEPA procedures.

(g) *Planning records.* The Regional Forester shall develop and maintain a system that records decisions and activities that result from the process of developing a regional plan. These records document the accomplishment of legal and administrative planning requirements. They include at least the draft environmental impact statement, final environmental impact statement, regional plan, record of decision, a work plan to guide and manage planning, the procedures used in completing each action, and the results of these actions.

(h) Public participation and coordination activities shall be adapted to the circumstances of regional planning. Particular efforts shall be made to involve regional and national representatives of interest groups.

§ 219.9 Regional plan content.

(a) The regional plan shall contain:

(1) A summary of the analysis of the regional management situation, including a brief description of the existing management situation and the major issues and management concerns which need to be addressed at the regional level to facilitate forest planning;

(2) A description of management direction including programs, goals and objectives;

(3) A display of each forest planning area's tentative resource production objectives from the current RPA Program;

(4) Management standards and guidelines, including those needed to address regional issues and management concerns, and specific standards and guidelines for the following:

(i) Prescribing according to geographic areas, forest types, or other suitable classifications, appropriate systems of silviculture to be used within the region;

(ii) Establishing the maximum size, dispersal, and size variation of tree openings created by the application of even-aged management considering factors in § 219.14(d);

(iii) Defining the management intensities and utilization standards to be used in determining harvest levels for the region;

(iv) Designating transportion corridors and associated direction for forest planning, such as management requirements for corridors, for transmission lines, pipelines, and water canals. (The designation of corridors is not to preclude the granting of separate rights-of-way over, upon, under, or through the Federal lands where the authorized line officer determines that confinement to a corridor is not appropriate.) (43 U.S.C. 1763, 36 CFR 251.56); and

(v) Identifying in forest plans significant current and potential air pollution emissions from management activities, other sources in and around the forest planning area, and measures needed to coordinate air quality control with appropriate air quality regulation agencies.

(5) A description of the monitoring and evaluation necessary to determine and report achievements and effects of the plan.

(6) A description of measures for coordination of National Forest System, State and Private Forestry, and Research programs.

(b) Each regional plan shall provide guidance for the resolution of the major issues and management concerns which need to be addressed at the regional level to facilitate forest planning. Public participation and coordination, the current RPA Program and Assessment, and the existing forest and resource plans shall be used as sources of information in meeting this requirement. Data and information requirements established nationally will be followed in structuring and maintaining required data.

§ 219.10 Forest planning—general procedure.

(a) *Responsibilities.* (1) *Forest Supervisor.* The Forest Supervisor has overall responsibility for the preparation and implementation of the forest plan and preparation of the environmental impact statement for the forest plan. The Forest Supervisor appoints and supervises the interdisciplinary team.

(2) *Interdisciplinary team.* The team under the direction of the Forest Supervisor implements the public participation and coordination activities. The team shall continue to function even though membership may change, and shall monitor and evaluate planning results and recommend revisions and amendments. The interdisciplinary team shall develop a forest plan using the planning process established in § 219.12, including the steps in paragraph (b) of this section.

(b) *Public review of plan and environmental impact statement.* A draft and final environmental impact statement shall be prepared for the proposed plan according to NEPA procedures. The draft environmental impact statement shall identify a preferred alternative. Beginning on the date of the publication of the notice of availability in the Federal Register, the draft environmental impact statement and proposed plan shall be available for public comment for at least 3 months, at convenient locations in the vicinity of

the lands covered by the plan. During this period, and in accordance with the provisions in § 219.6, the Forest Supervisor shall publicize and hold public participation activities as deemed appropriate to obtain adequate public input.

(c) *Plan approval.* The Regional Forester shall review the proposed plan and the final environmental impact statement, a concise public record of decision which documents the approval. The record of decision shall be prepared according to NEPA procedures (40 CFR 1505.2). The approved plan shall not become effective until at least 30 days after publication of the notice of availability of the final environmental impact statement in the **Federal Register.**

(2) *Disapproval.* The Regional Forester shall return the plan and final environmental impact statement to the Forest Supervisor with a written statement of the reasons for disapproval. The Regional Forester may also specify a course of action to be undertaken by the Forest Supervisor in order to remedy the deficiencies, errors, or omissions of the plan or environmental impact statement.

(d) *Public appeal of approval decision.* The provisions of 36 CFR 211.19 apply to any administrative appeal of the Regional Forester's decision to approve a forest plan. Decisions to disapprove a plan, and other decisions made during the forest planning process prior to the issuance of a record of decision approving the plan, are not subject to administrative appeal.

(e) *Plan implementation.* As soon as practicable after approval of the plan, the Forest Supervisor shall ensure that, subject to valid existing rights, all outstanding and future permits, contracts, cooperative agreements, and other instrunfents for occupancy and use of affected lands are consistent with the plan. Subsequent administrative activities affecting such lands, including budget proposals, shall be based on the plan. The Forest Supervisor may change proposed scheduling to respond to differences between planned annual budgets and funds actually appropriated.

(f) *Amendment.* The Forest Supervisor may amend the forest plan. Based on an analysis of the objectives, guidelines, and other contents of the forest plan, the Forest Supervisor shall determine whether a proposed amendment would result in a significant change in the plan. If the change resulting from the proposed amendment is determined to be significant, the Forest Supervisor shall follow the same procedure as that required for development and approval of a forest plan. If the change resulting from the amendment is determined not to be significant for the purposes of the planning process, the Forest Supervisor may implement the amendment following appropriate public notification and satisfactory completion of NEPA procedures.

(g) *Revision.* A forest plan shall ordinarily be revised on a 10-year cycle or at least every 15 years. It also may be revised whenever the Forest Supervisor determines that conditions or demands of the public in the area covered by the plan have changed significantly or when changes in RPA policies, goals, or objectives would have a significant effect on forest level programs. The interdisciplinary team may, through the monitoring and evaluation process, recommend a revision of the forest plan at any time. Revisions are not effective until considered and approved in accordance with the requirements for the development and approval of a forest plan. The Forest Supervisor shall review the conditions on the land covered by the plan at least every 5 years to determine whether conditions or demands of the public have changed significantly.

(h) *Planning records.* The Forest Supervisor and interdisciplinary team shall develop and maintain a system that records the decisions and activities that result from the process of developng a forest plan. Records that support analytical conclusions made and alternatives considered by the team and approved by the Forest Supervisor throughout the planning process shall be maintained. Such supporting records provide the basis for the development of the forest plan and associated documents required by NEPA procedures.

§ 219.11 Forest plan content.

The forest plan shall contain the following:

(a) A brief summary of the analysis of the managment situation, including demand and supply conditions for resource commodities and services, production potentials, and use and development opportunities;

(b) Forest multiple-use goals and objectives that include a description of the desired future condition of the forest or grassland, and the quantities of goods and services that are expected to be produced or provided during the RPA planning periods;

(c) Multiple-use prescriptions and associated standards and guidelines for each management area including proposed and probable management practices such as the planned timber sale program; and

(d) Monitoring and evaluation requirements that will provide a basis for a periodic determination and evaluation of the effects of management practices.

§ 219.12 Forest planning—process.

(a) *Forest plan.* The preparation, revision, or significant amendment of a forest plan shall comply with the requirements established in this section. The planning process adapts to changing conditions by identifying public issues, management concerns, and use and development opportunities.

It consists of a systematic set of interrelated actions that lead to management direction. The planning process includes at least those actions set forth in paragraphs (b) through (k) of this section. Some actions may occur simultaneously, and it may be necessary to repeat an action as additional information becomes available. The environmental impact statement for each forest plan shall be prepared according to NEPA procedures. To the extent feasible, a single process shall be used to meet planning and NEPA requirements.

(b) *Identification of purpose and need.* The interdisciplinary team shall identify and evaluate public issues, management concerns, and resource use and development opportunities, including those identified through public participation activities and coordination with other Federal agencies, State and local governments, and Indian tribes throughout the planning process. All public issues and management concerns are investigated and evaluated in order of their apparent importance. The Forest Supervisor shall determine the major public issues, management concerns, and resource use and development opportunities to be addressed in the planning process.

(c) *Planning criteria.* Criteria shall be prepared to guide the planning process. Criteria apply to collection and use of inventory data and information, analysis of the management situation, and the design, formulation, and evaluation of alternatives. Criteria designed to achieve the objective of maximizing net public benefits shall be included, specific criteria may be derived from:

(1) Laws, executive orders, regulations, and Forest Service Manual policy;

(2) Goals and objectives in the Program and regional plans;

(3) Recommendations and assumptions developed from public issues, management concerns, and resource use and development opportunities;

(4) The plans and programs of other Federal agencies, State and local governments and Indian tribes;

(5) Ecological, technical and economic factors; and

(6) The resource management requirements in § 219.14.

(d) *Inventory data and information collection.* Each Forest Supervisor shall obtain and keep current inventory data appropriate for planning and managing the resources under his or her administrative jurisdiction, and will assure that the interdisciplinary team has access to the best available data. This may require that special inventories or studies be prepared. The interdisciplinary team shall collect, assemble, and use data, maps, graphic material, and explanatory aids, of a kind, character, and quality, and to the detail appropriate for the management decisions to be made. Data and information needs may vary as planning problems develop from identification of public issues, management concerns, and resource use and development opportunities. Data shall be stored for ready retrieval and comparison and periodically shall be evaluated for accuracy and effectiveness. Common data definitions and standards to assure uniformity of information between all planning levels shall be established by the Chief, Forest Service. As information is recorded using common data definitions and standards, it shall be applied in any subsequent planning process. Information developed according to common data definitions and standards shall be used in the preparation of the 1990, and subsequent Assessments and Programs.

(e) *Analysis of the managment situation.* The analysis of the management situation is a determination of the ability of the planning area covered by the forest plan to supply goods and services in response to society's demand. The primary purpose of this analysis is to provide a basis for formulating a range of reasonable alternatives. The analysis may examine the capability of the unit to supply outputs both with and without legal requirements, but as a minimum the following shall be estimated:

(1) The minimum level of management, which complies with applicable laws and regulations, including prevention of significant or permanent impairment of the long-term productivity of the land, and which would be needed to maintain the unit as part of the National Forest System and to manage uncontrollable outputs and uses, together with associated costs and outputs;

(2) The maximum capabilities of the unit to provide various mixes of goods and services, which assumes that management direction complies with applicable laws and regulations, including prevention of significant or permanent impairment of long-term productivity of the land, together with associated costs and outputs;

(3) For forest planning areas with significant resource outputs that have an established market price, the mix of resource uses, combined with a schedule of outputs and costs, derived from management direction which will maximize the present net value of those outputs that have an established market price;

(i) Compliance with the minimum requirements of applicable laws and regulations, including prevention of significant or permanent impairment of the productivity of the land, shall be a constraint in this analysis;

(ii) Compliance with a base sale schedule of timber harvest, as described in § 219.13(d)(1)(i), and scheduling the harvest of even-aged stands generally at or beyond culmination of mean annual increment of growth, as described in § 219.13(d)(1)(ii)(C) shall not be constraints in this analysis;

(iii) Policies and budgets shall not be constraints in this analysis;

(4) For all forest planning areas, the mix of resource uses, combined with a schedule of outputs and costs, derived from management direction which will maximize the present net value of those outputs that are assigned a monetary value. Paragraphs (e)(3)(i) through (iii) of this section shall apply to this analysis;

(5) The current level of goods and services provided by the unit and the most likely amount of goods and services expected to be provided in the future if current management direction continues;

(6) Projections of demand, using best available techniques, with both price and nonprice information. To the extent practical, demand will be assessed as a price-quantity relationship;

(7) The potential to resolve public issues and management concerns; and

(8) The need, as a result of this analysis, to establish or change management direction.

(f) *Formulation of alternatives.* A range of reasonable alternatives shall be formulated by the interdisciplinary team according to NEPA procedures.

(1) The primary goal in formulating alternatives is to provide an adequate basis for identifying the alternative that maximizes net public benefits, subject to the management requirements of § 219.14.

(2) Alternatives shall provide different ways to address and respond to the major public issues, management concerns, and resource opportunities identified during this planning process.

(3) Alternatives shall reflect a range of resource outputs and expenditure levels.

(4) Each alternative shall represent to the extent practicable the most cost efficent combination of management practices examined that can meet the objectives established in the alternative.

(5) The beginning point for formulating alternatives is the maximum present net value assessment developed in §§ 219.12(e)(3) and (4). Alternatives shall be developed to facilitate evaluation of the effects on present net value, benefits, and costs of achieving various levels of multiple-use, environmental outputs, and social effects that are not assigned monetary values.

(6) At least one alternative shall be developed which responds to and incorporates the RPA Program goals and objectives displayed in the regional plan.

(7) At least one alternative shall reflect current program (no action alternative), which is the current level of goods and services provided by the unit and the most likely amount of goods and services expected to be provided in the future if current management direction continues and current budget is updated for changing costs over time.

(8) Each alternative will state at least:

(i) The condition and uses that will result from long-term application of the alternative;

(ii) The goods and services to be produced, and the timing and flow of these resource outputs;

(iii) Resource management standards and guidelines; and

(iv) The purposes of the management direction proposed.

(g) *Estimated effects of alternatives.* The physical, biological, economic, and social effects of implementing each alternative shall be estimated, displayed, and compared in the environmental impact statement. These effects include at least the following:

(1) The expected outputs for the planning periods, including appropriate marketable goods and services, as well as nonmarket items, such as recreation and wilderness use; wildlife and fish; protection and enhancement of soil,

water, and air; and preservation of aesthetic and cultural resource values;

(2) The relationship of expected outputs to the RPA goals and objectives for the forest displayed in the current regional plan;

(3) Direct and indirect benefits and costs, analyzed in sufficient detail to estimate:

(i) the expected real-dollar costs (discounted when appropiate), including investment, administrative and operating costs of the agency and all other public and private costs required to manage the forest up to the point where the outputs are valued and the environmental consequences are realized;

(ii) the expected real-dollar value (discounted when appropriate) of all outputs attributable to each alternative to the extent that monetary values can be assigned to nonmarket goods and services using quantitative and qualitative criteria when monetary values may not reasonably be assigned;

(iii) the economic effects of alternatives, including impacts on present net value, gross returns to the Federal Government, receipt shares, income and employment in affected areas; and

(iv) the monetary opportunity costs (changes in present net value and in gross returns to the Federal Government) associated with the management standards and resource outputs in each alternative that were not assigned monetary values but are included at specified levels, in comparison with the maximum present net value assesment developed in §§ 219.12(e) (3) and (4).

(4) Other environmental consequences of implementing each alternative, according to NEPA procedures.

(h) *Evaluation of alternatives.* The interdisciplinary team shall evaluate the significant physical, biological, economic, and social effects of each management alternative using planning criteria. The evaluation shall include a comparative analysis of the aggregate effects of the management alternatives and shall compare present net value, gross returns to the Federal Government, social and economic impacts, outputs of goods and services, and overall protection and enhancement of environmental resources. The alternative that comes nearest to maximizing the public benefits shall be identified. The Forest Supervisor shall review the interdisciplinary team's evaluation and shall recommend to the Regional Forester a preferred alternative to be identified in the draft environmental impact statement and displayed as the proposed plan.

(i) *Preferred alternative recommendation.* After publication of the draft environmental impact statement and proposed plan, public comments shall be evaluated and, as necessary, alternatives shall be revised. The Forest Supervisor shall recommend a preferred alternative to be identified in the final environmental impact statement and displayed as the proposed plan.

(j) *Selection of alternative.* The Regional Forester shall review the proposed plan and final environmental impact statement and either approve or disapprove the plan in accordance with § 219.10(c). The record of decision for approval of a plan shall include, in addition to the requirements of NEPA procedures (40 CFR 1505.2), comparison of the net public benefits of the selected alternative with:

(1) The net public benefits of any other alternative considered which is environmentally preferable to the selected alternative; and

(2) The net public benefits of any other alternative considered which comes nearer to maximizing present net value.

(k) *Monitoring and evaluation.* At intervals established in the plan, implementation shall be evaluated on a sample basis to determine how well objectives have been met and how closely management standards and guidelines have been applied. Based upon this evaluation, the interdisciplinary team shall recommend to the Forest Supervisor such changes in management direction, revisions, or amendments to the forest plan as deemed necessary.

Monitoring requirements identified in the forest plan shall provide for:

(1) A quantitative estimate of performance comparing outputs and services with those projected by the forest plan;

(2) Documentation of the measured prescriptions and effects, including significant changes in productivity of the land; and

(3) Documentation of costs associated with carrying out the planned management prescriptions as compared with costs estimated in the forest plan.

§ 219.13 Forest planning—resource integration requirements.

(a) The criteria in paragraphs (b) through (m) of this section provide the minimum requirements for integrating planning for individual resources on a forest into a proposed forest plan. Additional planning criteria may be found in the guidelines for managing specific resources set forth in the Forest Service Manual and Handbooks.

(b) *Timber resource land suitability.* During the planning process each forest plan shall designate lands which are not suited for timber production in accordance with the criteria in paragraphs (b)(1) through (4) of this section.

(1) During the analysis of the management situation, data on all National Forest System lands within the planning area shall be reviewed, and those lands within any one of the categories described in paragraphs (b)(1)(i) through (iv) of this section shall be identified as not suited for timber production:

(i) The land has been legislatively withdrawn or administratively withdrawn by the Secretary or the Chief, Forest Service, from timber production.

(ii) The biological growth potential for the land is less than 20 cubic feet per acre for fully stocked natural stands, unless analysis indicates the desirability of using another standard and the Regional Forester's approval is obtained.

(iii) Technology is not available that will ensure timber production from the land without irreversible resource damage to soils, productivity, or watershed conditions.

(iv) There is not reasonable assurance that such lands can be adequately restocked as provided in § 219.14(h)(4).

(2) Forest lands other than those that have been identified as not suited for timber production in paragraph (b)(1) of this section, shall be further reviewed and assessed prior to formulation of alternatives to determine the costs and benefits for a range of management intensities for timber production. For the purpose of analysis, the planning area shall be stratified into categories of land with similar management costs and returns. The stratification should consider appropriate factors that influence the costs and returns such as physical and biological conditions of the site and transportation requirements. This analysis shall identify the management intensity for timber production for each category of land which results in the largest excess of discounted benefits less discounted costs, and shall compare the direct costs of growing and harvesting trees, including capital expenditures required for timber production, to the anticipated receipts to the government, in accordance with § 219.12 and paragraphs (b)(2)(i) through (iii) of this section.

(i) Direct benefits are expressed by expected gross receipts to the government. Such receipts shall be based upon expected stumpage prices and payments-in-kind from timber harvest considering future supply and demand situation for timber and timber production goals of the regional plan.

(ii) Direct costs include the anticipated investments, maintenance, operating, and management and planning costs attributable to timber production activities, including mitigation measures necessitated by the impacts of timber production.

(iii) The financial analysis must consider costs and returns of managing the existing timber inventory in addition to long-term yield.

(3) During formulation and evaluation of each alternative as required in § 219.12(f) and (g), combinations of resource management prescriptions shall be defined to meet management objectives for the various multiple uses including outdoor recreation, timber, watershed, range, wildlife and fish, and wilderness. The formulation and evaluation of each alternative shall consider the costs and benefits of alternative management intensities for timber production from paragraph (b)(2) of this section in accordance with § 219.12(f). Lands shall be tentatively identified as not necessary for timber production to meet objectives of the alternative being considered if:

(i) Based upon a consideration of multiple-use objectives for the alternative, the land is proposed for resource uses that preclude timber production, such as wilderness;

(ii) Other management objectives for the alternative limit timber production activities to the point where management requirements set forth in § 219.14 cannot be met; or

(iii) The lands are not cost-efficient in meeting Forest objectives including timber production for the alternative under consideration over the planning horizon.

(4) Selection among alternatives shall be done in accordance with § 219.12(h). Lands identified as not suited for timber production in paragraph (b)(1) of this section and lands tentatively identified as not necessary for timber production in paragraph (b)(3) of this section shall be designated as not suited for timber production in the preferred alternative. Salvage sales and sales necessitated to protect multiple-use values besides timber may occur on these lands. If necessary to achieve the multiple-use objectives of the plan, these lands shall continue to be treated for reforestation purposes. Designation in the plan of lands not suited for timber production shall be reviewed at least every 10 years. Such lands may be reviewed and redesignated as suited for timber production due to changed conditions at any time, according to the criteria in paragraphs (b)(1) and (3) of this section, and according to the procedures for amendment or revision of the forest plan in §§ 219.10(f) and (g).

(c) *Timber resource management practices.* When vegetation is altered by management, the methods, timing, and intensity of the practices determine the level of benefits that can be obtained from the affected resources. The vegetation management practices chosen for each vegetation type and circumstance shall be designed to maximize net public benefits and shall be defined in the forest plan with applicable standards and guidelines and the reasons for the choices. Where more than one vegetation management practice will be used in a vegetation type, the conditions under which each will be used shall be based upon thorough reviews of technical and scientific literature and practical experience, with appropriate evaluation of this knowledge for relevance to the specific vegetation and site conditions. On National Forest System land, the vegetation management practice chosen will comply with the management requirements in § 219.14(c).

(d) *Timber resource sale schedule.* The selected forest management alternative includes a sale schedule which provides the allowable sale quantity. The base sale schedule of each alternative, including those which depart from base sale schedules, shall be formulated in compliance with § 219.12(f) and the criteria in paragraphs (d)(1) and (d)(2) of this section. The primary goal in designing and evaluating alternatives is selection of an alternative that includes a sale schedule that maximizes net public benefits.

(1) Alternatives shall be formulated that include determinations of the quantity of the timber that may be sold during the planning period. These quantity determinations shall be based on the principal of sustained yield and shall meet the management requirements in § 219.14. For each alternative, the determination shall include a calculation of the long-term sustained-yield capacity and the base sale schedule and when appropriate, a calculation of timber sale alternatives that may depart from the base sale schedule as provided in paragraphs (d)(1) (i) through (iii) of this section.

(i) For the base sale schedules the planned sale for any future decade shall be equal to or greater than the planned sale for the preceding decade of the planning periods provided that the planned sale is not greater than the long-term sustained-yield capacity consistent with the management objectives of the alternative.

(ii) The determinations of the appropriate long-term sustained-yield capacities, base sale schedules, and departure alternatives to the base sale schedules shall be made on the basis of the guidelines which follow:

(A) For the long-term sustained-yield capacities and the base sale schedules, assume intensities of management and degree of timber utilization consistent with the goals, assumptions, and requirements contained in, or used in, the preparation of the current Program and regional plan. For the base sale schedule, the management and utilization assumptions shall reflect the projected changes in practices for the four decades contained in, or used, in the preparation of the current Program and regional plan. Beyond the fourth decade, the assumptions shall reflect those projected for the fourth decade of the regional plan unless there is a basis for a different assumption;

(B) For alternatives with sale schedules which depart from the corresponding base sale schedule, assume an appropriate management intensity;

(C) In accordance with the established standards, assure that all even-aged stands scheduled to be harvested during the planning period will generally have reached the culmination of mean annual increment of growth. Mean annual increment shall be that which occurs on a fully stocked natural stand based on forest type and site quality and expessed in cubic measure. Alternatives which incorporate exceptions to these standards shall be evaluated if it is reasonable to expect that an increase in net public benefits may result. Exceptions are permitted for the use of sound silvicultural practices, such as thinning or other stand improvement measures; for salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow or other catastrophe, or which are in imminent danger from insect or disease attack; cutting for experimental and research purposes; or for removing particular species of trees, after consideration has been given to the multiple uses of the area being planned and after completion of the public participation process applicable to the preparation of a forest plan; and

(D) Each sale schedule shall provide for a forest structure that will enable perpetual timber harvest which meets the principle of sustained-yield and multiple-use objectives of the alternative.

(iii) Alternatives with sale schedules which depart from the principles of paragraph (i) above and will lead to better attaining the overall objectives of multiple-use management shall be considered and formulated when any of the following conditions are indicated:

(A) It is reasonable to expect that departure from the corresponding base sale schedule would increase net public benefits;

(B) None of the other alternatives considered provides a sale schedule that achieves the goals of the Program as provided in § 219.4(b);

(C) High mortality losses from any cause can be significantly reduced or prevented or forest age-class distribution can be improved, facilitating future sustained-yield management; or

(D) Implementation of the corresponding sale schedule would cause a substantial adverse impact upon a community in the economic area in which the forest is located.

(2) The sale schedule of the management alternative selected in accordance with § 219.12 provides the allowable sale quantity for the plan period.

(e) *Wilderness designation:* Lands reviewed for wilderness designation under the review and evaluation of roadless areas conducted by the Secretary of Agriculture, but not designated as wilderness or designated for further planning, and lands whose designation as primitive areas has been terminated shall be managed for uses other than wilderness in accordance with this subpart. No such area shall be considered for designation as wilderness until a revision of the forest plan under § 219.10(g). When revising the forest plan, roadless areas of public lands, which are 5,000 acres or more within the adjacent to the forest, shall be evaluated and considered for recommendation as potential wilderness areas, as provided in paragraphs (e) (1) and (2) of this section.

(1) During analysis of the management situation the following areas of 5,000 acres or more shall be designated for evaluation:

(i) All previously inventoried wilderness resources not yet designated if they are currently essentially roadless;

(ii) Areas contiguous to existing wilderness, primitive areas, or administratively proposed wildernesses, regardless of which agency has jurisdiction for the wilderness or proposed wilderness;

(iii) Areas that are contiguous to roadless and undeveloped areas in other Federal ownership that have identified wilderness potential; and

(iv) Areas designated by Congress for wilderness study, administrative proposals pending before Congress, and other legislative proposals pending which have been endorsed by the administration.

(2) Each area designated for evaluation under paragraph (1) above shall be evaluated with public participation. The criteria shall include as a minimum:

(i) The values of the area as wilderness;

(ii) The values foregone and effects on management of adjacent lands as a consequence of wilderness designation;

(iii) Feasibility of management as wilderness, in respect to size, non-conforming use, land ownership patterns, and existing contractual agreements or statutory rights;

(iv) Proximity to other designated wilderness, and relative contribution to the National Wilderness Preservation System; and

(v) The anticipated long-term changes in plant and animal species diversity, including the diversity of natural plant and animal communities of the forest planning area and the effects of such changes on the values for which wilderness areas were created.

(f) *Wilderness management.* The forest plan shall provide direction for the management of designated wilderness and primitive areas in accordance with the provisions of 36 CFR 293. In particular, it shall:

(1) Provide for limiting and distributing visitor use of specific portions in accord with periodic estimates of the maximum levels of use that allow natural processes to operate freely and that do not impair the values for which wilderness areas were created; and

(2) Evaluate the extent to which wildfire, insect, and disease control measures may be desirable for protection of either the wilderness or adjacent areas and provide for such measures when appropriate.

(g) *Fish and wildlife resource.* Fish and wildlife habitat shall be managed to maintain viable populations of existing native vertebrate species in the planning area. Habitat for certain selected species shall be maintained and improved in accordance with direction established in forest plans. To meet this goal, management planning for the fish and wildlife resource shall meet the requirements set forth in paragraphs (g) (1) through (7) of this section.

(1) The desired future condition of fish and wildlife, where practical, shall be stated in terms both of animal population trends and of amount and quality of habitat.

(2) Certain vertebrate and/or invertebrate species present in the area shall be identified and selected as indicators of the effects of management. Selection of these species shall recognize the following categories, as appropriate: Endangered and threatened plant and animal species identified on State and Federal lists for the planning area; species with special habitat needs that may be influenced significantly by planned management programs; species commonly hunted, fished, or trapped; and additional plant or animal species selected because their population changes are believed to indicate effects of management activities on other species of a major biological community or on water quality. On the basis of available scientific information, the effects of changes in vegetation type, timber age classes, community composition, rotation age, and year-long suitability of habitat related to mobility of selected species shall be estimated. Where appropriate, measures to mitigate adverse effects shall be prescribed.

(3) Biologists from State fish and wildlife agencies and other Federal agencies shall be consulted in order to coordinate planning with State plans for fish and wildlife.

(4) Access and dispersal problems of hunting, fishing, and other visitor uses shall be considered.

(5) The effects of pest and fire management on fish and wildlife populations shall be considered.

(6) The selected species shall be monitored, as appropriate, to determine the success of habitat capability goals and the effects of habitat change. Monitoring of populations deemed necessary in the forest plan shall be accomplished in cooperation with State fish and wildlife agencies to the extent practicable.

(7) Habitat determined to be critical or essential for threatened and endangered species shall be identified, and measures shall be prescribed to prevent the destruction or adverse modification of such habitat. Objectives shall be determined for threatened and endangered species that shall provide for, where possible, their removal from listing as threatened and endangered species through appropriate conservation measures, including the designation of special areas to meet the protection and management needs of such species.

(h) *Grazing resource.* The suitability and potential capability of National Forest System lands for producing forage for grazing animals and for providing habitat for selected species shall be determined as provided in paragraphs (h) (1) and (2) of this section. Lands so identified shall be managed in accordance with direction established in forest plans.

(1) Lands suitable for grazing and browsing shall be identified and their condition and trend shall be determined. The present and potential supply of forage for livestock, wild and free-roaming horses and burros, and the capability of these lands to produce suitable food and cover for selected wildlife species shall be estimated. The use of forage by grazing and browsing animals will be estimated. Lands in less than satisfactory condition shall be identified and appropriate action planned for their restoration.

(2) Alternative range management prescriptions shall consider: grazing systems and the facilities necessary to implement them; land treatment and vegetation manipulation practices; an evaluation of pest problems; possible conflict or beneficial interactions among livestock, wild free-roaming horses and burros and wild animal populations, and methods of regulating these; direction for rehabilitation of ranges in unsatisfactory condition; and comparative cost efficiency of the prescriptions.

(i) *Recreation resource:* A broad spectrum of dispersed and developed recreation opportunities in accord with identified needs and demands shall be provided. Planning to achieve this shall be governed by the goals of the regional plan and requirements of paragraphs (i)(1) through (7) of this section.

(1) Forest planning shall identify:

(i) The physical and biological characteristics that make land suitable for recreation opportunities;

(ii) The recreational preferences of user groups; and the settings needed to provide quality recreation opportunities; and

(iii) Recreation opportunities on the National Forest System lands.

(2) The supply of developed recreational facilities in the area of National Forest influence shall be appraised for adequacy to meet present and future demands.

(3) Alternatives shall include consideration of establishment of physical facilities, regulation of use, and recreation opportunities responsive to current and anticipated user demands.

(4) In formulation and analysis of alternatives as specified in 219.12(f) and (g), interactions among recreation opportunities and other multiple uses shall be examined. This examination shall consider the impacts of the proposed recreation activities on other uses and values and the impacts of other uses and activities associated with them on recreation opportunities, activities, and quality of experience.

(5) Formulation and evaluation of alternatives under paragraphs (i)(3) and (4) above shall be coordinated to the extent feasible with present and proposed recreation activities of local and State land use or outdoor recreation plans, particularly the State Comprehensive Outdoor Recreation Plan, and recreation opportunities already present and available on other public and private lands, with the aim of reducing duplication in meeting recreation demands.

(6) The visual resource shall be inventoried and evaluated as an integrated part of evaluating alternatives in the forest planning process, addressing both the landscape visual attractiveness and the public's visual expectation. Management prescriptions for definitive land areas of the forest shall include visual quality objectives.

(7) Off-road vehicle use shall be planned and implemented to protect land and other resources, promote public safety, and minimize conflicts with other uses of the National Forest System lands. Forest planning shall evaluate the potential effects of vehicle use off-roads and, on the basis of the requirements of Part 295, of this chapter, classify areas and trails of National Forest System lands as to whether or not off-road vehicle use may be permitted.

(j) *Mineral resource:* the mineral exploration and development in the planning area shall be considered in the management of renewable resources. The following shall be recognized to the extent practical in the forest plan:

(1) Active mines within the area of land covered by the forest plan;

(2) Outstanding or reserved mineral rights;

(3) The probable occurrence of various minerals, including locatable, leasable, and common variety;

(4) The potential for future mineral development;

(5) Access requirements for mineral exploration and development; and

(6) The probable effect of renewable resource prescriptions and management direction on mineral resources and activities, including exploration and development.

(k) *Water and soil resource:* Forest planning shall provide for:

(1) General estimates of current water uses, both consumptive and non-consumptive, including instream flow requirements within the area of land covered by the forest plan;

(2) Identification of significant existing impoundments, transmission facilities, wells, and other man-made developments on the area of land covered by the forest plan;

(3) Estimation of the probable occurrence of various levels of water volumes, including extreme events which would have a major impact on the planning area;

(4) Compliance with requirements of the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, the Safe Drinking Water Act, and all substantive and procedural requirements of Federal, State, and local governmental bodies with respect to the provision of public water systems and the disposal of waste water;

(5) Evaluation of existing or potential watershed conditions that will influence soil productivity, water yield, water pollution, or hazardous events; and

(6) Adoption of measures, as directed in applicable Executive Orders, to minimize risk of flood loss and to restore and preserve floodplain values, and to protect wetlands.

(l) *Cultural and historic resources:* Forest planning shall provide for the identification, protection, interpretation and management of significant cultural resources on National Forest System lands. Planning for the resource shall be governed by the requirements of Federal laws pertaining to historic preservation, and guided by the criteria in paragraphs (l)(1) through (3) of this section.

(1) Forest planning shall:

(i) Provide an overview of known data relevant to history, ethnography, and prehistory of the area under consideration, including known cultural resource sites;

(ii) Identify areas requiring more intensive inventory;

(iii) Provide for evaluation and identification of appropriate sites for the National Register of Historic Places;

(iv) Provide for establishing measures for the protection of significant cultural resources from vandalism and other human depredation, and natural destruction;

(v) Identify the need for maintenance of historic sites on, or eligible for inclusion in the National Register of Historic Places; and

(vi) Identify opportunities for interpretation of cultural resources for the education and enjoyment of the American public.

(2) In the formulation and analysis of alternatives, interactions among cultural resources and other multiple uses shall be examined. This examination shall consider impacts of the management of cultural resources on other uses and

activities and impacts of other uses and activities on cultural resource management.

(3) Formulation and evaluation of alternatives shall be coordinated to the extent feasible with the State cultural resource plan and planning activities of the State Historic Preservation Office and State Archaeologist and with other State and Federal agencies.

(m) *Research Natural Areas:* Forest planning shall provide for the establishment of Research Natural Areas (RNA's). Planning shall make provision for the identification of examples of important forest, shrubland, grassland, alpine, aquatic, and geologic types that have special or unique characteristics of scientific interest and importance and that are needed to complete the national network of RNA's. Biotic, aquatic, and geologic types needed for the network shall be identified using a list provided by the Chief, Forest Service. Authority to establish RNA's is delegated to the Chief in 7 CFR 2.60(a) and 36 CFR 251.23. Recommendations for establishment of areas shall be made to the Chief through the planning process.

§ 219.14 Management requirements.

(a) Specific management requirements to be met in accomplishing goals and objectives for National Forest System lands include, as a minimum, those in paragraphs (b) through (i) of this section.

(b) All management prescriptions shall:

(1) Conserve soil and water resources, and not allow significant or permanent impairment of the productivity of the land;

(2) Consistent with the relative resource values involved, minimize serious or long-lasting hazards from flood, wind, wildfire, erosion, or other natural physical forces unless these are specifically accepted, as in wilderness;

(3) Consistent with the relative resource values involved, prevent or reduce serious, long-lasting hazards from pest organisms through consideration of pest-host systems and management of pest populations at levels designed to meet multiple-use objectives;

(4) Protect streams, streambanks, shorelines, lakes, wetlands, and other bodies of water as provided under paragraphs (e) and (f) of this section;

(5) Provide for and maintain diversity of plant and animal communities to meet overall multiple-use objectives, as provided in paragraph (g) of this section;

(6) Provide for adequate fish and wildlife habitat to maintain viable populations of existing native vertebrate species and provide that habitat for selected species chosen under 219.12(g)(2) is maintained and improved in accordance with multiple use goals and objectives established in the plan;

(7) Be assessed prior to project implementation for potential physical, biological, aesthetic, cultural, engineering, and economic impacts and for consistency with multiple uses planned for the general area;

(8) Include measures for preventing the destruction or adverse modification of critical habitat for threatened and endangered species;

(9) Provide that existing signficant transportation and utility corridors and other significant right-of-ways that are capable and likely to be needed to accommodate the facility or use from an additional compatible right-of-way, be designated as a right-of-way corridor. Subsequent right-of-way grants will, to the extent practicable, and as determined by the responsible line officer, use designated corridors;

(10) Ensure that any roads constructed through contracts, permits, or leases are designed according to standards appropriate to the planned uses, considering safety, cost of transportation, and effects upon lands and resources;

(11) Provide that all roads are planned and designed to re-establish vegetative cover on the disturbed area within a reasonable period of time, not to exceed 10 years after the termination of a contract, lease or permit, unless the road is determined necessary as a permanent addition to the National Forest Transportation System; and

(12) Be consistent with maintaining air quality at a level that is adequate for the protection and use of National Forest System resources and that meets or exceeds applicable Federal, State and/or local standards or regulations.

(c) Management prescriptions that involve vegetative manipulation of tree cover for any purpose shall:

(1) Be best suited to the multiple-use goals established for the area with potential environmental, biological, cultural resource, aesthetic, engineering, and economic impacts, as stated in the regional and forest plans, being considered in this determination;

(2) Assure that lands can be adequately restocked as provided in paragraph (h)(4) of this section, except where permanent openings are created for wildlife habitat improvement, vistas, recreation uses and similar practices;

(3) Not be chosen primarily because they will give the greatest dollar return to the greatest output of timber, although these factors shall be considered;

(4) Be chosen after considering potential effects on residual trees and adjacent stands;

(5) Avoid permanent impairment of site productivity and ensure conservation of soil and water resources;

(6) Provide the desired effects on water quantity and quality, wildlife and fish habitat, regeneration of desired tree species, forage production, recreation uses, aesthetic values, and other resource yields; and

(7) Be practical in terms of transportation and havesting requirements, and total costs of preparation, logging, and administration.

(d) When openings are created in the forest by the application of even-aged silviculture, the provisions of paragraphs (d) (1) and (2) of this section apply.

(1) The blocks or strips cut shall be shaped and blended with the natural terrain, to the extent practicable, to achieve aesthetic and wildlife habitat objectives established in the plan. Openings shall be located to achieve the desired combination of multiple use objectives. As a minimum, openings in forest stands are no longer considered openings once a new forest stand is established. Forest plans may set forth variations to this minimum based on site specific requirements for achieving multiple use objectives.

(2) Individual cut blocks, patches, or strips shall conform to the maximum size limits for areas to be cut in one harvest operation established by the regional plan according to geographic areas and forest types. This limit may be less than, but will not exceed, 60 acres for the Douglas-fir forest type of California, Oregon, and Washington; 80 acres for the southern yellow pine types of Alabama, Arkansas, Georgia, Florida, Louisiana, Mississippi, North Carolina, South Carolina, Oklahoma, and Texas; 100 acres for the hemlock-sitka spruce forest type of coastal Alaska; and 40 acres for all other forest types except as provided in pargraphs (d)(2) (i) through (iii) of this section:

(i) Cut openings larger than those specified may be permitted where larger units will produce a more desirable combination of net public benefits. Such exceptions shall be provided for in regional plans. The following factors shall be considered in evaluating harvest cuts of various sizes and shapes to determine size limits by geographic areas and forest types: Topography; relationships of units to other natural or artificial openings and proximity of units; coordination and consistency with adjacent forests and regions; effect on water quality and quantity; visual absorption capability; effect on wildlife and fish habitat; regeneration requirements for desirable tree species based upon the lastest research findings; transportation and havesting system requirements; natural and biological hazards to survival of residual trees and surrounding stands; and the relative total costs of preparation and administration, transportation requirements, harvesting, site preparation, planting, stocking control and future stand tending of harvest cuts of various sizes and shapes. Specification for exceptions shall include the particular conditions under which the larger size is permitted and set a new maximum size permitted under those conditions.

(ii) Size limits exceeding those established in paragraphs (d)(2) and (d)(2)(i) of this section are permitted on an individual timber sale basis after 60 days' public notice and review by the Regional Forester.

(iii) The established limit shall not apply to the size of areas harvested as a result of natural catastrophic condition such as fire, insect and disease attack, or windstorm.

(e) Special attention shall be given to land and vegetation for approximately 100 feet from the edges of all perennial streams, lakes, and other bodies of water. This area shall correspond to at least the recognizable area dominated by the riparian vegetation. No management practices causing detrimental changes in water temperature or chemical composition, blockages of water courses, or deposits or sediment shall be permitted within these areas which seriously and adversely affect water conditions or fish habitat. Topography, vegetation type, soil, climatic conditions, management objectives, and other factors shall be considered in determining what management practices may be performed within these areas or the constraints to be placed upon their performance.

(f) Conservation of soil and water resources involves the analysis, protection, enhancement, treatment, and evaluation of soil and water resources, and their responses under management and shall be guided by instructions in official technical handbooks. These handbooks must show specific ways to avoid or mitigate damage, and maintain or enhance productivity on specific sites. These handbooks may be regional in scope or, where feasible, specific to physiographic or climatic provinces.

(g) The forest plan shall provide for diversity of plant and animal communities and tree species consistant with the overall multiple-use objectives of the planning area. Diversity of plant and animal communities and tree species shall be considered throughout the planning process. Inventories shall include quantitative data making possible the evaluation of diversity in terms of its prior and present condition. For each planning alternative, the interdisciplinary team shall consider how diversity will be affected by various mixes of resource outputs and uses, including proposed management practices. Management prescriptions, where appropriate and to the extent practicable, shall preserve and enhance the diversity of plant and animal communities, including endemic and desirable naturalized plant and animal species, so that it is at least as great as that which would be expected in a natural forest and the diversity of tree species similar to that existing in the planning area. Reductions in diversity of plant and animal communities and tree species from that which would be expected in a natural forest, or from that similar to the existing diversity in the planning area, may be prescribed where needed to meet overall multiple-use objectives. Planned type conversion shall be justified by an analysis showing biological, economic, social, and environmental design consequences, and the relation of such conversions to the process of natural change.

(h) The management requirements in paragraphs (h)(1) through (8) of this section apply to timber harvest and cultural treatments.

(1) No timber harvesting shall occur during the planning period on lands classified as not suited for timber production pursuant to § 219.13(b) (1) through (4) except for salvage sales, sales necessitated to protect other multiple-use values or activities that meet other objectives on such lands if the forest plan establishes that such actions are appropriate.

(2) Sale quantities will be planned for a specific time or interval on all lands classified as suitable for timber production.

(3) The selected sale schedule provides the allowable sale quantity for the planning period. Within the planning period, the volume of timber to be sold in any one year may exceed the average annual allowable sale quantity so long as the total amount sold for the planning period does not exceed the allowable sale quantity. Nothing in this paragraph prohibits salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger of insect or disease attack and where consistent with silvicultural and environmental standards. Such timber may either substitute for timber that would otherwise be sold under the plan or, if not feasible, be sold over and above the planned volume.

(4) When trees are cut to achieve timber production objectives, the cuttings shall be made in such a way as to assure that the technology and knowledge exists to adequately restock the lands within 5 years after final harvest. Research and experience shall be the basis for determining whether the harvest and regeneration practices planned can be expected to result in adequate restocking. Adequate restocking means that the cut area will contain the minimum number, size distribution, and species composition of regeneration as specified in regional silvicultural guides for each forest type. Five years after final harvest means 5 years after clearcutting, 5 years after final overstory removal in shelterwood cutting, 5 years after the seed tree removal cut in seed tree cutting, or 5 years after selection cutting.

(5) Cultural treatments such as thinning, weeding, and other partial cutting may be included in the forest plan where they are intended to increase the rate of growth of remaining trees, favor commercially valuable tree species, favor species or age classes which are most valuable for wildlife, or achieve other multiple-use objectives.

(6) Harvest levels based on intensified management practices shall be decreased no later than the end of each planning period if such practices cannot be completed substantially as planned.

(7) Timber harvest cuts designed to regenerate an even-aged stand of timber shall be carried out in a manner consistent with the protection of soil, watershed, fish and wildlife, recreation, and aesthetic resources, and the regeneration of the timber resource.

(8) Timber shall not be harvested where such treatment would favor an abnormal and potentially damaging increase in injurious insects and disease organisms.

(i) Monitoring shall ensure as a minimum that:

(1) Lands are adequately restocked as specified in the forest plan;

(2) Lands identified as not suited for timber production are examined at least every 10 years to determine if they have become suitable; and that, if determined suited, such lands are returned to timber production;

(3) Maximum size limits for harvest areas are evaluated to determine whether such size limits should be continued; and

(4) Destructive insects and disease organisms do not increase to potentially damaging levels following management activities.

§ 219.15 Research.

(a) Research needs for management of the National Forest System shall be identified during planning and periodically reviewed during evaluation of implemented plans. Particular attention should be given to research needs identified during the monitoring and evolution described in § 219.12(k). These identified needs shall be included in formulating overall research programs and plans which involve private as well as public forest and rangelands.

(b) Research needed to support or improve management of the National Forest System shall be established and budgeted at the research station and national levels. Priorities for this portion of the Forest Service Research Program shall be based upon the information gathered at all planning levels of the National Forest System.

(c) An annual report shall be prepared at the national level with assistance from Regions and Stations which shall include, but not be limited to, a description of the status of major research programs which address National Forest System needs for Research, significant findings, and how this information is to be or has recently been applied.

§ 219.16 Transition period.

(a) Until a forest planning area of the National Forest System is managed under a forest plan developed pursuant to these regulations and approved by the Regional Forester, the land may continue to be managed under existing land use and resource plans. As soon as practicable, existing plans shall be amended or revised to incorporate standards and guidelines in this subpart. Pending approval of a forest plan, existing plans may be amended or revised to include management requirements not inconsistent with the provisions of the Forest and Rangeland Renewable Resources Planning Act, as amended, and these regulations.

(b) A forest plan may become effective prior to the development and approval of its related regional plan, provided that the forest plan is reviewed upon regional plan approval, and if necessary, amended to comply with regional management direction. If such an amendment is significant, it shall be made pursuant to the requirements for the development of a forest plan.

(c) As a result of the eruption of Mount St. Helens, a land management plan for the Mount St. Helens area shall be prepared substantially in accordance with the following procedures:

(1) Notwithstanding any other provisions in this subpart, the area included in the Mount St. Helens land management plan will not be subject to planning activities for the first generation Gifford Pinchot National Forest Plan unless the Regional Forester for the Pacific Northwest Region determines that additional planning activities are desirable.

(2) Lands which were inventoried as roadless and designated for nonwilderness uses in the Roadless Area Review and Evaluation (RARE II) shall be managed for uses other than wilderness. Except for a small part of the Mount Margaret roadless area (B 6071), the Mount St. Helens land management plan shall not consider wilderness designation for these lands.

(3) Land which were inventoried as roadless and designated as further planning in the Roadless Area Review and Evaluation (RARE II) shall be evaluated in the Mount St. Helens land management plan and shall be managed in accordance with that plan.

Dated: February 11, 1982.

Richard E. Lyng,

Acting Secretary.

Note.—This appendix will not appear in the CFR.

Appendix A—Environmental Assessment on the Revision of 36 CFR 219, Subpart A, National Forest System Land and Resource Management Planning

This combined environmental assessment and report is intended to meet all requirements for compliance with the National Environmental Policy Act (42 U.S.C. 4321–4347); and 36 CFR 216, 45 FR 29291 (May 2, 1980).

Introduction

The Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA), as amended by the National Forest Management Act of 1976 (NFMA), is a comprehensive framework for and primary source of direction to the Forest Service to manage the National Forest System (NFS). The central element of the Act is the institution of land and resource management planning which will be applied to maximize net public benefits through effective use and protection of renewable resources and to achieve a proper balance of the use of NFS lands.

Section 6 of the Act requires the Secretary of Agriculture to prescribe NFS land and resource management planning regulations. The standards and guidelines in the regulations must be incorporated into NFS land and resource management plans by September 30, 1985.

The Secretary may issue such regulations as he deems necessary to carry out the provisions of the RPA, as amended. However, the Act specifically requires the issuance of regulations which establish a process to develop and revise land management plans, and which set forth guidelines and standards to be followed in developing such plans. At a minimum, the regulations must include the specific requirements of subsection 6 (g). The Act also specifically requires that these regulations be promulgated pursuant to 5 U.S.C. 553 to insure public notice and comment.

Regulations for National Forest System planning were published in the **Federal Register**, Volume 44, No. 181, on September 17, 1979, accompanied by a Final Environmental Impact Statement (FEIS). The FEIS analyzed and evaluated alternative sets of proposed regulations developed in response to NFMA, Section 6. The FEIS addressed only the qualitative nature of effects because the regulations are procedural and only indirectly affect the quality of the human environment.

This Environmental Assessment is tiered under the FEIS dated September 17, 1979, as provided for in 40 CFR 1502.20. The analysis performed and documented in the FEIS is adopted herein and made part of this Environmental Assessment, as provided for in 40 CFR 1506.3. Specific impacts will be discussed in appropriate detail in regional and forest level plans prepared under the proposed regulations following NEPA procedures.

Purpose and need

The existing regulations require that they be regularly reviewed and, when appropriate, revised. Though the first such review does not have to be completed until 6 years following their initial promulgation, the Forest Service during planning now in process has discovered redundancies and confusing organization of material which has led to misinterpretation of the intent and function of the planning process.

The Presidential Task Force on Regulatory Relief identified the regulations as one of several priority candidates for regulatory review pursuant to Executive Order 12291 issued February 17, 1981. In compliance with the Executive Order, the review was conducted to determine if there is an opportunity to reduce the burden of existing and future regulations, increase agency accountability for regulatory actions, minimize duplication and conflict of regulations, and improve the regulations.

Evaluation criteria

Analysis of the existing regulations began with identifying tentative criteria important in deciding from among alternative regulatory revision proposals considered. The criteria are that any revision:

—Establish simple, concise, easily understood procedures that do not burden or encumber decisionmakers and the public more than necessary;

—Improve agency accountability for actions called for in the procedures;

—Minimize duplication and conflict in applying and carrying out the procedures;

—Improve precision of direction by reducing redundancy and ambiguity; and

—Provide a basis for maximizing net public benefits.

Affected environment

The affected environment is the entire National Forest System, approximately 190 million acres of Federal land administered by the Forest Service. For more detailed description of this environment affected, the reader is referred to the original FEIS on the NFMA regulations.

The USDA Forest Service as an institution is also part of the affected environment. The hierarchical structure of the Forest Service is 3-tiered—national, regional, and local (National Forest). Thus, any proposed changes in regulations affecting one level would also affect another level. The completion of land and resource management plans is a major institutional concern. NFMA planning has been underway since September 1979, and an orderly, systematic planning process has been developed to solve highly complex planning problems. Plans for 120 administrative units of the National Forest System are in the development stage now. It requires approximately 2 years to develop a forest plan. NFMA allows the Forest Service until 1985 to develop NFMA land and resource management forest plans. However, the Forest Service is committed to having forest plan data available in 1983 for the 1985 RPA Program analysis; completion of planning documents for some forests, however, may have to be carried over until 1984.

Alternatives considered

Alternatives considered for revision of the regulations were (1) completely rewrite regulations for the purpose of changing basic planning concepts and methodology and management requirements; (2) revise regulations to be more responsive to the President's Executive Order to develop regulations that maximize net public benefits and to clarify and simplify planning procedures; (3) to continue with the current regulations and make no changes until after the first cycle of forest planning (1983), and (4) to seek revisions of the NFMA (which mandates promulgation of planning regulations) to permit development and implementation of land and resource management planning procedures through agency manuals or handbooks rather than through a formal regulatory process, and, in the meanwhile, continue under the current regulations.

Alternative 1—Completely rewrite regulations for the purpose of changing basic planning concepts and methodology, and management requirements.

Reasons to support decision to completely rewrite regulations

1. This alternative would clarify and simplify the total formal planning effort.

2. It would offer an opportunity to respond to some critical public comments regarding wilderness, timber issues, and regional planning requirements by changing the planning methodology.

Reasons to support decision not to completely rewrite regulations

1. To change the basic planning concepts, methodology, and management requirements is inadvisable at this time as the total forest planning effort has been underway since 1979, and some forest plans have already been completed. The planning effort would be disrupted and crucial forest planning information and data would not be available for the 1985 RPA Program update.

2. A complete rewrite of the regulatory procedures would be costly and inappropriate in light of current economic conditions. Approximately $800,000 has already been incurred in a massive training program on NFMA implementation. Additional costs of training and orientation to a new process would be incurred. Such costs would be disruptive to the President's economic program.

3. Existing basic planning concepts are sound and workable and generally acceptable by public interest groups. Strong resistance to changes in basic concepts is expected from interest groups and the Committee of Scientists, which was convened under NFMA to assist in development of the existing regulations.

4. It is unknown what changes in basic concepts and methodology are desirable. Substantive changes would cancel reasonable compromises agreed on between major interest groups when existing regulations were developed.

5. Such a significant revision would overburden the public in its role of public involvement at a time when the President is reducing government impact on the public.

Alternative 2—Revise regulations to be responsive to the President's Executive Order to develop regulations that maximize net public benefits and to clarify and simplify planning procedures.

Reasons to support decision to revise regulations to be more responsive to the President's Executive Order

1. This alternative is responsive to the President's Executive Order 12291, while allowing the ongoing planning effort to continue uninterrupted.

2. Clarification of regulatory requirements would help direct the planning process toward maximization of net public benefits.

3. This alternative would provide an opportunity to clarify aspects of the regulations which presently are susceptible to legal challenge.

4. Clarification and simplification of the planning process would make the process more understandable by the public and thereby be responsive to the President's Executive Order.

5. More cost efficient from the standpoint of plans produced and the process followed.

Reasons to support decision not to revise regulations to be more responsive to the President's Executive Order

1. Significant changes in the planning process at this time would be disruptive to the forest planning effort underway.

2. Even minor delays in publishing forest plans may have adverse impacts in furnishing needed data and information for 1985 RPA update.

3. May confuse public who have become well acquainted with existing regulations.

Alternative 3—Continue under current regulations and do not make any changes until after the first cycle of forest planning (1983):

Reasons to support the decision to continue under existing regulations

1. From practical experience, the Forest Service, interested publics, and the Administration will have gained valuable insight into those changes/revisions that could or should be made in the future.

2. Minimum disruption to ongoing planning under current process is expected. The existing Forest planning schedule will be met.

3. Forest planning data will be in place and usable for the 1985 RPA Program update.

4. Field personnel can continue to move ahead in NFMA planning; employee morale would not be affected.

5. No additional implementation costs would be incurred.

Reasons to not support the decision to continue under existing regulations

1. The Forest Service has identified some changes that if instituted now, could improve the quality of the 1985 RPA update. However, postponing change until 1983 (when forest plans are coming on line) could disrupt the process for the 1985 update of RPA.

2. This alternative would be unresponsive to the Regulatory Review Task Force and the intent of Executive Order 12291.

3. It might be more disruptive and costly to change the planning process later rather than now.

Alternative 4—Seek revision of Section 6 of NFMA to delete requirement for promulgation of planning regulations, and permit development and implementation of a planning process, consistent with NFMA provisions, through the Forest Service directives system. In the interim, continue planning under current regulations.

Reasons To Support the Decision To Seek Revision of Section 6, NFMA

1. In addition to the advantages in Alternative 3, Alternative 4 eliminates much of the routine procedural work required to prepare and promulgate formal regulations, while maintaining openness of the process to public participation in developing and reviewing planning directives.

Reasons To Not Support the Decision To Seek Revision of Section 6, NFMA

1. Seeking regulatory exemption under an amended NFMA might trigger other legislative proposals to modify this Act. Planning experience to date does not indicate need for substantive changes (amendments) to NFMA at this time.

2. Other reasons are similar to those given for Alternative 3.

Effects

Economic: 1. The Assistant Secretary for Natural Resources and Environment has determined that the regulations in their present form are considered "major" as defined in Executive Order 12291. Normally, this would require that a regulatory impact analysis be prepared. However, the specific effects of implementing the regulations and their revisions in whatever form, are virtually impossible to quantify. These regulations are

formulated to direct the *process* of preparing and revising land management plans. Consequently, they have no direct effect on the quality of the environment or the economy. They only establish procedures, and standards and guidelines for planning future commitments. Proposed revisions to these regulations do not impact the economy; increase cost or prices for consumers, individual industries, Federal, State, or local government agencies of geographic regions; have any adverse effect on competition, employment, investment productivity, innovation or the ability of United States-based enterprise to compete with foreign-based enterprises in domestic or export based markets. Since the intent of these regulations is that the forest plan would be based on the type of analysis which would be required in a regulatory impact analysis, the Office of Management and Budget has waived the requirement to carry out a regulatory impact analysis.

2. It has been determined that proposed revisions will not have a significant economic impact on a substantial number of small entities because the regulations direct the process to be followed by the Forest Service for preparing and revising its land management plans. There is no relationship of these regulations to small entity paperwork completion, competitive position, cash flow or liquidity.

Human Environment

1. Some general qualified effects or impacts of alternatives to the current regulations were presented in the FEIS which accompanied the regulations published in the Federal Register. Specific effects on the human environment will be identified in individual forest plans. These plans are subject to a complete environmental analysis with public participation. Effects generated by the land and resource management alternatives will be analyzed in the environmental impact statement prepared during the actual forest planning effort.

2. None of the alternative regulatory revision proposals are significant in terms of their potential effect on the physical and biological components of the human environment. All comply with the minimum requirements of NFMA, Section 6. While maintaining this essential and mandatory condition, alternatives vary primarily with respect to how the planning process and procedural detail included in a given alternative for revision would be treated. This impacts directly the economic and social components of the human environment in terms of effects on the Forest Service as an institution, and indirectly affects the external society.

Comparison of Effects

Major regulatory revision (Alternative 1) would include changes in planning process relationships, standards and guidelines, and analytical procedures. Though the agency could accommodate major revisions in the long run, much of the work already accomplished (data analysis, formulation of management prescriptions, activity scheduling, and land resource allocation, training and start-up cost) would be lost or need substantial modification. The attendant delay would probably double the cost of producing final plans, and prohibit completion of most plans by the statutory due date of September 30, 1985. Additional training of personnel would also be required.

Regulatory revision reflects a known need to reduce ambiguity and redundancy, and to portray more lucidly the planning process. Additional training would not be needed. This approach will cause minor delays in the completion of about 25–30 plans which are currently at the working draft stage.

Making no revisions in the regulations at this time is viewed as unresponsive to the Administration's position that the current regulations are major and can be modified to meet the general intent of Executive Order No. 12291.

Preferred Alternative

Considering the volume and intensity of planning activity undergone since September 1979, the compelling need to meet statutory planning deadlines, and the publics' stated commitment to "see through" the first cycle of planning under the NFMA regulations, Alternative 2 is considered the preferred alternative. It promises simplicity, accountability, minimum conflict, and more precise direction, all in a context of maximizing net public benefits.

A summary of the regulations as proposed under this alternative is presented in the Preamble to the Proposed Rule which is published in this volume of the Federal Register, and is hereby incorporated and made part of this environmental Assessment.

It is hereby determined that revision of these regulations is not a major Federal action significantly affecting the quality of the human environment and that a detailed statement pursuant to section 102.2(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4432(c)) is not required.

[FR Doc. 82-4831 Filed 2-19-82 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL-2016-3]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The State of Missouri has submitted proposed amendments to its State Implementation Plan (SIP) involving the prevention of significant deterioration (PSD) of air quality and new source review in nonattainment areas. EPA has reviewed the state's submission and is proposing to approve the proposed amendments to the SIP provided the state makes certain changes to its regulations, the submission does not otherwise change substantively during the state's public comment period and there are no public comments which would affect the approvability of the regulations. Today's notice is published to advise the public of EPA's proposed action and to request comments.

DATES: Comments must be received on or before April 23, 1982.

ADDRESSES: Comments should be addressed to Mr. Wayne G. Leidwanger, Air and Radiation Branch, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106. Copies of the state submission and EPA's technical evaluation are available at the preceding address as well as at the following locations: Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; Missouri Department of Natural Resources, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65101.

FOR FURTHER INFORMATION CONTACT: Wayne G. Leidwanger at (816) 374–3791 (FTS 758–3791).

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1980, EPA promulgated amended regulations for the review of new air pollution sources, including recommendations for the prevention of significant deterioration (PSD) of air quality and regulatory changes affecting new source review in nonattainment areas (45 FR 52676). SIP revisions to address these changes were due nine months after this promulgation.

On June 16, 1981, the State of Missouri submitted revisions to Rules 10 CSR 10–6.020, Definitions, and 10 CSR 10–6.060, Permits Required, to address the requirements of EPA's regulatory changes published on August 7, 1980. EPA approved (with certain conditions later fulfilled by the state) a prior version of the above regulations on May 9, 1980 (45 FR 30626), insofar as they met the requirements of Part D of the Clean Air Act. EPA reviewed the June 16 submission from the state to determine whether it met the regulatory changes published August 7 last year. EPA identified certain deficiencies in the state's regulations which the state agreed to address.

On September 18, 1981, Missouri requested delegation of PSD authority until such time as the SIP revision could be approved. PSD delegation, subject to certain conditions dealing with those portions of the Missouri regulations which did not meet EPA's requirements, was granted on October 19, 1981. A notice of this action was published in the Federal Register on November 25, 1981, (46 FR 57757).

On November 13, 1981, the state submitted a proposed new Rule 10 CSR 10–6.060. The submission includes proposed changes to the definitions of some terms. This submission is intended to replace the previous version of the regulations under which PSD authority was granted to the state and is the subject of today's proposed rulemaking.

II. Review of the State's Submission

In reviewing the state's submission, EPA has identified a number of items which are not consistent with EPA's regulatory requirements. In a letter of September 3, 1981, the state clarified certain provisions in its regulations as discussed below. For a more detailed description of the state's SIP revision and how the state intends to implement certain requirements, the reader should consult EPA's technical evaluation. EPA believes the provisions of the state's regulations not discussed below or in the technical evaluation memorandum are consistent with the August 7, 1980, promulgation. Although EPA solicits comments on the entire new source regulation, EPA specifically solicits comments on the issues identified below.

a. *Modification of Certain Named Installations.* The proposed Missouri Rule 10 CSR 10–6.060 requires an owner or operator to obtain a permit for construction, or major modification, of certain named sources which have the potential to emit 100 tons per year or more of any pollutant, and any other source having the potential to emit 250 tons per year or more of any pollutant, as required by 40 CFR 51.24(b)(1)(i) and 51.24(i). However, the proposed rule would not apply to those modifications which are greater than 100 but less than 250 tons per year which are made to named installations emitting less than 100 tons per year. As required by 40 CFR 51.24(b)(1)(i)(c), any change which itself would constitute a major source must be subject to the permitting requirements. EPA believes this is a significant deficiency which must be corrected prior to final approval of the regulations. The state has indicated that it will seek an appropriate change in the proposed regulation to cover this situation.

b. *Offset provisions.* The proposed Missouri rule (Appendix C, Offsets) provides that the owner or operator of a source from which offsets are obtained must enter into a binding agreement to limit emissions of the offset pollutant to the levels after the offset is applied. The rule further states it will be a violation if a source from which offsets were obtained emits the pollutant at levels greater than identified in the agreement unless a permit is obtained under section (4) Specific Permit Requirements and Exemptions in Nonattainment Areas. However, the permitting requirements for nonattainment areas apply only to major sources or major modifications. Consequently, the regulation could allow a source to increase emissions up to certain de minimis levels and not be subject to the permitting requirements even though an agreement had been reached to limit emissions for the purpose of providing offsets. EPA believes this is a significant deficiency which must be corrected prior to final rulemaking. The state has indicated that it will seek an appropriate change in the proposed regulations to cover this situation.

c. *Net emissions increases.* In determining net emissions increases, EPA regulations at 40 CFR 51.18(j)(1)(vii)(e)(3) provide in part, that a decrease in actual emissions is creditable only to the extent that it is not relied on by the state to demonstrate attainment or reasonable further progress. The state's proposed definition of net emissions increase in 10 CSR 10–6.020 does not contain this restriction. Therefore, a source could increase its emissions and not be subject to the permitting requirements by taking credit for previous emission reductions although those reductions are necessary to either attain an ambient standard or show reasonable further progress. EPA believes this is a significant deficiency which must be corrected prior to final rulemaking. The state has indicated that it will seek an appropriate change in the proposed regulation to cover this situation.

d. *Air quality models.* EPA regulations (40 CFR 52.21(1)) require that at any time an air quality impact model specified in the "Guideline on Air Quality Models" is inappropriate and another model is substituted, written approval from EPA must be obtained. The state's regulation only says that the Director of the Missouri Department of Natural Resources may approve such substitutions. EPA believes this is a significant deficiency which must be corrected prior to final rulemaking. The state has indicated it will seek an appropriate change to cover this situation.

e. *Contemporaneous emission increases and decreases.* For the purpose of determining net emission increases, EPA regulations allow a source to take credit for increases and decreases in actual emissions which are contemporaneous with the particular change under consideration. EPA believes that an increase or decrease is contemporaneous with the increase from a particular change only if it occurs within a reasonable period. EPA requires that the state specify what constitutes a reasonable period (e.g., 40 CFR 51.24(b)(3)(ii) and 40 CFR 51.18(j)(1)(vii)(c)(1)). The state regulation does not establish a specified period of time for determining whether emissions increases and decreases are contemporaneous. The state regulation provides that emission changes are contemporaneous if they occur after a new source or PSD permit is issued, but in no case earlier than December 21, 1976 (for nonattainment area sources), or August 7, 1977 (for PSD sources).

Although the state's approach is not clearly consistent with EPA's requirements, EPA does not believe this is a significant deficiency in the state's regulations. EPA intended to allow the states latitute in determining creditable decreases and increases. Furthermore, the state's regulation will not allow sources to take credit for changes which occurred prior to December 21, 1976. In administering the PSD program, EPA presently defines contemporaneous as a period five years before construction on a particular change commerces. Therefore, the state's regulation is presently consistent with EPA's policy. EPA believes that the state's regulation will provide a reasonable approach for a number of years. EPA will periodically review the administration of the program with the state. If at some future date EPA finds that the state's program is deficient in this regard, EPA will request that the state amend its regulations.

f. *Federal enforceability.* In defining net emissions increases or potential emissions, the Missouri regulations do not expressly require that physical or operational limitations be Federally enforceable in order for such limitations to be taken into account. Missouri has recently advised EPA that its regulations do not impose such a requirement. This requirement is contained in 40 CFR 51.18(j) and 51.24. EPA does not believe this is a significant deficiency because the state's regulations do require that such limitations be enforceable. This means that the state, and in some cases, a local agency would have the authority to enforce these provisions. Thus, the state regulations require that emission limitations be enforceable by the state in order to be considered in the new source permitting process. EPA believes that most emission limitations enforceable by Missouri would either be

part of the approved SIP or conditions of new source permits, which would be enforceable by EPA. While the regulation allows some limitations (such as operating permit conditions and consent agreements) to be considered which may not be Federally enforceable, EPA believes that the deficiency in the state regulation is limited in its impact, and is therefore approvable.

g. *Increment violations.* The state's submission does not say what action will be taken if increment violations are discovered. As specified by 40 CFR 51.24(a)(3), a state is required to submit a SIP revision within 60 days of such finding. In its letter of September 3, the state agreed to comply with this policy.

h. *Applicability to nonattainment areas.* The provisions of the Missouri rule pertaining to nonattainment areas are applicable to those areas outlined in a document entitled, "Growth Increments and Nonattainment Areas for the State of Missouri", January 1, 1981. This document specifies those areas designated nonattainment by the state but is is not consistent with the areas designated by EPA under section 107 of the Act (see 40 CFR 81.326). In particular, the state has not designated Columbia and New Madrid as nonattainment areas for the secondary standard for total suspended particulates. Therefore, the nonattainment permitting requirements of the Missouri rules do not apply to these areas. Furthermore, there are no nonattainment plans for these areas as required by Part D of the Clean Air Act. Therefore, EPA is proposing to take no action on the Missouri regulations insofar as they pertain to these two areas. This would mean that the Missouri plan still lacks an approved new source review plan for the Columbia and New Madrid areas and that the state regulation establishing the attainment area (PSD) new source review program would not be enforceable by EPA in these nonattainment areas. The new source review requirements of the Emission Offset Policy (40 CFR Part 51, Appendix S) remain in effect for these areas.

i. *Baseline areas.* The EPA regulation states that the baseline area must encompass the entire attainment or unclassified area designated under section 107 of the Act in which a source would construct or would have an impact equal to or greater than 1 ug/m³. The Missouri regulation defines it as an area which is not part of a nonattainment area and which would receive an impact of 1 ug/m³ or more. The state has indicated its intent to redesignate new baseline areas as separate attainment areas and to submit these redesignations to EPA. With this procedure, the state's treatment of baseline area will be consistent with EPA's definition of the term.

j. *Baseline concentration.* The Missouri regulation allows emissions from minor sources which commenced construction before January 6, 1975, but which were not operational on the baseline date, to be included in the baseline concentration. EPA regulations at 40 CFR 51.24(b)(13) allow only major sources and major modifications which fall in this category to be included in the baseline concentration. Therefore, under the Missouri rule these minor sources would not consume increment and the available increment could be larger than what would be available using the EPA rule.

However, EPA has reviewed this matter in the context of Missouri's intent to designate new baseline areas as separate attainment areas. EPA has not found any minor sources which commenced construction prior to January 6, 1975, but were not operational on the baseline date in the vicinity of those sources for which EPA issued a permit when it was administering the program. Furthermore in those areas of the state where the baseline date has not been established, any minor source which commenced construction prior to January 6, 1975, will likely have begun operation by now. Consequently, no practical difference will exist between the way the state will treat baseline concentrations and the manner in which EPA handles this issue. Therefore, EPA is proposing to approve this provision of the state's rules.

III. Conclusion

Proposed Action

EPA proposes to approve Missouri Rules 10 CSR 10-6.020, Definitions, and 10 CSR 10-6.060, Permits Required, as meeting the requirements of Parts C and D of the Clean Air Act provided that, prior to final rulemaking, (1) the state officially adopts and submits these rules, including a revision to make PSD review applicable to modifications of named sources when the modification itself is major, a revision which makes all offset emissions binding upon the source from which they were obtained, a revision that provides that when determining net emissions increases, a decrease in actual emissions is creditable only to the extent that it is not relied on by the state to demonstrate attainment or reasonable further progress, and a revision which commits the state to request EPA approval of air quality models not already approved for use by EPA, (2) no other substantive changes to the rules are made, and (3) there are no public comments which would affect the approvability of the submission. If the regulations as adopted by the state are otherwise substantially changed, EPA will evaluate those changes and publish a revised notice of proposed rulemaking if necessary. EPA is proposing to take no action on the Missouri regulations insofar as they pertain to the Columbia and New Madrid nonattainment areas.

In the notice on November 25, 1981, EPA stated that it had delegated the PSD program to the state under its own rules with certain conditions as discussed in that notice. EPA anticipates that this delegation will be in effect until EPA takes final action to approve the new state's rules as part of the SIP.

EPA is soliciting comments on the state's submission and on the proposed approval of these regulations as a revision to the Missouri SIP. The Administrator's decision to approve or disapprove this submission will be based upon the comments received and on whether the SIP revisions meet the requirements of Parts C and D of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This rule is not major because it only proposes to approve state actions and would impose no additional substantive requirements which will not be applicable under state law. Hence it is unlikely to have an annual effect on the economy of $100 million or more or to have other significant adverse impacts on the national economy.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities (46 FR 8709, January 27, 1981). The attached rule, if promulgated, constitutes a SIP approval under sections 110 and 172 within the terms of the January 27 certification. This action only approves state actions. It imposes no new requirements.

Secs. 110 and 172, Clean Air Act, as amended)

Dated: February 11, 1982.
John Franke, Jr.,
Regional Administrator.
[FR Doc. 82-4736 Filed 2-19-82; 8:45 am]
BILLING CODE 6560-38-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 59

Requirements Applicable to Projects for Family Planning Services

AGENCY: Public Health Service (PHS), HHS.

ACTION: Proposed rule.

SUMMARY: The Secretary of Health and Human Services proposes to amend the regulations governing the program for family planning services funded under Title X of the Public Health Service Act in order to implement a recent amendment of that Act. The statutory amendment requires family planning projects to encourage family participation in the provision of services by the projects, to the extent practical. The Secretary proposes to implement this amendment by requiring projects to notify the parents of unemancipated minors seeking family planning services when prescription drugs or devices are provided. In addition, where state law requires family planning providers to provide Title X services to unemancipated minors only with notification to or the consent of their parents, projects would be required to comply with that law.

DATE: Comments on the proposed rules must be submitted in writing to the address below on or before April 23, 1982.

ADDRESS: Comments should be submitted to Marjory Mecklenburg, Acting Deputy Assistant Secretary for Population Affairs, Room 725H, 200 Independence Avenue, SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Marjory Mecklenburg, (202) 472-6093.

SUPPLEMENTARY INFORMATION: Title X of the Public Health Service Act (42 U.S.C. 300 *et seq.*) establishes a program of Federal financial assistance to public and private nonprofit entities for the provision of voluntary family planning services. Under section 1002(a) of that title, the Secretary of Health and Human Services may make grants to such entities for projects which will provide a "broad range of acceptable and effective family planning services," including "services to adolescents." The regulations implementing this section provide, among other things, that family planning services will be made available without regard to age or marital status. 42 CFR 59.5(a)(4).

On August 13, 1981, Congress amended section 1001(a). Section 931(b)(1) of Pub. L. 97-35 adds to section 1001(a) the following provision:

> To the extent practical, entities which receive grants or contracts under this subsection shall encourage family (sic) participation in projects assisted under this subsection.

The Conference Report on Pub. L. 97-35 explains section 931(b)(1) as follows:

> The conferees believe that, while family involvement is not mandated, it is important that families participate in the activities authorized by this title as much as possible. It is the intent of the Conferees that grantees will encourage participants in Title X programs to include their families in counseling and involve them in decisions about services. House Rep. No. 97-208, at 759.

The Secretary proposes to implement section 931(b)(1) by adding the following requirements to the Title X regulations. First, grantees would be required to notify the parents or guardian of unemancipated minors when prescription drugs or prescription devices are provided to such minors. Projects would also be required to inform the minor, prior to the provision of the service, about the notification requirement. Projects would be required to notify the parent or guardian within 10 working days following the initial provision of services by the project, except when the project director determines that notification would result in physical harm to the minor by a parent or guardian. Projects would be required to verify that the notifications were received. If the project was unable to verify that the notification was received, the project could not provide additional prescription drugs or prescription devices to the minor. Projects would be required to keep records on the notifications, verifications, and the number of cases in which a determination to forego parental notification has been made, along with the reasons for the determination. Second, grantees would be required to comply with any State law requiring that notification be provided to or consent obtained from the parents or guardian of unemancipated minors regarding the provision of family planning services to unemancipated minors. Third, the definition of "low income family" in the current regulations would be changed by eliminating the requirement that projects consider adolescents on the basis of their own resources for purposes of charging for services.

The proposed regulation limits application of section 931(b)(1) to "unemancipated minors." However, the definition of "unemancipated minor" varies under this regulation, depending on which requirement is involved. Since the first requirement applies to all grantees, we have proposed a Federal definition of the term for purposes of that requirement. This definition treats minors age 17 or under as unemancipated generally, but otherwise looks to State law to determine what specific acts, such as marriage or parenthood, constitute acts of emancipation. Thus, if State law would treat persons age 12 or older as emancipated for purposes of consent to medical care, Title X project would nonetheless have to treat them as unemancipated for purposes of complying with the first requirement, unless some other circumstance recognized as an act of emancipation under state law were present. With respect to the second regulatory requirement, by contrast, the term "unemancipated minor" is determined entirely by state law. We believe this is appropriate, since the intent of that requirement is to have Title X grantees comply with state laws requiring parental notification or consent. We do not expect that this variation in the applicable definition of emancipation will create difficulties for grantees, since the result is simply that, in addition to any state law requirement, the Federal notification requirement applies to otherwise unemancipated minors up to age 18. Nor do we expect that making a determination concerning emancipation will present any special problems for grantees, since they presently must decide who is emancipated in order to determine whether appropriate consent has been obtained in the course of providing medical services.

Under the proposed rules, projects would be required to notify the parents or guardian of an unemancipated minor where prescription drugs or prescription devices were provided. We believe that this requirement is consistent with the concern underlying section 931(b)(1). The Congressional policy of encouraging family participation in decision-making about family planning services is most clearly relevant where medical services are being provided to adolescents. In our view, implicit in section 931(b)(1) is an assumption that these individuals will generally benefit from the exercise of a parent's mature judgment on their behalf on matters that may affect their physical well-being. Particularly where prescription drugs or prescription devices are being considered, parents

have a direct and legitimate concern in participating in a decision that may have long-term health consequences for the adolescent. It is our view that such involvement cannot occur unless the adolescent's parents or guardian are given the opportunity to participate, an opportunity which notification will provide. Thus, while we believe that grantees should encourage involvement of a minor's parents to the maximum extent possible in the provision of Title X services generally, the proposed rule ensures that Title X grantees will encourage parental involvement in those cases where it is most likely to be of the most significant value.

At the same time, the proposed rule provides that notification need not precede the provision of services, but rather that it must occur after services are provided. We believe this policy establishes a reasonable balance between competing concerns. On the one hand, it is the policy of the Act to make services available to adolescents, as evidenced by the statute's inclusion of "service to adolescents" as a mandatory project requirement. Requiring notification before services are provided could unduly delay or otherwise serve to restrict access to services, contrary to the statute's policy. On the other hand, as stated above, parents may reasonably be concerned about the potential medical consequences of prescription drugs and prescription devices, and should be afforded the opportunity to have input into a decision to use them. Notification of the minor's parents or guardian after service should minimize the access problem, while the 10 day rule will assure that parents can become involved promptly where there are serious concerns about the health of their child. To effectuate the notification requirement, projects must verify that the notification was received. If projects are unable to verify that the notification was received, projects may not provide additional prescription drugs and prescription devices to the minor. Also, projects must maintain records on the notifications and verifications.

In addition, the proposed rule provides that the minor must be informed about the notification requirement and permits an exception to the notification requirement where the project director finds that it would result in physical harm to the minor by a parent or guardian. The exception is meant to apply to cases where there is evidence of a history of child abuse, sexual abuse, or incest, or where there are other substantial grounds to determine that notification would result in physical harm to the minor by a parent or guardian. The exception does not apply to cases where notification would result in no more than disciplinary actions of an unsubstantial nature. This exception implements the statutory recognition of the fact that family involvement may not be advisable in all cases: under the statute such involvement is required only "to the extent practical." In our view, situations where notification of a minor's parents or guardian about the receipt of services would physically endanger the minor clearly come within the ambit of this statutory exception. The requirement that the minor be informed about notification will, among other things, provide an opportunity for the project to ascertain whether the exception applies. We recognize that any such exception contains the potential for abuse. Therefore, project directors will be required to keep a record of the number of exception determinations they have made, along with the reasons for each exception.

Finally, the proposed rule provides that the notification requirement shall not apply in cases where a project is providing prescription drugs for the treatment of venereal disease. This is consistent with the overriding public health necessity of ensuring prevention of infection of others.

The second requirement—for parental notification or consent where such a State requirement exists—is being proposed to resolve a dilemma presently facing some grantees. From time to time, States enact laws that seek to require family planning providers to provide family planning services to unemancipated minors only with parental consent or notification. Now, where the State's underlying law of consent renders minors unable to give legally effective consent, Federal regulations do not require a project to provide services to the minor without the consent of a parent or guardian. However, where the minor can provide legally effective consent under State law, the project is required by 42 CFR 59.5(a)(4) to make services available to the minor to the extent it would to any otherwise similarly situated (for example, with respect to income) individual, even if the State has enacted a parental consent requirement intended to apply to Title X providers. Similarly, § 59.5(a)(4) presently precludes States from requiring grantees to condition services to minors upon parental notification.

The Secretary has concluded that the above policies are inconsistent with the statutory policy expressed by section 931(b)(1). Section 931(b)(1) expresses a Congressional judgment that, in an area as sensitive and difficult as family planning services, family involvement in the decisionmaking of minors should be encouraged. Traditionally, this has been an area which States, in their role as *parens patriae*, have regulated, for example, through statutes requiring parental notification or consent to certain types of medical services. In light of this traditional State role, and in order to remedy an often conflicting and confusing situation for grantees, the Secretary believes that it would be appropriate to implement section 931(b)(1) by deferring to legislative judgments made by the States, as expressed by State statutes. Accordingly, the Secretary proposes to amend the regulations to require grantees to adhere to any applicable State parental consent or notification statutes.

Finally, the proposed rules would amend the present definition of "low income family" to eliminate the requirement that projects consider minors who wish to receive services on a confidential basis on the basis of their own, and not their parents', resources. Since persons who are members of low income families receive services without charge, the present policy has the inappropriate effect of skewing the distribution of limited Federal grant funds away from the patients who are the most financially needy. In addition, the present policy indirectly discourages family involvement in the receipt of services by certain minors and thus is inconsistent with section 931(b)(1).

The Secretary solicits comments on the ramifications of the above proposals and suggestions as to how he might more effectively implement the intent of Congress. If there are particular operational problems with any of the proposals, the Secretary would appreciate being so informed. Statistical or other data supporting suggestions for change in the proposals would be particularly welcomed.

Impact Analysis

Executive Order 12291

E.O. 12291 requires that a regulatory impact analysis be prepared for major rules, which are defined in the order as any rule that has an annual effect on the national economy of $100 million or more, or certain other economic effects. The Secretary concludes that these regulations are not major rules within the meaning of the Executive Order, because they will not have an effect on the economy of $100 million or more or otherwise meet the threshold criteria. To the contrary, they effect a minor alteration in grantee operations that will cost little, if anything, to implement.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. Ch. 6) requires the Federal Government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each proposed rule with a "significant economic impact on a substantial number of small entities" an initial analysis must be prepared describing the proposed rule's impact on small entities. The required change in grantee operations will be minimal in cost, as it will generally consist of a slight revision of present intake and counseling procedures applicable to only a small percentage of each grantee's total client population. Therefore, the Secretary hereby certifies that an initial regulatory flexibility analysis is not required.

For the reasons set forth above, the Assistant Secretary for Health, with the approval of the Secretary of Health and Human Services, therefore proposes to amend 42 CFR Part 59, Subpart A, as set forth below.

Dated: December 2, 1981.
Edward N. Brandt, Jr.,
Assistant Secretary for Health.

Approved: December 23, 1981.
Richard S. Schweiker,
Secretary.

PART 59—GRANTS FOR FAMILY PLANNING SERVICES

§ 59.2 [Amended]

1. The last sentence of the definition of "low income family" in 42 CFR 59.2 is revoked.

2. 42 CFR 59.5(a) is amended by adding thereto the following paragraph (12), to read as follows:

§ 59.5 What requirements must be met by a family planning project?

(a) * * *

(12) Encourage, to the extent practical, family participation in the provision of the project's services to unemancipated minors. A project shall—

(i)(A) When prescription drugs or prescription devices are initially provided by the project to an unemancipated minor, notify the minor's parents or guardian that they were provided within 10 working days following their provision. The project must tell the minor prior to the provision of services about this notification requirement. The project shall verify that the notification was received. Where the project is unable to verify that the notification was received, the project shall not provide additional prescription drugs or prescription devices to the minor.

(B) A project is not required to comply with the first sentence of subparagraph (A) of this paragraph where the project director determines that such notification will result in physical harm to the minor by the parents or guardian.

(C) For the purpose of this paragraph (a)(12)(i), and "unemancipated minor" is an individual who is age 17 or under and is not, with respect to factors other than age, emancipated under State law.

(D) The project must keep records on notifications provided pursuant to the first sentence of subparagraph (A), and on verifications that those notifications were received. The project must also keep records of the number of determinations made under subparagraph (B) and the factual basis for such determinations. The project must make the records required by this subparagraph available to the Secretary on request.

(E) This paragraph (a)(12)(i) does not apply where prescription drugs are provided for the treatment of venereal disease.

(ii) Notwithstanding any other requirement of this subpart, where State law requires the notification or consent of a parent or guardian to the provision of family planning services to an individual who is unemancipated minor under State law, provide such services only in compliance with such law.

(Sec. 6(c), Pub. L. 91-572, 84 Stat. 1507, 42 U.S.C. 300a-4(a))

[FR Doc. 82-4999 Filed 2-19-82; 8:45 am]
BILLING CODE 4160-20-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-4]

Subsidiary Communications Authorization (SCA) Operations; Order Extending Time for Filing Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; [Order Extending Time for Filing Comments].

SUMMARY: In order to allow interested parties sufficient time to address the many complex issues involved in this proceeding (relating to use of subsidiary communications authorizations by noncommercial educational FM stations) the dates for filing comments are extended to March 12, 1982, and April 9, 1982, respectively for comments and reply comments. This action was taken at the request of the American Foundation for the Blind.

DATES: Comments must be filed on or before March 12, 1982 and reply comments on or before April 9, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jonathan David, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.593 of the Commission's rules, BC Docket No. 82-1.

Adopted: February 4, 1982.
Released: February 9, 1982.

1. On January 5, 1982, the Commission adopted the Notice of Proposed Rule Making in this proceeding (47 FR 2384; January 15, 1982) in order to explore possible changes in the Commission's rules governing the use of subsidiary communications authorizations by noncommercial educational FM stations. Specifically, the Commission proposed allowing these stations to do what commercial FM stations already can do, that is, use these subcarrier operations for remunerative purposes. Comments were scheduled to be filed on February 11, 1982, and reply comments were to be filed on February 26, 1982.

2. A request for extension has been filed by the American Foundation for the Blind, Inc. It argues that more time than provided by the Notice is required to update, assemble and present the material in its files. In addition, it believes that more time is required to research the central legal issue of the meaning of the recently adopted provisions of § 396B of the Communications Act. Thus it seeks an extension of the comment and reply comment dates to April 12, 1982, and May 24, 1982, respectively.

3. Although an extension is warranted in this case, it does not appear to be necessary or appropriate to delay the proceeding by a two-month extension. A one-month extension of the comment date and with four more weeks for reply comments should suffice.

4. Accordingly, it is ordered, that the deadline for filing comments and reply comments are extended through March 12, 1982, and April 9, 1982, respectively.

5. This action is taken pursuant to authority contained in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Federal Communications Commission.
Martin Blumenthal,
Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-4723 Filed 2-19-82; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 395

[BMCS Docket No. MC-99, Notice No. 82-2]

Driver's Logs

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FHWA is seeking comments on a proposal to reduce the paperwork burden for motor carriers and drivers operating in interstate or foreign commerce by eliminating the required forms of the driver's logs; proposing a less burdensome method of recording a driver's record of duty status; and providing an expanded exemption to the recordkeeping requirement.

DATE: Comments must be received on or before April 23, 1982.

ADDRESS: All comments should refer to the docket number and notice number that appear at the top of this document and should be submitted, preferably in triplicate, to Room 3402, Bureau of Motor Carrier Safety (BMCS), 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 426-0767; or Mr. Gerald M. Tierney, Office of the Chief Counsel, (202) 426-0346, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: One of the primary goals of the FHWA's Bureau of Motor Carrier Safety (BMCS) is to reduce highway fatalities and injuries. One of its most important strategies has involved continuously monitoring the maximum hours of service of commercial motor vehicle drivers operating in interstate or foreign commerce, in an endeavor to eliminate fatigue-induced accidents, attendant loss of life, personal injuries, and severe property damage.

The FHWA is vitally concerned about the paperwork involved in recording a driver's hours of service. The FHWA has reduced and continues to reduce that paperwork burden. However, safety is the FHWA's primary concern, and its procedures must be examined in the context of the impact of any changes to the driver's log requirement on the enforceability of the hours of service regulations and on the protection to the public which these regulations provide.

Consideration has been given to 4 options to relieve the paperwork burden associated with the driver's log. These options included the use of (1) modified tachograph charts, (2) modified carrier time cards or trip reports, (3) use of the existing log, and (4) no recordkeeping requirement. The first 3 options are discussed in detail later in this document. The fourth option, a "no recordkeeping requirement," would in effect be a "no basic hours of service rule," because some recordkeeping is necessary for enforcement. Since the existence of the hours of service requirement is not at issue in this rulemaking, this alternative is not being further considered in this rulemaking action. However, should substantive comments be received that indicate such a discussion and consideration have merit, appropriate action will be considered.

The Interstate Commerce Commission (ICC) first prescribed a log in 1938, and relatively little criticism was directed toward the rule. The log has been and continues to be the only record that depicts variations in a driver's activities over a given period of time. It is a record of a driver's off-duty time, time spent in a sleeper berth, time operating the vehicle, and time working for the motor carrier in a nondriving capacity. It is used to determine if drivers have remaining eligible driving hours prior to time of dispatch, and to monitor the activities of drivers, since they are seldom directly observed by supervisors. It is also the one single document used by enforcement personnel to detect excess hours and is accepted by the courts as adequate evidence of violations.

Revision of the log has been under consideration since 1973 when the American Trucking Associations, Inc. (ATA) filed its petition for a 7-day log as opposed to the daily log, which then was the only version permitted by the regulation. In response to that petition, a 1-year test program was conducted by the BMCS with volunteer motor carriers using a 7-day log. As a result of that test program and further rulemaking actions, the regulations were revised in November 1977. The revised rules authorized the optional use of a multi-day log that permits as many as 8 days of records on one sheet of paper. This action reduced considerably the number of sheets of paper a carrier or driver processed if the carrier chose to use the multi-day log as prescribed in § 395.9 of the Federal Motor Carrier Safety Regulations (FMCSR).

The use of the present logs, forms MCS-59 (daily) and MCS-139 (multi-day), has been extended through June 1982 by the Office of Management and Budget (OMB) to permit the FHWA to issue this proposal of an alternate method for recording a driver's hours of service.

Alternate methods to the log were considered under a research contract awarded to the Chilton Company of Radnor, Pennsylvania. A total of ten potential alternatives to the driver's logs were evaluated by the contractor in terms of the advantages and disadvantages of each when compared with the existing log.[1] An assessment of each alternative was made to determine if it (1) reduced driver burden, (2) reduced paperwork requirements, (3) had strong evidentiary value, (4) could be implemented at a reasonable cost, and (5) would be acceptable as a viable alternative by carrier management, drivers, unions, and the government.

As a result of the analysis and assessment of all the potential alternatives, the contractor concluded that, "* * * there is no single alternative to the existing driver's log that can be recommended universally at the present time."

The contractor recommended that motor carriers be given three options for recording a driver's hours of service. The three options recommended were: (1) Tachographs with additional information to be added to the existing recording chart, (2) existing carrier time cards or trip reports, assuming they include specified critical information, and (3) the existing driver's log.

However, the contractor reported that information currently being recorded on tachograph charts and most existing carrier time cards or trip reports does not satisfy the evidentiary needs required by the courts. For the two options, to be used as alternatives to the driver's logs, the contractor added that it would be necessary to have some additional data recorded, primarily in the area of drivers' duty status.

The assessment of the alternatives to the driver's log was based on (1) information made available to the contractor, (2) opinions and comments from motor carrier organizations, and (3) personal knowledge of the subject matter on the part of the contractor. Even so, the contractor stated there is no way of determining the actual acceptance factors by all parties or the true evidentiary value without actual operational experience. A test program was conducted to verify the assumptions that were made and the hypotheses that were developed.

[1] Alternative Methods of Regulating Commercial Motor Vehicles Driver's Hours of Service, January 1979, Chilton Company, Radnor, Pennsylvania, Contract No. DOT-FH-11-9414.

Test Program

Twenty-eight of the motor carriers selected by the contractor agreed to participate in the test program using either the modified tachograph chart or modified trip reports. The test was conducted for one year beginning May 1, 1980. The participating motor carriers were authorized to use one of the two alternative methods. Authorization was issued by a notice published in the **Federal Register** on April 28, 1980 (Amendment No. 79-4, 45 FR 28142 and Notice No. 80-2, 45 FR 28243). A revised list of participating motor carriers was published in the July 17, 1980, issue of the **Federal Register** (Notice No. 80-5, 45 FR 48015).

Twelve of the 26 participating motor carriers initially agreed to use tachograph charts. Several carriers failed to implement the program for various reasons. For example, one carrier withdrew from the program due to the refusal of interlining motor carriers to accept the tachograph chart in lieu of the log and to the objections of the drivers to maintaining both duty status reports. Only one carrier continued using the tachograph chart in lieu of the log at the end of the test program. Fourteen carriers chose to use the modified trip report. Twelve are continuing that use beyond the end of the test program.

The carriers participating in the program have been authorized to continue using the selected alternative method through April 1983, pending completion of this rulemaking proceeding.

Preliminary results of the test program indicate that the modified trip report appears to be an acceptable alternative to the driver's log. Illustration I is an example of the duty status columns incorporated into the carrier's trip report, travel order, or other record being completed by its drivers.

ILLUSTRATION I

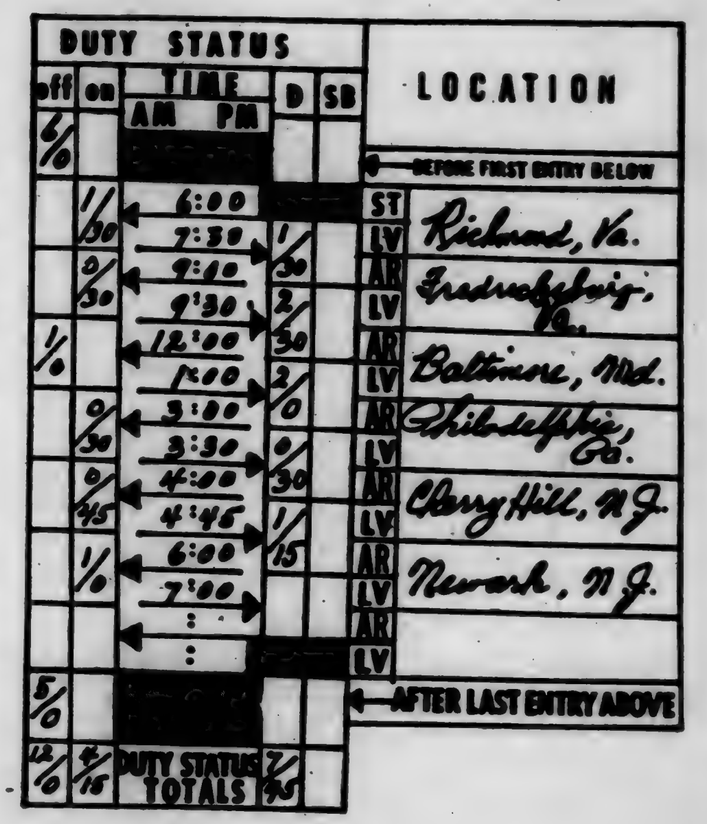

Carriers using tachograph charts modified those charts to include information not normally shown on the chart such as carrier name, home terminal, shipping document numbers, location of change of duty status, remarks, and duty status. It was the absence of this information which led to the conclusion that tachograph charts are of little or no evidentiary value, and, therefore, of little value as a control mechanism.

Based on the results of the test program, revisions are being proposed to permit motor carriers to use any form or format of their choice to record a driver's hours of service. The proposed revision sets forth the information that would be required to be recorded, but not in any specified format. This proposal would require a total revision of § 395.8 and recission of § 395.9, authorizing the use of the multi-day log as an option. Carriers could use the driver's daily log (form MCS–59), the multi-day log (form MCS–139, 139A), a tachograph chart, or a carrier-designed report form so long as it is modified to contain the required information. Based on information obtained by the contractor, many carrier trip reports currently in use contain most of the required information and will only require minor modifications to be in compliance with the proposed driver reporting requirements.

The results of the test program showed that the drivers took approximately 45 percent less time to complete a modified trip report than they took to complete a combination of the original company trip report and the prescribed driver's daily log. Additionally, the contractor estimated that approximately 50 percent of the motor carriers use a trip report or a similar type report, and approximately 10 percent use tachographs. Therefore, if these carriers eliminated the daily log, the burden of filing the logs would be reduced by approximately 60 percent, and the need for filing space to maintain the logs would be eliminated. Therefore, it is proposed that the mandatory log forms be eliminated and carriers be allowed to record required information in a format of their choice.

Ten Hour Proposal

In another effort to reduce the paperwork burden placed on drivers and motor carriers, an advance notice of proposed rulemaking (ANPRM) was published in the Federal Register on November 9, 1977 (42 FR 58418), soliciting comments on a provision to exempt certain drivers from log preparation when they operate motor vehicles between specified fixed locations or over the same route day after day within the allowable hours of service. Comments received in response to this ANPRM document the fact that the many different types of carrier operations make it difficult to develop an exemption that covers all of the operations. A notice of proposed rulemaking (NPRM), published in the Federal Register on December 15, 1980 (45 FR 82291), proposed such an exemption based on the comments received in response to the ANPRM. The fixed point exemption was revised to propose a 10-hour rule providing an exemption from log preparation if the driver reports for duty and is relieved from duty at the same work reporting location within 10 consecutive hours.

Comments to the docket again indicated that the proposed exemption without further relaxation would be of little value to many operations and result in little or no control over driver's hours of service. It appears that if alternative methods are provided as an option to the daily log, there may be no need for such an exemption. In view of the proposed alternatives to the daily log, withdrawal of the rulemaking in Docket MC–70–2 (10 hour exemption) is being considered.

100 Mile Radius Exemption

The regulations now exempt from the log requirements drivers who do not operate beyond the 100-mile radius of the work reporting location more than one time in any 7 consecutive day period; return to the work reporting location within 12 hours; and have at least 8 consecutive hours off duty between each 12 hours on duty.

The FHWA is also proposing to increase from 12 consecutive hours to 15 consecutive hours the number of hours a driver may be on duty under the 100-mile radius exemption. This proposal is in response to petitions filed by the Private Truck Council of America, Inc., and The Continental Group, Inc., of Chicago, Illinois, requesting that the 50-mile radius exemption with 15 hours on duty be restored as an option.

The petitioners contend that many drivers previously exempt are now required to prepare logs due to the 12-hour limitation. The petitioners pointed out that many companies engaged in such businesses as container manufacturing, merchandise packaging, home heating oil delivery, farm fertilizer delivery and retail services experience a seasonal need which clearly necessitates the 15 hour on-duty time limit.

The FHWA agrees with the petitioners. Increasing the 50-mile radius exemption to 100 miles was not intended to require previously exempt drivers to comply with the log keeping requirement. Rather than establish a separate 50-mile radius exemption it is proposed that the current 100-mile radius exemption rule be revised to permit drivers to be on duty for 15 consecutive hours.

The exemption now contained in the regulations for operations conducted in Hawaii would no longer be needed as the proposed 100-mile radius exemption would include all operations within Hawaii. Therefore, it is proposed that the current exemption for Hawaii be vacated.

Since this proposal does not prescribe a form for recording the required data, it is further proposed that the current exemption for the use of the Canadian log be eliminated.

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 but is considered a significant regulation under the regulatory policies and procedures of the Department of Transportation.

A draft regulatory evaluation/initial regulatory flexibility analysis has been prepared and is avaiable for review in the public docket. A copy may be obtained by contacting Mr. Neill L. Thomas at the address provided above under the heading "For further information contact." Due to the preliminary nature of this proposal, the FHWA has not been able to determine that this action will have a significant economic impact on a substantial number of small entities based upon the draft evaluation prepared as of this date. Comments and supporting data and analyses are solicited on the economic impact which may result from this action.

PART 395—HOURS OF SERVICE OF DRIVERS

In consideration of the foregoing, the FHWA proposes to amend Title 49, Code of Federal Regulations, Subtitle B, Chapter III, Part 395, as set forth below.

1. Revise § 395.8 to allow the use of alternative methods to record driver's hours of service and provide an expanded exemption to the recordkeeping requirement. Section 395.8 is revised as follows:

§ 395.8 Driver's record of duty status.

(a) Every motor carrier shall require every driver used by the carrier and every driver who operates a motor vehicle to record the duty activities for each calendar day in duplicate. Their activities must show, for each 24-hour period: Time off duty, sleeper berth time (if a sleeper berth operation), driving time, on-duty not driving time, and name of city, town, or village, with State abbreviation, for each change of duty status. The transportation performed each day must be recorded by entering the date, shipping document number(s) or name of a shipper and commodity, total driving miles, vehicle identification, name of carrier or carriers, and driver's signature to certify correctness.

(b) All entries shall be recorded as follows:

(1) Entries recording duty status must be current to the time of the last change of duty status.

(2) All entries relating to the driver's duty status must be in the driver's own handwriting or by a mechanical means.

(3) The month, day and year for each calendar day must appear on the record being maintained.

(4) Total mileage driven that day shall be recorded.

(5) The motor carrier's vehicle number(s) or the State and license number(s) of each vehicle or unit of a combination operated during the calendar day shall be entered.

(6) The name(s) of the motor carrier(s) shall be shown for which work is performed. When work is performed for more than one motor carrier on the same calendar day, the beginning and finishing time, showing a.m. or p.m., worked for each carrier shall be shown after each carrier name. Drivers of leased vehicles shall show the name of the motor carrier performing the transportation.

(7) Drivers shall certify to the correctness of all entries by signing the record with their legal name or name of record.

(8) The driver's home terminal address at which he/she normally reports for work shall be shown.

(9) The time standard in effect at the driver's home terminal shall be used.

(10) The total hours in each duty status, off duty other than in a sleeper berth, off duty in a sleeper berth, driving, and on duty not driving shall be shown. The total of all entries shall equal 24 hours.

(11) The driver shall submit to the motor carrier the original daily activities record each day or upon return to the home terminal within five days. When the services of a driver are used by more than one motor carrier during any calendar day, the driver shall submit copy of the daily activities record to each motor carrier. The daily activities record shall include all duty time for the entire day; the name of each motor carrier served by the driver that day; and the beginning and finishing time, showing a.m. or p.m. worked for each carrier. Motor carriers, when using a driver for the first time or intermittently, shall obtain from the driver a signed statement giving the total time on duty during the immediately preceding 7 days and the time at which the driver was last relieved from duty prior to beginning work for the carrier.

(12) Daily records for each calendar month may be retained at the driver's home terminal until the 20th day of the succeeding calendar month. Such records shall then be forwarded to the carrier's principal place of business where they shall be retained for 12 months from date of receipt. However, upon written request to, and with the approval of, the Associate Regional Administrator for Motor Carrier Safety for the region in which a motor carrier has its principal place of business, a motor carrier may forward and maintain such records at a regional or terminal office. All approvals now in effect for the driver's daily log do not have to be resubmitted for retention approval of the daily record. The addresses and jurisdictions of the Associate Regional Administrators' offices are shown in § 390.40 of this subchapter. The driver shall retain a copy of each daily record

for 8 days which shall be in his/her possession while on duty.

(c) *Exemption.* (1) *100-mile radius drivers.* A driver is exempt from the requirements of this section if:

(i) the driver does not operate beyond a 100 mile radius of the work reporting location;

(ii) The driver, except a driver salesperson, returns to the work reporting location and is released from work within 15 consecutive hours;

(iii) At least 8 consecutive hours off duty separate each 15 consecutive hours on duty; and

(iv) The motor carrier that employs the driver maintains and retains for a period of 1 year accurate and true time records showing:

(A) The time the driver reports for duty each day;

(B) The total number of hours the driver is on duty each day;

(C) The time the driver is released from duty each day; and

(D) The total on duty time for the preceding 7 days in accordance with paragraph (b)(xi) of this section for drivers used for the first time or intermittently.

(2) *Drivers of lightweight vehicles.* the rules in this section do not apply to a driver of a lightweight vehicle as defined in § 390.17.

§ 395.9 Driver's multi-day log. [Reserved]

2. Remove and reserve "§ 395.9, Driver's multi-day log." from the table of sections and from the corresponding text of part 395.

(49 U.S.C. 304; 49 CFR 1.48(b) and 301.60)

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety.)

Issued on: February 17, 1982.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 82-4713 Filed 2-19-82; 8:45 am]

BILLING CODE 4910-62-M

National Highway Traffic Safety Administration

49 CFR Part 537

[Docket No. FE-77-03; Notice 6]

Automotive Fuel Economy; Semi-Annual Reports

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes various revisions to the required form and contents of the semi-annual reports which automobile manufacturers are statutorily required to submit under the Federal automotive fuel economy program. It is intended that these revisions will reduce the paperwork burdens imposed on manufacturers. The revisions reflect the agency's reduced need for frequent updates of detailed fuel economy related information, resulting from the agency's determination that current market demand for fuel efficient vehicles makes it unlikely that the agency will find it necessary to issue additional passenger automobile fuel economy standards in the next several years.

ADDRESS: Comments should refer to the docket and notice number set forth above and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

DATE: Comments on this notice must be received by April 23, 1982.

FOR FURTHER INFORMATION CONTACT: David Goettee, Office of Automotive Fuel Economy, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202-755-6384).

SUPPLEMENTARY INFORMATION: Section 505 of the Motor Vehicle Information and Cost Savings Act requires each automobile manufacturer (other than those small manufacturers which have been granted an alternative fuel economy standard under section 502(c)) to submit semi-annually to the agency reports relating to that manufacturer's efforts to comply with average fuel economy standards. One report is due during the 30-day period preceding the beginning of each model year (the "pre-model year report") and the other is due during the 30-day period beginning on the 180th day of the model year (the "mid-model year report").

Since the various manufacturers have different annual production periods, the agency determined that there was no single model year designation applicable to all companies. Therefore, in accordance with section 502(12) of the Act, the agency determined that the calendar year should serve as the "model year" for purposes of section 505, making the pre-model year report for any year due in December of the prior year and the mid-model year report due in July of that year. For the major domestic manufacturers, this means that the pre-model year report is submitted well into their actual production period and the mid-model year report is due after the end of that period.

Section 505(a) of the Act provides that each report must contain a statement as to whether the manufacturer will comply with average fuel economy standards for that year, a plan describing the steps the manufacturer has taken or will take to comply with the standards, and any other information the agency may require. Whenever a manufacturer determines that a plan it has submitted in one of its reports is no longer adequate to assure compliance, it must submit a revised plan. Section 505(c) of the Act further authorizes the agency to require further reports, as necessary for it to carry out the various fuel economy functions specified in the Act. The Act also requires the agency to issue rules prescribing the form and content of reports. See section 505(a)(3) of the Act.

The agency relied on both the compliance-related authority of section 505(a) and the general authority of section 505(c) in establishing form and content requirements for those reports in 42 FR 62374, on December 12, 1977. The latter authority was relied upon to require the submission of information necessary for the agency to establish fuel economy standards for passenger automobiles and light trucks. However, it appears that some of the information required to be submitted under the original reporting requirements is now unnecessary. Some of the information is now unnecessary because of the agency's determination that market demand for fuel efficient vehicles is such that there is currently no need for the agency to pursue fuel economy standard-setting beyond the last year for which standards are not established, i.e., 1985. See 46 FR 22243, April 16, 1981. Thus, the information required to be submitted solely to assist the agency in passenger automobile standard-setting can, for the foreseeable future, be deleted from the reports. Therefore, the agency is proposing to adopt more limited reporting requirements as discussed below.

The agency's December 1977 rule required the submission of five general categories of information: (1) The manufacturer's projected corporate average fuel economy (CAFE), (2) projected fuel economy and sales for each model type, (3) a variety of technical and sales data for each vehicle configuration, (4) a description of technology and sales changes from the preceding model year which increase the manufacturer's CAFE, and of any changes to be made during the model year which will effect CAFE ("running changes"), and (5) a description of marketing measures the manufacturer expects to use to improve CAFE. The terms "model type" and "vehicle configuration" refer to subdivisions of a manufacturer's product line. A model type is a unique combination of car line (e.g., Chevrolet Citation), basic engine (e.g., 173 cubic inch displacement 6 cylinder engine), and transmission class (e.g., manual transmission). A vehicle configuration is a more narrow classification of vehicles, based on such additional factors as axle ratio, number of gears, and engine calibration.

The agency has used the information submitted in the fuel economy reports for four major purposes. First, as previously noted, the reports provided up-to-date, detailed technical and economic information which was useful in the agency's fuel economy standard-setting. In particular, the vehicle configuration data were useful in establishing a fuel economy baseline for projecting the future fuel economy improvement capability of the various manufacturers. The summary of technological changes provided indications of the extent to which the various manufacturers were using advanced technology for improving fuel economy, thus permitting the agency to determine the remaining improvements available for future model years. Sales and marketing information assisted the agency in estimating the extent to which shifts in consumer demand might affect a manufacturer's ability to achieve compliance with future standards.

The second use of the reports was to provide early indications of the likelihood that manufacturers would comply with standards. This was apparently the main use envisioned by Congress, given the language of section 505(a) of the Act. The projected CAFE provided this information, and the model type and configuration data provided the principal corroboration of the accuracy of the projected CAFE.

A third use for the information contained in the reports is in preparing the agency's various reports to Congress under the statutes it administers. Among these Congressional reports are the agency's annual report on the fuel economy program, required by section 502(a)(2) of the Act, and an annual report on the extent to which the automobile industry uses advanced technology, required by 15 U.S.C. 2704. A fourth use is to respond to general information requests relating to the automobile industry, which the agency routinely receives from Congress, other parts of the Executive branch, and the public.

Although three of these information needs are expected to continue at essentially the same level, the first need, i.e., the one related to establishing new standards, is expected to decline significantly. Because of the agency's determination that there is no current need to issue additional passenger automobile fuel economy standards, the first use of the reports will be replaced by the need to monitor the manufacturers' efforts to improve fuel efficiency (to verify that the determination that there is no need to issue further standards remain valid). That altered need is expected to require less detailed and timely information.

To reduce paperwork burdens for the vehicle manufacturers, that have become unnecessary as a result of the agency's reduced information needs, the agency is proposing to eliminate the requirements that information on technological changes, running changes, and sales mix changes, as well as information on marketing measures, must be submitted in fuel economy reports. Further, the agency is proposing that detailed vehicle configuration data must be submitted only once per year, in the pre-model year report. The agency invites public comment on these and any other appropriate reductions in the fuel economy reporting requirements. The agency also requests information from manufacturers on the magnitude of the man-hour burdens imposed by the various individual requirements. The proposed changes to the reporting requirements are summarized below:

FREQUENCY OF SUBMISSION

	CAFE	Model type data	Configuration data	Running technology and sales changes	Marketing measures
Current	Semiannual	Semiannual	Semiannual	Semiannual	Semiannual
Proposed	Semiannual	Semiannual	Annual	Not required	Not required.

As noted above, the main use of the product line change and marketing information was to assist the agency in its standard-setting proceedings. If this information becomes necessary for some future rulemaking, the agency could obtain all or a portion of this information through the issuance of a special order or by amending the reporting requirements regulation, through reference to publicly available information sources, or possibly from EPA reports. The vehicle configuration data provided detailed corroboration for a manufacturer's projected CAFE, to help the agency determine the likelihood of compliance or noncompliance. However, with automobile market trends reflecting strong demand for fuel efficient vehicles, virtually all manufacturers are expected to exceed the standards through 1985 by comfortable margins. Further, under recent amendments to the Act, no final determination of noncompliance would typically be made until three years after the year in which a manufacturer's CAFE falls below a standard, since credits may be available to offset any penalties if the manufacturer exceeds the standard for any of the three years following the shortfall. Thus, submission of this information once per year (in addition to the possible availability of this information from EPA) should be sufficient to satisfy the agency's needs for detailed vehicle configuration data.

The agency has also determined that certain portions of the vehicle configuration data now required to be submitted were rarely used by the agency in the past and are not likely to be frequently used in the future. Therefore, they will no longer be required by the agency. These portions are the separate city and highway fuel economy values (the manufacturer would still be required to submit the combined value), the number of designated seating positions, and the body style of light trucks.

Comments on this notice should refer to Docket Number FE-77-03, Notice 6, and be submitted to the Docket Section at the address provided at the beginning of this notice. If a commenter wishes to submit information under a claim of confidentiality, five copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the address given above, and ten copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. 552(b)(4), and that disclosure of the information would result in significant competitive damage; specifying the period during which the information must be withheld to avoid that damage;

and showing that earlier disclosure would result in that damage.

In addition, the commenter, or in the case of a corporation a responsible corporate official authorized to speak for the corporation, must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been released to the public.

All comments received before the close of business on the comment closing date indicated above will be considered by the agency and will be available for examination in the docket at the above address after the date of their receipt. To the extent possible, comments filed after the closing date will also be considered. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

All comments must not exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

The environmental and economic impacts of this action have been analyzed in accordance with the National Environmental Policy Act and Executive Order 12291, respectively, and those impacts have been determined to be very small. The principal impact of adopting this proposal would be to reduce unnecessary paperwork burdens for the manufacturers, which should entail modest, positive economic and virtually no environmental effects. For those reasons, this proposal does not constitute a "major Federal action significantly affecting the environment" requiring an environmental impact statement, nor is this rule "significant" within the meaning of the Department's regulatory procedures, or a "major rule" within the meaning of the Executive Order. Accordingly, no regulatory impact analysis was prepared for the proposal. The agency has prepared a regulatory evaluation of the impacts of this proposal, copies of which are available from the Docket. In that document, the agency estimates that the current reporting requirements impose a man-hour burden of from 5,000 to 15,000 hours annually for the entire industry. The proposal, if adopted, should reduce this burden by about one-third for the pre-model year reports, and by two-thirds for mid-model year reports.

For the reasons cited above, the agency also certifies that this proposal will not, if promulgated, "have a significant economic impact on a substantial number of small entities" requiring a Regulatory Flexibility Analysis. The regulations are inapplicable to small governmental units and small organizations. Small businesses (i.e., low volume vehicle manufacturers) become exempt from reporting requirements when they petition for and receive alternate fuel economy standards.

(Sec. 301, Pub. L. 94–163, 80 Stat. 901 (15 U.S.C. 2005); sec. 9, Pub. L. 89–670, 80 Stat. 931 (49 U.S.C. 1657); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on February 11, 1982.

Carl E. Nash,

Acting Associate Administrator for Rulemaking.

It is proposed to revise Part 537 of Title 49, to read as follows:

PART 537—AUTOMOTIVE FUEL ECONOMY REPORTS

Sec.

537.1 Scope.
537.2 Purpose.
537.3 Applicability.
537.4 Definitions.
537.5 General requirements for reports.
537.6 General content of reports.
537.7 Pre-model year and mid-model year reports.
537.8 Supplementary reports.
537.9 Determination of fuel economy values and average fuel economy.
537.10 Incorporation by reference.
537.11 Public inspection of information.
537.12 Confidential information.

Authority: Sec. 9, Pub. L. 89–670, 80 Stat. 931, (49 U.S.C. 1657); sec. 301, Pub. L. 94–163, 89 Stat. 901 (15 U.S.C. 2005); delegation of authority at 41 FR 25015, June 22, 1976.

§ 537.1 Scope.

This part establishes requirements for automobile manufacturers to submit reports to the National Highway Traffic Safety Administration regarding their efforts to improve automotive fuel economy.

§ 537.2 Purpose.

The purpose of this part is to obtain information to aid the National Highway Traffic Safety Administration in valuating automobile manufacturers' plans for complying with average fuel economy standards and in preparing an annual review of the average fuel economy standards.

§ 537.3 Applicability.

This part applies to automobile manufacturers, except for manufacturers subject to an alternate fuel economy standard under section 502(c) of the Act.

§ 537.4 Definitions.

(a) *Statutory terms.* (1) The terms "average fuel economy standard," "fuel," "manufacture," and "model year" are used as defined in section 501 of the Act.

(2) The term "manufacturer" is used as defined in section 501 of the Act and in accordance with Part 529 of this chapter.

(3) The terms "average fuel economy," "fuel economy," and "model type" are used as defined in Subpart A of 40 CFR Part 600.

(4) The terms "automobile," "automobile capable of off-highway operation," and "passenger automobile" are used as defined in section 501 of the Act and in accordance with the determinations in Part 523 of this chapter.

(b) *Other terms.* (1) The term "loaded vehicle weight" is used as defined in Subpart A of 40 CFR Part 86.

(2) The terms "axle ratio," "base level," "body style," "car line," "combined fuel economy," "engine code," "equivalent test weight," "gross vehicle weight," "inertia weight," "transmission class," and "vehicle configuration" are used as defined in Subpart A of 40 CFR Part 600.

(3) The term "light truck" is used as defined in Part 523 of this chapter and in accordance with determinations in that part.

(4) The terms "approach angle," "axle clearance," "breakover angle," "cargo carrying volume," "departure angle," "passenger carrying volume," "running clearance," and "temporary living quarters" are used as defined in Part 523 of this chapter.

(5) The term "incomplete automobile manufacturer" is used as defined in Part 529 of this chapter.

(6) As used in this part, unless otherwise required by the context:

(i) "Act" means the Motor Vehicle Information and Cost Savings Act (Pub. L. 92–513), as amended by the Energy Policy and Conservation Act (Pub. L. 94–163).

(ii) "Administrator" means the Administrator of the National Highway Traffic Safety Administration or the Administrator's delegate.

(iii) "Current model year" means:

(A) In the case of a pre-model year report, the full model year immediately following the period during which that report is required by § 537.5(b) to be submitted.

(B) In the case of a mid-model year report, the model year during which that report is required by § 537.5(b) to be submitted.

(iv) "Average" means a production-weighted harmonic average.

(v) "Total drive ratio" means the ratio of an automobile's engine rotational speed (in revolutions per minute) to the automobile's forward speed (in miles per hour).

§ 537.5 General requirements for reports.

(a) For each current model year, each manufacturer shall submit a pre-model year report, a mid-model year report, and, as required by § 537.8, supplementary reports.

(b)(1) The pre-model year report required by this part for each current model year must be submitted during the month of December (e.g., the pre-model year report for the 1983 model year must be submitted during December, 1982).

(2) The mid-model year report required by this part for each current model year must be submittted during the month of July (e.g., the mid-model year report for the 1983 model year must be submitted during July, 1983).

(3) Each supplementary report must be submitted in accordance with § 537.8(c).

(c) Each report required by this part must:

(1) Identify the report as a pre-model year report, mid-model year report, or supplementary report, as appropriate;

(2) Identify the manufacturer submitting the report;

(3) State the full name, title, and address of the official responsible for preparing the report;

(4) Be submitted in 10 copies to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590;

(5) Identify the current model year;

(6) Be written in the English language; and

(7)(i) Specify any part of the information or data in the report that the manufacturer believes should be withheld from public disclosure as trade secret or other confidential business information.

(ii) With respect to each item of information or data requested by the manufacturer to be withheld under 5 U.S.C. 552(b)(4) and 15 U.S.C. 2005(d)(1), the manufacturer shall:

(A) Show that the item is within the scope of sections 552(b)(4) and 2005(d)(1);

(B) Show that disclosure of the item would result in significant competitive damage;

(C) Specify the period during which the item must be withheld to avoid that damage; and

(D) Show that earlier disclosure would result in that damage.

(d) Each report required by this part must be based upon all information and data available to the manufacturer 30 days before the report is submitted to the Administrator.

§ 537.6 General content of reports.

(a) *Pre-model year and mid-model year reports.* Except as provided in paragraph (c) of this section, each pre-model year report and the mid-model year report for each model year must contain the information required by § 537.7(a).

(b) *Supplementary report.* Each supplementary report must contain the information required by § 537.8(b) (1), (2), or (3), as appropriate.

(c) *Exceptions.* (1) The pre-model year report is not required to contain the information specified in § 537.7 (b), (c) (1) and (2), or (c)(4) (xiv) and (xx) if that report is required to be submitted before the fifth day after the date by which the manufacturer must submit the preliminary determination of is average fuel economy for the current model year to the Environmental Protection Agency under 40 CFR 600.506, when such determination is required. Each manufacturer that does not include information under the exception in the immediately preceeding sentence shall indicate in its report the date by which it must submit that preliminary determination.

(2) The pre-model year report and the mid-model year report submitted by an incomplete automobile manufacturer for any model year are not required to contain the information specified in § 537.7 (c)(4)(xv)–(xviii) and (c)(5). The information provided by the incomplete automobile manufacturer under § 537.7(c) shall be according to base level instead of model type or carline.

§ 537.7 Pre-model year and mid-model year reports.

(a)(1) Provide the information required by paragraphs (b)–(c) of this section for the manufacturer's passenger automobiles for the current model year.

(2) After providing the information required by paragraph (a)(1) of this section provide the information required by paragraphs (b)–(c) of this section for each class, as specified in part 533 of this chapter, of the manufacturer's light trucks for the current model year.

(b) *Projected average fuel economy.* (1) State the projected average fuel economy for the manufacturer's automobiles determined in accordance with § 537.9 and based upon the fuel economy values and projected sales figures provided under paragraph (c)(2) of this section.

(2) State the projected final average fuel economy that the manufacturer anticipates having if changes implemented during the model year will cause that average to be different from the average fuel economy projected under paragraph (b)(1) of this section.

(3) State whether the manufacturer believes that the projection it provides under paragraph (b)(2) of this section, or if it does not provide an average under that paragraph, the projection it provides under paragraph (b)(1) of this section sufficiently represents the manufacturer's average fuel economy for the current model year for the purposes of the Act. In the case of a manufacturer that believes that the projection is not sufficiently representative for those purposes, state the specific nature of an reason for the inaufficiency and the specific additional testing or derivation of fuel economy values by analytical methods believes by the manufacturer necessary to eliminate the insufficiency and any plans of the manufacturer to undertake that testing or derivation voluntarily and submit the resulting data to the Environmental Protection Agency under 40 CFR 600.509.

(c) *Model type and configuration fuel economy and technical information.* (1) For each model type of the manufacturer's automobiles, provide the information specified in paragraph (c)(2) of this section in tabular form. List the model types in order of increasing average inertia weight from top to bottom down the left side of the table and list the information categories in the order specified in paragraph (c)(2) of this section from left to right across the top of the table.

(2)(i) Combined fuel economy; and

(ii) Projected sales for the current model year and total sales of all model types.

(3) *(Pre-model year report only.)* For each vehicle configuration whose fuel economy was used to calculate the fuel economy values for a model type under paragraph (c)(2) of this section, provide the information specified in paragraph (c)(4) of this section either in tabular form or as a fixed format computer tape. If a tabular form is used then list the vehicle configurations, by model type in

the order listed under paragraph (c)(2) of this section, from top to bottom down the left of the table and list the information categories across the top of the table from left to right in the order specified in paragraph (c)(4) of this section. Other formats (such as copies of EPA reports) which contain all the required information in a readily identifiable form are also acceptable. If a computer tape is used, any NHTSA approved fixed format structure may be used, but each vehicle configuration record should identify the manufacturer, model type, and for light trucks the drive wheel code, e.g., 2 or 4 wheel drive. At least the information categories specified here and in paragraph (c)(4) must be provided, but if preferred the tape may contain any additional categories. Each computer tape record must contain all the required categories of information to enable direct reading and interpretation in the fixed format that was approved. There should be no titles, column headings, page numbers, or attachment numbers on the tape. It must be possible to directly calculate and produce the tables specified in paragraph (c)(1) from the records on this tape.

(4)(i) Loaded vehicle weight;
(ii) Equivalent test weight;
(iii) Cubic inch (or liters) displacement of engine;
(iv) Number of engine cylinders;
(v) SAE net horsepower;
(vi) Engine code;
(vii) Fuel system (number of carburetor barrels or, if fuel injection is used, so indicate);
(viii) Emission control system;
(ix) Transmission class;
(x) Number of forward speeds;
(xi) Existence of overdrive (indicate yes or no);
(xii) Total drive ratio (N/V);
(xiii) Axle ratio;
(xiv) Combined fuel economy;
(xv) Projected sales for the current model year;
(xvi) (A) In the case of passenger automobiles:
(*1*) Interior volume index, determined in accordance with Subpart D of 40 CFR Part 600, and
(*2*) Body style;
(B) In the case of light trucks:
(*1*) Passenger-carrying volume, and
(*2*) Cargo-carrying volume;
(xvii) Performance of the function described in § 523.5(a)(5) of this chapter (indicate yes or no);
(xviii) Existence of temporary living quarters (indicate yes or no);
(xix) Frontal area;
(xx) Road load power at 50 miles per hour, if determined by the manufacturer for purposes other than compliance with this part to differ from the road load setting prescribed in 40 CFR 86.177–11(d);
(xxi) Optional equipment which the manufacturer is required under 40 CFR Parts 86 and 600 to have actually installed on the vehicle configuration, or the weight of which must be included in the curb weight computation for the vehicle configuration, for fuel economy testing purposes.

(5) For each model type of automobile which is classified as an automobile capable of off-highway operation under Part 523 of this chapter, provide the following data:
(i) Approach angle;
(ii) Departure angle;
(iii) Breakover angle;
(iv) Axle clearance;
(v) Minimum running clearance; and
(vi) Existence of 4-wheel drive (indicate yes or no).

(6) The fuel economy values provided under paragraphs (c) (2) and (4) of this section shall be determined in accordance with § 537.9.

§ 537.8 Supplementary reports.

(a)(1) Except as provided in paragraph (d) of this section, each manufacturer whose most recently submitted semiannual report contained an average fuel economy projection under § 537.7(b)(2) or, if no average fuel economy was projected under that section, under § 537.7(b)(1), that was not less than the applicable average fuel economy standard and who now projects an average fuel economy which is less than the applicable standard shall file a supplementary report containing the information specified in paragraph (b)(1) of this section.

(2) Except as provided in paragraph (d) of this section, each manufacturer that determines that its average fuel economy for the current model year as projected under § 537.7(b)(2) or, if no average fuel economy was projected under that section, as projected under § 537.7(b)(1), is less representative than the manufacturer previously reported it to be under § 537.7(b)(3), this section, or both, shall file a supplementary report containing the information specified in paragraph (b)(2) of this section.

(3) Each manufacturer whose pre-model year report omits any of the information specified in § 537.7 (b), (c)(1) and (2), or (c)(4) (xvi) and (xxiv) shall file supplementary report containing the information specified in paragraph (b)(3) of this section.

(b)(1) The supplementary report required by paragraph (a)(1) of this section must contain:

(i) Such revisions of and additions to the information previously submitted by the manufacturer under this part regarding the automobiles whose projected average fuel economy has decreased as specified in paragraph (a)(1) of this section as are necessary—

(A) To reflect the decrease and its cause;

(B) To indicate a new projected average fuel economy based upon these additional measures.

(ii) An explanation of the cause of the decrease in average fuel economy that led to the manufacturer's having to submit the supplementary report required by paragraph (a)(1) of this section.

(2) The supplementary report required by paragraph (a)(2) of this section must contain:

(i) A statement of the specific nature of and reason for the insufficiency in the representativeness of the projected average fuel economy;

(ii) A statement of specific additional testing or derivation of fuel economy values by analytical methods believed by the manufacturer necessary to eliminate the insufficiency; and

(iii) A description of any plans of the manufacturer to undertake that testing or derivation voluntarily and submit the resulting data to the Environmental Protection Agency under 40 CFR 600.509.

(3) The supplementary report required by paragraph (a)(3) of this section must contain:

(i) All of the information omitted from the pre-model year report under § 537.8(c)(2); and

(ii) Such revisions of and additions to the information submitted by the manufacturer in its pre-model year report regarding the automobiles produced during the current model year as are necessary to reflect the information provided under paragraph (b)(3)(i) of this section.

(c) (1) Each report required by paragraph (a) (1) or (2) of this section must be submitted in accordance with § 537.5(c) not more than 45 days after the date on which the manufacturer determined, or could have, with reasonable diligence, determined that a report is required under paragraph (a) (1) or (2) of this section.

(2) Each report required by paragraph (a)(3) of this section must be submitted in accordance with § 537.5(c) not later than five days after the day by which the manufacturer is required to submit a preliminary calculation of its average fuel economy for the current model year to the Environmental Protection Agency under 40 CFR 600.509.

(d) A supplementary report is not required to be submitted by the manufacturer under paragraph (a) (1) or (2) of this section:

(1) With respect to information submitted under this part before the most recent semiannual report submitted by the manufacturer under this part, or

(2) When the date specified in paragraph (c) of this section occurs:

(i) During the 60-day period immediately preceding the day by which the mid model year report for the current model year must be submitted by the manufacturer under this part, or

(ii) After the day by which the premodel year report for the model year immediately following the current model year must be submitted by the manufacturer under this part.

§ 537.9 Determination of fuel economy values and average fuel economy.

(a) *Vehicle configuration fuel economy values.* (1) For each vehicle configuration for which a fuel economy value is required under paragraph (c) of this section and has been determined and approved under 40 CFR Part 600, the manufacturer shall submit that fuel economy value.

(2) For each vehicle configuration specified in paragraph (a)(1) of this section for which a fuel economy value approved under 40 CFR Part 600, does not exist, but for which a fuel economy value determined under that part exists, the manufacturer shall submit that fuel economy value.

(3) For each vehicle configuration specified in paragraph (a)(1) of this section for which a fuel economy value has been neither determined nor approved under 40 CFR Part 600, the manufacturer shall submit a fuel economy value based on tests or analyses comparable to those prescribed or permitted under 40 CFR Part 600 and a description of the test procedures or analytical methods used.

(b) *Base level and model type fuel economy values.* For each base level and model type, the manufacturer shall submit a fuel economy value based on the values submitted under paragraph (a) of this section and calculated in the same manner as base level and model type fuel economy values are calculated for use under Subpart F of 40 CFR Part 600.

(c) *Average fuel economy.* Average fuel economy must be based upon fuel economy values calculated under paragraph (b) of this section for each model type and must be calculated in accordance with 40 CFR 600.506, using the configurations specified in 40 CFR 600.506 (a)(2), except that fuel economy values for running changes and for new base levels are required only for those changes made or base levels added before the average fuel economy is required to be submitted under this part.

§ 537.10 Incorporation by reference.

(a) A manufacturer may incorporate by reference in a report required by this part any document other than a report, petition, or application, or portion thereof submitted to any Federal department or agency more than two model years before the current model year.

(b) A manufacturer that incorporates by reference a document not previously submitted to the National Highway Traffic Safety Administration shall append that document to the report.

(c) A manufacturer that incorporates by reference a document shall clearly identify the document and, in the case of a document previously submitted to the National Highway Traffic Safety Administration, indicate the date on which and the person by whom the document was submitted to this agency.

§ 537.11 Public inspection of information.

Except as provided in § 537.12, any person may inspect the information and data submitted by a manufacturer under this part in the docket section of the National Highway Traffic Safety Administration. Any person may obtain copies of the information available for inspection under this section in accordance with the regulations of the Secretary of Transportation in Part 7 of this title.

§ 537.12 Confidential information.

(a) Information made available under § 537.11 for public inspection does not include information for which confidentiality is requested under § 537.5(c)(7), is granted in accordance with section 505 of the Act and section 552(b) of Title 5 of the United States Code and is not subsequently released under paragraph (c) of this section in accordance with section 505 of the Act.

(b) *Denial of confidential treatment.* When the Administrator denies a manufacturer's request under § 537.5(c)(7) for confidential treatment of information, the Administrator gives the manufacturer written notice of the denial and reasons for it. Public disclosure of the information is not made until after the ten-day period immediately following the giving of the notice.

(c) *Release of confidential information.* After giving written notice to a manufacturer and allowing ten days, when feasible, for the manufacturer to respond, the Administrator may make available for public inspection any information submitted under this part that is relevant to a proceeding under the Act, including information that was granted confidential treatment by the Administrator pursuant to a request by the manufacturer under § 537.5(c)(7).

[FR Doc. 82-4669 Filed 2-19-82; 8:45 am]
BILLING CODE 4910-57-M

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49 CFR Part 571

[Docket No. 82-04; Notice 1]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to propose an amendment to Safety Standard No. 108 which would provide an alternative location for front identification lamps on vehicles whose overall width exceeds 80 inches. The proposal would allow them to be mounted on the top of the cab instead of "as close as practicable to the top of the vehicle." This action implements the grant of a petition for rulemaking by the Truck Body and Equipment Association.

DATE: Comment closing date for the proposal is April 8, 1982.

Effective date of an amendment would be 30 days after publication of the final rule in the Federal Register.

ADDRESS: Comments should refer to the docket number and notice number of this notice and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (Docket hours are from 8 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Kevin Cavey, Office of Rulemaking, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202–426–2153).

SUPPLEMENTARY INFORMATION: Paragraph S4.1.1 of 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, requires trucks of 80 or more inches overall width to be equipped with a series of three identification lamps mounted on the front and rear of the vehicle. According to Table II of Standard No. 108, this location must be "as close as practicable to the top of the vehicle." The Truck Body and Equipment Association (TBEA) has petitioned for an amendment that would allow front identification lamps to be mounted, as an alternative, on the cab. In TBEA's view, safety would not be reduced since the lamps would still

perform their function of identifying the presence of large vehicles in the roadway, and clearance lamps would still mark the height and width of the vehicle. An analogous precedent is found in paragraph S4.3.1.6 which allows clearance lamps mounted on the cab of a truck tractor to indicate overall width of the cab rather than the vehicle. to allow identification lamps also to be mounted on the cab will, in TBEA's opinion, reduce manufacturing costs.

Alternative

The only alternative is to maintain without exception the existing mounting requirement.

Potential Benefits, Costs and Other Impacts

The primary benefit attributable to implementation of the proposal is the slight reduction in the cost of manufacturing which petitioner believes will occur. Because identification lamps are presently required, there will be no increased manufacturing costs connected with this proposal. NHTSA has considered the impacts of this proposal and has determined that it is neither major within the meaning of E.O. 12291 nor significant under Department of Transportation guidelines regarding regulatory policy and procedure. The proposal will have an impact only on those who voluntarily change their lighting systems from one location to another. The impacts are so minimal that preparation of a regulatory evaluation is not warranted. This proposal would not have a significant effect on the human environment since neither the weight nor quantity of materials used in the manufacture or installation of the lamps is affected. Further, no impact on safety is anticipated. The agency certifies that this proposal would not have a significant economic impact on entities. Manufacturers of motor vehicles of chassis-cabs, those affected by the proposal, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Further, those effects would not be significant given the minimal cost reductions associated with the proposal.

Finally, small organizations and governmental jurisdictions would not be significantly affected since the price of new trucks will be minimally impacted.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

§ 571.108 [Amended]

In consideration of the foregoing it is proposed that 49 CFR 571.108 be amended by adding a new section S4.3.1.8 to read as follows:

* * * * *

S4.3.1.8 Identification lamps on the front of a vehicle may be mounted on the cab and in this location need not be as close as practicable to the top of the vehicle.

* * * * *

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on February 11, 1982.

Carl E. Nash,

Acting Associate Administrator for Rulemaking.

[FR Doc. 82-4579 Filed 2-19-82; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 571

[Docket No. 82-03; Notice 1]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of request for comments.

SUMMARY: The purpose of this notice is to request comments on whether the cab of a vehicle is an acceptable alternative location for the mounting of clearance lamps. The notice is responsive to a petition by Truck Body and Equipment Association (TBEA) which represented that the present location is not acceptable on every vehicle configuration, and that manufacturing costs could be reduced through allowance of an alternative location.

DATE: Comment closing date for this notice is April 6, 1982.

ADDRESSES: Comments should refer to the docket and notice numbers of this notice and be submitted to: Docket Section, Room 5108, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (Docket hours are 8:00 a.m. to 4:00 p.m.).

FOR FURTHER INFORMATION CONTACT: Kevin Cavey, Office of Rulemaking, National Highway Traffic Safety Administration, Washington, D.C. 20590, (202–426–2153).

SUPPLEMENTARY INFORMATION: Paragraph S4.1.1 of 49 CFR 571.108 requires vehicles whose width is 80 inches or greater to be equipped with a set of two clearance lamps on both the front and rear of the vehicle. The purpose of these lamps is to signify the presence of a wide vehicle on the roadway, and Table II requires that they be mounted "to indicate the overall width of the vehicle * * * and as near the top as practicable."

TBEA has petitioned for rulemaking that would allow front clearance lamps to be mounted on top of the cab. According to it, repair and service type trucks often have a reflected light in rearview mirrors that is a problem for the drivers when the lamps are located at the top of the utility body, and as a consequence, these lamps are frequently disabled by the drivers to eliminate this problem. Further, the width of current chassis-cabs is almost the same as the bodies that are mounted on them. A change of this nature would aid truck manufacturers and may reduce the costs for some vehicles.

Specific areas for which the agency requests information and data are:

1. Whether a safety need exists to mark both the height and width of the front of vehicles 80 inches and wider.

2. Whether changes are needed in performance or general requirements of clearance lamps or other front marker lamps for vehicles 80 inches and wider.

3. Whether the mirror glare problem is experienced only by certain types of trucks.

4. Recommendation of alternative location when top-mounted clearance lamps cause a reflected light problem, and whether the term "as near the top as practicable" may be interpreted to mean that the lamps may be mounted just below the field of view of the rearview mirror.

5. The effects on safety if the front clearance lamps were located on top of the cab instead of at the maximum width of the vehicle "as near the top as practicable."

6. The cost savings that could result from an alternative location.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on February 11, 1982.

Carl E. Nash,

Acting Associate Administrator for Rulemaking.

[FR Doc. 82-4580 Filed 2-19-82; 8:45 am]

BILLING CODE 4910-59-M

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49 CFR Part 571

Federal Motor Vehicle Safety Standards; Wheelchair Restraint Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies a petition for rulemaking relating to wheelchair restraint systems used in vans. NHTSA is denying this request made by the Commonwealth of Massachusetts due to our inability to find a safety problem appropriate for resolution by standard-setting. The agency will respond separately to a portion of the petition seeking action under our defect recall and remedy authority. The agency recently published a report summarizing the agency's testing of certain wheelchair restraint systems. It is hoped that this information will assist in developing improved restraint systems.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Williams, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, D.C. 20590, (202–426–2264).

SUPPLEMENTARY INFORMATION: On January 19, 1981, two agencies of the Commonwealth of Massachusetts petitioned NHTSA to issue a Federal motor vehicle safety standard and commence a recall/remedy proceeding with respect to wheelchair restraint or tiedown systems to be used in vans. One of these state agencies, the Massachusetts Rehabilitation Commission ("MRC"), assists handicapped individuals in obtaining appropriate means of transportation by issuing bids for the modification of vans. These modifications frequently involve the removal of one or more seats and the addition of some type of restraint to hold a wheelchair in place during normal operation of the vehicle and in case of a crash. The van itself is purchased by the handicapped individual, while the MRC reimburses the successful bidder for the modifications. Apparently this program is typical of those of many states.

The MRC contracted with the University of Michigan Highway Safety Research Institute to test the safety of available restraint systems. Based on these tests, it was concluded that available wheelchair restraint systems are "inadequate to restrain a powered wheelchair in any kind of a moderate or severe vehicle accident." NHTSA will soon publish a report on the results of

similar tests it has conducted on non-powered wheelchairs. The conclusions of that report are consistent with those of the University of Michigan report. The Massachusetts petition indicates that the University of Michigan is continuing to evaluate wheelchair restraint systems "to identify an appropriate and effective wheelchair restraint system," and that progress is being made in identifying such a system.

NHTSA has concluded that it is premature to issue a safety standard at this time. This agency knows of no injuries or fatalities involving handicapped individuals using wheelchair restraint systems, and the petitioner was unable to identify any. Also, no information appears to be available on specific systems which would provide superior protection or on improvements which could be made to existing systems. Without the identification of or (more likely given the apparently universally poor performance of existing systems) development of a greatly improved system, and the generation of cost and benefit information of such a system, it would not be productive or appropriate to commence a standard-setting proceeding. The agency will respond separately to the defect/recall portion of this petition.

This agency hopes that the results of its recently completed research, along with the ongoing work at the University of Michigan, will lead to the development of improved restraint systems. Once such a system is developed, agencies such as the MRC can specify the use of those systems in any bids it issues to modify vans for transportation of handicapped individuals. NHTSA believes that such an approach could be effective for promoting the safety of vans used to transport the handicapped.

(Secs. 103 and 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392 and 1407); delegations of authority at CFR 1.50 and 49 CFR 501.8)

Issued on February 11, 1982.

Carl E. Nash,

Acting Associate Administrator for Rulemaking.

[FR Doc. 82–4581 Filed 2–18–82; 8:45 am]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 47, No. 35
Monday, February 22, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 81-034N]

Acceptable Analytical Methods To Determine Sulfonamide Residues In Poultry and Red Meat Tissues

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces Food Safety and Inspection Service (FSIS) policy regarding acceptable methods for analyzing poultry and red meat tissues for sulfonamide drug residues. Two new analytical procedures developed by FSIS scientists will replace current methods. FSIS laboratories will begin using the new testing procedures 30 days after publication of this notice. Their use by FSIS Accredited Laboratories will be voluntary.

EFFECTIVE DATE: March 24, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. John E. Spaulding, Director, Residue Evaluation and Surveillance Division, Science Program, FSIS, USDA, Washington, DC 20250; (202) 447–6093.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has designated this Agency action as a "nonmajor" action in accordance with Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not have a significant adverse effect on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This policy change has also been reviewed for cost effectiveness under the USDA Secretary's Memorandum 1512–1 implementing Executive Order 12291. The new procedures will provide a net economic benefit, as they analyze animal tissue for sulfonamide drug residues more accurately and at lower levels than currently used methods, and they can be conducted in one-third the time. The only identified alternative is the continued use by FSIS of current less-efficient procedures.

Background

Over the past 5 years, members of the pork and turkey industries, scientists, and Congress have expressed concern regarding the analytical methods used by the Food and Drug Administration (FDA) and FSIS to determine residues of sulfonamide drugs in red meat and poultry tissues.

With one of the current methods, the Tishler A Bratton-Marshall method, the Agencies are not able to determine the specific type of sulfonamide drug present. The specific sulfonamide must be identifed by a separate analytical procedure. In addition, variable interferences from normal tissues constituents during the analysis may affect the reliability of the Tishler A Bratton-Marshall method to give precise and accurate analytical results at the tolerance level of 0.1 ppm in edible tissue.

FSIS scientists undertood the task of developing new sulfonamide analyses. Two new methods were developed, the gas chromatography/mass spectrometry (GC/MS) quantitative procedure and the sulfonamide thin-layer chromatography fluorescence (STLC–F) method. These methods eliminate the inherent limitations of the Tishler A Bratton-Marshall procedure. The GC/MS method was studied collaboratively. It received Interim First Action Approval by the Association of Analytical Chemists (AOAC) for its analysis of sulfamethazine in swine tissues. This method is being modified and expanded to include multisulfonamide analyses in poultry and red meat tissues. Validation for equivalent AOAC status is in progress. The STLC–F method can be used to analyze poultry and red meat tissues for at least five sulfonamides. This procedure has also been studied collaboratively. A copy of the procedure has been submitted to AOAC for consideration for first-action approval. Either of these methods can detect and reliably measure sulfonamide residues at the tolerance level of 0.1 ppm in edible tissues of poultry and red meat without interference from normal tissue constituents.

It is the Agency's intention to have all appropriate FSIS Field Service Laboratories and Accredited Laboratories personnel certified to use the STLC–F procedure because it is more precise, accurate and economical than existing procedures. Therefore, the following policies concerning sulfonamide residue analyses are being instituted by FSIS:

1. On March 24, 1982, the FSIS Field Service laboratories will be implementing the sulfonamide thin-layer chromatography (STLC–F) method for sulfonamides in poultry and red meat as the initial analysis of all tissue samples. If the results show that poultry or red meat tissues contain 0.11 to 0.15 ppm sulfonamides, they will be confirmed by the gas chromatography/mass spectrometry (GC/MS) method before being reported as official. If the results show that these tissues contain greater than 0.15 ppm sulfonamides, they will be reported as official without confirmation. Levels greater than 0.15 ppm may be confirmed at the discretion of the Agency.

2. During FY 1982, upon request, FSIS will initiate certification of appropriate personnel from FSIS Accredited Laboratories in the STLC–F procedure, However, the Agency will continue to accept analytical results from FSIS Accredited Laboratories using previously accepted analytical methods. All reported levels that are greater than 0.10 ppm, regardless of the procedure used, will still be considered above the tolerance level. Confirmation by another analytical method will not be required from laboratories accredited by FSIS, Science Program.

Copies of the FSIS methods may be obtained from: Dr. R. L. Ellis, Director, Chemistry Division, Science Program, FSIS, USDA, Washington, DC 20250, (202) 447–7623.

Done at Washington, DC., on February 2, 1982.

L. L. Gast,

Acting Administrator, Food Safety and Inspection Service.

[FR Doc. 82-4733 Filed 2-19-82; 8:45 am]

BILLING CODE 3410-DM-M

CIVIL AERONAUTICS BOARD

[Order 82-2-76]

Application of Alaska International Air for Certificate Amendment Under Subpart Q

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (82-2-76).

SUMMARY: The Board is proposing to renew the authority of Alaska International Air to provide mail-only service over segment 2 of its Route on a permanent basis.

DATE: Objections: All interested persons having objections to the Board's issuing the proposed certificate amendment shall file, and serve upon all persons listed below no later than March 5, 1982, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 40361, and should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. In addition, copies of such filings should be served on Alaska International Air; the mayor and airport manager of each city to which the pleading refers; and the Alaska Transportation Commission.

FOR FURTHER INFORMATION CONTACT: Anne W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW, Washington, D.C. 20428, (202) 673-5196.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-2-76 is available from our Distribution Section, Room 100, 1825 Connecticut Ave. NW, Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-2-76 to that address.

By the Bureau of Domestic Aviation: February 16, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-4718 Filed 2-19-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 40367; Order 82-2-82]

Application of Houston Airlines, Inc. for Certificate Authority Under Subpart Q

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order instituting the Houston Airlines Fitness Investigation, 82-2-82, Docket 40367.

SUMMARY: The Board is instituting an investigation to determine the fitness of Houston Airlines, Inc. to engage in the interstate and overseas air transportation of persons, and the interstate and overseas air transportation of property and mail between all points in the United States, its territories and possessions, except in all-cargo service within Alaska or Hawaii. The carrier must submit certain additional data before its application can be heard.

DATE: Objections: Persons wishing to intervene in the Houston Airlines Fitness Investigation shall file their petitions in Docket 40367 by March 4, 1982.

ADDRESSES: Petitions to intervene should be filed in Docket 40367, and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. In addition, copies of such filings should be served on persons listed in the attachment and on any other person filing petitions.

FOR FURTHER INFORMATION CONTACT: James Ransom, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue N.W., Washington, D.C. 20428, (202) 673-5197.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-2-82 is available from our Distribution Section, Room 100, 1825 Connecticut Ave. N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-2-82 to that address.

By the Civil Aeronautics Board: February 16, 1982.

Phyllis T. Kaylor,

Secretary.

Attachment to Notice

Service List

Charles E. Smith, President, Houston Airlines, Inc., P.O. Box 12917, Houston, Texas 77017
E. Del Smith, Washington Representative, Houston Airlines, Inc., 805 15th Street N.W., Washington, D.C. 20006
C. A. Wilkins, Executive Director, Texas Aeronautical Commission, P.O. Box 12067, Capitol Station, Austin, Texas 78711
Mayor Kenneth A. Gibson, City Hall, Newark, New Jersey
Mayor George McCann, Mayor Elect Katherin Whitmeyer, City Hall, Houston, Texas
Mayor Marion Barry, City Hall, District of Columbia
Port Authority of New Jersey and New York, Newark International Airport, Newark, New Jersey
Federal Aviation Administration, National Capitol Airport Division, Washington, D.C.

[FR Doc. 82-4721 Filed 2-19-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket Nos. 30790, etc.; Order 82-2-83]

Denial of Application and Revocation of Certificates of Overseas National Airways

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: United States-Benelux Low-Fare Proceeding, Application of New ONA Inc., Revocation of Supplemental Service Certificates of Overseas National Airways, Dockets 30790, 33472, 40461, Order 82-2-83.

SUMMARY: New ONA was an applicant for transatlantic route authority in the *United States-Benelux Low-Fare Proceeding* and was found fit in that case, but has since apparently failed. Overseas National Airways held several supplemental (charter) certificates of public convenience and necessity, but was dissolved in 1979. The Board is proposing to deny New ONA's application, and to revoke the certificates of Overseas National Airways.

DATES: All interested persons having objections to the Board's tentative findings and conclusions in Order 82-2-83 shall file by March 22, 1982, a statement of objections together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings shall be served upon all persons listed below.

ADDRESSES: Objections to the tentative findings and conclusions in Order 82-2-83 should be filed in the Docket Section, Civil Aeronautics, Board, Washington, D.C. 20428 in Dockets 30790, 33472 and 40461, United States-Benelux Low-Fare Proceeding, Application of New ONA Inc., Revocation of Supplemental Service Certificates of Overseas National Airways. In addition copies of such filings should be served on: Overseas National Airways and New ONA.

FOR FURTHER INFORMATION CONTACT: Christopher T. Tourtellot, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue N.W., Washington, D.C. 20428, (202) 673-5205.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-2-83 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 82-2-83 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: February 16, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-4719 Filed 2-19-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 40459; Order 82-2-80]

United States-Brazil/Argentina All-Cargo Exemption Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Inviting Exemption Applications: United States-Brazil/Argentina All-Cargo Exemption Proceeding, Order 82-2-80, Docket 40459.

SUMMARY: The Board is instituting the United States-Brazil/Argentina All-Cargo Exemption Proceeding to consider which carrier or carriers should be selected for primary and back-up exemption authority to replace Airlift International, Inc.'s scheduled all-cargo service between the United States, Brazil and Argentina. The complete text of Order 82-2-80 is available as noted.

DATES: Any petitions for reconsideration of Order 82-2-80 shall be filed by February 23, 1982; answers to such petitions and the exemption applications will be due March 2, 1982.

The Board intends to conduct this proceeding pursuant to the following schedule:

Applications: February 19, 1982
BIA Information Responses: February 19, 1982
Direct Exhibits: March 4, 1982
Rebuttal Exhibits: March 11, 1982
Briefs: March 17, 1982
Oral Argument: March 31, 1982

All Applicants and other parties should serve copies of their respective exhibits and other pleadings on all persons named in the Service List compiled by the Board's Docket Section. In addition, a copy of the exhibits and other pleadings should be submitted to the members and staff at the Board listed in Appendix B of Order 82-2-80. Interested persons should note that because of the extremely tight procedural schedule, the aforementioned procedural dates are receipt dates rather than mailing dates.

ADDRESS: All exhibits and other pleadings should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428 in Docket 40459, United States-Brazil/Argentina All-Cargo Exemption Proceeding.

FOR FURTHER INFORMATION CONTACT: Ronald A. Brown (202) 673-5203 or John D. Keppel (202) 673-5678, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-2-80 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-2-80 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: February 16, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-4720 Filed 2-19-82; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

California Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the California Advisory Committee to the Commission will convene at 7:00 p.m., and will end at 9:00 p.m, on March 12, 1982, at the Western Regional Office, 3660 Wilshire Boulevard, Room 810, Los Angeles, California, 90010. The purpose of this meeting is to conductta subcommittee meeting to discuss the Los Angeles City reapportionment project.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Maurice B. Mitchell, 280 Eucalyptus Hill Drive, Santa Barbara, California, 93103, (805) 969-1563 or the Western Regional Office, 3660 Wilshire Boulevard, Room 810, Los Angeles, California. 90010, (213) 688-3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 17, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-4715 Filed 2-19-82; 8:45 am]

BILLING CODE 6335-01-M

Illinois State Advisory; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 9:30 a.m., and will end at 12:30 p.m., on March 9, 1982, at the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois, 60604. The purpose of this meeting is to conduct an Employment Subcommittee meeting to discuss the study on employment in Illinois.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Thomas Pugh, 500 West Melbourne Avenue, Peoria, Illinois 61604, (309) 686-3121 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 17, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-4712 Filed 2-19-82; 8:45 am]

BILLING CODE 6335-01-M

Massachusetts Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Massachusetts Advisory Committee to the Commission will convene at 4:00 p.m., and will end at 6:00 p.m., on March 16, 1982, at the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110. The purpose of this meeting is to conduct a subcommittee meeting on education to discuss the racial status in the Boston public schools.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Bradford E. Brown, 17 Roberta Jean Circle, Post Office Box 95, East Falmouth, Massachusetts, 02536, (617) 548-5123 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110, (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 17, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-4754 Filed 2-19-82; 8:45 am]

BILLING CODE 6335-01-M

Michigan Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 5:30 p.m., and will end at 8:30 p.m., on March 15, 1982, at the Michigan State University Kellogg Center, Harrison Road, in the Vista Room, East Lansing, Michigan, 48824. The purpose of this meeting is to review affirmative action in the state of Michigan, and discuss program plans for fiscal year 1982.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. M. H. Reinstra, 1225 Thomas, SE, Grand Rapids, Michigan, 49506, (616) 949-4000 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois, 60604, (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 17, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-4751 Filed 2-19-82; 8:45 am]

BILLING CODE 6335-01-M

Nebraska Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Nebraska Advisory Committee to the Commission will convene at 9:30 a.m., and will end at 12:30 p.m., on March 26, 1982, at the State Capitol Building, 1445 K Street, in Room 1019, Lincoln, Nebraska 68509. The purpose of this meeting is to discuss program plans for the remaining period of fiscal year 1982.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Shirley M. Marsh, 2701 South 34th Street, Lincoln, Nebraska 68509, (402) 471-2734 or the Central States Regional Office, Old Federal Office Building, 911 Walnut Street, Room 3103, Kansas City, Missouri 64106, (816) 374-5253.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 17, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-4749 Filed 2-19-82; 8:45 am]

BILLING CODE 6335-01-M

Rhode Island Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Rhode Island Advisory Committee to the Commission will convene at 4:00 p.m., and will end at 6:00 p.m., on March 15, 1982, at the Central Congregational Church, 296 Angel Street, Providence, Rhode Island 02903. The purpose of this meeting is to conduct a forum on hate group activity with guests of honor to participate in the discussion.

Persons desiring additional information or planning a presentation to the Committee should contact the Chairperson, Dorothy D. Zimmering, 12 Chapin Road, Barrington, Rhode Island, 02806, (401) 245-3515 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 17, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-4748 Filed 2-19-82; 8:45 am]

BILLING CODE 6335-01-M

Indiana Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Indiana Advisory Committee to the Commission will convene at 10:00 a.m., and will end at 12:00 noon, on March 16, 1982, at the Indianapolis Hilton Hotel, 31 West Ohio Street, in Room 930-31, Indianapolis, Indiana, 46206. The purpose of this meeting is to conduct a press conference to release the Indiana Advisory Committee report: *Equal Employment Opportunity in Indianapolis Area Government.*

Persons desiring additional information or planning a presentation to the Committee, should contact the Acting Chair, Lotte Meyerson, 650 North Tippecanoe Street, Gary, Indiana, 46403, (219) 938-3910 or the Midwestern Regional Office, 230 Southern Dearborn Street, 32nd Floor, Chicago, Illinois, 60604, (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 16, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-4634 Filed 2-19-82; 8:45 am]

BILLING CODE 6335-01-M

Indiana Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Indiana Advisory Committee to the Commission will convene at 7:00 p.m., and will end at 10:00 p.m., on March 15, 1982, at the Indianapolis Hilton Hotel, 31 West Ohio Street, in Room 930-31, Indianapolis, Indiana, 46206. The purpose of this meeting is to discuss the status of the Indiana Housing Discrimination study and program plans for fiscal year 1982.

Persons desiring additional information or planning a presentation to the Committee, should contact the Acting Chairperson, Lotte Meyerson, 650 North Tippecanoe Street, Gary, Indiana, 46403, (219) 938-33910 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois, 60604, (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 10, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-4635 Filed 2-19-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Financial Assistance Application Announcement; San Francisco Region

The Minority Business Development Agency announces that it is seeking applications under its program to operate five San Francisco Region projects for a twelve month period. The aggregate total costs of the projects are $1,330,000.

Funding Instrument: It is anticipated that the funding instruments as defined by the Federal Grant and Cooperative Agreement Act of 1977 will be Cooperative Agreements.

Program Descriptions: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible minority clients in areas related to the establishment and operation of businesses. These proposed projects are specifically designed to provide business information counseling, financial packaging assistance, and assistance in identifying and exploiting business opportunities and new/or expanding markets.

One Cooperative Agreement Under the Business Development Center (BDC) Program to operate a pilot project for a 12-month period beginning June 1, 1982 in the Portland SMSA. This pilot project will operate at a cost not to exceed $170,000 and the project I.D. Number is 10-10-82020-01. Closing Date: 15 March 1982.

One Cooperative Agreement Under the Business Development Center (BDC) Program to operate a pilot project for a 12-month period beginning July 1, 1982 in the Santa Barbara SMSA. This pilot project will operate at a cost not to exceed $170,000 and the project I.D. Number is 09-10-82021-01. Closing Date: 29 March 1982.

One Cooperative Agreement Under the Business Development Center (BDC) Program to operate a pilot project for a 12-month period beginning July 1, 1982 in the Las Vegas SMSA. This pilot project will operate at a cost not to exceed $170,000 and the project I.D. Number is 09-10-82017-01. Closing Date: 12 April 1982.

One Cooperative Agreement Under the Business Development Center (BDC) Program to operate a pilot project for a 12-month period beginning August 1, 1982 in the Anaheim SMSA. This pilot project will operate at a cost not to exceed $410,000 and the project I.D. Number is 09-10-82007-01. Closing Date: 12 April 1982.

One Cooperative Agreement Under the Business Development Center (BDC) Program to operate a pilot project for a 12-month period beginning August 1, 1982 in the Honolulu SMSA. This pilot project will operate at a cost not to exceed $410,000 and the project I.D. Number is 09-10-82005-01. Closing Date: 12 April 1982.

An Application kit is available upon written request.

The pre-application conference to assist all interested applicants will be held at 450 Golden Gate Avenue, San Francisco, California 94102, Room 13029, (13th Floor) on February 22, 1982 at 10:00 A.M.

MBDA offers competitive Cooperative Agreements to all individuals, non-profit organizations, for-profit firms, local and State governments, federally recognized American Indian Tribes and educational institutions to perform the functions of a BDC which are:

To provide management and technical assistance to qualified minority firms,

To develop and maintain an inventory of existing minority businesses and prospective entrepreneurs, and

To provide brokering service that will foster and promote new business ownership, business expansions, market opportunities and new capital sources.

Legal services are excluded.

Applicants shall be required to contribute at least 10% of the total program costs through non-Federal funds. A fee for services for assistance provided clients will be charged. The fee for services will be 10% for firms with gross sales of $500,000 or less and 25% for the firms with gross sales of over $500,000. Cost sharing contributions can be in the form of cash contributions, fee for services, or in-kind contributions.

The program is subject to OMB Circular A-95 requirements.

Proposals are to be mailed to the following address: Minority Business Development Agency, U.S. Department of Commerce, San Francisco Regional Office, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102.

For further information contact Mr. Mikel Cook at 415/556-6733.

(11.800 Minority Business Development (Catalog of Federal Domestic Assistance))

Dated: February 8, 1982.

R. V. Romero,

Regional Director.

[FR. Doc. 82-4691 Filed 2-19-82; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council's Administrative Subcommittee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Caribbean Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), has established an Administrative Subcommittee, which will meet to consider the Council's draft Standard Operating Practices and Procedures, the Council's budget, alternatives to the RV OREGON II for obtaining fisheries data and to address other matters related to the Council's administrative operations.

DATES: The public meeting will convene on Wednesday, March 24, 1982, at approximately 10 a.m., and will adjourn at approximately 5 p.m.

ADDRESS: The public meeting will take place at the Council's Headquarters, 1108 Banco de Ponce Building, Room 1108, Hato Rey, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Carribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918, Telephone: (809) 753-4920.

Dated: February 17, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-4736 Filed 2-19-82; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council and its Salmon Subpanel, Scientific and Statistical Committee; Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of Public Meetings with a Partially Closed Session.

SUMMARY: As required by the Federal Advisory Committee Act, this notice sets forth the schedule and proposed agendas of the forthcoming separate public meetings of the Pacific Fishery Management Council, its Scientific and Statistical Committee and Salmon Subpanel. The Pacific Fishery Management Council was established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), and the Council has established a Scientific and Statistical Committee and Salmon Subpanel to assist the Council in carrying out its responsibilities.

DATES: March 16-19, 1982.

ADDRESS: All meetings will take place at the Cosmopolitan Hotel, 1030 NE Union Avenue, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

AGENDAS:

Council (open meetings)—March 17-19, 1982 (1 p.m. to 5 p.m. on March 17; 10 a.m. to 5 p.m. on March 18; 8 a.m. to 5 p.m. on March 19)—consideration of the final draft of the 1982 amendment to the ocean salmon fishery management plan (FMP) and consideration of management measures to be recommended to the Secretary of Commerce for the

Washington, Oregon and California salmon fisheries in 1982.

Council (closed session)—March 18, 1982 (8 a.m. to 10 a.m.)—discussion of the status of maritime boundary and resource negotiations between the U.S. and Canada. Only those Council members and selected staff having security clearances will be allowed to attend this closed session.

Scientific and Statistical Committee (open meetings)—March 16–18, 1982 (1 p.m. to 5 p.m. on March 16; 8 a.m. to 5 p.m. on March 17–18)—consideration of the latest data and analysis in the 1982 amendment to the Washington, Oregon and California ocean salmon FMP. Oral comments or questions by the public will be invited beginning at 3:30 p.m., on March 17.

Salmon Subpanel (open meetings)—March 16–17, 1982 (1 p.m. to 5 p.m. on March 16; 8 a.m. to 5 p.m. on March 17)—consideration of the 1982 amendment to the Washington, Oregon and California ocean salmon FMP as well as management measures for the 1982 season.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of the General Counsel, formally determined on February 10, 1982, pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda item covered in the closed session is exempt from the provisions of the Act relating to open meetings and public participation therein, because the meeting will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(1), as information which will disclose matters that are (A) specifically authorized under criteria established by an executive order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to such executive order. (A copy of the determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6317, Department of Commerce.) All other portions of the Council's meetings will be open to the public.

Dated: February 17, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-4727 Filed 2-19-82; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council's Scientific and Statistical Committee and Advisory Panel; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Western Pacific Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), has established a Scientific and Statistical Committee (SSC) and an Advisory Panel (AP) which will hold separate public meetings to discuss: (SSC)—Review the Spiny Lobster and Billfish Fishery Management Plans (FMPs); discuss research collection activities, as well as other Committee business. (AP)—Discuss the Billfish FMP.

DATES: The public meetings for both the Council's SSC and AP will convene on Monday, March 15, 1982, at approximately 6:30 a.m., and will adjourn on Tuesday, March 16, 1982, at approximately 3 p.m.

ADDRESS: Both of the meetings will take place at the National Marine Fisheries Service, Southwest Fisheries Center, Honolulu, Hawaii, 2570 Dole Street, Honolulu, Hawaii.

FOR FURTHER INFORMATION CONTACT:
Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1608, Honolulu, Hawaii 96813, Telephone: (808) 523–1368.

Dated: February 17, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-4726 Filed 2-19-82; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Grant of Limited Exclusive Patent License; Adria Laboratories

Notice is hereby given that the National Technical Information Service (NTIS), U.S. Department of Commerce, granted to Adria Laboratories, 5000 Post Road, Dublin, Ohio 43017, a limited exclusive right in the United States for the manufacture, use and sale of the products embodied in U.S. Patent Application Numbers 58,287, 155,531 and 283,376.

The limited exclusive license granted is a royalty-bearing license for a term of five years from the effective date of the license agreement. The license may be revoked by NTIS in accordance with 41 CFR 101–4.104.

Dated: February 11, 1982.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service.

[FR Doc. 82-4694 Filed 2-19-82; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1982; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1982 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE MARCH 25, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:
C. W. Fletcher (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1982, November 12, 1981 (46 FR 55740):

CLASS 8680

Fastener, Fence Post
5660–00–146–7251

CLASS 7220

Mat, Floor
7220–01–023–0407
7220–01–023–0489
7220–01–024–5997
7220–01–023–0496
7220–01–023–0490
7220–01–023–0491
7220–01–023–0493
7220–01–023–0494
7220–01–023–0495

CLASS 7530

Envelope, Wallet
7530–00–281–4644
7530–00–281–4846
7530–00–281–5076

CLASS 7920

Towel, Machinery Wiping
7920–00–260–1279

CLASS 8135

Chipboard
8135–00–290–0336
8135–00–782–3948
8135–00–782–3951

SIC 7331

Mailing Service, Department of Treasury, Bureau of Engraving and Printing, 14th and C Streets SW., Washington, D.C.

SIC 7641

Furniture Rehabilitation, Wichita Falls, Texas (including Sheppard AFB)

SIC 0782

Grounds Maintenance (including Sprinkler System Maintenance), Buildings Area 1440 and 3920, Edwards Air Force Base, California.

C. W. Fletcher,

Executive Director.

[FR Doc. 82-4689 Filed 2-19-82; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1982; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to Procurement List 1982 a service to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: February 22, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:
C. W. Fletcher (703) 557–1145.

SUPPLEMENTARY INFORMATION: On December 4, 1981, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (46 FR 59285) of proposed addition to Procurement List 1982, November 12, 1981 (46 FR 55740).

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following service is hereby added to Procurement List 1982:

SIC 0782

Ground Maintenance, Bergstrom Air Force Base, Texas, for the following Buildings:
2700 and 914
4515 and 4589
4545 and 4556.

C. W. Fletcher,

Executive Director.

[FR Doc. 82-4688 Filed 2-19-82; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Army

Medical Research and Development Advisory Committee, Subcommittee on Bacterial Diseases; Partially Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Subcommittee meeting:

Name of committee: United States Army Medical Research and Development Advisory Committee Subcommittee on Bacterial Diseases

Date of meeting: 29 and 30 March 1982

Time and place: 0900 hrs, Room 3092, Walter Reed Army Institute of Research, Washington, DC

Proposed agenda: This meeting will be open to the public on 29 March from 0900 to 1000 hrs for the administrative review and discussion of the scientific research program of the Bacterial Diseases Branch, Walter Reed Army Institute of Research and from 1030 to 1700 hrs on 30 March for the summation of the meeting. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), US Code, Title 5 and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on 29 March from 1000–1630 and on 30 March from 0900–1630 for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director for Research Management, Walter Reed Army Institute of Research, Building 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20012 (202/576–3061) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield,

Colonel, MC, Deputy Commander.

[FR Doc. 82-4787 Filed 2-19-82; 8:45 am]

BILLING CODE 3710-08-M

Medical Research and Development Advisory Committee, Subcommittee on Surgery; Partially Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Subcommittee meeting:

Name of committee: United States Army Medical Research and Development Advisory Committee Subcommittee on Surgery.

Date of meeting: 2 April 1982.

Time and place: 0830 hrs, Conference Room AS 3102, Letterman Army Institute of Research, Presidio of San Francisco, CA.

Proposed agenda: This meeting will be open to the public from 0830 to 1300 hrs for the administrative review and discussion of the scientific research program of the Surgery Division, Letterman Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), U.S. Code, Title 5 and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 1300–1645 hrs for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subject, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. J. Ryan Neville, Assistant Director, Research Contract Management, Letterman Army Institute of Research, Presidio of San Francisco, CA 94129 (415/561–4367), will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield,

Colonel, MC, Deputy Commander.

[FR Doc. 82-4788 Filed 2-19-82; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Office of Energy Research

Conservation Panel, Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Conservation Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal

Advisory Committee Act Pub. L. 92-463, 86 Stat. 770).
Date and time: March 26, 1982, 9 a.m. to 5 p.m.
Place: Department of Energy, Forrestal Building, Room 4A-110, 1000 Independence Avenue SW., Washington, DC 20585.
Contact: Mary Gant, Energy Research Advisory Board, Department of Energy, Forrestal Building, ER-0, 1000 Independence Avenue SW., Washington, DC 20585, Telephone: 202/252-8933.

Purpose of the Parent Board

To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda

Discussion of draft report of Conservation Panel.

Public Participation

The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts

Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue SW Washington, DC, between 8:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

Issued at Washington, DC, on February 17, 1982.

J. Ronald Young,

Associate Director for Management, Office of Energy Research.

[FR Doc. 82-4704 Filed 2-19-82; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95-621) signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate cost of gas to the industrial facilities does not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA of 1978, section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commision (FERC) computed natural gas ceiling prices and high cost gas incremental pricing threshold which are to be effective March 1, 1982. These prices are based on the prices of alternative fuels.

FOR FURTHER INFORMATION CONTACT: Leroy Brown, Jr., Energy Information Administration, Federal Building, 12th and Pennsylvania Ave. NW., Rm 4121, Washington, DC 20461, (202) 633-9710.

Section I. Alternative Fuel Price Ceilings

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by an Interim Rule issued on March 2, 1981, in Docket No. RM79-21, revised the methodology for calculating the monthly alternative fuel price ceilings for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the contiguous States shall be the lower of the alternative fuel price ceiling for the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in Section III.

State	Dollars per million BTU's
Alabama	3.55
Arizona [1]	3.60
Arkansas [1]	3.23
California	3.58
Colorado [1]	4.07
Connecticut [1]	3.99
Delaware [1]	3.75
Florida	3.89
Georgia [1]	3.14
Idaho [1]	4.17
Illinois	3.72
Indiana [1]	3.80
Iowa [1]	3.99
Kansas [1]	3.56
Kentucky [1]	3.80
Louisiana [1]	3.23
Maine	3.99
Maryland [1]	3.75
Massachusetts [1]	3.99
Michigan [1]	3.80
Minnesota [1]	3.58
Mississippi [1]	3.14
Missouri	3.43
Montana [1]	4.07
Nebraska [1]	3.56
Nevada [1]	3.80
New Hampshire [1]	3.99
New Jersey	3.68
New Mexico	2.96
New York	3.73
North Carolina [1]	3.84
North Dakota [1]	3.58
Ohio [1]	3.80
Oklahoma [1]	3.23
Oregon [1]	3.60
Pennsylvania [1]	3.75
Rhode Island [1]	3.99
South Carolina [1]	3.84
South Dakota [1]	3.59
Tennessee	3.90
Texas	3.22
Utah [1]	4.07
Vermont [1]	3.99
Virginia	3.68
Washington [1]	3.60
West Virginia [1]	3.66
Wisconsin [1]	3.80
Wyoming	3.67

[1] Region based price as required by FERC Interim Rule, issued on March 2, 1981, in Docket No. RM79-21.

Section II. Incremental Pricing Threshold for High Costs Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during December 1981 was $42.26 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, section 203 (a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective March 1, 1982, is $9.47 per million BTU's.

Section III. Method Used To Compute Price Ceilings

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79-21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 167, issued in Docket No. RM81-27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings. In addition, the FERC, by Order No. 161, issued on October 6, 1981, in Docket No. RM81-28, established that price ceilings should be published for only the 48 contiguous states on a permanent basis.

A. *Data Collected* The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: for each selling price, the number of gallons sold to large industrial users in the months of October 1981, November 1981, and December 1981. [1] All reports of volume sold and price were identified by the state into which the oil was sold.

B. *Method Used to Determine Alternative Price Ceilings*

(1) *Calculation of Volume-Weighted Average Price.* The prices which will become effective March 1, 1982, (shown in section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, October 1981, November 1981, December 1981. Reported prices for sales in October 1981 were adjusted by the percent change in the nationwide volume-weighted average price from October 1981 to December 1981. Prices for November 1981 were similarly adjusted by the percent change in the nationwide volume-weighted average price from November 1981 to December 1981. The volume-weighted 3-month average of the adjusted October 1981 and November 1981, and the reported December 1981 prices were then computed for each State.

(2) *Adjustment for Price Variation.* States were grouped into the regions identified by the FERC (see section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in section III.B.(1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

(3) *Calculation of Ceiling Price.* The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices at the national level as discussed in section III.B.(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base of determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State's alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling base for the State. The appropriate lag adjustment factor (as discussed in section III.B.4.) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

(4) *Lag Adjustment.* The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 21 cities throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 high sulfur residual fuel oil for the ten trading days ending February 12, 1982, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of December 1981. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B.(3).

Listing of States by Region

States were grouped by the FERC to form eight distinct regions as follows:

Region A

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont

Region B

Delaware, Maryland, New Jersey, New York; and Pennsylvania

Region C

Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia

Region D

Illinois, Indiana, Kentucky, Michigan, Ohio, West Virginia, and Wisconsin

Region E

Iowa, Kansas, Missouri, Minnesota, Nebraska, North Dakota, and Soth Dakota

Region F

Arkansas, Louisiana, New Mexico, Oklahoma, and Texas

Region G

Colorado, Idaho, Montana, Utah, and Wyoming

Region HArizona, California, Nevada, Oregon, and Washington

Issued in Washington, D.C., February 18, 1982.

Albert H. Linden, Jr.,

Deputy Administrator, Energy Information Administration.

[FR Doc. 82-4704 Filed 2-19-82; 8:45 am]

BILLING CODE 6450-01-M

[1] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State or Local) and the military are excluded.

Economic Regulatory Administration

[Docket No. ERA-FC-81-022; OFC Case No. 53012-1854-01-12]

Powerplant and Industrial Fuel Use; Prohibition Orders; Request for Exemption by University of Michigan

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of availability of tentative staff analysis.

SUMMARY: On July 20, 1981, The University of Michigan (Michigan) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order exempting a new major fuel burning installation (MFBI) from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq.) (FUA or the Act), which prohibit the use of petroleum or gas as a primary energy source in certain new MFBIs. Rules

setting forth the procedures for petitioning and the criteria for exemptions from the prohibitions of FUA are contained at 10 CFR Parts 501 and 503. The MFBI for which the petition was filed is a field-erected boiler to be constructed at Michigan's Central Power Plant, Central Campus, in Ann Arbor, Michigan requested a Permanent Site Limitation and Cost exemptions for the MFBI.

Based upon ERA's review and analysis of the information presently contained in the record of this proceeding, a Tentative Staff Analysis has been made recommending that ERA issue an order granting the requested permanent cost exemption to permit the use of natural gas or petroleum. In accordance with the regulations, ERA determined that Michigan's site limitations could be overcome through modification of the proposed facility and capital expenditures which should be considered in the cost test (lack of an alternate fuel at a cost which does not substantially exceed the cost of using imported petroleum).

DATE: Written comments on the Tentative Staff Analysis are due on or before March 8, 1982. A request to convene a public hearing must be made within the same period.

ADDRESSES: Fifteen copies of written comments on the Tentative Staff Analysis shall be submitted to: Economic Regulatory Administration, Case Control Unit (Fuel Use Act), Room 6114, 2000 M Street, NW., Washington, DC 20461.

Docket No. ERA–FC–81–022 should be printed clearly on the outside of the envelope and on the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Ellen Russell, Case Manager, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, 2000 M Street NW., Room 6114, Washington, DC 20461, (202) 653–3379.

Henry Garson, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6B–178, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252–2967.

The public file containing a copy of the Tentative Staff Analysis and other documents and supporting material on this proceeding is available for inspection upon request through the case manager identified above.

SUPPLEMENTARY INFORMATION: The Economic Regulatory Administration (ERA) published final rules (10 CFR Part 500 et seq.) implementing provisions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) in the Federal Register on June 6, 1980 (45 FR 38276 and 45 FR 38302). Rules describing the method for performing the cost calculations were published on December 24, 1980 (45 FR 84967). Although revised final rules were published on December 7, 1981 (45 FR 59872), which became effective on January 6, 1982, the method for performing the cost calculations used in the Tentative Staff Analysis was that provided in the final rule published on December 24, 1980. As the majority of the requisite calculations had been completed prior to the issuance of the revised final rules, and since the proposed results of Michigan's petition would be unaffected, the ERA has determined to base its decision to recommend that ERA grant Michigan a permanent exemption on the December 24, 1980, cost test rule's calculations format. The only significant change between the December 24, 1980 cost test rule and the December 7, 1981, rule deals with depreciation methods which, because of Michigan's tax exempt status, could not be employed. Thus, the result would be unchanged and the ERA determined it would not subject Michigan to the added burden of submitting additional information and certifications.

The unit Michigan plans to construct, designated Boiler No. 2, is to be designed to produce 220,000 pounds of steam per hour. Michigan proposes to use natual gas or petroleum as the primary energy source in the new boiler.

On July 29, 1981, in accordance with 10 CFR 503.38, Michigan filed a petition with ERA requesting the permanent exemptions. ERA accepted the petition and published notice of its acceptance in the Federal Register on September 21, 1981 (46 FR 46466). A 45–day public comment period closed November 5, 1981. No comments were received.

ERA's staff has reviewed the information contained in the record of this proceeding to date. Based upon that review, a Tentative Staff Analysis was prepared and recommends that an order be issued granting a permanent exemption for lack of alternate fuel at a cost which does not substantially exceed the cost of using imported petroleum (cost test), permitting Michigan to burn natural gas or petroleum in its new major fuel burning installation.

On August 11, 1980, DOE published in the Federal Register (45 FR 53199) a notice of proposed amendments to the guidelines for compliance with the National Environmental Policy Act of 1979 (NEPA). The grant or denial of a permanent cost test exemption under the provisions of 10 CFR 503.38(c) has been identified as an action which normally does not require an Environmental Impact Statement or an Environmental Assessment (categorical exclusion). This classification raises a rebuttable presumption that the grant or denial of the exemption will not significantly affect the quality of the human environment. Michigan provided, as a part of its petition, a duly executed certification stating that prior to operating the boiler under the requested exemption it will secure all applicable environmental permits and approvals. The completed Environmental Checklist submitted by Michigan pursuant to 10 CFR 503.5(b) has been reviewed by DOE's Office of Environmental Programs, with consultation from the Office of the General Counsel. Michigan's responses to the questions contained therein indicate that the operations of the boiler will have no impact on those areas regulated by specified laws that impose consultation requirements on DOE, and otherwise affirm the applicability of the categorical exclusion to this FUA action. ERA has not received any public comments relating to this action which raise a substantial question regarding the categorical exclusion in this case. Therefore, no additional environmental review is deemed to be required.

The Tentative Staff Analysis does not constitute a decision by ERA to grant the requested exemption. Such a decision shall, in accordance with 10 CFR 501.68, be based on the entire record of this proceeding, including any comments received on the Tentative Staff Analysis.

ERA will issue a final order granting or denying the permanent exemption from the prohibitions of the Act within six months after the public comment period provided for in this notice has expired, unless ERA extends such period. Notice of any extension together with a statement of reasons for such an extension will be published in the Federal Register.

Issued in Washington, D.C. on February 16, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-4700 Filed 2-19-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 5020-000]

David C. Aby; Application for Preliminary Permit

February 22, 1982.

Take notice that David C. Aby (Applicant) filed on January 28, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5020 to be known as the Aby Ranch #2 Hydropower Project located on Little Roaring Creek, on lands of the United States administered by the Bureau of Land Management in Shasta County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. David C. Aby, 5293 Happy Valley Road, Anderson, California 96007.

Project Description—The proposed project would consist of: (1) Boulders placed in the creek to direct flow into a 5-foot high concrete inlet structure; (2) a diversion conduit or channel 150 feet long; (3) a steel penstock 1,200 feet long; (4) a powerhouse containing one or more turbine generators with 370 kW total capacity and 1.45 GWh annual energy production; and (5) a transmission line 0.8 miles long. Generated power would be distributed through interconnections with the Pacific Gas & Electric System.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a term of 24 months, during which engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of permit activities is $29,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 29, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55345, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 29, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or § 4.101 et seq. (1981), as appropriate.

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 27, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 29, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4646 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5021-000]

David C. Aby; Application for Preliminary Permit

February 23, 1982.

Take notice that David C. Aby (Applicant) filed on January 28, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5021 to be known as the Aby Ranch #1 Hydropower Project located on Roaring Creek, on lands of the United States administered by the Bureau of Land Management in Shasta County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. David C. Aby, 5293 Happy Valley Road, Anderson, California 96007.

Project Description—The proposed project would consist of: (1) Boulders placed in the creek to direct flow into a 5-foot high concrete inlet structure; (2) a diversion conduit or channel 350 feet long; (3) a steel penstock 1,300 feet long; (4) a powerhouse containing one or more turbine generators with 725 kW total capacity and 2.9 GWh annual energy production; and (5) a transmission line 0.8 miles long. Generated power would be distributed through interconnections with the Pacific Gas & Electric System.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a term of 24 months, during which engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of permit activities is $37,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 30, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM 81–15, issued October 29, 1981, 46 FR 55345, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 30, 1982, and should specify the type of application forthcoming. Any application for license

or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate)).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 28, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protests or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protest or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4647 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-295-000]

Appalachian Power Co.; Filing

February 16, 1982.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation (AEP) on February 8, 1982, tendered for filing on behalf of its affiliate Appalachian Power Company (APCO) Modification No. 17 dated January 1, 1982 to the Interconnection Agreement dated February 1, 1948 between Virginia Electric and Power Company and Appalachian Power Company, APCO's Rate Schedule FERC No. 16.

Sections 1 and 2 of Modification No. 17 provide for an increase in the demand charge for Short Term and Limited Term Power to $1.25 per kilowatt per week and $6.50 per kilowatt per month respectively when APCO is the supplying party.

AEP requests an effective date of January 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Virginia Electric and Power Company, the Virginia State Corporation Commission, and the Public Utilities Commission of West Virginia.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 2, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4662 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5699-000]

City of Bonney Lake, Washington; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

February 23, 1982.

Take notice that on November 30, 1981, the City of Bonney Lake, Washington (Applicant) filed an application under section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*) for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5699) would be located on Fennel Creek in Pierce County, Washington. Correspondence with the Applicant should be directed to: Mr. Roger C. Eberhart, Philip M. Botch & Associates, Inc., 11000 Main Street, Bellevue, Washington 98004.

Project Description—The proposed project would consist of: (1) A diversion structure at the outflow of an existing box culvert; (2) a 30-inch diameter steel penstock 125 feet long; (3) a powerplant containing a turbine generator with 125 kW capacity and 616 MWh annual production; and (4) transmission line 150 feet long.

Purpose of Project—Power produced by the proposed plant would be placed on the Puget Sound Power & Light grid.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Washington State Departments of Game and Fisheries are requested, for the purposes set forth in section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not filed terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 9, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4666 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5874-000]

James O. Boyd; Application for Preliminary Permit

February 18, 1982.

Take notice that James O. Boyd (Applicant) filed on January 13, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5874 to be known as the Burney Creek Power Project located on Burney Creek in Shasta County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Ronald F. Ott, Ott Water Engineers, Inc., 2334 Washington Avenue, Redding, California 96001.

Project Description—The proposed project would consist of: (1) A diversion at elevation 3,600 feet utilizing boulders placed in the stream to direct flow into a concrete intake structure 7 feet high and 50 feet long; (2) a 6,000-foot diversion conduit; (3) a 5,500-foot steel penstock; (4) a powerhouse containing one or a combination of turbine generators with 1.8 MW capacity and 6.8 GWh annual energy production; and (5) a transmission line about 1 mile long. The expected market for project-generated power is the Pacific Gas and Electric Company.

Proposed Scope of Studies Under Permit.—A preliminary permit, if issued, does not authorize construction. The Application seeks issuance of a preliminary permit for a term of 36 months, during which engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of permit activities is $50,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 26, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 26, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 24, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to; Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4677 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-301-000]

Connecticut Light and Power Co.; Proposed Tariff Change

February 16, 1982.

The filing Company submits the following:

Take notice that The Connecticut Light and Power Company (Company) on February 8, 1982, tendered for filing proposed changes in its FERC Electric Tariff Resale Service Rate R-4. The Company proposes that the tariff changes (renaming the tariff the "W-1 Rate") become effective on April 10, 1982.

The Company indicates that the changes proposed would produce an estimated overall increase in revenue from jurisdictional sales and service approximately $5,792,984, based on the twelve-month period (Period I) ending December 31, 1980. The Company indicates that the proposed increased charges are intended to recover increased costs since its previous rate change was filed in July, 1976, and to strengthen the Company's strained financial operation. In addition, the Company is proposing other minor modifications to the rate schedule.

The Company proposes an effective date of April 10, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Company's jurisdictional customers and the Connecticut Department of Public Utilities Control.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 2, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4668 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-299-000]

Connecticut Light and Power Co.; Filing

February 16, 1982.

The filing Company submits the following:

Take notice that The Connecticut Light and Power Company (CL&P) on February 8, 1982, tendered for filing changes to the following unit contracts between CL&P and Connecticut Municipal Electric Energy Cooperative (CMEEC):

Unit Sale—Vermont Yankee Nuclear Plant; Rate Schedule FERC No. 221
Unit Sale—Yankee Atomic Nuclear Plant; Rate Schedule FERC No. 222
Unit Sale—Maine Yankee Nuclear Plant; Rate Schedule FERC No. 223
Unit Sale—Connecticut Yankee Nuclear Plant; Rate Schedule FERC No. 225

CL&P proposes that the changes to the four unit contracts become effective on April 10, 1982, or on such later date as CL&P is permitted to make effective changes to the charges in its R-4 Rate. CL&P states that it has filed changes to Rate charges on the same date as the changes to the unit contracts.

CL&P states that the changes will result in termination of the interim capacity charge specified in Appendix I (Supplement No. 1) to each of the four rate schedules and that CL&P thereafter anticipates that CMEEC will make payments directly to the owners of the four nuclear plants in amounts determined pursuant to power contracts previously filed with the Commission by those owner utilities. CL&P states that it does not anticipate receiving any further revenues from CMEEC under the four nuclear unit contracts.

CL&P requests an effective date of April 10, 1982, and therefore requests waiver of the Commission's notice requirements.

CL&P states that copies of the filing were served upon CMEEC, which is the only utility receiving service under the four contracts.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 2, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4669 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-136-001]

Distrigas of Massachusetts Corp.; Change in FERC Tariff

February 16, 1982.

Take notice that Distrigas of Massachusetts Corporation (DOMAC), on February 10, 1982, tendered for filing the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, proposed to be effective February 1, 1982.

First Revised Sheet No. 1
Original Sheet No. 7
Original Sheet No. 8
Original Sheet No. 21
Original Sheet No. 22
First Revised Sheet No. 73
Original Sheet No. 74

DOMAC states that these tariff sheets are being filed in compliance with the Commission's Order of February 1, 1982, in *Distrigas of Massachusetts Corporation*, Docket No. CP82-136-000, in which the Commission authorized DOMAC to sell to certain existing customers and one new customer, excess volumes of LNG to be received in a February 1982 LNG cargo at DOMAC's Everett, Massachusetts, LNG facility.

DOMAC requests the proposed tariff sheets become effective February 1, 1982, to coincide with the Commission's Order authorizing the limited-term sale.

A copy of this filing is being served on all affected parties and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 5, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4682 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3117-001]

Dodge Falls Hydro Associates; Application for Exemption for Small Hydroelectric Power Project of 5 MW Capacity

February 23, 1982.

Take notice that on December 15, 1981, Dodge Falls Hydro Associates (Applicant) filed an application under section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended),* for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 3117) would be located on the Connecticut River in Grafton County, New Hampshire and Caledonia County, Vermont. Correspondence with the Applicant should be directed to: Mr. Bradley Hill, General Partner, Dodge Falls Hydro Associates, 131 Sullivan Street, Claremont, New Hampshire 03743.

Project Description—The proposed project would be run-of-the-river and would consist of: (1) An existing overflow dam, 375 feet long and 15.5 feet high with 2-foot flashboards (to el. 423.6 m.s.l.), and constructed of rock-filled timber cribs to be repaired and altered; (2) a reservoir having minimal pondage; (3) a new forebay, at the left river bank, formed by removing 100 feet of the dam and constructing a 120-foot lateral overflow wall (with 2-foot flashboards)—all leading to (4) a new intake structure, with trashracks and stoplogs, integral with (5) a new powerhouse containing 3 turbine-generator units having a total rated capacity of 5,000 kW; (6) a new tailrace excavated in rock for a distance of 50 feet; (7) a new transmission line with 34.5-kV or 230-kV options; and (8) appurtenant facilities. (An old mill building and defunct power installation remain at the right dam abutment). The applicant estimates that the average annual energy output would be 22,800,000 kWh. Project energy would be sold to a local utility.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, the New Hampshire Fish and Game Department, and the Vermont Fish and Game Department, are requested, for the purposes set forth in section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly idenified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 9, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protest or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent; competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4689 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-290-000]

Duke Power Co.; Filing

February 16, 1982.

Take notice that Duke Power Company (Duke Power) tendered for filing on February 5, 1982, a supplement to the Company's Electric Power Contract with Laurens Electric Cooperative, Inc. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 144.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for relocation of the delivery point.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for 12 months immediately preceding and for the 12 months immediately succeeding the effective date.

Duke Power proposes an effective date of January 19, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition

to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 2, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4689 Filed 2-19-82; 8:45]

BILLING CODE 6717-01-M

[Project No. 5747-000]

East Coast Engineering; Application for Preliminary Permit

February 22, 1982.

Take notice that East Coast Engineering (Applicant) filed on December 9, 1978, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5747 to be known as the Waldron Dam Hydroelectric Facility located on the Cocheco River in Strafford County, New Hampshire. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. James M. Rea, East Coast Engineering, P.O. Box 25, Barrington, New Hampshire 03825.

Project Description—The proposed project would consist of: (1) The existing Waldron dam of concrete gravity construction with a height of 6 feet and a length of 210 feet; (2) the existing reservoir having a surface area of approximately 54 acres, and a storage capacity of 236 acre-feet at a normal pool elevation of 115.3 feet msl; (3) the existing intake will be enlarged; (4) a new powerhouse containing 1 unit with a generating capacity of 150 kW; (5) a proposed transmission line approximately 1,250 feet in length; and (6) appurtenant facilities. The Applicant estimates the annual energy production would be 814,000 kW-hrs. The dam is owned by the State of New Hampshire Water Resources Board. Project energy would be sold to the Public Service Company of New Hampshire.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of three years, during which time, the Applicant would for a period of 18 months during which time the Applicant would perform studies to determine the feasibility of the product. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates cost of the studies under the permit would be $15,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 28, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 29, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 29, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4690 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-253-000]

El Paso Electric Co.; Filing

February 16, 1982.

The filing Company submits the following:

Take notice that on February 5, 1982, El Paso Electric Company (El Paso) tendered for filing an "Interchange Agreement Between El Paso Electric Company and Texas-New Mexico Power Company" dated December 8, 1981 (Agreement). El Paso states the Agreement establishes a general contractual framework for the provision of interchange services including emergency assistance, economy energy interchange, wheeling service, and maintenance service.

El Paso requests an effective date of January 1, 1982, and therefore requests waiver of the Commission's notice requirements.

El Paso states that copies of the filing have been served upon the Public Utility Commission of Texas, the New Mexico Public Service Commission, and Texas-New Mexico Power Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 2, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4685 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. C170-295-000, et al.]

El Paso Exploration Co. (Successor in Interest to Odessa Natural Corp.); Application for a Certificate of Public Convenience and Necessity To Render Service Previously Authorized by the Commission

February 16, 1982.

Take notice that on January 27, 1982, El Paso Exploration Company ("Applicant") of Post Office Box 1492, El Paso, Texas 79978, filed an application for certificates of public convenience and necessity authorizing Applicant to continue to render service previously authorized by the Commission under certificates of public convenience and necessity heretofore issued to Odessa Natural Corporation ("Odessa") and Applicant is requesting for Redesignation of Rate Schedules on file with the Commission by Odessa Natural Corporation ("Odessa") as the rate schedules of El Paso Exploration Company as shown on Exhibit "A".

By Articles of Amendment to the Articles of Incorporation of Odessa Natural Corporation, dated December 19, 1980, the name of Odessa was changed to EPX Company, effective January 1, 1981.

The properties of Odessa subject to the instant certificates were conveyed to Applicant by instruments of assignments executed on various dates in 1981, all to be effective January 1, 1982.

Any person desiring to be heard or to make any protest with reference to said applications should on or before March 2, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rule.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene in timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

EXHIBIT A.—EL PASO EXPLORATION CO.

Certificate Docket No.	Gas purchase agreement date	Purchaser	Odessa Natural Corp. FERC gas rate schedule No.	Proposed El Paso Exploration Co. FERC gas rate schedule No.
C170-295-000	Jan. 2, 1959	El Paso Natural Gas Co.	2	32
C172-669	Apr. 12, 1972	do	5	33
G-14460	Apr. 16, 1957	do	6	34
C162-680	Feb. 16, 1962	do	7	35
C176-452	Mar. 23, 1976	do	11	36
C177-358	Feb. 16, 1977	do	13	37
C176-391	Feb. 17, 1977	do	14	38
C178-100	Sept. 15, 1977	do	15	39
C178-116	Oct. 17, 1977	do	16	30

[FR Doc. 82-4691 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-161-000]

El Paso Natural Gas Co.; Application

February 17, 1982.

Take notice that on January 18, 1982, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP82-161-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the best-efforts transportation of natural gas for Bixco, Inc. (Bixco), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that it was authorized to transport on a best-efforts basis up to 60,000 Mcf of natural gas per day acquired by Bixco with the delivery of such natural gas to Arizona Public Service Company (APS) for Bixco's account at existing delivery points located on Applicant's interstate transmission pipeline system situated within the State of Arizona and was granted blanket authorization permitting the installation and operation of new receipt and/or delivery points as may be added by mutual consent of Applicant and Bixco. It is further stated that Applicant had the right but not the obligation to purchase any excess gas designated by Bixco pursuant to the terms and conditions of an excess natural gas purchase agreement dated September 1, 1978, between Applicant and Bixco.

Applicant states that by letter dated October 20, 1981, it was advised by Bixco that a final closing of the Bixco sale of assets to OXOCO, a California corporation, took place on October 27, 1981. It is explained that prior to the closing of said sale APS, Bixco, and Applicant executed a letter agreement dated July 1, 1981, providing for the termination of the subject transportation arrangement and the excess purchase agreement effective upon the closing of the Bixco sale of assets of OXOCO and the filing by Applicant of the appropriate application required to cancel such arrangement. Consequently, Applicant asserts that such arrangement and excess purchase agreement have terminated as of October 27, 1981. Applicant therefore proposes to abandon the best-efforts transportation and delivery service rendered for the account of Bixco.

It is stated that the proposed abandonment would not result in or cause any interruptions, reduction or termination of firm natural gas service presently rendered by Applicant to any of its customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 11, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a

protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice to such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4878 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5836-000]

Energenics Systems, Inc.; Application for Preliminary Permit

February 19, 1982.

Take notice that Energenics Systems, Inc. (Applicant) filed on December 30, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5836 to be known as the Paonia Hydro Project located on Muddy Creek in Gunnison County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas H. Clarke, Jr., President, Energenics Systems, Inc., 1727 Q Street, N.W., Washington, D.C. 20009.

Project Description.—The proposed project would utilize the existing Bureau of Reclamation's Paonia Dam and Reservoir and would consist of: (1) A new penstock utilizing the existing outlet works near the right dam abutment; (2) a new powerhouse containing two turbine-generator units having a total rated capacity of 2,200 kW; (3) a tailrace; (4) a new transmission line, approximate 4 miles long, connecting to existing 46-kV transmission lines; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 8,700,000 kWh. Project energy would be sold to Colorado-Ute Electric Association, Inc., or to nearby public institutions or industrial users.

Proposed Scope of Studies Under Permit.—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $35,000.

Competing Applications.—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 24, 1982, the competing application itself (see 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 26, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Fedral Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4886 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-291-000]

Florida Power & Light Co.; Filing

February 16, 1982.

Take notice that Florida Power & Light Company (FP&L) on February 5, 1982, tendered for filing two documents entitled "Exhibit I to Service Agreement For Interchange Transmission Service Implementing Specific Transactions Under Service Schedules A (Emergency Service), B (Short Term Firm Service), C (Economy Interchange Service) and D (Firm Service) of Contracts for Interchange Service." This filing is proposed to amend FERC Electric Tariff Original Volume II (Sheet Nos. 1–19).

FP&L states that under the Exhibit I FP&L will transmit power and energy for Lake Worth Utilities Authority (Lake Worth) as is required by Lake Worth in the implementation of its interchange agreements with City of Gainesville and City of St. Cloud.

FP&L requests that waiver of the Commission's notice requirements be granted and that the proposed Exhibits be made effective immediately.

FP&L states that copies of the filing were served on Lake Worth Utilities Authority.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 2, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4884 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-292-000]

Florida Power & Light Co.; Filing

February 16, 1982.

Take notice that Florida Power & Light Company (FP&L) on February 5, 1982, tendered for filing documents entitled "Exhibit I to Service Agreement For Interchange Transmission Service Implementing Specific Transactions Under Service Schedules A (Emergency Service), B (Short Term Firm Service), C (Economy Interchange Service) and D (Firm Service) of Contracts for Interchange Service." This filing is proposed to amend FERC Electric Tariff Original Volume II (Sheet Nos. 1–19).

FP&L states that under the Exhibit I FP&L will transmit power and energy for the Tampa Electric Company (TECO) as is required by TECO in the implementation of its interchange agreement with City of Vero Beach.

FP&L requests that waiver of the Commission's notice requirements be granted and that the proposed Exhibits be made effective immediately.

FP&L states that copies of the filing were served on Tampa Electric Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 2, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4885 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5895-000]

Homestake Consulting & Investments, Inc.; Application for Preliminary Permit

February 16, 1982.

Take notice that Homestake Counsulting & Investments, Inc. (Applicant) filed on January 19, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5895 to be known as the Mill Creek Project located on Mill Creek, near Cle Elum, in Kittitas County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. William H. Delp, II, Independent Power Developers, Inc., P.O. Box 1467, Noxon, Montana 59853.

Project Description.—The proposed project would consist of: (1) A 3-foot high diversion and intake structure; (2) a settling tank; (3) a 2,200-foot long, 20-inch diameter pipeline; (4) a powerhouse containing two generating units, one rated at 75 kW and one rated at 150 kW; and (5) a transmission line. The average annual energy generation is estimated to be 877,000 kW.

Proposed Scope of Studies Under Permit.—A preliminary permit if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time it would conduct engineering, environmental, economic, and feasibility studies, and prepare an FERC license application. Field studies will only disturb the area minimally. The cost of the work is estiminated to be $4,000.

Competing Applications.—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 26, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 26, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 25, 1982.

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTESTS", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional, copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing

application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4679 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5877-000]

Hydro Management, Inc.; Application for Preliminary Permit

February 16, 1982.

Take notice that Hydro Management, Incorporated (Applicant) filed on January 15, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5877 to be known as the Dodge Creek Power Project located on Dodge Creek in Lincoln County, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to; Mr. W. H. Edelman III, President, Route 1, Box 169, Ronan, Montana 59864.

Project Description—The proposed project would consist of: (1) A 20-foot long, 3-foot high diversion structure on North Fork of Dodge Creek; (2) a 18-foot long, 3-foot high diversion structure on South Fork of Dodge Creek; (3) a 12,500-foot long, 16-inch diameter penstock; (4) a powerhouse with a total rated capacity of 760 kW; and (5) a 15,000-foot long, 14.4-kV transmission line from the powerhouse to an existing 14.4-kV transmission line owned by Lincoln Electric Cooperative Inc. The Applicant estimates that the average annual energy production would be 4,586 MWh. The proposed project is entirely located within the U.S. Federal lands owned by the Kootenai National Forest.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would conduct the technical, environmental and economic studies, and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $8,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 30, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 28, 1981, 46 FR 55245, November 9, 1981).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 30, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et. seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 30, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4680 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-289-000]

Kansas Power and Light Co.; Filing

February 16, 1982.

The filing Company submits the following:

Take notice that on February 5, 1982, The Kansas Power and Light Company (KPL) tendered for filing a newly executed contract with the City of Horton, Kansas for wholesale service to that community with the proposed effective date of June 14, 1982. KPL states that this contract permits the City of Horton to receive service under rate schedule WSM–81 which succeeds their current rate schedule WTU–81 designated supplement 4 to R. S. FERC No. 182. The proposed changes would increase revenues from sales by $5,322.00 based on the projected 12 month period ending May 31, 1983.

KPL requests an effective date of June 14, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been mailed to the City of Horton and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 2, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4686 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-296-000]

Kentucky Utilities Co.; Filing

February 16, 1982.

The filing Company submits the following:

Take notice that on February 8, 1982, Kentucky Utilities Company (KU) tendered for filing an Amendatory Agreement dated April 5, 1979 to the Interchange Agreement between KU and Tennessee Valley Authority (TVA). The Agreement being filed provides for, among other things, two additional interconnection points. KU was previously assigned FERC Rate Schedule No. 93 Supplement No. 6 as relates to the interchange Agreement.

KU requests an effective date of February 15, 1982, and therefore requests waiver of the Commission's notice requirements.

According to KU copies of the filing were sent to TVA, Kentucky Public Service Commission, and the Virginia State Corporation Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before March 3, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4687 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5249-000]

Lake Oswego Corp.; Application for Short-Form License (Minor)

February 16, 1982.

Take notice that the Lake Oswego Corporation (Applicant) filed on August 18, 1981, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for operation of a constructed water power project to be known as the Lake Oswego Project. The project is located on the Tualatin River and Lake Oswego in Clackamas County, Oregon. Correspondence with the Applicant should be directed to: Mr. Stuart Bingham, President, Lake Oswego Corporation, 700 S.W. McVey Avenue, Lake Oswego, Oregon 97034.

Project Description—The proposed project consists of: (1) A rock and timber diversion dam on the Tualatin River at Mile 4.7; (2) a headgate structure at Mile 0.7 of the Tualatin River; (3) the 1.5-mile long Oswego Canal; (4) Lake Oswego, a 400-acre reservoir with a storage capacity of 9,600 acre-feet at elevation 98 feet; (5) Lake Oswego Dam, a 197-foot long, 25-foot high concrete dam; (6) 910 feet of 60-inch diameter wood stave pipe from the dam to a surge tank; (7) 30 feet of 48-inch diameter wood stave pipe from the surge tank to the powerhouse; (8) a powerhouse containing a single generating unit with a capacity of 540 kW discharging into Oswego Creek; and (9) associated electrical and transmission equipment.

Purpose of Project—The project has an average annual generation of approximately 3,500 MWh. Project power is sold to the Portland General Electric Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 28, 1982, either the competing application itself (See 18 CFR 4.33 (a) and (d)) or a notice of intent (See 18 CFR 4.33 (b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in 4.33(c) or 4.101 et. seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 28, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4681 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4332-001]

Long Lake Energy Corp.; Application for Short-Form License (Minor)

February 16, 1982.

Take notice that the Long Lake Energy Corporation (Applicant) filed on September 16, 1981, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for construction and operation of a water power project to be known as the High Falls Hydroelectric Project No. 4332. The project would be located on the Chateaugay River in Franklin County, New York. Correspondence with the Applicant should be directed to: Long Lake Energy Corporation, 330 Madison Avenue, 7th Floor, New York, New York 10017.

Project Description—The proposed run-of-the-river project would consist of existing facilities including: (1) High Falls Dam, a 94-foot long and 64-foot high concrete and masonry gravity structure owned by the New York State Electric and Gas Corporation; (2) a reservoir of negligible storage capacity at approximate mean surface elevation

962.66 feet m.s.l.; (3) an intake structure with an 8-foot by 8-foot headgate (to be replaced); (4) a 7-foot diameter steel penstock about 215 feet long (the lower 70 feet to be replaced); and new project works to include (5) a straight section of 7-foot diameter steel penstock about 46 feet long; leading to (6) a powerhouse with an installed capacity of 1,500 kW; (7) a tailrace; (8) electrical facilities; (9) a transmission line about 400 feet long; and (10) other appurtenances. Applicant estimates the average annual generation would be 9,200,000 kWh, and project energy is proposed to be sold to New York State Electric and Gas Corporation or wheeled to another public utility.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 26, 1982, either the competing application itself (see 18 CFR 4.33(a) and (d)) or a notice of intent (see 18 CFR 4.33(b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4682 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5787-000]

Lawrence J. McMurtrey; Application for Preliminary Permit

February 18, 1982.

Take notice that Lawrence J. McMurtrey (Applicant) filed on December 17, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5787 to be known as the White Chuck River Tributaries Waterpower project located on White Chuck River Tributaries, near Darrington, within the lands of the Mt. Baker-Snoqualmie National Forest in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122 190th N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) A 3-foot wide, 3-foot deep concrete diversion ditch buried in the stream bed, one on each of the three tributaries to the White Chuck River; (2) a 7,500-foot long pipeline; (3) a 2,500-foot long, 18-inch diameter penstock; (4) a powerhouse with an installed capacity of 940 kW; (5) a 1,000-foot long, 115-kV transmission line from the powerhouse to a proposed transmission line. The Applicant estimates that the average annual energy production would be 5.8 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a permit for a period of 36 months during which time it would conduct technical, environmental and economic analysis; and prepare an FERC license application. No new roads would be required for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $20,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 26, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 26, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 25, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4683 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5900-000]

Mason County Public Utility District No. 1; Application for Preliminary Permit

February 23, 1982.

Take notice that Mason County Public Utility District No. 1 (Applicant) filed on January 19, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5900 to be known as the Cabin Creek Hydroelectric Project located on Cabin Creek, a tributary of Hamma Hamma River in Mason County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. John P. Robertson, Manager, Public Utility District No. 1 of Mason County, Rt. 5, Box 555, Shelton, Washington 98584.

Project Description—The proposed project would consist of: (1) A 50-foot long, 5- to 15-foot high diversion structure; (2) a 4,500-foot long, 3-foot diameter penstock; (3) a powerhouse with an installed capacity of 2,400 kW; and (4) a 7.2-mile long, 12-kV transmission line from the powerhouse to an existing transmission line owned by the Mason County Public Utility District No. 1. The Applicant estimates that the average annual energy production would be 9.9 million kWh. The project is located on U.S. Federal lands owned by Olympic National Forest.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which it would conduct the technical, environmental and economic studies, and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $135,000.

Competing Applications—This application was filed as a competing application to Hydro Resource Company's application for Project No. 5546 filed on October 21, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 12, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4683 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5679-000]

Metals Selling Corp.; Application for Preliminary Permit

February 22, 1982.

Take notice that Metals Selling Corp. (Applicant) filed on November 24, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5679 to be known as the MSC Power Project located on the Quinebaug River in Windham County, Connecticut. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Raymond Rosenfield and Norman Rosenfield, 55 Providence Street, Putnam, Connecticut 06260.

Project Description—The proposed project would be run-of-the-river and would consist of: (1) An existing dam, 105 feet long and 14.5 feet high, constructed of cut stone with a spillway, along the entire crest length, requiring repairs; (2) a reservoir having minimal pondage; (3) an existing intake structure, near the right dam abutment, with gates and trashracks; (4) a powerhouse to be renovated and equipped with new and/or rehabilitated turbine-generators having a total rated capacity of 746 kW; (5) a restored tailrace; (6) a new transmission line, approximately 500 feet long; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 2,200,000 kWh. Project energy would be sold to Northeast Utilities.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time it would prepare studies of the hydraulic, construction, economic, environmental,

historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $5,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 28, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 29, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protests, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before April 29, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4694 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-294-000]

Montana Power Co.; Filing

February 16, 1982.

The filing Company submits the following:

Take notice that the Montana Power Company (Montana) on February 4, 1982, tendered for filing Second Revised Sheet No. 10 of the FPC Electric Tariff M-1, which has been revised to show the addition of Arizona Electric Power Cooperative, Inc. (AEPCO) and Idaho Power Company, and a summary of sales made under the Company's FPC Electric Tariff M-1 during July, August and September, 1981, along with cost justification for the rate charged.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 5, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4695 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5906-000]

North Canal Waterworks; Application for License (5 MW or Less)

February 18, 1982.

Take notice that North Canal Waterworks (Applicant) filed on January 21, 1982, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for continued operation of a water power project to be known as the North Canal Hydroelectric Project No. 5906. The project is located on a canal off the Merrimack River, near the City of Lawrence in Essex County, Massachusetts. Correspondence with the Applicant should be directed to: Julie Meck Hamlin, Esquire, North Canal Waterworks, 110 Tremont Street, Boston, Massachusetts 02108 and David B. Ward, Esquire, Case & Ward P.C., 1050 Seventeenth Street, NW., Washington, D.C. 20036.

Project Description—The proposed project consists of five waterwheels which operate under an averge rated gross head of 28 feet and were constructed and placed in operation in the early 1900s prior to the enactment of the Federal Power Act. The facility has been in continuus operation since its construction. Three waterwheels are housed together upstream and two waterwheels are housed on the adjacent downstream site. Each waterwheel includes a headgate, penstock, directly connected generator and a tailrace. The facility operates intermittently when water is available that is surplus to the Lawrence Hydroelectric plant, FERC Project No. 2800, and the units operated by Merrimac Paper and Aquamac, FERC Project Nos. 2927 and 2928. The facility will generate approximately 1.2 million kilowatt hours annually. The North Canal Hydroelectric Project is located on the North Canal below the existing Great Stone Dam on the Merrimack River in Lawrence, Massachusetts.

Purpose of Project—The energy generated by the project will be sold to the Massachusetts Electric Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endargered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 26, 1982, either the competing application itself (See 18 CFR 4.33(a) and (d)) or a notice of intent (See 18 CFR 4.33(b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et. seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 26,1982.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION" "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4696 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-176-000]

Northwest Pipeline Corp.; Application

February 17, 1982.

Take notice that on January 25, 1982, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP82-176-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to Texas Eastern Transmission Corporation (Texas Eastern) and/or Transwestern Pipeline Company (Transwestern), the transportation of natural gas for certain existing shippers and the construction and operation of certain facilities necessary therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a precedent agreement dated January 14, 1982, Applicant proposes to sell up to 3,000,000 therms equivalent of natural gas per day on a firm basis and an additional 250,000 therms equivalent on a best-efforts basis to Texas Eastern and/or Transwestern. In support of this sale, Applicant has entered into an agreement with Westcoast Transmission Company Limited (Westcoast) to increase its purchase from Westcoast from 800,000 Mcf of natural gas per day to 869,000 Mcf per day. The sale and delivery to Texas Eastern and/or Transwestern, it is stated, would be made at a point of interconnection between the facilities of Applicant and Continental Divide Pipeline Company (Continental) in La Plata County, Colorado, for transportation and delivery by Continental to Transwestern in McKinley County, New Mexico.

Applicant proposes to sell gas to Texas Eastern and/or Transwestern pursuant to its proposed Rate Schedule OS-1 which is comprised of a gas cost reimbursement charge for each therm delivered equivalent to the price Applicant is required to pay for gas imported from Canada, a transportation cost reimbursement charge including a monthly charge for the proportionate share of incremental transmission facilities required to deliver the proposed volumes, a commodity charge to cover the transportation through existing transmission facilities and a monthly fuel cost charge for the fuel required to transport the gas, and a monthly gas storage cost reimbursement demand charge to cover the cost of storage required to provide firm service. Based on the present Canadian gas cost of $4.94 per million Btu, the cost of gas delivered to Continental is estimated to be $5.88 per million Btu in the first year.

In order to deliver the subject gas, Applicant proposes herein to construct and operate up to 2,000 horsepower at its existing Chehalis compressor station, Lewis County, Washington, 65.7 miles of 36-inch loop pipeline on the discharge side of its Rangely, Colorado, compressor station, 177.2 miles of 30-inch loop pipeline in the area extending from the terminus of the 36-inch loop pipeline to Applicant's mainline compressor station at Ignacio, Colorado, up to 3,630 horsepower at a new compressor station to be constructed in the vicinity of Cortez, Colorado, compressor cylinder modifications at Applicant's existing Baker and Ignacio compressor stations, and the Pine Gulch meter station to be constructed in the vicinity of Applicant's Ignacio compressor station at the interconnection of Applicant's transmission system and those facilities proposed by Continental. The cost of the proposed facilities is estimated to be $209,260,000 which would be financed using funds obtained from a combination of interim bank financing, long-term debt, internally generated funds and/or equity contributed by Applicant's parent corporation.

Applicant states that it has included in its design of the looped facilities sufficient capacity to transport an additional 125,000 Mcf of gas per day in excess of the volumes committed to Texas Eastern and/or Transwestern. Applicant asserts it has received preliminary requests from certain shipper customers to utilize 117,000 Mcf per day as follows:

Company	Present rate schedule	Volumes presently certificated to transport (Mcf/day)	Contract demand volumes to be transported under rate schedule T-2 (Mcf/day)	Proposed contract demand volumes to be transported under present rate schedule (Mcf/day)
Cities	X-46	100,000	75,000	25,000
Colorado Interstate	X-51	5,000	2,000	3,000
Colorado Interstate	X-52	5,000	2,000	3,000
Colorado Interstate	X-54	4,000	2,000	2,000
Mich-Wisconsin	X-53	15,000	1,000	14,000
Mich-Wisconsin	X-62	10,000	1,000	9,000
Natural Gas Pipeline	X-63	85,000	5,000	80,000
Southwest Gas	X-55	2,000	1,000	1,000
Southwest Gas	X-56	20,000	16,000	4,000

Company	Present rate schedule	Volumes presently certified to transport (Mcf/day)	Contract demand volumes to be transported under rate schedule T-2 (dth/day)	Proposed contract demand volumes to be transported under present rate schedule (Mcf/day)
Texas Gas Transmission	284	10,000	10,000	0
Utah Gas Service	X-25	5,000	2,000	3,000
Total		201,000	117,000	84,000

It is asserted that the shippers preliminarily request that such volumes be transported on a firm basis. Applicant, therefore, requests that its existing authority to transport these volumes be transferred to its proposed Rate Schedule T–2 and be deleted from the authority granted under the transportation rate schedules authorizing the existing service.

Applicant proposes to render this firm service pursuant to its proposed Rate Schedule T–2. The charge under this rate schedule would consist of a monthly facility charge for the proportionate share of incremental transmission facilities required to transport the proposed volumes and a commodity charge to cover the cost of transportation through existing transmission facilities which would be based on the distance each therm of gas is transported.

Applicant proposes to establish a uniform transportation cost applicable to incremental transmission facilities so that all customers obtaining firm transportation service would be charged for a proprotionate share of the cost of incremental transmission facilities. To establish the uniform transportation cost, Applicant proposes to add the facilties proposed in this application with those previously certificated to render transportation for Pacific Interstate Gas Company under Rate Schedule T–1.

Applicant further proposes herein to include in its cost-of-service any amounts paid to Westcoast for the incremental compression of gas performed prior to delivery of gas to Applicant at the Sumas, Washington, import point.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 11, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4689 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-175-000]

Northwest Pipeline Corp.; Application

February 17, 1982.

Take notice that on January 25, 1982, Northwest Pipeline Corporation (Applicant), P. O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP82–175–000 an application pursuant to Section 3 of the Nutural Gas Act for authorization to increase the daily quantity of natural gas imported at the Sumas, Washington, import point, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes an increase from 809,000 Mcf per day to 869,000 Mcf per day in the volume of natural gas which Applicant imports from Canada at Sumas, Washington. It is stated that Westcoast Transmission Company Limited (Westcoast) and El Paso Natural Gas Company (El Paso) entered into an agreement dated July 20, 1979, which permitted Westcoast to sell El Paso up to 60,000 Mcf of gas per day at the Sumas import point. It was intended for Applicant to transport the gas to El Paso's facilities, but no transportation agreement has ever been executed. It is stated that Applicant, Westcoast and El Paso have entered into an agreement dated December 1, 1981, whereby El Paso has agreed to assign to Applicant its interest in the agreement of July 20, 1979. Under the December 1, 1981, agreement, Applicant has the sole right to purchase the additional 60,000 Mcf of gas available at the Sumas import point, it is asserted.

Applicant requires the additional gas at the Sumas import point to support a sale of gas to Texas Eastern Transmission Corporation (Texas Eastern) and/or Transwestern Pipeline Company (Transwestern). Applicant explains that it would sell up to 300 billion Btu on a firm basis to Texas Eastern and/or Transwestern and an additional 25 billion Btu on a best-efforts basis.

It is asserted that the rate to be paid by Applicant to Westcoast for the purchase of an additional 60,000 Mcf per day would be that price fixed by the National Energy Board of Canada for the export of natural gas from Canada. It is further asserted that in order to effectuate the import of the additional 60,000 Mcf per day, Applicant has executed an agreement with Westcoast whereby Westcoast agrees to increase the compression delivery pressure at the international boundary from 800 psia to 900 psia. Applicant would pay Westcoast a monthly charge and would reimburse Westcoast for its additional fuel requirements to render the service.

Applicant further proposes herein to transfer gas from Sumas to the import point at Kingsgate, British Columbia. The following volumes would be transferred:

Effective November 1, 1985, 24,000 Mcf per day

Effective November 1, 1986, 62,000 Mcf per day

Effective November 1, 1987, 100,000 Mcf per day

Effective November 1, 1988, 100,000 Mcf per day

It is asserted that such transfer would increase British Columbia's annual sales of gas and would relieve British Columbia's need to find other markets for its gas reserves.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 11, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4670 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA82-1-28-001 and RP80-78-009]

Panhandle Eastern Pipe Line Co.; Proposed Change in FERC Gas Tariff

February 12, 1982.

Take notice that on January 27, 1982, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing in substitution for tariff sheets filed on January 15, 1982, the following Substitute Revised Tariff Sheets to its FERC Gas Tariff, Original Volume No. 1:

First Substitute Forty-Second Revised Sheet No. 3–A
First Substitute Nineteenth Revised Sheet No. 3–B
First Substitute Sixth Revised Sheet No. 3–C.1
First Substitute Sixth Revised Sheet No. 3–C.2
First Substitute Sixth Revised Sheet No. 3–C.3
First Substitute Alternate Forty-Second Revised Sheet No. 3–A
First Substitute Alternate Nineteenth Revised Sheet No. 3–B
First Substitute Alternate Sixth Revised Sheet No. 3–C.1
First Substitute Alternate Sixth Revised Sheet No. 3–C.2
First Substitute Alternate Sixth Revised Sheet No. 3–C.3

Panhandle states that the tariff sheets submitted January 15, 1982, were filed pursuant to the General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 1 and in accordance with the Stipulation and Agreement in Docket No. RP80–78. However, the Carrying Charge Surcharge rate, as reflected in the January 15, 1982 filing, was incorrectly stated in § 18.2 of the filing. Panhandle states that the Carrying Charge Surcharge rate should have been a *reduction* of 1.07¢ in lieu of the increase of 1.07¢ as filed. Accordingly, in order to properly state the proposed rate changes, including the Carrying Charge Surcharge, Panhandle submits these substitute tariffs which will retain the same proposed effective date as the original January 15, 1982 filings of March 1, 1982.

Copies of this filing were served upon Panhandle's jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 625 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4672 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-234-000]

Philadelphia Electric Co.; Filing

February 16, 1982.

The filing Company submits the following:

Take notice that Philadelphia Electric Company (Philadelphia) on February 8, 1982, tendered for filing proposed changes in its FERC Electric Service Tariff No. 44, applicable for service the Borough of Lansdale. The proposed changes would increase revenues from jurisdictional sales and service by $880,000, or 12%, based on the 12-month period ending December 1, 1982.

Philadelphia proposes an effective date of April 10, 1982.

Copies of the filing were served upon the Borough of Lansdale and upon the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 3, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4672 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP82-20]

Public Service Company of Oklahoma; Emergency Request for Declaratory Order

February 11, 1982.

On February 8, 1982, Public Service Company of Oklahoma (PSO) filed an emergency request for a declaratory order pursuant to §§ 1.7(c) and 1.12 of the Commission's Rules of Practice and Procedure (Commission). PSO requests that the Commission declare that its ongoing wellhead sales of natural gas to United Gas Pipe Line Company (United) and Lone Star Gas Company (Lone Star) are "first sales" within the meaning of the Natural Gas Policy Act of 1978 (NGPA).

PSO alleges the following: PSO is an Oklahoma corporation with its principal place of business in Tulsa, Oklahoma. PSO is a public utility engaged in the business of providing electric service to customers located in portions of eastern and southwestern Oklahoma. To provide fuel for its electric generating operations, PSO purchases natural gas from unaffiliated, independent producers in the State of Oklahoma. Transok Pipe Line Company, a wholly-owned intrastate pipeline subsidiary of PSO, collects the gas purchased by PSO and transports it to PSO's electric generating stations. PSO states that for the past year it has been selling certain gas which it purchases from the above-described unaffiliated Oklahoma producers in interstate commerce to United and Lone Star as it is gas which is surplus to PSO's electric generating fuel requirements. PSO alleges that such sales to United and Lone Star have been averaging approximately 170,000 MMBtu per day and have assisted it in alleviating take-or-pay problems which

PSO might otherwise incur under its producer contracts as well as providing a market for its surplus gas. PSO alleges that it has been making its sales to United and Lone Star as "first sales" under the NGPA at the applicable maximum lawful price. As NGPA "first sales" of natural gas not committed or dedicated to interstate commerce on November 8, 1978, PSO contends that its sales to United and Lone Star are not subject to regulation under the Natural Gas Act due to the operation of NGPA section 601(a)(1)(A).

In concluding that its sales to United and Lone Star are NGPA "first sales", PSO states that it has been relying, in part, upon the Commission's affiliate rule in § 270.203(c) of the regulations which was promulgated in Order No. 58. As is pertinent here, the rule basically provides that a sale by a pipeline affiliate, which is not itself a pipeline, is a "first sale" under the NGPA. The problem, according to PSO, is that on December 23, 1981, the United States Court of Appeals for the Fifth Circuit rendered its opinion in *Mid-Louisiana Gas Company, et al.* v. *FERC*, Nos. 80-3804, *et al.* which vacated Order No. 58 in its entirety even though the Court, in its opinion, only addressed those provisions of Order No. 58 which deal with the NGPA "first sales" status of gas *produced* by pipelines and their affiliates. According to PSO, the Fifth Circuit's mandate in the *Mid-Louisiana* case issues in accordance with Rule No. 41 of the Federal Rules of Appellate Procedure after February 12, 1982. As a result, PSO claims that it faces immediate regulatory uncertainty as to whether its sales are NGPA "first sales" and whether its sales are subject to regulation under the Natural Gas Act. PSO alleges that it will be forced to interrupt its deliveries to United and Lone Star unless the Commission issues an order declaring PSO's sales to United and Lone Star to be "first sales" within the meaning of the NGPA. PSO contends that the authority for such an order could be NGPA section 2(21)(A)(v) by which the Commission can define certain sales to be "first sales" in order to prevent circumvention of any maximum lawful price under the NGPA. PSO contends that its sales to United and Lone Star are made at the wellhead and should be subject to the NGPA Title I "Wellhead Price Controls."

Any person desiring to be heard or to protest this emergency request for declaratory order must file a petition to intervene or a protest in accordance with §§ 1.8 or 1.10 of the Commission's Rules of Practice and Procedure. All petitions or protests shall be filed with the Secretary of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, within fifteen days after this notice is issued. Protests will not serve to make the protestants parties to this proceeding. Any person desiring to become a party must file a petition to intervene. Copies of the emergency request for declaratory order are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4669 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-165-000]

Public Service Electric & Gas Co., Applicant and Transcontinental Gas Pipe Line Corp., Respondent; Application

February 16, 1982.

Take notice that on January 19, 1982, Public Service Electric and Gas Company (Applicant), 80 Park Plaza, Newark, New Jersey 07101, filed in Docket No. CP82-165-000 an application pursuant to Section 7(a) of the Natural Gas Act for an order directing Transcontinental Gas Pipe Line Corporation (Respondent) to establish a new delivery point on its transportation facilities with the facilities of Applicant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is submitted that Applicant is engaged in the purchase, manufacture, and distribution of natural gas within the state of New Jersey. Applicant asserts that it has experienced pressure problems on its gas distribution system in the Gillette area of Passaic Township, Morris County, New Jersey, and that such problems would endanger service to high priority customers in the area if not corrected.

In order to correct such problems, Applicant requests that the Commission direct Respondent to construct a new delivery point including necessary valving and metering on Respondent's pipeline located in the Gillette area of Passaic Township, Morris County, New Jersey. Applicant states that it would construct the necessary piping, valving, regulating devices, and additional equipment on property adjacent to Respondent's right-of-way on Morristown Road, Gillette, New Jersey. Applicant further states that it would also extend approximately 2,300 feet of 16-inch main from the proposed station to an existing 12-inch main owned and operated by Applicant.

Applicant estimates the cost of facilities to be constructed by Respondent to be $314,000, which cost, including full reimbursement to Respondent for its costs of construction, would be financed by Applicant through funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 18, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 156.9). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4671 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-79-002]

Ohio Edison Co.; Compliance Filing

February 16, 1982.

The filing Company submits the following:

Take notice that on February 8, 1982, Ohio Edison Company filed revised service schedules and revised rates in compliance with the Commission's order issued January 8, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 3, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4665 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST80-214-001]

Rael Gas Co.; Extension Reports

February 16, 1982.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional of up to 2 years. These transactions commenced on a self-implementing basis case-by-case Commission authorization. The Commission's regulations provide that the transportation or sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days proceeding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. The letter "C" indicates transportation by an intrastate pipeline under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146.

Any person desiring to be heard or to make any protest with reference to said extension report should on or before March 9, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No. and Transporter/seller

ST80-214-001; Rael Gas Co., 950 One Energy Square, Dallas, TX 75206

ST80-220-001; United Texas Transmission Co., P.O. Box 1478, Houston, TX 77001

ST80-224-001; Cities Service Gas Co., P.O. Box 25128, Oklahoma City, OK 73125

ST80-237-001; Valero Transmission Co., P.O. Box 500, San Antonio, TX 78295

Recipient	Date filed	Part 284 subpart	Effective date
Michigan-Wisconsin Pipe Line Co	Jan. 25, 1982	C	Apr. 25, 1982.
United Gas Pipe Line Co	do	C	Apr. 26, 1982.
Pacific Gas and Electric Co	Jan. 29, 1982	B	May 1, 1982.
Texas Eastern Transmission Corp	Jan. 21, 1982	C	Do.

[FR Doc. 82-4669 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5795-000]

Resource Investments; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

February 23, 1982.

Take notice that on December 17, 1981, Resource Investments (Applicant) filed an application under section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project, Project No. 5795 would be located on Sand Creek, within the Sierra National Forest in Madera County, California. Correspondence with the Applicant should be directed to: Mr. Fred G. Castagna, 1646 East Street, Redding, California 96001.

Project Description—The proposed project would consist of: (1) A reinforced concrete diversion structure, spillway level 6 feet above the streambed, elevation 5,156 feet; with negligible storage; (2) an intake structure with two 36-inch diameter intake pipes; (3) diversion conduit about 8,900 feet long and penstock 6,864 feet long; (4) a powerhouse containing a turbine generator with 4.75 MW capacity and 14.7 GWh annual energy production; (5) transmission line 7,666 feet long; and (6) associated facilities.

Purpose of Project—Project-generated energy is proposed to be sold to the Pacific Gas and Electric Company.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Departments of Fish and Game are requested, for the purposes set forth in section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 9, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before April 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of

the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4667 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA82-9-000]

Rimrock Gas Co.; Application for Adjustment

February 16, 1982.

Take notice that on February 1, 1982, Rimrock Gas Company (Rimrock), P.O. Box 948, Amarillo, Texas 79105, filed with the Federal Energy Regulatory Commission (Commission) an application for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) and § 1.41 of the Commission's rules of practice and procedure. Rimrock seeks authorization to file tariff charges establishing rates in accordance with section 108 of the NGPA, even though the pricing provision of its contract of sale with Arkansas Louisiana Gas Company (Arkla) does not authorize collection of the section 108 rate.

Specifically, Rimrock states that natural gas produced from three wells in Beckham County, Oklahoma, has been determined by the Corporation Commission of Oklahoma (Oklahoma) to be produced from stripper wells pursuant to section 108 of the NGPA, and that copies of Oklahoma's determination orders have been filed with the Commission. Since the Oklahoma determinations, Rimrock has requested Arkla to increase payments for the natural gas delivered to Arkla from the stripper wells commensurate with the prices permitted under section 108 of the NGPA, but that Arkla has refused such request. Rimrock states that by virtue of Arkla's refusal to pay the stripper well prices, Rimrock is suffering special hardship and inequity.

Rimrock further states that language in the Commission's Order of October 24, 1980, in Docket No. CS75-102, granting Rimrock a small producer certificate, to wit, Ordering Paragraph (D)(4) which states in part, that:

> No applicant may collect any rate in excess of the rate authorized in (3) above, unless * * * a final determination has been made by the jurisdictional agency under Part 274 * * *

when construed with the section of its contract entitled "Government Regulations," which states, in part, that:

> This contract shall be subject to all * * * orders of any regulatory authority having jurisdiction * * *

means, in Rimrock's view, that Rimrock, as one of the applicants referred to in the Commission's Order, may collect rates in excess of the contract by reason of the stripper well determinations made by Oklahoma.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's rules of practice and procedure as set forth in Order No. 24, issued March 22, 1979 (44 FR 18961, March 30, 1979), as amended.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before March 9, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4673 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-150-000]

Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.; Application

February 17, 1982.

Take notice that on January 12, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP82-150-000 an application pursuant to section 7(c) of the Natural Gas Act and § 284.200 of the Commission's Regulations for a certificate of public convenience and necessity authorizing the transportation of natural gas for Consolidated Edison Company of New York, Inc. (Con Ed), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport for Con Ed during the period from February 1, 1982, to April 1, 1982, up to 75,836 Mcf of natural gas per day which Con Ed has arranged to purchase from Equitable Gas Company (Equitable). It is stated that the transported natural gas would be used by Con Ed solely to displace fuel oil it would otherwise use in its electric generating stations and that Con Ed would not exceed the volumetric limitations imposed on such use of natural gas by the Powerplant and Industrial Fuel Use Act of 1978.

Applicant states that the volumes to be transported would be made available to it by Equitable for the account of Con Ed at Applicant's existing Pittsburgh Terminal sales meter station delivery point located in Allegheny County, Pennsylvania. Applicant states that it would deliver equivalent volumes to Transcontinental Gas Pipe Line Corporation (Transco) at its existing Rivervale sales meter station delivery point to Transco in Bergen County, New Jersey, and that Transco would deliver equivalent volumes to Con Ed.

Assuming that the proposed transportation service commences on February 1, 1982, Applicant estimates that it would transport up to 4,550,000 Mcf of gas for Con Ed during the period ending April 1, 1982, based on a peak day transportation volume of 75,836 Mcf.

It is stated that the transportation service proposed would be performed only to the extent Applicant's operating conditions and available capacity permit through the utilization of existing facilities.

It is stated that pursuant to a transportation contract among Applicant, Con Ed, Equitable, and Transco, Applicant's service rate is the rate contained in its Rate Schedule IT currently 16.24 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 11, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4667 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-1-17-003]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 16, 1982.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on February 8, 1982 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheets:

Substitute Revised Sixty-first Revised Sheet No. 14
Substitute Revised Sixty-first Revised Sheet No. 14A
Substitute Revised Sixty-first Revised Sheet No. 14B
Substitute Revised Sixty-first Revised Sheet No. 14C
Substitute Revised Sixty-first Revised Sheet No. 14D

These sheets were issued pursuant to Ordering Paragraph (C) of the Commission's Order Accepting For Filing and Suspending Revised Tariff Sheets, issued January 29, 1982 in Docket No. TA82-1-17-002 (PGA 82-1).

The changes proposed consist of:

(1) A reduction in rates, based on reductions in underlying pipeline supplier rates, consisting of a $0.007/dth decrease in monthly demand rates and a $0.0034/dth decrease in commodity rates; and

(2) A temporary reduction of 14.79¢/dth to reflect elimination of amounts attributable to a proposed purchase from Northwest Pipeline Corporation which gas had not been connected to Texas Eastern's system as of February 1, 1982, the effective date of Texas Eastern's PGA filing. As stated, the reduction is temporary only, and is proposed to terminate as described below.

The proposed effective date of the above tariff sheets is February 1, 1982.

On April 28, 1981, Northwest Pipeline Corporation filed in Docket No. CP81-307 for authorization to commence a sale to Texas Eastern and Transwestern Pipeline Company of certain volumes of natural gas. Although it was anticipated that this source of supply would be connected to Texas Eastern's system by February 1, 1982, the issuance of the certificate has been delayed to the extent that these volumes remain unconnected to this date. In its last PGA filing in Docket No. TA-81-2-17, Texas Eastern proposed to eliminate amounts attributable to the Northwest sale until such time as deliveries commenced thereunder. At such time as deliveries from Northwest commenced, Texas Eastern proposed to reinstate amounts attributable thereto in its PGA, so that Revised Substitute Sixtieth Revised Sheet Nos. 14, 14A through 14D, submitted therewith for filing, would become effective on the first day of the month following the date of first delivery to Texas Eastern under the Northwest contract. Texas Eastern stated that amounts of undercollection could be substantial if current recovery of costs were not permitted, to the detriment of both Texas Eastern and its customers. In response to Texas Eastern's request for a waiver of § 154.38(d)(4)(iv) of its rules and regulations to permit Revised Substitute Sixtieth Revised Sheet Nos. 14, 14A through 14D submitted therewith to become effective on the date proposed above, the Commission, while denying the request for waiver, nevertheless responded that at such time as deliveries of the Northwest volumes commenced, Texas Eastern would be permitted to make a showing as to why § 154.38(d)(4)(iv) should then be waived. Texas Eastern assumes that similar treatment will be afforded it under the instant filing. If such is not the Commission's intention, then Texas Eastern renews its request that the Commission at this time grant waiver of § 154.38(d)(4)(iv) to permit Revised Substitute Revised Sixty-first Revised Sheet Nos. 14, 14A through 14D submitted herewith for filing to become effective on the first day of the month following the commencement of deliveries to Texas Eastern of the Northwest volumes.

By its filing, Texas Eastern has requested the Commission to grant waiver of its Rules and Regulations as may be necessary to allow these tariff sheets to become effective as proposed.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 5, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4674 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-1-18-002]

Texas Gas Transmission Corp.; Proposed Change in FERC Gas Tariff

February 12, 1982.

Take note that on February 5, 1982, Texas Gas Transmission Corporation (Texas Gas tendered for filing Substitute Thirty-Sixth Revised Sheet No. 7 to its FPC Gas Tariff, Third Revised Volume No. 1. The requested proposed effective date for the substitute tariff sheets is February 1, 1982.

Texas Gas states that the tariff sheet was filed to reflect downward modifications in the rates of two of Texas Gas' pipeline suppliers, Texas Eastern Transmission Corporation (Texas Eastern) and United Gas Pipe Line Company (United). The Commission's Order issued January 29, 1982, in Docket No. TA82-1-18-002 accepted Texas Gas' February 1, 1982 PGA rates subject to the condition that they reflect any downward modifications of the Texas Eastern and United PGA rates.

Copies of this filing were served to all of Texas Gas' jurisidictional sales customers, interested state commissions and parties of record in this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4686 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-171-000]

Transcontinental Gas Pipe Line Corp.; Application

February 17, 1982.

Take notice that on January 22, 1982, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP82-171-000 an application as supplemented February 3, 1982, pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Consolidated Edison Company of New York, Inc. (Con Ed), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 103,500 dekatherms (dt) equivalent of natural gas per day which Con Ed has arranged to purchase from Equitable Gas Company (Equitable). It is asserted that Equitable would deliver the gas to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) and/or Texas Eastern Transmission Corporation (Texas Eastern) at the existing interconnection between Equitable and Tennessee in Allegheny County, Pennsylvania, and/or the point of interconnection between Equitable and Texas Eastern in Westmoreland County, Pennsylvania. The gas would be made available to Applicant by Tennessee at Rivervale, Bergen County, New Jersey, and/or Texas Eastern at its point of interconnection with Applicant at Applicant's meter station #249, Montgomery County, Pennsylvania. Applicant asserts that it would redeliver equivalent quantities to Con Ed at existing points of delivery between the two.

It is stated that the proposed service is for a term beginning on the date of initial deliveries and ending on October 31, 1982, or the expiration of the "fuel shortage emergency period" as defined in § 284.201(e) of the Commission's Regulations whichever occurs first. The transportation would be interruptible at Applicant's sole discretion and would be subordinate to existing transportation arrangements on Applicant's system and to Applicant's deliveries to Con Ed under Applicant's Rate Schedules CD, ACQ, LGA, GSS and WSS.

It is stated that Con Ed would initially pay Applicant 7.0 cents per dt equivalent delivered with 0.7 percent retention for compressor fuel and line loss make-up.

Con Ed has advised that it would burn the gas directly to generate electricity and/or steam and such gas would displace fuel oil which would otherwise be burned for such purposes.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 11, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4689 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. G-8837-002, et al.]

Shell Offshore Inc. (Successor in Interest to Shell Oil Company) et al.; Application as Successor in Interest for Certificates of Public Convenience and Necessity

February 16, 1982.

Take notice that on February 5, 1982, Shell Offshore Inc., (Applicant or "Shell Offshore") of One Shell Plaza, Room 3892, Post Office Box 2463, Houston, Texas 77001, filed an application as successor in interest for certificate of public convenience and necessity in which Shell Offshore proposes to continue service by selling and delivering gas produced from certain acreage covered by certificates issued to Shell Oil Company ("Shell Oil"). Shell Offshore is filing for redesignation of the Shell Oil FERC Rate Schedules and as complete successor to Shell Oil in the dockets as listed on Exhibit "A".

Effective as of January 1, 1982, Shell Oil Company assigned its interests in certain properties to Shell Energy Resources Inc. ("Shell Energy"), and Shell Energy in turn assigned such interests to Applicant. As a result of such assignments, Shell Offshore has acquired all of the interests of Shell Oil in all of the properties which are subject to the Shell Oil FERC Gas Rate Schedules which are listed in Exhibit "A" attached hereto.

Any person desiring to be heard or to make any protest with reference to said applications should on or before March 2, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene in timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

EXHIBIT "A"

Shell Oil Co. gas rate schedule No.	Certificate docket No.	Field or block	Contract date	Purchaser
130	G-8837, G-16987	South Pass 27 [1]	5-15-78	Tennessee Gas Pipeline Company.
171	G-15709	Eugene Island 16	5-16-79	Tennessee Gas Pipeline Company.
176	G-13944	West Black Bay	11-19-57	Southern Natural Gas Company.
180	G-15293	West Cameron 192	10-5-77	Tennessee Gas Pipeline Company.
186	G-17264	Atchafalaya Bay	4-28-79	Tennessee Gas Pipeline Company.
218	G-16402	Eugene Island 100	3-23-59	Transcontinental Gas Pipe Line Corporation.
237	C161-104	West Delta 30	11-1-79	Tennessee Gas Pipeline Company.
244	C161-1095	Eugene Island 128	4-21-81	Transcontinental Gas Pipe Line Corporation.
248	C161-1421	South Pass 27	6-2-81	Tennessee Gas Pipeline Company.
345	C167-898	West Delta 105 [1]	10-3-56 8-18-76	Southern Natural Gas Company.
349	C166-91	Eugene Island 175 [1]	7-18-67	Michigan Wisconsin Pipe Line Company.
357	C166-1146	Bay Marchand 2	2-21-68	United Gas Pipe Line Company.
358	C168-1211	South Timbalier 176 [1]	11-1-68	Trunkline Gas Company.
361	C166-1374	South Marsh Island 6	5-3-68	Michigan Wisconsin Pipe Line Company.
362	C169-242	Main Pass 289 [1]	8-27-68	Southern Natural Gas Company.
364	C169-699	Eugene Island 19	1-2-69	Tennessee Gas Pipeline Company.
366	C169-293	Eugene Island 276	8-30-68	Michigan Wisconsin Pipe Line Company.
369	C169-306	Vermilion 164	8-27-68	Texas Eastern Transmission Corporation.
376	C170-102	South Timbalier 26	6-30-69	United Gas Pipe Line Company.
377	C170-69	South Marsh Island 27 [1]	7-16-69	Sea Robin Pipeline Company.
379	C170-396	West Cameron 192	10-6-69	Texas Eastern Transmission Corporation.
384	C171-840	Eugene Island 254 [1]	4-8-71	Michigan Wisconsin Pipe Line Company.
386	C172-495	Vermilion 191	1-13-78	Tennessee Gas Pipeline Company.
393	C173-311	Main Pass 69	7-15-72	Tennessee Gas Pipeline Company.
396	C173-160	Vermilion 247	8-1-73	Natural Gas Pipeline Company of America.
397	C173-164	West Cameron 565	8-1-73	Natural Gas Pipeline Company of America.
401	C174-290	Eugene Island 331	1-1-73	Natural Gas Pipeline Company of America.
402	C175-79	Eugene Island 331	5-1-74	Natural Gas Pipeline Company of America.
403	C174-372	Vermilion 321	9-1-73	Natural Gas Pipeline Company of America.
404	C175-396	Vermilion 321	7-1-74	Natural Gas Pipeline Company of America.
407	C176-225	Vermilion 321	8-1-75	Natural Gas Pipeline Company of America.
408	C176-3	Grand Isle 76	5-7-75	Southern Natural Gas Company.
409	C176-196	Grand Isle 76	8-21-75	Florida Gas Transmission Company.
410	C176-137	Bay Marchand 2	11-26-81	United Gas Pipe Line Company.
415	C176-776	Vermilion 22 [1]	9-1-76	Transcontinental Gas Pipe Line Corporation.
416	C176-780	Vermilion 22 [1]	9-1-76	Florida Gas Transmission Company.
421	C177-750	Vermilion 302	6-1-77	Natural Gas Pipeline Company of America.
426	C176-303	High Island A-350 [1]	1-9-76	Transcontinental Gas Pipe Line Corporation.
427	C176-304	Vermilion 340	1-10-76	Natural Gas Pipeline Company of America.
428	C176-305	High Island A-350 [1]	1-11-76	Trunkline Gas Company.
429	C176-309	Grand Isle 75	1-13-76	Southern Natural Gas Company.
433	C176-664	East Cameron 96	5-1-76	Tennessee Gas Pipeline Company.
434	C176-1161	South Marsh Island 149 [1]	8-1-76	Florida Gas Transmission Company.
435	C176-626	South Marsh Island 115	2-21-76	Natural Gas Pipeline Company of America.
436	C176-625	South Marsh Island 132	5-16-76	Transcontinental Gas Pipe Line Corporation.
437	C176-562	South Marsh Island 130 [1]	3-3-76	Transcontinental Gas Pipe Line Corporation.
438	C176-580	South Marsh Island 108	3-3-76	Transcontinental Gas Pipe Line Corporation.
439	C176-654	East Cameron 56 [1]	3-17-76	Transcontinental Gas Pipe Line Corporation.
440	C176-1167	South Marsh Island 149	8-1-76	Southern Natural Gas Company.
441	C176-459	High Island 179 [1]	1-22-76	United Gas Pipe Line Company.
442	C176-460	High Island 179 [1]	5-8-76	Transcontinental Gas Pipe Line Corporation.
443	C176-848	Mississippi Canyon 194 [2]	7-1-76	Southern Natural Gas Company.

EXHIBIT "A"—Continued

Shell Oil Co. gas rate schedule No.	Certificate docket No.	Field or block	Contract date	Purchaser
444	CI78-114	Mississippi Canyon 311	7-1-78 9-27-78	Southern Natural Gas Company.
445	CI78-115	Mississippi Canyon 311	8-1-78 8-27-78	Florida Gas Transmission Company.
446	CI80-136	High Island A-480	11-1-79	United Gas Pipe Line Company.
448	CI78-509	Matagorda Island 619 [1]	8-15-79	Transcontinental Gas Pipe Line Corporation.
449	CI78-513	Mississippi Canyon 194 [1]	8-1-79	Florida Gas Transmission Company.
451	CI80-309	Sabine Pass 10 [1]	4-1-80	Florida Gas Transmission Company.
452	CI80-361	West Cameron 85	5-7-80	Tennessee Gas Pipeline Company.
453	CI80-362	Matagorda Island A-7 [1]	8-15-79	Transcontinental Gas Pipe Line Corporation.
454	CI80-432	Vermilion 144	5-2-80	Columbia Gas Transmission Corporation.
456	CI80-420	High Island A-289 [1]	8-8-80	Tennessee Gas Pipeline Company.
456	CI80-20	West Cameron 65	8-1-80	Transcontinental Gas Pipe Line Corporation.
457	CI81-27	West Cameron 65	8-1-80	Florida Gas Transmission Company.
458	CI80-400	South Marsh Island 18	8-15-80	Sea Robin Pipeline Company.
460	CI81-197	Galveston 223	12-3-80	Transcontinental Gas Pipe Line Corporation.
461	CI81-198	Brazos A-19 [1]	12-22-80	Columbia Gas Transmission Corporation.
462	CI81-199	Brazos A-19 [1]	12-15-80	Transcontinental Gas Pipe Line Corporation.
464	CI81-110	Vermilion 370	12-1-80	Transcontinental Gas Pipe Line Corporation.
465	CI81-354	East Cameron 240	3-1-81	Southern Natural Gas Company.

[1] Also other fields or blocks.

[FR Doc. 82-4658 Filed 2-19-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5734-000]

Synergics Inc.; Application for Preliminary Permit

February 23, 1982.

Take notice that Synergics Inc. (Applicant) filed on December 8, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5734 to be known as the Cuddebackville Hydropower Project located on the Neversink River in Orange County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Wayne L. Rogers, President, Synergics Inc., 1444 Foxwood Court, Annapolis, Maryland 21401.

Project Description.—The proposed project would consist of: (1) The existing concrete gravity dam 12 feet high and 290 feet long; (2) a reservoir having a surface area of 2 acres with a normal water surface elevation of 540 feet m.s.l. and negligible storage capacity; (3) a new powerhouse with units having a total generating capacity of 1,200 kW; (4) the existing substation is owned by Orange and Rockland Utilities Inc.; and (5) appurtenant facilities.

The Applicant estimates the annual energy production to be between 4.0 and 4.5 GWh. Project energy would be sold to Orange and Rockland Utilities Inc. Existing project facilities, except for substation are owned by the Delaware and Hudson Canal Association.

Proposed Scope of Studies under Permit.—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates cost of the studies under the permit would be $30,000.

Competing Applications.—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 1, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)] A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 30, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 30, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4659 Filed 2-19-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5919-000]

Vermillion River Co.; Application for Preliminary Permit

February 18, 1982.

Take notice that Vermillion River Company (Applicant) filed on January 25, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5919 to be known as the Vermillion River Project located on the Vermillion River, near Noxon in Sanders County, Montana. The project would occupy U.S. lands within Kaniksu National Forest. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: The Vermillion River Company, c/o Mr. Leo Fisher, Suite 1009, 1625 I Street NW., Washington, D.C. 20006.

Project Description.—The proposed project would consist of: (1) A 7-foot high concrete dam; (2) an intake; (3) a 25,000-foot long, 6-foot diameter concrete pipeline; (4) a 1,500-foot long, 5-foot diameter steel penstock; (5) a powerhouse containing one generating unit rated at 5,900 kW; and (6) a 6-mile long transmission line. The average annual energy generation is estimated to be 15.5 million kWh.

Proposed Scope of Studies Under Permit.—A preliminary permit, if issued, does not authorize construction. Applicant seeks a 24-month preliminary permit, during which time it would conduct engineering, economic, environmental, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. Applicant proposes to conduct test borings and all disturbed land will be restored. The cost of the work is estimated to be $125,000.

Competing Applications.—This application was filed as a competing application to the City of Conrad, Montana's application for Project No. 5568 filed on October 28, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 12, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS," "PROTESTS", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4660 Filed 2-19-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-297-000]

Washington Water Power Co.; Filing

February 18, 1982.

The filing Company submits the following:

Take notice that on February 8, 1982, The Washington Water Power Company (Washington) tendered for filing copies of a service schedule applicable to what Washington refers to as a Settlement of Contract.

Washington requests that the requirements of prior notice be waived and the effective date be made retroactive to December 31, 1981, adding that there would be no effect upon purchasers under other rate schedules.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure [18 CFR 1.8, 1.10]. All such petitions or protests should be filed on or before March 3, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4675 Filed 2-19-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5853-000]

Western Hydro Electric, Inc.; Application for License (5 MW or Less)

February 23, 1982.

Take notice that Western Hydro Electric, Inc. (Applicant) filed on January 4, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as Olney Creek Falls Project No. 5853. The project would be located on Olney Creek near Town of Gold Bar in Snohomish County, Washington. Correspondence with the

Applicant should be directed to: Mr. J. Kirk Rector, Legal Counsel, Western Hydro Electric, Inc., 4832 Colony Circle, Salt Lake City, Utah 84117.

Project Description—The proposed project would consist of: (1) An existing diversion structure which would be renovated; (2) an existing 30-foot wide spillway; (3) a 1,150-foot long, 60-inch diameter penstock; (4) a powerhouse with total installed capacity of 1,500 kW; (5) a 100-foot long tailrace canal; (6) a pump and flow return pipe returning some of the powerplant discharge to the base of the Olney Creek Falls; (7) the facilities to interconnect with existing transmission line maintained by the Snohomish,County Public Utility District No. 1; and (8) improving and widening by 5 feet, an existing access road.

Purpose of Project—The proposed project would redevelop the potential hydropower at Olney Creek Falls. Applicant estimates that 9.3 million kWh of energy produced annually by the project, would be sold to the Snohomish County PUD.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Carjen Company's application for Project No. 4741 filed on May 8, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing applications for licenses or exemptions, or notices of intent to file competing applications, will be accepted for filing in response to this notice. [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate]

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application in or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4860 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5591-000]

City of Ypsilanti; Application for Preliminary Permit

February 22, 1982.

Take notice that the City of Ypsilanti, Michigan (Applicant) filed on November 2, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791–825(r)) for Project No. 5591 to be known as the Peninsular Paper Company Dam located on the Huron River in Washtenaw County, Michigan. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Donald W. Lystra, P.E., Ayres, Lewis, Norris & May, Inc., 3983 Research Park Drive, Ann Arbor, Michigan 48104.

Project Description—The proposed project would consist of: (1) An existing concrete ogee overflow spillway approximately 240 feet long and 18 feet high; (2) an existing reservoir with a surface elevation of 713 feet m.s.l., a surface area of approximately 66 acres and a usable storage capacity of 500 acre-feet; (3) an existing powerhouse to contain generating units with an estimated installed capacity of 520 kW; (4) existing transmission lines; and (5) appurtenant facilities. The proposed project is not located on Federal lands. The applicant estimates that the average annual energy output would be 2.5 GWh. Power produced by the Applicant would be consumed by the Peninsular Paper Company, and sold to nearby users, and the Detroit Edison Company.

Purposed Scope of Studies Under Permit.—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 12 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with consultation with Federal, State, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates the cost of the studies would be $14,000.

Competing Applications—This application was filed as a competing application to Mr. Harry A. Bogorad's application for Project No. 4955 filed on June 24, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit of license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before April 8, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4861 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-178-000]

Western Slope Gas Co.; Application

February 17, 1982.

Take notice that on January 26, 1982, Western Slope Gas Company (Applicant), P.O. Box 840, Denver, Colorado 80201, filed in Docket No. CP82-178-000 an application pursuant to Section 1(c) of the Natural Gas Act for exemption from the provisions of the Natural Gas Act and the Regulations of the Commission thereunder, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is submitted that Applicant is a Colorado corporation whose rates, facilities, and service are subject to the jurisdiction of the Public Utilities Commission of the State of Colorado. Applicant asserts that its Western System facilities have been declared exempt by the Federal Power Commission (FPC). Applicant further presumed that its South Central System was also exempt pursuant to the previous exemption granted by the FPC.

It is explained that Colorado-Wyoming Gas Company (Colorado-Wyoming) was originally engaged in interstate natural gas operations. Colorado-Wyoming sold all of its facilities located within the State of Wyoming to Cheyenne Light, Fuel and Power Company and retired or sold to Colorado Interstate Gas Company (CIG) certain facilities located within the State of Colorado. Colorado-Wyoming, it is stated, was then declared exempt under the Natural Gas Act by the FPC.

Applicant asserts that on December 31, 1964, Colorado-Wyoming merged into Applicant. The facilities encompassed by such acquisition principally consisted of three transmission lines: (1) One starting from a point near CIG's Cheyenne meter station located in Colorado extending south to the Mesa compressor station near Denver, Colorado; (2) one starting at CIG's Norfolk meter station located in Colorado extending to the Mesa compressor station near Denver, Colorado; and (3) one from the Mesa compressor station extending southerly to Denver, Colorado. Applicant explains that in 1969 the facilities comprising the South Central and what were formerly the Colorado-Wyoming transmission systems were connected via a pipeline across Rollins Pass in Boulder County, Colorado, comprising Applicant's Central System.

Applicant in response to a condition in the order issued October 26, 1981, in Docket No. CP81-345-000 requests that all of its operations be exempt from the Natural Gas Act including all facilities subsequently added to the Western System and all facilities which are a part of the Central System including those facilities acquired from Colorado-Wyoming.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 11, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4870 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5858-000]

Woods Creek, Inc.; Application for Preliminary Permit

February 16, 1982.

Take notice that Woods Creek, Inc. (Applicant) filed on January 7, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5858 to be known as the Index Creek Project located on Index Creek in King County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Neil H. Macdonald, Project Manager, Woods Creek, Incorporated, 14 South Idaho Street, Seattle, Washington 98134.

Project Description—The proposed project would consist of: (1) Three 6-foot high diversion weirs located at elevation 1950 feet on two tributaries and the mainstem of Index Creek; (2) four power conduits, having a total length of 22,500 feet; (3) a powerhouse at elevation 800 feet containing 2 turbine-generator units with a total capacity of 9300 kW; and (4) a one-mile long transmission line. Applicant estimates that the average annual energy production will be 38 million kWh. The proposed project will be located partially on lands under the management of the U.S. Forest Service.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a 24 month preliminary permit during which time technical, economic and financial feasibility studies will be undertaken to support an application for license or exemption. The cost of the above activities is estimated to be $170,000.

Competing Applications—Any one desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 26, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et. seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 26, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be

filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 24, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 20, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies requires by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4666 Filed 2-19-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[TSH-FRL-2056-6; OPTS-51399]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the Federal Register of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of six PMNs and provides a summary of each.

DATES: Written comments by: PMN 82-82, 82-83, and 82-84, April 9, 1982. PMN 82-85, 82-86, and 82-87, April 10, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51399]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St. SW., Washington, D.C. 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St. SW., Washington, D.C. 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 82-82

Close of Review Period. May 9, 1982.

Manufacturer's Identity. Texaco Chemical Company, 4800 Fournace Place, Bellaire, TX 77401.

Specific Chemical Identity. Alpha-methyl glucoside propoxylate.

Use. The manufacturer states that the PMN substance will be used in making rigid polyurethane foam.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Clear, amber liquid.
Specific gravity @ 20/20° C—1.050-1.100.
Boiling point—Decomposes before boiling.
Flash point—280-290° F.
Viscosity, cp, 77° F—1,000-10,000.
Solubility:
Water—Appreciable.
Ethanol—Appreciable.

Toxicity Data

Acute oral toxicity LD_{50} (rat)—>10 g/kg.
Acute dermal toxicity LD_{50} (rat)—>8 g/kg.
Skin irritation (rabbit)—Slightly irritating.
Eye irritation (rabbit)—Minimally irritating.

Exposure. The manufacturer states that during manufacture 4 workers may experience dermal, inhalation and occular exposure 8 hrs/day, 200 days/yr.

Environmental Release/Disposal. No data were submitted. Disposal is by approved landfill and incineration.

PMN 82-83

Close of Review Period. May 9, 1982.

Manufacturer's Identity. Texaco Chemical Company, 4800 Fournace Place, Bellaire, TX 77401.

Specific Chemical Identity. Alpha-methyl glucoside propoxylated ethoxylate.

Use. The manufacturer states that the PMN substance will be used in making rigid polyurethane foam.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Clear, amber liquid.
Specific gravity @ 20/20° C—1.10.
Boiling point—Decomposes before boiling.
Flash point—Approximately 300° F.
Viscosity, cp, 77° F—Approximately 10,000.
Solubility:
Water—Appreciable.
Ethanol—Appreciable.

Toxicity Data

Acute oral toxicity LD_{50} (rat)—>10 g/kg.
Acute dermal toxicity LD_{50} (rat)—>8 g/kg.
Skin irritation (rabbit)—Slightly irritating.
Eye irritation (rabbit)—Minimally irritating.

Exposure. The manufacturer states that during manufacture 4 workers may experience dermal, inhalation and occular exposure 8 hrs/day, 200 days/yr.

Environmental Release/Disposal. No data were submitted. Disposal is by approved landfill and incineration.

PMN 82-84

Close of Review Period. May 9, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided: Annual sales—$250,000,000. Manufacturing site—Northeast region.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Alkylthio metallic mercaptan.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used as a plastic additive.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data

Oral toxicity LD_{50} (rat)—>3,500 mg/kg.
Dermal toxicity LD_{50} (rat)—>4.0 g/kg.
Primary skin irritation (rabbit)—3/2.8.0.
Primary eye irritation (rabbit)—Mildly irritating.

Exposure. The manufacturer states that during manufacture and use a total of 29 workers may experience dermal and inhalation exposure up to 24 hrs/day, up to 60 days/yr during packaging and cleaning.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air 2 hrs/day, 60 days/yr with less than 10-100 kg/yr released to water 1 hr/day, 60 days/yr. Disposal is to a biological waste treatment unit.

PMN 82-85

Close of Review Period. May 10, 1982.

Manufacturer's Identity. Andrews Paper and Chemical Company, Inc., 1 Channel Drive, P.O. Box 509, Port Washington, NY 11060.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Aromatic sulfonate salt.

Use. The manufacturer states that the PMN substance will be used in diazo reproduction paper.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st yr	1,000	3,000
2d yr	2,000	6,000
3d yr	3,000	10,000

Physical/Chemical Properties

Appearance—White, crystalline powder.
pH—5.5.
Solubility:
Water—Soluble.
Alcohol—Insoluble.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture and processing a total of 20 workers may experience dermal and inhalation exposure up to 1 hr/day, up to 100 days/yr.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to water. Disposal is to a publicly owned treatment works (POTW).

PMN 82-86

Close of Review Period. May 10, 1982.

Importer's Identity. Mobay Chemical Corporation, Penn-Lincoln Parkway West, Pittsburgh, PA 15205.

Specific Chemical Identity. A mixture of 1-amino-8-naphthol-4,6-disulfonic acid and its mono and disodium salts.

Use. The importer states that the PMN substance will be used as an industrial manufacturer of a dyestuff intermediate.

Import Estimates

	Kilograms per year	
	Minimum	Maximum
1st yr	20,000	30,000
2d yr	24,000	34,000
3d yr	26,000	36,000

Physical/Chemical Properties

Appearance—Grey, odorless powder.
Melting point—>200° C (>392° F).
Solubility: water—Soluble.
Bulk density—700 kg/m^3.

Toxicity Data

Oral toxicity LD_{50} (rat)—>5,000 mg/kg.
Skin irritation (rabbit)—No irritation.
Eye irritation (rabbit)—Moderate irritation.

Exposure. The importer states that during use workers may experience dermal and inhalation exposure during charging.

Environmental Release/Disposal. No data were submitted.

PMN 82-87

Close of Review Period. May 10, 1982.

Manufacturer's Identity. Scher Chemicals, Inc., 1 Styertowne Road, P.O. Box 1236, Clifton, NJ 07012.

Specific Chemical Identity. Octadecyl docosenoate.

Use. The manufacturer states that the PMN substance will be used as a cosmetic emollient.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
1st yr	20,000	25,000
2d yr	25,000	30,000
3d yr	30,000	35,000

Physical/Chemical Properties

Appearance—Soft solid.
Specific gravity @ 25° C—0.875
Flash point—Over 170° C.
Melting range—30-35° C.
Solubility:
water—Insoluble.
vegetable oil—Soluble.
mineral oil—Soluble.
aliphatic and aromatic hydrocarbons—Soluble.
Pounds/gallon @ 25° C—7.3.

Toxicity Data

Acute oral toxicity LD_{50} (rat)—>5 g/kg.
Skin irritation (rabbit)—Not an irritant.
Eye irritation (rabbit)—Not an irritant.

Exposure. The manufacturer states that during manufacture and processing 43 workers may experience dermal exposure 8 hrs/day, 40 days/yr during sampling, drumming and clean up.

Environmental Release/Disposal. The manufacturer states that 10-100 kg/yr will be released to water. Disposal is to a POTW.

Dated: February 11, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-4707 Filed 2-19-82; 8:45 am]

BILLING CODE 6560-31-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans,

Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 4, 1982. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. 2744–47.

Filing Party: Nathan J. Bayer, Esquire, Freehill, Hogan & Mahar, 80 Pine Street, New York, New York 10005.

Summary: Agreement No. 2744–47 would remove ports on the West Coast of Colombia from the geographic scope of the Atlantic & Gulf/West Coast of South America Conference Agreement.

Agreement No. 7590–30.

Filing Party: Nathan J. Bayer, Esquire, Freehill, Hogan & Mahar, 80 Pine Street, New York, New York 10005.

Summary: Agreement No. 7590–30 would add ports on the West Coast of Colombia to the geographic scope of the East Coast Colombia Conference which would then be renamed the United States Atlantic & Gulf/Colombia Freight Conference.

By Order of the Federal Maritime Commission.

Dated: February 17, 1982.

Joseph C. Polking,

Assistant Secretary.

[FR Doc. 82-4762 Filed 2-19-82; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. T-4014]

Port Authority of New York and New Jersey and Scandinavian World Cruises (Bahamas) Limited, Inc.; Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreement No. T–4014 will not constitute a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of an environmental impact statement is not required. Agreement No. T–4014, between the Port Authority of New York and New Jersey and Scandinavian World Cruises (Bahamas) Limited, Inc. (Scandinavian) provides for the payment of dockage and wharfage at rates stipulated in the agreement in connection with the operation of a car cruise service by Scandinavian between the New York City Passenger Ship Terminal and port(s) in the Bahamas.

This Finding of No Significant Impact (FONSI) will become final on March 4, 1982 unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523–5725.

Joseph C. Polking,

Assistant Secretary.

[FR Doc. 82-4759 Filed 2-19-82; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder Licensee Applicant; Cargo Ven, Inc.

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Cargo Ven, Inc., 2700 Greens Road, Bldg. C, Houston, TX 77032. Officers: Paul Willemin, President, Larry J. Chilcoat, Vice President, Rudolf Hambel, Secretary/Treasurer.

By the Federal Maritime Commission.

Dated: February 17, 1982.

Joseph C. Polking,

Assistant Secretary.

[FR Doc. 82-4760 Filed 2-19-82; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1838]

Ortiz Cargo of Miami, Inc.; Revocation of License

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule § 510.15[d] of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Ortiz Cargo of Miami, Inc., P.O. Box 53–0065, Miami, FL 33152 was cancelled effective February 10, 1982.

By letter dated January 12, 1982, Ortiz Cargo of Miami, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1838 would be automatically revoked unless a valid surety bond was filed with the Commission.

Ortiz Cargo of Miami, Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, That Independent Ocean Freight Forwarder License No. 1838 be and is hereby revoked effective February 10, 1982.

It is ordered, That Independent Ocean Freight Forwarder License No. 1838 issued to Ortiz Cargo of Miami, Inc. be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the Federal Register and served upon Ortiz Cargo of Miami, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification & Licensing.

[FR Doc. 82-4761 Filed 2-19-82; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Aging Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Aging Review Committee, National Institute on Aging, on March 24, 25, and 26, 1982 in Building 31, Conference Room 10 (C wing), National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public from 9:00 a.m. to 10:00 a.m. on March 24, for introductory remarks. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 24, from 10:00 a.m. to adjournment on March 26, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, NIA, Building 31, Room 2C05, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–5896, will provide summaries of meetings and rosters of Committee members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: February 16, 1982.

Thomas E. Malone,

Acting Director, NIH.

[FR Doc. 82-4619 Filed 2-19-82; 8:45 am]

BILLING CODE 4140-01-M

Biomedical Library Review Committee and the Subcommittee for the Review of Medical Library Resource Improvement Grant Applications; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biomedical Library Review Committee on March 24–25, 1982, convening each day at 8:30 a.m. in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, to adjournment on March 25, and the meeting of the Subcommittee for the Review of Medical Library Resource Improvement Grant Applications on March 23 from 1:00 to 5 p.m. in the 5th Floor Conference Room of the Lister Hill Center Building.

The meeting on March 24 will be open to the public from 8:30 to 11:00 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(4) and 553b(c)(6), Title 5, U.S.C., and section 10(d) of Pub. L. 92–463, the regular meeting and the subcommittee meeting will be closed to the public for the review, discussion and evaluation of individual grant applications, as follows: March 24 from 11:00 a.m. to 5:00 p.m., March 25 from 8:30 a.m. to adjournment; and March 23 for the subcommittee meeting from 1:00 to 5:00 p.m. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Division of Biomedical Information Support, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20209, telephone number: 301–496–4191, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: February 16, 1982.

Thomas E. Malone,

Acting Director, NIH.

[FR Doc. 82-4620 Filed 2-19-82; 8:45 am]

BILLING CODE 4140-01-M

Cancer Center Support Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cancer Center Support Review Committee, National Cancer Institute, March 10, 1982, Building 31C, Conference Room 6, National Institutes of Health, Bethesda, Maryland 20205. This meeting will be open to the public on March 10 from 8:30 a.m. to 10 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 10, from 10 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumaden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Robert L. Manning, Executive Secretary, Cancer Center Support Review Committee, National Cancer Institute, Westwood Building, Room 803, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7721) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Number 13.397, project grants in cancer center support, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of the Circular)

Dated: February 16, 1982.

Thomas E. Malone,

Deputy Director, NIH.

[FR Doc. 82-4621 Filed 2-19-82; 8:45 am]

BILLING CODE 4140-01-M

Cancer Special Program Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cancer Special Program Advisory Committee, National Cancer Institute, March 11–12, 1982, Linden Hill Hotel, Sea Pines Room, 5600 Pooks Hill Road, Bethesda, Maryland 20814. This meeting will be open to the public on March 11 from 9:00 a.m. to 10:00 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 11, from 10:00 a.m. to adjournment, and on March 12, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commerical property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would

constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. William R. Sanslone, Executive Secretary, Cancer Special Program Advisory Committee, National Cancer Institute, Westwood Building, Room 805, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7565) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Number 13.392, project grants in cancer construction, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of the Circular)

Dated: February 16, 1982.

Thomas E. Malone,

Deputy Director, NIH.

[FR Doc. 82–4834 Filed 2–19–82; 8:45 am]

BILLING CODE 4140–01–M

Cellular and Molecular Basis of Disease Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cellular and Molecular Basis of Disease Review Committee, National Institute of General Medical Sciences, on March 23, 1982, at the Linden Hill Hotel, Bethesda, Maryland.

This meeting will be open to the public on March 23, 1982, from 8:30 a.m. until 10:00 a.m. for background information and discussion of issues relevant to the National Institute of General Medical Sciences and its National Research Service Award training activities and research programs. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 23, 1982, from 10:00 a.m. until adjournment for the review, discussion, and evaluation of individual grant applications. These applications and discussions could reveal personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Ellen Casselberry, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Room 9A10, Westwood Building, Bethesda, Maryland 20205 (Telephone: 301/496–7301) will provide a summary of the meeting and a roster of committee members.

Dr. Carl D. Rhodes, Executive Secretary, Cellular and Molecular Basis of Disease Review Committee, NIGMS, National Institutes of Health, Room 950, Westwood Building, Bestheada, Maryland 20205 (Telephone: 301/496–7125) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13–863, Cellular and Molecular Basis of Disease Research)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: February 16, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82–4814 Filed 2–19–82; 8:45 am]

BILLING CODE 4140–01–M

Clinical Cancer Program Project Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinical Cancer Program Project Review Committee, National Cancer Institute, March 29–31, 1982, Building 31C, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20205. This meeting will be open to the public on March 29 from 8:30 a.m. to 10:00 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 29, from 10:00 a.m. to adjournment; March 30, from 8:30 a.m. to adjournment; and on March 31, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Louise G. Thomson, Executive Secretary, Clinical Cancer Program Project Review Committee, National Cancer Institute, Westwood Building, Room 809, National Institutes of Health, Bethesda, Maryland 20205 (301/496–7924) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Number 13.397, project grants in cancer center support, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of the Circular)

Dated: February 16, 1982.

Thomas E. Malone,

Deputy Director, NIH.

[FR Doc. 82–4816 Filed 2–19–82; 8:45 am]

BILLING CODE 4140–01–M

Clinical Trials Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, on April 4–6, 1982, at the Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland 20014.

This meeting will be open to the public from 8:00 p.m. to 9:00 p.m. on April 4, 1982 to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on April 4, from 9:00 p.m. to adjournment and on April 5, and April 6, 1982, from 8:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Therefore, this meeting is concerned with matters exempt from mandatory disclosure under section 552b(c)(6) of Title 5, U.S.C.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Bethesda, Maryland, 20205, Building 31, Room 4A–21, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members. Dr. Fred P. Heydrick, Chief, Research Contracts Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Bethesda, Maryland 20205, Room 546B, phone (301) 496–7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b)(4) and (5) of that Circular.

Dated: February 16, 1982.

Thomas E. Malone,

Deputy Director, NIH.

[FR Doc. 82–4815 Filed 2–19–82; 8:45 am]

BILLING CODE 4140–01–M

Clinical Trials Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, on March 26–29, 1982, at the Holiday Inn, 245 South Airport Boulevard, South, San Francisco, California 94080.

This meeting will be open to the public from 8:00 p.m. to 9:00 p.m. on March 28, 1982 to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 28, from 9:00 p.m. to adjournment and on March 29, 1982, from 8:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individual associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Therefore, this meeting is concerned with matters exempt from mandatory disclosure under section 552b(c)(6) of Title 5, U.S.C.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Bethesda, Maryland 20205, Building 31, Room 4A–21, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members. Dr. Fred P. Heydrick, Chief, Research Contracts Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Bethesda, Maryland 20205, Room 546B, phone (301) 496–7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b)(4) and (5) of that Circular.

Dated: February 16, 1982.

Thomas E. Malone,

Deputy Director, NIH.

[FR Doc. 82–4817 Filed 2–19–82; 8:45 am]

BILLING CODE 4140–01–M

Heart, Lung, and Blood Research Review Committee A; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, on March 26–27, 1982, in Building 31, Conference Room 7.

This meeting will be open to the public on March 26, 1982 from 8:30 AM to approximately 9:30 AM to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C., and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 26, from approximately 9:30 AM until adjournment on March 27, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–4236, will provide summaries of the meeting and rosters of the committee members. Dr. Peter Spooner, Executive Secretary, NHLBI, Westwood Building, Room 548, Bethesda, Maryland 20205, phone (301) 496–7265, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; National Institutes of Health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: February 16, 1982.

Thomas E. Malone,

Deputy Director, NIH.

[FR Doc. 82–4812 Filed 2–19–82; 8:45 am]

BILLING CODE 4140–01–M

Heart, Lung, and Blood Research Review Committee B; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee B, National Heart, Lung, and Blood Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, on March 26–27, 1982, in Building 31, Conference Room 9.

This meeting will be open to the public on March 26, 1982, from 8:30 AM to approximately 9:30 AM to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C., and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 26, 1982, from approximately 9:30 AM to adjournment on March 27, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Louis M. Ouellette, Executive Secretary, NHLBI, Westwood Building, Room 554, (301) 496–7915, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: February 16, 1982.

Thomas E. Malone,

Deputy Director, NIH.

[FR Doc. 82–4813 Filed 2–19–82; 8:45 am]

BILLING CODE 4140–01–M

Mental Retardation Research Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Mental Retardation Research Committee, National Institute of Child Health and Human Development, on March 18, 1982, in Conference Room A Landow Building, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on March 18 from 8:30 a.m. to 10:00 a.m. to discuss items relative to the Committee's activities including announcements by the Acting Director, National Institute of Child Health and Human Development, and the Executive Secretary, Mental Retardation Research Committee.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 18 from 10:00 a.m. to adjournment on March 18 for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, 6C-08, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1485, will provide a summary of the meeting and roster of committee members. Dr. Stanley L. Slater, Executive Secretary, Mental Retardation Research Committee, NICHD, Landow Building, Room 6C-04, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1696, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.865, Research for Mothers and Children, National Institutes of Health)

NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: February 16, 1982.

Thomas E. Malone,

Deputy Director, NIH.

[FR Doc. 82-4623 Filed 2-19-82; 8:45 am]

BILLING CODE 4140-01-M

Research Manpower Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Research Manpower Review Committee, National Heart, Lung, and Blood Institute, National Institutes of Health on March 21-22, 1982, at the Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland 20014.

This meeting will be open to the public on March 21, 1982, from 8 p.m. to approximately 10 p.m., to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung and Blood Institute.

In accordance with the provisions set forth in section 552b(C)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 22, 1982, from 8 a.m. until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Carol H. Letendre, Executive Secretary, NHLBI, Westwood Building, Room 548, Bethesda, Maryland 20205, phone (301) 496-7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

(NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular)

Dated: February 16, 1982.

Thomas E. Malone,

Deputy Director, NIH.

[FR Doc. 82-4618 Filed 2-19-82; 8:45 am]

BILLING CODE 4140-01-M

Vision Research Program Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Vision Research Program Committee, National Eye Institute, March 25, 1982, Building 31-C, Conference Room 9, and March 26, 1982, Building 31-A, Room 6A-35, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on March 25, from 8:30 a.m. to 9:00 a.m. for opening remarks and discussion of program guidelines. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 9:00 a.m. on March 25 until adjournment on March 26 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Carter, committee Management Officer, National Eye Institute, Building 31, Room 6A-04, National Institutes of Health, Bethesda, Maryland 20205 (301) 496-4903, will provide summaries of the meeting and rosters of commitee members.

Dr. Catherine Henley, Review and Special Projects Officer, Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A-04, National Institutes of Health, Bethesda, Maryland 20205 (301) 496-5561, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, Retinal and Choroidal Diseases Research; 13.868, Corneal Diseases Research; 13.869, Cataract Research; 13.870, Glaucoma Research; and 13.871 Sensory and Motor Disorders of Visual Research; National Institutes of Health)

NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: February 16, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82-4622 Filed 2-19-82; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Toxicology Program; Request for Comments

SUMMARY: On December 9, 1981, the Chemical Evaluation Committee of the National Toxicology Program (NTP) reviewed 15 chemicals nominated for toxicological testing. The evaluation of nominated chemicals by the Committee constitutes an integral part of the NPT chemical nomination and selection process. This notice lists the 15 chemicals reviewed by the Committee and requests public comment on these chemicals.

FOR FURTHER INFORMATION AND SUBMISSION OF COMMENTS, CONTACT: Dr. Dorothy Canter, Assistant to the Director, National Toxicology Program, Room 2B55, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-3511.

SUPPLEMENTARY INFORMATION: As part of the chemical selection process of the National Toxicology Program (NTP), nominated chemicals which have been reviewed by the NTP Chemical Evaluation Committee (CEC) are published with request for comment in the **Federal Registger** and *NTP Technical Bulletin*. This enables individuals and groups to participate in the NTP evaluation process, thereby helping the NTP to make better informed decisions as to whether to select, reject, or defer chemicals for testing.

The comments and data supplied as a result of this request for information are reviewed and summarized by NTP technical staff and made available to both the NPT Board of Scientific Counselors for its evaluation of nominated chemicals and to the NTP Executive Committee for decision making. The NTP chemical selection process is summarized in the **Federal Register**, April 14, 1981 (46 FR 21828).

On December 9, 1981, the CEC met to evaluate 15 chemicals nominated to the NTP for various types of toxicological testing. Listed below are the chemicals and their Chemical Abstract Service registry numbers:

Chemical	CAS No.
Cholesterol	57-88-5
Cholesterol 5α, 6α-epoxide	1250-95-9
Cytidine	65-46-3
Ferrous sulfate	7720-78-7
Folic acid	59-30-3
Fumaric acid	110-17-8
Guanine	73-40-5
Linoleic acid	60-33-3
Linolenic acid	463-40-1
Methylene bis(2-chloroaniline)	101-14-4
Potassium iodide	7681-11-0
Riboflavin	83-88-5
Thiamine hydrochloride	67-03-8
L-Tyrosine	60-18-4
Vitamin E	59-02-9

Methylene bis(2-chloroaniline) was nominated for teratogenicity and reproductive effects testing by the State of Michigan Toxic Substance Control Commission. The National Cancer Institute nominated the other 14 chemicals both for carcinogenicity testing and for studies regarding their potential role as modifiers of the carcinogenic process.

Vitamin E has previously been selected by the NTP for carcinogenicity testing on the basis of its exposure to a significant portion of the human population through its use as an antioxidant in food and as a vitamin supplement. It was also selected for mutagenicity testing in the *Salmonella* microsomal assay.

Interested parties are requested to submit pertinent information as well as comments on the nominations of the 15 chemicals.

Of particular relevance to the NTP in its evaluation and decision making process are the following types of data:

(1) Completed, ongoing and/or planned toxicological testing in the private sector including detailed protocols and, in the case of completed studies, resultant data.

(2) Modes of production, present production levels and potential for occupational exposure.

(3) Uses and resulting exposure levels, where known.

(4) Results from toxicological studies of structurally related compounds.

Kindly submit such information in writing by (thirty days after date of publication). Submissions received after this date, however, will be accepted and utilized where possible.

Dated: February 16, 1982.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 82-4625 Filed 2-19-82; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-8653-A and AA-8653-B]

Alaska Native Claims Selection

The purpose of this decision is to modify item 2 of page 15 of the decision dated January 22, 1982, to include the following section 17(b) easement reservations.

(EIN 29 L) An easement for an existing access trail twenty-five (25) feet in width from site EIN 36 C5 adjacent to the Edgerton Highway in U.S. Survey No. 4977, lot 37 (Sec. 15, T. 2 S., R. 3 E., Copper River Meridian), southwesterly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

(EIN 36 C5) A one (1) acre site easement in U.S. Survey No. 4977 lot 37 (Sec. 15, T. 2 S., R. 3 E., Copper River Meridian), east of and adjacent to Edgerton Highway and located at the junction of trails EIN 28 L and EIN 29 L. The uses allowed are those listed above for a one (1) acre site easement.

Except as modified by this decision, the decision of January 22, 1982 stands as written.

Sandra C. Thomas,

Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-4714 Filed 2-19-82; 8:45 am]

BILLING CODE 4310-84-M

[AA-38301]

Alaska Native Claims Selection

The document entitled Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area was ratified by Public Law (Pub. L.) 94-204 (89 Stat. 1145, 1151) on January 2, 1976, and clarified on August 31, 1976. Section II of the terms and Conditions authorized reconveyance by the United States to Cook Inlet Region, Inc., of lands conveyed by the State of Alaska to the United States. On November 15, 1977, section 3(a) of Pub. L. 95-178 (91 Stat. 1369), authorized the Secretary of the Interior to identify and reserve within 2 years after initial conveyance of such lands to Cook Inlet Region, Inc., any easement he could have lawfully reserved prior to convenyance and to issue immediately thereafter a revised conveyance reflecting such reservation.

On February 27, 1980, Patent No. 50-80-0060 and Interim Conveyance No. 293 were issued to Cook Inlet Region, Inc., for 4,920.21 acres and approximately 6,960.60 acres, respectively, of the surface and subsurface estates of lands conveyed to the United States by the State of Alaska. The lands were conveyed pursuant to sections 14(e) and 22(j) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(e), 1621(j)) (ANCSA), and section 12(c) of Pub. L. 94-204 (89 Stat. 1145, 1152), as amended by section 3(a) of Pub. L. 95-178 (91 Stat. 1369), and are described as follows.

Patent No. 50-80-0060 on February 27, 1980

Seward Meridian, Alaska (Surveyed)

T. 1 N., R. 1 W.
Sec. 22, W½NE¼, NE¼NW¼, W½NW¼, N½SE¼NW¼, SW¼SE¼NW¼, W½SE¼SE¼NW¼;
Sec. 36, W½NE¼, NW¼SE¼.

Containing 355.00 acres.

T. 5 N., R. 8 W.
Sec. 6, lot 2.

Containing 40.13 acres

T. 5 N., R. 9 W.
Sec. 35, S½;
Sec. 36, all.

Containing 960.00 acres.

T. 5 N., R. 10 W.
Sec. 1, SE¼;

Sec. 12, NE¼, E½W½, W½W½SE¼;
Sec. 15, NW¼NW¼;
Sec. 16, lot 4, NE¼NW¼SW¼, W½NW¼SW¼, W½SE¼.
Containing 660.61 acres.
T. 8 N., R. 10 W.
Sec. 19, lots 3 and 4, E½SW¼;
Sec. 30, lots 1 to 5, inclusive, S½NE¼, SE¼NW¼.
Containing 44.03 acres.
T. 4 N., R. 11 W.
Sec. 16, E½NW¼, SW¼.
Containing 240.00 acres.
T. 8 N., R. 11 W.
Sec. 25, lots 6 to 15, inclusive, 17, 18, 19, 22 to 26, inclusive SE¼NW¼NW¼, SW¼NW¼, N½SW¼, N½S½SW¼;
Sec. 34, N½SW¼NE¼, W½SW¼SW¼ NE¼, NE¼NW¼, E½SE¼NW¼.
Containing 330.83 acres.
T. 1 N., R. 12 W.
Sec. 2, lot 4, SW¼NW¼, W½SW¼;
Sec. 3, lots 1 and 2, S½NE¼, SE¼;
Sec. 4, lots 1 to 4, inclusive, S½N½, SW¼;
Sec. 9, W½NW¼;
Sec. 10, E½NE¼, NE¼SE¼;
Sec. 11, W½E½, NW¼;
Sec. 15, W½.
Containing 1, 601.61 acres.
T. 6 N., R. 12 W.
Sec. 20, SE¼NW¼NE¼.
Containing 10.00 acres.
T. 5 S., R. 13 W.
Sec. 36, NE¼NE¼.
Containing 40.00 acres.
Aggregating 4,920.21 acres.
Interim Conveyance No. 293 on February 27, 1980

Seward Meridian, Alaska (Surveyed)

T. 1 N., R. 1 W.
Sec. 36, NW¼NW¼ excluding ILMT 52363.
Containing approximately 37.50 acres.
T. 5 N., R. 8 W.
Sec. 36, lotst 1 and 4 of Block 2, Stephenkie Alaska Subdivision, ASLS 73–145.
Containing approximately 15.10 acres.
T. 5 N., R. 10 W.,
Sec. 16, NE¼NE¼, excluding that portion contained within land leases 16997, 16933, 22348 and 24009, W½NW¼ excluding lake, E½SW¼ excluding lake, SW¼SW¼ excluding lake.
Containing approximately 208.00 acres.
T. 1 N., R. 11 W.,
Those portions of Tract A more particularly described as (protected):
Sec. 7, S½SW¼, SE¼;
Sec. 8, S½;
Sec. 18, W½;
Sec. 30, W½;
Secs. 31 and 32, all.
Containing approximately 2,468.00 acres.
T. 4 N., R. 11 W.,
Sec. 16, NE¼ excluding lake, SE¼ excluding lake and ADL 39402.
Containing approximately 273.60 acres.
T. 1 S., R. 11 W.,
Those portions of Tract A more particularly described as (protected):
Sec. 2, all;
Secs. 5 to 8, inclusive, all;
Sec. 11, all.
Containing approximately 3,709.00 acres.
T. 4 S., R. 11 W.,
That portion of Tract A more particularly described as (protected):
Sec. 34, NW¼.
Containing approximately 160.00 acres.
Aggregating approximately 6,980.00 acres.

Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA–39415 are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, track vehicles, four-wheel drive vehicles, small and large all-terrain vehicles, automobiles, and trucks.

a. (EIN 2 D4) An easement sixty (60) feet in width for an existing road traversing Native land in Secs. 15 and 16, T. 5 N., R. 10 W., Seward Meridian. The uses allowed are those listed above for a sixty (60) foot wide easement.

b. (EIN 2a D4) An easement sixty (60) feet in width for an existing road beginning at Sports Lake Road Sec. 15 T. 5 N., R. 10 W., Seward Meridian, continuing easterly through Native conveyed land to State lands in Sec. 15, T. 5 N., R. 10 W., Seward Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

c. (EIN 3 C5, D4) An easement sixty (60) feet in width for an existing road traversing Native land in Sec. 34 T. 4 S., R. 11 W., Seward Meridian.

d. (EIN 3a C5, D4) An easement sixty (60) feet in width for an existing road traversing Native land in Sec. 34 T. 4 S., R. 11 W., Seward Meridian.

e. (EIN 4 C5) An easement twenty-five (25) feet in width for an existing trail traversing Native land in Sec. 22, T. 1 N., R. 1 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

f. (EIN 5 C5) An easement sixty (60) feet in width for an existing road traversing Native land in Sec. 36, T. 1 N., R. 1 W., Seward Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

g. (EIN 9 L) An easement sixty (60) feet in width for an existing road which begins at the North Kenai Road in the NW¼NW¼ Sec. 34, T. 8 N., R. 11 W., Seward Meridian, continuing southeasterly across Native conveyed lands to numerous private inholdings and Kenai Borough lands. The uses allowed are those listed above for a sixty (60) foot wide road easement.

h. (EIN 11 L) An easement twenty (20) feet in width for an existing overhead electric distribution line which traverses conveyed land in the NE¼NE¼ Sec. 36, T. 5 S., R. 13 W., Seward Meridian. The uses allowed are those uses associated with the operation and maintenance of a powerline. No other uses shall be allowed.

i. (EIN 12 L) An easement twenty (20) feet in width for an existing overhead electric distribution line which traverses Native land in the N½ Sec. 34, T. 8 N., R. 11 W., Seward Meridian. This easement shall afford the Homer Electric Association, Inc., the authority to maintain and operate the existing powerline facilities where said facilities traverse Native land. No other uses shall be allowed.

When this decision becomes final, revised conveyance documents will be issued to Cook Inlet Region, Inc., for the above-described lands reflecting the easements identified above. The revised conveyance documents will remain subject to all other rights, terms, conditions, and convenants contained in Patent No. 50–80–0060 and Interim Conveyance No. 293.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the *Anchorage Daily News*.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until March 24, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509.

Sandra C. Thomas,

Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-4715 Filed 2-19-82; 8:45 am]

BILLING CODE 4310-84-M

[AA-6978-A]

Alaska Native Claims Selection

On February 12, 1981, Kootznoowoo, Incorporated, for the Native village of Angoon, filed selection application AA–6978–A, as amended, under the provisions of section 508(a)(5) of the Alaska National Interest Lands Conservation Act of December 2, 1980, 94 Stat. 2371, 2406, 2408 (ANILCA) and as provided by section 16(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1615(b) 1976 (ANCSA), for the surface estate of certain lands on Prince of Wales Island.

As to the lands described below, application AA–6978–A, as amended, is properly filed, and meets the requirements of the Alaska Native Claims Settlement Act of December 18, 1971, as amended, and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands selected pursuant to section 508(a)(5) of ANILCA, and as provided by the Alaska Native Claims Settlement Act, aggregating approximately 6,985 acres, is considered proper for acquisition by Kootznoowoo, Incorporated, and is hereby approved for conveyance pursuant to section 16(b) of ANCSA.

Mineral Survey No. 723, excluding Mineral Survey No. 790 and Mineral Survey No. 895, Plat of the claim of American Coral Marble Company known as the Bay View Marble Placer Claim in Ketchikan Mining District, Alaska.
Containing approximately 5 acres.
Mineral Survey No. 730, excluding Mineral Survey No. 790 and Mineral Survey No. 869, and Mineral Survey No. 1056, Plat of the claim of American Coral Marble Company known as the Snow White, Dolomite and Clarence Strait Placer Claims in Ketchikan Mining District, Alaska.
Containing approximately 94 acres.
Mineral Survey No. 895, Plat of the claim of Princeton Mining and Milling Company, known as the Princeton No. 2 Placer Mineral Marble and Princeton No. 3 Placer Mineral Marble Claims in Ketchikan Mining District, Alaska.
Containing 32.941 acres.
Mineral Survey No. 869, Plat of the claim of Princeton Mining and Milling Company, known as the Princeton Placer-Mineral Marble Claim in Ketchikan Mining District, District of Alaska.
Containing 17.017 acres.
Those portions of Mineral Survey No. 1058, Plat of the claim of Princeton Mining and Milling Company known as the Jumbo and Jumbo No. 2 Lodes in Ketchikan Mining District, Alaska, described as follows:
That portion of Jumbo Lode beginning at Corner No. 3 of Jumbo Lode, Mineral Survey No. 1058, along a portion of line 3–4 of Jumbo Lode, Mineral Survey No. 1058, S.87°32'W., 1,456.95 ft., to the intersection of line 1–2 of Sarah Lode, Mineral Survey No. 995;
thence N.36°12'E., 209.28 ft. along a portion of line 1–2 of Sarah Lode, Mineral Survey No. 995, to Corner No. 2 of Sarah Lode, Mineral Survey No. 995 identical with Corner No. 1 of Raven Lode, Mineral Survey No. 995;
thence N.36°30'E., 396.96 ft. to Corner No. 2 of Raven Lode, Mineral Survey No. 995;
thence N.67°01'W., 111.74 ft. along a portion of line 2–3 of Raven Lode, Mineral Survey No. 995, to the intersection of line 1–2 of Jumbo Lode, Mineral Survey No. 1058;
thence N.87°32'E., 605.71 ft. along a portion of line 1–2 of Jumbo Lode, Mineral Survey No. 1058, to the intersection of line 1–4 of Fortune Lode, Mineral Survey No. 998;
thence S.43°58'E., 410.42 ft. along a portion of line 4–1 of Fortune Lode, Mineral Survey No. 998 to Corner No. 1 of Fortune Lode, Mineral Survey No. 998 identical with Corner No. 1 of Moonshine Lode, Mineral Survey No. 789;
thence S.57°47'E., 304.54 ft. along a portion of line 1–2 of Moonshine Lode, Mineral Survey No. 789, to the intersection of line 2–3 of Jumbo Lode, Mineral Survey No. 1058;
thence S.2°29'E., 5.16 ft. along a portion of line 2–3 of Jumbo Lode, Mineral Survey No. 1058 to Corner No. 3 of Jumbo Lode, Mineral Survey No. 1058, the point of beginning.
Containing 11.18 acres.
That portion of Jumbo No. 2 Lode beginning at Corner No. 2 of the Jumbo No. 2 Lode, Mineral Survey No. 1058, S.2°29'E., 462 ft. to Corner No. 3 of Jumbo No. 2 Lode, Mineral Survey No. 1058;
thence S.87°32'W., 1,500 ft. to Corner No. 4 of Jumbo No. 2 Lode, Mineral Survey No. 1058;
thence N.2°29'W., 438.22 ft. along a portion of line 4–1 of Jumbo No. 2 Lode, Mineral Survey No. 1058 to the intersection of line 1–2 of Sarah Lode, Mineral Survey No. 995;
thence N.36°12'E., 68.86 ft. along a portion of line 1–2 of Sarah Lode, Mineral Survey No. 995 to the intersection of line 1–2 of Jumbo No. 2 Lode, Mineral Survey No. 1058;
thence N.87°32'E., 1,456.95 ft. along a portion of line 1–2 of Jumbo No. 2 Lode, Mineral Survey No. 1058, identical with a portion of line 4–3 of Jumbo Lode, Mineral Survey No. 1058, to Corner No. 2 of Jumbo No. 2 Lode, Mineral Survey No. 1058, the point of beginning.
Containing 16.916 acres.
Mineral Survey No. 1561 Plat of the claim of Loretta C. Hill known as the Treasure Lode in Ketchikan Mining District, Alaska.
Containing 20.364 acres.

Copper River Meridian, Alaska (Unsurveyed)

T. 76 S., R. 88 E.,
Sec. 34, E½SW¼, S½SE¼;
Sec. 35, S½SW¼.
Containing approximately 240 acres.
T. 77 S., R. 88 E.,
Sec. 25, E½E¼;
Sec. 36, E½NE¼, NE¼SE¼ excluding Mineral Survey No. 760, Mineral Survey No. 766 and Paul Lake.
Containing approximately 270 acres.
T. 77 S., R. 89 E.,
Sec. 3, W½W½;
Sec. 4;
Sec. 5, E½E½;
Sec. 8, S½SE¼;
Sec. 9, NE¼, E½NW¼, SW¼NW¼, S½;
Sec. 15, W½NW½;
Sec. 16, NE¼, W½, W½SE¼, NE¼SE¼;
Sec. 17, E½, E½NW¼, NE¼SW¼;
Sec. 19, E½;
Sec. 20;
Sec. 21, W½W½;
Sec. 28, W½NW¼, NW¼SW¼;
Sec. 29, N½, N½SW¼, SW¼SW¼, N½SE¼;
Sec. 30;
Sec. 31, excluding Mineral Survey No. 540 A, Mineral Survey No. 540B, Mineral Survey No. 760, Mineral Survey No. 766, Mineral Survey No. 995, Mineral Survey No. 996, Mineral Survey No. 1058, Mineral Survey No. 1561, James Lake and Paul Lake;
Sec. 32 (fractional), NW¼NW¼, S½NW¼, SW¼ excluding Mineral Survey No. 789.
Containing approximately 5,856 acres.
T. 78 S., R. 89 E.,
Sec. 6 (fractional), that portion on Prince of Wales Island excluding Mineral Survey No. 730, Mineral Survey No. 789, Mineral Survey No. 790, Mineral Survey No. 895, and Mineral Survey No. 1056;

Sec. 6 (fractional), E½ excluding Mineral Survey No. 567, Mineral Survey No. 729, Mineral Survey No. 730, Mineral Survey No. 790, Mineral Survey No. 869, Mineral Survey No. 895, Mineral Survey No. 1050, Mineral Survey No. 1058, and Paul Lake;
Sec. 7 (fractional), E½NE¼;
Sec. 8 (fractional), N½ that portion on Prince of Wales Island.

Containing approximately 420 acres.
Aggregating approximately 6,985 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein and all rights, privileges, immunities and appurtenances, of whatsoever nature, accuring unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(f), as amended by the Alaska National Interest Lands Conservation Act of December 2, 1980, 94 Stat. 2371, 2408; and

2. Pursuant to section 506(a)(5)(A) of the Alaska National Interest Lands Conservation Act of December 2, 1980, 94 Stat. 2371, 2408, the following public easements designated by the Secretary of Agriculture, and referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA–6978–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

100 Foot Road—The uses allowed on a one hundred (100) foot wide road easement are: travel by foot, dogsled, animals, showmobiles, two- and three-wheel vehicles, small and large all terrain vehicles, four-wheel drive vehicles, automobiles, and trucks.

a. (EIN 1) An easement one hundred (100) feet in width for a proposed road: Beginning at the east boundary of the W½SW¼, Sec. 3, T. 77 S., R. 89 E., Copper River Meridian, thence southwesterly to the south boundary of Sec. 3, T. 77 S., R. 89 E., Copper River Meridian. The uses allowed are those listed above for a one hundred (100) foot wide road easement.

b. (EIN 2) An easement one hundred (100) feet in width for a proposed road: Beginning at the east boundary of the NW¼NW¼, Sec. 21, T. 77 S., R. 89 E., Copper River Meridian, thence northwesterly to the north boundary of Sec. 17, T. 77 S., 89 E., Copper River Meridian. The uses allowed are those listed above for a one hundred (100) foot wide road easement.

c. (EIN 3) An easement one hundred (100) feet in width for a proposed road: Beginning at the west boundary of the NE¼NW¼, Sec. 17, T. 77 S., R. 89 E., Copper River Meridian; thence easterly to its junction with easement EIN 2. The uses allowed are those listed above for a one hundred (100) foot wide road easement.

d. (EIN 4) An easement one hundred (100) feet in width for a proposed road: Beginning at the east boundary of the W½NW¼, Sec. 28, T. 77 S., R. 89 E., Copper River Meridian; thence southerly to the south boundary of the NW¼SW¼, Sec. 28, T. 77 S., R. 89 E., Copper River Meridian. The uses allowed are those listed above for a one hundred (100) foot wide road easement.

e. (EIN 5) An easement one hundred (100) feet in width for a proposed road: Beginning at the east boundary of the SE¼NW¼, Sec. 32, T. 77 S., R. 89 E., Copper River Meridian; thence westerly to the west boundary of the NE¼SE¼, Sec. 36, T. 77 S., R. 88 E., Copper River Meridian. The uses allowed are those listed above for a one hundred (100) foot wide road easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease under section 6(g) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. Ch. 2, section 6(g)), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to section 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b)(2), (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of section 22(k) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1621(k), that, until December 18, 1983, the portion of the above-described lands located within the boundaries of a national forest shall be managed under the principles of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands;

4. Section 506(a)(6) of the Alaska National Interest Lands Conservation Act of December 2, 1980, 94 Stat. 2371, 2408, that nothing shall restrict the authority of the Secretary of Agriculture to exchange lands or interests therein with Kootznoowoo, Incorporated, pursuant to section 22(f) of the Alaska Native Claims Settlement Act, or other land acquisition or exchange authority applicable to the National Forest System;

5. The covenant pursuant to section 506(a)(5)(A) that all rock, sand and gravel within the confines of the easements to be reserved to the United States, shall be available to the Secretary of Agriculture without charge; and

6. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(c), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Kootznoowoo, Incorporated, is entitled to conveyance of 21,440 acres of land selected pursuant to section 506(a)(5) of ANILCA. The total approximate acreage herein approved for conveyance is 6,985 acres.

The remaining entitlement on Prince of Wales Island is approximately 14,455 acres and will be conveyed at a later date.

Pursuant to section 506(a)(5)(B) of ANILCA, conveyance of the subsurface estate of the lands described above shall be granted to Sealaska Corporation when conveyance is granted to Kootznoowoo, Incorporated, for the surface estate, and shall be subject to the same conditions as the surface conveyance.

Within the above described lands, only the following inland water bodies are considered to be navigable:

James Lake
Paul Lake

All other named and unnamed water bodies within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the *Ketchikan Daily News*.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, provided, however, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

Appeals should be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until March 24, 1982, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Kootznoowoo, Incorporated, P.O. Box 116, Angoon, Alaska 99820;
Sealaska Corporation, One Sealaska Plaza, Suite 400, Juneau, Alaska 99801.

Sandra C. Thomas,
Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-4716 Filed 2-19-82; 8:45 am]
BILLING CODE 4310-84-M

[N–15765]

Nevada; Airport Lease Application; Correction

February 10, 1982

In **Federal Register** Document 82–2267, published on page 4351 on Friday, January 29, 1982, the last sentence of the last paragraph is hereby corrected to read:

"Interested persons should promptly send their comments together with their name and address to the Winnemucca District Manager, Bureau of Land Management, 705 East 4th Street, Winnemucca, NV 89445."

Charles E. Hancock,
Acting Chief.

[FR Doc. 82-4665 Filed 2-19-82; 8:45 am]
BILLING CODE 4310-84-M

[OR 10034, OR 10063, OR 10061]

Oregon; Order Providing for Opening of Public Lands

Correction

In FR Doc. 82–1363 appearing at page 2929 in the issue of Wednesday, January 20, 1982 please make the following change: On page 2929, in the land description, sixth line, "WS½SW½" should be corrected to read "SW¼SW¼".

BILLING CODE 1505-01-M

District Managers; Wyoming State Office; Redelegation of Authority

Pursuant to the authority contained in the Redelegation of Authority published in the **Federal Register** on December 9, 1980, as FR Doc. 80–38128, I hereby redelegate to the District Managers the authority to take actions on behalf of the State Director in their respective areas of responsibility in all matters listed in Section 1.9 of Bureau Order No. 701 dated July 23, 1964, as amended. This action is taken so the Bureau may be more responsive to the public demand for uses of public land by having the District Office as the focal point for land uses and realty actions.

Effective Date. This redelegation will become effective July 1, 1982.

Maxwell T. Lieurance,
State Director.

[FR Doc. 82-4667 Filed 2-19-82; 8:45 am]
BILLING CODE 4310-84-M

[W–12166]

Wyoming; Termination of Classification

February 11, 1982.

1. The following described lands were classified pursuant to The Small Tract Act of June 1, 1938, as amended (43 U.S.C. 682a) by classification order dated April 5, 1966, for lease only to satisfy an existing occupancy:

Sixth Principal Meridian, Wyoming
T. 13 N., R. 81 W.,
Sec. 1, E½W½SE¼NE¼NE¼, W½E½SW¼NE¼NE¼.

The area described contains 5.00 acres in Carbon County, Wyoming.

2. The classification segregated the above lands from all appropriations under the public land laws, including location under the mining laws, except as to application under the mineral leasing laws and The Small Tract Act.

3. The Small Tract Act was repealed by section 702 of the Federal Land Policy and Management Act of October 21, 1976 [43 U.S.C. 1701]. Accordingly, the classification is no longer applicable. Therefore, pursuant to the authority delegated by Bureau of Land Management Order 701, the classification is hereby terminated.

4. At 10:00 a.m. on March 26, 1982, the lands shall be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10:00 a.m. on March 26, 1982 shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. The lands will be open to location under the United States Mining Laws at 10:00 a.m. on March 26, 1982. They have been and will continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001.

Maxwell T. Lieurance,
State Director.

[FR Doc. 82-4668 Filed 2-19-82; 8:45 am]
BILLING CODE 4310-84-M

Bureau of Reclamation

Public Participation in Water Service and Repayment Contract Negotiations

AGENCY: Bureau of Reclamation (Bureau), Interior.

ACTION: Notice of final revised procedures for public participation in water service and repayment contract negotiations.

SUMMARY: The Department of the Interior is hereby revising the "Final General Notice of Procedures" for public participation in the water service and repayment contract negotiations published in the **Federal Register** on January 2, 1979. The revision is prompted by the lack of public response to the **Federal Register** notices of intent to enter into contract negotiations, and the need to eliminate excessive, burdensome or counterproductive regulations. The revised procedures provide that a status tabulation of all pending contractual actions will be

published in the Federal Register quarterly, on or about the 15th day of January, April, July, and October; that a wide variety of local publicity resources will be used to publicize most proposed contractual actions; and that Federal Register notices will be used when widespread public interest beyond the local project area is apparent. All meetings and negotiating sessions are open to the public as observers, unless otherwise publicly announced. All written comments regarding a specific contract proposal are available to the public pursuant to the Freedom of Information Act (80 Stat. 383) as amended. A summary report of any hearing held regarding a specific contract will be made available to the appropriate contracting authority, i.e., a Regional Director, the Commissioner of Reclamation, or the Secretary of the Interior for consideration prior to action on a given contract form.

Telephone inquiries concerning the revised procedures should be made to Contracts and Repayment Specialists, Messrs. Frank Ellis or Donald Walker, telephone (202) 343–5671.

Background

The Secretary of the Interior may approve and execute proposed water service and repayment contracts pursuant to the Reclamation Act of 1902 (32 Stat. 388–390), as amended and supplemented, and the Reclamation Project Act of 1939 (53 Stat. 1187–1196). Portions of the Secretary's authority are delegated to the Commissioner of Reclamation as set forth in Part 255 of the Departmental Manual. Portions of the delegated authority are redelegated to Regional Directors as set forth in Part 053 of the Reclamation Instructions.

The repayment of reimbursable costs associated with Bureau of Reclamation construction and loan programs is secured by consummation of contracts between the United States and beneficiaries of those programs. Such contracts are required before funds will be released for construction. The terms and conditions of such contracts (including but not limited to such matters as quantities of water to be furnished, water delivery schedules, construction of facilities, terms and conditions of repayment) sometimes affect a wider range of the public than the immediate parties to the contract.

It is the policy of the Department of the Interior to afford the affected public an opportunity to be aware of an provide comment on water service and repayment contract negotiations being conducted by the Bureau of Reclamation.

The opportunity for the public to observe negotiations, and review and comment on newly proposed water service or repayment contracts and amendments or supplements to existing contracts, was expanded in 1979. As of January 2 of that year, notices of intent to negotiate terms and conditions for "all" proposed water service and repayment contracts were required to be published in the Federal Register.

Preparation and publication of the notices of intent for "all" proposed contract actions required considerable staff time and was of questionable value to the public. The most effective public participation programs for water service and repayment contract negotiations were "tailored" to the needs of specific contractual actions and made extensive use of the telephone, letters, local news releases and meetings or workshops sponsored by the water user entity involved.

The procedure established by this notice is designed to encourage and continue that type of public participation programs at the regional and project office levels with support and oversight from the Commissioner's Office. At the same time, the new procedure will substantially reduce the Federal Register notices published each year in line with the Administration's desire to eliminate excessive, burdensome, and counterproductive regulations.

In response to the public comments on the proposed revised procedures published November 2, 1981, two changes are incorporated into the final revised procedures that follow. First, a commitment is made to publish a quarterly status tabulation of all pending contractual actions in the Federal Register. Second, the word "major," used to categorize proposed contractual actions to be published in the Federal Register, was removed and the text revised to better communicate the intent of the revision—to maintain and continue a public participation program for water service and repayment contract negotiations, using local publicity resources for most proposed contractual actions, whether "major" or "minor." Specific Federal Register notices will be used when there is evidence of widespread public interest in a proposed contract beyond the local project area.

Publication and implementation of the final revised procedures will not significantly affect the quality of the human environment and is categorically excluded under 516 DM 6 Appendix 9.4A (1) from further compliance with the National Environmental Policy Act of 1969, as amended.

Final Revised Public Participation Procedures

Public participation procedures for water service or repayment contracts are composed of two basic elements; publicizing proposed contractual actions and receiving public comment on such proposed actions.

Publicity: To provide national publicity of pending water service and repayment contract action, the Bureau will publish a status tabulation of all pending contractual actions on or about the 15th day of January, April, July and October in the Federal Register.

To provide local publicity regarding specific contractual actions, a wide variety of local publicity resources, i.e., the telephone, form letters, local news releases, public notices, meetings, workshops, hearings, etc., will be used selectively. Such publicity sources include those required for developing and reviewing environmental impact statements and those used by contracting entities. Unnecessary duplication of publicity is not intended.

The extent and means by which a given contractual action shall be publicized will be determined by the Bureau. Initially, the determination will be based on a staff assessment and recommendations included in each request for Commissioner approval of a basis for negotiation. When the assessment identifies a proposed contract action that is not controversial with little or no economic, social and/or environmental impact, the Bureau may determine that no public announcement will be made.

When the assessment identifies a contract proposal that is potentially controversial and/or has identifiable economic, social and/or environmental impact, the Bureau will identify and use appropriate means of publicizing the intent to negotiate. If the Bureau determines that there is public interest in a particular contractual action beyond the local project area, the Federal Register will be used, selectively, to announce the intent to negotiate, the availability of a contract for public review, and public meetings and hearings.

Each public notice or news release announcing the intent to negotiate, public meetings or hearings, negotiating sessions, and the availability of a contract for public review and comment shall include, as appropriate, a brief description of the proposed contract, identification of specific legislative authority for the proposed contract, issues being negotiated, date, time, place of meetings or hearings, the address and telephone number of a public contact for inquiries and comments, and the period of time in which comments will be received.

Receipt of Comments: Opportunity for public participation and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

(1) All meetings or negotiating sessions scheduled by the Bureau of Reclamation with a potential contractor for the purpose of discussing terms and conditions of a proposed contract will be open to the general public as observers, unless otherwise publicly announced. Advance notice of such meetings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of the Bureau of Reclamation.

(2) All written correspondence regarding proposed contracts will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383, 5 U.S.C. 552), as amended.

(3) All written comments received and testimony presented at any public hearing will be reviewed and summarized by regional staff for use by the appropriate contract approving authority, i.e., a Regional Director, the Commissioner of Reclamation, or the Secretary of the Interior.

(4) As specific proposed contracts become available for review and comment, copies may be obtained from the appropriate Regional Director of the Bureau of Reclamation. They are located in Boise, Idaho; Sacramento, California; Boulder City, Nevada; Salt Lake City, Utah; Amarillo, Texas; Billings, Montana; and Denver, Colorado. Contracts and repayment officers, project managers, and others also may be designated as public contacts.

Dated: February 16, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-4758 Filed 2-19-82; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[Volume No. OP3-029]

Motor Carriers; Permanent Authority Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of opposing verified statements must be filed with the Commission within 45 days after the date of this Federal Register notice. Applicant may file a verified statement in rebuttal within 60 days. Such pleadings shall comply with 49 CFR 1100.247 (renumbered 1100.251) addressing specifically the issue(s) indicated as the purpose for republication. Special Rule 247 (renumbered 251) was published in the Federal Register of July 3, 1980, at 45 FR 45539.

MC 102205 (Sub-46) (republication), filed July 17, 1981, published in the Federal Register issue of August 12, 1981. Applicant: GUY HEAVENER, INC., 480 School Lane, Hatboro, PA 19438. Representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street, NW., Washington, D.C. 20005. A Decision of the Commission, Division 2, Acting as an Appellate Division, decided February 8, 1981, and served February 11, 1981, finds that the performance by applicant of the service will serve a useful purpose, responsive to a public demand to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *ores and minerals, coal and coal products, chemicals and related products, metals shot, alloys, grinding balls, scrap metal, and water treatment vessels and tanks*, between points in the United States (except Alaska and Hawaii); (2) *distillers grain*, between points in Muscatine County, IA, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); that the applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to reflect applicant's actual grant of authority.

MC 135865 (Sub-9) (republication), filed June 1, 1981, published in the Federal Register issue of June 15, 1981. Applicant: APPLEGATE DRAYAGE COMPANY, 325 N. 5th Street, Sacramento, CA 95814. Representative: Michael T. Applegate, 325 N. 5th Street, Sacramento, CA 95814. A Decision by the Entire Commission, decided January 18, 1982, and served February 5, 1982, finds that the performance by applicant of the service will serve a useful purpose, responsive to a public demand to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting, *general commodities* (except classes A and B explosives) between points in California and Nevada, on the one hand, and, on the other, points in Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington; that the applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to describe the possible tacking of applicant's existing regular route authority and the sought irregular route authority.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-4668 Filed 2-19-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier; Temporary Authority Application

The following are notices of filing of applications for temporary authority under section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.2. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-190

The following applications were filed in Region I. Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 160364 (Sub-1-1TA), filed February 2, 1982. Applicant: AINSWORTH TRUCKING CORPORATION, 214 Commercial Street, Malden, MA 02148. Representative: Scott R. Ainsworth (same as applicant). *Food and related products, frozen pre-cooked fish, frozen french fried onion rings, breading and batter for use in processing food products* between points in NE, KS, OH, MI, NJ, MA, IL, IN, WI, TX, MN, IA, MO, OH, KY, AL, GA, FL, SC, NC, VA, WV, MD, DE, NY, CT, RI, VT, NH, ME, and TN. Supporting shipper: Caribou Food Ind., Inc., 301 Northern Ave., Boston, MA.

MC 125329 (Sub-1-1TA), filed February 4, 1982. Applicant: APEX TRUCKING CO., INC., 120 Seaview Drive, Secaucus, NJ 07094. Representative: Edward L. Nehez, 7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068. *Contract carrier:* Irregular routes: *Business and office machines, systems, or parts thereof,* between Hudson and Bergen Counties, NJ, on the one hand, and, on the other, points in Suffolk County, NY, under continuing contract(s) with International Business Machines Corp., Princeton, NJ. Supporting shipper: International Business Machines Corp., P.O. Box 10, Princeton, NJ 08540.

MC 145108 (Sub-1-21TA), filed February 3, 1982. Applicant: BULLET EXPRESS, INC., P.O. Box 289, Bay Ridge Station, Brooklyn, NY 11220. Representative: Robert L. Van Buren, Bullet Express, Inc., 5600 First Avenue, Brooklyn, NY 11220. *Contract carrier:* Irregular routes: *Food and related products* between points in the U.S. (except AK and HI) under continuing contract(s) with Kane Miller Corporation and Amelio Brothers and Co., Inc. both of Chicago, IL. Supporting shipper(s): Kane Miller Corporation, Union Stockyards, Chicago, IL 60609; Amelio Brothers & Co., Inc., 3131 South Canal Street, Chicago, IL 60616.

MC 36485 (Sub-1-1TA), filed February 5, 1982. Applicant: P. E. BURKE MOVING & STORAGE CORP., 113 Crescent Street, Waltham, MA 02154. Representative: Gerald A. Burke, (same as applicant). *Household goods as defined by the Commission* between points in ME, NH, VT, MA, CT, RI, NY, NJ, PA, MD, DE, DC, VA, WV, OH, and NC. Supporting shipper: The Mitize Corporation, Box 208, Bedford, MA.

MC 150987 (Sub-1-8TA), (republication), filed January 15, 1982. Applicant: DYBART'S TRANSPORTATION, INC., MRC 156, Bangor, ME 04412. Representative: John F. O'Donnell, Barrett and O'Donnell, 60 Adams Street, P.O. Box 238, Milton, MA 02187. *General commodities (except classes A and B explosives and hazardous waste)* between points in ME, on the one hand, and, on the other points, in the U.S. (except AK and HI). Supporting shipper(s): There are 37 statements of support attached to this application which may be examined at the Regional Office of the I.C.C. in Boston, MA. Sole purpose of republication is to add "points in ME, on the one hand, and, on the other," to requested scope of authority.

MC 148560 (Sub-1-7TA), filed February 8, 1982. Applicant: GOLD STAR, INC., 130 Davidson Avenue, Somerset, NJ 08873. Representative: A. David Millner, 7 Becker Farm Road, P.O. Box, Roseland, NJ 07068. *Contract carrier:* Irregular routes: *Such merchandise as is dealt in by wholesale, retail and chain food business houses, and in connection therewith equipment, materials and supplies used in the conduct of such business* between points in the U.S. (except AK and HI) under continuing contract(s) with The Kroger Co., Cinti, OH. Supporting shipper: The Kroger Co., 1014 Vine Street, Cinti, OH 45201.

MC 160507 (Sub-1-1TA), filed February 10, 1982. Applicant: HARDEN FURNITURE, INC., 1 Mill Pond Way, McConnellsville, NY 13401. Representative: Wayne W. Wilson, 150 E. Gilman Street, Madison, WI 53703. *Contract carrier:* Irregular routes: *Urethane products* from Chicago, IL to Binghamton, NY under continuing contract(s) with Clark Foam Products Corp., Binghamton, NY. Supporting shipper: Clark Foam Products Corp., P.O. Box 1605, Binghamton, NY 13902.

MC 160183 (Sub-1-5TA), filed February 4, 1982. Applicant: LONE STAR TRANSPORTATION INC., 360 Passaic Avenue, Fairfield, NJ 07006. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Steel Doors, frames, and related building products, and (2) Materials, equipment, and supplies used in the manufacture of the commodities named in (1) above,* between the facilities used or utilized by Williamsburg Steel Co., its subsidiaries, divisions, or vendors at points in the U.S., on the one hand, and, on the other, points in the U.S. Suppporting shipper: Williamsburg Steel Co., 50 Paidge Avenue, Brooklyn, NY 11200.

MC 31024 (Sub-1-1TA), filed February 5, 1982. Applicant: NEPTUNE WORLD WIDE MOVING, INC., 55 Weyman Avenue, New Rochelle, NY 10805. Representative: S. S. Eisen, 370 Lexington Avenues, New York, NY 10017. *Contract carrier:* Irregular routes: *General commodities (except Classes A and B explosives)* between points in the U.S. (except AK and HI), under continuing contract(s) with Eastman Kodak Co., Rochester, NY. Suppporting shipper: Eastman Kodak Company, 2400 Mt. Read Blvd., Rochester, NY 14650.

MC 160433 (Sub-1-1TA), filed February 4, 1982. Applicant: ROBERT H. BOLDUC, d.b.a. ROBO, 2 Stuart Street, Hudson, NH 03051. Representative: Robert M. Parodi, Esq., 41 E. Pearl Street, Box 541, Nashua, NH 03061. *Machinery and related parts, assembled and unassembled* between points in Hillsborough County, NH, Rockingham County, NH, and MA on the one hand, and, on the other, points in the U.S. (excluding AK and HI). Suppporting shipper(s): Ingersoll-Rand Co., 150 Burke Street, Nashua, NH 03060; Improved Plastic Machinery Corporation, 11 Sagamore Park Drive, Hudson, NH 03051.

MC 135069 (Sub-1-1TA), filed February 10, 1982. Applicant: ROCKAWAY TRUCKING INC., Route 46, Rockaway, NJ 07866. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Contract carrier:* Irregular routes: *Incinerator systems, including materials, equipment and supplies,* between Dover, NJ, including its Commercial Zone, on the one hand, and, on the other, points in the U.S. under continuing contract(s) with Burn-Zol Corporation, a Division of New Wayne Industries. Suppporting shipper: Burn-Zol Corporation, a Division of New Wayne Industries, 42 Bennett Avenue, Dover, NJ 07801.

MC 160410 (Sub-1-1TA), filed February 4, 1982. Applicant: ROSEDALE TRANSPORT LIMITED, 161 Brockley Drive, P.O. Box 363, Hamilton, Ontario, CD L8N 3C8. Representative: Robert D. Gunderman, Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. *Floor and wall coverings, and materials, supplies and equipment used in the manufacture, production, sale or distribution of floor and wall coverings,* between ports of entry on the International Boundary line between the U.S. and CD in NY and MI, on the one hand, and, on the other, points in the U.S. in the east of ND, SD, NE, KS, OK, and TX. Suppporting shipper(s): There are 13 statements in support of this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 160151 (Sub-1-1TA), filed February 8, 1982. Applicant: SHOREVILLE TRUCK RENTAL, INC., 38 Roosevelt Place, Massapequa, NY 11758. Representative: John P. Tynan, Esq., P.O. Box 777, Jupiter, FL 33458. John V. Salierna, Esq., 65–12 69th Place, Middle Village, NY 11379. *Contract carrier:* Irregular routes: Beer and Ale between international boundary at Rouses Point, NY, and Nassau and Suffolk counties and New York, NY under continuing contract(s) with Midway Beverage Corporation, Farmingdale, NY. Supporting shipper: Midway Beverage Corporation, One Adams Blvd., Farmingdale, NY 11735.

MC 160159 (Sub-1-1TA), filed January 28, 1982. Applicant: SUFFOLK SERVICES, INC., 98 Taylor Street, Boston, MA 02122. Representative: Frederick Shaffer, 20 Harris Road, Medford, MA 02155. *Hazardous waste and solid, liquid, and gaseous chemical-materials for disposal, storage, treatment, reclamation and/or reuse* from MA, Burlington, VT, Portland, ME, Nashua, NH, Hartford, CT, to Arvona, VA, Emelle, AL, Cohoes, NY, Mt. Marion, NY, Niagara Falls, NY, Newark, NJ, Waterbury, CT, Bristol, CT, Baltimore, MD, Columbus, OH, Glenn Bernie, MD and Groes (near Morrisville), PA. Supporting shipper(s): New England Industrial Waste, 135 Millbury St., Suite 3, Worcester, MA 01610; General Latex & Chemical Corp., 666 Main Street, Cambridge, MA 02139; Solar Power Corp., 20 Cabot Rd., Woburn, MA 01801.

MC 59666 (Sub-1-7TA), filed February 2, 1982. Applicant: TRAFIK SERVICES, INC., 25 Esten Avenue, Pawtucket, RI 02860. Representative: Robert A. Mega (same as applicant). *Contract carrier:* Irregular routes: *Freight, all kinds,* between Springfield, MA on the one hand, and, on the other, points in the U.S. (except HI and KA) under continuing contract(s) with Taylor Rental Corporation, Springfield, MA. Supporting shipper: Taylor Rental Corporation, 570 Cottage Street, Springfield, MA.

MC 61335 (Sub-1-1TA), filed February 8, 1982. Applicant: TRANS-BRIDGE LINES, INC., P.O. Box 146, Phillipsburg, NJ 08865. Representative: W. C. Witchell, 370 Lexington Avenue, New York, NY 10017. *Common carrier:* Regular routes: *Passengers and their baggage, in the same vehicle with passengers* (1) between Phillipsburg, NJ, and Atlantic City, NJ, from Phillipsburg, NJ via U.S. Hwy 22 to jct PA Hwy 191, then via PA Hwy 191 to Bethlehem, PA, then via city streets in Bethlehem and Allentown, PA, to jct PA Hwy 145, then via PA Hwy 145 to jct US Hwy 22, then via US Hwy 22 to jct PA Hwy 9 (PA Turnpike Extension), then via PA Hwy 9 to jct PA Turnpike, then via PA Turnpike to jct Interstate Hwy 76, then via Interstate Hwys 76 and 676 to Jct NJ Hwy 42, then via NJ Hwy 42 and Atlantic City Expressway to Atlantic City, and return in the reverse direction via the same route, serving the intermediate points of Easton, Wilson, Bethlehem and Allentown, PA; (2) between Stroudsburg, PA, and Atlantic City, NJ, from Stroudsburg via US Hwy 209 to jct PA Hwy 33, then via PA Hwy 33 to jct PA Hwy 312, then via PA Hwy 312 to Bethlehem, PA, and jct PA Hwy 378, then via PA Hwy 378 to jct PA Hwy 309, then via PA Hwy 309 to jct PA Hwy 663, then via PA Hwy 663 to jct PA Hwy 9 (PA Turnpike Extension, then via PA Hwy 9 to jct PA Turnpike, then PA Turnpike to jct Interstate Hwy 76, then via Interstate Hwys 76 and 676 to jct NJ Hwy 42, then via NJ Hwy 42 and Atlantic City Expressway to Atlantic City, and return in the reverse direction via the same route, serving the intermediate points of Wind Gap, Bath, Bethlehem and Quakertown, PA. There are 134 statements of support with this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 159805 (Sub-1-1TA), filed February 2, 1982. Applicant: TRANSPORT ROBERT PRIMEAU INC., 1102 Rue Centrale, Ville Ste-Catherine (Laprairie County), PQ, CD, JOL 1EO. Representative: J. P. Vermette, 5205 Metropolitan Blvd, Room 7, St. Leonard (Montreal), PQ, CD H1R 1Z7. *Lumber, rough or dressed,* (1) between the Ports of Entry on the International Boundary Line between the U.S. and CD and points in CT, IL, MA, MI, NH, NJ, NY, PA, VT and WV; (2) From points in MD, OH and VA to the Ports of Entry on the International Boundary Line between the U.S. and CD. Supporting shipper(s): NuNutt Lumber Company Ltd, P.O. Box 716, Pointe-Claire/Dorval, PQ, CD H9R 4S8; McMahon & McPhail Inc., 4 Foothills Drive, Nepean, ON, CD K2H 6K3.

MC 154285 (Sub-1-1TA), filed February 10, 1982. Applicant: MIKE WILLIAMS TRANSFER, INC., 2 Foxhurst Court, Manhasset Hills, NY 11040. Representative: Kenneth M. Piken, Esq., Piken & Piken, P.C., Queens Office Tower, 95–25 Queens Blvd., Rego Park, NY 11374–4565. *Flight simulation equipment* between Fairfax, VA and points in its commercial zone, on the one hand, and, on the other, Los Angeles, CA, Jacksonville, FL, New River, NC, and points in their respective commercial zones, under continuing contract(s) with Sperry Corp., Fairfax, VA. Supporting shipper: Sperry Corporation, 2724 Dorr Avenue, Fairfax, VA 22031.

MC 155644 (Sub-1-1TA), filed February 8, 1982. Applicant: WRIGHT BROTHERS KITTY HAWK EXPRESS SYSTEMS, INC., Hevelyn Road, Elmsford, NY 10523. Representative: Dixie C. NewHouse, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. *Contract carrier:* Irregular routes: *Gym exercisers, including materials, parts and supplies* between Yonkers, NY, including its commercial zone, on the one hand, and, on the other, points in NJ, DE, MA, CT, NH, RI, VT, ME, PA, OH, WV, VA, MD and DC, under continuing contract(s) with Beacon Enterprises, Inc., Yonkers, NY. Supporting shipper: Beacon Enterprises, Inc., 937 Saw Mill Road, Yonkers, NY 10701.

The following applications were filed in region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St. Rm. 620, Philadelphia, PA 19106.

Originally published in Federal Register of January 25, 1982.

MC 86690 (Sub-II-5TA), filed January 12, 1982. Applicant: BOND TRANSFER CO., INC., 1301 Towson St., Baltimore, MD 21230. Representative: Leonard W. Smith (same as applicant). Contract, irregular: *Containers, plastic, steel and tin; covers and parts thereof,* between points in the U.S., under continuing contract(s) with The McClayton Co., Inc. An underlying ETA seeks 120 days authority. Supporting shipper(s): The McClayton Co., Inc., 1440 Desoto Rd., Baltimore, MD 21230. The purpose of the re-publication is to show corrected commodity description.

MC 160373 (Sub-II-1TA), filed February 4, 1982. Applicant: C & G TRUCKING, INC., P.O. Box 56, Seaford, DE 19973. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, D.C. 20001. Contract, irregular: *Textile fibers and related materials, equipment, and supplies,* between the facilities of E. I. du Pont de Nemours & Co., Inc., at Seaford, DE and points in GA, MD, NJ, NY, NC, PA, SC, TN, VA, and WV, under a continuing contract with E. I. du Pont de Nemours & Co., Inc., Wilmington, DE. Supporting shipper: E. I. du Pont de Nemours & Co., Inc., 1007 Market St., Wilmington, DE 19898.

MC 139638 (Sub-II–5TA), filed February 4, 1982. Applicant: N. L. MONTGOMERY, INC., P.O. Box 626, Rocky Mount, VA 24151. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *Metal products* from points in MD, OH, PA, VA, SC, GA, and WV to points in NC. An underlying ETA seeks 120 days authority. Supporting shipper: Dillon Supply Company, P.O. Box 1418, Goldsboro, NC 27530.

MC 160370 (Sub-II–1TA), filed February 2, 1982. Applicant: OAKMONT CARRIER CORPORATION, Box 306D, R.D. #2, Chestertown, MD 21620. Representative: Charles J. Blundell (same address as applicant). *Contract,* irregular: *Packaging materials and such materials and supplies as are used in the manufacture of packaging materials, (except commodities in bulk),* between points in DE, NJ, NY, CT, PA, MA, RI, ME, VT, NH, MD, VA, WV, NC, SC, GA and DC. Supporting shipper: Free-flow Packaging Corp., 2500 Middlefield Rd., Redwood City, CA 94063.

MC 160370 (Sub-II–2TA), filed February 2, 1982. Applicant: OAKMONT CARRIER CORPORATION, Box 306D, R.D. #2, Chestertown, MD 21620. Representative: Charles J. Blundell (same address as applicant). *Contract,* irregular: *Carpet, tile, linoleum and floor covering and materials and supplies used in the manufacture and installation of the above commodities* between points in MA, NY, NJ, CT, PA, GA and SC. Supporting shipper: Crockett and Buss, Inc., 5 Albertson Ave., Albertson, NY.

MC 158931 (Sub-II–2TA), filed February 11, 1982. Applicant: CELEBRITY LIMOUSINE, INC., 1228 Spruce St., Philadelphia, PA 19107. Representative: Barbara S. Chesarek, 2600 The Fidelity Building, Philadelphia, PA 19109. *Passengers and their baggage, in special and charter operations, in vehicles capable of transporting six passengers or less, not including drivers,* beginning and ending in points in NY and extending to points in Atlantic and Cape May Counties, NJ for 180 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are 8 supporting shippers. Their statements may be examined at the ICC Regional Office, Philadelphia, PA.

MC 150939 (Sub-II–24TA), filed February 11, 1982. Applicant: GEMINI TRUCKING, INC., 1533 Broad Street, Greensburg, PA 15601. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. *Office furniture and materials, equipment and supplies used in the manufacture of office furniture* between Gallatin and Knoxville, TN, on the one hand, and, on the other, points in the U.S., under a continuing contract(s) with G. F. Business Equipment, Inc. of Youngstown, OH for 270 days. Supporting shipper: G. F. Business Equipment, Inc., 229 East Dennick Avenue, Youngstown, OH 44501.

MC 159857 (Sub-II–2TA), filed February 10, 1982. Applicant: J&L TRUCK LEASING, INC., 3621 State Route 14, Edinburg, OH. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415. *Lamps and lamp parts* between Cincinnati, Cleveland and Columbus, OH and Allegheny, Erie, Lackawana and Philadelphia Counties, PA, on the one hand, and, on the other, Hopkinsville, KY; and McKenzie and Paris, TN for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Parker Lamp & Fixture Supply, Inc., 230 Fifth Avenue, Suite 1108, New York, NY 10001.

MC 160448 (Sub-II–1TA), filed February 8, 1982. Applicant: TIMOTHY R. MARTIN, 8800 Limeridge Rd., Revenna, OH 44266. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415. *Contract: Irregular:* (1) *lumber and pallets* between the facilities of industrial Lumber & Timber Co., at or near Middlefield, OH, on the one hand, and, on the other, points in IN, KY, MI, NY, PA and WV under continuing contract(s) with Industrial Lumber & Timber Land Co. of Cleveland, OH, and (2) *lumber and pallets* from the facilities of Norman Lumber, Inc., at or near Southington, OH, to points in NC and PA under continuing contract(s) with Norman Lumber, Inc. of Southington, OH for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Industrial Timber & Land Company, 23980 Chagrin Blvd., Cleveland, OH 44122 and Norman Lumber, Inc., P.O. Box 21, Southington, OH.

MC 160062 (Sub-II–1TA), filed February 9, 1982. Applicant: O. R. TRUCKING, INC., 6149 S. Ridge West, Geneva, OH 44041. Representative: Lewis S. Witherspoon, 2455 North Star Road, Columbus, OH 43221. *Contract; Irregular: Spent hydrochloric and sulphuric acid, ferrous sulphate, and ferrous chloride* between points in IL, IN, MI, OH, NY, PA, and WI, under continuing contract(s) with By-Products Management of Ohio, Inc. of Cleveland, OH for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: By-Products Management of Ohio, Inc., 17877 St. Clair Ave., Cleveland, OH 44110.

MC 1017 (Sub-II–2TA), filed February 9, 1982. Applicant: SWAN TRUCKING CORPORATION, INC., 3433 Holyoke Road, Philadelphia, PA 19114. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. *New and used tires, loose;* between No. Brunswick, NJ and Philadelphia, PA Commercial Zone, for 270 days under a continuing contract with Pep Boys of Philadelphia, PA. An underlying ETA seeks 120 days authority. Supporting shipper: The Pep Boys, 3111 W. Alleghany Ave., Phila., PA 19132.

MC 160483 (Sub-II–1TA), filed February 8, 1982. Applicant: JOE C. VALLELONGA d.b.a. VALELONGA TRUCKING, 107 Hazelwood Drive, Seville, OH 44273. Representative: Lynn R. Delnoce, 10219 Brecksville Road, Brecksville, OH 44141. (1) *Textiles and related products* between points in CA, IL, IN, KY, MD, MO, NY, OH, SC, TX, UT, VA, NJ, MI, NC, CO, FL, PA, MS, LA, TN, & GA (2) *toys, games, bicycles and juvenile furniture* between points in AZ, CA, CO, FL, GA, KS, MD, OH, PA & TX for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Lionel Corporation, 2951 Grant Avenue, Philadelphia, PA 19114. Schott International, Inc., 1340 East Archwood Avenue, Akron, OH 44306.

MC 108631 (Sub-2–7TA), filed February 10, 1982. Applicant: BOB YOUNG TRUCKING, INC., Schoenersville, Rd. at Industrial Dr., Bethlehem, PA 18017. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. *Food and related products,* between Williamsburg, VA on the one hand, and, on the other, Northampton County, PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Raymond Baurkot Distributors, Inc., Sullivan Trail Rd., Easton, PA.

The following applications were filed in region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 159786 (Sub-3–1TA), filed February 3, 1982. Applicant: LINCOLN COUNTY READY MIX, INC., South Highway 27, Stanford, KY 40484. Representative: Dwayne Greer (same address as applicant). *Coal* from KY to OH and IN. Supporting shipper: Owens Chevrolet, Inc., Stanford, KY 40484.

MC 30446 (Sub-3–11TA), filed February 8, 1982. Applicant: BRUCE JOHNSON TRUCKING COMPANY, INC., 3408 North Graham Street, P.O. Box 5647, Charlotte, NC 28225. Representative: Leon Thompson (same address as applicant). *Contract carrier:* Irregular: *General commodities (except classes A and B explosives),* between Mecklenburg County, NC and York County, SC, on the one hand, and, on the other, points in AL, FL, GA, NC, SC, TN and VA. Supporting shipper: Distribution Technology, Inc., P.O. Box 7123, Charlotte, NC 28217.

MC 143753 (Sub-3–3TA), filed February 9, 1982. Applicant: BOLES & FRANKLIN, INCORPORATED, Route 2, Box 169, Weaverville, NC 28787. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. *Coal,* in bulk, in dump vehicles, from points in KY to the facilities of M. Lowenstein Corporation in Spartanburg County, SC. Supporting shipper: M. Lowenstein Corporation, P.O. Box 10352, Rock Hill, SC 29730.

MC 146456 (Sub-No. 3–1TA), filed February 8, 1982. Applicant: HALLMARK TRUCKING, INC., P.O. Box 87, Locust Fork, AL 35097. Representative: Ronald L. Stichweh, 727 Frank Nelson Bldg., Birmingham, AL 35203. *Contract:* Irregular: *coal in dump vehicles* from Jefferson County, AL, to the plant site of Martin Marietta Corp. at or near Atlanta, GA. Supporting shipper: Mining Ore & Equipment Co., 3918 Montclair Rd., Suite 200, Birmingham, AL 35213.

MC 142232 (Sub-3–3TA), filed February 8, 1982. Applicant: BARRETT TEXTILE TRANSPORT, INC., Post Office Box 6, Kings Mountain, NC 28086. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204–2667. *Contract;* irregular; *textile mill products,* from Charleston, SC to Madison, NC; from Kinston, NC to Clio, SC, under continuing contracts with MacField Texturing, Inc. and Highlander, Ltd. Supporting shippers: MacField Texturing, Inc., P.O. Box 737, Madison, NC 27025, and Highlander, Ltd., P.O. Box 187, Clio, SC 29525.

MC 148714 (Sub-3–1TA), filed February 8, 1982. Applicant: JAMES BROWN TRUCKING CO., 6850 Chapman Road, Lithonia, GA 30058. Representative: Mark S. Gray, 235 Peachtree St., N.E., Ste. 1200, Atlanta, GA 30303. (1) *Tea, tea extract, (instant or soluble) and beverage preparations, dry or liquid, other than straws containing beverage preparations* from Atlanta and Marietta, GA, to Los Angeles, CA and its commercial zone, restricted to traffic originating at or destined to the facilities owned or utilized by Southern Tea Company; and (2) *Batteries and battery components, including lead, lead plates, cases and tops* from Costa Mesa, CA and its commercial zone, to points in GA, AL, MS, TN, KY, VA, NC, SC, FL, OK, TX and AR, restricted to traffic originating at or destined to the facilities owned or utilized by Alco Battery Co. Supporting shipper(s): Southern Tea Company, 1650 Marietta Blvd., N.W., Atlanta, GA 30318 and Alco Battery Co., 5194 Minola Dr., Atlanta, GA 30058.

MC 146343 (Sub-3–7TA), filed February 8, 1982. Applicant: SOUTHERN EXPRESS CORPORATION, 505 South Ocean Boulevard, Pompano Beach, FL 33062. Representative: Southern Enterprises Incorporated, 2 Sawyer Drive, Coventry, RI 02816. *Contract Carrier:* Irregular: *Rotating louver fan, fluorescent light adapters, fluorescent light fixtures, Related Materials, Equipment and Supplies, (except class A and B explosives, household goods as defined by the Commission, and commodities in bulk),* between points in the U.S. under continuing contract or contracts with Diversified Appliance Corporation of Providence, RI. Supporting shipper: Diversified Appliance Corporation, 669 Elmwood Avenue, P.O. Box 2706, Providence, RI 02907.

MC 160458 (Sub-3–1TA), filed February 8, 1982. Applicant: D & R DELIVERY SERVICE, 43 Freeway Drive, Mobile, AL 36619. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL 35209–4786. *Pharmaceuticals and drugstore commodities,* between the facilities of McKesson Drug Co., A Division of Foremost-McKesson, Incorporated located in or near Mobile, AL and Jackson, MS on the one hand, and, on the other, FL, AL, MS and LA. Supporting shipper: McKesson Drug Co., A Division of Foremost-McKesson, Incorporated, P.O. Box 1367, Mobile, AL 36609.

MC 160457 (Sub-3–1TA), filed February 8, 1982. Applicant: LAREWS LEASING COMPANY, Route 5, Forest Pines Dr., P.O. Box 884, Statesboro, GA 30458. Representative: Ralph M. Andrews (same address as applicant). *Passengers and their baggage in special and charter operations.* Beginning and ending in Bulloch, Jenkins, Screven, Effingham, Bryan, Liberty, Evans, Candler, Emanuel Counties in GA and extending to all points in the U.S. except AK and HI. Supporting shipper: There are six support statements attached to this application which may be examined at the ICC Regional Office, Atlanta, GA.

MC 142467 (Sub-3–3TA), filed February 8, 1982. Applicant: DIXIE FREIGHT LINE, INC., P.O. Box 532, Greenville, MS 38701. Representative: Harold H. Mitchell, Jr., P.O. Box 1295, Greenville, MS 38701. *Such commodities as are dealt in or used by regional farm supply, manufacturing and marketing cooperatives* (except Classes A and B explosives), between points in the U.S. in and east of ND, SD, NE, CO, and NM. Supporting shipper: MFC Services, Inc., P.O. Box 590, Madison, MS 39110.

MC 160454 (Sub-3–1TA), filed February 8, 1982. Applicant: OWEN PRODUCE, INC., Locust Grove Rd., Elizabethtown, KY 42701. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *Auto parts, industrial fasteners, metal products and supplies used in industrial maintenance and auto parts industries* from Elizabethtown, KY and Cleveland, OH to points in TX, CA, and WA. Supporting shipper: Bowman Distribution; Barnes Group, Inc., 850 East 72 St., Cleveland, OH 44103.

MC 148947 (Sub-3–2TA), filed February 8, 1982. Applicant: HUNTER TRANSPORT CO., INC., 1603 Long Street, Chattanooga, TN 37406. Representative: Ann K. Merriman, Assistant to the President, 1603 Long Street, Chattangooa, TN 37406. *Contract* carrier, *irregular* routes: *Paper, pulp and cotton linters* from Chattanooga, TN, to points in CT, MA, MI, NH, NJ, NY, OH, PA, VA, WI, and WV. Supporting shipper: Southern Cellulose Division of Knowlton Bros., P.O. Box 2219, Chattanooga, TN 37409.

MC 152878 (Sub-2), filed February 8, 1982. Applicant: LEXINGTON CARTAGE COMPANY, 2160 Young Drive, Lexington, KY 40593. Representative: Herbert D. Liebman, P.O. Box 478, 403 West Main Street, Frankfort, KY 40602. *Contract;* irregular; *such merchandise as is dealt in by wholesale, retail and chain grocery and food business houses and equipment, material and supplies used in the conduct of such business* between all points in Hamilton County, OH, on the one hand, and, on the other, all points in Fayette County, KY, under continuing contract(s) with The Kroger Company of Cincinnati, OH. Supporting shipper: The Kroger Company, 1014 Vine Street, Cincinnati, OH 45202.

MC 153106 (Sub-3–2TA), filed February 5, 1982. Applicant: THORNTON FURNITURE CARRIERS, INC., 840 Winston Street, Greensboro, NC 27405. Representative: John N. Fountain, P.O. Box 2246, Raleigh, NC 27602. *New furniture (restricted to residential deliveries)* from points and places in NC to points and places in AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NJ, NY, OH, OK, PA, SC, TN, TX, VA, WV, and WI. There are five supporting shipper statements, which may be examined at the ICC's Regional Office in Atlanta, Georgia.

MC 151173 (Sub-3-16TA), filed February 8, 1982. Applicant: HAR-BET, INC., 7209 Tara Blvd., P.O. Box 855, Jonesboro, GA 30236. Representative: O. L. Godfrey, Jr. (same address as applicant). *Potatoes, frozen, sliced, diced or grated, blanched,* between points in GA on the one hand, and, on the other, points in ID, OR and MI. Supporting shipper: Martin & Jones Produce Company, Inc., State Farmers Market Bldg. E., Forest Park, GA 30050.

MC 136876 (Sub-3-1TA), filed February 10, 1982. Applicant: THE PAULIE BRAZIER COMPANY, P.O. Box 652, Buffalo Road, Lawrenceburg, TN. 38464. Representative: B. R. Bryant, P.O. Box 985, 107 North Military Avenue, Lawrenceburg, TN. 38464. Contract: Irregular: *Fertilizer, fertilizer materials, agricultural chemicals, and agricultural commodities, and products used in manufacturing* between all points east of and including MN, IA, KS, OK and TX. Supporting shipper, USS Agri-Chemicals Division, United States Steel Corporation, 233 Peachtree Street, NE., Atlanta, GA. 30303.

MC 150538 (Sub-3-1TA), filed February 11, 1982. Applicant: PHILLIP G. PYLE d.b.a., PYLE AUTOMOTIVE AND WRECKER SERVICE, 1514 Bridgewater Lane, Kingsport, TN 37660. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., NW., Washington, D.C. 20004. *Wrecked and disabled vehicles, in tow away service,* between points in Sullivan, Hawkins, Washington, Greene, Hancock, Carter, Johnson, Hamblen and Knox Counties, TN, Scott, Wise and Washington Counties, VA, on the one hand, and, on the other, points in and east of TX, OK, KS, MO, IL and WI. Supporting shipper(s): McNabb-Wadsworth Trucking Co., 305 S. Wilcox Drive, Kingsport, TN 37665.

MC 128117 (Sub-3-11TA), filed February 11, 1982. Applicant: NORTON-RAMSEY MOTOR LINES, INC., P.O. Box 896, Hickory, NC 28601. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda, MD 20814. *New furniture and furniture parts,* from Lawrenceville, GA to points in AR, LA, OK, TX, CO, NM, AZ, CA, KS and NE. Supporting shipper: American Charm, Inc., 309 Maltbie Street, Lawrenceville, GA 30246.

MC 150362 (Sub-3-2 TA), filed February 11, 1982. Applicant: ADAMS TRUCKING COMPANY, INC., Route 1, Box 72, McCalla, AL 35111. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL 35209-4786. *Metal and metal articles, plastics and plastic articles and pipe;* between the facilities of Folsom Metal Products/Spirotech, McCalla, AL; Natchez Steel Company, Bessemer, AL; on the one hand and on the other all points in the U.S. Supporting Shippers: Natchez Steel, Bessemer, AL 35020; Folsom Metals/Spirotech, P.O. Box 331, McCalla, AL 35111.

MC 150466 (Sub-3-1 TA), filed February 11, 1982. Applicant: FOLSOM TRUCKING COMPANY, INC., 609 Van Buren, Birmingham, AL 35226. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL 35209-4786. *Metal and metal articles, plastic and plastic articles* between the facilities of Folsom Metal Products, Incorporated in or near McCalla, AL on the one hand and on the other TX, LA, OK, and AL. Supporting shipper: Folsom Metal Products, incorporated, P.O. Box 98, McCalla, AL 35111:

The following applications were filed in region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604

MC 69901 (Sub-4-5 TA), filed February 3, 1982. Applicant: COURIER-NEWSOM EXPRESS, INC., 2820 N. National Road, P.O. Box 270, Columbus, IN 47201. Representative: Don C. Butler, Traffic Manager (same as applicant). *Common carrier:* Irregular route; *General Commodities,* serving points in Wilson County, TN, as off-route points in connection with existing regular route operations. Their are 6 supporting shippers.

Note.—Applicant intends to tack the above authority with its existing operating authorities.

MC 15735 (Sub-4-7 TA), filed February 8, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *General commodities* except class A & B explosives (1) between points in CO, on the one hand, and, on the other, points in AZ, CA, ID, OR, UT and WA, (2) from AZ, CA, ID, OR, UT and WA to Lexington, KY under a continuing contract with the International Business Machines Corporation. Supporting shipper: International Business Machine Corporation, P.O. Box 10, Princeton, NJ 08540.

MC 103602 (Sub-4-1 TA), filed February 8, 1982. Applicant: SKJONSBY TRUCK LINE, INC., 2831 First Avenue North, P.O. Box 362, Fargo, ND 58107. Representative: Richard P., Anderson, P.O. Box 2561, Fargo, ND 58108. *Contract,* irregular: *General commodities* (except household goods and classes A and B explosives), between points in ND, SD, MN, IA, WI and NE, on the one hand, and, on the other, points in the United States, under contract with Transportation Systems International, Inc. of Minneapolis, MN. Supporting shipper: Transportation Systems International, Inc., 2500 Kennedy Street, N.E., Minneapolis, MN 55413.

MC 127303 (Sub-4-4 TA), filed February 8, 1982. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Representative: R. Stephen Heisley, Suite 805, 666 Eleventh Street NW., Washington, D.C. 20001. *Food and related products,* between Peoria, IL, on the one hand, and on the other, points in WI, IN, OH, MI, KY, IL, IA, and MN. Supporting shipper: Kal Kan Foods, Inc., P.O. Box 58863, Vernon, CA 90058.

MC 127550 (Sub-4-4 TA), filed February 2, 1982. Applicant: BOSCH TRUCKING COMPANY, INC., 5600 South Washington Street, Bartonville, IL 61607. Representative: Edward G. Bazelon, 29 South La Salle Street, Chicago, IL 60603. *Contract:* Irregular: (1) *Alcoholic beverages* (except commodities in bulk), from Milwaukee, WI, St. Paul, MN, and Pabst, GA, to Pekin, IL, and (2) *materials, equipment and supplies* used in the distribution of alcoholic beverages, from Pekin, IL, to Milwaukee, WI, St. Paul, MN, and Pabst, GA, under contract with Pekin Distributing Company, Inc., of Pekin, IL, for 270 days. An underlying ETA seeks 120-day authority. Supporting shipper: Pekin Distributing Company, Inc., 1208 Koch Street, Pekin, IL 61554.

MC 141237 (Sub-4-1), filed February 5, 1982. Applicant: LOREN J. SLAGHT, 990 La Pointe St., Prairie du Chien, WI 53821. Representative: Michael S. Varda, P.O. Box 2509, Madison, WI 53701. *Dry fertilizer* from Prairie du Chien, WI, to points in IA on and east of I-35, and points in MN on and south of I-90, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Growmark, Inc., 1701 Towanda Avenue, Bloomington, IL, 61701.

MC 146519 (Sub-4-2 TA), filed February 8, 1982. Applicant: MORRIS TRUCKING CORPORATION, 3201 Canal Road, Terre Haute, IN 47802. Representative: John F. Wickes, Jr., Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Fuel, home heating and lube oil, diesel fuel, and gasoline, in bulk, in tank vehicles,* between Robinson and Lawrenceville, IL, on the one hand, and, on the other, points in Vigo, Vermillion, Clay, Owen, Greene, Sullivan, Fountain, and Knox Counties, IN, and Crawfordsville,

Greencastle, Bloomington, Crane, Washington, Petersburg, Haubstadt, Vincennes and Lynnville, IN. An underlying ETA has been granted for 120 days. Supporting shippers: There are 6 statements of support attached.

MC 149334 (Sub-4-2 TA), filed February 5, 1982. Applicant: PIONEER ACQUISITION CORP., 2500 28th Street, S.W., Wyoming, MI 49509. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Contract:* Irregular. *General commodities,* except household goods, between points in the United States, as a contract carrier under continuing contract with United Forwarding, Inc, of Omaha, NE. Supporting shipper: United Forwarding, Inc, 7000 Building, Suite 445, Onaha, NE 68106.

MC 150089 (Sub-4-1 TA), filed February 4, 1982. Applicant: K & B TRANSPORT, INC., 7923 Whitecliff Road, Egg Harbor, WI 54209. Representative: Stephen H. Loeb, Suite 2027, 33 N. LaSalle Street, Chicago, IL 60602. *Contract:* Irregular. *Corrugated paper boxes,* from the facilities of Crown Zellerbach Corp., at Carol Stream, IL to Minneapolis and St. Paul, MN. Supporting shipper: Crown Zellerbach Corp., 1 River Street, South Glen Falls, N.Y. 12801.

MC 150203 (Sub-4-1 TA), filed February 5, 1982. Applicant: TRIMBO ENTERPRISES, INC., Rural Route 2, Henderson, MN 56044. Representative: Andrew R. Clark, 1600 TCF Tower, 121 South 8th St, Minneapolis, MN 55402. *Lime in bulk* from Fort Dodge, Iowa to Shakopee, MN under a continuing contract with Midland Glass Company, an underlying ETA seeks 120 days authority. Supporting shipper: Midland Glass Co., Hwy 101 & Scott Rd. 83, Shakopee, MN 55379.

MC 150328 (Sub-4-1), filed February 8, 1982. Applicant: JUNTTI MOVING AND DELIVERY, 6135 Coach House Drive, East Lansing, MI 48823. Representative: David D. Bone, Attorney, 2940 Lake Lansing Road, East Lansing, MI 48823. *Contract* Irregular: *Transporting household appliances* from Lansing, MI to the following counties: Ingham, Eaton, Ionia, Clinton, Shiawassee, Livingston, Jackson, Calhoun, Washtenaw, Gratiot, and Barry County, MI under continuing contract with General Electric Corporation. Supporting shipper: General Electric Company, Appliance Park, Louisville, KY 40225.

MC 150388 (Sub-4-1 TA), filed February 4, 1982. Applicant: DAVID HALES, INC., 1615 South 8th Street, Aberdeen, SD 57401. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 South 8th Street, Minneapolis, MN 55402 *Pre-cast concrete,* from Sioux Falls, SD to Denver, CO. An underlying ETA seeks 120 days authority. Supporting shipper: Gage Bros. Concrete Products, Inc, P.O. Box 1526, Sioux Falls, SD 57101.

MC 150388 (Sub-4-1TA), filed February 2, 1982. Applicant: OSENGA TRANSPORT SYSTEM, INC., 192 W. 155th Street, South Holland, IL 60473. Representative: James C. Hardman, 33 N. LaSalle Street, Chicago, IL 60602. *Contract irregular. General commodities* (except Classes A & B explosives, household goods, and commodities in bulk), between South Holland, IL, on the one hand, and, on the other, points in WI, IN, MI, OH, IA, MN and MO under continuing contract(s) with South Holland Metal Finishing Co., Inc. Supporting shipper: South Holland Metal Finishing Co., Inc., 192 W. 155th St., South Holland, IL 60473.

MC 150400 (Sub-4-1TA), filed February 3, 1982. Applicant: CARE TRANSPORT, INC., 18433 Glen Oak Ave., Lansing, IL 60438. Representative: Robert C. Collins, Jr., 850 Burnham Ave., P.O. Box 1245, Calumet City, IL 60409. *Contract—irregular oils, other than petroleum,* in bulk, in tank vehicles between points in the U.S., except AK and HI. An underlying ETA seeks 120 days authority. Supporting shippers: Bunge Edible Oil Corp., P.O. Box 162, Kankakee, IL 60901 and Enterprise Companies, 1191 S. Wheeling Road, Wheeling, IL 60090.

MC 150411 (Sub-4-1TA), filed February 4, 1982. Applicant: VIRGIL JAEGER d.b.a. S-J's TRUCKING, P.O. Box 3, Washburn, ND 58577. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502-2056. *Common; irregular; transporting agricultural machinery and equipment and parts and attachments therefor;* from Moline, Peoria, East Moline, and Rock Island, IL; Davenport, Bettendorf, Ankeny, Waterloo, Ottumwa, and Des Moines, IA; Minneapolis and St. Paul, MN; and Canton, OH, to ND on and west of U.S. Highway #281. Underlying ETA seeks 120 day authority. Supporting shippers: Washburn Greenline, Inc., Washburn, ND; Knudtson Implement, Inc., Underwood, ND, and Wentz Equipment, Inc., Napoleon, ND.

MC 150436 (Sub-4-1TA), filed February 8, 1982. Applicant: CUSTOMIZED TRANSPORTATION SERVICES, INC., 2414 Jacobs Drive, New Albany, IN 47150. Representative: Harold C. Jolliff, 3242 Beech Drive, Columbus, IN 47201. *Contract irregular, Pulverized Limestone.* Between points in Ste Genevieve County, MO., on the one hand, and, on the other, points in Jefferson and Marshall Counties, Ky., under continuing contract(s) with Airco Carbide, a Division of Airco, Inc. of Louisville, Ky. An underlying ETA seeks 120 days authority. Supporting shipper: Airco Carbide, a Division of Airco, Inc., P.O. Box 10037, Louisville, Ky. 40201.

MC 144153 (Sub-4-1TA), filed February 9, 1982. Applicant: OSCAR G. BJUGSTAD, OSCAR L. BJUGSTAD, AND AUGUST D. BJUGSTAD d.b.a. BJUGSTAD TRUCKING CO., Route 2, Hwy. 51, Stoughton, WI 53589. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Contract irregular. Salt* from Hutchinson, KS to Milwaukee, WI, and points in the Milwaukee, WI commercial zone, under a continuing contract(s) with Waukesha Warehouse, Inc. Supporting shipper: Waukesha Warehouse, Inc., 223 Maple Ave., Waukesha, WI 53816.

MC 145042 (Sub-4-9 TA), filed February 8, 1982. Applicant: ZEELAND FARM SERVICES, INC., 2468 64th Avenue, Zeeland, MI 49464. Representative: James R. Neal, 1200 Bank of Lansing Building, Lansing, MI 48933. *Fruit concentrate (except in bulk)* from New Castle County, DE to Van Buren County, MI. Supporting shipper: The Coca-Cola Company, Foods Division, P.O. Box 229, Paw Paw, MI 49079.

MC 145503 (Sub-4-1 TA), filed February 8, 1982. Applicant: ART ANDERSON TRUCKING, INC., P.O. Box 138, Oakford, IL 62673. Representative: Edward D. McNamara, Jr., Lesliecann G. Maxey, Attorneys at Law, 937 South Fourth St., Springfield, IL 62703. *Fertilizer* between points in the states of MO, IN, IL, & IA, on the one hand, and points in the state of KY, on the other hand. Supporting shippers are: Farmland Industries, Inc., P.O. Box 7305, Kansas City, MO 64116 and Estech, Inc., P.O. Box 338, East St. Louis, IL 62202.

MC 146753 (Sub-4-9 TA), filed February 9, 1982. Applicant: SAM YOUNG, INC., P.O. Box 337, Wolcott, IN 47995. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street, NW., Washington, D.C. 20001. *Clay targets, and materials and supplies* used in the manufacture of clay targets, between points in Wayne County, IN, on the one hand, and, on the other, points in the United States in and east of ND, SD, MO, NE, KS, MO, AR, and LA. Supporting shipper: Champion Target Division of Federal Cartridge Corp., 9th & Taylor, Anoka, MN 55303.

MC 154207 (Sub-4-2 TA), filed February 8, 1982. Applicant: J. C. ELLIS TRANSPORTATION, INC., P.O. Box

1009, Washington Park, IL 62204. Representative: John M. Hessel, One Mercantile Center, Thirty–Second Floor, St. Louis, MO 63101. *Contract* irregular *Fertilizers, insecticides, fungicides, weed controlling chemicals* used in animal feed mixtures. We also ship items as *fertilizer spreaders* and *advertising materials* between our origin in Fairmont City, Washington Park and East St. Louis, IL all in St. Clair County, IL to points in CO, IN, KS, KY, LA, MI, MN, NE, ND, OH, OK, SD, TX and WI. Supporting shipper: Estech, Inc., 2501 North Kingshighway, P.O. Box 338, East St. Louis, IL 62202.

MC 160441 (Sub-4–1 TA), filed February 5, 1982. Applicant: S & S CARTAGE CO., INC., P.O. Box 6424, South Bend, IN 46660. Representative: Paul D. Borghesani, KATZ & BORGHESANI, Suite 300, Communicana Bldg., 421 So. Second St., Elkhart, IN 46516. *Contract* irregular: *General commodities* (except classes A and B explosives, commodities in bulk, and household goods), between Cook, Lake, DuPage and Will Counties, IL; Berrien, Calhoun, and Jackson Counties, MI; Elkhart and LaPorte Counties, IN; Scott County, KY; and Buncombe, Richmond, and Iredell Counties, NC, on the one hand, and, on the other, points in WI, MI, IL, IN, OH, and KY. Supporting shipper: Clark Equipment Company, Circle Drive, Buchanan, MI 49107.

MC 15540 (Sub-4–4 TA), filed February 10, 1982. Applicant: KIRCHWEHM BROS. CARTAGE CO., INC., 1700 West Carroll Ave., Chicago, IL. 60612. Representative: Ronald C. Kirchwehm, 1700 West Carroll Ave., Chicago, IL. 60612. *Contract irregular Food and related products* between points in the U.S. under continuing contract with The Larsen Company. An underlying ETA has been filed for 120 days. Supporting shipper: The Larsen Co., 520 N. Broadway, Green Bay, WI 54305

MC 41347 (Sub-4–2 TA), filed February 11, 1982. Applicant: DE BACK CARTAGE COMPANY, INC., 4841 Burnham Street, Milwaukee, WI 53219. Representative: William P. Dineen, 710 N. Plankinton Avenue, Milwaukee, WI 53203. *Contract*, irregular: *Food and related products* between points in the Milwaukee, WI, Commercial Zone, on the hand, and, on the other, points in the Chicago, IL, Commercial Zone under a continuing contracts(s) with Ward-Johnston, Division of Tenson, Inc. Supporting shipper: Ward-Johnston, Division of Tenson, Inc., 250 North Sunny Slope Road, Brookfield, WI, 53005.

MC 124408 (Sub-4–9 TA), filed February 11, 1982. Applicant: THOMPSON BROS. INC., P.O. Box 1283, Sioux Falls, SD 57101. Representative: Richard P. Anderson, P.O. Box 2561, Fargo, ND 58108. *Frozen potato products* from Park Rapids, MN to points in the United States. An underlying ETA seeks 90 days authority. Supporting shipper: Chef Reddy Foods, Inc., P.O. Box 552, Park Rapids, MN 56470.

MC 126196 (Sub-4–1 TA), filed February 11, 1982. Applicant: BLACHOWSKE TRUCK LINE, INC., R.R.1, Fairmont, MN 56031. Representative: ROBERT N. MAXWELL, P.O. Box 2471, Argo, ND 58108. *Coal* from Brazil and Terre Haute, IN to Granite City, IL, Waterloo, IA, and St. Louis, MO. An underlying ETA seeks 120-day authority. Supporting shipper: American Colloid Company, P.O. Box 228, Skokie, IL 60077.

MC 135924 (Sub-4–3 TA), filed February 11, 1982. Applicant: SIMONS TRUCKING CO, INC., 3851 River Road, Grand Rapids, MN 55744. Representative: Samuel Rubenstein, Post Office Box 5, Minneapolis, MN 55440. *Waferboard sheets*, flaked with added resin binder, compressed, not further finished, from Beltrami County, MN to points in the U.S. except AK and HI. Supporting shipper: Mead Corporation, Courthouse Plaza, N.E., Dayton, OH 45463.

MC 136512 (Sub-4–3TA), filed February 10, 1982. Applicant: ROLAND'S TRANSPORTATION SERVICES, INCORPORATED, P.O. Box 1000 (100 Waukegan Road), Lake Bluff, IL 60044. Representative: Michael V. Kaney (same address as applicant). *Contract irregular Cheese and Milk Products, and Supplies and Materials used in the manufacture thereof*, between the facilities of Meinerz Creamery, Div. of Beatrice Foods, Inc., at Fredericksburg, IA, Preston, IA, Marshfield, WI, New Berlin (Milwaukee), WI on the one hand and, on the other, points in the United States. An underlying ETA filed this date. Supporting shipper: Meinerz Creameries, Div. of Beatrice Foods Co., 2200 South 170 Street, New Berlin, WI 53151.

MC 145817 (Sub-4–1TA), filed February 10, 1982. Applicant: STALLMAN TRUCKING, INC., 1114 Brookwood St., Bensenville, IL 60106. Representative: Robert J. Gill, First Commercial Bank Bldg., 410 Cortez Rd. West, Bradenton, FL 33507. *Contract* Irregular *Scrap Paper* between points in Cook, DuPage and Lake Counties, IL on the one hand, and, on the other, points in IL, IN, IA, MI, OH and WI, restricted to traffic moving between the facilities of Trans American Fibers and DuPage Paper Stock Co. Supporting shippers: Trans American Fibers, Itasca, IL, DuPage Paper Stock Co., Carol Stream, IL.

MC 146062 (Sub-4–2TA), filed February 10, 1982. Applicant: J. C. HAULING CO., P.O. Box 12, Millstadt, IL 62260. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, Mo. 63102. *Lime* between the facilities of Mississippi Lime Company at or near Ste. Genevieve, MO. and the facilities of Granite City Steel, Div. of National Steel Co. at or near Granite City, IL. Supporting shipper: Granite City Steel, Div. of National Steel, 20th & State Stre., Granite City, MO.

MC 146062 (Sub-4–3TA), filed February 10, 1982. Applicant: J.C. HAULING CO., P.O. Box 12, Millstadt, IL 62260. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102. *Dolomite* between St. Francois County, MO and Morris County, TX. Supporting shipper: North American Refractories Co, an Allied Company, Cleveland, OH.

MC 156359 (Sub-4–2TA), filed February 10, 1982. Applicant: HARBOR CARTAGE, INC., 312 West End, Detroit, Michigan 48209. Representative: ALEX J. MILLER, 555 S. Woodward, Ste. 512, Birmingham, MI 48011, (313) 647–3350. *Contract irregular self-contained room air-conditioners* between Hillsdale County, MI and Lucas County, OH. Under a continuing contract with the York Division, Borg Warner Corporation. Supporting shipper: York Div., P.O. Box 1592, York, PA. 17405.

MC 158463 (Sub-4–2TA), filed February 10, 1982. Applicant: CENTRAL STATES DISTRIBUTING, INC., 3536 E. 200 N., Marion, IN 46952. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204. *Contract*, irregular *Advertising circulars*, between Marion, IN, on the one hand, and, on the other, Wilmington, DE, Camden, NJ, White Plains, NY, and West Nyack, NY. Restricted to service provided pursuant to contract(s) with Gannett Company, Inc., Supporting shipper: Gannett Company, Inc., 610 South Adams, Marion, IN 46952.

MC 160472 (Sub-4–1), dated February 9, 1982. Applicant: TROJAN CORPORATION, Route No. 3, Wolf Lake, IL 62998. Representative: Jack L. Schiller, 123–60 83d Ave., Kew Gardens, NY 11415, (212) 263–3078. *Contract*, irregular: *blasting agents* between the facilities of International Minerals and Chem., located at or near Salyersville, KY and Romney, WV, on the one hand, and, on the other, points in IL, IN, MO, OH, PA and TX. Condition: services to be performed under continuing contract(s) with International Minerals and Chem of Des Plaines, IL. Supporting shipper: International Minerals and Chem., 666 Garland Place, Des Plaines, IL 60016.

MC 160498 (Sub-4–1), filed February 9, 1982. Applicant: WENDELL MOORE d.b.a. WESTERN DRAY LINES, Rural Route 4, Winona, MN 55987. Representative: Edward H. Instenes, P.O. Box 676, Winona, MN 55987. *General Commodities* between points in the U.S. for the account of Miller Waste Mills and its subsidiaries. Supporting shipper: Miller Waste Mills, 560 East Front St., Winona, MN 55987.

MC 160541 (Sub-4–1TA), filed February 11, 1982. Applicant: RAHM'S TRUCK SERVICE, INC., 909 Blackstone Avenue, Waukesha, WI 53186. Representative: James Robert Evans, 145 W. Wisconsin Avenue, Neenah, WI 54956. *(1) Steel Buildings* from Mt. Pleasant, IA to points in WI and the Upper Peninsula of MI, and *(2) Lumber* from Spearfish, SD to Medford, WI. Supporting shippers: Brewer Builders, Wausau, WI and Doberstein Lumber, Inc., Medford, WI.

MC 160542 (Sub-4–1TA) filed February 11, 1982. Applicant: EASTERN TRUCKLINES, INC., 10418 Broardmoor, Palos Hills, IL 60465. Representative: Patrick H. Smyth, Smyth & Guth, P.C., 105 West Madison Street, Suite 1008, Chicago, IL 60602. *General commodities* (except classes A and B explosives, household goods as defined, and commodities in bulk) between Chicago, IL and Cleveland, OH and their Commercial Zones. Supporting shipper(s): J & B Expediters, Inc., 764 Thomas Drive, Bensenville, IL; Rail Van Dist., Inc., 1200 N. 25th Ave., Melrose Park, IL; International Multifoods Corporation, 2000 N. George St., Melrose Park, IL; Noranda Building Products, Inc., 11440 W. Addison St., Franklin Park, IL.

The following applications were filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 145925 (Sub-5–1TA), filed February 9, 1982. Applicant: TRANS CONTINENTAL LEASING, LTD., 8820 Pershall Road, Hazelwood, MO 63042. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract, Irregular: *General Commodities (except Classes A and B explosives)*, between points in the U.S. under continuing contract(s) with Banquet Foods Corporation, Dean Brown Private Brands, Inc., Green Bay Food Co. and Schnuck Markets, Inc. Supporting shipper(s): Banquet Foods Corporation, One Banquet Place, P.O. Box 70, Ballwin, MO 63011; Dana Brown Private Brands, Inc., 4907 West Pine Boulevard, St. Louis, MO 63108; Green Bay Food Co., Division of Dean Foods, P.O. Box 3670, Green Bay, WI 54303; Schnuck Markets, Inc., 12921 Enterprise Way, Bridgeton, MO 63044.

MC 150017 (Sub-5–3TA), filed February 8, 1982. Applicant: DELICIOUS FOODS CARRIERS, INC., P.O. Box 730, Grand Island, NE 68801. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Contract; Irregular. *General commodities (except Classes A and B explosives and household goods)*, between pts in the U.S. under a continuing contract(s) with Wetterau, Inc. and its subsidiaries. Supporting shipper: Wetterau, Inc., 8540 Pershall Road, Hazelwood, MO 63042.

MC 151467 (Sub-5–1TA), filed February 8, 1982. Applicant: DERROLD DEATHERAGE d.b.a. DEATHERAGE TRUCKING, Rt. 1, Box 5, Russell, KS 67665. Representative: Ilene Deatherage (same as applicant). *Pipe, sucker rods, pumping units, tanks, drilling muds, chemicals and railroad ties* between points in KS, OK, NE, TX, CO and WY. Supporting shippers: 0.

MC 154488 (Sub-5–7TA), filed February 8, 1982. Applicant: LASLEY TRUCKING COMPANY, INC., P.O. Box 1368, Conway, AR 72032. Representative: John B. Fowlkes, Jr., P.O. Box 1368, Conway, AR 72032. Contract; Irregular, *Lumber and building materials*, between points in the U.S. under continuing contract with Continental Timber Company, Inc., Valley Center, KS. Supporting shipper: Continental Timber Company, Inc., 202 South Cedar, Valley Center, KS 67147.

MC 154759 (Sub-5–1TA), filed February 8, 1982. Applicant: WEAVER TRUCKING, INC., Route 1, Box 441, West Helena, AR 72390. Representative: Thomas B. Staley, 1550 Tower Building, Little Rock, AR 72201. Contract Irregular *Lumber and Wood Products* between West Helena, AR, on the one hand, and, on the other, Tallulah, LA and Greenville, MS, under continuing contract(s) with Chicago Mill & Lumber Company of West Helena, AR. Supporting shipper: Chicago Mill & Lumber Company, P.O. Box 2517, West Helena, AR 72390.

MC 159513 (Sub-5–2TA), filed February 9, 1982. Applicant: LOK TRUCKING COMPANY, P.O. Box 44B, Frisco, TX 75034. Representative: William Sheridan, P.O. Drawer 5040, Irving, TX 75062. *Fabric* between CT, GA, MA, NJ, NC, RI, SC, TN on the one hand, and, on the other, Cleburne or Sweetwater, TX. Restricted to shipments originating at or destined to the facilities of Walls Industries, Inc. Supporting shipper: Walls Industries, Inc., 1905 N. Main St., Cleburne, TX 76031.

MC 160451 (Sub-5–1TA), filed February 8, 1982. Applicant: F & S FREIGHTWAYS, 962 Red Barn Lane, Wichita, KS 67212. Representative: Paul Ferguson (same as applicant). Contract; Irregular. *Woodpulp in rolls, tape-adhesive backing, polyurthane in rolls, and disposable diapers*, between all points in the U.S. Supporting shipper: Riegel Textile Corporation, 1000 No. College Dr., Maryville, Mo. 64468.

MC 160459 (Sub-5–1TA), filed February 8, 1982. Applicant: ROCKY MOUNTAIN EXPRESS, INC., P.O. Box 509, Gordon, NE 69343. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Contract; Irregular. *Food and related products*, between pts in the U.S., under a continuing contract or contracts with Nebraska Beef Packers, Inc. and Romo Paco, Inc. Supporting shippers: Nebraska Beef Packers, Inc., Gordon, NE 69343 and Romo Paco, Inc., Gordon, NE 69343.

MC 160490 (Sub-5–1TA), filed February 9, 1982. Applicant: HORACE T. HODGES d.b.a. HODGES TRUCK LINE, P.O. Box 1528, Claremore, OK 74017. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154. (1) *Steel sucker rods* from the facilities of Del-Tex, Inc., at or near Claremore, OK to points in AR, CO, KS, KY, IL, LA, MS, NM, OH, TX and WY and (2) *materials, equipment and supplies used in the manufacture of sucker rods* from points in AR, CO, KS, KY, IL, LA, MS, NM, OH, TX and WY to the facilities of Del-Tex, Inc. Supporting shipper: Del-Tex, Inc., P.O. Box 1187, Claremore, OK.

MC 160482 (Sub-5–1TA), filed February 9, 1982. Applicant: CLEATUS P. JONES, 411 N. Beverly Drive, Wichita Falls, TX 76305. Representative: Cleatus P. Jones (same address as above). Contract; Irregular. *Limestone and concrete products*, between Wichita Falls, TX, and Comanche County, OK. Supporting shipper: O.K. Concrete Co., 2304 Sheppard Access Road, Wichita Falls, TX 76304; and Leo Brock Paving Co., 224 N. Beverly Drive, Wichita Falls, TX 76305.

MC 160494 (Sub-5–1TA), filed February 9, 1982. Applicant: CONVOY, INC., P.O. Box 606, Richardson, TX 75080. Representative: Bryant Whitten, 13527 Vargon, Dallas, TX 75243. Contract, irregular; *Automotive chemicals: canned, boxed and palletized*, between TX, CA, AL, and

AZ. Supporting shipper: Berryman Products Co., 3600 E. Randol Mill Rd., Arlington, TX 76011.

MC 28825 (Sub-5-24TA), filed February 10, 1982. Applicant: ANDREWS VAN LINES, INC., P.O. Box 1000, Norfolk, NE 68701. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. *Metal products*, between the facilities of Baron Drawn Steel Corp. in the U.S., on the one hand, and, on the other, pts in the U.S. Supporting shipper: Baron Drawn Steel Corporation, 1400 Hastings, Toledo, OH 43607.

MC 140205 (Sub-5-1TA), filed February 11, 1982. Applicant: MOUW TRANSPORTATION, INC., 307 Maple Drive, Sibley, IA 51249. Representative: Samuel Rubenstein, Post Office Box 5, Minneapolis, MN 55440. *Food and Related Products, Materials, Equipment and Supplies (except in bulk in tank vehicles) used in the manufacture, sale and distribution of the above named commodities* between pts in Osceola, Johnson and Muscatine Counties, IA, on the one hand, and, on the other, pts in OH, PA, CA, NE, ND, SD, KS, CO, MO, IL, WI and MN. Supporting shipper: Heinz, USA, Division of H. J. Heinz Company, Pittsburgh, PA.

MC 145166 (Sub-5-2TA), filed February 11, 1982. Applicant: BRACKEEN TRUCKING, INC., Route 2, Box 612, Scurry, TX 75158. Representative: Thomas L. Cook, 8501 Mervin D. Love Freeway, Suite 301, Dallas, TX 75237-2385. *Motorcycles*, between points in Dallas and Tarrant Counties, TX, and Baton Rouge, LA, on the one hand, and, on the other, points in AR and MS. Supporting shippers: Hot Springs Cycle Center, Inc., 540 Quachita Avenue, Hot Springs, AR; Cycle Center, Inc., 214 East Harding, Pine Bluff, AR 71601; North Little Rock Suzuki, 4601 MacArthur Drive, North Little Rock, AR 72118; and Greenville Suzuki-Kawasaki, 418 Highway 18, Greenville, MS 38701.

MC 146240 (Sub-5-5TA), filed February 10, 1982. Applicant: L. D. BRINKMAN TRUCKING CORP., 520 N. Wildwood, Irving, TX 75060. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Contract, irregular; *Food and related products* from Kansas City, KS to points in OK and TX under continuing contract(s) with Inland Storage Distribution Center. Supporting shipper(s): Inland Storage Distribution Center, P.O. Box 2249, Kansas City, KS 66110.

MC 147198 (Sub-5-42-TA), filed January 25, 1982. Applicant: ECONOMY TRANSPORT, INC., P.O. Box 10666, Jefferson, LA 70181-0666. Representative: Martin White, P.O. Box 5387, Richardson, TX 75080. *Store fixtures and materials, equipment and supplies used in the manufacture and distribution thereof* between Terrell, TX, on the one hand, and, on the other, all points in the states of AR, CA, CO, FL, GA, IL, IN, KS, LA, MO, NM, NC, OH, OK, SC, and TN. Supporting shipper: Maytex Store Fixtures, P.O. Box 729, Terrell, TX.

MC 151118 (Sub-5-15TA), filed February 10, 1982. Applicant: MDR CARTAGE, INC., 516 West Johnson, Jonesboro, AR 72401. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. *Pulp, paper, and related products; printed matter* and *machinery* between points in Lenawee County, MI; Middlesex County, CT; Dunklin County, MO; Lamar County, TX; Hardin County, KY; Douglas County, OR; Stevens County, GA; Cook, Iroquois and Lake Counties, IL; Lake County, OH; Chicago, IL and Riverside, CA, and points in their respective commercial zones, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: UARCO, Inc., Barrington, IL.

MC 152775 (Sub-5-5TA), filed February 10, 1982. Applicant: RAM ROD TRUCKING, INC., P.O. Box 1127, Marrero, LA 70073. Representative: Donald B. Morrison, P.O. Box 22828, Jackson, MS 39205. *Cement products manufactured into mats or slabs for use in erosion, environmental or construction projects* between the facilities of Nicolon Corporation at or near New Orleans, Baton Rouge, and Lake Charles, LA, on the one hand, and, on the other, points in AL, AR, FL, MS, TN, and TX. Supporting shipper: Nicolon Corporation, Peachtree Corners Plaza, Suite 1990, Norcross, GA 30071.

MC 153329 (Sub-5-3TA), filed February 10, 1982. Applicant: Iowa-Texas Express, Ltd., P.O. Box 283, Denison, IA 51442. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. *Meat and meat products*, between the facilities of John Morrell & Co. located at Estherville and Sioux City, IA; Fairmont and Worthington, MN; and Sioux Falls, SD on the one hand, and, on the other, points in AL, AR, CT, DE, GA, FL, KY, MD, MA, MS, MO, NH, NJ, NY, NC, PA, RI, SC, TN, VT, VA, WV, and DC. Supporting shipper: John Morrell & Co., 208 South LaSalle, Chicago, IL 60604.

MC 154053 (Sub-5-2TA), filed February 12, 1982. Applicant: EAST-TEX PLASTICS EXPRESS, INC., 3850 Williams, Orange TX 77630. Representative: Edwin M. Snyder, P.O. Box 45538, Dallas, TX 75245. *Synthetic plastic granules or pellets* from Orange, TX to El Dorado, AR. Supporting shipper: Gulf Oil Chemicals Company, P.O. Box 3706, Houston, TX 77253.

MC 155767 (Sub-5-2TA), filed February 12, 1982. Applicant: NATIONAL CARTAGE, INC., P.O. Box 278, Plattsburg, MO 64477. Representative: Charles J. Pain, 333 Madison Street, Jefferson City, MO 65101. *Refined sugar except in bulk* between facilities of Supreme Sugar Co., Supreme, LA, and railroads located at New Orleans and Reserve, LA, applying only on shipments having a prior or subsequent movement interstate by rail. Supporting Shipper: Supreme Sugar Company, Inc., One Shell Square, Suite 320, New Orleans, LA 70139.

MC 155796 (Sub-5-4TA), filed February 12, 1982. Applicant: TRANSPORTATION SPECIALISTS, LTD., 440 Commercial Federal Tower, 2120 South 72nd Street, Omaha, NE 68124. Representative: Arthur J. Cerra, P.O. Box 19251, Kansas City, MO 64141. *Food and Related Products* between pts in the U.S., restricted to shipments having a prior or subsequent movement by rail or water. Supporting Shippers: 6.

MC 156328 (Sub-5-3TA), filed February 12, 1982. Applicant: U.S. TRANSPORTATION LTD., 334 N.W. Greenwood, Ankeny, IA 50021. Representative: James R. Snyder, Pres. (same as above). Contract; Irregular. (1) *Meat, Meat Products, Meat By-Products and Articles, Distributed by Meat Packing Houses*, Between pts. in the U.S. Applicant intends to tack. Supporting Shipper: Trans World Meat Corp., Cedar Rapids, IA.

MC 157161 (Sub-5-3TA), filed February 11, 1982. Applicant: WASHINGTON TRUCKING OF NEW ORLEANS, INC., P.O. Box 1411, Gretna, LA 70053. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Paper and Paper Articles* from West Monroe, LA to Denver, CO. Restricted to shipments originating at the facilities of Con Pac, Inc. Supporting Shipper: Con Pac, Inc., 1053 Constance St., New Orleans, LA 70130.

MC 157181 (Sub-5-4TA), filed February 11, 1982. Applicant: WASHINGTON TRUCKING OF NEW ORLEANS, INC., P.O. Box 1411, Gretna, LA 70053. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Malt Beverages and such commodities as are dealt with by manufacturers of Malt Beverages* between Longview, TX on the one hand, and, on the other, points in CO. Restricted to shipments originating at or destined to the facility of Joe. Schlitz Brewing Company. Supporting Shipper: Jos. Schlitz Brewing Co., 235 West Galena St., Milwaukee, WI 53212.

MC 159603 (Sub-5-1TA), filed February 11, 1982. Applicant: GREAT WESTERN TRANSPORT, INC. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. *Meat and meat products* between Cochran County, TX on the one hand, and, on the other, points in the U.S. Supporting shipper: Great Western Meat Company, P.O. Box 915, Morton, TX 79346.

MC 160406 (Sub-5-1TA), filed February 12, 1982. Applicant: ALAMO TOURS, INC., P.O. Box 1451, San Antonio, TX 78295. Representative: Thomas F. Sedberry, P.O. Box 2023, Austin, TX 78768. *Passengers and their baggage*, in the same vehicle with passengers, in round trip special or charter operations, beginning and ending in Bexar County, TX and extending to points in the U.S. Supporting shippers: 5.

MC 160520 (Sub-5-1TA), filed February 10, 1982. Applicant: OWENS, MINOR INC., 624 Wholesalers Parkway, Harahan, LA 70123. Representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, LA 70130. *Intravenous solutions and sets and associated hospital supplies*, from points in Jefferson Parish, LA, to all points in MS. Supporting shipper: Abbott Laboratories, 14th & Sheridan Road, North Chicago, IL 60064.

MC 160529 (Sub-5-1TA), filed February 11, 1982. Applicant: CLIFFORD E. COSSEY, P.O. Box 28, Oakridge, MO 63769. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102. (1) *paints, stains, lacquers, varnishes, liquid roof coatings, aluminum exterior wall coatings, solvents, adhesives, caulk and caulking compounds and brushes* between St. Louis, MO, on the one hand, and, on the other, points in OK and TX and (2) *aloe vera juice and aloe vera gel* between Harlingen, TX, on the onehand, and, on the other, Bensonville, Chicago and Posen, IL, Hilliard, OH and Milwaukee, WI. Supporting shippers: (1) Schulte Paint & Lacquer Manufacturing Co. of St. Louis and (2) Vera Products, Inc., of Harlingen, TX.

The following applications were filed in region 6. Send protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 152671 (Sub-6-11TA), filed February 3, 1982. Applicant: ALL FREIGHT TRANSPORTATION, INC., P.O.B. 6699, Boise, ID 83707. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701. *Contract Carrier*, Irregular routes: *Foodstuffs and Kindred Products*, between points in WA and ID, on the one hand, and, on the other, points in CA, CO, ID, OR, WA, AZ, NM, NV, MT, and UT for the account of Twin City Foods, Inc., for 270 days. Supporting shipper: Twin City Foods, Inc., P.O.B. 699, Stanwood, WA 98292.

MC 160404 (Sub-6-1TA), filed February 3, 1982. Applicant: ERIC MOTOR LINES, INC., P.O. Box 297, Newhall, CA 91322. Representative: Milton W. Flack, 8383 Wilshire Blvd., Ste 900, Beverly Hills, CA 90211. *Contract Carrier*, Irregular routes: *Coin operated video machines, lawn furniture, plastic or textile bags, petroleum and chemical products (except in bulk), and automotive parts and accessories*, from Chicago, IL and its Commercial Zone, and Hialeah and Miami, FL, to points in MT, AR, CA, FL, GA, IL, NJ, NY and TX, under continuing contract(s) with Manufacturers Coordination, Inc., of Hialeah, FL, for 270 days. Supporting shipper: Manufacturers Coordination, Inc., of Hialeah, FL. 33014.

MC 153758 (Sub-6-4TA), filed February 5, 1982. Applicant: LAMPMAN BROKERAGE, INC., d.b.a. MASTRO ENTERPRISES, 4233 Sierra Madre, Fresno, CA 93711. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719. *Contract;* irregular; *cheese, bulk and packaged, cheese products, and materials, equipment and supplies* used in the manufacture, sale and distribution of such commodities from Fond du Lac, WI, to points in AZ, CA, OR and WA. An underlying ETA seeks 120 days authority. Supporting shipper: Tolibia Cheese, Inc., 45 E. Scott St., Fond du Lac, WI 54935.

MC 160405 (Sub-6-1TA), filed February 3, 1982. Applicant: PRONTO TRUCKING, 208 Russel Ave., Douglas, WY 82633. Representative: William M. Tibbs (same address as applicant). (1) *Machinery, material, equipment, and supplies*, used in; or in connection with the discovery, development and distribution of natural gas and petroleum and their products and byproducts and (2) *machinery, materials, equipment, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof. (Restricted against the transportation of complete oil rigs.), from WY to points in AR, CA, CO, ID, KS, LA, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, for 270 days. Supporting shippers: There are 7 shippers. Their statements may be examined at the Regional Office listed above.

MC 158675 (Sub-6-1TA), filed February 2, 1982. Applicant: REMICK TRUCKING LTD., 215 E. 37th, Boise, ID 83704. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701. *Lumber and wood products, fencing and building materials*, between points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY, for 270 days. Supporting shipper: Workmans Forest Products, Inc., P.O.B. 361, Clackamas, OR 97015.

MC 151869 (Sub-6-2TA), filed February 8, 1982. Applicant: A. M. ROUTLEY TRUCKING LTD., 11420 Granville Ave., Richmond, B.C. CD V6Y 1R6. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055. *Lumber, veneer, pig iron and silica sand*, (1) From CA and WA to Ports of Entry on the International Boundary Line between the U.S. and CD in WA, and (2) From Ports of Entry on the International Boundary Line between the U.S. and CD in WA to OR, for 270 days. Supporting shippers: Brady Lumber Co., P.O.B. 12267, Seattle, WA 98102; Overseas Commodities, 750 Industrial Ave., Vancouver, B.C.

MC 143037 (Sub-6-1TA), filed February 4, 1982. Applicant: T & T REFRIGERATED TRANSPORT, INC., 2290 W. Adams Ave., Fresno, CA 93706. Representative: Edward L. Fanucchi, 2409 Merced St., #3. Fresno, CA 93721. *Such commodities, refrigerated and non-refrigerated, as are dealt in by grocery stores* between points in the States of CA, OR, WA, ID, NV, AZ, and NM, for 270 days. Supporting shippers: Avoset Co. Sterile Products Plant, 299 Fifth, Gustine, CA; Anderson-Clayton Foods, Box 10051, Fresno, CA; R. T. French Co., 3386 E. Muscat, Fresno, CA 93725.

MC 160403 (Sub-6-1TA), filed February 2, 1982. Applicant: TRANS WEST SYSTEMS INC., P.O.B. 2618, Pocatello, ID 83201. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701. *Contract Carrier*, Irregular routes: *Pipe, pipe fittings, and equipment, materials and supplies used in the manufacture and distribution thereof*, between points in ID, NV, OR and WA, on the one hand, and, on the other, points in the U.S., for the account of Water & Waste Water Equipment Company, Inc., for 270 days. Supporting shipper: Water & Waste Water Equipment Company, Inc., P.O.B. 9405, Boise, ID 83707.

MC 159558 (Sub-6-2TA), filed February 8, 1982. Applicant: EIGHTEEN WHEEL TRANSPORTATION, INC., 355 South Santa Fe Ave., Los Angeles, CA

90013. Representative: Frederick J. Coffman, P.O.B. 1455, Upland, CA 91786. *General Commodities* (except classes A & B explosives and used household goods) between points in CA. Restricted to traffic having a prior or subsequent movement by rail, for 270 days. Supporting shipper: Inter-Modal Concepts, Inc., 353 South Santa Fe Avenue, Los Angeles, CA 90013.

MC 160504 (Sub-6–1TA), filed February 8, 1982. Applicant: ANTONIO FLORES, d.b.a. FF TRUCKING, 764 Hollister Ave., San Diego, CA 92174. Representative: Antonio Flores (same as applicant). *Contract carrier,* Irregular routes: *Electronic Articles and Equipment,* between points in AZ in foreign commerce on freight originating in Guadalajara, JA, for 270 days. Supporting shippers: Motorola De Mexico, S.A., Apartado Postal Num. 31–191, Guadalajara, JA; Motorola Inc., 4141 E. Raymond, Tempe, AZ.

MC 160489 (Sub-6–2TA), filed February 5, 1982. Applicant: JASCO TRUCKING, INC., 202 94th Street, SW., Albuquerque, NM 87100. Representative: David C. Olson, P.O. Drawer 985, Albuquerque, NM 87103. *Contract carrier,* irregular routes: *coal* between a point near Burnham, San Juan county, NM, and a point near St. Johns, Apache County, AZ, for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: Consolidation Coal Company, Western Region, 2 Inverness, East Building, Englewood, CO 80112.

MC 124735 (Sub-6–6TA), filed February 9, 1982. Applicant: R. C. KERCHEVAL, JR., 2214 4th S., Seattle, WA 98134. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract carrier,* irregular routes: *Parts of mobile homes and utility trailers, automotive springs, suspensions and parts thereof, brake drums, brake assemblies and parts thereof, tailgate hoists and parts thereof, wheels and wheel attaching parts, and part for motor vehicle chassis and motor vehicle undercarriage,* from points in KA, IL, IN, IA, MO, MI, OH, WI to ports of entry on the U.S./CD International boundary line in ID & WA, restricted to traffic moving in foreign commerce for the account of Canadian Wheel Industries, Ltd., for 270 days. Supporting shipper: Canadian Wheel Industries, Ltd., 16825 111th Ave., Edmonton, Alberta, CD.

MC 160505 (Sub-6–1TA), filed February 8, 1982. Applicant: MIKE J. LAWRENCE (an individual), P.O. Box 139, Doyle, CA 96109. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. (1) *Refractory Products, and Refractory Materials, Equipment and Supplies,* between points in OR, WA, CA and NV; and between points in OR, WA, CA and NV on the one hand, and Ports of Entry on the U.S./Canada International Border in the States of WA, MT and ID on the other hand, and (2) *Building Materials,* Between points in ID, CO, OR, WA, CA, NV, UT and AZ, and between points in OR, WA, ID, CA and NV on the one hand, and Ports of Entry on the U.S.-Canada International Border in WA, ID and MT on the other hand, for 270 days. Supporting shippers: There are five (5) shippers. Their statements may be examined at the Regional Office listed.

MC 160489 (Sub-6–1TA), filed February 5, 1982. Applicant: MARTIN BROTHERS, INC., P.O. Box 851, Evanston, WY 82930. Representative: Dennis S. Chapman, 656 E. 3230 N., Provo, UT 84604. *Machinery, equipment, materials, and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products,* between Uinta County, WY and Utah County, UT and locations in WY, UT, CO, ID for 270 days. Supporting shipper: Placid Oil Company, 2300 University Club Building, Salt Lake City, UT.

MC 160506 (Sub-6–1TA), filed February 8, 1982. Applicant: SALLY WANN & JAMES GAUDINA d.b.a., SALCO ENTERPRISES, 235 N E 103rd, Portland, OR 97220. Representative: Sally Wann (same as Applicant). *Contract carrier,* irregular routes: (1) *Doors and Door Parts,* From Portland and Springfield, OR to points in AR, CO, FL, IL, LA, MI, MS, OK, TN, and TX for the account of Nicoli Co., (2) *Insulating Materials,* from points in FL, LA, MI, and TN to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY for the account of S & S Industries, Inc., (3) *Paper Products,* from Ashdown, AR, Courtland, AL, Pomona and Ripon, Ca to Portland, OR and Spokane, WA for the account of Rose City Business Supply Corp., for 270 days. Supporting shippers: Robert E. Davis, Nicolai Co., 1029 N W Hoyt, Portland, OR, Pat A. Mitchell, S & S Industries, Inc., P.O. Box 1360, Maryville, TN 37801, Joseph A. Mayo III, Rose City Business Supply, 5432 S. E. International Way, Portland, OR 97222.

MC 113271 (Sub-6–13TA), filed February 9, 1982. Applicant: TRANSYSTEMS INC., P.O.B. 399, Black Eagle, MT 59414. Representative: Kenneth G. Thomas (same as Applicant). *Metal products,* between Los Angeles, CA, and its commercial zone, and points at or near the international boundary line between the U.S. and CD located in WA, ID and MT, for 270 days. Applicant seeks an underlying 120 day ETA. Supporting shipper: Superior Fireplace Co., 4325 Artesia Ave., Fullerton, CA.

[FR Doc. 82–4643 Filed 2–19–82; 8:45 am]
BILLING CODE 7035–01–M

[Finance Docket No. 29818]

Rail Carriers; Illinois Central Gulf Railroad Co.—Abandonment in Addison, DuPage County, IL—Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10505 the abandonment by Illinois Central Gulf Railroad Company of 0.92 miles of track in Addison, DuPage County, IL, from the requirements of 49 U.S.C. 10903.

DATES: Exemption effective March 24, 1982. Petitions to reopen for reconsideration must be filed by March 15, 1982, and petitions for stay must be filed by March 4, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5414, Interstate Commerce Commission, 12th St. and Constitution Ave., N.W., Washington, D.C. 20423.

(2) Petitioner's Representative, Howard D. Koontz, Senior General Solicitor, Illinois Central Gulf Railroad Company, 233 North Michigan Avenue, Chicago, IL 60601, (312) 565–1600, Ext. 2027. Pleadings should refer to F.D. No. 29818.

For a copy of the full decision, write to the Interstate Commerce Commission, Room 2227, Washington, D.C., 20423, or call toll-free 800–424–5403.

FOR FURTHER INFORMATION CONTACT: Richard A. Kelly, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision in Finance Docket No. 29818.

Decided: February 12, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82–4641 Filed 2–19–82; 8:45 am]
BILLING CODE 7035–01–M

[Ex Parte No. 387 (Sub-No. 90)]

Rail Carriers; Seaboard Coast Line Railroad Co. and Louisville & Nashville Railroad Co., Exemption for Contract Tariff

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioners are granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr.
or
Jane F. Mackall, (202) 275–7656.

SUPPLEMENTARY INFORMATION: The Seaboard Coast Line Railroad Company (SCL) and the Louisville & Nashville Railroad Company (L&N) filed a petition on February 8, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). They request that we permit their contract tariff ICC–SCL–C–0017 to become effective on one day's notice. The tariff was filed to become effective on March 8, 1982. The tariff provides for the through movement of superphosphate (including diammonium phosphate and monoammonium phosphate), with certain exceptions.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. Early implementation of the contract will allow the railroads to transport a limited number of trainloads of superphosphate in advance of the peak superphosphate shipping season, which begins around March 1. This will enable the carriers to utilize presently idle cars and will help ensure that cars are available during the peak season. We find that to be the type of exceptional circumstance which warrants a provisional exemption.

The SCL and L&N contract tariff may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505)

Dated: February 16, 1982.

By the Commission, Division 2, Commissioners Gresham, Gilliam, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82–4639 Filed 2–19–82; 8:45 am]
BILLING CODE 7035–01–M

[Ex Parte No. 387 (Sub-No. 91)]

Rail Carriers Seaboard Coast Line Railroad Co., Louisville & Nashville Railroad Co., and Norfolk & Western Railway Co., Exemption for Contract Tariff

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioners are granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., or
Jane F. Mackall, (202) 275–7656.

SUPPLEMENTARY INFORMATION: The Seaboard Coast Line Railroad Company (SCL), the Louisville & Nashville Railroad Company (L&N), and the Norfolk & Western Railway Company (N&W) filed a petition on February 9, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). They request that we permit their contract tariff ICC–SCL–C–0018 to become effective on one day's notice. The tariff was filed to become effective on March 12, 1982. The tariff provides for the through movement of superphosphate (including diammonium phosphate and monoammonium phosphate), with certain exceptions.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. Early implementation of the contract will allow the railroads to transport a limited number of trainloads of superphosphate in advance of the peak superphosphate shipping season, which begins around March 1. This will enable the carriers to utilize presently idle cars and will help ensure that cars are available during the peak season. We find that to be the type of exceptional circumstance which warrants a provisional exemption.

The SCL, L&N and N&W contract tariff may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505)

Dated: February 16, 1982.

By the Commission, Division 1, Commissioners Clapp, Gresham, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie

votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,
Secretary

[FR Doc. 82-4640 Filed 2-19-82; 8:45 am]
BILLING CODE 7035-01-M

Release of Waybill Data to States and Railroads

In the interest of reducing government redtape, the Commission grants permission to the Department of Transportation, Federal Railroad Administration for the release to railroads and States of waybill data collected under the ICC order (Ex Parte No. 385; 49 CFR 1244; 46 FR 45141, Sept. 10, 1981; 46 FR 26781, May 15, 1981). The State governments and the railroads will no longer be required to submit a letter of request to the ICC for release of these data.

Each State may have any waybill record covering traffic that originated, or was intercharged within the State. FRA may also release to the State any record covering traffic that FRA can identify as having a high probability of having passed through the State. For example: A shipment from Alabama to Kentucky could be released to Tennessee even though it was not interchanged in Tennessee. Each railroad may have any waybill record covering traffic that originated, terminated, or was bridged by railroad.

It shall be the railroads' responsibility to treat the data as if they had collected it themselves, and to meet all the requirements of the Interstate Commerce Act relating to the release of shipper information.

It shall be the State's responsibility:

1. To avoid disclosure of confidential carrier or shipper information.

The State is not to release to the public data for an origin or destination area for any commodity class containing less than three shippers or receivers. Three different freight stations (FSAC's) present in the waybill sample for any area or commodity class may be used to show that there are three or more shippers or receivers in an area.

2. To take into account in any study result, the fact that the waybill data are samples.

Each State shall obtain a copy of the Waybill Sample Plan before using the waybill data.

For further information on release of waybill data contact James Nash, Office of Transportation Analysis, (202) 275-6864.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-4639 Filed 2-19-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte MC 157]

Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers for Canadian Operating Authority

AGENCY: Interstate Commerce Commission.

ACTION: Notice of investigation and request for comments.

SUMMARY: The Commission intends to conduct an oral hearing to investigate whether existing law and policy on the part of the Canadian government effectively discriminates against U.S. motor carriers, precluding their single line participation in the transportation of international general commodity freight.

DATES: Notice of intent to participate in this proceeding must be given in writing to the Commission on or before March 2, 1982. A participation list will be distributed before the cross-service of statements.

Written verified statements must be served on the participants and filed with the Commission on or before March 23, 1982.

A pre-hearing conference will be held on Wednesday, March 31, 1982. Administrative Law Judge Paul S. Cross has been assigned to preside at the oral hearing. The judge should receive a courtesy copy of all pleadings: Room 3166A, Interstate Commerce Commission, Washington, D.C. 20423, (202) 275-7474.

ADDRESS: Letters of intent to participate and an original and 12 copies of all statements should be sent to: Office of the Secretary, Room 2303, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Van Bosco, (202) 275-7973.

SUPPLEMENTARY INFORMATION: Several applications by Canadian motor carriers are now pending before the Commission.[1] A number of pleadings have been filed in these proceedings which cumulatively raise certain issues of fact and law which this investigation is intended to address.

The Commission is concerned over allegations that practices by the Foreign Investment Review Agency (FIRA) of the Canadian federal government make it more difficult for U.S. carriers than for Canadian carriers to receive licensing authority in Canada. In effect, different standard may exist for U.S. carriers seeking operating authority in Canada than exists for Canadian carriers desiring the same rights. In contrast, the opportunities available to Canadian carriers to operate within the United States have substantially increased under the more liberal licensing policies mandated by the Motor Carrier Act of 1980 (Pub. L. 96-296). It is argued that these circumstances have an anti-competitive and discriminatory effect. Canadian carriers may obtain single-line operating rights across the international boundary line whereas U.S. carriers, because of the alleged actions of FIRA, cannot as easily obtain operating rights to participate in single-line international traffic.

A resolution expressing many of these same concerns was introduced in the Senate on February 10, 1982, by Senator Cannon and joined by 18 co-sponsors. Other senators have introduced legislation. Accordingly, in view of these concerns, the Commission is instituting this investigation and oral hearing, to focus on the following issues:

(1) Respondents should initially direct their attention to whether the Commission may legally consider Canadian reciprocity in deciding applications of Canadian motor carriers for American operating rights. The Commission is currently considering the reciprocity issue and the extent it should be a consideration in the issuance of certificates of authority to Mexican applicants. See No. MC-141313 (Sub-No. 1) Permistionarios De Express Y Carga, S.A. DE C.V.

(2) Secondly, respondents should address the primary factual question as to the effect of the Canadian Foreign Investment Review Act and its administration by FIRA. We are seeking specific factual information indicating the effect of this law as applied to American motor carriers. Respondents should concentrate on the actual content of the law and document examples of their experience before the FIRA (successful as well as unsuccessful). We will also expect documentation as to whether different licensing standards, in law or in practice, apply to American carriers at the provincial levels. To aid in the development of the record, the Commission's Office of Compliance and Consumer Assistance will be directed to participate.

(3) Finally, we solicit respondents' opinions as to the options open to the Commission if it should be established that Canadian law or practice discriminates against American motor carrier applicants.

The requirement of an initial decision will be waived in this proceeding in order to expedite consideration by the entire Commission.

This action is taken under the authority of 49 U.S.C. 10101, 10321, 11701, and 10922. This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered: The proceeding is set for oral hearing, with a prehearing conference scheduled for March 31, 1982. The Administrative Law Judge is directed to close the record no later than 90 days from the date of publication of this notice in the Federal Register.

On or before March 2, 1982, any person intending to participate in this proceeding shall notify the Commission by filing with the Office of the Secretary an original and one copy of a statement of intention.

Verified statements, consisting of a signed original and 12 copies, shall be filed by participant on or before March 23, 1982.

The Office of Compliance and Consumer Assistance is directed to participate in this proceeding.

A copy of this notice will be served on the United States Departments of State, Commerce, and Transportation and the United States Trade Representative.

Dated: February 11, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp.

James H. Bayne,
Acting Secretary.

[FR Doc. 82-4697 Filed 2-19-82; 8:45 am]
BILLING CODE 7035-01-M

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[1] No. MC-111307 (Sub-No. 16), TNT Canada, Inc.; No. MC-127284 (Sub-No. 2), Dominion-Consolidated Truck Lines, Limited; No. MC-96247 (Sub-No. 31), C.L. International Carriers, Limited; No. MC-133327 (Sub-No. 2), Melburn Truck Lines; No. MC-133006 (Sub-No. 1), Millar & Brown Ltd.; No. MC-143088 (Sub-No. 4), Coast North American Ltd.; No. MC-135284 (Sub-No. 28), Commercial Truck Co., Ltd.; No. MC-129273 (Sub-No. 4), Thibeadeau-Finch Express Limited; No. MC-156474, J.K. Stockwell Ltd.; No. MC-156901, Trans Canada Truck Lines, Inc.; and, No. MC-133397 (Sub-No. 1), Transx, Ltd.

MOTOR CARRIER RATEMAKING STUDY COMMISSION

Public Hearing; Collective Ratemaking

DATE: Friday, March 5, 1982.

PLACE: Kansas Hyatt Regency, Chicago Room, 2345 McGee Street, Kansas City, Missouri.

TIME: 9:00 a.m.

PURPOSE: To receive testimony from various parties on collective ratemaking.

The Motor Carrier Act of 1980, Public Law 96-296, directs the Motor Carrier Ratemaking Study Commission (Commission) to make a full and complete investigation and study of the collective ratemaking process for all rates of motor common carriers and of the need or lack of need for continued antitrust immunity thereof. The Commission is specifically directed to estimate the impact of the elimination of such immunity upon the rate levels and rate structures and to describe the impact of such on the Interstate Commerce Commission and its staff. Also, the Commission has been directed to give special consideration to the impact of the elimination of such immunity upon rural areas and small communities.

The Commission, through its Hearings Committee, calls this regional hearing for the purpose of exploring collective ratemaking in special commodity sectors, and the impact of collective ratemaking or rate levels, rate structure, and competitive conditions.

Anyone who is interested in submitting written testimony for the record of the Commission may do so by sending same to: Larry F. Darby, Executive Director, Motor Carrier Ratemaking Study Commission, 214 Massachusetts Avenue, NE, Washington, D.C. 20002.

FOR FURTHER INFORMATION CONTACT: Name: J. Kent Jarrell, Title: General Counsel, phone No.: (202) 724-9600.

Submitted this, the 17th day of February, 1982.

Larry F. Darby,
Executive Director.

[FR Doc. 82-4699 Filed 2-19-82; 8:45 am]
BILLING CODE 9320-80-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 82-10]

NASA Advisory Council, Aeronautics Advisory Committee, Subcommittee on Aviation Safety Reporting System; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Subcommittee on Aviation Safety Reporting System (ASRS).

DATE AND TIME: March 11, 1982, 9 a.m. to 5 p.m.; March 12, 1982, 9 a.m. to 12 noon.

ADDRESS: National Aeronautics and Space Administration, Building 10B, Room 625, 600 Independence Avenue SW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Herman A. Rediess, National Aeronautics and Space Administration, Code RTE-6, Washington, DC 20546 (202/755-3237).

SUPPLEMENTARY INFORMATION: The Subcommitee on ASRS was established to review the ASRS Operations and NASA actions taken in response to Subcommittee recommendations. The Subcommittee, chaired by Mr. John Winant, is comprised of 10 members. The meeting will be open to the public up to the seating capacity of the room (approximately 35 persons including the Subcommittee members and participants).

Type of meeting: Open

Agenda

March 11, 1982

9 a.m.—Chairperson's Remarks.
10 a.m.—Operations Report.
1 p.m.—Research Report.
2 p.m.—Evaluation Summary/Post-Report Actions.
5 p.m.—Adjourn.

March 12, 1982

9 a.m.—Future Program Options.
11 a.m.—Community Participation Issues.
12 noon—Adjourn.

Dated: February 16, 1982.

Robert F. Allnutt,
Acting Associate Administrator for External Relations.

[FR Doc. 82-4625 Filed 2-19-82; 8:45 am]
BILLING CODE 7510-01-M

[Notice 82-9]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council.

DATE AND TIME: March 10, 1982, 9 a.m. to 5 p.m., March 11, 1982, 9 a.m. to 4 p.m.

ADDRESS: NASA Headquarters, Room 7002, 400 Maryland Avenue SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Nathaniel H. Cohen, Code LB-4, National Aeronautics and Space

Administration, Washington, DC 20546 (202/755–8383).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council was established as an interdisciplinary group to advise senior management on the full range of NASA's programs, policies, and plans. The Council is chaired by Prof. William A. Nierenberg and is composed of twenty members. Standing committees containing additional members report to the Council and provide advice in the substantive areas of aeronautics, life sciences, space and terrestrial applications, space science, space systems and technology, and history, as they relate to NASA's activities.

Visitors will be admitted to the meeting room up to its capacity, which is approximately 60 persons including Council members and other participants. Visitors will be requested to sign a visitor's register.

Type of Meeting: Open.

Agenda

March 10, 1982

9 a.m.—Introduction.
9:30 a.m.—Space Shuttle: Status of STS–3 mission.
10:45 a.m.—FY 1983 President's Budget.
1 p.m.—Administration Space Policy Studies.
1:30 p.m.—Program Planning Issues.
5 p.m.—Adjourn.

March 11, 1982

9 a.m.—Council Discussion.
10:45 a.m.—NASA Planning for a Permanent Presence in Space.
1 p.m.—NSAS Planning for a Global Ecology Program.
2 p.m.—Council Discussion.
4 p.m.—Adjourn.

Dated: February 16, 1982.

Robert F. Allnutt,

Acting Associate Administrator for External Relations.

[FR Doc. 82–4627 Filed 2–19–82; 8:45 am]
BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Arts; Design Arts Panel (Design Communication); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Design Arts Panel (Design Communication) to the National Council on the Arts will be held on March 9–10, 1982, from 9:00 a.m.–5:30 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sections will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 12, 1982.

[FR Doc. 82–4709 Filed 2–19–82; 8:45 am]
BILLING CODE 7537–01–M

National Council on the Arts; Expansion Arts Panel (Organizations: Visual/Media/Design/Literary); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Expansion Arts Panel (Organizations: Visual/Media/Design/Literary) to the National Council on the Arts to be held March 15–17, 1982, from 9:00 a.m.–5:30 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sections will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 12, 1982.

[FR Doc. 82–4708 Filed 2–19–82; 8:45 am]
BILLING CODE 7537–01–M

National Council on the Arts; Folk Arts Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Folk Arts Panel to the National Council on the Arts to be held March 18th from 8:30 a.m.–10:30 p.m., March 19th from 8:30–10:00 p.m., March 20th from 8:30 a.m.–5:30 p.m., in room 1422 of the Columbia Plaza Office Complex, 2401 E Street NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 12, 1982.

[FR Doc. 82–4710 Filed 2–19–82; 8:45 am]
BILLING CODE 7537–01–M

National Council on the Arts; Media Arts Panel (Workshops/Residencies); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Media Arts Panel (Workshops/Residencies) to the National Council on the Arts will be held on March 16–17, 1982, from 9:30 a.m.–5:30 p.m. in the 14th floor Law Library at the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 12, 1982.

[FR Doc. 82–4711 Filed 2–19–82; 8:45 am]
BILLING CODE 7537–01–M

National Council on the Arts; Visual Arts Panel (Art in Public Places); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Panel (Art in Public Places) to the National Council on the Arts will be held on March 17–18, 1982, from 9:00 a.m.–5:30 p.m., in room 1426 of the Columbia Plaza Office Complex, 2401 E Street, NW, Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 12, 1982.

[FR Doc. 82–4712 Filed 2–19–82; 8:45 am]
BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Earth Sciences Subcommittees; Meeting

In accordance with Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting.

Name: Advisory Committee for Earth Sciences (Stratigraphy and Paleontology, Environmental Geosciences, Crustal Structure and Tectonics, Seismology and Deep Earth Structure, Experimental and Theoretical Geophysics, Petrogenesis and Mineral Resources, Mantle Geochemistry, and Experimental and Theoretical Geochemistry Subcommittees)
Date and time: March 10, 11 and 12, 1982; 8:30 to 5:00 p.m. each day
Place: The National Science Foundation, Room 642, 1800 G. Street, NW., Washington, D.C. 20550
Type of meeting: Closed
Contact person: Dr. Robin Brett, Division Director, Earth Sciences, Room 602, National Science Foundation, Washington, D.C. 20550; Telephone: (202 357–7858
Purpose of committee: To provide advice and recommendations concerning support for research in Earth Sciences
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards
Reason for closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 522b(c), Government in the Sunshine Act.
Authority: This determination was made by the Committee Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: February 17, 1982.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 82–4632 Filed 2–19–82; 8:45 am]
BILLING CODE 7555–01–M

Alan T. Waterman; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Alan T. Waterman Award Committee
Date: Monday, March 8, 1982
Time: 9 a.m. to 5 p.m.
Place: Rm. 543, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.
Type of Meeting: Closed
Contact person: Mrs. Lois J. Hamaty, Executive Secretary of the Alan T. Waterman Award Committee, National Science Foundation, Washington, D.C. 20550. Telephone: 202/357–7512.
Purpose of committee: To provide advice and recommendations in the selection of the Alan T. Waterman Award recipient.
Agenda: To review nominations, with supporting documentation, as part of the selection process for the Award.
Reason for closing: The nominations being reviewed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are within exemption 6 of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: The determination made on February 9, 1982 by the Director of the National Science Foundation pursuant to the provisions of Section 10(d) of Pub. L. 92–463.

Dated: February 17, 1982.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 82–4633 Filed 2–19–82; 8:45 am]
BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–471]

Boston Edison Co.; Withdrawal of Application for Construction Permit

The Boston Edison Company, 800 Boylston Street, Boston, Massachusetts 02199, by Motion dated October 23, 1981, has requested withdrawal of its application for licenses to construct and operate the Pilgrim Nuclear Power Station, Unit 2, a single-unit pressurized water reactor at its site located in Plymouth County, Massachusetts, about 60 km southeast of Boston. A copy of the Motion to Withdraw Application and Terminate Adjudicatory Proceedings is available for inspection in the NRC's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555. By order dated November 16, 1981 (ALAB–656) the Atomic Safety and Licensing Appeal Board vacated the partial initial decision pending before it on appeal. By order dated January 15, 1982, the Atomic Safety and Licensing Board granted Boston Edison Company's request to withdraw its application and terminate the proceedings before it. Accordingly,

the Nuclear Regulatory Commission grants the applicant's request for withdrawal of this application.

Notice of receipt of the application was published in the Federal Register on January 14, 1974 (39 FR 1786).

Dated at Bethesda, Maryland, this 16th day of February 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 82-4755 Filed 2-19-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-461]

Illinois Power Co.; Availability of Safety Evaluation Report for the Clinton Power Station, Unit 1

Notice is hereby given that the Office of Nuclear Reactor Regulation has published its Safety Evaluation Report on the proposed operation of the Clinton Power Station, Unit 1, under construction in DeWitt County in central Illinois, about six miles east of the city of Clinton. Notice of receipt of Illinois Power Company's application to operate the Clinton Power Station, Unit 1 was published in the Federal Register on September 29, 1980 (45 FR 64307).

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C., and at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727 for inspection and copying. The report (Document No. NUREG–0853) can also be purchased, at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161 or from the Director, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. GPO Deposit Account holders may charge their orders by calling (301) 492–9530.

Dated at Bethesda, Maryland, this 16th day of February 1982.

For the Nuclear Regulatory Commission.

James R. Miller,

Chief, Standardization and Special Projects Branch, Division of Licensing.

[FR Doc. 82-4736 Filed 2-19-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 66 to Facility Operating License No. DPR–59, issued to the Power Authority of the State of New York, which revised the Technical Specifications for operation of the James A. FitzPatrick Nuclear Plant (the facility) located in Oswego County, New York. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications relating to the Strandby Gas Treatment System to allow heaters to be on continuously while the system is functioning in lieu of the previous intermittent control by humidity elements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated November 18, 1981, (2) Amendment No. 66 to License No. DPR–59, and (3) the Commission's letter to the licensee dated February 12, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Penfield Library, State University College at Oswego, Oswego, New York 13126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 12th day of February 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-4757 Filed 2-19-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-361 OL and 50-362 OL]

Southern California Edison Co. et al. (San Onofre Nuclear Generating Station, Units 2 and 3); Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's Order of February 16, 1982, oral argument on intervenors' Carstens *et al.*, application for stay of the Licensing Board's January 11, 1982 partial initial decision which authorized the issuance of a license for fuel loading and low-power testing for Unit 2 of the San Onofre Nuclear Generating Station, will be heard at 9:00 a.m. on Friday, March 12, 1982, in the San Diego County Administration Building, Room 310 (Board North Chamber Room) 1600 Pacific Highway, San Diego, California.

Dated: February 16, 1982.

For the Appeal Board,

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 82-4758 Filed 2-19-82; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft, temporarily identified by its task number, EE 042–2 (which should be mentioned in all correspondence concerning this draft guide), is proposed Revision 1 to Regulatory Guide 1.89 and is entitled "Environmental Qualification of Electric Equipment for Nuclear Power Plants." This revision is being developed to describe procedures that would be acceptable to the NRC staff for complying with proposed amendments

to the Commission's regulations published January 20, 1982 (47 FR 2876) on qualification of electric equipment for service in nuclear power plants. This guide, with certain modifications, endorses IEEE Std 323–1974, "IEEE Standard for Qualifying Class IE Equipment for Nuclear Power Generating Stations."

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by April 23, 1982.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides cursently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 16th day of February 1982.

For the Nuclear Regulatory Commission.

G. A. Arlotto,

Director, Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 82-4859 Filed 2-19-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

February 16, 1982.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected;

Whether small businesses or organizations are affected;

A description of the Federal budget functional category that covers the information collection;

An estimate of the number of responses;

An estimate of the total number of hours needed to fill out the form;

An estimate of the cost to the Federal Government;

An estimate of the cost to the public;

The number of forms in the request for approval;

An indication of whether section 3504(h) of Pub. L. 96–511 applies;

The name and telephone number of the person or office responsible for OMB review; and

An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the Federal Register, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—382–447–6201

New

- Farmers Home Administration
7 CFR 1872–A (FMHA Inst. 465–1), servicing and liquidation of real estate security for loans to individuals and certain note-only cases
FMHA 465–1, FMHA 443–10
On Occasion
Individuals or households/farms/businesses or other institutions

Indiv., cooperatives, partnership and corp. in rural areas
SIC: 011, 013, 016, 017, 018, 019, 021, 024, 025, 027
Small businesses or organizations
Farm income stabilization: 56,432 responses; 36,349 hours; $174,208 Federal cost; $218,094 public cost; 2 forms; not applicable under 3504(h)
Neil Minow, 202–395–7340

Information is needed to make loan servicing decision and is necessary to determine appropriate servicing actions and whether proposed actions are justified.

• Extension Service
EFNEP/FS—An alternative teaching method
Other—See SF83
Individuals or households
EFNEP participants in selected states
Agricultural research and services: 4,455 responses; 3,045 hoyrs; $50,000 Federal cost; $30,450 public cost; 1 form; not applicable under 3504(h)
Federal Education Data Acquistion Council, 202–426–5030

Information will be to evaluate alternative methods for providing nutrition education to low income homemakers.

Extensions (Burden Change)

• Agricultural Marketing Service
Marketing order regulating the handling of spearmint oil produced in the far west marketing order No. 985
On occasion—Annually
Farms/businesses or other institutions
Producers and handlers of spearmint oil
SIC: 289
Agricultural research and services: 903 responses; 62 hours; $537 Federal cost; $317 public cost; 6 forms; not applicable under 3504(h)
Charles A. Eliett, 202–395–7340

The 4 committee forms are used by the Spearmint Administrative Committee to identify oil, issue producer allotments, and fulfill the policy of the act as expressed in the order.

• Economics and Statistics Service
Weekly weather and crop report
Weekly
Businesses or other institutions
County extension agents
SIC: 954
Agricultural research and services: 152,500 responses; 25,458 hours; $1,121,000 Federal cost; $407,458 public cost; 1 form; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

Provides narrative summary of progress, development and condition of crops, condition of livestock, soil moisture and related matters plus a narrative summary of the week's weather. Information used by farmers, government and agriculturally related business to keep abreast of crop development at state and national level.

• Rural Electrification Administration
Request for release of lien and/or approval of sale
REA–793
On occasion
Businesses or other institutions
REA telephone borrowers
SIC: 481
Small businesses or organizations
Energy supply: 75 responses; 75 hours; $1,735 Federal cost; $675 public cost; 1 form; not applicable under 3504(h)
Neil Minow, 202–395–7340

This form provides borrowers a means of obtaining a release of lien and/or approval to sell capital assets that are mortgaged to the Federal Government as part of the mortgage agreement.

Reinstatements

• Farmers Home Administration
7 CFR 1945–A disaster assistance general
Nonrecurring
State or local governments
County and state governments
SIC: 911, 912, 913, 919
Farm income stabilization: 3,066 responses; 25,488 hours; $35,200 Federal cost; 1 form; not applicable under 3504(h)
Neil Minow, 202–395–7340

Section 321 of the Consolidated Farm and Rural Development Act authorizes FMHA to determine areas to be designated eligible to receive emergency (EM) loans. No EM loans can be made without such designation.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202–377–3627

New

• Bureau of the Census
1982 census of agriculture
Nonrecurring
Farms
Farmers, ranchers, and agricultural related respondents
SIC: Multiple
Other advancement and regulation of commerce: 4,000,000 responses; 1,760,000 hours; 3 forms; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

The census of agriculture is the primary source of state and county data that has a uniform definition. It provides the benchmark data for the agriculture sector of the economy which are used to benchmark sample surveys and to analyze farm policy and programs by government as well as nongovernment.

Reinstatements

• Economic and Statistical Analysis
Initial report on a foreign person's direct or direct acquisition, establishment or purchase of the operating assets of a U.S. business enterprise, including real estate
BE–13, BE–14
On occasion
Farms/businesses or other institutions
Newly acquired or established business enterprises
SIC: All
Other advancement and regulation of commerce: 1,000 responses; 1,000 hours; $30,000 Federal cost; $25,000 public cost; 2 forms; not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

Secures information and data on U.S. companies at the time they are established or acquired by foreign persons, and information on the foreign parent. Consists of data on assets and income, property, plant, and equipment, source of funds for financing the investment, and acres of land and mineral rights owned. Authorized by the International Investment Survey Act of 1976 (Pub. L. 94–472). Required for the preparation of the international investment accounts of the U.S.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488

New

• Alcohol, Drug Abuse, and Mental Health Administration
NIMH ECA program survey—Duke site
Other—See SF83
Individuals or households
Residents of Durham, Franklin, Granville, Vance, etc.
Health: 5,250 responses; 3,675 hours; $1,825,000 Federal cost; $36,750 public cost; 1 form; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

This project will provide basic psychiatric epidemiologic data on incidence and prevalence of mental disorders, and will assess the relationship between psychiatric disorders in the community and the use of psychiatric and general health facilities.

• Human Development Services
A study of speech impairments in Head Start children

Nonrecurring
Individuals or households/businesses or other institutions
A sample of approx. 68 Head Start programs and related, etc.
SIC: 835
Small businesses or organizations
Multiple functions: 1,356 responses; 133 hours; $219,330 Federal cost; $1,330 public cost; 5 forms; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

A steady increase in the number of speech impaired children enrolled in Head Start has concerned both Head Start and Congress. Certain factors have been identified as having potential influence on this increasing incidence. Study results will document the frequency of various factors which impact speech impairment as a diagnosis and will provide administative recommendations.

• Health Care Financing Administration
Annual survey of independent prepaid and self-insured health plans
HCFA–1807
Annually
Businesses or other institutions
Self-funded health plans, dental and vision service corps.
SIC: 801, 807, 806
Small businesses or organizations
Health: 200 responses; 200 hours; $42,500 Federal cost; $2,000 public cost; 1 form; not applicable under 3504(h)
Fay S. Iudicello, 202–395–3090

The data collected in this survey are essential in making accurate annual estimates of the enrollment coverage and benefit expenditures of independent health plans. The data are used in the annual series of articles on private health insurance, in HCFA health notes, and for national health expenditure estimates, gross national product estimates, and consumer price index estimates.

• Social Security Administration
Request for review of hearing decision/order
HA–520–U6.(7–81)
On occasion
Individuals or households
Claimants requesting reviews on SSA benefits issues
General retirement and disability insurance: 57,000 responses; 9,500 hours; $45,202 Federal cost; 1 form; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

The information collected in completing this form is needed and used to afford claimants their statutory right under the Social Security Act to request review of a hearing decision.

• National Institutes of Health
NIH visitor parking permit
NIH 28–18
On occasion
Individuals or households
Individuals wishing to visit NIH for Business
Health: 6,000 responses; 100 hours; $50 Federal cost; $1,000 public cost; 1 form; not applicable under 3504(h)
Fay S. Iudicello, 202–395–3090

The visitor parking permit is used by members of the public who wish to park vehicles in NIH parking areas. 45 CFR 3.24 requires display of a valid parking permit.

• Office of Assistant Secretary for Health
National survey of family growth—Cycle III: Main field work
PHS–T–492 Through PHS–T–498 (pretest forms)
Nonrecurring
Individuals or households
Women 15 to 44 yrs. of age residing in hsehlds, etc.
Health: 34,500 responses; 9,900 hours; $2,350,000 Federal cost; $99,600 public cost; 8 forms; not applicable under 3504(h)
Fay S. Iudicello, 202–395–3090

The national survey of family growth provides detailed information on fertility patterns and related topics to persons and organizations concerned with population changes, maternal and child health, and family planning. The information it collects is made available through written reports, special tabulations, and public use tapes.

• Social Security Administration
Financial status and performance report forms for transition program for refugee children and educational services for Cuban and Haitian entrant children
ED 443, FD 443–1
Annually
State or local governments
State education agencies
SIC: 941
Other income security: 56 responses; 2,240 hours; $25,000 Federal cost; $91,440 public cost; 2 forms; not applicable under 3504(h)
Federal education data acquisition council, 202–426–5030

Data collected will provide national information on total obligations and unexpended funds (financial), and program file and problem areas (performance).

• National Institutes of Health
Feasibility study for national headache survey
Nonrecurring
Individuals or households
Patients of headache clinics
Health: 500 responses; 500 hours; $50,000 Federal cost; $5,000 public cost; 1 form; not applicable under 3504(h)
Fay S. Iudicello, 202–395–3090

The Study will collect information by telephone on the natural history and associated features of headache disorders from a group of headache patients. The data are needed for comparison with clinical data and will be used to develop classification algorithms for major types of headaches which can be used in epidemiological studies.

Revisions

• Human Development Services
Instruction for applying for grants from HDS programs
SF–424
Annually
Individuals or households/businesses or other institutions/state or local governments
State, loc. gov't, non-prof. soc. serv. agen, Indian tribes
SIC: All
Education, training, employment, and social services: 12,000 responses; 360,000 hours; $540,000 Federal cost; $3,600,000 public cost; 1 form; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

This application is the sole funding mechanism of the six granting offices comprising human development services.

• Social Security Administration
Student's statement regarding resumption of attendance
SSA–1386 (6–82)
On occasion
Individuals or households
Students currently receiving SSA benefits
General retirement and disability insurance: 450,000 responses; 45,000 hours; $137,835 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

This form is used to certify from both student and educational institutions that the student is in full-time attendance.

Extensions (Burden Change)

• Social Security Administration
States report of adjustments
SSA–3964 (10–80)
On occasion
State or local governments
State agencies administering section 218 programs
SIC: 944
Small businesses or organizations

General retirement and disability insurance: 36,411 responses; 18,205 hours; $48,438 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

Form SSA–3964 is used to report, correct and substantiate previously reported wage or tip information for state and local employees covered by the provisions of section 218 of the Social Security Act. The data provided is also used in determining and accessing the states the amount of contributions due or refundable on the corrected amounts.

reinstatements

• Human Development Services
WIN certification report, SAU certification record, WIN grant change report, and WIN grant change record
HDS–WIN–117, parts A&B HDS–WIN 117 parts A&B
SAU 4 IM 9
Quarterly
State or local governments
State and project income maintenance agen. and WIN SAU agencies
SIC: 832
Training and employment: 527,124 responses; 7,435 hours; $101,641 Federal cost; 4 forms; $74,350 public cost; not applicable under 3504(h)
Gwendolyn Pia, 202–395–6880

The 117–A is used to report number of certifications, data on types and number of certifications are analyzed to determine effectiveness of SAU's. The ASU–4 is a worksheet that serves as a source document for the 117–A. The 117–B is used to report the amount of reduction or change in grants due to employment of registrants. The IM–9 serves as a source document for the 117–B.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masabsky—202–755–5184

New

• Housing Programs
(1) Statement of facts
(2) Supplement to statement of facts
On occasion
Businesses or other institutions
Land Developers under jurisdiction of Interstate Land Act
SIC: 665
Small businesses or organizations
Other advancement and regulation of commerce: 375 responses; 1,500 hours; $3,200 Federal cost; 4 forms; $11,250 public cost; not applicable under 3504(h)
Richard Sheppard, 202–395–6880

The information solicited by the statement of facts or by any of its three supplements is needed and used by OILSR to determine jurisdiction under Federal law over particular subdivisions. The estimated starting date for this information collection is January 31, 1982.

• Community Planning and Development
Technical assistance awards under the secretary's discretionary fund for community development block grants
On occasion
Individuals or households/State or local governments/businesses or other institutions
State and local gov'ts
SIC: 919, 953, 881
Small businesses or organizations
Community development: 200 responses; 8,000 hours; $16,500 Federal cost; 1 form; $104,000 public cost; not applicable under 3504(h)
Richard Sheppard, 202–395–6880

The technical assistance (TA) regulations are designed to inform potential applicants for TA funds of the community development technical assistance program. It provides such information as who may apply for an award, types of proposals and applications, selection criteria, submission times and places, and proposal content. It allows HUD to receive proper and adequate information to determine the merits of a proposal and subsequent award.

Reinstatements

• Community Planning and Development
Small multifamily rental property rehab demonstration program
SF–424 and narrative
Nonrecurring
State or local governments
Staff personnel from comm. develop. block grant recipients
SIC: 911
Community development: 100 responses; 1,200 hours; $5,000 Federal cost; 1 form; $3,000 public cost; not applicable under 3504(h)
Richard Sheppard, 202–395–6880

Although more than $1.5 billion has been budgeted for publicly sponsored rehabilitation, virtually all of the financing has been directed to over-occupied properties. This demonstration is designed to stimulate long-term investment in the neglected multifamily sector. In order to elicit responses from interested localities it is necessary to determine (1) their interest in the program, (2) characteristics of their proposed program/neighborhood information collected.

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—Vivian A. Keado—202–343–6191

New

• Bureau of Land Management
43 CFR Parts 2800 and 2880 rights-of-way
Nonrecurring
Individuals or households/state or local governemnts/farms/businesses or other institutions
Any mbr of the pub. includ. bus. & gov't entities, etc.
SIC: Multiple
Conservation and land management: 1,000 responses; 16,800 hours; $16,500 Federal cost; 1 form; $372,000 public cost; not applicable under 3504(h)
Robert Shelton, 202–395–7340

The information supplied by an applicant is needed to allow the authorized officer to determine whether a right-of-way be granted, establish terms and conditions of the grant, and to administer the grant when made.

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—202–523–6331

New

• Employment and Training Administration
Analysis of the structure and growth of the service and its implications in ES policy
MT–319
Nonrecurring
Businesses or other institutions
Employers in 20 large SMSA's
SIC: Multiple
Small businesses or organizations
Training and employment: 1,200 responses; 300 hours; $251,537 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880

The results of this survey will be used by the Department of Labor to evaluate its overall policies regarding the Federal-State Employment Service System, and the employment and training programs conducted by CETA prime sponsors and their agents, and to provide a basis for recommending changes in ES and CETA regulations and legislation.

Extensions (Burden Change)

• Occupational Safety and Health Administration
Request for advancement or reimbursement
OSHA–176
Monthly
Businesses or other institutions

Labor organ., edu., instit., employer assoc. & other, etc.
Sic: multiple
Small businesses or organizations
Consumer and occupational health and safety: 135 responses; 810 hours; $20,681 Federal cost; $8,480 public cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880

This form is used by the grantee to request a grant advance of reimbursement. The financial documents are used to maintain the financial management system which provides the control of grant funds.

Extensions (No Change)

• Employment Standards Administration
Medical Recordkeeping Requirement
ESA–CA–37
On occasion
Businesses or other institutions
Physicians and other provid. med. treatmt. and exam., etc.
Sic: 999
Small businesses or organizations
Income Security: 795,000 responses; 26,500 hours; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880

Recordkeeping requirements for physicians treating and examining FECA claimants. Medical reports based on records are an important factor in the adjudication of the claims for benefits.

Reinstatements

• Employment Standards Administration
Economic survey schedule form WH–1
WH–1
Biennially
Farms/businesses or other institutions
Establishments covered by the Fair Labor Standards Act
Sic: All
Small businesses or organizations
Other labor services: 100 responses; 100 hours; $26,000 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880

Form is used by industry committees within the wage hour division to provide data form which the committee based their judgment is setting wage levels in American Somoa.

• Employment and Training Administration
Forms for the interstate clearance program of serice to migratory agricultural workers and employers
ETA 790, ETA 795, ETA 785, ETA 785A
On Occasion
State or local governments
State employment service agencies
Sic: 944
Training and employment: 22,000 responses; 13,000 hours; $93,200 Federal cost; 4 forms; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880

Forms are used by the SESA's in servicing ag. employers to insure that their labor needs for domestic migratory ag. workers are MFT, in servicing domestic ag. workers to assist them in locating jobs expediously and orderly, to insure exposure of employment opportunities to domestic ag. workers before certification for employment of foreign workers.

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Windsor—202–426–1867

New

• Federal Railroad Administration
Injuries and occupational illnesses (Recordkeeping)
Annually
Businesses or other institutions
Common carriers by rail engaged in interstate Commerce
Sic: 401
Ground transportation: 60,000 responses; 15,000 hours; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Pub. L. 91–458. Records of accidents and employee inquiries are essential for efficient and successful safety programs both for the carrier and the inspector. Records provide the means for an objective evaluation of the overall safety program of a given railroad facility and to identify high-rate locations where inspections should be focused.

ACTION

Agency Clearance Officer—Richard D. English—202–254–8523

New

• National RSVP Impact Study
Other—See SF83
State or local governments/individuals or households
Retired senior volunteers 69 yrs. old or older—RSVP proj.
SIC: 833, 839
Social services: 2,280 responses; 1,494 hours; $325,000 Federal cost; 1 form; not applicable under 3504(h)
James Thomas, 202–395–6880

The purpose of this study is to assess the longitudinal effects of the RSVP program on volunteers and the benefits derived by the communities in which they serve in order to facilitate the programmatic decision making process and to provide the basis for improving the program.

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Christine Scoby—202–382–2742

New

• Application for Notification of State Registration of a Pesticide to meet a special local need (595)
595
Nonrecurring
State or local governments
State governments
SIC: 941
Multiple functions: 1,400 responses; 8,000 hours; $283,130 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

The FIFRA permits States to register additional uses of federally registered pesticides formulated for distribution and use within the State to meet a special local need, an existing or imminent pest problem within the State. EPA reviews information supplied by State registrations to assure conformance with the FIFRA.

• Data for development of new source performance standards for mineral dryers and calciners (0746)
FSED 81/08–1, ICB ID 0746
Nonrecurring
Businesses or other institutions
Various mineral processing and manufacturing plants that
SIC: 101, 105, 281, 144, 145, 147, 149, 325, 329, 333
Small businesses or organizations
Pollution control and abatement: 70 responses; 1,520 hours; $46,200 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

* * *? Are necessary in order to select candidate best systems, analyze their impacts, and propose new source performance standards as required by the Clear Air Act.

Extensions (Burden Change)

• Hazardous waste industry studies (ICR No. 818)
Generic clearance
818
Nonrecurring
Businesses or other institutions
Organic chem. industry, other industry segments as specfd.
SIC: Multiple
Pollution control and abatement: 622 responses; 19,434 hours; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Although phase I and II of the Hazardous Waste Regs. under the Resource Conservation and Recovery Act have been promulgated, they constit. only the 1st maj. steps toward a comprehensive haz. waste pgm. phase III of the reg. pgm. will involve further expansion and refinemt. to the list of haz. waste and the implementation of mgmt. stds. tailored to the degree & type of haz. posed by specif. wastes or indust. the haz. waste indust. studies will form major info base for these regs.

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Clearance Officer—Panos Konstas—202-389-4481

New

- Consolidated report of income—monthly

Monthly
Businesses or other institutions
FDIC ins. mutual svgs. banks of supervisory concern
SIC: 603
Small businesses or organizations
Mortgage credit and thrift insurance: 360 responses; 540 hours; $8,400 Federal cost; $5,400 public cost; 1 form; not applicable under 3504(h)
Richard Sheppard, 202-395-6880

The form provides information which the FDIC uses to monitor flows and income-expense results for insured mutual savings banks which are of a supervisory concern to the FDIC. The information collected is not available to the public.

FOUNDATION FOR EDUCATION ASSISTANCE

Agency Clearance Officer—Wallace McPherson—202-426-7304

New

- College and university libraries, fall 1982

ED (NCES) 2300-5
Biennially
Businesses or other institutions
Libraries in colleges & univ.
SIC: 823
Research and general education aids: 3,450 responses; 6,900 hours; $130,000 Federal cost; $82,800 public cost; 1 form; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202-426-5030

Data on academic libraries are needed by Federal agencies to administer library programs (OLLTNLM) and evaluate the condition of libraries (NCLIS). The data are also needed by library administrators, library associations, state library agencies, state education agencies, and book trade associations to appraise and compare libraries' resources, develop criteria for accreditation, and to evaluate markets for library materials.

INTERNATIONAL DEVELOPMENT ASSISTANCE

Agency Clearance Officer—Ms. Melita Yearwood—202-632-0004

Extensions (No Change)

- Supplier's certificate and agreement with aid for project commodities/Invoice and contract abstract

AID 1450-4
On occasion
Businesses or other institutions
Commodity suppliers
SIC: 999
Small businesses or organizations
Foreign economic and financial assistance: 8,000 responses; 2,000 hours; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202-395-4814

When AID is not a party to a contract which it finances, it needs some means to collect information from suppliers and a basis on which to take appropriate action against suppliers in the event they do not comply with applicable AID requirements. The information enables aid to keep records of its commodity expenditures which may be used for program management and for required reports to Congress and the OMB.

Reinstatements

- ACTION/Peace Corps volunteer reference form

A-36
On occasion
Individuals or households
Reference forms
Foreign economic and financial assistance; 51,00 responses; 20,400 hours; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202-395-4814

The data collected by the volunteer reference form are required to select and place applying volunteers. ACTION/Peace Corps has no other means of obtaining the required qualifying data.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Agency Clearance Officer—Chris Cabell—202-755-3219

Reinstatements

- Request for guest speaker

NASA 1201
Nonrecurring
State or local governments/businesses or other institutions
Civic, professional and educational organizations
SIC: Multiple
Multiple functions: 100 responses; 10 hours; $100 Federal cost; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202-395-4814

This form will be used only when it is necessary to obtain additional information needed to adequately judge the merits of a request already received for a NASA speaker. It will be used primarily by employees in NASA public affairs offices who have the responsibility of processing requests for speakers.

NATIONAL CREDIT UNION ADMINISTRATION

Agency Clearance Officer—Ms. D. Lynn Gordon—202-357-1202

Extensions (No Change)

- Financial and Statistical report

NCUA—5300
Semiannually
Businesses or other institutions
Federally insured credit unions
SIC: 614
Small businesses or organizations
Mortgage credit and thrift insurance: 34,500 responses; 17,250 hours; $102,385 public cost; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202-395-4814

The semi-annual financial and statistical call reports provide essential info. for supervisory purposes, policy & regulatory decisions and NCUA's major research data base. Info. is used to determine the impact of fluctuating financial and economic conditions on credit union operations, measure the impact of national and regional econ. developments, to publish semi-annual statistics and annual report and conduct operational research.

NATIONAL SCIENCE FOUNDATION

Agency Clearance Officer—Herman Fleming—202-357-7811

Reinstatements

- Survey of graduate science students and postdoctorates, fall 1982 and fall 1983

Annually
Businesses or other institutions
Science/engineering depts. of instits. of higher education
SIC: 822
General science and basic research: 10,000 responses; 25,000 hours; $197,500 Federal cost; $197,500 public cost; 1 form; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202-426-5030

The survey is the only source of national enrollment and student support statistics in graduate science/engineering programs. Data are used by State education boards, educational assns., and individual institutions in monitoring S/E educational progress and planning to meet future S/E resource needs. A more detailed list of users is contained in the supporting statement.

NUCLEAR REGULATORY COMMISSION

Agency Clearance Officer—Stephen Scott—301-492-8585

Revisions

- Controlled copies of emergency plans

On occasion
Businesses or other institutions
NRC licensees
SIC: 483
Energy information, policy, and regulation: 145 responses; 23,250 hours; $562,000 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202-395-7340

NRC is proposing amendment to 10 CFR Part 50 to furnish controlled copies of emergency plans. this decreases burden on licensees.

OTHER TEMPORARY COMMISSIONS

Agency Clearance Officer—

New

- Physician and public surveys of informed constant practices and attitudes

Nonrecurring
Individuals or households
Primary care physicians & noninstitutionalized adult public
Health care services: 2,000 responses; 264 hours; $201,790 Federal cost; 2 forms; not applicable under 3504(h)
Arnold Strasser, 202-395-6880

Parallel physician and public surveys on current practices, attitudes and understanding of the law regarding informed consent and medical decisionmaking are crucial to the Commission's mandate. These surveys will establish the necessary data base from which to develop realistic recommendations to the President, Congress and relevant agencies.

TENNESSEE VALLEY AUTHORITY

Agency Clearance Officer—Eugene E. Nynatt—715-741-2148

Reinstatements

- Farmer questionnaire—vicinity of nuclear power plant

0478
Semiannually; annually
Individuals or households/farms
Farmers and rural residents
SIC: 999
Energy supply: 1,200 responses; 1,200 hours; $50,000 Federal cost; 1 form; not applicable under 3504(h)
Anita T. Ducca, 202-395-7340

Used to locate rural residents, home gardens, milk animals and beef animals for monitoring purposes around nuclear power plants.

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt (004A2)—202-389-2146

Revisions

- Notice of default

26-6850
On occasion
Businesses or other institutions
Holders of VA guaranteed or insured loans
SIC: 611, 612, 616
Veterans housing: 130,500 responses; 21,750 hours; $171,781 Federal cost; 1 form; not applicable under 3504(h)
Gwendolyn Pla, 202-395-6880

Holder's report of veteran's default on home loan guaranteed under 38 U.S.C. 1810 or 1819. Report of default is required by 38 U.S.C. 1816(a). Information collected is used by VA in performing supplemental servicing, and in other servicing contacts with obligors to avoid foreclosure and claims under guaranty.

Extensions (Burden Change)

- Annual status report—Insured loans

26-1872
Annually
Businesses or other institutions
Mortgage lenders
SIC: 616
Small businesses or organizations
Veterans housing: 17 responses; 4 hours; $104 Federal cost; $43 public cost; 1 form; not applicable under 3504(h)
Gwendolyn Pla, 202-395-6880

Report required of lenders making VA insured loans authorized by 38 U.S.C. 1815, and cited in VA regulations 4375. Report updates status of lenders' insurance accounts and is essential in budgetary functions as an indicator of VA's contingent liability on insured loans.

Nathaniel Scurry,
Chief, Reports Management.

[FR Doc. 82-4630 Filed 2-19-82; 8:45 am]
BILLING CODE 3825-01-M

[Proposed License No. 02/02-5428]

Harding Financial Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102), under the name of Harding Financial Corporation, 6875 East Evans Avenue, Denver, Colorado 80224, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as Amended (the Act), (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

The officers, directors and shareholders are as follows:

Wayne Harding, Jr., 3060 South Leyden Street, Denver, Colorado 80222, President, Director and 50 percent Stockholder
Wayne Harding, III, 6024 South Kenton Way, Englewood, Colorado 80111, Vice President, Treasurer, Director and 9.8 percent Stockholder
Lan Zecher, 11562 Tanglewood Trail, Boulder, Colorado 80301, Secretary, Director and 9.8 percent Stockholder
Dorra Bavzock, 404 Shoveller, Saurien City, Colorado 94565, 9.8 percent Stockholder

1290 Avenue of the Americas, Suite 820, New York, New York 10104, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981)), for a License as a small business investment company.

Interested parties were given until close of business July 16, 1981, to submit their comments to SBA. No comments were received.

Notice is hereby given that, purusant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02-5428 to Croesus Securities Limited to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 11, 1982.

Robert G. Lineberry,
Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-4630 Filed 2-19-82; 8:45 am]
BILLING CODE 8025-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-5428]

Croesus Securities Limited; Issuance of a Small Business Investment Company License

On July 1, 1981, a notice was published in the Federal Register (46 FR 34447) stating that an application has been filed by Croesus Securities Limited,

Wesley Harding, 3060 South Leyden Street, Denver, Colorado 80222, 9.6 percent Stockholder

Phillip Harding, 3060 South Leyden Street, Denver, Colorado, 80222, 9.8 percent Stockholder

The Applicant, a Colorado Corporation, will begin operations with $505,000 paid-in capital and paid-in surplus. The applicant will conduct its activities principally in the State of Colorado.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operations of the new company in accordance with the Act and Regulations.

Notice is hereby given that any person may not later than March 9, 1982, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Denver, Colorado.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 16, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-4631 Filed 2-19-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 792]

United States-Spain Joint Committee for Scientific and Technological Cooperation—Postdoctoral Research and Short Term Travel Grants

The United States-Spain Joint Committee for Scientific and Technological Cooperation, established under the Treaty of Friendship and Cooperation with Spain (TIAS 8360; signed at Madrid January 24, 1976), announces the availability of postdoctoral research grants for U.S. scientific research personnel for the purpose of carrying out research in Spain. The term of the grant will be from six to twelve months. Preference will be given to recent doctorate degree recipients. In addition, short term travel grants will be awarded to qualified U.S. scientists in order that they may travel to Spain to exchange information on specific research topics or to learn special techniques. This type of grant will have a maximum term of three months and a minimum of one month (30 days).

1. Scope of Grants

Grants are available in the following areas of research:

(a) Agriculture.
(b) Natural resources.
(c) Oceanography.
(d) Environment.
(e) Urban and regional planning.
(f) Industrial technology.
(g) Energy.
(h) Biomedical sciences.
(i) Basic sciences.

For postdoctoral research grants, the grant period will begin between September 1, 1982 and January 31, 1983; in special circumstances, the Joint Committee may authorize a grant period to begin at an earlier or later date.

Short term travel grants may begin any time between September 1, 1982 and April 1, 1983.

Neither postdoctoral research grants nor short term travel grants will be extended beyond August 31, 1983.

2. Requirements

Applicants must meet the following requirements:

(a) Be a U.S. citizen or be a regular member of the U.S. scientific community.

(b) Possess a Doctoral degree, or have equivalent experience.

(c) Have knowledge of written and spoken Spanish.

(d) Submit proof of acceptance by the Spanish University or research center where the applicant wishes to carry out his/her work.

(e) Not be the recipient of any other financial aid or grant for the same purpose.

3. Amount and Nature of Grants

The grant award will include:

(a) Round-trip airfare (economy class) on a U.S. Carrier between the grantee's usual residence and his/her final destination in Spain by the most direct route.

(b) Health and accident insurance in Spain during the grantee's stay on the grant (for post-doctoral grants only).

(c) Subsistence at the rate of $1,000 per month, prorated for shorter periods.

Outbound travel will not be paid for those persons who, upon initiating the grant activity, are already in Spain.

When two grantees are married and reside in the same city in Spain during the period of their grants, the monthly stipend of one of them will be reduced by 50 percent.

4. Presentation of Applications

Application forms may be obtained from the Executive Secretariat of the United States-Spanish Joint Committee for Scientific and Technological Cooperation (Calle Cartagena, 63–65, third floor, Madrid 28, telephone 256.0408), or from Ms. Gloria Gaston-Shapiro, Bureau of Oceans and International Environmental and Scientific Affairs, Room 4330, Department of State, Washington, D.C. 20520. *Three copies of the form and any accompanying documents (with the exception of reference 5—see 5(g) below) must be submitted to the Executive Secretariat within two months of the date of publication of this Notice in the* **Federal Register.**

5. Documents To Be Presented

(a) Application form completed and signed.

(b) Professional resume.

(c) Description of the planned research.

(d) Written evidence of acceptance as referenced in paragraph 2(d).

(e) Certification of knowledge of Spanish as referenced in paragraph 2(c).

(f) Proof of possession of doctorate degree (or academic transcripts for non-doctorate holders).

(g) Two letters of reference from professors or researchers who have supervised or directed research done by applicant in his/her field. These letters should be submitted directly to the Executive Secretariat by the authors at the same time the grant application is submitted.

6. Selection

Applications will be evaluated by a joint United States-Spanish panel appointed by the co-chairmen of the United States-Spain Joint Committee for Scientific and Technological Cooperation.

The Spanish side of the panel may consult with the Comision Asesora de Investigacion Cientifica y Tecnica of the Presidencia del Gobierno.

The panel may request additional information concerning any application and conduct personal interviews with the applicant.

The panel will send to the Joint Committee a list of applicants which it recommends for grants. On the basis of this recommendation, the Joint Committee will make the final award of grants.

7. Certain Obligations of Grantees

(a) To conduct his/her activity on the research project in accordance with the practices of the host institution.

(b) To submit to the Executive Secretariat of the Joint Committee on a quarterly basis (or at the end of the stay if the grant period is shorter) a report of the work carried out and the results obtained. This report should be signed by the department head or supervising scientist at the host institution.

8. Payment Schedule

The grant stipend will be paid before the start of each quarter after the quarterly report referenced in paragraph 7 is approved. This rule will not apply to the first quarter payment.

9. Early Termination of Grant

If a grantee terminates his/her research before expiration of the grant, he/she should immediately notify the Executive Secretariat in writing. The Joint Committee will examine the reasons for the early termination and if it finds the reasons unjustifiable it may require the grantee to reimburse the Joint Committee for the amounts paid to him/her (including the cost of air fare).

Dated: February 10, 1982.

James L. Malone,

Assistant Secretary of State For Oceans and International Environmental and Scientific Affairs.

[FR Doc. 82-4619 Filed 2-19-82; 8:45 am]

BILLING CODE 4710-09-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Mulino, Oregon; Availability of Draft Environmental Impact Statement

The Northwest Regional Office of the Federal Aviation Administration (FAA) announces the availability for public review of the Draft Environmental Impact Statement for the proposed Mulino Reliever Airport in Mulino, Oregon. Copies of the report are available for public review and comment at Clackamas County Public Library, Oregon City Public Library, Molalla Public Library, Multnomah County Public Library, Port of Portland Offices, FAA Office, Seattle. Review comments must be received by Mr. Mark A. Beisse, Acting Chief, Planning and Programming Branch, FAA Building, King County International Airport, Seattle, Washington 98108 by April 5, 1982. For information of questions please call Mr. Beisse at (206) 767–2833.

Dated: January 28, 1982.

Mark A. Beisse,

Acting Chief, Planning and Programming Branch, ANW–610.

[FR Doc. 82-4629 Filed 2-19-82; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Ad Hoc Technical Review Committee; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App I) notice is hereby given of a meeting of an RTCA Ad Hoc Committee to be held on March 9–10, 1982, in Conference Rooms 8A–B, Federal Aviation Administration Building, 800 Independence Avenue, SW, Washington, D.C., commencing at 9:30 a.m.

The purpose of the meeting is to review technical comments received by the Federal Aviation Administration (FAA) in response to a proposed Technical Standard Order (TSO) C104, Microwave Landing System (MLS) Airborne Receiving Equipment as announced in the **Federal Register** on November 5, 1981, (46 FR 54958). The proposed TSO incorporates, by reference, minimum performance standards set forth in RTCA Document DO–177 "Minimum Operational Performance Standards for Microwave Landing System (MLS) Airborne Receiving Equipment," Section 2, dated July 1981.

The Ad Hoc committee is to determine whether the affected minimum performance standards should be changed, and to provide any additional information needed prior to FAA action.

The following technical matters will be considered:

(1) Revise the definition of "Validated Guidance Signal" to permit TO and FRO scanning beams to be symmetrically located to within 40 microseconds of midpoint time.

(2) Add signal validation criteria and associated test procedure.

(3) Revise the Angle Guidance Output Characteristics to add elevation scanning beamwidth as well as azimuth and elevation data rates.

(4) Revise the Basic Electrical Output Resolution to permit ¼₄ of instrument full scale deflection as an alternate to the present 0.03 degree requirement.

(5) Revision of Radio Frequency Signal Level Variation requirement to include testing under conditions of 3 degree azimuth beamwidth at 13 Hz data rate and 2 degree elevation beamwidth at 39 Hz data rate. Also, revise the test procedures to reflect this change.

(5) Revise the received differential phase shift keyed (DPSK) waveform to allow amplitude modulation during phase transitions. Also, revise the Standard Test Signal to reflect this amplitude modulation.

(7) Revise the criteria for Warning Signal generation and the time delay to produce these warnings.

(8) Revise the Output Response Characteristics to specify an azimuth or elevation angle rate of 1.0 degree per second in lieu of current 0.2 degree step. Also change the current 5 percent overshoot to 0.05 degree.

(9) Revise antenna test procedures to accommodate horn type antennas.

(10) Revise the Standard Test Signal Side Lobes to −14 dB†2.0 dB in lieu of the present −20 dB†2.0 dB.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain additional information should contact the RTCA Secretariat, Suite 655, 1717 H Street, NW, Washington, D.C. 20006; [202] 296-0484.

Issued in Washington, D.C., on February 9, 1982.

Karl F. Bierach,

Designated Officer.

[FR Doc. 82-4630 Filed 2-19-82; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. IP82-6; Notice 1]

Chrysler Corp; Receipt of Petition for Determination of Inconsequential Noncompliance

Chrysler Corporation of Detroit, Michigan, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.120, *Tire Selection and Rims for Vehicles Other Than Passenger Cars.* The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the Act (15 U.S.C 1417) and does not represent any agency decision or exercise of judgment concerning the merits of the petition.

Paragraph S5.2 of Standard No. 120 requires each rim of a truck wheel to be

marked with five discrete items of information. Chrysler has determined that spare tire wheel rims on approximately 1500 Dodge D150 Ram Miser light duty pickup trucks lack the designation of the source of the rims published nominal dimensions, the rim size designation, and the DOT certification symbol. The manufacturer identification and date of manufacture markings are present as required.

Chrysler argues that the noncompliance is inconsequential for the following reasons: The spare wheel provided is a properly matched combination of rim and tire, omission of the information does not in any way compromise the performance characteristics of the rim, and for replacement information attention is more likely to be directed to the sidewall of the tire being replaced than to the rim. Further, in the event of a recall, each rim bears a distinctive Chrysler part number which readily identifies it.

Interested persons are invited to submit written data, views, and arguments on the petition of Chrysler Corporation described above. Comments should refer to the docket number and be submitted to Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the Federal Register pursuant to the authority indicated below.

The engineer and attorney primarily responsible for this notice are Art Neill and Taylor Vinson, respectively.

Comment closing date: March 24, 1982.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on February 16, 1982.

Carl E. Nash,

Acting Associate Administrator for Rulemaking.

[FR Doc. 82-4795 Filed 2-19-82; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP82-5; Notice 1]

Toyo Kogyo Co., Ltd.; Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

Toyo Kogyo Co., Ltd. of Hiroshima, Japan, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices and Associated Equipment*, on the basis that it is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

SAE Standard J585e, *Tail Lamps (Rear Position Lamps)*, September 1977 is incorporated by reference in Standard No. 108 as a Federal requirement for tail lamps. It imposes a maximum of 20 candela on the light output of dual-compartment lamps. Petitioner has informed the National Highway Traffic Safety Administration that when the Canadian Government tested six of its tail lamps to this requirement, all six lamps exceeded the maximum with values ranging from a low of 21.4 candela to a high of 27.6 candela. Toyo Kogyo has accepted these tests as indicating a failure of the lamps to meet Canadian requirements which, for this aspect of lighting performance, are identical to U.S. requirements. The tail lamps have been used on about 67,000 Mazda GLC passenger cars, both 1981 and 1982 models. The causes of the excessive readings appear to be improper filament location and a defective lense lens. Because Standard No. 108 permits a maximum of 25 candela for three-compartment tail lamps, Toyo Kogyo argues that the noncompliance has an inconsequential relationship to motor vehicle safety. Petitioner also cites SAE Recommended Practice J238b, *Service Performance Requirements for Motor Vehicle Lighting Devices and Components*, March 1978, which is not incorporated in Standard No. 108, but which allows a maximum intensity of up to 120 percent of J585e, i.e., up to 24 candela for the lamps in question and up to 30 candela for three-compartment lamps. As the lamps otherwise meet Standard No. 108, petitioner believes that no safety hazard is created by the noncompliance.

Interested persons are invited to submit written data, views and arguments on the petition of Toyo Kogyo Co., Ltd. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered.

The application and supporting materials and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the Federal Register pursuant to the authority indicated below.

The engineer and attorney principally responsible for this notice are respectively Marx Elliott and Taylor Vinson.

Comment closing date: March 24, 1982.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on February 16, 1982.

Carl E. Nash,

Acting Associate Administrator for Rulemaking.

[FR Doc. 82-4796 Filed 2-19-82; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP81-14; Notice 2]

International Harvester Company; Grant of Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

This notice grants the petition by International Harvester Company of Fort Wayne, Indiana, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for a noncompliance with 49 CFR 571.101-80, Motor Vehicle Safety Standard No. 101-80, *Controls and Displays*. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on June 8, 1981, and an opportunity afforded for comment (46 FR 30467).

Paragraph S6.2.3 and table 2 of Standard No. 101-80 require that certain internal displays on any passenger car manufactured on or after September 1, 1982, be identified with the appropriate International Standards Organization (ISO) symbol. At its option, the manufacturer may also provide identifying words. Use of an identifying word was mandatory before September 1, 1980, and no symbols were required.

Harvester estimated that it produced approximately 200 trucks since September 1, 1980, in which the headlamp switch was identified only by the word "LIGHTS", compliant with Standard No. 101, but noncompliant with Standard No. 101-80. Harvester argued that use of the previously acceptable wording creates no safety hazard as it is readily understandable by the public.

No comments were received on the petition.

The issue is not whether use of previously acceptable wording creates a hazard, but whether the failure to supply the symbol may be considered inconsequential. In the situation where the control is identified by use of acceptable wording, such a failure is inconsequential as it relates to safety. Accordingly, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is hereby granted.

The engineer and attorney responsible for this notice are John Carson and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on February 11, 1982.

Carl E. Nash,

Acting Associate Administrator for Rulemaking.

[FR Doc. 82-4795 Filed 2-19-82; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP81-13; Notice 2]

Iveco Trucks of North America, Inc.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Iveco Trucks of North America, Inc., of Blue Bell, Pennsylvania to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.115, Motor Vehicle Safety Standard No. 115, *Vehicle Identification Number*. The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on May 20, 1981 (46 FR 28272) and an opportunity afforded for comment.

Iveco imports the Z-100 truck (9,995 lbs. GVW) manufactured in Brescia, Italy. Due to mistranslation and interpretation the tenth character of the VIN was not changed at the proper time to signify Model Year 1981. The result is that over 1,700 trucks, manufactured between June and December 1980, came into the country with the VIN translated as Model Year 1980, when in reality they were 1981 models.

The company's inconsequentiality arguments were not based upon the effect of the noncompliance but effects that might result were an attempt made to correct it: "Great confusion and inaccuracies would result from attempts in the field to correct and re-register such vehicles; and it would be seriously detrimental to accurate and efficient documentation, which might be necessary in any recall campaign or potential future theft investigation." As for possible difficulties with State registration, Iveco proposed "identifying the vehicles and providing full explanations [and] will provide the National Auto Theft Bureau or proper involved agencies a listing of affected vehicle identification numbers, with proper model year designation."

No comments were received on the petition.

One purpose of the VIN is to reduce the incidence of accidents by increasing the accuracy and efficiency of vehicle defect recall campaigns. The incorrect year indicator will have no effect on the ability to conduct such campaigns as there is sufficient information to identify the vehicles concerned. Authorities on vehicle theft have advised against the physical correction of erroneous VINs and instead that organizations which use the number (e.g. police) be advised of the error. An altered number is one of the keys to determining if a vehicle is a stolen one. Should NHTSA require that an erroneous VIN be altered, the key clue to determining if a vehicle is stolen might be lost. Accordingly, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

The engineer and attorney primarily responsible for this notice are Nelson Erickson and Taylor Vinson respectively.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on February 11, 1982.

Carl E. Nash,

Acting Associate Administrator for Rulemaking.

[FR Doc. 82-4796 Filed 2-19-82; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP81-12; Notice 2]

Mohawk Rubber Co.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Mohawk Rubber Co. of Roanoke, Virginia, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for a noncompliance with 49 CFR 571.109, Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires—Passenger Cars*. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on May 14, 1981, and an opportunity afforded for comment (46 FR 76736).

Paragraphs S4.3 (b) and (c) of Standard No. 109 require that the sidewalls of each passenger car tire be labeled with the maximum permissible inflation pressure and maximum load rating. Mohawk has manufactured over 2,600 P 205/70R14 Avanti Steel Belted Radial tires incorrectly marked on both sidewalls as "MAX. LOAD 615 kg (1356 lbs.) AT MAX. INFLATION 240 kPa (35 P.S.I.)". The correct marking should read "MAX. LOAD 650 Kg (1433 lbs.) AT MAX. INFLATION 250 kPa (35 P.S.I.)". Mohawk argues that the noncompliance is inconsequential because the incorrect maximum load figure is less than the maximum load specification of the tire.

No comments were received on the petition.

The maximum load capacity of the tires involved is 66 pounds greater than the maximum load stamped on the sidewall. There can be no hazard created by this noncompliance. Accordingly, petitioner has met its burden of pursuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is hereby granted.

The engineer and attorney primarily responsible for the notice are Art Neill and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on February 11, 1982.

Carl E. Nash,

Acting Associate Administrator for Rulemaking.

[FR Doc. 82-4888 Filed 2-19-82; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP77-1; Notice 2]

PPG Industries, Inc.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by PPG Industries Inc. of Detroit, Michigan to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1361 *et seq.*) for an apparent noncompliance with 49 CFR 571.205, Motor Vehicle Safety Standard No. 205, *Glazing Materials.* The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on February 10, 1977, and an opportunity afforded for comment (42 FR 8448).

Standard No. 205 incorporates by reference the American National Standards "Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways" Z26.1–1966 ("ANS Z26"), Test No. 18 of ANS Z26, Abrasion Resistance, has been interpreted by the National Highway Traffic Safety Administration to require that abrasion tests be conducted on both sides of glazing materials, the duration dependent upon types of material used. A test of 1,000 cycles is prescribed by Test No. 18 for AS3 glass, for instance, while one of only 100 cycles is prescribed by Test No. 17 for rigid plastics (AS6). Further, glass is required to develop no more than 2 percent haze while plastic materials are limited to no more than 15 percent haze. It appears the PPG's test laboratories performed the abrasion test on only one side of samples of material identified as "Safety Solarcool Solid Tempered, Coated, AS3". Petitioner believes that "the inside coated surface of this glass" (i.e., the side not tested) "does not meet a maximum 2 percent haze requirement after Test No. 18." The glazing's principal use is in the rear windows of trucks. PPG argued that the apparent nonconformance is inconsequential since the materials are "much better for abrasion resistance than is required for dark colored rigid plastics (AS5)." The relevance of this remark is that ANS Z26 permits either AS3 or AS5 to be used in truck rear windows as long as other means (i.e., mirrors) of affording visibility to the side and rear of the vehicle are provided. The apparent failure also was said to have minimal effect since Standard No. 205 prescribes no minimum light transmittal for such. Petitioner did not state how much glazing is affected.

Three comments were received on the petition, all of which supported it and recommended that rulemaking be initiated to delete Test No. 18 for glazing materials not used in areas requisite for driver visibility. Rulemaking was commenced and a decision on PPG's petition deferred until the outcome of the rulemaking process. On August 31, 1981, Standard No. 205 was amended to add paragraph S5.1.1.7 deleting Test No. 18 from the lists of tests specified in ANS Z26 for the glazing materials covered by PPG's petition (46 FR 43687). Although the glazing was noncompliant at the time of its manufacture, it would not be so today. Accordingly, petitioner had met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

(Sec. 102, Pub. L. 93-492, 86 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on February 11, 1982.

Carl E. Nash,

Acting Associate Administrator for Rulemaking.

[FR Doc. 82-4887 Filed 2-19-82; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP82-14; Notice 2]

Uniform Tire Quality Grading; Petitions for Determination of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Response to petitions for determination of inconsequential noncompliance.

SUMMARY: This notice responds to petitions for determination of inconsequential noncompliance with the Uniform Tire Quality Grading (UTQG) Standards, submitted by Dunlop Tire and Rubber Corporation and the Kelly-Springfield Tire Company. The notice announces the National Highway Traffic Safety Administration's determination that inconsequential noncompliance petitions for violations of the UTQG Standards are inappropriate and unnecessary.

FOR FURTHER INFORMATION CONTACT: Mr. Richard J. Hipolit, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, 202–426–1834.

SUPPLEMENTARY INFORMATION: Section 157 of National Traffic and Motor Vehicle Safety Act (Safety Act) (15 U.S.C. 1417) authorizes the National Highway Traffic Safety Administration (NHTSA) to exempt manufacturers from the notice and remedy requirements of Title I, Part B, of the Safety Act in cases where defects or failures to comply with Federal motor vehicle safety standards (FMVSS) are inconsequential as they relate to motor vehicle safety. Pursuant to this section and implementing NHTSA regulations (49 CFR Part 556) Dunlop Tire and Rubber Corporation and the Kelly-Springfield Tire Company petitioned NHTSA to exempt them from the notice and remedy requirements as they apply to particular failures to comply with the UTQG Standards (49 CFR 575.104).

Dunlop's petition involves approximately 41,210 tires of the Dunlop Gold Seal Radial, Remington Cushion-Aire Radial, and Centennial Radial 78 lines which were inadvertantly affixed with tread labels bearing a Temperature Resistance grade of "B", when the correct grade for the tires, as molded on the tire sidewall, is "C". Notice of receipt of this petition was published in the Federal Register (46 FR 2765; January 12, 1981) and no comments were received on the petition. The Kelly-Springfield petition pertains to 482 HR78-13 All American Steel Belted Radial passenger car tires on which the temperature resistance grade of "C" was inadvertantly left off the tire sidewall.

Upon examination of the enforcement authority available to NHTSA with regard to the UTQG regulation, the agency has concluded that the notice and remedy provisions of Title I, Part B, of the Safety Act are not applicable to failures to comply with the UTQG Standards. Therefore, the agency has determined that the subject petitions for determination of inconsequential noncompliance are neither necessary nor appropriate.

Sections 151(2) and 152(a)(1) of the Safety Act require notification and remedy by the manufacturer when a vehicle or item of replacement equipment does not comply with an applicable FMVSS prescribed pursuant to sections 108 of that statute. Although the UTQG regulation was issued under the concurrent authority of section 103, the agency has concluded that the UTQG regulation cannot properly be considered an FMVSS.

NHTSA has, since the establishment of the regulation, considered the UTQG Standard to be related to safety, as evidenced by the agency's use of section 103 (safety standards), 112 (performance and safety information) and 201 (tire safety labeling) authority in issuance of the rule. The legislative history of NHTSA's UTQG authority suggests that Congress was concerned with both consumer protection and safety issues with respect to the grading system. The U.S. Court of Appeals for the Sixth Circuit, considering the regulation in the case *B.F. Goodrich v. Department of Transportation*, 541 F. 2d 1178 (6th Cir. 1976), recognized that while it is primarily as information regulation, UTQG is related to safety in that it improves consumer knowledge on three safety-related tire characteristics. The Court declined to decide the issue of whether the UTQG regulation is an FMVSS.

While NHTSA believes that UTQG is clearly safety related, the agency does not consider the regulation to hold the status of an FMVSS. Motor vehicle safety standards are defined in section 102(2) of the Safety Act as minimum standards for motor vehicle or equipment performance, a concept inconsistent with a rating scheme providing a spectrum of outstanding as well as minimal grades. In recognition of this limitation, the UTQG Standards were codified in Part 575 of Code of Federal Regulations Title 49, Consumer Information Regulations, rather than Part 571, Federal Motor Vehicle Safety Standards.

Neither would inclusion of the UTQG regulation as an FMVSS be desirable from the perspective of efficient use of agency resources. UTQG noncompliance recalls for tires already in the hands of consumers would be largely futile, since the primary purpose of UTQG information is to aid consumers in their purchasing decisions. While UTQG information is safety related, it would generally be unreasonable to suggest that a tire poses a danger to the puiblic because it has been improperly labeled. Assertion by NHTSA of UTQG recall authority would serve to burden industry and the agency with regular recourse to Part 556 inconsequentiality procedures for labeling irregularities which, while of possible concern to the agency, could not provide suitable cause for recall campaigns.

NHTSA believes that adequate authority exists elsewhere in the Safety Act to enforce compliance with the UTQG Standards. Issuance of the regulation under the concurrent authority of section 112 of the Safety Act provides access to the civil penalty provisions of Title I of that statute. Section 108(a)(1)(E) prohibits failure to comply with any rule, regulation, or order issued under section 112. Section 108(a)(1)(B) proscribes failure to provide information required under section 112. Violation of section 108 subjects the violator to civil penalties of up to $1,000 for each violation and $800,000 for a related series of violations. Moreover, should major violations occur which cannot be deterred by civil penalties, an injunction can be sought under section 110 to restrain violators of rules or regulations issued under Title I of the Safety Act. Further, where a consumer may have been misled into purchasing tires on the basis of an erroneous UTQG label, the purchaser would retain his or her individual right of action against the seller.

For these reasons, NHTSA does not consider the assertion of notification and recall power under Title I, Part B, of the Safety Act to be authorized or in the public interest. Consequently, the agency will not entertain petitions, such as those submitted by Dunlop and Kelly-Springfield, for determination of inconsequential noncompliance with the UTQG Standards. The agency reserves the right to seek such remedies other than notification and recall, which may be appropriate with respect to the situations reported by Dunlop and Kelly-Springfield.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on February 11, 1982.

Carl E. Nash,

Acting Associate Administrator for Rulemaking.

[FR Doc. 82-4886 Filed 2-19-82; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Senior Executive Service (SES) Bonuses

ACTION: Notice of Schedule for Awarding SES Bonuses.

SUMMARY: This notice announces the schedule for awarding SES bonuses (performance awards) in the Department of the Treasury.

FOR FURTHER INFORMATION CONTACT: D. S. Burckman, Director of Personnel, Room 2426, 1500 Pennsylvania Avenue NW., Washington, D.C. 20220; Telephone 566–2701.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to guidance from the Director of the Office of Personnel Management, dated July 21, 1980. The Department of the Treasury is scheduled to award bonuses to eligible career senior executives for the performance appraisal period ending December 31, 1981, with payouts by March 31, 1982. Such bonuses are authorized by section 407(a) of the Civil Service Reform Act of 1978 (Pub. L. 95–454), codified in 5 U.S.C. 5384, and by section 308 of the Supplemental Appropriations and Rescission Act, 1980 (Pub. L. 96–304).

This notice does not meet the Department's criteria for significant regulations.

Cora P. Beebe,

Assistant Secretary (Administration).

[FR Doc. 82-4818 Filed 2-19-82; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Education Allowances that March 15, 1982 at 8:30 a.m. PST the Seattle Veterans Administration Regional Office Station Committee on Educational Allowances shall, at Hearing Room 1186, Federal Building, 915 Second Avenue, Seattle, Washington 98174, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Everett Business College, 1705½ Hewitt Ave., Everett, Washington 98201 should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: February 10, 1982.

Richard F. Murphy,

Director, VA Regional Office.

[FR Doc. 82-4811 Filed 2-19-82; 8:45 am]

BILLING CODE 8320-01-M

Replacement Boiler Plant and Building Relocation

Veterans Administration Medical Center, Portland, Oregon; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of a Replacement Boiler Plant and the relocation of several existing buildings at the Vancouver Division of the Portland VA Medical Center.

Alternatives that were evaluated for this project included the following: (a) A build alternative which includes a new boiler plant and the relocation of several existing buildings, and (b) a No Action or status quo situation. The No Action alternative would result in a failure to achieve the desired master plan implementation for the Vancouver facility and fall short of supplying necessary facilities for the operation of the health care center. Other elements of this master plan were assessed in an environmental impact statement dated August, 1979.

The build and relocate alternative (a) is composed of two separate projects. The first is the construction of a new boiler plant to replace the existing plant. The second project is the relocation of 21 woodframe cantonment type buildings into a configuration which will consolidate the health care delivery system into a more efficient facility. Nineteen similar structures will be demolished.

The development of the alternative (a) scope of work will have impacts on the human and natural environments affecting open space, air quality, noise levels, solid waste, traffic, soil erosion, and utilities. These potential impacts are associated with the construction phase of the project and are temporary in nature. During the construction and operation, the VA will adhere to all applicable Federal, State and local environmental regulations. All environmental factors analyzed would not be affected to any extent if the No Action alternative were selected.

Findings conclude the proposed action will not cause a significant effect on the physical and human environment and, therefore, does not require preparation of an Environmental Impact Statement.

Mitigation of the temporary impacts associated with the project will include erosion control, noise controls, air quality controls, solid waste disposal measures and traffic controls. The controls will be included within the VA construction documents Environmental Protection Specifications, Section EP. The project will comply with all Federal, State, and local codes.

Existing and future parking needs will be assessed and mitigated through implementation of parking analysis criteria combined with requirements of OMB Circular A–118.

The significance of the identified impacts has been evaluated relative to the considerations of both context and intensity, as defined by the Council on Environmental Quality (Title 40 CFR 1508.27).

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P.E., Director, Environmental Affairs Staff, Room 960, Veterans Administration, 1425 K Street, NW., Washington, D.C. (202–389–2526). Questions or requests for single copies of the Environmental Assessment may be addressed to: Director, Environmental Affairs Staff, 810 Vermont Avenue, NW., Washington, D.C. 20420.

Dated: February 12, 1982.

Robert P. Nimmo,

Administrator.

[FR Doc. 82-4644 Filed 2-19-82; 8:45 am]

BILLING CODE 8320-01-M

Schedule for Awarding Senior Executive Service Bonuses

Office of Personnel Management guidelines require that each agency publish a notice in the Federal Register of the agency's schedule for awarding Senior Executive Service bonuses at least 14 days prior to the date on which the awards will be paid. The Veterans Administration intends to award Senior Executive Service bonuses for the performance rating period which ended September 30, 1981, with payouts scheduled by March 31, 1982.

FOR FURTHER INFORMATION CONTACT:

K. Joyce Edwards, Office of Personnel (05A3), Veterans Administration, 810 Vermont Ave., N.W., Washington, D.C. 20420 (202–389–3423).

Dated: February 12, 1982.

Robert P. Nimmo,

Administrator.

[FR Doc. 82-4644 Filed 2-19-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 35
Monday, February 22, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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Commodity Futures Trading Commission	1
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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, February 26, 1982.

PLACE: 2033 K Street, NW, Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S 209-82 Filed 2-19-82; 3:27 pm]

BILLING CODE 6351-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Tuesday, February 23, 1982.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, DC.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

CPSC Docket No. 80-2

Upon consideration of the request by respondents Imperial Carpet Mills, Inc., and Murray Sobel for oral argument in this case, of the briefs filed in this proceeding, and of the issues presented in this proceeding, it is this 22nd day of January, 1982.

1. Ordered that the request for oral argument is granted; and it is

2. Further ordered that the oral argument shall be held on Tuesday, Feb. 23, 1982, at 10:00 a.m., in the Third Floor Hearing Room of the Consumer Product Safety Commission, 1111 18th Street, N.W., Washington, D.C.; and it is

3. Further ordered that complaint counsel and respondents' counsel shall each have one-half (½) hour for oral argument and that counsel for the *amicus curiae* National Retail Merchant Association shall have one-quarter (¼) hour for oral argument.

CONTACT PERSONS FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, Washington, D.C. 20207; Telephone (301) 492–6800.

[S-252-82 Filed 2-17-82; 4:55 pm]

BILLING CODE 6355-01-M

3

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Friday, February 12, 1982.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Commission met with representatives of the formaldehyde industry to discuss the feasibility of a standard for urea-formaldehyde foam insulation. This meeting was originally scheduled as a meeting between Chairman Nancy Harvey Steorts and industry representatives. When the other Commissioners decided to participate in the meeting, a formal vote was taken and the Commission decided Agency business required calling a meeting without seven days advance public notice.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, Room 342, Westwood Tower, Bethesda, Maryland; Telephone: 301 492–6800.

[S-263-82 Filed 2-18-82; 1:33 pm]

BILLING CODE 6355-01-M

4

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Wednesday, February 24, 1982.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Prednisone: Exemption Petition PP 81–1*
   The Commission will consider petition PP 81–1 requesting to exempt Prednisone from the child resistant packaging requirements of the Poison Prevention Packaging Act.
2. *Section 6(b) CPSA—Proposed Rule*
   The Commission will consider a proposed rule which would establish the Commission policy and procedure for the public disclosure of information under Section 6(b) of the Consumer Product Safety Act.
3. *Outreach Program*
   The staff will brief the Commission on plans for the Outreach Program for the remainder of fiscal year 1982.

Closed to the public:

4. *Section 15 Matters: Status*
   The staff will brief the Commission on recent activities under Section 15 of the Consumer Product Safety Act.
5. *Enforcement Matter (OS #1089)*
   The Commission will consider matters related to enforcement matter OS #1089.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, Room 342, Westwood Towers, Bethesda, Maryland; Telephone: 301 492–6800.

[S 264-82 Filed 2-18-82; 1:33 pm]

BILLING CODE 6355-01-M

5

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Thursday, February 25, 1982.

LOCATION: Room 456 Westwood Tower, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Mid-Year Review, FY–82
   The Commission will conduct a Mid-Year Review of its Operating Plan for fiscal year 1982.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon Butts, Office of the Secretary, Room 342, Westwood Tower, Bethesda, Maryland; Telephone: 301 492–6800.

[S-265-82 Filed 2-18-82; 1:33 pm]

BILLING CODE 6355-01-M

6

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From February 18th Special Open Meeting

The following item has been deleted at the request of the Common Carrier Bureau from the list of agenda items scheduled for consideration at the February 18, 1982 Special Meeting and

previously listed in the Commission's Notice of February 11, 1982.

Agenda, Item No., and Subject

Common Carrier—1—*Title:* Interconnection Arrangements Between and Among the Domestic and International Record Carriers. *Summary:* The Commission will consider whether or not to adopt a Notice of proposed Rulemaking soliciting comments on the manner of record carrier interconnection mandated by the Record Carrier Competition Act of 1981.

Issued: February 12, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S 389-82 Filed 2-18-82; 1:36 pm]

BILLING CODE 6712-01-M

7

FEDERAL ENERGY REGULATORY COMMISSION

TIME AND DATE: 10 a.m., February 19, 1982.

PLACE: Room 9306, 825 North Capitol Street, NE., Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

(1) *American Electric Power Co.* v. *FERC,* D.C. Cir. No. 80–1789.

(2) *The Atlantic Refining Co., et al.,* D.C. Civil Action No. 14060.

(3) Docket No. IN80–1, Ship Shoal Pipeline System, Docket No. IS81–165–000, *et al.,* Tipco Crude Oil Company.

(4) Commission deliberations concerning the institution of a private investigation.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; Telephone (202) 357–8400.

Kenneth F. Plumb,

Secretary.

Federal Energy Regulatory Commission

Certification No. 1

I hereby certify that, in my opinion, Commission deliberations concerning *American Electric Power Co.* v. *FERC,* D.C. Cir. No. 80–1789, scheduled for February 4, 1982, (and any subsequent meetings on the same matter that qualify under 18 CFR 375.206(a)) may properly be closed to public observation.

Discussions are likely to involve the agency's participation in a civil action.

The relevant exemptions on which this certification is based are set forth in the following provisions of law:

Section 552b(c) of Title 5 of the United States Code, (10).

Section 375.205(a) of Title 18 of the Code of Federal Regulations, (10).

Dated: February 2, 1982.

Charles A. Moore,

General Counsel.

Federal Energy Regulatory Commission

Certification No. 2

I hereby certify that, in my opinion, Commission deliberations concerning *U.S.* v. *The Atlantic Refining Co., et al.,* D.C. Civil Action No. 14060, scheduled on February 19, 1982, (and any subsequent meetings on the same matter that qualify under 18 CFR 375.206(a)) may properly be closed to public observation.

Discussions are likely to involve the agency's participation in a civil action.

The relevant exemptions on which this certification is based are set forth in the following provisions of law:

Section 552b(c) of Title 5 of the United States Code, (10).

Section 375.205(a) of Title 18 of the Code of Federal Regulations, (10).

Dated: February 2, 1982.

Charles A. Moore,

General Counsel.

Federal Energy Regulatory Commission

Certification No. 3

I hereby certify that, in my opinion, Commission deliberations concerning *Ship Shoal Pipeline System,* Docket No. IN80–1 and *Tipco Crude Oil Company,* Docket No. IS81–165–000, *et al.,* scheduled on February 19, 1982, (and any subsequent meetings on the same matter that qualify under 18 CFR 375.206(a)) may properly be closed to public observation.

Discussions are likely to involve accusing persons of a crime. Discussions may also disclose investigatory records compiled for law enforcement purposes or information which if written would be contained in such records, the release of which would interfere with enforcement proceedings.

The relevant exemptions on which this certification is based are set forth in the following provisions of law:

Section 552b(c) of Title 5 of the United States Code, (5), (7)(A).

Section 375.205(a) of Title 18 of the Code of Federal Regulations, (5), (7)(i).

Dated: February 2, 1982.

Charles A. Moore,

General Counsel.

Federal Energy Regulatory Commission

Certification No. 4

I hereby certify that, in my opinion, Commission deliberations concerning the institution of a private investigation, scheduled on February 19, 1982, (and any subsequent meetings on the same matter that qualify under 18 CFR 375.206(a)) may properly be closed to public observation.

Discussions are likely to involve accusing persons of a crime. Discussions may also disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, the release of which would interfere with enforcement proceedings.

The relevant exemptions on which this certification is based are set forth in the following provisions of law:

Section 552b(c) of Title 5 of the United States Code, (5), (7)(A).

Section 375.205(a) of Title 18 of the Code of Federal Regulations, (5), (7)(i).

Dated: February 12, 1982.

Charles A. Moore,

General Counsel.

[S-335-82 Filed 2-18-82; 12:16 pm]

BILLING CODE 6717-01-M

8

FEDERAL ENERGY REGULATORY COMMISSION

February 17, 1982.

TIME AND DATE: 10 a.m., February 25, 1982.

PLACE: Room 9306, 825 North Capitol Street, NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; Telephone (202) 357–8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda—744th Meeting, February 25, 1982, Regular Meeting (10 a.m.)

CAP–1. Project No. 3639–001, Gregory Wilcox; Project No. 3748–000, Mitchell Energy Co., Inc.; Project No. 3168–001, Plains Electric Generation & Transmission Cooperative, Inc.; Project No. 3945–000, Energenics Systems, Inc.; Project No. 5266–000, The County of Los Alamos, New Mexico; Project No. 5233–000, The City of Albuquerque, New Mexico

CAP–2. Project No. 5090–000, City of Idaho Falls, Idaho

CAP–3. Project No. 4515, Eric R. Jacobson; Project No. 5413, Palisade Irrigation District

CAP–4. Project No. 3824–000, Continental Hydro Corp.; Project No. 3987–000, Energenics Systems, Inc.; Project No. 4512–000, City of Bountiful, Utah; Project No. 4596–000, Utah Municipal Power Co.; Project No. 4867–000, Utah Power & Light Co. and Orangeville, Utah

CAP–5. Project No. 269, Louisville Gas & Electric Co.

CAP–6. Project No. 2693–001, BSR Co., Inc.

CAP–7. Project No. 2573, Arizona Power Authority

CAP–8. Project No. 3231, North American Hydro, Inc.; Project No. 3897, Wisconsin Public Power Inc. System

CAP–9. Docket No. ER82–79–000, Ohio Edison Company

CAP–10. Dockets Nos. ER81–448–000, ER81–474–000, ER81–362–000, ER81–366–000 and EL82–1–000, APS–PJM Interconnection Agreement, et al.

CAP–11. Docket No. ER81–653–000, Northern States Power Co.

CAP–12. Docket No. ER82–186–000, Wisconsin Power & Light Co.

CAP–13. Docket No. ER82–193–000, Northern States Power (Wisconsin)

CAP–14. Docket No. ER82–200–000, Maine Public Service Co.

CAP–15. Docket No. ER82–208–000, Consumers Power Co.

Consent Miscellaneous Agenda

CAM–1. Docket No. RM80–55, revision of FERC Form No. 1, annual report for electric utilities, licensees and others (class A and class B)

CAM–2. Docket No. RM79–76 (Nebraska—1), high-cost gas produced from tight formations

CAM–3. Docket No. GP82– , State of New York, Section 103 NGPA determination, K & C Gas Corp., Margaret Moore #201 Well, FERC No. JD82–06453

CAM–4. Docket No. GP82– , Railroad Commission of Texas, Section 102 NGPA Well category determinations, Petroleum Management, Inc., Yturria Cattle Co. Nos. B–1 and B–3 Wells, RRC Docket Nos. F–04–13668 and F–04–13669, FERC Nos. JD80–58627 and JD80–58698

CAM–5. (a) Docket No. GP81–30–000, Belco Petroleum Corp. (b) Docket No. G–19580–004, Belco Petroleum Corp.

CAM–6. Docket No. GP81–41–000, Trio Petroleum Corp. and Waco Oil & Gas Co., Inc.

CAM–7. Docket No. RA78–4, Bayou State Oil Corp.

CAM–8. Docket Nos. RA81–47–000 and RA82–1–000, Plateau, Inc.

CAM–9. Docket No. RA81–74–000, Marlex Oil & Refining, Inc.

Consent Gas Agenda

CAG–1. Docket No. RP82–12, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.

CAG–2. Docket No. RP82–13–000, National Fuel Gas Supply Corp.

CAG–3. Docket No. TA82–1–28 (PGA82–1), Panhandle Eastern Pipe Line Co.

CAG–4. Docket No. TA82–1–30 (PGA82–1), Trunkline Gas Co.

CAG–5. Docket No. TA82–1–20 (PGA82–1), Algonquin Gas Transmission Co.

CAG–6. Docket No. TA82–1–29 (PGA82–1), Transcontinental Gas Pipe Line Corp.

CAG–7. Docket No. TA82–1–21 (PGA82–1), Columbia Gas Transmission Corp.

CAG–8. Docket No. TA82–1–22 (PGA82–1), Consolidated Gas Supply Corp.

CAG–9. Docket No. TA82–1–24 (PGA82–1), Equitable Gas Co.

CAG–10. Docket No. TA82–1–27 (PGA82–1), North Penn Gas Co.

CAG–11. Docket No. TA82–1–25 (PGA82–1), Mississippi River Transmission Corp.

CAG–12. Docket No. TA82–1–60 (PGA82–1), Locust Ridge Gas Co.

CAG–13. Docket No. TA82–1–23 (PGA82–1), Eastern Shore Natural Gas Co.

CAG–14. Docket No. TA82–1–26 (PGA82–1), Natural Gas Pipeline Co. of America

CAG–15. Docket No. RP81–96, Tennessee Natural Gas Lines Inc.

CAG–16. Docket No. RP82–41, El Paso Natural Gas Co.

CAG–17. Docket No. RP82–37, Texas Eastern Transmission Corp.

CAG–18. Docket No. RP82–38, National Fuel Gas Supply Corp.

CAG–19. Docket Nos. RP81–95–001 and RP81–95–002, Pacific Interstate Transmission Co.

CAG–20. Docket No. RP81–32–000, Pacific Gas Transmission Co.

CAG–21. Docket No. RP81–142–000, El Paso Natural Gas Co.

CAG–22. Docket No. RP82–17–000, Panhandle Eastern Pipe Line Co.

CAG–23. Docket No. ST80–113–001, Valero Transmission Co.; Docket Nos. ST80–140–001 and ST80–175–001, United Gas Pipe Line Co.; Docket No. ST80–138–001, El Paso Natural Gas Co.; Docket No. ST80–108–001, United Texas Transmission Co.

CAG–24. Docket Nos. ST80–200–001, ST81–161–000 and ST81–201–000, Transok Pipe Line Co.

CAG–25. Docket No. CI81–14–000, Inexco Oil Co.

CAG–26. Docket No. CI82–44–000, Pogo Producing Co.; Docket No. CI77–400–001, Odeco Oil & Gas Co.; Docket No. CI82–39–000, Odeco Oil & Gas Co.; Docket No. CI82–43–000, Pogo Producing Co.

CAG–27. Docket No. G–8086–000, Mapco Production Co.

CAG–28. Docket Nos. RP72–99 and TC79–6 (compensation), Transcontinental Gas Pipe Line Corp.

CAG–29. Docket No. CP82–12–000, New England States Pipeline Co.

CAG–30. Docket No. CP81–236–001, Northern Natural Gas Co., Division of Internorth, Inc.

CAG–31. Docket No. CP81–267–000, Transwestern Pipeline Co.

CAG–32. Docket Nos. CP79–277–000 and CP79–277–008, Northwest Pipe Line Corp.; Docket No. CP79–404, Washington Natural Gas Co.

CAG–33. Docket No. CP81–435–000, Lone Star Gas Co., a Division of Enserch Corp.

CAG–34. Docket No. CP81–519–000, Consolidated Gas Supply Corp.

CAG–35. Docket No. CP81–204–000, Mid Louisiana Gas Co.

CAG–36. Docket No. CP82–15–000, El Paso Natural Gas Co.

CAG–37. Docket No. CP81–461–000, Cities Service Gas Co.

CAG–38. Docket No. CP80–68, Columbia LNG Corp.; Docket No. CP80–69, Southern Natural Gas Co., Columbia Gas Transmission Corp, Columbia, Gulf Transmission Corp. and Sea Robin Pipeline Co.; Docket No. CP80–70, Southern Energy Co.

CAG–39. Docket No. CP79–195, Distrigas Corp. and Distrigas of Massachusetts Corp.

CAG–40. Omitted

Power Agenda

I. Licensed Project Matters

P–1. Project Nos. 67 and 2088, Southern California Edison Co.; Project No. 2904, Cities of Anaheim and Riverside, California

P–2. Project No. 2890, Kings River Conservation District

P–3. Docket No. EL80–19, Massachusetts Municipal Wholesale Electric Co. v. Power Authority of the State of New York; Docket No. EL80–24, Connecticut Municipal Electric Energy Cooperative v. Power Authority of the State of New York

II. Electric Rate Matters

ER–1. Docket No. ER82–152–000, El Paso Electric Co.

ER–2. Docket No. ER81–577–000, Arkansas Power & Light Co.

ER–3. Docket No. ER80–573–000, Southwestern Public Service Co.

ER–4. Docket No. ER80–313–001, Public Service Co. of New Mexico

ER–5. Docket Nos. ER77–175 and ER78–19, et al., Florida Power & Light Co.

ER–6. Docket No. ER81–179–004, Arizona Public Service Co., Town of Wickenburg, Arizona

ER–7. Docket No. ER81–179–005, Arizona Public Service Co. (Washington Water Power Co.)

ER–8. Docket No. ER81–180–000, Montaup Electric Co.

ER–9. Docket No. ER81–708–000, Public Service Co. of Indiana, Inc.

ER–10. Docket No. ER79–126, Arizona Public Service Co.

ER–11. Docket No. ER82–23–000, West Texas Utilities Co.

ER–12. Docket Nos. ER81–457–000 and EL81–13–000, Louisiana Power & Light Co.

Miscellaneous Agenda

M–1. Omitted

M–2. Reserved

M–3. Reserved

M–4. Docket No. RM81–40, fees relating to Freedom of Information Act requests

M–5. Docket No. RM82– , revision of report on service interruptions on pipe line systems: Form No. FPC R0016

M–6. Docket No. RM82– , discontinuance of "Quarterly Report of Pipeline Companies" Form ICC–QPS

M–7. Docket No. GP80–11, Columbia Gas Transmissions Corp.; Docket No. GP80–15, Michigan Wisconsin Pipe Line Co.; Docket Nos. GP80–37 and GP80–83, Oklahoma Natural Gas Gathering Co.; Docket No. GP80–23, Texas Gas Transmission Corp.; Docket No. GP80–16, Mid-Louisiana Gas Co.; Docket No. GP80–17, Mississippi River Transmission Corp.; Docket No. GP80–5, Natural Gas Pipeline Co. of America; Docket No. GP80–19, Panhandle Eastern Pipe Line Co.; Docket No. GP80–33, South Texas Natural Gas Co.; Docket No. GP80–20, Tennessee Gas Pipeline Co.; Docket No. GP80–22, Texas Gas Pipeline Corp.; Docket No. GP80–25, Transwestern Pipeline Co.; Docket No. GP80–28, Trunkline Gas Co.; Docket No. GP80–41, United Gas Pipe Line Co.; Docket No. GP80–42, Sea Robin Pipeline Co.; Docket No. GP80–30, Northwest Pipeline Co.; Docket No. GP80–32, Montana-Dakota Utilities Co.; Docket No. GP80–21, Texas Eastern Transmission Corp.; Docket No. GP80–6, Arkansas Louisiana Gas Co.; Docket No. GP80–38, Cimarron Transmission Co.; Docket No. GP80–31, Cities Service Gas Co.; Docket No. GP80–8, Colorado Interstate Gas Co.; Docket No. GP80–45, Eastern Shore Natural

Gas Co.; Docket No. GP80-40, El Paso Natural Gas Co.; Docket No. GP80-29, Florida Gas Transmission Co.; Docket No. GP80-13, Kansas-Nebraska Natural Gas Co.

Regular Gas Agenda

I. Pipeline Rate Matters

RP-1. Reserved

II. Producer Matters

CI-1. Reserved

III. Pipeline Certificate Matters

CP-1. Docket No. CP81-505-000, Pacific Gas Transmission Co.; Docket No. CP82-22-000, Pacific Interstate transmission Co.
CP-2. Docket No. CP81-301-001, American Natural Rocky Mountain Co.; Docket No. CP81-328-000, Colorado Interstate Gas Co.
CP-3. Docket No. CP81-398-000, Northern Natural Gas Co.; a Division of Internorth, Inc.
CP-4. Docket Nos. CP81-365-000 and CP81-365-001, Natural Gas Pipeline Co. of America; Docket No. CP81-371-000, Northern Natural Gas Co.
CP-5. Docket No. CP82-150-000, Tennessee Gas Pipe Line Co.; Docket No. CP82-163-000, Texas Eastern Transmission Corp.; Docket No. CP82-171-000, Transcontinental Gas Pipe Line Corp.
CP-6. Docket No. CP81-205-001, Delhi Gas Pipeline Corp.
CP-7. Docket No. CP80-520, Natural Gas Pipeline Co. of America; Docket No. CP81-43-000, Energy Gathering, Inc.
CP-8. (a) Docket Nos. TC81-21-000 and TC81-21-004, Arkansas Louisiana Gas Co. (b) Docket No. CP81-400-000, Arkansas Louisiana Gas Co.; Docket No. CP81-409-000, Louisiana Intrastate Gas Co.; Docket Nos. CP78-294-004 and CP79-448-003, United Gas Pipeline Co.
CP-9. Docket No. CP81-274-000, Transcontinental Gas Pipe Line Corp.

Kenneth F. Plumb,
Secretary.

[S-253-82 Filed 2-18-82; 10:49 am]
BILLING CODE 6712-01-M

9

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Thursday, February 25, 1982.

PLACE: NW. board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

MATTERS TO BE CONSIDERED:

Merger: Increase in Accounts of an Insurable Type; Cancellation of Membership and Transfer of Stock—First Security Savings Association, Carthage, Missour *into* Home Savings Association of Kansas City, Kansas City, Missouri
Proposed Merger—First Federal Savings and Loan Association of Dawson County, Cozad, Nebraska *into* Commerical Federal Savings and Loan Assocation, Omaha, Nebraska
Bank Membership and Insurance of Accounts—Bel-Air Savings and Loan Association, Los Angeles, California
Service Corporation Activities
Amendment on Forward Commitments, Financial options Trading, and Financial Futures Trading

No. 9, February 18, 1982.

[S-254-82 Filed 2-18-82; 11:48 am]
BILLING CODE 6720-01-M

10

METRIC BOARD

Bimonthly Board Meeting

TIME AND DATE: 9 a.m. to 5:30 p.m., Thursday, March 4, 1982.

PLACE: United States Metric Board, 1600 Wilson Blvd., Suite 400, Arlington, Virginia 22209.

STATUS: 9:00 a.m. to 4:30 p.m. Open to the public; 4:30-5:30 p.m. Closed to the public (under exemptions 5 U.S.C. 552b(c)(2) and 5 U.S.C. 552b(c)(9)(B)).

MATTERS TO BE CONSIDERED:

Approval of Agenda—Approval of agenda for this meeting.
Review/Approval of Minutes of the Board Meeting held on January 7-8, 1982 in San Diego, California (open session).
Committee Reports—Committee Chairmen who wish to report to the Board will be recognized.
Briefing on Factors of Concern to Small Businesses focus of this study is on a compilation of the factors to be considered by Considering Conversion—The entrepreneurs when conversion is being examined. The results of the study will be construction of a set of decision guides, each representing a different class of small business (for example, manufacturing and retail trade).
Recommendations for Small Business Studies—Second in a series of studies on the impact of metrication on small business focused on the costs and benefits of conversion. Research Committee recommendations stemming from the findings of this study emphasize dissemination efforts and an effort to call the work to the attention of private and public sector decisionsmakers.
Legal Impediments Study—This is the third Board study touching on legal impediments to metrication and was developed from the *Fortune* survey. The final report from the contractor was provided to the Board prior to this meeting. The contractor will present a briefing on the findings and implications of the study. The Research Committee recommendations emphasize dissemination of the findings of the study and will be presented to the Board.
Briefing on Effects of Metrication on Safety in the Workplace—The study is a third of the series on the impact of metrication on workers. The focus of this study is on potential and actual hazards in the workplace that are connected with conversion. The contractor will present an information briefing on the findings of the study:
USMB Standards Report Update—Progress report to the Board on development of Final USMB Report and Recommendations on Standards as required by Section 6(4), 6(5), and 6(6) of the Act.
Status on Summary Report—Report on current status of the preparation of the USMB Summary Report to Congress and the President, including material received and delinquencies against schedule.
Federal Plan Update—The Board will be briefed on a course of action to achieve the Board's objectives as set out in the Federal Plan Phase II recommendations approved by the Board at the November 6, 1981 Meeting in Denver, Colorado.
Post-Endorsement Activities on Instruments Plan.
Post-Endorsement Activities on Chemicals and Allied Products Plan.
Agenda Items for May Board Meeting—Discussion of agenda items for the bimonthly meeting of the Board to be held in Arlington, Virginia on May 6-7, 1982.
Review/Approval of Minutes of Board Meeting on January 8, 1982 in San Diego, California (closed session).
Status of Personnel Reduction.

CONTACT PERSON FOR FURTHER INFORMATION: Lu Verne V. Hall; 703/235-1738.

Louis F. Polk,
Chairman, United States Metric Board.

[S-257-82 Filed 2-18-82; 1:11 pm]
BILLING CODE 6380-01-M

11

METRIC BOARD

Planning and Coordination Committee Meeting

TIME AND DATE: 8:00 a.m. to 3:00 p.m., Wednesday, March 3, 1982.

PLACE: United States Metric Board, 1600 Wilson Blvd., Suite 400, Arlington, Virginia 22209.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

Approval of Minutes
Briefing on Medical and Health Industry Panel Presentation
Review of Staff Recommendations for Post-Endorsement Activity for the Instrument Plan
New Business

CONTACT PERSON FOR FURTHER INFORMATION: Alan Whelihan; 703/235-2919.

Louis F. Polk,
Chairman, United States Metric Board.

[S-256-82 Filed 2-18-82; 1:11 pm]
BILLING CODE 6380-01-M

12

METRIC BOARD

Administrative and Budget Committee Meeting

TIME AND DATE: 11 a.m. to 1 p.m., Wednesday, March 3, 1982.

PLACE: United States Metric Board, 1600 Wilson Blvd., Suite 400, Arlington, Virginia 22209.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED: Two Briefings on Administrative and Budget Matters: (1) Briefing on appropriation matters, and (2) briefing on internal personnel policies and ongoing personnel actions. This meeting will be closed under exemptions 5 U.S.C. 552b(c)(2) and 5 U.S.C. 552b(c)(9)(B) because they pertain to internal personnel policies and ongoing personnel actions, and because premature release of the information would have significant adverse impact on policy formulation discussions.

CONTACT PERSON FOR FURTHER INFORMATION: G. Edward McEvoy; 703/235-1696.

Louis F. Polk,
Chairman, United States Metric Board.

[S-258-82 3-18-82; 1:12 pm]
BILLING CODE 6380-01-M

13

METRIC BOARD

Research Committee Meeting

TIME AND DATE: 11 a.m. to 3 p.m., Wednesday, March 3, 1982.

PLACE: United States Metric Board, 1600 Wilson Blvd., Suite 400, Arlington, Virginia 22209.

STATUS: 11-11:30 a.m. Open to the public; 11:30-3 p.m. Closed to the public (under exemption 5 U.S.C. 552b(c)(9)(B)).

MATTERS TO BE CONSIDERED:

State of Research Program
Legal Impediments
Small Business Factors
Workers Safety

CONTACT PERSON FOR FURTHER INFORMATION: David Freund; 703/235-2936.

Louis F. Polk,
Chairman, United States Metric Board.

[S-260-82 Filed 2-18-82; 1:12 pm]
BILLING CODE 6380-01-M

14

METRIC BOARD

Executive Committee Meeting

TIME AND DATE: 4 p.m., Wednesday, March 3, 1982.

PLACE: United States Metric Board, 1600 Wilson Blvd., Suite 400 Arlington, Virginia 22209.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: Progress on Summary Report.

CONTACT PERSON FOR FURTHER INFORMATION: Theodore S. Farfaglia; 703/235-1738.

Louis E. Polk,
Chairman, United States Metric Board.

[S-261-82 Filed 2-18-82; 1:12 pm]
BILLING CODE 6380-01-M

15

METRIC BOARD

Public Awareness and Education Committee Meeting

TIME AND DATE: 1 p.m., Wednesday, March 3, 1982.

PLACE: United States Metric Board, 1600 Wilson Blvd., Suite 400, Arlington, Virginia 22209.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

Approval of Minutes
Approval of Agenda
Report on Personnel
Review of Previous Month's Activities
Report on PSA's
Report on Projects
Report on Annual (Summary) Report
Report on USMB Modified Operating Plan

CONTACT PERSON FOR FURTHER INFORMATION: Dan Butler; 703/235-2024.

Louis F. Polk,
Chairman, United States Metric Board.

[S-262-82 Filed 2-18-82; 1:12 pm]
BILLING CODE 6380-01-M

16

NATIONAL MEDIATION BOARD

TIME AND DATE: 2 p.m., Wednesday, March 3, 1982.

PLACE: Board Hearing Room, 8th floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of Board actions taken by notation voting during the month of February, 1982.
2. Other priority matters which may come before the Board for which notice will be given at earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary; Tel: (202) 523-5920.

Dated: February 17, 1982.

[S257-82 Filed 2-18-82; 2:47 pm]
BILLING CODE 7550-01-M

17

UNITED STATES RAILWAY ASSOCIATION

DATE AND TIME: February 25, 1982; 10 a.m.

PLACE: Board Room, Room 2-500, fifth floor, 955 L'Enfant Plaza North, SW., Washington, D.C.

STATUS: The first portions of the meetings will be closed to the public; the second portions will be open to the public.

MATTERS TO BE CONSIDERED BY THE USRA BOARD OF DIRECTORS: Portions closed to the public (10 a.m.):

1. Internal Personnel Matters.
2. Litigation Report.

Portions open to the public:

3. Approval of Minutes of January 7 Meeting.
4. Contract Actions.

MATTERS TO BE CONSIDERED BY THE ADVISORY BOARD AND THE BOARD OF DIRECTORS: Portion closed to the public (11 a.m.):

1. Review of Conrail Proprietary and Confidential Financial information.

Portion open to the public:

2. Conrail Monitoring.

CONTACT PERSON FOR MORE INFORMATION: Alex Bilanow, (202) 488-8777 ext. 504.

[S-259-82 Filed 2-18-82; 12:19 pm]
BILLING CODE 6340-01-M

federal register

Monday
February 22, 1982

Part II

Environmental Protection Agency

Regulation of Fuel and Fuel Additives; Proposed Suspension of Compliance

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[AH-FRL 1993-6a]

Regulation of Fuel and Fuel Additives

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA regulations currently require all refineries except small refineries to meet a 0.5 gram per gallon (gpg) standard for average lead content in gasoline. Small refineries are currently required to meet less stringent standards; on October 1, 1982, they were to become subject to the 0.5 gpg standard. In this rulemaking, EPA will consider whether general relaxation or rescission of the 0.5 gpg standard is warranted. EPA will also consider whether small refineries should be subject to different standards than other refineries because of different economic impact. In the interim, EPA has proposed suspending the October 1, 1982, effective date for small refinery compliance with the 0.5 gpg standard.

DATES: Comments should be submitted by May 3, 1982. A public hearing will be held April 1–2, 1982. Requests to testify should be submitted by March 10, 1982.

ADDRESS: Comments should be sent to Docket No. A–81–36, Central Docket Section (A–130), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. The docket is located in the West Tower Lobby of EPA, 401 M Street SW., Washington, D.C., and may be inspected between 8:00 a.m. and 4:00 p.m. weekdays.

A public hearing will be held at Room 2409, EPA, 401 M Street SW., Washington, D.C. Requests to testify should be sent to the Director, Field Operations and Support Division (EN–397), EPA, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Richard G. Kozlowski, Director, Field Operations and Support Division (EN–397), EPA, 401 M Street SW., Washington, D.C. 20460. Telephone (202) 382–2633.

SUPPLEMENTARY INFORMATION: Pursuant to 40 CFR 80.20, refineries are subject to a standard of 0.5 gram per gallon (gpg) average lead content in gasoline, averaged over a three-month period. Small refineries, defined as those refineries with not greater than 50,000 barrels per day (bpd) crude oil or bona fide feedstock capacity, not owned or controlled by a refiner with greater than 137,500 bpd capacity, are currently exempt from the 0.5 gpg standard. These refineries are subject to standards ranging from 0.8 gpg to 2.65 gpg, depending upon the gasoline production of the small refinery. See 44 FR 46275 (August 7, 1979).

In this rulemaking EPA will consider whether new conditions would justify rescission or modification of the overall 0.5 gpg standard. Questions have arisen whether the proportion of the vehicle fleet requiring unleaded gasoline has reached a level such that the 0.5 gpg standard is no longer needed. Unleaded gasoline now accounts for approximately 52 percent of gasoline sales. Accordingly, EPA will consider relaxation or rescission of the lead phasedown standard, considering health effects, air quality impact, economic impact, and energy impact. As a sub-issue, assuming the continuation of some standard is still appropriate, EPA will look at different averaging schemes for compliance, which may enable refiners to have added flexibility and more efficiency in producing gasoline.

If it is decided that some lead phasedown standard continues to be appropriate, the Agency will also reconsider the treatment of small refineries. Given the relatively small fraction of total lead usage by small refineries, and the capital cost required for small refineries to install the necessary equipment to meet a 0.5 gpg standard, questions have arisen as to whether small refineries should be compelled to comply with such standard even if the agency does retain such a standard for other refineries. Pending the outcome of that reexamination, EPA is proposing to suspend the October 1, 1982 effective date for application of the 0.5 gpg standard to small refineries. Notice of that proposed suspension is published elsewhere in this issue of the Federal Register.

There are two principal issues EPA intends to analyze with regard to small refineries. Those are the level of the standard, if any, that is appropriate for small refineries, and the appropriate class of refineries that should be considered small refineries. Of course, these two issues are inextricably linked, since the rationale for providing relief may well define the proper recipient of that relief. Therefore, EPA expects that comments on one issue will also provide some direction on the other. As a sub-issue, it has been suggested that blending plants should no longer be treated as small refineries. It is alleged that certain blenders have come into operation merely to take advantage of less stringent lead standards from small refineries, and that this has caused inequities in the marketplace.

In particular, EPA requests that comments be submitted on the following questions:

(1) What, if any, would the adverse health effects of a less stringent standard (or no standard) be over the next few years? In particular, comments should address the degree, and duration, of increased lead emissions due to relaxation of rescission. The effect, if any, of these short-term increases on exposure of various populations to lead should be explored. That discussion should particularly focus on major urban areas, where vehicular traffic tends to be concentrated, and should include a discussion of the predicted effects on ambient air quality. Comments should also address the possiblity of maintaining standards for lead in gasoline only in areas with lead emission problems.

(2) What short-term economic cost savings would result from a less stringent standard (or no standard)? Comments should also specifically address the refinery energy usage in terms of (a) change in crude oil usage, (b) change in quantities of non-gasoline products, and (c) change in energy content of refined products, for different levels of lead usage in gasoline.

(3) What is the appropriate standard for small refineries and why? Specifically, comments should explore the rationale for differentiating small refineries from other refineries (e.g., differential economic impact, access to capital, refinery configuration) assuming the continuation of some overall standard. Based on the rationale, comments should address what standard, if other than 0.5 gpg, would be appropriate for small refineries, and the effect of that standard on air quality and health effects.

(4) Which plants should be considered small refineries? Based on the rationale for differential small refinery treatment, comments should address the appropriate criteria for inclusion in the class of small refineries, e.g., plant size, company size, plant configuration, access to crude oil supply. Comments should address the percentage gasoline production of the class of small refineries and the effect of relief for this class on air quality and health effects. In addition, since the Office of Refining Operations of the Department of Energy no longer certifies crude capacity, we request comments on how crude oil capacity should be determined, or alternatively, what factor could be used to determine size in lieu of capacity.

(5) Should blending plants be considered small refineries? Specifically, EPA requests comments on whether plants which produce gasoline, but do not process crude oil, should be considered small refineries. Also desirable would be comments on whether there are distinctions among blenders which are important, such as how long they have been in business.

(6) Should intra-refiner or inter-refiner averaging be permitted? At present, the regulations provide for standards to be met at each refinery, averaged over a three-month period. EPA will consider other averaging proposals, such as averaging across a refiner's total production, or averaging over longer than a three-month period, if warranted. Comments should address whether averaging schemes are likely to create significant geographic or temporal disparities in lead emissions.

(7) Should standards apply to finished gasoline imported into the U.S.? Comments should address any competitive aspects of controlling the importation of gasoline.

Accordingly, EPA proposes a number of alternative regulatory measures. Comments should address any or all of the alternatives, and/or other suggested alternatives. EPA will consider all the comments received in developing a final rule, and the rule may involve possibilities other than the specific alternatives listed below, based on the record developed.

There are three main areas in which EPA will consider changes to the current lead phasedown program. Following are proposed alternative measures in each of these three subject areas:

(1) Overall lead phasedown standard:
(a) 0.5 gram per gallon (current standard);
(b) 0.65 gpg (representing approximately a 65 percent reduction in mobile source lead emissions, originally set as the goal for reduction in gasoline lead emissions, *see* 38 FR 33740 (December 6, 1973));
(c) 0.8 gpg (standard preceding 0.5 gpg standard);
(d) 1.0 gpg;
(e) Rescission;
(f) 0.5 gpg only in selected urban areas;
(g) Others.

(2) Small refineries (after October 1, 1982):
(a) Definition:
(i) Not greater than 50,000 barrels per day (bpd) crude capacity, not owned by a refiner with greater than 137,500 bpd crude capacity (current definition);
(ii) Not greater than 50,000 bpd crude capacity, owned by an independent refiner (an independent refiner being one which obtains more than 70 percent of its crude oil by producers not controlled by that refiner) with greater than 137,500 bpd crude capacity;
(iii) Not greater than 50,000 bpd crude capacity;
(iv) Not greater than 25,000 bpd gasoline production;
(v) Any of the alternatives (i)–(iv), if producing gasoline prior to October 1, 1981;
(vi) Any of the alternatives (i)–(iv), if refining crude oil and producing gasoline prior to October 1, 1981;
(vii) any of the alternatives (i)–(iv), if refining crude oil and producing gasoline prior to October 1, 1976;
(viii) Others;
(b) Standard (after October 1, 1982):
(i) Same standard as for other refineries;
(ii) 0.8 gpg–2.65 gpg (current standards);
(iii) 1.0 gpg, (as proposed by EPA January 17, 1977 (42 FR 3168) to equalize the economic impact of lead phasedown);
(iv) Differential standard only for volume of gasoline equal to 50 percent crude runs;
(v) Others.
(3) Averaging:
(a) Quarterly, by refinery (current program);
(b) Quarterly, by refiner (intra-refiner averaging);
(c) Quarterly, by refiner with trading (inter-refiner averaging);
(d) Semi-yearly or yearly;
(e) Semi-yearly or yearly with intra-refiner averaging;
(f) Semi-yearly or yearly with inter-refiner averaging;
(g) Others.

Comments should address whether imports of leaded gasoline are causing competitive problems sufficient to justify imposition of a regulatory control on the lead content of imported gasoline, and if so, how such a program could be structured.

Comments should address as many of the alternatives as possible. These alternatives are not intended to be exclusive. Commenters should not only address their preferred option, but should also address the relative costs and benefits of less-favored alternatives.

Section 307(d)(3) of the Clean Air Act, 42 U.S.C. 7607(d)(3), requires that rulemaking proceedings under section 211 of the Act, 42 U.S.C. 7545, take into account any pertinent findings of the National Academy of Sciences. Therefore, any comments urging a change in the current rule should address relevant findings in the 1980 report, Lead in the Human Environment, prepared by the Committee on Lead in the Human Environment of the National Academy of Sciences, and should explain any differences, if any, between the comments and the pertinent findings of the report. EPA does not disagree with the recommendation of that report that lead should be addressed in an integrated, inter-agency approach; nevertheless, we believe that expeditious consideration of the discrete issue of lead in gasoline is appropriate now because of its short-term nature. Within four to six years, even if there were no standard for lead in gasoline, the growth in unleaded gasoline usage would result in total usage of lead antiknock additives equal to the level of usage under current regulatory controls. Therefore, unlike other issues surrounding lead in the environment, this issue is strictly one of short duration. The questions here are not of the nature to be addressed by middle to long-term research and changing institutional mechanism as discussed in the NAS report, but of what makes the most sense for the next four to six years for this single program.

This proposal has been sent to the Office of Management and Budget (OMB) for review pursuant to Executive Order 12291. Any comments by OMB and any EPA response can be found in Docket No. A–81–36.

This proposed action is not "major" under Executive Order 12291 in that it is not likely to have significant adverse economic impact and, therefore, is not subject to the requirement of a Regulatory Impact Analysis. This action is not major because none of the proposed amendments to the current regulation are likely to result in:

(1) An annual adverse effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries; Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because the alternatives under consideration do not impose more stringent requirements on small entities, preliminary analysis pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), leads me to believe that the proposed amendments are not likely to have a significant impact on a substantial number of small entities. However, I specifically invite comments on the possible competitive impacts of the proposed alternatives on small gasoline producers.

Comments should be sent to Docket No. A–81–36, Central Docket Section (A–130), Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. The docket is locate in the West Tower Lobby of EPA, 401 M Street, SW, Washington, D.C. and may be inspected between 8:00 a.m. and 4:00 p.m. weekdays. A reasonable fee may be charged for copying. Docket No. A–81–36 incorporates by reference Docket No. EN–79–14 and Docket No. OAQPS 78–3.

Dated: February 16, 1982

Anne M. Gorsuch,

Administrator.

[FR Doc. 82–4785 Filed 2–19–82; 8:45 am]

BILLING CODE 6560–38–M

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40 CFR Part 80

[AH–FRL 1993–6b]

Fuel and Fuel Additives; Proposed Suspension of Compliance Date for Small Refineries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed suspension of effective date.

SUMMARY: Current regulations establish the maximum average lead content in gasoline that may be used by small refineries. These regulations are scheduled to terminate on October 1, 1982, at which time small refineries are required to meet the 0.5 gram per gallon standard applicable to all other refineries. EPA is proposing to suspend indefinitely that October 1, 1982 effective date pending an examination of the appropriate treatment of small refineries.

DATE: Comments should be submitted by March 24, 1982.

ADDRESS: Comments should be sent to Docket No. A–81–36, Central Docket Section (A–130), Environmental Protection Agency, 401 M Streets, SW., Washington, D.C. 20460. The docket is located in the West Tower Lobby of EPA, 401 M Streets, SW., Washington, D.C., and may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Richard G. Kozlowski, Director, Field Operations and Support Division (EN–397), EPA, 401 M Streets, SW., Washington, D.C. 20460. Telephone (202) 382–2633.

SUPPLEMENTARY INFORMATION: On August 7, 1979, (44 FR 46275) EPA published regulations applicable to small refineries. These regulations exempted, until October 1, 1982, small refineries from the 0.5 gram per gallon (gpg) lead in gasoline standard applicable to all other refineries. Instead, these rules established a range of standards for small refineries, defined as those refineries with a crude oil capacity of 50,000 barrels per day or less, not owned or controlled by any refiner with a total crude oil capacity greater than 137,500 barrels per day. The range of standards is 0.80 gpg to 2.65 gpg, depending on gasoline production. Separate standards for small refineries until October 1, 1982, are mandated by section 211(g) of the Clean Air Act, 42 U.S.C. 7545(g).

EPA has decided to consider whether some alternative to the current lead phasedown program is appropriate, and in particular whether under current conditions it is appropriate to require small refineries to meet the 0.5 gpg standard on October 1, 1982, or whether some alternative would be reasonable. Small refineries comprise a small share (5–7 percent) of the gasoline market, and given their relative contribution to overall lead emissions it may be appropriate to consider alternative regulatory approaches. These issues will be explored in a notice of proposed rulemaking published elsewhere in this issue of the Federal Register.

Because attainment of the 0.5 gpg standard will likely require substantial capital investment on the part of small refineries in the near future, EPA has concluded that the effective date of that standard for small refineries should be postponed pending the outcome of the analysis on the entire lead phasedown issue. Therefore, I am proposing an indefinite suspension of the date by which small refineries must comply with the 0.5 gpg standard. Any final decision regarding standards for small refineries will take into account the lead time required for construction of any processing equipment needed for compliance. Under this proposal, the current range of standards for small refineries would remain in effect pending a decision on any new standards for small refineries.

In order to avoid undue delay, I am providing a 30-day comment period on this proposed suspension. Comments should address the need for a suspension of the October 1, 1982 effective date for small refineries, and whether such a suspension involves any adverse impacts.

This proposed action is not "major" under Executive Order 12291 and, therefore, is not subject to the requirement of a Regulatory Impact Analysis. This action is not major because it is not likely to result in:

(1) An annual adverse effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action has been submitted to the Office of Management and Budget (OMB) under Executive Order 12291. Any comments by OMB are in Docket No. A–81–36.

Comments should be sent to Docket No. A–81–36, Central Docket section (A–130), Environmental Protection Agency, 401 M Streets, SW., Washington, D.C. 20460. The docket is located in the West Tower Lobby of EPA, 401 M Streets, SW., Washington, D.C., and may be inspected between 8:00 a.m. and 4:00 p.m. weekdays. A reasonable fee may be charged for copying. Docket No. A–81–36 incorporates by reference Docket No. EN–79–14 and Docket No. OAQPS 78–3.

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), I hereby certify that this action will not have a significant impact on a substantial number of small entities.

Dated: February 16, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82–4786 Filed 2–19–82; 8:45 am]

BILLING CODE 6560–38–M

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federal register

Monday
February 22, 1982

Part III

Department of Transportation

Federal Aviation Administration

Air Traffic Control System; Interim Operations Plan

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 22050; SFAR No. 44-3]

Air Traffic Control System Interim Operations Plan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment to Special Federal Aviation Regulation (SFAR) No. 44–2 establishes certain procedures for the operation of the National Air Traffic Control System, including procedures to be utilized in expanding from a reduced base of carrier operations, as necessary, to provide for the safe and efficient operation of the air traffic control system in a situation of reduced air traffic control capacity. The Administrator has determined that a situation still exists which requires reduced air traffic control capacity and that the continuation of the special air traffic provisions established under SFAR 44–2, as modified by this amendment, is necessary to provide for the efficient and safe movement of air traffic. This amendment makes adjustments to the air traffic procedures established by SFAR 44–2 to provide for a random drawing to determine priority order for consideration for allocation of arrival capacity at all airports within the contiguous United States, provides for longer allocation periods, and defines new entrants.

EFFECTIVE DATE: February 18, 1982. Comments are invited on this Interim Operations Plan until October 30, 1982, unless it is withdrawn at an earlier date.

ADDRESSES: Send comments on the rule in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204) Docket No. 22050, 800 Independence Avenue, SW, Washington, D.C. 20591. Comments may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Harvey Safeer, Office of Aviation Policy and Plans, (Telephone (202) 426–3331); or

John R. Ryan, Operations Division, Air Traffic Service (Telephone (202) 426–8310), Federal Aviation Administration, 800 Independence Avenue, SW, Washington, D.C. 20591.

SUPPLEMENTARY INFORMATION:

Comments Invited

Although this amendment is in the form of an emergency final rule which concerns immediate flight safety throughout the United States, and, thus, is not preceded by a notice of proposed rulemaking, comments are invited on this Special Federal Aviation Regulation which will remain in force until October 30, 1982.

On January 18, 1982 (47 FR 3057, 1/21/82), the FAA announced that a public meeting would be held to receive views and comments from interested persons with respect to the options for transitioning to spring airline schedules. In addition to publishing a notice of the meeting in the Federal Register, notices were sent to all air carriers. A series of questions was raised in the notice and all parties were asked to be prepared to discuss the questions listed or to submit written comments. A public meeting was held in the FAA Building, 800 Independence Avenue, SW, Washington, D.C., on February 1. Over 20 speakers representing trade organizations, air carriers and commuter air carriers presented views on the various scheduling options. Attendees were invited to submit additional comments to the docket.

Since the issuance of SFAR 44–2, agency officials have been reviewing the capacity of the air traffic control system. This included monitoring of: staffing levels of all air traffic control and center facilities; the controller training program; weather projections; airspace routes, national defense needs, and other related factors. After evaluation of these factors, it was determined that the air traffic capacity at a number of controlled airports and air traffic control centers could be increased. These numbers were not determined until immediately prior to the February 1 public meeting. As a result of this and the need to establish procedures in a time frame which would enable the development and publication of airline schedules for the spring and summer schedule periods, the use of normal comment procedures were precluded. The procedure utilized, however, ensured a wide distribution of notice and full discussion of the issues. The FAA invites additional comments on the procedures contained in this regulation. Comments are specifically invited on any aspects of the operation of the Air Traffic Control system under this amendment that suggest a need to modify the regulation, or which should be considered should additional procedures be necessary. Comments received will be reviewed on a continuing basis and this amendment and the Interim Operations Plan may be changed in the light of comments received. Commenters wishing the FAA to acknowledge receipt of their comments in response to this rule must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 22050." The postcard will be date/time stamped and returned to the commenter.

Air Traffic Control System Interim Operations

The actions of certain controllers reduced the number of air traffic controllers who are available to operate the Air Traffic Control (ATC) system. This has resulted in the reduction of the level of services that the FAA can provide at various ATC facilities. Although the level of operations at some of these facilities has increased during the past few months and will continue to increase, it is still necessary to maintain some limitations at many of these facilities.

This has been accomplished by the operation of the ATC system under normal air traffic control procedures with the aid of "flow control" measures that result in a reduction of user demands on the system (SFAR No. 44 (46 FR 39806, August 4, 1981); SFAR No. 44–1 (46 FR 44424; September 4, 1981); and SFAR 44–2 (46 FR 48906, October 5, 1981)).

This amendment outlines the schedule and approval cycle which the FAA plans to utilize for the Spring airline schedules and for subsequent schedule changes contained herein until October 30, 1982. These changes are being made as a result of a review of operations since August 2, 1981, comments made during the public hearing on February 1, 1982, and written comments filed in Docket 22050. The plan outlined is designed to benefit all concerned—passengers, air carriers, other system users and the FAA, and should result in a more equitable system of obtaining operational authority.

This procedure continues to utilize the air carriers' schedules submitted to the Official Airline Guide (OAG) as a basis for the allocation of operations at airports irrespective of IFR or VFR operations. Use of the OAG eliminates the need for duplicate information to be submitted to the FAA and provides the industry and the public with a usable schedule. Since use of OAG has worked well, it will continue to be used. Provision is also made for carriers not publishing in the OAG.

With cooperation of all classes of users and the procedures utilized over the last few months have permitted the safe and efficient operation of the ATC system based upon the air traffic work force available at each ATC facility within the system. The reduction in user demand necessary because of the reduced work force has been accomplished while allowing the air carriers the maximum possible control over their operations. In addition, it permits adjustments to the system to provide for many of the intermittent changes in air carrier schedules that routinely occur. The procedures also permit normal flight planning and fuel conservation techniques by users. They further provide some flexibility to accommodate new or additional services that may occur at an airport as air carrier operations and the ATC work force at that airport change. In addition, the Plan provides ATC service to meet as many other aviation needs as can be accommodated with the available work force.

Accordingly, the Administrator has determined that the National Air Traffic Control system should continue to operate under the Interim Operations Plan, as modified by this amendment, until further notice. While the agency will closely monitor the operation of these procedures and will make changes if necessary, to provide for system stability, the procedures contained in this amendment will not be significantly modified until it is determined that these reduced levels are no longer necessary. The airports and air route traffic control centers at which some constraints are still necessary, are attached to this SFAR. This listing shows those airports in which limited additional capacity will be available through October 30, 1982. Air Route Traffic Control Center (ARTCC) capacity is also limited as shown in the attachment to this SFAR. The listing also shows additional ARTCC capacity which will be available through October 30. Schedule reductions may be imposed if the demand for allocations cannot be safely and efficiently handled by the controller work force at the ATC facilities involved. If conditions change substantially at any airport or air traffic control center, the FAA will attempt to make that information available as far in advance as is possible.

Strict adherence to operation limits contained in this amendment and related NOTAM's is essential to a continuation of a safe and efficient airspace. The Administrator will take whatever action is necessary to ensure adherence with the operations limits.

The March 1–April 24, 1982 schedule, as established under SFAR 44–2, will serve as the base for the scheduling period April 25–May 31, that level in turn will serve as the base for June 1–July 31, and August 1–October 30 period. Under this incremental approach, air carriers would provide only requested changes or additions to the March 1–April 24 FAA approved schedule for the period starting April 25 and thereafter.

The following is a brief discussion of the issues raised at the public hearing and comments submitted to the docket.

Historical Base for Schedule Submittal

Some commenters were against the use of an incremental method for allocating slots. They stated that incremental changes to prior schedules do not automatically provide for possible seasonal changes in airline activity. Some commenters suggested that it would violate the spirit of airline deregulation, was a barrier to competition, and was incompatible with the economic viability of new entrants. Many suggested that some form of guaranteed entry be accorded new entrants. Priority treatment for new entrants is addressed later in this document.

As an alternative to incremental allocation, the agency considered the utilization of a new historical period (zero based method) which would be selected as the basis for rationing airport operations. The new basis could reflect previous summer patterns, e.g., July 1, 1981. It must be noted that most commenters advocating the use of a zero based method suggested different base periods.

The "zero base" procedure could provide for seasonal adjustments of carrier activity at individual airports based on historic patterns. Several small carriers have indicated a strong desire to make seasonal adjustments to FAA-approved schedules.

Utilization of this procedure would cause a major disruption of the historical pattern of the present hourly schedules. It would create a substantial workload for the air carriers given the potential for a major change in individual airline allocations and would dramatically alter the markets which have been developed by the carriers over the seven months of the Interim Operations planning. Also, a "zero base" procedure which uses a prestrike period schedule would not include new entrants since September 1981. The procedure does not address the problems of market entry which are the concern of new entrants. Finally, such a procedure would require substantial FAA analysis of the new base period and new monthly requests to establish new approved schedules, causing a major delay in the production of the April 25 and subsequent schedules.

The majority of carriers attending the February meeting or submitting comments to the docket favored awarding slots by incremental changes to the existing approved schedules. The procedure was cited as least disruptive to current air carrier schedules and hence passengers. It is also administratively less burdensome to the FAA. The allocation base would be an already stabilized schedule of reduced capacity service and would only require minor adjustments to produce a modified capacity constrained schedule. This is the current FAA procedure, it works and carriers are familiar and reasonably comfortable with the process.

For these reasons, the agency will award slots by incremental changes to the existing approved schedules.

Periods of Allocation

In order to match FAA's proposed schedule of increases at capacity controlled airports, three separate scheduling periods are established between April 25 and October 30: April 25–May 31; June 1–July 31; and August 1–October 30.

By adopting these schedule periods, new ATC capacity will be allocated as it becomes available. Use of these periods will also retain some carrier flexibility for requesting desired schedule changes, while the use of the longer schedule periods should raise consumer confidence in air carrier schedules and should reduce FAA workload.

Alternative scheduling periods were considered. The present practice of monthly schedule approvals was considered. This would retain current flexibility for making changes while making capacity changes available as they occur. This method was not selected as a result of the substantial amount of resources which the carriers and the FAA must devote to the approval process. Also, continuation of present practice does not provide relief from present public uncertainty regarding schedules. The public needs some long term consistency.

Method of Allocation

Numerous comments were received on methods of allocation. This discussion focuses primarily on awards of either additional arrival slots anticipated during the spring-summer months or of slots given up by incumbent carriers.

Since the establishment of the Interim Operations Plan, the agency has utilized a first-come-first-served method to

allocate overall capacity. Requests have been recorded by date-time group and processed in the order received. Available slots have been allocated by the fixed sequence, one or more at a time, going down the list until all slots have been allocated. This could continue in the future with the number of slots either allocated with no limit on the total number of frequencies, limited to a set number, limited to levels that return all incumbent carriers to a prestrike level, or set so new entrants have at least some minimum daily number. If limits are to be used, slots that remain after all limits are met can be allocated based on the initial priority list established by date-time group.

Several commenters expressed concern that any procedure without limits might result in all new available capacity being awarded to a single carrier. Some carriers stated that they prefer having new capacity go unused for a brief period in order to conduct an allocation procedure which would give all carriers a share of or an equal chance of obtaining new capacity. Simultaneous receipt of two or more requests presents decision problems. Finally, individual carriers have access to different methods of transmitting requests with different transmission speeds and that may result in inequities. Smaller carriers located large distances from Washington could be at a distinct disadvantage under first-come-first-served.

An alternative to first-come-first-served is the use of a random draw. This procedure could be used to allocate overall capacity, or a fraction of total capacity reserved for any group given priority treatment. In this case requests may be given ordinal numbers according to date-time group but are not processed in the order received. Instead a number is randomly selected and the request corresponding to that number is matched.

With this procedure, time of transmission and means of transmission of request do not affect chances of approval. There is not even an appearance of preferential treatment, because the process is random and will be open for public view. An unweighted random draw gives all carriers equal opportunity.

As an alternative to distributing new capacity based on carrier requests (either first-come-first-served or random draw), new or additional capacity could be prorated to carriers based either on their present share of operations, or as suggested by one carrier, based on the number of operations which carriers had to eliminate under the Interim Operations Plan.

The principal advantages of a pro rata distribution are ease of administration and, in the case of proration based on reduced operations, restitution of previously provided service. The use of proration based on present or prior service limits new entrants to the potential detriment of competition. The use of proration based on prior service would be difficult to administer equitably since some small carriers did not have published (OAG) schedules prior to September 1981. In addition, some carriers have reduced their total number of slots or routes for other reasons. Restoration of slots for such carriers would create inequities. Further, such a proration methodology would make no accordation for shifts in market structure, delivery of new equipment or entry of new carriers.

A random draw will be utilized. It does not give any preference to carriers with more resources or in close proximity to Washington.

Definition of "New" Entrants

The strike and subsequent constraint of system capacity posed a particular problem to new carriers who had not yet established their schedules at the principal airports. Capacity constraints at major airports constitutes a barrier to entry, reducing competition in markets. New entrants may initially seek access to more than one constrained airport. A policy which would eliminate the only opportunity for new entrants would be inconsistent with public policy. Therefore, some priority consideration must be given to new entrants. The following describe some of the definitions considered.

Any Carrier in a Specific Market for First Time

This is a broad definition which encompasses both long established and newly organized carriers. It would accommodate carriers wishing to adjust service to changing economic/market conditions. Because the definition is not very restrictive, practically all carriers qualify somewhere. There is not enough capacity to immediately accommodate all who might wish to enter new markets based on this definition.

Any Carrier Commencing Service After October 1978

If this option were adopted, it would provide needed opportunities for growth to new carriers starting business in the deregulated system, but would exclude long-established airlines. Again, the definition is not very restrictive, and a large number of carriers would qualify at many of the 22 airports compared to the number of carriers which would meet this definition. There is insufficient capacity to accommodate all who might wish to enter new markets.

Carrier Which Had Filed for Certificate With CAB Prior to August 3, 1981 But Had Not Commenced Service on That Day

This option would be limited to carriers which had applied for route authority prior to. August 3, 1981 and were not operating on the date of issuance of this SFAR. It would provide initial access to those carriers which started prior to the strike. Such a limited definition recognizes the unique problems of a carrier in its early start-up period. It is a restrictive definition and as such recognizes the limited amount of new capacity which will become available during spring-summer, 1982.

Because there is only a limited amount of ATC capacity, it is not possible to accommodate all the operations which carriers want to fly. Carriers formed after August 3, 1981 (the first day of the air traffic controllers strike) or requesting route authority after that date were aware of the limited capacity of the system. They undertook their ventures with full knowledge of prevailing conditions. Conversely, carriers formed, requesting route authority, and making equipment commitments before the strike are now unwittingly confronted with a reduced ATC system capacity and associated adverse economic impacts. Carriers who requested route authority prior to August 3 and who sought slots since that time have been accommodated to some extent. As a result of the limited new or additional capacity which will become available during the next several months, it would be inequitable to continue to afford those carriers priority treatment. These circumstances are reflected in the definition of new entrants used by the FAA in establishing new capacity allocation priorities. A new entrant is thus defined as a carrier which had applied for route authority prior to August 3, 1981, and was not operating on February 17, 1982. All other carriers are considered to be incumbent carriers.

For the above reasons, and after consideration of numerous options, and public comments, the FAA will utilize the following schedule approval procedures for spring-summer 1982.

Allocation Procedures

The FAA must assure safe and efficient use of ATC capacity while minimizing disruption to air carriers and the travelling public. Authorization of future period schedules developed by incremental changes to an existing schedule has been an effective way of assuring that ATC system use does not exceed capacity. Most carriers are satisfied with this basic procedure. Principal objections to continuation of the incremental procedure have been made by carriers that believe a first-come-first-served procedure for allocating additional capacity is inequitable and a number of new entrants who argue that an incremental basis for developing schedules favor incumbents to the detriment of competition.

Improvements are made upon the incremental procedure for developing schedules. First, a priority system will be initiated which accords new entrants the highest priority in awarding additional and/or new ATC capacity, without precluding incumbents from some expansion of service. Second, a random procedure is implemented for determining the order in which individual carriers' requests for additional operations are processed. Finally, limits are placed on the amounts of additional service authorized for any carrier so as to maximize each carrier's chance of receiving some increase in operations.

Schedules for April 25, 1982 and thereafter will continue to be developed using the incremental approach. Schedules will be based on the prior approved schedule as modified by FAA approved hourly schedule changes. The April 25 through May 31, 1982 schedule will be based on the existing FAA approved March 1 through April 24, 1982 schedule. There will be two other schedule periods during the spring-summer of 1982: June 1 through July 31, 1982 and August 1 through October 30, 1982. Each of these schedules will refer to the previous period as an allocation base.

Unless directed by CAB in cases of essential air service or for some other CAB requirement or if it is determined that the carrier is operating flights in violation of these regulations, incumbent carriers will not be required to involuntarily give up slot allocations for another carrier's use. Specific operation authorizations will be deemed revoked in situations in which carriers do not actually provide service within the scheduling period (except for a carrier failing to provide service due to an involuntary work stoppage). Level of use required is 70 percent of the schedule use allocated for any full schedule period. For example, if a slot is scheduled to be used 30 days out of a schedule period of 37 days, required level of use is 21 days; otherwise, use of the slot will be automatically revoked by FAA.

Special consideration will be given to new entrants. A new entrant is defined as a carrier who had an application for operating authority on file with the Civil Aeronautics Board (CAB) prior to August 3, 1981, *and* did not operate on February 17, 1982. Applicant carriers who are not new entrants as defined herein will be treated as incumbents for capacity allocation purposes.

The FAA recognizes that while there will be some room for incumbent carriers to expand, the scheduling flexibility available for these carriers during the next few months will be limited. Increased flexibility would enable carriers to make necessary adjustments to their route systems and would be in the public interest. For this reason, the DOT/FAA is withdrawing opposition to the proposal before the CAB (Docket No. 40178) to grant antitrust immunity to the carriers to allow them to hold discussions for the purpose of exchanging slots. The FAA has no objection to trading of slots at one airport or between airports if the resulting total number of hourly arrivals at any airport does not exceed the number allocated by the FAA for the previous schedule periods. It must be emphasized, however, that any exchange of slots will not in any way affect the base of additional slots that will become available during each scheduling period. The FAA has notified the CAB of this position.

At each airport, new entrants will be allocated arrivals based upon the new or increased additional capacity first. Where there is more than one new entrant, the order in which capacity will be allocated to each new entrant will be determined by random draw. Following the new entrants allocation, incumbents will then be allocated the remaining capacity. New entrants not obtaining slots during their draw will be included with the "incumbent" draw. If there is more than one incumbent applicant, the order in which capacity will be allocated to each incumbent will be determined by random draw. If additional capacity still remains after each new entrant and incumbent carrier has been allocated slots, the allocation sequence will be repeated based upon the order previously established by random draw. The allocating sequence will be repeated until all available or requested new/additional capacity is allocated at the airport.

Carriers submitting schedule requests shall rank their hourly requests in their order of preference for each airport. This preference list will be used in connection with random draws. The assignment of flights by the FAA under the random draw system will reflect the carrier's hourly preferences at each of the airports. First preference will be awarded where available. When not available, the next available hourly preference will be allocated. It must be emphasized that the complexity of the system does not allow submissions of market pairs, allocation is made only by arrivals at each airport.

The dates by which submittals must be made will be communicated to all parties by seperate notification.

The number of slots that will be allocated to carriers will be limited in each allocation sequence. A new entrant will not be allocated more than twenty percent of new/additional capacity available at a controlled airport each time it comes up in the allocation sequence; new entrants as a group will not be allocated more than forty percent of new/additional capacity available at a controlled airport each time they come up in the allocation sequence. If the percentage formula results in allocation of fewer than 2 slots, then the new entrant will be allocated 2 slots. Each new entrant will be allocated 2 slots so long as the 40% figure is not increased. If there are not sufficient slots to allow new entrants to each obtain slots at a particular airport, then the new entrants will be considered as an incumbent for that airport. New entrants will receive priority consideration at each airport for which they request capacity. Fractions of slots determined by the percentage rule will be rounded upward, e.g., 2.2 arrivals will equal 3 slots allocated. If a new entrant requests fewer slots than it can obtain under this percentage formula, it will be allocated only the number requested.

At an airport with ten or fewer slots available, no incumbent will receive more than two (2) slots each time it comes up in the allocation sequence if requested. If 11 to 30 slots are available at an airport, no incumbent will receive more than three (3) slots each time it comes up in the allocation sequence if requested. If 31 or more slots are available, no incumbent will receive more than four (4) slots each time it comes up in the allocation sequence if requested. If an incumbent requests fewer slots than the maximum it can receive in any allocation round, it will be allocated only the number requested.

Once all new/additional capacity requests have been processed at each airport, requests for one-time charter operations, hourly slides, origin changes and other changes will be processed.

Air Route Traffic Control Center (ARTCC) capacity is also limited. Capacity allocations will be made first for the 22 major airports. Then, remaining new/additional ARTCC capacity will be allocated at all other airports. Since certain centers have limited additional capacity, allocation at noncontrolled airports within those centers may be limited depending on the time of day which the flight will be flown. In order to allow for the maximum amount of operations within these centers, they will be considered individually after allocations are made at the 22 controlled airports. In the event that only one flight can be handled for a particular route at a given time, it will be allocated in accordance with the carrier priority determined during the one random draw for all noncontrolled airports. New entrant/incumbent provisions apply to this part of the allocation as well. Once all new/additional ARTCC capacity has been processed, requests for one-time charters, within ARTCC origin changes, hourly slides, and other changes will be processed.

FAA will process changes to flight schedules between schedule periods for—flight number changes, within-hour changes at the same constrained airport, and hourly changes within the allocated daily total at all other airports. No new/additional flight requests will be processed by the FAA between schedule periods.

The priority system of awarding additional capacity will provide new entrants with a substantial opportunity in a constrained system to institute some new service while permitting incumbents some opportunity to increase their operations. Allocation of capacity by random draw to specific carriers within priority groups maximizes the potential of each carrier for receiving additional operation authority. Carriers' summer seasonal demand was previously reflected in their September 1, 1981 base. Additional seasonal needs should be included within the carriers' requests for additional capacity.

Unscheduled flights by air carriers such as charters, training, etc. into a designated airport must, to the extent possible, be submitted to API as part of the schedule submission. Otherwise, such requests will continue to be handled no more than 15 days in advance by flow control. International flights will continue to be processed in accordance with the current procedures established for international flight.

This amendment does not change the present authority of the Director of Air Traffic Service to restrict, prohibit or permit VFR and/or IFR operations at any airport, TCA or other terminal and enroute airspace; to give priority at any airport to flights that are military necessities, medical emergency flights, Presidential flights, and flights transporting critical FAA employees; and to implement flow control management procedures, including reduction of flight operations, at any airport or within enroute airspace.

The basic rules and orders necessary for operation under the Interim Operations Plan will continue to be disseminated, in accordance with § 91.100 of the Federal Aviation Regulations, by Notices to Airmen (NOTAM).

The continued operation of the National Air Traffic Control System in a safe and efficient manner requires the immediate adoption of this regulation in the public interest. Therefore, I find that further notice and public procedure thereon are impracticable and contrary to the public interest. I further find that good cause exists for making this regulation effective in less than 30 days after its publication in the Federal Register.

Adoption of the Rule

Accordingly, the Interim Operations Plan contained in Special Federal Aviation Regulation No. 44–2, effective on 10–5–81, 46 FR 48906, as part of 14 CFR Part 91 is withdrawn, and effective Feb. 18, 1982 SFAR–44–3 is issued and added to Part 91:

Special Federal Aviation Regulation No. 44–3

1. Each person shall, before conducting any operation under the Federal Aviation Regulations (14 CFR Chapter I), familiarize himself with all Notices to Airmen issued under § 91.100; when activated, with the provisions of the National Air Traffic Control Contingency Plan (FAA Order 7110.80), available for inspection at operating Air Traffic facilities and Regional air traffic division offices; and with all other available information concerning that operation.

2. Notwithstanding any provision of the Federal Aviation Regulations to the contrary, no person may operate an aircraft in the air space under the jurisdiction of the United States—

(a) Contrary to any restriction, prohibition, procedure or other action specified in this Special Federal Aviation Regulation (SFAR) or specified by the Director of Air Traffic Service pursuant to paragraph 3 of this regulation and announced in a Notice to Airmen pursuant to § 91.100 of the Federal Aviation Regulations, or

(b) If the National Air Traffic Control Contingency Plan is activated pursuant to paragraph 5 of this regulation, except in accordance with the pertinent provisions of the Contingency Plan (FAA Order 7110.80, dated February 27, 1981, as amended by Errata Change issued March 10, 1981, Errata Change No. 2 issued March 18, 1981, and Errata Change No. 3 issued June 19, 1981).

3. As conditions warrant or until activation of the National Air Traffic Control Contingency Plan (Phase III), the Director of Air Traffic Service is authorized to—

(a) Restrict, prohibit or permit VFR and/or IFR operations at any airport, Terminal Control Area or other terminal and enroute airspace (subject to any restrictions and limitations imposed under paragraph 4 of this regulation);

(b) Give priority at any airport to flights that are military necessities, medical emergency flights, Presidential flights, and flights transporting critical Federal Aviation Administration employees; and

(c) Implement at any airport or within enroute airspace flow control management procedures, including reduction of flight operations. Reduction of flight operations shall to the extent feasible be made pro rata among and between air carrier, commercial operator, and general aviation operations.

4. As conditions warrant or until activation of the National Air Traffic Control Contingency Plan (Phase III), the Associate Administrator for Policy and International Affairs is authorized to implement reductions in air carrier schedules in accordance with the Appendix to this regulation as air traffic capacity requires if operations at an airport cannot be safely and efficiently handled by the controller work force at the air traffic control facilities involved; and limit the number of daily and hourly operations of an air carrier at any airport.

5. If the actions taken in accordance with paragraphs 3 and 4 of this regulation do not provide for the orderly movement of air traffic, the Director of Air Traffic Service may activate the National Air Traffic Control Contingency Plan (Phase III).

6. Upon activation of the National Air Traffic Control Contingency Plan (Phase III) and notwithstanding any provision of the Federal Aviation Regulations to the contrary, the Director of Air Traffic Service is authorized to suspend or modify any airspace designation (or chart).

7. All restrictions, prohibitions, and procedures established, and other actions taken by the Director of Air Traffic Service under this regulation with respect to the operation of the Air Traffic Control system will be announced in Notices to Airmen issued pursuant to § 91.100 of the Federal Aviation Regulations.

8. The Director of Air Traffic Service and the Associate Administrator for Policy and International Affairs may delegate their authorities under this regulation to the extent they consider necessary for the safe and efficient operation of the National Air Traffic Control System.

Appendix

Arrival Approvals for Designated Airports

1. For operations after April 25, 1982—(a) Each air carrier shall submit a schedule (including nonscheduled flights such as charters and training and ferry operations to the extent they are known) for the period April 25, 1982 through May 31, 1982, to the Official Airline Guide (OAG) by February 19, 1982. The number of daily arrival operations an air carrier may submit to the OAG at a controlled airport (as identified in this appendix) shall not exceed its FAA approved daily and hourly allocation total at each controlled airport for the previous schedule period. The number of daily arrival operations an air carrier may submit to the OAG at all other airports shall not exceed its FAA approved daily allocation total for the previous schedule period.

(b) Each air carrier seeking authority for flights in excess of its current approved operational levels at an airport, new entrants, and requests by air carriers to initiate service must be separately identified and submitted in writing to the Associate Administrator for Policy and International Aviation, API–1, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone No.: (202) 426–3030; Telex No.: 892562 FAA WSH (for API–1) and ARINC No.: DCAYAXD (for API–1) in accordance with time schedules established by API–1 for each schedule period. The flight requests should be listed in order of priority so that capacity authorization determined in accordance with paragraph 3 of this appendix will be based upon the individual carrier's needs. If additional capacity is available, then authority for these operations will be given. If capacity is not available for all such requests, then priority consideration will be given in accordance with paragraph 3 of this Appendix.

2. For operations for the periods June 1 through July 31, 1982 and August 1 through October 30, 1982—(a) Each air carrier shall submit a schedule (including nonscheduled flights such as charters and training and ferry operations to the extent they are known) to the OAG at least 70 days before the start of the schedule period. The number of daily arrival operations an air carrier may submit to the OAG at a controlled airport (as identified in this appendix) shall not exceed its FAA approved daily and hourly allocation total at each airport for the previous schedule period. The number of daily arrival operations an air carrier may submit to the OAG at all other airports shall not exceed its FAA approved daily allocation total for the previous schedule period.

(b) Each air carrier seeking authority for flights in excess of the number flown in the previous scheduling month, new entrants, and requests by an air carrier to initiate service must be separately identified and submitted in writing to API–1. If additional capacity is available, then authority for those operations will be given. If capacity is not available for all such requests, then priority consideration will be given in accordance with paragraph 3 of this Appendix.

3. Additional capacity allocation—(a) Unless directed by CAB in cases of essential air service or for some other CAB requirement or if it is determined that the carrier has exceeded the number of operations allowed by this regulation, an incumbent carrier will not be required to involuntarily give up slot allocations for another carrier's use. Slot allocations which a carrier does not actually use at least 70 percent of the schedule allocated for any full schedule period will be revoked. For example, if a slot is scheduled to be used 30 days out of a schedule period of 37 days, the required level of use is 21 days; otherwise, use of the slot will be automatically revoked by FAA.

(b) A new entrant is defined as a carrier who had an application for operating authority on file with the Civil Aeronautics Board (CAB) prior to August 3, 1981, *and* who is not operating on Febrary 17, 1982. Carriers who are not new entrants as defined in this paragraph will be considered as incumbents for capacity allocation purposes.

(c) A random draw will be held for each of the controlled 22 airports (identified in this appendix) and one random draw for all other airports. At each airport, new entrants will be allocated new/additional capacity first. Where there is more than one new entrant, the order in which slots will be allocated to each new entrant will be determined by random draw. Following allocation to new entrants, incumbents will then be allocated capacity. If there is more than one incumbent, the order in which slots will be allocated to each incumbent will be determined by random draw. If capacity still remains after each new entrant and incumbent carrier has been allocated slots, the allocation sequence will be repeated based upon the order previously established by random draw. The allocating sequence will be repeated until all available new/additional capacity is allocated at the airport.

(d) The number of new/additional slots that will be allocated to carriers will be limited. A new entrant will not be allocated more than twenty percent of new/additional capacity available at an airport each time it comes up in the allocation sequence (if this results in an allocation of less than 2 slots, the new entrant will be given 2 slots unless only one is requested); new entrants as a group will not be allocated more than forty percent of new/additional capacity available at an airport each time they come up in the allocation sequence. In no event, will a new entrant receive more slots at any airport than requested. New entrants will receive priority consideration at each airport for which they request slots. A new entrant not obtaining slots at an airport in accordance with this priority at any airport, will be considered as an incumbent for the purpose of allocation of remaining slots at that airport.

(e) At an airport with ten or fewer new/additional slots available, no incumbent will receive more than two (2) slots each time it comes up in the allocation sequence. If 11 to 30 new/additional slots are available at an airport, no incumbent will receive more than three (3) slots each time it comes up in the allocation sequence. If 31 or more new/additional slots are available, no incumbent will receive more than four (4) slots each time it comes up in the allocation sequence. In no event will an incumbent receive more slots at any airport than it requested.

(f) After new/additional capacity has been allocated at each airport, requests for one-time charter operations, hourly slides, origin changes and other changes will be processed as capacity permits.

(g) Air Route Traffic Control Center (ARTCC) capacity allocations will be made first for each of the top 22 airports located within an ARTCC area. Remaining new/additional ARTCC capacity will be allocated to carriers who have requested slots at other airports within the ARTCC area to the extent that such capacity can be accommodated. If there is more demand for a particular flight segment than can be safely accommodated, the allocation will be made in accordance with priority determined by random draw for all noncontrolled airports. After the new/additional ARTCC capacity has been allocated, requests for one-time charters, within ARTCC origin changes, hourly slides, and other changes will be processed as capacity permits.

4. No new/additional flight requests for changes will be accepted by the FAA between schedule periods. FAA will process changes to flight schedules between schedule periods for—flight number changes, within-hour changes at the same controlled airport (as identified in this appendix) and hourly changes within the allocated daily total at all other airports.

5. Charter, emergency, ferry, pilot training, and mechanical repair checkout flight requests may be made to the FAA Central Flow Control Facility.

6. No person shall operate an air carrier flight unless approval for the operation has been reviewed prior to the flight by API–1 as part of the particular air carrier's approved schedule or under paragraph 1 or 2 of this appendix, or in accordance with paragraph 5 of this appendix.

7. Airports and Air Route Traffic Control Centers at which some constraints are necessary are listed below. This listing also shows those airports in which additional capacity will be available through October 30, 1982. Constraints may also be imposed at airports other than those listed if any changes in the current status of an airport cannot be safely and efficiently handled by the controller work force at the ATC facilities involved. Schedule reductions in effect at an airport may be revised and will be removed to the extent the controller work force at the ATC facilities involved can accommodate those changes.

ARTCC INCREASES

[Anticipated operations increases at ARTCC's April through October 1982]

ARTCC	April/May	June/July	August/October
Albuquerque	400	300	200
Atlanta	80	100	120
Boston	20	40	30
Cleveland	80	160	40
Denver	110	150	130
Ft. Worth	100	100	100
Kansas City	30	40	30
Los Angeles	80	80	50
Memphis	50	50	0
Miami	60	50	40
Jacksonville	80	50	40
Oakland	80	30	0
New York City	80	60	70
Salt Lake City	125	55	55
Seattle	50	50	50
Washington	350	150	150
ARTCC's with little anticipated increase: Chicago/Houston/Indianapolis/Minneapolis.			

[Proposed increases at capacity controlled airports April through October 1982]

Airport	April/May	June/July	August/October	No increase hours
Atlanta	20-40	21-42	11-22	07-08, 10-11, 13-21, 23-01 LCL time.
Boston	7-14	5-10	6-12	None.
Cleveland	5-10	4-8	2-5	06-10/15-19/22-00 LCL time.
Denver	5-10	5-10	0	07-11, 15-19, 21-00 LCL time.
Detroit	0	16-32	0	None.
Ft. Lauderdale	7-15	7-15	3-8	07-08, 11-18, 20-00 LCL time.
Kansas City	7-15	10-20	7-15	None.
Kennedy	5-10	6-10	5-10	15-00 LCL time.
La Guardia	5-10	0	0	06-11, 1400 LCL time.
Las Vegas	4-8	7-14	5-10	None.
Los Angeles	7-15	7-15	7-15	None.
Miami	7-14	5-10	5-10	06-08, 11-20, 21-00 LCL time.
Newark	5-10	1-3	1-2	None.
Philadelphia	7-15	12-25	11-22	16-19 LCL time.
Pittsburgh	12-25	16-37	6-12	None.
San Francisco	4-8	4-8	0	None.
Airports with little anticipated increase: Chicago/Minneapolis/St. Louis/Dallas/Ft. Worth/Washington National/Houston.				

(Secs. 307 (a) and (c), 313(a), and 601(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348 (a) and (c), 1354(a), and 1421(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this rule is an emergency regulation under the provisions of Section 8 of Executive Order 12291 and the Department's Regulatory Policies and Procedures (44 FR 11034; Feburary 26, 1979). It is impracticable for the FAA to follow the procedures of Executive Order 12291 applicable to regulations not issued in response to emergency situations because the safety and efficiency of the national air transportation system require immediate implementation of the rule. Voluntary compliance with this regulation is expected. If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the persons identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, D.C., on February 18, 1982.

J. Lynn Helms,

Administrator.

[FR Doc. 82-4794 Filed 2-18-82; 4:14 pm]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Last Listing February 18, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

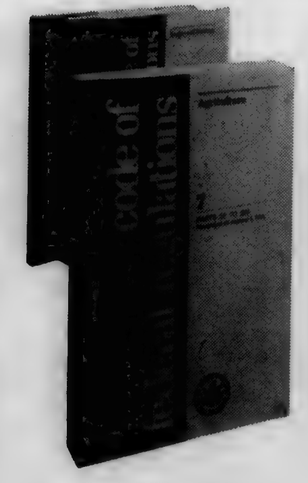

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Vol. 47 No. 36
Pages 7823-7906

federal register

Tuesday
February 23, 1982

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Presidential Documents

Title 3—

The President

Proclamation 4900 of February 22, 1982

The 250th Anniversary of the Birth of George Washington

By the President of the United States of America

A Proclamation

This month we commemorate the two hundred and fiftieth anniversary of the birth of George Washington, victorious commander of the American Revolution, chief advocate and President of the Constitutional Convention, and first President of the United States, unquestionably one of our greatest leaders.

His considerable wisdom, unflagging energy, dogged perseverance, profound faith in God, clear vision, and unswerving dedication to democratic principles contributed indispensably to the success of the American Revolution, the formulation and ratification of the United States Constitution and the establishment of the United States as a democratic federal republic.

As a soldier, he provided determined leadership, inspiring his men and sharing their lot in times of adversity. He took a group of farmers, tinkers, and store clerks and forged them into the Continental Army, a fighting instrument able to meet and best the finest professional troops in the world. Trusting in the rightness of his cause and, as he put it, in "the miraculous care of Providence," he proved his valor by leading his men into battle time after time during the long years of war.

As a citizen, he exemplified the ideal of the soldier in a democratic society, resigning his commission at war's end and retiring to the private pursuits of his beloved home, Mount Vernon. Yet, in his great vision, he saw the need for a better form of government, which would bind the sovereign States into an indissoluble Federal Union, while at the same time preserving and enhancing their unique role. To this end, he sponsored the Mount Vernon Conference, which led ultimately to the Philadelphia Convention in 1787.

As a statesman, he made his greatest and most lasting contribution to our American Nation. He presided with both tact and firmness over the Philadelphia Convention, guiding its members in drafting our charter of government so aptly described as the most important document ever composed by the hand of man at one time. Finally, heeding the call of his fellow citizens, he served as first President of the United States, setting precedents and establishing a standard to which all his successors can honorably aspire.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim February 22, 1982, as a Day of National Celebration of the two hundred and fiftieth Anniversary of the Birth of George Washington. I urge the people of the United States, in their homes, schools, and places of work, to join me in commemorating the birth of George Washington by reflecting on the character and accomplishments of this great man and his incalculable contributions to the establishment of this Nation. Let us rededicate ourselves to the fulfillment of his ideals and his faith in the people and resources of the United States.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of February, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

Rules and Regulations

Federal Register
Vol. 47, No. 36
Tuesday, February 23, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1701

Public Information; REA Bulletins PE-28, Specification for Figure 8 Multipair Distribution Wire and PE-27, Specification for One-Pair Distribution Wire

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: REA hereby withdraws REA Bulletin 345–20, REA Specification for Figure 8 Multipair Distribution Wire, PE–28, and REA Bulletin 345–19, REA Specification for Figure 8 One-Pair Distribution Wire, PE–27. The products covered by these specifications are no longer used on the systems of REA borrowers, therefore, the specifications are no longer required.

EFFECTIVE DATE: February 12, 1982.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, Chief, Outside Plant Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3827.
The Final Regulatory Impact Analysis describing the options considered in developing this rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA hereby amends Appendix A by withdrawing Bulletins 345–20 and 345–19. This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as not major. A Regulatory Flexibility Analysis is not required and an OMB Circular A–95 review is not applicable to this action.

The products covered by these specifications are no longer used on the systems of REA borrowers, therefore, the documents are being withdrawn. While it would have been possible to continue the documents in their present form, this would have been senseless, as it would have added to government paperwork and costs at no benefit to the borrowers, or their subscribers.

This program is listed in the Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees.

A Notice of Proposed Rule Making was published in the Federal Register on November 20, 1981 (46 FR 57056). No public comments were received in response to this notice.

Dated: February 12, 1982.

Harold V. Hunter,
Administrator.

[FR Doc. 82-4880 Filed 2-22-82; 8:45 am]
BILLING CODE 3410-15-M

Animal and Plant Health Inspection Service

9 CFR Part 71

[Docket No. 81-090]

General Provisions; Interstate Movement of Diseased Animals and Poultry

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulation restricting the interstate movement of diseased animals and poultry by deleting the words "in sheep" from the phrase "bluetongue in sheep" as a communicable disease endemic to the United States. This action is necessary because the regulation, as written, could be interpreted to exclude bluetongue in other species. With this revision, the regulation more accurately reflects the disease status in the United States and clarifies the Department's authority and determination to restrict the movement of other animals affected with bluetongue.

EFFECTIVE DATE: March 25, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. Jack R. Pitcher, Sheep, Goat, Equine and Ectoparasites Staff, Room 738, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8231.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been reviewed in conformance with Executive Order 12291, and has been determined to be not a "major rule."

The Department has determined that this final rule will not have a significant effect on the economy and will not result in any increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises, in domestic or export markets.

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because this amendment would only clarify the regulations presently imposed on livestock. There would be no new or additional requirements or costs imposed on small entities.

This amendment merely clarifies the language of the present regulations. The only alternative considered was making no change to the present regulations. This alternative was rejected because no new or additional costs will be imposed by amending the regulations and the final rule will clarify the intent of the regulations to prohibit the interstate movement of other animals as well as sheep affected with bluetongue.

Background

Bluetongue (BT) is a disease of sheep, cattle, goats, and wild ruminants. Acute BT causes a severe inflammation of the mucous membrane of the mouth, nasopharynx, esophagus, rumen, and lower digestive tract; lesions may appear on the teats, udder and coronary band; congenital deformities and neonatal losses may occur. Transmission in nature is accomplished by the bites of gnats, so the disease is seasonal in occurrence.

There are four types of bluetongue virus found in the United States. The virus was first isolated in the United States from California sheep in 1952, but the disease had been recognized in Texas as early as 1948, where it was known as "sore muzzle." Recent research has revealed that the effects of BT in cattle are more serious than had been suspected in the past.

Australia, New Zealand, the European Economic Community and Canada either refuse entry or impose restrictions on the importation of cattle with bluetongue. The Department must be able to control the movement of BT affected cattle in order to assure countries receiving cattle from the United States of their BT-free status as well as to control the spread of the disease within this country.

The current regulation in 9 CFR 71.3(a) reads in part: "Animals or poultry affected with any of the following diseases, which are endemic to the United States: * * * bluetongue in sheep * * * or any other communicable disease which is endemic to the United States, * * * shall not be moved interstate." The listing of "bluetongue in sheep" was not intended to exclude bluetongue in other animals from the category of "any other communicable disease which is endemic to the United States." However, since the same sentence specifies "bluetongue in sheep," it could be interpreted to exclude bluetongue in any other animals, even though it has always been the Department's policy to prohibit all animals affected with bluetongue from moving interstate.

On August 27, 1981, there was published in the **Federal Register** (46 FR 43175–43176), a document proposing to amend the regulations (9 CFR Part 73) by removing the words "in sheep" from the phrase "bluetongue in sheep."

A 60-day comment period was provided for receipt of comments. Three comments were received. One commentor was in agreement with the change proposed by the Department. The other two commentors were concerned that the Department might prohibit the interstate movement of cattle affected with BT based on a positive serological test only. They noted that clinical manifestations of BT in cattle are not necessarily the same as those observed in sheep and the difficulty of determining when cattle are affected with BT.

The purpose of this amendment is merely to clarify the intent of the Department to prohibit the interstate movement of livestock when such livestock are found to be affected with BT. The Department recognizes, however, that it is more difficult to determine when certain animals are affected with BT than with other animals. For this reason, it is not the intent of the Department to base a determination that animals are affected with BT solely on the basis of a positive serological test for BT. Rather, such a determination will be made on the basis of a positive serological test plus clinical signs of BT observed by an accredited veterinarian; or the actual isolation of the virus from the animal. However, since it is possible to determine when an animal is affected with BT, when such a determination is made, such animals will be prohibited from interstate movement.

Therefore, it has been determined that the words "in sheep" will be deleted from the phrase "bluetongue in sheep" to clarify the Department's determination that the prohibition extends to the disease in any animal.

PART 71—GENERAL PROVISIONS

Accordingly, Part 71, Title 9, Code of Federal Regulations, is amended in the following respects:

Section 71.3(a) is revised to read:

§ 71.3 Interstate movement of diseased animals and poultry generally prohibited.

(a) Animals or poultry affected with any of the following diseases, which are endemic to the United States: Equine piroplasmosis, bovine piroplasmosis or splenetic fever, scabies, hog cholera, acute swine erysipelas, tuberculosis, paratuberculosis, brucellosis, scrapie, bluetongue, anthrax, screwworms, psittacosis or ornithosis, and Newcastle disease, or any other communicable disease which is endemic to the United States, or which are cattle fever tick infested, shall not be moved interstate.

* * * * *

(Sec. 2, 32 Stat. 792; secs. 3 and 11, 23 Stat. 32; as amended; sec. 1, 32 Stat. 791 (21 U.S.C. 111, 114, 114a, 120))

Done at Washington, D.C., this 16th day of February 1982.

John W. Walker,

Acting Deputy Administrator Veterinary Services.

[FR Doc. 82-4868 Filed 2-22-82; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL TRADE COMMISSION

16 CFR Part 4

Requirements for Numbers and Signatures of Documents Filed Before the Commission.

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission, pursuant to Section 6 of the Federal Trade Commission Act, is revising its rule relating to the numbers and signatures required for documents filed before the Commission. The purpose of the amendment is to eliminate confusion concerning these requirements.

EFFECTIVE DATE: This rule is effective on or before March 25, 1982.

FOR FURTHER INFORMATION CONTACT: Benjamin I. Berman, Attorney Advisor to the Secretary, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3815.

SUPPLEMENTARY INFORMATION: Section 4.2 of the Commission's rules of practice and procedure gives instructions for the filing of documents before the Commission. In their current form, subsections (c) and (e)(1) of that rule have caused some confusion. The purpose of this amendment is to eliminate the confusion.

Subsection (c) now states that 20 copies of certain documents must be filed. Some persons preparing filings have assumed that the 20 copies included the original document itself. The intention of the rule, however, is that 20 copies be submitted in addition to the original document. The change adopted by this notice makes the latter interpretation explicit.

Subsection (e)(1) contains a similar ambiguity. It requires a signature on the original of each document filed. In the absence of a signature, the document may be stricken from the record of the proceeding for which it was filed. The signature must be a hand-signed original signature, not a reproduced or facsimile signature. This subsection is being amended to clarify that requirement.

In consideration of the foregoing, the Commission hereby amends its rules of practice as follows:

PART 4—MISCELLANEOUS RULES

1. Section 4.2 (c) and (e) are revised to read as follows:

§ 4.2 Requirements as to form, and filing of documents other than correspondence.

* * * * *

(c) *Copies.* An original and twenty (20) copies of all documents before the Commission and motions for an Administrative Law Judge's certification of an interlocutory appeal pursuant to § 3.23(b) shall be filed; an original and ten (10) copies of all other documents before the Administrative Law Judge shall be filed; and an original and one (1) copy of compliance reports shall be filed. Only one (1) copy of admissions and answers thereto must be filed with the Secretary, the originals to be served on the opposing party as specified by § 3.32.

* * * * *

(e) *Signature.* (1) The original of each document filed shall have a hand signed signature by an attorney of record for the party, or in the case of parties not represented by counsel, by the party itself, or by a partner if a partnership, or by an officer of the party if it is a corporation or an unincorporated association.

* * * * *

By direction of the Commission, dated February 10, 1982.

Carol M. Thomas,

Secretary.

[FR Doc. 82-4844 Filed 2-22-82; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release Nos. 33-6382, 34-18487, 35-22387, 39-595, IC-12228, IA-793]

Delegation of Authority To Grant Waivers of Imputed Disqualification

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting a rule delegating to the Commission's General Counsel the authority to grant waivers of imputed disqualification pursuant to Rule 8(d) of the Commission's Conduct Regulation.

EFFECTIVE DATE: February 23, 1982.

FOR FURTHER INFORMATION CONTACT: Myrna Siegel, Ethics Counsel, Office of the General Counsel, Securities and Exchange Commission, Washington, D.C. 20549, (202) 272–2430.

SUPPLEMENTARY INFORMATION: The Commission is amending its regulations governing delegation of authority to delegate authority to the General Counsel to grant waivers of imputed disqualification to law firms requesting such waivers pursuant to Rule 8(d) of the Commission's Conduct Regulation, 17 CFR 200.735–8(d).

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Accordingly, 17 CFR 200 is amended by adding a new section as follows:

§ 200.30–14 Delegation of authority to the General Counsel.

Pursuant to the provisions of Pub. L. 94–29, 89 Stat. 163, Pub. L. 87–592, 76 Stat. 395, 15 U.S.C. 78d–1, 78d–2, the Securities and Exchange Commission hereby delegates, until the Commission orders otherwise, the following function to the General Counsel of the Commission, to be performed by him or under his direction by such person or persons as may be designated from time to time by the Chairman of the Commission: Grant waivers of imputed disqualification requested pursuant to 17 CFR 200.735–8(d).

The Commission finds that this amendment relates solely to rules of agency procedure or practice and accordingly, that notice and prior publication for comments under the Administrative Procedure Act, 5 U.S.C. 551 et seq., are unnecessary. See 5 U.S.C. 553(b).

Dated: February 12, 1982.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-4867 Filed 2-22-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 444

[Docket No. 81N-0408]

Oligosaccharide Antibiotic Drugs; Tobramycin Ophthalmic Ointment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the certification of a new dosage form of tobramycin, tobramycin ophthalmic ointment. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective February 23, 1982; comments, notice of participation, and request for hearing by March 25, 1982; data, information, and analyses to justify a hearing by April 26, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan Eckert, Bureau of Drugs (HFD–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of a new dosage form of tobramycin, tobramycin ophthalmic ointment. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Part 444 (21 CFR Part 444) to provide for its certification.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 28052; May 11, 1981)), Part 444 is amended by redesignating existing § 444.380 as § 444.380a and adding new §§ 444.380 and 444.380b, to read as follows:

§ 444.380 Tobramycin ophthalmic ointment.

§ 444.380b Tobramycin ophthalmic ointment.

(a) *Requirements for certification.*—(1) *Standards of identity, strength, quality, and purity.* Tobramycin ophthalmic ointment contains, in each gram, 3.0 milligrams of tobramycin with a suitable preservative in a suitable and harmless ointment base. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of tobramycin that it is represented to contain. It is sterile. Its moisture content is not more than 1.0 percent. It passes the test for metal particles. The tobramycin used conforms to the standards prescribed by § 444.80(a)(1), except heavy metals.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The tobramycin used in making the batch for potency, safety, moisture, pH identity, and residue on ignition.

(*b*) The batch for potency, sterility, moisture, and metal particles.

(ii) Samples required:

(*a*) The tobramycin used in making the batch: 10 packages, each containing approximately 500 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 20 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay.*—(1) *Potency.* Proceed as directed in § 436.106 of this chapter, preparing the sample for assay as follows: Place an accurately weighted representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of distilled water, and shake well. Allow the layers to separate. Remove the distilled water layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of distilled water. Combine the extractives in a suitable volumetric flask and dilute to volume with distilled water. Further dilute an aliquot with distilled water to the reference concentration of 2.5 micrograms of tobramycin per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(3) of that section.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *Metal particles.* Proceed as directed in § 436.206 of this chapter.

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. In accordance with the conditions for certification in section 507 of the act, FDA permits the manufacturer to market this drug on a "release" status pending the regulation's becoming effective. Because this regulation is not controversial and because when effective it provides notice of accepted standards and permits earlier certification of regulated products, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The amendment, therefore, is effective February 23, 1982. However, interested persons may, on or before March 25, 1982, submit written comments on this rule to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it, request a hearing, and show reasonable grounds for the hearing. Any person who decides to seek a hearing must file (1) on or before March 25, 1982, a written notice of participation and request for hearing, and (2) on or before April 26, 1982, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective February 23, 1982.

(Secs. 507, 701(f), and (g), 82 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371(f) and (g)))

Dated: February 11, 1982.

Paul O. Fehnel, Jr.,

Acting Assistant Director for Regulatory Affairs.

[FR Doc. 82-4742 Filed 2-22-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Carl S. Akey, Inc., providing for safe and effective use of a 10-gram-per-pound tylosin premix for making complete swine, beef cattle, and chicken feeds.

EFFECTIVE DATE: February 23, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Carl S. Akey, Inc., P.O. Box 607, Lewisburg, OH 45338, is sponsor of supplemental NADA 103–089 submitted on its behalf by Elanco Products Co. The supplemental NADA provides for use of a premix containing 10 grams of tylosin (as tylosin phosphate) per pound for making complete feeds for swine, beef cattle, and chickens. The swine feed is used for increased rate of weight gain and improved feed efficiency, for prevention, treatment, and control of swine dysentery, and to maintain weight gains and feed efficiency in the presence of atrophic rhinitis; the beef cattle feed for reduction of incidence of certain liver abscesses; the chicken feed for increased rate of weight gain and improved feed efficiency; and the layer feed for improved feed efficiency.

Approval of this NADA relies upon safety and effectiveness data contained in Elanco's approved NADA 12–491. Use of the data in NADA 12–491 to support this supplemental NADA has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of this supplemental NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this is a Category II supplemental approval which does not require reevaluation of the safety and effectiveness data in NADA 12–491.

The supplement is approved and the regulations are amended accordingly. This approval adds to the firm's existing approval for use of a 10-gram-per-pound tylosin premix for making swine feeds.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.625 is amended by revising paragraph (b)(48) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(48) To 017790: 10 grams per pound; paragraph (f)(1)(i), (iii), (iv), and (vi) of this section.

* * * * *

Effective date. This amendment is effective February 23, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 16, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-4741 Filed 2-22-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 740

[Docket No. 77P–0353]

Cosmetic Product Warning Statements; Coal Tar Hair Dyes Containing 4-Methoxy-M-Phenylenediamine (2,4-Diaminoanisole) or 4-Methoxy-M-Phenylenediamine Sulfate (2,4-Diaminoanisole Sulfate); Judicial Stay of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; judicial stay of effective date.

SUMMARY: The Food and Drug Administration (FDA) is publishing notice of the judicial stay of the effective date of a regulation requiring a warning statement on the labels of coal tar hair dyes containing 4-methoxy-*m*-phenylenediamine (also known as 2,4-diaminoanisole) or 4-methoxy-*m*-phenylenediamine sulfate (also known as 2,4-diaminoanisole sulfate). This regulation had been scheduled to be effective on April 16, 1980. The stay is the result of a consent order entered by the United States District Court for the Southern District of Georgia. This document is being published now to ensure that a note is added to 21 CFR 740.18, stating that the effectiveness of the regulation has been stayed, before the next reprinting of Title 21 of the Code of Federal Regulations.

EFFECTIVE DATE: The stay was effective September 18, 1980.

FOR FURTHER INFORMATION CONTACT: John A. Wenninger, Bureau of Foods (HFF–441), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–1061.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 16, 1979 (44 FR 59509), FDA published a final rule (21 CFR 740.18) requiring that labels of coal tar hair dyes containing 4-methoxy-*m*-phenylenediamine (also known as 2,4-diaminoanisole) or 4-methoxy-*m*-phenylenediamine sulfate (also known as 2,4-diaminoanisole sulfate) bear a prescribed warning statement. The statement warns that the dye contains an ingredient that can penetrate the skin and has been determined to cause cancer in laboratory animals.

On September 18, 1980, a consent order was entered by the United States District Court for the Southern District of Georgia (Civil Action No. CV 480–71). In that order, the plaintiffs, Carson Products, et al., and the defendants, Department of Health and Human Services, et al., agreed, among other things, that the effectiveness of § 740.18 would be stayed, and that FDA would add an appropriate note to that effect to § 740.18 when Title 21 of the Code of Federal Regulations (CFR) was next reprinted. This note was inadvertently omitted from the 1981 reprinting of the CFR.

Although the scheduled effective date of the October 16, 1979 final rule was April 16, 1980, and the consent order was entered approximately 5 months later, FDA has never taken any enforcement action based on § 740.18. FDA believes that hair dye manufacturers are aware of the consent order requiring the stay. Many of the firms that currently manufacture hair dyes were plaintiffs in the *Carson Products* suit. Moreover, the terms of the consent order have been extensively discussed in the trade press and by speakers at the annual meeting of the Food and Drug Law Institute. See, e.g., Eiermann, H. J., Cosmetic Regulation Update—1980; 36 Food, Drug, Cosmetic Law Journal, 90 (1981).

The consent order also remanded the regulation to FDA for reconsideration and further rulemaking. Specifically, the court directed FDA to include in the record of any further rulemaking a scientifically accepted procedure of risk assessment, and to raise the issue as to whether, in view of those procedures, hair dyes containing 4-Methoxy-*m*-phenylenediamine or 4-methoxy-*m*-phenylenediamine sulfate present a generally recognized level of insignificant risk to human health. FDA is currently assessing such risk assessment procedures and other relevant matters.

To comply with the consent order, and to assure that there is no future misinterpretation, the effective date of § 740.18 is stayed until further notice.

Effective date. The stay was effective September 18, 1980.

Dated: February 16, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-4770 Filed 2-18-82; 3:04 pm]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Permanent State Regulatory Program of Iowa

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: The Secretary of the Interior is modifying the deadline for Iowa to meet one of the conditions of approval on the State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), 30 U.S.C. 1201 *et seq.* The Secretary is extending the deadline for the State to resolve the condition until September 1, 1982.

EFFECTIVE DATE: February 23, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION: On November 17, 1981, the Secretary published a proposed rule to extend the schedule for Iowa to meet one of the conditions of approval on its approved permanent regulatory program under the Act (46 FR 56433–56434). Public comments were invited for 30 days ending December 17, 1981. One comment was received.

On March 13, 1979 (44 FR 15311–15463), the Secretary promulgated final rules for the permanent regulatory program under the Act.

Certain provisions of the rules (Parts 730–732) established the procedures for the submission, review, and decision on State permanent regulatory programs whereby the State assumes primary jurisdiction to regulate surface coal mining under the Act. Under § 732.13(i), the Secretary may conditionally approve a State program which contains minor deficiencies if the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval. The schedule is established in consultation with the State, based on the regulatory and administrative needs of the State's permanent program and the Act, and the time required for changes to be adopted under State rulemaking or legislative procedures.

The Iowa program was conditionally approved on January 21, 1981 (46 FR 5888–5892). In the notice of approval, the Secretary published the schedule for Iowa to resolve each of three conditions on the approval of that State's regulatory program. In a letter to the Director, OSM, dated September 28, 1981, the Iowa Department of Soil Conservation indicated that it would like an extension for meeting condition "b", as listed at 46 FR 5892, January 2, 1981.

Condition "b" stipulates that the Secretary's approval of the Iowa program will terminate on January 1, 1982, unless Iowa submits to the Secretary by that date copies of fully enacted statutes resolving the conflicting provisions of the Iowa Surface Mining Coal Mining Act and section 17A.18(3) of the Iowa Administrative Procedures Act so as to provide that cessation orders for failure to abate notices of violation shall be issued immediately, to be consistent with section 521(a)(3) of SMCRA or otherwise amends its program to accomplish the same result. Inasmuch as the State Senate bill proposed to resolve this condition did not come out of committee for floor debate during the 1981 session of the Iowa General Assembly, the Secretary is allowing the State until September 1, 1982, to meet the condition. This should allow sufficient time for the State legislature to act during its 1982 session.

Public Comment

In response to the notice proposing an extension of time for Iowa to meet condition "b", OSM received one comment. The Environmental Policy Institute (EPI) asserted that Iowa's ability to enforce the law would be seriously undermined by further delays in its authority to issue failure to abate cessation orders.

The commenter contended that delays in Iowa's obtaining compliance with the law at even one mine could result in serious environmental damage. EPA acknowledged that Iowa might not be able to correct the defect before the original deadline and conceded that withdrawal of Iowa's program approval was not necessarily the best way to address the problem. The commenter urged, therefore, that OSM assume authority to issue failure to abate cessation orders until the State corrected the defect in its program.

While OSM is sensitive to the commenter's concern that the extension might hamper Iowa's enforcement efforts, OSM does not believe that the Agency should assume authority to issue failure to abate cessation orders at this time. OSM is confident that it has ample authority under Section 521(b) of SMCRA and 30 CFR 842 and 843 to issue cessation orders should situations occur in Iowa which call for such action. OSM will carefully monitor operations in Iowa until the State has corrected the defect in its program to insure that the environmental protections standards of the Act are upheld.

Other Information

On August 28, 1981, the Office of Management and Budget granted OSM an exemption from Sections 3, 4, 7 and 8 of Executive Order 12291 for all actions to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, a Regulatory Impact Analysis and regulatory review by OMB is not needed for this extension.

This rule is deemed not to be a major Federal action within the meaning of section 102(2)(c) of NEPA under sections 501(a) or 702(d) of SMCRA. It is hereby designated as a categorical exclusion from the NEPA process. Therefore, this rule is exempt from the requirements of an Environmental Assessment, EIS or FONSI.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I have certified that this rule will not have a significant economic effect on a substantial number of small entities as the rule is essentially a timing change with no direct or indirect impact on small entities.

The primary author of this rule is Mary Tisdale, State Program Specialist, Division of State Program Assistance, Program Operations and Inspection, Office of Surface Mining, Telephone: (202) 343–5361.

Dated: February 12, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 915—IOWA

30 CFR 915 is amended by revising § 915.11(b) to read as follows:

§ 915.11 Conditions of State regulatory program approval.

* * * * * *

(b) The approval found in § 915.10 will terminate on September 1, 1982, unless Iowa submits to the Secretary by that date copies of fully enacted statutes resolving the conflicting provisions of section 14(2) of the Iowa Surface Coal Mining Act and section 17A.18(3) of the Iowa Administrative Procedures Act so as to provide that cessation orders for failure to abate notices of violation shall be issued immediately, to be consistent with section 521(a)(3) of SMCRA or otherwise amends its program to accomplish the same result.

* * * * * *

[FR Doc. 82–4847 Filed 2–22–82; 8:45 am]
BILLING CODE 4310–05–M

POSTAL SERVICE

39 CFR Part 10

Establishment of the International Mail Manual To Replace Postal Service Publication 42, International Mail

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule replaces Postal Service Publication 42, International Mail, with the completely revised, renamed, and partially renumbered International Mail Manual. The purpose of this revision is to set forth in the International Mail Manual the postal regulations concerning international mail services offered to the public by the Postal Service in a more convenient and understandable style and format than that used in Publication 42, International Mail. All of the changes involve the reorganization and renumbering of present regulations, and the rewriting of regulations in a less technical, more readable form. No substantive changes have been made in these regulations through this revision.

EFFECTIVE DATE: November 13, 1981.

FOR FURTHER INFORMATION CONTACT: Connie Parker, (202) 245–4518.

SUPPLEMENTARY INFORMATION: Issue 1 of the International Mail Manual incorporates all the changes to postal regulations on international mail services from the issuance of Publication 42's Transmittal Letter 86 on December 15, 1979 (45 FR 41138) to October 6, 1981. Items appearing in the Postal Bulletin after October 6, 1981, remain in effect as written and will be incorporated in the International Mail Manual in a later issue. New rates for certain categories of international mail that were published in the **Federal Register** after October 6, 1981 at 46 FR 51518 and new air rates to Canada that were published at 46 FR 58077 and therefore do not appear in issue 1, remain in effect as published and will be incorporated in the International Mail Manual in a subsequent issue.

Additional features of the International Mail Manual are described in the following Explanation, which is excerpted from the first page of issue 1.

Explanation

The International Mail Manual is a complete revision of Publication 42, *International Mail.* The revision represents major changes in organization, format, and location of information. Several new features have been added, including:

1. A new section which lists the postage rates, fees, and mail preparation information for Postal Union Mail, Parcel Post, and International Express Mail, as applicable for each individual country.

2. New formats for the Postage Rate, Fee, and Summary Tables (formerly Appendix A) for each class of international mail.

3. A world map with an alphabetical list of countries providing geographic locators.

4. An appendix listing Postal Service directives related to the International Mail Manual.

In view of the considerations discussed above, the Postal Service hereby adopts the International Mail Manual in replacement of Publication 42, International Mail, which is incorporated by reference in the **Federal Register** (39 CFR 10.1). The International Mail Manual is to be incorporated in the **Federal Register** in Part 10 by a document published elsewhere in this issue.

(39 U.S.C. 401, 404, 407, 408)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 82–4850 Filed 2–22–82; 8:45 am]
BILLING CODE 7710–12–M

39 CFR Part 10

Replacement of Postal Service Publication 42, International Mail, With the International Mail Manual

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: By virtue of a document published elsewhere in this issue the Postal Service is replacing Postal Service Publication 42, International Mail, with a completely revised, renamed, and partially renumbered International Mail Manual. Postal Service Publication 42 is presently Incorporated by reference in the **Federal Register.** See 39 CFR 10.1. Since the International Mail Manual takes the place of Postal Service Publication 42, the Code of Federal Regulations must be revised to reflect the changed name, numbering, subscription price, and table of contents.

EFFECTIVE DATE: November 13, 1981.

FOR FURTHER INFORMATION CONTACT: Paul J. Kemp, (202) 245–4636.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

In consideration of the foregoing, Subchapter B, Part 10 of Title 39, Code of Federal Regulations, is revised to read as follows:

SUBCHAPTER B—INTERNATIONAL MAIL

PART 10—INTERNATIONAL POSTAL SERVICE

Sec.

10.1 The International Mail Manual; incorporation by reference of international mail regulations.
10.2 Availability of the International Mail Manual.
10.3 Amendments to the International Mail Manual.
10.4 Approval of the Director of the Federal Register.
10.5 Contents of the International Mail Manual.

Authority: 5 U.S.C. 552(a), 39 U.S.C. 401, 404, 407, 408.

§ 10.1 The International Mail Manual; incorporation by reference of international mail regulations.

Section 552(a) of title 5, United States Code, relating to the public information requirements of the Administrative Procedure Act, provides in pertinent part that "* * * matter reasonably available to the class of persons affected thereby is deemed published in the **Federal Register** when incorporated by reference therein with the approval of the Director of the Federal Register." In conformity with that provision, and with 39 U.S.C. 410(b)(1), and as provided in this part, the United States Postal Service hereby incorporates by reference in this part, the International Mail Manual, a looseleaf publication published and maintained by the U.S. Postal Service, Washington, D.C. 20260.

§ 10.2 Availability of the International Mail Manual.

(a) Copies of the International Mail Manual are available for reference and inspection upon request at the National Headquarters and regional offices of the U.S. Postal Service and at all United States Post Offices and classified stations and branches during normal business hours. Regional offices are located in New York, Philadelphia, Memphis, Chicago, and San Francisco.

(b) A copy of the International Mail Manual, together with each amendment of it, is on file with the Director, Office of the Federal Register, National Archives and Records Service, General Services Administration, at 1100 "L" Street, NW., Room 8401, Washington, D.C.

(c) Copies of the International Mail Manual may be purchased from the Superintendent of Documents, Washington, D.C. 20402 for $34.00. This price covers the basic Manual, plus three transmittal letters amending it. Information about international mail also appears in condensed form in Publication 51, which the Postal Service publishes and distributes to all post offices and area supply centers. This publication is available to the public free of charge at all post offices and classified stations and branches.

§ 10.3 Amendments to the International Mail Manual.

(a) Except for final regulations published as provided in paragraph (b) of this section, notices of changes made in the International Mail Manual will periodically be published in the **Federal Register**. The text of all published changes will be filed with the Director, Office of the Federal Register. Subscribers to the International Mail Manual will automatically receive amendments from the Government Printing Office.

(b) When the Postal Service invites comment from the general public on a proposed change to the International Mail Manual, the proposed change and, if adopted, the final regulation will be published in the **Federal Register**.

(c) Final regulations published as provided in paragraph (b) of this section, and other changes to the International Mail Manual, adopted subsequent to the notices published under paragraph (a) of this section (except for corrections of minor errors or other nonsubstantive changes), are published in the Postal Bulletin, a weekly postal publication that may be purchased from the Superintendent of Documents, Washington, D.C. 20402.

(d) For references to amendments to the International Mail Manual adopted under paragraph (b) of this section subsequent to issuance of the most recent transmittal letter listed below, see § 10.3 in the List of CFR Sections Affected at the end of this volume.

Transmittal letter for issue	Dated	FR publication
1	Nov. 13, 1981	47 FR

§ 10.4 Approval of the Director of the Federal Register.

(a) Incorporation by reference of the publication now titled the International Mail Manual was approved by the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR Part 51.

(b) This approval was granted on June 24, 1981, effective for the period of one year at the conclusion of which it will expire without further action unless renewed and extended by the Director upon application by the U.S. Postal Service.

§ 10.5 Contents of the International Mail Manual.

The International Mail Manual contains the following parts:

(a) Chapter 1—General Information

(1) Subchapter 110—What This Chapter Covers

(2) Subchapter 120—Purpose

(3) Subchapter 130—Categories of International Mail

(i) Part 131—General.
(ii) Part 132—Postal Union Mail, Parcel Post, and International Express Mail.
(iii) Part 133—Differences Among Countries.

(4) Subchapter 140—Use

(i) Part 141—Organization and Format.
(ii) Part 142—Location of Information.

(5) Subchapter 150—Official Correspondence

(i) Part 151—Correspondence with Headquarters.
(ii) Part 152—Correspondence with Foreign Postal Authorities.
(iii) Part 153—Correspondence with Individuals in Foreign Countries.

(b) Chapter 2—Outgoing Postal Union Mail

(1) Subchapter 210—What This Chapter Covers

(2) Subchapter 220—Conditions for Mailing

(i) Part 221—Conditions for All Mail.
(ii) Part 222—Conditions for Letters and Letter Packages.
(iii) Part 223—Conditions for Post Cards.
(iv) Part 224—Conditions for Printed Matter.
(v) Part 225—Conditions for Matter for the Blind.
(vi) Part 226—Conditions for Small Packets.

(3) Subchapter 230—Treatment of Outgoing Mail

(i) Part 231—Postmarking.
(ii) Part 232—Postage.
(iii) Part 233—Improperly Prepared Mail.
(iv) Part 234—Forwarding Mail of Domestic Origin.
(v) Part 235—Items Mailed Aboard Ships (Paquebot).

(c) Chapter 3—Outgoing Parcel Post

(1) Subchapter 310—What This Chapter Covers

(2) Subchapter 320—Conditions for Mailing

(i) Part 321—Parcel Post Described.
(ii) Part 322—Availability of Service.
(iii) Part 323—Prohibitions and Restrictions.
(iv) Part 324—Postage.
(v) Part 325—Weight and Size Limits.
(vi) Part 326—Preparation for Mailing.
(vii) Part 327—Forms Required.
(viii) Part 328—Marking and Endorsing.
(ix) Part 329—Mailing Location.

(3) Subchapter 330—Treatment of Outgoing Parcels

(i) Part 331—Postmarking.
(ii) Part 332—Shortpaid Parcels.
(iii) Part 333—Forwarding Parcels of Domestic Origin.

(d) Chapter 4—Special Services

(1) Subchapter 410—What This Chapter Covers

(2) Subchapter 420—Air Service

(i) Part 421—Service Description.
(ii) Part 422—Availability.
(iii) Part 423—Postage.
(iv) Part 424—Marking and Endorsing.
(v) Part 425—Aerogrammes.

(3) Subchapter 430—Insurance

(i) Part 431—Insurance Described.
(ii) Part 432—Availability and Limits of Insurance.
(iii) Part 433—Insurance Fees.
(iv) Part 434—Preparation of Insured Parcels.
(v) Part 435—Processing Requests for Insurance.
(vi) Part 436—Treatment of Incoming Insured Parcels.
(vii) Part 437—Indemnity Claims and Payments.

(4) Subchapter 440—Registry Service

(i) Part 441—Service Description.
(ii) Part 442—Availability and Indemnity Limits.
(iii) Part 443—Fees.
(iv) Part 444—Preparation of Registered Mail by Sender.
(v) Part 445—Processing Requests for Registry at Office of Mailing.
(vi) Part 446—Treatment of Outgoing Registered Mail at all Offices.
(vii) Part 447—Treatment of Incoming Registered Mail.
(viii) Part 448—Indemnity Claims and Payments.

(5) Subchapter 450—Return Receipts

(i) Part 451—Description.
(ii) Part 452—Availability.
(iii) Part 453—Fees or Charges.
(iv) Part 454—Processing Requests for Return Receipts for Outgoing Mail.
(v) Part 455—Treatment of Return Receipts for Incoming Mail.

(6) Subchapter 460—Restricted Delivery

(i) Part 461—Description.
(ii) Part 462—Availability of Restricted Delivery.
(iii) Part 463—Fee.
(iv) Part 464—Processing Requests for Restricted Delivery of Outgoing Mail.
(v) Part 465—Treatment of Requests for Restricted Delivery of Incoming Mail.

(7) Subchapter 470—Special Delivery

(i) Part 471—Description.
(ii) Part 472—Availability.
(iii) Part 473—Fees and Payment.
(iv) Part 474—Processing Requests for Special Delivery of Outgoing Mail.
(v) Part 475—Treatment of Incoming Special Delivery Mail.

(8) Subchapter 480—Special Handling

(i) Part 481—Description.
(ii) Part 482—Availability.
(iii) Part 483—Fees and Payment for Special Handling.
(iv) Part 484—Processing Requests for Special Handling of Outgoing Mail.

(9) Subchapter 490—Other Special Services

(i) Part 491—Certificates of Mailing.
(ii) Part 492—Recall or Change of Address.
(iii) Part 493—International Postal Money Orders.
(iv) Part 494—International Express Mail.

(e) Chapter 5—Nonpostal Export Regulations

(1) Subchapter 510—What This Chapter Covers

(2) Subchapter 520—Shipper's Export Declarations

(i) Part 521—Description.
(ii) Part 522—When Required.
(iii) Part 523—How to Obtain Commerce Forms.
(iv) Part 524—How to Prepare Shipper's Export Declaration.
(v) Part 525—Handling and Disposal of Shipper's Export Declaration.

(3) Subchapter 530—Commodities and Technical Data

(i) Part 531—Scope and Applicability of Licensing Requirements.
(ii) Part 532—General Export Licenses.
(iii) Part 533—Validated Export Licenses.

(4) Subchapter 540—Munitions and Related Technical Data

(i) Part 541—Licensing Requirements.
(ii) Part 542—Mailing Under Individual Licenses.

(5) Subchapter 550—Dried Whole Eggs

(i) Part 551—Description.
(ii) Part 552—Charges.
(iii) Part 553—How to Mail.

(6) Subchapter 560—Tobacco Seeds and Tobacco Plants

(i) Part 561—Description.
(ii) Part 562—Charges.
(iii) Part 563—How to Mail.

(7) Subchapter 570—Consular and Commercial Invoices

(8) Subchapter 580—Drawback Arrangement

(i) Part 581—Description.
(ii) Part 582—Processing Drawback Claims.

(f) Chapter 6—Incoming Postal Union Mail

(1) Subchapter 610—What This Chapter Covers

(2) Subchapter 620—Charges

(i) Part 621—Customs Clearance and Delivery Fee.
(ii) Part 622—Shortpaid Mail.
(iii) Part 623—Invalid Foreign Postage.
(iv) Part 624—Letters Found in AO Mail.
(v) Part 625—Returned Mail of U.S. Origin.
(vi) Part 626—Storage.

(3) Subchapter 630—Foreign Markings Instead of Stamps

(4) Subchapter 640—Forwarding Mail of Foreign Origin

(i) Part 641—Forwarding Mail Within the United States.
(ii) Part 642—Forwarding Mail to Another Country.
(iii) Part 643—Backstamping.
(iv) Part 644—Postage-Due Mail.

(5) Subchapter 650—Undeliverable Mail

(i) Part 651—Mail of U.S. Origin.
(ii) Part 652—Mail of Foreign Origin.

(6) Subchapter 660—Articles Mailed Abroad by or on Behalf of Senders in the United States

(i) Part 661—Scope and Applicability.
(ii) Part 662—Advance Payment Required.
(iii) Part 663—Treatment if Advance Payment Not Made.
(iv) Part 664—Report of Incoming Mailings.

(g) Chapter 7—Incoming Parcel Post

(1) Subchapter 710—What This Chapter Covers

(2) Subchapter 720—Charges

(i) Part 721—Customs Clearance and Delivery Fee.
(ii) Part 722—Letters Found in Parcels.
(iii) Part 723—Returned Parcels.
(iv) Part 724—Storage.

(3) Subchapter 730—Stamps Not Affixed

(4) Subchapter 740—Delivery

(i) Part 741—Parcels Addressed Through Bank or Other Organization.
(ii) Part 742—Foreign Dispatch Notes.

(5) Subchapter 750—Forwarding Parcels of Foreign Origin

(i) Part 751—Forwarding Parcels Within the United States.
(ii) Part 752—Forwarding Parcels to the Country of Origin.
(iii) Part 753—Forwarding Parcels to a Third Country.
(iv) Part 754—Dutiable Parcels.
(v) Part 755—Postage-Due Parcels.

(6) Subchapter 760—Undeliverable Parcels

(i) Part 761—Parcels of U.S. Origin.
(ii) Part 762—Parcels of Foreign Origin.

(h) Chapter 8—Importations

(1) Subchapter 810—What This Chapter Covers

(2) Subchapter 820—U.S. Customs Information

(i) Part 821—Customs Examination of Mail Believed to Contain Dutiable or Prohibited Items.
(ii) Part 822—Treatment of Dutiable Mail at Delivery Office.

(3) Subchapter 830—Plant and Animal Quarantine Inspection

(i) Part 831—What is Subject to Inspection.
(ii) Part 832—Segregation and Handling.
(iii) Part 833—Agriculture Inspection Stations and Offices.

(i) Chapter 9—Inquiries, Indemnities, and Refunds

(1) Subchapter 910—What This Chapter Covers

(2) Subchapter 920—Inquiries and Claims

(i) Part 921—Inquiry Described.
(ii) Part 922—Filing of Inquiries.
(iii) Part 923—Claim Described.
(iv) Part 924—Initiation of Claims.
(v) Part 925—Documents to Accompany Claims.
(vi) Part 926—Reports Encouraged.
(vii) Part 927—Charges for Inquiries.
(viii) Part 928—Processing Inquiries.

(3) Subchapter 930—Indemnity Payments

(i) Part 931—Adjudication and Approval.
(ii) Part 932—General Exceptions to Payment.
(iii) Part 933—Payments for Insured Parcel Post.
(iv) Part 934—Payments for Registered Postal Union Articles.
(v) Part 935—Payments for International Express Mail.

(4) Subchapter 940—Postage Refunds

(i) Part 941—Refunds for Postal Union Mail and Parcel Post.
(ii) Part 942—Refunds for International Express Mail.
(iii) Part 943—Applications by Senders.
(iv) Part 944—Processing Refund Applications.

(j) World Map Index—Alphabetical Country Listing

(k) Cross Reference List of Localities

(l) World Map

(m) Postage Rates, Fees, and Summary Tables

(1) Table 1—Characteristics of Classes of Postal Union Mail.
(2) Table 2—Reference List for Items Prohibited or Restricted in International Mail.
(3) Table 3-1—Letters and Letter Packages—Airmail Rates.
(4) Table 3-2—Letters and Letter Packages—Summary Conditions.
(5) Table 3-3—Post Cards—Rates and Summary Conditions.
(6) Table 3-4—Printed Matter, Matter for the Blind, and Small Packets—Airmail Rates.
(7) Table 3-5—Printed Matter—Summary Conditions.
(8) Table 3-6—Matter for the Blind—Rates and Summary Conditions.
(9) Table 3-7—Small Packets—Summary Conditions.
(10) Table 4—Special Services Available for International Mail.
(11) Table 5—Conversion of U.S. Dollars to Gold Francs.
(12) Table 6-1—Fees for Certificates of Mailing.
(13) Table 6-2—Recall or Change of Address for International Mail.
(14) Table 7-1—International Express Mail Service—Summary Conditions.
(15) Table 7-2—International Express Mail Service Standards.

(n) Individual Country Listings

(o) Appendix—Directives Related to the IMM

(p) Index

[FR Doc. 82-4800 Filed 2-22-82; 8:45 am]
BILLING CODE 7715-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL-2049-8]

Approval and Promulgation of Implementation Plans; Approval of Revision of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval of a revision to the Maryland State Implementation Plan (SIP) which consists of a plan for the Prevention of Significant Air Quality Deterioration (PSD).

DATE: This action is effective March 25, 1982.

ADDRESSES: Copies of the revision, as well as accompanying support documentation submitted by Maryland, are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, 10th Floor, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: Harold A. Frankford

State of Maryland, Air Management Administration, Department of Health and Mental Hygiene, 201 West Preston Street, Baltimore, Maryland 21201, Attn: Mr. George Ferreri

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W. (Waterside Mall), Washington, D.C. 20460

Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT:
Mr. Harold A. Frankford at the address shown above or telephone 215/597-8392.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1981, 46 FR 60015, EPA proposed approval of a revision to the Maryland SIP. The revision consisted of amended regulations adopted by the State to meet the specific prevention of significant air quality deterioration (PSD) requirements in 40 CFR 51.24. A detailed description of the revision and EPA's review of the revision can be found in the December 8, 1981 proposed rulemaking. EPA received no comments on the proposed revision.

Additional Information From State

On September 17, 1981 and November 25, 1981, the State of Maryland submitted additional information which serves to clarify the procedures followed by the State of Maryland when issuing PSD permits. The September 17, 1981 letter explains that the State has the authority to issue or deny PSD permits although such authority is divided among several State agencies. The Department of Health and Mental Hygiene (Department) has authority to process all PSD permit applications except for those pertaining to electric power generating station facilities. Authority for processing PSD permit applications for this category vests with the State Public Service Commission. However, the State has assured EPA that the Department still has the authority under COMAR 10.18.06.14, to enforce against PSD permits issued by the Public Service Commission. The State also believes that the Department has the authority to prohibit the construction of generating stations which do not comply with COMAR 10.18.06.14. The November 25, 1981 letter explains that the State intends to hold public hearings prior to the issuance of any PSD permit.

EPA Evaluation/Actions

EPA is satisfied with Maryland's explanation of its PSD permitting procedures and therefore, finds them to be acceptable.

However, when EPA regulations are adopted by reference, 40 CFR 52.21 requires that the EPA Administrator retain authority under certain provisions of these regulations. These provisions are either not applicable for State implementation or EPA must retain authority for their implementation. Therefore, for the following sections of 40 CFR 52.21, the term "Administrator" means Administrator of EPA:

1. Definition of Federally Enforceable (40 CFR 52.21(b)(17)),
2. Exclusions from increment consumption (40 CFR 52.21(f)(1)(v), (3)(4)(i)),
3. Redesignation of areas (40 CFR 52.21(g)(1), (2), (3), (4), (5), and (6)),
4. Approval of alternate models (40 CFR 52.21(1)(2)),
5. Disputed permits or redesignation (40 CFR 52.21(t)), and
6. Delegation of Authority (40 CFR 52.21(u)(1)(2)(ii), (3), and (4)).

The term "Administrator" in the definition of "Net Emissions Increase" (40 CFR 52.21(b)(3)(iii)) means either the Administrator of EPA for PSD permits issued by EPA, or the Secretary of the Maryland Department of Health and Mental Hygiene for PSD permits issued by the State; that is, an increase or decrease in actual emissions is not creditable if the Administrator of EPA or the Secretary of the Maryland Department of Health and Mental Hygiene has relied on these emission changes in issuing a permit under this section. Under 40 CFR 52.21(r)(2) (PSD permit extension), the term "Administrator" means the Secretary of the Maryland Department of Health and Mental Hygiene. This definition change which is included as part of this SIP revision gives the Secretary the authority to extend PSD permits regardless of which agency issued the original PSD permit.

Based on the foregoing, it is the decision of the Administrator to approve these regulatory changes as satisfying the requirements for a revision of the Maryland SIP. Accordingly, 40 CFR 52.1070 (Identification of plan) is amended to incorporate by reference the Federal PSD regulation into the Maryland SIP, and 40 CFR 52.1116 (Prevention of Significant Deterioration) is revised to retain those PSD provisions for which the EPA Administrator must retain authority.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981). This action constitutes a SIP approval under sections 110 and 172 within the terms of the January 27 certification. This action only approves State actions. It imposes no new requirements.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(42 U.S.C. 7401-642)

Dated: February 16, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the Implementation Plan for the State of Maryland was approved by the Director of the Office of the **Federal Register** on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart V of Part 52, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart V—Maryland

1. In § 52.1070, paragraph (c)(59) is added to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(59) Addition of Maryland Regulation 10.18.06.14 (Control of PSD sources) which incorporates by reference the federal prevention of significant deterioration (PSD) requirements set forth in 40 CFR 52.21; submitted on June 24, 1981 by the Governor.

2. In § 52.1116, paragraph (b) is revised to read as follows:

§ 52.1116 Prevention of significant deterioration.

* * * * *

(b) The following provisions of 40 CFR 52.21 are hereby incorporated and made a part of the applicable State plan for the State of Maryland.

(1) Definition of Federally Enforceable (40 CFR 52.21(b)(17)),

(2) Exclusions from increment consumption (40 CFR 52.21(f)(1)(v), (3), (4)(i)),

(3) Redesignation of areas (40 CFR 52.21(g) (1), (2), (3), (4), (5), and (6)),

(4) Approval of alternate models (40 CFR 52.21(1)(2)),

(5) Disputed permits or redesignation (40 CFR 52.21(t), and

(6) Delegation of Authority (40 CFR 52.21(u)(1), (2)(ii), (3), and (4)).

[FR Doc. 82-4709 Filed 2-23-82; 8:45 am]
BILLING CODE 6560-38-M

40 CFR Part 52

[A-3-FRL-2050-4]

Approval and Promulgation of Implementation Plans; Approval of the Maryland State Implementation Plan for Lead

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA approves Maryland's State Implementation Plan (SIP) for the control of lead (Pb) emissions. Maryland's lead SIP meets all of the applicable requirements under section 110 of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans. The intended effect is to ensure that the national ambient air quality standard (NAAQS) for lead will be met Statewide by December 31, 1982.

EFFECTIVE DATE: April 26, 1982.

ADDRESSES: Copies of these SIP revisions and accompanying support documents are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, 10th Floor, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, ATTN: Harold A. Frankford.

State of Maryland, Air Management Administration, Department of Health and Mental Hygiene, 201 West Preston Street, Baltimore, Maryland 21201, ATTN: Mr. George Ferreri.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W. (Waterside Mall), Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:
Mr. Harold A. Frankford at the above-mentioned address (phone 215/597-8392) ATTN: AH400MD.

SUPPLEMENTARY INFORMATION:

Final Rule

Background

On October 23, 1980 the State of Maryland submitted to the Environmental Protection Agency a State Implementation Plan (SIP) for the control of lead (Pb) emissions. The plan submitted by the State delineates the air quality problem areas with respect to lead (Metropolitan Baltimore Intrastate and National Capital Interstate Air Quality Control Regions (AQCR's)). The November 17, 1981 notice of proposed rulemaking, 46 FR 56463, discusses the violations of the national ambient air quality standards (NAAQS) for lead in these two AQCR's, the SIP control strategy that would demonstrate attainment of the lead standard by 1982, the provisions for review of new sources, and the test methods.

The State of Maryland has included in its control strategy a regulation controlling the use of waste oil as fuel (Code of Maryland Air Regulations (COMAR) Section 10.18.11.05). The State of Maryland has informed EPA that it will submit as future revisions of the lead SIP, any Secretarial Order issued by the State of Maryland under the provisions of Section 10.18.11.05C, referring to the conditions under which the State will approve the use of waste oil.

Public Hearings

The State provided proof that public hearings with respect to the lead SIP were held on June 2, 1980 in Towson, Maryland and June 3, 1980 in Riverdale, Maryland in accordance with the requirements of 40 CFR 51.4.

Solicitation of Public Comments

In its proposed rulemaking action, 46 FR 56463 (1981), EPA solicited public comments on its proposed approval action. However, no comments were received.

EPA Actions

EPA has reviewed Maryland's lead SIP and has determined that it meets the scope and intent of 40 CFR 51.80 through 51.88 (Control Strategy—Lead). Therefore, EPA approves Maryland's lead SIP. In addition, EPA approves as part of the SIP, a letter dated July 27, 1981 submitted by the State of Maryland to EPA. This letter clarifies the correlation between the receptor points in the Maryland Source Dispersion Model (MSDM) modeling analysis and the TSP/lead monitor locations in Baltimore.

In conjunction with the Administrator's approval action, 40 CFR 52.1070(c)(60) and (c)(61) (Identification of Plan) of Subpart V (Maryland) is revised to incorporate Maryland's lead SIP and the associated July 27, 1981 letter into the approved Maryland SIP.

Direct Final Rulemaking

Background

Maryland's lead SIP concludes that the point of highest concentration for lead is near a frit manufacturing plant in Baltimore. This plant is currently under a Secretarial Order for the control of total suspended particulate (TSP) emissions. The State believes that lead emissions will be reduced with the reduction in TSP emissions and thus considers the Secretarial Order as a control strategy to attain the lead standard in Baltimore. On December 16, 1981, the State formally submitted a Secretarial Order that by its terms supersedes that version described by the State in the control strategy portion of its October 23, 1980 SIP submittal.

Public Hearings

The State documented that public hearings with respect to their Secretarial Order were held in Baltimore on December 15, 1981, thus satisfying the requirements of 40 CFR 51.4

V 47 / 36 FR 2 3 82

EPA Evaluation/Actions

Although the State formally submitted the Secretarial Order for the frit manufacturing plant after it had formally submitted its lead SIP, EPA considers this Order to be an integral part of the control strategy contained in the Maryland lead SIP. Therefore, EPA has good cause to approve this Order concurrent with its approval action of the basic Maryland lead SIP. Accordingly, 40 CFR 52.1070 (Identification of Plan) of Subpart V (Maryland) is revised to add paragraph (c)(62) describing the State's Secretarial Order and incorporating it into the approved Maryland lead SIP.

Because this approval action represents a direct final rulemaking action, the public is advised that this action will be effective 60 days from the publication date of this notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments on this Secretarial Order submitted by the State, the appropriate action will be withdrawn and subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because this action only approves State actions and imposes no new requirements.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981). This action constitutes a SIP approval under sections 110 and 172 within the terms of the January 27 certification. This action only approves State actions. It imposes no new requirements.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(42 U.S.C. 7401–842)

Dated: February 16, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the Implementation Plan for the State of Maryland was approved by the Director of the Office of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart V—Maryland

1. In § 52.1070, paragraphs (c)(60), (c)(61) and (c)(62) are added to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(60) A State Implementation Plan for the control of lead (Pb) emissions submitted on October 23, 1980 by the Governor.

(61) A letter containing supplemental clarifying information with respect to the State's control strategy demonstration; submitted on July 27, 1981 by the Maryland Air Management Administration.

(62) A revised Secretarial Order controlling lead emissions from the Mobay Chemical Corporation's frit manufacturing plant in Baltimore, Maryland; submitted December 16, 1981 by the Maryland Air Management Administration.

[FR Doc. 82-4799 Filed 2-22-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-4-FRL-2047-4]

Approval and Promulgation of Implementation Plans; North Carolina: Approval of PSD Regulation

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA announces its approval of North Carolina's regulations for the prevention of significant deterioration of air quality (PSD). These regulations were submitted to EPA on April 16, 1981. EPA proposed approval in the **Federal Register** of November 24, 1981 (46 FR 57572); no comments were received in response to the proposal. EPA's approval of these regulations means that the State of North Carolina will now have authority to issue PSD permits to sources locating in the State.

DATE: This action is effective March 25, 1982.

ADDRESSES: Copies of the materials submitted by North Carolina may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

Library, Office of the Federal Register, 1100 L Street NW, Room 8401, Washington, D.C. 20005

Air Programs Branch, Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365

Division of Environmental Management, North Carolina Department of Natural Resources & Community Development, 512 N. Salisbury Street, Raleigh, North Carolina 27611, Archdale Building

FOR FURTHER INFORMATION CONTACT: Walter Bishop of the Region IV Air Programs Branch at 404/881-3043 (FTS 257-3043).

SUPPLEMENTARY INFORMATION: Following notice and public hearing in conformity with 40 CFR 51.4, the North Carolina Environmental Management Commission adopted and on April 16, 1981, submitted for EPA's approval as an implementation plan revision a new regulation 2D.0530, Prevention of Significant Deterioration. This regulation incorporates by reference portions of 40 CFR 51.24 in effect as of December 16, 1980 (date of State's hearing), and has been determined by EPA to meet the requirements of that Federal regulation. In the **Federal Register** of November 24, 1981, EPA proposed to approve the North Carolina regulation and asked for public comment on it; no comments were received. The reader may refer to the proposal notice for a detailed description of it.

The Federal regulation provides that a final determination is to be made within one year following submittal of a complete application by a prospective source. However, North Carolina law requires issuance of a permit within 90 days of a complete application. To minimize possible conflict between Federal and State requirements, subdivision (p) of regulation 2D.0530 specifies that the statutory 90 days will be considered to begin at the end of the public comment period, at the end of any public hearing held on the application, or when the applicant supplies information requested by the agency in response to comments

received during the comment period or at any hearing, whichever is later. Even so, if it becomes apparent that the State's review of the application will not be complete within 90 days, responsibility for processing the application will be turned back to EPA at the end of 70 days of the 90-day period, and the source will not be allowed to construct until it receives a PSD permit from EPA.

Action. EPA approves North Carolina's PSD regulation. This action is effective on March 25, 1982. On that date, the State of North Carolina will have authority to issue and enforce PSD permits for sources locating in the State.

Under Section 307(b)(1) of the Clean Air Act, judicial review of EPA's approval of this revision is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before April 26, 1982. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provisions of 5 U.S.C. section 605(b), I hereby certify that the present rule will not have a significant economic impact on a substantial number of small entities. This action only approves state actions. It imposes no new requirements.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Note.—Incorporation by reference of the State Implementation Plan for the State of North Carolina was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110, 161, Clean Air Act (42 U.S.C. 7410 and 7471))

Dated: February 16, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart II—North Carolina

1. In § 52.1770, paragraph (c) is amended by adding subparagraph (30) as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(30) Regulation 2D.0530, providing for prevention of significant deterioration, submitted on April 16, 1981, by the North Carolina Department of Natural Resources and Community Development.

§ 52.1778 [Amended]

2. In § 52.1778, Significant deterioration of air quality, paragraphs (a) and (b) are removed.

[FR Doc. 82-4816 Filed 2-22-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[FRL 1929-1]

Approval and Promulgation of Implementation Plans; Revision to Washington Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice constitutes final approval of the portion of the Washington State Implementation Plan (SIP) dealing with the preconstruction review of energy facilities as required by section 110 of the Clean Air Act (hereafter referred to as the Act) as amended in 1977 (42 U.S.C. 1857 et seq.). This final approval will authorize the Energy Facility Site and Evaluation Council (EFSEC) to conduct basic preconstruction reviews for new and modified energy facilities in accordance with the provisions of section 110 of the Act. Authority to issue new energy source permits under Part C and Part D of the Act is not approved and is retained by EPA until EFSEC revises its SIP to properly include these provisions.

EFFECTIVE DATE: February 23, 1982.

ADDRESSES: Copies of material submitted may be examined during normal business hours at:

Central Docket Section, (10A-79-9), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460

Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101

State of Washington, Department of Ecology, 4224-Sixth Ave. SE, Lacey, Washington 98503

The Office of Federal Register, 1100 L Street, NW, Room 8401, Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Clark Gaulding, Chief, Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue M/S 629, Seattle, Washington 98101, Telephone: (206) 442-1230, FTS: 399-1230.

SUPPLEMENTARY INFORMATION:

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I. Format

The information in this notice is divided into two sections entitled "Background" and "Plan Review." The "Plan Review" section is divided into three sub-sections which discuss: (1) The adequacy of the EFSEC legal authority with respect to Section 110 of the Act, (2) the EFSEC regulations in terms of their consistency with similar regulations previously approved by EPA and currently implemented by the DOE for all sources except those under the jurisdiction of EFSEC, and (3) the "Memorandum of Agreement" between EFSEC and DOE as a means of implementing the EFSEC regulations. Any deficienices which would affect approval of the SIP are summarized at the end of each topical discussion.

II. Background

On August 17, 1979 the Governor submitted general air pollution control regulations for sources falling under the jurisdiction of EFSEC, but no plan or program describing how the regulations would be implemented. On May 28, 1980 DOE submitted drafts of additional constituents of the EFSEC SIP—the legal authority and a Memorandum of Agreement between DOE and EFSEC. A package containing these three elements of the EFSEC SIP was officially submitted by the Governor on July 30, 1980. On April 10, 1981 (46 FR 21391) EPA published proposed approval of the EFSEC SIP.

III. Plan Review

The following discussion describes the provisions of the EFSEC SIP for energy sources.

A. Legal Authority—Chapter 80.50 RCW

The State Attorney General's opinion of May 28, 1981 states that EFSEC's enabling legislation (RCW 80.50) is adequate to satisfy the requirements of Section 110 of the Act and evidences an intent that energy facilities be controlled so that compliance with the Federal Clean Air Act is achieved. EPA agrees and is, therefore, approving the legal authority for EFSEC as adequate.

B. Regulations—WAC 463-39

The air pollution control regulations for sources under the jurisdiction of

EFSEC (WAC 463–39) are patterned after the DOE General Regulations for Air Pollution Sources (WAC 173–400). The provisions governing implementation of Section 110 of the Act are similar to and consistent with comparable provisions contained in WAC 173–400 (formerly WAC 18–04). In fact, the EFSEC regulations were purposely developed to parallel the DOE regulations so that the Statewide air pollution control effort would be carried out in a consistent manner.

EPA is today approving only those portions of WAC 463–39 dealing with the basic preconstruction review requirements of Section 110 of the Act. This will allow EFSEC to conduct the required preconstruction review for new and modified energy sources. EPA will retain the authority to issue permits under Part C and Part D of the Act until a revised EFSEC SIP, containing these provisions, is approved. (A new source review program for major sources in nonattainment areas and a PSD program for major sources locating in attainment areas must be developed in accordance with EPA requirements resulting from a court ruling in "Alabama Power v. Costle," 13 ERC 1973 (D.C. Air., Dec. 14, 1979). Today's action does not consider the requirements imposed by that ruling.

The following discussion will identify each section of WAC 463–39 and describe EPA's final action with regard to the preconstruction review requirements of Section 110 of the Act. EPA will further identify those sections dealing with Part C (Prevention of Significant Deterioration) or Part D (nonattainment area plans) of the Act and indicate that no action will be taken.

WAC 463–39—
a. 010—Purpose: Approval
b. 020—Applicability: Approval
c. 030—Definitions.
i. The following definitions are approved:
(1) Abnormal Operation.
(2) Air Contaminant.
(3) Air Pollution.
(5) Ambient Air.
(6) Ambient Air Quality Standard.
(8) Capacity Factor.
(9) Combustion and Incineration Sources.
(11) Compliance Schedule.
(12) Concealment.
(13) Council.
(14) Chairman.
(15) Emission.
(16) Emission Standard.
(17) Excess Emissions.
(18) Facility.
(19) Fossil Fuel—Fired Steam Generator.
(20) Fugitive Dust.
(21) Fugitive Emissions.
(22) General Process Source.
(23) Incinerator.
(26) Masking.
(27) Materials Handling.
(28) New Source.
(29) New Source Performance Standards (NSPS).
(31) Opacity.
(32) Open Burning.
(33) Particulate Matter.
(34) Person.
(37) Source.
(38) Source Category.
(39) Standard conditions.
(40) Upset.

ii. No action is being taken on the following definitions:

(4) Allowable Emissions: Part D Provision.
(7) Best Available Control Technology: Part C Provision.
(10) Commenced Construction: Part D Provision.
(24) Lowest Achievable Emission Rate (LAER): Part D Provision.
(25) Major Source: Part D/C Provision.
(30) Nonattainment Area: Part D Provision.
(35) Potential Emissions: Part D Provision.
(36) Reasonably Available Control Technology (RACT): Part D Provision.
d. 040—General Standards for Maximum Permissible Emissions: Approval, except for introductory portion dealing with RACT, which is a Part D provision.
e. 050—Minimum Emission Standards for Combustion and Incineration Sources: Approval
f. 060—Minimum Emission Standards for General Process Sources: Approval
g. 080—Compliance Schedules: Approval.
h. 100—Registration: Approval
i. 110—New Source Review
(1)—110(1)(a) Variance—related exemption: Disapproval. This section improperly exempts from pre-construction review certain source modifications which occur in conjunction with a previously approved variance.
(2)—110 (Introduction), 110(1)(b) and (1)(c): No Action. These provisions describe Part D and Part C requirements.
(3)—110(2)—Submittal of Review Material: Approval
(4)—110(3)(a) and 110(6)—Adoption of DOE rules by reference: Approval. The reference in WAC 463–39 to 70.94 RCW and the applicable rules and regulations in force pursuant to that statute results in an adoption by EFSEC of the provisions referenced. EPA finds that this is an acceptable method for incorporation of rules and regulations.
(5)—110(3)(b)—Portion referring to Federal NSPS and National Emission Standards For Hazardous Air Pollutants (NESHAPS) Requirements: Approval
(6)—Remainder of 110(3)(b), (c), (d) and (e)—PSD, LAER and Reasonable Further Progress requirements: No Action, Parts C and D Provisions.
(7)—110(4) thru (8)—New Source Review administrative procedure: Approval
j. 115—Standards of Performance for New Stationary Sources: No Action. This section outlines DOE's program for administering the provisions of Section 111 of the Act and must be separately delegated by EPA.
k. 120—Monitoring and Special Report: Approval with the following clarification:
120(3) Source Testing: EPA is approving this Section with the understanding that source testing will be done in accordance with methods described in the DOE Source Test Manual and contained in Part III of the Washington SIP.
l. 130—Regulatory Actions: Approval
m. 135—Criminal Penalties: Approval
n. 150—Variances, Approval with the following clarification: No variances from new source review are allowed. All variances from emission limitations for existing sources are to be adopted in accordance with Section 150(8) and submitted as SIP revisions.
0. 170—Requirements for Boards and Director: Approval

C. Memorandum of Agreement Between EFSEC and DOE To Describe Program Implementation and Resources

EPA is approving the Memorandum of Agreement between EFSEC and DOE as a means of conducting an effective air pollution control program for energy sources in the State of Washington. Pursuant to RCW 80.50, EFSEC is given full authority to establish construction requirements and conditions of operation for energy facilities, but lacks the staff for in-depth technical air quality control analysis and for field work to evaluate operational performance. Therefore, DOE has entered into an agreement with EFSEC to undertake these functions, while leaving the statutory authority of EFSEC intact. This agreement provides for a division of functions of the two agencies so that both the establishment of emission limitations and their enforcement can be effectively implemented in conformity with the requirements of the Federal Clean Air Act.

EFSEC, through its rulemaking and permit writing functions, intends to impose substantive standards on energy facilities which are consistent with the limitations imposed on other air contaminant sources and which meet the relevant level of technical control dictated by Federal and State law. DOE will assist in developing these limitations and will perform the data gathering function necessary for their enforcement. The general air pollution regulation dealing with EFSEC sources (Chapter 463–39 WAC) is in most major respects, the same as DOE's General Regulation for Air Pollution Sources (Chapter 173–400 WAC).

Comments

One commenter pointed out that EPA proposed "no action" on certain definitions which are included in WAC 463–39–110 (3)(b), which was proposed for approval as part of the new source review administrative procedure.

EPA agrees that this is inconsistent and has corrected the final rulemaking to indicate that no action will be taken on Section 110(3)(b), except for the last sentence which requires sources to meet Federal standards for new sources and sources emitting hazardous air pollutants. The portions of 110(3)(b) on which no action will be taken deal with Part C and Part D of the Act. In addition, because of this clarification the definition for NSPS (Section 030(29)) will be approved.

The same commenter pointed out that EPA's proposed disapproval of Section 150—Variances was inconsistent with the earlier approval of the same provision in the DOE regulation WAC 173–400–150. EPA agrees that the provisions are the same and can be approved in relation to existing sources. Therefore, instead of a general disapproval of Section 150, EPA will approve it with the understanding that variances from new source review cannot be issued. Variances to existing sources may be issued only in accordance with Section 150(8) which reads "No variance or renewal shall be construed to set aside or delay any requirement of the Federal Clean Air Act except with the approval and written concurrence of the federal Environmental Protection Agency."

Another commenter representing the Colville Confederated Tribes and the Makah Indian Tribe raised several points as follows:

1. EPA has not provided the Tribes with a meaningful opportunity for involvement in this proposed rulemaking process.

EPA has provided an adequate opportunity for involvement to all concerned including the Tribes. EPA published advance notice of the receipt of regulations on September 26, 1979 (44 FR 55396), requesting comments and pointing out that further rulemaking would be forthcoming. On April 10, 1981 the Notice proposing approval of the EFSEC SIP was published (46 FR 21391). In the meantime, both Tribes were notified of public hearings held by DOE on July 15, 1980 to consider inclusion of the EFSEC SIP as part of the state-wide SIP. The Tribes did not provide testimony. Neither the statutory authority nor the regulations have been changed since the original notification in 1979.

2. The Memorandum of Understanding (MOU) between EFSEC and DOE is not consistent with requirements of Section 110 of the Act in that DOE is preempted by State law from participation in EFSEC air permit and enforcement matters.

EPA considers the MOU as merely a mechanism by which DOE provides information to EFSEC, which EFSEC will then use in carrying out its permitting and enforcement process. The preemptive language in the EFSEC statute does not apply to data gathering activities, only to the actual permitting and enforcement powers granted to EFSEC.

3. APA should not have proposed approval without first receiving an Attorney General's opinion describing the adequacy of the legal authority to meet the requirements of Section 110 of the Act.

EPA proposed approval based on an internal legal review of the EFSEC enabling authority (RCW 80.50), which found that the Section 110 requirements appeared to be satisfied. However, EPA noted that final action to approve the SIP was contingent upon receiving a State Attorney General's opinion on this matter. That opinion was submitted to EPA on May 28, 1981 with the conclusion that RCW 80.50 satisfies the requirements for a SIP as described in Section 110 of the Act.

EPA recognizes that prior access to the Attorney General's opinion may have been helpful in reviewing the question of authority. However, since EPA's preliminary conclusion was that the authority was adequate, comment on any inadequacies could have been submitted absent review of a specific Attorney General's opinion. Since the Attorney General has concluded, along with EPA, that the EFSEC enabling authority is adequate, there is no need to delay the final action for further review of the legal opinion on the adequacy of RCW 80.50.

4. EPA should have waited for the State to submit revisions designed to conform the regulations (WAC 173–400 and 463–39) to EPA requirements resulting from "Alabama Power Co. v. Costle."

The State has not yet submitted a revised SIP to meet the EPA requirements. Once a SIP is submitted, EPA has six months to act on that submittal. Therefore, EPA sees no reason to delay this action until an unspecified future date.

5. EPA should have questioned EFSEC's ability to incorporate by reference the State Clean Air Act and regulations promulgated thereunder and had the Attorney General's opinion address the question.

EPA did review this aspect of the EFSEC regulation and concluded that referencing the State Clean Air Act and applicable rules and regulations promulgated thereunder was acceptable. This incorporation by reference is further evidence of EFSEC's intent, as set forth in the Memorandum of Agreement, to conduct an air program which parallels the DOE air program. This will ensure that the pre-emptive jurisdiction of EFSEC does not result in the application of a separate and less stringent set of air pollution control standards than would apply if EFSEC did not exist. EPA does not see the need to have the Attorney General's opinion specifically address this question in light of the conclusions that the statutory authority is adequate and the Memorandum of Agreement is an acceptable means of conducting the program.

6. EPA should require that each site certification agreement be submitted as a SIP revision.

EPA's approval of the EFSEC SIP will make the EFSEC emission standards federally enforceable. Any provision of a site certification that would result in a deviation from those standards would have to be submitted as a SIP revision in order to be federally enforceable. This also applies to future variances which may be granted to existing EFSEC sources under WAC 463–39–150.

7. EFSEC compliance with the substantive standards of the Washington SIP is discretionary.

EPA feels the commenter is misreading the language describing how the program will operate. As stated in the Notice, EFSEC intends to impose substantive standards on energy facilities which are consistent with limitations imposed on other air contaminant sources. In addition, sources will be required to meet the relevant level of technical control required by federal and state law. EPA fails to see a discretionary aspect to the program. The regulatory provisions are clear in their operation and effect; no deviation from the substantive provisions is intended.

8. EPA's thirty-day comment period was inadequate because (a) the information being acted upon by EPA now is different from that described in the original notification of receipt and advance notification of proposed rulemaking (44 FR 55396, September 26, 1979) and (b) impact of the regulation is clearly not limited to the State of Washington.

(a) The action being taken today is based upon the materials which were described in the April 10, 1981 Notice of Proposed Rulemaking (46 FR 21391). The 1979 Notice announced receipt of the regulations, described the intent to propose further rulemaking and requested comments. Thus, the only additional material is the statutory authority (which existed at the time of the original submittal) and the Memorandum of Agreement. All these

materials were the subject of the State hearing held on July 15, 1980, which the Tribes were notified of and given an opportunity to provide comment. In light of the time which has already passed and the fact that no new information is available, extending the comment period and/or publishing supplemental notices is unnecessary. (b) The impact which EPA refers to as limited to Washington is not environmental, but regulatory. Environmental impacts beyond the geographical boundaries of the state are considered during the review of specific projects. EPA's action only approves existing state actions without imposing new regulatory requirements. Again, EPA believes no additional comment period is necessary.

9. Because the construction and modification of energy sources within the State of Washington is currently prohibited under the SIP, EPA action to approve the EFSEC SIP is of major significance and should be the subject of a public hearing.

EPA believes this is a normal SIP approval action. The construction prohibition was in effect because EFSEC did not have EPA approval of its new source review regulations. It is true that EPA's action today will lift the construction prohibition for major energy sources in attainment areas and minor energy sources in any area. (As required by § 110(a)(2)(I) of the Clean Air Act the prohibition remains in effect for major energy sources proposing to locate in an area designated nonattainment for a pollutant which the source will emit.) However, the basic question of whether or not the prohibition should be lifted is not an issue for discussion. If EPA did not approve EFSEC's SIP, EPA itself would be required to promulgate a regulatory program to allow construction. Also, a public hearing has already been held at the state level. EPA's action is not of major significance and does not require a public hearing in addition to the one held previously by the State.

10. EPA should have conducted a review under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because of significant impact of the rulemaking on the Tribes as small governmental jurisdictions.

SIP approvals do not create any requirements not already contained in state law and for this reason do not have a significant impact.

An additional comment, received after the close of the comment period, included a brief filed before EFSEC entitled "Brief of the Department of Transportation Preemption by EFSEC of Oversize Vehicle Permits." The comment and Brief merely emphasizes the preemption aspects of EFSEC which EPA is fully aware of in taking this action. EFSEC's permitting and enforcement authority remains intact, as discussed in the answer to comment 2. above.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of regulatory impact analysis. This regulation is not major because EPA is approving an action taken by the State and, therefore, not establishing new requirements.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that the attached rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This action only approves State actions and imposes no new requirements.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceeding brought by EPA to enforce these requirements.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

This notice of final rulemaking is issued under the authority of Sections 110 and 172 of the Clean Air Act as amended (42 U.S.C. 7410(a) and 7502).

Note.—Incorporation by reference of the State Implementation Plan for the State of Washington was approved by the Director of the Office of the Federal Register on July 1, 1981.

Dated: February 12, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

PART 52—APPROVAL AND PROMULGATON OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart WW—Washington

1. In § 52.2470 paragraph (c)(25) is added as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(25) On July 30, 1980 the State submitted revisions to the SIP to cover energy sources (superseding the submission of August 17, 1979). The major elements of the "energy" SIP include:

1. Legal Authority—Chapter 80.50 RCW
2. Regulations—Chapter 463–39 WAC dated
3. A Memorandum of Agreement between the Energy Facility Site Evaluation Council (EFSEC) and the Washington Department of Ecology (DOE) describing program implementation.

On May 28, 1981, the State submitted an Attorney General's opinion certifying that the enabling authority (80.50 RCW) was sufficient to meet the requirements of Section 110 of the Clean Air Act. On February 23, 1982, EPA approved the EFSEC SIP as it pertains to non-Part C pre-construction review in attainment areas. Part C and Part D requirements will be considered at a later date. Portions of the SIP approved are as follows:

1. Legal Authority—Chapter 80.50 RCW
2. Memorandum of Agreement between DOH and EFSEC.
3. Regulations—WAC 463–39, except Sections 030(4), (7), (10), (24), (25), (30), (35) and (36); 040) (introduction); 110 (introduction), (1)(b), (1)(c); 110(3)(b) (except portion dealing with Federal NSPS and NESHAPS requirements), (3)(c), (3)(d) and (3)(e), 115; upon which no action was taken and Section 110(1)(a) which was disapproved.

2. Section 52.2470 is revised by adding the following information to Table 52.2470:

Citation: WAC 463–39
Title: General Regulations for Air Pollution Sources
Date of Regulation: August 6, 1979
Date of EPA Approval: February 23, 1982.
Federal Register Citation: [as published]
Applicable Sections: All Sections, except 030(4), (7), (10), (24), (25), (30), (35), and (36); 040 (introduction); 110 (introduction), (1)(a), (1)(b), (1)(c), 110(3)(b) (except portion dealing with Federal NSPS and NESHAPS requirements), (3)(c), (3)(d), (3)(e); and 115.

3. Section 52.2479 is revised to add paragraph (b) as follows:

§ 52.2479 Rules and Regulations.

* * * * *

(b) Preconstruction Review under Section 110 of the Clean Air Act—Approval. (1) (WAC 463–39 is approved as satisfying the provisions for preconstruction review under Section 110 of the Act except as follows:

(i) WAC 463–39–110(1)(a) is disapproved.

§ 52.2473 Approval status [Corrected].

4. Correct § 52.2473 as follows:

In the second sentence of this section the citation of the plan identification should be corrected to read "§ 52.2470" instead of "§ 52.247."

[FR Doc. 82-4787 Filed 2-23-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Parts 262, 264, and 265

[SW-FRL 2041-5]

Hazardous Waste Management System: Standards Applicable to Generators of Hazardous Waste and Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

AGENCY: Environmental Protection Agency.

ACTION: Delayed Compliance Dates.

SUMMARY: The Environmental Protection Agency (EPA) is today delaying the compliance dates for three requirements of its hazardous waste regulations under Subtitle C of the Resource Conservation and Recovery Act (RCRA) until August 1, 1982. The three requirements concern: (1) The submission of annual reports by hazardous waste generators and owners and operators of treatment, storage, and disposal facilities, under 40 CFR 262.41, 264.75, and 265.75; (2) the submission of initial-year quarterly groundwater monitoring parameter readings by treatment, storage, and disposal facilities, under 40 CFR 265.94(a)(2)(i); and, (3) the preparation of groundwater quality assessment program outlines by treatment, storage, and disposal facilities, under 40 CFR 265.93(a).

EPA is taking these actions because it is currently developing formal proposals to substantially streamline or eliminate these requirements, and the Agency wishes to prevent the regulated community from expending resources toward complying with them in their present form.

DATE: Effective February 23, 1982.

ADDRESSES: The Docket Clerk (Docket 3002/3004—Annual Survey/RCRA Burden Reduction), Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., 20460.

FOR FURTHER INFORMATION CONTACT: Michael E. Burns, Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., 20460, (202) 755–9158.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to Subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, EPA promulgated regulations establishing a comprehensive regulatory program for the management and control of hazardous waste (40 CFR Parts 260–267 and 122–124). As part of the regulations, generators of hazardous waste and owners and operators of hazardous waste treatment, storage, and disposal (TSD) facilities are required to prepare annual reports on their hazardous waste management activities and submit them to the EPA Regional Administrator by March 1 of the following year (40 CFR 262.41, 264.75, and 265.75). Annual reports covering the 1981 calendar year are required to be submitted to EPA Regional Administrators by March 1, 1982.

In addition, the regulations require owners and operators of certain hazardous waste TSD facilities to implement a groundwater monitoring program by November 19, 1981, unless an appropriate waiver is prepared and maintained at the facility (40 CFR 265.90). Unless an alternate groundwater monitoring system is implemented at the facility, as provided under 40 CFR 265.90(d), owners and operators are required during the initial year of their monitoring programs to conduct quarterly analyses (40 CFR 265.92(c)), to, among other things, characterize the suitability of the groundwater in the uppermost aquifer as a drinking water supply (265.92(b)(1)). Within 15 days after the completion of each quarterly analysis, owners and operators are required to report to EPA Regional Administrators the concentrations or values of the observed parameters specified in the EPA Interim Primary Drinking Water Standards (see Appendix III to 40 CFR Part 265) for each groundwater monitoring well (40 CFR 265.94(a)(2)(i)). As part of these reports, owners and operators must separately identify for each monitoring well any parameter whose concentration or value has been found to exceed the maximum contaminant levels listed in the EPA Interim Primary Drinking Water Standards.

Finally, as part of the groundwater monitoring regulations, owners and operators of certain TSD facilities that have not implemented an alternate groundwater monitoring program are required to prepare an outline of a groundwater quality assessment program by November 19, 1981 (40 CFR 265.93(a)).

II. Description of Today's Actions and Rationales

A. Annual Reports

EPA is today delaying the compliance date for submission of 1981 generator and TSD facility annual reports from March 1, 1982, to August 1, 1982. The Agency is taking this action for two primary reasons. First, as announced on July 31, 1981 (46 FR 39428), EPA now believes that it can meet its annual data needs through surveying small samples of the generator and TSD facility populations instead of requiring annual reports from all generators and TSD facilities. Furthermore, EPA believes that this sampling approach is less costly and burdensome to both the Agency and the regulated community. EPA is therefore developing a Federal Register notice to propose replacing the annual reporting requirements with annual surveys. However, final promulgation of this proposed amendment is not expected until this summer, by which time the 1981 annual reports will have already been prepared and submitted. Extending the compliance deadline until August 1, 1982, will allow the Agency sufficient time to issue its proposal, review public comments, and come to a final determination regarding the ultimate status of the annual reporting requirements prior to preparation and submission of the 1981 reports by the regulated community.

EPA's second reason is that it will conduct an extensive survey of the regulated populations of hazardous waste generators and TSD facilities this Spring in support of its Regulatory Impact Analyses (RIAs) on several components of its RCRA regulations. Since this survey will obtain data substantially equivalent to that to be submitted in annual reports, EPA believes that requiring submission of annual reports at this time will be duplicative for those handlers surveyed and unwarranted because the Agency intends to meet its current information needs through the survey.

B. Quarterly Groundwater Reporting

EPA also is today delaying, until August 1, 1982, the compliance dates for submission of the first two quarterly groundwater monitoring parameter readings (now required to be submitted by or before March 8 and June 3, 1982, under 40 CFR 265.94(a)(2)(i)), except where parameters are observed whose concentration or value is found to exceed the maximum contaminant levels listed in the EPA Interim Primary Drinking Water Standards (see Appendix III to 40 CFR Part 265). Where concentrations or values exceed the maximum contaminant levels, owners and operators must report their quarterly parameter readings to EPA Regional Administrators within 15 days after completing each quarterly analysis.

EPA needs the quarterly reports in these cases in order to identify those aquifers where contamination may have occurred and where potential threats to human health and the environment may exist.

The Agency is taking this action because it is currently developing a formal proposal to institute an exception reporting system for all of the groundwater monitoring reporting requirements. The nature of this proposal is outlined in an analysis submitted to the Office of Management and Budget (OMB) by EPA as a follow-up to its July 31, 1981, **Federal Register** notice. Copies of EPA's analysis can be obtained by submitting written requests to the Docket Clerk (see Addresses).

Delaying the submission of quarterly parameter readings unless maximum contaminant levels are exceeded until August 1, 1982, will allow EPA sufficient time to complete the new rulemaking prior to the submissions of most parameter readings by the regulated community, and will avoid imposing reporting requirements that EPA may change. It should be noted that today's action does not relieve owners and operators from the requirement to conduct the quarterly analyses and to keep records of the analyses throughout the active life of their facilities, and, for disposal facilities, throughout the post-closure period as well. Therefore, EPA believes the environmental impact of the delay is minimal.

C. Assessment Program Outlines

Finally, EPA is today delaying, until August 1, 1982, the compliance date by which owners and operators of certain TSD facilities are required to have prepared an outline of a groundwater quality assessment program. The Agency is taking this action because it is currently developing a formal proposal to eliminate the outline requirement entirely. The nature of this proposal is outlined in an analysis submitted to OMB by EPA as a follow-up to its July 31, 1981, **Federal Register** notice. Copies of EPA's analysis can be obtained by submitting written requests to the Docket Clerk (see Addresses).

As above, delaying the preparation of the groundwater quality assessment program outlines until August 1, 1982, will allow EPA sufficient time to complete rulemaking on this matter and will avoid interim imposition of a requirement that it intends to eliminate. EPA sees minimal environmental consequences resulting from today's action because the groundwater quality assessment programs that are the subject of the outlines would not be implemented in most cases until after a one-year cycle of groundwater sampling analyses has been conducted and compared. Since the groundwater monitoring requirements did not take effect until November 19, 1981, comparisons with initial background levels will not take place until at least the Fall of 1982, well after the final disposition of the outline requirements has been determined.

III. Compliance Date Delays

To delay the compliance dates for the three RCRA requirements described in Section II, EPA is today taking the following actions:

(1) The compliance date for submission of generator and TSD facility 1981 annual reports, required under 40 CFR 262.41, 264.75, and 265.75, is extended five months, from March 1, 1982, to August 1, 1982.

(2) The compliance dates for submission of the first two quarterly groundwater readings by TSD facilities, required under 40 CFR 265.94(a)(2)(i), are extended from March 6 and June 3, 1982, to August 1, 1982, except where parameters are observed whose concentration or value is found to exceed the maximum contaminant levels listed in the EPA Interim Primary Drinking Water Standards (see Appendix III to 40 CFR Part 265). Where concentrations or values exceed the maximum contaminant levels, owners and operators must continue to report their quarterly parameter readings to EPA Regional Administrators within 15 days after completing each quarterly analysis.

(3) The compliance date for preparation of groundwater quality assessment outlines, required under 40 CFR 265.93(a), is extended from November 19, 1981, to August 1, 1982.

IV. Effective Date

Today's actions are final and immediately effective. The Agency has determined that there is good cause under 5 U.S.C. 553(b) to make these changes immediately effective without prior notice or public comment. Since the Agency will be proposing substantial changes that would render these requirements unnecessary, EPA believes it is essential to take these actions before the regulated community expends resources toward complying with them in their present form. Because today's changes are minor and will have little or no adverse impact on the environment; EPA has concluded that it would be contrary to the public interest to delay this action.

Section 3010(b) of RCRA requires that revisions to the hazardous waste regulations take effect six months after their promulgation. The purpose of this statutory requirement is to allow the regulated community sufficient lead time to prepare to comply with major new regulatory requirements. That purpose is irrelevant here since this action is not imposing new requirements but rather is affording temporary relief from existing regulatory requirements. Furthermore, an effective date six months after promulgation would defeat the very purpose of these actions. EPA is therefore making these delays effective on February 23, 1982.

Section 8(a)(1) of Executive Order 12291 provides for exemption from the procedures established by the Order in emergency situations. Because any delay in issuing this notice will increase the likelihood that the regulated community will expend resources to comply with the requirements in their present form, it is impractical to follow the procedures of Executive Order 12291.

Dated: February 12, 1982.

John W. Hernendez, Jr.,

Acting Administrator.

[FR Doc. 82-4817 Filed 2-22-82; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6111

[OR-19062]

Oregon; Powersite Restoration No. 695; Partial Revocation of Powersite Reserve No. 294

Correction

In FR Doc. 82-3063 appearing on page 5419 in the issue of Friday, February 5, 1982, make the following corrections:

(1) On page 5419, in the fourth line from the bottom of the last column, there should have been a comma and a space between S½NW¼ and SW¼.

(2) On page 5420, in the fifth line from the top of the first column, there should have been a comma and a space between W½NE¼ and NW¼.

(3) Also on page 5420, first column, under T. 7 S., R. 11 E., in Sec. 9, ". . . W½SW¼, . . ." should have read ". . . W½SE¼. . . .".

(4) In the same column, under T. 8 S., R. 11 E., in Sec. 19, there should have been a comma and a space between SE¼NW¼ and E½SW¼.

(5) In the second column of page 5420, under T. 9 S., R. 12 E., in Sec. 18, ". . . S½NW¼, . . ." should have read ". . . S½NE¼ . . .".

(6) Also in T. 9 S., R. 12 E., in Sec. 25, ". . . N½SE¼, . . ." should have read ". . . N½SW¼, . . .".

BILLING CODE: 1505-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

Car Service Order; Various Railroads Authorized To Use Tracks and/or Facilities of Chicago, Rock Island & Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Thirty-third Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Public Law 96-254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE: 12:01 a.m., February 20, 1982, and continuing in effect until 11:59 p.m., May 31, 1982, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840 or 275-1559.

SUPPLEMENTARY INFORMATION:

Decided February 17, 1982.

Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96-254 (RITEA), the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for those operations.

In view of the urgent need for continued rail service over RI's lines pending the implementation of long-range solutions, this order permits carriers to provide service to shippers which may otherwise be deprived of essential rail transportation.

Pursuant to paragraph (d) of Sixth Revised Order No. 1495, Burlington Northern Railroad Company (BN) notified the Railroad Service Board (Board) of the intended termination of its interim operations over the Rock Island (RI) line between Phillipsburg and Caruso, Kansas, effective 11:59 p.m., February 14, 1982. Pursuant to that notification separate applications were received from Cadillac and Lake City Railway Company (CLK) and Kyle Railroad Company (KYLE) to operate this line segment.

In considering these separate applications in Thirty-second Revised Service Order No. 1473, served February 5, 1982, the Board decided that CLK's ongoing operations in the immediate area, its proposal to serve the line served by BN and to assume the authority granted to Kyle should Kyle fail to do so, and the resulting extent to which shippers would receive service, placed CLK in the position of immediately providing a substantially greater service to the public. Additionally, the determination was based on the provision of a greater service to the public and conforms with existing Commission policy, with respect to resolving competing applications.

On February 9, 1982, Kyle filed supplemental information and a request for reconsideration by the Board, asserting that the board had incorrectly concluded that CLK offered to provide the greatest service to the public. Kyle also asserted that, as the designated carrier of the Mid-States Port Authority which is negotiating with the RI Trustee to purchase the line, it is in a position of permanency and thus in the better position to serve the public interest. Further, that Kyle has entered into a short term agreement with the Trustee to lease the Belleville to Caruso, Kansas, segment, which lease was noticed to the Board as approved by the court in a filing by Kyle on February 18, 1982.

Inasmuch as Kyle's lease is for only three months and is cancellable on 30 days' notice, we believe that every effort should be made to protect shippers in Colorado and Kansas with the maximum possible shipping flexibility. In this regard, we will recognize the wishes of the Trustee and the Court with respect to Kyle's ability to operate to Caruso, Kansas. In so doing, we rescind the authority for CLK to operate beyond Colby, Kansas, and its original interchange with the Union Pacific Railroad.

We will not, however, risk depriving shippers of service by limiting alternatives where additional competitive advantage is available. With that in mind, we will permit CLK to provide that advantage to shippers located between Caruso and Colby, Kansas. This is essential to the continued viability of this region and will benefit directly the ultimate purchaser. In addition, this will assure these areas of continued service while Kyle establishes its operating relationships with the line haul carriers, which CLK already has in place.

Appendix A, to the previous order, is revised by deleting at Item 12 C., the authority for CLK to extend its operations beyond Colby, Kansas. Appendix A, to the previous order, is revised further by adding at Item 22 A., the authority for Kyle to operate to Caruso, Kansas. In the interest of order, however, Kyle is designated the supervising carrier of the jointly used track, and is responsible for coordinating operations where necessary and for performing maintenance. CLK is responsible to share the costs of that maintenance on a mutually agreed upon basis.

Appendix B of Thirteenth Revised Service Order No. 1473 is unchanged, and becomes Appendix B of this Order.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the named appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1473 Service Order 1473.

(a) *Various Railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, trustee).* Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers as previously authorized in Service Order No. 1435.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Public Law 96-254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date,

notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least (30) thirty days notice to the Railroad Service Board and affected shippers.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a), operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

1. In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

1. The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(k) In transporting traffic over these lines, all interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

*(m) *Effective date.* This order shall become effective at 12:01 a.m., February 20, 1982.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1982, unless otherwise modified, amended, or vacated by order of this Commission.

(49 U.S.C. 10305, and Section 122, Pub. L. 96-254).

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

Appendix A—RI Lines Authorized To Be Operated by Interim Operators

1. *Louisiana and Arkansas Company (LA):*

A. Tracks one through six of the Chicago, Rock Island and Pacific Railroad Company's (RI) Cadiz yard in Dallas, Texas, commencing at the point of connection of RI track six with the tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) in the southwest quadrant of the crossing of the ATSF and the Missouri-Kansas-Texas Railroad Company (MKT) at interlocking station No. 19.

2. *Peoria and Pekin Union Railway Company (PPU):*

A. All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Pekin, Illinois.

B. Mossville, Illinois (milepost 148.23) to Peoria, Illinois (milepost 161.0) including the Keller Branch (milepost 1.55 to 0.15).

3. *Union Pacific Railroad Company (UP):*

A. Beatrice, Nebraska.

B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.

4. *Toledo, Peoria and Western Railroad Company (TPW):*

A. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.

5. *Chicago and North Western Transportation Company (CNW):*

A. from Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.

B. from Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0).

C. from Inver Grove (milepost 344.7) to Northwood, Minnesota.

D. from Clear Lake Junction (milepost 101.1) to Short Line Junction, Iowa (milepost 73.6).

E. from Short Line Junction Yard (milepost 354) to West Des Moines, Iowa (milepost 364).

F. from Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7).

G. from Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0).

H. from Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 415.9).

I. from Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).

J. from Iowa Falls (milepost 97.4) to Estherville, Iowa (milepost 206.9).

K. from Bricelyn, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7).

L. from Palmer (milepost 454.5) to Royal, Iowa (milepost 502).

M. from Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2).

N. from Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 98.2) and to serve all industry formerly served by the RI at Cedar Rapids.

O. from Newton (milepost 320.5) to Earlham, Iowa (milepost 388.6).

P. Sibley, Iowa.

Q. Worthington, Minnesota.

R. Altoona to Pella, Iowa.

S. Carlisle to Indianola, Iowa.

T. Omaha, Nebraska, (between milepost 502 to milepost 504).

U. Earlham, (milepost 388.6) to Dexter, Iowa (milepost 393.5).

V. Peoria Terminal Company trackage from Iowa Junction (RI milepost 164.32/PTC milepost .91) through Hollis, Illinois to the Illinois River bridge (milepost 7.40).

6. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW):*

A. from West Davenport, through and including Muscatine, to Fruitland, Iowa, including the Iowa-Illinois Gas and Electric Company near Fruitland.

B. Washington, Iowa.

C. from Newport, to a point near the east bank of the Mississippi River, sufficient to serve Nortwest Oil Refinery, at St. Paul Park, Minnesota.

D. from Davenport to Iowa City, Iowa.

E. at Davenport, Iowa.

7. *Davenport, Rock Island and North Western Railway Company (DRI):*

A. Moline, Illinois.

B. Rock Island, Illinois, including 20th Street yard.

C. from Rock Island through Milan, Illinois, to a point west of Milan sufficient to include service to the Rock Island Industrial complex.

D. from Rock Island, Illinois, to Davenport, Iowa, sufficient to include service to Rock Island Arsenal.

8. *St. Louis Southwestern Railway Company (SSW):*

A. from Brinkley to Briark, Arkansas, and at Stuttgart, Arkansas.

B. at North Topeka and Topeka, Kansas.

9. *Little Rock & Western Railway Company (LRWN):*

A. from Little Rock, Arkansas (milepost 135.2) to Perry, Arkansas (milepost 184.2).

B. from Little Rock (milepost 136.4) to the Missouri Pacific/RI Interchange (milepost 130.6).

10. *Missouri Pacific Railroad Company (MP):*

A. from Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5).

B. from Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0).

C. from Hot Springs Junction (milepost 0.0) to and including Rock Island milepost 4.7.

D. from Wichita, Kansas (milepost 243.7) to Kechi, Kansas (milepost 235.9).

11. *Norfolk and Western Railway Company (NW):* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track, for the purpose of serving industries located adjacent to such tracks. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

12. *Cadillac and Lake City Railway Company (CLK):*

A. from Sandown Junction (milepost 0.1) to and including junction with DRGW Belt Line (milepost 2.7) all in the vicinity of Denver, Colorado, a distance of approximately 6.6 miles.

B. from Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado (milepost 602.8), all in the vicinity of Colorado Springs, Colorado, and Eastward from Colorado Springs to Falcon, Colorado (milepost 590.3), a total distance of approximately 25.1 miles.

*C. from Simla, Colorado (milepost 558.3) to Colby, Kansas (milepost 387.0), a distance of approximately 171.3 miles.

D. Rock Island trackage rights over Union Pacific Railroad Company between Limon and Denver, Colorado, a distance of approximately 63.8 miles.

13. *Baltimore and Ohio Railroad Company (BO):*

A. from Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

B. from Bureau, Illinois (milepost 114.12) to Henry, Illinois (milepost 126.94) a distance of approximately 12.8 miles.

14. *Keota Washington Transportation Company (KWTR):*

A. from Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.

B. At Vinton, Iowa (milepost 120.0 to 123.0).

C. From Vinton Junction, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4).

15. *The La Salle and Bureau County Railroad Company (LSBC):*

A. from Chicago (milepost 0.60) to Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois. Street (Subdivision 1A, milepost 14.8), at Blue Island Illinois.

B. from Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8) at Blue Island, Illinois.

C. from Gresham (subdivision 1, milepost 10.0) to South Chicago (subdivision 1B, milepost 14.5) at Chicago, Illinois.

D. From Pullman Junction, Chicago, Illinois, (milepost 13.2) running southerly to the entrance of the Chicago International Port, a distance of approximately five miles, for the purpose of bridge rights only.

16. *The Atchison, Topeka and Santa Fe Railway Company (ATSF):*

A. At Alva, Oklahoma.

B. At St. Joseph, Missouri.

17. *The Brandon Corporation (BRAN):*

A. from Belleville, Kansas (milepost 226.1), to Manhattan, Kansas (milepost 143.0), a distance of approximately 83 miles.

18. *Iowa Northern Railroad Company (IANR):*

A. from Cedar Rapids, Iowa (milepost 100.5), to Waterloo, Iowa (milepost 150.76).

B. from Shell Rock, Iowa (milepost 172.1), to Manly, Iowa (milepost 225.1).

C. At Vinton, Iowa, and west on the Iowa Falls Line to milepost 24.3.

19. *Iowa Railroad Company (IRRC):*

A. from Council Bluffs (milepost 490.15) to Dexter, Iowa (milepost 393.0) a distance of approximately 97.15 miles.

B. from Audubon Junction (milepost 440.7) to Audubon, Iowa (milepost 465.1) a distance of approximately 24.4 miles.

C. from Hancock, Iowa (milepost 6.4) to Oakland, Iowa (milepost 12.3) a distance of approximately 5.9 miles.

20. *Missouri-Kansas-Texas Railroad Company (MKT):*

A. from Oklahoma City, Oklahoma (milepost 498.4) to McAlester, Oklahoma (milepost 365.0), a distance of approximately 131.4 miles.

21. *Chicago Short Line Railway Company (CSL):*

A. from Pullman Junction easterly for approximately 1000 feet to serve Clear-View Plastics, Inc., all in the vicinity of the Calumet switching district.

B. from Rock Island Junction westerly for approximately 3000 feet to Irondale Wye.

22. *Kyle Railroad Company (Kyle):*

*A. from Belleville (milepost 167.0) to Caruso, Kansas (milepost 430.0), a distance of approximately 243 miles. KYLE will be responsible for the maintenance of the jointly used track between Colby and Caruso as mutually agreed upon with CLK, and for coordinating operations.

23. *North Central Texas Railway, Inc. (NCTR):*

A. from Chico, Texas (milepost 562) to Dallas (North Junction), Texas (milepost 643.8).

B. Joint right-of-way district between Dallas (North Junction) and Endot, Texas (milepost 646.4).

24. *Enid Central Railway, Inc. (ENIC):*

A. from Enid, Oklahoma (milepost 345.27) to Kremlin, Oklahoma (milepost 330.03), including operations on the Ponca City Branch line from milepost 0.30 to milepost 0.02.

25. *North Central Oklahoma Railway, Inc. (NCOR):*

A. from Ponca City, Oklahoma (milepost 54.8) to North Enid, Oklahoma (milepost 0.30).

B. from Mangum, Oklahoma (milepost 97.2) to Chickasha, Oklahoma (milepost 0.0).

C. from Richards Spur, Oklahoma (milepost 486.45) to Anadarko, Oklahoma (milepost 463.39).

D. from Chickasha, Oklahoma (milepost 434.69) to El Reno, Oklahoma (milepost 400.31).

E. from El Reno, Oklahoma (milepost 513.31) to Yukon, Oklahoma (milepost 497.37).

*Changed.

[FR Doc. 82-4805 Filed 2-22-82; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

CIVIL AERONAUTICS BOARD

14 CFR Part 389

[Docket Nos. 30586, 30816; ODR-25]

Fees and Charges for Special Service; Elimination of License Fees and Revision of Filing Fees

Dated: February 1, 1982.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB proposes to revise its fee schedules for services benefiting individual recipients. This revision would bring the CAB's fee structure into line with the rising costs that the CAB has experienced and with the changes in services made by deregulation. The proposal would eliminate the CAB's license fees, which have been suspended since 1977.

DATES: Comments by: April 20, 1982. Reply comments by: May 10, 1982.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: March 1, 1982

The Docket Section prepares the Service List and sends it to persons listed, who then serve their comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 30586, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel; Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: The Independent Offices Appropriation Act of 1952 (IOAA) (31 U.S.C. 483a) authorizes agencies to set fair and equitable fees for services provided for the benefit of any one particular person. The Act states that those services are to be self-sustaining to the fullest possible extent.

In 1965, the Board established charges for "special services," such as copying, certifying and searching for records, and subscriptions to Board publications. The Board in 1968 adopted a set of filing and license fees for other services benefiting a single person (14 CFR Part 389). In 1973, the Board increased all of these fees to reflect current costs, and to include certain indirect costs. The basic fee structure and the amount of the fees have not been changed since that time. The Board has, however, from time to time added new documents to the fee schedule, and in 1977, in view of several court decision, suspended collection of the license fees.

In the 8 years since the Board's fee structure was last reviewed, two major changes have taken place that affect provision of these services and the amount of the fees. Since 1973, the Board's expenses have risen 107 percent, including an 84 percent increase in salary costs. The cost figures used to adjust the fee schedule in 1973 are thus well below the present costs of providing these services. More important in its effect on the services and the resulting fees, was passage of the Airline Deregulation Act in 1978 (Pub. L. 95-504), which changed the statutory policy basis for the Board's action, some basic programs, and the way many services are provided. Processing time for several types of applications has been sharply reduced. Some types of applications are no longer needed or have been replaced by a simple registration. Also, because of deregulation, more activities that were for the special benefit of a particular person or were giving valuable exclusive franchises now are independently benefiting the public as a whole by allowing opportunities to compete and by encouraging such competition.

We are proposing to eliminate license fees, and to change the present filing fees so that there would be a single processing fee based on the specific costs at each step in the process of providing the services. Only those services with a known beneficiary would be included. In developing the proposal, we looked at each office and bureau within the Board to find out what services it performs. Services for which the beneficiary is obscure or which confer an independent public benefit, such as analyses of the Office of Economic Analysis or the Office of General Counsel, or hearings (after a decision has been made whether to proceed by show-cause procedures or by oral evidentiary procedures) would be excluded from the fee schedule. Once the services for known beneficiaries were identified, the basic document for that service, usually an application, would be followed through each step in its processing. Costs would then be assessed for each step. Each document that began a separate, identifiable stage in the process, and that required a special service for a particular person, would be assessed a fee. For example, in a certificate proceeding, additional certificate applications or a request to supplement an application by an exemption would each be charged a separate fee. In this way, the fees would be fair and equitable for all, and evenly distributed. We believe that this proposal meets the criteria stated by the courts, and the intent of Congress in the Independent Office Appropriation Act.

Fee Development Guidelines

The Supreme Court, in two decisions, has interpreted the requirement of IOAA, and has stated general standards that agencies must meet to charge fees under this Act. *National Cable Television Association v. United States*, 415 U.S. 336 (1974) and *FPC v. New England Power Co.*, 415 U.S. 345 (1974). The Court stated that a fee may only be charged for a special benefit provided to identifiable beneficiaries measured by its value to the recipient. The Court further stated that the special benefit must have some connection between the agency and the recipient other than the mere fact of regulation or the adoption of some practice of general benefit to the industry as a whole. In this regard, the Court approved Budget Circular A-25, stating that there should be no charge when identification of the beneficiary is obscure and the service can be primarily considered as broadly benefiting the general public.

In December 1976, the U.S. Court of Appeals for the District of Columbia handed down a series of decisions that gave agencies more definite guidance in

implementing the IOAA. See *National Cable Television Association v. FCC*, 554 F.2d 1094 (D.C. Cir. 1976); *Electronic Industries Association v. FCC*, 554 F.2d 1109 (D.C. Cir. 1976); *National Association of Broadcasters v. FCC*, 345 F.2d 118 (D.C. Cir. 1976); *Capital Cities Communications v. FCC*, 554 F.2d 1135 (D.C. Cir. 1976). In these decisions, the court set out the following guidelines:

1. An agency may impose a reasonable charge on recipients for an amount of work from which they benefit. The fees must be for specific services to specific individuals. These services include the issuance of a license, and assistance in complying with a statutory duty, such as tariff filing. Also, once the threshold of private benefit has been crossed, the agency may still charge the individual the full cost of the service, even though the general public secondarily benefits from it.

2. Fees must reflect only the costs of the underlying service performed. The value conferred on the recipient is measured by costs, not by the value of the benefits bestowed on the recipient. All direct and indirect costs for the special service should be included. Any expenses incurred to serve an independent public interest or where the beneficiary is obscure must be excluded.

3. The cost of providing a particular service must be divided among the beneficiaries in a fair and equitable manner. Any computation, however, must necessarily be based on numerous approximations and can only be expected to be accurate within reasonable limits.

Within these guidelines, we have looked at the services provided by each of our offices and bureaus, and have calculated the cost of processing the basic document in each service. Only those services for which there is a request, or where assistance is needed to fulfill a statutory duty, are included.

Services Provided by the Board

The Civil Aeronautics Board is responsible, primarily under the Federal Aviation Act of 1958, for the economic regulation of interstate, overseas, and foreign air transportation. Its activities within this responsibility are carried out by its staff offices and bureaus, with final decisional authority residing in the Board.

The Bureau of Domestic Aviation (BDA) is the Board component that handles the licensing of U.S. air carriers in domestic air transportation and the maintenance of proper competitive conditions among those air carriers. It is the principal bureau providing services for which a fee is required. BDA also is responsible for domestic ratemaking and for the filing of tariffs by all U.S. and foreign air carriers. The Bureau handles domestic air transportation matters involving certificates of air carriers, and exemptions and mergers for scheduled, charter, helicopter, and all-cargo air carriers, air taxi operators and freight forwarders. BDA is the staff unit responsible for the Board's subsidy and essential air service programs.

BDA is divided into five parts. The Assistant Director for Fares, Rates and Tariffs is primarily a policy advisor to the Director and to the Board. The activities of this office that are not directly related to the providing of special services to individuals have been excluded from computation of the fees. The Domestic Fares and Rates Division, however, does provide certain services, such as requests for free and reduced-rate transportation and service mail rate petitions. These activities are included in the fee calculations. The Associate Director for Subsidy Policy and Programs administers the essential air service programs and the determination of subsidy for certain air carriers, and has been excluded from calculation of the fees. Like those of the Assistant Director for Fares, Rates and Tariffs, the activities of this office are an independent public benefit and not directly related to special services or benefits provided for individual carriers. This same description also applies to the activities of the Airport Access Coordinator within BDA. All of these types of activities have thus been excluded.

The Associate Director, Legal Affairs is responsible for, among other things, providing legal advice to the Director and for providing legal representation for BDA hearings before an Administrative Law Judge. The costs connected with a hearing before an Administrative Law Judge, however, have been excluded. When used by the Board, the hearing, whether show cause or oral evidentiary, plays an important public role in licensing and route proceedings under the responsibility of BDA and other bureaus. An oral evidentiary hearing is adjudicatory in nature, often lengthy and involving complex issues. Both types of hearings give the public a chance to participate in the decisions of the Board, and are also educational for the Board, the carriers, and the public. There is no way of estimating in advance the cost of a hearing. For these reasons, the cost of the hearing, and activities associated with it, have been excluded. The other activities of this office, such as giving legal advice to the Director and to other offices within BDA, have also been excluded. If, however, the office provides direct support for the processing of an item below the supervisory level, its costs are assessed for that type of item. For example, the Legal Processing Division processes dormant authority applications of the carriers.

The Associate Director, Licensing Programs and Policy, is the staff component most directly responsible for the licensing of air carriers. For example, air carriers must apply for a certificate of public convenience and necessity before beginning commercial air operations. They must also apply for an amendment to their certificate whenever they want to change their routes or types of operation. Some certificates are approved by the Board with restrictions. Air carriers may then apply to have these restrictions removed. Occasionally, an air carrier may wish to serve a particular city by using for a short time an airport different from the one listed on its certificate. In such a case, the carrier files an airport notice for the Board's approval, which is processed by the office of the Associate Director. Also, under 14 CFR Part 302, Subpart Q, the Board may use expedited procedures to process many licensing and route matters. These types of procedures have been taken into account in calculation of the fees when their use is the primary method by which an item is processed. The activities of this part of BDA are included in computations of the fees.

The Associate Director for Special Authorities and Administration handles a wide variety of activities for the Director, many of which result in special services or benefits to individual persons or carriers. The Associate Director handles such matters as air taxi operator registrations, certain agreement approvals, changes in a carrier's name, charter filings, all-cargo certificates, and certain waivers of Board regulations. The Associate Director is also responsible for all tariff filings at the Board. All of these activities provide a special service to individuals, either at their request or for assistance in fulfilling a statutory duty. The expenses to the Board of each of these activities have been taken into account in calculation of the fees.

The Bureau of International Aviation (BIA) is the Board staff unit primarily concerned with the licensing and maintenance of competitive conditions among air carriers and foreign air carriers with respect to foreign air transportation. The activities of this bureau in regard to U.S. air carriers in general parallel those of the Bureau of

Domestic Aviation. BIA also handles the granting of permits to foreign carriers to operate in and out of the United States, and is responsible for the processing of other applications and matters involving foreign carriers. BIA advises the Board on the formulation of positions to be taken by the United States concerning international air transportation, and provides representation in connection with international conferences and negotiations with foreign governments. This advisory function has been excluded from fee calculations. The part of its work, however, that concerns the U.S. air carriers in foreign air transportation and that is parallel to the functions of BDA, or that concerns special services for foreign carriers, has been included.

The Office of Congressional, Community, and Consumer Affairs (OCCCA) handles Congressional and community concerns about air transportation and Board activities. The Office represents the Board in dealing with representatives of State and local communities, and civic groups through the Washington staff and regional offices. It also informs, assists and protects, consumers in their dealings with the air transportation industry, and represents the consumer interest in matters that come before the Board. The office handles informal consumer complaints presented to the Board. OCCCA's work is for an independent public benefit, and is in response to consumer complaints or the Board's concern about various areas of air transportation. OCCCA performs no special services for any individual or carrier, or any that are directly related to fee activities. Its activities are not included in the fee calculations.

The Office of Administrative Support Operations (OASO) is responsible for the provision of facilities and central operating and support services for the Board. The services of OASO are provided to the Board's other offices on a per capita basis to support their operations. The Office of the Comptroller (OC) administers the Board's financial management system, including participation in the fundamental aspects of program development and evaluation. OC performs fiscal and administrative accounting activities, administers the Board's automatic data processing facilities, and reviews the Board's reporting requirements. For purposes of fee calculation, the OASO and OC services supporting those functions of other offices that benefit an individual recipient have been included in the fees on a pro rata basis.

The Office of the Secretary/Office of Documentary Services (OS/ODS) functions as a clearinghouse and repositiory for Board documents. It receives, records, files, distributes, and services copies of official docket material and records. OS/ODS has functions that support services in other offices that have been included in the fee calculations. To that extent, the services of OS/ODS have been included also. It also performs the functions involved in processing material from the staff requiring action by the Board. These functions for the Board have been excluded.

The Bureau of Carrier Accounts and Audits (BCAA) serves as the principal accounting policy and program advisor to the Board on all substantive and procedural matters related to air carrier audits, internal audits, and industry accounting transactions and systems. BCAA performs industry audits and examinations and investigations of air carrier accounts and records, and analyzes technical reports or documents. It also provides advice on accounting and auditing aspects concerning monitoring compliance with continuing fitness requirements. All BCAA activities are excluded.

The Office of the Managing Director directs and coordinates the activities of the staff, and develops plans to achieve the Board's program objectives. For these purposes, the Managing Director uses the service of the Public Affairs Office, the Office of Civil Rights, the Office of Human Resources, and the Management Systems Office. All of these offices, except part of the Management Systems Office, provide independent public benefits, and have been excluded from the fee calcuations. Part of the function of the Management Systems Office is to operate the Board's computerized Work Item Tracking System and other computer systems to help the offices and bureaus to carry out their programs. The expenses of this function have therefore been allocated to those fee-related services that are performed by the other bureaus.

The Office of General Counsel (OGC) is responsible for advising the Board, its staff, industry representatives, and the public on legal and policy aspects of the Board's activities. It represents the Board in litigated matters, in enforcement and antitrust cases, in negotiations and conferences, and on Government committees. In certain instances, OGC directly processes applications for a service. For example, it acts on applications by a carrier for a name change that involve a reissuance of the certificate. Only costs such as these have been included. Other OGC costs are excluded. The Office of Economic Analysis is responsible for studying demands for air transportation under various conditions of price and service, and for forecasting future demand. OEA also advises the Board and the staff on the financial structure and conditions of air carriers and the industry, and develops economic recommendations. It furnishes information for regulatory economic analyses. to the extent that services of these two offices do not deal directly with fee-related activities, they have not been included in the fee calculations.

The Bureau of Administrative Law Judges provides judges for the conduct of all formal hearing proceedings at the Board. As explained previously, the cost of the hearings and associated activities have been excluded from the fee calculations.

Finally, expenses of the Board members themselves have been excluded. The Members are the governing body of the Board. They exercise overall responsibility for the Board's activities. Their activities provide independent public benefit and have been excluded from the calculation of the fees.

Development of Fees

The smallest practical unit for the services to be included is the basic document or application by which an identifiable recipient asks the Board to provide the service. In most cases the document is entitled "application" or "request for exemption" or "Waiver", although in the case of tariffs it is the filing of the tariff document or page.

The Board's Work Item Tracking System outlines the path, through a series of steps, that each of the basic documents must follow until final action. Each of the operating bureaus has measured the average time required for each step in document's path, broken down by employee-hours in the division reponsible for the item. The cost per employee-hour to support a professional employee has been calculated for each of these divisions. The rates were developed by dividing each division's direct costs for personnel compensation, benefits, and administrative support and travel by the number of professional employees who were identified as working on the applications or basic documents, excluding administrative, supervisory, and management employees. Indirect costs were calculated by prorating the costs for the Office of Administrative Support Operations, and the Office of the Comptroller, and for overhead to each of the processing Divisions based on manpower distribution. The Office of the Secretary, the Management Systems Office, and the Bureau of Carrier Accounts and Audits were analyzed in terms of the amount of their operations that support the bureaus and offices responsible for processing fee items. The costs of these operations were then allocated on a percentage basis. The fee for processing a specific document was found by multiplying the average professional manpower needed to perform the processing by the man-hour rate. Appendix A describes how the fees were calculated, stating average time needed to process the item, the average hourly rate of the Division, and the fees. Except for tariff pages, the fees have been rounded off to the nearest 5 dollars for ease of payment and collection.

In developing the fee schedule, there have been changes both up and down in types of items listed, and in the amount of the fees. For example, filings for a change in service or flight patterns are no longer used. The fees for various types of motions have also been eliminated, but not the fees for the basic documents accompanying the motions. On the other hand, the fee schedule has been expanded to include fees for services found elsewhere in the Board's regulations, such as those for air taxi operator registration, and for all-cargo certificates under section 418 of the Act. The Board would like to have comment on whether any items have been overlooked or whether others should be deleted, in view of the methods used to calculate the fees, as explained in this Notice.

The effects of deregulation coupled with changes in costs over the last 7 years have caused some fees to increase, while others are reduced. For example, fees for filing of a domestic scheduled certificate would increase from $300 to $630. The previous substantial license fee involved in a certificate proceeding has been dropped. The fee for filing a tariff page would increase from $2 to $3.50 per page. Section 418 all-cargo certificate fees would decrease from $250 to $215. Air taxi operator registration fees would also decrease from $15 to $10. Public Charter prospectus fees drop from $50 to $45.

Foreign Air Carriers

In 1968, when the Board first implemented the IOAA by adopting filing fees in Part 389, it exempted foreign air carriers from payment of the prescribed fees. The exemption was based on "the public policy and the interest served" criterion of the IOAA. In 1974, however, the Supreme Court stated that "value to the recipient" is the measure of the authorized fee under the IOAA. According to the Court, the words "public policy or interest served and other pertinent facts" were not necessary to achieve Congress' intent to develop fees for special services. *National Cable Television Association, Inc. v. FCC*, supra. Under the guidelines of this decision and the decisions of the Courts of Appeals, it is the Board's tentative opinion that it no longer has the option of giving a blanket exemption to foreign air carriers for the payment of fees. Under this proposal, foreign carriers would be required to pay fees set forth in the fee schedule, except where reciprocally waived by an applicant's home government for U.S. carriers, as explained below.

Part 389 has been adopted by the Board under the authority of the IOAA and section 204 of the Federal Aviation Act. Section 204 of the Act authorizes the Board to issue such orders and rules and to make such procedures, consistent with the Act, as it considers necessary to perform its powers and duties under the Act. While the IOAA sets general guidelines for the development of fees, section 204 gives the Board the power to set up the procedures and organization by which the fees are collected. Under the guidelines of the IOAA, therefore, the Board is using its rulemaking authority under section 204 to establish the proposed fee schedule and implementing regulations. In exercising its power under the Act, the Board is required by section 1102 of the Act to act consistently with any treaty or agreement between the United States and any foreign country, and must take into consideration any applicable requirements of foreign countries.

The Board, therefore, is asking for comment on a proposed revision in Part 389 to waive the fees for carriers of foreign countries that have treaties or agreements with the United States, or internal laws, that provide for reciprocity in this area, or whose home goverments do not impose such fees upon U.S. carriers.

License Fees and Refunds

On March 7, 1977, the Department of Justice (DOJ) filed a petition in Docket 30586 asking that the Board begin a rulemaking to amend its license fee schedule, and to identify those particular activities associated with the licensing process. DOJ stated that the Board's calculation and imposition of license fees based on gross revenues violated the IOAA, as judicially interpreted. In calculating the license fees, DOJ argued, the Board did not rely exclusively on the standard "value conferred the recipient (as measured by the costs of services performed)," as required by the court decisions, but included other criteria. DOJ stated that this resulted in a fee system disproportionate to some applicants. By Order 77-4-42, dated April 8, 1977, the Board denied the Department's petition. The Board stated that it was beginning its periodic review of the licensing and filing fee regulations, and would ask for public comment in a rulemaking when the review was complete. However, in view of the decisions of the Supreme Court and the U.S. Court of Appeals for the District of Columbia, cited by the Justice Department, the Board suspended collection of its license fees, but stated that this was not a waiver and a fee could be collected for service provided when recalculated. On April 28, 1977, some supplemental carriers (Capitol International Airways, Evergreen International Airlines, McCulloch International Airways, Trans International Airlines and World Airways) petitioned for reconsideration of Order 77-4-42, asking that the Board also suspended its filing fees.

On the same day, those carriers filed a petition for refund of all the previously paid license and filing fees since 1968 (D. 30816). The petition claimed that the fees collected from charter carriers in particular were discriminatory. Scheduled air carriers filed an answer in support of the petition for refund (Air Midwest, Air New England, Alaska Airlines, Allegheny Airlines, Aloha Airlines, Frontier Airlines, Hawaiian Airlines, Hughes Airwest, Kodiak Western Alaska Airlines, North Central Airlines, Piedmont Airlines, Southern Airways, Texas International Airlines, and Wien Air Alaska).

The revenue from license fees was intended to cover the extensive costs of hearings, which most license applications required. The filing fee for an application for a certificate covered the nonhearing costs. The expanded use of expedited procedures and the Board's policy of multiple permissive entry (see *Oakland Service Investigation*, Orders 78-7-40, 78-8-283), have reduced the need under deregulation and have become an educational tool for the Board and the public rather than for the special interest of a single applicant. The Board is thus proposing not to charge carriers any certificate application fee other than that listed for filing an application. This fee would include all cost of services provided directly for the applicant. Air carriers would not be liable for any unbilled license fees calculated under the previous fee schedule after April 8, 1977.

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the date the license fee schedule was suspended in light of the court decisions cited above.

The Board originally calculated its fee recovery (licensing and filing) at only 25 percent of the *direct* costs of its services, based on the public interest criterion in the IOAA. The courts, as cited above, have stated that this method is not proper. In addition, the IOAA requires the fullest possible recovery of identifiable direct and indirect costs so that agency services can become self-sustaining. In 1966 when first establishing its fee structure, to determine its direct costs, the Board allocated its budget expenses for personnel compensation and benefits, and overhead to each function on the basis of the man-years worked on it. The Board then divided the direct cost for each function by the average annual number of applications to obtain the unit cost. The fee for each application was set at about 25 percent of the unit cost.

For license applications under section 401, as for other services, the recovery goal of 25 percent included the filing fee and the license fee. The revenue from the license fees was intended to cover the extensive costs of hearings, which most license applications then required. The filing fee for an application for a certificate covered the docket processing costs. The Board calculated its license fees by determining the total cost of conducting an average number of section 401 license hearings in one year, and then subtracting the total filing fees previously set. The license fee schedule was designed to recover the remainder. The Board used the direct costs of each bureau involved in hearings that were specially allocated to the hearing function on the basis of man-years worked. Because the hearings for the more important routes, which resulted in greater revenue for the successful applicant, tended to involve more complicated proceedings or a greater number of parties, and consequently greater costs, the Board sought a reasonable and equitable method of collecting larger fees from successful applicant for those routes. It therefore designed a schedule that tiered the license fees to the successful applicant's estimated gross revenue increase resulting from the new authority during the first year of operations. The license fee, even though based on gross revenue from the new authority, was thus related to the approximate costs of that type of the proceeding, reasonably based on past experience.

This method of calculating both license and filing fees does not conform to the IOAA guidelines, as judicially interpreted, for three reasons: 1) it excludes recoverable indirect costs; 2) it recovers less than the full cost to the government, and 3) the reasonableness of the less than full recovery was based on a criterion prohibited for use in fee development by later court decisions.

Concerning refunds, in *National Association of Broadcasters* v. *FCC*, 345 F.2d 118 (D.C. Cir. 1976), the court found that the fee calculations of the FCC were improper and ordered that the fees be refunded to the extent that they exceed legally permissible amounts. The court further stated that under the IOAA, the FCC should retain the largest portion of the fees collected that would be permissible under the court's guidelines.

The Board has reviewed its entire fee schedule from 1968 using the method explained in this proposal. Since those past fees collected were based on less than the full direct costs, and did not include indirect costs, the portion of the costs collected through the fees does not appear to exceed the fee that would have been permissible. Further, the license fees were not illegal per se, since they were intended to relate to the costs of processing a case through hearing procedures. Only the method used to calculate them appears to be improper, as it was for other fees.

The Board is thus tentatively denying petitioners' request in Docket 30816 for a full refund of all fees collected since 1968 since the fees collected did not exceed the costs of the Board that could have been collected.

Filing Fees and Deregulation

The Airline Deregulation Act of 1978 (Pub. L. 95–504) set a new national policy for domestic air transportation. There are to be few, if any, restrictions on which airline may fly where. In implementing that Act, the Board adopted a multiple permissive entry policy. Any carrier that was fit and applied could fly to a point. In conjunction with such an open entry policy, restrictions on a career's authority to fly to a point were automatically removed in a phased program. There is an argument, that for programs such as these in domestic transportation, the Board is simply allowing any carrier to compete in an open market, which is a national policy objective. As such, carriers should not be charged a fee in those cases. The Board would like comment on this argument and whether under the IOAA and applicable court decisions, fees are required for such services, and if not, which specific services should be excluded.

Certain services for which fees are proposed in this rulemaking may sunset before the rulemaking is complete. If so, such fees will not be included in a final rule.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act, Pub. L. 96–354, which took effect on January 1, 1981, is designed to ensure that agencies consider flexible approaches to the regulation of small businesses and other small entities that take into account their special needs and problems. The Act requires the preparation of a regulatory flexibility analysis for any rule that, if adopted, will have a "significant economic impact on a substantial number of small entities." The analysis is required to describe the need; objectives, legal basis for, and flexible alternatives to the actions proposed here, as well as the small entities to which this proposal would apply, reporting, recordkeeping or other compliance requirements, and any other Federal rules that may duplicate, overlap or conflict with it.

The first three requirements are met by the discusion above. This notice does not propose any flexible alternatives for setting fees, because the IOAA sets explicit guidelines for calculating the fees and does not authorize any special relief for small businesses. However, the Board's costs and the resulting fees reflect the Board's regulatory scheme, which is already tiered to the size of air carriers. Air taxis, which include most small air carriers, are exempt from certain regulatory requirements of the Federal Aviation Act, such as section 401 certification for operating authority. Several of the filing fees that the Board proposes to increase relate to section 401 certificates. Thus, unless they choose to obtain certificates, a substantial number of small air carriers would not be affected by most of the fee increases proposed.

The aggregate proposed filing fee changes would result in a slight overall net increase. Their actual economic impact on any individual air carrier would depend upon the number and type of filings necessary to implement its operational decisions. The proposed elimination of the license fees would not have an economic impact. It would merely affirm the Board's previous suspension of these fees. There are no rules or reporting, recordkeeping or other compliance requirements that would conflict or overlap with this proposed rule.

The authority citation for Part 389 is being corrected to reflect accurately the statutes relating to collection of fees by the Board. Technical and editorial changes in Subpart C are also proposed.

Proposed Rule

PART 389—FEES AND CHARGES FOR SPECIAL SERVICES

The Board proposes to amend 14 CFR Part 389, Fees and Charges for Special Services, as follows:

1. The authority citation is corrected to read as follows:

Authority: Secs. 204, 1102, Pub. L. 85–726, as amended, 72 Stat. 743, 797 (49 U.S.C. 1324, 1502. Act of August 31, 1951, ch. 376, 65 Stat. 268; 31 U.S.C. 483a)).

2. Subpart C would be re-titled to read:

Subpart C—Filing and Processing Fees

3. Section 389.20 would be revised to read:

§ 389.20 Applicability of subpart.

This subpart applies to the filing of certain documents at the Board by non-government parties, and prescribes fees for their processing.

4. Section 389.21 would be amended by removing and reserving paragraph (b) and revising paragraph (e) to read:

§ 389.21 Payment of fees.

* * * * *

(b) [Reserved]

* * * * *

(e) No fee shall be returned after the document has been filed with the Board, except as provided in §§ 389.23 and 389.27.

5. Section 389.23 would be revised to read:

§ 389.23 Application for waiver or modification of fees.

(a) Applications may be filed asking for waiver or modificaton of any fee required to be paid by this subpart. Each applicant shall set forth in a clear manner the reasons why a waiver or modification should be granted, and by what legal authority.

(b) Applications asking for a waiver or modification of fees shall be sent to the Managing Director of the Board, and shall accompany the document filed. Applicants may appeal the decision of the Managing Director to the Board under § 385.50 of this chapter. When no petition for review is filed with the Board, or when the Board reviews the Managing Director's decision, if the amount found due is not paid within 10 days after receipt of notification of the final determination, the document shall be returned to the filing party.

6. Section 389.24 would be re-titled and revised to read:

§ 389.24 Foreign air carriers.

Foreign air carriers, or if from the same country jointly, may apply for a waiver of the requirements of this part based on reciprocity for U.S. air carriers contained in the requirement of their home governments, or as provided in a treaty or agreement with the United States. To apply for a waiver under this section, foreign air carriers shall follow the procedures in § 389.23. A copy of the waiver request shall be sent to the Director, Bureau of International Aviation. The request should include applicable official government rules, decisions, statements of policy, or comparable evidence concerning filing fees for U.S. air cariers, or for all carriers serving that country. Once a waiver has been granted for a specific country, no further waiver applications need be filed for that country.

7. Section 389.25 would be re-titled and revised as indicated below:

§ 389.25 Schedule of processing fees.

Code	Document	Present Fee	Proposed Fee
	Interstate and Overseas Air Transportation		
	Certificate of Public Convenience and Necessity		
	—Application under sec. 401	300	
1	—Charter		555
2	—Scheduled Service		630
3	—Dormant Authority		240
4	—All Cargo under sec. 418	250	215
5	—Amendment	300	630
6	—Transfer	300	215
7	—Restriction Removal		455
8	Air Taxi Registration	15	10
9	Scheduled Passenger Commuter Registration	15	215
10	Airport Notice of Authorization	40	40
	Change of Name	300	
11	—Use of Trade Name		105
12	—Reissuance of certificate		45
13	Notice of Embargo	25	5
14	Exemption Request (General)	300	215
15	—Section 403	50	160
16	—Section 401 (domestic)		385
17	—Section 419		
	Carriage of Mail		
19	—Filing of schedules		3
20	—Service mail rate petition		400
	Foreign Air Transportation (U.S. and Foreign Air Carriers)		
	Certificate of Public Convenience and Necessity (Sec. 401)		
21	—Scheduled Service	300	660
22	—Charter Service	300	530
23	—Amendment/Restriction Removal	300	445
24	—Transfer	300	220
25	Airport Notice	40	40
	Change of Name	300	
26	—Use of Trade Name		110
27	—Reissuance of Certificate		80
	Foreign Air Carrier Permit (sec. 402)		
28	—Initial		710
29	—Amendment		445
	Exemption	300	
30	—Section 403	50	95
31	—Section 401.		
32	—10 or less flights		85
33	—More than 10 flights		330
34	—Other (U.S. and foreign air carriers)		330
	—Section 402		
35	—10 or less flights		85
36	—More than 10 flights		330
37	—Emergency cabotage (sec. 416(b)(7))		330
	Foreign Air Transportation (U.S. and Foreign Air Carriers)		
38	Relief for U.S. (sec. 101) and foreign (sec. 416) indirect air carriers		330
39	Canadian Air Taxi Registration		10
40	Foreign Air Freight Forwarder Registration		10
41	Foreign Tour Operator Registration		10
42	Foreign Aircraft Permit (Part 375)		15
43	Special Authorization (Part 375)		15
44	Charter Statement of Authorization		10
45	Intermodal Statement of Authorization		10
46	Special Authority (Part 216)		40
47	IATA resolutions		55
	Other (U.S. and foreign air carriers)		
	Charters		
48	—Public Charter Prospectus	95	45
49	—OMPC Operation Authorization	405	170
50	—Waiver of Charter Regulations	300	105
	Tariffs		
51	—Pages	3	3
52	—Special Tariff Permission	10	10

Code	Document	Present Fee	Proposed Fee
53	—Waiver of Tariff Regulations	10	10
54	Waiver Request (General)		105
55	Approval of Interlocking Relationships	250	320
56	Merger or Acquisition of Control		320
	—Section 408	150	
	—Mergers	[1]	
57	Agreements filed under section 412 (General)	50	320
	—Prior Approval	200	
58	Application for free and reduced-rate transportation	10	10

[1] Maximum.
[2] Two per page.
[3] $3.50 per page.
[4] 3,000 per Carrier.

7. A new § 389.26 would be added to read:

§ 389.26 Special rules for tariff page filings.

(a) *Tariffs issued by carriers.* The filing fee for tariff pages filed by U.S. air carriers will be charged even if the tariff includes matters involving participating foreign air carriers. It will also be charged if the tariff is issued by a foreign air carrier and includes matters involving participating U.S. air carriers, unless the foreign carrier has obtained a waiver under § 389.24. The fee will not be charged for blank looseleaf page unless it cancels matter on the preceding issue of the page.

(b) *Tariffs issued by publishing agents.* (1) If the tariff is issued for one or more air carriers exclusively, the fee will be charged for each page.

(2) If the tariff is issued for one or more air carriers and one or more foreign air carriers, the fee will be charged for each page, except for those pages the issuing agent states contain only:

(i) Matters pertaining exclusively to foreign air carriers that have been granted a waiver, or

(ii) Changes in matters pertaining to foreign air carriers that have been granted a waiver and that are included on the same page with other matters that are reissued without change.

(3) The fee will not be charged for a blank looseleaf page unless it cancels matters on the preceding page.

(4) No fee will be charged when two pages are published back-to-back, one page is not subject to the fee under paragraph (b)(2), and the page on the reverse is issued without substantive change.

(5) The fee will be charged for two looseleaf pages containing a correction number check sheet unless all other pages of the tariff are exempt from the fee.

A new § 389.27 would be added to read:

§ 389.27 Refund of fees.

Any fee charged under this part may be refunded in full or in part upon request if the document for which it is charged is withdrawn before final action is taken. Such requests shall be filed in accordance with § 389.23.

(Secs. 204, 1102, Pub. L. 85-726, as amended, 72 Stat. 743, 797; (49 U.S.C. 1324, 1502. Act of August 31, 1951, ch. 376, 65 Stat. 268; 31 U.S.C. 483a))

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

APPENDIX A*

Document	Responsible B/O unit	Estimated hours	Fully funded hourly rate	Total cost
Interstate and Overseas Air Transportation				
Certificate of Public Conv. and Necessity:				
—Application (Sec. 401):				
—Charter	Special Authorities Div	26	$21.25	$552.50
—Scheduled Service	Routes Authority Div	26	24.22	629.72
—Dormant Authority	Legal Processing Div	26	24.22	242.20
—All-Cargo (Sec. 416)	Special Authorities Div	10	21.25	212.50
—Amendment	Routes Authority Div	26	24.22	629.72
—Transfer	Special Authorities Div	10	21.25	212.50
—Restriction Removal	Route Authority Div	18	24.22	435.96
Air Taxi Registration	Special Authorities Div	.5	21.25	10.62
Scheduled Passenger Commuter Registration	Special Authorities Div	10	21.25	212.50
Airport Notice of Authorization	Routes Authority Div	1	21.25	42.50
Change of Name:				
—Use of Trade Name	Special Authorities Div	5	21.25	106.25
—Reissuance of Certificate	Pricing & Entry Div	2	21.86	43.72
Notice of Embargo	Tariffs Div	.25	20.33	5.08
Exemption Request (General)	Special Authorities Div	10	21.25	212.50
—Section 403	Domestic Fare & Rates Div	4	24.64	98.56
—Section 401 (dom. transp.)	Route Authorities Div	15	24.22	363.30
—Section 419	Essential Air Service Div	.5	21.25	10.00
Carriage of Mail				
—Filing of schedule	Sched. & Route Information Unit	.2	17.10	3.42
—Service mail rate petition	Domestic Fares & Rate	16	24.64	394.24
Foreign Air Transportation (U.S. and Foreign Air Carriers)				
Certificate of Public Conven. and Necessity (Sec. (401)):				
—Scheduled Service	Reg. Affairs/Leg. Div	36	[1] $22.16	797.76
—Charter Service	Reg. Affairs/Legal Div	24	[1] 22.16	531.84
—Amendment/Restriction Removal	Reg. Affairs/Legal Div	20	[1] 22.16	443.20
—Transfer	Reg. Affairs/Legal Div	10	[1] 22.16	221.60
Airport Notice	Regulatory Affairs Div	2	[2] 21.85	43.10
Change of Name:				
—Use of Trade Name	Reg. Affairs/Legal Div	5	[2] 22.16	110.80
—Reissuance of Certif.	Reg. Affairs/Legal Div	4	[2] 22.16	88.64
Foreign Air Carrier Permit				
—Initial	Reg. Affairs/Legal Div	32	[2] 22.16	709.12
—Amendment	Reg. Affairs/Legal Div	20	[2] 22.16	443.20
Exemption:				
—Section 403	Domestic Fares & Rates Div	4	[2] 24.64	98.56
—Section 401				

APPENDIX A*—Continued

Document	Responsible B/O unit	Estimated hours	Fully funded hourly rate	Total cost
—10 or less flights	Reg. Affairs/Legal Div	3	[2] $22.16	66.48
—More than 10 flights	Reg. Affairs/Legal Div	15	[2] 22.16	332.40
—Other (U.S. and foreign air carriers)	Reg. Affairs/Legal Div	15	[2] 22.16	332.40
—Section 402:				
—10 or less flights	Reg. Affairs/Legal Div	3	[2] 22.16	66.48
—More than 10 flights	Reg. Affairs/Legal Div	15	[2] 22.16	332.40
—Emergency cabotage (sec. 416(b)(7))	Reg. Affairs/Legal Div	15	[2] 22.16	332.40
Relief for U.S. (sec. 101) and foreign (sec. 416) indirect air carriers	Reg. Affairs/Legal Div	15	[2] 22.16	332.40
Canadian Air Taxi Registration	Reg. Affairs/Legal Div	.5	[2] 22.16	11.08
Foreign Air Transportation (U.S. and Foreign Air Carriers)				
Foreign Air Freight Forwarder Registration	Reg. Affairs/Legal Div	.5	[2] 22.16	11.08
Foreign Tour Operator Regis.	Reg. Affairs/Legal Div	.5	[2] 22.16	11.08
Foreign Aircraft Permit (Part 375)	Reg. Affairs/Legal Div	.75	[2] 22.16	17.62
Special Authorization (Part 375)	Reg. Affairs/Legal Div	.75	[2] 22.16	17.62
Charter Statement of Author.	Reg. Affairs/Legal Div	.5	[2] 22.16	11.08
Intermodal statement of Authorization	Reg. Affairs/Legal Div	.5	[2] 22.16	11.08
Special Authority (Part 216)	Reg. Affairs/Legal Div	1.8	[2] 22.16	39.89
IATA resolutions	Int'l Fares & Rates Div	2.5	[3] 22.06	55.15
Other (U.S. and foreign air carriers)				
Charters:				
—Public Charter Prospectus	Special Authorities Div	2	21.25	42.50
—OMPC Operation Author.	Special Authorities Div	8	21.25	170.00
—Waiver of Charter Reg.	Special Authorities Div	5	21.25	106.25
Tariffs:				
—Pages	Tariffs Division	.17	20.33	[4] 3.46
—Special Tariff Permission	Tariffs Division	.5	20.33	10.17
—Waiver of Tariff Reg.	Tariffs Division	.5	20.33	10.17
Waiver Request (General)	Special Authorities Div	5	21.25	106.25
Approval of Interlocking Relationships	Special Authorities Div	15	21.25	318.75
Merger or Acquisition of Control				
Agreements filed under section 412 (General)	Special Authorities Div	10	21.25	212.50
Application for Fee & Reduced Rate	Domestic Fares and Rate	.5	24.64	12.32

[1] 2 average.
[2] Average.
[3] Per page.
* NOTE.—This appendix will not appear in the CFR.

[FR Doc. 82-4734 Filed 2-18-82; 8:45 am]
BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 761 0004]

Western General Dairies, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, would require, among other things, a Utah dairy cooperative to cease engaging in price discrimination in the sale and distribution of raw milk and dairy products, or communicating in any manner disparaging or derogatory information or opinions concerning competing firms. Commencing one year from its effective date, the order would bar the cooperative from restricting, for more than six months, the sale or transfer of "base" by any of its members to any bona fide Grade A milk producer. ("Base" is a member's right to receive from the cooperative the going rate for raw milk.)

DATE: Comments must be received on or before April 26, 1982.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave. NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT Judith D. Ford, Director, 9R, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, CA 94102, (415) 556-1270; or, FTC/CR, John Sessel, Washington, D.C. 20580, (202) 523-3522.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rule of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

United States of America Before Federal Trade Commission

File No. 761 0004; Agreement Containing Order To Cease and Desist

In the Matter of Western General Dairies, Inc., an incorporated cooperative association.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Western General Dairies, Inc., an incorporated cooperative association, and it now appearing that Western General Dairies, Inc., hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between proposed respondent, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Western General Dairies, Inc., is an incorporated cooperative association, organized, existing and doing business under and by virtue of the laws of the State of Utah, with its offices and principal place of business located at 195 West 7200 South, in the City of Salt Lake City, State of Utah.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated hereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For the purposes of this Order, the following definitions shall apply:

"Respondent" means Western General Dairies, Inc.

"Raw Milk" means raw, unprocessed cow's milk.

"Dairy products" means any products processed from raw milk and includes but is not limited to milk, skim milk, buttermilk, two percent milk, flavored milk, flavored milk drink, filled milk, whipping and table cream, half and half, sour cream, cottage cheese, concentrated milk, fortified milk, reconstituted milk or any mixture in fluid form of milk, skim milk or cream, ice milk, ice cream, powdered milk, butter, yogurt, cheese, or cheese products.

"Producer" means a person or firm which operates a farm which produces raw milk.

"Member" means a producer which belongs to or is affiliated with a cooperative association.

"Handler" means any person, firm, corporation or cooperative association which is considered a handler within any Federal or State Marketing Order.

"Processor" means a person, firm or corporation, other than a handler, which purchases raw milk.

"Base" means any right granted or sold by a cooperative association to its members allowing such members to receive from the cooperative the U.S.D.A. Uniform Blend Price or any other established price for any given amount of raw milk.

"Grade A" means the production of raw milk in compliance with the inspection requirements of a duly constituted health authority for fluid consumption.

I

It is ordered that respondent Western General Dairies, Inc., an incorporated cooperative association, its successors and assigns, and its officers, and respondent's agents, representatives, employees, and members, directly or indirectly or through any corporation, cooperative association, subsidiary, division or other device, in connection with the purchasing, offering for sale, sale or distribution of raw milk or dairy products in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

A. Discriminating directly or indirectly in the price of any such product by selling to any customer at a net price higher than the net price charged any other customer who competes in the resale and distribution of such product with the customer paying the higher price. "Net price," as used in this Order, shall mean the ultimate cost to the customer, and for purposes of determining such cost, shall take into account all rebates, allowances, commissions, discounts, credit arrangements, terms and conditions of sale, and other forms of direct and indirect price reductions, by which the ultimate cost to the customer is effected;

B. Furnishing, contracting to furnish or contributing to the furnishing of services or facilities in connection with the handling, sale or offering for sale of any such product to any customer of such product bought for resale, when such services or facilities are not accorded on proportionally equal terms to all other customers who resell such product in competition with any customer who receives such services or facilities;

C. Communicating in any way, whether orally or in writing, any disparaging or derogatory information or opinions concerning any person or firm which competes with respondent in the production or sale of raw milk or dairy products; provided, however, that respondent may provide truthful information about such person's or firm's credit relationship with respondent upon written request by (1) a credit reporting agency or (2) any prospective creditor of such person or firm.

II

It is further ordered that respondent shall cease and desist from executing or continuing in force any membership contract or agreement with any member which restricts in any way the right of such member to sell raw milk to any person, firm, or association after the expiration of such contract or agreement, except as provided in Section III of this Order.

III

It is further ordered that, commencing one year after the date of service of this Order, respondent shall cease and desist from restricting the sale or transfer of base by any member in any manner, including but not limited to (1) tying such sale or transfer to the concurrent sale or transfer of land, fixtures, or livestock, or (2) requiring that any member cease, for a period longer than six months, shipping or using raw milk for any Class I utilization, as Class I is defined by the Great Basin Milk Marketing Order;

Provided, however, that respondent may refuse to authorize a sale or transfer of base

(1) To any producer who is not a Grade A producer or who will not become a Grade A producer on or before the date on which such sale or transfer becomes effective;

(2) To any producer who is not a member of respondent or who will not become a member of respondent, on or before the date on which such sale or transfer becomes effective; provided, however, that respondent may not refuse to accept a producer as a member in order to bar such a sale or transfer;

(3) To any producer (a) whose location would necessitate a net increase in pickup routes of more than 20 miles; or (b) who would not be able to ship an average of 5000 pounds of milk or more per pickup;

(4) Where respondent has not received written notice of such sale or transfer more than 60 days prior to the date on which such sale or transfer becomes effective.

IV

It is further ordered that respondent shall, within sixty (60) days after service upon it of this Order, distribute a copy of this Order to each of its operating divisions and to all officers, employees, agents and members and shall distribute a copy of this Order to any person or firm that becomes a member within five (5) years after service of this Order.

V

It is further ordered that respondent herein shall, within sixty (60) days after service upon it of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

VI

It is further ordered that, for a period of ten (10) years after service upon it of this Order, respondent notify the Commission at least thirty (30) days prior to any proposed change in the respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, the appointment of a marketing agent, the transfer of any facility designated as a pool plant under any Federal Milk Marketing Order, or any other change in the respondent which may affect compliance obligations arising out of the Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Western General Dairies, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether to withdraw from the agreement or make final the agreement's proposed order.

The complaint in this matter alleges that Western General has monopolized the sale of raw milk and dairy products in Utah and Southeastern Idaho by price discrimination and other predatory practices and by restraints on the right of its members to leave the cooperative to produce for other processors.

The consent agreement provides as follows:

1. Western General cannot engage in price discrimination in the sale of milk or dairy products;

2. Western General cannot engage in trade disparagement of its competitors;

3. Commencing one year after the effective date of the Order, Western General cannot restrict for longer than six months the transfer of base by any of its members to any bona fide Grade A producer.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Carol M. Thomas,

Secretary.

[FR Doc. 82-4814 Filed 2-22-82; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

[SPA 29]

Permanent State Regulatory Program of New Mexico

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is considering modifying the deadline for New Mexico to meet conditions of approval of the State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Also being considered is the removal of conditions of approval on New Mexico's program if OSM determines any are moot as a result of revised Federal standards for State program approval.

DATES: Comments must be received by March 25,1982, at the address below, no later than 5:00 p.m.

ADDRESS: Written comments must be mailed to: Office of Surface Mining, Administrative Record Office (SPA–29), Room 5315L, 1951 Constitution Ave., NW., Washington, D.C. 20240.

Comments may be hand carried to:

Office of Surface Mining, Room 239, South Interior Building, 1951, Constitution Avenue, NW., Washington, D.C., or

Office of Surface Mining, Room 5315, 1100 "L" Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION: Under 30 CFR 732.13(i), the Secretary may conditionally approve a State permanent regulatory program which contains minor deficiencies where the deficiencies are of such a size and nature as to render no part of the program incomplete, the State is actively proceeding with steps to correct the deficiencies, and the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval. The correction of each deficiency is a condition of the approval. The conditional approval terminates if the conditions are not met according to the schedule. The dates are established in consultation with the State based on the time required for changes to be adopted under State procedures or legislative schedules.

The New Mexico program was conditionally approved on December 31, 1980 (45 FR 86459–86490). In that document the Secretary published a schedule for the State to meet each of the 12 conditions on the State program. That schedule called for New Mexico to submit provisions to satisfy conditions "a"–"d" and "f"–"l" by July 1, 1981, and a provision to meet condition "e" by February 28, 1982.

Since the Secretary's conditional approval of the New Mexico program OSM has proposed several revisions to the Federal permanent program rules which served as the standard for approval of New Mexico's program. Because OSM was concerned that States with conditionally approved programs would be expending valuable time pursuing program amendments to meet Federal requirements that would be changed, OSM asked each State to identify those conditions for which it would like an extension of time to meet. New Mexico requested that the deadline for the State to meet conditions "a"–"d" and "f"–"l" be extended until February 28, 1982. On October 30, 1981 (46 FR 54070), OSM announced its decision to grant New Mexico's request. The State has now asked for a second extension that would established a new deadline for the State to meet conditions "a"–"c" and "e"–"l". The State offered as its reason for requesting a further extension the fact that OSM has not yet finalized amendments to the permanent program rules. Some of these amendments may directly affect New Mexico's satisfaction of its conditions. In accordance with the State's request, OSM is proposing that the deadline for the State to meet those eleven conditions be extended until March 15, 1983.

OSM is considering alternatives to a March 15, 1983, deadline for the State to meet all eleven conditions. Other options to be considered will be based on OSM's reexamination of the conditions in light of several factors.

1. The first is the promulgation of revisions of the Federal regulations at 30 CFR 730–732 which govern the standards for approval of State programs. The revised standards which were published October 20, 1981 (46 FR 53376–53384), allows States to adopt alternatives to the Federal regulations, provided they are "no less effective than" the Federal rules in meeting the purposes of the Act.

In a letter to OSM dated December 23, 1981, Mr. Ed Kelly, Chief, New Mexico

Bureau of Surface Mining requested that, in particular, OSM reevaluate conditions "a" and "l" in light of the revised standard for State program approval. In his letter, Mr. Kelly provided information to demonstrate that the provisions which are the subject of conditions "a" and "l" are no less effective than the Federal rules in meeting the purposes of the Act. When reevaluating the conditions in light of the revised standard, OSM will take into consideration the information submitted by Mr. Kelly and any other information that may be submitted in response to this notice. A copy of Mr. Kelly's letter and any other information received will be available for public review during regular business hours Room 5315, 1100 "L" St., N.W., Washington, D.C. OSM will review not only conditions "a" and "l" as requested by the State but all of the conditions of approval on New Mexico's program. If the Agency determines that an existing State provision which is the subject of a condition is approvable under the revised standard, it will remove the condition. This notice will be the only notice of proposed rulemaking if OSM decides to remove a condition. Therefore, the Secretary wishes to make clear that this notice invites comment not only on the State's request for an extension of the deadline to meet conditions but also on the Agency's proposal to remove conditions judged to be moot in light of the revised standard of State program approval.

2. In making a final decision on the State's request for an extension, OSM will also consider the revisions to the Federal permanent program regulations that have been or will be proposed, but have not yet been finalized. OSM will reexamine all the conditions to determine whether revisions to the Federal rules are likely to have a bearing on changes the State is required to make to satisfy conditions. One condition that may be affected by an OSM rule change is condition "e" relating to attorneys' fees. New Mexico, together with several other States, petitioned OSM to amend the Federal program to eliminate the requirement for State programs that attorneys' fees be permitted against the State. OSM is considering this petition as part of overall changes to 30 CFR 840, 842, 843 and 845 that were proposed on December 1, 1981 (46 FR 58464–58479). Additional information relating to the petition is provided in the December 1, 1981 notice. The State has indicated that in order to satisfy condition "e" the State legislation would need to act. The proposed March 15, 1983 deadline should allow sufficient time for OSM to complete its rulemaking and for the State Legislature to act, if necessary, during its 1983 session.

3. OSM is also contemplating the possibility of establishing two dates by which the State would be required to submit provisions. The two dates likely to be considered are June 1, 1982, and March 15, 1983. By the first date, New Mexico would submit provisions to meet conditions that would not be affected by OSM rule changes and would not require a statutory change. By the second date, the State would submit provisions to satisfy conditions that may be affected by OSM rule changes and would not require a statutory change. By the second date, the State would submit provisions to satisfy conditions that may be affected by OSM rule changes or would require a statutory change.

The Secretary requests comments not only on the proposed March 15, 1983, deadline but on all the options which have been discussed in this notice including the proposal to remove conditions deemed unnecessary as a result of the modified standard for State program approval.

I have determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on these rules. I have further certified that the proposed rules will not have a significant economic effect on a substantial number of small entities as the rules are essentially a timing change with no direct or indirect impact on small entities.

On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining (OSM) exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve, or conditionally approve, State regulatory programs, actions or amendments. Therefore, a Regulatory Impact Analysis and regulatory review by OMB is not needed for this proposed extension.

Dated: February 12, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 931—NEW MEXICO

§ 931.11 [Amended]

30 CFR 931.11 (a), (b), (c), (e), (f), (g), (h), (i), (j), (k) and (l) are proposed to be amended by substituting March 15, 1983, for February 28, 1982, each time it appears.

[FR Doc. 82-4966 Filed 2-22-82; 8:45 am]
BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AS-FRC 2012-1]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: This notice proposes to revise the sulfur dioxide (SO_2) emission limitations in the federally promulgated Ohio State implementation Plan (SIP) for the Ohio Power Company Gavin plant in Gallia County, Ohio. The purpose of this notice is to discuss EPA's evaluation of the emission limitations and to solicit public comments on EPA's proposed revision.

DATES: Comments on this proposed revision must be received on or before March 25, 1982. Requests for a public hearing must be received no later than March 10, 1982.

ADDRESSES: Written comments and requests for a hearing should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The docket for this revision (#5A–81–1) is on file at the above address and at: Central Docket Section, U.S. Environmental Protection Agency, West Tower Lobby, Gallery 1, 401 M Street SW., Washington, D.C. 20460. The docket may be inspected and copied during normal business hours.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio at (312) 886–6088.

SUPPLEMENTARY INFORMATION: Section 110(a)(1) of the Clean Air Act (Act) requires each State to adopt and submit to EPA a plan which provides for attainment and maintenance of the primary and secondary national ambient air quality standards. The plan for achieving the secondary standard may be submitted as part of a State's plan for achieving the primary standard or as a separate plan. The primary standard plan must provide for attainment no later than three years from plan approval. Attainment of the secondary standard must be within a reasonable time

Under section 110(c) of the Act, EPA promulgated its substitute sulfur dioxide plan for the State of Ohio on August 27, 1978 which set emission limitations for Ohio sources in order that the State of Ohio might attain and maintain the national ambient air quality standards for sulfur dioxide. See 41 FR 36324, 41 FR 52455 and 42 FR 27568. As explained in EPA's final Technical Support document, the federal plan was designed to insure attainment of both the primary and secondary sulfur dioxide standards within three years of plan approval.

On February 9, 1978, the U.S. Court of Appeals for the Sixth circuit remanded to EPA for its further consideration two aspects of the plan. *Northern Ohio Lung Association* v. *EPA*, 572 F. 2d 1182 (6th cir. 1978). The Court held that the plan did not comply with the requirements of section 110(a)(2)(F) of the Act and did not include specific provisions for meeting the secondary ambient air quality standards for SO_2. This notice addresses the secondary standard portion of the remand.

EPA has reviewed the secondary standard modeling analyses it had performed in developing the sulfur dioxide plan. This review established that EPA had set emission limits adequate to protect the secondary standard for all but three sources: the Portsmouth Gaseous Diffusion Plant in Pike County, and the Ohio Power Company Gavin plant and the Ohio Valley Electric Company Kyger Creek plant, both located in Gallia County.

Therefore, on October 6, 1981 (46 FR 49123) EPA published in the Federal Register a revised emission limitation for the Portsmouth Gaseous Diffusion Plant in Pike County. At that time, the reanalysis of the two sources in Gallia County was not yet completed. EPA has now completed the reanalysis of the two sources in Gallia County. The reanalysis demonstrates that to attain the secondary standard, it is possible to leave Kyger Creek at its existing SIP limit and to reduce only the Ohio Power Company's Gavin emission limit. This approach is reasonable since Gavin is the dominant contributor to the predicted violations. Therefore, EPA today is proposing to revise the emission limitation for the Ohio Power Gavin plant located in Gallia County from 9.50 lbs. SO_2/MMBTU to 7.41 lbs. SO_2/MMBTU. A detailed discussion of the modeling analysis is contained in the technical support document which is available at Region V. Ohio Power Gavin will have three years from the final promulgation of this action to comply with this revised emission limitation.

The measures which EPA is proposing today will be in addition to, and not in lieu of, existing SIP regulations. The present emission control regulations for the Ohio Power Company Gavin plant will remain applicable and enforceable to prevent the source from operating without controls, or under less stringent controls, while it is moving toward compliance with the new regulations or if it chooses, challenging the new regulations. Failure of the source to meet applicable pre-existing regulations will result in appropriate enforcement action, including assessment of noncompliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability of the new regulation, because of a court order or for any other reason, the pre-existing regulation will be applicable and enforceable.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified on January 27, 1981 (46 FR 8709) that the attached rule if promulgated will not have a significant economic impact on a substantial number of small entities. This action only revises the emission limitations for one source in Gallia County in response in a remand from the U.S. Court of Appeals for the Sixth Circuit which is cited above.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis—This regulation is not major because it merely revises an emission limitation for one source. It is anticipated that the source can comply with the revised emission limitation using its existing pollution control methods.

This action was submitted to the Office of Management and Budget (OMB) for review as required by the Order.

(Sec. 110, Clean Air Act, as amended (42 U.S.C. 7410))

Dated: December 11, 1981.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 82-4822 Filed 2-22-82; 8:45 am]
BILLING CODE 6560-38-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 83

[Gen. Docket No. 82-36; FCC 82-44]

Amendment of the Commission's Rules To Conform With the International Maritime Satellite (INMARSAT) Requirements

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In February 1982 the International Maritime Satellite Organization (INMARSAT) will begin to provide satellite communication services to maritime mobile users. In this Notice of Proposed Rule Making the Commission proposes to revise its regulations and policies for environmental requirements, witnessing of type approval tests, licensing and commissioning procedures, and dissemination of information regarding maritime mobile systems utilizing the INMARSAT satellites. The proposed revisions will enable United States users of maritime mobile-satellite communications to conform with the INMARSAT requirements.

DATES: Comments must be received by March 29, 1982. Reply comments must be received by April 13, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: William P. Berges, Private Radio Bureau, (202) 623–7175.

SUPPLEMENTARY INFORMATION: In the matter of amendment of Part 83 of the Commission's rules to conform with the International Maritime Satellite (INMARSAT) requirements, Gen. Docket No. 82–36.

Adopted: January 25, 1982.

Released: February 10, 1982.

Introduction

1. In this Notice of Proposed Rule Making, we propose to terminate the Maritime Mobile-Satellite proceeding in Docket No. 20603,[1] and to amend Part 83 of the Commission's rules to conform with the maritime mobile-satellite requirements of the International Maritime Satellite Organization (INMARSAT). [2]

Background

2. On August 31, 1962, the United States Congress passed the Communications Satellite Act of 1962 (hereinafter called the Act of 1962). Sections 301 and 305(a)(2) of this Act, among other things, authorized the Communications Satellite Corporation (COMSAT), a private, profit making corporation, to own communications satellite systems, and to furnish for hire channels in its systems to United States common carriers and to other authorized entities, foreign and domestic. [3]

3. On August 1973 the Commission authorized COMSAT, in conjunction

[1] See "First Report and Order," Docket No. 20603. 59 FCC 2d 957, released June 18, 1976.

[2] INMARSAT is an international organization whose purpose is to make provision for the space segment necessary for improving maritime communications.

[3] See "Communications Satellite Act of 1962," 47 U.S.C. 701 *et seq.*

with ITT World Communications, Inc., RCA Global Communications, Inc., and Western Union International, Inc., to form the MARISAT Joint Venture and to furnish commercial satellite communication services to maritime mobile radio users.[4] Subsequently, on June 9, 1976, the Commission adopted the "First Report and Order" in Docket No. 20603. There the Commission established certain technical requirements and operator licensing rules for ship earth stations operating in the MARISAT system. The Commission intended to consider additional issues on this subject in a "Second Report and Order" in Docket No. 20603.[5]

4. In 1973, the Inter-Governmental Maritime Consultative Organization (IMCO), of which the United States is a member, decided to convene an International Conference to decide on the principle of setting up an international maritime satellite system. In 1976 the International Conference adopted a Convention and Operating Agreement which were attached to its Final Acts.[6] Article 3(1) of the "Convention Between the United States of America and Other Governments" states that:

> The purpose of the Organization is to make provision for the *space segment* necessary for improving maritime communications, thereby assisting in improving distress and safety of life at sea communications, efficiency and management of ships, maritime public correspondence services and radiodetermination capabilities (emphasis added).

Article 1(d) defines "space segment" as follows:

> "Space segment" means the satellites, and the tracking, telemetry, command, control, monitoring and related facilities and equipment required to support the operation of these satellites.

Article 15(c) states that in order to discharge its responsibilities, the INMARSAT Council shall have the power to perform all appropriate functions, including:

> Adoption of criteria and procedures for approval of earth stations on land, on ships and on structures in the marine environment for access to the INMARSAT space segment and for verification and monitoring of performance of earth stations having access to and utilization of the INMARSAT space segment. For earth stations on ships, the criteria should be in sufficient detail for use by national licensing authorities, at their discretion, for type-approval purposes.

Also, in paragraph (1), Article XIV of the INMARSAT "Operating Agreement" it is stated that:

> In order to utilize the INMARSAT space segment, all earth stations shall require approval by the Organization in accordance with criteria and procedures established by the Council pursuant to Article 15(c) of the Convention.[7]

5. On November 1, 1978, the United States Congress added Title V to the Act of 1962. Sections 502(b), 503(a)(1) and 503(a)(3) in Title V state, among other things, that the participation of the United States in the INMARSAT Organization shall be through COMSAT. COMSAT is also designated as the sole operating entity in the United States to provide international maritime satellite telecommunications services through INMARSAT. Furthermore, COMSAT is designated as the sole entity that is authorized to sign the INMARSAT operating agreement or other INMARSAT pertinent instruments. Stated simply, Congress has designated COMSAT as the "Signatory" through which the United States participates in the INMARSAT Organization.

6. On February 1, 1982, the INMARSAT Organization will begin to provide public correspondence services to maritime mobile radio users. On the same date the MARISAT system will be integrated into the INMARSAT system. As a result, beginning on February 1, 1982, all maritime mobile-satellite communications must conform to the INMARSAT requirements. Of great interest to present and potential manufacturers and users of ship earth stations in the maritime mobile-satellite service are four INMARSAT documents which are included in Appendixes B, C, D and E of this "Notice." These documents are titled:

(a) Technical Requirements for INMARSAT Standard-A Ship Earth Stations (See Appendix B). (b) Type Approval Procedures for an INMARSAT Standard-A Ship Earth Station Model (See Appendix C).[8] (c) List of Existing and Potential Supplies of Ship Earth Stations (See Appendix D). (d) Administrative Procedures for Commissioning of INMARSAT Standard-A Ship Earth Stations (See Appendix E).

7. The "Technical Requirements for INMARSAT Standard-A Ship Earth Stations" document describes the signal characteristics and operational requirements which ship earth station receivers, transmitters and antennas must satisfy before they are allowed to utilize the INMARSAT space segment. These requirements include operating frequencies, emission characteristics, signal strength values, modes of operation (e.g., telegraph, voice, facsimile), types of modulation, signal formats,operating procedures, environmental requirements, etc. It should be noted that the environmental requirements have been accepted as "mandatory" by some countries but are only "recommended" in the United States.[9]

8. In the document titled "Type Approval procedures for an INMARSAT Standard-A Ship Earth Station Model" it is required that a manufacturer of a particular ship earth station model must perform two types of tests, Phase I and Phase II, before its equipment is allowed to utilize the INMARSAT space segment. Briefly, this document states that the manufacturer of the ship earth station model must submit a type approval application to INMARSAT before it performs these tests. After INMARSAT approves the application the manufacturer can perform the Phase I tests "in plant" without using the INMARSAT space segment. The Phase I tests consist of component and system tests to verify that the ship earth station model complies with the INMARSAT requirements described in the "Technical Requirements for INMARSAT Standard-A Ship Earth Stations." In paragraph 2.4 of the "Type Approval Procedures for an INMARSAT Standard-A Ship Earth Station Model" document it is stated that "The Phase I tests shall be subject to witnessing by representatives of the INMARSAT Directorate, and/or an entity from the country of the manufacturer duly authorized by the Directorate, on a case by case basis for any or all of the tests." The Phase II tests are system compatibility tests which require the use of the INMARSAT satellite and satellite coast earth stations but are not subject to witnessing.

9. If both Phase I and Phase II tests are satisfactory, INMARSAT shall issue a written certificate to the manufacturer which shall indicate that its ship earth station model is type approved for use in the INMARSAT space segment. The certificate will also show the type(s) of operations for which the ship earth station model is approved (e.g., telegraph, voice, facsimile.) The manufacturer and/or supplier of the type approved ship earth station model will then be included in the INMARSAT "List of Existing and Potential Suppliers of Ship Earth Stations." Ship earth station models which are type approved in the MARISAT space segment prior to February 1, 1982, will be considered as type approved by INMARSAT until September 1, 1991. After that date, ship earth stations of these models will be permitted to operate in the INMARSAT space segment only if their design is modified to meet the INMARSAT requirements and are type approved by INMARSAT. Ship earth station models that are under development on August 1, 1981, and satisfy "Revision No. 1, Technical Requirements for MARISAT Mobile Terminals" rather than the INMARSAT Standard-A requirements may still be considered for type approval in the INMARSAT system, if the type approval application is submitted to the INMARSAT Organization.

10. Only ship earth stations whose models have been type approved by the INMARSAT Directorate will be considered for commissioning in its space segment. The document titled "Administrative Procedures for Commissioning of INMARSAT Standard-A Ship Earth Stations" requires that an application for commisioning must be submitted to the INMARSAT Organization for approval. After this application is approved and the ship earth station is installed on a vessel, compatibility tests must be performed with the INMARSAT satellite and satellite coast earth stations to verify that the ship earth station complies with the INMARSAT requirements. Upon satisfactory completion of these tests the INMARSAT Organization will issue a commissioning certificate authorizing the ship earth station to utilize the INMARSAT space segment. Ship earth stations which are approved to utilize the MARISAT space segment will be approved for access to the INMARSAT space segment until September 1, 1991. Approval for access to the INMARSAT system is given to a particular installation as it exists at the time of commissioning. A ship earth station of a MARISAT ship earth station model would be eligible for commissioning until September 1, 1991. The continued use of such equipment, however, will not be permitted after September 1, 1991, unless its model is type approved by the INMARSAT Organization.

Issues and Proposals

11. In most aspects the technical and operational requirements of MARISAT and INMARSAT are identical. Nevertheless, while MARISAT is a joint venture which was established by United States entities only, INMARSAT is an international organization. Consequently, we propose to terminate the MARISAT proceeding in Docket No. 20603 and to initiate a new proceeding to amend the Commission's rules and administative precedures to conform with the INMARSAT requirements. In proposing these amendments we invite all interested parties to file comments fully expressing their views.

Environmental Requirements

12. As was mentioned previously, the INMARSAT environmental requirements are accepted as mandatory by some administrations. In support, these administrations argue that these requirements are necessary because maritime vessels travel in geographic areas where prevailing climatic and weather conditions are very severe. The United States contends that in many cases the INMARSAT ship earth stations would be installed on vessels whose travels are limited to global areas where the prevailing climatic and weather conditions are not very severe. Thus, making these requirements mandatory would increase the design and manufacturing costs of many ship earth stations unnecessarily. For this reason, under joint consideration of NTIA, Department of State and the Federal Communications Commission, the United States took the position that the decision concerning INMARSAT environmental requirements should be made by the user. We cannot ignore, however, the fact that maritime mobile-satellite communications can play an important role in the alert, search and rescue operations during distress situations. This was exemplified in two incidents involving the M/V Prinsendam and the SS Lash Atlantico.[10] We believe that conformance with the INMARSAT environmental requirements would generally enhance the reliability of maritime mobile-satellite equipment for distress communications. We invite all interested parties therfore, to provide us information on this matter, especially estimated costs of environmentally and non-environmentally accepted ship earth station equipment. After comments are received the FCC will consult further with NTIA and the Department of State to determine whether the United States should maintain its present position on the environmental requirements issue.

Witnessing of Type Approval Tests

13. The witnessing of the INMARSAT Phase I tests which is described in the "Type Approval Procedures for an INMARSAT Standard-A Ship Earth Station Model" is of major concern to the Commission.[11] In connection with this issue, we want to point out that on June 9, 1976, when we adopted the MARISAT "First Report and Order", Docket No. 20603, we stated that the Commission would not impose type approval or type acceptance requirements on equipment authorized to operate in that system.[12] With respect to the "Type Acceptance Procedures for MARISAT Mobile Terminals" document which had been approved and issued by the MARISAT Joint Venture, we stated that "While the Commission does not object to participants establishing procedures to be followed in verifying that ship earth stations to be used with MARISAT meet technical requirements established by the Joint Venture, we request that the participants specifically avoid use of the terms 'type acceptance' and 'type approval' when referring to such procedures, and that any test procedures or other requirements are not to be construed as being mandatory or enforced by the Commission."[13] Subsequently, MARISAT proceeded to require manufacturers of ship earth stations to perform type approval tests on a model of their equipment. At the discretion of MARISAT these tests were subject to witnessing by its

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[4] See "Memorandum Opinion and Order," 42 FCC 2d 533, released August 30, 1973.

[5] See "First Report and Order," Docket No. 20603, *supra*, at para. 3.

[6] See "Treaties and Other International Acts Series 9605." This document is titled "International Maritime Satellite Organization (INMARSAT)" and contains the Articles of the "Convention Between the United States of America and Other Governments" and the Articles of the "Operating Agreement."

[7] Article 9 of the "Convention Between the United States of America and other Governments" states that the organs of the INMARSAT Organization shall be the Assembly, the Council and the Directorate headed by a Director General.

[8] The "type approval" term which is used by the INMARSAT Organization for ship earth station equipment that utilizes the INMARSAT space segment should not be confused with the Commission's equipment authorization type approval program. The term "type approval" when used in this proceeding refers to the approval of equipment required by the INMARSAT Organization.

[9] As of July 1981 the environmental requirements had been accepted as mandatory by the Federal Republic of Germany, The Netherlands, Norway, Spain, United Kingdom, Belgium, Finland, Sweden and Argentina.

[10] The M/V Prinsendam and SS Lash Atlantico incidents are described in a written summary of an ex-parte oral presentation to the Notice of Proposed Rule Making, Docket No. 79-338, 45 FR 1824, released January 3, 1980, which was submitted by EXXON. In the M/V Prinsendam incident, this vessel caught fire and sank 350 miles east of Kodiak Island, Alaska on October 4, 1980. The MARISAT satellite communications system played an important role in the rescue of 519 passengers and crew that were on board this vessel. In the SS Lash Atlantico incident, this vessel collided with the SS Hellenic 25 miles off the Virginia Capes on May 6, 1981. The SS Atlantico's 500 kHz antenna gave way upon impact. This vessel used the MARISAT system as the primary means to alert and handle communications for the subsequent 48 minutes following the collision.

[11] See paragraph 8 of this Notice.

[12] See "First Report and Order," Docket No. 20603, *supra*, at para 4.

[13] See Footnote 1 in "First Report and Order," Docket No. 20603, *supra*.

representatives. Travel and other related expenses for the MARISAT representatives were reimbursed by the manufacturers whose type approval tests the MARISAT representatives were witnessing. As of December 18, 1980, MARISAT had type approved for use in its space segment ship earth station models manufactured by nine United States and foreign entities.[14]

14. Recognizing that in order to utilize the INMARSAT space segment the operating requirements of the United States manufactured ship earth station equipment must be compatible with the operating requirements of the INMARSAT space system, we have considered various options for the type approval of this equipment. First, we have considered whether, pursuant to paragraph 2.4 of the "Type Approval Procedures for an INMARSAT Standard-A Ship Earth Station Model" document (See Appendix C), a representative of the INMARSAT Directorate or an authorized United States entity would be best suited to witness the type approval tests of ship earth station equipment manufactured in the United States. Since the Phase I tests are "in plant tests", performed on the premises of United States manufacturers, we are of the view that it would be in the public interest (that is, more convenient, expeditious and economical) for a United States entity to witness the Phase I tests of ship earth station equipment in the plants of United States manufacturers.

15. We have also considered whether COMSAT should be authorized to witness these tests. However, in the INMARSAT document which is titled "List of Existing and Potential Suppliers of Ship Earth Stations" (See Appendix D) COMSAT is listed as a potential supplier of ship earth station equipment. It should also be noted that the question whether COMSAT should enter the ship earth station market is an issue in the Notice of Proposed Rule Making, Docket No. 80-634.[15] There the Commission is considering whether COMSAT's participation in the earth station equipment market is inconsistent with its statutory responsibilities, and, if not, whether conditions must be imposed to minimize COMSAT's ability to engage in anticompetitive conduct. We believe that the designation of COMSAT to witness type approval tests of its competitors may not be in the public interest because it may raise conflict of interest questions. It may also infringe on the intent of Section 201(c)(1) of the Act of 1962, which states, among other things, that the Commission shall insure that there is "effective competition" in the equipment required to establish satellite systems and terminal stations.

16. Finally, keeping in mind the Commission's deregulatory policy, we have questioned whether witnessing of these tests is necessary. In connection with this issue, we believe that the Commission's type acceptance rules are very efficient and should satisfy the United States agreement obligations to the INMARSAT Organization. We have considered, therefore, to authorize the use of ship earth station equipment that is manufactured in the United States and utilizes the INMARSAT space segment in the same manner as any other public correspondence communications equipment that operates in the maritime mobile radio service. Under these circumstances, authorization for the use of such equipment would be in accordance with the procedures shown in Appendix A, including type acceptance.

17. In view of the foregoing, we have tentatively concluded that the public interest would be served best if the Commission type accepts equipment that utilizes the INMARSAT space segment in the same manner as any other public correspondence communications equipment that operates in the maritime mobile radio service. We have proposed, therefore, changes in the Commission's rules to implement this option. See Appendix A. In our proposed rules we require that equipment used aboard ship earth stations be type accepted by the Commission. We also propose that in addition to the type acceptance requirements in Part 2, subpart J of the Commission's rules, type acceptance applications should include an affidavit attesting to compliance with the INMARSAT type approval requirements. The Commission's grant of type acceptance would satisfy the United States agreement obligations to INMARSAT that are stated in Article 15(c) of the "Convention Between the United States of America and Other Governments" and Article XIV of the "Operating Agreement." See paragraph 4. Also, it would not require witnessing for the Phase I tests. Considering that the equipment used aboard United States vessels may be manufactured either in the United States or in other countries, we propose that there should be no difference in our authorization procedures regarding the origin of this equipment. However, we request interested parties to provide us comments on our proposal and on the options we have considered here.

Licensing and Commissioning of INMARSAT Ship Earth Stations

18. Before an INMARSAT ship earth station that is installed on board a United States vessel is placed in operation it must be licensed in accordance with the provisions in Subpart B, Part 83 of the Commission's rules. It must also be commissioned in accordance with the requirements provided in the INMARSAT document which is titled "Administrative Procedures for Commissioning of INMARSAT Standard-A Ship Earth Stations" (See Appendix E). We propose that licensing and commissioning of ship earth stations should be implemented using the following steps:

(a) When the prospective licensee installs its ship earth station on board a vessel, it should submit to COMSAT, the United States Signatory in the INMARSAT Organization, a commissioning application requesting access to the INMARSAT space segment. COMSAT, in turn, would submit this application to the INMARSAT Directorate for approval.

(b) After receipt of its commissioning application approval from INMARSAT but before the commissioning tests are initiated, a license application should be prepared using FCC Forms 506/506–A. Form 506–A gives license applicants permission to operate their stations for 60 days under temporary authorization and should be retained by the prospective licensees. Form 506 should be submitted to the Commission accompanied with a letter which should state that the prospective licensee has negotiated an operating agreement with the INMARSAT Organization to utilize its space segment for the commissioning tests.

(c) Prior to the expiration of the 60 day temporary authorization period the Commission will issue the required license for the ship earth station. The license will authorize the operation of a ship earth station in the INMARSAT space segment, provided it is displayed in conjunction with the commissioning certificate issued by the INMARSAT Organization.

Dissemination of Information

19. In paragraph 7 of its Reply Comments to the Notice of Proposed Rule Making, Docket No. 80–634, *supra*, Magnavox claims that the INMARSAT Signatories of other countries provide to their manufacturers important INMARSAT documents concerning ship earth station specifications. These documents, however, are not made available to the United States manufacturers by their Signatory. As a result, Magnavox argues, manufacturers or other countries have the opportunity to examine these documents while they are still in a draft form. This gives them the competitive advantage of early knowledge of INMARSAT thinking.

20. We believe that dissemination of the information contained in the INMARSAT documents would serve the interests of both manufacturers and owners of maritime mobile radio users in the United States. As procedures for public dissemination of INMARSAT documents will be proposed in the current rulemaking in Docket No. 80–634, *supra*, we decline to address the issue here. However, until such procedures are implemented, we propose the following interim measures. We intend to make available to the public all relevant ship earth station documents emanating from INMARSAT, except those which COMSAT has successfully raised a claim of exemption for specific documents under the applicable provisions of the Freedom of Information Act or made a convincing showing under Sections 0.457 and 0.459 of our rules that such documents should not be disclosed. All other documents would be made available for public review in the Commission's Public Reference Room, Room 239, 1919 M Street NW., Washington, D.C. 20554.

Conclusion

21. Accordingly, we propose to terminate the MARISAT proceeding in Docket No. 20603, and to amend Part 83 of the Commission's rules as shown in Appendix A below. The proposed amendments to the Rules are issued pursuant to authority contained in Sections 4(i), and 303 (e) and (r) of the Communications Act of 1934, as amended, and 201 (c)(4) and (c)(11) of the Communications Satellite Act of 1962.

22. Under procedures set out in § 1.4415 of the rules and regulations, 47 CFR 1.415, interested persons may file comments on or before March 29, 1982, and reply comments on or before April 13, 1982. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

23. In accordance with the provisions of § 1.419 of the rules and regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

24. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comment/pleadings and formal oral arguments) between a person outside the Commission and a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission Secretary for inclusion in the public files. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comment for the proceeding must prepare a written summary of that presentation; on the day of the oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy of the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

25. The Commission has determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 [16] do not apply to this rulemaking proceeding because the rules if promulgated, will not have a significant economic impact on a substantial number of small entities. The proposed amendments are primarily procedural in nature and required by the INMARSAT Organization for participating entities.

26. For further information on matters covered in this document contact William P. Berges, (202) 632–7175.

Federal Communications Commission.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083d (47 U.S.C. 154, 303, 307))

William J. Tricarico,

Secretary.

Note.—Due to the efforts to minimize publishing costs, Appendices B, C, D & E will not be printed herein. However, they are filed as part of the original document and available for inspection in the Commission's Docket Branch, Room 239, 1919 M St. NW., Washington, D.C. Also, information concerning availability of the entire document through distribution services may be obtained from the FCC Public Affairs Office, Room 202.

Appendix A

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. In § 83.28, paragraph (a) (1) is revised to read as follows and paragraph (a) (2) is removed and reserved.

§ 83.28 Standard forms to be used.

* * * * *

(a) * * *

(1) *FCC Forms 506/506–A, Application for License and Temporary Operating Authorization for Ship Radio Station.* FCC Forms 506 and 506–A are available as a single application form. Forms 506 and 506–A shall be completed concurrently when applying for a new or modified license to operate a ship station on terrestrial or satellite frequencies. Form 506 shall be submitted to the Commission. Form 506–A may be retained by the applicant for temporary authority to operate its station for 60 days.

(2) [Reserved]

* * * * *

2. In § 83.32 new paragraphs (f) and (g) are added to read as follows:

§ 83.32 Filing of applications.

* * * * *

(f) In cases where a ship earth station is required to be commissioned before it

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[14] As of December 18, 1980, the following entities had type accepted terminal models for use with the MARISAT system: Scientific Atlanta Corp., Magnavox, Japan Radio Co., Harris Corp., United Marine Electronics, Tokyo Shibaura Electric Co., Siemens, Anritsu Electric Co. and a German entity commonly referred to as DFVLR.

[15] See Notice of Proposed Rule Making, Docket No. 80–634, 81 FCC 2d 287, released October 20, 1980.

[16] Pub. L. 96–354.

is certified to utilize a privately owned satellite system, Form 506 must be submitted to the Commission prior to the initiation of any commissioning tests that require the use of the satellite frequency bands allocated for marine satellite communications.

(g) A ship earth station authorized to utilize the INMARSAT space segment must display the Commission license in conjuction with the commissioning certificate issued by the INMARSAT Organization. Ship earth stations that are presently operating in the MARISAT system may continue to be used in the INMARSAT system without a commissioning certificate issued by the INMARSAT Organization. The continued use of such equipment, however, will not be permitted after September 1, 1991, unless a commissioning certificate is obtained from the INMARSAT Organization.

3. In § 83.134, paragraphs (j) (1) and (j) (2) are added to read as follows:

§ 83.134 Transmitter power.

* * * * *

(j)* * *

(1) INMARSAT requires the EIRP of a single carrier in the direction to the satellite to be 36 dBW within a tolerance of +1 and −2 dB.

(2) INMARSAT transmitters will be type accepted on the basis of a carrier power of not more than 100 watts with the transmitter terminated in a dummy load of matching impedance.

* * * * *

4. In § 83.139, paragraphs (a) and (g) are revised to read as follows:

§ 83.139 Acceptibility of transmitters for licensing.

(a) Except as provided by paragraphs (c), (d) and (f) of this section, each radiotelephone transmitter authorized in a ship station or marine-utility station (other than transmitters authorized solely for developmental stations) must be type accepted by the Commission.

* * * * *

(g) Type acceptance is required for ship earth station transmitters which are to be operated in the INMARSAT system. Transmitters that are presently operating in the MARISAT system may continue to be used when MARISAT is incorporated into the INMARSAT system. The continued use of such equipment, however, will not be permitted after September 1, 1991, unless it is type accepted by the Commission.

* * * * *

5. In § 83.140, paragraph (d) is added to reads as follows:

§ 83.140 Type acceptance of equipment.

* * * * *

(d) Manufacturers of ship earth station transmitters to be used in the INMARSAT system may request type acceptance of such transmitters by following the type acceptance procedures set forth in Part 2 of this chapter. In addition an affidavit signed by an official of the manufacturer must be included which states that:

This transmitter has been manufactured and tested to meet the INMARSAT Phase I tests requirements. To the best of my knowledge the test data is correct and the tests have been performed in accordance with the Phase I procedures in the "Type Approval Procedures for an INMARSAT Standard-A Ship Earth Station Model" document, approved by the INMARSAT Council July 1, 1981. Each manufactured unit will conform to the requirements of the unit tested within the variations that can be expected due to quantity production and testing on a statistical basis.

It should be noted, however, that the "witnessing" of the Phase I tests described in paragraph 2.4 of the "Type Approval Procedures for an INMARSAT Standard-A Ship Earth Station Model" document is not required for equipment licensed for use aboard United States vessels.

[FR Doc. 82-4855 Filed 2-22-82; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 47, No. 36
Tuesday, February 23, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Public Access and Information; Meeting

Pursuant to the Federal Advisory Committee Act (Pub L. 92–163), notice is hereby given of a meeting of the Committee on Public Access and Information of the Administrative Conference of the United States, to be held at 9:30 a.m., Thursday, March 11, 1982, in the Library of the Administrative Conference, 2120 L Street, N.W., Suite 500, Washington, D.C.

The Committee will meet to discuss further the scope and substance of comments by the Committee on proposed recommendations of the ACUS Committee on Regulation of Business on the subject of the treatment of confidential business information under the FOIA. At its meeting on February 17, 1982 (*see* notice of meeting, 47 FR 5914), the Committee reached general agreement on the issues of (1) the appropriate coverage of Exemption (b)(4) of the FOIA, and (2) agency discretion to release information covered by the exemption.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting or the February 17, 1982 meeting, contact Michael W. Bowers (202–254–7065). Minutes of the Committee meetings are available on request.

Richard K. Berg,

General Counsel.

February 18, 1982.

[FR Doc. 82–4818 Filed 2–23–82; 8:45 am]

BILLING CODE 6110–01–M

Committee on Rulemaking; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–163), notice is hereby given of a meeting of the Committee on Rulemaking of the Administrative Conference of the United States, to be held at 10:30 a.m., Wednesday, March 3, 1982, in the Library of the Administrative Conference, 2120 L Street, N.W., Suite 500, Washington, D.C.

The Committee will meet to discuss the status of on-going projects involving the following subjects: (1) Procedures for amending or revoking rules adopted under the "hybrid" rulemaking statutes (Consultant, Professor Stephen Wood), and (2) the internal agency process during rulemaking (Consultant, Fred Emery). Both projects are in the preliminary stage. The Committee will also consider whether the Administrative Conference should address again the need for amending 5 U.S.C. 553 to require use of procedures in rulemaking in addition to the notice-and-comment procedure now required by that statutory provision.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting, contact Michael W. Bowers (202–254–7065). Minutes of the meeting will be available on request.

Richard K. Berg,

General Counsel.

February 18, 1982.

[FR Doc. 82–4851 Filed 2–23–82; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

List of Warehouses and Availability of List of Cancellations and /or Terminations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of publication of list of warehouses licensed under the U.S. Warehouse Act and availability of list of cancellations and/or terminations occurring during calendar year 1981.

Notice is hereby given that the Agricultural Marketing Service has published a list of warehouses licensed under the U.S. Warehouse Act (7 U.S.C. 241 *et seq.*) as of December 31, 1981, as required by section 26 of that Act. Also available is a list of cancellations and/or terminations that occurred during calendar year 1981. A copy of the list of warehouses as of December 31, 1981, will be distributed to all licensed warehousemen. Other interested parties may obtain a copy of either list from: Mrs. Judy Fry, Warehouse Service Branch, Warehouse Division—AMS, U.S. Department of Agriculture, Room 2720, South Agriculture Bldg., Washington, D.C. 20250, 202–447–3821.

Done at Washington, D.C., February 17,1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82–4851 Filed 2–23–82; 8:45 am]

BILLING CODE 3410–02–M

Forest Service

Situk Wild and Scenic River Study, Chatham Area, Tongass National Forest, Sitka, Alaska; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service, will prepare an environmental impact statement for the Situk Wild and Scenic River Study, Juneau Ranger District, Tongass National Forest.

The Alaska National Interest Lands and Conservation Act of 1980, Section 604(b) mandated that a study (of the Situk River and others) be completed and a report transmitted to Congress no later than three full fiscal years from the date of the Act. The purpose of the study

is to provide a recommendation to Congress on the eligibility and suitability for inclusion of the Situk River into the National Wild and Scenic River System.

Federal, State and local agencies, and other interested individuals and organizations were invited to participate in the scoping process. The scoping process included:

1. A public information notice describing the study.

2. An invitation to the public and other agencies and organizations to provide input on issues, concerns and resource information.

3. Meeting with interested individuals, agencies, and organizations interested in the study.

R. Max Peterson, Chief of the Forest Service, Washington, D.C., is the responsible official.

The Draft Environmental Impact Statement and Draft Study Report should be available by late March 1982. In accordance with the Wild and Scenic Rivers Act, the Draft Report and Environmental Impact Statement will be available for agency and public review for 90 days. The Final Environmental Impact Statement is scheduled to be completed in the early fall of 1982.

Questions about the study report or environmental impact statement should be sent to William P. Gee, Forest Supervisor, Chatham Area, Tongass National Forest, P.O. Box 1980, Sitka, Alaska 99835, or may be directed to Gary Morrison, Team Leader, phone 907–789–3111.

Dated: February 17, 1982.

J. Lamar Beasley,

Acting Chief.

[FR Doc. 82-4779 Filed 2-22-82; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Carronde Park, Michigan; Finding of No Significant Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517–337–6702.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Carronde Park, RC&D Measure, Berrien County, Michigan.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for the installation of practices for critical area treatment. The planned works of improvement include the following items: one acre of critical area planting (seed, fertilizer and mulch), streambank stabilization (excavation and rock riprap) and one construction sign. Total construction cost is estimated to be $81,000; $60,750 RC&D funds and $20,250 local funds.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FNSI has been sent to various federal, state, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the Federal Register (March 25, 1982).

Dated: February 8, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding state and local clearinghouse review of federal and federally assisted programs and projects is applicable)

Jerry L. Keller,

Deputy State Conservationist.

[FR Doc. 82-4886 Filed 2-22-82; 8:45 am]

BILLING CODE 3410-16-M

Ocqueoc River, Michigan; Finding of No Significant Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517–337–6702.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Ocqueoc River RC&D Measure, Presque Isle, Michigan.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for the installation of practices for critical area treatment. The planned works of improvement include the following items: fencing, walkways, log jams, rock riprap, cattle watering areas, five acres of seeding, mulching, tree and shrub planting. Total construction cost is estimated to be $201,700; $84,300 R.C.&D. funds and $117,400 local funds.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FNSI has been sent to various federal, state, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the Federal Register (March 25, 1982).

(Catalog of Federal Domestic Assistance Program No. 10.901, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding state and local clearinghouse review of federal and federally assisted programs and projects is applicable)

Dated: February 9, 1982.

Jerry L. Keller,

Deputy State Conservationist.

[FR Doc. 82-4887 Filed 2-22-82; 8:45 am]

BILLING CODE 3410-16-M

OFFICE OF THE FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

[Order No. 4]

Delegation of Oil Spill Response Enforcement Authority to the Agency Authorized Officer for the United States Environmental Protection Agency

AGENCY: Office of the Federal Inspector for the Alaska Natural Gas Transportation System.

ACTION: Delegation of enforcement authority.

SUMMARY: The Office of the Federal Inspector (OFI) is an independent agency of the Executive Branch established by Reorganization Plan No. 1 of 1979, which was put into effect by Executive Order 12142 of June 21, 1979, 44 FR 36927 (June 25, 1979). The OFI has been transferred the enforcement authority of various federal agencies via the Reorganization Plan No. 1 of 1979. This order delegates the enforcement authority for oil spill responses, 33 U.S.C. 1321 *et. seq.*, for the Alaska segment of the Alaska Natural Gas Transportation System (ANGTS) to the Agency Authorized Officer (AAO) for the U.S. Environmental Protection Agency (EPA). The proviso for such a delegation to the AAO is contained in Section 202(a) of the Reorganization Plan No. 1 of 1979.

EFFECTIVE DATE: February 23, 1982.

FOR FURTHER INFORMATION CONTACT:

Mr. Earl Kari, Agency Authorized Officer, Environmental Protection Agency, 605 W 4th Avenue, Anchorage, Alaska 99502, (907) 271–3660.

Ms. Marcia D. Connelly, Attorney-Advisor, Office of the General Counsel, Office of the Federal Inspector (ANGTS), Room 3407, Post Office Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20044, (202) 275–1144.

SUPPLEMENTARY INFORMATION:

I. Background

The Office of the Federal Inspector (OFI) was established by Reorganization Plan No. 1 of 1979, which became effective via Executive Order 12142 (June 21, 1979). The OFI has the exclusive responsibility for the enforcement of all federal statutes relevant in any manner to the pre-construction, construction and initial operation of the Alaska Natural Gas Transportation System (ANGTS). Enforcement is broadly defined in the Reorganization Plan, Section 102; "enforcement for purposes of this transfer of functions includes monitoring and any other compliance or oversight activities reasonably related to the enforcement process." Section 102(a) of the Reorganization Plan specifically enumerates the oil spill response and containment provisions of the Clean Water Act, 33 U.S.C. 1321 *et. seq.*, as one of the statutes transferred from the EPA to the OFI for enforcement.

The legislative purposes of the oil spill containment provisions include the following: (1) Prohibits the unlawful discharge of oil "into or upon navigable waters, adjoining shorelines * * *;" (2) imposes civil and criminal liability for oil spills; (3) designates federal agencies to oversee, monitor and enforce an orderly response to spills, including clean-up, containment and the reclamation of affected areas; and (4) requires the establishment of plans to prevent, contain and respond to spills.

This order delegates the enforcement authority for the oil spill response as required under the Clean Water Act to the Agency Authorized Officer (AAO) for the EPA pursuant to Section 202(a) of the Reorganization Plan. The AAO in turn will have EPA Region X perform the delegated functions. The EPA may coordinate on-the-scene response authority for oil spills with the State of Alaska. This delegation is consistent with the oil spill response provision, 33 U.S.C. 1321(c)(2)(A), which encourages the "assignment of duties and responsibilities among Federal departments and agencies in coordination with state and local agencies. . ." The OFI's Office of Environment has determined that the delegated enforcement authority can be exercised more efficiently through the use of the EPA's resources, experience and expertise.

The EPA will have the primary oversight authority to respond to oil spills resulting from the construction and initial operation of the Alaska segment of the ANGTS which enter or present a threat to the inland navigable waters of the U.S. or their tributaries. However, responsibility for enforcement of 33 U.S.C. 1321(j)(1)(C) and corresponding regulations, 40 CFR Part 112, relating to the establishment of Spill Prevention Control and Countermeasure Plans will be retained by OFI. EPA will not be delegated any responsibility for the enforcement of 33 U.S.C. 1321(j)(1)(c).

II. Delegation of Enforcement Authority for Oil Spill Response to the Agency Authorized Officer for the U.S. Environmental Protection Agency

(A) The OFI delegates the enforcement authority for oil spill response for the Alaska segment of the ANGTS to the AAO for the EPA. The AAO in turn will have EPA Region X perform the delegated functions consistent with applicable federal laws, including the Alaska Natural Gas Transportation Act, the Reorganization Plan Section 202(c), the Department of Interior Right-of-Way Grant and Stipulations and this delegation order. The EPA may coordinate on-the-scene response with the State of Alaska. This delegation in no way affects the enforcement authority of the Coast Guard under 33 U.S.C. 1321.

(B) The EPA shall be the federal agency primarily responsible for the administration and enforcement of the on-the-scene oil spill response provisions of the Clean Water Act, 33 U.S.C. 1321 *et. seq.*

(C) The EPA shall provide the primary organization in response to oil spills resulting from the construction and initial operation of the Alaska segment of ANGTS which enter or present a threat to the inland navigable waters of the U.S. or their tributaries.

(D) The EPA shall receive notification and conduct the initial response for all spills within the ANGTS corridor. Response to all spills shall be processed to completion by EPA in accordance with the Reorganization Plan section 202(c). Department of Interior Right-of-Way Grant and Stipulations and this delegation order.

(E) EPA shall process all bills and expenditures which are eligible for reimbursement from the Coast Guard Revolving Fund as stipulated in 33 U.S.C. 1321(k).

(F) The EPA shall notify promptly the EPA AAO of any reported spill and keep the AAO informed of the progress for controlling, containing, cleaning up, disposing and reclaiming the affected areas. The EPA shall provide the OFI with any requested documents relating to a spill, clean-up, reclamation, and claims for reimbursement if requested.

(G) The OFI will be represented on the Regional Response Team (RRT). All coordination and consultation, except as otherwise set forth in this delegation order, will be exercised through the RRT.

(H) The EPA shall seek the consultation and obtain the concurrence of the OFI prior to the consummation of any agreement which may be made with

the State of Alaska in accordance with the Clean Water Act, 33 U.S.C. 1321(c)(2)(A), and the National Contingency Plan or any arrangements made with any other entity.

(I) This delegation does not affect any delegation by EPA to the Trans-Alaska Pipeline System (TAPS) AAO for oil spills resulting from the TAPS.

(J) When the OFI is notified by third parties of any spill in the Alaska corridor of ANGTS, the EPA shall be notified promptly.

Dated: February 4, 1982.

John T. Rhett,

Federal Inspector.

[FR Doc. 82-4791 Filed 2-22-82; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Preliminary Affirmative Countervailing Duty Determination Ceramic Tile From Mexico

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary affirmative countervailing duty determination.

SUMMARY: We have preliminarily determined that the government of Mexico is providing its manufacturers, producers, and exporters of ceramic tile with benefits that are bounties or grants within the meaning of the countervailing duty law. We estimate the net subsidy to be 17.36 percent of the f.o.b. value of the imported merchandise. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all consumption entries or warehouse withdrawals of this merchandise and to require a cash deposit, bond, or other security in an amount equal to the estimated net subsidy.

If our investigation proceeds normally, we will make our final determination by May 2, 1982.

EFFECTIVE DATE: February 23, 1982.

FOR FURTHER INFORMATION CONTACT: Mary Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 377-1279.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation we have preliminarily determined that there is reason to believe or suspect that through the government of Mexico's payment of tax credit certificates ("CEDI") on exports of ceramic tile, certain tax benefits under the CEPROFIS program and preferential financing for exports under the FOMEX program, the government of Mexico provides its manufacturers, producers, and exporters of ceramic tile certain benefits that are bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended ("the Act"). We estimate the net subsidy to be 17.36 percent of the f.o.b. value of this merchandise.

If our investigation proceeds normally, we will make our final determination by May 2, 1982.

Case History

On October 5, 1981, we received a petition from counsel for the Tile Council of America, Inc. of Princeton, New Jersey. The petition alleged that the government of Mexico subsidizes its producers and exporters of ceramic tile through its Certificado de Devolucion de Impuestos ("CEDI") program, certain tax credits under the Certificados de Promocion Fiscal program ("CEPROFIS"), and preferential export financing under several programs, including the Fund for the Promotion of Exports of Mexican Manufactured Products ("FOMEX").

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate a countervailing duty investigation. Therefore, on October 26, 1981, we announced our initiation (46 FR 53738).

We presented a questionnaire concerning the allegations to the government of Mexico. On January 11, 1982, we received a response to the questionnaire which covers the time period January 1, 1980, through September 30, 1981.

We stated in our notice of initiation of the investigation that we expected to issue a preliminary determination by December 29, 1981. However, we postponed the preliminary determination on December 9, 1981, to not later than February 15, 1982, and published a notice in the **Federal Register** (46 FR 61160). The reason for the postponement was that we determined in accordance with section 703(c)(1)(B) of the Act that the investigation is extraordinarily complicated.

Scope of Investigation

The merchandise covered by this investigation, ceramic tile, is non-mosaic, glazed and unglazed ceramic floor and wall tile, currently provided for under item numbers 532.24 and 532.27 of the Tariff Schedules of the United States.

Section 303 of the Act applies to this investigation because Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act. In addition, the merchandise covered in this investigation is dutiable. Therefore, no injury determination is required.

Programs Believed to be Bounties or Grants

We preliminarily determine that the government of Mexico is providing bounties or grants to its manufacturers, producers, and exporters of ceramic tile under three programs: CEDI, CEPROFIS and FOMEX.

The CEDI

The government of Mexico, in its response to our questionnaire, indicates that CEDI, Certificado de Devolocion de Impuesto, is a program under which the government issues tax certificates for the purpose of rebating indirect taxes and for export promotion.

The Secretary of Commerce of Mexico publishes lists of articles that qualify for the CEDI benefit and is responsible for establishing the CEDI rate. The rate, which is not published, is a percentage of the f.o.b. value, or if national insurance and transportation are used, a percentage of the c.i.f. value of the exported product.

Based upon the best information available to us at this time, we believe that exporters of ceramic tile who apply for this benefit receive a certificate equal to 10 percent of the value of the exported merchandise. The certificates are valid for five years from the date of issue, are not transferable and may be used by each firm as a credit against federal tax liabilities.

Generally the non-excessive rebate of indirect taxes is not treated as a bounty or grant if the foreign government has reasonably calculated and documented the actual tax experience of the product under investigation. We have identified three critical factors as relevant to our determination of whether an export payment is proper: (1) Whether the program operates for the purpose of rebating indirect taxes; (2) whether there is a clear link between eligibility for payments on export and the amount of indirect taxes paid; and (3) whether the foreign government has reasonably calculated and documented the actual tax incidence relative to the products concerned and has demonstrated a clear link between such incidence and the amount paid on export.

We have been given a macroeconomic study by the government of Mexico that gives an indication of the total tax incidence (both direct and indirect) of several Mexican product sectors. In addition, we have been given a list of the "indirect taxes which affect the ceramic tile exports." However, it is unclear how it was derived or to what extent it is representative of the indirect taxes borne on ceramic tile in Mexico.

We have not received sufficient information and documentation on the type of indirect taxes borne by exports of ceramic tile, the incidence of such taxes and the linkage between CEDI benefits and the actual indirect taxes levied on ceramic tile exports. Therefore, we preliminarily determine that providing the CEDI to manufacturers, producers and exporters of ceramic tile is a benefit which constitutes a bounty or grant. Based upon the best available information we have calculated the net subsidy under the CEDI program to be 10 percent ad valorem.

One company has certified to us that it has not applied for or received CEDI. The government of Mexico has also certified that this firm neither applied for nor received benefits under the program. Upon satisfactory verification of the certifications by the company and the government of Mexico, we will adjust the duty deposit rates for that company as appropriate. If other companies are able to make similar showings, we will adjust the duty deposit rates for those companies as appropriate.

The CEPROFIS Program

In 1979, the government of Mexico introduced a four-year national Industrial Development Plan (NIDP) which spells out broad economic goals for the country. Tax credits, which are called Certificates of Fiscal Promotion (CEPROFIS), are used to promote the NIDP goals. Based upon the information available to us at this time, the CEPROFIS program serves many developmental objectives, including the promotion of exports. Under the CEPROFIS program, a non-transferrable tax certificate is issued to a firm which then must use the credits within a period of five years. Manufacturers of ceramic tiles have received CEPROFIS grants, according to the government of Mexico in its response to our questionnaire.

It is our objective to look not only at the intent or stated objectives of a program but also at the effect of that program on the merchandise under investgation. The CEPROFIS program is granted for investment in certain priority industry activities in certain regions. There is a significant home market for ceramic tile and there is no information currently available which would indicate that CEPROFIS have been granted to the tile industry specifically to promote exports.

We have not yet received full information concerning the CEPROFIS program as it applies to tile exports. Based upon the best information available to us at this time, we preliminarily determine that the CEPROFIS program is a "domestic subsidy" program. This preliminary determination is subject to verification of the appropriate documents to determine the purpose for which these grants are made to ceramic tile producers.

We have calculated the net subsidy by dividing the value of the CEPROFIS received by Mexican ceramic tile producers in the first nine months of 1981 by the total value of the production of ceramic tile in Mexico during the same period. This result is a net subsidy of .09 percent ad valorem.

Preferential Financing Programs

The Fund for the Promotion of Exports of Mexican Manufactured products ("FOMEX") is a trust established by the government of Mexico and is based on the 1962 Federal Revenue Law. The fund is administered by the Mexican Treasury Department, with the Bank of Mexico (Mexico's central bank) acting as the trustee.

FOMEX's purpose is to assist Mexican companies in the financing of the manufacture and sale of export products. The Bank of Mexico administers the financing of FOMEX loans through financial institutions. The financial institutions in turn establish contracts for lines of credit with manufacturers and exporters of ceramic tile.

In order for a company to be eligible for FOMEX financing for exports, the following requirements must be met: (1) The product to be manufactured must be included on a list made public by FOMEX; (2) the articles to be exported must have a minimum of 30% national integration in direct production cost; (3) credits granted for pre-export must be in Mexican currency, while credits for export sales are established in U.S. dollars or any other foreign currency acceptable to the Bank of Mexico; and (4) the exporter must carry insurance against commercial risks to the extent of the credit.

Under the FOMEX program, loans for exports are granted through the following programs: financing for the pre-export stage, financing for the export stage and guarantees for export payment. The maximum annual interest rate that credit institutions may charge borrowers for FOMEX pre-export financing is 8 percent in Mexican pesos. The maximum annual interest rate for FOMEX export financing is 6 percent in the currency of the country of importation.

For those FOMEX loans obtained by ceramic tile manufacturers during the period January 1, 1981–September 30, 1981, we computed the difference in interest expense between the FOMEX loans and that which would have been incurred had the loans been made at commercial rates. We allocated this amount over the value of total exports, during the same period, in the case of pre-export financing loans and over the value of exports to the U.S. in the case of export financing loans. We have estimated the net amount of the bounty or grant for pre-export loans to be 2.75 percent ad valorem and the net amount of the bounty or grant for export financing to be 4.52 percent ad valorem, for a total subsidy under these two programs of 7.27 percent ad valorem.

We will seek additional information on the gurantees for export payment program.

We will verify all the data we use in this investigation before we make our final determination.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend, upon this notice's publication, the liquidation of all entries for consumption or withdrawals from warehouse for consumption of the merchandise subject to this investigation. We are also directing Customs to require a cash deposit, bond, or other security in the amount of 17.36 percent ad valorem to be posted on this merchandise. This suspension will remain in effect until further notice.

Public Comment

As described in § 355.35 of the Commerce Department's regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination. This hearing is scheduled to be held at 10:00 am on March 16, 1982, at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

All requests for hearings must be submitted within ten days of this notice's publication to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the same address as above. They should contain (1) the party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy

Assistant Secretary by March 11, 1982. Oral presentations will be limited to the issues raised in the briefs.

All written views should be filed in accordance with 19 CFR 355.43, within thirty days of this notice's publication, at the above address, and in at least ten copies.

Leonard M. Shambon,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-4052 Filed 2-22-82; 8:45 am]

BILLING CODE 3510-25-M

Applications for Duty-Free Entry of Scientific Articles

Correction

In FR Doc. 82-4051, appearing at page 6679 in the issue of February 16, 1982, the date in the last line of the first paragraph of the document should have read, "March 8, 1982".

BILLING CODE 1505-01-M

Minority Business Development Agency

Business Development Center Program; Toledo, Ohio

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications for a cooperative agreement under its Business Development Center (BDC) Program to operate a pilot project for a 12-month period beginning July 1, 1982 in the Toledo, Ohio SMSA. The cost of the project is estimated to be $170,000. The maximum federal participation amount is $153,000. The minimum amount required for non-federal participation is $17,000. The project number is 05-10-82015-01.

Applicants shall be required to contribute at least 10% of the total program costs through non-federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

CLOSING DATE: April 19, 1982.

ADDRESS: Chicago Regional Office, Minority Business Development Agency, 55 East Monroe Street, Suite 1440, Chicago, Illinois 60603.

FOR FURTHER INFORMATION CONTACT: John Kammerer, Special Projects Officer, Program Analyst, telephone 312/353-0192.

SUPPLEMENTARY INFORMATION: A. Scope and Purpose of this Announcement. Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The BDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA offers Cooperative Agreements that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants. Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process. All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Business Development Center Application. The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. *Capability and Experience of Firm/Staff.*—Provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)

Background credentials and references for the owners of the organization and a capability statement of what the organization can do.

Knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local public and private entities—that can possibly enhance the BDC program effort—i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

List personnel to be used. Indicate their salaries, educational level and previous experiences. Provide résumés for all professional staff personnel.

Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.

Provide organization chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.

If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A-110 or A-102.

II. *Techniques and Methodology.*—Specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the BDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: Outreach, screening, assisting and monitoring clients; developing and maintaining the profile inventory of minority business; and brokering of new business ownership, market and capital opportunities. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. *Resources.*—Address technical and administrative resources, i.e. computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 10% cost sharing requirement to include a fee for services for assistance provided clients. The fee for services will be 10% for firms with gross sales of $500,000 or less and 25% for firms with gross sales of over $500,000.

Cost sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order of priority: 1. cash contributions; 2. fee for services; and 3. in-kind contributions.

A. *Cash contribution.*—Means cash that is contributed or donated by the recipient, by other non-federal, public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services.*—Are charges to the client for assistance provided by BDC.

C. *In-Kind contribution.*—Represent the value of non-cash contributions provided by the recipient and non-federal parties. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution.

IV. *Costs.*—Demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and eficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost sharing plan information in terms of methodology and format for billing the cost of management and technical assistance to clients.

Total project costs will be evaluated in terms of:

Clear explanations of all expenditures proposed, and the extent to which the applicant can leverage federal program funds and operate with *economy* and *efficiency.*

In conclusion, the applicant's schedule for start of BDC operation should be inclused in Part Two. Part Two will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement award.

A detailed justification of all proposed costs is required for Part Four and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered nonresponsive and consequently, dropped from competition.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals. Notification of awards will be made by the Grants Officer. Organizations whose proposals are unsuccessful will be advised by the Regional Director.

F. Proposal Instructions and Forms. Questions concerning the preceding information and copies of application forms can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants. The program is subject to OMB Circular A-95 requirements.

G. A Pre-Application conference to assist all interested applicants will be held at the Federal Courthouse Building, 231 West LaFayette Street, Room 541, Detroit, Michigan, on March 15, 1982 at 1:00 p.m.

(11.800 Minority Business Development (Catalog of Federal Domestic Assistance))

Dated: February 12, 1982.

Stanley W. Tate,

Regional Director.

[FR Doc. 82-4625 Filed 2-23-82; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcement; Business Development Center (BDC), Detroit SMSA

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications for a cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning July 1, 1982 in the Detroit SMSA. The cost of the project is estimated to be $700,000. The maximum federal participation amount is $630,000. The minimum amount required for non-federal participation is $70,000. The project number is 05-10-82002-01.

Applicants shall be required to contribute at least 10% of the total program costs through non-federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contribution.

CLOSING DATE: April 19, 1982.

ADDRESS: Chicago Regional Office, Minority Business Development Agency, 55 East Monroe Street—Suite 1440, Chicago, Illinois 60603.

FOR FURTHER INFORMATION CONTACT: John Kammerer, Special Projects Officer Program Analyst, telephone 312/353-0192.

SUPPLEMENTARY INFORMATION: A. Scope and Purpose of this Announcement. Executive Order 11625 authorizes MBDA to fund projects which will provide technical management assistance to eligible clients in areas related to the establishment and operation of businesses. The BDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA offers Cooperative Agreements that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer then a full range of management and technical assistance; and serve as a conduit-through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants. Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process. All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Business Development Center Application. The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the higheat evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. *Capability and Experience of Firm/Staff.*—Provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms

of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)

Background credentials and references for the owners of the organization and a capability statement of what the organization can do.

Knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local public and private entities—that can possibly enhance the BDC program effort—i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

List personnel to be used. Indicate their salaries, educational level and previous experiences. Provide resumes for all professional staff personnel.

Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.

Provide organization chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.

If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note: All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A–110 or A–102.

II. *Techniques and Methodology.*—Specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the BDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; developing and maintaining the profile inventory of minority business; and brokering of new business ownership, market and capital opportunities. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. *Resources.*—Address technical and administrative resources, i.e., computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 10% cost of sharing requirement to include a fee for services for assistance provided clients. The fee for services will be 10% for firms with gross sales of $500,000 or less and 25% for firms with gross sales of over $500,000.

Cost sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following orders of priority: 1. cash contributions; 2. fee for services; and 3. in-kind contributions.

A. *Cash contributions.*—Means cash that is contributed or donated by the recipient, by other non-federal, public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services.*—Are charges to the client for assistance provided by BDC.

C. *In-Kind contributions.*—Represent the value of non-federal parties. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution.

IV. *Costs.*—Demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost sharing plan information in terms of methodology and format for billing the cost of management and techical assistance to clients.

Total project costs will be evaluated in terms of: clear explanations of all expenditures proposed, and

The extent to which the applicant can leverage federal program funds and operate with *economy* and *efficiency.*

In conclusion, the applicant's schedule for start of BDC operation should be included in Part Two. Part Two will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement award.

A detailed justification for all proposed costs is required for Part Four and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered nonresponsive and consequently, dropped from competition.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals. Notification of awards will be made by the Grants Officer. Organizations whose proposals are unsuccessful will be advised by the Regional Director.

F. Proposal Instructions and Forms. Questions concerning the preceding information and copies of application forms can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants. The program is subject to OMB Circular A–95 requirements.

G. A Pre-Application conference to assist all interested applicants will be held at the Federal Courthouse Building, 231 West Lafayette Street, Room 541, Detroit, Michigan, on March 15, 1982 at 1:00 p.m.

(11.800 Minority Business Development. Catalog of Federal Domestic Assistance)

Dated: February 16, 1982.

Stanley W. Tate,

Regional Director.

[FR Doc. 82-4823 Filed 2-22-82; 8:45 am]

BILLING CODE 3510-23-M

Financial Assistance Application Announcement; Business Development Center (BDC), Dayton, Ohio SMSA

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications for a cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning July 1, 1982 in the Dayton, Ohio SMSA. The cost of the project is estimated to be $170,000. The Maximum federal participation amount is $153,000. The minimum amount required for non-federal participation is $17,000. The project number is 05–10–52014–01.

Applicants shall be required to contribute at least 10% of the total program costs through non-federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

CLOSING DATE: April 19, 1982.

ADDRESS: Chicago Regional Office, Minority Business Development Agency, 55 East Monroe Street—Suite 1440, Chicago, Illinois 60603.

FOR FURTHER INFORMATION CONTACT: John Kammerer, Special Project Officer Program Analyst telephone 312/353–0192.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of this Announcement. Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The BDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA offers Cooperative Agreements that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit—through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants. Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process. All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Business Development Center Application. The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. *Capability and Experience of Firm/Staff.* Provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)

Background credentials and references for the owners of the organization and a capability statement of what the organization can do.

Knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local public and private entities—that can possibly enhance the BDC program effort—i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

List personnel to be used. Indicate their salaries, educational level and previous experiences. Provide resumes for all professional staff personnel.

Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.

Provide organization chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.

If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A–110 or A–102.

II. *Techniques and Methodology.*—Specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the BDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; developing and maintaining the profile inventory of minority business; and brokering of new business ownership, market and capital opportunities. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. *Resources.*—Address technical and administrative resources, i.e., computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 10% cost sharing requirement to include a fee for services for assistance provided clients. The fee for services will be 10% for firms with gross sales of $500,000 or less and 25% for firms with gross sales of over $500,000.

Cost sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order of priority: 1. cash contributions; 2. fee for services; and 3. in-kind contributions.

A. *Cash contribution.*—Means cash that is contributed or donated by the recipient, by other non-federal, public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services.*—Are charges to the client for assistance provided by BDC.

C. *In-Kind contribution.*—Represent the value of non-cash contributions provided by the recipient and non-federal parties. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution.

IV. *Costs.*—Demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost sharing plan information in terms of methodology and format for billing the cost of management and technical assistance to clients.

Total project costs will be evaluated in terms of:

Clear explanation of all expenditures proposed, and

The extent to which the applicant can leverage federal program funds and operate with *economy* and *efficiency*.

In conclusion, the applicant's schedule for start of BDC operation should be included in Part Two. Part Two will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement award.

A detailed justification of all proposed costs is required for Part Four and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered nonresponsive and consequently, dropped from competition.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals. Notification of awards will be made by the Grants Officer. Organizations whose proposals are unsuccessful will be advised by the Regional Director.

F. Proposal Instructions and Forms. Questions concerning the preceding information and copies of application forms can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants. The program is subject to OMB Circular A–95 requirements.

G. A Pre-Application conference to assist all interested applicants will be held at the Federal Courthouse Building, 231 W. Lafayette Street—Room 541—Detroit, Michigan on March 15, 1982 at 1:00 p.m.

(11.800 Minority Business Development. Catalog of Federal Domestic Assistance)

Dated: February 12, 1982.

Stanley W. Tate,

Regional Director.

[FR Doc. 82-4834 Filed 2-22-82; 8:45 am]

BILLING CODE 1355-25-M

National Bureau of Standards

Proposed Changes in the Interface Standards Exclusion List

In a notice published in the **Federal Register** on March 19, 1979 (44 FR 16466), the National Bureau of Standards (NBS) announced the establishment of exclusion criteria and procedures for developing and maintaining an exclusion list pertaining to Federal Information Processing Standards Publication 60 (which has since been redesignated as 60–1), Input/Output (I/O) Channel Interface; Federal Information Processing Standards Publication 61, Channel Level Power Control Interface; and Federal Information Processing Standards Publication 62, Operational Specifications for Magnetic Tape Subsystems. The approval of the Secretary of Commerce (Secretary) of those three Federal Information Processing Standards was previously announced in the **Federal Register** on February 16, 1979 (44 FR 10099–10101). The exclusion list also pertains to Federal Information Processing Standards Publication 63, Operational Specifications for Rotating Mass Storage Subsystems, approval of which by the Secretary of Commerce was announced in the **Federal Register** on August 27, 1979 (44 FR 50078).

The March 19, 1979, notice stated that once the exclusion list was established, interested parties could obtain a copy of that list and would be invited to submit to the Director, Institute for Computer Sciences and Technology (ICST), comments or recommendations regarding additions to or removals from that list. The notice also advised that information regarding any proposed changes in the exclusion list would be published in the **Federal Register**.

Announcement of the establishment of the initial exclusion list and its availability from NBS upon request appeared in the **Federal Register** on June 29, 1979 (44 FR 37968). Numerous changes to that exclusion list have since been made and announced in the **Federal Register**.

Comments from interested parties specifically identifying candidate systems which should be added to or removed from the exclusion list have been and continue to be especially encouraged.

As a result of a review and analysis of comments and recommendations received recently, NBS is proposing the following additions to the exclusion list:

Manufacturer	*Model*
Apple Computer Inc.	Apple II Plus Series
Apple Computer Inc.	Apple III Series
IBM Corp.	IBM System/23 Datamaster
Vector Graphic, Inc.	VIP 1800
Vector Graphic, Inc.	System B
Vector Graphic, Inc.	Vector 3105
Vector Graphic, Inc.	Vector 2800
Vector Graphic, Inc.	Vector 3005
Vector Graphic, Inc.	Vector 2800
Vector Graphic, Inc.	Vector 3005

Interested parties will be allowed until April 9, 1982, to submit written comments regarding the proposed changes. Such written comments should be submitted to the Director, ICST, Attention: Interface Standards Exclusion List, National Bureau of Standards, Washington, D.C. 20234. Following review of comments received in response to this notice, NBS will make a determination on the proposed changes and will announce that determination in a subsequent notice published in the **Federal Register**.

NBS maintains a mailing list of vendors, Federal agencies, and other interested parties to whom copies of the current exclusion list are sent on a regular basis. Parties on the mailing list will also be sent copies of the proposed changes and the announcement of the determination on the proposed changes. Those who wish to be included on the mailing list should send a written request to the address noted above for submission of comments in response to this notice.

The exclusion list will be used in conjunction with the applicability provisions of the Federal I/O channel level interface standards. This list and the exclusion criteria are not a part of the standards themselves, but are provided for in the standards.

Dated: February 16, 1982.

Ernest Ambler,

Director.

[FR Doc. 82-4792 Filed 2-22-82; 8:45 am]

BILLING CODE 3510-CN-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Level for Certain Cotton Textile Products From Singapore

February 18, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Reducing from 6,000,000 to 5,863,929 square yards the level of restraint established for Other Woven Cotton Fabrics, such as lawn and voile, among others, in Category 320, produced or manufactured in Singapore and exported during the agreement year that began on January 1, 1982, to account for 1981 exports which exceeded the 1981 limit by 136,071 square yards.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48863), October 27, 1981 (46 FR 52409), and February 9, 1982 (47 FR 5926)).

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 21, 1981, as amended, between the Governments of the United States and the Republic of Singapore, the United States Government has advised the Government of the Republic of Singapore that 1981 exports of cotton textile products in Category 320 exceeded the level established for them during the agreement year which began on January 1, 1981 by 136,071 dozen, and that amount is being charged to the 1982 level, reducing it to 5,863,929 square yards.

EFFECTIVE DATE: February 25, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On December 18, 1981, there was published in the **Federal Register** (46 FR 61667) a letter dated December 15, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile Products, including Category 320, produced or manufactured in Singapore and exported to the United States during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs in accordance with the terms of the bilateral agreement, to reduce the level of restraint established for Category 320 to 5,863,929 square yards.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

February 18, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 15, 1981 by the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore.

Effective on February 25, 1982, you are directed to amend paragraph 1 of the directive of December 15, 1981 to include a reduced level of restraint for cotton textile products in Category 320 of 5,863,929 square yards.[1]

The actions taken with respect to the Government of the Republic of Singapore and with respect to imports of cotton textile products from Singapore have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-4821 Filed 2-22-82; 8:45 am]

BILLING CODE 3510-25-M

Announcing a Change in Officials of the Government of the Dominican Republic Authorized To Issue Export Visas for Certain Cotton, Wool and Man-Made Fiber Textile and Apparel Products From the Dominican Republic

February 18, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Announcing a change in officials of the Government of the Dominican Republic who are authorized to issue export visas for cotton, wool and man-made fiber textile and apparel products from the Dominican Republic.

SUMMARY: The Government of the Dominican Republic has notified the United States Government that Angel Vasquez Perdomo has been authorized to issue export visas replacing Jose M. Ceron, who will no longer issue and sign these documents.

EFFECTIVE DATE: February 23, 1982.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On July 2, 1981, a letter dated June 29, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the **Federal Register** (46 FR 34619), which established a new export visa requirement for certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported to the United States. One of the requirements is that the visas must be signed by an official authorized by the Government of the Dominican Republic. The Government of the Dominican Republic has designated Angel Vasquez Perdomo to issue and sign export visas in place of Jose M. Ceron. A complete list of officials currently authorized to issue export visas follows this notice.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

Officials authorized by the Government of the Dominican Republic to issue visas for certain cotton, wool and man-made fiber textile and apparel products exported to the United States:

Susana Cabrera
Luis Ma. Kalaff
Alvaro Messina
Silvestre Pena
Angel Vasquez Perdomo

[FR Doc. 82-4820 Filed 2-22-82; 8:45 am]

BILLING CODE 3510-25-M

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1981.

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group C (Mainly Imaging and Display) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session April 15, 1982 at the Palisades Institute for Research Services, AGED at 1925 N. Lynn Street, Arlington, Virginia 22209.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This special device area includes such programs as infrared and night sensors. The review will include classified program details throughout.

In accordance with 5 U.S.C. App 1, section 10(d)(1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that

accordingly, this meeting will be closed to the public.

M. S. Healy,
OSD Federal Register Liaison Officer, Department of Defense.

February 17, 1982.

[FR Doc. 82-4772 Filed 2-22-82; 8:45 am]
BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

The DOD Advisory Group on Electron Devices (AGED) will meet in closed session on March 25, 1982 at the Palisades Institute for Research Services, Inc., 201 Varick Street, New York, New York, 10014.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of Electron Devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with 5 U.S.C. App. 1 section 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552(b)(c) (1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,
OSD Federal Register Liaison Officer, Department of Defense.

February 17, 1982.

[FR Doc. 82-4773 Filed 2-22-82; 8:45 am]
BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-FC-81-025; OFC Case No. 67001-9020-08-77]

Determination To Classify the Upjohn Co.'s Boiler No. 8, Kalamazoo, Mich., as an Existing Facility and Rescission of an Order Granting an Exemption

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that in response to a request from The Upjohn Company (Upjohn) it has determined, pursuant to the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 et seq. (FUA or the Act) and § 515.13 of its revised interim rule governing the classification of transitional facilities (44 FR 17464, March 21, 1979), that Upjohn's Boiler No. 8, a major fuel burning installation (MFBI), installed at Upjohn's Kalamazoo, Michigan, facility, is an "existing" facility subject to Title III of the Act.

ERA also gives notice, pursuant to 10 CFR Part 501, Subpart G (46 FR 59698, December 7, 1981) that its order issued on March 13, 1981 (46 FR 17584, March 19, 1981) granting Upjohn a permanent lack of alternate fuel supply exemption for Boiler No. 8 from the statutory prohibitions of Title II of FUA is rescinded.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Jr., Case Manager, Office of Fuels Programs, Economic Regulatory Administration, Department of Energy, Room 6114, 2000 M Street, NW., Washington, D.C. 20461.

Allan J. Stein, Office of General Counsel, Department of Energy, Room 6B-178, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-2967.

SUPPLEMENTARY INFORMATION: Boiler No. 8 is a 150 MM Btu's per hour oil and natural gas-fired packaged boiler installed at Upjohn's Portage Road Boiler Plant in Kalamazoo, Michigan. It is designed to be swing-loaded to meet the variable steam demands unique to Upjohn's manufacturing processes. Upjohn filed its request for classification of Boiler No. 8 as an existing installation on May 5, 1979 under the provisions of ERA's revised interim rule governing the classification of transitional facilities. After evaluation of Upjohn's request, ERA, by letter dated January 8, 1980, notified Upjohn that it had failed to demonstrate the existence of a qualifying contract executed prior to November 9, 1978, for construction or acquisition of Boiler No. 8 and was therefore ineligible under § 515.10 of ERA's revised interim rule governing transitional facilities to request classification of that unit as existing. Additionally, Upjohn was advised that in the absence of such a showing of eligibility, Boiler No. 8, in accordance with § 515.11 of the revised interim rule, was automatically considered a new installation subject to Title II of FUA.

On March 13, 1981, in response to a petition filed by Upjohn on November 17, 1980, ERA issued an order (46 FR 17584, March 19, 1981) granting Upjohn a permanent exemption from the statutory prohibitions of Title II of FUA for Boiler No. 8 based upon the certification alternative to the permanent exemption for lack of an alternate fuel supply under 10 CFR 503.32(c) (45 FR 38315, June 6, 1980). The exemption order limited the operation of Boiler No. 8 to 600 hours annually at its maximum design heat input rate or the equivalent.

On October 27, 1981, Upjohn filed with ERA a motion entitled "Request for Modification of Order", seeking reconsideration of its request for classification of Boiler No. 8 as an existing facility. Upjohn review of the record in this matter, together with Upjohn's additional evidentiary submissions on October 27, 1981, ERA, on January 4, 1982, issued a notice of eligibility and amended request for classification (47 FR 999, January 8, 1982). For reasons described in that notice, ERA determined that Upjohn had established its eligibility under § 515.10 to request classification of Boiler No. 8. The notice provided a summary of Upjohn's claims concerning significant operational detriment pursuant to § 515.13(b), and provided for a 21-day comment period, which expired on January 29, 1982. No comments were received.

Based upon its review of the entire record of this proceeding, ERA has concluded that Upjohn has satisfactorily demonstrated that the cancellation, rescheduling or modification of the construction or acquisition of its Boiler No. 8 as of November 9, 1978, would have resulted in a significant operational detriment. Accordingly, pursuant to § 515.13, ERA has determined that Boiler No. 8 is an existing installation subject to the provisions of Title III of FUA.

Since Upjohn's Boiler No. 8 is not subject to the provisions of Title II of FUA, ERA's order granting Upjohn a permanent exemption for that unit from the prohibitions of Title II of FUA (46 FR 17534, March 19, 1981), including all terms and conditions contained in such order, is hereby rescinded pursuant to 10 CFR § 501.103.

The public file containing the record of this proceeding, including ERA's staff analysis of Upjohn's request, is available for inspection at the Office of Fuels Programs, ERA, Washington, D.C., Monday through Friday, 8:00 a.m.–4:30 p.m.

Persons wishing to review the public file should make prior arrangements with the Case Manager named in the information contact section above.

Issued in Washington, D.C., on February 17, 1982.

James W. Workman,
Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-4780 Filed 2-22-82; 8:45 am]
BILLING CODE 6450-01-M

[Docket Nos. 50649-1613-07, 09-82]

Acceptance of Certification and Issuance of Proposed Prohibition Orders; Montaup Electric Co.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice.

SUMMARY: The Economic Regulatory Administration (ERA) is giving notice of its acceptance of a certification from Montaup Electric Company (Montaup) concerning its Somerset boilers (powerplants) 7 and 8 pursuant to section 301 of the Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620 (FUA), as amended by the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35 (OBRA). ERA has reviewed and proposes to concur in Montaup's certification of October 28, 1981, and its supplemental documents of January 20, 1982, which addressed the technical capability and financial feasibility of the powerplants to use an alternate fuel, coal, as a primary energy source. Accordingly, pursuant to the authorities contained in FUA, as amended, ERA is issuing proposed prohibition orders which, if finalized, will prohibit the use of petroleum or natural gas as a primary energy source in these powerplants.

DATE: Written comments and/or requests for a public hearing are due on or before April 9, 1982.

ADDRESS: All comments and/or requests for a public hearing on individual cases should be directed to the Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, Department of Energy, Room 6114, 2000 M Street, NW., Washington, D.C. 20461. Correspondence should clearly indicate the ERA docket number for the case in question.

FOR FURTHER INFORMATION CONTACT:

Department of Energy, Freedom of Information Reading Room, 1000 Independence Avenue SW., Room 1E-190, Washington, D.C. 20585, (202) 252-6020.

Robert L. Davies, Fuels Conversion Division, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 6128, Washington, D.C. 20461, (202) 653-3372.

Henry K. Garson, Esq., Office of General Counsel, Department of Energy, 1000 Independence Ave., SW., Room 6B-178, Washington, D.C. 20585, (202) 252-2967.

SUPPLEMENTARY INFORMATION: Section 1021 of OBRA amended section 301 of FUA to limit the authority of the Secretary of Energy to prohibit petroleum or natural gas use only where the owner or operator of an existing powerplant has voluntarily certified to the unit's technical capability and the financial feasibility to use an alternate fuel.

On October 28, 1981, Montaup filed a certification and a request for issuance of prohibition orders in accordance with section 1021 of OBRA for Somerset 7 and 8. On January 20, 1982, in response to a request from ERA, Montaup provided additional documentation to support the certification. ERA has examined the basis for the certification and the documentation submitted for each powerplant and believes that it will be able to concur in such certification which may result in the ultimate issuance of final prohibition orders.

ERA published in the **Federal Register** on November 27, 1981 (46 FR 58051) its proposed regulations reflecting the changes required by section 1021 of OBRA. In accordance with section 501.52 of these proposed regulations, the following procedure for the processing of these proposed orders will be followed:

(1) Pursuant to § 501.52(b)(2) of the proposed regulations, ERA is issuing proposed prohibition orders to Somerset 7 and 8. This decision is based on ERA's review of the certification and supporting documents submitted by Montaup pursuant to section 1021 of OBRA. ERA is hereby publishing its proposed findings as required by section 701(b) of FUA.

(2) In accordance with § 501.52(b)(3) of the proposed regulations, the publication of this Notice of Acceptance commences a period of 45 days during which interested persons may submit written comments or request a public hearing. During this period, the recipient of the proposed orders and any other interested person may submit any evidence that they have available relating to the proposed orders, the certification, or the concurrence that ERA must make. A request for an extension of the 45 day period may be granted at ERA's discretion.

(3) If a hearing is requested, ERA shall provide interested persons with an opportunity to present oral data, views, and arguments at a public hearing held in accordance with Subpart C of 10 CFR Part 501. The hearing may consider, among other matters, the sufficiency of the certification that Montaup, the owner and operator of Somerset 7 and 8, submitted pursuant to section 1021 of OBRA and §§ 504.5, 504.6, and 504.8 of the proposed regulations.

(4) No final prohibition orders may be issued until any necessary environmental review conducted pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (NEPA) has been completed. Upon completion of the NEPA review and unless ERA determines on the basis of the information contained in the record of the proceeding that the certification fails to meet the requirements of §§ 504.5, 504.6, and 504.8 of the proposed regulations, ERA may publish final prohibition orders.

Proposed Prohibition Orders

Subject to any further findings that ERA may make, ERA hereby proposes to prohibit the Montaup powerplants listed in the table below from burning petroleum or natural gas as a primary energy source. In accordance with section 1021 of OBRA, and § 504.6 (c), (d), (e), and (f) of the proposed regulations, the proposed prohibition orders are based on proposed findings by ERA that each of the powerplants (1) has the technical capability to use coal or another alternate fuel as a primary energy source without having (A) substantial physical modification of the powerplant, or (B) substantial reduction in the rated capacity of the powerplant, and (2) that it is financially feasible to use coal or another alternate fuel as a primary energy source in such powerplants. These findings are based on the certification and supporting documents submitted by the proposed order recipient.

This order, if finalized, will contain a compliance schedule including terms and conditions concerning the timing and conditions precedent to the effectiveness of the prohibitions. (A proposed compliance schedule submitted by Montaup is contained in the public record of this proceeding.)

ERA docket No.	Generating station	Power-plant No.	Megawatt capacity	Location
50849-1613-07-82	Somerset	7	70	Somerset, Mass.
50849-1613-08-82	Somerset	8	115	Somerset, Mass.

The public file containing the record of this proceeding is available for inspection at the Office of Fuels Programs, ERA, Washington, D.C., Monday through Friday, 8:00 a.m.–4:30 p.m. Persons wishing to review the public file should make prior arrangements with the Fuels Conversion Division, at the address and phone number set forth above.

Issued in Washington, D.C., February 17, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-4615 Filed 2-22-82; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee on Preparations for the ITU 1983 Region 2 Broadcasting Satellite Service Planning Conference; Meeting

February 16, 1982.

Meeting:

Friday, March 5, 1982, 9:30 a.m.–2:00 p.m., Federal Communications Commission, 1919 M Street, N.W., Room 856, Washington, D.C.

Agenda:

(1) Approval of Agenda.
(2) Approval of Minutes of January 28, 1982 Meeting.
(3) Presentation of Draft Report, including questions of clarification.
(4) Discussion of Draft Report.
(5) Preview of remaining Committee tasks.
(6) Other Business.
(7) Adjournment.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-4700 Filed 2-22-82; 8:45 am]

BILLING CODE 6712-01-M

Advisory Committee on Preparations for the ITU 1983 Region 2 Broadcasting Satellite Service Planning Conference; Subgroup 2 Meeting

February 16, 1982.

Subgroup 2 Technical Parameters

Meeting

Wednesday, March 3, 1982, 9:30 A.M.–4:30 P.M., CBS Viewing Room, 1800 M Street, N.W., 3rd Floor, Washington, D.C.

Agenda

(1) Approval of Agenda
(2) Approval of Minutes of previous meeting
(3) Announcements
(4) Progress Report of Working Group 2A—J. Ramasastry
(5) Progress Report of Working Group 2B—E. Martin
(6) Progress Report of Subgroup 2—E. Reinhart
(7) Discussion and Schedule for remaining work
(8) Other Business
(9) Adjournment

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-4708 Filed 2-22-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Agreements Nos. 9836-11 and 10434]

Availability of Findings of No Significant Impact

Upon completion of environmental assessments, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on the proposed actions listed below will not constitute major federal actions significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of environmental impact statements is not required.

Agreement No. 9836-11 allows members of the Malaysia-Pacific Rate Agreement to serve points and ports in the U.S. and Canada under conference intermodal tariffs.

Agreement No. 10434 is a joint service agreement between Georgia-Pacific Corporation (G–P) and Clipper Maritime Limited (Clipper) covering the trade between United States Atlantic and Gulf Coast ports and ports in Ireland, the United Kingdom, Continental Europe, and on the Mediterranean. The joint service will operate under the name of Atlantic Cross Shipping. G–P will contribute two vessels, MV RAVENSWOOD and MV NAXOS ISLAND, and Clipper will contribute booking, management and operational services.

These Findings of No Significant Impact (FONSI) will become final within 20 days of publication of this notice in the **Federal Register** unless petitions for review are filed pursuant to 46 CFR 547.6(b).

The FONSI's and related environmental assessments are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523–5725.

Joseph C. Polking,

Assistant Secretary.

[FR Doc. 82-4693 Filed 2-22-82; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPR 56]

Federal Procurement; Current Interest Rate of 14¼ Percent

February 16, 1982.

1. *purpose.* This bulletin provides, for the information of executive agencies, the current interest rate established by the Secretary of the Treasury under Pub. L. 92-41 (85 Stat. 97) for the Renegotiation Board.

2. *Expiration date.* This bulletin expires June 30, 1982, unless sooner revised or superseded.

3. *Background.* The interest rate determined by the Secretary of the Treasury, as required by Pub. L. 92-41 for Renegotiation Act purposes, has been applied to various interest payment requirements in the FPR. The following sections in the FPR include a reference to this interest rate: §§ 1-3.1204-1, 1-3.1204-2, 1-7.203-15, 1-8.212-1(f), 1-8.701, 1-8.702, 1-8.703, 1-8.704-1, 1-8.706, 1-8.804-2(b), 1-8.806-4, 1-30.403, 1-30.414-2(k)(2), 1-30.414-2(n)(3), and FPR Temporary Regulation 55, dated May 23, 1980, (45 FR 35815, May 28, 1980).

4. *Current interest rate.* The Secretary of the Treasury has established an interest of 14¼ (14.750) percent as applicable to the 6-month period beginning January 1, 1982, and ending June 30, 1982.

5. *Supplemental information.*

a. Under the Disputes clause and the related Payment of Interest on Contractors' Claims clause employed prior to the Contract Disputes Act of 1978, interest was computed on the basis of a single percentage rate. This rate was the rate in effect at the time the contractor submitted a written appeal to the contracting officer. With respect to claims arising under the current Disputes clause, interest is computed by applying the rates in effect for each of the 6-month interest periods involved from the time a claim is received by the contracting officer until final payment. (See Brookfield Construction Co., Inc., and Baylor Construction Corp. v. United States, Ct. Cl., 661 F. 2nd 159 (1981), and Appeal of Honeywell, Inc., GSBCA—5458, September 30, 1981).

b. Since January 1, 1979, the interest rates established by the Secretary of the Treasury under Pub. L. 92-41 were as follows:

Period	Interest rate (percent)
July 1 to Dec. 31, 1981	14⅛ (14.875)
Jan. 1 to June 30, 1981	14⅝ (14.625)
July 1 to Dec. 31, 1980	10½ (10.500)
Jan. 1 to June 30, 1980	12½ (12.250)
July 1 to Dec. 31, 1979	10¼ (10.250)
Jan. 1 to June 30, 1979	9⅛ (9.875)

William B. Ferguson,

Acting Assistant Administrator for Acquisition Policy.

[FR Doc. 82-4627 Filed 2-22-82; 8:45 am]

BILLING CODE 6820-61-M

[E-82-4]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the California Public Utilities Commission involving electric rates, Application No. 61136.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the California Public Utilities Commission involving the application of the Southern California Edison Company for an increase in its electric rates in Application No. 61136.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration (GSA), and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add GSA to its service list in this case so that GSA will receive copies of testimony, briefs, and other Department of Defense filings.

Dated: February 16, 1982.

Ray Kline,

Deputy Administrator of General Services.

[FR Doc. 82-4628 Filed 2-22-82; 8:45 am]

BILLING CODE 6820-AM-M

[E-82-5]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Federal Energy Regulatory Commission involving electric rates, Docket No. ER 82-105-000.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Federal Energy Regulatory Commission involving the application of the Sierra Pacific Power Company for an increase in electric rates, Docket No. ER 82-105-000.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration (GSA), and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add GSA to its service list in this case so that GSA will receive copies of testimony, briefs, and other Department of Defense filings.

Dated: February 16, 1982.

Ray Kline,

Deputy Administrator of General Services.

[FR Doc. 82-4629 Filed 2-22-82; 8:45]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 80P-0234/P]

Gonorrhea Test Kits; Notice of Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the time and location of the public hearing on the petition to withdraw premarket approval of gonorrhea antibody test kits.

DATE: The hearing will begin on March 25, 1982, at 9 a.m.

ADDRESS: The hearing will be held in Conference Rm. F, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Tenny Neprud, Regulations Policy Staff (HFC-10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 29, 1981 (46 FR 28946), FDA announced that a public hearing would be held on a date to be determined on the petition of the Health Research Group requesting FDA to withdraw premarket approval of three gonorrhea antibody test kits. The petition, filed on June 5, 1980 and amended on July 13, 1980, requested FDA to remove from the market medical devices for which approval had been granted on July 18, 1979 to Fisher Scientific Co., Bioquest, and Organon Diagnostics, Inc. By letter of May 22, 1981, FDA denied the petition in part, accepted petitioner's waiver of its right to a formal hearing, granted petitioner's request for an informal hearing before the Commissioner of Food and Drugs, and, pending the outcome of the hearing, reserved final decision on petitioner's request for initiation of proceedings to withdraw approval of the products.

An informal hearing under 21 CFR Part 15 will be held in Conference Rm. F, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD. The hearing will begin at 9 a.m., March 25, 1982. If time is not

sufficient to complete the hearing on March 25, 1982, it will be continued on March 26, 1982, at a time designated by the presiding officer. Mark Novitch, M.D., Deputy Commissioner of Food and Drugs, will preside as the Commissioner's designee. The parties to the hearing will be the Health Research Group and the Bureau of Medical Devices, FDA. Also appearing will be Organon Diagnostics, Inc., which filed a timely notice of participation.

The hearing will be confined to scientific and factual matters related to whether FDA should initiate proceedings under section 515(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(e)) to withdraw approval of the products. The Health Research Group, as petitioner, will have the burden of coming forward with evidence sufficient to require FDA to initiate such proceedings and the burden of persuasion as to whether sufficient evidence has been presented.

The petition and the agency's response are on file in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday. The administrative record will remain open for 15 days after the hearing to allow comment on matters raised at the hearing.

Dated: February 12, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-4793 Filed 2-22-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81N-0305]

Newport Pharmaceuticals International, Inc.; Isoprinosine; Notice of Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is granting a hearing on the proposal to refuse to approve new drug application (NDA) 18–575 for Isoprinosine submitted by Newport Pharmaceuticals International, Inc. FDA is also announcing a prehearing conference for this hearing.

DATES: Prehearing conference on March 17, 1982, at 10 a.m. Written notices of participation must be filed with the Dockets Management Branch no later than March 16, 1982. Disclosure of data and information by April 26, 1982.

ADDRESSES: Prehearing conference in the FDA Hearing Room, Rm, 4A–35, 5600 Fishers Lane, Rockville, MD 20857. Written notices of participation and disclosures of data and information to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. (Submissions to the Dockets Management Branch should be identified with docket number 81N–0305 and clearly labeled "Isoprinosine Hearing.")

FOR FURTHER INFORMATION CONTACT: Robert J. Rice, Jr., Regulations Policy Staff (HFC–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 2, 1981 (46 FR 48762), the Director of the Bureau of Drugs (the Bureau) announced an opportunity for hearing on the Bureau's proposal to refuse to approve NDA 18–575 for the preparation Isoprinosine for the treatment of subacute sclerosing panencephalitis (SSPE). SSPE is a degenerative disease of the central nervous system which is believed to be related to a measles virus infection or vaccination. It affects primarily children and young adults. The application was submitted by Newport Pharmaceuticals International, Inc. (Newport), 1500 Monrovia Ave., Newport Beach, CA 92660. The proposed refusal to approve the application was based on the grounds that the application fails to provide substantial evidence of effectiveness of the drug product for its intended use and, additionally, the application fails to show that the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of the product are adequate to preserve its identity, strength, quality, and purity.

On October 20, 1981, Newport requested a hearing. On November 25, 1981, Newport submitted data, information, and analyses in support of its request for a hearing. On January 6 and 22, 1982, Newport agreed to extensions of the time within which FDA is required to commence a hearing in order to allow the Bureau to prepare for and hold a meeting with Newport experts and to evaluate the results of that meeting.

In its November 25, 1981 submission, Newport also asked for summary judgment in its favor. The Commissioner of Food and Drugs has reviewed carefully the Bureau of Drugs' notice of an opportunity for a hearing and Newport's submission. The Commissioner has determined that there are genuine and substantial issues of fact concerning the adequacy for approval of Newport's NDA. Accordingly, the Commissioner is denying Newport's request for summary judgment, and is now granting Newport a hearing.

It is important to note at the outset that the refusal to approve NDA 18–575 would not mean that FDA would deny Newport authorization to provide Isoprinosine to SSPE patients who may desire to use the drug. The Bureau has agreed to allow Newport to supply this drug, under an investigational new drug exemption under 21 U.S.C. 355(i), to each patient suffering from SSPE who requests the drug. In addition, the Bureau has stated that it has no objection to Newport's recouping expenses through sale of the drug to patients.

What is at issue in this hearing as a practical matter, therefore, is whether Newport's Isoprinosine will be given the imprimatur of FDA approval. That question is far from an academic one. FDA approval signifies an agency conclusion that the approved drug has met the statutory standards for demonstrating effectiveness. If Isoprinosine is approved, it is possible that further evaluation to determine its effect will not take place. Perhaps more important, if Isoprinosine is approved as an effective treatment of SSPE, that approval signifies that patients with this rare, often fatal, disease can reasonably expect that the claims described in the approved labeling are true. The question whether this drug has been shown to warrant FDA approval is, therefore, a serious one that deserves, and will receive, careful consideration.

Although NDA 18–575 has been referred to as addressing use of Isoprinosine for the "treatment" of SSPE, Newport has focused its attention primarily on an indication for the prolongation of life in patients with the disease. Newport does not contend that Isoprinosine can "cure" SSPE.

The function of a notice of hearing is to narrow the issues to be heard and to state explicitly what remains to be resolved. Here, the Bureau does not raise any concerns about the adequacy of the safety information in the NDA for use of Isoprinosine for SSPE patients. (Whether the safety data would be considered sufficient for a new drug application for use of Isoprinosine for another indication, for which the risk-benefit analysis might be different, has not been determined.)

In addition, because of the nature of the disease for which Isoprinosine is recommended in this NDA, the Bureau has waived certain requirements for approval of the drug. It has waived the requirement that valid bioavailability

data be submitted before approval. Such data would be required to be submitted after approval if approval were granted. The Bureau has also waived, for purposes of this NDA only, the agency's policy concerning combination drugs under which each component of a drug containing two or more active ingredients is required to be shown to contribute to the claimed effects of the combination. (See 21 CFR 300.50.)

Further narrowing the issues, Newport has in effect waived, for purposes of this application, its contention that Isoprinosine is a complex rather than a mixture. In a letter accompanying the notice of opportunity for hearing, the Bureau detailed manufacturing and labeling deficiencies with the NDA. Newport, in support of its request for a hearing, has assumed the Bureau's position that Isoprinosine is a mixture arguendo and has submitted data that are intended to respond to the deficiencies the agency has identified. Thus, although an issue concerning the manufacturing practice requirements for approval remains and is stated below, there is a substantial possibility that this issue will be resolved before hearing.

Accepting the representation made in support of the hearing request as an amendment of the NDA, the Bureau's concern that the NDA's proposed labeling violates 21 U.S.C. 355(d)(6) is also obviated. (See 21 U.S.C. 352(e).) The cited provisions require a drug's labeling to name its active ingredients. Newport has agreed to list what the Bureau contends are the two active ingredients of Isoprinosine. (The established name of one of the ingredients must, however, still be determined.)

An understanding of the effectiveness issue posed by this application requires a short background of the history of the review of the application. The application was submitted on November 17, 1980. On May 12, 1981, Newport submitted additional data that had been analyzed in a statistical report presented by Newport to one of FDA's advisory committees. Although Newport conditioned its submission of the additional data on an agreement by the agency that the data would not be considered an amendment to the NDA, it seems clear that the additional information was intended to be included within the application. Indeed, analyses submitted in support of the request for a hearing refer to these additional data. The Bureau has no objection to the additional data being considered part of the NDA and, if Newport chooses, part of the "multicenter study" of Isoprinosine in the new drug application.

In addition, because of the public interest in this drug and the nature of the disease involved, FDA has acted to acquire data that would shed light on the effectiveness or lack of effectiveness of Isoprinosine for SSPE. Principally, the agency has obtained and reviewed data in the United States registry of SSPE patients and in the Lebanon registry of SSPE patients. (Data from selected patients in the United States registry, but not all available data, were included in the NDA.)

FDA consideration of information not included in the new drug application is specifically contemplated by statute (21 U.S.C. 355(d)(5)). The Bureau has made these data available, with patient identifying information deleted, to Newport in response to a request under the Freedom of Information Act. Although these additional data were not submitted by the applicant as part of its new drug application, the Bureau will not object to inclusion of these data in the new drug application should Newport desire to rely upon them.

Stated in statutory terms, the effectiveness issue for this hearing is as follows: Evaluated on the basis of the information submitted to FDA as part of the application and any other information before the agency with respect to Isoprinosine, is there "substantial evidence" that Isoprinosine will be effective in prolonging the lives of patients suffering from SSPE?

The term "substantial evidence" is defined in the statute as "evidence consisting of adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could fairly and responsibly be concluded by such experts that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof" (21 U.S.C. 355(d)). This definition logically has two parts. First, there is a requirement that there be investigations that are adequate and well-controlled. Second, the statute requires that on the basis of such evidence qualified experts could fairly and responsibly conclude that the drug will have the effect it purports to have. Thus, in light of the additional data obtained by the agency, there are two broad subissues within the issue identified above: (1) Are there adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of Isoprinosine for the prolongation of life in patients afflicted with SSPE? (2) In light of all the information before the agency, including the information obtained by the agency, would experts, on the basis of adequate and well-controlled investigations (assuming that any exist), fairly and responsibly conclude that Isoprinosine is in fact effective in the prolongation of life in patients afflicted with SSPE?

In addition to the issues concerning effectivenss, there remain questions to be resolved concerning Newport's compliance with the manufacturing provisions of the statute. Thus, the following issue is also presented: Are the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of Isoprinosine adequate to preserve its identity, strength, quality, and purity?

As noted previously, this issue may be resolved by agreement of the parties before the taking of testimony in this proceeding.

The parties to the hearing will be FDA's Bureau of Drugs and Newport. The presiding officer will be Administrative Law Judge Daniel J. Davidson.

Under § 12.85 (21 CFR 12.85) the Bureau of Drugs has filed with the Dockets Management Branch a narrative statement setting forth its position on the issues for hearing and a summary of the types of evidence intended to be introduced in support of its position at the hearing. The Bureau has also filed with the Dockets Management Branch copies of data within the Bureau's files relating to the issues raised herein.

Interested persons may obtain a copy of the narrative statement from the Dockets Management Branch, at the address given above. Persons may also examine the data on Isoprinosine (with the exception of any data identified as confidential) at the Dockets Management Branch, from 9 a.m. to 4 p.m., Monday through Friday.

The hearing will be held in the FDA Hearing Room on a date to be set at the prehearing conference. Written notices of participation must be filed with the Dockets Management Branch no later than March 16, 1982.

The hearing will be open to the public. Any participant may appear in person, or by or with counsel, or with other

qualified representatives, and may be heard on matters relevant to the issues under consideration. Participants other than the Bureau of Drugs shall disclose data and information on or before April 26, 1982 pursuant to § 12.85.

Section 10.210 (21 CFR 10.210) of FDA's procedural regulations requires FDA to give notice of the availability of reimbursement for participation in certain FDA proceedings including evidentiary hearings such as this one. However, on November 27, 1981, the United States Court of Appeals for the Fourth Circuit held that FDA does not have authority to reimburse public participants in its administrative proceedings (*Pacific Legal Foundation* v. *Goyan*, No. 80–1854 (4th Cir., November 27, 1981)). Accordingly, until further notice, reimbursement will not be available for participation in the proceedings described in this notice.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052, 76 Stat. 781–631 (21 U.S.C. 355)) and authority delegated to me under 21 CFR 5.10 (formerly 5.1; see 46 FR 28052; May 11, 1981), I order that a public hearing be held on the issues set out in this notice.

Dated: February 12, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82–4717 Filed 2–22–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 81N–0302; DESI 5914, 6303, 6340, 6514, 7937, and 8658]

Certain Oral Prescription Drugs Offered for Relief of Symptoms of Cough, Cold, or Allergy ("Paragraph XIV/Category 15") Which Are No Longer Marketed; Drugs for Human Use; Drug Efficacy Study Implementation; Revocation of Exemption; Followup Notice and Opportunity for Hearing

Correction

In FR DOC. 82–2289 appearing at page 4346, in the issue of Friday, January 29, 1982, on page 4346, first column, under "DATES:", third line, "March 6, 1982" should be corrected to read "March 1, 1982".

BILLING CODE 1505–01–M

National Institutes of Health

National Diabetes Advisory Board; Amended Meeting Notice

Notice is hereby given of the change in the meeting of the National Diabetes Advisory Board on February 22, 1982, which was published in the Federal Register on January 15, 1982, 47 FR 2413.

The Board meeting that was scheduled for February 22, 1982, has been canceled and rescheduled for March 8, 1982, 8:30 a.m. to 5:00 p.m. at the Linden Hill Hotel, Pooks Hill Road, Bethesda, Maryland. The meeting will be open to the public. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the Hotel lobby.

The agenda and roster of members may be obtained by contacting Mr. Raymond M. Kuehne, Executive Director, National Diabetes Advisory Board, P.O. Box 30174, Bethesda, Maryland 20814, (301) 496–6045. Summaries of the meeting may be obtained by contacting Barbara Shapiro, National Diabetes Advisory Board, P.O. Box 30174, Bethesda, Maryland 20814, (301) 496–6045.

Dated: February 18, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82–4694 Filed 2–19–82; 2:04 pm]

BILLING CODE 4140–01–M

Office of the Secretary

Amendment to Notice of Office of Management and Budget Approval Numbers for Certain Recordkeeping/Reporting Requirements Contained in Department of Health and Human Services Regulations

The following corrects errors which appeared in the Federal Register Vol. 46, December 31, 1981, pages 63392 and 63393.

Dated: February 10, 1982.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

Title of regulation	Specific USC, CFR or FR citation	OMB approval numbers
Original Entry		
21 Food and Drug; Part 50—Protection of Human Subjects	21 CFR 50.116	0910–0130
Correction		
21 Food and Drug; Part 50—Protection of Human Subjects	12 CFR 50.115	0910–1036
Original Entry		
42 Public Health; Part 51c—Grants for Community Health Services	42 CFR 51c.302(1); 42 CFR 51c.403	0915–0004
Correction		
42 Public Health; Part 51c—Grants for Community Health Services	42 CFR 51c.303; 42 CFR 51c.403	0915–0004
Original Entry		
45 Public Welfare; Part 1304—Program Performance Standards for Operation of Head Start Programs by Grantees and Delegate Agencies.	45 CFR 1304.1–4	0980–0128
Correction		
45 Public Welfare; Part 1304—Program Performance Standards for Operation of Head Start Programs by Grantees and Delegate Agencies.	45 CFR 1304.1–5	0980–0128
Original Entry		
45 Public Welfare; Part 1321—Grants to States and Community Programs for Aging; Subchapter C—The Administration on Aging, Older Americans Programs; Subpart C through F.	45 CFR 1321.21 through 45 CFR 1321.85	0980–0044
Correction		
45 Public Welfare; Part 1321—Grants to States and Community Programs for Aging; Subchapter C—The Administration on Aging, Older Americans Programs; Subpart C through E.	45 CFR 1321.21 through 45 CFR 1321.89	099.–0044
Original Entry		
45 Public Welfare; Part 1321—Grants to States and Community Programs for Aging; Subchapter C—The Administration on Aging, Older Americans Programs; Subpart E through F.	45 CFR 1321.61 through 45 CFR 1321.85	0980–0127
Correction		
45 Public Welfare; Part 1321—Grants to States and Community Programs for Aging; Subchapter C—The Administration on Aging, Older Americans Programs; Subpart F.	45 CFR 1321.71 through 45 CFR 1321.85	0980–0127

Title of regulation	Specific USC, CFR or FR citation	OMB approval numbers
Original Entry		
Community Services Block Grant	Federal Register, Volume 46, Date: October 1, 1981, Page: 48582	0980–0125
Correction		
Community Services Block Grant	Federal Register, Volume 46, Date: October 1, 1981, Page: 48582	0980–0126
Original Entry		
Social Services Block Grant	Federal Register, Volume 46, Date: October 1, 1981, Page 48582	0980–0126
Correction		
Social Services Block Grant	Federal Register, Volume 46, Date: October 1, 1981, Page: 48582	0980–0125
Original Entry		
45 Public Welfare; Part 233—Coverage and Conditions of Eligibility in Financial Assistance Programs; Monthly Reporting.	45 CFR 233.20	0980–0250
Correction		
45 Public Welfare; Part 233—Coverage and Conditions of Eligibility in Financial Assistance Programs.	45 CFR 233.36	0960–0250
Original Entry		
45 Public Welfare; Part 260—Low Income Energy Assistance Program; Fiscal Reports by States	45 CFR 260.66	0960–0261
Correction		
45 Public Welfare; Part 96—Block Grants	45 CFR 96.82	0960–0251
Original		
45 Public Health and Welfare; Part 424A—Reduction of Disability Benefits; Part 418—Voluntary Agreements for Coverage of State and Local Employees; Part 410—Definitions Relating to Employment.	42 U.S.C. 424a; 42 U.S.C. 418; 42 U.S.C. 410	0960–0247
Correction		
42 Public Health and Welfare; Part 424A—Reduction of Disability Benefits; Part 418—Voluntary Agreements for Coverage of State and Local Employees; Part 410—Definitions Relating to Employment.	42 U.S.C. 424a; 42 U.S.C. 418; 42 U.S.C. 410	0960–0247
Delete This Entry		
45 Public Welfare; Part 201—Grants to States for Public Assistance Programs; Subpart A—Approval of State Plans and Amendments (Title IV–A).	45 CFR 201.3 through 45 CFR 201.5	0960–0068

[FR Doc. 82–4771 Filed 2–22–82; 8:45 am]

BILLING CODE 4150–04

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

U.S. 1979 Annual Report for the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The Service announces availability of the 1979 U.S. Annual Report for the Convention on International Trade in Endangered Species of Wild Fauna and Flora and details on how the report may be acquired.

ADDRESS: Copies of the 1979 U.S. Annual Report may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, telephone, 703/235–4650. Requests for report number PB 82–128846 should be made to the attention of the Sales Desk.

FOR FURTHER INFORMATION CONTACT: Richard M. Parsons, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone, 703/235–2418.

SUPPLEMENTARY INFORMATION:

Background

In accordance with requirements of Article VIII, paragraph 7 of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Service prepares annual reports summarizing U.S. international trade in CITES listed species. Previous annual reports were published by the Government Printing Office (GPO) and made available without charge by the Federal Wildlife Permit Office (WPO). GPO was unable to publish the 1979 Annual Report. WPO has found an alternative means of making the 1979 Annual Report available. The report may be purchased in printed form ($16.00) or in microfiche form ($4.00) from the National Technical Information Service (NTIS). Purchase requests may be made by telephone if the purchaser has an account with NTIS or if the purchaser has a major credit card. Purchase may also be made by mail.

This notice was prepared by Paul E. Gertler, Federal Wildlife Permit Office.

Dated: February 18, 1982.

Arthur Lazarowitz,

Acting Chief, Management Operation Branch, Federal Wildlife Permit Office.

[FR Doc. 82–4795 Filed 2–22–82; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[FES 82–3]

Alaska Outer Continental Shelf; Availability of Final Environmental Impact Statement Regarding Proposed Norton Sound Oil and Gas Lease Sale No. 57

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a final environmental impact statement relating to a proposed Outer Continental Shelf (OCS) oil and gas lease sale of 429 tracts consisting of 988,416 hectares (2.4 million acres) of submerged Federal lands in Norton Sound (OCS Sale No. 57).

Single copies of the final environmental impact statement can be obtained from the Office of the Manager, Bureau of Land Management, Alaska Outer Continental Shelf Office, P.O. Box 1159, Anchorage, Alaska 99510, and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the final environmental impact statement will also be made available for inspection in the following public libraries: Alaska Federation of Natives, 1577 O Street, Suite 304, Anchorage, AK 99501; Anchor Point

Public Library, Anchor Point, AK 99556; Department of the Interior Alaska Resources Library, 701 "C" Street, Box 36, Anchorage, AK 99513; Cordova Public Library, Box 472, Cordova, AK 99574; Kenai Community Library, Box 157, Kenai, AK 99611; Elim Learning Center, Elim, AK 99739; Haines Public Library, P.O. Box 38, Haines, AK 99827; North Star Borough Library, Faribanks, AK 99701; University of Alaska, Institute of Social and Economic Research Library, Fairbanks, AK 99801; Homer Public Library, Box 356, Homer, AK 99603; Z. J. Loussac Public Library, 427 F Street, Anchorage, AK 99801; Juneau Memorial Library, 114 W. 4th Street, Juneau, AK 99824; Alaska State Library, Documents Librarian, Pouch G, Juneau, AK 99811; Ketchikan Public Library, 629 Dock Street, Ketchikan, AK 99901; Department of Defense, Army Corps of Engineers Library, P.O. Box 7002, Anchorage, AK 99501; Kodiak Public Library, P.O. Box 985, Kodiak, AK 99615; Metlakatla Extension Center, Metlakatla, AK 99926; Department of Interior, Bureau of Mines Library, AF–F.O. Center, P.O. Box 550, Juneau, AK 99802; Petersburg Extension Center, Box 289, Petersburg, AK 99833; Seldovia Public Library, Drawer D, Seldovia, AK 99663; Seward Community Library, Box 537, Seward, AK 99664; University of Alaska Juneau Library, P.O. Box 1447, Juneau, AK 91447; Sitka Community Library, Box 1090, Sitka, AK 99835; Douglas Public Library, Box 469, Douglas, AK 99824; University of Alaska Anchorage Library, 3211 Providence Drive, Anchorage, AK 99504; University of Alaska Elmer E. Rasmuson Library, Fairbanks, AK 99701; Wrangell Extension Center, Box 651, Wrangell, AK 99929.

Dated: February 5, 1982.

Robert F. Burford,

Director, Bureau of Land Management.

Bruce Blanchare,

Director, Environmental Project Review.

February 17, 1982.

[FR Doc. 82-4776 Filed 2-22-82; 8:45 am]

BILLING CODE 4310-84-M

Coal Lease Offerings; Green River-Hams Fork Federal Coal Production Region; Colorado

U.S. Department of the Interior, Bureau of Land Management, Colorado State Office, 1037–20th Street, Denver, Colorado 80202. Notice is hereby given that certain coal resources in the tracts described below in Moffat and Rio Blanco Counties, Colorado, will be offered for competitive lease by sealed bid followed by oral auction to the qualified bidder of the highest cash amount per acre in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended. The minimum acceptable sealed bid for the Danforth Hills No. 2 Tract is $810.00 per acre. The minimum acceptable sealed bid for the Danforth Hills No. 3 Tract is $770.00 per acre. The sale will be held at 10:00 a.m., April 6, 1982, in Room 269, Post Office Auditorium, 1823 Stout Street, Denver, Colorado. Sealed bids must be received on or before 8:30 a.m., April 6, 1982, at the Colorado State Office, 1037–20th Street, Denver, Colorado 80202. No bids received after 8:30 a.m., April 6, 1982, will be considered.

Coal Offered: Danforth Hills No. 2

[C–29225]

The coal resource to be offered is limited to coal recoverable by surface mining methods in the following lands located approximately 26 miles southwest of Craig, Colorado:

T. 3 N., R. 93 W., 6th P.M. (Moffat County)
Sec. 5, lots 1 and 2, S½NE¼, and SE¼;
Sec. 7, NE¼NE¼, S½NE¼, and SE¼;
Sec. 8, (all);
Sec. 17, (all);
Sec. 18, lots 3 and 4, E½, and E½SW¼.
The area described contains 2,307.78 acres.

The reserves recoverable by surface mining methods are estimated to be 63,703,000 tons. The coal quality is as follows: Btu—10,500 to 11,000 per pound; Sulfur—0.3 to 0.6 percent; and Ash—4 to 6 percent. The strippable coal beds have a cumulative thickness of 35 feet.

Coal Offered: Danforth Hills No. 3

[C–29226]

The coal resource to be offered is limited to coal recoverable by surface mining methods in the following lands located approximately 27 miles southwest of Craig, Colorado:

T. 3 N., R. 93 W., 6th P.M. (Rio Blanco County),
Sec. 19, lots 1 to 3, inclusive, E½, and E½W½;
Sec. 20, lot 1, N½, SW¼, N½SE¼, and SW¼SE¼; 21, lots 1, 3, 5 to 8, inclusive, and 10, N½, N½SW¼ and NW¼SE¼;
Sec. 28, lots 4 to 8, inclusive, 12, 13, and 15;
The area described contains 1,894.06 acres.

Sec. 29, lots 2, 3, and 5.

The reserves recoverable by surface mining methods are estimated to be 48,740,000 tons. The coal quality is as follows: Btu—10,500 to 11,000 per pound; Sulfur—0.3 to 0.6 percent; and Ash—4 to 6 percent. The strippable coal beds have a cumulative average thickness of 32 feet.

Rental and Royalty: Leases issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre or fraction thereof and a royalty payable to the United States of 12.5 percent of the value of coal produced by surface mining methods. The value of coal shall be determined in accordance with 30 CFR 211.63.

Notice of Availability: Bidding instructions for each tract offered are included in the Detailed Statements of Lease Sale. Copies of the Statements and of the proposed coal leases are available at the Colorado State Office. Case file documents are also available at that office for public inspection.

William J. Norton II,

Acting Leader, Craig Team, Branch of Adjudication.

[FR Doc. 82-4830 Filed 2-22-82; 8:45 am]

BILLING CODE 4310-84-M

Uinta-Southwest Utah Coal Region, Colorado; Call for Expressions of Leasing Interest in Coal

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Call for Expressions of Leasing Interest in Federal Coal.

SUMMARY: This call for expressions of coal leasing interest, Phase II, is to integrate potential lessees' data and needs into the coal activity planning phase of the Federal coal management program in the Uinta-Southwestern Utah Coal Production Region. The data received from this call will be used along with existing data to delineate tracts which would be considered for possible competitive leasing.

DATE: Responses to this notice may be received until 30 days from the date of publication of this notice in the **Federal Register.**

ADDRESS: Responses should be sent to State Director (932), Bureau of Land Management, 1037 20th Street, Denver, CO 80202 *and* to District Supervisor for Resource Evaluation, Minerals Management Service, P.O. Box 580, Grand Junction, CO 81501.

FOR FURTHER INFORMATION CONTACT: Ken Smith, Coal Management Specialist, Colorado State Office, BLM, 1037 20th Street, Denver, CO 80202; telephone (303) 837–3008. Marlyn Jones, District Manager, Montrose District, BLM, P.O. Box 1269, Montrose, CO 81402; telephone (303) 249–7791.

SUPPLEMENTARY INFORMATION: This is to advise all interested parties that the official call for expressions of interest in Federal coal leasing, Phase II-Colorado, is now in effect for the second round of coal leasing activity in the Uinta-Southwestern Utah Coal Region for possible lease sales beginning in December, 1983. The responses for this phase shall be submitted until March 25, 1982. Areas covered by the call are as follows:

BLM-North Fork Planning Unit; Paonia-Somerset KRCRA

Area 1

T. 13S., R. 95W., 6th P.M.,
Sec. 8: Lots 1–9, 11–17;
Sec. 17: Lots 3–16, 18–21;
Sec. 18: Lots 5–16, 21, 23, 25, 27;
Sec. 20: Lots 1, 4, 14, 15.
Delta County, Colorado.
This area consists of 1,847.21 acres.

Area 2

T. 13S., R. 91W., 6th p.m.,
Sec. 5: All;
Sec. 6: All;
Sec. 7: Lots 1–2, E½, E½NW¼;
Sec. 8: All;
Sec. 17: E½, N½NW¼;
Sec. 18: N½NE¼, SW¼NE¼, S½SE¼;
Sec. 19: Lots 1–3, NE¼, SE¼NW¼;
Sec. 20: Lots 1–3.
T. 13S., R. 92W., 6th P.M.,
Sec. 1: All;
Sec. 2: All;
Sec. 3: All;
Sec. 10: All;
Sec. 11: All;
Sec. 12: Lots 1–8, 10–14, SW¼SW¼;
Sec. 13: Lots 2, 7–10, NW¼;
Sec. 14: All;
Sec. 15: All;
Sec. 22: N½, N½S½, SW¼SW¼;
Sec. 23: N½, N½S½, S½SE¼.
Delta County, Colorado.
This area consists of 9,873.86 acres.

This call for expressions of interest is the first step in activity planning under the Federal coal management program. It is being made before any tract boundaries are delineated within an area found suitable for further consideration for coal leasing through the land use planning process which includes application of the unsuitability criteria. The results of this call will provide significant information that will be employed in delineating tracts that might be offered for lease sale after they have been through the tract ranking, selection, scheduling and analysis processes that are integral parts of the Federal coal management program defined in 43 CFR Subpart 3420.

Expressions of interest from small business and public bodies are invited in accordance with the provisions of 43 CFR 3420.1–4 which states that a reasonable number of lease tracts will be reserved and offered through competitive lease sales to those qualifying under the definitions of public bodies and small coal mining businesses. Entities desiring special leasing opportunities as a public body should state their intentions in their expressions of leasing interest for possible public body set asides. Proof of public body status and evidence of qualifications as required by 43 CFR 3420.1–4(b)(1)(ii) shall be submitted with the expression of interest.

A major purpose of this call for expressions of interest is to integrate potential lessees' data and needs with the process of delineating the logical mining units which will be considered prior to a lease sale. The BLM hopes to gain sufficient information from this call, as well as from its own site specific analyses, to identify areas in which data are of sufficient detail to ultimately make a fair market value determination on specific tracts.

An expression of interest is not an application. The size, number and/or location of proposed tracts as indicated by expressions of interest may be modified or changed. Examples of the types of concerns that may make such action necessary include: the competitive nature of the tract, access needs, mining efficiency, future coal development potential, resource conservation and State preferences and priorities.

These expressions of leasing interest should include the following data where applicable:

1. *Quantity needs* (total tonnage, average tons per year, and year during which production should commence) for both coal producers and users.

2. *Quality needs* (types and grade of coal) for both producers and users.

3. *Location:*

a. Tracts desired by mining companies (narrative description with delineation on a surface minerals management quad map, available for purchase from the BLM Colorado State Office).

b. Public and private industry user facilities in region.

c. If no location is indicated, but other specified data are provided, the expression will be considered. In such cases the joint BLM/GS delineation team will locate the tract.

4. *Type of Mine:*

a. Surface or underground.

b. Technique of mining (i.e., longwall, room and pillar, strip mining, etc.).

5. *Proposed Uses of Coal:*

a. By mining companies.

b. By public and private industries.

6. *Where coal is consumed (include extra-regional markets).*

7. *Transportation Needs (i.e., railroads, pipelines, etc.):*

a. Existing facilities.

b. Proposed facilities and development timing.

8. *Available Sources of Coal:*

a. Presently operative.

b. Contingency or other sources.

9. *Information Relating to Mineral Ownership:*

a. Information on surface owner consents previously granted, e.g., a description of the location of the property, whether consents are transferable, etc.

b. Commitments from fee coal owners or for associated non-Federal coal.

10. *Special qualifications* for public bodies requesting special leasing opportunities. These specific requirements are listed in 43 CFR 3472.2–5.

Data which are considered proprietary should not be submitted as part of this expression of leasing interest.

An individual, business entity, governmental entity, or public body may participate and submit expressions of leasing interest under this call.

Management framework planning information for the North Fork planning unit and a map of areas acceptable for further consideration for local leasing may be obtained by contacting the Montrose District Manager, at the address above.

Dated: February 4, 1982.

George C. Francis,

State Director, Bureau of Land Management, Colorado State Office.

[FR Doc. 82-4831 Filed 2-22-82; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 12, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by March 10, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

CALIFORNIA

Alemeda County

Albany, *Peterson House,* 1124 Talbot Ave.

Mariposa County

Coulterville, *Coulterville Main Street Historic District,* Main St.

Napa County

Napa, *Imrie, William, House*, 2320 Big Ranch Rd.

Santa Cruz County

Santa Cruz, *Bank of Santa Cruz County*, 1502 Pacific Ave.

Tulare County

Springville, *Elster, C. A., Building*, CA 190 and Tule River Dr.

CONNECTICUT

Hartford County

Bristol, *Beleden*, 50 Bellevue Ave. Suffield vicinity, *Fuller, John, House*, 463 Halladay Ave.

Middlesex County

Middletown, *Pledger, Jacob, House*, 717 Newfield St.
Old Saybrook, *Tully, William, House*, 135 N. Cove Rd.

Windham County

Brooklyn vicinity, *Putnam Farm*, Spaulding Rd.

KANSAS

Atchison County

Atchison, *Benedictine College North Campus Historic Complex*, 2nd and Division Sts.

Ellis County

Hays, *Philip Hardware Store*, 719 Main St.

Leavenworth County

Leavenworth, *Old Union Depot*, 201 S. Main St.

Morris County

Council Grove, *Simcock House (Marks Apartments)* 206–208 Columbia St.

Sedgwick County

Wichita, *Old Wheeler-Kelly-Hagny Building*, 120 S. Market St.

Shawnee County

Topeka, *Jayhawk Theater and Jayhawk Walk*, 700 Jackson Ave.

KENTUCKY

Fayette County

Lexington, *Constitution Historic District*, Roughly bounded by E. 3rd, Limestone, Walnut and Pleasant Stone Sts.

McCracken County

Paducah, *Lower Town Neighborhood District*, Roughly bounded by Park Ave., Jefferson, 5th and 9th Sts.

McLean County

Livermore vicinity, *Archeological Site 15–McL–18*

LOUISIANA

Pointe Coupee Parish

Livonia vicinity, *El Dorado Plantation House*, LA 77

MARYLAND

Baltimore (independent city)
Hooper, James E., House, 100 E. 23rd St.
St. James the Less Roman Catholic Church, Aisquith St.
St. John the Evangelist Roman Catholic Church, 901 E. Eager St.

Baltimore County

Ruxton, *St. John's Church*, 7538 Bellona Ave.

Montgomery County

Poolesville vicinity, *Valhalla*, 19010 White's Ferry Rd.

Talbot County

Oxford vicinity, *Otwell*, Otwell Rd.

Washington County

Hagerstown vicinity, *Wilson's Bridge*, U.S. 40

MINNESOTA

LeSueur County

LESUEUR COUNTY MULTIPLE RESOURCE AREA (additions). This area includes: LeSueur, *Cosgrove, C. N., House*, 228 S. 2nd St.; *Smith-Cosgrove House*, 228 S. Main St. LeSueur vicinity, *German Evangelical Salem Church*, SR 156; *Needham-Hayes House*, Off SR 23; *Ottawa Stone Buildings*. Reference—see individual listings under LeSueur County.: Montgomery, *Hilltop Hall*, 208 N. 1st St. *Westerman Lumber Office and House*, 201 S. 1st St.; New Prague, *First National Bank*, 112 E. Main St.; *Hotel Broz*, 212 W. Main St.; Waterville, *Dehn House*, Herbert St.; *Union Hotel*, 201 Paquin St.
LeSueur vicinity, *Episcopal Church (Ottawa Stone Buildings Thematic Resources) (LeSueur County Multiple Resource Area)* SE of LeSueur
LeSueur vicinity, *Methodist Church (Ottawa Stone Buildings Thematic Resources) (LeSueur County Multiple Resource Area)* SE of LeSueur
LeSueur vicinity, *Ottawa Town Hall (Ottawa Stone Buildings Thematic Resources) (LeSueur County Multiple Resource Area)* SE of LeSueur
LeSueur vicinity, *Patten Farmhouse (Ottawa Stone Buildings Thematic Resources) (LeSueur County Multiple Resource Area)* SE of LeSueur
LeSueur vicinity, *Rinshed House (Ottawa Stone Buildings Thematic Resources) (LeSueur County Multiple Resource Area)* SE of LeSueur
LeSueur vicinity, *Schwartz House and Barn (Ottawa Stone Buildings Thematic Resources) (LeSueur County Multiple Resource Area)* SE of LeSueur

Lyon County

LYON COUNTY MULTIPLE RESOURCE AREA. This area includes: Cottonwood, *Norseth, Martin, House*, 86 E. Main St.; Lynd, *Kiel and Morgan Hotel (Lyon County Courthouse)* River St. and SR 4; Marshall, *Gieske, William F., House*, 801 W. Lyon St.; *Masonic Temple (Delta Lodge No. 119)* 325 W. Main St.; Minnesota, *Anderson, J. S., House*, 402 E. 2nd St.; *Anderson, O. G., and Company Store*, Jefferson St.; *St. Paul's Evangelical Lutheran Church and Parsonage*, 412 and 414 E. Lyon St.; Tracy, *First National Bank*, 101 3rd St.

OHIO

Ashland County

Savannah vicinity, *Crittenden Farm*, NW of Savannah on U.S. 224 and U.S. 250

Belmont County

Martin's Ferry, *Finney-Darrah House*, Scenery Hill

Clark County

Springfield, *St. Joseph Roman Catholic Church*, 802 Kenton St.

Coshocton County

Warsaw vicinity, *Chalfant Church*, S of Warsaw off OH 60

Cuyahoga County

Cleveland, *Tiedemann, Hannes, House*, 4308 Franklin Blvd.

Fairfield County

Pickerington vicinity, *Dovel, J. H., Farm, 660 N. Hill Rd.*

Franklin County

Canal Winchester, *Canal Winchester Methodist Church*, S. Columbus and High St.

Guernsey County

Cambridge, *McCreary-Burnworth House*, 220 Highland Ave.

Licking County

Granville vicinity, *McCune's Villa*, 537 Jones Rd.

Logan County

West vicinity, *Piatt, Abram S., House (Mac-A-Cheek) and Piatt, Donn S., House (Mac-O-Chee)* Off OH 287 and OH 275

Lorain County

Kipton, *Union Church*, 511 Church St.

Monroe County

Woodsfield, *Mooney, William C., House*, 122 N. Paul St.

Morrow County

Fulton vicinity, *Brown, Samuel P., House*, S of Fulton on Worthington-New Haven Rd.

Muskingum County

New Concord vicinity, *McCully Log House*, N of New Concord on Wharton Lane
Zanesville, *Johnston-Crossland House*, N. 7th St.

Stark County

Canton, *Landmark Tavern*, 510 E. Tuscarawas St.
Canton, *Vicary House*, 3730 Market Ave., N.
Massillon, *Massillon Cemetery Building*, 1827 Erie St., S.

Caddo County

Anadarko, *Anadarko Central Business Historic District*, Roughly bounded by RR tracks, Oklahoma Ave., 3rd and 5th Sts.

Comanche County

Lawton, *Mahoney-Clark House*, 513–515 W. Gore Ave.

Creek County

Drumright, *Fulkerson, J. W., House*, 508 E. Broadway
Drumright vicinity, *Drumright Gasoline Plant No. 2*, N of Drumright
Oilton, *Oilton Gas Building*, 104–108 S. C St.

Hughes County

Holdenville, *First National Bank Building*, Main and Broadway Sts.

McIntosh County

Checotah, *Methodist Episcopal Church, South*, 419 W. Gentry St.

Payne County

Yale, *Canfield House*, 223 N. B St.

Rogers County

Claremore, *Belvedere, The*, 109 N. Chickasaw Ave.

OREGON

Linn County

Albany, *Hackleman Historic District*, Roughly bounded by Pacific Blvd., Lyons, 2nd and Madison Sts.

Marion County

St. Paul, *St. Paul Historic District*, Off OR 219

TEXAS

Denton County

LAKE RAY ROBERTS MULTIPLE RESOURCE AREA. This area includes: Sanger vicinity, *Archeological Site No. 41DN91, Archeological Site No. 41DN194, Archeological Site No. 41DN198, Standing Structure Site No. 41DN106, Standing Structure Site No. 41DN143, Standing Structure Site No. 41DN146, Boozer's Field Archeological Site (41DN99); Calvert, H. C., Archeological Site (41DN102); Foxworth, J. L., Archeological Site (41DN79); Galbraith, Archeological Site (41DN81); Laird, F. M., Archeological Site (41DN97); McKinney, D. R., Archeological Site (41DN112); Miner Marsh, Archeological Site (41DN101); Morrow, E. A., Archeological Site (41DN103); Neal, E. J., Archeological Site (41DN116); Porter, John, Archeological Site (41DN85); Prairie Chapel School Archeological Site (41DN126); Smith, Edward A., Archeological Site (41DN111); Switzer, B. E., Archeological Site (41DN77); Thomas, Robert, Archeological Site (41DN202); Wilfong, J. M., Archeological Site (41DN110); Cosner, Texas and the Aubrey Vaughan House (41DN87); Hester, J. T., House (41DN223); Kennedy, A. M., House (41DN224); Sadau, C. E., House Site (41DN118); Simpson, Binkley, House (41DN125); Sitzes, Oscar, House (41DN107); Smith, Glenn, House (41DN83)*

WEST VIRGINIA

Doddridge County

West Union, *Doddridge County Courthouse*, Court Sq.

[FR Doc. 82–4836 Filed 2–22–82; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC–43]

Lease and Interchange of Vehicles by Motor Carriers

February 10, 1982.

M&G Convoy, Inc. (MC–20722), F. J. Boutell Driveaway Co., Inc. (MC–3468), Complete Auto Transit, Inc. (MC–49368), and Janesville Auto Transport Co. (MC–119642) have filed a petition for waiver of Subpart B (Sections 1057.11 and 1057.12) and Subpart C of the Lease and Interchange of Vehicles Regulations (49 CFR Part 1057), with respect to equipment augmented among them.

Findings:

1. Petitioners are commonly controlled and administer a common safety program.

2. Petitioners have acceptable fitness records.

3. Greater economy and efficiency would result if waiver of the requirements of Subpart B were granted in part.

4. Waiver of the requirements of Subpart C is not warranted.

It is ordered:

1. The request of M&G Convoy, Inc., F. J. Boutell Driveaway Co., Inc., Complete Auto Transit, Inc., and Janesville Auto Transport Co. for waiver of Subpart B (§§ 1057.11 and 1057.12) is granted, except for paragraph (b) of § 1057.11, with respect to equipment augmented among them, provided petitioners or their authorized representatives agree in writing that the lessee shall have control and responsibility for the operation of the equipment from the time possession is taken by the lessee and the receipt required under paragraph (b) of § 1057.11 is given to the lessor until possession of the equipment is returned to the lessor and the receipt required under paragraph (b) of § 1057.11 is received by the lessee or possession of the equipment is returned to the lessor or given to another authorized carrier in a interchange of equipment. A copy of the agreement must be carried in the equipment while it is in the possession of the lessee.

2. The request for waiver of Subpart C is denied.

3. The waiver granted in this decision does not affect the application of the leasing regulations to a lease between an owner-operator and the lessor carrier.

By the Motor Carrier Leasing Board, Board Members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien, Board Member McFarland not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82–4798 Filed 2–22–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. MC–122 (Sub-No. 2)]

Lease of Equipment and Drivers to Private Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Policy statement.

SUMMARY: This summary provides notices that the Commission has modified and made final its proposed policy statement in *Lease of Equipment and Drivers to Private Carriers*, 132 M.C.C. 351 (1980), 45 FR 86766 (December 31, 1980), concerning the distinction between private and for-hire carriage where a private carrier conducts its operations with equipment and drivers leased from unregulated lessors, including owner-operators. Discussed in the complete decision is the practical and legal distinction, and the factors that the Commission will now consider in determining whether such operations by private carriers fall outside the scope of the Commission's jurisdiction, 49 U.S.C. 10524(a), or instead constitute for-hire transportation by the lessor of the equipment with drivers, for which a certificate or permit is required.

EFFECTIVE DATE: This policy is effective March 25, 1982.

COPIES: Copies of the full decision are available from: Interstate Commerce Commission, Office of the Secretary, Room 2227, Washington, DC 20423, or by calling toll-free 800–424–5403.

FOR FURTHER INFORMATION CONTACT: Robert G. Rothstein, (202) 275–7912, or Edward E. Guthrie, (202) 275–7691.

SUPPLEMENTARY INFORMATION: This proceeding was instituted on December 31, 1980, by the publication of a notice in the **Federal Register** [1] stating our intention to reexamine the Commission's tests used to distinguish private from for-hire carriage. The tests operate generally to preclude owner-operators and others not holding authority from the Commission from leasing their equipment with drivers directly to private carriers. We recognize the continued need to maintain a workable distinction

[1] 45 FR 86766 (December 31, 1980), *Lease of Equipment and Drivers to Private Carriers*, 132 M.C.C. 351 (1980).

between for-hire and private carriage. We propose (a) to focus primarily on the control exercised over a lessor, and (b) to repudiate the presumption that construed lessors to be carriers for-hire where their lessees are private carriers.

In light of recent changes in statutory direction, and the Commission's changes in regulatory policy over the past few years, we believe it is reasonable to reassess the Commission's approach to defining the line between private and for-hire carriage. We think we can prospectively draw the line somewhat differently than we have in the past when considering whether a particular lease arrangement constitutes private vis-a-vis for hire carriage, based on the consideration of factors not previously identified in Commission decisions.

We shall continue to look at all the circumstances surrounding a lease arrangement to determine whether the lessor holds out only the use of the instrumentalities of transportation, *i.e.*, truck and driver, or whether it instead holds out what is in substance a complete transportation service for compensation. The former would be exempt, while the latter would be subject to regulation. In making individual determinations, we will focus on the elements of control, responsibility, and performance of the key organizing and management functions of a transportation company as the critical elements in evaluating the character of the service provided. We will, however, no longer employ the rebuttable presumption announced in the *Church* case, *infra*, that leases of equipment with drivers to shippers ordinarily give rise to for-hire transportation by the lessor. Neither will we use the virtually irrebuttable presumption contained in the *Oklahoma Furniture* decision *infra*, that an owner-operator driving his own equipment has the right and power to defeat the lessee's control. We will abandon the suggestion contained in earlier cases that legitimate private carriage results only when an owner-operator becomes an employee of the private carrier. We also believe that there is no longer any justification for maintaining different standards for judging lease arrangements with drivers, depending on whether the lessee is a private or for-hire carrier.

We are confident that our new approach is in accord with existing statutory requirements. Nevertheless, we intend to monitor the practical effects of the policy change we are adopting on the regulated sector, private carriers, owner-operators, and the shipping public on a continuing basis. If actual operations under the new policy disclose effects that are clearly contrary to the public interest or the National Transportation Policy, we are prepared to make adjustments or changes in our policy.

There are six minimum requirements that must be met in a lease of equipment and drivers to a shipper in order to have the arrangement viewed as private carriage conducted by the shipper-lessee. If actual operations conducted under the lease accurately reflect our requirements, a presumption will arise that the transportation being performed is private carriage controlled by the shipper. This presumption may be rebutted with a showing that actual operations, in any respect, tend to weaken the control and responsibility required of a shipper-lessee when conducting transportation operations with equipment and drivers leased from a single source. These requirements are particularized as follows:

(1) The lease agreement must provide, and the surrounding facts must reflect, that the leased equipment is exclusively committed to the lessee's use for the term of the lease,[2] for any purpose consistent with the provisions of the lease. This requirement does not preclude the lessor's own use of the equipment during periods of the lease when it is not being utilized by the lessee. We see no reason why a lessee cannot sublease the equipment to a third party if the lease so permits. We caution, however, that a private carrier lessee may presently not sublease to an authorized carrier for periods less than thirty days. This issue is the subject of a pending proceeding docketed in Ex Parte No. MC–43 (Sub–No. 12), *Leasing Rules Modifications* (46 FR 15300), March 5, 1981.

(2) The lease agreement must provide, and the surrounding facts and actual operations must show, that the lessee has exclusive dominion and control over the transportation service conducted by it with the leased equipment during the term of the lease. It is not inconsistent with such control over the transportation service to allow the driver of the equipment to select routes, fuel stops, rest stops, repair stops, and perform other ministerial matters relating to control of the vehicle. It is inconsistent with his status as a simple lessor, however, to delegate to him managerial elements of control over the transportation service provided.[3]

(3) The lessee must maintain public liability insurance or otherwise accept responsibility to the public for any injury caused in the course of performing the transportation service conducted by it with the equipment during the terms of the lease. To this end, the equipment must display appropriate identification showing operation by the lessee during the performance of such transportation. The ultimate liability (including any liability for damages in excess of insurance policy limits) will remain on the lessee.[4] This will be a significant protection to the public, since both a shipper/private carrier and a regulated carrier perform essentially the same service, and should be similarly responsible for public injury. As a practical matter, shippers will generally be better able both to afford adequate insurance coverage and to respond in damages than a typical owner-operator.

(4) The lessee must accept responsibility for, and bear the cost of, compliance with safety regulations during performance by it of any such transportation service. This is not inconsistent with a requirement that the driver pay any traffic fines he may incur, but responsibility for infractions over which the lessor has no control should remain on the lessee, who, in an overload situation, for example, controls the amount of cargo loaded as a managerial element of the transportation service.

(5) The lessee must bear the risk of damage to the cargo, subject to any right of action it may have against the lessor for the latter's negligence. This could be covered by cargo liability insurance or other means, such as self-insurance. This means that a private-carrier lessee—since the driver is merely its agent and the cargo never leaves its possession—cannot look to the lessor to bear the typical insurer's liability of a carrier.[5]

[2] This implies that the lease must have some definite and ascertainable term, which will be discussed *infra*. This requirement is not inconsistent with a provision making the lease renewable by either party, or terminable by either or both parties on specified notice. It is similarly not inconsistent with the lessee's full and exclusive right of use to provide in the lease that the lessor may use the equipment for his own purposes at such times during the period of the lease as the lessee has no use for it.

[3] An owner-driver may perform such functions in loading and unloading as an employee would ordinarily perform, consistent with industry practice, but he should not be called on to perform such managerial functions as the hiring of additional employees for loading and unloading.

[4] The lessee's acceptance of responsibility to the public is not negated by any right of action it may have against the owner-operator for injury caused by the latter's negligence.

[5] A common carrier bears an insurer's liability to its shipper in most circumstances, subject to reasonable limitation by tariff provisions; a contract carrier's liability to its shipper is a matter of contract. A clause in a lease agreement making an

Continued

(6) The term of the lease must be for a minimum period of 30 days. We will focus on the standard of control used in owner-operator leases to private carriers, as we have in the past concerning such leases to regulated carriers. It would be inconsistent to permit carriers to engage owner-operators for less than 30 days, while requiring a 30 day minimum of regulated carriers as an indicator of control. A lesser minimum period would also confer an economic tool upon private carriers, which could be used to the detriment of for-hire carriers.

The foregoing are conditions that are normally assured by authorized carriers in holding out their service to the public. We believe they are indispensable to show that the lessee rather than the lessor of equipment with driver is performing the characteristic functions of a carrier. In including these conditions but excluding others (which may be viewed by some commentators as indispensable), we believe we are acting "well within the range of the responsibility Congress assigned to the Commission." See *United States* v. *Drum, supra*, 368 U.S. at 385.

There remain a number of other features of lease agreements that are not conclusive on the issue of control, but may neverless be entitled to weight in characterizing leasing arrangements which are presented as private carriage. These are set forth in the full decision.

This decision is being published in abbreviated form for purposes of economy. Copies of the full decision are available from the Office of the Secretary at the address and telephone number stated in the summary section.

Decided: February 9, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham and Clapp. Commissioner Gresham concurred in part and dissented in part with separate expression which reflected his disagreement with the majority's insistence that leases must be for at least 30 days.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-4883 Filed 2-22-82; 8:45 am]

BILLING CODE 7035-01-M

Publication of Commission Press Release Summary

AGENCY: Interstate Commerce Commission.

ACTION: Interim decision.

SUMMARY: On December 28, 1981 [46 FR 62717], the Commission announced that, in an effort to cut agency costs, it would restrict press box service and advise-of-all proceedings participation. A daily Press Release Summary would be available by subscription, to anyone desiring the service.

The Commission is proposing to obtain the services of a private contractor to distribute Commission decisions to the public at a reasonable cost. The present Commission press box service will continue until a final determination is made on contracting out the distribution service.

EFFECTIVE DATES: The implementation of the Press Release Summary subscription service will be delayed until the final determination about the contractor is made.

The Commission's proposal to reduce advise-of-all proceeding service will go into effect on March 1, 1982.

FOR FURTHER INFORMATION CONTACT: George Godding, 202–275–0993; Edward Fernandez, 202–275–7591; Kathleen King, 202–275–0856.

SUPPLEMENTARY INFORMATION: The Commission received 103 written comments on its proposal. The comments were filed by carriers, law firms, watching services, trade associations and shipper groups, which either are press box holders or obtain Commission decisions through a press box holder. Most of the commentors objected to our proposal. They asserted that the issuance of the Commission's Press Release Summary was not adequate to meet their information needs on Commission decisions. They state that they require quick access to the full text of Commission decisions. Many commentors expressed a willingness to pay a reasonable fee to the Commission for continued press box service. Seventeen commentors suggested that if the Commission could not continue to provide the service, that the Commissison should obtain the service of a contractor, which would provide a distribution service for a reasonable charge.

A total of 66 individuals or firms indicated their intent to subscribe to the Commission's Press Release Summary. Very few comments were received on that part of the proposal relating to restrictions on advise-of-all proceedings participation. These comments merely indicated a desire to continue this service.

The Commission has evaluated all responses to our notice. While the Commission has no legal responsibility to continue to provide box service to the public, we realize that there is a desire by individuals and firms, that are not press or parties to decisions, to have quick access to a wide range of Commission decisions. However, due to budgetary constraints, the Commission can no longer provide our present free box service. If the Commission were to charge a user fee for such a service, the fees could not be credited toward the Commission's appropriation because all user fees become part of general U.S. Treasury funds.

As suggested by the comments, we have begun to examine the possibility of obtaining the service of a private contractor which would provide a distribution service to the public at a reasonable cost. We have contacted various other government agencies including the FCC, FERC, SEC and FTC to determine how their distribution services are performed. We believe that the use of a private contractor is the only way that the Commission can respond to the request that we maintain box distribution of decisions to the public. The Commission is now in the process of arranging for a contractor. Since it is not possible to complete the contracting process by March 1, 1982, we will postpone our curtailment of the box service until such time as a contractor can take over the operation. However, in the event that services of a private contractor cannot be procurred, we will be forced to implement our initial proposal to curtail box service.

The contractor that is selected by the Commission will not be allowed to have any interest in the release service beyond the physical distribution process. The Commission will have control over the fees charged by the contractor to ensure that such fees are reasonable. We will monitor the activities of the contractor to ensure that all services are equally available to any member of the public; and that all requests for documents are handled promptly. In a subsequent notice we will announce either the selection of a contractor or the implementation of our original proposal regarding curtailment of box service.

Even if a contractor system is established, the Commission will continue to fulfill its statutory requirements to serve parties of record with decisions, and provide copies of Commission decisions for inspection and copying as required by the Freedom of Information Act. Also, the Commission will continue free dissemination of decisions to the press as announced in our prior proposal.

We also intend to implement our plan to provide the Press Release Summary on a subscription basis, whether or not a

equipment lessor liable for cargo loss would thus tend to indicate either common or contract carriage; a clause negating such liability by the lessor would tend to negate common carriage, though not necessarily contract carriage.

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contractor is selected. However, we will not begin that service until a final determination is made about contracting out the distribution service.

Our proposal to limit our advise-of-all proceedings participation will go into effect on March 1, 1982, substantially as proposed. On March 1, 1982, advise-of-all proceedings status will only be available for Abandonment [AB], Ex Parte [EP], Ex Parte [EPM], Formal Docket [NOR and NOM] and Finance Docket [FD] proceedings. To be placed on an advise-of-all proceedings status for a particular case in the above described categories, the person requesting such status must send a letter to the Office of the Secretary, Commission Service Section, Room 2203, Interstate Commerce Commission, Washington, DC 20423. The letter must state the docket number of the case requested, the name and address of the person making the request and their interest in the proceeding.

This change regarding advise-of-all proceeding status does not affect persons who are currently listed in the status for a particular case or whose request is received before March 1, 1982.

Decided: February 17, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-4882 Filed 2-22-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 234]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: February 17, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 34027 (Sub-23)X, filed January 6, 1982. Applicant: GEETINGS, INC., P.O. Box 62, Pella, IA 50219. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Sub-No. 21 (acquired pursuant to MC-FC-78858): (1) Authorize service to all intermediate points; (2) delete special equipment limitation; (3) delete exception against service to Ottumwa and Corydon, IA; (4) broaden the off-route points of Unionville, Udell, Harard, Allerton, and Clio, IA, to Wayne and Appanoose Counties; (5) delete the exception of unusual value commodities in its general commodity authority; (6) broaden the off-route points of Moline, East Moline, and Rock Island, IL, to Scott County, IA, and Henry and Rock Island Counties, IL; (7) remove restrictions against the transportation of livestock; (8) broaden Letts, Columbus City, Pleasant Plain, and Libertyville, IA, to Louisa, Washington, and Jefferson Counties; (9) broaden Evans, Leighton, Given and Beacon, IA, to Wapello, Mahaska, Marion, and Jasper Counties, IA; (10) delete joinder only restrictions; (11) broaden 12 miles of the central post office in Des Moines, IA, to Polk and Warren Counties, IA; (12) delete exceptions against service to Altoona, Ankony, Carlisle, Des Moines and Norwalk, IA; (13) broaden Harper, IA, to Keokuk County; (14) broaden Lone Tree, IA, to Johnson County; (15) delete plantsite restriction at Oakbrook, IL, and broaden to DuPage County; (16) delete originating at or destined to restriction; (17) broaden Green Rock, IL, to Henry County; (18) delete plantsite at Knoxville, IA, and replace with Marion County; (19) remove the nitroglycerine exception to applicant's classes A and B explosives authority in para. 6; and (20) delete the language appearing in para (4)(a) and (b) reading as follows: "(a) there may be attached from time to time to the privileges granted in route 4 such conditions and limitations as the public convenience and necessity may require, and (b) all contractual arrangements between the carrier and the C.R.I. & P.R.R. shall be reported to the Commission and shall be subject to revision, if and as the Commission may find it to be necessary in order that such arrangements be fair and equitable to the parties." Applicant is not a rail-affiliated carrier.

MC 34631 (Sub-11)X, filed February 3, 1982. Applicant: A. ARNOLD & SON TRANSFER & STORAGE CO., INC., P.O. Box 23200, Louisville, KY 40223. Representative: Robert J. Gallagher, 1000 Conn. Ave. NW., Suite 1200, Washington, DC 20036, Sub 6, broaden: from household goods to "household goods and furniture and fixtures."

MC 104523 (Sub-84)X, filed June 25, 1981, noticed in **Federal Register** July 20, 1981, certificate served September 14, 1981, republished to notice the following omissions. Applicant: HUSTON TRUCK LINE, INC., P.O. Box 427, Seward NE 68434. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Sub-No. 1 (designated as sub-paragraph 8 in Sub-No. 84X certificate): remove restrictions against service to Kansas City, Independence, and St. Joseph, MO, and Blair, Falls City, Fremont, Grand Island, Hastings, Kearney, and Omaha, NE; replace city-wide authority with corresponding county-wide authority—Red Willow County for McCook, Cheyenne County for Sidney, and Dawson County for Cozad.

MC 119800 (Sub-10)X, filed February 1, 1982. Applicant: PHILIP THOMAS TRUCKING, INC., P.O. Box 248, Wynnewood, OK 73098. Representative: T. M. Brown, P.O. Box 2650, Edmond, OK 73083. Sub-6F certificate, broaden to "petroleum, natural gas and their products," from fuel oil, in bulk, in tank vehicles.

MC 121683 (Sub-13)X, filed February 8, 1982. Applicant: JACKSON EXPRESS, INC., P.O. Box 3310, Jackson, TN 38301. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Sub 3, broaden: General commodities, with exceptions, to "general commodities (except classes A and B explosives); to serve all intermediate points on regular routes; remove restrictions: limiting service to that portion of Memphis and its commercial zone lying wholly within TN and further limiting such service against the handling of traffic originating at, destined to or interchanged at Nashville, TN and its commercial zone; to serve Clinton and Fulton, KY (intermediate points) for interline service only.

MC 128742 (Sub-5)X, filed February 8, 1982. Applicant: HALLWAY, INC., 700 W. North Street, P.O. Box 2480, Springfield, IL 62705. Representative: Steven J. Rosenberg, 111 W. Washington St., Chicago, IL 60602. Lead: (1) Broaden anhydrous ammonia and liquid fertilizer materials, in bulk, in tank vehicles to "chemicals and related products"; (2) remove the facilities limitation and the originating at and destined to restriction; (3) broaden Meredosia, IL to Morgan County; and (4) change one-way to radial authority.

MC 129952 (Sub-3)X, filed February 8, 1982. Applicant: JO-DI TRUCKING, INC., P.O. Box 21, Harrells, NC 28444. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Lead, broaden (1) saw mill machinery and farm machinery to "machinery", drain tile to "clay, concrete, glass or stone products"; (2) Clinton and Roseboro, NC to Sampson County; (3) remove originating at named points restrictions; (4) to radial authority.

MC 133276 (Sub-15)X, filed February 8, 1982. Applicant: BERRY TRANSPORT, INC., 5315 NW. St. Helens Rd., Portland, OR 97210. Representative: Peter H. Glade, One S.W. Columbia, Portland, OR 97258. Sub-No. 14F: delete in containers restriction from general commodities (except classes A and B explosives, and household goods), in containers.

MC 133706 (Sub-4)X, filed February 4, 1982. Applicant: ROBERT L. HARROLD, 215 West Adams St., Taylorville, IL 62568. Representative: Gary L. Smith, 913 S. Sixth St., Springfield, IL 62703. Sub-Nos. 1 and 3 permits: Broaden (1) farm implements, grain drying and storage equipment, component parts thereof, and harrows to "machinery (except electrical)," in both Subs; and (2) to between points in the U.S. under continuing contract(s) with a named shipper in both Subs.

MC 136288 (Sub-4)X, filed February 5, 1982. Applicant: CABANO TRANSPORT, LTD., 365 Rue Temiscouata, Riviere-Du-Loup, Temiscouata County, Quebec, Canada G5R 3Y9. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Sub 2 certificate: (1) Broaden from lumber, wood lathes, and wood shingles, to "lumber and wood products"; (2) remove foreign commerce and originating at named points in Canada and/or destined to named States restrictions; and, (3) broaden to radial authority.

MC 140859 (Sub-15)X, filed February 8, 1982. Applicant: WESTERN KENTUCKY TRUCKING, INC., 1245 Center Street, Henderson, KY 42420. Representative: William L. Willis, 702 McClure Building, Frankfort, KY 40601. Subs 11F and 12F certificates, remove the facilities restriction on service authorized in Henderson County, KY.

MC 144927 (Sub-40)X, filed January 29, 1982. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 West, Remington, IN 47977. Representative: Warrent C. Moberly, 777 Chamber of Commerce Building, 320 North Meridian Street, Indianapolis, IN 46204. Subs 2, 4, 6, 13, 14, 15, 16, 17, 18, 24, 25, 29, 30, 31, 36 and 37 broaden (l) to (a) "food and related products" from dry milk products, soya flour, corn flour, powdered milk, Sub 2; dessert and beverages preparations, soya flour and soya flour products, beverage preparations and foodstuffs, Sub 4; foodstuffs, Sub 6; cornstarch, Sub 13; cocoa powder, Sub 17; and corn starch and dehydrated corn syrup, Sub 25; (b) "metal products" from unfinished iron and steel castings, stampings, & metal forms, Sub 4; (c) "printed matter" from finished books, Sub 29; (d) "pulp, paper and related products" from pulpboard and sheathing paper, Sub 14; pulpboard, Sub 29 and printing paper, Sub 29, (e) "plastic products and metal products" from plastic cabinets and metal cabinets, Sub 15; (f) "pulp, paper and related products and printed matter" from paper, printed matter and paper products, Sub 16 part (3)(a) and Sub 29, printed matter and paper used in the manufacture of printed matter, Sub 29; and from paper and paper products, Sub 31; (g) "chemicals and related products" from industrial chemicals, Sub 4; (h) "industrial chemicals" from cleaning compounds, Sub 4; (i) "alcoholic and malt beverages", from malt beverages, Subs 18 and 37; (j) "fabricated metal, and cloth articles" from lamp, and lamp shades, Sub 30; and (k) "fabricated metal and wood products" from doors, door frames and elevator cabs, Sub 36; (2) broaden: (a) Louisville, KY to Jefferson County, Sub 2, (b) Sewaren, NJ and Middletown, CT to Middlesex County, NJ and Middlesex County, CT; London, OH to Madison County; Remington, IN to Jasper County; West Chicago, IL to Cook County, Momence, IL to Kankakee County, IL; and Beloit, WI to Rock County, Sub 4, (c) Union City, CA to Alameda County; Alsip, IL to Cook County; Lithonia, GA to DeKalb County; Union, NJ to Union County; Maryland, TN to Cumberland County, and Remington, IN to Jasper County, Sub 6; (d) Lafayette and Hammond, IN to Tippecanoe and Lake Counties; and Pickerington, OH to Franklin and Fairfield Counties, Sub 13; (e) Clifton and Whippany, NJ to Passaic and Morris Counties and Riegelsville, PA to Bucks County, Sub 14. (f) Columbus, IN to Barthalomew County, Sub 15. (g) Camden and Glassboro, NJ to Camden and Gloucester Counties; Waverly, Sibley, and Sioux City, IA to Bremer, Osceola and Woodbury Counties; Denver, CO to Denver County; Louisville, KY to Jefferson County; Oakland and Burlingame, CA to Alameda and San Mateo Counties, Sub 17, (h) Columbus, OH to Franklin and Fairfield Counties and Newark, NJ to Essex County, Sub 18, (i) Glenbrook, CT to Fairfield County; Bethlehem, PA to Northampton and Lehigh Counties; Jackson and Niles, IL to Morgan and Cook Counties, Roselle, Linden and Cranford, NJ to Union County; Madison Heights, MI to Oakland County; and Tappan, NY to Rockland County, Sub 24, (j) Hammond, IN to Lake County, Sub 25; (k) Ancora, Linden and Westville, NJ to Camden, Union, and Gloucester Counties and Indianapolis, IN to Marion County, Sub 28, (l) Piermont, NY to Rockland County; Eaton, IN to Delaware County; West Carrollton, OH to Montgomery County; Elk Grove Village, Broadview, Itasca, Melrose Park, Peoria, Elgin and Wood Dale, IL to Cook, DuPage, Peoria, and Kane Counties; Berne, IN to Adams County; Rockville, MD to Montgomery County; Saddlebrook, NJ to Bergen County, Berlin and New Berling, WI to Green Lake and Waukesha Counties; Dwight and Mattoon, IL to Livingston and Cole Counties; Crawfordsville and Warsaw, IN to Montgomery and Kosciusko Counties; Willard, OH to Huron County; Lancaster, PA to Lancaster, County; Old Saybrook, CT to Middlesex County; Spartanburg, SC to Spartanburg County; Harrisonburg, VA to Harrisonburg County; Glasgow, KY to Barren County; Gallatin, TN to Sumner County; Corinth, MS to Alcorn County; Dresden, TN to Weakley County; Evans, GA to Columbia County; Sub 29, (m) Lancaster, Harrisburg, Pittsburgh, Etglen and Plumspadville, PA to Lancaster, Dauphin, Allegheny, Chester and Bucks Counties; Glendale and Glen Burnie, MD to Anne Arundel and Baltimore Counties; Strasburg and Springfield, VA to Shenandoah and Fairfax Counties; Brookfield, Madison, Pewaukee, and Racine, WI to Waukesha, Dane and Racine Counties; Joliet, Mattoon, Dwight, Effingham, Franklin Park, Mt. Morris, Pontiac, Salem, Sparta and Broadview, IL to Will, Cook, Livingston, Effingham, Cook, Ogle, St. Clair, Marion and Randolph Counties; Columbus, Dayton, Lima, Springfield, and Willard, OH to Franklin, Montgomery, Allen, Clark and Huron Counties; Columbus

and Corinth, MS to Lowndes and Alcorn Counties; Crawfordsville, Hammond, Indianapolis, Kokomo and Warsaw, IN to Montgomery, Lake, Marion, Howard and Kosciusko Counties; Depew, Ithaca, and Plattsburg, NY to Erie, Tompkins, and Clinton Counties; Des Moines, IA to Polk County; Escanaba, MI to Delta County; Franklin, Louisville and Versailles, KY to Simpson, Jefferson and Woodford Counties; Gallatin, Memphis, Nashville, Whitehaven, Franklin and Dresden, TN to Sumner, Shelby, Davidson, Williamson and Weakley Counties; San Jose, CA to Santa Clara County; Miami, St. Petersburg and Hollywood, FL to Dade, Pinnellas and Broward Counties; Providence, RI to Providence County; Springfield, MA to Hampden County; Old Saybrook and Bloomfield, CT to Middlesex and Hartford Counties; Jonesboro, AR to Craighead County; Petersburg, WV to Grant County; Colorado Springs, CO to El Paso County, Sub 31 and (n) Brooklyn, NY to New York, NY, Sub 36; (3) remove against named commodities, originating at/destined to, in containers, in bags, commodities in bulk, in tank vehicles, mixed loads, facilities limitations and originating at and/or destined to point in Canada restrictions and (4) to radial authority.

MC 151721 (Sub-4)X, filed February 8, 1982. Applicant: LAUFENBERG FEED & AGRI-SERVICE, INC., Rt 1, P.O. Box 90A, Highland, WI 53543. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. Sub-No. 1: delete facility restrictions and broaden Viroqua, WI, to Vernon County.

[FR Doc. 82-4801 Filed 2-23-82; 8:45 am]
BILLING CODE 7035-01-M

Water Carrier Temporary Authority Application

The following was filed with Region 2. Petition for Reconsideration is to be filed, within 20 days of this publication with the Regional Office located in the Federal Reserve Bank Building, 101 North 7th St. Room 620, Philadelphia, PA 19106. Replies to petition may be filed within 20 days of the date petition is filed.

MC 1344 (Sub-II-2TA), filed February 2, 1981. Applicant: LOCKWOOD BROTHERS, INC., P.O. Box 584, Hampton, VA 23669. Representative: Keith G. O'Brien, 1729 H St., NW., Washington, D.C. 20006. Contract, Water: *Articles exceeding 19 ft. in height, or 12 ft. in width, or 90 ft. in length, or 100 net tons in weight, component parts thereof, and related equipment,* between the port of Hampton Roads, VA, and ports and points on the James River, on the one hand, and, on the other, ports and points on the Atlantic Coast and tributary waterways from ME to FL, including the Hudson River and the NY State Canal System, under continuing contract(s) with Westinghouse Electric Co., for 180 days. Supporting shipper(s): Westinghouse Electric Co., 23rd St. & Cowan Rd., Muncie, IN 47302.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-4802 Filed 2-23-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conseration Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP4-52

Decided: February 12, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 120616 (Sub-9), filed February 8, 1982. Applicant: A. V. DEDMON TRUCKING, INC., Highway 150 East, Shelby, NC 28150. Representative: Elliott Bunce, Suite 1301, 1600 Wilson Blvd., Arlington, VA 2209, (703) 522-0900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Catawba, Cleveland, Gaston, Lincoln, and Mecklenburg Counties, NC, on the one hand, and, on the other, Chicago, IL.

MC 147446 (Sub-1), filed February 54, 1982. Applicant: TOWN TRUCKING CO., 1500 S. Roslyn Rd., Roselle, IL 60172. Representative: Albert A. Andrin, 180 N. La Salle St., Chicago, IL 60601, (312) 332-5106. Transporting (1) *petroleum and petroleum products,* and (2) *roofing materials,* between points in Lake County, IN and Kent County, MI, on the one hand, and, on the other, points in the U.S.

MC 160416, filed February 4, 1982. Applicant: HARBOR TRANSFER, INC., 2400 S. Weccacoe Ave., Philadelphia, PA 19148. Representative: Thomas G. Schwemmer (same address as applicant), (215) 467-7225. Transporting *general commodities* (except classes A and B explosives), between points in PA, DE, MD, NJ, NY, VA, and DC.

Volume No. OP4-53

Decided: February 16, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 151516 (Sub-7), filed February 8, 1982. Applicant: JOSEPH W. HYDE, d.b.a. H. D. DELIVERY SERVICE, P.O. Box 1268, Ogden, UT 84402. Representative: Irene Warr, 311 S. State St., Suite 289, Salt Lake City, UT 84111, (801) 531-1300. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in UT, ID, WY, and MT.

MC 160276, filed February 9, 1982. Applicant: BIGELOW TRANSPORTATION COMPANY, INC., P.O. Box 3089, Greenville, SC 29602. Representative: William H. Borghesani, Jr., 1150 17th St., NW, Suite 1000, Washington, DC 20036, (202) 457-1122. Transporting *general commodities* (except classes A and B household goods, and commodities in bulk), between points in the U.S. under continuing contract(s) with United Forwarding, Inc., of Omaha, NE.

MC 160476, filed February 8, 1982. Applicant: K. J. ROLLINGS TRANSPORT, LTD., P.O. Box 407, Beebe, Quebec, Canada JOB 3EO. Representative: John P. Monte, P.O. Box 686, Barre, VT 05641, (1-802) 476-6671. Transporting *granite,* between points in the U.S., under continuing contract(s) with Universal Granite Center, Ltd., of Vermillion Bay, Ontario POV 2VO.

MC 160496, filed February 9, 1982. Applicant: HARTER CARTAGE CORP., Prairie Ave., Sturgis, MI 49091. Representative: Norman Bristol, 407 Kalamazoo, MI 49007, (616) 382-1483. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of furniture and partition walls, between points in the U.S., under continuing contract(s) with Harter Corporation, of Sturgis, MI.

Volume No. OP4-54

Decided: February 11, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 146797 (Sub-4), filed February 4, 1982. Applicant: RICHARD L. WHITE, d.b.a. RICHARD L. WHITE TRUCKING, 926½ East 10th St., Fairmont, MN 56031. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701) 237-4223. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Armour & Co., of Phoenix, AZ, and Fairmont Refrigerated Services Company, of Fairmont, MN.

MC 154207 (Sub-1), filed February 4, 1982. Applicant: J. C. ELLIS TRANSPORTATION, INC., P.O. Box 1009, Washington Park, IL 62204. Representative: Denis M. Neill, 1100 17th St., Washington, D.C. 20036, (202) 463-8877. Transporting *petroleum products, lubricating oils, greases, and related products,* between points in the U.S., under continuing contract(s) with Pennzoil Products Company, of Maryland Heights, MO.

MC 158937, filed February 4, 1982. Applicant: WALTER GRISHAM, d.b.a. GRISHAM TRUCKING, Route 1, Box 20, Colt, AR 72326. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103, (901) 526-4114. Transporting *machinery,* between points in St. Francis County, AR, on the one hand, and, on the other, points in the U.S.

MC 160007, filed January 18, 1982, previously noticed in the **Federal Register** issue of January 29, 1982, and republished this issue. Applicant: DeJONG TRANSPORT, 33651 Arcadian Wy Rt. 3, Abbotsford, B.C., Canada V2S 4N3. Representative: Kenneth R. Mitchell, 2320A Milwaukee Wy, Tacoma, WA 98421, (206) 383-3998. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Bel-Air Imports, Inc., d.b.a. Berman Imports, of Los Angeles, CA.

Note.—The purpose of this republication is to correctly state the commodity description.

Volume No. OP4-56

Decided: February 17, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 146447 (Sub-23), filed February 10, 1982. Applicant: TANBAC, INC., 2941 SW 1st Terr., Ft. Lauderdale, FL 33315. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 NW 53rd St., Miami, FL 33166, (305) 592-0036. Transporting *textile mill products,* between points in the U.S., under continuing contract(s) with Miami Rug Company, of Miami, FL.

MC 146447 (Sub-24), filed February 10, 1982. Applicant: TANBAC, INC., 2941 SW 1st Terr., Ft. Lauderdale, FL 33315. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 NW 53rd St., Miami, FL 33166, (305) 592-0036. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Nailite Weather Shield Products, Inc., and Nailite, Inc., both of Miami, FL.

MC 154907 (Sub-4), filed February 9, 1982. Applicant: THE BUCK COMPANY, 631 W. Cherry St., Wayland, MI 49348. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459-6121. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with International Multi-Foods, Inc., of Minneapolis, MN, L. G. Cook Distributor, Inc., of Grand Rapids, MI, and L. L. Buck Produce, Inc., of Wayland, MI.

MC 156706, filed February 4, 1982. Applicant: BRUCE A. BEETER, Rural Rt. #1, Box 20A Norwich, ND 58768. Representative: Kent L. Johnson, P.O. Box 638, 212 S. Broadway, Minot, ND 58701, (701) 852-5110. Transporting (1) *concrete, concrete products and steel products,* and (2) *horse trailers and farm equipment,* between points in the U.S., under continuing contract(s) with ND Concrete Products Company, of Bismarck, ND and J-J Trailer Sales, of Minot, ND.

MC 157096, filed February 9, 1982. Applicant: MT. STORM FUEL CORPORATION, Riverton, WV 26814. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004, (202) 347-8862. Transporting *commodities* in bulk, between points in the U.S., under continuing contract(s) with Allegheny Mining Corp., of Mt. Storm, WV, Ruddle Trucking, Inc. and Mt. Storm, Ltd., both of Riverton, WV, and Hinkle Trucking, Inc., of Circleville, WV.

MC 158346 (Sub-1), filed February 5, 1982. Applicant: VIRGIL MILLER, 4700 S. 5th St., Space 45, Pocatello, ID 83201. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343-3071. Transporting *general commodities* (except classes A and B explosives and used household goods), between points in the U.S., under continuing contract(s) with Colorado Farm Bureau, Consumer Corp., of Denver, CO, and Idaho Farm Bureau Service Cooperative, Inc., of Pocatello, ID.

MC 160486, filed February 8, 1982. Applicant: DON HOOK, P.O. Box 925, Syracuse, KS 67878. Representative: Eugene W. Hiatt, 207 Casson Bldg., 603 Topeka Blvd., (913) 232-7263. Transporting (1) *farm machinery,* (2) *irrigation pumps,* (3) *motors,* (4) *plastic pipe,* and (5) *sprinklers,* between points in the U.S., under continuing contract(s) with Golden Rule, Inc., L & N Pump, Inc.,

L & N Engines, Inc., and Teeter, Inc., all of Johnson, KS.

Volume No. OP4–57

Decided: February 5, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 5987 (Sub-62), filed February 5, 1982. Applicant: KULB TRUCKING, INC., 789 Rambler Rd., Warminster, PA 18794. Representative: Albert Kulb (same address as applicant), (215) 357–9188. Transporting *metal products*, between those points in the U.S. in and east of TX, AR, MO, IL, and WI.

MC 99746 (Sub-5), filed February 5, 1982. Applicant: JEFFERSON TRUCK LINE, INC., 777 Post Oak Blvd., Houston, TX 77024. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, (703) 893–3050. Transporting (1) *lumber and wood products*, (2) *metal products*, (3) *machinery*, and (4) *Mercer commodities*, (a) between points in TX, on the one hand, and, on the other, points in MS and OK, and (b) between points in LA and TX, on the one hand, and, on the other, points in AL and FL.

MC 110567 (Sub-29), filed February 8, 1982. Applicant: SOONER TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: Kenneth L. Kessler, P.O. Box 855, Des Moines, IA 50304, (515) 245–2725. Transporting *such commodities* as are distributed by food and grocery stores, between points in the U.S., under continuing contract(s) with Sunshine Food Markets, of Sioux Falls, SD.

MC 117797 (Sub-9), filed February 8, 1982. Applicant: R. D. LEWIS BANANA CO., INC., P.O. Box 387, Fowler, CO 81039. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, (817) 332–4718. Transporting *food and related products*, between points in Galveston County, TX and Harrision County, MS, on the one hand, and, on the other, points in AR, CO, IA, IL, IN, KS, KY, MN, MO, NE, ND, OH, OK, SD, TX, TN, and WI.

MC 119917 (Sub-72), filed February 8, 1982. Applicant: DUDLEY TRUCKING COMPANY, 724 Memorial Drive, S.E., Atlanta, GA 30316. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345 (404) 321–1765. Transporting *pulp, paper, printed matter and related products*, between Atlanta, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148377 (Sub-5), filed February 8, 1982. Applicant: R & W TRUCKING, INC., 3501 Farnham Dr., Newark, CA 94560. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. Transporting *chemicals and related products*, between points in the U.S., under continuing contract(s) with Borden Chemical, Division of Borden, Inc., of Bellevue, WA.

MC 149237 (Sub-5), filed February 8, 1982. Applicant: WATSON TRUCKING CO., 8412 Lou Court, Louisville, KY 40219. Representative: William L. Willis, 702 McClure Bldg., Frankfort, KY 40601, (502) 227–7384. Transporting *carpet*, between points in GA, on the one hand, and, on the other, points in IN, KY, and OH.

MC 151407 (Sub-3), filed February 8, 1982. Applicant: T & T TRUCKING, INC., 274 N.W. 37th St., Miami, FL 33127. Representative: Edwin M. Snyder, P.O. Box 45538, Dallas, TX 75245, (214) 358–3341. Transporting *recreational equipment*, between points in Dade County, FL, on the one hand, and, on the other, points in the U.S.

MC 159547, filed February 8, 1982. Applicant: PONTINO TRUCKING, 3rd & Merion Sts., P.O. Box 208, Bridgeport, PA 19405. Representative: Jerold S. Berschler, 522 Swede St., Norristown, PA 19401, (215) 279–4300. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with Theresa Friedman & Sons, Inc., of Philadelphia, PA.

MC 160477, filed February 8, 1982. Applicant: NANCY B. PHIPPS, Rt. 1, Box 426, Julian, NC 27283. Representative: Nancy B. Phipps (same address as applicant) (919) 697–1565. To operate as a *broker*, at Guilford County, NC, in arranging for the transportation of *passengers and their baggage*, between points in Guilford County, NC, on the one hand, and, on the other, points in the U.S., including HI.

MC 160487, filed February 9, 1982. Applicant: GOLDEN STATE TRAVEL, INC., 700 7th Ave., San Francisco, CA 94118. Representative: Marina Gerzhoy, 3625 Anza St., San Francisco, CA 94121, (415) 752–2852. To operate as a *broker*, at San Francisco, CA, in arranging for the transportation of *passengers and their baggage*, beginning and ending at San Francisco, CA, and extending to points in NV.

Volume No. OP4–40

Decided: January 29, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

Note.—This volume was previously published, mistakenly limiting the intervention of possible protestants. This republication properly reflects the pertinent grounds for intervention.

MC 42487 (sub-1057), filed January 25, 1982. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR, (503) 226–4692. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with K-Mart Corporation, of Troy, MI.

MC 63837 (Sub-10), filed January 25, 1982. Applicant: DIGGINS & ROSE, INC., 3 Sagamore Park Rd., Hudson, NH 03051. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, (413) 781–8205. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CT, ME, MA, NH, NJ, NY, RI, and VT.

MC 138157 (Sub-283), filed January 27, 1982. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 S. Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn (same address as applicant), (615) 756–7511. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 146447 (Sub-22), filed January 27, 1982. Applicant: TANBAC, INC., 2941 S.W. 1st. Terrace, Ft. Lauderdale, FL 33315. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 N.W. 53rd. St., Miami, FL 33166, (305) 592–0036. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with W. M. Industries, Inc., of Atlanta, GA.

MC 149507 (Sub-1), filed January 27, 1982. Applicant: STEVE'S GAS SUPPLY, INC., 46 River Rd., Essex Junction, VT 05452. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, (413) 781–8205. Transporting *petroleum, natural gas and their products*, between points in MA, NH, NJ, NY, PA, RI, and VT.

MC 155537, filed January 27, 1982. Applicant: MORAVY TRUCKING COMPANY, 1934 Commercial Dr., Mt. Pleasant, MI 48858. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933, (517) 482–2400. Transporting *(1) machinery, equipment, materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by products, and (2) earth drilling machinery and equipment and machinery, equipment, materials, supplies and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production storage and transmission of commodities resulting from drilling operations at well or hole site, (d) the injection or removal of commodities into or from holes or wells, and (e) the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including stringing and picking up thereof*, between points in MI, on the one hand, and, on the other, points in the U.S.

MC 158567, filed January 27, 1982. Applicant: SCHUMAN CARTAGE CO., 826 N. Harvard, Arlington Heights, IL 60004 Representative: Donald P. Schuman (same address as applicant), (312) 259–1693. Transporting *such commodities* as are dealt in or sold by building material and home furnishing suppliers, between points in the U.S., under continuing contract(s) with Plywood Minnesota, Inc., of Chicago, IL.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-4799 Filed 2-22-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested only on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional question) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP3–027

Decided: February 17, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 97394 (Sub-38), filed February 4, 1982. Applicant: BOWLING GREEN EXPRESS, INC., 4449 Orange Ave., Louisville, KY 40213. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. N.W., Washington, DC 20004, (202) 347–8862. Transporting *general commodities*, between Lexington, Luray, Beech Bluff, Ralston, Terrell, Malesus, Medon, Toone, Conger, Bolivar, Hickory Valley, Grand Junction, Kenwood, Hickory Point, Doddsville, Fox Bluff, Chapmansboro, Parkburg, Deanburg, Silerton, Hornsby, Serles, and Lacy, TN, Michigan City, Lamar, Hudsonville, Holly Springs, Waterford, Spraggins, Abbeville, McClary, College Hill, Oxford, Taylor, and Water Valley, MS, Deanefield, Whitesville, Philpot, Oak Ridge, Masonville, Thompsonville, and Edgoten, KY, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 160495, filed February 9, 1982. Applicant: DIETER GERD TIEDJE, d.b.a. VIRGINIA TRANSIT, 9438 Lafayette Ave., Manassas, VA 22110. Representative: Dieter Gerd Tiedje (same address as applicant), (703) 368–7697. Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OP4–51

Decided: February 12, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 153456, filed February 4, 1982. Applicant: FRANK A. KOSAR, d.b.a. RITE WAY TRUCK RENTAL, 2606 Cartwright, Dallas, TX 75212. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255–6279. Transporting, for on or behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 158286 (Sub-4), filed February 4, 1982. Applicant: M. T. TRUCK LINE, INC., 4947 W. 173rd St., Country Club Hills, IL 60477. Representative: James C. Hardman, 33 N. Lasalle St., Chicago, IL 60602, (312) 236–5944. Transporting *general commodities* (except classes A and B explosives), between Moosehart, IL, on the one hand, and, on the other, points in the U.S. Condition: Issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at specified points. The certification should be sent to the Deputy Director, Section of Operating

Rights, Interstate Commerce Commission, Washington, DC 20423.

Note.—The purpose of this application is to substitute motor common carrier for abandoned rail service.

MC 160426, filed February 5, 1982. Applicant: VAN SCODER TRUCK LINES, 2625 El Capitan Dr., Sanford, FL 32771. Representative: Richard Van Scoder (same address as applicant), (305) 323–1151. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160446, filed February 9, 1982. Applicant: HOWARD Mac WALLACE, d.b.a. Mac WALLACE, P.O. Box 69, Cerro Gordo, NC 28430. Representative: Howard Mac Wallace (same address as applicant), (919) 654–3693. Transporting (1) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, and (2) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP4–55

Decided: February 11, 1982.

By the Commission, Review Board No. 2. Members Carleton, Fisher, and Williams.

MC 160407, filed February 4, 1982. Applicant: NATALIE J. HUNTER, So. 421 Koren Rd., Spokane, WA 99206. Representative: Henry C. Winters, 12800 S.E. 38th St., Suite 200, Bellevue, WA 98006, (206) 644–2100. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160417, filed February 4, 1982. Applicant: INTERNATIONAL TRAFFIC CONSULTANTS OF CANADA, a division of 347372 ONTARIO LIMITED, 54 Bramsteele Rd., Unit 15, Brampton, Ontario, Canada L6W 3M6. Representative: Robert D. Gunderman, Can-Am Bldg., 101 Niagara St., Buffalo, NY 14202, (716) 854–5870. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP4–58

Decided: February 12, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 103997 (Sub-29), filed February 8, 1982. Applicant: CARRIER VAN SERVICE, INC., 3041 Paseo, Kansas City, MO 64109. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. Transporting, (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) *used household goods* for the account of the United States Government incidental to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

MC 160497, filed February 9, 1982. Applicant: ALL POINTS COURIER, INC., 225 Pittenger Place, Neptune, NJ 07753. Representative: Eduardo Pena, Jr., Solar Bldg., 1000 16th St., N.W., Suite LL50, Washington, DC 20036. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-4800 Filed 2-22-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 5, 1982.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 5, 1982.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washinton, D.C. this 9th day of February 1982.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
General Motors Corp., Chevrolet Motor Div., Central Office (company).	Warren, MI	1/21/82	1/18/82	TA-W-13,220	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone and Regional Off. (company).	Atlanta, GA	1/21/82	1/18/82	TA-W-13,221	Sales and administrative support.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
General Motors Corp., Chevrolet Motor Div., Zone and Regional Off. (company).	Tarrytown, NY	1/21/82	1/18/82	TA-W-13,222	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Off. (company).	Cincinnati, OH	1/21/82	1/18/82	TA-W-13,223	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone and Regional Off. (company).	Irving, TX	1/21/82	1/18/82	TA-W-13,224	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone and Regional Off. (company).	Fremont, CA	1/21/82	1/18/82	TA-W-13,225	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone and Regional Off. (company).	Oakbrook, IL	1/21/82	1/18/82	TA-W-13,226	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone and Sales Off. (company).	Homewood, AL	1/21/82	1/18/82	TA-W-13,227	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Tempe, AZ	1/21/82	1/18/82	TA-W-13,228	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sale Office (company).	Santa Monica, CA	1/21/82	1/18/82	TA-W-13,229	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	San Diego, CA	1/21/82	1/18/82	TA-W-13,230	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Denver, CO	1/21/82	1/18/82	TA-W-13,231	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Indianapolis, IN	1/21/82	1/18/82	TA-W-13,232	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Overland Park, KS	1/21/82	1/18/82	TA-W-13,233	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Louisville, KY	1/21/82	1/18/82	TA-W-13,234	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Metairie, LA	1/21/82	1/18/82	TA-W-13,235	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Westwood, MA	1/21/82	1/18/82	TA-W-13,236	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Southfield, MI	1/21/82	1/18/82	TA-W-13,237	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Grand Blanc, MI	1/21/82	1/18/82	TA-W-13,238	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Edina, MN	1/21/82	1/18/82	TA-W-13,239	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Maryland Heights, MO	1/21/82	1/18/82	TA-W-13,240	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Omaha, NE	1/21/82	1/18/82	TA-W-13,241	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Parsippany, NJ	1/21/82	1/18/82	TA-W-13,242	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Bethage, Long Island, NY	1/21/82	1/18/82	TA-W-13,243	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Syracuse, NY	1/21/82	1/18/82	TA-W-13,244	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Charlotte, NC	1/21/82	1/18/82	TA-W-13,245	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Fargo, ND	1/21/82	1/18/82	TA-W-13,246	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Parma, OH	1/21/82	1/18/82	TA-W-13,247	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Wayne, PA	1/21/82	1/18/82	TA-W-13,248	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Memphis, TN	1/21/82	1/18/82	TA-W-13,249	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Houston, TX	1/21/82	1/18/82	TA-W-13,250	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Salt Lake City, UT	1/21/82	1/18/82	TA-W-13,251	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Charleston, WV	1/21/82	1/18/82	TA-W-13,252	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Brookfield, WI	1/21/82	1/18/82	TA-W-13,253	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Jacksonville, FL	1/21/82	1/18/82	TA-W-13,254	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Zone Sales Office (company).	Sandston, VA	1/21/82	1/18/82	TA-W-13,255	Sales and administrative support.
A. Green Forest Products, Inc. (workers)	Glide, OR	1/13/82	1/5/82	TA-W-13,256	Timber—Cut, haul. Chips—wood.
Al Tech Specialty Steel Corp. (USWA)	Dunkirk, NY	2/2/82	1/28/82	TA-W-13,257	Rods, wire, bars, squares, hex and rounds—steel stainless specialty.
AMPCO—Pittsburgh Corp., Wyckoff Steel Div. (USWA).	Ambridge, PA	2/8/82	2/5/82	TA-W-13,258	Bars, rounds, flats—steel drawn, cold.
Auto Specialties Manufacturing Co., Castings Div. (workers).	Riverside, MI	1/25/82	1/15/82	TA-W-13,259	Castings—iron.
Auto Specialties Manufacturing Co., Castings Div. (workers).	Edgewater, MI	1/25/82	1/15/82	TA-W-13,260	Castings—iron. Jacks—hydraulic and hand.
Delra Sportswear (ILGWU)	Newark, NJ	1/29/82	1/25/82	TA-W-13,261	Raincoats—ladies.
(The Georgetown Steel Corp. (workers)	Georgetown, SC	2/8/82	2/2/82	TA-W-13,262	Bars, steel wire, rod—reinforcement.
Imperial-Clevite Corp., Engine Parts Div. (USWA)	Bridgeport, OH	1/12/82	1/8/82	TA-W-13,263	Rods and engine bearings.
MCA Knitts, Inc (workers)	Williamsport, PA	1/19/82	1/15/82	TA-W-13,264	Fabrics—knitted.
Northern Electric Co. (workers)	Snyder, TX	2/3/82	1/25/82	TA-W-13,265	Blankets, electric.
S.F.I. Holding Co., Inc. (ILGWU)	Newark, NJ	1/29/82	1/25/82	TA-W-13,266	Raincoats—ladies.
RCA Corp., Picture Tube Div. (IBEW)	Marion IN	2/1/82	1/26/82	TA-W-13,267	Tubes—picture, television.
U.S. Steel Corp. (workers)	Pittsburgh, PA	2/8/82	2/8/82	TA-W-13,268	Sheets, pipe, strip, bars, plate—steel.

[FR Doc. 82-4643 Filed 2-22-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-11,892]

Imperial Glass Corp., Bellaire, Ohio; Affirmative Determination Regarding Application for Reconsideration

On November 21, 1981, the Department issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance for workers at the Bellaire, Ohio plant of the Imperial Glass Corporation. The certification was published in the Federal Register on December 1, 1981 (46 FR 58383).

The union's application for reconsideration of the December 1, 1980 impact date set in the certification notes that the Department's analysis of Bellaire's 1980 production data was misleading since it included "catch-up" production resulting from a 1979 strike. The union also notes that 1980 layoffs at Bellaire were more than four-times higher than in 1979. The company claims that the Department's survey was not adequate since it did not adequately represent the losses of Bellaire's stemware customers in 1980 to foreign competitors.

Conclusion

After review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 12th day of February 1982.

Robert S. Kenyon,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 82-4838 Filed 2-22-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-11,810]

Jacoby-Bender, Inc., Woodside, N.Y.; Affirmative Determination Regarding Application for Reconsideration

On December 16, 1981 the Department issued a Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers Jacoby-Bender, Inc., Woodside, New York. The denial was published in the Federal Register on December 29, 1981 (46 FR 62972).

The company in its application for reconsideration indicates that significant employment declines occurred at their Woodside, New York plant prior to the Department's denial. The Department's denial was predicated on the fact that the significant employment decrease criterion of Section 222 of the Act was not met.

Conclusion

After review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 11th day of February 1982.

Robert S. Kenyon,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 82-4839 Filed 2-22-82; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-81-64-M]

Energy Fuels Nuclear, Inc., Petition for Modification of Application of Mandatory Safety Standard

Energy Fuels Nuclear, Inc., Three Park Central, Suite 900, 1515 Arapahoe Street, Denver, Colorado 80202 has filed a petition to modify the application of 30 CFR 57.11-50 (escapeways; requirements) to its Hack Canyon No. 2 Mine located in Mohave County, Arizona. The petition is filed under Section 101(c) of the Federal Mine safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that every mine have two or more separate properly maintained escapeways to the surface from the lowest level.

2. The mine is non-gassy with damp to wet conditions. Combustibles such as fuels and solvents are not stored underground. The substance mined is non-combustible. All diesel equipment used underground is equipped with built-in fire suppression equipment in accordance with Arizona state mining codes. Timber used in the raises is basically saturated with water and rendered non-combustible. There has never been a fire in the mine or an incident involving fire at the mine.

3. The mine development plan, as dictated by size, shape and location of the ore body, and the relationship of this ore body to the geology, geography and topography of the existing mine site, does not permit establishing a secondary escapeway within the framework of sound engineering practices.

4. As an alternative method, petitioner states that the existing developmental drifts, raises, bore holes, stope and a refuge chamber provide ample protection, means of escape, and means of access to and from all major development areas of the mine.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 25, 1982. Copies of the petition are available for inspection at that address.

Dated: February 11, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-4840 Filed 2-22-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-73-M]

Homestake Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Homestake Mining Company, P.O. Box 875, Lead, South Dakota 57754 has filed a petition to modify the application of 30 CFR 57.11-59 (hoist operator protection) to its Homestake Mine located in Lawrence County, South Dakota. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that for the protection of operators of hoist located underground which are part of the mine escape and evacuation plan required by 30 CFR 57.11-50, the hoist operator will be provided with a respirable atmosphere completely independent of the mine atmosphere.

2. Petitioner seeks a modification of the standard to allow the continued use of self-contained breathing apparatus presently installed at three underground hoists. Specifically, the present units that are installed at each of the man hoists consist of ten compressed air bottles piped in tandem with each bottle having a shut-off valve. The shut-off valves are used to minimize leakage from the bottles. The air line from the bottles is equipped with an Audi-Larin Signal which warns the hoist operator when the air in the bottle is getting low so that a switch can be made to the next bottle. Following the Audi-Larin Signal, a pressure guage and regulator are installed so that standard pressure can be maintained. The air then passes from the regulator to a manifold which is equipped with two outlets. From the manifold the air is carried by a hose to a demand-type regulator. At this point the demand regulator is coupled directly to a McCaa mine rescue face piece by using a quick disconnect unit. A McCaa 2-hour breathing apparatus unit is also equipped with a quick disconnect so that the hoist operator can disconnect from air tanks and connect to the McCaa unit when he or she must leave the hoist room. All units used in the assembly are standard MSA equipment. The McCaa unit has chosen as the escape equipment because of its availability on the property. The two-hour Draeger unit could also be used. Because of the long travel distance from the No. 4 Shaft and the No. 7 Shaft, a 30-minute escape unit is not adequate.

3. Each hoist operator receives 16 hours of initial training on this equipment and then receives supplemental yearly training of 12 hours. The equipment is checked monthly.

4. In case of an emergency there would be two people in the hoist room equipped with the units. Mine rescue teams have been instructed to visit the hoist rooms and if only one person is present, a mine rescue member will stay with the operator.

5. Petitioner states that the proposal outlined above will provide the same measure of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 25, 1982. Copies of the petition are available for inspection at that address.

Dated: February 11, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-4841 Filed 2-22-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-173-C]

K. and D. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

K. and D. Coal Company, R.D. #1, Herndon, Pennsylvania 17830 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity, and velocity) to its No. 1 Slope located in Northumberland County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Air sample analysis history reveals that harmful quantities of methane are non-existent in the mine.

2. Ignition, explosion and mine fire history are nonexistent for the mine.

3. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

4. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

5. Extremely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

6. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines.

7. As a alternative method, petitioner proposes that:

a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

b. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

9. Petitioner states that the alternative method proposed will at all times provide the same measure of protection for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 25, 1982. Copies of the petition are available for inspection at that address.

Dated: February 11, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-4842 Filed 2-22-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-246-C]

Sewell Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Sewell Coal Company, Route 3, Box 125, Nettie, West Virginia 26681 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops and permanent pumps) to its Sewell No. 1 Mine located in Nicholas County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. Petitioner has a GE Rectifier house located at 2 Main South and a transformer house located at 2 Main South Belt Head.

Both are ventilated directly by intake air. Only a very small portion of the air passing through the entries where the equipment is located would reach any working areas.

3. As an alternative method, petitioner proposes to ventilate the aforementioned equipment as stated above rather than cause the air to be directly coursed into the return airway. In support of this proposed alternative, petitioner will protect the rectifier and transformer with automatic heat sensors which will activate a twenty pound dry-type chemical fire suppression device located in a fire-proof structure.

4. In addition, the following safeguards will be employed:

a. The motor will be provided with overload and shortcircuit protection as required in safety standard 30 CFR 75.516;

b. A metal door will be provided for the enclosure hinged on the top and a chain or similar linkage connected to a

thermal heat link located over unit that would automatically close the door in the event of a fire;

c. A switch will be provided and interconnected into the electrical system so when the metal door closed the power circuit would be de-energized at the beginning of the branch circuit; and

d. Fire fighting equipment required by safety standard 30 CFR 75.1100–2(e) will be provided.

6. Petitioner states that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners as that provided by the standard.

Request for Commments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 25, 1982. Copies of the petition are available for inspection at that address.

Dated: February 12, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-4843 Filed 2-22-82; 8:45 am]

BILLING CODE 4510-43-M

MERIT SYSTEMS PROTECTION BOARD

Air Traffic Controllers Appeals

AGENCY: Merit Systems Protection Board.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Merit Systems Protection Board intends to complete action on approximately 11,000 appeals from air traffic controllers no later than September 1, 1982. Because of the large number of such appeals, the processing time already spent acting upon the motion by a large number of appellants to consolidate these appeals at the national level, and the dramatic increase in the Board's overall appeals workload, the Board has been unable to decide these cases within its established 120-day time limit. This notice constitutes the public announcement of a new completion date required by 5 U.S.C. 7701(i)(1).

DATES: New completion date: September 1, 1982.

FOR FURTHER INFORMATION CONTACT: William C. Jenkins, (202) 653–7980.

Dated: February 12, 1982.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 82-4773 Filed 2-22-82; 8:45 am]

BILLING CODE 7400-01-M

Publication of Decisions

AGENCY: Merit Systems Protection Board.

ACTION: Notice of publication of decisions.

SUMMARY: The Merit Systems Protection Board announces the publication of Volumes 3 and 4, Decisions of the United States Merit Systems Protection Board; a multi-part index is included in each volume. The volumes are available through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; Stock No. 082–000–00009–1; price: $24.00.

FOR FURTHER INFORMATION CONTACT: Ada R. Kimsey, Chief, Editorial Services Branch, Legal Publications Division, Office of the Secretary, Suite 1404, 5205 Leesburg Pike, Falls Chruch, VA 22041, 703–756–6388.

SUPPLEMENTARY INFORMATION: The volumes are the second in the series of Board decisions publications, and cover the period July 23, 1980 through December 31, 1980. Included are Board final actions taken under the appellate and original jurisdiction conferred by the Civil Service Reform Act of 1978, and precedential interlocutory actions. Volumes 1 and 2 and index volume (January 11, 1979–July 22, 1980) are available from the Superintendent of Documents, as well: $30 for the set; Stock No. 082–000–00002–3. The Board also publishes the monthly Digest which contains summaries and listings of current decisions grouped under subject headings. It may be ordered from the Superintendent of Documents at $14 per year (17.50 outside the United States), or $2 per issue ($2.50 outside the United States). Federal agencies may order by sending a purchase order to the Superintendent of Documents, U.S. Government Printing Office. Microfiche and indexes of initial decisions are available on subscription from National Technical Information Service at $150 per year.

Dated: February 12, 1982.
Merit Systems Protection Board.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 82-4774 Filed 2-22-82; 8:45 am]

BILLING CODE 7400-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (82-11)]

NASA Advisory Council (NAC), Life Sciences Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Life Sciences Advisory Committee.

DATE AND TIME: March 19–20, 1982, 8:30 a.m. to 4:30 p.m. each day.

ADDRESS: National Aeronautics and Space Administration, Ames Research Center, Bldg. N–200, Committee Room, Moffett Field, CA 94035.

FOR FURTHER INFORMATION CONTACT: Dr. Donald L. DeVincenzi, Code EBT–3, National Aeronautics and Space Administration, Washington, DC 20546 (202/755–3732).

SUPPLEMENTARY INFORMATION: The Life Sciences Advisory Committee consults with and advises the Council and NASA on the accomplishments and plans of NASA's Life Sciences Programs. The Committee, chaired by Peter Dews, is comprised of 12 members. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including Committee members and participants).

Type of meeting: Open.

Agenda

March 19, 1982

8:30 a.m.—Introductory Remarks
9:00 a.m.—Review Biomedical Research Program
3:00 p.m.—Discussion

March 20, 1982

8:30 a.m.—Review Exobiology Program
3:00 p.m.—Discussion

Robert F. Allnutt,

Acting Associate Administrator for External Relations.

February 17, 1982.

[FR Doc. 82-4781 Filed 2-22-82; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, DC 20506:

Date: March 22–23, 1982.
Time: 9:00 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted for the Youth Projects Program, Division of Special Programs, for projects beginning after July 1, 1982

Date: March 25–26, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted for the Youth Projects Program, Division of Special Programs, for projects beginning after July 1, 1982.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose:

(1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(2) Information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(3) Information the disclosure of which would significantly frustrate implementation of proposed agency action;

Pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506, or call (202) 724–0367.

Stephen J. McCleary

Advisory Committee Management Officer.

[FR Doc. 82-4786 Filed 2-22-82; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–454 and STN 50–455]

Availability of Safety Evaluation Report for the Byron Station, Units 1 and 2

The Office of Nuclear Reactor Regulation has published its Safety Evaluation Report related to the proposed operation of the Byron Station, Units 1 and 2, located near the Rock River in Rockvale Township, Ogle County, Illinois, about three miles south of Byron and 17 miles southwest of Rockford, Illinois. Notice of receipt of Commonwealth Edison Company's application for a facility operating license for the Byron Station, Units 1 and 2 was published in the **Federal Register** on December 15, 1978 (43 FR 58659).

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Rockford Public Library, 215 North Wyman Street, Rockford Illinois 61103 for inspection and copying. The report (Document No. NUREG–0876) can also be purchased at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. The report may be purchased directly from NRC by writing Director, Division of Technical Information and Document Control, U.S. NRC, Washington, D.C. 20555. GPO Deposit Account holders may charge their orders by calling (301) 492–9530.

Dated at Bethesda, Maryland, this 17th day of February 1982.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 82-4832 Filed 2-22-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–358–OL]

Cincinnati Gas & Electric Co., et al. (Zimmer Nuclear Power Station, Unit 1); Notice of Hearing Location

February 17, 1982.

Pursuant to an Amended Notice of Hearing of January 18, 1982, the reconvened evidentiary hearings in this matter will continue at the Westin Hotel, Fountain Square, Cincinnati, Ohio 45202, March 1 through March 5, 1982, commencing at 9:00 a.m. The precise location in the Westin Hotel will be posted in the Hotel lobby. The Board intends to complete the evidentiary hearing on emergency planning and monitoring at this session.

For the Atomic Safety and Licensing Board.

Bethesda, Maryland, February 17, 1982.

John H. Frye, III,

Chairman, Administrative Judge.

[FR Doc. 82-4835 Filed 2-22-82; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50–277 and 50–278]

Philadelphia Electric Co., et al.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 83 and 82 to Facility Operating Licenses Nos. DPR–44 and DPR–56, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications (TSs) for operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3 (the facility) located in York County, Pennsylvania. The amendments are effective as of the date of issuance.

These amendments make administrative changes to the TSs which correct the Low-Low water level designation on Table 3.2.B; correct responsibilities of the Plant Operations Review Committee; and modify the startup report description.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated October 1, 1981, (2) Amendment No. 83 to License No. DPR–44 and Amendment No. 82 to License

No. DPR-56 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 9th day of February 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-4833 Filed 2-22-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-286]

Power Authority of the State of New York; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 42 to Facility Operating License No. DPR-64, issued to the Power Authority of the State of New York (the licensee), which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 3 (the facility) located in Buchanan, Westchester County, New York. The amendment is effective as of the date of issuance.

The amendment revises the provisions in the Technical Specifications to allow the reorganization of the Indian Point Unit No. 3 Safety Review Committee.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 6, 1982, (2) Amendment No. 42 to License No. DPR-64, and (3) the Commission's letter to the licensee dated February 17, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 17th day of February, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-4834 Filed 2-22-82; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

American Airlines, Inc.; Application and Opportunity for Hearing

February 16, 1982.

Notice is hereby given that American Airlines, Inc. (the "Applicant") has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the proposed successor trusteeship of J. Henry Schroder Bank & Trust Company ("Schroder") under an indenture of the Trustees of the Tulsa Municipal Airport Trust, which is qualified under the Act and under which the Applicant is also an obligor, and the trusteeship of Schroder under an indenture of the Applicant which is not qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Schroder from acting as successor trustee under the Trustees of the Tulsa Municipal Airport Trust Indenture.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall, within 90 days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, that with certain exceptions, a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of Subsection (1), there shall be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicant alleges that:

1. The Applicant had outstanding as of December 1, 1981 $89,818,683.28 of its 10¼% Equipment Trust Certificates Due 1998 (the "Certificates") issued under an Equipment Trust Agreement dated as of September 2, 1979 (the "Equipment Trust Indenture"), between the Applicant and Schroder. The Equipment Trust Indenture was not required to be and was not qualified under the Act. The Certificates were not required to be and were not registered under the Securities Act of 1933.

2. The Trustees of the Tulsa Municipal Airport Trust, an agency of the State of Oklahoma and a regularly constituted authority of the City of Tulsa had outstanding as of December 1, 1981 (a) $1,795,000 of its Trustees of the Tulsa Municipal Airport Trust, Revenue Bonds, Series 1963 (the "Series 1963 Bonds"), issued under a bond indenture dated May 1, 1963 (the "1963 Indenture") (b) $10,530,000 of its Trustees of the Tulsa Municipal Airport Trust, Revenue Bonds, Series 1969 (the "Series 1969 Bonds") issued under a first supplemental bond indenture dated as of December 1, 1969 (the "First Supplemental Indenture") and (c) $24,775,000 of its Trustees of the Tulsa principal Airport Trust, Revenue Bonds, Series 1971 (the "Series 1971 Bonds"), issued a second supplemental bond indenture dated as of June 1, 1971 (the "Second Supplemental Indenture") (collectively, the "Tulsa Bonds" and the "Tulsa Indenture"). Morgan Guaranty Trust Company of New York is the indenture trustee under the Tulsa Indenture. The 1963 Indenture and the First Supplemental Indenture were qualified under the Act. The Second Supplemental Indenture was not required to be and was not qualified under the Act. The Series 1969 Bonds were registered under the Securities Act of 1933. The Series 1963 Bonds and Series 1971 Bonds were not required to be and were not registered under the Securities Act of 1933. The Tulsa Indenture contains the provisions required by Section 310(b)(1) of the Act.

3. The Applicant desires to have Schroder appointed to act as successor trustee under the Tulsa Indenture.

4. The Applicant is not the issuer of the Tulsa Bonds. However, section 8.16 of the Tulsa Indenture defines the term "obligor" to include the Applicant for purposes of determining whether or not the trustee has a conflicting interest under the Tulsa Indenture.

Thus, the Equipment Trust Indenture may, for the purposes of section 310(b) of the Act and section 8.16 of the Tulsa Indenture be "another indenture under which any other securities or certificates of interest or participation in any other securities of an Obligor [*i.e.*, the Applicant] * * * are outstanding * * * " with the result that there could be a conflicting interest if the same institution were to serve as trustee under the Equipment Trust Indenture and the Tulsa Indenture.

5. Neither the Applicant nor the Trustees of the Tusla Municipal Airport Trust are in default under the Tulsa Indenture and the Applicant is not in default under the Equipment Trust Indenture.

6. The Applicant's obligations with respect to the Certificates and the Tulsa Bonds rank *pari passu inter se;* neither obligation is surbordinate to the other. Both the Certificates and the Tulsa Bonds are separately secured obligations of the Applicant.

7. The only material differences between the Tulsa Indenture and the Equipment Trust Indenture, and among the rights of the holders of the securities issued thereunder, relate to dates of issue, aggregate principal amounts, interest rates, maturity and payment dates, redemption features (prices, dates and procedures), sinking fund provisions, issuance of additional securities, procedures and approvals for action by certificate and bond holders, grace periods relating to events of default, events of default, and certain covenants and provisions relating to merger and consolidation of the Applicant, taxation and insurance. In addition, there are differences between the two Indentures related to the fact that the Applicant is not the primary obligator under the Tulsa Indenture.

8. In the opinion of the Applicant, the provisions of the aforementioned indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Schroder from acting as successor trustee under the Tulsa Indenture.

The Applicant has waived notice of hearing, any right to a hearing on the issues raised by the application, and all rights to specify procedures under the Rules of Practice of the Commission with respect to its application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than March 15, 1982, submit to the Commission his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such requests, and the issues of fact and law raised by the application which he desires to controvert. Persons who request the hearing or advice as to whether the hearing is ordered will receive all notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after such date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-4854 Filed 2-22-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 18493; SR-Amex-82-2; SR-CBOE-82-2; PSE-82-1; Phlx-82-1]

American Stock Exchange, Inc., et al.; Filing of Proposed Rule Change and Order Approving Proposed Rule Change

February 17, 1982.

In the Matter of American Stock Exchange, Inc., 86 Trinity Place, New York, New York 10006; Chicago Board Options Exchange, Incorporated, LaSalle at Jackson, Chicago, Illinois 60604; Pacific Stock Exchange, Incorporated, 618 South Spring Street, Los Angeles, CA 90014, and Philadelphia Stock Exchange, Inc., 1900 Market Street, Philadelphia, Pennsylvania 19103.

The American Stock Exchange, Inc. ("Amex"),[1] the Chicago Board Options Exchange, Incorporated ("CBOE"),[2] The Pacific Stock Exchange, Incorporated ("PSE"),[3] and the Philadelphia Stock Exchange, Inc. ("Phlx")[4] have filed with the Commission pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b-4 thereunder, proposed rule changes to increase by 10 the number of authorized put and call classes which each exchange is permitted to list.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, DC 20549.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes which are filed with the Commission, and of all written communications relating to the proposed rule changes between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, DC.

The Commisssion finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of Section 6, and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of notice of filing thereof, in that the rule changes relate solely to the ability of the options exchanges to list additional options classes. Approval of the rule changes before the full notice period will facilitate the availability to the investing public of an increased number of trading opportunities by enabling the options exchanges to conduct allocation procedures for the selection of new options classes as soon as possible.[5]

[1] File No. SR-Amex-82-2.

[2] File No. SR-CBOE-82-2.

[3] File No. SR-PSE-82-1.

[4] File No. SR-Phlx-82-1.

[5] In this regard, the Commission recently approved proposed rule changes by the four options

Continued

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-4650 Filed 2-22-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 22391; 70-6669]

Connecticut Light and Power Co., et al.; Proposal To Merge Utility Subsidiaries

February 17, 1982.

The Connecticut Light and Power Company ("CL&P") and The Hartford Electric Light Company ("HELCO") (collectively, the "Companies"), utility subsidiaries of Northeast Utilities ("NU"), a registered holding company, and The Connecticut Gas Company ("Gas Company"), Seldon Street, Berlin, Connecticut 06037, a wholly-owned subsidiary of CL&P, have filed an application-declaration with this Commission pursuant to sections 6(a), (7), 9(a), 10, 11(a), and 12(e) of the Public Utility Holding Company Act of 1935 ("Act"), and Rules 50(a)(5), 62 and 65 promulgated thereunder, seeking authorization for the merger of HELCO into CL&P and for the acquisition by CL&P of all the assets and liabilities of Gas Company.

CL&P and HELCO, Connecticut corporations and the two largest subsidiaries of NU, are engaged in the generation and purchase of electric energy and its transmission, sale and distribution within Connecticut. They are also engaged in the purchase and retail distribution of natural gas in various areas of the State. The electric transmission systems of the Companies are already integrated and interconnected as part of the NU system, and in many areas their service territories are contiguous. In addition, CL&P and HELCO obtain centralized accounting, administrative, data processing, engineering, financial, legal, operations, planning, purchasing and other services from Northeast Utilities Service Company ("NUSCO"), another wholly-owned subsidiary of NU. As a result of these interconnections and centralized services, their operations are already largely consolidated.

The proposed merger would result in a simplification of the NU holding company system in furtherance of the goals set forth in Section 11 of the Act. The merger also represents the logical next step in the NU system's continuing program to optimize efficiency of operation and unify its corporate structure. CL&P and HELCO operate in service areas located throughout Connecticut which have artificial boundaries. The companies also have different rates despite the similarity of their operations. The Companies state that these factors have tended to create public confusion and misunderstanding about the Companies. The Connecticut Department of Public Utility Control (the "DPUC") has directed the Companies to equalize their rates as soon as possible. The Companies further state that the proposed merger would help to eliminate public confusion about the Companies, and would also be the simplest and most straight-forward method of achieving rate equalization.

The Companies believe that there are additional benefits of the merger. The merger would be beneficial in eliminating the expense and duplication of effort which is presently involved in meeting the reporting and filing requirements of various governmental entities. It would result in the consolidation of tax returns and periodic reports to various governmental entities, would permit the filing of a single application with the DPUC in retail rate proceedings, would eliminate the documentation that is required to support inter-company transactions, would eliminate separate corporate books and would permit the consolidation of the financing activities of the two companies. In addition, the merger would permit HELCO to utilize the CL&P indenture for future bond issues, thus providing greater financing flexibility by not having to meet the pre-tax earnings coverage test in HELCO's existing mortgage indenture. While the elimination of these redundancies will result in some savings (estimated future savings to be at least $100,000 annually), the savings from the merger would undoubtedly be much larger were it not for the fact that CL&P's and HELCO's operations have already been consolidated to a large degree.

The Boards of Directors of the Companies have approved, and authorized the execution of a merger agreement ("Merger Agreement"). The plan of merger provides for the merger of HELCO into CL&P, the surviving corporation. Under Connecticut law, CL&P would succeed to all of HELCO's assets, privileges, immunities and franchises, and would assume and be subject to all of HELCO's liabilities, obligations and judgments. All the common stock of both Companies is held by NU and on July 28, 1981, the NU Board of Trustees approved the merger. CL&P and HELCO each have outstanding preferred stock consisting of one class having various series. The approval of holders of at least two-thirds of the outstanding HELCO preferred shares (all series voting as a class) and the approval of holders of at least two-thirds of the outstanding CL&P preferred shares (all series voting as a class) would be required.

Upon merger of the Companies, each share of HELCO common stock, $12.50 par value, all of which is already owned by NU, will automatically and without any further action be converted into one share of CL&P common stock, $10.00 par value. The outstanding CL&P preferred stock will remain outstanding as preferred stock of the merged entity, without change. CL&P's authorized class of preferred stock will be increased from 6,000,000 shares to 9,000,000 shares to permit the conversion of the shares of each series of HELCO preferred stock, on a one-for-one basis, into shares of new comparable series of CL&P preferred stock. Each such new series of CL&P preferred stock will have the same dividend rate, sinking fund and other terms and conditions as the HELCO series that it replaced. The general terms and provisions of the preferred stock of the merged entity will be substantially similar to CL&P's existing preferred stock provisions which are substantially identical to those of HELCO. Preferred shareholders of HELCO who object to the merger and who comply with the applicable procedural requirements imposed by Connecticut law will be entitled to appraisal rights. The Merger Agreement provides, however, that the merger will not be consummated and the Merger Agreement will be terminated if holders of more than 10% of the outstanding HELCO preferred stock exercise their appraisal rights.

Both CL&P and HELCO have outstanding mortgage bonds and pollution control notes. The CL&P bonds and pollution control notes will remain outstanding after the merger, without change. The CL&P Indenture of Mortgage and Deed of Trust dated as of may 1, 1921, as amended ("CL&P Indenture"), which secures the CL&P bonds, will be supplemented to spread the lien of the CL&P Indenture to all property of the surviving company. the lien of the CL&P Indenture, however, would be a second lien on the former HELCO property and "additions" to such property. This Supplemental Indenture and a Supplemental Indenture to HELCO's First Mortgage Indenture and Deed of Trust dated as of January 1, 1958, as amended, ("HELCO Indenture") providing for the assumption by CL&P of HELCO's obligations thereunder will be executed concurrently with the effectiveness of the merger. The lien of the HELCO Indenture, which secures the HELCO bonds, would continue to be a first lien on the former HELCO property and "additions" to such property. Immediately prior to the time that the merger becomes effective, HELCO will executer a Supplemental Indenture to the HELCO Indenture which will subject to the lien of the HELCO Indenture certain portions of the HELCO property which have heretofore been excluded from the lien, and exclude issues of additional bonds from the lien of the HELCO Indenture. Future bonds to be issued by the surviving company will be issued under the CL&P Indenture as amended from time to time. To preserve the benefit of the low interest rates applicable to many series of outstanding HELCO bonds and to the pollution control notes, CL&P, as the surviving entity, will assume the obligation to pay these securities instead of exchanging them for comparable securities of CL&P or attempting to redeem them. CL&P will also assume HELCO's obligations under various lease agreements and all other HELCO financing arrangements.

The Indentures of CL&P and HELCO contain various similar restrictions on the payment of common stock dividends which were implemented in accordance with the Commission's Statement of Policy with respect to First Mortgage Bonds. The Indenture provisions generally state that so long as a particular series of bonds is outstanding, the aggregate amount which may be declared, paid or otherwise applied by the company after a given date as a dividend or other distribution on its common stock (other than by way of a stock dividend or a distribution equal to the amount of cash received in a capital contribution or from the sale of common stock) or to pruchase or acquire its common stock, may not exceed earned surplus accumulated after said date (after deducting accured preferred stock dividends), plus a specified dollar amount (generally intended to represent approximately one year's future common and preferred stock dividend), plus further amount as may be authorized by the Commission. In light of the merger, the specified dollar amount of certain of these provisions will not be adequate to permit the merged company to have approximately one year's dividends free from the restriction. Thus, as permitted by the provisions of the HELCO and CL&P Indentures, the Companies expect to request the Commission to approve appropriate additional amounts under certain of these restrictions whch may be applied to the payment of dividends by the resulting company. Such request will be filed as an amendment to this application.

Contemporaneously with, or at some time prior to consummation of the merger, CL&P proposes to acquire all assets and liabilities of Gas Company with such assets being acquired in exchange for the satisfaction of all outstanding debt of Gas Company owed to CL&P and the assumption of Gas Company's liabilities. After the transaction all assets and liabilities (other than debt to CL&P which will be cancelled) of Gas company will be assets and liabilities of CL&P, with Gas Company remaining as a wholly-owned inactive subsidiary of CL&P. Gas Company's operations involve the procurement, purchase and transportation of gas for resale to CL&P and HELCO in connection with their retail gas distribution operations. Gas Company's assets primarily consist of certain contracts and contract rights relating to its activities and approximately eight miles of gas transmission lines and fifty-three miles of gas distribution lines. Its liabilities relate primarily to its obligations under the aforesaid gas contracts.

It will be necessary to schedule the consummation of the merger for a time when it will be possible to satisfy the earnings coverage test applicable to mergers contained in the HELCO Indenture. This provision would prevent HELCO from merging with CL&P unless the net earnings from CL&P's property (computed on an after-tax basis in the manner prescribed in the HELCO Indenture), during a period lof 12 consecutive months within the 15 months preceding the effective date of the merger, were at least twice the annual interest charges on all outstanding CL&P first mortgage bonds. Assuming that CL&P can meet this requirement and that all other conditions in the Merger Agreement can be satisfied, it is presently expected that the effective date of the merger will be June 30, 1982.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. interested persons wishing to comment on or request a hearing should submit their views in writing by March 12, 1982, to the Secretary, securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request.

Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-4655 Filed 2-22-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 12230; 812-5016]

Kemper Government Money Market Fund, Inc., and Kemper Financial Services, Inc.; Filing of Application

February 17, 1982.

Notice is further given that Kemper Government Money Market Fund, Inc. ("Fund"), 120 South LaSalle Street, Chicago, Illinois 60603, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, and Kemper Financial Services, Inc. ("KFS"), 120 South LaSalle Street, Chicago, Illinois 60603, the investment manager and principal underwriter for the Fund (the Fund and KFS are hereinafter collectively referred to as the "Applicants"), filed an application on November 18, 1981, and an amendment thereto on January 27, 1982, requesting an order of the Commission, pursuant to section 6(c) of the Act, exempting the fund from the provisions of section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit the Fund to compute its net asset value per share using the amortized cost method of valuing portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicants represent that the Fund is a "money market" fund, the investment objective of which is to maximize current income to the extent consistent with stability of capital. The Fund invests exclusively in United States

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exchanges to modify the allocation plan that the exchanges use to allocate options on eligible stocks. *See* Securities Exchange Act Release No. 18464 (February 2, 1982).

Government obligations and repurchase agreements of such obligations which mature in twelve months or less.

As here pertinent, section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair market value as determined in good faith by the board of directors of the investment company. Prior to the filing of the application, the Commission expressed its view that, among other things, (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants request an exemption from section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to permit the Fund to use the amortized cost method of valuing portfolio securities. Applicants represent that the board of directors of the Fund has determined that, in the absence of unusual circumstances, amortized cost value would represent the fair value of its portfolio securities. It is represented that the Fund's board of directors also believe that the proposal would benefit its shareholders by assuring them the convenience of a stable price of $1.00 for each of their shares, together with protection against dilution and Fund's board of directors also believe that the proposal would benefit its shareholders by assuring them the convenience of a stable price of $1.00 for each of their shares, together with protection against dilution and excessive risk in the form of conditions involving procedures for review by the Fund's board of directors and requirements as to the quality of the Fund's portfolio investments.

Applicant has agreed that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested.

1. In supervising the operations of the Fund and delegating special responsibilities involving portfolio management to the Fund's investment adviser, the Fund's board of directors undertakes—as a particular responsibility within its overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and the Fund's investment objective, to stabilize its net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included with the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the Fund's $1.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from the Fund's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated by it.

(c) Where the board of directors believes that the extent of any deviation from the Fund's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the Fund's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. The Fund will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that it will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. The Fund will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and the Fund will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denomiated instruments which its board of directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its board of directors.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition 2(c) was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

Applicant submit that granting its requested exemptive order is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 15, 1982, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion, persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-4656 Filed 2-22-82; 8:45 am]
BILLING CODE 8010-01-M

[1] To fulfill this condition, the Fund intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value, which may include among others, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, the Fund will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Rel. No. 12227; 812-5053]

Managed Cash Account Trust; Filing of Application

February 16, 1982.

Notice is hereby given that Managed Cash Account Trust ("Applicant"), 200 Berkeley Street, Boston, Massachusetts 02116, an open-end, diversified, management investment company, registered under the Investment Company Act of 1940 ("Act"), filed an application on December 21, 1981, requesting an order of the Commission, pursuant to section 6(c) of the Act, exempting Applicant from the provisions of section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 under the Act, to the extent necessary to permit Applicant to value its assets using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, Applicant was established under Massachusetts law as a Massachusetts business trust under a declaration of trust dated September 25, 1981. Massachusetts Financial Services Company acts as investment adviser to Applicant. Applicant's investment objectives are to seek as high a level of current income as is considered consistent with the preservation of capital and liquidity by investing in a variety of short-term money market instruments. Applicant's portfolio securities are currently valued on the basis of yields obtained from market makers for securities of comparable maturity, quality and type, except that when such securities have 60 days or less to maturity at the time of valuation they are valued at amortized cost.

As here pertinent, section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by an investment company's board of directors. Rule 22c-1 provides, in part, that no registered investment company or principal underwriter therefor issuing any redemable security shall sell, redeem or repurchase any such security except a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a-4 provides, as here relevant, that the current net asset value of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of the application, the Commission expressed its view that, among other things, Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and it would be inconsistent generally with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in part, that upon application the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an order of the Commission pursuant to Section 6(c) of the Act, exempting it from the provisions of section 2(a)(41) and Rules 2a-4 and 22c-1 to the extent necessary to permit it to use the amortized cost method of calculation for all its portfolio securities. In support of its request, Applicant submits that many of its investors require an investment vehicle that offers a constant net asset value per share and a relatively smooth stream of investment income. Applicant argues that use of the amortized cost method of valuation permits it to provide investment vehicles with those features. In addition, Applicant represents that its board of trustees has determined that, absent unusual circumstances, amortized cost represents the fair value of its respective portfolio securities. Applicant maintains that the exemptions it requests satisfy the exemptive standard set forth in section 6(c) of the Act. In addition, Applicant consents to

the imposition of the following conditions to any order granting it the requested relief:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of trustees of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, to $1.00 per share.

2. Included within the procedures to be adopted by the board of trustees of Applicant shall be the following:

(a) Review by the board of trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds 1/2 of 1 percent, a requirement that the board of trustees will promptly consider what action, if any, should be initiated by it.

(c) Where the board of trustees believes the extent of any deviation from the $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days;[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of trustees' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the board of trustees' meeting. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of trustees determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its board of trustees.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Applicant submits that granting its requested exemptive order is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is Further Given that any interested person may, not later than March 15, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-4857 Filed 2-25-82; 8:45 am]

BILLING CODE 8010-01-M

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board of trustees in the exercise of its descretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Rel. No. 12226; 812-5030]

Svenska Handelsbanken Inc.; Application

February 16, 1982.

Notice is hereby given that Svenska Handelsbanken Inc. ("Applicant"), c/o Barry L. Dastin, Esq., White & Case, 280 Park Avenue, New York, New York 10017, filed an application on December 1, 1981, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was organized under the laws of Delaware on November 13, 1981, by Svenska Handelsbanken ("Bank"), a commercial bank organized under the laws of Sweden. All the outstanding shares of Applicant's capital stock will be owned by the Bank. Applicant's sole business will be the provision of funds to the Bank, and substantially all Applicant's assets will consist of amounts receivable from the Bank.

According to the application, the Commission has granted the Bank an order for an exemption pursuant to section 6(c) of the Act exempting the Bank from all provisions of the Act (Investment Company Act Release No. 10818 (August 7, 1979)). Information with respect to the Bank, including a description of its business and Swedish banking regulation to which the Bank is subject, is included in the Bank's application requesting that order (File No. 812-4444).

Applicant states that, inasmuch as certain institutional purchasers of commercial paper may be subject to a policy of limiting their purchases of debt obligations to obligations of domestic issuers, the Bank has organized Applicant to provide a vehicle through which to sell commercial paper to such issuers and others. Applicant states that it proposes to issue and sell in the Unites States short-term negotiable promissory notes of the type generally referred to as commercial paper (the "Notes"), the proceeds of which (except for amounts needed to pay expenses or to repay maturing securities of Applicant) will be made available to the Bank in the form of loans or deposits. The application states that payment of the Notes will be unconditionally guaranteed by the Bank and thus the holders of the Notes could be considered as holders of obligations of the Bank. The obligation of the Bank to return or repay amounts deposited or lent to the Bank will, in addition, by pledged by the Applicant to the Bank as security against the Bank's obligations under its unconditional guarantee in order for the Bank to comply with requirements of Swedish banking law which prohibits the Bank from guaranteeing the notes without either capital cover or security. Applicant states that this arrangement will not affect or prejudice the right of holders of the Notes to resort to the unconditional guarantee of the Bank and the guarantee of the Bank will rank *pari passu* with all other unsecured and unsubordinated indebtedness of the Bank (including deposit liabilities) and prior to the claims of holders of the Bank's common stock.

According to Applicants, the Notes will be in minimum denominations of $100,000, and the Notes will rank *pari passu* among themselves and equally with all other unsecured and unsubordinated debt of Applicant and prior to the claims of holders of Applicant's common stock. Applicant states that the Notes will be sold through a commercial paper dealer in the Unites States to investors that ordinarily participate in the United States commercial paper market and will not be advertised or otherwise offered for sale to the general public. Applicant undertakes to ensure, as an express condition of any order granting its application, that the dealer in the Notes will provide each offeree prior to any sale of Notes to that offeree with a memorandum which (i) describes the business of Applicant and (ii) contains all the information with respect to the Bank which the Bank is required, pursuant to the terms of its order under section 6(c) of the Act, to provide to offerees of its commercial paper. This memorandum will be at least as comprehensive as those customarily used in offering commercial paper in the Unites States and will be updated periodically to reflect material changes in the Bank's financial status.

The application avers that the characteristics of the Notes will qualify them for exemption from registration under section 3(a)(3) of the 1933 Act. Applicant represents that it will not issue and sell the Notes until it has received an opinion of special legal counsel in the United States to the effect that, under the circumstances of the proposed offering, the Notes would be entitled to the exemption afforded by section 3(a)(3) of the 1933 Act. Applicant further represents that, prior to issuance, the Notes will have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and that its United States counsel shall certify that such a rating has been received.

Applicant states that it will appoint its special United States counsel to accept any process which may be served in any state or federal action by the holder of any Note against Applicant based on the Notes or the guarantees relating thereto, such appointment to be irrevocable until all amounts due or to become due in respect of the Notes have been paid by Applicant or the Bank under its guarantee. Applicant states that it will expressly accept the jurisdiction of any state or federal court in the city and state of New York in respect of any action, and will also be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering of the Notes or otherwise.

Applicant states that it may, from time to time, offer other debt securities for sale in the United States. According to the application, any such securities would be in effect guaranteed by the Bank. In connection with any such offering, Applicant undertakes (1) to ensure that offerees will be provided, prior to any sale of the securities, with disclosure documents no less comprehensive than is customary for offerings of similar debt securities in the United States, (2) to cause the appointment of an agent to accept any process which may be served on it in any action based on the securities offering, (3) to obtain an opinion of special legal counsel in the United States as to compliance with, or availability of exemption from, the 1933 Act, and (4) to accept expressly the jurisdiction of any state of federal court in the city or state of New York in connection with any action based on the securities offering and will also be subject to suit in any other court in the United States which would have jurisdiction. Applicant further undertakes that all future issues of securities offered for sale in the United States by Applicant shall have received, prior to issuance, one of the three highest investment grades from at least one nationally recognized statistical rating organization.

Section 3(a)(3) of the Act defines "investment company" to include any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of that issuer's total assets (exclusive of government securities and cash items) on an unconsolidated basis. Applicant states that while it believes that it is not an "investment company" within the meaning of the Act, it recognizes that some uncertainty exists in this regard. Applicant states that it may be considered to be an investment company because deposits or accounts receivable will constitute substantially all its assets.

Section 6(c) of the Act provides in part that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act, if and to the extent that an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant submits that it is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act for the Commission to grant this

application because, due to the close relationship between Applicant and the Bank and the Bank's guarantee of the Notes, the purchase of the Notes will be the equivalent of purchasing obligations of the Bank, which has been granted an exemption from the provisions of the Act pursuant to section 6(c) of the Act for issuance of commercial paper directly. Applicant represents that the Bank's utilization of Applicant as a financing vehicle by which to issue the Notes will in no way affect investor protection as holders of the Notes will ultimately look to the Bank.

Notice is further given that any interested person may, not later than March 15, 1982, at 5:30a p.m., submit to the Commission in writing a request for a hearing on an application accompanied by a statement as to the nature of his/her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter order a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-4858 Filed 2-22-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Privacy Act of 1974; Revision of System of Records

AGENCY: Small Business Administration (SBA).

ACTION: Notice of revision of system of records.

SUMMARY: Effective: February 23, 1982.

It is intended that the System of Records maintained by SBA be amended by this publication. Obsolete System of Records have been eliminated.

DATES: Comments must be received on or before March 25, 1982.

FOR FURTHER INFORMATION CONTACT: Nicholas Kalcounos, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to comply with the annual publication requirement and to update the Agency's System of Records.

Dated: February 18, 1982.

Donald R. Templeman,

Acting Administrator.

Appendix A

Central Office, 1441 L Street, N.W., Washington, D.C. 20416.
Boston Regional Office, 150 Causeway Street—10th Floor, Boston, Ma. 02114.
New York Regional Office, 26 Federal Plaza, Rm. 3214, New York, New York 10007.
Philadelphia Regional Office, Suite 646—West Lobby, One Bala Cynwyd Plaza, 231 St. Asaphs Road, Bala Cynwyd, Pa. 19004
Atlanta Regional Office, 1375 Peachtree Street, N.E., Atlanta, Ga. 30309
Chicago Regional Office, Federal Building, 219 South Dearborn Street, Rm. 830, Chicago, Ill. 60604.
Dallas Regional Office, 1720 Regal Row, Regal Park Office Bldg., Suite 230, Dallas, Tex. 74235
Kansas City Regional Office, 911 Walnut Street, 23rd Floor, Kansas City, Mo. 64106
Denver Regional Office, 1405 Curtis Street, 22nd Floor, Executive Tower Bldg., Denver, Colo. 80202
San Francisco Regional Office, 450 Golden Gate Ave., Box 36044, San Francisco, Calif. 94102
Seattle Regional Office, 710 2nd Ave., 5th Floor, Dexter Horton Building, Seattle, Wash. 98104
Boston District Office, 150 Causeway Street, 10th Floor, Boston, Mass. 02114
Augusta District Office, 40 Western Ave., Rm. 512, Federal Bldg., Augusta, Maine 04330
Concord District Office, 55 Pleasant Street, Rm. 213, Concord, N.H. 03301
Hartford District Office, One Financial Plaza, Hartford, Conn. 06103
Montpelier District Office, Federal Bldg., 87 State Street, Rm. 210, Montpelier, Vt. 05602
Providence District Office, 57 Eddy Street, 7th Floor, Providence, R.I. 02903
New York District Office, 26 Federal Plaza, Rm. 3100, New York, N.Y. 10007
Hato Ray District Office, Chardon and Bolivia Streets, P.O. Box 1915, Hato Ray, Puerto Rico 00919
Newark District Office, 970 Broad Street, Rm. 1635, Newark, N.J. 07102
Syracuse District Office, Federal Building—Rm. 1073, 100 South Clinton Street, Syracuse, N.Y. 13202
Philadelphia District Office, 231 St. Asaphs Rd., 1 Bala Cynwyd Plaza, Suite 400—East Lobby, Bala Cynwyd, Pa. 19004
Baltimore District Office, Oxford Bldg., 8600 LaSalle Road, Rm. 630, Towson, Maryland 21204
Clarksburg District Office, 109 North 3rd Street, Rm. 301, Londes Building, Clarksburg, W. Va.
Pittsburgh District Office, Federal Building, 1000 Liberty Ave., Rm. 1401, Pittsburgh, Pa. 15222
Washington District Office, 1030 15th Street, N.W., Suite 250, Washington, D.C. 20417
Atlanta District Office, 1720 Peachtree Street, N.W., 6th Fl., Atlanta, Ga. 30309
Birmingham District Office, 908 South 20th Street, Rm. 202, Birmingham, Ala. 35205
Charlotte District Office, 230 S. Tryon Street, Charlotte, N.C. 28202
Columbia District Office, 1801 Assembly Street, Rm. 131, Columbia, S.C. 29201
Jackson District Office, Providence Capitol Bldg., Suite 690, 200 E. Pascagoula Street, Jackson, Miss. 39201
Jacksonville District Office, Federal Bldg., 400 West Bay Street, Rm. 261, P.O. Box 35067, Jacksonville, Fla. 32202
Louisville District Office, Federal Bldg., 600 Federal Plaza, Rm. 188, Louisville, Ky. 40202
Miami District Office, 2222 Ponce De Leon Blvd., 5th Floor, Coral Gables, Fla. 33134
Nashville District Office, 404 James Robertson Parkway, Suite 1012, Nashville, Tenn. 37219
Chicago District Office, 219 South Dearborn St., Rm. 437 Federal Building, Chicago, Ill. 60604
Cleveland District Office, 1240 East 9th Street, Rm. 317, Cleveland, Ohio 44199
Columbus District Office, 34 North High Street, Tonti Bldg., Columbus, Ohio 43215
Detroit District Office, 477 Michigan Ave., McNamara Bldg., Detroit, Mich. 48226
Indianapolis District Office, 575 North Pennsylvania Street, Rm. 552 New Fed. Bldg., Indianapolis, Ind. 46204
Madison District Office, 122 West Washington Ave., Rm. 713, Madison, Wis. 53703
Minneapolis District Office, 12 South 6th Street, Plymouth Bldg., Minneapolis, Minn. 55402
Dallas District Office, 1100 Commerce St., Room 3C36, Dallas, Tex. 75242
Albuquerque District Office, 5000 Marble Ave., N.E., Patio Plaza Bldg., Albuquerque, NM 86110
Houston District Office, One Allen Ctr., 500 Dallas Street, Houston, Tex 77002
Little Rock District Office, 611 Gaines Street, Suite 900, Little Rock, Ark. 72201
Lubbock District Office, 1205 Texas Ave., 712 Federal Office Bldg. & U.S. Courthouse, Lubbock, Tex. 79401
Lower Rio Grande Valley District Office, 222 East Van Buren Street, Harlingen, Tex 78550
New Orleans District Office, 1001 Howard Ave., Plaza Tower 17th Fl., New Orleans, La. 70113
Oklahoma City District Office, Federal Bldg., 200 N.W. 5th Street, Suite 670, Oklahoma City, Okla. 73102

San Antonio District Office, 727 E. Durango, Rm. A–513, San Antonio, Tex. 78206
Kansas City District Office, 1150 Grande Ave., 5th Floor, Kansas City, Mo.
Des Moines District Office, New Federal Building, 210 Walnut Street, Rm. 749, Des Moines, Iowa 50309
Omaha District Office, 19 and Farnam Streets, Empire State Building, Omaha, Neb. 68102
St. Louis District Office, Suite 2500, Mercantile Tower, One Mercantile Center, St. Louis, Mo. 63101
Wichita District Office, 110 East Waterman Street, Main Place Bldg, Wichita, Kan. 67202
Denver District Office, 721 19th Street, Rm. 426A, Denver, Colo. 80202
Casper District Office, Federal Bldg., Rm. 4001, 100 East B Street, Casper, Wyo. 82601
Fargo District Office, Federal Bldg., 653 2nd Ave., North, Room 218, Fargo, N. Dak. 58102
Helena District Office, 618 Helena Ave., Helena, Mont. 59601
Salt Lake City District Office, Fed. Bldg., 125 South State Street, Rm. 2237, Salt Lake City, Utah 84138
Sioux Falls District Office, National Bank Bldg., 8th and Main Ave., Rm. 402, Sioux Falls, S. Dak. 57102
San Francisco District Office, 211 Main Street, San Francisco, Calif. 94105
Las Vegas District Office, 301 E. Stewart, Las Vegas, Nev. 89101
Honolulu District Office, 1149 Bethel Street, Rm. 308, Honolulu, Hawaii 96813
Los Angeles District Office, 350 S. Figueroa Street, 6th Floor, Los Angeles, Calif. 90071,
Phoenix District Office, 112 North Central Ave., Phoenix, Ariz. 85004
San Diego District Office, 880 Front Street, Federal U.S. Bldg., Rm. 4–S–33, San Diego, Calif. 92188
Seattle District Office, 915 Second Ave., Fed. Bldg., Rm. 1744, Seattle, Wash. 98174
Anchorage District Office, 1016 West 6th Ave., Suite 200, Anchorage Legal Center, Anchorage, Alaska 99501
Boise District Office, 216 North 8th St., Rm. 408, Boise, Idaho 83702
Portland District Office, 1220 S.W. Third Ave., Fed. Bldg., Portland, Oreg. 97204
Spokane District Office, Court House Bldg., Rm. 651, Spokane, Wash. 99210
Buffalo Branch Office, 111 West Huron Street, Rm. 1311, Fed. Bldg. Buffalo, N.Y. 14202
Elmira Branch Office, 180 State Street—Rm. 412, Elmira, N.Y. 14902
Harrisburg Branch Office, 1500 North 2nd Street, Harrisburg, Pa. 17102
Wilkes-Barre Branch Office, Penn Place, 20 N. Pennsylvania Ave., Wilkes-Barre, Pa. 18702
Wilmington Branch Office, 844 King Street, Federal Bldg., Rm. 5207, Wilmington, Del. 19801
Charleston Branch Office, Charleston National Plaza Suite 628, Charleston, W. Va. 25301
Knoxville Branch Office, 502 South Gay St., Rm. 307 Fidelity Bankers Building, Knoxville, Tenn.
Springfield Branch Office, One North, Old State Capital Plaza, Springfield, Ill. 62701
Cincinnati Branch Office, Federal Bldg., 550 Main Street, Cincinnati, Ohio 45202
Marquette Branch Office, 540 W. Kay Ave., Don H. Bottum University Center, Marquette, Mich. 49855
Milwaukee Branch Office, 735 West Wisconsin Ave., Rm. 690, Continental Bank Bldg., Milwaukee, Wis. 53233
El Paso Branch Office, 4100 Rio Bravo, Suite 300, El Paso, Tex. 79901
Corpus Christi Branch Office, 3105 Leopard St., Corpus Christi, Tex. 78408
Rapid City Branch Office, 515 9th Street, Fed. Bldg., Rm. 246, Rapid City, S. Dak. 57701
Fresno Branch Office, Fed. Bldg., 1130 O Street, Rm. 4015, Fresno, Calif. 93721
Agana Branch Office, Ada Plaza Center Bldg., Agana; Guam 96910
Fairbanks Branch Office, 501 Second Ave., Fairbanks, Alaska
Biloxi Branch Office, 111 Fred Haise Blvd., Gulf Nat. Life Insurance Bldg., 2nd Fl., Biloxi, Miss. 39530

Appendix B

Federal Archives and Records Center, GSA, 380 Trapelo Road, Waltham, MA. 02154
Federal Archives and Records Center, GSA, Military Ocean Terminal, Bldg. 22, Bayonne, NJ 07002
Federal Archives and Records Center, GSA, 5000 Wissahickon Ave., Philadelphia, PA 19144
Federal Records Center, GSA, Naval Supply Depot, Bldg. 308, Mechanicsburg, PA 17055
Washington National Records Center, Washington, D.C. 20409
Federal Archives and Records Center, GSA, 1557 St. Joseph Ave., East Point, GA 30344
Federal Archives and Records Center, GSA, 7358 South Pulaski Road, Chicago, IL 60629
Federal Records Center, GSA, 3150 Bertwynn Drive, Dayton, OH 45439
Federal Archives and Records Center, GSA, 2306 East Banister Road, Kansas City, MO 64131
National Personnel Records Center, GSA, (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118
Federal Archives and Records Center, GSA, 4900 Hemphill Street, P.O. Box 6216, Fort Worth, TX 76115
Federal Archives and Records Center, GSA, Bldg. 48, Denver Federal Center, Denver, CO 80225
Federal Archives and Records Center, GSA, 1000 Commodore Drive, San Bruno, CA 9066
Federal Archives and Records Center, GSA, 24000 Avila Road, Laguna Niguel, CA 92677
Federal Archives and Records Center, GSA, 6125 Sand Point Way, Seattle, WA 98115

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SBA001

SYSTEM NAME:

Accountable Property File—SBA001

SYSTEM LOCATION:

Central Office, Regional Office in San Francisco, Ca., District Offices in Marshall, Tex. and Oklahoma City, Okla., and Branch Offices in Corpus Christi, Tex., and Cincinnati, Ohio.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA Employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Listing of items processed by employees which are the property of the Small Business Administration, with each employee's signature verifying possession.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 15 U.S.C. 634(b)(6); 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For Internal Use Only.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are kept in file folders or cabinets.

RETRIEVABILITY:

Records are indexed by employee's name.

SAFEGUARDS:

Access to records is generally limited to Office Services personnel.

RETENTION AND DISPOSAL:

Records are disposed of 2 years after latest inventory update.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors, District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURES:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; Regional Director for Regional Office records; District Director for District Office records; Branch Manager for Branch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, Regional Director, District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Accountable Officer and employees.

SBA005

SYSTEM NAME:

Advisory Council File—SBA005.

SYSTEM LOCATION:

Branch, District, Regional and Central Offices of the Small Business Administration and in Federal Record Centers. See Appendix A for SBA addresses and Appendix B for FRC addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members, past and present, of SBA Advisory Councils. Records are also maintained on those individuals being processed for appointment to the SBA Advisory Councils.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information relating to members of SBA Advisory Councils and includes political party affiliations, ethnic/minority identification, security status, Congressional clearances, recommendations, appointment notices, address lists and occasionally, biographical data and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: To disclose information about an Advisory Council member to the general public. To respond to requests from the National Archives.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained in file folders, binders and index cards.

RETRIEVABILITY:

These records are indexed by the Council member or prospective Council member's name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

These records are retained for three years and then forwarded to a Federal Records Center. The FRC retains these records for five years and then offers the records for transfer to the National Archives.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors, District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office Records; Regional Director for Regional Office Records; Branch Manager for Branch Office Records; The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, Regional Director, District Director or Branch Manager will set forth the procedures for gaining access to these

records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom record pertains, Congressional offices, Agency employees, news media, other Advisory Council members, Federal Register.

SBA010

SYSTEM NAME:

Applicant Representative Files—SBA010

SYSTEM LOCATION:

Branch, District, Regional and Central Offices of the SBA. See Appendix A for SBA addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who render services in connection with the preparation of SBA loan applications.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information relating to applicant representatives including revocation or suspension of representative privilege, type of service performed, amount of compensation charged borrowers and irregularities or complaints.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used:

In the event that a system of records maintained by this Agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with implementing the statute, or rule, regulation or order issued pursuant thereto.

After final SBA action revoking or suspending the privilege of a representative to appear before the SBA, the relevant records in the system of records may be referred, as a routine use, to other Federal Agencies which deal with the individual as an applicant representative.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained in file folders and in index cards.

RETRIEVABILITY:

These records are indexed by representative name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is used to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

The system of records is retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors, District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; Regional Director for Regional Office records; District Director for District Office records; Branch Manager for Branch Office records. The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, Regional Director, District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Loan applicants and applications, Agency employees, third party informants, and individual to whom record pertains.

SBA015

SYSTEM NAME:

Appraisers List—SBA015

SYSTEM LOCATION:

District and Branch Offices of the Small Business Administration. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual appraisers.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information relating to individual appraisers including qualifications, correspondence and, occasionally, notes on performance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For internal use only.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained in file folders and on index cards.

RETRIEVABILITY:

Records are indexed by appraiser's name.

SAFEGUARDS:

Access to and use of these records are limited to those officials whose duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

District Directors, and Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record

pertaining to him or her by addressing a request in person or in writing to: District Director for District Office records; Branch Manager for Branch Office records; The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURE:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the District Director or Branch Manger will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom record pertains, or his agent, Agency employees, National Association of Real Estate Appraisers, and published lists of local and regional appraisers.

SBA020

SYSTEM NAME:

Auctioneers List—SBA020

SYSTEM LOCATION:

District and Regional Offices of SBA. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are auctioneers.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information relating to auctioneers who are interested in conducting sales on behalf of SBA, including categories of property and geographic areas in which the individual auctioneer is qualified and bonded.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal use only.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained in file folders, binders and on index cards.

RETRIEVABILITY:

These records are indexed by auctioneer's name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Directors, District Directors. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Regional Director for Regional Office records; District Director for District Office records; The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURE:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Regional Director or District Director will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom record pertains, or his agent, General Services Administration, Loan Files.

SBA025

SYSTEM NAME:

Audit Reports—SBA025

SYSTEM LOCATION:

The Central Office of the Small Business Administration and Federal Record Centers. In some cases, copies are maintained in the District and Branch Offices where the loan was processed. See Appendix A for SBA addresses and Appendix B for FRC addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of Disaster Home Loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains detailed investigations of home disaster loan recipients' use of SBA funds. These records also include related correspondence. Such audits are rarely undertaken unless large sums of money are involved.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used:

In the event that a system of records maintained by this Agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecution of such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

To provide data to the General Accounting Office for periodic reviews of this Agency.

To provide the Internal Revenue Service, in response to its request, with access to an individual's records to the extent that the information is relevant and necessary to the IRS' function.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are indexed by recipient name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are maintained by SBA for two years after the loan has become inactive and are then transferred to an FRC where they are maintained for five years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; District Director for District Office records; Branch Manager for Banch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Financial institution reports and records, Agency investigation, individual to whom record pertains.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a (k)(2), all investigatory material in the record compiled for law enforcement purposes is exempt from the notification, access, and contest requirements (under 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the Agency regulations. This exemption is necessary in order to accomplish the purpose of the Agency in preventing abuse of loan proceeds by recipients, as well as enforcing Agency rules and regulations (pursuant to 15 U.S.C. 634(b)(6) and 15 U.S.C. 645(a)), and preventing subjects of investigations from frustrating the investigatory process.

SBA030

SYSTEM NAME:

Automated Personnel History—SBA030

SYSTEM LOCATION:

SBA Central Office. See Appendix A for address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All SBA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Current status of all SBA employees including all data pertinent to that status. This system includes name, Social Security number, grade and salary title, organization, education, veterans preference, competitive level, date of birth, handicap code, health benefits, etc. This system includes all personnel actions affecting active SBA employees since May 1972, and also those of separated employees since that date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A number of records in this system are sent as a required report to the Civil Service Commission. The General Accounting Office is also given information from this system for audit purposes.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

This system of records is maintained on magnetic tape.

RETRIEVABILITY:

Records in this system can be retrieved by the employee's name or Social Security number.

SAFEGUARDS:

Physical Security—authorized personnel only.

RETENTION AND DISPOSAL:

These records form a permanent data bank for the Office of Personnel and are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer. See Appendix A for address.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the Privacy Act Officer. The address of this office is contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

SF 171 and any other forms an employee completes when coming on-board; Personnel action as recorded on SBA Form 52; Requests for personnel actions; Mass Change Formats; and Award Keypunch Formats.

SBA040

SYSTEM NAME:

Boards of Survey—SBA040

SYSTEM LOCATION:

Central Office, Regional Offices, District Offices. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees and other individuals who have been involved in accidents with government vehicles, or other incidents of loss or damage to government property.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system includes the report and supporting material compiled by the Board of Survey in reviewing cases involving loss or damage to government property. These may be claims by or against the government. Cases involving up to

5000 can be handled in the Regional Offices. Cases involving more than

5000 must be referred to the Central Office Board of Survey.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101, 29 U.S.C. 651–78.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In the event that a suit is initiated in a court, these records would be referred to the Justice Department and General Services Administration for handling. The records would also be given to the parties in litigation with the Agency and to the court, if necessary in the case.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are kept in file folders.

RETRIEVABILITY:

Files are indexed by the name of SBA employees or other individuals involved in the case.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is used to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors, District Directors. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; Regional Director for Regional Office records; District Director for District Office records; These addresses are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, Regional Director or District Director will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the paragraph above, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individuals involved in the case, witnesses, Agency investigation.

SBA045

SYSTEM NAME:

Borrower Insurance Files—SBA045

SYSTEM LOCATION:

The following District and Branch Offices maintain this system of records: Boise District Office, Casper District Office, Corpus Christi Branch Office, Honolulu District Office, Marshall District Office, New Orleans District Office, Pittsburgh District Office, Salt Lake City District Office and San Antonio District Office. All other District and Branch Offices maintain this information in the Loan Case File. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of Disaster Home Loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information relating to a Disaster Home Loan recipient's hazard insurance and Federal Flood Insurance, wherever applicable. These records include a copy of the insurance policy, a history of premium payments and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be disclosed in correspondence with a recipient's insurance company as to the status of his policy.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained in file folders and index cards.

RETRIEVABILITY:

These records are indexed by recipient name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

These records are destroyed when the loan becomes inactive.

SYSTEM MANAGER(S) AND ADDRESS:

District Directors, and Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: District Director for District Office records; Branch Manager for Branch Office records; The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information in the system should direct their requests to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, insurance companies, Housing and Urban Development—Farmers Home Administration.

SBA050

SYSTEM NAME:

Career Counseling Files—SBA050

SYSTEM LOCATION:

San Francisco Regional Office, San Francisco District Office. See addresses in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This record system includes notes and forms completed during interviews between employees and supervisors regarding career goals and programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal Agency use only.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are kept in file folders.

RETRIEVABILITY:

Records are indexed by employee name within each division of the office.

SAFEGUARDS:

Access to and use of these records is limited to those persons whose official duties require such access. Personnel screening is used to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are retained for a period of time set by agreement between supervisor and employee.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Director, District Director. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Regional Director for Regional Office records; District Director for District Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Regional Director or District Director will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Interview between employee and supervisor.

SBA060

SYSTEM NAME:

Collateral—SBA060

SYSTEM LOCATION:

District and Branch Offices of the SBA. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of Disaster Home Loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains negotiable collateral assigned to the SBA in connection with the award of a disaster home loan. Included in these records are registers of negotiable collateral assigned to SBA, trust receipts, bonds, certificates, mortgages, notes, titles, insurance policies, and agreements of extending deeds of trust.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

In the event that a system of records maintained by this Agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

To provide data to the General Accounting Office for periodic reviews of this Agency.

To provide the Internal Revenue Service in response to its request with access to an individual's records for an official audit to the extent that the information is relevant and necessary to the IRS' function.

To request information from a Federal, State, or local agency or a private title search agency to determine an applicant's suitability for a loan.

A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course or settlement negotiations.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual

STORAGE:

These records are maintained in file folders, index cards, safety deposit boxes and insulated combination safes.

RETRIEVABILITY:

These records are indexed by recipient name and/or loan number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

These records are retained until an individual's loan is paid-in-full or charged-off, then disposed.

SYSTEM MANAGER(S) AND ADDRESS:

District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: District Director for District Office records; Branch Manager for Branch Office records.

The addresses of these officers are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, Agency employees, bank correspondence, State officials, title search companies.

SBA065

SYSTEM NAME:

Collection Files—SBA065

SYSTEM LOCATION:

District, Branch and Central Offices of Small Business Administration and in the Federal Record Centers. See Appendix A for SBA addresses and Appendix B for FRC addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of Disaster Home Loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information relating to SBA collection activities in connection with Disaster Home Loans from the time of the initial disbursement until the loan is either paid-in-full or put in liquidation status. These records include:

SBA Form 573—"Cash Collateral and Abeyance Item Register"

SBA Form 230—"Receipt for Payment"

SBA Form 368—"Collectionsy—Disaster Deferred Participation Loans Purchased."

Default Vouchers

Various documents relating to the receipt and disposition of money remitted, issuances of past due notices and other related material.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used:

In the event that a system of records maintained by this Agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature and whether arising by general statute or particular program statute or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigation or prosecution of such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

In the event court action arises from loan collection activities, a record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate or counsel in the course or settlement negotiations.

To provide data to the General Accounting Office for periodic reviews of this Agency.

To provide the Internal Revenue Service, in response to its request, with access to an individual's records for an official audit to the extent that the information is relevant and necessary to the IRS' function.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained on microfilm, magnetic tape, file folders, receipt books, ledgers, and insulated combination safes.

RETRIEVABILITY:

These records are indexed by recipient name as well as a cross-referenced loan number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records located in District and Branch Offices are retained for two years after the loan is paid or charged-off and then forwarded to a Federal Records Center where they are destroyed after two years. Records located in the Central Office are retained no more than two years and then either forwarded to a Federal Records Center for four years or sold for salvage.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, District Directors, Branch Managers, See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; District Director for District Office records; Branch Manager for Branch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom record pertains, Agency employees, Banks, and Loan Case File.

SBA070

SYSTEM NAME:

Combined Federal Campaign—SBA070

SYSTEM LOCATION:

SBA Regional Offices in Kansas City, Mo., Boston, Mass., and Chicago, Ill. SBA District Offices in Columbus and Cleveland, Ohio. For the addresses of these offices, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains a list of participants and their contributions. A copy of pledge cards, names and addresses of personnel connected with the Combined Federal Campaign, code of charities to which donations were made.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Names and addresses of those employees who are connected with the planning and accomplishments of the fund-raising drive are sometimes released to the media.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are maintained in file folders or binders, which are usually stored in file cabinets.

RETRIEVABILITY:

Records are indexed by name, within each fiscal year.

SAFEGUARDS:

Records used by authorized persons only, on a need to know basis.

RETENTION AND DISPOSAL:

There is no official disposal schedule for these records, they are kept indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Directors, District Directors. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Regional Director for Regional Office records; District Director for District Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Regional or District Director will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Employee on whom the record is maintained.

SBA080

SYSTEM NAME:

Completion Certificate Control Lists—SBA080

SYSTEM LOCATION:

Central Office, District and Branch Offices of the SBA. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of Disaster Home Loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information relating to SBA Form 1018, "Completion Certificate on SBA Disaster Loans." Each disaster loan recipient is required to execute this form when all loan proceeds have been expended. The system of records contains this form along with borrower reminders, past due listings, and verification reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal use only.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained on magnetic tape, file folders, binders and index cards.

RETRIEVABILITY:

These records are indexed by recipient name as well as a cross-referenced loan number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; District Director for District Office records; Branch Manager for Branch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individuals to whom record pertains, Agency personnel, Loan Case File.

SBA085

SYSTEM NAME:

Congressional Hearing Files—SBA085

SYSTEM LOCATION:

Central Office of the SBA. See Appendix A for the address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees as well as applicants for, and recipients of, SBA assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information about individuals in connection with preparation for and attendance at Congressional hearings. These records include data concerning program activities and personnel problems, intra-agency correspondence, investigations and Justice Department reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

In the event that a system of records maintained by this Agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecution of such violation, or charged with enforcing or implementing the statute, or rule, regulation or order, issued pursuant thereto.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

Parts of these records are indexed by an individual's name, and to that extent, are retrievable.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer. See Appendix A for the address.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the Privacy Act Officer. The address of this office is contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom record pertains, Agency employees, Agency files, Justice Department.

SBA090

SYSTEM NAME:

Delinquent Loans—SBA090

SYSTEM LOCATION:

District and Branch Offices of the Small Business Administration and Federal Record Centers. See Appendix A for SBA addresses and Appendix B for FRC addresses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Recipients of disaster home loans whose loans have been classified as delinquent.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information relative to delinquent disaster home loans. These records consist of monthly printouts of loans 30, 45, and 60 days past due and SBA Forms 1004A and 1004B, the collection notices and records on past due accounts. Included in these records are the number, amount and dates of delinquent payments, the amount of the loan, related correspondence and remarks by the Service Loan Officer.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C 301, 15 U.S.C 634(b)(6), 44 U.S.C 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal Agency use only.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained in file folders and binders.

RETRIEVABILITY:

These records are indexed by the name of the recipient.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

The monthly listings are retained for up to one year and then destroyed. The 1004A and 1004B forms are transferred to the loan case file or an FRC if the loan becomes current. If the loan remains past due, these records are transferred to liquidation and retained until the loan is charged-off or paid-in-full and then forwarded to an FRC. Records maintained by a Federal Records Center are destroyed after four years.

SYSTEM MANAGER(S) AND ADDRESS:

District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire at to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: District Director for District Office records; Branch Manager for Branch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her. The District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Agency Collection Activities Branch, individual to whom record pertains, agency personnel.

SBA100

SYSTEM NAME:

Disaster Relief Act Printout—SBA100

SYSTEM LOCATION:

Corpus Christi Branch Office of the SBA. See Appendix A for address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of Disaster Home Loans in the Corpus Christi area.

CATEGORIES OF RECORDS IN THE SYSTEM:

This Computer Printout lists the name and address of borrowers to whom the "forgiveness" provision of the Disaster Relief Act applies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal use only.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained in a file folder.

RETRIEVABILITY:

Records are indexed by recipient name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Indefinite retention.

SYSTEM MANAGER(S) AND ADDRESS:

Branch Manager. See Appendix A for address.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Branch Manager for Branch Office records;

The address of this office is contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Branch Manager will set forth the procedures for gaining access to these records. It there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom record pertains, Agency employees.

SBA105

SYSTEM NAME:

Disbursements—SBA105

SYSTEM LOCATION:

Central District and Branch Offices of the SBA and Federal Record Centers. See Appendix A for SBA addresses and Appendix B for FRC addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of disaster home loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information relating to loan disbursement activities. These records consist of detailed listings of disbursements, SBA Form 191-checks requested, SBA Form 192-checks issued on loan closing and treasury check registers. The information includes amount of the loan, schedule of payments, actual disbursement calendars and overpayments made.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

U.S.C. 301; 15 U.S.C. 634(b)(6); 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used;

To provide information to the public when disclosures are warranted.

In communicating with the Treasury Department on disbursement activities.

To provide data to the General Accounting Office for periodic reviews of this Agency.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained in file folders, register books, and index cards.

RETRIEVABILITY:

These records are indexed by recipient name and loan number as well as a cross-referenced check control number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

The Central Office maintains these records for three years following the end of the fiscal year whereas the District and Branch Offices maintain the system either for two years or indefinitely. The records are then transferred to an FRC which disposes of them under GAO standards.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office Records; District Director for District Office Records; Branch Manager for Branch Office Records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains, Treasury Department, Agency personnel, and Loan Case File.

SBA110

SYSTEM NAME:

EEO Pre-Complaint Counseling—SBA110

SYSTEM LOCATION:

Central Office, Regional Offices, District Offices and Branch Offices. For addresses see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees who have requested counseling regarding discrimination in employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

File on each counseling case, compiled by Equal Employment Opportunity Counselor in each office. File may include statements made by the employee being counseled and other persons interviewed, record of attempts to resolve the problem, and EEO Counselor's Report. If a formal complaint is filed after counseling, the EEO Counselor's Report becomes part of the EEO Complaint case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 C.F.R. 713, 13 C.F.R. 105.735–5–4

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are used to report counseling activity to the Civil Service Commission, but such reports do not name the individuals who received counseling.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Files are kept in file folders.

RETRIEVABILITY:

Records are indexed by the name of the person requesting counseling.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is utilized to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Some offices dispose of records after the problem is resolved. Others retain the records for a period of years or indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors, District Directors, and Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; Regional Director for Regional Office records; District Director for District Office records; Branch Manager for Branch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, Regional Director, District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Person requesting counseling, other employees, EEO Counselor, and Personnel and employment records.

SBA115

SYSTEM NAME:

EEO Complaint Cases—SBA115

SYSTEM LOCATION:

Central Office. For address see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees who have filed a complaint regarding discrimination in employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files on each complaint case, compiled by the Office of Equal Employment Opportunity. File may include statements made by the complainant and other persons interviewed. EEO Counselor's Report, other information developed in the investigation of a complaint, notes of attempts to resolve the complaint, report of a hearing, Hearing Examiner's Recommendations, and Agency action on the case. Files also include closed cases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 C.F.R. 713, 13 C.F.R. 105.735–5–4.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are used to report complaints to the Civil Service Commission.

In the event that a complaint results in a hearing, records in this system will be used in preparing and presenting the case before a Complaints Examiner designated by the Civil Service Commission.

In the event that a complaint is appealed to the Civil Service Commission, these records will be used by the Appeals Review Board in making a decision on the case.

In the event that a complaint results in a suit in a Federal court, these records will be referred to the Department of Justice and used by that Department to prepare and present the case in court.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Files are maintained in file folders.

RETRIEVABILITY:

Records are indexed by the name of the person filing a complaint.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is used to prevent unauthoized disclosure.

RETENTION AND DISPOSAL:

Records are kept indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer. See Appendix A for address.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the Privacy Act Officer, Central Office, at the address listed in Appendix A.

RECORD ACCESS PROCEDURE:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Complainant, Witnesses, Hearing transcript, Complaints Examiner's Recommendation, Agency investigation, Personnel and Employment records.

SBA120

SYSTEM NAME:

Employee Awards—SBA120

SYSTEM LOCATION:

This system is maintained by most SBA Regional and District Offices. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees nominated for and/or receiving awards.

CATEGORIES OF RECORDS IN THE SYSTEM:

Narratives on each individual nominated for Civil Servant of the Year, SBA Honor Award nominees, Federal Women's Award nominees, recommendations of supervisors and other supporting documentation submitted to awards boards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 310, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

List of nominees for the Federal Women's Award are sent to the Civil Service Commission for consideration.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are kept in file folders which are usually stored in file cabinets.

RETRIEVABILITY:

Records are indexed by name of employee or title of award.

SAFEGUARDS:

Personnel screening information released to authorized persons only.

RETENTION AND DISPOSAL:

These records are retained for a period varying from three to five years, then disposed of.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Directors, District Directors. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Regional Director for Regional Office records; District Director for District Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record petaining to him or her, the Regional Director or District Director will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Employees, official Personnel folders, supervisors, Civil Service Commission, Department of Labor, other agencies and organizations.

SBA125

SYSTEM NAME:

Employee Biographical Files—SBA125

SYSTEM LOCATION:

Central Office, Regional Offices, District Offices, El Paso Branch Office. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include biographical data such as date of birth, employment history, education, photographs, news clippings and record of public appearances in an official capacity. These files do not necessarily contain information on all SBA employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records will be released to news media, other Government agencies, and private groups and organizations for publicity purposes.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are kept in file folders.

RETRIEVABILITY:

Records are indexed by the name of the employee.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is used to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Most offices retain the records as long as the person is employed by SBA.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors, District Directors, Branch Manager. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Cenetral Office records; Regional Director for Regional Office records; District Director for District Office records; Branch Manager for Branch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a reord pertaining to him or her, the Privacy Act Officer, Regional Director, District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained, Agency personnel records and memoranda, news media.

SBA130

SYSTEM NAME:

Employee Bond Participation Files—SBA130

SYSTEM LOCATION:

Central Office, Regional and District Offices. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees who purchase U.S. Savings Bonds through payroll deduction.

CATEGORIES OF RECORDS IN THE SYSTEM:

This record includes the name of an employee purchasing Savings Bonds, address, Social Security number, amount of deduction, bond denomination, names of coowners or beneficiaries, correspondence and other information relating to bonds.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in this system are referred to the Treasury Department for the purchase of bonds.

These records are reviewed by the General Accounting Office in the course of an audit of the Agency.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made to the request of that individual.

STORAGE:

Records are kept in journals or file folders.

RETRIEVABILITY:

Records are indexed by employee name or Social Security number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is used to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Central Office Files are disposed of aftr three years or a GAO audit. Other files are kept indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors, and District Directors. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; Regional Director for Regional Office records; District Director for Distict Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In respose to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, Regional Director, or District Director will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Employee Savings Bond Form (SNA 1042), Payroll Master File.

SBA135

SYSTEM NAME:

Employee Counseling Program—SBA135

SYSTEM LOCATION:

SBA Central Office; Denver Regional Office; Boston Regional Office; Wichita, KS District Office. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who have requested counseling for personal problems and employees designated as counselors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case history documentation relative to problems. Counseling data. Referrals for assistance. Health benefit, compensation or disability processing assistance. Names of employees designated as Employee Counseling Program councelors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Employee Counseling Program records may be used to contact a doctor or other form of assistance for the employee being counseled.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are stored in locked file cabinets or in the desk of the Employee Counseling Program counselor.

RETRIEVABILITY:

Records are indexed either by the name of the counselor or the employee being counseled.

SAFEGUARDS:

Records are released to authorized personnel only, on a need to know basis.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors, District Directors. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; Regional Director for Regional Office records; District Director for District Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, Regional Director or District Director will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

SBA employees and their supervisors.

SBA140

SYSTEM NAME:

Employee Evaluation and Supervision Files—SBA140

SYSTEM LOCATION:

Central Office, Regional Offices, District Offices, Branch Offices. For addresses see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This record contains Annual Performance Ratings, informal incident files on job activities, and other informal information relating to job performance, kept by supervisors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal Agency use only.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are kept in file folders.

RETRIEVABILITY:

Records are indexed by employee name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is utilized to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Retention varies from one year to indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors, District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; Regional Director for Regional Office records; District Director for District Office records; Branch Manager for Branch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, Regional Director, District Director, or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Supervisors; Observation, conversation, interviews with employees; Agency Personnel records.

SBA145

SYSTEM NAME:

Employee Identification Card Files—SBA145

SYSTEM LOCATION:

Central Office, Regional Offices, District Offices, Branch Offices. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

These files contain names of employees and the identification card numbers issued to them.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal Agency use only.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are kept in file folders or card files.

RETRIEVABILITY:

Records are indexed by employee name or identification card number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is utilized to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are retained until employee terminates service with SBA, or indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors, District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; Regional Director for Regional Office records; District Director for District Office records; Branch Manager for Branch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, Regional Director, District Director, or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained, Agency Personnel records.

SBA150

SYSTEM NAME:

Employee Suggestions—SBA150

SYSTEM LOCATION:

Central Office, Regional Offices, Anchorage District Office, Cleveland District Office, Des Moines District Office. For addresses see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees who have filed suggestions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include a copy of the suggestion, and information relating to the disposition made of the suggestion.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal Agency use only.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are kept in file folders.

RETRIEVABILITY:

Records in the offices listed above are indexed by the name of the person making the suggestion. Suggestion files in other offices are retrievable by date.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is used to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Files are kept indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors, District Directors. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; Regional Director for Regional Office records; District Director for District Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, Regional Director, or District Director will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Employee who filed suggestion, Agency personnel who review suggestions.

SBA155

SYSTEM NAME:

Employment Applications—SBA155

SYSTEM LOCATION:

Maintained by individual divisions of the SBA Central, Regional, District, and Branch Offices. See Appendix A for addresses of these offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for permanent, part-time, and temporary employment with the SBA.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains letters of introduction, résumés, personal qualifications statements, referrals, references, pre-employment inquiries, job interview records, Civil Service Commission ratings and lists of eligibles.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6); 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The résumés, etc. of those applicants seeking referral assistance are sometimes forwarded to other Federal agencies for possible employment.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are usually stored in folders within file cabinets.

RETRIEVABILITY:

Records are indexed by applicant's name.

SAFEGUARDS:

Information released only to authorized personnel on a need to know basis.

RETENTION AND DISPOSAL:

File disposed of after two years.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors, District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; Regional Director for Regional Office records; District Director for District Office records; Branch Manager for Branch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, Regional Director, District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Applicant to whom the file pertains, Civil Service Commission, and persons who furnish references for applicant.

SBA160

SYSTEM NAME:

Exit Interviews—SBA160

SYSTEM LOCATION:

SBA Regional Offices in Denver, Colorado and in San Francisco, California. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM.

SBA employees who resigned.

CATEGORIES OF RECORDS IN THE SYSTEM:

A written record of interviews conducted by the Personnel Office to determine why an employee resigned.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are maintained for internal Agency use only.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

The records in this system are stored in file cabinets.

RETRIEVABILITY:

These records are retrieved by the name of the employee.

SAFEGUARDS:

Records are released to authorized Agency personnel only.

RETENTION AND DISPOSAL:

These records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Directors in Denver and San Francisco. See Appendix A for addresses.

NOTIFICATION PROCEDURE.

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the appropriate Regional Director in either Denver or San Francisco. The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Regional Director will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Interviews with employees and supervisors.

SBA170

SYSTEM NAME:

Finance & Investment Career Program—SBA170

SYSTEM LOCATION:

Central Office. Regional Offices. District Offices in Hartford, Connecticut; Lubbock, Texas; Seattle, Washington. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees who have applied for or enrolled in the F & I Career Program.

CATEGORIES OF RECORD IN THE SYSTEM:

This system of records includes application forms, appraisals of the employee's performance and potential, training plans, record of an employee's activities in the program, and correspondence relating to the individual and the program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used in communicating with a Union which represents SBA employees, in regard to the Career Program.

Information in these records may be communicated to the Civil Service Commission whenever necessary to implement a Personnel action.

These records may be examined by the General Accounting Office or the Civil Service Commission in the course of a review of the Agency.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are kept in file folders or binders.

RETRIEVABILITY:

Records are indexed by employee name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is used to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are kept indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors, District Directors. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; Regional Director for Regional Office records; District Director for District Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, Regional Director, or District Director will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Employees, Supervisors, Agency Personnel records.

SBA180

SYSTEM NAME:

Government Drivers' Licenses and Use of Vehicles—SBA180

SYSTEM LOCATION:

Regional, District and Branch Offices of the SBA. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees authorized to use government vehicles.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information relating to use of government vehicles. Records include SBA Form 607, "Car Authorizations," applications for government driver's license, accident reports, physical fitness statements and operator's identification card.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 471.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

To supply the General Services Administration and the General Accounting Office with information necessary and relevant to the Agencies' functions.

To request information from State and local police departments to determine an employee's eligibility for a government license.

In the event that a system of records maintained by this Agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecution of such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course or settlement negotiations.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained in file folders and index cards.

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RETRIEVABILITY:

Records are indexed by employee name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose officials duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Directors, District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Regional Director for Regional Office records; District Director for District Office records; Branch Manager for Branch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Regional Director, District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom record pertains, witnesses to accidents, police records, personnel involved in accidents.

SBA185

SYSTEM NAME:

Grievances and Personnel Practices Appeals—SBA185

SYSTEM LOCATION:

Central Office, Regional Offices, or District Offices where grievances or personnel practices appeals have been filed.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees who have filed grievances under Union grievances procedures or Personnel Practices Appeals Procedures.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system includes correspondence, supporting documents, transcripts of hearings, information developed in investigating a grievance or appeal, and other information related to the processing of the grievance or appeal. These cases may be processed under a Union grievance procedure, or procedures established by the Agency pursuant to the Administrator's memorandum of December 9, 1974, to ensure that merit principles and personnel laws and regulations are carried out, where other procedures are not applicable.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101, Collective Bargaining Agreements with Unions which represent SBA employees, SBA Administrator's memorandum of December 9, 1974.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be communicated to the Union pursuant to the grievance procedure.

These records may be reviewed by the Civil Service Commission or used in reporting to the Civil Service Commission on labor-management relations activity.

Records may be disclosed to a Hearings Examiner from outside the Agency, pursuant to established procedures.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name of the employee filing the grievance or appeal.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors, District Directors. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; Regional Director for Regional Office records; District Director for District Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, Regional Director or District Director will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual who files grievance or appeal, other employees, Union, Personnel and employment records.

SBA190

SYSTEM NAME:

Hurricane Agnes Disaster Files—SBA190

SYSTEM LOCATION:

Philadelphia Regional Office, Harrisburg Branch Office and Wilkes-Barre Branch Office of SBA. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients and applicants of SBA Disaster Home Loans, recipients of Pennsylvania State grants.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information relating to loans applied for and/or issued during the Hurricane Agnes disaster of June 1972. These records include:

Detailed analysis of every SBA disaster loan over 50,000 approved in the Philadelphia Region during the Hurricane Agnes disaster of June 1972,

List of individuals receiving State grants,

List of Mobile Home Loans fully forgiven,

List of borrowers scheduled for liquidation and other information needed to determine eligibility of a borrower for additional funds,

Active disaster accounts containing U.S. Court Order for Restitution for misuse of loan proceeds.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101, 15 U.S.C. 634(b)(6).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

In the event that a system of records maintained by this Agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecution of such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

To request information from a Federal, State, or local agency maintaining civil, criminal or other information relevant to determining an applicant's suitability for a loan.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are indexed by recipient's name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Director, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Regional Director for Regional Office records; Branch Manager for Branch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Regional Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom record pertains, Loan Case Files, Department of Community Affairs (State of Pa.), United States Probation Officer, United States Clerk of Courts, Agency employees.

SBA185

SYSTEM NAME:

Inquiries and Correspondence—SBA105.

SYSTEM LOCATION:

Central, District and Branch Offices of the SBA. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have inquired of, or corresponded with, the Small Business Administration, or have been the subject of such inquiry.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information relating to correspondence and inquiries which are filed by the inquiror's name, and are not filed chronologically. Included in these records are inquiries from members of Congress, borrowers and applicants, and interested members of the public and news media. Also included in this system is information relating to Disaster Home Loan borrowers and applicants, and SBA employees who have been the subject of an inquiry, where such information is filed by the individual's name and not chronologically.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used:

To provide information to the public on an approved loan. Such information is limited to the name and address of the recipient, term and rate of the loan and the apportioned amount of the loan for real or personal property loss.

In the event that a system of records maintained by this Agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecution of such violation, or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

To provide data to the General Accounting Office for periodic reviews of the Agency.

To provide information or disclosure to State and Federal agencies, in response to their requests, in connection with the issuance of a grant, loan, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained in file folders, on magnetic tape, and index cards.

RETRIEVABILITY:

These records are indexed by individual's name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

These records are retained for no more than three years and then disposed of.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; District Director for District Office records; Branch Manager for Branch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom record pertains, Agency personnel, case files, Congressional correspondence, General Accounting Office.

SBA205

SYSTEM NAME:

Legal Work Files on Personnel Problems—SBA205.

SYSTEM LOCATION:

SBA Central. See Appendix A for address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

These work files include opinions, advice, transcripts, witness statements, etc. maintained by the General Counsel's Office on personnel cases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 634(b)(6); 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For internal agency use only.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records kept in file folders which are stored in file cabinets.

RETRIEVABILITY:

Records indexed by employee's name.

SAFEGUARDS:

Access limited to those employees in General Counsel's Office involved in these cases.

RETENTION AND DISPOSAL:

These work files are kept indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer. See Appendix A for address.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the Privacy Act Officer.

The address of this office is contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer will set forth the procedures for gaining access to the records. If there is no record of the individual, he or she will be so advised

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendments to the information sought.

RECORD SOURCE CATEGORIES:

Office of Personnel, Third party witnesses.

SBA210

SYSTEM NAME:

Lessees of Federally Owned Land on Rivers in Illinois—SBA210

SYSTEM LOCATION:

Springfield, Illinois Branch Office. See Appendix A for address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Leesees of Federally owned land on rivers in Illinois.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information as to whether these individuals did or did not obtain SBA loans during the 1973 Federally declared flood disaster.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For internal Agency use only.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained in a file folder.

RETRIEVABILITY:

These records are indexed by lessee name as well as a cross-referenced lot number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

SYSTEM MANAGER(S) AND ADDRESS:

Branch Manager. See Appendix A for address.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the Branch Manager in Springfield, Ill.

The address of this office is contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Department of the Army, Corps of Engineers.

SBA220

SYSTEM NAME:

Litigation and Claims File—SBA220

SYSTEM LOCATION:

Central Office, Regional, District and Branch Office, and Federal Records Centers. See Appendix A for SBA addresses and Appendix B for FRC addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Disaster Home Loan recipients and other individuals who are parties to lawsuits or claims involving the SBA.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information relating to recipients who have been classified as "in litigation" and all individuals involved in claims asserted by or against the Agency. These records include, wherever applicable: affidavits, briefs, pleadings, depositions and interrogatories, summaries of loan status with entries of progress of litigation, opinions, copies of Department of Justice papers concerning loan cases in litigation, summary foreclosures, chattel lien searches, requests and answers under disclosure of information, modifications of loan terms and conditions, recipients' attorneys' names, amount of liability, narrative report of actual and contingent liabilities and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used:

In the event that a system of records maintained by this Agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecution of such violation, or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

In the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course or settlement negotiations.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained in file folders, binders and index cards.

RETRIEVABILITY:

These records are indexed by the name of recipient and claimant.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

The litigation records are maintained by the Central Records Section for one year after the litigation action has been completed and marked "closed". At that time some records may be transferred to the Loan Case File while the remainder are destroyed. Records of claims and Disclosures of Information are maintained indefinitely and Actual and Contingent Liabilities Reports are maintained until the case is resolved, then forwarded to a Federal Records Center which disposes of them according to a GSA schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors, District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; Regional Director for Regional Office records; District Director for District Office records; Branch Manager for Branch Officer records.

The addresses of these officers are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, Regional Director, District Director or Branch Manager will set forth the procedures for gaining access to those records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, Agency personnel, Department of Justice, interviews and correspondence with individuals outside of the Agency, bankruptcy notices, court records, title companies, and Loan Case Files.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a (k)(2) and (k)(5), all investigatory material in the record compiled for law inforcement purposes or for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information is exempt from the notification, access, and contest requirements (under 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the Agency regulations. This exemption is necessary in order for the Agency legal staff to properly perform its functions.

SBA225

SYSTEM NAME:

Loan Accounting—SBA225.

SYSTEM LOCATION:

Central Office of the SBA. See Appendix A for address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of Disaster Home Loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records lists information necessary for proper accounting of Disaster Home Loans. Included in these records are transaction registers, listings of stop actions and manual freezes, listing of assets and liabilities, and listings of outstanding items in suspense.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal use only.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are maintained in file folders and binders.

RETRIEVABILITY:

Records are indexed by loan number.

SAFEGUARDS:

Access to and use of these records are limited to Accounting Operations Division personnel. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer. See Appendix A for address.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the Privacy Act Officer. The address of this office is contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom record pertains, Agency employees, Loan Case File.

SBA230

SYSTEM NAME:

Loan Activity Reports—SBA230.

SYSTEM LOCATION:

District, Branch and Regional Offices of the Small Business Administration. For addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for and recipients of Disaster Home Loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information relating to a Disaster Home Loan. Included in this system are lists of loan approval, lists of loans declined, lists of loans cancelled, lists of bank officers, SCORE/ACE volunteers and Advisory Council members receiving loan approval lists, lists of loans in servicing, lists of loans pending, lists of borrowers' Federal tax status, lists of undisbursed approved loans, lists of loan maturing, and lists of disbursed loans. Lists of approved loans contain information relating to the amount of a loan, the term and rate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Loan activity reports are for internal use, with the exception of loan approval lists. Information contained in a loan approval list may be used:

In the event that a system of records maintained by this Agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigation or prosecution of such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

To provide data to the General Accounting Office for periodic reviews of this Agency.

To provide the Internal Revenue Service with access to an individual's records for an official audit to the extent that the information is relevant and necessary to the IRS' function.

To provide information to the public on an approved loan. Such information is limited to the name and address of the recipient, term and rate of the loan and the apportioned amount of the loan for real or personal property loss.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained in file folders, binders and index cards.

RETRIEVABILITY:

Records are indexed by applicant and recipient name as well as, for approved loans, the loan number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening in employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Directors, District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Regional Director for Regional Office records; District Director for District Office records; Branch Manager for Branch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Regional Director, District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom record pertains, Agency employees, Loan Case File, and Loan Master Files.

SBA235

SYSTEM NAME:

Loan Case File—SBA235.

SYSTEM LOCATION:

All District and Branch Offices and some Regional Offices of the Small Business Administration and in Federal Record Centers. See Appendix A for SBA addresses and Appendix B for FRC addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants and recipients of disaster home loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information relating to an individual who has applied for, or is receiving a disaster home loan from the time of the individual's application until the date of payment in full or charge-off if approved; or until the date of an official denial if declined. These records include:

Loan applications and supporting documents
Personal history and financial statements
Credit information
Investigative reports
Appraisers' reports
Correspondence and recommendations of responsible SBA official including approval authorizations
Disbursement amount, term and rate
History of repayments
Collateral and UCC filings
Collection and liquidation activities
Related correspondence
Settlements and compromises
Participating banks

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used:

To provide information to the public on an approved loan. Such information is limited to the name and address of the recipient, term and rate of the loan, and the apportioned amount of the loan for real or personal property loss.

In the event that a system of records maintained by this Agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

To request information from a Federal, State or local agency or a private credit agency maintaining civil, criminal or other information relevant to determining an applicant's suitability for a loan.

To provide data to the General Accounting Office for periodic reviews of this Agency.

To provide information or disclose to State and Federal agencies, in response to their requests, in connection with the issuance of a grant, loan, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

To provide the Internal Revenue Service, in response to its request, with access to an individual's records for an official audit to the extent that the information is relevant and necessary to the IRS' function.

A record from this system of records may be disclosed, as a routine use in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of such proceedings or in settlement negotiations.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained in file folders, binders, and index cards.

RETRIEVABILITY:

These records are indexed by applicant and recipient name as well as a cross-referenced loan number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records on approved loans are retained for two years after the loan is paid or charged-off and then forwarded to a Federal Records Center where they are destroyed four years later. Records on withdrawn, declined or cancelled applications are retained for two years after notification of final action and are then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Directors, District Directors and Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Regional Director for Regional Office records; District Director for District Office records; Branch Manager for Branch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Regional Director, District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, Agency employees, financial institution reports, law enforcement agencies, and Federal Disaster Assistance Administration.

SBA240

SYSTEM NAME:

Loan Closings—SBA240.

SYSTEM LOCATION:

District and Branch Offices of the SBA. See Appendix A for address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Receipients of Disaster Home Loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records lists closing information relating to Disaster Home Loans. Included in these records are closing reports, disbursement status of loan account, expiration of disbursement periods, and other records of disbursement.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal use only.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained in file folders, binders, and index cards.

RETRIEVABILITY:

These records are indexed by recipient name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Files are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: District Director for District Office records; Branch manager for Branch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom record pertains, Agency employees. Loan Case File.

SBA245

SYSTEM NAME:

Loans in Liquidation, Charged-Off or Paid-in-Full—SBA245.

SYSTEM LOCATION:

Central Office, District and Branch Offices of the SBA and Federal Records Centers. See Appendix A for SBA addresses and Appendix B for FRC addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of Disaster Home Loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information relating to Disaster Home Loans that have been placed in liquidation status or have been charged-off. These records include information on finances of borrowers, disposition of collateral, how recoveries are applied, comments relative to liquidation status, and date of final charge-off.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used:

To provide data to the General Accounting Office for periodic reviews of this Agency.

To provide the Internal Revenue Service, in response to its request, with access to an individual's records for an official audit to the extent that the information is relevant and necessary to the IRS's function.

In the event court action arises from loan collection activities, a record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course or settlement negotiations.

In the event that a system of records maintained by this Agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecution of such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual

STORAGE:

These records are maintained in file folders, index cards, and magnetic tape.

RETRIEVABILITY:

These records are indexed by recipient name as well as a cross-referenced loan number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records on a loan in liquidation are retained by the SBA for three years after the case is closed. Except for those cases on which subsequent collection efforts have been made within three years from the date of closing, the records are then transferred to a Federal Records Center, which will dispose of the records after four years.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; District Director for District Office records; Branch Manager for Branch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, Agency employees, financial institution reports, creditors of the individual, auctioneers, U.S. Attorney, SBA Collateral File, SBA Loan Case File.

SBA250

SYSTEM NAME:

Loan Master Files—SBA250.

SYSTEM LOCATION:

Central Office of Small Business Administration. See Appendix A for the address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of Disaster Home Loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information relating to an individual who has received an SBA Disaster Home Loan. Included in these records are: approval, disbursement, delinquency and bank participation data, modifications of loans, litigation data, and minority code.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of such proceedings or in settlement negotiations.

In the event that a system of records maintained by this agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigation or prosecution of such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

To provide information or disclose to State and Federal agencies, in response to their requests, in connection with the issuance of a grant, loan or benefit by the requesting agency, or in connection with a review or audit by the other agency. Disclosure will be made only to the extent that the information is relevant and necessary to the requesting agencies' functions.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained on microfilm, magnetic tape, magnetic disc, and in file cabinets,

RETRIEVABILITY:

These records are indexed by loan number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Files are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer. See Appendix A for address.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the Privacy Act Officer. The address of this office is contained in Appendix A.

RECORD ACCESS PROCEDURE:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Loan Case File, individual to whom record pertains, Agency employees.

SBA255

SYSTEM NAME:

Management Assistance Resource Files—SBA255

SYSTEM LOCATION:

Central Office, Regional Offices, District Offices, and Branch Offices of the SBA. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SCORE/ACE volunteers, persons who borrow Management Assistance training materials, Small Business Institute coordinators, and other individuals who are potential speakers, counselors or authors and reviewers for Management Assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information relating to individuals listed in the above paragraph. These records include biographical sketches of volunteers, correspondence, copies of travel vouchers, files of accomplishments, copies of counseling reports, occasional evaluations of individual volunteers, publications authored, news releases and clipping.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used:

To provide SCORE/ACE volunteers with information about an individual SCORE or ACE volunteer.

To provide university coordinators with information about potential speakers at management training sessions.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained in file folders, binders, and index cards.

SAFEGUARDS:

Access to and use of these records are limited to those Agency personnel and volunteers whose duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are retained, in the case of SCORE volunteers, for three years either

after a volunteer withdraws or has his name removed from acitve participation, and are then destroyed. For all others, files are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors, District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records, Regional Directory for Regional Office records, District Directory for District Office records, Branch Manager for Branch Office records. The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, Regional Director, District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct theif request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, Agency employees, members of SCORE or ACE, news media, educators and universities, professional organizations, civic organizations.

SBA265

SYSTEM NAME:

Modifications in Loan Accounting—SBA265

SYSTEM LOCATION:

Central Office, District and Branch Offices of SBA. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of Disaster Home Loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records lists information necessary to keep Loan Case Files up-to-date with changes of borrower's address or loan status, deferments and rejections in payments, and other modifications as contained in SBA Form 327.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For internal use only.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained in file folders, binders, and index cards.

RETRIEVABILITY:

Records are indexed by loan number and name of borrowers.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are retained for no more than two years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records, District Director for District Office records, Branch Manager for Branch Office records. The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Agency Personnel, Individual to whom record pertains, Loan Case File, Financial Institutions.

SBA270

SYSTEM NAME:

Non-Career Employees—SBA270

SYSTEM LOCATION:

Central Office, at address listed in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Schedule C (Non-Career) employees or applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

File includes Clearance Requests, Standard Form 171, resumes and other background information on applicants for non-career positions with the SBA.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records is used to respond to requests for information from the White House, and to forward information to the White House.

These records may be examined by the Civil Service Commission or General Accounting Office in reviewing the Agency.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are kept in file folders.

RETRIEVABILITY:

Retrievable by name of applicant or employee.

SAFEGUARDS:

Records are kept in locked filing cabinet. Personnel screening is utilized to prevent unauthorized use.

RETENTION AND DISPOSAL:

Files are kept current and are discarded when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer. See Appendix A for address.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the Privacy Act Officer at the address contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom record is maintained. White House.

SBA280

SYSTEM NAME:

Occupational Injuries—SBA280

SYSTEM LOCATION:

Central, District, Regional and Branch Offices where injuries have occurred. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees who have been involved in an accident or injured on the job.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include report forms on accidents and injuries, medical reports, medical bills and other information pertinent to the accident or injury.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101, 29 U.S.C. 651–78.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in this system are used to report accidents and injuries to the Department of Labor.

Records in the system may be used in processing claims for compensation for on-the-job injuries, by the appropriate Agency or a court.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are kept in file folders.

RETRIEVABILITY:

Records are indexed by the name of the employee.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is used to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Files are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Director, District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records, Regional Director for Regional Office records, District Director for District Office records, Branch Manager for Branch Office records. The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, Regional Director, District Director, or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Employee involved in accident, witnesses, other Agency personnel.

SBA285

SYSTEM NAME:

Official Travel Files—SBA285

SYSTEM LOCATION:

Central Office, at address listed in Appendix A. Federal Records Centers, at addresses listed in Appendix B.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files include Travel Vouchers submitted by each employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are reviewed by the General Accounting Office in the course of an audit of the Agency.

In the event that a system of records maintained by this Agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulatory rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecution of such violation, or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are kept in file folders.

RETRIEVABILITY:

Records are indexed by employee name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is utilized to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are maintained for two years after the end of a fiscal year, or until a GAO audit. Records are then transferred to a Federal Records Center, where they will be disposed of ten years after the end of the fiscal year in which the records were compiled.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer. See Appendix A for address.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the Privacy Act Officer, at the address contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Travel Vouchers submitted by employees.

SBA290

SYSTEM NAME:

Outside Employment Files—SBA290

SYSTEM LOCATION:

Central Office, Regional Offices, Lubbock District Office. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees who have requested permission to engage in outside employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include requests for outside employment, correspondence concerning such requests, and notification of Agency approval or disapproval of outside employment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal use only.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are kept in file folders.

RETRIEVABILITY:

Records are indexed by name of employee.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is used to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Director, District Director. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Office for Central Office records, Regional Director for Regional Office records, District Director for District Office records. The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, Regional Director or District Director will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Employee requesting approval of outside employment and other Agency personnel.

SBA295

SYSTEM NAME:

Payroll Files—SBA295

SYSTEM LOCATION:

SBA Central Office. See Appendix A for address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees, active and inactive.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security number, employee number, grade, step, and salary; organization, retirement or FICA data as applicable; Federal, State and local tax deductions, as appropriate; savings bond and charity deductions; regular and optional Government life insurance deductions; health insurance deduction and plan or code; cash award data; union dues deductions; allotments, by type and amount; financial institution code and employee account number; leave status and leave data of all types; time and attendance records, including number of regular, overtime, holiday, Sunday, and other hours worked; mailing address; co-owner and/or beneficiary of bonds, marital status and number of dependents; notification of Personnel Actions; unemployment records; register of separations; annual leave restoration; over-payment indebtedness; correspondence from employees concerning payroll problems.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 6, GAO Policy and Procedures Manual, pursuant to 31 U.S.C. 66(a), and sections 112(a) and 113 of the Budget and Accounting Procedures Act of 1950.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this record system may be used:

In the event that a system of records maintained by this Agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigation or prosecution of such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

To transmit data to U.S. Treasury to effect issuance of paychecks to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes.

By the General Accounting Office for audit purposes.

In reporting tax withholding to Internal Revenue Service and appropriate State and local taxing authorities; FICA deductions to the Social Security Administration; dues deductions to labor unions; withholdings for health insurance to insurance carriers and the U.S. Civil Service Commission; charity contribution deductions to agents of charitable institutions; annual W–2 statements to taxing authorities and the individual.

Disclosure may be made to a congressional office from the record of an individual in reponse to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Both manual and machine-readable.

RETRIEVABILITY:

By name and/or employee or Social Security number.

SAFEGUARDS:

Physical, technical, and administrative security is maintained, with admission to records storage areas limited to authorized personnel.

RETENTION AND DISPOSAL:

Retained on site until after GAO audit, then disposed of, or transferred to Federal Records Storage Centers in accordance with the fiscal records program approved by GAO, as appropriate, or General Record Schedules of GSA.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer. See Appendix A for address.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to:

Privacy Act Officer for Central Office records.

The address of this office is-containted in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Subject individuals, supervisors, timekeepers, official personnel records, and IRS.

SBA300

SYSTEM NAME:

Personnel Benefits Files—SBA300

SYSTEM LOCATION:

Cleveland District Office, Casper District Office, Des Moines District Office. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This record contains information on the enrollment option and carrier number of employees enrolled in Health Insurance and Retirement Plans.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101, 29 U.S.C. 651–78.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records is used in communicating with insurance carriers in regard to employee benefits.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are kept in file folders or card files.

RETRIEVABILITY:

Records are indexed by employee name.

SAFEGUARDS:

Access to and use of these records is limited to those persons whose official duties require such access. Personnel screening is used to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

District Directors. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the District Director. The address of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the District Director will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information contained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Agency personnel records, individual on whom records are maintained.

SBA305

SYSTEM NAME:

Personnel Card Index Files—SBA305

SYSTEM LOCATION:

Central Office, Regional Offices, District Offices, and Branch Offices. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BE THE SYSTEM:

SBA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This record is kept by each office on its employees. It contains a summary of personnel information, including Social Security number, birthdate, address, telephone number, marital status, employment history, and similar information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records may be used in responding to inquiries from banks or institutions on employees requesting loans or credit.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are kept on cards, or on Standard Form 7, "Employee Service Record Card," in Card Files.

RETRIEVABILITY:

Records are indexed by employee name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel

screening is used to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are retained for ten years after the employee leaves the Agency, then disposed of.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors, District Directors, and Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; Regional Director for Regional Office records; District Director for District Office records; Branch Manager for Branch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURE:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, Regional Director, District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Employees on whom records are maintained. Agency Personnel Actions and records.

SBA310

SYSTEM NAME:

Personnel Organization Roster—SBA310

SYSTEM LOCATION:

Maintained at SBA Central Office and at most field offices. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee's name, Social Security number, position title, occupational series, pay plan, grade, step, salary, veteran preference, tenure birth date, date entered Federal Service, and time spent in grade.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 634(b)(6); 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For internal Agency use only.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are copies of a computer listing which are kept in file cabinets or the desk of the responsible employee.

RETRIEVABILITY:

Records are filed by office, program area, and name.

SAFEGUARDS:

Information released only to authorized persons on a need to know basis.

RETENTION AND DISPOSAL:

A new listing is generated each month. The Central Office disposes of old copies after three years or upon completion of a Civil Service Commission inspection. Field offices dispose of old monthly copy when new copy is received or periodically, if desired.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors, District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; Regional Director for Regional Office records; District Director for District Office records; Branch Manager for Branch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURE:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, Regional Director, District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Personnel and Payroll Records.

SBA315

SYSTEM NAME:

Personnel Security Files—SBA315

SYSTEM LOCATION:

SBA Central Office and Regional Offices. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active and inactive SBA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains the active and inactive personnel security files, which include the employee's or former employee's name, background information, personnel actions, and Civil Service Commission's full field investigations. Also included in this system are the Civil Service Commission's National Agency checks and the names of those employees in sensitive positions requiring full field investigations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101, Executive Order 10450.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In the event that a system of records maintained by this Agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the investigation or prosecution of such violation's or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Full field investigation and National Agency checks are returned to the Civil Service Commission when employee becomes inactive.

Records in the active and inactive personnel security files are forwarded to other Federal agencies conducting background checks.

A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of such proceedings or in settlement negotiations.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

The active and inactive personnel security files are maintained in rotary diebold power files. CSC National Agency checks are maintained in locked safes.

RETRIEVABILITY:

Records are retrieved by employee's name.

SAFEGUARDS:

Personnel screening. Information released only to authorized persons.

RETENTION AND DISPOSAL:

Civil Service Commission National Agency checks are kept until the employee leaves government service and then returned to CSC.

On the separation of an employee from SBA, Security and Investigations Division strips the file and forwards the full field portion of an investigation to the CSC. Remaining information of a nonderogatory nature is destroyed, while derogatory information is kept indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; Regional Director for Regional Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURE:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer or Regional Director will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

SBA employees, SBA Personnel Office, third party witnesses, Civil Service Commission.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a (k)(2) and (k)(5), all investigatory material in the record compiled for law enforcement purposes or for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information is exempt from the notification, access and contest requirements (under 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of the Agency regulations. This exemption is necessary in order to fulfill commitments made to protect the confidentiality of sources and to maintain access to sources necessary in making determinations of suitability for employment.

SBA320

SYSTEM NAME:

Portfolio Reviews—SBA320

SYSTEM LOCATION:

Central Office, District Offices, Branch Offices. For addresses see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of SBA Disaster Home Loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of reports compiled by the Office of Portfolio Review in the course of reviewing field office handling of all loans. Disaster Home Loans are included in these reviews only occasionally. Central Office files also include line cards prepared with summary information on each loan. Until early 1975 the Portfolio Review Reports contained this information on each loan listed alphabetically. Since that time, loans are no longer listed, but are named only when there is a particular problem in the loan handling.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 634(b)(6), 5 U.S.C. 301, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in this system may be examined by the General Accounting Office in the course of a review of the Agency.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are kept in file folders.

RETRIEVABILITY:

Records are indexed by office. Some information within the records is retrievable by loan name of number.

SAFEGUARDS:

Access to and use of these records is limited to those persons whose official duties require such access. Personnel screening is used to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Reports are retained indefinitely. Line cards in Central Office are retained until the next report, then disposed of.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; District Director for District Office records; Branch Manager for Branch Office records.

The address of these officers are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the

official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Office of Portfolio Review, Loan Case Files, SBA personnel, and Field visits to borrowers.

SBA325

SYSTEM NAME:

Potential Spanish-Surnamed Applicants—SBA325

SYSTEM LOCATION:

Denver Regional Office, at address listed in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Potential Spanish-surnamed applicants for Federal employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

This record includes name, address, phone number, and information on employment of Spanish-surnamed individuals who are potential applicants for SBA employment. This information is used to notify individuals of job openings at the SBA.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 92-261, Executive Order 11478.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal Agency use only.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are kept in a card file.

RETRIEVABILITY:

Records are indexed by the names of individuals.

SAFEGUARDS:

Access to and use of these records is limited to those persons whose official duties require such access. Personnel screening is used to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Director. See Appendix A for address.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the Regional Director at the address contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Regional Director will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the offical listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained; organizations who refer applicants.

SBA330

SYSTEM NAME:

Power of Attorney Files—SBA330

SYSTEM LOCATION:

SBA Regional Offices, District Offices in Atlanta, Georgia; Birmingham, Alabama; Charlotte, North Carolina; Columbia, South Carolina; Miami, Florida; Jacksonville, Florida; Louisville, Kentucky; Jackson, Mississippi; and Nashville, Tennessee; Branch Offices in Biloxi, Mississippi and Knoxville, Tennessee. For addresses see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Insurance agents who have the authority to execute a surety bond.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in this system of records identifies those individuals who are authorized to execute bonds for surety companies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For internal use only.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by agent's and broker's names.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are retained until the SBA is notified that the authority to execute bonds has been rescinded, at which time the records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Directors, District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Regional Director for Regional Office records; District Director for District Office records; Branch Manager for Branch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Regional Director, District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Surety company for which the agent broker is authorized to execute bonds.

SBA335

SYSTEM NAME:

Problem Loan Work Files—SBA335.

SYSTEM LOCATION:

District and Branch Offices of the SBA. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of Disaster Home Loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information relating to an individual recipient of a Disaster Home Loan. These records include delinquent accounts, reports of field visits, correspondence and other information pertinent to a problem loan.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In the event that a system of records maintained by the Agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecution of such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are indexed by recipient's name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

These records are retained independently of the Loan Case File until the problem is resolved and then are incorporated into the Loan Case File.

SYSTEM MANAGER(S) AND ADDRESS:

District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURES:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: District Director for District Office records; Branch Manager for Branch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Loan Case File, individual to whom record pertains, Agency employees, financial institutions.

SBA345

SYSTEM NAME:

Red Cross Blood Program—SBA345.

SYSTEM LOCATION:

Regional Offices, at addresses listed in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees who have donated blood or indicated their willingness to donate blood.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record includes name of employee, blood type, and date of last donation of blood.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records will be used in referring individuals to the Red Cross to donate blood.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Information is kept in notebooks or on cards.

RETRIEVABILITY:

In some offices this record is indexed by the employee's name. In other offices it is only indexed by date.

SAFEGUARDS:

Access to and use of these records is limited to those persons whose official duties require such access. Personnel screening is utilized to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are kept for one year, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Directors. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the Regional Director. The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Regional Director will set forth the procedures for gaining access to the records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual on whom records is maintained.

SBA350

SYSTEM NAME:

Reports on Minority Employment—SBA350.

SYSTEM LOCATION:

Central Office, Regional Offices, District Offices. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records includes computer printouts and other forms of

listings of SBA employees, indicating their minority code and sex, and in some cases training and promotions received by them. The records are used to evaluate the Agency's compliance with principles of equal employment opportunity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11478, 42 U.S.C. 2000e-1 et seq., 5 C.F.R. 713, 13 C.F.R. 105.735-5-4.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used in compiling reports to the Civil Service Commission.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are kept on magnetic tape, on cards, or in file folders.

RETRIEVABILITY:

Information in this system may be indexed by employee name, Social Security Number, or minority code.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is used to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Indefinite or until up-dated.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors, District Directors. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; Regional Director for Regional Office records; District Director for District Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, Regional Director, or District Director will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Personnel records and visual observation to determine minority code.

SBA355

SYSTEM NAME:

SCORE Master Files—SBA355.

SYSTEM LOCATION:

Central Office. See Appendix A for the address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Service Corps of Retired Executives and Active Corps of Executives.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records is a master list of all retired and active executives who volunteer their services to give business counseling to SBA recipients. These records contain information as to personal qualifications and expertise and cases which they have counseled.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal Agency use only.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained on magnetic tape and in a binder.

RETRIEVABILITY:

These records are indexed by SCORE and ACE volunteer's name as well as serial number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

The master tape is updated periodically and maintained indefinitely. When a SCORE and ACE volunteer's name is withdrawn from active duty, the record is maintained for three years and is then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, see appendix A for address.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records.

The Address of this office is contained in appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom record pertains, SCORE/ACE registration forms.

SBA360

SYSTEM NAME:

Security & Investigations Files—SBA360.

SYSTEM LOCATION:

Central Office and Federal Records Centers. See Appendix A for SBA Central Office address and Appendix B for FRC addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants and recipients of SBA assistance and principals of applicant and recipient businesses—all types of loans, Lease Guarantees, Small Business Investment Company licensing, 8(a) contractors, call contractors and grantees, State and Local Development Companies, Economic Development Administration loans, Surety Bond Guarantees and applicant representatives, members of Advisory Councils and SCORE/ACE volunteers.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains investigations and reports on all of the above individuals on whom the Agency has derogatory information. Records of a nonderogatory nature are maintained on the principal SBIC directors and stockholders. These records integrate FBI and IRS reports and include personal history statements, background character checks, field investigations, arrest and conviction records, parole and probation data, Securities and Exchange Commission violations, recommendations and evaluations, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 634(b)(6), 15 U.S.C. 645(a), 18 U.S.C. 1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In the event that a system of records maintained by this Agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecution of such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of such proceeding or in settlement negotiations.

These records may be used to provide data to the General Accounting Office for periodic reviews of this Agency.

These records may routinely be disclosed to other Federal agencies, in response to their requests, in connection with conducting background checks. Disclosure will be made only to the extent that the information is relevant and necessary to the requesting agencies' function.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained in rotary diebold power files, file folders and card indexes.

RETRIEVABILITY:

These records are indexed by applicant and recipient name.

SAFEGUARDS:

Personnel screening. Information is released only to authorized persons.

RETENTION AND DISPOSAL:

At the end of each calendar year, investigation records are screened to remove those records on which no derogatory information has been received for five years or more. These inactive records are then sent to an FRC which maintains them for twenty years and then destroys them. Derogatory records on SBIC principals are retained for two years and then transferred to an FRC which destroys them after ten years, whereas nonderogatory records are retained for one year and then destroyed. Investigation cards containing a condensed report and applicant representative cards are retained indefinitely. Correspondence records are retained for as long as they are essential and destroyed annually when nonessential.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer. See Appendix A for address.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the Privacy Act Officer for Central Office records. The address of this office is contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him; or her, the Privacy Act Officer will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, public court records, parole and probation authorities, FBI, IRS, State and local law enforcement authorities, third party informants and Agency personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a (k)(2) and (k)(5), all investigatory material in the record compiled for law enforcement purposes or for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information is exempt from the notification, access and contest requirements (under 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the Agency regulations. This exemption is necessary in order to fulfill commitments made to protect the confidentiality of sources and to prevent subjects of investigations from frustrating the investigatory process.

SBA365

SYSTEM NAME:

Security & Investigations Referrals—SBA365.

SYSTEM LOCATION:

Regional, District and Branch Offices. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees and applicants and recipients of SBA assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains referrals to Securities & Investigations for investigations and reports of the above individuals in order to determine whether fraudulent activities or misconduct has taken place. This system sometimes includes copies of the completed report by the S & I Division. These records include: personal statements of any arrests, indictments and convictions-SBA Form 912, allegations of irregularities, informants statements from outside investigative sources, recommendations from the field offices and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 634(b)(6), 15 U.S.C. 645(a), 18 U.S.C. 1001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In the event that a system of records maintained by this Agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in

the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigation or prosecution of such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of such proceedings or in settlement negotiations.

These records may be used to provide data to the General Accounting Office for periodic reviews of this Agency.

These records may routinely be disclosed to other Federal agencies, in response to their requests, in connection with conducting background checks. Disclosure will be made only to the extent that the information is relevant and necessary to the requesting agencies' function.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STROAGE:

These records are maintained in file folders and index cards.

RETRIEVABILITY:

These records are indexed by the name of the individual to be investigated.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Some offices retain these records for two years and then destroy them, while other offices retain these records until the irregularities are resolved.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Directors, District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Regional Director for Regional Office records; District Director for District Office records; Branch Manager for Branch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Regional Director, District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, Agency personnel, third party informants and the FBI and other investigative Government agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a (k)(2) and (k)(5), all investigatory material in the record compiled for law enforcement purposes or for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information is exempt from the notification, access, and contest requirements (under 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f)) of the Agency regulations. This exemption is necessary in order to fulfill commitments made to protect the confidentiality of sources and to prevent subjects of investigations from frustrating the investigatory process.

SBA370

SYSTEM NAME:

Settlement and Compromise—SBA370.

SYSTEM LOCATION:

Central Office, Regional Offices, Miami District Office, Louisville District Office, Birmingham District Office. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of SBA Disaster Home Loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include listings of loans considered for compromise, case records and financial information relating to compromises of loans, settlement agreements and notices of compromise on loans.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of such proceedings or in settlement negotiations.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are kept in file folders.

RETRIEVABILITY:

Records are indexed by name of borrower.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is utilized to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are kept indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors, District Directors. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; Regional Director for Regional Office records; District Director for District Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, Regional Director or District Director will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendments to the information sought.

RECORD SOURCE CATEGORIES:

Borrowers, Loan Case Files, Agency Compromise Committees, other Agency personnel.

SBA375

SYSTEM NAME:

Small Business Person Awards—SBA375

SYSTEM LOCATION:

Central, Regional and District Offices of the SBA. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Loan recipient candidates and winners of the Small Business Person of the Year Awards and Community Development Awards.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information relating to the candidacy and selection of Small Business Person of the Year in SBA District and Regional Offices. These records include applications, biographical summaries, correspondence, recommendations and narratives of business and civic successes. The record of Community Development Awards in the Central Office includes biographical and qualifying information as well as recommendations from SBA field offices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used:

To provide information to the news media for public disclosure of the name, address and biographical statement of the recipients of the awards.

To communicate with officials in State and local government as to the status of a particular candidate.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrievable by individual name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records may be retained from one to ten years.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors, District Directors. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; Regional Director for Regional Office records; District Director for District Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, Regional Director or District Director will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTEST RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom record pertains, recommendations from various individual sponsors, Advisory Council members, Agency personnel, research publications directories, news media.

SBA380

SYSTEM NAME:

Standards of Conduct Files—SBA380.

SYSTEM LOCATION:

SBA Central Office, all Regional Offices, various District Offices. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Confidential statement of employment and financial interests made by employees Grade 13 and above, and by Grade 12 Branch Managers.

Ad Hoc Committee decisions and memoranda concerning standards of conduct questions used as precedent for later decisions. (Central Office only.)

Correspondence concerning conflicts of interest.

Listing of all SBA employees who have been indicted or convicted in matters involving SBA business.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

13 C.F.R. 105.735 enacted pursuant to the Small Business Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In the event that a system of records maintained by this Agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecution of such violation or charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of such proceeding or in settlement negotiations.

Records contained in this system may be forwarded to the Civil Service Commission when requested.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are maintained in file folders which are stored in file cabinets or safes.

RETRIEVABILITY:

Records are retrieved by the name of the employee.

SAFEGUARDS:

Access is strictly limited to those employees with a need to use these records in performing their duties.

RETENTION AND DISPOSAL:

Files are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors, District Directors. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; Regional Director for Regional Office records; District Director for District Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURE:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, Regional Director or District Director will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Information in the confidential statement of employment and financial interests is collected from the employee himself. Any adverse information could come from other employees or from a member of the general public with specific knowledge of the matter reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5), all investigatory material in the record compiled for the purpose of determining suitability, eligibility or qualifications for Federal civilian employment, Federal contracts, or access to classified information is exempt from the notification, access, and contest requirements (under 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Agency regulations. This exemption is necessary in order to fulfill commitments made to protect the confidentiality of sources and maintain access to sources necessary in making determinations of suitability.

SBA385

SYSTEM NAME:

Tort Claims—SBA385.

SYSTEM LOCATION:

Central Office and Federal Records Centers, at addresses listed in Appendices A and B.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Government employees and other individuals involved in accidents.

CATEGORIES OF RECORDS IN THE SYSTEM:

This record contains reports on accidents which result in tort claims involving the Government.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101, 42 U.S.C. 3211.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In the event that a tort claim results in a court suit, these records will be referred to the Department of Justice for handling of the suit and used in the preparation and presentation of the case.

These records are used in reporting on accidents and tort claims to the General Services Administration.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are kept in file folders.

RETRIEVABILITY:

Records are indexed by the names of persons involved in the accident.

SAFEGUARDS:

Records are kept in a locked cabinet. Access to and use of these records is limited to persons whose official duties require such access. Personnel screening is utilized to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are retained for one year, then sent to a Federal Records Center, where they are retained for five years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer. See Appendix A for address.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the Privacy Act Officer. The address is contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individuals involved in accident, witnesses, investigation of the accident.

SBA390

SYSTEM NAME:

Transfer of Loan Records—SBA390.

SYSTEM LOCATION:

District and Branch Offices of the Small Business Administration. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of Disaster Home Loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records reports the transfer of loan case files from one division of the Small Business Administration to another division, or to the Federal Records Center.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used:

To provide information to the Federal Records Center, as needed, to locate a Loan Case File.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by recipient name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: District Director for District Office records; Branch Manager for Branch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Loan Case Files, Agency employees.

SBA395

SYSTEM NAME:

UCC Refiling and Financial Statements Due—SBA395.

SYSTEM LOCATION:

District and Branch Offices of the Small Business Administration. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of Disaster Home Loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records lists information relating to recipients of Disaster Home Loans. Records include record of due dates for financial statements and expiration dates of UCC lien filings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For internal use only.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained in file folders and binders.

RETRIEVABILITY:

Records are indexed by recipient name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are retained for no more than three years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURES:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: District Director for District Office records; Branch Manager for Branch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, Agency employees, and Loan Case File.

SBA400

SYSTEM NAME:

Union Membership—SBA400

SYSTEM LOCATION:

Denver Regional Office, Miami District Office, Little Rock District Office, Minneapolis District Office. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees who are members of the Union.

CATEGORIES OF RECORDS IN THE SYSTEM:

This is a list of employees who are members of the Union or who have signed authorizations for payroll withholding of Union dues.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101, Collective Bargaining Agreement with the Union which represents SBA employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in this system might be reviewed by the Civil Service Commission in the course of a personnel management evaluation of the office.

Records may be used in communications with the Union regarding dues withholding or other Union business.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, Agency employees, and Loan Case File.

SBA400

SYSTEM NAME:

Union Membership—SBA400

SYSTEM LOCATION:

Denver Regional Office, Miami District Office, Little Rock District Office, Minneapolis District Office. See Appendix A for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees who are members of the Union.

CATEGORIES OF RECORDS IN THE SYSTEM:

This is a list of employees who are members of the Union or who have signed authorizations for payroll withholding of Union dues.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101, Collective Bargaining Agreement with the Union which represents SBA employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in this system might be reviewed by the Civil Service Commission in the course of a personnel management evaluation of the office.

Records may be used in communications with the Union regarding dues withholding or other Union business.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are alphabetical by the name of the member of the Union or person who has signed a dues withholding authorization.

SAFEGUARDS:

Personnel screening is utilized to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

These records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Director or District Directors. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Regional Director for regional Office Records; District Director for District Office Records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURE:

In response to a request by an individual to determine whether the system contains a record pertaining him or her, the Regional Director or District Director will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individuals on whom record is maintained, Union, Computer print-out on payroll deductions.

SBA405

SYSTEM NAME:

Unofficial Personnel Files—SBA405

SYSTEM LOCATION:

Maintained by individual divisions and branches of the SBA Central Office, as well as all SBA Regional, District, and Branch Offices. For addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees, both active and separated.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains a number of records pertaining to an individual's employment at SBA. These records include Time and Attendance cards, authorizations for overtime, records of leave, training requested and attended, travel itineraries and vouchers, copies of Personnel actions, requests for Personnel actions, Position Descriptions, copies of official performance evaluations, copies of letters of commendation and retirement, personal information for use in emergencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 15 U.S.C. 634(b)(6); 44 U.S.C. 3101; Title 5, "GAO Policy and Procedures Manual," pursuant to 31 U.S.C. 66(a) and sections 112(a) and 113 of the Budget and Accounting Procedures Act of 1950; 5 U.S.C. 5701-09

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For internal use only.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

These records are maintained in either file folders, binders or card indexes which are located in file cabinets or on the desk of the responsible employee.

RETRIEVABILITY:

Records are indexed by the employee's name, Social Security number, or other personal identifier.

SAFEGUARDS:

Personnel screening—information released to authorized persons on a need to know basis only.

RETENTION AND DISPOSAL:

There is no official Agency policy on retention of these records. Most of the records are maintained for up to three years.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors, District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; Regional Director for Regional Office records; District Director for District Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURE:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, regional Director, District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, SBA Office of Personnel, Supervisor of the respective branch or division, Payroll section of SBA.

SBA410

SYSTEM NAME:

Upward Mobility Files—SBA410

SYSTEM LOCATION:

Central Office, Denver Regional Office, San Francisco Regional Office. For addresses see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees who have applied for jobs within the Agency under the Upward Mobility Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include applications of candidates for higher jobs in the Agency, appraisals by supervisors of qualifications of candidate, ratings by Personnel staff, roster of best-qualified candidates.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be communicated to the Union which represents SBA employees.

Information in these records may be given to the Civil Service Commission for the processing of personnel matter.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records are kept in file folders.

RETRIEVABILITY:

Records are indexed by employee name or job vacancy.

SAFEGUARDS:

Access to and use of these records is limited to those persons whose official duties require such access. Personnel screening is used to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Officer, Regional Directors. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; Regional Director for Regional Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer or Regional Director will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reason for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Applicants, supervisors of applicants, Agency Personnel Office, Agency officials responsible for selecting applicants.

SBA415

SYSTEM NAME:

Virginia Attorneys—SBA415

SYSTEM LOCATION:

Richmond District Office, at address listed in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys in private practice in Virginia who do title work or SBA work.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record contains names and addresses of attorneys and a designation as to whether attorney is approved or unapproved. This record is used as a guide to reliability of attorneys, as to what assurances will be required on title opinions given by these attorneys.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal Agency use only.

Disclosure may be made to a congressional office form the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Record is maintained in a loose-leaf notebook.

RETRIEVABILITY:

List is alphabetical within categories by locality.

SAFEGUARDS:

Access to and use of these records is limited to those persons whose official duties require such access. Personnel screening is used to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Record is updated continuously and retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

District Director. See Appendix A for address.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the District Director, at the address contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the District Director will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Lawyer's Title Company, SBA personnel.

SBA420

SYSTEM NAME:

Work Progress Reports—SBA420.

SYSTEM LOCATION:

SBA Central Office. The following SBA District Offices: Providence, RI; Seattle, Wash.; Detroit, Mich.; Birmingham, Ala.; Minneapolis, Minn.; Miami, Fla.; Columbus, Ohio; Anchorage, Ak.; Honolulu, Hawaii. The following SBA Branch Offices: Harrisburg, Pa.; Springfield, Ill. Addresses for these offices may be found in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include: Individual work reports showing how an employee's time was expended; Project control sheets; Project status reports; Summary of loan officers' activity; Record of loans processed by loan officers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 634(b)(6), 5 U.S.C. 301; 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For internal Agency use only.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

Records maintained in file folders, which are stored in desk drawers or in file cabinets.

RETRIEVABILITY:

Records are indexed by employee's name.

SAFEGUARDS:

Personnel screening. Information released to authorized personnel on a need to know basis.

RETENTION AND DISPOSAL:

Records in this system are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS

Privacy Act Officer, District Directors, Branch Managers. See Appendix A for addresses.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to: Privacy Act Officer for Central Office records; District Director for District Office records; Branch Manager for Branch Office records.

The addresses of these offices are contained in Appendix A.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the Privacy Act Officer, District Director or Branch Manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Employee on whom the file is maintained, the employee's supervisor, production control clerk.

SBA425

SYSTEM NAME:

Federal Personnel Career Administration Program Files—SBA425.

SYSTEM LOCATION

Central Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Civil Service Commission Standard 171 forms and SBA mobility forms.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101, 15 U.S.C. 634(b)(6).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide Program Evaluation Staff with information to help place qualified individuals in appropriate vacancies, and to determine what areas in Personnel need to be stressed in the individual's orientation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained in notebooks in locked steel cabinets.

RETRIEVABILITY:

Records are coded according to grade.

SAFEGUARDS:

Information released to authorized personnel on a need to know basis.

RETENTION AND DISPOSAL:

Records are maintained until employee leaves the Agency, they destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, Central Office. See Appendix A for address.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the manager listed above.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the system manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Forms submitted directly by employees.

SBA430

SYSTEM NAME:

Executive Inventory Record—SBA430.

SYSTEM LOCATION:

Central Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SBA employees at GS–15 to GS–18.

CATEGORIES OF RECORDS IN THE SYSTEM:

Executive Inventory Record (Application of Employment).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101, 15 U.S.C. 634(b)(6).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide a system for maintaining records of SF–161's submitted to the Civil Service Commission when considering candidates for supergrade vacancies from Executive Inventory Register. To be used by Employment Divisions and by Civil Service Commission.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored in steel file cabinet.

RETRIEVABILITY:

Records are listed alphabetically as Executive Inventory Records.

SAFEGUARDS:

Information released to authorized personnel only.

RETENTION AND DISPOSAL:

Records are maintained until employee leaves the Agency.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Employment Division, Central Office. See Appendix A for address.

NOTIFICATION PROCEDURES:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the manager listed above.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the system manger will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES APPLICANTS.

SBA435

SYSTEM NAME:

Executive Development Records—SBA435.

SYSTEM LOCATION:

6115 Fenton Street, Silver Spring, Maryland 20910.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants and participants in the Executive Development Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

SBA forms 1063 and 1038, SBA 171, SBA 1075A, miscellaneous forms evaluating assignments, and certificates of training completed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101, 15 U.S.C. 634(b)(6).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide records, back-up information and all pertinent information on participants in SBA Executive Development Program in one place for reference purposes. To be used by members of training, staff, members of The Executive Manpower Resources Board, and their supervisors.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained in file folders in locked steel cabinet.

RETRIEVABILITY:

Records are filed alphabetically.

SAFEGUARDS:

Files are locked when not in use, and are released to authorized personnel only.

RETENTION AND DISPOSAL:

In accordance with SOP– 00–41.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Training Division, 6115 Fenton Street, Silver Spring, Maryland 20910.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the manager listed above.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the system manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Primarily from employee completion of Forms 1036 and their supervisors' completion of Form 1037.

SBA440

SYSTEM NAME:

Documentation of Supervisory Training—SBA440.

SYSTEM LOCATION:

6115 Fenton Street, Silver Spring, Maryland 20910.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons occupying first-level supervisory positions in the Agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

SBA Form 1138.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101, 15 U.S.C. 634(b)(6).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To determine who must receive training and to plan and schedule such training in order to meet Agency Supervisory training needs. To be used by employee, supervisor, and Office of Personnel.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained in file folders in steel file cabinet.

RETRIEVABILITY:

Filed alphabetically by employee name.

SAFEGUARDS:

Information released only to authorized personnel on need to know basis.

RETENTION AND DISPOSAL:

In accordance with SOP–00–41.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Training Division, 6115 Fenton Street, Silver Spring, Maryland 20910.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the manager listed above.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the system manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed in the above paragraph, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Primarily from employee completion of Form 1138, and review of their Official Personnel Folder.

SBA445

SYSTEM NAME:

Freedom of Information Act and Privacy Act Case Files—SBA445.

SYSTEM LOCATION:

Central Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have requested information or filed appeals under either of the Acts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 44 U.S.C. 3101, 15 U.S.C. 634(b)(6).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide a system for maintaining records of initial requests and appeals under the Freedom of Information Act, and of initial requests, requests for amendments to record, and appeals under the Privacy Act. The records are used by the staff of the Freedom of Information and Privacy Act office to review individual cases, and to keep a

chronological log so as to comply with statutory time limitations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained in folders in locked steel cabinet.

RETRIEVABILITY:

Files are alphabetical by name.

SAFEGUARDS:

Information released to authorized personnel only.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Freedom of Information and Privacy Act Officer, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether the system contains a record pertaining to him or her by addressing a request in person or in writing to the manager listed above.

RECORD ACCESS PROCEDURES:

In response to a request by an individual to determine whether the system contains a record pertaining to him or her, the system manager will set forth the procedures for gaining access to these records. If there is no record of the individual, he or she will be so advised.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the official listed above, stating the reasons for contesting it and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Most of file consists of correspondence submitted directly to and replies from the Small Business Administration.

[FR Doc. 82-4804 Filed 2-23-82; 8:45 am]
BILLING CODE 8025-01-M

[Proposed License No. 06/06-0255]

Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*) has been filed by First Capital Resources Corporation (applicant) with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1981).

The officers, directors and stockholders of the applicant are as follows:

Name	Title	Percentage owned
Donald S. Diesman, 6305 Mountainclimb, Austin, Texas 78731.	Vice President	50 percent.
Delores A. Diesman, 6305 Mountainclimb, Austin, Texas 78731.	Vice President	Joint with Donald Diesman.
Raymond M. Jones, 3125 Honey Tree Ln., Austin, Texas 78745.	President and General Manager.	
Alfred G. Ranney, 409 Scarbrough Bldg., Austin, Texas 78701.	Vice President	16.66 percent.
John C. Ranney, 409 Scarbrough Bldg., Austin, Texas 78701.	Vice President	16.67 percent.
Estate of Carleton A. Ranney, Alfred G. Ranney, Independent Executor.		16.67 percent.

The applicant, a Texas corporation, with its principal place of business at Suite 409, Scarbrough Building, Austin, Texas 78701 will begin operations with $601,800 paid-in capital and paid-in surplus.

The applicant will conduct its activities principally in the State of Texas.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Austin, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 3, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-4806 Filed 2-23-82; 8:45 am]
BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2024]

Pennsylvania; Declaration of Disaster Loan Area

Venango County in the State of Pennsylvania constitutes a disaster area as a result of damage caused by ice jam and flooding which occurred on February 1, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on April 19, 1982, and for economic injury until November 16, 1982, at: Small Business Administration, 960 Pennsylvania Avenue, Fifth Floor, Pittsburgh, Pennsylvania 15222, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

Homeowners with credit available elsewhere, 15¼ percent
Homeowners without credit available elsewhere, 7⅝ percent
Businesses with credit available elsewhere, 15¾ percent
Businesses without credit available elsewhere, 8 percent
Businesses (EIDL) without credit available elsewhere, 8 percent

It should be noted that assistance for agricultural enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96-302.

Information on recent regulatory changes (Pub. L. 97-35, approved August 13, 1981) is available at the above-mentioned office.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: February 16, 1982.

Donald R. Templeman,

Acting Administrator.

[FR Doc. 82-4801 Filed 2-23-82; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Public Debt Series No. 6-82]

Treasury Notes of May 15, 1987, Series E-1987; Auction

February 17, 1982.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $3,250,000,000 of United States securities, designated Treasury Notes of May 15, 1987, Series E-1987 (CUSIP No. 912827 MY 5). The securities will be sold at auction, with

bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated March 3, 1982, and will bear interest from that date, payable on a semiannual basis on November 15, 1982, and each subsequent 6 months on May 15, and November 15 until the principal becomes payable. They will mature May 15, 1987, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, February 24, 1982. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, February 23, 1982.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Non-competitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their position in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting non-competitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1 Settlement for alloted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Wednesday, March 3, 1982. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds, (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the

order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, March 1, 1982. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Gerald Murphy

(For Paul H. Taylor, Fiscal Assistant Secretary).

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the departmental procedures applicable to such regulations.

[FR Doc. 82-4788 Filed 2-19-82; 3:16 pm]

BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

Medical Research Service Merit Review Board; Availability of Annual Report

Under section 10(d) of Pub. L. 92-463 (Federal Advisory Committee Act) and OMB Circular A-63 of March 27, 1974, notice is hereby given that the Annual Report of the Veterans Administration Medical Research Service Merit Review Boards for calendar year 1980 has been issued.

The report summarizes activities of the Boards on matters related to the review, discussion and evaluation of individual investigator initiated medical research projects. It is available for public inspection at two locations:

Library of Congress, Serial and Government Publications Division, Room 1026, Adams Building, Washington, D.C. 20540
and
Veterans Administration, Medical Research Service, Chief, Merit Review Board Staff Division, Room 755, 810 Vermont Avenue NW., Washington, D.C. 20420.

Dated: February 16, 1982.

Robert P. Nimmo,

Administrator.

[FR Doc. 82-4787 Filed 2-22-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 36
Tuesday, February 23, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Monday, February 22, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Thursday, February 25, 1982.

PLACE: Board Room, sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

CHANGES IN THE MEETING: The following item has been withdrawn from the open portion of the Bank Board meeting:

Service Corporation Activities
No. 10, February 19, 1982.

[S-270-82 Filed 2-19-82; 10:19 a.m.]

BILLING CODE 6720-01-M

2

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Monday, February 22, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Thursday, February 25, 1982.

PLACE: Board Room, sixth floor, 1700 G Street, N.W., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

CHANGES IN THE MEETING: The following item has been added to the open portion of the Bank Board meeting:

Service Corporation Activity—California Federal Savings and Loan Association, Los Angeles, California.

No. 11, February 19, 1982.

[S-271-82 Filed 2-19-82; 12:14 pm]

BILLING CODE 6720-01-M

3

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Monday, February 22, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Thursday, February 25, 1982.

PLACE: Board Room, sixth floor, 1700 G, Street, N.W., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: (202-377-6679).

CHANGES IN THE MEETING: The following item has been put back on the open portion of the Bank Board meeting.

Service Corporation Activity
No. 12, February 19, 1982.

[S-273-82 Filed 2-19-82; 2:49 pm]

BILLING CODE 6720-01-M

4

FEDERAL RESERVE SYSTEM
Board of Governors.

TIME AND DATE: 10 a.m., Monday, March 1, 1982.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board: (202) 452-3204.

Dated: February 19, 1982.

James McAfee,

Assistant Secretary of the Board.

[S-274-82 Filed 2-19-82; 3:20 pm]

BILLING CODE 6210-01-M

5

INTERNATIONAL TRADE COMMISSION.

[USITC SE-82-8]

TIME AND DATE: 3:00 p.m., e.s.t., Tuesday, March 2, 1982 and 12:00 noon, p.s.t.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436 and Room 223, Federal Center Building, Portland, Oregon.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
   a. Speakers (Docket No. 800).
5. Investigation 731-TA-87 [Preliminary] (Steel Pipe and Tube) briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth K. Mason, Secretary (202) 523-0161.

[S-269-82 Filed 2-19-82; 4:52 pm]

BILLING CODE 7020-02-M

6

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (To be published.)

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, February 16, 1982.

CHANGES IN THE MEETING: Additional item. The following additional item was considered at a closed meeting scheduled on Thursday, February 18, 1982, following the 10:00 a.m. open meeting.

Legislative matter.

Chairman Shad and Commissioners Evans and Longstreth determined by vote that Commission business required consideration of this matter and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, Please Contact: Paul Siegelbaum at (202) 272-2468.

February 19, 1982.

[S-275-82 Filed 2-19-82; 2:44 pm]

BILLING CODE 8010-01-M

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federal register

Tuesday
February 23, 1982

Part II

Department of Education

Federal Education Data Acquisition Council; Data Acquisition Activities Involving Educational Agencies and Institutions

DEPARTMENT OF EDUCATION

Federal Education Data Acquisition Council; Data Acquisition Activities Involving Educational Agencies and Institutions

AGENCY: Department of Education.

ACTION: Notice of data acquisition activities involving educational agencies and institutions and request for comments.

SUMMARY: The paperwork control requirements, added by Pub. L. 95–561 to section 400A of the General Education Provisions Act, require a public listing of approved data requests that Federal agencies address to educational agencies and institutions when those the Federal agencies propose to collect data form the educational agencies and institutions during the following school year. The data acquisition activities covered by the Act are subject to review and approval by the Secretary in accordance with procedures approved by the Federal Education Data Acquisition Council (FEDAC) and OMB. The following is a list of those data collection activities approved for use in the 1982–1983 school year.

DATES: Comments must be received by June 30, 1982.

ADDRESSES: Comments should be addressed to Mr. Wallace R. McPherson, Jr., Division of Education Data Control, Room 4074, Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 426–7304.

SUPPLEMENTARY INFORMATION: Under the Paperwork Control Amendments of 1978, Section 400A of the General Education Provisions Act, the Secretary of Education is responsible for reviewing and approving collection of information and data acquisition activities of all Federal agencies—

(a) Whenever the respondents are primarily educational agencies or institutions; or,

(b) Whenever the purpose of the activities is to request information needed for the management of, or the formulation of, policy related to Federal education programs or research or evaluation studies related to the implementation of Federal education programs.

Another requirement is that "no information or data will be requested of any educational agency or institution unless that request has been approved and publicly announced by the February 15 immediately preceding the beginning of the new school year, unless there is an urgent need for this information or a very unusual circumstance exists regarding it." Finally, the Act requires the Secretary to "publish annually a listing of education data requests, by Federal agency * * *."

The following material constitutes this annual listing. The Federal Education Data Acquisition Council and the Office of Management and Budget have approved these data acquisitions. The various agencies plan, at this time, to use these forms in school year 1982–83. One element of each item description is a numerical Standard Industrial Classification (SIC) Code. Those codes are used to describe respondent types. Some of the more common codes are:

821 Elementary and Secondary Schools
822 Colleges and Universities
823 Libraries and Information Centers
824 Correspondence and Vocational Schools
941 Administration of Educational Programs (State and Local Education Agencies)

One abbreviation used commonly throughout the listing is IHE, which means Institution of Higher Education.

Note.—The use of any of these forms is subject to change depending on the final approved fiscal budget for FY 1983.

Burden Reduction

In support of the Administration's efforts to reduce the Federal role in education, the Department of Education has reduced the number of hours required of the public to complete required reports by 1.8 million in the last two years. Further cuts will reduce this reporting burden to 0.75 million hours next year.

During the last three months, elimination of reports associated with the Education Consolidation and Improvement Act (ECIA) accounted for a reduction of 254,390 burden hours. The Department has also carefully reviewed all reports required by programs proposed for, but not included in, the ECIA to eliminate all data except that specifically required by legislation. This analysis produced a reduction of 503,534 burden hours.

Based on an average cost estimate of $10.00 per hour, this effort will result in a savings to the public of approximately $22.5 million. The Department also saved several million dollars that it would otherwise have expended to process information contained in the reports that have been eliminated or reduced.

Invitation to Comment

Interested persons are invited to submit comments, suggestions, and recommendations on this notice to the address given at the beginnng of this document. All comments received on or before June 30, 1982, will be considered. All comments submitted in response to this notice will be available for public inspection, both during and after the comment period, in Room 4074, Switzer Building, 330 C Street, S.W., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week, except Federal holidays.

Dated: February 12, 1982.

T. H. Bell,

Secretary of Education.

DEPARTMENT OF EDUCATION

Title of information collection	OMB and agency Nos.	Purpose	Respondent burden: Type	SIC code	Number of respondents	Hours
Computer Generated "Recipient Cash Advanced Request".	3086–0464, ED 874	Application	Government, Businesses	821, 822, 823, 824, 829, 841, and 941	7,000	84,000
ABSTRACT: The Recipient Cash Advanced Request Form will be used by ED recipients to obtain funds for grants received from ED. The form will be used by those ED recipients who do not qualify for letter of credit. The recipients will request advances so that the Federal Funds are available only immediately prior to thier actual disbursement by the recipeint for award activity in accordence with the General Accounting Office and Treasury Regulations						
Education Consolidated Grant Application	ED 1000	Application	Grant	941	57	114
ABSTRACT: Application for funding under the Education Consolidation and Improvement Act.						
Evaluation of the Foreign Language and Area Studies Program.	1880–0165, ED 856	Evaluation	Individual or HH	None	1,700	1,275
ABSTRACT: To identify the supply and demand trends for PH D's. in discipline and world area specialities and assess the match between graduate training and subsequent employment. The data will assist ED in allocating NDEA Title VI funds more effectively (I.E., Fellowship Decisions—reallocate to different world area and disciplinary combinations).						
Computer Generated Recipient Report of Expenditures.	1880–0172, ED 868–1	Management	IHE, Businesses	821, 822, 823, 824, 829, 841, and 941	7,000	112,000

DEPARTMENT OF EDUCATION—Continued

Title of information collection	OMB and agency Nos.	Purpose	Respondent burden: Type	SIC code	Number of respondents	Hours
ABSTRACT: OMB Circular A–110 states that when Federal funds are advanced to recipients, the recipients are required to submit to the Federal sponsoring agency, a report on expenditures made and Federal funds unexpended for each award and report the status for each award and report the status of Federal cash advanced. The agency will use the report to monitor cash advanced to the recipients an to obtain expenditure data for each agreement with the recipient. Total reports for this sub-agency: 4; total burden hours: 197,369.						
Office of Bilingual Education and Minority Languages Affairs						
Application for Participation in Bilingual Ed Fellowship Program.	1885–0001, ED 4561–2	Application	IHE	822	90	800
ABSTRACT: The Bilingual Ed Act (Title VII of ESEA) authorizes the Secretary to award fellowships for study in the field of training teachers for Bilingual Ed (20 U.S.C. 3233(A)(2)). Institutions of higher education use this form to apply for approval of their graduate programs of study for fellowship recipients under the Fellowship Program.						
Application for Grants Under Bilingual Vocational Ed Program.	1885–0002, ED 781	Application	Government	941	60	2,400
ABSTRACT: The Secretary is authorized to award grants to successful applicants for bilingual vocational training and instructor training programs under Subpart 3 of the Vocational Education Act.						
Application for Grant Under Bilingual Education.	1885–0003, ED 4561	Application	Government	941	750	30,000
ABSTRACT: The Bilingual Education Act (Title VII, ESEA) authorizes the Secretary to award grants to successful applicants to provide programs of bilingual education to children of limited English proficiency and to provide training and develop resources for such programs.						
Application for Grant Under Bilingual Education.	1885–0004, ED 4561–1	Application	Government	941	220	19,400
ABSTRACT: Grantees with approval multi-year project periods under the Bilingual Education Act use this form to request continued assistance after the first year of funding.						
Demonstration of Compliance with Terms and Conditions of the Bilingual Education Fellowship Prog Contract.	1885–0005, ED 4561–3	Regulatory	Individual or HH	None	400	100
ABSTRACT: Recipients of Fellowship assistance under the Bilingual Educ Fellowship Prog will use this form to demonstrate their compliance with the provisions of the fellowship contract. Respondents indicate their method of compliance and attach documentation required under law and regulations.						
Application for Transition Program for Refugee Children.	3088–0006, ED 443–2	Application for Benefits	Government	941	98	2,600
ABSTRACT: State educational agencies use this form to apply for education assistance for eligible refugee children under the Refugee Act of 1980.						
Financial Status and Performance Report Forms for Transition Program for Refugee Children.	ED 443, 443–1	Management	Government	941	98	2,240
ABSTRACT: State educational agencies use this form to report on the assistance received under the Refugee Act of 1980 as required under OMB Circular A–102. Total reports for this subagency: 7; total burden hours: 48,740.						
Office of Educational Research and Improvement						
Nat'l Assessment of Educational Progress Field Tests.	1850–0088, ED 2371	Statistics	Indvl or HH	None	3,000	1,000
ABSTRACT: Congress has mandated the collection of Nat'l Assessment Survey Data. New background questions for the 1983–84 writing assessment will be field-tested to determine their clarity and appropriateness. The information will be used by Nat'l Assessment to guide item revision, review and selection for the full writing assessment.						
Standard Application for Library Tmg 840, Prog Title II–B HEA 1965.	ED 547	3086–0208 Application	IHE	822	70	
ABSTRACT: This application form is necessary to elicit institutional and propose project data called for by the selection criteria and which is used by field readers and program staff to evaluate the merit of a proposal and to determine funding levels.						
Fall Enrollment and Compliance Rpt of Institutions of HE, 1983.	3086–0221, ED (NCES) 2300; 2, 3A, and 3B.	Regulatory Statistics	IHE	822	3,900	8,200
ABSTRACT: College enrollment data are needed by ED, States, educational researchers, planning and budget offices and individual colleges for use in economic and financial planning and policy formation, forming funding allocation standards, and assessing the manpower flow through college training and development. Use in compliance enforcement by the Office of Civil Rights.						
State-Level Personnel Exchange	3086–0224, ED 2426–1; 2 and 3.	Application	Government	941	32	48
ABSTRACT: The State-Level Personnel Exchange is part of the NCES assistance program. NCES will pay for travel and per diem for employees from one state to visit another state to provide technical assistance. These application forms are necessary to determine the purpose of the exchange and to determine that the appropriate state-level approvals have been obtained.						
Vocational Education Data System (VEDS).	3086–0225, Ed 2404; –A	Evaluation Regulatory Statistics.	Government	941	75,000	80,000
ABSTRACT: VEDS is mandated to collect information about both types and levels of specific occupations in order to detect possible discrimination and bias.						
Application for Grants under College Library Resources Program.	3086–0231, Ed 3118–1	Application	IHE, Government	822 and 741	2,700	8,100
ABSTRACT: This form enables institutions of Higher Education and private and public non-profit library institutions to apply annually for resource development grants. It provides the Secretary with sufficient information to determine either adherence to fiscal requirements, or to approve a waiver of such requirements. The form also explains anticipated activities if funds are applied to networking activities.						
Application for Fed Assistance (Non-Construction) Capacity Building for Statistical Activities in SEAS.	3086–0233, ED 3413	Application	Government	941	48	1,600
ABSTRACT: The information is needed to evaluate which states are most capable of using grant funds to improve their data systems. This is a competitive grant program, and only a few states may receive grants in any one year.						
State Plan-Education Improvement's, Resources and Support.	3086–0237, ED 634	Application	Government	941	53	319
ABSTRACT: The purpose of this form is to collect information for funding decisions re: Title IV of the Elementary and Secondary Education Act. Covering (A) instructional materials and school library resources (B) improvement in local educational practice and (C) guidance, counseling and testing.						
Application for Grant Under the Strengthening Research Library Resources Program.	3086–0239, ED 662	Application	IHE	822 and 823	100	1,600

DEPARTMENT OF EDUCATION—Continued

Title of information collection	OMB and agency Nos.	Purpose	Respondent burden: Type	SIC code	Number of respondents	Hours
ABSTRACT: This form is needed to enable research libraries to apply annually on a competitive basis and provide the Secretary with sufficient information to determine adherence to program selection criteria.						
Common Core of Data (CCD)	3066–0252, ED (NCES), 2350–5; 6; 7; 8 and 8–1.	Statistics	Government	941	57	15,000
ABSTRACT: Elementary and Secondary Data are collected in cooperation with State education agencies. These data provide information about Fall membership, high school graduates, teachers and other staff positions, revenues by source, expenditures by function and other related data. These data are used in allocation of Federal funds for some education grant programs (ESEA Title I), and in carrying out NCES mandated studies Equity Profiles).						
Final Financial Status and Performance Report—HEA title II A, B (Training) and C	3066–0255, ED 806; 1 and 2.	Management	IHE	622 and 823	2,700	10,800
ABSTRACT: This consolidated report form is used to determine the utilization of grant funds administered by three discretionary grant programs—College Library Resources (HEA II–A), Library Career Training (HEA II–B) and the Strengthening Research Library Resources Program (HEA II–C). An additional supplementary performance report for II–A is necessary to confirm maintenance of effort assurance required of grantees in the College Library Resources Program.						
Library Human Resources: Study of Supply and Demand.	3066–0263, ED 2425;–1	Statistics Planning	Government, IHE	823 and 941	2,457	2,516
ABSTRACT: The purpose of this study is to provide projections of the supply and demand for librarians through 1990. The proposed survey will provide needed data for describing the current situation, and will provide summary data for an econometric model so that the projections can be made.						
Elementary-Secondary Network Surveys System.	ED 2437	Planning	Government	941	57	456
ABSTRACT: NCES will use the information to plan CCD and VEDS surveys.						
Postsecondary Network Surveys System.	ED 2405	Planning	IHE	822	456	456
ABSTRACT: NCES will use this information to facilitate the exchange of information and expertise among states.						
Application for Grants Under the Nat'l Diffusion Network.	3066–0266, ED 734	Application	IHE	941, 822, and 892	179	2,028
ABSTRACT: This information requested in the National Diffusion Network Grant application will be used solely for program management in the determination of grant eligibility and in the determination of the amount of the grant award.						
State Level Personnel Exchange	3066–0266, ED 2436–1, 2 and 3.		Government	941	20	80
State Expenditures on Postsecondary Education for Fiscal Year Ending 81 and 82.	1830–0093, ED 2440		Government	941	57	570
Total reports for this subagency: 17; total burden hours: 133,395.						

Office of Vocational and Adult Education

Adult Education Clearinghouse	3066–0062, OE 580	Planning	Individuals	None	400	200
ABSTRACT: Data collected through the survey will be edited and reformated for inclusion in a catalog of Adult Education Projects. The catalog, then, as an information product, represents a subset of a continuously growing Adult Education Data Base.						
Study of Vocational Education R&D Product Distribution and Use.	3066–0067, ED 700	Statistics	Government	941	9,880	2,384
ABSTRACT: The data from this study will be used to determine the distribution, use and impact of Vocational Education and development products and information funded under provisions of the Federal Vocational Education Legislation and administered by the U.S. Department of Education or the States.						
State Administered Vocational Educ Program Improvement Abstracts.	3066–0070, ED 580	Research	Government	941	57	228
ABSTRACT: The abstracts of States' Vocational Education Program Improvement Projects are sent to the National Center for Research in Vocational Education to be published bimonthly and included in a national-level annual report.						
Application for Vocational Ed Programs	3066–0072, ED 3176	Application	Government	941	67	1,340
ABSTRACT: The programs for which this application is used are authorized by Sections 103A(1)B(III), 172(B)(1), 184(A) of the Vocational Education Act of 1963, as amended by the Education Amendments of 1976. Under the Vocational Education Grant Program for Indian Tribes and Tribes and Tribal Organizations (13,586), grants are awarded to Indian Tribal organizations to plan, conduct, and administer any of the various types of Vocation Education Programs.						
Application for State Advisory Council for Vocational Education.	3066–0081, ED 773–1; 2 and 3.	Application	Government	941	114	228
ABSTRACT: The membership information will be reviewed to determine whether each State has legally constituted State Advisory Council, which is prerequisite to the issuance of a grant for the State Advisory Council and to the approval of the State's annual plan for Vocational Education. The budget will be used as the basis for the issuance of the grant award to the State Advisory Council.						
Financial Status and Performance Reports for the Adult Education State Program.	3066–0090, ED 365; –1	Planning	Government	941	57	570
ABSTRACT: Regulations require all grantees to report on the status of funds and the performance of activities conducted. Data collected are needed for the purposes of accounting for the expenditure of funds and for assessing the effectiveness of the carrying out of State plans under the Adult Education State Program.						
Annual Plan and Accountability Report for Vocational Education.	1830–0001, ED 576–3, ED 576–4.	Application Planning	Government	941	57	22,800
ABSTRACT: Section 108 of the Vocational Education Act requires State Boards for Vocational Education to submit Annual Plans and Accountability Reports in order to receive federal funds for vocational education programs.						
Annual Evaluation Report of the State Advisory Councils for Vocational Education.	1830–0001, ED 567–3	Evaluation	Government	941	57	28,500
ABSTRACT: The Vocational Education Act requires the State Advisory Council to submit an annual report to the Secretary of Education evaluating the vocational education programs conducted in its State						
Financial Status and Performance Report for Direct Grants—OVAE.	51–R1052, ED 380, ED 380–1.	Prog. Plan	Government	941	30	840

DEPARTMENT OF EDUCATION—Continued

Title of information collection	OMB and agency Nos.	Purpose	Respondent burden: Type	SIC code	Number of respondents	Hours
ABSTRACT: The reports are used by grant officers and project officers to monitor the expenditure of funds and the performance of approved activities under direct grants awarded by the Office of Vocational and Adult Education (OVAE).						
Total reports this subagency: 9; total burden hours: 58,490.						

Office of Special Education and Rehabilitative Services

Grant Application	1820–0018, RSA–424	Application	Government, Businesses	821, 944, and 892	1,170	23,400
ABSTRACT: This form is used by applicants for grants under each of the Categorical Discretionary Grant Programs of RSA. It is used to determine grant eligibility, technical acceptability of applications submitted, and amount of grant awards.						
Application for Federal Assistance for the National Institute of Handicapped Research.	1820–0027, NIHR 792	Application	Government, Businesses	833, 822, 941, 892, and 944	300	12,000
ABSTRACT: Information in the "Application for Federal Assistance" will be used to determine the technical merit of the grant proposal, determine eligibility for funding and serve as a basis for negotiation of final grant awards, including award amounts and terms and conditions.						
Grant Applications Under Education for the Handicapped Programs.	3066–0049, ED 9037	Application	Businesses, Government	821, 822, 892, and 941	3,040	92,580
ABSTRACT: The application package provides instructions and information necessary for grantees and potential grantees to submit a request for Federal Assistance. The information submitted is used by SEP to determine grant eligibility, acceptability of applications, and/or amount of grant award.						
Quarterly Cumulative Caseload/Expenditure Report.	3066–0040, ED (RSA) 113.	Program Plan	Government	944	84	636
ABSTRACT: This instrument provides for: Evaluation of state agency productivity, monitoring progress of case loads in 110, SSDI, SSI programs and the severely disabled, and serves to document the number of rehabilitation meeting the substantial gainful employment (SGA) required for allocation of SSA program funds.						
FY 84–86 State Plan—Part B, Education of the Handicapped.	3066–0051, ED 9055	Application	Government	941	58	1,450
ABSTRACT: This form is the application used by eligible applicants for Title VI, Part B funds under the Education of the Handicapped Act, as amended by P.L. 94–142.						
Education for Handicapped—Incentive Grant, FY 84–86 Plan.	3066–0053, ED 9055–1	Application	Government	941	58	348
ABSTRACT: Any State which has met the eligibility and program plan (State Plan) requirements of P.L. 94–142 may apply for an Incentive Grant to provide special education and related services to handicapped children aged 3 to 5. ED 9055–1 is the recognized form for making application.						
Annual Vocational Rehabilitation Program/Cost Report.	1820–0017, ED 2	Program Planning or Mgt. Program Evaluation Regulatory/ Compliance.	Governments	944	84	336
ABSTRACT: Data reported on this form will be used to set rehabilitation goals for the States, to determine the average cost of rehabilitation services, to determine budget requirements, and to provide a base to analyze and respond to ED and GAO audits. It is also used in the annual report to the Congress, which must include statistical data on rehabilitation services and activities.						
Report of RSA Vending Facility Program.	1820–0009, ED 15	Program Eval., Program Planning or Management.	Governments	944	54	446
ABSTRACT: Indicates the financial health and programmatic impact of the Vending Facility program in terms of earnings and loss; indicates the most efficient types of stands in terms of return on investment and ability to produce earnings to support the operator. Aimed primarily at ensuring the program's financial accountability and meeting expressed goals in terms of client impact.						
Annual Report on Post-employment Servicers and Case Reviews (RSA).	1820–0014, ED 62	Program Planning or Management.	Governments	944	84	74
ABSTRACT: Information from this form is used to track the extent of post-employment services; it provides information on ineligibility determinations; and reports data on "similar benefits" used in State monitoring.						
Annual Data Report—Part B of EHA and State Agency Programs for Handicapped Children Title I, ESEA, as amended.	ED 869	Program Planning or Mgt.	Governments	941	58	2,446
ABSTRACT: The data form is used to collect, annually, count data for determining grant allotments under Part B, EHA, as amended and P.L. 89–313, Title I of ESEA, as amended by P.L. 96–561. Evaluation data required under P.L. 94–142, Section 618 also is collected on this form. ED 869 replaces ED 9039, 9052, and 9058.						
Performance and Financial Status Reports for Part B, EHA and P.L. 89–313 (title I, ESEA).	ED 873–1 and 2	Program Planning or Mgt.	Governments	941	58	522
ABSTRACT: Financial and performance reports are required annually as a condition of funding. SEP uses the data and information in program monitoring/compliance activities and in the annual Congressional report. ED 8734 collects information on the P.L. 94–142 State Grant and Incentive Grant programs, as well as P.L. 89–313. This form collectively replaces ED 716, 799, and 9039						
Three Year State Plan for Vocational Rehabilitation Services.	SPVR	Application	Governments	944	92	1,840
ABSTRACT: This application form fulfills the requirements for a State Plan as stipulated in the Vocational Rehabilitation Act. The Plan serves as the basis for flowing monies to the States under Title I of P.L. 93–112. This plan will cover the time period FY 1983 through FY 1985.						
Performance Report and Financial Report for SEP Discretionary Grant Programs.	1820–0002, 9037–1, 2	Program Planning or Mgt.	Government, Business	821, 822, 892, and 941	1,526	7,100
ABSTRACT: This report is used by Special Education Programs to determine whether and to what extent progress is being made by grantees toward achieving project goals and objectives. The Financial Status Report is submitted annually and the Performance Report is due at the end of the grant award period (usually a three year period).						
Total reports this sub-agency: 13; total burden hours: 143,021.						

Office of Elementary and Secondary Education

Report of Contract Awarded State Education Agency report of minimum requirement for school.	1810–0044, ED 4038, ED 4038–1.	Planning	Government	941	286	133

DEPARTMENT OF EDUCATION—Continued

Title of information collection	OMB and agency Nos.	Purpose	Respondent burden: Type	SIC code	Number of respondents	Hours
ABSTRACT: Data is used to assist the Secretary in determining the state average per pupil cost of constructing minimum school facilities. The per pupil cost, along with other factors, is used to arrive at a cost of constructing minimum school facilities in a school district which has submitted an application for assistance under P.L. 81–815.						
Standard application Federal Assistance (Non-Construction) for Follow-Through Program.	3066–0002, ED–4473	Application	Government, Business	821, 822, 829, and 941	112	3,360
ABSTRACT: This application form is necessary in order to make annual grants to applicants. The information contained in the application is used to determine annual funding levels to grantees. In addition, information is extracted from the application which is used to prepare reports for Congress, OMB, and the GAO.						
Annual Survey of Children in Institutions operated or supported by a State Agency for Neglected or Delinquent Children or Children in Adult Correction Institutions.	3066–0007, 4376, 4376–1.	Management	Government	941	1,600	1,600
ABSTRACT: The purpose of this annual survey is to provide the Department of Education with current information on the location and number of children in institutions for Neglected or Delinquent Children, or in Correctional Institutions. The information collected will be used for purposes of the ESEA, Title I Formula for computing Fiscal Year 1980 allocations for local Educational Agencies and State Agencies responsible for providing education for institutionalized Neglected.						
Title I, ESEA, Section 143, Migrant Education Interstate and Intrastate Programs.	3066–0010, ED 363–2	Application	Government	941	51	2,040
ABSTRACT: Grants are needed for State Education Agencies (that may apply individually or cooperatively) to plan and implement special projects designed to improve the interstate and intrastate coordination of Migrant activities. Products of these grants will be distributed to all states serving migrant children.						
Application for Federal Assistance (Nonconstruction Programs) Migrant Education Program.	3066–0011, ED 362	Application	Government	941	51	1,020
ABSTRACT: Title I, ESEA Migrant Education Program requires the annual submission of a State Migrant Education Program application for an annual program grant. The Department of Education's Migrant Education Program Office conducts a comprehensive application review and approval process prior to awarding a grant to each State.						
Application for Grants under Civil Rights Technical Assistance and Training Programs.	3066–0012, ED 296	Application	Government	941	341	6,820
ABSTRACT: This application is to be used by State and Local Education Agencies and Institutions of Higher Education for applying for federal assistance under Title IV of the Civil Rights Act of 1964. Awards are made to help solve problems related to eliminating discrimination on the basis of race, sex and national origin in the Public Elementary and Secondary Schools throughout the Nation.						
Application for School Assistance in Federally Affected Areas Instructions.	3066–0017, ED 4018, ED 4019–1.	Application	Government	941	4,000	34,400
ABSTRACT: P.L. 81–874 provides that 16 separately identified categories of federally connected pupils are entitled to varying percentages of a rate of payment to their School District. Five basic tables are used to report pupils claimed.						
ESEA Title I Performance Report	3066–0018, ED 696–2	Management	Government	None	56	46,400
ABSTRACT: These forms are used to collect data regarding the performance of Title I programs and projects. State Educational Agencies will provide the information based on all or a representative sample of their Local Educational Agencies.						
Section 418A, HEA, HEP and CAMP Financial Status and Performance Reports.	3066–0025, ED 619–2	Management	IHE	822	19	95
ABSTRACT: Grantees are required to file a Financial Status Report and a Performance Report in accordance with the provisions of OMB Circular A–110. The information will be used for future Programmatic Decisions regarding program size and allowable services.						
Application for Grant Under the High School Equivalency Program (HEP).	3066–0028, ED 619	Application	IHE	822	50	1,000
ABSTRACT: Title IV of the Higher Education Act of 1965 as amended, authorizes the Secretary to maintain and expand Secondary and Postsecondary High School Equivalency Programs and College Assistance Migrant Program Projects. In order to meet the responsibility of determining those grantees who will most effectively provide services to the target population, the Secretary must gather data regarding proposed activities. Data will be used to select Program Grantees.						
Application for Grant Under the College Assistance Migrant Program (CAMP).	3066–0029, ED 619–1	Application	IHE	822	50	1,000
ABSTRACT: Title IV of the Higher Education Act of 1965 as amended, authorizes the Secretary to maintain and expand Secondary and Postsecondary High School Equivalency Programs and College Assistance Migrant Programs Projects. In order to meet the responsibility of determining those Grantees who will most effectively provide services to the target population, the Secretary must gather data regarding proposed services. Data will be used to select Program Grantees.						
Application for Federal Assistance (Short Form)—Instructions for Arts Education Projects.	3066–0166, ED 448	Application	Business, IHE, Government.	822 and 941	300	4,800
ABSTRACT: This form is used to apply for Arts Education Grants.						
Application for Disaster Assistance (P.L.) 81–874 Section 7).	1505–0046, ED 423	Application	Government	941	250	800
ABSTRACT: Data is used to assist in determining eligibility of a local education agency for disaster assistance and amount of grant and equipment.						
Application for Grants (Indian Education Act, Part B, New and Non-competing).	1076–0006, ED 267, ED 267–1.	Application	Indian Tribes	None	200	6,000
ABSTRACT: To improve educational opportunities for Indian students for preschool through the University by supporting programs that: (a) provide improved educational support services; (b) increase the numbers of Indians in leadership positions; (c) develop new educational approaches of high quality; (d) contribute to increased control by Indians over the availability and quality of their own education.						
Application for Grants (Indian Education Act, Part A, Indian-Controlled Schools, New and Non-Competing).	1076–0009, ED 444, ED 444–1.	Application	Indian Tribes, Indian Institutes.	None	45	10,800
ABSTRACT: Application for support for Indian Controlled Schools on or near Reservation to provide special enrichment programs.						
Application for Indian Fellowships (New and Non-Competing).	1076–0010, ED 501, ED 501–1.	Application	Individuals	None	750	2,250

DEPARTMENT OF EDUCATION—Continued

Title of information collection	OMB and agency Nos	Purpose	Respondent burden: Type	SIC code	Number of respondents	Hours
ABSTRACT: To enable Indian students to earn degrees in Medicine, Law, Education, Business Administration, engineering & Natural Resources, awards made to students, tuition payments made to Universities.						
Application for Grants (Indian Education Act, Part A, New and Continuing)	1076–0011, ED 736, ED 736–1.	Application	Local Educational Agencies.	821	1,100	33,000
ABSTRACT: The purposes of Part A of the Indian Education Act are, to enable Elementary and Secondary Schools to develop and implement Supplementary Programs specially designed to help meet the Special Educational and Culturally-Related Academic needs of Indian students.						
Application for Grants (Indian Education Act, Part C, New and Non-Competing)	1076–0012, ED 737, ED 737–1.	Application	Indian Tribes, Indian Organizations.	None	104	3,120
ABSTRACT: Under Part C of the act grants are awarded to improve educational opportunities below the College level for Indian adults. Authorized grant activities are: Provide Educational Services, and Develop Planning, Pilot and Demonstration Projects.						
Recommendations for Advisory Council on Indian Education.	1076–0013, ED 543	Management	Government	941	60	60
ABSTRACT: The Indian Education Act authorizes a Presidentially appointed National Advisory Council on Indian Education. Five such membership positions are open annually thereby necessitating a solicitation of nominations.						
Indian Student Enrollment Certification	1076–0014, ED 506	Application	Indvl. or HH	None	25,000	9,250
ABSTRACT: Program designed to benefit eligible Indian children by calculating grant award based on count of correct and valid forms on file with LEA.						
Financial Status and Grant Performance Report—Indian Education Act Programs.	ED 354, ED 354–1	Management	Indian Tribes, Non-Profits, Colleges and Universities, LEA's.	None	1,200	9,600
ABSTRACT: These forms are required from each grantee annually. The grantees report on the amount of funds spent, the amount remaining, the number of students who participated in the project, and the extent to which the project achieved objectives described in the application.						
Application Package: Women's Educational Equity Act Program.	3066–0270, ED Form. 436–1, 436–2.	Application	Individual's, State and Local Government's, Businesses or other Institutions.	821, 822, 823, 824, 841, 892, and 941	518	10,000
Total reports this subagency: 22; total burden hours: 167,868						

Office of Postsecondary Education

Certification as to use of Federally Assisted Facilities Title VII, HEA.	1840–0044, ED 1308	Management	IHE	822	1,500	180
ABSTRACT: Tool for gathering information as needed by the Department of Education for determining that institutions are meeting the Obligatory Space Utilization Requirements.						
Loan Application Form Under the College Housing Program.	1840–0095, ED 886	Application	IHE	822	300	9,550
ABSTRACT: This application form will be used to process and award College Housing Loans under the College Housing Program.						
Guarantee Agency Quarterly Report	3066–0088, ED 1130	Regulatory Government		822	55	245
ABSTRACT: (1) To provide summary data on agency finances and operations which are funded primarily with federal dollars, (2) to provide the Secretary with the necessary information to perform oversight functions of the Agency—Program Operations, Fraud and Abuse, Report to the Congress, etc., and (3) to collect certain specific data required to be reported under section 432(C)(1)(A) of the Higher Education Act.						
Verification of Transfer of Credit Under the Three Institutional-Certification Method.	3066–0097, ED 1251	Management	Government, IHE	822 and 941	300	150
ABSTRACT: The Secretary of Education must determine whether unaccredited Institutions of Higher Education are eligible for programs authorized the Higher Education Act of 1965. The Secretary uses this form to determine whether institutions meet the "Three-Institutional Certification Method" as an alternative to Accreditation.						
ADS Student Report (Request of Additional Payment of SEOG Award).	3066–0094, ED 304–1	Application	Indvl. or HH	None	40,850	33,750
ABSTRACT: This form is only used if two payments are required under the alternate disbursement system. This form is used for the second payment.						
Teacher Exchange Program—Application Package.	3066–0098, ED 356	Application	Indvl. or HH	None	2,100	1,500
ABSTRACT: To be used by applicants under the FY 1982 Teacher Exchange Program which provides opportunities for U.S. Teachers to exchange positions for an Academic Year with Foreign Counterparts or to attend one of a variety of Short-Term Seminars Worldwide.						
Application for the Public Service Education Program.	3066–0101, ED–404	Application	Government	None	170	3,400
ABSTRACT: The information allows the Secretary to issue awards to institutions of Higher Education. The purpose of the awards is to develop training programs for Graduate or Professional Study for persons who plan to pursue a career in public service, especially at the State and Local levels.						
Application for Noncompeting Continuation Projects for Special Programs for Students from Disadvantaged Backgrounds.	3066–0103, ED 1251	Application	Government, IHE	822, 824, and 941	1,059	15,885
ABSTRACT: The form request programmatic and budgetary information from eligible applicants so that the Department of Education program Officers and Non-Federal Reviews will have adequate, relevant information with which to make funding decisions. The collected information will also be used to determine compliance with the published funding criteria.						
Application for Graduate and Professional Fellowships and Institutional Grants.	3066–0105, ED–591	Application	IHE	822	350	7,000
ABSTRACT: This program issues awards to individual Institutions of Higher Education or to combinations of those Institutions. The purpose of the award is to develop Training Programs at Institutions of Higher Education by providing Fellowships for Graduate and Professional study to members of Groups, particularly minorities and women, that have traditionally been underrepresented among recipients of Graduate and Professional Degrees.						
Alternate Disbursement System Validation Roster.	3066–0108, ED 579	Management	IHE	822	1,100	1,375
ABSTRACT: The Validation Royster will be used to verify data previously submitted by Institutions participating in Basic Grants through the Alternate Disbursement System and to reconcile accounts for the ADS System.						
Physician's Certification of Borrower's Total and Permanent Disability for Student Loan Program.	3066–0111, ED 1172	Application	Indvl. or HH	None	2,500	2,167

DEPARTMENT OF EDUCATION—Continued

Title of information collection	OMB and agency Nos.	Purpose	Respondent burden: Type	SIC code	Number of respondents	Hours
ABSTRACT: This form is used to request cancellation of loan owed. The law provides that the Federal Government will cancel the loan if the borrower becomes permanently and totally disabled.						
Lender's Request for Interest and Special Allowance.	3066-0115, ED 799	Application	Business, IHE	622, 601, 602, 603, 604, and 605	12,000	53,000
ABSTRACT: This form is used by lenders to request payment of interest and special allowance. This is the only reporting form to permit the Department to determine the Government's obligation to lenders in the Guaranteed Student Loan Program.						
Federal Assistance Application Form—Law School Clinical Experience Program.	3066-0121, ED 586	Application	Business	622	66	2,550
ABSTRACT: This information is required of Law Schools applying for an institutional Grant under Title IX-E of the Higher Education Act. As amended, the information will be used in the evaluation process to determine which accredited Law Schools should receive funds.						
Financial Status and Performance Reports for Veteran's Cost-of-Instruction Payments Program.	3066-0122, ED 269-1, 2	Management	IHE	622	1,200	1,800
ABSTRACT: Standard form 269, OMB No. 80-R0180 will be used to obtain an accounting of funds expended, obligated and remaining in accordance with regulations. Regulations also require an annual program performance report in accordance with criteria established by the Secretary and the Administrator of the Veterans Administration.						
Biomedical Sciences Performance and Financial Status Report.	3066-0123, ED 622	Management	IHE	622 and 824	12	48
ABSTRACT: Data collection instrument is needed to comply with EDGAR regulations 34 CFR, parts 74 and 100. The information will be used: (A) to assess and monitor project effectiveness, (B) to determine compliance with Program Regulations, and (C) to determine if the program is meeting the needs of the target population.						
Upward Bound Financial Status and Performance Report.	3066-0124, ED 712, ED 1196, ED 1197.	Management	IHE	622	415	1,660
ABSTRACT: The need for reporting on project performance is well established in accordance with subparts I and J of OMB Circular A-110, Upward Bound financial status and performance report requests certain programmatic information from every Upward Bound project on a semi-annual basis.						
Certificate of Project Costs of Academic Facilities, Title VII Higher Education Act Programs.	3066-0126, ED 1148	Regulatory	IHE	622	300	150
ABSTRACT: The information collected will enable the Department of Education to determine if institutions are meeting the statutory regulatory requirements relating to project costs for Academic Facilities.						
Application Summary Report for Federal Grants Under Title VI, the Higher Education Act.	3066-0127, ED 1110	Regulatory	Government	941	56	168
ABSTRACT: A useful tool to the State Commissions in facilitating and fulfilling the Statutory Reporting Requirements to the Department of Education.						
Validation Form—Basic Educational Opportunity Grant.	3066-0129, ED 629	Management	IHE	622	300,000	267,000
ABSTRACT: (1) Modify application processing procedures to detect errors, (2) Introduce institutional verification of BEOGS applicant data prior to award disbursement.						
Cooperative Education Performance Report and Related Financial Report.	3066-0131, ED 411, ED 411-1.	Management	IHE	622	295	1,293
ABSTRACT: These forms are used to report performance and financial activities of funded projects under the Cooperative Education Program.						
Application for Veterans' Cost-of-Instruction Payments to Institutions of Higher Education.	3066-0132, ED 269	Application	Government, IHE	941 and 622	1,800	1,200
ABSTRACT: Provides payments to Postsecondary Institutions based on their Undergraduate Veteran Enrollment. Payments are based on the number of Veterans receiving Vocational Rehabilitation or Educational Assistance for Undergraduate Study and the number of Veterans who have participated in special Pre-Discharge of Remedial Programs subsidized by the Veterans Administration.						
Institutional Progress Report for BEOG	3066-0133, ED 255-3	Planning	IHE	622	5,000	11,250
ABSTRACT: The progress report is a financial report whereby periodic adjustments may be effected in the authorizations of PELL funds for a particular institution and to make accurate projections of the total demand for program funds assuming full finding which will be used to develop a payment schedule for the calculation of students awards.						
Application for Certification to Participate in SSFA Programs.	3066-0134, ED 680	Application	IHE	622	2,500	5,000
ABSTRACT: Review of Institutional Adequacy of Administrative and fiscal standards for participation in OSFA programs.						
Financial Status and Performance Reports for Special Programs for the Disadvantaged.	3066-0136, ED 1231	Management	IHE	622	644	322
ABSTRACT: Data collected from the Performance Report is summarized and analyzed by the Department of Education and is used as a base to respond to program information requests for Congress, OMB, and other bureau programs. The Financial Status Report is used by Grants Officers to monitor the financial and business aspects of each grant.						
Foreign Language and Area Studies Fellowship Application Package.	3066-0137, ED 7808, ED 7810, ED 7817.	Application	IHE	622	2,000	2,000
ABSTRACT: The information requested is needed by the Department of Education to meet its statutory responsibilities and to determine eligibility of applicants who are finally selected for awards.						
Terminal Report for Holders of Foreign Language and Area Studies Fellowships.	3066-0138, ED 7814	Application	Indvl. or HH	None	1,000	500
ABSTRACT: The information requested is needed by the Department of Education to meet its statutory responsibilities and to determine eligibility of applicants who are recommended and finally selected for awards.						
Institutional List of Candidates for the Foreign Language and Area Studies Fellowship Program.	3066-0139, ED 7832	Application	IHE	622	120	30
ABSTRACT: This form is necessary to comply with the selection process as put forth in the rules and regulations (45 CFR 146.38) and is used by the staff of DIE to award fellowships as well as monitor the results of the academic year.						
Request for payment of 1981 and 1982 BEOG Award Notice of Termination.	3066-0140, ED-304 and ED-304-2.	Application	Indvl. or HH, IHE622	40,880	27,700	

DEPARTMENT OF EDUCATION—Continued

Title of information collection	OMB and agency Nos.	Purpose	Respondent burden: Type	SIC code	Number of respondents	Hours
ABSTRACT: These forms are the means by which students attending institutions that participate under the alternate disbursement system submit information regarding the students enrollment to the Secretary to be used in determinig their Basic Grant Award. The Secretary acts as the disbursing agent on behalf of the Institution.						
Application for Federal Assistance—Instructions for Educational Opportunity Centers.	3066-0142, ED 343	Application	Government, IHE	622, 634, and 941	100	3,400
ABSTRACT: The form requests programmatic and budgetary information from eligible applicants so that the Department of Education Program Offices and Non-Federal reviewers will have adequate, relevant information with which to make funding decisions. The collected information will also be used to determine compliance with the published funding criteria.						
A-102 Financial Status and Performance Reports—Discretionary Projects—Bureau of Postsecondary Education.	3066-0143, ED 1294	Prog. Plan	IHE	622	439	9,000
ABSTRACT: The standard financial status report and performance report for the following six discretionary programs: Language and Area Centers, Fulbright-Hays Training Grants—foreign Curriculum Consultants, Fulbright Higher Education Act, Library Research and Demonstration Program, and Ethnic Heritage Studies Program.						
Standard Application (Nonconstruction) for Foreign Language and Area Studies.	3066-0145, ED 324-1, ED 324-2, ED 324-3.	Application	IHE	622	800	9,000
ABSTRACT: Because of the close relationship of the Fellowship Program to the Language and Area Center Program, it has been decided that the standard A-110 application for these Centers should also be used by the Fellowship Program.						
Federal Insured Student Loan Application.	3066-0147, ED 1154	Application	Indv. or HH, Business	None	750,000	562,500
ABSTRACT: These FISL Student Applications are used to determine those students eligible for, and to award, Federally Insured Loans.						
Application for Cooperative Education Program, Title VIII, HEA as Amended.	3066-0148, ED 1193	Application	IHE	622	800	8,120
ABSTRACT: The Program awards discretionary Grants to accredited institutions of Higher Education for planning and conducting Cooperative Education Programs.						
Fiscal-Operations Report/Application to Participate in NDSL, SEOG and CWS Programs.	3066-0150, ED 646, ED 646-1.	Application	IHE	622 and 824	4,650	174,750
ABSTRACT: The application date will be used to compute the amount of funds needed by each institution during the 1983-84 award period. The Fiscal Operation's Report Data will be used to assess program effectiveness and accountability of funds expended during the award period 1981-82.						
Student Confirmation Report for Guaranteed Student Loan Program.	3066-0154, ED 1072	Management	IHE	622 and 824	11,250	22,500
ABSTRACT: Data from this form is used to update the Student Status Field in the computer system. This information is then provided to the lenders on the loan transaction statement which will indicate if and when a student ceases attendance. The lender then establishes a repayment schedule with the student.						
Call Report—Lender's Annual Report on Guaranteed Student Loans and Parent Loans for Undergraduate Student Outstanding.	3066-0155, ED 799-1	Application	Businesses	622, 601, 602, 603, 604, and 605	22,500	45,000
ABSTRACT: This form is completed by the lender and provides the GSLB updated information of the lender loan portfolio. It is also used to determine the amount the lender can bill for interest in the next quarter.						
Loan Transfer Statement Guaranteed Student Loan Program.	3066-0156, ED 1074	Management	Business	622, 601, 602, 603, 604, and 605	1,000	32,530
ABSTRACT: This form is used to report the selling and buying of existing loans between lenders. Both lenders must sign and date the form prior to submission to the Department of Education by the buying lender.						
Financial Status and Performance Reporting for Educational Opportunity Centers.	3066-0159, ED 366, ED 366-1.	Management	IHE	622, 621, and 624	32	128
ABSTRACT: Data collection instrument is needed to comply with OMB Circular A-110. The information will be used (A) to assess and monitor project effectiveness, and (B) to determine if the program is meeting the needs of the target populations.						
National Direct (Defense) Student Loan Assignment Form.	3066-0160, ED 553	Management	IHE	622 and 824	3,300	111,375
ABSTRACT: This form was designed to provide the maximum efficiency for full reporting of debtor information for both the institution and the Federal Government. The report will contain a complete statement of the facts and computations on the basis of which the debt was administratively determined.						
Lenders Manifest for Federally Insured Student Loans.	3066-0164, ED 1151	Management	Business	622, 601, 602, 603, 604, and 605	13,000	26,000
ABSTRACT: The lender uses this form to report the amount of disbursements made on loans. It is also used to report conversions and loans paid in full. In addition, it is used to maintain insurance premiums to be paid at a later date.						
Request for Institutional Eligibility (for programs Under the Higher Education Act of 1965, as Amended).	3066-0167, ED 1059	Application	Government, IHE	622, 624, 629, and 941	1,000	1,000
ABSTRACT: The Secretary of Education must determine whether Postsecondary Educational institutions meet the statutory and regulatory requirements for eligibility to apply for funding for programs authorized by the Higher Education Act of 1965, as amended Secretary uses this form to determine the eligibility of these institutions.						
Application for State Student Incentive Grant Program.	3066-0168, ED 1288	Application	Government	941	57	171
ABSTRACT: Completed application shows states qualification for federal funds, specifying matching and maintenance of effort capability, methods of determining student financial need, and extent of institutional eligibility. With its signed assurances, the document commits the State to administer the Federal Funds and State Matching in compliance with the Statute. Data are used in Program Management.						
Request for Designation as an Eligible Institution, Title III Higher Education Act of 1965, as Amended.	3066-0172, ED 1049-6	Application	IHE	622	600	600
ABSTRACT: The Division of Institutional Development will use the information requested to determine if an eligible institution of Higher Education meets the specific program qualifications to receive Title III funds as provided for in the Legislation and Regulations governing the Institutional Aid Programs.						
Performance and Financial Status Reports for the Strengthening Developing Institutions Program.	3066-0173, ED 1049-2	Evaluation, Management	IHE	622 and 629	900	4,500

DEPARTMENT OF EDUCATION—Continued

Title of information collection	OMB and agency Nos.	Purpose	Respondent burden: Type	SIC code	Number of respondents	Hours
ABSTRACT: The reports are needed to fill the requirements of section 304(C)(1) of P.L. 93-318 and the technical and financial reporting. The Division will use the information to determine that adequate progress is being made toward achieving the goals of the grants, to monitor the rate of grantee expenditures, and to identify potential budgetary problems.						
Guaranteed Student Loan Program Family Contribution Schedule.	3066-0175, ED 667	Regulatory	Businesses, Government	041, 622, and 806	6,000	250,000
ABSTRACT: The notice advises the public of the Needs Analysis System (Family Contribution Schedule) to be used by Schools in determining the student's eligibility.						
Application for Grants Under the Challenge Grant Program.	3066-0176, ED 653	Application	IHE	822	25	2,925
ABSTRACT: The attached application form must be completed by all institutions applying for grants under the Challenge Grant Program, Title III of the Higher Education Act of 1965, as amended by P.L. 96-374. The application will enable the Secretary to evaluate the needs of the applicants to determine which applications should be funded and the total amount of any grant that may be awarded.						
Guarantee Agency request for Reimbursement for Claims Paid Request for Reimbursement Under Agreement for Fed. Reinsurance—Request for Reimbursement on Death/Disability.	3066-0177, ED 1189, ED 1189-1, ED 1189-3.	Application	Government	941	50	3,150
ABSTRACT: ED form 1189 is used by the guaranteed agency to request reimbursement on claims paid and should always accompany the ED 1189-1 and 1189-3. The 1189-1 is used for reimbursement of death and disability claims after Dec. 15, 1968 and for all bankruptcy claims. The 1189-3. The 1189-1 is used for reimbursement on death and disability claims prior to Dec. 15, 1968 and for a 1189-3 is for reimbursement of death and disability claims after Dec. 15, 1968.						
Program Announcement—Minority Institutions Science Improvement Program.	3066-0178, ED 0007	Application	IHE	822 and 892	150	5,700
ABSTRACT: This is a grant application for competitive awards.						
Application for Federal Student Aid	3066-0179, ED-255	Application	Indvl. or HH	None	2,000,000	3,000,000
ABSTRACT: This form is needed to collect the data necessary: To determine whether the student is eligible for Federal Student Aid Funds, and to calculate a uniform methodology number which financial aid Administrators may use to award all other types of Financial Aid.						
Special Condition Application for Federal Student Aid.	3066-0180, 255-2	Application	Indvl. or HH	None	157,000	235,000
ABSTRACT: This form is needed to collect data: To determine the amount of expected family contribution to the applicant if certain family or financial conditions have changed for the worse, and to calculate a uniform methodology number which Financial Aid Administrators may use to award all other types of financial aid.						
Evaluation of Student Financial Assistance Training Program (SFATP).	3066-0181, 798-1 through 798-6.	Evaluation	Indvl. or HH	None	28,200	9,838
ABSTRACT: This study will determine whether training program participants are learning the curriculum, what participants think of the program, and whether the program is recruiting the people who need training the most.						
Application for Grants Under the Strengthening Program.	3066-0182, ED 851	Application	IHE	822	400	35,400
ABSTRACT: The attached application form must be completed by all institutions applying for grants under the Strengthening Institutions Program, Title III of the Higher Education Act of 1965 as amended by P.L. 96-374. The application will enable the Secretary to evaluate the needs of the applicants to determine which applications should be funded and the total amount of any grant that may be awarded.						
Application for Grants Under the Special Needs Program.	3066-0183, ED 852	Application	IHE	822	350	31,850
ABSTRACT: The attached application form must be completed by all institutions applying for grants under the Special Needs Program, Title III of the Higher Education Act of 1965, as amended by P.L. 96-374. The application will enable the Secretary to evaluate the needs of the applicants to determine which applications should be funded and the total amount of any grant that may be awarded.						
Program Announcement—Comprehensive Program Final Year Dissemination Competition Fund for the Improvement of Post-Secondary Education.	3066-0186, ED 0003	Application	IHE	822	50	400
ABSTRACT: This is a grant application for competitive awards with a limited eligibility requirement.						
Guarantee Agency Report of Recoveries on Claims Paid Under Federal Reinsurance.	3066-0187, ED 1189-2	Regulatory	IHE, Government	822, 941, and 892	50	1,050
ABSTRACT: The Guarantee Agency completes this form indicating recoveries on claims paid and forwards the report with a check to the Claims and Collections Section, Guarantee Student Loan Branch.						
Performance Reporting: Minority Institutions Science Improvement Program (MSIP).	3066-0189, ED-0007P	Regulatory	IHE	822	100	300
ABSTRACT: Brief annual reports on progress to date in comparison to project schedule.						
Application for New Projects Under Special Programs for Students from Disadvantaged Backgrounds.	3066-0190, ED 872	Application	Businesses	821, 822, and 824	350	9,800
ABSTRACT: Applications provide Federal government with relevant information with which to make funding decisions.						
Application for Comprehensive Program, FIPSE.	1850-0050, ED 0001, ED 0002.	Application	Businesses	None	1,750	17,500
ABSTRACT: These applications are competitively reviewed and grants and contracts under the Fund for the Improvement of Postsecondary Education (FIPSE) are awarded to those selected.						
Application for Mina Saughnessy Scholars Program, FIPSE.	1850-0043, ED 0000	Application	Businesses	None	200	5,000
ABSTRACT: This program is an annual grant competition designed to solicit applications from Postsecondary Education institutions which propose to designate a Shaughnessy Scholar to improve educational practice through individual projects. The information requested is necessary to make decisions about which applications will receive grant awards.						
Equipment List for Title VII, HEA of 1965, as amended.	51-R0644, ED 1136-1	Management	Businesses	None	300	225
ABSTRACT: This is an itemized initial equipment list necessary for program to review in order to ascertain that Title VII recipients do not purchase elaborate and costly initial equipment above and beyond that needed for the Title VII projects.						
Report on College Retention of Former Upward Bound Students.	3066-0126, ED 1225	Evaluation	Businesses	None	1,800	450

DEPARTMENT OF EDUCATION—Continued

Title of information collection	OMB and agency Nos.	Purpose	Respondent burden: Type	SIC code	Number of respondents	Hours
ABSTRACT: This form is used within the Upward Bound Information System to confirm enrollment and retention of former Upward Bound students in institutions of Higher Education. These reports provide information used in program accountability, program evaluation and any other area where some type of assessment of Upward Bound program activities is required.						
Student Aid Report (SAR) formerly Student Eligibility Report (SER).	ED 255-1	Application	Individual	None	2,328,000	1,157,186
ABSTRACT: The student completes an application form (ED 255) on which she/he provides income and asset information necessary to determine an expected family contribution toward educational expenses. The student sends the form to an ED contractor which determines the amount of the expected family contribution. The ED contractor then sends the student an SAR which is a notification of the results of that determination.						
Statement of LEEP Account; Participant's Certification Statement—Law Enforcement Education Program (LEEP).	1840-00121, LEEP 6, LEEP 6A.	Prog. Plan	Individual	None	171,860	5,818
ABSTRACT: This form serves as a bill or a certification of Law Enforcement Employment. When used as the latter, the form serves to collect information on the recipient of funds. This information must be certified by an official of the employing agency. Information is fed into the 'computer file which automatically credits the recipient's account with the appropriate forgiveness.						
Pell Grant Program Student Validation Roster (Formerly Basic Educational Opportunity Grant).	3066-0099, ED 255-4	Application	Businesses	None	5,000	25,000
ABSTRACT: The Pell Grant Program is a program of Student Financial Aid which was authorized by Title IV, Part A of the ED amendments of 1972. Under this program, the institution will determine the student's Pell award and upon actual enrollment would begin to disburse funds to the student on the behalf of ED.						
Report of Default Loan (NDSL)	ED 574	Prog. Plan	Colleges and Universities.	None	3,200	8,000
ABSTRACT: This report provides information about the capability of the institutions to establish and administer effective collections programs.						
Summary Data Sheet, Listing Form (NDSL).	ED 1299, and 1	Prog. Plan	State Government	None	57	1,140
ABSTRACT: This report provides information about the state's elementary and secondary schools with high percentages of low income students for purposes of cancellation benefits under the NDSL Program.						
Grantee Agency Reserve Fund Analysis and Projections.	ED 678	Prog. Eval.	State Government	None	23	46
ABSTRACT: This form is to be used to collect the data needed to decide if the agency should be allowed to retain the 422(a) Federal Advance funds or if the Secretary should request the return of the funds.						
Application for Fulbright Hays Training Grants—Faculty and Doctoral Dissertation Research Abroad Programs.	3066-0091, ED 7627, ED 7628, ED 7628-1	Application	Government	None	770	2,887
ABSTRACT: The purpose of the awards under these programs is to improve and develop programs in modern foreign language and area studies in the educational structure of the United States. The Doctoral Dissertation Research Abroad program provides assistance for graduate students to engage in full-time dissertation research abroad. The Faculty Research Abroad program provides awards to key faculty members to maintain expertise in foreign language and area studies.						
Total reports this subagency: 66; total burden hours 6,283,311.						
Office of Civil Rights						
Fall 1982 Elementary and Secondary School Civil Rights Survey.	None, ED 101, ED 102	Regulatory	Government (School Districts), (Schools).	941 and 921	[1] 3,300 [2] 26,400	3,300 211,200
ABSTRACT: The Office for Civil Rights (OCR) has yet to submit the instrument they plan to use for this survey to the Federal Education Data Acquisition Council (FEDAC) for approval. Due to the sensitive nature of this survey, however, FEDAC believes it appropriate to advise the public that it may occur in some form. Publication of this notice does not constitute approval of the survey. Before FEDAC can approve the survey OCR must demonstrate that significant circumstances or urgent need exists for the information. OCR would use the information to evaluate the compliance status of schools with Federal Civil Rights statutes, court orders, and executive orders. OCR also uses the information to facilitate compliance reviews and complaint investigations.						
Total reports this subagency: 1; total burden hours: 214,500.						

[1] Districts.
[2] Schools.

DEPARTMENT OF AGRICULTURE—FOOD AND NUTRITION SERVICE

Title of information collection	OMB and agency Nos.	Purpose	Respondent burden: Type	SIC code	Number of respondents	Hours
Annual Report of Meal Service in Schools.	0584-0038, FNS-47	Regulatory	Government	821 and 943	59	17,416
ABSTRACT: Provides information necessary to apportion among the states certain Food Service Equipment Assistance Program funds (FSEAP). FSEAP is authorized under section 5 of the Child Nutrition Act of 1966, as amended.						
Guidelines for Financial Management Cost Based Accountability System—School Food Programs.	0584-0050, 798-1 Rev 2.	Regulatory	Businesses	821 and 943	119,000	25,050,000
ABSTRACT: Required by the Child Nutrition Act and the National School Lunch Act, which prohibits the Department from paying schools on a pre-meal basis more than the cost of producing the meal.						
Part 210—National School Lunch Program.	0584-0006	Regulatory	Government	821 and 943	29,525	89,857
ABSTRACT: The National School Lunch Act of 1946 authorizes the National School Lunch Program (NSLP). The regulations set forth policy for the administration of the program by States & School Fund Authorities (SFA). Reporting requirements enables States & SFAS to obtain federal funds and donated commodities.						
Monthly Report of Lunch Service Operations Commodity only Schools.	0584-0029, FNS-139	Prog. Plan	Government	821 and 943	11	88

DEPARTMENT OF AGRICULTURE—FOOD AND NUTRITION SERVICE—Continued

Title of information collection	OMB and agency Nos.	Purpose	Respondent burden: Type	SIC code	Number of respondents	Hours
ABSTRACT: Submitted by the School Fund Authority participating in the USDA donated commodity program. This report provides monthly program information on lunch service in each participating school.						
Agreement for use of Donated Commodities (Commodity-Only Schools).	0584-0030, FNS-129	Application	Government	943	10	5
ABSTRACT: Agreement document submitted to FNS by the School Fund Authority. The FNS-129 includes a summary of all requirements pertaining to the operation of the Donated Commodity Program.						
Application for Donated Commodities (Commodity Only Schools).	0584-0031, FNS-127	Application	Government	821 and 943	10	10
ABSTRACT: Application for school participation in the USDA Donated Commodity Program. Submitted to FNS by the School Food Authority in cases where the program is to be directly administered by FNS.						
Part 230—Food Service Equipment Assistance.	0584-0066	Regulatory	Businesses	943	112	448
ABSTRACT: The Food Service Equipment Assistance Program is authorized by Section 5 of the Child Nutrition Act of 1966, as amended these regulations set forth policy for the Administration of the program by State Agencies and School Food Authorities.						
Food Administrator Survey (FAS) of the National Evaluation of School Nutrition Programs.	0584-0112, AG/FNS 1106.	Prog. Plan	Businesses	943	3420	1,305
ABSTRACT: No available comprehensive finding describing the operations, targeting and impacts of the School Nutrition Programs currently exist. This evaluation, conducted in response to a Congressional request (Senate Resolution 90, report no. 96-208) addresses each of these issues and will develop forecasting models that can predict program participation.						

Total reports this subagency: 9; total burden hours: 29,138,911.

DEPARTMENT OF COMMERCE

Title of information collection	OMB and Agency Nos.	Purpose	Respondent burden: Type	SIC code	Number of respondents	Hours
Sea Grant Control	0648-0008, NOAA 90-1	Application	IHE	822	40	40
ABSTRACT: Is a summary of information contained in a proposal relating to the budgeting of funds by category, required by P.L. 94-461, and entered into the Sea Grant Data Management Files for extracting of information for administrative purposes.						
Sea Grant Budget	0648-0034, NOAA 90-4	Prog. Plan	IHE	822 and 802	450	900
ABSTRACT: Information is needed to determine cost of each project a multi project proposal and to determine allowability of matching costs offered. Also, used in negotiating costs and administrative control of expenditures by both grantee and grantors. (Required by P.L. 94-461.)						
Survey of Local Government Finances	0607-0165, F 33	Statistics	Government	941	57	1,400

Total number of reports this agency: 3; total respondent hours: 1,840.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Title of Information Collection	OMB and agency Nos.	Purpose	Respondent burden: Type	SIC code	Number of respondents	Hours
Grant Application: Application for Continuation Grant and Notice of Research Project.	0925-0001, PHS 2590, PHS 398, PHS 166.	Application	IHE	822 and 806	34,500	772,800
ABSTRACT: Used to apply for new, renewal, noncompeting continuation, and supplemental Research Grant & Research Career Development Program to support investigation or experimentation aimed at discovery and interpretation of facts, revision of accepted theories in light of new facts, or application of such and evaluated for scientific and technical merit by non-federal experts in appropriately related disciplines and fields.						
Official statement relinquishing interests and rights in a Public Health Service Research Grant.	0925-0004, PHS 3734	Prog. Plan	IHE	822 and 806	500	250
ABSTRACT: Form used in lieu of letters by Public Health Service upon receipt of information from a Grantee Institution that they desire that a grant be terminated and transferred to another institution. Form will be forwarded for their completion and returned.						
Biomedical Research Support Grant and Annual Progress Report.	0925-0008, NIH-147-1 and NIH-147-2.	Application, Prog. Plan	IHE	822 and 806	520	9,880
ABSTRACT: The application (NIH 147-1) provides information to determine eligibility and the award among the progress report (NIH 147-2) provides information that enables staff to evaluate effectiveness and conformance to guidelines.						
Statement of Appointment of Trainee	0925-0011, PHS 2271	Prog. Plan	IHE	822 and 806	22,413	9,337
ABSTRACT: Covers the support of a trainee from a particular budget period and is required for each new appointment, reappointment, and amendment to such, of an individual receiving stipend, tuition costs or travel expenses under a PHS Training Grant.						
Medical Library Resource Improvement Grant Application.	0925-0015, NIH-1057	Application	IHE	806, 808, 822 and 823	400	2,400
ABSTRACT: Application information needed to obtain data required by law and regulations in determining whether a grant may be made to a Library which would fulfill the purpose of the legislation. Information provides the basis for Peer Review of Grant Awards by a Peer Review Committee.						
Career Research Project Registration Form.	0925-0021	Research	IHE, Indvl. or HH	862	2,800	4,000
ABSTRACT: This form is used by principal investigators working on Cancer Related Research Projects throughout the World to provide description of both new and revised projects supported by National and/or International Funding Agencies. These project descriptions are then entered into the Cancer Project Data Base by the Smithsonian Science Information Exchange (SSIE).						
National Research Service Award Institutional Grant Application.	0925-0022, PHS 6025	Application	IHE	822 and 806	850	51,850

DEPARTMENT OF HEALTH AND HUMAN SERVICES—Continued

Title of Information Collection	OMB and agency Nos.	Purpose	Respondent burden: Type	SIC code	Number of respondents	Hours
ABSTRACT: To eligible institutions to develop or enhance research training opportunities for individuals selected by them who are interested in careers in Biomedical and Behavioral Research. Domestic Nonprofit Private or Public Institutions may apply for grants to support Research Training Programs. The Training Program Director at the Institution will be responsible for the selection and appointment of trainees to receive National Research Service Award.						
NIH Inventory of Clinical Trails	0925-0023, NIH 2242	Prog. Plan	IHE	822 and 806	1,000	1,000
ABSTRACT: Used by OD-NIH, and others for planning and decisionmaking in area of Clinical Applications. Data is used for some of NIH's deliberations and for baseline information in issue papers. Used in documents on development of 5 year Health Research Plan for DHHS and in discussions of NIH responsibilities at the interface of Biomedical Research and Health Care.						
Audiovisual Evaluation Form	0925-0044	Prog. Eval	Indvl. or HH, IHE	822, 823, and 806	19,000	900
ABSTRACT: Data collected from the Audiovisual form will be used primarily or internal NMAL purposes, for providing a measure of the approximate use for each Audiovisual in the NMAC collection, and to provide an input to an NMAC study on the factors affecting the shareability of AV's in the Health Sciences.						
Smoking Prevention in Adolescents	0925-0048	Prog. Eval	Government	821	4,250	2,467
ABSTRACT: The survey instruments were designed to test the effectiveness of a School Health Program to prevent or delay smoking by adolescents.						
Grant Application (RCD a Modification)	0925-0052, PHS-398	Application	IHE	822 and 806	450	9,000
ABSTRACT: Adaptation of PHS-398 to Application for the Research Cancer Development Award entails minor modification of the Table of Contents and Checklist.						
The Cancer Construction Program: Program Instructions.	0925-0120, PHS-5162	Application	IHE	822, 806, and 805	30	480
ABSTRACT: Provides supplemental program instructions for completion of Standard Construction Application Form. It provides instructions for completing a construction application to assure proper and complete peer review by NCI and is required of all applicants requesting NCI Construction Funds.						
National Eye Institute Construction Application Supplemental Instructions.	0925-0129, PHS 5162-1	Application	IHE	822, 823, 869, and 821	50	1,200
ABSTRACT: NEI program objectives and intent must be made available to the Public DHHS Grants Administration Policy requires instructions to be made available regarding Clearinghouse procedures. Environmental Impact Statements and Design Standards. Information will be used by Clearinghouses and NIE Staff to ascertain that all laws, rules and regulations have been complied with.						
Conner's Parent and Teacher Questionnaire for Evaluation in Phototherapy Study.	0925-0132, MH-9-35	Research	Indvl. and HH, Government.	821	900	675
ABSTRACT: These questionnaires are one of the modes being used to attempt to discern minor behavioral differences in a study of the treatment of Jaundice in Newborn Infants. These questionnaires are to be used in the sixth and final year of evaluation.						
Protection of Human Subjects Certification and Recordkeeping Requirements.	0925-0137, HHS-596		IHE	822 and 806	45,000	89,490
ABSTRACT: This form provides the required certification on any project or program which involves the conduct of Biomedical or Behavioral Research involving human subjects.						
Document Delivery Data Collection	0925-0140	Prog. Eval	Government, IHE	822 and 823	110	83
ABSTRACT: The Regional Medical Library (RML) Network is composed of eleven Regional Libraries and 100 Resource Libraries which cooperate to provide requested Interlibrary Loans to Health Science Professionals. These Libraries will be required to report information on their ability and effectiveness in providing this service through the RML Network.						
Evaluation of Directory of Federally Supported Research projects.	0925-0151	Prog. Eval	IHE	822 and 823	525	132
ABSTRACT: It is proposed to send a single page questionnaire to 700 respondents requesting "yes/no" answers to the usefulness of a two volume Interagency Technical Committee (IATC) FY 1979 Directory of federally supported research projects in heart, lung, and blood diseases and book resources to be mailed out in July 1981.						
Final Invention Statement	0925-0159, HHS 568	Prog. Plan	IHE	822 and 806	18,000	1,500
ABSTRACT: Used in close out of grants and awards for research to obtain certified statement as to inventions made in the course of the work.						

Total number of reports this agency: 18; total respondent hours: 662,484.

Report of Individual with Childhood Impairment.	0960-0084, SSA-1323	Application	Multi	None	75,000	25,000
ABSTRACT: Sections 202(D), 216(I)(1)(A), and 1614(A) of the Social Security Act provide for the information collected in order to determine if a claimant for Childhood Disability Benefits has an impairment. The information is used to supplement reports from Physicians, Psychologists and Hospitals. Specifically, the form collects information on how the impairment affects the individual's progress in school situations, as well as the result of Psychometric Testing.						

DEPARTMENT OF THE INTERIOR—OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Title of information collection	OMB and agency Nos.	Purpose	Respondent Burden: Type	SIC code	Number of respondents	Hours
Request for Payment on Letter of Credit and Status of Funds Form.	1029-0016, Standard Form 163.	Prog. Plan	IHE	822	31	1,260
ABSTRACT: In accordance with Treasury's Circular 10-75, a "Request for Payment on Letter of Credit and Status of Fund Report" is needed to make payments to Grantees for these grants. The data is used by OSM to minimize the time elapsing between the disbursement by a Grantee and the transfer of funds from the United States Treasury to the Grantee.						
Federal Cash Transactions Report	1029-0019, Standard Form 272 and 272-A.	Prog. Plan	IHE	822	31	2,580
ABSTRACT: In accordance with OMB's Circular A-110, Attachment H the information is needed to advance payments to Grantees for Allotment, Research and Scholarship/Fellowship Grants. The data is used by OSM to assist in monitoring advances to Grantees and to obtain disbursement information for each agreement from.						

Total number of reports: 2; total burden hours: 3,840.

DEPARTMENT OF LABOR

Title of information collection	OMB and agency Nos.	Purpose	Respondent burden: Type	SIC code	Number of respondents	Hours
Accident Data on Public School Bus Drivers.	1215-0045, WH-374	Statistics		821	57	24
Work Equipment and Career Education Program.	1215-0121, WH-570	Regulatory		941	57	20

Total number of reports: 2; total respondents hours: 44.

DEPARTMENT OF THE TREASURY

Title of information collection	OMB and agency Nos.	Purpose	Respondent burden: Type	SIC code	Number of respondents	Hours
Annual Certification of Racial Nondiscrimination for a Private School Exempt from Federal Income Tax.	1545-0213, 5578	Regulatory	IHE	821, 822, 824, and 829	1,000	726

ABSTRACT: Form 5578 is used by Private Schools that do not file form 990, Schedule A, to certify that they have a racially nondiscriminatory policy toward students, as outlined in Revenue Procedure 75-50. The service uses the information to help ensure that the school is maintaining a nondiscriminatory policy in keeping with its exempt status.

Attachment for Letter Going to Schools to Schedule Understanding Tax Films.	1545-0306, 505-6-14	Prog. Plan	LEA's	821	900	45

ABSTRACT: The 505-6-13 is a transmittal letter sent to High Schools with form 505-6-14. The letter acknowledges the recipient's interest in IRS Understanding Taxes Films and describes the available films. Form 505-6-14 is filled out by the recipient and when returned to IRS it serves as a request for use of a film.

Application to Sponsor Student Tax Clinic.	1545-0471, P-987	Application	IHE	822	50	25

ABSTRACT: A Law of Graduate Accounting School Official would prepare this pattern letter to apply for sponsorship of a Student Tax Clinic in cooperation with the IRS. The purpose of the pattern letter is to record the Institution's application for Clinical sponsorship and agreement to meet IRS requirements to conduct the Clinic.

Certification of Youth Participating in a Qualified Cooperative Education Program.	1545-0344, 6199	Regulatory	IHE	822	6,000	47,424

Total number of reports: 4; total respondent hours: 48,230.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Title of information collection	OMB and agency Nos.	Purpose	Respondent burden: Type	SIC code	Number of respondents	Hours
Elementary-Secondary Staff Information (EEO-5).	3046-0003, EEOC 168 and 168-B.	Regulatory	Government	821	7,500	412,500

ABSTRACT: Required by section 709(C) of Title VII, Civil Rights Act of 1964 as amended by the Equal Employment Act of 1972. The laws include the coverage of Educational Institutions and State and Local Governments with 15 or more employees. The data is used by EEOC for investigations, decisions, and conciliation in its compliance, litigation, and voluntary program activities. The data is shared with other Federal Agencies, particularly the Office for Civil Rights.

Higher Education Staff Information (EEO-6).	3046-0008, EEOC-221	Regulatory	Government	822	12,000	15,000

ABSTRACT: Required by Section 709(C) of Title VII, Civil Rights Act of 1964, as amended. Report provides for reporting employment data on full-time workers by salary classes, part-time workers, and new hires. The groups are reported by race, ethnic groups, sex, and job category, for institutions of Higher Education, both Public and Private. The data is used by EEOC for investigations. decisions and conciliation in its compliance, litigation and voluntary programs.

Law School Information Form	3046-0029, EEOC-434	Prog. Plan	Government Businesses	822 and 829	217	108

ABSTRACT: To collect information regarding policies for student volunteer services experience. This information will be used to assist in designing District Offices.

Paralegal Program Information Form	3046-0030, EEOC-435	Prog. Plan	Government, Businesses	822 and 829	296	148

ABSTRACT: To collect information regarding policies for Student Volunteer Services Experience. This information will be used to assist in designing District Offices.

Total Number of Reports: 4; Total respondent hours: 427,756.

NATIONAL FOUNDATION ON HUMANITIES

Title of information collection	OMB and agency No.	Purpose	Respondent burden: Type	SIC code	Number of respondents	Hours
Reference Letter Form	3136-0000	Application	Indvl. or HH	None	40,000	40,000

ABSTRACT: Provides professional reference for NEH Fellowship Applicants, necessary as part of the peer review process.

Fellowship Report	3136-0006	Prog. Eval.	Indvl. or HH	None	365	365

ABSTRACT: Requests feedback information on the value of having received an NEH Independent Fellowship.

NEH Application Cover Sheet	3136-0002	Statistics	Indvl. or HH, IHE	821, 822, 823, 839, 841, 892, and 860	20,000	10,000

ABSTRACT: Standardized application cover sheet providing data necessary to the Grant Application Review and Grant Administration Process. This form enables the endowment to use automated systems to process the data. Ensure response and compliance with requesting requirements.

Total number of reports: 3; total respondent hours: 50,365.

NATIONAL SCIENCE FOUNDATION

Title of information collection	OMB and agency Nos	Purpose	Respondent burden: Type	SIC code	Number of respondents	Hours
Special Foreign Currency Expenditures of Financial Status Report.	3145-0013	Application	Indvl. or HH	None	70	90

ABSTRACT: Under the NSF Act, NSF supports scientific research by granting awardees in excess foreign currencies and reporting fiscal expenditures via Fiscal Officer at the American Embassy.

Survey of Scientific and Engineering Expenditures at Universities and Colleges.	3145-0015	Statistics	IHE	822	570	13,052

ABSTRACT: The survey provides policy makers with information on the amount and characteristics of expenditures for academic research and development. It is one of four academic-related surveys done annually and commonly coded on an automated data file. It is widely used for programming, budgeting, and other matters related to science policy such as gauging the national investment in basic research. The survey covers approximately 580 universities and colleges that account for virtually all of academic R&D performance

Survey of Earned Doctorates Awarded in the U.S.	3145-0019	Statistics	Indvl. or HH	None	31,000	10,300

ABSTRACT: Persons with doctorate-level education are key members of the labor force in scientific, engineering, and learned professions. Information on their immediate postdoctoral study or employment plans are essential for analysis of supply and demand. These data also provide information on the flow of women and minorities into these fields. This activity is conducted under the authority of P.L. 81-501, Sec. 3(A)(6).

Student Views on Careers	3145-0025	Statistics	Indvl. or HH	None	1,000	900

ABSTRACT: Survey of "Students" that have participated in NSF innovation center programs at four universities and "Students" at six other universities some of which have innovation and entrepreneurship programs will continue to be conducted over the next three years. Their purpose is to qualitatively determine if the NSF innovation centers produce a greater quantity of technological entrepreneurs than those not identified as NSF developed.

Status of NSF-Funded Invention	3145-0029	Prog. Plan	Businesses	None	35	125

ABSTRACT: NSF's waiver terms to universities required an annual reporting on the status of inventions. This form supplies the required information in a uniform manner. The time involved is relatively minor as annual updating is all that is required for each invention

Survey of Scientific and Engineering Personnel Employed at Universities and Colleges.	3145-0062	Statistics	IHE	822	2,200	21,034

ABSTRACT: These data provide policy makers with information on the level and characteristics of scientific and engineering (S/E) personnel employed in the academic sector. The survey covers approximately 2,200 institutions representing the entire population of universities and colleges employing S/E personnel.

Survey of Graduate Science Students and Postdoctorates.	3145-0063	Statistics	IHE	822	9,000	25,000

ABSTRACT: This survey is the only national survey designed to obtain data on graduate science enrollment and support patterns. Main uses consist of projections of future scientists and engineers and examination of policy issues such as the impact of changes in Federal support programs on overall S/E enrollment trends. The survey covers approximately 10,000 S/E departments at all doctorate-and masters-granting institutions.

National Science Foundation Grant Applications.	3145-0058 NSF-4, 98A, 921, 1030, 1030A.	Application	Indvl. or HH, IHE	822	27,000	3,240,225

ABSTRACT: The National Science Foundation initiates and supports fundamental and applied research in all the scientific disciplines, science, education and research policy. This support is made through grants, contracts, and other agreements awarded to universities, university consortia, nonprofit, and other research organizations.

Antarctic Conservation Act Application and Permit.	3145-0034 NSF-1078	Regulatory	Indvl. or HH, IHE	822	20	16

ABSTRACT: The National Science Foundation, pursuant to the Antarctic Conservation Act of 1978 (P.L. 95-541) regulates via a permit system certain activities in Antarctica. The subject form is used by NSF to collect information needed in permit administration or parts of them

Total number of reports: 9; total respondent hours: 3,312,658.

OFFICE OF PERSONNEL MANAGEMENT

Title of information collection	OMB and agency Nos.	Purpose	Respondent burden: Type	SIC code	Number of respondents	Hours
Child's Eligibility to Receive Benefits, RI 49-224.	3206-0032, RI-49-224	Application	IHE, Indvl. or HH	821, 822, and 861	30,000	15,000

ABSTRACT: Under the Civil Service Retirement Law, Survivor Benefits to children of deceased Federal Employees who have reached age 18 may continue until they reach age 22 provided they are unmarried full-time students. It is provided to the students 3 months prior to their 18th birthday, and annually or semiannually until they reach 22.

Inquiry for United States Government Use Only (Education Inquiry).	3206-0065, OF 50	Application	IHE	821 and 822	60,000	6,000

ABSTRACT: Executive Order 10450, issued April 27, 1953, requires that investigations be conducted of all persons entering the Federal Service. Optional form 50 is the voucher form sent to the former places of education in conducting National Agency Checks and Inquiries (NACI) of applicants for nonsensitive and noncritical-sensitive positions. Information collected is used to determine the suitability of applicants for Federal employment.

Total number of reports: 2; total respondent hours: 21,000.

RAILROAD RETIREMENT BOARD

Title of information collection	OMB and agency Nos	Purpose	Respondent burden: Type	SIC code	Number of respondents	Hours
Student Beneficiary Monitoring	3220-0123, G-311, G-315.	Prog. Plan	Indvl. or HH, Businesses	822, 824	7,500	1,875

ABSTRACT: Under the Railroad Retirement Act, a student benefit is not payable if the student ceases full-time school attendance, marries, works in the railroad industry, has excessive earnings or attains age 22. The reports will obtain information from the student and educational institution to be used in determining if benefits should cease or be reduced.

VETERANS ADMINISTRATION

Title of information collection	OMB and agency Nos.	Purpose	Respondent burden: Type	SIC code	Number of respondents	Hours
Monthly Report on Number of Inspection, Approval and Supervisory Visits to Schools and Training Establishments Furnishing Courses of Edu and Trng under Ch. 36, Title 38, U.S.C.	2900-0051, 22-7396	Prog. Plan	Government	941	75	900
ABSTRACT: This report (required by 38 U.S.C. 1774(C) and 38 CFR 21.416(B)) is completed by staff approving Agencies in reporting their activities, as required by contract.						
Enrollment Certification (Under Chapter 34, or 36 Title 38, U.S.C.	2900-0073, 22-1998/ 22-1998A, 22-199-1.	Application	IHE	822 and 824	1,000,000	200,000
ABSTRACT: As required by 38 U.S.C. 1784, this form must be completed and submitted for benefits to be awarded. Completed by the school or training establishment, the form certifies enrollment or training data which is used by the VA in determining rate of benefits.						
Transfer of (Scholastic) Credit (Schools), FL-22-315.	2900-0116	Application	IHE, Indvl. or HH	822	1,800	267
ABSTRACT: As provided by 38 U.S.C. 1663 and 1714, no benefits based on concurrent enrollment can be paid unless information requested by this letter is received. Information obtained by this letter certifies that the student will receive full credit for courses taken at another Educational Institution.						
Application for Educational Assistance	2900-0098, 22-5490	Application	Indvl. or HH	None	12,000	3,000
ABSTRACT: 38 U.S.C. 1713 provides that no benefits may be paid unless a completed application has been received. Information requested by this form is used in determining the eligibility of Veteran's child to Educational Assistance under Chapter 35, Title 38, U.S.C.						
Request for Change of Program or Place of Training Survivor's and Dependents Educational Assistance.	2900-0099, 22-5495	Application	Indvl. or HH	None	15,000	5,000
ABSTRACT: No benefits may be paid unless a completed application form has been received. The information requested on the form is used to determine eligibility of a Veteran's spouse, surviving spouse, or child to Educational Benefits when a change of program or place of training is involved (38 U.S.C. 1713, 1721, 1791, and 38 CFR 21.4234).						
Education Plan (Chapter 35, Title 38, U.S.C.).	2900-0100, 22-5490A	Application	Indvl. or HH	None	12,000	1,800
ABSTRACT: No Educational Benefits may be paid unless a completed application form and an education plan have been received (Title 38 U.S.C. 1720). The information requested on the form is necessary to determine the applicant's eligibility for Dependents Educational Assistance.						
Transfer of (Scholastic) Credit (Schools).	2900-0118, FL-22-810	Application	IHE, Indvl. or HH	822	1,800	267
ABSTRACT: As provided by 38 U.S.C. 1663 and 1714, no benefits based on concurrent enrollment can be paid unless information requested by this letter is received. Information obtained by this letter certifies that the student will receive full credit for courses taken at another Educational Institution.						
Veteran's Application for Educational Benefits (Under Ch. 34, U.S.C.—for service beginning prior to Jan. 1, 1977).	2900-0154, 22-1990	Application	Indvl. or HH	None	250,000	166,000
ABSTRACT: No benefits may be paid unless a completed application form has been received (38 U.S.C. 1671). The information requested on the form is necessary to determine a Veteran's eligibility to Educational Assistance under Chapter 34, Title 38 U.S.C.						
Serviceperson's Application for Educational Benefits.	2900-0155, 22-1990A	Application	Indvl. or HH	None	70,000	93,500
ABSTRACT: No benefits may be paid unless a completed application form has been received (38 U.S.C. 1671). The information requested on the form is necessary to determine a serviceperson's eligibility to Educational Assistance under Chapter 34, Title 38, U.S.C.						
Notice of change in Student Status—Institutional Course Only.	2900-0156, 22-1999	Prog. Plan	IHE	822	350,000	16,666
ABSTRACT: This form is completed by the School Certifying Official to report any change in the student's enrollment status (as required by CFR 21.4203). The information is used by the VA to determine whether or not an adjustment in the student's benefits is required.						
Application for Educational Assistance by a spouse of surviving spouse.	2900-0164, 22-5490W	Application	Indvl. or HH	None	6,000	2,000
ABSTRACT: No benefits may be paid unless a completed application form has been received (38 U.S.C. 1713). The information requested on the form is necessary to determine the eligibility of a Veteran's spouse or surviving spouse to Educational Benefits under Chapter 35, Title 38 U.S.C.						
Application and Enrollment Certification Individualized Tutorial Assistance.	2900-0171, VA22-1990T.	Application	Indvl. or HH, Government	822	26,000	13,000
ABSTRACT: No payment may be made for tutorial assistance unless a completed application form has been received (38 U.S.C. 1662 and 1733). The information requested is necessary to determine the student's entitlement to tutorial assistance.						
Notice of Acceptance for Publication—Correspondence Course.	2900-0182, 22-8689	Prog. Plan	Government	941	500	150
ABSTRACT: Authorized by 38 U.S.C. 1772, the form reports information provided by the State Approving Agencies to VA Regional Offices regarding approved correspondence courses.						
Notice of Eligibility, Application and Enrollment Certification.	2900-0301, 22-1990V	Application	Indvl. or HH, IHE	822 and 824	280,000	93,750
ABSTRACT: No benefits may be paid unless a completed application form has been received (38 U.S.C. 1671). The form is computer-generated by VADS (Veterans Assistance Discharge System). Information requested on the form is used to determine a Veteran's eligibility to educational assistance under Ch. 34, Title 38, U.S.C.						
Veterans Application for Work-Study Allowance.	2900-0309, 20-8691	Application	Indvl. or HH	None	80,000	12,500
ABSTRACT: This form is needed to administer the Veteran-Student Services Program. The data collected is used to determine eligibility for the Work-Study Grants under authority of 38 U.S.C. Sec. 1685.						
Application for Education Loan	2900-0238, 22-8725	Application	Indvl. or HH	None	150,000	60,000
ABSTRACT: The information requested on this application (required by 38 U.S.C. 1798) is necessary to determine the student's entitlement to a VA Education Loan.						
Designation of Certifying Official	2900-0262, 22-8794	Prog. Plan	Government IHE	822 and 824	36,000	3,000
ABSTRACT: This report, authorized by 38 U.S.C. 1784, is used by a responsible official of the school or training establishment to designate certifying officials for that school or establishment. The VA subsequently accepts certification signed by the designated Certifying Officers.						
Certification of Delivery of Advance Payment and Enrollment.	2900-0325, VA 22-1999V.	Application	IHE	822 and 824	360,000	30,000

VETERANS ADMINISTRATION—Continued

Title of information collection	OMB and agency Nos.	Purpose	Respondent burden: Type	SIC code	Number of respondents	Hours
ABSTRACT: No further benefits can be paid unless this card is completed and filed as required by law (38 U.S.C. 1790). Information on card is used to confirm the student's receipt of advance payment of benefits and confirm enrollment.						
Alternate Full-Time Measurement Requirements for Undergraduate College Courses.	2900-0350	Application	IHE	822 and 824	225	225
ABSTRACT: Some Colleges offer nontraditional courses which do not provide regular weekly class instruction. Under certain limited circumstances these courses may be measured as fulltime for GI Bill Benefit purposes. The VA needs certain information from schools to determine if the requirements for full-time measurement are met.						
Statement of Wages Paid to Trainee (Receiving Educational Benefits).	2900-0010, 22-1917	Prog. Plan	Businesses	824	300	300
ABSTRACT: This form, as required by 38 U.S.C. 1504, is needed for the purpose of determining or confirming the proper VA subsistence allowance rate payable to the trainee.						
Certification of Entrance into Training or Trainee Status.	2900-0014, 22-2905	Application	IHE, Businesses	822 and 824	11,250	2,813
ABSTRACT: Chapter 31, Title 38 U.S.C. Vocational Rehabilitation Training Authorization/Certification Form is used by VA for authorizing the School or Training Establishment to enter Veteran into training. Also used by school or training establishment to certify Veteran has entered training.						
School Attendance Report	2900-0057, 21-6748	Application	Indvl. or HH	None	39,500	3,300
ABSTRACT: This form is used to verify attendance in an authorized school or training program where benefits were authorized prior to entering the program. It is also used to report termination of any program with the specific information required to adjust benefit payments as appropriate for the particular VA Benefit Program. Authority is 38 CFR 3,667.						
Request for Training Supplies	2900-0061, 22-1905M	Application	Businesses	824	1,000	1,000
ABSTRACT: Title 38, U.S.C., Chapter 31, provides training supplies for Veterans in Vocational Rehabilitation Programs. This form requests training supplies certifying that the supplies are required by the establishment for training.						
Annual Farm and Home Plan for Institutional On-Farm Course of Training (Ch. 31).	2900-0062, 22-1905P	Application	Indvl. or HH, Farms	011, 013, 021, 024, and 025	100	380
ABSTRACT: Required by 38 CFR 21.201, this report provides information which is used in developing Instructional Programs in Farm Planning, Management and Operation and to assure reasonable satisfactory living under normal economic conditions.						
Farm Survey and Overall Farm and Home Plan Chapter 31, Title 38, U.S.C.	2900-0063, 21-E1905N	Application	Indvl. or HH, Farms 025	011, 013, 021, and 024	30	60
ABSTRACT: Required by 38 CFR 21.201, this report provides information used in assessing potential of facility as a suitable training site and to assure training will affect rehabilitation						
Request for Change of Program or Place of Training (Chapter 34, Title 38, U.S.C).	2900-0074, 22-1995	Application	Indvl. or HH	None	250,000	83,000
ABSTRACT: 38 U.S.C. 1671 requires a completed application form be received in order for benefits to be paid. The information requested on the form is used to determine eligibility to Chapter 34 Benefits when the student is changing programs or place of training.						
Compliance Report of Proprietary Institutions Apprenticeship Programs and on-the-Job Training Programs.	2900-0160, VA 27-4274	Regulatory	Businesses	824	11,260	5,630
ABSTRACT: Item is needed for program evaluation. Data is used to evaluate equal opportunity compliance of respondents. Data is collected per 28 CFR 42.406 (FR Vol. 41, No 232, page 52669, December 1, 1976), to effectuate Title VI of the Civil Rights Act of 1964.						
Trainee Interview Sheet	2900-0169, 22-8663	Application	Indvl. or HH	None	20,000	3,250
ABSTRACT: This form is necessary to secure information by interview as required by Compliance Survey Procedures (Title 28, U.S.C.). The information secured helps to establish that the student is receiving the course (as approved) or that discrepancies exist and indicates areas for corrections.						
Title VI Compliance Review Report	2900-0210, 27-8734A	Regulatory	IHE, Businesses	822 and 824	1,979	9,875
ABSTRACT: Item is needed for Program Evaluation. Data is used to evaluate equal opportunity compliance of respondents. Data is collected per 28 CFR 42.406 (FR Vol. 41, No. 232, page 52669, Dec. 1, 1976), to effectuate Title VI of the Civil Rights Act of 1964.						
Designation of Certifying Official	2900-0262, 22-8794	Prog. Plan	IHE, Businesses	822 and 824	6,000	3,000
ABSTRACT: This report, authorized by 38 U.S.C. 1784, is used by a responsible official of the school or training establishment to designate certifying officials for that school or establishment. The VA subsequently accepts certification signed by the designated certifying officers.						
Application for Educational Assistance (for 22-8821 Post-Vietnam era Veteran—Ch. 32, Title 38, U.S.C.).	2900-0263, 22-8821	Application	Indvl. or HH	None	25,000	12,500
ABSTRACT: No benefits may be paid unless a completed application form has been received (38 U.S.C. 1671). The information requested on the form is necessary to determine the applicant's eligibility to Educational Assistance under Chapter 32, Title 38, U.S.C.						
Supplemental Information for Change of Program or Reenrollment after Unsatisfactory Progress or Conduct.	22-8873	Application	Indvl. or HH	None	35,000	11,600
ABSTRACT: Information obtained on this form will be used to determine whether or not the applicant's proposed training program (either the applicant's request for a second or subsequent program change, or, request for reenrollment following termination because of unsatisfactory progress or conduct) is suitable to the aptitudes, interests and abilities of the applicant (as required by 38 U.S.C. 1791, 1674 and 1724).						
Verification of Pursuit of Course Leading to a Standard College Degree (Chs. 34 and 35, Title 38 U.S.C.).	76-R0405, 22-8583	Prog. Plan or Mgmt	Indvl. or HH/IHE	822	500,000	41,667
ABSTRACT: Certifying school official for institutions of higher learning complete and submit this card to certify the student's actual attendance for the enrollment period (38 U.S.C. 1780)						
Quarterly Certification of Attendance for Courses not Leading to a Standard College Degree and Farm Cooperative Courses Under Chs. 34 and 35, Title 38, U.S.C.	76-R0547, 22-8553A	Prog. Plan or Mgmt	Govt/Indvl/or IHE	941 and 822	600,000	120,000
ABSTRACT: No further benefits may be paid unless this certification of attendance report is completed by the certifying school official and submitted to the VA (38 U.S.C. 1780). Information is used to determine the student's continuing eligibility to benefits and the proper amount payable.						

VETERANS ADMINISTRATION—Continued

Title of information collection	OMB and agency Nos.	Purpose	Respondent burden			
			Type	SIC code	Number of respondents	Hours
Certification of Lessons Completed (Chs. 34 or 35, Title 38, U.S.C.).	76-R0549, 22-85539	Prog. Plan or Mgmt	Indv/Hhl, IHE	941 and 822	800,000	133,333

ABSTRACT: No further benefits may be paid unless this certification (of lessons completed) is completed and filed as required by 38 U.S.C. 1780. Information is used to determine the student's continuing eligibility to benefits and the proper amount payable.

Total number of reports: 35; total burden hours: 1,065,619.

[FR Doc. 82-4300 Filed 2-22-82; 8:45 am]

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federal register

Tuesday
February 23, 1982

Part III

Department of Energy

Amendments to Guidelines for Compliance With the National Environmental Policy Act

DEPARTMENT OF ENERGY

Compliance With the National Environmental Policy Act (NEPA); Amendments to the DOE NEPA Guidelines

AGENCY: Energy Department.

ACTION: Amendments to Guidelines for Compliance with the National Environmental Policy Act.

SUMMARY: The Department is amending its guidelines for compliance with the National Environmental Policy Act (NEPA) by making additions and deletions to the guidelines' included list of classes of agency actions which normally do or do not require environmental assessments or environmental impact statements.

EFFECTIVE DATE: February 23, 1982.

FOR FURTHER INFORMATION CONTACT:

Dr. Robert J. Stern, Director, Environmental Compliance Division, Office of Environmental Programs, Office of the Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness, Forrestal Building, Room 4G–064, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–4600

Stephen H. Greenleigh, Esq., Assistant General Counsel for Environment, Forrestal Building, Room 6D–033, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–6947.

SUPPLEMENTARY INFORMATION:

A. Background

On March 28, 1980 (45 FR 20694), the Department of Energy published in the Federal Register final guidelines for implementing the procedural provisions of NEPA as required by the Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500–1508). The guidelines are applicable to all organizational units of the Department of Energy, except the Federal Energy Regulatory Commission which is not subject to the supervision or direction of the other parts of the Department.

Section D of the Department's NEPA guidelines identifies typical classes of Department actions: Which normally do not require either an environmental assessment or an environmental impact statement; which normally require an environmental assessment but not necessarily an environmental impact statement; and which normally require an environmental impact statement. These classes of actions were identified pursuant to 40 CFR 1507.3(b)(2).

The Department's NEPA guidelines state that the Department of Energy may add to or remove actions from the categories in Section D based on experience gained during the implementation of the CEQ regulations and the guidelines. Pursuant to the guidelines, substantive revisions are to be published in the Federal Register and adopted only after opportunity for public review.

B. Adoption of Amendments Proposed on August 11, 1980 (45 FR 53199)

On August 11, 1980 (45 FR 53199), the Department of Energy proposed five (5) classes of exemption actions under Title II and Title III of the Powerplant and Industrial Fuel Use Act of 1978 for categorical exclusion status, i.e., actions which require neither an environmental assessment nor an environmental impact statement. These actions involve the grant or denial of a permanent exemption for: The use of certain fuel mixtures containing natural gas or petroleum; new peakload powerplants; limited operation for emergency purposes only; purposes of meeting schedules equipment outages; and limited use due to a lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.

A 30-day period was established for public comment on the categorical exclusions. No comments were received during the public comment period. Accordingly, the Department hereby adopts the categorical exclusions as proposed.

C. Adoption of Amendments Proposed on July 16, 1981 (46 FR 36884)

On July 16, 1981 (46 FR 36884), the Department of Energy proposed the addition of eleven (11) typical classes of action and the modification of three (3) existing typical classes of action.

Typical classes of action proposed for categorical exclusion, i.e., actions which require neither an environmental impact statement nor an environmental assessment included: General plant projects located within previously developed areas and not part of a project that is or may be the subject of an EA or EIS; installation of meteorological towers and associated activities to assess potential wind energy resources; emergency repair of transmission lines; additions or modifications to transmission facilities; grant or denial of requests for multiple-use of DOE transmission line rights-of-way; execution of contracts for short-term or seasonal allocation of excess power; and the renewal of existing power contracts in kind.

The following typical classes of action were proposed for addition as actions which normally require environmental assessments but not necessarily environmental impact statements: Construction and operation of wind resource, low-head hydro, and solar energy pilot projects; allocation of power resources in a manner differing from existing contractual arrangements; implementation of a systemwide erosion control program; and the demonstration or implementation of intermediate-depth burial of low-level waste at DOE sites.

Typical classes of actions proposed for modification included: DOE actions which enable or result in engineering development activities, i.e., detailed design, development, fabrication, and test of energy system prototypes (Note.—Changed existing class of action normally requiring an environmental assessment but not necessarily an environmental impact statement by adding the word "fabrication."); DOE actions which are expected to result in the construction and operation of a large scale project (Note.—Modified an existing class of action normally requiring an environmental impact statement by substituting "large scale project" for "full-scale energy system project."); and DOE actions resulting in the site selection, construction, or operation of major treatment, storage and/or disposal facilities for transuranic and high level nuclear waste and/or spent nuclear fuel such as spent fuel storage facilities and geologic repositories (Note.—Clarified an existing class of action normally requiring an environmental impact statement.).

A 30-day period was established for public comment on these typical classes of action. No comments were received during the public comment period. Accordingly, the Department hereby adopts the typical classes as proposed.

D. Amendments Proposed on December 17, 1980 (45 FR 82967)

On December 17, 1980 (45 FR 82967), the Department of Energy proposed that "the grant of entitlements for petroleum substitutes where the facility using the petroleum substitute is existing and operating, and the receipt of entitlements will not cause an increase in size, product mix, or emission" be added to Section D as a categorical exclusion.

Executive Order 12287 (46 FR 9909), exempted all crude oil and refined petroleum products from the price and allocation regulations adopted pursuant to the Emergency Petroleum Allocation Act of 1973, as amended (Pub. L. 93–159), including those regulations concerning entitlements for petroleum substitutes.

Therefore, the Department of Energy withdraws the previously proposed amendment to Section D for the grant of entitlements.

E. Other Actions

Activities under the Emergency Petroleum Allocation Act such as those associated with the Propane Allocation Program and the Synethetic Natural Gas Feedstock Allocation Program no longer represent typical classes of action for the Department. Therefore, the Department is deleting from Section D the following classes of actions: Assignments and allocations of propane to retail and wholesale outlets for commercial and residential use; assignments and allocations of propane to gas utilities for peak shaving or Btu enrichment which do not involve new construction or a substantial change in operation and where DOE has determined that such actions will not impact the supplies available for competing uses; assignments and allocations of propane to gas utilities for peak shaving, Btu enrichment or supplemental gas supplies involving new construction or a substantial change in operations or potential impact on competing users of propane; new assignments and allocations of propane feedstock to enable operation of or increases in operation of petrochemical plants; changes in regulatory status such as the decontrol of propane; approval/disapproval of an application for supplier assignment and feedstock allocation which involves continuation of SNG production at historical levels, and where DOE has determined that the requested assignment will not adversely impact competing users due to the projected availability of supply; issuance of an Order which reduces SNG production below historical levels and where the probability of fuel switching or other impacts caused by the reduction is unknown; issuance of an Order for an existing plant which increases the SNG production above historical levels; approval/disapproval of an application for supplier assignment and feedstock allocation which involves the construction of a new SNG plant or a major modification at an existing plant; and issuance of an Order which significantly reduces the feedstock allocation to an existing plant in cases where the gas supply/demand outlook indicates significant fuel switching or economic hardship may occur as a result of the curtailment of SNG feedstock.

Section D of the Department's NEPA guidelines is being reprinted in its entirety. Typical classes of actions added or modified since March 28, 1980, are so noted. Issued in Washington, D.C., February 1, 1982.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

SECTION D.—TYPICAL CLASSES OF ACTION

Normally do not require either EA's or EIS's	Normally require EA's but not necessarily EIS's	Normally require EIS's
Classes of Actions Generally Applicable to All of DOE		
Administrative procurements (e.g., general supplies)	DOE actions which enable or result in engineering development activities, i.e., detailed design, development, fabrication, and test of energy system prototypes. NOTE.—Modified existing class of action by adding the word "fabrication".	DOE actions which are expected to result in the construction and operation of a large scale project. (NOTE.—Modified existing class of action by substituting "large scale project" for "full-scale energy system project.")
Contracts for personal services	DOE actions which provide grants to state and local governments for energy conservation programs.	DOE actions which cause energy conservation on a substantial scale.
Personnel actions		
Reports or recommendations on legislation or proposed rulemaking which was not initiated by DOE.		
Compliance actions, including investigations, conferences, hearings, notices of probable violations and remedial orders.		
Interpretations and rulings, or modification or rescissions thereof.		
Promulgation of rules and regulations which are clarifying in nature, or which do not substantially change the effect of the regulations being amended.		
Actions with respect to the planning and implementation of emergency measures pursuant to the International Energy Program.		
Information gathering, analysis, and dissemination		
Actions in the nature of conceptual design or feasibility studies		
Actions involving routine maintenance of DOE-owned or operated facilities.		
Actions in the nature of analytic energy supply/demand studies which do not result in a DOE report or recommendation on legislation or other DOE proposals.		
Adjustments, exceptions, exemptions, appeals, stays or modifications or rescissions of orders issued by the Office of Hearings and Appeals.		
Rate increases for products or services marketed by DOE, and approval of rate increases for non-DOE entities, which do not exceed the rate of inflation in the period since the last rate increase.		Rate increases for products or services marketed by DOE, and approval of rate increases for non-DOE entities which exceed the rate of inflation in the period since the last increase.
Actions that are substantially the same as other actions for which the environmental effects have already been assessed in a NEPA document and determined by DOE to be clearly insignificant and where such assessment is currently valid.		
General Plant Projects such as road and parking area resurfacing, modifications to heating-ventilating-air conditioning systems, minor alterations of existing buildings, and other similar projects where: (1) The projects are located within previously developed areas and will not affect environmentally sensitive areas such as floodplains, wetlands, archeological sites, and critical habitats, and (2) the projects are not part of a proposed action that is or may be the subject of an EA or EIS. (NOTE.—Proposed on July 16, 1981, 46 FR 36884).		

SECTION D.—TYPICAL CLASSES OF ACTION—Continued

Normally do not require either EA's or EIS's	Normally require EA's but not necessarily EIS's	Normally require EIS's
Installation of meteorological towers and associated activities to assess potential wind energy resources where the installation has no impacts on environmentally sensitive areas such as archeological sites, critical habitats, etc., and where the installation does not prejudice future site selection decisions for large wind turbines. (NOTE.—Proposed on July 16, 1981, 46 FR 36884).		
Classes of Actions Applicable to Licenses to Import/Export Natural Gas Pursuant to Section 3 of the Natural Gas Act		
	Approval/disapproval of a new license or amendment to an existing license which does not involve new construction, but which requires operational changes which may or may not be significant, such as an increase in LNG throughput, change in transportation or storage operations.	Approval/disapproval of applications involving the construction of new liquid natural gas terminal, regasification or storage facilities, or a significant expansion of an existing LNG terminal, regasification or storage facility. Approval/disapproval of an application involving a significant operational change, such as a major increase in the quality of LNG imported or exported.
Classes of Action Applicable to International Activities		
Approval of DOE participation in international "umbrella" agreements for cooperation in energy R&D which do not commit the U.S. to any specific projects or activities.		
Approval of technical exchange arrangements for information, data or personnel with other countries or international organization.		
Approval of technical exchange arrangements for information, data or personnel with other countries or international organization.		
Approval of export of small quantities of special nuclear materials or isotopic material in accordance with the Nuclear Non-Proliferation Act of 1978 and the "Procedures Established Pursuant to the Nuclear Non-Proliferation Act of 1978" (FEDERAL REGISTER, Part VII, June 9, 1978).		
Classes of Actions Applicable to Power Marketing Administrations (PMA)		
Minor additions to a substation, transformer additions, or changes in transformer assignments that do not affect the area beyond the previously developed substation area.	Upgrading (reconstructing or reconductoring) an existing transmission line. Construction of new service facilities such as tap lines and substations. Modifications of existing facilities (e.g., substations, storage yards) where impacts extend beyond the previously developed facility area.	Main Transmission System Additions—additions of new transmission lines, main grid substations and switching stations to PMA's main transmission grid. Integrating Transmission Facilities—transmission system additions for integrating new sources of generation into PMA's main grid.
Emergency repair of transmission lines including replacement or repair of damaged equipment as well as the removal and replacement of downed transmission lines. (NOTE.—Proposed on July 16, 1981, 46 FR 36884).	Annual vegetation management program (system-wide). Construction and operation of wind resource, low-head hydro, and solar energy pilot projects. (NOTE.—Proposed on July 16, 1981, 46 FR 36884).	
Classes of Actions Applicable to Power Marketing Administrations (PMA)		
Additions or modifications to transmission facilities which do not affect the environment beyond the previously developed facility area, including tower modifications, changing insulators, replacement of poles and crossarms, and similar actions. (NOTE.—Proposed on July 16, 1981, 46 FR 36884).	The allocation of power resources to customers in a manner differing from existing contractual arrangements. (NOTE.—Proposed on July 16, 1981, 46 FR 36884).	
Grant or denial of requests for multiple use of DOE transmission line rights-of-way, such as grazing permits and crossing agreements including electric lines, water lines, and drainage culverts. (NOTE.—Proposed on July 16, 1981, 46 FR 36884).	Implementation of an erosion control program that is system-wide. (NOTE.—Proposed on July 16, 1981, 46 FR 36884).	
Execution of contracts for the short term or seasonal allocation of excess power resources to customers who can receive these resources over existing transmission systems. (NOTE.—Proposed on July 16, 1981, 46 FR 36884).		
The renewal of existing power contracts in kind. (NOTE.—Proposed on July 16, 1981, 46 FR 36884).		
Classes of Actions Generally Applicable to Nuclear Waste Management Program		
	Exploratory and site characterization activities which by virtue of resource commitment or elapsed time for completion may foreclose reasonable site alternatives. Land acquisition activities solely for the purposes of reserving possible candidate sites and which do not prejudice future programmatic site selection decisions. The demonstration or implementation of intermediate-depth burial of low-level waste at DOE sites. (NOTE.—Proposed on July 16, 1981, 46 FR 36884).	DOE actions resulting in the site selection, construction, or operation of major treatment, storage and/or disposal facilities for transuranic and high level nuclear waste and/or spent nuclear fuel such as spent fuel storage facilities and geologic repositories. (NOTE.—Clarifies an existing class of action.)
Classes of Action Generally Applicable to DOE Implementation of Powerplant and Industrial Fuel Use Act of 1978 (FUA)		
The grant or denial of any temporary exemption for any electric powerplant or major fuel-burning installation.	D	

SECTION D.—TYPICAL CLASSES OF ACTION—Continued

Normally do not require either EA's or EIS's	Normally require EA's but not necessarily EIS's	Normally require EIS's
The grant of denial of any permanent exemption of any existing electric powerplant or major fuel-burning installation, other than an exemption (1) under section 312(c), relating to cogeneration; (2) under section 312(1), relating to scheduled equipment outages; (3) under section 312(b), relating to certain State or local requirements; and (4) under section 312(g), relating to certain intermediate load powerplants.	B	
The grant of denial of a permanent exemption from the Prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (Act) (Pub. L. 95-620) for any new electric powerplant or major fuel burning installation to permit the use of certain fuel mixtures containing natural gas or petroleum. (NOTE.—Proposed on August 11, 1980, 45 FR 53199).	D	
The grant or denial of a permanent exemption from the prohibitions of Title II of the Act for any new peakload powerplant. (NOTE.—Proposed on August 11, 1980, 45 FR 53199).	D	
Classes of Action Generally Applicable to DOE Implementation of Powerplant and Industrial Fuel Use Act of 1978 (FUA)		
The grant of denial of a permanent exemption from the prohibitions of Title II of the Act for any new electric powerplant or major fuel burning installation to permit operation for emergency purposes only. (NOTE.—Proposed on August 11, 1980, 45 FR 53199).	D	
The grant or denial of a permanent exemption from the prohibitions of Titles II and III of the Act for any new or existing major fuel burning installation for purposes of meeting scheduled equipment outages not to exceed an average of 28 days per year over a three-year period. (NOTE.—Proposed on August 11, 1980, 45 FR 53199).	D	
The grant or denial of a permanent exemption from the prohibitions of title II of the Act for any new major fuel burning installation which, in petitioning for an exemption due to lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum, certifies that it will be operated less than 600 hours per year. (NOTE.—Proposed on August 11, 1980, 45 FR 53199).	D	

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Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Community Development Block Grants; Urban Development Action Grants; Final Rule

V. 47 / 36 FEB 23 82

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-82-960]

Community Development Block Grants; Urban Development Action Grants

AGENCY: Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: This rule amends regulations governing the Urban Development Action Grant program to reflect changes made pursuant to the Housing and Community Development Act of 1980 and the Omnibus Budget Reconciliation Act of 1981.

EFFECTIVE DATE: March 31, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia Burke, Regions 1 and 4 (202–755–7362), Stanley Newman, Region 2 (202–755–6193), Wally May, Regions 3 and 10 (202–755–0288), William Hammer, Region 5 (Illinois, Indiana, and Minnesota (202–755–6035)), and David Sowell (Michigan, Ohio, and Wisconsin (202–755–6284)), Charles Kendrick, Regions 6 and 8 (202–755–5820), Phil Comeau, Regions 7 and 9 (202–755–8227). (These are not toll-free numbers.) The above persons are located in the Office of Urban Development Action Grants, Department of Housing and Urban Development, 451 7th Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Subpart G of 24 CFR Part 570 contains requirements for Urban Development Action Grants made under Section 119 of Title I of the Housing and Community Development Act of 1974, as amended ("Title I"). Legislative changes to Section 119, dealing principally with Historic Preservation Act requirements, were made by the Housing and Community Development Act of 1980 (the "1980 Amendments"). Additional, broader changes, principally to streamline the application requirements, emphasize the program's primary objective of revitalizing distressed communities through the creation or retention of jobs and the expansion of tax base, and to emphasize rigorous program administration to minimize the amount of Federal dollars needed to stimulate private investment in individual projects, were enacted by the Omnibus Reconciliation Act of 1981 (the "Reconciliation Act").

By this final rule, the Department is implementing the statutory changes and certain other simplifying or clarifying changes to the program requirements and procedures. Because these changes are not being submitted to public comment in order that applicants may enjoy the benefit of the statutory changes without further delay, substantive changes not dictated by the legislative enactment are not being effected at this time. The Department, however, may propose further changes in administratively imposed requirements of the program, by separate rulemaking procedures, in the near future.

In summary, the regulation is amended as follows:

Purpose

Section 570.450 is modified to emphasize economic distress and recovery in accord with the emphasis of the changes made by the Reconciliation Act.

Definitions

In § 570.451 the definition of "small city" is expanded to include Indian Tribes, Guam and Virgin Islands for eligibility purposes, in accordance with the 1980 Amendments. References in § 570.451 to types of projects have been deleted as the criterion of a reasonable balance between types of projects in § 570.459 (criteria for selection) have also been deleted.

Distressed Communities

Reflecting a change in the Reconciliation Act, § 570.452 is modified to provide that, "where available," job lag and unemployment data shall be used to determine distress. Further, definition of Indian Tribe eligibility is also added to the section.

Eligible Applicants

Section 570.453 is modified to delete the reference to the Housing Assistance Plan in accordance with the Reconciliation Act and to clarify the performance expected of the applicant in providing housing.

Other Actions

Section 570.454 is modified to change citizen participation requirements and to delete references to delete paragraph (d) which specified a modified OMB Circular A–95 procedure for applications. The statutory requirement for such a procedure was eliminated by the Reconciliation Act.

Eligible Activities

Section 570.455 has been modified to permit grant assistance for any eligible activity which supports economic recovery, rather than the prior requirement that the activity supports "a commercial, industrial, or neighborhood project." The change is consistent with general language changes made by the Reconciliation Act. Section 119(t) of Title I provides that activities assisted by UDAG grants may include such activities, in addition to those made eligible by Section 105(a) of Title I, "as the Secretary determines to be consistent with the purposes of" Section 119.

Full Applications

In § 570.456 the requirements for a community development plan and a Housing Assistance Plan have been deleted since these requirements were eliminated by the Reconciliation Act. Other changes have been made to reflect legislative language, streamline burdensome requirements, or clarify specific requirements.

Certification requirements specified in the Section have been changed to conform to the Act. Required certifications cover, among other things, compliance with historic preservation, civil rights, relocation and citizen's participation requirements. For the sake of brevity in the regulations and in conformance with the Community Development Block Grant program, other applicable laws have been cited but descriptive material has been deleted.

Criteria for Selection

The selection criteria in § 570.459 have been modified to remove reference to reasonable balance among types of projects, in accordance with a Reconciliation Act change. The primary criterion for project selection is the comparative degree of economic distress among applicants. The substance and order of the other factors have also been changed to reflect Reconciliation Act changes.

Under prior statutory and regulatory provisions, an applicant was required to include, in its application, a statement analyzing the impact of the proposed program on the residents, particularly those of low and moderate income, of the residential neighborhood, and on the neighborhood in which the program is to be located. The Reconciliation Act eliminated this statement as a mandatory application requirement in favor of a certification by the applicant that it carried out such an analysis prior to submission of its application. This requirement is reflected in § 570.454(b) of the revised rule.

Notwithstanding the statutory change, the Department has elected to retain a requirement that a full application contain a statement analyzing the impact of the proposed program "on the residents of any affected residential neighborhood, particularly low- and moderate-income persons and members of minority groups." This impact analysis has been retained in order to better enable the Department to fulfill its obligation to administer its urban development programs in a manner consistent with the requirements of applicable civil rights mandates, including Section 109 of Title I, Title VI of the Civil Rights Act of 1964, and Title VIII of the Civil Rights Act of 1968. It also is designed to match, in major part, the analysis already required to be made by the applicant prior to submission of its application.

Project Closeout

A new § 570.464 is added which is called "project closeout". It refers to the closeout procedures of § 570.512 and to applicable HUD guidelines which are to be followed by recipients in the UDAG program.

The subject matter of this rulemaking action relates to grants, and is therefore exempt from the notice and public comment requirements of Section 553 of the Administrative Procedure Act. As a matter of policy, the Department submits many rulemaking actions dealing with such subject matter to public comment, either before or after effectiveness of the action, notwithstanding the statutory exemption. However, because the substantive changes made by this rule have been limited to changes consistent with legislative amendments, and in view of a Reconciliation Act requirement that the Secretary "as soon as practicable, but not later than January 1, 1982 * * * shall issue such final rules and regulations as the Secretary determines are necessary to carry out" the amendments . The Secretary has determined that notice and public procedure on this rulemaking action are impracticable, unnecessary, and contrary to the public interest, and that the rule should be published for final effect.

In order to afford applicants time to adjust their procedures to the revised regulations, the Department has determined not to waive the 30-day delay of effectiveness provided by the Administrative Procedure Act (5 U.S.C. 553(d)) or to request waiver of the deferral of effectiveness for 30 calendar days of continuous session of Congress provided by Section 7(o)(3) of the Department of HUD Act (42 U.S.C. 3535(o)(3)). Based on current expectation of Congressional schedules, the rule could become effective as early as March 23, 1982. In order to provide greater advance notice and certainty, the Department has determined that the final rule should become effective March 31, 1982.

Pursuant to Section 308(c) of the Reconciliation Act, the amendments to Section 119 of Title I made by the Reconciliation Act will become effective upon the effective date of this final rule.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order on Federal Regulation issued by the President on February 19, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection and copying (at a cost of ten cents per page) during regular business hours in the Office of the Rules Docket Clerk at the address listed above.

Pursuant to Section 605(b) of the Regulatory Flexibility Act, the undersigned certifies that this rule does not have a significant economic impact on a substantial number of small entities.

The Department's review of the existing Subpart G regulation was listed as Item D)15 (CPD–36–81) in the Department's Semiannual Agenda of Regulations published on August 17, 1981 (46 FR 41708) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The program number for Urban Development Action Grants in the Catalog of Federal Domestic Assistance is 14.221.

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Accordingly, the Department amends Part 570, Subpart G to read as follows:

Subpart G—Urban Development Action Grants

570.450 Purpose.
570.451 Definitions.
570.452 Distressed communities.
570.453 Eligible applicants.
570.454 Other actions which must be taken prior to submission of a full application.
570.455 Eligible activities.
570.456 Ineligible activities and limitations on eligible activities.
570.457 Relocation and land acquisition.
570.458 Full applications.
570.459 Criteria for selection.
570.460 HUD review and action on applications.
570.461 Post preliminary approval requirements.
570.462 Incurring costs for project activities after preliminary approval.
570.463 Project amendments and revisions.
570.464 Project Closeout.
570.465 Applicability of rules and regulations.
570.466 Specific provisions for cities and urban counties containing pockets of poverty.

Authority: Title I, Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 et seq); Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart G—Urban Development Action Grants

§ 570.450 Purpose.

(a) The purpose of urban development action grants is to assist cities and urban counties which are experiencing severe economic distress to help stimulate economic development activity needed to aid in economic recovery.

(b) HUD will allocate grant funds throughout the year to ensure that assistance is available for each calendar quarter. Not less than twenty-five percent of the funds made available under this subpart shall be used for small cities.

(c) Specific provisions for cities and urban counties containing Pockets of Poverty are found in § 570.466.

§ 570.451 Definitions.

The following definitions apply only to this subpart:

(a) A "large city" means any metropolitan city pursuant to § 570.3(t) and any city with a population of 50,000 or more.

(b) A "small city" means any city under fifty thousand which is not a central city of a metropolitan area.

(c) A "distressed community" is a city or urban county which meets the criteria in § 570.452.

(d) A "Pocket of Poverty" means a severely distressed area meeting the requirements of § 570.466(a) which is

located in a city or urban county which does not meet the distress criteria of § 570.452. As used in this subpart, a "Pockets of Poverty Community" is a city or urban county which contains a pocket of poverty.

(e) An "eligible applicant" is a city or urban county which meets the eligibility requirements of § 570.453 and either the requirements of § 570.452 on distress or the requirements of § 570.466(a) for Pockets of Poverty.

(f) "Activities" mean all activities of the project, unless otherwise specified.

(g) A "project" means the group of integrally related activities which are to be carried out by the applicant or an agent or agency of the applicant and all public and private participating parties, as listed in the grant agreement.

(h) A "participating party" is any person, firm, corporation, or entity so identified in the grant agreement which has agreed to perform activities.

(i) A "firm private commitment" means the agreement by which the private participating party in the action grant program agrees to perform an activity specified in the application and demonstrates the financial capacity to deliver the resources necessary to carry out the activity, and commits the resources to the project. No project will be considered for funding unless it contains a firm private commitment. Although a firm private commitment need not be legally binding at the time preliminary funding decisions are made, it must be legally binding before action grant funds may be expended. In documenting a firm private commitment, the private participating party must:

(1) specify the authority by which the commitment is made, the amount of the commitment and the use of the funds. If the committed activity or a portion of it is to be self-financed, the private participating party must evidence its financial capability through a corporate or personal financial statement or through other appropriate means. If any portion of it is to be financed through a lending institution, the participant must submit evidence of the institution's commitment to fund the loan;

(2) state the amount and use of the action grant, and the relationship of the action grant to the proposed investment, and the number of net new permanent and construction jobs to be created by the activity;

(3) affirm that its investment is contingent upon receipt of the total action grant or other public money (or a specified portion thereof), include a statement that but for the receipt of the public funds requested, this project would not be built, and state a willingness on the part of the signatory to sign a legally binding commitment upon preliminary approval of the action grant.

(j) A "firm public commitment" means the agreement by which a public participating party in the action grant program agrees to perform the activity specified in the application and commits the necessary resources to the project. No project containing a requirement for other public financing will be considered for funding unless it contains a firm public commitment. Documentation of a firm public commitment will generally take the form of a city or county council resolution or a letter from a federal or state agency stating the amount and purpose of the funding available, and that the funds are committed to the project.

(k) A "legally binding commitment" means a legally enforceable written obligation made by a private or public participating party to complete a specified activity or set of activities which is approved as part of the action grant project.

(l) The "leveraging ratio" is defined as the total amount of firm private commitment generated by the project divided by the amount of action grant funds awarded to the project.

(1) In calculating the amount of firm private commitment, HUD will only consider new investments which are contingent upon the receipt of action grant funds and which are necessary to make a new permanent capital improvement. For example, expenditures for land assembly, new construction or rehabilitation will be included in the calculation of the private commitment for a project. Working capital and inventory will not be included.

(2) A hypothetical example illustrates how the leveraging ratio is derived. A private industry agrees to build a widget factory. The company agrees to put $2 million in equity into the plan ($1 million into the construction of the plant and $1 million into working capital), borrows $5 million in a first mortgage from a bank, and says that but for the receipt of Action Grant funds in the amount of $1 million to be used as a second mortgage, the company will not be able to build this project. The applicant agrees to use $500,000 in community development block grant funds to provide offsite improvements. The leveraging ratio would be obtained by adding the $1 million in capital equity, the $5 million first mortgage, plus the discounted value of the action grant second mortgage which (for the purpose of this example) equals $700,000. The total amount of firm private commitments equals $6.7 million for a 6.7 to 1.0 leveraging ratio. The $1 million of working capital is not counted for purposes of calculating the leveraging ratio. Inventory would likewise be excluded from calculation in the ratio.

§ 570.452 Distressed communities.

(a) *General.* Distressed communities are those cities and urban counties which meet the appropriate criteria of economic distress as specified in this section. Cities participating in the Community Development Block grant program in cooperation with an urban county, as provided in § 570.105, are potential applicants under this subpart if they meet the requirements of this section. Such cities may at the same time continue as cooperating units of government in the urban county's entitlement grant. Towns and Townships, pursuant to § 570.3(f), may apply. Towns and townships which do not qualify under the closely settled requirement of that section may request that the Secretary waive this requirement.

(b) *Minimum standards of economic distress.* (1) From time to time, HUD will publish in Notice form the specific minimum standards of economic distress used in determining which cities and urban counties are potentially eligible applicants for action grant funds. These standards will be derived by using the best and most recent available data for the community as a whole, allowing for comparisons between cities and urban counties of the same size class in the following categories: (i) Percentage of housing constructed prior to 1940, (ii) per capita income change, (iii) percentage of poverty, (iv) population growth lag/decline and, where available, (v) job lag/decline, and (vi) unemployment.

(2) Any city or urban county which no longer qualifies on the basis of distress due to a change in applicable data will have up to two calendar quarters to submit full applications following the announcement of that change. HUD will establish a date by which such applications will no longer be accepted and will publish the date in the Notice.

(c) *Large cities and urban counties.* (1) In order to qualify as distressed communities, large cities and urban counties must meet three of the six currently applicable minimum standards of distress specified in paragraph (b) (1) of this section.

(2) If the city or urban county's percentage of poverty is less than one-half of the HUD established standard, then it must meet four of the six minimum standards.

(d) *Small Cities.* In order to qualify as distressed communities, small cities must meet the minimum standards of economic distress for the categories appropriate to their size class as outlined below.

(1) Cities of less than 25,000 population.

(i) If the percentage of poverty is at least one-half of the HUD established standard the city must meet standards in three of the following four areas:

(A) Percentage of housing constructed prior to 1940.

(B) Per capita income change.

(C) Percentage of poverty.

(D) Population growth lag/decline.

(ii) If the percentage of poverty is twice the HUD established standard, the city must meet only one other minimum standard.

(iii) If the percentage of year-round housing units constructed prior to 1940 is twice the HUD established standard, the city must meet only the poverty standard.

(2) Cities of 25,000 population, but not greater than 50,000 population.

(i) Must meet the minimum standards in three of the following five areas:

(A) Percentage of housing constructed prior to 1940.

(B) Per capita income change.

(C) Percentage of poverty.

(D) Population growth lag/decline.

(E) Job lag/decline.

(ii) If the percentage of poverty is less than one-half of the HUD established standard, the city must meet all four other minimum standards.

(iii) If the percentage of poverty is twice the HUD established standard, the city must meet only one other minimum standard.

(iv) If the percentage of year-round housing units constructed prior to 1940 is twice the HUD established standard, the city must meet only the poverty standard.

(e) *Indian Tribes.* Indian Tribes shall be presumed to meet the minimum standards of distress unless data made available to the Secretary establish that a Tribe's distress is not comparable to that of potentially eligible small cities.

§ 570.453 Eligible applicants.

(a) *Eligibility.* Cities and urban counties which qualify as distressed communities, pursuant to § 570.452 or Pocket of Poverty communities pursuant to § 570.466, by meeting the appropriate distress criteria must be determined eligible in order to submit a full application.

(1) *Pre-application request for a determination of eligibility.* Distressed communities and Pocket of Poverty communities must request a determination of eligibility prior to submission of their first full application. The request for a determination of eligibility must be submitted to the appropriate HUD Area Office on Standard Form 424, as modified by HUD, at least 60 days prior to the deadline for submission of the full application (or at a later time as authorized by the Secretary pursuant to § 570.4). To qualify as an eligible applicant, a city or urban county must meet the requirements of paragraphs (a), (b) and (c) of this section.

(2) *Duration of Eligibility.* Once an applicant has been determined eligible, a preapplication need not be filed again; however, in order to remain eligible, the city or urban county must continue to demonstrate results in providing low- and moderate-income housing and equal opportunity in housing and employment as described in this section. Large cities and urban counties shall submit their most recent EEO-4 form by November 30 each year to the HUD Area Office. Small cities shall submit their most recent EEO-4 forms or recent comparable data by November 30 each year to the HUD Area Office. The Area Office will review this information along with other data concerning results in providing housing and equal opportunity described in paragraphs (b) and (c) of this section received by the Area Office.

(3) *Withdrawal of Eligibility.* Eligibility status may be withdrawn at any time if the distressed community or Pocket of Poverty community fails to continue to demonstrate results in providing housing or equal opportunity.

(b) *Results in Providing Housing.* In order to qualify, the distressed community or Pocket of Poverty community must demonstrate that it has achieved results in providing housing for persons of low- and moderate-income. Among the factors HUD will consider are the number of federally or other assisted housing units provided for low- and moderate-income households especially since 1974, and whether the city has accepted, or taken steps to accept, the housing units made available by HUD.

(c) *Results in Providing Equal Opportunity.* In order to qualify, the distressed community or Pocket of Poverty community must demonstrate that it has achieved results in providing equal opportunity in housing and employment for low- and moderate-income persons and members of minority groups. Among the factors which HUD will consider are: (1) The location and occupancy characteristics of federally or other assisted housing units provided for families, and the extent to which the use of these programs promotes and shows progress in promoting a greater choice of housing opportunity for low- and moderate-income persons in areas outside of low income and minority concentration; (2) whether the distressed community or Pocket of Poverty community is actively engaged in promoting housing choice in all of its neighborhoods through participation in an area-wide affirmative marketing effort, a New Horizons Fair Housing Assistance Project, or other fair housing actions designed to eliminate and prevent discrimination in the private housing market throughout the distressed community's or Pocket of Poverty community's jurisdiction; (3) whether relocation as a result of federally assisted programs has resulted in expanded housing opportunities for minorities outside areas of minority or low-income concentration; (4) whether the distressed community or Pocket of Poverty community is a participating jurisdiction in an approved Housing Opportunity Plan, where such plan includes the community's jurisdiction; (5) whether the distressed community's or Pocket of Poverty community's performance reports to HUD and/or the Equal Employment Opportunity Commission indicate significant progress in hiring, training, and promoting minorities and lower-income persons.

§ 570.454 Other actions which must be taken prior to submission of a full application.

(a) *Citizen Participation.* Prior to submission of a full application, applicant must hold public hearings to obtain the views of citizens, particularly residents of the area in which the proposed activities are to be carried out.

(1) Nothing in these requirements, however, shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of the urban development action grant program.

(b) *Impact Analysis.* Prior to submission of a full application, the applicant must analyze the impact of the proposed activities both on the residents, particularly those of low and moderate income, of any residential neighborhood in which such activities are to be carried out and on the neighborhood in which they are to be carried out. (1) Hold public hearings to obtain the views of citizens

(c) *Environmental Assessment.* (1) Cities and urban counties must have a level of clearance finding in accordance with § 58.15(d) of 24 CFR

Part 58. Applications will not be accepted for funding consideration, unless a level of environmental clearance finding is made by the time of submission of the application. HUD encourages applicants requesting joint Federal funding to include the other involved agencies when distributing their notice of assessment.

(2) Cities and urban counties must comply with historic preservation identification and review procedures in accordance with § 570.458(c)(14)(vii). Applicants are encouraged to consult with the State Historic Preservation Officer early in the planning process when a property of historical, archeological, or architectural significance may be involved.

(d) *Flood and Drainage Facilities.* If the project involves flood and drainage facilities, the application must include evidence that the requirements of § 570.607 have been satisfied. That is, the applicant must have submitted a request to an appropriate public agency for funds, received notification of rejection from that agency or notification that the funds are not available for at least 90 days, and the applicant must notify HUD of the results of this request.

§ 570.455 Eligible activities.

(a) Except as specified in § 570.456, grant assistance will be made available for any eligible activity specified in Subpart C which supports economic recovery.

(b) If permissible under State and local law, the applicant may undertake activities outside of the applicant's jurisdiction where the benefits of the project accrue to the applicant.

§ 570.456 Ineligible activities and limitations on eligible activities.

(a) Large cities and urban counties may not use assistance under this subpart for planning the project or developing the application. However, they may use entitlement community development block grant funds for this purpose. Any small city which submits a project application which is selected for preliminary approval and for which legally binding commitments have been approved consistent with the terms of the grant agreement and for which a release of funds pursuant to 24 CFR Part 58 has been issued may devote up to three (3) percent of the approved amount of its action grant to defray its actual costs in planning the project and preparing its application.

(b) Assistance under this subpart may not be used for public services as described in § 570.201(e).

(c) Except as specified herein, no assistance will be provided for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another, unless the Secretary finds that such relocation does not significantly and adversely affect the level of unemployment or the economic base of the area from which such industrial or commercial plant or facility is to be relocated. However, moves within a metropolitan area shall not be subject to this provision.

§ 570.457 Relocation and land acquisition.

(a) *Application of the Uniform Act.* The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and HUD implementing regulations at 24 CFR Part 42 (Uniform Relocation Assistance and Real Property Acquisition) apply to the acquisition of real property by any State agency (as defined at 24 CFR 42.85) for a project assisted under this subpart and to any displacement that results from such acquisition. More specific instructions about the applicability of the Uniform Act are contained in § 570.602(a).

(b) *Displacement not subject to the Uniform Act.* The provisions of this paragraph apply to activities not subject to the Uniform Act. HUD has determined that requirements identical to those set forth at 24 CFR Part 42, as modified by the following provisions of this paragraph, shall apply to each tenant (not an owner-occupant) who occupies the site of an activity.

(1) *Issuance of notice to residential tenant.*

(i) Within 30 days after preliminary funding approval is announced or at such later date agreed to by HUD, the applicant shall issue each residential tenant either a notice of displacement (described at § 42.205) that is effective immediately or a notice of right to continue in occupancy (described at § 42.207). If the tenant is not issued either of these notices within the prescribed time, he or she shall automatically be eligible for relocation assistance as described at 24 CFR 42.205(b).

(ii) Any tenant required by the owner to move from the property before issuance of a notice as described under paragraph (b)(1)(i) of this section, but after submission of the action grant application to HUD, shall also be issued a notice of displacement, unless he or she was required to move because of his/her breach of an obligation under the terms and conditions of the tenancy. The notice shall be effective on the date the tenant vacated the property. If the tenant chooses to relocate again, the one-year period (see § 42.451(c)) within which the tenant must purchase/rent and occupy a replacement dwelling (if he or she chooses to relocate again) and the 18-month period for filing relocation payment claim(s) shall not begin until after the tenant has been provided a reasonable choice of opportunities to relocate to a comparable replacement dwelling. If the tenant does not choose to relocate again, he/she shall be given at least six months in which to file relocation payment claim(s).

(2) *Issuance of notice to nonresidential tenants.* Wherever the applicant, at its sole discretion, determines it would be equitable to provide relocation assistance to a non-residential tenant, it may issue the tenant a notice of displacement (described at § 42.205).

(3) *"Initiation of negotiations."* For purposes of determining eligibility for a replacement housing payment under Subpart G of 24 CFR Part 42, the effective date of the notice of displacement shall be considered to be the "initiation of negotiations."

(4) *Replacement housing payment.* A displaced residential tenant who meets the eligibility conditions at § 42.451 is entitled to a replacement housing payment to help him or her rent or buy a replacement dwelling. Any such tenant who chooses to buy a replacement dwelling is entitled to receive a downpayment assistance payment computed under § 42.455. Any such tenant who elects to rent a replacement dwelling is entitled to a rental assistance payment computed in accordance with § 42.453, unless a Public Housing Agency administering the Section 8 Existing Housing Program (24 CFR Part 882) determines, in accordance with the Section 8 eligibility criteria in 24 CFR Part 889 and selection criteria described in its Administrative Plan approved by HUD, that the displaced tenant can be issued a Certificate of Family Participation under that program. Assistance under the Certificate can only occur when (i) the tenant has voluntarily selected a replacement dwelling which meets the housing quality standards and other requirements of that program and (ii) the landlord of the replacement dwelling unit is willing to participate in the program. If the tenant elects to rent a replacement dwelling that cannot be assisted under the Section 8 Existing Housing Program, he/she must be offered the rental assistance payment described at § 42.453. (If an eligible tenant voluntarily selects a rental unit that meets the Section 8 requirements

and the owner is willing to participate in the Existing Housing Program but the tenant refuses the Section 8 assistance, the tenant is not entitled to a rental assistance payment. However, the tenant remains eligible for a moving expense payment computed as described at § 42.303 or § 42.353).

(5) *Maximum rent under notice of right to continue in occupancy.* A residential tenant who receives a notice of right to continue in occupancy (described at § 42.207) is assured, among other things, that he or she will have the right to occupy the property for a period of at least four years after the activity is completed. The terms and conditions of continued occupancy must be set forth in a lease which is offered to the tenant. The lease, including renewal options, if any, shall run for a continuous period of at least four (4) years. The rent under such lease shall be in accordance with this paragraph, and the other terms and conditions of the lease shall be as customary in the jurisdiction. In addition, the lease shall give the tenant the unilateral right to cancel the lease on thirty (30) days advance written notice if he or she wishes to vacate, unless State or local law requires a longer period. In order to benefit from the protections of this rule, the tenant must agree to enter into the lease within a reasonable period after completion of the activity. The procedures for an automatic notice of displacement described at § 42.205(b)(2) and § 42.207(a)(4) shall not apply. In addition, the provisions at § 42.207(a)(2) governing the tenant's maximum monthly housing cost (rent and estimated utility charges) during the four-year period are modified to read as follows:

(i) During the first year of the four-year period, the tenant's monthly housing cost shall be established at a level that does not exceed the greater of:

(A) Twenty-five percent (25%) of the gross income of all adult members of the household, or

(B) 105% of the tenant's monthly housing cost for the unit six months prior to issuance of the notice of right to continue in occupancy. However, this provision does not preclude the owner of the building from requiring the tenant to pay directly to the utility company the cost of utilities which are separately metered after completion of the activity. The cost of any such separately metered, tenant-paid utilities shall be excluded from the 105% computation.

(ii) At the end of the first, second and third years, the monthly housing cost may be increased. The monthly increase, however, shall not exceed the sum of (A) the average monthly increase in the owner's costs for utility charges and property taxes over the previous year, plus (B) five percent (5%) of the monthly contract rent (exclusive of utility costs) charged during the prior year.

(6) *Waiver of right to continue in occupancy.* Nothing in these regulations shall prevent a fully informed tenant, who will not be required to relocate permanently, from waiving his/her right to be issued a notice of right to continue in occupancy. The waiver shall be in a format prescribed by HUD.

(7) *Ineligible tenants.* Under the following circumstances, the tenant is neither entitled to a notice of displacement nor a notice of right to continue in occupancy, nor will he or she receive relocation assistance.

(i) The action grant funded or non-action grant funded activity is limited to residential rehabilitation work for which the cost allocable to the tenant's unit does not exceed $2,500 and the recipient determines that the tenant will not be required to move because of the rehabilitation. In a building of two or more units, the cost allocable to the tenant's unit included the pro rata share of the cost of work done to common elements of the property.

(ii) The tenant moves to the property after submission of the action grant application and is notified prior to occupancy about the proposal and its effect on him/her.

(c) *Responsibility of the Applicant.* The applicant is responsible for assuring compliance with the requirements of paragraph (b) of this section. To pay the cost of relocation assistance, including rental assistance payments, the applicant may use local public funds, action grant or entitlement community development block grant funds (24 CFR Part 570) or the applicant may secure a commitment from any participating party in the action grant program to provide the necessary funds. In order to use block grant funds, the applicant must adopt a written policy in accordance with 24 CFR 570.602(c). Where a notice of right to continue in occupancy is to be provided (see paragraph (b)(4) of this section), the applicant is responsible for making the participating party aware of its obligations.

§ 570.458 Full applications.

(a) *Application scope.* Applicants must submit a separate application for each proposed project as defined in § 570.451(g).

(b) *Scope of the proposed project.* The proposed project must be able to be carried out in a timely fashion, which HUD generally expects not to exceed four years from the date of the announcement of preliminary approval. The applicant shall apply for action grant funds in an amount which, together with other public and private resources, will be adequate to complete the project without additional action grant funds. While a recipient may remain eligible for action grant funding for other projects, no additional funding will be available in the future to complete a project already approved. Should additional funding be required to complete a previously approved project, the applicant, or private developer must provide such funding from another source.

(c) *Submission requirements.* Applications must be submitted on HUD forms and must consist of the following:

(1) Standard Form 424, prescribed by OMB Circular No. A-102 and the urban development action grant application.

(2) A description of the project to be undertaken, how the property involved is controlled, and the nature of the project. The applicant must substantiate the market and economic feasibility of the proposed project, and must analyze the economic benefits which the activities are expected to produce, and must show how the proposed activities will take advantage of unique opportunities to attract private investment. The applicant must identify the public and private participating parties in the proposed project and must clarify the relationship of each to the request for action grant funds. Information provided shall include proposed cost and methods of financing.

(3) A clear description of the use of the action grant funds and a justification for the amount, which must be the least amount necessary to make the project feasible.

(4) The status of environmental review of the proposed project, the steps taken to notify other involved federal agencies if joint funding is requested, and a proposed timetable for the completion of any required environmental actions as described in 24 CFR Part 58.

(5) Documentation of private and public commitments which are necessary for completing the project as outlined in § 570.451 may be in the form of a firm private, firm public or legally binding commitment between the applicant and the public and private entities. No application will be considered feasible and effective unless there is evidence of at least a firm private commitment and if necessary, a firm public commitment.

(6) A statement analyzing the impact of the proposed urban development action grant program on the residents of

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any affected residential neighborhood, particularly low- and moderate-income persons and members of minority groups.

(7) A summary of all proposed expenditures to be undertaken to complete the project and a breakdown of the individual public and private expenditures.

(8) A detailed schedule for accomplishing each part of the proposed project.

(9) Maps, aerial photos, site plans or other graphic descriptions of the applicant's jurisdiction, the location of the project, access to the project, surrounding land uses, and related property information. Site plans must show: (i) Present conditions, land uses, and ownership, (ii) proposed private and public development including clear identification of where the action grant funds are proposed to be spent.

(10) A summary of the net new tax revenues to be generated by the project.

(11) Data on anticipated involuntary displacement and relocation of residents by household type, income level, and minority status and/or businesses displaced and jobs lost due to displacement. The following must be included: A description of the efforts made to minimize involuntary displacement, including an analysis of the feasibility of undertaking any rehabilitation of occupied properties in stages in order to minimize displacement; a description of the efforts which will be made to provide opportunities to low- and moderate-income and minority persons to relocate outside areas of low income and minority concentration; and of the opportunities to be provided to displaced persons and businesses to relocate within the project area.

(12) Data specifying the number and types of jobs to be created by the private participating parties, and the proportion of permanent jobs accessible to lower income persons and minorities. The applicant also shall include an employment plan to assure that the jobs created by the proposed project will be available to the long-term unemployed and underemployed. The use of job training programs and consultations with the CETA provider should be detailed.

(13) The record of the applicant in carrying out similar projects. If the applicant has no related experience, it should provide information concerning its abilities to successfully complete the project.

(14) Certifications. The applicant shall submit certifications, in such form as HUD may prescribe, providing assurances that:

(i) Prior to submission of its application, it has met the citizen participation requirements of § 570.454(a) and has made the impact analysis required by § 570.454(b).

(ii) The applicant's chief executive officer and the private participating party must certify that in his or her opinion, the private development would not occur unless the public funding on which the development is based becomes available.

(iii) The applicant's chief executive officer must certify that the action grant funds will not substitute for local public funds which are available and which are committed by line item specified in the applicant's local budget to the project described in the action grant application.

(iv) It possesses legal authority to apply for the grant and to execute the proposed program.

(v) Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

(vi) Its chief executive officer or other officer of the applicant approved by HUD:

(A) Consents to assume the status of a responsible Federal official for environmental review, decision making and action pursuant to the National Environmental Policy Act of 1969, and the other authorities listed in 24 CFR 58.1(a)(3) insofar as the provisions of such Act or other authorities apply to this part;

(B) Is authorized and consents on behalf of the applicant and himself/herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his/her responsibilities as such official.

(vii) It will comply with the requirements for historic preservation identification and review set forth in Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470), Executive Order 11593, and the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469a, et seq.), regulations of the Advisory Council on Historic Preservation at 36 CFR 801, and any other regulations promulgated pursuant to section 121 of the Housing and Community Development Act of 1974, as amended.

(viii) It has identified all properties, if any, which are included on the National Register of Historic Places and which as determined by the applicant, will be affected by the project; it has identified all other properties, if any, which will be affected by the project and which, as determined by the applicant, may meet the criteria established by the Secretary of Interior for inclusion in the Register, together with the documentation relating to the inclusion of such properties on the Register; and it has determined the affect as determined by the applicant, of the project on the identified properties.

(ix) It will comply with:

(A) Title VI of the Civil Rights Act of 1964 (Pub. L. 88–352) and implementing regulations issued at 24 CFR Part 1;

(B) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90–284) and implementing regulations;

(C) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto (24 CFR 570.601);

(D) Section 3 of the Housing and Urban Development Act of 1968, as amended, and implementing regulations at 24 CFR Part 135;

(E) Executive Order 11246, as amended by Executive Orders 11375 and 12086 and implementing regulations issued at 41 CFR Chapter 60;

(F) Executive Order 11063, and implementing regulations at 24 CFR Part 107;

(G) Section 504 of the Rehabilitation Act of 1973, as amended, (Pub. L. 93–112) and implementing regulations when published for effect;

(H) The Age Discrimination Act of 1975, as amended, (Pub. L. 94–135) and implementing regulations (when published for effect);

(I) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, implementing regulations at 24 CFR Part 42, and the special provisions of § 570.457 concerning the relocation of residential tenants not covered by the Uniform Act;

(J) The labor standards requirements as set forth in § 570.605 and HUD regulations issued to implement such requirements;

(K) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, (Pub. L. 93–234);

(L) The regulations, policies, guidelines and requirements of OMB Circular Nos. A–102, Revised and A–87 as they relate to the acceptance and use of Federal funds under this Part;

(M) All requirements imposed by HUD concerning special requirements of law, program requirements and other administrative requirements approved in accordance with OMB Circular No. A–102, Revised;

(x) It will establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

(xi) It will comply with the provisions of the Hatch Act which limits the political activity of employees.

(xii) It will give HUD and the Comptroller General through any authorized representatives, access to and the right to examine all records, books, papers, or documents related to the grant.

(xiii) It will insure that the facilities under its ownership, lease, or supervision which shall be utilized in the accomplishment of the program are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify HUD of the receipt of any communication from the Director of EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.

(xiv) It certifies that it has not knowingly and willfully made or used a document or writing containing any false, fictitious, or fraudulent statement or entry. 18 U.S.C. 1001 provides that whoever does so within the jurisdiction of any department or agency of the United States shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

(xv) It will not, in carrying out the project, discriminate against any employee because of race, color, religion, sex, handicap, or national origin. It will take affirmative action to insure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, handicap, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The applicant shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by HUD setting forth the provisions of this non-discrimination clause. The applicant will in all solicitations or advertisements for employees placed by or on behalf of the applicant state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, handicap or national origin. The applicant will incorporate the foregoing requirements of this paragraph in all of its contracts for project work, except contracts for standard commercial supplies or raw materials or contracts covered under subsection (c)(16)(xiv)(E) of this section, and will require all of its contractors for such work to incorporate such requirements in all subcontracts for work done with funds provided under 24 CFR Part 570.

§ 570.459 Criteria for selection.

(a) *General.* Each calendar quarter, HUD shall review all new proposals received and all proposals pending consideration and shall determine which among such proposals are both feasible and effective. The nature and purpose of the proposed project will determine the extent to which each of the selection criteria in paragraphs (e) through (q) of this section will apply.

(b) *Requirements which must be met to be considered for project selection.* (1) *A firm private commitment.* No projects will be funded under this subpart unless there is a firm private commitment to finance and carry out the proposed project. The private commitment must have a clear, direct relationship to the activities for which funding is being requested.

(2) *Leveraging ratio.* Each project considered for selection for funding must have a leveraging ratio of at least 2.5 to 1.0.

(3) *A firm commitment of public resources.* If a project requires a commitment of other public resources, then it must be a firm public commitment.

(c) *Selection of Projects for Preliminary Funding Approval: Large cities and urban counties.* Projects shall be selected on the following bases:

(1) As the primary criterion, the comparative degree of economic distress among applicants, as measured by the differences in the factors set forth below, which shall be assigned the following relative weights: (i) The percentage of their total housing stock that was built prior to 1940: 0.5; (ii) The extent of poverty: 0.3; and (iii) The degree to which their population growth rate lags behind that of all metropolitan cities: 0.2.

(2) The comparative degree of distress as measured by per capita income, unemployment, and job lag/decline, and

(3) The factors contained in paragraphs (e) through (q) of this section.

(d) *Selection of Projects for Preliminary Funding Approval: Small cities.* Projects shall be selected on the following bases:

(1) As the primary criterion, the comparative degree of economic distress as measured by the distress standards in § 570.452(b)(2);

(2) the factors contained in paragraphs (e) through (q) of this section.

(e) *The impact of the proposed project on the employment base of the community.* In evaluating the employment impact of a proposed project, HUD will consider such factors as the net number of new permanent or temporary jobs to be created within the distressed community.

(1) Specifically HUD will consider whether the project includes a greater number of net new permanent jobs in relation to the amount of action grant funds requested than other type projects. For example, a project creating 1,000 new permanent jobs requiring a million dollar investment of action grant funds will have an action grant cost of $1,000 per job. A similar project having an action grant cost of $10,000 per job will compare less favorably on this factor than the project having a $1,000 cost per job. Job retention and construction jobs will receive some consideration but will be given less weight in selection than the creation of new permanent jobs.

(2) HUD will consider whether the project includes a greater percentage of net new permanent jobs accessible to lower income persons and minorities including those who are unemployed than other similar projects.

(3) HUD will consider whether the project contains a greater number of jobs on a percentage basis for CETA eligible persons (the structurally unemployed, underemployed or for persons from low- and moderate-income households) than other similar projects.

(f) *The amount of the leveraging ratio.* In selecting projects to stimulate economic recovery for funding, HUD will consider whether the amount of private leverage to be generated by a given project is greater than that of other projects. In other words, the higher the leveraging ratio, the more likely it is that the project will be selected for preliminary approval. Recapture of Action Grant funds for a second use increases the private leverage thereby making a project more competitive.

(g) *The impact of the proposed project on the fiscal base of the community.* The

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fiscal impact of the proposed project will be measured by the annualized increase in real estate and other taxes such as corporate, sales or income taxes accruing to the applicant's jurisdiction which the applicant will receive due to the proposed project. In selecting projects for funding, HUD will consider whether a given project will generate a greater amount of net new annual tax revenues in relationship to the requested action grant amount than other projects. A project generating a $500,000 annual increase in property taxes for a million dollar action grant investment will fare better on this factor than a project generating a $100,000 increase in property taxes plus a $50,000 increase in city sales tax for a $2 million action grant investment. The respective ratios will be 50 cents per action grant dollar compared to 7.5 cents per action grant dollar. In addition, other revenues which the applicant will receive will be considered.

(h) *The impact of the proposed project on the physical conditions of the community.* (1) HUD will assess the impact of each project in relation to other uses within the applicant's jurisdiction.

(2) HUD will also consider whether or not the private developments in a given proposal include, where possible, a minimum one percent of total development costs for expenditures on the arts, such as sculptures, murals, etc.

(3) The physical impact of the project will be measured by comparing the present physical development of the project area and other areas with the future improvements proposed in the action grant project. For example, if the project is to make those public improvements necessary to attract private industry to the site, then HUD will review the project in terms of the current land use and the potential created by the location of the particular industry at this particular site. HUD will also review the proposal to ascertain that other necessary services are available to support the project. Applicants are expected to consider the quality of the design of the project.

(i) *The impact of the proposed project on the economic conditions of the community.* HUD will consider the effect of the project on the economic base of the community by evaluating such factors as the mitigation of the impact of a major military base closing and the degree to which the proposal will assist areas experiencing a loss of businesses, jobs, and population.

(j) *The likelihood of accomplishing the project in a timely fashion within the total resources which will be provided.* HUD will consider such factors as the status of land assembly, zoning, building permits, and preparation of any necessary historic preservation clearances, as well as the applicants administrative and legal capability for accomplishing the project. HUD will also consider the private participating parties' capability of completing the project within the proposed time schedule. Proposals will be considered to have a lesser degree of feasibility if they involve substantial additional planning, lengthy start-up time, or may be subject to major obstacles due to environmental or legal concerns. HUD expects projects to be completed within a four year period from the date of the announcement of preliminary funding approval.

(k) *The demonstrated performance of the applicant in carrying out housing and community development programs.* Performance shall be evaluated using such considerations as past compliance with HUD regulations and statutory requirements, progress in carrying out programs as planned, and the ability to complete programs in a timely fashion.

(l) *Extent of relocation caused by the project.* (1) Projects which will cause minimal involuntary displacement and disruption of occupants and jobs will be considered more favorably than those involving a substantial amount of involuntary displacement and disruption.

(2) If the project includes activities which generate relocation, HUD will consider how the applicant's relocation plans and processes, including any proposed relocation advisory services, are to operate and whether they provide the opportunity for those displacees to relocate outside areas of low-income or minority concentration.

(3) A project which involves the relocation of industrial and commercial facilities within the applicant's jurisdiction will be reviewed to determine the impact of the relocation on low- and moderate-income and minority persons.

(4) The extent to which displaced businesses and low- and moderate-income residents and minorities will be given the opportunity to relocate to the project area upon completion will be considered.

(m) *Extent of minority business participation.* HUD will more favorably consider projects in which minorities are participants in the project. For example, they may be prime or subcontractors during development, major suppliers of construction goods, or equity investors, or they may participate in the project through leasing, ownership, or rehabilitation of property, on-going vendors and suppliers of goods and services, or as private participating parties.

(n) *Extent of assistance to be made available by the State.* HUD will consider the extent of assistance to be provided by the State in the project either through funding for activities included in the project or special economic incentives that were of assistance in stimulating private investment in the project.

(o) Extent of assistance to be made available by the applicant. HUD will consider the extent to which the applicant will provide funding for activities included in the project either from its own funds or funding available to it from the State or other Federal sources. HUD also will consider other special economic incentives being provided by the applicant to stimulate private investment in the project.

(p) *The impact of the proposed project in increasing energy efficiency or conserving scarce fuels.* HUD will consider more favorably those projects which will increase energy efficiency or conserve scarce fuels (measured in barrels of crude oil saved or the equivalent).

(q) *Secretary's determination that the project requires action grant funds.* Preliminary funding approvals will only be made if the Secretary determines—

(1) based on the assurances made by the chief executive officer of the applicant that the action grant funds will not substitute for local funds § 570.458(12)(iii);

(2) that in his/her opinion, the private development would not occur unless the public funding becomes available pursuant to § 570.458(12)(iii);

(3) that the statements made by the private participating parties; that but for the receipt of the public funds requested, this project would not be built;

(4) that the grant amount requested is the least amount necessary;

are satisfactory.

§ 570.460 HUD review and action on applications.

(a) *Submission and Review Schedule.* The following chart indicates dates for submission of pre-application requests for determination of eligibility, the full application, HUD review and consultation with the applicant, and the date by which the decision for preliminary approval will be made. Public announcements of preliminary funding approvals will be made shortly after the decision date.

Determination of eligibility (pre-application; SF-424) to be submitted by	Application period	Review period	Decision date
Metro cities:			
Nov. 30	Jan. 1–31	Feb. 1–Mar. 31	Mar. 31.
Feb. 28	Apr. 1–30	May 1–June 30	June 30.
May 31	July 1–31	Aug. 1–Sept. 30	Sept. 30.
Aug. 31	Oct. 1–31	Nov. 1–Dec. 31	Dec. 31.
Small cities:			
Dec. 31	Feb. 1–28	Mar. 1–Apr. 30	Apr. 30.
Mar. 31	May 1–31	June 1–July 31	July 31.
June 30	Aug. 1–31	Sept. 1–Oct. 31	Oct. 31.
Sept. 30	Nov. 1–30	Dec. 1–Jan. 31	Jan. 31.

(1) HUD will accept applications from large cities and urban counties postmarked no later than the last day of the month during January, April, July, and October.

(2) HUD will accept applications from small cities postmarked no later than the last day of the month during February, May, August, and November.

(3) However, HUD encourages all cities and urban counties to submit their applications no later than the tenth day of the month in order to allow sufficient time for the community to enact suggestions made by HUD in preliminary reviews.

(4) Applications postmarked after the last day of the month in which they are to be submitted will not be considered until the following quarter.

(5) The original and one copy of the application must be submitted to the appropriate HUD Area Office or Office of Indian Programs and one copy submitted to HUD's Office of Urban Development Action Grants.

(b) *HUD Area Office Review.* Area Offices or the Office of Indian Programs shall forward a copy of each application meeting the criteria of § 570.458 together with a position paper setting forth the Area Office or the Office of Indian Programs comments and the Area Manager's or Director, Office of Indian Programs recommendation to HUD Central Office. HUD Central Office shall evaluate applications on a comparative basis in accordance with the criteria for selection specified in § 570.459.

(c) *Central Office Action on Applications.* (1) Preliminary approval decisions will be made by HUD Central Office within two months after the deadline for submission of applications as shown in paragraph (a) of this section.

(2) Preliminary approval constitutes the first step in a process which may result in a signed grant agreement between the recipient and HUD and legally binding commitments between the recipient and the private sector. The terms of the preliminary approval are not finalized until the recipient and HUD have executed a grant agreement setting forth the terms and conditions of the approved project and the responsibilities of all participating parties. Preliminary approval does not become final until legally binding commitments between the recipient and the private and public participating parties have been submitted and approved by HUD. Release of grant funds is contingent upon the recipient's meeting each and every condition set forth in the grant agreement.

(3) Any application not receiving preliminary funding approval in the first round in which it is accepted for consideration may be reconsidered for funding in the subsequent quarter, if HUD determines there is a likelihood that the project will be funded in the next funding quarter.

(4) Any application not receiving preliminary funding approval after the second round will not receive further consideration, unless HUD and the applicant are actively negotiating the terms of the project. HUD shall use its discretion in making a determination whether to consider the application in a later funding round.

(5) Shortly after the decision date for preliminary approval, the Secretary will notify the applicant in writing of the action taken on its application and if not approved, the conditions under which the application may be reconsidered.

§ 570.461 Post preliminary approval requirements.

(a) *Execution of a grant agreement.* HUD and the recipient must sign a legally binding grant agreement (contract) which finalizes the terms and conditions of the action grant preliminary approval.

(b) *Submission of legally binding private commitments.* Recipients must submit for approval to HUD Central Office evidence of legally binding commitments from participating parties identified in the grant agreement. Copies must also be submitted to the Area Office or Office of Indian Programs. Recipients must also submit an opinion of counsel that the commitments are legally binding under State and local law and conform to the grant agreement executed by HUD and the recipient. The drawdown of grant funds is conditioned upon the written acceptance by HUD of the legally binding commitments as specified in the grant agreement.

(c) *Release of funds pursuant to HUD Environmental Review Procedures.* Recipients must comply with the provisions of § 570.603 concerning the release of funds for projects requiring environmental review. Except for administrative costs, environmental studies and certain relocation costs, no costs which are to be reimbursed or paid with grant funds may be incurred until the environmental requirements have been met. However, the applicant should note that such costs will not be reimbursed if the legally binding commitments are not approved.

(d) *Performance according to schedule.* Action grant funding shall be conditioned upon the performance of the recipient in meeting the schedule set forth in its grant agreement. Failure to meet such schedule may result in the termination of the grant agreement or other remedial action.

(e) *Program Income.* Notwithstanding any other provisions of this part and unless otherwise provided in the grant agreement, program income received by the Recipient under this Subpart prior to completion of construction of all action grant funded activities shall be used to reimburse costs incurred for the Recipient activities. Such income shall be used instead of any draw under the letter of credit to the extent adequate to reimburse costs so incurred. Upon completion of the activities, program income shall be retained by the recipient and governed by the grant agreement. Program income received subsequent to the completion of the action grant funded activities shall be used for the purposes specified in the grant agreement, and as such is considered miscellaneous revenue, the use of which is not governed by the provisions of this part.

(f) *Reporting requirements.* Commencing upon the date the applicant's preliminary funding approval is announced by HUD, applicants shall submit quarterly progress reports as specified by the Secretary of HUD. Failure to file such reports may be a basis for termination of previously approved action grants and shall be considered in the selection of future projects submitted by the applicant under demonstrated performance under § 570.459(e). Copies of the reports shall be submitted to the HUD area office and simultaneously to the Office of Action Grants in HUD Central Office no more than 10 days following the end of each calendar quarter, using the HUD quarterly progress report form.

Reports will be required following the completion of construction of a project, and until project completion is reached. They shall consist of information to be specified at a later date concerning the project's construction costs, its use of program income, tax revenues generated, etc. They shall also include data by job category and pay level, the number of jobs filled by unemployed

and low income persons and by minorities.

§ 570.462 Incurring costs for project activities after preliminary approval.

(a) The use of grant funds is conditioned upon the Recipient incurring costs to be paid in accordance with the grant agreement or as otherwise approved by the Secretary in writing. The incurring of costs to be paid out of grant funds shall be governed by the following:

(1) Except for the cost of application preparation for small cities as specified in § 570.458(a), no costs incurred prior to the preliminary approval date may be paid out of grant funds.

(2) After the preliminary approval date, eligible administrative costs, including but not limited to costs of environmental studies, may be incurred before or after the effective date of the grant agreement (the date it is executed by the Recipient), and the satisfaction of environmental conditions.

(3) Except as permitted by 24 CFR Part 58, no other costs to be paid out of grant funds may be incurred by the recipient or any participating party until after the effective date of the grant agreement, all environmental conditions of 24 CFR Part 58 have been fully satisfied and the Secretary has issued the environmental releases required by 24 CFR Part 58.

(4) After the recipient has satisfied all of the environmental conditions and the Secretary has issued the required environmental releases, then at any time after the preliminary approval date for the project, the recipient and the participating parties may incur eligible costs to be paid out of grant funds.

(b) The authorization to incur costs in paragraph (a) of this section is not an authorization to reimburse those costs and does not mean or imply that such costs will be reimbursed out of grant funds. The recipient and participating parties may voluntarily, at their own risk, and upon their own credit and expense, incur costs as authorized in paragraph (a) of this section, but their authority to reimburse or to be reimbursed out of grant funds shall be governed by the provisions of the grant agreement applicable to the payment of costs and the release of funds by the Secretary.

(c) Neither the Recipient nor any Participating Party shall incur any costs in connection with any activity to be paid for, in whole or in part, with grant funds, even though such costs will not be reimbursed out of grant funds, unless such costs could be incurred pursuant to paragraph (a) of this section if such costs were to be paid out of grant funds.

(d) Prior to the issuance by the Secretary of the environmental releases required by 24 CFR Part 58, the Recipient may not use any funds, including local funds, to take any action with respect to the Project where such action might have an adverse environmental effect, would limit choices among competing alternatives, or might alter the environmental premises on which the pending clearance is based in such a fashion that the validity of the conclusions to be reached would be affected.

(e) Any time after the Preliminary Approval Date, a Participating Party may incur costs for any activity which is not to be paid for, in whole or in part, with grant funds.

§ 570.463 Project amendments and revisions.

(a) *Pre-approval revisions to the application.* Applicants must submit to the HUD Area Office and to Central Office all revisions to the application. A revision is considered significant if it alters the scope, location, or scale of the project or changes the beneficiaries' population.

The applicant must hold at least one public hearing prior to making a significant revision to the application according to the procedures of § 570.454(a).

(b) *Post Preliminary Approval Amendments.* Applicants receiving preliminary approval must submit to the HUD Central Office, a request for approval of any significant amendment. A copy of the request must also be submitted to the Area Office. A significant amendment involves new activities or alterations thereof which will change the scope, location, scale, or beneficiaries of such activities or which, as a result of a number of smaller changes, add up to an amount that exceeds ten percent of the grant. HUD approval of amendments may be granted to those requests which meet all of the following criteria:

(1) New or significantly altered activities must meet the criteria for selection applicable at the time of receipt of the program amendment.

(2) The recipient must have complied with all requirements of this subpart.

(3) The recipient may make amendments other than those requiring prior HUD approval as defined in paragraph (b) of this section but each recipient must notify both the Area and Central Offices of such changes.

§ 570.464 Project closeout.

HUD will advise the recipient to initiate closeout procedures when HUD determines, in consultation with the recipient, that there are no impediments to closeout. Closeout shall be carried out in accordance with § 570.512 and applicable HUD guidelines.

§ 570.465 Applicability of rules and regulations.

The provisions of Subparts A, B, C, J, K, and O of this Part 570 shall apply to this subpart except to the extent that they are modified or augmented by this subpart.

§ 570.466 Specific provisions for cities and urban counties containing pockets of poverty.

Action Grants may also provide funding for economic development and neighborhood revitalization projects targeted to severely distressed areas called Pockets of Poverty in communities which do not meet Action Grant Program distress criteria. Cities and urban counties eligible under this provision will not meet the minimum standards of economic distress defined in § 570.452, but must meet the eligibility criteria of paragraph (a) of this section in this context, Action Grants for Pockets of Poverty projects are intended to provide increased public and private assistance principally and directly to aid the geographically defined Pocket of Poverty and its low- and moderate-income inhabitants through the provision of jobs, and a revitalized economic environment. Up to, but no more than, 20 percent of all Action Grant assistance made available after October 1, 1979 may be used for Pockets of Poverty. The following paragraphs set forth rules applying only to communities containing pockets of poverty. All other provisions of subpart G apply to these communities except as modified herein.

(a) *Determining Eligibility for Communities Containing Pockets of Poverty.*

(1) *Preapplication Request for a Determination of Eligibility.* Each applicant for Pockets of Poverty assistance must submit a request for a determination of eligibility to the appropriate HUD area office as specified in §§ 570.453 and 570.454 and as modified here. In addition to meeting the criteria of this section, each applicant must have demonstrated reasonable results in providing housing for persons of low- and moderate-income explained in § 570.453(b), must have achieved reasonable results in providing equal opportunity in housing and employment for low- and moderate-income persons and members of minority groups as in 570.453(c), and each applicant must provide comparable services to and for Pockets of Poverty residents (see paragraph (a)(6) of this section).

(2) *Cities of above 50,000 Population or more and Urban Counties.* A city with a population over 50,000 or urban county which does not meet the minimum standards of physical and economic distress based on data for the community as a whole may qualify as an applicant for Action Grants if it contains a "pocket" consisting of a specifically defined geographic area meeting all of the following criteria:

(i) *Area.* The Pocket of Poverty must be an area composed of contiguous census tracts, enumeration districts or block groups. The defined geographic area must contain at least 10,000 persons or 10 percent of the jurisdiction's population. In other words, a city with a population of 100,000 or more must have a Pocket of at least 10,000. A city of less than 100,000 population must have a Pocket of at least 10 percent of its population. Enumeration districts and block groups with median income levels greater than 120 percent of the median income of the jurisdiction must be excluded in defining the Pocket Poverty.

(ii) *Income.* At least 70 percent of the families and unrelated individuals residing in the Pocket of Poverty must have incomes below 80 percent of the jurisdiction's median income.

(iii) *Poverty.* At least 30 percent of the residents residing in the Pocket of Poverty must have incomes below the national poverty level pursuant to criteria provided by the Office of Management and Budget.

(3) *Small Cities below 50,000 Population.* A small city with a population below 50,000 which does not meet the minimum standards of physical and economic distress based on data for the community as a whole may qualify as an applicant for Action Grants if it contains a specifically defined geographic area meeting all of the following criteria:

(i) *Area.* The Pocket of Poverty must be an area defined by contiguous census tracts, enumeration districts, block groups, or other areas defined by the U.S. Bureau of the Census or for which data certified by the U.S. Bureau of the Census is available. The defined geographic area must contain at least 2,500 persons or 10 percent of the jurisdiction's population, whichever is more. Enumeration districts and block groups with median income levels greater than 120 percent of the median income of the jurisdiction must be excluded in defining the Pocket of Poverty.

(ii) *Income and Poverty.* Small cities must meet the criteria specified in paragraph (a)(2) (ii) and (iii) of this section.

(4) *Use of Census Data in Documenting a Pocket of Poverty.* Applicants should use the 1970 Fifth Count Block Group/Enumeration District computer tape file available from Census summary tape processing centers and from the HUD Area Office, special Census surveys or data verified by the Census and should use comparable data from the 1980 Census as soon as it is available, to establish population, income and poverty levels.

(5) *Certification of the Preapplication Eligibility Data.* The applicant's chief executive officer must certify that to the best of his knowledge the Pocket of Poverty defined in the application meets the population, income and poverty criteria described in this paragraph (a) and that the data provided in the application to establish eligibility are true and correct.

(6) *Comparable Services.* The applicant's chief executive officer must certify in the preapplication request for a determination of eligibility that the applicant is now providing basic services (police, fire, road repair and sanitation) over which it has control to the designated Pocket of Poverty which are at least equivalent to the basic services which it provides to more affluent residential areas of its jurisdiction (areas similar in population numbers to the pocket but with median incomes above the jurisdiction's median income). The certification must indicate that services in the pocket reflect adjustments based on needs resulting from the physical characteristics of the area (e.g., land use pattern, density, housing type).

(i) The preapplication should indicate that the applicant has on file data and analyses comparing basic services, over which it has control, provided to more affluent areas of the jurisdiction to the level and type of basic services which are provided to the Pocket of Poverty. To the extent practicable, the applicant must document that per capita expenditures are at least equivalent in the Pocket of Poverty when compared to the more affluent area. If comparisons of per capita expenditures of basic services are not practicable, the data and analyses on file should use similar units of measurement, which approximate per capita costs, to compare the level and type of basic services provided in the pocket to those provided in more affluent residential areas. For example, if the police department's standard for response to calls requesting assistance in the more affluent areas is "x" minutes, then the applicant must have documentation in its files that it provides the Pocket of Poverty at least this level of service. Similarly, if the standard for sanitation is "x" trash pickups in the more affluent areas, the applicant must have data and analyses in its file that demonstrate that it provides the Pocket of Poverty at least this level of service, etc.

(ii) The data and analyses on file must also indicate that the compared basic services reflect adjustments to the needs resulting from the physical characteristics of the Pocket of Poverty; they must reflect reasonable local efforts to adjust to the service needs resulting from such physical factors as density, housing types, and land use patterns. For example, a relatively high level of density in the pocket would be expected to generate more frequent trash pickups or shorter scheduled trips for trash pickups than in a lower density area.

(b) *Location of the Project and Related Requirements for Communities Containing Pockets of Poverty.* The proposed project must be located within the severely distressed area defined in the eligibility criteria of paragraphs (a) (2) and (3) of this section. However, in limited instances, HUD will approve a project on a site directly adjacent to the Pocket of Poverty if the applicant demonstrates in the application that there is no other suitable site for the project in the Pocket of Poverty. To do this, the applicant must provide in the application data and analyses that indicate that the project would not be economically feasible if located on a site in the pocket or that its location on a site in the pocket would cause harm to low- and moderate-income residents of the pocket and the area's overall economic development. All assisted projects directly adjacent to the pocket must substantially contribute to the development of the pocket, and must meet the minimum requirements described in paragraph (c) of this section.

(c) *Application Submission Factors in Addition to Those of § 570.458*—(1) *General.* Applicants for Action Grants under the Pockets of Poverty provision must meet the requirements of this section in addition to those described in § 570.458.

(2) *Provision of Local Matching Funds.* Applicants applying for Action Grants under Pockets of Poverty must make available a cash contribution, equal to 20 percent of the amount of the grant requested, to be used as a local match. The amount of the grant requested equals the amount of money which the private participating party states is necessary in order to build the

project. The statement that "but for the receipt of the public funds requested * * *" is further described under "firm private commitment" in § 570.451(h). The local share is then calculated by taking 20 percent of the "but for" amount. Such funds may be derived from local funding sources, State funds or from any Federal program which permits the use of financial assistance to meet the non-Federal share requirement of Federal grant-in-aid programs. Revenue bonds, however, may not be used as the source of the local match.

(i) *Use of the Local Match.* The 20 percent share must be in cash and must be spent on direct costs resulting from the project and occurring because of the project. For example, the match may be used to provide sewer and water facilities required by the project or roads specifically needed by the project.

(ii) *Provision of a Firm Commitment of the Local Matching Funds.* If the source of the funds to be used as the match is from own source revenues or locally derived revenues, the chief executive officer must submit evidence with the application that a city or county council resolution or other appropriate action has been taken approving the allocation of these funds. If the source of such funds is a State or Federal agency which must approve their utilization, then a letter of commitment from that agency must be submitted with the application.

(3) *Direct Benefits to the Low- and Moderate-Income Inhabitants of the Pocket of Poverty.* Applicants must demonstrate that the proposed project will provide direct benefits to the low- and moderate-income residents of the Pocket of Poverty and substantially contribute to the physical and economic development of the Pocket of Poverty, particularly those areas occupied by low- and moderate-income residents of the pocket of poverty. Applications must address the following categories of benefits and impacts.

(i) *Employment Opportunities.* The application must describe the number and, to the extent possible, the types of new jobs (construction and permanent) which will be provided to the low- and moderate-income residents of the Pocket of Poverty as a direct result of the proposed project. If the application calls for job training programs (such as those related to the CETA program) or job recruiting services for the pocket's residents, then such proposed activities must be clearly and fully explained. HUD requires applicants to ensure that at least 75 percent of whatever permanent jobs initially result from the project are provided to low- and moderate-income persons and that at least 51 percent of whatever permanent jobs initially result from the project are provided to low- and moderate-income residents from the pocket. HUD encourages applicants to ensure that at least 20 percent of all permanent jobs are filled by persons from the pocket qualified to participate in the CETA program on a continuous basis. HUD requires all applicants to continuously use best efforts to ensure that at least 75 percent of all permanent jobs resulting from any Action Grant-assisted project are provided to low- and moderate-income persons and that at least 51 percent of all permanent jobs resulting from any Action Grant-assisted project are provided to low- and moderate-income residents from the pocket. The application should clearly describe how the applicant intends to meet initial and continuous job requirements. Applicants are referred to § 570.461(b) concerning legally binding commitments. Private participating parties must meet these employment requirements in the aggregate. To enable the private participants to do so, lease agreements executed by a private participating party shall include: (i) Provisions requiring lessees to follow hiring practices which the private participating party has determined will enable it to meet these requirements in the aggregate and (ii) provisions which will enable the private participating party to declare a default under the lease agreement if the lessees do not follow such practices.

(ii) *Services and Physical Improvements.* If relevant, the application should describe the services and physical improvements to be provided by the project and their specific relationship to the needs of the low- and moderate-income inhabitants of the Pocket of Poverty.

(iii) *Repayment by Private Sector.* HUD requires the applicant to utilize proceeds from any repayment of Action Grant funds or local match funds by the private sector for the direct benefit of low- and moderate-income residents of the pocket's area.

(iv) *Tax Increment.* HUD encourages the applicant to allocate local revenues equal to a significant portion of the applicant's tax increment (net increase in property tax revenues over current revenues) resulting from the project to the Pocket of Poverty for economic or community development purposes within the pocket, particularly the areas occupied by low- and moderate-income residents of the Pocket of Poverty. The activities for which the funds may be used must directly benefit the low- and moderate-income residents of the Pocket of Poverty. The funds may not be used to meet comparable service requirements defined in paragraph (a)(7) of this section or to substitute for applicant resources normally made available to the pocket's area or their residents.

(v) *Minority Entrepreneurs.* HUD encourages the applicant to provide opportunities for minority entrepreneurs, including minority entrepreneurs from the pockets, in all aspects of the project (planning, design, construction and operation of the project).

(vi) *Minority Jobs.* HUD encourages the applicant to provide job opportunity to low- and moderate-income minorities equivalent, at a minimum, to their proportion of the population in the pocket.

(d) *Criteria for Project Selection for Communities Containing Pockets of Poverty*—(1) *General.* Applications from eligible Pockets of Poverty communities will be considered separately from those of distressed communities. However, each project submitted by jurisdictions eligible on the basis of its Pockets of Poverty must compare favorably on its own merits with any other Action Grant project to be selected for funding. Criteria for the selection of projects for preliminary funding approval are set forth in § 570.459 (a) and (b), and (e) through (r) with the additions and modifications set forth in paragraph (d)(2) of this section.

(2) *Additional Factors for the Selection of Projects for Funding.* HUD shall in each calendar quarter review all proposals received and pending consideration and shall determine which among such proposals shall receive preliminary funding approval on the following bases:

(i) The comparative degree of distress in the Pocket of Poverty as measured by the percent of residents below the national poverty level and the percent of residents with incomes below 80 percent of the median income.

(ii) The comparative degree of benefits to be provided to low- and moderate-income persons residing in the area. For example, given two equally feasible and effective proposals, HUD will select that proposal which provides the greatest overall benefits to low- and moderate-income persons living in the pocket of poverty.

(iii) HUD shall also consider:

(A) The extent to which the project provides jobs to CETA-eligible residents of the Pocket of Poverty;

(B) the extent to which a significant portion of the tax increment, or an equivalent thereof, is allocated for economic or community development purposes within the pocket for activities which directly benefit low- and moderate-income residents of the pocket;

(C) the extent to which low- and moderate-income minorities are employed in the project in excess of their proportion of the population of the Pocket of Poverty;

(D) the extent to which minority entrepreneurs, including minority entrepreneurs from the pocket, are provided opportunities to participate in all phases of the project; and

(E) the extent of support for the project from bona fide groups representing low- and moderate-income residents of the pocket and from pocket's residents themselves.

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95–128); and Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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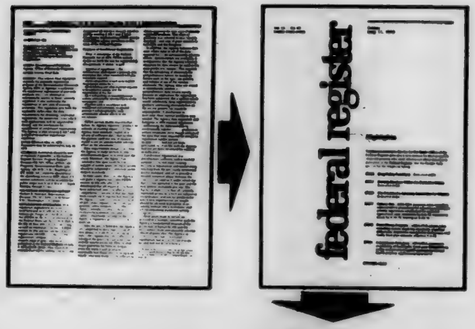

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February 24, 1982

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Federal Register
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Wednesday, February 24, 1982

Presidential Documents

Title 3—

The President

Proclamation 4901 of February 22, 1982

Extension of Temporary Quantitative Limitation on the Importation Into the United States of Certain Clothespins

By the President of the United States of America

A Proclamation

1. By Proclamation 4640 of February 23, 1979, the President proclaimed, under the authority of the Constitution and the statutes of the United States, including sections 203(a)(3) and (e)(1) of the Trade Act of 1974 (the Trade Act) (19 U.S.C. 2253(a)(3) and 2253(e)(1)), the imposition of quantitative restrictions on U.S. imports of wood and plastic spring-type clothespins with a dutiable value not over $1.70 per gross provided for in item 790.05 of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202). The quantitative limitation applied to articles entered, or withdrawn from warehouse for consumption, on or after February 23, 1979, and was to continue through February 22, 1982, unless earlier modified or terminated. The quota permitted the importation of a quantity or value of articles which is not less than the average annual quantity or value of such articles imported into the United States in the 1973–1978 period.

2. On December 7, 1981, the United States International Trade Commission (USITC), in accordance with sections 203(i)(3) and (5) of the Trade Act (19 U.S.C. 2253(i)(3) and 2253(i)(5)), reported the results of its investigation as required in section 203(i)(3) of the Trade Act (19 U.S.C. 2253(i)(3)) to the President (USITC Publication 1201). The USITC advised the President that termination or reduction of the import relief presently in effect with regard to certain clothespins will have an adverse economic effect on the domestic industry producing like or directly competitive products.

3. Section 203(h)(3) of the Trade Act (19 U.S.C. 2253(h)(3)) provides that any import relief instituted under the authority of section 203 may be extended by the President at a level no greater than that in effect at the time of extension if the President determines, after considering the advice of the USITC and the factors indicated in section 202(c) of the Trade Act (19 U.S.C. 2252 (c)), that an extension is in the national interest.

4. In accordance with sections 203(h)(3) of the Trade Act (19 U.S.C. 2253(h)(3)), I have determined that import relief hereinafter proclaimed as to imports of certain clothespins should be extended at the level of relief in effect for the period of February 23, 1979, through February 22, 1982, and that such extension is in the national interest.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including sections 203 and 604 of the Trade Act (19 U.S.C. 2253 and 2483), and in accordance with Article XIX of the General Agreement on Tariffs and Trade (GATT) (61 Stat. (pt. 5) A58; 8 UST (pt. 2) 1786), do proclaim that—

(1) Part I of Schedule XX to the GATT is modified to take into account the actions taken in this proclamation.

(2) Subpart A, part 2 of the Appendix to the TSUS is modified by deleting, in the superior heading to items 925.11, 925.12, and 925.13, the years "1979" and "1982" and by inserting "1982" and "1984", respectively, in lieu thereof.

(3) This proclamation shall be effective as to articles entered, or withdrawn from warehouse for consumption, on or after February 23, 1982, and before the close of February 22, 1984, unless the period of its effectiveness is earlier expressly modified or terminated.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of February, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-5134
Filed 2-23-82; 11:05 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 47, No. 37
Wednesday, February 24, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 958

Onions Grown in Certain Designated Counties in Idaho and Malheur County, Oregon; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amends the Federal marketing agreement and order for onions grown in Idaho and Malheur County, Oregon. Of the onion producers voting in the January 11–20 referendum, 96.6 percent favored the amendment. These growers produced 97.0 percent of the production voted. The amendment authorizes the prohibition of overloading railcars and adds a public member to the marketing order administrative committee.

EFFECTIVE DATE: March 26, 1982.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–2615.

SUPPLEMENTARY INFORMATION: This action is subject to the formal rulemaking requirements of the Administrative Procedure Act, and therefore is not subject to the requirements of Executive Order 12291. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the regulated handlers.

Prior documents in this proceeding: Notice of Hearing—Issued April 13, 1981, and published April 17, 1981 (46 FR 22382). Notice of Recommended Decision—Issued September 23, 1981, and published September 29, 1981 (46 FR 47585). Secretary's Decision—Issued December 23, 1981, and published December 31, 1981 (46 FR 63313).

46 FR 63313

Preliminary statement:

This proposed amendment was formulated on the record of a public hearing held in Ontario, Oregon, on May 13, 1981. Notice of the hearing was published in the April 17, 1981, issue of the **Federal Register.** The notice set forth a proposed amendment submitted by the Idaho-Eastern Oregon Onion Committee on behalf of onion producers and handlers in the production area.

On the basis of the evidence introduced at the hearing and placed in the record on September 23, 1981, the Deputy Administrator filed a recommended decision with the U.S. Department of Agriculture Hearing Clerk. Notice of such recommended decision was published in the September 29, 1981 issue of the **Federal Register** (46 FR 47585). In the recommended decision notice was given of the opportunity to file comments by October 29, 1981. One exception was filed by M. J. Glen, Market Manager, Exempt Agricultural Products, Union Pacific Railroad Company.

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order, and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900); a public hearing was held upon proposed amendment of Marketing Order No. 958 (7 CFR Part 958), regulating the handling of onions grown in Idaho and Malheur County, Oregon.

Upon the basis of the record, it is found that:

(1) The order, as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as hereby amended, regulates the handling of onions grown in the production area in the same manner as, and is applicable only to persons in the the respective classes of commercial and industrial activity specified in, the marketing order upon which hearings have been held;

(3) The order, as hereby amended, is limited in its application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The order, as hereby amended, prescribes, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of onions grown in the production area; and

(5) All handling of onions grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Determinations.* It is hereby determined that:

(1) The "Marketing Agreement, as Further Amended, Regulating the Handling of Onions Grown in Certain Designated Counties in Idaho and Malheur County, Oregon" upon which the aforesaid public hearing was held has been signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping, covered by this order, as further amended) who during the period July 1, 1980, through June 30, 1981, handled not less than 50 percent of the volume of such onions covered by the said order, as hereby further amended, and

(2) The issuance of this amendatory order, further amending the aforesaid order, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who, during the period July 1, 1980, through June 30, 1981 (which has been determined to be a representative period), have been engaged within the production area in

the production of onions for fresh market, such producers having also produced for market at least two-thirds of the volume of such commodity represented in the referendum.

46 FR 63314

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of onions grown in Idaho and Malheur County, Oregon, shall be in conformity to and in compliance with the terms and conditions of the said order, as hereby amended.

The provisions of the proposed marketing order, amending the order, contained in the recommended decision issued by the Deputy Administrator on September 23, 1981, and published in the **Federal Register** on September 29, 1981 (46 FR 47585), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

1. Revise paragraph (a) of § 958.20 to read:

§ 958.20 Establishment and membership.

(a) The Idaho-Eastern Oregon Onion Committee, consisting of six producer members, four handler members, and one public member is hereby established. Each shall have an alternate who shall have the same qualifications as the member.

* * * * *

2. Revise the introductory text and add paragraph (e) to § 958.22 to read:

§ 958.22 Selection.

The Secretary shall select committee members and alternates from the nominee lists submitted pursuant to this part or from among other eligible persons.

* * * * *

(e) The public member shall be a resident of the production area and have no direct financial interest in the commercial production, financing, buying, packing or marketing of onions except as a consumer nor be a director, officer or employee of any firm so engaged.

§ 958.25 [Amended]

3. Add a new paragraph (k) to § 958.25 to read:

* * * * *

(k) To recommend nominees for the public member and alternate.

4. Add a new paragraph (g) to § 958.28 to read:

§ 958.28 Nominations.

* * * * *

(g) The producer and handler members of the committee shall nominate the public member and alternate. The committee shall prescribe such additional qualifications, administrative rules and procedures for selection and voting for each candidate as it deems necessary and as the Secretary approves.

5. Add a new paragraph (a)(6) to § 958.52 to read:

§ 958.52 Issuance of regulations.

* * * * *

(a) * * *

(6) Regulate the handling of onions by establishing, in terms of total weight or total number of layers of containers of onions, the maximum load in railcars, taking into account types of containers and sizes of railcars used, potential resulting damage, and other relevant factors.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Signed at Washington, D.C., on February 12, 1982.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-4033 Filed 2-23-82; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1435

Price Support Purchase Program for 1982 Crop Sugar Beets and Sugarcane

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule.

SUMMARY: This interim rule implements a price support purchase program for 1982-crop sugarcane and sugar beets. This program is mandated by the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981. The rule implements only a purchase program. Provisions for a price support loan program, to be effective October 1, 1982, will be announced later.

DATES: This interim rule shall become effective February 23, 1982. Comments must be received by March 25, 1982.

ADDRESS: Send comments to Director, Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service, (ASCS), U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: H. E. Maynard, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415 Washington, D.C. 20013. Phone: (202) 447–8480.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under USDA procedures established in accordance with provisions of Secretary's Memorandum 1512–1 and Executive Order 12291 and has been classified as a "major rule."

Need for Immediate Action

Section 201 of the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981 (hereinafter referred to as the "Act") requires that 1982-crop sugar processed from domestically-grown sugar beets and sugarcane between December 22, 1981, and March 31, 1982, be eligible for purchase under a price support purchase program. The purpose of the program is to provide price support to producers of sugarcane and sugar beets.

Since the price support purchase program is applicable only for sugar processed from the 1982 crops of sugar beets and sugarcane for the period December 22, 1981, through March 31, 1982, and since processors are required by this interim rule to file purchase agreements with the Commodity Credit Corporation by April 30, 1982, any comments with respect to this program must be received by March 25, 1982, in order to be assured of consideration. A final document discussing the comments received and any amendments which may be required to be made to this interim rule will be published in the **Federal Register** as soon as possible.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this interim rule.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety.

The title and number of the Federal Assistance Program to which this interim rule applies are: Commodity Loans and Purchases, Number 10.051 as filed in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

The interim rule is published for the purpose of implementing the price support purchase program. The regulations governing a price support loan program will be published later as a proposed rule. The regulatory impact analysis considered in the development of this purchase program is available from Thomas W. Fink, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

Statutory Requirements

The Act requires that price support be made available for the 1982 through 1985 crops of sugar beets and sugarcane. In addition, the Act specifically requires that price support shall be made available through the purchase of products processed from domestically-grown sugarcane and sugar beets during the period beginning with the date of enactment of the Agriculture and Food Act of 1981 through March 31, 1982. Any 1982 crop sugar which is processed after March 31, 1982, as well as 1983 through 1985 crop sugar, will be eligible for price support through a loan program that will be available beginning October 1, 1982.

Major Program Provisions

The major program provisions of the purchase program are as follows:

(1) *Eligible Sugar.* Sugar of the 1982-crop processed from domestically grown sugarcane or sugar beets between December 22, 1981, and March 31, 1982, is eligible for purchase under the program, provided the processor agrees to pay all eligible producers at least the minimum level of support which is specified by this rule for the applicable region.

(2) *Definition of crop year.* Under the previous price support programs for sugarcane and sugar beets, the crop year was determined by the harvesting season and varied throughout the production regions.

However, the statutory requirements of the Act differ substantially from the statutory requirements which were previously applicable to the sugar price support program. For example, the Act requires that sugar processed between the date of enactment and March 31, 1982, must be supported through a purchase program and that all other domestically grown sugarcane and sugar beets of the 1982 through 1985 crops must be supported through a loan program. The Act also provides that price support loans must mature within the same fiscal year that the loan was disbursed.

It would appear that the use of the traditional crop year definitions is not compatible with a fair and reasonable implementation of the price support program as mandated by the Act. To illustrate, using the traditional crop year definition, only Hawaiian and Puerto Rican sugar would be eligible for the purchase agreement program. Conversely, under the price support loan program, Hawaiian and Puerto Rican processors would be required to hold sugar for extended periods before such sugar could be placed under price support loan.

In order to remedy this problem it would appear appropriate, since it is practicable to conduct a price support purchase or loan program only with respect to the processed products of sugarcane and sugar beets, to provide for a definition of crop year based upon the period of time when sugar beets and sugarcane are processed into refined beet sugar and raw cane sugar.

All producers would appear to be treated equitably if the phrase "crop year" would be defined in this Subpart as sugar processed during a period from July 1 through June 30. Use of a crop year based on processing requires a crop year in excess of 12 months for 1982 because the Act mandates both a purchase program and a loan program for 1982 crop sugar. Therefore, the 1982 crop year is applicable to sugar processed from December 22, 1981, to June 30, 1983. The 1983 crop year will apply to sugar processed from July 1, 1983, through June 30, 1984. The 1984 and 1985 crop years will apply to sugar processed during the 12-month period beginning on July 1 of the applicable year.

(3) *Support level and purchase rates.* The support level is the amount that must be paid to the grower by the processor and approximates a raw sugar price of 18.75 cents per pound. The purchase rates paid to the processors are designed to permit processors, on the average, to pay growers the specified level of support. The national average purchase rate for raw cane sugar is 18.75 cents per pound. The purchase rate for refined beet sugar is required by the Act to be established at such level as is fair and reasonable in relation to the purchase rate for raw cane sugar.

The methods used under previous price support programs to determine price support loan levels for refined sugar processed from sugar beets were used to determine the purchase price for refined beet sugar under this purchase program. The purchase price for refined beet sugar is intended to reflect the value of the sugar taking into account its location and the long term relationship (1.10 to 1.00) between refined beet sugar net selling prices and raw cane sugar prices. After adjustment to reflect the proper price relationship, the estimated 1982 crop fixed marketing costs (which are incurred by beet processors regardless of the disposition of the sugar) are added to make up the basic purchase rate for refined beet sugar.

Because refined beet sugar and refined cane sugar compete in the same market, the proper support price relationship between sugarcane and sugar beets is necessary to prevent distortion of the market and to avoid disproportionate purchases by CCC of either type of sugar. It has been suggested, however, that the historical price relationship (1.10 to 1.00) between raw cane sugar and refined beet sugar may not accurately reflect the true price relationship. After examination of this issue, it has been tentatively concluded that the method previously used in determining the proper price relationship between raw cane sugar and refined beet sugar should be retained. If after review of the comments received on this issue it is determined that this method should be changed, a revised purchase price for refined beet sugar will be published in the final rule. Support levels required to be paid producers by processors would also be revised accordingly.

The calculation of fixed marketing costs and location differentials are discussed in the Regulatory Impact Analysis.

(4) *Availability.* The final date for an eligible processor to file a purchase agreement with CCC is April 30, 1982.

(5) *Maturity date.* Purchase agreements for 1982-crop sugar will mature on November 1, 1982.

(6) *Obligations of processor.* Eligible processors who execute purchase agreements are required to pay eligible producers a minimum price for sugarcane or sugar beets delivered for processing. The minimum price applicable to specific regions is set forth in the rule. Eligible processors who elect to exercise their option to deliver sugar to CCC upon maturity of the purchase agreement must notify CCC in writing of their intent to deliver no later than October 1, 1982. After a processor has given CCC notice of intent to deliver, title to the sugar shall automatically vest in CCC on November 1, 1982, unless the processor gives written notice to CCC that it does not intent to sell the sugar to CCC or unless the processor is notified by CCC that delivery of the sugar will not be accepted because of the ineligibility of the sugar or the storage structure.

The processor is obligated, at CCC's discretion, to store the sugar in the warehouse at which CCC accepted delivery for a period of up to one year after CCC accepts delivery.

(7) *Treatment of refined cane or specialty sugar.* In the event refined or specialty sugar made from raw cane sugar is delivered for purchase, for purpose of settlement, the quantity of refined cane or specialty sugar will be converted to an equivalent quantity of raw cane sugar.

This settlement procedure is consistent with settlement procedures under previous price support programs. However, one issue is whether processors of sugarcane who are also refiners should be allowed to deliver refined cane sugar under the purchase program at the purchase price for refined beet sugar. This would permit such processors to carry on their normal refining operations and thus would not require the processor to determine whether raw sugar should be diverted from the processor's refining operation to the price support program.

After considering this issue, it has been tentatively determined that for the purposes of this interim rule the settlement procedures used in previous price support programs should be retained. It should be noted that the purpose of the price support program is to provide price support to growers of sugar beets and sugarcane in their capacities as growers. However, because sugar beets and sugarcane cannot be stored, this objective can only be accomplished by entering into purchase agreements with processors. Therefore, under the price support purchase program storable commodities which are at the nearest point to harvest, i.e., raw sugar for sugarcane and refined beet sugar for sugar beets, are purchased.

Furthermore, permitting processors who are also refiners to deliver refined cane sugar under the price support program at the refined beet purchase rate might unfairly disadvantage independent refiners of raw sugar who would not be eligible to deliver refined cane sugar to CCC under the price support program. Thus, the approach adopted in this interim rule would place the refining operations of processors who are also refiners in substantially the same position as independent refiners of raw sugar.

Budget Requirements

The purchase program will require no budget outlays in FY 1982. Budget outlays for FY 1983 will be effected by several factors, including: (1) The size of the domestic sugar crop, and (2) the amount of sugar actually delivered to CCC. The effectiveness of controls on imported sugar and the market price of sugar will also have significant impact on the ultimate cost of the program in FY 1983.

This program will have no significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Interim Rule

Accordingly, the regulations at 7 CFR Part 1435 are amended by adding a new "Subpart—Price Support Purchase Agreement Program for 1982-Crop Sugar Beets and Sugarcane" to read as follows:

PART 1435—SUGAR

Subpart—Price Support Purchase Agreement Program for 1982-Crop Sugar Beets and Sugarcane

Sec.

1435.76 General statement.
1435.77 Administration.
1435.78 Definitions.
1435.79 Method of support and purchase agreement.
1435.80 Eligibility requirements.
1435.81 Availability, disbursement, and maturity of purchase agreements.
1435.82 Quantity of sugar covered by a purchase agreement.
1435.83 Delivery to CCC quality and storage facility requirements, and settlement.
1435.84 Processor storage agreement.
1435.85 Miscellaneous provisions.
1435.86 Applicable forms.

Authority: Sec. 201 of the Agricultural Act of 1949, as amended (7 U.S.C. 1447 *et seq.*, 1421 *et seq.*).

Subpart—Price Support Purchase Agreement Program for 1982-Crop Sugar Beets and Sugarcane

§ 1435.76 General statement.

This subpart sets forth the terms and conditions of the price support purchase program for the 1982 crop of sugar beets and sugarcane. The Commodity Credit Corporation (CCC) will offer purchase agreements to processors under which processors may elect to sell sugar to CCC upon maturity of the agreements. Only eligible sugar which is in eligible storage shall be accepted for delivery.

§ 1435.77 Administration.

(a) The Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service (referred to as "ASCS"), will administer this subpart under the general direction and supervision of the Deputy Administrator, State and County Operations.

(b) In the field, this subpart will be administered by the Kansas City Commodity Office and the Management Field Office (referred to as "KCCO" and "MFO" respectively) and designated State and county ASC committees (referred to as "State and county committees").

§ 1435.78 Definitions.

(a) "1982 crop" means sugar processed from domestically produced sugar beets or sugarcane during the period from December 22, 1981, through June 30, 1983.

(b) "Eligible producer" means the owner of a portion or all of the sugar beets or sugarcane, including share rent landowners, both at the time of harvest and delivery to the processor.

(c) "Sugar" means refined beet sugar, refined cane sugar, raw cane sugar, sugarcane syrup, or edible molasses which: (1) Is processed by a processor from domestically-produced sugar beets or sugarcane; (2) meets the requirements as set forth in § 1435.83(b) below; and (3) is not contaminated and does not contain chemicals or other substances poisonous to man or animals.

(d) "Processor" means a person or legal entity that: (1) Commercially processes sugar beets into refined sugar or sugarcane into raw sugar, cane syrup, or edible molasses; (2) is a marketing agent which is cooperatively owned by its raw cane sugar processors; or (3) is a processor of sugarcane into raw cane sugar who is also a refiner.

(e) "Raw value" of any quantity of sugar means its equivalent in terms of ordinary commercial raw sugar testing 96 degrees by the polariscope.

(f) "Sugar beets of average quality" means sugar beets containing 15.57 percent sucrose.

(g) "Sugarcane of average quality" means (1) for Florida, sugarcane containing 13.87 percent sucrose in normal juice, and (2) for Louisiana, sugarcane containing 13.07 percent sucrose in normal juice of 79.20 percent purity.

(h) "Secretary" means the Secretary of Agriculture or an official who has been designated to act on his behalf.

(i) "Eligible storage" means a storage facility meeting the requirements set forth in § 1435.83(b) below.

§ 1435.79 Method of support and purchase agreement.

(a) *Method of support.* Price support to domestic producers of 1982-crop sugar beets and sugarcane processed beginning December 22 through March 31, 1982, is available through purchase agreements with eligible processors.

(b) *Purchase agreement rates.* The basic (weighted average) purchase rates for the 1982 crop shall be 19.16 cents per pound for refined beet sugar and 16.75 cents per pound for cane sugar, raw value, including the cane sugar, raw value equivalent, contained in refined cane sugar, sugarcane syrup, and edible molasses. In the case of refined or specialty sugar made from raw cane sugar, the rate shall be the appropriate regional rate applied to the raw cane sugar equivalent of the refined or specialty sugar.

(c) *Locational differentials.* (1) The purchase agreement rate applicable to sugar shall be the rate specified in paragraphs (c) (2) and (3) of this section for the region in which such sugar was processed.

(2) The processing regions and applicable purchase agreement rates for refined beet sugar shall be as listed below:

Region No. and description	Cents per pound
1—Michigan and Ohio	20.11
2—Minnesota and the Eastern half of North Dakota	19.01
3—Northeastern quarter of Colorado; Northeastern quarter of Kansas; Nebraska; and the Southwestern quarter of Wyoming	18.53
4—Southeastern quarter of Colorado; and Texas	19.15
5—Montana and the Northwestern quarter of Wyoming	18.71
6—That part of Idaho east of the Eastern boundary of Owyhee County and of such boundary extended northward; and Utah	18.58
7—That part of Idaho west of the eastern boundary of Owyhee County and of such boundary extended northward; Oregon; and Washington	18.58
8—Arizona and California	19.01

(3) The processing regions and applicable purchase agreement rates for cane sugar, raw value, shall be as listed below, except that for such sugar processed in Hawaii or Puerto Rico but delivered to CCC on the mainland of the U.S., the applicable rate shall be 16.75 cents per pound:

Region	Cents per pound
Florida	16.75
Louisiana	17.16
Texas	16.85
Hawaii	16.66
Puerto Rico	16.23

§ 1435.80 Eligibility requirements.

(a) The maximum quantity of sugar which is eligible to be offered by an eligible processor under the 1982 Price Support Purchase Agreement Program is that quantity of domestically-produced sugar which is equivalent to the quantity of sugar processed by the processor during the period beginning December 22, 1981 through March 31, 1981 from sugar beets and sugarcane grown by eligible producers. Such sugar must be processed and owned by the eligible processor (or jointly owned by the eligible processor and eligible producer) offering the sugar.

(b) Eligible processors for 1982-crop sugar are those processors who, as a condition for obtaining a CCC purchase agreement, agree to pay to all eligible producers who have delivered or will deliver to them for processing sugar beets and sugarcane of average quality in the following location not less than:

(1) For sugar beets in the regions described in paragraph (c)(2) of this section, the following rates per net ton: Region 1, $26.71: *Provided,* That, if (i) the sugar extracted by a processor from sugar beets harvested in 1981 yields, on the average, less that 224.62 pounds per net ton of sugar beets delivered and accepted by the processor or (ii) the processor's net return on by-products per net ton of sugar beets delivered and accepted by the processor average less than $6.80 per net ton, the required minimum price support rate per ton of sugar beets may be adjusted. The adjusted rate will be determined by (A) multiplying $19.37 (the purchase agreement rate per pound less $.74 considered as fixed marketing costs) by the average pounds and hundredths of pounds of sugar extracted per net ton, (B) adding thereto the net return to the processor on by-products per net ton of sugar beets delivered and accepted, and (C) multiplying the result by 53.1 percent:

Region 2 $29.35
Region 3 $28.60
Region 4 $29.56
Region 5 $28.88
Region 6 $28.69
Region 7 $28.69
Region 8 $30.62

(2) For sugarcane in Florida, $23.14 per net ton;

(3) For sugarcane in Louisiana, $21.64 per net ton;

(4) For sugarcane in Texas, the amount determined by multiplying 10.110 cents times the average pounds of cane sugar, raw value, recovered per ton from the sugarcane delivered to the processor by all producers, as adjusted by the processor to reflect the quality of the juice (normal juice sucrose and normal juice purity) extracted from the individual producer's sugarcane;

(5) For sugarcane in Hawaii, the amount determined by multiplying the total pounds of cane sugar, raw value, recovered per ton from the sugarcane delivered to the processor by the individual producer times (i) 10.996 cents where the delivery point is at the mill or (ii) 8.497 cents where the cane is delivered by loading into trucks in the field; and

(6) For sugarcane in Puerto Rico, that price determined in accordance with the provisions of Puerto Rico Law No. 428, also known as the Puerto Rico Sugar Law, and the rules issued thereunder by the Sugar Board of Puerto Rico.

The foregoing prices may be adjusted for sugar beets or sugarcane of nonaverage quality on the method agreed upon by the producer and processor.

§ 1435.81 Availability, disbursement, and maturity of purchase agreements.

(a) *Obtaining price support.* To obtain price support on eligible sugar, an eligible processor: (1) Must file a request for price support with the State committee of the State where such processor is headquartered or a county committee designated by the State committee; and (2) must execute a purchase agreement as prescribed by CCC. The request for price support must be filed no later than April 30, 1982, and must state the quantity of sugar to be covered by the purchase agreement.

(b) *Maturity of purchase agreements.* CCC purchase agreements will mature on November 1, 1982.

§ 1435.82 Quantity of sugar covered by a purchase agreement.

A CCC purchase agreement shall not be approved for more than the quantity of sugar which an eligible processor certifies is eligible and available to be placed under a purchase agreement. The total quantity of sugar which a processor may offer to CCC under a purchase agreement may not exceed (a) his total eligible storage capacity less ineligible sugar in storage or (b) the quantity of eligible sugar processed from December 22, 1981, through March 31, 1982.

§ 1435.83 Delivery to CCC, quality and storage facility requirements, and settlement.

(a) The quantity of sugar which a processor may deliver to CCC may be less than, but shall not exceed, the quantity of sugar which is shown on a purchase agreement which is approved by CCC.

(b) In order to be eligible to be delivered to CCC, sugar must meet the following minimum quality requirements:

(1) Refined beet or cane sugar must be: (i) Dry and free flowing; (ii) free of excessive sediment; and (iii) free of any objectionable color, flavor, odor, or other characteristic which would impair the merchantability of such sugar or which would impair or prevent the use of such sugar for normal commercial purposes.

(2) Raw cane sugar must be: (i) Of reasonable grain size; (ii) free from excessive color or moisture; and (iii) free

from any objectionable color, flavor, odor, or other characteristic which would impair the merchantability of such sugar or which would impair or prevent the use of such sugar for normal commercial purposes.

(3) Sugarcane syrup or edible molasses must be free from any objectionable color, flavor, odor, or other characteristic which would impair the merchantability of such sugar or which would impair or prevent the use of such sugar for normal commercial purposes.

(4) Any type of sugar delivered to CCC must be free of any contamination by either natural or man-made substances, and must not contain chemicals or other substances which are poisonous or harmful to man or animals. In addition, all sugar which is delivered to CCC must be free and clear of any liens, mortgages, or other such encumbrances.

(c) Sugar may only be delivered to CCC in eligible storage. Eligible storage is any storage facility which: (1) Is owned or controlled by the processor; (2) is suitable for the storage and loading out of the sugar being delivered to CCC by the processor; (3) meets CCC Standards for Approval of Dry and Cold Storage Warehouses for Processed Agricultural Commodities, Extracted Honey, and Bulk Oils (7 CFR Part 1423); and (4) is placed under a storage contract with CCC. If the sugar is delivered in or to an ineligible storage facility, the processor shall be responsible for all costs incurred in moving the sugar to an eligible storage facility.

(d) A processor who intends to sell sugar to CCC shall give a written notice of intent to sell such sugar to CCC not later than October 1, 1982. At that time, the processor shall furnish to CCC complete information as to the storage locations where delivery to CCC is proposed and, for each location, the quantity proposed for delivery to CCC. CCC shall have the right to inspect such sugar and storage facilities. The processor shall also furnish such production records as CCC considers necessary to verify compliance with the quantitative limitations set forth in § 1435.80(a).

(e) If a processor has given CCC a notice of intent to sell sugar, such processor shall deliver eligible sugar to CCC in-store at eligible storage facilities owned or controlled by the processor. Delivery of such sugar shall occur automatically on November 1, 1982, without further action by either the processor or CCC. At that time, title and all interest in the sugar shall vest in CCC. Notwithstanding the foregoing, delivery shall not occur and title shall not pass if: (1) After the date on which the notice of intent to sell is given to CCC and before November 1, 1982, the processor gives written notice to CCC that it does not intend to sell such sugar (or portion thereof) to CCC; or (2) CCC gives notice to the processor prior to November 1, 1982, that delivery of such sugar (or portion thereof) shall not be accepted by CCC due to the ineligibility of the sugar or the storage facility.

(f) The processor shall be liable to CCC for any damages suffered by CCC if: (1) The processor delivers ineligible sugar to CCC; or (2) the processor delivers sugar to CCC which in ineligible storage. The processor shall be liable for such damages regardless of whether CCC inspected the sugar and storage facility prior to delivery, and regardless of whether CCC failed to give notice to the processor of nonacceptance of delivery as provided in paragraph (e) of this section.

(g) Disbursement for purchases of sugar made by CCC will be made by sight drafts drawn on the account of CCC.

§ 1435.84 Processor storage agreement.

(a) By executing a purchase agreement and delivering sugar to CCC, the processor agrees to store such sugar on behalf of CCC under the terms and conditions specified in this subpart and any storage agreement entered into between CCC and the processor. Should the terms of the storage agreement and the terms of these regulations conflict, the terms set forth in the regulations shall be applicable.

(b) The processor shall at all times be responsible for maintaining the quality and condition of the sugar in storage. The processor shall be liable to CCC for any damages suffered by CCC due to the failure of the processor to load out sugar meeting the eligibility criteria set forth in § 1435.83(b). Notwithstanding the foregoing, the processor shall not be liable for any damage, and CCC will bear its pro rata share of any loss in the case of sugar stored on a commingled basis, less any insurance proceeds and salvage value of the sugar to which CCC may be entitled, if the processor establishes to the satisfaction of CCC that each of the following conditions occured: (1) The loss or damage occurred without fault or negligence on the part of the processor; (2) the loss resulted solely from an external cause (other than insect infestation, vermin, or animals) such as theft, fire, lightning, explosion, windstorm, cyclone, tornado, flood, or other act of God; (3) the processor gave the State committee immediate notice of such loss or damage; and (4) the processor made no fraudulent representation in the purchase agreement or in obtaining approval of the purchase agreement.

(c) The processor shall store sugar delivered to CCC in the eligible storage where delivered for as long as deemed necessary by CCC after delivery of the sugar to CCC. However, if a sugar beet processor requires the storage space for other sugar during the period the processor is required by CCC to maintain the refined beet sugar delivered under a purchase agreement in the storage where delivered, CCC will accept bagged sugar from the current crop in substitution for the delivered bulk sugar, provided the settlement rate for the area where the bagged sugar is stored is equal to or exceeds the settlement rate for the delivered bulk sugar.

(d) The processor shall remove and physically deliver the purchased sugar in accordance with written instructions from CCC. All load out expenses shall be for the account of the processor.

(e) CCC shall make monthly storage payments to the processor for the period of time the processor stores the sugar for CCC after delivery by the processor in accordance with the purchase agreement. The storage payment rate shall be as agreed upon by CCC and the processor, but in no event shall exceed $.00083 per pound per month.

§ 1435.85 Miscellaneous provisions.

(a) *Scheme or device.* The processor shall not reduce returns to the producer below those determined in accordance with the requirements of this subpart through any scheme or device whatsoever.

(b) *Processor indebtedness.* The regulations issued by the Secretary governing setoffs and withholding, 7 CFR Part 13, shall be applicable to the program.

(c) *Liens.* Waivers of liens or encumbrances on the sugar delivered to CCC must be obtained to protect fully the interest of CCC. A lienholder, in lieu of waiving a prior lien on sugar, may execute with CCC a Lienholder's Subordination Agreement (Form CCC-864) in which the lienholder's security interest is subordinated to the rights of CCC.

(d) *Appeals.* A producer or processor may obtain reconsideration and review of determinations made under this subpart in accordance with the regulations in 7 CFR Part 780.

(e) *Records and inspection thereof.* ASCS, the Office of the Inspector General, USDA, and the Comptroller General shall have the right to have access to the premises of the processor, in order to inspect, examine, and make copies of the books, records, accounts, and other written data as are deemed necessary by the examining agency to verify compliance with the requirements of this subpart. Such books, records, accounts, and other written data shall be retained by the processor for not less than three years.

(f) *False certifications.* Any false certification, which is made for the purpose of enabling a processor to obtain a purchase agreement to which it is not entitled, will subject the person making such certification to liability under applicable Federal civil and criminal statutes.

(g) *Handling payments and collections not exceeding three dollars.* In order to avoid unreasonable administrative costs of making small payments and handling small accounts, amounts of $3 or less which are due the processor will be paid only upon his request. Deficiencies of $3 or less, including interest, may be disregarded unless demand for payment is made by CCC.

(h) *Death, incompetency, or disappearance.* In case of death, incompetency, or disappearance of any processor who is entitled to the payment of any sum in settlement of a purchase payment shall, upon proper application to the State committee, be made to the persons who would be entitled to such processor's payment under the regulations contained in 7 CFR Part 707—Payment Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent.

§ 1435.86 Applicable forms.

The CCC forms for use in connection with this program will be available from the appropriate State committee or designated county committee. CCC forms have been developed for program participation by farmers and producers. When such forms are used for participation in the sugar purchase program, the term "producer" shall mean "processor."

Signed at Washington, D.C., on February 18, 1982.

John R. Block,
Secretary.

[FR Doc. 82-4888 Filed 2-23-82; 8:45 am]
BILLING CODE 3410-05-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 212

Requirements: Nonimmigrants; Waivers; Admission of Certain Inadmissible Aliens; Parole; Direct Transits; Restriction for Citizens of Afghanistan; Correction

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule; correction.

SUMMARY: This final rule restricts citizens of Afghanistan from transiting the United States without visas. This waiver of visas for transits from Afghanistan has become a means of circumventing immigration laws once they arrive in the United States. Citizens of Afghanistan must have visas and passports to transit the United States regardless of their ultimate destination. The rule is republished to make a technical correction.

EFFECTIVE DATE: February 9, 1982.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration & Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, Telephone: (202) 633-3048.

For Specific Information: Edward K. Burns, Immigration Inspector, Immigration & Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, Telephone: (202) 633-3096.

SUPPLEMENTARY INFORMATION: The Department of State and the Department of Justice have established that citizens of Afghanistan, believing they have a claim to refugee status, are trying to circumvent refugee procedures abroad by using the transit without visa waiver privilege to enter the United States as supposed transits and, upon arriving in the United States, applying for asylum as refugees. Other Afghan nationals destroy their travel documents and onward airline tickets while in flight to prevent continuation of their travel beyond the United States.

Because of the continuing nature of these schemes, and imminent arrival of additional groups, the Department of State and Immigration and Naturalization Service are jointly withdrawing the transit without visa privilege as it applies to Afghan citizens.

This rule is being republished to explicitly clarify that an alien citizen or national of Afghanistan may not transit the United States without a passport or visa.

In view of the emergency situation which exists, compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date would be impractical and contrary to the public interest.

This rule is exempt from the requirements of E.O. 12291 under section 1.(a)(2) thereof since it is issued with respect to a foreign affairs function of the United States.

Accordingly, Title 8 of the Code of Federal Regulations is amended as follows:

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS: ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. In § 212.1, paragraph (e) is revised to read as follows:

§ 212.1 Documentary requirements for nonimmigrants.

* * * * *

(e) *Direct transits*—(1) *Transit without visa.* A passport and visa are not required of an alien who is being transported in immediate and continuous transit through the United States in accordance with the terms of an agreement entered into between the transportation line and the Service under the provisions of section 238(d) of the Act on Form I-426 to insure such immediate and continuous transit through, and departure from, the United States en route to a specifically designated foreign country: *Provided,* That such alien is in possession of a travel document or documents establishing his/her identity and nationality and ability to enter some country other than the United States.

(2) *Waiver of passport and visa.* On the basis of reciprocity, the waiver of passport and visa is available to a national of Albania, Bulgaria, Czechoslovakia, Estonia, the German Democratic Republic, Hungary, Latvia, Lithuania, Mongolian People's Republic, People's Republic of China, Poland, Romania, or the Union of Soviet Socialist Republics resident in one of said countries, only if he/she is transiting the United States by aircraft of a transportation line signatory to an agreement with the Service on Form I-426 on a direct through flight which will depart directly to a foreign place from the port of arrival.

(3) *Unavailability to transit.* This waiver of passport and visa requirement is not available to an alien who is a citizen or national of Afghanistan, Cuba, Iraq, or Iran. This waiver of passport and visa requirement is not available to an alien who is a citizen or national of

North Korea ("Democratic People's Republic of Korea") or Democratic Republic of Vietnam and is a resident of one of the said countries.

(4) *Foreign government officials in transit.* If an alien is of the class described in section 212(d)(8) of the Act only a valid unexpired visa and a travel document valid for entry into a foreign country for at least 30 days from the date of admission to the United States are required.

* * * * *

(Secs. 103, 212 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103, 1182))

Dated: February 18, 1982.

Alan C. Nelson,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 82-4913 Filed 2-23-82; 8:45 am]

BILLING CODE 4410-10-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 721, 723 and 724

Federal Credit Union Insurance and Group Purchasing Activities; Operational Systems; Trustees and Custodians of Pensions Plans

AGENCY: National Credit Union Administration.

ACTION: Suspension of effective date and confirmation of effective date.

SUMMARY: The National Credit Union Administration Board is suspending the effective date of Part 721 (46 FR 47435, Sept. 28, 1981) indefinitely pending the outcome of a rulemaking procedure to further revise and simplify rules on Federal credit union insurance and group purchasing activities. The April 1, 1982 effective date for Parts 723 and 724 (which are not subject to the rulemaking procedure) is confirmed.

EFFECTIVE DATE: For Part 721, the effective date is suspended indefinitely. For Parts 723 and 724, the effective date is April 1, 1982.

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Joseph Myers, Director, Division of Consumer Policy, Office of Consumer Affairs, National Credit Union Administration, (202) 357-1080.

SUPPLEMENTARY INFORMATION: Part 721 was revised by the NCUA Board on September 16, 1981 (46 FR 47435, September 28, 1981) and new Parts 723 and 724 were created. The effective date of these changes was November 17, 1981. On November 5, 1981, the NCUA Board delayed the effective date to April 1, 1982 (46 FR 44922, November 13, 1981).

The NCUA Board hereby further suspends the effective date of Part 721 pending the outcome of a rulemaking proceeding to further revise this Part. A proposed rule setting forth proposed amendments is published elsewhere in this issue of the **Federal Register.**

Not affected by the rulemaking proceeding is the transfer of §§ 721.3 and 721.4 to Parts 723 and 724. The NCUA Board hereby confirms that the final rule establishing Parts 723 and 724 will be effective April 1, 1982.

By the National Credit Union Administration Board, February 11, 1982.

Rosemary Brady,

Secretary of the NCUA Board.

[FR Doc. 82-4879 Filed 2-23-82; 8:45 am]

BILLING CODE 7535-01-M

12 CFR Part 749

Storage Provided by the Administration

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: In keeping with the Administration's goal of reducing Federal expenditures, the NCUA Board has taken a close look at all agency activities in order to find ways to reduce agency expenditures. As a result of this analysis, the NCUA Board has cut the agency's budget significantly and has also decided to discontinue certain agency programs. Accordingly, the NCUA sponsored Records Preservation Program for federally insured credit unions will be discontinued. This program provides that federally insured credit unions can store records in an underground vault free of charge.

EFFECTIVE DATE: April 1, 1982.

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Troy T. Robinson, Director, Division of Administrative Services, Office of Administration. Telephone: (202) 357-1003.

SUPPLEMENTAL INFORMATION: Section 749.3 of NCUA's Rules and Regulations provides for a security records preservation program service for federally insured credit unions at the agency's expense. Due to cuts in NCUA's budget, this program is being discontinued. Therefore, the NCUA Board is deleting § 749.3 of the Regulations.

The deletion of this section is exempt from the rulemaking requirements of the Administrative Procedure Act because it directly involves public contracts, 5 U.S.C. Section 553(a)(2). Similarly, the requirements of the Regulatory Flexibility Act are not applicable.

Accordingly, 12 CFR Part 749 is amended as set forth below.

(12 U.S.C. 1770(a) and 1783)

PART 749—RECORDS PRESERVATION PROGRAM

§ 749.3 [Removed]

12 CFR Part 749 is amended by removing § 749.3.

Dated: February 19, 1982.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 82-4880 Filed 2-23-82; 8:45 am]

BILLING CODE 7535-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 212

[Regulation ER-1264; Amdt. No. 44]

Revised Reporting Requirements; Approval by the Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that on January 28, 1982, the Office of Management and Budget (OMB) approved revised reporting in Parts 207, 208 and 212 and Form 433. The reporting requirements were revised by ER-1247, ER-1248, and ER-1249 which liberalized the CAB's rules on wet leases (leases of aircraft with crew) between airlines to eliminate unnecessary barriers to competitive opportunities. This rule also revised the note at the end of Part 212 to reflect the changes. No revision is needed for clearance notes in Parts 207 and 208. OMB approval of reporting is required under the Paperwork Reduction Act of 1980.

DATES: Adopted: February 18, 1982. Effective: February 18, 1982.

FOR FURTHER INFORMATION CONTACT: Clifford M. Rand, Chief, Data Requirements Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-6042.

SUPPLEMENTARY INFORMATION:

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS [AMENDED]

Accordingly, the Civil Aeronautics Board amends Part 212 of its Economic Regulations (14 CFR 212) by revising the note at the end of Part 212 to read:

Note.—The reporting requirements contained in sections 212.5, 212.7, 212.15, 212.24, 212.25, 212.31, 212.45, 212.46, 212.47, and 212.53 have been approved by the Office of Management and Budget under number 3024-0036.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b).

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-4881 Filed 2-23-82; 8:45 am]

BILLING CODE 6320-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FAP 5H5087/R96; PH-FRL-2058-7]

Tolerances for Pesticides in Food Administered by the Environmental Protection Agency; Diquat

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a regulation to permit additional uses of diquat in reservoirs, marshes, bayous, drainage ditches, canals, rivers, and streams that are quiescent or slow-moving with a tolerance limitation of 0.01 part per million for diquat in potable water. This regulation to establish the maximum permissible level for residues of diquat in potable water was requested by the Department of the Army.

EFFECTIVE DATE: Effective on February 24, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS-767 C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking in the **Federal Register** of March 5, 1981 (46 FR 15281) that the Department of the Army and Chevron Chemical Co. had petitioned the EPA to establish a regulation permitting residues of diquat in potable water. Since a number of comments were received in response to the notice of proposed rulemaking the proposal was reproposed in the **Federal Register** of December 1, 1981 (46 FR 58343).

The evaluation of the scientific data supporting this regulation is presented in the **Federal Register** of March 5, 1981 (46 FR 15281).

As discussed in the Agency's proposal of March 5, 1981, the Agency will, at a later date, establish regulations under the Safe Drinking Water Act to limit concentrations of pesticides in drinking water. Until these regulations are established, the Agency will continue to rely on food additive tolerances established under section 409 of the Federal Food, Drug, and Cosmetic Act to describe limits on residues in drinking water resulting from direct applications of pesticides in aquatic situations. The establishment of a diquat tolerance for potable water is not intended to substitute for, nor will it preclude the subsequent development, if necessary, of a national drinking water standard (Maximum Contaminant Lever [MCL]) for this chemical, nor would it necessarily determine what the MCL would be.

A related document (PP 5E166/R320) establishing tolerances for diquat on a variety of crops appears elsewhere in this issue of the **Federal Register.**

It is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the prescribed label and labeling registered pursuant to FIFRA, as amended (86 Stat. 973, 89 Stat. 751; U.S.C. 135(a) *et seq.*). Therefore, 21 CFR 193.160 is amended as set forth below.

Any person adversely affected by this regulation may, on or before March 26, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new food and feed additive levels, or conditions for safe use of additives, or raising such food and feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

(Sec. 409(c)(1), 72 Stat. 1786; (21 U.S.C. 348(c)(1)))

Dated: February 9, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR 193.160 is amended by revising paragraph (a) and adding paragraph (b) to read as follows:

§ 193.160 Diquat.

(a) A tolerance of 0.01 ppm is established for residues of the herbicide diquat (6,7-dihydrodipyrido (1,2-a:2',1'-c) pyrazidiinium) derived from application of the dibromide salt in potable water resulting from the application of the pesticide for control of aquatic weeds in ponds, lakes, reservoirs, marshes, bayous, drainage ditches, canals, streams, and rivers which are slow-moving or quiescent in programs of the Corps of Engineers or other Federal or State public agencies. These agencies or contractors or licensees under their direct control will make certain that the treated water will not be used for animal consumption, swimming, spraying, domestic purposes, or for irrigation for 14 days post-treatment or until approved analysis shows that the water does not contain more than 0.01 ppm of diquat (calculated as the cation) and that no treatment will be made where commercial processing of fish resulting in the production of fish protein concentrate or fish meal is practiced.

(b) A tolerance of 0.01 ppm is established for residues of the herbicide diquat (6,7-dihydrodipyrido (1,2-a:2',1'-c) pyrazidiinium) (calculated as the cation) derived from application of the dibromide salt in potable water resulting from the application of the pesticide in ponds, lakes, and drainage ditches where there is little or no outflow of water and which are totally under control of the user. The applicator will make certain that treated water will not be used for animal consumption, swimming, spraying, irrigation, or domestic purposes for 14 days post-treatment. For the purposes of this paragraph only (§ 193.160(b)) these

applications of diquat are not to be used in aquatic sites in Florida.

* * * * *

[FR Doc. 82-4726 Filed 2-23-82; 8:45 am]
BILLING CODE 4510-23-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

Permanent State Regulatory Program of Virginia

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: The Secretary of the Interior is modifying the deadline for Virginia to meet two of the conditions of approval on the State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), 30 U.S.C. 1201 *et seq.*

EFFECTIVE DATE: February 24, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Division of State Program Assistance, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240. Telephone: (202) 343-5351.

SUPPLEMENTARY INFORMATION: On February 3, 1982, the Director of OSM published a proposed rule to extend the schedule for Virginia to meet two of the conditions of approval on its approved permanent regulatory program under the Act (48 FR 5013-5014). Public comments were invited until February 11, 1982. On March 13, 1979 (44 FR 15311-15463), the Secretary promulgated final rule for the permanent regulatory program under the Act. Certain provisions of the rules (Parts 730-732) established the procedures for the submission, review, and decision on State permanent regulatory programs whereby a State assumes primary jurisdiction to regulate surface coal mining under the Act. Under § 732.13(i), the Secretary may conditionally approve a State program which contains minor deficiencies if the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval. The schedule is established in consultation with the State, based on the regulatory and administrative needs of the State's permanent program and the Act, and the time required for changes to be adopted under State rulemaking or legislative procedures.

The Virginia program was conditionally approved on December 15, 1981 (46 FR 61088-61115). In the notice of approval, the Secretary published the schedule for Virginia to resolve each of 19 conditions on the approval of that State's regulatory program. In a letter to the Director, OSM, dated January 28, 1982, the Virginia Department of Conservation and Development indicated that it would like an extension for meeting conditions "o" and "r" as listed at 46 FR 61115, December 15, 1981 (See Administrative Record No. VA 376).

Condition "o" stipulates that the Secretary's approval of the Virginia program will terminate in February 15, 1982, unless Virginia submits to the Secretary by that date provisions which amend its program by: (1) Deleting the program narrative rationale of "significant legal and financial commitments" (SLFC) which provides that mere ownership of mineral rights or the right to mine constitutes a significant legal and financial commitment and (2) providing affirmative assurance that SLFC will be interpreted in accordance with Federal law. Condition "o" stipulates that if this is accomplished by a policy statement, it must be accompanied by a legal opinion which states that the policy statement is enforceable under existing State law and regulations.

Inasmuch as the State indicated in its January 28, 1982 letter that it intends to meet this condition by proposing a regulatory change, the State requested an extension of the deadline until October 15, 1982. The Secretary is allowing the State until October 15, 1982, to meet the condition.

Condition "r" stipulates that the Secretary's approval of the Virginia program will terminate on February 15, 1982, unless Virginia submits to the Secretary by that date copies of revised policy statement or otherwise amends its program to make its coal haul roads policy consistent with the Federal requirements. This policy statement must be accompanied by a legal opinion which states that it is enforceable under existing State law and regulations. Inasmuch as the State indicated in its January 28, 1982 letter that it proposes to submit legislation to the Virginia General Assembly in the current session that may impact the State's approach in meeting the condition, the State requested at least a 30-day extension of the February 15, 1982 deadline. The Secretary is allowing the State until April 1, 1982, to meet the condition.

Public Comments: The Environmental Policy Institute, Virginia Citizens for Better Reclamation and the Conservation Council of Virginia commented that no justification for the extensions whatsoever is provided by OSM except that the State is actively proceeding with steps to correct the deficiencies. They also stated that Virginia could have easily prepared the necessary documents to change its policy on the two pertinent problems without an extension. Therefore, they contended that Virginia's failure to correct the deficiencies within the two months suggests that Virginia is unwilling or unable to comply with the requirements set by the approval action.

In response to the first part of the comment, the Secretary believes that justifications for the extensions were provided in the notice of proposal. Concerning condition "o", it was pointed out that the State wished to correct the deficiency through regulatory change rather than policy statement. This approach would be preferable as a regulation would be easier to enforce than a policy statement. Further, it was noted that no harm would be done during the interim since Virginia stated that if the question of significant legal and financial commitment arose because of the filing of an unsuitability petition in which the issue of SLFC was relevant, then the State could make the necessary regulatory change to correct the condition in ample time prior to the hearing on the petition. With regard to condition "r" (haul roads), it was made clear that the Virginia General Assembly is considering legislation that may impact the State's approach in meeting the condition. Together with its letter requesting the extension, Virginia and submitted a copy of House Bill 123 (proposed), a complex piece of legislation that undoubtedly will have a bearing on the State's approach in correcting condition "g". Further, it was mentioned that granting an extension to the State for meeting this condition would cause no harm as the State would not have completed the issuance of permanent program permits prior to the proposed extended deadline.

In response to the second part of the comment, the Secretary believes, for the reasons provided by the State in requesting the extension, that the State is willing to correct the deficiencies. It simply indicated that it preferred to correct condition "o" by regulatory change, which is a laudable intention and that it wished to assess the impact of pending legislation on its compliance with condition "g," which is a sensible approach.

Other Information: The Office of Management and Budget has granted OSM an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for all actions to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, a Regulatory Impact Analysis and regulatory review by OMB are not needed for this extension.

This rule is deemed not to be a major Federal action within the meaning of section 102(2)(c) of NEPA under sections 501(a) or 702(d) of SMCRA. It is hereby designated as a categorical exclusion from the NEPA process. Therefore, this rule is exempt from the requirements of an Environmental Assessment, EIS or FONSI.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96-354, I have certified that this rule will not have a significant economic effect on a substantial number of small entities as the rule is essentially a timing change with no direct or indirect impact on small entities.

The primary author of this rule is Richard Bryson, State Program Specialist, Division of State Program Assistance, Program Operations and Inspection, Office of Surface Mining, Telephone: (202) 343-5361.

Dated: February 19, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 946—VIRGINIA

For the reasons set out in the preamble, 30 CFR Part 946 is amended by revising § 946.11 (o) and (r) to read as follows:

§ 946.11 Conditions of State regulatory approval.

* * * * *

(o) The approval found in § 946.10 will terminate on October 15, 1982, unless Virginia submits to the Secretary by that date provisions which amend its program by deleting the program narrative rationale of "significant legal and financial commitments" (SLFC) which provides that mere ownership of mineral rights or the right to mine constitutes a significant legal and financial commitment and provides affirmative assurance that SLFC will be interpreted in accordance with Federal law. If this is accomplished by a policy statement, it must be accompanied by a legal opinion which states that it is enforceable under existing State law and regulations.

* * * * *

(r) The approval found in § 946.10 will terminate on April 1, 1982, unless Virginia submits by that date copies of a revised policy statement or otherwise amends its program to make its coal haul roads policy consistent with the Federal requirements. This policy statement must be accompanied by a legal opinion which states that it is enforceable under existing State law and regulations.

* * * * *

(Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*))

[FR Doc. 82-4989 Filed 2-23-82; 8:45 am]
BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA Docket No. AH300FVA; A-3-FRL 2033-7]

Commonwealth of Virginia; Approval of Revisions to the Virginia Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On April 13, 1981, the Secretary of Commerce and Resources submitted several minor revisions of the nonattainment portion of the Virginia State Implementation Plan to the Environmental Protection Agency. Included in this submittal was an extended compliance schedule for Vi-Tex Packaging Inc. This Notice provides a description of the proposed SIP revisions, the results of EPA's review, and approves the SIP revisions as submitted, except for the Vi-Tex schedule.

EFFECTIVE DATE: March 26, 1982.

ADDRESSES: Copies of the SIP revisions and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Media & Energy Branch (3AH13), Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: Ms. Eileen M. Glen

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 "M" Street SW. (Waterside Mall), Washington, D.C. 20460

Virginia State Air Pollution Control Board, Ninth Street Office Building, Room 801, Richmond, Virginia 23219, Attn: Mr. John M. Daniel, Jr.

Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Ms. Eileen M. Glen at the EPA, Region III address or telephone (215) 597-8187.

SUPPLEMENTARY INFORMATION: The April 13, 1981 submittal consists of several revisions to the Commonwealth's nonattainment plans. The portions of this submittal which correct deficiencies and satisfy the conditions noted in the April 16, 1981 Federal Register (46 FR 22165) are addressed in a separate ruelmaking. The balance of the submittal is addressed herein.

The Commonwealth provided proof that, after adequate public notice, public hearings were held regarding the proposed revisions on January 26, 1981 in Richmond and on February 9, 1981 in Lynchburg, Fredericksburg, Virginia Beach, and Annadale.

As a result of EPA's preliminary review, we proposed approval, except where noted, of the revisions listed below on September 10, 1981 at 46 Fed. Reg. 45159. No comments were received during the 30-day public comment period.

Regulation and Brief Description

1.02—Terms Defined—modified definitions of "external floating roof," "internal floating roof," and "nonmethane."

4.56(f)(3)—Miscellaneous wording changes.

App. M—Revises the minimum pressure above which the safety valves will release emissions.

EPA Evaluation: The definitions listed above have been reviewed by EPA and found to be acceptable as written.

Section 4.56(f)(3) is amended to include vapor balance and top loading vapor recovery methods if truck hatches are to be left open during loading or unloading operations. This change is acceptable to EPA.

Appendix M, Section III.a.2.ii, III.c.3.ii, III.d.2.ii.b, and IV.a.3.iii.b are revised to reduce the pressure per square inch (psi) above which pressure relief valves will release emissions to the atmosphere. This is a safety feature and is acceptable to EPA.

Chapter 7 of the Southeastern Virginia nonattainment plan was revised to include extended compliance schedules for VI-Tex Packaging Inc. Despite a submittal of supplemental information by the Commonwealth on May 27, 1981, there was still insufficient data for EPA to complete its review, at the time of the proposed rulemaking. At that time, the Commonwealth and the source were requested to submit additional information. The Commonwealth submitted a letter dated September 14, 1981 from Vi-Tex listing the types of inks which will be used. However, there is still no data to support the projected

reductions nor are there emission limits for each surface coating line. Therefore, EPA will take no further action on this schedule until the requested data has been submitted.

Conclusion: The Administrator's decision to approve the proposed revisions was based on a determination that the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of State Implementation Plans.

As a result of EPA's decision to approve these revisions to the Virginia Implementation Plan, 40 CFR Section 52.2420 (Identification of Plan) is being revised as shown below.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because this action only approves State actions and imposes no new requirements.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. Section 605(b), I hereby certify that SIP approvals under Section 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. This action only approves State actions. It imposes no new requirements.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(42 U.S.C. 7401–7642)

Dated: February 17, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the Commonwealth of Virginia was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Part 52 of the code of Federal Regulations is amended as follows:

Subpart VV—Virginia

1. In Section 52.2420, paragraph (c)(59) is added as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(59 Amendments to §§ 1.02, 4.56(f)(3), and Appendix M as submitted on April 13, 1981 by the Secretary of Commerce and Resources.

[FR Doc. 82-4905 Filed 2-23-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 123

[SW-FRL-2033-6]

Interim Authorization of State Hazardous Waste Programs To Issue Permits Under Standards Whose Effective Date EPA Has Proposed To Suspend

AGENCY: Environmental Protection Agency (EPA).

ACTION: Policy statement related to rules on interim authorization of State hazardous waste programs.

SUMMARY: Today's notice announces a change in EPA's policy on the interim authorization of state hazardous waste programs. On October 20, 1981, in conjunction with EPA's proposal to suspend the effective date of certain of its technical standards used to issue permits to hazardous waste management facilities, EPA announced that it would postpone making decisions on whether to authorize states to issue permits to certain hazardous waste management facilities. Under the policy announced today, EPA will not postpone decisions on whether to authorize certain aspects of state hazardous waste permit programs.

EFFECTIVE DATE: February 24, 1982.

FOR FURTHER INFORMATION CONTACT: Truett DeGeare, Chief, State Programs Branch, State Programs and Resource Recovery Division, Office of Solid Waste and Emergency Response, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 382–2210.

SUPPLEMENTARY INFORMATION:

I. Background

On October 20, 1981, EPA proposed to temporarily suspend the effective dates of its January 1981 permitting standards for incinerators and storage surface impoundments, as applied to existing facilities, pending a reexamination of their appropriateness for existing facilities (46 FR 51407). These standards were issued under Subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (RCRA) 42 U.S.C. 6901 *et seq.* In the preamble to the proposed suspension, EPA stated that the Agency's policy would be to postpone decisions on the authorization of state permitting programs for existing incinerators and existing storage surface impoundments until the Agency has resolved the question of suspending the effective date of the Federal standards for those facilities.

At least three states have commented to EPA in writing such a postponement would be unfair and illegal. Those states argue that unless EPA actually suspends the effective date of its standards, the standards remain in effect and are part of Components A and B of Phase II interim authorization, as announced on January 26, 1981 (46 FR 7964).

II. New Policy

EPA agrees that under the regulations in 40 CFR Part 123, Subpart F, and the January 26 notice of the contents of Components A and B, states that meet the regulatory requirements of Subpart F currently are entitled to receive interim authorization to issue RCRA permits to both new and existing incinerators and storage surface impoundments. However, if the Agency suspends the effective date of its permitting standards as they apply to certain categories of facilities, neither EPA nor any state would be able to issue RCRA permits to the facilities (or individual storage or treatment units) for which EPA does not have effective standards. State authorization to issue permits to those categories of facilities would automatically lapse because there would be no Federal program under Subtitle C of RCRA for the state program to be substantially equivalent to or to operate "in lieu of."

EPA's new policy will be to authorize state programs that meet the regulatory requirements for Components A and B of Phase II interim authorization to permit both new and existing incinerators and storage surface impoundments, but to include a suspension proviso, in the Memorandum of Agreement (see 40 CFR 123.126), between EPA and the authorized state. The proviso will specify that if EPA suspends the effective date of its January standards as they apply to existing incinerators and storage surface impoundments, EPA's authorization of the state to issue RCRA permits to those facilities will automatically be suspended. However, any such suspension will have no impact on the state's ability to issue state permits under state law and regulations. The full text of the model language EPA has developed for State/EPA Memoranda of Agreement on this subject is appended to this notice.

III. Authority

This policy statement relates to rules issued under the authority of sections 1006, 2002(a), 3004, 3005 and 3006 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6905, 6912(a), 6924, 6925 and 6926.

IV. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirements of a Regulatory Impact Analysis. This announcement of new authorization policy is not a "major rule" because it does not result in an annual effect on the economy of $100 million or more; result in increases in costs of prices; or pose significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This announcement was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Dated: February 18, 1982.

Anne M. Gorsuch,

Administrator.

Appendix

(This material will not appear in the Code of Federal Regulations)

The State is aware that EPA has proposed to suspend the effective date of its January regulations as applied to existing incinerators and storage surface impoundments pending a reexamination of the appropriateness of those standards for existing facilities. 46 FR 51408 (October 20, 1981). The State recognizes that if the Administrator does suspend the effective date of the January regulations as they apply to certain facilities, there will then be no Federal program in effect for those facilities. Thus there will be no program for the State program to operate "in lieu of." The State agrees that if EPA suspends the effective date of its January standards as they apply to existing incinerators and storage surface impoundments, EPA's authorization of the State to issue RCRA permits to those facilities will automatically be suspended. State program authorization to issue these RCRA permits can be reinstated once EPA reestablishes this part of the Federal program by either reinstating the effectiveness of the existing regulations or promulgating new or amended regulations. EPA intends that procedures for reinstatement of State program authorization will be consistent with 40 CFR 123.13(a), (b)(1) and (2). If EPA suspends its January standards only with respect to certain categories of existing incinerators and surface impoundments, the State's authorization to issue RCRA permits to owners and operators for the remaining categories of facilities will continue in force. In other words, the State will continue to be authorized to issue RCRA permits to whomever EPA would be able to issue RCRA permits were the State not authorized. Any such suspension will have no effect on the State's ability to issue State permits under State law and regulations.

[FR Doc. 82-4909 Filed 2-23-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 180

[PH-FRL-2057-8; PP 9F2206/R406]

Diethatyl-Ethyl; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the herbicide diethatyl-ethyl and its metabolites in or on the raw agricultural commodities sugar beet roots and sugar beet tops. This regulation to establish the maximum permissible level for residues of the herbicide in or on the commodities was requested by BFC Chemicals, Inc.

EFFECTIVE DATE: Effective on February 24, 1982.

ADDRESS: Written objections may be submitted to the Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the Federal Register of June 15, 1979 (44 FR 34693) which announced that Boots Hercules Agrochemicals Co., 910 Market St., Wilmington, DE 19899, had filed pesticide petition 9F2206 to the EPA. (Boots Hercules and Fisons, Inc., have since merged as BFC Chemicals, Inc., 4311 Lancaster Pike, PO Box 2867, Wilmington, DE 19805 and BFC Chemicals has become the petitioner.) The petition proposed that 40 CFR Part 180 be amended by establishing tolerances for the combined residues of the herbicide diethatyl-ethyl (*N*-chloroacetyl-*N*-(2,6-diethylphenyl) glycine ethyl ester and its major metabolites, *N*-chloroacetyl-*N*-*N*-(2,6-diethylphenyl) glycine ethyl ester glutathione conjugate and *N*-chloroacetyl-*N*-(2,6-diethylphenyl) glycine ethyl ester cysteine conjugate in or on the raw agricultural commodities sugar beet roots and sugar beet tops at 0.05 part per million (ppm) and soybeans at 0.2 ppm. The petitioner subsequently amended the petition to delete soybeans and expressed the request as combined residue of diethatyl-ethyl and its metabolites (free and bound) determinable as the *N*-acetyl-*N*-(2,6-diethylphenyl) glycine derivative.

No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data considered in support of these tolerances included: a rat oral lethal dose (LD_{50}) study with an LD_{50} greater than 2.0 grams (g)/kilogram (kg) of body weight (bw); a mouse LD_{50} greater than 1.5 g/kg; a 90-day dog feeding study with a no-observed-effect level (NOEL) of 2,000 ppm; a three-generation rat reproduction study with a NOEL 200 ppm; a rat teratology study negative up to 500 milligrams (mg)/kg for teratogenic effects and with a NOEL for fetotoxic effects of 250 mg/kg; a supplemental rabbit teratology study with no teratogenic or fetotoxic effects at 100 mg/kg (higher doses could not be evaluated); a mouse micronucleus study negative for mutagenic effects; a 24-month mouse oncogenicity study negative for oncogenic effects and with a NOEL of 5,000 ppm for non-neoplastic lesions; and a 2-year rat chronic oral/oncogenicity study negative for oncogenic effects and with a NOEL of 200 ppm. Data lacking, but considered desirable, are a 1-year (or longer) non-rodent (dog) feeding study and a repeat of the rabbit teratology at mid and high doses.

Based on a NOEL of 2,000 ppm in the 90-day dog feeding study and a safety factor 2,000, the acceptable daily intake (ADI) is 0.025 mg/kg/day. For a 60-kg person, the maximum permissible intake

(MPI) is 1.5 mg/day. These tolerances utilize 0.18 percent of the ADI.

The nature of the residues of the pesticide in plants and animals is adequately delineated and an adequate analytical method (gas chromatography) is available for enforcement purposes. There is no expectation of residues in meat, milk, poultry, or eggs.

The pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that establishment of the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before March 26, 1982 file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or exemptions from requirement of tolerances do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(d)(2), 68 Stat. 514; (21 U.S.C. 346a(d)(2)))

Dated: February 12, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR Part 180 is amended by establishing a new § 180.402 to read as follows:

§ 180.402 Diethatyl-ethyl; tolerances for residues.

Tolerances are established for the combined residues of the herbicide diethatyl-ethyl and its metabolites (free and bound) determinable as the *N*-acetyl *N*-(2,6-diethylphenyl) glycine derivative in or on the following raw agricultural commodities:

Commodities	Parts per million
Sugar beets, roots	0.05
Sugar beets, tops	0.05

[FR Doc. 82-4907 Filed 2-23-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP OE2386/R339; PH-FRL-2054-4]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Atrazine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide atrazine. This regulation to establish a maximum level for residues of atrazine in or on guava was submitted by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on February 24, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St. S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Emergency Response Section, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 502B, CM No. 2, 1921 Jefferson Davis Highway, Arlington, Va. 22202, (703–557–7123).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking that published in the Federal Register of December 30, 1981 (46 FR 63085) that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, had submitted pesticide petition number OE2386 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of Hawaii.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, establish a tolerance for combined residues of the herbicide atrazine (2-chloro-4-ethylamino-6-isopropylamino-*s*-triazine) and its metabolites in or on guava at 0.25 part per million (ppm). The petition was later revised to propose a tolerance of 0.05 ppm atrazine *per se* in or on guava.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought, and it is concluded that establishment of the tolerance will protect the public health. Therefore, 40 CFR 180.220 is amended as set forth below.

Any person adversely affected by this regulation may, on or before March 26, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

As required by Executive Order 12291, the EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this regulation from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Effective on: February 24, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

Dated: February 3, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.220 is amended by adding and alphabetically inserting the raw agricultural commodity "guava" in paragraph (a) to read as follows:

§ 180.220 Atrazine; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * *	
Guava	0.05
* * *	

[FR Doc. 82-4908 Filed 2-23-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 6E1856/R400; PH-FRL-2054-3]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; MCPA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the herbicide 2-methyl-4-chlorophenoxyacetic acid (MCPA). This rule to establish a maximum permissible level for residues of MCPA in or on certain raw agricultural commodities was requested by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on February 24, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Emergency Response Section, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 502B, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7123).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking that published in the Federal Register of December 23, 1981 (46 FR 62300) that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number 6E1856 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Illinois, Iowa, Michigan, Minnesota, South Dakota, and Wisconsin. This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug and Cosmetic Act, propose the establishment of tolerances for residues of the herbicide MCPA in or on the forage legumes alfalfa, clovers, lespedeza, trefoils, and vetches at 20 parts per million (ppm). The petition was later amended to propose a tolerance of 0.1 ppm in or on alfalfa, clovers, lespedeza, trefoils, vetches, and the hay of each. Residues will be as a result of treatment of small grains underseeded with the named forage legumes.

The data submitted in the petition, and all other relevant material, have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that establishment of the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before March 26, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

As required by Executive Order 12291, the EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this regulation from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Effective on: February 24, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

Dated: February 3, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.339 is amended by adding and alphabetically inserting in paragraph (a) the raw agricultural commodities alfalfa, clovers lespedeza, trefoils, and vetches and the hay of each to read as follows:

§ 180.339 2-methyl-4-chlorophenoxyacetic acid; tolerances for residues.

(a) * * *

Commodities	Parts per million
Alfalfa	0.1
Alfalfa hay	0.1
* * *	
Clovers	0.1
Clover hay	0.1
* * *	
Lespedeza	0.1
Lespedeza hay	0.1
* * *	
Trefoils	0.1
Trefoil hay	0.1
* * *	
Vetches	0.1
Vetch hay	0.1
* * *	

[FR Doc. 82-4909 Filed 2-23-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 5E1648/R320; PH-FRL-2056-8]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Diquat

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the pesticide diquat on various raw agricultural commodities. This regulation to establish the maximum permissible level for residues of diquat in or on these raw agricultural commodities was requested by the Department of the Army.

EFFECTIVE DATE: Effective on February 24, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS–767 C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking in the Federal Register of March 5, 1981 (46 FR 15285) that the Department of the Army, Office of the Chief Engineers (DEAN–CWO–F), Washington, DC 20314, has submitted pesticide petition (PP 5E1648) to the EPA. The petition proposed that the Administrator amend 40 CFR 180.226 by establishing tolerances for residues of the pesticide diquat (6,7-dihydrodipyrido) (1,2-a:2',1'-c) pyrazidiinium dibromide (calculated as the cation) derived from application of the dibromide salt in or on the raw agricultural commodities fish, forage grasses, forage legumes, and shellfish at 0.1 part per million (ppm), and advocados, citrus fruits, cottonseed, cucurbits, fruiting vegetables, grain

crops, hops, leafy vegetables, nuts, pome fruit, root crop vegetables, small fruits, seed and pod vegetables, stone fruits, and sugarcane at 0.02 ppm resulting from its use in aquatic weed control programs. A related document (FAP 5H5097/R78) which establishes a regulation permitting the use of diquat in water appears elsewhere in this issue of the Federal Register.

The evaluation of the scientific data supporting this regulation is presented in the Federal Register of March 5, 1981 (46 FR 15285).

A regulation is in effect (21 CFR 193.160) permitting the use of the dibromide salt of diquat to control aquatic weeds in canals, lakes, ponds, and other potential sources of potable water with an interim tolerance of 0.01 ppm. Tolerances have previously been established (40 CFR 180.226) for residues of diquat from use of its dibromide salt in or on a variety of raw agricultural commodities. The pesticide is considered useful for the purpose for which the tolerances are sought, and there is no reasonable expectation of residues in eggs, meat, milk, or poultry as delineated in 40 CFR 180.6(a)(3). Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before March 26, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or exemptions from requirement of tolerances do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(d)(2), 68 Stat. 514; (21 U.S.C. 346a(d)(2))).

Dated: February 9, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.226 is amended by designating the existing text as paragraph (a) and adding paragraph (b) to read as follows:

§ 180.226 Diquat; tolerances for residues.

(a) * * *

(b) Tolerances are established for residues of the herbicide diquat (6,7-dihydrodipyrido (1,2-a:2',1'-c) pyrazidiinium) (calculated as the cation) derived from the application of the dibromide salt to ponds, lakes, reservoirs, marshes, drainage ditches, canals, streams, and rivers which are slow-moving or quiescent in programs of the Corps of Engineers or other Federal or State public agencies and to ponds, lakes and drainage ditches only where there is little or no outflow of water and which are totally under the control of the user, in or on the following raw agricultural commodities:

Commodities	Parts per million
Avocados	0.02
Cottonseed	0.02
Cucurbits	0.02
Fish	0.1
Fruits, citrus	0.02
Fruits, pome	0.02
Fruits, stone	0.02
Grain, crops	0.02
Grasses, forage	0.1
Hops	0.02
Legumes, forage	0.1
Nuts	0.02
Shellfish	0.1
Sugarcane	0.02
Vegetables, fruiting	0.02
Vegetables, leafy	0.02
Vegetables, root crop	0.02
Vegetables, seed and pod	0.02

Where tolerances are established at higher levels from other uses of diquat on the subject crops, the higher tolerances applies also to residues of the aquatic uses cited in this paragraph.

[FR Doc. 82-4725 Filed 2-23-82; 8:45 am]

BILLING CODE 6560-32-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-37

[FPMR Amdt. F-52]

Local Telephone Service; Major Changes and New Installations

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This directive clarifies the descriptions of major changes to local telephone service systems and adds agency exclusive teleconferencing facilities to the list of major items requiring GSA approval. These changes are necessary to ensure the reliability and financial stability of FTS-provided local and intercity telephone service.

EFFECTIVE DATE: February 24, 1982.

FOR FURTHER INFORMATION CONTACT: Robert R. Johnson, Policy and Evaluation Division (202–566–0194).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; GSA has determined that the potential benefits from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the approach involving the least net cost. This rule involves Government management matters and has a minimal impact on society.

PART 101-37—TELECOMMUNICATIONS MANAGEMENT

1. Section 101–37.202 is amended by revising the introductory paragraph and paragraphs (a)(1), (a)(5), (a)(6) and (a)(10) and by adding paragraphs (a)(2), (a)(3), and (a)(11) to read as follows:

§ 101–37.202 Description of major changes.

This section describes major changes and new installations of telecommunications services and facilities that require approval by GSA. These services are:

(a) * * *

(1) Installation, relocation, replacement, or removal of a private branch exchange (PBX), CENTREX service, or automatic call distributor (ACD) equipment. A telephone subsystem installed as part of a GSA telephone system is not considered a major change when the subsystem does not duplicate features of the PBX or CENTREX main system. However, these subsystems must be approved by the GSA region providing service to ensure

that subsystems are compatible with the main system. (Telephones connected to a subsystem are subject to the same common distributable rate as those connected to the main system.)

(2) Installation, relocation, or replacement of agency exclusive teleconference facilities that provide for a conference capability of more than five connections. GSA provides conference services at most GSA consolidated telephone systems. Conferences involving more than five connections should be placed through the National FTS Conference Control Center in Washington, DC. (Agency requests for GSA approval of exclusive-use conference facilities should contain sufficient economic and operational detail to evaluate the request in comparison with the FTS teleconference services.)

(3) Installation, replacement, or relocation of any stand-alone telephone equipment arrangement having the capability or capacity to provide service to 50 or more telephones.

* * * * * *

(5) Installation or relocation of 25 or more business lines.

(6) Installation, augmentation, replacement, or removal of tielines between private branch exchanges.

* * * * * *

(10) Installation of 200 or more main stations to any PBX that is connected directly to the FTS intercity voice network.

(11) Any change to local telephone service that requires relocation or removal of FTS intercity voice network facilities.

* * * * * *

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

Dated: February 2, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82-4888 Filed 2-23-82; 8:45 am]

BILLING CODE 6820-25-M

Proposed Rules

Federal Register
Vol. 47, No. 37
Wednesday, February 24, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1944

Rural Rental Housing Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulations concerning rural rental housing loans. The action is taken because of changes in the administration of the program and the need to eliminate certain requirements in the regulations which are no longer appropriate and whose continued requirement impede the efficient administration of the program. It is also taken to strengthen the Agency's mission of rural development and strengthen Agency efforts to assist distressed communities and rural areas which have significant populations of poor and disadvantaged persons. The intended effect is to clarify and update the regulations and provide needed instruction to FmHA field staff in the processing of rural rental housing preapplications.

DATES: Comments must be received on or before April 26, 1982.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, South Agriculture Building, 14th Street and Independence Ave., SW., Washington, DC 20250. All written comments made pursuant to the notice will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Antonio O. Izquierdo, Branch Chief, Rural Rental Housing Loan Division, Room 5331, South Agriculture Building, 14th St. and Independence Avenue, SW., Washington, DC 20250, Telephone 202–382–1621.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 which implements Executive Order 12291, and has been determined "not major". It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action is taken in reply to findings and recommendations of the general public and FmHA field and National Office staffs which require that certain changes be made to the rural rental housing regulations as soon as possible to protect the integrity of the program and to provide verification of proper use of Federal funds to meet more effectively the needs of the primary beneficiaries of the program. This action also implements certain Congressional requirements established in the Housing and Community Development Amendments Act of 1980, which were effective on the ratification of the Act in October 1980.

There is no impact on proposed budget levels, and funding allocations will not be affected because of this action. It is determined that this regulation maximizes net benefit to society at the lowest net cost.

Approval has been requested from the Office of Management and Budget for the reporting and recordkeeping requirements contained herein.

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements". It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

The FmHA programs and projects which are affected by this instruction are subject to state and local clearinghouse review in the manner delineated in FmHA Instruction 1901–H.

This regulation is listed in the CFDA under 10.415, Rural Rental Housing Loans.

The alternatives to issuing the proposed revisions to the regulations which were considered included not changing existing regulations, partial revisions of selected portions of the current regulations, and allowing each FmHA State Office to establish procedures consistent with local practices. Each of these alternatives was rejected because it did not promote efficiency in Agency operations, assure long term compliance with the objectives for which the FmHA assistance was provided, and could lead to a proliferation of regulations and requirements more stringent than necessary and confusing to the public, especially borrowers with operations in more than one jurisdiction. On this basis, the Agency has determined that the chosen alternative maximizes the net benefit to society at the lowest net cost.

The FmHA proposes to amend Subpart E of Part 1944, Chapter XVIII, Title 7, Code of Federal Regulations. The specific revisions to the instruction are as follows:

1. Section 1944.205(f)(5) is added to define what constitutes an eligible tenant in a cooperative type rental housing project.

2. Section 1944.205(k) is revised to clarify eligible legal, professional and technical services and fees.

3. Section 1944.211(a)(1) is revised to clarify the eligibility of American Indian tribes as eligible program applicant's in accordance with the Housing and Community Development Amendments Act of 1980.

4. Section 1944.211(a)(5)(iii) is revised to clarify when a borrower's initial two percent operating capital can be returned after two years.

5. A new § 1944.212(b) is added to permit the purchase and rehabilitation of exising buildings.

6. Section 1944.212(b) is relettered (c) and revised to indicate that existing buildings needing major rehabilitation is an eligible loan purpose and paragraphs (c) through (q) are relettered (d) through (r) respectively.

7. Section 1944.212(1) has been revised to clarify legal, technical, and professional services and fees which can be paid from loan funds.

8. Section 1944.215(e)(4) is removed.

9. Section 1944.215(q)(5) is added to clarify what action is to be taken when the area in which a rural rental housing preapplication is located changes from an FmHA eligibility determination of rural to nonrural.

10. Section 1944.221 is renumbered as subsection (a).

11. Section 1944.221 (b) is added to require a financing statement and a security agreement pleading all revenue from the respective rural rental housing project.

12. Section 1944.222 (m) is revised to clarify who must submit a Form HUD–2530/FmHA 1944–37, "Previous Participation Certification."

13. Section 1944.231 (d)(2) is revised to clarify at what time in the processing of a rural rental housing preapplicaton, (in which the State Director determines that it must be sent to the National Office) does the docket have to be sent to the National Office for authorization.

14. Section 1944.231 (d)(3) is revised to clarification purposes.

15. Section 1944.231 (d)(3)(i) is revised to clarify and update rural rental housing processing procedures for the selection of RRH preapplications for further development.

16. Section 1944.231 (d)(3)(ii)(A), (B), (C), and (D) are revised to conform to more up-to-date preapplication selection requirements and criteria.

17. Section 1944.231 (d)(3)(ii)(E) is removed.

18. Section 1944.231 (d)(4) is revised.

19. Section 1944.231 (d)(5)(ii) is revised to clarify the time up to which the Agency will maintain a rural rental housing preapplication on hand for consideration for funding.

20. Section 1944.231 (d)(5)(iii) is revised to clarify the role and timetable requird of the District Director in the processing of a rural rental housing preapplication.

21. Section 1944.232 (d)(2) is revised to include the requirement of Form FmHA 440–25, "Financing Statement."

22. Section 1944.235 (b)(1) and (2) are added to define under what conditions it is permissible to transfer an obligation of funds.

23. Section 1944.237 is renumbered to subsection (a).

24. Section 1944.237 (b) is added to clarify under what conditions a subsequent rural rental housing or rural cooperative loan can be made to an existing borrower.

25. Section 1944.237 (c) is added to clarify what are subsequent loans.

26. Section 1944.237 (d) is added to clarify when the initial five percent borrower contribution and the initial two percent operation and maintenance funds are needed in the case of a subsequent loan.

27. Exhibit A–6, paragraph 1 a, is revised to clarify the certification statement that members of a borrower entity must provide to FmHA in regards to their financial statement in cases where the FmHA loan has been closed.

28. Exhibit A–6, paragraph 1 g, is revised to clarify when Form HUD 2530/FmHA 1944–37, "Previous Participation Certification," is required of program participants.

29. Exhibit A–6, paragraph 2 is revised to require a complete market analysis or survey with the preapplication instead of at the application stage.

30. Exhibit A–7, paragraph 5, is revised to clarify when a new market analysis or survey would be required in the application stage.

31. Exhibit A–7, paragraph 5 a, b, b 1, 2, 3, 4, 5, 6, c, d, and e are removed.

32. Exhibit A–7, paragraph 6, is revised to clarify under what conditions will a new financial statement be required of the applicant at the application state.

33. Exhibit A–7, paragraph 13 is removed.

34. In Exhibit B, paragraph VI A 1, 2, and 3 are revised, to conform with Subpart C of Part 1930.

35. In Exhibit B, paragraph VI A 3 a, b, c, and d are removed.

36. Exhibit B, paragraph VI C 2, is revised to clarify how to treat vacancies under multiple advances when all construction is not complete and the borrower desires to execute the Interest Credit Agreement.

37. In Exhibit B, paragraph VI D is revised to indicate the new Form HUD 50059, "Certification and Recerification of Tenant Eligibility."

38. In Exhibit C, paragraph VI B is revised to refer back to the proceeding paragraph, paragraph VII E is revised to refer to the lease requirements of paragraph VII of Exhibit B to Subpart C to Part 1930, and paragraph VII E 1, VII E 2, a, b, c, d, e, f, g, and h, and VII E 3 are removed.

39. In Exhibit C, a new paragraph IX B 4 is added to indicate the terms for the renewal of rental assistance agreements.

40. Exhibit C, paragraph X A 1 c is removed.

41. Exhibit C, paragraph X C 2 is removed, and existing paragraphs X C 3, 4 and 5 are renumbered X C 2, 3 and 4 respectively. Paragraph X C 2 is revised by adding "or renewal" in the heading of the paragraph and in the first sentence between the words "initial" and "request". Paragraph X C 3 is revised by adding at the end of the paragraph the new sentence "The rental assistance agreement number will be the same as the agreement being modified".

42. In Exhibit C, paragraph XII A is removed, paragraphs B, D, E and F are relettered, and paragraph XII is renumbered a new paragraph XV.

43. In Exhibit C, a new paragraph XII is added, to clarify the procedure by which to cancel rental assistance payments with the Finance Office.

44. Exhibit C, paragraph XIII, is added, to clarify the procedure by which to terminate existing rental assistance agreements obligated during prior fiscal years.

45. Exhibit C, paragraph XIV, is added, to clarify the procedure by which to terminate rental assistance agreements made within the same fiscal year.

46. Exhibit C, paragraph XIII is renumbered XVI.

47. Exhibit M is revised to Form HUD–2530/FmHA 1944–37, "Previous Participation Certification."

48. Numerous editorial and/or typographical changes have been made.

Accordingly, FmHA proposes to amend Subpart E of Part 1944, Chapter XVIII, Title 7, Code of Federal Regulations as follows:

PART 1944—HOUSING

Subpart E—Rural Rental Housing Loan Policies, Procedures, and Authorizations.

1. In § 1944.205, paragraph (k) is revised and paragraph (f)(5) is added to read as follows:

§ 1944.205 Definitions.

* * * * *

(f) *Eligible occupants.* * * *

* * * * * *

(5) In the case of cooperative housing projects all members (tenants) must be of low- or moderate-income except that, any tenant who is admitted as an eligible tenant of the cooperative may not subsequently be deprived of her-his membership or tenancy by reason of no longer meeting the income eligibility requirements as outlined in Exhibits C of Subpart A of Part 1944.

* * * * *

(k) *Development cost.* The cost of constructing, purchasing, improving, altering, or repairing housing and related facilities and the value of cost of purchasing and improving the necessary land. It includes necessary architectural, engineering, legal, and other appropriate technical and professional fees and charges. However, costs incurred in the formation or incorporation of the applicant organization are excluded

except as indicated in § 1944.212(l) of this Subpart. For nonprofit organizations and State or local public agencies the development cost may include initial operating expenses up to 2 percent of the aforementioned costs. It does not include fees, charges, or commissions such as payments to brokers, negotiators, or other persons for the referral of prospective applicants or solicitation of loans. In the case of State or local public agencies the costs incurred in the relocation of individuals may be included as part of the total development cost in accordance with § 1944.215(u) of this Subpart.

* * * * *

2. In § 1944.211, paragraph (a)(1) is revised and paragraph (a)(5)(iii) is amended to add a new sentence to the end of the paragraph to read as follows:

§ 1944.211 Eligibility requirements.

(a) *Eligibility of applicant.* To be eligible for an RRH loan, the applicant must:

(1) Be either an individual who is a citizen of the United States or a legally admitted alien for permanent residence in the United States, or an organization as defined in § 1944.205(n) of this subpart or be an Indian tribe, band, group, nation, including Alaska Indians, Aleuts, Eskimos and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638) or under the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92–512), which will provide housing for eligible occupants as defined in § 1944.205(f) of this subpart.

* * * * *

(5) * * *

(iii) * * * This applies to RRH and Rural Cooperative Housing (RCH) loans closed after October 27, 1980, and is not retroactive to existing loans prior to that date or to transfer cases after that date.

* * * * *

3. In § 1944.212, paragraphs (b) through (q) are relettered to (c) through (r), respectively, and a new paragraph (b) is added, and paragraphs (c) and (l) are revised to read as follows:

§ 1944.212 Loan purposes.

* * * * *

(b) Purchase existing buildings only when major rehabilitation is necessary in accordance with paragraph (c) of this section.

(c) Rehabilitate existing buildings only when major modifications, repairs, or improvements to the structures are necessary to meet the requirements of decent, safe, and sanitary living units. Loans will not be made for the purchase of adequate housing not in need of major rehabilitation. Major rehabilitation shall not be considered to be minor items of development work such as painting, cleaning, and improvements to related facilities.

* * * * *

(l) Pay related costs such as fees and charges for legal, architectural, engineering, and other appropriate technical and professional services. The fees and charges may be paid to an applicant or to an officer, director, trustee, stockholder, member, or agent of the applicant provided those fees and charges are reasonable and typical for that area and are earned. Legal, technical and professional fees do not include the costs incurred in the formation or incorporation of the applicant entity or the payment of a "loan packaging" or development fee. Ordinarily, FmHA will furnish the needed guidance for the development of an RRH loan docket and project. However, the State Director may authorize the use of loan funds to enable a nonprofit corporation or consumer cooperative to pay a qualified consulting organization or foundation, operating on a nonprofit basis, to assist it in formation or incorporation and for the development and packaging of its loan docket and project. In the latter case, the State Director must determine that:

* * * * *

4. In § 1944.212(c)(6) change the reference "paragraph (b)(5)" to "paragraph (c)(5)" in the first sentence.

5. In § 1944.212 (p) and (p)(3) change the reference "§ 1944.235(b)(1)" to "§ 1944.235(c)(1)".

6. In § 1944.213(b)(1) change the following references: "§ 1944.212(p)" to "§ 1944.212(q)"; "§ 1944.212(b)" to "§ 1944.212(c)", and "§ 1944.212(o)" to "§ 1944.212(p)".

7. In § 1944.213(b)(10)(i) change the reference "§ 1944.235(b)(1)" to "§ 1944.235(c)(1)".

8. In § 1944.213(b)(13) change the reference from "§ 1944.212(c)(2)" to "§ 1944.212(d)(2)".

9. In § 1944.213(b)(14) change the reference "§ 1944.212(c)(2)" to "§ 1944.212(d)(2)".

10. In § 1944.213, a new § 1944.213(b)(16) is added to read as follows:

§ 1944.213 Limitations.

* * * * *

(b) *Limitations on use of loans funds.*

* * *

* * * * *

(16) The financing or construction of non-essential facilities such as fireplaces, saunas, whirlpools, gyms, swimming pools, carports, garages and covered parking.

* * * * *

11. In § 1944.213(c) change the reference from "§ 1944.235(b)(1)" to "§ 1944.235(c)(1)".

12. In § 1944.215, paragraph (e)(4) is removed and paragraph (q)(5) is added to read as follows:

§ 1944.215 Special conditions.

* * * * *

(q) *Location of Housing.* * * *

* * * * *

(5) The property for which a loan is made must be located in a rural area as defined in § 1944.10 of Subpart A to Part 1944, or on a farm, except that if the area where the property is located has changed from rural to nonrural after the official 1980 census figures are published, loan applications received prior to the date the area was determined nonrural, will be processed as expeditiously as possible, and loans closed on the applications provided the loan applicants are otherwise eligible.

* * * * *

13. Section 1944.221 is revised to read as follows:

§ 1944.221 Security.

(a) Mortgage. Each loan will be secured in a manner that adequately protects the financial interest of the Government. A first mortgage, except as indicated in paragraphs (a)(1) and (3) of this section, will be taken on the property purchased or improved with the loan. A mortgage should be taken on only that part of the land which is necessary to provide adequate security for the loan as determined by the appraisal, except when excess land is purchased as authorized in § 1944.312(d)(3) of this Subpart.

(1) A second mortgage will be taken on a site developed with prior RRH loan(s) when a subsequent loan is made to complete or finish out units on the site, or when a second initial loan is made to develop units on a contiguous site.

(2) Personal liability will not be required for the members or stockholders of any corporation or trust or any partners in a limited partnership. Personal liability will be required of all members of other partnerships. For limited partnerships the State Director will obtain the advice of the Regional Attorney as to any modifications needed in the Promissory Note and mortgage.

(3) If it is impossible or inadvisable for an applicant which is a public or quasi-public organization to give a real estate mortgage, the security to be taken will be determined by the National Office upon the recommendation of the State Director. The State Director should consult OGC as to whether the proposed security is legally permissible.

(b) To secure the FmHA loan, each borrower will execute Form FmHA 440–24, "Financing Statement," and a security agreement at loan closing pledging all revenue from the housing project according to the priorities set out in paragraph XI A of Exhibit B to Subpart C of Part 1930. This may be HUD Section 8 Housing Assistance Payments, FmHA RA payments and/or tenant rent payments.

14. In § 1944.222, paragraphs (g) the italicized heading and (m) are revised to read as follows:

§ 1944.222 Technical, legal, and other services.

* * * * *

(g) *How to apply for a Rural Rental Housing Loan.* * * *

* * * * *

(m) *Previous participation certification.* All known principals and affiliates are required to submit a properly completed Form HUD–2530/FmHA 1944–37, "Previous Participation Certification" (See Exhibit M). Architects and any attorneys who have any interest in the project other than an arms length fee arrangement for professional services are also considered principals. The form will be completed and processed in accordance with instructions attached to the form.

15. In § 1944.222(h) change the reference from "§ 1944.212(k)" to "§ 1944.212 (l)".

16. In § 1944.231, paragraph (d)(3)(ii)(E) is removed, and paragraphs (d)(2) introductory text, (d)(3), (d)(4) and (d)(5)(ii) and (d)(5)(iii) are revised to read as follows:

§ 1944.231 Processing preapplications.

* * * * *

(d) *Actions by the State Office.*

* * * * *

(2) When the State Director determines it necessary, and for all preapplications in excess of the State Director's approval authority, the preapplication will be sent to the National Office for evaluation, authorization, and instructions prior to ranking preapplications in accordance with § 1944.231(d)(3) of this section. When projects are submitted to the National Office, the following information must be included in the submission:

* * * * *

(3) The State Director, with the assistance, advice, and counsel of the Multiple Family Housing Coordinator, will review the preapplication information, credit report(s), and the District Director's eligibility and feasibility determination and recommendations.

(i) All preapplications determined eligible and feasible will be immediately evaluated in accordance with the priority processing system established in this subpart. Preapplications receiving the highest rating will be notified, using Form AD–622 of their eligibility and advised to develop an application. Authorizations cannot exceed 150 percent of a state's or district's latest annual allocation. The remaining eligible preapplications and future eligible preapplications will be notified using Form AD–622 of their eligibility but advised that processing priorities and current funding levels will not permit further processing of their application at this time. These preapplications will be ranked numerically based on their rating. As loans are approved, applications withdrawn or annual allocations increased which permit further authorizations, the preapplication with the next highest numerical ranking will be contacted. If the factors supporting the ranking still exist authorization to develop an application will be given.

(ii) Preference in selecting and processing loan requests within the annual allocations will be based on the priorities indicated.

(A) Projects in areas or communities having a higher percentage of substandard housing. For this purpose FmHA will use the county data provided by the National Office unless better and more specific statewide data approved by the National Office is available for a particular state. If the state mean of substandard housing exceeds 15.0 percent, use Chart A. If the state mean is 15.0 percent or less use Chart B. Forty points to be distirbuted in the following manner:

A (percent)	Points	B (percent)
Over 34	40	Over 16.
31 to 34	35	17 to 18.
27 to 30	30	15 to 16.
23 to 26	25	13 to 14.
19 to 22	20	11 to 12.
15 to 18	15	9 to 10.
11 to 14	10	7 to 8.
7 to 10	5	5 to 6.
0 to 6	0	0 to 4.

(B) Projects in areas or communities having the lowest median per capita income. This data will be provided by the National Office. Thirty points to be distributed in the following manner:

	Points
100% or more of State Capita Income	5
95 to 99	10
90 to 94	15
85 to 89	20
80 to 84	25
Less than 80	30

(C) Projects which will serve the needs of rural communities located a number of miles from the FmHA eligibility line around urban areas considered ineligible for FmHA housing loans as determined by § 1944.10 of Subpart A of Part 1944. Twenty points to be distributed based on map mileage from project site to urban area line over normally travelled roads in the following manner:

	Points
20 or more miles	20
15 to 19	15
10 to 14	10
5 to 9	5
0 to 4	0

(D) Projects located in communities or market areas which do not have an FmHA financed Section 515 project in operation or authorized.

	Points
No FmHA rental housing project	5
Existing or authorized rental project	0

* * * * *

(4) After completing the review and rating, the State Director will notify the District Director of the results. The State Director will return the preapplication information and the executed original Form FmHA 440–46 to the District Office with authorization for the District Director to prepare and issue Form AD–622.

(5) * * *

* * * * *

(ii) Applicants with preapplications which are favorably considered, but are unable to be selected for further processing within approximately 150 percent of the State Office of District Office allocation of funds, will be notified that their preapplications were determined eligible but lacked sufficient priority to authorize further processing at the present time. Applicants should be advised that their preapplication will be retained and considered for future funding based on its rating. If funding is not authorized within one year from the date of the AD–622, they will be notified in writing that their preapplication will no longer be considered unless it is resubmitted or updated. In addition, the applicants will be advised against incurring obligations for legal and architectural and engineering work.

perfecting interests in land rights, and inviting construction bids or making other commitments which cannot be fulfilled without loan funds, until funds are actually made available.

(iii) When an applicant is notified to proceed with an application the District Director should establish specific deadlines for developing the proposal to avoid unreasonable delays by those applicants not prepared to proceed. In addition, the following paragraphs should be contained on or attached to Form AD–622: "The review action taken by FmHA is based upon representations made in your preapplication presented to FmHA. Any changes in approximate project costs, size or scope of the project, rental rates to the tenants or subsidy costs to the Government, scope of services, sources of funds, or any other significant changes in the project or applicant, must be reported to and approved by FmHA in writing. Any changes not approved by FmHA shall be cause for discontinuing processing of the application. All applicants requesting changes will be required to give full justification for each change, and if FmHA approval is not given, written reasons should be provided along with a 30 day negotiation period to resolve the differences."

This action is not to be considered as loan approval or as a representation of the availability of funds. The loan docket may be completed on the basis of a loan not to exceed the amount shown on Form AD–622.

If a complete application has not been developed in approvable condition by the date specified on Form AD–622, FmHA reserves the right to discontinue processing the application.

17. In § 1944.232, paragraph (d)(2) is amended by changing "FmHA 440–1" to "FmHA 1940–1", by changing "HUD Form 2530, Previous Participation Certification" to "HUD Form 2530/FmHA 1944–37, Previous Participation Certification", by changing "Nondiscrimination Agreement" to "Assurance Agreement" and by adding Form FmHA 440–25 to loan docket list immediately following Form FmHA 400–4 to read as follows:

§ 1944.232 Preparation of completed loan docket.

* * * * * * *

(d) *Assembly, review, and distribution of complete loan docket items.*

* * * * * *

(2) * * *

For FmHA 440–25	Financing Statement	2	2-C&1C	1-C	1-C

* * * * *

§ 1944.233 [Amended]

18. Section 1944.233 is amended by changing the reference from "Form FmHA 440–1" to "Form FmHA 1940–1" in the following locations: in the first sentence of paragraph (b)(2)(i)(A), in the third sentence of paragraph (b)(2)(i)(B), in paragraph (b)(2)(i)(C), in the second and fourth sentences of paragraph (b)(2)(i)(F), in the first sentence of paragraph (b)(2)(ii), in paragraph (b)(3)(ii), and in paragraph (b)(3)(iii).

19. In § 1944.235(a)(4) change the reference from "§ 1944.212(n)" to "§ 1944.212(o)".

20. In § 1944.235, paragraphs (b) through (h) are relettered to (c) through (i), respectively, and a new paragraph (b) is added to read as follows:

§ 1944.235 Actions subsequent to loan approval.

* * * * *

(b) *Prohibitions on the transfer of obligations.*

(1) It is not permissible to transfer an obligation of loan fund from one individual applicant to another individual applicant, from an individual applicant to an organizational applicant, nor from an organizational applicant to an individual applicant. This is true even when loan funds will be used to develop the same project on the same site to serve the same market area.

(2) However, if organizations are involved, there are two situations in which an obligation or the essence of a transfer of fund obligation may occur. These are:

(i) *Organization entity remains the same.* In these cases, the entity remains legally the same with a substitution of the members occurring. All or part of the membership may change as long as eligibility is not affected. The project also remains the same concerning site location and the market being served.

(ii) *Organization entity changes.* In these cases the membership remains identical, the project concerning site location and market are the same, but the legal entity must be changed.

* * * * *

21. In § 1944.235(c)(2)(ii) change the reference from "paragraph (b)(2)(i)" to "paragraph (c)(2)(i)" in the first sentence.

22. § 1944.235(d) change the reference from "paragraph (b) (1) or (2)" to "paragraph (c) (1) or (2)".

§ 1944.236 [Amended]

23. In § 1944.236, paragraph (a) is amended by inserting the words "or individual" after "organization" in the third sentence and by changing the reference "§ 1944.21(k)" to "§ 1944.212(1)" in the last sentence.

24. In § 1944.236, paragraph (c)(2) is amended by changing the reference from "Form FmHA 440–1" to "Form FmHA 1940–1" in the first sentence.

25. In § 1944.236(e)(2) change the reference from "FmHA Instruction 405.1" to "FmHA Instruction 1805–A".

26. § 1944.237 is revised to read as follows:

§ 1944.237 Subsequent RRH loans.

(a) A subsequent RRH loan is a loan made to an applicant or borrower to complete or repair the units planned with the initial FmHA loan.

(b) Subsequent loans may be made on property in an area the designation of which changed from rural to nonrural after the initial FmHA loan was made only in the following instances: in connection with a credit sale of inventory property, to make necessary repairs; and, in connection with an assumption and transfer of property securing an RRH loan to make necessary repairs. Subsequent loans for other purposes may not be made to existing borrowers in a nonrural area.

(c) In cases where the loan is to complete the original units under the initial FmHA loan:

(1) If the applicant has provided under the initial FmHA loan an initial investment greater than the five percent required, and it is sufficient to cover the required five percent initial investment of the subsequent loan, then the applicant/borrower should not be required to put up additional funds for this purpose. The same applies to initial O and M requirements.

(2) If the initial five percent investment and two percent O and M amounts are only sufficient to cover the intitial FmHA loan, then the applicant/borrower must provide the additional five and two percent amounts to cover the subsequent loan.

(d) In cases where the loan is to repair an existing project which has been in operation for some time, then:

(1) The applicant/borrower should not be required to provide the initial two percent O and M amount since its purpose is to cover project start-up costs.

(2) The applicant must provide the borrower's initial five percent contribution except in those cases which it can be determined that at the time of the initial FmHA loan, the applicant has provided more than the initial five percent required at that time. The applicant will not be given any consideration for any increase in equity or increase in value that the property may have had since the date of the initial FmHA loan.

§ 1944.238 [Amended]

27. In § 1944.238 change the reference from "Forms FmHA 440–1" to "Forms FmHA 1940–1" in the last line.

28. In Exhibit A–6, paragraph 1(a) is amended by adding a new sentence to the end of the second paragraph, paragraphs 1(g) and 2(a) are revised and a new paragraph 6 is added and reads as follow:

Exhibit A–6—Information To Be Submitted With Preapplication for Rural Rental Housing (RRH) Loan

* * * * *

1. *Eligibility:*

(a) Financial Statement— * * *

"(I) or (we) certify the above statements contained herein are a true and accurate statement of (my) or (our) financial condition as of the date stated herein. This statement is given for the purpose of inducing the United States of America to make a loan as requested in the loan preapplication or application of which this statement is a part," if the loan has not been closed or approved, or "This statement is given for the purpose of enabling the United States of America to make a determination of continued eligibility of the applicant," if the loan is already approved or closed.

* * * * *

(g) All known principals and affiliates are required to submit a properly completed Form HUD–2503/FmHA 1944–37, "Previous Participation Certification". Architects and any attorneys who have any interest in the project other than an arms length fee arrangement for professional services are also considered principals. The form will be completed and processed according to the instructions attached to the form.

2. *Need and Demand:*

(a) A market survey report which should be based on the number of eligible occupants in the area who are willing and financially able to occupy the housing at the proposed rental levels. The economic justification for the housing and the size of the project should be based primarily upon the housing need and demand from eligible prospective occupants who are permanent residents of the community and its surrounding trade area. Permanent residents include those eligible residents of the community that are year-round farm laborers, civilian employees or military personnel of any military installation that may be located within the trade area of the community. Since the intent of the program is to provide adequate housing for the eligible permanent residents of the community, demand from the more temporary residents of a community (such as college students in a college town) should be discounted in determining project size. A market survey report will include:

(i) For a proposed project which will contain 10 or fewer units and will be in a community where an effective demand for rental housing obviously exists, statements supported by statistical data describing and explaining the basis for expecting a continued effective demand for the rural rental housing over the period of the loan. This information may be assembled from census reports, county market evaluations made by the Department of Housing and Urban Development and other published data that shows the number of occupants living in the town or trade area who are eligible to occupy the proposed housing and the condition of the housing they occupy. This information will be used to help determine the maximum number of rental units that may be financed.

(ii) For a proposed project that will include more than 10 units and for any smaller project where there is any doubt concerning the demand, a complete rental housing market analysis showing the need and demand for rural rental housing in the area based on the best information available. It will include:

(A) An estimate of number of houses or apartments in the area for rent or sale. Exhibit A–2 or a similar form should be used for this purpose.

(B) Characteristics of available rental housing such as location, quality and size of unit, type of building, age of structure, house value, tenure, vacancy rate, nature of vacancies, and price or rental levels.

(C) Characteristics of the persons eligible for occupancy of the proposed housing, such as single or couple, size of household, number of senior citizens, nonsenior citizens or handicapped persons, and income financial condition.

(D) Present living arrangements of eligible occupants in the area and the extent to which inadequate housing is associated with health or financial reasons.

(E) Estimate of the number of eligible occupants who are willing and financially able to occupy the proposed housing.

(F) In the case of a proposal involving congregate housing, with central dining area, space for support services, or housing involving a group living arrangement, a narrative statement from local, State, and/or Federal Government agencies supporting the current and long-range need for the facilities in the community and its trade area.

(iii) If the housing is located in an area where there are relatively few eligible occupants, or for any other reason there is a question as to whether the housing will be fully occupied, signed expressions of interest in occupancy from a sufficient number of eligible occupants will be obtained so as to clearly indicate that full occupancy will occur soon after construction is completed. Exhibit A–3 or a similar form may be used for this purpose.

(iv) The applicant will provide a written, signed certification that the information provided in the market study is true and accurate.

(v) For all projects containing over four units the applicant will submit an Affirmative Fair Marketing Housing Plan for approval by FmHA in accordance with § 1901.203 of Subpart E to Part 1901, The Affirmative Fair Marketing Plan must be prepared in a complete, meaningful, responsive and detailed manner.

* * * * *

29. In Exhibit A–7, paragraphs 5 and 6 are revised to read as follows and paragraph 13 is removed:

Exhibit A–7—Information To Be Submitted With Application for Federal Assistance (Short Form)

* * * * *

5. If more than 12 months have transpired since the applicant submitted the market survey report the State Director may require a new one if she/he so determines that the situation merits one.

6. If more than 12 months have transpired since the applicant submitted the dated financial statement the State Director may require a new one if she/he so determines that the situation merits one or if the financial situation of the applicant has sufficiently changed (See paragraph 1a of Exhibit A–6).

* * * * *

30. In Exhibit B, paragraphs VI.A.1, 2, and 3, paragraph VI.C.2, paragraph VI.D are revised to read as follows:

Exhibit B—Interest Credits on Insured RRH and RCH Loans

* * * * *

VI. *Special Conditions.*

A. *Leases.*

1. Monthly or annual leases will be executed with each tenant occupying a rental unit in accordance with the requirements of Subpart C of Part 1930. The State Director should issue State Supplements covering any State laws, special conditions or local customs affecting leasing arrangements that may exist in the state. The lease form, for projects operating under Plan II, in addition to other statements outlining the conditions of the lease, should contain the following statement: "I understand and agree that the monthly rental payment under this lease will be $. I also understand and agree that my monthly rental payment under this lease may be raised or lowered, based on changes in my income and changes in the number and age of persons living in my household and based on the escalation clause in the lease. The rental payment will not, however, be less than $ (Basic Rental) nor more than $ (Market Rental) during the terms of this lease, except that these rental payments may be raised by a Farmers Home Administration approved rent increase. I agree to provide promptly any certifications and income verifications required by the owner to permit eligibility determination and, if applicable, the rental rate to be charged.

2. The lease agreement in congregate housing cases must include in the major provisions the following statement: "I understand that my ability to live independently in the project with the support services available will be evaluated on a continuous basis. I may be requested to vacate if a determination is made that I am no longer able to live in the project without

additional assistance." This involves cases where the tenant has progressed or regressed to a state of health that requires, in the opinion of the management, a level of care not available in the congregate housing facility.

3. Loans will be made on the basis of the units being rented to eligible tenants under Plan II as described in paragraph IV of this Exhibit. If in connection with the servicing of the loan it becomes necessary to permit ineligible persons to occupy the housing for temporary periods to protect the financial interest of the Government, the State Director may authorize the borrower in writing to rent units to ineligible persons subject to the State Director determining compliance with the applicable requirements indicated in paragraph V B 5 of Exhibit B to Subpart C of Part 1930.

* * * * *

C. *Vacancies.*

* * * * *

2. When all construction is not completed but the FmHA loan is closed, all funds have been withdrawn from the Finance Office, some of the units are ready for occupancy, and the contractor consents in writing to permit occupancy, the incompleted units will be assumed to be rented at the market monthly rentals in computing the amount of payment.

D. *Interest Credit for Projects Under the Department of Housing and Urban Development (HUD) Housing Assistance Payments Program or FmHA Rental Assistance.* When rental units in an RRH project are leased under the Section 8 program, Form HUD 50059, "Certification and Recertification of Tenant Eligibility," will be completed as required in Exhibit H for new construction. Projects authorized to utilize rental assistance will complete Form FmHA 444-7 in accordance with Exhibit C.

* * * * *

31. In Exhibit C, paragraphs VII.E.1, VII.E.2.a through E.2.h, VII.E.3, X.A.1.c, X.C.2, XII.A, and XII.B.1 are removed and paragraphs X.C.3, X.C.4, and X.C.5 are renumbered to X.C.2, X.C.3, and X.C.4, respectively, paragraph XII is renumbered to a new paragraph XV, paragraph XIII is renumbered to a new paragraph XVI, paragraphs XV.B.2, 3, and 4 are renumbered to XV.B.1, 2, and 3, respectively, and paragraphs XV.B, D, E, and F, are renumbered XV.A, B, C, and D, respectively.

32. In Exhibit C, paragraphs VII.E and XV.A are revised, and paragraphs IX.B.4, XII, XIII, and XIV are added to read as follows:

Exhibit C—Rental Assistance Program

* * * * *

VII. *Responsibilities of Borrower in Administering the Rental Assistance Program.* * * *

* * * * *

E. A borrower participating in the RA program must have an FmHA approved lease with the assisted household. Leases must comply with the requirements of paragraph VII of Exhibit B to Subpart C to 1930".

* * * * *

IX. *Terms of the Rental Assistance Agreement.*

* * * * *

B. *Term.*

* * * * *

4. *For Renewal.* Prior to the termination date of any agreement the borrower may submit a Form FmHA 444-25 for "renewal" units. This should be submitted no later than three (3) months prior to the expected expiration date of the present agreement to allow time for processing. If a renewal agreement is approved, it will be for a five (5) year period. This renewal may not be for more units than the number that are expiring. The State Director may approve renewal units which exceed his/her approval authority provided the initial units were authorized by the National Office.

* * * * *

XII. *RA Payment Cancellation.* In the event that a rental assistance check may need to be cancelled the following procedure will be followed:

(A). *Return of the original RA Treasury check.* The District Office will prepare Form FmHA 440-10, "Cancellation of Loan or Grant Check and/or Obligation." Items to be completed include:

1. State, County, and Case Number.
2. Date Assistance Approved—Enter date of credit to borrower (see item 21 on FMI for Form FmHA 444-9).
3. Loan Number.
4. Fund Code.
5. Treasury Check Number.
6. Date of Treasury Check.
7. Check Schedule Number (See item 8 on FMI for Form FmHA 444-9).
8. Loan $— Enter amount of the RA check being cancelled.
9. Type of Assistance—Below item " Other (Specify)" enter the annotations "Number of Units " and " Existing New." Code the annotations with information applicable to the MFH project receiving RA.
10. Borrower Name and Address.
11. Item 4, Conditional Committment for Loan Guarantee—Below item 4 enter the annotation "RA Treasury Check Cancellation."
12. Date and Signature of District Director.

The original Form FmHA 440-10 and attached Treasury check will be forwarded to the Kansas City Disbursing Center. Distribution of copies will be to the FO, State Office, and the District Office.

(B) *Return of a portion of the monthly RA Payment.* A MFH borrower check made payable to Farmers Home Administration will be submitted to the Finance Office attached to Form FmHA 444-9. Form FmHA 444-9 will be coded as Miscellaneous Collection Code 21—Other. The payment will be coded "U" for refund. Add the following statement to the bottom of the form: "Refund of overpayment of Rental Assistance for the month of , 19 ."

XIII. *Terminating Existing Rental Assistance Agreements Obligated in Prior Fiscal Years.*

A. Rental Assistance Agreements will be terminated when (1) the current Rental Assistance Agreement expiration date is reached and RA is to be continued on the project (2) the Rental Assistance Agreement is to be terminated prior to the Rental Assistance Agreement expiration date and RA is to be discontinued on the project, or (3) the funds on the current Rental Assistance Agreement will be fully disbursed with the next scheduled monthly RA payment. Procedures for terminating current Rental Assistance Agreement are as follows:

(1) As of the month the Rental Assistance Agreement is to be terminated, the District Office will prepare Form FmHA 444-9 in accordance with the current FMI. If the District Office wants a RA check and any funds are available from the Rental Assistance Agreement to be terminated, the applicable information fields on Form FmHA 444-9 will be completed. If applicable, MFH loan payment and overage-surcharge information will also be included on the Form FmHA 444-9.

The District Office will enter the annotation "Rental Assistance Agreement Number " and "Final Rental Assistance Payment Number " below the "No. of Units" column on Form FmHA 444-9. The annotations will be coded as follows:

(a) Enter the code "01" for initial Rental Assistance Agreements or the sequential number assigned to subsequent Rental Assistance Agreements beginning with "02" in the "Rental Assistance Agreement Number " field

(b) Enter the Rental Assistance Agreement number for the Rental Assistance Agreement to be terminated in the "Final Rental Assistance Payment Number " field.

Note.—Code values entered in the "Rental Assistance Agreement Number " field and the "Final Rental Assistance Payment Number " field must be equal.

If sufficient funds are not available on the Rental Assistance Agreement being terminated, the District Office must submit a separate Form FmHA 444-9 requesting additional funds be disbursed from a subsequent Rental Assistance Agreement renewal. The District Office will complete all items applicable to processing a RA payment on the separate Form FmHA 444-9. The annotation "Rental Assistance Agreement Number " will be entered below the "No. of Units" column on the form. The sequential number assigned to the subsequent Rental Assistance Agreement renewal will be entered in this field.

(2) Form(s) FmHA 444-9 will be mailed to the Finance Office, Attention: Multiple Family Housing Unit—940A8. The applicable RA obligation record in our files will be coded as terminated.

Note.—The FO will have only one active RA obligation record on our files with the exception of a one month overlap.

B. When prior fiscal year Rental Assistance Agreements are terminated, the undisbursed funds—unliquidated balances for those obligations—cannot be reused and are lost as a result of the single year RA obligational authority. To ensure effective utilization of RA funds, it is therefore imperative that Rental Assistance Agreements not be terminated prior to the expiration date if RA payments are to be continued and there are undisbursed funds for that Rental Assistance Agreement obligation.

XIV. *Terminating Current Fiscal Year Rental Assistance Agreements.*

A. When funds have not been disbursed from the obligation the State Director will make a copy of Form FmHA 444-26 which was returned by the Finance Office showing the date and amount of the obligation. In Part V of the form the State Director will mark "in red" TERMINATED and THE AMOUNT BEING TERMINATED. This form will be mailed to the Finance Office Attention: Allotment Ledger Unit. The Finance Office will process Form FmHA 444-27 terminating the Rental Assistance obligation. The undisbursed funds for that obligation will be returned to the current fiscal year obligation authority.

B. When funds have been disbursed from the obligation the district office will prepare Form FmHA 444-9 as indicated in paragraph XIII of this Exhibit. The undisbursed funds for that Rental Assistance Agreement will be deobligated from the current fiscal year obligation authority.

XV. *Rights for Appeal if Rental Assistance is not granted by Farmers Home Administration.*

A. Borrowers who have requested rental assistance and are denied such assistance, in whole or in part by the Farmers Home Administration, will be notified in writing of the specific reasons why such assistance was denied. The letter informing the borrower of the denial will advise the borrower that the decision may be appealed in accordance with the provisions of Subpart B to Part 1900, except for rejections because of lack of RA units. The letter informing the borrower of the denial of assistance and the reasons therefor must include:

* * * * *

33. In Exhibit C, paragraphs VI.B is revised by adding at the end of the paragraph the following sentence, "After the project is fully occupied the procedure in paragraph VI.A will be followed".

34. In Exhibit C, paragraph X.C.2 is revised by adding "or renewal" in the title of the paragraph and in the first sentence of the paragraph between the two words "initial" and "request" and paragraph X.C.3 is revised by adding to the end of the paragraph the new sentence "The rental assistance agreement number will be the same as the agreement being modified".

Exhibit H [Amended]

35. In Exhibit H, paragraph V.I is amended by changing the reference from "HUD Form 2530, 'Previous Participation Certification'" to "Form HUD-2530/FmHA 1944-37, 'Previous Participation Certification,'" in the first sentence, and paragraph VI.A is amended by changing the reference from "HUD Form 2530" to "Form HUD 2530/FmHA 1944-37," in the third sentence.

36. In Exhibit H, paragraph VII is amended by changing the reference "Form HUD 52859" to "Form HUD 50059, 'Certification and Recertification of Tenant Eligibility'" in the last sentence.

Exhibit H-3 [Amended]

37. In Exhibit H-3, paragraph (3) is amended by changing the reference from "Section 8" to "Section 3".

38. In Exhibit K, paragraphs 6(e)(3) and 6(e)(4) are revised to read as follows:

Exhibit K—Form FMHA 1944-34, "Loan Agreement for an RRH Loan To a Partnership Operating on a Profit Basis or RRH Loan to a Limited Partnership Operating on a Profit Basis or RRH Loan to a Partnership Operating on a Limited Profit Basis or RRH Loan to a Limited Partnership Operating on a Limited profit Basis"

* * * * *

6. *Regulatory Covenants.* * * *

* * * * * *

(e) * * *

* * * * * *

(3) Not change the membership by either the admission or withdrawal of any partner(s) *nor permit the general partner(s) to maintain less than a five percent interest in the organization* nor cause or permit voluntary dissolution of the Partnership nor cause or permit any transfer or encumbrance of title to the housing or any part thereof or interest therein, by sale, mortgage, lease, or otherwise.

(4) Not borrow any money, nor incur any liability aside from current expenses which would have a detrimental effect on the housing.

* * * * *

39. In Exhibit L, paragraph 6(d)(4) is revised to read as follows:

Exhibit L—Form FMHA 1944-35, "Loan Resolution for an RRH Loan to a Broadly Based Nonprofit Corporation or RRH Loan to a Profit Type Corporation or RRH Loan to a Profit Type Corporation Operating on a Limited Profit Basis"

* * * * *

6. *Regulatory Covenants.* * * *

* * * * * *

(d) * * *

* * * * * *

(4) Not cause or permit the issue or transfer of stock, borrow any money, nor incur any liability aside from current expenses which would have a detrimental effect on the housing.

* * * * *

40. Exhibit M is revised to read as follows:

BILLING CODE 3410-07-M

Instruction 1944-E
Exhibit M

Position 3

Form Approved
OMB 2502-0118

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
HOUSING - FEDERAL HOUSING COMMISSIONER AND
U. S. DEPARTMENT OF AGRICULTURE
FARMERS HOME ADMINISTRATION

PREVIOUS PARTICIPATION CERTIFICATION

1. TO: (Name and City of HUD Area Office or USDA-FmHA State Office where the Application is filed)

2. PROJECT NAME, I.D., OR PROJECT NUMBER AND CITY, STATE CONTAINED IN THE APPLICATION

ALSO:
SECTION 8 CONTRACT NUMBER

3. LOAN OR CONTRACT AMOUNT
$

4. NUMBER OF UNITS OR BEDS

5. SECTION OF ACT (If known)

6. TYPE OF PROJECT (Check One)
☐ Existing ☐ Rehabilitation
☐ Proposed (New)

LIST OF ALL PROPOSED PRINCIPAL PARTICIPANTS

7. Alphabetical List of the Full Names (last name first) and Address of all known principals and affiliates (people, businesses and organizations) proposing to participate in the contract (keep that order)	8. Role of Each Principal	9. Expected % Interest in Ownership	10. Social Security or IRS Employer Number

CERTIFICATION

I (meaning the individual who signs as well as the corporations, partnerships or other parties listed above who own(s) / hereby apply to HUD or USDA-FmHA, as the case may be, for approval to participate as a principal in the role and project listed above based upon my following previous participation record and this Certificate.

I certify that all the statements made by me are true, complete and correct to the best of my knowledge and belief and are made in good faith, including the data contained in Schedule A and Exhibits signed by me and attached to this form.

A. I certify that:

1. Schedule A contains a listing of every assisted or insured project of HUD, USDA-FmHA and State and Local Government housing finance agencies in which I have been or am now a principal.
2. For the period beginning 10 years prior to the date of this certification, and except as shown by me on the certificate,
   a. No mortgage on a project listed by me has ever been in default, assigned to the Government or foreclosed, nor has mortgage relief by the mortgagee been given.
   b. I have not experienced defaults or noncompliance under any Conventional Contract or Turnkey Contract of Sale in connection with a public housing project;
   c. To the best of my knowledge, there are no unresolved findings raised as a result of HUD audits, management reviews or other reviews, investigations concerning me or my projects;
   d. There has never been a suspension or termination of payments under any HUD assistance contract in which I have had a legal or beneficial interest attributable to my fault or negligence;
   e. I have not been convicted of a felony and am not presently, to my knowledge, the subject of a complaint or indictment charging a felony. (A felony is defined as any offense punishable by imprisonment for a term exceeding one year, but does not include any offense classified as a misdemeanor under the laws of a State and punishable by imprisonment of two years or less);
   f. I have not been suspended, debarred or otherwise restricted by any Department or Agency of the Federal Government or of a State Government from doing business with such Department or Agency.
   g. I have not defaulted on an obligation covered by a surety or performance bond and have not been the subject of a claim under an insured fidelity bond.
3. All the names of the parties, known to me to be principals in this project(s) in which I propose to participate, are listed above.
4. I am not a HUD/FmHA employee or a member of a HUD/FmHA employee's immediate household as defined in HUD's Standards of Conduct, in 24 CFR § 730.205(a)(2)/USDA's Standards of Conduct in 7 CFR Part 0 Subpart B.
5. I am not a principal participant in an assisted or insured project this date on which construction has stopped for a period in excess of 90 days or which has been substantially completed for more than 90 days and documents for closing, including final cost certification have not been filed with HUD or FmHA.
6. To my knowledge I have not been found by HUD or FmHA to be in noncompliance with any civil rights laws.

B. (APPLICABLE TO GENERAL PARTNERS OR PROJECT OWNERS ONLY)
All the parties who are principals or who are proposed as principals here are listed above and no principals or identities of interest are concealed or omitted.

C. I am not a Member of Congress or a Resident Commissioner nor otherwise prohibited or limited by law from contracting with the Government of the United States of America.

D. Statements above (if any) to which I cannot certify have been deleted by striking through the words with a pen. I have initialed each deletion (if any), and have attached a true and accurate signed statement (if appropriate) to explain the facts and circumstances which I think relate to qualify me as a responsible principal for participation in this project.

Typed or Printed Name of Principal	Signature of Principal	Title, Role or Capacity	Date	Area Code and Telephone No.

WARNING: It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction are a fine and imprisonment. For details see: Title 18 U.S. Code, Section 1001 and Section 1010.

This form was prepared by (Please print name) | Area Code & Telephone No.

REPORT OF INSPECTOR GENERAL - INTERNAL PROCESSING ONLY

THE INDICES OF THE INSPECTOR GENERAL'S OFFICE HAVE BEEN CHECKED FOR THE NAMES OF THE PRINCIPALS LISTED IN PART I ABOVE AND: ☐a. WE HAVE NO INFORMATION; OR ☐b. WE HAVE INFORMATION AND A REPORT IS ATTACHED

DATE	TITLE	SIGNATURE

Replaces Form FHA 2530, which is obsolete.

Form FmHA 1944-37 (Rev. 4-23-81)
HUD-2530

Form Approved
OMB 2502-0118

SCHEDULE A - LIST OF PREVIOUS PROJECTS AND SECTION 8 CONTRACTS

By my name below is the complete list of my previous projects and my participation history as a principal in Multifamily Housing programs of HUD/USDA-FmHA, State and Local Housing Finance Agencies.

NOTE: Read and follow the attached instruction sheet carefully. Abbreviate where possible. Make full disclosure. Add extra sheets if you need more space. Double check for accuracy. If you have no previous projects write by your name - "No previous participation - First Experience".

1. List each Principal's Name (List in Alphabetical Order; Last Name First)	2. List Previous Projects (Give the I.D. Number, Project Name, City of Location and State, Mortgage Amount and Number of Units in the Project)	3. List Principal's Participation Role and Interest - Give Month and Year Participation began and ended.	4. Disclose Defaults, Mortgage Relief, Assignments, Foreclosure. If None, write "None".	5. RESERVED FOR HUD PROCESSING

PART II - INTERNAL PROCESSING ONLY

2. TO: Department of Housing and Urban Development, Multifamily Participation Review Committee, Washington, D.C.
A review of the records and projects listed above reveals:

☐ A. No adverse information, Form HUD-2530 approval is recommended.

☐ B. Problems exist, my memorandum on them is attached

1. Received by the Field Office, checked by me for accuracy and completeness and then ready for processing:

DATE	PTS TELEPHONE NUMBER	NAME OF AREA MANAGER
		PROCESSING IS AUTHORIZED
SUPERVISOR, PROCESSING CONTROL AND REPORTS UNIT	DIRECTOR OF HOUSING	
DATE		

BILLING CODE 3410-07-C

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: February 5, 1982.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 82-4627 Filed 2-23-82; 8:45 am]

BILLING CODE 3410-07-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 561 and 563

[No. 82-104]

Amendments Relating to the Issuance of Subordinated Debt Securities

February 18, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Board proposes to amend its regulations governing the issuance of subordinated debt securities by savings and loan institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation ("FSLIC" or the "Corporation"). Proposed changes include: (1) Increasing the percentage of an insured institution's net-worth requirement which may be composed of subordinated debt securities; (2) allowing subordinated debt to be included in the statutory reserve account on a one-to-one basis for any required reserve in excess of 3% of the institution's savings account balances; (3) revising the current eligibility requirements for the issuance of subordinated debt; and (4) expanding the authority of the Board to waive the form, term and offering requirements for subordinated debt securities. The proposed action would provide added flexibility and ability for insured institutions to issue subordinated debt securities by increasing such securities' utility and revising eligibility and structural requirements.

DATE: Comments must be received by: March 25, 1982.

ADDRESS: Send comments to Director, Information Services, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION, PLEASE CONTACT:

John P. Soukenik, Office of General Counsel (202-377-6427), at the above address.

SUPPLEMENTARY INFORMATION:

Background

In the past two years, the Board as operating head of the FSLIC has substantially amended its borrowing regulations in an effort to provide greater authority for borrowing outside the Federal Home Loan Bank System and state-chartered central reserve institutions ("outside borrowing") and to increase institutions' flexibility to manage liabilities while continuing to ensure that outside borrowing activity does not adversely affect the safety and soundness of institutions whose accounts are insured by the FSLIC. The proposed amendments would continue this regulatory approach by liberalizing the eligibility criteria for subordinated debt issues and by giving the Board the flexibility to waive requirements as to form, term, and method of offering for the securities. Moreover, the Board believes that permitting the increased use of subordinated debentures in the net-worth calculation and the limited use of subordinated debentures in meeting the statutory reserve requirement would give insured institutions added flexibility and ability to engage in the offering and selling of subordinated debentures.

Increase in Amount of Subordinated Debt Securities Permitted To Be Included for Net-Worth Requirements

Section 561.13 of the Insurance Regulations (12 CFR 561.13) allows an insured institution to satisfy up to 20 percent of its total net-worth requirement with subordinated debt securities issued upon written approval by the Corporation of an application submitted pursuant to § 563.8-1 (12 CFR 563.8-1). The entire amount of subordinated debt securities qualifying under this standard may be included as part of the issuing institution's net worth until the securities' remaining period to maturity is less than one year. The proposed amendment would increase the total amount of subordinated debt securities permitted to be counted for the issuing institution's net worth from 20 percent to 40 percent of the total net-worth requirement.

Inclusion of Subordinated Debt Securities for Statutory Reserve Requirements

Section 403(b) of the National Housing Act (12 U.S.C. 1726 (b)) requires an insured institution to provide adequate reserves satisfactory to the Corporation. Section 403(b) authorizes the Board to implement the statutory reserve requirement by regulations within certain limitations set forth in the statute. Pursuant to the statute, the Board must establish a specific reserve requirement to be met by insured institutions and to be composed of an amount no greater than 6% nor less than 3% of each institution's insured accounts. Currently, the reserve requirement established by the Board is 3% of insured account balances as calculated through application of the formula set forth in § 563.13(a)(2) (12 CFR 563.13(a)(2)). The reserve may consist of any item eligible for inclusion in the institution's net worth except for those items specifically excluded in subparagraphs (a)(3)(i) through (iii) of § 563.13. Subordinated debt securities are among the exclusions.

The proposed amendment to § 563.13 would allow subordinated debt securities to be counted towards an institution's statutory reserve requirement on a limited basis when the reserve requirement is set at a percentage higher than 3 percent of insured accounts. An insured institution still would be required to meet the minimum 3% reserve requirement without the use of any subordinated debt securities. However, under the proposed revision, the required reserve in excess of 3% of insured accounts may consist of any amount of subordinated debt securities eligible for inclusion in the issuing institution's net worth. Because the Board recently lowered the statutory reserve requirement to 3% of insured accounts (See, Board Resolution No. 82-19, (January 14, 1982)); 47 FR 3543 (January 28, 1982), the proposed liberalization would have no immediate effect but would operate prospectively in the event that the statutory reserve requirements are increased above the current 3% level.

Eligibility Requirements for Subordinated Debt

In order for the subordinated debentures of an insured institution to be included as part of its net worth, the issuing institution must comply with Section 563.8-1 (12 CFR 563.8-1). Paragraph (b) of that section lists six specific eligibility requirements an institution must meet at the time its application is approved by the Board. The eligibility requirements include a general requirement that to issue subordinated debt securities under § 563.8-1, an issuing institution must comply with applicable law or regulation and that the issuance must not be inconsistent with the issuing institution's charter, constitution, or bylaws. It also must meet specific financial standards relating to net worth, scheduled items, loss reserves, income/debt servicing ratio, and total outstanding subordinated debt. In the case of a particular application, the Board may waive any or all of the requirements upon specific request of the issuing institution.

The proposed amendment would replace the specific financial qualifications with a supervisory standard which would allow the Corporation to judge applications on a case-by-case basis. Applications authorized by law would be approved if, in the opinion of the Corporation, the policies, condition and operation of the applicant did not afford a basis for supervisory objection to the application. In determining whether supervisory objection to an application should be taken, the Corporation would consider the specific standards regarding the applicant's net worth, scheduled items, loss reserves, and the income/debt servicing ratio set forth in the regulations. The standards regarding net worth, scheduled items, and loss reserves are substantially similar to those set forth in the existing regulation. The comparison of the institution's income and its cost of servicing the proposed subordinated debt issue has been revised to allow for projected income as well as current and past income to be considered by the Corporation.

Waiver of Form, Term, and Offering Requirements

The introductory language of paragraph (d) of §563.8-1 currently provides for the waiver of any of the requirements as to form, term, and offering of subordinated debt in connection with a sale of such securities to the Corporation. In order to provide the Board with greater flexibility in considering applications which do not comply with all of the requirements of paragraph (d), the Board proposes to remove the restriction on granting waivers of the requirements of paragraph (d), thereby permitting the Corporation upon request to waive any of the designated requirements of paragraph (d) which it deems appropriate. The provisions excepted from the scope of the waiver are the disclosure that the security is not a deposit or account insured by FSLIC and the requirement that the security be subordinated, unsecured, and not eligible for use as collateral.

Regulatory Flexibility Act Certification

Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (September 19, 1980), the Board certifies that the proposed amendments, if promulgated, would not have a signficant economic impact on a substantial number of small entities. The proposed regulations would reduce a number of existing restrictions on the issuance and utility of subordinated debt securities. The Board believes that the proposed amendments will benefit institutions but does not believe that the amendments will have a significant economic impact on institutions.

Because there is a present need to allow institutions greater flexibility in the composition of their new worth, the Board has limited the comment period to 30 days.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Parts 561 and 563 of Subchapter D, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

§ 561.13 [Amended]

1. Amend the second sentence of § 561.13 ("Net worth") by removing the term "20 percent" and replacing it with term "40 percent".

PART 563—OPERATIONS

2. Revise § 563.8-1 by amending paragraph (b) and the introductory text to paragraph (d), removing paragraph (f), and redesignating paragraphs (g), (h), and (i) as (f), (g), and (h), respectively; to read as follows:

§ 563.8-1 Issuance of subordinated debt securities.

* * * * * *

(b) *Eligibility requirements.* The Corporation will consider and process an application by an insured institution for approval of the issuance of subordinated debt securities pursuant to this section only if, at the time of approval:

(1) The issuance of such securities by the applicant is authorized by applicable law and regulation and is not inconsistent with any provision of the applicant's charter, constitution, or bylaws; and

(2) In the opinion of the Corporation the policies, condition, and operation of the applicant do not afford a basis for supervisory objection may be made on the basis that:

(i) Net worth, without regard to the amount of any subordinated debt securities included or to be included in net worth, does not meet the requirements of § 563.13;

(ii) Scheduled items exceed 2.5 percent of specified assets;

(iii) Appraised losses have not been required by specific reserves to the extent required pursuant to § 563.17-2 of this Part; or

(iv) Actual and anticipated income from operations after distribution of earnings to the holders of savings accounts and payments of dividends on equity securities and interest on borrowings, but before income taxes, is not demonstrably sufficient for interest and amortization of debt, discount, and related expenses of the proposed issue.

* * * * * *

(d) *Requirements as to securities.* Subordinated debt securities issued pursuant to this section shall meet all of the following requirements unless one or more of such requirements, not including subparagraphs (1) (i) and (ii), are waived by the Corporation:

* * * * * *

(f) *Additional requirements.* * * *

(g) *Limitation of offering period.* * * *

(h) *Reports.* * * *

3. Amend § 563.13 by revising paragraph (a)(3)(i) and adding paragraph (a)(9) to read as follows:

§ 563.13 Reserve accounts.

(a) * * *

(3) * * *

(i) Subordinated debt securities not qualifying under the provisions of paragraph (a)(9) of this section;

* * * * * *

(9) Any subordinated debt security which qualifies for inclusion in net worth pursuant to § 561.13 of this Subchapter also shall qualify for inclusion in any reserve requirement in excess of three percent of the amount calculated to be the insured institution's insured accounts balance pursuant to the provisions of paragraph (a)(2) of this section.

(Sec. 409, 94 Stat. 160, Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1728, 1730). Sec. 5A, 47 Stat. 727, as amended by sec. 1, 64 Stat. 256, as amended, sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp., p. 1071))

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-4628 Filed 2-23-82; 8:45 am]

BILLING CODE 6720-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 721

Federal Credit Union Insurance and Group Purchasing Activities

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: The NCUA Board proposes to further revise its regulation dealing with insurance and group purchasing activities by federal credit unions. The revision will remove most of the restrictions presently imposed, thus simplifying compliance and allowing federal credit unions greater flexibility in managing their operations.

DATE: Comments must be received by April 16, 1982.

ADDRESS: Submit written comments to Robert S. Monheit, Regulatory Development Coordinator, Office of General Counsel, National Credit Union Administration, 1776 G Street NW, Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Joseph Myers, Director, Division of Consumer Policy, Office of Consumer Affairs, National Credit Union Administration, (202) 357–1080.

SUPPLEMENTARY INFORMATION: Part 721 was revised by the NCUA Board on September 16, 1981 (46 FR 47435, September 28, 1981). The effective date of the revised regulation was November 17, 1981. On November 5, 1981 the NCUA Board extended the effective date to April 1, 1982 (46 FR 55922, November 13, 1981).

The proposed regulation removes the requirement that an investigation be conducted and an investigation report be prepared for all insurance and group purchasing plans endorsed by the credit union. It removes the requirement that a disclaimer be issued for all plans not endorsed and that any financial interests in the investigating organization be disclosed. It removes the requirement that members be given advance notice of the release of mailing lists, that they be given the right to have their names excluded from the mailing list, and that the vendor must agree not to use the mailing list for unauthorized purposes. Finally, it removes the optional form FCU 2000 used for documenting reimbursable expenses.

The requirements regarding reimbursement have been re-written. Comment is particularly requested on this section. Are these methods of calculating allowable reimbursement reasonable? Are there other methods that should be permitted? Can the section be written more simply to facilitate compliance and enforcement? Or should this section also be deregulated (i.e., no limits on reimbursement)?

In a separate rulemaking document, the NCUA Board is extending indefinitely the April 1, 1982 effective date of revised Part 721 pending the outcome of this rulemaking. (The transfer of § 721.3 and 721.4 to Parts 723 and 724 is not affected by this rulemaking. That transfer will still be effective as scheduled on April 1, 1982.)

The proposed regulation expands the flexibility of operations for federal credit unions and removes regulatory burdens on their operations. The NCUA Board certifies that this revision will not have a significant economic impact on small credit unions. Thus, a regulatory flexibility analysis as specified in the Regulatory Flexibility Act (5 U.S.C. Sec. 605 (b)) has not been performed.

It is proposed that 12 CFR Part 721 (46 FR 47435) be revised to read as set forth below:

PART 721—INSURANCE AND GROUP PURCHASING ACTIVITIES

Sec.
721.1 Authority.
721.2 Reimbursement.

Authority: Sec. 107(15), 94 Stat. 132 (12 U.S.C. 1757(15)), Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).

§ 721.1 Authority

A federal credit union may make insurance and group purchasing plans involving outside vendors available to the membership (including endorsement), and may perform administrative functions on behalf of the vendors.

§ 721.2 Reimbursement.

A federal credit union may be reimbursed by a vendor for its administrative functions as provided below:

(a) For insurance plans, a credit union may receive an amount not to exceed $4 per single-payment policy, $6 per combination policy, or $4 per annum for any other type of policy.

(b) For credit insurance plans, as an alternative to the above, a credit union may receive an amount not to exceed 10% (per policy) of the "prima facie" premium rate established or approved by the State insurance authority for that type of plan.

(c) For group purchasing plans other than insurance, a credit union may receive an amount not to exceed the direct and indirect costs to the credit union of any administrative functions performed on behalf of the vendor. A credit union shall be able to justify such reimbursement, using standard accounting procedures.

No official or employee of a credit union or any of their immediate family may receive any compensation or benefit, directly or indirectly, in connection with any activity covered under this regulation.

By the National Credit Union Administration Board, this 11th day of February 1982.

Rosemary Brady,
Secretary of the National Credit Union Administration Board.

[FR Doc. 82-4670 Filed 2-23-82; 8:45 am]
BILLING CODE 7535-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE-169-78]

Certain Cash or Deferred Arrangements Under Employee Plans; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to certain cash or deferred arrangements under employee plans.

DATES: The public hearing will be held on April 20, 1982, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by April 6, 1982.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (EE–169–78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, 202–566–3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 401(k) and section 402(a)(8) of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Tuesday, November 10, 1981 (46 FR 55544).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the proposed regulations and also desire to present oral comments at the hearing on the proposed regulations, should submit an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject by April 6, 1982. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive for improving government regulations appearing in the **Federal Register** for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

James F. Malloy,
Director, Employee Plans and Exempt Organizations Division.

[FR Doc. 82-4619 Filed 2-23-82; 8:45 am]
BILLING CODE 4830-01-M

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26 CFR Part 1

[LR-6-81]

Definition of an Airport; Treatment of Industrial Development Bonds Used To Finance Hotels

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the regulations governing the treatment, for purposes of the Internal Revenue Code, of industrial development bonds used to finance hotels located at or near airports. Issuers and purchasers of those bonds and owners of those facilities are affected.

DATE: Written comments and requests for a public hearing must be delivered by April 26, 1982.

The amendments to the regulations generally are proposed to be effective with respect to governmental obligations issued after February 24, 1982. However, these amendments as they relate to the revocation of § 1.103–8(e)(4) Example (3) as published in Treasury Decision 7737 are proposed to be effective with respect to obligations issued after 5:00 p.m. e.s.t. December 29, 1978.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, (LR–6–81).

FOR FURTHER INFORMATION CONTACT: Susan K. Thompson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3294).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to clarify the Income Tax Regulations (26 CFR Part 1) under section 103 of the Internal Revenue Code of 1954. These amendments to the regulations are proposed to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 7805; 68A Stat. 917).

Final regulations under section 103(b)(4) were published in the **Federal Register** as Treasury Decision 7737 on November 17, 1980 (45 FR 75644). These regulations provided rules defining the term "airport". Interest on industrial development bonds generally is not includable in gross income if substantially all of the proceds are used to provide an airport or a facility functionally related and subordinate to an airport. The final regulations published as T.D. 7737 contained an example specifically applying to hotels the criteria for determining whether a facility is functionally related and subordinate to an airport. The antecedent notice of proposed rulemaking had not contained this example. Commentary critical of this example has prompted a reconsideration of the policy underlying this example, and these proposed amendments to the regulations implement the results of this reconsideration.

Explanation of New Provisions

Section 1.103–8(e)(4) is proposed to be amended by deleting Example (3) effective with respect to obligations issued after 5:00 p.m. EST, December 29, 1978. Section 1.103–8(e)(2)(ii) is proposed to be amended by adding a new subdivision (*d*) illustrating the rules of paragraph (e)(2)(ii) as they apply to airport hotels. Under proposed § 1.103–8(e)(2)(ii)(*d*), a hotel located at or adjacent to an airport is of a character and size commensurate with the character and size of the airport if the number of rooms in the hotel is reasonable given the current and projected passenger usage of the terminal facility. Such a hotel may contain meeting rooms if the number and size of these rooms is in reasonable proportion to the number and size of the guest rooms in the hotel. Two examples illustrating the application of these rules are also proposed by these amendments. These amendments are proposed to be effective on February 24, 1982.

Evaluation of the effectiveness of this regulation will be based on comments received from offices within the Treasury and Internal Revenue Service, other governmental agencies, and the public. These regulations will impose no new reporting or recordkeeping requirements.

Drafting Information

The principal author of this regulation is Susan K. Thompson of the Legislation and Regulations Division of the Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulations, both substantively and stylistically.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph (e)(2)(ii) of § 1.103–8 is amended by adding a new subparagraph (*d*) immediately following subparagraph (*c*), and paragraph (e)(4) is amended by removing Example (3) and adding new Examples (3) and (4) in its place. These added provisions read as follows:

§ 1.103–8 Interest on bonds to finance certain exempt facilities.

* * * * *

(e) *Certain transportation facilities.* * * *

(2) *Definitions.* * * *

(ii) * * *

(*d*) A hotel located at or adjacent to an airport satisifies the requirements of paragraph (e)(2)(ii)(*b*), that is, it is of a character and size commensurate with the character and size of the airport at or adjacent to which it is located, if the number of guest rooms in the hotel is reasonable for the size of the airport, taking into account the current and projected passenger usage of the terminal facility. If the hotel contains meeting rooms, the number and size of these rooms must be in reasonable

proportion to the number of guest rooms in the hotel. Limited recreational facilities will not prevent the hotel from being of a character and size commensurate with the character and size of the airport.

* * * * *

(4) *Examples.* * * *

Example (3) On June 1, 1982, M Airport Authority, a political subdivision of State O, issues obligations, the proceeds of which are loaned to X Corporation, a nonexempt person. X uses the proceeds to construct a hotel adjacent to the main terminal building at M Airport. X will be unconditionally liable for repayment of the proposed obligations. The hotel will be used to provide temporary and overnight accommodations for airline passengers using M Airport. The number of rooms in the hotel is reasonable for an airport of M's size, taking into account the current and projected passenger usage of the terminal facility. In addition to guest rooms, the hotel will contain a restaurant, small retail stores (such as a gift shop and newsstand), and limited recreation facilities (such as a swimming pool). The hotel will also contain several multipurpose rooms suitable for use as meeting rooms. The number and size of these rooms will be in reasonable proportion to the number and size of the guest rooms in the hotel. Use of the guest rooms, restaurant and stores, recreational facilities, and meeting rooms by air passengers arriving at or departing from M Airport will be incidental to the use of the hotel by air passengers for temporary and overnight accommodations. The hotel is of a character and size commensurate with the character and size of M Airport. Consequently, applying the provisions of § 1.103–8(e)(2), the hotel is functionally related and subordinate to M Airport. The obligations are industrial developement bonds. Section 103(b)(1) does not apply to the obligations, however, unless the provisions of section 103(b)(10) and § 1.103–11 apply.

Example (4) On June 1, 1982, N Airport Authority, a political subdivision of State P, issues obligations the proceeds of which are loaned to Y Corporation, a nonexempt person. Y uses the proceeds to construct a hotel adjacent to the main terminal building at N Airport. Y Corporation will be unconditionally liable for repayment of the proposed obligations. The hotel will contain extensive recreational facilities, including a large roof-top swimming pool, tennis courts, and a health club. In addition, facilities for conferences consisting of a ballroom-sized meeting room capable of being partitioned by movable panels and several smaller meeting rooms will be constructed. The number of rooms in the hotel will substantially exceed the number which is reasonable based on the current and projected passenger usage of the terminal facility. Because of the presence of extensive recreational and conference facilities, as well as the presence of an excessive number of rooms at the hotel, the hotel fails to be of a character and size commensurate with the character and size of N Airport. The result would be the same if the hotel did not have extensive recreational facilities. Consequently, the hotel is not functionally related and subordinate to N Airport under § 1.103–8(e)(2). The obligations are industrial development bonds and interest thereon is not excluded from gross income by reason of subsection (a)(1) or (b)(4) of section 103.

* * * * *

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

[FR Doc. 82-4859 Filed 2-19-82; 12:07 pm]
BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Surface Coal Mining and Reclamation Enforcement in Kentucky; Review of State Program Submission

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Reopening of public comment period.

SUMMARY: OSM is reopening the period for review and comment on portions of the resubmission by Kentucky of its program for the regulation of surface coal mining and reclamation in the state. OSM is reopening the comment period to allow the public sufficient time to consider and comment on additional materials submitted by Kentucky subsequent to the close of the initial public comment period. Comments on program portions not affected by the additional documents will not be considered.

DATES: Written comments, data or other relevant information must be received on or before 4:00 p.m., March 10, 1982, to be considered.

ADDRESS: Comments on the supplemental material to the program resubmission should be sent or hand-delivered to: W. Hord Tipton, Acting Regional Director, Office of Surface Mining, 530 Gay Street SW., Suite 500, Knoxville, Tennessee 37902.

FOR FURTHER INFORMATION CONTACT: Roger Calhoun, State Program Specialist, Division of State and Federal Programs, Office of Surface Mining, 530 Gay Street, SW., Suite 500, Knoxville, Tennessee 37902, Telephone: 615/971–5106.

SUPPLEMENTARY INFORMATION: On January 7, 1982, at 47 FR 820–822, the Office of Surface Mining published notice of the public hearing and the public comment period on the resubmitted Kentucky program. The public hearing was held January 28, 1982, and the public comment period ended February 8, 1982. On January 27, 1982, OSM Regional personnel and Kentucky regulatory authority officials met in executive session (Administrative Record KY–426). Subsequent to that meeting, Kentucky submitted new material in response to OSM concerns (Administrative Record KY–436).

OSM is reopening the public comment period until 4:00 p.m., March 10, 1982, to allow the public sufficient time to review and comment on the above cited Administrative Record material. This announcement is made in keeping with OSM's commitment to public participation as a vital component in fulfilling the purposes of the Surface Mining Control and Reclamation Act of 1977.

Dated: February 18, 1982.

J. Steven Griles,
Acting Director, Office of Surface Mining.

[FR Doc. 82-4820 Filed 2-23-82; 8:45 am]
BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 9F2253/1F2538/P216; PH-FRL-2052-4]

Norflurazon; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for the combined residues of the herbicide norflurazon in or on certain raw agricultural commodities. This proposal to establish the maximum permissible level for residues of norflurazon in or on the raw agricultural commodities was requested by Sandoz, Inc.

DATE: Written comments must be received on or before March 26, 1982.

ADDRESS: Written comments to: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort (703–557–1830).

SUPPLEMENTARY INFORMATION: This notice of proposed rulemaking announces that Sandoz, Inc., 480 Camino del Rio South, San Diego, CA 92108, has submitted pesticide petition number 9F2253 to the EPA proposing that 40 CFR 180.356 be amended by establishing a tolerance for the combined residues of the herbicide norflurazon [4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone] and its desmethyl metabolite [4-chloro-5-amino-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone] in or on citrus fruit at 0.2 part per million (ppm).

Sandoz, Inc. later submitted pesticide petition 1F2538 also proposing that 40 CFR 180.356 be amended by establishing tolerances for the combined residues of norflurazon and its desmethyl metabolite in or on soybeans at 0.1 ppm; soybean forage at 1.0 ppm; and soybean hay at 1.0 ppm. The notice of filing of pesticide petition 1F2538 was published in the Federal Register of September 23, 1981 (46 FR 47006).

No comments were received in response to this notice of filing.

The tolerances proposed under 40 CFR 180.356 by pesticide petition 9F2177 will be adequate to cover residues that would result in meat, milk, and poultry, as delineated in 40 CFR 180.6(a)(2).

The data submitted in the petitions and other relevant material have been evaluated. The relevant data pertaining to this proposed regulation are included in the proposed establishment of tolerances (PP 9F2177/P213) for norflurazon in or on certain raw agricultural commodities and appears elsewhere in this issue of the Federal Register. Another document (FAP2H5332/P77) proposing a regulation for norflurazon and its desmethyl metabolite in citrus molasses and dried citrus pulp appears elsewhere is this issue.

The pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the establishment of the tolerances will protect the public health. Therefore, it is proposed that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request, on or before March 26, 1982 that this proposed rulemaking be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this proposed regulation. Comments must bear a notation indicating the document control number "[PP 9F2253/1F2538/P216]". All written comments filed in response to this petition will be available in the office of Richard F. Mountfort from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

As required by Executive Order 12291, the EPA has determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this proposed regulation from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

Dated: February 4, 1982.

Douglas D. Campt,
Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.356 be amended by adding and alphabetically inserting the raw agricultural commodities citrus fruit; soybeans; soybean, forage; and soybean, hay to read as follows:

§ 180.356 Norflurazon; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * * *	
Citrus fruit	0.2
* * * * * *	
Soybeans	0.1
Soybean, forage	1.0
Soybean, hay	1.0
* * * * *	

[FR Doc. 82-4574 Filed 2-23-82; 8:45 am]
BILLING CODE 6560-32-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1125

[Ex Parte 293 (Sub-2)]

Standards for Determining Rail Service Continuation Subsidies in the Northeast-Midwest Region of the United States

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: On October 30, 1981, the Rail Services Planning Office (RSPO) published an Advance Notice of Proposed Rulemaking seeking comments on alternative methods for apportioning locomotive fuel to branch lines under § 1125.8(c)(1)(ii) of the Standards for Determining Rail Services Continuation Subsidies (regional standards). Upon reviewing the comments, RSPO proposes to amend the standards to apportion locomotive fuel on the basis of fuel cost per locomotive unit hour. The fuel cost per hour figure, which is derived from the Repairs and Supplies portion of the rental rate for locomotives published by the General Manager's Association (GMA), is multiplied by the actual locomotive unit hours spent serving the line to determine the locomotive fuel cost for the branch line.

DATE: Comments are due on or before March 26, 1982.

ADDRESS: An original and six copies of any comments should be mailed to: Interstate Commerce Commission, Section of Rail Services Planning, Room 5355, Washington, D.C. 20423, Attn: RSPO Regional Standards

FOR FURTHER INFORMATION CONTACT: Winston L. Warner, (202) 275–0841.

SUPPLEMENTARY INFORMATION: At 46 FR 53731, October 30, 1981, RSPO published an Advance Notice of Proposed Rulemaking seeking comments on alternative methods for apportioning locomotive fuel (referred to as train fuel in the Advance Notice). This notice was prompted by a petition filed by the New York Department of Transportation (NYDOT) seeking (1) the inclusion of a methodology in the regional standards which would calculate branch line locomotive unit hours on the basis of train mileage and (2) the assignment of fuel cost to the branch line on the basis of a fuel consumption rate per locomotive unit hour. Section 1125.8(c)(1)(ii) of the regional standards currently assigns these costs on the "ratio of road diesel locomotive unit

hours on the branch to the total system road diesel locomotive unit hours".

Comments were received from NYDOT and Conrail. Their three primary areas of concern pertained to (1) the calculation of locomotive unit hours, (2) the methodology for apportioning locomotive fuel, and (3) the retroactivity of a new allocation methodology.

1. *Calculation of Locomotive Unit Hours.*—NYDOT does not believe that Conrail's current method of calculating locomotive unit hours is accurate. They state that Conrail calculates locomotive unit hours on the basis of crew hours. NYDOT's concern with this approach is that the locomotive unit hours spent serving a branch line are not equal to the crew hours spent serving the line because the crews are allowed time at the beginning and end of their work shift for duties during which they do not operate the locomotive.

NYDOT Maintains that the branch line locomotive unit hours should be based on train mileage rather than crew hours. Under this method, NYDOT proposes the use of a six mile per hour standard. The locomotive unit hours would be calculated by dividing the actual mileage the serving train travels on the branch line by the average speed of switching locomotives (6 m.p.h.). NYDOT's justification for this approach is that branch line operations are similar to yard switching activities because a predominate share of the branch line operating time is consumed in the switching of cars at industries. They note that this results in a low average speed for the overall activity of the locomotive in contrast to the operation of main line locomotives that do little or no switching and, therefore, have much higher average speeds.

As further support for the six mile per hour figure, NYDOT cites the results of the Ontario Midland Railroad Corporation (OMRC) study which they discussed at length in their petition seeking a new locomotive fuel allocation method. In that study, NYDOT found that the average speed for OMRC's locomotives over a three month period was 5.7 miles per hour. Thus, NYDOT maintains that by using the speed characteristic of a switching locomotive (6 m.p.h.), the amount developed for locomotive fuel costs would more closely approximate branch line operations.

In addition to the aforementioned arguments for the six m.p.h. standard, NYDOT raised the problem of the present method of classifying locomotives for purposes of assigning fuel costs to the branch line. Under the current procedure, a branch line locomotive is classified by the railroad as either yard or road. The fuel costs are then assigned to the branch line according to which of the two classifications the serving locomotive is placed. Apparently, NYDOT is concerned about the impact on fuel costs as a result of the present classification of branch line locomotives as predominantly road rather than yard locomotives.

On the basis of Conrail's 1977 data, NYDOT notes that the fuel cost per hour of $15.54 for road locomotives was substantially higher than that for yard locomotives. If the yard classification had been used, the fuel cost would have been only $6.61 per hour. Since the predominant share of locomotives serving New York's branch lines are classified as road locomotives, the fuel costs for these branch lines are based on the higher figure of $15.54. Because NYDOT maintains that branch line operations are similar to yard operations, they consider the development of fuel cost on the basis of road locomotives as inappropriate and unfair. They believe the use of the six mile per hour speed factor would better reflect the fuel costs associated with branch line locomotive operations and would eliminate the arbitrary locomotive classification problem.

Conrail disagrees with NYDOT's proposal that the locomotive unit hour calculation should be based on an assumed speed of six miles per hour. To substantiate their position, Conrail gives the example of a single locomotive train which serves a branch line for a distance of three miles with a return trip of three miles; i.e., a total round trip of 6 miles. Locomotive switching time for the ten industries served on the line is a total of nine hours. In this case, NYDOT's methodology would attribute to the branch line only one locomotive unit hour (6 train miles ÷ 6 miles per hours). Conrail points out that the nine hours of switching (e.g., the spotting, pulling and shifting cars) would be completely ignored and, as a result, no fuel expense would be calculated for these hours of locomotive switching activity.

It is RSPO's position that the locomotive unit hours assigned to a branch line should represent the actual hours spent by the locomotive in performing the service on the line. These hours are not to be estimated nor are they to include non-productive crew time such as extra crew time spent before going on duty or after completion of all work assignments. As a result, we propose to amend the standards to clarify the use of actual locomotive hours incurred in serving the branch line.

We should note that we have serious concerns with NYDOT's proposed use of a standardized speed factor. The use of such a factor would apply the same speed to all branch lines despite inherent differences in their respective operations. Each branch line is different in terms of overall operations, grades, traffic density, lawful speed on the line, and number of shippers served. To apply a standardized speed factor to the length of the branch line would ignore the individual operational characteristics of the particular branch lines.

2. *Basis of Calculating Locomotive Fuel Costs.*—NYDOT supports the calculation of fuel costs per hour on the basis of the fuel portion of the Repairs and Supplies Expense of the GMA rental rate for locomotives (GMA rate). Conrail, however, does not support the use of the GMA rate to develop fuel cost per hour by horsepower class. Conrail states that the calculation of locomotive fuel expenses on the basis of specific locomotive types and sizes is conceptually correct but the use of a GMA rate does not consider a multitude of variables. These variables include the efficiency of high horsepower versus medium or low horsepower locomotives; the effects on fuel consumption caused by constantly starting and stopping locomotives (in switching service) versus "straight out" running of locomotives (in line haul service); varying trailing gross ton weights; and existing grades on specific branch lines.

In sum, Conrail states that unless the aforementioned variables are reflected, they can not support NYDOT's proposal. They believe that the present procedure, which allocates system fuel expense to branch lines based on the ratio of branch line locomotive unit hours to system locomotive unit hours, should be maintained.

RSPO recognizes Conrail's concern over the use of the GMA rate. Their argument that this rate does not reflect the above variables is a valid one. Nonetheless, NYDOT's proposal is still considerably more equitable and accurate than the present allocation method.

First, the use of a fuel cost per hour based on the GMA rate for a given horsepower class of locomotive is the closest approximation of fuel costs next to an actual measure of fuel consumption. The GMA rates, although based on statistical averages, are reliable measures as they are industry accepted benchmarks which are updated annually and which recognize the differences in the fuel cost per hour for various size locomotives. Second, the only way to take into account the variables listed by Conrail would be the addition of fuel meters to each branch line locomotive; an approach that would not be cost effective.

We should also point out that the determination of the fuel cost per locomotive unit hour on the basis of the GMA rental rate is a very straight forward methodology and can be computed with very little difficulty. The branch line fuel costs for the year are calculated by simply multiplying the fuel cost per hour for the horsepower classification of the locomotive serving the branch line, as derived from the most recent GMA schedule, by the total number of branch line locomotive unit hours. The fuel cost per hour figure is determined by first identifying which GMA horsepower classification group applies to the locomotive serving the branch line. Second, the amount for Repairs and Supplies expense per hour, contained in the applicable classification group, is multiplied by the most recent percentage issued by the GMA for the fuel portion of the Repairs and Supplies expense.

The table below shows the GMA's horsepower groupings, the Repairs and Supplies expense per hour, and our calculation of the fuel cost per hour based on the GMA percentage of 57% for fuel expense.

Horsepower	Repair and supplies*	Fuel cost (57%)
1. 999 and under	$16.40	$9.35
2. 1,000 to 1499	20.50	11.69
3. 1,500 to 1,749	26.65	15.19
4. 1,750 to 1,999	30.75	17.53
5. 2,000 to 2,499	36.90	21.03
6. 2,500 to 2,999	45.10	25.71
7. 3,000 to 3,599	54.10	30.84
8. 3,600 and over	59.05	33.66

*Expense per hour.

For purposes of illustration, let's assume a branch line is served by a 1,250 horsepower locomotive which incurs 500 locomotive unit hours during the subsidy period. This locomotive falls under the FMA horsepower classification of 1,000–1,499. To determine the branch line fuel costs for the subsidy period, the 500 branch line locomotive unit hours would be multiplied by the fuel cost figure of $11.69 per hour shown in the table above for 1,000–1,499 horsepower locomotives. Thus, the total fuel cost charged the branch line would be $5,845.00.

RSPO notes that by multiplying the fuel cost, developed by the GMA for the particular horsepower classification of the serving locomotive, by the actual hours spent by that locomotive serving the branch line, we have eliminated two major concerns of NYDOT. First, by calculating only the actual hours spent by the serving locomotive, in place of the current procedure of the ratio of branch line locomotive unit hours to system locomotive unit hours, we have eliminated the usage of the system locomotive unit hours which are derived figures rather than actual statistics.

Second, under the proposed procedure, the fuel cost will not be based on the railroad's classification of the locomotive as either yard or road. The cost determined for fuel will more closely reflect the branch line operations because it will be related to the size of the locomotive that actually provides the service.

3. *Retroactivity of the Amendment.*—In the Advance Notice we stated that any amendment to the method for calculating branch line locomotive fuel costs would not be retroactive to subsidy years prior to January 1, 1981. Conrail agrees with this position. NYDOT, however, wants any change in the basis of apportionment to be retroactive to April 1, 1977.

We see no basis for changing our position on retroactivity. To permit retroactive application would be inconsistent with prior decisions in which amendments to the regional standards have not been made retroactive to prior subsidy years. Also, we do not want to establish a precedent whereby calculations on which parties relied in prior subsidy years can be subject to challenge. The contracts entered into during prior subsidy periods were based on the then current methodology for calculating locomotive fuel costs. In the instant case, retroactive application would not only affect the parties involved in this proceeding, but also operators and state DOT's in all the Northeastern and Midwestern states. Therefore, the allocation of locomotive fuel will not be retroactive to subsidy years beginning prior to January 1, 1981.

We should note that Conrail objects to our institution of this rulemaking. They specifically state that they are "opposed to new rulemaking proposals which are based upon isolated and individual revisions of costing methodology except where there has been an oversight in the recognition of a basic cost."

It is appropriate for RSPO to review its method for allocating locomotive fuel costs to the branch line. This review is certainly consistent with RSPO's broad statutory authority to amend the standards as necessary. Moreover, RSPO's reopening of the standards has always been in the interest of ensuring that the best and most appropriate methodologies are used.

This not a major Federal action significantly affecting the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Analysis as Required by 5 U.S.C. 601.

This action will alter the basis for the assignment of locomotive fuel for all rail lines operated under a subsidy agreement pursuant to the regional standards. All shippers located on these subsidized lines will be affected. However, we certify that there will be no increase or changes to the present requirements of businesses located on these lines. We also certify that amending the basis for determining locomotive fuel could reduce the overall subsidy amount. However, any reduction would be minimal because this category of expense accounts for a very small portion of the total associated with the operation of a branch line. As a result, we find that this action will not have a significant economic impact on a substantial number of small entities.

Copies of our analysis of the impact of this action are available from the Section of Rail Services Planning, Room 5355, Interstate Commerce Commission, Washington, D.C. 20423.

(49 U.S.C. 10362)

Issued February 17, 1981 by William R. Southard, Director, Rail Services Planning Office.

By the Commission.

Agatha L. Mergenovich,

Secretary.

PART 1125—STANDARDS FOR DETERMINING RAIL SERVICES CONTINUATION SUBSIDIES

In Title 49 of the Code of Federal Regulations, § 1125.8(c)(1)(ii) would be revised as follows:

§ 1125.8 Apportionment rules for the assignment of expenses to on-branch costs

* * * * * *

(c) *Transportation*—(1) *Train Operations:*

(ii) *Locomotive Fuel.*—All accounts designated xx–31–67 shall be assigned to the branch line in accordance with the following procedure. The dollar amounts used in the determination of locomotive fuel costs shall be based on data contained in the most recent publication issued by the General Managers Association (GMA) relating to the rental of locomotives. The total number of locomotive unit hours incurred by the locomotive(s) serving

the branch line shall be determined. The locomotive(s) shall then be categorized according to the applicable GMA horsepower classification group. The fuel cost is derived from the Repairs and Supplies Expenses element of the locomotive rental rates published by the GMA. The fuel cost per locomotive hour shall be determined for each GMA horsepower classification group by multiplying the latest GMA fuel cost percentage by the Repairs and Supplies Expenses included in each group. The fuel cost per locomotive unit hour for each applicable GMA group shall be multiplied by the number of locomotive unit hours incurred in serving the branch by locomotives of that GMA horsepower classification group. The total cost developed under this procedure for each horsepower classification shall be the locomotive fuel cost assignable to the branch line.

* * * * *

[FR Doc. 82-4912 Filed 2-23-82; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 47, No. 37
Wednesday, February 24, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

[Docket 40432]

Bergt-AIA-Western-Wien Acquisition and Control Case; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to Judge Kane.

Dated at Washington, D.C., February 18, 1982.

Elias C. Rodriguez,
Chief Administrative Law Judge.

[FR Doc. 82-4932 Filed 2-23-82; 8:45 am]
BILLING CODE 6320-01-M

[Docket 40432]

Bergt-AIA-Western-Wien Acquisition and Control Case; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-titled matter is assigned to be held on March 3, 1982, at 10:00 a.m. (local time), in Room 1003, hearing Room A, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

In order to facilitate the conduct of the conference, parties, including the Bureau of Domestic Aviation, are instructed to submit one copy to each party and prospective party and six copies to the judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. Requests for additional information and evidence shall follow the order and numbering of Subpart B of Part 315 of the Board's Economic Regulations (14 CFR 315.10 through 315.18). This material is to be in the hands of all parties, including parties in Alaska, by March 1, 1982.

Dated at Washington, D.C., February 18, 1982.

William A. Kane, Jr.,
Administrative Law Judge.

[FR Doc. 82-4933 Filed 2-23-82; 8:45 am]
BILLING CODE 6320-01-M

[82-2-88]

Application of Kodiak Western Alaska Airlines for Certificate Amendment Under Subpart Q

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (82-2-88).

SUMMARY: The Board is proposing to authorize Kodiak Western to provide all-cargo air transportation in Alaska and Hawaii between and among the points listed in its application.

DATES: Objections: All interested persons having objections to the Board issuing the proposed certificate amendment shall file, and serve upon all persons listed below no later than March 10, 1982, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the objections.

ADDRESS: Objections to the issuance of a final order should be filed in Docket 40270, and should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on Kodiak Western; the mayor and airport manager of each city to which the pleading refers; the Governors of Alaska and Hawaii; the Alaska Transportation Commission; and the American Association of Airport Executives.

FOR FURTHER INFORMATION CONTACT: Carol A. Szekely, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673-5328.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-2-88 is available from our Distribution Section, Room 100, 1824 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-2-88 to that address.

By the Civil Aeronautics Board, February 17, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-4934 Filed 2-23-82; 8:45 am]
BILLING CODE 6320-01-M

[Docket 40436; 82-2-70]

Super-APEX Fares Between Denmark, Norway and Sweden and California Proposed by Scandinavian Airlines System; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 2nd day of February, 1982.

On January 15, 1982, Scandinavian Airlines System (SAS) filed tariff revisions proposing reductions of about 14 percent in basic season Super-APEX fares from Scandinavia to Los Angeles and San Francisco, effective February 15, 1982.[1] The Board recently suspended SAS proposals to reduce nonaffinity group fares from Scandinavia to Florida, because recent actions of the Scandinavian Governments denying fare filings of U.S. carriers have severely hampered their ability to compete in the Scandinavian market, and require us to scrutinize SAS fare proposals more closely than we would otherwise prefer.[2]

The Scandinavian governments have not fully satisfied the conerns which led us to suspend SAS' previous filings, and we have no choice but to suspend SAS' latest proposal as well.

Accordingly, pursuant to sections 102, 204(a), 403, 801 and 1002(j) of the Federal Aviation Act of 1958, as amended:

1. We shall institute an investigation to determine whether the fares and provisions set forth in the Appendix hereof, and rules and regulations or practices affecting such fares and provisions, are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful or contrary to the public interest; and if we find them to be unlawful or contrary to the public

[1] SAS would also extend the existing peak season Oslo/San Francisco Super-APEX fares to traffic to/from Bergen, Kristiansand and Stavanger, points where the U.S. carrier Northwest Airlines does not offer service and, under the terms of the proposed tariff, would be unable to compete.

[2] See Order 81-12-128, December 11, 1981, and Order 82-1-145, January 18, 1982.

interest, to act appropriately to prevent the use of such fares, provisions or rules, regulations or practices;

2. Pending hearing and decision by the Board, we suspend and defer the use of the fares named in the Appendix from February 15, 1982, to and including February 14, 1983, unless otherwise ordered by the Board, and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President [3] and unless disapproved by the President it shall become effective on February 15, 1982; and

4. We shall file copies of this order in the aforesaid tariff and serve them on Scandinavian Airlines System and the Ambassadors of Denmark, Norway and Sweden in Washington, D.C.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.[4]

Phyllis T. Kaylor,

Secretary.

Appendix

Tariff C.A.B. No. 377, Issued by Airline Tariff Publishing Company, Agent

All added YHAPS fares and provisions;
All added YLAPS fares and provisions;
The cancellation of YLAPS fares; and
The addition of Footnote "F" in connection with YLAPS fares, between points in Denmark, Norway and Sweden, on the one hand, and points in the United States, on the other, appearing on the following pages:

25th Revised Pages 269 and 270
3rd Revised Pages 276–A
23rd Revised Page 278
5th Revised Page 280–A

[FR Doc. 82-4885 Filed 2-23-82; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Electronic Instrumentation Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973, and rechartered on September 18, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to electronic instrumentation, or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

TIME AND PLACE: March 11, 1982, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 5611, 14th Street and Constitution Ave. NW., Washington, D.C.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, P.L. 94–409, that the matters to be discussed in the meeting should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12065.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, telephone: 202–377–4217.

FOR FURTHER INFORMATION CONTACT:

Mrs. Margaret Cornejo, Committee Control Officer, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: February 19, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-4883 Filed 2-23-82; 8:45 am]
BILLING CODE 3510-25-M

Hardware Subcommittee of the Computer Systems Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 29, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on October 5, 1981 pursuant to the charter of the Committee.

The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (1) maintenance of the processor performance tables and further investigation of total systems performance; and (2) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

TIME AND PLACE: March 15, 1982, at 9:30 p.m. The meeting will take place at the Main Commerce Building, Room 3706, 14th Street and Constitution Avenue NW., Washington, D.C. The meeting will continue March 16 in Room 3104, Main Commerce Building to its conclusion.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, P.L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and properly classified under Executive Order 12065.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Telephone: 202–377–4217.

FOR FURTHER INFORMATION CONTACT:

Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: February 19, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-4882 Filed 2-23-82; 8:45 am]
BILLING CODE 3510-25-M

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[4] We submitted this order to the President on February 2, 1982.

[4] All members concurred.

[A-588-024]

Tempered Sheet Glass From Japan; Final Results of Administrative Review of Antidumping Finding and Determination not to Revoke

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding and determination not to revoke.

SUMMARY: On May 28, 1981, the Department of Commerce published the preliminary results of its administrative review and tentative determination to revoke the antidumping finding on tempered sheet glass from Japan. The preliminary results cited a Treasury determination that, with the exception of one sale with a *de minimis* margin, all sales by the exporter, Asahi Glass Company Ltd., were made at not less than fair value from September 25, 1971 through September 12, 1975, the date of a previous Treasury tentative determination to revoke. The preliminary results also indicated that there were no shipments to the U.S. for the two-year period from September 1978 through August 1980.

Interested parties were given an opportunity to submit written comments or request a hearing. The petitioner requested a hearing which was held on July 17, 1981. As a result of this hearing, pre-hearing and post-hearing briefs, and supplemental information submitted by interested parties, the Department determines not to revoke the finding at this time.

EFFECTIVE DATE: February 24, 1982.

FOR FURTHER INFORMATION CONTACT:

Arthur N. DuBois or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–3814/5289).

SUPPLEMENTARY INFORMATION:

Background

On September 25, 1971, a dumping finding with respect to tempered sheet glass from Japan was published in the **Federal Register** as Treasury Decision 71–247 (36 FR 10913). As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department of Commerce ("the Department") conducted an administrative review of the dumping finding on this merchandise and as a result published in the **Federal Register** on May 28, 1981, a notice of its preliminary results of the review and tentative determination to revoke the finding (46 28691–2). The Department has now completed that administrative review.

Scope of the Review

Merchandise covered by this review is tempered sheet glass in patio door sizes, currently classifiable under item 544.3100 of the Tariff Schedules of the United States Annotated (TSUSA). The review covers the one known Japanese producer and exporter to the United States of tempered sheet glass, Asahi Glass Company, Ltd., and the period September 1, 1978 through August 31, 1980. There were no shipments during this period.

Analysis of Comments Received

(1) Comment: The petitioner, PPG Industries, Inc. ("PPG"), argued that the finding embraces all tempered glass, whether derived from float or sheet processes. PPG also argued that the finding covered such glass for whatever purposes, not just such glass in patio door sizes.

Position: The original petition was limited to "tempered (toughened) sheet glass in patio door sizes", as was the original fair value investigation and the ITC determination. PPG argued this same issue after the Treasury Department's tentative revocation in 1975; Treasury made no final determination. We believe the scope is limited to that included in the original investigation.

(2) Comment: The petitioner also challenged, for the period September 1, 1978 through August 31, 1980, the use of third-county sales to Canada as the basis of determining foreign market value.

Position: Our preliminary notice did not state that third-county sales were used as the basis for foreign market value during the period September 1, 1978 through August 31, 1980, since there were no sales in that period. The notice stated that we agreed with the 1977 Customs Service ruling that Canadian sales were the proper basis of comparison for prior periods. The petitioner did not provide information sufficient to question the Treasury decision. We will examine this issue, if applicable, during the next administrative review.

(3) Comment: PPG disagreed with the Department's decision not to release under administrative protective order documents related to the periods prior to the publication of Treasury's tentative revocation.

Position: In this administrative review the Department is not using or relying upon any information related to the period prior to Treasury's tentative revocation. We do not intend to release under an administrative protective order any information that is irrelevant to the period subject to our review or information not used by us in conducting the review.

(4) Comment: PPG contended that the Department's reliance upon Treasury's 1975 tentative determination to revoke was misplaced, since Treasury's conclusion that there were no sales at less than fair value from 1971 to 1975 was incorrect.

Position: PPG's evidence does raise substantive questions about the reliability of Treasury's conclusion of no sales at less than fair value for a portion of the 1971–1975 period. However, since we intend to base our decision whether to revoke or not on the results of our review of the 1975–1981 period, and since all entries in the 1971-1975 period have been liquidated, the correctness of Treasury's conclusion of no sales at less than fair value for the period 1971-1975 is no longer germane.

(5) Comment: The petitioner argued that the Department violated its statutory duty by not reviewing the entire period from September 15, 1971, the date of the finding, through August 31, 1980. PPG also asserted that the Department improperly restricted its review by not examining the period from September 12, 1975, the date of Treasury's tentative determination to revoke, through August 31, 1978, a period in which there is a record of shipments.

Position: Since we agree that a review of the period September 13, 1975 through August 1978 is appropriate, the petitioner's comment is moot. We will review that period, as well as the period September 1980 through August 1981, in our next administrative review. As described above, the Department will decide whether or not to revoke based on our review of the 1975–1981 period.

Final Results of the Review

As a result of our review of all comments submitted, we determine not to revoke at this time the finding on this merchandise. After reviewing the periods September 13, 1975 through August 31, 1978, and September 1980 through August 1981, we will reconsider Asahi's revocation request.

Since the last known shipments of this merchandise resulted in the assessment of a *de minimis* amount of dumping duties, the Department shall not require a cash deposit of estimated antidumping duties, as provided for in section 353.48(b) of the Commerce Regulations, on any shipments of Japanese tempered sheet glass in patio door sizes entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This waiver of deposit shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of September 1982.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce regulations (19 CFR 353.53).

Malinda L. Carmen,

Acting Deputy Assistant Secretary for Import Administration.

February 19, 1982.

[FR Doc. 82-4981 Filed 2-23-82; 8:45 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

Restrictions Applicable to Certain Contract Market and Clearing Organization Employees

Correction

In FR Doc. 82-4387 appearing on page 7300, in the issue of Thursday, February 18, 1982, make the following corrections.

1. On page 7301, first column, the ninth line of the first complete paragraph until the end of the paragraph was a quotation.

2. On page 7301, second column, third line from the bottom, the word "personal" should have read "personnel".

3. On page 7302, first column, first line of "footnote 5", the word "believes" was mispelled, and in the second line of "footnote 6", the phrase "contract of sales" should have read "contracts of sale".

4. On page 7302, second column, twenty-first line, "not full-time" should have read "not a full-time".

BILLING CODE 1505-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Level for Certain Man-Made Fiber Apparel Products From the Socialist Republic of Romania

February 23, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Applying special carryforward amounting to 2,100 dozen to the level of restraint established for man-made fiber woven suit in Category 643/644 pt., produced or manufactured in Romania and exported during the agreement year which began on April 1, 1981. The adjusted level will be 28,109 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), and February 9, 1982 (47 FR 5828)].

SUMMARY: The Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended, between the Governments of the United States and the Socialist Republic of Romania, provides, among other elements of flexibility, for the borrowing of designated percentages of yardage from the succeeding year's level (carryforward). At the request of the Government of the Socialist Republic of Romania, the United States Government has agreed to grant special carryforward of 2,100 dozen in Category 643/644 pt., increasing the level for the year which began on April 1, 1981 to 28, 109 dozen. This amount will be charged to the applicable level of restraint in the agreement year beginning on April 1, 1982.

EFFECTIVE DATE: February 25, 1982.

FOR FURTHER INFORMATION CONTACT: Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On March 25, 1981, there was published in the **Federal Register** (46 FR 18570) a letter dated March 19, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established import levels for certain specified categories of wool and man-made fiber textile products, produced or manufactured in Romania and exported during the twelve-month period which began on April 1, 1981. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the twelve-month level of restraint previously established for Category 643/644 pt. to 28,109 dozen.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

February 23, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: On March 19, 1981, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption and withdrawal from warehouse for consumption during the twelve-month period which began on April 1, 1981 and extends through March 31, 1982 of wool and man-made fiber textile products in certain specified categories, produced or manufactured in Romania, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended, between the Governments of the United States and the Socialist Republic of Romania; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to amend, effective on February 25, 1982, the twelve-month level of restraint established for Category 643/644 pt.[2] to 28,109 dozen.[3]

The action taken with respect to the Government of the Socialist Republic of Romania and with respect to imports of man-made fiber textile products from Romania has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-5143 Filed 2-23-82; 11:15 am]

BILLING CODE 3510-25-M

[1] The term "adjustment" refers to those provisions of the Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended, between the Governments of the United States and the Socialist Republic of Romania, which provide, in part, that (1) specific levels of restraint may be increased for carryover and carryforward up to 11 percent of the applicable category limit; consultations may be held to adjust levels of restraint for categories not subject to specific limits; and (2) administrative arrangements or adjustments may be made to resolve problems arising under these provisions of the bilateral agreement.

[2] In Category 643/644, only T.S.U.S.A. numbers 379.2100, 379.5970, 379.5980, 379.9565, 383.2230, 383.5382 and 383.9080.

[3] The level of restraint has not been adjusted to reflect any imports after March 31, 1981.

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

February 16, 1982.

The USAF Scientific Advisory Board Arnold Engineering Development Center Advisory Group will meet at Headquarters Arnold Engineering Development Center, Arnold Air Force Station, Tennessee on March 16 and 17, 1982. The purpose of the meeting will be to review the application and improvement of ground based test facilities to support future aerospace systems. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, Specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-4859 Filed 2-23-82; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meetings

The USAF Scientific Advisory Board Electronic Systems Division Advisory Group, Air Force Systems Command, will hold meetings on March 24, 1982, from 8:30 a.m. to 5:00 p.m. and on March 25, 1982, from 8:30 a.m. to 12:00 p.m., at Hanscom Air Force Base, Massachusetts, in the Command Management Center, Building 1606.

The group will receive classified briefings and hold classified discussions on selected Air Force Command, Control, and Communications program.

The meetings concern matters listed in section 522b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly the meetings will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–8404.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-4860 Filed 2-23-82; 8:45 am]

BILLING CODE 3910-01-M

Corps of Engineers; Department of the Army

Intent; To Prepare a Draft Environmental Impact Statement on Central and Southern Florida Shark River Slough Area

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The considered project consists of structural and non-structural means of delivering surficial water in order to provide an adequate supply and distribution of water of an acceptable quality to the Everglades National Park, Florida.

2. The following alternatives or combination thereof will be considered.

a. Raise water level in Tamiami Canal to promote greater flow through Northeast Shark River Slough.

b. Construct a new water conservation area in Northeast Shark River Slough.

c. Divert floodwaters into Big Cypress National Preserve.

d. Re-evaluate schedule of water deliveries to Everglades National Park.

3. a. Public involvement to date has included a Public Meeting on 19 December 1979 and several agency technical workshops. A final public meeting is planned for later this year. Comments on alternatives and environmental concerns have been solicited by letters to Federal, State, and local agencies and private organizations. Further participation is invited from any interested parties.

b. Significant issues to be analyzed in depth in the DEIS are as follows:

(1) Impact of altered hydroperiod on fish and wildlife resources in Everglades National Park, Northeast Shark River Slough, Water Conservation Area #3, and Big Cypress National Preserve.

(2) Impact of altered hydroperiod on private landowners in Northeast Shark River Slough.

c. Coordination with appropriate Federal and State agencies is required under provisions of the Endangered Species Act and the National Historic Preservation Act.

4. A Scoping meeting is not comtemplated.

5. The DEIS is expected to be available for review in the fourth quarter of FY 82.

ADDRESS: Questions about the proposed action and DEIS may be referred to Dr. Gerald Atmar, Chief, Environmental Studies Section, U.S. Army Corps of Engineers, P.O. Box 4970, Jacksonville, Florida 32232. Telephone (904) 791–2615.

Alfred B. Devereaux, Jr.,

Colonel, Corps of Engineers, Commander and District Engineer.

[FR Doc. 82-4870 Filed 2-23-82; 8:45 am]

BILLING CODE 3710-AJ-M

Office of the Secretary

Defense Science Board Task Force on Electronic Warfare (Future Systems Subgroup); Advisory Committee Meeting

The Future Systems Subgroup of the Defense Science Board Task Force on Electronic Warfare will meet in closed session on March 22–23, 1982 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

At the meeting on March 22–23, 1982, the Task Force will discuss the application of technology to future systems designed to improve U.S. Electronic Warfare capabilities.

In accordance with 5 U.S.C. App. 1 section 10(d)(1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C.

552b(c)(1)(1976), and that accordingly this meeting will be closed to the public.

M. S. Healy,
OSD Federal Register Liaison Officer, Department of Defense.
February 18, 1982.
[FR Doc. 82-4680 Filed 2-23-82; 8:45 am]
BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER82-305-000]

Alabama Power Co.; Filing

February 19, 1982.

The filing Company submits the following:

Take notice that Alabama Power Company (Alabama) on February 11, 1982, tendered for filing an Agreement with Black Warrior Electric Membership Corporation, intended as an initial rate schedule. The filing is for the proposed Nicholsville delivery point. This agreement provides for a capacity of 7500 kVA at this location under Rate Schedule REA–1 and the applicable revisions thereto. This delivery point will not be located within the city limits or police jurisdiction of any municipality. It is expected that this customer will be served about May 1, 1982. The delivery point will be served at the Company's applicable revision to Rate Schedule REA–1 incorporated in FERC Electric Tariff, Original Volume 1 of Alabama as allowed to become effective by this Commission.

Copies of the filing were served upon Black Warrior Electric Membership Corporation.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 5, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.
[FR Doc. 82-4681 Filed 2-23-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. ER82-155-000 and ER81-188-000]

Central Maine Power Co.; Order Denying Motion To Reject, Accepting for Filing and Suspending Revised Rates, Granting in Part and Denying in Part Summary Disposition, Consolidating Dockets, and Establishing Price Squeeze and Hearing Procedures

February 12, 1982.

On December 15, 1981, Central Maine Power Company (Central Maine) tendered for filing revised Rate W–1 [1] for firm power service to three wholesale customers.[2] The revised rates provide for an increase in jurisdictional revenues of approximately $420,000 for the twelve-months (Period I) ending December 31, 1980. Central Maine proposes an effective date of February 13, 1982.

Notice of the filing was issued on December 28, 1981, with responses due on or before January 11, 1982. On January 7, 1982, the Maine Public Utilities Commission filed a notice of intervention but raised no substantive issues.

On January 11, 1982, the Kennebunk Light and Power District of Kennebunk, Maine, the Madison Electric Works of Madison, Maine, and the Fox Islands Electric Cooperative of Vinalhaven, Maine (Customers) filed a protest and petition to intervene. The Customers seek rejection of the filing arguing that the proposed rate schedules are anticompetitive because they contain two restrictive resale clauses and a present or existing customers clause. The Customers also object to Central Maine's filing on the grounds that it is premised upon an improper (1) inclusion in rate base of the unamortized portion of property losses associated with abandoned construction projects, (2) inclusion in rate base of investments in associated companies, and (3) allocation of transmission system investment on other than a "rolled-in" method. Absent rejection, the Customers seek summary disposition and suspension for the maximum five months and request that price squeeze proceedings be initiated.

On January 26, 1982, Central Maine filed a response to the Customers' pleading. While not opposing intervention, Central Maine argues that there is no basis for rejection of its filing or summary judgment with respect to the allegedly anticompetitive provisions of its rate schedule W–1. Central Maine also argues that its rate treatment of the various issues identified by the Customers is appropriate and that the Commission should not initiate price squeeze procedures.

On December 21, 1981, Central Maine filed a motion to consolidate this docket with the ongoing proceedings in Docket No. ER81–188–000; that docket involves an earlier Central Maine rate filing applicable to the town of Madison, Maine. On January 5, 1982, the Customers filed a response indicating that, subject to certain conditions relating to the scheduling of discovery, they did not oppose the motion to consolidate.

Discussion

Initially, the Commission finds that participation in this proceeding by the Customers is in the public interest. Therefore, the petition to intervene will be granted. The timely filed notice of intervention is sufficient to initiate the Maine Commission's participation in this proceeding.

Inasmuch as Central Maine's submittal substantially complies with the Commission's filing requirements, the Customers' motion to reject will be denied.[3] However, with respect to the resale restrictions found in provisions (2) and (5) of proposed rate schedule W–1, we shall grant the Customers' motion for summary disposition. The resale restriction found in provision (2) states:

> Service under this rate shall not be available for resale to retail customers served at 34.5 kilowatts or above and having a demand of 5,000 kilowatts or greater.

The resale restriction found in provision (5) provides that for energy entitlements after October 31, 1987:

> [s]uch energy shall not be available for resale to other electric utilities.

This Commission has stated plainly that direct resale restrictions such as the ones found here are on their face so devoid of any legitimate value, especially in light of other means available to accomplish appropriate planning purposes, that they are *per se* unlawful and will be consistently eliminated.[4]

[1] On December 30, 1981, Central Maine submitted additional descriptions of items shown on Statements AQ and AS. On January 12, 1982, the company submitted corrected copies of page 5, Statement BJ; the company inadvertently submitted a preliminary draft of this page in its original filing.

[2] Designated as: *Central Maine Power Company*, FERC Electric Tariff 4th Revised Volume No. 1 (Supersedes 3rd Revised Volume No. 1 and Rate Schedule FERC No. 63).

[3] *See Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F.2d 1341 (D.C. Cir. 1971).

[4] *E.g., Louisiana Power & Light Company*, Opinion No. 110, Docket No. ER77–533 (January 28, 1981); *Gulf States Utilities Company*, Docket No. ER76–616 (October 20, 1976).

The Customers also challenge language found in provision (1) of proposed rate schedule W–1 which limits service under the proposed rate to the three specifically named whoggale customers. As to this provision, the record does not demonstrate to our satisfaction that summary disposition is warranted at this time.[5] There is also no indication that any potential customer is now being denied service on the basis of this provision. Nevertheless, the issue raised by the Customers warrants careful examination as the clause appears to be broadly restrictive and potentially anticompetitive. Accordingly, while not granting the motion for summary disposition, we note that the purported justification for this provision is a matter which should be explored in greater depth at hearing.

The proposed rate schedule further provides for the reduction in the amount of firm capacity and energy available to the Customers at average system cost after October 31, 1987. The Customers suggest that this provision is designed by Central Maine to "phase-out" wholesale service to the Customers' detriment. We note that the company's pre-filed case-in-chief offers little operational support for its proposed curtailment of wholesale power supply. The company has not, for example, cited load conditions or operational criteria which would demonstrate that the rate schedule provision is justified. Nonetheless, we believe that the issue warrants further factual development at hearing. Moreover, the proposed reductions in wholesale service are not intended to occur for a number of years. As a result, no customer should be placed in imminent jeopardy in the absence of summary disposition. Thus, we shall not dispose of the matter at this time.

As noted by the intervenors, Central Maine has included in rate base the unamortized portion of losses associated with several cancelled power plants (Sears Island, Montague Nos. 1 and 2, and Pilgram No. 2) as well as the unamortized portion of a loss arising from a cancelled nuclear fuel enrichment contract. Rate base treatment of such extraordinary losses has repeatedly been rejected by the Commission and so summary disposition is appropriate;[6] the intervenor's motion as to this matter will be granted.

Central Maine also has included in rate base its equity investment in the associated "Yankee" nuclear generating companies and has treated its corresponding earnings from the "Yankee" companies as revenue credits in its cost of service. The Commission has determined that the inclusion in rate base of such investments is clearly inappropriate and, accordingly, summary disposition is again proper.[7] We shall therefore require Central Maine to submit revised rates to exclude the "Yankee" investments from its rate base and to exclude the related revenue credits. We make this finding however, without prejudice to (but without prejudging the merits of) a subsequent filing reflecting treatment of Central Maine's "Yankee" investments consistent with the Commission's findings as to rate of return in *New England Power Company*, Opinion Nos. 49 and 49–A, *supra*.

We further note that Central Maine has included in its cost of service contributions made to the Electric Power Research Institute (EPRI). Such contributions, the Commission has consistently found, should not be recovered through wholesale rates.[8] This matter has been resolved with sufficient clarity and in sufficiently generic terms to render further litigation inappropriate and, accordingly, we shall summarily dispose of this matter as well.

Finally, the Customers seek summary disposition as to Central Maine's failure to "roll-in" transmission costs. While the company has used transmission and subtransmission allocation factors representing customer demands at different voltage levels, the method employed does not appear to involve the direct assignment of transmission facilities. Under these circumstances, we decline to summarily reject Central Maine's allocation approach. This as well as the remaining matters raised by the intervenors should be resolved on the basis of an evidentiary record.

Our analysis indicates that Central Maine's revised rates and terms and conditions of service have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept them for filing and suspend them as ordered below.

In a number of suspension orders,[9] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it might run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results.

Such circumstances have been presented here. While the remaining matters raised by the intervenors warrant inquiry at hearing, our preliminary review suggests that, in light of the summary dispositions ordered herein, the proposed rates may not produce excessive revenues. Therefore, we believe that a nominal suspension and a refund obligation will adequately protect the affected customer spending a hearing. Accordingly, we shall suspend the rates for one day from sixty days after filing to become effective, subject to refund, on February 16, 1982.

In accordance with the Commission's policy established in *Arkansas Power and Light Company*, Docket No. ER79–330 (August 6, 1979), we shall phase the price squeeze issue raised by the intervenors. As we have noted in prior orders, this procedure will allow a decision first to be reached on the cost of service, capitalization, rate of return, and terms and conditions issues. If, in the view of the intervenors or staff, a price squeeze persists, a second phase of the proceeding may follow.

We further find that common questions of law and fact may be presented in Docket No. ER82–155–000 and Docket No. ER81–188–000. As a result, we shall grant the request to consolidate those dockets for purposes of hearing and decision.

The Commission orders:

(A) The Customers' motion to reject the filing is hereby denied.

[5] *Town of Springfield, Vermont* v. *Central Vermont Public Service Corporation*, Docket No. EL80–5 (August 28, 1980). *See Florida Power & Light Company*, Opinion No. 87, Docket Nos. ER78–19, *et al.* (August 3, 1979).

[6] *E.g., Ohio Edison Co.*, Docket No. ER82–79–000 (January 11, 1982); *New England Power Company*, Opinion No. 49, Docket Nos. ER76–304, *et al.* (July 19, 1978), *order on rehearing*, Opinion No. 49–A (March 28, 1980), *aff'd NEPCO Municipal Rate Committee* v. *FERC*, Nos. 80–1243, *et al.* (D.C. Cir. October 15, 1981).

[7] *See New England Power Company, supra; Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *Boston Edison Company*, Opinion No. 72B, Docket Nos. E–7600, *et al.* (May 13, 1976) (affirming initial decision), *order on rehearing*, Opinion No. 72B–A (August 4, 1976).

[8] *E.g., Northern State Power Company*, Docket No. ER81–653–000 (October 2, 1981); *Illinois Power Company*, Docket No. ER77–521 (April 10, 1981); *Public Service Company of New Mexico*, Opinion No. 123, Docket No. ER78–339 (November 9, 1981).

[9] *E. g., Boston Edison Co.*, Docket No. ER80–498 (August 28, 1980) (five month suspension); *Alabama Power Co.*, Docket Nos. ER80–556, *et al.* (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating Co.*, Docket No. ER80–498 (August 22, 1980) (one day suspension).

(B) Central Maine's revised rate W–1 is hereby accepted for filing, as modified by summary disposition, and is suspended for one day from sixty (60) days after filing to become effective, subject to refund, on February 16, 1982.

(C) Summary disposition is hereby ordered, as noted in the body of this order, with respect to: (1) The resale restrictions found in provisions (2) and (5) of rate schedule W–1, (2) inclusion in rate base of losses associated with the cancellation of generating projects and associated contracts, (3) inclusion in rate base of investments in the "Yankee" companies and treatment of associated revenue credits, and (4) contributions to EPRI. Within thirty (30) days of the issuance of this order, Central Maine shall refile its rates and supporting cost data to reflect these determinations.

(D) All other motions for summary disposition are hereby denied.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by secion 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of Central Maine's rates and terms and conditions of service.

(F) The petition to intervene in this proceeding is hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* that participation by such intervenors shall be limited to the matters set forth in the petition to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(G) The Commission staff shall serve top sheets in this proceeding on or before February 10, 1982.

(H) Docket No. ER82–155–000 is hereby consolidated with Docket No. ER81–188–000 for purposes of hearing and decision.

(I) The administrative law judge designated to preside in Docket No. ER81–188–000 shall determine the procedures best suited to accommodate consolidation of this docket with the pending proceeding.

(K) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issurance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(L) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4999 Filed 2-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82–160–000]

Central Telephone & Utilities Corp., Western Power Division; Order Accepting for Filing and Suspending Revised Rates, Granting Motions for Summary Disposition in Part, Granting Interventions, and Establishing Price Squeeze and Hearing Procedures

February 16, 1982.

On December 18, 1981, Central Telephone and Utilities Corporation, Western Power Division (CTU) tendered for filing increased rates for firm power service to 22 full requirements and 11 partial requirements customers and for transmission service provided to Kansas Electric Power Cooperative.[1] The proposed rates would result in an increase in revenues of approximately $1,322,300 (7.2%) for the twelve-month period ending December 31, 1982. CTU requests that these rates be made effective on February 16, 1982.

Notice of CTU's filing was issued on December 28, 1981, with responses due by January 15, 1982. On January 15, 1982, Midwest Energy, Inc. (Midwest), CTU's only partial requirements cooperative customer, filed a petition to intervene, protest, and request for suspension. Midwest requests a five month suspension stating that a proposed settlement with respect to CTU's prior rate filing [2] has not yet been acted on by the Commission. According to Midwest, the settlement process would be undermined if newly increased rates were to become effective immediately after the settlement rates. Midwest also notes that CTU's rate cases have historically been settled within the five month suspension period. In addition to raising rate of return and rate design issues, Midwest suggests that a disparity in the proportionate rate increases to Midwest and CTU's REA cooperative customers may result in undue discrimination.

The Kansas Municipal Group (KMG) [3] also filed a timely protest and petition to intervene. KMG moves for a maximum suspension of CTU's new rates. KMG states that CTU's filing contains numerous unexplained and unverifiable cost of service items, thus denying KMG a reasonable opportunity to evaluate CTU's claims. The specific cost of service items challenged by KMG include (1) increased administrative and general, transmission, and customer accounts expenses; (2) CTU's use of a 4 CP method of demand allocation; (3) failure to levelize costs of excess capacity; (4) the company's estimate of revenue credits for sales of excess capacity; (5) the claimed rate of return on equity; (6) full normalization of taxes; (7) the test period fuel stocks; (8) line losses; and (9) the cash working capital allowance. KMG also alleges price squeeze.

On January 15, 1982, the REA Cooperative customers of CTU [4] and the Kansas Electric Power Cooperative (collectively referred to as the Cooperatives) filed a protest, petition to intervene, motion for maximum suspension, and request for initiation of price squeeze procedures. The Cooperatives also raise a variety of cost of service issues including several of the matters addressed by KMG as well as: (1) The amount of pollution control construction work in progress (CWIP) in rate base; (2) depreciation rates; (3) rate case expenses; (4) allocation of certain facilities to the transmission function; and (5) the allocation of common plant. In addition, the Cooperatives allege price squeeze and request summary disposition with respect to (1) CTU's inclusion of $11,106,000 of short-term debt in its capital structure, and (2) inclusion in rate base of accumulated deferred income taxes related to deferred maintenance, meters read but not billed, and convertible debenture interest.

[1] *See* Attachment A for customers and rate schedule designations.

[2] A settlement agreement in Docket No. ER81–199–000 was certified to the Commission by the presiding judge on December 10, 1981. The company is now collecting interim settlement rates, subject to refund.

[3] KMG consists of 11 full requirements customers (Cawker City, Cimarron, Coats, Glasco, Glen Elder, Hoyrood, Isabel, Jamestown, Lucas, Luray, Mankato, Montezuma, and Tipton, Kansas) and eight partial requirements customers (Anthony, Attica, Beloit, Hoisington, Kingman, Pratt, Russel, and Washington, Kansas).

[4] These customers include: Ark Valley Electric Cooperative Association, Inc., C.M.S. Electric Cooperative Association, Inc., C&W Rural Electric Cooperative Association, Inc., Jewell-Mitchell Cooperative Electric Company, Inc., N.C.K. Electric Cooperative, Inc., Ninnescah Rural Electric Cooperative Association, Inc., Norton-Decatur Cooperative Electric Company, Inc., Smoky Hill Electric Cooperative Association, Inc., Sumner-Cowley Electric Cooperative, Inc., and Victory Electric Cooperative Association, Inc.

Discussion

The Commission finds that participation in this proceeding by each of the petitioners is in the public interest. Accordingly, their petitions to intervene will be granted.

The Cooperatives state that inclusion of short-term debt in CTU/s capital structure will bias the weighted cost of capital upward, with a resulting overstatement of the return requirement, that such inclusion is contrary to Commission precedent, and that short-term debt should be summarily excluded from capitalization. We agree that summary disposition is warranted as to this issue. Our practice of excluding short-term debt from the capital structure "is based on the premise that short-term financing does not support rate base but is generally used for temporary financing of construction activities" and "has been consistently adhered to except in rare cases involving unique circumstances." [5] No such unique circumstances are alleged by CTU.[6] Therefore, we shall grant the request for summary disposition and we shall require CTU to refile its cost of service and rates to exclude short-term debt costs from the stated capital structure.

The request for summary disposition as to accumulated deferred income tax balances, on the other hand, raises questions of fact best resolved in the context of an evidentiary hearing. Thus, summary disposition is not appropriate.

Our analysis of CTU's filing indicates that the proposed rates have not been shown to be just and reasonable and may be unjust unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing, as modified by summary disposition, and we shall suspend them as ordered below.

In a number of suspension orders,[7] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it might run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results.

Such circumstances have been presented here. While the matters raised by the intervenors warrant further inquiry at hearing, or preliminary review suggests that the proposed rates, as modified consistent with this order, may not produce substantially excessive revenues. Under these circumstances, we believe that a nominal suspension and a refund obligation will adequately protect the affected customers pending a hearing. Accordingly, the Commission will suspend CTU's rates for one day from 60 days after filing, to become effective, subject to refund on February 18, 1982.

In light of the intervenors' price squeeze allegations, we shall institute price squeeze procedures and phase those procedures in accordance with the Commission's policy established in *Arkansas Power and Light Company,* Docket No. ER79–339 (August 6, 1979). As we have noted in prior orders, this procedure will allow a decision first to be reached on the cost of service, capitalization, and rate of return issues. If, in the view of the intervenors or staff, a price squeeze persists, a second phase of the proceeding may follow.

The Commission orders:

(A) Summary disposition is hereby ordered with respect to CTU's inclusion of short-term debt in its capital structure. Within thirty (30) days of the issuance of this order, CTU shall refile its cost of service and rates to reflect this determination. All other motions for rejection or summary disposition are hereby denied.

(B) CTU's revised rates, as modified by summary disposition, are hereby accepted for filing and are suspended for one day from 60 days after filing to become effective, subject to refund, on February 18, 1982.

(C) Pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR Chapter I], a public hearing shall be held concerning the justness and reasonableness of CTU's rates.

(D) The petitions to intervene in this proceeding are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(E) We hereby order initiation of price squeeze procedures and further order that the proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for a consideration of price squeeze, would be just and reasonable. The presiding judge may order a change in this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in section 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(F) The Commission staff shall serve top sheets in this proceeding on or before February 17, 1982.

(G) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(H) The Secretary shall promptly publish this order in the **Federal Register.**

[5] *Transwestern Pipeline Company,* Docket No. RP74–62, 58 FPC [Vol. I] 680, 687 (1976). *See also Public Service Company of Indiana, Inc.,* Docket Nos. ER76–149 and E–9537, Opinion No. 44, (June 22, 1979), Mimeo at 16, *affirming* Initial Decision issued June 20, 1978, memeo at 22.

[6] The proposed capital structure is discussed in the prepared direct testimony of CTU's witness Robert C. Stephen (Volume 4 of 5).

[7] *E.g., Boston Edison Company,* Docket No. ER80–303 (August 29, 1980) (five month suspension); *Alabama Power Company,* Docket Nos. ER80–508, *et al.,* (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating Company,* Docket No. ER80–466 (August 22, 1980) (one day suspension).

By the Commission.
Kenneth F. Plumb,
Secretary.

Attachment A—Central Telephone and Utilities Corporation, Western Power Division, Rate Schedule Designations, Docket No. ER82-188-000

Filed: December 18, 1981.

Other party	Designation	Superseded supplement No.
I. Municipal Wholesale Customers Rate 82-MW1-E		
1. Cawker City	Supplement No. 6 to Rate Schedule FERC No. 87.	5
2. Cimarron	Supplement No. 6 to Rate Schedule FERC No. 88.	5
3. Coats	Supplement No. 6 to Rate Schedule FERC No. 89.	5
4. Gibson	Supplement No. 6 to Rate Schedule FERC No. 87.	5
5. Glen Elder	Supplement No. 6 to Rate Schedule FERC No. 88.	5
6. Holyrood	Supplement No. 6 to Rate Schedule FERC No. 90.	5
7. Isabel	Supplement No. 6 to Rate Schedule FERC No. 91.	5
8. Lucas	Supplement No. 6 to Rate Schedule FERC No. 93.	5
9. Luray	Supplement No. 6 to Rate Schedule FERC No. 94.	5
10. Mankato	Supplement No. 6 to Rate Schedule FERC No. 95.	5
11. Montezuma	Supplement No. 11 to Rate Schedule FPC No. 70.	10
12. Tipton	Supplement No. 6 to Rate Schedule FERC No. 98.	5
II. Interconnected Municipal Wholesale Rate 82-A-1		
1. Anthony	Supplement No. 17 to Rate Schedule FPC No. 56.	16
2. Attica	Supplement No. 14 to Rate Schedule FPC No. 64.	13
3. Beloit	Supplement No. 16 to Rate Schedule FPC No. 60.	15
4. Hoisington	Supplement No. 17 to Rate Schedule FPC No. 67.	16
5. Kingman	Supplement No. 19 to Rate Schedule FPC No. 68.	18
6. Pratt	Supplement No. 18 to Rate Schedule FPC No. 34.	17
7. Russell	Supplement No. 17 to Rate Schedule FPC No. 41.	16
8. Washington	Supplement No. 17 to Rate Schedule FPC No. 55.	16
9. Osborne	Supplement No. 10 to Rate Schedule FPC No. 69.	9
10. Stockton	Supplement No. 8 to Rate Schedule FERC No. 99.	7
III. Rural Electric Cooperative Rate 82-CWA-2		
1. Ark Valley	Supplement No. 12 to Rate Schedule FPC No. 74.	11
2. C. M. S.	Supplement No. 15 to Rate Schedule FPC No. 75.	14
3. C & W	Supplement No. 12 to Rate Schedule FPC No. 76.	11
4. Jewell-Mitchell	Supplement No. 13 to Rate Schedule FPC No. 77.	12
5. N. C. K.	Supplement No. 12 to Rate Schedule FPC No. 78.	11
6. Nemaha	Supplement No. 12 to Rate Schedule FPC No. 79.	11
7. Norton-Decatur	Supplement No. 11 to Rate Schedule FPC No. 80.	10
8. Smoky Hill	Supplement No. 11 to Rate Schedule FPC No. 81.	10
9. Sumner-Cowley	Supplement No. 11 to Rate Schedule FPC No. 82.	10
10. Victory	Supplement No. 13 to Rate Schedule FPC No. 83.	12
IV. Service Schedule 82-A		
Midwest Energy, Inc.	Supplement No. 17 to Rate Schedule FPC No. 35.	16

Other party	Designation	Description
V. Rate Schedule 82-TSv-1		
Kansas Electric Power Cooperative.	Rate Schedule FERC No. 104 (Supersedes Rate Schedule FERC No. 103, as supplemented).	82-TSv-1.[1]
	Supplement No. 1 to Rate Schedule FERC No. 104.	A.[2]
	Supplement No. 2 to Rate Schedule FERC No. 104.	B.[2]
	Supplement No. 3 to Rate Schedule FERC No. 104.	C.[2]

[1] Rate schedule.
[2] Appendix.

[FR Doc. 82-4880 Filed 2-23-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-303-000]

Cincinnati Gas & Electric Co.; Proposed Tariff Change

February 19, 1982.

The filing Company submits the following:

Take notice that the Cincinnati Gas & Electric Company (Cincinnati) tendered for filing on February 10, 1982 a new Interconnection Agreement, dated August 4, 1981, between Cincinnati and the City of Hamilton, Ohio (Hamilton).

The new Interconnection Agreement is for a 138 kV interconnection with Hamilton and contains rate schedules for Energy Service, Interchange Service, Short-term Power Service, and Transmission Service. The 138 kV Interconnection Agreement is to become effective at such time as the Agreement is approved by the Commission and the rate schedules attached thereto are permitted to become effective and Cincinnati's and Hamilton's systems become interconnected at 139 kV and the existing 69 kV interconnection is discontinued.

The proposed rate schedules are not similar to any other offered by Cincinnati since the Interconnection Agreement is Cincinnati's only 138 kV interconnection providing for Emergency, Interconnection, Short-term Power and Capacity Reservation Power Services in conjunction with a Transmission Service schedule.

Cincinnati states that the reason for the new Interconnection Agreement is to fix provisions for a 138 kV interconnection with Hamilton to provide Hamilton with 70,000 kW of interconnection capacity.

A copy of the filing was served upon the City of Hamilton and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 4, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-4887 Filed 2-23-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-300-000]

Connecticut Light and Power Co.; Filing

February 19, 1982.

The filing Company submits the following:

Take notice that the Connecticut Light and Power Company (CL&P) and the Hartford Electric Light Company (HELCO), on February 8, 1982, tendered for filing changes to the following unit contracts between CL&P, HELCO and Connecticut Municipal Electric Energy Cooperative (CMEEC):

Unit contract	FERC rate schedule No.
Norwalk Harbor Unit Nos. 1, 2, 3	CL&P 224.
Montville Unit Nos. 5, 6, 10, 11	CL&P 226.
Devon Unit Nos. 7, 8, 9	CL&P 227.
Millstone Point Unit Nos. 1, 2	CL&P 228.
Northfield Mountain Unit Nos. 1, 2, 3, 4	CL&P 229.
Tunnel Unit Nos. 1, 2	CL&P 230.
Bulls Bridge Unit Nos. 1, 2, 3, 4, 5, 6	CL&P 231.
Shepaug Unit No. 1	CL&P 235.
Middletown Unit Nos. 1, 2, 3, 4, 10	HELCO 232.

CL&P and HELCO propose that the unit contract changes become effective on April 10, 1982; provided that if the Commission specifies a later effective date for concurrently filed changes in CL&P's R-4 Rate, then CL&P and HELCO request that the unit contract changes become effective on the same date as the changes to the R-4 Rate are permitted to become effective.

CL&P and HELCO states that the changes would produce an estimated increase in revenues from the unit contracts of $1,112,875 based on the 12-month period ending December 31, 1982.

CL&P requests an effective date of April 10, 1982, and therefore requests waiver of the Commission's notice requirements.

CL&P and HELCO state that copies of the filing were served upon CMEEC, which is the only utility receiving service under the unit contracts.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 4, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-4868 Filed 2-23-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ID-1979-001]

James E. Davis; Application

February 18, 1982.

The filing individual submits the following:

Take notice that on February 10, 1982, James E. Davis filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director, Potomac Edison Company.
Vice President and Director, Allegheny Generating Company.
Director, Ohio Valley Electric Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 11, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-4881 Filed 2-23-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RE82-6-000]

Green River Electric Corp.; Application for Exemption

February 19, 1982.

Take notice that Green River Electric Corporation (Green River) filed an application for exemption on December 30, 1981, and an amendment to the application on January 6, 1982, from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, and biennially thereafter, information on the costs of providing electric service as specified in Subparts B, C, D, and E. In its application for exemption Green River states that it should not be required to file the specified data for the following reasons:

The nature of its retail service has not changed since it was granted an exemption from the reportings due on or before November 1, 1980, and on or before June 30, 1982, and is not likely to change in the future (a precondition per order granting exemption issued April 23, 1980, Docket No. RE80-7-000).

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426, on or before April 12, 1982. Within that 45 day period such person must also serve a copy of such comments on: James M. Miller, Holbrook, Gary, Wible and Sullivan, P.S.C., 100 St. Ann Bldg, P.O. Box 727 Ownesboro, Kentucky 42302-0727.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-4882 Filed 2-23-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ES82-30-000]

Gulf States Utilities Co.; Application

February 18, 1982.

Take notice that on February 9, 1982, Gulf States Utilities Company (Applicant) filed an application with the Commission, pursuant to Section 204 of the Federal Power Act, seeking an order authorizing the issuance of not more than 5,000,000 shares of common stock, without par value, via negotiated placement.

Any person desiring to be heard or to make any protest with reference to the said application should on or before March 8, 1982, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-4883 Filed 2-23-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RE82-3-000]

Henderson-Union Rural Electric Cooperative Corp.; Application for Exemption

February 19, 1982.

Take notice that Henderson-Union Rural Electric Cooperative Corporation (Henderson-Union) filed an application for exemption on December 30, 1981, and an amendment to the application on January 6, 1982, from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, and biennially thereafter, information on the costs of providing electric service as specified in Subparts B, C, D, and E.

In its application for exemption Henderson-Union states that it should

not be required to file the specified data for the following reasons:

The nature of its retail service has not changed since it was granted an exemption from the reportings due on or before November 1, 1980, and on or before June 30, 1982, and is not likely to change in the future (a precondition per order granting exemption issued April 23, 1980, Docket No. RE80-6-000).

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before April 12, 1982. Within that 45 day period such person must also serve a copy of such comments on: James M. Miller, Holbrook, Gary, Wible, and Sullivan, P.S.C., 100 St. Ann Bldg., P.O. Box 727, Owensboro, Kentucky, 42302-0727.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4994 Filed 2-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-55-000]

Hercules, Inc., Forster Plant; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

February 22, 1982.

On January 28, 1982, Hercules, Inc. Forster Plant of Covington, Virginia filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located on Edgemont Drive in Covington, Virginia 24426. The primary energy source will be natural gas. Electric capacity of the facility will be 600 kilowatts and an average of 20.6 thousand Btu/hr. of steam will be used for process use and space heating. Installation of the facility began in October 1981. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before March 26, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4995 Filed 2-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Dockets Nos. E-9548, E-9549 and ER78-382]

Indiana & Michigan Electric Co.; Refund

February 18, 1982.

The filing Company submits the following:

Take notice that on January 29, 1982, Indiana & Michigan Electric Company filed refund reports in Docket Nos. E-9548, E-9549 and ER78-382 pursuant to the Commission's letter order issued on January 19, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before March 4, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4996 Filed 2-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RA83-13-000]

Laketon Asphalt Refining, Inc.; Extension of Time

February 17, 1982.

On February 12, 1982, Laketon Asphalt Refining, Inc. (Laketon) filed a request for a stay of the requirement to file its petition for review of a decision and order issued by the Department of Energy's (DOE) Office of Hearings and Appeals (OHA) (DOE Case No. BYX-0228). Laketon requests that this stay be granted pending action by DOE on Laketon's Motion for Reconsideration which was filed with DOE on February 10, 1982.

Upon consideration, notice is hereby given that an extension of time for the filing of a petition for review is granted to and including April 1, 1982. In the event that the company does not anticipate perfecting its petition by that date and seeks an additional extension, a status report and request for extension should be filed with the Commission on or before March 29, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4999 Filed 2-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5840-000]

Meherrin Hydro Associates; Application for Preliminary Permit

February 19, 1982.

Take notice that Meherrin Hydro Associates (Applicant) filed on December 31, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5840 to be known as the Whittles Mill Dam Project located on the Meherrin River in Mecklenburg and Lunenburg Counties, Virginia. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Wayne L. Rogers, Meherrin Hydro Associates, 1444 Foxwood Court, Annapolis, Maryland 21401.

Project Description—The proposed project would consist of: (1) The existing 125-foot long and 16-foot high, concrete capped stone, Whittles Mill Dam; (2) an existing 4-acre reservoir, containing 15 acre-feet of storage capacity; (3) a ¼-mile transmission line; (4) a rebuilt powerhouse to contain an estimated installed generating capacity of 550 kW; and (5) appurtenant facilities. The Applicant estimates the average annual energy generation to be 2.4 GWh.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if the findings are positive, the Applicant intends to submit a license application. The applicant's estimated total cost for performing these studies is $36,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 1, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 31, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 31, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4980 Filed 2-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-142-000]

Missouri Edison Co., and Panhandle Eastern Pipe Line Co.; Application

February 17, 1982.

Take notice that on December 31, 1981, Missouri Edison Company (Applicant), Box 780, Jefferson City, Missouri 65102, filed in Docket No. CP82-142-000 an application pursuant to Section 7(a) of the Natural Gas Act for an order directing Panhandle Eastern Pipe Line Company (Respondent) to sell natural gas to Applicant pursuant to Respondent's Rate Schedule I-2, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Kaiser Aluminum & Chemical Corporation (Kaiser) is actively engaged in acquiring from Hercules, Inc. (Hercules) the ammonia production facility located at Louisiana, Missouri. Applicant explains that Kaiser intends to operate the existing ammonia facility at essentially historical levels subject to future market restraints and, as such, would require approximately 7,500 Mcf of natural gas per day. It is asserted that upon commencement of commercial operation of the modified ammonia production facility Kaiser would require up to 45,000 Mcf of natural gas on a peak day for essential agricultural uses.

Applicant submits that by *Order on Remand in Compliance with Mandate of Court Order Approving Application with Conditions* issued in Missouri Edison Co., Docket No. CP70-161 (October 4, 1973) Respondent was directed to sell 15,000 Mcf of natural gas per day to Applicant for resale to Hercules for use at the Louisiana plant. Applicant now requests that Respondent be directed to sell natural gas to Applicant pursuant to its Rate Schedule I-2, as follows:

(a) During an initial period commencing with acquisition of the Louisiana plant by Kaiser and continuing until plant modifications are completed 7,500 Mcf per day for resale to Kaiser and up to 2,500 Mcf per day for resale to Hercules.

(b) Commencing with the completion of planned modification of the Louisiana plant which is expected to occur in early 1986 and continuing thereafter up to approximately 45,000 Mcf on a peak day for resale to Kaiser for essential agricultural uses. Hercules' requirement for up to 2,500 Mcf per day would remain unchanged.

Applicant submits that approval of the instant application would benefit Respondent's and Applicant's customers in two ways. It is stated that initially at least 5,000 Mcf of natural gas per day would be made available to Respondent's general system supply. Furthermore, Applicant asserts that Applicant's and Respondent's system costs would be spread over the greater volumes sold to Applicant for resale to Kaiser.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 4, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 156.9). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4998 Filed 2-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-161-000]

New England Power Co.; Order Accepting for Filing and Suspending Revised Rates, Granting Interventions, and Establishing Procedures

February 18, 1982.

On December 18, 1981, New England Power Company (NEP) tendered for filing a proposed amendment [1] which would provide for the transmission of

[1] Designated as: *New England Power Company*, First Revised Page Number 3, Under Schedule II of FERC Electric Tariff, Original Volume Number 3 [Supersedes Original Page Number 3].

non-firm power that is delivered to NEP on other than its Pool Transmission Facilities (PTF) system. In particular, the proposed amendment provides a rate for transmission service that would apply when delivery of non-firm power requires use of the distribution facilities of Massachusetts Electric Company (MECO), a NEP subsidiary, rather than NEP's PTF facilities. The tariff change is intended to accommodate a transmission need that has arisen because Fitchburg Gas and Electric Company (Fitchburg) has secured a unit power entitlement in a cogeneration facility that will not be directly connected with NEP's PTF system.

NEP requests waiver of the notice requirements to allow an effective date of January 11, 1982. This date corresponds to the anticipated in-service date of the cogeneration project for which wheeling service is required. In its filing, NEP requests that the amendment be allowed to become effective subject to refund. NEP states that it will file the applicable service agreement with Fitchburg when it is executed.

Notice of the filing was issued on December 29, 1981, with responses due on or before January 15, 1982. Fitchburg filed a timely petition to intervene. On January 18, 1982, the Massachusetts Municipal Wholesale Electric Company (MMWEC) filed an untimely petition to intervene and protest on behalf of its 33 municipal members. Fitchburg states that it does not oppose an abbreviated suspension period, provided that the rate is made effective subject to refund. However, Fitchburg suggests that the proposed rate may be excessive and that the proposed allocation of costs on a capability basis may be improper. MMWEC asserts that the applicability of the amendment is unclear from the tariff language and that it may overlap with NEP's existing Rate T-Non-PTF–3 tariff. MMWEC further alleges that the proposed allocation of costs supporting the rate may be unjustified. Like Fitchburg, MMWEC indicates no opposition to a shortened suspension period provided that the rate remains subject to refund.

Discussion

The Commission finds that participation in this proceeding by Fitchburg and MMWEC is in the public interest and that good cause exists to permit MMWEC to intervene out of time. Accordingly, the petitions to intervene will be granted.

Upon review of the filing and the matters raised by the intervenors, the Commission concludes that NEP's proposed amendment has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed amendment for filing and suspend its operation as ordered below.

In a number of suspension orders,[1] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it might run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. Such circumstances have been presented here. The Commission notes that Fitchburg, the first customer expected to take service under the amendment, has stated that it does not seek a maximum suspension. Neither does the other intervenor oppose an abbreviated suspension period. Furthermore, it appears that Fitchburg desires to have this transmission rate available as of the in-service date of the cogeneration project in which it has entitlements. Thus, we believe that a maximum suspension would be inappropriate. A nominal suspension, a refund obligation, and the initiation of a hearing should adequately protect the interests of the parties to this proceeding as well as any other potential tariff customers. Based on the facts recited, we further find that good cause exists to waive the notice requirements. Accordingly, we shall suspend the operation of the tariff revision for one day, permitting it to take effect, subject to refund, on January 12, 1982.

The Commission orders:

(A) NEP's request for waiver of the notice requirements is hereby granted.

(B) NEP's proposed amendment to its tariff is hereby accepted for filing and suspended for one day, to become effective on Juanuary 12, 1982, subject to refund.

(C) Pursuant to the authority contained in, and subject to the jurisdiction conferred upon the Federal Energy Regulation Commission by section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR, Chapter I], a public hearing shall be held concerning the justness and reasonableness of NEP's amendment to its transmission tariff.

(D) Fitchburg and MMWEC are hereby permitted to intervene in this proceeding subject to rules and regulations of the Commission; *Provided, However,* that participation by the intervenors shall be limited to matters set forth in their petitions to intervene; and *provided further,* that the admission of the intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding to be held within approximately fifteen (15) days of the date of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The designated law judge is authorized to establish procedural dates, and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4867 Filed 2-23-82; 8:45 am]

BILLING CODE 6717-01-M

[1] *E.g., Boston Edison Co.*, Docket No. ER80-508 (August 20, 1980) (five month suspension); *Alabama Power Co.*, Docket Nos. ER80-508, *et al.* (August 20, 1980) (one day suspension); *Cleveland Electric Illuminating Co.*, Docket No. ER80-488 (August 22, 1980) (one day suspension).

[Docket No. CP80-135-001]

Northern Natural Gas Co., a Division of InterNorth, Inc.; Petition To Amend

February 18, 1982.

Take notice that on January 5, 1982, Northern Natural Gas Company, Division of InterNorth, Inc., (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP80-135-001 a petition to amend the order issued September 25, 1981, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize modification of certain of the facilities to be constructed, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued September 25, 1981, it was authorized to construct and operate 3 compressor stations totaling 7,530 horsepower, approximately 65 miles of 4-inch through 8-inch branchline loops, measurement facilities and appurtenances to provide for the increased volumes of seasonal service demand authorized of 256,559 Mcf per day. Petitioner asserts that a realignment of 16,837 Mcf of the total volumes authorized has been requested by certain utilities and that other modifications are required to provide for increased operating efficiency and flexibility on Petitioner's system. Therefore, Petitioner proposes the following facility revisions:

(1) Petitioner would construct and operate approximately 16.65 miles of 12-inch pipeline from a proposed interconnection with Northern Border Pipeline Company's (Northern Border) 42-inch pipeline in Lyon County, Minnesota, northward to a proposed tie-in point with Petitioner's existing 4-inch Willmar Branch line in Lyon County, Minnesota. Petitioner would construct and own the branchline proposed herein and reimburse Northern Border for the interconnection and measurement facilities which Northern Border would install and own.

(2) Petitioner states that it is to receive gas from Northern Border at various points along the Northern Border pipeline including Aberdeen, South Dakota. The Northern Border delivery points at Aberdeen and Marshall would eliminate the need for certain compression facilities currently authorized in the September 25, 1981, order, it is stated. Petitioner explains that the temporary unit at Aberdeen would be removed when the Northern Border facilities are operational and are delivering gas to Petitioner at the Aberdeen interconnect currently estimated for September 1982. Prior to delivery of gas by Northern Border, Petitioner would be able to provide full service to all customers on the Aberdeen branchline with one temporary 1,000 horsepower unit. Petitioner states it would make opeating modifications to assure reliability of the station without a back-up unit.

(3) Petitioner submits that by causing delivery of natural gas at the proposed Northern Border interconnections and thereby reducing volumes required to be delivered through Petitioner's mainline transmission system compression requirements at the Dawson, Minnesota, compressor station and at the Aberdeen, South Dakota, compressor station ultimately would be eliminated. It is stated that the 2,250 horsepower back-up unit at the Wakefield compressor station was eliminated as a result of the increased operating pressure of the branchline it serves.

(4) 20.8 miles of 8-inch pipeline is proposed to connect the Elk River Branchline, near Elk River, Minnesota, to the St. Cloud Branchline, Princeton, Minnesota. Petitioner states this pipeline would eliminate the need for 14.66 miles of 6-inch loopline on the Elk River branchline as authorized in the instant docket. It is further stated the 7.71 miles of loopline from Martinville to Buffalo, Minnesota, which was proposed in Petitioner's Docket No. CP61-327 would be eliminated.

(5) Petitioner explains that miscellaneous additions and revisions to the facilities currently authorized are necessary due to the volume realignment. Said facilities, it is stated, consist of a new town border station near Carver, Minnesota, to serve Minnesota Gas Company, one of Petition's utility customers, modification of an existing town border station at Albany, Wisconsin, and the addition of approximately 1.76 miles of 4-inch loopline on the Baldwin, Wisconsin, branchline.

Petitioner states that the total project cost would not exceed $18,843,200 as compared to the original projected facility cost of $15,350,800.

Any persons desiring to be heard or to make any protest with reference to said petition to amend should on or before March 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4868 Filed 2-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-149-000]

Northwest Pipeline Corp.; Application

February 18, 1982.

Take notice that on January 12, 1982, Northwest Pipeline Corporation (Applicant), 315 East 200 South, Salt Lake City, Utah 84111, filed in Docket No. CP82-149-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Mountain Fuel Resources, Inc. (Resources), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 35,000 Mcf of natural gas per day for Resources pursuant to a transportation agreement dated March 27, 1981. It is asserted that Applicant would receive the subject gas at the Dove Creek receipt point located on Applicant's mainline in Dolores County, Colorado. Applicant would then transport and redeliver thermally equivalent volumes, less mainline fuel and losses, to Resources at an existing point of interconnection (Piceance Delivery point) between Applicant and Resources located in Rio Blanco County, Colorado, or at such other delivery points which may be established and mutually agreed upon.

It is asserted that Resources would reimburse Applicant in kind for the fuel and losses associated with transporting Resources' gas by an amount equal to the volumes of gas received by Applicant for transportation multiplied by the mainline fuel percentage which is currently 1.0 percent.

Applicant estimates that transportation volumes under the proposal would initially be about 3,000 Mcf per day and would increase as Resources further develops its gas fields.

Applicant proposes to charge Resources at the applicable mainline transportation rate as set forth on Sheet No. 2 of Applicant's FERC Gas Tariff, Original Volume No. 2. It is stated that the currently effective rate is 1.34 cents per million Btu for each one hundred-mile increment of distance transported. It is stated that the initial mainline rate would equate to 2.68 cents per million Btu.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules

of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4891 Filed 2-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER-82-302-000]

Pacific Gas & Electric Co.; Filing

February 19, 1982.

The filing Company submits the following:

Take notice that on February 9, 1982, Pacific Gas and Electric Company (Pacific) tendered for filing an amendment, dated December 31, 1981, to the Power Sale, Exchange and Integration Contract between Pacific and Sacramento Municipal Utility District (Sacramento). The amendment changes the working of Article 20 of the Contract to provide for a one-time reduction of the termination notice period.

The amendment allows either party to cancel the contract between December 21, 1981 and May 1, 1982, the cancellation to become effective January 1, 1983.

Pacific states that the effective date of the amendment is to be December 21, 1981, and requests a waiver of the notice requirements with respect to the effective date in order to comply with the intent of the parties to the amendment.

Pacific further states that copies of the filing have been sent to Sacramento and to the California Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 4, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4891 Filed 2-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Dockets Nos. CP71-237; CI71-714]

Panhandle Eastern Pipe Line Co. and Pan Eastern Exploration Co.; Informal Conference

February 17, 1982.

On February 11, 1982, Pan Eastern Exploration Company (Pan Eastern) filed a "Petition For Amendment Of Stipulation And Agreement" in the above-referenced proceeding. Pan Eastern is proposing to amend the Stipulation and Agreement dated August 20, 1976 and approved by order issued in the above-captioned proceedings on December 22, 1976. Pan Eastern states that the purpose of the proposed Amended Stipulation and Agreement is to enable Pan Eastern to conduct exploration and development on the undeveloped leases that it presently owns, to acquire additional leases for expanded exploration and development and to define its obligations under this restructured program. Pan Eastern also states that Commission approval of the proposed amendment will also establish Panhandle Eastern Pipe Line Company's (Panhandle) right to the gas produced from leases acquired during the term of the agreement, and to include in its cost of service the prices paid for the gas, both as to "discount" prices for "new gas" and "undiscounted" prices for "supplemental gas", in accordance with the Amended Stipulation and Agrement. Finally, Pan Eastern alleges that the public interest will be greatly enhanced by the approval of the proposed amendments. Pan Eastern has requested an informal conference among the parties and the Commission Staff concerning this matter.

Take notice that on Monday, March 8, 1982, at 10:00 A.M., an informal conference of all interested parties will be convened in the above-captioned proceeding. The conference will be held at the offices of the Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend the informal conference, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention.

All parties will be expected to appear fully prepared to discuss any procedural matters and explore or make commitments with respect to any or all of the issues discussed at the conference.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4892 Filed 2-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket ER82-295-000]

Philadelphia Electric Co.; Filing

February 16, 1982.

The filing Company submits the following:

Take notice that Philadelphia Electric Company (Philadelphia), on February 6, 1982, tendered for filing proposed changes in its FERC Electric Tariff Service Tariff No. 36 and No. 2, applicable for sevice to Conowingo Power Company. The proposed changes would increase revenues from jurisdictional sales and service by $3,077,600, or 9.3%, based on the 12-month period ending December 31, 1982.

Philadelphia proposes an effective date of April 10, 1982.

Copies of the filing were served upon the public utility jurisdictional customers (other parties the public utility served, *inter alia*, State Public Service Commission, other government agencies, etc.)

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 3, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4893 Filed 2-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-304-000]

Public Service Company of New Hampshire; Filing

February 19, 1982.

The filing Company submits the following:

Take notice that on February 10, 1982, Public Service Company of New Hampshire (PSNH) tendered for filing unexecuted service agreements under its non-firm transmission tariff which became effective subject to refund on February 7, 1982, under the Commission's order in this docket. The service agreements are requested to become effective on the same date and are between the Company and the following customers:

Allied Power and Light Company
Bangor Hydro-Electric Company
Braintree Electric Light Department
Burlington Electric Light Department
Central Maine Power Company
Central Vermont Public Service Corporation
Citizens Utilities Company
Enosburg Falls Water and Light Department
Green Mountain Power Corporation
Hardwick Electric Department
Hyde Park, Inc., Water and Light Department
Johnson Electric Light Department
Ludlow Electric Light Department
Lyndonville Electric Department
Morrisville Water and Light Department
North Attleborough Electric Department
Northeast Utilities
Northfield Electric Department
Orleans Electric Department
Readsboro Electric Light Department
Rochester Electric Light and Power Company
Stowe Water and Light Department
Vermont Electric Generation and Transmission Cooperative, Inc.
Vermont Electric Power Company, Inc.
Vermont Marble Company
Village of Swanton
Washington Electric Cooperative, Inc.

PSNH proposes an effective date of February 7, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 5, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4894 Filed 2-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE81-106-000]

Southern California Edison Co.; Supplemental Application for Partial Exemption

February 19, 1982.

Take notice that on July 1, 1981 Southern California Edison Company (SCE), filed a supplemental application for partial exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 (44 FR 56667, October 11, 1979). Exemption is sought from the requirement to file, on or before June 30, 1982, information on the costs of providing electric service as specified in Section 290.302(a) and 290.302(b). Due to administrative oversight, notice of the application was published promptly.

In its application for exemption, SCE proposes that it should not be required to file the specified data in view of a proposed alternate program for compliance consisting of comparable data submitted to the California Public Utilities Commission for use in its production simulation model. Although the level of detail and format required by the California Public Utility Commission is at variance with PURPA requirements, the substance and the intended use of the data are comparable.

Copies of the application for exemption are on file with the Commission and are avbilable for public inspection. Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington D.C. 20426, on or before March 26, 1982. Within that 30-day period such person must also serve a copy of such comments on: Southern California Edison Company, 2244 Walnut Grove Avenue, Rosemead, California 91770.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4896 Filed 2-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-177-000]

Southern California Edison Co.; Order Accepting Amendments to Cost Support and Giving Notice of Intent To Act on Motion

February 16, 1982.

On January 15, 1982, Southern California Edison Company (Edison) tendered for filing an amendment to its rate filing application in the above-captioned docket pursuant to §§ 1.11(a), 35.13 and 35.14 of the Commission's regulations. The stated purpose of the filing is to amend Edison's previously filed cost of service to reflect revisions purportedly required by the Economic Recovery Tax Act (ERTA or "the Act") of 1981 (Pub. L. 97-34) in order to qualify for benefits under the Act. Edison states that the proposed rates in this docket are not being revised, but that the allocated wholesale cost of service support alone is being increased by $1,287,000.

Edison further requests the Commission, pursuant to § 1.12(a) of the Commission's Rules of Practice and Procedure, to issue an order requiring that normalization accounting of the income tax benefits available to Edison pursuant to Section 201 of ERTA shall be utilized in determining Edison's cost of service in this docket. Edison states that such an order is necessary to meet the requirements of Section 209(d) of the Act, which requires that for previously non-qualifying utilities the tax benefits of ERTA for qualifying post-1980 property must be subject to normalization accounting by the terms of a rate order of the regulatory authority having ratemaking jurisdiction which is effective prior to January 1, 1983.

Answers to amendments to applications may be filed within fifteen days pursuant to § 1.9(g) of the Rules of Practice and Procedure. On February 1, 1982, the Cities, intervenors in this proceeding, filed a timely response stating that they did object to

acceptance for filing of the amendments, but reserved their right to contest them during the hearing. Cities further urge the Commission not to act on Edison's request for an order until after the hearing in this proceeding.

On January 3, 1982, the intervening City of Vernon filed an untimely protest and a motion for rejection of the amendments on the grounds that they constitute a new rate filing or a post test year adjustment.

Discussion

We agree with Edison that the Company's qualification for the benefits of ERTA may be in the best long-term interests of Edison's customers as well as of the utility itself. We disagree with the City of Vernon that the amendment constitutes a post test year adjustment. Rather, Edison appears to have revised its accounting treatment for the test year in order to comply with a tax law which applies to test period property.

It is unclear at this time whether the IRS regulations under ERTA will in fact require normalization in this proceeding of some or all of the items normalized by Edison in its amendments in order to qualify for ERTA benefits. In order to preserve the positions of all parties pending clarification of this matter, we shall accept the amendments to the pleadings for filing, to become a part of Edison's cost support in this docket, without prejudice to a motion for their ultimate rejection once the position of the IRS becomes clearer. Our action in accepting the amendments for filing also reflects no judgment on the substantive merits of the statements or supplemental testimony.

Likewise, we find it premature to act at this time on the motion requesting an order requiring normalization. We therefore give notice of our intent to act on Edison's motion at a later date.

The Commission orders:

(A) Edison's January 15, 1982 amendment to its cost of service in this docket is hereby accepted for filing and made a part of the company's showing for purposes of hearing and decision.

(B) The Commission shall act on Edison's motion filed on January 15, 1982 at a later date. The provisions of § 1.12(a) under which the motion would otherwise be deemed denied within 30 days are hereby tolled.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4871 Filed 2-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-151-000]

Tennessee Gas Pipeline Co.; Application

February 18, 1982.

Take notice that on January 12, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP82-151-000 an application pursuant to Section 7(c) of the Natural Gas Act and § 284.200 of the Commission's Regulations for a certificate of public convenience and necessity authorizing the transportation of natural gas for Consolidated Edison Company of New York, Inc. (Con Ed), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport for Con Ed during the period from February 1, 1982, to April 1, 1982, up to 25,000 Mcf per day of natural gas. Applicant estimates that it would transport up to 1,500,000 Mcf for Con Ed during said two-month period.

Applicant states that the gas to be transported would be purchased by Con Ed from New York State Electric & Gas Corporation (NYSEG) and made available for transportation at Applicant's existing Lockport sales meter station delivery point to NYSEG located in Niagara County, New York. It is stated that Applicant would receive said gas at that point and deliver equivalent volumes to Transcontinental Gas Pipe Line Corporation (Transco) for the account of Con Ed at Applicant's existing Rivervale sales meter station delivery point to Transco in Bergen County, New Jersey. Applicant asserts that Transco would then deliver equivalent volumes of natural gas to Con Ed.

Applicant indicates that the transportation rate applicable to the proposed service is currently 16.24 cents per Mcf pursuant to Applicant's Rate Schedule IT.

Applicant submits that the proposed transportation would enable Con Ed to reduce the use of fuel oil in the generation of electric energy at its electric generation stations. Applicant further submits that the gas would be transported only to the extent its operating conditions and available capacity permit through the utilization of existing facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition ot intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4872 Filed 2-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-402-001]

Texas Eastern Transmission Corp.; Amendment to Application

February 17, 1982.

Take notice that on February 2, 1982, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP81-402-001 an amendment to the application filed in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to extend the termination date of the proposed transportation service, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is stated that by a temporary certificate issued September 1, 1981, in the instant docket Applicant was authorized to transport up to 50,000 dekatherms (dt) equivalent of natural gas per day which Long Island Lighting Company (Long Island) has purchased from Equitable Gas Company (Equitable) pursuant to an agreement dated July 1, 1981, which terminated December 31, 1981. Applicant now proposes to extend the transportation service through October 31, 1982, pursuant to a transportation agreement dated January 29, 1982. Applicant explains that the instant proposal would allow Long Island to extend its purchase arrangement with Equitable. Applicant submits that in all other respects the original application and transportation agreement remain unchanged.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before March 5 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Any persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary,

[FR Doc. 82-4855 Filed 2-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-144-000]

Transcontinental Gas Pipe Line Corp. and Natural Gas Pipeline Company of America; Application

February 18, 1982.

Take notice that on January 6, 1982, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, and Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP82-144-000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspeciton.

It is stated that Applicants entered into an agreement dated June 11, 1981, where under Transco would exchange supplies available to it in Block 348, Vermilion Area, offshore Louisiana, for supplies available to Natural in Block A-17, Brazos Area, offshore Texas, and Blocks 107 and 114, South Marsh Island Area, offshore Louisiana. It is stated that the maximum daily exchange quantity is the dekatherm equivalent of 20,000 Mcf.

Applicants submit that any balancing required would take place at the existing interconnection between Natural and U-T Offshore System, Cameron Parish, Louisiana, the outlet of Mobil Oil Corporation's LaGloria Plant, Jim Wells County, Texas, the existing interconnecton between Transco and Valero Transmission Company in Jim Wells County, Texas, and any other mutually agreeable point where Applicants have gas available which could be delivered to either for balancing purposes.

It is stated that there would be no charge to either party because the benefits derived from the exchange are substantially equal and mutually beneficial.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 15, 1982, file with the Federal Energy Regulatory Commission, Washingon, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearings.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4873 Filed 2-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Volume 596]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 17, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	Issued February 17, 1982	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION										
-BEAR PETROLEUM CO INC				RECEIVED:	01/26/82	JA: KS				
8216329	K 81-0517	1508720794		103		WATKINS #1		I L S SOUTHWEST	75.6	CITIES SERVICE GA
-MOBIL OIL CORP				RECEIVED:	01/28/82	JA: KS				
8216330	K-81-0719	1518920540		103		BOLTON #1 UNIT #2		PANOMA COUNCIL GROVE	70.0	NORTHERN NATURAL
MICHIGAN DEPARTMENT OF NATURAL RESOURCES										
-ADOLPH ROVSEK				RECEIVED:	01/28/82	JA: MI				
8216343		2105933747		103		E & J SPONSELLER #2-9		ADAMS	27.4	MARATHON OIL CO
-AMOCO PRODUCTION CO				RECEIVED:	01/28/82	JA: MI				
8216342		2104534750		102-4		KUNKEL #2-16		EATON RAPIDS 16A-2N-3	73.0	CONSUMERS POWER C
-GETTY OIL COMPANY				RECEIVED:	01/28/82	JA: MI				
8216341		2110100000		102-4		L K SMITH #1-8		BEAR LAKE 8-23N-15W	164.0	MICHIGAN CONSOLID
-KULKA & SCHMIDT INC				RECEIVED:	01/28/82	JA: MI				
8216339		2106500000		102-4		KEHLER ETAL UNIT #1-15		WHITE OAK "15"	0.0	CONSUMERS POWER C
-TOTAL PETROLEUM INC				RECEIVED:	01/28/82	JA: MI				
8216340		2105534064		102-4		ROTARY CAMPS INC 3-11		EAST BAY 14	160.0	CONSUMERS POWER C
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS										
-AMERADA HESS CORPORATION				RECEIVED:	01/28/82	JA: NM				
8216165		3002504133		108		J R PHILLIPS #4		EUNICE-MONUMENT	5.0	NORTHERN NATURAL
8216160		3002526548		108		STATE WE B #6		EUMONT	12.2	EL PASO NATURAL G
-AMOCO PRODUCTION CO				RECEIVED:	01/28/82	JA: NM				
8216246		3004520953		108		CAMEPLE GAS COM "B" #1 (2ND)		BLANCO - PICTURED CLI	18.0	EL PASO NATURAL G
8216203		3002527253		103		STATE 10 COM #1		UND UPPER PENN BAUM	6.6	
8216258		3002526978		102-4		STATE IT #1		UND ATOKA	677.4	UNITED GAS PIPELI
8216274		3001523709		102-4		STATE NA COM #1		UND MORROW	1131.5	CABOT PIPELINE CO
8216212		3004509214		108		STEDJE GAS COM #1 (4TH)		BASIN DAKOTA	19.0	EL PASO NATURAL G
8216252		3004508203		108		VALENCIA GAS COM "B" #1 (3RD)		BASIN DAKOTA	18.0	EL PASO NATURAL G
-ARCO OIL AND GAS COMPANY				RECEIVED:	01/28/82	JA: NM				
8216163		3002527249		103		FREDERICK M CURRY WN #6		LANGLIE MATTIX (7R QN	75.0	EL PASO NATURAL G
8216259		3001521255		108		STATE BR COM #1		AVALON (MORROW)	3.3	GAS CO OF NEW MEX
-BRAZOS PETROLEUM CO				RECEIVED:	01/28/82	JA: NM				
8216217		3002500000		103		BASS STATE #1		EAST CROSSROADS (SAN	15.0	WARREN PETROLEUM
8216206		3002500000		103		BRAZIEL STATE #1		EAST CROSSROADS (SAN	10.0	WARREN PETROLEUM
8216220		3002500000		103		GETTY STATE #2		SAWYER (SAN ANDRES)	50.0	WARREN PETROLEUM
-CAULKINS OIL COMPANY				RECEIVED:	01/28/82	JA: NM				
8216161		3003927601		103		STATE COMM 113E		BLANCO MESA VERDE	6.0	GAS CO OF NEW MEX
8216162		3003927601		103		STATE COMM 113C		BASIN DAKOTA	12.0	GAS CO OF NEW MEX
-CITIES SERVICE COMPANY				RECEIVED:	01/28/82	JA: NM				

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8216258		3002506286		108		STATE F #2	EUMONT YATES 7 RIVERS	12.0	NORTHERN NATURAL
8216270		3002512179		108		STATE P #1	BLINEBRY & TUBB	15.0	NORTHERN NATURAL
-COOK OIL & GAS PRODUCTION				RECEIVED:	01/28/82	JA: NM			
8216195		3001500000		103		STATE #2-Y	SHUGART	22.0	CONOCO INC
8216193		3001500000		103		STATE #3	SHUGART	22.0	CONOCO INC
8216194		3001500000		103		STATE #4	SHUGART	22.0	CONOCO INC
-COUGAR PETROLEUM CO				RECEIVED:	01/28/82	JA: NM			
8216256		3004524861		102-2		STATE 16-21	GALLUP	200.0	GAS CO OF NEW MEX
-DAVID FASKEN				RECEIVED:	01/28/82	JA: NM			
8216219		3002527394		103		CONSOLIDATED STATE #2	WILDCAT (STRAWN)	7.3	PHILLIPS PETROLEU
-EL PASO NATURAL GAS COMPANY				RECEIVED:	01/26/82	JA: NM			
8216152		3004524408		108		TEXAS PACIFIC COM #1R	AZTEC - PICTURED CLIF	18.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	01/28/82	JA: NM			
8216170		3003900000		108-PB		SAN JUAN 27-4 UNIT #23	TOPACITO-PICTURED CLI	0.0	EL PASO NATURAL G
8216167		3003900000		108-PB		SAN JUAN 27-5 UNIT #156	TOPACITO PICTURED CLI	0.0	NORTHWEST P L COR
8216197		3003900000		108-PB		SAN JUAN 27-5 UNIT #29	TOPACITO-PICTURED CLI	0.0	EL PASO NATURAL G
8216166		3003900000		108-PB		SAN JUAN 27-5 UNIT #36	TOPACITO-PICTURED CLI	0.0	NORTHWEST P L COR
8216169		3003900000		108-PB		SAN JUAN 27-5 UNIT #41	TOPACITO PICTURED CLI	0.0	NORTHWEST P L COR
8216173		3003900000		108-PB		SAN JUAN 28-5 - UNIT #15	BLANCO-MESA VERDE GAS	0.0	EL PASO NATURAL G
8216174		3003900000		108-PB		SAN JUAN 28-5 UNIT #70	BASIN DAKOTA	0.0	EL PASO NATURAL G
8216251		3003900000		108-PB		SAN JUAN 28-7 UNIT #94	SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
8216196		3003900000		108-PB		SAN JUAN 30-6 UNIT #46	BLANCO-MESAVERDE	0.0	EL PASO NATURAL G
8216271		3004510988		108		SAN JUAN 32-9 UNIT #64	BLANCO - MESA VERDE	18.0	EL PASO NATURAL G
-ENSERCH EXPLORATION INC				RECEIVED:	01/28/82	JA: NM			
8216255		3004130580		102-2		COLLIER "A" #1	N PETERSON	43.0	TRANSWESTERN PIPE
8216254		3000560907		102-2		J G O'BRIEN #3	SOUTH ELKINS	55.0	K B KENNEDY ENGIN
8216158		3004120595		102-2		LAURONE #1	PETERSON	50.0	TRANSWESTERN PIPE
8216155		3004120971		102-2		RADCLIFF #1	PETERSON N	7.0	TRANSWESTERN PIPE
-GULF OIL CORPORATION				RECEIVED:	01/28/82	JA: NM			
8216221		3001522562		103		EDDY "GZ" STATE COM #1	UNDES ANGELL RANCH AT	0.0	EL PASO NATURAL G
8216244		3002511918		108		VINSON RAMSAY (NCT-B) #9	JUSTIS BLINEBRY	5.1	EL PASO NATURAL G
-H W PACE				RECEIVED:	01/28/82	JA: NM			
8216249		3000560753		103		DEB STATE #1 BL-4705	WILDCAT (ABO)	150.0	TRANSWESTERN PIPE
-IKE LOVELADY INC				RECEIVED:	01/28/82	JA: NM			
8216213		3000500000		103		PENNZOIL "A" STATE #1	WILDCAT (ABO)	65.7	TRANSWESTERN PIPE
-J M HUBER CORPORATION				RECEIVED:	01/28/82	JA: NM			
8216171		3001520808		108		YATES KING #1	SOUTH CARLSBAD (MORRO	18.0	LLANO INC
-KENAI OIL AND GAS INC				RECEIVED:	01/28/82	JA: NM			
8216273		3004524190		102-2		NEW MEXICO STATE #2	NAGEEZI	0.0	GAS CO OF NEW MEX
8216275		3004525010		102-2		NEW MEXICO STATE #3	NAGEEZI	55.5	GAS CO OF NEW MEX
8216267		3004524861		102-2		STATE OF NEW MEXICO #16-21	NAGEEZI	55.5	GAS CO OF NEW MEX
8216269		3004524901		103		STATE OF NEW MEXICO #36-21	LYBROOK (EXT)	36.5	GAS CO OF NEW MEX
8216266		3004524966		103		STATE OF NEW MEXICO #36-31	LYBROOK EXT	36.5	GAS CO OF NEW MEX
8216268		3004524984		103		STATE OF NEW MEXICO #36-43	LYBROOK	27.5	GAS CO OF NEW MEX
-MESA PETROLEUM CO				RECEIVED:	01/28/82	JA: NM			
8216211		3000561146		102-2		ACME COM #4	UNDESIGNATED ABO	150.0	TRANSWESTERN PIPE
8216160		3004506118		108		STATE COM AI #33	BASIN DAKOTA	20.0	NORTHWEST PIPELIN
-MOBIL PROD TEXAS & NEW MEXICO INC				RECEIVED:	01/28/82	JA: NM			
8216248		3002506889		108		CORDELIA HARDY #1	PENROSE-SKELLY GRAYBU	9.0	WARREN PETROLEUM
-MONSANTO COMPANY				RECEIVED:	01/28/82	JA: NM			
8216222		3004524994		103		MONTOYA COM #1-A	BLANCO MESAVERDE	0.0	SOUTHERN UNION GA
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	01/28/82	JA: NM			
8216265		3003907603		108		SAN JUAN 29-6 #94NP	BASIN DAKOTA	0.0	EL PASO NATURAL G

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8216264		3003908076		108		SAN JUAN 29-6 NP #96	BASIN DAKOTA	6.0	EL PASO NATURAL G
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/26/82	JA: NM			
8216188		3002503008		108		EV GBSA UN 03440 #002	EAST VACUUM GB/SA	1.0	EL PASO NATURAL G
8216151		3002520780		108		SANTA FE #94	VACUUM GLORIETA	1.4	EL PASO NATURAL G
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	01/28/82	JA: NM			
8216192		3002526992		103		E VACUUM GB/SA UNIT TR 2717 #804	VACUUM GB/SA	7.3	EL PASO NATURAL G
-QUANAH PETROLEUM INC				RECEIVED:	01/28/82	JA: NM			
8216263		3002527416		103		WILLIAMS #1	BISHOP CANYON	74.0	PHILLIPS PETROLEU
-SHELL OIL CO				RECEIVED:	01/28/82	JA: NM			
8216245		3002500000		108		PEARL QUEEN E UNIT #27	PEARL QUEEN	0.5	PHILLIPS PETROLEU
8216260		3002500000		108		STATE A #5	VACUUM GLORIETA	20.4	PHILLIPS PETROLEU
8216172		3002500000		108		STATE F #1	EUNICE MONUMENT (G-SA	9.1	EL PASO NATURAL G
8216243		3002500000		108		STATE M #1	EUMONT YATES SEVEN RI	15.9	PHILLIPS PETROLEU
8216242		3002500000		108		STATE SEC 7 #1	EUMONT QUEEN (GAS)	6.4	EL PASO NATURAL G
-SOUTHLAND ROYALTY CO				RECEIVED:	01/28/82	JA: NM			
8216168		3004500000		108-PB		ALBINO CANYON #1	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
8216175		3004500000		108-PB		ALBINO CANYON #1	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
8216205		3003922706		103		BIKLER RANCH #1	EAST BLANCO	188.0	NORTHWEST PIPELIN
8216262		3004525008		103		DAY STATE #2-E	BASIN	388.0	SOUTHERN UNION GA
8216159		3004500000		108-PB		JENSEN #1	PICTURED CLIFFS	0.0	SOUTHERN UNION GA
-STEVENS OIL COMPANY				RECEIVED:	01/28/82	JA: NM			
8216201		3000561096		103		O'BRIEN "E" #6	TWIN LAKES-SAN ANDRES	2.0	TRANSWESTERN PIPE
8216204		3000561110		103		O'BRIEN "66" #2	TWIN LAKES-SAN ANDRES	0.7	TRANSWESTERN PIPE
8216216		3000561116		103		O'BRIEN "66" #3	TWIN LAKES-SAN ANDRES	4.0	TRANSWESTERN PIPE
-STEVENS OPERATING CORP				RECEIVED:	01/28/82	JA: NM			
8216202		3000560975		103		CITGO STATE #6	TWIN LAKES-SAN ANDRES	11.0	TRANSWESTERN PIPE
-SUPERIOR OIL CO				RECEIVED:	01/28/82	JA: NM			
8216272		3002526950		102-A		SIMS #1	SOUTH BELL LAKE (MORR	0.0	
-TANARACK PETROLEUM CO INC				RECEIVED:	01/28/82	JA: NM			
8216183		3002500000		103		DANGLADE #1 1-L-8-20S-38E	WEST NADINE-BLINEBRY	6.0	WARREN PETROLEUM
8216182		3002500000		103		HARKINS 1-A-8-20S-38E	SKAGGS DRINKARD	20.0	GULF OIL CORP
8216184		3002500000		103		HESKET 1-M-4-20S-38E	SKAGGS DRINKARD	107.0	GULF OIL CORP
8216181		3002500000		103		HOLWAY 1-P-5-20S-38E	SKAGGS DRINKARD	4.0	GULF OIL CORP
8216185		3002500000		103		PATTERSON 1-G-8-20S-38E	WEST NADINE-BLINEBRY	19.0	GULF OIL CORP
8216240		3002500000		103		PEVITT 1-I-8-20S-38E	SKAGGS DRINKARD	28.0	GULF OIL CORP
8216239		3002500009		103		SPEIGHT 1-D-9-20S-38E	UNDESIGNATED	10.0	GULF OIL CORP
-TEXACO INC				RECEIVED:	01/28/82	JA: NM			
8216247		3004508976		108		NEW MEXICO COM "J" #1	AZTEC-PICTURED CLIFFS	19.0	EL PASO NATURAL G
-THE MARLOW CORP				RECEIVED:	01/26/82	JA: NM			
8216153		3000500000		103		O'BRIEN FEE "25" - #5	TWIN LAKES - SAN ANDR	0.2	MAPCO PRODUCTION
-THE MARLOW CORP				RECEIVED:	01/28/82	JA: NM			
8216233		3000500000		103		BARNHENY #1	BULL'S EYE-SAN ANDRES	0.1	MAPCO PRODUCTION
8216234		3000500000		103		KUCHEMANN #1	TWIN LAKES - SAN ANDR	1.5	MAPCO PRODUCTION
8216235		3000500000		103		KUCHEMANN #2	TWIN LAKES - SAN ANDR	0.1	MAPCO PRODUCTION
8216236		3000500000		103		KUCHEMANN #3	TWIN LAKES - SAN ANDR	0.2	MAPCO PRODUCTION
8216237		3000500000		103		KUCHEMANN #4	TWIN LAKES - SAN ANDR	0.1	MAPCO PRODUCTION
8216190		3000500000		103		KUCHEMANN #5	TWIN LAKES - SAN ANDR	3.5	MAPCO PRODUCTION
8216231		3000500000		103		MCDERMOTT #1	BULL'S EYE-SAN ANDRES	0.4	MAPCO PRODUCTION
8216187		3000500000		103		O'BRIEN "19" - #5	TWIN LAKES - SAN ANDR	0.4	MAPCO PRODUCTION
8216188		3000500000		103		O'BRIEN "19" - #6	TWIN LAKES - SAN ANDR	0.2	MAPCO PRODUCTION
8216229		3000500000		103		O'BRIEN DEMING "13" #1	TWIN LAKES-SAN ANDRES	10.0	MAPCO PRODUCTION
8216232		3000500000		103		O'BRIEN DEMING "6"-1	BULL'S EYE-SAN ANDRES	1.0	MAPCO PRODUCTION
8216230		3000500000		103		O'BRIEN DEMING "6"-2	BULL'S EYE-SAN ANDRES	0.4	MAPCO PRODUCTION

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8216180		3000500000		103		O'BRIEN FEE "18" - #5	TWIN LAKES - SAN ANDR	0.5	MAPCO PRODUCTION
8216228		3000500000		103		O'BRIEN FEE "18" #1	TWIN LAKES-SAN ANDRES	1.5	MAPCO PRODUCTION
8216227		3000500000		103		O'BRIEN FEE "18" #2	TWIN LAKES-SAN ANDRES	0.1	MAPCO PRODUCTION
8216226		3000500000		103		O'BRIEN FEE "18" #3	TWIN LAKES-SAN ANDRES	0.4	MAPCO PRODUCTION
8216225		3000500000		103		O'BRIEN FEE "18" #4	TWIN LAKES-SAN ANDRES	0.8	MAPCO PRODUCTION
8216179		3000500000		103		O'BRIEN FEE "19" - #2	TWIN LAKES - SAN ANDR	0.6	MAPCO PRODUCTION
8216178		3000500000		103		O'BRIEN FEE "19" - #3	TWIN LAKES - SAN ANDR	0.2	MAPCO PRODUCTION
8216186		3000500000		103		O'BRIEN FEE "19" - #4	TWIN LAKES - SAN ANDR	3.0	MAPCO PRODUCTION
8216224		3000500000		103		O'BRIEN FEE "19" #7	TWIN LAKES-SAN ANDRES	0.7	MAPCO PRODUCTION
8216238		3000500000		103		O'BRIEN FEE "19" #8	TWIN LAKES - SAN ANDR	1.8	MAPCO PRODUCTION
8216189		3000500000		103		O'BRIEN FEE "24" - #1	TWIN LAKES - SAN ANDR	1.5	MAPCO PRODUCTION
8216191		3000500000		103		O'BRIEN FEE "25" - #1	TWIN LAKES - SAN ANDR	12.0	MAPCO PRODUCTION
8216200		3000500000		103		O'BRIEN FEE "25" - #2	TWIN LAKES - SAN ANDR	0.1	MAPCO PRODUCTION
8216199		3000500000		103		O'BRIEN FEE "25" - #3	TWIN LAKES - SAN ANDR	0.3	MAPCO PRODUCTION
8216198		3000500000		103		O'BRIEN FEE "25" - #4	TWIN LAKES - SAN ANDR	14.0	MAPCO PRODUCTION
8216197		3000500000		103		O'BRIEN LIGHTCAP "7" - #1	BULL'S EYE - SAN ANDR	0.1	MAPCO PRODUCTION
8216196		3000500000		103		O'BRIEN LIGHTCAP "7" - #2	BULL'S EYE - SAN ANDR	0.1	MAPCO PRODUCTION
8216177		3000500000		103		O'BRIEN 19 - #1	TWIN LAKES - SAN ANDR	2.1	MAPCO PRODUCTION
-THRESHOLD DEVELOPMENT CO				RECEIVED:	01/28/82	JA: NM			
8216253		3001523681		102-A		FLAG "TD" STATE #1	WILDCAT	182.0	TRANSWESTERN PIPE
-V-F PETROLEUM INC				RECEIVED:	01/28/82	JA: NM			
8216318		3002527538		103		GRAHAM #1	CAUDILL-DEVONIAN	15.0	WARREN PETROLEUM
-W A MONCRIEF JR				RECEIVED:	01/25/82	JA: NM			
8216257		3001523621		102-A		CROOKED CREEK STATE COM #1	BALDRIDGE MORROW	0.0	EL PASO NATURAL G
-W K BYRON				RECEIVED:	01/28/82	JA: NM			
8216176		3002500000		108-ER		J W COOPER #3	EUNICE MONUMENT	0.0	EL PASO NATURAL G
-YATES PETROLEUM CORPORATION				RECEIVED:	01/28/82	JA: NM			
8216154		3001522287		102-A		BLEVINS "TK" COM #1	KENNEDY FARMS UPPER-P	0.0	EL PASO NATURAL G
8216209		3000561166		107-TF		CAUDILL "RZ" #1	UND ABO	0.0	TRANSWESTERN PIPE
8216210		3000561201		107-TF		CONEJO "RM" STATE #2	UND ABO	0.0	TRANSWESTERN PIPE
8216223		3001523610		103		NORTH CARLSBAD OK COM #1	WILDCAT STRAWN	0.0	
8216761		3001523038		103		NORTH MILLMAN UNIT #3	SO MILLMAN MORROW	0.0	TRANSWESTERN PIPE
8216276		3001523838		102-A		NORTH MILLMAN UNIT #3	SO MILLMAN MORROW	0.0	TRANSWESTERN PIPE
8216215		3000561156		107-TF		PAULETTE "PV" STATE #2	UND ABO	0.0	TRANSWESTERN PIPE
8216214		3000561048		107-TF		ROWLAND "RN" #1	UND ABO	0.0	TRANSWESTERN PIPE
8216207		3000561025		107-TF		SKINNY "QQ" STATE #2	UND ABO	0.0	TRANSWESTERN PIPE
8216241		3001523445		103		STATE "JM" COM #2	UND CISCO	0.0	TRANSWESTERN PIPE
8216208		3000560714		107-TF		WEST DIXON "NX" STATE #1	WILDCAT	0.0	TRANSWESTERN PIPE
**********									
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
**********									
-DESERT GAS EXPLORATION CO INC				RECEIVED:	01/25/82	JA: NY			
8216292 1392		3101314280		108		BALL UNIT #1-DG 112	LAKESHORE	13.7	NATIONAL FUEL GAS
8216295 1396		3101314597		108		BARONE UNIT #1-DG 115	LAKESHORE	13.1	NATIONAL FUEL GAS
8216293 1385		3101314596		108		BECKER UNIT #1-DG 116	LAKESHORE	13.7	NATIONAL FUEL GAS
8216289 1380		3101314281		108		DURAN UNIT #1 - D G 113	LAKESHORE	13.7	NATIONAL FUEL GAS
8216298 1394		3101314273		108		FADALE UNIT #1-DG 118	LAKESHORE	14.6	NATIONAL FUEL GAS
8216290 1391		3101314772		108		KIRKLAND UNIT #1-D G 117	LAKESHORE	13.7	NATIONAL FUEL GAS
8216296 1393		3101313209		108		MANCUSO UNIT #1-DG 109	LAKESHORE	16.4	NATIONAL FUEL GAS
8216297 1389		3101314182		108		MANCUSO UNIT #2-DG 110	LAKESHORE	16.4	NATIONAL FUEL GAS
8216294 1395		3101314784		108		WEST MAIN BAPTIST CHURCH #1-DG119	LAKESHORE	14.6	NATIONAL FUEL GAS
-ENVIROGAS INC				RECEIVED:	01/25/82	JA: NY			
8216307 1733		3101315563		102-2		A KOPTA #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8216323	1820	3101315984		102-2		E MARTY #1	CLYMER	18.0	COLUMBIA GAS TRAN
8216306	1639	3101315941		102-2		FLUVANNA COMMUNITY CHURCH #1	WILDCAT	18.0	NATIONAL FUEL GAS
8216317	1566	3101315778		102-2		G NECKERS #1	CLYMER	18.0	NATIONAL FUEL GAS
8216315	1568	3101315988		102-2		H JOHNSON #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8216320	1821	3101315770		102-2		H WHITE #1	CLYMER	18.0	COLUMBIA GAS TRAN
8216314	1827	3101315986		102-2		H WHITE #3	CLYMER	18.0	COLUMBIA GAS TRAN
8216300	1727	3101314777		102-2		J J BAKER #1	CHAUTAUQUA	18.0	COLUMBIA GAS TRAN
8216308	1732	3101316081		102-2		J LESTERS #1	CLYMER	18.0	NATIONAL FUEL GAS
8216301	1645	3101315998		102-2		J WILLIAMS #1-A	CHAUTAUQUA	18.0	COLUMBIA GAS TRAN
8216318	1565	3101315755		102-2		LESTERS BROS #4	CLYMER	18.0	NATIONAL FUEL GAS
8216325	1822	3101315779		102-2		LESTERS BROS #5	CLYMER	18.0	COLUMBIA GAS TRAN
8216303	1645	3101315943		102-2		W REED #2	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8216312	1825	3101315982		102-2		P BRAVINK #1	CLYMER	18.0	COLUMBIA GAS TRAN
8216313	1826	3101315983		102-2		P BRAVINK #2	CLYMER	18.0	COLUMBIA GAS TRAN
8216309	1648	3101315892		102-2		P BRAVINK #3	CLYMER	18.0	NATIONAL FUEL GAS
8216311	1824	3101315853		102-2		P HESLINK #2	CLYMER	18.0	COLUMBIA GAS TRAN
8216310	1823	3101315854		102-2		P HESLINK #3	CLYMER	18.0	COLUMBIA GAS TRAN
8216309	1731	3101316034		102-2		R BAKERINK #1	CLYMER	18.0	NATIONAL FUEL GAS
8216299	1728	3101315834		102-2		R MEWES #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8216316	1567	3191315781		102-2		R NICKERSON #1	CLYMER	18.0	NATIONAL FUEL GAS
8216302	1644	3101315959		102-2		R SHAVER #1	WILDCAT	18.0	NATIONAL FUEL GAS
8216321	1561	3101315618		102-2		R WASSINK #2	WILDCAT	18.0	NATIONAL FUEL GAS
8216322	1562	3101315659		102-2		R WASSINK #3	WILDCAT	18.0	NATIONAL FUEL GAS
8216328	1563	3101315660		102-2		R WASSINK #4	CLYMER	18.0	NATIONAL FUEL GAS
8216319	1564	3101315998		102-2		R WASSINK #5	CLYMER	18.0	NATIONAL FUEL GAS
8216304	1641	3101315981		102-2		V NELSON #2	WILDCAT	18.0	NATIONAL FUEL GAS
-J R RESOURCES				RECEIVED:	01/25/02	JA: NY			
8216326	2224	3101314095		103		NEWBURY #6	LAKESHORE	0.0	NATIONAL FUEL GAS
-RESOURCE EXPLORATION INC				RECEIVED:	01/25/02	JA: NY			
8216328	2112	3101311862		108		CARPENTER #2	NORTH HARMONY	20.0	COLUMBIA GAS TRAN
8216288	2111	3101312433		108		C S CARPENTER #1	STEBBINS CORNERS	20.0	COLUMBIA GAS TRAN
8216291	2120	3101312121		108		KO & BL BRAUTIGAM #1	NORTH HARMONY	20.0	COLUMBIA GAS TRAN
-VILLANOVA NATURAL GAS CORP				RECEIVED:	01/25/02	JA: NY			
8216327	2199	3191314007		103		GEO & EL BURBULES #1 31-013-14007	WEST FIELD-LAKESHORE	15.0	COLUMBIA GAS TRAN

OKLAHOMA CORPORATION COMMISSION

-ARCO OIL AND GAS COMPANY				RECEIVED:	01/27/02	JA: OK			
8216362	12346	3504722231		103		EVA SNOWALTER #1	NORTH GARBER	36.5	
-CHASE EXPLORATION CORP				RECEIVED:	01/27/02	JA: OK			
8216356	12425	3507121115		108		DECHER 1-28	UNNAMED	2.9	CITIES SERVICE GA
8216353	12426	3507120838		108		DENTON 1-1	UNNAMED	14.8	CITIES SERVICE GA
8216354	12429	3507120967		108		EKLAND #1-4	UNNAMED	5.8	CITIES SERVICE GA
8216363	12430	3507121147		108		EKLAND #2-4	UNNAMED	8.4	CITIES SERVICE GA
8216366	12434	3507120807		108		PIERCE 1-22	UNNAMED	3.2	CITIES SERVICE GA
-COTTON PETROLEUM CORPORATION				RECEIVED:	01/27/02	JA: OK			
8216348	16144	3500121113		107-DP		LAMAR "A" #1	S E VERDEN	388.0	UNITED GAS PIPELI
8216348	12293	3501121006		103		MARSHALL SMITH #1	NW HINTON	0.0	TRANSOK PIPE LINE
-CUMMINS OIL CO				RECEIVED:	01/27/02	JA: OK			
8216347	11419	3507323121		103		SCHINNERLS "A" #1-14	SOONER TREND	0.0	CITIES SERVICE GA
-DAVIS BROS OIL PRODUCERS INC				RECEIVED:	01/27/02	JA: OK			
8216349	12395	3500121334		103		LEE #1	PRIEST	0.0	M K PIPELINE
-F C D OIL CORP				RECEIVED:	01/27/02	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8216358	12406	3510321349		103		CAROL CURBY 1-23	BILLINGS	54.8	ARCO OIL & GAS CO
8216357	12407	3507323074		103		LILLIAN 1-21	SOONER TREND	127.8	PHILLIPS PETROLEU
-L B WARD				RECEIVED:	01/27/02	JA: OK		37.8	
8216351	12398	3502720586		103		KING #2		183.8	
8216352	12397	3502720480		103		SMITH #1			
-LEAR PETROLEUM EXPLORATION INC				RECEIVED:	01/27/02	JA: OK			
8216349	16091	3501521229		107-DP		HORN #1-18	WILDCAT	2.2	EL PASO NATURAL G
-LOBOS OIL INC				RECEIVED:	01/27/02	JA: OK			
8216363	15685	3511100000		102-4		WILSON 1-B	HAMILTON SWITCH	114.0	PHILLIPS PETROLEU
8216364	15684	3511100000		102-4		WILSON 2-B	HAMILTON SWITCH	114.0	PHILLIPS PETROLEU
-NORTH AMERICAN ROYALTIES INC				RECEIVED:	01/27/02	JA: OK			
8216350	12362	3501721022		103		MACA #2 (017-65866)	YUKON	388.0	PHILLIPS PETROLEU
-OKMAR OIL COMPANY				RECEIVED:	01/27/02	JA: OK			
8216360	12354	3500303311		103		DAVIS #2-33 (MANNING)	GOLTRY	57.0	UNION TEXAS PETRO
-POST PETROLEUM COMPANY INC				RECEIVED:	01/27/02	JA: OK			
8216365	14953	3504321292		102-4		STOVALL-SMITH #1	PUTNAM	0.0	DELHI GAS PIPELIN
-RAMBLER OIL CO				RECEIVED:	01/27/02	JA: OK			
8216361	12367	3509322210		103		REISTER #1-21	SW ORION	0.0	DELHI GAS PIPELIN
-B K TUTHILL & B J BARBEE				RECEIVED:	01/27/02	JA: OK			
8216346	11632	3515120601		108		MCMURPHY 3 1-15	NORTH WOODS	5.5	PRODUCERS GAS CO
-TRIANGLE OIL CO				RECEIVED:	01/27/02	JA: OK			
8216344		3503712345		103		CALE #1	KELLYVILLE DIST	388.0	COLORADO GAS CORP

UTAH DIVISION OF OIL, GAS, & MINING

-CONOCO INC				RECEIVED:	01/28/02	JA: UT			
8216284	UD 0458-81	4304730885		107-TF		CONOCO ANKERPONT 31 #12	OURAY	150.0	MOUNTAIN FUEL SUP

DEPARTMENT OF INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO

-MITCHELL ENERGY CORPORATION				RECEIVED:	01/28/02	JA: CO 1			
8216286	CD 0443-81	0507708032		102-4		FEDERAL 81-1-1-1	WILDCAT	1188.0	NORTHWEST PIPELIN
8216287	CD 0442-81	0507708030		102-4		FEDERAL #15-1	WILDCAT	574.0	NORTHWEST PIPELIN
8216285	CD 0444-81	0507708080		102-4		FEDERAL 89-1	WILDCAT	552.0	NORTHWEST PIPELIN
-MONSANTO COMPANY				RECEIVED:	01/28/02	JA: CO 1			
8216277	CD 0504-81	0508306331		103		SENTINEL PEAK #17-42	MARBLE WASH	98.0	EL PASO NATURAL G
-NORTHWEST EXPLORATION COMPANY				RECEIVED:	01/28/02	JA: CO 1			
8216280	CD 0511-81	0510307704		108		PHILADELPHIA CREEK #1	CATHEDRAL MANCOS B	21.0	NORTHWEST PIPELIN
-SOUTHLAND ROYALTY CO				RECEIVED:	01/28/02	JA: CO 1			
8216278	CD 0507-81	0506706565		103		RED MESA #3	WILDCAT	458.0	NORTHWEST PIPELIN
8216279	CD 0506-81	0506706565		103		RED MESA #3	IGNACIO-BLANCO	0.0	NORTHWEST PIPELIN
-TEXACO INC				RECEIVED:	01/28/02	JA: UT 1			
8216283	UD 0509-81	4303730718		103		ANETH UNIT #F-127	ANETH	12.1	EL PASO NATURAL G
8216282	UD 0508-81	4303730646		103		ANETH UNIT #K-130	ANETH	9.4	EL PASO NATURAL G
8216281	UD 0510-81	4303730647		103		ANETH UNIT #K-131	ANETH	21.6	EL PASO NATURAL G

BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA,OK

-SEK OIL CO INC				RECEIVED:	01/27/02	JA: OK 8			
8216331		3511300000		103		KRAHL #4	SW1/4 33-28-12	91.3	PHILLIPS PETROLEU
-DEWEY ENTERPRISES INC				RECEIVED:	01/27/02	JA: OK 8			
8216332		3511300000		103		NORTH WOOLAROC #9-11	NORTH WOOLAROC	13.0	NATIONAL ZINC CO
-K D OIL CO				RECEIVED:	01/27/02	JA: OK 8			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
0216334		3511300000		10S		LOOKOUT (ROBINSON) 86	LOOKOUT NO 6 MU31-26-	12.0	NATL ZINC CO INC
0216335		3511300000		10S		LOOKOUT (ROBINSON) 87	LOOKOUT NO 7 MU31-26-	3.0	NATL ZINC CO INC
0216336		3511300000		10S		LOOKOUT #5	LOOKOUT NE36-26-9 MO	2.0	PHILLIPS PET CO
0216335		3511300000		10S		LOOKOUT LEASE (GILLILAND #3)	LOOKOUT (GILLILAND MO	2.0	PHILLIPS PET CO
-DEIGEL PETROLEUM CO				RECEIVED:	01/27/82	JAI OK 6	OSAGE-HOMINY	11.0	PHILLIPS PETROLEU
0216337		3511300000		10S		DUNKIN #1-4	QUAPAW	20.0	CITIES SERVICE GA
-THOR ENERGY CORP				RECEIVED:	01/27/82	JAI OK 8			
0216338		3511300000		10S		SMITH 1-A			

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission by March 11, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 mile rule)
102-3: New well (1,000 ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease
Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal seams
107-DV: Devonian shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4956 Filed 2-23-82; 8:45 am]

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD.	PURCHASER
KANSAS CORPORATION COMMISSION									
-ADAIR OIL CO				RECEIVED:	01/29/82	JA: KS			
8216434	K81-1141	1502580000		108		YORK "A" #1	SITKA	15.0	NORTHERN NATURAL
-AMERICAN CONTINENTAL ENERGY INC				RECEIVED:	01/29/82	JA: KS			
8216465	K 81-1195	1509320262		108		GOERING #1	PANOMA	6.0	NORTHERN NATURAL
8216466	K 81-1196	1509320259		108		GROPP #1	PANOMA	19.5	NORTHERN NATURAL
8216397	K 81-0826	1509320467		108		LUCILE #1	PANOMA	11.0	NORTHERN NATURAL
8216398	K 81-827	1509320481		108		MARIANNE #1	PANOMA	9.0	NORTHERN NATURAL
-AMOCO PRODUCTION CO				RECEIVED:	01/29/82	JA: KS			
8216478	K81-1208	1518720329		103		PLUMMER GAS UNIT/CG/82A	PANOMA-COUNCIL GROVE	58.0	CITIES SERVICE GA
8216476	K81-1206	1512920495		103		R G SLINKER #2	KINSLER	68.0	KANSAS POWER & LI
8216477	K81-1207	1509320782		103		ROHLMAN GAS UNIT "B"/CG/82	PANOMA-COUNCIL GROVE	58.0	CITIES SERVICES G
8216432	K81-1139	1509320685		103		SHIELDS GAS UNIT CG #2	PANOMA-COUNCIL GROVE	58.0	CITIES SERVICE GA
8216475	K81-1205	1505520394		103		TAYLOR GAS UNIT #2	PANOMA-COUNCIL GROVE	58.0	CITIES SERVICE GA
-ANADARKO PRODUCTION COMPANY				RECEIVED:	01/29/82	JA: KS			
8216413	K81-1111	1512920538		103		BROWN I #2	KINSLER	72.0	CITIES SERVICE GA
8216468	K 81-1090	1510920521		103		CITY OF HUGOTON A #1	PANOMA COUNCIL GROVE	36.5	CIMARRON-QUINQUE
8216446	K81-1067	1517520393		108		HITCH C #3	SMUCK	8.0	PANHANDLE EASTERN
8216445	K81-1066	1518920269		108		KUHARIC A #1	GENTZLER	18.3	PANHANDLE EASTERN
8216402	K 81-1097	1512920522		103		PENICK A #1	INTERSTATE	143.0	PANHANDLE EASTERN
-AURORA INC				RECEIVED:	01/29/82	JA: KS			
8216436	K81-1120	1515520746		103		GEFFERT #1	FISHBURN	68.0	PEOPLES NATURAL G
8216384	K81-1119	1515520779		103		MALONEY #1	WC	68.0	PEOPLES NATURAL G
-BENSON MINERAL GROUP				RECEIVED:	01/29/82	JA: KS			
8216431	K81-1137	1512524391		102-2		WISE #5-5	JEFFERSON-SYCAMORE	13.5	UNION GAS SYSTEMS
-BEREN CORPORATION				RECEIVED:	01/29/82	JA: KS			
8216416	K81-1145	1514520495		108		ANDREE #1	FORT LARNED	18.0	NORTHERN NATURAL
-BRADEN-BEEM INC				RECEIVED:	01/29/82	JA: KS			
8216369	K81-1130	1515100000		108		ROBBINS UNIT #1	CARVER-ROBBINS	18.0	PANHANDLE EASTERN
-BRUNSON PRODUCTION & EXPLORATION CO				RECEIVED:	01/29/82	JA: KS			
8216419	K81-1152	1504720881		102-2		SCHALLER #1	WILDCAT	73.0	KANSAS-NEBRASKA N
-BRUNSON-SPINES INC				RECEIVED:	01/29/82	JA: KS			
8216418	K81-1151	1515120929		102-2		BRUNSON-SPINES HEALY #1	WILDCAT	182.5	PANHANDLE EASTERN
-C E O INC				RECEIVED:	01/29/82	JA: KS			
8216411	K81-1106	1520521087		103		CEO NEWLAND - 4	NEODESHA	38.0	CITIES SERVICE GA
8216409	K81-1104	1520520751		103		CEO NEWLAND #1	NEODESHA	35.0	CITIES SERVICE GA
8216410	K81-1105	1520521086		103		CEO NEWLAND-3	NEODESHA	38.0	CITIES SERVICE GA
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	01/29/82	JA: KS			
8216400	K 81-0872	1505520380		108		DANLER #2	PANOMA	11.0	COLORADO INTERSTA
-CITIES SERVICE COMPANY				RECEIVED:	01/29/82	JA: KS			
8216438	K81-1136	1506700000		108		MILLER X #2	PANOMA	28.4	PANHANDLE EASTERN
8216498	K81-1177	1508100000		108		STOOPS A #1	HUGOTON	13.5	COLORADO INTERSTA

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD.	PURCHASER
-D A LAUCK OIL CO INC				RECEIVED:	01/29/82	JA: KS			
8216469	K 81-1091	1518521407		103		GRIZZELL #1	WIL	91.0	PANHANDLE EASTERN
-DAVIS BROS OIL PRODUCERS INC				RECEIVED:	01/29/82	JA: KS			
8216442	K81-0551	1518521054		102-4		SITTNER #1	SITTNER	180.0	NORTHERN NATURAL
-DUNBAR & SON OIL ENTERPRISES INC				RECEIVED:	01/29/82	JA: KS			
8216404	K 81-1099	1503522919		102-2		CARL MILLS #5	GUTHRIE	3.7	CITIES SERVICE GA
8216408	K 81-1103	1503522924		102-2		CARL MILLS #6	GUTHRIE	3.7	CITIES SERVICE GA
8216385	K81-0938	1503522168		102-2		PERRY-SNYDER #7-14-30	GUTHRIE	4.0	CITIES SERVICE GA
8216401	K 81-0932	1503522173		102-2		PERRY-SNYDER 1-13-30	GUTHRIE	4.0	CITIES SERVICE GA
8216406	K 81-1101	1503522910		102-2		RICE #6	GUTHRIE	7.0	CITIES SERVICE GA
8216448	K81-1220	1503521753		102-2		SNYDER D-2	GUTHRIE	26.4	CITIES SERVICE GA
8216407	K 81-1102	1503522792		102-2		SNYDER F-5	GUTHRIE	4.2	CITIES SERVICE GA
-EDGAR W WHITE				RECEIVED:	01/29/82	JA: KS			
8216501	K81-1211	1512920400		103		INTERSTATE B2-18	GREENWOOD	10.0	COLORADO INTERSTA
8216503	K81-1213	1512920549		103		SCHWEIZER RED CAVE #1	INTERSTATE	36.0	PANHANDLE EASTERN
8216502	K81-1212	1512920503		103		SCHWEIZER RED CAVE #2	INTERSTATE	189.0	PANHANDLE EASTERN
-EXXON CORPORATION				RECEIVED:	01/29/82	JA: KS			
8216451	K 81-1227	1504720892		103		BERNARD A MEYER #6	EMORY	0.0	NORTHERN NATURAL
8216506	K81-1216	1504720899		103		PAUL MEYER #6	EMORY EAST	0.0	NORTHERN NATURAL
8216452	K 81-1228	1504720900		103		PAUL MEYER #7	EMORY	0.0	NORTHERN NATURAL
-FRANCIS M RAYMOND				RECEIVED:	01/29/82	JA: KS			
8216412	K81-1110	1518521286		103		SOUTHWESTERN COLLEGE "A" #1	MACKSVILLE	88.0	CENTRAL STATES GA
-GEORGE R JONES				RECEIVED:	01/29/82	JA: KS			
8216390	K 81-1250	1500721294		103		HARBAUGH "A" #1	WILDCAT	60.0	GETTY GAS GATHERI
-GRAHAM-MICHAELIS CORP				RECEIVED:	01/29/82	JA: KS			
8216487	K81-1163	1509720795		103		JOHNSON #1-34	MULE CREEK NORTHEAST	4.5	KANSAS GAS SUPPLY
8216486	K81-1162	1503320487		103		KENNEDY #1-17	WILMORE	7.5	KANSAS GAS SUPPLY
8216464	K 81-1193	1509720815		103		ROSE #1 - 21	THACH	75.0	KANSAS GAS SUPPLY
-GRAVES DRILLING CO INC				RECEIVED:	01/29/82	JA: KS			
8216367	K81-1125	1500721823		103		TRAFFAS #1	EXT/MCGUIRE-GOEMAN	10.8	PANHANDLE EASTERN
-GULF COAST ROYALTY CO				RECEIVED:	01/29/82	JA: KS			
8216473	K81-1095	1520520538		103		ANDERSON #1	VILAS FIELD	29.2	CITIES SERVICE GA
8216472	K81-1094	1520521964		103		CARLSON #1	VILAS	29.2	CITIES SERVICE GA
8216471	K 81-1093	1520521945		103		OLSON #1	VILAS FIELD	29.2	CITIES SERVICE GA
8216474	K81-1096	1520522093		103		VARNDELL #1	VILAS	29.2	CITIES SERVICE GA
8216470	K 81-1092	1520521944		103		WARD #1	VILAS	29.2	CITIES SERVICE GA
-JOHN R LEBOSQUET				RECEIVED:	01/29/82	JA: KS			
8216392	K 81-1252	1508120222		103		LIZ SMITH 1-A	HUGOTON	78.0	NORTHERN NATURAL
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	01/29/82	JA: KS			
8216484	K81-1080	1509500000		108		CAMPBELL #1	TRENTON	5.0	KANSAS GAS SUPPLY
8216494	K81-1082	1509500000		108		CAMPBELL #2	TRENTON	4.0	KANSAS GAS SUPPLY
8216499	K81-1087	1509500000		108		CAMPBELL #3	TRENTON	7.0	KANSAS GAS SUPPLY
8216497	K81-1085	1509500000		108		CAMPBELL #4	TRENTON	7.0	KANSAS GAS SUPPLY
8216447	K81-1218	1512900000		108		DUNN #1-12	HUGOTON	14.0	CITIES SERVICE GA
8216498	K81-1086	1509500000		108		GRABER #2	TRENTON	5.0	KANSAS GAS SUPPLY
8216488	K81-1088	1509500000		108		GRABER #4	TRENTON	6.0	KANSAS GAS SUPPLY
8216483	K81-1079	1509500000		108		GRABER #5	TRENTON	5.0	KANSAS GAS SUPPLY
8216489	K81-1166	1505520244		108		SMITH #1	HUGOTON	19.0	KANSAS NEBRASKA N
8216487	K 81-1261	1502500000		108		THEIS #2	MCKINNEY	17.0	NORTHERN NATURAL
8216496	K81-1084	1509500000		108		VORAN A #1	TRENTON	9.0	KANSAS GAS SUPPLY
8216485	K81-1081	1509500000		108		VORAN A #2	TRENTON	9.0	KANSAS GAS SUPPLY
8216495	K81-1083	1509500000		108		VORAN A #3	TRENTON	10.0	KANSAS GAS SUPPLY
-LEBEN OIL CORP				RECEIVED:	01/29/82	JA: KS			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8216368	K81-1126	1511920511		103		ROLLINS #2
-MESA PETROLEUM CO				RECEIVED:	01/29/82	JA: KS
8216440	K81-1124	1508120241		103		HUXMAN 12-14 LANSING
-MCCOY PETROLEUM CORP				RECEIVED:	01/29/82	JA: KS
8216430	K81-1122	1507720133		107-TF		HALBOWER "A" #1
8216437	K81-1121	1507720141		107-TF		HALBOWER "B" #1
8216387	K81-1002	1509521088		103		LATTIMORE "B" #1
8216439	K81-1123	1507720146		107-TF		LEWIS "B" #1
8216386	K81-1001	1509521153		103		MARK #3
-MCNEISH OIL OPERATIONS				RECEIVED:	01/29/82	JA: KS
8216435	K81-1140	1501923085		103		NEAL #1
-MOLZ OIL CO				RECEIVED:	01/29/82	JA: KS
8216393	K 81-1253	1508721037		103		ACHENBACH #1
8216395	K 81-1255	1508721192		103		MCGUIRE-LOGAN #1
8216394	K 81-1254	1508721065		103		MOLZ #5
8216396	K 81-1256	1508720897		103		SOUTHEAST HARDTNER TOWNSITE #1
8216453	K 81-1257	1508720898		103		SOUTHEAST HARDTNER TOWNSITE #2
8216455	K 81-1259	1508720846		103		SOUTHWEST HARDTNER TOWNSITE #2
8216454	K 81-1258	1508720749		103		SOUTHWEST TOWNSITE #1
8216456	K 81-1260	1508721245		103		YATES "B" #1
-MULTISTATE OIL PROPERTIES WV				RECEIVED:	01/29/82	JA: MS
8216461	K 81-1185	1515120965		103		LIBBY #2-27
8216462	K 81-1186	1515120976		103		LIBBY #3-27
-NATIONAL COOP REFINERY ASSOC				RECEIVED:	01/29/82	JA: KS
8216488	K81-1165	1508721119		103		WERNER A #1
-NATIONAL OIL COMPANY				RECEIVED:	01/29/82	JA: KS
8216479	K81-1209	1502520358		102-2		BARTH #1-A
-NIELSON ENTERPRISES INC				RECEIVED:	01/29/82	JA: KS
8216463	K 81-1189	1511920472		103		ADAMS 1-30
-PAN EASTERN EXPLORATION COMPANY				RECEIVED:	01/29/82	JA: KS
8216383	K81-1118	1512900000		108		EAGLEY #1A-35
8216458	K 81-1262	1512900000		108		INTERSTATE #1-15
8216459	K 81-1263	1512900000		108		KANSAS 1-24
-PETRO-X ENERGY LTD				RECEIVED:	01/29/82	JA: KS
8216415	K-81-1144	1515120911		102-2		MCRANNIS 1-26
-PETROLEUM ENTERPRISES				RECEIVED:	01/29/82	JA: KS
8216488	K81-1219	1503500000		102-4		BEAVER #1
-PETROLEUM INC				RECEIVED:	01/29/82	JA: KS
8216443	K81-1064	1509500000		108		GRIER #1
8216444	K81-1065	1509500000		108		HOLCOMB #1
-PICKRELL DRILLING COMPANY				RECEIVED:	01/29/82	JA: KS
8216482	K81-1268	1502520349		102-4		BALDWIN F #1
8216371	K81-1134	1507700000		108		BROWN "B" #2
8216370	K81-1133	1507700000		108		HOGARD #1
8216423	K81-1269	1572520359		102-4		LUFT A #1
8216424	K81-1270	1502520504		102-4		LUFT A #2
-RAMMCO OIL & GAS CO INC				RECEIVED:	01/29/82	JA: KS
8216485	K 81-1180	1503522621		102-2		SNYDER 6-3
-RANGE OIL COMPANY INC				RECEIVED:	01/29/82	JA: KS
8216435	K81-1142	1503521722		108		DRILEY GAS UNIT #1
8216414	K81-1143	1503520854		108		HALE "A" #1
-RAYMOND OIL COMPANY INC				RECEIVED:	01/29/82	JA: KS
8216467	K 81-1989	1508720937		103		CLINE "A" #1

FIELD NAME	PROD	PURCHASER
ANGELL	500.0	PANHANDLE EASTERN
S W SATANATA LANSING	150.0	PANHANDLE EASTERN
WHARTON	91.0	PEOPLES NATURAL G
WHARTON	55.0	PEOPLES NATURAL G
SPIVEY-GRABS	75.0	PEOPLES NATURAL G
HIBBARD NORTHEAST	55.0	PEOPLES NATURAL G
SPIVEY-GRABS	20.0	PEOPLES NATURAL G
CLOVERDALE NORTHWEST	54.0	RAMMCO TRANSMISSI
STRANATHAN	14.0	PANHANDLE EASTERN
MCGUIRE GOEMAN	36.0	PANHANDLE EASTERN
STRANATHAN	738.0	PANHANDLE EASTERN
HARDTNER	9.0	KANSAS GAS SUPPLY
HARDTNER	9.0	KANSAS GAS SUPPLY
HARDTNER	27.0	KANSAS GAS SUPPLY
HARDTNER	9.0	KANSAS GAS SUPPLY
STRANATHAN	52.0	PANHANDLE EASTERN
TATLOCK EAST	49.0	
TATLOCK EAST	49.0	
MCGUIRE-GOEMANN	19.0	PANHANDLE EASTERN
CLARK CREEK	519.0	NORTHERN NATURAL
ADAMS RANCH	120.0	COLORADO INTERSTA
HUGOTON	18.0	PANHANDLE EASTERN
GREENWOOD	18.0	PANHANDLE EASTERN
GREENWOOD	11.0	PANHANDLE EASTERN
WILDCAT	803.0	CENTRAL STATES GA
POSEY	22.0	COLONIAL CORP
SPIVEY GRABS	12.0	KANSAS POWER AND
SPIVEY GRABS	9.0	KANSAS POWER AND
UNNAMED	36.5	KANSAS POWER & LI
SHARON WEST	5.7	VULCAN MATERIALS
SHARON NE	14.3	VULCAN MATERIALS
UNNAMED	150.0	KANSAS POWER & LI
WILDCAT	118.0	KANSAS POWER & LI
GUTHRIE	7.7	CITIES SERVICE GA
NIGGER CREEK	6.7	CITIES SERVICE GA
GIBSON EXT	16.9	CITIES SERVICE GA
DEERHEAD	100.0	CITIES SERVICE GA

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8216482	K81-1078	1508721096		103		MILLS "A" #2
-REACH PETROLEUM CORP				RECEIVED:	01/29/82	JA: KS
8216458	K81-1224	1518521317		103		PETRO #1
8216449	K81-1223	1507720682		103		TRUBY #1
-RICHARD R MORNER				RECEIVED:	01/29/82	JA: KS
8216427	K81-1187	1508300000		102-4		HOGAN #1
-S & S OIL CO INC				RECEIVED:	01/29/82	JA: KS
8216493	K81-1180	1509500000		108		JOHNSON #1
8216460	K 81-1184	1509500000		108		MESSENGER #1
8216514	K81-1102	1507700000		108		RYAN #4
8216515	K81-1103	1507700000		108		RYAN #6
8216513	K81-1101	1507700000		108		RYAN #8
-SHAWMAR OIL CO INC				RECEIVED:	01/29/82	JA: KS
8216492	K81-1179	1511520549		108		WIEBERT #2 00173-000087
8216491	K81-1178	1511520450		108		WELSON #4 00173-000082
-SMITH CATTLE INC				RECEIVED:	01/29/82	JA: KS
8216377	K81-1112	1507120200		103		CHET JOHNSON #1
8216379	K81-1114	1507120203		103		CHET JOHNSON #2
8216381	K81-1116	1507120217		103		COAKES #7
8216378	K81-1113	1507120236		103		EDITH PLOWMAN #1
8216382	K81-1117	1507120235		103		MARIE KLEWENO #1
8216380	K81-1115	1507120189		103		SMITH CATTLE #1
-SULPETRO EXPLORATION INC				RECEIVED:	01/29/82	JA: KS
8216421	K81-1245	1508721138		102-4		BECK #1
8216420	K81-1244	1508721129		102-4		MITCHELL #1
-TBT PETROLEUM CORPORATION				RECEIVED:	01/29/82	JA: KS
8216505	K81-1215	1509720776		103		EINSEL F #1
-THE MAURICE L BROWN COMPANY				RECEIVED:	01/29/82	JA: KS
8216391	K 81-1251	1509720431		108		DORSETT #1
8216403	K 81-1098	1517120174		108		HARKNESS #1
-TUCKER PRODUCTION CORP				RECEIVED:	01/29/82	JA: KS
8216429	K81-1243	1517520517		102-4		BARNHARDT #1
8216389	K 81-1059	1502520420		103		COX #1
-TXO PRODUCTION CORP				RECEIVED:	01/29/82	JA: KS
8216417	K81-1148	1509520997		103		BOHRER "A" #1
8216441	K81-1147	1508721176		102-4		HAMILTON "A" #2
8216426	K81-1146	1508700888		102-4		HAMILTON A #1 (OWWO)
8216425	K81-1058	1508721238		102-4		HARTLEY "B" #2
8216428	K81-1192	1515120809		102-4		MCGUIRE "A" #1
-W B OSBORN JR (OPERATOR)				RECEIVED:	01/29/82	JA: KS
8216388	K 81-1014	1507520162		108		MARMIE #1
-WALTER KUHN DRILLING COMPANY				RECEIVED:	01/29/82	JA: KS
8216481	K81-1077	1508100000		108		MAINLINE #1
8216399	K 81-0861	1518920520		103		OSMAN #2
-WAYNE PENDER				RECEIVED:	01/29/82	JA: KS
8216504	K81-1214	1507520313		108		TATE 34-41
-WELLS-BATTELSTEIN OIL & GAS INC				RECEIVED:	01/29/82	JA: KS
8216509	K81-1155	1501922674		103		PEARCE (8344) #41
8216510	K81-1156	1501922675		103		PEARCE (8344) #42
8216511	K81-1157	1501922677		103		PEARCE (8344) #44
8216507	K81-1153	1501922179		103		PEARCE (8344) #46
8216512	K81-1158	1531922676		103		PEARCE (8344) WELL #43
8216508	K81-1154	1501922678		103		PEARCE (8344) WELL #45

FIELD NAME	PROD	PURCHASER
DEERHEAD	100.0	CITIES SERVICE GA
O'CONNER	90.0	KANSAS - NEBRASKA
WILDCAT	90.0	QUIVIRA GAS CO
REGNIER	87.0	NORTHERN NATURAL
SPIVEY-GRABS	2.2	KANSAS POWER & LI
SPIVEY-GRABS	12.8	KANSAS POWER & LI
SPIVEY-GRABS	10.4	KANSAS POWER & LI
SPIVEY-GRABS	10.4	KANSAS POWER & LI
SPIVEY-GRABS	10.4	KANSAS POWER & LI
ANTELOPE SE POOL	8.8	CITIES SERVICE GA
ANTELOPE POOL	8.8	CITIES SERVICE GA
BYERLY	146.0	NATURAL GAS SALES
BYERLY	146.0	NATURAL GAS SALES
BYERLY	73.0	NATURAL GAS SALES
BYERLY	73.0	NATURAL GAS SALES
BYERLY	146.0	NATURAL GAS SALES
BYERLY	88.0	NATURAL GAS SALES
SEMI-WILDCAT	229.0	
WILDCAT	657.0	
EINSEL	11.0	PANHANDLE EASTERN
ALFORD EXTENSION	15.0	KANSAS GAS SUPPLY
UNDESIGNATED	18.0	KANSAS - NEBRASKA
UNNAMED (WILDCAT)	368.0	NORTHERN NATURAL
MCKINNEY	68.0	NORTHERN NATURAL
WILLOWDALE SE	182.5	PEOPLES NATURAL G
WILDCAT	182.5	DELHI GAS P L COR
NW NURSE	182.5	DELHI GAS P L COR
NURSE NW	182.5	DELHI GAS P L COR
WOOLFOLK SE	182.5	DELHI GAS P L COR
BRADSHAW	3.0	PEOPLES NATURAL G
HUGOTON	14.0	NORTHERN NATURAL
PANOMA	33.0	NORTHERN NATURAL
BRADSHAW	13.0	KANSAS-NEBRASKA N
FRAZIER	31.0	COOKSON HILLS GAS
FRAZIER	29.2	COOKSON HILLS GAS
FRAZIER	29.2	COOKSON HILLS GAS
FRAZIER	32.9	COOKSON HILLS GAS
FRAZIER	32.9	COOKSON HILLS GAS
FRAZIER	31.0	COOKSON HILLS GAS

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JO NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8216374	K81-1174	1501922661		103		PEARCE #34 8457	FRAZIER	11.7	COOKSON HILLS GAS
8216375	K81-1175	1501922660		103		PEARCE #35 8457	FRAZIER	12.4	COOKSON HILLS GAS
8216376	K81-1176	1501922670		103		PEARCE #37 8457	FRAZIER	10.2	COOKSON HILLS GAS
8216373	K81-1173	1501922671		103		PEARCE #38 8457	FRAZIER	11.8	COOKSON HILLS GAS
8216372	K81-1172	1501922672		103		PEARCE #39 8457	FRAZIER	12.4	COOKSON HILLS GAS
	NORTH DAKOTA INDUSTRIAL COMMISSION								
-KERR-MCGEE CORPORATION		RECEIVED: 01/27/82 JA: ND							
8216518	443	3305301290		102-2		ANDERSON #3-6	MONDAK	1.8	KOCH HYDROCARBON
-TENNECO OIL COMPANY		RECEIVED: 01/27/82 JA: ND							
8216520	445	3300700587		102-2		KOKOON 1-9	BIG STICK	31.0	WESTERN GAS PROCE
-TEXACO INC		RECEIVED: 01/27/82 JA: ND							
8216519	446	3300301263		102-2		P JOHNSON #3	BLUE BUTTES SOUTH	202.0	MONTANA DAKOTA UT
-WILLIAM HERBERT HUNT TRUST ESTATE		RECEIVED: 01/27/82 JA: ND							
8216521	444	3300700590		102-2		A OSADCHUK B-1 (DUPEROW)	TREETOP	119.0	KOCH HYDROCARBON
	NEW MEXICO DEPARTMENT OF ENERGY & MINERALS								
-ENSERCH EXPLORATION INC		RECEIVED: 01/28/82 JA: NM							
8216516		3004120550		102-2		AMOCO STATE #3	PETERSON N	7.0	TRANSWESTERN PIPE
-FRED POOL JR		RECEIVED: 01/28/82 JA: NM							
8216517		3000960074		102-4		MCKNIGHT #2	UND WILDCAT	8.0	TRANSWESTERN PIPE
	TENNESSEE OIL & GAS BOARD								
-TENNESSEE EXPLORATION GAS & OIL INC		RECEIVED: 01/25/82 JA: TN							
8216537	A-785	4112920450		103		MCCARTY #1		0.0	
	WEST VIRGINIA DEPARTMENT OF MINES								
-ALLEGHENY LAND & MINERAL COMPANY		RECEIVED: 01/29/82 JA: WV							
8216593		4704101998		108		A-536	COURT HOUSE DISTRICT	0.0	CONSOLIDATED GAS
8216594		4704102029		108		A-544	FREEMANS CREEK DISTRI	0.0	CONSOLIDATED GAS
8216591		4701701801		108		A-561	SOUTHWEST DISTRICT	0.0	CONSOLIDATED GAS
8216592		4701701839		108		A-584	SOUTHWEST DISTRICT	0.0	CONSOLIDATED GAS
8216599		4704102085		108		A-611	SKIN CREEK DISTRICT	0.0	CONSOLIDATED GAS
8216595		4708300186		108		A-647	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8216597		4709701759		108		A-655	BUCKHANNON DISTRICT	0.0	EQUITABLE GAS CO
8216611		4710301151		108		A-692	GRANT	0.0	CONSOLIDATED GAS
-ASHLAND EXPLORATION INC		RECEIVED: 01/29/82 JA: WV							
8216576		4703902043		108		KANAWHA COAL #21 - 860771	TASA	21.0	INDUSTRIAL GAS CO
8216599		4708501062		108		SOUTHERN LAND 87-875031	LOGAN-WYOMING	17.0	CONSOLIDATED GAS
-BERG PETROLEUM INC		RECEIVED: 01/29/82 JA: WV							
8216575		4707301063		103		STATE FARM #1-80	OHIO RIVER	50.0	
8216568		4707301110		103		STATE FARM #4-80	OHIO RIVER	50.0	
8216574		4707301064		103		STATE FARM #5-80	OHIO RIVER	50.0	
8216573		4707301065		103		STATE FARM #7-80	OHIO RIVER	50.0	
8216569		4707301112		103		STELLA ROSS #3-81	WILLOW ISLAND CREEK	50.0	
-CABOT OIL & GAS CORP		RECEIVED: 01/29/82 JA: WV							
8216547		4701100670		107-DV		F J MCWHORTER #1	UNION	18.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION		RECEIVED: 01/29/82 JA: WV							
8216588		47C4700847		108		RIDGE LAND 12620	ADKIN DISTRICT	10.3	GENERAL SYSTEM PU

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JO NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-DORAN & ASSOCIATES INC		RECEIVED: 01/29/82 JA: WV							
8216610		4701702799		103		D LOUCHERY #4 KU-5	GREENBRIER	38.0	CONSOLIDATED GAS
8216608		4703322463		103		C ROSENBERGER #1 KU-1	EAGLE	38.0	CONSOLIDATED GAS
-DRAKE & PURSLEY		RECEIVED: 01/29/82 JA: WV							
8216614		4701322929		108		J B HUFFMAN	SHERMAN	4.3	CONSOLIDATED GAS
-EASTERN AMERICAN ENERGY CORPORATION		RECEIVED: 01/29/82 JA: WV							
8216598		4708505127		107-DV		SMITH #1	GRANT	18.0	CONSOLIDATED GAS
-FOX DRILLING CO INC		RECEIVED: 01/29/82 JA: WV							
8216604		4708101152		107-DV		B ROBINSON #2	DELINGTON	15.0	COLUMBIA GAS TRAN
8216602		4708101151		107-DV		B ROBINSON #3	DELINGTON	25.0	COLUMBIA GAS TRAN
8216603		4708101153		107-DV		B ROBINSON #4	DELINGTON	50.0	COLUMBIA GAS TRAN
8216589		4708101155	D	107-DV		B ROBINSON #5	DELINGTON	15.0	COLUMBIA GAS TRAN
8216601		4708101150		107-DV		B ROBINSON #6	DELINGTON	45.0	COLUMBIA GAS TRAN
-FUEL RESOURCES DEVELOPMENT CO		RECEIVED: 01/29/82 JA: WV							
+8216550		4708120668		108		JR PHILLIPS #1	VALLEY DISTRICT	1.0	CONSOLIDATED GAS
+8216566		4708120642		108		M ENGLAND	VALLEY DISTRICT	13.3	CONSOLIDATED GAS
+8216551		4708120860		108		W SUDER #1	VALLEY DISTRICT	19.1	CONSOLIDATED GAS
-GULF OIL CORPORATION		RECEIVED: 01/29/82 JA: WV							
8216619		4708501681		108		E L GOFF #1	H GREEN LAUFORD	1.6	CONSOLIDATED GAS
8216618		4702102466		108		FARNSWORTH "A" #1	VADIS	12.0	COLUMBIA GAS TRAN
-HAUGHT INC		RECEIVED: 01/29/82 JA: WV							
8216572		4708504804		103		GRIMM HEIRS H-985	MURPHY DISTRICT	22.0	CABOT CORP
8216581		4707300942		107-DV		JACK WAUGH H-1073	UNION DISTRICT	15.0	COLUMBIA GAS TRAN
8216571		4707300943		107-DV		JACK WAUGH H-1074	UNION DISTRICT	15.0	COLUMBIA GAS TRAN
-INDUSTRIAL GAS ASSOCIATES		RECEIVED: 01/29/82 JA: WV							
8216554		4708503802		108		BEE #1 KIT-3802	UNION DISTRICT	0.0	CONSOLIDATED GAS
8216552		4701702353		108		BRITTON #1 DOD-2353	CENTRAL DISTRICT	2.0	COLUMBIA GAS TRAN
8216553		4701702343		108		C SHAUGHNESSY #1 DODD-2343	GRANT DISTRICT	2.0	COLUMBIA GAS TRAN
8216556		4701702349		108		KING #1 DOD-2349	WEST UNION DISTRICT	2.0	CONSOLIDATED GAS
8216555		4701702345		108		POWELL #1 DOD-2345	CENTRAL DISTRICT	2.0	CONSOLIDATED GAS
-J & J ENTERPRISES INC		RECEIVED: 01/29/82 JA: WV							
8216545		4703302386		103		B-355	SARDIS	0.0	CONSOLIDATED GAS
8216546		4703302389		103		B-356	SARDIS	0.0	CONSOLIDATED GAS
8216582		4708100400		108		B-58	PHILIPPI	13.1	CONSOLIDATED GAS
8216585		4704102107		108		B-62	SKIN CREEK	838.0	CONSOLIDATED GAS
8216584		4704102104		108		B-63A	SKIN CREEK	7.3	CONSOLIDATED GAS
8216587		4709701739		108		B-68	BANKS	9.1	CONSOLIDATED GAS
8216586		4709701732		108		B-69	WARREN	5.3	CONSOLIDATED GAS
8216583		4708100430		108		B-71	UNION	16.4	CONSOLIDATED GAS
-JAMES F SCOTT		RECEIVED: 01/29/82 JA: WV							
8216558		4703302460		103		LESLIE CECIL B-318	UNION	62.0	CONSOLIDATED GAS
-KEITH CRIHFIELD		RECEIVED: 01/29/82 JA: WV							
8216580		4701300656		108		W E STUMP #1	BIG RUN	3.0	CABOT CORP
-LINDA SAMPSON		RECEIVED: 01/29/82 JA: WV							
8216615		4701300440		108		A M STUMP-#1	SHERMAN DISTRICT	4.7	CABOT CORP
8216616		4701300483		108		GEROME FRAME LEASE #1	SHERMAN DISTRICT	6.0	CABOT CORP
-MAR PETROLEUM CORPORATION		RECEIVED: 01/29/82 JA: WV							
8216564		4709701957		103		CURRENCE #1	TALLMANSVILLE	0.0	COLUMBIA GAS TRAN
8216563		4709701979		103		HANIFAN #1	TALLMANSVILLE	0.0	
8216565		4709702038		103		WILMAC TREE FARM "A" #1	TALLMANSVILLE	0.0	COLUMBIA GAS TRAN
-R & B PETROLEUM INC		RECEIVED: 01/29/82 JA: WV							
8216613		4708300372		103		KEELEY #3	ROARING CREEK	25.0	COLUMBIA GAS TRAN
8216612		4708300434		103		YAEGER #1	ROARING CREEK	25.0	PARTNERSHIP PROPE

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME				FIELD NAME	PROD	PURCHASER
-ROY G HILDRETH ET AL				RECEIVED:	01/29/82	JA: WV						
8216579		4701301212	108			ROY G HITZ #1				LEE DISTRICT	2.4	CABOT CORP
-RUSSELL V JOHNSON JR				RECEIVED:	01/29/82	JA: WV						
8216597		4702103748	103			R L DAVIS #1				BIG RUN OF LEADING CR	26.0	COLUMBIA GAS TRAN
-SPARTAN GAS COMPANY				RECEIVED:	01/29/82	JA: WV						
8216617		4707900907	108			PHELPS UNIT #1-8-211				CURRY	7.8	PENNZOIL CO
-STERLING DRILLING & PROD CO INC				RECEIVED:	01/29/82	JA: WV						
8216607		4701300888	108			ALOI #21 SDP #101				BUFFALO DISTRICT	20.0	EQUITABLE GAS CO
8216605		4701301675	108			ALOI 17 SDP #177				BUFFALO CREEK	11.0	EQUITABLE GAS CO
8216606		4701301678	108			ALOI 20 SDP #180				BUFFALO DISTRICT	20.0	EQUITABLE GAS CO
8216608		4701301684	108			ALOI 24 SDP #184				BUFFALO DISTRICT	3.0	EQUITABLE GAS CO
8216609		4701301686	108			ALOI 26 SDP #186				BUFFALO DISTRICT	15.0	EQUITABLE GAS CO
-STONEWALL GAS CO INC				RECEIVED:	01/29/82	JA: WV						
8216577		4703321952	108			W B MAXWELL MRG #1				UNION	7.5	CONSOLIDATED GAS
8216578		4703321993	108			W B MAXWELL MRG #2				GRANT	7.5	CONSOLIDATED GAS
-SWIFT ENERGY CO				RECEIVED:	01/29/82	JA: WV						
8216561		4702103772	103			ALLEN #2-A				GLENVILLE NORTH	50.0	
8216562		4704103082	103			HODGES "A" #1				FINSTER-ASPINALL	50.0	
8216560		4704103069	103			MCPHERSON #1				FINSTER-ASPINALL	50.0	
8216559		4708101488	103			ROSS #4				PHILLIPI	50.0	
-UNION DRILLING INC				RECEIVED:	01/29/82	JA: WV						
8216590		4709701814	102-2			UDI (BOONE) #1 1451				MEADE DISTRICT	8.0	COLUMBIA GAS TRAN
-UNITED PETRO LTD				RECEIVED:	01/29/82	JA: WV						
8216567		4701300258	108			DAISY ROSS #1				RUSH RUN	2.0	CONSOLIDATED GAS
8216569		4701300438	108			ELZA R WILSON #1				RUSH RUN	2.0	CONSOLIDATED GAS
8216568		4701300451	108			ELZA R WILSON #2				RUSH RUN	2.0	CONSOLIDATED GAS
-WARREN R HAUGHT AGENT				RECEIVED:	01/29/82	JA: WV						
8216570		4708504415	103			CARL SIMMONS M-877				CLAY DISTRICT	10.0	CONSUMERS GAS UTI
** DEPARTMENT OF INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER, CO												
-CONOCO INC				RECEIVED:	01/29/82	JA: CO 1						
8216527 CD0463-81		0510308629	103			DRAGON TRAIL UNIT #59				DOUGLAS CREEK	178.0	WESTERN SLOPE GAS
8216526 CD0524-81		0510308649	103			DRAGON TRAIL UNIT #63				DOUGLAS CREEK	150.0	WESTERN SLOPE GAS
-NATIONAL COOP REFINERY ASSOC				RECEIVED:	01/29/82	JA: CO 1						
8216536 CD0495-81		0506706523	105			SOUTHERN UTE 85-30				IGNACIO BLANCO	1350.0	EL PASO NATURAL G
-TENNECO OIL COMPANY				RECEIVED:	01/29/82	JA: CO 1						
8216522 CD0464-81		0504506313	103			HUGHES USA 824-1				SOUTH CANYON	178.0	NORTHWEST PIPELIN
-YETON ENERGY CO INC				RECEIVED:	01/29/82	JA: CO 1						
8216531 CD0473-81		0510307894	107-RT			GOVERNMENT #12				SOUTH DOUGLAS CREEK	53.0	NORTHWEST PIPELIN
-AMOCO OIL & GAS CO				RECEIVED:	01/29/82	JA: UT 1						
8216538 UD0482-81		4301930696	102-9			DANCER #1				GREATER CISCO (GRAVEL	23.0	NORTHWEST PIPELIN
-DELCO DEVELOPMENT CORP				RECEIVED:	01/29/82	JA: UT 1						
8216528 UD0501-81		4304731838	103			DUCK CREEK 51-8				DUCK CREEK	0.0	NORTHWEST PIPELIN
-DELCO PETROLEUM CORPORATION				RECEIVED:	01/29/82	JA: UT 1						
8216529 UD0527-81		4304730996	103			DUCK CREEK 50-17GR				DUCK CREEK	0.0	NORTHWEST PIPELIN
-CONOCO INC				RECEIVED:	01/29/82	JA: UT 1						
8216525 UD0228-81		4304730804	102-2			CONOCO POST 3 #24				OURAY	256.0	MOUNTAIN FUEL SUP
-BETTY OIL COMPANY				RECEIVED:	01/29/82	JA: UT 1						
8216524 UD0509-81		4300730849	102-2			JACK CANYON 101-A				PETERS POINT (DEEP) F	50.0	UINTA PIPELINE CO
8216523 UD0499-81		4300730869	103			PETER'S POINT 14-9				PETER'S POINT	245.0	UINTA PIPELINE CO
-PAGE PETROLEUM INC				RECEIVED:	01/29/82	JA: UT 1						
8216532 UD0525-81		4301330530	103			UTE TRIBAL 2-13-C4				ALTAMONT	188.0	KOCH HYDROCARBON

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME				FIELD NAME	PROD	PURCHASER
-TXO PRODUCTION CORP				RECEIVED:	01/29/82	JA: UT 1						
8216534 UD0477-81		4301930797	102-2			CREDO FEDERAL #1				SAN ARROYO	578.0	NORTHWEST PIPELIN
8216533 UD0476-81		4301930798	102-2			CREDO FEDERAL "A" #1				SAN ARROYO	231.0	NORTHWEST PIPELIN
8216530 UD-0478-81		4301930792	103			NOKA FEDERAL "A" #1				SAN ARROYO	289.0	NORTHWEST PIPELIN
** DEPARTMENT OF ENERGY												
-NAVAL PETROLEUM RESERVES IN CALIFOR				RECEIVED:	01/28/82	JA: CA 9						
8216541		0402900000	102-2			303-356				NAVAL PETROLEUM RESER	73.0	CHEVRON USA INC
8216542		0402900000	102-2			303-358				NAVAL PETROLEUM RESER	73.0	CHEVRON USA INC
8216544		0402900000	103			358-388X				NAVAL PETROLEUM RESER	85.0	CHEVRON USA INC
8216538		0402900000	102-2			58-314				NAVAL PETROLEUM RESER	91.0	CHEVRON USA INC
8216539		0402900000	102-2			58-354				NAVAL PETROLEUM RESER	128.0	CHEVRON USA INC
8216540		0402900000	102-2			68-371				NAVAL PETROLEUM RESER	91.0	CHEVRON USA INC
8216543		0402900000	103			7R-347				NAVAL PETROLEUM RESER	110.0	CHEVRON USA INC

OTHER PURCHASERS VOLUME NO 2597

8216530 BROOKLYN UNION GAS CO
8216531 BROOKLYN UNION GAS CO
8216566 BROOKLYN UNION GAS CO

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 10 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MHCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission by March 11, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 mile rule)
102-3: New well (1000 ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease
Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal seams
107-DV: Devonian shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-4697 Filed 2-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Volume 588]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 17, 1982.

JD NO	JA CAT	API NO	D SEC(1) SEC(2) WELL NAME	PROD	PURCHASER
			FIELD NAME		
KANSAS CORPORATION COMMISSION					
-AMERICAN CONTINENTAL ENERGY INC			RECEIVED: 02/01/82		JAI KS
0216736	K 81-0709	1505320468	108 PEARL #1		
-ARCO PRODUCTION CO			RECEIVED: 02/01/82		JAI KS
0216760	K81-1204	1505320005	103 TAGGART GAS UNIT/CO/S2		
-ARMBARKO PRODUCTION COMPANY			RECEIVED: 02/01/82		JAI KS
0216795	K81-1197	1513000570	103 BROWN #1		
0216749	K81-1069	1513500000	108 OANO A #1		
0216751	K81-1071	1513900000	103 MOORE -C- #4		
0216750	K81-1068	1517520000	108 RICE A #1		
0216752	K81-1070	1518900000	108 SUGHRUE A #1		
-BARTLING OIL CO			RECEIVED: 02/01/82		JAI KS
0216729	K 81-1170	1507120242	103 HARRIS #1		
0216730	81-1171	1507130205	103 SPEARS #1		
0216728	K 81-1169	1507120246	103 SPEARS #2		
-BERGEN MINERAL GROUP			RECEIVED: 02/01/82		JAI KS
0216732	K 81-0394	1505322052	108 MCCOLLUM #2-14		
-BERGEN CORPORATION			RECEIVED: 02/01/82		JAI KS
0216752	K81-1072	1513120562	102-4 FISH & GAME #1-6		
0216753	K81-1076	1513120995	102-4 MOLLIE #1		
-CHAMPLIN PETROLEUM COMPANY			RECEIVED: 02/01/82		JAI KS
0216733	K 81-0977	1505320303	108 BAKER #2		
0216758	K81-1202	1505320303	108 BAKER #2		
-CONTINENTAL ENERGY			RECEIVED: 02/01/82		JAI KS
0216723	K 81-1242	1508110246	103 CHIEF SATANTA #1		
-DAVIS BROS OIL PRODUCERS INC			RECEIVED: 02/01/82		JAI KS
0216734	K 81-0552	1310851080	103 SITTNER #1		
-ENERGY EXPLORATION INC			RECEIVED: 02/01/82		JAI KS
0216742	K81-1265	1508922810	103 ESBMILLER #1		
-EXXON CORPORATION			RECEIVED: 02/01/82		JAI KS
0216759	K81-1283	1504720094	103 BERNARD A PETER #8		
-GEAR PETROLEUM CO INC			RECEIVED: 02/01/82		JAI KS
0216724	K 81-1246	1505320670	108 JOHNSON A #1		
-GEO R BMAN			RECEIVED: 02/01/82		JAI KS
0216741	K81-1250	1505320740	103 SHALLEY 14-35		
-GRAHAM-MICHAELIS CORP			RECEIVED: 02/01/82		JAI KS
0216721	K 81-1240	1505720026	103 KANE #3-24		
-KANSAS-NEBRASKA NATURAL GAS CO INC			RECEIVED: 02/01/82		JAI KS
0216731	K 81-0165	1507500000	108 MOTLE 1		
-LADD PETROLEUM CORPORATION			RECEIVED: 02/01/82		JAI KS
0216744	K81-1271	1502810492	102-2 ROONEY #2		
0216745	K81-1272	1502810417	102-2 WEARS #1-6		

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-LEAR PETROLEUM EXPLORATION INC				RECEIVED:	02/01/82	JA: KS			
8216727	K 81-1160	1505320493		102-2		JELLISON #4-5	WILDCAT	48.0	MICHIGAN WISCONSI
8216726	K 81-1167	1505320461		102-2		SELZER #4-8	WILDCAT	48.0	MICHIGAN WISCONSI
-MCCOY PETROLEUM CORP				RECEIVED:	02/01/82	JA: KS			
8216720	K 81-1233	1509521188		103		KOHMAN #5	SPIVEY-GRABS	30.0	PEOPLES NATURAL G
-MESSMAN-RINEHART CORP				RECEIVED:	02/01/82	JA: KS			
8216719	K81-1232	1514520904		103		WYMAN #1	CARPENTER	36.0	KANSAS-NEBRASKA N
-MULL DRILLING CO INC				RECEIVED:	02/01/82	JA: KS			
8216725	K 81-1247	1500700000		108		WHEELOCK #2	MEDICINE RIVER	15.0	CITIES SERVICE GA
-NIELSON ENTERPRISES INC				RECEIVED:	02/01/82	JA: KS			
8216755	K81-1199	1502320101		103		BURR "B" #1	SO ST FRANCIS GAS ARE	10.0	PEOPLES NATURAL G
8216756	K81-1200	1502320179		103		FRITZ "A" #1	SO ST FRANCIS GAS ARE	10.0	PEOPLES NATURAL G
8216757	K81-1201	1502320180		103		HARKINS "A" #1	SO ST FRANCIS GAS ARE	10.0	PEOPLES NATURAL G
-NORTHERN NATURAL GAS PROD				RECEIVED:	02/01/82	JA: KS			
8216743	K81-1267	1518920534		103		MUELLER #1 UNIT #2	WALKMEYER	100.0	NORTHERN NATURAL
-PETROLEUM INC				RECEIVED:	02/01/82	JA: KS			
8216738	K 81-1061	1509500000		108		EVANS "A" #1	SPIVEY GRABS	12.0	KANSAS POWER AND
8216740	K81-1063	1509500000		108		GRABER "B" UNIT #2	SPIVEY GRABS	12.0	KANSAS POWER & LI
8216739	K 81-1062	1509500000		108		SHEPHERD "C" #1	SPIVEY GRABS	12.0	KANSAS POWER & LI
-S & B OIL CO INC				RECEIVED:	02/01/82	JA: KS			
8216746	K81-1273	1507720623		103		RYAN #9	SPIVEY-GRABS	14.6	CITIES SERVICE OI
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	02/01/82	JA: KS			
8216722	K 81-1241	1509500000		108		W YOUNG #1	SPIVEY GRABS	12.0	KANSAS POWER & LI
-TENNECO OIL COMPANY				RECEIVED:	02/01/82	JA: KS			
8216735	K 81-0630	1505720097		102-4		BARNGROVER #3-26	WILDCADS	75.0	CITIES SERVICE GA
-TUCKER PRODUCTION CORP				RECEIVED:	02/01/82	JA: KS			
8216737	K 81-1060	1511920467		103		BENDER #1	STEVENS	180.0	PANHANDLE EASTERN
-TXO PRODUCTION CORP				RECEIVED:	02/01/82	JA: KS			
8216718	K81-1230	1509720738		102-2		THOMPSON "H" #1	GREENSBURG EAST	73.0	
-WOODMAN-IANNITTI OIL CO				RECEIVED:	02/01/82	JA: KS			
8216747	K81-1274	1509521106		103		TWEITMEYER #1	BROADWAY EXT	63.9	PEOPLES NATURAL G

LOUISIANA OFFICE OF CONSERVATION

-AMINOIL OF LOUISIANA				RECEIVED:	02/02/82	JA: LA			
8216690	81-2217	1707522379		103		S/L 2028 #11 LW 23 RANVU	LAKE WASHINGTON	48.0	SOUTHERN NATURAL
-CANNEY OIL INC				RECEIVED:	02/02/82	JA: LA			
8216688	81-2215	1703121435		103		BOISE SOUTHERN #5	GRAND CANE	30.0	LOUISIANA INTRAST
8216689	81-2216	1703121206		103		BOISE SOUTHERN A #1	GRAND CANE	30.0	LOUISIANA INTRAST
-CHEVRON U S A INC				RECEIVED:	02/02/82	JA: LA			
8216672	81-2191	1707720234		107-DP		RIVERLAKE #1 19000 TUSC RB SUB	FALSE RIVER	768.0	
-CRYSTAL OIL COMPANY				RECEIVED:	02/02/82	JA: LA			
8216686	81-2212	1701521544		103		KEOUN #1	ARKANA	227.0	ARKANSAS LOUISIAN
8216687	81-2214	1711920294		103		SEXTON #1	SHONGALOO	25.5	TEXAS GAS TRANSMI
-EXCALIBUR RESOURCES INC				RECEIVED:	02/02/82	JA: LA			
8216716	81-2208	1703121406		103		CONTINENTAL CAN CO GROUP BUTLER	GROGAN	200.0	TENNESSEE GAS PIP
-EXXON CORPORATION				RECEIVED:	02/02/82	JA: LA			
8216684	81-2210	1711320901		103		EXXON FEE-PECAN ISLAND #71	PECAN ISLAND	550.0	COLUMBIA GAS TRAN
8216682	81-2201	1711321013		103		EXXON FEE-PECAN ISLAND #82	PECAN ISLAND	450.0	COLUMBIA GAS TRAN
8216681	81-2200	1709920872		103		GOODRICH C 16D DL OPERC BA RA SU	DUCK LAKE	700.0	UNITED GAS PIPE L
8216691	81-2203	1707522450		103		S L 2090 #14	SOUTHEAST PASS	60.0	TENNESSEE GAS PIP
-FRANKS & PETROFUNDS INC				RECEIVED:	02/02/82	JA: LA			
8216678	81-2197	1711320488		133		WOODARD WALKER M-1 HOSS B SUI	SAILES	420.0	LOUISIANA GAS PUR

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-MARSHALL EXPLORATION INC				RECEIVED:	02/02/82	JA: LA			
8216674	81-2193	1703120149		103		NANCY VAUGHN #1 HOSS T RA SUC	BETHANY-LONGSTREET	29.0	ARKANSAS-LOUISIAN
8216685	81-2211	1703121033		103		T O CHANDLER #2	BELLE BOWER	329.0	TENNESSEE GAS PIP
-MIDWAY PRODUCTION CO				RECEIVED:	02/02/82	JA: LA			
8216694	81-2237	1707321598		108		LEDOUX & BROCKMAN #6	MONROE	9.0	INC PIPELINE CO I
8216695	81-2238	1707321599		108		LEDOUX & BROCKMAN #7	MONROE	9.0	INC PIPELINE CO I
-MIDWAY PRODUCTION CO II				RECEIVED:	02/02/82	JA: LA			
8216699	81-2221	1707321077		108		W M LEDOUX #1	MONROE	3.9	INC PIPELINE CO I
8216700	81-2222	1707321078		108		W M LEDOUX #2	MONROE	3.9	INC PIPELINE CO I
8216701	81-2223	1707321079		108		W M LEDOUX #3	MONROE	6.0	INC PIPELINE CO I
8216702	81-2224	1707321125		108		W M LEDOUX #4	MONROE	6.1	INC PIPELINE CO I
8216703	81-2225	1707321136		108		W M LEDOUX #5	MONROE	6.1	INC PIPELINE CO I
-MIDWAY PRODUCTION CO III				RECEIVED:	02/02/82	JA: LA			
8216712	81-2234	1707321124		108		LEDOUX & BROCKMAN #3	MONROE	8.8	INC PIPELINE CO I
8216713	81-2235	1707321192		108		LEDOUX & BROCKMAN #4	MONROE	11.0	INC PIPELINE CO I
8216711	81-2236	1707321193		108		LEDOUX & BROCKMAN #5	MONROE	11.0	INC PIPELINE CO I
-MIDWAY PRODUCTION CO IX				RECEIVED:	02/02/82	JA: LA			
8216705	81-2227	1707321469		108		WADDILL #1	MONROE	14.8	INC PIPELINE CO I
8216706	81-2228	1707321471		108		WADDILL #3	MONROE	16.0	INC PIPELINE CO I
8216707	81-2229	1707321472		108		WADDILL #4	MONROE	16.0	INC PIPELINE CO I
8216708	81-2230	1707321613		108		WADDILL #5	MONROE	16.0	INC PIPELINE CO I
8216709	81-2231	1707321614		108		WADDILL #6	MONROE	16.0	INC PIPELINE CO I
-MIDWAY PRODUCTION CO V				RECEIVED:	02/02/82	JA: LA			
8216704	81-2226	1707321556		108		G R COLLIER #1	MONROE	15.2	INC PIPELINE CO I
-MIDWAY TESTING CO INC				RECEIVED:	02/02/82	JA: LA			
8216710	81-2232	1707320613		108		LEDOUX-BROCKMAN #2	MONROE	6.5	INC PIPELINE CO I
-PENNZOIL PRODUCING COMPANY				RECEIVED:	02/02/82	JA: LA			
8216698	81-2220	1710922410		103		CONTINENTAL LAND & FUR B #28	DEER ISLAND	125.0	UNITED GAS PIPE L
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	02/02/82	JA: LA			
8216677	81-2196	1703121539		102-4		MIMS A #2 HOSS RA SU I	SPIDER	365.0	SOUTHERN NATURAL
-SEVARG COMPANY INC				RECEIVED:	02/02/82	JA: LA			
8216696	81-2218	1709720641		103		A V PAVY EST #1	SAVOY	35.0	TEXAS EASTERN TRA
-SHELL OIL CO				RECEIVED:	02/02/82	JA: LA			
8216693	81-2205	1704720512		102-4		WILBERT #245 VC V RF SU	WHITE CASTLE	55.0	FLORIDA GAS TRANS
8216692	81-2204	1704720587		102-4		WILBERT #254 VC V RO SU	WHITE CASTLE	22.0	FLORIDA GAS TRANS
-SUPERIOR OIL CO				RECEIVED:	02/02/82	JA: LA			
8216673	81-2192	1711321058		107-DP		A S LAPOINT #1	KAPLAN	1500.0	
8216714	81-2206	1710922440		107-DP		R W BUCKLEY U 9 #8 VUB	FOUR ISLE DOME	600.0	UNITED GAS PIPELI
8216717	81-2209	1702321555		103		S L 2038 #35	DEEP LAKE	600.0	MICHIGAN WISCONSI
8216671	81-2190	1711321696		107-DP		W L DARTEZ #1	KAPLAN	500.0	LOUISIANA INTRAST
-TEXACO INC				RECEIVED:	02/02/82	JA: LA			
8216697	81-2219	1709720496		103		BOTANY BAY LBR CO MIN FEE TR-4 #156	PORT BARRE	110.0	CONSOLIDATED ALUM
8216676	81-2195	1707522484		103		GARDEN ISLAND BAY #856 SL 214	GARDEN ISLAND BAY	120.0	SOUTHERN NATURAL
8216675	81-2194	1707522787		103		GARDEN ISLAND BAY 860 SL 214	GARDEN ISLAND BAY	6.0	SOUTHERN NATURAL
8216679	81-2198	1770720076		103		MOUND POINT #40 SL 340	MOUND POINT	1241.0	KAISER ALUMINUM &
8216680	81-2199	1700720251		103		P R NORMAN 8-9	GRAND BAYOU	2592.0	KAISER ALUMINUM &
8216683	81-2202	1709920839		103		SL 8216 #1	FAUSSE POINTE	1405.0	
-UNION TEXAS PETROLEUM				RECEIVED:	02/02/82	JA: LA			
8216715	81-2207	1706120274		192-4		HENDRICKS 28 #1 GRAY RA SUD	TERRYVILLE	1825.0	SUGAR BOWL GAS CO

OKLAHOMA CORPORATION COMMISSION

-APACHE CORPORATION				RECEIVED:	02/01/82	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8216785	15853	3513929449		102-2		GAINES 1-15
-CMASE EXPLORATION CORP				RECEIVED:	02/01/82	JA: OK
8216792	12383	3507121202		108		BERRIE #1-8
8216791	12381	3507121201		108		BERRIE #2-8
8216805	12385	3507121272		108		BRANDON #2-3
8216804	12386	3507121036		108		BRAWNER #1-18
8216775	12382	3507121095		108		BRAZELTON #1-29
8216776	12384	3507120971		108		BROWN #1-26
8216773	12377	3507120897		108		BROWN #2-26
8216771	12378	3507120887		108		BROWN #3-26
8216790	12379	3507121334		108		BROWN #4-26
8216777	12409	3507120814		108		GINGERICH #1-14
8216778	12410	3507121167		108		HAHN 1-14
8216770	12477	3507121198		108		HORINEK #2-4
8216779	12442	3507120710		108		KAHLE #1-30
8216799	12447	3507121605		108		KAHLE #4-23
8216798	12445	3507121096		108		KAHLE 2-18
8216768	12455	3507121152		108		MEYERS #1-25
8216769	12456	3507120840		108		MILLER #1-24
8216802	12454	3507121195		108		MILLER #4-24
8216774	12435	3507120818		108		MURET #1-30
8216801	12458	3507120968		108		NEAL #1-15
8216800	12440	3507121604		108		PIERCE 2-22
-CHEVENNE EXPLORATION INC				RECEIVED:	02/01/82	JA: OK
8216813	12373	3509322255		103		TRUITY #1
-COTTON PETROLEUM CORPORATION				RECEIVED:	02/01/82	JA: OK
8216772	16254	3505121119		107-DP		SCHMIDT #1
-D & G GAS & OIL CO				RECEIVED:	02/01/82	JA: OK
8216807	12353	3504722601		103		JOHNSON #3
-ESTORIL PRODUCING CORP				RECEIVED:	02/01/82	JA: OK
8216781	12305	3512321001		103		GUNTER "A" #1
-FARMERS INVESTMENTS INC				RECEIVED:	02/01/82	JA: OK
8216818	12363	3502720394		103		CLETU #1
-FUNK EXPLORATION INC				RECEIVED:	02/01/82	JA: OK
8216789	12458	3500722890		103		AREN #2
-HINDMAN-COAST OIL CO				RECEIVED:	02/01/82	JA: OK
8216806	12355	3510524990		103		HINDMAN
-HOME PETROLEUM CORPORATION				RECEIVED:	02/01/82	JA: OK
8216805	09324	3500721665		103		MYERS 27-1
-JET OIL COMPANY				RECEIVED:	02/01/82	JA: OK
8216784	12685	3504721892		103		BRANSON #1
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	02/01/82	JA: OK
8216815	12376	3508120766		103		HAMPTON #2
-KALKA PRODUCTION CO				RECEIVED:	02/01/82	JA: OK
8216796	19787	3515100000		108		COPENHAVER UNIT #1
-OXLEY PETROLEUM CO				RECEIVED:	02/01/82	JA: OK
8216793	11339	3512120817		103		REASNER #2
8216794	11341	3512120772		103		RICHARDS #2
-RIVIERA OIL CO				RECEIVED:	02/01/82	JA: OK
8216780	12289	3514321175		103		R D E #2
-ROGER S ELLEN				RECEIVED:	02/01/82	JA: OK
8216814	12574	3511122459		103		WITHROW #1
-SEAGULL OPERATING CO INC				RECEIVED:	02/01/82	JA: OK

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FIELD NAME	PROD	PURCHASER
	1095.0	EL PASO NATURAL G
UNNAMED	0.9	CITIES SERVICE GA
UNNAMED	0.7	CITIES SERVICE GA
UNNAMED	4.5	CITIES SERVICE GA
UNNAMED	1.1	CITIES SERVICE GA
UNNAMED	16.0	CITIES SERVICE GA
UNNAMED	1.2	CITIES SERVICE GA
UNNAMED	2.9	CITIES SERVICE GA
UNNAMED	2.9	CITIES SERVICE GA
UNNAMED	3.3	CITIES SERVICE GA
UNNAMED	2.6	CITIES SERVICE GA
UNNAMED	4.3	CITIES SERVICE GA
UNNAMED	2.0	CITIES SERVICE GA
UNNAMED	1.2	CITIES SERVICE GA
UNNAMED	2.9	CITIES SERVICE GA
UNNAMED	1.0	CITIES SERVICE GA
UNNAMED	2.6	CITIES SERVICE GA
UNNAMED	3.5	CITIES SERVICE GA
UNNAMED	2.5	CITIES SERVICE GA
UNNAMED	14.5	CITIES SERVICE GA
UNNAMED	1.3	CITIES SERVICE GA
UNNAMED	1.2	CITIES SERVICE GA
RINGWOOD	78.5	PANHANDLE EASTERN
VERDEN S E	750.0	UNITED GAS PIPELI
EAST MARSHALL	240.0	AMINOIL USA INC
NE TECUMSEH	2.5	TRANSOK PIPELINE
NORTHWEST NORMAN	25.0	SUN GAS CO
GREENOUGH	400.0	WESTERN INTERSTAT
WOODY	25.0	A-G SYSTEMS LTD
UNNAMED	380.0	KANSAS-NEBRASKA N
NORTH ELKHORN	55.0	AMINOIL USA INC
N BRADLEY	180.0	TRANSOK PIPELINE
OAKDALE NORTH CHEROKE	18.0	PANHANDLE EASTERN
BLOCKER	709.0	SOUTHEAST TRANSMI
	268.0	SOUTHEAST TRANSMI
SOUTH WEKIWA	8.0	COLORADO GAS COMP
HENRYETTA	0.7	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8216795	12585	3512257400		103		BURNETT #2
-SHELL OIL CO				RECEIVED:	02/01/82	JA: OK
8216797	16275	3505121094		107-DP		RUDY KODASEET #1-30
-SOUTHLAND ROYALTY CO				RECEIVED:	02/01/82	JA: OK
8216809	12358	3504321248		103		LEO HURT #1-6
8216808	12356	3515121052		103		MAX #1-11
-SUNRISE EXPLORATION INC				RECEIVED:	02/01/82	JA: OK
8216783	12570	3503920179		103		MCNEILL #1-12
-T P HOOBE				RECEIVED:	02/01/82	JA: OK
8216811	12571	3504722581		103		ESTER
8216812	12572	3504722419		103		ROSS #1
-TEXACO INC				RECEIVED:	02/01/82	JA: OK
8216787	12642	3507321948		103		BOLLENBACH "B" #9
8216788	12643	3507321946		103		BOLDIE OSWALD #3
8216786	12641	3507321947		103		I K BOLLENBACH B #8
-TEXAS INTERNATIONAL PET CORP				RECEIVED:	02/01/82	JA: OK
8216782	12488	3512100000		108		STINE #1-9
********** WEST VIRGINIA DEPARTMENT OF MINES **********						
-BEREA OIL AND GAS CORPORATION				RECEIVED:	02/01/82	JA: WV
8216658		4710720995		107-DV		DAWSON #1
8216652		4710721011		107-DV		WM MOORE #1
8216660		4710721011		103		WM MOORE #1
8216651		4710721012		107-DV		WM MOORE #2
8216659		4710721012		103		WM MOORE #2
-BKK PROSPECTING LTD				RECEIVED:	02/01/82	JA: WV
8216670		4707301190		107-DV		RICE-KINBALL
-CABOT OIL & GAS CORP				RECEIVED:	02/01/82	JA: WV
8216664		4708100331		108		PINEY COKING COAL A-12
8216663		4708100333		108		PINEY COKING COAL A-15
8216662		4708100334		108		PINEY COKING COAL A-16
8216661		4708100377		108		PINEY COKING COAL A-31
8216665		4708100448		108		T M WOOLWINE #1
-DEVON CORPORATION				RECEIVED:	02/01/82	JA: WV
8216656		4707901023		107-DV		FRANK HARDY #970
8216657		4707901024		107-DV		FRANK HARDY #971
8216655		4707901042		107-DV		FRANK HARDY #976
8216654		4707901031		107-DV		FRANK HARDY #978
8216653		4707901041		107-DV		LESTA FISHER #992
8216658		4707901027		107-DV		NOBLE GARNES #974
-DORAN & ASSOCIATES INC				RECEIVED:	02/01/82	JA: WV
8216648		4703301918		108		L C ROBINSON #2 KL70
8216647		4703301966		108		L H ROGERS KL-81
-EASTERN AMERICAN ENERGY CORPORATION				RECEIVED:	02/01/82	JA: WV
8216644		4708505129		103		MARSHALL #1
8216645		4708505129		107-DV		MARSHALL #1
-GULF OIL CORPORATION				RECEIVED:	02/01/82	JA: WV
8216638		4701300442		108		MATHAWAY-WALTERS #1-126
8216639		4701302288		108		MATHAWAY-WALTERS #2-399
8216640		4704100132		108		STARK #1
8216641		4704100482		108		STARK "A" #1
8216642		4704100540		108		STARK "A" #3

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FIELD NAME	PROD	PURCHASER
HAMILTON SWITCH	70.0	PHILLIPS PETROLEU
	361.4	
S E CHESTER	228.0	PHILLIPS PETROLEU
N E LOVEDALE	14.6	EL GRANDE PIPELIN
FAY SOUTH	308.0	TRANSOK PIPE LINE
SOONER TREND	190.0	PANHANDLE EASTERN
SOONER TREND	90.0	PANHANDLE EASTERN
SOONER TREND	28.0	EASON OIL CO
SOONER TREND	7.3	EASON OIL CO
SOONER TREND	11.0	EASON OIL CO
WILBURTON	13.0	ARKLA OIL CO
UNION	1.1	CONSOLIDATED GAS
UNION	1.5	CONSOLIDATED GAS
UNION	0.7	CONSOLIDATED GAS
UNION	5.8	CONSOLIDATED GAS
UNION	2.9	CONSOLIDATED GAS
RICE-RICE-RICE KINBAL	189.5	COLUMBIA GAS TRAN
SLAB FORK	6.0	CABOT CORP
SLAB FORK	4.0	CABOT CORP
SHADY SPRINGS	4.0	CABOT CORP
SLAB FORK	17.0	CABOT CORP
TOWN	11.0	TENNESSEE GAS PIP
MIDWAY	15.0	ROARING FORK GAS
MIDWAY	17.0	ROARING FORK GAS
MIDWAY	9.0	ROARING FORK GAS
MIDWAY	15.0	ROARING FORK GAS
MIDWAY	13.0	ROARING FORK GAS
MIDWAY	10.0	ROARING FORK GAS
EAGLE	19.0	CONSOLIDATED GAS
SARDIS	19.0	CONSOLIDATED GAS
GRANT	45.0	CONSOLIDATED GAS
GRANT	45.0	CONSOLIDATED GAS
SYCAMORE MILLSTONE	1.1	CABOT CORP
SYCAMORE MILLSTONE	1.1	CABOT CORP
VADIS	2.5	EQUITABLE GAS CO
VADIS	4.1	EQUITABLE GAS CO
VADIS	4.1	EQUITABLE GAS CO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8216643		4702102150		108		TALBOTT "B" #1	GLENVILLE WEST	0.1	EQUITABLE GAS CO
-J & J ENTERPRISES INC				RECEIVED:	02/01/82	JA: WV			
8216665		4703302452		103		B-243	UNION	0.0	CONSOLIDATED GAS
8216666		4703302247		103		B-286	EAGLE	0.0	CONSOLIDATED GAS
8216667		4709101515		103		J-399	VALLEY	20.0	CONSOLIDATED GAS
8216669		4709101529		103		J-401	VALLEY	20.0	CONSOLIDATED GAS
-JAMAR LAND CO INC				RECEIVED:	02/01/82	JA: WV			
8216634		4709901713	D	108		GLENHAYES #5	LINCOLN DISTRICT	0.0	COLUMBIA GAS TRAN
-PETRO-LEWIS CORPORATION				RECEIVED:	02/01/82	JA: WV			
8216636		4709701633		108		THE ZIRKLE #1	UNION	2.0	PARTNERSHIP PROPE
8216637		4797814378		108		THE ZIRKLE #2	UNION	2.6	PARTNERSHIP PROPE
-TEXAS INTERNATIONAL PET CORP				RECEIVED:	02/01/82	JA: WV			
8216635		4706708943		102-4		OLIVE GULPEPPER #2	PETERS CREEK	37.0	EQUITABLE GAS CO
-UNITED OPERATING COMPANY				RECEIVED:	02/01/82	JA: WV			
8216647		4702103403		108		IDA MINEY #2	ELLIS CREEK	0.0	CARNEGIE NATURAL
8216646		4701701981		108		M HAUGHT #1	FRED'S RUN	0.0	CONSOLIDATED GAS
** DEPARTMENT OF INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER, CO									
-NORTHWEST EXPLORATION COMPANY				RECEIVED:	02/01/82	JA: CO 1			
8216816	CD 8094-81	05103000066		108		PHILADELPHIA CREEK #18	PHILADELPHIA CREEK	21.0	NORTHWEST PIPELIN
-CONOCO INC				RECEIVED:	02/01/82	JA: UT 1			
8216818	CD8455-81	43047307783		107-TF		CONOCO D M ICE FRIDAY 34 #22	OURAY	256.0	MOUNTAIN FUEL SUP
8216819	CD 8094-81	43047307749		107-TF		CONOCO K SNOW KNIGHT 4 #23	OURAY	165.0	MOUNTAIN FUEL SUP
8216817	UD 8468-81	43047307734		107-TF		CONOCO TABBEE 34 #20	OURAY	146.0	MOUNTAIN FUEL SUP
** DEPARTMENT OF INTERIOR, MINERALS MANAGEMENT SERVICE, METAIRIE, LA									
-CHEVRON U S A INC				RECEIVED:	02/01/82	JA: LA 3			
8216628	61-2439	17726400013		102-1		OCS-G-4123 #5	BRETON SOUND	1148.0	MISSISSIPPI POWER
-CONOCO INC				RECEIVED:	02/01/82	JA: LA 3			
8216627	61-2235	17703401178		102-5		EAST CAMERON 42 C-1	EAST CAMERON	1223.0	TENNESSEE GAS PIP
8216628	61-2236	17703402229		102-5		EAST CAMERON 42 C-2	EAST CAMERON	1223.0	TENNESSEE GAS PIP
-GULF OIL CORPORATION				RECEIVED:	02/01/82	JA: LA 3			
8216624	61-2244	17708900886		102-5		EUGENE ISL BLK 258 OCS-G 0982 #F5	EUGENE ISLAND	4745.0	SEA ROBIN PIPELIN
8216632	61-2397	17711400401		102-5		SHIP SHOAL BLK 169 OCS-G 0820 #BB-1	SHIP SHOAL	219.0	TRANSCONTINENTAL
8216621	61-2245	17711400555		102-5		SHIP SHOAL BLK 169 OCS-G 0820 #BB-2	SHIP SHOAL	200.0	TRANSCONTINENTAL
-DOECO OIL & GAS CO				RECEIVED:	02/01/82	JA: LA 3			
8216631	61-2421	17713400860		102-5		OCS-G-072 NO 34C	SOUTH PELTO 20 FIELD	110.0	TRANSCONTINENTAL
-SHELL OIL CO				RECEIVED:	02/01/82	JA: LA 3			
8216630	612435	17704400823		108-1		OCS-G 4181 JA-2	EAST CAMERON	5508.0	SOUTHERN NATURAL
-SONAT EXPLORATION COMPANY				RECEIVED:	02/01/82	JA: LA 3			
8216625	61-2187	17708300199		102-5		OCS-G-3286 A-2A	EAST CAMERON	0.0	SOUTHERN NATURAL
-ARMOIL USA INC				RECEIVED:	02/01/82	JA: TX 3			
8216620	61-2088	42708400114		102-5		OCS-G-2712 #A-1	HIGH ISLAND BLOCK A-5	424.0	COLUMBIA GAS TRAN
8216623	61-2089	42708400410		102-5		OCS-G-2712 #A-3	HIGH ISLAND BLOCK A-5	30.0	COLUMBIA GAS TRAN
-PENNZOIL PRODUCING COMPANY				RECEIVED:	02/01/82	JA: TX 3			
*8216626	61-2307	42711400409		102-5		PENNZOIL OCS-G 2416 HIGH ISL #A-51	HIGH ISLAND AREA EASE	2800.0	MICHIGAN WISCONSI
-SHELL OIL CO				RECEIVED:	02/01/82	JA: TX 3			
8216633	61-2436	42706400846		102-1		OCS-G 5738 #1	GALVESTON	1400.0	TRANSCONTINENTAL
-TENNECO OIL COMPANY				RECEIVED:	02/01/82	JA: TX 3			
8216629	61-2407	42715400810		102-1		SABINE PASS 10 #A-3	SABINE PASS	3200.0	TENNESSEE GAS PIP
** BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA, OK									
-CENTENNIAL PETROLEUM INC				RECEIVED:	02/01/82	JA: OK 8			

VOLUME 598 PAGE 007

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8216761		3511300000		103		1-A SE1/4 28-20N-10E	WEST HERD	73.0	AJAX OIL & GAS CO
-HADEL & SUSSMAN				RECEIVED:	02/01/82	JA: OK 8			
8216766		3511300000		103		BOAR 1-B	WILDCAT	52.0	PHILLIPS PETROLEU
8216765		3511300000		103		DAISY #3	WILDCAT	0.0	PHILLIPS PETROLEU
-OKLAHOMA DRILLING CORP				RECEIVED:	02/01/82	JA: OK 8			
8216767		3511300000		103		BILL PRATT #5-B	EAST HAPPY HOLLOW	14.4	PHILLIPS PETROLEU
-T J HUFF				RECEIVED:	02/01/82	JA: OK 8			
8216762		3511300000		103		E PHARDAH #4	QUAPAW	150.0	CITIES SERVICE GA
8216763		3511300000		103		E PHARDAH #5	QUAPAW	150.0	THOR ENERGY CORP
8216764		3511300000		103		E PHARDAH #6	QUAPAW	150.0	THOR ENERGY CORP

OTHER PURCHASERS VOLUME NO 3598

8216626 UNITED GAS P L CO

BILLING CODE 6717-01-C

The notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission by March 11, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 mile rule)
102-3: New well (1000 ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease
Section 107-DP: 15,000 feet or deeper
Section 107-GB: Geopressured brine
Section 107-CS: Coal seams
Section 107-DV: Devonian shale
Section 107-PR: Production enhancement
Section 107-TF: New tight formation
Section 107-RT: Recompletion tight formation
Section 108: Stripper well
Section 108-SA: Seasonally affected
Section 108-ER: Enhanced recovery
Section 108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-4668 Filed 2-23-82; 8:45 am]
BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of January 22 Through January 29, 1982

During the week of January 22 through January 29, 1982, the appeals and applications for exception or other relief listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,
Director, Office of Hearings and Appeals.
February 17, 1982.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS
[Week of Jan. 22 through Jan. 29, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Jan. 26, 1982	Leonard E. Belcher, Inc., Washington, D.C	HEG-0012	Petition for Special Redress. If granted: The Office of Hearings and Appeals would rescind the requirement that Leonard E. Belcher, Inc. maintain a letter of credit.
Jan. 26, 1982	M & M Mineral Corp., *et al*, Jackson, Mississippi	HRD-0023	Motion for Discovery. If granted: Discovery would be granted to M & M Mineral Corp., *et al.* in connection with the Statement of Objections submitted in response to the Proposed Remedial Order (Case No. HRO-0016) issued to the firms.
Jan. 26, 1982	M & M Mineral Corp., *et al*, Jackson, Mississippi	HRH-0018	Motion for Evidentiary Hearing. If granted: An evidentiary hearing would be convened in connection with the Statement of Objections submitted by M & M Mineral Corp., *et al.* in response to the Proposed Remedial Order (Case No. HRO-0016) issued to the firms.
Jan. 27, 1982	Gulf Oil Corporation, Washington, D.C	HRX-0012	Supplemental Order. If granted Certain documents submitted to the Office of Hearings and Appeals for *in camera* inspection would be released to Gulf Oil Corporation.
Jan. 28, 1982	OSC/Texaco, Inc., Dallas, Texas	HRD-0024	Motion for Discovery. If granted: Discovery would be granted to the Office of Special Counsel in connection with the Statement of Objections submitted in response to the August 6, 1981, Proposed Remedial Order (Case No. BRO-1467) issued to Texaco, Inc.
Jan. 29, 1982	Office of Safeguards & Security/Cladouhos & Breshares/Nieter, Dixon, Whitmore, Myers & Koehlinger, Washington, D.C.	HEZ-0016	Interlocutory Order. If granted: The Office of Hearings and Appeals would schedule a hearing for the law firms of Cladouhos & Breshares and Nieter, Dixon, Whitmore, Myers & Koehlinger in reference to a Motion for Reconsideration of a Freedom of Information Appeal filed by the DOE Office of Safeguards and Security (Case No. BEF-0116).

[FR Doc. 82-4669 Filed 2-23-82; 8:45 am]
BILLING CODE 6450-01-M

Cases Filed; Week of January 29, Through February 5, 1982

During the week of January 29 through February 5, 1982, the appeals and applications for exception or other relief listed in the Appendix of this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,
Director, Office of Hearings and Appeals.
February 17, 1982.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS
[Week of Jan. 29 through Feb. 5, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Jan. 29, 1982	True Oil Company, Casper, Wyoming	HRD-0029	Motion for Discovery. If granted: The Office of Hearings and Appeals would order the release of twelve documents claimed by the Office of Special Counsel to be privileged.
Feb. 1, 1982	Economic Regulatory Administration, Office of the Solicitor, Washington, D.C.	HRD-0027	Motion for Discovery. If granted: Mobil Oil Corporation would be compelled to produce additional documents and to provide additional answers to interrogatories in connection with the discovery responses filed by Mobil on January 14, 1982.
Feb. 1, 1982	Savage Gas Company, Washington, D.C.	HRD-0025	Motion for Discovery. If granted: Discovery would be granted to Savage Gas Company in connection with the Statement of Objections submitted in response to the November 16, 1981, Proposed Remedial Order (Case No. HRO-0007) issued to the firm.
Feb. 2, 1982	Toppino Associates, Albuquerque, New Mexico	HFA-0035	Appeal of an Information Request Denial. If granted: The Information Request Denial issued by the Albuquerque Operations Office of the Department of Energy would be rescinded and Toppino Associates would receive access to certain information relating to the presentation made by Epstein Enterprises Agency.
Feb. 4, 1982	Brasfield's Oil Company, Inc., Nampa, Idaho	HEE-0011	Exception from the Reporting Requirements. If granted: Brasfield's Oil Company, Inc. would not be required to file Form EIA-127 and EIA-9A.

NOTICES OF OBJECTION RECEIVED
[Week of Jan. 29 through Feb. 5, 1982]

Date	Name and location of applicant	Case No.
Feb. 2, 1982	Colebrook School District, Colebrook, New Hampshire	BEE-1699.
Feb. 2, 1982	Hatcher & Arthur Production, Irving, Texas	BEE-1697.
Feb. 2, 1982	Hilo Coast Processing Co	BEE-1697.
	Ka'u Sugar Company, Inc	BEE-1698.
	Davies Hanalua Sugar Co	BEE-1698.
	Mauna Loa Macadamia Nut Corp	BEE-1700.
	Olokele Sugar Company, Washington, D.C	BEE-1701.

[FR Doc. 82-4661 Filed 2-23-82; 8:45 am]
BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed; Week of February 1 Through February 5, 1982

During the week of February 1 through February 5, 1982, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 on or before March 16, 1982. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals.

Department of Energy, Washington, D.C. 20461.

George B. Breznay,
Director, Office of Hearings and Appeals.
February 17, 1982.

Atlantic Richfield Co., Los Angeles, Calif. HRO-0027, refined products

On February 2, 1982, the Atlantic Richfield Company (Arco), 515 South Flower Street, Room 3077, Los Angeles, California 90071, filed a Notice of Objection to a Proposed Remedial Order which the DOE Pacific District Office of Special Counsel issued to the firm on November 27, 1981. Notices of Objection were also filed by the Controller of the State of California and the Attorney General of the State of Michigan on January 27, 1982.

In the PRO the Pacific District found that during the period December 1, 1974 through December 22, 1980, Arco improperly determined its non-product costs associated with five non-product cost categories under the refiner price regulations, 10 CFR Part 212, Subpart E.

According to the PRO Arco overstated its increased non-product costs by $105,273,000.

[FR Doc. 82-4662 Filed 2-23-82; 8:45 am]
BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures and solicitation of further comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for filing Applications for Refund from funds obtained from Tenneco Oil Company in settlement of enforcement proceedings brought by the DOE's Office of Special Counsel.

DATES AND ADDRESSES: Applications for refund must be postmarked on or before May 25, 1982, and should be addressed to Tenneco Oil Company Consent Order Refund Proceeding, Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. Comments must be postmarked, and should be addressed to the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. All applications and comments should refer to Case No. BEF-0073.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, Department of Energy, 12th St. and Pennsylvania Ave. NW., Washington, D.C. 20461, (202) 633-8377.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the

Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the decision and order set out below. The decision and order relates to a consent order between Tenneco Oil Company, a producer and refiner of crude oil, and the Office of Special Counsel of the DOE's Economic Regulatory Administration. *See* 46 FR 29499 (1981). The consent order settles nearly all disputes between the DOE and the firm with regard to Tenneco's compliance with the DOE price and allocation regulations. Under the terms of the consent order, Tenneco has deposited $5,000,000 into an escrow account. It is stipulated in the consent order that the refund amount is in settlement of possible enforcement actions based upon allegations that Tenneco violated the DOE regulations during the period March 3, 1973, through December 31, 1980.

The Office of Hearings and Appeals previously issued a proposed decision and order which tentatively established a two-stage refund procedure and solicited comments from interested parties concerning the proper disposition of the consent order fund. The proposed decision and order discussing the distribution of funds obtained through the Tenneco consent order was issued on November 24, 1981. 46 FR 58588 (1981).

The final decision and order, published concurrently with this notice, reflects our analysis of comments received from interested parties. As we indicate in the decision, applications for refund from the escrow fund may now be filed. Applications will be accepted provided they are postmarked no later than May 25, 1982. *See* 10 CFR 205.283. We will accept applications from all persons who claim that they have been injured by Tenneco's alleged regulatory violations during the period covered by the consent order. In order to establish entitlement to a portion of the consent order fund, a purchaser must establish, in addition to proof of purchase of the volume claimed, that the purchaser did not pass through price increases to its own customers. A party that wishes to file an application for refund based on an alleged allocation violation must have previously complained formally about the alleged violation and must furnish information to support its claim of injury. The specific information required in an application for refund is set forth in the decision and order.

The decision does not establish mechanical standards for the proper allocation of funds among successful claimants such as the *pro rata* volumetric distribution used in a number of previous refund cases. Instead, the decision discusses a number of equitable factors which will be considered in the process of allocating funds among successful claimants. The decision and order also reserves the question of the proper disposition of any remaining consent order funds until all meritorious applications for refund to be paid in the first-stage proceeding have been analyzed, since the most appropriate disposition of the funds may be determined, to a great extent, by the number and type of meritorious claims received in the first-stage proceeding. Therefore, the decision solicits further comments on the appropriate allocation of the consent order fund.

Commenting parties are requested to submit two copies of their comments. Comments should be postmarked on or before June 24, 1982, and should be addressed to the address set forth at the beginning of that notice. All comments received in this proceeding will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, which will be located in Room 1111, 12th Street and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 1:00 to 5:00 p.m., Monday through Friday, except Federal holidays.

Dated: February 18, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

February 18, 1982.

Decision and Order of the Department of Energy

Special Refund Procedures

Name of Petitioner: Office of Special Counsel: In the Matter of Tenneco Oil Company.

Date of Filing: August 11, 1981.

Case Number: BEF-0073.

Under the procedural regulations of the Department of Energy, the Economic Regulatory Administration's Office of Special Counsel (OSC) may request the Office of Hearings and Appeals (OHA) to formulate and implement special procedures to make refunds in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V.

In accordance with these regulatory provisions, on August 11, 1981, the OSC filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Tenneco Oil Company (Tenneco). The refunds which Tenneco agreed to make under the consent order to compensate for its alleged violations of the DOE price regulations were in the following amounts: (i) $4 million to be distributed in accordance with the directives of the OHA pursuant to special refund proceedings; (ii) $6 million to be distributed to certain direct purchasers of heating oil and propane; and (iii) $2 million to be refunded to certain direct purchaser/end-users of petroleum products who were willing to waive their private rights of action against Tenneco. *See* Consent Order, §§ 402–04, 46 FR 29499 (1981). The consent order further provided that all funds not distributed through category (iii) negotiations be deposited with the category (i) funds for disposition through special refund proceedings. Since the execution of the consent order, one million dollars of category (iii) funds were not distributed by Tenneco, and these funds have been remitted to the DOE. Consequently, a total of $5 million plus interest of about $500,000 is now being held in an escrow account under the jurisdiction of the DOE pending receipt of instructions from the Office of Hearings and Appeals regarding its final distribution.

Background

Tenneco is both a "producer" and a "refiner" of crude oil as those terms were defined in 10 CFR § 212.31. During the relevant time periods Tenneco was subject to the Mandatory Petroleum Price Regulations set forth in 10 CFR Part 212, Subparts D and E. Those Subparts governed, respectively, the maximum prices that could lawfully be charged by producers in the first sale of crude oil and by refiners in the sale of fuel oil, motor gasoline, and other covered products. In addition, Tenneco was subject to the Mandatory Petroleum Allocation Regulations set forth in 10 CFR Part 211.

In connection with its compliance activities, the OSC conducted an extensive audit of Tenneco's pricing and allocation practices, including the manner in which the firm applied the federal petroleum price and allocation regulations with respect to its importation, refining, and sale of crude oil and other covered products during the period March 3, 1973 through December 31, 1980. Following extensive negotiations, the DOE and Tenneco entered into a consent order in order to resolve all of the issues raised during the OSC's audit. Only Tenneco's compliance with the regulations regarding crude oil produced from marginal properties and newly discovered crude oil was excluded from the ambit of the consent order. The proposed consent order was executed on January 16, 1981, and it was published for public comment in the Federal Register on January 20, 1981. *See* 46 FR 8102 (1981). The OSC received comments from four parties and a notice of claim from Pacific Oil Company. (*1*) After the comment period had expired and the OSC had considered all of the comments which it had received, a slightly modified consent order was adopted as a final order on May 18, 1981. *See* 46 FR 29499 (1981). (*2*)

On November 24, 1981, we issued a proposed decision and order in this proceeding which tentatively established a two-stage special refund procedure to be used in adjudicating claims to the Tenneco settlement funds. *See* 46 FR 58588 (1981). In the first stage, those firms who claim that they have been adversely affected by Tenneco's alleged violations of the DOE regulations would be permitted to file Applications for Refund. We specificially noted that firms claiming that they were injured by Tenneco's alleged allocation violations could file refund applications in the same manner as firms who claimed to be overcharged as a result of alleged pricing violations. Each application would be analyzed, and determinations on the merits of each would be made. All meritorious claims would then be paid. We suggested that refunds to persons who establish an entitlement to a refund would be made on a volumetric basis, *i.e.* in the same proportion as the volume of their purchases corresponded to the total volume of Tenneco sales during the consent order period. We also proposed as the second stage of the refund process that additional refunds might be made to rate-regulated utilities or to states in which the products associated with the alleged overcharges by Tenneco were marketed. In the alternative, we suggested that in the event that distribution schemes for the second stage prove to be inappropriate because of administrative costs or the lack of accurate information, the portion of the settlement fund which would go undistributed after the payment of claims be deposited in the United States Treasury. Finally, we stated that comments concerning the Proposed Decision should be submitted within 30 days of its publication in the Federal Register, and we announced that a public hearing would be held on January 5, 1982. *See* 46 FR at 58589.

Notice of the Proposed Decision was published in the Federal Register on December 2, 1981, and a copy of the determination was also sent to all parties on the service list for this case. In response to our request for comments, we received submissions from, among others, Tenneco, Kern County Refinery, Inc., the State of California, Cities Service Company, and Research Fuels, Inc. A similar range of interests was represented at the February 5 hearing. *See* Transcript of January 5, 1982 Hearing, Case No. BEF-0073 (hereinafter cited as *Transcript*). We found the hearing to be extremely helpful in our analysis of this case and will likely hold similar hearings in the future in other cases of this type. Most of the commenters focused upon our proposal for the first stage of the refund proceedings.

The purposes of this decision is to establish the mechanism by which firms wishing to make a claim against the Tenneco consent order fund may file applications for refund. We shall first discuss the comments which we received concerning the first-stage refund procedures which we previously proposed in this case. Then we shall discuss in detail the application for refund procedures that we have decided to adopt. We shall not, however, discuss the second stage of the refund process in this decision. Sufficient claims have already been noticed in the present case so that if they were all meritorious, the settlement fund would be thoroughly depleted. In that event no second stage would be necessary. Moreover, our determination concerning the final disposition of any residual funds will necessarily depend on the size of the fund. *Office of Enforcement*, 9 DOE ¶ 82,508 (1981) (hereinafter cited as *Coline*). It is therefore premature for us to reach the issues raised by the commenters concerning the proposed disposition of funds remaining after all meritorious claims have been paid. (*3*)

Jurisdiction and Authority to Fashion Refund Procedures

In our November 24 proposed determination and in other recent Decisions, we have discussed at length our jurisdiction and authority to fashion refund procedures. *See* 46 FR at 58589–90; *Coline; Office of Enforcement*, 9 DOE ¶ 82,521 (1982), 47 FR 2196 (January 14, 1982) (hereinafter cited as *Alkek*). We tentatively decided in the proposed decision to exercise jurisdiction over the funds received by the DOE in settlement of the enforcement proceedings underlying the Petition for the Implementation of Special Refund Procedures in the case of Tenneco. None of the commenters have challenged the jurisdiction or authority of the Office of Hearings and Appeals to fashion refund procedures in this case. (*4*) We will therefore grant the OSC's Petition and assume jurisdiction over the distribution of the Tenneco consent order funds.

Comments on the Merits of the Proposed Two Stage Distribution

In our initial consideration of this matter, we found that "[B]ased upon our experience with Subpart V cases, we believe that the distribution of funds to overcharged persons should generally take place in two stages." 46 FR at 58590. Many of the parties submitting comments in this matter noted that the Tenneco case is different from Subpart V cases which we have previously decided because of the existence of at least one known allocation claimant. Moreover, this case involves a "global" consent order which encompasses Tenneco's sales and allocation of crude oil as well as a full slate of refined products over a seven-year period. *Compare Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*) (involving only motor gasoline sold at non-company operated locations). Those commenters therefore suggested that the distribution of money in the Tenneco case be handled in a manner different from that proposed in the November 24 determination.

After careful consideration of the positions advanced by the commenters, we have concluded that our original proposal should be modified. In this section we shall discuss the pros and cons of the various alternative refund plans which have been advocated by the commenters. Following our discussion of all of the comments which we received, we shall outline the modified two-stage procedure which we have decided to adopt.

Many of the states that filed comments in this proceeding suggest a one-stage distribution in which the Tenneco settlement fund would either be divided among the states in proportion to Tenneco's sales of refined products in those states during the relevant period of time, or be used to purchase crude oil to be delivered to the Strategic Petroleum Reserve. *Compare Notice of Final Consent Order with Standard Oil Company of California*, 46 FR 52221 (1981). In support of their proposal the states note that an applicant filing for a refund would have great difficulty in establishing that it was actually injured by the alleged violations because it would have to show that it did not pass on the effects of those alleged violations to its customers. In addition, the State of California noted that the right of an injured purchaser to file a private action under section 210 of the Economic Stabilization Act, 12 U.S.C. 1904 note (1970) (ESA), was not affected by the consent order. The states urge that the proposed first stage therefore be abandoned as inefficient and unlikely to produce the desired results, and that we instead distribute the funds in the manner which we suggested as our proposed second stage.

We have carefully considered the states' comments and have concluded that we should nevertheless have a first stage which will permit parties to file applications for refund. The record in this proceeding already contains notices of claims from ten firms who contend that they will be able to establish that they were injured by Tenneco's alleged violations of the DOE regulations. We decline to conclude summarily without an examination of the merits of their cases that those firms' claims are not meritorious as a matter of law. The special refund process is designed to refund money to persons who were injured by actual or alleged regulatory violations. *Coline*, 9 DOE at 85,051. This purpose would be frustrated if we were to adopt the position the states urge.

At the January 5 hearing, Tenneco contended that a three-stage plan would be more appropriate in order to effectuate its view of the intent of the consent order. *Transcript* at 86–90. According to the Tenneco plan, parties claiming injury as a result of Tenneco's alleged violations of the allocation regulations would have first priority in claiming against the $1 million that was deposited in the fund pursuant to section 404 of the consent order. Successful claimants could obtain up to the $1 million reserved for them. In the second stage unsatisfied claimants from the first stage who had established a claim in excess of $1 million as well as parties having a concrete claim of injury which was based upon an act or omission of Tenneco would be permitted to file applications for refund. The unsatisfied allocation claimants and those claimants who were successful in establishing a *prima facie* case in the second stage would be paid 100 percent of the amount established. Finally, if there were any funds remaining, Tenneco suggested a third stage in which parties that had not satisfied the *prima facie* criteria would be refunded moneys using the volumetric method which we originally proposed or, in the alternative, the residual funds would be distributed to the states in Tenneco's marketing area.

As an initial matter, we reject Tenneco's contention that it was the "intent of the consent order" that the $1 million which was deposited with the Subpart V funds be reserved for allocation claims or that the Subpart V funds were in general intended to serve as a fund to satisfy "*prima facie*" claims that might otherwise be brought as private actions for damages under Section 210 of the Economic Stabilization Act of 1970. The consent order which Tenneco and the OSC signed does not contain any provision which would give any particular claimant a priority claim upon the funds or any portion

of the funds underlying the present Petition for the Implementation of Special Refund Procedures. (5) It is well recognized that the scope of a consent order must be discerned within its four corners. *United States v. Armour & Co.*, 402 U.S. 673 (1971). Moreover, our adoption of Tenneco's proposed three-stage refund procedure plan would produce delays in processing claims without adding any discernible benefits. In addition, it would involve the agency in the very same type of adjudicative effort that it sought to avoid by signing the consent order. Consequently, we shall not adopt Tenneco's three-stage proposal.

Kern County Refinery, Inc. (Kern) and Research Fuels, Inc. (RFI), two firms who have indicated that they intend to fill applications for refund based upon alleged allocation violations, have likewise proposed a refund process in which allocation claimants would be given first priority in claiming against the Tenneco settlement funds. Since the claims asserted by these two firms exceed the $5.5 million currently held in escrow, adoption of this proposal would effectively exclude all other claimants if the two firms' claims are meritorious. In the alternative, the two firms contend that all claims based upon alleged violations of the price and allocation regulations should be reduced to a dollar amount and paid. If the fund is not large enough to completely satisfy all claims, they would be paid on a pro rata basis. Inasmuch as Kern believes that allocation customers are best able to establish the dollar amount of injury, this plan would effectively give allocation customers a priority claim against the entire fund. Kern contends that first priority status for allocation claimants is warranted because "the allocation customer is one of the few people who can demonstrate precisely what his damage was as a result of the violation." *Transcript* at 30, 42.

The proposal to give allocation customers priority status in this proceeding would be inconsistent with the underlying consent order. The consent order expressly provides that "[E]xecution of this Consent Order constitutes neither an admission by Tenneco nor a finding by DOE of any violation by Tenneco of any statute or of any regulation." Consent Order at section 503. We recently discussed the nature of consent orders as it relates to the amount of settlement funds ultimately distributed through Subpart V proceedings. In *Alkek*, we noted that:

> The terms contained in each consent order, including the amount of the monetary settlement, were arrived at through negotiation. Although the amount of money remitted to the DOE can be viewed as based in part upon the magnitude of the violations alleged by the government, additional factors—such as each party's views as to the probable length, expense, and success of litigation—would normally influence the size of the monetary settlement. In addition, the parties' knowledge of ongoing audits would also be reflected in the negotiated settlements. Because of these factors, each of the consent orders contains a stipulation that the DOE does not find that a violation of the regulations actually occurred. Thus, the consent orders involved in this proceeding cannot be considered to be adjudications on the merits of the violations alleged against the parties that entered them, and the amounts of the violations alleged in charging documents previously issued to the firms involved bear only an attenuated relationship to the funds obtained by the DOE.

Alkek, 47 FR at 2197. Similarly, no portion of the settlement fund to be distributed in the present proceeding can be thought to be attributable to a particular type of violation alleged in a charging document which was issued prior to the issuance of the consent order. Those documents are simply a part of the general background of this proceeding. If we were to adopt the procedure proposed by RFI and Kern, we would effectively be reopening the June 23, 1980 Proposed Remedial Order proceedings which were terminated in compliance with the terms of the consent order. This would be time-consuming and contrary to the intent of the parties to the consent order, and it would not further the goal of an equitable and administratively efficient distribution of the settlement funds. We have therefore concluded that the two allocation customers' proposal should not be adopted. However, as discussed below, we shall incorporate some of their suggestions as factors that we shall consider in determining what portion of the available funds should be paid to a successful claimant.

Comments Concerning Eligible Claimants

Several of the commenters requested that we be more specific as to which parties are eligible to file applications for refund in the first stage of the Tenneco special refund proceedings. In addition, some commenting parties suggested that certain parties be excluded from eligibility.

Many of the commenters pointed out that in our prior discussion of eligible claimants we referred primarily to Tenneco customers who were claiming injury due to alleged overcharges in sales of petroleum products. We did not intend to exclude allocation violations claims. Our intention in adopting the final procedures for the first stage is that *all* parties, with only limited exceptions to be named below, who wish to file *any* claim for a portion of the Tenneco consent order fund should file an Application for Refund on or before May 25, 1982. Such parties may include firms who claim injury as purchasers of crude oil or other covered or allocated products from Tenneco during the period covered by the consent order, whether those parties are direct purchasers or downstream purchasers. Parties claiming injury due to alleged violations by Tenneco of the DOE allocation or Crude Oil Entitlement regulations may also file. No party will have a priority claim on the fund. We shall accept applications filed on behalf of groups of customers as well as individual customers.

In our November 24 discussion of eligible claimants, we stated that "[A]bsent special circumstances, those parties which already received refunds will not be eligible for further refunds." 46 FR at 58571. In response to the inquiries we have received concerning this statement, we specify that only parties who have already received refunds pursuant to the May 18, 1981 consent order that underlies this proceeding will be presumed ineligible to file, and this ineligibility will extend only to the covered product to which their refund related. For example, a firm which received a refund as a propane or kerosene jet fuel customer pursuant to sections 403 or 404 of the consent order could still file an application for refund with respect to its purchases of motor gasoline, provided it had not signed an applicable waiver.

We have determined that there is an additional class of potential claimants who may be presumed to have suffered no injury from Tenneco's regulatory practices. Those parties are firms who made only spot purchases of Tenneco crude oil or petroleum products. As we stated in *Vickers*,

> Those customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of Vickers motor gasoline at increased prices unless they were able to pass through the full amount of Vickers' quoted selling price at the time of purchase to their own customers.

Vickers, 8 DOE at 85, 396–7. We believe that the same rationale holds true in the present case. Consequently, we will not consider applications for refund from firms who made only spot purchases from Tenneco.

Kern and RFI have suggested that we exclude from eligibility any party claiming injury due to alleged allocation violations who had not previously filed a complaint with OSC concerning the alleged violation. We agree that a limitation on allocations claims is sensible. Any firm that was injured by an alleged allocation violation would have experienced some direct effect and have been more immediately aware of its injury than a firm whose purported injury was due to overcharges whose effect could be marginal. We would expect that a party who was injured by a disruption to its supply of an allocated product would immediately seek redress by either filing a complaint with or otherwise notifying the appropriate agency officials, *see* 10 CFR 205.201(a)(d), or by filing a private lawsuit under section 210 of the Economic Stabilization Act. Thus, while imposing a cut-off of claims would prevent spurious claims and promote speed and efficiency in processing applications for refund, it would present no danger that injured parties will be prevented from seeking refunds. Accordingly, we shall presume that a party who had not formally complained of alleged allocation violations by Tenneco prior to the date of the consent order does not have a meritorious claim. *See* 10 CFR 205.282(e).

Finally, we are urged by one commenter to exclude regulated firms in general and commercial airlines in particular from eligibility to file an application. The commenter maintained that due to the deregulation of many of these firms it is not clear that refunds to those parties would be passed through to their customers in the form of rate reductions. In addition, the commenter maintained that in the case of certain airlines that are currently experiencing operating losses, any refund amount would only be used to reduce those losses rather than to reduce ticket prices.

While we believe that these factors should be included in our consideration of particular applications for refund and in structuring any mechanism for refunds, we will not exclude this group of claimants without an examination of the merits of each case. We are confident that after an examination of the circumstances in a particular case, appropriate conditions and monitoring mechanisms can be established to insure a passthrough of benefits. Consequently, regulated firms will be eligible to file applications for refund.

To summarize our discussion above, we do not intend to exclude *any* party who believes itself eligible for a refund from filing an application for refund. An applicant may, by demonstrating special circumstances, overcome any presumption that we have discussed above. We believe that a liberal approach to eligibility will best serve the purpose of refunding money to persons who may have been adversely affected by the regulatory practices followed by Tenneco.

Comments on Required Standard of Proof for Overcharge Claims

We proposed in our November 24 determination that claimants who are resellers or who are involved in the production or distribution of goods or services be required to demonstrate that, during the period covered by the consent order, they would have kept their prices for petroleum products or goods and services at the same level had the alleged overcharges not occurred. In other words, we stated that we wanted an indication that the market was having an effect on the reseller's prices, and that the reseller was not simply passing on to its customers any Tenneco price increases. We stated that a claimant should demonstrate that at the time it purchased covered products from its supplier, market conditions would not permit it to pass through the additional costs associated with the alleged overcharges. In addition, we suggested that a reseller of petroleum products must have maintained until January 28, 1981, the date on which the President decontrolled all remaining covered products, a "bank" of unrecovered product costs in order to demonstrate that it did not subsequently recover these costs by increasing its prices. Finally, we stated that a purchaser who is an ultimate consumer and is not engaged in the sale of goods or services would not have to make a showing that it absorbed any unlawful price increases.

Some parties who submitted comments suggested certain additional classes of claimants that might be excused from showing injury at all. In addition, we received comments regarding the proposed standard of proof which ranged from assertions that the standard was too lenient to assertions that the standard would be too difficult to meet. We have previously discussed and rejected the Tenneco and Kern proposals for documenting claims because they would establish a level of proof so high as to nearly eliminate the savings in litigation and administrative resources that was a part of the agency's purpose in agreeing to the consent order. However, we continue to believe that "this inquiry into whether a claimant was injured in fact is most appropriate in a proceeding of this type where refunding moneys obtained through DOE enforcement proceedings is the primary focus." *Coline*, 9 DOE at 85,051. In establishing the standard of proof that a claimant must meet, we must strike a balance between a level so low that it would grant windfall benefits to firms who had suffered no injury and a level so high that only a few large firms would have the resources necessary to prepare an application. With this principle in mind we turn to the comments concerning what particular kind of proof of injury should be required of claimants.

Three potential claimants ask to be added to the class of claimants who would not have to offer any proof that they absorbed the alleged overcharges. Those potential claimants are The Transportation Group, an *ad hoc* organization of four trade associations whose members are regulated transportation companies; Systems Fuels, Inc., a nonprofit corporation which acts as a fuel purchasing agent for several public utilities; and the National Council of Farmer Cooperatives. Those parties contend that any overcharges which they had suffered would have been channeled to their customers by the regulatory bodies or agreements that control the prices they may charge. They also noted that any refunds which they received would automatically be passed through to their customers. They therefore contend that they should be included with the class of ultimate purchaser claimants, who need only demonstrate that they purchased a specific quantity of product which was sold by Tenneco during the relevant time period in order to qualify for refunds. In addition, Systems Fuels suggested that we substitute for the showing of injury a provision requiring a regulated refund recipient to notify the particular regulatory agency or agencies concerned of the refund. *See Office of Special Counsel*, 4 DOE ¶ 82,511 (1979).

We have decided that the regulated firms' proposal has great merit because it will assist us in distributing refunds in an efficient, cost-effective and equitable manner. *See* 10 CFR 205.282. The OSC has reviewed the operation of the agencies which regulate transportation companies and utilities and has determined that refunds are indeed factored into their rate making systems. 46 FR at 29500–01. Although there are no independent regulatory bodies which oversee cooperatives' price setting, we believe that refunds to any agricultural cooperative will likewise directly influence the refund recipient's prices. These cooperatives are owned by their customers, and the ultimate consumer of the petroleum products purchased by the cooperative will therefore receive the benefit of the refund either as a price reduction or as a distribution at the close of the cooperative's fiscal year. Consequently, we have concluded that refund applications from firms whose prices for goods or services are regulated by a government agency or by the terms of a cooperative agreement will not be required to show that they absorbed the alleged Tenneco overcharges. Instead, those applicants should supply us with a full explanation of the manner in which refunds will be passed through to their customers in the form of lower prices or better service. In addition, these applicants' receipt of refund money will be conditioned on notice to the appropriate regulatory body or membership group.

We suggested in our proposed decision a further group of purchasers that might be excused from having to document more than the fact that they purchased allocated or covered products from Tenneco during the relevant period of time. We stated that we would consider establishing a threshold level of purchases under which applicants, primarily smaller firms and individuals, would not be required to make a detailed showing of actual injury. For example, in *Vickers* we set a purchase threshold of 50,000 gallons of motor gasoline per month. Those firms with purchases below that level, or whose purchases were greater but chose to claim a refund based upon that level of purchases were not required to submit evidence concerning their banks of unrecouped product cost increases or prevailing market conditions which had prevented them from passing through the alleged overcharges. In its comments in this proceeding the National Oil Jobbers Council (NOJC) recommended that, instead of the types of evidence which we proposed, resellers of Tenneco product be invited to submit "any available evidence to demonstrate actual injury." It is the NOJC's position that any requirement that a marketer demonstrate historical market conditions is too onerous for the small businesses which it represents and that, moreover, the DOE itself already has access to market information. In the alternative, the NOJC urged that only applicants that purchased an average of more than 5 million gallons per year of Tenneco motor gasoline be required to submit evidence of injury. According to a recent survey of NOJC members, 57.6 percent of the organization's constituents would fall into this category.

On the other hand, the State of California urged us not to adopt any threshold purchase level because the State believes that we should adopt a presumption that any reseller who was overcharged would have passed through the violation amount to its customers. In addition, the State noted that Tenneco might have an incentive to build goodwill among its customers by notifying so many of them of the relaxed claims procedures that their small claims would exhaust the available settlement funds. The State contends that this would prevent any recovery by ultimate consumers who purchased fuel from the resellers.

After careful consideration we have concluded that it is in the best interests of efficient resolution of these proceedings to establish a threshold level of purchases below which a claimant need not demonstrate injury. We do not agree with the State of California that most small resellers can be presumed to have passed on all of the alleged overcharges to their customers. If, for example, Tenneco's alleged overcharges resulted in a wholesale product price that was at the high end of the range of prices in

its market area, a reseller may very well have been unable to charge its maximum lawful selling price because of market restraints. *See, e.g., U.S. Oil Co.*, 7 DOE ¶ 81,048 (1980). In addition, unless there is a severe supply shortage, a small retailer must generally set its prices competitively in order to attract its customers while larger resellers' businesses may have more price flexibility because they have more regular accounts. Newer market entrants may have adopted aggressive marketing strategies and thereby been unable to pass through overcharges. Consequently, small firms are very likely to have experienced injury as a result of the alleged Tenneco overcharges. If we were to adopt a requirement that every applicant supply full documentation of its injuries it would discourage smaller applicants since the expense of preparing such an application could well exceed the refund to be gained. We have therefore concluded that a threshold figure should be established in this refund proceeding.

However, we have decided that the 5,000,000 gallons per year figure recommended by the NOJC is too high a threshold figure. At that threshold level an applicant who purchased that full amount of products from Tenneco during the seven-year period covered by the consent order would be entitled to a refund of approximately $27,230.(6) In contrast, in *Vickers* a qualified applicant at the threshold could only garner a total volumetrically computed refund of $6,758. The NOJC threshold proposal would allow much larger firms to qualify for a substantial sum of money without any proof of injury. These larger firms should be able to assume the burden associated with a showing of market conditions. The type of market data necessary to document a claim is compiled in several publicly available sources, *e.g., Platt's Oil Price Handbook*, and the NOJC may certainly assist its membership in compiling the appropriate data. In contrast, smaller retailers of Tenneco motor gasoline may not belong to a national trade association which has the resources necessary to assist them in this proceeding.

We have decided to follow the precedent set in *Vickers* and, based on our experience in that proceeding, set the threshold figure at 50,000 gallons per month, or 600,000 gallons annually. Businesses at this level of sales will generally be individual retail outlets whose owners would not have maintained as sophisticated a bookkeeping system as a larger firm that manages several retail outlets or large consumer accounts. We continue to believe that a requirement that relatively small purchasers of motor gasoline established that they did not pass through price increases would prove so great a burden on those firms' recordkeeping and accounting capabilities that such firms might be precluded from seeking any refunds. *See Vickers*, 8 DOE at 85,385.

Now that we have enumerated those types of Tenneco customers which will not be required to demonstrate that they absorbed unwarranted price increases, we will focus upon what type of proof those parties who *are* required to make that showing will be obliged to make. Our tentative conclusion that a firm must demonstrate injury by showing both that it had sufficient "banks" and it was unable to pass on the alleged overcharges due to market conditions was objected to by major refiners as well as small jobbers. Both types of commenters claimed that a showing of market conditions at the time of the alleged violations whould be difficult to make. Cities Service Company (Cities) and Mobil Oil Corporation (Mobil) contended that since they market petroleum products throughout the United States it would be extremely burdensome for them to offer evidence concerning market conditions for the entire seven year period covered by the Tenneco consent order. In addition, those firms maintain that even if they did pass on the overcharges to their customers, they still could have suffered injury due to lowered sales volumes that resulted from higher prices. Cities also objects to the proposed difference in the standards of proof applicable to claims submitted by large and small claimants. Reseller firms such as those represented by the NOJC have complained that, despite their smaller market areas, the burden of obtaining evidence concerning market conditions for periods in the past might well outweigh the benefits to be gained through the refund process.

The concerns which have been expressed over the proposed requirement that a claimant offer evidence concerning past market conditions appear to be based upon a misconception as to how thorough and conclusive a showing will be expected. We do not believe that the firms who file applications will find this requirement to be as difficult to apply in practice as it might appear. Since we have not as yet had extensive experience in operating the actual first stage, refund portion of Subpart V proceedings, we are not in a position to set forth all of the ways in which a claimant could make this showing. Historical information concerning prevailing market prices for covered petroleum products may be available to an applicant through its local NOJC affiliate or from a publication such as *Platt's Oil Price Handbook*. As we stated in the Proposed Decision, we would expect a more complete evidentiary showing from, for example, a large integrated refiner than from a small reseller. Despite Cities' claims that it is unfair to set a higher standard for larger business enterprises, it is our experience that larger firms are more likely to have maintained more detailed records which could be marshalled to show how their pricing decisions were made. Furthermore, those larger firms have greater resources and will likely be claiming larger refund amounts. We have therefore concluded that we shall retain as an element of the refund process a requirement that firms seeking sizeable refunds demonstrate that they did not pass through the effects of Tenneco's alleged regulatory violations to their customers.

Standard of Proof for Entitlement and Allocation Claimants

Several of the commenters noted that although we stated in the Proposed Decision that any party who wished to make a claim against the Tenneco settlement fund would be permitted to file an Application for Refund, we did not set forth any guidelines for deciding claims submitted by parties claiming injury due to alleged violations of the entitlements program regulations or the allocation regulations.

With regard to the entitlements program, 10 CFR 211.67, the consent order expressly covers Tenneco's compliance with those regulations without making any provision for a particular remedial action to be taken. Firms claiming injury due to Tenneco's alleged violations of the entitlements regulations may therefore file applications for refund. However, we doubt that any individual participant in the entitlements program can demonstrate a particularized injury to itself upon which it could base a claim to part of the general section 402 fund. If any entitlements violations by Tenneco took place, their effect would have been spread equally among all participants in the program, and, ultimately, to customers in the form of higher prices for all refined petroleum products. *See Alkek*, 47 FR at 2197–98.(7) We are therefore unable to specify a standard of proof for claims based on alleged entitlements violations other than to state that a claimant must affirmatively demonstrate that it has been injured by the alleged violation and that it should therefore receive a refund.

As for allocation claimants, we stated above that we do not intend that the refund process be used to continue the litigation of matters such as the June 23, 1980 Proposed Remedial Order, which were settled by the consent order. This process has a different focus. *See* 10 CFR 205.280. If allocation claimants wish to obtain a complete and final adjudication of their allegations that Tenneco violated its allocation obligations to them, this is not the appropriate forum in which to accomplish that goal. Instead, those parties should seek vindication of their rights through a private lawsuit.(8).

Moreover, any special refund process which purported to adjudicate liability would be flawed for two reasons. First, it would violate the DOE's agreement not to prosecute any further regulatory violation claims against Tenneco. *See* Consent Order at section 332. Second, any adjudication of rights and liabilities without the adversarial participation of Tenneco could result in an untrustworthy conclusion. Tenneco has indicated that it is extremely unlikely that it would participate in that type of process. *Transcript* at 95. Furthermore, the usual prosecutor of such actions, the OHC, is barred from participating in any proceeding against Tenneco by the terms of the consent order. The standards which we adopt for deciding claims filed by those allocation customers will, therefore, be unrelated to those used in issuing a Remedial Order.

Turning to the two potential allocation claimants' proposals, we find that Kern's suggested standard or proof, made in concert with its contention that only allocation claimants can conclusively prove that they sustained injury, is too complex and stringent.(9) For the reasons stated above, we reject any proposal which would involve us in actually adjudicating liability for a regulatory violation. RFI's proposal is closer to the purposes of Subpart V. RFI broadly suggests that we determine the merits of an allocation claim by reference to the documentation previously supplied to DOE by the claimant, any additional documentation which the claimant may now offer, any rebutting documentation which Tenneco may have provided the DOE in the course of an investigation or may currently wish to supply any other evidence which OHA should deem relevant.

RFI Comments at 3–4. We will adopt the RFI suggestion, and accordingly, in filing an application for refund an allocation claimant need not conclusively establish all of the elements of a violation on Tenneco's part and resulting injury on the claimant's part.(10) Instead, an applicant should submit enough information to demonstrate that its claim is not spurious, including the best available evidence of the injury which was sustained by the claimant. An applicant should furnish the best possible evidence concerning the proportion of the claimant's supply which the withheld crude oil or petroleum product represented, the availability of substitute product at the time of the alleged violation, and the impact on the claimant's business such as decreased sales volumes or loss of customers. In addition, a claimant must also show that the injury was not passed on to its customers. Although we shall not engage in a time-consuming legal and factual analysis leading to a precise measure of damages, we wish to emphasize that the burden of establishing eligibility for a refund rests on the claimant. As we discuss in greater detail below, our determination concerning the amount to be paid an allocation applicant will be based upon a consideration of equitable factors such as, for example, whether the alleged violation had a significant deleterious impact on the claimant, and whether the applicant had the ability to protect itself by obtaining a replacement supply of the allocated product or by taking other appropriate action.

Comments Concerning Overall Procedures To Be Adopted

In addition to comments suggesting that the proposed two-stage procedure not be adopted, comments on what parties should be eligible to file applications for refund, and comments on the standard of proof for applications, several parties filed other comments that should also be discussed in this Decision. These will be addressed in this section prior to our explanation of the procedures which we have decided to adopt.

In our proposed determination, we stated that each applicant, regardless of size, would be required to demonstrate in its application that it purchased a specific quantity of product which was sold by Tenneco during the relevant time period. Several commenters maintained that Tenneco should be required to provide purchase records instead of the applicant. In addition, it was suggested that Tenneco should provide notification to all of its customers of their eligibility to file for a refund.

In the course of this proceeding, Tenneco has offered to compare its list of customers who have already received refunds with a list of those filing applications for refund in order to assist us in preventing double recoveries. In addition, the firm has been helpful by furnishing us with information upon request. The record also shows that the number of Tenneco customers who have already received refunds is substantial—approximately 55,000. (11). We note that Tenneco has already expended a considerable amount of resources in furtherance of the agency's restitutionary goals. Based upon these considerations, we find that any further requirement that Tenneco either furnish detailed purchase information concerning its customers or notify those customers that they might be eligible for refunds would be unwarranted. A requirement that an applicant seeking a refund furnish information establishing itself as a customer of Tenneco's should not be burdensome, especially when compared to the pecuniary gain a firm may receive for its effort. Finally, we intend to widely publicize news of the Tenneco refund procedures ourselves by publishing this Decision in the Federal Register and issuing a press release. Consequently, although we anticipate that we will have the continued cooperation of Tenneco where necessary, we shall not impose any additional reporting and notification obligations on the firm.

Other commenting parties asked that interest be paid on all refunds. The money which the DOE received from Tenneco has been placed into an interest bearing escrow account. Money in that account is invested in United States Treasury bills, and that interest will be distributed as a portion of all refunds approved. As we noted at the beginning of this Decision, the Tenneco fund has earned approximately $300,000 in interest as of December 31, 1981. The refund paid to each successful claimant will include a share of the interest earned by the Tenneco consent order funds.

Several parties objected to our proposal that the claims of all successful applicants would be paid on a volumetric basis, *i.e.*, based on the proportion of the product purchased by the applicant to the total amount of those products (whether motor gasoline, diesel fuel, or No. 2 fuel oil) sold by Tenneco during the relevant period. The parties who objected to this provision noted that it should not be applied to allocation claimants inasmuch as their complaints are based on their inability to purchase product. In addition, some commenters stated that it was unfair to limit firms who had been overcharged by a larger sum per gallon than others to one standard per gallon refund figure. Finally, one firm who participated in the January 5 hearing suggested that, if we decide to adopt a volumetric mechanism for refunds, we should in our final determination provide an estimate of the volumetric allocation in cents per gallon as we did in *Vickers* so that firms will be able to know the potential value of their claims prior to deciding whether they should undertake the time and expense of filing an application for refund.

We have previously used a volumetric method of allocating funds to claimants because it is an administratively efficient method for determining what portion of a settlement fund shall be alloted to each particular claimant. Moreover, it is a useful approximation of injury in the treatment of overcharge claims because it offers an easy method of calculation for firms who are unable to quantify their alleged injury. However, no previous case in which we have employed this method has involved a "global" consent order such as the one underlying this proceeding, which settles alleged violations of many different aspects of the Mandatory Petroleum Price and Allocation Regulations.

This is the very first Subpart V proceeding that involves allocations claims. In addition, in other cases the fund has been large enough in proportion to the total volume of the particular product involved to yield a significant per gallon refund. For example, in *Vickers* we estimated that a successful applicant would receive approximately $.002002 per gallon of purchases. In contrast, our preliminary estimate shows that, based on Tenneco's sales (not including minor sales of crude oil) for the period covered by the consent order and assuming all $5 million of the fund be available for volumetric distribution, and applicant's possible recovery could at most be $.000778 per gallon. (12) We have therefore concluded that the adoption of a volumetric plan of distribution at this time would not be administratively efficient in this case.

The substitute mechanism that we will ultimately use is difficult to specify at this time because we do not as yet know how many meritorious claims there will be and which types of Tenneco customers will submit these claims. For example, if the only meritorious claims that we received were submitted by firms that purchased motor gasoline from Tenneco during the consent order period, we would be disinclined to distribute the entire fund to those claimants because doing so might unfairly exclude others who were injured by Tenneco's alleged regulatory violations. Moreover, since this is an equitable proceeding, there are various equitable condiderations which are appropriate for us to consider, such as, for example, the impact which the alleged violation had on the claimant's business and the adequacy of the various types of legal remedies which are available.

We have therefore concluded that we should delay our decision on this question until we have completed our analysis of the applications for refund which are submitted. We realize that this solution may well prove unsatisfying to parties who are considering whether to file an application for refund, but without more information as to which types of parties will file and how meritorious their claims are, we are unable to specify in greater detail that each party's share of this fund will be. Applicants must recognize the amount of money in the Tenneco consent order fund is the result of a negotiated settlement which does not contain sufficient funds to give complete restitution to all claimants who might have been injured by Tenneco's conduct during the relevant seven year period. Absence of a precise figure for what applicants will receive on a per gallon basis should not deter firms from filing claims. In fact, we wish to encourage all firms or persons who intend to file a claim against

Tenneco to submit a claim in this proceeding. We will accept further comments concerning the appropriate division of these funds for a period of 30 days after the closing date for submission of applications for refund. This comment period will end June 24, 1982. All applications for refund filed in this proceeding will be deemed to be for an amount in excess of $100 for the purposes of § 205.283 and a copy of each Application will therefore be placed in the Public Docket Room of the Office of Hearings and Appeals. (*13*) The record that exists at that time should enable us to make a more definite statement concerning the division of the available funds.

In a post-hearing submission, Tenneco asked us to consider adopting certain disclaimer provisions to insure that any record, finding or conclusion which was made in the course of the refund proceeding could not be used in either an administrative or judicial proceeding for the purpose of demonstrating liability on the part of Tenneco for alleged violations of the DOE price or allocation regulations. We believe that our previous discussion of the nature of the special refund process makes it clear that we will not permit this proceeding to be used to adjudicate Tenneco's compliance with the DOE regulations. Since our inquiry will be limited to whether an applicant's claim is valid under the standards discussed above, and since claims apparently will not be contested by Tenneco, any record or finding which we shall make would not be sufficient to sustain a claim at law. However, in order to emphasize our intent, we intend to incorporate in any order concerning an application for refund the following language:

This order operates to distrubute funds pursuant to Subpart V of the Department of Energy's procedural regulations, 10 CFR Part 205, and relates to the Consent Order between Tenneco Oil Company and the Department of Energy, effective May 5, 1981. It does not constitute an adjudication or determination of liability on the part of Tenneco for alleged violations of DOE price or allocation regulations.

Application for Refund Procedures

After having considered all the comments received concerning the first stage proceedings tentatively adopted in our Proposed Decision and Order, we have concluded that Applications for Refund should now be accepted from parties who purchased crude oil and refined petroleum products from Tenneco. We shall now discuss the specific requirements for Applications for Refund that we have decided to adopt.

Applications for Refund of a portion of the Tenneco consent order fund must be filed on or before May 25, 1982. *See* 10 CFR 205.283. We will consider all applications, although we may later impose a minimum dollar limit on claims. *See* 10 CFR 205.286(b). Applications made on behalf of a class of claimants will be considered on a case-by-case basis. An application must be in writing, signed by the applicant, and specify that it pertains to the Tenneco consent order fund, Case Number BEF-0073. If the applicant is not a direct purchaser from Tenneco, it should indicate from whom the crude oil or product was purchased and indicate what basis the applicant has for its belief that the product which it purchased originated from Tenneco.

All applications for refund will be deemed to be for an amount in excess of $100 and therefore must be filed in duplicate. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, 12th Street & Pennsylvania Avenue, NW., Washington, D.C. Any applicant who believes that his application contains confidential information must so indicate on the first page of his application and submit two additional copies of his application from which the information that the applicant claims is confidential has been deleted, together with a statement specifying why any such information is privileged or confidential. Each application shall indicate whether the applicant or any person acting on his instructions has filed or intends to file any other application or claim of whatever nature regarding the matters at issue in the underlying enforcement proceeding. Each application shall also include the following statement: I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief. *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name, position title, and telephone number of a person who may be contacted by the OHA for additional information concerning the application. All applications should be sent to: Tenneco Consent Order Refund Proceeding, Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. All Applications for Refund received within the time limit specified will be processed pursuant to 10 CFR 205.284.

In order to assist applicants in establishing eligibility for a portion of the consent order funds, the following subjects should be covered by each purchaser of Tenneco products:

A. Each applicant should report its volume of purchases by calendar quarter for the period of time for which it is claiming it was injured by the alleged overcharges, if any.

B. Each applicant should specify how it used or would have used the Tenneco item *e.g.*, as a petrochemical producer, refiner, reseller or ultimate user.

C. If the applicant is a refiner or reseller, it should state whether it maintained banks or unrecouped product cost increases from the date of the alleged violation through January 27, 1981. (*14*) It should furnish the OHA with quarterly bank calculations for the entire period.

D. The applicant must state whether it or any of its affiliates have filed any other Applications for Refunds which might affect its level of banks.

E. An allocation claimant should specify the volume of product which it claims it was entitled to purchase from Tenneco, and submit any other evidence available to document its claim. The material submitted should document the amount of profits lost as a result of th alleged violation, and should discuss the actions taken by the applicant to (i) obtain a replacement supply of the allocated product; and (ii) seek relief from or against Tenneco. Allocation claimants will also be required to show that the effects of the alleged injury were not passed through to their customers, or dissipated through the operation of regulatory mechanisms such as the gntitlements program, 10 CFR 211.67.

F. The applicant must submit evidence to establish that it did not pass on the alleged injury to its customers. For example, a firm may submit market surveys to show that price increases to recover alleged overcharges were infeasible.

G. The applicant should report whether it is or has been involved as a party in DOE or private, Section 210 enforcement actions. If these actions have terminated, the applicant should furnish a copy of any final order issued in the matter. If the action is ongoing, the applicant should briefly describe the action and its current status. Of course, the applicant is under a continuing obligation to keep the OHA informed of any change in status during the pendency of its Application for Refund. *See* CFR 205.9(d).

It is therefore ordered that:

The refund amount provided by Tenneco Oil Company will be distributed in the manner set forth in the foregoing Decision.

Dated: February 18, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Footnotes

(*1*) The four parties who submitted comments were the Air Transport Association, the Transportation Group, the National Consumer Law Center, and Kern County Refining, Inc. These four parties and Pacific Refining Company have been included on the service list for this proceeding.

(*2*) The sole modification adopted by the parties was the elimination of provisions concerning Tenneco's treatment of its banks of unrecouped product cost increases. *See* 46 FR 20498 (1981).

(*3*) See, however, the discussion of similar comments in *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

(*4*) In its January 4, 1982 comments, Kern states that it:

Reiterates its position that the Consent Order entered into between the DOE and Tenneco pursuant to which the fund at issue here was established is invalid and was entered into by DOE in excess of its authority to the extent that it terminated the Proposed Remedial Order Proceedings before the Office of Hearings and Appeals ("OHA") regarding Tenneco's allocation violations against Kern without making provision for Tenneco's violations of Kern's supplier/purchaser rights.

Kern's Comments at 1. We do not consider this statement to be either a forthright challenge to the consent order, which in any case would be untimely at this late date, or a contention that we should not assert jurisdiction over these funds.

(*5*) Although Tenneco contends that a letter agreement which the firm and the OSC executed simultaneously with the consent order compels this conclusion, that letter states only that up to $1 million of the section 404 funds may be distributed to allocation claimants. We offer no opinion as to the validity of that letter as a part of or modification to the consent order.

(*6*) We obtained a figure of $.000778 per gallon as the estimated per gallon recovery by dividing the $5.5 million currently held in escrow by the approximately 16,452,947,000 gallons of crude oil and petroleum products sold by Tenneco during the consent order period.

(*7*) Moreover, Tenneco has stated that its sales of crude oil during the period were insubstantial, since the firm refined most of the crude oil it produced. *See* February 9, 1982 Tenneco Letter.

(*8*) In fact, we understand that Kern has already filed an action in a federal district court in California.

(*9*) In fact, it would be more complex than the enforcement proceeding initiated by the June 23, 1980 Proposed Remedial Order, since that charging document did not contain a calculation of Kern's damages.

(*10*) An additional factor which RFI mentioned was whether Tenneco's alleged violation was the result of "willfulness." We reject this suggestion because it is in the nature of a finding of liability, which is not the focus of this proceeding.

(*11*) The proposed Decision incorrectly stated that the number of refund recipients was 72,000. *Transcript* at 80.

(*12*) See footnote 6 above.

(*13*) By the time that applications and comments are due to be filed, the OHA Public Docket Room will have been relocated to Room 1111, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

(*14*) Those resellers who did not elect to maintain bank calculations for the period May 1, 1980 through January 27, 1981, do not, of course, have to supply bank calculations for that period. *See* 45 FR 29546 (1980).

[FR Doc. 82-5000 Filed 2-23-82; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PF-257; PH-FRL-2055-7]

Certain Companies; Filing of Pesticide, Food, and Feed Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that certain companies have submitted pesticide, food, and feed additive petitions to the EPA proposing that tolerances and food and feed additive regulations be established for certain pesticides in or on certain raw agricultural commodities and food and feed items.

ADDRESS: Written comments to: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Written comments may be submitted while the petitions are pending before the agency. The comments are to be identified by the document control number [PF-257] and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA gives notice that the following pesticide, food, and feed additive petitions have been submitted to the agency requesting establishment of tolerances and food and feed additive regulations in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

PP 2F2623. ICI Americas Inc., Conard Pike and New Murphy Road, Wilmington, DE 19897. Proposes amending 40 CFR Part 180 by establishing tolerances for residues of the insecticide (±)cyano (3-phenoxyphenyl)methyl(±)*cis-trans* 3-(2,2-dichloroethenyl)-2,2 dimethylcyclopropane carboxylate in or on the raw agricultural commodities cottonseed at 0.5 part per million (ppm); meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.05 ppm; and mild at 0.05 ppm. The proposed analytical method for determining residues is gas chromatography.

FAP 2H5334. ICI Americas Inc. Proposes amending 21 CFR Part 193 by establishing a regulation permitting residues of the insecticide (±)cyano (3-phenoxyphenyl)methyl(±)*cis-trans* 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylate in the food item cottonseed oil at 5.0 ppm.

PP 2F2624. ICI Americas Inc., Proposes amending 40 CFR Part 180.378 by establishing tolerances for residues of the insecticide permethrin [(3-phenoxyphenyl]methyl(±)-*cis-trans* 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylate] in or on the raw agricultural commodity corn grain at 0.1 ppm. The proposed analytical method for determining residues is gas chromatography.

FAP 2H5335. ICI Americas Inc. Proposes amending 21 CFR Part 193 by establishing a regulation permitting residues of the insecticide permethrin in corn oil at 1.0 ppm.

FAP 2H5335. ICI Americas Inc. Proposes amending 21 CFR Part 561 by establishing a regulation permitting residues of the insecticide permethrin in corn soapstock at 1.0 ppm.

PP 1F2557. Webb Wright Corp., Box 1572, Fort Meyers, FL 33902. Proposes amending 40 CFR Part 180 by establishing exemptions from the requirement of tolerances for oil of citronella, oil of eucalyptus, oil of peppermint, and *d*-Limonine when used in pesticide formulations applied to all growing crops. The proposed analytical method for determining residues is gas chromatography.

PP 2F2625. Webb Wright Corp. Proposes amending 40 CFR 180.1002 by establishing exemptions from the requirement of tolerances for the insecticide allethrin (allyl homolog of cinerin I) when used before harvest in the production of artichokes (jerusalem); beets; beets, sugar; carrots; celery; Chinese cabbage; chickory; corn; endive; escarole; garlic; leeks; onions; parsley; parsnips; potatoes; salsify; shallots; sorghum (milo); sorghum grain; spinach; and sweet potatoes. The proposed analytical method for determining residues is gas chromatography.

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136); 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated: February 9, 1982.

Douglas D. Campt,

Director, Registration Division Office of Pesticide Programs.

[FR Doc. 82-4999 Filed 2-23-82; 8:45 am]
BILLING CODE 6560-32-M

[PF-259; PH-FRL-2054-5]

Certain Companies; Pesticide and Food Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that certain companies have filed petitions proposing a food additive regulation and the establishment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: Written comments to the product manager (PM) cited in each specific petition at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Written comments may be submitted while the petitions are pending before the agency. The comments are to be identified by the document control number "[PF-259]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m.

to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the following food additive and pesticide petitions have been submitted to the agency requesting establishment of a food additive regulation and tolerances for certain pesticide chemicals in or on certain raw agricultural commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

FAP 2H5329. Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105. Proposes amending 21 CFR 193.460 by establishing a regulation permitting residues of the fungicide coordination product of zinc ion and maneb (manganous ethylenebisdithiocarbamate) containing 20 percent manganese, 2.5 percent Zinc, and 77.5 percent ' ethylenebisdithiocarbamate (the whole product calculated as zinc ethylenebisdithiocarbamate) in or on the commodities milled rice at 0.2 part per million (ppm) and rice bran at 2.0 ppm involving the use of the chemical in an experimental use program. (PM–21, Henry Jacoby, 703–557–1900).

PP 2F2618. Ciba-Geigy Corp., PO Box 11422, Greensboro, NC 27409. Proposes amending 40 CFR 180.243 by establishing tolerances for the combined residues of the herbicide propazine (2-chloro-4,6-bis(isopropylamino)-*s*-triazine) and its dialkylated metabolites determined as amino-4-chloro-6-(isopropylamino)-*s*-triazine and 2,4-diamino-6-chloro-*s*-triazine in or on the raw agricultural commodities sorghum forage and fodder at 1.0 part per million (ppm); milk and eggs at 0.02 ppm; meat, fat and meat byproducts of cattle, goats, hogs, horses, and sheep (excluding liver and kidney) at 0.05 ppm; liver and kidney of cattle, goats, hogs, horses, poultry, and sheep at 0.10 ppm; sorghum, grain and sorghum, sweet at 0.25 ppm. The proposed analytical method for determining residues is gas chromatography using the Dohrmann chloride-specific microcoulometric detector system. (PM–25, Robert J. Taylor, 703–557–1800).

(Secs. 408(d)(1), 68 Stat. 512 (7 U.S.C. 136); 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348))

Dated: February 8, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-4630 Filed 2-23-82; 8:45 am]

BILLING CODE 6560-38-M

[PP 1G2524/T344; PH-FRL-2055-6]

Desmedipham; Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for residues of the herbicide desmedipham (ethyl-*m*-hydroxycarbanilate carbanilate) in or on the raw agricultural commodity sunflower seeds. This temporary tolerance was requested by Nor-Am Agricultural Products, Inc.

DATE: This temporary tolerance expires December 20, 1983.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1800).

SUPPLEMENTARY INFORMATION: Nor-Am Agricultural Products, Inc., 350 West Shuman Blvd., Naperville, IL 60566, has requested the establishment of a temporary tolerance for residues of the herbicide desmedipham (ethyl-*m*-hydroxycarbanilate carbanilate) in or on the raw agricultural commodity sunflower seeds at 0.2 part per million (ppm).

This temporary tolerance will permit the continued marketing of the above raw agricultural commodity when treated in accordance with the provisions of the experimental use permits 2139–EUP–27 and 2139–28 which are being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. (92 Stat. 819; 7 U.S.C. 136).

The Scientific data reported and all other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefors, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permits and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permits.

2. Nor-Am must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires December 29, 1983. Residues in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the exprimental use permits and temporary tolerance. This tolerance may be revoked if the experimental use permits are revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

OMB has exempted this temporary tolerance from section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 610–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: February 8, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-4627 Filed 2-23-82; 8:45 am]

BILLING CODE 6560-38-M

[PP OG2275/T346; PH-FRL-2055-5]

Pendimethalin; Renewal or Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has renewed temporary tolerances for the combined residues of the herbicide pendimethalin [*N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine] and its metabolite 4-[(1-ethyl-propyl)amino]-2-ethyl-3,5-dinitrobenzyl alcohol in or on wheat grain and wheat straw.

DATE: These temporary tolerances expire December 22, 1982.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of August 6, 1980 (45 FR 52241) stating that temporary tolerances had been established for the combined residues of the herbicide pendimethalin [*N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine] and its metabolite 4-[(1-ethyl-propyl)amino]-2-ethyl-3,5-dinitrobenzyl alcohol in or on wheat grain and wheat straw at 0.1 part per million (ppm). These tolerances were established in response to pesticide petition (PP OG2275) submitted by American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540. The company has requested a 1-year renewal of the temporary tolerances to permit the continued marketing of the above raw agricultural commodities when treated in accordance with the provisions of experimental use permit 241–EUP–95 which is being renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that a renewal of the temporary tolerance will protect the public health. Therefore, the temporary tolerances have been renewed on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

- 1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permt.

2. American Cyanamid Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance, and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire December 22, 1982. Residues not in excess of the temporary tolerances in or on the above raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates that such revocation is necessary to protect the public health.

OMB has exempted this notice from section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: February 8, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-4630 Filed 2-23-82; 8:45 am]

BILLING CODE 6560-38-M

[PF-260; PH-FRL-2057-5]

Pesticide Petitions; American Cyanamid and Chevron Chemical Co.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that certain companies have filed pesticide petitions proposing the establishment of tolerances for certain pesticide chemicals in or on certain raw agricultural commodities.

ADDRESS: Written comments to the product manager (PM) cited in each specific petition at the address below: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to identified by the document control number "[PF–260]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telehone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the following pesticide petitions have been submitted to the Agency proposing the establishment of tolerances for certain pesticide chemicals in or on certain agricultural commodities in accordance with the Federal Food, Drug and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

PP 2F2627. American Cyanamid, Agricultural Research Div., PO Box 400, Princeton, NJ 08540. Proposes amending 40 CFR 180.395 by establishing tolerances for residues of the insecticide tetrahydro-5,5-dimethyl-2(1*H*)-pyrimidinone [3-[4-(trifluoromethyl)phenyl]-1-[2-[4-(trifluoromethyl) pheneyl]ethenyl]-2-propenylidene]hydrazone in or on all agricultural crops at 0.05 part per million (ppm). Proposed analytical method for determining residues is gas chromatography using negative ion chemical ionization mass spectrometry. (PM–15, George LaRocca, 703–557–2400).

PP 2F2632. Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804. Proposes amending 40 CFR 180.108 by establishing tolerances for the combined residues of the insecticide acephate (*O,S*-dimethyl acetylphosphoramidothioate) and its cholinesteraseinhibiting metabolite *O,S*-dimethyl phosphoramidothioate in or on the raw agricultural commodities peanuts at 0.2 ppm and peanut hulls at 5.0 ppm. Proposed analytical method for determining residues is gas chromatographic procedures using a thermionic detector. (PM–16, William Miller, 703–557–2600).

(Sec. 408(d)(1), 68 Stat. 512 (7 U.S.C. 136))

Dated February 16, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-4629 Filed 2-23-82; 8:45 am]

BILLING CODE 6560-38-M

[PF-261; PH-FRL-2057-7]

Pesticide and Food Additive Petitions; Union Carbide Agricultural Products Co., Inc., et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that certain companies have filed petitions proposing a food additive regulation and the establishment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: Written comments to the product manager (PM) cited in each specific petition at the address below.

Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Written comments may be submitted while the petitions are pending before the agency. The comments are to be identified by the document control number "[PP-261]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the following food additive and pesticide petitions have been submitted to the agency requesting establishment of a food additive regulation and tolerances for certain pesticide chemicals in or on certain raw agricultural commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

PAP 2H5530. Union Carbide Agricultural Products Co., Inc, PO Box 12014, T.W. Alexander Drive, Research Triangle Park, NC 27709. Proposes amending 21 CFR 186.189 by establishing a regulation permitting residues of the plant growth regulator ethephon (2-chloroethyl) phosphonic acid for use on small grain (cereal) crops involving the use of the chemical in an experimental use program with tolerance limitations of 1.6 part per million (ppm) for barley hulls, wheat bran at 1.7 ppm, wheat germ at 1.0 ppm, and wheat shorts at 1.2 ppm. (PM-25, Robert Taylor, 703-557-1800).

PP 2F2828. Shell Oil Co., Suite 200, 1025 Connecticut Ave., NW, Washington, DC 20031. Proposes amending 40 CFR 180.379 by establishing tolerances for residues of the insecticide cyano(3-phenoxyphenyl) methyl-4-chloro-alpha-(methylethyl)benzeneacetate in or on the raw agricultural commodities pea vines at 25.0 ppm, almond hulls at 15.0 ppm, pea pods at 1.0 ppm, and almond nut meats at 0.2 ppm. The proposed analytical method for determining residues is by gas chromatography. (PM-17, Franklin D. R. Gee, 703-557-2690).

FAP 2H5333. Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105. Proposes amending 21 CFR 193.460 by establishing a regulation permitting residues of the fungicide coordination product of zinc ion and maneb (manganese ethylenebisdithiocarbamate) containing 20 percent manganese, 2.5 percent zinc, and 77.5 percent ethylenebisdithiocarbamate (the whole product calculated as zinc ethylenebisdithiocarbamate) involving the use of the chemical in an experimental use program with tolerance limitations of 0.1 ppm for soybean meal and soybean oil. [PM-31, Henry Jacoby, 703-557-1900].

(Secs. 408(d)(1), 68 Stat. 512 (7 U.S.C. 136); 408(b)(5), 72 Stat. 1786, (21 U.S.C. 346))

Dated: February 16, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-4600 Filed 2-23-82; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL LABOR RELATIONS AUTHORITY

Notice of Prehearing Conference

AGENCY: Federal Labor Relations Authority.

ACTION: Notice of prehearing conference.

SUMMARY: This notice sets forth the time, place and purpose of a forthcoming prehearing conference of the Federal Labor Relations Authority.

DATE: Friday, February 26, 1982, 9:30 a.m.

ADDRESS: Courtroom 2, Second Floor, United States Courthouse, Constitution Avenue and John Marshall Place, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: James J. Shepard, Executive Director, Federal Labor Relations Authority, 500 C Street, S.W., Washington, D.C. 20424, (202) 382-0711.

SUPPLEMENTARY INFORMATION: On February 18, 1982, the United States Court of Appeals for the District of Columbia Circuit ordered the Federal Labor Relations Authority to hold an evidentiary hearing to determine the nature, extent, source, and effect of any and all *ex parte* contacts and other approaches that may have been made to any member or members of the Authority while the appeal from the decision of the Administrative Law Judge in Case No. 3-CO-105 was pending before the Authority. Further, the Court of Appeals ordered that the Authority obtain through the Office of Personnel Management an administrative law judge from a neutral agency to conduct the hearings ordered by the Court and to report to the Court on or before March 19, 1982. On February 19 Administrative Law Judge John M. Vittone was selected by the Office of Personnel Management to preside over the hearings ordered by the Court of Appeals.

The Court of Appeals has ordered that the presiding administrative law judge shall, on request, permit all parties to Case No. 3-CO-105, the Authority, and any member thereof, all persons alleged to have contacted any member of the Authority while the aforementioned case was pending, and any other person he considers to have an interest in the matter, to participate fully in the hearing in person or by counsel, to present evidence, and to recommend findings. Such parties or persons who intend to participate in this special proceeding shall attend the prehearing conference and be prepared to discuss what testimony or documentary evidence, if any, they intend to offer for receipt into evidence during the course of the hearing. In addition, the prehearing conference will be concerned with all other matters relevant to this special proceeding which will aid in its conduct and disposition.

Dated: Washington, D.C., February 23, 1982.

For the Authority.

James J. Shephard,

Executive Director.

[FR Doc. 82-5048 Filed 2-23-82; 11:29 am]

BILLING CODE 6727-01-M

FEDERAL RESERVE SYSTEM

Beacon Financial Corporation, Inc.; Formation of Bank Holding Company

Beacon Financial Corporation, Inc., Jupiter, Florida, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Lighthouse National Bank, Jupiter, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 18, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 17, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-4671 Filed 2-23-82; 8:45 am]

BILLING CODE 6210-01-M

First Abilene Bankshares, Inc; Acquisition of Bank

First Abilene Bankshares, Inc., Abilene, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Eastland National Bank, Eastland, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 10, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 17, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-4672 Filed 2-23-82; 8:45 am]

BILLING CODE 6210-01-M

Florida National Banks of Florida, Inc.; Acquisition of Bank

Florida National Banks of Florida, Inc., Jacksonville, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Peoples Bank of St. Augustine, St. Augustine, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 18, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 17, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-4673 Filed 2-23-82; 8:45 am]

BILLING CODE 6210-01-M

Ireton Bancorp; Formation of Bank Holding Company

Ireton Bancorp, Ireton, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Security Savings Bank, Ireton, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 10, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 17, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-4674 Filed 2-23-82; 8:45 am]

BILLING CODE 6210-01-M

League City Bancshares, Inc.; Formation of Bank Holding Company

League City Bancshares, Inc., League City, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of League City National Bank, League City, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 18, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 17, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-4675 Filed 2-23-82; 8:45 am]

BILLING CODE 6210-01-M

Security Pacific International Bank; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Security Pacific International Bank, New York, New York, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to change the location of its head office from New York, New York to Los Angeles, California, and to establish a branch in New York, New York to assume the activities of the existing head office. Security Pacific International Bank operates as a subsidiary of Security Pacific National Bank, Los Angeles, California.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than March 18, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 17, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-4676 Filed 2-23-82; 8:45 am]

BILLING CODE 6210-01-M

Southwest Missouri Bancorporation, Inc.; Formation of Bank Holding Company

Southwest Missouri Bancorporation, Inc., Carthage, Missouri, has applied for the Board's approval under section 3(a)[1] of the Bank Holding Company Act (12 U.S.C. 1842[a][1]) to become a bank holding company by acquiring 80 percent or more of the voting shares of Southwest Missouri Bank, Carthage, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 18, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 17, 1982.

Theodore E. Dowling, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-4877 Filed 2-23-82; 8:45 am]

BILLING CODE 6210-01-M

United Southern Bancorp; Formation of Bank Holding Company

United Southern Bancorp, St. Petersburg, Florida, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842[a][1]) to become a bank holding company by acquiring 90 percent of the voting shares of United Southern Bank, St. Petersburg, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842[c]).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 17, 1982.

Theodore E. Dowling, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-4879 Filed 2-23-82; 8:45 am]

BILLING CODE 6210-01-M

Volunteer Bancshares, Inc.; Formation of Bank Holding Company

Volunteer Bancshares, Inc., Jackson, Tennessee, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Jackson National Bank, Jackson, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received no later than March 18, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 17, 1982.

Theodore E. Dowling, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-4878 Filed 2-23-82; 8:45 am]

BILLING CODE 6210-01-M

FOREIGN CLAIMS SETTLEMENT COMMISSION

Czechoslovakia Claims Program; Commencement of Program

AGENCY: Foreign Claims Settlement Commission.

ACTION: Notice.

SUMMARY: Notice of the commencement of a program to consider additional claims against the Government of Czechoslovakia, deadline for filing claims and completion date of program, as authorized by Pub. L. 97-127, the Czechoslovakian Claims Act of 1981.

EFFECTIVE DATE: February 24, 1982.

FOR FURTHER INFORMATION CONTACT: David H. Rogers, General Counsel (Acting), Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579; Telephone No. (202) 653-5883.

Notice of Time for Filing and Completion of Program

As required by Sec. 7 of the Czechoslovakian Claims Settlement Act of 1981, Pub. L. 97-127, approved December 29, 1981, notice is hereby given that the Foreign Claims Settlement Commission will receive, at its offices located at 1111—20th Street, NW., Washington, DC 20579, during the period beginning February 24, 1982 and ending October 21, 1982, claims of nationals of the United States against the Government of Czechoslovakia for losses resulting from the nationalization or other taking of property between August 8, 1955 and the date when the Agreement between the United States and Czechoslovakia for the Settlement of Certain Claims and Financial Issues concluded on January 29, 1982 enters into force. Claims which may be filed include those based upon any rights or interests in property owned, wholly or partially, directly or indirectly at the time of loss by nationals of the United States, where the claim arising therefrom, or an interest therein, was owned continuously by a United States national until the date of filing a claim with the Commission. Claims must be filed on the official form of the Commission numbered FCSC Form 127.

The Foreign Claims Settlement Commission will determine, in accordance with applicable substantive law, including international law and the Commission's regulations (Chapter V of Title 45 of the CFR, Parts 500 through 531), the validity and the amounts of timely filed claims.

Notice is hereby given that October 31, 1984 will be the deadline for completion of the Commission's affairs with respect to the determination of claims authorized under Secs. 5 and 6 of the Czechoslovakian Claims Settlement Act of 1981.

Details concerning the official claim form and filing may be obtained by contacting the Office of the General Counsel, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, DC 20579; Telephone No. (202) 653-5883.

Dated at Washington, DC, on February 18, 1982.

J. Raymond Bell,

Chairman.

[FR Doc. 82-4880 Filed 2-23-82; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicaid Program; Hearing; Reconsideration of Disapproval of a Michigan State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on April 19, 1982 in Chicago, Illinois to reconsider our decision to disapprove Michigan State plan amendment 81-4. This plan amendment proposes a $.50 copayment on specified brand name drugs for ambulatory recipients over 21 years of age.

CLOSING DATE: Requests to participate in the hearing as a party must be received by March 11, 1982.

FOR FURTHER INFORMATION, CONTACT: Albert Miller, Hearing Officer, Bureau of Program Policy, 1-G-5 East Low Rise, 6325 Security Boulevard, Baltimore, Maryland 21207; Telephone: (301) 597-2896.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to deny a Michigan State plan amendment 81-4.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a denial of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with additional requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with additional requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter relates to imposition of copayments for drugs provided to noninstitutionalized recipients. The proposed Michigan State plan amendment 81-4 would require a $.50 copayment only on specified brand name drugs for noninstitutionalized recipients over 21 years of age. It violates law and regulations because (1) it results in denial of comparability of amount, duration and scope of services between categorically needy recipients over age 21 who are institutionalized and those who are not; (2) it would provide greater services to the medically needy recipients under age 21 than to some categorically needy individuals; and (3) it results in denial of comparability in the amount of service between institutionalized and noninstitutionalized members of the same medically needy group.

The notice to Michigan announcing an administrative hearing to reconsider our denial of this State plan amendment reads as follows:

Mr. John T. Dempsey,
Director, Department of Social Services, P.O. Box 30037, Lansing, Michigan 48909.

Dear Mr. Dempsey: This is to advise you that your letter of January 9, 1982, requesting a reconsideration of the decision to disapprove Michigan State plan amendment 81-4 was received on January 18. You have requested a reconsideration of whether this amendment, which proposes a $.50 copayment on specified brand name drugs for ambulatory recipients over age 21, conforms to the requirements for approval under the Social Security Act and pertinent regulations.

I am scheduling a hearing on your request to be held on April 19, 1982 at 10:00 a.m. in the 8th floor conference room, 175 West Jackson Boulevard, Chicago, Illinois. If this date is not satisfactory, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Albert Miller to serve as the presiding official. Please let him know if these arrangements present any problems. He can be reached on (301) 597-2896.

Sincerely yours,

Carolyne K. Davis, Ph. D.

(Sec. 1116, Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance program No. 13.714, Medical Assistance Program)

Dated: February 17, 1982.

Carolyne K. Davis,
Administrator, Health Care Financing Administration.

[FR Doc. 82-5076 Filed 2-23-82; 8:45 am]

BILLING CODE 4120-03-M

Medicaid Program; Hearing; Reconsideration of Disapproval of Mississippi State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on April 20, 1982 in Jackson, Mississippi to reconsider our decision to disapprove a Mississippi State plan amendment limiting the number of participating nursing home beds in Mississippi to 100 per 1,000 Medicaid eligibles.

CLOSING DATE: Request to participate in the hearing as a party must be received by March 11, 1982.

FOR FURTHER INFORMATION, CONTACT: Lawrence Ageloff, Hearing Officer, Bureau of Program Policy, 1-H-5 East Low Rise, 6325 Security Boulevard, Baltimore, Maryland 21207; Telephone: (301) 594-8260.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to deny a Mississippi State plan amendment 80-7.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a denial of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with additional requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with additional requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter relates to limiting the number of Medicaid nursing home beds. The proposed Mississippi State plan amendment Transmittal No. 80-7 would have limited the number of participating nursing home beds to 100 per 1,000 Medicaid eligibles. Under the proposal, the limitation on nursing home beds would be implemented by limiting available beds to a percentage of the certifiable beds in each facility, rather than by refusing to enter into provider agreements or cancelling those agreements. HCFA contends that implementation of the proposed plan

amendment violates several Medicaid statutory and regulatory requirements, namely: (1) Section 1902(a)(8) of the Social Security Act, which requires that medical assistance be furnished with reasonable promptness; (2) section 42 CFR 440.230, which requires that furnished services be sufficient in amount, duration and scope for all eligible individuals; and (3) section 42 CFR 442.12(d), which requires that a State must either enter into a provider agreement for all certifiable beds in the facility or decline to enter a provider agreement for good cause. HCFA maintains that the State does not have the option of denying a proportion of beds in a facility.

The notice to Mississippi announcing an administrative hearing to reconsider our disapproval of State plan amendment 80-7 reads as follows:

Re: In The Matter of the Mississippi Medicaid Commission's Plan Amendment, Transmittal 80-7, Docket No. 81-1

Mr. B. F. Simmons,
Director, Mississippi Medicaid Commission, P.O. Box 10786, Jackson, Mississippi 39209.

Dear Mr. Simmons: This is to confirm the agreement reached between Mr. Ageloff, the Hearing Officer, and Mr. Phillips, your attorney.

The hearing of the Secretary's disapproval of Mississippi's proposal to limit the number of Medicaid nursing home beds will be held at 9:00 a.m., April 20, 1982 in the Central Capital Building, Room 206, Jackson, Mississippi 39205.

Sincerely yours,

Carolyne K. Davis, Ph. D.

(Sec. 1116, Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance program No. 13.714, Medical Assistance Program)

Dated: February 17, 1982.

Carolyne K. Davis,
Administrator, Health Care Financing Administration.

[FR Doc. 82-5077 Filed 2-23-82; 8:45 am]
BILLING CODE 4120-03-M

Public Health Service

National Toxicology Program; NTP Announces Availability of Cancer Bioassay Reports on 2,3,7,8-Tetrachlorodibenzo-p-Dioxin (Dermal and Gavage Studies) and Locust Bean Gum

The HHS' National Toxicology Program (NTP) today announced the availability of Technical Reports on cancer bioassays of 2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD), a highly toxic impurity found in Agent Orange and certain other herbicides and chemicals, and Locust Bean Gum, a widely-used food stabilizer.

TCDD caused cancer in both the oral and dermal studies. When TCDD was administered by gavage (stomach tube) for 104 weeks, exposure caused thyroid tumors in the male rats and liver tumors in the females. Under the conditions of this test, TCDD was also carcinogenic for the mice, causing liver tumors in both males and females and thyroid tumors in the female mice.

In the second dioxin study, TCDD was painted on the skin of mice for 104 weeks. Under the conditions of this test, TCDD was carcinogenic for female mice, but was not carcinogenic for the males.

Agent Orange was a 50:50 mixture of the herbicides 2,4,5-T (2,4,5-Trichlorophenoxyacetic acid) and 2,4-D (2,4-Dichlorophenoxyacetic acid). Over 100 million pounds were used in Vietnam as a defoliant. An average of 1.8 parts per million of TCDD—and as much as 47 parts per million in one sample—were found in surplus stocks of Agent Orange.

TCDD is formed during the preparation of 2,4,5-Trichlorophenol, an intermediate in the production of 2,4,5-T and Hexachlorophene, a germicidal agent.

Since 1974, over 95 percent of all 2,4,5-T produced domestically has been used on rangelands and pastures although there is some limited use on food crops such as rice and blueberries. In 1979, the U.S. Environmental Protection Agency issued a suspension notice for the use of 2,4,5-T on pastures, forests, and rights-of-way.

Locust Bean Gum, a widely-used food stabilizer, did not cause cancer in either rats or mice in a 103-week feeding study. Locust Bean Gum is used in ice creams, sauces, salad dressings, pie fillings, jams and jellies. It is also used as a binder in processed meats and in the manufacture of pharmaceuticals, cosmetics, textiles, paper, ceramics, paint, and gun powder.

Positive results in these studies demonstrate that a chemical is carcinogenic for animals and that exposure is a potential hazard to humans. However, because of the limited experimental conditions, negative results (in which the test animals do not have a greater incidence of cancer than the controls) do not necessarily mean the chemical is not an animal carcinogen. Quantification of human risk is beyond the purview of this study.

Copies of these Technical Reports—Carcinogenesis Bioassay of TCDD (dermal study) (T.R. 201), Carcinogenesis Bioassay of TCDD (gavage study) (T.R. 209), and *Carcinogenesis Bioassay of Locust Bean Gum* (T.R. 221)—are available by writing to the Public Information Office, National Toxicology Program, MD B2-04, P.O. Box 12233, Research Triangle Park, NC 27709. Telephone: (919) 541-3991, FTS 629-3991.

Dated: February 18, 1982.

David P. Rall,
Director, National Toxicology Program.

[FR Doc. 82-4995 Filed 2-23-82; 8:45 am]
BILLING CODE 4140-01-M

Qualified Health Maintenance Organizations; January

AGENCY: Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This notice sets forth the names, addresses, service areas, and dates of qualification of entities determined by the Secretary to be qualified health maintenance organizations (HMOs). In addition, this notice reports that a qualified HMO whose assets and liabilities were acquired by another entity surrendered its qualification status and that the Secretary granted qualification to the acquiring entity at the time of its acquisition.

FOR FURTHER INFORMATION CONTACT:
Frank H. Seubold, Ph. D., Director, Office of Health Maintenance Organizations, Park Building—Third Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION:
Regulations (42 CFR 110.605(b)) issued under Title XIII of the Public Health Service Act require that a list and description of all newly qualified HMOs be published on a monthly basis in the **Federal Register**. The following entities have been determined to be qualified HMOs under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)):

(Preoperational Qualified Health Maintenance Organization: 42 CFR 110.603(c))

1. Group Health Plan of Greater St. Louis, (Medical Group Model, see section 1310(b)(1) of the Public Health Service Act), 10822 Sunset Plaza, St. Louis, Missouri 63127. Service area: Zip codes as follows:

63001	63049	63188-12
63010-1	63090	63114
63017	63074	63116-8
63025-6	63075	63123-33
63038	63088	63130
63040	63101	63141
63043	63103-5	63143-4

Date of qualification: January 8, 1982.

(Operational Qualified Health Maintenance Organizations: 42 CFR 110.603(a))

2. Health Care, Inc., (Individual Practice Association Model, see section 1310(b)(2)(A) of the Public Health Service Act), 19 Lunar Drive, Woodbridge, Connecticut 96525. Service area: New Haven County, Connecticut, and the adjacent towns of Shelton and Middletown. Date of qualification: January 18, 1982.

3. Anchor Organization for Health Maintenance, (Staff Model, see section 1310(b)(1) of the Public Health Service Act), 1725 West Harrison Street, Chicago, Illinois 60612. Service area: DuPage County, Illinois and zip codes as follows:

City of Chicago

60601-18	60643	60644-6
60653-4	60628-32	60670-1
60664-5	60658-60	60650-1
60621-6	60634-41	60675
60656-7	60699	

Suburban Areas

60004-08	60015-8	60058
60035	60047	60093
60062	60076	60143
60103-4	60166	60191
60160	60171-2	60411
60501-5	60490	60436
60419	60435-6	60401-2
60445	60452	60525
60468-9	60975-7	60029
60556	60023	60050
60010	60053	60101
60043	60090-1	60153
60007-9	60160-1	60201-4
60106	60176	60417
60162-5	60409	60445
60471-2	60426-30	60408
60422-3	60439	60634
60448-9	60513	
60471-3	60525-6	

Date of qualification: November 1, 1981. (Transitionally qualified on December 20, 1977.)

4. U.S. Health Care Systems, Inc., (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), 2500 Maryland Road, Willow Grove, Pennsylvania 19090. Service area: Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pennsylvania. Date of qualification: September 23, 1981.

(Note.—(1) U.S. Health Care Systems, Inc., took over the operation of Health Maintenance Organization of Pennsylvania (HMOPA), a qualified HMO. When U.S. Health Care Systems, Inc., became a qualified HMO, HMOPA surrendered its qualification status. U.S. Health Care Systems, Inc., is doing business under the name of HMOPA. (2) The service area of U.S. Health Care Systems, Inc. has been revised as described below.)

Service Area Revision

1. U.S. Health Care Systems, Inc., 2500 Maryland Road, Willow Grove, Pennsylvania 19090. Add the following counties to the service area described above, effective October 1, 1981: Lehigh and Northampton.

Files containing detailed information regarding qualified HMOs will be available for public inspection between the hours of 8:30 a.m. and 4:30 p.m. on Tuesdays and Thursdays, except for Federal holidays, in the Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, Department of Health and Human Services, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857.

Questions about the qualification review process or requests for information about qualified HMOs should be sent to the same office.

Dated: February 12, 1982.

Frank H. Seubold,
Director, Office of Health Maintenance Organizations.

[FR Doc. 82-4997 Filed 2-23-82; 8:45 am]
BILLING CODE 4160-17-M

Office of the Secretary

Statement of Organization, Functions and Delegations of Authority

Part A (Office of the Secretary), Chapter AD(I-X) (Office of the Regional Director) of the Statement of Organization, Functions, and Delegations of Authority (47 FR 3609, January 26, 1982) is amended to show the proper location of the Equal Employment Opportunity (EEO) function. The proper location is a subunit reporting directly to the Regional Director. This is a technical amendment to correct the previously published statement which showed the function as a subunit reporting to the Regional Administrative Support Center Director who in turn reports to the Regional Director.

1. Part A, Chapter AD(I-X) is amended as follows:

(a) Section AD.20—Functions, Subsection E.5. is deleted in its entirety and succeeding subparagraphs are renumbered to account for removal of this Subparagraph.

(b) Section AD.20—Functions, Subsection A is amended by adding a new subparagraph 11. to read as follows:

11. Provides supervision of the Regional Office of Equal Employment Opportunity. It is responsible for the establishment and maintenance of a positive program on non-discrimination in Departmental employment in the Region.

Has regional responsibility for special emphasis programs. Monitors the OS/EEO complaint system and issues proposed dispositions on all formal complaints. Prepares the Regional Annual Affirmative Action Plan. Coordinates the selection, training, and availability of EEO counselors.

Dated: February 15, 1982.

Dale W. Sopper,
Assistant Secretary for Management and Budget.

[FR Doc. 82-4981 Filed 2-23-82; 8:45 am]
BILLING CODE 4110-12-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. OR 34188]

Oregon; Designation of Beatty Creek Research Natural Area

Pursuant to the authority in 43 CFR Part 2070 and authorization from the Director dated February 3, 1982, I hereby designate the following described public land as the Beatty Creek Research Natural Area:

Willamette Meridian

T. 30 S., R. 6 W.,
Sec. 31, W½NW¼.
T. 30 S., R. 7 W.,
Sec. 25, lots 9 and 12 (E½SE¼).

The area described contains 172.80 acres in Douglas County, Oregon.

In accordance with 43 CFR 2071.4(a), this designation action is only for the purpose of identifying the Bureau's current management objectives for the area, and unto itself, has no effect upon established use or management of the lands and resources involved. The area is designated under the category of Natural Resources Experiment and Research Areas, which covers relatively small areas used for research or experimental purposes (43 CFR 2071.1(b)(4)). The primary management objectives for Beatty Creek are to maintain its quality as a significant example of natural diversity, and to facilitate its use by authorized persons and groups for nonmanipulative and nondestructive scientific research and education. The area has been determined to meet the criteria for BLM Research Natural Areas prescribed by

43 CFR 8223.0–5. It will be managed under regulations in 43 CFR 8223.1.

William G. Leavell,

State Director.

[FR Doc. 82-4938 Filed 2-23-82; 8:45 am]

BILLING CODE 4310-84-M

Preparation of Western Counties Management Framework Plan Amendment and Subsequent Wilderness Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to 43 CFR 1601.3 and 40 CFR 1501.7, notice is hereby given that the California Desert District, Bureau of Land Management, California, will prepare an amendment to the San Diego County ("Western Counties") Management Framework Plan (MFP).

This Plan will facilitate the identification of issues for preparation of (1) a Wilderness Study Report (WSR) and a (2) Environmental Impact Statement (EIS) for six Western Counties Wilderness Study Areas (WSAs) numbers CA–060–002, 020G, 021A, 027C, 028 and 029.

DATES: Land and resource management alternatives for the Western Counties WSA will be developed by April 1982, and final revisions to the plan and EIS, including public input and analysis by an interdisciplinary team, are scheduled for completion in September 1982.

FOR FURTHER INFORMATION CONTACT: For further information, or to be placed on the mailing lists for the planning effort contact David H. Eslinger, Wilderness Coordinator, Bureau of Land Management, California Desert District Office, 1695 Spruce Street, Riverside, California 92507. Telephone: (714) 351–6397.

SUPPLEMENTARY INFORMATION: The California Desert District administers, in part, those Federal land and resources in San Diego and Riverside Counties. The Plan Amendment and EIS will address the following issues on the public lands identified as WSA's in the Western Counties. Those issues identified by the California Desert District staff are livestock grazing, mining, chaparral watershed management, wilderness, off-road vehicle recreation, natural areas, endangered plant species, and retention or disposal of small tracts. The interdisciplinary team, which will complete the plan, will consist of specialists in the fields of range management, wildlife, recreation, wilderness, visual resources, and lands.

Five Wilderness Study Areas: Aqua Tibia, Beauty Mountain, Combs Peak A, Hauser Mountain C, Western Otay Mountain, and South Otay Mountain will be studied in this effort. Alternatives to be addressed are (1) all wilderness, (2) no wilderness (no action), (3) other management and (4) partial wilderness. Details of the partial wilderness alternatives will be developed during the study. In addition to the Wilderness Study Report, which will include an Environmental Impact Statement, the Management Framework Plan Amendment will make recommendations regarding wilderness suitability for final action by Congress.

Opportunities for public input and comments will be announced through the media, mail and personal contact. A public hearing will be scheduled for the wilderness aspect of the amendment. Times, dates, and location of any public meetings and the hearing will be announced through the media, mail, and the Federal Register.

Dated: February 16, 1982.

Ed Hastey,

State Director.

[FR Doc. 82-4939 Filed 2-23-82; 8:45 am]

BILLING CODE 4310-84-M

Prototype Oil Shale Leasing Program; Scoping Meetings and Preparation of Supplement to the Environmental Impact Statement

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of intent to hold scoping meetings and prepare a supplement to the environmental impact statement for the Prototype Oil Shale Leasing Program.

SUMMARY: Notice is hereby given that pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 the White River Resource Area of the Bureau of Land Management (BLM), Department of the Interior intends to begin preparation of a supplemental Environmental Impact Statement (EIS) on the completion of the leasing phase of the prototype oil shale program.

BLM has issued a Call for Expressions of Interest in six tracts located in the Piceance Creek Basin of northwestern Colorado. The data received from this call will be used to determine which of the tracts will be analyzed in this supplemental EIS.

BLM anticipates that the EIS will address the cumulative and site-specific impacts associated with the leasing and development of one or two additional tracts identified for prototype leasing as well as the alternative of no additional prototype leasing at this time (no action).

Background

In 1973, the BLM issued the final Environmental Impact Statement (EIS) for the Prototype Oil Shale Leasing Program. Following completion of that EIS, six prototype oil shale tracts were offered by BLM for lease. Four of the six tracts were leased: two in Utah and two in Colorado.

The BLM is now considering completion of the leasing phase of the prototype program in order to expand the range of technologies developed to include true *in situ* development as well as the combined development of oil shale and associated minerals in the saline zone.

Public Participation Activities

The BLM has scheduled the following public scoping meetings on this supplemental EIS:

Wednesday, March 24, 1982 at 7:00 p.m. at the Fairfield Center, 200 Main Street, Meeker, Colorado

Thursday, March 25, 1982 at 7:00 p.m. at the Ramada Inn, 718 Horizon Drive, Grand Junction, Colorado

Friday, March 26, 1982 at 2:00 p.m. at the Ramada Inn Airport, 3737 Quebec, Denver, Colorado

The purpose of these meetings will be to gather comments from the public as well as local, state, and federal agencies on a number of topics relating to the supplemental EIS including: The level of detail of the analysis to be presented; significant issues which should be addressed; alternatives which should be analyzed; and identification of relevant information available for use in the analysis. Both written and oral comments will be received at the meetings. All requests to present oral comments should be directed to John Singlaub at the address below.

BLM will also accept written comments on the same topics until March 26, 1982. All written comments should be addressed to: John Singlaub, Team Leader, Bureau of Land Management, White River Resource Area, P.O. Box 928, Meeker, Colorado 81641, 303/878–3601.

Future opportunities for public participation will include Regional Oil Shale Team meetings and public comment on the draft EIS. Public meetings will be held in August on the draft; specific locations and dates for those meetings will be announced.

General Issues

BLM has identified the following list of preliminary issues to be addressed in this supplemental EIS: cumulative impacts of energy development; effectiveness of reclamation; effects on air quality, water quantity and quality, and cultural resources; social and economic impacts; conflicts with oil and gas development; effects on wildlife; and, possible health effects.

Following the public participation activities outlined above, BLM will formulate a comprehensive list of issues and alternatives to be addressed in the EIS.

Schedule

The following schedule has been tentatively established for preparation of the EIS.

March 26, 1982—Scoping meetings completed
April 2, 1982—Alternatives formulated
July 20, 1982—Draft EIS completed
August 1982—Public meetings
September 3, 1982—End public comment on draft
November 19, 1982—Final EIS completed

Mailing List

Anyone wishing to receive future informational mailings on the prototype oil shale leasing activities should send their name, address, and who they represent to John Singlaub at the above address.

Official BLM Contact

All request for further information should be directed to: Robert Leopold, Oil Shale Program Manager, Bureau of Land Management, Colorado State Office, 1037 20th Street, Denver, CO 80202, 303 837–5435 (commercial) 327–5435 (FTS).

Dated: February 17, 1982.

Bob Moore,

State Director.

[FR Doc. 82-4940 Filed 2-23-82; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Cape Cod National Seashore Advisory Commission; Notice of Committee Renewal

This notice is published in accordance with the provisions of Section 7(a) of the Office of Management and Budget Circular A63 (revised). Pursuant to the authority contained in Section 14(a) of the Federal Advisory Committee Act (Pub. L. 92–463), the Secretary of the Interior has determined that renewal of the Cape Cod National Seashore Advisory Committee is necessary and in the public interest.

The purpose of the committee is to advise the Secretary of the Interior on matters relating to the Cape Cod National Seashore.

The General Services Administration concurred in the renewal of this committee on February 16, 1982.

Further information regarding this committee may be obtained from Shirley M. Luikens, Advisory Boards and Commissions, National Park Service, Department of the Interior, Washington, DC 20240 (202–343–2012).

Dated: February 17, 1982.

Robert A. Ritsch,

Acting Associate Director, Recreation Resources, National Park Service.

[FR Doc. 82-4889 Filed 2-23-82; 8:45 am]

BILLING CODE 4310-70-M

Intention to Negotiate Concession Contract; Whiskeytown National Recreation Area, California

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice was given in the "Federal Register" of November 4, 1981, Vol. 46, No. 213, that the National Park Service is proposing to negotiate a concession contract with Thomas and Suzan Jaharis, d.b.a. Oak Bottom Marina, authorizing them to continue to provide food service, general merchandising, and marina facilities and services for the public at Whiskeytown National Recreation Area, California for a period of six (6) years from January 1, 1981, through December 31, 1986.

All interested parties were to submit their proposals on or before December 4, 1981. However, it has been decided to increase the proposed contract term from six (6) years to eleven (11) years from January 1, 1981, through December 31, 1991, in recognition of the need for additional capital expenditures to improve the floating docks and facilities. As a result of this material amendment of the original terms and conditions of the proposed new contract, the notice of intent to negotiate a concession contract is hereby readvertised for a period of thirty (30) days so that interested parties may submit proposals on the proposed contract negotiation, as amended.

To be considered and evaluated, all proposals must be postmarked or hand carried to the Regional Director, Western Region, National Park Service, 450 Golden Gate Avenue, Box 36063, San Francisco, California 94102, on or before March 26, 1982.

Interested parties should contact the Regional Director at the foregoing address for information regarding the requirements of the proposed contract.

Dated: February 4, 1982.

W. Lowell White,

Acting Regional Director, Western Region.

[FR Doc. 82-4891 Filed 2-23-82; 8:45 am]

BILLING CODE 4310-70-M

Pictured Rocks National Lakeshore Advisory Commission; Notice of Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Pictured Rocks National Lakeshore Advisory Commission will be held on Saturday, March 20, 1982, at 2:00 p.m. (EST), in the Superior Room of the Munising Community Building, Munising, Michigan.

The Commission was established by the Act of October 15, 1966, 80 Stat. 922, 16 U.S.C. 460s–3, to meet and consult with the Secretary of the Interior on matters relating to the administration and development of the Pictured Rocks National Lakeshore.

The members of the Commission are as follows:

Mr. Glenn C. Gregg (Chairman), Mr. James Mueller, Mr. James Becker, Mr. Lawrence L. Lemanski, Mr. Thomas E. Hunson

Matters to be discussed at this meeting include:

1. Lakeshore operational and facility improvement objectives for 1982.

2. Actions on December 18, 1981, Advisory Commission resolutions.

3. Leo Gariepy recognition ceremony at 3:30 p.m. (e.s.t.), Munising Falls Visitor Center, Munising, Michigan.

This will be the final meeting of the Pictured Rocks National Lakeshore Advisory Commission, which by law terminates this year. The meeting will be open to the public. Any member of the public may file with the Commission prior to the meeting a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact Grant A. Petersen, Superintendent, Pictured Rocks National Lakeshore, P.O. Box 40, Munising, Michigan 49862, telephone 906–387–2607.

Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the Pictured Rocks National Lakeshore Headquarters at Sand Point, 4 miles east of Munising, Michigan.

Dated: February 10, 1982.

Randall R. Pope,

Acting Regional Director, Midwest Region.

[FR Doc. 82-4630 Filed 2-23-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 ICC 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: February 19, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

MC-F-14789, filed January 20, 1982. SCHMIDT TRUCKING, INC. (Schmidt) (502 East 8th St., Garner, IA 50438)—PUR (P)—T.F.S., INC. (TFS) (R.R. 2, South Hwy 281, P.O. Box 128, Grand Island, NE 68801). Representatives: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402, and A. J. Swanson, 226 No. Phillips Ave., Suite 210, P.O. Box 1103, Sioux Falls, SD 57101. Schmidt seeks to purchase a portion of the interstate operating rights of TFS. Roger L. Schmidt controls Schmidt and seeks authority to control the involved operating rights through the transaction. The authority to be purchased authorizes common carrier operations, over irregular routes, and is contained in (a) Certificate No. MC-145743 (Sub-No. 3) which authorizes the transportation of *frozen onion products and frozen mushrooms*, and *materials, equipment and supplies* used in the manufacture of those commodities, between the facilities of Delicious Foods Co. at or near Grand Island, Hastings and Lincoln, NE, on the one hand, and, on the other points in the United States (except AK and HI); (b) that portion of Certificate No. MC-145743 (Sub-No. 25) which authorizes the transportation of *frozen inedible meat*, from Salt Lake City and Ogden, UT and Boise, Idaho Falls, and Twin Falls, ID, to points in CA, OR, WA, CO, KS, MO, NE, IA, AZ, WI, MI, IL, OH, and IN, and *animal and poultry feed* (except liquid), from Ogden, UT to points in CA, OR, WA, CO, KS, MO, NE, IA, AZ, MN, WI, ND, SD, MI, IL, OH, and IN; and (c) that portion of Certificate No. MC-145743 (Sub-No. 27) which authorizes the transportation of canned goods, from Plymouth, IN, to points in IA, NE, ND, SD, and points in that part of MN on and south of U.S. Hwy 12 (except points in the St. Paul-Minneapolis, MN, commercial zone). Schmidt is presently authorized to conduct operations as a contract carrier under Permit No. MC-149321 on behalf of Certain-Teed/Daymond Company of Ann Arbor, MI.

Note.—The application as filed erroneously identified the numerical designation assigned to Schmidt's presently held operating authority and improperly described the authority as that of a common carrier.

MC-F-14790, filed January 27, 1982. BERMAN'S MOTOR EXPRESS, INC. (Berman's) (P.O. Box 1556, Binghamton, NY 13902)—PURCHASE—NEALON TRUCKING, INC. (Nealon) (P.O. Box 1671, Binghamton, NY 13902). Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Berman's seeks to purchase all the operating rights, of Nealon. Samuel Berman, Jacob Berman, and Vivian Berman control Berman's through stock ownership and management. The authority to be purchased is contained in Certificates No. MC-40640 and sub-number (2) and (5) thereunder which authorize transportation over irregular routes of (a) General Commodities, with exceptions, between Binghamton, NY, and points within 10 miles of Binghamton; (b) *Iron and Steel Articles*, between points in NY, on the one hand, and on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, and VT; and (c) *Building Boards, Wall Boards or Insulating Boards*, from points in Bradford County, PA, to points in CO, DE, ME, MD, MA, NH, NY, NJ, OH, RI, VT, VA, WV and DC. Berman is presently authorized to operate in the states of NY, PA, MA, CT, RI, NH, VT and ME.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-4634 Filed 2-23-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate and applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP3-028

Decided: February 17, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 1485 (Sub-16), filed February 8, 1982. Applicant: SCHROLL TRANSPORTATION, INC., 360 Governor St., East Hartford, CT 06108. Representative: Gerald A. Joseloff, 410 Asylum St., Hartford, CT 06103, (203) 728-0700. Transporting *food and related products*, between points in ME, NH, VT, CT, MA, RI, NY, NJ, and PA.

MC 9644 (Sub-16), filed February 8, 1982. Applicant: HAYES TRUCK LINES, INC., 1410 Intercity Trafficway, P.O. Box 4018, Kansas City, MO 64101. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244-2329. Transporting *food and related products* between the facilities of Hunt-Wesson Foods, Inc., at or near Independence, MO, on the one hand, and, on the other, points in IL and NE.

MC 31024 (Sub-41), filed February 8, 1982. Applicant: NEPTUNE WORLD WIDE MOVING, INC., 55 Weyman Ave., New Rockelle, NY 10805. Representative: S. S. Eisen, 370 Lexington Ave., New York, NY 10017, (212) 532-5100. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Eastman Kodak Company, of Rochester, NY.

MC 52704 (Sub-296), filed February 10, 1982. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, 2200 Century Parkway, Suite 202, Altanta, GA 30345, (404) 321-1765. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 67234 (Sub-46), filed February 5, 1982. Applicant: UNITED VAN LINES, INC., One United Dr., Fenton, MO 63026, (314) 343-3900. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727-0777. Transporting *house goods*, between points in the U.S., under continuing contract(s) with General Electric Company, of San Jose, CA, and its subsidiaries, Calma Company, of Milpitas, CA, and Intersil, Inc., of Cupertino, CA.

MC 67234 (Sub-47), filed February 5, 1982. Applicant: UNITED VAN LINES, INC., One United Dr., Fenton, MO 63026, (314) 343-3900. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727-0777. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Texas Instruments Incorporated, of Attleboro, MA.

MC 99984 (Sub-3), filed February 8, 1982. Applicant: E. F. SEMAS TRUCKING, INC., 570 Somerset Ave., Taunton, MA 02780. Representative: James F. Martin, Jr., 8 W. Morse Rd., Bellingham, MA 02019, (617) 966-2093. Transporting (1) *petroleum products*, between points in Norfolk, Suffolk, Middlesex, Bristol, and Essex Counties, MA, Cumberland County, ME, Rockingham County, NH, Providence and Newport Counties, RI, Hartford and New Haven Counties, CT, on the one hand, and, on the other, points in MA, CT, NJ, VT, RI, and ME, and (2) *road building materials*, between points in MA, RI, and NH.

MC 101134 (Sub-9), filed February 8, 1982. Applicant: ARO COACHES, INC., 107 South Wood Ave., Linden, NJ 07036. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., NW., Washington, DC 20005, (202) 783-9525. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter operations, between points in the U.S., under continuing contract(s) with Allied Bus Corp., d/b/a Allied Tours, of New York, NY.

MC 105154 (Sub-14), filed February 9, 1982. Applicant: TETON STAGE LINES, INC., 1425 Lindsay Blvd., Idaho Falls, ID 83402. Representative: Timothy R. Stivers, P.O. Box 1578, Boise, ID 83701, (208) 343-3071. Transporting *passengers and their baggage*, in special and charter operations, between points in the U.S., under a continuing contract(s) with Up With People, Inc., of Tucson, AZ.

MC 128154 (Sub-1), filed February 8, 1982. Applicant: RICHARD McCURRIE TEAMING COMPANY, 1443 W. 41st St., Chicago, IL 60609. Representative: Stephen H. Loeb, Suite 2027, 33 N. LaSalle St., Chicago, IL 60602, (312) 726-

9722. Transporting *food and related products*, between Chicago, IL, on the one hand, and, on the other, points in IA, IN, MI, and WI.

MC 140615 (Sub-69), filed February 10, 1982. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Terrance D. Jones, 2033 K St., N.W., Washington, DC 20006, (202) 223–6270. Transporting (1) *food and related products*, and (2) *chemicals and related products*, between points in CO, CT, IN, IL, IA, KS, MD, MA, MI, MN, MO, NE, NJ, NY, OH, OK, PA, TX, VA, WI, and DC.

MC 141334 (Sub-1), filed February 1, 1982. Applicant: GREEN VENEER, INC., YOUNG & MORGAN, INC., NORTH SANTIAM PLYWOOD CO., NORTHWEST WOOD PRODUCTS, INC., and X L TIMBER CO., d.b.a. YOUNG & MORGAN TRUCKING CO., a partnership, P.O. Box 377, Mill City, OR 97360. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 228–3755. Transporting *lumber and wood products*, between points in OR, WA, and CA, on the one hand, and, on the other, points in the U.S.

MC 141334 (Sub-2), filed February 6, 1982. Applicant: GREEN VENEER, INC., YOUNG & MORGAN, INC., NORTH SANTIAM PLYWOOD CO., NORTHWEST WOOD PRODUCTS, INC., and X L TIMBER CO., d.b.a. YOUNG & MORGAN TRUCKING CO., P.O. Box 377, Mill City, OR 97360. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 228–3755. Transporting *machinery*, between points in OR, WA, MT, ID, and those points in CA, in and north of Santa Cruz, Santa Clara, Stanislaus, Calaveras, Amador, and El Dorado Counties, CA.

MC 144464 (Sub-1), filed February 5, 1982. Applicant: AVENTOURS TRAVEL, LTD., 801 Second Ave., New York, NY 10017. Representative: Robert M. Hausman, 1747 Pennsylvania Ave., N.W., Washington, DC 20006, (202) 785–9773. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at Boston, MA, San Francisco and Los Angeles, CA, Miami, FL, Chicago, IL, Las Vegas, NV, Houston, TX, New Orleans, LA, Salt Lake City, UT, Seattle, WA, Denver, CO, Washington, DC, and points in NY, NJ, PA, and CT, and extending to points in the U.S.

MC 145845 (Sub-2), filed February 4, 1982. Applicant: RAYMOND W. PAYNE, d.b.a. PAYNE BUS SERVICE, Route 1, Box 122, Beaverdam, VA 23015. Representative: Leonard A. Jaskiewicz, 1730 M St., N.W., Washington, DC 20036, (202) 296–2900. Transporting *passengers and their baggage*, in round-trip charter and special operations, between points in Stafford, Culpeper, and Spotsylvania Counties, VA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146184 (Sub-5), filed February 5, 1982. Applicant: RUSS TAYLOR TRUCKING, INC., Route 6, Box 161, Watertown, WI 53094. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273–1003. Transporting *malt beverages*, between points in the U.S. under continuing contracts with (a) Blase Distributing Co., of Watertown, WI, (b) Blue Ribbon Sales, Inc., Of Oconomowoc, WI, (c) Osborn Distributing Co., Inc., of Delavan, WI, (d) R & S Distributing Co., Inc., of Watertown, WI, and (e) Wunrow Distributing Co., Inc., of Beaver Dam, WI.

MC 146184 (Sub-6), filed February 8, 1982. Applicant: RUSS TAYLOR TRUCKING, INC., Route 6, Box 161, Watertown, WI 53094. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273–1003. Transporting *malt beverages*, between points in the U.S., under continuing contract(s) with Cold Spring Brewing Co., of Cold Spring, MN.

MC 146464 (Sub-13), filed February 4, 1982. Applicant: NEVADA GENERAL TRANSPORTATION, INC., 11560 So. State, Draper, UT 84020. Representative: Carl I. Sundeaus (same address as applicant), (801) 572–4440. Transporting (1) *textile mill products and leather and leather products*, between points in the U.S., on the one hand, and, on the other, points in Utah County, UT, (2) *transportation equipment* between points in IA and OK, on the one hand, and, on the other, points in UT and NV, (3) *rubber and plastic products*, between points in UT, on the one hand, and, on the other, points in CO, CA, ID, MT, NV and WY, (4) *such commodities* as are dealt in by retail and discount stores, between points in the U.S. (except ND, NM, SD and WY), on the one hand, and, on the other, points in Salt Lake and Utah Counties, UT, (5) *lumber and wood products*, between points in CA, ID, MT, OR, UT and WA, on the one hand, and, on the other, those points in and west of KS, NE, ND, SD and TX, (6) *building materials and metal products*, between points in CA, ID, FL, MT, MO, UT and WY, on the one hand, and, on the other, those points in and west of ND, SD, CO and NM, (7) *food and related products*, between points in CA, on the one hand, and, on the other, points in the U.S., (8) *ores, minerals, mill products, mining, milling and oil field materials and supplies*, between those points in the U.S. in and west of AR, IA, LA, MN, MO and OK, (9) *chemicals and related products*, between points in Los Angeles County, CA, on the one hand, and, on the other, points in AZ, CT, IL, MS, OH, OR, TX and WA and (10) *metal products*, between Reno, NV, Van Buren, AR and points in Floyd County, GA, on the one hand, and, on the other, points in the U.S.

MC 146965 (Sub-18), filed February 8, 1982. Applicant: MIDWEST EASTERN TRANSPORT, INC., 731 South Main St., P.O. Box 1614, Elkhart, IN 46515. Representative: Phillip A. Renz, Suite 200—Metro Bldg., Fort Wayne, IN 46802, (219) 423–3566. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Economic Laboratories, Inc., of St. Paul, MN.

MC 147494 (Sub-9), filed February 10, 1982. Applicant: BOBBY KITCHENS, INC., P.O. Box 5690, Jackson, MS 39208. Representative: Donald B. Morrison, P.O. Box 22828, Jackson, MS 39205, (601) 948–6620. Transporting *building materials*, (1) between New Orleans, LA, on the one hand, and, on the other, points in Boone County, IL, Hinds, Madison, and Rankin Counties, MS, Union County, NJ, and Salt Lake City, UT, and (2) between points in Hinds, Rankin, and Madison Counties, MS, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IA, KS, KY, LA, MI, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VT, VA, and DC.

MC 150795, filed February 5, 1982. Applicant: HERBERT HEFFNER, INC., R.D. 2, Box 456, Reading, PA 19605. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., N.W., Washington, DC 20005, (202) 296–3655. Transporting *sand, clay, concrete or stone products*, between points in PA, NJ, DE, and MD.

MC 151785 (Sub-4), filed February 9, 1982. Applicant: CONTRACT CARTAGE CORPORATION, 1104 Merridale Blvd., Mount Airy, MD 21771. Representative: Elliott Bunce, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, (703) 522–0600. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, AZ, AR, CA, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NV, NJ, NY, NC, OH, OK, OR, PA, RI, SC, TN, TX, UT, VA, WA, WV, WI, WY, and DC.

MC 152804 (Sub-2), filed February 4, 1982. Applicant: SUNBELT TRANSPORT, INC., P.O. Box 20453, Atlanta, GA 30325. Representative: Robert L. Cope, Suite 501, 1730 M St., NW., Washington, DC 20036, (202) 296–2900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in FL, LA, MS, AL, GA, NC, SC and TN, on the one hand, and, on the other, points in the U.S.

MC 154445, filed February 4, 1982. Applicant: JAMES P. McGEEHAN, d.b.a. B & J TRUCKING, 28480 Gene St., Hemet, CA 92343. Representative: James P. McGeehan (same address as applicant), (714) 658–1654. Transporting *mobile homes*, between points in CA, AZ and NV.

MC 158285, filed February 4, 1982. Applicant: THERMO-MATIC CORP., P.O. Box 640, Cobleskill, NY 12043. Representative: Harold O. Orlofske, 145 W. Wisconsin Ave., P.O. Box 366, Neenah, WI 54956, (414) 722–2848. Transporting (a) *such commodities* as are dealt in or used by distributors, manufacturers and fabricators of stoves, furnaces and boilers, between points in the U.S. under continuing contract(s) with National Stove Works of Cobleskill, NY, (b) *such commodities* as are dealt in or used by distributors and wholesalers of coal and/or wood burning stoves, between points in the U.S. under continuing contract(s) with Le Fleur Distributing of Grand Rapids, MI, (c) *such commodities* as are dealt in or used by chimney relining supply firms, between points in the U.S. under continuing contract(s) with American Supafiu Systems, Inc. of Grand Rapids, MI and (d) *such commodities* as are dealt in or used by chimney relining and chimney relining supply companies, between points in the U.S. under continuing contract(s) with National Supafiu Systems, Inc. of Cobleskill, NY.

MC 160415, filed February 4, 1982. Applicant: BERNIE F. BREWSTER, d.b.a. BREWSTER TOURS, 800 N. High St., Columbus, OH 43215. Representative: Langdon D. Bell, 21 E. State St., Columbus, OH 43215, (614) 228–0704. As a *broker*, at Columbus, OH, in arranging for the transportation of *passengers and their baggage*, beginning and ending at points in OH, and extending to points in the U.S.

MC 160435, filed February 5, 1982. Applicant: BENJAMIN R. SNIPES, d.b.a. SNIPES TRANSPORTATION CO., Route 4, Riverside Rd., Lancaster, SC 29720. Representative: A. W. Flynn, Jr., 314 S. Eugene St., P.O. Box 180, Greensboro, NC 27402, (919) 273–1912. Transporting *building materials* and *iron and steel articles*, between those points in the U.S. in and east of NM, IA, MO, AR, and LA.

MC 160475, filed February 8, 1982. Applicant: VERNON DEATON, d.b.a. DEATON'S TRUCKING, Route 3, Box 86, Somerset, KY 42501. Representative: Robert H. Kinker, 314 W. Main St., P.O. Box 464, Frankfort, KY 40602, (502) 223–8244. Transporting (1) *rubber and plastic products*, between points in Rockcastle County, KY, on the one hand, and, on the other, points in the U.S., and (2) *lumber and wood products*, between points in Lincoln County, KY, on the one hand, and, on the other, points in the U.S.

MC 160465, filed February 8, 1982. Applicant: SOUTHERN MERCHANTS, INC., 13–26 3rd St., Fairlawn, NJ 07410. Representative: Morton E. Kiel, Two World Trade Center, Suite 1832, New York, NY 10048–0640, (212) 466–0220. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Ply Gem Industries, Inc., of New York, NY, Athenia Mason Supply, Inc., of Clifton, NJ, and Pacific Wood Products Co., of Carson, CA.

MC 158234 (Sub-3), filed January 7, 1982, and previously noticed in the Federal Register issue of January 22, 1982. Applicant: PACIFIC MOTOR TRANSPORT, INC., 13120 Tilly Rd., So., Olympia, WA 98502. Representative: George H. Hart, 1100 IBM Bldg., Seattle, WA 98101, (206) 624–7373. Transporting *lime*, in bulk, between Portland, OR, and ports of entry on the international boundry line between the U.S. and Canada at points in WA, on the one hand, and, on the other, points in WA and OR.

Note.—The purpose of this republication is to correctly reflect the territorial description.

Volume No. OP4–59

Decided: February 18, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 107496 (Sub-1286), filed February 8, 1982. Applicant: RUAN TRANSPORT CORPORATION, P.O. Box 855, Des Moines, IA 50304. Representative: Kenneth L. Kessler, P.O. Box 855, Des Moines, IA 50304, (515) 245–2725. Transporting *building materials*, between points in IA, ND, SD, WI and MN.

MC 136246 (Sub-52), filed February 8, 1982. Applicant: GEORGE BROS., INC., P.O. Box 462, Sutton, NE 68979. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, (402) 397–7033. Transporting *irrigation systems, machinery, and metal products*, between point in Clay County, NE, on the one hand, and, on the other, points in the U.S.

MC 138108 (Sub-3), filed February 8, 1982. Applicant: TIDWELL MOTOR CARRIERS, INC., Route 5, P.O. Box 839, Haleyville, AL 35565. Representative: Robert J. Birnbaum, 3636 Executive Center Drive, Suite 151, Austin, TX 78731, (512) 346–4900. Transporting *trailers, buildings, in sections, and modular homes* between points in the U.S. (except AK and HI), under continuing contract(s) with Tidwell Industries, Inc., of Haleyville, AL.

MC 143776 (Sub-44), filed February 8, 1982. Applicant: C.D.B., INCORPORATED, 155 Spaulding Ave., S.E., Grand Rapids, MI 49506. Representative: C. Michael Tubbs, 155 Spaulding Ave., S.E., Grand Rapids, MI 49506, (800) 253–0527. Transporting *general commodities* (except household goods, commodities in bulk, and classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with NL Chemicals/NL Industries, Incorporated, of Hightstown, N.J.

MC 143776 (Sub-25), filed February 4, 1982. Applicant: AMERICAN INDUSTRIAL TRANSPORTATION, INC., Box 1416, Highway 259 South, Henderson, TX 75652. Representative: Hugh T. Matthews, 555 Griffin Square, Suite 850, Dallas, TX 75202, (214) 742–9175. Transporting *metal products, machinery, commodities* which because of their size or weight require the use of special handling or equipment and *Mercer commodities*, between points in CT, NY, NJ, PA and DE, on the one hand, and, on the other, points in the U.S. (except HI).

MC 143776 (Sub-43), filed February 4, 1982. Applicant: C.D.B., INCORPORATED, 155 Spaulding Ave., S.E., Grand Rapids, MI 49506. Representative: C. Michael Tubbs, 155 Spaulding Ave., S.E., Grand Rapids, MI 49506, (800) 253–0527. Transporting *such commodities* as are dealt in or used by manufacturers of pet supplies and animal feed supplements, between points in the U.S., under continuing contract(s) with Superior Pet Products, Inc., of Boston, MA.

MC 147196 (Sub-34), filed February 8, 1982. Applicant: ECONOMY TRANSPORT, INC., P.O. Box 10566, Jefferson, LA 70181–0566. Representative: Fletcher W. Cochran, P.O. Box 741, Slidell, LA 70459, (504) 643–1700. Transporting *general*

commodities (except classes A and B explosives), between points in the U.S., under continuing contract(s) with W. R. Zanes & Co. of LA, Inc., of New Orleans, LA; The Irwin Brown Company, of New Orleans, LA; George William Rueff, Inc., of New Orleans, LA; and Robert W. Cisco, of New Orleans, LA.

MC 148328 (Sub-5), filed February 8, 1982. Applicant: THIES TRANSPORTATION, INC., P.O. Box 49, Great Bend, KS 67530. Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601, (913) 234–0565. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with MBPXL Corporaton, of Wichita, KS.

MC 149576 (Sub-6), filed February 5, 1982. Applicant: TRANS-AMERICAN TRUCKING SERVICE, INC., Box 1247, Nixon Station, Edison, NJ 08818. Representative: Ronald McGraw (same address as applicant), (201) 985–2182. Transporting *construction machinery*, between points in the U.S., under continuing contract(s) with Dynapac Manufacturing, Inc., of Stanhope, NJ.

MC 150606 (Sub-7), filed February 8, 1982. Applicant: WECO, INC., 500 Scott St., P.O. Box 5128, Kansas City, KS 66119. Representative: Eric W. Francis, 719 Capitol Federal Bldg., Topeka, KS 66603, (913) 232–0601. Transporting *machinery* between points in the U.S. (except AK and HI), under continuing contract(s) with Colt Industries, Inc., of Pittsburgh, PA.

Volume No. OP4–88

Decided: February 18, 1982.

By the Commission, Review Board No. 2, members Carleton, Fisher, and Williams.

MC 37896 (Sub-57), filed February 12, 1982. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Charles Ephraim, 406 World Center Bldg., 918 16th St., N.W., Washington, DC 20006, (202) 833–1170. Transporting *drugs, medicines and toilet preparations*, between points in the U.S., under continuing contract(s) with Whitehall Laboratories, Division of American Home Products Corporation, of New York, NY.

MC 15546 (Sub-5), filed February 12, 1982. Applicant: KIRCHWEHM BROS. CARTAGE CO., INC., 1700 W. Carroll Ave., Chicago, IL 60612. Representative: Ronald C. Kirchwehm (same address as applicant), (312) 226–1433. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with the Larsen Company, of Green Bay, WI.

MC 156056, filed February 9, 1982. Applicant: DWIGHT & GLENNA LEFNER D & G EXPRESS, P.O. Box 804, Bethel, AK 99559. Representative: Dwight Stephen Lefner (same address as applicant), (907) 543–2345. Transporting *general commodities* (except classes A and B explosives), between points in AK.

MC 160526, filed February 10, 1982. Applicant: DONS CLUB, 201 N. Central Ave., Phoenix, AZ 85004. Representative: Anthony L. Samson (same address as applicant), (602) 959–3256. To operate as a *broker*, at Phoenix, AZ, in arranging for the transportation of *passengers and their baggage*, between points in AZ, on the one hand, and, on the other, points in CA, UT, NV, CO, AZ, and ports of entry on the International Boundary line between the U.S. and the Republic of Mexico.

Volume No. OP5–36

Decided: February 12, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 114848 (Sub-69), filed January 29, 1982. Applicant: WHARTON TRANSPORT CORPORATION, P.O. Box 13068, Memphis, TN 38113. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205, (601) 355–3543. Transporting *kaolin, feldspar, talc, and silica*, between points in Alachua County, FL, Mitchell County, NC, and Nassau County, NY, on the one hand, and, on the other, points in Chesterfield County, SC.

MC 116328 (Sub-4), filed February 1, 1982. Applicant: CROSS & MURRAY, INC., 710 Third Ave., No., Minneapolis, MN 55403. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282–3525. Transporting *liquid sugar and corn syrup* between points in Linn County IA, on the one hand, and, on the other, points in Woodbury County, IA, and points in NE and SD.

MC 123978 (Sub-3), filed February 1, 1982. Applicant: RICHEY & STEWART, INC., P.O. Box 285, Scottsburg, IN 47170. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *malt beverages* between St. Louis, MO, on the one hand, and, on the other, points in Scott County, IN.

MC 134369 (Sub-22), filed February 1, 1982. Applicant: CARLSON TRANSPORT, INC., P.O. Box R, Byron, IL 61010. Representative: Allan C. Zuckerman, 29 So. LaSalle St., Chicago, IL 60603, (312) 236–9375. Transporting *ores and minerals* between points in Valley and Richland Counties, MT, and points in WY, on the one hand, and, on the other, points in the U.S.

MC 138218 (Sub-4), filed January 25, 1982. Applicant: MID-CITY FREIGHT LINES, INC., Route 1, Sibley, MO 64088. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105–1961, (816) 221–1464. Transporting *vending machines* and *vending machine parts* between points in Fresno County, CA, on the one hand, and, on the other, points in IL, IA, KS, and MO.

MC 147228 (Sub-5), filed January 18, 1982. Initially published in the **Federal Register** on February 9, 1982. Applicant: ROBERT D. BOWHAY, d.b.a. BOWHAY TRUCK LINE, P.O. Box 150, Summerfield, KS 66541. Representative: Donald L. Stern, Suite 610, 7170 Mercy Rd., Omaha, NE 68106, (402) 392–1220. Transporting *metal and metal products* between points in Lancaster County, NE, on the one hand, and, on the other, points in IA, SD, ND, KS, WY, CO, MO, AR, OK, IL, and IN.

Note.—This application is republished to include the State of IN.

MC 150909 (Sub-1), filed January 20, 1982. Applicant: ROBERT B. HEBERT AND REGINALD L. HEBERT, d.b.a. HEBERT BROS., R.F.D. Box 61, Madawaska, ME 04756. Representative: John C. Lightbody, 30 Exchange Street, Portland, ME 04101, (207) 773–5651. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Fraser Paper, Limited, of Madawaska, ME.

MC 152969, filed February 1, 1982. Applicant: MOBILE EXPRESS, INC., 6000 Gum Springs Rd., P.O. Box 8167, Longview, TX 75607. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255–6279. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in the U.S. under continuing contract(s) with Wal-Mart Stores, Inc.

MC 153838, filed January 15, 1982. Applicant: THE DERBY DELIVERY SERVICE, INC., 518 E. Marion St., Mishawaka, IN 46544. Representative: Alex Moore, (same address as applicant), (219) 259–1906. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S., under continuing contract(s) with Amway Corporation of Ada, MI.

MC 156348 (Sub-1), filed February 2, 1982. Applicant: GREEN ARRO, 2029 S. 19th, Tacoma, WA 98405. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055, (206) 235–1111. Transporting *general commodities* in containers (except classes A and B explosives and commodities in bulk), between Seattle, WA, portland, OR, and points in Contra Costa, Alameda, Santa Clara, San Mateo, and San Francisco Counties, CA.

MC 157666, filed February 1, 1982. Applicant: B & S HAULING COMPANY, Rt. 1, P.O. Box 268, Wapakoneta, OH 45895. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *plastic articles, packaging materials, and water*, between facilities used by Absopure/Plastipak Division, Beatrice Foods Co., at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 158389 (Sub-1), filed January 15, 1982. Applicant: JAMES C. CHILSON, d.b.a. INLAND DISTRIBUTORS, N. 4215 Willow Road, Spokane, WA 99206. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009, (206) 453–0312. Transporting *machinery, machinery parts, commodities which because of size or weight require special equipment, building materials, iron and steel articles, aluminum articles*, and *pipe*, between points in WA, ID, OR, MT, NV, UT, CO, CA, and WY.

MC 158739, filed October 28, 1981. Originally published in the **Federal Register** on November 10, 1981. Applicant: JIM RUSHING TRUCKING, INC., RT #4, P.O. Box 177, Union City, TN 38281. Representative: Ronald M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219, (615) 244–6100. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Kinkead Industries, Inc. of Downers Grove, IL.

Note.—This application is republished to show general commodities in lieu of commodities in bulk.

Volume No. OP 5–37

Decided: February 16, 1982.

By the Commission, review Board No. 3, Members Krock, Joyce, and Dowell.

MC 75369 (Sub-1), filed February 5, 1982. Applicant: ST. PAUL & SUBURBAN BUS CO., INC., 2868 White Bear Avenue, St. Paul, MN 55109. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Edina, MN 55424, (612) 927–8855. Transporting *passengers and their baggage* in same vehicle with passengers, in charter and special operations, between points in Bayfield, Ashland, Sawyer, Douglas and Washington Counties, WI, and MN, on the one hand, and, on the other, points in the U.S.

MC 106066 (Sub-13), filed February 4, 1982. Applicant: WM. O. HOPKINS, INC., RR #1, Box 16–A, Rensselaer, IN 47978. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603, (312) 236–8375. Transporting *food and related products*, between points in IN and OH.

MC 107638 (Sub-8), filed February 5, 1982. Applicant: EVERGREEN TRAILS, INC., d.b.a. EVERGREEN TRAILWAYS, 666 Stewart St., Seattle, WA 98101. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *passengers and their baggage* in the same vehicle with passengers between points in OR, WA, and ID, under continuing contract(s) with Alaska Tour & Marketing Services, Inc. of Seattle, WA.

MC 135989 (Sub-38), filed February 8, 1982. Applicant: COAST EXPRESS, INC., 14280 Monte Vista Ave., Chino, CA 91710. Representative: William J. Lippman, Steele Park, Suite 588, 50 South Steele St., Denver, CO 80209, (303) 322–0600. Transporting *food and related products*, between points in the U.S. under continuing contract(s) with Lamb-Weston, Inc. of Portland, OR.

MC 136379 (Sub-4), filed February 3, 1982. Applicant: JAY WATERS, INC., 1529 North Broadway, Everett, WA 98201. Representative: Gregory S. Prentice (same address as applicant), (206) 252–1005. Transporting (1) *pulp, paper, and related products*,(2) *lumber and wood products*, and (3) *food and related products*, between points in WA on the one hand, and, on the other, points in CA and AZ.

MC 146589 (Sub-5), filed February 4, 1982. Applicant: REGIONAL TRANSPORTATION CO., INC., 600 Secaucus Road, Secaucus, NJ 07094. Representative: Herbert S. Ziechkau III, 7 Corporate Park Drive, White Plains, NY 10604, (914) 694–1414. Transporting *such commodities* as are dealt in by retail department stores, between points in the U.S., under continuing contract(s) with Allied Stores Marketing Corp., of New York, NY.

MC 154878 (Sub-2), filed February 8, 1982. Applicant: HAYNES MOTOR LINES, INC., 8475 Florida Blvd., Baton Rouge, LA 70806. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205, (601) 948–5711. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in AL, LA, and MS.

MC 155118 (Sub-3), filed February 8, 1982. Applicant: T.D.S. TRANSPORTATION, INC., 1700 South Wolf Rd., Des Plaines, IL 60018. Representative: H. Barney Firestone, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603, 312–263–1600. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in the U.S. under continuing contract(s) with Teters Floral Products Inc. Bolivar, MO., and National Presto Industries, Inc. of Eau Claire, WI.

MC 155879 (Sub-1), filed February 4, 1982. Applicant: KEYSTONE EXPRESS, INC., 301 Crescent St., Scottdale, PA 15683. Representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15219, 412–471–1800. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 160369, filed February 1, 1982. Applicant: OSENGA TRANSPORT SYSTEM, INC., 182 West 155th St., South Holland, IL 60473. Representative: James C. Hardman, 33 No. LaSalle St., Chicago, IL 60602, 312–236–5944. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with South Holland Metal Finishing Co., Inc. of South Holland, IL.

MC 160406, filed February 4, 1982. Applicant: NIXON LEASING, 1060 Viking Ct., Batavia, IL 60510. Representative: Dan Nixon (same address as applicant), 312–879–2763. Transporting *plastic products*, between points in the U.S under continuing contract(s) with Handi-Kup Co., Inc. of West Chicago, IL and Metuchen, NJ.

MC 160428, filed February 5, 1982. Applicant: NORMA M. SKEELS, d.b.a. SKEELS TOURS, 1622 Ridgecrest Ave., Burlington, NC 27215. Representative: Norma M. Skeels (same address as applicant), (919) 228–3031. To operate as a *broker* at Burlington, NC, in arranging for the transportation of *passengers and their baggage*, in special and charter operations, between points in NC, SC, and GA, on the one hand, and, on the other, points in the U.S.

MC 160439, filed February 5, 1982. Applicant: INTERSTATE SYSTEM STEEL DIVISION, INC., P.O. Box 412 Murrysville, PA 15668. Representative: Michael P. Zell. P.O. Box 2389, Grand Rapids, MI 49501, (616) 774–0400. Transporting *Metallic ores, lumber or wood products, pulp, paper, and related products, chemicals and related products, plastic products, clay, concrete, glass or stone products, metal products, machinery, transportation equipment,* and *optical products,* between points in the U.S.

CONDITION: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 5 Room 6370.

Volume No. OP5–30

Decided: February 17, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 31389 (Sub-334), filed February 8, 1982. Applicant: McLEAN TRUCKING COMPANY, P.O. Box 213, Winston-Salem, NC 27154. Representative: Daniel R. Simmons (same address as applicant), 919–721–2433. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Kmart Corporation of Troy, MI.

MC 113059 (Sub-15), filed February 5, 1982. Applicant: KELLER TRANSPORT, INC., Route 9 Katy Lane, Billings, MT 59101. Representative: F.E. Keller (same address as applicant), 406–656–1403. Transporting *petroleum and petroleum products,* between points in MT, ID, WY, ND, and SD.

MC 120999 (Sub-9), filed February 8, 1982. Applicant: CALIFORNIA AND WESTERN STATES AMMONIA TRANSPORT, INC. d.b.a. CALIFORNIA AMMONIA TRANSPORT, INC., 415 Lemon Ave., Walnut, CA 91789. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, 213–945–2745. Transporting *commodities in bulk* (1) between points in Los Angeles County, CA, on the one hand, and, on the other, points in UT, and (2) between points in Eddy County, NM, on the one hand, and, on the other, points in AZ.

MC 143228 (Sub-36), filed February 1, 1982. Applicant: WILLIAM R. BRAUN, d.b.a. BRAUN TRUCK SERVICE, P.O. Box 33, Hecker, IL 62248. Representative: Robert T. Lwaley, 300 Reisch Bldg., Springfield, IL 62701, 217–544–8466. Transporting *alcoholic beverages,* between points in Jackson and St. Clair Counties, IL, Jefferson and St. Genevieve Counties, MO, and Ramsey County, MN on the one hand, and, on the other, St. Louis, MO, New York, NY, Baltimore, MD, Williamsburg, VA, and points in Maricopa County, AZ, Los Angeles, San Loaquin and Solano Counties, CA, Denver County, CO, Duval and Hillsborough Counties, FL, Dougherty and Effingham Counties, GA, St. Clair County, IL, Vanderburgh County, IN, Campbell County, KY, Orleans Parish, LA, Saginaw and Somerset Counties, MI, Ramsey County, MN, Essex and Mercer Counties, NJ, Fulton County, NY, Franklin and Butler Counties, OH, Shelby County, TN, Bexar, Harris and Tarrant Counties, TX, King and Thurston Counties, WA, and La Crosse and Milwaukee Counties, WI.

MC 145468 (Sub-50), filed February 8, 1982. Applicant: KSS TRANSPORATATION CORP., Route 1 and Adams Station, P.O. Box 3052, North Brunswick, NJ 08902. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, 402–397–7033. Transporting (1) *pulp, paper and related products,* and (2) *printed matter,* between points in Prince Georges County, MD, on the one hand, and, on the other, points in the U.S.

MC 150339 (Sub-44), filed February 4, 1982. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: Stephen J. Hammer (same address as applicant), (301) 673–7151. Transporting *plastic products* between points in the U.S., under continuing contract(s) with Foamware Corporation of Wilson, NC.

MC 150679 (Sub-2), filed February 5, 1982. Applicant: MARVIN McINTOSH, 4614 So. 35th St., Omaha, NE 68107. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104, (712) 255–3127. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Midwest Animal Products, Inc., Pella Processing, Inc., Omaha Edible Oil, Inc., and Deli International of Omaha, Inc., all of Omaha, NE, Berkshire Foods, Inc., and Burke Meat, Inc., both of Chicago, IL, Serve-Rite, Inc., of Los Angeles, CA, Vowles Farm Fresh Foods, of El Cajon, CA, Clougherty Packing Co., of Vernon, CA, and Smittys of Arizona, of Phoenix, AZ.

MC 151749, filed February 5, 1982. Applicant: TRAYLOR TRUCKING, INC., 8108 Coach Drive, Oakland, CA 94605. Representative: Michael Leiden, 3391 Arden Road, Hayward, CA 94545, (415) 887–1970. Transporting *such commodities* as are dealt in by grocery and food business houses, between points in CA.

MC 152549, filed February 8, 1982. Applicant: BOB GARCIA d.b.a. B. GARCIA TRUCKING, 16234 Mallory Dr., Fontana, CA 92335. Representative: Bob Garcia (same address as applicant), 714–829–1525. Transporting *aluminum and aluminum scrap,* between Los Angeles, CA, and points in San Bernadino County, CA, on the one hand and, on the other, points in the U.S. under continuing contract(s) with U.S. Reduction Company of Fontana, CA.

MC 153949 (Sub-1), filed February 8, 1982. Applicant: ASSEMBLY AND DISTRIBUTION TERMINALS OF MASSACHUSETTS, INC., 2800 North Going St., Portland, OR 97217. Representative: Joseph T. Bambrick, Jr., P.O. Box 216, Douglasville, PA 19518, 215–385–6066. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. under continuing contract(s) with General Nutrition Corporation of Pittsburgh, PA.

MC 154116 (Sub-2), filed February 5, 1982. Applicant: ANDERSON & JOURGENSEN TRUCK LINE, INC., P.O. Box 6, Ennis, TX 75119. Representative: James W. Hightower, 5801 Marvin D. Love Freeway, Suite 301, Dallas, TX 75237, (214) 339–4108. Transporting *chemicals and related products,* between points in the U.S., under continuing contract(s) with Cargill, Inc., of Carpentersville, IL.

MC 156036 (Sub-1), filed February 8, 1982. Applicant: MERLE D. SHEFFIELD, d.b.a. SHEFFIELD & GARDNER TRUCKING, P.O. Box 3469, Logan, UT 84321. Representative: Irene Warr, 311 S. State St., Suite 280, Salt Lake City, UT 84111, 801–531–1300. Transporting (1) *textile mill products,* and (2) *leather and leather products,* between points in the U.S. under continuing contract(s) with Alco Manufacturing Co. of Logan UT.

MC 157558, filed February 4, 1982. Applicant: OTTIS D. HOLWEGNER TRUCKING, P.O. Box 147, Carson, WA 98610. Representative: David A. Holwegner (same address as applicant), (509) 427–8460. Transporting *petroleum products* between points in the U.S., under continuing contract(s) with H.S.C. Logging, Inc., of Carson, WA.

MC 157848 (Sub-2), filed February 8, 1982. Applicant: O.K.T., INC., 114 Raleigh St., Hamlet, NC 28345. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180, 703–442–8330. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Campbell Soup Company, of Maxton, NC.

MC 159689 (Sub-1), filed January 27, 1982. Applicant: G. DI COSTANZO, INC., 145 Longmeadow Ave., Warwick, RI 02889. Representative: Gaetano Di Costanzo (same address as applicant), (401) 737–6705. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter operations, between points in the U.S. (except AK and HI).

MC 160379 filed February 2, 1982. Applicant: BERNARD ULINE, d.b.a. U–Line Transfer, P.O. Box 245, Spencer, OH 44427. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215, (614) 224–3161. Transporting (1) *plastic pipe, plastic conduit,* and *plastic fittings,* and (2) *materials, equipment, supplies and accessories* used in the installation of the commodities listed in (1) above, between points in the U.S., under continuing contract(s) with Carlon Division, Indianhead Incorporated, of Cleveland, OH.

MC 160448, filed February 8, 1982. Applicant: TIMOTHY R. MARTIN, 8800 Limeridge Rd., Ravenna, OH 44266. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415, 212–263–2078. Transporting *lumber and wood products,* between points in the U.S. under continuing contract(s) with Industrial Timber & Land Company of Cleveland, OH, and Norman Lumber, Inc. of Southington, OH.

MC 160449, filed February 5, 1982. Applicant: COMMERCE TRUCKING COMPANY, INC., 127 Jefferson St., Commerce, GA 30529. Representative: David L. Capps, P.O. Box 924, Douglasville, GA 30133, (404) 949–7750. Transporting *such commodities* as are dealt in by distributors of tires between points in the U.S., under continuing contract(s) with Carroll Tire Co., of Mountain View, GA, and Southeastern Tire Assoc., Inc., d.b.a. Laramie Tire Co., of Atlanta, GA.

MC 160459, filed February 8, 1982. Applicant: ROCKY MOUNTAIN EXPRESS, INC., P.O. Box 508, Gordon, NE 69343. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, 402–475–6761. Transporting *food and related products,* between points in the U.S. under continuing contract(s) with Nebraska Beef Packers, Inc. and Romo Paco, Inc., both of Gordon, NE.

MC 160478 (Sub-1), filed February 8, 1982. Applicant: B & B TRUCKING, Rt. 1, Box 126, Tremonton, UT 84337. Representative: Irene Warr, 311 South State St., Suite 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting (1) *lumber and wood products,* and (2) *furniture and fixtures,* between points in the U.S., under continuing contract(s), with La-Z-Boy Chair Company, of Tremonton, UT.

MC 160479, filed February 8, 1982. Applicant: CAL–RIDGE FREIGHT LINE, INC., 243 E. Camden, Glendora, CA 91740. Representative: Fred H. Mackensen, Suite 4150, 2029 Century Park East, Los Angeles, CA 90067, 213–879–5955. Transporting *general commodities* (except classes A and B explosives), between points in CA, AZ and NV.

MC 160488, filed February 8, 1982. Applicant: BADGER TRANSPORT, INC., Route 2, Box 75, Clintonville, WI 54929. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5066, Madison, WI 53705–0066, 608–238–3119. Transporting (1) *metal products,* between points in Brown and Waupaca Counties, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *machinery* and *transportation equipment,* between points in Waupaca County, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160498, filed February 8, 1982. Applicant: LORD & WYMAN TRANSPORTATION, INC., d.b.a. L & W TRANSPORTATION, INC., Route 130 & Cooper St., P.O. Box 206, Beverly, NJ 08010. Representative: Robert B. Einhorn, 3220 P.S.F.S. Bldg., 12 South 12th St., Philadelphia, PA 19107, 215–922–1400. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in CT, NY, NJ, PA, DE, MD, VA, and DC.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-4885 Filed 2-23-82; 8:45 am]
BILLING CODE 7035-01-M

[Decision Vol. OP3–031]

Motor Carriers; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broaden grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this Federal Register notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 136814 (Sub-6) (republication), filed August 5, 1981, published in the Federal Register issue of August 26, 1981, and republished this issue. Applicant: MATLOCK TRANSPORTATION, INC., 585 E. Redlands Blvd., San Bernardino, CA 92408. Representative: Richard C. Celio, 2300 Camino Del Sol, Fullerton, CA 92633. A Decision by the Commission, Division 2, Acting as an Appellant Division, decided February 3, 1982, and served February 9, 1982, finds that the performance by applicant of the service will serve a useful public purpose, responsive to a public demand or need to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pulp, paper, and related products,* (2) *printed matter,* (3) *rubber and plastic products,* and (4) *such commodities* as are dealt in or used by the publishing or printing industry, between points in the United States (except Alaska and Hawaii): That applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to reflect applicant's actual grant of authority.

By the Commission.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-4886 Filed 2-23-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte 387 (Sub-82)]

Rail Carriers; Union Pacific Railroad Co.; Exemption for Contract Tariff

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT:
Donald J. Shaw, Jr.; or
Jane F. Mackall, (202) 275–7656.

SUPPLEMENTARY INFORMATION: The Union Pacific Railroad Company (UP) filed a petition on February 9, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit the second addendum to contract tariff ICC–UP–C–0003 to become effective on one day's notice. The tariff was filed to become effective on March 11, 1982. The tariff provides for the movement of cigarettes by petitioner.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. Petitioner states that the contract addendum is necessary to accommodate changes in the shipper's warehouse operations. We previously granted a request for short notice effectiveness of a similar addendum to the same contract in Ex Parte No. 367 (Sub-No. 53). No protests were filed in that instance. Early implementation of the contract addendum will again enable the petitioner to provide necessary service to a new destination. We find that to be the type of exceptional circumstance which warrants a provisional exemption.

UP's addendum to contract tariff ICC–UP–C–0003 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505)

By the Commission, Division 2, Commissioners Gresham, Gilliam, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Dated: February 17, 1982.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-4887 Filed 2-23-82; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL COMMUNICATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459) and Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), I hereby determine that the objects in the exhibit, "Along the Ancient Silk Routes: Central Asian Art From West Berlin State Museums" (included in the list[1] filed as a part of this determination) imported from abroad for the temporary exhibit without profit within the United States are of cultural significance. These objects are imported pursuant to an agreement between the foreign lenders and the Metropolitan Museum of Art. I also determine that the temporary exhibition or display of the listed exhibit objects at the Metropolitan Museum of Art, New York, New York, beginning on or about March 22, 1982, to on or about June 20, 1982, is in the national interest.

Public notice of this determination is ordered to be published in the Federal Register.

Dated: February 19, 1982.

Gilbert A. Robinson,
Acting Director.

[FR Doc. 82-4910 Filed 2-23-82; 8:45 am]
BILLING CODE 8230-01-M

[1] A limited list of objects included in the exhibit is filed as part of the original document.

Special Immigration Status for Certain Foreign Medical Graduates

Enactment of the Immigration and Nationality Act Amendments of 1981 (Pub. L. 97–116; 95 Stat. 1611) authorizes the grant of special immigrant status to an immigrant (and accompanying spouse and children, if any) who,

(i) Has graduated from a medical school or has qualified to practice medicine in a foreign State,

(ii) Was fully and permanently licensed and was practicing medicine in a State on January 9, 1978,

(iii) Entered the United States as a nonimmigrant with an H-visa or a J-visa before January 10, 1978, and

(iv) Has been continuously present in the United States in the practice or study of medicine since the date of entry.

A Foreign Medical Graduate who meets the above requirements and who is subject to the two year foreign residence requirement of section 212(e) of the Immigration and Nationality Act, as amended, and who entered the United States for education or training on or before January 9, 1977 may obtain a waiver of the requirement in the following manner.

The Foreign Medical Graduate may obtain from his embassy in Washington, D.C. a statement declaring that the government of nationality or in which the Foreign Medical Graduate has permanent legal residence has no objection to waiver of the foreign residency requirement. The Foreign Medical Graduate may then take the statement directly to the District Office of the Immigration and Naturalization Service having jurisdiction over the Graduate's temporary place of residence in the United States. This notice constitutes the favorable recommendation of the Agency on behalf of all those Foreign Medical Graduates who have obtained a statement of no objection from their respective embassies. The cognizant District Office may issue the waiver and process the required papers for special immigrant status without referring the matter to the International Communication Agency.

Foreign Medical Graduates entering the United States between January 10, 1977 and January 9, 1978, and who meet the requirements for special immigrant status must apply directly to the International Communication Agency for a recommendation if they desire to perfect that status. Each case will be reviewed on an individual basis. All applications must be addressed to:

Mr. C. Normand Poirier, Deputy General Counsel, International Communication Agency, 1750 Pennsylvania Avenue NW., Washington, D.C. 20547

Dated: February 19, 1982.

C. Normand Poirier,
Deputy General Counsel.

[FR Doc. 82-4911 Filed 2-23-82; 8:45 am]
BILLING CODE 8230-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–105; Order 32]

Certain Coin-Operated Audiovisual Games and Components Thereof (Viz Rally-X and Pac Man); Hearing

Notice is hereby given that a hearing in the above-styled investigation will be held before Administrative Law Judge John J. Mathias at 10:00 a.m. on Monday, March 8, 1982, in Suite 201, 1010 Wisconsin Avenue, N.W., Washington, D.C.

Additionally, it is ordered that the record of this proceeding shall remain open until further notice.

The Secretary shall publish this notice in the Federal Register.

Issued: February 19, 1982.

John J. Mathias,
Administrative Law Judge.

[FR Doc. 82-4905 Filed 2-23-82; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337–TA–109]

Certain Multi-Sequential Coded Radio Pagers; Request for Comments on Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Request for public comments on proposed termination of this investigation based on a settlement agreement.

SUMMARY: On January 8, 1982, all parties to *Certain Multi-Sequential Coded Radio Pagers*, Inv. No. 337–TA–109, filed a joint motion to terminate the investigation based on a settlement agreement entered into on January 18, 1982, by complainant Motorola, Inc., of Schaumburg, Illinois ("Motorola") and respondent Nippon Electric Co., Ltd., of Tokyo, Japan ("NEC Japan"). This motion, if granted, would have the effect of terminating this investigation. This notice contains a nonconfidential synopsis of the agreement and seeks public comments thereon.

DATES: Comments will be considered if received on or before March 26, 1982. Comments should conform with Commission rule § 201.8 (19 CFR 201.8) and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT:
Jane Albrecht, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202–523–1627.

SUPPLEMENTARY INFORMATION: Notice of the institution of this investigation was published in the Federal Register on October 28, 1981 (46 FR 54656).

SYNOPSIS OF THE SETTLEMENT AGREEMENT: Motorola agrees for a specified sum of money to be paid over a specific period of time to grant NEC Japan and its affiliates, agents, customers, and related companies a limited license to use, lease, and sell a specified number of NEC pagers in the United States. In addition, Motorola releases, acquits, and forever discharges NEC Japan, its related companies, affiliates, agents, and customers from any and all claims for infringement of U.S. Letters Patent 4,181,893 arising prior to the effective date of the agreement.

COMMENTS REQUESTED: In light of the Commission's duty to consider the public interest in this investigation, the Commission requests written comments from interested persons concerning the effect of the termination of this investigation based upon the settlement agreement upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers. Written comments must be filed with the Secretary to the Commission no later than March 18, 1982. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request *in camera* treatment. Such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. The Commission will either accept such submission in confidence or return it. All nonconfidential written submissions will be open for public inspection at the Secretary's office, as is a copy of the settlement agreement with confidential information deleted.

By order of the Commission.

Issued: February 19, 1982.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-4906 Filed 2-23-82; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337–TA–106]

Certain Vacuum Bottles and Components Thereof; Notice of Termination of Respondent

AGENCY: International Trade Commission.

ACTION: Termination of investigation as to respondent Western Universal Mercantile, Ltd.

SUMMARY: The Commission has terminated the above-captioned investigation as to respondent Western Universal Mercantile, Ltd. (Western), on the basis of a joint motion filed by complainant Union Manufacturing Co., respondent Western, and the Commission investigative attorneys.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the tariff Act of 1930 [19 U.S.C. 1337] and concerns alleged unfair trade practices in the importation into and sale in the United States of certain vacuum bottles and components thereof. The joint motion to terminate the investigation as to Western included interrogatories and answers thereto in a related proceeding in the Federal District Court of the Southern District of New York. In the answers to the interrogatories, Western stated that it has never conducted any business and has never imported for sale the vacuum bottles in controversy.

Copies of the Commission's action and order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone (202–523–0161.

FOR FURTHER INFORMATION CONTACT:
William E. Perry, Esq., Office of the General Counsel, telephone 202–523–0359.

By order of the Commission.

Issued: February 17, 1982.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-4907 Filed 2-23-82; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337–TA–108]

Certain Vacuum Bottles and Components Thereof; Termination of Respondent

AGENCY: International Trade Commission.

ACTION: Termination of investigation as to respondent T. G. & Y. Stores Co.

SUMMARY: The Commission has terminated the above-captioned investigation as to respondent T. G. & Y. Stores Co. (T. G. & Y.) on the basis of a joint motion filed by complainant Union Manufacturing Co., respondent T. G. & Y., and the Commission investigative attorneys.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and concerns alleged unfair trade practices in the importation into and sale in the United States of certain vacuum bottles and components thereof. The joint motion to terminate the investigation as to T. G. & Y. included an affidavit by H. L. Pettitt, the Group Vice President of Buying. In the affidavit, Mr. Pettitt stated that T. G. & Y. has not imported and is not currently importing vacuum bottles of the type described in the complaint. Mr. Pettitt also stated that T. G. & Y. has agreed not to import or sell the allegedly infringing vacuum bottles in the United States, unless and until there is a final decision by the Commission or a court that the vacuum bottles do not infringe any trademark owned by complainant.

Copies of the Commission's action and order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, telephone 202–523–0350.

By order of the Commission.

Issued: February 17, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–4998 Filed 2–23–82; 8:45 am]

BILLING CODE 7020–02–M

[332-73]

Release for Public Comment of Explanatory Notes to Certain Provisionally Adopted Chapters of the Harmonized Commodity Description and Coding System

AGENCY: International Trade Commission.

ACTION: Release for public comment, pursuant to Commission investigation No. 332-73, under the authority of section 332(g) of the Tariff Act of 1930, as amended, of drafts of Explanatory Notes to the following chapters of the Harmonized Commodity Description and Coding System (Harmonized System), as provisionally adopted by the Harmonized System Committee and the Nomenclature Committees of the Customs Cooperation Council:

Volume 1

Chapter 1: Live animals; animal products
Chapter 2: Meat and edible meat offal
Chapter 3: Fish, crustaceans and mollusks
Chapter 4: Dairy products; birds' eggs; natural honey; edible products of animal origin, not elsewhere specified or included
Chapter 5: Products of animal origin, not elsewhere specified or included
Chapter 6: Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage
Chapter 7: Edible vegetables and certain roots and tubers
Chapter 8: Edible fruit and nuts; peel of melons or citrus fruits
Chapter 9: Coffee, tea, mate and spices
Chapter 10: Cereals
Chapter 11: Products of the milling industry; malt and starches; gluten; inulin
Chapter 12: Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial and medical plants; straw and fodder
Chapter 13: Lacs; gums, resins and other vegetable saps and extracts
Chapter 14: Vegetable plaiting materials; vegetable products not elsewhere specified or included
Chapter 16: Preparations of meat, of fish, of crustaceans or mollusks
Chapter 17: Sugars and sugar confectionery
Chapter 18: Cocoa and cocoa preparations
Chapter 19: Preparations of cereals, flour, starch or milk; pastry cooks' products
Chapter 23: Residues and waste from the food industries; prepared animal fodder
Chapter 24: Tobacco and manufactured tobacco substitutes

Volume 2

Chapter 26: Ores, slag and ash
Chapter 31: Fertilizers
Chapter 35: Albuminoidal substances; glues; enzymes
Chapter 36: Explosives; Pyrotechnic products; matches; Pyrophoric alloys; certain combustible preparations
Chapter 37: Photographic and cinematographic goods
Chapter 41: Raw hides and skins (other than furskins and leather)
Chapter 42: Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silk-worm gut)
Chapter 43: Furskins and artificial fur; manufactures thereof
Chapter 46: Manufactures of straw, of esparto or of other plaiting materials; basketware and wickerwork

WRITTEN SUBMISSIONS: Parties wishing to submit written comments should do so by filing them with the Secretary of the Commission at his office in Washington, D.C. no later than the close of business on March 10, 1982.

COPIES OF DOCUMENTS: Copies of the Explanatory Notes which are the subject of this notice are available for public inspection at the offices of the Commission, 701 E Street, NW., Washington, D.C. 20436. The Secretary will also send copies of notes to one or more of the above chapters to interested parties upon request.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, or Holm Kappler, Deputy Director, Office of Tariff Affairs, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436; telephone (202) 523–0370 or 0362.

SUPPLEMENTARY INFORMATION: In its public notices of February 8, 1980 (45 FR 9828 of February 13, 1980), March 21, 1980 (45 FR 19696 of March 26, 1980), August 15, 1980 (45 FR 55549 of August 20, 1980), June 24, 1981 (46 FR 34439 of July 1, 1981), and July 17, 1981 (46 FR 37824 of July 22, 1981), the Commission identified the 97 chapters of the Harmonized System for which texts had been provisionally adopted by the Harmonized System and the Nomenclature Committees of the Customs Cooperation Council. Views and comments of interested parties with respect to the nomenclature structure formulated in the 97 chapters were sought by those notices.

This notice is being issued pursuant to Commission investigation 332–73, instituted on January 31, 1975 (40 FR 6329), under section 332(g) of the Tariff Act of 1930. The public notice of July 17, 1981 (46 FR 37824) set forth the basis for the Commission's investigation in order to participate in technical work on, and described the structure and development of, the Harmonized System.

The draft chapters identified by the Commission contain the headings of the nomenclature as provisionally adopted. Legal notes, which have the same binding force as the headings and as the rules of interpretation of the nomenclature, are provided to define the scope of a heading or the meaning of terms, to list articles covered by a heading or group of headings, and to list excluded articles.

Explanatory Notes, which do not form a part of the nomenclature, contain the official interpretation of the nomenclature ultimately to be adopted by the Customs Cooperation Council. The notes are arranged in the systematic order of the nomenclature and set forth information concerning the scope of each heading, including the products included and excluded, technical product descriptions, a guide for product identification, and the appearance, properties, uses, and methods of production of the products concerned.

Drafts of the above Explanatory Notes are being finally reviewed by both the Harmonized System Committee and the Nomenclature Committee. As texts of further Explanatory Notes are adopted, the Commission will issue future notices requesting public comment.

By order of the Commission.

Issued: February 18, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–4994 Filed 2–23–82; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Upjohn Co.; Manufacturer of Controlled Substances; Application

Correction

In FR Doc. 82–3763 appearing on page 6499 in the issue of Friday, February 12, 1982, third column, last line, third paragraph, insert "March 12, 1982." after "than".

BILLING CODE 4410–09–M

Office of Juvenile Justice and Delinquency Prevention

Extension of Dates for Notification of Providing Oral Testimony at Hearings on Valid Court Order and Coordinating Council Program Priorities for 1982

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Extension of Dates for Notification of Providing Oral Testimony at Hearings on Valid Court Order and Coordinating Council Program Priorities for 1982.

SUPPLEMENTARY INFORMATION: Part III of the Federal Register of February 9, 1982, announced hearings to be held by the Office of Juvenile Justice and Delinquency Prevention on the Valid Court Order and the Coordinating Council Program Priorities for 1982. Persons and/or agencies interested in providing oral testimony at these hearings were to notify OJJDP by February 22, 1982. This date has been extended until February 26, 1982.

Charles A. Lauer,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 82–4945 Filed 2–23–82; 8:45 am]

BILLING CODE 4410–06–M

Bureau of Prisons

Advisory Corrections Council; Meeting

Notice is hereby given that the Advisory Corrections Council in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770) will meet on March 16–17, 1982, at the Federal Law Enforcement Training Center, Glynco, Georgia.

The purpose of the meeting is to discuss agenda items related to the role of the Federal Government in Corrections.

Signed at Washington, D.C., this 16th day of February.

Norman A. Carlson,

Director, Bureau of Prisons.

[FR Doc. 82–4914 Filed 2–23–82; 8:45 am]

BILLING CODE 4410–05–M

NATIONAL SCIENCE FOUNDATION

Environmental Biology Advisory Committee, Ecosystem Studies Subcommittee; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Ecosystem Studies of the Advisory Committee for Environmental Biology.
Date and time: March 25 and 26, 1982—8:30 a.m. to 5:00 p.m. each day.
Place: Room 338, National Science Foundation, 1800 G St., NW, Washington, D.C. 20550.
Type of Meeting: Closed.
Contact person: Dr. James T. Callahan, Associate Program Director, Ecosystem Studies (202) 357–9690, Room 338, National Science Foundation, Washington, D.C. 20550.
Purpose of meeting: To provide advice and recommendations concerning support for research in ecosystem studies.
Agenda: To review and evaluate research proposals and projects as part of the selection process of awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

February 18, 1982.

[FR Doc. 82–4943 Filed 2–23–82; 8:45 am]

BILLING CODE 7555–01–M

NSF Advisory Council, Task Group #20; Postponement

The meeting of Task Group 20 which was scheduled to be held on February 26, 1982, has been postponed. Once a date has been rescheduled, a meeting notice will be published in the Federal Register.

For further information, please contact Mr. Joseph Danek, Staff Liaison for Task Group 20, at 202–357–7491.

The notice of this meeting was published in the Federal Register on Monday, February 8, Vol. 47, No. 28, pg. 5816.

Marian E. Winkler,

Committee Management Coordinator.

February 18, 1982.

[FR Doc. 82–4992 Filed 2–23–82; 8:45 am]

BILLING CODE 7555–01–M

PENSION BENEFIT GUARANTY CORPORATION

Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer Who Contributes to a Multiemployer Plan; Southland Corp.; Empire Cold Storage and Ice Co.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of exemption.

SUMMARY: The Pension Benefit Guaranty Corporation has granted Southland Corporation an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended, in connection with Southland's purchase of assets of the Empire Cold Storage and Ice Company. A notice of Southland's request for exemption from the requirement was

published on October 14, 1981 (46 FR 50634). The effect of this notice is to advise the public of the exemption.

ADDRESS: The request for an exemption, the comment received and the exemption letter are available for public inspection at the PBGC Public Affairs Office, Suite 7100, 2020 K Street NW., Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m. A copy of these documents may be obtained by mail from the PBGC Disclosure Officer (160) at the above address.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), 2020 K Street NW., Washington, D.C. 20006; (202) 254-4862.

SUPPLEMENTARY INFORMATION:

Background

The Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96-364, 94 Stat. 1208 (the "multiemployer Act") became law on September 26, 1980 and amended the Employee Retirement Income Security Act of 1974 ("ERISA"). As a result of the Multiemployer Act, an employer that withdraws or partially withdraws from a multiemployer pension plan covered under Title IV of ERISA may be liable to the plan for a portion of the plan's unfunded vested benefits. Section 4204(a)(1) of ERISA, 29 U.S.C. 1384, provides that the sale of assets of an employer that contributes to a mulitemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years after the sale.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual of class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B). Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets, (46 FR 46127, September 17, 1981), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transaction.

Section 4204(c) requires the PBGC to publish a notice of the pendency of a request for a variance or an exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

On October 14, 1981 (46 FR 50634), the PBGC published a request from the Southland Corporation ("Southland") to waive the bond/escrow requirement of section 4204(a)(1)(B) of ERISA in connection with a purchase by Southland of the operating assets of Empire Cold Storage and Ice Company ("Empire"). According to Southland's request for an exemption, Southland has assumed Empire's obligation to contribute to the United Food and Commercial Worker's International Union-Industry Pension Fund (the "Fund"). The amount of the bond Southland would be otherwise required to obtain would be $10,265.00, the amount of contributions required to be paid by Empire for the plan year ending June 1981. (The bond would be paid to the Fund if Southland withdraws from the plan or fails to make a contribution when due during the first five plan years after the sale.)

According to its audited financial statement for the fiscal year ending on December 31, 1980, Southland had net assets of $554 million. Southland's average net income for 1978, 1979 and 1980 was approximately $72.6 million. According to a subsequent unaudited statement, Southland had net assets of $572.8 million as of June 30, 1981 and net income of $31.7 million for the 6-month period ending June 30, 1981.

In response to the notice of pendency of the exemption, PBGC received only one comment. This comment, from the fund, objected to the exemption. The objection did not allege that Southland would be unable to meet its obligations to the Fund or offer any evidence to that effect. In a letter dated December 15, 1981, PBGC advised the Fund that in the absence of specific information showing that the granting of this variance request might significantly increase the risk of financial loss to the Fund, PBGC could not deny Southland's variance request. No further comment has been received from the Fund.

Based on the material submitted by Southland and after consideration of the comments filed by the Fund, PBGC has determined that exemption from the bond/escrow requirement would more effectively carry out the purposes of Title IV of ERISA and would not significantly increase the risk of financial loss to the plan. Therefore, Southland was granted an exemption from the bond/escrow requirement on February 16, 1982. The granting of an exemption or variance from the bond/escrow requirement of section 4204(a)(1)(B) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1).

Issued at Washington, D.C., on this 16th day of February 1982.

Robert E. Nagle,

Executive Director, Guaranty Corporation.

[FR Doc. 82-4880 Filed 2-23-82; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12232, (812-5059)]

Delaware Treasury Reserves; Filing an Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicant From the Provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 Thereunder

February 18, 1982.

Notice is hereby given that Delaware Treasury Reserves ("Applicant"), Seven Penn Center Plaza, Philadelphia, PA 19103, an open-end, diversified, management investment company, registered under the Investment Company Act of 1940 ("Act"), filed an application on December 23, 1981, requesting an order of the Commission, pursuant to section 6(c) of the Act, exempting Applicant from the provisions of section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicant to value its assets using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was established as a common-law trust under Pennsylvania law. Applicant represents that it is designed as an investment vehicle for investors, including individuals, fiduciaries and institutions seeking to earn a high level of income through investments in a managed portfolio of short-term United States Government obligations, and to minimize fluctuation in the value of their investment while retaining the flexibility to liquidate their investments at any time. Applicant's investment objective is to provide a professionally managed portfolio of such obligations. Applicant seeks to obtain maximum current income consistent with preservation of principal and maintenance of liquidity.

Delaware Management Company acts as the investment adviser to the Applicant.

Applicant seeks an order of the Commission pursuant to section 6(c) of the Act granting exemptions from the provisions of section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 under the Act in order to facilitate the Applicant's ability to maintain, to the extent possible, a per share net asset value of $10.00 by means of the "amortized cost" method of valuation.

Applicant represents that it will invest its assets in a variety of short-term securities issued or guaranteed as to principal and interest by the United States Government, its agencies or instrumentalities ("Government Securities"). The Applicant may also invest in repurchase agreements with respect to Government Securities.

Applicant represents that all securities purchased by Applicant will be securities which mature in less than one year from the date of purchase. The Applicant may invest in obligations whose original maturities were in excess of one year if at the time of purchase the remaining time to maturity is less than one year. The dollar-weighted average maturity of the Applicant's investment portfolio will at all times be 120 days or less.

The Applicant proposes to value its portfolio securities on an amortized cost basis following receipt of an order of exemption from the Commission. Applicant also represents that pending receipt of such order, it will limit its purchases of securities to instruments which at the date of purchase have maturities of 60 days or less.

Applicant asserts that it intends to declare and credit its net income as a dividend to its shareholders on a daily basis and distribute it monthly. "Net income" for this purpose will consist of all interest income accrued on the assets of the Applicant less all expenses of the Applicant. If the Applicant values its securities on the amortized cost basis there will be no calculation for realized or unrealized capital gains or losses, and since the dividend is paid daily, the Applicant per share net asset value will remain at a constant $10.00.

As here pertinent, section 2(a)(41) of the Act defines "value" to mean: (i) With respect to securities for which market quotations are readily available, the market value of such securities, and (ii) with respect to other securities and assets, fair value as determined in good faith by the board of directors.

Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemble security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value and other securities and assets shall be valued at fair market value as determined in good faith by the board of directors of the investment company. Prior to the filing of the application, the Commission expressed its view that, among other things, (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant asserts that it wishes to attract sophisticated individual and institutional investors. Applicant understands that many of these investors require a short-term government obligations fund which maintains a constant net asset value per share and pays dividends which do not fluctuate on account of daily changes in the values of its portfolio securities. Applicant believes that in order to attract such investors and retain them as shareholders, it must have a stable net asset value and a constant flow of investment income.

Applicant believes that if its securities portfolio were valued using the amortized cost method for all securities maturing within one year of the date of each daily calculation of net asset value, the $10.00 offering price would remain constant and that there would normally be a negligible discrepancy between market value and the amortized cost value if Applicant's securities portfolio were maintained at a dollar average portfolio maturity which does not exceed 120 days.

The trustees of Applicant have determined in good faith that in light of Applicant's characteristics, the amortized cost method of valuation would be appropriate and would represent fair value, subject to compliance with the conditions set forth below. Applicant has agreed that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested.

1. In supervising the operations of Applicant and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's board of trustees undertakes—as a particular responsibility within its overall duty of care owed to Applicant's shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $10.00 per share.

2. Included within the procedures to be adopted by the board of trustees shall be the following:

(a) Review by the board of trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $10.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from Applicant's $10.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of trustees will promptly consider what action, if any, should be initiated by it.

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[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of trustees in the exercise of its discretion to be appropriate indicators of value, which may include among others, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(c) Where the board of trustees believes that the extent of any deviation from Applicant's $10.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[1]

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States Government instruments which the board of trustees determines present minimal credit risks.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

Applicant submits that granting its requested exemptive order is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 15, 1982, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion, persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority,

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-4915 Filed 2-23-82; 8:45 am]

BILLING CODE 8010-01-M

[1] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Release No. 16496; File No. SR-PSE-82-2]

Pacific Stock Exchange, Inc.; Proposed Rule Change

February 16, 1982.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 8, 1982, the Pacific Stock Exchange, Incorporated ("PSE") filed with the Securities and Exchange Commission the proposed rule change as described herein. The commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change is designed to address several questions which have been raised regarding interpretations of PSE Rule VI, "Options Trading," and floor procedures thereunder.

The first issue involves the priority, if any, that should be given to firm orders over customer orders on the opening rotation. Presently, Rule VI, section 49(c) provides that the Order Book Official ("OBO") shall attempt to match all public customer orders at a single opening price. If an imbalance of public customer orders exists he should seek Market Maker and firm participation in order to establish the opening price. The question was whether firm orders with limit prices better than the opening price established by the matching of only customer orders should be filled prior to filling existing public customer orders with limit prices worse than the firm orders. The addition of Commentary .03 to Rule VI, Section 49 and the amendment to Floor Procedure Advice G–2 is designed to clarify that firm orders with better limit prices are not entitled to priority over public customer orders on the opening rotation unless the Order Book Official has called for Market Maker and firm participation.

The second issue also involves a question of the priority status of certain orders under Rule VI, Section 49. Presently, section 49(d) grants spread, straddle, and combination orders priority over bids and offers at the same price held by the OBO. The language added to section 49(d) provides that these spread, straddle, and combination orders will be allowed priority over bids and offers in the trading crowd in the same manner as the priority they are now allowed over the Order Book. Since these orders presently receive priority over the Order Book, which in turn has priority over the trading crowd, the PSE believes that this change is simply a rational extension of the present rule. In addition, the PSE is amending the language of Floor Procedure Advice G–5 to add the term "combination order" where the term "spread and straddle orders" appears, so that the Floor Procedure comports with the present language of Rule VI, Section 49.

The third issue involves the question of when the OBO should become liable for the cancellation of market orders already in his possession for execution on the opening rotation. The amendments to Rule VI, Section 66, Commentary .02 and Floor Procedure Advice A–1 provide that the OBO is under no obligation to accept cancellations of market orders once the opening rotation for option contracts covering the same underlying security has begun. The PSE believes that to accept cancellations after the rotation has begun would unnecessarily disrupt the OBO's handling and completion of the opening rotation in a fair and orderly manner.

The PSE believes that these proposed rule changes are consistent with the requirements of section 6(b)(5) of the Securities Exchange Act of 1934 in that they promote just and equitable principles of trade and protect investors and the public interest.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission on or before March 17, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–PSE–82–2.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-4916 Filed 2-23-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18492; File No. SR-NYSE-82-2]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Proposed Rules for the Trading of Options on Index Stock Groups

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 8, 1982, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change provides for options on groups of 25 or more stocks whose inclusion and relative representation in a group are determined by the inclusion and relative representation of their prices in a widely disseminated stock index. Initially, the Exchange intends to permit the trading of options on stock groups constituted in accordance with the NYSE Composite Index and with the Exchange's four sector indices: The NYSE Financial Index, the NYSE Industrial Index, the NYSE Transportation Index and the NYSE Utility Index.

The Exchange currently has pending with the Commission a proposed rule change respecting Treasury security options, File No. SR–NYSE–81–5 (the "Treasury security option filing") The Treasury security option filing consists primarily of modifications of and additions to the Exchange's present 700 series rules, which pertain to the "upstairs" regulation of stock options trading. Consequently, this proposed rule change consists for the most part of changes to the Treasury security option filing that are designed to make the Treasury security option rules apply to options on index stock groups as well. In addition, minor technical corrections are made to the rules as they apply to Treasury security options.

The principal departures from the Treasury security option filing are as follows:

Cash Settlement.—Because of the practical difficulties in delivering fractional shares in accordance with the representation of each stock in an index group, the proposed rule change provides that an "index stock group option" obligates the writer (in the case of a call) or the holder (in the case of a put) to sell to The Options Clearing Corporation 100 times the "current index group value". That value is simply $1.00 times the current level of the index that reflects the current market prices of the stocks in the underlying group. Thus, for example, a call option on a stock group based on the NYSE Composite Index would entitle the holder, upon exercise of the option at a time when the NYSE Composite Index is at 85, to delivery of $8500 upon payment of the aggregate exercise price. Although the Treasury security option rules have simply been expanded to apply to options on index stock groups so that the rules characterize settlement as a typical payment-for-delivery transaction, the Exchange expects that the assignment of an exercise notice in, for example, a call option will simply result in the deposit by the delivering party of the difference between the current index group value and the aggregate exercise price.

Supervisory and Customer-Contact Rules.—The proposed rule change also provides that approval of an account for the trading of options on stocks will also constitute approval of the account for the trading of options on index stock groups. Thus, changes proposed to Rules 720 through 726 primarily involve the substitution of the newly-defined term "stock-related option," which encompasses both options on stocks and options on index stock groups, for the term "stock option." The changes do, however, apply the OCC prospectus delivery requirement to index stock group options so that either the OCC prospectus or a supplement thereto containing the requisite material regarding index group options must be delivered.

Market-Making Obligations.—The proposed rule change establishes an independent scheme of affirmative and negative obligations depending upon whether a specialist or a Competitive Options Trader is registered in Treasury security options or in index group options. Just as the Treasury security option filing makes clear that an equity specialist or a Registered Competitive Market Maker who does not register as a Treasury security options specialist or a Treasury security options Competitive Options Trader, respectively, is not required to undertake market maker obligations regarding the Treasury security options market, so too the Treasury security options specialist or Treasury security Competitive Options Trader will not be required to undertake the opligations of his counterpart registered in index group options. Relatedly, the term "related security" is not proposed to be amended to include underlying stocks, stock index futures or options on stock index futures. The Exchange has preliminarily concluded that both the vast size of the aggregated markets for the underlying stocks and the use of cash settlement forecloses any opportunity for manipulation of the markets for the underlying stocks through activity in the markets for the derivative instruments, and vice versa.

"Covered" Positions.—Because a holder of a portfolio seeking to hedge the portfolio against the risk of a market- or sector-wide change cannot be expected to hold in his portfolio every stock represented in an index, it is impractical to create the one-to-one correspondence between a long position in an underlying security and a short position in a call option thereon that is the hallmark of conventional covered writing of stock options. Accordingly, the Exchange proposes that a sub-group of the stocks represented in an index stock group constitute "covering" the sub-group stocks so long as the sub-group stocks meet specifications of the Federal Reserve Board regarding (1) the sub-group's aggregate market value relative to the current index group value, (2) the eligibility of the underlying stocks for covering purposes, (3) the minimum number of stocks in a "covering" sub-group and (4) their relative representation in the "covering" sub-group.

Position and Exercise Limits Reporting.—The Exchange has preliminarily concluded that the reasons usually proposed in support of position and exercise limits do not apply to index options settled by cash delivery, since, among other things, the deliverable supply is inexhaustible and hence there is no possibility for a "corner." The Exchange nevertheless proposes to set a 40,000-contract limit for index stock groups options. Assuming an index group value of $75, a 40,000-contract limit permits positions and exercises of contracts whose aggregate value is $300 million ($75X100X40,000). This amount appears sufficient to permit the hedging of portfolios of institutions. The Exchange does propose to apply to index stock group options the 200-contract reporting threshold currently applicable to stock options.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose.* The purpose of the proposed rule change is to permit the Exchange to establish a market for options on stock groups constituted in accordance with widely-disseminated stock indices. The proposed options on market groups and sector groups will provide a tool to holders of broad stock portfolios that permits them to transfer the risk of market- or sector-wide changes in stock prices. Aggregate price movements of the stocks in a diversified portfolio tend to correlate with the changes in an index derived from a stock group that includes those stocks. Thus, the index group contracts will generally afford a better "fit" for the market or sector price movements than would either options on some of the individual portfolio stocks or options on a small stock group comprised in part of stocks other than those in the portfolio.

Specific purposes of the various changes to the Treasury security option filing made by the proposed rule change are noted in Item I above.

(2) *Statutory Basis.* The proposed rule change relates to section 6(b)(1) of the Act in that it would provide a regulatory framework for a market on the floor in options on index stock groups. The proposed rule change would give the Exchange the capacity to carry out the purposes of the Act, to comply with the provisions of the Act, the rules and regulations thereunder and the rules of the Exchange, and to enforce compliance therewith by Members and persons associated with Members.

Except for the changes necessary to accommodate index group options trading on the Floor, the Exchange's existing rules, and hence the same bases and policies underlying those rules, apply to the Exchange's proposed market in index stock group options. Thus, the proposed rule change contemplates the application to Exchange trading of index stock group options of long-established regulatory principles and techniques that are designed to assure the fairness, orderliness and quality of the Exchange's stock and bond markets. In addition, except for changes necessitated by the particular characteristics of the underlying stock groups and the markets in the underlying stocks, the new modifications to the 700 series rules substantially preserve the framework recently approved by the Commission in respect of Treasury security options and therefore have a common basis with the Treasury security option filing in the Act and in the rules and regulations thereunder.

In particular, the proposed rule change would create rules designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest in connection with transactions in index stock group options, all as required by section 6(b)(5) of the Act. The Exchange believes that its proposed market for options on index stock groups will be consistent with the standards of section 6(b)(5), since the Exchange expects such a market to provide the same increased investment flexibility with respect to portfolios of stocks as the present options markets on other national securities exchanges provide with respect to single stocks. Consequently, the Exchange believes the public interest will be advanced by Exchange trading of index stock group options.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or apopropriate in furtherance of the purpose of the Act. Quite to the contrary, the Exchange believes that significant benefits will flow to the U.S. economy, to market professionals and to investors from the creation of a free and open market for the trading of standardized options on index stock groups. The Exchange believes that the proposed rule change will permit the creation of such a market—a market designed to prevent fraudulent and manipulative acts and practices, to permit just and equitable principles of trade, to protect investors and the public interest and to provide appropriate disciplinary procedures applicable to its members and persons associated with its members who violate the rules of the Exchange.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not received or solicited written comments from members or other interested parties. The Exchange is forming a users advisory committee to assist it in designing its market in options on index stock groups and will incorporate any appropriate comment suggested by the committee into the proposed rule change by amendment.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before March 31, 1982 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before April 12, 1982.

For the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

February 17, 1982.

[FR Doc. 82-4617 Filed 2-23-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12231; (812-5063)]

Standard Chartered Bank Limited; Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicant From all Provisions of the Act

February 18, 1982.

Notice is hereby given that Standard Chartered Bank Limited ("Applicant"), 10 Clements Lane, London EC4N 7AB, filed an application on December 24, 1981 for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is an English banking corporation formed in 1969 through the merger of two established banking institutions, The Standard Bank Limited ("Standard") and The Chartered Bank ("Chartered"). Applicant was established as a holding company whose sole assets were the shares of its two subsidiaries. In 1975, however, the business of Standard and Chartered in the United Kingdom was transferred to the Applicant, and branches in Europe and the United States were subsequently also transferred to or established by the Applicant. Applicant's principal United States business is the provision of retail, wholesale and international banking services, and comprises operations in its own name in New York, Seattle, Chicago, Miami, and Houston; in California the Applicant operates Union Bank through a wholly owned subsidiary incorporated in Delaware, Union Bancorp, as well as an agency of its subsidiary Chartered.

Applicant states that Standard was established in 1862 in British South Africa, while Chartered was incorporated in 1853 and operated primarily in India and the Far East. Both extended their geographical base through acquisition following the Second World War. Standard does business primarily through subsidiaries, while Chartered primarily utilizes branches. Although both institutions function as a part of Applicant, in some areas Standard and Chartered retain their separate identities and trade under their individual names or local subsidiary derivatives for various legal and marketing reasons. A proposed merger between Applicant and the Royal Bank of Scotland in the United Kingdom is presently pending before the Monopolies and Mergers Commission. If approved, that merger will create a banking group comprising over 900 domestic branches and 1500 offices in over sixty countries.

Applicant states that it and its consolidated subsidiaries constitute the largest independent British overseas banking organization, and are principally engaged in wholesale and retail banking activities. As of December 31, 1980, Applicant had total assets of approximately $36.8 billion. Securities held by Applicant constitute approximately 8% of total assets, and income attributable to interest on securities accounted for approximately 14% of total operating income. These securities are generally held to meet liquidity or regulatory requirements in the United Kingdom and overseas. Total liabilities on December 31, 1980 were approximately $34.6 billion, of which 99.2% consisted of deposits.

Applicant states it conducts a commercial banking business in more than sixty countries and most of its operations are subject to the reserve requirements and controls imposed by the central banks and other authorities in those countries. Applicant further states that it is subject to extensive supervision and regulation by the Bank of England, the Government-owned central bank of the United Kingdom. Under the Bank of England Act 1946, the Bank of England has broad power to request information from and make recommendations to the United Kingdom banks. Her Majesty's Treasury has general statutory power to issue directives to the Bank of England, and to authorize the Bank of England to require compliance by banks with its requests and recommendations. Applicant states that it is unaware of this power ever having been used. The Banking Act 1979 ("1979 Act"), which supplemented the Bank of England's general supervisory power, requires deposit-taking institutions to meet general statutory criteria of management, solvency, and scope of services provided in order to obtain recognition as a bank or a license to enable it to operate as a licensed institution.

Applicant states that regulation of the United Kingdom banking system is based largely on informal cooperation between the Bank of England and United Kingdom banks and operates through accepted but generally uncodified practices and standards that have been developed over time. Banks file regular, detailed reports and periodic statistical returns prescribed by the Bank of England. The reports Applicant files with the Bank of England are designed to enable the Bank of England to analyze liquidity and exposure to asset-related and other risks, and include information with respect to the composition of loans and advances, the maturity structure of assets and liabilities, sterling and foreign currency assets and liabilities and foreign exchange activities. In accordance with the 1979 Act, the Bank of England is in the process of introducing formalized codes relating to the adequacy of capital, liquidity and foreign exposure. It is contemplated that

the Bank of England will continue to operate a flexible system of controls in these and other areas of supervision. In addition to the periodic reports, senior executives of the Applicant meet from time to time with the Bank of England to discuss such matters as the capital and liquidity position of the Applicant and its major operating units, the type of business undertaken, the interest and maturity composition of sterling and foreign currency assets and liabilities, loan portfolios, the structure of income and expense, and profitability.

Applicant states that it is also subject to banking regulation at the federal and state level in the United States. Applicant is registered as a bank holding company under, and has principally been subject to federal regulation pursuant to the Bank Holding Company Act of 1956, as amended, under which the Board of Governors of the Federal Reserve System regulates, *inter alia*, the types of activities in which a foreign bank holding company may engage in the United States, and requires the filing of annual reports regarding its operations. The International Banking Act of 1978 also subjects Applicant to federal supervision and regulation.

Applicant proposes to offer, issue and sell in the United States commercial paper (the "Notes") in bearer form and denominated in United States dollars. It is asserted that the Notes will be in denominations of $100,000 or more, will mature in no more than 270 days from the date of issue, and will not be payable on demand or include any provision of extension, renewal, or automatic "roll-over" at the option of either the holders or Applicant. Applicant intends to sell the Notes without registration under section 5 of the Securities Act of 1933, as amended (the "Securities Act"), in reliance upon an opinion of Applicant's United States counsel that the offering will qualify for the exemption from the registration requirements of the Securities Act provided for certain short-term commercial paper by section 3(a)(3) thereof. Applicant will not proceed with its proposed offering until it has received such an opinion. Applicant does not request Commission review or approval of such an opinion and the Commission expresses no opinion as to the availability of any such exemption. Applicant is not subject to the reporting requirements of the Securities Exchange Act of 1934, as amended, and will not become subject to such requirements in connection with the issuance and sale of the notes. Any issuance and sale of the Notes and any future public issue of securities will be conditioned upon the receipt, prior to issuance, of one of the three highest investment grade ratings from at least one of the nationally recognized statistical rating organizations. In connection with the preparation by United States Counsel of the opinion referred to above, Applicant will advise such counsel in writing that the rating has been received. Proceeds of the Notes will be used for "current transactions" within the meaning of section 3(a)(3) of the Securities Act.

The Notes will be offered and sold by Applicant to a registered broker-dealer of securities in the United States, which will reoffer the Notes as principal to institutional and other comparable investors in the United States which normally purchase commercial paper. The Notes will not be advertised or otherwise offered for sale to the general public. Applicant agrees to secure an undertaking from the dealer that it will provide each offeree which has indicated an interest in the Notes, prior to any sale of Notes to such offeree, with a memorandum describing the business of Applicant and containing Applicant's most recent publicly available annual financial statements (including a balance sheet, profit and loss account, statement of source and application of funds, and notes thereto) audited in accordance with United Kingdom accounting principles and its most recent publicly available unaudited semi-annual balance sheet and summary profit and loss account. Such memorandum will describe the material differences between United Kingdom accounting principles applicable to United Kingdom banks and "generally accepted accounting principles" applicable to United States commercial banks. Such memorandum will also be at least as comprehensive as those customarily used in offering commercial paper in the United States and will be updated periodically to reflect material changes in Applicant's business and financial condition. As direct liabilities of Applicant, the Notes will rank *pari passu* among themselves and equally with all other unsecured indebtedness of Applicant, including deposit liabilities, and ahead of its share capital.

Applicant will appoint a bank in the United States as its authorized paying agent and a corporation resident in the United States as its agent to accept any process which may be served in any action based on the Notes or any securities it may offer in the future and instituted in any state or Federal court by the holder thereof. Applicant will expressly accept the jurisdiction of any state or Federal court in the City and State of New York in respect of any such action. Such appointment of an authorized agent to accept service of process and such consent to jurisdiction will be irrevocable until all amounts due and to become due with respect to the Notes have been paid by Applicant. Applicant will also be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering of the Notes or otherwise. No such submission to jurisdiction or appointment of agent for service of process will affect the right of any holder of a Note to bring suit in any court which shall have jurisdiction over Applicant by virtue of the offer and sale of the Notes or otherwise. The authorized agent will not be, or be obligated to act as, a trustee for the noteholders.

Applicant represents that it may, in the future, wish to offer long-term debt securities, either directly or through a U.S. bank subsidiary, the obligations of which would be guaranteed by the Applicant. Prior to a public offering of such securities, Applicant states that it will file a registration statement under the Securities Act with the Commission and that it will not sell such securities until the registration statement has been declared effective by the Commission. In the case of any offering of long-term debt securities not requiring registration under the Securities Act, Applicant states that it will undertake to provide to any offeree to whom it offers such securities in the United States a memorandum at least as comprehensive in its description of Applicant as memoranda customarily used in such offerings of long-term debt securities in the United States. The memorandum will also include a description of material differences between United States and United Kingdom generally accepted accounting principles. In the event of subsequent offerings, the memorandum would be updated at the time thereof to reflect material changes in Applicant financial position. In making any such offering, Applicant's will take into consideration the doctrine of integration referred to in Securities Act Release Numbers 4434, 4552 and 4706 and various no action letters made public by the Commission. Applicant consents to having any order granting the relief requested under section 6(c) of the Act expressly conditioned on Applicant's compliance with the aforementioned undertakings concerning disclosure documents.

Section 3(a)(3) of the Act defines investment company to mean any issuer which engages or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value of such issuer's total assets (exclusive of government securities and cash items) on an unconsolidated basis. Applicant states that it is applying to the Commission because of uncertainty as to whether foreign commercial banks may be deemed investment companies under the Act and thereby prohibited, *inter alia*, from the public issuance and sale in the United States of commercial paper and long-term debt securities without first registering under the Act and without complying with the rules and regulations promulgated thereunder.

Section 6(c) provides that the Commission, by order upon application, may exempt any person from the provisions of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an order pursuant to section 6(c) of the Act exempting it from all provisions of the Act. Applicant represents that compliance with a number of the substantive provisions of the Act would conflict with its commercial banking practices and that Applicant would be precluded from selling securities in the United States if it were required to register as an investment company. Applicant also represents that it is subject in the United Kingdom and other countries where it operates to comprehensive supervision and regulation comparable in effect to the United States laws and regulation applicable to United States banking institutions. Applicant concludes that granting an exemptive order pursuant to section 6(c) of the Act would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 15, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-4918 Filed 2-23-82; 8:45 am]

BILLING CODE 8010-01-M

SELECTIVE SERVICE SYSTEM

Privacy Act for 1974; System of Records; Proposed Revision of Routine Uses

AGENCY: Selective Service System.

ACTION: Proposed revision of a System of Records.

SUMMARY: The Selective Service proposes to revise a system of records necessitated by the enactment of section 916(c) of Pub. L. 97–86. The system pertains to information on the Registration Card Furnished by a registrant who registers after 1979.

COMMENT DATE: Comments are due on or before March 26, 1982.

ADDRESS: Selective Service System. ATTN: Records Manager Washington, D.C. 20435.

FOR FURTHER INFORMATION CONTACT: C.E. Boston, Records Manager, Selective Service System, Washington, D.C. 20435. Phone (202) 724–0683

SUPPLEMENTARY INFORMATION: This System of Records (System Number SSS–10) appears at 45 FR 30587 (May 8, 1980).

The proposed revision of routine uses of records maintained in the system, including categories of users and the purposes of such uses as they pertain to the Department of Defense are revised to read as follows: Department of Defense—for exchange of information concerning registration, classification, enlistment, examination and induction of individuals, availability of Standby Reservists, and identification of prospects for recruiting.

Thomas K. Turnage,

Director of Selective Service.

February 19, 1982.

[FR Doc. 82-4982 Filed 2-23-82; 8:45 am]

BILLING CODE 8015-01-M

DEPARTMENT OF STATE

[Public Notice 793]

In accordance with section 4314(c)(1) through (5) of the Civil Service Reform Act of 1978 (Pub. L. 95–454), the Executive Resources Board of the Department of State has appointed the following additional persons to the State Department Performance Review Board Register, and in so doing amends accordingly Department of State Public Notice No. 703 (45 FR 6877–6878, January 30, 1980), effective February 12, 1982:

Ronald J. Bettauer, Assistant Legal Adviser, Office of the Legal Adviser;

Jack D. Jenkins, Executive Director, Bureau of Economic and Business Affairs;

Joseph H. Linnemann, Director, Office of Financial Systems, Office of the Comptroller.

The following names as announced in Department of State Public Notice No. 703 (45 FR 6877–6878, January 30, 1980), No. 754 (46 FR 25746, May 8, 1981) and No. 773 (46 FR 45233, September 10, 1981) are removed from the Department of State Performance Review Board Register:

George H. Aldrich, U.S. Member of the International Law Commission;

Paul H. Boeker, Director, Foreign Service Institute;

Wreatham E. Gathright, Member, Policy Planning Staff;

Charles J. Henkin, Deputy Director, Office of Disarmament and Arms Control, Bureau of Politico-Military Affairs;

Ginger Lew, Deputy Assistant Secretary, Bureau of East Asian Affairs;

Thomas R. Pickering, Assistant Secretary, Bureau of Oceans and International Environmental and Scientific Affairs.

Dated: February 12, 1982.

Joan M. Clark,

Director General of the Foreign Service and Director of Personnel.

[FR Doc. 82-4944 Filed 2-23-82; 8:45 am]

BILLING CODE 4710-15-M

[Public Notice 795]

Claims Against Iran: Rules of Procedure of the Iran-United States Claims Tribunal

This notice concerns the procedures applicable to the adjudication of claims before the Iran-United States Claims Tribunal at The Hague. It supplements information provided in Public Notices 789 (47 FR 1063, January 8, 1982), 783 (46 FR 58631, December 2, 1981) and prior notices. For further information, contact David P. Stewart, Administrator for Iranian Claims, Office of the Legal Adviser, Department of State, Washington, D.C. 20520. Telephone (202) 632–5040.

On February 13, the Tribunal completed its draft rules of procedure. The text of the draft rules, which are based on the UNCITRAL Arbitration Rules, was received by the Department of State on February 21. Interested parties may obtain copies by contacting the Office of Iranian Claims. The final rules of procedure will be available from the Registrar of the Tribunal, as well as the Office of Iranian Claims, after they have been formally adopted.

Although the rules have now been completed, the Tribunal has invited the Governments of Iran and the United States to submit any final substantive comments on the draft rules for consideration at the Tribunal's next session, beginning March 8. The Tribunal has advised, however, that it will consider modifications to the rules *only* in respect of the most fundamental matters. Claimants and other interested parties wishing to offer suggestions concerning the rules are invited to do so in writing to the Office of Iranian Claims but are requested to confine their comments to matters of major substantive concern. To comply with the Tribunal's request, comments must be received no later than Friday, March 5.

The Department has also received the text of the Tribunal's decision in Case A/2, concerning the question whether the Tribunal has jurisdiction over claims by the Islamic Republic of Iran directly against U.S. nationals. As previously indicated in Public Notice 789 (47 FR 1063, January 8, 1982), the Tribunal determined that it does not have jurisdiction over such claims. Copies of the decision in Case A/2, which was rendered on December 21, 1981 and signed on January 18, 1982, may be obtained from the Office of Iranian Claims.

The Tribunal's three Chambers are proceeding to assign time limits for filing statements of defense and to issue related procedural orders and decisions in claims pending before them. The Office of Iranian Claims will provide copies of those orders and decisions to the concerned claimants and legal representatives as they are received from the Registrar of the Tribunal. Claimants are requested in the first instance to direct inquiries concerning such matters to the Office of Iranian Claims rather than the Agent of the United States to the Tribunal at The Hague.

Dated: February 22, 1982.

David P. Stewart,

Administrator for Iranian Claims.

[FR Doc. 82-5109 Filed 2-23-82; 8:45 am]

BILLING CODE 4710-08-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Dept. Circ., Public Debt Series—No. 5–82]

Treasury Notes, Series P–1984; Interest Rate

Washington, February 18, 1982.

The Secretary announced on February 17, 1982, that the interest rate on the notes designated Series P–1984, described in Department Circular—Public Debt Series—No. 5–82 dated February 11, 1982, will be 15⅛ percent. Interest on the notes will be payable at the rate of 15⅛ percent per annum.

Supplemental Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 82-5081 Filed 2-23-82; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register

Vol. 47, No. 37

Wednesday, February 24, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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FEDERAL COMMUNICATIONS COMMISSION

FCC to Hold a Special Open Meeting Wednesday, February 24, 1982

The Federal Communications Commission will hold a Special Open Meeting on the subject listed below on Wednesday, February 24, 1982 at 1:30 p.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Common Carrier—1—*Title:* Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80–286. *Summary:* The Commission will consider whether to adopt, in whole or in part, two Federal-State Joint Board recommended decisions. The first would provide that, as an interim measure pending adoption of final rule changes, the subscriber plant factor (SPF) now used to allocate costs of non-traffic sensitive exchange plant between the interstate and intrastate jurisdictions be frozen as of January 1, 1982. The second would provide for the phase out of customer-premises equipment from the separations process over a five-year period.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: February 17, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-276-82 Filed 2-22-82; 10:03 am]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION

FCC to Hold a Special Open Commission Meeting Thursday, February 25, 1982

The Federal Communications Commission will hold a Special Open Meeting on the subjects listed below on Thursday, February 25, 1982, which is scheduled to commence at 2:00 p.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Private Radio—1—*Title:* Allocation of frequencies in the 72–76 MHz band for use by operational-fixed stations in the Automobile Emergency Radio Service RM–3984. *Summary:* The FCC will consider whether to adopt a Notice of Proposed Rule Making which will allocate frequencies in the 72–76 MHz band for use by eligibles in the Automobile Emergency Radio Service.

Private Radio—2—*Title:* Amendment of Part 90 of the Commission's Rules concerning the authorization of additional systems on the frequency 152.0075 MHz in the Special Emergency Radio Service on a secondary basis. PR Docket 81–2, RM–3538 *Summary:* The FCC will consider whether to adopt a Memorandum Opinion and Order concerning the authorization of 152.0075 MHz which is allocated to the Special Emergency Radio Service.

Common Carrier—1—*Title:* Interconnection Arrangements Between and Among the Domestic and International Record Carriers. *Summary:* The Commission will consider whether or not to adopt a Notice of Proposed Rulemaking soliciting comments on the manner of record carrier interconnection mandated by the Record Carrier Competition Act of 1981.

Broadcast—1—*Title:* Petition for Waiver or Other Special Relief from Subsection 73.658(k)(3) of the Rules. *Summary:* The Commission will consider a staff recommendation for disposition of a petition filed by CBS Inc. for a waiver of the Prime Time Access Rule, 47 CFR 73.658(k)(3).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: February 18, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-277-82 Filed 2-23-82; 10:03 am]

BILLING CODE 6712-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, March 1, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: February 22, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-294-82 Filed 2-23-82; 2:31 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, March 1, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Requests for relief from adjustment for violations of Regulation Z:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Request for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: February 22, 1982.

Federal Deposit Insurance Corporation.

Hoyle, L. Robinson,

Executive Secretary.

[S-255-82 Filed 2-23-82; 9:45 am]

BILLING CODE 6714-01-M

5

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 7800, Monday February 22, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Thursday, February 25, 1982.

PLACE: Board Room, sixth floor, 1700 G Street, N.W., Washington D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall; (202)–377–6679.

CHANGES IN THE MEETING: The following item was placed back on the open portion of the Bank Board meeting. It was sent over with an error in the spelling. This is the correct spelling of the item.

Wrong Spelling—Service Corporation *Activity*

Correct Spelling—Service Corporation Activities

[No. 13, February 22, 1982]

[S-250-82 Filed 2-22-82; 12:57 pm]

BILLING CODE 6720-01-M

6

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

February 17, 1982.

TIME AND DATE: 10 a.m., Wednesday, February 24, 1982.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Consolidation Coal Company, Docket No. PENN 81–108–R; Petition for Discretionary Review. (Issues include whether judge erred in modifying a section 104(d)(1) order to a section 104(d)(1) citation.)

2. Delmont Resources, Inc., Docket No. PENN 80–286–R; (Issues include whether judge erred in finding that a violation of 30 CFR 75.200 was not "significant and substantial").

3. American Materials Corporation, Docket No. LAKE 79–6–M; (Issues include whether judge erred in finding a violation of 30 CFR 50.20–11).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen; (202) 653–5632.

[S-251-82 Filed 2-23-82; 2:17 pm]

BILLING CODE 6820-12-M

7

NATIONAL COUNCIL ON THE HANDICAPPED

DATE: March 1, 2, 3, 1982.

PLACE: Holiday Inn Georgetown, 2101 Wisconsin Ave., NW., Washington, D.C. 20007.

STATUS: Open meeting.

AGENDA: Council Committee will hold working sessions on March 1, 1982. The agenda for the morning of March 2, includes reports by the Commissioner of RSA, Director of NIHR and various Standing Committees and Task Forces of the Council. On Tuesday afternoon, March 2, a panel will discuss the review and modification of Section 504 regulations and guidelines, followed by a report and discussion of budget proposals for programs in 1983 and the years beyond. The meeting will conclude at 12:30 p.m. on March 3.

Please Note.—Any individual requiring an interpreter or other special services, please contact NCH staff immediately.

CONTACT PERSON FOR MORE INFORMATION: Hilda Gay Legg, National Council on the Handicapped, Staff Assistant; Phone: (202) 245–3498 or 245–3499.

[S-276-82 Filed 2-23-82; 10:04 am]

BILLING CODE 6820-01-M

8

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–82–4 and 5]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: 47 FR 7048, February 17, and 47 FR 7368, February 18, 1982.

CHANGE IN MEETINGS: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of the February 25 meeting and to cancel the meeting announced for February 26 and that no earlier announcement was possible. The revised agenda follows:

STATUS: The first three items will be open to the public; the remaining two will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Pipeline Accident Report:* Pacific Gas & Electric Company Natural Gas Pipeline Puncture, San Francisco, California, August 25, 1981, and Recommendations.

2. *Marine Accident Report:* Collision of the Washington State Ferry *Klahowya* and the Liberian Freighter *Sanko Grain* in Seattle Harbor, Washington, January 13, 1981, and *Recommendations* to the U.S. Coast Guard and Washington State Ferries.

3. *Recommendation* to the Federal Aviation Administration regarding takeoff and landing minimums and associated visibility observations. (Calendared at the request of Acting Chairman Burnett, Member Goldman, and Member Bursley.)

4. *Opinion and Order:* Administrator v. Moore, Dkt. SE–4776; disposition of Administrator's appeal. (Calendared at the request of Acting Chairman Burnett.)

5. *Opinion and Order:* Administrator v. Tracy, Dkt. 5194; disposition of respondent's appeal. (Calendared at the request of Acting Chairman Burnett.)

CONTACT PERSON FOR INFORMATION: Sharon Flemming 202–382–6520.

February 19, 1982.

[S-275-82 Filed 2-19-82; 4:16 pm]

BILLING CODE 4910-01-M

9

NUCLEAR REGULATORY COMMISSION

DATE: Week of February 22, 1982 (revised) and Week of March 1, 1982.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED: Thursday, February 25:

4:00 p.m.:

Affirmation/Discussion Session (public meeting) (items revised)

Items to be affirmed and/or discussed:

a. Export and Import of Nuclear Equipment and Material: Proposed Amendments to NRC's Regulations (postponed from February 19)

b. Final Rule for Eliminating need for Power and Alternative Energy Sources as Issues in OL Proceedings

c. FOIA Appeal (81–A–21)

Friday, February 26:

9:30 a.m.:

Discussion of Management-Organization and Internal Personnel Matters (closed meeting) (as announced)

2:00 p.m.:

Discussion of Revised Licensing Procedures (closed meeting) (as announced)

Monday, March 1:

2:00 p.m.:

Discussion of Clinch River Breeder Reactor (open/closed status to be determined)

Thursday, March 4:

10:00 a.m.:

Briefing and Possible Vote on Staff Recommendations on Diablo Canyon Program Plan and Independence of Audit (public meeting) (rescheduled from February 25)

2:00 p.m.:

Briefing on Draft Final Rule Requiring Documentation of Deviations from the Revised Standard Review Plan (public meeting) (approximately 2 hours)

4:00 p.m.:

Affirmation/Discussion Session (public meeting)

Items to be affirmed and/or discussed:

a. Proposed Rule Change on Technical Specifications

b. Final Rule (1) to Eliminate Requirements with Respect to Financial Qualifications for Power Reactor Applicants, and (2) to Require Power Reactor Licensees to Maintain Property Damage Insurance

c. Request for Direct Certification of ASLB Order in Diablo Canyon Proceeding

ADDITIONAL INFORMATION: The Affirmation/Discussion Session scheduled for February 19 was cancelled. Discussion of Regulatory Reform Task Force Proposals, announced for February 26, has been cancelled.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,

Office of the Secretary.

February 22, 1982.

[S-283-82 Filed 2-22-82; 1:27 pm]

BILLING CODE 7590-01-M

10

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on March 11, 1982.

PLACE: Room 1101, 1825 K Street, N.W., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell; (202) 634–4015.

Dated: February 22, 1982.

[S-287-82 Filed 2-23-82; 2:50 pm]

BILLING CODE 7600-01-M

11

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on March 18, 1982.

PLACE: Room 1101, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell; (202) 634–4015.

Dated: February 22, 1982.

[S-285-82 Filed 2-23-82; 4:28 pm]

BILLING CODE 7600-01-M

12

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on March 25, 1982.

PLACE: Room 1101, 1825 K Street, N.W., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell, (202) 634–4015.

Dated: February 22, 1982.

[S-288-82 Filed 2-23-82; 4:00 pm]

BILLING CODE 7600-01-M

13

POSTAL SERVICE

(Board of Governors)

Notice of Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold meetings on Monday, March 1, at 2:00 p.m., and at 9:00 a.m., March 2, 1982, in the Benjamin Franklin Room, 11th Floor, 475 L'Enfant Plaza SW, Washington, D.C. The Tuesday meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245–4632.

On February 8, 1982, the Board of Governors of the United States Postal Service voted to close to public observation its meeting of March 1, 1982, which is expected to be attended by the following persons: Governors Hardesty, Babcock, Camp, Hughes, Jenkins and

Sullivan; Postmaster General Bolger, Deputy Postmaster General Benson; Secretary of the Board Cox; Counsel to the Governors Califano; and Assistant Postmaster General Cummings. The meeting will consist of a discussion of Postal strategic planning.

Agenda

1. Minutes of the Previous Meeting.
2. Remarks of the Postmaster General.
(In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)
3. Report on Legislative Developments.
(Mr. Horgan, Assistant Postmaster General for Government Relations, will report on recent and anticipated Congressional developments affecting the Postal Service.)
4. Report on Law Department.
(Mr. Cox, General Counsel, will brief the Board on developments in the Law Department.)
5. Temporary Classification change re Flexible Acceptance Times for Express Mail.
(Under the Postal Reorganization Act (39 U.S.C 3641 (e)), if the Postal Rate Commission does not transmit a recommended decision on a change in the Domestic Mail Classification schedule to the Governors of the Postal Service within ninety days after the Postal Service has submitted to the Commission a request for such a recommended decision, the Postal Service, upon ten days notice in the Federal Register, may place into effect temporary changes in the Domestic Mail Classification Schedule in accordance with proposed changes under consideration by the Commission. The Postal Service requested a recommended decision on November 10, 1981, to change the Domestic Mail Classification Schedule to allow acceptance of Express Mail at times that differ from the current 5 p.m. cut-off time. The Board will consider the question of whether the Postal Service should place the proposal into effect on a temporary basis.)
6. "30% Requester" requirement for Second-Class Mail.
(The Board will consider whether to authorize a filing with the Postal Rate Commission for a change in the Domestic Mail Classification Schedule to eliminate the requirement in section 200.0116 f. that publications must have a legitimate list of persons who request the publication to be eligible as second-class mail *or*, in the alternative, to set an effective date for this requirement. The Classification Schedule currently states that subsection f. will not be effective prior to March 20, 1982; the Board has not previously determined the date on which this subsection shall become effective.)

Louis A. Cox,
Secretary.

[S-279-82 Filed 2-23-82; 10:04 am]
BILLING CODE 7710-12-M

14

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of March 1, 1982, in Room 825, 500 North Capitol Street, Washington, D.C.

Open meetings will be held on Wednesday, March 3, 1982, at 10:00 a.m., and on Thursday, March 4, 1982, at 2:30 p.m. A closed meeting will be held on Thursday, March 4, 1982, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Shad and Commissioners Loomis, Evans, and Longstreth voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Wednesday, March 3, 1982, at 10:00 a.m., will be:

1. Consideration of applications of Ralph M. Nordstrom, Theordore Saltzman, Marvin S. Bernstein, and Lawrence R. Turel for relief from disqualifications imposed in connection with administrative proceedings.
2. Consideration of whether to adopt, on a permanent basis, three forms under the Investment Company Act of 1940: (1) Form N-6F, a notice of intent to elect to be regulated as a business development company, (2) Form N-54A, a notification of election to be regulated as a business development company and Form N-54C, a notification of withdrawal of such election. The Commission adopted, on an interim basis, the three forms in substantially the same form in Investment Company Act Release No. 11703 (March 30, 1981). For further information, please contact Kathleen A. Jackson at (202) 272-2115 or Eric H. Pookrum at (202) 272-2118.
3. Consideration of whether to propose for public comment Rule 17f-5 under the Investment Company Act of 1940 which would permit a management investment company to authorize a qualified bank custodian or sub-custodian to place and maintain the company's foreign securities in foreign banks and foreign securities depositories under certain conditions. For further information, please contact Elizabeth K. Norsworthy at (202) 272-2028.
4. Consideration of whether to amend 17 CFR 201.22(e), 230.403(a), 240.12b-12(a) and (b), 250.22(d), 260.7a-12, 270.8b-12(a) and (b), and 275.04(b), to require the use of 8½ x 11 inch paper for all statements, applications, reports, documents and amendments thereto filed with the Commission. For further information, please contact Douglas J. Scheidt at (202) 272-2554.
5. Consideration of whether to adopt new Regulation D and related amendments governing certain offers and sales of securities without registration under the Securities Act of 1933 and a uniform notice of sales form to be used for all offerings under the regulation. The regulation replaces three exemptions and four forms, all of which are being rescinded. The new regulation is designed to simplify and clarify existing exemptions, to expand their availability, and to achieve uniformity between federal and state exemptions in order to facilitate capital formation consistent with the protection of investors. For further information, please contact David B. H. Martin at (202) 272-2573.
6. Consideration of whether to authorize publication of a release describing the results of the 1981 Proxy Statement Disclosure Monitoring Program, which surveys disclosures about the composition and functioning of boards of directors and director compensation practices. For further information, please contact Gregory H. Mathews at (202) 272-2589.

The subject matter of the closed meeting scheduled for Thursday, March 4, 1982, at 10:00 a.m., will be:

Access to investigative files by Federal, State, or Self-Regulatory authorities.
Formal orders of investigation.
Institution of injunctive actions.
Institution of administrative proceeding of an enforcement nature.
Freedom of Information Act appeal.

The subject matter of the open meeting scheduled for Thursday, March 4, 1982, at 2:30 p.m., will be:

The Commission will meet with members of the Financial Accounting Standards Board with respect to the Board's Conceptual Framework project and other matters. For further information, please contact Clarence Staubs at (202) 272-2133.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Diane Klinke at (202) 272-2178.

February 22, 1982.

[S-281-82 Filed 2-23-82; 1:29 pm]
BILLING CODE 8010-01-M

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federal register

Wednesday
February 24, 1982

Part II

Consumer Product Safety Commission

Standards for the Flammability of Clothing Textiles and Vinyl Plastic Film; Final Rule and Extension of Time for Receipt of Written Comments on Proposed Amendments

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1610 and 1611

Standards for the Flammability of Clothing Textiles and Vinyl Plastic Film; Amendments to Implementing Regulations

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission amends regulations implementing the flammability standards for clothing textiles and vinyl plastic film to exempt plastic film used as the outer layer of disposable diapers from any requirement for separate testing, provided that a full-thickness of the assembled article passes the test in the applicable standard. The Commission issues these amendments to prescribe a single procedure for testing multi-layer fabrics which have an outer layer of plastic film or plastic-coated fabric and are used in disposable diapers, thereby eliminating inconsistencies in testing which might otherwise result from application of the standards and implementing regulations to such fabrics.

EFFECTIVE DATE: April 26, 1982.

FOR FURTHER INFORMATION CONTACT: Elizabeth Gomilla, Division of Regulatory Management, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492-6400.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 28, 1981 (46 FR 28665), the Commission proposed several amendments to the regulations implementing the flammability standards for clothing textiles (16 CFR Part 1610) and vinyl plastic film (16 CFR Part 1611). (*14*) [1]

The Commission began this rulemaking proceeding after receiving a petition (FP 79-1) from the Procter & Gamble Company (P&G) which requested issuance of a separate flammability standard for disposable diapers, a product manufactured by P&G. (*2*) The standard requested by P&G incorporated the basics of the test method set forth in the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) but contained specific language to the effect that only the full thickness of a disposable diaper would be tested. Consequently, if the product were manufactured with an outer layer of plastic film, that outer layer would not be tested separately. The standard for disposable diapers requested by the petition from P&G contained other modifications to the clothing textiles standard, which P&G claimed would make it more realistic and suitable for testing disposable diapers.

A major concern expressed by P&G in the petition was the manner in which the Commission staff applied the flammability standards for clothing textiles and vinyl plastic film and regulations implementing those standards to disposable diapers. The petition cited letters and depositions from various members of the Commission staff to the effect that the answer to the question of whether the standards and implementing regulations required the outer layer of plastic film used in a disposable diaper to be tested separately, or whether a full thickness of the product including the outer layer of film should be tested, depends upon the construction of the product. The petition expressed the view that a new standard is needed which could be applied consistently to all types of disposable diapers. (*2*)

Proposal of May 28, 1981

After consideration of the petition (*2*), a staff briefing package concerning the petition (*1, 3-10*), and other information concerning the petition (*11, 12*), the Commission voted to deny the petition. (*13*) The Commission concluded that in view of the small number of flammability incidents involving disposable diapers, issuance of a separate flammability standard for that product would not be a reasonable use of the Commission's resources. However, the Commission also decided that the regulations implementing the flammability standard for clothing textiles and vinyl plastic film should be amended to specify that when testing disposable diapers, the test specimen shall consist of a swatch from the full thickness of the product, and that any outer layer of plastic film or coated fabric need not be tested separately. (*13*) Additionally, the Commission decided to propose clarifying amendments to those regulations to resolve questions which had arisen about interpretation of the standards and their applicability to various products, including multi-layer fabrics with an outer layer of film, or coated fabric, such as those used for disposable diapers. (*13*) A detailed explanation of the proposed amendments appears in the notice published on May 28, 1981. (*14*)

In the notice of May 28, 1981, the Commission stated that it anticipated that the major effect of the proposal would be to relieve manufacturers of disposable diapers from any requirement to test separately any outer layer of plastic film or coated fabric used in the product, thereby decreasing the cost imposed by the standards. The Commission also stated that other portions of the regulations implementing the two standards were "not expected to result in any substantial change in existing practices" by manufacturers of items subject to either the clothing textiles or vinyl plastic film standards.

See 46 FR 28665 at 28670. For these reasons, the Commission certified that the amendments proposed on May 28, 1981, if issued on a final basis, would not have a significant economic effect on a substantial number of small businesses. (*14*)

Industry Interpretation of Standards

After publication of the proposed amendments, the Commission received informal, preliminary comments from garment manufacturers and associations representing those manufacturers to the effect that the proposed amendments, if issued on a final basis, would require testing of the full thickness of an assembled garment, in addition to tests of each uncovered or exposed layer of fabric, film or coated fabric to determine compliance with the flammability standards for clothing textiles or vinyl plastic film in the garment.

However, these preliminary comments stated that the industry as a whole has interpreted the standards to require only testing of any uncovered or exposed layers of fabric in a garment, and not full thickness testing for garments having multiple layers of fabric. The preliminary comments stated that the proposal of May 28, 1981, could have the effect of substantially increasing manufacturers' costs of testing under the two standards, resulting in an adverse economic impact on industry and consumers.

As indicated above, when the Commission published the proposal of May 28, 1981, it intended to relieve a requirement for separate testing of any outer layer of plastic film or coated fabric used in disposable diapers, and to clarify other provisions of the regulations implementing the flammability standards for clothing textiles and vinyl plastic film. It did not intend to increase the amount of testing required to be performed by industry, or to add substantially to the costs imposed on industry by the two standards. (*14*)

[1] Numbers in parentheses identify reference documents listed in the Bibliography at the end of this notice. Requests for inspection of any of these documents should be made at the Commission's public reading room, 1111 18th Street, NW., 8th floor, Washington, D.C. 20207, or by calling the Office of the Secretary at (301) 492-6800.

After considering these preliminary comments on the proposal of May 28, 1981, the Commission published a notice in the **Federal Register** of July 30, 1981 (46 FR 38931) to divide the rulemaking proceeding initiated by the proposal of May 28, 1981, into two parts. In the notice of July 30, the Commission announced that it would suspend further action on those parts of the proposal of May 28, 1981, related to the issue of whether full-thickness testing of garments is required by the Flammable Fabrics Act and the two standards, and would establish a new comment period and schedule a new date for oral presentations concerning that part of the proposal of May 28. (*15*)

The notice of July 30, 1981, also extended the period for receipt of written comments on all other aspects of the proposal of May 28, 1981, including the proposed exemption from separate testing for any outer layer of plastic film or coated fabric used for disposable diapers, until August 31, 1981, and scheduled a public hearing to receive oral views on all remaining aspects of the proposal for August 7, 1981. (*15*)

Comments on Proposals

In response to the notice of July 30, 1981, the Commission received five written comments on issues raised by the proposal of May 28, 1981, as modified by the notice of July 30. (*17-21*) One other written comment concerned issuance of new or amended flammability standards, a topic not covered by the proposed amendments. (*16*) No person or firm requested the opportunity to make an oral presentation to the Commission concerning the proposal of May 28, 1981, as modified by the notice of July 30, 1981.

After consideration of all relevant written comments and the requests for extension of the comment period, the Commission has decided to issue on a final basis, with some revision, those portions of the proposal of May 28, 1981, which provide that test specimens of a disposable diaper manufactured with an outer layer of plastic film shall be taken from a full thickness of the assembled article, and exempt plastic film used as the outer layer of a disposable diaper from any requirement for separate testing. The reasons for this decision are set forth below under the heading, "Testing of Plastic Film or Coated Fabric Used in Disposable Diapers."

The Commission has also granted a request for a 90-day extension of the period for receipt of written comments on the remainder of the proposal of May 28, 1981. In the proposed rules section of this issue of the **Federal Register**, the Commission has published a notice extending the date for receipt of written comments on all remaining portions of the proposal of May 28, 1981, including issues related to the question of whether full-thickness testing of garments is required by the Flammable Fabrics Act and the standards in question, until May 25, 1982. That notice also schedules a public hearing for oral presentations on all remaining portions of the proposal of May 28, 1981, at 9:30 a.m., May 3, 1982, in the Commission's hearing room, third floor, 1111 18th Street, NW., Washington, D.C.

Testing of Plastic Film or Coated Fabric Used in Disposable Diapers

In the notice of May 28, 1981, (46 FR 28665 at 28670-2) (*14*) and the notice of July 30, 1981, (46 FR 38931 at 38933-4) (*15*) the Commission proposed to amend the regulations implementing the standards for clothing textiles and vinyl plastic film by adding new paragraphs concerning testing of disposable diapers to existing §§ 1610.36 and 1611.36. The portions of the proposal intended to exempt plastic film used as the outer layer of a disposable diaper from any requirement for separate testing were proposed on May 28, 1981, and republished on July 30, 1981 as follows:

> § 1610.36 Application of act to particular types of products.
>
> * * * * *
>
> (f) *Multilayer fabric and wearing apparel with a film or coating on the uncovered or exposed surface.* The following procedure shall be used to determine whether the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) or the Standard for the Flammability of Vinyl Plastic Film (16 CFR Part 1611) applies to multilayered fabrics which have a film or coating on a surface which will be uncovered or exposed when the fabric is used in wearing apparel, and to garments made of such fabrics:
>
> (1) [Reserved]
>
> (2) [Reserved]
>
> (3) Disposable diapers constructed with an outer layer of plastic film or plastic-coated fabric are exempt from the requirements of §§ 1610.32 and 1611.32 that the fabric or film of the uncovered surface of an article of wearing apparel must be tested, provided that such diapers would pass a full thickness test of the assembled article under the standard otherwise applicable to the outer fabric or film when the flame is applied to the exposed or uncovered surface.
>
> (Identical language was used in the proposed amendment of § 1611.36.) (*14*)(*15*)

The Commission received three written comments concerning the language in the proposed amendments, all from manufacturers of disposable diapers.

A comment from Kimberly-Clark Corporation supported the language in the proposal exempting the outer layer of plastic film used in disposable diapers from any requirement for separate testing. This comment observed that full-thickness testing of disposable diapers will assure the safety of that product because such testing approximates actual use conditions. This comment also observes that consumers do not use the outer layer of film of a disposable diaper by itself, and for that reason, separate testing of the film is not relevant to a determination of the flammability of the entire diaper. (*19*)

A comment from P&G favored the proposed amendments to exempt plastic film used as the outer layer of a disposable diaper, but expressed concern that the language of proposed §§ 1610.36(f)(3) and 1611.36(f)(3) exempting the outer layer of plastic film from any requirement for separate testing might conflict with other provisions in the proposed §§ 1610.36(f) and 1611.36(f) concerning determination of whether a disposable diaper is subject to the standard for clothing textiles (Part 1610) or the standard for vinyl plastic film (Part 1611). This comment suggested specific language to avoid the perceived conflict. (*17*)

A comment from Kendall Company objected to proposed §§ 1610.36(f) and 1611.36(f) because they indicate that the disposable diaper is a garment subject to the standard for clothing textiles or the standard for vinyl plastic film, whereas the commenter believes that only the fabric or film used in a garment is subject to the standards. (*20*)

Without conceding the applicability of the standards in question to garments as well as to fabric and film from which garments are made, the Commission believes that the language of proposed §§ 1610.36(f)(3) and 1611.36(f)(3) could be revised to eliminate the potential conflict with other portions of the proposal foreseen by P&G, and also overcome the objection expressed by the Kendall Company.

As issued below, those sections have been reworded to state that "plastic film or plastic-coated fabric used, or intended for use, as the outer layer of disposable diapers" is exempted from any requirement for separate testing, "provided that a full thickness of the assembled article passes" the test in the applicable standard.

Therefore, for the reasons set forth above, Parts 1610 and 1611 of Title 16 of the Code of Federal Regulations are amended as follows:

PART 1610—STANDARD FOR THE FLAMMABILITY OF CLOTHING TEXTILES

1. A new paragraph (f) is added to 16 CFR 1610.36, to read as follows:

§ 1610.36 Application of act to particular types of products.

* * * * *

(f) *Multilayer fabric and wearing apparel with a film or coating on the uncovered or exposed surface.* The following procedure shall be used to determine whether the standard for the Flammability of Clothing Textiles (16 CFR Part 1610) or the Standard for the Flammability of Vinyl Plastic Film (16 CFR Part 1611) applies to multilayered fabrics which have a film or coating on a surface which will be uncovered or exposed when the fabric is used in wearing apparel, and to garments made of such fabrics:

(1) [Reserved]

(2) [Reserved]

(3) Plastic film or plastic-coated fabric used, or intended for use, as the outer layer of disposable diapers is exempt from the requirements of the standard, provided that a full thickness of the assembled article passes the test in the standard otherwise applicable to the outer fabric or film when the flame is applied to the exposed or uncovered surface.

PART 1611—STANDARD FOR THE FLAMMABILITY OF VINYL PLASTIC FILM

2. A new paragraph (f) is added to 16 CFR 1611.36, to read as follows:

§ 1611.36 Application of act to particular types of products.

* * * * *

(f) *Multilayer fabric and wearing apparel with a film or coating on the uncovered or exposed surface.* The following procedure shall be used to determine whether the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) or the Standard for the Flammability of Vinyl Plastic Film (16 CFR Part 1611) applies to multilayered fabrics which have a film or coating on a surface which will be uncovered or exposed when the fabric is used in wearing apparel, and to garments made of such fabrics:

(1) [Reserved]

(2) [Reserved]

(3) Plastic film or plastic-coated fabric used, or intended for use, as the outer layer of disposable diapers is exempt from the requirements of the standard, provided that a full thickness of the assembled article passes the test in the standard otherwise applicable to the outer fabric or film when the flame is applied to the exposed or uncovered surface.

(Sec. 4, 5, 67 Stat. 112, 113, as amended, 68 Stat. 770, 81 Stat. 571, 90 Stat. 515 (15 U.S.C. 1193, 1194); sec. 30(b), 86 Stat. 1207 (15 U.S.C. 2079(b))

Effective date: These amendments shall be effective on April 28, 1982.

Dated: February 18, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Bibliography

1. Transmittal memorandum and attached briefing package concerning petition 79–1, requesting establishment of a flammability standard for disposable diapers, from Elaine A. Tyrrell, OPM, to Commission; 12 pages; May 7, 1980. (The Tabs are listed separately as documents below.)

2. TAB A, Petition for Disposable Diaper Standard from Procter & Gamble Company to Consumer Product Safety Commission, with attachments; 83 pages; November 22, 1978.

3. TAB B, chronology of events associated with petition 79–1; 3 pages.

4. TAB C, Memorandum from Beatrice Pitkin, OGC, to Sadye E. Dunn, Secretary, concerning request for issuance of flammability standard for disposable diapers; 2 pages; December 4, 1978.

5. TAB D, memorandum from Allen F. Bruaninger, C&E, to Elaine Tyrrell, OPM, concerning response to petition from Procter & Gamble Company, and attached draft Federal Register notice; 34 pages; March 28, 1980.

6. TAB E, memorandum from Patricia A. Fairall, ESEM, to Roy Deppa, OPM, concerning Procter & Gamble petition for disposable diapers; 13 pages; April 16, 1980.

7. TAB F, three documents. (1) Memorandum from Deborah Kale, HIEA, to Elaine A. Tyrrell, OPM, concerning petition 79–1 for Commission action to develop a flammability standard for disposable diapers; 2 pages; September 11, 1979. (2) Memorandum from Charles A. Nicholls, HIEA, to Douglas Noble, OPM, concerning petition 79–1; 1 page; November 28, 1979. (3) Memorandum from Bea Harwood and Debbie Kale, HIEA, to Elaine Tyrrell, OPM, concerning petition 79–1; 2 pages; December 12, 1979.

8. TAB G, memorandum from Julia Clones and Eileen Gallagher, HICP, concerning economic considerations related to Procter & Gamble petition on disposable diapers; 5 pages; October 1, 1979.

9. TAB H, three documents. (1) Letter from Roger B. Bognar, American Paper Institute, Tissue Division, to David Schmeltzer, C&E, concerning petition FP 79–1; 2 pages; June 30, 1979. (2) Letter from Roger B. Bognar, American Paper Institute, Tissue Division, to Sadye Dunn, Secretary, concerning petition 79–1; 1 page; September 6, 1979. (3) Letter from Robert E. Freer, Jr., Kimberly-Clark Corporation, to Sadye E. Dunn, Secretary, concerning petition FP 79–1; 3 pages; January 28, 1980.

10. TAB I, three documents. (1) Log of meeting on July 10, 1979, of Commission staff members with representatives of Procter & Gamble Company; 2 pages. (2) Log of meeting on November 20, 1979, of Commission staff members with representatives of Procter & Gamble Company; 2 pages. (3) Memorandum of telephone conversations on November 8 and 9 of Douglas Noble and Commission staff with James O'Reilly and other representatives of Procter & Gamble Company; 2 pages.

11. Vote sheet and memorandum from Harleigh Ewell, OGC, to the Commission, concerning briefing package on petition FP 79–1 to establish a flammability standard for disposable diapers; 12 pages; May 14, 1980.

12. Memorandum from Douglas Noble, OPM, to the Commission, transmitting additional information related to petition FP 79–1 requesting flammability standard for disposable diapers, with attachments; 67 pages; June 11, 1980.

13. Minutes of Commission meeting of June 12, 1980; 2 pages; June 16, 1980.

14. Federal Register notice, "Standards for the Flammability of Clothing Textiles and Vinyl Plastic Film; Proposed Interpretations, Clarifications, and Exemption; 8 pages; May 28, 1981.

15. Federal Register notice, "Standards for the Flammability of Clothing Textiles and Vinyl Plastic Film; Proposed Interpretations, Clarifications, and Exemptions; 4 pages; July 30, 1981.

16. Comment from Robert E. Kelly, State of Montana, concerning proposal of May 28, 1981; 1 page; June 23, 1981.

17. Comment from James T. O'Reilly, Procter & Gamble Company, concerning proposal of May 28, 1981; 3 pages; June 30, 1981.

18. Comment from Arnold M. Snooke, Burlington Industries, Inc., concerning proposals of May 28, and July 30, 1981; 2 pages; August 18, 1981.

19. Comment from Robert Freer, Jr., Kimberly-Clark Corporation, concerning proposals of May 28, and July 30, 1981; 4 pages; August 31, 1981.

20. Comment from E. E. Hinds, Kendall Company, concerning proposals of May 28, and July 30, 1981; 5 pages; August 17, 1981.

21. Comment from William E. Fisher, International Fabricare Institute, on proposals of May 28, and July 30, 1981; 4 pages; August 31, 1981.

22. Request from Fred Shippee, American Apparel Manufacturers Association, for extension of comment period; 2 pages; August 24, 1981.

23. Request from Peter M. Phillipes, Levi, Strauss & Co., for extension of comment period; 1 page; August 26, 1981.

24. Request from H. Adams, Jr., Man-made Fiber Producers Association, Inc., for extension of comment period; 1 page; August 27, 1981.

25. Request from O'Jays Niles, American Textile Manufacturers Association, for extension of comment period; 1 page; August 28, 1981.

26. Request from Robert B. Cleaver, National Cotton Council of America, for extension of comment period; 2 pages; August 27, 1981.

27. Letter from James T. O'Reilly, Procter & Gamble Company, to Harleigh Ewell, OGC, concerning request for extension of comment period; 1 page; August 28, 1981.

[FR Doc. 82-4888 Filed 2-23-82; 8:45 am]

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CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1610 and 1611

Standards for the Flammability of Clothing Textiles and Vinyl Plastic Film; Extension of Time for Receipt of Written Comments on Proposed Amendments to Implementing Regulations

AGENCY: Consumer Product Safety Commission.

ACTION: Extension of time for submission of written comments on proposed amendments to regulations.

SUMMARY: The Commission extends the period for receipt of written comments on proposed amendments to regulations implementing the flammability standards for clothing textiles and vinyl plastic film until May 25, 1982. The amendments were proposed on May 28, 1981, and July 30, 1981. This extension of the comment period is made in response to requests from a garment manufacturer and from three associations of garment and textile manufacturers stating that additional time for preparation of written comments is needed in view of the complexity of issues which the proposals present to the regulated industry.

DATES: (1) Interested parties may submit written comments on the proposals until May 25, 1982; (2) If requested, a public hearing providing for presentation of oral data, views, or arguments will be scheduled for May 3, 1982 at 9:30 a.m. in the Commission's hearing room, third floor, 1111 18th Street, NW., Washington, D.C. Those wishing to make oral presentations at the public hearing should notify Sheldon Butts at the Office of the Secretary in writing by April 22, 1982. A summary or copy of the testimony is requested to be submitted to the Office of the Secretary by April 26, 1982.

PROPOSED EFFECTIVE DATE: The Commission proposes that any final amendments based on the proposals shall become effective 60 days after publication in the Federal Register on a final basis.

ADDRESSES: Written comments should be addressed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

Received comments on the proposals are available for inspection at the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, NW., 8th Floor, Washington, D.C. Requests for inspection of the staff briefing package or any other document listed in the Bibliography at the end of this notice should be made at the Office of the Secretary, 1111 18th Street, NW., 8th Floor, Washington, D.C., or by calling the Office of the Secretary at (301) 492-6800.

FOR FURTHER INFORMATION CONTACT: L. James Sharman, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207. Telephone: (301) 492–6557.

SUPPLEMENTARY INFORMATION: In the Federal Register of May 28, 1981 (46 FR 28665), the Commission proposed several amendments to the regulations implementing the flammability Standards for clothing textiles (16 CFR Part 1610) and vinyl plastic film (16 CFR Part 1611). (*14*)[1]

The Commission began this rulemaking proceeding after receiving a petition (FP 79–1) from the Procter & Gamble Company (P & G) which requested issuance of a separate flammability standard for disposable diapers, a product manufactured by P & G. (*2*) The standard requested by P & G incorporated the basics of the test method set forth in the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) but contained specific language to the effect that only the full thickness of a disposable diaper would be tested. Consequently if the product were manufactured with an outer layer of plastic film, that outer layer would not be tested separately. The standard for disposable diapers requested by the petition from P & G contained other modifications to the clothing textiles standard, which P & G claimed would make it more realistic and suitable for testing disposable diapers.

A major concern expressed by P & G in the petition was the manner in which the Commission staff applied the flammability standards for clothing textiles and vinyl plastic film and regulations implementing those standards to disposable diapers. The petition cited letters and depositions from various members of the Commission staff to the effect that the answer to the question of whether the standards and implementing regulations required the outer layer of plastic film used in a disposable diaper to be tested separately, or whether a full thickness of the product including the outer layer of film should be tested, depends upon the construction of the product. The petition expressed the view that a new standard is needed which could be applied consistently to all types of disposable diapers. (*2*)

After consideration of the petition (*2*), a staff briefing package concerning the petition (*1, 3–10*), and other information concerning the petition (*11, 12*), the Commission voted to deny the petition (*13*). The Commission concluded that in view of the small number of flammability incidents involving disposable diapers, issuance of a separate flammability standard for that product would not be a reasonable use of the Commission's resources. However, the Commission also decided that the regulations implementing the flammability standard for clothing textiles and vinyl plastic film should be amended to specify that when testing disposable diapers, the test specimen shall consist of a swatch from the full thickness of the product, and that any outer layer of plastic film or coated fabric need not be tested separately (*13*). Additionally, the Commission decided to proposed clarifying amendments to those regulations to resolve questions which had arisen about interpretation of the standards and their applicability to various products, including multilayer fabrics with an outer layer of film or coated fabric, such as those used for disposable diapers (*13*). A detailed explanation of the proposed amendments appears in the notice published on May 28, 1981 (*14*).

In the notice of May 28, 1981, the Commission stated that it anticipated that the major effect of the proposal would be to relieve manufacturers of disposable diapers from any requirement to test separately any outer layer of film or coated fabric used in the product, thereby decreasing the cost imposed by the standards. The Commission also stated that other portions of the regulations implementing the two standards were "not expected to result in any substantial change in existing practices" by manufacturers of items subject to either the closing textiles or vinyl plastic film standards. See 46 FR 28665 at 28670. For these reasons the Commission certified that the amendments proposed on May 28, 1981, if issued on a final basis, would not have a significant economic effect on a substantial number of small businesses. (*14*)

Industry Interpretation of Standards

After publication of the proposed amendments, the Commission received informal, preliminary comments from garment manufacturers and associations representing those manufacturers to the effect that the proposed amendments, if issued on a final basis, would require

[1] Numbers in parentheses identify reference documents listed in the Bibliography at the end of this notice. Requests for inspection of any of these documents should be made at the Commission public reading room, 1111 18th Street, N.W., 8th Floor, Washington, D.C. 20207, or by calling the Office of the Secretary at (301) 492–6800.

testing of the full thickness of an assembled garment, in addition to tests of each uncovered or exposed layer of fabric or film to determine compliance with the flammability standards for clothing textiles or vinyl plastic film.

However, these preliminary comments stated that the industry as a whole has interpreted the standards to require only testing of any uncovered or exposed layers of fabric in a garment, and not full thickness testing for garments having multiple layers of fabric. The preliminary comments stated that the proposal of May 28, 1981, could have the effect of substantially increasing manufacturers' costs of testing under the two standards, resulting in an adverse economic impact on industry and consumers.

As indicated above, when the Commission published the proposal of May 28, 1981, it intended to relieve a requirement for separate testing of any outer layer of plastic film or coated fabric used in disposable diapers, and to clarify other provisions of the regulations implementing the flammability standards for clothing textiles and vinyl plastic film. It did not intend to incease the amount of testing required to be performed by industry, or to add substantially to the costs imposed on industry by the two standards. (*14*)

After considering these preliminary comments on the proposal of May 28, 1981, the Commission published a notice in the **Federal Register** of July 30, 1981 (46 FR 38631) to divide the rulemaking proceeding initiated by the proposal of May 28, 1981, into two parts. In the notice of July 30, the Commission announced that it would suspend further action on those parts of the proposal of May 28, 1981, related to the issue of whether full-thickness testing of garments is required by the Flammable Fabrics Act and the two standards, and would establish a new comment period and schedule a new date for oral presentations concerning that part of the proposal of May 28. (*15*)

Comments on Proposals

In response to the notice of July 30, 1981, the Commission received six written comments on the proposed amendments of the regulations implementing the standards. (*16–21*) The Commission also received requests from one garment manufacturer and from three associations representing garment and textile manufacturers for a 60-day extension of the comment period. (*22–25*) Another association requested a 90-day extension of the comment period. (*26*)

The requests for extension of the comment period stated that the regulated industry needed additional time to prepare comments on the proposals because of the wide range of products which might be affected, and because of the complexity of issues presented by the proposals.

The Commission received no request from any person for an opportunity to make an oral presentation concerning the proposals.

After consideration of all comments on the proposals of May 28, and July 30, 1981, and the requests for extension of the comment period, the Commission hereby grants the request for a 90-day extension of the period for receipt of written comments on all aspects of the proposals of May 28 and July 30, 1981, except for those portions which exempt plastic film or coated fabric used as the outer layer of disposable diapers from the requirement for separate testing.

The Commission also schedules a public hearing at 9:30 a.m. on May 3, 1982, in the Commission's hearing room, third floor, 1111 18th Street, N.W., Washington, D.C. 20207, to provide opportunity for interested parties to make oral presentations of data, views, arguments, and opinions concerning all portions of the amendments proposed on May 28, and July 30, 1981, except those exempting plastic film or coated fabic used as the outer layer of disposable diapers from the requirement for separate testing.

Testing Plastic Film or Coated Fabric Used for Diapers

In the final rules section of this issue of the **Federal Register**, the Commission has published a notice issuing on a final basis amendments which add new §§ 1610.36(f)(3) and 1611.36(f)(3) to provide that when testing multilayer fabric with an outer layer of plastic film or plastic-coated fabric, used for disposable diapers, the outer layer of plastic film or plastic-coated fabric is exempt from any requirement for separate testing, provided that a full-thickness of the assembled article passes the test in the applicable standard.

As stated above, this notice grants the request for a 90-day extension of the comment period, until May 25, 1982 on all remaining portions of the proposals of May 28 and July 30, 1981, including issues related to full-thickness testing of garments.

Issues Related to Full-Thickness Testing of Garments

With regard to the question of whether full-thickness testing of garments is required by the Flammable Fabrics Act and the standards, the Commission observes that in their present form, §§ 1610.32 and 1611.32 state the following:

> No article of wearing apparel or fabric subject to the act and regulations shall be marketed or handled if such article or fabric, when tested according to the procedures prescribed in section 4(a) of the act, is so highly flammable as to be dangerous when worn by individuals.

The notice of May 28, 1981, proposed to make editorial revisions of the text of §§ 1610.32 and 1611.32; to redesignate existing §§ 1610.32 and 1611.32 as §§ 1610.32(a) and 1611.32(a), respectively; and to add new paragraphs to each sections. Proposed §§ 1610.32(b) and 1611.32(b) contained the following provisions:

> (b) *Uncovered surfaces, exposed surfaces, and full thickness of articles of apparel subject to testing.* When testing an article of wearing apparel subject to the Standard, the following parts of the article of wearing apparel shall be individually tested:
>
> (1) The fabric of the uncovered, or outer, surface of the article of wearing apparel, with the flame applied to the uncovered surface;
>
> (2) The fabric of any other surface which could be exposed when the article of wearing apparel is worn, with the flame applied to the exposed surface; and
>
> (3) The full thickness of the article of wearing apparel, with the flame applied to the uncovered or exposed surface(s).

Additionally, the notice of May 28, 1981, proposed to revoke existing §§ 1610.34 and 1611.34. Those sections state:

> In determining whether an article of wearing apparel is so highly flammable as to be dangerous when worn by individuals, only the uncovered or exposed part of such article of wearing apparel shall be tested according to the applicable procedures set forth in section 4(a) of the act.

Alternatives to Previous Proposals

One way to overcome some of the objections expressed in the preliminary comments on the proposal of May 28, 1981, would be to withdraw proposed §§ 1610.32(b) and 1611.32(b) and the proposed revocation of §§ 1610.34 and 1611.34. Such action would have the effect of continuing without change existing provisions in those sections of the regulations applicable to testing of garments. The Commission solicits comments on the question of whether those sections should be retained in their present form.

As noted above, provisions of §§ 1610.34 and 1611.34 state that "only the uncovered or exposed part" of an article of wearing apparel shall be tested to determine compliance with the standard for clothing textiles or vinyl plastic film. If §§ 1610.34 and 1611.34 are retained, additional questions arise as to whether they should make reference to the exemption from the requirement for separate testing of plastic film used as the outer layer of disposable diapers, and whether the phrase "uncovered or exposed part" of an article of wearing apparel is sufficiently precise. For these reasons, the Commission also solicits comments from interested parties on whether those sections should be revised. Such a revision might take the following form:

> In determining whether an article of wearing apparel is so highly flammable as to be dangerous when worn by individuals, only the uncovered or exposed layer of fabric or film of such article of wearing apparel shall be tested according to the applicable procedures set forth in section 4(a) of the act. (Note: plastic film or plastic-coated fabric used, or intended for use, as the outer layer of disposable diapers is exempt from the requirements of the standard, provided that a full thickness of the assembled article passes the test in the standard otherwise applicable to the outer fabric or film when the flame is applied to the exposed or uncovered surface. See §§ 1610.36(f)(3) and 1611.36(f)(3).)

Conclusion

Accordingly, the Commission hereby extends the period for receipt of written comments on all aspects of the proposal of May 28, 1981, and the notice of July 30, 1981, (except for §§ 1610.36(f)(3) and 1611.36(f)(3) which have been issued on a final basis) until May 25, 1982.

For the convenience of all interested parties, the Commission is republishing the amendments to 16 CFR Part 1610 and 1611 previously proposed on May 28, 1981, and July 30, 1981, below, with the following alterations:

1. The text of existing §§ 1610.32, 1611.32, 1610.34 and 1611.34 has been published within the proposed amendments and are shown in a smaller type size than the proposed versions of these sections.

2. An example of alternative language for existing §§ 1610.34 and 1611.34 discussed above, has been inserted to facilitate comparison with the text of those sections in their present form.

3. Some technical changes have been made to the wording of proposed § 1610.32(c) concerning interpretation of test results of raised-fiber surface fabrics to correct errors and omissions discovered by the Commission staff after publication of the proposals of May 28, and July 30, 1981.

4. Sections 1610.36(f)(3) and 1611.36(f)(3), which have been issued on a final basis, are published below to place proposed §§ 1610.36(f) (1), (2), and 1611.36(f) (1), (2) in context.

Parts 1610 and 1611 of Title 16 of the Code of Federal Regulations are proposed to be amended, as follows:

PART 1610—STANDARD FOR THE FLAMMABILITY OF CLOTHING TEXTILES

1. Section 1610.32 is revised to read as follows:

§ 1610.32 Flammability requirements.

(a) *General requirement.* No item of fabric which is subject to the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610), and no article of wearing apparel subject to the Standard which is made of such fabric, shall be marketed or handled if such item of fabric or article of wearing apparel exhibits rapid and intense burning when tested in accordance with § 1610.3 of that Standard.

(b) *Uncovered surfaces, exposed surfaces, and full thickness of articles of apparel subject to testing.* When testing an article of wearing apparel subject to the Standard, the following parts of the article of wearing apparel shall be individually tested:

(1) The fabric of the uncovered, or outer, surface of the article of wearing apparel, with the flame applied to the uncovered surface;

(2) The fabric of any other surface which could be exposed when the article of wearing apparel is worn, with the flame applied to the exposed surface; and

(3) The full thickness of the article of wearing apparel, with the flame applied to the uncovered or exposed surface(s).

(c) *Interpretation of test results.* The provisions of § 1610.4(g)(7) of the Standard for the Flammability of Clothing Textiles, relating to results of testing, shall be applied to tests of fabrics and articles of wearing apparel subject to the Standard. To compute the average time of flame spread for each set of five specimens, at least two of the specimens must ignite and burn the stop cord for the specimen. However, if fewer than two specimens of any given set of five ignite and burn the entire length of the specimen, test results shall be interpreted according to the provisions of paragraph (c)(1) through (c)(4) of this section.

(1) If no specimen ignites and burns the stop cord, the results of that test shall be regarded as Class 1 (passing).

(2) If only one of five specimens of a plain surface fabric ignites and burns the stop cord with a time of 3.5 seconds or more, the results of that test shall be regarded as Class 1 (passing).

(3) If only one of five specimens of a raised-fiber surface fabric ignites and burns in less than 4 seconds, but the base fabric does not ignite or fuse, the results of that test shall be regarded as Class 1 (passing). If only one of five specimens of a raised-fiber surface fabric ignites or burns in more than 4 seconds, regardless of whether the base fabric ignites or fuses, the results of that test shall be regarded as Class 1 (passing).

(4) If only one specimen ignites and burns the stop cord in less than 3.5 seconds for plain-surface fabrics or less than 4.0 seconds for raised-fiber surface fabrics where the base fabric ignities or fuses, test another set of five specimens (see § 1610.4(g)(i)). If one or more of the second set of specimens ignite and burn the stop cord, average the results from all specimens which ignited and burned the stop cord. See §§ 1610.3(a)(3) and 1610.4(g)(7). If no specimen from the second set of five ignites and burns the stop cord, the test is inconclusive, and the Commission will take no enforcement action on the basis of that test. The Commission may conduct additional testing of the fabric or article of wearing apparel, but the results of any inconclusive test shall not be averaged with results obtained from any other test.

(Secs. 4, 5, 67 Stat. 112, 113; as amended 66 Stat. 770, 81 Stat. 571, 90 Stat. 515 (15 U.S.C. 1193, 1194))

§ 1610.34 [Reserved]

2. Section 1610.34 is revoked, removed, and reserved.

3. As an alternative to the proposals set forth in paragraphs 1 and 2, above, the Commission is considering withdrawal of proposed §§ 1610.32 (a) and (b), and retention of existing §§ 1610.32 and 1610.34 in their present form. The text of those sections is as follows:

§ 1610.32 General requirements.

No article of wearing apparel or fabric subject to the act and regulations shall be marketed or handled if such article or fabric, when tested according to the procedures prescribed in section 4(a) of the act, is so highly flammable as to be dangerous when worn by individuals.

§ 1610.34 Only uncovered or exposed parts of wearing apparel to be tested.

In determining whether an article of wearing apparel is so highly flammable as to be dangerous when worn by individuals, only the uncovered or exposed part of such article of wearing apparel shall be tested according to the applicable procedures set forth in section 4(a) of the act.

4. As discussed above, the Commission is also considering whether to retain and revise § 1610.34, to read as follows:

§ 1610.34 Only uncovered or exposed parts of wearing apparel to be tested.

In determining whether an article of wearing apparel is so highly flammable as to be dangerous when worn by individuals, only the uncovered or exposed layer of fabric or film of such article of wearing apparel shall be tested according to the applicable procedures set forth in section 4(a) of the act.

Note.—Plastic film or plastic-coated fabric used, or intended for use, as the outer layer of disposable diapers is exempt from the requirements of the standard, provided that a sample taken from a full thickness of the assembled article passes the test in the standard otherwise applicable to the outer fabric or film when the flame is applied to the exposed or uncovered surface. See §§ 1610.36(f)(3) and 1611.36(f)(3).)

(Secs. 4, 5, 67 Stat. 112, 113; as amended 68 Stat. 770, 81 Stat. 571, 90 Stat. 515 (15 U.S.C. 1193, 1194))

5. The heading in § 1610.35 and paragraph (a) are revised to read as follows:

§ 1610.35 Procedures for testing special types of textile fabrics under the standard.

(a) *Fabric not customarily washed or dry cleaned.* (1) Except as provided in paragraph (a)(2) of this section, any textile fabric or article of wearing apparel which, in its normal and customary use as wearing apparel, would not be dry cleaned or washed, need not be dry cleaned or washed as prescribed in §§ 1610.4(d) and 1610.4(e) when tested under the standard if such fabric or article of wearing apparel, when marketed or handled, is marked in a clear and legible manner with the statement: "Fabric will be dangerously flammable if dry cleaned or washed." An example of the type of fabric referred to in this paragraph is bridal illusion.

(2) Section 1610.4(a)(4), which requires that certain samples shall be dry cleaned or washed before testing, shall not apply to fabrics and garments intended for one-time use, such as disposable diapers and disposable hospital or surgical gowns in adult sizes. Additionally, such fabrics and garments intended for one-time use shall not be subject to the labeling requirements set forth in paragraph (a)(1) of this section.

* * * * *

(Secs. 4, 5, 67 Stat. 112, 113; as amended 68 Stat. 770, 81 Stat. 571, 90 Stat. 515 (15 U.S.C. 1193, 1194))

6. Section 1610.35(d) is revised to read as follows:

* * * * *

(d) *Items less than six inches wide.* Any article of wearing apparel subject to the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) which is less than six inches in width shall be tested for compliance with the Standard in a lengthwise direction only.

(Secs. 4, 5, 67 Stat. 112, 113; as amended 68 Stat. 770, 81 Stat. 571, 90 Stat. 515 (15 U.S.C. 1193, 1194))

7. Section 1610.36 is amending by adding new paragraphs (f) (1) and (2), as follows. Section 1610.36(f) introductory text and (f)(3) are issued on a final basis in this issue of the Federal Register to become effective on April 26, 1982, and are printed below for context:

§ 1610.36 Application of act to particular types of products.

* * * * *

(f) *Multilayer fabric and wearing apparel with a film or coating on the uncovered or exposed surface.* The following procedure shall be used to determine whether the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) or the Standard for the Flammability of Vinyl Plastic Film (16 CFR Part 1611) applies to multilayered fabrics which have a film or coating on a surface which will be uncovered or exposed when the fabric is used in wearing apparel, and to garments made of such fabric:

(1) If the uncovered or exposed surface is a film that completely separates from other layers or parts of the multilayered fabric when the specimens are cut and prepared for testing, test the separated uncovered or exposed film layer of the fabric or garment, and the full thickness of the fabric or garment, in accordance with the Standard for the Flammability of Vinyl Plastic Film (16 CFR Part 1611). See § 1611.32 for application of the Standard for the Flammability of Vinyl Plastic Film (16 CFR Part 1611) to the uncovered or exposed layer of film from such fabric and garments, and to the full thickness of such fabric or garments. When testing the full thickness of the fabric or garment, the item shall be tested with the uncovered or exposed layer facing the flame.

(2) If the uncovered or exposed layer of the fabric of garment has a film or coating (other than a nitrocellulose coating) which adheres to other layers or parts of the multilayer fabric or garment when the specimens are cut and prepared for testing, the adhered uncovered or exposed layers of the fabric or garment, and the full thickness of the garment, comply with the act if they meet the flammability requirements of either the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) or the Standard for the Flammability of Vinyl Plastic Film (16 CFR Part 1611). See §§ 1610.33 and 1611.33. In testing under either standard, the uncovered or exposed adhered film or coating of the fabric or garment, and the full thickness of the garment, will be tested with the flame applied to the exposed or uncovered surface(s). When testing under Part 1610, the uncovered or exposed adhered film or coating of the fabric or garment, and the full thickness of the garment, will be considered a coated fabric. See § 1610.35(b). However, if the conditioning procedures required by § 1610.4(f) of the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) would damage, or alter the physical characteristics of the film or coating, both the uncovered or exposed layer and the full thickness of the garment shall be tested in accordance with the Standard for the Flammability of Vinyl Plastic Film (16 CFR Part 1611).

(3) Plastic film of plastic-coated fabric used, or intended for use, as the outer layer of disposable diapers is exempt from the requirements of the standard, provided that a full thickness of the assembled article passes the test in the standard otherwise applicable to the outer fabric or film when the flame is applied to the exposed or uncovered surface.

(Secs. 4, 5, 67 Stat. 112, 113; as amended 68 Stat. 770, 81 Stat. 571, 90 Stat. 515 (15 U.S.C. 1193, 1194))

PART 1611—STANDARD FOR THE FLAMMABILITY OF VINYL PLASTIC FILM

§ 1611.32 Flammability requirements.

(a) *General requirements.* No item of film or coated fabric which is subject to the standard for the Flammability of Vinyl Plastic Film (16 CFR Part 1611), and no article of wearing apparel subject to the Standard which is made of such film or coated fabric, shall be marketed or handled if, when tested in accordance with that Standard, it does not meet the requirements of § 1611.3 of that Standard.

(b) *Uncovered surfaces, exposed surfaces, and full thickness of articles of apparel subject to testing.* When testing an article of wearing apparel subject to the Standard, the following parts of the article of wearing apparel shall be individually tested:

(1) The film or coated fabric of each uncovered, or outer, surface of the article of wearing apparel with the flame applied to the uncovered surface;

(2) The film or coated fabric of any other surface which could be exposed when the article of wearing apparel is worn, with the flame applied to the exposed surface; and

(3) The full thickness of the article of wearing apparel, with the flame applied to the uncovered or exposed surface(s).

(c) *Test results.* (1) In the application of the requirements of § 1611.3 of the Standard to any item of film, coated fabric, or wearing apparel, compute the average burn rate from five specimens burned transverse to the direction of processing and the average burn rate from an additional five specimens burned lengthwise to the direction of processing. If either the average burn rate from the five specimens burned transverse or the average burn rate from the five specimens burned lengthwise exceeds 1.2 inches per second, the test results shall be interpreted as a failure.

(2) To compute the average burn rate for each set of five specimens, at least two of the specimens must ignite and burn the stop cord for the specimen. However, if fewer than two specimens of any given set of five specimens ignite and burn the stop cord for the specimen, the test results shall be interpreted according to the provisions of paragraphs (c)(2)(i) through (c)(2)(iii) of this section:

(i) If no specimen ignites and burns the stop cord, the test results of that set of specimens shall be regarded as passing.

(ii) If only one specimen of the set of five specimens ignites and burns the stop cord with passing results, the results of that set of specimens will be regarded as passing.

(iii) If only one specimen of the set of five specimens ignites and burns the stop cord with failing results, test another set of five specimens from the same direction of processing. If one or more specimens from the second set of five specimens ignite and burn the stop cord, average the results from all specimens of the two sets which ignited and burned the stop cords. If no specimen of the second set of five specimens ignites and burns the stop cord, the test is inconclusive and the Commission will take no enforcement action based on the results of that test. The Commission may conduct additional testing of the film, coated fabric, or article of wearing apparel, but the results of any inconclusive test shall not be averaged with results obtained from any other test.

(Secs. 4, 5, 67 Stat. 112, 113; as amended 68 Stat. 770, 81 Stat. 571, 90 Stat. 515 (15 U.S.C. 1193, 1194))

§ 1611.34 [Reserved]

9. Section 1611.34 is revoked, removed, and reserved.

10. As an alternative to the proposals set forth in paragraphs 8 and 9, above, the Commission is also considering withdrawal of proposed §§ 1611.32 (a) and (b), and retention of existing §§ 1611.32 and 1611.34 in their present form. The test of those sections is as follows:

§ 1611.32 General requirements.

No article of wearing apparel or fabric subject to the act and regulations shall be marketed or handled if such article or fabric, when tested according to the procedures prescribed in section 4(a) of the act, is so highly flammable as to be dangerous when worn by individuals.

* * * * *

§ 1611.34 Only uncovered or exposed parts of wearing apparel to be tested.

In determining whether an article of wearing apparel is so highly flammable as to be dangerous when worn by individuals, only the uncovered or exposed part of such article of wearing apparel shall be tested according to the applicable procedures set forth in section 4(a) of the act.

11. As discussed above, the Commission is also considering whether to retain and revise § 1611.34 to read as follows:

§ 1611.34 Only uncovered or exposed parts of wearing apparel to be tested.

In determining whether an article of wearing apparel is so highly flammable as to be dangerous when worn by individuals, only the uncovered or exposed layer of fabric or film of such article of wearing apparel shall be tested according to the applicable procedures set forth in section 4(a) of the act.

(Note.—Plastic film or plastic-coated fabric used, or intended for use, as the outer layer of disposable diapers is exempt from the requirements of the standard, provided that a full thickness of the assembled article passes the test in the standard otherwise applicable to the ourter fabric or film when the flame is applied to the exposed or uncovered surface. See §§ 1610.36(f)(3) and 1611.36(f)(3).)

(Secs. 4, 5, 67 Stat. 112, 113; as amended 68 Stat. 770, 81 Stat. 571, 90 Stat. 515 (15 U.S.C. 1193, 1194)

12. Section 1611.35 is revised to read as follows:

§ 1611.35 Testing certain classes of fabric and film.

An item subject to the Standard which is less than nine inches in width shall be tested for compliance with the Standard in a lengthwise direction only.

(Secs. 4, 5, 67 Stat. 112, 113; as amended 68 Stat. 770, 81 Stat. 571, 90 Stat. 515 (15 U.S.C. 1193, 1194))

13. Section 1611.36 is amended by adding new paragraphs (f) (1) and (2), as follows: Section 1611.36(f) introductory text and (f)(3) are issued on a final basis in this issue of the Federal Register to become effective April 26, 1982 and are printed below for context:

§ 1611.36 Application of act to particular types of products.

* * * * *

(f) *Multilayer fabric and wearing apparel with a film or coating on the uncovered or exposed surface.* The following procedure shall be used to determine whether the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) or the Standard for the Flammability of Vinyl Plastic Film (16 CFR Part 1611) applies to multilayered fabrics which have a film or coating on a surface which will be uncovered or exposed when the fabric is used in wearing apparel, and to garments made of such fabric:

(1) If the uncovered or exposed surface is a film that completely separates from other layers or parts of the multilayered fabric when the specimens are cut and prepared for testing, test the separated uncovered or exposed film layer of the fabric or garment, and the full thickness of the fabric or garment, in accordance with the Standard for the Flammability of Vinyl Plastic Film (16 CFR Part 1611). See § 1611.32 above for application of the Standard for the Flammability of Vinyl Plastic Film (16 CFR Part 1611) to the uncovered or exposed layer of film from such fabric and garments and to the full thickness of such fabric or garments. When testing the uncovered or exposed film or coating or the full thickness of the fabric or garment, the item shall be tested with the uncovered or exposed surface facing the flame.

(2) If the uncovered or exposed layer of the fabric or garment has a film or coating (other than a nitro-cellulose coating) which adheres to other layers or parts of the multilayer fabric or garment when the specimens are cut and prepared for testing, the adhered uncovered or exposed layer of the fabric or garment and the full thickness of the garment shall meet the flammability requirements of either the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) or the Standard for the Flammability of Vinyl Plastic Film (16 CFR Part 1611). See §§ 1610.33 and 1611.33. In testing under either standard, the uncovered or exposed adhered film or coating of the fabric or garment, and the full thickness of the garment, will be tested with the flame applied to the exposed or uncovered surface(s). When testing under Part 1610, the uncovered or exposed adhered film or coating of the fabric or garment, and the full thickness

of the garment, will be considered a coated fabric. See § 1610.35(b). However, if the conditioning procedures required by § 1610.4(f) of the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) would damage, or alter the physical characteristics of, the film or coating, the uncovered or exposed layer and the full thickness of the garment shall be tested in accordance with the Standard for the Flammability of Vinyl Plastic Film (16 CFR Part 1611).

(3) Plastic film or plastic-coated fabric used, or intended for use, as the outer layer of disposable diapers is exempt from the requirements of the standard, provided that a full thickness of the assembled article passes the test in the standard otherwise applicable to the outer fabric or film when the flame is applied to the exposed or uncovered surface.

(Secs. 4, 5, 67 Stat. 112, 113; as amended 66 Stat. 770, 81 Stat. 571, 90 Stat. 515 (15 U.S.C. 1193, 1194))

Proposed effective date: The Commission proposes that these amendments shall become effective 60 days after the final amendments are published in the Federal Register.

Dated: February 18, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Bibliography

1. Transmittal memorandum and attached briefing package concerning petition 79–1, requesting establishment of a flammability standard for disposable diapers, from Elaine A. Tyrrell, OPM, to Commission; 12 pages; May 7, 1980. (The Tabs are listed separately as documents below.)

2. TAB A. Petition for Disposable Diaper Standard from Procter & Gamble Company to Consumer Product Safety Commission, with attachments; 83 pages; November 22, 1978.

3. TAB B, chronology of events associated with petition 79–1; 3 pages.

4. TAB C, memorandum from Beatrice Pitkin, OGC, to Sadye E. Dunn, Secretary, concerning request for issuance of flammability standard for disposable diapers; 2 pages; December 4, 1978.

5. TAB D, memorandum from Allen F. Breuninger, C & E, to Elaine Tyrrell, OPM, concerning response to petition from Procter & Gamble Company, and attached draft Federal Register notice; 34 pages; March 28, 1980.

6. TAB E, memorandum from Patricia A. Fairall, ESEM, to Toy Deppa, OPM, concerning Procter & Gamble petition for disposable diapers; 13 pages; April 16, 1980.

7. TAB F, three documents. (1) Memorandum from Deborah Kale, HIEA, to Elaine A. Tyrrell, OPM, concerning petition 79–1 for Commission action to develop a flammability standard for disposable diapers; 2 pages; September 11, 1979. (2) Memorandum from Charles A. Nicholls, HIEA, to Douglas Noble, OPM, concerning petition 79–1; 1 page; November 28, 1979. (3) Memorandum from Bea Harwood and Debbie Kale, HIEA, to Elaine Tyrrell, OPM, concerning petition 79–1; 2 pages; December 12, 1979.

8. TAB G, memorandum from Julie Clones and Eileen Gallagher, HECP, concerning economic considerations related to Procter & Gamble petition on disposable diapers; 5 pages; October 1, 1979.

9. TAB H, three documents. (1) Letter from Roger B. Bogner, American Paper Institute, Tissue Division, to David Schmeltzer, C & E, concerning petition FP 79–1; 2 pages; June 30, 1979. (2) Letter from Roger B. Bogner, American Paper Institute, Tissue Division, to Sadye Dunn, Secretary, concerning petition 79–1; 1 page; September 6, 1979. (3) Letter from Robert E. Freer, Jr., Kimberly-Clark Corporation, to Sadye E. Dunn, Secretary, concerning petition FP 79–1; 3 pages; January 25, 1980.

10. TAB I, three documents. (1) Log of meeting on July 10, 1979, of Commission staff members with representatives of Procter & Gamble Company; 2 pages. (2) Log of meeting on November 20, 1979, of Commission staff members with representatives of Procter & Gamble Company; 2 pages. (3) Memorandum of telephone conversations on November 8 and 9 of Douglas Noble and Commission staff with James O'Reilly and other representatives of Procter & Gamble Company; 2 pages.

11. Vote sheet and memorandum from Harleigh Ewell, OGC, to the Commission, concerning briefing package on petition FP 79–1 to establish a flammability standard for disposable diapers; 12 pages; May 14, 1980.

12. Memorandum from Douglas Noble, OPM, to the Commission, transmitting additional information related to petition FP 79–1 requesting flammability standard for disposable diapers, with attachments; 87 pages; June 11, 1980.

13. Minutes of Commission meeting of June 12, 1980; 2 pages; June 16, 1980.

14. Federal Register notice, "Standards for the Flammability of Clothing Textiles and Vinyl Plastic Film"; Proposed Interpretations, Clarifications, and Exemption; 8 pages; May 28, 1981.

15. Federal Register notice, "Standards for the Flammability of Clothing Textiles and Vinyl Plastic Film"; Proposed Interpretation, Clarifications, and Exemptions; 4 pages; July 30, 1981.

16. Comment from Robert E. Kelly, State of Montana, concerning proposal of May 28, 1981; 1 page; June 23, 1981.

17. Comment from James T. O'Reilly, Procter & Gamble Company, concerning proposal of May 28, 1981; 3 pages; June 30, 1981.

18. Comment from Arnold M. Smoke, Burlington Industries, Inc., concerning proposals of May 28, and July 30, 1981; 2 pages; August 18, 1981.

19. Comment from Robert Freer, Jr., Kimberly-Clark Corporation concerning proposals of May 28, and July 30, 1981; 4 pages; August 31, 1981.

20. Comment from E. E. Hinds, Kendall Company, concerning proposals of May 28, and July 30, 1981; 5 pages; August 17, 1981.

21. Comment from William E. Fisher, International Fabricare Institute, on proposals of May 28, and July 30, 1981; 4 pages; August 31, 1981.

22. Request from Fred Shippee, American Apparel Manufacturers Association, for extension of comment period; 2 pages; August 24, 1981.

23. Request from Peter M. Phillipes, Levi, Strauss & Co., for extension of comment period; 1 page; August 26, 1981.

24. Request from H. Adams, Jr., Man-Made Fiber Producers Association, Inc., for extension of comment period; 1 page; August 27, 1981.

25. Request from O'Jay Niles, American Textile Manufacturers Association, for extension of comment period; 1 page; August 28, 1981.

26. Request from Robert B. Cleaver, National Cotton Council of America, for extension of comment period; 2 pages; August 27, 1981.

27. Letter from James T. O'Reilly, Procter & Gamble Company, to Harleigh Ewell, OGC, concerning request for extension of comment period; 1 page; August 28, 1981.

[FR Doc. 82-4845 Filed 2-23-82; 8:45 am]

BILLING CODE 6355-01-M

federal register

Wednesday
February 24, 1982

Part III

Office of Management and Budget

Budget Rescission Report

OFFICE OF MANAGEMENT AND BUDGET

Proposed Budget Rescission

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report a revision to a rescission proposal previously reported decreasing the amount proposed for rescission by $2.0 million.

The amended rescission proposal affects the Mine Safety and Health Administration of the Department of Labor.

The details of the revised rescission proposal are contained in the attached report.

Ronald Reagan.

THE WHITE HOUSE, February 19, 1982.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission #	Item	Budget Authority
	Department of Labor	
	Mine Safety and Health Administration	
R82-23A	Salaries and expenses.....	2,095

Summary of Special Messages for FY 1982
(in thousands of dollars)

	Rescissions	Deferrals
Ninth special message		
New items.....	---	---
Changes to amounts previously submitted.....	-2,000	---
Effect of ninth special message.....	-2,000	---
Previous special messages.....	10,763,768	7,810,692 1/
Total amount proposed in special messages.....	10,761,768	7,810,692

1/ This amount represents budget authority except for $6,287 thousand in one general revenue sharing deferral of outlays only (D82-23).

R82-23A

SUPPLEMENTARY REPORT

Report pursuant to Section 1014(c) of Public Law 93-344

This report revises Rescission No. R82-23, transmitted to the Congress on February 5, 1982.

This amendment reduces the amount proposed for rescission in connection with now-prohibited activities of the Mine Safety and Health Administration at the surface of certain mines, from $4,095,000 to $2,095,000. This revision will allow an additional $2,000,000 to be made available for reprogramming to finance additional coal mine inspections.

BILLING CODE 3110-01-M

[FR Doc. 82-4874 Filed 2-23-82; 8:45 am]

This amendment reduces the amount proposed for rescission in connection with now-prohibited activities to allow an additional $2,000,000 to be available for reprogramming to finance additional coal mine inspections.

(In the rescission language under the above heading, delete "$2,953,000" and insert in lieu thereof "$2,095,000" and delete ", and in any subsequent Public Law providing appropriations for fiscal year 1982 beyond March 31, 1982, $1,142,000 are rescinded." and insert in lieu thereof a .)

Eighth 1982 Special Message on Rescissions and Deferrals		1982 Rescission Request Pending	1982 Proposed Amendment	1982 Revised Rescission Request
	Heading			
Rescission 82-23	Salaries and expenses	$4,095,000	-$2,000,000	$2,095,000

DEPARTMENT OF LABOR
MINE SAFETY AND HEALTH ADMINISTRATION

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

82-23A

Rescission Proposal No: 82-23A

Agency: Department of Labor

Bureau: Mine Safety and Health Administration

Appropriation title & symbol:
Salaries and Expenses
1621299

CFDA identification code:
16-1299-0-1-554

Grant program: ☐ Yes ☒ No

Type of account or fund:
☒ Annual
☐ Multiple-year _____ (expiration date)
☐ No-year

New budget authority (P.L. 97-92): $ 169,313,000 1/
Other budgetary resources: 1,225,495
Total budgetary resources: 150,538,495

Amount proposed for rescission: $ 2,095,000 2/ *

Legal authority (in addition to sec. 1012):
☒ Antideficiency Act
☐ Other: _____

Type of budget authority:
☒ Appropriation
☐ Contract authority
☐ Other: _____

Justification: The Mine Safety and Health Administration (MSHA) is responsible for enforcing the Federal Mine Safety and Health Act of 1977 in coal and other mines. The Continuing Resolution, P.L. 97-92, prohibits the obligation or expenditure of any funds to enforce the Act in connection with the surface mining of stone, clay, colloidal phosphate, sand, or gravel, with respect to certain construction activities conducted by States surface areas of coal mines. Of the $4,095,000 associated with these activities, $2,095,000 are proposed for rescission and $2,000,000 are to be reprogrammed to support coal mine inspections.

Estimated Effects: Since the funds cannot be expended for these activities, no program effects are expected as a result of the rescission.

Outlay Effects: These funds would lapse in the absence of the rescission; no outlay effects are expected as a result of its enactment.

1/ This represents the annual amount expected to become available. Of this amount, $90,861,000 is available from October 1, 1981, through March 31, 1982.

2/ The entire amount, $2,095,000, is attributable to the period October 1, 1981, through March 31, 1982.

* Revised from previous report.

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Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

REMINDERS

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Title 3—

The President

Executive Order 12347 of February 23, 1982

Agreement on Government Procurement

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Title III of the Trade Agreements Act of 1979 (19 U.S.C. 2511–2518), and to reflect that the Maritime Administration continues to be one of the agencies to whom the Agreement on Government Procurement is applicable, notwithstanding the transfer of the Maritime Administration from the Department of Commerce to the Department of Transportation (46 U.S.C. 1601), it is hereby ordered that the Annex to Executive Order No. 12260 is amended by adding thereto the following: "54. Maritime Administration of the Department of Transportation.".

Ronald Reagan

THE WHITE HOUSE,
February 23, 1982.

[FR Doc. 82-5353
Filed 2-24-82; 11:43 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 47, No. 38
Thursday, February 25, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

1 CFR Part 3

Federal Register Subscription Rate

AGENCY: Administrative Committee of the Federal Register.

ACTION: Final rule.

SUMMARY: The Administrative Committee of the Federal Register raises the annual subscription price of the Federal Register to $300 in order to recover production and distribution costs to the Government for sales copies.

EFFECTIVE DATE: March 29, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Denise Normandin, Office of the Federal Register, National Archives and Records Service, Washington, DC 20408, 202–523–5240.

SUPPLEMENTARY INFORMATION: The Administrative Committee of the Federal Register, which establishes prices for Federal Register publications, has determined that the annual subscription price for the daily Federal Register shall be $300, the price for a six months subscription shall be $150, and the price for a single issue shall be $1.50. The increase represents the incremental costs to the Government of printing and distributing copies for sale to the public.

The Committee has determined that this regulation is not a major rule under E.O. 12291 and does not have a significant effect under the criteria of the Regulatory Flexibility Act.

In addition to the action on the subscription price increase, the Committee agreed to study the possibility of an alternative subscription in microform at a substantially lower price.

The Federal Register is available for research and use at 1,300 Federal Depository Libraries and over 40 Federal Information Centers.

PART 3—SERVICES TO THE PUBLIC

For the reasons set out in the preamble and under the authority given the Administrative Committee of the Federal Register by 44 U.S.C. 1506, Part 3 of Chapter I of Title 1 is amended as follows: 1. The authority citation for Part 3 reads as follows:

Authority: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp., p. 189.

2. In § 3.4, paragraph (b)(3) is revised to read as follows:

§ 3.4 Subscriptions and availability of Federal Register publications.

* * * * *

(b) * * *

(3) *Federal Register.* Daily issues will be furnished by mail to subscribers for $300 per year or $150 for six months. Subscription fees are payable in advance to the Superintendent of Documents, Government Printing Office. Limited quantities of current or recent copies may be obtained for $1.50 per copy from the Superintendent of Documents, Government Printing Office.

* * * * * *

Approved: February 12, 1982.

William French Smith,
Attorney General.
February 19, 1982.
Gerald P. Carmen,
Administrator of General Services.
Robert M. Warner,
Chairman.
Danford L. Sawyer,
Member.
Stephen J. Wilkinson,
Member.

[FR Doc. 82-5078 Filed 2-24-82; 8:45 am]
BILLING CODE 1505-02-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 542; Navel Orange Reg. 541, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period February 26–March 4, 1982, and increases the quantity of such oranges that may be so shipped during the period February 19–February 25, 1982. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective February 26, 1982, and the amendment is effective for the period February 19–25, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under Secretary's Memorandum 1512–1, and Executive Order 12291 and has been designated a "non-major" rule. This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on October 6, 1981. The committee met again publicly on February 23, 1982 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days

after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and effective time.

1. Section 907.842 is added as follows:

§ 907.842 Navel Orange Regulation 542.

The quantities of navel oranges grown in Arizona and California which may be handled during the period February 28, 1982, through March 4, 1982, are established as follows:

(1) District 1: 1,350,000 cartons;
(2) District 2: Unlimited cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

2. Section 907.841 Navel Orange Regulation 541 (47 FR 7435), is hereby amended to read:

§ 907.841 Navel Orange Regulation 541.

* * * * *

(1) District 1: 1,436,000 cartons;
(2) District 2: 214,000 cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 24, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-5348 Filed 2-24-82; 11:17 am]
BILLING CODE 3410-02-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 546 and 563

[No. 82-103]

Delegation of Authority Regarding Merger Approvals

February 18, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rules.

SUMMARY: The Board has increased the authority delegated to the Principal Supervisory Agent to approve merger applications involving federal savings and loan associations or institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation. These amendments are intended to reduce merger processing time and relieve the Board of a largely ministerial task.

EFFECTIVE DATE: February 23, 1982.

FOR FURTHER INFORMATION CONTACT: Gayle L. Radley ((202) 377-6906), Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Section 546.2 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 546.2) prescribes the rules for mergers of federal savings and loan associations. Section 563.22 of the Rules and Regulations for Insurance of Accounts (12 CFR 563.22) prescribes similar rules applicable to mergers involving institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

Under existing regulations, Board approval for a merger may be given, in specified circumstances, by the Board's Principal Supervisory Agent (*i.e.*, the president of the Federal Home Loan Bank of which the resulting institution in the proposed merger is a member), pursuant to a limited grant of delegated authority. The current delegation regulations result primarily from Board Resolution No. 80-446 (45 FR 50553; July 24, 1980).

During the past year, the Board further increased the delegation of merger approval authority, significantly liberalizing the criteria authorizing the Principal Supervisory Agent to approve mergers in the field. *See* Board Resolutions Nos. 81-18 (46 FR 6811; January 30, 1981), 81-90 (46 FR 14727; March 3, 1981) and 81-403 (46 FR 37628; July 22, 1981).

This liberalized delegation of authority has helped to facilitate successful mergers and serves the interests both of the public and of the savings and loan industry.

Given the likelihood of a continued high volume of merger applications, the board has determined to further liberalize the criteria to expand the scope of merger approval authority delegated to the Principal Supervisory Agent.

Goodwill as an Asset Arising in Mergers

Currently, the Board authorizes the Principal Supervisory Agent to approve mergers only where the resulting association's net worth, after subtracting any goodwill arising in the merger, would at least equal the amount required under 12 CFR 563.13. Merger applications requiring the inclusion in assets of goodwill in order to meet this net-worth test are referred to the Board for consideration. During the past year, the Board has reviewed and approved a number of mergers in which goodwill was included in the assets of the resulting association. In those cases, the Board required that the amount and use of goodwill be justified under and accounted for by generally accepted accounting principles ("GAAP"). On the basis of this experience, and in order to further reduce merger processing time, staff guidelines have been issued to the Supervisory Agents in the form of memoranda R-31b and SP-24 and the Board is expanding the scope of delegated authority to allow the Principal Supervisory Agent to approve merger applications in which goodwill is included in assets. The only limitation on this increased authority is that prior to the merger, the applicant must submit an opinion of a certified public accountant, satisfactory to the Principal Supervisory Agent, that goodwill is appropriate under and accounted for by GAAP and in accordance with memoranda R-31b and SP-24.

Supervisory Forbearances

Additionally, the Board is authorizing the Principal Supervisory Agent to grant forbearances in connection with certain supervisory mergers. At present, supervisory forbearance agreements must be approved by the Board. The Board has agreed to forbear from taking supervisory action, for a specified period, with respect to certain regulatory requirements that a resulting association might not to be able to fulfill, due to its acquisition of a financially troubled association. In Board Resolution No. 81-403 (46 FR 37628; July 22, 1981), the Board delegated to the Principal Supervisory Agent the authority to approve supervisory mergers that did not require agreements with the Federal Savings and Loan Insurance Corporation or forbearance agreements from the Board. The Board has decided to expand the delegation to allow the Principal Supervisory Agent to agree to certain forbearances in approving supervisory mergers which are currently granted by the Board.

Therefore, in connection with a supervisory merger, the Board is authorizing the Principal Supervisory Agent to agree to the following conditions with respect to regulatory enforcement: (1) The following may be excluded, for up to a five-year period, for purposes of calculating whether the resulting association has met the net-worth requirement of 12 CFR 563.13(b): operating losses on acquired assets, capital losses sustained by the resulting association upon disposition of acquired assets, acquired scheduled items, and the amount of either (*a*) the net-worth deficiency at the date of merger or (*b*) all liabilities, including averaged liabilities, of the acquired association. (2) For one year, the liquidity requirements of 12 CFR 523.11(d) may be reduced by the amount of any liquidity deficiency which the acquired association has and, also for one year, any aggregate net withdrawals from the acquired association may be excluded in accordance with 12 CFR 523.12. (3) The building investment of an acquired association may be excluded in calculating the resulting association's investments under 12 CFR 545.10(b). (4) For up to a five-year period, the assets and liabilities balances of an acquired association may be excluded in calculating any holding company net-worth maintenance requirement.

In order to agree to supervisory forbearances regarding the rules for acquired liabilities and operating losses, the Principal Supervisory Agent must find that without merger, assistance would be required from the Federal Savings and Loan Insurance Corporation.

The Principal Supervisory Agent's authority to approve mergers under 12 CFR 546.2(h)(6) and 563.22(e)(6) is discretionary. It is the Board's expectation that when a merger subject to these delegations raises significant issues of law or policy for which the Board has not established a formal position, the Principal Supervisory Agent will refer that merger application to the Board for its consideration. Further, in agreeing to forbear from taking supervisory action with respect to acquired liabilities, the Principal Supervisory Agent must consider the real economic effect of the merger in determining which association is, in fact, the acquired association.

Because the amendments pertain to internal Board procedures and will facilitate the processing of applications for mergers, and because it is in the public interest to provide prompt action on such applications, the Board believes it is appropriate to implement the amendments without delay. Therefore, the Board has determined that observance of the notice and public procedure provisions of 12 CFR 508.11 and 5 U.S.C. 553(b) is unnecessary and that publication of these amendments for the period specified in 12 CFR 508.14 and 5 U.S.C. 553(d), prior to the effective date of the amendments, is likewise unnecessary.

Accordingly, the Board hereby amends Part 546 of Subchapter C and Part 563 of Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 546—MERGER, DISSOLUTION, REORGANIZATION, AND CONVERSION

1. Amend § 546.2 by revising paragraphs (h) (6) and (8) to read as follows:

§ 546.2 Procedure; effective date.

* * * * *

(h) The approval of the Board (including recommending modification of a plan of merger, consolidation, or purchase of bulk assets) required by paragraph (c) of this section may be given by the Principal Supervisory Agent if all of the following conditions are met:

* * * * *

(6) The resulting association's net worth would at least equal the amount required for that association under § 563.13 of this Chapter. Where goodwill is included in the resulting association's assets, the applicant must submit an opinion of a certified public accountant, satisfactory to the Principal Supervisory Agent, that its use and value are appropriate under and accounted for by generally accepted accounting principles and in accordance with accounting memoranda issued by the Board's staff.

* * * * *

(8) The merger does not involve any agreement with the Federal Savings and Loan Insurance Corporation or forbearance, with respect to supervisory action, under any regulation except as follows:

(i) For purposes of the resulting association's satisfaction of the net-worth calculation of § 563.13(b) of this Chapter, the Principal Supervisory Agent may exclude, for up to a five-year period, operating losses on acquired assets, capital losses sustained by the resulting association upon disposition of acquired assets, acquired scheduled items, and the amount of either (*a*) the net-worth deficiency at the date of merger, or (*b*) all liabilities, including averaged liabilities, of the acquired association;

(ii) For purposes of satisfying the liquidity requirements of §§ 523.11(d) and 523.12 of this Chapter, the Principal Supervisory Agent may exclude, for up to one year, any liquidity deficiency which the acquired association has and, also for one year, any aggregate net withdrawals from the acquired association;

(iii) For purposes of calculating the resulting association's investments under § 545.10(b) of this Subchapter, the Principal Supervisory Agent may exclude the building investments of the acquired association; and

(iv) For the purposes of calculating any holding company networth maintenance requirement, the Principal Supervisory Agent may exclude, for up to a five-year period, the assets and liabilities balances of the acquired association.

In order to agree to supervisory forbearances regarding the rules for acquired liabilities and operating losses, the Principal Supervisory Agent must find that without merger, assistance would be required from the Federal Savings and Loan Insurance Corporation.

* * * * *

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

2. Amend § 563.22 by revising paragraphs (e) (6) and (8) to read as follows:

§ 563.22 Merger, consolidation, or purchase of bulk assets.

* * * * *

(e) The approval of the Corporation (including recommending modifications of the plan of merger, consolidation, or purchase of bulk assets) required by paragraph (a) of this section may be given by the Principal Supervisory Agent (as defined in § 545.14(a)(3) of this Chapter) if all of the following conditions are met:

* * * * *

(6) The resulting institution's net worth would at least equal the amount required for that institution under § 563.13 of this Part. Where goodwill is included in the resulting institution's assets, the applicant must submit an opinion of a certified public accountant, satisfactory to the Principal Supervisory Agent, that its use and value are appropriate under and accounted for by generally accepted accounting principles and in accordance with accounting memoranda issued by the Board's staff;

* * * * *

(8) The merger does not involve any agreement with the Federal savings and Loan Insurance Corporation or forbearance, with respect to supervisory action, under any regulation except as follows:

(i) For purposes of the resulting institution's satisfaction of the net-worth calculation of § 563.13(b), the Principal Supervisory Agent may exclude, for up

to a five-year period, operating losses on acquired assets, capital losses sustained by the resulting institution upon disposition of acquired assets, acquired scheduled items, and the amount of either (*a*) the net-worth deficiency at the date of merger, or (*b*) liabilities, including averaged liabilities, of the acquired institution;

(ii) For purposes of calculating the liquidity requirements of §§ 523.11(d) and 523.12 of this Chapter, the Principal Supervisory Agent may exclude, for up to one year, any liquidity deficiency which the acquired association has and, also for one year, any aggregate net withdrawals from the acquired association;

(iii) For purposes of calculating the resulting association's investments under § 545.10(b) of this Chapter, the Principal Supervisory Agent may exclude the building investments of the acquired association; and

(iv) For the purposes of calculating any holding company net-worth maintenance requirement, the Principal Supervisory Agent may exclude, for up to a five-year period, the assets and liabilities balances of the acquired association.

In order to agree to supervisory forbearances regarding the rules for acquired liabilities and operating losses, the Principal Supervisory Agent must find that without merger, assistance would be required from the Corporation.

* * * * *

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730) sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[FR Doc. 82-5108 Filed 2-24-82; 8:45 am]
BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. 9245, Amdt. No. 2 to S.C. 23-3-EA-1]

Special Conditions: Piper Model PA-31T Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Special Conditions; request for comments.

SUMMARY: This amendment to Special Conditions No. 23-3-EA-1 permits their application to Piper Aircraft Corporation Model PA-31T1, PA-31T2, and PA-31T3 as well as future Model PA-31T derivative airplanes. The FAA has determined that the certification basis applicable to the aforementioned airplanes may also be applicable to other Piper Model PA-31T series airplanes. This amendment will allow future PA-31T derivative airplanes to be added to the type certificate without revising the special condition document.

DATES: Effective February 25, 1982. Comments related to this amendment must be received on or before March 26, 1982. Depending on comments received, this amendment may be modified.

ADDRESSES: Comments on this amendment may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, ATTN: Rules Docket Clerk, Docket No. 9245, 601 East 12th Street, Kansas City, MO 64106; or delivered in duplicate to: Room 1558, 601 East 12th Street, Kansas City, MO 64106. All comments must be marked: Docket No. 9245. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 am and 4:00 pm.

FOR FURTHER INFORMATION CONTACT: William L. Olson, Aerospace Engineer, Aircraft Certification Division, 601 East 12th Street, Room 1659 Federal Office Building, Kansas City, Mo. 64106, Telephone (816) 374-6939.

SUPPLEMENTARY INFORMATION:

Type Certification Basis

The certification basis for the Piper Aircraft Corporation (Piper) Model PA-31T airplane is as follows: Part 3 of the Civil Air Regulations (CAR), effective May 15, 1956, through Amendment 3-8 effective December 18, 1962; Amendment 23-3 to Part 23 of the Federal Aviation Regulations (FAR), effective November 11, 1965; Amendment 23-7 to FAR Section 23.1557(c) effective September 14, 1966; the Eastern Region Engineering and Manufacturing Branch letter of December 6, 1965, covering the showing of equivalent safety with regard to CAR 3.682, 3.771, and 3.772; Special Conditions No. 23-3-EA-1 including Amendment No. 1 and AEA-210 letter of November 11, 1971, as amended by AEA-210 letter of February 1, 1976, referring to Amendment 23-14 and FAR Section 23.991 of Amendment 23-7 effective September 14, 1966; Part 36 of the FAR effective December 1, 1969, as amended up to Amendment 36-10; and SFAR 27 effective February 1, 1974, as amended up to Amendment 27-3.

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane. Special conditions, as appropriate, are issued in accordance with §§ 21.16 and 21.101(b)(2) and become part of the type certification basis in accordance with § 21.17(a)(2).

Background

On May 30, 1980, the Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745, submitted an application to amend Type Certificate A8EA to add a new Model PA-31T3 airplane in the normal category. The airplane will consist of the Model PA-31-350 airplane's unpressurized fuselage with modifications to the fuselage to accept the Model PA-31T1 airplane's nose section and higher loads due to the increased gross weight of 9000 lbs. It will be an 11 place commuter or cargo carrier with PA-31T1 "Cheyenne" wings, tail, nacelles and nose section, with no tip tanks. The nose, main landing gears and brake system will be from the PA-31T2. Other features such as the turbopropeller engines, fuel system, electrical system, hydraulic system, air conditioning, deicing system, instrument panel, engine control pedestal and flight controls will be the same as those on the PA-31T1, while the heating, ventilating, static and pitot system and oxygen system will be the same as on the Model PA-31-350 airplane. Because the PA-31T airplane design included turbopropeller engines and the regulations incorporated by reference in the type certification (TC) did not contain adequate or appropriate safety standards for such engine installations, Special Conditions No. 23-3-EA-1 were developed for the PA-31T airplane to ensure a level of safety equivalent to that provided by Part 3 of the CAR and Part 23 of the FAR incorporated by reference in the TC for the Piper Model PA-31 airplanes with reciprocating engines. Special Conditions No. 23-3-EA-1, Docket No. 9245, issued November 13, 1968, as amended May 8, 1969, for type certification of the Piper Model PA-31T airplane are applicable to the Piper Models PA-31T, PA-31T1 and PA-31T2 airplanes, as well as other new Piper Model PA-31T series airplanes for the same novel or unusual design features for which the special conditions were developed. Accordingly, this amendment establishes the applicability status of Special Conditions No. 23-3-EA-1 and will make it possible to add future models of the PA-31T series airplanes as appropriate, to Type Certificate A8EA without revising the special condition documents. This does not preclude the application of later amendments under the provisions of § 21.101(b)(1) or the issuance of special conditions that may be necessary under the provisions of § 21.101(b)(2) for future series of the Piper Model PA-31T airplanes.

Need for Immediate Adoption

The issuance of special conditions under §§ 21.16 and 21.101 is required where it is found that the airworthiness regulations otherwise applicable to an aircraft do not contain adequate or appropriate safety standards because of a novel or unusual design feature. In accordance with the policies announced in Amendment 21-51, effective October 14, 1980, the issuance of special conditions is usually initiated by a Notice of Proposed Special Conditions; however, public procedures were not required or used when these special conditions were applied to Piper Model PA-31T1 and PA-31T2 airplanes. The Aircraft Certification Office assumed that this was still the case and planned their workload on that basis. The manufacturer scheduled production on a mutually agreed on certification date based on this prior procedure. Accordingly, if notice procedures were utilized prior to adoption of the final special conditions, the delay would impose a severe economic hardship on the manufacturer and the public. Also, the Piper Model PA-31T3 airplane does not include any design features other than those in the Piper Model PA-31T airplane for which these special conditions were developed, and service experience has shown that they adequately provide for the design features in the previous Piper Model P-31T series airplanes. Accordingly, the FAA has determined that good cause exists for making this Amendment to Special Condition No. 23-3-EA-1 final without notice and public procedure thereon and for making it effective in less than 30 days. However, since it involves requirements affecting flight safety and was not proceeded by notice and public procedure, comments are invited on the amendment. When the comment period ends, the FAA will use the comments submitted, together with other available information to review the amendment. After the review, if the FAA finds that changes are appropriate, it will initiate appropriate rulemaking proceedings.

The Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Special Condition No. 23-3-EA-1 issued November 13, 1968, as amended by Amendment No. 1 issued May 8, 1969, to Piper Aircraft Corporation for the type certification of the Piper Model PA-31T airplane under Type Certificate No. A8EA is hereby amended by amending its applicability to read as follows:

"Special Conditions for the type certification of the Piper Model PA-31T series airplanes under Type Certificate No. A8EA."

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 as amended (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b))

Note.—This action is not a proposed rule of general applicability and is therefore not covered under Executive Order 12291 or the Regulatory Flexibility Act. The FAA has determined that this document is not considered to be significant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the regulatory evaluation prepared for this action is contained in the docket. A copy of it may be obtained by contacting the person identified as information contact.

Issued in Kansas City, MO on February 19, 1982.

Murray E. Smith,
Director, Central Region.

[FR Doc. 82-5106 Filed 2-24-82; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 82-CE-7-AD; Amdt. 39-4325]

Airworthiness Directives; EMBRAER Models EMB-110P1 and EMB-110P2 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes existing Airworthiness Directive (AD), 79-24-03R1, applicable to EMBRAER Models EMB-110P1 and EMB-110P2 airplanes by expanding the wing flap actuator inspection and adjustment procedures, and replacing actuators of early design with those of improved design. This amendment is needed to provide a more reliable actuator, the failure of which may result in an asymmetrical or locked flap condition.

EFFECTIVE DATE: March 1, 1982.

COMPLIANCE: As prescribed in the body of the AD.

ADDRESSES: EMBRAER Service Bulletin No. 110-27-043, dated March 20, 1981, applicable to this AD, may be obtained from Empresa Brasileira de Aeronautica S/A (EMBRAER), P.O. Box 343-CEP 12.200, Sao Jose dos Campos-SP, Brasil. A copy of the Service Bulletin is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106, and/or at Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: George Carver, Systems Branch, ACE-130A, Atlanta Aircraft Certification Office, FAA, P.O. Box 20636, Atlanta, Georgia 30320; Telephone (404) 763-7781.

SUPPLEMENTARY INFORMATION: This rule supersedes Amendment 39-3616 (44 FR 6701), AD 79-24-03, as revised by Amendment 39-3974, AD 79-24-03R1 (45 FR 70853), which currently requires the inspection of the wing flap actuators and a new lubricating procedure on the flaps of EMBRAER Models EMB-110P1 and EMB-110P2 airplanes. Subsequent to amending AD 79-24-03R1, the FAA determined that corrosion continues to occur in the early design actuators causing malfunctioning of the ballscrew and subsequent failure of the affected actuators. Therefore, the agency is superseding AD 79-24-03R1 by issuing a new AD which expands the actuator inspection and adjustment procedures, and requires replacing actuators of early design with those of improved design on these airplanes. The FAA believes that the improved actuator will be more reliable in service. However, because of prior service history on the original actuator and the potential catastrophic results of an actuator failure, inspection of the new actuator is also being required until satisfactory reliability of this actuator has been established.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than thirty (30) days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Empresa Brasileira De Aeronautica S/A (EMBRAER): Applies to Models EMB-110P1 and EMB-110P2 airplanes, certificated in any category.

Compliance: Required as indicated, unless already accomplished:

To prevent failure of wing flap actuators, accomplish the following:

(A) Within the next 50 hours time-in-service after the effective date of this AD, and thereafter at intervals not to exceed 250 hours time-in-service:

1. Prepare the wing flap actuators for inspection by extending the flaps to the fully-extended position.

Caution

Make sure that the Battery Switch is "Off" and that flaps are not inadvertently operated while the flap actuators are being serviced.

2. Disconnect each wing flap from the actuator lug by removing the cotter pin, nut, washer and attaching bolt.

Caution

When removing the attaching bolt, provide a support for flap to prevent its rotation and possible damage.

3. Remove the safety wire and four retaining screws from the outer cover of the actuator.

4. Slide the inner and outer covers toward the reduction gear box to expose the threaded shaft. Clean the shaft in accordance with good aircraft practices.

5. While manually retracting and extending the threaded shaft, determine:

a. General condition of the shaft.

b. Movement of the shaft while turning it by hand—must be free and smooth.

c. Longitudinal motion of the shaft in the ballscrew/nut assembly—play must be practically undetectable by handling manually.

d. That the transverse motion of the ballscrew/nut assembly, measured at the rod end of the shaft, does not exceed .20 inch (5 mm), when the shaft is fully extended, near the middle of the course, and retracted.

e. General condition of the ballscrew/nut, its attachment to the main carrier tube, the fastening of the ball-return tube and the general condition of its clamp in the D2246–3 and D2246–4 actuators, and safety of the ball-return cover in the D2246–5, D2246–6, D2246–31 and D2246–41 actuators. For access, it is necessary to remove the plastic strip EEMCO P/N A12139 from the primary cover (if the plastic strip is not damaged during removal, it may be reused).

(i) With the jackscrew extended, move both covers to the rod end, leaving the ball nut completely exposed.

(ii) Remove all dirt and grease from the ball nuts.

(iii) Check the ball-return tube fastening clamp for general condition and proper safety by attempting to move it longitudinally and rotationally. Also check the general condition and safety of the ball-return tube and for security of the ballscrew. Any indication of looseness of the ball-return tube fastening clamp or the ball-return tube is cause for replacement of the actuator.

(iv) Reinstall the plastic strip P/N A12139.

6. Inspect for damage and wear of sealing rings in the inner and outer actuator covers, used to protect the ballscrew and threaded shaft from moisture and dirt.

7. If any of the items inspected in Sections 5 and 6 above are not satisfactory, the actuator must be repaired, overhauled or replaced, as necessary.

8. Lubricate the actuator and reduction gearbox:

a. Remove the safety wire and upper screw where the actuator joins reduction gearbox.

b. Manually extend the jackscrew to the mechanical stop.

c. Inject MIL–G–23827 grease into the gearbox through the screw hole to fill the gearbox and main actuator tube.

d. Temporarily install the gearbox upper screw.

e. Manually retract the jackscrew until fresh grease appears between the ball nut and jackscrew.

f. Remove the gearbox upper screw again to remove the excess grease by continuing to manually retract the jackscrew to the mechanical stop.

g. Install the upper screw in the gearbox; safety screw with lockwire.

h. Clean the main actuator tube exterior by removing all grease to prevent dust deposits.

i. Lubricate the extended jackscrew by brush-daubing it with MIL–G–23827 grease.

9. Slide the outer cover aft to the proper position on the rod end cap.

10. Install the four retaining screws and safety wire.

11. Reconnect the flap to the actuator lug by installing attaching bolt, washer, nut and cotter pin. Adjust the wing flap control system to assure that the flap actuator does not contact the mechanical stop before the actuating motor stops rotating. The motor stop should be contacted, at a minimum distance of ¼ turn, before the actuator contacts its mechanical stop for actuators P/N D2246–3, D2246–4, D2246–31 and D2246–41. The minimum distance for P/N D2246–5 and D2246–6 actuators is ½ turn. Damage to the mechanism may result if these distances are not maintained.

12. Check for proper operation and rigging of the wing flaps and flap position indication according to EMBRAER Technical Manual T.O 1C95–2–5. Check and, if necessary, adjust the flap asymmetry detection system.

(B) On or before September 30, 1982, replace the flap actuators P/N 2246–3 and D2246–4 with actuators P/N 2246–5 and D2246–6 or P/N D2246–31 and D2246–41, respectively, and continue to comply with paragraph (A) of this AD.

(C) Upon request by the operator, an FAA Maintenance Inspector, subject to the approval of the Atlanta Aircraft Certification Office, may adjust the inspection compliance times to an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(D) Any equivalent method of compliance with this AD must be approved by the Chief, Atlanta Aircraft Certification Office, FAA, 3400 Norman Berry Drive, East Point, Georgia 30320; Telephone (404) 763-7428.

EMBRAER Service Bulletin No. 110–27–043, dated March 20, 1981, covers the subject matter of this AD.

This AD supersedes AD 79–24–03R1, Amendment 39–3974 which, in turn, revised AD 79–24–03, Amendment 39–3610.

This amendment becomes effective March 1, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); § 11.89, Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this regulation involves an emergency regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and certifies that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since the action prescribed herein is estimated to cost less than 1 percent of the value of any affected airplanes which may be owned by small entities. If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket; otherwise, an evaluation is not required. A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the Courts of Appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Kansas City, Missouri, on February 12, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 82-4887 Filed 2-24-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82–CE–5–AD; Amdt. 39–4323]

Airworthiness Directives; Piper Model PA–34–220T Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires that protection be provided for landing gear selector and squat switch terminals on certain Piper Model PA–34–220T airplanes. The AD is needed to prevent a possible inadvertent gear retraction which could result in a potentially hazardous condition during landing or ground operation.

EFFECTIVE DATE: February 25, 1982.

COMPLIANCE: Required within the next 50 hours time-in-service after the effective date of this AD.

ADDRESSES: Piper Service Bulletin No. 732 dated November 11, 1981, pertaining to this AD, may be obtained from Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745. A copy of the Service Bulletin is also contained in the Rules Docket, Office of the Regional Counsel, FAA, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106; and/or Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

W. H. Trammell, Systems and Equipment Section, ACE–130A, Atlanta Aircraft Certification Office, FAA, P.O. Box 20636, Atlanta, Georgia 30320; Telephone (404) 763–7781.

SUPPLEMENTARY INFORMATION: There has been a report of an inadvertent retraction of the landing gear on a Piper Model PA–34–220T airplane. This was caused by grounding of the landing gear selector switch terminals by the fuel flow indicator lines concurrently with a previously undetected grounding of the landing gear squat switch terminals. The inadvertent retraction of the landing gear during landing and ground operation is potentially hazardous. Since this condition is likely to exist or develop on other airplanes of the same type design, an AD is being issued which requires protection of the terminals of the landing gear selector and squat switches on certain Piper Models PA–34–220T airplanes.

The FAA has determined that there is an immediate need for a regulation to assure safe operation of the affected airplanes. Therefore, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest, and good cause exists for making the amendment effective in less than thirty (30) days after the date of publication in the Federal Register.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following Airworthiness Directive:

Piper Aircraft Corporation: Applies to Piper Model PA–34–220T (Serial Numbers 34–8133001 through 34–8233020) airplanes certificated in any category.

Compliance: Required as indicated unless already accomplished.

To prevent a potentially hazardous condition during landing and ground operation due to the inadvertent retraction of the landing gear, accomplish the following:

(A) Within the next 50 hours time-in-service after the effective date of this AD, inspect and modify the landing gear selector and squat switches in accordance with the Instructions Section contained in Piper Service Bulletin No. 732, dated November 11, 1981.

(B) Any equivalent method of compliance may be approved by the Chief, Atlanta Aircraft Certification Office, FAA, Southern Region, Room 275, 3400 Norman Berry Drive, East Point, Georgia 30344.

This amendment becomes effective February 25, 1982.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 11.89, Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this regulation involves an emergency regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and certifies that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since the action prescribed herein is estimated to cost less than 1 percent of the value of any affected airplanes which may be owned by small entities. If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the Regulatory Docket; otherwise, an evaluation is not required. A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review by the Courts of Appeals of the United States, or the United States Court of Appeals of the District of Columbia.

Issued in Kansas City, Missouri, on February 10, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 82-4886 Filed 2-24-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 81–WE–19–AD; Amdt. 39–4324]

Airworthiness Directives; Robinson Model R–22 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective to all persons, an amendment adopting a new Airworthiness Directive (AD) which was previously made effective on all Robinson Model R–22 helicopters. All known United States owners were notified by priority mail Emergency AD 82–03–07, dated January 29, 1982. The amendment is prompted by a report of fatigue cracking of the main rotor blade root fitting which could result in main rotor blade failure and crash of the helicopter.

DATES: Effective March 4, 1982, and was effective upon receipt for recipients of Emergency AD 82–03–07 dated January 29, 1982. Compliance schedule—Prior to further flight, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: Robinson Helicopter Company, 24747 Crenshaw Boulevard, Torrance, California 90505.

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western-Pacific Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT:

Marshall Burquest, Aerospace Engineer, Airframe Section, ANM–172W, Western Aircraft Certification Field Office, Federal Aviation Administration, Northwest Mountain Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536–6359.

SUPPLEMENTARY INFORMATION:

Emergency AD 82–03–07, dated January 29, 1982, was issued and distributed by priority mail. It was made effective immediately upon receipt to all known United States owners of Robinson Model R–22 helicopters. Emergency AD 82–06–07 is published in the Federal Register with no change. AD 82–03–07 supersedes Emergency AD 81–24–10 which was not published in the Federal Register. AD 81–24–10 required that main rotor blade (MRB) P/N A016–1, Revisions A through V be removed from service prior to further flight. It noted that a modified blade (Revision W) had a life limit of 300 hours and imposed repetitive inspections on this blade. The supersedure is necessary to relieve an undue economic burden on R–22 operators caused by these restrictions on the modified MRB. There are two reasons these restrictions are no longer appropriate. First, the life limit of the MRB Revision W has been increased from 300 to 1,000 hours based upon fatigue testing accomplished since AD 81–24–10 was issued. Second, since the life limit is now established at 1,000 hours the FAA is confident of the blade reliability and the repetitive inspections are no longer necessary. The inspection requirement was imposed only because of the low, 300 hour life limit and brief service history of the modified main rotor blade. AD 81–19–03 was issued because of a MRB fatigue failure which occurred in flight and resulted in a fatal crash. AD 81–19–03 established a

reduction of MRB life limit from 1,200 to 300 hours. The failed blade had 691 hours of time in service at the time of failure. Emergency AD 81-24-10, superseded AD 81-19-03 because cracks were found in both the upper and lower skins of an old designed blade which had only 207 hours of time in service. Disassembly of the blade revealed a crack in the root fitting. Fortunately, the cracks were found during pre-flight check and there was no accident. This airworthiness directive is necessary to prevent main rotor blade failure due to fatigue cracking of the main rotor blade root fitting. The origin of this fatigue failure was believed to be related to an accumulation of adverse tolerances on the fitting holes and the onset is unpredictable. The AD requires removal from service of certain main rotor blades and establishes a new life limit of 1,000 hours for the redesigned main rotor blades, P/N A016-1, Revision W (S/N 0600 through 0610).

Since this condition is likely to exist on the other helicopters of the same type design, an airworthiness directive is being adopted which requires that, prior to further flight, certain main rotor blades be removed from service on the Robinson Model R-22 series helicopter.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed to make the AD effective immediately. These conditions still exist and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

Robinson Helicopter Company: Applies to Model R-22, certified in all categories.

Compliance required as indicated, unless already accomplished.

To prevent failure of the main rotor blade which would result in loss of control and crash of the helicopter, accomplish the following:

(a) Prior to further flight, after the effective date of this AD, remove all main rotor blades P/N A016-1, Revision A through Revision V, (S/N 0100 through S/N 0593) from service.

(b) Mark all main rotor blades, P/N A016-1, Revision A through Revision V, (S/N 0100 through S/N 0593), "UNAIRWORTHY" in letters at least ⅛" high and mark "UNAIRWORTHY" on data plate using a metal stamp.

(c) The life limit for main rotor blades P/N A016-1, Revision W (S/N 0600 through 0610), previously established at 300 hours has been increased to 1000 hours based upon fatigue testing.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate helicopters to a base for the accomplishment of actions required by this AD.

(e) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Western Aircraft Certification Field Office, FAA Northwest Mountain Region.

This amendment becomes effective March 4, 1982, to all persons except those to whom it was made immediately effective upon receipt of Emergency AD 82-03-07 dated January 29, 1982.

This supersedes priority mail AD 81-24-10 which had superseded AD 81-19-03, Amendment 39-4224, [46 FR 47442]

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It is certified that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review only by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Los Angeles, California on February 12, 1982.

R. L. Devereaux,

Acting Director, FAA Western-Pacific Region.

[FR Doc. 82-4804 Filed 2-24-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 47

Reporting Requirements for Aircraft Registered by Non-Citizen U.S. Corporations; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Reporting Dates, correction.

SUMMARY: This notice corrects the reporting dates for aircraft registered by U.S. corporations that are not U.S. citizens.

FOR FURTHER INFORMATION CONTACT: Joseph T. Brennan, Aeronautical Center Counsel (AAC-7), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, Oklahoma 73125, Telephone: (405) 686-2296.

SUPPLEMENTARY INFORMATION: Section 501(b)(1)(A)(ii) of the Federal Aviation Act of 1958, as amended, provides that an aircraft owned by a corporation (other than a corporation which is a citizen of the United States) lawfully organized and doing business under the laws of the United States or any State thereof is eligible for registration if it is based and primarily used in the United States. This section has been implemented by § 47.9 of the Federal Aviation Regulations, and an aircraft is considered to be based and primarily used in the United States if it complies with the requirements of § 47.9(b) of the Federal Aviation Regulations. To provide assistance in insuring compliance, a requirement was established in § 47.9(f) for either a report of the hours in service during the required period and the number of those hours in flight in the United States or a statement that all flight hours were exclusively within the United States.

Although § 47.9 was adopted on October 24, 1979, and made effective January 1, 1980, § 47.9(f) could not become effective until 30 days after notice had been published in the **Federal Register** of approval by the Office of Management and Budget (OMB) of the reporting requirements of that paragraph.

On July 9, 1981, a notice was published in the **Federal Register** (46 FR 35491) stating that OMB approval had been received and that the effective date of the reporting requirements of § 47.9(f) of the Federal Aviation Regulations was August 10, 1981. However, the notice incorrectly stated that the first reporting period would end February 10, 1982. The purpose of this notice is to set forth the correct initial reporting periods for aircraft registered by non-citizen U.S. corporations under section 501(b)(1)(A)(ii).

The reporting periods for these aircraft are determined by § 47.9(b) of the Federal Aviation Regulations, which divides the class of aircraft governed by § 47.9 into those registered on or before January 1, 1980, (the effective date of the section) and those registered after January 1, 1980. Under § 47.9(b) the 6-month reporting periods for aircraft registered on or before January 1, 1980, run from January 1 through June 30 and from July 1 through December 31 in any given year.

Since the reporting requirement in § 47.9(f) did not become effective until August 10, 1981, the FAA interprets that provision to require a report or statement only for those periods ending on or after its effective date, i.e., August 10, 1981. Thus the first reporting period ending after August 10, 1982, for aircraft registered on or before January 1, 1980, would have been July 1 through December 31, 1981, and the required report or statement for that period should have been submitted to the FAA Aircraft Registry on January 1, 1982. Reports for the three 6-month periods between January 1, 1980, and June 30, 1981, are not required.

For aircraft registered after January 1, 1980, the first reporting period under § 47.9(b) consists of the remainder of the month in which the aircraft was registered and the succeeding 6 calendar months. Subsequent reports are due at the end of each 6-month calendar period thereafter. While § 47.9(b) remains the means of determining the beginning and end of reporting periods for these aircraft, § 47.9(f) requires the submission of a report or statement only for periods ending on or after August 10, 1981. For example, the first reporting period ending after August 10, 1981, for an aircraft registered on April 12, 1981, would be April 12, 1981, through October 31, 1981. The first report should have been submitted to the FAA Aircraft Registry on November 1, 1981, and should have provided the information required by § 47.9(f) for the period April 12, 1981, through October 31, 1981.

In view of the incorrect data included in the notice published on July 9, 1981, the FAA will allow a grace period with respect to the reports or statements due for periods ending between August 10, 1981, and March 10, 1982. Those reports must be received on or before March 20, 1982. Reports for periods ending after March 10, 1981, should be received by the FAA within 10 days after the last day of the applicable reporting period as determined by § 47.9(b). The grace period allowed by this notice does not alter in any respect the manner of determining the beginning or end of a period as prescribed by § 47.9(b).

Issued in Oklahoma City, Okla., on February 12, 1982.

Benjamin Dempa, Jr.,

Director, Aeronautical Center.

[FR Doc. 82-5079 Filed 2-24-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-AWP-27]

Establishment of Transition Area, Ramona, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates a 700 foot transition area for Ramona Airport, Ramona, California, in order to provide controlled airspace for aircraft executing an instrument approach procedure to the Ramona Airport.

EFFECTIVE DATE: February 19, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (213) 536-6182.

SUPPLEMENTARY INFORMATION:

History

On December 17, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area for Ramona, California (46 FR 61467). Establishment of this transition area will provide controlled airspace for protection of instrument operations at Ramona Airport.

Interested persons were invited to participate in the rulemaking proceeding by submitting comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.181 was republished in the **Federal Register** on January 2, 1981 (46 FR 540).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) establishes a transition area at Ramona, California. This transition area provides protection for instrument operations at Ramona Airport, increases air traffic safety and improves flow control procedures

Adoption of the Amendment

Accordingly pursuant to the authority delegated to me by the Administrator, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 540) is amended, effective 0901, February 19, 1982, by adding the following:

Ramona, California

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Ramona Airport (latitude 33°02'15" N. longitude 116°54'30" W) and within 3 miles each side of the Julian, California, VORTAC (latitude 33°08'26" N, longitude 116°35'08" W) 249° T (234° M), radials extending from the 5-mile radius area to the Julian VORTAC.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 49 U.S.C. 1348(a), 1354(a); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) is certified that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Los Angeles, California on February 8, 1982.

R. L. Devereaux,

Acting Director, Western Region.

[FR Doc. 82-4800 Filed 2-24-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-ASO-83]

Designation of Transition Area, Aurora, N.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates the Aurora, North Carolina, Transition Area and lowers the base of controlled airspace in the vicinity of Lee Creek Airport from 1,200 to 700 feet AGL to accommodate Instrument Flight Rule (IFR) operations. A special instrument approach procedure has been developed and additional controlled airspace is required before IFR flight procedures can become effective.

EFFECTIVE DATE: 0901 GMT, March 25, 1982.

FOR FURTHER INFORMATION CONTACT: Eleanor J. Williams, Airspace and

Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

History

On Thursday, December 17, 1981, (46 FR 61488), the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish the Aurora, North Carolina, Transition Area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections to the proposal were received in response to this publication.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations establishes the Aurora, North Carolina, Transition Area. This action will provide controlled airspace for aircraft executing the special instrument approach procedure at the Lee Creek Airport. The operating status of the airport is changed from VFR to IFR.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181, Subpart G, of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (and amended) (46 FR 540) is further amended, effective 0901 GMT, March 25, 1982, as follows:

Aurora, North Carolina

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Lee Creek Airport (Lat. 35°23'22" N., Long. 76°47'06" W.); within 3 miles each side of the 263° bearing from the Aurora RBN (Lat. 35°23'15" N., Long. 76°48'12" W.), extending from the 8.5-mile radius area to 8.5 miles west of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a major rule under Executive Order 12291; (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

This action involves only a small alteration of navigable airspace and air traffic control procedures over a limited area.

Issued in East Point, Georgia, on February 10, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-4812 Filed 2-24-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-ASO-60]

Designation of Transition Area, Erwin, N.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates the Erwin, North Carolina, Transition Area and lowers the base of controlled airspace in the vicinity of Harnett County Airport from 1,200 to 700 feet AGL. A standard instrument approach procedures has been developed and additional controlled airspace is required to accommodate Instrument Flight Rule (IFR) operations at the airport.

EFFECTIVE DATE: 0901 GMT, April 8, 1982.

FOR FURTHER INFORMATION CONTACT: Eleanor J. Williams, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

History

On Thursday, December 17, 1981 (46 FR 61489), the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish the Erwin, North Carolina, Transition Area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections to the proposal were received in response to this publication.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations establishes the Erwin, North Carolina, Transition Area. This action provides controlled airspace for aircraft executing the standard instrument approach procedure to the Harnett County Airport. The operating status of the airport is changed from VFR to IFR.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181, Subpart G, of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (and amended) (46 FR 540) is further amended, effective 0901 GMT, April 8, 1982, as follows:

Erwin, North Carolina

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Harnett County Airport (Lat. 35°22'43"N., Long. 78°44'04"W.); excluding that portion that coincides with the Fayetteville Transition Area.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a major rule under Executive Order 12291; (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

This action involves only a small alteration of navigable airspace and air traffic control procedures over a limited area.

Issued in East Point, Georgia, on February 11, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-4810 Filed 2-24-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AEA-1]

Alteration of Control Zone; Fort Belvoir, Va.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Fort Belvoir, Virginia, Control Zone over Fort Davidson Army Airfield, Fort Belvoir, Virginia, by changing the description to permit changes in the hours of operation by a Notice to Airmen. This will facilitate such changes which can be anticipated due to a temporary reduction in staffing.

EFFECTIVE DATE: February 25, 1982.

FOR FURTHER INFORMATION CONTACT: Al Reale, Airspace and Procedures Branch, AEA–530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995–3391.

SUPPLEMENTARY INFORMATION: This rule is editorial as it merely changes the method of notifying all persons of the minor and less restrictive changes to hours of operation and it imposes no additional burden on any person. Therefore, public comment and procedure hereon are unnecessary and the rule may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective February 25, 1982, as follows:

Amend § 71.171 of Part 71, Federal Aviation Regulations by altering the description of the Fort Belvoir, Virginia Control Zone by adding, "this control zone is effective 0600–2200 hours, local time, daily or during specific times and dates established in advance by a Notice to Airmen which thereafter will be published continuously in the Airport/Facility Directory."

(Secs. 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Jamaica, New York, on February 3, 1982.

Joseph M. Del Balzo,

Director, Eastern Region.

[FR Doc. 82-4810 Filed 2-24-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 91

[Docket No. 21022A; Reg. Notice No. 91-100]

Emergency Air Traffic Regulations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Update of emergency air traffic regulations.

SUMMARY: Section 91.100 of the Federal Aviation Regulations (14 CFR 91.100) requires aircraft operators to comply with emergency air traffic regulations issued under that section and covered by Notices to Airmen (NOTAMs) that are also issued under that section. This document provides notice of regulations already adopted that were immediately effective under § 91.100, for which the FAA has also issued NOTAMs. It adds, to Notice 91–100, emergency regulations implementing Special Federal Aviation Regulation (SFAR) No. 44, as amended, that were necessary to respond to a shortage in air traffic control personnel.

DATES: Effective time: As stated in each regulation listed.

ADDRESSES: Send comments on the listed regulations, in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Docket No. 21022A, 800 Independence Avenue SW., Washington, D.C. 20591. Comments may be examined in the Rules Docket, Room 915, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: B. Keith Potts, Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone (202) 426–3731.

SUPPLEMENTARY INFORMATION:

Comments Invited

The regulations issued under § 91.100 and listed herein are emergency final rules involving immediate air traffic requirements throughout the United States. The need for immediate regulatory response under § 91.100 is stated at 46 FR 16666, *et seq.* In issuing the regulations in this notice, the FAA has found that the conditions cited in § 91.100 exist or will exist and that the regulations are necessary in order to respond to those conditions in the public interest. Where necessary, these regulations may be supplemented or amended hourly, or even more frequently, as air traffic conditions change. Accordingly, good cause exists for making these regulations effective immediately, without prior notice and public procedure.

Comments are invited on any aspect of the listed regulations, individually or cumulatively, and on any aspect of the emergency air traffic control conditions they respond to. When § 91.100 was issued, the FAA noted that it was an emergency regulation under Executive Order 12291 and DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and had no cost impact in itself since it was only procedural. However, the FAA also stated (at 46 FR 16669) that the regulations distributed in accordance with § 91.100 will be evaluated individually, as appropriate, to determine whether they have cost impacts. To assist the FAA in determining, as soon as practicable after issuance, the cost impacts of the regulations issued under § 91.100, comments on economic impact are specifically invited.

Commenters wishing the FAA to acknowledge receipt of their comments in response to these rules must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 21022A." The postcard will be date/time stamped and returned to the commenter.

Effect of Publication

Publication, in the Federal Register, of emergency air traffic regulations issued under § 91.100 provides constructive legal notice of those regulations to all persons who may not have received the NOTAMs concerning those regulations or who otherwise may not have legal notice of the adoption of those regulations. This document provides this constructive legal notice of immediately effective emergency regulations that have already been adopted. Additional emergency regulations will be published periodically if the need for their adoption continues.

Availability Prior to Publication: Preflight Requirement

Since there is a necessary time lag between the issuance of emergency air traffic regulations and NOTAMs under § 91.100 and the publication of these regulations in the Federal Register, and since these regulations and NOTAMs respond to emergency conditions that exist, or will exist, relating to the FAA's ability to operate the Air Traffic Control System, the NOTAMs concerning these regulations are available at operating air traffic facilities and Regional Air Traffic Division offices prior to Federal Register publication and as long as they remain effective. Under § 91.5 *Preflight Action* (14 CFR 91.5), each pilot in command is required to familiarize himself or herself with all available information concerning each flight.

Air Traffic Controller Staffing: SFAR No. 44, as Amended

The air traffic regulations listed in this amendment to Notice 91–100 follow the adoption of SFAR No. 44, as amended, in response to an organized air traffic

controller job action. The emergency aspects of that action are described at 46 FR 39997, *et seq.* As a result, air traffic control facilities have experienced staffing shortages that have reduced the level of air traffic that can be handled with the required levels of safety and efficiency. To insure that these levels of safety and efficiency are fully maintained during this shortage of air traffic personnel, the emergency regulations listed in section 2 of this notice have been issued under § 91.100.

Regulatory Impact

The FAA has determined that the regulations listed in this notice are emergency regulations that are not major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to these regulations, since they were issued in response to existing or expected emergency conditions relative to FAA's ability to operate the Air Traffic Control System. It has been further determined that the listed regulations are emergency regulations under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If these regulations are later determined to be significant, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Notice of Adoption

Accordingly, pursuant to the authority delegated to me by the Administrator in § 91.100 of the Federal Aviation Regulations (14 CFR 91.100; 48 FR 19668, March 13, 1981) and that cited below, the following emergency air traffic regulation has been adopted and covered by a NOTAM under that section.

(Secs. 307, 313(a), 601, 603, 605, 1110, and 1302, Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a), 1421, 1422, 1443, 1473, 1510, and 1522); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

In consideration of the foregoing, section 2 of Notice 91-108 is hereby amended by adding the following emergency regulation following the regulation numbered FDC 1/27/60.

Air Traffic Controller Shortage of 1982, and Related Emergency Conditions (SFAR-44, as Amended, Docket No. 21082-U)

FDC 2/217 Emergency Flight Rules January 5, 1982. Flight Plan Filing—Detroit, Michigan/Super Bowl Reservation Rule. Rule effective January 5, 1982, 1930 G.m.t. The Super Bowl event is expected to cause approximately 2,000 IFR aircraft operations to be added to the air traffic control system. Additionally, low temperatures and inclement weather, typical of this period, make an unregulated situation, and is inherent delays, an unreasonable alternative to requiring arrival reservations. Therefore, to accommodate this traffic without excessive arrival delays and excessive inconvenience to the public, increased ATC staffing and arrival reservations will be required. The ATC facilities in the Detroit area can temporarily increase staffing to handle additional IFR operations. The additional operations will be equitably divided between general aviation and air carrier operations based on the traffic increase for last year's Super Bowl.

Current rules issued under SFAR 44, as amended, do not provide the air traffic system with the flexibility to accommodate much of this added traffic. For example, departure reservations and not arrival reservations are required by the General Aviation Reservation Rule (GAR). Further, under the GAR, a departure reservation cannot be obtained earlier than 24 hours prior to the estimated departure time. This restriction would not allow planning for accommodations on the part of many air travelers.

Pilots proposing general aviation IFR flight to and from Detroit area will be excluded from the requirements of the GAR once they have obtained an IFR arrival reservation from the Central Flow Control Facility (CFCF). However, IFR departure reservations for return flights will be required but will be subject to advance request and flight plan filing requirements.

Reservations for VFR flight will not be required, however, appropriately rated pilots should anticipate the possibility of instrument meteorological conditions and flight plan accordingly. Therefore, pilots planning VFR flight into the area with a planned IFR return will also be excluded from the GAR by obtaining a VFR arrival number from CFCF and complying with the provisions of this rule. Pilots that conduct VFR flight to the specified area without obtaining VFR arrival numbers as described in this rule can expect to experience unpredictable delays if an unplanned IFR departure from the specified area becomes necessary. Conversely, pilots who plan IFR return flight to and elect to obtain IFR departure reservations under this rule in lieu of the GAR requirements, have the advantage of being able to know their departure reservation date and time prior to departing their "home" for the Super Bowl.

Accordingly, pursuant to Special Federal Aviation Regulation No. 44, as amended, and Federal Aviation Regulation § 91.100, the following rule is effective immediately to provide for the safe, orderly handling and movement of IFR traffic.

1. No person may operate a nonscheduled general aviation flight under IFR into the specified area during the period beginning at 0800 EST on January 21, 1982, and ending on January 26, 1982 at 2000 EST without an arrival reservation issued by the Central Flow Control Facility (CFCF).

2. For the purpose of this rule, the specified area includes the airspace within a 60-nautical mile radius of the Silverdome, Pontiac, Michigan, excluding Canadian airspace, and including the following airports:

Detroit Metropolitan (DTW)
Detroit Willow Run (YIP)
Detroit City (DET)
Ann Arbor Municipal (ARB)
Oakland Pontiac (PTK)
Bers-Macomb (UTZ)
Bishop (Flint) (FNT)
Oakland Troy Executive (7D2)
Romeo (D88)
Plymouth Mettetal (1D2)
McKinley (D18)
New Hudson (Y47)

3. Each person planning IFR flight into the specified area shall comply with paragraphs (5) through (8) of this rule in lieu of the GAR requirements.

4. Each person planning IFR flight out of the specified area between 2000 EST on January 24 and 2000 EST on January 26 may comply with paragraphs (5) through (8) of this rule in lieu of the GAR requirements.

5. Arrival reservations or VFR arrival numbers must be obtained from the CFCF. (Telephone No. (202) 382-6868.)

6. Departure reservations for return flight from the specified area must be obtained from the Detroit or Flint area FSS, as appropriate, and may be requested immediately after obtaining an IFR arrival reservation or VFR arrival number from the CFCF. A person may file a return flight plan at this time but shall file no later than 4 hours prior to the proposed departure time.

7. No persons may contact the CFCF for the purpose of obtaining an IFR arrival reservation or VFR arrival number under this rule prior to 1400 GMT on January 18, 1982.

8. Each person receiving an IFR arrival reservation or VFR arrival number from the CFCF, must include it in the remarks section of the IFR flight plan as filed with ATC for the inbound and outbound flights, as appropriate.

FDC 2/204. Cancel FDC 2/017.

Issued in Washington, D.C. on February 10, 1982.

R. J. Van Vuren,
Director, Air Traffic Service.

[FR Doc. 82-4803 Filed 2-24-82; 8:45 am]
BILLING CODE 4910-13-M

[Docket No. 22639 Amdt. No. 95-303]

14 CFR Part 95

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: March 18, 1982.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 G.m.t. March 18, 1982.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 12, 1982.

John M. Howard,
Acting Chief, Aircraft Programs Division.

BILLING CODE 4910-13-M

§95.1001 DIRECT ROUTES—U.S.
Is amended to delete:

FROM	TO	MEA
Hoop INT, Calif. *7700-MOCA	Hoopa INT, Calif.	*8000 MAA—18000
Int. 349 M rad Seal Beach VOR & 096 M rad Van Nuys VOR	Seal Beach, Calif. VOR	3200
INT SBA VOR R-102 & VTU VOR R-015 *5100—MOCA	Los Angeles, Calif. VOR	*8200
Int. 038 M rad Seal Beach VOR & 242 M rad Santa Ana VOR *3500—MOCA	Pixie INT, CA	*4000
Int. 096 M rad Fillmore VOR & 305 M rad Seal Beach VOR	Shobe INT, Calif.	3000

§95.1001 DIRECT ROUTES—U.S.
Is amended to delete:

FROM	TO	MEA
Int. 306 M rad Oceanside VOR & 242 M rad Julian VOR	Pala INT, Calif.	8200
Int. 305 M rad Seal Beach VOR & 323 M rad Los Angeles VOR	Int. 096 M rad Fillmore VOR & 305 M rad Seal Beach VOR	6000
Los Angeles, Calif. VOR Control 1318	Elsey INT, Calif.	26500
*Kiler INT, Calif. *4680—MRA	Bonanza, Calif. VORTAC	4000
Santa Barbara, Calif. VOR	Int. SBA VOR R-102 & VTU VOR R-015	6000
Santa Barbara, Calif. VOR	Palmdale, Calif. VOR COP 40 NM SBA	9000 MAA—45000
Santa Monica, Calif. VOR Via SMO R-043	Antro INT, Calif.	4000

§95.1001 DIRECT ROUTES—U.S.
Is amended to delete:

FROM	TO	MEA
Seal INT, Calif.	Oxnard, Calif. VORTAC	16000 MAA—31000
Ventura, Calif. VORTAC *8600—MOCA	Big Sur, Calif. VORTAC COP 125 VTU	*18000 MAA - 31000
Ventura, Calif. VOR	*Int. 310 M rad Ventura VOR & 153 M rad Los Panoche VOR	25000 MAA—29000
*25000—MCA Int 310 M rad Ventura VOR & 153 M rad Los Banos VOR		
Ventura, Calif. VOR	Salinas, Calif. VORTAC COP 40 VTU	#18000 MAA - 45000

#MEA is established with a gap in navigation signal coverage.

Woodside, Calif. VORTAC	Zibar INT, Calif.	14000

§95.1001 DIRECT ROUTES - U.S.
Is added to read:

FROM	TO	MEA
	Dakota Routes	
V-14		
Hosmer, SH VOR/DME	Treasure Cay, SH VOR/DME	2000
V-81		
Prospect, SH VOR/DME	Dakes INT, SH	2000
Dakes INT, SH	Treasure Cay, SH VOR/DME	2000
Treasure Cay, SH VOR/DME	Marsh Harbour, SH VOR/DME	2000

§95.1001 DIRECT ROUTES - U.S.
Is amended to read in part:

FROM	TO	MEA
	Pontoon Routes	
V-11		
Tobago Island, RP VOR/DME	Hastings INT, RP	5000
V-29		
France, RP VOR	Hastings INT, RP	5000

§95.6006 VOR FEDERAL AIRWAY 6
Is amended to read in part:

FROM	TO	MEA
North Platte, NE VOR *4300—MOCA	Hayes INT, NE	*5500
Hayes INT, NE *3600—MOCA	Grand Island, NE VOR	*5000

§95.6008 VOR FEDERAL AIRWAY 8
Is amended to read in part:

FROM	TO	MEA
Hayes Center, NE VOR Via N alter. *6300—MOCA	Hayes INT, NE Via N alter.	*8000
Hayes INT, NE *3600—MOCA	Grand Island, NE VOR Via N alter.	*5000

§95.6016 VOR FEDERAL AIRWAY 16
Is amended to read in part:

FROM	TO	MEA
Graham, TN VOR	Nashville, TN VOR	#3000

#V16 BNA VORTAC unusable. Use GHM VORTAC R-062 between GHM and BNA VORTACS.

§95.6035 VOR FEDERAL AIRWAY 35
Is amended to read in part:

FROM	TO	MEA
Coots INT, FL *1500—MOCA	Biscayne Bay, FL VOR	*2000

§95.6114 VOR FEDERAL AIRWAY 114
Is amended to read in part:

FROM	TO	MEA
Knott INT, LA Via N alter. *1700—MOCA	Covey INT, LA Via N alter.	*3500
Wrack INT, LA Via N alter. *1500—MOCA	Clunk INT, LA Via N alter.	*5000
Clunk INT, LA Via N alter. *1400—MOCA	Wolke INT, LA Via N alter.	*2500

§95.6138 VOR FEDERAL AIRWAY 138
Is amended to read in part:

FROM	TO	MEA
Grand Island, NE VOR *3100—MOCA	Brady INT, NE	*3600
Combi INT, NE	Lincoln, NE VOR	3300
Lincoln, NE VOR	Neola, IA VOR	3000

§95.6159 VOR FEDERAL AIRWAY 159
Is amended to read in part:

FROM	TO	MEA
Vero Beach, FL VOR *2500—MRA	*Presk INT, FL	3000
Presk INT, FL	Orlando, FL VOR	2000

§95.6182 VOR FEDERAL AIRWAY 182
Is amended to read in part:

FROM	TO	MEA
Boom INT, OR *8100—MOCA	Lesle INT, ID	#12000
Lesle INT, ID *6200—MOCA	Lewiston, ID VOR	*7000

§95.6219 VOR FEDERAL AIRWAY 219
Is amended to read in part:

FROM	TO	MEA
Hayes Center, NE VOR *4300—MOCA	Wolbach, NE VOR	*5000

§95.6267 VOR FEDERAL AIRWAY 267
Is amended to read in part:

FROM	TO	MEA
Worms INT, FL *1500—MOCA	Barbs INT, FL	*2100
Barbs INT, FL *1500—MOCA	Royes INT, FL	*2500

§95.6363 VOR FEDERAL AIRWAY 363
Is amended to read:

FROM	TO	MEA
Mission Bay, CA VOR *2600—MOCA	Treso INT, CA	*4500
Treso INT, CA	Kraus INT, CA	4500
Kraus INT, CA	Prado INT, CA	4000
Prado INT, CA	Pomona, CA VOR	3500

95.6023 VOR FEDERAL AIRWAY
amended to delete:

#Course excursions may be experienced between 9NM and 19NM NW of Ft. Jones VOR on V-23 and V-23W below 15000 MSL.

FROM	TO	MEA
Ft. Jones, CA VOR Via W alter *10000-MRA **9100-MOCA	*Bayts INT, OR Via W alter	**10000
Bayts INT, OR Via W alter *10000-MRA **9100-MOCA	*Paple INT, OR Via W alter	**10000
Paple INT, OR Via W alter *6000-MOCA	Merli INT, OR Via W alter	*9000
Merli INT, OR Via W alter *7300-MOCA	Roseburg, OR VOR Via W alter	*8000
Roseburg, OR VOR Via W alter *7000-MRA **4400-MOCA	*Vaugn INT, OR Via W alter	**7000
Vaugn INT, OR Via W alter *4400-MOCA	Notti INT, OR Via W alter	*7000
Notti INT, OR Via W alter	*Horte INT, OR Via W alter N-Bound S-Bound	 4000 7000
*5800-MCA Horte INT, S-Bound		
Horte INT, OR Via W alter	Corvallis, OR VOR Via W alter	4000
Corvallis, OR VOR Via W alter	Newburg, OR VOR Via W alter	4000
Eugene, OR VOR Via E alter	Glorr INT, OR Via E alter	4000
Glorr INT, OR Via E alter	Maver INT, OR Via E alter	6000

95.6023 VOR FEDERAL AIRWAY
amended to delete:

FROM	TO	MEA
Maver INT, OR Via E alter	Portland, OR VOR Via E alter	5000
Newburg, OR VOR Via W alter	Portland, OR VOR Via W alter	4000
Portland, OR VOR Via E alter *8500-MRA	*Tonee INT, WA Via E alter N-Bound S-Bound	 9000 5000
Tonee INT, WA Via E alter *6500-MOCA	Alder INT, WA Via E alter	*9000
Alder INT, WA Via E alter	Wirtt INT, WA Via E alter N-Bound S-Bound	 5000 9000
Wirtt INT, WA Via E alter	Seattle, WA VOR Via E alter	5000

95.6023 VOR FEDERAL AIRWAY
amended to read in part:

FROM	TO	MEA
Ft. Jones, CA VOR *9400-MOCA	Talem INT, OR	*10000

95.6121 VOR FEDERAL AIRWAY
amended to read in part:

FROM	TO	MEA
Fort Jones, CA VOR *10000-MRA **9100-MOCA	*Bayts INT, OR	**15000

95.6287 VOR FEDERAL AIRWAY
amended to read in part:

FROM	TO	MEA
Eugene, OR VOR Via E alter	Corvallis, OR VOR Via E alter	3500

95.6386 VOR FEDERAL AIRWAY
added to read:

FROM	TO	MEA
Palmdale, CA VOR	Aples INT, CA	7000
Aples INT, CA	Soggi INT, CA E-Bound W-Bound	 11000 9000
Soggi INT, CA *7000-MCA Palm Springs, NW-Bound **9400-MOCA	*Palm Springs, CA VOR	**11000

95.6440 VOR FEDERAL AIRWAY
amended to delete:

FROM	TO	MEA
Seattle, WA VOR	Lofal INT, WA	3000
Lofal INT, WA	U.S. Canadian Border	4100

95.6448 VOR FEDERAL AIRWAY
amended by adding:

FROM	TO	MEA
Medford, OR VOR	Roseburg, OR VOR	7000
Roseburg, OR VOR	Drain INT, OR	5000
Drain INT, OR	Eugene, OR VOR	
	N-Bound	4000
	S-Bound	5000
Eugene, OR VOR	Glorr INT, OR	4000
Glorr INT, OR	Maver INT, OR	6000
Maver INT, OR	Portland, OR VOR	5000

95.6481 VOR FEDERAL AIRWAY
amended by adding:

FROM	TO	MEA
Eugene, OR VOR	Corvallis, OR VOR	3500
Corvallis, OR VOR	Kraft INT, OR	4000

95.6495 VOR FEDERAL AIRWAY
added to read:

FROM	TO	MEA
Ft. Jones, CA VOR *10000-MRA **9100-MOCA	*Bayts INT, OR	**15000
Bayts INT, OR *10000-MRA **9100-MOCA	*Paple INT, OR	**10000
Paple INT, OR *6000-MOCA	Merli INT, OR	*9000
Merli INT, OR *7400-MOCA	Roseburg, OR VOR	*8000

95.6495 VOR FEDERAL AIRWAY
added to read:

FROM	TO	MEA
Roseburg, OR VOR *7000-MRA **4400-MOCA	*Vaugn INT, OR	**7000
Vaugn INT, OR *4400-MOCA	Notti INT, OR	*7000
Notti INT, OR	*Horte INT, OR	
	N-Bound	4000
	S-Bound	7000
*5400-MCA Horte INT, S-Bound		
Horte INT, OR	Corvallis, OR VOR	4000
Corvallis, OR VOR	Newberg, OR VOR	4000
Newberg, OR VOR	Portland, OR VOR	4000
Portland, OR VOR	*Tonee INT, WA	
	N-Bound	9000
	S-Bound	5000
*8500-MRA		
Tonee INT, WA *6500-MOCA	Alder INT, WA	*9000
Alder INT, WA	Wirtt INT, WA	
	N-Bound	5000
	S-Bound	9000
Wirtt INT, WA	Seattle, WA VOR	5000
Seattle, WA VOR	Lofal INT, WA	3000
Lofal INT, WA	U.S. Canadian Border	4100

95.8003 VOR FEDERAL AIRWAY CHANGEOVER POINTS
amended to delete:

FROM	TO	CHANGEOVER POINTS DISTANCE FROM
Portland, OR VOR Via E alter	Seattle, WA VOR Via E alter	20 Portland

95.8003 VOR FEDERAL AIRWAY CHANGEOVER POINTS
added to read:

FROM	TO	CHANGEOVER POINTS DISTANCE FROM
Portland, OR VOR	Seattle, WA VOR	20 Portland
Seattle, WA VOR	Victoria, B. C. Canada VOR	50 Seattle

95.8003 VOR FEDERAL AIRWAY CHANGEOVER POINTS
amended to delete:

FROM	TO	CHANGEOVER POINTS DISTANCE FROM
V-440		
Seattle, WA	Victoria, B.C. Canada VOR	50 Seattle

95.8005 JET ROUTES CHANGEOVER POINTS

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINTS DISTANCE FROM
J-42 IS ADDED TO READ:		
Memphis, TN VORTAC	Nashville, TN VORTAC	118 Memphis
J-60 IS AMENDED BY ADDING:		
Goshen, IN VORTAC	Dryer, OH VORTAC	90 Goshen
J-82 IS AMENDED BY ADDING:		
Goshen, IN VORTAC	Dryer, OH VORTAC	90 Goshen

[FR Doc. 82-4898 Filed 2-24-82; 8:45 am]
BILLING CODE 4910-13-C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 970

Deep Seabed Mining Regulations for Exploration Licenses—Procedures for Pre-Enactment Explorer Applications and New Entrant Applications

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Suspension of final rules.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is temporarily suspending, until further notice, some sections of Subpart C of 15 CFR Part 970, which it issued on February 9, 1982, (47 FR 5966) to implement certain provisions of the Deep Seabed Hard Mineral Resources Act (Pub. L. 96–283, "the Act"). This action is necessary in order to insure that U.S. domestic regulations are consistent with the understandings still being finalized between the various deep seabed mining countries.

The sections of Subpart C which are suspended include: the deadline date for filing applications for exploration licenses based on pre-enactment exploration; the deadline date for indicating the size of the area applied for, whether the area was applied for in one or more other nations, and whether the "banking" option was pursued; and the date for identifying pre-enactment explorer applicants with reciprocating states.

DATE: This suspension is effective on February 19, 1982.

ADDRESS: Inquiries should be directed to: Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Page Building 1, Suite 410, 2001 Wisconsin Avenue NW., Washington, D.C. 20235, Telephone: (202) 653-7695.

FOR FURTHER INFORMATION CONTACT: James P. Lawless, Acting Director, Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Page Building 1, Suite 410, 2001 Wisconsin Avenue NW., Washington, D.C. 20235, Telephone: (202) 653–7695.

SUPPLEMENTARY INFORMATION: 15 CFR Part 970, Subpart C, issued by NOAA on February 9, 1982, (47 FR 5966) set forth the dates on which applications for exploration licenses will be accepted, certain procedures unique to applications filed by U.S. citizens who were engaged in deep seabed mining exploration prior to enactment of the Act and procedures for resolving conflicts resulting from multiple applications for the same area of the deep seabed.

Many dates specified in those Subpart C regulations were consistent with understandings reached among the U.S. and other seabed mining nations likely to become reciprocating states under section 118 of the Act. However, NOAA now has ascertained that the reciprocating state arrangements will not be in force by February 19, 1982, the date now specified in Subpart C as the deadline for receipt of applications based on pre-enactment exploration. Thus, that deadline date and some other dates in Subpart C may not be compatible with the reciprocating states arrangements ultimately implemented pursuant to section 118 of the Act.

Accordingly, NOAA is temporarily suspending the effectiveness of certain portions of Subpart C, as indicated below, to provide additional time for implementation of reciprocating state arrangements. NOAA anticipates that this suspension will be for one week. Subsequent dates, set forth in other portions of Subpart C, also likely will have to be amended after further discussion and agreement among nations likely to become reciprocating states under section 118. Such dates will be amended later by a separate notice.

The suspensions announced in this rulemaking do not prevent a prospective applicant from filing an application based on preenactment exploration. However, during the time this suspension is in force, NOAA will not accept any application which is not based on pre-enactment exploration.

NOAA hereby advises prospective applicants and other interested persons of the possibility that NOAA may find it necessary to amend the Subpart C regulations, including dates and other regulatory provisions, if certain provisions of agreements that have been reached with prospective reciprocating states are amended prior to their implementation.

NOAA statements with respect to the following legal matters appear at 47 FR 5967 (February 9, 1982) and are hereby incorporated and made a part of this preamble:

1. Classification under Executive Order 12291 (including discussion of the Regulatory Flexibility Act);
2. Paperwork Reduction Act; and
3. Environmental Impact Statement.

Effective Date.—In order to allow compatibility with the schedule for receiving and processing pre-enactment explorer applications under discussion between the United States Government and the governments of prospective reciprocating states, for the reasons described in the second paragraph of the SUPPLEMENTARY INFORMATION section of this preamble, and for other foreign policy reasons, NOAA finds under 5 U.S.C. 553(b) that notice and public procedure on this suspension are impracticable and contrary to the public interest. For the same reasons, NOAA finds under 5 U.S.C. 553(d) that good cause exists to make this suspension effective on February 19, 1982. Accordingly, several sections of Title 15, Part 970, Subpart C, of the Code of Federal Regulations are suspended as described below.

Dated: February 19, 1982.

John V. Byrne,
Administrator.
(30 U.S.C. 1401 *et seq.*)

PART 970—DEEP SEABED MINING REGULATIONS FOR EXPLORATION LICENSES

§§ 970.301, 970.302 [Partial suspension]

The following sections of 15 CFR Part 970, Subpart C, are suspended until the Administrator gives further legal notice: §§ 970.301(b); 970.301(g); and 970.302(b).

[FR Doc. 82-5038 Filed 2-22-82; 1:01 pm]
BILLING CODE 3510-12-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Federal Old-Age, Survivors, and Disability Insurance; Earnings Test

Correction

In FR Doc. 82–3568 appearing on page 5999 in the issue of Wednesday, February 10, 1982; on page 6001, third column, the amendatory language for § 404.435 should read as follows: "2. Section 404.435 is amended by revising paragraph (c) (1) and (2) and by adding paragraph (c)(4) and revising example 2 to read as follows:"

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 662

Off-System Roads Program Administrative Guidelines; Rescission of Regulation

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Rescission of regulation.

SUMMARY: This document rescinds the FHWA regulation on Off-System Roads Program Administrative Guidelines, because the program is no longer part of title 23, United States Code.

EFFECTIVE DATE: February 25, 1982.

FOR FURTHER INFORMATION CONTACT: Steiner W. Silence, Office of Engineering, Federal-Aid Division, 202-426-0334, or Michael J. Laska, Office of the Chief Counsel, 202-426-0800, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: The regulations contained in 23 CFR Part 662 were published to prescribe procedures for carrying out the provisions of the Off-System Roads Program which was established by the Federal-Aid Highway Amendments of 1974 and was codified as section 219 of title 23, United States Code. Section 219 was amended and retitled "Safer Off-System Roads" by section 135(a) of the Federal-Aid Highway Act of 1978. A separate set of regulations were published to implement section 219 as amended and are contained in 23 CFR Part 922. Although Part 922 superseded Part 662 as the governing regulations for implementing 23 U.S.C. 219, Part 662 was retained because funds which had been apportioned when Part 662 was in effect were available for obligation for three years. Since all of such authorized funds have either been obligated or lapsed, Part 662 is no longer necessary and is therefore, rescinded.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. No economic impacts are anticipated as a result of this action. Under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

Notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because is is not anticipated that such action would result in the receipt of useful information nor are they required under the Administrative Procedure Act because the matters affected relate to grants, benefits, or contracts pursuant to 5 U.S.C. 553(a)(2). Accordingly, this rescission is effective February 25, 1982.

PART 662—OFF-SYSTEM ROADS PROGRAM ADMINISTRATIVE GUIDELINES [REMOVED]

In consideration of the foregoing, the FHWA hereby removes Part 662 "Off-System Roads Program Administrative Guidelines" from title 23, Code of Federal Regulations.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

(23 U.S.C. 219, 315; 49 CFR 1.48(b))

Issued on February 17, 1982.

R. A. Barnhart,

Federal Highway Administrator.

[FR Doc. 82-4870 Filed 2-24-82; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF JUSTICE

28 CFR Part 50

[Order No. 970-82]

Statements of Policy; Representation of Federal Officials and Employees

AGENCY: Department of Justice.

ACTION: Statement of policy.

SUMMARY: This statement amends the policy of the Department on representation of Federal officials, employees and former Federal officials or employees when they are sued individually for actions performed within the scope of their employment. This amendment is necessary to clarify and expand existing procedures.

EFFECTIVE DATE: February 17, 1982.

FOR FURTHER INFORMATION CONTACT: J. Paul McGrath, Assistant Attorney General, Civil Division, Department of Justice, Washington, D.C. 20530 (202-633-3301).

PART 50—STATEMENTS OF POLICY

By virtue of the authority vested in me by 28 U.S.C. 509, Part 50 of Chapter I of Title 28 of the Code of Federal Regulations is hereby amended by revising §§ 50.15 and 50.16 therof to read as follows:

§ 50.15 Representation of Federal officials and employees by Department of Justice attorneys or by private counsel furnished by the Department in civil and Congressional proceedings, and in state criminal proceedings in which Federal employees are sued or subpoenaed in their individual capacities.

(a) Under the procedures set forth below, a federal employee (hereby defined to include present and former Federal officials and employees) may be provided representation in civil and Congressional proceedings and in state criminal proceedings in which he is sued, subpoenaed, or charged in his individual capacity, not covered by § 15.1 of this chapter, when the actions for which representation is requested reasonably appear to have been performed within the scope of the employee's employment and providing representation would otherwise be in the interest of the United States. No special form of request for representation is required when it is clear from the pleadings in a case that the employee is being sued solely in his official capacity and only equitable relief is sought. (See USAM 4-13.000)

(1) When an employee believes he is entitled to representation by the Department of Justice in a proceeding, he must submit forthwith a written request for that representation, together with all process and pleadings served upon him, to his immediate supervisor or whomever is designated by the head of his department or agency. Unless the employee's employing federal agency concludes that representation is clearly unwarranted, it shall submit, in a timely manner, to the Civil Division or other appropriate litigating division (Antitrust, Civil Rights, Criminal, Land and Natural Resources or the Tax Division), a statement containing its findings as to whether the employee was acting within the scope of his employment and its recommendation for or against providing representation. The statement should be accompanied by all available factual information. In emergency situations the litigating division may initiate conditional representation after a telephonic request from the appropriate official of the employing agency. In such cases, the written request and appropriate documentation must be subsequently provided.

(2) Upon receipt of the individual's request for counsel, the litigating division shall determine whether the employee's actions reasonably appear to have been performed within the scope of his employment and whether providing representation would be in the interest of the United States. In

circumstances where considerations of professional ethics prohibit direct review of the facts by attorneys of the litigating division (e.g. because of the possible existence of inter-defendant conflicts) the litigating division may delegate the fact-finding aspects of this function to other components of the Department or to a private attorney at federal expenses.

(3) Attorneys employed by any component of the Department of Justice who participate in any process utilized for the purpose of determining whether the Department should provide representation to a federal employee, undertake a full and traditional attorney-client relationship with the employee with respect to application of the attorney-client privilege. If representation is authorized, Justice Department attorneys who represent an employee under this section also undertake a full and traditional attorney-client relationship with the employee with respect to the attorney-client privilege. Any adverse information communicated by the client-employee to an attorney during the course of such attorney-client relationship shall not be disclosed to anyone, either inside or outside the Department, other than attorneys responsible for representation of the employee, unless such disclosure is authorized by the employee. Such adverse information shall continue to be fully protected whether or not representation is provided, and even though representation may be denied or discontinued. The extent, if any, to which attorneys employed by an agency other than the Department of Justice undertake a full and traditional attorney-client relationship with the employee with respect to the attorney-client privilege, either for purposes of determining whether representation should be provided or to assist Justice Department attorneys in representing the employee, shall be determined by the agency employing the attorneys.

(4) Representation is not available in federal criminal proceedings. In other proceedings for which representation is sought, where there appears to exist the possibility of a federal criminal investigation or indictment relating to the same subject matter, the litigating division shall contact a designated official in the Criminal, Civil Rights or Tax Division or other prosecutive authority within the Department (hereinafter "prosecuting division") to determine whether the employee is either a subject of a federal criminal investigation or a defendant in a federal criminal case. An employee is the subject of an investigation if, in addition to being circumstantially implicated by having the appropriate responsibilities at the appropriate time, there is some evidence of his specific participation in a crime.

(5) If a prosecuting division of the Department indicates that the employee is not the subject of a criminal investigation concerning the act or acts for which he seeks representation, then representation may be provided if otherwise permissible under the provisions of this section. Similarly, if the prosecuting division indicates that there is an ongoing investigation, but into a matter unrelated to that for which representation has been requested, then representation may be provided.

(6) If the prosecuting division indicates that the employee is the subject of a federal criminal investigation concerning the act or acts for which he seeks representation, the litigating division shall inform the employee that no representation by Justice Department attorneys will be provided in the related civil, congressional, or state criminal proceeding. In such a case, however, the litigating division, in its discretion, may provide a private attorney to the employee at federal expense under the procedures of § 50.16 provided no decision has been made to seek an indictment or file an information against the employee.

(7) In any case where it is determined that Department of Justice attorneys will represent a federal employee, the employee must be notified of his right to retain private counsel at his own expense. If he elects representation by Department of Justice attorneys, the employee and his agency shall be promptly informed.

(i) That in actions where the United States, any agency, or any officer thereof in his official capacity is also named as a defendant, the Department of Justice is required by law to represent the United States and/or such agency or officer and will assert all appropriate legal positions and defenses on behalf of such agency, officer and/or the United States;

(ii) That the Department of Justice will not assert any legal position or defense on behalf of any employee sued in his individual capacity which is deemed not to be in the interest of the United States;

(iii) Where appropriate, that neither the Department of Justice nor any agency of the United States Government is obligated to pay or to indemnify the defendant employee for any judgment for money damages which may be rendered against such employee;

(iv) That any appeal by Department of Justice attorneys from an adverse ruling or judgment against the employee may only be taken upon the discretionary approval of the Solicitor General, but the employee-defendant may pursue an appeal at his own expense whenever the Solicitor General declines to authorize an appeal and private counsel is not provided at federal expense under the procedures of § 50.16; and

(v) That while no conflict appears to exist at the time representation is tendered which would preclude making all arguments necessary to the adequate defense of the employee, if such conflict should arise in the future the employee will be promptly advised and steps will be taken to resolve the conflict as indicated by paragraphs (a)(6), (a)(9) and (a)(10) of this section, and by § 50.16.

(8) If a determination not to provide representation is made, the litigating division shall inform the agency and/or the employee of the determination.

(9) If conflicts exist between the legal and factual positions of various employees in the same case which make it inappropriate for a single attorney to represent them all, the employees may be separated into as many compatible groups as is necessary to resolve the conflict problem and each group may be provided with separate representation. Circumstances may make it advisable that private representation be provided to all conflicting groups and that direct Justice Department representation be withheld so as not to prejudice particular defendants. In such situations, the procedures of § 50.16 will apply.

(10) Whenever the Solicitor General declines to authorize further appellate review or the Department attorney assigned to represent an employee becomes aware that the representation of the employee could involve the assertion of a position that conflicts with the interests of the United States, the attorney shall fully advise the employee of the decision not to appeal or the nature, extent, and potential consequences of the conflict. The attorney shall also determine, after consultation with his supervisor (and, if appropriate, with the litigating division) whether the assertion of the position or appellate review is necessary to the adequate representation of the employee and

(i) If it is determined that the assertion of the position or appeal is not necessary to the adequate representation of the employee, and if the employee knowingly agrees to forego appeal or to waive the assertion of that position, governmental

representation may be provided or continued; or

(ii) If the employee does not consent to forego appeal or waive the assertion of the position, or if it is determined that an appeal or assertion of the position is necessary to the adequate representation of the employee, a Justice Department lawyer may not provide or continue to provide the representation; and

(iii) In appropriate cases arising under paragraph (a)(10) (ii) of this section, a private attorney may be provided at federal expense under the procedures of § 50.16.

(11) Once undertaken, representation of a federal employee under this subsection will continue until either all appropriate proceedings, including applicable appellate procedures approved by the Solicitor General, have ended, or until any of the bases for declining or withdrawing from representation set forth in this section is found to exist, including without limitation the basis that representation is not in the interest of the United States. If representation is discontinued for any reason, the representing Department attorney on the case will seek to withdraw but will take all reasonable steps to avoid prejudice to the employee.

(b) Representation is not available to a federal employee whenever:

(1) The representation requested is in connection with a federal criminal proceeding;

(2) The conduct with regard to which the employee desires representation does not reasonably appear to have been performed within the scope of his employment with the federal government;

(3) It is otherwise determined by the Department that it is not in the interest of the United States to provide representation to the employee.

§ 50.16 Representation of Federal Employees by Private Counsel at Federal Expense.

(a) Representation by private counsel at federal expense is subject to the availability of funds and may be provided to a federal employee only in the instances described in § 50.15(a)(6), (9) and (10), and in appropriate circumstances, for the purposes set forth in § 50.15(a)(2).

(b) To ensure uniformity in retention procedures among the litigating divisions, the Civil Division shall be responsible for establishing procedures for the retention of private counsel including the setting of fee schedules. In all instances where a litigating division decides to retain private counsel under § 50.16, the Civil Division shall be consulted before the retention is undertaken.

(c) Where private counsel is provided, the following procedures shall apply:

(1) While the Department of Justice will generally defer to the employee's choice of counsel, the Department must approve in advance any private counsel to be retained under this section. Where national security interests may be involved, the Department of Justice will consult with the agency employing the federal defendant seeking representation.

(2) Federal payments to private counsel for an employee will cease if the private counsel violates any of the terms of the retention agreement or the Department of Justice

(i) Decides to seek an indictment of, or to file an information against, that employee on a federal criminal charge relating to the conduct concerning which representation was undertaken;

(ii) Determines that the employee's actions do not reasonably appear to have been performed within the scope of his employment;

(iii) Resolves any conflict described herein and tenders representation by Department of Justice attorneys;

(iv) Determines that continued representation is not in the interest of the United States;

(v) Terminates the retainer with the concurrence of the employee-client for any reason.

Dated: February 17, 1982.

William French Smith,

Attorney General.

[FR Doc. 82-5060 Filed 2-24-82; 8:45 am]

BILLING CODE 4410-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2610

Payment of Premiums

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment notifies the public of a change in the interest rate on late payment of premiums imposed by the Pension Benefit Guaranty Corporation on pension plans covered by the termination insurance program under Title IV of the Employee Retirement Income Security Act of 1974. The change in the interest rate is provided for and required by the Economic Tax Recovery Act of 1981.

EFFECTIVE DATE: This regulation is effective on February 25, 1982.

FOR FURTHER INFORMATION CONTACT: Lonie Hassel, Staff Attorney, Office of the General Counsel (210), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, (202) 254-3010. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.*, as amended (the "Act"), provides for a comprehensive pension plan insurance program administered by the Pension Benefit Guaranty Corporation ("PBGC"). Under the statutory scheme, covered plans currently pay annual premiums at $2.60 per participant for single-employer plans and $1.40 per participant for multiemployer plans. These amounts are kept in two separate funds and are used to help finance the program by funding benefits guaranteed by the PBGC. If, upon termination of a single-employer plan, the assets of the plan, plus amounts collectible under section 4062 of the Act, are insufficient to fund benefits guaranteed under sections 4022 and 4022B of the Act, the PBGC uses premiums in the single-employer fund to provide for these benefits. Similarly, premiums in the multiemployer fund are used to provide for the payment of benefits guaranteed under sections 4022A and 4022B of the Act.

The PBGC's Payment of Premiums regulations is set forth in 29 CFR Part 2610 (Part 2602 prior to recodification on June 20, 1981). This amendment revises Appendix A of that regulation to reflect a higher interest rate charge on overdue premiums. Sections 4007 of the Act requires the PBGC to charge interest at the rate established under section 6601(a) of the Internal Revenue Code. The Economic Tax Recovery Act, 95 Stat. 172, Pub. L. 97-34 revised the rates to be used under that section of the Code. Although no change is made in the method of calculating the late payment interest charge set forth in § 2610.7, Appendix A of Part 2610 is amended to reflect the new Internal Revenue Service interest rate that was announced on October 15, 1981 by the IRS (IR-81-124). The new rate of 20% will be effective from February 1, 1982 through December 31, 1982.

Because this amendment simply announces a statutorily imposed change in the interest rate, general notice of proposed rulemaking is not required. See 5 U.S.C. 553(b). Moreover, the PBGC has determined that it would be impractical and contrary to the public interest to delay the effective date of the regulation because the interest rate charge is effective by law on February 1, 1982. Accordingly, the PBGC finds that good cause exists for issuing this regulation in final form without notice and opportunity for public comment and for making it effective immediately.

The PBGC has also determined that this rule is not a "major rule" within the meaning of Executive Order 12291, February 17, 1981 (46 FR 13193), because it will not have an annual effect on the economy of $100 million or more; nor will it create a major increase in costs or prices for consumers, individual industries, or geographic regions; nor will it have significant adverse effects on competition, employment, investment, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

PART 2610—PAYMENT OF PREMIUMS

In consideration of the foregoing, Part 2610 of Chapter XXVI of Title 29, Code of Federal Regulations, is hereby amended as follows:

1. The authority citation for Part 2610 is revised to read as follows:

Authority: Secs. 4002(b)(3), 4006, 4007, Pub. L. 93-406, as amended by secs. 105, 403(l), 402(a)(3), 403(b), Pub. L. 96-364, 94 Stat. 1296, 1302, 1298, 1300 (1980) (29 U.S.C. 1302(b), 1306, 1307).

2. Appendix A is revised to read as follows:

Appendix A—Late Payment Interest Charges

The following table lists the late payment interest charges under § 2610.7(a) for the specified time periods:

Time period	Interest rate (percent)
Sept. 2, 1974 to June 30, 1975	6
July 1, 1975 to Jan. 31, 1978	9
Feb. 1, 1978 to Jan. 31, 1979	7
Feb. 1, 1979 to Jan. 31, 1980	6
Feb. 1, 1980 to Jan. 31, 1982	12
Feb. 1, 1982 to Dec. 31, 1982	20

Effective date: February 25, 1982.

Robert E. Nagle,

Executive Director.

[FR Doc. 82-5061 Filed 2-24-82; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Part 221

Oil and Gas Operating Regulations; Correction

AGENCY: Geological Survey, Interior.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule relating to oil and gas operations on the National Petroleum Reserve, Alaska, published in the Federal Register on December 1, 1981 (46 FR 58304).

FOR FURTHER INFORMATION CONTACT: Stephen Spector, (703) 860-6250, (FTS) 928-6259.

SUPPLEMENTARY INFORMATION: Item 1 of the final rule revised the Authority provision of 30 CFR Part 221. It incorrectly cited 30 U.S.C. 221 which is hereby removed because it has expired.

Dated: February 8, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary of the Interior.

[FR Doc. 82-5073 Filed 2-24-82; 8:45 am]

BILLING CODE 4310-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 174

[CGD 79-087]

Application for Certificate of Number; Change in Required Contents

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending its regulations so that States are no longer required to obtain information on date of birth and citizenship of vessel owners applying for certificates of number. The need for the information is not sufficient to justify the requirement. Also, this information will no longer be collected in States where the Coast Guard is the sole issuing authority.

EFFECTIVE DATE: This amendment becomes effective March 29, 1982.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Harry F. Schmecht, Office of Boating, Public, and Consumer Affairs, (G-BBI-3), U.S. Coast Guard Headquarters, Washington, D.C. 20593, (202) 426-4176.

SUPPLEMENTARY INFORMATION: On August 21, 1980, the Coast Guard published a Notice of Proposed Rulemaking in the Federal Register for these regulations (45 FR 55708). No comments had been received when the comment period on the rulemaking closed on October 6, 1980; however, two comments received after the comment period closed were considered.

Drafting Information

The primary persons involved in drafting this amendment are: Lieutenant Commander Harry F. Schmecht, Project Officer, Office of Boating, Public, and Consumer Affairs, and Lieutenant Walter J. Brudzinski, Project Attorney, Office of the Chief Counsel.

Discussion of Comments

Two written comments were received in this rulemaking. One of the comments was from within the Coast Guard and concerned clarification of Coast Guard policy regarding a numbered vessel which is subsequently documented. Information on citizenship status of a vessel's previous owners is required for applications in certain commercial vessel documentation procedures. This information was thought to be helpful, if collected during numbering procedures, for application in subsequent documentation efforts. The relatively few instances where this information could be utilized in subsequent documentation procedures does not justify imposing the requirement on all applications for certificates of number. Moreover, formal proof of citizenship or date of birth was not gathered by the Coast Guard for numbering functions and the requirement for formal proof of owner information is not in keeping with the purposes of the Federal Boat Safety Act of 1971. Hence, this information is not usable for Coast Guard documentation purposes.

The other comment suggested that the National Marine Fisheries Service, Department of Commerce, required the owner's date of birth and citizenship information. Further written inquiry and response verified that, under the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 *et seq.*), this information is not required or necessary.

In light of the foregoing, the Final Rule will not be changed.

Previous forms, both State and Federal, which contain blocks for the vessel owner's date of birth and citizenship may be used. The States will no longer be required to obtain this information before issuing a certificate of number. States that have a need for this information may continue to gather it.

Evaluation

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rulemaking. Additionally, these regulations are considered to be nonsignificant in accordance with the guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980). An economic evaluation has not been conducted since the impact of these regulations is expected to be minimal. There is no immediate need for States to eliminate the date of birth and citizenship items or to reprint application forms. Existing forms could be used until exhausted. Alternatively, the forms could be issued with these items crossed out or with instructions informing applicants that these items may be left blank. This will allow the changes to be adopted at the convenience of the States and at minimal expense. In accordance with Section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities.

Final Regulations

PART 174—STATE NUMBERING AND CASUALTY REPORTING SYSTEMS

In consideration of the foregoing, Part 174 of Title 33, Code of Federal Regulation, is amended as follows:

1. The authority citation for Part 174 is revised to read as follows:

Authority: Secs. 18, and 39, 85 Stat. 220, 228, as amended. (46 U.S.C. 1507, 1486); 49 CFR (n)(1), unless otherwise noted.

2. Section 174.17 is amended by: removing and reserving paragraphs (a)(3) and (4), and revising paragraph (a)(15). This section will then be revised to read as follows:

§ 174.17 Contents of application for certificate of number.

(a) Each form for application for a certificate of number must contain the following information:

(1) Name of the owner.

(2) Address of the owner, including ZIP code.

(3) [Reserved]

(4) [Reserved]

(5) State in which vessel is or will be principally used.

(6) The number previously issued by an issuing authority for the vessel, if any.

(7) Whether the application is for a new number, renewal of a number, or trahsfer of ownership.

(8) Whether the vessel is used for pleasure, rent or lease, dealer or manufacturer demonstration, commercial passenger carrying, commercial fishing, or other commercial use.

(9) Make of vessel.

(10) Year vessel was manufactured or model year.

(11) Manufacturer's hull identification number, if any.

(12) Overall length of vessel.

(13) Type of vessel (open, cabin, house, or other).

(14) Whether the hull is wood, steel, aluminum, fiberglass, plastic, or other.

(15) Whether the propulsion is inboard, outboard, inboard-outdrive, sail or other.

(16) Whether the fuel is gasoline, diesel, or other.

(17) The signature of the owner.

(b) An application made by a manufacturer or dealer for a number that is to be temporarily affixed to a vessel for demonstration or test purposes may omit items 9 through 16 of paragraph (a) of this section.

(c) An application made by a person who intends to lease or rent the vessel without propulsion machinery may omit items 15 and 16 of paragraph (a) of this section.

Dated: February 18, 1982.

H. W. Parker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 82-5093 Filed 2-24-82; 8:45 am]

BILLING CODE 4910-14-M

PANAMA CANAL COMMISSION

35 CFR Part 70

Revised Procedures for Changing Rules of Measurement or Rates of Tolls

AGENCY: Panama Canal Commission.

ACTION: Final rule; request for comments.

SUMMARY: The Panama Canal Commission amends its regulations which establish notice and hearing procedures for changing the rules of measurement or rates of tolls for vessels transiting the Panama Canal. The Panama Canal Act of 1979, the statute which implemented the Panama Canal Treaty of 1977, rendered obsolete certain portions of Part 70 of 35 CFR. This revision sets forth the new statutory requirements and provides interested parties with instructions for participating in any change in the rules of measurement or rates of tolls.

EFFECTIVE DATE: April 1, 1982.

DATES: Comments related to this amendment must be received on or before March 29, 1982. Depending on the comments received, this amendment may be modified.

ADDRESS: Send written comments to: Michael Rhode, Jr., Secretary, Panama Canal Commission, Rm 312, Pennsylvania Bldg, 425 13th Street, NW., Washington, D.C. 20004 [Telephone: (202) 724-0104].

FOR FURTHER INFORMATION CONTACT: Dwight A. McKabney, General Counsel, Panama Canal Commission, APO Miami, Florida 34011. Telephone in Balboa Heights, Republic of Panama: 52-7511. Telephone in Wash., D.C. (202) 724-0104.

SUPPLEMENTARY INFORMATION: Upon entry into force, on October 1, 1979, of the Panama Canal Treaty of 1977 between the United States and the Republic of Panama, the United States relinquished and Panama assumed plenary jurisdiction over the Canal Zone Pursuant to the Panama Canal Act of 1979, Pub. L. 96-70, 93 Stat. 452, the statute implementing the new treaty, the Canal Zone Government was disestablished and the Panama Canal Company was replaced by a new United States Government agency, the Panama Canal Commission, which is charged with the responsibility of the United States to manage, operate, and maintain the waterway until the termination of the treaty on December 31, 1999. Pursuant to the treaty and the Panama Canal Act of 1979, the regulations published in Title 35, CFR, are being rewritten in accordance with the new agency's substantially different authority and responsibilities.

Some of the changes to Part 70 of Title 35, CFR, made herein are designed to reflect the new agency's organization, structure and responsibilities. Other changes are required by section 1604 of the Panama Canal Act of 1979 (Pub. L. 96-70, 93 Stat. 490), as follows: Notice of any proposed change must be published at least 30 days (formerly 15 days) prior to the date of public hearing; the notice must contain certain required information; the Commission must make available an analysis for public use; any post-hearing revision recommending rates greater than those originally proposed requires a repeat of the procedures of notice, analysis and hearing; notice of the recommendation to the President must be published in the Federal Register; the President has final authority to approve, disapprove or modify the proposed changes; and the changes may not take effect until at least 30 days after they are published by the President in the Federal Register.

The material contained in this part is a matter relating to public property and to rules of agency procedure or practice. Accordingly, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking and opportunity for public participation are inapplicable and, therefore, the regulation is published herein as a final rule. Nevertheless, in the spirit of the policy set forth in 5 U.S.C. 553, to give the public an opportunity to participate in the rulemaking process, interested persons may submit written comments, suggestions, data, or argument within 30 days of the publication of the procedural rules contained in this part. When the comment period ends, the Panama Canal Commission will use any materials presented to review the regulation.

This revision of Part 70 of Title 35, Code of Federal Regulations does not constitute a "major rule" as defined in section 1(b) of Executive Order 12291, dated February 17, 1981. The regulations are procedural and are, therefore, expected to have no direct impact on the economy. They will not result in a major increase in costs or prices for consumers, individual industries, Federal, state or local governmental agencies or geographic regions. Moreover, the regulations will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This regulation does not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969. Furthermore, the Regulatory Flexibility Act is inapplicable, since this regulation is one relating to "rates", or "practices relating" thereto (5 U.S.C. 601(2)).

The following is an overview of the proposed revisions, amendments and redesignation of materials of Part 70 of Title 35, Code of Federal Regulations: First, the heading and the citation of authority have been revised. Second, with the repeal of applicable sections of the Canal Zone Code, the scope (§ 70.1) has been narrowed to refer specifically to rules of measurement or rates of tolls. Third, definitions have been deleted and changed in § 70.2 in order to reflect the proper nomenclature for the new agency organization and structure. Fourth, §§ 70.4, 70.5, 70.6, 70.12, 70.14, 70.15, and new § 70.16 contain statutory requirements set forth in section 1604 of the Panama Canal Act of 1979. Fifth, former § 70.6 has been redesignated as § 70.7, with only minor changes. Sixth, portions of former §§ 70.7 and 70.10 have been retained, combined and redesignated as § 70.8. Seventh, former § 70.8 has been redesignated as § 70.9, with the Chairman of the Commission's Board given responsibility for selecting the panel. Eighth, former § 70.9 has been combined with, and redesignated, § 70.10. Ninth, former § 70.12 has been redesignated as § 70.13, with only minor changes.

Accordingly, the Panama Canal Commission hereby amends Subchapter B of Chapter 1 of Title 35, Code of Federal Regulations, by revising Part 70 to read as follows:

PART 70—PROCEDURES FOR CHANGING RULES OF MEASUREMENT OR RATES OF TOLLS

Sec.
70.1 Scope.
70.2 Definitions.
70.3 Official language.
70.4 Publication of notice.
70.5 Contents of notice.
70.6 Analysis for public use.
70.7 Data filed by interested parties.
70.8 Hearing.
70.9 Hearing panel.
70.10 Notice of appearance; witnesses.
70.11 Conduct of hearing.
70.12 Post-hearing revision.
70.13 Transcript.
70.14 Notice of recommendation to the President.
70.15 Action by the President.
70.16 Effective date.

Authority: Secs. 1601–1604 and 1601 of Pub. L. 96–70, 93 Stat. 489–491 and 492; EO 12215, 45 FR 36043.

§ 70.1 Scope.

These regulations establish procedures for prescribing or changing the rules of measurement of vessels for the Panama Canal and the rates of tolls that shall be levied for the use of the Canal.

§ 70.2 Definitions.

As used in this part:

(a) "Board" means the nine-member Board of the Panama Canal Commission, appointed pursuant to section 1102 of the Panama Canal Act of 1979, Pub. L. 96–70, 93 Stat. 456.

(b) "Commission" means the Panama Canal Commission.

(c) "Hearing" means a public proceeding at which interested persons are afforded an opportunity to participate in rulemaking through submission of written data, views or arguments with or without oral presentation.

(d) "Panel" means the members of the Board of the Panama Canal Commission, who are designated by the Chairman of the Board to conduct a hearing in accordance with § 70.9.

(e) "Party" includes an individual, partnership, corporation, association, or public or private organization other than an agency of the United States Government.

§ 70.3 Official language.

Hearings, arguments, views, and other data provided for by these rules shall be in the English language.

§ 70.4 Publication of notice.

The Commission shall publish in the Federal Register notice of any proposed change in the rules of measurement or rates of tolls. Such notice must be published at least 30 days prior to the date of the public hearing referred to in § 70.8.

§ 70.5 Contents of notice.

The notice referred to in § 70.4 shall include:

(a) The substance of the proposed change;

(b) A statement of the time, place, and nature of the proceedings; and

(c) A statement of the time by which interested parties must submit the notices of appearance required by § 70.10.

§ 70.6 Analysis for public use.

At the time of publication of the notice referred to in §§ 70.4 and 70.5, the Commission shall make available to the public an analysis showing:

(a) The basis and justification for the proposed change, which, in the case of a change in the rates or tolls, shall indicate the conformity of the existing and proposed rates of tolls with the requirements of section 1602 of the Panama Canal Act of 1979; and

(b) The Commission's full consideration of the following factors:

(1) The costs of operating and maintaining the Panama Canal;

(2) The competitive position of the use of the Canal in relation to other means of transportation;

(3) The interests of the United States and the Republic of Panama in maintaining their domestic fleets;

(4) The impact of such a change in rates of tolls on the various geographical areas of each of the two countries; and

(5) The interests of both countries in maximizing their international commerce.

§ 70.7 Data filed by interested parties.

After notice required by § 70.4, interested parties shall be given the

opportunity to participate in the change in the rules of measurement or rates of tolls through submission of written data, views, or arguments, which shall be filed with the Secretary of the Commission within the time prescribed in the notice. Copies of such data or other materials shall be available for distribution to other interested parties on payment of the cost prescribed by the Commission.

§ 70.8 Hearing.

Interested parties shall have the opportunity to participate in a hearing which shall be held not less than 30 days after the date of publication of the notice required by § 70.4. Such hearing shall be held at the time and place prescribed in the notice. In fixing the time and place for the hearing, due regard shall be had for the convenience of the parties and their representatives. Parties appearing at such hearing may present data supplementary to any material already submitted by them, or any oral argument or statement concerning the rules of measurement or tolls, as appropriate. Upon presentation of such supplementary data, arguments, or statements, the panel may request further information or clarification.

§ 70.9 Hearing panel.

One or more members of the Board shall be designated by the Chairman of the Board as a panel to conduct the hearing. If two or more members are so designated, one shall be appointed by the Chairman of the Board to act as Chairman of the Panel.

§ 70.10 Notice of appearance; witnesses.

Interested parties may appear at the hearing in person or by or with counsel or other qualified representative if notice of that appearance, including the names and addresses of the parties appearing, is furnished in writing to the Commission's Secretary within the time prescribed by the notice of the hearing. Such notice of appearance shall also state the names and addresses of any witnesses to appear, the capacity in which they will appear, the place at which they desire to be heard if hearings are scheduled to be held at more than one place, and the approximate time requested for the presentation of each witness.

§ 70.11 Conduct of hearing.

The panel shall conduct the hearing in an impartial manner. Subject to applicable statutes and rules, the panel may:

(a) Regulate the course of the hearing;

(b) Administer or require the administration of oaths or affirmations;

(c) Hold conferences for the settlement or simplification of the issues by consent of the parties;

(d) Dispose of procedural requests or similar matters;

(e) Exclude irrelevant, immaterial or unduly repetitious material offered by the parties or witnesses; and

(f) Exclude any party or witness for contumacious or other conduct which interferes with the proceedings.

§ 70.12 Post-hearing revision.

After consideration of the panel's findings and other relevant matters, the Commission may revise the proposed rules of measurement or rates of tolls, as the case may be. However, in the case of rates of tolls, if such revision proposes rates greater than those originally proposed, the proceedings set out above (making an analysis available to the public, minimum of 30 days notice, submission of data, hearing, etc.) shall be repeated. This requirement shall apply to any subsequent revision which proposes rates higher than those in the preceding proposal.

§ 70.13 Transcript.

A transcript of the proceedings at the hearing(s) shall be made available to any party on request and payment of the costs prescribed by the Commission.

§ 70.14 Notice of recommendation to the President.

Upon completion of the proceedings set out above, the Commission shall publish in the Federal Register a notice of the changes in the rules of measurement or rates of tolls, as the case may be, to be recommended to the President of the United States.

§ 70.15 Action by the President.

Upon publication of the notice required by § 70.13, the Commission shall forward a complete record of the proceedings, with the recommendation of the Commission, to the President for his consideration. The President may approve, disapprove, or modify any or all of the changes in the rules of measurement or rates of tolls recommended by the Commission.

§ 70.16 Effective date.

Rules of measurement or rates of tolls prescribed by the President, pursuant to Pub. L. 96–70 and these regulations, shall take effect on a date prescribed by the President which is not less than 30 days after the President publishes such rules or rates in the Federal Register.

Dated: February 22, 1982.

D. P. McAuliffe,

Administrator.

[FR Doc. 82-5012 Filed 2-24-82; 8:45 am]

BILLING CODE 3640-01-M

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual; Miscellaneous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby describes the numerous miscellaneous revisions consolidated in the Transmittal Letter for Issue 7 of the Domestic Mail Manual (DMM), which is incorporated by reference in the Federal Register, 39 CFR 111.1.

Some of the revisions are minor, editorial, or clarifying. Substantive changes, such as the treatment of unpaid and part-paid mail addressed to U.S. Government offices, have previously been published in the Federal Register both in the proposed rule and the final rule stages.

EFFECTIVE DATE: November 1, 1981.

FOR FURTHER INFORMATION CONTACT:

Paul J. Kemp, (202) 245–4638.

SUPPLEMENTARY INFORMATION: The Domestic Mail Manual, which is incorporated by reference in the Federal Register (See 39 CFR 111.1), has been amended by the publication of a transmittal letter for Issue 7, dated November 1, 1981. The text of all published changes is filed with the Director of the Federal Register. Subscribers to the Domestic Mail Manual receive these amendments automatically from the Government Printing Office.

The following excerpt from the Summary of Changes section of the transmittal letter for Issue 7 covers the minor changes not previously described in final rules published in the Federal Register.

Summary of Changes

Note.—Issue 7 contains all DMM revisions published between July 9, 1981 and October 29, 1981. Rate changes announced in Postal Bulletin 21319 (10–8–81) were incorporated into Issue 6.

1. Section 122.422 is revised to allow the use of the exceptional form of address on all bulk third-class and bulk fourth-class matter (PB 21310, 8–6–81).

2. Section 124.362 and 124.262 are revised to remove the requirement for shipper's certification of parcels containing 5 pounds or less dry ice (PB 21312, 8–20–81).

3. Section 124.516 is revised to require that Form 1508, *Statement by Shipper of Firearms*, be retained for one year (PB 21306, 7–9–81).

4. Section 137.273e and 137.276 are revised to implement new reporting requirements for official business reply mail (PB 21317, 9–24–81).

5. Sections 141.11, 141.21, and 141.3 are revised to correct denominations and prices for envelopes and postal cards (PB 21319, 10–6–81).

6. Section 143.421a is revised to eliminate the requirement that pieces bearing stamps precanceled by bars only must show the city, state and ZIP Code where the mailing is made (PB 21321, 10–15–81).

7. Section 144.13 and 144.41 are revised to list the Rockaway Corporation as an authorized postage meter manufacturer and to include their meter stamp design (PB 21312, 8–20–81).

8. Section 144.354c is added to outline conditions under which the Postal Service will set postage meters at the premises of the mailer without requiring a meter setting fee (PB 21314, 9–3–81).

9. Section 144.355a(1) is revised to provide uniform on-site postage meter license approval procedures (PB 21322, 10–22–81).

10. Section 145.883 is revised to reduce the record retention requirement for mailers using optional acceptance procedures for permit imprint mail to one year (PB 21309, 7–30–81).

11. * * *

12. Section 149.252i is deleted to clarify the fact that any parcel packaged in such a way as to be mailable is insurable, and that indemnity claims will not be denied for inadequate packaging (PB 21314, 9–3–81).

13. Section 149.352a is revised to allow customers to file duplicate indemnity claims by telephone (PB 21314, 9–3–81).

14. Section 153.85 is deleted in accordance with the policy requiring mail to be delivered to the address immediately preceding the city and state of destination (PB 21318, 10–1–81).

15. Exhibit 159.151, sections 392.12, 392.2d, 492.1, and parts 693 and 793 are revised to indicate that a temporary address must not be given to a mailer requesting address correction service (PB 21314, 9–3–81).

16. Section 159.561 is revised to indicate that the San Francisco dead parcel branch now serves the Denver and Seattle bulk mail centers (PB 21311, 8–13–81).

17. Section 164.82 is revised to allow the approval of cancellations at temporary philatelic stations for events sponsored by or involving specific types of organizations (PB 21307, 7–16–81).

18. Subchapter 170 is completely revised to prohibit the use of special cancellations for recruitment programs or post office anniversaries, to limit the use of special cancellations to one 60-day period annually, and to require that applications for special cancellations be submitted to the appropriate mail classification center at least 4 months before the intended date of use (PB 21310, 8–6–81).

19. Section 224.22 is revised to permit postage refunds for late Next Day Service shipments delivered to rural addresses (PB 21309, 7–30–81).

20. Sections 484.31 and 661.2 are revised to clarify the policy regarding the inclusion of the ZIP Code on second-class mail sent at the transient rate and third-class mail sent at the single piece rate (PB 21314, 9–3–81).

21. Section 467.114 is revised to correct the ZIP Codes for Gainesville, FL.

22. Exhibit 482c (p. 2) is revised to correct erroneous entries in item 5.

23. Sections 622.11c, 724.22, and 724.24, are revised to allow commingling of nonidentical weight pieces in carrier route third-class mailings and special fourth-class mailings (PB 21312, 8–20–81).

24. * * *

25. Sections 622.12c, 672.3, and 681.2 are revised to clarify procedures for preparing third-class 5-digit presort level rate mailings (PB 21306, 7–9–81).

26. Part 667 is revised to include 667.5 (formerly 667.4, *Bundling Instead of Sacking*), which was inadvertently omitted from issue 6, and to renumber 667.5 and 667.6.

27. Exhibit 711.3 is revised to correct a printing error in footnote (2). Level B presort rates apply to mailings of 500 or more pieces prepared and presorted to BMCs (PB 21319, 10–6–81).

28. Section 912.61a is revised to require delivery employees to account for return receipts on certified mail, and sections 912.62–912.66 are renumbered. Section 913.73 is revised to incorporate a check of return receipts with the quarterly verification of delivery receipts (PB 21323, 10–29–81).

29. * * *

30. Section 951.272b is revised to allow agencies of the U.S. Government whose lockbox payment period coincides with the Federal fiscal year to pay box rent during the first quarter of the fiscal year (PB 21318, 10–1–81).

31. Appendix A is revised to update information on Postal Service publications.

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

In consideration of the foregoing, 39 CFR 111.3 is amended by adding at the end thereof the following:

§ 111.3 Amendments to the Domestic Mail Manual.

* * * * *

Transmittal letter for issue	Dated	Federal Register publication
*	*	*
7	Nov. 1, 1981	47 FR

(5 U.S.C. 552(a); 39 U.S.C. 401, 407, 408, 3001–3011, 3201–3218; 3403–3405, 3601, 3621; 42 U.S.C. 1973 cc–13, 1973 cc–14)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 82-5075 Filed 2-24-82; 8:45 am]

BILLING CODE 7710-12-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

41 CFR Ch. 18, Parts 1, 3, 7, 21 and Supplement 50

[Procurement Regulation Directive 81–8 (Dated December 15, 1981)]

Regulatory Coverage for Procurement Management Reporting System

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This document amends the NASA Procurement Regulation (41 CFR Ch. 18). It reflects amendments to Part 21 and Supplement 50 to clarify the requirements of NASA's Procurement Management Reporting System.

EFFECTIVE DATE: February 25, 1982.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Following are key changes that are made in this Procurement Regulation Directive:

a. In Part 1, Subpart 1 is revised to update and clarify the requirements of NASA's Procurement Management Reporting System.

b. In Part 21, Subpart 3 is added to establish new NASA Procurement Regulation coverage for the reporting of profit/fee data for new, negotiated procurements or new-work modifications with business or nonprofit

organizations when cost analysis is required or used.

c. In Supplement 50, S50.201 is revised by adding a new category for "Research and Developmnet (R&D)" and other categories are amended by adding new codes.

(42 U.S.C. 2473(c)(1))

Stuart J. Evans,

Director of Procurement.

PART 1—GENERAL PROVISIONS

1.1004–1 [Amended]

1. In Part 1, 1.1004–1 is amended by removing "1.1009 and" from the last sentence.

PART 3—PROCUREMENT BY NEGOTIATION

3.112 [Amended]

2. In Part 3, 3.112 is amended by removing the reference "2.406–4" and inserting in its place "1.314–3(c)."

PART 7—CONTRACT CLAUSES

7.104–53 [Amended]

3. In Part 7, 7.104–53(b) is amended by removing the "B" in (NHB 9501.2B) and inserting "A" in its place.

PART 21—PROCUREMENT MANAGEMENT REPORTING SYSTEM

21.101 [Amended]

4. In Part 21, 21.101 is amended to change the title "Federal Preparedness Agency" to read "Federal Emergency Management Agency."

5. In Part 21, 21.102(a)(3)–(5), the "Note" following (a), and (b) are revised to read as follows:

21.102 Applicability and Coverage. * * *

(a) * * *

(3) All *intragovernmental* procurements of $10,000 or more.

(4) All delivery orders for ordering supplies and services of $10,000 or more (see 3.606–6).

(5) All contracts and purchase orders covering consulting services (see 4.5206).

Note.—Except for purchase orders covering consulting services (see 4.5206), all other purchase orders under $10,000 are *not* reportable.

(b) Modifications of procurements that are individually reportable and require NASA Form 507.

(1) Modifications of $10,000 and over.

(2) Modifications which change the estimated cost and/or fee by $10,000 or more; and modifications which extend the completion date by three months or more beyond the date previously reported.

(3) Modifications which change procurement statistics previously reported.

6. In Part 21, 21.107 is revised to read as follows:

21.107 Contract numbering Scheme.

The method of numbering contracts and purchase orders is set forth in 20.203 and 20.204 (e.g., NAS8–14000, NAS10–9060, NASW–2060).

The method of numbering grants is set forth in the NASA Grant and Cooperative Agreement Handbook, NHB 5800.1A, paragraph 308.1 (e.g., NAGW–1).

The method of numbering cooperative agreements is set forth in the NASA Grant and Cooperative Agreement Handbook, NHB 5800.1A, paragraph 308.2 (e.g., NCC 2–1).

21.111 [Amended]

7. In Part 21, 21.111 is amended by substituting the word "Contract" for the word "Order" in the title of the paragraph.

8. In Part 21, 21.120 the category "Modification to Existing Contracts" is revised to read as follows:

21.120 Item 16—Kind of action. * * *

* * * * *

Modifications to Existing Contracts

07 New Work Modification—Enter this code for reporting modifications to existing contracts which add new procurement. New procurement for the purpose of this raport shall be a modification action which requires the preparation of a Determination and Findings (D&F) to justify the use of authority to negotiate.

08 Supplemental Agreement—Use this code for reporting bilateral, definitized modifications except those covered in code 10.

09 Change Order—Enter this code for reporting change orders issued pursuant to the "Changes" clause of the contract (20.200).

10 S/A Definitizing Change Order—Enter this code when definitizing change orders.

11 Administrative—Enter this code when reporting all administrative contract modifications such as funding actions and novation agreements.

12 Termination for Default—Enter this code when reporting a termination for default.

13 Termination for Convenience—Enter this code when reporting a termination for convenience.

9. In Part 21, 21.121 the category "Business" is revised to read as follows:

21.121 Item 17—Type of Contractor (2 positions).

Business

01 Section 8(a)—Disadvantaged—Enter this code when the award is placed through the Small Business Administration to a disadvantaged business firm under section 8(a) of the Small Business Act.

02 Reserved.

03 Disadvantaged Direct—Enter this code when the award is placed directly with a disadvantaged business firm.

04 Other Business—Enter this code if codes 01 and 03 do not apply.

* * * * *

10. In Part 21, 21.124 the introductory text is revised to read as follows:

21.124 Item 20—Subject to Statutory Requirements (1 position).

Enter appropriate code listed below:

* * * * *

11. In Part 21, 21.127 through 21.140 are revised to read as follows:

21.127 Item 23—Type of Service or Product (4 positions).

Enter the appropriate 4-digit code for research and development work, services, or supplies obtained under the contract using the FPDS "Product and Service" coding manual or NASA PR Supplement 50, Subpart 2. Each basic NASA Form 507 must contain an entry for this item. If more than one classification is applicable to the procurement, enter the code that represents the largest dollar value.

(a) *Research and Development (R&D) Procurements*—R&D codes are used for the following:

(1) All contracts negotiated under the authority of 10 U.S.C. 2304(a)(11), Experimental Development, or Research work;

(2) Most, but not all, contracts negotiated under 10 U.S.C. 2304(a)(5), Services of Educational Institutions;

(3) All contracts funded by R&D appropriations;

(4) All contracts for research and development work, even though not authorized under 10 U.S.C. 2304(a)(11) or (5), or funded by R&D appropriations.

If the procurement involves space research and development, enter one of the following codes:

R. & D. Code	Type of R. & D. Procurement
AR1*	Aeronautics & Space Technology.
AR2*	Space Science.
AR3*	Space Transportation Systems.
AR4*	Tracking and Data Acquisition.
AR5*	Space and Terrestrial Applications.
AR9*	Other Space R&D.

*For the fourth digit of the R&D Code use 0 or one of the following "Stages of R&D":

STAGES OF R. & D. CODES (4TH POSITION)

Code	Meaning
1	Research.
2	Exploratory Development.
3	Advanced Development.
4	Engineering Development.
5	Operational Systems Development.
6	Management and Support.
7	Commercialization.

If the procurement involves other than space research and development, enter the applicable R&D code from the Federal Procurement Data System (FPDS) Product and Service Coding Manual or NASA PR Supplement 50, Subpart 2.

(b) *Service Procurements*—Enter the service code from the Federal Procurement Data System (FPDS) Product and Service Coding Manual or NASA PR Supplement 50, Subpart 2, which best describes the type of service being obtained by the contract.

(c) *Supplies and Equipment Procurements*—Enter the supplies and equipment code from the Federal Procurement Data System (FPDS) Product and Service Coding Manual or NASA PR Supplement 50, Subpart 2, which best describes the type of supplies and equipment being obtained by the contract.

(d) *Definition of Stages of R&D.* The following terms and categories relating to "research and development" are for management of R&D programs. The term "research and development" ordinarily encompasses only the first five and the seventh categories below. Generally, it does not cover category (6). For example, construction of recreational facilities at an installation used exclusively or generally for research and development would not be procurement of "research and development." Nevertheless, in an exceptional case, depending upon the particular facts, some kinds of work within category (6) could be "research and development."

(1) *Research*—Includes all efforts of scientific and experimentation directed toward increasing knowledge and understanding in those fields of the physical, engineering, environmental and life sciences related to long-term national security needs. It provides fundamental knowledge required for the solution of social, economic, political, physical, or military problems. It forms a part of the base for subsequent exploratory and advanced developments in the various technologies, and new or improved functional capabilities in areas such as communications, construction, detection, tracking, surveillance, propulsion, medicine, mobility, guidance and control, navigation, energy conversion, materials and structures, transportation, personnel support, and social services.

(2) *Exploratory Development*—includes all effort directed toward the solution of specific problems, short of major development projects. This type of effort may vary from fairly fundamental applied research to quite sophisticated breadboard hardware, study, programming and planning efforts. It would thus include studies, investigations, and minor development effort. The dominant characteristic of this category of effort is that it be pointed toward specific problem areas with a view toward developing and evaluating the feasibility and practicability of proposed solutions and determining their parameters.

(3) *Advanced Development*—includes all effort directed toward projects which have moved into the development of hardware for test. The prime result of this type of effort is proof design concept rather than the development of hardware for service use. Projects in this category have a potential application.

(4) *Engineering Development*—includes those projects in full-scale engineering development for Government use but which have not yet received approval for production or had production funds included in the budget submission for the budget or subsequent fiscal year. This area is characterized by major line item projects and program control will be exercised by review of the individual projects.

(5) *Operational System Development*—includes those projects still in full-scale engineering development but which have received approval for production, or production funds have been included in the budget submission for the budget or subsequent fiscal year. Program control will be exercised by review of the individual projects.

(6) *Management and Support*—includes all effort directed toward support of installations or operations required for general research and development use. Included would be construction of a general nature unrelated to specific programs, maintenance support of laboratories, operation and maintenance of test ranges, and maintenance of test aircraft equipment, or ships. Costs of laboratory personnel, either in-house or contractor-operated, would be assigned to appropriate projects or as a line item in the Research, Exploratory Development or Advanced Development Program areas, as appropriate.

(7) *Commercialization*—is the process of transferring a new or improved technology from engineering development into the competitive market place. This process is generally accomplished by the private sector on its own but the Federal Government may take an active role as a stimulator when there are strong national benefits, such as reduced dependence on oil imports or improved environmental performance. Appropriate Federal action may include some combination of information dissemination, regulation, commercial demonstration, and/or financial incentives, depending on the particular case.

21.128 Item 24—Proposed Procurement Synopsized (1 position).

Enter Y (yes) or N (no) to indicate whether the procurement was synopsized in the Department of Commerce publication "Synopsis of U.S. Government Proposed Procurement, Sales, and Contract Awards" (see 1.1003–2).

21.129 Item 25—Contract Administration Delegated (1 position).

Enter Y (yes) or N (no) to indicate whether any contract administration functions have been delegated to another Government agency (see 20.604).

21.130 Item 26—Consultant Type Contract (1 position).

Enter Y (yes) or N (no) to indicate whether the contract is for consulting services. For the definition of consulting services see 4.5202 and NMI 5104.5.

21.131 Item 27—Support Services Type Contract (1 position).

Enter Y (yes) or N (no) to indicate whether the contract is for support services. Definitions are as follows:

(a) On or near site is defined as being on a NASA installation or within normal commuting distance of the Center as determined by the Center Director.

(b) Support services contracts are defined in three categories as follows:

(1) *In-House:*

(i) Provides a service to the installation, and

(ii) Is performed on or near the installation, and

(iii) Is continuous in nature, and

(iv) Is not provided by prime product development contractor when the work is for the purpose of fulfilling the prime contract, and

(v) Is characterized as: that support necessary due to the on or near site population and activated facilities (housekeeping M and O function), and the effort necessary to support the research, development or test efforts the installation performs in-house; and

(vi) Excludes:

1. Construction, alteration and repair contractor;
2. Purchase and incidental services;
3. Prime product development contractor;
4. Operations support contractors; and
5. Tenants.

(2) *Operations Support Contractors.* Contracts performed on or near site due to the location of major operations facilities. (This is the effort associated with carrying out mission operations and is done on-site because that is where the captured facility is—a launch pad or Mission Control Center or a tracking station.)

(i) Restricted to major national operations facilities and foreign and domestic tracking network stations:

JPL—Mission Control Center (DSN), Goldstone, Mesa Antenna Range
JSC—Mission Control Center (MSF)
GSFC—Mission Control Center (STDN)
World—Wide Network Tracking Stations
OTDA—Operations Funded Support
KSC—Launch Complex 39 and related support facilities;

(ii) That support funded by STS operations at MSFC, KSC, and JSC;

(iii) Tracking operations support contractors are subdivided as on-site (at or near GSFC or JPL) and as off-site.

(3) *Purchased and/or Incidental Services*

(i) Purchased services (described in terms of funds only) are:
1. Delivery orders against Federal supply schedules;
2. Purchase orders;
3. Blanket purchase agreements; or
4. Basic ordering agreements not exceeding $10K per order.

(ii) Incidental services are:
1. Described in terms of manpower required to perform the services;
2. Procured from vendors who provide similar services to the local community;
3. Vendor provides all or a substantial amount of the capital investment required to perform the work under the contract;
4. Includes small contracts generally not exceeding four to five man-years per annum.

21.132 Item 28—Cost Accounting Standards Clause (1 position).

Enter Y (yes) or N (no) to indicate whether the contract contains the clause "Cost Accounting Standards" (see 3.1204).

21.133 Item 29—New Technology Clause (1 position).

Enter Y (yes) or N (no) to indicate whether the contract contains the "New Technology" clause (see 9.107–5) or the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause (see 9.108–5). For purchase under Federal Supply Schedule contracts, enter N (no).

21.134 Item 30—Subcontracting Program Plan (1 position).

Enter Y (yes) or N (no) to indicate whether the contract contains a subcontract plan which would require the contractor to furnish the information prescibed on Standard Forms 294 and 295 (see 21.600).

21.135 Item 31—Report on Geographical Distribution of NASA Subcontracts (1 position).

Enter Y (yes) or N (no) to indicate whether the contract contains the clause requiring the contractor to furnish the information prescribed on NASA Form 667 (see 21.500).

21.136 Item 32—Affirmative Action Plan (1 position).

Enter Y (yes) or N (no) to indicate whether the business firm certified that an affirmative action plan has been developed and is on file. Only contractors with 50 or more employees and receiving awards of $50,000 or more are required to develop a plan (see 12.807). Enter E (Exempt) if contractor is exempt.

21.137 Item 33—Previously Held Contract Subject to Affirmative Action Program Requirements (1 position).

Enter Y (yes) or N (no) to indicate whether the business firm certified that there has been a previous contract(s) subject to Affirmative Action Program requirements of the rules and regulations of the Secretary of Labor. (Refer to Standard Form 33) (see 12.812). Enter E (Exempt) if contractor is exempt.

21.138 Item 34—Contract Physically Complete (1 position).

Enter Y (yes) or N (no) when the contract becomes physically complete, i.e., after all articles and services called for under the contract including such related items as reports, spare parts, and exhibits have been delivered to and accepted by the Government (see 51.602). Submit this item as a *correction* record only.

21.139 Item 35—Modification Obligations (1 position).

Enter the modification increase or decrease of $10,000 or more. Round the entry to the nearest dollar.

21.140 Item 36—Woman-Owned Business (1 position).

Enter Y (yes) or N (no) to indicate whether the business firm is woman-owned. Enter 1 to indicate the business firm did not certify as woman-owned.

Woman-Owned Business.—A woman-owned business is a business that is at least 51 percent owned, controlled and operated by a woman or group of women. Controlled is defined as exercising the power to make policy decisions. Operated is defined as actively involved in the day-to-day management. For the purposes of this definition, businesses that are publicly owned, joint stock associations and business trusts are exempted. Exempted businesses may voluntarily represent that they are or are not women-owned if this information is available.

12. In Part 21, 21.148 has been amended by adding the following note:

21.148 Item 42—Description of Contract/Modification. * * *

* * * * *

Note.—See Subpart 3 for reporting items 43 to 47 on NASA Form 507A—Individual Contract Profit/Fee Plan Reporting.

13. In Part 21, 21.148 is added to read as follows:

21.148 Special Procurement Placement Codes (PPC) for Certain Procurements Under $10,000 (no NASA Form 507 required).

(a) The Accounting copies on all procurements under $10,000 to "Disadvantaged Business Firms—Direct" shall be coded with a second letter M— of the PPC, e.g., BM, KM, etc. (See PPC matrix in Supplement 50, Subpart 1.)

(b) The Accounting copies on all procurements under $10,000 to "Women-Owned Business Firms" shall be coded with a second letter W— of the PPC, e.g., BW, KW, etc. (See PPC matrix in Supplement 50, Subpart 1.)

14. In Part 21, Subpart 3 is added to read as follows:

Subpart 3—Individual Contract Profit/Fee Plan Reporting

21.300 Scope of Subpart.

This Subpart establishes the requirement to report individual contract profit/fee data which will provide management with the data necessary to analyze the effectiveness of procurement policy.

21.301 Applicability and coverage.

The Individual Procurement Action Report Supplement (NASA Form 507A), an addendum to the Individual Procurement Action Report (NASA Form 507), is required to be completed for each new negotiated procurement action or each new work modification (modification requiring a D&F) with business firms and non-profit organizations when cost analysis is required or used. Complete instructions covering the preparation of this report are provided on the back of the report form.

21.302 Submission of data.

The Individual Procurement Action Report Supplement (NASA Form 507A) shall be completed by contracting personnel who shall supply the data requested in Items 43 to 47. The completed NASA Form 507A will then be attached to the NASA Form 507 and forwarded to the center's procurement management office. These offices will on a monthly basis submit this data as part of the FACS Report System, which has been expanded to accommodate this data, not later than the close of business on the 8th workday following the end of the month being reported.

Supplement 50 [Amended]

15. In Supplement 50, the heading "Federal Procurement Data System Codes" of the Supplement is revised to read "Financial and Contractual Status (FACS) Reporting System."

16. Supplement 50, S50.000 is revised to read as follows:

S50.000 Scope of Supplement. This Supplement is issued for reporting procurement information on an Individual Procurement Action Report, in accordance with Part 21 of this Regulation. It consists of a Procurement Placement Code Matrix which identifies the type of contractor, the extent of competition on the procurement and the negotiation authority cited on the contract.

17. In Supplement 50, S50.100 is revised by replacing the Matrix with a new Matrix as follows:

BILLING CODE 7510-01-M

PROCUREMENT PLACEMENT CODE MATRIX

TYPE OF PROCUREMENT	Advertised (includes FSS)	NEGOTIATION AUTHORITY Under 10 U.S.C. 2304(a) (1) National Emergency	(2) Public Exigency	(3) Purchases Not in Excess of $10,000	(4) Personal or Professional Services	(5) Services of Educational Institutions	(6) Purchases Outside the U.S.	(7) Medicine or Medical Supplies	(8) Supplies Purchased for Authorized Resale	(9) Printing or Non-Personal Subscription Services	(10) Supplies or Services for Which It Is Impractical to Secure Competition by Formal Advertising	(11) Experimental, Development or Research Work	(12) Classified Purchases	(13) Technical Equipment Requiring Standardization and Interchangeability of Parts	(14) Technical or Specialized Services Requiring Substantial Initial Investment or Extended Period of Preparation for Manufacturing	(16) Negotiation After Advertising	(17) Otherwise Authorized by Law	Grants	Space Act Agreements	Cooperative Agreements	Intergovernmental	Federal Supply Schedule Contracts and Miscellaneous
LARGE BUSINESS																						
Advertised, Non FSS	AX																					
Advertised, FSS	AY																					
Negotiated Competitive, Non FSS		BA	BB	BC	BD			BG	BH	BI	BJ	BK	BL	BN		BP	BR	BS				
Negotiated Competitive, FSS																						BY
Negotiated Noncompetitive		DA	DB	DC	DD			DG	DH	DI	DJ	DK	DL	DN		DP	DR	DS				
SMALL BUSINESS																						
[1] Advertised, Non FSS	FX																					
Advertised, FSS	FY																					
Individual Set-Asides, Negotiated Competitive, Non Disadv		GA																GS				
Individual Set-Asides, Negotiated Competitive, Disadv		GM																GD				
Class Set-Asides, Negotiated Competitive, Non Disadv		JA																JS				
Class Set-Asides, Negotiated Competitive, Disadv		JM																JD				
Negotiated Competitive, Non FSS		KA	KB	KC	KD			KG	KH	KI	KJ	KK	KL	KN		KP	KR	KS				
Negotiated Competitive, FSS																						KY
Negotiated Noncompetitive		NA	NB	NC	ND			NG	NH	NI	NJ	NK	NL	NN		NP	NR	NS				
Negotiated Noncompetitive, Disadvantaged, (8a) SBA																		PS				
UNIVERSITIES																						
Advertised	RX																					
Negotiated Competitive				RC		RE	RF												ST	SW	SX	
Negotiated Noncompetitive				SC		SE	RF															
OTHER NONPROFIT																						
Advertised	TX																					
Negotiated Competitive			TB	TC	TD			TG	TH	TI	TJ	TK	TL	TN		TP	TR	TS				
Negotiated Noncompetitive			WB	WC	WD			WG	WH	WI	WJ	WK	WL	WN		WP	WR	WS	WT	WW	WX	
WORK OUTSIDE THE U.S.																						
Negotiated Competitive							XF															
Negotiated Noncompetitive							YF															
INTRAGOVERNMENTAL																						98
MISCELLANEOUS		(RESERVED FOR ACCOUNTING TRANSACTIONS—DO NOT CITE ON PROCUREMENT DOCUMENTS)																				99

REPORTING $ LEVELS: IPAR REQUIRED (NF107)

$1 AND OVER: ALL CONTRACTS, GRANTS, AGREEMENTS AND CONSULTANT SERVICE PURCHASE ORDERS.

$10K & OVER: AWARDS TO OTHER GOVERNMENT AGENCIES AND DELIVERY ORDERS FOR ORDERING SUPPLIES AND SERVICES.

MODIFICATIONS TO CONTRACTS.

[1] Set-aside procurements resulting from "Small Business Restricted Advertising" shall be reported as negotiated procurement under Authority 1 (unilateral determination) or 17 (joint determination)—NASA PR 1.708-2

All procurement awards under $10,000 to "Disadvantaged Business Firms—Direct" shall be reported with a second letter "M" of the procurement placement code, e.g. BM, KM, etc.

All procurement awards under $10,000 to "Women-Owned Firms" shall be coded with a second letter "W" of the procurement placement code, e.g. BW, KW, etc.

BILLING CODE 7510-01-C

18. In Supplement 50, S50.200 is revised to read as follows:

S50.200 Scope of Subpart. This Subpart contains the codes for research and development work, services, and supplies and equipment procured under the contract.

19. In Supplement 50, the paragraph number and introductory text of S50.202 is removed. The category codes in S50.202 are moved to S50.201. As amended, S50.201 reads as follows:

S50.201 Codes for R&D, Services and Supplies and Equipment. One of the following codes shall be entered in item 23 on NASA Form 507 in accordance with 21.127 to identify the type of effort procured under the contract.

Research and Development (R&D) Codes

Agriculture (AA)

AA1* Agricultural Insect and Disease Control R&D
AA2* Agricultural Marketing R&D
AA3* Agricultural Production R&D
AA9* Other Agricultural R&D

Community Services and Development (AB)

AB1* Crime Prevention and Control R&D
AB2* Fire Prevention and Control R&D
AB3* Rural Community Services and Development R&D
AB4* Urban Community Services and Development R&D
AB9* Other Community Services and Development R&D

Defense Systems (AC)

AC1* Defense Aircraft R&D
AC2* Defense Missile & Space Systems R&D
AC3* Defense Ships R&D
AC4* Defense Tank—Automated R&D
AC5* Weapons R&D
AC6* Defense Electronics & Communication Equipment R&D
AC9* Miscellaneous Defense Hard Goods R&D

Defense—Other (AD)

AD1* Ammunition R&D
AD2* Services R&D
AD3* Subsistence R&D
AD4* Textiles R&D
AD5* Fuels and Lubricants R&D
AD6* Construction R&D
AD9* Other Defense R&D

Economic Growth & Productivity (AE)

AE1* Employment Growth & Productivity R&D
AE2* Product or Service Improvement R&D
AE3* Manufacturing Technology R&D
AE9* Other Economic Growth & Productivity R&D

Education R&D (AF)

AF1* Educational R&D

Energy (AG)

AG1* Coal R&D
AG2* Gas R&D
AG3* Geothermal R&D
AG4* Hydro R&D
AG5* Nuclear R&D
AG6* Petroleum R&D
AG7* Solar R&D
AG8* Conservation of Energy R&D
AG9* Other Energy R&D

Environment (AH)

AH1* Pollution Control & Abatement R&D
AH2* Air Pollution R&D
AH3* Water Pollution R&D
AH4* Noise Pollution R&D
AH5* Other Pollution R&D
AH9* Other Environment R&D

General Science and Technology R&D (AJ)

AJ1* General Science and Technology

Housing R&D (AK)

AK1* Housing R&D

Income Security (AL)

AL1* Employment R&D
AL2* Income Maintenance R&D
AL9* Other Income Security R&D

International Affairs and Cooperation R&D (AM)

AM1* International Affairs and Cooperation R&D

Medical (AN)

AN1* Biomedical R&D
AN2* Drugs Dependency R&D
AN3* Alcohol Dependency R&D
AN4* Health Services R&D
AN5* Mental Health R&D
AN6* Rehabilitative Engineering R&D
AN7* Specialized Medical Services R&D
AN9* Other Medical R&D

Natural Resources (AP)

AP1* Aquaculture R&D
AP2* Land R&D
AP3* Mineral R&D
AP4* Recreation R&D
AP5* Marine R&D
AP9* Other Natural Resources R&D

Social Services (AQ)

AQ1* Geriatric R&D (Other than Medical)
AQ9* Other Social Services R&D

Space (AR)

AR1* Aeronautics and Space Technology R&D
AR2* Space Science R&D
AR3* Space Transportation Systems R&D
AR4* Space Tracking and Data Acquisition R&D
AR5* Space and Terrestrial Application R&D
AR9* Other Space R&D

Transportation—Modal (AS)

AS1* Air Transportation R&D
AS2* Surface Motor Vehicles R&D
AS3* Rail Transportation R&D
AS4* Marine Transportation R&D
AS9* Other Modal Transportation R&D

Transportation—General (AT)

AT1* Highways, Roads, and Bridges R&D
AT2* Human Factors Concerning Transportation R&D
AT3* Navigation & Navigational Aids R&D
AT4* Passenger Safety and Security R&D
AT5* Pipeline Safety R&D
AT6* Traffic Management R&D
AT7* Tunnels & Other Subsurface Structures R&D
AT9* Other General Transportation R&D

Transportation—Commodity (AU)

AU1* Transporting Hazardous Material R&D
AU9* Other Commodity Transportation R&D

Mining Activities (AV)

AV1* Subsurface Mining Equipment R&D
AV2* Surface Mining Equipment R&D
AV3* Subsurface Mining Methods R&D
AV4* Surface Mining Methods R&D
AV5* Mining Reclamation Methods R&D
AV6* Mining Safety R&D
AV7* Metallurgical R&D
AV9* Other Mining Activities R&D

Other Research and Development (AZ)

AZ1* Other Research and Development

Financial and Contractual Status (FACS) Reporting System—Services Codes

Natural Resources Management (F)

F001 Aerial Fertilization/Spraying Services
F002 Aerial Seeding Services
F003 Forest/Range Fire Suppression/Presuppression Services
F004 Forest/Range Fire Rehabilitation Services (non-construction)
F005 Forest Tree Planting Services
F006 Land Treatment Practices Services (plowing/clearing, etc.)
F007 Range Seeding Services (ground equipment)
F008 Recreation Site Maintenance Services (non-construction)
F009 Seed Collection/Production Services
F010 Seedling Production/Transplanting Services
F011 Surface Mining Reclamation Services (non-construction)
F012 Survey Line Clearing Services
F013 Tree Breeding Services
F014 Tree Thinning Services
F015 Well Drilling/Exploratory Services
F016 Wildhorse/Burro Management Services
F018 Other Range/Forest Improvements Services (non-construction)
F019 Other Wildlife Management Services
F099 Other Natural Resources Management Services

Social Services (G)

G001 Care of Remains and/or Funeral Services
G002 Chaplain Services
G003 Recreational Services
G004 Social Rehabilitation Services
G005 Geriatric Services
G006 Government Life Insurance Programs
G007 Government Health Insurance Programs
G008 Other Government Insurance Programs
G099 Other Social Services

*For low order position, enter zero or optional code 1-6 for stage of R&D. Asterisks are not to be entered as part of the code.

Quality Control, Testing and Inspection Services (H)

H1** Quality Control Services
H2** Equipment and Materials Testing
H3** Inspection Services
H999 Miscellaneous Testing and Inspection Services

Maintenance, Repair and Rebuilding of Equipment (J)

J0** Maintenance, Repair and Rebuilding of Equipment
J099 Maintenance, Repair and Rebuilding of Miscellaneous Equipment

Modification of Equipment (K)

K0** Modification of Equipment
K099 Modification of Miscellaneous Equipment

Technical Representative Services (L)

L0** Technical Representative Services
L099 Miscellaneous Technical Representative Services

Operation of Government Owned Facility (M)

Note.—See Multiple Use Codes at the end of the Service Codes.

Installation of Equipment (N)

N0** Installation of Equipment
N099 Installation of Miscellaneous Equipment

Salvage Service (P)

P100 Preparation and Disposal of Excess and Surplus Property
P200 Salvage of Aircraft
P300 Salvage of Marine Vessels
P400 Demolition of Buildings
P500 Demolition of Structures of Facilities (other than Building)
P999 Other Salvage Services

Medical Services (Q)

Q101 Dependent Medicare Services
Q201 General Health Care Services
Q301 Laboratory Testing Services
Q401 Nursing Services
Q499 Nursing Home Care Contracts

Specialized Medical Service (Q5)

Q501 Anesthesiology Services
Q502 Cardio-Vascular Services
Q503 Dentistry Services
Q504 Dermatology Services
Q505 Gastroenterology Services
Q506 Geriatric Services
Q507 Gynecology Services
Q508 Hematology Services
Q509 Internal Medicine Services
Q510 Neurology Services
Q511 Opthalmology Services
Q512 Optometry Services
Q513 Orthopedic Services
Q514 Otolaryngology Services
Q515 Pathology Services
Q516 Pediatrics Services
Q517 Pharmacology Services
Q518 Physical Medicine & Rehabilitation Services
Q519 Psychiatry Services
Q520 Podiatry Services
Q521 Pulmonary Services
Q522 Radiology Services
Q523 Surgery Services
Q524 Thoracic Services
Q525 Urology Services
Q526 Medical/Psychiatric Consultation Services
Q999 Other Medical Services

Professional, Technical, and Management Services (R)

Architect and Engineer Services—Construction (R1)

Buildings & Facility Structures (R11)

R111 Administrative & Service Buildings
R112 Airfield, Missile & Communication Facilities
R113 Educational Buildings
R114 Hospital Buildings
R115 Industrial Buildings
R116 Residential Buildings
R117 Warehouse Buildings
R118 Research & Development Facilities
R119 Other Buildings

Non-Building Structures (R12)

R121 Conservation & Development
R122 Highways, Roads, Streets & Bridges
R123 Electric Power Generation
R124 Utilities
R129 Other Non-Building Structures

Architects and Engineers Services—General (R2)

R211 Architect-Engineer Services (non-construction)
R212 Engineering Drafting Services
R213 A&E Inspection Services (non-construction)
R214 A&E Management Engineering Services
R215 A&E Production Engineering Services
R216 Marine Architect-Engineer Services
R219 Other Architect and Engineering Services

Automatic Data Processing Services (R3)

R301 ADP Facility Management Services
R302 ADP Systems Development and Programming Services
R303 ADP Entry Services
R304 ADP Transmission Services
R399 Other ADP Services

Management and Professional Services (R4)

R401 Advertising Services
R402 Management Data Collection Services
R403 Financial/Auditing Services
R404 Land Surveys, Cadastral Services (non-construction)
R405 Operations Research Services
R406 Policy Review/Development Services
R407 Program Evaluation Services
R408 Program Management/Support Services
R409 Program Review/Development Services
R410 Public Relations Services
R411 Real Property Appraisals Services
R412 Simulations
R413 Specifications Development Services
R414 Systems Engineering Services
R415 Technology Sharing/Utilization Services
R416 Care of Animals
R497 Personal Services
R498 Other Professional Services
R499 Other Management Services

Special Studies and Analyses (R5)

R501 ADP Systems Analyses
R502 Air Quality Analyses
R503 Archeological/Paleontological Studies
R504 Chemical/Biological Studies and Analyses
R505 Cost Benefit Analyses
R506 Data Analyses (Other than Scientific)
R507 Economic Studies and Analyses
R508 Endangered Species Studies—Animal
R509 Endangered Species Studies—Plant
R510 Environmental Assessments
R511 Environmental Baseline Studies
R512 Environmental Impact Studies
R513 Feasibility Studies (non-construction)
R514 Federal, Local Government Cooperative Studies and Analyses
R515 Federal, State Government Cooperative Studies and Analyses
R516 Fisheries Studies and Analyses
R517 Geological Studies
R518 Geophysical Studies
R519 Geotechnical Studies
R520 Grazing/Range Use Studies
R521 Historical Studies
R522 Legal/Litigation Studies
R523 Legislative Studies
R524 Mathematical/Statistical Analyses
R525 Natural Resource Studies
R526 Oceanological Studies
R527 Recreation Studies
R528 Regulatory Studies
R529 Scientific Data Studies
R530 Seismological Studies
R531 Socio-economic Studies
R532 Soils Studies
R533 Water Quality Studies
R534 Wildlife Studies
R535 Medicare Health Studies
R536 Medicaid Health Studies
R537 General Health Studies
R599 Other Special Studies and Analyses

Utilities and Housekeeping Services (S)

Utilities (S1)

S111 Gas Services
S112 Electricity Services
S113 Telephone and/or Communications Services
S114 Water Services
S119 Other Utilities

Housekeeping Services (S2)

S201 Custodial—Janitorial Services
S202 Fire Protection Services
S203 Food Service
S204 Fueling and Other Petroleum Services—Excluding Storage
S205 Garbage Collection Service
S206 Guard Services
S207 Insect and Rodent Control Services
S208 Landscaping/Groundskeeping Services
S209 Laundry and Dry Cleaning Services
S211 Surveillance Services
S212 Solid Fuel Handling Services
S299 Other Housekeeping Services

Photographic, Mapping, Printing and Publication Services (T)

T001 Arts/Graphics Services
T002 Cartography Services

**In these two positions, enter first 2 digits of FSC Code or 99 for miscellaneous or general work. Asterisks are not to be entered as part of the code.

T003 Cataloging Services
T004 Charting Services
T005 Film Processing Services
T006 Film/Video Tape Production Services
T007 Microform Services
T008 Photogrammetry Services
T009 Aerial Photographic Services
T010 General Photographic Services
T011 Printing/Binding Services
T012 Reproduction Services
T013 Technical Writing Services
T014 Topography Services
T015 General Photographic Services—Motion
T099 Other Photographic, Mapping, Printing, and Publication Services

Training Services (U)

U001 Lectures for Training
U002 Personnel Testing
U003 Reserve Training (Military)
U004 Scientific and Management Education
U005 Tuition Fees
U006 Vocation/Technical
U007 Faculty Salaries for Dependent Schools
U009 Other Training

Transportation and Travel (V)

V001 GBL & GTR Procurements

Transportation of Things (V1)

Cargo & Freight Services for Transportation of Things (V11)

V111 Air Freight
V112 Motor Freight
V113 Rail Freight
V114 Stevedoring Freight
V115 Vessel Freight
V119 Other Transportation Services

Vehicle Charter for Transportation of Things (V12)

V121 Air Charter for Things
V122 Motor Charter for Things
V123 Rail Charter for Things
V124 Marine Charter for Things
V125 Vessel Towing Service
V129 Other Vehicle Charter for Transportation of Things

Travel of Persons (V2)

Passenger Service (V21)

V211 Air Passenger Service
V212 Motor Passenger Service
V213 Rail Passenger Service
V214 Marine Passenger Service

Vehicle Charter for Passengers (With Operator) (V22)

V221 Passenger Air Charter Service
V222 Passenger Motor Charter Service
V223 Passenger Rail Charter Service
V224 Passenger Marine Charter Service
V225 Ambulance Service

Lodging—Hotel/Motel (V23)

V231 Lodging—Hotel/Motel

Military Personnel Recruitment (including Subsistence and/or Lodging) (V24)

V241 Military Personnel Recruitment

Civilian Personnel Recruitment (V25)

V251 Civilian Personnel Recruitment
V999 Other Travel Services

Lease or Rental of Equipment (W)

WO** Lease or Rental of Equipment

Lease or Rental of Facilities (X)

Note.—See Multiple Use Codes at the end of the Service Codes.

Construction of Structures and Facilities (Y)

Note.—See Multiple Use Codes at the end of the Service Codes.

Maintenance, Repair or Alteration or Real Property (Z)

Note.—See Multiple Use Codes at the end of the Service Codes.

Multiple Use Codes

Use the three digit identifiers shown below preceded by the appropriate Category letter "M" for Operation of Government Owned Facility; "X" for Lease or Rental of Facilities; "Y" for Construction of Structures & Facilities; or "Z" for Maintenance, Repair or Alteration of Real Property.

Administrative and Service Buildings

111 Office Buildings
119 Other Administrative & Service Buildings

Airfield, Communications, and Missile Facilities

121 Air Traffic Control Towers
122 Air Traffic Control Training Facilities
123 Radar & Navigational Facilities
124 Airport Runways
125 Airport Terminals
126 Missile System Facilities
127 Electronic & Communications Facilities
129 Other Airfield Structures

Educational Buildings

131 Schools
139 Other Educational Buildings

Hospital Buildings

141 Hospitals and Infirmaries
142 Laboratories and Clinics
149 Other Hospital Buildings

Industrial Buildings

151 Ammunition Facilities
152 Maintenance Buildings
153 Production Buildings
154 Ship Construction & Repair Facilities
159 Other Industrial Buildings

Residential Buildings

161 Family Housing Facilities
162 Recreational Buildings
163 Troop Housing Facilities
164 Dining Facilities
165 Religious Facilities
169 Other Residential Buildings

Warehouse Buildings

171 Ammunition Storage Buildings
172 Food or Grain Storage Buildings
173 Fuel Storage Buildings
174 Open Warehouse Buildings
179 Other Warehouse Buildings

** In these two positions, enter first 2 digits of FSC Code or 99 for miscellaneous or general work. Asterisks are not to be entered as part of the code.

Research and Development Facilities

181 Government-Owned Company-Operated (G.O.C.O.) R&D Facilities
182 Government-Owned Government-Operated (G.O.G.O.) R&D Facilities

Other Buildings

191 Museums and Exhibition Buildings
192 Testing and Measurement Buildings
199 Miscellaneous Buildings

Conservation and Development Facilities

211 Dams
212 Canals
213 Mine Fire Control Facilities
214 Mine Subsidence Control Facilities
215 Surface Mine Reclamation Facilities
219 Other Conservation and Development Facilities

Highways, Roads, Streets, and Bridges

221 Airport Service Roads
222 Highways, Roads, Streets, and Bridges
223 Tunnels and Subsurface Structures
224 Parking Facilities

Electric Power Generation (EPG) Facilities

231 EPG Facilities—Coal
232 EPG Facilities—Gas
233 EPG Facilities—Geothermal
234 EPG Facilities—Hydro
235 EPG Facilities—Nuclear
236 EPG Facilities—Petroleum
237 EPG Facilities—Solar
239 EPG Facilities—Other, including Transmission

Utilities

241 Fuel Supply Facilities
242 Heating and Cooling Plants
243 Pollution Abatement and Control Facilities
244 Sewage and Water Facilities
245 Water Supply Facilities
249 Other Utilities

Other Non-Building Facilities

291 Recreation Facilities (Non-Building)
299 All Other Non-Building Facilities

Supplies and Equipment Codes

Weapons (10)

1005 Guns, through 30 mm
1010 Guns, over 30 mm up to 75 mm
1015 Guns, 75 mm through 125 mm
1020 Guns, over 125 mm through 150 mm
1025 Guns, over 150 mm through 200 mm
1030 Guns, over 200 mm through 300 mm
1035 Guns, over 300 mm
1040 Chemical Weapons and Equipment
1045 Launchers, Torpedo and Depth Charge
1055 Launchers, Rocket and Pyrotechnic
1070 Nets and Booms, Ordnance
1075 Degaussing and Mine Sweeping Equipment
1080 Camouflage and Deception Equipment
1090 Assemblies Interchangeable Between Weapons in Two or More Classes
1095 Miscellaneous Weapons

Nuclear Ordnance (11)

1105 Nuclear Bombs
1110 Nuclear Projectiles
1115 Nuclear Warheads and Warhead Section

1120 Nuclear Depth Charges
1125 Nuclear Demolition Charges
1127 Nuclear Rockets
1130 Conversion Kits, Nuclear Ordnance
1135 Fuzing and Firing Devices, Nuclear Ordnance
1140 Nuclear Components
1145 Explosive and Pyrotechnic Components, Nuclear Ordnance
1190 Specialized Test and Handling Equipment, Nuclear Ordnance
1195 Miscellaneous Nuclear Ordnance

Fire Control Equipment (12)

1210 Fire Control Directors
1220 Fire Control Computing Sights and Devices
1230 Fire Control Systems, Complete
1240 Optical Sighting and Ranging Equipment
1250 Fire Control Stabilizing Mechanisms
1260 Fire Control Designating and Indicating Equipment
1265 Fire Control Transmitting and Receiving Equipment, except Airborne
1270 Aircraft Gunnery Fire Control Components
1280 Aircraft Bombing Fire Control Components
1285 Fire Control Radar Equipment, except Airborne
1287 Fire Control Sonar Equipment
1290 Miscellaneous Fire Control Equipment

Ammunition and Explosives (13)

1305 Ammunition, through 30 mm
1310 Ammunition, over 30 mm up to 75 mm
1315 Ammunition, 75 through 125 mm
1320 Ammunition, over 125 mm
1325 Bombs
1330 Grenades
1336 Guided Missile Warheads and Explosive Components
1337 Guided Missile and Space Vehicle Explosive Propulsion Units, Solid Fuel; and Components
1338 Guided Missile and Space Vehicle Inert Propulsion Units, Solid Fuel; and Components
1340 Rockets, Rocket Ammunition and Rocket Components
1345 Land Mines
1350 Underwater Mine Inert Components
1351 Underwater Mine Explosive Components
1355 Torpedo Inert Components
1356 Torpedo Explosive Components
1360 Depth Charge Inert Components
1361 Depth Charge Explosive Components
1365 Military Chemical Agents
1370 Pyrotechnics
1375 Demolition Materials
1376 Bulk Explosives
1377 Cartridge & Propellant Actuated Devices and Components
1380 Military Biological Agents
1385 Explosive Ordnance Disposal Tools, Surface
1386 Explosive Ordnance Disposal Tools, Underwater
1390 Fuzes and Primers
1395 Miscellaneous Ammunition
1396 Specialized Ammunition Handling and Servicing Equipment

Guided Missiles (14)

1410 Guided Missiles
1420 Guided Missile Components
1425 Guided Missile Systems, complete
1427 Guided Missile Subsystems
1430 Guided Missile Remote Control Systems
1440 Launchers, Guided Missile
1450 Guided Missile Handling and Servicing Equipment

Aircraft, and Airframe Structural Components (15)

1510 Aircraft, Fixed Wing
1520 Aircraft, Rotary Wing
1540 Gliders
1550 Drones
1560 Airframe Structural Components

Aircraft Components and Accessories (16)

1610 Aircraft Propellers
1615 Helicopter Rotor Blades, Drive Mechanisms and Components
1620 Aircraft Landing Gear Components
1630 Aircraft Wheel and Brake Systems
1650 Aircraft Hydraulic, Vacuum, and Deicing System Components
1660 Aircraft Air Conditioning, Heating, and Pressurizing Equipment
1670 Parachutes; Aerial Pick Up, Delivery, Recovery Systems; and Cargo Tie Down Equipment
1680 Miscellaneous Aircraft Accessories and Components

Aircraft Launching, Landing, and Groundhandling, Equipment (17)

1710 Aircraft Arresting, Barrier, and Barricade Equipment
1720 Aircraft Launching Equipment
1730 Aircraft Ground Servicing Equipment
1740 Airfield Specialized Trucks and Trailers

Space Vehicles (18)

1810 Space Vehicles
1820 Space Vehicle Components
1830 Space Vehicle Remote Control Systems
1840 Space Vehicle Launchers
1850 Space Vehicle Handling and Servicing Equipment
1860 Space Survival Equipment

Ships, Small Craft, Pontoons, and Floating Docks (19)

1900 Frigates and Corvettes
1901 Aircraft Carriers
1902 Cruisers
1903 Destroyers
1904 Submarines
1905 Subchasers
1906 Minelayers and Minesweepers
1907 Landing Craft
1908 Torpedo Boats and Gun Boats
1909 Hydrofoils
1910 Transport Vessels, Passenger and Troop
1911 Amphibious Assault Ships
1915 Cargo and Tanker Vessels
1920 Fishing Vessels
1921 Tugs and Towboats
1922 Fire Boats
1923 Ice Breakers
1924 Repair Ships
1925 Tender Vessels
1926 Lightships
1927 Cable Ships
1928 Salvage Vessels
1929 Rescue Vessels
1930 Barges and Lighters, Cargo
1935 Barges and Lighters, Special Purpose
1940 Small Craft
1945 Pontoons and Floating Docks
1950 Floating Drydocks
1955 Dredges
1900 Miscellaneous Vessels

Ship and Marine Equipment (20)

2010 Ship and Boat Propulsion Components
2020 Rigging and Rigging Gear
2030 Deck Machinery
2040 Marine Hardware and Hull Items
2050 Buoys
2060 Commercial Fishing Equipment
2090 Miscellaneous Ship and Marine Equipment

Railway Equipment (22)

2210 Locomotives
2220 Rail Cars
2230 Right-of-Way Construction and Maintenance Equipment, Railroad
2240 Locomotive and Rail Car Accessories and Components
2250 Track Materials, Railroad

Ground Effect Vehicles, Motor Vehicles, Trailers, and Cycles (23)

2305 Ground Effect Vehicles
2310 Passenger Motor Vehicles
2320 Trucks and Truck Tractors, Wheeled
2330 Trailers
2340 Motorcycles, Motor Scooters, and Bicycles
2350 Combat, Assault & Tactical Vehicles, Tracked

Tractors (24)

2410 Tractors, Full Track, Low Speed
2420 Tractors, Wheeled
2430 Tractors, Track Laying, High Speed

Vehicular Equipment Components (25)

2510 Vehicular Cab, Body, and Frame Structural Components
2520 Vehicular Power Transmission Components
2530 Vehicular Brake, Steering, Axle, Wheel, and Track Components
2540 Vehicular Furniture and Accessories
2590 Miscellaneous Vehicular Components

Tires and Tubes (26)

2610 Tires and Tubes, Pneumatic, Except Aircraft
2620 Tires and Tubes, Pneumatic Aircraft
2630 Tires, Solid and Cushing
2640 Tire Rebuilding and Tire and Tube Repair Materials

Engines, Turbines, and Components (28)

2805 Gasoline Reciprocating Engines, Except Aircraft; and Components
2810 Gasoline Reciprocating Engines, Aircraft; and Components
2815 Diesel Engines and Components
2820 Steam Engines, Reciprocating; and Components
2825 Steam Turbines and Components
2830 Water Turbines and Water Wheels; and Components
2835 Gas Turbines and Jet Engines, Except Aircraft; and Components

2840 Gas Turbines and Jet Engines, Aircraft, and Components
2845 Rocket Engines and Components
2850 Gasoline Rotary Engines and Components
2895 Miscellaneous Engines and Components

Engine Accessories (29)

2910 Engine Fuel System Components, Nonaircraft
2915 Engine Fuel System Components, Aircraft
2920 Engine Electrical System Components, Nonaircraft
2925 Engine Electrical System Components, Aircraft
2930 Engine Cooling System Components, Nonaircraft
2935 Engine Cooling System Components, Aircraft
2940 Engine Air and Oil Filters, Strainers, and Cleaners, Nonaircraft
2945 Engine Air and Oil Filters, Strainers, and Cleaners, Aircraft
2950 Turbosuperchargers
2990 Miscellaneous Engine Accessories, Nonaircraft
2995 Miscellaneous Engine Accessories, Aircraft

Mechanical Power Transmission Equipment (30)

3010 Torque Converters and Speed Changers
3020 Gears, Pulleys, Sprockets, and Transmission Chain
3030 Belting, Drive Belts, Fan Belts, and Accessories
3040 Miscellaneous Power Transmission Equipment

Bearings (31)

3110 Bearings, Antifriction, Unmounted
3120 Bearings, Plain, Unmounted
3130 Bearings, Mounted

Woodworking Machinery and Equipment (32)

3210 Sawmill and Planing Mill Machinery
3220 Woodworking Machines
3230 Tools and Attachments for Woodworking Machinery

Metalworking Machinery (34)

3405 Saws and Filing Machines
3408 Machining Centers and Way-Type Machines
3410 Electrical and Ultrasonic Erosion Machines
3411 Boring Machines
3412 Broaching Machines
3413 Drilling and Tapping Machines
3414 Gear Cutting and Finishing Machines
3415 Grinding Machines
3416 Lathes
3417 Milling Machines
3418 Planers and Shapers
3419 Miscellaneous Machine Tools
3422 Rolling Mills and Drawing Machines
3424 Metal Heat Treating and Non-Thermal Treating Equipment
3426 Metal Finishing Equipment
3431 Electric Arc Welding Equipment
3432 Electric Resistance Welding Equipment
3433 Gas Welding, Heat Cutting, and Metalizing Equipment
3436 Welding Positioners and Manipulators
3438 Miscellaneous Welding Equipment
3439 Miscellaneous Welding, Soldering, and Brazing Supplies and Accessories
3441 Bending and Forming Machines
3442 Hydraulic and Pneumatic Pressers, Power Driven
3443 Mechanical Presses, Power Driven
3444 Manual Presses
3445 Punching and Shearing Machines
3446 Forging Machinery and Hammers
3447 Wire and Metal Ribbon Forming Machines
3448 Riveting Machines
3449 Miscellaneous Secondary Metal Forming and Cutting Machines
3450 Machine Tools, Portable
3455 Cutting Tools for Machine Tools
3456 Cutting and Forming Tools for Secondary Metalworking Machinery
3460 Machine Tool Accessories
3461 Accessories for Secondary Metalworking Machinery
3465 Production Jigs, Fixtures, and Templates
3470 Machine Shop Sets, Kits, and Outfits

Service and Trade Equipment (35)

3510 Laundry and Dry Cleaning Equipment
3520 Shoe Repairing Equipment
3530 Industrial Sewing Machines and Mobile Textile Repair Shops
3540 Wrapping and Packaging Machinery
3550 Vending and Coin Operated Machines
3590 Miscellaneous Service and Trade Equipment

Special Industry Machinery (38)

3605 Food Products Machinery & Equipment
3610 Printing, Duplicating & Bookbinding Equipment
3611 Industrial Marking Machines
3615 Pulp & Paper Industries Machinery
3620 Rubber & Plastic Working Machinery
3625 Textile Industries Machinery
3630 Clay & Concrete Products Industries Machinery
3635 Crystal & Glass Industries Machinery
3640 Tobacco Manufacturing Machinery
3645 Leather Tanning & Leather Working Industries Machinery
3650 Chemical & Pharmaceutical Products Manufacturing Machinery
3655 Gas Generating & Dispensing Systems, Fixed or Mobile
3660 Industrial Size Reduction Machinery
3670 Specialized Semiconductor, Microcircuit, & Printed Circuit Board Manufacturing Machinery
3680 Foundry Machinery, Related Equipment & Supplies
3685 Specialized Metal Container Manufacturing Machinery & Related Equipment
3690 Specalized Ammunition & Ordnance Machinery & Related Equipment
3693 Industrial Assembly Machines
3694 Clean Work Stations, Controlled Environment & Related Equipment
3695 Miscellaneous Special Industry Machinery

Agricultural Machinery and Equipment (37)

3710 Soil Preparation Equipment
3720 Harvesting Equipment
3730 Dairy, Poultry, & Livestock Equipment
3740 Pest, Disease, & Frost Control Equipment
3750 Gardening Implements & Tools
3760 Animal Drawn Vehicles & Farm Trailers
3770 Saddlery, Harness, Whips & Related Animal Furnishings

Contruction, Mining, Excavating, and Highway Maintenance Equipment (38)

3805 Earth Moving & Excavating Equipment
3810 Cranes & Crane-Shovels
3815 Crane & Crane-Shovel Attachments
3820 Mining, Rock Drilling, Earth Boring & Related Equipment
3825 Road Clearing & Cleaning Equipment
3830 Truck & Tractor Attachments
3835 Petroleum Production & Distribution Equipment
3895 Miscellaneous Construction Equipment

Materials Handling Equipment (39)

3910 Conveyors
3915 Materials Feeders
3920 Materials Handling Equipment, Non-Self-Propelled
3930 Warehouse Truck & Tractors, Self-Propelled
3940 Blocks, Tackle, Rigging & Slings
3950 Winches, Hoists, Cranes & Derricks
3960 Elevators & Escalators
3990 Miscellaneous Materials Handling Equipment

Rope, Cable, Chain and Fittings (40)

4010 Chain & Wire Rope
4020 Fiber Rope, Cordage, & Twine
4030 Fittings for Rope, Cable, & Chain

Refrigeration, Air Conditioning, and Air Circulating Equipment (41)

4110 Refrigeration Equipment
4120 Air Conditioning Equipment
4130 Refrigeration and Air Conditioning Components
4140 Fans, Air Circulators, and Blower Equipment

Fire Fighting, Rescue, and Safety Equipment (42)

4210 Fire Fighting Equipment
4220 Marine Lifesaving and Diving Equipment
4230 Decontaminating and Impregnating Equipment
4240 Safety and Rescue Equipment

Pumps and Compressors (43)

4310 Compressors and Vacuum Pumps
4320 Power and Hand Pumps
4330 Centrifugals, Separators, and Pressure and Vacuum Filters

Furnace, Steam Plant, and Drying Equipment: and Nuclear Reactors (44)

4410 Industrial Boilers
4420 Heat Exchangers and Steam Condensers
4430 Industrial Furnaces, Kilns, Lehrs, and Ovens
4440 Driers, Dehydrators, and Anhydrators
4460 Air Purification Equipment
4470 Nuclear Reactors

Plumbing, Heating, and Sanitation Equipment (45)

4510 Plumbing Fixtures and Accessories
4520 Space Heating Equipment and Domestic Water Heaters
4530 Fuel Burning Equipment Units
4540 Miscellaneous Plumbing, Heating and Sanitation Equipment

Water Purification and Sewage Treatment Equipment (46)

4610 Water Purification Equipment
4620 Water Distillation Equipment, Marine and Industrial
4630 Sewage Treatment Equipment

Pipe, Tubing, Hose, and Fittings (47)

4710 Pipe and Tube
4720 Hose and Tubing, Flexible
4730 Fittings and Specialties: Hose, Pipe, and Tube

Valves (48)

4810 Valves, Powered
4820 Valves, Nonpowered

Maintenance and Repair Ship Equipment (49)

4910 Motor Vehicle Maintenance and Repair Shop Specialized Equipment
4920 Aircraft Maintenance and Repair Shop Specialized Equipment
4921 Torpedo Maintenance, Repair, and Checkout Specialized Equipment
4923 Depth Charges and Underwater Mines Maintenance, Repair and Checkout Specialized Equipment
4925 Ammunition Maintenance, Repair, and Checkout Specialized Equipment
4927 Rocket Maintenance, Repair and Checkout Specialized Equipment
4930 Lubrication and Fuel Dispensing Equipment
4931 Fire Control Maintenance and Repair Shop Specialized Equipment
4933 Weapons Maintenance and Repair Shop Specialized Equipment
4935 Guided Missile Maintenance, Repair, and Checkout Specialized Equipment
4940 Miscellaneous Maintenance and Repair Shop Specialized Equipment
4960 Space Vehicle Maintenance, Repair, and Checkout Specialized Equipment

Hand Tools (51)

5110 Hand Tools, Edged, Nonpowered
5120 Hand Tools, Nonedged, Nonpowered
5130 Hand Tools, Power Driven
5133 Drill Bits, Conterbores, and Countersinks: Hand and Machine
5136 Taps, Dies, and Collets: Hand and Machine
5140 Tools and Hardware Boxes
5180 Sets, Kits, and Outfits of Hand Tools

Measuring Tools (52)

5210 Measuring Tools, Craftmen's
5220 Inspection Gages and Precision Layout Tools
5280 Sets, Kits, and Outfits of Measuring Tools

Hardware and Abrasives (53)

5305 Screws
5306 Bolts
5307 Studs
5310 Nuts and Washers
5315 Nails, Keys, and Pins
5320 Rivets
5325 Fastening Devices
5330 Packing and Gasket Materials
5335 Metal Screening
5340 Miscellaneous Hardware
5345 Disks and Stones, Abrasive
5350 Abrasive Materials
5355 Knobs and Pointers
5360 Coil, Flat and Wire Springs
5365 Rings, Shims and Spacers

Prefabricated Structures and Scaffolding (54)

5410 Prefabricated and Portable Buildings
5420 Bridges, Fixed and Floating
5430 Storage Tanks
5440 Scaffolding Equipment and Concrete Forms
5445 Prefabricated Tower Structures
5450 Miscellaneous Prefabricated Structures

Lumber, Millwork, Plywood, and Veneer (55)

5510 Lumber and Related Basic Wood Materials
5520 Millwork
5530 Plywood and Veneer

Construction and Building Materials (56)

5610 Mineral Construction Materials, Bulk
5620 Building Glass, Tile, Brick and Block
5630 Pipe and Conduit, Nonmetallic
5640 Wallboard, Building Paper, and Thermal Insulation Materials
5650 Roofing and Siding Materials
5660 Fencing, Fences, and Gates
5670 Architectural and Related Metal Products
5680 Miscellaneous Construction Materials

Communication, Detection and Coherent Radiation Equipment (58)

5805 Telephone and Telegraph Equipment
5810 Communications Security Equipment and Components
5811 Other Cryptologic Equipment and Components
5815 Teletype and Facsimile Equipment
5820 Radio and Television Communication Equipment, Except Airborne
5821 Radio and Television Communication Equipment, Airborne
5825 Radio Navigation Equipment, Except Airborne
5826 Radio Navigation Equipment, Airborne
5830 Intercommunication and Public Address Systems, Except Airborne
5831 Intercommunication and Public Address Systems, Airborne
5835 Sound Recording and Reproducing Equipment
5840 Radar Equipment, Except Airborne
5841 Radar Equipment, Airborne
5845 Underwater Sound Equipment
5850 Visible and Invisible Light Communication Equipment
5855 Night Vision Equipment, Emitted and Reflected Radiation
5860 Stimulated Coherent Radiation Devices, Components, and Accessories
5865 Electronic Countermeasures, Counter-Counter Measures and Quick Reaction Capability Equipment
5895 Miscellaneous Communication Equipment

Electrical and Electronic Equipment Components (59)

5905 Resistors
5910 Capacitors
5915 Filters and Networks
5920 Fuses and Lighting Arresters
5925 Circuit Breakers
5930 Switches
5935 Connectors, Electrical
5940 Lugs, Terminals, and Terminal Strips
5945 Relays and Solenoids
5950 Coils and Transformers
5955 Piezoelectric Crystals
5960 Electron Tubes and Associated Hardware
5961 Semiconductor Devices and Associated Hardware
5962 Microcircuits, Electronic
5965 Headsets, Handsets, Microphones and Speakers
5970 Electrical Insulators and Insulating Materials
5975 Electrical Hardware and Supplies
5977 Electrical Contact Brushes and Electrodes
5985 Antennas, Waveguides, and Related Equipment
5990 Synchros and Resolvers
5995 Cable, Cord, and Wire Assemblies: Communication Equipment
5999 Miscellaneous Electrical and Electronic Components

Fiber Optics Materials, Components, Assemblies, and Accessories (60)

Note.—Fiber Optics is a general term used to describe the function where optical energy (i.e., light rays) is guided to another location through fiber(s). This group includes Fiber Optics items such as parts, materials, and devices used for communications, data transmission, image transmission, or illumination. Excludes imaging devices under FSG 65 (Medical).

6010 Fiber Optic Conductors

Note.—Included in this class are bulk discrete fibers.

6015 Fiber Optic Cables

Note.—Included in this class are one or more discrete fiber optic conductors with a common protective covering in bulk form. May include electrical conductors/cables and/or reinforcing material.

6020 Fiber Optic Cable Assemblies and Harnesses

Note.—Included in this class are items having one or more fiber optic conductors/cables with processed end(s) or terminated in fitting(s).

6030 Fiber Optic Devices

Note.—Included in this class are fiber optic devices that perform an active function in a fiber optics system.

6060 Fiber Optic Interconnectors

Note.—Included in this class are all fiber optic terminations, such as connectors, couplers, dividers, and splices: May include electrical connectors.

6070 Fiber Optic Accessories and Supplies

Note.—Included in this class are mode stripping materials, index matching materials, cladding materials, and other related materials. Also included are all other fiber optics items (accessories and supplies) that are not classified in a more specific FSC within this group.

6080 Fiber Optic Kits and Sets

Electric Wire, and Power Distribution Equipment (61)

6105 Motors, Electrical
6110 Electrical Control Equipment
6115 Generators and Generator Sets, Electrical
6116 Fuel Cell Power Units, Components and Accessories
6120 Transformers: Distribution and Power Station
6125 Converters, Electrical, Rotating
6130 Converters, Electrical, Nonrotating
6135 Batteries, Primary
6140 Batteries, Secondary
6145 Wire and Cable, Electrical
6150 Miscellaneous Electric Power and Distribution Equipment

Lighting Fixtures and Lamps (62)

6210 Indoor and Outdoor Electric Lighting Fixtures
6220 Electric Vehicular Lights and Fixtures
6230 Electric Portable and Hand Lighting Equipment
6240 Electric Lamps
6250 Ballasts, Lampholders, and Starters
6260 Nonelectrical Lighting Fixtures

Alarm and Signal Systems (63)

6310 Traffic and Transit Signal Systems
6320 Shipboard Alarm and Signal System
6330 Railroad Signal and Warning Devices
6340 Aircraft Alarm and Signal Systems
6350 Miscellaneous Alarm and Signal Systems

Medical, Dental, and Veterinary Equipment and Supplies (65)

6505 Drugs, Biologicals, and Official Reagents
6508 Blood
6507 Blood Derivatives
6508 Medicated Cosmetics and Toiletries
6510 Surgical Dressing Materials
6515 Medical and Surgical Instruments, Equipment Supplies
6520 Dental Instruments, Equipment, and Supplies
6525 X-Ray Equipment and Supplies: Medical, Dental, Veterinary
6530 Hospital Furniture, Equipment, Utensils, and Supplies
6532 Hospital & Surgical Clothing & Related Special Purpose Items
6540 Opticians' Instruments, Equipment, and Supplies
6545 Medical Sets, Kits, and Outfits

Instruments and Laboratory Equipment (66)

6605 Navigational Instruments
6610 Flight Instruments
6615 Automatic Pilot Mechanisms and Airborne Gyro Components
6620 Engine Instruments
6625 Electrical and Electronic Properties Measuring and Testing Instruments
6630 Chemical Analysis Instruments
6635 Physical Properties Testing Equipment
6638 Environmental Chambers and Related Equipment
6640 Laboratory Equipment and Supplies
6645 Time Measuring Instruments
6650 Optical Instruments
6655 Geophysical and Astronomical Instruments
6660 Meteorological Instruments and Apparatus
6665 Hazard-Detecting Instruments and Apparatus
6670 Scales and Balances
6675 Drafting, Surveying, and Mapping Instruments
6680 Liquid and Gas Flow, Liquid Level, and Mechanical Motion Measuring Instruments
6685 Pressure, Temperature, and Humidity Measuring and Controlling Instruments
6695 Combination and Miscellaneous Instruments

Photographic Equipment (67)

6710 Cameras, Motion Picture
6720 Cameras, Still Picture
6730 Photographic Projection Equipment
6740 Photographic Developing and Finishing Equipment
6750 Photographic Supplies
6760 Photographic Equipment and Accessories
6770 Film, Processed
6780 Photographic Sets, Kits, and Outfits

Chemical and Chemical Products (68)

6810 Chemicals
6820 Dyes
6830 Gases: Compressed and Liquified
6840 Pest Control Agents and Disinfectants
6850 Miscellaneous Chemical Specialities

Training Aids and Devices (69)

6910 Training Aids
6920 Armament Training Devices
6930 Operational Training Devices
6940 Communication Training Devices

General Purpose Automatic Data Processing Equipment, Software, Supplies and Support Equipment (70)

7010 ADP Configuration
7020 ADP Central Processing Unit (CPU, Computer) Analog
7021 ADP Central Processing Unit (CPU, Computer) Digital
7022 ADP Central Processing Unit (CPU, Computer) Hybrid
7025 ADP Input/Output and Storage Devices
7030 ADP Software
7035 ADP Accessorial Equipment
7040 Punched Card Equipment
7045 ADP Supplies and Support Equipment
7050 ADP Components

Furniture (71)

7105 Household Furniture
7110 Office Furniture
7125 Cabinets, Lockers, Bins, and Shelving
7195 Miscellaneous Furniture and Fixtures

Household and Commercial Furnishings and Appliances (72)

7210 Household Furnishings
7220 Floor Coverings
7230 Draperies, Awnings, and Shades
7240 Household and Commercial Utility Containers
7290 Miscellaneous Household and Commercial Furnishings and Appliances

Food Preparation and Serving Equipment (73)

7310 Food Cooking, Baking, and Serving Equipment
7320 Kitchen Equipment and Appliances
7330 Kitchen Hand Tools and Utensils
7340 Cutlery and Flatware
7350 Tableware
7360 Sets, Kits, and Outfits: Food Preparation and Serving

Office Machines and Visible Record Equipment (47)

7420 Accounting and Calculating Machines
7430 Typewriters and Office Type Composing Machines
7450 Office Type Sound Recording and Reproducing Machines
7460 Visible Record Equipment
7490 Miscellaneous Office Machines

Office Supplies and Devices (76)

7510 Office Supplies
7520 Office Devices and Accessories
7530 Stationery and Record Forms
7540 Standard Forms

Books, Maps, and Other Publications (76)

7610 Books and Pamphlets
7630 Newspapers and Periodicals
7640 Maps, Atlases, Charts, and Globes
7650 Drawings and Specifications
7660 Sheet and Book Music
7670 Microfilm, Processed
7690 Miscellaneous Printed Matter

Musical Instruments, Phonographs, and Hometype Radios (77)

7710 Musical Instruments
7720 Musical Instruments Parts and Accessories
7730 Phonographs Radios, Television Sets: Home Type
7740 Phonograph Records

Recreational and Athletic Equipment (78)

7810 Athletic and Sporting Equipment
7820 Games, Toys and Wheeled Goods
7830 Recreational and Gymnastic Equipment

Cleaning Equipment and Supplies (79)

7910 Floor Polishers and Vacuum Cleaners
7920 Brooms, Brushes, Mops and Sponges
7930 Cleaning and Polishing Compounds and Preparations

Brushes, Paints, Sealers, and Adhesives (80)

8010 Paints, Dopes, Varnishes, and Related Products
8020 Paint and Artists' Brushes
8030 Preservatives and Sealing Compounds
8040 Adhesives

Containers, Packing, and Packing Supplies (81)

8105 Bags and Sacks
8110 Drums and Cans
8115 Boxes, Cartons and Crates
8120 Commercial and Industrial Gas Cylinders
8125 Bottles and Jars
8130 Reels and Spools
8135 Packaging and Packing Bulk Materials
8140 Ammunition and Nuclear Ordnance Boxes, Packages and Special Containers
8145 Specialized Shipping and Storage Containers

Textiles, Leather, Furs, Apparel, and Shoe Findings, Tents and Flags (83)

8305 Textile Fabrics
8310 Yarn and Thread
8315 Notions and Apparel Findings
8320 Padding and Stuffing Materials
8325 Fur Materials
8330 Leather
8335 Shoe Findings and Soling Materials
8340 Tents and Tarpaulins
8345 Flags and Pennants

Clothing, Individual Equipment, and Insignia (84)

8405 Outerwear, Men's
8410 Outerwear, Women's
8415 Clothing, Special Purpose
8420 Underwear and Nightwear, Men's
8425 Underwear and Nightwear, Women's
8430 Footwear, Men's
8435 Footwear, Women's
8440 Hosiery, Handwear, and Clothing Accessories, Men's
8445 Hosiery, Handwear, and Clothing Accessories, Women's
8450 Children's and Infants' Apparel and Accessories
8455 Badges and Insignia
8460 Luggage
8465 Individual Equipment
8470 Armor, Personal
8475 Specialized Flight Clothing and Accessories

Toiletries (85)

8510 Perfumes, Toilet Preparations and Powers
8520 Toilet Soap, Shaving Preparations, and Dentifrices
8530 Personal Toiletry Articles
8540 Toiletry Paper Products

Agricultural Supplies (87)

8710 Forage and Feed
8720 Fertilizers
8730 Seed and Nursery Stock

Live Animals (89)

8810 Live Animals, Raised for Food
8820 Live Animals, Not Raised for Food

Subsistence (89)

8905 Perishable Subsistence
8905 Meat, Poultry, and Fish
8910 Dairy Foods and Eggs
8915 Fruits and Vegetables
8920 Bakery and Cereal Products
8925 Sugar, Confectionery, and Nuts
8930 Jams, Jellies, and Preserves
8935 Soups and Bouillons
8940 Special Dietary Foods and Food Specialty Preparations
8945 Food Oils and Fats
8950 Condiments and Related Products
8955 Coffee, Tea, and Cocoa
8960 Beverages, Nonalcoholic
8965 Beverages, Alcoholic
8970 Composite Food Packages
8975 Tobacco Products
8990 Food Items for Resale

Fuels, Lubricants, Oils, and Waxes (91)

9110 Fuels, Solid
9130 Liquid Propellants, and Fuels, Petroleum Base
9135 Liquid Propellant Fuels and Oxidizers, Chemical Base
9140 Fuel Oils
9150 Oils and Greases: Cutting, Lubricating, and Hydraulic
9160 Miscellaneous Waxes, Oils, and Fats

Nonmetallic Fabricated Materials (93)

9310 Paper and Paperboard
9320 Rubber Fabricated Materials
9330 Plastics Fabricated Materials
9340 Glass Fabricated Materials
9350 Refractories and Fire Surfacing Materials
9390 Miscellaneous Fabricated Nonmetallic Materials

Nonmetallic Crude Materials (94)

9410 Crude Grades of Plant Materials
9420 Fibers: Vegetable, Animal, and Synthetic
9430 Miscellaneous Crude Animal Products, Inedible
9440 Miscellaneous Crude Agricultural and Forestry Products
9450 Nonmetallic Scrap, Except Textile

Metal Bars, Sheets, and Shapes (95)

9505 Wire, Nonelectrical, Iron and Steel
9510 Bars and Rods, Iron and Steel
9515 Plate, Sheets, and Strip: Iron and Steel
9520 Structural Shapes, Iron and Steel
9525 Wire, Nonelectrical, Nonferrous Base Metal
9530 Bars and Rods, Nonferrous Base Metal
9535 Plate, Sheet, Strip, and Foil: Nonferrous Base Metal
9540 Structural Shapes, Nonferrous Base Metal
9545 Plate, Sheet, Strip, Foil, and Wire: Precious Metal

Ores, Minerals, and Their Primary Products (96)

9610 Ores
9620 Minerals, Natural and Synthetic
9630 Additive Metal Materials and Master Alloys
9640 Iron and Steel Primary and Semifinished Products
9650 Nonferrous Base Metal Refinery and Intermediate Forms
9660 Precious Metals Primary Forms
9670 Iron and Steel Scrap
9680 Nonferrous Metal Scrap

Miscellaneous (99)

9905 Signs, Advertising Displays, and Identification Plates
9910 Jewelry
9915 Collectors' Items
9920 Smokers' Articles and Matches
9925 Ecclesiastical Equipment, Furnishings, and Supplies
9930 Memorials: Cemeterial and Mortuary Equipment and Supplies
9998 Non Food Items for Resale
9999 Miscellaneous Items.

[FR Doc. 82-4998 Filed 2-24-82; 8:45 am]
BILLING CODE 7616-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-43

[FPMR Amdt. H-132]

Excess Personal Property Reporting Requirements

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation revises excess personal property reporting requirements to ensure that excess personal property having reasonable utilization potential is reported to GSA for disposition.

EFFECTIVE DATE: February 25, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley M. Duda, Director, Utilization Division (703-557-0714).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

PART 101-43—UTILIZATION OF PERSONAL PROPERTY

Section 101-43.4801 is amended to revise paragraphs (b)(1), (b)(2), (c), and (d) to read as follows:

§ 101-43.4801 Excess personal property reporting requirements.

* * * * *

(b) * * *

(1) The table in paragraph (d) of this section states that line items as specified herein shall be reported when in class 1510, 1520, 2810, 2840, or any class in group 16. In agencies other than the Department of Defense all line items in these classes shall be reported when dollar and condition criteria are met. In the Department of Defense, aircraft in class 1510 which are in the Cargo/Transport, Observation, Anti-Sub, Trainer, or Utility series, all aircraft in class 1520, and line items in the other classes which are components of these aircraft shall be reported when dollar and condition criteria are met.

(2) Items in classes 1510 and 1520 held by the Department of Defense or other agencies shall be reported to the General Services Administration (9DP), San Francisco, California 94105.

(c) Automated data processing equipment as defined in § 101-36.301-1, whether or not it falls within group 70, shall be reported in the manner set forth in Subpart 101-36.47 to the General Services Administration (CISE), Washington, DC 20405.

Note.—Auxiliary and accessorial ADPE with a unit original acquisition cost of $1,500 or less shall be reported to GSA regional offices in accordance with this Part 101-43.

(d) The table follows:

Federal supply classification			Not reportable to GSA	Reportable to GSA	Minimum reportable disposal condition code
Group No.	Group identification	Classes			
10	Weapons	All	x		
11	Nuclear ordnance	All	x		
12	Fire control equipment	All	x		
13	Ammunition and explosives	All	x		
14	Guided missiles	All except:		x	9
		1410 guided missiles	x		
		1440 launchers, guided missile	x		
15	Aircraft, and airframe structural components	All except:	x		
		1510 aircraft, fixed wing, as specified by § 101-43.4801(b)		x	9
		1520 aircraft, rotary wing, as specified by § 101-43.4801(b)		x	9
		1560 airframe structural components, as specified by § 101-43.4801(b)		x	9
16	Aircraft components and accessories	All		x	9
17	Aircraft launching, landing, and ground handling equipment	All	x		
18	Space vehicles	All		x	7
19	Ships, small craft, pontoons, and floating docks	All except:		x	8
		Vessels over 1500 gross tons	x		
20	Ship and marine equipment	All	x		
22	Railway equipment	All		x	9
23	Ground effect vehicles, motor vehicles, trailers, and cycles	All		x	9
24	Tractors	All		x	9
25	Vehicular equipment components	All		x	2
26	Tires and tubes	All except:	x		
		2610 tires and tubes, pneumatic, except aircraft		x	4
28	Engines, turbines, and components	All except:	x		
		2805 gasoline reciprocating engines, except aircraft; and components		x	9
		2810 gasoline, reciprocating engines, and components; as specified by § 101-43.4801(b)		x	9
		2815 diesel engines and components		x	9
		2840 gas turbines and jet engines, aircraft and components as specified by § 101-43.4801(b)		x	9
29	Engine accessories	All		x	9
30	Mechanical power transmission equipment	All	x		
31	Bearings	All	x		
32	Woodworking machinery and equipment	All		x	9
34	Metalworking machinery	All		x	9
35	Service and trade equipment	All		x	7
36	Special industry machinery	All except:		x	9
		3990 specialized ammunition and ordnance machinery and related equipment	x		
37	Agricultural machinery and equipment	All		x	9
38	Construction, mining, excavating, and highway maintenance equipment	All		x	9
39	Materials handling equipment	All		x	9
40	Rope, cable, chain and fittings	All		x	9
41	Refrigeration, air-conditioning, and air circulating equipment	All		x	9
42	Firefighting, rescue, and safety equipment	All		x	9
43	Pumps and compressors	All		x	9
44	Furnace, steam plant, and drying equipment, and nuclear reactors	All		x	4
45	Plumbing, heating, and sanitation equipment	All		x	7
46	Water purification and sewage treatment equipment	All		x	7
47	Pipe, tubing, hose, and fittings	All		x	9
48	Valves	All		x	4
49	Maintenance and repair shop equipment	All except:		x	9
		4921 torpedo maintenance, repair, and checkout specialized equipment	x		
		4923 depth charges and underwater mines maintenance, repair, and checkout specialized equipment	x		
		4925 ammunition maintenance, repair, and checkout specialized equipment	x		
		4927 rocket maintenance, repair, and checkout specialized equipment	x		
		4931 fire control maintenance and repair shop specialized equipment	x		
		4933 weapons maintenance and repair shop specialized equipment	x		
51	Hand tools	All		x	9
52	Measuring tools	All		x	7
53	Hardware and abrasives	All		x	9
54	Prefabricated structures and scaffolding	All		x	9
55	Lumber, millwork, plywood and veneer	All		x	3
56	Construction and building materials	All		x	9
58	Communication, detection and coherent radiation equipment	All except:		x	9
		5810 communications security equipment and components	x		

Group No.	Federal supply classification: Group identification	Class	Not reportable to GSA	Reportable to GSA	Minimum reportable disposal condition code
		5811 other cryptologic equipment and components	X		
59	Electrical and electronic equipment components	All		X	9
60	Fiber optics	All		X	9
61	Electrical wire, and power and distribution equipment	All		X	9
62	Lighting fixtures and lamps	All		X	7
63	Alarm and signal systems	All	X		
65	Medical, dental, and veterinary equipment and supplies	All except		X	9
		6505 drugs, biologicals, and official reagents	X		
		0508 medicated cosmetics and toiletries	X		
66	Instruments and laboratory equipment	All		X	6
67	Photographic equipment	All except		X	7
		6770 film, processed	X		
68	Chemicals and chemical products	All		X	2
69	Training aids and devices	All		X	9
70	General purpose automatic data processing equipment including firmware, software, supplies and support equipment (see 101-43.4801(c)).	All		X	9
71	Furniture	All		X	9
72	Household and commercial furnishings and appliances	All		X	6
73	Food preparation and serving equipment	All		X	6
74	Office machines, text processing equipment, and visible record equipment	All		X	9
75	Office supplies and devices	All		X	7
76	Books, maps, and other publications	All except	X		
		7610 books and pamphlets		X	4
77	Musical instruments, phonographs, and home-type radios	All except		X	6
		7710 musical instruments		X	9
78	Recreational and athletic equipment	All		X	6
79	Cleaning equipment and supplies	All		X	6
80	Brushes, paints, sealers, and adhesives	All		X	4
81	Containers, packaging, and packing supplies	All		X	6
83	Textiles, leather, furs, apparel, and shoe findings, tents, and flags	All except	X		
		8305 textiles fabrics		X	9
		8340 tents and tarpaulins		X	9
84	Clothing and individual equipment and insignia	All except	X		
		8455 badges and insignia	X		
85	Toiletries	All	X		
87	Agricultural supplies	All	X		
89	Subsistence	All except	X		
		8905 beverages, alcoholic		X	8
91	Fuels, lubricants, oils and waxes	All		X	8
93	Nonmetallic fabricated materials	All		X	8
94	Nonmetallic crude materials	All	X		
95	Metal bars, sheets, and shapes	All		X	8
96	Ores, minerals, and their primary products	All		X	4
99	Miscellaneous	All except	X		
		9905 signs, advertising displays, and identification plates		X	8
		9910 jewelry		X	9
		9999 miscellaneous items		X	9

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: February 2, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82-4889 Filed 2-24-82; 8:45 am]

BILLING CODE 6820-26-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 82-87]

Delegations of Authority to the Chief, Cable Television Bureau

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends Part 0, § 0.288(m) of the Commission's Rules and Regulations concerning the delegations of authority to the Chief, Cable Television Bureau relating to the monetary limitations involved in the imposition of forfeitures. This action is necessary to reduce the Commission's workload of routine cases, and to increase the Cable Television Bureau's efficiency in handling routine matters in order to reduce the Bureau's backlog.

EFFECTIVE DATE: February 26, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Ronald Parver, Cable Television Bureau. (202-254-3407).

SUPPLEMENTARY INFORMATION:

Adopted: January 28, 1982.

Released: February 12, 1982.

1. In November 1978, the Commission revised its delegation of authority to the Chief of the Cable Television Bureau, *inter alia*, to impose forfeitures pursuant to Section 503(b) of the Communications Act of 1934, as amended, in amounts not to exceed $4,000 against cable television system operators found to have violated the Communications Act and the Commission's rules, and $2,000 against licensees of Cable Television Relay Service (CARS) stations. *Amendment of Part 0*, FCC 78-764, 69 FCC 2d 1435 (1978). Since that time, there has been an increase in the number of cases involving forfeitures which have had to be referred to the Commission *en banc*, that otherwise might have been processed pursuant to delegated authority, but for the monetary limitations placed on the Chief of the Cable Television Bureau to impose forfeitures.

2. The Commission has reviewed the delegations of authority to the Chief of the Cable Television Bureau and has concluded that the public interest would be served by amending § 0.288(m) of the Commission's rules to permit the Chief of the Cable Television Bureau to impose forfeitures pursuant to Section 503(b) of the Communications Act of 1934, as amended, against both cable television system operators and CARS station licensees in amounts not to exceed $10,000 for violations of the Communications Act and the Commission's rules. This amendment should result in more efficient handling of forfeiture matters and aid the Cable Television Bureau in expediting the processing of pending cases as well as reduce the Commission's workload of routine cases. Since this amendment relates only to Commission organization and procedures, the prior notice provisions of the Administrative Procedure Act, 5 U.S.C. 553, do not apply.

3. Authority for the rule amendment adopted herein is contained in Sections 4 (i) and (j), 5 (b) and (d), 301, 303, 308, and 309 of the Communications Act of 1934, as amended.

Accordingly, it is ordered, that, effective February 26, 1982, Part 0 of the Commission's rules and regulations is amended as set forth in the attached Appendix.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083, 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 0—COMMISSION ORGANIZATION

Section 0.288(m) is revised to read as follows:

§ 0.288 Authority delegated.

* * * * *

(m) To issue citations pursuant to § 1.80 of this chapter, and to issue notices of apparent liability, final forfeiture orders, and orders cancelling or reducing forfeitures imposed under § 1.80(f) in amounts of $10,000 or less for cable television systems and for facilities in the Cable Television Relay Service.

[FR Doc. 82-5051 Filed 2-24-82; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1120

[Ex Parte No. 392]

Application Procedures for a Certificate To Construct, Acquire or Operate Railroad Lines

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Final Rules.

SUMMARY: The rules adopted here revise the procedures to be followed for the construction, acquisition or operation of rail lines, 49 CFR Part 1120. Since the rules were last revised, there have been a number of statutory and regulatory changes. The new regulations eliminate the filing of redundant and unnecessary information and streamline the application procedure.

On August 31, 1981 the Commission published proposed rules to reflect these changes and requested public comment (46 FR 43721). After reviewing the comments, the Commission has decided to adopt the proposed rules with certain modifications. The new rules are set forth in the appendix to this notice.

The rules also provide procedures for obtaining a certificate of designated operator that have not previously been codified, and the modified certificate procedures under which abandoned lines acquired by a State or State agency may be operated.

DATES: These regulations are effective on February 25, 1982.

FOR FURTHER INFORMATION CONTACT: Richard A. Kelly, (202) 275-7245; or Warren Wood, (202) 275-7977; or Elaine Sehrt, (202) 275-7889.

For copies of these rules: Contact the Office of the Secretary, (800) 424-5230.

SUPPLEMENTARY INFORMATION: The notice of proposed rules published August 31, 1981, contemplated a complete revision of the informational requirements and the procedures to be followed for applications under 49 CFR Part 1120. That notice explains that these revisions were in response to current transportation policy, as reflected in present legislation and regulations. The notice also explains that data which had not been found to be useful in reaching an informed decision would be eliminated from the informational requirements of the regulations.

Comments on the proposed rules were submitted by Consolidated Rail Corporation (Conrail), Wisconsin Department of Transportation (WIDOT), the Washington Legal Foundation (WLF), Union Pacific Railroad Company (UP), the Association of American Railroads (AAR), Patrick W. Simmons, Illinois Legislative Director for the United Transportation Union (UTU), and the Commission's Office of Special Counsel (OSC). Except for UTU, the parties have expressed overall support for the new rules, although a number of specific points are raised which require minor changes in language or emphasis. UTU, however, has mounted a broad-based attack on many aspects of the new rules. Its contentions, as well as the matters raised by the other parties, are discussed below.

Jurisdictional Scope of Section 10901

Conrail is concerned that the statement in section 1120.1(a) that the acquisition of an active rail line by a carrier falls within the ambit of 49 U.S.C. 11343 rather than section 10901 is overly broad. It believes that section 11343 would apply only where the purchaser is a carrier and the acquisition is part of a unification, consolidation, or merger proceeding. Conrail's concern is shared by AAR, which points out that the acquisition by a carrier of a rail line owned by a noncarrier would not be subject to section 11343.[1] The jurisdictional scope of sections 10901 and 11343 has been discussed in numerous Commission decisions. The distinction is an important one, in view of the discretion afforded the Commission in imposing labor protective conditions under section 10901.[2]

The Commission has uniformly held that acquisition of a line of railroad by a noncarrier (including a newly formed entity organized for the purpose of providing interstate common carrier rail service) is governed by the filing requirements of 49 U.S.C. 10901. See "Prairie Trunk Railway—Acquisition and Operation", 348 I.C.C. 832 (1977) and cases cited therein. Section 10901 is

[1] Under section 11343(e), the Commission has jurisdiction over "a purchase, lease, or contract to operate property of *another carrier* by any number of carriers."

[2] Under section 10901(e), the "Commission may require any rail carrier proposing both to construct and operate a new railroad line pursuant to this section to provide a fair and equitable arrangement for the protection of the interests of railroad employees who may be affected thereby * * *". By contrast, labor protection in consolidation proceedings is mandatory under 49 U.S.C. 11347.

intended to deal with the extension or acquisition of an individual line of railroad and is essentially directed at the transportation-oriented activities of a single carrier. Cf. "Okmulgee Northern Ry. Co. Abandonment", 320 I.C.C. 637, 639 (1964); and "Iowa Term. R. Co. Acquisition and Operation", 312 I.C.C. 546, 548–549 (1961). An application by a noncarrier will be considered under section 10901 even if it is incorrectly filed under section 11343 [3] and regardless of whether the common carrier owner of the line sought to be acquired has filed an application to abandon it.[4]

The Commission has also permitted existing rail carriers to acquire additional rail lines under section 10901, provided the selling carrier first seeks authority to abandon the line and that application is granted. "Okmulgee Northern Ry. Co., *supra*; and Tennessee Central Ry. Co. Abandonment", 334 I.C.C. 235 (1969). Section 11343 would be inapplicable to these situations because upon abandonment, the line would no longer function in interstate or foreign commerce and, in effect, would no longer be an active rail line. "Central R. Co. of New Jersey—Abandonment", 342 I.C.C. 227, 284 (1972). On the other hand, the acquisition of an *active* rail line by an existing carrier is governed by section 11343, which we have found to be analytically more appropriate for dealing with the unification or *existing* railroad facilities. "Prairie Trunk", *supra*, at 850.

AAR correctly notes that section 11343 is applicable only to acquisition where both the buyer and the seller are carriers. Section 1120.1 will be modified to clarify that acquisition by a carrier of an active rail line *owned by a carrier* is covered by section 11343.

Waiver Procedure

OSC and UTU believe that the waiver procedure in the new rules is both unnecessary and inappropriate. OSC points out that the new rules will eliminate the "return to questionnaire" aspect of the present application procedures and thus substantially reduce the amount of information required to be filed. OSC believes that further relaxing the informational requirements through use of a separate waiver process may deprive parties of data needed to assess a proposal properly. It contends that the regulations pertaining to mergers and consolidations (49 CFR Part 1111) and abandonments (49 CFR Part 1121) require extensive information and that waiver procedures there reflect a greater need to eliminate the submission of redundant and irrelevant data. If the waiver procedure is retained, OSC suggests that notice of approval of any waiver request be given to the public by including it in the newspaper publication under § 1120.10(f).

First, we note that although the "return to questionnaire" has been eliminated, much of the information required to be included in it has been incorporated into the application. The new rules generally require the submission of only that information necessary for proper analysis of the transaction. However, there may be circumstances in which the required information would not materially aid either our evaluation of the transaction or a potential party's decision as to whether to participate. In reviewing a waiver request, we will balance our need for the data against the burden required to produce it. Information which is essential for an informed decision will not be waived. Indeed, under § 1120.8 the Commission may require additional information to be filed where necessary. Although we believe the reduction in information contemplated by the new rules will result in infrequent use of the waiver provisions, we nevertheless see a continuing need for flexibility in this area. That need will best be served by retaining a specific waiver procedure in the final rules.

We also do not believe that a summary of the waived information should be included in the newspaper publication which notices the filing of the application. First, such a requirement would impose an additional burden and expense on applicant. Also, it is preferable, in terms of administrative procedure, to encourage a party or potential party to review the information which has been filed in the application (rather than merely to highlight the data which have been waived) before reaching a decision as to whether production of the data is necessary.[5] OSC's proposed notice procedure might encourage reflexive and unnecessary demands that the waived information be made available. We note, however, that once an application has been filed and accepted, protestants have the opportunity to demonstrate that the waived information is relevant and necessary to full consideration of an issue in the proceeding. They can seek to have the record supplemented at that time. See "Ryder System, Inc.—Control—Atlantic Express, Inc.", 127 M.C.C. 728, 730 (1980); "Aberdeen and Rockfish Railroad Co. v. United States", 270 F. Supp. 695 (E.D. La. 1967). At that time, both protestants and the Commission can better judge the substantive completeness of the application and better assess the need for and utility of omitted information.

Finally, UTU contends that the waiver procedures in the new rules will encourage improper ex parte contacts between applicants and the Commission's staff. We disagree. Although an applicant may seek guidance at an early stage from the Commission in framing a request for waiver, we do not consider such communications to be improper. The purpose of the Commission's regulations concerning ex parte communications, Appendix C following 49 CFR Part 1100, is to prevent parties from attempting improperly to influence the Commission's decisionmaking process in proceedings pending before it. The Commission's staff is under direction not to discuss with prospective applicants (or other potential parties to a prospective proceeding) the merits of any potential proposal. Any discussion by Commission staff of prospective waiver requests is limited to the type of advice and guidance that would be offered to any member of the public using the Commission's regulations—an explanation of the purpose of the Commission's various requirements and the type of circumstances which have, in the past, been considered to allay the need for or benefit of particular requirements. We do not consider such general, uniform assistance, even when offered in the context of a particular prospective proposal, to be prohibited.

Actual Date Comments Are Due

OSC also believes that the newspaper notice should indicate the actual calendar date on which comments are due. Under proposed rule 1120.10(f), the notice need only indicate that comments are due within 35 days of the filing of the application.

We believe OSC's suggestion should be adopted. The date of filing is a matter within a applicant's control and knowledge. Requiring that a date certain be given by which comments may be timely filed will impose only a marginal burden and will not materially delay publication of the notice. Participants in the proceeding will be spared the necessity of independently verifying the

[3] See "Iowa Term. R. Co. Acquisition and Operation", *supra*, at 548.

[4] See "Prairie Trunk Railway—Acquisition and Operation", *supra* at 850. In general, if a related abandonment application has been filed by the transferor, that application has been dismissed.

[5] Under § 1120.10(b), copies of the application are to be furnished to interested parties promptly on request.

filing date. In cases where public participation is likely to be extensive, this procedure will save a substantial amount of effort on the part of all concerned. The proposed rule will be modified to reflect this change.

Substantive Informational Requirements

WIDOT in general supports the proposed rules but requests that certain additional information be required under § 1120.3. First, WIDOT requests us to require the application to include reference to State statutes and the jurisdictions in which the applicant and any affiliated companies are organized, and whether they are corporations or partnerships. Also, if special tax provisions come into consideration, WIDOT requests that they be identified. It believes that the submission of this information will aid in determining the organizational structure, business purpose, and financial objectives of an applicant.

The additional organizational information requested by WIDOT is required under the proposed rules for entities other than corporations, partnerships and individuals. We believe that the information would be potentially useful to parties in evaluating a proposed service. Accordingly, we shall require it to be submitted by all applicants, regardless of the form or nature of their enterprise. Such information should be readily available and present only a minor filing burden on an applicant.

AAR believes that organizational information required under § 1120.3 should be eliminated for existing carriers on the grounds that the Commission already has this information. We agree. A major purpose of these rules is to reduce unnecessary filing and reporting burdens on the industry. An applicant may satisfy the informational requirements of § 1120.3 by making appropriate reference to prior applications filed within three years of the date of filing of the section 10901 application in which the information has been furnished.

WIDOT also requests that the present requirement for a five-year pro forma income projection and a statement as to how and when the enterprise will become self-supporting be continued. It believes the latter requirement could be satisfied by reference to the level of traffic expected to be generated under § 1120.4(b) and the revenue divisions needed to achieve financial viability. AAR, on the other hand, questions whether even a two-year projection of income should be required, arguing that such matters are within management's discretion and that a valid decision can be made on the basis of other information presented in the application.

We disagree with AAR's position that a two-year pro forma analysis of the projected income is solely a managerial concern. The Commission has a duty under the rail transportation policy, 49 U.S.C. 10101a, to ensure the availability of accurate cost information in regulatory proceedings (subsection 14) and also to ensure that transportation facilities and equipment are operated without detriment to the public health and safety (subsection 8). We cannot fulfill this duty without first determining whether revenues are sufficient to maintain safe operations. In addition, under section 10901, we must find that the public convenience and necessity require or permit the proposed construction or acquisition and operation. Unless it is demonstrated that the operation has a reasonable prospect of financial success, we cannot make this finding. Thus, a revenue projection of at least two years is necessary for proper analysis of an application.

However, we are not convinced that the requirement of a five-year pro forma analysis of projected income, as required under the present rules, should be continued. As WIDOT itself notes, such analyses are speculative in nature. In the past, we have generally not found extended revenue forecasts to be useful in assessing a proposal. The level of uncertainty in such data increases markedly as a function of time. Forecasts beyond two years are dependent on too many aleatory, and often imponderable events (e.g., the overall business cycle, export-import policies, and possible competition for freight from other modes) to provide a consistent or accurate picture of future profitability. In a rare situation where additional financial information is needed, we can require that it be filed. Section 1120.8.

AAR also requests that a dichotomy should be made between transactions that constitute a major market extension and minor proposals. It believes the full range of information called for under the new rules should be required only for proposals of the former type.

As noted, the new rules generally require the submission of information which is needed to evaluate the transaction properly. However, some of the information referenced by AAR may not be relevant or applicable to certain transactions of limited scope. AAR's recommendation would give an applicant the initial choice as to the level of information which should be provided. This, in turn, might generate a substantial number of requests by parties for supplementary information. By contrast, the waiver process gives the Commission the option to reduce the filing burden and to reach an informal decision in the matter on the basis of clearly identified reasons in support of the request.

Opportunity for Reply

AAR believes that the proposed rules should be amended to permit an applicant to reply to comments. We believe AAR's suggestion should be adopted. There is a clear advantage both to the Commission and to interested parties in developing a full and complete record in all proceedings. However, we must be mindful of the strict time constraints under which we must decide rail proceedings under the Staggers Act. So as not to prolong unduly the procedural stages of a proceeding, we shall permit replies to written comments, provided they are filed and served within 5 days of the due date of the pleadings they address.[6]

Notice of Common Carrier Status of Designated Operators and Operators Under a Modified Certificate

AAR notes that many industry agreements which it administers, including rules for the joint movement and interchange of freight cars and traffic, and arrangements for accounting, billing and settlements, require that a subscriber be a common carrier by railroad subject to the Commission's jurisdiction. AAR wishes to receive notice of the start up and termination of operations by designated operators and holders of a modified certificate and requests that we clarify their common carrier status.

Both designated operators and holders of a modified certificate are common carriers by railroad. See §§ 1120.10 and 1120.11 of the rules included here. Therefore, both are entitled to participate in AAR agreements for which common carrier status is a prerequisite. Under the present procedure, AAR is served with the modified certificate notice. In the future, it will also receive copies of designated operator certificates. We will not publish those certificates in the Federal Register as requested by AAR. The service provided under these provisions is usually a local service, and generally of concern only to local shippers and the AAR. Our rules already require notification of shippers when service terminates.

[6] See recently revised § 1121.38(c)(4), which permits replies under these conditions in abandonment proceedings.

Modified Certificate Procedures and Designated Operator Rules

WIDOT belives that carriers which operate under a modified certificate should be required to file for a full certificate of public convenience and necessity when either (1) any financial assistance they receive terminates or (2) the operator assumes ownership of the line.

The modified certification procedures of Section 1120 Subpart C have been included for informational purposes only. The final rules have already been adopted and are not being modified here. Although we are not precluded from reopening the modified certificate rulemaking proceeding and instituting a new proceeding to effect needed changes, we do not believe that either of the proposed changes advanced by WIDOT warrants adoption.

The first change, requiring an operator to apply for a certificate if an operating subsidy is discontinued, defeats the main purpose of these rules. The modified certificate rules were designed to remove regulatory hurdles which might otherwise discourage new operators from initiating service over marginal lines. "Common Carrier Status of State, State Agencies", 363 I.C.C. 132, 133 (1980). A number of operators now providing service under modified certificates receive no operational subsidies from the governmental bodies which own the tracks over which they operate. Requiring them to obtain a full-fledged certificate of public convenience and necessity might discourage continuation of their service.

In addition, WIDOT's suggestion that operators under a modified certificate be required to apply for a full-fledged certificate when they acquire a line is already implicit in the rules. Under § 1120.21, the modified certificate procedures "apply to the operators over abandoned rail line, which has been acquired (through purchase or lease) by a State." Acquisition of the line from the State would require our approval under 49 U.S.C. 10901 and a certificate of public convenience and necessity would be needed for the operations to continue.

UTU's Remaining Contentions

UTU objects to the inclusion in 49 CFR Part 1120 of the Designated Operator and Modified Certificate regulations. It believes that use of the designated operator rules (Subpart B of Part 1120) will become less frequent in the future as federal subsidies are reduced. As indicated in the notice of proposed rulemaking, the designated operator rules have not previously been codified in the Code of Federal Regulations. Our intent is thus to make the rules available on a wider basis for the convenience of the public.

UTU correctly notes that in No. 79-2457, "John W. McGinness, Brotherhood of Locomotive Engineers and Railway Labor Executives' Association v. Interstate Commerce Commission and United States of America" (U.S.C.A. D.C. Cir., decided August 17, 1981), the Court determined that designated operators may not be relieved of the obligation under 49 U.S.C. 11347 to protect the interest of employees who may be affected by a consolidation transaction under 49 U.S.C. 11343 and 11344, but otherwise affirmed the Commission's decision in Ex Parte No. 361, 361 I.C.C. 379 (1979). The procedures adopted here reflect the court's ruling.[7]

UTU contends that the recodification of the rules adopted here has eliminated the need for a subsidy arrangement as a prerequisite for receiving a designated operator certificate. However, under 49 CFR 1120.15, Information about Offeror, the necessity for a rail service continuation payment or subsidy is clearly indicated. The designated operator rules adopted here have been recodified without substantive modification, in this and all other respects.

UTU objects to deletion of the term "extension" from the title of the new rules, noting that this term is contained in the statute and that it has appeared in many Commission decisions since its initial introduction as part of the Transportation Act of 1920.

The term "extension" is frequently used to differentiate the acquisition or construction of a line of railroad (over which the Commission exercises jurisdiction) from that of a spur or industrial track which is exempt under 49 U.S.C. 10907. See, e.g., "Texas & Pac. Ry. v. Gulf, etc., Ry.", 270 U.S. 266, 277-279 (1920); "Powell v. United States", 300 U.S. 276, 286-88 (1937); "Georgia Southern F. Ry. Co. v. Atlantic Coast Line R. Co.", 373 F.2d 497, 499-500 (Fifth Cir. 1967); and "Central of Georgia Ry. Co.—Operator—In Ala.", 336 I.C.C. 623, 631-636 (1970). If a proposed transaction involves an extension of a line of railroad, the prior approval of the Commission is needed before it can be consummated. Thus, the term "extension" characterizes the nature of the trackage. The words "construction" and "acquisition" delineate the manner in which a new line of railroad—an "extension"—is brought into interstate commerce. We believe the term is redundant and should be omitted.

UTU also objects to the reduction in public notice contemplated by the new rules (the new rules would require only one publication rather than three). It believes that even the present notice requirement is inadequate and that further reduction would lower the level of public awareness of construction and acquisition applications.

Under recently revised § 1108.6(a), an Environmental Impact Statement (EIS) is normally required for most types of rail constructions.[8] Prior to its preparation of an EIS, the Commission's Energy and Environmental Branch publishes a notice of intent in the Federal Register. After preparation of a draft EIS, comments are elicited by publishing a Notice of Availability. Thus, for many transactions within the scope of the rules, extensive public notice arises out of the environmental scoping process. Although an EIS is generally not required for the acquisition of an existing rail line (and hence notice of the proposal will not be given by the Energy and Environment Branch), acquisitions imply the continuance of rail service by a new carrier. The potential for injury to the public through lack of notice in such situations is less likely than where new rail facilities are to be built. Therefore, although the new rules envision a reduction in notice by eliminating the requirement that a second and third announcement of the proposed transaction be given, we believe the cumulative burden on the industry outweighs the remote possibility of injury to the public or to affected shippers.

Environmental Impact

We conclude that this proceeding will not have a significant impact upon either the quality of the human environment or the conservation of energy resources. Each application decided under Section 10901 must contain an independent environmental analysis and finding. Although these rules relax environmental reporting requirements to reflect the fact that this information is presented elsewhere, they in no way affect standards under which environmental data are evaluated.

Regulatory Flexibility Analysis

Under section 604 of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164 (September 19, 1980), we are required to analyze the economic impact of the rules adopted here on small entities (e.g., small businesses, not-for-profit organizations, and small governmental bodies). The primary purpose of these rules is to reduce the administrative filing burden on the rail industry so that applications under 49 U.S.C. 10901 can be processed more expeditiously. The rules will be particularly helpful to small rail carriers which may file section 10901 applications only occasionally. Format requirements have been substantially relaxed and the level of information required to be presented in an application has been greatly reduced. We have decreased the required time period for operational and financial analysis to two years. This should eliminate or greatly lessen the need of small carriers to pay for economic analysis more extensive than that needed for their own purpose. In sum, the new rules should enable small carriers to submit, either as is or in slightly modified form, information that is already available on a proprietary basis. Shippers should benefit from more rapid access to rail transportation service which the new rules will make possible. Not-for-profit organizations and small governmental bodies will not be measurably affected by the new rules. To the extent such entities are affected, the impact of the new rules will be salutary. They will participate indirectly in the benefits to be enjoyed by the rail industry through adoption of these rules.

Although notice requirements are reduced somewhat for proceedings which involve the acquisition of existing rail lines and minor construction projects, it is unlikely that this will adversely affect any sector. Such proceedings are unlikely to have significant environmental or economic impacts, and often involve a mere change in ownership of a rail facility, with service patterns either remaining unchanged or improved. The right of all interested persons to participate in a section 10901 transaction is clearly and fully preserved. The rules adopted here are the best alternative among those considered in terms of effectuating legislative goals.

Conclusion

We adopt the final rules set forth in the appendix.

(49 U.S.C. 10321 and 10901 and 5 U.S.C. 553)

Dated: February 11, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham and Clapp.

Agatha L. Mergenovich,
Secretary.

Appendix

49 CFR Part 1120 is revised to read as follows:

PART 1120—CERTIFICATE TO CONSTRUCT, ACQUIRE OR OPERATE RAILROAD LINES

Subpart A—Applications Under 49 U.S.C. 10901

Sec.

1120.1 Introduction.
1120.2 Overview.
1120.3 Information about applicant(s).
1120.4 Information about the proposal.
1120.5 Operational data.
1120.6 Financial information.
1120.7 Environmental and energy data.
1120.8 Additional support.
1120.9 Notice.
1120.10 Procedures.

Subpart B—Designated Operator

1120.11 Introduction.
1120.12 Information about the designated operator.
1120.13 Relevant dates.
1120.14 Proposed service.
1120.15 Information about offeror.
1120.16 Procedures.

Subpart C—Modified Certificate of Public Convenience and Necessity

1120.21 Scope of Rules.
1120.22 Exemptions and common carrier status.
1120.23 Modified certificate of public convenience and necessity.
1120.24 Termination of service.

Authority: 49 U.S.C. 10321 and 10901 and 5 U.S.C. 553.

Subpart A—Applications Under 49 U.S.C. 10901

§ 1120.1 Introduction.

(a) *When an application is required.* This subpart governs applications under 49 U.S.C. 10901 for a certificate of public convenience and necessity authorizing the construction, acquisition or operation of railroad lines. Noncarriers require Commission approval under section 10901 to construct, acquire or operate a rail line in interstate commerce. Existing carriers require approval under section 10901 only to construct a new rail line or operate a line owned by a noncarrier, since acquisition by a carrier of an active rail line owned by a carrier is covered by 49 U.S.C. 11343. We have exempted from these requirements the acquisition by a State entity of a rail line that has been approved for abandonment, as well as operations over these lines. See subpart C of this part. In addition, where appropriate, we have granted individual exemptions from these certification requirements. See 49 U.S.C. 10505.

(b) *Content of the application.* Applications filed under this subpart shall include the information set forth in §§ 1120.2 through 1120.9. The applicant must also comply with the Energy and Environmental Regulations, at 49 CFR Parts 1106 and 1108 (including consulting with the Commission's Energy and Environmental Branch at least 6 months prior to filing an application, to begin the scoping process to identify environmental issues and outline procedures for analysis of this aspect of the proposal).

§ 1120.2 Overview.

(a) A brief narrative description of the proposal.

(b) The full name and address of applicant(s).

§ 1120.3 Information about applicant(s).

(a) The name, address, and phone number of the representative to receive correspondence concerning this application.

(b) Facts showing that applicant is either a common carrier by railroad or has been organized to implement the proposal for which approval is being sought.

(c) A statement indicating whether the rail line will be operated by applicant. If not, the operator which has been selected must join in the application, and provide all information required for an applicant. If the operator has not yet been selected, state who is being considered.

(d) A statement indicating whether applicant is affiliated by stock ownership or otherwise with any industry to be served by the line. If so, provide details about the nature and extent of the affiliation.

(e) Date and place of organization, applicable State statutes, and a brief description of the nature and objectives of the organization.

(f) If a corporation, submit:

(1) A list of officers, directors, and 10 principal stockholders of the corporation and their respective holdings. A statement whether any of these officers, directors or major shareholders control other regulated carriers. Also a list of entities, corporation(s) individual(s), or group(s) who control applicant, the extent of control, and whether any of them control other common carriers.

(2) As exhibit A, any resolution of the stockholders or directors authorizing the proposal.

[7] UTU's opposition to inclusion of the modified certificate procedures parallels a judicial appeal taken to the Commission's decision in "Common Carrier Status of States, State Agencies", *supra*.

[8] An EIS is required under Section 102(a)(c) of NEPA for all actions which may have a significant environmental impact.

(g) If a partnership or individual, submit the name and address of all general partners and their respective interests, and whether any of them control other carriers.

(h) If applicant is an entity other than as described in paragraphs (e) or (f) of this section, submit name, title, and business address of principals or trustee, and whether the entity controls any other common carriers.

(i) If applicant is a trustee, receiver, assignee, or a personal representative of the real party in interest, details about the appointment (including supporting documents, such as the court order authorizing the appointment and the filing) and about the real party in interest.

(j) If applicant is an existing carrier, it may satisfy the informational requirements of f–i above by making appropriate reference to the docket number of prior applications that have been filed within the previous three years in which the information has been submitted.

§ 1120.4 Information about the proposal.

(a) A description of the proposal and the significant terms and conditions, including consideration to be paid (monetary or otherwise). As exhibit B, copies of all relevant agreements.

(b) Details about the amount of traffic and a general description of commodities.

(c) The purposes of the proposal and an explanation of why the public convenience and necessity require or permit the proposal.

(d) As exhibit C, a map which clearly delineates the area to be served including origins, termini and stations, and cities, counties and States. The map should also delineate principal highways, rail routes and any possible interchange points with other railroads. If alternative routes are proposed for construction, the map should clearly indicate each route.

(e) A list of the counties and cities to be served under the proposal, and whether there is other rail service available to them. The names of the railroads with which the line would connect, and the proposed connecting points; the volume of traffic estimated to be interchanged; and a description of the principal terms of agreements with carriers covering operation, interchange of traffic, division of rates or trackage rights.

(f) The time schedule for consummation or completion of the proposal.

(g) If a new line is proposed for construction:

(1) The approximate area to be served by the line.

(2) The nature or type of existing and prospective industries (e.g., agriculture, manufacturing, mining, warehousing, forestry) in the area, with general information about the age, size, growth potential and projected rail use of these industries.

(3) Whether the construction will cross another rail line and the name of the railroad(s) owning the line(s) to be crossed. If the crossing will be accomplished with the permission of the railroad(s), include supporting agreements. If a Commission determination under 49 U.S.C. 10901(d)(1) will be sought, include such requests.

§ 1120.5 Operational data.

As exhibit D, an operating plan, including traffic projection studies; a schedule of the operations; information about the crews to be used and where employees will be obtained; the rolling stock requirements and where it will be obtained; information about the operating experience and record of the proposed operator unless it is an operating railroad; any significant change in patterns of service; any associated discontinuance or abandonments; and expected operating economies.

§ 1120.6 Financial information.

(a) The manner in which applicant proposes to finance construction or acquisition, the kind and amount of securities to be issued, the approximate terms of their sale and total fixed charges, the extent to which funds for financing are now available, and whether any of the securities issued would be underwritten by industries to be served by the proposed line. Explain how the fixed charges will be met.

(b) As exhibit E a recent balance sheet. As exhibit F, an income statement for the latest available calendar year prior to filing the application.

(c) A present value determination of the full costs of the proposal. If construction is proposed, the costs for each year of such construction (in a short narrative or by chart).

(d) A statement of projected net income for 2 years, based upon traffic projections. Where construction is contemplated, the statement should represent the 2 years following completion of construction.

§ 1120.7 Environmental and energy data.

As exhibit H, information and data prepared under 49 CFR Part 1108, and the "Revision of the Nat'l. Guidelines Environmental Policy Act of 1969," 363 I.C.C. 653 (1980), and in accordance with "Implementation of the Energy Policy and Conservation Act of 1975," 49 CFR Part 1105.

§ 1120.8 Additional support.

Any additional facts or reasons to show that the public convenience and necessity require or permit approval of this application. The Commission may require additional information to be filed where appropriate.

§ 1120.9 Notice.

A summary of the proposal which will be used to provide notice under § 1120.10(f).

§ 1120.10 Procedures.

(a) *Waivers.* Prior to filing an application, prospective applicants may seek an advance waiver, either on a permanent or temporary basis, of required information which is unavailable or not necessary or useful in analysis of the proposal. However, if the information is clearly not applicable to the individual proposal, a waiver is not necessary and need not be sought. A petition must specify the sections for which waiver or clarification is sought and the reasons why it should be granted. No replies will be permitted. Parties may, upon an appropriate showing, demonstrate their need to examine data which have previously been waived. In such circumstances, the Commission only requires that it be produced under § 1120.8 above.

(b) *Filing procedures.* The original and five copies of the application and all documents shall be filed with the Secretary. A $700 fee is required to file an application. (49 CFR 1002.2(d)(1).) Copies of documents shall be furnished promptly to interested parties upon request. The application shall include a stamped self-addressed envelope to be used to notify applicant of the docket number. Additionally, if possible, telephonic communication of the docket number shall be made.

(c) *Signatures.* The original of the application shall be signed by applicants (if a partnership, all general partners must sign; and if a corporation, association, or other similar form of organization, the signature should be that of the executive officer having knowledge of the matters and designated for that purpose). Applications shall be made under oath and shall contain an appropriate certification (if a corporation, by its secretary) showing that the affiant is duly authorized to verify and file the application. Any persons controlling an applicant shall also sign the application.

(d) *Related applications.* Applicant shall file concurrently all directly related applications (e.g., to issue securities, control motor carriers, obtain access to terminal operations, acquire trackage rights). All such applications will be considered with the main application.

(e) *Service.* As soon as the docket number is obtained the applicant shall serve a conformed copy of the application by first-class mail upon the Governor (or Executive Officer), Public Service Commission, and Department of Transportation of each State in which any part of the properties involved in the proposed transaction is located. Within 2 weeks of filing, applicant shall submit to the Commission a copy of the certificate of service indicating that all persons so designated have been served a copy of the application.

(f) *Publication.* Within 2 weeks of filing, applicant shall have published the summary of the application (prepared under § 1120.9) in a newspaper of general circulation in each county in which the line is located. The notice should inform interested parties of the date by which they must advise the Commission of their interest in the proceeding. This date shall be calculated as the 35th day after the filing of the application which is neither a Saturday, Sunday, or legal holiday in the District of Columbia. Applicant must file an affidavit of publication immediately after the publication has been completed. The Commission will, as soon as practicable, either publish the notice summary in the Federal Register or reject the application if it is incomplete.

(g) *Public participation.* Written comments (with five copies) must be filed within 35 days of the filing of the application. Comments must contain the basis for the party's position either in support or opposition. Applicant must be served with a copy of each comment. On the basis of the comments and the assessment by the Energy and Environmental Branch, the Commission will decide if a hearing is necessary. A hearing may be either oral or through receipt of written statements (modified procedure). (See 49 CFR 1100.43 *et seq.*) If there is no opposition to the application, additional evidence normally need not be filed, and a decision will be reached using the information in the application.

(h) *Replies to written comments.* Applicant's replies will be considered by the Commission provided they are filed and served within 5 days of the due date of the pleadings they address.

Subpart B—Designated Operators

§ 1120.11 Introduction.

A certificate of designated operator will be issued to an operator providing service pursuant to a rail service continuation agreement under section 304 of the Regional Rail Reorganization Act of 1973, as amended by the Railroad Revitalization and Regulatory Reform Act of 1976. The designated operator (D–OP) may commence and terminate the service in accordance with the terms of the agreement. When service is terminated the D–OP must notify all shippers on the line. To obtain a D–OP certificate, the information in this subpart must be filed with the Commission. A copy of the certificate of designated operator shall be served on the Association of American Railroads.

§ 1120.12 Information about the designated operator.

(a) The name and address of the D–OP.

(b) If a new corporation or other new business entity, a copy of the certificate of incorporation or, if unincorporated, the facts and official organizational documents relating to the business entity.

(c) The names and addresses of all officers and directors, with a statement from each which indicates present affiliation, if any, with a railroad.

(d) Sufficient information to establish its financial responsibility for the proposed undertaking, unless the D–OP is a common carrier by railroad. The nature and extent of all liability insurance coverage, including insurance binder or policy number, and name of insurer.

§ 1120.13 Relevant dates.

The exact dates of the period of operation which have been agreed upon by the D–OP, the offeror of the rail service continuation payment, and the owner of the line to be operated, in their lease and operating agreements.

§ 1120.14 Proposed service.

(a) A copy of all agreements between the D–OP, the offeror of the rail service continuation payment, and the owner of the line to be operated.

(b) Any additional information which is necessary to provide the Commission with a description of:

(1) The line over which service is to be provided (e.g., U.S.R.A. Line); and

(2) All interline connections, including the names of the connecting railroads.

§ 1120.15 Information about offeror.

(a) The name and address of the offeror of the rail service continuation payment.

(b) Sufficient information to establish the financial responsibility of the offeror for the proposed undertaking, or if the offeror is a State or municipal corporation or authority, a statement that it has authority to perform the service or enter into the agreement for subsidy.

§ 1120.16 Procedures.

Upon receipt of this information, the matter will be docketed by the prefix initials "D–OP." Operators may begin operating immediately upon the filing of the necessary information (plus three copies). Although the designated operator will not be required to seek and obtain authority from the Commission either to commence or to terminate operations, the designated operator is a common carrier by railroad subject to all other applicable provisions of 49 U.S.C. Subtitle IV. However, we have exempted designated operators from some aspects of regulation. See "Exempting of Certain Designated Operators from section 11343, 361 ICC 379 (1979), as modified by No. 79–2457, John W. McGinness, Brotherhood of Locomotive Engineers and Railway Labor Executives' Association v. Interstate Commerce Commission and United States of America." (U.S.C.A. D.C. Cir., decided August 17, 1981).

Subpart C—Modified Certificate of Public Convenience and Necessity

§ 1120.21 Scope of rules.

These special rules apply to operations over abandoned rail lines, which have been acquired (through purchase or lease) by a State. The rail line must have fully abandoned, or approved for abandonment by the Commission or a bankruptcy court. As used in these rules, the term "State" includes States, political subdivisions of States, and all instrumentalities through which the State can act. An operator has the option of applying for a modified certificate of public convenience and necessity under this subpart or a common carrier certificate under Subpart A. of this part. A copy of the modified certificate shall be served on the Association of American Railroads.

§ 1120.22 Exemptions and common carrier status.

The acquisition by a State of a fully abandoned line is not subject to the jurisdiction of the Interstate Commerce Commission. The acquisition by a State of a line approved for abandonment and

not yet fully abandoned is exempted from the Commission's jurisdiction. If the State intends to operate the line itself, it will be considered a common carrier. However, when a State acquires a rail line described under § 1120.21 and contracts with an operator to provide service over the line, only the operator incurs a common carrier obligation. The operators of these lines are exempted from 49 U.S.C. 10901 and 10903 which are the statutory requirements governing the start up and termination of operations. Operators exempted from these requirements must comply with the requirements of this part and must apply for a modified certificate of public convenience and necessity. The operator is a common carrier and incurs all benefits and responsibilities under 49 U.S.C. Subtitle IV; however, the State through its operational agreement or the operator of the line may determine certain preconditions, such as payment of a subsidy, which must be met by shippers to obtain service over the line. The operator must notify the shippers on the line of any preconditions. The modified certificate will authorize service to shippers who meet these preconditions and the operator will be required to provide complete common carrier service under this certificate only to those shippers. (See 363 ICC 132.)

§ 1120.23 Modified certificate of public convenience and necessity.

(a) The operator must file a notice with the Commission for a modified certificate of public convenience and necessity. Operations may commence immediately upon the filing; however, the Commission will review the information filed, and if complete, will issue a modified certificate notice.

(b) A notice for a modified certificate of public convenience and necessity shall include the following information:

(1) The name and address of the operator and, unless the operator is an existing rail carrier:

(i) Its articles of incorporation or, if it is unincorporated, the facts and organizational documents relating to its formation;

(ii) The names and addresses of all of its officers and directors and a statement indicating any present affiliation each may have with a rail carrier; and

(iii) Sufficient information to establish the financial responsibility of the operator.

(2) Information about the prior abandonment, including docket number, status and date of the first decision approving the abandonment.

(3) The exact dates of the period of operation which have been agreed upon by the operator and the State which owns the line (if there is any agreement, it should be provided);

(4) A description of the service to be performed including, where applicable, a description of:

(i) The line over which service is to be performed;

(ii) All interline connections including the names of the connecting railroads;

(iii) The nature and extent of all liability insurance coverage, including binder or policy number and name of insurer; and

(iv) Any preconditions which shippers must meet to receive service.

(5) The name and address of any subsidizers, and

(6) Sufficient information to establish the financial responsibility of any subsidizers (if the subsidizer is a State, the information should show that it has authority to enter into the agreement for subsidized operations).

(c) The service offered and the applicable rates, charges, and conditions must be described in tariffs published by the operator to the Commission's rules.

§ 1120.24 Termination of service.

The duration of the service may be determined in the contract between the State and the operator. An operator may not terminate service over a line unless it first provides 60 days' notice of its intent to terminate the service. The notice of intent must be: (a) Filed with the State and the Commission, and (b) mailed to all persons that have used the line within the 6 months preceding the date of the notice.

[FR Doc. 82-5080 Filed 2-24-82; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 38
Thursday, February 25, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Interim Requirements Related to Hydrogen Control; Extension of Comment Period and Editorial Corrections

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule; extension of comment period and editorial corrections.

SUMMARY: The Nuclear Regulatory Commission is extending the public comment period on its notice of proposed rulemaking, published on December 23, 1981 (46 FR 62281), for an additional 45-day period. This will provide additional time for interested members of the public to evaluate the issues raised and to develop comments on the proposed rule. The proposed rule would amend 10 CFR Part 50 to improve hydrogen control capability during and following an accident in light-water reactor facilities. The public comment period was scheduled to expire on February 22, 1982.

DATES: The new comment period expires April 6, 1982. Comments received after that date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before that date.

ADDRESS: Written comments or suggestions for consideration in connection with the proposed amendments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received and a copy of NUREG/CR-2540, when available, may be examined in the Commission's Public Document Room at 1717 H Street NW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Morton R. Fleishman, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 443-5981.

SUPPLEMENTARY INFORMATION: This document also corrects errors that appeared in the notice of proposed rulemaking published in the **Federal Register** on December 23, 1981 (46 FR 62281) as follows:

1. Table II on page 62284 is corrected to read as follows:

Table II. Parametric Variations of a PWR Small-Break Scenario

Rate of H_2 Release[1] [lb/min]	Timing of H_2 Release	Rate of Steam (Enthalpy) Release [lb/min (millions of Btu/min)][2]	Concurrent Failures & Recoveries
2	- Starting at time of uncovering of top of core	- 600(1)	- Fans
10		- 3,600(6)	- Containment sprays
30		- 10,000(16)[3]	- All AC power
100	- Prior to major steam release		- Recirculation
1,000	- Concurrent with major steam release - Following major steam release		

[1] These rates should be assumed to be constant during the period of release and represent release from the primary system to the containment building.

[2] The conversion from mass rate to enthalpy rate is based on 1600 Btu/lb which is believed to be appropriate for steam which is superheated by excessively hot fuel.

[3] This high rate of steam release may occur for about 10 min. during ECC recovery.

2. The third paragraph following the tables in the first column of page 62284 should read as follows:

1. BWRs with Mark I and II type containments are required to be inerted by the companion rule on inerted containments that appeared in the **Federal Register** on December 2, 1981 (46 FR 58484). There are no further analyses required of these plants.

On page 62283, it was indicated that the Commission would publish for comment hydrogen and steam generic source terms as part of the third approach it was considering for performing the hydrogen design analyses. A report on these source terms, NUREG/CR-2540 (BMI-2090), "A Method for the Analysis of Hydrogen and Steam Release to Containment During Degraded Core Cooling Accidents", is being issued and will be sent to those persons on the mailing list for the proposed rule. Comments on the report may be included with comments on the proposed rule.

Dated at Washington, D.C., this 19th day of February 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-5046 Filed 2-24-82; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 531 and 563

[No. 82-105]

Transfer and Repurchase of Government Securities

February 18, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Board proposes to amend its regulations concerning retail repurchase agreements to confirm and expand significant consumer protections, including the prohibition against the sale of retail repurchase agreements by insured institutions which do not meet the Board's net-worth requirement, the requirements that retail repurchase agreement purchasers be given a perfected security interest in the security or securities underlying retail repurchase agreements, that the securities underlying retail repurchase agreements be marked-to-market on a monthly basis, and that prospective retail repurchase agreement purchasers be provided with offering documents which contain full and accurate disclosure of all material information regarding the retail repurchase agreement and the issuing institution. In addition, the Board proposes to delete the current regulatory prohibition against the automatic renewal of retail repurchase agreements.

DATE: Comments must be received by: March 29, 1982.

ADDRESS: Please send comments to Information Services, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C., 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Donna K. Ralston (202-377-6417) Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 1979, the Board amended the Federal Home Loan Bank System Regulations to provide in § 531.12 (12 CFR 531.12; 44 FR 46445, August 8, 1979) that a member of a Federal Home Loan Bank may issue to the public "obligations * * * evidencing an indebtedness arising from the transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof that [the] member institution is obligated to repurchase", provided that the obligations, commonly referred to as retail repurchase agreements, are issued in denominations less than $100,000, have a maturity less than 90 days, are not subject to automatic renewal or extension, and have the following legend:

> This obligation is not a savings account or deposit and is not insured by the Federal Savings and Loan Insurance Corporation.

In order to permit member institutions to sell retail repurchase agreements at their offices, the Board on February 13, 1981, amended § 563.8(f) of the Insurance Regulations (12 CFR 563.8(f); 46 FR 13982, February 24, 1981) to exempt retail repurchase agreements from the minimum denomination rule applicable to outside borrowings.

To provide guidance to issuing member institutions, on September 9, 1981, the Board's staff issued R Memorandum No. 51a, which set forth the staff's views regarding the requirements imposed by § 531.12 and other regulations of the Board on retail repurchase agreements. The Board has found that the staff views expressed in R Memorandum No. 51a constitute a reasonable interpretation of the applicable regulations and now proposes to formally adopt several of those interpretations in regulatory form. Moreover, the Board believes that the confirmation and expansion in its regulations of certain consumer protections will ensure that insured institutions will be able to offer and sell to their customers superior consumer investments that will combine competitive market rates and significant investor security.

Because retail repurchase agreements are borrowings, the Board believes that it would be appropriate to redesignate § 531.12 as § 563.8-4 of the Board's Insurance Regulations, and to amend the regulation to expressly establish the requirements that insured institutions must meet in connection with the issuance of retail repurchase agreements. In addition, because the proposed regulations would establish significant consumer protections, the Board proposes to remove the prohibition against the automatic renewal of retail repurchase agreements. This will substantially lessen administrative costs to issuing institutions and, therefore, enable issuing institutions to offer and consumers to receive higher rates of return. Also, it will give issuing institutions greater flexibility in developing competitive retail repurchase agreement programs.

Proposed Regulation

Proposed § 563.8-4 provides the following:

1. The interest of the purchaser in the security or securities underlying a retail repurchase agreement shall constitute a perfected security interest under applicable state law.

2. The market value of the security or securities underlying a retail repurchase agreement shall be at least equal to the principal amount of the issuing institution's obligation as of the date of the original issuance of the retail repurchase agreement and as of a date certain in each succeeding month of the original or renewed term of the repurchase agreement.

3. An institution issuing retail repurchase agreements shall provide to each prospective purchaser an offering document which shall contain full and accurate disclosure of all material information regarding the retail repurchase agreement and the issuing institution. Any significant change in any of the material representations set forth in the offering document shall be reflected in a revised offering document which shall be provided to retail repurchase agreement purchasers before any renewal of a retail repurchase agreement may be effected.

4. An institution which does not meet the net worth required under § 563.13(b) of institutions that have reached the twentieth anniversary of insurance of accounts shall be prohibited from issuing retail repurchase agreements. An institution that fails to meet the net-worth requirement at a time when it has retail repurchase agreements outstanding shall be prohibited from renewing its outstanding retail repurchase agreements.

5. An institution issuing retail repurchase agreements shall not use in its advertisements or offering documents the terms "guaranteed", "no risk", "account" "deposit", "withdrawal" or any other terms that imply that the retail repurchase agreement is insured or guaranteed by the United States government or any agency of the United States government, or the term "fund", or any other terms that imply that a retail repurchase agreement constitutes an interest in an investment company. In addition, an institution issuing retail repurchase agreements shall state in its advertisements, offering documents and retail repurchase agreements, in plainly legible form, that the agreements are not insured or guaranteed by the United States government or any agency of the United States government.

6. Retail repurchase agreement may be renewed for any term or terms not exceeding 89 days for each renewal pursuant to the written agreement of the purchaser that the retail repurchase agreement may be renewed at the option of the issuing institution for a term or terms not exceeding 89 days for each renewal in the absence of the oral or written instruction of the purchaser that the retail repurchase agreement shall not be renewed.

In connection with the proposal to delete the prohibition against automatic renewal, the Board solicits comments regarding what notice, if any, should be required to be given to retail repurchase agreement purchasers prior to renewal, particularly when the rate of interest payable during the renewal term is different from the rate of interest payable during the original term.

Initial Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164 (September 13, 1980), the Board is providing the following regulatory flexibility analysis.

1. *Reasons, objective and legal basis underlying the proposed rule.* These elements have been incorporated elsewhere in the supplementary information regarding the proposal.

2. *Small entities to which the proposed rule will apply.* The proposed rule will apply only to institutions the accounts of which are insured by the FSLIC.

3. *Impact of the proposed rules on small institutions.* The proposal would confirm and expand certain consumer protections. In addition, the proposal would remove the prohibition against automatic renewal. There would be no additional regulatory impact on small institutions.

4. *Overlapping or conflicting Federal rules.* There are no known Federal rules that may duplicate, overlap or conflict with the proposal.

5. *Alternatives to the proposed rule.* Most alternatives to the proposal would lessen flexibility afforded institutions. Moreover, because retail repurchase agreements are not accounts insured by the Federal Savings and Loan Insurance Corporation, alternatives to the proposal which would decrease regulatory requirements would reduce consumer protections.

Regulatory Analysis

The elements of regulatory analysis for major proposed regulations required by Board Resolution No. 80-564 (September 11, 1980) have been incorporated into the supplementary information regarding the proposal.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Parts 531 and 563, in subchapters B and D, respectively, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 531—STATEMENTS OF POLICY

1. Transfer § 531.12 of Subchapter B to Subchapter D and redesignate it as § 563.8-4.

§ 531.12 Transfer and repurchase of government securities. [Redesignated]

[Redesignated effective (effective date of final rule)].

PART 563—OPERATIONS

2. Amend § 563.8(f)(2)(i)(*c*) to read as follows:

§ 563.8 Borrowing limitations.

* * * * *

(f) *Minimum denominations of securities evidencing outside borrowings.*

* * * * *

(2) *Exceptions.* (i) there is no minimum denomination for securities:

* * * * *

(*c*) Complying with § 563.8-4 of this Part.

* * * * *

3. Revise § 563.8-4 to read as follows:

§ 563.8-4 Transfer and repurchase of government securities.

(a) An insured institution shall not issue repurchase agreement obligations in denominations under $100,000 with a maturity of 90 days or more evidencing an indebtedness arising from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof that a member institution is obligated to repurchase, unless such obligations are issued to financial institutions the accounts of which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or to a broker or dealer registered with the Securities and Exchange Commission.

(b) Any repurchase agreement obligation under $100,000 with a maturity of less than 90 days shall meet the following requirements.

(1) *Eligibility requirement.* Repurchase agreements shall not be issued or renewed unless the issuing institution meets the new worth required under § 563.13(b) of institutions that have reached the twentieth anniversary of insurance of accounts. Institutions issuing repurchase agreements shall calculate their net worth on a monthly basis in compliance with this section.

(2) *Legend.* Each repurchase agreement and all advertisements and offering documents relating to repurchase agreements shall state, on their face, in plainly legible form, the following legend: "this obligation is not a savings account or deposit, is not insured by the Federal Savings and Loan Insurance Corporation, and is not insured or guaranteed by the United States government or any agency of the United States government."

(3) *Prohibited representations.* An institution issuing repurchase agreements shall not use in its agreements, advertisements or offering documents the terms "guaranteed", "no risk", "account", "deposit", "withdraw" or other terms which imply that the repurchase agreement is insured or guaranteed by the United States government, an agency of the United States government or any third party; or the term "fund" or other terms which imply that the repurchase agreement is an interest in an investment company.

(4) *Security interest.* The interest of a repurchase agreement purchaser in the security or securities underlying the repurchase agreement shall constitute a perfected security interest under applicable state law.

(5) *Value of collateral.* The market value of the security or securities underlying a repurchase agreement shall be at least equal to the principal amount of the issuing institution's repurchase agreement obligation as of the date of the issuance of the repurchase agreement and as of a date certain in each succeeding month of the original or renewed term of the repurchase agreement.

(6) *Disclosure.* An institution issuing repurchase agreements shall provide each prospective repurchase agreement purchaser with an offering document which shall contain full and accurate disclosure of all material information regarding the repurchase agreement and the issuing institution. Any significant change in any of the material representations set forth in the offering document shall be reflected in a revised offering document which shall be provided to purchasers before any renewal of a repurchase agreement may be effected.

(7) *Renewal.* Repurchase agreements may be renewed for any term or terms not exceeding 89 days for each renewal pursuant only to the written agreement between the purchaser and the issuing institution that the repurchase agreement may be renewed at the option of the issuing institution for a specific term or terms not exceeding 89 days for each renewal in the absence of the oral or written instruction of the purchaser that the repurchase agreement shall not be renewed.

(Sec. 5, 48 Stat. 134, as amended; 12 U.S.C. 1464, secs. 402, 403, 406, 48n Stat. 1256, 1257, 1258, as amended; 12 U.S.C. 1725, 1726, 1729. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary

[FR Doc. 82-5107 Filed 2-24-82; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 81-ACE-7]

Transition Area, Maryville, Mo.; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to alter the 700-foot transition area at Maryville, Missouri, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Maryville, Missouri Memorial Airport utilizing a non-directional radio beacon (NDB) being installed on the airport as a navigational aid.

DATES: Comments must be received on or before March 29, 1982.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedure and Airspace Branch, Air Traffic Division, ACE-530, 601 E 12th Street, Kansas City, MO 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before March 29, 1982, will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181, of the Federal Aviation Regulations (14 CFR 71.181), by altering the 700-foot transition area at Maryville, Missouri. To enhance airport usage, an additional instrument approach procedure to the Maryville Memorial Airport is being established utilizing an NDB being installed on the airport as a navigational aid. The establishment of this new instrument approach procedure, based on this navigational aid, entails alteration of the transition area at Maryville, Missouri, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and en route environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft oeprating under Visual Flight Rules (VFR).

The Proposed Amendment

Accordingly, Federal Aviation Administration proposes to amend Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1981 (46 FR 540), by altering the following transition area:

Maryville, Missouri

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Maryville, Missouri, Airport (latitude 40°21'00" N. and longitude 94°54'45" W.), and 3 miles either side of the 333° bearing from the Maryville, Missouri NDB (latitude 40°20'54" N. and longitude 94°54'55" W.) from the 5-mile radius to 8.5 miles northwest of the NDB excluding that airspace within a 1.25-mile radius of Rankin Airport (latitude 40°20'00" N. and longitude 94°50'00" W.).

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.65, Federal Aviation Regulations (14 CFR 11.65))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) is certified at promulgation, it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Mo., on February 8, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 82-4611 Filed 2-24-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-AWA-15]

Proposed Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke two alternate VOR Federal Airways and renumber certain other alternate airway segments in the central part of the U.S. This action would reduce chart clutter and support our agreement with the International Civil Aviation Organization (ICAO) to phase out alternative airway descriptions from the National Airspace System.

DATES: Comments must be received on or before March 29, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Central Region, Attention: Chief, Air Traffic Division, Docket No. 81-AWA-15, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Robert Maxey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 81-AWA-15." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also require a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulation (14 CFR Part 71) to revoke segments of alternate VOR Federal Airways V-14S and V-15R. In addition, this action would renumber segments of V-14S, V-14N, and V-17W in the central part of the U.S. This action will reduce chart clutter and support our commitment to eliminate all alternate route designations as outlined in the ICAO agreement. Section 71.123 of Part 71 was republished on January 2, 1981 (46 FR 409).

Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409) as follows:

1. V-14 [Amended]

By removing the words ", including a N alternate and also a S alternate via INT Tulsa 067° and Neosho 223° radials" and ", including a S alternate via INT Neosho 074° and Springfield 210° radials" and between the words Vicky, MO, and Foristell, ", including a N alternate"

2. V-506 [New]

By adding "V-506 From Tulsa, OK, INT Tulsa 044°T(036°M) and Neosho, MO, 255°T(248°M) radials; Neosho; INT Neosho 074°T(067°M) and Springfield, MO, 210°T(203°M) radials; Springfield 043°T(036°M) and Vicky, MO, 242°T(248°M) radials; Vicky."

3. V-15 [Amended]

By removing the words between Sioux Falls and Huron, SD ", including an E alternative"

4. V-17 [Amended]

By removing the words after Garden City, KS ", including a W alternate from Gage to Garden City via Liberal, KS"

5. V-507 [New]

By adding "V-507 From Gage, OK, via Liberal, KS, to Garden City, KS."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 18, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-5104 Filed 2-24-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

Public Comment and Opportunity for Public Hearing on Modified Portions of the Colorado Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of program amendments submitted (1) to satisfy conditions imposed by the Secretary of the Interior on the approval of the Colorado Permanent Regulatory Program (hereinafter referred to as the Colorado program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), and (2) as further modifications of the Colorado program.

This notice sets forth the times and locations that the Colorado program and proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed at the public hearing.

DATES: Written comments must be received on or before 4:00 p.m. on March 29, 1982, to be considered in the Secretary's decision on whether the proposed amendments satisfy the conditions.

A public hearing on the proposed modifications has been scheduled for March 23, 1982, from 1:00 p.m. to 4:00 p.m., or until all comments have been heard.

Any person interested in making an oral or written presentation at the hearing should contact Robert H. Hagen at the address and phone number listed below by March 18, 1982. If no person has contacted Mr. Hagen to express an interest in participating in the hearing by the above date, the hearing will be cancelled. A notice announcing any cancellation will be published in the Federal Register.

ADDRESSES: Written comments should be mailed or hand delivered to: Robert H. Hagen, Director, New Mexico State Office, Office of Surface Mining, Suite 218, 219 Central Avenue, NW., Albuquerque, New Mexico 87102.

A public hearing will be held at the Main Conference Room, Office of Surface Mining, Technical Service Center, 1020 15th Street, Denver, Colorado 80202.

Copies of the Colorado program, the proposed modifications to the program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM New Mexico State Office and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

New Mexico State Office, Suite 218, 219 Central Avenue, NW., Albuquerque, New Mexico 87102;

Colorado Mined Land Reclamation, Department of Natural Resources, 1313 Sherman Street, Denver, Colorado 80203.

FOR FURTHER INFORMATION CONTACT: Robert H. Hagen, Director, New Mexico State Office, Suite 218, 219 Central Avenue, NW., Albuquerque, New Mexico 87102, Telephone: (505) 766-1486.

SUPPLEMENTARY INFORMATION: On February 30, 1982, OSM received a proposed regulatory program from the State of Colorado. On December 15, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of forty-five minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the December 15, 1980, Federal Register (45 FR 82173–82214).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Colorado program can be found in the December 15, 1980 Federal Register (45 FR 82173–82214).

The forty-five deficiencies in the Colorado program for which the Secretary required correction as conditions of approval were as follows:

a. Colorado did not have fully promulgated regulations incorporating large structure criteria consistent with 30 CFR 780.25(f), 784.16(f), 816.46(q), 817.46(q), 816.46(t), 817.46(f), 816.49(a)(5), 817.49(a)(5), 816.49(f) or 817.49(f).

b. Colorado did not have fully promulgated regulations containing provisions addressing rills and gullies deeper than nine inches consistent with 30 CFR 816.100 and 817.100.

c. Colorado did not have fully promulgated regulations requiring the approval of the Director of OSM in the selection of alternative technical guidance documents for revegetation success consistent with 30 CFR 816.116(b) and 817.116(b).

d. Colorado did not have fully promulgated regulations providing for the approval of the Director of OSM of revegetation success standards on small mines consistent with 30 CFR 816.116 and 817.116.

e. Colorado did not have fully promulgated regulations including the term "sinuosity" in the characteristics to be considered in the evaluation of an alluvial valley floor consistent with 30 CFR 785.19.

f. Colorado's regulations provided for unspecified alternative design standards for excess spoil disposal, mountaintop removal and steep slope mining, which is inconsistent with 30 CFR 816.71 and 817.71.

g. Colorado's regulations provided for a waiver to the limitation on casting flyrock beyond the property line, which is inconsistent with 30 CFR 816.67(g) and 817.65(g).

h. Colorado did not have fully promulgated regulations containing provisions which require plans for sedimentation ponds, coal processing waste dams and embankments to comply with the requirements of the Mine Safety and Health Administration pursuant to 30 CFR 780.25 and 784.16.

i. Colorado's regulations included the term "immediate vicinity" and omitted the term "adjacent area" in the consideration of prime farmlands and revegetation success, which is inconsistent with 30 CFR 785.17.

j. Colorado did not have fully promulgated regulations including a definition of the term "willful violation" consistent with 30 CFR 786.5.

k. Colorado did not have fully promulgated regulations requiring, as a permit condition, that an applicant submit proof that all reclamation fees required by 30 CFR Chapter VII, Subchapter R have been paid consistent with 30 CFR 786.19(h).

l. Colorado did not have fully promulgated regulations requiring that each permit issued by Colorado allow right of entry to authorized representatives of the Secretary consistent with 30 CFR 786.27(b).

m. Colorado did not have fully promulgated regulations requiring that notice of a formal hearing on a permit application be given to all interested parties consistent with 30 CFR 787.11(b)(2)(i).

n. Colorado did not have a fully enacted statute defining the term "operator" to mean any person engaged in surface coal mining and reclamation operations who removes or intends to remove more than 250 tons of coal from the earth within 12 consecutive calendar months in any one location consistent with SMCRA Section 701(13).

o. Colorado did not have a fully enacted statute containing a definition of "surface coal mining operations" to include the phrase, "or other processing or preparation, loading of coal for interstate commerce at or near the mine site," consistent with SMCRA Section 701(28).

p. Colorado did not have a fully enacted statute providing that the holder of a valid permit may not continue mining beyond the expiration date of the permit if the final administrative decision is not to renew the permit, consistent with SMCRA section 506(d)(1).

q. Colorado did not have a fully enacted statute requiring consideration in the application process of an applicant's violation of any applicable rule or regulation of the United States, Colorado or any other State, consistent with SMCRA section 510(c).

r. Colorado did not have a fully enacted statute providing for inspections on an "irregular basis," consistent with SMCRA section 517(c)(1).

s. Colorado did not have a fully promulgated regulation providing that a search warrant is not required to conduct inspections, except for entry into a building, consistent with 30 CFR 840.12(b).

t. Colorado did not have fully promulgated regulations providing that the Administrator furnish a complainant with a written statement describing (1) whether adequate and complete or periodic inspections are being made, and (2) any appropriate remedial action taken, consistent with 30 CFR 842.14.

u. Colorado's regulations included a provision waiving the requirement that informal conferences on bond release be held on the locality of the mine site, which is inconsistent with 30 CFR 807.11(e).

v. Colorado did not have fully promulgated regulations specifying that the time period for requesting a hearing on a bond release decision shall begin when the Division's proposed decision is mailed to the permittee and other interested parties, consistent with 30 CFR 807.11(g).

w. Colorado did not have fully promulgated regulations clearly extending the liability of a bond, including separate bond increments or indemnity agreements applicable to a single operation, to the entire permit area, consistent with 30 CFR 800.11(b) and 808.12(c).

x. Colorado did not have fully promulgated regulations requiring the Division to review each outstanding performance bond at the time permit renewals are processed, consistent with 30 CFR 805.14(a).

y. Colorado did not have fully promulgated regulations consistent with the percentages for bond release provided for in 30 CFR 807.12(a).

z. Colorado did not have fully promulaged regulations providing that no acreage shall be released from the permit area until the bond liability applicable to the permit area has been fully released, consistent with 30 CFR 807.12(b).

aa. Colorado did not have fully promulgated regulations specifying that in no case shall the total bond amount applicable to a permit area be less than $10,000, consistent with 30 CFR 807.12(d).

bb. Colorado did not have fully promulgated regulations which provide: (1) Qualifications for determining whether selective husbandry practices should be allowed, consistent with 30 CFR 805.13(b), (2) for bond forfeiture, form of bond, bonding for subsidence, consistent with 30 CFR Part 801, as proposed, (3) for issuance of a cessation order to operators who have not replaced a surety bond within 90 days after incapacity of the surety, consistent with 30 CFR 806.12(e)(6)(iii) and 806.12(g)(7)(iii).

cc. Colorado did not have fully promulgated regulations providing that the amount of bond retained be sufficient for the Division to complete the reclamation, consistent with 30 CFR 807.12(d).

dd. Colorado did not have fully promulgated regulations containing provisions consistent with the bond forfeiture criteria of 30 CFR 806.13(a).

ee. Colorado did not have a fully enacted statute requiring a showing that a violation or order would immediately affect the legal interest of the plaintiff as a condition precedent to commencement of a citizen's suit without 60 days prior notice, consistent with SMCRA section 520(b)(2).

ff. Colorado did not have fully promulgated regulations including a requirement that if the Board review results in an order increasing a civil penalty, the person to whom the notice was issued shall forward the amount of the difference to the Division within 15 days after the order is mailed to such person, consistent with 30 CFR 845.20(d).

gg. Colorado did not have fully enacted statute consistent with SMCRA section 520(a), allowing the Division or Board, if not a party, to intervene as a matter of right in citizen suits.

hh. Colorado statute section 34–33–123(4) requires personal service on the operator or his designated agent within 24 hours of issuance of the notice or order, which is inconsistent with SMCRA section 521(a)(5).

ii. Colorado statue section 34–33–123(8)(d) specified that a notice or order shall be served on the operator or his designated agent no later than 60 days after the notice or order describing the violation was originally issued, which is inconsistent with the State's own time constraints regarding assessment conferences.

jj. Colorado did not have a fully enacted statute allowing any person with an interest which is, or may be, adversely affected, to seek temporary relief from the Board, consistent with SMCRA section 525(c).

kk. Colorado's regulations included a criterion for determining the existence of a pattern of violations based on degree of fault, which is inconsistent with 30 CFR 843.13(a)(2).

ll. Colorado statute section 34–33–126(2) included a requirement for only a good faith effort by petitioners to identify surface and mineral owners with respect to petitions to designate lands unsuitable, which is inconsistent with SMCRA section 522(c).

mm. Colorado did not have fully promulgated regulations providing for the award of costs and expenses including attorney's fees in administrative proceedings, consistent with 43 CFR Part 4.

nn. Colorado did not have a fully enacted statute which provided for protection of State employees equivalent to that afforded Federal employees by SMCRA section 704.

oo. Colorado statute section 34–46–102 allowed a priority of right exception to the restriction on mining under any building or other impoundments without securing the owner against damages, which is inconsistent with SMCRA section 516(c).

pp. Colorado's regulations involving the definition of "permittee" did not include a person required to have a permit, which is inconsistent with 30 CFR 701.5.

qq. Colorado did not have fully promulgated regulations specifying minimum top widths for embankments less than ten feet in height consistent with the formula in 30 CFR 816.46(1) and 817.46(1).

rr. Colorado did not have a fully enacted statute providing for advanced notice to all interested parties of the time and place of any hearing concerning a show cause order or a hearing to review citations issued for a violation of the Act's requirements, which is inconsistent with SMCRA sections 521(a)(4) and 525(a).

ss. Colorado did not have fully promulgated regulations consistent with 30 CFR 840.11(d)(3), requiring that inspection reports be adequate to enforce the requirements of, and carry out the terms and purposes of, the State program.

Submission of Material To Satisfy Conditions

In accepting the Secretary's conditional approval, Colorado agreed to correct deficiencies b–m, s–dd, kk, mm, pp, qq, and ss by June 1, 1982, and a, n–r, ee–jj, ll, oo, and rr by December 1, 1982. Colorado submitted to OSM on January 7, 1982, material to correct all of these deficiencies.

(a) Colorado adopted rules 2.05.3(4)(a)(iii), 2.05.3(8)(a)(iii), 4.05.6(10), 4.05.6.(11)(b). 4.05.6(11)(c), 4.05.9(1)(e) and 4.05.9(10)(a) to incorporate the large structure criteria found in the Federal regulatory program.

(b) Colorado adopted rule 4.14.6 which contains provisions requiring that when rilling and gullying deeper than nine inches occurs in areas that have been

regraded and topsoiled, the rills and gullies shall be filled, graded or otherwise stabilized in the area reseeded or replanted in accordance with Rule 4.15, unless the permittee demonstrates to the satisfaction of the Division that such rilling and gullying is not excessive and is consistent with the approved post-mining land use.

(c) Colorado has provided explanatory material which, it asserts, demonstrates that the corresponding provisions of the State program are "no less effective than" those at 30 CFR 816.116(b) and 817.116(b) for obtaining the approval of the Director of OSM in the selection of technical guidance documents for evaluating revegetation success.

(d) Colorado has adopted rule 4.15.7(2)(d)(vi) and has provided explanatory material which, it asserts, demonstrates that the corresponding provisions of the State program are "no less effective than" those at 30 CFR 816.116 and 817.116 providing for approval of revegetation success standards on small mines by the Director of OSM.

(e) Colorado has adopted rule 2.06.8(4)(c)(iii)(A) to include the term "sinuosity" in the characteristics to be considered in the evaluation of an alluvial valley floor.

(f) Colorado has provided explanatory material which, it asserts, demonstrates that the corresponding provisions of the State program are "no less effective than" those at 30 CFR 816.71 and 817.71 regarding alternative methods for excess spoil fills in the place of materials related to mountain top removal in steep slope mining operations.

(g) Colorado has adopted rule 4.06.4(8) to exclude the waiver to the limitation on casting flyrock beyond the property line of a permittee.

(h) Colorado has adopted rule 4.11..3, in combination with the rules adopted under condition (a), above, to require plans for sedimentation ponds, coal processing waste dams and embankments to comply with the requirements of the Mine Safety Health Administration.

(i) Colorado has adopted rule 2.06.8(2)(g) to include the phrase "adjacent area" in the consideration of revegetation success on prime farmlands.

(j) Colorado has adopted rule 1.04(152) modifying the definition of "willful" violation to include violations of SMCRA and the Federal rules promulgated thereunder.

(k) Colorado has adopted rule 2.07.6(2)(o) to require that an applicant submit proof that all reclamation fees required by 30 CFR Chapter VII, Subchapter R have been paid.

(l) Colorado has submitted explanatory material which, it asserts, demonstrates that the corresponding provisions of the State program are "no less effective than" those at 30 CFR 786.27(b), requiring that as a condition of each permit issued by the State, the permittee allows right of entry to authorized representatives of the Secretary.

(m) Colorado has adopted Rule 2.07.4(3)(b) allowing for notice of a formal hearing on a permit application decision to all interested parties.

(n) Colorado has amended section 34–33–103(14) of the Colorado Surface Coal Mining Reclamation Act (CSCMRA), modifying the term "operator" to mean any person engaged in surface coal mining and reclamation operations who removes or intends to remove more than 250 tons of coal from the earth (and deleting "by surface coal mining") within 12 consecutive calander months in any one location. Further, Colorado has adopted rule 1.04(80) to reflect this statutory change.

(o) Colorado has amended section 34–33–101(26)(a) of CSCMRA to modify the definition of "surface coal mining operations" to include the phrase, "other processing or preparation, loading of coal for interstate commerce * * *" Further, Colorado has adopted rule 1.04(132)(a) to reflect this statutory change.

(p) Colorado has submitted explanatory material which, it asserts, demonstrates that the corresponding provisions of the State program are "no less effective than" those of SMCRA section 506(d)(3), providing that the holder of a valid permit may continue surface coal mining operations under said permit beyond its expiration date until a final administrative decision on renewal is rendered, if a renewal application is received by the Division at least one year prior to the expiration date of the permit.

(q) Colorado has amended section 34–33–114(3) of CSCMRA to require consideration in the application process of an applicant's violation of any applicable rule or regulation of the United States, Colorado or any other State. Further, Colorado had adopted rules 2.03.5(3) and 2.07.6(2)(b) to reflect this statutory change.

(r) Colorado has amended section 34–33–122(4)(b) of CSCMRA to provide for inspections on an irregular basis. Further, Colorado has adopted rule 5.02.2(3) to reflect this statutory change.

(s) Colorado has adopted rule 5.02.3(2) to provide for inspections without a search warrant.

(t) Colorado has adopted rule 5.02.6(2) to require the Administrator to furnish the complainant with a statement of reasons for any determinations or actions resulting from a citizen complaint of noncompliance.

(u) Colorado has adopted rule 2.07.3(6)(b)(i), thus deleting the provision allowing informal conferences on bond releases to be held at some place other than the locality of the mining operation if that requirement is waived by all parties to the conference.

(v) Colorado has adopted rule 3.03.2(6)(a) to specify that issuance of the Division's proposed decision, relating to a request for bond release, be dated from the time the written notification to the permittee and other interested parties is mailed.

(w) Colorado has adopted rules 3.02.1(4) and 3.04.2(3) to delete the phrase, "unless otherwise provided for in the bond," from those regulations relating to bond liability, and to provide an exception from liability, under any bond to all lands disturbed when (1) two or more bonds apply in combination to a permit area although a particular bond may apply to less than all lands disturbed prior to a date specified in the bond, and (2) the Division or Board determines that, in combination, a liability under such bonds extends to all lands disturbed.

(x) Colorado has adopted rule 3.02.2(4) to require the Division to review each outstanding performance bond at the time permit renewals are processed.

(y) Colorado has submitted explanatory material which, it asserts, demonstrates that the corresponding provisions of the State program are "no less effective than" those at 30 CFR 807.12(a), regarding bond release percentages.

(z) Colorado has adopted rule 3.03.1(4) to provide that no acreage be released from the permit until the bond liability applicable to the permit area has been released.

(aa) Colorado, in its adoption of rule 3.03.1(4), above, has specified that in no case should the total bond amount applicable to a permit area be less than $10,000.

(bb) Colorado has submitted explanatory material which, it asserts, demonstrates that the corresponding provisions of the State program are "no less effective than" (1) the qualifications for determining whether selective husbandry practices should be allowed in 30 CFR 806.13(b), and (2) the bona forfeiture, form of bond, bonding for subsidence, and other provisions in 30 CFR Part 801. Colorado has also submitted explanatory material which, it asserts, demonstrates that it need not remove language in the State rule, concerning amending the permit area in lieu of issuance of a cessation order for unbonded areas, to show that the Colorado program is "no less effective than" 30 CFR 806.12(g)(7)(iii).

(cc) The State has adopted rule 3.03.1(3)(e) to provide that the amount of bond retained be sufficient for the Colorado Mined Land Reclamation Division to complete the reclamation.

(dd) Colorado has adopted 3.04.1 to include provisions for bond forfeiture consistent with the criteria of 30 CFR 808.13(a).

(ee) Colorado has submitted explanatory material which, it asserts, demonstrates that the corresponding provisions of the State program are "no less effective than" SMCRA section 520(b)(2), requiring a showing that a violation or order would immediately affect the legal interest of the plaintiff as a condition precedent to commencement of a citizen's suit without 60 days prior notice.

(ff) Colorado has submitted explanatory material which, it asserts, demonstrates that the corresponding provisions of the State program are "no less effective than" 30 CFR 845.20(d) in that if the Board review of a civil penalty results in an order increasing the penalty, the person to whom the notice of violation or cessation order was issued must forward the amount of the difference to the Division within 30 days after the order increasing the penalty is mailed to such person.

(gg) Colorado has amended section 34–33–135 of CSCMRA to include a provision allowing the Division or Board, if not a party, to intervene as a matter of right in citizen suits. Further, the Division will initiate rulemaking procedures to ensure that this statutory change is reflected in the regulations.

(hh) Colorado has amended section 34–33–123(4) of CSCMRA to require that each notice of violation or cessation order shall be served on the operator or his designated agent in person or by certified mail, return receipt requested, to the mine or the designated mine agent, and deleting the requirement of personal service within 24 hours after issuance. Further, Colorado has adopted rules 5.04.3(5)(c) and 5.03.4(1) to reflect this statutory change.

(ii) Colorado has amended section 34–33–123(8)(d) of CSCMRA to specify that the notice of fixed penalty and order to pay the fixed penalty shall be served on the operator or his designated agent no later than 120 days after the notice of violation or cessation order describing the violation was originally issued. Further, Colorado has adopted rule 5.04.3(5)(d) to reflect this statutory change.

(jj) Colorado has amended section 34–33–124(3) of CSCMRA to allow any person with an interest which is or may be adversely affected by the pending investigation or outcome of a hearing contesting Division action on a notice of violation or cessation order, to file a written request with the Board for temporary relief. Further, Colorado has adopted rule 5.03.5(5)(a) to reflect this statutory change.

(kk) Colorado has adopted rule 5.03.3(2)(a)(iii) deleting the additional criterion for determining the existence of a pattern of violations found in rule 5.04.5(2)(a).

(ll) Colorado has submitted explanatory material and its form describing the information required for a petition to designate lands unsuitable which, it asserts, demonstrates that the corresponding provisions of the State program are "no less effective than" SMCRA section 522(c) in requiring a petitoner to identify the surface and mineral owners property whose land may be included in the area of the petition.

(mm) Colorado has adopted rule 5.03.6 and has submitted explanatory material which, it asserts, with one exception, demonstrates that the corresponding provisions of the State program are "no less effective than" 43 CFR 4.1290–.1296, relating to the award of costs and expenses, including attorney's fees, in administrative hearings. With regard to the one exception concerning the collection of such costs and expenses from the Division, Colorado has adopted rule 5.03.6(d) to provide for such collection by operators. Colorado further refers to its petition of November 1980, requesting that OSM repeal the requirement of 30 CFR 840.15 that State programs be consistent with 43 CFR Part 4 (see 46 FR 58465–58466, December 1, 1981).

(nn) Colorado has submitted explanatory material which, it asserts, demonstrates that the corresponding provisions of the State program are "no less effective than" the protection afforded Federal employees by SMCRA section 704.

(oo) Colorado has submitted explanatory material which, it asserts, demonstrates that it need not delete the priority of right exception to the restrictions of mining under any building or other impoundment without securing the owner against damages, in order to show that the corresponding provisions of the State program are "no less effective than" SMCRA 516(c).

(pp) Colorado has submitted explanatory material which, it asserts, demonstrates that the State regulates "a person required to have a permit," and that the corresponding provisions of the State program are "no less effective than" the definition of "permittee" at 30 CFR 701.5.

(qq) Colorado has adopted rule 4.05.6(8)(h) to specify minimum top widths for embankments less than ten feet in height.

(rr) Colorado has amended section 34–33–124(1)(b) of CSCMRA to provide advanced notice to all interested persons of hearings on (1) show cause orders, and (2) to review citations issued for violations. Further, Colorado has adopted rule 5.03.5(3)(b) to reflect this statutory change.

(ss) Colorado has submitted its inspection report form to demonstrate that it requires that inspection reports be adequate to enforce the requirements of and carry out the terms and purposes of the State program, and that the State program is "no less effective than" 30 CFR 840.11(d)(3).

The Secretary seeks public comment on whether the provisions submitted correct all the deficiencies in the Colorado program. If the program amendments are approved, the conditions specified in 30 CFR 906.11 will be removed.

Submission of Additional Program Amendments

On February 9, 1982, OSM received from the State of Colorado, pursuant to the 30 CFR 732.17 procedures, the following revisions to the State program:

1. An addition to rule 1.01, providing a written statement of the basis and purpose of these amendments.

2. An addition to rule 1.13 regarding the limitation on the effect of regulations required by Federal law, rules or regulations which become ineffective.

3. The deletion of certain portions of rule 2.07.6(3), relating to the criteria for permit approval or denial regarding existing structures.

The Secretary seeks public comment on these additional proposed amendments to the Colorado program. If these amendments are approved, they will become part of the Colorado program.

Additional Information

Pursuant to section 702(d) of SMCRA, 30 U.S.C. 1282(d), no Environmental Impact Statement need be prepared on this proposed rule. On August 28, 1981, the Office of Management and Budget (OMB) granted OSM exemption from sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve State regulatory

programs, actions or amendments. Therefore, these proposed program amendments are exempt from the preparation of a Regulatory Impact Analysis and regulatory review by OMB.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

Dated: February 22, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82-5127 Filed 2-24-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGDS 81–10R]

Drawbridge Operation Regulations: Roanoke River, North Carolina

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the North Carolina Division of Highways, the Coast Guard is considering the establishment of regulations that would limit the opening of the drawbridge across the Roanoke River, mile 37.5, at Williamston, North Carolina. This proposal is being made because vessel traffic through the bridge has declined in recent years. The records show that the bridge was opened 28 times in 1979 and it was opened only 6 times in 1980. This action will result in a substantial monetary saving to the bridge owner and still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before March 29, 1982.

ADDRESS: Comments should be submitted to and are available for review from 8 a.m. to 4:30 p.m., Monday through Friday at the office of the Commander (oan), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705.

FOR FURTHER INFORMATION CONTACT: Wayne J. Creed, Bridge Administrator, Aids to Navigation Branch, Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705, (804) 398–6222.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their name and address, identify this proposed rule by Docket No. or bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The rule may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that an opportunity to make oral presentations will aid the rulemaking process.

Discussion of Proposed Rule

The proposed change in regulations would require a 24-hour advance notice for all draw openings year round. The bridge is currently operated under the general regulations that are contained in Title 33, *Code of Federal Regulations*, § 117.240, which requires the bridge to open on signal. Therefore, draw operators are in constant attendance. The proposed regulations would relieve the bridge owner of the responsibility for keeping draw operators in constant attendance. The 24-hour advance notice for draw openings is being considered because water traffic at this location has declined in recent years.

Records of draw openings show that the bridge was opened 28 times for the passage of water traffic during 1979, and the bridge was only opened 6 times during 1980. Moreover, the prospect for any significant increase in water traffic is poor because the oil terminal upstream of the bridge has been closed and petroleum products are currently moved by pipeline and truck. Barge traffic to and from the oil terminal accounted for about 95% of the draw openings. Therefore, the proposed change in regulations may be made without significantly affecting water traffic and the proposed change will relieve the bridge owner of the responsibility of providing constant operator attendance at the bridge. There are no businesses that will be impacted by the proposed change in operating regulations.

Evaluation

This proposed regulation has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule. In addition, the proposed regulation is considered to be nonsignificant in accordance with guidelines set forth in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation of the proposal has not been conducted because the expected economic impact is so minimal as to not warrant the evaluation. In accordance with Section 605 (b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Proposed Regulation

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations is proposed to be amended as follows:

In 33 CFR 117.245, paragraph (g) is amended by adding a new sub-paragraph (2–b) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(g) * * *

(2–a) * * *

(2–b) Roanoke River, N.C.; North Carolina Division of Highways bridge at Williamston. At least 24-hours advance notice required for draw openings.

* * * * *

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2), 49 CFR 1.46 (c)(5), 33 CFR 1.05–1(g)(3))

Dated: January 28, 1982.

John D. Costello,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 82-5002 Filed 2-24-82; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–1–FRL–1969–1]

Approval and Promulgation of Implementation Plans; Connecticut Alternative Emission Reductions Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The purpose of this document is to announce that EPA is proposing to approve Connecticut's Alternative Emission Reductions regulation. This regulation allows surface coaters of metal cans; magentic wire insulation; metal furniture; metal coil; miscellaneous metal parts and products; graphic arts—rotogravure and flexography; pneumatic rubber tires; paper; fabric and vinyl; and manufacturers of synthesized pharmaceutical products to "bubble" volatile organic compound (VOC) emissions. The intended effect of this action will be to provide more cost-effective air pollution control strategies.

DATES: Comments must be received on or before March 29, 1982.

ADDRESSES: Comments should be submitted to Harley Laing, Chief, Air Branch, Environmental Protection Agency, Room 1903, JFK Federal Building, Boston, MA 02203. Copies of the Connecticut submittals and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460 and the Air Compliance Unit, 165 Capitol Avenue, Hartford, Connecticut 06115.

FOR FURTHER INFORMATION CONTACT: Betsy Horne, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223–5630.

SUPPLEMENTARY INFORMATION: Description of the Connecticut Alternative Emission Reduction regulation for surface coating operations of metal cans; magnetic wire insulation; metal furniture; metal coil; miscellaneous metal parts and products; graphic arts—rotogravure and flexography; paper; fabric and vinyl; and the manufacture of synthesized pharmaceutical products: EPA designated the entire state of Connecticut as nonattainment for ozone in the March 3, 1978, Federal Register (43 FR 8977). Connecticut was then required to submit an implementation plan for ozone to meet the requirements of Part D of the Clean Air Act. It submitted such a plan on June 27 and December 28, 1979; and February 1, May 1, September 8, November 12, and December 15, 1980. The plan includes regulations establishing requirements for reasonably available control technology (RACT) at existing stationary volatile organic compound (VOC) sources. These regulations, codified in Regulation 19–508–20, specify particular control measures for certain designated source categories listed in Regulation 19–508–20 (m) through (v), inclusive. Regulation 19–508–20 (cc), submitted on June 27, 1979 and resubmitted on December 15, 1980 in a revised form, provides an opportunity for owners of VOC sources covered by subsections (m) through (v) to propose an alternative emission reduction plan containing a mix of emission limits such that the total emissions from all source lines is less than or equal to the sum of emissions which results if each individual line is in compliance with the specified emission limitation. In EPA parlance, the procedure when a source trades emission reductions in one process for emission reductions from another is called "bubbling".

Although the Connecticut bubble regulation applies to Regulations 19–508–30(m) through (v), only the following subsections have been adopted into the federally-approved SIP: (m), can coating; (n), coil coating; (o), fabric and vinyl coating; (p), metal furniture coating; (q), paper coating; and (r), wire coating. Three other subsections, (s), miscellaneous metal parts and products; (t), manufacture of synthesized pharmaceutical products and (v), graphic arts-rotogravure and flexography, are currently being proposed for approval into the federal SIP. A fourth regulation, 19–508–20(u), manufacture of pneumatic rubber tires, is being excluded from this regulation because on August 18, 1981 the state certified that there were no such apurces in Connecticut. Should EPA finally approve Regulation 19–508–20 (cc) for the first six source categories listed above, they would be eligible to apply to the state to propose an alternative set of emission limitations. If EPA takes final action approving the bubble regulation for the second three source categories, they also will be eligible to "bubble."

Presently, EPA must approve a bubble for an individual source as a revision to the Connecticut SIP. The Connecticut bubble regulation is a "generic" VOC bubble rule which will not require each individual bubble from the sources mentioned above to be submitted to EPA for inclusion in the SIP and therefore will reduce the amount of time necessary for a source to receive approval for its bubble. This proposed bubble regulation will permit owners of the sources included under this regulation which contain two or more emission points, to propose emission limits different from those now specified in the SIP, so long as on a solids-applied basis the total allowable emissions for the plant remains the same or is reduced. Each emission point under the bubble must have a specified emission limitation which will be included in an Order issued to the source under Connecticut Regulation 19–508–12. These emission points must be existing lines in one of the already promulgated Control Technique Guideline (CTG) categories identified above. (EPA has issued a series of documents, CTGs, which establish a "presumptive norm" for controlling nationally important industrial source categories.)

The Connecticut Regulation provides for mechanical procedures to change SIP emission limits and those new limits must be a mathematical equivalent of the existing limits. EPA need not approve each application of those procedures since the mathematical equivalency means that the impact on ambient air quality is equivalent. In proposing to approve this VOC bubble rule EPA is, in essence, proposing to approve in advance all bubbles adopted under the rule. In this way EPA is expressing confidence that Connecticut emission limitations, developed under this rule, will not interfere with attainment and maintenance of the ozone standard and that EPA review of each application of these rules is therefore unnecessary.

In its bubble policy published December 11, 1979 (44 FR 71780) EPA provided that a bubble could be approved for individual sources as a SIP revision. In the Federal Register approving the New Jersey bubble rule (46 FR 20551), however, EPA approved a generic VOC bubble regulation for New Jersey. That Notice specified guidance for other States that wish to implement a similar generic bubble regulation. In today's rulemaking EPA is proposing to approve Connecticut's bubble Regulation, 19–508–20(cc), since Connecticut's program has been made consistent with the policy set forth in the New Jersey rulemaking and in the EPA bubble policy set forth on December 11, 1979.

The Connecticut Regulation meets EPA's requirement that pollutants that pose significant health hazards cannot be traded against less harmful pollutants. See 19–508–20(cc)(1)(iii). The Connecticut Regulation also is in conformity with EPA requirements that a bubble not be used to increase emissions above limitations set under the Prevention of Significant Deterioration Program. The New Source

Review Program, Federal New Source Performance Standards, National Emission Standards of Hazardous Air Pollutants, or any Clean Air Act requirement for new or modified sources. Connecticut's bubble regulation allows variations only from the RACT requirements for existing sources set out in 19-508-20.

The Connecticut VOC bubble regulation, Rule 19-508-20(cc), does not fully address all of EPA's provisions governing VOCs and bubbles. EPA has identified five deficiencies in Connecticut's rule. In response, the State has committed to satisfy each of these deficiencies, thus bringing the rule into full compliance with EPA's provisions. A letter from the State, dated January 11, 1982, specifically committed to the following:

1. To provide adequate opportunity for public notice and comment on each alternative set of emission limitations developed under the bubble program and notify the public after each final approval.

2. To submit as an individual SIP revision any alternative reasonably available control technology determination approved under Regulation 19-508-20(cc)(3).

3. To promptly transmit to EPA notice of an alternative set of emission limitations assigned when they are adopted pursuant to the bubble regulation. The emission limits set for each emission point under the bubble will be verified as enforceable according to the test methods specified in 19-508-5(b)(6) and only those test methods which have been federally approved will be used.

4. To keep a record of each approved bubble under Regulation 19-508-20(cc) and a record of the emission limitations to which the source was originally subject.

5. To require that compliance schedules for new emission limitations developed under the bubble regulation be subject to compliance dates as set forth in Regulation 19-508-8.

Regulation 19-508-20(cc) applies to some State regulations which control some source categories which are not presently part of the federally approved SIP. EPA is proposing to approve Regulation 19-508-20(cc) as it applies to those source categories presently in the approved SIP with the additional categories to be added if they are finally approved by EPA and made part of the SIP. EPA will issue a Final Rulemaking Notice approving the application of Regulation 19-508-20(cc) to these additional categories if they are finally approved.

Action: Since it is consistent with actions taken on the New Jersey bubble rule, EPA is proposing to approve Connecticut's bubble Regulation 19-508-20 (cc) as it applies to Regulations 19-508-20 (m), (n), (o), (p), (q) and (r) which have already been approved by EPA and to Regulations 19-508-20 (s), (t), and (v) which are being acted on separately and will be eligible for bubbling if they are finally approved by EPA. This proposed approval is being made with the understanding that bubbles submitted under this regulation will be processed in a manner consistent with the commitments in the January 11, 1982 letter.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that the attached rule, if promulgated, constitute a SIP approval under Section 110 and 172 within the terms of the January 27 certification. This action imposes no new requirements and provides for greater flexibility and the use of more cost-effective measures in meeting existing state requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirements of a Regulatory Impact Analysis. This regulation is not Major because, if promulgated, it will only approve Connecticut state actions enabling sources to meet the existing state requirements with more cost-effective control strategies and with greater flexibility. It adds no new requirements. Further, this regulation should decrease the time between application and implementation of certain alternative, more cost-effective control strategies by eliminating the requirement that they be approved, individually, by EPA through the SIP revision process.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 11291.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A)-(K) and 110(a)(3) of the Clean Air Act as amended, and EPA regulations in 40 CFR Part 51.

(Secs. 110(a) and 301, Clean Air Act, as amended 42 U.S.C. 7410 and 7601)

Dated: February 11, 1982.

Lester A. Sutton,

Region Administrator.

[FR Doc. 82-5047 Filed 2-24-82; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[Gen. Docket No. 79-144; FCC 82-47]

Biological Effects of Radiofrequency Radiation When Authorizing the Use of Radiofrequency Devices and Potential Effects of a Reduction in the Allowable Level of Radiofrequency Radiation

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: It is proposed to amend § 1.1305 of the Commission's Rules implementing the National Environmental Policy Act (NEPA). NEPA requires the Commission to consider whether the equipment and operations it authorizes "significantly affect the quality of the human environment." Therefore, this amendment would treat applications for equipment authorization as "major actions" when the equipment does not comply with federal health and safety standards for emission of radiofrequency or microwave radiation. The amendment would treat applications for construction permits or licenses to transmit as "major actions" if the proposed operation would result in the exposure of workers or the general public to levels of radiofrequency or microwave radiation in excess of federal standards.

DATES: Comments must be submitted on or before June 16, 1982 and replies on or before August 18, 1982.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Dr. Robert F. Cleveland, Office of Science and Technology, Federal Communications Commission, Washington, D.C. 20554, (202) 632-7073.

SUPPLEMENTARY INFORMATION:

Adopted: January 28, 1982.

Released: February 18, 1982.

I. Background

1. This *Notice of Proposed Rule Making* follows action by the Federal Communications Commission (FCC) at its public meeting on June 7, 1978, at which we initiated a *Notice of Inquiry* on the responsibility of the FCC to consider biological effects of radiofrequency (RF) radiation when authorizing the use of radio-frequency devices.[1] At that meeting the Commission was advised that studies by the Environmental Protection Agency (EPA) and the National Institute for Occupational Safety and Health (NIOSH) had documented instances of workplace environments near FCC-regulated equipment that could result in employees being exposed to RF radiation levels in excess of the existing Occupational Safety and Health Administration (OSHA) radiofrequency (RF) radiation protection guide. The *Notice of Inquiry* was designed to: (1) Assist the FCC in determining whether it is appropriate for the Commission to take any action under existing standards now applied by the health and safety agencies, and (2) provide documentation so that the FCC can adequately participate in rule making proceedings of these other agencies to ensure that any standard adopted adequately takes into account the impact on the licensees and equipment regulated by the FCC. A summary of the comments received in response to the *Notice of Inquiry* can be found in section III of this proceeding.

2. The comments from the *Notice of Inquiry* were useful in gathering information relevant to each of the above areas. As a result of the comments, we are proposing to amend § 1.1305 of our rules and regulations implementing the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.* (1976), to expand the list of "major actions" subject to our environmental processing standards, 47 CFR 1.1305. We propose to treat applications for equipment authorizations as "major actions" when the equipment does not comply with radiofrequency or microwave radiation emission standards set by federal agencies, such as the Bureau of Radiological Health of the Food and Drug Administration, having jurisdiction over such standards. We also propose to treat applications for construction permits or licenses to transmit as "major actions" when the proposed operation would result in the exposure of workers or the general public to radiofrequency or microwave radiation levels in excess of those established by federal agencies having jurisdiction to set standards for such exposure. The Occupational Safety and Health Administration (OSHA) of the U.S. Department of Labor has established an exposure standard for workers.[2] The U.S. Environmental Protection Agency has jurisdiction to set standards for exposure of the general public. However, its has not yet done so. Until it or another agency with competent jurisdiction does, we propose to treat applications as "major actions" if the proposed operation would result in exposure of the general population to levels of RF radiation in excess of those allowed for workers. While we shall defer to the federal health and safety agencies for determining safe levels of exposure to RF radiation, we believe that NEPA requires us to consider the environmental impact of equipment or operations which would exceed the standards for RF emission or exposure levels set by these agencies. On the other hand, we believe that applications for equipment authorizations or transmitting facilities which are in compliance with such standards normally would not have a significant effect on the quality of the human environment and, thus, should be categorically excluded from our environmental processing requirements. *See Notice of Proposed Rule Making*, Docket 79-163, 44 FR 38913 (July 3, 1979), proposing amendments to our rules implementing NEPA.

II. Previous FCC Proceedings

3. Since the question of biological hazards from RF radiation first became a matter of public concern, the FCC has increasingly had to address this issue. Although most of these instances have involved informal inquiries, we have addressed the question several times in the context of formal proceedings. In our 1972 *Memorandum Opinion and Order* in Docket No. 16505 [3] this Commission addressed the issue of microwave radiation from domestic satellite facilities. Applying the agency's rules (then still in proposed form), for implementation of the National Environmental Policy Act of 1969 (NEPA) [4] we required all applicants for earth stations and satellite facilities:

1. To make a satisfactory showing that their operation will comply with governmentally prescribed standards for protection of employees and the general public against excess levels of non-ionizing radiation;

2. To make a full showing of the measures the applicant has taken to comply with these standards; and

3. To conduct studies to predict radiation levels in and around earth stations and their associated terrestrial facilities.

Also, we stated that licensees shall identify areas above 10 mW/cm² with prominently posted signs.[5]

4. The FCC next addressed the RF radiation issue when we adopted rules to implement NEPA.[6] Recognizing that exposure to sufficiently high concentrations of non-ionizing electromagnetic (RF) radiation can cause biological damage, the Commission stated its policy to be:

(T)o require licensees to observe applicable exposure safety standards [and i]f, for any reason, it is not possible to limit exposure to prescribed levels, existing licensees should notify the Commission to this effect while new appicants should prepare and submit a( ) * * * statement dealing with the matter.[7]

5. In Appendix 3 to the *Report and Order* we provided more detail of our reasoning for specifying these requirements.

In the case of satellite earth stations * * * (i)f the antenna is not significantly elevated, exposure to hazardous power densities is possible at ground level at the antenna site * * *. The Commission has accordingly required applicants for earth stations to identify any hazardous area and to take such measures as are necessary (e.g., warning signs, fencing and shielding) to protect against exposure. (Citation omitted) Similar requirements will be imposed in any other situation which we discover, or is called to

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[1] *Notice of Inquiry*, Docket No. 79-144, 72 F.C.C. 2d 462 (1979).

[2] The current OSHA exposure limit is 10 milliwatts per square centimeter (mW/cm²) or the mean-square electric field strength and mean-squared magnetic field strength equivalents of 40,000 volts²/meter⁴ (V²/M⁴) or 0.35 ampere²/meter⁴ (A²/m⁴), respectively, averaged over any six minute period. In terms of field strength the OSHA standard translates to 200 V/m and 0.5 A/m, respectively. The current OSHA standard applies to electromagnetic frequencies between 10 MHz and 100 GHz. *See* 38 FR 10522 (No. 108), 29 CFR 1910.97(a)(2); joint NIOSH/OSHA Current Intelligence Bulletin 23 (December 4, 1979) "Radio Frequency (RF) Sealers and Heaters: Potential Health Hazards and Their Prevention" at 4. *See generally Swinliloe Corp.*, OSHRC Docket No. 12715, (1975-1976) Empl. Safety & Health Guide (CCH) ¶20,379 (Dec. 21, 1976), *aff'd without review* (1977) Empl. Safety & Health Guide (CCH) ¶ 21,666 (March 28, 1977) (standard is advisory rather than mandatory). See also, OSHA Notice CPL 2-2 on Nonionizing Radiation Citations (Sept. 28, 1979), (1979, Current Report) Occupational Safety and Health Reporter (BNA) 409, 511 (citation procedure for nonionizing retiation exposures).

[3] In re: *Establishment of Domestic Communications-Satellite Facilities by Non-Government Entities*, 35 F.C.C. 2d 844, 760-764 (1972).

[4] *Notice of Proposed Rule Making*, Docket No. 19258, 28 F.C.C. 2d 108 (1971).

[5] *Establishment of Domestic Communications-Satellite facilities by Non-Government Entities*, *supra*, 35 F.C.C. 2d at 709-706.

[6] *Report and Order* in Docket No. 19555, 40 F.C.C. 2d 1213 (1974).

[7] *Id.* at 1227, n. 12. The footnote just quoted accurately states the Commission's policy in this area, which is reaffirmed at paragraph 169, *infra*. However, applicants should note that the Commission, in that footnote, erroneously indicated that applicants should submit an "environmental impact statement." Under the Commission's rules implementing NEPA, applicants are to submit "narrative statements" when required, but the Commission ultimately prepares the environmental impact statement. *See* 47 CFR 1.1311(a), 1.1311(b) (1980). Our policy under NEPA is clarified at paragraph 164, *infra*.

our attention, in which protective measures are needed.[9]

This level of involvement is required because "[t]he Commission's role in this area is to * * * see that the OSHA [RF radiation exposure] standard and such other applicable official standards as may be established by the responsible Government agencies are met by Commission licensees."[9]

6. The FCC again addressed the question of RF radiation and its licensees in its denial of a petition opposing the license renewal application of the Far East Broadcasting Company, Inc.[10] Finding that the "part of the sewage treatment plant where [excessive radiation] occur(s) will not be manned" and "that coordination will permit operation of the plant without exposing personnel to radiation exceeding the OSHA standard," the FCC rejected a request to deny license renewal of a 250 kW transmitter on the basis of alleged radiation effects. The FCC went on to:

> * * * Urge Far East to take appropriate measures to warn persons of areas where they could be exposed to radiation exceeding 10 mW/cm². These measures might include warning signs * * * and notice to persons whose activities might take them into such areas. We ask Far East to report to us these measures once they have been taken.[11]

7. In the *Far East* opinion the FCC also examined the question of the potential hazard of long-term exposure below the OSHA RF exposure level. Emphasizing that although "[t]he possibility of one of our licensees (or authorized equipment users) jeopardizing the public health or safety is a matter of serious concern," the Commission concluded it was not qualified to act.[12]

Since we have no expertise in the area of public health, we see no alternative but to defer to the judgment of professionals, as evidenced by official exposure standards of bodies such as the Occupational Health and Safety Administration (sic) or the Environmental Protection Agency.[13]

The FCC therefore rejected the objection to the license renewal based on long-term/low-level exposure effects and declined to attempt to resolve, in an evidentiary hearing, questions that scientists have spent years investigating without resolving.[14]

8. Another case involving consideration of potentially hazardous RF radiation was the application of Megamedia (KISR–FM) involving a change in antenna site.[15] In its application Megamedia stated that its present site was unsuitable because the area in which "hazardous radiation" occurs from the KISR antenna includes virtually all KISR studios and offices, an apartment in the rear of the building, part of a private residence, part of a beauty shop, and a relatively heavily-traveled alley. KISR used the equation in Appendix 3 of the *Report and Order* in Docket No. 19555, *supra*, 49 F.C.C. 2d at 1307, to calculate the area in which "hazardous radiation" occurs.[16] This equation is used to determine the distance from an antenna at which the power density has a value of 10 mW/cm².

9. KISR proposed to eliminate the problem by changing its antenna site. The position of the antenna at the proposed site would be such that the "hazard area" (defined in Appendix 3 of Docket 19555) would be substantially above ground. The proposed site, which would be eight miles short-spaced, was the least short-spaced site of any available, and Megamedia requested that the minimum spacing requirement of Section 73.207 of the FCC Rules, 47 CFR 73.207, be waived in this case. The Commission granted the waiver and in its decision stated:

> [W]e believe that there is sufficient question concerning the possible exposure of persons to radiation of 10 mW/cm² or more from the KISR antenna. While there may, in fact, be no problem in these particular circumstances, we would rather err on the side of safety. Therefore, we believe that a waiver of our minimum spacing requirements would be in the public interest.[17]

10. The FCC's most recent action concerning RF radiation effects was our release, on June 15, 1979, of the *Notice of Inquiry* to examine comprehensively the whole question of the FCC's responsibilities in this area. Prompted by increased public concern, continued growth in the use of the radio spectrum, the possibility of new standards by OSHA and EPA, [18] and the progress of continuing research efforts in the biological effects area, the FCC initiated an inquiry "to gather information and views that will assist it in establishing the course it should pursue in fulfilling its regulatory responsibility * * *"[19]

11. In its Notice the FCC noted its responsibility under the provisions of NEPA:[20]

> (T)he Commission, as a Federal Agency, has certain explicit responsibilities under (the National Environmental Policy Act) * * * If a contemplated Commission action might create a situation where the resulting RF radiation levels would exceed an exposure guideline or standard (set) by one of (the health) agencies, we would be required to consult that concerned agency before acting. Following such consultation, the Commission may have to prepare an environmental impact statement that would become part of the record on which the Commission bases its decision.[21]

Reiterating that "the Commission's present policy is to require licensees and manufacturers of authorized equipment to observe applicable exposure safety standards" (including the existing OSHA standard), the Commission added that should one of the health agencies promulgate stricter standards for RF radiation exposure of people, the Commission will consider those new standards with the possible result that some entities will have to modify their equipment or operations to come into compliance.[22]

III. Summary of Comments From the Notice of Inquiry

12. The FCC *Notice of Inquiry* [23] on the bioeffects issue resulted in more than 25 responses. Comments were submitted by broadcasters, telecommunications companies, industrial manufacturers and users of RF and microwave equipment, trade and professional associations, private individuals, a Federal agency, and a public interest group. A list of the parties filing comments in this proceeding can be found in Appendix I.

13. The Inquiry was primarily designed to gather information to help: (1) determine whether the FCC should take any action under existing standards now applied by health and safety agencies, and (2) assess the impact of standards on the telecommunications industry so that the FCC can effectively participate in rulemaking proceedings of the health and safety agencies.

14. Several commenters expressed opinions to the effect that there is little, if any, evidence that RF radiation levels routinely encountered by the public are hazardous. This view was expressed by a number of broadcasters and their representatives. For example, the National Association of Broadcasters (NAB), the TV Broadcasters All Industry Committee (TVBAC), and the National Broadcasting Company (NBC) all maintained that the absence of evidence for harmful effects over the past 50–60 years of broadcasting makes it unlikely that a hazard exists, and as NAB put it "* * * we find it difficult to understand the basis for the high degree of concern for controlling nonionizing radiation." NAB did concede, however, that there may have been certain cases of cataract production, high-voltage shock, or RF burns due to accidents or improper maintenance procedures.

15. Most respondents did not favor FCC adoption of interim health and safety standards with respect to RF and microwave radiation. In fact, in at least one case (the Oregon Association of Broadcasters), the appropriateness of the FCC's even inquiring into this matter was questioned. However, FCC participation in the rulemaking proceedings of other Federal agencies was strongly encouraged by many. The American Broadcasting Companies (ABC), among others, noted that the Commission has a responsibility to inform appropriate health and safety agencies of the potential impact of proposed standards on the communications industry. Also, as expressed by TVBAC, the FCC has the authority and responsibility to assure that communications services "* * * are not unnecessarily impaired by overly restrictive standards."

16. The *Notice of Inquiry* included a list of twenty-four specific questions and requests for information. Many of the respondents to the Inquiry addressed these questions individually in their comments, and these responses have been condensed and summarized in the following paragraphs. Others responded with general comments which often applied to one or more of the listed questions. These comments were also considered and, if relevant, were included in the discussion of the appropriate question.

17. *Question 1* asked for information concerning typical near-field and far-field radiation levels from a variety of RF and microwave sources. Many respondents provided detailed information on fields produced by transmitters or devices in one or more of the various categories listed. In addition, some general comments were made.

18. The Special Industrial Radio Service Association (SIRSA) had no specific information to contribute to this particular topic but expressed concern over conclusions the FCC might draw from such data. SIRSA noted that there was a lack of "uniform methodology" in making measurements of this sort and in calibrating equipment. SIRSA further stated that such data should not form the basis of any new standard but could be helpful in a preliminary survey only. Similar concerns were expressed by the Central Committee on Telecommunications of the American Petroleum Institute (API) which questioned the practical value of near-field data obtained using present-day measurement techniques.

19. The U.S. Environmental Protection Agency (EPA) provided a good deal of information in response to Question 1: The Office of Radiation Programs of EPA has made extensive measurements of RF fields over the past several years, and their response included a list of relevant EPA publications. Measurements of field strengths and power densities have been made by EPA in the vicinity of mobile communications equipment, microwave ovens, broadcasting transmitters, and radar systems. In addition, EPA has conducted extensive surveys of general RF/microwave levels in urban areas of the U.S. With regard to the general population of the U.S., the EPA has estimated that the median exposure level to RF and microwave radiation is about 0.005 microwatts/square centimeter ($\mu W/cm^2$) and that less than 1% of the population is potentially exposed to levels greater than 1 $\mu W/cm^2$.[24] These estimates are based on studies of a population group representing 30 percent of the total U.S. population. Additional data have shown that in areas where tall buildings are illuminated by the main beam of an RF source it is difficult to find areas where intensities are above 100 $\mu W/cm^2$. However, cases do exist of limited-time exposure of some individuals to RF/microwave fields of higher intensities, and future work by EPA will increasingly investigate such situations.

20. EPA plans to continue their measurements program. Future work will increasingly be devoted to a more detailed examination of unique kinds of exposure conditions. Analyses of pulsed-fields and examinations of near-field exposure conditions are of particular interest. In addition, EPA would like to develop modeling techniques for the prediction of RF/microwave levels near emitters with known characteristics.

21. Nine different categories of RF and microwave sources were listed under Question 1. Summaries of responses in the various categories follow:

(a) Hand-held transmitters operating from 25 to 900 MHz with minimum to maximum powers.

22. The Electronic Industries Association (EIA) pointed out that extensive experimentation has been conducted by Motorola, Inc. to determine the degree of RF/microwave exposure of individual users of mobile and portable hand-held transmitters. Since power-density meters do not accurately measure near-field exposure the experiments performed by Motorola were designed to measure *absorbed* power and specific absorption rate (SAR) in simulated human models. Localized peak SAR's (referred to as "hot spots") have been found in these experiments, but the intensity of these peaks depends strongly on the frequency of the radiation, the distance between the body and the transmitter, and the geometry of the antenna.

23. Measurements using transmitters with powers of less than 7 watts and frequencies below 150 MHz have yielded peak SAR's of 0.4 watts/kilogram (W/kg) or less in tissues rich in water. Depending on frequency, transmitters have shown greatest power deposition in surface fatty layers (150 MHz) or in water-rich tissue (400–600 MHz). At the higher frequencies peak energy deposition reportedly occurred near the feed-point of the antenna. According to these studies, a 0.4 W portable transmitter held 5–8 cm from the face or body exposes the user to much less radiation than would result from a 1 mW/cm^2 plane wave. However, the American Radio Relay League (ARRL) stated in their response that the present 10 mW/cm^2 standard

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[9] *Report and Order* in Docket No. 19555, *supra*, 49 F.C.C. 2d at 1307.

[10] *Id.* at 1307 (Appendix II). The FCC also stated here that part of its role was to "assist in current Government efforts to develop a dependable understanding of biological effects and realistic exposure levels, primarily by furnishing measurement data for existing Commission-licensed communications facilities * * *" *Id.* at 1307.

[11] *Far East Broadcasting Company, Inc.*, 68 F.C.C. 2d 888 (1977).

[12] *Id.* at 906.

[13] *Id* at 902.

[14] *Id.* at 902.

[15] The FCC qualified this strict reliance on standards promulgated by health and safety agencies by stating that:

> "Of Course, even in the absence of official exposure standards, we would consider appropriate action if it were shown either that a station's transmissions were causing health problems near the station or that reliable scientific experiments showed that radiation or that reliable scientific experiments showed that radiation equivalent to that produced by the station (particularly in frequency and level) caused harmful effects." *Id.* at 902.

[16] *Megamedia (KISR–FM)*, 67 F.C.C. 2d 1227 (1978).

[17] In Appendix 3, para. 2, 49 F.C.C. 2d at 1307, the formula given for calculating hazardous radiation distances is incorrect as printed. The correct formula is:

$$d = \frac{EIRP}{3.4024}$$

Where: d = distance in feet.
EIRP = effective isotropic radiated power in watts.

[18] 67 F.C.C. 2d at 1523.

[19] *See* "Radiation Exposure Standard due from ANSI, EPA, NIOSH," *Electronic Engineering Times*, (October 25, 1976), "Criteria for a Recommended Standard * * * Occupational Exposure to Radiofrequency and Microwave Radiation," Director's Review Draft, NIOSH Criteria Document (November 1978).

[20] *Notice of Inquiry*, Docket No. 79-144, *supra*, 72 F.C.C. 2d at 468.

[21] *Id.* at 485.

[22] See National Environmental Policy Act, 42 U.S.C. 4321–4347 (1976); 47 CFR 1.1301–1.1319 (Procedures Implementing the National Environmental Policy Act of 1969).

[23] *Id.* at 488–485.

[24] Docket 79-144, 72 F.C.C. 2d (1979).

[25] One $\mu W/cm^2$ equals 0.001 mW/cm^2.

could be exceeded 2 inches (5 cm) or less from the antenna of a low-powered portable transmitter. According to ARRL most amateur equipment is operated in the frequency range of 150–470 MHz with transmitter powers of 1–5 watts. John Abbott, a licensed amateur, submitted tables showing practical operating distances for most amateur installations and hand-held units.

24. EPA published an investigation of exposures resulting from a hand-held walkie-talkie operating at 164 MHz and 1.8 watts with a 5-inch antenna. The maximum electric-field energy density in the area of the head was found to be over 200 nanojoules/cubic meter (nJ/m³; 10 mW/cm² corresponds to about 177 nJ/m³). This maximum value occurred near the eye closest to the antenna and represented a "worst case" since the antenna was located within 3 inches of the eye. Levels exceeding 10% of the 10 mW/cm² standard (about 20 nJ/m³) were found in the middle of the forehead and on the tip of the nose. Exposure levels rapidly diminished by a factor of ten within 1 or 2 inches of exposure sites.

(b) Land mobile transmitting antennas with gains from 0 to 10 dB operating from 25–900 MHz with powers of 200 mW to 400 W antenna input and mounted on vehicles or towers.

25. In their response to this question the GTE Companies (GTE) indicated that field measurements have not been made with regard to paging services and mobile telephone services offered by them in the VHF/UFH bands. However, a mathematical analysis of one VHF installation with up to four carriers (maximum ERP: 350 W per carrier) showed a maximum far-field power density of about 0.04 μW/cm² per carrier.

26. ARRL noted that simple tests have been conducted by amateur radio operators using input powers on the order of 1 kW at frequencies of up to 144 MHz. Various antennas have been used with forward gains of 10 dB or more. According to ARRL no "significant" readings using "available sensors" were detected within the main beam or in the surrounding area.

27. Extensive comments were provided by EIA in response to this question. With regard to 100 W mobile transmitters, EIA reported the results of experiments in which SAR's were measured using human phantoms (models) inside a car with a metal body. The results showed SAR's of 0.3 W/kg or less and total power absorption of less than 2 W for all antenna mounts tested using a frequency of 150 MHz. A field strength of 1.5 V/cm was detected 5 cm from the steering wheel. However, if the steering wheel were held the field collapsed, and no detectable SAR could be measured.

28. EIA observed that 100 W mobile transmitters operating at 150–900 MHz could be expected to produce levels of about 1 mW/cm² at a distance of about 1 m from the antenna. At 30 MHz, measurements were difficult and not conclusive. Reactive fields at this frequency can extend 30 cm or more from metal parts. However, according to EIA, these fields do not result in appreciable deposition of energy in deep tissue, and maximum exposure at a distance of 1 m from the antenna should be 1 mW/cm² or less. It was noted by EIA that exposure from a mobile transmitter at distances on the order of 1 m from the antenna actually constitutes partial-body exposure. Under these conditions the total power absorbed by an individual would be less since whole-body resonant phenomena would not be present.

29. EIA reported that Motorola has conducted surveys of several base-station sites having land mobile communications antennas with about 100 W power. Because of the physical separation of the transmitters exposure of technicians and repair personnel was found to be less than 1 mW/cm², provided that the transmitter to be serviced was turned off during servicing. Cases in which land-mobile installations share sites with FM and TV transmitters have shown that power density levels are no greater than 0.7 mW/cm² near *unexcited* land mobile antennas if sufficient separation exists between broadcasting and land mobile antennas.

30. Tall buildings where power density levels exceeded current OSHA guidelines were listed by EIA. The buildings involved were the John Hancock and Sears buildings in Chicago and the Prudential Center in Boston. Frequencies involved were within the range of 10–300 MHz. A large number of locations were measured at each building, and the higher readings were obtained in only a few instances. In all cases the average or background levels were below 1 mW/cm².

31. The American Telephone and Telegraph Company (AT&T) has conducted an extensive program of RF measurements for some time under the auspices of its Bell Labs division. With regard to mobile antennas operating in the 800-MHz band AT&T reported the following. An inpost power to an antenna of 10 W resulted in a maximum power density of less than 0.2 mW/cm² in the passenger compartment of a vehicle. Outside the passenger compartment power densities of 10 mW/cm² (2.5 inches from the antenna) and 1 mW/cm² (12 inches from the antenna) were measured. AT&T also reported results involving cellsite antennas operating in the 800-MHz band. Measurements were made of RF radiation levels in the vicinity of an omni-directional antenna with 96 transmitters (10 W each). Measured power densities in the main beam were below 1 mW/cm² approximately 40 feet from the antenna. Near the base of the antenna power densities did not exceed 1 mW/cm² at any distance beyond 2.3 feet.

32. Electric field intensities have been investigated by EPA in and around none separate vehicles with mobile communications equipment. Two carrier frequencies were investigated, 41.3 MHz (100 W) and 164.5 MHz (60 W). The only instances in which the 10 mW/cm² standard (equivalent to 177 nJ/mG23) was exceeded occurred within 6 inches of an active antenna. In most cases the antenna was located such as to minimize human contact or approach within 6 inches. At several other locations exposure exceeded 10% of the 10 mW/cm² standard (about 17.7 nJ/m³). EPA noted that these values should represent maximum probable levels for typical mobile communications systems. At 6 and 12 feet from each vehicle exposures were considerably lower (average about 0.5 nJ/m³).

(c) Point-to-point relay transmitting antennas with gains from 20 to 50 dB operating below 300 GHz with typical and maximum radiated powers.

33. Early in 1979 GTE measured power densities in and around selected radio-relay transmitting facilities in Florida using sensitive, specialized instrumentation. Frequencies involved were in the range of 2–6 GHz. For each radio-relay path power density measurements were made along the direction of sight as well as close to the tower. At a satellite earth station measurements were made in the station building, around the base of the antenna, and at an off-site location under the antenna beam. Predicted intensity levels were found along transmission paths. Highest power densities were found at or near the location where the edge of the mainlobe of the antenna pattern first encountered the ground. For all measurements, maximum levels found in areas accessible to the public were below 1 μW/cm². GTE noted that during one survey on a nearby building RF levels due to non-GTE transmissions were found to be on the order of 150 μW/cm². A commercial RF monitor used in such a situation would probably have read cumulative power density, leaving the user with no information on the source of the radiation.

34. EIA provided information based on two recent papers describing measured and calculated power densities near typical microwave radio-relay sites. Frequencies involved were in the 4-GHz, 6-GHz, and 11-GHz common-carrier bands. Calculated on-bean power densities from an antenna with 20 transmitters ranged from 1.4 mW/cm² (directly in front of the antenna) to several nanowatts/square centimeter (nW/cm²) at the receiving antenna, 28 miles away.[*] At ground level directly below the axis of the major lobe of the radiation pattern measured values for 4-GHz and 6-GHz systems were generally less than 10 nW/cm². None of the systems approached a ground level power density of 1 μW/cm².

35. AT&T has also measured power densities in the vicinity of point-to-point microwave antennas. Levels were generally below 1 mW/cm² even in the case of relatively high-powered systems. Measured levels in microwave radio equipment rooms and associated areas averaged less than 10 nW/cm². Measurements inside and outside of two satellite ground stations did not exceed 0.25 μW/cm². In general, exposure levels for various earth station designs would not be expected to exceed 50 μW/cm² except in the main beam, which is generally inaccessible.

36. EPA has also analyzed RF/microwave levels in the vicinity of earth satellite ground stations. In general, the possibility of exposure from such ground stations is low, primarily because the emitted microwave radiation is directed skyward. Measurements and calculations have shown that power densities may exceed 10 mW/cm² in the main transmission beam of certain high-powered ground stations. However, such levels should not constitute a hazard if no possibility exists for exposure of individuals to the beam. Several factors must be considered with regard to potential exposure from ground stations. They include:

(a) The actual transmitter power routinely used

(b) Procedures employed in operation of the system

(c) Height of the station above ground

(d) Characteristics of the surrounding terrain

(e) Sidelobe radiation characteristics of the antenna

(f) Minimum elevation angle of the antenna below which the system cannot operate

(g) Population characteristics within the area of operation

37. Raytheon Company commented on item (c) only to state that they supply 6-GHZ and 11-GHz point-to-point radio equipment to common carriers.

(d) AM radio broadcast antennas with typical and maximum powers.

38. EPA has conducted a survey of broadcast radiation levels in Hawaii, and, included in that survey, is an analysis of electric field strength levels resulting from AM broadcast transmitters. AM radio stations transmit vertically polarized signals by means of vertical towers located above ground or occasionally on the roofs of buildings. The entire tower constitutes the radiating element, and a ground-wave field is produced. Ground-level field strengths were calculated as a function of distance up to 5 km from one 10 kW transmitter. At 100 m electric field strength was computed to be 9.3 V/m (equivalent to about 23 μW/cm²). At another location five 5-kW stations used the same tower, and the maximum expected equivalent power density at ground level was computed as 57.8 μW/cm².

(e) FM radio broadcast antennas with typical and maximum powers.

39. EPA has made over 14,000 measurements of VHF and UHF signal field intensities at approximately 500 urban locations. They have concluded that the VHF and UHF broadcast services (including FM) are the main sources of ambient RF exposure of the U.S. population. In particular, it appears that the FM radio broadcast band is most responsible for overall exposure, especially at the higher levels. These relatively high fields result from a combination of relatively low tower heights and broad vertical antenna radiation patterns in spite of the relatively lower ERP's authorized for FM broadcasting compared to VHF and UHF television frequencies.

40. EPA surveyed the multiple-frequency RF environment on Mt. Wilson in California where a total of 27 broadcast transmitters are located (12 FM radio transmitters and 15 VHF and UHF television transmitters). Maximum radiation levels were found to be in the range of 1–7 mW/cm², depending on location. The higher values were generally encountered near conducting objects and usually involved only small areas of concern. Levels near 1 mW/cm² were likely to be present in areas near the base of FM towers. The major proportion of total exposure on Mt. Wilson was found to be due to the FM broadcast stations. This observation is due to the broader radiation pattern of FM antennas in the vertical plane as compared to TV antennas.

41. EPA noted that one situation of concern is the potential exposure of operating and maintenance personnel to high RF levels in the immediate vicinity of FM broadcast towers. EPA has made measurements near such towers, and the results have shown that exposure intensities can exceed the present OSHA recommended safety level of 10 mW/cm² by a factor of more than ten. This suggests the need for corrective action to protect personnel who must climb these towers or otherwise be in their immediate vicinity. An example of such a protective measure would be a requirement that transmitters be turned off while personnel are on the tower. EPA field measurements have also shown that intense RF levels may occur near the base of certain FM antennas.

(f) Television broadcast antennas with typical and maximum powers.

42. As mentioned in section (e), EPA has surveyed the RF environment on Mt. Wilson in California. A total of 15 VHF and UHF television transmitters are located there. However, despite this large number and despite the high ERP's of the transmitters, it was found that the FM radio transmitters were the greatest contributors to RF exposure levels. At one location, in a parking lot, essentially the entire broadcast spectrum could be analyzed. Results showed that the combined VHF–TV and UHF–TV contribution (about 26 μW/cm²) was lower than the FM radio contribution (about 30 μW/cm²).

43. In another report, EPA summarized its findings with respect to a high-powered UHF–TV broadcasting facility used cooperatively by two channels (combined visual and aural ERP about 5.6 MW). Calculations showed that exposure levels fell sharply as distance from the tower increased. At locations greater than 0.5 mile from the transmitter site the maximum exposure at ground level was calculated to be about 2.7 μW/cm².

(g) Industrial, scientific, and medical (ISM) units at typical maximum power levels now in use.

44. EPA has published the results of field-strength measurements made in the vicinity of microwave ovens operating at 915 MHz (an ISM frequency). Field strengths were measured under laboratory conditions 10 and 1000 feet from an oven and also near two large buildings equipped with almost 400 ovens. The tested oven produced maximum electric field strengths of about 1.5 V/m (at 10 ft) and about 11 mV/m (at 1000 ft). In the vicinity of the buildings the highest levels observed

[*] One nW/cm² equals 1×10⁻⁵ mW/cm².

were about 8.9 mV/m at a location approximately 500 feet away.[38]

45. The Industrial Electronics and Control Instrumentation Group of the Institute of Electrical and Electronics Engineers (IEEE) commented that near-field radiation pattern from ISM equipment depend on such factors as shielding, design and construction of the equipment, operating frequency, size and shape of work electrodes, electrode voltage and current, and presence or lack of a conveyor.

(h) *Radar transmitters (marine, police, airport, military, etc.) with typical and maximum powers.*

46. Raytheon provided data which indicated that power density levels in the beam of a typical radar system, i.e., considerably above ground level ranged from slightly over 70 mW/cm² (near-field at 27 m) to less than 1 μW/cm² (far-field at 10,000 m). For a high-powered radar system this range increases to slightly over 300 mW/cm² (near-field at 50 m) down to less than 10 μW/cm² (far-field at 10,000 m).

47. EIA provided a figure and chart from the General Electric Company which showed the distances from an antenna necessary to avoid a field (in the main beam) of 10 mW/cm² or more. Depanding on the type of radar, these distances ranged from 0 to just over 1000 feet.

48. Various radar systems have been studied by EPA including military radars, air traffic control radars, weather radars, and traffic radars used by police personnel. In general, time-averaged power density levels associated with these systems depend on several factors including: a) transmitter power, b) pulse duty cycle, c) antenna dimensions, d) aperture efficiency, e) electromagnetic frequency, and f) for rotating antennas: angle through which the scan occurs.

49. According to EPA, most U.S. radars produce rotational time-averaged power densities of less than 0.01 mW/cm² at ground level in the far-field region of the antenna. Non-rotational tracking radars can produce higher power densities at greater distances from antennas. Traffic radars used by police departments are generally low-powered devices which are incapable of producing environmental levels greater than about 1 μW/cm² at distances where persons would be exposed. Measured levels near the units themselves did not exceed 4 mW/cm².

(i) *Any other sources of non-ionizing electromagnetic radiation on which experimental or empirical data is available.*

50. ARRL noted that radiation patterns in the near-field of amateur radio stations are highly variable. However, they felt that the combination of relatively low power and intermittent operation make it unlikely that RF emissions from amateur stations would constitute a health hazard. Use of shielded transmission cables or field-cancelling lines and careful positioning of antennas should essentially eliminate unecessary exposure to RF fields from amateur radio facilities.

51. COMSAT General Corporation (COMSAT) provided information on maritime satellite ship terminals used in their MARISAT system. Power density measurements were made in the vicinity of a terminal using a 40 W transmitter (1.64 GHz) with a 1.2 m parabolic antenna in a fiberglass radome. With power input of 20 W (EIRP = 37 dBW) power densities along the antenna boresight ranged from 5.5 mW/cm² (6 feet) to 0.6 mW/cm² (32 feet). According to COMSAT, these levels should be representative of ship terminals of other manufacturers. Ship terminals are usually mounted on masts or upper levels of the ship to minimize antenna blockage and to minimize exposure to personnel. In some cases installations can be as little as 10 feet above deck. However, exposure should still be well below 1 mW/cm² because the antenna is pointed skyward. Most of the near-field pattern of a typical terminal is limited to the interior of the radome (about 2 feet from antenna aperture to the radome wall). This precludes the formation of standing waves since they require the presence of large reflecting surfaces in the near-field pattern. Another factor limiting personnel exposure is the intermittent operation of a typical ship terminal.

52. *Question 2* provided further instructions on the information sought in Question 1. *Question 3* asked for statistics relating to morbidity of individuals operating RF/microwave equipment. None of the respondents provided such data. However, this is not surprising in view of the limited availability of this kind of information. Responses to the remaining questions are summarized in the following paragraphs.

53. *Question 4: Describe the applicability (or lack thereof) of the standard adopted for microwave ovens (1 mW/cm² at five centimeters) to other radio equipment with appropriate adjustment for frequency and manner of use. What studies support your conclusion?*

54. Most of the comments received in response to this question expressed the opinion that the Bureau of Radiological Health's microwave oven standard could not be translated into an enforceable standard for other radio equipment. However, GTE thought it possible that certain sections of Part 73 of the FCC rules could be expanded to include maximum tolerable leakage from RF equipment.

55. COMSAT expressed a commonly-held view that emission standards are not appropriate for controlling human exposure to RF radiation. They pointed out that an emission standard fails to consider the potential for controlling access to areas where hazardous radiation occurs. Emission standards, according to COMSAT, are more appropriate for RF emitters which are designed to be used with people in close proximity to the device. Examples of such devices would be microwave ovens and hand-held, land-mobile transmitters.

56. *Question 5: Describe the pros or cons of adopting the 10 mW/cm² ANSI guideline if it were adopted as an interim standard pending completion of definitive studies establishing safe radiation levels.*

57. The responses to this question were divided. Several commenters were favorably disposed toward FCC adoption of the present ANSI guideline of 10 mW/cm², while others were opposed to such an action. Raytheon felt that the ANSI guideline should be adopted until studies indicate that the 10 mW/cm² level should be changed. They currently have no information to indicate that this level is unsafe for the general public. Similarly, NAB, TVBAC, ABC, and NBC each expressed opinions to the effect that stricter standards were not necessary.

58. Satellite Business Systems (SBS) favored federal adoption of the ANSI guideline as an interim standard. They were concerned primarily about the possible proliferation of state and local standards as a consequence of inaction by the federal government. This fear of proliferation of standards was expressed by several other respondents including NBC, TVBAC, ABC, NAB, and the Utilities Telecommunications Council (UTC).

59. EPA pointed out that the current ANSI standard represents an upper limit for occupational exposure in light of recent information showing a resonance for human whole-body absorption of electromagnetic energy in the frequency range of 30–300 MHz. They felt that the 10 mW/cm² limit should be mandatory and went on to suggest that:

[38] One mV/m corresponds to a power density of about 0.0008 nW/cm².

If FCC could accomplish this through a rulemaking procedure then we would at least have an interim, enforceable occupational standard while OSHA is developing its position on a standard.

60. The Air Transport Association of America (ATA) noted that they have no problem with the current ANSI standard of 10 mW/cm² as an interim standard. The Association of Federal Communications Consulting Engineers (AFCEE) felt that until new standards are adopted, the FCC should apply the 10 mW/cm² criterion in the frequency range of 10 MHz to 100 GHz. The Natural Resources Defense Council (NRDC) felt that the FCC should follow guidelines at least as strict as 1 mW/cm² with respect to occupational exposure. As NRDC put it:

> Only if the Commission adopts adequate exposure guidelines and routinely requires data on potential exposure levels will it be able to carry out its public safety responsibilities under its own statute and NEPA.

61. The 10 mW/cm² guideline is presently being revised by ANSI, and GTE proposed that the FCC consider incorporating the *new* ANSI limits into the FCC Rules and Regulations. This could be accomplished, according to GTE, by following the structure of § 73.317 (Subpart B). They suggested that the Rules could caution that personnel not be exposed above the ANSI limits and that licensees take special precautions to restrict areas in which overexposure was possible. GTE suggested that applications for station licenses and renewals contain a clause stating that the applicant will comply with the ANSI guideline. GTE also proposed that examinations for Class I and Class II operator licenses include material on RF emission and exposure standards and on measurement techniques.

62. AT&T and ARRL also pointed out that the 10 mW/cm² ANSI standard was being revised. ARRL considered it premature at this time to adopt the 10 mW/cm² standard. AT&T urged the Commission:

> • • • to delay any action in connection with adoption of the present ANSI guideline until the guideline is reissued, which is expected in the near future.

63. Other commenters opposed adoption of the ANSI standard. IEEE thought the 10 mW/cm² standard to be unnecessarily low, and they noted that many individuals have worked in RF fields exceeding this level without suffering harmful effects.

64. API felt that establishment of an interim standard would lead to public confusion because they did not think it would have adequate scientific basis. Also, they did not believe that the Commission has the authority to set new or interim standards or to enforce standards beyond the issuance of a restricted authorization. This view was also expressed by SIRSA. API stated that the development and enforcement of non-ionizing radiation standards is the responsibility of the Occupational Safety and Health Administration (OSHA), the Environmental Protection Agency (EPA), and the Bureau of Radiological Health (BRH). Other commenters, including EIA, SIRSA, NAB, UTC, and CBS, Inc. (CBS), were also of the opinion that the FCC should not adopt interim standards at this time. In the words of NAB, the Commission should not:

> • • • consider applying occupational and/or public safety standards in the absence of a request by safety and health agencies operating on a full and well-substantiated record of public need.

65. *Question 6: Should measurements of field intensities within the area of FCC authorized facilities be made? By whom?*

66. Reaction to this question was varied. In the case of ISM devices, IEEE expressed the view that measurements should be made by those individuals who are responsible for preparing "annual reports" on such equipment. Raytheon stated that:

> • • • all FCC-authorized facilities should be required to make microwave field intensity measurements. The operator of the facility should make these measurements and such records would be made available by the FCC for inspection.

However, Raytheon proposed that if field intensities are calculated to be below 0.1 mW/cm², the FCC should have the option of deleting this requirement on a case-by-case basis. EPA recommended that, at a minimum, a study should be made to determine field levels in the vicinity of typical transmitters. Ford Motor Company was of the opinion that little information is publicly available concerning existing or anticipated RF field environments. They felt that:

> • • • the Federal Communications Commission and the Department of Commerce through the National Bureau of Standards and the National Telecommunications and Information Administration would appear to be in the best position to define the RF field environment.

Ford also expressed concern over the lack of techniques available for making non-perturbing, accurate measurements.

67. Negative opinions on this issue were expressed by ARRL, SIRSA, and the Central Committee on Telecommunications of the American Petroleum Institute (API). SIRSA and API questioned whether the FCC was the proper agency to perform such measurements. They considered the taking of field intensity measurements in all locations licensed by the Commission to be impractical, and SIRSA characterized such measurements as unnecessary and economically wasteful.

68. With respect to amateur operations, ARRL felt that the FCC does not have the resources to make such measurements and that self-monitoring would be impractical and beyond the means of most operators. ARRL contended that an FCC-controlled monitoring effort would not be feasible and cost-effective when compared to the usefulness of such measurements.

69. EIA felt that in certain cases it may be necessary to require field intensity measurements, and, if so, the licensee should see that the appropriate measurements are made at the time of installation of the equipment. As measurement techniques improve, they continued, prediction methods may obviate the need for most measurements.

70. AT&T expressed the view that measurements would constitute a considerable burden to licensees. They proposed alternatives of using standardized, conservative calculations or of referring to similar measurements made previously. AT&T also suggested that the Commission may want to consider a temporary program of making measurements at selected, typical facilities to confirm the reliability of predictions based on calculations. They pointed out that it may be difficult or impossible to rely on standardized calculations to predict field intensities in radio equipment rooms, and in those cases direct measurements, or references to previous measurements at similar facilities, may be necessary. However, AT&T noted, because of the possibility of unacceptable transmission or interference problems caused by even low-level leakage, operators are inclined to control such leakage at levels well below those considered to be hazardous.

71. GTE also felt that measurement conducted on a routine basis would be an unnecessary burden, both for the licensees and for the FCC. However, if calculated power density levels exceeded an emission standard GTE would consider it appropriate for the licensee to make measurements as necessary.

72. *Question 7: Should the Commission do a study to determine*

what services use FM and TV towers for mounting their equipment (e.g., point-to-point transmitters, CATV receivers and land mobile transceiver antennas)?

73. Varying opinions were expressed by those responding to this question. EPA thought that results of such a study could help define the number of workers who climb towers and might be exposed to high RF fields. However, API and EIA questioned the usefulness of this proposal. API would not endorse such a study without an explanation of what benefits the FCC expected from it, and EIA did not think that this kind of study would of itself identify those areas which meet applicable safety regulations. CBS thought that an FCC study to determine the extent to which RF equipment is used is worthwhile as long as it does not result in an unnecessary administrative burden.

74. GTE noted that of 14 GTE domestic telephone companies only 5 had one or more sets of facilities mounted on an FM or TV tower. If the FCC decides to make a study, they continued, it will be necessary to obtain the Particulars of Operation of each of the collocated antennas to determine the total radiated power.

75. *Question 8: Should measurements of field intensities on all FM and TV towers be required? If so, how, when, where, how often and by whom? If field intensity measurements are required, how would the ability of private industry to perform the required measurements be affected by the current availability of measurement equipment?*

76. This issue was also raised, in general, in Question 6, and many commenters expressed their opinions on this matter at that time. In response to Question 8, EPA commented that if an enforceable standard is established conformance should be required before access to a tower is allowed. This would require measurements, they continued, unless access was not allowed while the station was transmitting. A single evaluation should be sufficient until there is a change in equipment or in operation procedure.

77. NRDC proposed that all licensing applications made to the FCC contain information on field intensities in the vicinity of FM and TV towers. In the case of new applicants this information would be in the form of estimates. NRDC felt that on-site measurements are necessary to determine worker exposure, and that the responsibility for such measurements should rest with FCC licensees.

78. Both CBS and TVBAC disagreed with this position. They saw no need for widespread field intensity measurements in the vicinity of FM and TV towers. CBS suggested that theoretical values could be compared with those previously obtained by EPA and OSHA to predict field intensity levels near broadcasting towers. If field measurements should be required, however, CBS thought that the broadcasters should be responsible for making such measurements. They noted that monitoring equipment could be leased or purchased, or broadcasters could contract with consulting firms for such services.

79. *Question 9: Should the Commission establish procedures for protecting personnel when working on antenna towers?*

80. Many respondents to this question felt that the responsibility for establishing such procedures rests with OSHA and not with the FCC. Among those expressing this opinion were API, SIRSA, Raytheon, and AT&T. EPA, however, thought that either the FCC *or* OSHA should establish such procedures. EPA commented further on this matter in their responses to Questions 1(e) and 10.

81. AT&T argued that:

> Any efforts by the FCC to establish procedures for tower workers could create confusion for both employers and employees and might lead to jurisdictional confrontations between the FCC and OSHA.

82. SBS was also of the opinion that it was inappropriate for the FCC to adopt such procedures. They maintained that radio operators have a vested interest in the health and safety of their employees:

> * * * such that more than adequate motivation exists for the voluntary implementation of operating procedures at RF transmitter sites, as may be necessary, to protect personnel during the course and scope of their employment.

83. GTE felt that training by the licensees themselves was the best approach. They also expressed the view that antenna towers should be clearly posted where RF emissions may exceed permissible standards.

84. With regard to amateur radio operations, ARRL noted that it was unlikely that individuals would be exposed to near-field RF energy on an amateur installation because work is rarely done on live antennas. They concluded that such regulations with respect to amateur facilities would be both impractical and unnecessary.

85. EIA proposed that the FCC consider the following actions to assure the safety of tower workers: (1) appropriate standards could be promulgated as soon as other agencies have established adequately justified guidelines, (2) dependable measurement procedures should be established to permit accurate determination of adherence to standards, and (3) other general procedures for assuring personnel safety could be promulgated, e.g., warning signs could be required in areas where hazardous RF levels exist. EIA pointed out, however, that it would be difficult for the FCC to establish detailed procedures that could be universally applied to a large number of transmitter sites. An example of such a problem would be a location with a large number of transmitters operating at various powers, frequencies, etc.

86. Broadcasting groups expressed varying opinions on this issue. CBS felt that once a standard was established by federal health and safety agencies the FCC "* * * would be the most appropriate agency to establish procedures for protecting personnel in the employ of Commission licensees." ABC commented that while environmental effects cannot be controlled by the broadcaster, occupational effects can be controlled to an extent. They noted that procedures that involve using auxiliary facilities or reducing power have been established for use during maintenance of certain of their transmitters.

87. NAB registered its opposition to stringent occupational standards for broadcasting facilities, and they did not think that this was an area for direct action by the FCC. NAB stated that:

> * * * after years of experience, during which broadcast personnel have routinely climbed in between actual operating elements of radio and television antennas, and performed other maintenance without any known ill effects, we find that the need for stringent occupational standards is unwarranted. Employee exposure with such higher level radiation is of relatively short duration and need not occur on an overly frequent basis.

88. *Question 10: Are there any procedures used by personnel in the operation, testing and maintenance of transmitting equipment that require personnel to be exposed to high field intensities? If so, what measures can be employed to reduce or eliminate such exposure?*

89. From the response to this question, it appears that such situations exist, although not at all RF-emitting facilities. COMSAT knew of no such situations involving its MARISAT satellite system. GTE employees are trained to avoid situations which might result in excessive exposure to RF radiation, and, according to GTE, possible RF exposures are well-controlled in their various operations. Similarly, EIA knew of no such situations where excessive exposure could occur. They noted that work rules exist to ensure that personnel are not overexposed. An example of such a rule would be a requirement for disabling a transmitter before admission of personnel to areas in its vicinity. According to EIA, operators are generally removed from high RF fields, and there is no opportunity for excessive exposure. For example, testing of an active emitter can be done remotely or with adequate shielding to prevent exposure of personnel.

90. AT&T noted that their normal operating and testing procedures do not present the possibility for excessive exposure to RF radiation. However, they continued, special situations could arise in which the potential for exposure to high intensities could exist. In those circumstances employees are instructed, by the Bell System Practices, to wear protective garments (radiation suits). AT&T suggested that to avoid cases of overexposure the following precautions should be taken: (1) maintenance and operating personnel should be given information on potential hazards from RF radiation, (2) personnel should be provided with detailed safety instructions, and (3) maintenance and repair should be performed with transmitters deactivated if possible.

91. ARRL commented that there are undoubtedly situations where overexposure could occur. An example given was the adjustment of an RF power amplifier with the power on. ARRL suggested that risk could be reduced by identifying hazards and by training personnel to use the safest procedures.

92. The only situation of possible overexposure mentioned by SBS was the replacement procedure for a malfunctioning traveling wave tube (TWT). However, they indicated that tests have shown that any exposure of personnel in such a situation would fall within levels considered "safe."

93. API believes that technicians are sufficiently aware of existing RF hazards, such as open waveguides, to realize that precautions must be taken to avoid overexposure. Raytheon felt that in the isolated cases where exposure of an extremity is absolutely necessary the matter should be handled on a case-by-case basis. However, they noted that routine operating procedures in industry do not normally expose personnel to levels above 10 mW/cm^2.

94. According to IEEE, with respect to ISM equipment, procedures such as initial set-up, alignment, power adjustments, etc. may require exposure of personnel to high field intensities. They maintained, however, that these exposures are for a short time and, therefore, not serious. IEEE noted that the reduction of hazards depended primarily on the knowledge and training of the individuals involved and that, although safety devices such as interlocks could be built into a system, maintenance personnel sometimes will bypass them, thereby defeating their purpose.

95. EPA's response to Question 10 provided considerable information on personnel who work on FM towers. EPA's publication ORP/EAD 76-2 summarizes data obtained on RF radiation levels on an FM broadcast tower. A number of activities apparently require work on such towers. These activities include painting, beacon replacement, repairs to de-icing equipment, antenna adjustment, and tower rigging and replacement.

96. According to EPA, an examination of their data showed:

> * * * that exposure intensities on FM broadcast towers can exceed the OSHA recommended safety level of 10 mW/cm^2 by more than a factor of 10.

Furthermore:

> It is common practice for this tower work to be done while the broadcast station is operating at full power * * * exposure times are significant for some of (these activities) * * *

The EPA publication proposed that:

> The most effective method of controlling excessive exposure would be turn off or drastically limit the power fed to the antenna while the necessary work is done. This would probably require a rulemaking procedure by the FCC or promulgation of specific work procedures for broadcast towers by OSHA.

97. *Question 11: Can prediction methods be employed to determine absolute power density at locations of interest and would such methods produce sufficiently reliable results? If so, please describe the method and explain how verification was accomplished.*

98. Opinion differed among those responding to this question. The principal conclusion appears to be that fairly reliable far-field prediction methods are available but that near-field exposure situations do not generally lend themselves to accurate prediction by calculation.

99. Some commenters did not feel that sufficient information is presently available to rely on prediction methods. This view was expressed by API, for example, and they noted that, in at least one case, appreciable variations are found between predicted and measured RF levels. IEEE indicated that prediction methods can sometimes be used for ISM equipment, but their accuracy is unsatisfactory, and measurements are still necessary.

100. AT&T noted that results of studies conducted by Bell Laboratories showed that standardized calculations can be developed to reliably predict the upper limit of power density for a single source at an open location. Sources included in these studies were point-to-point microwave systems, satellite earth stations, and cellular mobile-radio systems. AT&T found that comparisons between predicted and measured values indicated that the predicted values were always larger than the corresponding measured values.

101. Raytheon has been using techniques for predicting power densities for several years. These methods are now computerized, and their accuracy has been checked by comparison with field measurements on a large number of radar systems. These comparisons have shown that their predictions are generally conservative, with calculated values exceeding those actually measured.

102. With respect to parabolic reflector antennas, COMSAT stated that in the far-field, and in the transition region between near- and far-field, prediction methods can be used to determine power densities along the boresight of the antenna. Comparisons with actual measurements have indicated that these methods are accurate.

103. EPA agreed that reliable models for predicting far-field exposure levels are available. However, they pointed out that the most intense exposures are likely to occur in the near-field of an RF source, and additional study is required to determine if near-field exposure levels can be accurately predicted.

104. Similar sentiments were expressed by EIA and GTE. GTE felt that the chief usefulness of available prediction methods is in determining the upper bounds of power density. Both they and EIA noted that if the near-field antenna pattern is not precisely known significant uncertainties can exist. Another problem is the failure to account for reflections and multiple polarizations.

105. *Question 12: If measurement of power densities is necessary, what problems does this pose for licensees?*

106. Most commenters responding to this question, including SIRSA, API, ARRL, SBS, AT&T, GTE, and Raytheon, indicated that RF field measurements could represent a considerable burden for licensees. In addition, SIRSA and API, among others, questioned the benefits to be gained by requiring measurements. On the other hand,

NRDC argued that such measurements were essential to determine worker exposure and the added cost would be insignificant compared to basic licensing costs.

107. GTE suggested that in cases where several antennas are present, each operated by a different licensee, the FCC should be responsible for measurements. They also suggested that estimates of power densities should be made before actual measurements are carried out.

108. Raytheon noted that if power density measurements are required, the problems created would primarily depend on the accuracy and periodicity required. For example, it would be expensive to make measurements accurate within 0.1 dB with currently available instrumentation, but 1 dB accuracy could be achieved in field situations.

109. According to ARRL, any measurements made in the vicinity of an amateur radio station would be "meaningless" and of questionable value. The near-field of an amateur antenna is likely to be distorted by buildings, people, etc. ARRL noted that acceptable equipment is available for far-field measurements, but its expense would impose a financial burden which could close down existing amateur stations and discourage potential newcomers.

110. AT&T stated that "there is a lack of standards in methodology and instrumentation for performing such measurements." Furthermore, they noted that, according to the National Bureau of Standards, the precision of field intensity measurements is typically limited to about 6 dB under field conditions, due to differences among operators, instruments, and measurement techniques.

111. IEEE mentioned several potential problems that ISM users would encounter including: (1) A lack of adequate instrumentation, (2) the necessity of removing equipment from production during measurements, (3) the cost of making and reporting measurements, and (4) finding qualified personnel to make measurements.

112. In the case of satellite earth stations, SBS mentioned the problems of cost impact and interference to the communications link during the measurements procedure. Ground-level measurements could be made without difficulty, but measurements in the main beam could cause blockage and degraded performance. Another problem mentioned by both SBS and COMSAT was the inaccessibility of certain antenna locations which would require the use of expensive lifting equipment or riggings. SBS suggested that an alternative to requiring measurements in and around earth stations might be a type-acceptance program for RF equipment used in such stations.

113. With respect to electronic news gathering (ENG) operations, the Public Broadcasting Service (PBS) noted that "any regulations adopted by the Commission should be realistic in terms of their practical application." For example, they continued, a technician carrying portable equipment such as a microwave transmitter cannot be expected to also be equipped with radiation monitoring devices. PBS offered the suggestion that as an alternative manufacturers could be required to specify the distance from an antenna which should be kept clear for safety reasons.

114. *Question 13: What possible techniques can be employed at broadcasting stations and other RF emitters to limit their contribution to cumulative power densities that may be deemed to constitute a hazard?*

115. Various approaches to this problem were offered by several commenters. A pessimistic response was submitted by API which thought it futile to suggest possible means to minimize radiation hazards. They felt that existing portable instrumentation was not reliable enough for precise measurements below 1 mW/cm² and that measurements above this level have also been of questionable value.

116. Raytheon, on the other hand, stated that instruments exist that would allow the identification of contributors to cumulative power densities. This determination could be made using sensitive receivers and spectrum analyzers presently used by the FCC and by industry. EPA also indicated that individual contributors could be determined with a spectrum analyzer. IEEE thought it necessary to isolate each source one at a time in order to determine relative contributions.

117. GTE expressed the view that there is no practical technique for analyzing such contributions. As a general guideline they made the following recommendations: (1) The FCC should limit maximum power to a level consistent with the minimum amount required by the service, (2) the FCC should request the use of directional antennas wherever possible to avoid directing RF energy where it is not needed, (3) the FCC should request the use of a cellular approach where applicable to provide area coverage and reduce power densities, (4) the FCC should request the use of multifunction transmitters and/or modulation methods which maximize signal and limit power density. GTE also recommended that each broadcast applicant be required to be aware of the Particulars of Operation of other adjacent or collocated facilities and to establish at high density locations the contribution of its transmissions to total RF levels. They proposed that the Commission require appropriate adjustments in EIRP to limit contributions to a power density determined to be hazardous. Another possibility, this one mentioned by ABC, is the incorporation of emission limitations into antenna design.

118. AT&T agreed that if an area deemed to be hazardous is accessible to the public it may be necessary to reduce the total power of the contributing transmitters. One method to accomplish this would be to reduce each contribution in proportion to the desired overall percentage reduction in power. However, AT&T thought that this was generally inefficient and uneconomical and that it did not take into acount the frequency dependence of human absorption of RF energy. Also, the cost to minor contributors would be out of proportion to their contribution to total RF levels.

119. A better solution, commented AT&T, would be to concentrate on the impact of the *major* contributors to an area of high power density. They suggested that the FCC could make a public interest determination to decide which major contributors would be affected. This could be done in such a way that the total power density level would be reduced while the cost to the public, in terms of reduced or lost services, and the cost to the licensees, in terms of construction costs or lost revenues, would be minimized.

120. Other methods suggested by AT&T and others were restricting access to areas where high RF levels are found and the use of shielding or absorbing material. It was noted that in all of these methods the practicality, effectiveness, and cost should be assessed before any action is taken.

121. *Question 14: If the cumulative power density observed at a particular location is above 10 mW/cm², how can contributions from individual sources be determined and how should responsibility for reducing contributions be shared?*

122. This general issue was also discussed by several commenters in their responses to Questions 13, 17, and 23. EPA pointed out that their data showed that it would be unlikely to find fields exceeding 10 mW/cm² in areas accessible to the general public. However, occupational exposures could apparently occur at that level.

123. According to Raytheon, methods are technically available to reduce contributions, but they felt that it was first necessary to evaluate political, economic, and safety considerations once contributors have been identified. IEEE commented that in order to determine relative contributions it would be necessary to isolate each source one at a time.

124. GTE thought that the levels proposed by the ANSI 1979 draft proposal should be the reference limit and not 10mW/cm² as stated in the question. However, they indicated that when time-averaging is used the number of situations in the U.S. where high RF levels exist is not great. GTE recommended four methods by which contributions to cumulative power density could be determined. These are: (1) the use of directional antennas, (2) the use of selective band filters, (3) the use of spectrum analyzers, and (4) cooperative arrangements to measure sources individually.

125. AT&T indicated that individual contributions could be determined by calculation-based predictions or by measurement of individual contributors. The latter technique could involve deactivating individual transmitters to assess the effect on overall power density. However, AT&T thought that this method should be avoided if possible since it could affect service, involve a significant expense, and was often impractical. Methods suggested by AT&T for controlling RF emitters were reducing power, restricting public access, or adequately shielding affected areas.

126. ARRL noted that since amateur radio stations operate on an irregular basis at relatively low power levels their effects on total RF levels in an area is small. It is very difficult, they continued, to quantify the contribution of amateur transmitters at a specific site having a high cumulative power density.

127. *Question 15: If prediction methods may be employed in determining power densities, what difficulties can be anticipated in determining radiation from antennas at angles toward the base of a tower and up to horizontal?*

128. From the comments received in response to this question and Question 11, it appears that prediction methods are available. However, mainbeam calculations are apparently more reliable than those for side lobes, and further data are required on antenna radiation patterns.

129. EPA reported that they have had difficulty obtaining radiation pattern data for steep depression angles. Apparently at least some manufacturers consider this information to be proprietary. If the antenna pattern data are known then calculations can be compared with measurements to determine the degree of accuracy. EPA is planning a study which may produce useful data on broadcast antenna patterns. EIA also commented that information is not adequate for near-field antenna patterns. Until more data are available they felt that measurements rather than calculations are required.

130. Raytheon noted that if an antenna pattern is known prediction methods used by them to determine power densities in the main beam could be used to determine power densities in side lobes touching the ground. However, they do not feel as confident about the latter calculations. According to Raytheon, field verification is difficult, with respect to radar systems, because power in the side lobes is typically 30–50 dB lower than power in the main beam.

131. GTE felt that by using standard methods and by accounting for reflection the upper bounds of power density can be calculated. However, according to AT&T, some difficulties may be encountered, and actual power densities may be different than those predicted. They pointed out that antennas in field sites are typically near objects that can distort the radiated field. This is especially true at angles well away from the main beam. But AT&T thought that despite this problem calculations could be developed which would allow sufficiently conservative predictions of the upper bounds of power densities around antennas.

132. *Question 16: Describe how any standard adopted should differ for the various frequency ranges and state why.*

133. Comments received in response to this question nearly unanimously endorsed the frequency-dependent approach to standards illustrated by the recent ANSI C95.4 proposal. However, IEEE reported that they have no basis for recommending standards at this time due to their lack of knowledge of any harmful effects from RF energy used in industrial heating equipment.

134. GTE recommended that the ANSI C95.4 proposal be adopted and incorporated by the FCC into its practices to be followed by licensees. The adoption of the ANSI guideline, they continued, would, to their knowledge, entail no hardship on any existing licensed service.

135. EPA agreed that there was good evidence for considering frequency-dependent absorption in developing standards, e.g., as in the ANSI approach. Raytheon and EIA also endorsed the ANSI rationale. Raytheon recommended that an exposure limit in the human resonant range of 30–300 MHz should be approximately one-tenth that for frequencies greater than 3 GHz, and, for frequencies below resonance, limits should be relaxed in proportion to $1/f^2$.

136. Both Raytheon and EIA suggested that consideration should also be given to partial-body exposure. EIA noted that this was important since most if not all significant human exposure occurs in the near-field where partial-body exposure is predominant. Consideration of exposure for short durations was also recommended by Raytheon, since, according to them, exposures to high power sources are of a transient nature.

137. SBS endorsed the frequency-dependent rationale. However, they would like to see the exposure level for frequencies greater than to GHz set at 10 mW/cm². This proposal, according to them, is based on information submitted to the ANSI C95.4 Subcommittee.

138. ARRL also agreed in principle with the frequency-dependent approach and with the concept of the 30–300 MHz region having the most restrictive limits. They objected to breaks in the HF band of the "current two-level standard" and recommended that the limits should rise above and below the human resonant peak more or less as proposed by ANSI. ARRL also stated that:

> Our experiences clearly indicate, for instance, that for frequencies less than 1.0 MHz the current PEL of 50 mW/cm² may be too high by a factor of two or more.

139. *Question 17: If there are places frequented by people where the radiation exceeds 10 mW/cm², what action should be taken to reduce this level? Should grants of all radio applications which would tend to raise this level cease? Should a determination be made that a licensee or some radiation source must reduce or terminate its operation? How should such a determination be made?*

140. This general issue was also raised in Questions 13 and 14 and many of the responses discussed previously are relevant here. Several commenters including EPA, GTE, NAB, and TVBAC noted in their responses that it is unlikely that the general public may be exposed to RF levels of 10 mW/cm² or more. If such situations are identified then EPA and GTE suggested that they be handled on a case-by-case basis. Methods mentioned to correct such situations included reducing output power, controlling public access, or providing shielding. EIA echoed these sentiments, and, in occupational situations where high RF levels are

found, they recommended additional control methods of restricting operations when personnel are in the area and requiring personnel to wear protective clothing in such areas. EIA felt that the general public should not be allowed to enter areas in which RF levels exceeded 10 mW/cm².

141. *Question 18: Reduction in Output power could have a deleterious economic effect on several of the radio services. It could also cause a reduction in service to the public. Does a health risk, no matter how small, outweigh economic loss or service cutbacks, no matter how large? By how much? Quantify your contention.*

142. Most of the commenters responding to this question expressed the view that no substantial disruption of services should be considered unless there is a clearly identified health risk. In the words of EPA:

> Unless a threshold for effects is established, some balance will have to be struck between health risks and health benefits.

A diffrent position was taken by NRDC. They stated that:

> * * * we believe that the evidence of bioeffects from RF/MW radiation is adequate to compel placing greater emphasis on safeguarding the public from this radiation than on protecting the interests of the users of the communications technologies which are intended to serve the public.

NRDC said it expected that few facilities would be denied licenses for health reasons since several methods exist to minimize RF emissions.

143. Raytheon felt that reductions in output power should not be required "in response to unknown, unquantified and merely suggested harmful effects on the population." A common opinion, as expressed by AT&T, was the need for achieving a balance between social benefits and potential RF hazards. An acceptable balance would be achieved when there is a consensus that the risk is worth the benefits. According to AT&T:

> * * * there is no clear evidence that lowering the exposure limit below the current consensus level will reduce the biological risk, because no biological hazards to humans have been substantiated at exposure levels lower than 10 mW/cm².

144. EIA agreed and commented that, in the case of non-ionizing electromagnetic radiation, there are no documented cases of injury to the general public. Furthermore, they continued, the small number of cases of possible injury involved special situations with very high-powered equipment. Therefore, in their opinion there is no probable need for reduction in power or service for any of the radio services.

145. This view was echoed by IEER. They made the point that if there were actual danger then adverse publicity would have long since exposed it. They felt that the development of HF heating technology should not be hindered by unnecessary and restrictive regulations.

146. EPA and GTE suggested that each case be handled on its own merits. EPA noted that if a reduction in powar were required other variables such as antenna height, location, and design could be adjusted to offset the effects of a reduction in power or service.

147. *Question 19: Does a health risk to animals have to be considered? What if the species being threatened is on the endangered species list?*

148. Only a few comments were received in response to this question. EPA expressed the opinion that a health risk to animals from RF radiation should be considered, but it would not be expected to be a controlling factor in the development of a standard. This was similar to the opinion of SBS. They felt that it is probably impossible to impose a single standard applicable to all living creatures. GTE said that they knew of no studies showing harm to animals at RF levels stated in the recent ANSI proposal.

149. Raytheon pointed out that a health risk to animals would be a secondary consideration to health effects in humans. They were of the opinion that a decision as to whether a species would be threatened by a particular operation should be handled on a case-by-case basis and should not be used in the development of a standard.

150. *Question 20: The radiation level in the main beam of a microwave antenna will probably be above the level considered safe (10 mW/cm²). Should this level be permitted if the chance of a human climbing the antenna structure is small? Should the Commission require fences around such structures?*

151. None of the comments received in response to this question proposed reducing the power of the beam because of the slight possibility of an individual climbing the antenna structure. AT&T, EPA, and EIA all pointed out that power density levels in the main beam of typical microwave point-to-point antennas are unlikely to exceed 1 mW/cm², much less 10 mW/cm².

152. In such cases where a hazard may exist, GTE, SBS, Raytheon, AT&T, and EIA suggested several means by which safety of personnel could be assured. These included limiting access to the antenna and support structure by fencing or other means, keeping to a minimum the time personnel spend in the restricted area, posting warning signs, shutting down or reducing power during servicing of the antenna or at other times when access is required, and training maintenance personnel with regard to RF hazards.

153. AT&T reported that, with the exception of rooftop installations almost all Bell System microwave antennas are protected by chain-link fences. They suggested that licensees should be expected to take reasonable precautions to prevent unauthorized access to their facilities, and they did not think that an FCC requirement for fencing would be an excessive burden for licensees.

154. *Question 21: Should licensees be required to warn maintenance people of the radiation hazards involved at each radio site or to post warnings if levels are shown to be above 10 mW/cm²? Some other specific value? What value?*

155. Of those commenting on this question, most respondents agreed that warning signs should be posted where a potential RF hazard exists. GTE noted also that obviously hazardous situations such as open waveguides could be avoided most effectively by training personnel in safe operating procedures.

156. Both Raytheon and AT&T maintained that requirements such as this are clearly matters of occupational safety and health, and, as such, come under the jurisdiction of OSHA. Raytheon did not think that such warnings should be required by the FCC. AT&T pointed out that the current OSHA standard with respect to posting RF warning signs can be found in 29 CFR 1910.97 and 29 CFR 1910.288.

157. SBS felt that the radiation level for which warnings should be posted is the current exposure guideline of 10 mW/cm². They noted that since that level contains a built-in safety factor, it is unnecessary to allow for an additional margin of safety.

158. *Question 22: Discuss in detail the impact on Commission licensees in the various radio services we regulate (e.g., broadcasting, mobile, fixed, other) that the various standards mentioned would have (50 uW/cm², 1 mW/cm², and 10 mW/cm²), continuous or short-term, occupational or general public.*

159. The responses to this question generally indicated that, depending on the levels established, more restrictive standards would have significant impact on at least some Commission licensees. According to EIA, at a minimum, reduced standards would result in increased testing costs and at some point would cause service disruptions and/or power reductions. In particular, EIA continued, lowered standards should allow for time and space averaging and should distinguish between absorbed power and effective power density. In their opinion, if a 50 uW/cm² limit were imposed without allowing for these factors a chaotic situation would result forcing millions of low-powered communications devices to be shut down. EIA pointed out that the recent proposal in New York City to establish such a limit lead to a study by one of the major networks which showed that, if adopted, the New York City proposal would have a disastrous effect on FM and TV broadcasters, and service to the public would be curtailed.

160. NAB felt that of all the services regulated by the FCC, the broadcasting industry could be impacted most significantly by unnecessarily strict RF radiation standards. NAB stressed their contention that regulations in this area should be based on a firm body of scientific evidence following "the rational balancing of perceived and real health threats against the effects of such regulations on broadcast service to the public." PBS maintained that broadcasting is a vital service which should not be shut down except in cases "where the likelihood of immediate and serious harm is clearly established." And to quote NBC:

> No regulation that would have such an impact should be adopted on mere speculation alone, but should be adopted only when there is clear scientific evidence that broadcasting at current levels are a risk to public health.

161. According to NAB, if a 10 mW/cm² standard were recognized there would be no need to modify existing broadcasting operational powers or transmitter locations since the public normally would not have access to these sites. This view was also expressed by ABC and AFCCE, although ABC thought that personnel working very close to a transmitter could present a problem.

162. If a general population standard of less than 10 mW/cm² were set ABC reported that multistation broadcast installations could be a special problem, and compliance might result in a loss or reduction in service. If a 1.0 mW/cm² environmental standard were adopted certain ABC transmitters might have trouble complying, but there would generally be few problems. The situation would be worse, however, if a 1.0 mW/cm² *occupational* standard were established. A 100 μW/cm² environmental standard would present a greater problem for some ABC stations, and if this were an occupational standard every ABC facility would have trouble complying. If 10 μW/cm² or 1.0 μW/cm² were adopted ABC predicted that a chaotic situation would result. In general, according to ABC, the adoption of any standard below 1 mW/cm² would cause "serious disruptions" in ABC operations, and, at the very least, would require a substantial program of measurements. ABC also noted that any standard lower than 1.0 mW/cm² could preclude certain electronic news gathering (ENG) operations.

163. GTE also thought that lowered standards would strongly affect VHF and UHF broadcasting. Possible results could be reductions in ERP, reductions in the maximum number of allocated transmitters, exclusion of certain broadcasting services, and reductions in area coverage. GTE did not think that microwave relay towers and satellite earth stations would be affected by any of the proposed limits because of the low power densities associated with these facilities.

164. EPA did not feel that they had enough information to respond in detail to this question. However, they restated their estimate that over 99% of the U.S. population is exposed to less than 1 μW/cm² of RF and microwave radiation between about 50 and 900 MHz. This is well below any of the numbers proposed and is also less than the extremely conservative U.S.S.R. standard of 1 μW/cm².

165. AT&T and AFCCE also felt that it is difficult to evaluate potential impact without more detail. AT&T noted that the interpretation of a standard is more important than the exposure guide number. For example, are time-averaging and partial-body exposure taken into account? If the numbers given in Question 22 apply to whole-body exposure in normally accessible areas then AT&T would assess each situation as follows.

166. A limit of 10 mW/cm² would result in no impact on the Bell System. Lowering the standard to 1 mW/cm² would probably not impose serious restrictions on most operations but might, for example, require restricted access to areas in the immediate vicinity of cellular mobile-radio base stations where levels of 1 mW/cm² or more may exist up to a distance of 40 feet. Levels of 1 mW/cm² or more may also be found within 1 foot of mobile vehicular antennas.

167. A limit of 50 μW/cm², according to AT&T, would have an even more serious impact on cellular mobile-radio services and could affect other services as well. Without further information they felt it impractical to evaluate such a proposal in detail, but AT&T indicated that a 50 μW/cm² limit would be clearly severe and would impact all Bell System radio services except point-to-point microwave and satellite communications.

168. SBS limited their comments to the potential impact on satellite communications services. Apparently there would be no possibility of radiation exposure from such services exceeding the 10 mW/cm² level. Likewise, exposure of the general public to levels greater than 1 mW/cm² from these sources would be unlikely since antennas point skyward, and a security fence would normally surround each installation. Also, an RF transmitter would be deactivated whenever maintenance is performed in front of an antenna.

169. According to SBS, if levels were set at 50 μW/cm² the "restricted area" around a satellite communications facility would have to be extended well beyond that required for a 1 mW/cm² standard. This could result in siting restrictions for SBS facilities, acquisition of additional property, and possibly changes in the basic concept of the SBS system. This, in turn, could mean significant additional costs for SBS and its customers.

170. COMSAT's comments related to their MARISAT ship communications system. MARISAT ship terminals would, according to COMSAT, meet the 10 mW/cm² standard for all locations outside the ship terminal radome. If a 1 mW/cm² level were imposed, the restricted area would be extended to 21 feet from the antenna aperture. This would effectively limit the placement of ship terminal antennas to ship locations where access by crew members could be controlled. This would prevent the installation of MARISAT terminals on certain types of ships. COMSAT reported that a 50 μW/cm² standard would extend the restricted area still further and could limit installation of MARISAT terminals to tall masts on only the largest ships. The impact of more restrictive standards could be reduced, COMSAT continued, if time-averaging were incorporated into the standards, since ship terminals are used intermittently.

171. According to ARRL, existing data imply that the 10 mW/cm² level is biologically safe and causes no significant operational restrictions. However, ARRL noted that some mobile units operating at VHF frequencies could probably not meet a 10 mW/cm² standard and may pose some degree of hazard to personnel. These situations and possibly maintenance operations on live antennas constituted the only two cases, in ARRL's opinion, that would be of concern under a 10 mW/cm²

standard. ARRL also mentioned "significant and extensive" hazards associated with communications, navigation, and radar systems operated by the Department of Defense. Under a 1 mW/cm² standard ARRL noted that the problem with VHF mobile units would be greater but not unmanageable. If a 50 μW/cm² level were adopted ARRL stated that:

> * * * the impact on FCC regulated services would be devastating, and serious compromises would necessarily have to follow. Levels of this order are ambient in many RF environments and are very difficult to evaluate and/or reduce.

172. With respect to airborne radars, any substantial decrease in the present ANSI standard could cause problems, according to ATA. Airborne radars used by the airline companies operate between 5 and 10 GHz, however, and, therefore, ATA's concern applied primarily to frequencies above 5 GHz. Compliance problems were not foreseen for airborne radar systems if a standard of 1 mW/cm² only applied to frequencies below 5 GHz.

173. *Question 23: What techniques can be employed by each of the Commission's services to limit their contribution to cumulative power densities? What are the costs of employing these methods?*

174. This issue was also raised in Questions 13 and 14, and many of the responses to those questions are relevant here. In addition to their previous comments, GTE suggested that cumulative power densities could be minimized by examining requested power levels and reviewing antenna installations and by requiring antenna modifications where necessary. With respect to cost, GTE noted that certain low-sidelobe antennas, for example, could initially cost 50–100% more than standard antennas.

175. AT&T suggested that a reduction or limitation of radiated power was one method available for limiting power density. However, they pointed out that reducing power would adversely affect the quality of the service provided by non-directional antennas, for example, through increased interference. Also they noted, limiting power could mean a requirement for a larger number of transmitter locations in order to provide equivalent service. This would tend to work against the overall objective of limiting RF emissions. In the case of directional antennas, reduced power would according to AT&T, cause failure to meet noise and reliability requirements and would tend to increase susceptibility to interference. AT&T thought that the costs of such measures were virtually impossible to estimate with any reasonable amount of certainty. However, they felt that there would clearly be significant costs involved depending on the exposure limit adopted and the radio service being considered.

176. SBS emphasized that a distinction must be made between "emission" levels and "exposure" levels. Satellite communications systems, they noted, do not contribute significantly to cumulative power densities since most RF energy from such installations is radiated skyward.

177. *Question 24: What measures can be employed to reduce exposure to high densities, or to reduce any ill effects?*

178. Several respondents submitted comments related to this issue in their replies to previous questions. For example, AT&T reiterated their suggestions for reducing occupational exposure. These were: (1) provide adequate training of personnel with regard to potential RF hazards, (2) provide detailed instructions for the safe operation and maintenance of equipment, (3) instruct employees to wear protective clothing during special situations which involve potential RF exposure exceeding the safe limit, and (4) restrict access in areas where potentially hazardous exposure could occur.

179. With respect to general population standards, AT&T suggested that: (1) Licensees and prospective operators should limit, as far as practicable, their contribution to total power density, (2) access should be restricted in areas with potentially hazardous RF levels, and (3) where access cannot be restricted, total RF levels should be maintained below that level determined to be hazardous.

180. For short-term solutions, GTE proposed clearly marking areas that are determined to be hazardous. Over the long term, suggested methods included specification of maximum power levels, the use of directional antennas, shielding, and training of personnel to avoid unnecessary exposure. Restricting access and shielding were also suggested by IEEE in response to this question.

181. ARRL had no specific recommendations to make for reducing exposure since they had no indication or measurements to show exposure of operators to high power densities. They noted that:

> Our studies indicate that the Amateur Radio Service, given the intermittent nature of its operation, does not present any hazard to the public from nonionizing radiation.

This opinion was echoed by Anthony Dorbuck, a private citizen and licensed Amateur, who responded to the *Notice of Inquiry*.

182. SIRSA commented that there is presently no good evidence to indicate that RF levels below 10 mW/cm² constitute a hazard. They conceded, however, that exposure to levels above 10 mW/cm² for extended periods of time could be hazardous. SIRSA also expressed their belief that existing portable measuring equipment is inadequate for reliably measuring broadband RF levels over various distances.

IV. Conclusions

183. In view of the foregoing information and comments on this matter, the Commission has concluded that it is necessary to clarify our responsibilities and intentions with regard to potential hazards from radiofrequency (RF) and microwave radiation. At the outset, we would like to stress that the Commission has neither the expertise nor the primary jurisdiction to promulgate health and safety standards for RF and microwave radiation. At the same time, it appears that the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.* (1970), requires the Commission to consider whether the equipment and operations it authorizes will "significantly affect the quality of the human environment." 42 U.S.C. 4332(2)(c). For this reason, we today propose an amendment to our rules implementing the National Environmental Policy Act to provide for processing under our environmental rules of applications for equipment authorizations or transmitting facilities which do not comply with all applicable radiation health and safety standards promulgated by agencies of the federal government. Our concern is that, with regard to RF radiation, Commission authorization of radio equipment or operations should not result in significant environmental impact. We further propose that the general public's exposure to excessive radiation should be evaluated on the basis of the standard for exposure of workers, until such time as the appropriate federal agency issues standards for general population exposure.

184. Under NEPA, each federal agency is required to prepare a detailed environmental impact statement for any major action it takes which "significantly affects the quality of the human environment." 42 U.S.C. 4332(2)(c). Such a statement need not be prepared whenever the agency can satisfy itself that its proposed action will not significantly affect the environment.[27] Even when a proposed action does have a significant effect on the human environment, that action may still be taken if the benefits of the action outweigh the environmental consequences. NEPA requires only that the benefits be weighed against the costs in the environmental impact statement.

185. In our view, any transmitting facility or radio equipment which is in compliance with federal health and safety standards for RF radiation would not ordinarily have a significant effect on the environment and thus would not fall within NEPA analytical processes, at least with regard to RF radiation. On the other hand, facilities or equipment that are not in compliance with federal health and safety standards for RF radiation may require a more thorough analysis of their environmental impact.[28] The amendment to our rules that we propose to adopt will assure that analysis. In our view, therefore, our obligations under NEPA with respect to RF radiation will have been satisfied.[29]

186. Based on the obligations imposed upon us by NEPA, we propose to add a new paragraph (d) to Subpart I of Part 1 of the Commission's Rules [see Appendix II]. Under the proposed rule, a narrative environmental statement and processing under our NEPA rules will be required for applications for equipment authorization if the equipment exceeds relevant health and safety standards for emission of radiofrequency radiation.[30] The rule also provides that applications for construction permits or for licenses to transmit in any service must be accompanied by a narrative environmental statement and treated under environmental processing requirements if the proposed operation would violate exposure standards for RF radiation adopted for workers by the Occupational Safety and Health Administration (OSHA) or for the general public by the Environmental Protection Agency (EPA).[31] In the absence of a federal standard for exposure of the general population, our environmental processing rules would apply if the proposed operation would result in exposure of the general public to levels of RF radiation higher than those permitted by OSHA for exposure of workers.

187. The rule change we propose today does not impose any substantive requirement on Commission regulatees. Instead, it uses noncompliance with substantive requirements adopted by expert federal agencies with jurisdiction in the health and safety area as the trigger for involving our environmental processing procedures. In addition, until EPA, the responsible federal agency, establishes a standard for general population exposure, our proposed rule change uses the radiation level established by OSHA for workers as the trigger for reviewing the environmental impact of general public exposure levels under our NEPA procedures. When EPA or another agency given authority over exposure standards establishes a general public exposure standard, that will become the trigger. In the meantime, however, while we lack the expertise to establish a radiation health and safety standard, it is our view that NEPA requires us to evaluate exposure of the public from the facilities we authorize against a level of radiation that is already considered potentially harmful.[32]

188. We are aware of the adoption of regulations in this area by local and state authorities, particularly in view of the present lack of a federal standard for exposure of the general population to RF radiation. In most cases we see no signification conflict between local standards of which we are aware and our responsibility "to make available * * * a rapid, efficient * * * wire and radio communication service * * *".[33] However, should such a conflict arise we would closely examine the matter.

189. In summary, we shall continue to defer to the expertise of the federal health and safety agencies in the establishment of standards for safe exposure to radiofrequency radiation, and we expect our regulatees to observe these standards. Because of the requirements of the National Environmental Policy Act we are today proposing an amendment to Part 1 of our rules which is intended to enable the Commission to consider whether its actions will "significantly affect the quality of the human environment" with respect to radiofrequency radiation. We also hereby make note of our concurrent obligation to apprise federal health and safety agencies of the impact of proposed standards on our regulatees, and we intend to participate as is appropriate and necessary in standard-setting proceedings of these agencies.

V. Ex Parte Presentation

For purposes of this non-restricted informal rulemaking proceeding, members of the public are advised that *ex-parte* contacts are permitted from the time of issuance of a notice of proposed rule making until the time a draft order proposing a substantive disposition of such proceeding is placed on the Commission's Sunshine Agenda. In

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[27] The NEPA guidelines issued by the Council on Environmental Quality (CEQ) permit agencies to categorically exclude from NEPA processing those actions "which do not individually or cumulatively have a significant effect on the human environment * * *" 40 CFR 1508.4 (1980).

[28] Under the Commission's present rules implementing NEPA, the Commission may, on its own motion or on the motion of an interested person, decide that the preparation of an environmental impact statement is warranted. 47 CFR 1.1305(c) (1977).

[29] In 1979, the Commission adopted a *Notice of Proposed Rule Making* in Docket No. 79-163 which proposed amendments to our rules implementing NEPA. 44 FR 36813 (July 3, 1979). These amendments are required in order to make our rules consistent with the implementing rules of the Council on Environmental Quality. 40 CFR 1500–1508. These rule changes, if adopted, will permit the FCC to categorically exclude from the environmental processing requirements actions which do not normally have a significant effect on the quality of the human environment.

[30] For example, the Bureau of Radiological Health (BRH) of the Food and Drug Administration sets such standards for RF devices such as microwave ovens.

[31] For details of the present federal occupational standard see the radiation protection guide for nonionizing radiation set by the Occupational Safety and Health Administration (OSHA) of the U.S. Department of Labor. 29 CFR 1910.97(a). While this standard is advisory rather than mandatory, *Swimline Corp.* OSHRC Docket No. 12715, (1975–1976) Empl. Safety & Health Guide (CCH) ¶20,370 (Dec. 31, 1975), *aff'd without review* (1977) Empl. Safety & Health Guide (CCH) ¶21,656 (March 23, 1977), it was adopted by OSHA pursuant to the Williams-Steiger Occupational Safety and Health Act of 1970; it is the standard used by OSHA for issuing citations for the presence of a hazard. See OSHA Notice CPL 2–2 on Nonionizing Radiation Citations (Sept. 26, 1979). (1979, Current Report) Occupational Safety and Health Reporter (BNA) 409, 511. Also, in this regard, a proposed standard that has been considered by the National Institute for Occupational Safety and Health (NIOSH) closely parallels a proposed revision of the American National Standards Institute (ANSI) standard. The ANSI proposal would establish recommended permissible exposure levels above 10 mW/cm² for some frequencies, and lower the recommended permissible levels below 10 mW/cm² for other frequencies. Although these proposed standards would not be binding, they could be subsequently adopted by agencies such as OSHA. Therefore, RF spectrum users should be aware of the possibility that the standards may be revised in the near future.

[32] For assistance in calculating predicted radiation levels for typical FCC-authorized facilities see *Report and Order* in Docket 19555, *supra*, 49 F.C.C. 2d at 1366–68 (Appendix 3); *see also* footnote 16, *supra*. For a more detailed treatment of such calculations see, for example, *A Study of Environmental Electromagnetic Radiation Levels*, J. C. H. Wang, FCC/OCE/RSD Technical Memorandum, Serial No. 4 (December 8, 1977).

We recognize that compliance with standards such as the OSHA exposure standard may be accomplished through the use of protective measures such as fences, warning signs, and shielding. We express no opinion as to the propriety of the use of such methods to achieve compliance, and we defer to the expertise of agencies such as OSHA NIOSH, and BRH on that point. See 29 CFR 1910.97(a)(3) for a description of an RF-hazard warning sign approved by OSHA.

[33] Communications Act of 1934, as amended, 47 U.S.C. 151 (1970).

general, an ex-parte presentation is any written or oral communication (other than formal written comments/pleadings and oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex-parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex-parte* presentation addressing matters not fully covered in any written comments previously filed in the proceeding must prepare a written summary of that presentation. That written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex-parte* presentation discussed above must state on its face that the Secretary has been served and must also state by docket number the proceeding to which it related. *See generally*, § 1.1201 *et seq.* of the Commission's rules, 47 CFR 1.1201 *et seq.*

VI. Regulatory Flexibility Act Initial Analysis [24]

(1) *Reason for action.* The Commission has considered comments received in response to its Notice of Inquiry in Docket 79–144. The variety of opinions expressed by respondents on the issues raised in the Notice indicate a need for clarification of FCC policy in the matter of potential radiation hazards from facilities and equipment regulated by this agency. It is our view that the National Environmental Policy Act of 1969 (NEPA) requires the Commission to consider whether the equipment and operations it authorizes will "significantly affect the quality of the human environment." For this reason, we are proposing to amend our rules implementing NEPA to address situations involving non-compliance with federal standards for exposure to radiofrequency (RF) and microwave radiation.

(2) *The objective.* The Commission is proposing to amend its rules implementing NEPA in order to clarify our policy with regard to potential hazards from RF and microwave radiation emitted by equipment and operations we authorize. At the present time these rules do not adequately address this issue, and we feel that a definitive statement of FCC policy is necessary. The proposed rules simply codify FCC statements made in this area in previous dockets.

(3) *Legal basis.* The action proposed is based on the obligations imposed on the Commission by the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and is in furtherance of Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, which permits the Commission to make rules and regulations not inconsistent with other existing laws, as may be necessary in the execution of its functions, with the additional view of securing the public welfare.

(4) *Description, potential impact and number of small entities affected.* There should be no significant impact on most small entities that the FCC regulates. Small entities that may be in violation of federal health and safety standards for RF and microwave radiation could be significantly impacted because of corrective actions that might be necessary to bring them into compliance. However, we believe that the overwhelming majority of the operations and equipment authorized by the Commission are in compliance with present radiation standards set by the federal government.

(5) *Recording, record-keeping, and other compliance requirements.* No record-keeping requirements are contained in the proposed rules. Applicants for licenses and equipment authorization are expected to comply with federal regulations already existing in this area. In addition, we propose to expand the list of "major actions" under our NEPA rules to include situations where the general public is exposed to levels higher than those allowed for exposure of workers.

(6) *Federal rules which overlap, duplicate, or conflict with these rules.* None. The proposed action is designed to bring our rules up to date on this issue so that our regulatees know what is expected of them. We are pointing to existing standards and regulations which may apply to our regulatees, and no overlap or duplication is foreseen.

(7) *Any significant alternatives minimizing impact on small entities and consistent with the stated objective.* Because of our legal obligations under NEPA we feel it necessary to amend our rules to address the environmental impact of radiation emitted from equipment and operations we authorize. We see no alternative to addressing this issue, and the proposed rules appear to offer the most reasonable and logical approach. There are alternative ways of addressing the issue. For example, we might have considered adopting our own radiation standards independent of those set by other agencies. Such standards could conceivably have less impact (or more) on small entities. However, we do not feel that we have the expertise to set health and safety standards, and we choose to defer to other agencies in establishing safe levels of exposure. We might also have chosen to take no action at all. However, this would be undesirable for at least two reasons. First, we are legally obligated under NEPA to assure ourselves that Commission actions do not "significantly affect the quality of the human environment," and, secondly, we feel that our regulatees expect us to make a definitive statement on this issue so that they know what is expected of them.

[24] Pursuant to the provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 603.

VII. Ordering Clauses

Accordingly it is ordered, That pursuant to the provisions of Sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j) and 303(r), and Section 4 of the Administrative Procedure Act, 5 U.S.C. 553, there is hereby instituted a notice of proposed rule making in this matter. Members of the public are put on notice that policies which may be established in this proceeding may be embodied in the Commission's Rules and Regulations.

It is further ordered, That all interested persons may file comments on the matters discussed in this Notice on or before June 18, 1982. Reply comments shall be filed on or before August 18, 1982. In accordance with 1.419 of the Commission rules, 47 CFR 1.419, an original and five (5) copies of all filings shall be furnished the Commission. Copies of comments and reply comments filed in this proceeding will be available for public inspection during regular business hours in the Commission's reference room at 1919 M Street, NW., Washington, D.C. For further information concerning this proceeding contact Dr. Robert F. Cleveland, Office of Science and Technology, (202) 632–7073.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix I.—Respondents to Docket 79–144 (Listed Alphabetically)

(1) John Abbott
(2) Air Transport Association of America ("ATA")
(3) American Broadcasting Companies, Inc. ("ABC")
(4) American Radio Relay League, Inc. ("ARRL")
(5) American Telephone and Telegraph Company ("AT&T")
(6) Association of Federal Communications Consulting Engineers ("AFCCE")
(7) CBS, Inc. ("CBS")
(8) Central Committee on Telecommunications of the American Petroleum Institute ("API")
(9) COMSAT General Corporation ("COMSAT")
(10) Anthony Derback
(11) Electronic Industries Association, Communications Division ("EIA")
(12) U.S. Environmental Protection Agency, Electromagnetic Radiation Analysis Branch, Environmental Analysis Division ("EPA")
(13) Ford Motor Company ("Ford")
(14) GTE Companies ("GTE")
(15) The Institute of Electrical and Electronics Engineers, Industrial Electronics and Control Instrumentation Group ("IEEE")
(16) National Association of Broadcasters ("NAB")
(17) National Broadcasting Co., Inc. ("NBC")
(18) Natural Resources Defense Council, Inc. ("NRDC")
(19) Oregon Association of Broadcasters
(20) Public Broadcasting Service ("PBS")
(21) Raytheon Company ("Raytheon")
(22) Satellite Business Systems ("SBS")
(23) Southern Pacific Communications Company
(24) Special Industrial Radio Service Association, Inc. ("SIRSA")
(25) TV Broadcasters All Industry Committee ("TVBAC")
(26) Utilities Telecommunications Council ("UTC")

PART 1—PRACTICE AND PROCEDURE

Appendix II

It is proposed to amend Subpart I, Part 1, Chapter 1 of Title 47 of the Code of Federal Regulations by adding a new paragraph (d) to § 1.1305 to read as follows:

§ 1.1305 Major actions.

* * * * *

(d) In addition to those actions covered in paragraphs (a) through (c) of this section, the following will be treated as major actions:

(1) Commission actions authorizing equipment when the equipment in question does not comply with health and safety standards for emission of radiofrequency or microwave radiation established by agencies of the federal government having jurisdiction thereover, such as the Bureau of Radiological Health of the Food and Drug Administration.

(2) Commission actions granting construction permits or licenses to transmit in any service when:

(i) The proposed operation would result in exposure of workers to levels of radiofrequency or microwave radiation in excess of those established by an agency of the federal government having jurisdiction thereover, such as the Occupational Safety and Health Administration of the U.S. Department of Labor, for exposure of workers.

(ii) The proposed operation would result in exposure of the general public to levels of radiofrequency or microwave radiation in excess of those established by an agency of the federal government having jurisdiction thereover, such as the U.S. Environmental Protection Agency, for exposure of the general public or, in the absence of a federal standard for exposure of the general public to radiofrequency or microwave radiation, the proposed operation would result in exposure of the general public to levels of radiofrequency or microwave radiation in excess of those established by the federal government for exposure of workers.

[FR Doc. 82-4882 Filed 2-24-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 73–8, Notice 14]

Federal Motor Vehicle Safety Standards; School Bus Passenger Seating and Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes amending the agency's school bus seating standard to increase seat spacing from 21 to 24 inches. This proposed amendment is being issued to address complaints of inadequate seat spacing.

DATE: Comment closing date April 26, 1982. Proposed effective date: The rule would become effective upon publication of the final rule in the Federal Register.

ADDRESSES: Comments should refer to the docket number and be submitted to: Docket Section, Room 5108, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590. (Docket hours are from 8 a.m. to 4 p.m., Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: Mr. Robert Williams, Crashworthiness Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–2264)

SUPPLEMENTARY INFORMATION: Standard No. 222, *School Bus Passenger Seating and Crash Protection*, was one of several standards implemented pursuant to the Motor Vehicle and School Bus Safety Amendments of 1974 (Pub. L. 93–492). The standard regulates the performance aspects of school bus seats. One portion of the standard limits the spacing between seats in buses with gross vehicle weight ratings (GVWR) of more than 10,000 pounds to 21 inches measured from the seating reference point to the seat back or restraining barrier located in front of the seat.

The initial version of Standard 222 which became effective on April 1, 1977, limited school bus seat spacing to 20 inches. Soon after school buses were produced in compliance with this requirement of the standard, many complaints were received about inadequate spacing of school bus seats. The agency immediately started to review the problem. At that time, because of quality control and other production problems affecting seat spacing, manufacturers were spacing seats significantly less than the 20 inches permitted by the standard to ensure compliance. As manufacturers improved their production techniques, seat spacing was extended. The agency upon examination of its then existing data concluded that it could extend seat spacing to 21 inches without adversely effecting the compartmentalization concept that was the key to protecting children in the buses. The agency amended the rule accordingly (42 FR 64119). Both the amendment and improved manufacturer production methods reduced the number of spacing complaints significantly. However, the agency promised to study further the appropriateness of the required seat spacing.

Since that time, complaints continue to be voiced especially concerning buses used to transport children long distances to and from school or to school related events which may be located far from the school. As promised, the agency conducted tests to see whether it could improve seat spacing to respond to these continuing complaints. The tests which are available in the Technical Reference Section of the agency under H73–3 "School Bus Passenger Seat and Lap Belt Sled Tests", DOT–HS–804085, December 1978, show that seat spacing could be increased up to 24 inches without impairing the concept of compartmentalization.

The agency proposes today to increase seat spacing to 24 inches. As stated earlier, existing agency test data support an extension of this magnitude.

The data shows that this extension can occur without impairing the ability of the seat to perform as desired in a crash situation. The agency acknowledges that its tests were performed in a frontal testing mode and does not have data on compartmentalization effects in rollover or side impact accidents.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

§ 571.222 [Amended]

To accomplish the increased seat spacing option, Title 49 of the Code of Federal Regulations, § 571.222, *Standard No. 222; School Bus Passenger Seating and Crash Protection,* would be amended by removing the number "21" in paragraphs S5.2 and S5.2.1 and replacing it with the number "24".

The agency has considered the economic and other impacts of this proposal and has determined that the proposed rule is not a major rule within the meaning of Executive Order No. 12291. The agency has further determined that the proposal is not significant within the meaning of the Department of Transportation's regulatory procedures.The basis for these determinations is that little or no impact will occur to most school buses. Any impact that will occur would result from an increased freedom of schools to order buses with improved seat spacing. However, no mandated changes will occur as a result of this notice. Accordingly, the cost impact of this proposal would be minimal. Nevertheless, a regulatory evaluation has been prepared and placed in the public docket. A copy may be obtained from the Docket Section.

The agency has considered the effects of the proposal in relation to the Regulatory Flexibility Act and certifies that it would not have a significant effect on a substantial number of small entities. The proposal would mandate absolutely no change in existing school buses. Accordingly, small manufacturers would not be required to produce buses any differently than current production buses. To the extent that some schools might elect to purchase buses with more greater seat spacing, the small manufacturers in the school bus industry would benefit from the increased business resulting from the sale of these buses.

The proposal would not have a significant effect on a substantial number of small government jurisdictions or small organizations. While small jurisdictions or groups may purchase buses, it would be their choice as to whether to continue to purchase buses identical to those manufactured today or to select greater seat spacing. Since any impact on small entities from this proposal would be minimal and would only result from the exercise of choice on the part of the purchaser, no initial regulatory flexibility analysis has been prepared.

Finally, the agency has analyzed this proposal for purposes of the National Environmental Policy Act. The agency has determined that the implementation of this proposed amendment would have no significant effect on the human environment.

The rule would become effective immediately upon publication of the final rule in the **Federal Register.** An immediate effective date is desirable since the amendment does not mandate any new requirements upon the manufacturers, but only relieves restrictions by providing new freedoms in the production of school buses.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

The principal authors of this notice are Mr. Robert Williams of the Crashworthiness Division and Mr. Roger Tilton of the Office of Chief Counsel.

(Secs. 103 and 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392 and 1407); sec. 202 Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1392); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on February 11, 1982.

Carl E. Nash,

Acting Associate Administrator for Rulemaking.

[FR Doc. 82–4975 Filed 2–24–82; 8:45 am]

BILLING CODE 4910–59–M

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49 CFR Part 571

[Docket No. 71–19; Notice 9]

Federal Motor Vehicle Safety Standards; Rims for Motor Vehicles Other Than Passenger Cars

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of termination of rulemaking.

SUMMARY: This notice terminates the rulemaking action begun by this agency when it published an advance notice of proposed rulemaking (ANPRM) requesting comments on the appropriateness of rulemaking by this agency to require multipiece rims to meet certain performance requirements, in an effort to reduce the number of explosive separations of these types of rims. It appears that the number of explosive separations will be reduced without regulatory action by this agency because of the following:

(1) The Occupational Safety and Health Administration (OSHA) issued a regulation in 1980 specifying certain safety precautions which must be followed when servicing multipiece rims.

(2) Most of the explosive separations have involved two particular types of rims, neither of which has been manufactured since at least 1973.

(3) The trucking industry is voluntarily shifting away from the use of multipiece rims on trucks operated primarily on the highway. As a result of this shift, 70 to 80 percent of the new trucks sold in 1990 for highway use will not be equipped with multipiece rims.

Given this projected trend of decreasing separations of multipiece rims, and the estimated costs of at least $600 million if performance requirements were implemented for these rims, this agency has decided to cease rulemaking in this area at this time.

FOR FURTHER INFORMATION CONTACT: John P. Jankovich, Office of Vehicle Safety Standards National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–2715).

SUPPLEMENTARY INFORMATION: Two years ago, the National Highway Traffic Safety Administration (NHTSA) published an ANPRM (44 FR 12072; March 5, 1979) seeking comments on the appropriateness and feasibility of establishing performance requirements for multipiece rims, which are used on about 75 percent of all medium and heavy duty trucks. Multipiece rims consist of a rim base and one or two side rings, which can be removed from the base to permit removal of the tire. One side ring, generally called the lock ring, engages the gutter of the rim base for the purpose of locking the side ring or rings in place and confining the bead of the inflated tire. The sealing qualities of this type of rim dictate the use of tube type tires. A single piece rim, the type of rim used on passenger cars and light trucks, and some medium and heavy duty trucks, requires the tire bead to be forced over the top of the rim flange when the tire is mounted. The sealing qualities of this rim permit the use of tubeless tires.

Multipiece rim failures occur when the lock ring, for one reason or another, is not properly engaged on the rim base. When this occurs, the lock ring can be hurled off the rim base at speeds in excess of 100 miles per hour, posing serious risk of harm to anyone in its path. The agency has verified records of 549 incidents of explosive separations of multipiece rims between 1954 and 1978. These separations resulted in 366 injuries and 89 deaths.

Since the publication of the ANPRM, NHTSA has analyzed all of the 101 submissions to the docket, gathered further data on the subject of multipiece rims and the separations, and prepared a study of the costs which would be associated with a performance requirement for multipiece rims. Based on the data currently available, NHTSA has determined that the number of explosive separations of multipiece rims should significantly decline in the future, primarily because of three factors.

1. *OSHA standard.* Since the publication of the ANPRM by this agency, OSHA has published a final rule specifying procedures which must be followed when servicing multipiece rims in the workplace (29 CFR Part 1910). This rule requires that (a) 4 hours of training must be provided for all service shop employees on proper servicing of multipiece rims, (b) proper restraining and inflating devices must be used when servicing multipiece rims (such as the tire cage and clip-on chuck, to catch the lock ring if it explosively separates), (c) safe operating procedures must be followed when mounting the tire/rim assembly back on the truck, and (d) wall charts showing correct assembly procedures and component matching must be prominently displayed.

NHTSA data show that 75 to 80 percent of the multipiece rim separations have occurred while the rims are being serviced. The OSHA regulation should reduce the number of explosions and avert some deaths and injuries when explosions do occur.

2. *The two most frequently involved types of multipiece rims are no longer manufactured.* At present there are over 200 different types of multipiece rims sold in this country. Of these various types, two types, the K-type and the RH5° account for a majority of the 549 separations in the agency's files. The K-type rims have not been produced since 1966, and RH5° have not been produced since 1973. The rims of these two types are nearing the end of their useful life, and will have to be replaced with newer designs, which should be less prone to explosive separation. As these replacements occur, the agency believes that the number of explosive separations will decrease.

3. *Voluntary shift to single piece rims.* There is a current trend by purchasers of new trucks operated primarily on the highway towards increased use of single piece rims. The reason for this shift is that these rims permit the use of tubeless radial tires, which save the truck operator money as a result of improved gas mileage and longer treadlife. As a result of this shift away from multipiece rims, NHTSA estimates that between 70 and 80 percent of new trucks used primarily on the highway sold by 1990 will be equipped with single piece rims. Trucks which will spend a substantial portion of time off the road, in such industries as construction, agriculture, timbering, and mining, will continue to be equipped with multipiece rims with tube-type tires almost exclusively. These tires are exposed to far more hazards than are encountered on a highway (rocks, concrete chips, tree stumps, etc.) and have many more punctures. The ease of repairing tube type tires makes these tires preferable for these uses.

It is possible to have a tire/rim failure with single piece rims. These failures may be due to bead fractures or other damage to the tire while mounting it, mismatching tires and rims, or welding repairs on a wheel while a tire is mounted. However, this agency has not yet conducted any systematic and regular effort to collect data on these sorts of failures. One difficulty is that many of these mounting problems would be treated as tire failures, so it is difficult to get an accurate count. Further, since no part of the rim will separate at the time of failure, the rim itself is not posing the danger, but the tire could explode and pose a very real threat. While recognizing that these failures may be serious, NHTSA has not received a significant number of complaints of such failures involving service shops.

After considering all of these factors, NHTSA believes that the number of explosive separations of multipiece rims will decrease significantly in the future, because of reduced usage of the rims in general, reduced usage of the two types of rims most prone to separations, and increased use of safety equipment and training while servicing the rims.

Further, NHTSA has conducted a thorough analysis of the costs which would be associated with the establishment of performance requirements for multipiece rims. A copy of this analysis is available for public inspection in the docket for this rulemaking action. Based on the assumptions that current designs of multipiece rims would have to be replaced with single piece rims or improved multipiece designs on new vehicles and on the further assumption that the requirement would allow a five year leadtime before its effective date, the analysis indicated that the minimum costs which would be associated with

the implementation of performance requirements would be $600 million. In fact, the analysis concluded that the most likely costs would be $767 million. This substantial cost cannot be justified, in light of the agency's belief that the separations of multipiece rims will decrease without the imposition of these costs. Accordingly, this rulemaking action is terminated at this time.

Issued on February 22, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-5185 Filed 2-24-82; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

North Pacific Fishery Management Council et al., State Proposals for 1982 King and Tanner Crab Fisheries off Alaska, Public Hearings

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearing.

SUMMARY: The North Pacific Fishery Management Council (Council) and the Alaska Board of Fisheries (Board) will hold a public hearing on State proposals for the 1982 king and Tanner crab fisheries off Alaska.

DATE: The hearing will be held from 9:00 a.m. to 5:00 p.m. on Saturday, March 13, 1982.

ADDRESS: The hearing will be held in the auditorium of the Northwest and Alaska Fisheries Center, 2725 Montlake Boulevard East, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 99510; (907) 274–4563.

SUPPLEMENTARY INFORMATION: In accordance with the provision of the Joint Statement of Principles for king crab management between the North Pacific Fishery Management Council and the Alaska Board of Fisheries, the Council and Board will hold an annual public hearing in Seattle. At the March 13 hearing Council and Board members will listen to public testimony on State proposals for the 1982 king and Tanner crab fisheries. Copies of the Board proposals may be obtained from the Alaska Board of Fisheries, P.O. Box 3–2000, Juneau, Alaska 99802. The Board plans to take final action on its 1982 State shellfish regulations at its meeting beginning on Monday, March 22, 1982, in Anchorage.

The hearing will be tape recorded and the tapes will be filed as an official transcript of the proceedings. A written summary of the testimony will be prepared to supplement the record.

Dated: February 19, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-5195 Filed 2-24-82; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 47, No. 38
Thursday, February 25, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Apache National Forest Grazing Advisory Board; Meeting

The Apache National Forest Grazing Advisory Board will meet at 10:30 a.m., April 2, 1982 at the Safire Restaurant in Springerville, Arizona. This meeting replaces the one scheduled for March 19, 1982 which was cancelled. The purpose of this meeting is to include a discussion on expenditures of Range Betterment Funds for FY 1983 for the Apache National Forest. Discussion of Allotment Management planning will be included.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, P.O. Box 640, Springerville, Arizona 85938, (602) 333–4301. Written statements may be filed with the Board before or after the meeting.

The Board has established the following rules for public participation: any interested persons besides the Advisory Board members are welcome to attend and will be afforded the opportunity to speak after being duly recognized by the Chairman of the Board.

Dated: February 18, 1982.

James R. Morris,

Acting Forest Supervisor.

[FR Doc. 82-5053 Filed 2-24-82; 8:45 am]

BILLING CODE 3410-11-M

Humboldt National Forest Grazing Advisory Board; Meeting

The Humboldt National Forest Grazing Advisory Board will meet on April 22, 1982 at 10:00 a.m. PST, at the Supervisor's Office, 976 Mountain City Highway, Elko, Nevada.

The meeting is open to the public.

The purpose of the meeting is to discuss:

1. Allotment Management Planning.
2. Utilization of Range Betterment Fund.

Dated: February 16, 1982.

B. J. Graves,

Forest Supervisor.

[FR Doc. 82-5054 Filed 2-24-82; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Oregon; Revisions of Recreation Use Controls Within Boundaries of Wild Section of Rogue River Component of National Wild and Scenic Rivers System

Public notice is hereby given by authority of the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271 et seq.), Federal Land Policy and Management Act of 1976 (90 Stat. 2743; 43 U.S.C. 1701 et seq.), Land and Water Conservation Fund Act (78 Stat. 899), as amended (16 U.S.C. 4601–6a); 31 U.S.C. 483a, 43 U.S.C. 1161a; 43 U.S.C. 1201; 43 U.S.C. 1374; 16 U.S.C. 670 g–n; 16 U.S.C. 1241 et seq.; 43 CFR Part 18; 43 CFR Subpart 8351; Notice of Revised Development and Management Plans for the Rogue National Wild and Scenic River, Oregon (37 FR 13408, July 7, 1972); 30 Stat. 35, as amended (16 U.S.C. 551); 33 Stat. 628 (16 U.S.C. 472); 36 CFR 211.1; 36 CFR 251.1 through 251.3; 36 CFR 261.5; and 36 CFR 261.56, that the public lands and the water described in 34 FR 15571, October 7, 1979, and 37 FR 13415, July 7, 1972, which are located between the mouth of Grave Creek and the mouth of Watson Creek, the regulated area, are hereby open to permitted non-commercial boaters and to Authorized Outfitters, guides and their passengers, when engaged in commercial operations, who meet the qualifications set forth below and are in compliance with the provisions herein stated. (On continuous trips, take-outs are also authorized between Watson Creek and Lobster Creek.) The State of Oregon, acting by and through the Marine Board, in cooperation with the Federal agencies and Oregon Scenic Waterways System by authority of ORS 485.600(3) has also promulgated regulations for the area described above.

I. Definitions

A. "Authorized Outfitters"—Outfitters who have been issued a current joint Bureau of Land Management/U.S. Forest Service (BLM/USFS) Commercial Outfitters-guide permit.

B. "Guides"—Employees or contractors under the control of the authorized outfitters who have met any required State of Oregon licensing provisions and who perform guiding services for an Authorized Outfitter.

C. "Commercial Use"—Use of public land and/or water surface, described in the notice, for business or financial gain. When any permittee, employee or agent of a permittee, operator, or participant makes or attempts to make a profit, salary, increase his capital worth, advance or promote his business or financial standing, or supports, in any part, other programs or activities from amounts received from or for services rendered to customers or participants in the permitted activity, as a result of having the special recreation permit, the use will be considered commercial. The collection by a permittee or his agent of any fee, charge, or other compensation which is not strictly a sharing of, or is in excess of, actual cost or expenses incurred for the purpose of the activity or use shall make the activity or use commercial. Recreation use by educational and therapeutic institutions is considered commercial when the above criteria are met. Profitmaking organizations are automatically classified as commercial, even if that part of their activity covered by the permit is not profitmaking. Non-profit status of any group or organization under the Internal Revenue or Postal laws or regulations does not in itself determine whether an event or activity arranged by such a group or organization is non-commercial. Any person, group, or organization seeking to qualify as non-commercial shall have the burden of establishing to the Authorized Officer that no financial or business gain will be derived from the proposed use.

D. "Actual costs or expenses"—Costs, or expenses, necessarily incurred for the permitted activity or use. These terms include, but are not limited to, the actual cost of such items as expendable equipment and supplies. Actual costs or expenses will not include any salaries, profit, increase of capital worth,

allowances, or subsidies of any other activities of the permittee or sponsor, the purchase or amortization of non-expendable supplies or equipment, any allowance for undersubscribed events, or any monetary compensation for sponsors or participants.

E. "Non-commercial Use"—For the purpose of this notice, non-commercial use is any use that does not meet the criteria stated above for "Commercial Use."

F. "Regulated Area"—The Rogue Wild Section, from Grave Creek to Watson Creek as described in 34 FR 15571, October 7, 1969, and 37 FR 13415, July 7, 1972, including the water surface of the Rogue River. (On continuous trips, take-outs are also authorized between Foster Bar and Lobster Creek.)

G. "Regulated Period"—Period from the Friday preceding Memorial Day through Labor Day of each year.

H. "Managing Agencies"—The U.S. Forest Service and the Bureau of Land Management, in consultation and cooperation with the Oregon State Scenic Waterways, the Oregon State Marine Board, and a Josephine/Curry County representative.

II. Requirements

A. General

To comply with the letter and intent of the Wild and Scenic Rivers Act, the managing agencies have regulated all float trips within the regulated area.

Non-commerical use is regulated by permit during the regulated period. All commercial use is regulated by permit throughout the entire year. Total use on the river during the regulated period is restricted to approximately 120 people per day with opportunity for the non-commercial and commercial users to each use approximately 50 percent of that total use. No boating group is authorized to operate in the regulated area during the regulated period without having a valid permit in possession and complying with all requirements currently in effect.

During the regulated period, all boating groups shall (1) confirm their permit ten days or sooner prior to the scheduled trip date, and (2) register their permit prior to 2 p.m. on the scheduled trip date at the Reed Visitor Center, 14335 Galice Road, Merlin, OR 97532, telephone: (503) 479–3735, prior to entering the regulated area. Permits cancelled or not confirmed are reissued the day following cancellation through pools as described below. Permits are issued only at Rand and only on day of scheduled departure. Personal identification, and completion of permit forms are required. Commercial groups must register during the entire year.

Commercial and non-commercial use of the regulated area is permitted under the following limitations and conditions (all powerboat use is regulated separately from this system; however, power boats may not transport non-permitted floating craft upstream for downstream floating):

B. Permits

1. Non-Commercial. During the regulated period, non-commercial down-river floating use in the regulated area is limited to groups with a non-commercial use permit authorized by the managing agencies. The U.S. Forest Service has the lead responsibility for administering the non-commercial system.

No non-commercial boating group shall consist of more than 20 persons. Non-commercial use for any given day during the regulated period is limited to approximately 60 persons per day entering the regulated area except as provided herein.

Permits are issued only to a group leader or a designated alternate. Only the group leader may apply for a permit and he/she shall indicate the number of members in the group. A group leader can be an alternate on only one other application. A single launch date may not be requested more than once on the same application. No person may control more than one (1) permit for the same day. Additional instructions, information, and application for non-commercial permits may be obtained from: Siskiyou National Forest, Galice Ranger District, P.O. Box 1131, Grants Pass, Oregon 97526, telephone (503) 479–3735.

For six weeks, beginning January 1, group leaders may submit one application indicating no more than two different desired launch dates. Each group leader is assigned his or her preferred dates, unless requests for those dates exceed allowable totals. For each such day, a lottery is held. Permits for each day are issued until not less than 54 or more than 62 persons are scheduled. Successful applicants will be notified by mail approximately March 15.

Permits are also available through pools (as described below), but no group leader can hold more than three permits at any one time.

2. Open Pool. The "open pool" is comprised of all permits that are not originally allocated, or that are canceled ten days or more prior to the launch date. Open pool launches are available for non-commercial use only, on a first-come, first-served basis. Group size is limited to twenty persons or the number of spaces in the pool, whichever is less. Launches remaining open after the lottery can be obtained from the open pool beginning April 1, or on the day following cancellation.

3. Common Pool. The "common pool" is comprised of any advance permits not confirmed as required 10 days or more prior to the scheduled trip date, permits canceled nine days or less prior to the scheduled trip date, or any permits not registered as required at Rand Visitor Center prior to 2 p.m. on the scheduled trip date by the group leader or alternate. Common pool launches or additional passenger spaces are available to non-commercial or commercial use on a first-come, first-served basis by telephone only the day following cancellation, beginning nine days prior to the actual trip date. Permits canceled on the actual trip date are available on that day on a first-come, first-served basis at Rand. Group size is limited to twenty persons (including guides, for commercial trips) or the number of spaces in the pool, whichever is less. On days where scheduling exceeds 120 persons, no permits from the pool are issued until the total number of scheduled persons drops below 120 for that day.

4. Commercial Use. The BLM has the lead responsibility for administering the commercial system. No outfitters may operate in the regulated area at any time during the year unless they are an Authorized Outfitter with a current year's Federal BLM/USFS Commercial Outfitter-Guide Permit. An authorized Outfitter's authorization to conduct float trips is not a salable commodity. Commercial operations on the river are a privilege, not a right. Any application for a permit, or proposed transfer of authorized use in conjunction with the sale of a business, must be approved by the Bureau of Land Management and U.S. Forest Service. Disapproval may be based upon the lack of qualifications of the proposed transferee, the inability of the river and land resources to sustain the use, or other just cause.

Permits based on "historical" use were issued on a limited basis to Authorized Outfitters who qualified under the terms of the Closure Notice, published in the Federal Register 36 FR 34901, December 30, 1971. Within this numerical limitation, permits are issued or transferred, in whole, to other outfitters according to the current Bureau of Land Management and U.S. Forest Service permit allocation and transfer policy. Agents and employees hired under the name and control of an Authorized Outfitter are also permitted to conduct authorized float trips in the regulated area under the terms and conditions of the Authorized Outfitter's permit. The base commercial schedule as adopted in 1977, provides for approximately 6,000 commercial passengers during the regulated period. No additional allocation of any kind (including pools) to Authorized Outfitters are made for the Labor Day or Memorial Day weekends (Saturdays and Sundays), because any remaining allocations for these weekends are reserved for non-commercial users.

Authorized Outfitters with regulated period trips shall operate according to the yearly approved BLM schedule (and common pool availability as described above) during the regulated period, and may operate an unlimited number of trips during the remainder of the year. Authorized Outfitters with only non-regulated period (between Labor Day and the Friday preceding Memorial Day) trips, may not operate commercially in the regulated area during the regulated period except through the common pool, but may operate an unlimited number of trips during the remainder of the year.

No commercial trip shall be larger than 12 persons total (for small trips), or 24 persons total (for large trips), including crew members, except for the following flexibility provision: Recognizing that circumstances beyond an Authorized Outfitter's reasonable control may on short notice occasionally require carrying passengers not planned for, not available through the common pool, and in excess of normally allowed party sizes; up to 20 percent of an Authorized Outfitter's trips, according to the approved schedule, may carry as many as two persons beyond the authorized trip size for small trips, and as many as three persons beyond the authorized trip size for large trips. The maximum number of such trips for each Authorized Outfitter is determined in advance by the BLM Authorized Officer, and each Authorized Outfitter will be advised.

When Memorial Day and Labor Day holidays change, or when for other reasons additional days are added to the regulated period, only those Authorized Outfitters previously operating during that period (as proven by past validation cards), up to approximately 60 commercial passengers per day, as in the existing regulated period, will be allowed.

III. Enforcement of Permit Requirements

A. Non-Commercial

The group leader, designated alternate, and/or other group members are subject to the penalties prescribed under the authorities stated herein and to the penalties prescribed under other federal, state, and local regulations, if the terms or conditions of the permit or other laws or regulations are violated.

B. Commercial

For each person, passenger, or crew member exceeding the maximum authorized group size (including flexibility provisions) in an outfitted group, the Authorized Outfitter's maximum party size will be reduced by three passengers on that same scheduled trip during the next year's regulated period. For each unscheduled trip taken, the Authorized Outfitter's trips will be reduced by two trips of the same size closest to the date of the unauthorized trip during the next year's regulated period. Authorized Outfitter's taking any commercial trips without first obtaining the current Federal BLM/USFS Commercial Outfitter-Guide Permit may lose their preference for renewal of their permit. Trips or passengers not booked or canceled must be relinquished to the pools for other's use as soon as known. Random relinquished trips or passengers will not jeopardize future use; however, non-application or non-use of a permit for two years, or continuous non-use of portions of allocations, without prior written approval, may result in a permit, or portions of allocations, not being re-issued.

In addition, upon repeated violation of the above, or upon violation of any other terms or conditions of the permit, an Authorized Outfitter's permit may be revoked or suspended in part or in whole. An Authorized Outfitter and all agents, guides, employees, and passengers are also subject to other penalties prescribed under the authorities stated herein and to the penalties prescribed under other federal, state, or local laws or regulations.

IV. Duration

The provisions of this notice supersede the notice published in 43 FR 12091, dated March 23, 1978; shall become effective March 1, 1982; and shall remain in effect until revoked.

Hugh R. Shera,

Medford District Manager, Bureau of Land Management.

William H. Covey,

Siskiyou Forest Supervisor, Forest Service.

[FR Doc. 82-5017 Filed 2-24-82; 8:45 am]

BILLING CODE 3410-11-M, 4310-84-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of ATBCB meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) has scheduled a meeting for 10:00 AM, on March 9, 1982, to consider a proposal for information and technical services for the ATBCB; and approval of the ATBCB Annual Report for Fiscal Year 1981.

DATE: March 9, 1982, 10:00 AM–5:00 PM.

ADDRESS: Main Hall, Disabled Americans Veterans National Service and Legislative Headquarters, 807 Maine Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Larry Allison, Director of Public Information (202) 245–1591 (voice or TDD).

ATBCB Committee meetings are scheduled for Monday, March 8, 1982. These meetings will be held from 9:30 AM–5:00 PM, Rooms 525A and 539A, Hubert Humphrey Building, 200 Independence Ave., SW., Washington, D.C. Contact Larry Allison, Director of Public Information (202) 245–1591 (voice or TDD), for exact time of each committee meeting.

Wm. Bradford Reynolds,

Acting Chairperson.

[FR Doc. 82-4989 Filed 2-24-82; 8:45 am]

BILLING CODE 4910-07-M

CIVIL AERONAUTICS BOARD

[Former Large Irregular Air Service Investigation; Dockets 33362, 39083, and 39084]

Applications of Michigan Peninsula Airways, Ltd., d.b.a. MPA International Airways; Hearing

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on April 22, 1982, at 9:30 A.M. (local time), in Room 1003, Hearing Room "A", Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., February 19, 1982.

Elias E. Rodrigues,

Chief Administrative Law Judge.

[FR Doc. 82-5087 Filed 2-24-82; 8:45 am]

BILLING CODE 6320-01-M

[Former Large Irregular Air Service Investigation Docket 33362; Docket 32565]

Application of Southeast Airlines, Inc.; Hearing

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on April 20, 1982, at 9:30 A.M. (local time), in Room 1003, Hearing Room "A", Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., February 19, 1982.

Elias C. Rodrigues,

Chief Administrative Law Judge.

[FR Doc. 82-5089 Filed 2-24-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 24-81]

Proposed Foreign-Trade Zone; City of Industry, California; Extension of Comments Period

The period for comments on the above case involving a proposed foreign-trade zone for City of Industry, California (46 FR 63097, December 30, 1981,) is extended for 60 days to April 29, 1982.

During the first 30 days interested parties may submit comments on the proposal, including additional information and arguments on issues raised at the public hearing held at Terminal Island on January 27. Submissions postmarket after March 30 are limited to rebuttal comments on the record as of that date.

Submissions shall include 6 copies. The hearing transcript and material submitted for the record will be available at the places where the application has been available to the public:

U.S. Department of Commerce District Office, 11777 San Vicente Boulevard, Room 800, Los Angeles, California 90049

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3721, 14th and Constitution, NW., Washington, D.C. 20230

Dated: February 22, 1982.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 82-5094 Filed 2-24-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Discontinuance of Preparation of Final Environmental Impact Statement for Machias Bay, Maine as a Proposed Estuarine Sanctuary

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice is to inform all Federal, State, and local government agencies and interested persons that the National Oceanic and Atmospheric Administration (NOAA), Office of Coastal Zone Management has decided to discontinue consideration of a proposal by the Maine State Planning Office to establish a national estuarine sanctuary at Machias Bay, Maine. All agencies, organizations and persons who commented on the draft environmental impact statement (DEIS) will receive a copy of this notice.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the National Environmental Policy Act and section 315 of the Federal Coastal Zone Management Act, the Office of Coastal Zone Management in the National Oceanic and Atmospheric Administration distributed a DEIS to Federal, State and local agencies, environmental, research, and educational organizations, and individuals on October 30, 1981 regarding establishment of a national estuarine sanctuary in Machias Bay, Maine near the Town of Machiasport. The State of Maine had applied to NOAA for an acquisition grant of $586,369 to be matched by the State. The proposed sanctuary consisted of approximately 46,880 acres of water and 600 acres of uplands, wetlands, and islands in Machias Bay in northeastern Maine. The funds were to be spent for acquiring property through easements or fee simple purchase. The comment period on the DEIS was open from October 30 through December 14, 1981. Twenty-nine written comments were received on the proposal. Twenty-two of the comments received were in support of establishing the sanctuary.

On December 2, 1981 a public hearing was held in Machiasport, Maine. Forty-one persons attended with ten presenting testimony. Reaction at the public hearing was mixed. Members from several local civic organizations and individuals spoke in favor of the proposal. However, local fishermen expressed concerns and skepticism concerning the impacts of sanctuary designation on commercial fishing in Machias Bay, and public access to the proposed sanctuary and adjacent lands. Several individuals expressed concern that the inclusion of 46,880 acres of water within the sanctuary boundary was excessive. On December 14, 1981, OCZM received a copy of a public petition containing approximately 135 signatures of local residents, who opposed the proposal. On January 23, 1982 the Town of Michiasport held a special referendum at which the Town voted not to proceed with the proposal as outlined in the DEIS.

As a result of the referendum and consultation with the Maine State Planning Office, NOAA has decided to drop this proposal from further consideration as a national estuarine sanctuary. Consequently, a final environmental impact statement will not be prepared or distributed. However, this action will not preclude the State of Maine from submitting to NOAA a new or modified proposal for a national estuarine sanctuary in the area of Machias Bay.

FOR FURTHER INFORMATION CONTACT: Edward Lindelof or Gloria Thompson, Sanctuary Programs Office, OCZM/NOAA, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, 202/634-4236.

(Federal Domestic Assistance Catalog No. 11.420 Coastal Zone Management Estuarine Sanctuaries)

Dated: February 22, 1982.

William Matuszeski,

Acting Assistant Administrator, Office of Coastal Zone Management.

[FR Doc. 82-4998 Filed 2-24-82; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB)

Dates of meeting: March 15, 1982, March 16, 1982

Times: 0830-1150 hours, March 15, 1982 (Open),1300-1635 hours, March 15, 1982 (Closed), 0815-1415 hours, March 16, 1982 (Closed)

Place: Fort Benjamin Harrison, Indianapolis, Indiana

Proposed Agenda:

The Army Science Board will hold its Spring General Membership Meeting to present and receive briefings as shown in the Agenda:

Monday, March 15

0830-0840	Opening Remarks by Chairman, ASB
0840-0850	Remarks by ASA(RDA)
0850-0900	Introductory Remarks by PDASA(RDA)
0900-0905	Welcome by CG, USA Soldier Support Center, Ft. Benjamin Harrison
0905-0915	Host Command Welcome
0915-1000	TRADOC Command Briefing
1000-1020	Break
1020-1120	Soldier-Machine Interface
1120-1150	Robotics
1200-1300	Lunch
1300-1400	Air-Land Battle, 2000 Briefing

ASB Briefings

1400-1430	Improving the Acquisition Process
1430-1450	Break
1450-1520	Manning Army Systems
1520-1530	Laser Eye Protection
1530-1550	Robotics and Artificial Intelligence
1550-1605	Science and Engineering Personnel
1605-1625	Chemical Warfare
1625-1635	Other ASB Efforts

Tuesday, March 16

0815-1015 Separate Subgroup Orientation Meetings and Executive Review Board:

1. Systems Subgroup
2. Mobility Subgroup
3. Weapons Subgroup
4. C³ Subgroup
5. Human Resources Subgroup
6. Logistics Subgroup
7. RDA Management Subgroup
8. Research Subgroup

1015-1035	Break
1035-1135	Return to Subgroups
1135-1155	Summer Study 1981 Follow-On
1200-1315	Lunch
1315-1415	Round Table Discussion and Conclusion of Meeting

This meeting will be partially closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 697-9703 or 695-3039.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-5088 Filed 2-24-82; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Meeting Changes

The following changes have occurred to the meeting of the Army Science Board Ad Hoc Subgroup on Manning Army Systems which was announced in the issue of February 8, 1982 (47 FR 5756):

Date of meeting: March 4, 1982 (Closed) (instead of March 4 & 5, 1982)

Time: 0830-1700 hours, March 4, 1982

Place: The Pentagon, Washington, D.C. (instead of Fort Knox, Kentucky).

Exact location can be determined by calling the ASB Administrative Officer.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-5090 Filed 2-24-82; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Meeting Changes

The following changes have occurred to the meeting of the Army Science Board Ad Hoc Subgroup on Robotics/Artificial Intelligence which was announced in the issue of February 8, 1982 (47 FR 5756):

Date of Meeting: March 5, 1982 (Open) (instead of March 4 and 5, 1982)

Time: 0830-1700 hours (Open)

Place: The Pentagon, Washington, D.C. Exact location can be determined by calling the Army Science Board Administrative Officer, Helen M. Bowen, at (202) 697-9703 or 695-3039. The place originally cited for the meeting was at the Carnegie-Mellon Institute in Pittsburgh, Pennsylvania.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-5040 Filed 2-24-82; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Meeting Changes

The following changes have occurred to the meeting of the Army Science Board Ad Hoc Subgroup on Ballistic Missile Defense which was announced in the issue of February 12, 1982 (47 FR 6462):

Date of meeting: March 24, 1982 (Closed) (instead of March 12, 1982)

Place: The Pentagon, Room 2E715B, Washington, D.C. (instead of Room 2E887A)

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-5091 Filed 2-24-82; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with sectin 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Date of meeting: March 19, 1982.

Time: 0900-1500 hours (Closed).

Place: The Pentagon, Room 3A486, Washington, D.C.

Proposed agenda: The Civilian Physical Life and Social Scientists Working Group of the Army Science 1982 Summer Study on Science and Engineering Personnel will meet to present and receive briefings and hold discussions to address the Army's problem of recruiting, retaining, and maintaining a reasonably balanced age profile of civilian S&E personnel. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-5092 Filed 2-24-82; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-FC-81-010; OFC Case Nos. 56358-9016-01-12, 56358-9016-02-12]

Phillips Petroleum Co.; Order Granting Permanent Exemptions From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Phillips Petroleum Company, order granting permanent exemptions from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On April 9, 1981, Phillips Petroleum Company (Phillips) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) seeking permanent exemptions for two new major fuel burning installations (MFBI's) from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act), which prohibit the use of petroleum and natural gas as a primary energy source in certain new MFBI's. Criteria for petitioning for exemptions from the

prohibitions of FUA were published at 10 CFR Parts 501 and 503 (45 FR 38276, June 6, 1980, revised 46 FR 59690, December 7, 1981).

Phillips requested permanent fuels mixture exemptions in order to burn natural gas in a mixture with regenerator flue gases (containing carbon monoxide, CO) in two field-erected CO boilers to be constructed at its Borger, Texas, refinery.

Pursuant to section 211(c) of the Act, and § 503.36 of the revised final rule, ERA hereby issues this order granting two permanent fuels mixture exemptions to Phillips to permit the use of natural gas in their new CO boilers.

FOR FURTHER INFORMATION CONTACT:

Ellen Russell, Case Manager, Office of Fuels Programs, Economic Regulatory Administration, 2000 M Street, NW., Room 6114, Washington, D.C. 20461

Henry Garson, Office of the General Counsel, Department of Energy, 1000 Independence Avenue, SW., Forrestal Building, Room 6B–178, Washington, D.C. 20585, (202) 252–2967

The public file containing a copy of this final order and other documents and supporting materials on this proceeding is available upon request from DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E–190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m. to 4:00 p.m. Telephone (202) 252–6020.

SUPPLEMENTARY INFORMATION: In accordance with the procedural requirements of FUA and ERA's regulations, ERA accepted Phillip's petition and published notice of its acceptance in the **Federal Register** on June 9, 1981 (46 FR 30525). The Notice of Acceptance commenced a 45–day public comment period during which interested persons could submit comments on the petition for exemptions and could request that a public hearing be convened.

This period expired on July 24, 1981.

ERA's staff reviewed the information contained in the record of this proceeding and based on that review completed a Tentative Staff Analysis, the notice of availability of which was published in the **Federal Register** on September 18, 1981 (46 FR 46379). The period during which ERA would accept comments on the Tentative Staff Analysis was extended, at the request of Phillips, to January 22, 1982.

The Tentative Staff Analysis recommended that an order be issued to grant fuels mixture exemptions to both CO Boiler 29 (heat input rate of 497 million Btu's per hour) and CO Boiler 40 (heat input rate of 500 million Btu's per hour). However, in proposing to grant these exemptions, ERA noted that its authority to grant a mixtures exemption was limited by its inability to provide for the use of more natural gas in the mixture than ERA could determine was the minimum amount needed to maintain satisfactory operation of the boilers. In this regard, ERA recommended limiting the use of natural gas to 75.55 percent for CO Boiler 29 and 77.25 percent for CO Boiler 40. Phillips had additionally requested that it be granted an exemption that would permit the use of 100 percent natural gas during those periods when sufficient supplies of regeneration gases are not being produced. When the ERA published its Tenative Staff Analysis it had no mechanism for providing for this additional natural gas requirement; it therefore denied the request.

Comments were received only from Phillips. In commenting on the Tentative Staff Analysis, Phillips withdrew those portions of its petition requesting that it be allowed to use natural gas, in combination with the fluid catalytic cracking unit (FCCU) regenerator effluent gases, in the amounts necessary to operate the two CO boilers at design capacity, and the request that they be allowed to burn all natural gas during periods in which the FCC Units are not operating and regeneration gases are unavailable. Therefore Phillips effectively modified its exemption request to include only that amount, pursuant to § 503.36(a)(2), determined to be the minimum amount of natural gas needed to maintain operational reliability of the unit consistent with maintaining a reasonable level of fuel efficiency.

ERA has determined that Phillips has satisfied the requirements of § 503.36. Accordingly, pursuant to section 212(d) of FUA, ERA hereby grants Phillips two permanent fuels mixture exemptions to permit, in a mixture with FCCU regenerator flue gas, the use of natural gas in CO Boilers 29 and 40, in an amount not to exceed 75.55 and 77.25 percent respectively of the primary energy sources used in the boilers.

Section 214(a) of the Act gives ERA the authority to attach terms and conditions to any order granting an exemption. ERA has determined that it will not, in granting these exemption requests, impose those terms and conditions, other than the limitation on fuel consumption specified above, recommended in its Tentative Staff Analysis.

The exemptions granted by this order shall become effective (the 60th calendar day after the date of publication of this order in the **Federal Register**).

Pursuant to section 702(c) of the Act, any person aggrieved by this order may at any time within 60 days after publication petition for judicial review in accordance with the procedures outlined in § 501.69 of the revised final rule.

Issued in Washington, D.C. on February 16, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-5000 Filed 2-24-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–53034; TSH–FRL–2056–5]

Premanufacture Notices; Monthly Status Report for January 1982

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** at the beginning of each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for January 1982.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance. Nonconfidential portions of the PMNs may be seen in Rm. E–106 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments are to be identified with the document control number "[OPTS–53034]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M Street, SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–206, 401 M Street, SW., (202–382–3740).

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during the month; (b) PMNs received previously and still under review at the end of the month; (c) PMNs for which the notice review period has ended during the month; (d) chemical substances for which EPA has received a notice of commencement to manufacture; and (e) PMNs for which the review period has been suspended.

Therefore, the January 1982 PMN Status Report is being published.

Dated: February 12, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

Premanufacture Notices Monthly Status Report; January 1982

I. 61 Premanufacture Notices Received During the Month

PMN No.[1]	Identity and generic name	FR citation	Expiration date
82-1	Generic name: Halogenated derivative of polyethylene glycol	47 FR 1409 (1/13/82)	Apr. 4, 1982.
82-2	Generic name: Propionic acid 1-methyl-2(amino functional) substituted	47 FR 1409 (1/13/82)	Apr. 5, 1982.
82-3	Generic name: Polydimethylsiloxane, copolymer with (substituted alkyl) trimethoxy silane	47 FR 1410 (1/13/82)	Do.
82-4	Generic name: Polydimethylsiloxane, polymer with amino substituted and methyl silsesquioxanes	47 FR 1410 (1/13/82)	Do.
82-5	Generic name: Alkyl(substituted phenylheptyne)	47 FR 2389 (1/15/82)	Apr. 8, 1982.
82-6	Generic name: (Dialkylaminophenylazo)anthracenone sulfonic acid	47 FR 2389 (1/15/82)	Do.
82-7	Generic name: Modified polymer of styrene, allenoic acid, allenoic ester and substituted allenoic esters	47 FR 2400 (1/15/82)	Do.
82-8	Generic name: Polyester from vegetable oil acids, alkane triol, carbomonocyclic anhydride and carbomonocyclic acids	47 FR 2400 (1/15/82)	Do.
82-9	Generic name: Substituted di-alkyl di-thiophosphate	47 FR 2400 (1/15/82)	Do.
82-10	2-ethylmer capto-3-ethylbenzthiazole iodide	47 FR 2400 (1/15/82)	Do.
82-11	Generic name: Polymer of a dihalo alkane, an alkyl allenoate, and a substituted alkyl allenoate	47 FR 2401 (1/15/82)	Do.
82-12	Generic name: Substituted polyhydroxy benzene derivative	47 FR 2402 (1/15/82)	Apr. 7, 1982.
82-13	Generic name: Polyester diol	47 FR 3091 (1/21/82)	Apr. 11, 1982.
82-14	Generic name: Reaction product of a substituted benzene, formaldehyde and inorganic acid	47 FR 3582 (1/26/82)	Apr. 13, 1982.
82-15	Generic name: Polyester from an unsaturated oil, alkenetriol, carbomonocyclic anhydride and carbomonocyclic acids	47 FR 3583 (1/26/82)	Do.
82-16	Generic name: Substituted cyclic amide-aldehyde condensation product	47 FR 3583 (1/26/82)	Do.
82-17	Generic name: Sulfo monoazo dye, 2,2'-iminodiole ethanol salt	47 FR 3583 (1/26/82)	Do.
82-18	Generic name: Polyurethane aqueous dispersion	47 FR 3583 (1/26/82)	Do.
82-19	Pentaerythritol isostearate esters	47 FR 3584 (1/26/82)	Do.
82-20	Dipentaerythritol ester of isostearate acid	47 FR 3584 (1/26/82)	Do.
82-21	Generic name: Hydroxynaphthoic acid metal complex	47 FR 3584 (1/26/82)	Do.
82-22	Generic name: Acrylic copolymer	47 FR 3584 (1/26/82)	Do.
82-23	Generic name: Polyhalogenated aromatic alkylated hydrocarbon	47 FR 3585 (1/26/82)	Do.
82-25	Generic name: Substituted amine polymer	47 FR 3585 (1/26/82)	Do.
82-26	Generic name: Substituted amine	47 FR 3585 (1/26/82)	Do.
82-27	Generic name: Substituted amine	47 FR 3585 (1/26/82)	Do.
82-28	Boron trifluoride—2,4 dimethylaniline complex	47 FR 3592 (1/26/82)	April 18, 1982.
82-29	Generic name: Naphthalenedisulfonic acid, monoazo acid dye, lithium salt	47 FR 3592 (1/26/82)	Do.
82-30	Generic name: Polysubstituted alkyl polamine	47 FR 3592 (1/26/82)	Do.
82-31	Generic name: Quaternary, ammonium compound	47 FR 3592 (1/26/82)	Do.
82-32	Generic name: Dichloro-4-substituted diamino-substituted sulfophenylazo-sulfonaphthalenylazo-benzene-disulfonic acid, tetra sodium salt	47 FR 4143 (1/28/82)	Do.
82-33	Generic name: Unsaturated polyester resin	47 FR 4143 (1/28/82)	Apr. 19, 1982.
82-34	Polymer of hydroxypropyl methacrylate, methyl methacrylate, diallyl phthalate, styrene, butyl methacrylate, hydroxyethyl-acrylate, 2-ethyl hexacrylate, acrylic acid.	47 FR 4144 (1/28/82)	Do.
82-35	Generic name: Reaction product of dehydroacid ester, polyhydric anhydride and substituted isocyanate	47 FR 4144 (1/28/82)	Do.
82-36	Carnauba wax ethoxylated propoxylated	47 FR 4144 (1/28/82)	Do.
82-37	Generic name: Neutralized substituted alkanoic acid	47 FR 4145 (1/28/82)	April 20, 1982.
82-38	Generic name: Modified alkyd polymer from fatty acid oils, glycerin, and a carbomonocyclic anhydride	47 FR 4145 (1/28/82)	Do.
82-39	Generic name: Polymer of a diisocyanate, polyglycol and polysubstituted alkyl amine	47 FR 4145 (1/28/82)	Do.
82-40	Generic name: Modified polymer of styrene, alkyl acrylates, alkyl methacrylates and a substituted alkyl methacrylate	47 FR 4145 (1/28/82)	Do.
82-41	Generic name: Naphthalenedisulfonic acid, diazo acid dye, lithium salt	47 FR 4735 (2/2/82)	April 22, 1982.
82-42	Generic name: Alkyd polymer from fatty acids, substituted alkane triols, carbonkononcyclic acids and an anhydride	47 FR 4736 (2/2/82)	Do.
82-43	Generic name: Organic acid, lead salt	47 FR 5330 (2/4/82)	Do.
82-44	Generic name: Chloroheteropolycyclic, hydrochloride salt	47 FR 4736 (2/2/82)	April 25, 1982.
82-45	Generic name: Substituted pyridinium bromide	47 FR 4736 (2/2/82)	Do.
82-46	Polymer from 1-propanesulfonic gold, 2-methyl-2-[(1-oxo-2-propenyl)amino], formamide, N-ethenyl, 2-propenamide	47 FR 5328 (2/4/82)	April 26, 1982.
82-47	Generic name: Alkyl, alkanol derivative of ammonia, chloride salt	47 FR 5328 (2/4/82)	Do.
82-48	Generic name: Polymer of cycloalkene	47 FR 5331 (2/4/82)	Do.
82-49	Generic name: Modified polyester polyurethane	47 FR 5328 (2/4/82)	Do.
82-50	Generic name: Polyester from an alkanedioic acid and polyetherdiole	47 FR 5328 (2/4/82)	Do.
82-51	Trimethyldipolydichloride	47 FR 5331 (2/4/82)	April 27, 1982.
82-52	Generic name: Perfluoroalkane sulfonic acid, diethanolamine salt	47 FR 5331 (2/4/82)	Do.
82-53	Generic name: Ethoxylated ethanol, fatty acid ester	47 FR 5329 (2/4/82)	Do.
82-54	Generic name: Substituted amine polymer	47 FR 5329 (2/4/82)	Do.
82-55	Generic name: Organo phosphorus-containing acid	47 FR 5329 (2/4/82)	Do.
82-56	Generic name: Modified alkyd polymer	47 FR 5329 (2/4/82)	Do.
82-57	Generic name: Modified alkyd polymer	47 FR 5330 (2/4/82)	Do.
82-58	Generic name: Alkyd resin	47 FR 5330 (2/4/82)	Do.
82-59	Generic name: Aromatic diazo dye	47 FR 5330 (2/4/82)	Apr. 28, 1982.
82-60	Generic name: Zinc, O,O-bis alkylphosphoro dithioate	47 FR 5832 (2/9/82)	Apr. 28, 1982.
82-61	Generic name: Polyoxypropylene ester acyl caprolactam	47 FR 5832 (2/9/82)	Do.

[1] PMN submission 82-24 voided.

II. 75 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.[1]	Identity and generic name	FR citation	Expiration date
81-544	Generic name: Benzenesulfonic acid, 4-[[4-[(2-hydroxy-1-naphthalenyl)azo]phenyl]azo]- salt	46 FR 54782 (11/4/81)	Feb. 28, 1982.
81-608	Polyethylene glycol di-2-ethylhexoate	46 FR 60486 (12/10/81)	Mar. 1, 1982.
81-609	Methoxy polyethylene glycol 2-ethylhexoate	46 FR 60486 (12/10/81)	Do.
81-610	Generic name: Urethane acrylate	46 FR 60486 (12/10/81)	Do.
81-611	Generic name: Modified polyurethane from a diisocyanate, substituted alkane diol and mixed polyether diols.	46 FR 60486 (12/10/81)	Do.
81-612	Generic name: Polyester of a polybasic fatty acid and a polyoxyethylated polypropylene glycol	46 FR 60487 (12/10/81)	Do.
81-613	Generic name: Alkyl glucoside	46 FR 60487 (12/10/81)	Do.
81-614	Generic name: Polyester urethane acrylate-blocked	46 FR 60487 (12/10/81)	Do.

II. 75 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH—Continued

PMN No.[1]	Identity and generic name	FR citation	Expiration date
81-614	Generic name: Polyester urethane acrylate-blocked	46 FR 60497 (12/10/81)	Da.
81-615	Generic name: Aryl amine, epoxide polymer	46 FR 60497 (12/10/81)	Da.
81-616	1,7-naphthalenedisulfonic acid, 4-benzamido-5-hydroxy-6-[[6-sulfo-m-[(2-sulfoethyl)sulfonyl]-1-sulfonaphth-alen-2-yl]azo]-, tetrasodium salt.	46 FR 60491 (12/10/81)	Mar. 3, 1982.
81-617	Generic name: Substituted benzene sulfonic acid derivative	46 FR 60981 (12/14/81)	Da.
81-618	Generic name: Trisubstituted cellulose	46 FR 60981 (12/14/81)	Da.
81-619	Generic name: Trisubstituted cellulose salt	46 FR 60981 (12/14/81)	Da.
81-620	Generic name: Silicon substituted organic amine	46 FR 60982 (12/14/81)	Da.
81-621	Generic name: Polyester of propanediol, adipic acid, phthalic anhydride, aromatic aliphatic ester	46 FR 60982 (12/14/81)	Mar. 4, 1982.
81-622	Fumaric acid, maleic anhydride, isophthalic acid polymer of propylene glycol and ethylene glycol	46 FR 61350 (12/16/81)	Mar. 3, 1982.
81-623	Generic name: Copolymer of alkyl acrylates and methacrylates	46 FR 61530 (12/16/81)	Mar. 7, 1982.
81-624	Generic name: Modified polyester from alkane-dioic acid, substituted alkane triol and a carbo-monocyclic acid.	46 FR 61530 (12/16/81)	Da.
81-625	Generic name: Blocked isocyanate	46 FR 61505 (12/17/81)	Mar. 6, 1982.
81-626	Ethylene glycol acrylate trimellitate	46 FR 61505 (12/17/81)	Mar. 3, 1982.
81-627	Polymer of ethylene glycol acrylate mellitate and bisphenol-A epichlorohydrin	46 FR 61505 (12/17/81)	Mar. 6, 1982.
81-628	Adduct of toluene diisocyanate with 2-hydroxyethyl acrylate and caprolactum	46 FR 61506 (12/17/81)	Da.
81-629	Polymer of linseed oil, polymer with maleic anhydride and pentaerythritol, formaldehyde polymer with 4-(1,1-dimethylethyl) phenol, methyl phenol, and 4-nonyl phenol.	46 FR 61506 (12/17/81)	Da.
81-630	Generic name: Poly(ester)-Co-poly(ether)	46 FR 62312 (12/23/81)	Mar. 9, 1982.
81-631	Generic name: Polymer of mixed alkyl acrylates and methacrylates	46 FR 62312 (12/23/81)	Mar. 10, 1982.
81-632	Generic name: Methacrylate copolymer	46 FR 62312 (12/23/81)	Mar. 11, 1982.
81-633	Generic name: Hydroxy alkenyl benzoic	46 FR 62313 (12/23/81)	Da.
81-634	Generic name: Protein associated biopolymer	46 FR 62313 (12/23/81)	Mar. 14, 1982.
81-635	Generic name: Metal salt of the coupling product of amino naphthalene sulfonic acid and β-oxynaphthoic acid.	46 FR 62313 (12/23/81)	Da.
81-636	Generic name: Metal salt of the coupling product of amino naphthalene sulfonic acid and β-oxynaphthoic acid.	46 FR 62314 (12/23/81)	Da.
81-637	Generic name: Saturated dicarboxylic acid diamine polyamide	46 FR 62314 (12/23/81)	Da.
81-638	Generic name: Polyether reaction product with toluene diisocyanate-methacrylate terminated	46 FR 62567 (12/28/81)	Mar. 15, 1982.
81-639	Generic name: Aliphatic acid ester	46 FR 62569 (12/28/81)	Da.
81-640	Generic name: Disubstituted phenol	46 FR 62629 (12/29/81)	Mar. 16, 1982.
81-641	Generic name: Substituted tetradecanoic acid derivative	46 FR 62669 (12/29/81)	Da.
81-642	Terpolymer of dimethyl diallyl ammonium chloride/acrylamide/sodium acrylate	46 FR 63107 (12/30/81)	Mar. 18, 1982.
81-643	Generic name: Cationic acrylamide copolymer	46 FR 63107 (12/30/81)	Mar. 21, 1982.
81-644	Generic name: Cationic acrylamide copolymer	46 FR 63107 (12/30/81)	Da.
81-645	Generic name: Organic salts of tertiary aliphatic amines	47 FR 337 (1/5/82)	Mar. 22, 1982.
81-646	Generic name: Organic salts of tertiary aliphatic amines	47 FR 337 (1/5/82)	Da.
81-647	Generic name: Organic salts of tertiary aliphatic amines	47 FR 337 (1/5/82)	Da.
81-648	Generic name: Tetrasubstituted benzenamide	47 FR 337 (1/5/82)	Da.
81-649	Generic name: Tetrasubstituted benzene	47 FR 339 (1/5/82)	Da.
81-650	Polymer of hexanedioic acid and 2,2'-iminobisethanol	47 FR 339 (1/5/82)	Da.
81-651	Generic name: Tetrasubstituted benzene	47 FR 339 (1/5/82)	Da.
81-652	Generic name: Carboxylic diepoxyester	47 FR 1019 (1/8/82)	Mar. 23, 1982.
81-656	Generic name: Halogenated nitrotoluene derivative	47 FR 1020 (1/8/82)	Da.
81-657	Generic name: N-alkylated toluidine derivative	47 FR 1020 (1/8/82)	Da.
81-658	Generic name: Halogenated toluene derivative	47 FR 1020 (1/8/82)	Da.
81-659	3-carboxy-4-[(4-[2-methoxy-5-(2-hydroxyethylsulfonyl) ethylsulfonyl) phenyl) aminocarbonyl) phenyl-azo]-1-(4-sulfophenyl)-5-pyrazolone disodium salt.	47 FR 1021 (1/8/82)	Mar. 25, 1982.
81-660	4-hydroxy-3-(2-sulfo-4-sulfophenyl-4-[2-(hydroxyethylsulfonyl)ethylsulfonyl)phenylazo)-1-naphthalene sulfonic acid disodium salt.	47 FR 1021 (1/8/82)	Da.
81-661	4-hydroxy-3-(2-methoxy-5-methyl-4-[2-(hydroxyethylsulfonyl)ethylsulfonyl)phenylazo)-6-(3-sulfophenylamino-8-naphthalenesulfonic acid disodium salt.	47 FR 1021 (1/8/82)	Da.
81-662	Generic name: Substituted propionamide	47 FR 1021 (1/8/82)	Da.
81-663	Generic name: Alkali metal salt of substituted benzoate	47 FR 1021 (1/8/82)	Da.
81-664	Generic name: Modified polyester from a substituted alkanediol, carbomonocyclic acids and carbomonocyclic anhydride.	47 FR 1022 (1/8/82)	Da.
81-665	Generic name: Substituted pyran	47 FR 1022 (1/8/82)	Da.
81-666	Generic name: Cycloalkyl aralkyl ether	47 FR 1411 (1/13/82)	Mar. 28, 1982.
81-667	Generic name: Substituted furan	47 FR 1411 (1/13/82)	Da.
81-668	Generic name: Ester-diol	47 FR 1412 (1/13/82)	Da.
81-669	Benzene, ar-bromoethenyl-, polymer with diethenylbenzene	47 FR 1412 (1/13/82)	Da.
81-670	Generic name: Modified polymer of styrene, alkenoic acid, alkenoic ester and substituted alkenoic esters.	47 FR 1412 (1/13/82)	Da.
81-671	Phenyl mercury neodecanoate	47 FR 1412 (1/13/82)	Da.
81-672	Phenyl acetic acid hydrazide	47 FR 1412 (1/13/82)	Da.
81-673	Generic name: Polyester from vegetable oil acids, alkane triol, carbomonocyclic anhydride and carbomonocyclic acid.	47 FR 1413 (1/13/82)	Da.
81-674	Generic name: Metal containing 2-hydroxy alkyl benzoate	47 FR 1412 (1/13/82)	Da.
81-675	Generic name: Acrylic copolymer	47 FR 1413 (1/13/82)	Da.
81-676	Generic name: Acrylic copolymer	47 FR 1413 (1/13/82)	Da.
81-677	Generic name: Acrylic copolymer	47 FR 1413 (1/13/82)	Da.
81-678	Generic name: Acrylic copolymer	47 FR 1413 (1/13/82)	Da.
81-679	Generic name: Acrylic copolymer	47 FR 1414 (1/13/82)	Da.
81-680	3,5-dimethylbicyclo [2.2.1] heptane-2-carboxylic acid	47 FR 1410 (1/13/82)	Mar. 30, 1982.
81-681	Decanoic acid, octyl ester	47 FR 1411 (1/13/82)	Da.
81-682	Octanoic acid, heptyl ester	47 FR 1411 (1/13/82)	Da.
81-685	Generic name: Polymer of 1,1'-methylene bis (4-isocyanatocyclohexane); a polymer of e-caprolactone and an ethylene glycol derivative; 2-butanone oxime; and a polyalkyl hydroxy substituted heterocycle.	47 FR 1416 (1/13/82)	Mar. 31, 1982.
81-686	Generic name: Polymer of 1,1'-methylene bis (4-isocyanatocyclohexane); a polymer of e-caprolactone and an ethylene glycol derivative; and a substituted alkane.	47 FR 1414 (1/13/82)	Da.

[1] PMN's 81-653, 81-654, and 81-655 were voided.

III. 65 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAD BEEN ADDED TO THE INVENTORY)

PMN No.	Identity and generic name	FR Citation	Expiration date
81-500	3-dodecyl-9-H-thioxanthen-9-one	55 FR 50147 (10/9/81)	Jan. 3, 1982.
81-501	Generic name: Polyester of a substituted alkanediol and carbomonocyclic anhydride	46 FR 50147 (10/9/81)	Da.
81-502	Generic name: Polymer of epon resin and alkanedioic acid	46 FR 50148 (10/9/81)	Da.
81-503	Generic name: Copolymer of alkylacrylates and methacrylates	46 FR 50148 (10/9/81)	Da.
81-504	Generic name: Copolymer of alkylacrylates and methacrylates	46 FR 50148 (10/9/81)	Da.
81-505	Generic name: Copolymer of alkylacrylates and methacrylates	46 FR 50148 (10/9/81)	Da.
81-506	Generic name: Copolymer of alkylacrylates and methacrylates	46 FR 50148 (10/9/81)	Da.
81-507	Generic name: Isocyanate functional polyester	46 FR 50410 (10/13/81)	Jan. 4, 1982.
81-508	Generic name: Benzenedicarboxylic acid saturated mixed glycol polyester	46 FR 50410 (10/13/81)	Da.
81-509	Generic name: Lower alkyl ester of an alkyl propionic acid	46 FR 50410 (10/13/81)	Da.
81-510	Generic name: Heteromonocyclic fatty acid ester	46 FR 50411 (10/13/81)	Da.
81-511	Generic name: Fatty acids, esters with trimethylol propane and a polyol	46 FR 50411 (10/13/81)	Da.
81-512	Generic name: Substituted heteropolycycle	46 FR 50840 (10/15/81)	Da.
81-513	Generic name: N-alkylhalogenatedbenzylamine	46 FR 50840 (10/15/81)	Jan. 5, 1982.
81-514	Generic name: Polyester from substituted alkane diols, alkanoic acids, and carbomonocyclic acids	46 FR 50841 (10/15/81)	Jan. 7, 1982.
81-515	Generic name: Polymer of styrene and acrylic acid with substituted acrylates and methacrylates	46 FR 50841 (10/15/81)	Da.
81-516	Polymer of isophthalic acid, diethylene glycol, trimethylol propane, adipic acid, dimethyl ethanola-, mine, and trimellitic anhydride.	46 FR 50841 (10/15/81)	Da.
81-517	Generic name: Alkanyl tetracarboxylate	46 FR 50481 (10/15/81)	Da.
81-518	Generic name: Oxepanone phthalate polymers	46 FR 50842 (10/15/81)	Da.
81-519	Generic name: Acrylic polyester resin	46 FR 50842 (10/15/81)	Da.
81-520	Generic name: Isocyanate functional polyester	46 FR 51643 (10/21/81)	Jan. 12, 1982.
81-521	Polymer of linseed oil, pentaerythritol, benzoic acid, and toluene diisocyanate	46 FR 51643 (10/21/81)	Da.
81-522	Generic name: Substituted pyridine	46 FR 52225 (10/26/81)	Da.
81-523	Generic name: Modified polymer of substituted carbomonocycle, carbomonocyclic acid, alkane-dioic acid, and a substituted alkanediol.	46 FR 52225 (10/26/81)	Da.
81-524	Generic name: Polyester from carbomonocyclic diacids, alkanedioic acid, alkane triol, and substituted alkane diols.	46 FR 52225 (10/26/81)	Da.
81-525	Generic name: Polyisobutenylsuccinic acid, metal salt	46 FR 52226 (10/26/81)	Da.
81-526	Generic name: Hydrogenated dimer fatty acid polyamide resin	46 FR 52226 (10/26/81)	Da.
81-527	Generic name: Trisubstitutedheteropolycyclic salt	46 FR 52416 (10/27/81)	Jan. 14, 1982.
81-528	Generic name: Trisubstitutedheteropolycyclic salt	46 FR 52416 (10/27/81)	Da.
81-529	Generic name: Polymer of alkyl and polyfluoroalkyl acrylates	46 FR 52416 (10/27/81)	Jan. 15, 1982.
81-530	Generic name: Substituteddiol salt	46 FR 52416 (10/27/81)	Da.
81-531	Generic name: Diethylated polyethylene polyamine	46 FR 52418 (10/27/81)	Jan. 17, 1982.
81-532	Generic name: Tetrafunctional secondary aromatic amine	46 FR 53283 (10/28/81)	Jan. 18, 1982.
81-533	Titanium (4) diisopropoxide disubstituted complex	46 FR 53289 (10/28/81)	Da.
81-534	2,3-epoxycyclohexanone	46 FR 53522 (10/29/81)	Jan. 19, 1982.
81-535	Generic name: Heteromonocycle modified fumarated rosin ester	46 FR 53522 (10/29/81)	Da.
81-536	Generic name: Polymer from a carbomonocyclic anhydride, alkanedioic acid and substituted alkane diols.	46 FR 53522 (10/29/81)	Da.
81-537	1-amino-4-(phenylamino)-9,10-dihydro-9,10-dioxo-2-[(2'-methoxyethyl)oxo] anthracene	46 FR 53522 (10/29/81)	Da.
81-538	Sodium salt of the sulfonated reaction products of 1-amino,4-(phenylamino)-9,10-dihydro-9,10-dioxo-2-anthracene.	46 FR 53523 (10/29/81)	Da.
81-539	Sodium salt of the sulfonated reaction products of 1-amino-4-(phenyl-amino)-9,10-dihydro-9,10-dioxo-2-[(2'-methoxyethyl)oxo] anthracene.	46 FR 53523 (10/29/81)	Da.
81-540	Poly(oxy-1,2-ethanediyl), a-(1-oxononyl)-w-((1-oxononyl)oxy)-	46 FR 54403 (11/2/81)	Da.
81-541	Generic name: Substituted alkenoic acid methyl ester	46 FR 54403 (11/2/81)	Da.
81-542	Generic name: Substituted propiophenone	46 FR 54403 (11/2/81)	Da.
81-543	3-hydroxy-1-propanesulfonic acid monosodium salt	46 FR 54782 (11/4/81)	Jan. 24, 1982.
81-545	N,N'-bis(phthalocyl-bis(trimethylene urea)	46 FR 54782 (11/4/81)	Da.
81-546	Generic name: Substituted carbopolycyclic polyazo poly-sulfonic acid, salt	46 FR 54782 (11/4/81)	Jan. 25, 1982.
81-547	1,4-bis(1-methylethenyl) benzene	46 FR 55001 (11/5/81)	Jan. 25, 1982.
81-548	Generic name: A polymer of acrylic and methacrylic acid derivatives, a vinyl aromatic compound and a substituted propene compound.	46 FR 55001 (11/5/81)	Da.
81-549	Generic name: Aliphatic polyurethane-acrylic waterborne dispersion	46 FR 55002 (11/5/81)	Da.
81-550	Generic name: Aliphatic polyurethane-acrylic waterborne dispersion	46 FR 55002 (11/5/81)	Da.
81-551	Generic name: Aliphatic polyurethane waterborne dispersion	46 FR 55002 (11/5/81)	Da.
81-552	Generic name: Succinimide of poly(alkene) and alkene/alkene copolymer	46 FR 55003 (11/5/81)	Da.
81-553	Generic name: Organic acid salt of the succinimide of poly(alkene) and alkene/alkene copolymer	46 FR 55003 (11/5/81)	Da.
81-554	Generic name: Metal alkyl thiocarbonate	46 FR 55003 (11/5/81)	Da.
81-555	Generic name: Sulfonylphenylalkene	46 FR 55004 (11/5/81)	Da.
81-556	Generic name: Sulfur containing polyamide	46 FR 55004 (11/5/81)	Da.
81-557	Generic name: Substituted alkenyl alkanoate	46 FR 55148 (11/6/81)	Jan. 26, 1982.
81-558	4-hydroxy-3-(6-(2-hydroxyethylsulfonyl) ethylsulfonyl)-2-methoxyphenylazo)-7-auxilhyl-amino-2-naphthalenesulfonic acid disodium salt.	46 FR 55148 (11/6/81)	Jan. 27, 1982. Da.
81-559	5-Acetylamino-4-hydroxy-3-(2-hydroxyl-4-(2-hydroxy-sulfonyl) ethylsulfonyl)-5-methylphenylazo)-2,7-naphthalenedisulfonic acid trisodium salt complex.	46 FR 5518 (11/6/81)	Da.
81-560	3-carboxy-4-[4-(2-hydroxysulfonyloxyethylsulfonyl) phenylazo]-1-(3-sulfophenyl)-5-pyrazolone disodium salt.	46 FR 55146 (11/6/81)	Da.
81-561	4-[4-(2-(hydroxysulfonyloxy)ethylsulfonyl)-5-methyl-2-methoxyphenylazo]-3-methyl-1-(3-sulfophenyl)-5-pyrazolone disodium salt.	46 FR 55146 (11/6/81)	Da.
81-562	Mono, di, and trithanolamine salts of benzoic and phthalic acids	46 FR 55147 (11/6/81)	Jan. 28, 1982.
81-563	Generic name: N,N-disubstituted hetero monocyclic derivative	46 FR 55147 (11/6/81)	Da.
81-564	Generic name: Disubstituedbenzene	46 FR 55558 (11/10/81)	Da.
81-566	Generic name: Isocyanate modified polyester	46 FR 55558 (11/10/81)	Jan. 31, 1982.

IV. 15 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE

PMN No.	Chemical identification	FR citation	Date of commencement
80-16	1-(p-Nitrobenzoyl-1-(4' carboxypyridyl) hydrazide	45 FR 13631 (2/29/80)	Jan. 7, 1982.
80-308	Generic name: Urea/carbamate lacquer	45 FR 82709 (2/16/80)	Dec. 10, 1982.
80-316	Dimethyl diallyl ammonium chloride-acrylamide-potassium acrylate terpolymer	45 FR 85896 (12/19/80)	December 1981.
80-537	Generic name: Acrylamid-methacrylic copolymer	46 FR 2716 (1/12/81)	Jan. 4, 1982.
81-103	Generic name: Alkyl amine methacrylic copylmer	46 FR 27646 (4/20/81)	Da.

IV. 15 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture—Continued

PMN No.	Chemical identification	FR citation	Date of commencement
81-391	Generic name: Acrylic polymer	46 FR 44047 (9/2/81)	Nov. 23, 1982.
81-423	Generic name: Alkenyl succinic acid, monoester	46 FR 45999 (9/16/81)	Nov. 20, 1981.
81-442	Generic name: Benzyl ester	46 FR 47004 (9/23/81)	Dec. 15, 1981.
81-456	Monoethanolamine citrate	46 FR 47656 (9/28/81)	Dec. 21, 1981.
81-470	Tris (tridecafluoroheptyl) amine	46 FR 48319 (10/1/81)	Jan. 2, 1982.
81-516	Generic name: Chaparone phthalein polymers	46 FR 50842 (10/15/81)	Jan. 11, 1982.
81-518	Generic name: Acrylic-polyester resin	46 FR 50842 (10/15/81)	Jan. 12, 1982.
81-529	Generic name: Polymer of alkyl and polyfluoroalkyl acrylates	46 FR 52416 (10/27/81)	Jan. 18, 1982.
81-535	Generic name: Metal salt of the coupling product of amino naphthalene sulfonic acid and β-oxynappthoic acid	46 FR 62313 (12/23/81)	Mar. 15, 1982.
81-536	Generic name: Metal salt of the coupling product of amino napthalene sulfonic acide and β-oxynaphthoic acid	46 FR 62314 (12/23/81)	Do.

V. 10 Premanufacture Notices for Which the Review Period Has Been Suspended

PMN No.	Identity and generic name	FR citation	Date suspended
80-137	Benzeneamine, 4,4'-methylene bis [N-(1-methybutylidene)	45 FR 48243 (7/18/80)	Sept. 22, 1980.
80-138	Benzeneamine, 4,4'-methylene bis [N-(1-methybutylidene)	45 FR 48243 (7/18/80)	Do.
80-146	Phosphorodithioic acid O,O'-diisohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters, zinc salt	45 FR 48153 (7/23/80)	Sept. 17, 1980.
80-147	Phosphorodithioic acid O,O'-di(isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters	45 FR 48153 (7/23/80)	Do.
80-264	generic name: Benzeneamine, [N-(1-methylheptylene) N-(1-methyl butylidene)-4,4'-methylene bis]	45 FR 73127 (11/4/80)	Dec. 24, 1980.
81-500	2-dodecyl-9-H-thioxanthen-9-one	46 FR 50147 (10/9/81)	Dec. 21, 1981.
81-534	2,3-epoxycyclohexanone	46 FR 53622 (10/29/81)	Nov. 2, 1981.
81-558	4-hydroxy-3-(5-(2-hydroxysulfonyloxy) ethylsulfonyl)-2-methoxyphenylazo)-7-suoshyl-amino-3-naphthalenesulfonic acid disodium salt	46 FR 55146 (11/6/81)	Jan. 27, 1982.
81-559	5-Acetylamino-4-hydroxy-3-(2'-hydroxyl-4-(2-hydroxy-sulfonyl ethylsulfonyl)-5-methylphenylazo)-2,7-naphthalenedisulfonic acid trisodium salt complex	46 FR 5516 (11/6/81)	Do.
81-561	4-[4-[2-(hydroxysulfonyoxy)ethylsulfonyl]-5-methyl-2-methoxyphenylazo]-3-methyl-1-(3-sulfophenyl)-5-pyrazolone disodium salt	46 FR 55146 (11/6/81)	Do

[FR Doc. 82-4708 Filed 2-24-82; 8:45 am]

BILLING CODE 6560-31-M

[OPTS 41009; FRL-2055-4]

Chemicals To Be Reviewed by the Toxic Substances Control Act Interagency Testing Committee; Public Meeting and Requests for Information

AGENCY: Toxic Substances Control Act Interagency Testing Committee.

ACTION: Notice of Public Meeting and Request for Information.

SUMMARY: The Toxic Substances Control Act (TSCA) Interagency Testing Committee (ITC) will hold a public meeting to receive comments and information on a new list of chemicals selected for review by the ITC. The public is also invited to submit to the ITC, after the meeting, written comments and technical data on the listed chemicals. The chemicals on the list are candidates for possible designation to the Administrator of the U.S. Environmental Protection Agency (EPA), to be given priority consideration for the promulgation of testing rules pursuant to section 4(a) of TSCA.

DATES: The meeting will be held on Thursday, April 22, 1982 at 9:00 a.m.

Oral comments may be presented at the meeting. Written comments should be sent to the Executive Secretary, ITC, no later than July 22, 1982.

ADDRESS: The meeting will be held at: New Executive Office Building, Room 2008, 726 Jackson Place, 17th and H Streets NW., Washington, DC 20006.

ADDRESS: Written comments to: Martin Greif, Executive Secretary, TSCA Interagency Testing Committee, Environemntal Protection Agency (TS-792), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Martin Greif (202-382-3825).

SUPPLEMENTARY INFORMATION:

I. Background

The Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.* (TSCA) authorizes the Administrator of the U.S. Environental Protection Agency (EPA) to require testing of chemicals in commerce if the Administrator makes certain findings that are set forth in section 4(a) of TSCA. Section 4(e) established the TSCA Interagency Testing Committee (ITC). The ITC is charged with designating to the EPA Administrator chemicals (chemical substances or mixtures) to which EPA should give priority consideration for promulgating health and environmental effects testing rules under section 4(a) of TSCA. The EPA Administrator must, within 12 months after issuance of an ITC designation, propose testing rules for the designated chemicals or publish in the **Federal Register** the reasons for not doing so.

Eight Federal agencies are specified in section 4(e)(2)(A) of TSCA as statutory members of ITC. The agencies are: Council on Environmental Quality, Department of Commerce, Environmental Protection Agency, National Cancer Institute, National Institute of Environmental Health Sciences, National Institute for Occupational Safety and Health, National Science Foundation, and Occupational Safety and Health Administration.

The ITC has invited five other Federal agencies and one national program, with activities related to the control of toxic substances, to participate in a liaison capacity. They are: Consumer Product Safety Commission, Department of Agriculture, Department of Defense, Department of the Interior, Food and Drug Administration, and National Toxicology Program.

In developing its designations the ITC is directed by section 4(e)(1)(A) of TSCA to consider, together with all other relevant information, the following priority factors with respect to chemicals under consideration:

1. Quantity manufactured.
2. Quantity which will enter the environment.
3. Occupational exposure.
4. Non-occupational human exposure.
5. Similarity in chemical structure to other substances which are known to present an unreasonable risk of injury to health or the environment.
6. Existence of data concerning health and environmental effects.
7. The extent to which testing will develop useful data on the risk of injury to health or the environment.

8. The reasonably foreseeable availability of testing facilities and personnel.

The ITC is also directed by section 4(e)(1)(A) of TSCA to give priority attention, in establishing its list of designated chemicals, to those chemicals which are known or suspected to cause cancer, gene mutations or birth defects.

Section 4(e) requires that the ITC revise its list of designated chemicals as necessary at least once every six months. The initial report of the ITC to the EPA Administrator was published in the **Federal Register** of October 12, 1977 (42 FR 55026). This report contains a description of the Committee's scoring and review processes, together with the initial list of designated chemicals. Eight subsequent reports have been issued by the ITC.

Following the Third ITC Scoring Exercise in 1980, the Committee initiated a new procedure for obtaining information not available in the open literature, which was needed to facilitate its review process. The list of chemicals selected for detailed review was published in the **Federal Register** of October 7, 1980 (45 FR 66506) together with an announcement of a public meeting of the ITC to receive comments on the list. Response to the Committee's requests from both the public and private sectors has been excellent. Information received from chemical companies, trade associations and Government agencies has increased the information base relied upon by the ITC in its review of chemicals.

In January 1982 the ITC completed its Fourth Scoring Exercise, to select additional chemicals which warrant detailed review to determine which should be designated to the EPA Administrator for priority consideration. This scoring exercise produced a list of 75 chemicals to be reviewed by the ITC during the next 18–24 months. The ITC added four additional chemicals to the list, without scoring for health or environmental effects, because they were found to have high exposure scores and are related structurally to chemicals known to have adverse health or environmental effects. Those chemicals are indicated with an asterisk (*) following the CAS number. The list follows.

II. 1982 List of Chemicals Selected for Review by TSCA Interagency Testing Committee

(Ascending CAS No. Sequence)

CAS No. and Chemical Name	
87-84-3	1,2,3,4,5-pentabromo-6-chlorocyclohexane
92-59-1	N-ethyl-N-benzylaniline
95-32-0	2-(4-morpholinyldithio)benzothiazole
99-54-7	3,4-dichloronitrobenzene
100-29-8	4-ethoxynitrobenzene
103-63-9	(2-bromoethyl)benzene
107-04-0	1-bromo-2-chloroethane
110-01-0	tetrahydrothiophene
111-21-7	ethylenebis(oxyethylene) diacetate
112-90-3	(Z)-9-octadecenylamine
116-37-0	bis(2-hydroxypropyl) bisphenol A ether
117-08-8	tetrachlorophthalic anhydride
120-32-1	2-benzyl-4-chlorophenol
122-19-0	benzyldimethyloctadecylammonium chloride
122-99-6	2-phenoxyethanol
124-17-4	2-(2-butoxyethoxy)ethyl acetate
133-49-3	pentachlorobenzenethiol
141-21-9	N-[2-(2-hydroxyethyl)aminoethyl] octadecanamide
142-16-5*	bis(2-ethylhexyl) maleate
142-28-9	1,3-dichloropropane
307-35-7	perfluorooctanesulfonyl fluoride
328-84-7	3,4-dichlorobenzotrifluoride
393-75-9	3,5-dinitro-4-chlorobenzotrifluoride
463-58-1	carbon oxide sulfide
467-62-9	tris(4-aminophenyl)methanol
503-60-6	1-chloro-3-methyl-2-butene
504-66-5	dicyanamide
534-15-6*	1,1-dimethoxyethane
556-67-2	octamethylcyclotetrasiloxane
588-59-0	stilbene
644-97-3	phenylphosphonous dichloride
768-52-5	N-isopropylaniline
822-06-0	1,6-diisocyanatohexane
839-90-7	1,3,5-tris(2-hydroxyethyl)triazine-2,4,6-trione
926-57-8	1,3-dichloro-2-butene
1047-16-1	cinquasia red
1254-78-0	didecyl phenyl phosphite
1325-82-2	C.I. pigment violet 3
1328-53-6	C.I. pigment green 7
1344-32-7	trichlorobenzyl chloride
1459-93-4*	dimethyl isophthalate
1897-45-6	tetrachloroisophthalonitrile
2004-70-8	(E)-1,3-pentadiene
2420-98-6	cadmium 2-ethylhexanoate
2492-26-4	sodium 2(3H)-benzothiazolethionate
2512-29-0	C.I. pigment yellow 1
3088-31-1	sodium 2-[2-(dodecyloxy)ethoxy]ethyl sulfate
3209-22-1	2,3-dichloronitrobenzene
3290-70-8	2,4,4,4-tetrachloro-1-butanol
3319-31-1*	tris(2-ethylhexyl) 1,2,4-benzenetricarboxylate
3322-93-8	1,2-dibromo-4-(1,2-dibromoethyl)cyclohexane
3389-71-7	1,2,3,4,7,7-hexachloronorbornadiene
5915-41-3	2-(t-butylamino)-4-(ethylamino)-6-chlorotriazine
6144-04-9	methylstyrene dimer
6422-86-2	bis(2-ethylhexyl) terephthalate
6865-07-0	2-chloro-3-nitrosobutane dimer
10143-22-3	2-methoxyethyl N,N-bis(hydroxymethyl)-carbamate
10302-15-5	1-(phenylsulfonyl)aziridine
12607-70-4	basic nickel(II) carbonate
13889-02-4	S-propyl carbonochloridothioate
20068-02-4	(Z)-2-methyl-2-butenenitrile
24935-97-5	2-propenyl N-(hydroxymethyl)carbamate
25103-54-2	zinc O,O-bisisodecyl dithiophosphate
25155-23-1	trixylyl phosphate
25640-78-2	isopropylbiphenyl
28629-66-5	zinc O,O-diisooctyl dithiophosphate
28652-72-4	methylbiphenyl
29964-84-9	isodecyl 2-methacrylate
31551-28-7	(E)-2-methyl-2-pentenenitrile
34406-25-8	methyl 2,5-dichloro-3-nitrobenzoate
36678-45-2	1,1,2,3,4,4-hexabromo-2-butene
36876-13-6	ar,ar'-diisopropylbiphenyl
38721-71-0	dichlorobenzyl chloride
40186-83-8	methyl 3,6-dichloro-2-nitrobenzoate
52304-17-3	isobutyl N,N-bis(hydroxymethyl)-carbamate
56046-62-9	N-[2-[ethyl(3-methyl-4-nitrosophenyl)amino]-ethyl] methanesulfonamide
67953-32-6	isobutyl N-(hydroxymethyl)carbamate
68460-03-7	bis(1,3-dichloro-2-propyl) 2,3-dichloro-1-propyl phosphate
70592-80-2	(C_{16}-C_{20}-alkyl)dimethylamine N-oxides

III. Public Meeting and Request for Comments

A public meeting of the ITC will be held in Washington, D.C. on April 22, 1982, at the time and place designated in the beginning of this notice. At this meeting a representative of the ITC will describe the chemical-scoring and selection process used by the Committee. Interested persons are invited to present relevant oral comments on the chemicals listed in Section II of this notice. Additional comments and information may be submitted in writing to the TSCA Interagency Testing Committee. The kinds of information that would be most helpful to the ITC in assessing the need for testing are those related to the eight priority factors listed in Section I of this notice. Of particular value would be:

1. Technical bulletins.
2. Material safety data sheets.
3. Current annual production data and trends.
4. Number of workers exposed, concentrations, controls, use of open versus closed systems, etc.
5. Use date (types of uses, percent of production by use, etc.).
6. Environmental impact data (waste control procedures, pollution potential, fraction released to the environment, route of environmental entry, environmental reactions, degradation rates, and ecotoxicity).
7. Toxicological data (laboratory test protocols and results, occupational and non-occupational epidemiology, etc.).

The information submitted will become part of the public record of the ITC review process; therefore, confidential business information or

trade secrets should not be included in submissions pursuant to this notice.

Any person wishing to make an oral presentation at the April 22, 1982, public meeting should notify the Executive Secretary, ITC, at the address or telephone number set forth in this notice, before April 15, 1982. Respondents are requested to provide the CAS registry number and name of any chemical they wish to comment on. Oral presentations will be limited to ten (10) minutes per person.

Written comments or information on chemicals should be submitted to the Executive Secretary, ITC, no later than July 22, 1982, in order to be assured timely review by the ITC.

Dated: February 10, 1982.

Elizabeth K. Weisburger,

Chairperson, TSCA Interagency Testing Committee.

[FR Doc. 82-4691 Filed 2-24-82; 8:45 am]

BILLING CODE 6560-31-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee); Meetings

Location

Room A-110, 1229 20th Street, NW., Washington, D.C.

Working Group A

Services, Facilities and U.S. Interests
Chairman: William Schnicke (202) 653-6091
Date: March 17, 1982 9:00 A.M.—12 Noon

Agenda

(1) Approval of Agenda
(2) Introduction of Attendees
(3) Background/Overview of Work Plan
(4) Detailed Work Plans
  (a) Services and Forecasts
  (b) Technology and Facilities
  (c) U.S. Interests
(5) Work Assignments and Schedule
(6) Other Business
(7) Next Meeting
(8) Adjournment

Working Group B

Political, International and Institutional Considerations
Chairman: Ronald Stowe (703) 442-5022
Date: March 17, 1982 1:30 P.M.—4:30 P.M.

Agenda

(1) Approval of Agenda
(2) Introductions
(3) Work Plans and Schedules
  (a) Legal Implications
  (b) Related Negotiations and U.S. Interests
  (c) Assessment of International Organizations and Other National Interests
(4) Other Business
(5) Next Business
(6) Adjournment

Working Group C

Available U.S. Options and Strategies
Chairman: Perry Ackerman (213) 648-6134
Date: March 18, 1982 9:00 A.M.—12 Noon

Agenda

(1) Approval of Agenda
(2) Welcome and Introductions
(3) Brief Historical Description
(4) Brief Review of Existing Material
(5) Assignment of Material Preparation and Associated Schedules
(6) Solicitation of Task Group Leaders
(7) Other Business
(8) Next Meeting
(9) Adjournment

Full Committee

Chairman: Stephen Doyle (916) 355-6941
Date: March 18, 1982 1:30 P.M.—4:30 P.M.

Agenda:

(1) Approval of Agenda
(2) Approval of Minutes of Second Meeting
(3) Presentation of Working Group Reports [3]
(4) Consideration of Future Work
(5) Other Business
(6) Adjournment

Note.—If any slippage occurs in this schedule, Room 656, 1919 M Street, N.W. (FCC), has been reserved from 9:00 A.M.—12 Noon on March 19, 1982, for use by the Space WARC Advisory Committee.

Federal Communications Commission.

William J. Tricarico,

Secretary.

February 18, 1982.

[FR Doc. 82-5007 Filed 2-24-82; 8:45 am]

BILLING CODE 6712-01-M

Public Broadcasting Commission, Reschedules Meeting for March 22, 1982

The Temporary Commission on Alternative Financing for Public Telecommunications has rescheduled its next meeting for March 22, 1982.

The meeting will begin at 1:30 P.M. in Room 856 of the Federal Communications Commission building at 1919 M Street, NW., in Washington, D.C. The meeting was originally scheduled for March 1.

For further information contact Judy Herman or John Kamp, Broadcast Bureau, (202) 632-6302.

Federal Communications Commission.

William J. Tricarico,

Secretary.

February 19, 1982.

[FR Doc. 82-5006 Filed 2-24-82; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 78-97; FCC 82-91]

The Western Union Telegraph Co., Revisions to Tariffs F.C.C. Nos. 240 and 258, et al.; Memorandum Opinion and Order

Adopted: February 17, 1982.

Released: February 18, 1982.

1. Before the Commission is an appeal, filed jointly by The Western Union Telegraph Company (Western Union), ITT World Communications, Inc., RCA Global Communications, Inc. (RCA Globcom) TRT Telecommunications Corporation, and Western Union International, Inc. (referred to collectively as appellants), from the presiding Administrative Law Judge's (ALJ) bench ruling of January 13, 1982, denying Western Union's motion for deferal of the hearing in Docket No. 78-97 (*Telex/TWX Investigation*).[1] Specifically, appellants request that the Commission defer further procedural steps in this investigation until thirty days following the execution of an interconnection agreement contemplated by the newly amended section 222(c)(3) of the Communications Act or, in the absence of such agreement, the issuance by the Commission of an interim or final order pursuant to that section.[2] For reasons to be explained, we shall grant the request.

Background

2. The *Telex/TWX Investigation* concerns the lawfulness of Western Union's Telex and TWX rates. Instituted by the Commission in 1978 to investigate rate revisions for public domestic usage of Telex and TWX services,[3] the proceeding was subsequently expanded to include Telex and TWX rates applicable to the IRCs.[4] The present stage of this investigation (designated Phase II by the ALJ) concerns the lawfulness of Western Union's currently effective distance insensitive or "postalized" Telex and TWX rates.[5] See *Western Union Telegraph Co.*, Mimeo No. 000522 (released April 30, 1981), *applications for review pending.*[6]

2. On December 28, 1982, Western Union filed a motion with the Commission seeking termination of this phase. It argued that the Commission's recent order authorizing all IRCs to provide competitive, wholly domestic record service so changes the structure of the record services market that continuation of Phase II, which was premised on the market structure prior to IRC competition, is futile.[7] Pending Commission action on the motion to terminate, moreover, Western Union askded the ALJ to defer the investigation.

4. The newly enacted RCCA provides, *inter alia*, that any record carrier may offer both domestic and international record service and must make available to any other record carrier, upon reasonable request, full interconnection with any of its facilities used primarily for record services, through written agreement and under reasonable terms and conditions. Any such agreement must establish a non-discriminatory formula for the equitable allocation of revenues derived from such joint use of facilities among the parties to the agreement. Moreover, the statute requires the Commission to convene a meeting among all record carriers concerned for the purpose of negotiating the terms and conditions of interconnection.[8] If an agreement cannot be reached by the parties within 45 days following the beginning of negotiations, the Commission is required to issue an interim or final order establishing a reasonable and nondiscriminatory interconnection agreement not later than 90 days after the date negotiations begin.

5. Against this statutory background, appellants argue that the outcome of the record carrier negotiations or Commission rulemaking may substantially affect Western Union's revenues and expenses. This, in turn, could assertedly affect Western Union's traffic, revenue requirements and thus cloud the ALJ's pending determination of the reasonableness of Western Union's current Telex and TWX rates of return and rate levels. Further, appellants assert that many of the issues in the investigation, such as whether the IRCs are entitled to a discount on Telex and TWX services, may be mooted by an interconnection agreement or rulemaking. According to appellants, the agreement could conceivably eliminate the objections lodged against the postalized rate structure. Finally appellants note that many of the participants in the negotiations are also involved in the rate investigation. Because the negotiations/rulemeking must be completed within a statutorily-fixed time, appellants reason that these proceedings should take precedence over the investigation.

Discussion

6. As we understand it, the ALJ denied Western Union's request for deferral to avoid any further delay in this investigation. Under normal circumstances that result would be permitted to stand. However, the present situation is somewhat unusual. The RCCA requires that the record carriers execute an interconnection agreement within a very short time frame. And, as appellants point out, the individuals participating in the interconnection negotiations are to a great extent the same individuals involved in Docket No. 78-97. Because of the statutory burden placed on the record carriers, as well as the possibility that the negotiations may affect certain of the issues in Phase II, we think the Commission's limited resources are best conserved by postponing the Docket No. 78-97 hearing for this relatively brief period.

7. Accordingly, it is ordered, That the joint appeal filed by The Western Union Telegraph Company, ITT World Communications, Inc., RCA Global Communications, Inc., TRT Telecommunications Corporation, and Western Union International, Inc., requesting deferral of the Docket No. 78-97 investigation until thirty days following execution of the interconnection agreement or Commission order mandated by the *Record Carrier Competition Act of 1981*, amending Section 222(c)(3) of the Communications Act of 1934, is granted.

8. It is further ordered, That the Secretary shall cause this Order to be published in the Federal Register.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-5005 Filed 2-24-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Under § 1.301(b) of our Rules, 47 CFR 1.301(b), this type of appeal may be filed only if allowed by the ALJ. Here, permission to do so has been granted by the ALJ. (Tr. 7084)

[2] Section 222 of the Act was amended by the *Record Carrier Competition Act of 1981*, Pub. L. 97-130, Stat. , enacted December 29, 1981 (hereafter referred to as the "RCCA.") See paragraph 4, *infra*.

[3] *Western Union Telegraph Co.*, 67 FCC 2d 1420 (1978).

[4] *Western Union Telegraph Co.*, 68 FCC 2d 98 (1978) (*IRC Telex/TWX Order*).

[5] Phase I concerned Western Union's Telex and TWX rates prior to postalization and the record there has been closed.

[6] These applications have been filed by Western Union and RCA Globcom. Moreover, we have received a petition for reconsideration of the April 30 order and related matters dealing with procedural matters in Docket No. 78-97, including a motion seeking termination of Phase II. We will be acting on these matters shortly.

[7] *RCA Global Communications, Inc.*, FCC 81-577 (released January 11, 1982).

[8] Such meetings were convened under Commission aegis on January 8, 1982.

[FR Docket No. 82-61]

George Bennett; for a Citizens Band Radio Service Station License

Adopted: February 11, 1982.

Released: February 16, 1982.

In the matter of application of George Bennett; For a Citizens Band Radio Service Station License; PR Docket No. 82-61; Designating application for hearing on stated issues; designation order.

The Chief, Private Radio Bureau, has under consideration the above-captioned application filed July, 17, 1981, by George Bennett.

1. George Bennett is the former licensee of Citizens radio station KBQ-8214.[1] On March 13, 1980, the Commission released an Order directing George Bennett to Show Cause why the license for radio station KBQ-8214 should not be revoked. The Order to Show Cause provided Bennett an opportunity for a hearing concerning the allegations. Bennett submitted written statements in lieu of an appearance.

2. An Order of Revocation of Citizens radio station license KBQ-8214 was released effective September 22, 1980 (SS-251-09). The Order was based on numerous willful and repeated violations of the Commission's Rules governing the Citizens Radio Service, including failure to identify by assigned call sign, attempting to communicate over a distance of more than 150 miles, use of an overheight antenna, and failure to allow an inspection. The Order of Revocation determined that Bennett was not qualified to be a Commission licensee.

3. Bennett replied to the Order of Revocation with two letters stating that he had no intention of going off the air. True to his word, Bennett continued to operate without a license, in violation of Section 301 of the Communications Act of 1934, as amended. On April 30, 1970, the United States District Court for the Eastern District of Michigan, at the Commission's request, issued a Judgment enjoining Bennett from further operation of a radio transmitter without a license (Civil Action No. 34568). Despite the injunction, Bennett persisted in operating his radio station. On August 19, 1970, the court issued an Order finding him in contempt, placing him on probation and ordering his equipment seized (Civil Action No. 34568). Even after the District Court issued the

[1] In April 1977 the Citizens Radio Service Class D subservice became the Citizens Band Radio Service.

contempt judgment, Bennett continued to transmit without a license.[3]

4. On October 8, 1970, Bennett filed an application for a new license. On May 5, 1971, the Commission released an Order (FCC 71-483, Docket No. 19247) designating the application for hearing, alleging, *inter alia*, that Bennett had operated unlicensed on 24 separate dates since the revocation of his prior license. After Bennett failed to appear or participate at the hearing, the Commission dismissed his application with prejudice on June 11, 1971.

5. Meanwhile, on March 10, 1970, Bennett founded the United CB'ers of America (UCBA). On March 26, 1971, Bennett obtained a Citizens Radio Service license in the name of Philip O. Nolan at his own address. He then altered the document to indicate that the licensee was UCBA and that 1,000,000 transmitters were authorized to be operated under the license. Upon joining the UCBA and paying a fee, each member was sent a copy of this "license" and urged to use its call letters — KDW-8076. As president of UCBA, Bennett urged members not to respond directly to violation notices and other offical Commission correspondence. Instead, the UCBA offered to handle, for a fee, all violation notices from the Commission. In each case, the UCBA sent a form letter to the Commission stating the intention of the member to ignore any further correspondence or actions from the Commission.

6. On May 3, 1973, a federal grand jury in Detroit, Michigan, indicted Bennett and the UCBA corporation on eleven counts each for violations of federal criminal law. The indictment charged violations of the following statues: counterfeiting a United States agency seal, to wit, a Citizens radio license document (18 U.S.C. 506); possessing these counterfeit documents (18 U.S.C. 1017); making a false statement in a matter within the jurisdiction of a United States agency, to wit, a Citizens radio application (18 U.S.C. 1001); mail fraud (18 U.S.C. 1341); mailing unmailable matter, to wit, counterfeit documents (18 U.S.C. 1717); conspiracy to commit offenses against the United States and to defraud the United States (18 U.S.C. 371); and unlicensed Citizens radio operation—four counts (47 U.S.C. 301, 501). Bennett and UCBA were found guilty on all charges on December 20, 1973, after a jury trial in the Federal District Court for the Eastern District of Michigan (Criminal No.-49204). On January 9, 1976, the United States Court of Appeals for the Sixth Circuit denied Bennett's and UCBA's appeal. On March 15, 1976, the court denied their motion for rehearing (nos. 75-1345 and 75-1941). The UCBA was fined $5,000. Bennett was sentenced to eighteen months imprisonment, to be followed by two years probation. After serving three and a half months, Bennett was released from federal prison on July 23, 1976. One of the conditions of Bennett's two year probation was that he must not keep or operate any radio transmitting apparatus.

7. On December 9, 1975, the American Federation of CBers (AFCB), a non-profit corporation located in Detroit, Michigan, filed a class D Citizens Radio Station License application. The application was signed by George Bennett as President of the applicant corporation. The application sought authorization for 5,000 transmitters for use by AFCB.

8. The Commission returned the application and requested information to justify the need for 5,000 transmitters. Bennett failed to supply the requested information and on March 1, 1977, the Commission designated the American Federation of CB'er's application. On May 2, 1977, this matter was dismissed and the proceeding terminated.

9. The revocation of Bennett's license, the civil injunction and contempt orders directed against him as well as the criminal convictions against Bennett and UCBA raise substantial questions concerning Bennett's qualifications to be a licensee. The failure of Bennett and the AFCB to supply necessary information to the Commission in an application proceeding also raises substantial questions concerning Bennett's qualifications to be a licensee. The Commission is unable to determine that a grant of Bennett's application would serve the public interest, convenience, and necessity.

Accordingly, it is ordered, pursuant to section 309(e) of the Communications Act of 1934, as amended, and §§ 1.973(b) and 0.331 of the Commission's Rules, that the captioned application is designated for hearing, at a time and place to be specified by a subsequent order, upon the following issues:

(1) To determine the effect of the prior Commission decision revoking the license of George Bennett and the court orders and conviction directed against George Bennett and the United CB'ers of America, on Bennett's qualifications to be a licensee.

(2) To determine whether Bennett's conduct, including his applications for United CB'ers of America and the American Federation of CBers, evidences a longstanding disregard of the Commission's Rules and its licensing authority.

(3) To determine in light of issues (1) and (2), whether George Bennett has the requisite qualifications to be a Commission licensee.

(4) To determine, in light of the foregoing, whether the public interest, convenience and necessity would be served by a grant of the captioned application.

Is is further ordered, that the factual matters which have previously been adjudicated in Criminal, Civil or administrative proceedings will not be relitigated in this proceeding under the doctrine of collateral estoppel.

It is further ordered, That, to avail himself of the opportunity to be heard, the applicant, pursuant to § 1.221(c) of the Commission's Rules (47 CFR 1.221(c)), in person or by attorney, shall within 20 days of the mailing of this Order file with the Commission in triplicate a written appearance stating an intent to appear on a date to be fixed for hearing and to present evidence on the issues specified in this Order.[3]

Raymond A. Lowelski,

Chief, Compliance Division.

[FR Doc. 82-5094 Filed 2-24-82; 8:45 am]

BILLING CODE 6712-01-M

Radio Advisory Committee; Meeting

Notice is hereby given that a meeting of the Advisory Committee on Radio Broadcasting will be held Wednesday, March 10, 1982, starting at 10:30 a.m. in Room A-110, 1229 20th Street, NW., Washington, D.C. 20554.

Committee participants have expressed interest in the early conduct of discussions concerning:

(1) The post-Conference activities on implementation of the Final Acts of the Administrative Conference on Medium Frequency (AM) Broadcasting in Region 2 (Western Hemisphere) signed at Rio de Janeiro December 19, 1981;

(2) The development of bi-laterial agreements between the United States and neighboring countries supplementing the Rio Final Acts, taking into account the announcement by Canada and the Bahama Islands of their intention to give early official notification of their withdrawal from the North American Regional Broadcasting Agreement (NARB); and

(3) Problems arising out of AM spectrum use by neighboring countries which are not signatories of the Rio Final Acts.

These and related matters will be considered at the March 10, 1982 meeting. If the discussion of these matters is not concluded by 12:30 p.m., the meeting will be recessed to 2:00 p.m., unless the participants find it desirable to continue without a break in an effort to conclude the meeting before lunch.

Questions relating to the meeting may be addressed to the Committee Chairman, Louis C. Stephens, at the FCC Headquarters in Washington, (202) 632-7792.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-5183 Filed 2-24-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

Unity Savings Association, Norridge, Illinois; Appointment of Receiver

The Federal Home Loan Bank Board has appointed the Federal Savings and Loan Insurance Corporation receiver for Unity Savings Association, Norridge, Illinois. The receiver has entered into an agreement with Talman Home Federal Savings and Loan Association of Illinois, Chicago, Illinois, whereby Talman Home will continue the business of Unity on Monday, February 22, 1982. All account of unity will continue to be insured up to the $100,000 limit.

Dated: February 22, 1982.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-5084 Filed 2-24-82; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Work Group To Reevaluate Guidelines for Nosocomial Pneumonia; Open Meeting

On March 15 and 16, 1982, the Centers for Disease Control will convene an open meeting of a work group to reevaluate the guidelines for nosocomial pneumonia to provide the most reasonable and practical guidence to infection control committees in hospitals. The meeting is open to the public, limited only by space available.

The meeting is scheduled to begin at 8:30 a.m., in Classroom 3, Building 2, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia.

For further information, please contact: Bryan P. Simmons, M.D., Hospital Infections Branch, Center for Infectious Diseases, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia, Telephones: FTS 236-3408, Commercial: 404/329-3408.

Dated: February 19, 1982.

William C. Watson, Jr.,

Acting Director.

[FR Doc. 82-5085 Filed 2-24-82; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-81-1112]

Acting Secretary of Housing and Urban Development; Order of Succession

During any period when, by reason of absence, disability, or vacancy in office, the Secretary of Housing and Urban Development is not available to exercise the powers and perform the duties of the Secretary, appointees to the positions listed below are authorized to act as Secretary and exercise all the powers, functions, and duties assigned to or vested in the Secretary. However, no official shall act as Secretary until all of the appointees listed before such official's title in this designation are unable to act by reason of absence, disability, or vacancy in office.

1. Under Secretary
2. General Counsel
3. Assistant Secretary for Housing—Federal Housing Commissioner
4. Assistant Secretary for Community Planning and Development
5. Assistant Secretary for Policy Development and Research
6. Assistant Secretary for Administration
7. Assistant Secretary for Legislation and Congressional Relations
8. Assistant Secretary for Fair Housing and Equal Opportunity

In the event of a civil defense emergency declared or proclaimed by the President or by Concurrent Resolution of the Congress in accordance with Section 301 of the Federal Civil Defense Act of 1950 (64 Stat. 1251, 12 U.S.C. App. 2291) and none of the officials named above is able to act, appointees to the positions listed below are authorized to act as Secretary and exercise all powers, functions, and duties assigned to or vested in the Secretary. However, no official shall act as Secretary until all of the appointees listed before such official's title in this designation are unable to act by reason of absence, disability, or vacancy in office.

1. General Manager, New Community Development Corporation
2. President, Government National Mortgage Association
3. Deputy Under Secretary for Field Coordination
4. Deputy Under Secretary for Intergovernmental Relations
5. Regional Administrator, Region I (Boston)
6. Regional Administrator, Region II (New York)
7. Regional Administrator, Region III (Philadelphia)
8. Regional Administrator, Region IV (Atlanta)
9. Regional Administrator, Region V (Chicago)
10. Regional Administrator, Region VI (Fort Worth)
11. Regional Administrator, Region VII (Kansas City)
12. Regional Administrator, Region VIII (Denver)
13. Regional Administrator, Region IX (San Francisco)
14. Regional Administrator, Region X (Seattle)

This designation supersedes the designation effective October 24, 1980 published November 4, 1980 (45 FR 73141).

Authority: Executive Order 11274, 31 FR 5243, 3 CFR; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Executive Order 11490, 34 FR 17567.

Effective Date. This order is effective February 16, 1982.

Samuel R. Pierce, Jr.,

Secretary, Department of Housing and Urban Development.

[FR Doc. 82-5072 Filed 2-24-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A 6878]

Arizona; Order Providing for Opening of Public Lands

February 12, 1982.

1. In exchange of lands made under the provisions of Section 8 of the Act of June 28, 1934 (49 Stat. 1272, amended, 43 U.S.C. 315g) the following lands have been reconveyed to the United States:

Gila and Salt River Meridian, Arizona

T. 6 S., R. 18 E.,
Sec. 7, N½SE¼, SW¼SE¼;
Sec. 8, S½;
Sec. 9, SW¼;
Sec. 13, N½;
Sec. 15, NW¼;
Sec. 16, NW¼SE¼, NE¼SW¼, S½S½;
Sec. 25, E½E½;

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[1] See paragraph 6, *infra*.

[3] The enclosed forms should be sent to the Federal Communications Commission Washington, D.C. 20554 and the Chief, Administrative Law Judge, in the envelopes provided.

Containing 1,460 acres.

A parcel of land in the SE¼ sec. 33, T. 4 N., R. 4 E., GSR Mer., County of Maricopa, State of Arizona, containing an area of 92.34 acres, more or less, and being more particularly described as follows:

Beginning at a point in the east boundary of said Section 33 that bears Northerly along said east boundary 955.92 feet from the Southeast corner of said Section 33; thence from said point of beginning and leaving said east boundary North 76°06'03" West 8.37 feet to a point tangent to the following curve; thence along a curve to the right with a radius of 2964.29 feet, an arc distance of 988.05 feet (Chord—North 66°30'03" West 983.48 feet); thence tangent to the preceding curve North 56°57'03" West 505.02 feet; thence North 60°31'45" West 400.71 feet; thence North 56°57'03" West 1058.44 feet to a point in the North-South Midsection line of said Section 33; said point bears Northerly along said Midsection line 2025.94 feet from the South Quarter of said Section 33; thence Northerly along said Midsection line 709.00 feet, more or less, to the Center of said Section 33; thence Easterly along the East-West Midsection line of said Section 33, 2638.77 feet, more or less, to the East Quarter corner of said Section 33; thence Southerly along the east boundary of said Section 33, 194.65 feet, more or less, to the point of beginning.

A parcel of land in Lots 3 and 4, sec. 35, T. 4 N., R. 4 E., containing an area of 57.12 acres, more or less, and being more particularly described as follows:

Beginning at the Southwest corner of said Section 35; thence Northerly along the west boundary of said Section 35, 1467.84 feet, more or less, to the Northwest corner of said Lot 4; thence Easterly along the north boundary of said Lot 4, 332.12 feet; thence leaving said north boundary South 07°01'30" East 319.52 feet; thence South 66°07'35" East 815.47 feet; thence South 84°56'45" East 1054.16 feet; thence South 70°52'21" East 469.93 feet to a point in the east boundary of said Lot 3; thence southerly along said east boundary 688.99 feet to the South Quarter corner of said Section 35; thence Westerly 2640.80 feet, more or less, along the south boundary of said Section 35 to the point of beginning.

A parcel of land in the E½NE¼ sec. 17, T. 5 N., R. 1 E., containing an area of 12.40 acres, more or less, and being more particularly described as follows:

Beginning at the Northeast corner of said Section 17; thence from said point of beginning and along the east boundary of said Section 17 South 00°30'47" West 356.56 feet; thence leaving said east boundary South 85°06'32" West 1341.45 feet to a point in the west boundary of said E½NW¼; thence along said west boundary North 00°21'13" East 449.65 feet to the Northwest corner of said E½NW¼; thence along the north boundary of said Section 17, North 88°30'47" East 1337.03 feet to the point of beginning.

A parcel of land in the NW¼ sec. 15, T. 5 N., R. 1 E, containing an area of 20.79 acres, more or less, and being more particularly described as follows:

Beginning at a point in the west boundary of said Section 15 that bears South 00°08'16" West 435.15 feet from the northwest corner of said Section 15; thence from said point of beginning and leaving said west boundary South 76°30'13" East 1491.86 feet thence South 39°37'43" East 124.98 feet; thence South 76°30'13" East 1151.98 feet to a point in the east boundary of said Northwest Quarter; thence along said east boundary South 00°11'11" West 258.90 feet; thence leaving said east boundary North 76°30'13" West 1211.12 feet; thence South 85°57'14" West 124.98 feet; thence North 76°30'13" West 1396.63 feet to a point in the west boundary of said Section 15; thence along said west boundary North 00°08'16" East 411.16 feet to the point of beginning.

The areas aggregate approximately 1662.65 acres in Maricopa and Pinal Counties.

2. Subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law, the lands described in paragraph 1 hereof are hereby open to operation of the public land laws including the mining laws (Ch. 2, Title 30 U.S.C.), and the mineral leasing laws. All valid applications received at or prior to March 31, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602–261–4774).

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-5014 Filed 2-24-82; 8:45 am]

BILLING CODE 4310-84-M

California Desert Conservation Area Plan: 1982 Review

Notice is hereby given that the Bureau of Land Management is initiating the 1982 review of the California Desert Conservation Area Plan in accordance with the review procedures outlined in Chapter 7 of that Plan. The purpose of this review is to consider the need for possible amendments to the Plan based on requests from individuals, public and private organizations, and the Bureau's own observations.

Requests for amendments or changes in the California Desert Plan are now being solicited from public agencies and interested individuals and organizations. Supporting rationale should be provided for each proposed change. The requests will be considered in light of the following criteria:

1. Is the supporting detail sufficient and the problem clearly stated so that the request can be considered?

2. Does the information represent a formal change in State or local government or other agency plans?

3. Does the information represent a change in legal or regulatory mandate?

Organizations or individuals who propose three or more amendments should rank their requests according to relative importance to the proponent.

Please send your comments by May 17, 1982 to the following address: 1982 Amendments, Bureau of Land Management, California Desert District, 1695 Spruce Street, Riverside, California 92507, (714) 351–6394.

Copies of the Plan are available upon request at the same address.

Bruce Ofenfeld,

Acting District Manager.

[FR Doc. 82-5015 Filed 2-24-82; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-9536]

Idaho; Termination of Proposed Withdrawal and Reservation of Lands

February 18, 1982.

Notice of an application, serial number I-9536, for withdrawal and reservation of lands was published as Federal Register Document No. 75-18292 on page 29736 of the issue for July 15, 1975. The applicant agency has cancelled its application insofar as it involved the land described below. Therefore pursuant to the regulations contained in 43 CFR, Subpart 2091, such lands will be at 7:45 a.m. on March 26, 1982, relieved of the segregative effect of above mentioned application.

The lands involved in this notice of termination are:

Boise Meridian, Idaho

Teton Dam Wildlife Mitigation Project

T. 1 N., R. 40 E.,
- Sec. 1, W½SE¼;
- Sec. 2, lots 1,2,3, S½SW¼NW¼, NW¼SW¼;
- Sec. 3, S½SE¼NE¼, SW¼SW¼, E½SE¼;
- Sec. 4, S½SE¼;
- Sec. 10, NW¼NE¼, SE¼NE¼, NW¼;
- Sec. 11, NE¼NW¼;
- Sec. 12, E½NE¼.

T. 2 N., R. 40 E.,
- Sec. 23, SE¼NE¼, N½SW¼, SW¼SW¼, NW¼SE¼;
- Sec. 24, S½SW¼, NE¼SW¼, SE¼SE¼;
- Sec. 25, E½SW¼, W¼SE¼;
- Sec. 36, SW¼NE¼, SE¼NW¼;
- Sec. 36, E½NE¼, NW¼NW¼, E½SW¼SW¼, E½SW¼, SE¼.

T. 1 N., R. 41 E.,
- Sec. 7, lots 2,3, SE¼SW¼, SW¼SE¼;
- Sec. 14, NE¼NW¼, S½NW¼, SW¼, SW¼SE¼;
- Sec. 15, NW¼NE¼, SE¼NE¼, N½SW¼, SE¼;
- Sec. 17, NW¼NW¼;
- Sec. 21, NE¼;
- Sec. 23, NW¼NE¼, S½NE¼, W½;
- Sec. 26, SW¼NW¼, N½SW¼;
- Sec. 27, S½NE¼, SE¼NW¼, N½SW¼;
- Sec. 34, SW¼SW¼.

The area described aggregates 3,629.86 acres in Bonneville County.

Vicent S. Strobel,

Chief, Branch of L&M Operations.

[FR Doc. 82-5015 Filed 2-24-82; 8:45 am]

BILLING CODE 4310-84-M

[I-16857]

Exchange of Public and Private Lands, Elmore County, Idaho

The United States issued an exchange document to Joseph E. Davidson and Florence K. Davidson on February 17, 1982 for the following described lands under Section 206 of the Federal Land Policy and Management Act of 1976.

Boise Meridian, Idaho

T. 6 S., R. 11 E.,
- Sec. 25, S½N½SW¼, S½SW¼, S½NW¼SE¼, SW¼SE¼.

T. 6 S., R. 12 E.,
- Sec. 19, E½SW¼;
- Sec. 30, lots 1, 2, SE¼NW¼.

Comprising 379.33 acres of public land.

In exchange for these lands, the United States acquired the following described lands:

The NE¼SE¼, Section 1, T. 5 S., R. 11 E., Boise Meridian, Idaho.

And a parcel of land in Sections 1 and 12, T. 5 S., R. 11 E., B.M., Elmore County, Idaho, and being more specifically described as follows:

Commencing at the northeast corner of Section 12, T. 5 S., R. 11 E., Boise Meridian; Said corner being the Real Point of Beginning;

Thence from this Real Point of Beginning northerly along the east boundary of Section 1 to the northeast corner of the S½SE¼, Section 1;

Thence westerly along the north boundary of the S½SE¼, Section 1 to the northwest corner of the S½SE¼, Section 1;

Thence from said northwest corner S½SE¼ westerly along the north boundary of the S½SW¼, Section 1, 1701.6 feet more or less;

Thence S. 0°26'00" W., 3034.70 feet more or less to a point on the approximate southerly rim of Clover Creek Canyon; Said point bears N. 44°29'59" E., 1353.50 feet from the Quarter corner common to Sections 11 and 12, T. 5 S., R. 11 E., B.M.; Said point also bears N. 25°39'27" W., 3967.55 feet from the south Quarter corner said Section 12;

Thence along the approximate southerly rim of Clover Creek Canyon the following courses and distances:

- S. 84°19'55" E., 158.30 feet;
- N. 80°46'26" E., 536.31 feet;
- N. 8°14'05" W., 810.59 feet;
- N. 79°58'23" E., 443.77 feet;
- N. 86°28'33" E., 1104.13 feet;
- N. 89°31'01" E., 529.37 feet;
- N. 37°25'32" E., 625.39 feet;
- N. 1°16'27" E., 261.93 feet;
- N. 32°00'23" E., 84.50 feet;
- N. 57°09'00" E., 667.69 feet;
- S. 76°22'13" E., 113.32 feet;
- S. 9°24'19" E., 569.74 feet;
- N. 82°04'42" E., 228.31 feet;
- S. 53°28'24" E., 355.97 feet to the easterly boundary of Section 12, T. 5 S., R. 11 E., Boise Meridian;

Thence N. 0°22'24" W., 256.89 feet along the easterly boundary of said Section 12 to the Real Point of Beginning.

Comprising 228.00 acres of private lands.

The purpose of this exchange was to acquire the non-federal land which have high public values for scenic and multiple use purposes. The public interest was well served through completion of this exchange.

The values of the federal public land and the non-federal land in the exchange were appraised at $56,900 and $57,000 respectively. Joseph E. and Florence K. Davidson voluntarily waived equalization payment in the amount of $100 in order to complete the exchange.

Dated: February 17, 1982.

Louis B. Bellesi,

Chief, Division of Technical Service.

[FR Doc. 82-5010 Filed 2-24-82; 8:45 am]

BILLING CODE 4310-84-M

[1792.2 EUG (922)]

Oregon, Eugene Timber Management Plan; Intent To Prepare an Environmental Impact Statement and Conduct Scoping Meeting

The Department of the Interior, Bureau of Land Management, Oregon State Office, will prepare an Environmental Impact Statement (EIS) on the proposed timber management plan for the Siuslaw and Upper Willamette Sustained Yield Units (SYUs) in the Eugene District of western Oregon. The final statement is to be completed in the spring of 1983. Decisionmaking will take place over a period of several months following completion of the final statement.

This statement will analyze the environmental effects of a proposed 10-year timber management plan and alternatives to the proposal for 317,000 acres of public land in the SYUs. The majority of the acres are in Lane County, with lesser amounts in Linn, Douglas and Benton Counties. The proposed land use allocations and resulting timber management plans have evolved through public development of planning criteria with specific resource goals and objectives. Public comments on the draft land use alternatives have helped guide the selection of the proposed action (preferred alternative). A proposed sustained yield timber harvest level for the next decade has been identified for each alternative, as have management practices required to achieve the goals and objectives of each land use allocation alternative. Harvest would be predominately by clearcutting with some single tree selection used in salvage situations. Additional management practices to be employed include slash disposal, artificial reforestation (some with genetically improved stock), animal damage control, road construction, thinning, fertilization and vegetation control (both to release conifers from competing vegetation and to convert some brush and hardwood stands to conifers) with herbicides as well as manual and mechanical methods.

Discussion of an alternative of no change from present harvest level and practices is required and will be included in the EIS. Additional types of alternatives to the proposal which might be discussed in the statement include:

1. Variations in land use allocation in which more or less land is designated for intensive timber production.

2. Different acreages, cycles or types of intensive timber management practices.

The EIS will identify the impacts that can be expected from implementation of any alternative, including the proposed action. The statement will be an analytical tool used to assist in making final decisions for managing timber resources in the SYUs. The final decision are expected to guide the operation in the SYUs for a 10-year period beginnning in October 1983.

A public scoping meeting to identify significant issues and to obtain public comments on the formulation of specific alternatives will be held. Significant environmental issues are those considered to be of particular importance for in-depth analysis in the EIS. The public meeting will be held at the Courthhouse Public Service Building (Harris Hall) 125 E. 8th Avenue, Eugene,

Oregon, April 5, 1982 at 7:00 p.m. Informal meetings as requested by groups or agencies may take place prior to April 5 on an arranged basis.

Further information may be obtained from:

John Strandjord, Planning Coordinator, Bureau of Land Management, 1255 Pearl St., Eugene, Oregon 97401; Telephone (503) 687–6650

Richard Bonn, Statement Leader, Bureau of Land Management (922), P.O. Box 2965, Portland, Oregon 97208; Telephone (503) 231–6953

Dated: February 10, 1982.

Philip C. Hamilton,

Chief, Division of Planning and Environmental Coordination, Oregon State Office.

[FR Doc. 82-5017 Filed 2-24-82; 8:45 am]

BILLING CODE 4310-84-M

Spokane District; Areas of Critical Environmental Concern

Pursuant to the authority in the Federal Land Policy and Management Act of October 21, 1976 (Section 202(c)(3) and in 43 CFR 1601.6–7, I have designated lands in the following three areas as Areas of Critical Environmental Concern (ACEC's).

Juniper Forest Area of Critical Environmental Concern

Willamette Meridian; Franklin County, Washington

T. 10 N., R. 31 E.,
Sec. 1, all;
Sec. 10, NW¼, N½NE¼, and W½SW¼;
Sec. 12, all;
Sec. 22, all;
Sec. 24, all;
Sec. 26, NW¼.
T. 10 N., R. 32 E.,
Sec. 5, all;
Sec. 6, all;
Sec. 7, N½;
Sec. 8, all;
Sec. 18, all.
T. 11 N., R. 31 E.,
Sec. 22, SW¼;
Sec. 24, all;
Sec. 26, NW¼, and N½NE¼;
Sec. 27, NE¼ SW¼, W½SE¼ and NE¼SE¼;
Sec. 28, E½;
Sec. 34, NW¼, SE¼, W½SE¼, SE¼SE¼, and NW¼NE¼;
Sec. 36, E½, SW¼, E½NW¼, and SW¼NW¼.
T. 11 N., R. 32 E.,
Sec. 30, S½, S½NE¼, and S½SE¼NW¼;
Sec. 31, S½SW¼;
Sec. 28, W½;
Sec. 29, all;
Sec. 30, all;
Sec. 31, SW¼;
Sec. 32, all;
Sec. 33, NW¼NW¼.

Weber Canyon Area of Critical Environmental Concern

Willamette Meridian; Benton County, Washington

T. 9 N., R. 27 E.,
Sec. 33, SE¼.

Yakima/Columbia River Islands Area of Critical Environmental Concern

Willamette Meridian; Benton and Franklin Counties, Washington

T. 9 N., R. 25 E.,
Sec. 33, all unsurveyed islands in the Yakima River.
T. 9 N., R. 26 E.,
Sec. 11, all unsurveyed islands in the Yakima River;
Sec. 13, all unsurveyed islands in the Yakima River.
T. 9 N., R. 27 E.,
Sec. 7, all unsurveyed islands in the Yakima River.
T. 11 N., R. 28 E.,
Sec. 2, lot 7.
T. 12 N., R. 28 E.,
Sec. 14, all unsurveyed islands in the Columbia River;
Sec. 23, all unsurveyed islands in the Columbia River;
Sec. 26, lot 6.

The Juniper Forest ACEC totals 11,620 acres of BLM administered land located approximately 15 miles northeast of Pasco, Washington. The designation is being made in order to provide protection for important wildlife and natural values and still provide for other compatible uses of the land. The Weber Canyon ACEC totals 160 acres of BLM administered land. The designation is being made to provide protection of a paleontological site which contains the remains of large mammals. The Yakima/Columbia River Islands ACEC contains approximately 600 acres of BLM administered land. The designation is being made to provide protection of important waterfowl habitat.

All of these areas will be managed under criteria contained in an ACEC plan element which is part of the Southeast Management Framework Plan on file in the Spokane District Office; E. 4217 Main Avenue, Spokane, WA 99202.

Dated: February 16, 1982.

Roger W. Burwell,

District Manager.

[FR Doc. 82-5013 Filed 2-24-82; 8:45 am]

BILLING CODE 4310-84-M

Utah; Grazing Management Public Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Vernal District Grazing Advisory Board will be held on March 23, 1982.

The Meeting will begin at 9:00 a.m. in the Conference Room of the Bureau of Land Management Office, 170 South 500 East, Vernal, Utah.

The agenda for the meeting will including a discussion of: (1) A review of minutes and items pertaining to the last Board meeting; (2) recent policy relating to participation of permittees in the BLM inventory, planning, and other programs; (3) the status of FY 82 Range Betterment Work; (4) projected Range Betterment Work for FY 83 and out-years; (5) Range Betterment Equipment Needs; (6) status of the District range ES program; (7) recent policy relating to the role of the District Grazing Advisory Board; (8) continuation of the District Grazing Board Charter.

The meeting is open to the public. Interested persons may make oral statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 170 South 500 East, Vernal, Utah, by March 22, 1982. Depending on the number of persons wishing to make statements, the District Manager may establish a per person time limit. Oral statements will be taken beginning 10:30 a.m. March 23, 1982.

Summary minutes of the Board meeting will be maintained at the District Office and will be available for public inspection and reproductions (during regular business hours) within 30 days following the meeting.

Lloyd H. Ferguson,

District Manager.

[FR Doc. 82-5016 Filed 2-24-82; 8:45 am]

BILLING CODE 4310-84-M

Results of Appeal Period for Special Wilderness Inventory of Revocated Lands; Yuma County, Ariz.

The January 14, 1982, Federal Register, page 2207, announced the results of the protest period for the Arizona Special Wilderness Inventory of Revocated Lands. That announcement established a Wilderness Study Area (Muggins Mountain) of 21,300 acres. It also released units AZ–050–53B, AZ–050–53C and AZ–050–54 from further wilderness consideration.

The publication of the January 14 announcement started a 30-day appeal period. No appeals were received during the allotted time. Therefore, the Muggins Mountain unit (AZ–050–53A) is established as a Wilderness Study Area and will proceed into the study phase of the wilderness program.

Units AZ–050–53B, AZ–050–53C and AZ–050–54 are dropped from further wilderness review and are no longer subject to the constraints of Section 603 of the Federal Land Policy and Management Act of 1976 and the *Interim Management Policy and Guidelines for Lands Under Wilderness Review.*

Tom Allen,

Acting State Director.

February 17, 1982.

[FR Doc. 82-5020 Filed 2-24-82; 8:45 am]

BILLING CODE 4310-84-M

Bakersfield District Grazing Advisory Board; Selection and Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Grazing Advisory Board Selection and Meeting.

SUMMARY: The Bureau of Land Management (BLM) announces the selection of the 1981–1983 Bakersfield District Grazing Advisory Board and forthcoming meeting of the Board.

DATE: The meeting will be held at 8:00 a.m., Thursday, March 18, 1982.

ADDRESS: The meeting will take place in the Del Rey Room of the Casa Royale Motor Inn, 251 South Union Avenue, Bakersfield, California.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with Pub. L. 92–463 and 94–579. The meeting agenda will include (1) general orientation, (2) new range policies, and (3) expenditure of range improvement funds.

The meeting is open to the public and anyone may make oral statements to the Board or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify in writing the Acting District Manager, Bureau of Land Management, Bakersfield District, 800 Truxtun Avenue, Room 302, Bakersfield, California, 93301, by March 11, 1982.

The eight member Board was elected by commercial livestock operators holding public land grazing permits within the Bakersfield District and will offer BLM advice and make recommendations regarding the BLM's rangeland management program. This will include the development of allotment management plans and utilization of range betterment funds. Members will serve for a two-year term without cost to the government. The Board will normally meet twice a year, but additional meetings may be called as special needs arise. The establishment of the Board is authorized by Section 403 of Pub. L. 94–579, Federal Land Policy and Management Act of 1976 (90 Stat. 2743–2794).

The newly elected Grazing Advisory Board Members are: James Cashbaugh, Bishop, California, and Mark Johns, Big Pine, California, representing BLM's Bishop Resource Area; Kenneth Mebane, Bakersfield, California, and Joe Mendiburu, Oildale, California, representing BLM's Caliente Resource Area; Horace Meyer, Catheys Valley, California, and Nancy Whittle, Altaville, California, representing Folsom Resource Area; and Charles McCullough, Paicines, California, and Darrell Zwang, Coalinga, California, representing BLM's Hollister Resource Area.

Summary minutes of the Board meeting will be maintained in the District Office and will be available for public inspection within thirty (30) days following the meeting.

Garold W. Lamb,

Acting District Manager.

[FR Doc. 82-5021 Filed 2-24-82; 8:45 am]

BILLING CODE 4310-84-M

State of California, San Gorgonio Pass Area Wind Energy Applicant Selection Process; Modified-Competitive Bidding Procedures; Availability of Proposed Bid Procedures

As a part of the process outlined in the Bureau of Land Management's "call for applications" for wind energy development in the San Gorgonio Pass area published in the August 28, 1981, Federal Register (Vol. 46, No. 165), the Bureau has developed procedures to grant rights-of-way for competing applications for wind-power generating facilities on public lands.

Using the environmental analysis process to determine the type and degree of development to be permitted in the Pass area, tracts of land will be identified in a final Environmental Impact Statement and made available for sale under a modified-competitive bid procedure. Bids will be limited to those applicants who previously submitted applications during the 60-day "call for applications." Offerings will be through sealed bids and award will be based on the highest cash bonus. Bids will be submitted to the District Manager, California Desert District, Bureau of Land Management, 1695 Spruce Street, Riverside, CA 92507, and must be received on or before 10:00 a.m. on a date to be determined in the Record of Decision.

Separate bids must be submitted on each parcel in a separate envelope and must be for the full unit described. The envelope in which the bid is submitted must submit with each bid one-fifth of the amount bid, in cash or by certified or Cashier's Check, bank draft, or money order made payable to the Bureau of Land Management. Bidders are warned against violation of 18 U.S.C. 1860 which prohibits unlawful combination or intimidation of bidders. Bids will be opened and read at 11:00 a.m. on the determined date in the Conference Room of the California Desert District Office on Spruce Street in Riverside, California. The opening of the bids is for the purpose of publicly announcing and recording bids received and no bids will be accepted or rejected at that time. The deposit of any unsuccessful bidders will be returned as soon as possible after the sale. The amount submitted with the high bids may be deposited in an unearned account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

Any bonus bid considered as inadequate on the basis of the estimated value of the tract will be rejected. The United States reserves the right to withdraw any tract from the sale prior to the issuance of a written acceptance of a bid and reserves the right to reject any and all bids.

Royalties will be payable to the United States at the rate determined in the Record of Decision. Annual rental will be determined from the fair market value of the parcel at the time of the sale.

Before issuance of a grant, the successful bidder will be required to submit (1) the first year's rental, (2) the balance of the bonus bid, and (3) Forms 1140–7 and 1140–8 which contain the certification and information required by Executive Order 11246 as amended (41 CFR Part 60). The determination of stipulations and conditions to be imposed on the grant and bonding requirements will be made in the FEIS and ROD and as supplemented by 43 CFR Part 2801.

Comments on these procedures are being solicited from public agencies, applicants and interested individuals and entities. The Bureau invites written comments to be submitted by March 26, 1982, to the State Director, Bureau of Land Management, 2800 Cottage Way, Room #E-2841, Sacramento, California 95825. Questions regarding these procedures should be directed to either Walt Holmes, Branch of Lands and Minerals Operations, Division of Operations, (916) 484–4431, or Bill Payne, EIS Project Coordinator, (916) 484–4541.

Dated: February 22, 1982.
Ron Hofman,
Associate State Director.
[FR Doc. 82-5171 Filed 2-24-82; 8:45 am]
BILLING CODE 4310-84-M

[Serial Nos. A 17000-G]

Arizona; Classification of Public Lands for State Indemnity Selection

In FR Doc. 82-1470 appearing on pages 3042 and 3043 of the issue for January 21, 1982, the following changes should be made for application A 17000-G:

Under T. 6 N., R. 2 E., Section 4: Lots 1, 2 should be Lots 3, 4. Under T. 6 N., R. 2 E., Section 5: W½ of Lot 3 should be E½ of Lot 3.

Dated: February 12, 1982.
William K. Barker,
For the State Director.
[FR Doc. 82-5096 Filed 2-24-82; 8:45 am]
BILLING CODE 4310-84-M

[I-18000]

Public Lands Exchange; Bannock County, Idaho

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of realty action—exchange, public lands in Bannock County, Idaho.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under sec. 206 of the Federal Land Policy and Management act of 1976, 43 U.S.C. 1716:

Boise Meridian, Idaho

T. 7 S., R. 35 E.,
Sec. 21: Lot 3.
Comprising 19.16 acres of public land.

In exchange for these lands, the Federal Government will acquire a tract of non-Federal land in Bannock County from William G. Katsilometes, described as follows:

Boise Meridian, Idaho

T. 6 S., R. 36 E.,
Sec. 20: E½NW¼, NE¼SW¼.
Comprising 120 acres of private land.

The purpose of the exchange is to acquire the non-Federal lands which has high public value for recreational uses and livestock grazing. The exchange is consistent with the Bureau's planning system. The public interest will be well served by making the exchange.

The value of the lands to be exchanged is approximately equal, and the acreage will be adjusted or money will be used to equalize the values upon completion of the final appraisal of the lands.

The terms and conditions applicable to the exchange are:

1. The reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. Those rights for highway purposes as have been granted to the State of Idaho under serial number I-0533.

3. The protection of any identified cultural sites.

4. There will be no reservations for the acquired non-Federal land.

The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be condidered as filed and shall be returned to the applicant. This segregative affect shall terminate upon issuance of patent to such lands, upon publication in the Federal Register of a termination of the segregation, or 2 years from date of this publication, whichever occurs first.

DATES: Comments are due by April 28, 1982.

SUPPLEMENTARY INFORMATION: Detailed information concerning the exchange, including the environmental analysis and the record of public discussions, is available for review at the Burley District Office, Route 3, Box 1, Burley, ID 83318.

On or before April 12, 1982, interested parties may submit comments to the Burley Distric Manager, Route 3, Box 1, Burley, ID 83318. Any adverse comments may be elvaluated by the Idaho State Director, who many vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

K. Lynn Bennett,
Acting District Manager.
[FR Doc. 82-5097 Filed 2-24-82; 8:45 am]
BILLING CODE 4310-84-M

Realty Action; Sale of Public Lands in Owyhee County, Idaho; Corrections

In the **Federal Register** for Wednesday, February 10, 1982, Vol. 47, No. 28, on page 6099 make the following additions and corrections:

On page 6099, at the bottom of the first column, add the following building owner name, lot number, acres and value:

Gloria Otte	98	0.21	$325

James Gabettas,
Acting District Manager.
February 16, 1982.
[FR Doc. 82-5098 Filed 2-24-82; 8:45 am]
BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to conduct certain activities with endangered species: Applicant: Calvin W. S. Lum, Kipahulu, Maui, HI, PRT 2-8823.

The applicant requests a permit to import one captive-bred female white-handed gibbon (*Hylobates lar*) from the Tokyo University Institute for Breeding Research, for enhancement of propagation. Applicant: Zoological Society of San Diego, San Diego, CA, PRT 2-8836.

The applicant requests a permit to import two Amur leopards (*Panthera pardus orientalis*) from the Chengtu Zoo, People's Republic of China, for enhancement of propagation. The leopards were originally taken from the wild (China) but have been in captivity for two years. Applicant: John Harris, Clem and Jethro Lecture Service, Old Town, FL, PRT 2-3717.

The applicant requests a permit to import and export two captive-bred gray wolves (*Canis lupus*) to be used in natural history lectures in forsign countries for enhancement of survival. Applicant: Mark Hemker, Fresport, MN, PRT 2-8821.

The applicant requests a permit to purchase in interstate commerce captive-bred Nene geese (*Branta sandvicensis*) from U.S. sources for enhancement of propagation. Applicant: Dr. J. A. Adams, Pacific Gas and Electric Co., San Ramon, CA, PRT 2-8824.

The applicant requests a permit to take (capture) Salt Marsh Harvest Mice (*Reithrodontomys raviventris*) in the McAvoy Boat Harbor areas near Pittsburg, California for scientific research and enhancement of survival. Applicant: Steven R. Beissinger, School of Natural Resources, University of Michigan, Ann Arbor, MI, PRT 2-8827.

The applicant requests a permit to take Everglade snail kites (*Rostrhamus seciabilis plumbeus*) for scientific research. Activities will include placing eggs from one nest into another to increase reproduction, band, radio-tag, capture nestlings for measuring weights, size, etc., to monitor some nests with movie cameras, and to observe birds from nearby blinds. Applicant: Tennessee Wildlife Resources Agency, Nashville, TN, PRT 2-7670.

The applicant requests a permit to take nestling bald eagles (*Haliaeetus leucocephalus*) from Michigan, Minnesota, or Wisconsin to be hacked in western Tennessee for enhancement of propagation and survival. Applicant: Division of Fish and Wildlife, Government of the Virgin Islands of the U.S., St. Thomas, VI, PRT 2-6582.

The applicant requests a permit to take and hold in captivity for one year at Coral World Aquarium hawksbill (*Eretmochelys imbricata*), leatherback (*Dermochelys coriacea*), and green (*Chelonia mydas*) sea turtles for growth studies for scientific research. Applicant: Richard A. Graham, United Peregrine Society, Colorado Springs, CO, PRT 2-7690.

The applicant requests an amendment to his endangered species permit PRT 2-7690 to import 10 wild nestling peregrine falcons (*Falco peregrinus anatum*) from Baja California, Mexico, for enhancement of propagation. Last year the applicant imported eight nestling peregrine falcons from the midriff region of Baja California under PRT 2-7690 which authorized import of 10 birds in addition to authorizing the take of six peregrine eggs from Colorado, of which only two were taken. The ultimae purpose of the applicant is to establish a breeding colony of peregrine falcons which represents a geographic diversity of the North American peregrine falcon gene pool.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish and Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications on or before March 29, 1982 by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: February 22, 1982.
R. K. Robinson,
Chief, Branch of Permits, Federal Wildlife Permit Office.
[FR Doc. 82-5099 Filed 2-24-82; 8:45 am]
BILLING CODE 4310-55-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Conoco Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 2080, Block 138, High Island Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 18, 1982.
Lowell G. Hammons,
Minerals Manager, Gulf of Mexico OCS Region,
[FR Doc. 82-5101 Filed 2-24-82; 8:45 am]
BILLING CODE 4310-51-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Mesa Petroleum Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 4216, Block 361, Vermilion Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 19, 1982.
Lowell G. Hammons,
Minerals Manager, Gulf of Mexico OCS Region.
[FR Doc. 82-5102 Filed 2-24-82; 8:45 am]
BILLING CODE 4310-51-M

INTERSTATE COMMERCE COMMISSION

[No. 38703]

Motor Carriers; Gray Moving & Storage, Inc.; Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final decision.

SUMMARY: In a notice published at 46 FR 55018 (November 5, 1981), the Commission provisionally granted the request of Gray Moving & Storage, Inc. (Gray), a motor contract carrier, for an exemption from the requirements in 49

U.S.C. 10702, 10761, and 10762. The comments in opposition filed by Smith & Solomon Trucking Company (S&S) are founded unpersuasive and the provisional grant is made final.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., or Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: The Commission provisionally granted the requested exemption so that, in lieu of filing rate schedules, Gray Moving & Storage, Inc. could simply provide a copy of its contract (with rates attached) to interested parties upon request. The exemption was limited to the narrow scope of the petition and was conditioned on Gray Moving & Storage making available copies of its contract.

S&S, a common carrier, filed comments opposing the exemption. It argues that the contract carrier exemption in principle is anti-competitive in that it allows contract carriers to compete without the cost of filing tariffs. It submits that to allow Gray Moving and Storage Co. the sought exemption will establish a dangerous precedent.

We believe, for a number of reasons, that this fear is unfounded. The statute specifically authorizes this relief, upon a finding that it is in the public interest. That interest is served, in part, by Commission actions that lower carrier, and thus shipper, costs. S&S has not convinced us that tariff filing costs must be borne equally by all carriers, irrespective of their costs or purpose. The fact that common carriers do not have available a similar exemption possibility should not compel a conclusion that it should not be used, when appropriate, for contract carriers.

Furthermore, Gray proposed to offer copies of the contracts themselves to interested parties. This actually provides the public with more information than the tariff minimum rates that would otherwise be required by the statute. Accordingly, the provisional exemption granted at 46 FR 55018 (November 5, 1981) is made final.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10762(b), 10761(b), and 10762(f))

Decided: February 18, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5051 Filed 2-24-82; 8:45 am]
BILLING CODE 7035-01-M

[Permanent Authority Volume OP1-29]

Motor Carriers; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of petition for leave to intervene must be filed with the Commission within 30 days after the date of this Federal Register notice. Such pleadings shall address specifically the issue(s) indicated as the purpose for republication.

MC 143531 (Sub-9) (republication), filed September 24, 1981, published in the Federal Register October 16, 1981, and republished this issue. Applicant: POWDER RIVER MOTOR TRANSPORT CORPORATION, P.O. Box 300, Provo, UT 84603. Representative: Irene Warr, 311 S. State St. Ste. 280, Salt Lake City, UT 84110, 801-531-1360. A decision by the Commission, Review Board #1, decided January 25, 1982, served February 8, 1982, finds that applicant is authorized to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *metal articles*, between points in the United States, (2) *building and construction materials*, between points in Iron, UT, and Washington Counties, UT, Lincoln County, OK, and Uinta and Sweetwater Counties, WY, and points in CA, OR, and WA, on the one hand, and, on the other, points in the U.S. in and west of OH, KY, TN, and AL, (3) *such commodities as* are dealt in by boat dealers, between points in Utah County, UT, on the one hand, and, on the other, Phoenix, AZ, Los Angeles, CA, and Denver, CO, (4) *such commodities* as are used in the manufacture of water conditioning equipment, between points in Utah County, UT, on the one hand, and, on the other, points in CA and WI, and (5) *paint*, between points in Orange County, CA, on the one hand, and, on the other, Phoenix, AZ, and Denver, Co. Applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to indicate that applicant has been granted authority to transport building and construction materials rather than lumber and wood products.

MC 146800 (Sub-3) (republication), filed September 30, 1981, published in the Federal Register November 5, 1981, and republished this issue. Applicant: K & J TRUCKING, INC., 2808 West Sixth Street, Sioux Falls, SD 57104. Representative: David Koch (same address as applicant), 605-332-5531. A decision by the Commission, Review Board #2, decided February 11, 1982, served February 18, 1982, finds that applicant is authorized to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in Minnehaha and Lincoln Counties, SD, on the one hand, and, on the other, points in AZ, CA, IA, IL, IN, KS, KY, MI, MN, MO, NE, NM, NY, ND, OH, OK, PA, SD, TN, TX, and WI. Applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to indicate that applicant has been granted authority narrower than that previously published.

MC 151651 (republication), filed September 8, 1981, published in the Federal Register September 23, 1981, and republished this issue. Applicant: INTERMODAL SERVICES, INC., P.O. Box 668211, 5430 Hovis Road, Charlotte, NC 28266. Representative: Richard Thomas Duckett (same address as applicant), 704-394-3923. A decision by the Commission, Review Board #3, decided January 25, 1982, served February 16, 1982, finds that applicant is authorized to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between points in NC and SC. Applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to indicate that applicant has been granted authority removing the applied for ex-rail, ex-water restriction.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-4857 Filed 2-24-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 235]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: February 18, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the Federal Register of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Spom, Ewing, and Shaffer.

Agatha L. Mergenovich,
Secretary.

MC 15197 (Sub-5)X, filed February 10, 1982. Applicant: GILBERT VAN VELDHUIZEN, 1410 Wilson Street, Sheldon, IA 51201. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Lead permit to "chemicals and related products" and "food and related products" from mineral, animal and poultry feed mixture, animal and poultry feed concentrates, tonics, and medicines, dry earth paint, insecticides, advertising matter and premiums livestock and poultry feeders and equipment, between points in the U.S., under continuing contract(s) with a named shipper.

MC 29637 (Sub-13)X, filed February 1, 1982. Applicant: R. H. CRAWFORD, INC., 425 Poplar Street, Hanover, PA 17331. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. Lead and Subs 5, 7, 8, 9, and 10; (1) broaden: to "food and related products" from (a) beer and groceries and canned fruits, vegetables and juices, in lead, (b) canned vegetables, in Sub 7, and (c) foodstuffs, in Sub 9; to "metal products" from iron foundry products, and to "lumber and wood products" from lumber, in lead; (2) remove: (a) frozen food exception, in Sub-8, (b) originating at and/or destined to restriction in Subs 7, 8, 9 and 10, (c) facilities restriction in Subs-7, 8 and 9, and (d) ex-rail restriction in lead; (3)(a) to two-way authority, and authorize service on all intermediate points, in lead (regular route), (b) to radial authority, (irregular routes) lead and Sub 5; (4) to county-wide authority: York County, PA for (a) New Park, Fawn Township, and Penn Township, in lead (irregular route) (b) Shrewsbury and New Freedom, in Sub 7; York and Adams Counties, PA for (a) Hanover, in Subs 5 and 9, and (b) New Freedom and Hanover, in Sub 10.

MC 35358 (Sub-65)X, filed February 4, 1982. Applicant: BERGER TRANSFER & STORAGE, INC., 3720 Macalaster Dr. N.E., Minneapolis, MN 55421. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402. Subs 14, 15, 17, 20, 23, 25, 38, 40, 45, and Letter Notices E-11, 12, 13, 14, 16, 17, 18, 19, 31, 32, 33, 43, 46, 48, 54, 55, 56, 57 and 58. Broaden: furniture, fixtures and furnishings (also new), uncrated furniture household furniture, furnishings, appliances, store and office fixtures, household/kitchen equipment, caskets, school, hospital and industrial furniture, cabinets, fixtures, sinks and tops, to "household goods and furniture, fixtures and furnishings", all authorities to radial authority; Subs 17, 40, E-11, Lake, DuPage, Cook, Will Counties, IL and Lake and Porter Counties, IN for Chicago; Sub 23, Kane and DuPage Counties, IL for Geneva, IL; Sub 17, Douglas County, WI for Superior, WI; remove restriction against transportation of school furniture from Arlington Heights, IL to points in WI (Sub 14).

MC 41635 (Sub-54)X, filed February 1, 1982. Applicant: SHALE AUTO TRANSPORT, INC., 4430 Roosevelt Hwy., College Pk., GA 30349. Representative: Paul M. Danielle, P.O. Box 872, Atlanta, GA 30301. Sub 53, broaden: (1) From automobiles, trucks, tractors, bodies, cabs, chassis, motor vehicles, buses, trailers and automobiles and truck parts and accessories to "transportation equipment"; (2) to radial authority; (3) from general commodities (with exceptions) to "general commodities, except Classes A and B explosives, household goods and commodities in bulk"; (4) remove ex-rail restrictions; (5) remove truckaway, driveaway, initial and secondary movement restrictions; (6) remove plant site limitation; (7) remove mixed load restrictions; (8) allow service at all intermediate points on regular routes and (9) from Louisville, KY to Jefferson County, irregular route.

MC 103602 (Sub-13)X, filed February 8, 1982. Applicant: SKJONSBY TRUCK LINE, INC., P.O. Box 362, Fargo, ND 58107. Representative: Richard P. Anderson, P.O. Box 2561, Fargo, ND 58101. Subs 5, 7, 9, 10 and 12, broaden (1) to "machinery" from tractors, Sub 9 and agricultural machinery and equipment, Sub 10, (2) remove originating at/destined to, against named commodities, in mixed loads, in bulk, in tank vehicles, on trailers, minimum weight and ex-rail restrictions and (3) to radial authority, Subs 9 and 12.

MC 107496 (Sub-1287)X, filed February 8, 1982. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, De Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. Sub Nos. 191, 210, 241, 248, 252, 269, 278, 304, 314, 316, 338, 354, 365, 373, 401, 463, 474, 502, 508, 512, 541, 560, 563, 583, 626, 657, 685, 722, 770, 824, 825, 1004, 1021, 1047, 1048, 1068, 1085, 1203, 1243, 1249, 1268: broaden (1) (a) fly ash, cement, barite ore, portland and masonry, crushed and ground limestone, portland pozzolan, cement kiln dust, perlite other than crude (expanded), vermiculite, sand and additives, mineral filler, bentonite clay, cement mixes, cement block, lime, crushed gypsum rock, foundry sand additives, to "clay, concrete, glass, or stone products" in all Subs; (b) dry chemical fertilizer, fertilizer materials, insecticides, fungicides, and herbicides to "chemicals and related products" in Sub-No. 825; and (c) foundry sand additives and ingredients and ventonite clay ingredients to "clay, concrete, glass, or stone products, and chemicals and related products"; (2) to radial service in all Subs; (3) delete "in bulk" and/or "in tank vehicle" "in bags", "in containers" limitations in Sub-Nos. 191, 252, 291, 314, 373, 401, 463, 502, 508, 541, 685, 722, 824, 825, 1004, 1021, 1048, 1085, 1203, 1243, 1249, 1268; (4) delete mixed loads restriction in Sub 722; (5) delete plantsite restrictions in Subs 19, 210, 241, 248, 252, 278, 291, 304, 316, 338, 373, 463, 512, 541, 657, 824, 825, 1021; (6) broaden cities to counties: (a) five miles west of La Due, MO, to Henry County in Sub 191; (b) Independence, MO, to Jackson County, Memphis, TN, to Shelby County, TN and Crittenden County, AR, Chanute and Fredonia, KS to Neosho and Wilson

Counties in Sub 210; (c) Olathe, KS, to Johnson County in Sub 241; (d) Mason City, IA, to Cerro Gordo County in Sub 248; (e) Arnold, MO, to Jefferson County in Sub 252; (f) Bartonville and Joppa, IL, and five miles thereof, to Peoria and Massac Counties in Sub 280; (g) Coffeyville, KS, and Sapulpa, OK to Montgomery County, KS, and Creek County, OK, Potosi, MO, to Washington County in Sub 270; (h) Burnsville Township, MN to Dakota County in Subs 278 and 314; (i) La Due, MO to Henry County in Sub 291; (j) Fargo, ND, to Cass County, ND, and Clay County, MN in Sub 304; (k) Memphis, TN, to Shelby County, TN, and Crittenden County, AR, in Sub 310; (l) Cedar Rapids, IA, to Linn County, in Sub 336; (m) Omaha, NE, to Douglas and Sarpy Counties, NE and Pottawattamie County, IA, in Sub 354; (n) Kansas City, MO, to Jackson and Clay Counties, MO, and Wyandotte County, KS, in Sub 365; (o) Castleton, IN, to Marion County in Sub 373; (p) Clarksville, MO, to Pike County, St. Louis, MO, to St. Louis and St. Charles Counties, and St. Louis, MO and Rock Island, IL, to Rock Island County in Sub 463; (q) Kansas City, KS, to Wyandotte County, KS, and Jackson County, MO, in Sub 474; (r) Selma, MO, to Jefferson County, in Sub 502; (s) Chicago, IL, to Cook, Du Page and Will Counties, in Sub 508; (t) Humboldt, KS, to Allen County in Sub 512; (u) Dearborn, MI, to Wayne County, Kansas City, MO, to Jackson County, Little Rock, AR, to Pulaski County, Milwaukee, WI, to Milwaukee County, Minneapolis, MN, to Hennepin County, St. Louis, MO, to St. Louis County, and St. Louis, MO and Chicago, IL, to Cook County in Sub 541; (v) Bridgman, MI to Berrien County, and Troy Grove, IL, to La Salle County in Sub 560; (w) Weeping Water, NE to Cass County, in Sub 563; (x) Superior, WI, to Douglas County, WI, and St. Louis County, MN in Sub 5834; (y) Madison, WI, to Dane County in Sub 626; (z) Rock Island, IL, to Rock Island County in Sub 657; (aa) Indianapolis, IN, to Marion County in Sub 666; (bb) Aurora, IL, to Kane County in Sub 722; (cc) Burnett, MN, to St. Louis County, MN; and ports of entry on the US–CN boundary line at International Falls, Noyes, and Pigeon River, MN, to Koochiching, Kittson, and Cook Counties in Sub 770; (dd) Chicago, IL, to Cook, Du Page, and Will Counties, IL, and Lake County, IN; Clinton, IA, to Clinton County and Memphis, TN, to Shelby County, TN, and Crittenden County, AR, in Sub 824; (ee) Kansas City, MO, to Jackson County, MO, and Wyandotte County, KS; La Cygne, KS, to Linn County; Clinton, MO, to Henry County; Military, KS, to Cherokee County; port of Catoosa, at or near Tulsa, OK, to Tulsa and Rogers Counties in Sub 825; (ff) Gary, IN, to Lake and Porter Counties, Portage, WI, to Columbia County, Big Stone City, SD, to Grant County in Sub 1009; (gg) Waukegan, IL, to Lake County; Clarksville, MO, to Pike County in Sub 1021; (hh) St. Croix Falls, WI, to Polk County in Sub 1047; (ii) Clayton, Clinton, and Bettendorf, IA, to Clayton, Clinton, and Scott Counties in Sub 1048; (jj) Sequiota, MO, to Greene County in Sub 1069; (kk) Sperry, IA, to Des Moines County; Clarksville, MO, to Pike County in Sub 1085; (ll) Waterloo, IA, to Black Hawk County in Sub 1203; (mm) Genoa, WI, to Vernon County in Sub 1243; (nn) Muskegon, MI, to Muskegon County; Defiance, OH, to Defiance County; Bedford, IN, to Lawrence County; Danville, IL, to Vermilion County in Sub 1249; (oo) Weston, MO, to Platte County in Sub 1266; (7) delete the restriction against the transportation of Mercer commodities to named points in Sub 1203.

MC 111389 (Sub-18)X, filed February 9, 1982. Applicant: RICHARD D. FOLTZ, P.O. Box 191, Orwigsburg, PA 17961. Representative: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108. Subs 1, 2, 4, 6, 8, 9, 11, 12, and 16 permits: (1) broaden to "food and related products and materials, equipment and supplies used in the manufacture and distribution of food and related products" from foodstuffs, advertising materials, displays * * * in mixed loads with foodstuffs, materials and supplies used in the production of foodstuff, in all Subs except Sub 18; (2) remove (a) commodities in bulk and/or in tank vehicles exception and (b) the requirement of vehicles equipped with mechanical refrigeration, in all Sub except Sub 18; (3) broaden to between points in the U.S. under continuing contract(s) with named shipper in all Subs.

MC 141628 (Sub-4)X, filed February 10, 1982. Applicant: OVERROAD CONTAINER SERVICE, INC., 7360 Quebec Street, Denver, CO 80207. Representative: Jeffrey A. Vogleman, P.O. Box 11278, Alexandria, VA 22312. Lead, broaden (1) remove "size and weight" and motor vehicle exception from general commodities authority; and (2) remove ex-water restriction.

MC 142873 (Sub-16)X, filed February 2, 1982. Applicant: D & W TRUCK LINES, INC., P.O. Box 427, Parsons, WV 26287. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. MC–116763 Sub-No. 8 permit, broaden: (1) To between points in the U.S. under continuing contract(s) with a named shipper; (2) to "chemicals and related products and materials, equipment and supplies" from buffing, polishing, cleaning, scouring, washing and bleaching compounds and materials, equipment, and supplies; "petroleum, natural gas and their product and materials, equipment and supplies" for cooling oil, aerosol products, and lighter fluid and materials, equipment and supplies; "clay, concrete, glass or stone products" from animal litter, and materials, equipment, and supplies used in the manufacture, sale and distribution of vermiculite; "lumber and wood products and materials equipment, and supplies" for materials, equipment, and supplies used in the manufacture, sale, distribution of charcoal, wood chips, sawdust, and wax impregnated fireplace logs; (3) delete size and weight restrictions.

MC 146245 (Sub-5)X, filed February 3, 1982. Applicant: HENRY ANDERSEN OF TEXAS, INC., P.O. Box 1129, Stratford, TX 79084. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth St., NW., Washington, DC 20005. Subs 2, 4, 7, 10, 11, 13, 15, 17, 18, and 23 permits: (1) broaden (a) vacuum bottles and fillers, lunch and picnic boxes and kits, containers, travel bags, camping equipment, stoppers, plastic articles, jugs, cooling boxes and chests, tents, display racks, and insulating material to "clay, concrete, glass or stone products, lumber and wood products, metal products, pulp, paper and related products, rubber and plastic products, leather and leather products, textile mill products, and camping equipment", Subs 2(part 1), 7(part 1), 10, 13 and 15; (b) plastic articles to "rubber and plastic products", Subs 4 and 7(part 2); and (c) meat, meat products, meat by-products, and articles distributed by meat packinghouses, Subs 11(part 1), 17 and 18, such commodities as are used by meat packers in the conduct of their business, Sub 11(part 2), and frozen food, Sub 23 to "food and related products"; (2) remove except hides, bulk commodities skins and pieces therefrom and tank vehicles restrictions, where applicable; and (3) broaden the territorial description to between points in the U.S., under continuing contract(s) with named shippers.

[FR Doc. 82-4823 Filed 2-24-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 334]

Rail Carriers; Car Service Compensation; Basic Per Diem Charges

AGENCY: Interstate Commerce Commission.

ACTION: Notice of approval of updated car-hire charges for railroads.

SUMMARY: The Interstate Commerce Commission requires the U.S. Railroads to update car-hire charges in accordance with the Commission formula and with Commission approval, no less than once a year. This notice approves the railroads' petition requesting an update of car-hire charges. This notice also approves minor, non-substantive, modifications to the Commission's formula as recommended by the U.S. railroads. The updated car-hire charges are available for inspection in the public docket in Rm. 1221 at the Commission's headquarters.

DATE: The approved car-hire rates will become effective April 1, 1982.

FOR FURTHER INFORMATION CONTACT: William T. Bono (202) 275–7354.

SUPPLEMENTARY INFORMATION: A petition was filed by the Association of American Railroads (AAR) on December 22, 1981. No replies have been received. The petition requested the Commission to approve updated car-hire charges for the U.S. railroads. Car-hire charges are those payments made between railroads for the use of another railroad's cars. The railroads are required by the Commission to update car-hire charges in accordance with the Commission formula and with Commission approval no less than once a year. See 358 I.C.C. 716 (1977), decision on reconsideration served April 3, 1978 and decision served May 23, 1980. The AAR's petition also requested that the Commission make minor modifications in Rail Form H.

We have reviewed the table of car-hire charges and supporting data submitted by the AAR with its petition. We approve the table of car-hire charges as submitted.

However, we found two inconsistencies in the calculation of the cost of capital (Work Sheet 5). These inconsistencies offset each other and therefore produced a negligible change in the overall cost of capital.

The inconsistencies occured in the computation of the effective tax rate. A ten railroad group [1] was established for use in computing the effective tax rate. This group consisted of individual rail carriers. In the current submission the AAR used SRS (Southern Railway System) instead of SOU (Southern Railway Company). This substitution could have made a substantial impact on cost of capital since SOU has had a credit for income taxes for the last three years and SRS has not. The impact of this substitution was balanced by another computational inconsistency. When the reported federal income taxes of a carrier are credits, a zero value is used for computation of the effective tax rate. In the current submission the AAR substracted the credit value from the total federal income taxes.

Although resultant figures were not substantially different, we believe that the AAR submissions should retain a consistency in methodology as set forth in prior decisions in this proceeding. The same rail carriers should be used each year in cost of capital computations, and a zero value should be substituted when a credit is shown for federal income taxes.

We find that these car-hire charges will provide a just and reasonable level of compensation for the nation's railroads. The AAR data used is based on the most current expenses and statistics available at this time. The modifications proposed in the AAR petition, that is, the correction of source references to agree with the 1981 Annual Report and the updating of Working Capital and the Cost of Switching Bad Order Cars from the 1977 Rail Form A base year to the present, are minor in nature and should produce more accurate results.

The new time and mileage compensation rates are included in Appendix A to the AAR's petition (Summaries 5 and 6) and are part of the public docket.

This proceeding shall remain open so that refinements and modifications of adopted procedures may be made where warranted.

This decision does not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 11122).

Decided: February 17, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5029 Filed 2-24-82; 8:45 am]

BILLING CODE 7035-01-M

[1] ATSF, BN, C&O, DRGW, MoPac, N&W, SCL, SOU, SP, UP.

[Ex Parte No. 387 (Sub-No. 93)]

Rail Carriers; Conrail Exemption for Contract Tariff

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirement of 49 U.S.C. 10713(e). This contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., or Jane F. Mackall, (202) 275–7656.

SUPPLEMENTARY INFORMATION: Consolidated Rail Corporation (Conrail) filed a petition on February 12, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e), to permit it to file its contract tariff ICC–CR–C–0040 on one day's notice. The contract between Conrail, Burlington Northern, and the shipper involves the movement of steel pipe from Steelton, PA to Hastings and Wallace, NE. The Contract is for 6 months and provides shipper with a reduced rate for the movement of this steel pipe provided it tenders Conrail and BN 95% of its traffic moving between origin and destination. The contract also provides for a penalty payment to Conrail and the BN if shipper fails to tender the agreed upon tonnage. The shipper filed a statement in support of the petition.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 nor more than 60 days' notice. There is no provision for waiving this requirement, cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The steel pipe will be used in construction of the Trailblazer Pipeline, a natural gas pipe line that will extend from Utah to eastern Nebraska. Immediate transportation of this pipe to Nebraska is essential in order to enable shipper to fulfill its supply contract and prevent delay in the construction of the Trailblazer Pipeline. We find this to be the type of exceptional circumstance which warrants granting a provisional exemption.

Conrail's contract tariff ICC–CR–C–0040 may become effective on one day's notice. We will apply the following

conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking these exemptions under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505)

Dated: February 19, 1982.

By the Commission, Division 1, Commissioners Clapp, Gilliam, and Sterrett. Commissioner Sterrett did not participate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5090 Filed 2-24-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-72 (Sub-No. 3)]

Rail Carriers; Sacramento Northern Railway—Abandonment—in Sacramento County, CA; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Sacramento Northern Railway to abandon a line of railroad known as the Swanston Branch extending from railroad milepost 140.71 on the main track of The Western Pacific Railroad Company to the end of the branch line a distance of 1.277 miles in Sacramento County, CA, subject to certain conditions. Since no investigation was instituted, the requirement of § 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the Federal Register be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5088 Filed 2-24-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by special rule of the Commission's rules of practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP1-35

Decided: February 11, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 61620 (Sub-21), filed January 15, 1982, previously noticed in the Federal Register issue of February 1, 1982. Applicant: M & G TRANSPORTATION CO., INC., Route 3, Box 294, Gloucester, VA 23061. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 629-2616. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Note.—This republication clarifies the language used in the Government Traffic description.

Volume No. OP1-31

Decided: February 17, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 99900 (Sub-4), filed February 4, 1982. Applicant: D & R TRANSFER CO., INC., P.O. Box 8373, Stockton, CA 95208. Representative: Arden Riess, P.O. Box 7985, Stockton, CA 95207, (209) 957-6128. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 160450, filed February 8, 1982. Applicant: NICKAL FREIGHT CONSULTANTS, INC., P.O. Box 1778, Highland, IN 46322. Representative: Edward G. Bazelon, 29 South La Salle St., Chicago, IL 60603, (312) 236-9375. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 160500, filed February 8, 1982. Applicant: SILVER STREAK EXPRESS, INC., 1002 Fuselage Ave., Baltimore, MD 21220. Representative: Jack L. Schiller, 123-60 83rd Ave., Kew Gardens, NY 11415, (212) 263-2078. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs) *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP2-30

Decided: February 16, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Chandler not participating.)

MC 160352, filed February 1, 1982. Applicant: RICHARD W. SANDERS, d.b.a. INTERMODAL TRANSPORT COMPANY, 2211 Wood St., Oakland, CA 94607. Representative: Christopher J. Kinsel (same address as applicant), 415-893-7338. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 160372, filed February 2, 1982. Applicant: ALBION TRUCKING, INC., P.O. Box 1928, Columbia, SC 29202. Representative: Gregory A. Edgell (same address as applicant), 803-788-9005. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP5-38

Decided: February 16, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 121649 (Sub-11), filed February 4, 1982. Applicant: MILAN EXPRESS, INC., P.O. Box 699, Milan, TN 38358. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., NW., Washington, D.C. 20004, 202-347-8862. Transporting *general commodities* between Lexington, Luray, Beech Bluff, Ralston, Terrell, Malesus, Medon, Toone, Conger, Bolivar, Hickory Valley, Grand Junction, Kenwood, Hickory Point, Dodsville, Fox Bluff, Chapmansboro, Parkburg, Deanburg, Silerton, Horneby, Serles, and Lacy, TN, Michigan City, Lamar, Hudsonville, Holly Springs, Waterford, Spraggins, Abbeville, McClary, College Hill, Oxford, Taylor, Water Valley, MS, and Deanefield, Whitesville, Philpot, Oak Ridge, Masonville, Thompsonville, and Edgoten, KY, on the one hand, and, on the other, points in the U.S. Applicant intends to tack with its regular route authority in MC-121649 and subs. Condition: Approval of this authority is conditioned upon applicant certifying to the Commission prior to commencing operations, that all rail service has actually terminated at all of the involved points.

Note.—The purpose of this application is to substitute motor carrier service for complete abandonment of rail carrier service.

Volume No. OP5-49

Decided: February 17, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 160478, filed February 8, 1982. Applicant: B & B TRUCKING, Rt. 1, Box 128, Tremonton, UT 84337. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111, (801) 531-1300. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5085 Filed 2-24-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by special rule of the Commission's rules of practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be statisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP1–27

Decided: February 11, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 2890 (Sub-58), filed January 29, 1982. Applicant: AMERICAN BUSLINES, INC., 1500 Jackson St., Dallas, TX 75201. Representative: George W. Hanthorn (same address as applicant), (214) 655–7937. Over regular routes, transporting *passenger and their baggage and express and newspapers*, in the same vehicle with passengers, (1) between Pittsburgh, PA, and Chicago, IL, from Pittsburgh, PA, over Interstate Hwy 279 to junction Interstate Hwy 79, then over Interstate Hwy 79 to junction Interstate Hwy 76, then over Interstate Hwy 76 to Akron, OH, then over Interstate Hwy 77 to Cleveland, OH, then over Interstate Hwy 90 to junction Interstate Hwy 80, then over Interstate Hwys 80/90 to junction Interstate Hwy 280, then over Interstate Hwy 280 to Toledo, OH, then over U.S. Hwy 20 to junction Interstate Hwys 80/90, then over Interstate Hwys 80/90 to Burns Harbor Interchange, then over Interstate Hwy 90 to Chicago, IL, and return over the same route, serving (a) junction of Interstate Hwy 76 and Interstate Hwy 80, west of Youngstown, OH, (b) junction of Interstate Hwy 480 and Interstate Hwy 80, (c) junction Interstate Hwy 80 and Interstate Hwy 90, (d) junction Interstate Hwys 80/90 and Interstate Hwy 280, (e) junction Interstate Hwys 80/90 and U.S. Hwy 20, (f) junction U.S. Hwy 20 and Interstate Hwys 80/90, and (g) junction Interstate Hwy 90 and U.S. Hwy 41 for purposes of joinder only, (2) between junction Interstate Hwy 76 and Interstate Hwy 80 and Cleveland, OH, from junction Interstate Hwy 76 and Interstate Hwy 80, over Interstate Hwy 80 to junction Interstate Hwy 480, then over Interstate Hwy 480 to junction Interstate Hwy 77, then over Interstate Hwy 77 to Cleveland, OH, and return over the same route, (3) between junction Interstate Hwy 80 and Interstate Hwy 480 and junction Interstate Hwy 80 and Interstate Hwy 90, over Interstate Hwy 80, (4) between junction Interstate Hwys 80/90 and Interstate Hwy 280, and junction Interstate Hwys 80/90 and U.S. Hwy 20, over Interstate Hwys 80/90, (5) between junction U.S. Hwy 20 and Interstate Hwys 80/90 and South Bend, IN, from junction U.S. Hwy 20 and Interstate Hwys 80/90 over Interstate Hwys 80/90 to junction U.S. Hwy 31, then over U.S. Hwy 31 to South Bend, IN, and return over the same route, (6) between junction Interstate Hwy 90 and U.S. Hwy 41 and Hammond, IN, over U.S. Hwy 41, (7) between Pittsburgh, PA, and St. Louis, MO, from Pittsburgh, PA, over Interstate Hwy 279 to junction Interstate Hwy 79, then over Interstate Hwy 79 to junction Interstate Hwy 70 near Washington, PA, then over Interstate Hwy 70 to St. Louis, MO, and return over the same route, serving Cambridge, Zanesville, Columbus and Springfield, OH, Richmond, Indianapolis, and Terre Haute, IN, and Marshall and Vandalia, IL, as off-route points and serving the junction of Interstate Hwy 70 and OH Hwy 7 for the purpose of joinder only, and (8) between junction Interstate Hwy 70 and OH Hwy 7 and Steubenville, OH, over OH Hwy 7, serving all intermediate points in routes (1) through (8) above.

MC 105501 (Sub-56), filed February 5, 1982. Applicant: TERMINAL TRANSPORT, INC., 1851 Raddison Road, NE, Baline, MN 55434. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., Suite 301, McLean, VA 22101, (703) 821–1305. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between points in CO, IA, IN, IL, KS, KY, MN, MO, MT, MI, NE, ND, OH, SD, TN, WI, and WY.

MC 109210 (Sub-140), filed February 5, 1982. Applicant: REYNOLDS CONTRACT HAULERS, INC., 400 Parson Street, West Columbia, SC 29169. Representative: James S. Megge, P.O. Box 1035, West Columbia, SC 2919. Transporting *such commodities* as are dealt in or used by a manufacturer and distributor of plastic products, between points in Hampton County, SC, on the one hand, and, on the other, points in AZ, AR, CA, CO, CT, DE, ID, IA, KS, LA, ME, MA, MN, MO, MT, NE, NV, NH, NM, ND, OK, OR, RI, SC, SD, UT, VT, WA, and WY.

MC 118130 (Sub-126), filed February 2, 1982. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6459, Forth Worth, TX 76115. Representative: Billy R. Reid, 1721 Carl Street, Forth Worth, TX 76103, (817) 293–6266. Transporting *drugs, pharmaceuticals, medical equipment and supplies, and toilet preparations*, between points in the U.S.

MC 126600 (Sub-16), filed January 26, 1982. Applicant: EHRSAM TRANSPORT, INC., 106 North Factory, Enterprise, KS 67441. Representative: Bob W. Storey, 310 Columbian Title Building, 820 Quincy Street, Topeka, KS 66612, (913) 232–0383. Transporting *construction equipment, machinery, and semi-trailer units*, between points in the U.S., under continuing contract(s) with Murphy Machinery Company, of Wichita, KS.

MC 147771 (Sub-7), filed February 4, 1982. Applicant: RALPH J. MARQUARDT & SONS, INC., P.O. Box 1040, Yankton, SD 57078. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506, (402) 488–4841. Transporting *lumber and wood products*, between points in CA, OR, WA, ID, and MT, on the one hand, and, on the other, points in IA, MN, and SD.

MC 151510 (Sub-2), filed February 3, 1982. Applicant: P & L TRUCKING SERVICE, INC., 3502 Ivy Street, P.O. Box 7237, Denver, CO 80207. Representative: Nancy P. Bigbee, 745 E. 16th Ave., Suite 101, Denver, CO 80203, (303) 839–0057. Transporting *such commodities* as are dealt in or used by breweries, between points in CO, TX and AZ.

MC 159291 (Sub-1), filed February 5, 1982. Applicant: WRIGHT-WAY EXPRESS, LTD., 616 3rd St., N.E., Independence, IA 50644. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274–4985. Transporting *such commodities* as are dealt in or used by catalog showrooms and retail, discount and department stores, between points in Polk County, IA, on the one hand, and, on the other, points in the U.S.

Volume No. OP1–30

Decided: February 17, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 2421 (Sub-40), filed February 5, 1982. Applicant: NEWTON TRANSPORTATION COMPANY, INC., 510 Greer Circle, S.W., P.O. Box 678, Lenoir, NC 28645. Representative: Jon F. Hollengreen, 1020 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., N.W., Washington, DC 20004, (202) 628–4600. Transporting *general commodities* (except classes A and B explosives), between points in NC and SC, on the one hand, and, on the other, points in DE, IA, IN, IL, KY, MD, MO, NJ, NY, OH, PA, TN, VA and WV.

MC 8310 (Sub-18), filed February 5, 1982. Applicant: JEFF'S TRUCKING, INC., P.O. Box 282, Waupun, WI 53963. Representative: Charles E. Dye, Swan Lake Village, Saddle Ridge #832, Portage, WI 53901, (608) 742–3579. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (1) between points in CO, KS, MO, NE and OH, and (2) between points in CO, KS, MO, NE and OH, on the one hand, and, on the other, points in IL, IN, IA, MI, MN, ND, SD and WI.

MC 9291 (Sub-22), filed February 8, 1982. Applicant: CARROL BALL TRANSPORT, INC., P.O. Box 53, Centerville, KS 66014. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 1101, Topeka, KS 66612, (913) 236–6629. Transporting *rubber and plastic products*, between Dallas and Ft. Worth, TX, and Oklahoma City, OK, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 48221 (Sub-30), filed February 5, 1982. Applicant: W. N. MOREHOUSE TRUCK LINE, INC., 4010 Dahlman Ave., Omaha, NE 68106. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106, (402) 392–1220. Transporting (1) *such commodities* as are dealt in by manufacturers and distributors of malt beverages, between points in Shelby County, TN, and Gregg County, TX, on the one hand, and, on the other, points in CO, NE, SD, and WY, and (2) *food and related products*, between points in Buffalo County, NE, on the one hand, and, on the other, points in TN, WI, CO, IL, MI, CA, OK, TX, and AZ.

MC 55691 (Sub-8), filed February 10, 1982. Applicant: JIM MARRS TRUCKING CO., INC., P.O. Box 632, Drumright, OK 74030. Representative: J. Michael Alexander, 5801 Marvin D. Love Freeway, Suite 301, Dallas TX 75237–2385, (214) 339–4108. Transporting *Mercer commodities*, between points in Harvey County, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 65530 (Sub-12), filed February 11, 1982. Applicant: BLALOCK TRUCK LINE, INC., P.O. Box 734, Charleston, SC 29402. Representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, DC 20001, (202) 628–6343. Transporting *general commodities* (except classes A and B explosives), between points in AL, FL, GA, NC, SC, TN, and VA.

MC 107403 (Sub-84), filed February 8, 1982. Applicant: WILLIAM Z. GETZ, INC., 3055 Yellow Goose Rd., P.O. Box 4124, Lancaster, PA 17604. Representative: Christian V. Graf, 407 N Front St., Harrisburg, PA 17101. Transporting *printed matter*, between points in the U.S. (except AK and HI), under continuing contract(s) with R. R. Donnelley and Sons Company, of Chicago, IL.

MC 117551 (Sub-13), filed February 8, 1982. Applicant: NEWS & FILM SERVICE, INC., 745 Lipan Street, Denver, CO 80204. Representative: Manuel Andrade, 770 Grant St., Suite 244, Denver, CO 80203, (303) 861–4273. Transporting *automotive parts, supplies and accessories*, between points in CO, KS, MT, NE, NM, UT and WY.

MC 128301 (Sub-1), filed February 8, 1982. Applicant: SUNLINE LTD., 8515 Greenville Ave., Suite N–207, Dallas, TX 75243. Representative: James S. Pate (same address as applicant), (214) 343–0044. Transporting *Mercer commodities*, between points in AR, CO, KS, LA, MS, NE, NM, OK, TX, and WY.

MC 128951 (Sub-46), filed February 8, 1982. Applicant: ROBERT H. DITTRICH d.b.a. BOB DITTRICH TRUCKING, P.O. Box 616, 1000 North Front St., New Ulm, MN 56073. Representative: Robert H. Dittrich (same address as applicant). Transporting *food and related products*, between points in the U.S.

MC 128951 (Sub-47), filed February 8, 1982. Applicant: ROBERT H. DITTRICH d.b.a. BOB DITTRICH TRUCKING, P.O. Box 616, 1000 North Front St., New Ulm, MN 56073. Representative: Robert H. Dittrich (same address as applicant), (507) 354–4712. Transporting *salt products*, between the facilities of Cargill, Inc., and its subsidiaries, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 129410 (Sub-29), filed February 8, 1982. Applicant: BONCOSKY TRANSPORTATION, INC., 1301 Industrial Drive, Algonquin, IL 60102. Representative: Carl L. Steinar, 29 South LaSalle Street, Chicago, IL 60603, (312) 236–9375. Transporting *vegetable oils*, between points in the U.S., under continuing contract(s) with Agro-Ingredients, Inc., of Des Plaines, IL.

MC 130510 (Sub-2), filed February 12, 1982. Applicant: ALL SEASONS TRAVEL, 229 East 8th Street, Wyoming, PA 18644. Representative: Patrick E. Dougherty, Suite 300, Court House Square Towers, North River Street, Wilkes-Barre, PA 18702, (717) 823–1107. As a broker at Wyoming, PA, in arranging for the transportation of *passengers and their baggage* in the same vehicle with passengers, in charter and special operations, beginning and ending at points in Bradford, Lehigh, Northampton, Carbon, Columbia, Lackawanna, Monroe, Montour, Pike, Sullivan, Wayne, Lycoming and Wyoming Counties, PA, and extending to points in the U.S. (except AK and HI).

MC 133250 (Sub-5), filed February 8, 1982. Applicant: UNITED AGRICULTURAL TRANSPORTATION ASSOCIATION OF AMERICA MARKETING CO-OP, P.O. Box 662, Ennis, TX 75119. Representative: William J. Lippman, 580 Steele Park, 50 South Steele St., Denver, CO 80209, (303) 322–0800. Transporting *general commodities* (except classes A and B explosives), between points in AL, GA, IL, NY, TN, and TX, on the one hand, and, on the other, the U.S.

MC 140360 (Sub-4), filed February 4, 1982. Applicant: HAROLD H. DANEKAS, 3524 E. Dayton Avenue, Fresno, CA 93726. Representative: Terry D. Fortier, P.O. Box 12004, Fresno, CA 93776. Transporting *granite*, between points in the U.S., under continuing contracts(s) with Raymond Granite Company, of Raymond, CA.

MC 143500 (Sub-19), filed February 4, 1982. Applicant: R. B. CARRIERS, INC., P.O. Box 92, Jeffersonville, IN 47130. Representative: Dean N. Wolfe, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *food and related products*, between points in CA, on the one hand, and, on the other, Cincinnati, OH, and points in KY and IN.

MC 144121 (Sub-13), filed February 8, 1982. Applicant: LARRY'S EXPRESS, INC., 720 Lake Street, Tomah, WI 54660. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719, (608) 273–1003. Transporting *food and related products*, between points in MN, WI, IL, and IA, on the one hand, and, on the other, points in the U.S.

MC 145240 (Sub-14), filed February 8, 1982. Applicant: L. D. BRINKMAN TRUCKING CORP., 520 N. Wildwood, Irving, TX 75060. Representative: Edwin M. Snyder, P.O. Box 45538, Dallas, TX 75245 (214) 358–3341. Transporting *plastic products and metal products*, between points in the U.S., under continuing contract(s) with Piper Industries, Inc., of Memphis, TN.

MC 146561 (Sub-5), filed February 8, 1982. Applicant: L.M.T., INC., 15005 Faulkner Road, Santa Paula, CA 93060. Representative: William J. Monheim P.O. Box 1756, Whittier, CA 90609, (213) 945–2745. Transporting (1) *food and related products*, and (2) *such commodities* as are dealt in by wholesale an and retail grocery stores and food business houses, between points in the U.S., under continuing contract(s) with Seneca Foods Corporation, of Prosser, WA, in (1) above, and Ralphs Grocery Company, of Comption, CA, and Lucky Stores, Inc., of Buena Park, CA, in (2) above.

MC 148380 (Sub-22), filed February 8, 1982. Applicant: CRESCO LINES, INC., 13900 South Keeler Ave., Crestwood, IL 60445. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between points in the U.S. (except AK and HI), under continuing contract(s)

with Patent Scaffolding Company, a division of Harsco Corporation, of Fort Lee, NJ.

MC 148560 (Sub-7), filed February 8, 1982. Applicant: GOLD STAR, INC., 130 Davidson Ave., Somerset, NJ 08873. Representative: A. David Millner, P.O. Box Y, 7 Becker Farm Road, Roseland, NJ 07068, (201) 992–2200. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Peyton's-Southeastern, Inc., of Cleveland, TN. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 1, Room 6358.

MC 152430 (Sub-3), filed February 8, 1982. Applicant: A. J. THOMAS & SON, INC., 840 S Front, Coos Bay, OR 97420. Representative: Lawrence V. Smart, Jr., 419 N W 23rd Ave, Portland, OR 97210, (503) 226–3755. Transporting *pulp, paper and related products*, between points in Douglas County, OR, on the one hand, and, on the other, points in CA.

MC 157741 (Sub-2), filed February 4, 1982. Applicant: IVY ESTILETTE, P.O. Box 463, Ville Platte, LA 70586. Representative: C. Brent Corell, P.O. Drawer 450, Ville Platte, LA 70586, (318) 363–5596. Transporting *such commodities* as are distributed by agricultural supply stores, between points in Evangeline Parish, LA, on the one hand, and, on the other, Houston and Nacogdoches, TX, Little Rock and Stuttgart, AR, and Yazoo City, MS.

MC 158811, filed February 8, 1982. Applicant: SCENIC VALLEY TRANSPORTATION, 3767 Minniear Rd., Modesto, CA 95355. Representative: Joseph R. Fallabel (same address as applicant), (209) 869–3419. Transporting *rubber and plastic articles*, between points in the U.S., under continuing contract(s) with B. F. Goodrich Company, of Modesto, CA.

MC 160001 (Sub-1), filed February 8, 1982. Applicant: VESEY DELIVERY SERVICE, INC., 56 U.S. Hwy, Rte. 22, Hillside, NJ 07205. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415, (212) 263–2076. Transporting *general commodities* (except classes A and B explosives and household goods), between points in NJ, on the one hand, and, on the other, points in CT, DE, MA, MD, NY, PA, RI, and DC.

MC 160400, filed February 9, 1982. Applicant: CARE TRANSPORT, INC., 18433 Glen Oak Ave., Lansing, IL 60438. Representative: Robert C. Collins, Jr., 850 Burnham Ave., P.O. Box 1245, Calumet City, IL 60409, (312) 862–5800. Transporting *oils*, between points in the U.S., under continuing contract(s) with Bunge Edible Oil Corp., of Kankakee, IL, and Enterprise Companies, of Wheeling, IL.

MC 160420, filed February 5, 1982. Applicant: AUSTIN TOURS, P.O. Box 517, Norwood, NC 28128. Representative: Ramelle Furr Austin (same address as applicant), (704) 474–4283. As a broker at Albermarle, NC, in arranging for the transportation of *passengers and their baggage* in the same vehicle with passengers, in charter and special operations, between points in Stanly County, NC, on the one hand, and, on the other, points in the U.S.

MC 160471, filed February 8, 1982. Applicant: GOLDWAY TOURS, INC., 4222 Vineland Avenue, North Hollywood, CA 91602. Representative: John C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017, (213) 483–4700. As a *broker* at North Hollywood, CA in arranging for the transportation of *passengers and their baggage*, in the same vehicle with passengers, between points in the U.S.

MC 160481, filed February 8, 1982. Applicant: HARRISON FREIGHT, INC., 18709 Marks Road, Strongsville (Cleveland), OH 44136. Representative: Lewis J. Ringler, 300 Leader Bldg., Cleveland, OH 44114, (216) 687–1311. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Midland Steel Products and Unibus, Inc., both of Cleveland, OH.

MC 160521, filed February 10, 1982. Applicant: TIMBERLINE EXPRESS, INC., 2204 Ohio Avenue, Superior, WI 54880. Representative: Robert D. Gisvold, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333–1341. Transporting *food and related products*, between points in IL, IN, IA, MI, MN, MO, NE, ND, OH, PA, SD, and WI.

Volume No. OP2–31

Decided: February 16, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Chandler not participating.)

MC 662 (Sub-32), filed February 3, 1982. Applicant: BURNHAM VAN SERVICE, INC., 5000 Burnham Blvd., Columbus, GA 31907. Representative: David Earl Tinker, 1000 Connecticut Ave. NW., Suite 1112, Washington, DC 20036–5301, 202–887–5866. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Pizza Time Theatre's, Inc., of Sunnyvale, CA.

MC 1222 (Sub-55), filed February 1, 1982. Applicant: THE REINHARDT TRANSFER COMPANY, 1410 10th St., Portsmouth, OH 45662. Representative: Robert H. Kinker, 314 West Main St., P.O. Box 464, Frankfort, KY 40602, 502–223–6244. Transporting *metal and metal products*, between points in Campbell County, KY, on the one hand, and, on the other, points in KS, OK, PA, and TX.

MC 70903 (Sub-9), filed February 2, 1982. Applicant: OKANOGAN-SEATTLE TRANSPORT CO., INC., P.O. Box 722, Ellensburg, WA 98926. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101, (206) 624–7373. Transporting *silva fiber ground cover and silva cell filter material*, between points in King County, WA, on the one hand, and, on the other, ports of entry on the international boundary line between the United States and Canada located in WA.

MC 127172 (Sub-9), filed January 21, 1982. Applicant: MARC BAGGAGE LINES, INC., 9033 Hollyberry Ave., Des Plaines, IL 60016. Representative: J. L. Funt, P.O. Box 577, Jonesboro, GA 30237, 404–477–1525. Transporting *general commodities* (except classes A and B explosives), between points in IA, IL, MN, FL, ND, and WI.

MC 133983 (Sub-5), filed February 2, 1982. Applicant: SAND MOUNTAIN AUTO AUCTION, INC., U.S. Highway 331, Boaz, AL 35957. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203, (203) 251–2861. Transporting *transportation equipment*, between points in the U.S. (except AK and HI).

MC 134752 (Sub-9), filed January 20, 1982. Applicant: HILL & WILLIAMS BROS., INC., 799–44th St., Marion, IA 52203. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, 515–282–3525. Transporting *carpet* (1) between points in Whitfield County, GA, on the one hand, and, on the other, Minneapolis, MN, and (2) between points in Whitfield and Catoosa Counties, GA, on the one hand, and, on the other, points in IL, IN and KY.

MC 135758 (Sub-5), filed February 3, 1982. Applicant: WILLIAMS TRANSPORT CO., INC., P.O. Box 1116, Richmond, VA 23208. Representative:

John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004, 202–737–1030. Transporting *those commodities which because of their size or weight require the use of special handling or equipment, machinery, and metal products*, between points in the U.S., under continuing contract(s) with Millwrights & Riggers, Inc., of Richmond, VA.

MC 142352 (Sub-12), filed February 1, 1982. Applicant: HAUSMAN TRUCKING, INC., 4639 Edgebrook Rd., Waterloo, IA 50701. Representative: Jack H. Blanshan, 205 W. Touhy Ave. Suite 200–A, Park Ridge, IL 60068, 312–698–2235. Transporting *clay, concrete, glass or stone products*, between points in Thomas County, GA, and Tippah County, MS, on the one hand, and, on the other, points in AR, IL, IA, KS, MN, MO, NE, OK, TX, and WI.

MC 142723 (Sub-10), filed February 2, 1982. Applicant: BRISTOL CONSOLIDATORS, INC., 108 Riding Trail Lane, Pittsburgh, PA 15215. Representative: William A. Gray, 2310 Grant Bldg, Pittsburgh, PA 15219–2383, (412) 471–1800. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the United States, under continuing contract(s) with Colamco, Inc., of Columbus, OH, and its subsidiaries and divisions.

MC 143023 (Sub-5), filed January 20, 1982. Applicant: CHI-WAUKEE TRUCK LINES, INC., 1501 West Pershing Rd., Chicago, IL 60609. Representative: Donald E. Weishaar, Suite 202, 1301 West 22nd St., Oak Brook, IL 60521. Transporting *food and related products*, between points in Rock County, WI, and points in MN, IL, MI, NY, NJ, TN, AR, IN, KY, and MS.

MC 147252 (Sub-4), filed February 1, 1982. Applicant: FCT CORP., Rt. 1, Box 20, Dalton Pike, Cleveland, TN 37311. Representative: Ray Winsky (same address as applicant), (615) 476–6521. Transporting *textile mill products, food and related products and metal products*, between points in MI, OH, IN, KY, TN, GA, AL, SC, NC, VA, NY, and TX.

MC 146152 (Sub-5), filed February 1, 1982. Applicant: K & H TRUCKING, INC., 3301 South Lamar, Dallas, TX 75215. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255–6279. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Southeastern Steel Container Company, of Birmingham, AL and its subsidiaries (a) Southwestern Steel Container Company, of Dallas, TX, (b) Southeastern Plastic Container Company, of Arlington, TN, (c) Thompson Can Company, of Dallas, TX, (d) Self Manufacturing Company, of Trussville, AL, (e) Kresgy & Associates, of Trussville, AL, and (f) Hury Klean, of Trussville, AL.

MC 148893 (Sub-8), filed January 29, 1982. Applicant: WREN TRUCKING, INC., 1989 Harlem Rd., Buffalo, NY 14212. Representative: James E. Brown, 36 Brunswick Rd., Depew, NY 14043, (716) 681–7190. Transporting *general commodities* (except classes A and B explosives), between the facilities of Morgan Chemicals, Inc., at points in the U.S., on the one hand, and, on the other, points in AL, AR, CT, DE, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NC, NY, OH, PA, RI, SC, TN, TX, VT, WV, WI, and DC.

MC 149573 (Sub-7), filed January 21, 1982. Applicant: NTL, INC., P.O. Box 6845, Lincoln, NE 68506. Representative: J. Max Harding (same address as applicant), (402) 483–7833. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Addison Foods, Inc., of Addison, TX.

Note.—The purpose of this application is to add an additional contract shipper to an existing permit.

MC 150463, filed January 19, 1982. Applicant: ROETHEL COACH LINES, INC., 515 Ford St., Ogdensburg, NY 13669. Representative: Thomas G. Roethel (same address as applicant), (315) 393–5200. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, between Ogdensburg, NY, and points in St. Lawrence County, NY, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC.

MC 152353 (Sub-5), filed February 5, 1982. Applicant: WILLIAM TIMBLIN TRANSIT, INC., Rte. 1, Eden, WI 53019. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273–1003. Transporting *metal and steel products*, between the facilities used by National Material Corporation at points in the U.S., on the one hand, and, on the other, those points in the U.S., in and east of ND, SD, NE, CO, OK, and TX.

MC 154723 (Sub-1), filed January 20, 1982. Applicant: C. M. PENN & SONS, INC., Route 1, Box 349A, Greenwell Springs, LA 70739. Representative: Edwin M. Snyder, P.O. Box 45536, Dallas, TX 75245, (214) 358–3341. Transporting *hazardous and non-hazardous waste materials*, between points in LA, AL and TX.

MC 157453 (Sub-2), filed February 2, 1982. Applicant: EMERGENCY MOTOR FREIGHT, INC., Route 5, Box 452, Simpsonville, SC 29681. Representative: Mitchell King, Jr., P.O. Box 5711, Greenville, SC 29606, (803) 288–6000. Transporting *general commodities*, (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with (1) Aberdeen Manufacturing Corp., of New York, NY, (2) Globe Industries, Inc., of Chicago, IL, (3) Philips Industries, Inc., of Dayton, OH, and (4) Webster Spring Co., of Oxford, MA.

MC 160182, filed January 19, 1982. Applicant: O-MAR TOURS & TRAVEL, INC., 6054 Castor Ave., Philadelphia, PA 19149. Representative: Hilda B. Scheer (same address as applicant), (215) 743–6603. As a *broker*, at Philadelphia, PA, in arranging for the transportation by motor vehicle of *passengers and their baggage*, in the same vehicle with passengers, between points in PA and NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160322, filed January 29, 1982. Applicant: BALLOU TRUCKING, INC., Rte. 2, Ashland, NE 68003. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506, (402) 486–4841. Transporting (1) *self-propelled vehicles, lawn, turf and garden equipment*, and (2) *parts, accessories, and attachments* for the commodities in (1) above, between points in the U.S., under continuing contract(s) with OMC Lincoln, Division of Outboard Marine Corporation, Of Lincoln, NE.

MC 160323, filed January 29, 1982. Applicant: MANVILLE SERVICE CORPORATION, 12999 Deer Creek Canyon Rd., P.O. Box 5106, Denver, CO 80217. Representative: Leslie R. Kehl, 1660 Lincoln St., Suite 1600, Denver, CO 80264, (303) 861–4028. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S.

MC 160362, filed February 2, 1982. Applicant: SCHWITZER'S NIGHT & DAY TRUCKING, INC., RFD 2, Box 109, Evanston, WY 82930. Representative: Irene Warr, 311 S. State St., Suite 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *Mercer Commodities*, between points in WY, UT, ID, CO, MT, NV, ND, SD, NM, TX, and OK.

MC 160363, filed February 1, 1982. Applicant: BRIAN PILLETTE TRUCKING, 5486 S.W. Alger St. H–11,

Beaverton, OR 79005. Representative: David R. Benson, 3170 N.W. Parkview Drive, Beaverton, OR 97006, (503) 223-3996. Transporting *lumber and wood products*, between points in CA, CO, ID, MT, NV, OR, UT, WA, and WY.

Volume No. OP4-81

Decided: February 17, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 41347 (Sub-14), filed February 10, 1982. Applicant: DE BACK CARTAGE CO., INC., 4841 W. Burnham St., Milwaukee, WI 53219. Representative: William P. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203, (414) 273-7410. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Ward-Johnston, Division of Terson, Inc., of Brookfield, WI.

MC 114917 (Sub-11), filed February 10, 1982. Applicant: DART TRANSPORTATION SERVICE, 1430 S. Eastman Ave., Los Angeles, CA 90023. Representative: John C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017, (213) 483-4700. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Terminal Freight Cooperative Association Company, of Downers Grove, IL.

MC 139277 (Sub-7), filed February 10, 1982. Applicant: HALL TRUCKING, INC., 201 Livingston St., Gridley, IL 61744. Representative: Patrick H. Smyth, 105 W. Madison St., Suite 1008, Chicago, IL 60602, (312) 263-2397. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Metallic Braden Building Company, of Houston, TX.

MC 145557 (Sub-18), filed February 8, 1982. Applicant: LIBERTY TRANSPORT, INC., 2501 Nicholson Rd., P.O. Box 9162, Kansas City, MO 64168. Representative: Arthur J. Cerra, 2100 CharterBank Center, P.O. Box 19251, Kansas City, MO 64141, (816) 842-8600. Transporting *food and related products*, between the facilities of Sanna, Inc.—Beatrice Foods Company, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 155317 (Sub-1), filed February 8, 1982. Applicant: JAMES K. KILBER, d.b.a. GREELEY CHARTER SERVICE, 1542 7th Ave., Greeley, CO 80631. Representative: Charles J. Kimball, 1600 Sherman, #665, Denver, CO 80203, (303) 839-5856. To operate as a *broker*, (1) at Greeley, Fort Collins, and Denver, CO, in arranging for the transportation of *passengers and their baggage*, between points in the U.S., (2) (a) As a *broker of general commodities* (except household goods), (b) shipments weighing 100 pounds or less, when transported in a motor vehicle in which no one package exceeds 100 pounds and (c) transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Note.—Parts (2) (a), (b), and (c) seek authority where applicant need only prove that it is fit, willing and able to perform the service.

MC 145187 (Sub-3), filed January 28, 1982. Applicant: W. R. HURST, INC., P.O. Box 416, Blanding, UT 84511. Representative: Steven D. Crawley, 2001 E. 4800 S., Salt Lake City, UT 84117, (801) 272-9416. Transporting (1) *commodities in bulk*, between points in the U.S., and (2) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Note.—Part (2) seeks authority where applicant need only prove that it is fit, willing and able to perform the service.

Volume No. OP4-83

Decided: February 17, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 110077 (Sub-439), filed January 28, 1982. Applicant: DSI TRANSPORTS, INC., 5851 San Felipe, Suite 800, P.O. Box 1506, Houston, TX 77001. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001, (202) 628-9243. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Celanese Corporation, of New York, NY, and its subsidiary, Celanese Chemical Co., Inc., of Dallas, TX.

MC 141237 (Sub-2), filed February 5, 1982. Applicant: LOREN J. SLAGHT, 90 La Pointe St., Prairie du Chien, WI 53821. Representative: Michael S. Varda, P.O. Box 2509, Madison, WI 53701, (608) 255-8891. Transporting *such commodities as are dealt in or used by manufacturers and distributors of fertilizer and fertilizer products*, between points in Crawford County, WI, on the one hand, and, on the other, points in IL, IA, and MN.

MC 146007, filed February 5, 1982. Applicant: MADISON AIR FREIGHT, INC., 3509 International Lane, Madison, WI 53704. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719, (608) 273-1003. Transporting *general commodities* (except classes A and B explosives), between points in WI and IL, on the one hand, and, on the other, hand, Milwaukee, WI, and Chicago, IL.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5034 Filed 2-24-82; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Redelegation of Authority No. 95.1 (Revised)]

Deputy Assistant Administrator, Bureau for Food for Peace and Voluntary Assistance; Redelegation of Authority

Pursuant to the authority delegated to me as Assistant Administrator, Bureau for Food for Peace and Voluntary Assistance, I hereby delegate to the Deputy Assistant Administrator, Bureau for Food for Peace and Voluntary Assistance, authority to act as my alter ego, to be responsible, under my direction and concurrently with me, for all aspects of the activities of said Bureau. In accordance with this delegation, said Deputy Assistant Administrator is authorized to represent me, and to exercise my authority, with respect to all functions now or hereafter conferred upon me by A.I.D. delegations of authority, regulations, manual orders, handbook provisions, directives, notices or other documents, by law or by any competent authority.

Redelegation of Authority No. 95.1, dated April 28, 1972 (37 FR 10612) is revoked.

This redelegation of authority is effective immediately.

Dated: February 16, 1982.

Julia Chang Bloch,
Assistant Administrator, Bureau for Food for Peace and Voluntary Assistance.

[FR Doc. 82-5008 Filed 2-24-82; 8:45 am]
BILLING CODE 8116-01-M

A.I.D. Research Advisory Committee; Revised Notice of Meeting

Pursuant to Executive Order 11769 and the Provisions of Section 10(a) (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the A.I.D. Research Advisory Committee meeting on April 13, 14, 15 and 16, 1982 to review, appraise and make recommendations to the Administrator, Agency for International Development, concerning projects proposed for A.I.D. research funding in the areas of food and nutrition, health and population, and science and technology.

A general meeting of the Committee will begin on April 14 at 9:00 a.m. and adjourn at 5:30 p.m. each day at the Pan American Health Organization Building, Conference Room 'C'. The general meeting of the Committee will be preceded by panel discussions which are scheduled for April 13. The meeting is open to the public. Any interested persons may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee and to the extent the time available for the meeting permits. Dr. Miloslav Rechcigl, Chief of Research and Methodology Division, Bureau for Science and Technology, is designated as the A.I.D. representative at the meeting. It is suggested that those desiring more specific information contact Dr. Rechcigl, 1601 N. Kent Street, Arlington, Virginia 22209 or call area code (703) 235-9011.

Dated: February 8, 1982.

Miloslav Rechcigl,
A.I.D. Representative, Research Advisory Committee.

[FR Doc. 82-5010 Filed 2-24-82; 8:45 am]
BILLING CODE 8116-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. American Consulting Engineers Council; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement (CIS), as set forth below, have been filed with the United States District Court for the District of Columbia in *United States* v. *American Consulting Engineers Council*, Civil No. 80-2067.

The complaint in this case alleged that the defendant conspired to restrain competition for engineering services among its members, in violation of Section 1 of the Sherman Act, 15 U.S.C. 1, by adopting ethical rules which prohibited its members from entering competitions for engineering designs without reasonable compensation; from providing professional services on a free basis, except for civic, charitable or religious organizations; and from providing professional services on a contingent basis.

The proposed Final Judgment enjoins the defendant from initiating or furthering any plan or course of action which has the purpose or effect of suppressing or discouraging its members from entering into design competitions, providing free services, or providing services on a contingent basis. The defendant is also required to amend its publications to eliminate any provisions which prohibit or discourage its members from engaging in such practices and to notify its members that nothing in its code of ethics prohibits them from engaging in such practices.

Public comment is invited within the statutory 60-day period. Such comments, and responses thereto, will be published in the Federal Register and filed with the Court. Comments should be directed to John W. Poole, Jr., Chief, Special Litigation Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530 (Telephone (202) 633-2425).

Joseph H. Widmar,
Director of Operations, Antitrust Division.

U.S. District Court for the District of Columbia

[Civil No. 80-2067.]

United States of America, Plaintiff, v. *American Consulting Engineers Council*, Defendant.

Filed: February 16, 1982.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendant and by filing that notice with the Court.

2. In the event Plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated:

For the Plaintiff:
William F. Baxter,
Assistant Attorney General.
Joseph H. Widmar,
Charles F. B. McAleer,
John W. Poole, Jr.,
Thomas L. Greaney,
Attorneys, Department of Justice.

For the Defendant:
Lewis A. Rivlin,
Robert H. Morse,
Edward D. Eliasberg, Jr.,
Gail Kursh,
Attorneys, Antitrust Division, Department of Justice, 10th & Pennsylvania Ave., N.W., Washington, D.C. 20530, Telephone: (202) 633-2582.

U.S. District Court for the District of Columbia

[Civil No. 80-2067.]

United States of America, Plaintiff, v. *American Consulting Engineers Council*, Defendant.

Filed: February 16, 1982.

Final Judgment

Plaintiff, the United States of America, having filed its Complaint herein on August 15, 1980, and Plaintiff and Defendant, by their respective attorneys, having each consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting evidence against or admission by either party with respect to any such issue;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties, it is hereby

Ordered, adjudged, and decreed as follows:

I

This Court has jurisdiction of the subject matter of this action and of both of the parties hereto. The Complaint states a claim upon which relief may be granted against Defendant under Section 1 of the Sherman Act, (15 U.S.C. 1).

II

This Final Judgement shall apply to Defendant and to Defendant's officers, directors, agents, employees, successors, and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise. For purposes of this Section II, members of Defendant ACEC shall not be deemed to be in active concert or participation solely by virtue of their membership.

III

Defendant ACEC is enjoined and restrained from directly or indirectly:

(A) Initiating, adopting, entering into, carrying out, of furthering any plan, program, or course of action which has the purpose or effect of suppressing, restraining, or discouraging its members from entering into

design competitions, providing free services, or providing services on a contingent basis.

(B) Adopting, disseminating, publishing, or seeking adherence to any code of ethics, statement of principle, policy statement, rule, bylaw, guideline, standard, or collective statement which has the purpose or effect of suppressing, restraining, or discouraging its members from entering into design competitions, providing free services, or providing services on a contingent basis or which states or implies that design competitions, free services, or contingent arrangements are, in themselves, unethical, unprofessional or contrary to any policy of Defendant.

Nothing in this Final Judgment shall prohibit an individual engineer or individual engineering firm, acting alone, from refusing to enter into design competitions, provide free services or provide services on a contingent basis, or from otherwise expressing an opinion concerning the propriety of design competitions, free services, or contingent arrangements. Nor shall anything in this Final Judgment prohibit Defendant or any of its members from advocating or discussing legislation concerning design competitions, free services, or contingent arrangements or from advocating or discussing, with federal or state executive or purchasing agencies, rules, regulations, or policies concerning design competitions, free services, or contingent arrangements, or from advocating or discussing, in private or in public, the public policy considerations suggesting the need for legislation, rules, regulations, or governmental policies concerning design competitions, free services, or contingent arrangements, provided that such advocacy or discussion makes clear that Defendant and its members are not thereby suppressing, restraining, or discouraging the members of Defendant from entering into design competitions, providing free services, or providing services on a contingent basis.

IV

Defendant ACEC is ordered and directed to make a good faith effort to amend its policy statements, opinions of its ethics committee, manuals, handbooks, rules, constitution, bylaws, resolutions, and any other of its statements, guidelines, or publications either currently in its possession, custody, or control or published or issued in the future to eliminate therefrom any provisions which prohibit, discourage, or restrain its members from entering into design competitions, providing free services, or providing services on a contingent basis or which state or imply that design competitions, free services, or contingent arrangements are, in themselves, unethical, unprofessional, or contrary to any policy of Defendant. Defendant may use fliers or errata sheets to note corrections with respect to statements, guidelines, or other publications currently in its possession, custody, or control with changes being made to the actual texts of any such statements, guidelines, or publications as new editions are issued or published.

V

Defendant ACEC is ordered and directed within sixty days from the entry of this Final Judgment to (1) send a copy of this Final Judgment to each of its member organizations, and (2) cause the distribution of this Final Judgment in conjunction with a mailing of the publication, "The Last Word." Defendant is further orderded and directed, for a period of ten years following the date of entry of this decree, to send a copy of this Final Judgment to each new member firm and each new member organization and to state in any publication of its guidelines for professional conduct that the guidelines do not prohibit design competitions, free services, or contingent arrangements.

VI

The Defendant ACEC is ordered and directed to submit to Plaintiff an official written certification that none of its member organizations currently has in effect or seeks adherence to any code of ethics, statement of principle, policy statement, rule, bylaw, guideline, standard, or collective statement which has the purpose or effect of suppressing, restraining, or discouraging its members from entering into design competitions, providing free services, or providing services on a contingent basis, nor does it pursue any other collective course of action which has the purpose or effect of suppressing or eliminating competition based upon designs, free services, or contingent arrangements. This certification shall be submitted within one hundred and twenty (120) days from the entry of this Final Judgment and shall be renewed annually for the period of this Final Judgment.

For purposes of carrying out Section VI, Defendant may rely in good faith upon the certification received from a member organization or, inthe absence of such a certification, in any particular case, must make a good faith effort to ascertain the facts necessary to make this written certification with respect to any such member organization, which shall include reviewing the code of ethics and professional conduct guidelines and the directory of each such member organization.

VII

Defendant is ordered and directed within sixty (60) days from the entry of this Final Judgment to attach to each copy of the current edition of "A Guide to the Procurement of Architectural and Engineering Services" ("Guide") in Defendant's possession, custody, or control and to all subsequent editions and versions of the Guide printed during the term of this Final Judgment a statement that nothing in the Defendant's code of ethics or guidelines for professional conduct prohibits its members from entering design competitions, providing free services, or providing services on a contingent basis.

VIII

Defendant is ordered to file with Plaintiff on the anniversary date of the entry of this Final Judgment, for a period of ten years, a report setting forth the steps it has taken during the prior year to comply with the provisions of this Final Judgment.

IX

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendant made to its principal office, be permitted:

(1) Access during office hours to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of Defendant, who may have counsel present, regarding any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such Defendant and without restraint or interference from it, to interview officers, employees, and agents of such Defendant, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to Defendant's principal office, Defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

(C) No information or documents obtained by means provided in this Section shall be divulged by any representative of the Department of Justice to any person other than a duly authorized employee or representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

X

This Final Judgment shall remain in effect until ten (10) years from the date of entry.

XI

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of its provisions, for its enforcement or compliance, and for the punishment of any violation of its provisions.

XII

Entry of this Final Judgment is in the public interest.

Entered:

John Garrett Penn,

United States District Court Judge.

U.S. District Court for the District of Columbia

[Civil No. 80-3067]

Filed: February 16, 1982.

United States of America, Plaintiff, v. *American Consulting Engineers Council*, Defendant.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States submits this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

Nature and Purpose of the Proceeding

On August 15, 1980, the United States filed a civil antitrust complaint alleging that the American Consulting Engineers Council ("ACEC") conspired to restrain competition in engineering services among its members in violation of Section 1 of the Sherman Act, 15 U.S.C. 1.

The Complaint alleged that, beginning at least as early as 1974 and continuing up to and including the date when the Complaint was filed, ACEC and its co-conspirators combined and conspired by adopting ethical rules restricting its members from entering competitions for engineering designs without reasonable compensation; from providing professional services on a free basis, except for civic, charitable or religious organizations; or from providing professional services on a contingent basis. The Complaint further charged that the members of ACEC agreed to abide by these rules. The effect of the conspiracy has been to curtail and suppress price and other forms of competition among members of ACEC and to deny purchasers of engineering services the benefits of free and open competition in the sale of such services.

The relief sought in the Complaint was that ACEC be required to cancel any provisions of its Code of Ethics and Professional Conduct Guidelines, and every other rule, bylaw, resolution or statement of policy which has as its purpose or effect the suppression or elimination of competition for engineering services among the members of ACEC. The Complaint further asked that ACEC be enjoined from adopting or entering into any similar program.

Entry of the proposed Final Judgment will terminate the action, except that the Court will retain jurisdiction over the matter for further proceedings which may be required to interpret, enforce or modify the judgment, or to punish violations of any of its provisions.

II

Description of the Practices Involved in the Alleged Violation

At trial, the Government would have made the following contentions:

1. ACEC is a nonprofit membership corporation with its principal place of business in Washington, D.C. It is a federation of approximately 40 state, area, and regional member organizations. Membership is restricted to consulting engineering and land surveying firms.

2. ACEC is the nation's largest organization devoted exclusively to the advancement of firms engaged in the independent practice of consulting engineering. There are more than 3,550 ACEC member firms, ranging in size from sole practitioners to large corporations.

3. ACEC members compete with each other to provide a wide variety of consulting engineering services to a broad range of customers.

4. Beginning at least as early as 1974, ACEC conspired to restrain competition among its members in violation of Section 1 of the Sherman Act. At that time, Defendant adopted and promulgated written code of ethics provisions that all members agreed to abide by which explicitly stated that:

"(a) Members shall not enter competitions for designs for a specific project, unless provision is made for reasonable compensation for all designs submitted;

(b) Members shall not undertake or agree to perform any engineering service on a free basis except professional services for civic, charitable, religious, or eleemosynary organizations; and

(c) Members shall not request, propose or accept professional commissions on a contingent basis under circumstances under which their professional judgments may be compromised."

In furtherance of the conspiracy, ACEC promulgated and disseminated to engineers and to purchasers of engineering services various policy statements and practice manuals which indicated that the ban on contingent arrangements prohibited all such arrangements and which discouraged and characterized the providing of free engineering services and participation in contingent arrangements and uncompensated design competitions as poor or unethical practice. Further, most ACEC member organizations adopted and disseminated similar or identical provisions in their code of ethics and took steps to encourage adherence to them.

5. This conspiracy inhibited purchasers of engineering services from soliciting free engineering services, contingent arrangements and design competitions and inhibited ACEC members from offering or participating in them.

6. Approximately two months after this suit was filed, ACEC formally rescinded the challenged provisions and most, if not all, of its member organizations rescinded their comparable provisions. These steps alone were not sufficient to ensure that the conspiracy would not continue or recur, that the effects of the conspiracy had been dissipated and that consumers and engineers would be free to make independent judgments whether to solicit or offer design competitions, contingent fees and free engineering services.

III

Explanation of the Proposed Final Judgment

The United States and ACEC have stipulated that the Court may enter the proposed Final Judgment after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h). The proposed Final Judgment provides that its entry does not constitute any evidence against or admission by either party with respect to any issue of fact or law.

Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(e), the proposed Final Judgment may not be entered unless the Court finds that entry is in the public interest. Section XII of the proposed Final Judgment sets forth such a finding.

The proposed Final Judgment is intended to ensure that ACEC and its member organizations completely eliminate all formal or informal rules or ethical codes proscribing design competitions or the granting of free services or contingent arrangements by engineers and that member firms and purchasers of engineering services are made aware that such forms of competition are permissible. At the same time, the decree is intended to permit individual engineers and firms to make their own independent decisions whether to engage in such forms of competition and to permit ACEC to advocate legislation or governmental policies restricting them.

A. Prohibitions and Obligations

Under Section III of the proposed Final Judgment, ACEC is enjoined from (1) initiating or furthering any plan or course of action which has the purpose or effect of suppressing or discouraging its members from entering into design competitions, providing free services, or providing services on a contingent basis; and (2) adopting or seeking adherence to any code of ethics or collective statement which has the purpose or effect of suppressing or discouraging its members from engaging in such practices or which states or implies that such practices are, in themselves, unethical, unprofessional, or contrary to any policy of ACEC.

Section III also provides that any individual engineer or engineering firm, acting alone, remains free to refuse to enter into design competitions, provide free services, or provide services on a contingent basis, or to express an opinion concerning the propriety of such practices. Section III also provides that nothing in the proposed Final Judgment prohibits ACEC or any of its members from advocating or discussing legislation concerning these practices; from advocating or discussing, with federal or state executive or purchasing agencies, rules or policies concerning such practices; or from advocating or discussing, in private or in public, the public policy considerations suggesting the need for legislation or governmental policies concerning these practices. A proviso to this provision is that such advocacy or discussion makes clear that ACEC and its members are not thereby suppressing, restraining, or discouraging the members of ACEC from engaging in such practices.

Section IV of the proposed Final Judgment requires ACEC to make a good faith effort to eliminate from its publications any provisions which prohibit or discourage its members from entering into design competitions, providing free services, or providing services on a contingent basis.

Section V of the proposed Final Judgment requires ACEC to send its member organizations copies of the Final Judgment and also to distribute the Final Judgment in conjunction with a mailing of its publication, "The Last Word." This Section also requires ACEC for 10 years to send a copy of the Final Judgment to each new member firm or organization and to state in its professional conduct guidelines that the guidelines do not

prohibit design competitions, free services, or contingent arrangements.

Section VI of the proposed Final Judgment requires ACEC to certify annually that none of its member organizations seeks adherence to any code of ethics or other collective statement which had the purpose or effect of suppressing or discouraging its members from entering into design competitions, providing free services, or providing services on a contingent basis, nor does it pursue any other collective course of action which has the purpose or effect of suppressing or eliminating these practices.

Section VII requires ACEC to attach to its publication "A Guide to the Procurement of Architectural and Engineering Services" A statement that nothing in its code of ethics prohibits its members from entering design competitions, providing free services, or providing services on a contingent basis.

B. Scope of the Proposed Final Judgment

Section X of the proposed Final Judgment provides that the Final Judgment shall remain in effect for 10 years.

Section II of the proposed Final Judgment provides that the proposed Final Judgment shall apply to ACEC and to ACEC's officers, directors, agents, employees, successors, and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of the Final Judgment. This Section also provides that members of ACEC are not, for purposes of the Final Judgment, deemed to be in active concert or participation solely by virtue of their membership.

C. Effect of the Proposed Judgment on Competition

The relief in the proposed Final Judgment is designed to ensure that consumers have the opportunity to receive, if they wish, engineering services provided by members of ACEC on the basis of design competitions, on a free basis, or on a contingent basis.

Three methods for determining compliance with the terms of the Final Judgment are provided. First, Section VIII provides that ACEC is required to file each year a report setting forth the steps it has taken during the prior year to comply with the provisions of the Final Judgment. Second, Section IX provides that, upon reasonable notice, the Department of Justice shall be given access to any of ACEC's records relating to matters contained in the Final Judgment and permitted to interview any officers, directors, employees, or agents of ACEC. Finally, Section IX also provides that, upon written request, the Department of Justice may require ACEC to submit written reports about any matters relating to the Final Judgment.

The Department of Justice belives that this proposed Final Judgment contains adequate provisions to prevent further violations of the type upon which the Complaint is based and to eradicate the effects of the alleged conspiracy.

IV

Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages suffered, as well as costs and reasonable attorney's fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of such actions. Under the provisions of Section 1(a) of the Clayton Act, 15 U.S.C. 16(a), the judgment has no *prima facie* effect in any subsequent lawsuits that may be brought against ACEC.

V

Procedures Available for Modification of the Proposed Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments to John W. Poole, Jr., Chief, Special Litigation Section, Antitrust Division, U.S. Department of Justice, 10th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530, within the 60-day period provided by the Act. These comments, and the Department's responses, will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed judgment at any time prior to entry. Section XI of the proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the court for any order necessary or appropriate for the modification, interpretation or enforcement of the Final Judgment.

VI

Alternative to the Proposed Final Judgment

The alternative to the proposed Final Judgment considered by the Department of Justice was a full trial of the issues on the merits and on relief. The Department considers the proposed Final Judgment to be of sufficient scope and effectiveness to make a trial unnecessary, since it provides appropriate relief against the violation alleged in the Complaint.

VII

Determinative Materials and Documents

No materials and documents of the type described in Section 2(b) of the Antirust Procedures and Penalties Act, 15 U.S.C. 16(b), were considered in formulating the proposed Final Judgment.

Respectfully submitted,

Edward D. Eliasberg, Jr.,

Gail Kursh,

Attorneys, Department of Justice, Antitrust Division, 10th and Pennsylvania Avenue, NW, Washington, D.C. 20530, Telephone: (202) 633-2567.

[FR Doc. 82-5008 Filed 2-24-82; 8:45 am]

BILLING CODE 4410-01-M

Bureau of Prisons

National Institute of Corrections Advisory Board; Meeting

Notice is hereby given that the National Institute of Corrections Advisory Board in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) will meet on Friday, March 12, 1982, starting at 9:00 a.m., at the HOLC Building, 320 First Street NW., Room 500, Washington, D.C.

At this meeting (one of the regulatory scheduled triannual meetings of the Advisory Board), the Board will receive its subcommittees' reports and recommendations as to future thrusts of the Institute.

Allan F. Breed,

Director.

[FR Doc. 82-4994 Filed 2-24-82; 8:45 am]

BILLING CODE 4410-05-M

Drug Enforcement Administration

Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on December 18, 1981, Lemmon Company, Cathill and Lonely Roads, P.O. Box 30, Sellersville, Pennsylvania 18960, made application to the Drug Enforcement Administration to be registered as an importer of methaqualone (2565), a basic class of controlled substance in Schedule II.

As to the basic class of controlled substance listed above for which application for registration has been made, any other applicant therefor and any existing bulk manufacturer registered therefor may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than March 29, 1982.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b) (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Acting Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e) and (f) are satisfied.

Dated: February 18, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-5009 Filed 2-24-82; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 30, 1981, Merrell Dow Pharmaceuticals Inc., 1707 East North Avenue, Milwaukee, Wisconsin 53202, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
N-Ethyl-3-Piperidyl benzilate (7482)	I.
N-Methyl-3-Piperidyl benzilate (7484)	I.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than March 29, 1982.

Dated: February 18, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-5010 Filed 2-24-82; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL TRANSPORTATION SAFETY BOARD

Reports, Recommendations, Responses; Availability

Marine Accident Report—*Explosion and Fire On Board The U.S. Tankship Monticello Victory, Port Arthur, Texas, May 31, 1981 (NTSB-MAR-81-14).*

Safety Recommendations to—

Federal Aviation Administration, Feb. 18, A-82-16: Elimination of the safety hazard created by the aboveground portions of the midfield arrestment barrier on runway 30R at Lambert-St. Louis International Airport.

U.S. Coast Guard, Feb. 18, M-82-1 through -3: Evaluate approved radar school curricula to determine if courses include training and testing in radar navigation as used by operators of ferries and other harbor craft, and require applicants seeking a radar observer endorsement to demonstrate this type of radar proficiency; study the feasibility of required installation of a transponder to identify Staten Island ferries on radar units; revocation of deviation from equipment requirements that permits Staten Island ferries to operate without a gyrocompass and an illuminated gyrocompass repeater.

Department of Marine and Aviation, City of New York, Feb. 18, M-82-4 through -7: Provide Staten Island ferries with capability to transmit and receive over VHF-FM channel 12; equip ferries with a gyrocompass and an illuminated gyrocompass repeater; modify radar units to provide a gyrostabilized presentation, evaluate the benefits of an automatic radar plotting aid (ARPA) for ferries.

Hoegh Lines (U.S.), Inc.: Review the appropriateness of the currently established maneuvering speeds of the *Hoegh Orchid.*

Recommendation Responses from—

National Highway Traffic Safety Administration, Feb. 5, H-81-33. Based on final report (expected to be ready in April 1982) on research effort with Calspan Advanced Technology Center for "Truck Tire Traction (Wet)" to develop an objective methodology that will yield reproducible data in the measurement of traction characteristics of heavy-duty commercial tires, NHTSA will decide whether to proceed with special accident and cost/benefit studies in addition to a survey of the traction performance of a large population of truck tires. *Feb. 5, H-81-34 and -35.* There is not sufficient evidence to issue an advisory. *Feb. 5, H-81-36.* There does not appear to be a significant safety problem with this or any other type of tire in the bus fleets, and it would be impractical to specify a design that required continued tread grooves, since this would eliminate all lug-type tires.

Research and Special Programs Administration (U.S. DOT), Feb. 11, I-81-4 through -6. These are addressed in the final rule published on Jan. 18 under Docket HM-174. *Feb. 11, I-81-6.* The need for improved puncture resistance and thermal protection is being studied by the FRA.

Federal Railroad Administration, Feb. 11, R-81-94. Completed safety review in Dec. 1981 that revealed that the Union Pacific Railroad Company has implemented an appropriate air brake testing program. *R-81-95.* FRA is preparing revisions to the Federal Power Brake Regulation. *R-79-62.* The UP has taken appropriate steps to comply with the Federal Power Brake Regulation. *R-79-64.* A Dec. 1981 evaluation of UP training and testing programs revealed that supervisors can adequately enforce rules to provide safe and efficient operations. *R-79-65.* FRA has granted two railroads permission to use the "Air Flow Method Brake Test" on freight trains. FRA will analyze the test results, to be completed by Dec. 1983, and if found to be beneficial FRA will coordinate a voluntary effort by the railroads to install brakepipe flow indicators on locomotives. FRA does not plan to require such indicators.

U.S. Coast Guard, Feb. 10, M-81-55. Does not concur; a shipboard listening watch would provide little additional coverage beyond over-flying aircraft. *M-81-56.* Does not concur; it is premature to attempt any regulation concerning satellite EPIRBs. *M-81-57.* Partially concurs; rather than re-design the USMER system, the USCG plans to substitute a mandatory AMVER system to take the place of USMER and plans to design and test an alerting system based upon mandatory AMVER. *M-81-58.* Concurs; will complete review by Jan. 31, 1982. *M-81-59.* An alternative approach to program the AMVER Computer to automatically keep track of USMER ship reporting records is being examined. *M-81-60.* The Trim and Stability Booklet requires no revisions. *M-81-61.* Partially concurs; since studies in synchronous rolling are dependent on the validity of an experimental research computer program, the USCG must first

consider ways to evaluate the program further before agreeing to an action resulting in definitive operational guidance. *M–81–62.* Concurs. *M–81–63.* Concurs.

Amtrak, Feb. 10, R–78–39. Has completed a survey of all equipment operated over Amtrak lines in the Northeast Corridor to determine the extent of use of cab signal and automatic train control among this equipment. Amtrak NEC Timetable Order No. 1562–A1 was issued specifically covering the operation of non-Amtrak vehicles in the NEC which are not equipped with ATC apparatus. Service in the NEC would be disrupted significantly were Amtrak to further prohibit the operation of vehicles which are not equipped with ATC.

Note.—Single copies of reports, recommendation letters, and responses are free on written request, identified by recommendation or report number, to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. (Multiple copies of reports are obtainable from National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.)

H. Ray Smith, Jr.,

Alternate Federal Register Liaison Officer.

February 19, 1982.

[FR Doc. 82–4980 Filed 2–24–82; 8:45 am]

BILLING CODE 4910–58–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on March 4–6, 1982, in Room 1046, 1717 H Street NW., Washington, DC. Notice of this meeting was published in the Federal Register on February 17, 1982.

The agenda for the subject meeting will be as follows:

Thursday, March 4, 1982

8:30 a.m.–8:45 a.m.: Opening Session (Open)—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities.

8:45 a.m.–12:00 Noon: Byron Station Units 1 and 2 (Open).—The Committee will hear the report of its Subcommittee and consultants who may be present regarding the request for an operating license for this nuclear station. The Committee will also hear and discuss presentations by representatives of the NRC Staff and the applicant regarding this matter.

Portions of this session will be closed as necessary to discuss Proprietary Information related to this matter.

12:00 Noon–12:30 p.m.: Licensee Event Reporting System (Open)—The Committee will hear and discuss comments of the ACRS Subcommittee Chairman and members regarding proposed changes in NRC requirements (10 CFR 50.73) for licensee event reports. Representatives of the NRC Staff will participate, as appropriate.

1:30 p.m.–2:15 p.m.: Quality Assurance Programs at Nuclear Plants (Open)—The Committee will hear a presentation by officials of the NRC Staff regarding improvements in quality assurance programs at nuclear power plants.

2:15 p.m.–4:15 p.m.: Waterford Steam Electric Station Unit 3 (Open)—The Committee will hear the report of its Subcommittee regarding outstanding safety related issues applicable to the proposed operation of this unit. Representatives of the NRC Staff and the licensee will participate, as appropriate.

Portions of this session will be closed as necessary to discuss Proprietary Information related to this matter.

4:15 p.m–5:15 p.m.: Qualification Program for Safety Related Equipment (Open)—The Committee will hear the report of its Subcommittee regarding the proposed NRC equipment qualification program for safety related equipment in nuclear power plants. Representatives of the NRC Staff and the nuclear industry will participate, as appropriate.

5:15 p.m.–6:30 p.m.: ACRS Subcommittee Activities (Open)—The Committee members will hear and discuss the reports of designated ACRS subcommittees regarding safety related matters including the proposed review plan for evaluation of systems interactions at the Indian Point Nuclear Station Unit 3, quality control deficiencies at the Zimmer Nuclear Station, and seismic research applicable to the east coast of the United States.

Friday, March 5, 1982

8:30 a.m.–12:30 p.m.: Clinton Power Station Units 1 and 2 and Mk-III Containment (Open)—The Committee members will hear the reports of its subcommittee chairmen regarding the request for an operating license for the Clinton Power Station Units 1 and 2, and resolution of outstanding questions related to the Mk-III type of dynamic containment.

The Committee will hear and discuss presentations by the NRC Staff and the applicant regarding this matter.

Portions of this session will be closed as necessary to discuss Proprietary Information related to this matter.

1:30 p.m.–2:00 p.m.: ACRS Subcommittee and Full Committee Activities (Open)—The Committee members will hear and discuss the report of its subcommittee chairman regarding proposed changes in NRC regulatory guides. The Committee will also discuss anticipated subcommittee activity and proposed full Committee activities.

2:00 p.m.–2:45 p.m.: Alternate Materials for Waste Disposal Containers (Closed)—The Committee will hear the report of its Subcommittee and consultants who may be present regarding a proposed NRC program and contractor qualifications to evaluate alternate materials for radioactive waste disposal containers. Representatives of the NRC Staff will participate, as appropriate.

This session will be closed to discuss Proprietary Information applicable to this matter.

2:45 p.m.–3:15 p.m.: Reactor Pressure Vessel Liquid Level Indication (Open)—The Committee will hear a presentation from an ACRS staff member regarding the performance of differential pressure cells as water level indicators.

3:15 p.m.–5:30 p.m.: ACRS Reports to NRC (Open/Closed)—The Committee members will discuss proposed reports to the Nuclear Regulatory Commission and comments to the NRC Executive director for Operations regarding topics discussed during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to the topics being considered and information which will be involved in an adjudicatory proceeding.

Saturday, March 6, 1982

8:30 a.m.–10:30 a.m.: ACRS Reports to NRC (Open/Closed)—The Committee members will discuss proposed reports to the Nucler Regulatory Commission and comments to the NRC Executive director for Operations regarding topics discussed during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to the topics being considered and information which will be involved in an adjudicatory proceeding.

10:30 a.m.–11:30 a.m.: Miscellaneous Activities (Open)—The members will discuss miscellaneous topics related to the conduct of ACRS activities including testimony before the U.S. House of Representatives Committee on Interior and Insular Affairs, the format and scope of improved safety analysis reports and safety evaluation reports, and qualifications for new ACRS members.

Portions of this meeting will be closed as necessary to discuss information of a personal nature the release of which would represent a clearly unwarranted invasion of personal privacy.

11:30 a.m.–12:30 p.m. ACRS Reports NRC (Open/Closed)—The Committee members will discuss proposed reports to the Nuclear Regulatory Commission and comments to the NRC Executive director for Operations regarding topics discussed during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to the topics being considered and information which will be involved in an adjudicatory proceeding.

Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on September 30, 1981 (46 FR 47903). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statememts should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss information of a personal nature where disclosure would constitute unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)), information which will be involved in an adjudicatory proceeding (5 U.S.C. 552b(c)(10)), and Proprietary Information (5 U.S.C. 552b(c)(4)) applicable to the matters being discused.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 a.m. and 5:00 p.m. EST.

Dated: February 22, 1982.

John C. Hoyle,

Advisory Committee Management.

[FR Doc. 82–5070 Filed 2–24–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–184]

Availability of Draft Environmental Statement for National Bureau of Standards Reactor

Notice of hereby given that a Draft Environmental Statement (NUREG–0677) has been prepared by the Commission's Office of Nuclear Reactor Regulation related to the license renewal and power increase for the National Bureau of Standards (NBS) research reactor. This reactor is located on the 576-acre NBS site near Gaithersburg in Montgomery County, Maryland about 20 miles northwest of the center of Washington, D.C.

This Draft Environmental Statement (DES) addresses the aquatic, terrestrial, radiological, social and economic costs and benefits associated with normal station operation. Also considered are station accidents, their likelihood of occurrence or their consequences. Finally, the statement presents an updated discussion of a need for the facility since the construction permit application.

This DES it available for inspection by the public in the Commission's Public Document Room at 1717 H Street N.W., Washington, D.C. 20555. Requests for copies of the DES (NUREG–0677) should be addressed to the U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Technical Information and Document Control.

Interested persons may submit comments on this DES for the Commission's consideration. Federal, State, and specified local agencies are being provided with copies of the DES (local agencies may obtain these documents upon request).

Comments by Federal, State, and local officials, or other members of the public received by the Commission will be made available for public inspection at the Commission Public Document Room in Washington, D.C.

After consideration of comments submitted with respect to the DES, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the Federal Register. Comments are due by April 12, 1982.

Comments on this report from interested members of the public should be addressed to the Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md. this 18th day of February 1982.

For the Nuclear Regulatory Commission.

James R. Miller,

Chief, Standardization and Special Projects Branch, Division of Licensing.

[FR Doc. 82–5065 Filed 2–24–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–320]

Metropolitan Edison Co., Jersey Central Power & Light Co., Pennsylvania Electric Co. and GPU Nuclear Corp; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 19 to Facility Operating License No. DPR–73, issued to GPU Nuclear Corporation, Metropolitan Edison Company, Jersey Central Power & Light Company, and Pennsylvania Electric Company (collectively "the licensee"). Operating License No. DPR–73 formerly authorized operation of the Three Mile Island Nuclear Station, Unit 2 (TMI–2) located in Dauphin County, Pennsylvania, but that authorization was suspended by an Order for Modification of License, limiting the authorization to maintaining the facility in its present safe shutdown condition 44 FR 45271 (August 1, 1979). This amendment effects changes to the Appendix B Technical Specifications attached to and incorporated in License No. DPR–73 by reflecting that the positions of Manager—Generation Engineering and Manager—Operational Quality Assurance no longer exist. In addition, the amendment clarifies the responsibility for review of changes related to Appendix B Technical Specifications and their implementation.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The

Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d)(4) an environmental impact statement, or environmental impact appraisal and negative declaration need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 15, 1981, (2) Amendment No. 19 to License No. DPR-73 clarifying the responsibility for review of changes related to Appendix B Specifications and their implementation, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126. A copy of items (2) and (3) may be obtained upon request addressed to the Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Program Director, TMI Program Office, Office of the Nuclear Reactor Regulation.

Dated at Bethesda, Md., this 10th day of February 1982.

For the Nuclear Regulatory Commission.

Bernard J. Snyder,

Program Director, TMI Program Office, Office of Nuclear Reactor Regulation.

[FR Doc. 82-5088 Filed 2-24-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN-50-522/523]

Puget Sound Power & Light Co., Pacific Power and Light Co., Washington Water Power Co. and Portland General Electric Co. (Skagit/Hanford Nuclear Project, Units 1 and 2) (Formerly Skagit Nuclear Power Project, Units 1 and 2); Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for Puget Sound Power & Light Company, Pacific Power and Light Company, The Washington Water Power Company and the Portland General Electric Company, Skagit/Hanford Nuclear Project, Units 1 and 2, Docket Nos. STN 50-522/523 CP, is hereby reconstituted by appointing the following Administrative Judge to the Board: John F. Wolf. Valentine B. Deale was chairman of this Board, but, is unable to continue to serve.

As reconstituted, the Board is comprised of the following Administrative Judges:

John F. Wolf, Chairman
Dr. Frank F. Hooper
Gustave A. Linenberger, Jr.

All correspondence, documents and other materials shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board Chairman is:

Judge John F. Wolf, 3409 Shepherd Street, Chevy Chase, MD 20015

Issued at Bethesda, Md., this 19th day of February 1982.

B. Paul Cotter, Jr.,

Chief, Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 82-5086 Filed 2-24-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-361, 50-362]

Southern California Edison Co., San Diego Gas and Electric Co., City of Riverside, and City of Anaheim; Issuance of Amendments to Construction Permits

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has issued Amendment No. 3 to Construction Permit No. CPPR-97 and Amendment No. 3 to Construction Permit No. CPPR-98. The amendment reflects the transfer of an additional ownership share from Southern California Edison Company to the City of Anaheim of the San Onofre Nuclear Generating Station, Units 2 and 3 (the facility). The construction permit holders are Southern California Edison Company, San Diego Gas and Electric Company, the City of Riverside and the City of Anaheim. Southern California Edison Company has sole responsibility for the design and construction of the facility, which is located in San Diego County, California.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Ch. I, which are set forth in the amendments.

Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated October 12, 1981, (2) Amendment No. 3 to Construction Permit No. CPPR-97, (3) Amendment No. 3 to Construction Permit No. CPPR-98, (4) and the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California. In addition, a copy of the above items (2), (3), and (4) may be obtained upon request, addressed to the Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Md., this 10th day of February 1982.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 82-5085 Filed 2-24-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-259 OL, 50-260 OL, 50-296 OL]

Tennessee Valley Authority (Browns Ferry Nuclear Plant, Units 1, 2 and 3); Prehearing Conference

February 16, 1982.

Please take notice that, in light of the Appeal Board's decision in this proceeding (ALAB-664, 15 NRC——), this Board will conduct a prehearing conference on Thursday, April 1, 1982, 9:30 a.m., in Courtroom No. 4, Third Floor, Madison County Courthouse, Huntsville, Alabama.

At the conference, the Board wishes the parties to address the procedural steps necessary to implement ALAB-664, including any necessity for evidentiary proceedings, and the schedule for carrying out these steps.

Limited appearance statements will not be accepted at the prehearing conference. Limited appearance statements will be accepted in the event an evidentiary hearing is ordered at the time such a hearing is held.

Bethesda, Maryland, February 16, 1982.

For the Atomic Safety and Licensing Board.

John H. Frye III,

Chairman, Administrative Judge.

[FR Doc. 82-5089 Filed 2-24-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266-OLA, 50-301-OLA]

Wisconsin Electric Power Co. (Point Beach Nuclear Plant, Units 1 and 2); Hearing

February 19, 1982.

There are provisional plans to conduct a hearing on March 10 and 11, 1982, concerning whether or not portions of documents filed by Westinghouse Electric Corporation in this proceeding should be treated as proprietary or should be released to the public. The principal controversy relates to whether descriptions of safety tests and results of safety tests conducted in order to establish the safety of a proposed repair project, involving the "sleeving" of steam generator tubes, should be released to the public.

This hearing will be held only if, at the conclusion of a telephone conference being conducted on March 4, 1982, the Atomic Safety & Licensing Board concludes that the issues in dispute require that there be a hearing. If held, the hearing will be from 12 pm to 10:30 pm on March 10 and from 9:30 am to 5 pm on March 11, subject to adjustment if shorter hours are feasible. The location is the Regency Room of the Marc Plaza Hotel, 509 W. Wisconsin Avenue, Milwaukee, Wisconsin.

Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

Peter B. Bloch,

Chairman Administrative Judge.

[FR Doc. 82-5090 Filed 2-24-82; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses to Export/Import Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public Notice of Receipt of an Application", please take notice that the Nuclear Regulatory Commission has received the following applications for export/import licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H St., NW., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed on or before March 29, 1982. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for license to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported.

Dated this 19th day of February, 1982, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Marvin R. Peterson,

Acting Assistant Director, Export/Import and International Safeguards, Office of International Programs.

FEDERAL REGISTER (EXPORT/IMPORT)

Name of applicant, date of application, date received, application number	Material type	Material in kilograms: Total element	Material in kilograms: Total isotope	End-use	Country of destination
Transnuclear, Feb. 4, 1982, Feb. 4, 1982, XSNM01924.	93.9 percent enriched uranium.	28.070	26.188	Fuel for the HFR reactor, Grenoble	France.
Mitsui & Co., Feb. 4, 1982, Feb. 8, 1982, XSNM01925.	3.95 percent enriched uranium.	6,584	202	Reload fuel for Fukushima I, Unit 5	Japan.
Mitsui & Co., Feb. 4, 1982, Feb. 8, 1982, XSNM01926.	3.95 percent enriched uranium.	29,030	888	Reload fuel for Fukushima I, Unit 6	Japan.
Transnuclear, Feb. 4, 1982, Feb. 4, 1982, ISNM02002.	1.99 percent enriched uranium.	2,947,462	58.695	Feed material for HEU for European MTR-Testing Reactors.	From W. Germany.
				Fuel for the Forsmark III Nuclear Power Plant	Sweden.
Edlow International, Jan. 26, 1982, Jan. 29, 1982, XUO8526.	0.711 percent natural uranium.	11,000			
Edlow International, Feb. 10, 1982, Feb. 16, 1982, XSNM01927.	2.95 percent enriched uranium.	11,691	334	Reload fuel for Mihama Unit 3	Japan.
Mitsui & Company, Feb. 8, 1982, Feb. 16, 1982, XSNM01928.	3.95 percent enriched uranium.	8,974	210	Reload fuel for Hamaoka Unit 2	Japan.

[FR Doc. 82-5099 Filed 2-24-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-170]

Availability of Safety Evaluation Report for Armed Forces Radiobiology Research Institute

Notice is hereby given that the Office of Nuclear Reactor Regulation has published its Safety Evaluation Report on the proposed operating license renewal of research reactor license R-84. The facility is owned by an agency of the U.S. Department of Defense, and is located on the grounds of the National Naval Medical Center, Bethesda, Montgomery County, Maryland. Notice of Consideration of Armed Forces Radiobiology Research Institute's application for renewal was published in the Federal Register on November 25, 1980 (45 FR 78314).

The report is being made available at the Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C., for inspection and copying. The report (Document No. NUREG-0862) can also be purchased, at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, or from the Director, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. GPO Deposit Account holders may charge their orders by calling (301) 492-9530.

For the Nuclear Regulatory Commission.

James R. Miller,

Chief, Standardization and Special Projects Branch, Division of Licensing.

[FR Doc. 82-5091 Filed 2-24-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

Florida Power & Light Co.; Issuance of Amendment to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 77 to Facility Operating License No. DPR-31, and Amendment No. 71 to Facility Operating License No. DPR-41 issued to Florida

Power and Light Company (the licensee), which revised Technical Specifications for operation of Turkey Point Plant, Unit Nos. 3 and 4 (the facilities) located in Dade County, Florida. The amendments are effective as of the date of issuance.

The amendments clarify the boron concentration required during the refueling operation by including the Δk/k requirement in the Technical Specifications as well as the boron concentration.

The application for amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated January 13, 1982, (2) Amendment Nos. 77 and 71 to License Nos. DPR–31 and DPR–41, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 18th day of February 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-5001 Filed 2-24-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-285]

Omaha Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 64 to Facility Operating License No. DPR–40 issued to Omaha Public Power District (the licensee), which revised the Technical Specifications for operation of the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebraska. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications for the reactor coolant system pressure-temperature limits for operation through 6.1 effective full power years.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 15, 1982, as supplemented by letter dated January 27, 1982, (2) Amendment No. 64 to License No. DPR–40, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 9th day of February 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-5004 Filed 2-24-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-361]

Southern California Edison, et al.; Issuance of Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission), has issued Facility Operating License No. NPF–10, to Southern California Edison Company, San Diego Gas and Electric Company, the City of Riverside, California, and the City of Anaheim, California (the licensees) which authorizes operation of the San Onofre Nuclear Generating Station, Unit 2 (the facility), by Southern California Edison Company at reactor core power levels not in excess of 169.5 megawatts thermal (5 percent power) in accordance with the provisions of the License, the Technical Specifications and the Environmental Protection Plan.

San Onofre Nuclear Generating Station, Unit 2, is a pressurized water nuclear reactor located at the licensees' site at Camp Pendleton, San Diego County, California approximately 62 miles southeast of Los Angeles and 51 miles north of San Diego. The license is effective as of the date of issuance and shall expire at midnight on October 18, 2013.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. Issuance of this license has been authorized by the Atomic Safety and Licensing Board by its Partial Initial Decision dated January 11, 1982. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license. Prior public notice of the overall action involving the proposed issuance of an operating license was published in the Federal Register on April 7, 1977 (42 FR 19460).

The Commission has determined that the issuance of this license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement and its Errata since the activity authorized by the license is encompassed by the overall action evaluated in the Final Environmental Statement and its Errata.

For further details with respect to this action, see (1) Facility Operating License No. NPF–10, complete with Technical Specifications and Environmental Protection Plan; (2) the reports of the Advisory Committee on Reactor Safeguards dated February 10, 1981, and March 17, 1981; (3) the Commission's Safety Evaluation Report dated February 1981, Supplement No. 1 dated February 1981, Supplement No 2 dated May 1981, Supplement No. 3 dated September 1981, Supplement No. 4 dated January 1982, and Supplement No. 5 dated February 1982; (4) the Final Safety Analysis Report and amendments thereto; (5) the Environmental Report and Supplements thereto and (6) the Final Environmental Statement dated April 1981 and the Errata to the Final Environmental Statement dated June 1981, and (7) the Partial Initial Decision issued by the Atomic Safety and Licensing Board dated January 11, 1982.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the Mission Viego Branch Library, 24861 Chrisanta Drive, Mission Viego, California 92676. A copy of Facility Operating License No. NPF–10 may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Director, Division of Licensing. Copies of the Safety Evaluation Report and its Supplements 1 through 5 (NUREG–0712) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and through the NRC GPO sales program by writing to the U.S. Nuclear Regulatory Commission, Attention: Sales Manager, Washington, D.C. 20555. GPO deposit account holders can call 301–492–9530.

Dated at Bethesda, Maryland, this 19th day of February 1982.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 82-5007 Filed 2-24-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

February 17, 1982.

Background

When Executive Departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the paperwork Reduction Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available)

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

The Standard Industrial Classification (SIC) codes, referring to specific respondent groups that are affected;

Whether small businesses or organizations are affected;

A description of the Federal budget functional category that covers the information collection;

An estimate of the number of responses;

An estimate of the total number of hours needed to fill out the form;

An estimate of the cost to the Federal Government;

An estimate of the cost to the public;

The number of forms in the request for approval;

An indication of whether section 3504(H) of Pub. L. 96–511 applies;

The name and telephone number of the person or office responsible for OMB review; and

An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the Federal Register, but occassionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submiting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—202–447–6201

New

• Food and Nutrition Service
Report of Child Nutrition Operations
FNS–10
Monthly
State or local governments
State education agencies
SIC: 943
Food and nutrition assistance: 2,232 responses; 112,619 hours; $88,760 Federal cost; 1 form; $1,128,190 public cost; not applicable under 3504(h)
Neil Minow, 202–395–7340

This report provides participation data for four child nutrition programs administered by FNS. The data is used to analyze the progress of the programs, and as a basis for monitoring the proper use of program funds.

• Food and Nutrition Service
Food Service Management Company Application for Registration (SFSP)
FNS–189
On occasion

Businesses or other institutions
Food service management companies
SIC: 943
Small businesses or organizations
Food and nutrition assistance: 500 responses; 2,000 hours; $940 Federal cost; 1 form; $20,000 public cost; not applicable under 3504(h)
Neil Minow, 202–395–7340

To register food service management companies and determine their eligibility to participate in the summer food service program for children.

• Food and Nutrition Service
Agreement between sponsor and USDA (sponsor food service program)
FNS–80 and FNS–418
Nonrecurring
Businesses or other institutions
Public and private sponsors desiring to participate, etc.
SIC: 943
Small businesses or organizations
Food and nutrition assistance: 16,524 responses; 97,906 hours; $8,520 Federal cost; 2 forms; $979,080 public cost; not applicable under 3504(h)
Neil Minow, 202–395–7340

The SFSP regulations implement the provisions of Pub. L. 96–499, form FNS–418, summer data information, provides information on which to base a profile of sponsor is aware of program responsibilities.

Revisions

• Farmers Home Administration
7 CFR 1944–E—Rural Rental Housing Loan Policies Procedure and Authorizations
FMHA 1944–33, 34, 35, 444–7, 444–27
On occasion
Businesses or other institutions
Private and public profit and non-profit organizations
SIC: All
Small businesses or organizations
Mortgage credit and thrift insurance: 25,500 responses; 146,675 hours; $469,500 Federal cost; 5 forms; $1,555,000 public cost; not applicable under 3504(h)
Neil Minow, 202–395–7340

Regulations set forth procedures for the making of rural rental housing loans as authorized by sections 515 and 521 of the Housing Act of 1949.

Extensions (No Change)

• Rural Electrification Administration
Construction Inventory—for Labor and Material Contract
REA 254, REA 254A, REA 254B, REA 254C
On occasion
Businesses or other institutions
REA electric borrowers
SIC: 481
Small businesses or organizations
Energy supply: 200 responses; 1,600 hours, $3,000 Federal cost; 4 forms; $24,000 public cost; not applicable under 3504(h)
Neil Minow, 202–395–7340

These forms provide a means of summarizing and tabulating the various construction units and cost information.

• Animal and Plant Health Inspection Service
U.S. Origin Health Certificate
VS 17–140 and 17–140A
On occasion
Farms
Livestock raisers and breeders
SIC: 021, 027, 029
Agricultural research and services: 30,000 responses; 15,000 hours; $27,305 Federal cost; 1 form; $300,000 public cost; not applicable under 3504(h)
Neil Minow, 202–395–7340

Info used to establish that animals are moved in compliance with USDA regs: To confirm to consignor and consignee that only healthy animals are involved in commerce; to prevent international dissemination of animal diseases common to U.S.; and to satisfy import requirements of foreign countries.

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—703–697–1195

Extensions (Burden Change)

• Departmental and Others
Government Industry Reference Data Edit Review (Girder)
On occasion
Businesses or other institutions
Manufacturers from whom military services procure supplies
SIC: Multiple
Small businesses or organizations
Department of Defense-Military: 95 responses; 10,925 hours; $147,040 Federal cost; 1 form; not applicable under 3504(h)
Kenneth B. Allen, 202–395–3785

Girder report is only method available to verify manufacturers' names and part numbers which are associated with national stock numbers (NSNS) in the Federal catalog system (FSC). This FSC maintenance avoids erroneous invitations to bid and erroneous NSN assignment and is in consonance with the intent of title 10, United States Code, chapter 145.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488

New

• Social Security Administration
Corrective Action Plans and Progress Reports
Annually
State or local governments
State agencies administering AFDC programs
SIC: 944
Other income security: 114 responses; 13,680 hours; $41,743 Federal cost; 1 form; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

Corrective action is an ongoing administrative process utilizing quality control findings to develop cost effective methods of eliminating errors in eligibility and payment in the AFDC caseload.

• National Institutes of Health
Reader Service Document Request Form (on-site)
NIH 1665–1
On occasion
Individuals or households
Library patrons
Health: 180,000 responses; 5,400 hours; $2,000 Federal cost; 1 form; $54,000 public cost; not applicable under 3504(h)
Fay S. Iudicello, 202–395–3090

Each request form transmits essential bibliographic identification information for each document a requester desires to see or obtain from NLM.

• National Institutes of Health
Interlibrary Loan Request Form
On occasion
Individuals or households
Library patrons
Health: 230,000 responses; 6,900 hours; $0 Federal cost; 1 form; $69,000 public cost; not applicable under 3504(h)
Fay S. Iudicello, 202–395–3090

Each request form transmits essential bibliographic identification information about each document a requester desires to see or obtain from NLM.

• Social Security Administration
Appearance at Hearing
HA–504–EV
On occasion
Individuals or households
Claimants req. hearings on social security benefit issues
General retirement and disability insurance: 900,000 responses; 10,000 hours; $33,123 Federal cost; 1 form; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

The information collected is used to afford claimants their statutory right to a hearing and decision under the Social Security Act.

• Social Security Administration
Application for IRS Collection of Child Support
OCSE–20
On occasion
State or local governments
State social services, welfare departments
SIC: 944
Other income security: 540 responses; 405 hours; $49,613 Federal cost; 1 form; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

Under the Social Security Act, States may request the Internal Revenue Service to make collections of delinquent child support payments. This application provides the Internal Revenue Service the basic information for such action and permits the OCSE regional office to approve the States' requests.

• National Institutes of Health
Academic Health Science Library: A Survey of Medical School Deans
Nonrecurring
Businesses or other institutions
Deans of accred. med. schools in the United States and Canada
SIC: 822
Health: 124 responses; 31 hours; $3,100 Federal cost; 1 form; $3,100 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

This survey will collect data from deans of accredited medical schools regarding their policies and attitudes towards the function of health sciences libraries in supporting the education, service and research mission of their institutions. The data will provide guidance to a study of health sciences libraries in describing needs for development and attitudes towards change in information handling in medicines.

Revisions

• Social Security Administration
Statement Regarding Marriage
SSA–753
On occasion
Individuals or households
Persons having knowledge of a purported common law, etc.
General retirement and disability insurance: 40,000 responses; 6,000 hours; $20,871 Federal cost; 1 form; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

Section 216(h)(1)(a) and (b) of the Social Security Act provide for the information required to solicit information from third-parties to document evidence that a common-law marriage has existed.
Application is used to provide evidence of this nature.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—202–755–5184

Revisions

• Housing Programs
Request for Approval of Advances for Non-Permanently
Financed projects and development cost budget cost statement
HUD 5216 and HUD 52484
Quarterly
State or local governments
Public housing agen. (PHA's) auth. to develop and oper., etc.
SIC: 951
Public assistance and other income supplements: 4,000 responses; 8,000 hours; $5,163,265 Federal cost; 2 forms; not applicable under 3504(h)
Robert Neal, 202–395–6880

Needed to assure prudent expenditure of public housing funds. Used to determine whether amounts spent or requested are reasonable in relation to services or items to be purchased or to actual or projected development stages, so that if they are not, corrective action can be taken on a timely basis.

Reinstatements

• Housing Programs
Development Program of Public Housing Agency
HUD 52483
On occasion
State or local governments
Public hsing agen (PHA'S) auth. to develop and operate, etc.
SIC: 953
Public assistance and other income supplements: 125 responses; 250 hours; $5,163,265 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal: 202–395–6880

See supporting statement attached.

DEPARTMENT OF LABOR

(Agency Clearance Officer—Paul E. Larson—202–523–6331)

New

• Departmental Management
Qualifications Inquiry Form for Local 12
PERS–5
Nonrecurring
Individuals or households
Applicable for employment
Other labor services; 5,100 responses; 1,275 hours; $11,000 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880

This form is required under the Department of Labor's negotiated merit staffing plan for positions in the local 12 bargaining unit to solicit information by the personnel office from the applicant's supervisor. The information will be used by raters to evaluate outside applicants against the requirements of the vacancy to be filled.

• Occupational Safety and Health Administration
Occupational Safety and Health Administration Complaint
OSHA–7
Nonrecurring on occasion
Individuals or households
Employ. or repres. of employees may file complaints, etc.
Consumer and occupational health and safety: 4,500 responses; 2,250 hours; $179,667 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880

The OSHA–7 form is used by employees to report unhealthful and/or unsafe conditions in the workplace. Employee reports are authorized by section 8(F) of the Occupational Safety and Health Act. The information is used by OSHA to evaluate the alleged hazardous working condition and to schedule an inspection of the workplace or to respond in another manner, as appropriate.

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Windsor—202–426–1887

New

• Federal Railroad Administration
Semi-Annual Financial and Progress Report for Participation in the Federal Railroad Safety Program
Semiannually
State or local governments
State transportation departs. or State public comm.
SIC: 401
Ground transportation: 60 responses; 180 hours; $3,000 Federal cost; 1 form; not applicable under 3504 (h)
Donald Arbuckle, 202–395–7340

Information received is used as part of the monitoring process of program evaluation. It provides the basis for which eligibility is determined for reimbursement of fifty percent of State funds expended for the program, not to exceed the amount of the grant agreement.

• Coast Guard
33 CFR Part 157—Plan Approval and Records for U.S. Vessels Carrying oil in Bulk

On occasion
Businesses or other institutions
U.S. tank vessel builders, owners and operators
SIC: 442 443
Water transportation: 344 responses; 1,233 hours; $25,920 Federal cost; 1 form; $132,180 public cost; not applicable under 3504 (h)
Wayne Leiss, 202–395–7340

Construction plans and/or flag State documentation of compliance with international standards is required in order to determine compliance with legislated minimum standards and regulatory standards.

• Research and Special Programs Administration
Drum Test Record Requirements
Annually
Businesses or other institutions
Drum manufacturers
SIC: 341
Small Businesses or organizations
Air transportation: 10 responses; 10 hours; $0 Federal cost; 1 form; not applicable under 3504(e)
Donald Arbuckle; 202–395–7340

Used and needed by drum manufacturers to verify to shippers and the MTB the integrity of drum closures which are different than those for which specifications are set forth in the regulations.

• Coast Guard Tank Vessel Examination Letter
(Notices, Records and Evidence of Examinations)
CG 840s–1
On occasion, Annually
Businesses or other institutions
Owners/operators of merchant vessels—domestic/foreign
SIC: 441 442
Small businesses or organizations
Water transportation: 41,905 responses; 20,169 hours; $118,007 Federal cost; 1 form; $313,623 public cost; not applicable under 3504 (e)
Wayne Leiss, 202–395–7340

46 U.S.C. 375, 391, 391A. these forms/reports are used to document the construction, alteration, repair and maintenance of vessels and the handling and stowage of cargo to insure safety of life and property at sea.

CIVIL AERONAUTICS BOARD

Agency Clearance Officer—Clifford M. Rand—202–673–6042

New

• Airline Financial and Traffic Data Questionnaire (for nonrecurring
State or local governments/businesses or other institutions
Airlines beyond major and natl. carriers, airports
SIC: 451
Air transportation: 200 responses; 400 hours; $8,000 Federal cost; 1 form; not applicable under 3504 (h)
Wayne Leiss; 202–395–7340

The airline data study is needed in order to properly include some important private sector and local government (airports) persepective in an assessment of the costs and benefits which are associated with airline industry data requirements in the face of CAB sunset.

Revisions

• Part 321—Unused Authority Procedures
On occasion
Businesses or other institutions
Uncertificated carriers, new carriers
SIC: 451
Air transportation: 20 responses; 80 hours; $0 Federal cost; 1 form; not applicable under 3504 (h)
Wayne Leiss, 202–395–7340

Revises and reduces the application procedures governing the board's unused or "dormant" authority program. This revision is being made because section 401(d)(5) of the Federal Aviation Act provides for unlimited route authority for certification carriers beginning December 31, 1981.

GENERAL SERVICES ADMINISTRATION

Agency Clearance Officer—John F. Gilmore—202–566–1164

Reinstatements

•÷ Bidder's Mailing List Application
SF129
On occasion
Businesses or other institutions
Bus. firms, non-profit institutions, and individls.
SIC: All
Small Businesses or organizations
General government: 5,600 responses; 28,300 hours; $110,000 Federal cost; 1 form; $420,000 public cost; not applicable under 3504 (h)
Franklin S. Reeder, 202–395–3785

This form is used by all government executive agencies, including the Department of Defense, as an application form for prospective contractors in connection with the establishment and maintenance of bidder's mailing list.

SELECTIVE SERVICE SYSTEM

Agency Clearance Officer—Clarence E. Boston—202–724–0643

Revisions

• Selective Service System Registration Form SSS 1
Nonrecurring
Individuals or households
Young men reaching their eighteenth birthday
Defense-related activities: 1,800,000 responses; 59,400 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Kenneth B. Allen, 202–395–3785

The Selective Service System Registration form is used by young men complying with the provisions of section 15(e) of Military Selective Service Act as added by section 916(c) of Pub. L. 97–86.

Nathaniel Scurry,
Chief, Reports Management.

[FR Doc. 82–4784 Filed 2–24–82; 8:45 am]
BILLING CODE 3110–01–M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council (WHSC); Meeting

February 23, 1982.

The White House Science Council, the purpose of which is to advise the director, OSTP, will meet on March 9, 1982, in Room 330, Old Executive Office Building, Washington, D.C. The meeting will begin at 9:00 a.m. Following is the proposed agenda for the meeting:

(1) Briefing of the Council, by the Assistant Directors of the Office of Science and Technology Policy (OSTP), on the current activities of OSTP.

(2) Briefing of the Council, by OSTP personnel and personnel of other agencies, on proposed topics of study.

(3) Discussion of composition of panels to conduct studies.

A portion of the meeting will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of material that is formally classified in the interest of national defense or for foreign policy reasons. This is also true for a portion of the briefing on the proposed topics of study. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President, and information the premature disclosure of which likely would significantly frustrate implementation of our agency's action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b(c) (1), (2) and 9(B).

A portion of the discussion of panel composition will necessitate the disclosure of information of a personal nature, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Accordingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552b(c)(6).

The portion of the meeting open to the public will begin at 9:00 a.m. Because of security in the Old Executive Office Building, persons wishing to attend the open portion of the meeting should contact Dr. Thomas H. Johnson, Special Assistant to the Director of OSTP at (202) 456–7740, prior to 8:30 a.m. on March 9th. Dr. Johnson is also available to provide further information.

Robert D. Linder,
Executive Director, Office of Science and Technology Policy.

[FR Doc. 82–5146 Filed 2–23–82; 12:06 pm]
BILLING CODE 3170–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12237; 812–4982]

Cash Reserve Management, Inc.; Filing of Application for Order Exempting Applicant From the Provisions

February 19, 1982.

Notice is hereby given that Cash Reserve Management, Inc., ("Applicant"), One Battery Park Plaza, New York, New York 10004, a no-load, diversified, investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on September 30, 1981, and an amendment thereto on December 11, 1981, for an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to compute its net asset value per share for the purposes of sales and redemptions of its shares, to the nearest one cent on a share value of one dollar. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that its investment objective is maximization of current income consistent with the maintenance of liquidity and a high-quality portfolio of short-term (i.e., having a remaining maturity of one year or less) "money market" instruments. Applicant will seek to accomplish its objective by investing in, or entering into agreements, including repurchase, reverse repurchase and loan agreements, relating to the following "money market" instruments: (1) U.S. Treasury Bills and other obligations issued or guaranteed by the U.S. Government, its agencies or instrumentalities; certificates of deposit and bankers' acceptances of United States banks (including foreign branches thereof) or savings and loan associations with $2 billion in total assets (as shown by their most recent annual financial statements) other than those for which Morgan Guaranty Trust Company of New York ("Morgan Guaranty") or New England Merchants National Bank is the ultimate obligor or accepting bank; (2) commercial paper (including variable amount master demand notes which are demand obligations that permit the investment of fluctuating amounts at varying market rates of interest pursuant to arrangements between the issuer and a commercial bank acting as agent for the payees of such notes) issued by U.S. corporations or foreign corporations directly related to U.S. corporations and rated at the date of investment Prime–1 by Moody's Investors Service, Inc. ("Moody's") or A–1 by Standard & Poor's Corporation ("Standard & Poor's") or, if not rated by either Moody's or Standard & Poor's, issue by a corporation having an outstanding debt issue rated Aa or better by Moody's or AA or better by Standard & Poor's, provided that, if issued by a foreign corporation, such commercial paper (not to exceed in the aggregate 10% of Applicant's net assets) is U.S. dollar denominated and not subject at the time of purchase to foreign tax withholding; (3) bonds issued by U.S. corporations which at the date of investment are rated Aa or better by Moody's or AA or better by Standard & Poor's; and (4) obligations of the International Bank for Reconstruction and Development. Applicant will not seek profits through short-term trading; however, Applicant's Investment Adviser, Morgan Guaranty may, on behalf of Applicant, dispose of any portfolio security prior to its maturity if it believes such disposition advisable.

Applicant is designed for individual and institutional investors maintaining investment accounts with its administrator and distributor, E. F. Hutton & Company Inc. ("Hutton"), as an economical and convenient means for the investment of cash reserves which they hold for their own accounts or hold or manage for others. Applicant asserts that the institutional investors include banks, trust companies, corporations, municipalities, investment bankers and brokers, insurance companies, investment counselors, pension funds, profit sharing and other employee benefit plans, trusts, estates, law firms, educational, religious, charitable and other nonprofit organizations, as well as institutions holding funds in fiduciary, advisory, custodial or other similar capacities. Applicant states that as of June 30, 1981, it had total net assets of approximately $5.3 billion.

The application states that the net asset value per share of Applicant for the purpose of pricing orders for purchase and redemption of shares is determined daily under the general supervision of Applicant's Board of Directors by New England Merchants on each business day at the close of trading on the New York Stock Exchange. Applicant's net asset value per share is calculated (in multiples of one-tenth of a cent) by (1) adding the market or appraised value of all securities in the portfolio and other assets (including commitments to purchase or sell securities at a future date), (2) subtracting liabilities, and (3) dividing the resultant sum by the number of shares outstanding. Applicant submits that the market value of its portfolio securities is determined by valuing the securities at the over-the-counter bid price if current market quotations are readily available or, if not readily available, by appraisal at their fair value by Applicant's Custodian, New England Merchants, as part of the Custodian's services. Applicant states that its Board of Directors, which is responsible for such appraisals, has determined that the fair market value of securities with a maturity of 60 days or less, and intended to be held to maturity, should be determined by using the amortized cost method of valuation, as permitted by the Commission's interpretation of Rule 2a–4 in Investment Company Act Release No. 9786, May 31, 1977, unless, due to special circumstances, the use of such a method with respect to any security or securities would result in a valuation which does not necessarily approximate fair market value. Applicant states further that the amortized cost method of valuation involves valuing a security at a price on a given date and thereafter assuming a constant accretion of a discount or amortization of a premium to maturity, regardless of the impact of fluctuating interest rates on the market value of the instrument. Applicant believes that while this method provides certainty in valuation, it may result in periods during which value, as determined by amortized costs, is higher or lower than the price Applicant would receive if it sold the instrument. Applicant maintains that during such periods the yield to investors in Applicant may differ somewhat from that obtained in a similar company which uses available market quotations as to value all of its portfolio securities.

Applicant states that during periods of rising interest rates (or other periods where the market value of its portfolio declines), interest and discount earned may not be declared as a dividend, but all or part of such interest and discount may be retained in order to maintain net asset value at $1.00 per share; income on subsequent days may also be retained in order to maintain net asset value at $1.00 per share. However, Applicant states that in order to qualify as a regulated investment company under the Internal Revenue Code, it must distribute 90% of its annual income to its shareholders. Applicant intends to meet this requirement even if distributions would cause its net asset value to fall below $1.00 per share.

Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 states further that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors.

Prior to the filing of this application the Commission expressed its view that it is inconsistent with Rule 2a–4 for a money market fund to "round off" calculations of its net asset value per share to the nearest one cent on a share value of $1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" a fund's portfolio valuation as required by Rule 2a–4. (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant contends that computing the net asset value per share to the nearest one cent on a share value of $1.00 will eliminate the periodic fluctuation in Applicant's net asset value per share which may occur and which may cause Applicant's shareholders at the appropriate time to realize unwanted nominal capital gains and losses upon redemption of their shares. Applicant believes, in addition, that potential investors are interested in a money market fund which maintains a constant net asset value per share even though this might result in dividends which fluctuate to reflect changes in the values of fund's portfolio securities.

Applicant's request for exemption is based on the existing and proposed policies described in the application. Applicant's Board of Directors will consider the advisability of temporarily suspending payment of dividends, or making a capital gains or other distribution, to maintain a $1.00 price per share, if the net asset value per share declines to a value below $.997 or rises to a value above $1.003. In addition, Applicant agrees that the following conditions may be imposed in any order of the Commission granting such relief:

(1) In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's Investment Adviser, Applicant's Board of Directors undertakes—as a particular responsibility within its overall duty of care owed to Applicant's shareholders—to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objective, that the price per share of Applicant's shares as computed for purposes of effecting sales, redemptions and repurchases, rounded to the nearest one cent, will not deviate from $1.00.

(2) Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share, and Applicant will not (i) purchase any instrument with a remaining maturity of greater than one year or (ii) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.

(3) Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which Applicant's Board of Directors has determined present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, are of comparable quality as determined by the Board of Directors.

Applicant's Board of Directors has determined in good faith that in light of characteristics described above, that this method of calculating its net asset value per share is appropriate and in the best interests of Applicant's shareholders. Applicant represents that any purchase by it of variable amount master demand notes will comply with the aforementioned conditions.

Notice is further given that any interested person may, no later than March 15, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-5042 Filed 2-24-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22394; 70-8455]

National Fuel Gas Co.; Proposal To Create Non-Utility Subsidiary To Enter Into Agreement With Non-Affiliate To Market Equipment To Convert Gasoline-Powered Motor Vehicles To Use Compressed Natural Gas

February 19, 1982.

National Fuel Gas Company ("National Fuel"), 30 Rockefeller Plaza, New York, New York 10112, a registered holding company, has filed an application-declaration pursuant to Sections 6(a), 7, 9(a), 10, 11(b) and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43 and 45 thereunder.

It is proposed that National Fuel purchase 100% of the 4,000 outstanding shares of common stock of a newly formed non-utility subsidiary, Enerop Corporation ("Enerop"), for $400,000. Enerop will market directly the equipment necessary for converting gasoline powered vehicles to use compressed natural gas ("CNG"). It intends to enter into a distributorship agreement with Gas Service Energy Corporation ("Gas Service Energy"), a subsidiary of Gas Service Company, a non-affiliate corporation. The equipment to be fitted on the vehicles consists of storage tanks, regulator hoses, and a mixer (carburator) along with certain fastenings. CNG equipped vehicles also require centrally located stationary equipment, such as compressors, storage tanks and filling connections, which will also be marketed by Enerop. Automotive engines adapted to the use of CNG retain the capability of using gasoline as an alternate fuel. The marketing of CNG equipment will be directed toward fleet vehicles. National Fuel states that the best prospects for conversion are large, centrally parked fleets with high intensity of use. Enerop will not make any capital investments for the production of equipment. In the sale or marketing of equipment Enerop will serve as a distribution agent of Gas Service Energy.

National Fuel states that while there is a high degree of CNG saturation within its sales territory and decreased demand, additional gas consumption can be achieved by natural gas sales to fleet owners through existing facilities, without additional capital investment in heavy equipment, research, etc. Sales will be solicited primarily within National Fuel's existing gas territory, but markets in the adjoining states of New Jersey, Delaware, Virginia and Maryland will also be tested. Net income generated by Enerop will be retained in the business as is deemed necessary and any excess shall be distributed to National Fuel as a dividend. National Fuel will invest these dividends in its other subsidiaries or distribute them to its shareholders as a dividend as it deems appropriate.

The application-declaration and any amendment thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 16, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-5043 Filed 2-24-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–18494; File No. SR–NSCC–81–7]

National Securities Clearing Corp.; Self-Regulatory Organizations; Proposed Rule Change

Proposed rule change by National Securities Clearing Corporation ("NSCC") relating to revisions to NSCC's Clearing Fund Rule. Comments requested on or before March 18, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 2, 1982, the National Securities Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the National Securities Clearing Corporation. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change, which is attached as Attachment A, consists of a revised Clearing Fund Rule.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the National Securities Clearing Corporation ("NSCC") included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.*

The purpose of the amendment is to revise Rule 4 pursuant to comments received from the New York Clearing House (the "Clearing House").

(B) *Self-Regulatory Organization's Statement on Burden on Competition.*

NSCC does not believe that the proposed rule change will have an impact or impose a burden on competition.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others.*

In June, 1981, NSCC received a letter from the Clearing House objecting to the proposed rule change on the grounds that Rule 4 contravenes the language of the Standards which the Division of Market Regulation will use in making recommendations on the permanent registration of NSCC and does not adequately protect Members' Clearing Fund deposits. The Clearing House listed four objections to the proposed rule change:

1. It does not properly limit the uses which NSCC may make of Clearing Fund Contributions.

2. It does not properly protect Clearing Fund deposits in that creditors of NSCC may be able to reach Clearing Fund assets.

3. The internal allocation of the Clearing Fund does not adequately protect the contributors of one system from losses arising in a second system.

4. Limitations on NSCC's ability to pledge Clearing Fund assets must be clarified.

In order to address these concerns, NSCC has made several modifications to Rule 4. They are as follows:

Section 1

1. Added is language which provides for the book segregation of the separate sub-Funds.

Section 2

1. Added is language which provides that the Clearing Fund or any part thereof may only be used to satisfy losses or liabilities arising from clearance and settlement. It further provides that the entire Clearing Fund may not be assessed for losses arising in systems in which NSCC guarantees the completion of transactions. Lastly, it provides that a loss or liability arising in a system for which a sub-Fund is created may not be satisfied from sub-Funds created for other systems.

2. Deleted is the provision which permitted NSCC to retain interest in cash deposits.

3. Deleted is a provision which provided that the Corporation may use "Clearing Fund Cash" for settlement, but added is language which permits NSCC to borrow such "Cash" for settlement.

4. Added is language which specifically provides that use of proceeds of loans obtained by the Corporation using the Clearing Fund as collateral are governed by the restrictions on use of the Clearing Fund.

While the Clearing House had suggested that the Clearing Fund and each sub-Fund be established as separate trusts, NSCC has not amended the Rule to provide for this. NSCC believes that the objective to be gained by the Clearing House in making this request was to assure not only that the Clearing Fund would be applied in accordance with the terms of the Rule, but also to assure that it would not be considered an asset of NSCC, subject in bankruptcy, to the claims of creditors which are not permitted pursuant to NSCC's Rules. NSCC advised the Clearing House by letter that separate trusts were not necessary in order to provide these safeguards, but that the modified Rule addressed these concerns. Several of the revisions to the Rule listed above were made in support of this conclusion. NSCC has also advised the Clearing House that it is in receipt of an opinion of counsel from its outside counsel, Milbank, Tweed, Hadley & McCloy, also supporting this conclusion.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before April 1, 1982, or within such longer period (i) as the Commission may designate up to 60 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before March 18, 1982.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 18, 1982.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-5041 Filed 2-24-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 19497; SR-NYSE-81-19]

New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

February 19, 1982.

The New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, NY 10005, sumitted on October 20, 1981, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend NYSE Rules 382 and 405 to clarify the responsibilities of broker-dealers relative to the handling of customer accounts that are introduced by one broker-dealer to another under a fully disclosed carrying agreement. Under the proposed rule change, carrying agreements will be filed with the NYSE for review and approval.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18229, November 2, 1981). All written statements filed with the Commission and all written communications between the Commission and any person relating to the proposed rule change were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.[1]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and the regulations thereunder. The proposed rule change is intended to enhance the viability of carrying agreements to the mutual benefit of introducers, carriers and investors by permitting the organizations the flexibility to allocate functions and responsibilities between themselves in accordance with the type and nature of their relationship and business, in a manner that ensures continued protection to customers with introduced accounts consistant with the federal securities laws and applicable self-regulatory organization ("SRO") rules.[2] Broker-dealers are, of course, cautioned to carefully weigh the capital and other regulatory and practical consequences of the assumption of the functions detailed in NYSE Rules 382 and 405 as amended.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

[1] In general, the comments received raised issues related to the consequences of allocating particular functions to introducing or clearing firms and the effect of such allocation on firms' responsibilities under the federal securities laws.

[2] The Commission notes that no contractual arrangement for the allocation of functions between an introducing and carrying organization can operate to relieve either organization from their respective responsibilities under the federal securities laws and applicable SRO rules.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-5046 Filed 2-24-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 12235; 812-5027]

Toronto Dominion (U.S.A.), Inc.; Filing of an Application for an Order of the Act Exempting Applicant From all Provisions of the Act

February 19, 1982.

Notice is hereby given that Toronto Dominion (U.S.A.), Inc. ("Applicant"), c/o Leland J. Markley, Esq., Kelly Drye & Warren, 350 Park Avenue, New York, NY 10022, a Delaware corporation, filed an application on November 30, 1981, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act, and the rules and regulations thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicant states that it was organized on August 27, 1981, as a corporation under the laws of the State of Delaware. Applicant's registered office is located at 100 West Tenth Street, Wilmington, Delaware. No capital stock or other securities of the Applicant have been issued to date. All the outstanding shares of capital stock of Applicant will be purchased and owned by The Toronto-Dominion Bank, a Canadian chartered bank ("TDB"). Applicant states in the application that its sole business will be the provision of funds to TDB or subsidiaries of TDB, and, accordingly, substantially all of its assets will consist of amounts receivable from TDB or such subsidiaries.

Applicant states that TDB currently maintains agencies in New York City, Atlanta, and San Francisco, a subsidiary trust company, The Toronto-Dominion Bank Trust Company, in New York City, a bank subsidiary, Toronto Dominion Bank of California, in California, and representative offices in New York City, Chicago, Pittsburgh, Houston and Los Angles. In connection with its ownership of Toronto-Dominion Bank of California, TDB registered with the Board of Governors of the Federal Reserve System ("Board") under the United States Bank Holding Company Act of 1956, as amended. Under the Act, the Board regulates, *inter alia*, the types of activities in which TDB, as a foreign bank holding company, may engage in the United States, may examine TDB and requires TDB to file annual reports regarding its operations.

By order dated March 31, 1981 (Release No. 11711), the Commission exempted TDB from all of the provisions of the Act. The order was granted in response to TDB's application (filed on August 28, 1980, and amended on January 29, 1981) describing TDB's intention to issue and sell in the United States commercial paper, as well as the possibility of issuance and sale by TDB of other debt securities in the United States.

Applicant proposes to issue and sell in the United States unsecured prime quality short-term commercial paper promissory notes in bearer form and denominated in United States dollars. The payment of principal and of all other amounts due with respect to the notes will be unconditionally guaranteed by TDB. The notes will provide an alternative source of supply to TDB of United States dollars supplementing those currently obtained through normal commercial sources and in the Eurodollar market. No note will be in a denomination smaller than $100,000.

The notes will generally be sold through major United States commercial paper dealers. The notes will not be advertised or otherwise offered for sale to the general public, but instead will be sold to institutional and other sophisticated investors, including individuals who normally purchase commerdial paper notes of this type. The Applicant or an affiliate of the Applicant may also sell such notes, from time to time, directly to such investors.

Applicant states the quality and terms of the notes, including their maturity, and the manner in which they will be offered to investors will be such as to qualify them for exemption under Section 3(a)(3) of the Securities Act of 1933, from the registration requirements of that Act. Applicant will not issue or sell the notes in the United States until it has received a written opinion of its United States counsel to the effect that, under the circumstances of the proposed offering, the notes would be entitled to such exemption. Applicant is not requesting the Commission to review or approve the opinion of counsel regarding the availability of that exemption. Applicant represents that the presently proposed issue of securities and all future issues of securities in the United States shall have received prior to their respective issuances one of the three highest investment grades from at least one nationally recognized statistical rating organization and that Applicant shall have certified in writing to its United States counsel prior to any such issuance that such rating has been received with respect to the securities then to be issued; provided, however, that no such rating shall be requested to be obtained if in the opinion of Applicant's United States counsel, after taking into account for such purposes the doctrine of integration referred to in the Commission's Rule 146, an exemption from registration is available with respect to such issue under Section 4(2) of the Securities Act of 1933, as amended.

Applicant states that the notes will be direct liabilities of the Applicant and will rank *pari passu* among themselves and equally with all other unsecured, unsubordinated indebtedness now or hereafter incurred of the Applicant.

The Applicant also states that TDB's guarantees of the notes will be TDB's direct liabilities and will under Canadian law rank *pari passu* among themselves and equally with all deposit liabilities of TDB and with all other unsecured, unsubordinated indebtedness of TDB, with the exception of any amount due to the Government of Canada or to any province thereof. In addition, TDB's guarantees will rank prior to any subordinated indebtedness of Applicant, including all issues of debentures, and to claims of holders of TDB's capital stock.

Applicant undertakes to ensure that the commercial paper dealers in the United States through which it sells the notes (or Applicant itself or its affiliate if a dealer is not used) will provide to each offeree who has indicated an interest in the notes, prior to any sale of such notes, a memorandum which describes the business of the Applicant and TDB which contains balance sheets and income statements of the Applicant and of TDB as of the end of the most recent fiscal year (with TDB's balance sheets and income statements being audited in accordance with Canadian accounting principles applicable to chartered banks) and, as publicly available, any subsequent fiscal semi-annual statement. Applicant represents that the memorandum and financial statements will be at least as comprehensive as those customarily used in commercial paper offerings by bank holding companies in the United States, will describe with respect to TDB's financial statements any material differences between Canadian accounting principles applicable to chartered banks and generally accepted accounting principles applicable to

United States commercial banks and will be updated periodically to reflect material changes in the financial status of the Applicant or TDB.

The Applicant states that it may, from time to time, offer other debt securities (which will be unconditionally guaranteed by TDB by means of a guarantee or other arrangement) for sale in the United States. The proceeds of such securities will similarly be advanced to or deposited with TDB or subsidiaries of TDB. The Applicant represents that future offerings by the Applicant of such securities in the United States will be made only pursuant to a registration statement under the Securities Act of 1933, as amended, or pursuant to an applicable exemption from registration under such Act. Any such offering will be made on the basis of disclosure documents, required for such registration or exemption, that are at least as comprehensive in their description of the Applicant and TDB as is customary in such offerings of such debt securities in the United States. The Applicant consents to any order granting the relief requested under Section 6(c) expressly conditioned upon the Applicant's compliance with the foregoing undertakings.

The Applicant represents that it and TDB will appoint a bank or trust company in the United States as the authorized agent to issue the notes from time to time. Applicant states that it will appoint that bank or trust company or the Applicant's United States counsel as their agent to accept service of process in any action based on the notes and instituted in any state or federal court by the holder of any of the notes. The Applicant and TDB will expressly submit to the jurisdiction of any state or federal court in the City and State of New York in respect of any such action. Appointment of an authorized agent to accept service of process and consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of the notes have been paid. Applicant represents that it and TDB will also submit to jurisdiction and appoint an agent for service of process in connection with any other offerings in the United States of the Applicant's securities.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions, from any provision under the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

As noted above, the Commission has already exempted TDB from the provisions of the Act, thereby entitling it directly to sell notes in the United States. Applicant submits that it is merely the vehicle through which any sale of the notes would be accomplished. The Applicant would advance to, or deposit with, TDB or subsidiaries of TDB substantially all of the financing proceeds on terms which would allow the Applicant to make timely payments of principal of and premium, if any, and interest on the notes. In addition, because the obligations of the Applicant would be guaranteed unconditionally by TDB, the holders of the notes would effectively be looking to TDB as the ultimate obligor. For these reasons, Applicant submits that the purchase of its notes issued and sold would be the practial equivalent of the purchase of obligations of TDB.

Applicant submits, therefore, that the same policy considerations pursuant to which the Commission approved the TDB exemption should apply in the case of the Applicant and the requested exemption should be granted.

Notice is further given that any interested person may, not later than March 16, 1982, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-5044 Filed 2-24-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12243; 812-4851]

Cralin Money Market Fund, Inc.; Application

February 19, 1982.

In the matter of Cralin Money Market Fund, Inc., 220 East 51st Street, New York, New York 10022 (812–4851).

Notice is hereby given that Cralin Money Market Fund, Inc. ("Applicant"), an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on December 24, 1981, requesting an order of the Commission amending in the manner described below an earlier order of the Commission dated May 27, 1981 (Investment Company Act Release No. 11790). This earlier order, pursuant to Section 6(c) of the Act, exempted Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its portfolio assets pursuant to the amortized cost method of valuing portfolio securities. Applicant states that by post-effective amendment No. 1 to its registration statement under the Act and the Securities Act of 1933 (Registration No. 2–71824), filed with the Commission on December 14, 1981. Applicant seeks to register a second series of its shares and thereby to become a so-called serial fund offering investors a choice of investment in a portfolio consisting of a broad range of money market investments or a portfolio consisting only of U.S. government securities and repurchase agreements with respect thereto. Applicant therefore makes this application pursuant to Section 6(c) of the Act for an amended order exempting it from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit it to value the assets of each of its two portfolios at amortized cost. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is organized as a corporation under the laws of Maryland and that since July 7, 1981, shortly after its registration statement under the Act and the Securities Act of 1933 was first declared effective by the Commission, Applicant has offered for sale to the public only shares of its common stock, class A. Applicant, under the management of its investment adviser, J. R. Cralin & Co., Inc., has invested its assets in a broad range of money market instruments. Applicant's objective has been to provide as high a level of current income as is consistent with liquidity and the preservation of capital. Applicant states that by post-effective amendment No. 1 to its registration statement on Form N–1, it seeks to register an indefinite number of shares of a second class of its common stock, class B. Applicant states that it proposes to invest the assets attributable to the class B shares in U.S. government and agency securities maturing within one year from date of purchase and in repurchase agreements with respect to such securities maturing within one year (without regard to the maturity of the underlying obligations). Applicant states further that it proposes to continue investing the assets attributable to the class A shares in the broader range of money market instruments described in the application. Applicant asserts that the class B shares are designated collectively the "Government Securities Portfolio" and the class A shares are designated collectively the "Money Market Portfolio." Applicant alleges that it wishes to create the Government Securities Portfolio to meet the needs of investors who want or require the extra margin of safety inherent in owning U.S. government and agency securities.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) With respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 states further that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a–4 under the Act requires portfolio instruments of "money market" funds which have more than 60 days remaining to maturity to be valued with reference to market factors and (2) it would be inconsistent with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments with over sixty-day maturities on an amortized cost basis. (Investment Company Act Release No. 9786, May 31, 1977.)

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant believes that two qualities are necessary for the successful operation of money market funds: (1) Steady flow of predictable and competitive investment income, and (2) certainty of stability of principal. Applicant believes that by utilizing U.S. government and agency securities and other high quality money market instruments of short maturities priced at amortized cost, Applicant may be able to provide these features in both of its Portfolios. Applicant expresses its belief that, in general, investors attracted to money market funds tend not to be concerned with the theoretical distinction between yield achieved through pricing to some sort of a "market" and yield computed by using the amortized cost method. Applicant believes that they are, rather, more concerned that the daily income declared by Applicant be steady—that it not exhibit the volatility that may occur when changes in "market" prices cause unreal and artificial changes in yield on a daily or weekly basis. Applicant maintains that use of the amortized cost method of valuation will help achieve this stability. Applicant expresses its view that an average maturity of not more than 120 days for each Portfolio accomplishes both of the aims referred to above—that is, it reduces the likelihood of significant volatility in the value of portfolio instruments as effectively as does an average maturity of shorter duration, while at the same time providing yields on portfolio instruments commensurate with yields available in the general money market, which are less available with a portfolio having an average maturity of a shorter duration.

Applicant states that due to the special nature of its policies and operations, there is a negligible difference between prices obtained under the amortized cost method and those obtained through a theoretical or synthetic market valuation method using matrices or other mechanical devices. Thus, Applicant's board of directors (the "Board") has determined in good faith that, in light of the characteristics of Applicant described in the application, the amortized cost method of valuation of portfolio instruments is appropriate and preferable. Applicant states that the Board has further determined that it will regularly monitor, at such intervals as are reasonable in light of current market conditions, valuations indicated by other methods and has directed the investment adviser to make reports to the Board so that it may make any changes in method necessary to ensure that the method of valuation being used is a good approximation of fair value in view of all pertinent factors.

Applicant states that by not purchasing any instrument for either Portfolio with a remaining maturity of greater than one year, and by maintaining a dollar-weighted average maturity not exceeding 120 days for either Portfolio, Applicant believes that it can achieve its objectives of preservation of capital and steady flow of investment income satisfactory to its investors, and yet afford investors adequate protection under the federal securities laws. Further, in order to enhance investor protection, Applicant will adhere to the following conditions, if the application is granted:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to its investment adviser, the Board undertakes—as a particular responsibility with the overall duty of care owed to shareholders—to establish procedures reasonably designed, taking

into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share of each Portfolio, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the Board shall be the following:

(a) Review by the Board, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share of each Portfolio, as determined by using available market quotations, from Appliant's $1.00 amortized cost price per share, and maintenance of records of such review. To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the Board in the exercise of its discretion to be appropriate indicators of value, which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share of either Portfolio exceeds one-half of one percent, a requirement that the Board will promptly consider what action, if any, should be initiated by the Board.

(c) Where the Board believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption in kind of shares of either or both portfolios; selling instruments held by either or both portfolios prior to maturity to realize capital gains or losses, or to shorten the average maturity of one or both of the Portfolios; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average maturity of each Portfolio appropriate to its objective of maintaining a stable net asset value per share; provided, however, that the Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average maturity of either Portfolio that exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average maturity of either Portfolio in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average maturity of such Portfolio to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board's considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of Board meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those U.S. dollar denominated instruments that the Board determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than March 16, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-5067 Filed 2-24-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12236; 812-5113]

DBL Cash Fund, Inc.; Application

February 19, 1982.

In the matter of DBL Cash Fund Inc., 60 Broad Street, New York, NY 10004 (812-5113).

Notice is hereby given that DBL Cash Fund Inc. ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on December 24, 1981, an amendment thereto on February 18, 1982, for an order of the Commission pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit calculation of the net asset value per share of Applicant's Government Securities Portfolio Series ("Government Portfolio") using the amortized cost method of valuing portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant is a "money market" fund seeking the highest current income consistent with liquidity and preservation of capital. It was incorporated under the laws of the State of Maryland on September 22, 1980. Its investment adviser is Drexel Burnham Lambert Global Management Corporation.

Applicant's current portfolio (the Money Market Portfolio) consists principally of short-term United States Government and government agency securities, bank money market instruments (such as certificates of deposit and bankers' acceptances) and other high quality short-term debt instruments including commercial paper and other evidences of indebtedness. Applicant may from time to time lend securities from its Government Portfolio to brokers, dealers and financial institutions and receive collateral consisting of securities issued or guaranteed by the United States Government that will be maintained at all times in an amount equal to at least 100% of the current market value of the loaned securities. Applicant states that any loans of portfolio securities will be made according to guidelines established by the Commission and Applicant's board of directors. In accordance with Applicant's Articles of Incorporation, its board of directors intends to establish from part of the authorized and unissued shares of Applicant a new series, the Government Portfolio, which will invest exclusively in short term securities (but not variable rate paper) issued or guaranteed as to the payment of principal and interest by the United States Government or its agencies or instrumentalities or collateralized by such obligations.

Applicant seeks an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Government Portfolio's assets to be valued according to the amortized cost valuation method.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rule 2a-4 provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the investment company. Prior to the filing of the application, the Commission expressed its view that, among other things, (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized costs basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in part, that the Commission, upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the granting of an exemption to enable it to utilize amortized cost valuation for the assets of the Government Portfolio would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that the following conditions may be imposed in an order granting the exemption it requests:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of directors undertakes—as a particular responsibility within the overall duty of care owed, to the Government Portfolio's shareholders—to establish procedures reasonably designed, taking into account current market conditions and the Government Portfolio's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the Government Portfolio's $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the Government Portfolio $1.00 amortized cost price per share exceeds ½ of 1 percent, the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes the extent of any deviation from the Government Portfolio's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or shortening the average portfolio maturity of the Government Portfolio; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to the Government Portfolio's objective of maintaining a stable net asset value per share; provided, however, that the Government Portfolio will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above; and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the

[1] To fulfill this condition, Applicant states that it intends to use actual quotations or estimates of market value reflecting current market conditions approved by the board of directors in the exercise of its discretion to be appropriate indicators of value. Such quotations or estimates may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by known trade sources.

[2] In fulfilling this condition, Applicant agrees that, if the disposition of a portfolio instrument of the Government Portfolio should result in a dollar-weighted average portfolio maturity in excess of 120 days, then the Government Portfolio will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit the Government Portfolio's portfolio investments, including repurchase agreements, to short term securities (but not variable rate paper) issued or guaranteed as to the payment of principal or interest by the United States Government or its agencies or instrumentalities or collateralized by such obligations.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter and, if any action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than March 16, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be ffied contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-5099 Filed 2-24-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12241; 812-5105]

Foster & Marshall Growth Fund, Inc.; Application

February 19, 1982.

In the matter of Foster & Marshall Growth Fund, Inc., 205 Columbia Street, Seattle, Washington 98104 (812–5105).

Notice is hereby given that Foster & Marshall Growth Fund, Inc. ("Applicant"), an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on February 5, 1982, and an amendment thereto on February 18, 1982, pursuant to Section 6(c) of the Act, requesting an order of the Commission exempting Applicant from the provisions of Section 15(a) of the Act to the extent necessary to permit the implementation, without shareholder approval, of a new investment management contract between Applicant and Foster & Marshall Management Inc. ("Management") on terms substantially identical to those contained in the existing investment management contract, during the period from the date of the merger between the F&M Corporation, parent of Management, and Shearson/American Express Inc. ("Shearson"), through the date on which Applicant's shareholders approve or disapprove the new investment advisory agreement, such period to be no longer than 120 days from the earlier of the date of the merger or March 1, 1982. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that Management, an investment adviser registered under the Investment Advisers Act of 1940, manages Applicant pursuant to an investment advisory agreement which was approved by Applicant's shareholders on November 3, 1981, and is to continue until February 28, 1983. Management is a wholly-owned subsidiary of the F&M Corporation ("F&M"). Applicant's shares are distributed by Foster & Marshall Inc., a broker-dealer registered under the Securities Exchange Act of 1934, which is also a wholly-owned subsidiary of F&M.

The application states that an agreement in principle has been reached between F&M and Shearson, pursuant to which F&M will merge into Shearson; Shearson will be the surviving entity. The merger plan was publicly announced on January 4, 1982. Applicant states that it is anticipated that the date on which the merger will be effected ("Merger Date") will be in early March. It is asserted that, subsequent to the merger, all customer accounts carried by Foster & Marshall Inc. (to be renamed Foster & Marshall/American Express Inc.), will be cleared through Shearson on a fully disclosed basis. Applicant further states that it is contemplated that Management will continue as a wholly-owned subsidiary of Shearson with substantially the same officers, employees and responsibilities, and that no material changes in the operations or personnel of Management are expected as a result of the merger.

Section 15(a) of the Act provides, in pertinent part, that it shall be unlawful for any person to act or serve as investment adviser of a registered investment company except pursuant to a written contract which has been approved by the vote of a majority of the outstanding voting securities of such registered company, and requires that such written contract provide for automatic termination in the event of its assignment. Section 2(a)(4) of the Act defines "assignment" to include any direct or indirect transfer of a contract by the assignor, or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor. Section 2(a)(9) of the Act defines "control" as the power to exercise a controlling interest over the management or policies of a company, and beneficial ownership of more than 25% of the voting securities of a company is presumed to reflect control.

Applicant represents that the change of control of the ultimate parent entity of Management would appear to constitute an "assignment" as defined by Section 2(a)(4) of the Act. It is asserted that, by virtue of Section 15(a)(4) of the Act and the terms of the investment advisory agreement between Applicant and Management, it appears that the assignment will cause that agreement to terminate automatically. Section 15(a) of the Act requires that Applicant's shareholders approve any new investment advisory contract. Applicant states that its Board of Directors, including a majority of Directors who are not interested persons of Applicant, approved a new investment advisory agreement with Management at a special meeting called for that purpose on February 11, 1982. The Directors also called a special shareholders' meeting for April 6, 1982, to consider approval of the new investment advisory agreement.

The application states that obtaining shareholder approval of a new investment advisory agreement has or will entail the preparation and clearance of proxy materials, and sufficient solicitation periods to obtain the requisite quorums. Applicant represents that efforts are underway to accomplish these steps. However, Applicant maintains that, because of inevitable administrative delays and the time required to solicit shareholders to obtain sufficient proxies to achieve a quorum, the earliest reasonable date by which Applicant's Board of Directors could call for a shareholders' meeting to approve the new investment advisory agreement is April 6, 1982, several weeks after the anticipated Merger Date.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction from any provision of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an order of the Commission, pursuant to Section 6(c) of the Act, granting a temporary exemption from Section 15(a) of the Act to the extent necessary to permit the implementation, without shareholder approval, of the new investment advisory agreement during the period from the Merger Date through the date on which Applicant's shareholders approve or disapprove the new investment advisory agreement, such period to be no longer than 120 days from the earlier of the Merger Date or March 1, 1982. Applicant also states, however, that it will not rely on any such exemptive order prior to its issuance as authority for Management to serve as investment adviser to Applicant. It is asserted that Applicant has agreed with Management that Applicant will not be charged any management fee for the period from the Merger Date until the earlier of the effective date of the Commission's exemptive order or the approval by Applicant's shareholders of the new investment advisory agreement. It is further stated that Applicant will not bear, and Management will bear, the costs of the preparation and filing of this application, costs of holding the special shareholders' meeting, and all other expenses arising out of the assignment of the existing investment advisory agreement.

Applicant submits that the granting of the requested exemption from Section 15(a) of the Act would be consistent with the standards set forth in Section 6(c) of the Act for the following reasons:

(i) Applicant states that, notwithstanding the assignment that will occur, there will be no change in the investment advisory and other services provided to Applicant. It is asserted that Shearson has advised that the wholly-owned subsidiaries of F&M, including Management, will become subsidiaries of Sherson, continuing to operate under present management and without substantial changes in operations. Applicant represents that it will continue to receive the same services, provided by the same personnel, as prior to such assignment.

(ii) The application states that delay in consummation of the merger betrween F&M and Shearson may cause changes in material elements of their agreement. Applicant represents that delay may also exacerbate uncertainties in affected personnel which, in turn, may affect the operational capabilities of the parties. Accordingly, it is asserted that the advantages to Applicant's shareholders in a delay of the merger to enable shareholder approval of the new investment advisory agreement prior to a change of control of Management are outweighed by the operational needs of F&M and Shearson to consummate their merger as rapidly as possible.

(iii) Applicant states that Management is not itself a party to the merger agreed upon by F&M and Shearson and had no formal voice in their decision-making process. Applicant represents that Management's operations are only one small part of a rather large transaction between major corporations, and there was no practicable opportunity for Management to affect the terms of the arrangements agreed upon by the parties. During the period of the negotiations between F&M and Shearson, no management fees were payable to Management under the existing investment advisory contract.

(iv) Applicant acknowledges that the statements of the Commission accompanying the proposal of Rule 15a–4 (Investment Company Act Release No. 10809, August 6, 1979), suggest that where an assignment is foreseeable, the policy of the Act that shareholder approval be obtained prior to entering into an investment advisory relationship should not be thwarted by providing an exemption from Section 15(a) of the Act because, in such a case, it is reasonably practicable to obtain prior shareholder approval. Applicant represents that, while in this case an assignment might be deemed to have been foreseeable because of the negotiated nature of the merger between F&M and Shearson, the rapid culmination of the negotiations did not present and the need to effect the merger rapidly does not permit the opportunity to secure prior shareholder approval of a new investment advisory agreement.

(v) Applicant submits that the alternative of Management serving at "cost" would be unreasonable. It is asserted that the payments that Management receives pursuant to the existing investment advisory agreement with Applicant represent substantially its only source of revenues. Because Management has been precluded from charging any management fee due to Blue Sky expense limitations on Applicant until mid-January 1982, it has borne substantial costs with no offsetting income. Applicant further asserts that Management will not charge management fees during the period from the Merger Date until the effective date of the requested order by the Commission. Applicant states that to deprive Management of revenues until the new investment advisory agreement can be approved by shareholders, for no other reason than the fact that the merger will technically result in the termination of the existing agreement, would be a harsh result and an unreasonable penalty to attach to a transaction having no substantive impact on the nature and quality of the services rendered to Applicant.

In view of the foregoing, Applicant submits that the exemption it requests would be appropriate in the public interest, and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 12, 1982, at 12:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by

affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-5090 Filed 2-24-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12239; 812-5069]

Midwest Income Trust; Application

February 18, 1982.

In the matter of Midwest Income Trust, 522 Dixie Terminal Building, Cincinnati, Ohio 45202 (812-5069).

Notice is hereby given that Midwest Income Trust ("Applicant"), registered under the Investment Company Act of 1940 ("Act"), as an open-end, diversified, management investment company, filed an application on January 4, 1982, requesting an order of the Commission pursuant to Section 6(c) of the Act to exempt the Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicant to value the portfolios securities of its Cash Management Fund on the basis of the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a Massachusetts business trust which was organized to continue the business of its predecessor, Midwest Income Investment Company ("Company"), and is presently legally existing under the laws of the Commonwealth of Massachusetts. On October 28, 1980, the Commission issued an order (Investment Company Act Release No. 11418) pursuant to Section 6(c) of the Act exempting the Company from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit the Company to use the amortized cost valuation method to price its shares at $1000 per share for sale, redemption and repurchase. On July 24, 1981, the Commission issued an order (Investment Company Act Release No. 11870), pursuant to Section 6(c) of the Act, amending the earlier order of exemption from the provisions of Section 2(a)(41) of the Act and Rule 2a-4 and 22c-1 thereunder to allow the Company to use the amortized cost valuation method to price its shares at $10 for sale, redemption and repurchase.

Applicant states that it offers to individuals, corporations, fiduciaries and institutions a means to invest in professionally managed portfolios with the objective of obtaining high current income consistent with protection of capital. Applicant currently offers two series of shares, known as the "Short Term Government Fund" and the "Intermediate Term Government Fund." The Short Term Government Fund is a "money market fund" which invests exclusively in short term United States government obligations with a dollar-weighted average portfolio maturity of 120 days or less. The minimum initial investment in shares of Applicant is $1,000 with additional investments accepted in amounts of $50 or more.

Applicant proposes to create and offer to the public a new series of shares, the Cash Management Fund ["Fund"]. The Fund will invest exclusively in high quality short term money market obligations with a dollar-weighted average portfolio maturity of 120 days or less. Such money market obligations include United States Government obligations; time deposits and certificates of deposit of United States banks having total assets in excess of $1,000,000,000 or London branches of such United States banks; certificates of deposit issued by United States banks, savings and loan associations and similar institutions having total assets of $1,000,000,000 or less, provided that the principal amount of the instrument acquired by the Fund is insured in full by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation (the Fund would not own more than one such certificate of deposit per such issuer); bankers' acceptances of United States banks having total assets in excess of $1,000,000,000; commercial paper issued by major United States corporations which are the date of investment is rated Prime-1 or better by Moody's Investors Service, Inc. ("Moody's") or A-1 or better by Standard & Poor's Corporation ("S&P") or issued by companies having an outstanding unsecured debt issue currently rated Aa or better by Moody's or AA or better by S&P; and short-term (one year or less) corporate obligations of United States corporations which at the date of investment are rated Aa or better by Moody's or AA or better by S&P.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) With respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by an investment company's board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefore issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security.

Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair market value as determined in good faith by the board of directors of the investment company. Prior to the filing of the application, the Commission expressed its view that, among other things, (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and

to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an order of the Commission futher exempting it from Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to permit Applicant to use the amortized cost method of valuing portfolio securities held in the portfolio of the fund. Applicant asserts that use of the amortized cost method of valuing the instruments held in the fund portfolio will benefit shareholders by enabling Applicant to maintain a $10 per share purchase and redemption price with respect to the fund in a manner that is consistent with that permitted with respect to the Short Term Government Fund. Applicant states that the granting of the requested amendment by the Commission is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

1. In supervising the Fund's operations and delegating special responsibilities involving management of the Fund's portfolio to Applicant's investment adviser, Applicant's board of trustees undertakes—as a particular responsibility within its overall duty of care owed to Applicant's shareholders—to establish procedures reasonably designed, taking into account current market conditions and the Fund's investment objective, to stabilize the Fund's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $10 per share.

2. Included within the procedures to be adopted by the board of trustees of Applicant shall be the following:

(a) Review by the board of trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share of the Fund as determined by using available market quotations from the $10.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the fund's $10 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of trustees will promptly consider what action, if any, should be initiated by it.

(c) Where the board of trustees believes the extent of any deviation from the Fund's $10 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the Fund's average maturity of portfolio instruments; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations; re-evaluation of all or an appropriate portion of the portfolio based on current market factors.

3. Applicant will cause the Fund to maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share for the Fund; provided, however, that the Fund will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of trustees' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the board of trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments of the Fund, including repurchase agreements, to those United States dollar-denominated instruments which its board of trustees determines present minimal credit risks, and which are in the two highest ratings by any major rating service, or, in the case of any instrument that is not rated, of comparable quality as determined by its board of trustees.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than March 18, 1982, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion, persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-5100 Filed 2-24-82; 8:45 am]

BILLING CODE 8010-01-M

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of trustees in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Release No. 12240; 812-5041]

SAFECO Money Market Mutual Fund, Inc.; Application

February 19, 1982.

In the matter of SAFECO Money Market Mutual Fund, Inc., Safeco Plaza, Seattle, Washington 98185 (812-5041).

Notice is hereby given that SAFECO Money Market Mutual Fund, Inc. ("Applicant"), a registered open-end, diversified, management investment company, filed an application on December 10, 1981, and an amendment thereto on January 26, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicant to value its assets using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant's stated investment objective is to seek as high a level of current income as is consistent with the preservation of capital and liquidity within its investment policies by investing in a variety of money market instruments. Applicant states that its portfolio will include (1) obligations of, or guaranteed by, the United States Government, its agencies or instrumentalities; (2) certificates of deposit, bankers' acceptances and other short-term debt obligations of banks; (3) commercial paper obligations rated A-1 or A-2 by Standard and Poors Corporation (S&P) or prime-1 or prime-2 by Moody's Investor Services, Inc. ("Moody's") or issued by companies with an unsecured debt issue outstanding currently rated Aa by Moody's or AA by S&P or higher and investments in other corporate obligations such as publicly traded bonds, debentures and notes rated Aa by Moody's or AA by S&P or higher; (4) qualified repurchase agreements; (5) negotiable certificates of deposit and other short-term debt obligations of savings and loan associations. Applicant states that it will not invest in any security issued by a commercial bank unless (a) the bank has total assets of at least $1 billion, or the equivalent in other currencies, or, in the case of United States banks which do not have total assets of at least $1 billion, the aggregate investment made in any one such bank is limited to $100,000 and the principal amount of such investment is insured in full by the Federal Deposit Insurance Corporation (FDIC), (b) in the case of a United States Bank, it is a member of the FDIC, and (c) in the case of foreign banks the security is, in the opinion of management, of an investment quality compatible with other debt securities which may be purchased by Applicant. Applicant states that these limitations do not prohibit investment in securities issued by foreign branches of United States banks, provided the United States banks meet the foregoing requirements. Applicant also represents that it will not invest in any instruments issued by a savings and loan association unless (a) the savings and loan association has total assets of at least $1 billion, or, in the case of savings and loan associations which do not have total assets of at least $1 billion, the aggregate investment made in any one savings and loan association is limited to $100,000 and the principal amount of such investment is insured in full by the Federal Savings and Loan Insurance Corporation, and (b) the savings and loan association issuing the securities is a member of the Federal Home Loan Bank System.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) With respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by an investment company's board of directors. Rule 22c-1 provides, in part, that no registered investment company or principal underwriter therefore issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a-4 provides, as here relevant, that the current net asset value of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of the application, the Commission expressed its view that, among other things, Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and it would be inconsistent generally with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977). Section 6(c) of the Act provides, in part, that upon application the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an order of the Commission pursuant to Section 6(C) of the Act, exempting it from the provisions of Section 2(a)(41) and Rules 2a-4 and 22c-1 to the extent necessary to permit it to use the amortized cost method of valuation for all its portfolio securities. In support of its request, Applicant submits that it is its management's opinion that in order to attract and retain investments, Applicant must have a stable net asset value and a constant steady flow of investment income. Applicant also states that it is the widespread practice of other money market funds to maintain a stable net asset value, usually at $1.00 per share. Applicant believes that the valuation of its portfolio securities on the amortized cost basis will benefit shareholders by enabling it to maintain a constant $1.00 per share purchase and redemption price, while at the same time providing shareholders with a steady flow of investment income through daily dividends which reflect Applicant's net income as earned.

Applicant states that its board of directors has determined in good faith that in light of the characteristics of the Applicant as described above and absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and preferable for Applicant and reflects the fair value of such securities. It is Applicant's opinion that given the nature of Applicant's policies and operations, there will be relatively negligible discrepancies between prices obtained by market valuation methods and amortized cost.

Applicant has agreed that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of directors of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors of Applicant shall be the following:

(a) Review by the board of directors, as it deems appropriate, and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated by it.

(c) Where the board of directors believes the extent of any deviation from the $1.00 amortized cost price per share may result in a material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of directors' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its board of directors.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Applicant submits that granting its requested exemptive order is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 16, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-5101 Filed 2-24-82; 8:45 am]
BILLING CODE 8010-01-M

[1] To fulfill this, Applicant states that it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board of directors in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Release No. 19891; File No. SR-NSCC-82-1]

Filing and Immediate Effectiveness of Proposed Rule Change by National Securities Clearing Corporation

February 22, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 4, 1982, the National Securities Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend NSCC's fee schedule by clarifying the title of an existing fee. The new title would indicate that a $9.50 per item fee (plus cost of delivery service) would be charged for each "Special Order-Out: Delivery to a Third Party." The proposal also would add at the end of the fee schedule a paragraph reiterating NSCC's stated policy of discounting fees so that NSCC retains only those revenues that are required to support its operations. NSCC believes

that the proposed rule change is consistent with Section 17A(b)(3)(D) of the Securities Exhange Act of 1934 in that it provides for the equitable allocation of reasonable dues, fees and other charges among its participants.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission by March 18, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-NSCC-82-1.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communication relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-5108 Filed 2-24-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Senior Executive Service Performance Review Board; List of Members

AGENCY: Small Business Administration.

ACTION: Listing of personnel serving as members of a sub-committee of this Agency's Senior Executive Service Performance Review Board.

SUMMARY: Pub. L. 95-454 dated October 13, 1978, (Civil Service Reform Act of 1978) requires that Federal Agencies publish notification of the appointment of individuals who serve as members of that agency's Performance Review Board (PRB). The following is a listing of additional members of this Agency's PRB:

1. John Yazurlo, Deputy Inspector General—Department of Education
2. James Yohe, Assistant Inspector General for Investigations Department of Interior

Donald R. Templeman,

Acting Administrator.

[FR Doc. 82-5096 Filed 2-24-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); Special Committee 148—Airborne Radio Communication Equipment Operating in the Radio Frequency Range of 117.975–137.000 Megahertz; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 148 on Airborne Radio Communication Equipment Operating in the Radio Frequency Range of 117.975–137.000 Megahertz to be held on March 23–24, 1982 in Conference Rooms 8A–B, Federal Aviation Administration Building, 800 Independence Avenue, SW., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Review of Committee Terms of Reference; (3) Review Partial First Draft of Committee Report on Minimum Operational Performance Standards for Airborne Radio Communication Equipment Operating in the Radio Frequency Range of 117.975–137.000 Megahertz; (4) Review of Comments Received on Partial First Draft Report; (5) Assignment of Tasks; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, NW., Washington, D.C. 20006, (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on February 19, 1982.

Karl F. Biesach,

Designated Officer.

[FR Doc. 82-5089 Filed 2-24-82; 8:45 am]

BILLING CODE 4910-13-M

Flight Standards District Office at Houston, Texas; Separation of Functions

Notice is hereby given that on or about March 1, 1982, the Flight Standards District Office in Houston, Texas will be separated into a General Aviation District Office and an Air Carrier District Office. All services to the public formerly provided by the consolidated office will be provided by the individual offices. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752 (49 U.S.C. 1354))

Issued in Fort Worth, Texas, on February 17, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 82-5095 Filed 2-24-82; 8:45 am]

BILLING CODE 4910-13-M

Federal Aviation Administration Aircraft Certification; Organization and Procedures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of change of public briefing date.

SUMMARY: The purpose of this notice is to announce that the public briefing to describe the new aircraft certification organization and to answer questions will be held on Thureday, March 18, 1982, instead of the previously announced date of March 12, 1982, (in the Federal Register of February 11, 1982; 47 FR 6404) beginning at 9:30 a.m. in the auditorium, 3rd Floor, Federal Aviation Administration Building, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Berman, Certification Procedure and Standards Branch, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone (202) 426-8395.

Issued: February 23, 1982.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 82-5210 Filed 2-24-82; 8:45 am]

BILLING CODE 4910-13-M

Maritime Administration

[Docket S-711]

Participation by Vessels Built With Construction-Differential Subsidy in the Carriage of Crude Oil in the Domestic Trade; Application of Acturus Shipping, Inc.

Notice is hereby given that by letter of February 16, 1982, counsel for Acturus Shipping, Inc. (Acturus) requested an amendment of the approval granted Acturus on October 7, 1982 under section 506 of the Merchant Marine Act, 1936, as amended, for its bareboat chartered tanker, TT WILLIAMSBURGH, to operate for not more than six months in the domestic Alaskan oil trade. The amendment would reflect the actual date of this vessel's commencement of Alaskan operations on January 14, 1982, thus altering the commencement period of November 1–15, 1981 which was originally requested by Acturus and which appeared in the approval of October 7. As it stands now, the WILLIAMSBURGH will have to leave the Alaskan trade in mid-May after only four months of service. The amendment would permit the vessel to operate in the trade until mid-July, for the full six months authorized by statute.

The delay of the WILLIAMSBURGH in entering the Alaskan oil trade resulted from an operating emergency on October 7, 1981 when vessel's seawater pipes ruptured causing dangerous flooding. Temporary repairs were made in Colombo. Cargo was then discharged in Taiwan on November 13 and the WILLIAMSBURGH entered a South Korea shipyard for permanent repairs. These were completed on January 2, 1982. Acturus states that the two-month delay of the WILLIAMSBURGH's arrival in Alaska was unforseeable and unavoidable.

The 225,100 deadweight ton WILLIAMSBURGH, which was built with construction-differential subsidy is operating in the Alaskan oil trade under sub-time charter from American Petrofina, Inc. to S.P.C. Shipping, Inc., a subsidiary of Standard Oil Company, (Ohio). It has been approved to make voyages in the Valdez/Panama and/or Valdez/U.S. Gulf trades.

Interested parties may inspect Acturus' application in the Office of the Secretary, Maritime Administration, Room 7300A, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

Any person, firm, or corporation who is a "competitor," as defined in § 250.2 of the regulations as set forth in 46 CFR 250 published in the Federal Register issue of June 29, 1977 (42 FR 33035), and who desires to protest the application as it pertains to the carriage of oil in the domestic trade from Alaska to Panama should submit the protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20590.

Any person, firm or corporation who desires to protest the application as it pertains to the carriage of oil in the domestic trade from Alaska directly to the U.S. Gulf should submit the protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20590.

Protests must be received by March 4, 1982. If a protest is received, the applicant will be advised by telephone or telegram of the protest and will be allowed three working days to respond in a manner acceptable to the Maritime Administrator. Within five working days after the due date for the applicant's response, the Maritime Administrator will advise the applicant, as well as those submitting protests, of the action taken, with a concise written explanation of his action. If no protest is received concerning the application, the Maritime Administrator will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.500 Construction-Differential Subsidy (CDS))

By Order of the Maritime Administrator.

Dated: February 18, 1982.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 82-4812 Filed 2-24-82; 8:45 am]

BILLING CODE 4910-81-M

[Docket S-712]

Participation by Vessels Built With Construction-Differential Subsidy in the Carriage of Crude Oil in the Domestic Trade; Application of Archon Shipping, Inc.

Notice is hereby given that by application of February 16, 1982, Archon Shipping, Inc. (Archon) requested permission under section 506 of the Merchant Marine Act, 1936, as amended, and Part 250 of Title 46 of the Code of Federal Regulations, for its bareboat chartered vessel, TT BROOKLYN to operate for six months in the Alaskan Oil trade. The 225,000 deadweight ton BROOKLYN, which was built with construction-differential subsidy (CDS), would carry crude oil from Valdez, Alaska, to Panama and/or the U.S. Gulf for oncarriage only to U.S. port. The vessel would operate under sub-time charter from American Petrofina, Incorporated to S.P.C. Shipping, Inc. a subsidiary of Sohio (Sohio) during the six-month period and would commence Alaskan service on or about May 15–30, 1982.

Sohio further advised that, to its knowledge, no suitable Jones Act tonnage is available which can provide the full shipping capacity required by Sohio in the Alaskan oil trade.

Interested parties may inspect Archon's application in the Office of the Secretary, Maritime Administration, Room 7300A, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

Any person, firm, or coproration who is a "competitor," as defined in § 250.2 of the regulations as set forth in 46 CFR 250 published in the Federal Register issue of June 29, 1977 (42 FR 33035), and who desires to protest the application as it pertains to the carriage of oil in the domestic trade from Alaska to Panama should submit the protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20590.

Any person, firm or corporation who desires to protest the application as it pertains to the carriage of oil in the domestic trade from Alaska directly to the U.S. Gulf should submit the protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20590.

Protests must be received by March 4, 1982. If a protest is received, the applicant will be advised by telephone or telegram of the protest and will be allowed three working days to respond in a manner acceptable to the Maritime Administrator. Within five working days after the due date for the applicant's response, the Maritime Administrator will advise the applicant, as well as those submitting protests, of the action taken, with a concise written explanation of his action. If no protest is received concerning the application, the Maritime Administrator will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.500 Construction-Differential Subsidy (CDS))

By Order of the Maritime Administrator.

Dated: February 18, 1982.

Robert J. Patton, Jr.

Secretary.

[FR Doc. 82-4813 Filed 2-24-82; 8:45 am]

BILLING CODE 4910-81-M

[Docket S-710]

Participation by Vessels Built With Construction-Differential Subsidy in the Carriage of Crude Oil in the Domestic Trade; Application of ARCO Transportation Co.

Notice is hereby given that by application of February 12, 1982, ARCO Transportation Company (Arco) requested permission under section 506 of the Merchant Marine Act, 1936, as amended, and Part 250 of Title 46 of the Code of Federal Regulations, for its owned vessel, SS AMERICAN SPIRIT (to be renamed ARCO SPIRIT and so identified hereafter) to operate for six months in the Alaskan oil trade. The 262,400 deadweight ton ARCO SPIRIT, which was built with construction-differential subsidy (CDS), would carry crude oil from Valdez, Alaska, to Panama and/or the U.S. Gulf for oncarriage only to a U.S. port. The vessel would be under time charter to Exxon Company, U.S.A. (Exxon) during the six-month period and would commence Alaskan service on or about March 15, 1982.

Exxon notified Arco of its need for the ARCO SPIRIT inasmuch as the waiver period of Exxon's time chartered CDS tanker, AMERICAN INDEPENDENCE, is expiring. Exxon stated that it has a continuing need for a 265,000 DWT tanker to move its Alaskan crude oil. Exxon further advised that, to its knowledge, no suitable Jones Act tonnage is available which can provide the full shipping capacity required by Exxon in the Alaskan oil trade.

Interested parties may inspect Arco's application in the Office of the Secretary, Maritime Administration, Room 7300A, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

Any person, firm, or corporation who is a "competitor," as defined in § 250.2 of the regulations as set forth in 46 CFR 250 published in the Federal Register issue of June 29, 1977 (42 FR 33035), and who desires to protest the application as it pertains to the carriage of oil in the domestic trade from Alaska to Panama should submit to protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20590.

Any person, firm or corporation who desires to protest the application as it pertains to the carriage of oil in the domestic trade from Alaska directly to the U.S. Gulf should submit the protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20590.

Protests must be received by March 4, 1982. If a protest is received, the applicant will be advised by telephone or telegram of the protest and will be allowed three working days to respond in a manner acceptable to the Maritime Administrator. Within five working days after the due date for the applicant's response, the Maritime Administrator will advise the applicant, as well as those submitting protests, of the action taken, with a concise written explanation of his action. If no protest is received concerning the application, the Maritime Administrator will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.500 Construction-Differential Subsidy [CDS])

By Order of the Maritime Administrator.

Dated: February 18, 1982.

Robert J. Patten, Jr.,

Secretary.

[FR Doc. 82-4824 Filed 2-24-82; 8:45 am]

BILLING CODE 4910-81-M

[Docket S-713]

Participation by Vessels Built With Construction-Differential Subsidy in the Carriage of Crude Oil in the Domestic Trade; Application of Boston VLCC Tankers, Inc. IV

Notice is hereby given that by undated submission received February 19, 1982, Boston VLCC Tankers, Inc. IV (Boston IV) requested permission pursuant to section 506 of the Merchant Marine Act, 1936, as amended (Act), and the regulations contained in 46 CFR part 250 to utilize its owned vessel, the SS NEW YORK, in the domestic trade beginning on or about May 10, 1982. The 264,100 deadweight-ton NEW YORK, which was built with construction-differential subsidy (CDS), would transport crude oil for a period of six months from Valdez, Alaska, to Panama and/or the U.S. Gulf/Caribbean areas for oncarriage to U.S. ports. The vessel would be under time charter to SPC Shipping Inc., a subsidiary of Standard Oil Company (Ohio).

It is noted that on November 17, 1982 as a result of excess time under a previous authorization, the Maritime Administrator reduced by eight days the next operating period of the NEW YORK in the domestic trade. Inasmuch as the service requested in the current application would by the "next" operating period of the NEW YORK in domestic trade, the vessel would be required to terminate its Alaskan operations on or about November 1, 1982 instead of on or about November 9, 1982.

Boston IV makes its application for the NEW YORK subject to the prior employment of the TT BAY RIDGE and SS MANHATTAN. Both of these vessels are eligible for domestic trading.

Interested parties may inspect Boston IV's application in the Office of the Secretary, Maritime Administration, Room 7300A, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

Any person, firm, or corporation who is a "competitor," as defined in section 250.2 of the regulations as set forth in 46 CFR 250, and who desires to protest the application as it pertains to the carriage of oil in the domestic trade from Alaska to Panama should submit the protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20590.

Any person, firm or corporation who desires to protest the application as it pertains to the carriage of oil in the domestic trade from Alaska directly to the U.S. Gulf/Carribbean should submit the protest in writing, in triplicate, to the Secretary, Maritime Administrative, Washington, D.C. 20590.

Protest must be received within five working days after the date of publication of this notice in the Federal Register. If a protest is received, the applicant will be advised by telephone or telegram of the protest and will be allowed three working days to respond in a manner acceptable to the Maritime Administrator. Within five working days after the due date for the applicant's response, the Maritime Administrator will advise the applicant, as well as those submitting protests, of the action taken, with a concise written explanation of his action. If no protest is received concerning the application, the Maritime Administrator will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.500 Construction-Differential Subsidy [CDS])

By Order of the Maritime Administrator.

Dated: February 22, 1982.

Robert J. Patten, Jr.,

Secretary.

[FR Doc. 82-5105 Filed 2-24-82; 8:45 am]

BILLING CODE 4910-81-M

NATIONAL TRANSPORTATION SAFETY BOARD

Hearings, Reports, Recommendations, Responses; Availability

Notice of Hearing: In connection with its investigation of the accident involving Air Florida, Inc., Boeing 737 of U.S. Registry N62AF, at Washington, D.C., on Jan. 13, the Board will convene a hearing at 9:00 a.m. on Mar. 1 in the Capital View Ballroom at the Quality Inn-Pentagon City, 320 Army-Navy Dr., Arlington, VA.

Aircraft Accident Report—*Universal Airways, Inc., Beech 65-A80/Excalibur Conversion, N100UV, Near Madisonville, Texas, July 2, 1981 (NTSB-AAR-81-17).*

Recommendation Responses from—

Inspection Generale de L'Aviation Civile et de la Meteorologie, Paris, Jan. 7, A-81-150. Most of the objectives have already been attained. However, will request Air France to bring to its flight personnel's attention, established procedures for informing cabin attendants and preparing the cabin for a foreseable difficult landing. *Jan. 7, A-81-151.* Concurs with the recommendation. Jan. 7, A-81-152. Procedures in the Air France Operations Manual are in compliance with current national and international regulations on CVR's

U.S. Coast Guard, Jan. 19, M-79-17. Will keep the Board advised of developments in the status of transceiver installations. *Jan. 19, M-79-18.* Believes that Rule 34 of the Inland Navigational Rules Act of 1980 is responsive to the recommendation. *Jan. 19, M-79-25.* Does not concur with the recommendation. *Jan. 19, M-79-26.* Concurs with the recommendation. *Jan. 19, M-79-28.* Estimated date of completion for the ship alteration of lifejacket storage for one remaining class of cutter is July 1.

Illinois Central Gulf, Jan. 28, R-81-32 and -33. Has implemented a more rigid track inspection program and correction of defects found by track inspectors, track supervisors, and division engineers. Standards for curve elevation have been modified and curve worn rail found below acceptable standards has been eliminated.

International Association of Fire Fighters, Jan. 28, R-81-36 and -37. Will assist the U.S. Fire Administration and the Urban Mass Transportation Administration in rail rapid transit system training programs which address fire safety concerns.

Norfolk and Western Railway Company, Jan. 28, R-81-37 and -38. Does not concur with the recommendations.

National Weather Service, Jan. 28, A-81-103. Does not concur with the recommendation.

Southern Pacific Transportation Company, Feb. 1, R-80-3 and -4. Believes that appropriate actions are currently being taken.

National Weather Service, Feb. 2, M-81-24. Can make NWS Radar Summary more useful to marine coastal operations by including marine reference points and increasing, where possible, specific details on storm location and movement.

Federal Aviation Administration, Feb. 8, A-78-5, -8, -9, -11, and -12. Radio Technical Commission for Aeronautics Special Committee 136 with NASA and FAA participation is producing a minimum operating performance standard on ELT installation and performance and is considering the inclusion of aircraft manual guidance for ELT procedures. Will keep the Board informed of progress. *Feb. 8, A-78-7 and -9.* Believes that current rules on ELT's are adequate.

National Highway Traffice Safety Administration, Feb. 9, H-81-36. Will distribute States copies of Board's most recent fog accident report. Believes no further action can be taken because of current state-of-the-art. *Feb. 9, H-81-37.* Currently reviewing comments submitted by the Board to Docket 1-11, Notice 08.

Note.—Single copies of reports, recommendation letters, and responses are free on written request, identified by recommendation or report number, to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. (Multiple copies of reports are obtainable from National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161.)

Effie M. Upshaw,

Alternate Federal Register Liaison Officer.

February 16, 1982.

[FR Doc. 82-4826 Filed 2-24-82; 8:45 am]

BILLING CODE 4910-58-M

VETERANS ADMINISTRATION

Veterans' Advisory Committee on Rehabilitation; Meeting

The Veterans Administration gives notice that a meeting of the Veterans' Advisory Committee on Rehabilitation, authorized by section 1521, title 38, United States Code, will be held in Room 617 of the Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, March 10, 1982, at 9 a.m. The purpose of the Committee will be to review the administration of veterans' rehabilitation programs and provide recommendations to the Administrator as the Committee determines appropriate.

The meeting will be open to the public up to the seating capacity of the conference room. Because of the limited seating capacity it will be necessary for those wishing to attend to contact Dr. Norwood L. Williams, Executive Secretary, Veterans' Advisory Committee on Rehabilitation (phone 202-389-2026) prior to March 5, 1982.

Interested persons may attend, appear before, or file statements with the Committee. Statements, if in written form, may be filed before or within 10 days after the meeting. Oral statements will be heard at 2:30 p.m. on March 10, 1982.

Dated: February 18, 1982.

Robert P. Nimmo,

Administrator.

[FR Doc. 82-4827 Filed 2-24-82; 8:45 am]

BILLING CODE 8320-01-M

Veterans' Advisory Committee on Rehabilitation; Membership List

The Veterans Administration gives notice that 10 members have been appointed to the Veterans Advisory Committee on Rehabilitation authorized by section 1521, title 38, United States Code, for a three year term ending December 31, 1984.

General Public Members—

*Mr. R. Jack Powell, Executive Director, Paralyzed Veterans of America, Inc.

Mr. Russell C. Williams, Blinded Veterans Association

Mr. William Gearhart, Disabled American Veterans

Mr. Sol Kaminsky, Secretary, National Amputation Foundation

Dr. John L. Melvin, Chairman, University of Wisconsin Rehabilitation Program

Ex-Officio Members—

Dr. Cecilia Frantz, Director, National Institute for Handicapped Research, Department of Education

Mr. George Conn, Commissioner of Rehabilitation Services, Department of Education

Mr. William C. Plowden, Jr., Assistant Secretary of Labor for Veterans Employment, Department of Labor

Dr. Earl Brown, Jr., Acting Deputy Assistant Chief Medical Director for Rehabilitation Services, Department of Medicine and Surgery, Veterans Administration

Dr. Stephen L. Lemons, Director, Vocational Rehabilitation and Counseling Service, Department of Veterans Benefits, Veterans Administration

Dated: February 18, 1982.

Robert P. Nimmo,

Administrator.

[FR Doc. 82-4828 Filed 2-24-82; 8:45 am]

BILLING CODE 8320-01-M

*Serves as Chairman of the Committee.

Sunshine Act Meetings

Federal Register
Vol. 47, No. 38
Thursday, February 25, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, March 5, 1982.

PLACE: 2033 K Street, NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:
Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S-388-82 Filed 2-23-82; 3:00 pm]
BILLING CODE 6351-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 1:25 p.m. on Saturday, February 20, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) Accept sealed bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Bank of Yorkville, Yorkville, Tennessee, which was closed on February 20, 1982 by the Commissioner of Banking of the State of Tennessee; (2) accept the bid for the transaction submitted by First-Citizens National Bank of Dyersburg, Dyersburg, Tennessee, subject to approval of the appropriate court; and (3) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction; and

(B)(1) Approve the application of F & M Bank, Minneapolis, Minnesota, a proposed new bank in organization, for Federal deposit insurance, for consent to merge, under its charter and title, with Farmers & Mechanics Savings Bank, Minneapolis, Minnesota, an insured mutual savings bank, and for consent to establish the main office and two branches of Farmers & Mechanics Savings Bank as the main office and two branches of the resultant bank; (2) provide financial assistance to The Marquette National Bank of Minneapolis, Minneapolis, Minnesota, pursuant to section 13(e) of the Federal Deposit Insurance Act, in order to facilitate the transfer of substantially all the assets and liabilities of F & M Bank to The Marquette National Bank of Minneapolis pursuant to a Plan of Reorganization immediately subsequent to the merger of Farmers & Mechanics Savings Bank into F & M Bank and in order to prevent the probable failure of Farmers & Mechanics Savings Bank; and (3) act upon certain related matters.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: February 22, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-390-82 Filed 2-23-82; 11:26 am]
BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, February 22, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

In voting to move these matters from open session to closed session, the Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: February 22, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-389-82 Filed 2-23-82; 11:26 am]
BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, February 22, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director C. T. Conover (Comptroller of the Currency), that Corporation business required, on less than seven days' notice to the public, the withdrawal from the agenda for consideration in open session and the addition to the agenda for consideration at the closed meeting held at 2:30 p.m. the same day, of the following matters:

Application of State Bank and Trust Company, Unadilla, Georgia, for consent to merge, under its charter and title, with Bank of Pinehurst, Pinehurst, Georgia, and for consent to establish the sole office of Bank of Pinehurst as a branch of the State Bank and Trust Company.

Report of the Director, Division of Accounting and Corporate Service:

Memorandum re: Investment Management Report as of December 31, 1981.

In voting to move these matters from open session to closed session, the Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: February 22, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-219-82 Filed 2-23-82; 11:26 am]
BILLING CODE 6714-01-M

withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of First-Citizens Bank and Trust Company of South Carolina, Columbia, South Carolina, for consent to merge, under its charter and title, with Bank of Chesterfield, Chesterfield, South Carolina, and to establish the two offices of Bank of Chesterfield as branches of the resultant bank.

Memorandum re: Defereal of Losses on Asset Sales.

The Board further determined, by the same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,115–L—Franklin National Bank, New York, New York

Case No. 45,118–L—The First National Bank and Trust Company of Tuscola, Tuscola, Illinois

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters added to the agenda in a meeting open to public observation; and that the matters added to the agenda could be considered in a closed meeting by authority of subsections (c)(4) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4) and (c)(9)(B)).

Dated: February 22, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-393-82 Filed 2-23-82; 11:26 am]
BILLING CODE 6714-01-M

5

FEDERAL ELECTION COMMISSION

[FR-S 245]

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, February 25, 1982, 10 a.m.

CHANGE IN MEETING: The following matter has been added:

AO 1981–60 (Reconsideration following Commission approval on 2–16–82)

* * * * *

DATE AND TIME: Tuesday, March 2, 1982, 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Wednesday, March 3, 1982, 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Continuation of Executive Session of 3–2–82, if necessary.

* * * * *

DATE AND TIME: Thursday, March 4, 1982, 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (fifth Floor).

CHANGE IN MEETING: The open meeting previously scheduled for this date has been chancelled due to lack of business.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; Telephone: 202–523–4065.

Lena L. Stafford,

Acting Secretary of the Commission.

[S-387-82 Filed 2-23-82; 4:00 pm]
BILLING CODE 6715-01-M

6

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 7798, February 22, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., February 25, 1982.

CHANGE IN MEETING: The following item has been added:

Item No., Docket No., and Company

CP–10. Docket No. CP82–195–000, Consolidated Gas Supply Corporation

Kenneth P. Plumb,

Secretary.

[S-396-82 Filed 2-23-82; 2:55 pm]
BILLING CODE 6717-01-M

7

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., March 3, 1982.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agreement No. 10071–1: Modification of the Cruise Lines International Association to specify qualifications for membership and financial responsibility.

2. Procedures for disposition of matters before the Commission.

Portion closed to the public:

1. Docket No. 79–9: Prudential Lines, Inc. v. Continental Grain Company—Consideration of request for oral argument and possible consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S-394-82 Filed 2-23-82; 1:01 pm]
BILLING CODE 6730-01-M

8

LEGAL SERVICES CORPORATION

Board of Directors Meeting

TIME AND DATE: 2 p.m.–5 p.m., Thursday, March 4, 1982 and 10 a.m.–5 p.m., Friday, March 5, 1982.

PLACE: Legal Services Corporation Headquarters, eighth floor meeting room, 733 15th Street, NW.

STATUS: Open meeting (except for consideration of personnel and litigation matters which may be closed by vote of the Board of Directors pursuant to 45 CFR 1622.5 (a), (e) and (h)].

MATTERS TO BE CONSIDERED:

(1) Adoption of Agenda.
(2) Introduction of Board Members.
(3) Approval of Closing a Portion of Meeting.
(4) Approval of Minutes of December 4 and December 31, 1981 Meetings.
(5) Ratification of Actions of December 31, 1981 Meeting.
(6) Selection of Interim Chairman of the Board.
(7) Review of Litigation and Retention of Outside Counsel (may be discussed in executive session).
(8) Consideration of Vacancy in Office of President of the Corporation as of March 31, 1982 and other personnel matters (may be discussed in executive session).
(9) Briefing of History of the Legal Services Corporation by Former Board Chairman Roger Cramton.
(10) Briefing by Marshall Breger, former Board Member.
(11) Briefing by Corporation President Dan Bradley and Senior Staff including a financial report.
(12) Discussion of Selection of Auditor for FY '82.
(13) Consideration of Board Committees.
(14) Review of Policy concerning 1982 funding for recipients.
(15) Consideration of the draft 1981 Annual Report.
(16) Comments by Members of the Public.
(17) Other Business.
(18) Future Meeting Dates.
(19) Adjournment.

FOR FURTHER INFORMATION CONTACT: John Meyer, Executive Office (202) 272–4040.

Issued: February 22, 1982.

William J. Olson,

Chairman.

[S–280–82 Filed 2–23–82; 4:54 pm]

BILLING CODE 6820–35–M

9

[2P0401]

PAROLE COMMISSION

National Commissioners (the Commissioners presently maintaining offices at Bethesda, Maryland, Headquarters).

TIME AND DATE: 10 a.m., Thursday, February 25, 1982.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Bethesda, Maryland 20015.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 4 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission; (301) 492–5967.

[S–280–82 Filed 2–23–82; 11:30 am]

BILLING CODE 4410–01–M

federal register

Thursday
February 25, 1982

Part II

Environmental Protection Agency

Hazardous Waste Management; Interim and Proposed Regulations

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122, 264, and 265

[SW-FRL 1996-3a]

Hazardous Waste Management System Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities and EPA Administered Permit Programs; Hazardous Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Interim final amendments to rule.

SUMMARY: On May 19, 1980, EPA promulgated regulations applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities which prohibited the landfill disposal of most containerized liquid waste or waste containing free liquid on and after November 19, 1981. Further, on June 29, 1981, EPA amended its hazardous waste management regulations so as to extend the compliance date of the restriction on the landfill disposal of containerized liquid ignitable wastes to coincide with the compliance date of the general restriction on landfill disposal of liquids. The Agency is today extending the compliance date on both these requirements until May 20, 1982, and, in a separate action, is proposing amendments to these restrictions. This extension of compliance dates is provided for the sole purpose of allowing time to complete the rulemaking action on today's proposed amendments.

The Agency is also today exempting from the requirements of the hazardous waste management regulations, the acts of adding absorbent material to hazardous waste in containers and adding hazardous waste to absorbent material in a container, at the time waste is first placed in the container, in order to reduce the free liquids in a container.

DATES: These amendments are effective February 18, 1982. Comments are due on or before March 29, 1982.

ADDRESS: Comments should be addressed to Deneen Shrader, Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, Washington, D.C. 20460. Comments should identify the regulatory docket as follows: "Docket No. 3004, Extension of Section 265.314(b)". The official docket for this regulation is located in Room 2636, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 and is available for viewing from 9 a.m. to 4 p.m., Monday thru Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA hazardous waste hotline, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 800/424-9346 (382-3000 in Washington, D.C.). For specific information on this amendment, contact Alfred W. Lindsey, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-9185.

SUPPLEMENTARY INFORMATION:

I. Introduction

On May 19, 1980, EPA promulgated hazardous waste regulations in 40 CFR Parts 260-265 (45 FR 33066 *et seq.*) which established in conjunction with earlier regulations promulgated on February 26, 1980 (45 FR 12721 *et seq.*), the principal elements of the hazardous waste management program under Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6921, *et seq.*). Part 265 of the May 19 regulations set forth standards applicable to hazardous waste treatment, storage, and disposal facilities which have "interim status" under Section 3005(e) of the Resource Conservation and Recovery Act (RCRA). Subpart N (§§ 265.300-265.330) of those regulations established interim status standards applicable to owners and operators of landfills.

Section 265.314 (b) and (c) of these standards provide that containers holding liquid waste or waste containing free liquids must not be placed in a landfill on and after November 19, 1981 unless the container is designed to hold liquids or free liquids for a use other than storage (such as a battery or capacitor), the container is very small (such as an ampule), or the container is packaged in accordance with § 265.316 (lab packs, see 46 FR 56582, November 17, 1981). Section 265.312(b) of these standards, as amended on June 29, 1981 (46 FR 33502), provides that liquid ignitable waste may be placed in a landfill, if containerized and handled in the manner specified under that section, until the compliance date for the ban on landfilling liquid waste contained in § 265.314. After that date, disposal of liquid ignitable waste in landfills is prohibited.

Subsequent to the promulgation of these regulations, the regulated community brought to the Agency's attention several difficulties they are having or would have in complying with these requirements. Some of the information on these problems was brought to the Agency's attention in the context of ongoing litigation negotiations under the *Shell Oil v. EPA* lawsuit. In addition, a rulemaking petition has been filed with the Agency pursuant to 40 CFR § 260.20, requesting the deletion of §§ 265.312 and 265.314(b).

EPA believes there are important policy and technical issues concerning the ban on containerized liquids in landfills that need to be resolved. EPA is today proposing amendments, in a separate action, that address many of the concerns raised by the regulated community.

Compliance with the existing § 265.314(b) could impose substantial capital costs on the regulated community for such things as decanting equipment. Some of those costs could prove to be unnecessary if EPA finalized amendments to the regulations that are similar to those being proposed today. EPA does not believe it makes sense to require the regulated community to incur those costs while EPA resolves some of the key issues concerning § 265.314(b).

Therefore, EPA is amending § 265.314(c) to defer the compliance date of § 265.314(b) until May 20, 1982 and is amending § 265.312(b) to provide a compliance date for this section that coincides with that of § 265.314(b).

The preamble to the proposed amendments, also published in today's Federal Register, contains a further discussion of the problems raised by the regulated community, EPA's reaction to these perceived problems, EPA's continued concerns regarding containerized liquids in landfills, and several options the Agency is considering to resolve these problems in an environmentally protective yet practical manner.

II. Exemption of Addition of Absorbent Material

The Agency is aware that many persons are now, or are planning to begin, adding absorbent material to waste in containers or adding waste to drums containing absorbent material, in order to solidify or reduce the free liquid content of their containerized wastes. There appears to be a great deal of confusion in the regulated community regarding whether or not these practices constitute treatment and are subject to regulation. These practices are "treatment", as that term is defined in § 260.10 because they are "methods * * * designed to change the physical * * * character * * * of hazardous waste so as to render such waste * * * less hazardous to * * * dispose."

Because of this, persons who employ these practices must either have interim status or a permit covering these practices and must comply with the relevant requirements of the interim status standards of 40 CFR Part 265 or those standards of 40 CFR Part 264 incorporated in their permit, as appropriate.

The Agency does not believe that these treatment practices, when employed at the time hazardous wastes have been first placed in containers, pose a substantial hazard to human health or the environment. EPA has not received any reports or other information indicating that these practices pose a hazard. Moreover, an assessment of the physical-chemical reactions involved in these practices has led EPA to the conclusion that there is no significant likelihood that they could pose a hazard as long as the absorbent material is not capable of chemically reacting with the waste to produce explosion, fire or the generation of toxic gases. The absorbents commonly used are cement kiln dust, fly ash, fuller's earth, and vermiculite. None of these materials are known to react in such a dangerous manner with any of the hazardous wastes identified in 40 CFR Part 261.

However, the Agency is not convinced that these treatment practices, when employed at a time after hazardous wastes have been emplaced in containers, pose no substantial hazard. This is because such containers must be opened in order to employ these practices. Several members of the regulated community have argued that the opening of containers can be hazardous because of accidental ignition of ignitable wastes, accidental reaction of reactive wastes, or release of toxic gases. Presumably, these dangers can be avoided by employing sophisticated container opening facilities and practices which are designed to prevent these hazards. Without these safeguards, however, absence of potential hazard cannot be assumed. Consequently, the Agency believes that these practices must be regulated under the standards of 40 CFR Parts 264 and 265 to assure the application of these safeguards.

Importantly, the potential hazards cited above do not derive from the actual addition of absorbents to wastes or wastes to absorbents but, instead, derive from the essential ancillary operation of opening containers. Although it would be possible to require the regulation of the container-opening operation without regulating the absorbent-adding operation, these operations are so intimately tied together that regulation of the combined operations as a treatment process seems justified in constructing regulatory requirements.

Another potential problem involved in these treatment practices is the possibility of leakage from the container. It is important that the absorbent treatment process take place in a container of solid structural integrity that is not susceptible to leakage. Therefore the container used for this treatment operation must be designed and managed in accordance with those provisions of EPA's Part 265 interim status standards that are aimed at maintaining the physical integrity of the container itself.

Specifically, those taking advantage of this exemption must assure compliance with §§ 265.171 and 265.172. These provisions are designed to assure that the container is compatible with the waste placed in it and that the physical integrity of the container is maintained. In the case of mixtures of wastes and absorbent material, those requirements apply to the waste/absorbent mixture as well as the waste itself.

In many cases, the mixing of wastes and absorbent materials will be performed by generators in the containers that will actually be used to transport the waste. Under § 262.30 of EPA's hazardous waste regulations, containers used to transport waste have to satisfy certain requirements specified in Department of Transportation regulations. EPA believes that containers designed in accord with the DOT regulations referenced in § 262.30 should satisfy the general requirements of §§ 265.171 and 265.172.

Based on the foregoing analysis, EPA is today amending § 265.1 to exempt from regulation under interim status the practice of adding absorbent material to hazardous waste in a container or adding hazardous waste to absorbent material in a container. This exemption, however, is subject to three conditions:

a. The absorbent treatment process must occur at the time when waste is first placed in a container;

b. The treatment process must assure compliance with § 265.17(b);

c. The container must comply with §§ 265.171 and 265.172.

The Agency is also making today similar amendments to § 264.1 and § 122.21.

The Agency believes that the effect of today's amendment is to provide generators with a conditioned exemption from regulation with respect to absorbent addition practices. It further believes that this amendment will have three practical effects for generators who employ these practices. First, existing generators who have interim status for one or more hazardous waste management activities and who did not include absorbent-adding operations in their Part A permit application will not have to seek and obtain an interim status modification under § 122.23(c). Second, existing generators who do not have interim status and new generators will not have to apply for and obtain a RCRA permit before employing these practices. Third, existing generators having interim status only for these practices will not have to eventually obtain a RCRA permit. Because of these effects, many generators will be spared the administrative burden of applying for and obtaining either an interim status modification or a RCRA permit for activities that do not pose a substantial hazard and certainly do not justify these administrative burdens. Because of these reduced burdens, EPA believes that generators will be encouraged to—or, at least, will not be discouraged from—employing absorbent-adding practices. This is of significant environmental importance because it leads to the minimization of containerized free-liquid wastes which may be landfilled and promotes such minimization by generators who can most economically accomplish this objective.

III. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after their promulgation. The purpose of this statutory requirement is to allow persons affected by the regulations sufficient lead time to prepare to comply with major new regulatory requirements. Today's amendments, however, do not impose new requirements but rather defer and reduce pre-existing requirements. Since an effective date six months after promulgation would defeat the purposes of today's amendments, the Agency is making them effective immediately.

IV. Compliance With Executive Order 12291

Executive Order 12291 (46 FR 13193, February 19, 1981) requires that EPA prepare a Regulatory Impact Analysis for each major rule. The Order defines a "major rule" as any regulation that is likely to result in:

A major increase in costs or prices for consumers, individual industries, Federal, State, or local agencies or geographic regions; or

Significant adverse effects on competition, employment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action is a postponement of the compliance date of a regulation and an exemption from a previously imposed requirement. As such, it has none of the effects noted above. Accordingly, EPA concludes that this action is not a major rule under E.O. 12291.

This notice was submitted to the Office of Management and Budget for review as required by E.O. 12291.

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et. seq.*, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The Administrator may instead certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

These amendments should have no adverse economic impact on a substantial number of small entities in that they (1) defer the compliance date of the pre-existing requirements, and (2) exempt from regulation a process previously subject to regulation under RCRA. Accordingly, I hereby certify that this interim final regulation will have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

Dated: February 18, 1982.

Anne M. Gorsuch,

Administrator.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulation is amended as follows:

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM; THE HAZARDOUS WASTE PERMIT PROGRAM; AND THE UNDERGROUND INJECTION CONTROL PROGRAM

1. The authority citation for Part 122 reads as follows:

Authority: Resource Conservation Recovery Act, 42 U.S.C. 6901 *et seq.*, Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*, and the Clean Water Act, 33 U.S.C. 1251 et seq.

2. Section 122.21 is amended by adding paragraph (d)(2)(viii) to read as follows:

§ 122.21 Purpose and scope of Subpart B.

* * * * *

(d) * * *

(2) * * *

(viii) Persons adding absorbent material to waste in a container (as defined in § 260.10 of this chapter) and persons adding waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and §§ 264.17(b), 264.171, and 264.172 of this Chapter are complied with.

* * * * *

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

3. The authority citation for Part 264 reads as follows:

Authority: Secs. 1006, 2002(a), and 3004, Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), and 6924).

4. Section 264.1 is amended by adding paragraph (g)(10) to read as follows:

§ 264.1 Purpose, scope, and applicability.

* * * * *

(g) * * *

(10) The addition of absorbent material to waste in a container (as defined in § 260.10 of this chapter) or the addition of waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and §§ 264.17(b), 264.171, and 264.172 are complied with.

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

5. The authority citation for Part 265 reads as follows:

Authority: Secs. 1006, 2002(a), and 3004, Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), and 6924).

6. Section 265.1 is amended by adding paragraph (c)(13) to read as follows:

§ 265.1 Purpose, scope, and applicability.

* * * * *

(c) * * *

(13) The addition of absorbent material to waste in a container (as defined in § 260.10 of this chapter) or the addition of waste to the absorbent material in a container provided that these actions occur at the time waste is first placed in the containers; and §§ 265.17(b), 265.171, and 265.172 are complied with.

7. In § 265.312, paragraph (b) is revised to read as follows:

§ 265.312 Special requirements for ignitable or reactive waste.

* * * * *

(b) Until the compliance date for § 265.314(b), liquid ignitable wastes in containers may be landfilled without meeting the requirement of paragraph (a) of this section, provided that the wastes are disposed in such a way that they are protected from any material or conditions which may cause them to ignite. At a minimum, these liquid ignitable wastes must be disposed in non-leaking containers which are carefully handled and placed so as to avoid heat, sparks, rupture, or any other condition that might cause ignition of the wastes; must be covered daily with soil or other non-combustible material to minimize the potential for ignition of the wastes; and must not be disposed in cells that contain or will contain other wastes which may generate heat sufficient to cause temperatures equal to or exceeding the flash point of the wastes.

* * * * *

8. In § 265.314, paragraph (c) is revised to read as follows:

§ 265.314 Special requirements for liquid waste.

* * * * *

(c) The date for compliance with paragraph (a) of this section is November 19, 1981. The date for compliance with paragraph (b) of this section is May 28, 1982.

[FR Doc. 82-4990 Filed 2-24-82; 8:45 am]

BILLING CODE 6560-38-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 265

[SW-FRL 1998-3]

Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

AGENCY: Environmental Protection Agency.

ACTION: Proposed amendments to rule.

SUMMARY: On May 19, 1980, EPA promulgated regulations, applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities during interim status, which prohibited the landfill disposal of most containerized liquid waste or waste containing free liquid on and after November 19, 1981. As a result of issues raised by the regulated community with respect to this prohibition, the Agency is today proposing an amendment to this regulation to allow some containers holding free liquids to be disposed of in a landfill, in some circumstances.

In a separate action in today's Federal Register, EPA is providing a 90-day extension (from today's date) of the compliance date for the prohibition of landfill disposal of containerized liquid waste and the restrictions on the landfill disposal of liquid ignitable waste to allow time to complete this rulemaking action and to avoid immediately imposing requirements that might be changed as a result of this rulemaking action.

DATES: Comments are due on or before March 29, 1982.

ADDRESS: Comments should be addressed to Deneen Shrader, Docket Clerk, Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, Washington, D.C. 20460. Comments should identify the regulatory docket as follows: "Docket No. 3004, Liquids in Landfills." The official docket for this regulation is located in Room 2636, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday thru Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA hazardous waste hotline, Office of Solid Waste (WH–565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 ((800) 424–9346, 382–3000 in Washington, D.C.). For specific information on this amendment, contact Alfred W. Lindsey, Office of Solid Waste (WH–565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755–9185.

SUPPLEMENTARY INFORMATION:

I. Introduction

On May 19, 1980 EPA promulgated hazardous waste regulations in 40 CFR Parts 260–265 (45 FR 33066 *et seq.*) which established, in conjunction with earlier regulations promulgated on February 26, 1980 (45 FR 12721 *et seq.*), principal elements of the hazardous waste management program under Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended 42 U.S.C. 6921 *et seq.* Part 265 of the May 19 regulations sets forth standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities which have interim status under Section 3005(e) of the Resource Conservation and Recovery Act (RCRA). Subpart N (§§ 265.300–265.330) of those regulations established interim status standards applicable to landfills.

Section 265.314(b) of these standards prohibited the landfill disposal of most containerized liquid waste or waste containing free liquid on and after November 19, 1981. Section 265.312(b), as amended on June 29, 1981 (46 FR 33502), provides that liquid ignitable waste may be placed in a landfill, if containerized and handled in the manner specified, until the compliance date for the ban on landfilling liquid waste contained in § 265.314. After that date, disposal of liquid ignitable waste in landfills is prohibited.

The preamble to § 265.314 (45 FR 33214) sets forth the rationale for the prohibition on landfill disposal of containerized liquid waste or wastes containing free liquid. Essentially, two problems may result from the landfill disposal of containerized liquids: leachate generation and subsidence of the final landfill cover. Containers disposed of in a landfill eventually degrade, allowing their liquid contents to escape and contribute to leachate. Also, when containers degrade and their liquid content escapes, they collapse, creating voids, which in turn, may allow slumping and subsidence of the landfill cover material which may increase the infiltration or precipitation and thereby exacerbate the leachate generation problem. These events often occur after the post-closure care period when the owner/operator is no longer operating a leachate collection system, maintaining a final cover, or monitoring ground water.

II. The Problem With the Current Rule and EPA's Proposed Solution

EPA received a number of public comments on the prohibition set forth in § 265.314(b). Some of these comments criticized the necessity of this requirement. Others expressed difficulties that the regulated community would face in implementing this requirement. These latter comments fell into two classes. One class cited difficulties they would face in meeting the compliance date of November 19, 1981, for this requirement. They claimed they would have to design and construct sophisticated facilities and procedures to safely inspect incoming containers of waste and remove or solidify any free liquid that they might contain. They further claimed that they might not be able to have such facilities in operation by November 19, 1981. The other class of comments addressed the absence of a definition for the terms "liquid waste" and "waste containing free liquids" and the absence of a test protocol for measuring these properties. These comments noted that the requirement could not be reasonably and assuredly implemented without these definitions and a test protocol. Several of the petitioners for judicial review in *Shell Oil* v. *EPA* also raised issue with this requirement but focused on the absence of the definition of terms and a test protocol.

The Agency has not found compelling merit in the criticisms about the necessity of restricting the introduction of free liquids or liquid wastes into landfills. EPA strongly believes that introduction of containerized free liquids in landfills should be minimized to the extent possible, if not prohibited, for the reasons set forth in the preamble to the May 19, 1980 promulgation of the Part 265 standards.

The Agency has not found compelling merit in the comments about the difficulties in meeting the November 19, 1981 compliance date. Eighteen months were allowed to enable the regulated community to come into compliance with the requirement and the Agency has evidence that some members of the regulated community have prepared to comply with the requirement. Numerous options have existed for the regulated community to comply with the § 265.314(b) requirement, several of which have been readily implementable. Besides alternatives to landfilling (e.g., incineration, deep well injection, solvent recovery, other recovery, and conventional wastewater treatment techniques), the liquid-containing wastes can be treated by dewatering

techniques (e.g., screens, vacuum filters, filter press, centrifuge, heat drying) or by chemical/absorbent processes (e.g., cement kiln dust, fly ash, vermiculite, fuller's earth, and cementitious materials). Finally, keeping liquid and solid wastes separated at the generation point can achieve liquid-free wastes.

However, the Agency has found merit in the comments criticizing the absence of definition of terms and a test protocol. This led the Agency into a thorough discussion and negotiation of this matter with interested petitioners in *Shell Oil* v. *EPA*. Out of this discussion and negotiation, EPA came to the following tentative conclusions.

The Agency believes that the current § 265.314(b) prohibition is too extreme for real-world application. In its literal interpretation, landfill disposal of containerized wastes containing only "one drop" of free liquid is banned. This would often require extraordinary, high-cost management practices to achieve compliance. For example, a generator may take reasonable means to deliver liquid-free containerized wastes to a disposal facility by using screening or other dewatering or absorbent-addition methods on his wastes before placing them into containers. But frequently the vibration and settlement occurring in transit to the landfill will result in the separation from the wastes of additional small amounts of free liquids and result in the delivery of containers holding some amount of free liquids at the disposal facility. Therefore, the facility operator, in order to assure compliance with § 265.314(b), would have to open and inspect all incoming containers and perform additional dewatering (decanting) or absorbent-addition operations on those containerized wastes found to contain even the smallest amounts of liquids. The Agency concluded that this opening, inspecting, and additional treatment operation by the landfill operator, in many cases, would add unnecessary costs and operational disruption and could present unnecessary personnel safety and environmental hazards because of the ignitability, volatility or toxicity of many wastes commonly shipped in containers.

Even after considering these real-world problems, the Agency still believes it is appropriate to require in the interim status standards a minimization of free liquids in containerized wastes—minimization that could be achieved by reasonably simple and available dewatering practices and ordinary waste management practices. Because of the lack of extensive data on the levels of free liquids reduction that can be reasonably achieved on the wide variety of hazardous wastes, the Agency was unable to derive a calculated quantification of "minimization" but came to the professional judgment that containerized wastes containing less than ten percent by volume of free liquids could be readily achieved and reasonably implemented. Indeed, one major landfill operator has indicated that such a level can be and is being achieved in his current operations.

The Agency concluded that a 10 percent maximum objective would produce a decided improvement over past practices in disposing of containerized wastes and, therefore, is consistent with the regulatory strategy of using interim status standards to achieve initial, readily achievable improvements in hazardous waste management practices (see discussion of criteria for interim status standards in 45 FR 33159). The Agency also decided that this objective, combined with other interim status standards, would achieve reasonably acceptable environmental protection for interim status landfill operations. Although the Agency recognizes that the containerized free liquid wastes allowed in landfills often will eventually leak from their containers and migrate out of the landfill and into the environment, it believes that this leakage will be slow, occurring over an extended period of years, and is likely to be considerably diluted and attenuated (in the environmental). Because the amount of containerized free liquids available for leaching would be minimized, because the interim status closure and post-closure requirements would limit the amount of additional leachate generation from precipitation infiltration available for environmental migration, and because bulk-free disposal would be regulated, the Agency believes that any potential adverse environmental consequences will be substantially reduced.

At the same time, the Agency has concluded that more rigorous regulation of liquid emplacement in landfills may be justified for permitted facilities. In particular, it believes that certain persistent, mobile, and highly toxic or carcinogenic liquid wastes might need to be absolutely prohibited from disposal in landfills, in either bulk or containerized form. Additionally, some hydrogeologic settings might dictate more severe restriction of landfill disposal of containerized free liquids. The Agency is studying these matters and intends to propose future regulations or amendments as might be called for by its findings. At this time, however, the Agency believes that minimization of landfill disposal of containerized wastes, as discussed above, is a reasonable objective for interim status standards.

Having come to this position, the Agency discussed with the petitioners in *Shell Oil Co. v. EPA* a simple rule that would prohibit the landfill disposal of containers that contain more than ten percent by volume of free liquids as measured by an appropriate test protocol. In discussing this approach EPA recognized that this requirement, although achievable, would still have some of the same practical real-world problems in implementation as the current rule. Landfill operators might still have to open and inspect incoming containers to monitor compliance and correct noncomplying containers by decanting free liquids or adding absorbent. This opening, inspecting, and additional treatment operation, with its attendant safety and environmental risks, seemed to be a feature to be avoided if possible. Additionally, petitioners claimed that some hazardous wastes require extraordinary means of dewatering to achieve a content of free liquids less than ten percent. They argued that such extraordinary means of dewatering these wastes could be avoided if the regulatory approach taken could average the free liquid content of these wastes with other wastes to achieve the same end result. Consideration of these points ultimately led to the development of today's proposed amendment. As described below, this proposed amendment takes a different approach than discussed above, but the Agency believes that it achieves approximately the same results; that is, land disposal of containerized free liquids will be significantly limited (see discussion in III(B) below). The proposed amendment avoids the necessity of determining the free liquid fraction of individual containers, thereby avoiding the added and potentially unsafe operation of opening of containers to determine compliance with the regulation. This feature also simplifies enforcement of the regulation by focusing inspection on the number of non-exempted containers placed in a landfill rather than on the testing of individual containers for compliance with a specific free-liquid limit. Finally, the Agency believes that today's proposed amendment incorporates an economic incentive for landfill operators to minimize the number of containers holding free liquids in order to conserve that portion of their landfill which, pursuant to today's proposed rule, may be allocated for containers holding free liquids.

Based on the rationale just discussed, EPA has decided to propose the regulatory approach described below rather than an approach that would limit the liquid content in each container to 10%. EPA does, however, seek public comment on the latter regulatory approach. EPA is still actively considering a regulatory approach based on a "10% rule" as an alternative, or a supplement, to the regulatory approach being proposed today.

III. Proposed Amendment to § 265.314(b)

A. Overview

Today's proposed amendment to § 265.314(b) would allow containers holding free liquids to be placed in a landfill provided that: (1) The volume of such containers does not exceed a formula-determined fraction of the total volume of wastes and reasonable intermediate cover to be placed in the landfill, (2) the closure and post-closure maintenance plans provide for the post-closure maintenance of the final cover to accommodate subsidence that may arise from the collapse of such containers if they rupture and the free liquids escape and (3) such containers are uniformly placed in the landfill so that any subsidence resulting from the collapse of containers will be as uniform as possible. Further, today's proposed amendment requires that each container of waste be assumed to hold free liquids and subject to the above requirements unless: (1) The owner or operator demonstrates that the container does not hold free liquid, (2) the container is very small, such as an ampule, (3) the container only holds such free liquids as it was designed to hold in its use other than storage (e.g., a battery or capacitor holding free liquids), or (4) the container is a "lab pack" as defined in § 265.316. The last three types of containers excepted from the requirements of today's amendment already are allowed to be placed in a landfill without restriction under the current requirements of § 265.314(b) and § 265.316.

B. Formula for Determining the Allowable Volume of Containers Holding Free Liquids That May Be Disposed of in a Landfill

The formula contained in today's amendment for determining the fraction of the total volume of waste and intermediate cover that can be devoted to containers holding free liquids was derived from a proposal submitted by the National Solid Waste Management Association (NSWMA) and the Chemical Manufacturers Association (CMA) during discussions of this issue with petitioners in *Shell Oil v. EPA*. The formula is:

$$V = \frac{H}{100} \quad \text{for } H \text{ less than 25 feet}$$

$$V = 0.3 - \frac{H}{500} \quad \text{for equal to or greater than 25 feet}$$

where V = the allowable volumetric fraction of the total volume of wastes and reasonable intermediate cover in the landfill that can be used for disposal of containers holding free liquids

H = the maximum vertical depth of waste and reasonable intermediate cover in the landfill at closure (as measured in feet)

Although this formula was derived to limit the subsidence that will result from the degradation of containers holding free liquid, it also serves to limit the amount of free liquids that can be placed in a landfill. As can be easily calculated, the maximum percentage of the volume of a landfill that can be devoted to containers holding free liquids is 25 percent when H is 25 feet. At landfill depths greater and less than 25 feet, the percentage is less; e.g., at landfill depths of 100 feet, the percentage is 10 percent.

Although under today's proposed rule, the amount of free liquids in individual containers subject to the formula limitation is not restricted, the Agency believes that in actual application the average container will be only partially full of free liquids. Therefore, although, in the extreme case, the formula would allow up to 25 percent of the waste volume to be free liquids (if all containers were full of free liquids), EPA believes that, in actual operation, this fraction will be less than 10 percent—a fraction that results if the average free liquid content of containers subject to the formula is 40 percent by volume. Notwithstanding, the Agency is concerned that today's amendment may not achieve the degree of minimization of containerized liquids in landfills that could be reasonably achieved because it does not directly limit the total amount of containerized free-liquids placed in landfills. Consequently, EPA invites public comments on whether and how the amount of containerized free liquids allowed under today's amendment should be further limited. For example, the rule could prohibit the landfilling of containers holding more than a set percentage (e.g., 10 or 25 percent) free liquids by volume. This would entail some sort of inspection of containers to ascertain their percentage volume of free liquids. Opening the containers and measuring the free liquid content may be one method, but this involves the added operation of inspecting containers which today's rule is designed to avoid (see previous discussion). Some landfill operators and waste transporters have indicated that "tapping" or "rocking" a container and listening for the difference of sound from the portions occupied by free liquids as opposed to solids is a viable and reliable technique that avoids the more time consuming, costly and potentially dangerous operation of opening and quantitatively measuring free liquid content. Although EPA is dubious about the validity of such a technique, it does solicit comment on this technique. (It may, for example, be useful as a means of verifying information supplied by the generator.) Another approach would be for the landfill operator to depend on the generator to achieve the allowable free-liquid content of containerized wastes. This approach could be implemented by the landfill operator requiring certification from the generator that allowable amounts of free liquids in containerized wastes are being delivered and verifying the generator's compliance through random inspections of incoming containers. EPA is willing to consider the use of such procedures in establishing an enforcement policy for this provision.

To monitor compliance with today's amendment, EPA would expect the landfill operator to maintain a plan of the intended final shape and contours of the landfill at closure and the intended disposition of wastes, including containers holding free liquids, and intermediate cover. This plan would have to clearly show the specific space within the landfill to be allocated to containers holding free liquids and show that this space is within the limit allowed by the formula. EPA would also expect the landfill operator to maintain suitable records as part of his operating record demonstrating that containers holding free liquids are placed in accord with the terms of this plan. EPA believes the requirement for such records is currently within the scope of § 265.73(b)(2).

The Agency recognizes that unanticipated events may lead to non-compliance with today's proposed rule. For example, premature closure of the landfill or failure to obtain expected volumes of other-than-containerized-free-liquid-wastes could result in higher volumes of containerized free-liquid wastes than allowed by the formula. Today's amendment does not deal with these possible problems and, indeed, this may be a significant deficiency in the proposed approach for managing containerized free-liquid wastes.

Consequently, EPA invites comments on this issue. In particular, EPA wishes to know if such situations are likely to happen and how best they can be accommodated. If the occurrences are likely to be frequent and the environmental consequences serious, the Agency may have to require provisions in the closure plan and closure financial responsibility to accommodate these eventualities.

C. Effect of the Formula on Controlling Subsidence

As previously mentioned, the formula used in today's proposed rule was derived from a formula submitted by NSWMA and CMA during negotiations in *Shell Oil v. EPA*. It is evident that these petitioners designed the formula to limit the maximum depth of subsidence and, perhaps, the maximum volume of subsidence.[1] The basis for this limitation was the professional judgment of the capable, expert landfill operators, who advised NSWMA and CMA on this matter, that a maximum subsidence depth greater than 11.25 feet should be avoided. EPA relies on this professional judgment in tentatively accepting the formula used in today's proposed amendment.

Under the approach taken in today's proposed amendment, EPA is concerned about the long-term subsidence that may occur in allowing the landfill disposal of containerized liquid wastes. The current rule does not necessitate such a concern because it prohibits the landfill disposal of containers holding free liquids. Consequently, today's proposal includes not only the formula-derived limitation of landfill disposal of containers holding free liquids, but also requirements for (1) uniform placement of containers in the landfill and (2) a final cover at closure designed to accommodate the expected subsidence. The first of these added provisions is intended to alleviate differential subsidence that might be accentuated by non-uniform placement of containers holding free liquid wastes. The second of the additional provisions is intended to assure that special consideration is given in closure and post-closure plans to the added subsidence that may result from the landfilling of containerized free liquid wastes. Such special considerations may include: (1) Providing greater slopes in the contouring of the final cover at closure to accommodate the loss of elevation of contours when subsidence eventually occurs, (2) the stock-piling of final cover materials at closure for repairing subsidence damage to the final cover, and (3) a commitment in the post-closure plan to extent the post-closure care period for further repair and maintenance of the final cover if unusual subsidence occurs in the later stage of the post-closure care period.

Although the formula in today's proposed amendment will provide a means of calculating the maximum potential dimensions (depth and volume) of subsidence that may be caused by landfilling of containerized free liquid wastes, the more detailed prediction of and planning for remedying damage caused by such subsidence will depend on a great many factors, including the character (bridging capacity, density) of the wastes and soils placed above and between the buried containers. Because the detailed consideration of these factors is too complex to easily articulate in regulatory form, the Agency intends to develop technical guidance to assist compliance with this element of today's proposed amendment.

In spite of the fact that today's proposed amendment addresses the subsidence problem that may attend landfilling of containerized free liquids, the Agency has some concern about the ability of landfill owners and operators to adequately plan and provide for remedying the damage caused by post-closure subsidence.[2] It will be difficult to predict with accuracy, and therefore provide in closure and post-closure plans, the actual timing, location, size, and nature of subsidence and final cover distortion. In addition, it is possible that some amount of the subsidence may occur after the post-closure period. The Agency and the regulated community simply do not have much observed experience or data concerning subsidence in those landfills where containerized wastes are carefully placed. It is possible that subsidence due to landfilling of limited numbers of containers holding free-liquid wastes may not be extensive and may not be significantly greater than the subsidence resulting from the landfill disposal of other wastes. If it can be assumed, as previously mentioned, that individual containers average 40 percent free liquids, then maximum subsidence depths of four and a half feet can be expected. These subsidence depths may be manageable. Moreover, these subsidence depths may not be significantly different than those that attend the disposal of other wastes and which the Agency has not addressed with any special requirements in the Part 265 regulations.

Another concern that the Agency has with the subsidence that might result from landfilling of containerized free liquid wastes is the significant and, perhaps, irreparable damage that it may have on the integrity of multi-layered final covers. The state of the art in designing and constructing final covers calls for two or three layers of different materials, where each layer has a specific function to serve; e.g., a bottom layer of material of very low permeability to inhibit infiltration of precipitation into the landfill, a second layer of very highly permeable material to promote drainage from the landfill of the precipitation intercepted by the first layer and a top layer of soil for maintaining vegetation cover. Subsidence could disrupt a carefully constructed final cover of this or similar type, and repair would need to be more extensive than merely filling in the depressions created by subsidence with a single type of material stockpiled for this purpose.

Because of these concerns about the possible additional subsidence from the landfill disposal of containers holding free liquid wastes, EPA specifically invites comments on this matter and on the subsidence control requirements included in today's proposed amendment.

D. Liner/Leachate Collection System or Absorbent Material

The proposed regulation does not include a requirement for either (1) a liner and leachate collection and removal system, or (2) placement of absorbent materials around or under the containers holding free-liquid wastes. This requirement was included in the NSWMA/CMA proposal but is not reflected in today's proposed amendment.

EPA believes a liner and leachate collection and removal system is not likely to result in the removal of appreciable quantities of free liquids that eventually may leak from containers placed in a landfill, and therefore will not provide significant additional protection against migration of these liquids into the environment.

[1] The formula produces theoretical depths of subsidence ranging from zero at a fill depth of zero, increasing to a maximum of 11.25 feet at fill depths of 75 feet and then decreasing to zero at fill depths of 150 feet. These theoretical subsidence depths assume that the containers will eventually completely collapse to a theoretical container volume of zero and that soil bridging and other soil structure effects do not attenuate the theoretically possible subsidence depth. In actuality, neither of these assumptions will operate perfectly and the actual subsidence depth will be less than that theoretically predicted by the formula.

[2] Some subsidences may occur during operation of the landfill, particularly in very deep landfills where the weight of very deep overlying materials may cause some collapsing of containers, particularly those that have been weakened because of some amount of decay.

EPA believes that most containers which hold free liquids will fail at some distant future time and then release liquids over a long period of time. These releases could occur after the post-closure care period, when the leachate collection and removal system is no longer operated by the facility operator. Although a very lengthy or indefinite post-closure care period could accommodate this problem, it would not resolve a second problem discussed below.

A second problem arises because, in most cases, leaking containers will release liquids slowly over time. This typically means that leachate within the facility will "rain" down on the facility liner at a relatively low rate. Where the liner is constructed of relatively permeable material (e.g., clay), this low rate of leachate impingement will mean that a significant percentage of the leakage will exfiltrate through the liner rather than flow along the top of the liner to points where it can be collected and removed.

EPA also does not believe that placement of absorbent material around or under containers holding free liquids can be relied upon to significantly absorb liquids that leak from buried containers and thereby prevent migration of these liquids into the environment. The reasons for this belief were discussed in the preamble to the May 19, 1980 regulation (at 45 FR 33214); namely, difficulty in predicting absorbent capacity or performance in a landfill (e.g., the effects of decay, pressure, displacement, capacity taken up by precipitation, and channelized flow).

In accordance with § 265.314(a), bulk liquids may be placed in a landfill if the landfill has a liner, which is chemically and physically resistant to these liquids, and a leachate collection and removal system. The agency believes that a liner and leachate collection system is capable of intercepting and removing most of the leachate derived from bulk liquid disposal and, therefore, minimizing the migration of this leachate into the environment. Bulk liquids, as opposed to liquids in drums, are immediately free to migrate through a landfill and should do so relatively quickly. Therefore, such free liquids can be collected and removed via the leachate collection system during the facility's operating and postclosure care periods. Secondly, unlike containerized liquids which are released gradually and in small quantities, bulk liquids will tend to flow, rather than trickle, down through the landfill onto the liner and thus are much more amenable to collection and removal via a leachate collection and removal system. Thus, bulk liquids are more likely to flow in the collection system while liquids released from containers are more likely to seep through a liner if the liner is porous (e.g., clay).

The Agency specifically solicits comments on its assessment of the non-necessity of requiring a liner and leachate collection system or the placement of absorbent material in landfills in which containerized free liquids are disposed of.

E. Test Protocol for Free Liquids

Today's amendment provides that all containers are to be presumed to hold free liquids and landfilled in accordance with the requirements discussed above unless they are demonstrated not to contain free liquids (or unless they are small containers such as ampules; containers such as batteries, designed to hold free liquids for use other than storage; or lab packs). To provide a means of demonstrating that a container does not hold free liquids, today's proposed amendment contains a test protocol for free liquids.

EPA has considered and tested a wide variety of test methods which could be used to define the measure free liquids. Gravity tests, as well as tests which simulate earth pressures at various depths, have been investigated. The literature on over 70 test procedures has been examined. Several of the most promising test procedures examined have been evaluated in the laboratory using samples of typical semisolid waste. The test procedures examined were those employing: A press, a filtration unit similar to the one used in the EP Toxicity Test Procedure (45 FR 33127), a laboratory centrifuge, screens of various mesh sizes, the inclined plane described in the preamble to the May 19, 1980 regulation (at 45 FR 33214) and the paint filter included in today's proposed amendment.

The test protocol EPA is proposing today is a gravity test which is intended to determine, in a simple way, whether a representative sample from a container of waste holds free liquid. EPA believes that this protocol can be used to determine the presence of free liquids in sludges, semi-solids, slurries and other wastes that commonly are received in containers by landfill operators for landfill disposal.

The proposed test protocol calls for a 100 ml representative sample of the waste from a container to be placed in a 400 micron, conical paint filter for five minutes. The filter specified is a standard paint filter which is commonly available at hardware and paint stores at low cost. The filter is to be supported by a funnel on a ring stand with a beaker or cylinder below the funnel to capture any free liquid that passes through the filter. If any amount of free liquid passes through the filter, the waste is to be considered to hold free liquid and subject to the requirements of § 265.314(b) of today's proposed rule.

Preliminary tests on five different wastes indicate that the five minute test period is adequate to determine whether a waste contains any free liquids, i.e., it provides an adequate "pass/fail" test. However, if the Agency were to adopt a rule requiring the measurement of the percentage of free liquid in the waste in individual containers (see discussion in III(B) above), a longer test period probably would be necessary to achieve an accurate measurement. The Agency's preliminary tests indicate that the five minute test period significantly underestimates the amount of free liquids in samples of some types of wastes and that a 15, 30, or even 45-minute test period may be necessary to accurately measure the free liquid content of such wastes. The Agency solicits comments on whether a longer test period (e.g., 15 to 45 minutes) presents an undue operational burden on landfill operators.

The Agency recognizes that there may be other test protocols that are capable of determining whether or not a waste sample contains free liquids. Indeed, the Agency solicits comments on any such protocols. In addition, whatever protocol is finally adopted, persons will always have the opportunity to petition EPA under §§ 260.20 and 260.21 for use of an equivalent test protocol.

Today's proposed rule does not require a landfill owner or operator to test containers of wastes for their free liquid content. Rather, it enables that person to demonstrate that a container does not hold free liquid to avoid having to meet the requirements of § 265.314(b) for landfill disposal of the container. A landfill owner or operator may choose to consider all containers of waste as holding free liquids and dispose of them in accordance with § 265.314(b). Where he chooses to exercise the option of demonstration, he may use the test protocol or he may choose to make the demonstration in another manner, certifying that his knowledge about the containerized waste substantiates its absence of free liquids.

The Agency believes that this latter demonstration may be possible in some instances (e.g., where the landfill owner or operator receives, on a constant basis, containerized wastes from a certain generator and knows by prior

observation that these containerized wastes do not vary and do not contain free liquids). It should be recognized, however, that EPA would be using the test protocol specified in the regulations for enforcement purposes unless an equivalent test protocol had been established for the waste under §§ 260.20 and 260.21.

Where the landfill owner or operator chooses to test containerized wastes to make the above-discussed demonstration, EPA would expect him to test a representative sample—representative of the waste in the container sampled. Guidance on obtaining representative samples from containers is provided in Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods, SW–846, an EPA publication. In those cases where a demonstration is being made on a batch (e.g., truckload) of similar containerized wastes, the representative sample must be representative both among the containers in the batch and of the waste in the individual containers actually sampled.

Today's proposed amendment does not prohibit the co-disposal of "exempted" containers with containers holding free liquids. It does, however, implicitly require careful recordkeeping of those containers exempted and their placement in the landfill so that EPA can properly monitor compliance.

IV. Proposed Amendment to § 265.312

Section 265.312, Special requirements for ignitable or reactive waste, as amended on June 29, 1981, states that ignitable waste may not be placed in a landfill unless it is treated, rendered, or mixed before or immediately after placement in a landfill so that it no longer meets the definition of ignitable waste or unless it is containerized and handled according to the specific handling requirements. However, after the compliance date for § 265.314, liquid ignitable waste in containers are banned from landfills in accordance with § 265.312(b).

Today's proposed amendment to § 265.312 deletes any distinction between liquid and solid ignitable waste, and provides that containerized ignitable waste (liquid or solid) may be placed in a landfill subject to the specified handling requirements. With this proposed change, restrictions on the amount of liquid ignitable waste which can be placed in a landfill would be defined by § 265.314(b). Containers holding liquid ignitable waste would be counted in the total number of containers holding liquid waste allowed in the landfill pursuant to the proposed amendment to § 265.314(b). In addition, liquid ignitable waste in containers would still have to be handled in accordance with the special handling requirements specified in § 265.312. Under the proposed amendment, solid ignitable waste in containers would still be allowed to be disposed of in landfills, provided that it is handled in accordance with the specified handling requirements.

The test for determining which wastes are liquids or contain free liquids, specified in the proposed § 265.314, would be used for determining if an ignitable waste is a liquid or contains free liquid. Thus, liquid ignitable waste will be treated consistently with other containerized waste.

The Agency received 16 written comments on its June 29, 1981 amendment to § 265.312. Some commenters stated that incineration of ignitable wastes can be accomplished and therefore reasoned that the ban on disposal of liquid ignitable waste in landfills should go into effect as scheduled. One commentor has developed a procedure aimed at solidifying semi-solid ignitable waste and raising the flash point of the waste to above 140°F. The majority of the commenters supported the approach used in § 265.312 (b) and (c) as it applied to both liquid and solid containerized ignitable wastes (i.e., allowing landfilling of these wastes under special management conditions); however, the commenters did not believe that the extension until November 19, 1981 for liquid ignitable waste was of sufficient duration. They stated that there continued to be no viable alternative to the landfill disposal of some ignitable wastes.

The Agency continues to believe that most liquid ignitable wastes can be treated, recycled, or disposed of by means other than landfilling (see preamble discussion to June 29, 1981, amendment (46 FR 33502)). However, the proposed amendments to §§ 265.312 and 265.314 will allow the landfill disposal of some liquid ignitable waste. These amendments should, therefore, accommodate those ignitable wastes not amenable to incineration, deep well injection, solvent recovery, use as fuel, or other treatment, recycling, or disposal options.

V. Regulatory Analysis

Section 3(b) of Executive Order 12291 (46 FR 13193, February 19, 1981) requires EPA to initially determine whether a rule that it intends to propose or issue is a major rule and to prepare a regulatory impact analysis for all major rules.

EPA has determined that both amendments being proposed today are not major rules. Accordingly, a Regulatory Impact Analysis is not being prepared for either of these proposed amendments.

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to determine whether a regulation will have a significant impact on a substantial number of small entities so as to require a regulatory analysis. In that the proposed amendments should reduce the burden of compliance with the hazardous waste management regulations for small entities, the Agency had determined that this action is not subject to the Regulatory Flexibility Act.

This proposal was submitted to the Office of Management and Budget for review as required by E.O. 12991.

Dated: February 18, 1982.

Anne M. Gorsuch,

Administrator.

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

For the reasons set out in the preamble, 40 CFR Part 265 is proposed to be amended as follows:

1. The authority citation for Part 265 reads as follows:

Authority: Secs. 1008, 2002(a), and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6924).

2. Section 265.312 is revised to read as follows:

§ 265.312 Special requirements for ignitable or reactive waste.

(a) Except as provided in paragraph (b) of this section, ignitable or reactive waste must not be placed in a landfill, unless the waste is treated, rendered, or mixed before of immediately after placement in a landfill so that:

(1) The resulting mixture or dissolution of material no longer meets the definition of ignitable or reactive waste under §§ 261.21 or 261.23 of this chapter, and

(2) Section 265.17(b) is complied with.

(b) Ignitable wastes in containers may be landfilled without meeting the requirement of paragraph (a) of this section, provided that the wastes are disposed in such a way that they are protected from any material or conditions which may cause them to ignite. At a minimum, ignitable wastes must be disposed in non-leaking containers which are carefully handled and placed so as to avoid heat, sparks, rupture, or any other condition that might cause ignition of the wastes; must be covered daily with soil or other non-combustible material to minimize the potential for ignition of the wastes, and must not be disposed in cells that contain or will contain other wastes which may generate heat sufficient to cause ignition of the waste.

3. Section 265.314 is amended by revising paragraph (b), revising paragraph (c) and redesignating it as paragraph (f), and adding new paragraphs (c), (d), and (e) to read as follows:

§ 265.314 Special requirements for liquid waste.

* * * * *

(b) Containers holding free liquids must not be placed in a landfill unless:

(1) The volume fraction (V) of the total landfill volume devoted to waste and reasonable intermediate cover that is occupied by containers holding free liquids is no greater than that described by the formula

$V = \frac{H}{100}$ for H less than 25 feet

or

$V = 0.3 - \frac{H}{500}$ for H equal to or greater than 25 feet

where: H = the average depth of wastes and reasonable intermediate cover in the landfill; and

(2) The closure and post-closure plans required in §§ 265.112 and 265.117 provide for the design and maintenance of the final cover, including the final contour and slope of the final cover, sufficient to accommodate the subsidence and distortion of the final cover that may result from the deterioration of the containers placed in the landfill. The closure plan must provide for the stockpiling or other on-site availability of materials to repair subsidence damage to the final cover that might occur during the post-closure period; and

(3) The containers holding free liquids are placed in a uniform and compact manner in the landfill.

(c) For the purposes of paragraph (b) of this section, all containers are presumed to be containers holding free liquids unless:

(1) The container is very small, such as an ampule; or

(2) The container is designed to hold free liquids for use other than storage, such as a battery or capacitor; or

(3) The container is a lab pack as defined in § 265.316, and is disposed of in accordance with § 265.316; or

(4) The owner or operator can demonstrate that a representative sample of the waste in the container does not contain any free liquids.

(d) The demonstration requirement of paragraph (c)(4) of this Section can be met if a 100 ml representative sample of the waste from a container can be completely retained in a standard 400 u conical paint filter for five minutes without loss of any portion of the waste from the bottom of the filter (or an equivalent test approved by the Administrator under the procedures set forth in §§ 260.20 and 260.21 indicates no liquids or free liquids in the waste).

(e) Where containers holding free liquids are disposed in only a portion of a landfill, the formula of paragraph (b)(1) of this Section must apply only to that portion of the landfill.

(f) The date for compliance with paragraph (a) of this Section is November 19, 1981. The date for compliance with paragraphs (b) through (e) of this section is March 29, 1982.

[FR Doc. 82-4990 Filed 2-24-82; 8:45 am]

BILLING CODE 6560-30-M

federal register

Thursday
February 25, 1982

Part III

Department of Energy

Economic Regulatory Administration

Applications for Authorization To Import Natural Gas From Canada and for Recertification of the Use of Natural Gas To Displace Fuel Oil

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 82-01-NG]

Natural Gas Imports; Natural Gas Pipeline Company of America; Application for Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt of an application from Natural Gas Pipeline Company of America (Natural) for authorization to import 100,000 Mcf per day of natural gas to be purchased from TransCanada PipeLines Limited (TransCanada) beginning November 1, 1984, or as soon thereafter as feasible, and extending for a period of ten years from the date of first delivery. The application is filed with ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–54. Protests or petitions to intervene are invited.

DATES: Protests or petitions to intervene are to be filed no later than 4:30 p.m. on March 29, 1982.

FOR FURTHER INFORMATION CONTACT:

Robert M. Stronach (Oil and Gas Imports Division), Economic Regulatory Administration, 2000 M Street NW., Room 6304, RG–631, Washington, D.C. 20461, (202) 653–3625

Sue D. Sheridan (Office of General Counsel, Natural Gas and Mineral Leasing), 1000 Independence Avenue SW., Forrestal Building, Room 6E–042, Washington, D.C. 20585, (202) 252–6667.

SUPPLEMENTARY INFORMATION: On January 11, 1982, Natural filed an application to import 100,000 Mcf of natural gas per day for a period of ten years, for a total quantity of 365 Bcf. The gas is to be purchased from TransCanada under a pro forma "Gas Purchase Contract" pursuant to the terms of a "Precedent Agreement" between the two companies dated January 29, 1981. The gas is to be delivered initially by TransCanada to Great Lakes Gas Transmission Company (Great Lakes), at the two companies' existing interconnection on the international border near Emerson, Manitoba. Based upon its preliminary discussions with Great Lakes and Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), Natural states that it anticipates that Great Lakes will then transport the gas for the account of Natural to a point or points of interconnection with Michigan Wisconsin. In turn, Michigan Wisconsin will transport the gas to a point of interconnection with natural near Woodstock, Illinois, or other mutually agreeable point or points of interconnection. TransCanada has filed an application with the National Energy Board of Canada (NEB) for authorization to export the gas for sale to Natural.

According to the proposed "Gas Purchase Contract," deliveries are to begin on November 1, 1984, or as soon thereafter as practicable, contingent upon the parties obtaining the requisite governmental authorizations and upon the completion of any necessary facilities. An additional period of up to one year is provided, if necessary, to enable Natural to take any gas not previously delivered by TransCanada and/or to make up gas previously paid for but not taken during the initial ten-year period. The price of the gas to be imported will be the authorized international border price, currently $4.94 per MMBtu. The proposed contract also contains a provision whereby Natural will take or pay for a minimum annual quantity of 75 percent of the daily contract quantity times the number of days in the contract year, less the difference between the daily amounts requested and the actual amounts delivered.

In support of its application, Natural states that the proposed additional import of natural gas represents an important part of the total supply that it plans to acquire to meet anticipated customer demands after 1984. Natural states that it must constantly seek new supplies in an effort to replace declining existing reserves and maintain a favorable gas supply situation over the long term. In identifying and contracting for future supplies, Natural states that it is important that they be from as many sources as possible to lessen the effect of interruption or termination of any one source. Natural states that Canada has proven to be a reliable source of gas that is relatively close to its primary service area.

Other Information

Any person wishing to become a party to the proceeding, and thus to participate in any conference or hearing which might be convened, must file a petition to intervene. Any person may file a protest with respect to this application. The filing of a protest will not serve to make the protestant a party to the proceeding. Protests will be considered in determining the appropriate action to be taken on the application.

All protests and petitions to intervene must meet the requirements specified in 18 CFR 1.8 and 1.10. They should be filed with the Natural Gas Branch, Oil and Gas Imports Division, Economic Regulatory Administration, Room 6304, RG–631, 2000 M Street, NW., Washington, D.C. 20461. All protests and petitions to intervene must be filed no later than 4:30 p.m., March 29, 1982.

A hearing will not be held unless a motion for a hearing is made by a party or person seeking intervention and granted by ERA, or if ERA on its own motion believes that a hearing is necessary or required. A person filing a motion for a hearing should demonstrate how a hearing will advance the proceedings. If a hearing is scheduled, ERA will provide notice to all parties and persons whose petitions to intervene are pending.

A copy of Natural's application is available for inspection and copying in the Natural Gas Branch Docket Room, located in Room 6013, 2000 M Street, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. on February 19, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-5002 Filed 2-24-82; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 82-CERT-002]

Salt River Project Agricultural Improvement and Power District; Application for Recertification of the Use of Natural Gas To Displace Fuel Oil

On March 21, 1981, Salt River Project Agricultural Improvement and Power District (Salt River Project), P.O. Box 1980, Phoenix, Arizona 85001, was granted a certificate of an eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administrator (ERA) (Docket No. 81–CERT–003]. The certification involved the purchase of natural gas from Consumers Power Company for use by Salt River Project at its Agua Fria Steam Plant in Glendale, Arizona, and its Kyrene Steam Plant in Tempe, Arizona. That certificate will expire on March 20, 1982.

On January 22, 1982, Salt River Project filed an application for recertification of an eligible use of the identical volume of natural gas to displace fuel oil at the above steam plants and its Santan Steam Plant in Gilbert, Arizona, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with the ERA and available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6013, RG–631, 2000 M Street, NW., Washington, D.C. 20461, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Salt River Project states that the volume of natural gas for which it requests recertification is approximately 19,106,000 Mcf per year. This volume is estimated to displace the use of approximately 1,850,000 barrels per year of residual fuel oil (0.9 percent sulfur) and 93,000 barrels per year of distillate fuel oil (0.5 percent sulfur) at its Agua Fria plant; 306,000 barrels per year of residual fuel oil (0.9 percent sulfur) and 100,000 barrels per year of distillate fuel oil (0.5 percent sulfur) at its kyrene plant; and 749,000 barrels per year of distillate fuel oil (0.5 percent sulfur) at its Santan plant. The eligible seller of the natural gas is Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201. The gas will be transported by Panhandle Eastern Pipe Line Company, P.O. Box 1642, Houston, Texas 77001; Trunkline Pipe Line Company, P.O. Box 1642, Houston, Texas 77001; the Natural Gas Pipeline Company of America, 122 S. Michigan Avenue, Chicago, Illinois 60603; and the El Paso Natural Gas Company, P.O. Box 1492, El Paso, Texas 79978, all of which are interstate pipelines.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 6304, RG–631, 2000 M Street NW., Washington, D.C. 20461; Attention: Paula Daigneault; within ten (10) calendar days of the date of publication of this notice in the Federal Register.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Salt River Project and any persons filing comments and will be published in the Federal Register.

Issued in Washington, D.C., February 19, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-5002 Filed 2-24-82; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

REMINDERS

List of Public Laws

Last Listing February 18, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.J. Res. 381/Pub. L. 97-148 Making an urgent supplemental appropriation for the Department of Labor for the fiscal year ending September 30, 1982. (Feb. 22, 1982; 96 Stat. 5) Price: $1.50.

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Friday
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 348; Lemon Reg. 347, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period February 28–March 6, 1982, and increases the quantity of lemons that may be shipped during the period February 21–27, 1982. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

EFFECTIVE DATES: The regulation becomes effective February 28, 1982, and the amendment is effective for the period February 21–27, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250; telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation and amendment are issued under the marketing agreement, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. The committee met again publicly on February 23, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

PART 910—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

1. Section 910.648 is added as follows:

§ 910.648 Lemon Regulation 348.

The quantity of lemons grown in California and Arizona which may be handled during the period February 28, 1982, through March 6, 1982, is established at 240,000 cartons.

2. Section 910.647 Lemon Regulation 347 (47 FR 7388) is revised to read as follows:

§ 910.647 Lemon Regulation 347.

The quantity of lemons grown in California and Arizona which may be handled during the period February 21, 1982, through February 27, 1982, is established at 245,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 23, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-5089 Filed 2-25-82; 12:57 pm]
BILLING CODE 3410-02-M

7 CFR Parts 1007, 1102, and 1106

[Milk Order Nos. 97, 102 and 106; Docket Nos. AO-219—A36, AO-237-A30 and AO-243-A24]

Milk in the Memphis, Tennessee; Fort Smith, Arkansas; and Central Arkansas Marketing Areas; Order Amending Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action changing certain provisions of the Memphis, Fort Smith and Central Arkansas orders is based on industry proposals that were considered at a public hearing held April 15–17, 1980. For all three orders, the amendments provide for a charge on overdue accounts, increase the partial payment rate for producer milk during August–February by one dollar per hundredweight, and establish the maximum charges for order administration and marketing services at six and seven cents per hundredweight, respectively. For the Memphis and Central Arkansas orders, the amendments change the method of payment by plant operators for bulk milk purchased from a cooperative's pool plant. For the Fort Smith and Central Arkansas orders, the amendments require that handlers who are more than three days late in the payment of an order obligation shall channel their payments to producers through the market administrator for three months. Also, for the Central Arkansas order, the amendments revise the supply plant pooling qualifications, the diversion limits on producer milk, and the price adjustments applicable at certain plant locations. The changes are necessary to reflect current marketing conditions and to assure orderly marketing conditions in the respective areas.

EFFECTIVE DATE: April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist,

Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-4824.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of hearing—issued March 20, 1980; published March 31, 1980 (45 FR 20888). Supplemental notice of hearing—issued April 7, 1980; published April 10, 1980 (45 FR 24402). Partial decision—issued July 14, 1980; published July 18, 1980 (45 FR 48139). Final order—issued July 28, 1980; published July 31, 1980 (45 FR 50704). Recommended decision—issued September 22, 1981; published September 29, 1981 (46 FR 47588). Final decision—issued January 26, 1982; published January 29, 1982 (47 FR 4277).

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid orders:

(a) *Findings upon the basis of hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Memphis, Tennessee; Fort Smith, Arkansas; and Central Arkansas marketing areas.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held; and

(4) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, six cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in §§ 1097.85, 1102.85, and 1108.85.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within each of the respective marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending each of the specified orders, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders as hereby amended;

(3) The issuance of the order amending the Central Arkansas order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the maketing area; and

(4) The issuance of the order amending the Memphis, Tennessee and Fort Smith, Arkansas orders is approved or favored by at least three-fourths of the producers who during the determined representative period were engaged in the production of milk for sale in the respective marketing areas.

Order Relative to Handling

It is therefore ordered that on and after the effective date hereof the handling of milk in each of the specified marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the orders, as amended, and as hereby further amended, as follows:

PART 1097—MILK IN MEMPHIS, TENNESSEE, MARKETING AREA

1. In § 1097.32, a new paragraph (d) is added to read as follows:

§ 1097.32 Other reports.

* * * * *

(d) On or before the second day prior to the reporting dates specified in § 1097.31, each cooperative association that operates a fluid milk plant from which bulk fluid milk products were transferred to fluid milk plants of other handlers within the time periods described in § 1097.31 shall report to each such fluid milk plant operator and to the market administrator the name and location of the transferor plant and the total pounds and butterfat content of the bulk fluid milk products transferred from the plant.

2. In § 1097.62, paragraph (b) is revised to read as follows:

§ 1097.62 Announcement of uniform prices for each handler and butterfat differential.

* * * * *

(b) The 11th day after the end of each month the applicable uniform prices for each handler pursuant to § 1097.61 for such month.

3. Section 1097.71 is revised to read as follows:

§ 1097.71 Payments to market administrator.

(a) Subject to paragraphs (d) and (e) of this section, each handler shall pay to the market administrator on or before the 2nd day prior to the last day of each month an amount determined by multiplying the handler's receipts during the first 15 days of such month of producer milk (excluding the milk of any producer who had discontinued shipping milk to such handler before the 25th of the month and, in the case of a handler described in § 1097.9(c), producer milk delivered to fluid milk plant) and milk from a handler described in § 1097.9(c) by the applicable partial payment rate less proper deductions authorized in writing by producers from whom the handler received milk, provided that the amount deducted for each producer does not exceed the value of the milk received from the producers during the partial payment period and the handler has paid such deductions to assignees by the date payment is otherwise due the producer.

(b) Subject to paragraphs (d) and (e) of this section, each handler shall pay to the market administrator on or before the 14th day after the end of each month an amount equal to such handler's value of milk for such month determined pursuant to § 1097.60(a), as adjusted by the butterfat differential specified in § 1097.74 and pursuant to § 1097.60 (b), (c) and (d), less:

(1) Payments made by the handler pursuant to paragraph (a) of this section for such month: and

(2) Proper deductions that were authorized in writing by producers from whom the handler received milk, provided that the amount deducted for each producer does not exceed the value of the milk received during the final payment period and provided that the handler has paid such deductions to assignees by the date payment is otherwise due the producer;

(c) Each handler who received bulk fluid milk and bulk fluid cream products from a fluid milk plant operated by a cooperative association shall pay the following amounts for such products to the market administrator, who in turn shall transmit such money to the cooperative association.

(1) On or before the 2nd day prior to the last day of each month, an amount determined by multiplying such receipts during the first 15 days of the month by the applicable partial payment rate. If the handler so elects, such prices may be adjusted by the butterfat differential specified in § 1097.74 for the preceding month.

(2) On or before the 14th day after the end of each month, an amount determined by multiplying the quantity of such receipts during the month that was classified in each class pursuant to § 1097.42(a) by the applicable class price, as adjusted by the butterfat differential specified in § 1097.74, plus the applicable administrative assessment, less any payments made by the handler pursuant to paragraph (c)(1) of this section. For the purpose of such computation, the applicable Class I price shall be the Class I price applicable at the transferee plant plus the applicable administrative assessment rate.

(d) The following conditions shall apply with respect to the payments prescribed in paragraph (a), (b) and (c) of this section:

(1) Payment to the market administrator shall be deemed not to have been made until such payments have been received by the market administrator; and

(2) If the date by which payments must be received by the market administrator falls on a Saturday or Sunday or anyday that is a national holiday, payments shall not be due until the next day on which the market administrator's office is open for public business.

(e) Payments due the market administrator from a cooperative association handler may be offset by payments determined by the market administrator to be due the cooperative association pursuant to § 1097.73(c).

4. A new § 1097.72 is added to read as follows:

§ 1097.72 Rate of partial payments.

Partial payment rates shall be computed as follows:

(a) During the months of March through July, the previous month's Class III price.

(b) For the months of August through February, the previous month's Class III price plus $1.00, and further adjusted by the zone or location adjustment applicable at the receiving plant.

5. Section 1097.73 is revised to read as follows:

§ 1097.73 Payments to producers and to cooperative associations.

(a) Subject to paragraphs (c) through (e) of this section, the market administrator shall pay each producer on or before the last day of each month for milk which was received during the first 15 days of each month; provided, payment pursuant to § 1097.71 (a) has been received by the market administrator. Such payment shall be uniform to all suppliers of each plant at a rate per hundredweight equal to that received by the market administrator less the deductions authorized by each producer pursuant to § 1097.71 (a).

(b) Subject to paragraphs (c) through (e) of this section, the market administrator shall pay each producer on or before the 16th day after the end of each month for milk for which payment pursuant to § 1097.71 (b) has been received by the market administrator. Such payment shall be at the uniform price(s) computed pursuant to § 1097.61 for the month, subject to the following adjustments:

(1) Any applicable adjustments pursuant to §§ 1097.74 and 1097.75;

(2) Less the payment described in paragraph (a) of this section;

(3) Less deductions for marketing services pursuant to § 1097.88;

(4) Less the authorized deductions specified in § 1097.71 (a) and (b) (2); and

(5) Any adjustments for errors in calculating payments to an individual producer for past months.

(c) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator, on or before the day prior to the dates specified in such paragraphs, shall pay to each cooperative association that so requests with respect to those producers for whom it markets milk and who are certified to the market administrator by the cooperative association as having authorized the cooperative association to receive such payment an amount equal to the sum of the individual payments otherwise due such producers pursuant to paragraphs (a) and (b) of this section.

(d) The following conditions shall apply with respect to the payments prescribed in paragraph (a) through (c) of this section:

(1) If the date by which such payments are to be made falls on a Saturday, or Sunday or on any day that is a national holiday, such payments need not be made until the next day on which the market administrator's office is open for public business; and

(2) If the application of § 1097.71 (c) (2) or paragraph (e) (1) of this section results in a delay in the partial or final payments by handlers to the market administrator, the corresponding partial or final payments prescribed in paragraphs (a) through (c) of this section may be delayed by the same number of days.

(e) If the market administrator does not receive the full payment required of a handler pursuant to § 1097.71 he shall reduce uniformly per hundredweight the payments due producers and cooperative associations for their milk received by such handler by a total amount not in excess of the amount due from such handler. The market administrator shall complete such payments on or before the next date for making payment pursuant to this section following the date on which the remaining payment is received from such handler.

6. A new § 1097.76 is added to read as follows:

§ 1097.76 Charges on overdue accounts.

(a) Any unpaid obligation of a handler pursuant to §§ 1097.71, 1097.73, 1097.77, and 1097.85 shall be increased one percent beginning on the first day after the due date, and on each date of subsequent months following the day on which such type of obligation is normally due, subject to the following conditions:

(1) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid overdue charges previously computed pursuant to this section; and

(2) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have

been due if the report had been filed when due.

(b) All charges on overdue accounts shall be paid to the administrative assessment fund maintained by the market administrator.

7. Section 1097.85 is revised to read as follows:

§ 1097.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month six cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Receipts of milk at fluid milk plants from producers (including receipts from a handler described in § 1097.9(c) and such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1097.44(a)(7) and (11) and the corresponding steps of § 1097.44(b);

(c) Receipts of milk by a handler described in § 1079.9(c) in excess of that specified in paragraph (a) of this section; and

(d) Receipts of milk by a handler described in § 1097.9(b).

PART 1102—MILK IN FORT SMITH, ARKANSAS MARKETING AREA

1. Section 1102.31 is revised to read as follows:

§ 1102.31 Payroll reports.

On or before the 20th day after the end of each month, each handler who pays producers pursuant to § 1102.73 shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(a) His name and address and the pounds of milk received;

(b) The prices per hundredweight, the gross amounts due, the amount and nature of any deductions, and the net amounts paid; and

(c) The dates such payments were made.

2. Section 1102.32 is revised to read as follows:

§ 1102.32 Other reports.

(a) On or before the 20th day of each month, each handler described in § 1102.9(a) who is required pursuant to § 1102.73(a) to make payments to the market administrator for milk received from producers and cooperative associations shall report to the market administrator the following information with respect to its receipts of milk during the first 15 days of the month:

(1) The name and address of each producer from whom milk was received who has not discontinued shipping milk to the handler;

(2) The total pounds of producer milk received from such producer;

(3) Except in the case of producer milk for which a cooperative association is collecting payments, the amount and nature of any deductions, as authorized in writing by the producer, to be made from the partial payment for such milk; and

(4) In lieu of reporting in accordance with paragraphs (a) (1), (2) and (3) of this section, a handler may, if he so chooses, report the sum of the pounds of milk received from individual producers whose milk is marketed by a cooperative association that is authorized to receive payment for such milk. The handler shall also report the sum of the authorized deductions of such producer.

(b) On or before the 7th day after the end of each month, each handler described in § 1102.9 (a) and (b) shall report to the market administrator the following information with respect to its receipts of milk during such month:

(1) The name and address of each producer from whom milk was received;

(2) The total pounds of producer milk received from such producer, its average butterfat content and for the months of March through July the pounds of base milk; and

(3) Except in the case of producer milk for which a cooperative association is collecting payments, the amount and nature of any deductions as authorized in writing by the producer, to be made from the final payment for such milk.

(c) In addition to the reports required pursuant to paragraphs (a) and (b) of this section and §§ 1102.30 and 1102.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

3. In § 1102.62, paragraph (b) is revised to read as follows:

§ 1102.62 Announcement of uniform price for each handler and butterfat differential.

* * * * *

(b) The 11th day after the end of each month the applicable uniform prices for each handler pursuant to § 1102.61 for such month.

4. A new § 1102.72 is added to read as follows:

§ 1102.72 Rate of partial payments.

Partial payment rates shall be computed as follows:

(a) During the months of March through July, the previous month's Class III price.

(b) For the months of August through February, the previous month's Class III price plus $1.00, and further adjusted by the zone or location adjustment applicable at the receiving plant.

5. Section 1102.73 is revised to read as follows:

§ 1102.73 Payments to producers and to cooperative associations.

(a) Any handler who the market administrator determines was more than 3 days late in making any payment obligation under Part 1102 shall pay to the market administrator the amount the handler would have otherwise been required to pay to producers and cooperative associations pursuant to paragraphs (b) and (c) or paragraph (d) of this section. Payment shall be made to the market administrator on or before the day prior to the dates specified in paragraphs (b) and (c) or paragraph (d) of this section and such payments shall continue until the handler has met all payment obligations for 3 consecutive months. Payment to the market administrator shall be deemed not to have been made until such payments have been received by the market administrator. If the date by which payments must be made to the market administrator falls on a Saturday or Sunday or any day that is a national holiday, payments shall not be due until the next day on which the market administrator's office is open for public business.

(b) Except as provided in paragraph (a) and (d) of this section, each handler shall pay on or before the last day of each month for milk received from producers during the first 15 days of the month to each producer who did not discontinue shipping milk to such handler before the 25th of the month, an amount equal to not less than the partial payment rate pursuant to § 1102.72 multiplied by the hundredweight of milk received from such producer, less proper deductions authorized in writing by the producer. Such deductions shall not exceed the value of the milk received during the partial payment period and the handlers must have paid such deductions to assignees by the date payment is otherwise due the producer.

(c) Except as provided in paragraph (a) and (d) of this section, each handler shall make payment on or before the 15th day after the end of the month to each producer for all milk received from such producer during the preceding month at the uniform price(s) computed pursuant to § 1102.61 for the month subject to the following adjustments:

(1) Any applicable adjustments pursuant to §§ 1102.74 and 1102.75;

(2) Less the payment described in paragraph (b) of this section;

(3) Less deductions for marketing services pursuant to § 1102.86;

(4) Less proper deductions authorized in writing by such producer provided that the deductions for the month do not exceed the value of the milk received during the month and the handler has paid such deductions to assignees by the date payment is otherwise due the producer;

(d) In lieu of payments to producers pursuant to paragraphs (b) and (c) of this section, each handler, on or before the 2nd day prior to the dates specified in such paragraphs, shall pay to each cooperative association that so requests with respect to those producers for whom it markets milk and who are certified to the market administrator by the cooperative association as having authorized the cooperative association to receive such payment an amount equal to the sum of the individual payments otherwise due such producers pursuant to paragraphs (b) and (c) of this section.

(e) If the market administrator does not receive the full payment required of a handler pursuant to paragraph (a) of this section, he shall reduce uniformly per hundredweight the payments due producers and cooperative associations for their milk received by such handler by a total amount not in excess of the amount due from such handler. The market administrator shall complete such payments on or before the next date for making payments pursuant to this section following the date on which the remaining payment is received from such handler.

6. A new § 1102.78 is added to read as follows:

§ 1102.78 Charges on overdue accounts.

(a) Any unpaid obligation of a handler pursuant to §§ 1102.73, 1102.77, 1102.85 or 1102.86 shall be increased one percent beginning on the first day after the due date, and on each date of subsequent months following the day on which such type of obligation is normally due, subject to the following conditions:

(1) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid overdue charges previously computed pursuant to this section; and

(2) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

(b) All charges on overdue accounts shall be paid to the administrative assessment fund maintained by the market administrator.

7. Section 1102.85 is revised to read as follows:

§ 1102.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month six cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production); and

(b) Other source milk allocated to Class I pursuant to 1102.44(a) (7) and (11), and the corresponding steps of § 1102.44(b).

8. Section 1102.86 is revised to read as follows:

§ 1102.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers, pursuant to § 1102.73, shall deduct seven cents per hundredweight or such amount not exceeding seven cents per hundredweight as may be prescribed by the Secretary. Each handler making such deductions, shall pay the deductions to the market administrator on or before the 15th day after the end of the month. Such moneys shall be used by the market administrator to sample, test and check the weights of milk received and to provide producers with market information.

(b) In the case of producers for whom a cooperative association, as determined by the Secretary, is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 15th day after the end of each month, pay such deductions to the cooperative association rendering such services accompanied by a statement showing the amount of milk for which such deduction was computed for each producer.

PART 1108—MILK IN CENTRAL ARKANSAS MARKETING AREA

1. A new § 1108.3 is added to read as follows:

§ 1108.3 Route disposition.

"Route Disposition" means any delivery of a fluid milk product classified as Class I milk to a wholesale or retail outlet (including any delivery through a vendor or a plant store) except a delivery to another pool plant.

2. Section 1108.5 is revised to read as follows:

§ 1108.5 Distributing plant.

"Distributing plant" means a plant which is approved by a duly constituted regulatory agency for the processing or packaging of Grade A milk and from which during the month there is route disposition in the marketing area.

3. Section 1108.6 is revised to read as follows:

§ 1108.6 Supply plant.

"Supply plant" means a plant which is approved by a duly constituted regulatory agency for the handling of Grade A milk and from which fluid milk products are shipped during the month to a pool plant.

4. Section 1108.7 is revised to read as follows:

§ 1108.7 Pool plant.

Except as provided in paragraph (c) of this section "pool plant" means:

(a) A distributing plant from which during the month packaged fluid milk products, except filled milk, disposed of as route disposition are equal to not less than 50 percent of its receipts of fluid milk products from producers (including producer milk diverted from the plant), handlers described in § 1108.9(c), and other pool plants and from which not less than 10 percent of such receipts is disposed of in the marketing area in the form of packaged fluid milk products, except filled milk, as route disposition.

(b) A supply plant from which during the month fluid milk products, except filled milk, equal to not less than 50 percent of the Grade A milk received at such plant from dairy farmers (including producer milk diverted from such plant but excluding milk received as diverted milk) and handlers described in § 1108.9(c) is shipped to and received at distributing plants qualified pursuant to paragraph (a) of this section, subject to the following conditions:

(1) A supply plant which is a pool plant under this paragraph for each of the months during the period September through January shall upon written

application to the market administrator, on or before the end of such period, be designated as a pool plant for the following months of February through August:

(2) The shipping percentage specified in this paragraph may be increased or decreased temporarily by 10 percentage points by the Director of the Dairy Division if the Director finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. For any of the months of February through August, a minimum shipping percentage of up to 10 percent may be established by the Director for all pool supply plants that are qualified as a pool plant pursuant to paragraph (b)(1) of this section. Before making such a finding(s) the Director shall investigate the need for revision, either at the Director's initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that revision is being considered and inviting data, views, and arguments. If a plant which would not otherwise qualify as a pool plant during the month qualifies as a pool plant because of a reduction in shipping requirements pursuant to this subparagraph, such plant shall be a nonpool plant for such month if the operator of the plant files a written request for nonpool plant status with the market administrator at the time the report is filed for such plant pursuant to § 1108.30;

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, unless one of the following conditions applies:

(i) If the plant is located within the marketing area and was a pool plant under this order during the immediately preceding month (except that prior pool plant qualification need not be met during the first month that the amended order is effective), it shall continue to be subject to all of the provisions of this part until the third consecutive month in which 50 percent or more of the plant's route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order; or

(ii) If the plant is located outside the marketing area and was a pool plant under this order in the immediately preceding month, it shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of the plant's route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(3) A plant qualified pursuant to paragraph (b) of this section which has automatic pooling status under another federal order.

§ 1108.7a [Removed]

5. Section 1108.7a is removed.

§ 1108.9 [Amended]

6. In § 1108.9(a) change the word "approved" to the words "distributing or supply" and in § 1108.9(b) change the reference from § 1108.12 to § 1108.13.

7. Section 1108.12 is revised to read as follows:

§ 1108.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted regulatory agency and whose milk is:

(1) Received at a pool plant directly from such person;

(2) Received by a handler described in § 1108.9(c); or

(3) Diverted from a pool plant in accordance with § 1108.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from another order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1108.44(a)(8)(iii) and the corresponding step of § 1108.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to another order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

8. Section 1108.13 is revised to read as follows:

§ 1108.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk of a producer that is:

(a) Received at a pool plant directly from such producer by the operator of the plant;

(b) Received by a handler described in § 1108.9(c);

(c) Picked up from the producer's farm tank in a tank truck owned and operated by, or under the control of, the operator of a pool plant but which is not received at a plant until the following month. Such milk shall be considered as having been received by the handler during the month in which it is picked up at the producer's farm and shall be priced at the location of the plant where it is physically received in the following month. This paragraph shall apply in like manner to milk received by the operator of a pool plant who, in accordance with § 1108.9(c), is the handler for such milk; and

(d) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant for the account of the handler operating such pool plant or a handler described in § 1108.9(b), subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion unless during the month at least one day's production of such dairy farmer is physically received as producer milk at a pool plant;

(2) The total quantity of milk so diverted by a cooperative association shall not exceed, during any month of September through January, one-half of the quantity, and during all other months, the quantity, of producer milk that the cooperative association causes to be delivered to pool plants and that is physically received thereat;

(3) The operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (d)(2) of this section. The total quantity of milk so diverted shall not exceed, during any month of September through January, one-half of the quantity, and during all other months, the quantity, of producer milk physically received at such pool plant that is eligible to be diverted by the plant operator;

(4) Any milk diverted in excess of the limits prescribed in paragraphs (d) (2) and (3) of this section shall not be producer milk. The diverting handler may designate the dairy farmers' deliveries that are not to be producer milk, otherwise the milk last diverted—in lots of an entire day's production—shall be excluded first in determining which milk should not be producer milk;

(5) The quantity of milk diverted for the account of a cooperative association from a pool plant of another handler that would cause the pool plant to become a nonpool plant shall not be producer milk; and

(6) Diverted milk shall be priced at the location of the nonpool plant to which diverted.

9. Section 1108.31 is revised to read as follows:

§ 1108.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler who pays producers pursuant to § 1108.73 shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address and the pounds of milk received;

(2) The prices per hundredweight, the gross amounts due, the amount and nature of any deductions, and the net amounts paid; and

(3) The dates such payments were made.

(b) On or before the 20th day after the end of each month, each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1108.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated the following information for such month:

(1) The name and address of each dairy farmer;

(2) The total pounds of milk received from each dairy farmer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

10. Section 1108.32 is revised to read as follows:

§ 1108.32 Other reports.

(a) On or before the 20th day of each month, each handler described in § 1108.9(a) who is required pursuant to § 1108.71(c) to make payments to the market administrator for milk received from producers and cooperative associations shall report to the market administrator the following information with respect to its receipts of milk during the first 15 days of the month:

(1) The name and address of each producer from whom milk was received who has not discontinued shipping milk to the handler;

(2) The total pounds of producer milk received from such producer;

(3) The amount and nature of any deductions, as authorized in writing by the producer, to be made from the partial payment for such milk;

(4) The total pounds of milk received from a handler described in § 1108.9(c); and

(5) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

(b) Each handler, except a producer-handler and a handler making payments pursuant to § 1108.76(a), shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) On or before the seventh day of each month for each producer for the preceding month:

(i) His name and address or other appropriate identification;

(ii) The total pounds of milk and butterfat received from such producer, including, for the months of March through July the pounds of base milk;

(iii) The location at which such milk was received;

(iv) The amount and nature of any deductions, as authorized in writing by the producer, to be made from the final payment for such milk;

(v) The total pounds of skim milk and butterfat received from a handler described in § 1108.9(c); and

(vi) The pounds of skim milk and butterfat in bulk fluid milk products received from a pool plant operated by a cooperative association.

(2) On or before the first day other source milk is received in the form of a fluid milk product at his pool plant(s), his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product; and

(3) On or before the day prior to diverting producer milk pursuant to § 1108.12 his intention to divert such milk, the date or dates of such diversion and the nonpool plant to which such milk is to be diverted.

(c) On or before the second day prior to the reporting dates specified in paragraphs (a) and (b) of this section, each cooperative association that operates a pool plant from which bulk fluid milk products were transferred to pool plants of other handlers within the time periods described in paragraphs (a) and (b) of this section shall report to each such pool plant operator and to the market administrator the name and location of the transferor plant and the total pounds and butterfat content of the bulk fluid milk products transferred from the plant.

(d) In addition to the reports required pursuant to paragraphs (a), (b), and (c) of this section and §§ 1108.30 and 1108.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

11. Section 1108.52 is revised to read as follows:

§ 1108.52 Plant location adjustments for handlers.

(a) For milk received from producers or a handler described in § 1108.9(c) at a plant located more than 60 miles by the shortest hard surfaced highway distance as determined by the market administrator from the nearer of the county courthouse in Forrest City, Arkansas, or the State Capital in Little Rock, Arkansas, and which is classified as Class I without movement in bulk form to another pool plant at which a higher Class I price applies, the price specified in § 1108.50(a) shall be adjusted by amount stated in paragraphs (a)(1) through (3) of this section for the location of such plant;

(1) Except as provided in paragraph (a) (2) and (3) of this section, the adjustment shall be minus 1.5 cents for each 10 miles or fraction thereof between such plant and such nearer basing point;

(2) For a plant located within the Arkansas counties of Arkansas, Clark, Cleburne, Cleveland, Conway, Crawford, Crittendon, Cross, Dallas, Desha, Faulkner, Franklin, Garland, Grant, Hot Spring, Howard, Jefferson, Johnson, Lee, Lincoln, Logan, Lonoke, Monroe, Montgomery, Perry, Phillips, Pike, Polk, Pope, Prairie, Pulaski, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, White, Woodruff and Yell or in the States of Oklahoma and Tennessee, no location adjustment shall apply; and

(3) For a plant located in that portion of the State of Arkansas lying to the south of the no location adjustment zone specified in paragraph (a)(2) of this section or located in the States of Louisiana, Mississippi or Texas, the adjustment shall be plus 1.5 cents for each 10 miles or fraction thereof between such plant and such nearer basing point.

(b) For fluid milk products transferred in bulk from a pool plant to another pool plant at which a higher Class I price applies and which are classified as Class I milk, the Class I price shall be the Class I price applicable at the location of the transferee plant subject to a location adjustment credit for the transferor plant which shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) Subtract from the pounds of skim milk remaining in Class I at the transferee plant after the computations pursuant to § 1108.44 (a)(12) an amount equal to the pounds of skim milk in receipts of milk at the transferee plant

from producers and handlers described in § 1108.9(c), and in receipts of packaged fluid milk products from other pool plants;

(2) Assign any remaining pounds of skim milk in Class I at the transferee plant to the skim milk in receipts of bulk fluid milk products from other pool plants, first to the transferor plants at which the highest Class I price applies and then to other plants in sequence beginning with the plant at which the next highest Class I price applies;

(3) Compute the total amount of location adjustment credits to be assigned to transferor plants by multiplying the hundredweight of skim milk assigned pursuant to paragraph (b)(2) of this section to each transferor plant at which the Class I price is lower than the Class I price at the transferee plant by the difference in Class I prices applicable at the transferor plant and transferee plant, and add the resulting amounts;

(4) Assign the total amount of location adjustment credits computed pursuant to paragraph (b)(3) of this section to those transferor plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1108.42(a) and at which the applicable Class I price is less than the Class I price at the transferee plant, in sequence beginning with the plant at which the highest Class I price applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the applicable adjustment rate determined pursuant to paragraph (b)(3) of this section for such plant. If the aggregate of this computation for all plants having the same adjustment rate as determined pursuant to paragraph (b)(3) of this section exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I transfers from such plants; and

(5) Location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraphs (b) (1) through (4) of this section.

(c) The Class I price applicable to other source milk shall be adjusted by the amounts set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

12. In § 1108.60, a new paragraph (g) is added to read as follows:

§ 1108.60 Handler's value of milk for computing uniform price.

* * * * *

(g) Subtract for a handler described in § 1108.9(c) the amount obtained from multiplying the Class III price for the preceding month by the hundredweight of skim milk and butterfat contained in inventory at the beginning of the month that was delivered to a pool plant during the month.

13. In § 1108.61, paragraph (a)(2) is revised to read as follows:

§ 1108.61 Computation of uniform prices (including weighted average price and base and excess prices).

(a) * * *

(2) Add the aggregate of all minus location adjustments and subtract the aggregate of all plus location adjustments pursuant to § 1108.75.

* * * * *

14 Sections 1108.71, 1108.72 and 1108.73 are revised to read as follows:

§ 1108.71 Payments to the producer-settlement fund.

(a) Subject to paragraph (d) of this section, each handler shall pay to the market administrator on or before the 14th day after the end of the month the amount, if any, by which the amount specified in paragraph (a) (1) of this section exceeds the amount specified in paragraph(a) (2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1108.60.

(2) The sum of:

(i) The value at the uniform prices, as adjusted pursuant to § 1108.75, of such handler's receipts of producer milk; and

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value was computed pursuant to § 1108.60(f).

(b) Subject to paragraph (d) of this section, each person who operated an order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator on or before the 25th day after the end of each month an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

(c) Any handler who the market administrator determines was more than 3 days late in making any payment obligation under Part 1108 shall pay to the market administrator the amount the handler would have otherwise been required to pay to producers and cooperative associations pursuant to § 1108.73. Payment shall be made to the market administrator on or before the day prior to the dates specified in § 1108.73 and such payments shall continue until the handler has met all payment obligations for 3 consecutive months.

(d) The following conditions shall apply with respect to payments prescribed in paragaphs (a), (b) and (c) of this section:

(1) Payments to the market administrator shall be deemed not to have been made until such payments have been received by the market administrator.

(2) If the date by which payments must be received by the market administrator falls on a Saturday or Sunday or any day that is a national holiday, payments shall not be due until the next day on which the market administrator's office is open for public business.

(3) Payments due the market administrator from a cooperative association handler may be offset by payments determined by the market administrator to be due the cooperative association pursuant to § 1108.73 (b) and (d).

§ 1108.72 Payments from the producer-settlement fund.

(a) On or before the 15th day after the end of each month the market administrator shall pay to each handler except one making payment pursuant to § 1108.71 (c) the amount, if any, by which the amount computed pursuant to § 1108.71 (a) (2) exceeds the amount computed pursuant to § 1108.71 (a) (1).

(b) If the market administrator received payment from a handler(s) pursuant to § 1108.71 (c), he shall distribute such amount plus any amount due such handler(s) pursuant to paragraph (a) of this section to producers and to cooperative associations in the same manner as provided in § 1108.73. In the event the handler fails to transmit the total amount due, the market administrator shall reduce uniformly the payments due

to producers of such handler and complete such payments when the remaining amount is received.

(c) If at any time the balance in the producer-settlement fund is insufficient to make all payments pursuant to paragraph (a) of this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 1108.73 Payments to producers and to cooperative associations.

(a) Except as provided in § 1108.71(c) and paragraphs (b), (d) and (f) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1)(i) On or before the last day of each month of March through July to each producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the previous month's Class III price multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized in writing by the producer, provided that the deductions do not exceed the value of the milk received during the partial payment period and the handler has paid such deductions to assignees by the date payment is otherwise due the producer.

(ii) On or before the last day of each month of August through February to each producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the previous month's Class III price plus $1.00, and further adjusted by the zone or location adjustment applicable at the receiving plant multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized in writing by the producer from whom the handler received milk, except that the amount deducted shall not exceed the value of the milk received during the partial payment period and provided that the handler has paid such deductions to assignees by the date payment is otherwise due the producer.

(2) On or before the 17th day of the following month, an amount equal to not less than the appropriate uniform price(s) adjusted by the butterfat differential and location adjustments to producers multiplied by the hundredweight of milk, or base milk and excess milk, received from such producer during the month, subject to the following adjustments:

(i) Less payments made to such producer pursuant to paragraph (a)(1) of this section;

(ii) Less deductions for marketing services made pursuant to § 1106.86;

(iii) Plus or minus adjustments for errors made in previous payment made to such producer; and

(iv) Less proper deductions authorized in writing by such producer, provided that the deductions do not exceed the value of the milk received during the final payment period and the handler has paid such deductions to assignees by the date payment is otherwise due the producer: *Provided,* That if by such date such handler has not received full payment from the market administrator pursuant to § 1108.72(a) for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(b) Except as provided in paragraph (f) of this section, in the case of a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing, such handler other than one specified in § 1108.71(c) shall on or before the 2nd day prior to the date on which payments are due individual producers pay the cooperative association for milk received during the month from the producer members of such association as determined by the market administrator an amount equal to not less than the amount due such producer members as determined pursuant to paragraph (a) of this section.

(c) Each handler making payment pursuant to this section shall furnish the person to whom payment is to be made with the following information:

(1) On or before the 25th day of the month, the pounds of milk received from the producer or from each member of the cooperative association during the first 15 days of such month;

(2) On or before the 7th day of the following month to a cooperative association for its individual members, or on or before the 17th day of the following month to producers:

(i) The pounds of milk received each day and the total for the month, together with the butterfat content of such milk;

(ii) For the months of March through July, the pounds of base milk received;

(iii) The amount or rate and nature of deductions made from payments; and

(iv) The amount and nature of payments due pursuant to § 1108.77.

(d) Except as provided in § 1108.71(c) and paragraph (f) of this section, each handler shall make payment to a cooperative association with respect to receipts of milk for which it is the handler described in § 1108.9(c):

(1) On or before the 2nd day prior to the last day of the month, an amount equal to the applicable partial payment rate specified in paragraph (a)(1) of this section times the volume received during the first 15 days of the delivery period; and

(2) On or before the 15th day after the end of each month, an amount equal to not less than the value of such milk at applicable class price(s) adjusted by the butterfat differential pursuant to § 1108.74 less payment made pursuant to paragraph (d)(1) of this section.

(e) Subject to § 1108.71(c), each handler who received bulk fluid milk and bulk fluid cream products from a pool plant operated by a cooperative association shall pay the following amounts for such products to the cooperative association:

(1) On or before the 2nd day prior to the last day of each month, an amount determined by multiplying such receipts during the first 15 days of the month by the applicable partial payment rate specified in paragraph (a) (1) of this section. If the handler so elects, such prices may be adjusted by the butterfat differential specified in § 1108.74 for the preceding month.

(2) On or before the 15th day after the end of each month, an amount determined by multiplying the quantity of such receipts during the month that was classified in each class pursuant to § 1108.42(a) by the applicable class price, as adjusted by the butterfat differential specified in § 1108.74, less any payments made by the handler pursuant to paragraph (e)(1) of this section for such month. For the purpose of such computation, the applicable Class I price shall be the Class I price applicable at the transferee plant plus the applicable administrative assessment rate.

(f) If the application of § 1108.71(d)(2) results in a delay in the payment by the market administrator to handlers, the payments prescribed in paragraphs (a), (b) and (d) of this section may be delayed by the same number of days.

(g) If the market administrator does not receive the full payment required of a handler pursuant to § 1108.71(c), he shall reduce uniformity per hundredweight the payments due producers and cooperative associations for their milk received by such handler

by a total amount not in excess of the amount due from such handler. The market administrator shall complete such payments on or before the next date for making payments pursuant to this section following the date on which the remaining payment is received from such handler.

15. Section § 1108.75 is revised to read as follows:

§ 1108.75 Plant location adjustments for producers and on nonpool milk.

(a) In making the payments required pursuant to § 1108.73, the uniform price and uniform price for base milk computed pursuant to § 1108.61 for the month shall be adjusted by the amounts set forth in § 1108.52 according to the location of the plant where the milk being priced was received.

(b) For purposes of computing the value of other source milk pursuant to § 1108.71, the weighted average price shall be adjusted by the amount set forth in § 1108.52 that is applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

16. A new § 1108.76 is added to read as follows:

§ 1108.76 Charges on overdue accounts.

(a) Any unpaid obligation of a handler pursuant to §§ 1108.71, 1108.73, 1108.76, 1108.77, 1108.85 or 1108.86 shall be increased one percent beginning on the first day after the due date, and on each date of subsequent months following the day on which such type of obligation is normally due, subject to the following conditions:

(1) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid overdue charges previously computed pursuant to this section; and

(2) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

(b) All charges on overdue accounts shall be paid to the administrative assessment fund maintained by the market administrator.

17. Section 1108.85 is revised to read as follows:

§ 1108.85 Assessment for order administration.

As his pro rata share of the expense of administraton of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 6 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Receipts of producer milk (including such handler's own production) other than such receipts by a handler described in § 1108.9 (c) that were delivered to pool plants of other handlers or held in inventory at the end of the month;

(b) Receipts from a handler described in § 1108.9 (c);

(c) Other source milk allocated to Class I pursuant to § 1108.44(a) (7) and (11) and the corresponding steps of § 1108.44(b), except such other source milk that is excluded from the computations pursuant to § 1108.60 (d) and (f); and

(d) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1108.76(a)(2).

18. Section 1108.86 is revised to read as follows:

§ 1108.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk (other than milk of a handler's own farm production) pursuant to § 1108.73 shall deduct seven cents per hundredweight, or such amount not exceeding seven cents per hundredweight as may be prescribed by the Secretary. Each handler making such deductions shall pay the deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the sampling, testing and weighing of their milk for producers who are not receiving such service from a cooperative association; and

(b) In the case of producers for whom a cooperative association, as determined by the Secretary, is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month, pay such deductions to the cooperative association rendering such services accompanied by a statement showing the amount of milk for which such deduction was computed for each producer.

(Secs 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: April 1, 1982.

Signed at Washington, D.C., on February 23, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-5242 Filed 2-25-82; 8:45 am]

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FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9072]

Chrysler Corp., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens the proceedings and modifies the Commission's order issued on February 18, 1981, 45 FR 70883. The modification sets a single effective date for implementing both sets of retail installment contract revisions.

DATES: Final order issued Feb. 18, 1981. Modifying order issued Feb. 17, 1982.

FOR FURTHER INFORMATION CONTACT: Randall Brook, Acting Director, 10R, Seattle Regional Office, Federal Trade Commission, 28th Floor, Federal Bldg., 915 Second Ave., Seattle, Wash. 98174. (206) 442–4655.

SUPPLEMENTARY INFORMATION: In the Matter of Chrysler Corporation, Chrysler Credit Corporation, and Aurora Chrysler-Plymouth, Inc., corporations. Codification, under 16 CFR Part 13, appearing at 45 FR 70883 remains unchanged.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

The Order Reopening and Modifying Consent Order is as follows:

On February 18, 1981 the Commission issued a Decision and Order against respondents Chrysler Corporation and Chrysler Credit Corporation [1] in connection with the extension and enforcement of motor vehicle retail credit obligations and the disposition of repossessed motor vehicles. There is now before the Commission a request by Chrysler Credit Corporation (filed December 4, 1981) for reopening and modification of that Order pursuant to § 2.51 of the Commission's rules of practice, 16 CFR 2.51.

The Order (Paragraph VI.C) required Chrysler Credit to cease, by February 18, 1982, all use of retail installment contract forms which erroneously state debtors' liability for a deficiency upon repossession. Another provision required such Chrysler Credit contracts to include recitals of debtors' rights to any repossession surplus. Under paragraph VI.B, contract forms reflecting the latter revision were to be distributed for dealer use within a year after Commission issuance of a final rule or adjudicated order relative to such rights.

Desirous of making the necessary changes at once rather than in successive steps, Chrysler Credit's request asks that April 1, 1982 be fixed as the date for effectuation of both sets of retail installment contract revisions required of it by our February 18, 1981 Order.[2] With respect to deficiency recitals this would involve a delay of approximately six weeks; with respect to the recitals of surplus rights it would advance the required implementation date by an indeterminable number of months.[3]

The Commission is of the opinion that the minor six week delay in implementation as to deficiency recitals is more than offset by the benefits of establishing a date certain for Chrysler Credit's effectuation as to surplus rights. The public interest will be served by modifying the Order as requested.

Therefore, it is ordered That Docket 9072 be, and hereby is, reopened for the limited purpose of effecting the following changes in the Order as to Chrysler Credit Corporation.

It is further ordered That paragraph VI.B be modified to read as follows:

B. Shall distribute on or before April 1, 1982 the revised retail installment contract forms to all Dealers who use Chrysler Credit installment contract forms.

It is further ordered That paragraph VI.C be modified to read as follows:

C. Shall, no later than April 1, 1982, cease and desist the use of any Chrysler Credit retail installment contract form which represents that the debtor may be liable to pay a deficiency where Chrysler Credit knows or should know that it is not entitled under state or federal law to collect a deficiency.

By the Commission.

Issued: February 17, 1982.

Carol M. Thomas,

Secretary.

[FR Doc. 82-5243 Filed 2-25-82; 8:45 am]

BILLING CODE 6750-01-M

[1] A separate consent order issued simultaneously as to a correspondent, Aurora Chrysler-Plymouth, Inc., is not involved in the modification request addressed herein.

[2] Because the timing of the actions specified in Paragraphs VI. A and D depends on Paragraphs VI. B and C, no modification of Paragraphs A and D is necessary to accomplish Chrysler Credit's desired result. Chrysler Credit has abandoned its request for change of Paragraphs VI. A and D.

[3] Our only adjudicated order concerning repossession surpluses is not yet final. *Francis Ford, Inc. v. FTC*, 634 F. 2d 389 (9th Cir. 1980), petition for rehearing pending.

16 CFR Part 13

[Docket C-3063]

D'Arcy-MacManus & Masius, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a St. Louis, Missouri advertiser, among other things, to cease disseminating advertisements for any denture product, toothache drop or gel, which contain representations that contradict or negate the health, safety, or efficacy statements appearing on the product's label. Any claims regarding the duration of use of such products trigger a disclosure of any labeling warning. The order further requires that any representation that Snug Denture Cushions can be worn "for weeks" or any other period of time, must be accompanied by a statement that denture cushions should only be used "temporarily, until a dentist can be seen."

DATE: Complaint and order issued February 12, 1982.[1]

FOR FURTHER INFORMATION CONTACT: FTC/PF, Leslie Rossen, Washington, D.C. 20580, (202) 724–1496.

SUPPLEMENTARY INFORMATION: On Monday, December 7, 1981 there was published in the Federal Register, 46 FR 59548, a proposed consent agreement with analysis In the Matter of D'Arcy-MacManus & Masius, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.195 Safety; § 13.205 Scientific or other relevant facts. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–20 Disclosures. Subpart—Disseminating Advertisements, etc.: § 13.1043 Disseminating advertisements, etc. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1710 Qualities or properties; § 13.1240 Scientific or other relevant facts. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure; § 13.1863 Limitations of product; § 13.1890 Safety; § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Carol M. Thomas,

Secretary.

[FR Doc. 82-5270 Filed 2-25-82; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order filed with the original document.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 35, and 154

[Docket Nos. RM80-42, R-424, R-446; Order No. 144-A]

Order Denying Rehearing, Lifting Stay and Clarifying Order

Issued February 22, 1982.

AGENCY: Federal Energy Regulatory Commission Energy.

ACTION: Final rule; order on rehearing.

SUMMARY: By this order, the Commission lifts the stay imposed July 2, 1981, on its final rules requiring tax normalization and denies rehearing of those rules. The rules issued May 6, 1981 (46 FR 26613, May 14, 1981), require a public utility making a rate filing under the Federal Power Act, or an interstate pipeline making a rate filing under the Natural Gas Act, to use tax normalization for certain timing difference transactions to compute the income tax component of cost of service. The order also removes certain refund liabilities imposed during the pendency of the rulemaking and clarifies particular aspects of the final rules with respect to reductions to rate base and

the recent passage of the Economic Recovery Tax Act of 1981. Finally, the order redesignates the final rules requiring tax normalization, removing them from Part 2 of the Commission's regulations and placing them in Parts 35 and 154 for public utilities and natural gas pipelines respectively.

DATE: This order, the final rules requiring tax normalizations and the removal of related refund liabilities are effective February 22, 1982.

FOR FURTHER INFORMATION CONTACT:
John Conway, Deputy Assistant General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE. Room 8106, Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION:

In the matter of Tax Normalization for Certain Items Reflecting Timing Differences in the Recognition of Expenses or Revenues for Ratemaking and Income Tax Purposes, Docket No. RM80–42; Accounting for Premium, Discount and Expense of Issue, Gains and Losses on Refunding and Reacquisition of Long-term Debt, and Interperiod Allocation of Income Taxes, Docket No. R–424; Amendments of the Uniform Systems of Accounts for Classes A, B and C Public Utilities and Licensees and Natural Gas Companies: Deferred Income Taxes, Docket No. R–446.

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On May 6, 1981, the Federal Energy Regulatory Commission (Commission)[1] issued a final order amending Part 2 of its regulations to require a public utility making a rate filing under the Federal Power Act or an interstate pipeline making a rate filing under the Natural Gas Act to use tax normalization for miscellaneous timing difference transactions to compute the income tax component of its cost of service.[2] The order requires a rate applicant to use tax normalization for all timing difference transactions except those addressed in prior Commission orders. The order also codifies the existing Commission practice of adjusting rate base for accumulated deferred income taxes. In addition, the order requires a rate applicant to make provision in the income tax component of its cost of service for any excess or deficiency in the deferred tax accounts due to tax rate changes and to timing difference transactions within the scope of the rulemaking that had previously been given flowthrough treatment. Finally, the order eliminates the refund contingencies in all cases subject to the interim order issued June 8, 1979, under Docket Nos. R–424 and R–446 as of the date the final rule becomes effective.

Applications for rehearing were filed by Cities Service Gas Company (Cities Service),[3] Commonwealth Edison Company (Com Ed),[4] Cities,[5] Public Systems,[6] the Public Utilities Commission of the State of California (California) and East Tennessee Group, *et al.* (East Tennessee).[7] On July 2, 1981, the Commission issued an order granting rehearing of the petition for the limited purpose of providing more time for further consideration and stayed the effective date of the order.

For the reasons set forth below, these applications for rehearing are denied. Before addressing these applications, however, the Commission believes it is important to address the effect of related provisions of the Economic Recovery Tax Act of 1981 on the final rule. This Act, which became effective after the final rule was issued in this proceeding, creates additional timing differences that fall within the scope of the rule.

I. Effect of the Economic Recovery Tax Act of 1981

On August 13, 1981, the Economic Recovery Tax Act of 1981 (ERTA) became law.[8] The Act establishes a new depreciation system, called Accelerated Cost Recovery System (ACRS), under the Internal Revenue Code (IRC).[9] Under the Act, except as provided in certain transition provisions, the utility cannot avail itself of the tax benefits under ACRS,[10] unless it normalizes method and life timing difference transactions related to property depreciated under ACRS.

ACRS completely replaces the prior system of depreciation for property placed in service after December 31, 1980. ACRS abandons the concept of useful life in favor of prescribing certain annual depreciation (cost recovery) percentages by asset class. In addition, ACRS prescribes the treatment of asset salvage value. All utilities using ACRS, even those that currently use flow-through, are required under ERTA to normalize timing difference transactions attributable to the use of ACRS for property placed in service after December 31, 1980, in order to receive the tax benefits of ERTA.[11]

[1] The term "Commission" refers to the Federal Power Commission (FPC) with respect to actions taken prior to October 1, 1977, and to the Federal Energy Regulatory Commission (FERC) with respect to any actions taken on or after that date.

[2] Order No. 144 (issued May 6, 1981), 46 FR 26618 (May 14, 1981).

[3] Cities Service filed in the alternative a Petition For Clarification.

[4] Com Ed also filed an application for clarification.

[5] The Cities application was based on behalf of 25 cities.

[6] The Public Systems application was on behalf of 284 public systems.

[7] This petitioner represents various gas distribution utilities in Tennessee, electric municipal systems in Illinois, Connecticut and Pennsylvania, Memphis Light, Gas and Water Division, Jackson, Tenn-Utilities Division, Arkansas Municipal Power Association and the Papago Tribal Utility Authority.

[8] Pub. L. No. 97–34, 95 Stat. 172 (1981).

[9] ERTA at sections 201–209.

[10] *See* ERTA at section 209(d) for transition rule. In general, this rule requires that a rate order using normalization of ACRS-related timing differences become effective before January 1, 1983, in order for utilities to take advantage of ACRS.

[11] ERTA at section 201. Section 201 contains a new section 168 of the Internal Revenue Code. Section 168(e)(3) provides:

(3) Special Rule For Certain Public Utility Property—

(A) In General.—The term "recovery property" does not include public utility property (within the meaning of section 167(1)(3)(A)) if the taxpayer does not use a normalization method of accounting.

(B) Use of Normalization Method Defined.—For purposes of subparagraph (A), in order to use a normalization method of accounting with respect to any public utility property—

(i) The taxpayer must, in computing its tax expense for purposes of establishing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, use a method of depreciation with respect to such property that is the same as, and a depreciation period for such property that is no shorter than, the method and period used to compute its depreciation expense for such purposes; and

(ii) If the amount allowable as a deduction under this section with respect to such property differs from the amount that would be allowable as a deduction under section 167 (determined without regard to section 167(1)) using the method (including the period, first and last year convention, and salvage value) used to compute regulated tax expense under subparagraph (B)(i), the taxpayer

Continued

If the Commission denied normalization treatment for these timing difference transactions, utilities could not use ACRS and would be required to follow book methods and lives for tax purposes. In that event, there would be no method or life timing differences; depreciation methods and lives would be the same for ratemaking and income tax purposes. With the elimination of method and life timing differences, flow-through of IRC tax benefits to ratepayers would no longer be an option since there would be no tax benefits to flow-through; the utility would lose all tax benefits associated with use of different depreciation methods and lives. For this reason, Commission denial of the use of tax normalization for the timing differences created by the new Act would adversely affect ratepayers and utilities and would frustrate the intent of Congress.

Commission orders issued prior to Order No. 144 which addressed timing difference transactions related to depreciation do not cover the new timing difference transactions created by the ACRS. The normalization requirement of Order No. 144, which encompasses all miscellaneous timing difference transactions not previously covered by Commission orders, therefore covers those timing difference transactions created under the ACRS.

On October 5, 1981, East Tennessee filed a petition to reopen the record of this proceeding in light of the Economic Recovery Tax Act of 1981. Specifically, the petitioner claims that the improved utility cash flow that may result from the provisions of the ERTA makes tax normalization of miscellaneous timing difference transactions not covered by ACRS unnecessary and that the Commission's impact study must be revised in light of ERTA's provisions respecting tax lives of utility property. Finally, East Tennessee requests the Commission to undertake an impact analysis to determine "the extent of the tax benefits actually realized by utilities which would be lost forever to their ratepayers under a normalization rule." (Petition at 6.)

Responses to the petition to reopen were filed by the Edison Electric Institute and by a large group of investor-owned utilities (Utility Group).[12]

On November 30, 1981, the Commission issued a notice requesting comments on the impact of the new tax bill on the final rule. Comments were received from Detroit Edison Company, Arkansas Power & Light Company, Middle South Services, Inc., Public Systems, East Tennessee, Arthur Andersen & Co., New England Electric System, Natural Gas Pipeline Company of America, the American Gas Association, Electric Utilities,[13] El Paso Natural Gas Company, and Utility Group.

In general, with the exception of Public Systems and East Tennessee, these commenters stated that the intent, effect and underlying rationale of Order No. 144 were consistent with the new tax legislation, that the record need not be reopened, and that the rule need not be amended. Detroit Edison Company raised a question about the effect of Order No. 144 on the ability of a utility to utilize the ACRS tax benefits. We shall respond to this question as well as the comments of Public Systems and East Tennessee.

With respect to East Tennessee's argument in its petition that the requirement of tax normalization under the ACRS will improve the cash flow situation of utilities, this fact, if true, would not affect the Commission's determination to adopt tax normalization for all timing difference transactions because cash flow was not the primary basis for our decision.[14] Moreover, several commenters noted that, in any event, the new tax bill may not increase cash flow significantly in the aggregate due to the elimination of the repair allowance provision.[15]

East Tennessee's request that the Commission revise its impact study in light of the new Act is rejected for two reasons. First, with respect to a study of tax benefits that allegedly might be retained by utilities but "lost forever" by ratepayers, the Commission found that tax normalization of timing difference transactions does not result in any permanent benefits to utilities (or their stockholders).[16] This same result obtains with timing difference transactions created under ACRS. While recognition of tax benefits in rates may occur in periods different from their recognition for tax purposes, the benefits are recognized for both in the same amounts over the entire life of the transactions.

Second, to perform a study of the impact on rates of ACRS-related timing difference transactions would be a pointless exercise since these transactions must be normalized by utilities to receive the tax benefits of the ERTA. The staff study's estimates of base difference impacts (primarily AFUDC interest) are not affected by the tax lives of property so that the results would not change if the shorter ACRS tax lives were used.[17] Although the life difference model in the staff study would be affected by the new law, it is accurate for the timing difference transactions associated with pre-1981 property and need not be revised for the effects on post-1980 property because normalization is required.

Additionally, East Tennessee in its petition to reopen the record raises questions concerning the impact on tax normalization of the new liberalized leasing provisions in the new tax bill.[18] The petitioner discusses the new leasing provisions in terms of their beneficial effect on the cash flow of utilities and pipelines. For the reasons discussed above, the Commission is not persuaded that cash flow effects of the new tax bill constitute a basis to reopen the record. However, the Commission is aware that the new tax bill's leasing provisions do raise complicated issues that must be addressed at some point. The Commission has not reached a policy decision on the ratemaking treatment of transactions relating to these provisions. Until that decision is made, the Commission cannot evaluate the impact of any timing difference transactions that may result from different tax and ratemaking treatment of transactions covered by the leasing provisions. The Commission will decide the issues involving leasing provisions under the new tax law on a case-by-case basis or through a rulemaking proceeding in the future.

must make adjustments to a reserve to reflect the deferral of taxes resulting from such difference.

(C) Public Utility Property Which Is Not Recovery Property.—In the case of public utility property which, by reason of this paragraph, is not treated as recovery property, the allowance for depreciation under section 167(a) shall be an amount computed using the method and period referred to in subparagraph (B)(i).

Cf. Internal Revenue Code section 167(1)(2)(C). In general, unlike the ACRS, this provision permits flow-through under certain circumstances for pre-1981 property.

[12] Appalachian Power Company, Boston Edison Company, Columbus & Southern Ohio Electric Company, Commonwealth Edison Company, Consolidated Edison Company of New York, Inc., Indiana & Michigan Electric Company, Kentucky Power Company, Kingsport Power Company, Michigan Power Company, New England Electric System, Ohio Power Company, Union Electric Company, and Wheeling Electric Company.

[13] Cleveland Electric Illuminating Company, Central Illinois Light Company, Dayton Power & Light Company, Louisiana Power & Light Company, Montana Power Company.

[14] Order No. 144, at 55, 46 FR at 29529.

[15] Another commenter suggested that, based on Table 11, of Staff's Study, Appendix A to Notice, page 98, any cash flow gain from the new tax bill would nonetheless cover less than one percent of a utility's cash flow needs. See comments of El Paso Natural Gas Co., at 8.

[16] Order No. 144, at 48; 46 FR at 29522; *see also*, Section II.B.3, *infra*.

[17] *See* Appendix A of Notice, at 91, 46 FR at 23092.

[18] *See* Economic Recovery Tax Act of 1981 at section 201(f)(6).

Both East Tennessee and Public Systems have raised arguments concerning the new tax bill's leasing provisions in their comments on the effect of the new tax bill on the final rule. Each contends that the Commission should require utilities that transfer tax benefits under ERTA leasing provisions to reflect those benefits in their cost of service. As previously stated, the Commission will not address the question of the appropriate ratemaking treatment for leasing transactions in this proceeding.

The contention of East Tennessee and Public Systems, in any event, does not relate to whether flow-through or normalization of timing difference transactions is the appropriate principle to employ regarding these tax benefits, but rather to whether the Commission should recognize these transferred benefits in the utility's rates at all. In other words, their argument does not concern itself with timing difference transactions. Consequently, the argument is not appropriately raised in this proceeding.

Detroit Edison raises a concern that public utilities may lose ACRS benefits if the Commission requires tax normalization of certain timing difference transactions that the ACRS does not require to be normalized. Specifically, this commenter posits that a Commission requirement of tax normalization of the timing difference transactions related to nuclear decommissioning and plant removal costs (or negative salvage costs) may cause public utilities to lose ACRS tax benefits because the deferred tax account is actually reduced when these costs are recognized. The Commission does not share Detroit Edison's concern. There is nothing in the Act that connects the granting of ACRS tax benefits to Commission action on timing difference transactions unrelated to ACRS timing difference transactions. As long as the Commission grants to utilities the right to use tax normalization associated with the method and life timing differences created by ACRS, the Commission believes that the utilities will be eligible to receive the ACRS tax benefits. The Act leaves undisturbed the ability of the Commission to require normalization of other timing difference transactions, whether or not they increase or decrease the balance in the deferred tax accounts.

II. Response to Petitions

A. Policy Considerations

1. *Matching and Equity Principles*—Cities argue on rehearing that the matching principle espoused in Order No. 144, which provides for matching of tax benefits with the associated costs creating those benefits, should not be followed because tax costs are different from all other costs due to the requirements of the Internal Revenue Code. In this context, Cities point out that several tax laws require the Commission to act in a manner inconsistent with equitable regulatory principles in order to permit utilities to avail themselves of tax benefits. According to Cities, these IRS requirements constitute an inequitable windfall to utilities and Order No. 144 simply exacerbates this inequity by requiring tax normalization event though the Commission has the choice to adopt flow-through which would still permit the utilities to obtain the tax benefits.

The Commission cannot agree with Cities' argument. The tax laws to which Cities refer represent Congressional policy to encourage utility investment. If the Commission were to treat certain tax benefits in a manner inconsistent with the tax laws, the utilities would lose the tax benefits and the utilities' customers would be no better off.[16] In those areas in which the Commission has discretion to choose among competing ratemaking methods without adversely affecting the utility's tax liability, the Commission has chosen to adopt a policy which treats tax costs in a manner that is consistent with other costs in a utility's cost of service. The Commission believes that the matching principle which provides for cost recognition and related tax benefit recognition during the same period should be followed wherever possible.

East Tennessee objects to the adoption of the matching principle as the basis for tax normalization because the Commission has not used this principle in the past when this issue has been evaluated. There are two responses to this argument. First, it is not correct to state that the Commission has never before required such consistency between the treatment of costs and the tax allowance in the cost of service. The Commission, in *Columbia Gulf Transmission Company*, Docket Nos. RP75–105, *et al.*, Opinion No. 47 (issued July 2, 1979), held in part that, with respect to the consolidated tax savings issue, the losses (costs) attributable to an unregulated affiliate of a regulated pipeline, which were used to reduce the overall tax liability of the consolidated entity (for tax purposes), should not be reflected in the regulated pipeline's cost of service to reduce its tax allowance because the pipeline's customers did not pay for the losses (costs).[20] The rationale underlying Order No. 144 is consistent with this holding.[21]

Second, to adopt East Tennessee's argument would be to deny the Commission's ability to institute a policy change. The Commission is not bound to follow the reasoning of prior Commissions which may or may not have embraced the matching principle. *Greater Boston Television Corp.* v. *FCC*, 444 F. 2d 841, *cert. denied*, 403 U.S. 923 (1971). The Commission has articulated the rationale for the rule contained in Order No. 144 by fully explaining its reliance on the matching principle.

Public Systems argue that tax normalization does not promote interperiod equity even on a "single plant" basis. They contend that tax normalization intensifies the existing inequities because, under general ratemaking principles, a higher proportion of return-on-investment dollars is collected from ratepayers during the early years of a plant's operating life than during the later years. While they note that, under general ratemaking principles, flow-through will not accomplish full levelization of rates over a plant's life, they claim that flow-through tends more in the direction of levelizing rates than tax normalization. Public Systems contend that the Commission's analysis of this issue in Order No. 144 is deficient.

In Order No. 144, the Commission responded to this argument in two ways. First, the Commission stated that a rulemaking on tax normalization is not the proper forum for dealing with the interperiod allocation of rate base and return. In essence, Public Systems are seeking a major revamping of the way in which rates are set.

Second, the Commission noted that, with respect to a major type of timing difference covered by this rule—depreciation base differences—flow-through will not achieve the result that Public Systems allege. For these timing differences, flow-through lowers rates below tax normalization rates during the plant's construction period and raises

[16] In fact, customers would be worse off because, in the absence of timing differences, deferred taxes would not exist as a reduction to rate base. *See also*, discussion of ACRS in the new tax bill at Section I, *supra*.

[20] Remanded *sub nom.*, *City of Charlottesville* v. *FERC*, No. 80–1176 (D.C. Cir. August 7, 1981). The court held that the FERC had the statutory authority to adopt the holding in *Columbia Gulf*. The case was remanded for failure on the part of the Commission to provide substantial evidence for an additional argument, an incentive for exploration and development, as a primary rationale for the Commission's decision.

[21] *See also* Opinion No. 821, *Southern California Edison Company*, Docket No. E–9176 (issued September 22, 1977).

them *in equal annual amounts* over the plant's operating life.

While it is true that flow-through applied to depreciation method differences (*i.e.*, accelerated depreciation) would have the effect Public Systems seek, these timing differences are excluded from the scope of the instant rule to the extent that pre-1981 property is involved. For property placed in service after December 31, 1980, the ACRS provision of the new tax bill eliminates flow-through as an option.[22]

2. *Tax Savings versus Tax Deferral*—Public Systems and East Tennessee argue, as they did in their initial comments, that tax normalization will result in continual tax deferrals (or, as East Tennessee labels it, "permanent tax savings"). Public Systems assert that, because continual tax deferrals will exist for the foreseeable future, the adoption of tax normalization violates the "actual taxes paid" principle.

Public Systems' basic dispute concerns the Commission's focus on the tax effects of individual timing difference transactions, the so-called "single plant" analysis. They argue that if, instead, the cumulative effects of timing difference transactions are considered over time, the tax allowance will more than cover the tax costs of a utility.

The Commission agrees that continual tax deferrals [23] may exist in the foreseeable future. But, for the reasons discussed in the Notice and in Order No. 144, this possibility is not dispositive of the Commission's authority to approve a tax normalization policy. Moreover, as the staff study demonstrates, even if continual tax deferrals occur, rates established under a tax normalization policy may fall below those established under a flow-through policy. In fact, in staff's analyses of the rate impacts of the rule, continual tax deferrals were projected to occur over the forecast period in all cases for both natural gas pipelines and electric utilities. Rates under a tax normalization policy, however, were projected by staff to fall below those established under a flow-through policy in both the low- and high-growth gas pipeline industry cases and, assuming a modest reduction in the cost of capital to utilities using tax normalization, in both the low- and high-growth electric utility industry cases.[24]

Thus, the staff study showed that there is no direct relationship between continual tax deferrals and higher rates due to tax normalization. In addition, even with continual tax deferrals, tax normalization does not result in increased profits to the pipeline or utility.[25]

For these reasons and the other reasons set forth in Order No. 144 which would support the adoption of tax normalization, the Commission believes that tax normalization is the preferable method of allocating tax costs for ratemaking, regardless of the existence of continual deferrals.

3. *Customer-Contributed Capital*—East Tennessee and Public Systems argue that the Commission erred in Order No. 144 by departing from its Notice and prior Commission and court precedents in finding that deferred taxes were not customer-contributed capital. These petitioners state that the Commission provided no justification for this departure from precedent and the Notice.

The primary reason that deferred taxes should not be considered a loan from customers was explained in Order No. 144:

> Tax normalization does not impose any burden upon ratepayers to pay in excess of the costs associated with the services they receive. Under tax normalization, ratepayers are charged the same rates as they would have been charged had there been no timing differences. . . .[26]

For example, under tax normalization, current utility rates are generally unaffected by any construction activity in which the utility is engaged.[27] Since tax normalization results in a tax allowance in rates equal to those that would exist in the absence of timing differences associated with these construction expenses, one cannot reasonably argue that customers are being forced to contribute capital to the utility's financing of its construction.[28]

The essential difference between the tax normalization and flow-through policies is one of the interperiod allocation of a cost—taxes—in setting rates. While it is true that, with respect to certain types of timing difference transactions, customers pay rates that recover a deferred tax cost, this fact does not convey an ownership or creditor's right for those costs.

The tax benefits, implied by these deferred taxes, arise from utility costs that current customers are not being charged. The tax benefits arise solely from the utility's ability to deduct a cost on its tax return prior to the recognition and recovery of that cost in rates. Tax normalization results in customers being charged the same rates as would occur absent the timing difference transaction.

In addition, the rate treatment implied by the inclusion of a deferred tax component in rates to reflect the collection in rates currently for taxes to be paid some time in the future (or, at the least, recognized as a factor in reducing the tax allowance in future rates) is not, in essence, different from the rate treatment of other costs. Taxes are not the only cost component in rates in which customers are required to pay for the cost prior to a utility's actual expenditure of funds. Plant removal cost is an expense that is recognized in rates prior to the utility's actual expenditure of funds.[29] When this expense is apportioned over the life of the plant (through the depreciation allowance), it reflects the consideration that customers who obtain the services from that plant should be responsible for the cost of dismantling it. Just as the prepayment of plant removal costs over a plant's operating life (rather than during the period of dismantlement when the costs are incurred) does not constitute a loan from customers to the utility, so, too, the prepayment of taxes (through deferred taxes) does not constitute a loan from customers to the utility.

Moreover, inclusion of deferred taxes as an increase in the tax component of rates only occurs for certain types of timing difference transactions. In some cases, however, applying tax normalization to expenses recognized for ratemaking purposes *prior* to their recognition for tax purposes generates a negative deferred tax cost which tends

[22] *See* Section I, *supra*.

[23] "Continual tax deferrals" refers to the continual existence of a tax allowance equal to or in excess of taxes payable or, equivalently, to constant positive or growing deferred taxes.

[24] The explanation of this phenomenon was contained in the Notice proposing tax normalization. Notice, at 41, 45 FR at 22001:

> The reason for this occurrence is found in the Commission's policy of deducting accumulated deferred taxes from rate base. Over time, as the tax allowance exceeds taxes payable because of deferred taxes, accumulated deferred taxes continue to grow. This, in turn, increases the rate base deduction and lowers the return and tax allowances in the utility's cost of service.

[25] *See* Order No. 144, at 88–89, 46 FR at 28629–30; *see also* Section II.A.5. *infra*.

[26] Order No. 144, at 89, 46 FR at 28634.

[27] There are limited exceptions to this due to the Commission's current policies on AFUDC rates and the deduction of construction-related deferred taxes from rate base. The Commission, however, has expressed an interest in reviewing these policies. *See* Order No. 144, at 115, 116, 46 FR at 28634–35.

[28] It should be noted here that when construction work in progress is permitted to be placed in rate base, the tax effects of the construction-related interest expenses are also reflected in rates. The interperiod allocation of these expenses for ratemaking purposes is conformed to their interperiod allocation for tax (IRS) purposes and the timing difference is eliminated.

[29] The discussion here is with respect to the actual plant removal costs and not the tax effects of those costs that constitute timing differences which are normalized pursuant to Order No. 144.

to reduce the tax allowance in rates below a utility's current tax liability.

Petitioners' arguments on the customer loan issue point out that, assuming there is a loan, customers do not receive an adequate rate of return on their loan under the Commission's policy of deducting accumulated deferred taxes from rate base. They suggest that customers should be given some higher rate of return on "their loan" on the order of the equity rate of return allowed the utility or pipeline or the interest rate customers pay on their credit cards. Even if the Commission were to accept the customer loan theory, the petitioners have not explained how rates could reflect this higher return to customers. The Commission sees no possible vehicle for doing this short of penalizing a utility's stockholders.[30] This further illustrates the inappropriateness of the customer loan theory.

The deduction of accumulated deferred taxes from rate base is not intended to provide customers a return on a "loan." Rather, it is intended to reflect the lower cost of service that a utility achieves by its use of the cash flow from deferred taxes in place of debt and equity capital.

The Commission sees no value in reviewing further those arguments against tax normalization that had as their underlying basis the assumption that deferred taxes constituted a loan or capital contribution from customers. As the preceding discussion and the discussion of the question in Order No. 144 point out, the customer loan theory is unpersuasive.[31]

4. *Just and Reasonable Rate Standard*—Cities claim that, contrary to the dictates of the *Public Systems* Court, the Commission did not focus upon consumer protection in developing a tax normalization policy in Order No. 144.[32] In this context, Cities argue on rehearing that the Commission neglected the statement from the *Public Systems* decision that "the focus of regulation remains control of the economic power of utilities that enjoy monopoly status."[33]

In Order No. 144 the Commission balanced the interests of both the regulated entities and the consumers. With respect to the consumers, the Commission stated throughout Order No. 144 that the goal is to protect consumers over time by allocating costs and associated benefits to the same time periods. The issue involved in this rulemaking is not whether rates will be higher under flow-through or tax normalization in the next rate proceeding of a utility or pipeline but, rather, whether flow-through or tax normalization better comports with the public interest in protecting current and future ratepayers. "Consumer protection" or the "control of the economic power of utilities" does not mandate a rejection of a cost allocation method that the Commission believes is superior simply because that method may result in rates that are higher than some other method over the short term. Withholding recognition of tax benefits related to expenses that also are not recognized in a utility's cost of service is an approach which is equitable to current and to future consumers, and this "protects" them.

5. *Rate, Cash Flow, Rate of Return, Cost of Capital and Rate Stability Impacts*—East Tennessee criticizes the staff study's rate impact analyses in two areas. First, East Tennessee disputes the validity of the study because the data base consists of industry-wide average figures. The petitioner asserts that "the Commission must make individual computations for each individual pipeline and each individual electric utility projecting for a full life cycle all relevant future conditions."

In effect, East Tennessee suggests that the Commission undertake a case-by-case evaluation of the issue of tax normalization. While the Commission had the option of taking that sort of approach, the Commission chose instead a generic informal rulemaking procedure as the means for establishing a ratemaking policy of industry-wide application. The Commission is satisfied that the use of data on an industry-wide basis is appropriate to assess the impact of the rule on the utility industry and its customers, even though we acknowledge that data relating to individual utilities and their customers may vary from the average.[34]

Second, East Tennessee claims that staff's method for separating the rate impact estimates of base and life differences was inaccurate and misleading. East Tennessee appears to have misunderstood the staff study. The study used separate models which were derived and used to estimate the base and life difference impacts. These models are listed separately in Table 9 of the staff study. Only in the summary tables and charts of the impact results (Tables 12 and 13 and charts 1 and 2) are the impacts of these two timing differences added. As the staff study noted:

> The base and life timing differences are evaluated separately to keep the analyses as simple as possible. These separate results, however, can be summed to obtain the combined impact of these two sources of timing differences.[35]

East Tennessee apparently misread that portion of the staff study where staff proved the latter point, *i.e.*, that the separate impacts were additive.[36]

East Tennessee also disputes the Commission's conclusions as to the beneficial cash flow impact of a normalization policy, claiming that the total cash flow generated over the life of a plant is greater with flow-through than with tax normalization. East Tennessee fails to comprehend the fact that flow-through results in a greater cash flow *need*. While the reasons for this greater cash flow need should be clear from the analysis contained in the staff study,[37] the point is sufficiently important to be worth clarification.

In a single project analysis, the total internal cash flow generated through rates over a plant's life (including the construction period) will equal the total amount needed to pay all the depreciation, return and taxes associated with the project. The internal cash flow generation is higher under a flow-through policy than under a tax normalization policy. This higher internal cash flow generation simply reflects the higher cash flow need created by a flow-through policy. This need is due to the fact that, as the construction period tax benefits are flowed through to customers, the utility must obtain additional financing to pay for its construction costs, thus entailing higher return and tax costs. Under normalization, however, the utility obtains cash flow through the deferred tax allowance to pay for construction costs and thus reduces its need to acquire financing from the capital markets.

Cities were the only petitioners to substantively attack the Commission's finding that the use of tax normalization may tend to lower a utility's cost of capital vis-a-vis the use of flow-through. Cities criticize the Commission's cost of capital findings on three substantive bases.[38]

First, Cities argue that, contrary to the Commission's critique, the statistical trend analyses of market-to-book ratios and dividend yields offered by them in their initial comments is accurate. These analyses purported to show that, for years prior to 1979, a utility's cost of capital would be lower under tax normalization than under flow-through, and for 1979 and thereafter the utility's cost of capital would be higher under tax normalization than under flow-through. In arguing that the Commission's critique was incorrect, in so far as that critique went to the failure of Cities to justify the nonlinear equation used in their trend analyses, Cities recast its trend analyses in linear form in their rehearing application. Cities also state that the rationale for the trend is that tax deferrals were increasing rapidly with time.

The basic problem with Cities' trend analyses is the underlying hypothesis that the cost of capital impact varies over time, rather than whether the relationship is linear or nonlinear. To say that the trend results from taxes increasing rapidly with time is not responsive.The Commission stated in Order No. 144 that "[i]f tax normalization lowers *or raises* the cost of equity capital relative to the use of flow-through, that result should be independent of time."[39] Cities have not rebutted this statement.

The second point raised by Cities concerns their hypothesis that deferred taxes are a senior liability that increases a utility's leverage and thus the risk to common equity investors. The Commission has already explained in some detail the reasons for rejecting this hypothesis in Order No. 144.[40]

The third point raised by Cities to criticize the Commission's cost of capital findings supporting tax normalization is its argument that flow through leads to greater income stability. To support that argument, Cities has submitted a revised exhibit—pertaining to income stability under the alternative policies—in response to one of the criticisms made by the Commission to its argument. Cities claim that the revised exhibit supports the same conclusion reached initially by Cities. The Commission has evaluated Cities' revised exhibit and still finds it deficient. As Order No. 144 stated, the exhibit presents only a one period analysis for a Type I timing difference.[41] If Cities had evaluated the effect of a sales reduction during the period when the timing difference transaction reverses, they would have found that it leads to greater income instability under flow-through.

As a final point on cost of capital, upon review of Order No. 144, the Commission notes an inconsistency in its statements of findings on the cost of capital impacts of the proposed policy. In Section II.I.4 the Commission stated conclusively that "(t)he final rule is found to have beneficial effects on the cost of capital to utilities." However, in section I.B.3, the Commission stated that "[t]ax normalization may have a favorable impact on the cost of capital to utilities vis-a-vis flow-through." The latter statement is the correct one. The Commission finds it unnecessary to go beyond the finding that, if the choice of tax normalization or flow-through has any impact on the cost of capital, then there may be a favorable impact under tax normalization. The record contains evidence supporting this view and no persuasive arguments or empirical data have been presented supporting the contrary.

Cities challenge the view advanced in Order No. 144 that adoption of a tax normalization policy will not result in windfall profits to the shareholders of a utility. In particular, Cities dispute the Commission's agreement with a statement by one commenter that, since utility stocks are currently selling below book value, stockholders are not receiving or anticipating a windfall. The Commission agrees with Cities that the evidence of a market-to-book ratio below 1.0 for utilities that normalize does not, by itself, demonstrate the absence of windfall profits. However, Cities have not attempted to explain the basis for their belief that windfall profits will occur under tax normalization. As we explained in Order No. 144,[42] deferred taxes cannot be paid out as dividends or placed in retained earnings under the Commission's accounting rules. They can serve as a replacement for investment funds that a utility must otherwise acquire from lenders and equity investors, but the utility is deprived of a return on those funds through the Commission's policy of reducing rate base by those amounts. Thus, there is no direct monetary benefit to shareholders in the form of profits.

East Tennessee claims that the Commission is wrong when it states that tax normalization is likely to produce more stable rates than flow-through. It points to exhibits in its initial comments which purportedly show that flow-through and tax normalization rates result in almost identical variations over the period 1979 to 2014 for the case of El Paso Natural Gas Company's San Juan Infill Program.

The Commission agrees that the cited exhibits show little difference in the rate stability under tax normalization and flow-through for the projected conditions of the San Juan Infill Program. However, as stated in Order No. 144, there are many factors to be considered for such a comparison.[43] Whether the results for the San Juan Infill Program apply generally is, at best, uncertain. At most, the exhibits indicate that rate stability will be unaffected by the choice of tax normalization or flow-through.

6. *Other Policy Considerations*—Public Systems allege that there is no justification for the Commission's failure to require normalization of the tax-on-tax effects associated with the collection of deferred taxes from ratepayers. They claim that the Commission's refusal to require normalization of these tax-on-tax effects is based upon a misunderstanding or mischaracterization of the comments of Public Systems and is patently

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[30] Any reduction in rates intended to give customers a higher return on "their loan" will necessarily result in setting for the stockholders a return below that determined reasonable and allowed in the cost of service.

[31] *See* Order No. 144, at 85-87, 46 FR at 29634.

[32] In its petition, Cities concede that consumer protection includes maintaining the financial integrity of a regulated entity, and do not contend that the Commission failed to consider the financial integrity of that entity. .

[33] 606 F. 2d at 978, n. 27.

[34] *See also* Order No. 144, at 13-78, 46 FR 29625-29.

[35] Appendix A of Notice, at 80, 45 FR at 22080.

[36] East Tennessee, additionally, found difficulty in reconciling the numbers in the tables on pages 80 and 81 of the staff study (45 FR at 22080) with the formulas given in the footnote on page 81. It should be noted that these formulas are not the basis for the derivation of the models presented in Table 9 of the staff study. The formulas were presented solely as an alternative way of showing the additive property of the depreciation timing differences. To assist interested parties in reconciling the numbers in the tables with the formulas, the following parameter values may be useful:

	t_r	t_l	b_r	b_l
For years 1–4	.20	.25	110	100
For year 5	.20	5	110	100

One can see the life difference as a difference in book and tax depreciation *rates* (reflecting the difference in life over which the asset is depreciated) and the base difference as a difference in book and tax depreciation *bases* (reflecting the difference in the amount to be depreciated over the plant's book or tax life).

[37] *See* Appendix A of Notice, at pp 31-45, 45 FR at 22074-77.

[38] They also allege that the Commission misled commenters by appearing to base its findings on staff's empirical analyses rather than the "studies cited" in a footnote. There is no basis for this claim. The studies were referenced twice in the cost of capital section of staff's report. The empirical data presented by staff was introduced by the phrase "in addition" and it is clear from the content of staff's remarks that the data were intended to corroborate the referenced studies with more current data than those used in the studies. Moreover, Cities make no attempt to show error in the main portion of the study's cost of capital discussion—staff's list of four arguments that have been used to support the theory of a lower cost of capital under tax normalization. In addition, Cities criticize the style of citation for these studies as not being in "any legally acceptable form". The staff study is not a legal brief and the form used is consistent with that found in a number of economic journals. Full citations to the studies are given in the bibliography of the staff study.

[39] Order No. 144, at 95, 46 FR at 29631 (emphasis in original).

[40] *Id.* at 85-87, 46 FR at 29630.

[41] *Id.* at 93-95, 46 FR at 29630.

[42] *Id.* at 87, 46 FR at 29629.

[43] *Id.* at 101-102, 46 FR at 29632.

inconsistent with the rationale which the Commission claims supports tax normalization in general. In this context, Public Systems argue that the use of tax normalization in ratemaking results in the collection of revenue which is taxed as current income, but which is not recognized as income for ratemaking purposes. As a result, current ratepayers are required not only to pay deferred taxes, but also to pay the income taxes on the revenues collected for deferred taxes. Public Systems believe that consistent application of tax normalization principles requires that the tax effects resulting from the recognition of income associated with the collection of deferred taxes be postponed, and that the income taxes on these deferred tax revenues be collected from the future ratepayers who will be benefiting from a reduced cost of service due to reversal of the timing differences.

In support of their argument, Public Systems claim that deferred taxes are properly treated for accounting purposes in the same way as deferred investment tax credits and that the Accounting Principles Board Opinion No. 2 states that it is appropriate to treat investment tax credits as deferred income. Public Systems contend that if deferred income taxes are recognized properly as deferred income, the taxes on such deferred income also must be normalized to be consistent with the general principle of tax normalization espoused in Order No. 144.

The Commission believes that Public Systems have mischaracterized the nature of deferred income taxes. The Accounting Principles Board, in its Opinion No. 2, concluded that the investment tax credit was a reduction in a cost otherwise chargeable in a greater amount to future accounting periods. For those companies electing to use deferral accounting, this conclusion leads to a spreading of the investment tax credits over future periods. Therefore, the deferred investment tax credits may be properly characterized as deferred income.

However, deferred taxes are different from deferred investment tax credits. Deferred tax accounting is a process of allocating the tax effects of transactions in each period for ratemaking (and accounting) purposes consistent with the manner that the transactions themselves are recognized for such purposes. In other words, the nature of deferred tax accounting is one of allocating tax cost between periods and not one of recognizing a reduction in cost as is the nature of accounting for the investment tax credit.

In summary, since tax normalization is a process of allocating costs and does not create deferred income, the arguments of Public Systems that normalization of the tax effects associated with the collection of the deferred taxes is required will not stand. The effect of Public Systems' suggested treatment, if adopted, would be to erroneously treat as an interperiod timing difference an item that is not an expense deduction for income tax purposes, that is, the deferred tax expense itself. The Commission in its Order No. 144 noted that, if this erroneous approach were carried to its logical conclusion, the amount of normalized revenues would asymptotically approach zero. Under Public Systems' approach, the deferred income tax expense would be reduced by a credit amount of approximately one-half of the expense; this would, in turn, leave a net deferred tax amount in the cost of service which would affect taxable income and also require a further reduction. This process could continue until the resulting rates are the same as under flow-through. For this reason, the Commission does not adopt Public Systems' suggestion.

Public Systems and East Tennessee allege that the Commission erred in rejecting their recommendation that contributions in aid of construction be required instead of comprehensive tax allocation for capitalized expenses associated with the construction of new plant. They believe that requiring contributions in aid of construction as an alternative to tax normalization will result in lower rates for consumers, will provide utilities with the same benefits as would normalization, and will result in adverse consequences only to the Internal Revenue Service.

The gist of their argument is that certain construction-related expenditures such as short-term interest costs are deductible by a utility on its tax return when the expenditures are incurred; therefore, the net cost to the utility is the gross cost reduced by the tax savings realized. If a utility is then reimbursed for its net cost by a customer's contribution, the reimbursement will not be taxable income to the utility; the utility will have recovered its cost, and the customer will have paid lower rates than it would have under tax normalization. Under this scheme, the only "loser" is the taxing authority since the contribution would be excluded from taxable income of the utility.

The primary objection to this scheme is that it assumes a tax result which, in fact, may be unobtainable under current tax laws. The Commission is not aware of any IRS ruling on the taxability of contributions in the form suggested by East Tennessee,[44] but it seems highly unlikely that the IRS would permit a utility to deduct on its tax return a portion of its construction cost and at the same time permit the exclusion from taxable income of a partial reimbursement of the amounts deducted.[45]

The form of contribution in aid of construction suggested by East Tennessee is considerably different from the more common form of non-taxable contribution received by a utility for reimbursement of specific facility cost and where the constructed facilities have zero tax basis to the utility, that is, where the associated cost is not also allowed as a tax deduction for the utility. Under the more common form of contributions, ratepayers would pay essentially the same amount over the life of the plant as under tax normalization or flow-through, although the timing would be different.

Using East Tennessee's Table No. 1 [46] in conjunction with Table No. 3 of the staff study,[47] a simple illustrative comparison of the various policies can be made. The illustration focuses on AFUDC interest expenses. The primary assumptions are that (1) a utility incurs $10 million in AFUDC interest costs during construction year 0, (2) the service life of the plant is two years, and (3) the tax rate is 40 percent. The following table presents the effect of this cost on the utility's revenue requirements under the different policies:

TABLE 1

[In millions of dollars]

Case	Year		
	0	1	2
I. Base: No AFUDC Interest	0	0	0
II. Tax Normalization	0	5.95	5.45

[44] Public Systems appear to have a different belief about the effect of contributions in aid of construction on rates. Statements made by them indicate that the contributions scheme would set rates during the construction period midway between flow-through and tax normalization rates. For example, they state on page 62 of their comments that "[t]he cash flow *to utilities* would be the same as under normalization, but the cash flow *from ratepayers* would be only half as great." (Emphasis in original). If this is their view, they are in error. *See* the following discussion in text.

[45] *Compare* treatment of contributions in aid of construction under IRS. Rev. Rul. 75-557 and 70-91.

[46] Comments of East Tennessee Group, *et al.* at 14-15. East Tennessee's table contains an error in the calculation of the utility's tax liability in year 1 for the contributions scheme (their Case III). The tax liability in that year should be $4 million, corresponding to the tax liability in their Case II (Revenue Requirements without AFUDC Interest). The equity return upon which the tax is based is the same in both of these cases.

[47] Notice, at Appendix A, at 35, 45 FR at 23075.

TABLE 1—Continued

[In millions of dollars]

Case	Year		
	0	1	2
III. Flow-Through	($4.67)	9.93	9.13
IV. Contributions in Aid of Construction (AFUDC interest deductible-East Tennessee option)	6.00	5	0
V. Contributions in Aid of Construction (AFUDC interest nondeductible)	10.00	0	0

As can be seen, tax normalization (Case II) leaves the revenue requirements during year 0 (the construction period) unchanged and recovers the $10 million interest costs in installments of $5 plus financing and related tax costs during years 1 and 2 (the operating life). Flow-through (Case III), by allocating the tax benefits (arising from the deduction of the AFUDC interest from taxable income) to the construction year 0, reduces rates below what they would be absent a construction program (Case I) and so must raise rates during the operating life to recover from consumers both the interest expense, the tax benefits previously flowed through and the associated financing costs. The contributions scheme (Case IV), where the AFUDC interest is also allowed to be deducted as an expense on the utility's tax return, would raise rates during the construction period above the "No AFUDC Base Case I" and leave rates unchanged during the operating life. Ratepayers are thus required to pay the interest costs during the construction period while future customers during the service life of the facilities would get the benefit of reduced rates.

But notice that, rather than paying the full $10 million in AFUDC interest, ratepayers under the contributions scheme envisioned by East Tennessee would pay only $6 million. This is the after-tax cost of the AFUDC interest. The federal government is assumed to pay the other $4 million by permitting the utility to continue to deduct the $10 million of its tax return while ignoring the revenues being collected to pay for the AFUDC interest cost. As noted above, such a policy seems highly unlikely.

Case V, on the other hand, shows a more probable contribution scheme where the related cost is not also permitted as a tax deduction. In this case, the effect is simply to have ratepayers pay the full cost as it is incurred by the utility during the construction period. Since ratepayers pay essentially the same amount under Case V as under Cases II and III—except, of course, for the effects of financing costs—there is no real benefit to the ratepayer in adopting the contributions policy.

Another reason justifying the Commission's rejection of the contribution in aid of construction scheme advanced by petitioners as a substitute for the tax normalization policy of Order No. 144 is that many of the timing difference transactions covered by that policy are not related to construction costs (*e.g.*, regulatory commission expenses, plant removal costs, and ACRS-related depreciation expenses). Because they are not construction-related, these transactions would not qualify under any contributions in aid of construction policy. As a result, this approach would only be a partial substitute for tax normalization.

B. Other Issues Raised on Rehearing

1. *Price Squeeze*—Public Systems argue on rehearing that adoption of tax normalization will have anticompetitive consequences in states which do not authorize a utility's collection of deferred taxes from retail customers under rates set by those state authorities. They contend that the Commission's policy of having a case-by-case determination of the anticompetitive (price squeeze) effect of tax normalization is an insufficient response to this problem. Assuming that a price squeeze exists, Public Systems claim that the general ratemaking scheme of the Federal Power Act, which permits a rate to go into effect subject to refund, combined with the Commission's current policy of phasing the price squeeze issue, can cause a price squeeze related to tax normalization to "continue unchecked for a matter of years." To remedy this possible situation, Public Systems suggest that tax normalization be permitted subject to refund if the utility's retail regulatory authority permits tax normalization, but that tax normalization only be permitted prospectively after a determination by the Commission that there is no anticompetitive effect for utilities whose retail regulatory authorities do not permit tax normalization.

This proposal on tax costs would have some merit if both the federal and state regulatory authorities employed identical ratemaking methodologies on all other costs in determining rates and if retail and wholesale rate increases become effective for precisely the same time periods. However, as explained in the Notice and in Order No. 144, federal and state regulation of electric rates generally lead to disparate treatment of many cost of service elements, including allocation, rate base valuation (including construction work in progress), rate of return, and test year selection and adjustments to that selection.[48] "It is quite conceivable that such divergent policies would have off-setting rate effects that would minimize or eliminate any rate disparity otherwise created by conflicting state-federal normalization practices."[49]

At the outset of a rate proceeding, the Commission cannot know whether a particular wholesale rate will create a price squeeze. Absent such knowledge, it would be unfair to deny the utility the use of tax normalization at the time that its rate increase would otherwise go into effect. Because the principle of tax normalization is sound, an untested allegation of the anticompetitive effect of tax normalization should not act to deny part or all of a utility's rate increase at the initial stage of a rate increase proceeding.[50] If, at the end of the rate setting proceeding, the Commission determines that a remediable price squeeze exists, it has the authority to order refunds of those amounts found to have contributed to the price squeeze, including those amounts attributable to tax normalization.

2. *Mandatory Requirement to Normalize*—Both East Tennessee and Pubic Systems objected to that part of the rule requiring rate applicants to use tax normalization in all future rate proceedings. These petitioners preferred the position taken by the Commission in Order No. 530-B and in the proposed rule that the utility have the option of using tax normalization.

East Tennessee claims that the rule will "work a hardship upon both the regulated utility and its customers" if both groups prefer to use flow-through rather than tax normalization. Order No. 144 provides a ready response to this argument: "The rule, of course, leaves undisturbed the ability of the parties to reach a settlement on any of the issues covered by the rule."[51]

Public Systems offer reasons why a utility might prefer not to utilize comprehensive tax normalization and contend that the Commission has given no justification for mandating tax normalization. Although Public Systems attempt to provide objections from the utilities' perspective, in fact no utilities have objected to this requirement. Thus,

[48] Notice, at 47, 45 FR at 22082; Order No. 144, at 67, 45 FR at 28626.

[49] Notice, at 47, 45 FR at 22082 (footnote omitted).

[50] If the Commission were to adopt the policy of permitting such a denial, the utility could not recover its appropriate rate if the Commission were to find later that the allegation was untrue.

[51] Order No. 144 at 4, 46 FR at 28614.

whatever their preferences may be, utilities are prepared to comply with the rule without complaint.[52] In addition, the rationale behind the mandatory requirement is fully set forth in Order No. 144.[53]

Public Systems also argue that a utility should not be permitted to normalize only those items that would increase current rates. The Commission agrees. By making tax normalization mandatory, the Commission will prevent utilities from using tax normalization only in those situations in which tax normalization would increase rates.

3. *Denial of Hearing on Tax Normalization in Future Cases*—East Tennessee states that the Commission exceeded its statutory power in making the final rule applicable to all future proceedings. Error is alleged on two grounds. First, it is alleged that the Commission failed to provide in the final rule an opportunity ("safety valve") for a showing, in a particular case, that tax normalization will result in a tax savings rather than a tax deferral. Second, it is alleged that the Commission erred by promulgating the rule without using the formal rulemaking procedures required by the Administrative Procedure Act, the Natural Gas Act, and the Federal Power Act.

As explained in Order No. 144 and discussed elsewhere in this rehearing order, the Commission's decision to adopt tax normalization is not based on the finding that a temporary tax deferral will occur in the foreseeable future. Thus, even if litigants in rate cases were permitted to demonstrate the existence of a continual tax deferral [54] rather than a temporary tax deferral, the Commission would not be persuaded to adopt a flow-through method for computing the tax allowance. In this context, however, it is important to note that, because the final rule adopts tax normalization for timing differences and not permanent differences, litigation is permitted on the question of whether there are timing differences as opposed to permanent differences.

With respect to petitioner's second claim that an agency must comply with the formal rulemaking procedures of the Administrative Procedures Act (APA) [55] "where another statute requires a rule to be made on the record after opportunity for agency hearing," neither the Natural Gas Act nor the Federal Power Act requires a proceeding relating to rates to be made "on the record." Therefore, the Commission is authorized to establish ratemaking procedures through informal rulemaking.[56] Moreover, section 403(c) of the Department of Energy Organization Act, which permits ratemaking by rulemaking under the Natural Gas Act and Federal Power Act, does not require that rulemakings undertaken by the Commission involve formal procedures.

4. *Makeup Provision and Tax Rate Changes*—East Tennessee argues that the Notice gave no indication that the Commission would require utilities and pipelines to make provision for any excess or deficiency in deferred taxes due to the use of flow-through in prior years.[57] The petitioner notes that Section 4(b) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)) requires that the notice include "either the terms or substance of the proposed rule or a discussion of the subjects and issues involved," and apparently contends that the rule "substantially exceeds the proposal in severity."[58]

The Commission believes that the Notice adequately apprised interested persons of the issues involved.[59] Section 2.202(c)(2) of the proposed rule contained in the Notice concerned the treatment of timing differences occurring prior to the use of tax normalization. Like the final rule (§ 2.202(c)), the proposed rule would have required the rate applicant to follow a Commission-approved ratemaking method of providing for deferred taxes related to prior timing differences. Unlike the final rule, however, which requires some provision for eliminating the excess or deficiency in deferred taxes due to the use of flow-through for prior timing differences where no Commission approved ratemaking method was established, the proposed rule would have maintained a flow-through approach for those items. The fact that the Commission's ultimate resolution of one component of the question is different from its proposal cannot hide the fact that the question itself was clearly raised in the Notice, and all commenters had the opportunity to discuss the merits of the proposal.[60] Nothing contained in the applications for rehearing causes the Commission to reconsider its position on the question of notice.

Public Systems and East Tennessee criticize the Commission for not having evaluated the impacts of the § 2.202(c) provision dealing with the makeup for prior flow-through and the effects of tax rate changes. It appears to be the implicit belief of these petitioners that this provision will necessarily lead to higher rates. Logic suggests that a likely result in many circumstances will be, at least initially, to lower rates. Tax rates have fallen over the period that companies have been allowed to use tax normalization. To the extent that companies have been accruing deferred taxes at a higher than current tax rate, their accumulated deferred tax accounts are in excess of the amounts necessary for future tax liabilities. This excess may be substantial for some electric utilities given their large construction programs during this period. Thus, the immediate impact of the provision regarding tax rate changes is necessarily to lower rates. Even assuming that the effect of the provision requiring a method for adjusting for prior flow-through is to increase rates, the rate effect of the tax rate change provision may often exceed the prior flow-through effect.

The principal reason why the Commission has chosen not to attempt to quantify the rate impacts of 2.202(c) is that that section is to be implemented on a case-by-case basis. The Commission may determine in any case that the impact on consumers or utilities is significantly adverse and choose not to require a particular method to account for the effects of prior timing differences and tax rate changes. Alternatively, the Commission may find, through experience, that the impacts are not substantial and adopt one or more methods to be applied uniformly.

East Tennessee argues that, because of the uncertainty of a payback of deferred taxes due to changes in Federal income tax laws, the Commission erred in failing to reject tax normalization. This argument was previously addressed and rejected in Order No. 144; however, further exposition may be helpful.

Timing differences are differences between the recognition of transactions for tax purposes and for ratemaking purposes which arise in one time period and reverse in one or more other periods so that over the life of the entire transaction the total amount recognized for tax purposes and for rate purposes is equal. This statement is valid whether tax rates change over time or not. However, the impact of tax rate changes on cost of service may be different due to shifting recognition of the tax effects of the transactions between periods in which the tax rates are different. This phenomenon occurs because the tax allowances granted in rates, in turn, increase the taxable income on which the tax allowance is based—the so-called tax-on-tax effect—which must also be compensated for in rates. If tax normalization, as compared to flow-through, shifts the recognition of transactions for ratemaking purposes to periods when the tax rate is lower, the effect is to increase the amount of taxes the ratepayer will pay in rates and the amount of taxes the utility will pay into the Treasury. Conversely, if normalization shifts the ratemaking recognition of expense transactions to periods where the tax rates are higher, the ratepayer would pay lower rates, as compared to flow-through, and the Treasury would collect less in taxes. In either of these instances, however, the utility does not profit or suffer a loss since it is compensated for its tax costs and no more. The Commission, contrary to the views of the petitioner, believes that it should determine a policy of proper allocation of costs between periods without speculating as to whether Congress will raise or lower corporate income tax rates in the future.

5. *Timing Differences Covered by the Rule*—East Tennessee and Cities raised arguments concerning the application of tax normalization to particular depreciation-related timing difference transactions.

East Tennessee argues that there is a significant difference between liberalized depreciation-related and other depreciation-related timing difference transactions. It states that, over the life of a single plant, use of accelerated depreciation methods changes the available amount of tax depreciation deductions and, therefore, rapid depreciation in the earlier years is simply a borrowing of part of the straight-line depreciation deductions which would otherwise be taken in later years. East Tennessee argues, however, that base differences are items which are capitalized for rate purposes and taken as an expense in a single year for tax purposes and, therefore, there is no reversal of the timing difference; only a pure tax savings is involved. It then concludes that tax normalization of base differences imposes "phantom" taxes upon ratepayers.

The Commission does not agree with East Tennessee. The fact that an item is capitalized for rate purposes does not mean that the capitalized item is not taken as a tax deduction for rate purposes. To the contrary, the items of cost which constitute base differences (*e.g.*, interest during construction, pension cost capitalized, ad valorem taxes) are includable in the determination of taxable income for rate purposes when the cost of the assets in which these items are a component is depreciated. The deduction from taxable income for rate purposes is taken in the form of book depreciation over the service life of the related assets as opposed to being treated as an expense in a single year for IRS tax return purposes; but the total available deduction over time for book and tax purposes is the same. There is only a difference in the label of the deduction (depreciation or expense) and the period that it is utilized (service life of related asset for ratemaking purposes or time of incurrence for IRS tax purposes). East Tennessee is therefore wrong in its characterization of tax normalization of base differences as imposing "phantom" taxes upon ratepayers.

A somewhat similar argument was raised by Cities Service. Cities Service believes that it was not the intention of the Commission in Order No. 144 to require tax normalization for the difference between aggregate straight-line tax depreciation and the total depreciation allowance for ratemaking purposes. Cities Service believes that if such were the intention of the Commission, then this requirement is technically invalid because, according to Cities Service, it treats as an interperiod timing difference an item that is not an expense deduction for income tax purposes. The basis for its belief apparently is that the depreciation allowance for ratemaking purposes is not found as an expense deduction for income tax purposes.

Cities Service is in error. It was the intention in Order No. 144 to require the normalization of the difference between straight-line depreciation used for rate purposes (as adjusted for permanent differences such as equity AFUDC) and aggregate straight-line tax depreciation. This timing difference is clearly described in Order No. 530 and in the Notice of Proposed Rulemaking, Docket No. RM80-42, as differences between tax and book lives of property and differences that result from recognition of certain items as current expenses for tax purposes and as capitalized and amortized expenses for rate purposes.

A simplified example of the nature of the various forms of timing differences related to depreciation for pre-1981 property [61] may be helpful to explain what is and what is not covered by Order No. 144, as well as to respond to Cities Service's request for clarification. If we assume that a utility constructs an asset which will have a service life of ten years and the cost of the asset is $100 (labor and material of $90 and interest of $10), then the utility will charge to its books and recover from its ratepayers 10% of the asset cost or $10 for each of the ten-years that the asset is used to provide service. Under tax normalization, this same $10 would be used as a deduction to compute the tax component of the cost of service in each year of its ten-year service life. The asset cost is deducted for tax return purposes, however, in an entirely different manner. The interest portion of the asset cost is deductible as an expense when incurred prior to the start of the service life, leaving only $90 available for tax depreciation. The guideline straight-line tax life is then determined (say 5 years—a 20% depreciation rate); then a shorter tax life permitted by the Asset Depreciation Range ADR provisions (4 years—a 25% depreciation rate which is a 20% shorter life than the guideline straight-line life) is selected. After the ADR life is selected, the ADR straight-line rate is then accelerated (for this example the sum-of-the-years digits (SYD) method is used). This enables the utility to depreciate, for tax purposes, 40% of the assets' cost of $90 in the first year, 30% in the second, 20% in the third, and 10% in the fourth, resulting in the following

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[52] With the exception of Cities Service, no utility or pipeline requested rehearing of the rule itself.

[53] Order No. 144, at 110-112, 46 FR at 26633-34.

[54] *See* note 23, *supra* for discussion of the terms "tax savings" "continual tax deferrals" and permanent difference; *see also* Order No. 144, at 44-55, 46 FR at 26621-26624.

[55] 5 U.S.C. 556 and 557.

[56] The courts have consistently upheld the authority of the Commission to set rates by informal rulemaking. *See Phillips Petroleum* v. *FPC*, 475 F.2d 842 (10th Cir. 1973); *American Public Gas Association* v. *FPC*, 567 F.2d 1016 (D.C. Cir. 1977); *American Public Gas Association* v. *FPC*, 498 F.2d 718, 722 (D.C. Cir. 1974) (The court noted that the relevant sections of the Natural Gas Act contained no "on the record" provision for rulemaking and held that these sections "on their face do not require the Commission to follow the formal procedures of sections 556 and 557 of the APA."); *see also United States* v. *Florida East Coast Railway*, 410 U.S. 743 (1972) (The Court held that the Interstate Commerce Commission may use informal rulemaking in satisfying the requirement to hold a hearing in a rate case under the Interstate Commerce Act, an Act upon which the Federal Power Act and Natural Gas Act rate sections were modeled.)

[57] The petitioner did not object, however, to the requirement of a provision to take account of tax rate changes in determining the appropriate amounts of deferred taxes.

[58] East Tennessee petition at 31.

[59] *See California Citizen Bands Ass'n.* v. *United States*, 375 F. 2d 43, 48 (9th Cir.), *cert. denied*, 389 U.S. 844 (1967); *Mt. Manefield Television, Inc.* v. *FCC* 442 F. 2d 470, 488-89 (2d Cir. 1971).

[60] The same commenter argues that the mandatory requirement to normalize (in § 2.202(b)) suffers from the same defect as the provision in § 2.202(c) because the notice provided for a utility or pipeline to elect to normalize. Like the situation relating to rate treatment of prior timing differences, we believe the Notice raised the issue of the elective or mandatory use of tax normalization in the proposal in a manner sufficiently broad to apprise commenters of the nature of the issues involved. The applications for rehearing have not provided arguments which cause us to revise the final rule on the ground of inadequate notice.

[61] *See* Section I, *supra*, for a discussion of post-1980 property.

pattern of tax deductions to be taken on the tax return: [48]

TABLE 2

Year	Description	Amount
0	Interest expense	$10.50
1	Tax depreciation at 40 percent	36.00
2	Tax depreciation at 30 percent	27.00
3	Tax depreciation at 20 percent	18.00
4	Tax depreciation at 10 percent	9.00
	Total deductions	100.00

An analysis of the $26 difference between the amount of book depreciation used for rate purposes ($10) and the amount of tax depreciation ($36) used for tax return purposes in the first year of service is as follows:

(A) Difference that results from base differences ($100–$90) × 10%	$(1.00)
(B) Difference that results from different depreciation methods (SYD—ADR straight-line) $90 × (40%–25%)	13.50
(C) Difference that results from ADR life provisions (ADR straight-line—guideline straight-line) $90 × (25%–20%)	4.50
(D) Difference that results from different straight-line book and tax lives (guideline straight-line—book straight-line) $90 × (20%–10%)	9.00
	26.00

Normalization of items *B* and *C* above have been permitted by Commission Orders prior to Order No. 144. Normalization of items *A* and *D* are required by Order No. 144. From this example, it should be clear that the Commission intends that the rule pertain to the differences between aggregate guideline straight-line tax depreciation ($90 × 20% = $18) and the total allowance for book depreciation purposes ($100 × 10% = $10) for the year since this is merely a different expression of the summation of items *A* and *D* above.

6. *Miscellaneous Issues*—California claims that the Commission erred in adopting tax normalization over flow-through, relying exclusively on the comments it filed pursuant to the Notice of Proposed Rulemaking in this proceeding. The Commission has considered and responded to the comments of California in deciding Order No. 144, and a review of those comments does not lead us to a different result on rehearing.

Com Ed seeks clarification of Ordering Paragraph (A) of Order No. 144. Ordering Paragraph (A) removes, as of the effective date of Order No. 144, "the refund contingencies relating to tax normalizaton imposed on all cases subject to" the interim order [49] issued following the *Public Systems* [50] remand decision. Com Ed points out that Opinion No. 83,[51] issued after this interim order, established the refund contingency on the basis of a different Commission order.[52] In order to clarify Order No. 144, Com Ed requests that the Commission declare that "all wholesale electric revenues attributable to tax normalization which continue to be held subject to refund in cases in which the Commission has otherwise finally decided cost of service issues prior to issuance of Order No. 144 shall no longer be subject to refund after the effective date of said Order." This request for clarification is adopted by amending Ordering Paragraph (A) of Order No. 144 and expanded to include applicable wholesale natural gas pipeline revenues as well.

C. Exception to Rule Relating to Reductions or Additions to Rate Base—Section 2.202(b)(2) of Final Rule

After the issuance of Order No. 144, the Commission issued a decision in *Northern States Power Company*, Opinion No. 134, 16 FERC ¶ 61,198 (December 3, 1981). That decision involved, *inter alia*, the appropriate rate base treatment of the amounts in the deferred tax accounts attributable to the cancellation of construction of the Tyrone generating facilities. Consistent with precedent, the Commission permitted amortized recover of the costs of the abandoned project but denied rate base inclusion (that is, a return) on the unamortized costs. The Commission also adopted normalization of the timing difference transactions associated with the abandoned project. However, the Commission did not require the rate applicant to reduce its rate base by the amount of deferred taxes related to the abandoned project.

The Commission notes that this treatment is arguably inconsistent with the literal language of § 2.202(b)(2) contained in Order No. 144 which requires a rate base reduction for all amounts recorded in Accounts 281–283 in the Uniform Systems of Accounts. Nonetheless, we believe that Opinion No. 134 reached the correct result and we expressly adopt the following rationale from that decision:

> Since the Tyrone project was never placed in service and its cost was never included in rate base, Northern States will not earn a return on its Tyrone investment, will not have a correspondent tax obligation, and will neither need nor receive related tax compensation from its ratepayers. To deduct the unamortized deferred tax reserve balances from rate base would create a negative rate base and would therefore lower Northern States' cost-of-service by $15 million over the course of a ten year normalized period. Were we to allow this to occur, we would effectively deprive Northern States from receiving compensation for its entire out-of-pocket investment in Tyrone, contrary to the policy we found to be in the public interest in Opinion No. 40. We have been shown no reason to alter the balance that decision struck and we decline to do so indirectly here through a rate base deduction.
>
> Nor do we see any inequities in allowing Northern States to receive the use of the Account 283 balances.
>
> Since it will lose the time value use of its investment during the amortization period, it follows that it should receive the time value use of the unamortized tax benefits related to that investment during the normalization period. This type of parity of treatment is no different than that employed when we assigned the actual tax benefits to the ratepayers in direct proportion and over the same period of time during which they will incur the actual project costs.[53]

Thus, the Commission is creating an exception to § 2.202(b)(2) for deferred tax amounts attributable to abandoned projects in which the related costs are not included in rate base for ratemaking purposes. Although the final rule shall not be amended to include this exception, the foregoing discussion should indicate that the Commission intends to apply this exception in factually similar cases.

D. Effect of Affirming Order No. 530–B and Extinguishing Refund Liability in Pending Cases

East Tennessee challenges the Commission's June 8, 1979, interim order [54] which followed the Order No. 530–B policy pending the outcome of this rulemaking. This challenge consists of two components. First, East Tennessee argues that the court, in *Public Systems*, reversed the Commission's holding in Order No. 530–B and, thus, the interim order, based on 530–B, was null and void for the interim period. Second, it claims that the interim order exceeded the holding in Order No. 530–B by denying intervenors the right to oppose tax normalization and present evidence. The Commission disagrees with both contentions.

It is true that the court in *Public Systems* found that the Order No. 530

[48] See the attached Appendix for a complete listing of book and tax depreciation amounts over a 10-year period.

[49] *Order Establishing Interim Procedures*, Docket Nos. R–424 and R–440 (issued June 8, 1979).

[50] *Public Systems* v. *FERC*, 606 F. 2d 973 (D.C. Cir. 1979).

[51] Opinion No. 83, *Commonwealth Edison Company*, Docket Nos. E–9002 and ER78–122 (issued September 14, 1979).

[52] Opinion No. 83A, *Missouri Power and Light Company*, Docket No. ER78–539 (issued May 16, 1979).

[53] Opinion No. 134 at 7 (footnote omitted). The omitted footnote cited Opinion No. 40, New England Power Co., issued July 19, 1978, *aff'd in part and remanded on other grounds, NEPCO Municipal Rate Committee, et al.* v. *F.E.R.C. et al.*, No. 78–1343 (D.C. Cir. October 15, 1981).

[54] *Order Establishing Interim Procedures*, Docket Nos. R–424 and R–447 (issued June 8, 1979).

series "fail[ed] to (1) assess the consequences of its action for the industry and (2) indicate 'fully and carefully' the purposes behind the order." [55] However, contrary to the declaration of East Tennessee, Order No. 530–B is not "void," "reversed," or a "nullity" as a result of that decision. Rather, the order was *remanded* to the Commission to rectify the shortcomings perceived by the court in its consideration of the issue. In other words, the Commission was not barred from applying the Order No. 530–B policy if it provided a sufficient justification or rationale for its application.

In addition, despite the claim of East Tennessee, the interim order did not exceed the holding of Order No. 530–B. The interim order did not permit an evidentiary presentation by intervenors or staff in support of, or in opposition to, tax normalization pending the outcome of the rulemaking unless the utility itself introduced evidence on the issue. East Tennessee contends that this procedure violates Order No. 530–B because, in East Tennessee's view, Order No. 530–B merely shifted the burden of proof from utilities to consumers rather than made a conclusive finding on the issue. East Tennessee is incorrect.

> Order No. 530–B stated: As we have concluded that there is no judicial bar to the allowance of normalization in these cases, we now believe there is no need for a specific factual showing supporting normalization in each rate proceeding, and the Commission's policy favoring normalization should be implemented in each case.[56]

Thus, Order No. 530–B provided no opportunity for intervenors or staff to present evidence on the question of permitting tax normalization of miscellaneous timing differences. To the extent that it differs from Order No. 530–B, the interim order gives greater rights to consumers and staff since they were permitted to present evidence in the event the utility also submitted evidence.

III. Conclusion

As the Commission stated in Order No. 144, our evaluation of the relative merits of tax normalization and flow-through is based on consideration of numerous factors. The Commission assessed these factors independently in its Notice. In addition, by providing for initial and reply comments, the Commission amassed a voluminous record in which all viewpoints were given ample airing. Where the Commission found error in a particular party's analysis or disagreed with a particular view expressed, the Commission explained the source of error or stated the cause of disagreement. As a result, the Commission believes it has fully considered and evaluated all of the relevant factors pertaining to the choice between tax normalization and flow-through.

As reiterated throughout the Notice, Order No. 144, and this order, the Commission finds that tax normalization more appropriately comports with sound regulatory principles than flow-through. The goals of equity and fairness in rates to consumers over time dominates the Commission's evaluation of tax normalization and flow-through because the essential difference in the two policies relates to the interperiod allocation of tax costs. Tax normalization better achieves the goals of equity and fairness because it matches benefits with burdens: it matches the recognition in rates over time of the tax effects of expenses and revenues with the expenses and revenues themselves.

While equity and fairness are important factors in the Commission's choice of tax normalization, they are by no means the only important factors weighed by the Commission. The Commission evaluated the impact of a tax normalization policy on consumer rates and found that, while higher rates may have resulted initially, the estimated impact on rates was not and is not likely to be substantial. The Commission also examined the effects of tax normalization on such factors as cash flow, cost of capital, rate of return, rate stability, and efficiency incentives. After thorough analysis, the Commission finds that tax normalization as compared to flow-through had either a beneficial impact or no impact upon each of these factors.

The Commission reviewed applicable legal standards and found that tax normalization meets the just and reasonable rate standards of the Federal Power and Natural Gas Acts. It found that tax normalization is more properly cost-based than flow-through and that it comports with the "actual taxes paid" principle on both legal and policy grounds. The Commission also reviewed the "tax savings versus tax deferral" issue and concluded (1) that neither utilities nor their investors realize a permanent or pure tax savings when tax normalization is applied to timing differences and (2) that a finding of evanescent versus continual tax deferral should not be the determinative policy consideration.

Upon careful consideration of the applications for rehearing of Order No. 144, the Commission is not persuaded that the rule contained therein should be modified in any respect. The petitions for rehearing are therefore denied.

IV. Redesignation

In its regulations, the Commission distinguishes between rules for filing rate schedules by electric utilities (Part 35) and rules for filing rate schedules by interstate natural gas pipelines (Part 154). To date, save for the general rules of practice and procedure, the Commission's regulations do not provide a single part for rules, like the tax normalization rule, that apply to both electric utilities and interstate natural gas pipelines. Because of this, the tax normalization rule was placed under Part 2 of the Commission's regulations, a part entitled "General Policy and Interpretations."

The tax normalization rule is neither a "policy" nor an "interpretation." Moreover, it is to be used by electric utilities filing rate applications under §§ 35.12 and 35.13 of Part 35 and by interstate pipelines filing rate applications under §§ 154.62 and 154.63 of Part 154. Because of this, the Commission has decided to place the text of the tax normalization rule that is now designed as § 2.202 under both Parts 35 and 154. To this end, non-substantive changes are made to the rule.

The redesignation of § 2.202 to Parts 35 and 154 is being done without prior notice or opportunity to comment. Because the changes are minor, non-substantive, and ensure a better presentation of the Commission's regulations, such procedures would be impracticable and unnecessary. For the same reasons, the redesignation of the rule is being made effective February 22, 1982.

The Commission orders that:

(A) The applications for rehearing of Cities Service, Com Ed, Cities, Public Systems, California, and East Tennessee as well as East Tennessee's petition to reopen the record are hereby denied.

(B) Ordering paragraph (A) of Order No. 144 is revised to read as follows:

> All wholesale electric utility and natural gas pipeline revenues attributable to tax normalization which continue to be held subject to refund in cases in which the Commission had otherwise finally decided cost of service issues prior to issuance of Order No. 144 shall no longer be subject to refund after the date of issuance of this order.

As revised, it is to be effective February 22, 1982.

[55] *Public Systems* v. *FERC*, 606 F. 2d 973, 980 (D.C. Cir. 1979).

[56] Order No. 530–B at 9 (issued July 6, 1979).

(C) The amendments to Chapter I, title 18, Code of Federal Regulations, described in ordering paragraph (B) of Order No. 144 and set forth in Order No. 144, as redesignated and amended below, are effective February 22, 1982.

(Federal Power Act, 16 U.S.C. 792 *et seq.*; Natural Gas Act, 15 U.S.C. 717 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7101, *et seq.*; E.O. 12009, 3 CFR 142)

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 35—FILING OF RATE SCHEDULES

§ 35.24 [Removed]

1. Section 35.24 of Part 35 is removed and reserved.

§ 2.202 Redesignated as § 35.25 and § 154.63a.

2. Section 2.202 of part 2 is transferred to Parts 35 and 154 and redesignated as § 35.25 and § 154.63a.

3. Newly designated § 35.25 is amended by revising its title and revising paragraph (a)(1) to read as follows:

§ 35.25 Tax normalization for public utilities.

(a) *Applicability.* (1) Except as provided in subparagraph (2) of this paragraph, this section applies, with respect to rate schedules filed under §§ 35.12 and 35.13 of this Part, to the ratemaking treatment of the tax effects of all transactions for which there are timing differences.

* * * * *

4. Newly designated § 35.25 is further amended by: removing the words "rate applicant" or "applicant" where they appear and inserting, in their place, the words "public utility"; and by removing subparagraph (d)(7) and redesignating subparagraphs (d)(8) and (d)(9) as subparagraphs (d)(7) and (d)(8), respectively.

PART 154—RATE SCHEDULES AND TARIFFS

5. Newly designated § 154.63a is amended by revising its title and revising paragraphs (a)(1) and (d)(7) to read as follows:

§ 154.63a Tax normalization for interstate pipelines.

(a) *Applicability.* (1) Except as provided in subparagraph (2) of this paragraph, this section applies, with respect to rate schedules filed by interstate pipelines under §§ 154.62 and 154.63 of this Part, to the ratemaking treatment of the tax effects of all transactions for which there are timing differences.

* * * * *

(d) *Definitions.* * * *

(7) For purposes of this section, "interstate pipeline" means a natural gas company engaged in natural gas transportation subject to the jurisdiction of the Commission under the Natural Gas Act.

* * * * *

6. Newly designated § 154.63a is further amended by removing the words "rate applicant" or "applicant" where they appear and inserting, in their place, the words "interstate pipeline".

APPENDIX.—SUMMARY OF BOOK AND TAX DEPRECIATION-RELATED TIMING DIFFERENCES FOR SIMPLIFIED EXAMPLE

Year	Tax deduction	–	Book depreciation	=	Total timing difference	=	A	+	B	+	C	+	D
0	$10		0		$10		$10		0		0		0
1	26		$10		35		(1)		$13.50		$4.50		$9
2	17		10		17		(1)		4.50		4.50		9
3	16		10		6		(1)		(4.50)		4.50		9
4	9		10		(1)		(1)		(13.50)		4.50		9
5	0		10		(10)		(1)		0		[18.00]		9
6	0		10		(10)		(1)		0		0		(9)
7	0		10		(10)		(1)		0		0		(9)
8	0		10		(10)		(1)		0		0		(9)
9	0		10		(10)		(1)		0		0		(9)
10	0		10		(10)		(1)		0		0		(9)
Total	100		100		0		0		0		0		0

A = Base differences.
B = Method differences (SYD and ADR straight-line life).
C = ADR straight-line life and guideline straight-line tax life differences.
D = Guideline straight-line tax life and straight-line book life differences.

[FR Doc. 82-5280 Filed 2-25-82; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76 (Colorado-8) Order No. 150]

High-Cost Gas Produced From Tight Formations; Correction

Issued July 16, 1981.[1]

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule in Docket No. RM79-76 (Colorado-8) that appeared in the Federal Register on June 9, 1981 (46 FR 30491). This action adds a subparagraph which was omitted from Federal Register publication because of an incorrect attachment to the Commission's order.

EFFECTIVE DATE: June 3, 1981.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8207.

The following corrections are made in FR Doc. 81-17079, appearing on page 30491 of the issue of June 9, 1981:

1. On page 30491, column 2, the amendatory language is corrected to read "§ 271.703(d) is amended by adding new subparagraphs (27) and (28) to read as follows:".

2. 18 CFR 271.703(d) is corrected by adding subparagraph (28) to read as follows:

§ 271.703 Tight Formations.

* * * * *

(d) * * *

(28) *Dakota Formation in Colorado.* RM79-76 (Colorado-8).

(i) *Delineation of formation.* The Dakota Formation is found in La Plata and Archuleta Counties, Colorado, underlying Township 34 North, Ranges 6 and 7 West (South of the Ute Line), Sections 1 through 30; and Township 34 North, Ranges 8 and 9 West (South of the Ute Line), Sections 1 through 24.

(ii) *Depth.* The Dakota Formation is defined as that formation the depth to the top of which averages approximately 7600 feet and the base of which is defined by the top of the Morrison Formation.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5144 Filed 2-25-82; 8:45 am]

BILLING CODE 6717-01-M

[1] Received at the office of the Federal Register on Feb. 11, 1982, and released on Feb 23, 1982, for publication.

18 CFR Part 282

[Docket No. RM79-14]

Incremental Pricing Regulations Implementing the Incremental Pricing Provision of the Natural Gas Policy Act of 1978; Order of the Director, OPPR of Publication of Incremental Pricing Acquisition Cost Thresholds Under Title II of the NGPA

AGENCY: Federal Energy Regulatory Commission Energy.

ACTION: Order prescribing incremental pricing thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: March 1, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, (202) 357-8500.

Issued February 23, 1982.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of March 1982 is issued by the publication of a price table for the applicable month.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

TABLE I.—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

	January	February	March	April	May	June	July	August	September	October	November	December
Calendar Year 1980												
Incremental Pricing Threshold	$1.702	$1.726	$1.750	$1.762	$1.776	$1.790	$1.804	$1.819	$1.834	$1.848	$1.863	$1.877
NGPA Section 102 Threshold	2.358	2.381	2.404	2.428	2.453	2.478	2.504	2.532	2.560	2.589	2.644	2.640
NGPA Section 109 Threshold	1.766	1.789	1.812	1.825	1.839	1.853	1.867	1.883	1.899	1.915	1.929	1.943
130 percent of No. 2 Fuel Oil in New York City Threshold	7.170	7.280	7.410	7.110	7.300	8.040	7.840	7.360	7.400	7.490	7.450	7.590
Calendar Year 1981												
Incremental Pricing Threshold	1.891	1.908	1.925	1.942	1.954	1.967	1.980	1.990	2.006	2.016	2.025	2.041
NGPA Section 102 Threshold	2.667	2.686	2.729	2.761	2.787	2.813	2.840	2.863	2.886	2.928	2.948	2.971
NGPA Section 109 Threshold	1.957	1.975	1.993	2.011	2.024	2.037	2.050	2.060	2.070	2.081	2.090	2.112
130 percent of No. 2 Fuel Oil in New York City Threshold	7.610	7.760	8.290	9.010	8.510	9.430	9.360	9.280	8.980	8.700	8.230	8.880
Calendar Year 1982												
Incremental Pricing Threshold	2.057	2.074	2.085									
NGPA Section 102 Threshold	3.003	3.022	3.063									
NGPA Section 109 Threshold	2.128	2.143	2.158									
130 percent of No. 2 Fuel Oil in New York City Threshold	9.160	9.340	9.470									

[FR Doc. 82-5280 Filed 2-25-82; 8:45 am]

BILLING CODE 6717-01-M

DELAWARE RIVER BASIN COMMISSION

18 CFR Part 410

Basin Regulations—Water Quality; Technical Amendment

AGENCY: Delaware River Basin Commission.

ACTION: Final rule—technical amendment.

SUMMARY: Basin Regulations—Water Quality, adopted by the Commission on March 7, 1968 and amended thereafter, have in the past been incorporated by reference and made part of Part 410 in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. It has been determined that the Commission is not subject to the provisions of the Administrative Procedure Act and that the approval of the Director of the Federal Register is not required to maintain the regulatory status of the Basin Regulations—Water Quality. Therefore, Part 410 is being amended to delete reference to the Administrative Procedure Act.

EFFECTIVE DATE: March 31, 1982.

FOR FURTHER INFORMATION CONTACT: W. Brinton Whitall, Secretary, Delaware River Basin Commission, 25 State Police Drive, Post Office Box 7360, West Trenton, New Jersey 08628, 609-883-9500.

PART 410—BASIN REGULATIONS—WATER QUALITY

Therefore, 18 CFR 410.1 Basin Regulations—Water Quality is amended by revising the section heading and paragraph (a) to read as follows:

§ 401.1 Basin regulations—Water quality.

(a) The provisions of the Basin Regulations—Water Quality adopted by the Delaware River Basin Commission on March 7, 1968, and amended through May 24, 1978, are hereby incorporated in and made a part of this Part 410. The regulations apply to all waste dischargers, public and private using the Delaware River or any of its tributaries making up the Delaware River Basin in New York, Pennsylvania, New Jersey and Delaware. Part I of the regulations comprises general definitions; Part II comprises interstate cooperation factors concerning administrative agreements and nonconforming standards adopted by the signatory parties; Part III comprises water quality standards adopted by the Commission on April 26, 1967; and, Part IV comprises the application of the water quality standards, including determination of water uses, water quality criteria, effluent requirements, ground water

quality requirements, and enforcement procedures.

* * * * *

W. Brinton Whitall,
Secretary.

[FR Doc. 82-5148 Filed 2-25-82; 8:45 am]
BILLING CODE 4510-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 614

Unemployment Compensation for Ex-Servicemembers; New Schedule of Remuneration

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor amends 20 CFR 614.19, to increase the monthly rates of remuneration in the Schedule of Remuneration used to compute the Federal wages of ex-servicemembers covered by the program of Unemployment Compensation for Ex-Servicemembers (UCX Program). The new schedule will apply to new claims that are effective on and after January 1, 1982.

DATE: Effective date: January 1, 1982, with respect to first claims effective on and after that date.

ADDRESS: Send petitions concerning this revision to the U.S. Department of Labor, Employment and Training Administration, Room 7000, Patrick Henry Building, 601 "D" Street, NW., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT: Bert Lewis, Administrator, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 "D" Street, NW., Washington, D.C. 20213, telephone: 202-376-7032. (this is not a toll-free number)

SUPPLEMENTARY INFORMATION: The UCX Program was established by the "Ex-Servicemen's Unemployment Compensation Act of 1958" and is now codified at Subchapter II of Chapter 85, in Title 5 of the United States Code (5 U.S.C. 8521-8525). It is a program of unemployment benefits for members of the armed forces and the commissioned corps of the National Oceanic and Atmospheric Administration following a qualifying separation from the services.

In most unemployment compensation programs, the benefit amounts payable to claimants are computed on the basis of the wages paid to each claimant in a designated base period. For the UCX Program, the statute provides that benefit amounts shall be computed on the basis of wages as prescribed in the current Schedule of Remuneration.

Section 8521(a)(2) requires the Secretary of Labor to issue, from time to time, after consultation with the Secretary of Defense, a Schedule of Remuneration specifying the pay and allowances for each pay grade of members of the military services, which reflect representative amounts for appropriate elements of the pay and allowances whether in cash or in kind. The Schedule of Remuneration adopted in accordance with the law has been revised from time to time as changes in military pay and allowances occur, and appears in 20 CFR 614.19. These new schedules adopted from time to time are made applicable to new claims that are effective on and after the first day of the quarter following the change in military pay. New claims established under a prior schedule are not changed.

The new Schedule of Remuneration in this document adjusts the scheduled monthly rates of pay upward to reflect the military pay increase that became effective on October 1, 1981, under Executive Order 12330. The new schedule set forth in this document is applicable with respect to first claims which are effective on and after January 1, 1982. The purpose in making this new schedule effective in the first quarter after the pay raise took effect is to regularize the effective dates of new schedules and thereby stabilize administration of the UCX Program and be fairer to claimants.

Early Effective Date

1. With an annual military pay increase having become customary, the Department adopted the policy of making each new schedule of remuneration effective at the beginning of the quarter following the quarter in which the pay increase took effect.

2. The new schedule reflecting the military pay increase is beneficial to UCX claimants, and imposes no direct costs on claimants, the military departments, or the private sector, because the program is financed entirely from a general fund appropriation. The State employment security agencies that administer the UCX Program in all States were fully informed of the new schedule in December 1981, and put the new schedule into effect as of January 1, 1982. The Secretary therefore concludes in this instance that omission of the prescribed rulemaking procedures is practicable, necessary to serve the beneficiaries, and consistent with the public interest in this program. Because this remuneration schedule is a benefit within the scope of the Administrative Procedure Act, 5 U.S.C. 553(a)(2), a notice and comment period prior to issuance of a final rule is not required by law.

3. For the reasons set forth in paragraphs 1 and 2, the Secretary finds it appropriate to waive the policy set forth in 29 CFR 2.7. This waiver of 29 CFR 2.7 and the section 553(a)(2) exemption authorizes the new schedule to become effective immediately without a notice and comment period.

4. Pursuant to 5 U.S.C. 553(e), any person interested in this new schedule may petition for the amendment or repeal of the new schedule, by writing to the address given above on or before March 29, 1982, the publication of this new schedule.

Therefore, the Secretary of Labor finds that publishing the new schedule in this document in final form and for making the new schedule effective on January 1, 1982, is in the public interest.

Drafting Information

This document was prepared under the direction and control of the Administrator of the Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 "D" Street, N.W., Washington, D.C. 20213; telephone (202) 376-7032 (this is not a toll-free number).

Classification—Executive Order 12291

The rule in this document is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of 100 million dollars or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Paperwork Reduction

The rule in this document will not increase the Federal paperwork burden on the private or public sectors under the Paperwork Reduction Act and Executive Order 12291, because no paperwork burden is involved in this rule.

Regulatory Flexibility Act

The Department believes that the rule in this document will have no "significant economic impact on a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act (Pub. L. 96-354, 91 Stat. 1164, 5 U.S.C. 605(b)). The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. This conclusion is reached because this rule only implements a change in an individual entitlement program, and thus no economic impact is expected with respect to any small entities. Accordingly, no regulatory flexibility analysis is required.

Regulatory Flexibility Act Certification

I, Raymond J. Donovan, Secretary of Labor, hereby certify, pursuant to 5 U.S.C. 605(b), that the rule published hereinafter (20 CFR 614.19) will not have a significant economic impact on a substantial number of small entities, because this change is in an individual entitlement program and affects only individuals applying for benefits under the Unemployment Compensation for Ex-Servicemembers Program. Thus, no economic impact is expected with respect to small entities.

Signed at Washington, D.C. on February 23, 1982.

Raymond J. Donovan,
Secretary of Labor.

PART 614—UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEN

Accordingly, 20 CFR Part 614 is amended as follows:

1. The authority citation for Part 614 reads as follows:

Authority: 5 U.S.C. 8506; Secretary's Order No. 4-75, 40 CFR 18515; (5 U.S.C. 301). Interpret and apply Secs. 8521-8525 of Title 5, United States Code.

2. In Part 614, § 614.19 is revised to read as follows:

§ 614.19 Schedule of remuneration.

(a) The following Schedule of Remuneration is issued pursuant to 5 U.S.C. 8521(a)(2), and shall apply to first claims which are effective on or after January 1, 1982:

Pay grade	Monthly rate
(1) Commissioned officers:	
O-10	$5,548
O-9	5,548
O-8	5,544
O-7	5,541
O-6	4,800
O-5	3,908
O-4	3,228
O-3	2,700
O-2	2,184
O-1	1,590
(2) Warrant officers:	
W-4	3,056
W-3	2,453
W-2	2,140
W-1	1,845
(3) Enlisted personnel:	
E-9	2,727
E-8	2,301
E-7	1,999
E-6	1,673
E-5	1,404
E-4	1,188
E-3	1,036
E-2	958
E-1	876

For the purposes of computing pay for periods of less than one full month, the daily rate shall be used, which shall be one-thirtieth of the monthly rate.

(b) The Schedule of Remuneration published at 46 FR 7270 on January 23, 1981, remains applicable to first claims effective prior to the effective date of the new Schedule of Remuneration set forth in paragraph (a). The new schedule in paragraph (a) does not revoke the prior schedule or any preceding schedule or change the periods of time they were in effect.

(5 U.S.C. 8506, 8521(a)(2).)

Signed at Washington, D.C., on February 23, 1982.

Raymond J. Donovan,
Secretary of Labor.

[FR Doc. 82-5387 Filed 2-25-82; 8:45 am]
BILLING CODE 4510-30-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 155

[Docket No. 78N-0103]

Canned Vegetables; Amendment of Standard of Identity for Asparagus; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date for compliance with the provisions of the amended standard of identity for "Certain other canned vegetables" to provide for the optional use of ascorbic acid, erythorbic acid, and their sodium salts as antioxidants to preserve color in "white" and "green-tipped and white" asparagus.

DATES: Effective July 1, 1983, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date. Voluntary compliance may have begun January 18, 1982.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In the Federal Register of November 17, 1981 (46 FR 56409), FDA issued a final regulation amending the standard of identity for "Certain other canned vegetables" (21 CFR 155.200) to provide for the optional use of ascorbic acid, erythorbic acid, and their sodium salts as antioxidants to preserve color in "white" and "green-tipped and white" asparagus. Any person who would be adversely affected by the regulation could have, at any time on or before December 17, 1981, filed written objections to the final regulation and requested a hearing on the specific provisions to which there were objections. No objections or requests for a hearing were received.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052, May 11, 1981)), notice is given that the effective date for compliance with the standard of identity for "Certain other canned vegetables" (21 CFR 155.200) as amended in the Federal Register of November 17, 1981 (46 FR 56409) is July 1, 1983. Voluntary compliance may have begun January 18, 1982.

Dated: February 12, 1982.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-4991 Filed 2-25-82; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Part 173

[Docket No. 80F-0224]

Secondary Direct Food Additives Permitted in Food for Human Consumption; Alpha-Alkyl-Omega-Hydroxypoly(Oxyethylene) and an Alkanolamide Derived by Condensation of Coconut Oil Fatty Acids With Diethanolamine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the

food additive regulations to provide for the safe use of *alpha*-alkyl-*omega*-hydroxypoly(oxyethylene) and an alkanolamide as delinting agents for cottonseed. This action is being taken in response to a petition filed by SSC Industries, Inc.

DATES: Effective February 20, 1982; objections by March 29, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Garnett R. Higginbotham, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 27, 1980 (45 FR 43474), FDA announced that a food additive petition (FAP 0A3506) had been filed by SSC Industries, Inc., East Point, GA 30344, proposing that Subpart D of Part 173 (21 CFR 173) of the food additive regulations be amended to provide for the safe use of *alpha*-alkyl-*omega*-hydroxypoly(oxyethylene) and an alkanolamide derived by condensation of the fatty acids from coconut oil with diethanolamine as components of delinting agents for cottonseed used in the production of cottonseed oil, meal cake, and related products.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below. In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The agency's findings of no significant impact and the supporting evidence, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 173 is amended in Subpart D by adding new § 173.322 to read as follows:

§ 173.322 Chemicals used in delinting cottonseed.

Chemicals may be safely used to assist in the delinting of cottonseed in accordance with the following conditions:

(a) The chemicals consist of one or more of the following:

(1) Substances generally recognized as safe for direct addition to food.

(2) Substances identified in this paragraph and subject to such limitations as are provided:

Substances	Limitations
alpha-Alkyl-*omega*-hydroxypoly(oxyethylene) produced by condensation of a linear primary alcohol containing an average chain length of 10 carbons with poly(oxyethylene) having an average of 6 ethylene oxide units.	May be used at an application rate not to exceed 0.8 percent by weight of cottonseeds to enhance delinting of cottonseeds intended for the production of cottonseed oil. Byproducts including lint, hulls, and meal may be used in animal feed.
An alkanomide produced by condensation of coconut oil fatty acids and diethanolamine, CAS Reg. No. 068603-42-9.	May be used at an application rate not to exceed 0.2 percent by weight of cottonseeds to enhance delinting of cottonseeds intended for the production of cottonseed oil. Byproducts including lint, hulls, and meal may be used in animal feed.

(b) [Reserved]

Any person who will be adversely affected by the foregoing regulation may at any time on or before March 29, 1982 submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective February 20, 1982.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: February 10, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-5132 Filed 2-19-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 510 and 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject To Certification; Nitrofurazone Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Biomed Laboratories providing for the use of nitrofurazone solution as a topical antibacterial on dogs, and cats, and horses.

EFFECTIVE DATE: February 20, 1982.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: Biomed Laboratories, 4542 Denver St., Montclair, CA 91763, is sponsor of a NADA (128–950) providing for use of a solution containing 0.2 percent nitrofurazone as a topical antibacterial on dogs, cats, and horses. This product is similar to another product codified in 21 CFR 524.1580d (46 FR 22359, April 17, 1981). The section provides that because the conditions of use are NAS/NRC reviewed and found effective, applications for these uses need not include effectiveness data as specified by 21 CFR 514.111. The product is intended solely for topical use, therefore the requirement for bioequivalency data is waived under 21 CFR 320.22(b)(2). Also, the regulation is editorially revised to reflect current wording which is identical in content to that in the existing regulation. In addition, the firm has not previously been listed in section 510.600(c) in the list of sponsors of approved NADA's. The application is approved and the regulations are amended accordingly.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 524 are amended to read as follows:

PART 510—NEW ANIMAL DRUGS

1. Part 510 is amended in § 510.600 by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) to read as follows:

§ 510.600 Name, addresses, and drug labeler codes of sponsors of approved applications.

* * * * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * * * *	
Biomed Laboratories, 4542 Denver St., Montclair, CA 91763	051259
* * * * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * * * *	
051259	Biomed Laboratories, 4542 Denver St., Montclair, CA 91763.
* * * * * * *	

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

2. Part 524 is amended by revising § 524.1580d to read as follows:

§ 524.1580d Nitrofurazone solution.

(a) *Specifications.* The drug is an aqueous solution containing 0.2 percent nitrofurazone.

(b) *Sponsor.* See 000857 in § 510.600(c) of this chapter for use as in paragraphs (d) (1) and (2) of this section. See 051259 in § 510.600(c) of this chapter for use as in paragraph (d)(1) of this section.

(c) *NAS/NRC status.* These conditions are NAS/NRC reviewed and found effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

(d) *Conditions of use.* (1) *Dogs, cats, and horses.* (i) *Indications for use.* For the treatment of topical bacterial infections.

(ii) *Amount.* Apply directly to affected areas, or dilute and apply as a wet dressing.

(iii) *Limitations.* For surface bacterial infections apply directly to lesions. For wet dressing, dilute with two or three parts sterile water or saline and apply several times daily or beneath dressing for several days. In case of deep or puncture wounds or serious burns, consult a veterinarian. If redness, irritation, or swelling increases or persists, discontinue use and consult a veterinarian. Not for use for horses intended for food.

(2) *Horses.* (i) *Indications for use.* For equine genital tract infections and for impaired fertility due to strains of Salmonella, Staphylococcus, Streptococcus, Pseudomonas, *Escherichia coli*, and *Vibrio fetus* sensitive to nitrofurazone.

(ii) *Amount.* For female equine genital tract infections, instill aseptically 30 to 90 milliliters into affected areas once daily. For impaired fertility instill 30 milliliters into the uterus 4 to 48 hours after breeding.

(iii) *Limitations.* For treatment of genital tract infections, repeat treatment until 48 hours after remission of clinical symptoms or bacterial cultures show recovery. Do not use in horses intended for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This amendment is effective February 20, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 19, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-5131 Filed 2-25-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Diethylcarbamazine Citrate Chewable Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Med-Tech, Inc., providing for safe and effective use of diethylcarbamazine citrate chewable tablets for prevention of heartworm disease and control of ascarid infections in dogs, and treatment of ascarid infections in dogs and cats.

EFFECTIVE DATE: February 26, 1982.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV–112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: Med-Tech, Inc., P.O. Box 338, Elwood, KS 66024 filed an NADA (128–069) providing for use of 30, 60, 120, and 180 milligram (mg) diethylcarbamazine citrate chewable tablets for prevention of heartworm disease in dogs caused by *Dirofilaria immitis*, as an aid in the treatment and control of ascarid infections in dogs caused by *Toxocara canis*, and as an aid in the treatment of ascarid infections in cats caused by *Toxocara canis* and *Toxascaris leonina*.

The product is similar to another tablet that was the subject of a National Academy of Sciences/National Research Council (NAS/NRC) review which was published in the **Federal Register** of January 8, 1969 (34 FR 275).

The NAS/NRC review stated, and the agency concurred, that diethylcarbamazine is probably not effective as a treatment against filariasis, that more information is needed regarding the dosage level to support claims for prevention of filariasis, and that the drug is effective as an aid in the treatment of ascarid infections in dogs and cats when administered at 25 to 50 mgs per pound of body weight as a single dose with a repeat dose given after 10 to 20 days. Sponsors of NADA's for products which did not reflect the conclusions of the notice were required to update their applications by submitting revised labeling or adequate documentation to support the labeling used. Those sponsors whose NADA's satisfied the requirements of the NAS/NRC notice or were found equivalent to the NAS/NRC reviewed products are codified in the regulations in 21 CFR 520.620 and 520.622.

A NAS/NRC review of another dosage form, diethylcarbamazine medicated premix, was published in the Federal Register of June 16, 1970 (35 FR 9669). The review concluded that the product is probably effective, and the agency concluded that it is effective, as an aid in the prevention and elimination of large roundworms (ascarids) in dogs when given as directed. The review established the effectiveness of the drug for use in prevention of ascarid infections.

Med-Tech, Inc., submitted data from a controlled artificial challenge study, a palatability study, and reprints from published scientific literature to demonstrate that diethylcarbamazine is safe and effective for use as labeled for use in prevention of heartworm disease. The agency granted a waiver from the requirements of 21 CFR 514.111(a)(5)(ii) for further studies to provide substantial evidence of effectiveness for that claim. The claims for control and treatment of ascarid infections are approved on the basis of the NAS/NRC reviews. The NADA is approved and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR Part 5.83), Part 520 is amended in § 520.622c by adding a new paragraph (b)(6) to read as follows:

§ 520.622c Diethylcarbamazine citrate chewable tablets.

(b) * * *

(6) For 013983, use of 30, 60, 120, or 180 milligram tablets as in paragraph (c)(2)(i) of this section.

* * * * *

Effective date. This amendment is effective February 26, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: February 18, 1982.

Terence Harvey,

Deputy Director, Bureau of Veterinary Medicine.

[FR Doc. 82-4956 Filed 2-25-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin and Sulfamethazine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Carl S. Akey, Inc., providing for safe and effective use of a premix containing 5 grams per pound each of tylosin and sulfamethazine for making complete swine feeds.

EFFECTIVE DATE: February 26, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Carl S. Akey, Inc., P.O. Box 607, Lewisburg, OH 45338, is the sponsor of NADA 127–507 submitted on its behalf by Elanco Products Co. The NADA provides for use of a premix containing 5 grams per pound each of tylosin (as tylosin phosphate) and sulfamethazine for making complete swine feeds used to maintain weight gains and feed efficiency in the presence of atrophic rhinitis, lower the incidence and severity of *Bordetella bronchiseptica* rhinitis, prevent swine dysentery (vibrionic), and control swine pneumonias caused by bacterial pathogens (*Pasteurella multocida* and/or *Corynebacterium pyogenes*).

Approval of the application is based on safety and effectiveness data contained in Elanco Products Co.'s approved NADA's 12–491 and 41–275. Use of the data in NADA's 12–491 and 41–275 to support this application has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this NADA has been treated as would approval of a Category II supplemental NADA and does not require reevaluation of the safety and effectiveness data in NADA's 12–491 or 41–275.

The agency has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.630 by revising paragraph (b)(9) to read as follows:

§ 558.630 Tylosin and sulfamethazine.

* * * * *

(b) * * *

(9) To 017790, 022422: 5 grams per pound each, paragraph (f)(2)(ii) of this section.

* * * * *

Effective date. This amendment is effective February 26, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 18, 1982.

Terence Harvey,

Deputy Director, Bureau of Veterinary Medicine.

[FR Doc. 82-4957 Filed 2-25-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 631

Army Regulation 190–24, Armed Forces Disciplinary Control Boards and Off-Installation Military Enforcement Services

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Army has revised its regulation for dealing with civilian establishments which pose a threat to the health, welfare or morale of service members, and for employing military law enforcement officers outside of U.S. government installations. The change is required to provide guidance to military commanders who must deal with civilian establishments on problems that effect their commands, and to provide guidelines for the employment of military police in civilian communities. The guidelines insure that due process is followed in putting establishments "off-limits" to military personnel, and to insure that the "Posse Comitatus Act", which prohibits the military from enforcing civilian laws, is not violated by military law enforcement personnel who operate outside of military installations.

EFFECTIVE DATE: February 26, 1982.

FOR FURTHER INFORMATION CONTACT: Major John T. Donohue, (202) 756–1896.

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published on pages 54964–54972 of the Federal Register of November 5, 1981, and invited comments for 30 days ending December 5, 1981. Comments were received from two sources. The following summarizes the comments, suggestions, and actions taken.

Comment one: Because policy of the U.S. Marine Corps on off-installation enforcement activities varies somewhat from the U.S. Navy policy, a separate section should be added on their policy.

Action taken: Section 631.17 was added after 631.16 of the proposed rule to clearly state the Marine policy. Subsequent paragraphs in the proposed rule were renumbered.

Comment two: One individual made the following recommendations:

—Delete the terms "morals," "decency" and the phrase "and the safeguarding of morals" wherever found in the regulation, because they are subjective, "incurably vague," and "raise questions of intellectual freedom."

—Eliminate suppression of "prostitution and venereal disease" as an area of concern for Armed Forces Disciplinary Control Boards.

—Prohibit chaplains from participating in any way in board procedures on the grounds that they will inject "the moral precepts of particular religions."

—Publicize board meetings.

Action taken: These suggestions were not integrated into the regulation because:

—Experience has shown that a commander must enforce minimum standards of moral conduct if the efficiency of his organization is to be unimpaired. Traditionally, individuals have been permitted the maximum discretion possible in the selection of their personal code of conduct, and commanders have intervened only when their actions adversely affect the command. The establishment of off-limits areas is a function of command, and off-limits sanctions may only be invoked when substantive information indicates an establishment or area frequented by armed forces personnel presents conditions that are adversely effecting the health, safety, morale, welfare, or morals of the command.

—To the extent that substantive information indicates that prostitution and venereal disease is adversely affecting the command, it is properly a matter of concern to the commander.

—Military chaplains have a much broader role within the armed services than do ministers in a civilian community. They are responsible for advising the commander on matters affecting the morale and welfare of his soldiers. They provide a mechanism for surfacing and responding to problems affecting junior soldiers. They are

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Access to Employee Exposure and Medical Records; Extension of Partial Stay

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Extension of partial stay.

SUMMARY: OSHA is hereby extending the partial administrative stay of the access to employee exposure and medical records regulation, 29 CFR 1910.20, for the flavor and fragrance industriews for one year, to February 15, 1983.

DATE: The flavor and fragrance stay is extended to February 15, 1983.

FOR FURTHER INFORMATION CONTACT: James Foster, Office of Information and Consumer Affairs, OSHA, Room N–3641, Third Street and Constitution Avenue, NW., Washington, D.C. 20210 (202–523–8151).

SUPPLEMENTARY INFORMATION: On August 7, 1981, OSHA extended the partial stay of 29 CFR 1910.20 for the flavor and fragrance industries to February 15, 1982, to allow OSHA to treat the issues presented by the flavor and fragrance industry as part of its overall review of the records access standard. OSHA does not now anticipate completion of this review and subsequent rulemaking before February 15, 1983, and therefore is extending the partial stay to that date.

The full text of the administrative stay was published in the August 7, 1981, Federal Register (46 FR 40491).

(Secs. 6(b), 8(g), 84 Stat. 1593, 1600 (29 U.S.C. 655, 657); sec. 4 of the Administrative Procedure Act (5 U.S.C. 553))

Signed at Washington, D.C., this 23rd day of February 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82-5170 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-26-M

uniquely qualified to participate in board proceedings.

—The intent of restricting publicity on Armed Forces Disciplinary Control Board meetings is to protect businesses or individuals against whom allegations of impropriety have been made. All individuals or businesses who are the subject of allegations have the opportunity to address the board. If they desire, they may make the issues public or challenge board actions in court. These options offer adequate safeguards against board violations of the public trust. The advantages of publicizing board meetings do not outweigh the possible damage to parties who are accused of wrong doing.

Accordingly, 32 CFR is amended by adding a new Part 631.

Dated: October 28, 1981.

John O. Roach II,

Army Liaison Officer with the Federal Register.

PART 631—ARMED FORCES DISCIPLINARY CONTROL BOARDS AND OFF-INSTALLATION MILITARY ENFORCEMENT SERVICES

Subpart A—General

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Appendix A—Civil Agencies
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Authority: 10 U.S.C. 3012(b)(1)(g).

Subpart A—General

§ 631.1 Purpose.

This regulation prescribes uniform policies and procedures for the establishment, operation, and coordination of the following:

(a) Armed Forces Disciplinary Control Boards (AFDCB).

(b) Off-installation military enforcement activities.

(c) Joint law enforcement operations.

§ 631.2 Applicability.

This regulation applies to the following:

(a) Active US Armed Forces personnel wherever they are stationed. Commanders in overseas areas are authorized to deviate from the policy in this regulation if required by local conditions, treaties, agreements, and other arrangements with foreign governments and allied forces. Subparts C and D are not applicable to the US Navy.

(b) Reserve personnel only when they are performing Federal duties or engaging in any activity directly related to the performance of a Federal duty or function.

(c) National Guard personnel only when called or ordered to active duty in Federal status.

§ 631.3 Supervision.

(a) The following will jointly develop and have staff supervision over AFDCB policies and the conduct of off-installation military enforcement activities:

(1) The Deputy Chief of Staff for Personnel, Headquarters, Department of the Army.

(2) Chief of Naval Personnel (PERS–84).

(3) Commandant of the Marine Corps.

(4) Chief of Security Police, Air Force Office of Security Police, Department of the Air Force.

(5) Commandant of the Coast Guard.

(b) The above will also be responsible to standardize AFDCB policies and procedures as well as to coordinate and maintain liaison with interested staff agencies and other military and civil agencies.

§ 631.4 Exceptions.

Requests for exceptions to policies contained in this regulation will be forwarded to HQDA(DAPE–HRE–PO), WASH, DC 20310.

Subpart B—Armed Forces Disciplinary Control Boards

§ 631.5 General.

(a) Armed Forces Disciplinary Control Boards (AFDCBs) may be established by installation, base, or station commanders. The mission of AFDCBs is as follows:

(1) Advise and make recommendations to commanders on matters concerning the elimination of crime or other conditions which may negatively affect the health, safety, morals, welfare, morale, or discipline of Armed Forces personnel.

(2) Insure the establishment and maintenance of the highest degree of liaison and coordination between military commands and appropriate civil authorities.

(b) Where installations of two or more military Services are located or which are frequented by personnel of two or more Services, there will be joint Service participation in any AFDCB. In such cases, the commander of the Service with the greatest number of troops will serve as the "sponsoring commander" of the board. When there is joint participation in AFDCBs, written agreements will be executed by the respective Service installation commanders. These agreements will designate the sponsoring commander and delineate the joint Service participation.

§ 631.6 Responsibilities.

(a) Major Army commanders, Navy commanders, Marine Corps commanders, Air Force commanders, and Coast Guard commanders will—

(1) Monitor the establishment of and participation in AFDCBs by subordinate commands.

(2) Encourage subordinate commanders to participate in joint Service boards where appropriate.

(3) Resolve differences among subordinate commanders in regard to board areas of responsibility and the designation of sponsoring commanders.

(4) Evaluate board recommendations and actions from subordinate sponsoring commanders.

(5) Forward to HQDA (DAPE–HRE), WASH, DC 20310, reports that require Service headquarters action to accomplish the following:

(i) Correct situations which would adversely affect the health, safety, morals, welfare, morale, or discipline of Armed Forces personnel.

(ii) Surface positive programs having widespread applicability.

(6) Insure procedures are established to notify the responsible individuals to insure that off-limits restrictions are made known and applicable to all Armed Forces personnel who may frequent the area in question. These would be off-limits restrictions approved and so declared by subordinate sponsoring commanders.

(7) Insure that subordinate commanders assess the availability of drug abuse paraphernalia in the vicinity of DOD installations through their AFDCBs in accordance with DOD Directive 1010.4, Alcohol and Drug Abuse by DOD Personnel. Drug abuse paraphernalia is defined as all equipment, products, and materials of any kind that are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Controlled Substances Act.

(b) In each AFDCB area, the commander of the installation with the largest base population will be designated the AFDCB sponsoring commanders. Sponsoring commanders will provide administrative support, as shown below, for the AFDCB programs.

(1) Promulgate implementing directives and call meetings of the board.

(2) Provide a recorder for the board.

(3) Provide copies of the minutes of the meetings of the board to—

(i) Other Service commanders who provide board representatives.

(ii) BUPERS (for Navy only).

(iii) Other AFDCBs as appropriate.

(4) Approve or disapprove the minutes and recommendations of the board and make appropriate distribution, as required.

(5) Publish lists of "off-limits" establishments and areas.

(6) Insure notification to the responsible individuals of any unfavorable actions being contemplated or taken regarding their establishments in accordance with appendix B.

(7) Distribute all pertinent information to the following:

(i) All units within their jurisdictional area.

(ii) Units stationed in other areas whose personnel frequently visit their jurisdictional area.

(c) (for Army only). Commanders of Army installations depicted in Map 18, AR 5–9, are responsible for coordinating activities of AFDCB in their areas. They may serve as sponsoring commanders or participate as members of Joint Service Boards. They may approve the establishment of separate AFDCB for Army installations within their area when it is in the best interest of the Army to do so. Changes in AFDCB areas of responsibility may be approved by MACOMs of installations concerned.

(d) (for Army only). The Commander, US Army Health Services Command will—

(1) Assure that subordinate commanders provide *one* of the following to sit as a member of each established board—

(i) A Medical Corps officer.

(ii) A health and environment oriented Medical Service Corps (MSC) officer of the Army Medical Department (AMEDD).

(2) Encourage subordinate commanders to—

(i) Maintain liaison with other governmental and civilian health agencies to detect unsafe or unhealthy conditions within the geographic area of each supported board.

(ii) Advise the board of conditions which adversely affect Armed Forces personnel.

§ 631.7 Composition of boards.

(a) Each board shall, as a minimum, consist of representatives from the following functional areas:

(1) Law enforcement.
(2) Legal.
(3) Health and environment.
(4) Public affairs.
(5) Equal opportunity.
(6) Safety.
(7) Chaplains.
(8) Alcohol and drug abuse.
(9) Personnel and community activities.

(b) Sponsoring commanders will determine, by position, which board members will be designated as voting members. Such designations will be included in the written agreements establishing the boards.

(c) Normally the sponsoring commander will designate a member of his staff as the board President.

§ 631.8 Civil agencies.

(a) Civil agencies or individuals may be invited to board meetings as observers or witnesses in jurisdictions where they have knowledge of problems in the board's area of interest. These would be civil agencies or individuals concerned with law enforcement, public health, welfare, consumer affairs, and the safeguarding of morals.

(b) Boards should be used to establish and maintain liaison between installations and civil agencies. A recommended method is to mail announcements and summaries of the results of board meetings to appropriate civil agencies. These agencies include, but are not limited to, those found in appendix A.

§ 631.9 Duties and functions of boards.

The AFDCBs will—

(a) Meet in session as prescribed by the AFDCB Procedures Guide in appendix B.

(b) Receive and take appropriate action on reports of conditions in their jurisdictional areas relating to any of the following:

(1) Lack of discipline.
(2) Prostitution.
(3) Venereal disease.
(4) Liquor violations.
(5) Racial and other discriminatory practices.
(6) Alcohol and drug abuse.
(7) Drug abuse paraphernalia.
(8) Disorder.
(9) Illicit gambling.
(10) Unfair commercial or consumer practices.
(11) Other undesirable conditions that may adversely affect members of the military or their families.

(c) Report the following to all major commanders in the board's area of jurisdiction:

(1) Any conditions cited in paragraph (b) of this section.

(2) The board's recommended action as approved by the board's sponsoring commander.

(d) Conduct active liaison with appropriate civil authorities on problems or adverse conditions existing in the board's area of interest.

(e) Make recommendations to commanders in the board's area of jurisdiction concerning off-installation procedures to prevent or control undesirable conditions.

§ 631.10 Administration.

(a) Commanders are authorized to acquire, report, process, and store information concerning persons and organizations, whether or not affiliated with the Department of Defense (DOD) (AR 380–13), which:

(1) Adversely affects the health, morals, welfare, morale, or discipline of Armed Forces personnel regardless of status.

(2) Describes crime conducive conditions of which Armed Forces personnel may become victims.

(b) Information described in (a) above may be filed by organization; however, it will not be retrievable on the basis of individual personal identification data, e.g., SSN, name, or address. The information should be retained only as long as the described conditions or threat to the welfare of Armed Forces personnel continues to exist.

(c) Boards will function under the supervision of a president.

(d) Certain expenses incurred by Service members in the course of an offical board investigation or inspection may be reimbursable. This would be done in accordance with appropriate Service finance regulations or instructions. These requests should be submitted to the sponsoring Service

finance office and charged to the appropriate law enforcement account. (For the Army, this account is the T6 account.)

(e) Records of board proceedings will be maintained as prescribed by records management policies and procedures for the Service of the sponsoring commander.

§ 631.11 Off-limits establishments and areas.

(a) An "off-limits" area is defined as any vehicle, conveyance, place, structure, building, or area prohibited to military personnel to use, ride, visit, or enter during the period in which it may be declared off-limits. As a matter of policy, the change in ownership, management, or name of any off-limits establishment does not, in and of itself, revoke the off-limits restriction.

(b) The establishment of off-limits areas is a function of command. It may be used by commanders to help maintain good discipline and an appropriate level of good health, morale, safety, morals, and welfare of Armed Forces personnel. Off-limits action is also used to preclude Armed Forces personnel from being exposed to crime conducive conditions or from becoming the victims of crimes. Where sufficient cause exists, commanders retain substantial discretion to declare establishments or areas temporarily off-limits to personnel or their respective command in emergency situations. Temporary off-limits restrictions issued by commanders in an emergency situation will be acted upon by the AFDCB on a priority basis.

(c) Armed Forces personnel are prohibited from entering establishments or areas declared off-limits in accordance with this regulation. Violations may subject the individual to disciplinary action under the Uniform Code of Military Justice (UCMJ). As general policy, these establishments will not be visited by military law enforcement personnel unless circumstances warrant.

(d) Prior to initiating routine off-limits action, installation commanders will attempt to correct, through contact with local civilian leaders, any adverse condition or situation. If these actions are unsuccessful, commanders will submit reports, requesting off-limits action, to the AFDCB serving their area.

(e) The AFDCB, prior to recommending off-limits restriction, will send written notice of the alleged adverse condition or situation, by certified mail with return receipt requested, to the individual or firm responsible for the alleged condition or situation. In this notice, the AFDCB will offer a reasonable time to correct the condition or situation and provide the individual or a designated representative with the opportunity to present any relevant information to the board. (See sample letter at annex A to app B.) If subsequent investigation reveals a failure by the responsible person to take corrective action, the board should recommend the imposition of the off-limits restriction.

(f) A specified time limit will not be established when an off-limits restriction is invoked. The adequacy of the corrective action taken by the proprietor of the establishment will be the determining factor in removing an off-limits restriction.

(g) A person whose establishment or area has been declared off-limits may, at any time, petition the president of the board for removal of the off-limits restriction. The petition will be in writing. It should state, in detail, the action taken to eliminate the adverse conditions or situations that caused the imposition of the restriction. In response to the petition, the President of the AFDCB may cause a thorough investigation to be made of the status of these adverse conditions or situations. A report of the results of the investigation would be presented to the board. The board then will either recommend removal or continuation of the off-limits restriction to the local sponsoring commander.

(h) Off-limits procedures to be followed by the boards are in appendix B. In the United States, off-limits signs will not be posted on civilian establishments by US military authorities.

Subpart C—Off-Installation Military Enforcement Services

§ 631.12 Objectives.

The primary objectives of off-installation enforcement are to—

(a) Render assistance and information to Armed Forces personnel.

(b) Reduce the incidence of off-installation military offenses committed by Armed Forces personnel.

(c) Enforce the UCMJ and other pertinent regulations, directives, and orders among persons subject to the UCMJ.

(d) Maintain effective liaison and cooperation with civil law enforcement and judicial agencies.

(e) Enhance apprehension efforts and return to military control absentees and deserters wanted by the Armed Forces.

(f) Maintain good community relations.

(g) Assist in the return of military members detained by civil authorities to military control.

§ 631.13 Applicability.

This chapter applies to off-installation enforcement activities. It does not apply to the activities of AFDCBs which were discussed in subpart B. It is not applicable to the U.S. Navy.

§ 631.14 Responsibilities.

(a) Commanders of military installations will recognize the responsibility of civil authorities for the maintenance of peace and order in those areas not under military jurisdiction or control. They should—

(1) Conduct off-installation law enforcement in accordance with applicable Service policies and procedures.

(2) Coordinate the liaison functions to accomplish the objectives outlined in paragraph 3–1.

§ 631.15 Policy (for Army only).

(a) Within CONUS.

(1) Normally, off-post patrols will not be established in CONUS. However, MACOM commanders may authorize military police to establish off-installation patrols if needed—

(i) In conjunction with military operations.

(ii) To safeguard the health and welfare of Army personnel.

(iii) When the type of offenses or the number of military personnel frequenting an area is large enough to warrant such patrols.

(2) In view of the important legal implications involved (see 18 U.S.C. 1385, the Posse Comitatus Act), the advice of the local Staff Judge Advocate should be sought prior to the implementation of such an authorization. When possible, MACOM commanders will execute a mutually acceptable written agreement with the civil police authorities.

(b) OCONUS. Off-post patrols will be kept at a minimum for mission accomplishment. Commanders of MACOMs may authorize off-post patrols as required by local conditions and customs as long as these patrols are in accordance with applicable treaties and Status of Forces Agreements.

(c) Military police personnel selected for off-post patrols must be experienced in law enforcement and have mature judgment. They must be thoroughly familiar with all applicable agreements and implementing standard operating procedures. They must understand the implications of the Posse Comitatus Act as it pertains to military law enforcement personnel assisting local law enforcement agencies.

(d) At a minimum, instructions to military police assigned to off-post patrols will specifically state that if they accompany civil police, they will do so for the sole purpose of enforcing the UCMJ among persons subject to the code. Their instructions will also specifically state that they are under the command and directly responsible to their military superiors and that they exercise no authority over the civil police or the civil populace. Accordingly, military police should be instructed that they are not to exercise any authority in a case of misconduct or apparent law violation unless the person concerned has been identified as a member of the military service. However, military law enforcement personnel may come to the aid of civil police in order to prevent the commission of a felony or injury to a civilian police officer.

§ 631.16 Policy (for Navy only).

(a) Off-base law enforcement activities by naval personnel (CONUS and Hawaii) shall be limited to liaison functions with civilian law enforcement agencies and courts and to the acceptance of "courtesy turnovers."

(b) The court liaison function is limited to the provision of an official Navy point of contact for the courts, to the provision of advice for individuals and local commands, and to court appearance with individuals from deployed commands.

(c) Courtesy turnovers will be limited to those persons whose behavior and attitude are acceptable and who desire to be returned to the custody of their parent command.

(d) Courtesy turnovers will be accepted from jails, police stations, etc., but not directly from police officers on the scene of an incident.

§ 631.17 Policy (for Marine Corps only).

(a) Within CONUS.

(1) Normally, off-installation patrols will not be established in CONUS. However, installation commanders may request authority from HQMC (Code MPH) to establish off-installation patrols if needed.

(i) In conjunction with military operations.

(ii) To safeguard the health and welfare of Marine personnel.

(iii) When the type of offenses or the number of military personnel frequenting an area is large enough to warrant such patrols.

(2) In view of the important legal implications involved (see 18 U.S.C. 1382, the Posse Comitatus Act as made applicable to DoN) the advice of the local staff judge advocate/legal officer should be sought prior to the implementation of such an authorization. When possible, installation commanders will execute a mutually acceptable written agreement with the civil police authorities.

(b) Overseas Areas. Off-installation patrols will be kept at minimum for mission accomplishment. Commanders of installations may authorize off-installation patrols as required by local conditions and customs as long as these patrols are in accordance with applicable treaties and Status of Forces Agreements.

(c) Personnel selected for off-installation patrols must be experienced in law enforcement and have mature judgment. They must be thoroughly familiar with all applicable agreements and implementing standard operating procedures. They must understand the implications of the Posse Comitatus Act as it pertains to military law enforcement personnel assisting local law enforcement agencies.

(d) At a minimum, instructions to military police assigned to off-installation patrols will specifically state that if they accompany civil police, they will do so for the sole purpose of enforcing the UCMJ among persons subject to the code. Their instructions will also specifically state that they are under the command and directly responsible to their military superiors and that they exercise no authority over the civil police or the civil populace.

Accordingly, military police should be instructed that they are not to exercise any authority in a case of misconduct or apparent law violation unless the person concerned has been identified as a member of the military service. However, military law enforcement personnel may come to the aid of civil police in order to prevent the commission of a felony or injury to a civilian police officer.

(e) Absentee and deserter collection units to accept active duty absentee or deserter military personnel from civilian authorities may be established.

(f) Civil police and civil court liaison may be established.

(g) Installation commanders are authorized to establish other activities deemed necessary, provided each activity is within the scope of military purpose and authority, i.e., apprehensions where authorized by UCMJ, courtesy patrols, etc.

§ 631.18 Policy (for Air Force only).

See section B, AFR 125–19, for Air Force policy on off-installation patrols.

§ 631.19 Operations.

(a) In CONUS, incidents occurring off-installation normally are investigated by civil law enforcement agencies. These include State, county, or municipal authorities or a Federal investigative agency. When an incident of substantial interest to the U.S. Army occurs off-installation, the Armed Forces law enforcement organization exercising area responsibility will obtain copies of the civil law enforcement report. These are incidents that involve Army property or personnel. The civil law enforcement report would be processed according to applicable Service regulations.

(b) In oversea areas, off-installation incidents will be investigated in accordance with Status of Forces agreements and other appropriate U.S.-host country agreements.

(c) Off-installation enforcement operations may include the following activities:

(1) Town patrol.

(2) Town military police.

(3) Air Force Security Police patrols and stations.

(4) Civil police and civil court liaison.

(5) Public carrier and civilian transportation terminal patrols.

(6) Acceptance of active duty absentee or deserter military personnel turned over to Service police by civilian authorities.

(7) Other activities deemed necessary, provided each activity is within the scope of military purpose and authority.

(d) Activities in c above will be performed according to the Service policies in §§ 631.15–631.17. They will be based on the need and the fiscal and manpower restraints imposed by each Service. If practical, mutual agreements between two or more Services may be made to facilitate the conduct of joint Service off-installation enforcement services and absentee apprehension functions.

(e) Armed Forces law enforcement personnel will—

(1) Act under the command of, and be responsible to, military superiors and will not be placed under the control of civil authorities.

(2) Exercise authority over civil law enforcement agencies or persons not subject to the UCMJ only when they are on a military installation.

(3) Be authorized to apprehend persons subject to the UCMJ when there exists a reasonable belief that an offense under the code has been committed and that the person to be apprehended committed the offense. Civilians committing offenses on US military installations may be detained

for the appropriate Federal, State, or local law enforcement agency.

(4) Return apprehended persons to representatives of their respective Services as soon as practicable.

(5) Process all reports received from other law enforcement agencies concerning crimes committed by military personnel, involving military property, or in which DOD has an interest.

Subpart D—Joint Service Law Enforcement Operations (Not Applicable to US Navy)

§ 631.20 Organization.

In localities frequented by personnel of more than one Service, installation commanders may consider the establishment of joint law enforcement operations. Such operations may provide a more effective and economical accomplishment of off-installation law enforcement. When such operations are established, participating installation commanders will—

(a) Execute written agreements concerning the operations.

(b) Insure that each participating organization contributes its proportionate share of personnel, equipment, and supporting facilities.

§ 631.21 Joint law enforcement operations.

The following procedures will apply when establishing joint law enforcement operations:

(a) *Personnel.* Enlisted personnel selected for joint law enforcement duty should meet the following qualifications:

(1) Be temperamentally suited for police duty and received training or have experience in law enforcement.

(2) Be 19 years of age or older.

(3) Have no record of court-martial convictions or civilian offenses other than minor traffic violations.

(4) Be at least 5 feet 4 inches tall.

(5) Meet General Classification Test (GCT) (or equivalent test) score requirements of the parent Service for assignment to police duty.

(6) Possess a military motor vehicle operators license.

(7) Have at least 12 months remaining on current enlistment.

(b) *Logistics.* Personnel assigned to joint patrols will be equipped as prescribed by their respective Service regulations or directives to include the symbol of their law enforcement authority (badge or brassard).

(c) *Functions.* Joint law enforcement operations will perform, at a minimum, the following functions:

(1) Provide assistance to all Armed Forces personnel who are charged with civil violations.

(2) Maintain liaison with civilian enforcement and judicial agencies.

(3) Have the capability to receive military personnel apprehended by civilian authorities.

(d) *Duty assignments.* Personnel assigned to perform joint operations may be further assigned to perform duties in any of the following functional areas:

(1) Police station operation (desk sergeants, desk clerks, radio operators, etc.).

(2) Motor patrols necessary to conduct police and court liaison and to transport military personnel from the local civilian police.

(3) Operations.

(4) Administration.

Appendix A—Civil Agencies

A–1. *American Social Health Association.*

The American Social Health Association, upon request, provides information and consultation in the fields of venereal disease and drug abuse. Local AFDCBs desiring information should apply through one of the following regional offices of the association:

Eastern Regional Director, 86 Farmington Ave., Hartford, Connecticut 06105

Middle America Regional Director, 110 North High Street, Gahanna, Ohio 43230

Southern Regional Director, 173 Walton Street, NW., Atlanta, Georgia 30303

Western Regional Director, 785 Market Street, Rm. 1010, San Francisco, California 94103

A–2. *United States Brewers Association.*

a. The United States Brewers Association is the trade and public relations agency of the organized brewing industry in the United States. Upon request, it will assist military authorities within CONUS to eliminate conditions detrimental to the health, morals, and welfare of members of the Armed Forces in the cities and communities adjacent to military installations.

b. This association conducts an Armed Forces cooperation program to further "self-regulation" activities among beer dealers. It cooperates with State and local law enforcement officials in the promotion and maintenance of proper conditions in retail beer outlets throughout the country. Its services are available to AFDCBs for furthering joint action in the promotion of law observance and the maintenance of conditions of cleanliness and decency in retail beer outlets patronized by members of the Armed Forces.

c. Local sponsoring commanders requesting the assistance of the Brewers Association may apply to the Director of Field Services, US Brewers Association, Inc., 1750 K Street NW, Washington DC 20006.

A–3. *The National Environmental Health Association.*

The National Environmental Health Association is a professional organization representing various sanitary and environmental control groups. It provides information and consultation on solid waste management, air and water pollution, and other environmental health matters. Military members of the association belong to the Uniform Services Association of Sanitarians. All requests for assistance should be directed to the military association at the national association headquarters, 1600 Pennsylvania Ave., Denver, Colorado 80293.

A–4. *The Federal Trade Commission.*

The Federal Trade Commission was established in 1914 and is the principal agency of the Government responsible for preventing deceptive acts and practices in commerce. The Commission strives to keep competition fair and free from deceptive advertisement of food, drugs, cosmetics, therapeutic devices, catalog sales, and credit card purchases. It strives to protect consumers against the circulation of inaccurate or obsolete credit reports. Consumer Protection Specialists are located at the national and regional offices to render assistance. Regional offices are located in major metropolitan areas and frequently conduct investigations of acts peculiar to local communities. Inquiries should be made to the regional offices.

Appendix B—Armed Forces Disciplinary Control Board Procedures Guide

B–1. *General.* This guide prescribes procedures for the establishment, operation, and coordination of Armed Forces Disciplinary Control Boards (AFDCBs). It is intended to insure uniformity of operation. AFDCB proceedings are not considered to be adversary in nature.

B–2. *Meetings.*

a. Regular meetings will be held once each quarter or as designated by the president. The sponsoring commander may specify whether the meetings, as scheduled, will be open or closed. If not specified, the decision is within the discretion of the president of the board. Normally, proceedings are closed, but may be opened to the public when circumstances warrant.

b. Special meetings may be called by the president of the board. Except by unanimous consent of members present, final action will be taken only on the business for which the meeting was called.

B–3. *AFDCB composition.*

a. Voting members will be selected according to paragraph 2–3 of this regulation.

b. A majority of voting members constitutes a quorum for board proceedings.

B–4. *Attendance of observers or witnesses.*

a. Representatives of the agencies listed below may be invited to attend as observers or witnesses.

(1) American Social Health Association.

(2) United States Brewers Association.

(3) Federal Bureau of Investigation.

(4) United States Attorneys.

(5) State and local police.

(6) State and local departments of health.

(7) State and local VD control officers.

(8) State alcoholic beverage control authorities.

(9) State and local prosecutors.

(10) Consumer affairs personnel.

(11) State and local narcotics investigative agencies.

(12) Immigration and Naturalization Service.

(13) Members of Judiciary directly concerned with law enforcement.

(14) Drug Enforcement Administration.

(15) Bureau of Alcohol, Tobacco, and Firearms.

(16) US Customs Service.

(17) Chamber of Commerce.

(18) Better Business Bureau.

(19) State license beverage association.

(20) National Institute of Drug Abuse and National Institute on Alcohol Abuse and Alcoholism.

(21) Adult probation department/social services.

(22) Any other representation deemed appropriate by the sponsoring command, i.e., news media, union representatives, and so forth.

b. Witnesses and observers will be listed in the minutes of the meeting if invited by the board to participate in that capacity.

c. Board action may be recommended by a majority vote of the voting members present at a regular or special board meeting.

B–5. *Appropriate areas for board consideration.*

a. Boards will study and take appropriate action in connection with all conditions detrimental to the good discipline, health, morals, welfare, safety, and morale of Armed Forces personnel. This will include, but not be limited to, the following:

(1) Crime and misconduct.

(2) Narcotics, marihuana, dangerous drugs, and drug abuse paraphernalia.

(3) Liquor violations.

(4) Excessive number of unauthorized absences.

(5) Gambling (when in violation of State or local law).

(6) Military and civilian relationships that may be detrimental to service personnel.

(7) Unsanitary and other adverse conditions in establishments frequented by Armed Forces personnel.

(8) Off-installation/base safety problems.

(9) Unethical or illegal business practices.

(10) Prostitution and venereal disease.

(11) Discriminatory practices.

(12) Other health hazards.

b. The board will immediately forward to the local commander concerned the circumstances reported to the board involving discrimination based on race, color, sex, religion, age, or national origin.

B–6. *Off-limits procedures.*

a. Off-limits restrictions should be invoked only when there is substantive information indicating that an establishment or area frequented by Armed Forces personnel presents conditions which adversely affect the health, safety, welfare, morale, or morals of such personnel. It is essential that boards do not act arbitrarily; actions must not be of a punitive nature. Boards should work in close cooperation with local officials and proprietors of business establishments and seek to accomplish their mission through mutually cooperative efforts. Boards should encourage personal visits by local military and civilian enforcement or health officials to establishments considered below standard. AFDCBs should point out unhealthy conditions or undesirable practices to establishment owners or operators in order to produce the desired corrective action.

b. Prior to initiating routine off-limits action, the local commander will attempt to correct any situation which adversely affects the welfare of Armed Forces personnel. This will be done through contact with community leaders.

c. Unless emergency conditions exist which are extremely harmful to Armed Forces personnel, an establishment will not be recommended for off-limits action until the proprietor has been—

(1) Notified in writing of the adverse condition/circumstances.

(2) Given an opportunity to be heard and a reasonable time in which to correct deficiencies.

d. If the board decides to attempt to investigate or inspect an establishment, the president or a designee will prepare and submit a report of findings and recommendations at the next meeting. This will insure complete and documented information concerning doubtful adverse conditions.

e. When the board concludes that conditions adverse to Armed Forces personnel do exist, the owner or manager will be sent a letter of notification (annex A). This letter will advise him or her to raise standards and that, if such conditions or practices continue, off-limits proceedings will be initiated. In cases involving discrimination, the board should not rely solely on letters written by the Equal Opportunity Office and Military Affairs Committee or investigations of alleged racial discrimination. The AFDCB should send letters to the proprietor, informing him or her that off-limits action is being considered and inviting him or her to the next board meeting. Boards should send letters directly to the proprietors when any off-limits action is being considered. If a proprietor takes remedial action to correct undesirable conditions previously noted, the board should send a letter of appreciation (annex B). Any correspondence with the individuals responsible for adverse conditions leading to off-limits action will be by certified mail.

f. If the undesirable conditions are not corrected, an invitation (annex C) will be written to the proprietor. This letter will invite the proprietor to appear before the board to explain why the establishment should not be placed off-limits. The proprietor may designate, in writing, individual(s) to represent him or her at the board.

g. In cases where proprietors have been invited to appear before the board, the president of the board will perform the following actions:

(1) Prior to calling the proprietor—

(a) Review the findings and decision of the previous meeting.

(b) Call for inspection reports.

(c) Afford an opportunity to those present to ask questions and discuss the case.

(2) When the proprietor and/or his or her counsel is called before the board—

(a) Present the proprietor with a brief summary of the complaint concerning his or her establishment.

(b) Afford the proprietor an opportunity to present matters in defense of the allegation.

(c) Offer those present an opportunity to question the proprietor. After the questioning period, provide the proprietor a final opportunity to make an additional statement or to make commitments concerning his or her willingness to cooperate.

(3) After excusing the proprietor from the meeting, the president and board will discuss suggestions and recommendations for disposition of the case in closed session.

h. No member of a board shall reprimand or admonish in any degree a person appearing before a board. Board members do not have jurisdiction over such individuals. Off-limits actions are designed solely for the protection of Armed Forces personnel and are used as a last resort when all other means have failed.

i. The board should recommend that the offending establishment be placed off-limits only after the following:

(1) The letter of notification (annex A) has been sent.

(2) An opportunity to appear before the board has been extended.

(3) Further investigation indicates that improvements have not been made.

j. The minutes will indicate a board's action in disposing of each case. When a recommendation is made that an establishment be placed off-limits, the minutes will show the procedural steps followed in reaching the decision.

k. Recommendations of the board will be submitted to the sponsoring commander for consideration. The recommendations will then be forwarded to the other installation commanders who furnish board representation (annex D). If no objection to the recommendations is received within 10 days, the sponsoring commander will either approve or disapprove the recommendations. He will then forward this decision to the board president.

l. Upon approval of the board's recommendations, the president will dispatch a declaration that the off-limits restriction has been imposed (annex E).

m. No definite time limit should be specified when an off-limits restriction is invoked. The adequacy of the corrective action taken by the proprietor of the establishment must be the determining factor in removing an off-limits restriction.

n. Military commanders have no authority to post off-limits signs on private property. Appropriate civil officials may post private property when informed by military authorities that an establishment or area has been declared off-limits to Armed Forces personnel.

o. Emergency off-limits action: In emergencies, commanders may temporarily declare establishments or areas off-limits to Armed Forces personnel subject to their jurisdiction. They must then report the circumstances immediately to the commander sponsoring the board. Detailed justification for this emergency action will be provided to the board for its use.

B–7. *Removal of off-limits restrictions.*

a. Removal of an off-limits restriction requires board action. Proprietors of establishments declared off-limits should be advised that they may appeal to the appropriate board at any time. In their appeal, they should submit the reason why, in their opinion, the restriction should be removed. A letter of notification of continuance of off-limits restriction should be sent to the proprietor if the board does not favorably consider removal of an off-limits restriction (annex F). If, after exhausting all appeals at the board/local sponsoring commander level, the proprietor is not satisfied with those decisions, his or her case will be forwarded to the next higher commander of the sponsoring commander for review and resolution. Boards should make at least quarterly inspections of off-limits establishments. A statement that an inspection has been made should be reflected in their minutes.

b. When it has been determined that adequate corrective measures have been taken by the owner or manager of an establishment or area to meet the requirements for good discipline, health and welfare of Armed Forces personnel, the appropriate board will take the following actions:

(1) Discuss the matter at the next meeting and make an appropriate recommendation.

(2) Forward recommendation for removal of off-limits restriction to the sponsoring commander. If the recommendation is approved, dispatch a letter of removal of off-limits (annex G or H).

(3) Record what action was taken in the minutes of the board meeting.

B–8. *Duties of the president of the board.*

The president of the board will—

a. Schedule and preside at all meetings of the board and sign appropriate correspondence.

b. Prepare an agenda prior to each regular meeting and insure its distribution to each voting member at least 7 days prior to the meeting.

c. Be responsible for the preparation and distribution of the minutes of all meetings and for maintenance of appropriate records and files pertaining to AFDCB activities. (See para. 2–6e.)

d. Inform members of any special meeting and its purpose as far in advance as possible.

e. Prepare and distribute to major commands a copy of the minutes of each meeting.

f. Supervise the recorder in performance of all administrative duties as required.

B–9. *Minutes.*

a. Annex I is a guide for the preparation of the minutes of board meetings. Minutes will be prepared in accordance with administrative formats for minutes of meetings prescribed by the Service of the sponsoring commander. The written minutes of board meetings will be deemed the official record of board meetings. Verbatim transcripts of board meetings are not required. The reasons for approving or removing an off-limits restriction, to include a complete address of the establishment or area involved, should be indicated in the order of business. In addition, the board's action will be shown in order of sequence, such as dispatch of letter of notification, appearance before board, recommendation to local sponsoring commander, or action taken by local sponsoring commander. Change in the name of an establishment or areas in an off-limits status will also be included.

b. Distribution of the minutes of board meetings will be limited to the following:

(1) Each voting member, sponsoring command and other commands, and installations represented on or serviced by the board.

(2) Each civilian and military advisory member, if deemed appropriate.

(3) Civilian and Government agencies, within the State in which member installations are located, having an interest in the functions of the board, if appropriate.

c. The minutes of the board meeting, containing the board's recommendations, will be forwarded in writing to the sponsoring commander. The minutes will be accompanied by a request that the recommendations be approved for implementation. The sponsoring commander will, by written indorsement to the president of the board, approve or disapprove the minutes and recommendations.

d. Board minutes are subject to the release and disclosure provisions of DOD Directive 5400.7 and implementing Service regulations.

B–10. *Installation commander and board relationship.*

Military installation commanders within a board's areas of responsibility must be thoroughly acquainted with the mission and services provided by AFDCBs. Board members should keep their respective commanders informed of command responsibility pertaining to board functions and actions.

B–11. *Public affairs.*

a. Because of the sensitive nature of subject matter discussed, no public announcement will be initiated in connection with board meetings. However, any board proceeding which is open to the public will also be open to representatives of the news media. Representatives of the news media will be considered as observers and will not participate in the discussion of matter considered by the board. Members of the news media may be invited to participate in an advisory status in coordination with the Public Affairs Officer.

b. News media interviews and releases will be handled through the Public Affairs Offices in accordance with this regulation and AR 360–5.

Annex A—Letter of Notification

(Letterhead)

(Appropriate AFDCB)

Proprietor

Dear Sir: As President of the Armed Forces Disciplinary Control Board, it is my duty to inform you of certain undesirable conditions reported at your establishment which adversely affect the health and welfare of personnel in the Armed Forces. It has come to the attention of the board that (*cite pertinent information*). You are advised that it will be necessary for this board to initiate action to determine whether your establishment should be placed off-limits to personnel of the Armed Forces if the above cited undesirable condition(s) is (are) not eliminated. (*Include if applicable*). Within (*cite period*), a representative of this board will visit your establishment in order to determine if steps have been taken to correct the conditions outlined above.

Sincerely,

———,

President, AFDCB.

(Note.—When sent by mail, send letter by *CERTIFIED MAIL, RETURN RECEIPT REQUESTED.)*

Annex B—Letter of Appreciation

(Letterhead)

(Appropriate AFDCB)

Proprietor

Dear Sir: Reference is made to my letter dated ——— concerning certain undesirable conditions reported at your establishment which adversely affect the health and welfare of personnel in the Armed Forces.

The board appreciates your action in correcting the deficiencies previously noted. In view of this fact, the board contemplates no further action with respect to this matter at the present time.

The board hopes that you will continue to operate your establishment in the manner which will benefit the health and welfare of Service personnel. Your continued cooperation is solicited.

Sincerely,

———,

President, AFDCB.

Annex C—Letter of Invitation

(Letterhead)

(Appropriate AFDCB)

Proprietor

[FR Doc. 82-5302 Filed 2-25-82; 8:45 am]

BILLING CODE 3710-08-M

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual; Miscellaneous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby describes the numerous miscellaneous revisions consolidated in the Transmittal Letter for Issue 8 of the Domestic Mail Manual (DMM), which is incorporated by reference in the **Federal Register**, 39 CFR 111.1.

Some of the revisions are minor, editorial, or clarifying. Substantive changes, such as the handling of Express Mail insurance claims, or the rules governing Electronic Computer Originated Mail (ECOM) Service, have previously been published in the **Federal Register** both in the proposed rule and the final rule stages, or as interim rules.

EFFECTIVE DATE: January 21, 1982.

FOR FURTHER INFORMATION CONTACT:

Paul J. Kemp, (202) 245–4638.

SUPPLEMENTARY INFORMATION: The Domestic Mail Manual, which is incorporated by reference in the **Federal Register** (see 39 CFR 111.1), has been amended by the publication of a transmittal letter for Issue 8, dated January 21, 1982. The text of all published changes is filed with the Director of the Federal Register. Subscribers to the Domestic Mail Manual received these amendments automatically from the Government Printing Office.

The following excerpt from the Summary of Changes section of the transmittal letter for Issue 8 covers the minor changes not previously described in interim or final rules published in the **Federal Register.**

Summary of Changes

Note.—Issue 8 contains all DMM revisions published between November 5, 1981, and January 21, 1982.

1. Sections 119.11 and 119.13 are revised to update the lists of registered and pending trademarks and service marks (PB 21335, 1–21–82).

2. Section 126.44 and part 753 are revised to allow film cases weighing more than 5 pounds to be treated as machinable parcels under specified conditions (PB 21335, 1–21–82).

3. * * *

4. Section 137.15 is revised to implement new reporting procedures for originating franked mail (PB 21330, 12–17–81).

5. Sections 144.6 and 144.952 are revised to update procedures for postage meter verification and control. Section 144.742b is revised to update the title of Form 3609–PO. (PB 21335, 1–21–82).

6. Section 147.28 is revised to reflect the $500 limit on money orders and to streamline procedures associated with small adjustments on postage meters, and issuing money orders and Treasury Checks for amounts under $5 (PB 21329, 12–10–81).

7. * * *

8. Section 159.16 is added to state service criteria for processing mail which is undeliverable as addressed (PB 21328, 12–3–81).

9. * * *

10. Section 159.242d is revised to conform to provisions of 611.12 and 692 on forwarding items mailed at third-class rates, and part 692 is revised to specify that certain items are forwarded without charge if a local forwarding order is in effect.

11. Section 159.527 is revised to clarify the type of organization that may qualify to receive undeliverable publications (PB 21327, 11–26–81).

12. Section 164.73d is revised to specify conditions under which items bearing already canceled stamps may be accepted for subsequent cancellation (PB 211334, 1–14–82).

13. Section 164.92 is revised to clarify procedures for approval of cancellations at temporary postal stations recognizing events involving specific types of organizations (PB 21327, 11–26–81).

14. * * *

15. * * *

16. * * *

17. * * *

18. * * *

19. Sections 931.33, 932.34, and 933.4 are revised to allow the use of forms printed by the mailer instead of Form 3877, to specify the fee for return receipt when the original Form 3800 was not dated-stamped, and to clarify restricted delivery procedures for mail addressed *In care of* another. Section 933.48, which was inadvertently omitted from issue 1, is reinserted (PB 21332, 12–31–81).

20. Section 945.131 is revised to allow mailers to submit mailing list for correction by means other than by mail (PB 21335, 1–21–82).

21. Section 945.3 is revised to allow mailers more time to meet requirements regarding submission of address cards for sequencing and to revise procedures for returning address cards to the customer, billing, and payment (PB 21326, 11–19–81).

22. Minor editorial changes clarify language in §§ 367.421, 943.1, 943.3, and 721.1.

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

In consideration of the foregoing, 39 CFR 111.3 is amended by adding at the end thereof the following:

§ 111.3 Amendments to the Domestic Mail Manual.

* * * * *

Transmittal letter for issue	Dated	Federal Register publication
*	*	*
8	Jan. 21, 1982	47 FR

(5 U.S.C. 552(a); 39 U.S.C. 401, 407, 408, 3001–3011, 3201–3216; 3403–3405, 3601, 3621; 42 U.S.C. 1973 cc–13, 1973 cc–14)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 82-5149 Filed 2-25-82; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-7-FRL-2057-5]

Approval and Promulgation of Implementation Plans; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking; correction.

SUMMARY: This document corrects a final rulemaking published on July 7, 1981 (46 FR 35089) by adding additional amendatory language and regulatory text. The purpose of the July 7 publication was to approve the state's actions to correct two conditions on approval of the Part D State Implementation Plan (SIP) for Kansas under the Clean Air Act and to remove the applicable conditions.

The present action is necessary to correct a deficiency in the amendatory section of the July 7, 1981, action.

EFFECTIVE DATE: This correction is effective February 26, 1982.

FOR FURTHER INFORMATION CONTACT: Mary C. Carter, Air and Waste Management Division, Environmental Protection Agency, Region VII, Kansas City, Missouri 64108, (816) 374–3791; FTS 758–3791.

Dated: February 3, 1982.

John J. Franke, jr.,

Regional Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

The following corrections are made to add amendatory language and regulatory text to FR Doc. 81–19842 appearing on page 35090 in the issue of July 7, 1981:

Section 52.870(c)(13) is added as follows:

§ 52.870 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(13) Additional information to correct two plan deficiencies was submitted by the Kansas Department of Health and Environment on May 12, 1981.

[FR Doc. 82-5147 Filed 2-25-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR 52

[A-3-FRL 2042-5]

Approval of Revision of the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On May 20, 1980, EPA published a Federal Register notice taking final action on Pennsylvania's 1979 SIP revision (45 FR 33607). In that notice EPA conditionally approved 5 items and noted two other items were unapprovable and approved the rest of the SIP. On April 13, 1981, July 13, 1981 and August 17, 1981, Pennsylvania submitted SIP revisions to correct a number of the conditionally approved items and both unapproved items. Today, EPA is approving these SIP revisions. EPA expects Pennsylvania to submit a SIP revision to correct the remaining conditions in the near future.

DATE: Effective April 27, 1982.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support are available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Air Media and Energy Branch, 6th and Walnut Streets, Philadelphia, PA 19106; ATTN: Ed Shoener (3AH11)

Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120

Public Information Reference Unit, Room 2922, EPA Library, Environmental Protection Agency, 401 M Street SW (Waterside Mall), Washington, DC 20460

FOR FURTHER INFORMATION CONTACT: Mr. Ed Shoener, Environmental Protection Agency, Region III, Air Media and Energy Branch, Curtis Building, 10th Floor, 6th and Walnut Streets, Philadelphia, PA 19106; (215) 597–6179.

SUPPLEMENTARY INFORMATION: On May 20, 1980, EPA published a Federal Register notice taking final action on Pennsylvania's 1979 SIP revision (45 FR 33607). In the notice EPA conditionally approved five items, noted two other items were unapprovable and approved the rest of the SIP. In submissions of April 13, 1981, July 13, 1981 and August 17, 1981, the Pennsylvania Department of Environmental Resources (DER) corrected a number of the conditionally approved items and both unapprovable items by modifying 215 PA Code, Chapters 127 and 129 and submitting other necessary commitments and justifications. The corrections are as follows:

1. Justification of the exemption allowing the use of cutback asphalt as a tack coat—This exemption is allowed under Chapter 129.64. DER demonstrated that this exemption is insignificant, representing an increase of less than 2.2 percent in VOC emissions from asphalt paving state-wide and, therefore, this exemption does not need to be removed (conditionally approved item 1).

2. Limit the solvent content allowed in emulsified asphalt—Chapter 129.64 limits the solvent content of emulsified asphalts to below 12 percent and sets a maximum VOC percent limit for each grade of asphalt (conditionally approved item 2).

3. Offsets required for major new or modified carbon monoxide sources impacting carbon monoxide nonattainment areas—Chapter 127.63 is modified to require carbon monoxide sources located in carbon monoxide nonattainment areas, or in areas which significantly impact carbon monoxide nonattainment areas, to comply with special permit conditions that satisfy the requirements of section 173 of the Clean Air Act. Because this change corrects the deficiency identified by EPA, permits may now be issued to sources affected by this regulation (unapproved item).

4. Lowest achievable emission rate and statewide compliance required for all new or modified VOC sources in Pennsylvania—Chapter 127.63 is modified to require major new or modified VOC sources in rural ozone nonattainment areas to install lowest achievable emission rate pollution control equipment and to demonstrate statewide compliance of all other sources owned or operated by the same owner or operator. Because this change corrects the deficiency identified by EPA, permits may now be issued to sources affected by this regulation (unapproved item).

5. Definition of Ownership—Chapter 127.65 is changed to incorporate the definition of ownership contained in Section 173(3) of the Clean Air Act as amended in 1977 (conditionally approved item 5).

6. Firm commitment to implement the Route 66 trolley extension—DER submitted a letter from Commissioner Brown of the Philadelphia Department of Public Property committing the Department to the Route 66 trolley extension project (conditionally approved item 3).

Pennsylvania submitted proof that public hearings were held on these SIP revisions in accordance with the public hearing and notice requirements of 40 CFR 51.4.

EPA previously approved a DER submission to correct conditionally approved Item 4 (relating to conformance of transportation planning to SIP requirements) on April 20, 1981 (41 FR 22583). Today, EPA is approving the submissions described above because they will correct all the other conditionally approved and unapproved items noted by EPA in the May 20, 1980 Federal Register notice except for the portion of Items 2 and 3 relating to commitments to the Newton Branch rail line electrification project and to the Allegheny County emulsified asphalt regulations. EPA anticipates receiving a revision to correct these items in the near future.

EPA did not publish a separate proposed approval of these SIP revisions because the conditions and actions requiring these revisions were discussed in detail in the Federal Register notice of May 20, 1980 (45 FR 33607).

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Note.—Incorporation by Reference of the State Implementation Plan for the State of Pennsylvania was approved by the Director of the Federal Register on July 1, 1981.

(42 U.S.C. 7401–842)

Dated: February 19, 1982.

Ann M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 Part 52 of the Code of Federal Regulations is amended as follows:

Subpart NN—Pennsylvania

1. In § 52.2020, (c)(41) is added to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) The plan revision listed below was submitted on the date specified. * * *

(41) Revisions submitted by the Commonwealth of Pennsylvania on April 13, 1981, July 13, 1981 and August 17, 1981 to correct the conditionally approved and unapproved portions of Pennsylvania 1979 State Implementation Plan.

§ 52.2037 [Amended]

2. Section 52.2037 is amended by removing paragraph (a)(1) and redesignating paragraphs (a)(2) and (a)(3) as paragraphs (a)(1) and (a)(2) and revising the new paragraphs (a)(1) and (a)(2) to read as follows:

§ 52.2037 Control strategy: Carbon monoxide and ozone (hydrocarbons).

(a) * * *

(1) Firm commitments to implement the Newton Branch electrification are submitted to EPA by December 30, 1980. If firm commitments are not submitted, the State must submit substitute measures with equivalent reductions by June 30, 1981.

(2) The limit of the solvent content in emulsified asphalt contained in Allegheny County's regulations is made consistent with EPA policy, and revised regulations are submitted to EPA.

3. Section 52.2055 is amended by revising paragraph (a) to read as follows:

§ 52.2055 Review of new sources and modifications.

(a) Special permit requirement regulations are approved.

* * * * *

[FR Doc. 82-5271 Filed 2-25-82; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6253]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended effective the dates listed within this rule because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain

management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date flood insurance is no longer available in the community.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Federal Emergency Management Agency's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of Eligible Communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date[1]
Idaho: Kootenai	Spirit Lake, City of	160084	May 28, 1975, emergency; May 28, 1978, regular; Mar. 1, 1982, suspended.		Mar. 1, 1982.
Illinois:					
Cook and Kane	Elgin, City of	170087C	May 29, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	May 9, 1974, Oct. 31, 1975 and May 23, 1978.	Do.
Kane	Unincorporated areas	170896A	July 29, 1976, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	May 14, 1976	Do.
Louisiana: Vermilion Parish	Kaplan, City of	220226A	July 1, 1974, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Nov. 2, 1979	Do.
Michigan:					
Gratiot	Alma, city of	260089B	Dec. 26, 1974, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	May 10, 1974 and June 25, 1976.	Do.
Jackson	Concord, Village of	260423A	June 29, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	July 11, 1975	Do.
Wayne	Livonia, City of	260233B	Feb. 18, 1973, emergency; Nov. 4, 1981, regular; Mar. 1, 1982, suspended.	Nov. 4, 1981	Do.
Ingam	Leslie, Township of	260671C	Apr. 14, 1976, emergency; Aug. 10, 1979, regular; Mar. 1, 1982, suspended.	Feb. 17, 1978 and Aug. 10, 1979.	Do.
Shiawassee	Owosso, City of	260088A	May 23, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Sept. 26, 1975	Do.
New Jersey:					
Burlington	Florence, Township of	340066B	Sept. 5, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	June 28, 1974 and Mar. 5, 1976.	Do.
Camden	Haddon, Township of	340154B	Apr. 12, 1974, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Nov. 22, 1974 and June 4, 1976.	Do.
Monmouth	Holmdel, Township of	340090C	Apr. 14, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Feb. 1, 1974, Oct. 17, 1975 and Apr. 16, 1976.	Do.
Atlantic	Mullica, Township of	340517C	Apr. 22, 1974, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Nov. 1, 1974, July 30, 1976 and May 5, 1978.	Do.
New York: Erie	Williamsville, Village of	360283B	July 12, 1974, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	May 31, 1974 and Aug. 6, 1976.	Do.
North Carolina: Henderson	Unincorporated areas	370125D	Apr 28, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Jan. 10, 1978 and July 29, 1977.	Do.
Oregon:					
Yamhill	Dundee, City of	410258B	Apr. 25, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	June 28, 1974 and Dec. 17, 1976.	Do.
Do	Newberg, City of	410266B	Aug. 6, 1974, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	June 14, 1974 and Nov. 28, 1976.	Do.
Linn	Sweet Home, City of	410146B	Apr. 17, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Jan. 23, 1974 and Jan. 16, 1976.	Do.
Washington	Tigard, City of	410276B	Feb. 5, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Feb. 14, 1976	Do.
Yamhill	Yamhill, City of	410259C	June 30, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Nov. 30, 1973, Apr. 16, 1976 and Nov. 20, 1977.	Do.
Pennsylvania:					
Fayette	Luzerne, Township of	421881A	Feb. 10, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Dec. 27, 1974	Do.
Montgomery	Skippack, Township of	421146B	Apr. 8, 1974, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	July 26, 1974 and Sept. 17, 1976.	Do.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date[1]
Rhode Island: Washington	Exeter, Town of	440032A	Feb. 4, 1976, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Mar. 14, 1975	Do.
Tennessee:					
Dyer	Unincorporated areas	470284B	Feb. 18, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Dec. 2, 1977	Do.
Do	Dyersburg, City of	470047B	May 2, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	June 14, 1974 and Apr. 2, 1976.	Do.
Utah:					
Davis	Centerville, City of	490040B	July 24, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	June 28, 1974 and Mar. 19, 1976.	Do.
Do	Unincorporated areas	490039B	Apr. 22, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Feb. 7, 1978	Do.
Do	Kaysville, City of	490046B	Apr. 18, 1975, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	June 28, 1974 and Sept. 3, 1976.	Do.
Texas:					
Fort Bend and Harris	Stafford, City of	480233A	Oct. 16, 1979, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	June 28, 1974	Do.
Williamson	Taylor, City of	480670B	Nov. 7, 1974, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Mar. 29, 1974 and Jan. 30, 1976.	Do.
Vermont: Chittenden	Colchester, Town of	500033B	Aug. 23, 1974, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	Aug 23, 1974 and Oct. 8, 1976.	Do.
Wisconsin: Milwaukee and Washington.	Milwaukee, City of	550278B	Jan. 30, 1974, emergency; Mar. 1, 1982, regular; Mar. 1, 1982, suspended.	June 28, 1974 and Oct. 15, 1976.	Do.

[1] Certain Federal assistance no longer available in special flood hazard areas.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: February 22, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-5164 Filed 2-25-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-564; RM-3921]

FM Broadcast Station in Kremmling, Colo.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 292A to Kremmling, Colorado, in response to a petition filed by Middle Park Communications Corporation. The assignment could provide a first local broadcast service to Kremmling.

DATE: Effective March 5, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order; Proceeding Terminated

Adopted: January 11, 1982.

Released: January 19, 1982.

In the Matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Kremmling, Colorado), BC Docket No. 81–564, RM–3921.

1. The Commission has under consideration a *Notice of Proposed Rule Making*, 46 FR 43213, published August 27, 1981, filed by Middle Park Communications Corporation ("petitioner"), proposing the assignment of Channel 292A to Kremmling, Colorado, as its first FM Assignment. Supporting comments were filed by the petitioner. No oppositions to the proposal were received.

2. Kremmling (population 1,298)[1], in Grand County (population 7,475), is located approximately 120 kilometers (75 miles) northwest of Denver, Colorado. It has no local broadcast service.

3. As stated in the *Notice*, Kremmling has a mayor-council form of government. Its economy is based on lumbering, mining, ranching, and retail sales outlets. The *Notice* also stated that Kremmling is located in a valley, isolated between the Continental Divide and the Rocky Mountains, which obstructs the reception of FM signals while its terrain limits AM service. Petitioner has stated its intent to apply for the channel, if assigned.

4. The Commission believes that the public interest would be served by assigning Channel 292A to Kremmling. The petitioner has shown that there is an apparent need for an assignment and a willingness to operate a first FM service in that community.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered that effective March 5, 1982, § 73.202(b) of the Commission's rules, is amended with regard to the following community:

City	Channel No.
Kremmling, Colo.	292A

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-5162 Filed 2-25-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1980 U.S. Census.

47 CFR Part 73

[BC Docket No. 81-565; RM-3859]

FM Broadcast Station in Cape Coral, Fla.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 292A to Cape Coral, Florida, in response to a petition filed by Sunshine Broadcasting, Inc. The assignment will provide Cape Coral with a second local FM service.

DATE: Effective March 5, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order; Proceeding Terminated

Adopted: January 11, 1982.

Released: January 20, 1982.

By the Acting Chief, Policy and Rules Division:

In the Matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Cape Coral, Florida), BC Docket No. 81-565, RM-3859.

1. The Commission has under consideration a *Notice of Proposed Rule Making*, 46 FR 43203, published August 27, 1981, proposing the assignment of Channel 292A to Cape Coral, Florida, as that community's second FM assignment, in response to a petition filed by Sunshine Broadcasting, Inc. ("petitioner"). Supporting and reply comments were filed by petitioner in which it reaffirmed its intent to apply for the channel, if assigned. Comments were also filed by Charles P. Pascal ("Pascal") and Dean J. Matlin ("Matlin"), in which each expressed an interest in the assignment.[1]

2. Cape Coral (population 32,103),[2] in Lee County (population 205,266), is located approximately 13 kilometers (8 miles) southwest of Ft. Myers, Florida. It is presently served by Class A FM Station WRCC (Channel 280A).

3. In support of its proposal, petitioner submitted information with respect to Cape Coral which is persuasive as to its need for a second FM channel assignment.

4. In the *Notice*, we indicated that as a result of the proposed assignment, preclusion would occur only on the co-channel in six Florida communities, which contain a population in excess of 1,000 persons. Of these, three have existing assignments.[3]

5. In its comments, petitioner states that its proposed transmitter site is designed to maximize coverage of Cape Coral within the confines of the Commission's minimum distance separation requirements and the Federal Aviation Administration's environmental protection considerations. Additionally, it states that Cape Coral is an extremely large city, extending 17 miles from northwest to southeast, covering an area of 103 square miles. Therefore, according to petitioner, it would be difficult to place a 70 dBu signal over the entire community of Cape Coral. It adds that given these constraints, it has counted the population in individual census tracts which would be served by a 70 dBu signal from its proposed transmitter site and has determined that, as proposed, 30,342 persons (96.31% of the total population) would receive such service. Further, it adds that nearly all areas of commercial and residential concentration, community facilities, and areas projected for growth to 1985, would be included in its proposed coverage area.

6. Petitioner also notes that no Class C channel is available for assignment to Cape Coral, and the only other Class A channel which could be assigned is Channel 285A. However, as discussed at paragraph 9, *infra*, that channel has been proposed for assignment in a separate proceeding to either Fort Myers Villas, Florida (RM-3953) or Sanibel, Florida (RM-3992).

7. In its reply comments, petitioner reaffirms its interest in the proposal and supplements its initial showing concerning the question of coverage of Cape Coral with a 70 dBu signal. To this extent, it attaches a letter from the Planning Director of the City of Cape Coral which notes that its boundaries were not established surrounding a population cluster. Rather, it is stated that a land developer purchased a large tract of land for subdivision and simply designated a 103 square mile area as the community of Cape Coral. In this respect, petitioner cites *Manchester Broadcasting Co.*, 24 FCC 199, 211 (1958) and *Andy Valley Broadcasting System, Inc.*, 12 FCC 2d 3, 4 (1968), wherein the Commission noted that actual population centers rather than legal town boundaries would be utilized in evaluating compliance with the principal city coverage requirements. Petitioner states that, applying this standard to its proposal, substantial compliance with § 73.315(a) of the Commission's rules can be achieved.

8. Since the transmitter will be located within the community of Cape Coral, it is not believed that petitioner is attempting to circumvent the principal city coverage requirements. Therefore, under the unique circumstances recited herein, provision of a 70 dBu signal to only 96% of the community will not bar a grant of the proposal. However, the extent to which coverage can be maximized is better evaluated at the application stage.

9. Petitions are presently pending to assign Channel 285A to Fort Myers Villas, Florida (RM-3953), or to Sanibel, Florida (RM-3992). The proposals are mutually exclusive since the two communities are approximately twelve miles apart. Since the distance between Cape Coral and Fort Myers Villas is approximately 7.2 miles, and between Cape Coral and Sanibel, 8.0 miles, the assignment of Channel 292A to Cape Coral would make the channel available to the community that does not obtain Channel 285A pursuant to the provisions of § 73.203(b) of the Commission's rules, the "10-mile" rule.

10. In view of the above, we believe that the public interest would be served by the assignment of Channel 292A to Cape Coral, Florida, as that community's second FM assignment. The assignment can be made consistent with the minimum distance separation requirements of § 73.207 of the Commission's rules.

11. In view of the foregoing, and pursuant to the authority contained in §§ 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, That effective March 5, 1982, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended with regard to the following community:

City	Channel No.
Cape Coral, Fla	285A, 292A

12. It is further ordered, That this proceeding is terminated.

13. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-5141 Filed 2-25-82; 8:45 am]

BILLING CODE 6712-01-M

[1] In its reply comments, petitioner advises that Matlin has now withdrawn his previous expression of interest in the channel.

[2] Population figures are derived from the 1980 U.S. Census, Advance Reports.

[3] The six communities are: Fort Myers Beach, Naples, Marco, Naples Park, North Naples and East Naples. The latter three have no FM assignments. We also note that we have previously refused to recognize North Naples as a community. See *Naples, North Naples and Immokalee, Florida* (Docket 30935), 41 R.R. 2d 1549 (1977). We make no judgment at this time as to the community status of the other two places, Naples Park or East Naples.

47 CFR Part 73

[BC Docket No. 81-374; RM-3741]

FM Broadcast Station in Emporia, Kansas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 269A to Emporia, Kansas, in response to a petition filed by G. and S. Enterprises. The proposed station would provide a second local FM broadcast service to Emporia.

EFFECTIVE DATE: Effective January 11, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order; Proceeding Terminated

Adopted: November 5, 1981.

Released: November 10, 1981.

In the Matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Emporia, Kansas), BC Docket No. 81-374, RM-3741.

1. The Commission has under consideration a *Notice of Proposed Ruel Making*, 46 FR 35130, published July 7, 1981, proposing the assignment of Channel 269A to Emporia, Kansas, as that community's second FM assignment. Supporting comments were filed by G. and S. Enterprises ("petitioner"). Comments in opposition to the proposal were filed by Manhattan Broadcasting Company, Inc., licensee of FM Station KMKF (Channel 269A), Manhattan, Kansas.

2. Emporia (population 25,287)[1], seat of Lyon County (population 35,108), is located approximately 80 kilometers (50 miles) southwest of Topeka, Kansas. It is served locally by fulltime AM Station KVOE and FM Station KLRF (Channel 285A).

3. The comments of Manhattan Broadcasting essentially serve to remind the Commission of the need to impose a site restriction on the assignment of Channel 269A to Emporia. The *Notice* stated a site restriction of 4.1 miles southeast for the proposed assignment.

4. In comments to the proposal, the petitioner incorporated by reference the information contained in the *Notice*, demonstrating the need for a second FM assignment to Emporia. Petitioner stated its intent to apply for the channel, if assigned.

5. As stated in the *Notice*, the assignment of Channel 269A to Emporia will cause preclusion on the co-channel within 65 miles. Two communities within the precluded area (Madison and Burlington, Kansas) with populations greater than 1,000 are without local service. Channel 252A is available for assignment to Madison, but there is no channel available at Burlington.

6. The Commission believes that it would be in the public interest to assign Channel 269A to Emporia. The petitioner has shown that there is a need for an additional assignment. The transmitter site must be located 6.6 kilometers (4.1 miles) southeast of Emporia to avoid short-spacing to Station KMKF (Channel 269A), Manhattan, Kansas.

7. In view of the foregoing and pursuant to authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, That, effective January 11, 1982, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended with respect to Emporia, Kansas, as follows:

City	Channel No.
Emporia, Kans	269A, 285A

8. It is further ordered, That this proceeding is terminated.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-5139 Filed 2-25-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1980 U.S. Census.

47 CFR Part 73

[BC Docket No. 81-400; RM-3787]

FM Broadcast Station in Petal, Mississippi; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 292A to Petal, Mississippi, in response to a petition filed by Jerrine Wilson. The assignment could provide Petal with a first local aural broadcast service.

EFFECTIVE DATE: Effective January 11, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order; Proceeding Terminated

Adopted: November 5, 1981.

Released: November 12, 1981.

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Petal, Mississippi); BC Docket No. 81-400, RM-3787.

1. Before the Commission for consideration is a *Notice of Proposed Rule Making*, 46 FR 34606, published July 2, 1981, proposing the assignment of FM Channel 292A to Petal, Mississippi, as that community's first local aural broadcast service, in response to a petition filed by Jerrine Wilson ("petitioner"). Supporting comments were filed by the petitioner reaffirming her intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Petal (population 8,476),[1] in Forest County (population 66,018), is located approximately 144 kilometers (90 miles) southeast of Jackson, Mississippi. It presently has no local aural broadcast service. Channel 292A could be assigned to Petal, provided the transmitter site is located 7.2 kilometers (4.5 miles) east-northeast of the community to avoid short-spacing to Station WJOJ (Channel 292A), in Picayune, Mississippi.

3. In her comments, petitioner incorporated by reference the information contained in the *Notice*, which demonstrated the need for a first FM assignment to Petal, Mississippi.

[1] Population figures are extracted from the 1980 U.S. Census.

4. We believe that the public interest would be served by the assignment of Channel 292A to Petal, Mississippi. An interest has been shown for its use, and such assignment would provide the community with an FM station which could render a first local aural broadcast service.

5. In view of the foreging and pursuant to authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, That effective January 11, 1982, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended for the community listed below, as follows:

City	Channel No.
Petal, Miss.	292A

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-5136 Filed 2-25-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-625; RM-3688]

FM Broadcast Station in Mountain View, Missouri; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 244A to Mountain View, Missouri, in response to a petition filed by R. C. Trieman. The assignment could provide Mountain View with a first local aural broadcast service.

EFFECTIVE DATE: Effective March 19, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order; Proceeding Terminated

Adopted: January 28, 1982.

Released: February 4, 1982.

In the Matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Mountain View, Missouri); BC Docket No. 81–625, RM–3688.

1. Before the Commission for consideration is a *Notice of Proposed Rule Making*, 46 FR 46355, published September 18, 1981, proposing the assignment of FM Channel 244A to Mountain View, Missouri, as that community's first local aural broadcast service, in response to a petition filed by R. C. Trieman ("petitioner"). Supporting comments were filed by petitioner reaffirming his intent to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Mountain View (population 1,664),[1] in Howell County (population 28,807), is located approximately 144 kilometers (90 miles) east of Springfield, Missouri. It presently has no local aural broadcast service. Channel 244A could be assigned to Mountain View consistent with the minimum distance separation requirements of § 73.207 of the Commission's rules.

3. In supporting comments, petitioner incorporated by reference the information contained in the *Notice*, which demonstrated the need for a first FM assignment to Mountain View, Missouri.

4. We believe that the public interest would be served by the assignment of Channel 244A to Mountain View, Missouri. An interest has been shown for its use and such an assignment could provide the community with a first local aural broadcast service.

5. In view of the foregoing and pursuant to the authority contained in 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, That effective March 19, 1982, the FM Table of Assignments, § 73.202(b) of the rules, is amended with regard to the following community:

City	Channel No.
Mountain View, Missouri	244A

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

[1] Population figures are derived from the 1980 U.S. Census, Advance Reports.

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-5137 Filed 2-25-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-759; RM-3590]

TV Broadcast Station in Kerrville, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns UHF television Channel 35 to Kerrville, Texas, in response to a petition filed by Hubbard Broadcasting, Inc. The assignment could provide Kerrville with a first local television service.

EFFECTIVE DATE: January 11, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order Proceeding Terminated

Adopted: November 5, 1981.

Released: November 10, 1981.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Kerrville, Texas), BC Docket No. 80–759; RM–3590.

1. Before the Commission is a Notice of Proposed Rule Making 45 FR 84835, publish December 23, 1980, proposing the assignment of UHF television Channel 35 to Kerrville, Texas, as that community's first television assignment. The Notice was adopted in response to a petition filed by Hubbard Broadcasting, Inc. ("petitioner"). Petitioner filed comments in which it reiterated its interest in the proposed assignment. In addition, a letter was received from an unnamed party represented by counsel indicating an interest in applying for the channel.

2. Kerrville (population 15,276),[1] seat of Kerr County (population 28,780), is located in south central Texas, approximately 90 kilometers (55 miles) northwest of San Antonio. Kerrville currently has no local television service.

3. As indicated in the Notice, petitioner herein is one of nine applicants for a new television station on Channel 29 at San Antonio, Texas. Its Kerrville proposal to construct and operate a station on Channel 35 as a satellite of its proposed San Antonio station is contingent on the final resolution of the latter proceeding in its favor. For this reason, we indicated in the Notice that it may be necessary to postpone this proceeding pending a decision in the San Antonio case in order to assure us that there would be an applicant for the proposed assignment.

4. In its comments, petitioner urged that we not delay granting the assignment since it was justified by the demonstration of need and by virtue of the fact that an application would be possible from the successful San Antonio applicant. However, in view of the expression of interest in the previously referred to letter, we now appear to have the necessary statement of intent to apply.

5. In view of the foregoing, we believe that the public interest would be served by the assignment of UHF television Channel 35 to Kerrville, Texas, as it will provide for a first local television service to that community. The assignment could be made in compliance with the minimum distance separation requirements of § 73.610 of the Rules. Mexican concurrence in the assignment has been obtained.

6. Accordingly, pursuant to authority contained in 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, That effective January 11, 1982, the Television Table of Assignments, § 73.606(b) of the Commission's rules, is amended as follows:

City	Channel No.
Kerrville, Texas	35+

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632—7792.

(Secs. 4, 303, 48 stat., as amended, 1066 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-5140 Filed 2-25-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are extracted from the 1980 U.S. Census.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1023

[Ex Parte MC 100 (Sub-3)]

Standards for Evidencing Lawlessness of Interstate Operations of Motor Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: Under the provisions of 49 U.S.C. 11506, the Commission is amending its regulations pertaining to standards for evidencing the lawfulness of interstate operations of motor carriers. The amendments are in response to a petition which informed the Commission that its rules in Part 1023 should be made to reflect certain practices.

EFFECTIVE DATES: Amendments to 49 CFR 1023.22 and 1023.32 will become effective March 29, 1982. The amendment to 49 CFR 1023.33 will be effective October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mary Kelly (202) 275–7292 Terrance Fleming (202) 275–7901.

SUPPLEMENTARY INFORMATION:

Background

Purpose: The purpose of this document is to notify the public that the Interstate Commerce Commission is amending its regulations pertaining to standards for evidencing the lawfulness of interstate operations of motor carriers (49 CFR Part 1023).

By petition filed November 30, 1981, the National Association of Regulatory Utility Commissioners (NARUC), informed the Commission that it had determined, under the provisions of 49 U.S.C. 11506 of the Revised Interstate Commerce Act, that the standards promulgated by the Commission in Part 1023 of Title 49 of the Code of Federal Regulations should be amended to reflect the following changes: (1) To move the annual period for motor carrier registration and identification of vehicles and driveaway operations from November 1—January 31 to October 1—December 31, so as to afford the State commissions an additional month (January) to complete the registration and identification process; (2) to prescribe a maximum fee of ten dollars for State commission issuance of an identification stamp or identification number for each vehicle operated under the authority of the motor carrier; and (3) to eliminate any duplication in the filing with a State commission of the designation of a local agent for service of process upon a motor carrier.

Pursuant to Pub. L. 89–170, 79 Stat. 648, approved September 6, 1965, which amended Subsection (b) of section 202 of the Interstate Commerce Act (49 U.S.C. 11506), the National Association of Regulatory Utility Commissioners (NARUC) was authorized to determine and officially certify standards to the Interstate Commerce Commission for evidencing the lawfulness of interstate operations of motor carriers. The Interstate Commerce Commission was required to promulgate such standards into law and these were codified at 49 CFR 1023.

Under this same statutory provision, NARUC is likewise authorized to amend these standards. Pursuant to this authority, NARUC on November 18, 1981, adopted a resolution containing the amendments noted above.

NARUC, having determined that these amendments are required, officially certified them to this Commission. We find the amendments not to be in conflict with regulations of the Commission. This notice regarding amendments to Part 1023 of Title 49 of the Code of Federal Regulations is issued pursuant to 49 U.S.C. 11506. The amendments to 49 CFR 1023.22 and 1023.32 will become effective March 29, 1982. The amendment to 49 CFR 1023.33 will become effective on October 1, 1982.

Decided: February 17, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Gilliam.

Agatha L. Mergenovich

Secretary.

PART 1023—STANDARDS FOR REGISTRATION OF CERTIFICATES AND PERMITS WITH STATES

Accordingly, 49 U.S.C. 1023 is amended in the following manner:

§ 1023.22 [Amended]

(1) Section 1023.22 is amended as follows:

Strike the period at the end of 49 CFR 1023.22, and insert the following in lieu of the period: "; *provided, however,* that such designation on Form A need not be made if the designation has been filed with the State commission pursuant to 49 U.S.C. 10330(b)."

§ 1023.32 [Amended]

(2) Section 1023.32 is amended as follows:

Strike "January" from 49 CFR 1023.32 (a) and (e) and insert in lieu thereof "December"; strike "November" from 49

CFR 1023.32 (a) and (e) and insert in lieu thereof "October"; and strike "fifteen" from 49 CFR 1023.32(f) and insert in lieu thereof "sixteen."

§ 1023.33 [Amended]

(3) Section 1023.33 is amended as follows:

Strike "five" whenever it appears in 49 CFR 1023.33, and insert in lieu thereof "ten"; and strike the last two sentences of 49 CFR 1023.33, beginning with "The prescription" and ending with "this section."

[FR Doc. 82-5112 Filed 2-25-82; 8:45 am]
BILLING CODE 7196-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 657

Atlantic Butterfish Foreign Fishery; Determination

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of determination.

SUMMARY: This notice announces NOAA's determination that 659 metric tons of Atlantic butterfish, in addition to the annual fishing level certified by the Mid-Atlantic Fishery Management Council, is available for allocation to foreign fishing vessels during the 1981–82 fishing year.

FOR FURTHER INFORMATION CONTACT:
Don J. Leddy, (202) 634–7449.

SUPPLEMENTARY INFORMATION: Under section 201(d) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Mid-Atlantic Fishery Management Council certified an annual fishing level (AFL) of 759 metric tons (mt) for Atlantic butterfish. NOAA accepted the AFL and made the 759 mt of butterfish available for allocation to foreign fishing vessels.

The portion of the optimum yield (OY) (beyond the AFL already made available) that will not be harvested by U.S. vessels must be allocated to foreign vessels, unless NOAA makes the findings specified in section 201(d)(4) of the Magnuson Act. The OY in the butterfish fishery is 11,000 mt; the estimate of domestic annual harvest in the fishery management plan is 7,000 mt. Thus, the portion of OY that could be made available for foreign fishing during this fishing year (April 1, 1981–March 31, 1982) is 3,241 mt (11,000 mt—7,000 mt—759 mt). NOAA announced an intent to determine whether any portion of the OY for Atlantic butterfish, in addition to the AFL, would be made available for allocation to foreign fishing vessels during the 1981–82 fishing year, and invited the submission of information concerning this matter (46 FR 61911).

NOAA has considered the factual information provided by the commenters relevant to the following questions:

1. Would allocation of any of the 3,241 mt during the 1981–82 fishing year be detrimental to the development of the U.S. fishing industry?

2. Would part of the 3,241 mt be available for harvest in the 1982–83 fishing season?

3. Would deferral of any part of the 3,241 mt constrain the foreign harvest of 1981–82 allocations of species for which butterfish is an incidental catch?

U.S. commenters stated that: (1) The U.S. industry has unfilled orders for export of butterfish; (2) the exvessel price is sufficient to induce U.S. fishermen to fish for butterfish; and (3) U.S. processors have sufficient plant capacity to process enough butterfish to fill the orders. Further, U.S. commenters stated that U.S. fishermen could achieve their annual quota of 7,000 mt of butterfish but that an increase in the foreign allocation would result in a decrease of foreign purchases of U.S.-caught butterfish. However, foreign commenters disagreed with the latter two statements. NOAA determined that release of the entire, 3,241 mt of butterfish during the 1981–82 fishing year would be detrimental to the U.S. fishing industry.

U.S. commenters stated that all of the 3,241 mt of butterfish would be available for harvest during the next fishing year. Foreign commenters stated that 45 to 70 percent of the butterfish would suffer natural mortality and thus be wasted. NOAA determined that 64 percent of the yield of butterfish deferred until the next fishing year would be available for harvest, considering anticipated growth and natural mortality. Thus, any butterfish deferred will substantially be available for harvest in the next fishing year.

Foreign commenters stated that: (1) butterfish is abundant; (2) incidental catch allocation of butterfish to foreign vessels is inadequate to allow the harvest of the *Loligo* (squid) allocation; and (3) *Logilgo* allocated to foreign nations will likely be uncaught if the incidental catch allocation is not increased. Recognizing that butterfish is the chief incidental catch species in the *Loligo* fishery and that a reasonable incidental catch allocation is necessary for the foreign *Loligo* fishery to continue, NOAA has determined to make an additional 659 mt available.

The foreign *Loligo* catch during the present fishing year is expected to be up to 21,378 mt. The average incidental catch of butterfish in the directed foreign fishery for *Loligo* is six percent of the *Loligo* catch (as determined by the Mid-Atlantic Fishery Management Council, October 1981). The amount of 659 mt, in addition to the 759 mt already allocated to foreign vessels, will provide for a minimum butterfish incidental catch allocation of six percent of the expected foreign-directed *Loligo* catch, as well as a minimum incidental butterfish catch in directed foreign fisheries for other species.

The Assistant Administrator for Fisheries finds that releasing an additional 659 mt of butterfish for foreign fishing vessels in the 1981–82 fishing year will result in minimum detriment to the development of the U.S. fishing industry; however, withholding this amount would result in a much greater detriment to foreign fishing vessels authorized to fish for *Loligo* in the fishery conservation zone. Therefore, additional butterfish in the amount of 659 mt is made immediately available for foreign fishing vessels in the 1981–82 fishing year.

Further, the Assistant Administrator for Fisheries has determined not to reallocate any butterfish from the 1981–82 domestic quota (7,000 mt) to foreign vessels. Such a reallocation could have occurred because the domestic fishery did not attain at least 40 percent of its annual quota by October 31, 1981 (see § 657.22 of the butterfish regulations). However, U.S. commenters have stated that the domestic quota will be attained and the reallocation of any portion of that quota would be detrimental to the development of the U.S. fishing industry.

(16 U.S.C. 1801 *et seq.*)

Dated: February 22, 1982.

Robert K. Crowell,
Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-5249 Filed 2-25-82; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 39
Friday, February 26, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

MERIT SYSTEMS PROTECTION BOARD

5 CFR Parts 1260 and 1261

Freedom of Information Act and Privacy Act Fees and Appeals

AGENCY: Merit Systems Protection Board.

ACTION: Notice of proposed amendment of rules.

SUMMARY: The Office of the Special Counsel proposes to amend its regulations to set forth realistic charges for photocopy and search fees incurred in granting Freedom of Information Act and Privacy Act requests and limiting the time period within which an initial denial may be appealed.

DATE: Comments must be received by March 22, 1982.

ADDRESS: Comments should be sent to the Office of the Special Counsel, Room 818, 1120 Vermont Avenue, N.W., Washington, D.C. 20419.

FOR FURTHER INFORMATION CONTACT:
Ralph B. Eddy, Office of the Special Counsel (202–653–7140).

SUPPLEMENTARY INFORMATION: Under the Freedom of Information Act and the Privacy Act the Office of the Special Counsel may establish fees for photocopying documents to be released. 5 U.S.C. 552(a)(4)(A), 552a(f)(5). Additionally, under the Freedom of Information Act, fees may be charged for the time expended searching for documents. 5 U.S.C. 552(a)(4)(A). The fees previously charged have not kept pace with actual cost, do not account for partial hours of search time, and do not differentiate between clerical and professional employees' search time. Further, there was no time limitation within which an appeal from an initial denial must be filed.

Pursuant to 5 U.S.C. 1206(k), it is proposed that Parts 1200 and 1261 of Subchapter B of Chapter II of Title 5, Code of Federal Regulations, be amended as follows:

PART 1260—PUBLIC INFORMATION

1. Paragraphs (a) and (c) of § 1260.4 of Part 1260, relating to service charge for information, are revised to read as follows:

§ 1260.4 Service charge for information.

(a) Requests for records of the Office of the Special Counsel are subject to the following fees for search and duplication:

Photocopies, per page, $0.25. Manual record search: $2.50 per quarter hour if conducted by a clerical employee; $5.00 per quarter hour if conducted by a professional or managerial employee.

Where copies of records have already been available to an individual in the course of agency proceedings or from any other source, the cost of photocopies to that individual or his representative shall be 50 cents per page. Fees for search and duplication of automated records shall be provided upon request.

* * * * *

(c) Records will not be released until the fees have been received.

2. Section 1260.5 of Part 1260, relating to appeals under the Freedom of Information Act, is revised to read as follows:

§ 1260.5 Appeals.

Any denial, in whole or in part, of a request for records of the Office of the Special Counsel may be appealed to the Special Counsel or his designee. The requester shall submit his appeal in writing within 30 days of the denial. The appeals shall be addressed to the Special Counsel at 1120 Vermont Avenue, N.W., Washington, D.C. 20419. Except in unusual circumstances, the Special Counsel or his designee shall make a determination on the appeal within 20 days (excluding Saturdays, Sundays and legal holidays) after it is received. When a request is denied on appeal, the requester shall be advised of his right to seek judicial review.

PART 1261—PRIVACY

3. Section 1261.5 of Part 1261 relating to appeals under the Privacy Act is amended by inserting the following as a new second sentence thereof:

§ 1261.5 Appeals.

* * * The requester shall submit his appeal in writing within 30 days of the denial.* * *

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small government jurisdictions.

Alex Kozinski,
Special Counsel.

[FR Doc. 82-4992 Filed 2-25-82; 8:45 am]
BILLING CODE 6325-09-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1068

[Docket No. AO–178–A37]

Milk in the Upper Midwest Marketing Area; Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision would change some of the pooling provisions for reserve supply plants in the Upper Midwest milk order. Also, it would revise a price zone within the marketing area, modify the handler definition with respect to cooperative associations and revise the provisions concerning payments to individual producers. The decision is based on industry proposals considered at a public hearing held April 14–15, 1981. The changes are necessary to reflect current marketing conditions and to assure orderly marketing in the area.

FOR FURTHER INFORMATION CONTACT:
Martin J. Dunn, Marketing Specialist, Dairy Division, United States Department of Agriculture, Washington, D.C. 20250, 202–382–8374.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued March 9, 1981, published March 13, 1981 (46 FR 16689).

Extension of Time: Issued May 15, 1981, published May 20, 1981 (46 FR 27501).

Recommended decision: Issued October 27, 1981, published November 2, 1981 (46 FR 54366).

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Upper Midwest marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Minneapolis, Minnesota, on April 14–15, 1981, pursuant to notice thereof issued March 9, 1981 (46 FR 16669).

Upon the basis of the evidence introduced at the hearing, and the record thereof, the Deputy Administrator, Marketing Program Operations, on October 27, 1981, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The hearing notice specifically invited interested persons to present evidence concerning the probable regulatory and informational impact of the proposals on small businesses. Also, the presiding Administrative Law Judge, in his opening comments, called the particular attention of participants at the hearing to the portion of the hearing notice that referred to the Regulatory Flexibility Act. Most parties subject to a milk order are considered to be a small business. No participants at the hearing testified about any potentially adverse impacts of the proposals on small businesses as a group.

Further, William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that the amendments adopted herein, which are based on the hearing record, would not have a significant economic impact on a substantial number of small entities. The amendments would promote orderly marketing of milk by producers and regulated handlers.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. In Issue No. 1: (a) Three paragraphs have been added after the 18th paragraph of the findings titled "a. Pooling standards in event of a 'call'."

(b) Three paragraphs have been added after the 9th paragraph of the findings titled "b. Loss of pooling status."

2. In Issue No. 2, three paragraphs have been added at the end of the issue.

3. In Issue No. 4, two paragraphs have been added after the 6th paragraph.

The material issues on the record of the hearing relate to:

1. Pool reserve supply plant provisions.
2. Handler definition.
3. Pricing zones.
4. Date of partial payment.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

Issue No. 1. Pool Reserve Supply Plant Provisions

a. *Pooling standards in event of a "call."* The order should be revised to consider deliveries of milk to pool distributing plants in the call area by a cooperative association in its capacity as a handler pursuant to § 1068.9(c) as qualifying shipments from the cooperative's reserve supply plant. Proposals to permit two or more cooperative associations or proprietary handlers to form a "unit" to qualify their reserve supply plants should be denied.

The order provides that whenever the market administrator finds that milk supplies are needed for Class I use at pool distributing plants located within an area that he designates as the "call area," he may announce a minimum level of qualifying shipments from pool reserve supply plants within that area. This is known as a "call." Qualifying shipments to pool distributing plants within the call area may come from any plant or producer milk supplies of the handler operating a reserve supply plant. However, shipments from sources other than the plant(s) subject to the call must be in addition to any shipments (including shipments directly from producers' farms) already being made by the handler. Also, such shipments may not result from shifting milk supplies from a pool distributing plant outside the call area to one within the call area.

Also, the order provides in § 1068.9(c) that a cooperative association shall be the handler on bulk tank milk that it picks up at producers' farms for delivery to the pool plant of another handler, unless they both agree that the plant operator shall be the handler on such milk. A cooperative association that is delivering milk to a pool distributing plant as a 9(c) handler may have those deliveries considered as qualifying shipments from its reserve supply plant in the event of a call if such 9(c) deliveries represent milk that had not previously been part of the cooperative's 9(c) milk deliveries to distributing plants. With respect to a proprietary handler who operates a reserve supply plant, producer milk diverted by such handler from his reserve supply plant to pool distributing plants is considered as qualifying shipments from the handler's reserve supply plant.

Land O' Lakes, Inc. (LOL), proposed that two or more cooperative associations be allowed to form a unit to qualify their reserve supply plants and that qualifying shipments to pool distributing plants within the call area, for the purpose of pooling a handler's or unit's reserve supply plant(s), may originate from any plant or producer milk supplies of the handler or unit. Proponent's witness stated that the present provisions do not permit cooperative associations to service the fluid market in the most efficient manner possible and that they discriminate against cooperative associations with respect to 9(c) deliveries to pool distributing plants. LOL's proposals, the witness said, would reduce the cost of servicing the fluid market and would assure that all handlers share these costs on a more equitable basis.

Another proposal for consideration was submitted by Kraft, Inc. It would allow two or more handlers (either cooperative associations or proprietary handlers) to form a unit to qualify their reserve supply plants. Also, the proposal would allow qualifying shipments to pool distributing plants within the call area, for the purpose of pooling a handler's or unit's reserve supply plant(s), to originate from any plant or producer milk supplies of the handler or unit.

At the hearing, Kraft's witness testified that the firm prefers that there be no change in the present reserve supply plant pooling provisions. The witness said that Kraft believes that the order is working satisfactorily at present. Nevertheless, the witness presented a modified version of the Kraft proposal that was published in the hearing notice. The modified version of the proposal was intended for consideration by the Department in the event that unit pooling for reserve supply plants was recommended by the Department for adoption in the order.

The modified version was that two or more handlers should be allowed to form a unit, but that the order should retain the present provisions which provide that qualifying shipments from sources other than the plant(s) subject to the call must be in addition to any shipments (including shipments directly from a producer's farm) already being made by the handler or unit. Kraft's witness said that including the 9(c) deliveries of a cooperative association to pool distributing plants as qualifying shipments would be inequitable to proprietary handlers because the milk supplies associated with such deliveries are located relatively close to pool distributing plants. Proprietary handlers operating reserve supply plants, the witness said, generally have their milk supplies located close to such plants. Consequently, it is not feasible to deliver the milk direct from farms to pool distributing plants.

Consolidated Badger Cooperative proposed that qualifying shipments to pool distributing plants within the call area, for the purpose of pooling its reserve supply plant, include milk that is delivered to pool distributing plants by a cooperative in its capacity as a 9(c) handler. The witness for the cooperative said that such a provision would save the cooperative from having to back-haul producer milk if a call were issued. The round trip distance to back-haul the milk would be 80 miles (40 miles from the farm of last pickup to Consolidated's reserve supply plant and then 40 miles back on the way to the pool distributing plant of final receipt).

Witnesses representing Mid-America Dairymen, Inc. (Mid-Am), and Associated Milk Producers, Inc. (AMPI), testified in opposition to the unit pooling proposals. However, they supported proposals to include 9(c) deliveries to pool distributing plants as qualifying shipments from a cooperative association's reserve supply plant. The representative of Farmers Union Milk Marketing Cooperative (Farmers Union) opposed the unit pooling proposals for cooperatives and the proposals to include 9(c) milk as qualifying shipments. The Farmers Union witness said that the organization would not oppose unit pooling if proprietary handlers also were permitted to unit pool. A witness representing six proprietary handlers who operate reserve supply plants in Wisconsin opposed the unit pooling proposals and the proposals to include 9(c) milk as qualifying shipments.

It is concluded that 9(c) deliveries should be considered in qualifying reserve supply plants during a "call", but that the unit pooling of reserve supply plants should not be provided for cooperatives or proprietary handlers. The following discussion deals with the 9(c) delivery issue first and then with the unit pooling issue.

Deliveries of 9(c) milk. It is appropriate, whenever the market administrator finds it necessary to issue a call, to consider the deliveries of milk to pool distributing plants in the call area by a cooperative association in its capacity as a handler pursuant to § 1068.9(c) as qualifying shipments for the purpose of meeting the minimum shipping requirements of the cooperative's reserve supply plant(s). Permitting such 9(c) deliveries to be considered as qualifying shipments would promote the efficient handling of milk supplies for the market. Also, it would tend to preclude the practice of having producer milk hauled to a pool reserve supply plant for transfer to pool distributing plants solely to enable the reserve supply plant to meet the minimum shipping requirements for pooling such plants.

The record established that for 3 to 5 days a week the milk of one cooperative is delivered direct from farms to a pool distributing plant at Rochester, Minnesota, as 9(c) milk. These deliveries represent about 15 percent of the cooperative's total producer milk supplies. The cooperative instituted this delivery pattern because the producers affected are located about 40 miles closer to Rochester than is the cooperative's reserve supply plant at Rice Lake, Wisconsin. Rice Lake is about 140 miles from Rochester. Delivering the milk of these producers directly to the Rochester distributing plant eliminates transporting the milk 40 miles from the farm of last pick-up to Rice Lake and then 40 miles back on the way to Rochester, a savings of 80 miles. Under present order provisions, if a call were issued, the cooperative would either have to transport these milk supplies the extra 80 miles so that they would be considered a transfer from its Rice Lake reserve supply plant, or it would have to ship additional milk from its reserve supply plant. The specific distributing plant the cooperative is supplying may not need more milk because not all distributing plants in the call area would necessarily need the same amount of additional milk. In this circumstance, it might be necessary for the cooperative to back-haul to its reserve supply plant the milk not needed at the distributing plant. This would represent an inefficient and fuel-wasting action. Both types of shipment would put additional cost burdens on the cooperative solely for pooling purposes.

Another cooperative association operated a reserve supply plant at Owatonna, Minnesota prior to August 1980. In August 1978, in anticipation of a call for the month of September, the cooperative rerouted some milk supplies which had been delivered to distributing plants as 9(c) milk through the Owatonna reserve supply plant to assure that such deliveries would be considered qualifying shipments under a call. Rerouting these milk supplies through the reserve supply plant was not only less economical but it required two additional pumpings of the milk and delayed its delivery to the distributing plants. Even though the cooperative was delivering about 20–25 percent of its total producer milk supplies to pool distributing plants, it was necessary to reroute some milk supplies through one of its reserve supply plants so that all of its reserve supply plants in the call area would meet the 17 percent minimum shipping requirement that had been announced by the market administrator. Permitting 9(c) deliveries to pool distributing plants to be considered as qualifying shipments from a cooperative's reserve supply plant would tend to eliminate the need for such uneconomic movements of milk.

Cooperative associations in this market supply more than two-thirds of the milk received at pool distributing plants. Thirty-nine percent of the total bulk fluid milk products received at pool distributing plants from sources pooled under the Upper Midwest order are received from supply plants and reserve supply plants operated by cooperative associations, and 25 percent are received from cooperatives as 9(c) handlers. Additional milk is received by cooperatives at their pool distributing plants directly from the farms of producer members. Since cooperative associations are the major suppliers of milk to pool distributing plants, they should be encouraged to deliver the milk in the most economical manner possible. Considering 9(c) deliveries as qualifying shipments from reserve supply plants could encourage cooperatives to expand the use of this efficient method of delivering milk. Some cooperatives are receiving producer milk at their reserve supply plants for transshipment to distributing pool plants. Such milk could be delivered more efficiently as 9(c) milk. The cooperatives are handling the milk in this way to assure that the deliveries to pool distributing plants would be counted as qualifying shipments from their reserve supply plants in the event of a call. Including 9(c) deliveries as qualifying shipments would allow these cooperatives to deliver milk more efficiently.

The order provisions presently consider diversions of producer milk from a proprietary handler's reserve supply plant to a pool distributing plant as a qualifying shipment from the reserve supply plant. Cooperative associations cannot avail themselves of this provision because any producer milk they deliver directly from producers' farms to pool distributing

plants of other handlers is considered a delivery of 9(c) milk. Thus, considering 9(c) deliveries to pool distributing plants located in the call area as qualifying shipments for their reserve supply plants would afford cooperative associations treatment under the order that is comparable to what is now given to reserve supply plants operated by proprietary handlers.

Kraft, Farmers Union, and six proprietary handlers opposed the proposal to consider 9(c) deliveries as qualifying shipments from a cooperative association's reserve supply plant. Opponents said that adoption of the proposal would result in proprietary handlers being required in the event of a call to supply the extra milk needed at distributing plants. In opponents' view, this would force proprietary handlers to furnish a disproportionate share of the fluid milk supply needed by distributors.

Opponents also claimed that allowing 9(c) deliveries to be considered as qualifying shipments for pool reserve supply plants would be inequitable to proprietary handlers because the milk supplies included in the 9(c) deliveries are from dairy farms located relatively near to pool distributing plants and are not associated with any specific reserve supply plants of cooperatives. Opponents claimed that proprietary handlers, on the other hand, receive most of their milk from producers who are located relatively near to their reserve supply plants and do not have the opportunity to organize milk supplies from producers who are located relatively close to pool distributing plants. This, they claim, prevents proprietary handlers from supplying distributing plants in the most efficient manner as direct-delivered milk because the relatively poor roads and bridges in many rural areas of Minnesota are not suitable for the efficient hauling of producer milk over long distances.

The adoption of the proposal should not force proprietary handlers to furnish a disproportionate share of the fluid milk supply or be otherwise inequitable to proprietary handlers. Not all 9(c) deliveries to pool distributing plants are from farms located relatively close to such distributing plants. As described elsewhere in this decision, some 9(c) deliveries are from farms that are located 100 or more miles from such plants. Further, if the market administrator were to determine that additional milk supplies were needed at pool distributing plants for Class I use and he issued a minimum shipping requirement of 15 percent, each handler who operated a reserve supply plant would have to deliver at least 15 percent of his receipts to distributing plants. To illustrate, assume that a cooperative association that operated a reserve supply plant already was shipping 15 percent of its total producer milk supply to distributing plants in the call area as a 9(c) handler. In this event, the cooperative association would not be required to ship any additional milk to pool distributing plants to meet the 15 percent shipping requirement. Also, assume that another handler who operated a reserve supply plant was not shipping any milk to pool distributing plants at the time the call was issued. In this case, the handler would have to begin shipping 15 percent of his receipt to distributing plants. Thus, in this example, the entire supply of extra milk would come from the handler who previously had not been shipping milk. However, the cooperative association that was supplying 15 percent of its milk supply to distributing plants in the call area still would be supplying as much of its receipts to the fluid market as the handler who had to begin shipping milk. If the 9(c) deliveries were not counted as qualifying shipments, the cooperative association would have to either ship 30 percent of its receipts to meet the 15 percent minimum shipping requirement or receive, inefficiently, the 9(c) milk at its pool reserve supply plant for transhipment to distributing plants. In either case, a greater burden of performance for pooling would be placed on the cooperative association that was already supplying the fluid market than would be placed on the handler who had to begin shipping milk. Thus, including the 9(c) deliveries as qualifying shipments would place a more equitable burden of performance on both the cooperative association and the handler.

A proprietary handler who operates a reserve supply plant excepted to the conclusion of the recommended decision to permit 9(c) deliveries to be considered as qualifying shipments from the reserve supply plant of a cooperative association in the event of a call. Exceptor stated that the recommended decision did not consider the inequity of permitting one reserve supply plant to manufacture at full capacity while another one must reduce manufacturing volume to meet the call requirements. We do not believe that this claim is accurate. Such considerations were fully evaluated in developing the recommended decision and were discussed in the decision. A cooperative association that supplies distributing plants with 9(c) milk on a continuing basis, regardless of whether or not a call is issued, has its manufacturing efficiency reduced somewhat. On those days of the week that the distributing plant does not need the 9(c) milk the cooperative association must dispose of it. Often the cooperative will deliver the milk to its reserve supply plant for manufacturing. On peak bottling days, however, the cooperative may need to supply additional milk from its reserve supply plant to supplement the 9(c) deliveries. Even though the 9(c) deliveries may not be associated with a specific reserve supply plant, the receipts of milk at the cooperative association's reserve supply plant that would be available for manufacturing use could vary from one day to the next during the week because of the varying demands for milk at distributing plants.

Reserve supply plants that do not ship milk on a regular basis do not experience this variation in milk supplies available for manufacturing. These reserve supply plants may maintain a regular supply of milk for their manufacturing operations without concern for the fluid milk requirements of distributing plants, except on those occasions when they must ship milk in response to a call. It appears that the "inequity" exceptor referred to involves the inequity to a cooperative association that delivers 9(c) milk to distributing plants when such deliveries are not considered qualifying shipments from the cooperative's reserve supply plant. A more equitable sharing of the burden would occur if the 9(c) deliveries were considered qualifying shipments, as is provided by the decision. Accordingly, the exception is denied.

The exceptions filed by six proprietary handlers stated that only 9(c) deliveries to pool distributing plants located within the call area should be counted as qualifying shipments from a cooperative association's reserve supply plant. Exceptors stated that the order should clearly specify that 9(c) deliveries to distributing plants located outside the call area should not be considered as qualifying shipments. In this connection, § 1068.7(d)(4)(ii)(*a*) of the accompanying order amendments provides that milk supplies for which a cooperative association is the handler pursuant to § 1068.9(c) are qualifying shipments only when they are delivered to pool distributing plants within the call area. Neither the decision nor the order amendments would include any other 9(c) deliveries as qualifying shipments for the purpose of meeting the minimum shipping requirements of the cooperative's reserve supply plant(s). Further, in the monthly report of receipts and utilization filed by a cooperative association as a 9(c) handler, the

cooperative must specify the quantity of milk delivered to each pool plant separately. Based on this information, the market administrator would know the amount of 9(c) milk delivered by the cooperative to pool distributing plants in the call area.

That part of the proposal that would permit shipments from a handler's plant that is not subject to the call to be considered as qualifying shipments for the handler's reserve supply plant that is subject to the call should not be adopted. There was no specific testimony presented at the hearing concerning the need to revise this provision. The findings contained in the Assistant Secretary's March 19, 1976, Final Decision (41 FR 12436), of which official notice was taken at the hearing, set forth the reasons why the order should not recognize shipments from one plant not subject to the call as satisfying a shipping requirement on another plant that is subject to the call. The Assistant Secretary found that to recognize such shipments already being made from another plant could relieve a multiple-plant handler from having to supply any milk to distributing plants in the call area. There is no basis on this hearing record to change that provision. Accordingly, that part of the proposal is denied.

Unit pooling. The proposal that would permit two or more cooperative associations to form a unit for the purpose of meeting a call, and the proposal that would also permit two or more proprietary handlers to form a unit should not be adopted. Adoption of the proposals would not promote the orderly marketing of milk in the Upper Midwest marketing area.

One proponent indicated that adoption of the proposal for cooperative associations would allow such associations who have member-producers located near the metropolitan areas of Minneapolis-St. Paul, Minnesota, and Rochester, Minnesota, to supply milk to pool distributing plants in these metropolitan areas for cooperatives that are located in more distant areas of the milkshed. Such an arrangement, it was claimed, would save transportation costs and would promote the efficient handling of milk in some instances.

To illustrate this, a witness for LOL presented an example citing a member-cooperative that operates a reserve supply plant at Greenwood, Wisconsin (Zone 4). The witness said that although the Greenwood cooperative is a member fo the LOL marketing organization, it is a separate corporation that is independent of the LOL cooperative. He said that Greenwood, not LOL, supplies milk to a pool distributing plant at Rochester, a distance of about 140 miles. The witness stated that Greenwood is supplying the milk because it prefers to ship voluntarily rather than be forced to ship as the result of a call. LOL, the witness said, has member producers located southwest of Rochester whose milk is pooled at its Fairbault, Minnesota, plant. The milk of these producers, he said, actually goes through Rochester when it is delivered to a nonpool manufacturing plant.

Presently, the witness, said, it would not pay LOL to supply the Rochester distributing plant on behalf of the Greenwood cooperative because, in the event of a call, LOL's deliveries would not be considered qualifying shipments from the Greenwood cooperative. Also, if LOL delivered the milk directly from the producers' farms to the Rochester distributing plant, the deliveries would be considered a receipt of 9(c) milk at the distributing plant and would not be considered qualifying shipments from anyone's plant.

Under the proposal, the witness said, Greenwood and LOL could form a reserve supply plant unit. In such case, and if 9(c) deliveries were considered qualifying shipments, then LOL could supply the Rochester distributing plant with milk from the nearby sources as a 9(c) handler for Greenwood and such deliveries would be considered qualifying shipments from the reserve supply plant unit that included the Greenwood plant.

In proponent's example, LOL would actually be supplying additional milk to distributing plants. This would be the milk Greenwood presently is delivering to the Rochester pool distributing plant. However, this would not be the situation in many circumstances on a marketwide basis. Situations could occur where a cooperative association, or proprietary handler, supplying a relatively high proportion of its total milk receipts to pool distributing plants forms a unit with other handlers that do not supply milk to pool distributing plants. In this example, the total deliveries already being made by the cooperative or proprietary handler to pool distributing plants would be sufficient to satisfy the shipping requirements of the entire unit. Thus, in this situation, the cooperative or proprietary handler that supplies distributing plants may not need to increase its total deliveries and the formation of the unit would merely allow those cooperatives and proprietary handlers that do not supply milk to pool distributing plants to evade making any such shipments in the event of a call. This would result in those cooperative associations and proprietary handlers that were not included in a unit being required to supply the additional milk.

Each cooperative association and each proprietary handler that supplies milk for Class I use to pool distributing plants within a designated call area should receive full credit for all such deliveries. But, every operator of a reserve supply plant should be required to deliver at least the minimum shipping percentage to distributing plants. Otherwise, the producer milk supplies associated with those plants that do not ship milk would not be a bona fide reserve supply for the fluid market. For these reasons, the proposals that would allow two or more cooperative associations or proprietary handlers to form a reserve supply plant unit are denied.

b. *Loss of pooling status.* No change should be made in that part of the pool plant definition which provides that "Failure of a handler to comply with any announced shipping requirement, including making any significant change in his marketing operations that the market administrator determines has the impact of evading or forcing such an announcement, shall result in immediate loss of pool status for the plant * * *." It was proposed that the words "or forcing" in this provision be deleted. Further, the proposal that would cause the loss of pool status for *all* of the reserve supply plants of a handler if the handler failed to comply with any announced shipping requirement also should be denied.

The order now provides that a reserve supply plant shall lose its pooling status if (1) the handler makes a significant change in marketing operations that has the impact of causing a shortage of milk for fluid use and forcing a "call" or (2) the handler fails to comply with any announced shipping requirement, including any significant change in operations that has the impact of evading such announcement. The order also provides that a reserve supply plant that losses pool status in this manner may not qualify again as a reserve supply plant for one year. Each of these provisions refers only to the handler's *individual* plant that is involved in the described action.

Land O' Lakes proposed that the words "or forcing" in § 1068.7(d)(4)(iii) be deleted. LOL's witness testified that this is an ambiguous provision which has never been used. Mid-Am and AMPI also supported the proposal. Six proprietary handlers and Kraft opposed it.

Proponent's witness is correct in saying that the market administrator has

never depooled a reserve supply plant because a handler forced a call. However, this does not mean that the provision has had no impact on marketing conditions. Situations may well have occurred where a reserve supply plant handler considered withdrawing some deliveries to pool distributing plants to force a call but didn't take that course of action due to this provision. Testimony on the record indicated that there has been outstanding cooperating among handlers and the market administrator in assuring that pool distributing plants have sufficient milk to fill their Class I requirements without the necessity of the market administrator issuing a call. Deletion of this provision from the order could undermine the continuation of such cooperation because a single handler could then take certain actions that would force the market administrator to issue a call. The record evidence indicates that handlers, in general, prefer to ship milk voluntarily to distributing plants rather than be required to ship in response to a call. The provision tends to reinforce this marketing preference.

Proponent's witness also claimed that this provision is ambiguous and that it would be very difficult to define exactly what constitutes "forcing a call." He said that if a reserve supply plant handler stopped delivering milk to a pool distributing plant it would be very difficult to determine whether it was because the buyer and seller could not agree on the terms of sale or whether it was because the seller was attempting to cause a shortage of milk which would force the market administrator to issue a call, in which case other plants might be required to supply milk to the market. It is true that it might be difficult to determine the real reason for the cessation of many transactions. However there could be instances where the reason is absolutely clear that the reserve supply plant handler ceased delivering milk to a pool distributing plant for the sole purpose of forcing the market administrator to issue a call. As described elsewhere in this decision, allowing a handler to force a call could undermine the outstanding cooperation which has existed among handlers in supplying milk to the market, and could lead to disorderly or chaotic marketing conditions.

The witness for LOL indicated that a handler who is shipping less milk than the market average is more responsible for forcing a call than is a handler who is shipping more milk than the market average but who reduces his shipments to the fluid market. The LOL witness stated that reduced performance is a serious competitive problem in the Upper Midwest market and that there are occasions when forcing a call is justified to assure more equitable performance. LOL apparently believes that all reserve supply plants should ship about the same proportion of their milk supply to distributing plants.

It is not intended that each pool reserve supply plant should ship milk to distributing plants on a regular basis. In the Assistant Secretary's 1976 decision adopting the Upper Midwest order, it was found that in the interest of continuing orderly marketing, pooling standards were needed in the merged order that would accommodate the pooling of most of the Grade A milk produced within the marketing area. To accomplish that objective, the Assistant Secretary adopted the present pool reserve supply plant provisions. In essence, they provide that any plant located in the marketing area which received Grade A milk from dairy farmers may be a pool plant if it meets certain requirements. The chief requirement is that it has shipped a load of milk to a distributing plant regulated under a Federal order. Further shipments are not required unless the market administrator issues a call. If it had been intended that a reserve supply plant should make regular shipments, the order presumably would have required minimum monthly shipping standards.

The Assistant Secretary also found that to enable the market administrator to determine the appropriate level of shipping performance to announce in the event of a call, and to insure that plant operators respond to an announced call for milk as contemplated under these provisions, certain actions otherwise open to a handler must be precluded. Thus, the Assistant Secretary concluded that any change in a handler's marketing operations which has the impact of either evading or forcing a call should result in immediate loss of pool status for the plant as a reserve supply plant.

The hearing record indicated that the market has an ample supply of reserve milk. During 1979 and 1980, only 20 percent and 18 percent, respectively, of the producer milk pooled under the order was used as Class I milk. Under such circumstances, requiring a pool reserve supply plant to make regular minimum shipments to pool distributing plants could cause uneconomic movements of milk solely to assure continued pool status for the reserve supply plant. These uneconomic movements of milk could result if the words "or forcing" were removed from this provision and a reserve supply plant handler could force the market administrator to issue a call without concern that his reserve supply plant would lose its pool status. Thus, orderly marketing would not be promoted if a handler could alter his marketing practices to cause a shortage of milk for Class I uses, thus forcing the market administrator to issue a call. Permitting a reserve supply plant handler to have such an alternative at his disposal not only would end the beneficial cooperation that has prevailed in the market but also it could lead to disorderly or possibly chaotic marketing conditions in the Upper Midwest market. For these reasons, it would not be appropriate to change the provisions as requested. Accordingly, the proposal is denied.

The cooperative association that proposed deleting the phrase "or forcing" excepted to the denial of its proposal. Exceptor stated that the threat of being forced to deliver milk in response to a call, not the potential loss of pool status due to forcing a call, is what has contributed to the cooperative environment in the market. We agree with that statement. In fact, the intent of the findings set forth previously in this decision is that reserve supply plant handlers prefer to ship milk voluntarily rather than in response to a call. If one handler could force a call without concern that his reserve supply plant would lose its pooling status then his action could end the cooperation of those other reserve supply plant handlers who prefer to ship milk voluntarily. This consequence was one of the reasons the proposal was denied.

Exceptor also indicated that the testimony of its witness at the hearing which referred to "equitable" shipments and handlers shipping a "fair share" of the milk supply was not intended to imply that all handlers should ship an equal proportion of their milk supply all year long. Exceptor said the intended implication was that the market administrator through his knowledge of the market is in a better position to determine what portion of a handler's milk supply should be delivered to the fluid market. Exceptor concluded that by eliminating the words "or forcing," handlers could give the market administrator an opportunity to use the call provision to improve market efficiency and equity. In exceptor's view this would increase the cooperation within the market.

We cannot agree with exceptor that deleting the words "or forcing" would yield the desired results. As stated in this decision, removal of these words

could lead to disorderly marketing conditions which would be contrary to the purposes of the Act. Accordingly, the exception is denied.

LOL also proposed that if a handler failed to comply with an announced shipping requirement with respect to any of his reserve supply plants then all such plants of the handler would lose their pool status as reserve supply plants. LOL's witness stated that if a handler is not willing to meet the shipping requirements with respect to one of his reserve supply plants then it must be assumed the handler would not be willing to do so with respect to his other reserve supply plants, including those plants that are located outside the call area. AMPI, Mid-Am, Farmers Union and six proprietary handlers opposed the proposal.

The record evidence does not support LOL's position on this point. AMPI operates a reserve supply plant in Duluth, Minnesota, that supplies milk to the Duluth fluid market. If a call were issued, with the call area similar to the area included in the September 1978 call, it would not include AMPI's Duluth reserve supply plant. If AMPI failed to meet the minimum shipping requirement of one of its reserve supply plants that was subject to the call, the loss of that plant's pool status should not affect the pool status of AMPI's Duluth plant because the Duluth plant is supplying a fluid market. To provide otherwise would unduly penalize the Duluth reserve supply plant which had no association with the call area.

The LOL witness also said that without such a provision a multi-plant handler could associate his producers with one of his reserve supply plants that is located outside the call area. In this way, he said, the handler could avoid shipping any milk to pool distributing plants in response to the call while keeping his producer milk supplies pooled under the order. The witness said that the proposal would prevent handlers from circumventing the call in this manner.

The exhibits prepared by the market administrator indicated that this probably would be a rather expensive transfer of producer milk for all multi-reserve supply plant handlers, except LOL. Based on the September 1978 call area, it appears that, except for LOL, the nearest reserve supply plant of any handler located outside the call area to a reserve supply plant of the same handler located within the call area would be at least 80 miles. This is the distance from AMPI's plant at Turtle Lake, Wisconsin (inside the 1978 call area) and its plant at Hinckley, Minnesota (outside the 1978 call area). For LOL, the distance is only about 30 miles between its plant at Milaca, Minnesota (inside the 1978 call area) and its plant at Pine City, Minnesota (outside the 1978 call area).[1]

The pooling standards established under the Upper Midwest order relate to the performance by individual plants of a handler, regardless of whether the plants are being qualified for pool status as distributing plants, supply plants or reserve supply plants. The Assistant Secretary, in his 1976 decision, stated that each reserve supply plant operated by a handler must qualify on its own performance, even though to implement operating efficiency qualifying shipments need not originate from the plant on which a call is made. Thus, it would not be appropriate to provide that all of the reserve supply plants of a handler lose their pool status as reserve supply plants in the event the handler failed to meet the minimum shipping percentage with respect to one of his plants. Accordingly, the proposal is denied.

Issue No. 2. Handler definition. Section 1068.9(c) of the handler definition should be revised to include a cooperative association that receives bulk tank milk at a producer's farm for delivery to its *own* pool plant. Also, § 1068.9(b) should be revised to include a cooperative association that diverts milk from its *own* pool plant.

The present handler definition provides in § 1068.9(c) that a cooperative association shall be the handler for milk that it receives for its account from the farm of a producer for delivery to the pool plant of *another* handler in a tank truck owned and operated by, or under the control of, such cooperative. Also, a cooperative association is the handler under § 1068.9(b) for producer milk that it diverts to a nonpool plant from the pool plant of *another* handler. For milk that is received at or diverted from the pool plant of a cooperative association, the order provides that such receipts and diversions shall be reported on an individual plant basis in the same way that proprietary handlers report receipts and diversions for their plants.

Land O' Lakes, which operates two distributing plants and eight reserve supply plants that are regulated under the order, proposed the adopted changes to simplify its accounting for skim milk and butterfat. LOL claimed that these changes would allow it to include in a single report information that now must be segregated for inclusion in several reports.

The proposal was opposed by six proprietary handlers who expressed concern that the proposal might permit cooperative associations to shift the burden of supplying milk for the fluid market to proprietary handlers.

The order should permit a cooperative association to submit a single report that includes all of its receipts of milk from producers and all of its diverted milk, irrespective of whether the milk is associated with the plants of other handlers or with the cooperative's own plants. The proponent cooperative association maintains at its headquarters records of its total procurement for the market. Such information includes the total pounds and butterfat test of milk received from each producer and data regarding deliveries of such milk to pool plants and diversions to nonpool plants. Since different loads of milk from the same group of producers may go to several different plants during the month (including the cooperative's own pool distributing plants and pool reserve supply plants, nonpool plants and conceivably pool plants of other handlers), it is necessary for the cooperative to determine which loads of milk were associated with each of its own pool plants, including diversions from such plants to nonpool plants. This information is then added to the information contained in the cooperative's individual plant's report.

Proponent operates a pool distributing plant at St. Paul, Minnesota, and a pool reserve supply plant and nonpool manufacturing plant at Pine City, Minnesota. Milk received from the same group of producers can be received at all three plants during the same month. Presently, it is necessary for proponent to track the movement of milk from individual producers because receipts at the distributing plant must be kept separate from the receipts at the reserve supply plant and any diversions to the nonpool plant must be included in the report for the pool plant of last receipt. Specifying that the cooperative association shall be a handler pursuant to § 1068.9 (b) and (c) with respect to the quantity of milk received at producers' farms for delivery to its own pool plants or diverted from such plants to nonpool plants would eliminate this extra bookkeeping expense.

Making a cooperative association the 9(c) handler on deliveries of milk to its own distributing plant also would permit these deliveries to be counted as qualifying shipments from its reserve supply plant in the event of a call. This

[1] Official Notice is taken of the "Standard Highway Mileage Guide" issued by Rand McNally and Company, Chicago/New York/San Francisco. Copyright 1978.

would comport with the findings made previously in this decision that all deliveries of milk by a handler to pool distributing plants in the call area should receive credit towards meeting the minimum shipping requirement of the handler's reserve supply plant. To the extent that these 9(c) deliveries by a cooperative association to its own distributing plant would reduce the amount of milk the cooperative would have to ship to distributing plants from its reserve supply plant to meet the minimum shipping percentage, that quantity of milk would have to be delivered by reserve supply plants of other handlers. However, this would not shift the burden of supplying milk for fluid use to other handlers, as contended by opponents. Rather, it would merely be recognizing all of the deliveries to the fluid market that were already being made by a cooperative association. The provisions adopted herein plus the provisions adopted in Issue No. 1 would recognize all of a cooperative association's deliveries to distributing plants in the call area that are needed for fluid use.

The exceptions filed by six proprietary handlers expressed concern that making a cooperative association a handler pursuant to § 1068.9 (b) and (c) on milk associated with its own pool plant could permit such a cooperative to increase the quantity of Class III shrinkage assigned to its pool plant. Exceptor expressed concern that a cooperative association which operates a distributing plant and which also is a 9(c) handler on milk delivered to pool plants of other handlers could have any excess shrinkage at its own distributing plant offset by the Class III shrinkage allowed on its deliveries of 9(c) milk to other handlers' plants. This, in exceptor's view, would give the cooperative association a competitive advantage in relation to other handlers.

This would not occur because the classification of milk is determined separately for each pool plant, and the classification of milk for which a cooperative association is a 9 (b) and (c) handler is determined separately from the operations of any pool plant operated by the cooperative association. These provisions prevent a cooperative association from having the excess shrinkage associated with one of its plants being offset by the Class III shrinkage allowed on 9(c) deliveries to another plant.

A proprietary handler who operates a reserve supply plant stated, in comments filed, that he did not take exception to the decision to permit a cooperative association to be the 9 (b) and (c) handler on milk associated with its own pool plant(s). However, the handler stated that if the Secretary adopts the provisions contained in the recommended decision to consider 9(c) deliveries by a cooperative association as qualifying shipments from its reserve supply plant, then the receipts at such plant should include, for purposes of meeting the "call," the milk for which a cooperative is a handler pursuant to section 9(c), and also the milk diverted from the reserve supply plant for which the cooperative is a handler pursuant to section 9(b). In determining a cooperative association's reserve supply plant's receipts for determining the required shipments in the event of a "call" it is appropriate to include in the receipts at such plant the quantity of 9(c) milk delivered by the cooperative to pool distributing plants located in the call area as well as diversions from those distributing plants by the cooperative and diversions from the cooperative's reserve supply plants which are located in the call area.

Issue No. 3. Pricing zones. The pricing zones contained in § 1068.52(a) should be revised by deleting Washington County, Minnesota, from the list of counties included in Zone 2 (minus 6 cents location adjustment). This would cause Washington County to be included within Zone 1 (no location adjustment).

The order now prescribes four pricing zones, with Zone 1 including all the territory both inside and outside the marketing area that is not specifically included in Zones 2, 3, and 4. No location adjustment applies in Zone 1, a minus 6-cent location adjustment applies in Zone 2 and larger minus location adjustments apply in Zones 3 and 4.

Land O' Lakes proposed the change that is adopted because, its witness said, there now is a pool distributing plant located in that county at Woodbury and the plant operator must pay the Zone 1 price to obtain a supply of milk for his Class I bottling needs. There was no opposition to the proposal.

Washington County, Minnesota, presently in Zone 2 is located east of and adjacent to Ramsey County (where the City of St. Paul is located), which is in Zone 1. In the Assistant Secretary's 1976 merger decision, it was found that with respect to the major population centers of Minneapolis-St. Paul and Rochester, Minnesota, the highest priced zone (Zone 1) should be restricted to only the three counties in which these population centers were located (the counties of Hennepin, Ramsey and Olmsted) because there was enough Grade A milk available in the counties bordering these 3 counties to provide all of the fluid milk consumed there, plus an ample reserve. Further, with specific reference to Washington County, it was found that since there were no plants located in that county there was no need to include it in Zone 1.

The hearing record of the current proceeding indicates that conditions have changed sufficiently in Washington County to justify reevaluating the 1976 decision concerning the inclusion of that county in Zone 1. There now is a pool distribution plant located in that county at Woodbury, which is a suburb less than 10 miles from St. Paul. The population of Washington County has increased from 83,000 in 1970 to 113,700 in 1980 (a 37 percent increase) while the number of farms in that county that are marketing milk, as reported by the Minnesota Crop and Livestock Reporting Service, has decreased from 184 in 1974 to only 77 in 1980 (a 58 percent decrease). An Exhibit introduced at the hearing indicated that Washington County is one of the five counties that comprise the so-called Minneapolis-St. Paul metropolitan area. The Woodbury plant competes for fluid sales throughout this metropolitan area with the three handlers located in St. Paul.

On the supply side, the Woodbury plant also must compete with the St. Paul plants for a supply of milk. There are no producers in Ramsey County (St. Paul), and in December 1980 the producers located in Washington County delivered less than 3.5 million pounds of milk. This amount of milk was far short of the quantity needed at these four distributing plants. It costs about the same to transport milk to Woodbury as it does to transport milk to St. Paul because they are less than 10 miles apart. The record established that the operator of the Woodbury plant pays the Zone 1 price for its supply of milk, all of which comes from reserve supply plants. To assure the Woodbury distributing plant of an adequate supply of milk for its Class I needs, the same Class I price is required at this plant as is required at distributing plants located in Ramsey County. This Class I price is necessary because of Woodbury's proximity to St. Paul and because Woodbury is within the metropolitan area. On the basis of this record, it is concluded that Washington County should be included in the area subject to Zone 1 prices.

Issue No. 4. Date partial payment. The order should be revised to provide that on or before the 4th day after the month

handlers shall make a partial payment for milk received during the first 15 days of the month from producers for whom a cooperative association is not collecting payments and who have not discontinued shipping milk to such handlers. The partial payment to such producers should be at a rate that is not less than the uniform price for the preceding month adjusted by the butterfat differential for that month. Partial payments to cooperative associations should continue to be required on or before the 25th day of the month for milk received by handlers during the first 15 days of that month.

Presently, the order specifies that handlers shall make a partial payment to producers and to cooperative associations by the 25th day of the month for milk received during the first 15 days of that month. The rate of partial payment is the uniform price for the preceding month adjusted by that month's butterfat differential. As described later, these provisions have been suspended since November 1976 with respect to partial payments to producers for whom a cooperative is not collecting payments. Final payment is due by the 18th of the following month. The only change in these provisions would be the date of partial payment to producers for whom a cooperative association is not collecting payments.

Six proprietary handlers proposed the adopted change. Their witness testified that producers who ship milk to these handlers prefer receiving payments that are spaced about 15 days apart. The hearing notice also contained a proposal by Clover Leaf Creamery from Marigold Foods, Inc., that the partial payment date to nonmember producers be the 3rd day of the following month. At the hearing, Clover Leaf withdrew support of its proposal and joined in support of the proposal made by the six other proprietary handlers. A representative of Farmers Union testified in support of the initial Clover Leaf proposal that the date of partial payment to nonmember producers be the 3rd day of the following month.

Many of the producers who were brought under the merged order when it became effective on June 1, 1976, had been accustomed to receiving payments 15 days apart. They preferred such payments to the payment dates of the 18th and 25th of the month that were established for the merged order. To accommodate these producers, the pertinent provisions of the order have been suspended since November 1976 so that payments could be made about 15 days apart. The present suspension expires April 30, 1982. The suspensions have been limited to payments to producers for whom a cooperative was not collecting payments.

The record evidence indicates that during the approximately 4½-year period (November 1976–April 1981) that this provision has been suspended, most handlers have paid a partial payment to their individual producers on either the 2nd, 3rd or 4th day of the following month. No partial payments have been made later than the 4th day of the following month.

The witness for Farmers Union testified that during that short period of time in 1976 (June through October 1976) when producers were paid a partial payment on the 25th day of the month, most of them were dissatisfied. He said this was only one week after the producers had received the final payment for their previous month's milk. He said that the new payment schedule upset producers' procedures for paying their bills and for their trips to the bank. Since the issuance of the suspensions, he said, producers have been paid about every 15 days and this is the payment schedule they prefer.

The witness for six proprietary handlers testified that payment to producers at 15-day intervals provides a more practical, uniform, timely and understandable basis for paying producers. Also, he said, it relieves handlers of the burden of issuing two payrolls only one week apart. He pointed out that the adoption of the proposal would eliminate the need for future suspensions of this provision.

The hearing record established that the present provision requiring handlers to make a partial payment to individual producers on the 25th day of the month does not promote the orderly marketing of milk in the Upper Midwest market and, for that reason, it has been suspended since 1976. It is appropriate to revise the date of partial payment to individual producers. Adopting the 4th day of the following month as the date of partial payment, rather than the 3rd, would include all of the dates described on the record on which partial payments have been made during the 4½ years this provision has been suspended. Handlers preferring to make partial payments on either the 2nd or 3rd day of the following month could continue that practice. If the 3rd day of the following month were adopted, then handlers now making partial payments on the 4th day would have to change their partial payment date to the 3rd. The record evidence indicated that producers are satisfied with the various dates on which they now are receiving their partial payments, regardless of whether it is the 2nd, 3rd or 4th day of the following month. There are no compelling reasons to make handlers presently paying on the 4th to switch to the 3rd as the date for making partial payments to their individual producers. Accordingly, the proposal to establish the 4th day of the following month as the date for making a partial payment to producers who are not being paid by a cooperative association should be adopted.

The cooperative association that supported the proposal that the 3rd day of the following month be the date of partial payment to individual producers excepted to the recommended decision's adoption of the 4th day of the following month. Exceptor claimed that the Department erred in not requiring partial payment to producers by the 3rd day of the following month because many Wisconsin producers delivering milk to the Upper Midwest market reside near producers associated with the Chicago Regional market. The Chicago Regional order requires payment to producers by the 3rd day of the following month. In exceptor's view, establishing the same date of partial payment in both the Upper Midwest and Chicago Regional orders would provide more orderly marketing conditions than would be the case if this order establishes a different partial payment date.

No change should be made from the recommended decision concerning the date of partial payment to individual producers. By adopting the 4th day of the following month as the date of partial payment, producers residing in Wisconsin near the Chicago Regional order producers could continue to receive their partial payments on the 3rd day of the following month, as they apparently have done during the 4½ years this provision has been suspended. However, as exceptor's witness testified at the hearing, some Upper Midwest market producers are now receiving their partial payments on the 4th day of the following month and these producers are satisfied with the date on which they now are receiving their partial payments. As stated previously in this decision, there are no compelling reasons to make handlers paying on the 4th to switch to the 3rd as the date for making partial payments to their individual producers, especially since those producers receiving their partial payment on the 4th day of the following month apparently are satisfied with that date. Accordingly, the exception is denied.

To fully incorporate the adopted date of partial payment to producers who are not being paid by a cooperative

association, it also is necessary to revise the language in several other provisions within the payment section. Such changes are corollary in nature and do not involve any substantive change in the intended application of that section. Also, in paragraph (c) of § 1068.73, the reference to "§ 1068.52" is revised to read "§ 1068.75." This revision corrects a typographical error in the section reference that refers to the section concerning plant location adjustments for producers and on nonpool milk.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

Findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determiend pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Upper Midwest marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement,[1] be published in the **Federal Register**. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

October 1981, is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Upper Midwest marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on February 19, 1982.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection Services.

Order[2] amending the order, regulating the handling of milk in the Upper Midwest Marketing Area.

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Upper Midwest marketing area.

The hearing was held pursuant to the provisions of the Agricultrual Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record therof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Upper Midwest marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Marketing Program Operations, on October 27, 1981, and published in the **Federal Register** on November 2, 1981 (46 FR 54366), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

PART 1068—MILK IN THE UPPER MIDWEST MARKETING AREA

1. In § 1068.7, (d)(4)(ii)(*a*) is revised to read as follows:

§ 1068.7 Pool plant.

* * * * *

(d) * * *

(4) * * *

(ii) * * *

(*a*) Qualifying shipments to pool distributing plants within the call area may originate from any plant or producer milk supplies of the handler provided that shipments from sources other than the plant(s) subject to the call and milk supplies for which a cooperative association is the handler pursuant to § 1068.9(c) must be in addition to any shipments already being made by the handler and may not result from shifting milk supplies from a pool distributing plant outside the call area to one within the call area; and

* * * * *

§ 1068.9 [Amended]

2. Section 1068.9 is amended by removing the language "of another handler" in paragraphs (b) and (c).

§ 1068.52 [Amended]

3. Section 1068.52(a)(2)(i) is amended by removing the word "Washington."

4. In § 1068.73, paragraphs (a), (d) and the introductory text of paragraph (c) preceding subparagraph (1) are revised and a new paragraph (a-1) is added to read as follows:

§ 1068.73 Payments to producers and to cooperative associations.

* * * * *

(a) On or before the 25th day of the month, each handler shall pay for skim milk and butterfat received during the first 15 days of the month from a cooperative association:

(1) That is a handler pursuant to § 1068.9(a), at not less than the Class I price for the month at the location of the transferee or transferor plant, whichever is higher, adjusted by the butterfat differential for the preceding month;

(2) That is a handler pursuant to § 1068.9(c), at not less than the uniform price at his plant location for the preceding month, adjusted by the butterfat differential for the preceding month; and

(3) That is not a handler but which is authorized to collect payment on behalf of its member producers and has requested that payment be made to it in aggregate, at not less than the uniform price at his plant location for the preceding month, adjusted by the butterfat differential for the preceding month.

(a-1) On or before the 4th day after the end of the month, each handler shall pay for skim milk and butterfat received during the first 15 days of the month from a producer for whom payment is not being made pursuant to paragraph (a) of this section and who has not discontinued shipping to such handler, at not less than the uniform price at his plant location for the preceding month, adjusted by the butterfat differential for the preceding month.

* * * * *

(c) On or before the 18th day after the end of the month, each handler shall make payment at not less than the uniform price for the month, as adjusted by the butterfat differential specified in § 1068.74 and location adjustments specified in § 1068.75, for all skim milk and butterfat received during the month (less the partial payment pursuant to paragraph (a) and (a-1) of this section) to:

* * * * *

(d) In making payments pursuant to paragraphs (a) (2) and (3), (a-1) and (c) of this section, deductions may be made for marketing services pursuant to § 1068.86 and for any proper deductions authorized by the producer. In the event a handler has not received full payment from the market administrator pursuant to § 1068.72 by the 8th day of the month, he may reduce prorata his payments to producers pursuant to paragraph (c) of this section by not more than the amount of such underpayment. Following receipt of the balance due from the market administrator, the handler shall complete payments to producers not later than the next payment date provided under this section.

* * * * *

[FR Doc. 82-5171 Filed 2-25-82; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76 (New Mexico-8)]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of New Mexico that the Dakota Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on March 25, 1982.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on March 10, 1982

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE, Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8016.

SUPPLEMENTARY INFORMATION:

Issued February 23, 1982.

I. Background

On February 11, 1982, the State of New Mexico Energy and Minerals Department, Oil Conservation Division (New Mexico) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 50034, August 22, 1980), that the Dakota Formation located in San Juan and Rio Arriba Counties, New Mexico, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether New Mexico's recommendation that the Dakota Formation be designated a tight formation should be adopted. The United States Department of Interior, Minerals Management Service (formerly the U.S. Geological Survey) concurs with New Mexico's recommendation. New Mexico's recommendation and

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[1] Filed as part of the original document.

[2] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The Dakota Formation is located in San Juan and Rio Arriba Counties, New Mexico, in Townships 30 and 31 North, Ranges 2 through 7 West, NMPM, in the Basin-Dakota Gas Pool, in the Rosa Area of the northeastern portion of the San Juan Basin. The average depth to the top of the Dakota Formation is 7,950 feet. The formation is approximately 250 feet in thickness.

The recommended area is subject to New Mexico Order No. R–1670–V, issued on May 22, 1979, which authorizes infill drilling in the Basin-Dakota Gas Pool. Accordingly, certain portions within the proposed area may be subject to exclusion pursuant to § 271.703(c)(2)(i)(D) of the regulations.

III. Discussion of Recommendation

New Mexico claims in its submission that evidence gathered through information and testimony presented at a public hearing in Case No. 7317 convened by New Mexico on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atomospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

New Mexico further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by New Mexico that the Dakota Formation, as described and delineated in New Mexico's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 25, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76 (New Mexico–8), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Request should be filed with the Secretary of the Commission no later than March 10, 1982.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3342.)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event New Mexico's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703(d) is revised by adding new subparagraph (95) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(71) through (94) [Reserved]

(95) *Dakota Formation in New Mexico.* RM79–76 (New Mexico–8).

(i) *Delineation of formation.* The Dakota Formation is found in Townships 30 and 31 North, Ranges 2 through 7 West, in San Juan and Rio Arriba Counties, New Mexico. The formation is within the Basin-Dakota Gas Pool, in the Rosa Area of the San Juan Basin.

(ii) *Depth.* The Dakota Formation is below the Graneros Shale Formation and above the Morrison Formation. The average depth to the top of the Dakota Formation is 7,950 feet. The formation is approximately 250 feet in thickness.

[FR Doc. 82-5208 Filed 2-25-82; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[LR–160–81]

Service of Notice of Levy by Mail; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the authority of the Service under the Internal Revenue Code to serve notice of levy by mail. These regulations would provide the public with the guidance needed to comply with the law and would affect persons upon whom notices of levy are served.

DATE: Written comments and requests for a public hearing must be delivered or mailed by April 27, 1982.

The amendments ro § 301.6331–1 are proposed to be effective for levies made after publication of final regulations in the Federal Register.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T,LR–160–81, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Annie R. Alexander of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 2024 (Attention: CC:LR:T)(202–566–3287), not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the regulations under section 6331 of the Internal Revenue Code of 1954 (Code) relating to the authority of the Service to seize property by levy. Under section 6331 of the Code the term "levy" includes the power of distraint and seizure by any means. Regulation § 301.6331–1 (a) (1) provides that a levy may be made by serving a notice of levy on any person in possession of, or obligated with respect to, property or rights to property subject to levy.

In order to conserve resources, the Service has increased the number of notices of levy served by mail in accordance with law and longstanding administrative practice. Some persons upon whom notices of levy are served have expressed concern that the Service's longstanding practice has not been explicitly set forth in the regulations. Consequently, the Department of Treasury has decided to amend the regulations to specify the procedures to be followed by the Service in serving a notice of levy by mail. The amendment will also permit persons having more than one office within an Internal Revenue district to designate, with the consent of the district director, one office to which notices of levy are to be mailed.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Regulatory Flexibility Statement

Although this document is a notice of proposed rulemaking that solicits public comments, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Drafting Information

The principal author of these proposed regulations is Annie R. Alexander of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 301 are as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph. A new paragraph (c) is added to § 301.6331–1 to read as follows:

§ 301.6331–1 Levy and distraint.

* * * * *

(c) *Service of notice of levy by mail.* A notice of levy may be served by mailing the notice to the person upon whom the service of a notice of levy is authorized under paragraph (a) (1) of this section. In such a case the date the notice is delivered to the person to be served is the date the levy is made. If the notice is sent by certified mail, return receipt requested, the date of delivery on the receipt is treated as the date the levy is made. If a person has more than one office within the Internal Revenue district, delivery to any one of the offices is sufficient. However, any person may, upon written application to the district director, request that any mailed notice of levy be sent to one designated office within the Internal Revenue district. If the district director concurs, notices of levy by mail must be sent to the designated office until the person and the district director agree that a different office should be designated.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 82-5224 Filed 2-25-82; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S–550]

Commercial Diving Operations

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Advance notice of proposed rulemaking; request for comments.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is currently reviewing its safety standard concerning commercial diving operations contained in Subpart T of 29 CFR Part 1910.

The purpose of this notice is to solicit information which will assist OSHA in determining whether its standard for commercial diving operations should be continued without change, revised, or revoked.

DATE: The written information requested in this notice should be submitted by April 12, 1982.

ADDRESS: Written comments should be submitted, in quadruplicate, to the Docket Officer, Docket S–550, Room S6212, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202)523–7894.

FOR FURTHER INFORMATION CONTACT: Mr. Glen E. Gardner or Ms. Joanne E. Slattery, Directorate of Safety Standards Programs, Room N3463, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202)523–7225.

SUPPLEMENTARY INFORMATION:

Background

OSHA's standard for commercial diving operations was issued on July 22, 1977 (42 FR 37650). The standard, codified at 29 CFR 1910.401–1910.441, contains provisions dealing with personnel requirements, general operations procedures, specific operations procedures, equipment procedures and requirements, and recordkeeping.

Based upon serious questions which have been raised concerning certain specifics of the standard, OSHA invites comments to determine whether further rulemaking is necessary or appropriate. For example, the decompression requirements and specifications that preclude the use of alternative methods of compliance have been questioned. In some cases there may be alternative measures which are more feasible and would ensure employees a level of safety and health comparable to the standards contained in Subpart T. It has also been noted that compliance with certain requirements in Subpart T may place an economic burden on small entities within the industry.

Additionally, interested parties have indicated to OSHA that it is sometimes unclear whether OSHA or the U.S. Coast Guard has jurisdiction for certain commercial diving operations. OSHA believes that the jurisdictional responsibilities must be clearly defined in order that each agency may effectively allocate its resources, and more importantly, divers know which standard applies to their activities.

Finally, on August 12, 1981, the standard for commercial diving operations was designated for review under Executive Order 12291 by the Presidential Task Force on Regulatory Relief.

For these reasons, OSHA has concluded that a comprehensive review is necessary to determine whether Subpart T should be continued without change, revised, or revoked. Any

rulemaking proceeding to revise Subpart T will be conducted in accordance with Section 6(b) of the Act (29 U.S.C. 655(b)) and 29 CFR Part 1911, will be preceded by proper consultation with the Construction Advisory Committee, and will provide adequate public notice and opportunity to comment on proposed changes.

Comments and Information Requested

Through this advance notice, OSHA invites interested persons and organizations to provide written comments relating to the need for a Subpart T revision. In particular, OSHA invites comments regarding the need for modification or deletions. OSHA further solicits information in response to the questions below including, but not limited to, comments pertaining to economic considerations and environmental impact and feasibility. OSHA further requests that available injury and illness data be provided.

Since this review of Subpart T includes evaluating economic considerations in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), OSHA seeks information regarding the economic impact that the current standard has on small entities, including, but not limited to, compliance, reporting, and recordkeeping costs. OSHA also request comments regarding alternatives which would minimize the economic impact on small entities while at the same time accomplishing the objective of protecting employee safety and health.

OSHA also invites written comments and information regarding the following specific issues concerning Subpart T.

1. Would a performance-oriented standard, perhaps accompanied by nonmandatory appendices containing compliance guidelines intended to provide compliance flexibility, adequately address safety and health concerns associated with diving?

2. Should the OSHA standards, which require a decompression chamber for dives deeper than 100 fsw (feet of seawater) (§§ 1910.424(b)(2) and 1910.425(b)(2)), be modified to be consistent with the Coast Guard standard's requirement for a decompression chamber for dives below 130 fsw? It has been suggested that the 100 fsw depth be modified to the depth of 130 fsw since dives can be made to this level and still be inside the no-decompression limits.

3. Should OSHA modify its recordkeeping requirements (§ 1910.440)? If so, which requirements should be altered or eliminated, and why?

4. Should certain post-dive procedures be included in the safe practices manual which the employer is required to develop (§ 1910.420) instead of being required in § 1910.423(b)(1)? It has been suggested that several post-dive requirements can be adequately addressed in the safe practices manual without being mandated after each dive. Such repetitive provisions include instructing the diver to report any physical problems or adverse physiological effects including symptoms of decompression sickness (§ 1910.423(b)(1)(ii)), advising the diver of the location of a decompression chamber (§ 1910.423(b)(1)(iii)), and alerting the diver to the potential hazards of flying (§ 1910.423(b)(1)(iv)), after each dive.

5. Should the requirement mandating a bag type manual resuscitator (§ 1910.421(c)(3)) be deleted? The value of such a device has been questioned, particularly if used by untrained persons, when mouth to mouth resuscitation may be more effective.

6. Should OSHA permit alternatives to § 1910.427(c)(2), which requires that a device be used to minimize the possibility of diver hose lines entangling in propellers during liveboating? An interested group has stated that a device is not practicable and that other means, such as training and coordination of dive crews and vessel captains, would adequately minimize the danger of entanglement.

7. Should the requirement for certain emergency aid telephone or call numbers (§ 1910.421(b)) be modified to permit use of one central emergency aid number? One group questioned the need for telephone or call numbers for five different locations. Instead, they believe a better coordinated emergency response would result if one central location initiates the appropriate calls while leaving lines of communication to the dive location open for emergency purposes.

8. Should OSHA continue to require that a two-way communication system be available at the dive location under all circumstances for the puroposes of obtaining emergency assistance (§ 1910.422(c)(2))? Concern has been expressed that radio communications, for example, are not always possible due to limited radio-telephone frequencies and in some cases dead spots exist in remote locations. For areas where such communications are not possible, how would emergency assistance be obtained?

9. Should alternatives to a diver depth gauge that can be read at the dive location for diving modes other than SCUBA (§ 1910.430(g)(1)) be permitted when diving occurs at 30 fsw and less? An interested group has indicated that equally effective means for determining diver depth exist that would not lessen employee safety and health for shallow (30 fsw) no-decompression dives, and that such alternative means would in fact produce an economic benefit.

10. Should OSHA continue to require a weight belt or assembly (§ 1910.430(j)(1))? If so, should OSHA continue to require that weight belts or assemblies be capable of quick release? One group has suggested that weight belts or assemblies capable of quick release may, in some cases, be hazardous to a diver and further stated that the availability of a weight belt or assembly should be mandatory but that the use of such devices should not be mandatory.

Public Participation

The written comments and information requested in this notice should be submitted by April 12, 1982, in quadruplicate, to the Docket Officer, Docket S–550, Room S6212, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, D.C. 20210.

All written submissions, as well as other information collected, will be considered by OSHA in the development of proposed standards or revisions to Subpart T. In addition, these submissions will be available for inspection and copying during normal business hours at the OSHA Docket Office at the address above.

Authority: This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210. (Sec. 6, 84 Stat. 1593 (29 U.S.C. 655); 29 CFR Part 1911; Secretary of Labor's Order No. 8–76 (41 FR 25059))

Signed at Washington, D.C., this 23rd day of February 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82–5180 Filed 2–25–82; 8:45 am]

BILLING CODE 4510–26–M

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29 CFR Part 1910

[Docket No. H–111]

Occupational Exposure to Ethylene Dibromide

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Extension of time for submission of written comments.

SUMMARY: On December 16, 1981, OSHA published an advance notice of proposed rulemaking for ethylene dibromide (46 FR 61671–61676). Comments were requested to be submitted on or before March 1, 1982. Recently, OSHA has received requests from several interested parties for an extension of this comment period. These requests have indicated that additional time is needed to prepare responses which include detailed and recently acquired information. OSHA believes that the information-gathering process will be improved if all interested parties are granted additional time for submission of comments. Thus, OSHA has decided to extend the date for submission of comments by 30 days to March 31, 1982.

DATES: Comments in response to the December 16, 1981, advance notice of proposed rulemaking (46 FR 61671–61676) should be submitted on or before March 31, 1982.

ADDRESSES: Comments, in quadruplicate, should be mailed to Docket Officer, Occupational Safety and Health Administraton, Docket No. H–111, Room S–6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone (202) 523–7894. All material submitted will be available for inspection and copying at this address.

FOR FURTHER INFORMATION CONTACT:
Mr. James F. Foster, Officer of Information and Consumer Affairs, Room N–3637, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone (202) 523–8151.

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, D.C. 20210. It is issued pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655).

Signed at Washington, D.C., this 23rd day of February 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82–5200 Filed 2–25–82; 8:45 am]

BILLING CODE 4510–26–M

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29 CFR Part 1910

[Docket No. H–004]

Occupational Exposure to Lead Proposed Administrative Stay for Stevedoring

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed Administrative Stay.

SUMMARY: OSHA is proposing to administratively stay the application of the lead standard, 29 CFR 1910.1025, to the stevedoring industry. Circumstances unique to the stevedoring industry may make the application of the standard, in its present form, inappropriate. This proposal was first published in the Federal Register on December 11, 1981 (46 FR 60758).

DATES: Comments due March 29, 1982.

ADDRESS: Written comments should be submitted to the Docket Officer, Docket No. H–004, Occupational Safety and Health Administration, Room S–6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523–7894.

FOR FURTHER INFORMATION CONTACT:
Mr. James Foster, Occupational Safety and Health Administration, Room N–3637, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523–8148.

SUPPLEMENTARY INFORMATION: On December 11, 1981, OSHA published, in the Rules and Regulations section of the Federal Register, a Revised Supplemental Statement of Reasons with amendments to the lead standard (46 FR 60758). Among other actions, the revised statement of reasons contained a proposal to administratively stay the application of the lead standard to the stevedoring industry (46 FR at 60762). OSHA indicated, in the revised statement, its intention to publish a separate notice in the Proposed Rules section of the Federal Register to notify the public of the proposed administrative stay. This notice will therefore repeat the reasons for the proposed administrative stay set forth in the revised statement.

The revised statement allowed until February 10, 1982 to comment on the proposed stay. While many affected parties have already commented on this issue, the time period for comment will be extended until March 29, 1982 in order to assure the fullest possible public participation.

OSHA has decided to propose administratively staying application of the lead standard to the stevedoring industry. Careful examination of the record evidence in light of the concerns raised by industry's petition for reconsideration have convinced the agency of the need to determine whether any OSHA lead standard should cover this industry and, if so, what form that standard should take. Several factors have prompted the agency to reach this conclusion. First, the operations and exposure problems in the stevedoring industry closely resemble those found in the construction industry. Both industries have only low intermittent exposure to lead. More importantly, both have workforces that move from place to place on the worksite and both have transient workforces. This striking parallel between construction and stevedoring has compelled OSHA to consider whether the peculiar operational characteristics of the stevedoring industry warrants the drafting of a separate lead standard for stevedoring, the drafting of a separate lead standard for stevedoring, as the agency has previously announced for construction.

In addition, a claimed total shutdown of the export-import trade in lead ore forces OSHA to examine the earlier claim advanced by ASARCO and St. Joe that the stevedoring industry should be exempt from this lead standard (46 FR 0224). According to industry's petition, publication of the lead standard led to a decision by the stevedoring companies not to handle shipments of lead ore. That decision was based on the stevedores' belief that the standard's provisions requiring companies to alert their employees to the hazards of lead would trigger the filing of an extensive number of frivolous compensation claims by longshoremen (LIA Pet. at 53–58). ASARCO and St. Joe argued that this anticipated wave of claims would increase the cost of worker's compensation insurance so dramatically that handling lead shipments would become unprofitable (TR. 721, 723). Presently, the agency does not possess the information to evaluate the veracity of the insurance compensation argument of ASARCO and St. Joe, nor does it have any evidence to assist it in measuring the economic impact of the termination of the lead ore carrying trade on the lead mining and smelting industries. This lack of information on such fundamental economic questions provided additional impetus to the agency's decision to reconsider the standard's application to this industry.

Accordingly, OSHA proposes to administratively stay implementation of the lead standard to the stevedoring industry and requests comment on the administrative stay and on: (1) Whether the stevedoring industry should be subject to this, or any lead standard, and (2) if the industry should be subject to a different lead standard, what form should that standard take.

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, D.C. 20210. It is issued pursuant to section 6 and 8 of the Occupational Safety and Health Act (84 Stat. 1593, 1599, 29 U.S.C. 655, 657), Secretary of Labor's Order No. 8–76 (41 FR 25059), and 29 CFR Part 1911.

Signed at Washington, D.C. this 22nd day of February 1982.

Thomas G. Ansbro,

Assistant Secretary of Labor.

[FR Doc. 82-5199 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-28-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Big Cypress National Preserve, Florida; Indian Use and Occupancy Regulations

AGENCY: National Park Service, Interior.

ACTION: Extension of Comment Period.

SUMMARY: On November 12, 1981 (46 FR 55709), the National Park Service published proposed rules to define the statutory rights of the Miccosukee and Seminole Tribes of Indians of Florida within the Big Cypress National Preserve. In an effort to allow more time for public participation the Service is reopening the comment period for an additional 30 days.

DATES: The National Park Service will consider all comments on these proposed rules received by March 29, 1982.

ADDRESS: Comments should be directed to: Superintendent, Everglades National Park, P.O. Box 279, Homestead, Florida 33030.

FOR FURTHER INFORMATION CONTACT: Fred Fagergren, Park Manager, Big Cypress National Preserve, Telephone: (813) 695-2000.

SUPPLEMENTARY INFORMATION: The November 12, 1981 proposed rule provides that the Indians be allowed to continue their usual and customary use and occupancy of Federal lands within the preserve, including hunting, fishing, and trapping on a subsistence basis and traditional tribal ceremonials; and further provides for maximum Indian participation in any authorized future revenue-producing visitor services within the preserve. The deadline for comment on the rule is extended for 30 days by this notice.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-5200 Filed 2-25-82; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[SW-5-FRL 2092-4]

Michigan Application for Interim Authorization, Phase I, Hazardous Waste Management Program

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA regulations to protect human health and the environment from the improper management of hazardous waste was published in the Federal Register on May 19, 1980, (45 FR 33063). These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Michigan application for Phase I Interim Authorization, inviting public comment, and giving notice of public hearing to be held on the application.

DATE: Comments on the Michigan Interim Authorization application must be received by April 13, 1982.

PUBLIC HEARING: EPA will conduct a public hearing on the Michigan Interim Authorization application at 2:00 p.m. on March 30, 1982. EPA reserves the right to cancel the public hearing if significant public interest in the hearing is not expressed. The State of Michigan will participate in the public hearing.

ADDRESSES: The public hearing will be held at 2:00 p.m. on March 30, 1982, at: Law Building Auditorium, First Floor, Pine and Ottawa, Lansing, Michigan.

Copies of the Michigan Interim Authorization application are available at the following addresses for inspection and copying by the public during normal business hours:

(1) Michigan Department of Natural Resources, Office of Hazardous Waste Management; Environment Services Division, Stevens T. Mason Building, Allegan and Pine, Lansing, Michigan; Telephone (517) 373-2730.

(2) Michigan Department of Natural Resources, Regional Offices; Telephone (517) 373-2730 for specific addresses and hours.

(3) U.S. Environmental Protection Agency, Region V, Waste Management Division, Waste Management Branch, 111 West Jackson—18th Floor, Chicago, Illinois 60604.

(4) U.S. Environmental Protection Agency, Library, Room 2404, 401 M Street, S.W., Washington, D.C. 20460.

Written comments and notification of intent to provide oral comments at the hearing and requests for transcripts of the hearing should be sent to: Judy Kertcher, Chief, Regulatory Analysis and Information Unit, State Programs and Information Section, Waste Management Branch, Waste Management Division, U.S. Environmental Protection Agency, Region V, 111 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Lillian Bagus, Regulatory Analysis and Information Unit, State Programs and Information Section, Waste Management Branch, Waste Management Division, U.S. Environmental Protection Agency, 111 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6142.

SUPPLEMENTARY INFORMATION: On May 19, 1980, (45 FR 33063), pursuant to the requirements of sections 3001 through 3006 of The Resource Conservation and Recovery Act of 1976, as amended (Act), EPA promulgated Phase I of its regulations to protect human health and the environment from the improper management of hazardous waste. Section 3006 of the act provides for the Authorization of a State to administer and enforce a hazardous waste management program in lieu of the Federal program. EPA Phase I regulations established, among other things: the initial identification and listing of hazardous waste; the standards applicable to generators and transporters of hazardous waste, including a manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits. The regulations also provide two different types of EPA approval of State programs: (1) Interim Authorization which will become effective in phases and which may extend for only 24 months after the final component of Phase II of the Federal program has become effective and (2) Final Authorization. Although for Final Authorization the State must have a program which is "equivalent to" and "consistent with" the full Federal program during Interim Authorization States need programs that are only "substantially equivalent" to the Federal program. Any State may submit evidence of a hazardous waste program existing pursuant to State law and may request Interim Authorization to administer and enforce such a program.

EPA shall grant Interim Authorization if the evidence submitted by a State demonstrates that the State program is substantially equivalent to the Federal program.

On February 5, 1982, the State of Michigan submitted its complete application for Phase I Interim Authorization of its hazardous waste management program. This notice solicits public comments on the State of Michigan's application and its hazardous waste management program. The elements of the Federal program are listed in the May 19, 1980, Federal Register. A full description of the requirements and procedures for Interim Authorization of a State hazardous waste program are listed in 40 CFR Part 123 Subpart F (45 FR 33479), and as amended January 26, 1981, (46 FR 8298). To receive Interim Authorization, a State's hazardous waste management program must be substantially equivalent to the Federal program and must meet the requirements in 40 CFR 123.128. Copies of the State submittal are available for public inspection and comment as noted above. A public hearing is to be held on the submittal, unless significant public interest is not expressed, also as noted above.

Conduct of Hearing

The hearing is intended to provide an opportunity for interested persons to present their views and submit information for consideration by EPA in the decision whether to grant Michigan Interim Authorization for Phase I of the RCRA program.

A panel of EPA employees involved in relevant aspects of the decision will be present to receive the testimony. The hearing will be informally structured. Representatives from the State of Michigan will testify first and present a short overview of the State program. Other commenters will then be called in the order in which their requests were received by EPA.

As time allows, persons who did not sign up in advance but who wish to comment on the State's application for Phase I Interim Authorization will also be given an opportunity to testify. As a general rule, in order to ensure maximum participation and allotment of adequate time for all speakers, participants should limit the length of their statements to 10 minutes.

Preparation of Transcripts

A transcript of the comments received at the hearing will be prepared. To ensure accurate transcription, participants should provide written copies of their statements to the hearing chairperson. Transcripts will be available at cost upon request from the address listed above.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of the Executive Order 12291.

Dated: February 19, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 82-5272 Filed 2-25-82; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6218]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Arizona et al.

Correction

In FR DOC. 81-36281, appearing at page 62099, in the issue of Tuesday, December 22, 1981, please make the following changes:

(1) On page 62107, in the table, for "Ohio", under "Location", for "Covington tributary,", first line, "About 0.0 mile" should be corrected to read, "About 0.1 mile"

(2) On page 62107, in the table, for "Ohio" under "Location", for "Rush Creek", third line, "68" should be corrected to read "668".

(3) On page 62107, in the table, for "Ohio", under "City/town/county", "Licking County" should follow "Kirkersville,", where there is now only space.

(4) On page 62107, in the table, for "Ohio" under last column for feet elevation, for "Rush Creek" in "New Lexington, Perry County", first line, "*875" should be corrected to read, "*857".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-347; RM-3765 and RM-3852]

FM Broadcast Stations in Glenwood and Alexandria, Minnesota; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Channel 257A to Alexandria, Minnesota, in response to a counterproposal filed in BC Docket 81-347 by Principals Three Company. Further information is requested of the proponent.

DATES: Comments must be filed on or before January 4, 1982 and reply comments on or before January 4, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau; (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Further Notice of Proposed Rule Making

Adopted: November 6, 1981.

Released: November 17, 1981.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Glenwood and Alexandria,[1] Minnesota). BC Docket No. 81-347; RM-3765, RM-3852.

1. A Notice of Proposed Rule Making was issued (46 FR 30153, published June 5, 1981) in response to a petition for rule making by Dove Broadcasting, Inc. proposing the assignment of Channel 257A to Glenwood Minnesota. Principals Three Company (Principals) filed a counterproposal [2] urging the assignment of Channel 257A to Alexandria, Minnesota, instead and suggesting that Channel 296A be assigned to Glenwood, Minnesota. In a separate action, the Commission has assigned Channel 296A to Glenwood, Minnesota. Before action can be taken on the proposed channel assignment to Alexandria, however, additional information is needed with regard to the communities precluded by the proposal.

2. Alexandria (population 6,973) [3] is the set of Douglas County (population 22,882). It is served locally by full-time AM Station KXRA, FM Station KXRA (Channel 244A) and FM Station KCMT (Channel 284).

3. According to Principals, Alexandria, Douglas County's largest city, is the center for commercial, cultural and governmental activities. Its population is said to have increased to 7,606 in 1980, representing a ten-year growth rate of approximately 9% over the 1970 population. Principals further claims that Alexandria warrants a third assignment based on its population and volume of commerce.

4. The assignment of Channel 257A to Alexandria will cause preclusion on Channel 254 within 55 miles, Channel 255 within 65 miles, Channel 256 within 105 miles, Channel 257A within 65 miles, Channel 258 within 105 miles, Channel

[1] This community has been added to the caption.

[2] Public Notice was given on August 6, 1981, Report No. 1301.

[3] Population figures are taken from the 1970 U.S. Census.

259 within 65 miles and Channel 269 within 65 miles. Principals is requested to submit in comments to this Notice, a list of communities of over 1,000 population which are precluded by the proposed assignment and to state whether alternate channels are available for those communities.

5. The proposed assignment exceeds the Commission's guidelines for a third FM assignment. Since we are concerned with efficiency of the allocation, we have found it necessary to request that petitioner submit a preclusion study which indicates alternate availability of channels for the precluded communities in order to demonstrate that the proposal represents an efficient use of available channels. See *Mayocoo, Ga.* 47 RR 2d 319 (1980).

6. Since Alexandria is located within 320 kilometers (200 miles) the U.S. Canadian border, the proposed assignment of Channel 257A to Alexandria, Minnesota, requires coordination with the Canadian Government.

7. Comments are invited on the proposal to amend the FM Table of Assignments (§ 73.202(b) of the Commission's rules) with regard to Alexandria, Minnesota, as follows:

City	Channel No.	
	Present	Proposed
Alexandria, Minnesota	264A, and 284.	264A, 257A, and 284.

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before January 4, 1982, and reply comments on or before January 19, 1982.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. *See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.606 and 73.606(b) of the Commission's rules*, 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

(5) *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-5138 Filed 2-25-82; 8:45 am]

BILLING CODE 6712-01-M

OFFICE OF MANAGEMENT AND BUDGET

GENERAL SERVICES ADMINISTRATION

Office of Federal Procurement Policy

48 CFR Parts 1 and 39

41 CFR Chs. 1 and 101

Use of Proposed Federal Acquisition Regulation (FAR) for Publication of Regulations Governing the Management, Acquisition and Use of Automatic Data Processing and Telecommunication (ADP/T)

AGENCIES: Office of Federal Procurement Policy, Office of Management and Budget, and General Services Administration.

ACTION: Notice of intent to incorporate ADP/T provisions in the FAR.

SUMMARY: GSA and OFPP have agreed to use the FAR system as a publication vehicle for ADP/T regulations. GSA will continue to develop ADP/T regulations and will continue to publish them in the Federal Procurement Regulations (FPR) and Federal Property Management Regulations (FPMR) systems until the FAR becomes operative. At that time, they will be consolidated and transferred into the FAR for use by the procurement and contracting community. The intent is to use the FAR to provide, in a single regulation, the GSA directives regarding the ADP/T area.

FOR FURTHER INFORMATION CONTACT: At OFPP: William Maraist, (202) 395-3300; at GSA, Philip Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy, (202) 523-4755; or Roger W. Walker, (202) 566-0194.

SUPPLEMENTARY INFORMATION: 1. The plan for the FAR structure has always included a Part 39 entitled "Automatic Data Processing Equipment Contracting." No further ADP or telecommunications coverage was in the plan.

2. The scope of the FAR is intended to be broad enough to cover front-end acquisition management functions as well as actual purchasing; i.e., to begin at the point when agency needs are established. GSA's coverage of ADP and telecommunications is broader than the FAR, and includes requirements determination and use, as well as procurement and contracting provisions. The FPMR system is used for the former, the FPR system for the latter. Additionally, GSA's regulations in this area address "Federal" agencies as contrasted to "Executive" agencies. The ADP portion of the FPR is applicable to the Department of Defense (DOD). However, Public Law 97-86, the DOD 1982 Authorization Act, reduced the scope of applicability to DOD.

3. In May 1979, development of Part 39 and a companion Part 41 addressing telecommunications was suspended. Public Law 96-83, October 10, 1979, amended the Office of Federal Procurement Policy Act (Pub. L. 93-400, August 30, 1974) to add to Sec. 6:

> Nothing in this Act shall be construed—(1) to impair or affect the authorities or responsibilities conferred by the Federal Property and Administrative Services Act of 1949 with respect to the procurement of automatic data processing and telecommunications equipment and 20 services . . .

4. One of the purposes of the Paperwork Reduction Act of 1980 (Pub. L. 96-511, December 11, 1980), as set forth in 3501 is—

> (5) to ensure that automatic data processing and telecommunications technologies are acquired and used by the Federal Government in a manner which improves service delivery and program management, increases productivity, reduces waste and fraud, . . .

Section 3504(g) of the Act assigns a number of functions to OMB's Office of Information and Regulatory Affairs. Sections 3505(3)(E) and 3513(a) require GSA to provide consultation, advice, and assistance to OMB in planning, review, and evaluation activities. As provided in 3518(d), the Act is not to be interpreted as increasing or decreasing the authority conferred by Pub. L. 89-306 (the "Brooks Act") on the Administrator of General Services, the Secretary of Commerce, or the Director of the Office of Management and Budget. The scope of applicability of the Act to the Department of Defense is reduced as provided in 3502(2).

5. Recognizing that automatic data processing, telecommunications, and office automation technologies are merging, GSA has made special efforts in its regulatory development program to solicit the viewpoints of all agency organizational segments (including procurement personnel) involved in the management, acquisition, and use of ADP/T. The views of outside interested parties have also been sought. These efforts will continue. This procedure is similar to that in FAR Subpart 1.5, Public Participation. Distribution of Part 39 of the FAR will be expanded to include ADP/T agency managers and users. Promulgation will continue in the FPMR and FPR as appropriate until the effective date of the FAR.

6. GSA will develop a modification to Part 1 of the FAR to recognize two aspects of Part 39 that are unique from other portions of the FAR. One, the statutory basis for GSA authorities and responsibilities for the ADP/T provisions in Part 39, as contrasted to the general statutory basis for the FAR. Two, the sole responsibility of GSA for the maintenance of the Part 39 provisions as contrasted to any maintenance scheme that will apply to other portions of the FAR.

7. GSA will develop Part 39 for the FAR, including definition of the scope of the ADP/T provisions, which will place existing FPMR and FPR provisions into the structure with suitable formatting adjustments. FAR Part 39 will incorporate these regulations without substantive change and therefore the FAR issuance will not be published for comments.

Dated: February 22, 1982.

Donald E. Sowle,

Administrator, Office of Federal Procurement Policy, OMB.

Frank J. Carr,

Commissioner, Automated Data and Telecommunications Service, GSA.

[FR Doc. 82-5206 Filed 2-25-82; 8:45 am]

BILLING CODE 3110-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Parts 32, 42, and 47

Loan Guarantees for Defense Production, Traffic and Transportation Management, and Contracts for Transportation or for Transportation-Related Services

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of Availability and request for comment on draft Federal Acquisition Regulations.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment a segment of the draft Federal Acquisition Regulation (FAR). Availability of additional segments for comment will be announced on later dates. The FAR is being developed to replace the current system of procurement regulations.

DATE: Comments must be received on or before April 16, 1982.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William Maraist, Assistant Administrator for Regulations, Office of Federal Procurement Policy, 726 Jackson Place, NW., Room 9025, Washington, D.C. 20503. Federal agency requests must be directed to the FAR Agency Contact Point (see Federal Register, Vol. 46, No. 50, March 16, 1981, p. 16818 for list).

FOR FURTHER INFORMATION CONTACT: William Maraist, (202) 395-3300.

SUPPLEMENTARY INFORMATION: The fundamental purposes of the FAR are to reduce proliferation of regulations; to eliminate conflicts and redundancies; and to provide an acquisition regulation that is simple, clear and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, the notice of availability of draft regulations will summarize the section or part available for review and describe any new policies therein.

The following parts of the draft Federal Acquisition Regulation are available upon request for public and Government agency review and comment.

PART 32—CONTRACT FINANCING

Subpart 32.3—Loan Guarantees for Defense Production

This subpart prescribes policies and procedures for designated agencies' guarantees of loans made by private

financial institutions to borrowers performing contracts related to national defense. Congress has authorized Federal Reserve Banks to act, on behalf of guaranteeing agencies, as fiscal agents of the United States in making of loan guarantees for defense production (Sec. 301, Defense Production Act of 1950, 50 U.S.C. App. 2091).

PART 42—CONTRACT ADMINISTRATION

Subpart 42.14—Traffic and Transportation Management

This subpart prescribes policies and procedures regarding traffic and transportation management. It includes volume movements within the continental U.S., shipping documents covering f.o.b. origin shipments, U.S. Government bills of lading (GBL), contractor-prepaid commercial bills of lading, shipments by parcel post or other classes of mail, discrepancies incident to shipment of supplies, and reports of shipment.

PART 47—TRANSPORTATION

Subpart 47.2—Contracts for Transportation or for Transportation-Related Services

This subpart prescribes policies and procedures for the acquisition of freight transportation (including local drayage) from rail, motor (including bus), domestic water carriers (including inland, coastwise, and intercoastal), and freight forwarders, and transportation-related services including, but not limited to, stevedoring, storage, packing, marking, and ocean freight forwarding.

Dated: February 18, 1982.

LeRoy J. Haugh,

Associate Administrator for Regulatory Policies and Practices.

[FR Doc. 82-5041 Filed 2-25-82; 8:45 am]
BILLING CODE 3710-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Ch. I

Humane and Healthful Transport of Wild Animals and Birds to the United States; Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Service announces a public meeting to receive information and comments with regard to the development of regulations designed to assure the humane and healthful transport of wild animals and birds to the United States.

DATE: The public meeting will be held on Thursday, March 25, 1982, from 9:30 a.m. to 12 noon.

ADDRESSES: (1) The public meeting will be held in rooms 7000 A and B of the Main Interior building of the Department of Interior, 18th and C Streets, NW., Washington, D.C.

(2) Written information and comments should be sent to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

Note.—Written information and comments will be open to public inspection during normal business hours at the Federal Wildlife Permit Office, Room 620, 1000 N. Glebe Road, Arlington, VA 22201.

(3) Requests to be placed on the speakers list should be addressed to: The Federal Wildlife Permit Office (MOB), P.O. Box 3654, Arlington, VA 22203, or telephone: (703) 235–2418.

FOR FURTHER INFORMATION CONTACT: Richard M. Parsons, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, P.O. Box 3654, Arlington, VA 22203, telephone: (703) 235–2418.

SUPPLEMENTARY INFORMATION: Recently, the Congress passed and the President signed into law the Lacey Act Amendments of 1981 (Pub. L. 97–79, 95 Stat. 1073). Section 9 of the amendments shifts authority for prescribing requirements for the humane and healthful transport of wild animals and birds from the Secretary of the Treasury to the Secretary of the Interior, any such regulations to be promulgated within 180 days of the effective date of the Act. (The regulations which were promulgated by the Secretary of the Treasury are found in 19 CFR 12.26.)

The legislative history of these amendments indicates that any such regulations to be promulgated should not cover species and activities that are already the subject of humane care and handling regulations pursuant to some other Federal statute. The Service has asked the Assistant Solicitor, Fish and Wildlife for an opinion indicating which other such Federal regulations are extant. In a similar vein, the Service is aware that regulations governing transport of wild animals and birds to the United States should take into account the distinct possibility that transport will continue after importation, in interstate commerce and that at least the Department of Agriculture's regulations (9 CFR Part 3) implementing the mandate of the Animal Welfare Act could apply to the continuation. Thus the Service believes any regulations it promulgates should take into account the need to assure to the extent possible that they operate in conjunction with other Federal regulations in a manner that would not be detrimental to the animals subject to Federal controls.

The United States is a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES") to which approximately 73 nations belong. CITES controls international trade in certain species which are or may become threatened with extinction. CITES provides for biennial meetings of the "Conference of the Parties" to, among other things, review its implementation and make recommendations for improving the effectiveness of CITES.

At the most recent of these meetings, the parties adopted a set of "Guidelines for Transport and Preparation for Shipment of Live Wild Animals and Plants" to assist authorized permit issuing authorities (Management Authorities) in determining whether living specimens will be so prepared and shipped as to minimize the risk of injury, damage to health, or cruel treatment. A subcommittee of the Conference of the Parties is developing a system which would facilitate reporting of specimens stressed in transport to the proper authorities. These guidelines were designed to cover all types of transport of wildlife and plant forms and could provide a basis for drafting the subject regulations. The Guidelines may be purchased for $13.00 plus postage from: UNIPUB, 345 Park Avenue South, New York, N.Y. 10010.

Another set of guidelines currently in use are the "IATA Live Animals Regulations" which are produced by the International Air Transport Association to govern, by private agreement among participating air carriers, shipments of live animals in international air transport. Copies may be purchased from: IATA, 1000 Sherbrooke St. W., Box 550, International Aviation Square, Montreal PQ, Canada H3A 2RU.

Announcement of Public Meeting

The Service announces that it will hold a public meeting on Thursday, March 25, 1982, in rooms 7000 A and B of the main building of the Department of the Interior, 18th and C Streets, N.W., Washington, D.C. for the purpose of receiving information and comments from the public as to the structure and content of any regulations developed by the Service which are necessary for the transport to the United States of wild animals and birds under humane and healthful conditions.

Written statements may be submitted to the Service before or at the meeting. Appointments to speak at the meeting may be made with the Federal Wildlife Permit Office (see **ADDRESSES** above). Participants without prior appointments will be given an opportunity to speak to the extent time allows following speakers with appointments.

This notice was prepared by Arthur Lazarowitz, Federal Wildlife Permit Office.

Dated: February 16, 1982.

Robert A. Jantzen

Director, Fish and Wildlife Service.

[FR Doc. 82-5108 Filed 2-25-82; 8:45 am]
BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 47 No. 39
Friday, February 26, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Judicial Review; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–163), notice is hereby given of a meeting of the Committee on Judicial Review of the Administrative Conference of the United States, to be held at 10:00 a.m., Friday, March 12, 1982, at the offices of Covington & Burling, Main Conference Room (11th Floor), 1201 Pennsylvania Avenue, NW., Washington, D.C.

The Committee will meet to discuss the nature of any response by the Committee to proposed recommendations of the ACUS Committee on Regulation of Business concerning judicial review of agency decisions to withhold or release confidential business information under the Freedom of Information Act and the standard of judicial review of agency decisions under FOIA generally.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting, contact Mary Candace Fowler (202–254–7095). Minutes of the meeting are available on request.

Richard K. Berg,
General Counsel.
February 23, 1982.

[FR Doc. 82-5088 Filed 2-25-82; 8:45 am]
BILLING CODE 6110-01-M

ADVISORY COMMITTEE ON FEDERAL PAY

Continuation of Committee; Public Inquiry

This is to request any expressions from the public as to the desirability of continuation of the Advisory Committee on Federal Pay.

The Advisory Committee on Federal Pay was established by the Federal Pay Comparability Act of 1970. It consists of three experts on pay and labor relations who are Federal employees only for the time that they serve on this Committee. The Committee serves as an independent third party in advising the President on salary adjustments for Federal white-collar employees. In making its recommendations on pay increases for these Federal employees, the Committee considers pay in the private sector, the view of Federal employee organizations, government officials and pay experts.

Any comments should be sent in writing to the Advisory Committee on Federal Pay, Suite 205, 1730 K Street, NW., Washington, D.C. 20006, by March 23. Any such communications will be incorporated in the report that the Advisory Committee makes to the Administrator of GSA.

Jerome M. Rosow,
Chairman.

[FR Doc. 82-5111 Filed 2-25-82; 8:45 am]
BILLING CODE 6820-AR-M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

1982 Peanut Program; Determination Regarding a Loan and Purchase Program for the 1982 Crop of Peanuts

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of determination.

SUMMARY: This Notice of Determination sets forth, effective with respect to the 1982 crop of peanuts the following: (1) the national average level of support for quota peanuts, (2) the national average level of support for additional peanuts, and (3) the Commodity Credit Corporation (CCC) export edible sales policy for 1982-crop additional peanuts which are pledged as collateral for a price support loan. This determination is to satisfy the requirements of Section 108A of the Agricultural Act of 1949, as amended, (hereinafter referred to as the "Act"), and to provide producers with information which is needed in order to make financial plans in accordance with the program provisions.

EFFECTIVE DATE: February 25, 1982

FOR FURTHER INFORMATION CONTACT: Gypsy Banks, Agricultural Economist, Analysis Division, ASCS, USDA, Room 3732-South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–5953. The Final Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This Notice of Determination has been reviewed under USDA procedures required by Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major." It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, industries, Federal, State or local government or geographical regions, or (3) significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this Notice of Determination applies to are: Title—Commodity Loan and Purchases; Number—10.051 as set forth in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development; therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since the Department of Agriculture is not required by 5 U.S.C. or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

A description of the applicable statutory authority requiring the

determinations set forth in this notice, as well as the pertinent data relating to these determinations, are set forth below.

Section 108A(1) of the Act provides that the Secretary shall make price support available to producers through loans, purchases, or other operations on quota peanuts of the 1982 crop. The Act also provides that the national average quota support rate for the 1982 crop of quota peanuts shall be the national average cost of production, including the cost of land on a current value basis as estimated by the Secretary, but not less than 27.5 cents per pound, farmers stock basis.

The determination of the national average loan level for 1982-crop additional peanuts is required by Section 108A of the Act to be made by the Secretary no later than February 15, 1982. In addition, the determination of the national average support level for 1982-crop quota peanuts and the minimum CCC export edible sales price are being made at this time in order to allow peanut producers an opportunity to make financial plans in accordance with the program provisions. Accordingly, it has been determined that no further public rulemaking is required with respect to these determinations which shall become effective upon date of filing with the Director, Office of the Federal Register.

Determinations

After taking into consideration the applicable statutory provisions, the following determinations are being made with respect to the 1982 crop of peanuts:

A. *Applicability.* The support prices specified herein apply to 1982 crop farmers stock peanuts in bulk or in bags, net weight basis, eligible for price support under the General Price Support Regulations at 7 CFR Part 1446.

B. *National average level of support for quota peanuts.* The national average level of support for 1982 crop quota peanuts is $550 per ton.

The cost of production for 1982-crop peanuts was calculated using the three categories of land allocation (composite current value, composite acquisition value, and current land value). Details of these costs are included in the Final Regulatory Impact Analysis.

Because all three methods of calculating peanut production costs for the 1982 crop are estimated to be less than the minimum level of support required by Section 108A of the Act, the national average support level for 1982-crop peanuts shall be the statutory minimum of 27.5 cents per pound or $550 per ton.

C. *National average level of support for additional peanuts.* The national average level of support for 1982-crop additional peanuts is $200 per ton.

Section 108A(1) of the Act provides that the Secretary shall make price support available to producers through loans, purchases, or other operations on 1982-crop additional peanuts at such level as the Secretary determines to be appropriate, taking into consideration certain factors. The Act further provides that the Secretary shall establish the level of support for additional peanuts at such level which is estimated by the Secretary to ensure that there are no losses to CCC on the sale or disposal of such peanuts. Additional peanuts are defined in the Act as the following: (A) Any peanuts marketed from a farm for which a farm poundage quota has been established and that are in excess of the quota marketings from such farm; and (B) all peanuts marketed from a farm for which no farm poundage quota has been established. The Act requires that the level of support for 1982-crop additional peanuts shall be announced no later than February 15, 1982. In determining the level of support for additional peanuts of $200 per ton, the Secretary took into consideration the following factors:

1. *Demand for peanut oil and meal.* With the 10 percent increase in 1981–82 peanut supplies, peanuts available for crushing are expected to be up by 49 percent from the 307,500 tons crushed last season. Peanut oil prices could range from 24 cents to 30 cents per pound with an expected average of about 27 cents per pound and peanut meal prices are expected to average about $190 per ton, compared with an estimated 20 cents per pound and $200.00 per ton, respectively, for the 1981–82 marketing year.

2. *Expected prices of other vegetable oils and protein meals.* In 1981–82 world aggregate production of oilseeds is estimated to be 181.2 million tons with peanuts accounting for about 10.6 percent of the total. Because of soybean dominance of the total supply—soybeans account for about 51.2 percent of aggregate world production of oil crops—they will lead the demand-supply-price patterns for oilseeds. While 1981–82 U.S. soybean supplies will rebound from last season's drought-reduced level, the use of soybeans and soybean products may gain only moderately as demand remains weak. This supply-demand situation will push prices down throughout the soy complex. In 1981–82 soybean stocks are expected to build from last year's levels and probably be near the record 1979–80 level. In 1981–82 soybean oil prices are expected to range from 18 to 22 cents per pound, about 1 to 5 cents per pound below 1980–81. Soybean meal prices are expected to range from $175 to $195 per ton, $23 to $43 below 1980–81.

In 1982–83, supplies of soybeans and soybean products are projected to remain high. Demand for meal and oil is expected to continue to show a pattern of strengthening as general economic conditions improve. Soybean oil prices are projected to 8.8 to 30.8 percent and soybean meal prices 2.8 to 14.3 percent over expected 1981–82 levels.

3. *Demand for peanuts in foreign markets.* The demand for U.S. peanuts in foreign markets is expected to remain strong. The U.S. is expected to supply 462,500 tons to the export market in the 1982 marketing year, a 23 percent increase from the 375,000 tons expected in 1981–82.

In addition, to consideration of the above factors, the law also provides that the support rate must be established at a level estimated to insure no loss to CCC from the sale or disposal of additional peanuts placed under loan. In order to determine a loan rate to ensure no loss to CCC, net gains and losses on additional loan pools must be considered. Factors influencing net gains and losses on these pools include initial loan outlays, costs to CCC (for such items as inspection, storage, shrinkage, and fumigation), and projected prices on CCC sales for domestic edible, export edible and crushing, and projected net gains or losses for the quota loan pool. The Final Regulatory Impact Analysis examines these factors in detail.

In addition, this level of support for additional peanuts is projected to result in no loss to CCC on additional loan peanuts and is not expected to adversely affect producer income.

D. *Minimum CCC export edible sales price for additional peanuts pledged as collateral for a price support loan.* The minimum CCC export edible sale price with respect to additional peanuts pledged as collateral for a price support loan is $475 per ton.

The announcement of a minimum CCC export edible sales price with regard to such peanuts is discretionary with the Secretary. This announcement is being made at this time in order to give handlers and growers adequate information on which to base export contracts for additional peanuts.

If the minimum price is established too high, it discourages export contracting between handlers and growers and encourages the production of additional peanuts for the loan program on the assumption that the

minimum sales price is the price growers will receive for their loan peanuts. The opposite may be the case, however, since a misjudgement in the price of edible peanuts in the export market could result in CCC losing edible sales and having to crush the loan inventory. In such case, growers would only receive the additional loan rate. Conversely, if the minimum sales price is too low, returns from exports sales will not be maximized and grower income will be reduced, since export contracts between handlers and growers are generally based on the CCC minimum sales price.

Accordingly, it has been determined that establishing a minimum CCC export edible sales price at $475 per ton for additional peanuts pledged as collateral for a price support loan will maintain farm income on additional peanuts and will minimize risk of loss from the export sales of additional peanuts.

(Secs. 106A, 407, 63 Stat. 1051, as amended (7 U.S.C. 1445c, 1427))

Signed at Washington, D.C., on February 23, 1982.

John R. Block,

Secretary.

[FR Doc. 82-5100 Filed 2-25-82; 8:45 am]

BILLING CODE 3410-05-M

Rural Electrification Administration

Mt. Wheeler Power, Inc.; Finding of no Significant Impact

The Rural Electrification Administration (REA) has made a Finding of No Significant Impact (FONSI) in connection with proposed financing assistance to the Mt. Wheeler Power, Inc., (Wheeler) for 83 km (53 mi) of 69 kV transmission line, related substation facilities and 525 km (326 mi) of 14.4/29.9 kV distribution line. The proposed construction would be in Lander, Eureka and Nye Counties, Nevada.

Wheeler prepared a Borrower's Environmental Report (BER) and based on this BER and other support documents, REA prepared an Environmental Assessment which concludes that approval of the project does not represent a major Federal action that will significantly affect the quality of the human environment and, in accordance with REA Bulletin 20-21:320-21, has made a FONSI.

Alternatives discussed in the BER are no action, alternative sites for the substation and alternative routes for the transmission and distribution lines.

Copies of the FONSI, REA's Environmental Assessment and Wheeler's Borrower's Environmental Report may be obtained from the office of the Director, Distribution Systems Division, Rural Electrification Administration, South Agriculture Building, Washington, D.C. 20250, or may be reviewed at the office of Mt. Wheeler Power Inc., P.O. Box 1110, East Ely, Nevada 89310.

This Program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 19th day of February 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-5225 Filed 2-25-82; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

English Coulee Watershed, North Dakota; Intent To Prepare an Environmental Impact Statement

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

FOR FURTHER INFORMATION CONTACT: J. Michael Nethery, State Conservationist, Soil Conservation Service, Third and Rosser Avenue, Bismarck, North Dakota 58502, telephone (701) 255-4011, extension 421.

Notice: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the English Coulee Watershed, Grand Forks County, North Dakota.

Pursuant to 7 CFR 650.7(a), J. Michael Nethery, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The project concerns a plan for watershed protection and flood prevention. Alternatives under consideration to reach these objectives include systems for conservation land treatment, nonstructural measures, earth dam, and floodway.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement. A meeting will be held at 2:00 p.m., Wednesday, March 3, 1982, in the Grand Forks Armory, Grand Forks, North Dakota, to determine the scope of the evaluation of the proposed action. Further information on the proposed action or the scoping meeting may be obtained from J. Michael Nethery, State Conservationist, at the above address or telephone (701) 255-4011, extension 421.

Dated: February 16, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

J. Michael Nethery,

State Conservationist.

[FR Doc. 82-4976 Filed 2-25-82; 8:45 am]

BILLING CODE 3410-16-M

Spring Valley Watershed Critical Area Treatment RC&D Measure, Wis.

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Cliffton A. Maguire, State Conservationist, Soil Conservation Service, 4601 Hammersley Road, Madison, Wisconsin 53711, telephone (608) 264-5351.

NOTICE: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council of Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Spring Valley Watershed Critical Area Treatment RC&D Measure, Pierce County, Wisconsin.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Cliffton A. Maguire, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns critical area treatment. The planned works of improvement include a grade stabilization structure. Conservation practices include grassed terraces, critical area seeding, contour farming and crop residue use.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Cliffton A. Maguire. An environmental impact appraisal has been prepared and sent to various Federal, state, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until March 20, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects is applicable)

Dated: February 16, 1982.

Cliffton A. Maguire,

State Conservationist.

[FR Doc. 82-5071 Filed 2-25-82; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

February 23, 1982.

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Feb. 16, 1982	40458	Pacific East Air, Inc., c/o H. Stephen Hostetler, 333 Bayside Drive, Newport Beach, California 92660. Application of Pacific East Air, Inc. pursuant to Section 401 of the Act, and Subpart Q of the Board's Procedural Regulations requests issuance of a certificate of public convenience and necessity which would authorize it to engage in scheduled air transportation of passengers and property between the following points: Terminal point: Los Angeles, California; Intermediate points: Honolulu, Hawaii; Newark, New Jersey. Conforming Applications, motions to modify scope, and Answers may be filed by March 16, 1982.
Feb. 17, 1982	40462	Harry R. Davis d/b/a Sea Coast Airways, Inc., 85A Sankaple Lane, Stratford, Connecticut 06497. Application of Harry R. Davis d/b/a/ Sea Coast Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to engage in Scheduled Air Transportation of persons, property and mail as follows: (a) Between any point in any State in the United States or the District of Columbia and any other point of any State in the United States or the District of Columbia; and (b) In intrastate and interstate air transportation pursuant to contracts with the Department of Defense; and (c) Applicant requests permanent authority to engage in all-cargo air service as defined in Section 101(11) of the Federal Aviation Act, as amended. Conforming Applications, motions to modify scope, and Answers may be filed by March 17, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-5226 Filed 2-25-82; 8:45 am]

BILLING CODE 6320-01-M

Order Concerning Mail Rates

Order 82-2-105, February 22, 1982, Dockets 37618 and 37676, proposes increased intra-Hawaii final service mail rates for the periods July 1 through December 31, 1981, and January 1 through June 30, 1982.

Copies of this order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW, Washington, D.C.20428. Persons outside the Washington metropolitan area may send a postcard request.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-5225 Filed 2-25-82; 8:45 am]

BILLING CODE 6320-01-M

Commuter Fitness Determination

The Board is proposing to find the following carriers fit willing and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that aircraft used in this service conform to applicable safety standards.

Order	Applicant	Response date
82-2-74	Airspur, Inc	Mar. 4, 1982.
82-2-81	Eagle Commuter Airlines, Inc	Mar. 8, 1982.
82-2-84	Aerosun International, Inc	Mar. 8, 1982.
82-2-101	Thunderbird Aviation, Inc. and Thunderbird Aircraft Co.	Mar. 11, 1982.

All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed in Attachment A of the respective orders and file response or additional data for Orders 82-2-74, 82-2-84 and 82-2-101 with the Special Authorities Division, Room 915; for Order 82-2-81 with the Essential Air Services Division, Room 921, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

The complete text of the orders is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request to the above address.

FOR FURTHER INFORMATION CONTACT:

For Orders 82-2-74 and 82-2-84: Ms. Patti Szrom, (202) 673-5068; for Order 82-2-81, Mr. Patrick V. Murphy, (202) 673-35408; and for Order 82-2-101, Mr. John McCamant, (202) 673-5082, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428.

By the Civil Aeronautics Board: February 22, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-5085 Filed 2-25-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 8-82]

Foreign-Trade Zone 57, Mecklenburg County, North Carolina; Application for Expansion

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the North Carolina Department of Commerce (NCDC), a State public agency and grantee of Foreign-Trade Zone 57 in the Charlotte Customs port of entry area, requesting authority to expand the zone to include an industrial park site. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on February 18, 1982. The applicant is authorized to make this proposal under Chapter 53–C of the General Statutes of North Carolina.

On April 28, 1980, NCDC received authority from the Board to establish a foreign-trade zone project at two sites in the Charlotte area (Board Order 156, 45 FR 30668, 5–6–80). Site I is a 100,000 square foot warehouse at 12425 Granite Street in Mecklenburg County. Site II involves a nearby 126,000 square foot warehouse at 14520 Carowinds Boulevard, also in Mecklenburg County. The project became operational in June 1980, and in its first full fiscal year of operation (F.Y. 1981), it served 38 firms and received some $868,000 in merchandise. Projections for the current fiscal year indicate the zone will serve 100 firms and receive a million dollars in merchandise. Zone operations are currently limited to warehousing, distribution, and light processing operations.

Based on a growing demand for zone space by firms requiring separate facilities for manufacturing and processing, the applicant requests zone status for an industrial park site covering 85 acres within the Arrowood industrial development project on Carowinds Boulevard at the intersection of Route 49 in Mecklenburg County (Site III). This facility will provide space for operations which cannot be accommodated at Sites I and II, and standby space for future zone development. Distribution Technology, Inc., which operates Sites I and II, will also operate the proposed site as an integral part of the overall zone project.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report to the Board. The committee consists of Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Charles W. Winwood, Director (Inspection and Control), U.S. Customs Service, Region IV, 99 S.E. 5th Street, Miami, Florida 33131; and Colonel Robert A. Hughes, District Engineer, U.S. Army Engineer District, Wilmington, P.O. Box 1890, Wilmington, North Carolina 28402.

Comments concerning the proposed zone expansion are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before March 31, 1982.

A copy of the application is available for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, 3224 Piper Lane, P.O. Box 27085, Charlotte, North Carolina 28219

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Room 3721, Washington, D.C. 20230

Dated: February 23, 1982.

John J. Da Ponte, Jr.,

Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 82-5284 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Bigelow Laboratory for Ocean Science; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 81–00317. Applicant: Bigelow Laboratory for Ocean Science, McKnown Point, West Boothbay Harbor, Maine 04575. Article: Multi-channel Flow Colorimeter with Accessories. Manufacturer: ChemLab Instruments, Ltd., United Kingdom. Intended use of article: See Notice on page 42895 in the Federal Register of August 28, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is a multi-channel colorimeter with a high intensity light source (quartz halogen) and a wavelength range of 540–620 nanometers. The National Bureau of Standards advises in its memorandum dated December 9, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5287 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

Jet Propulsion Laboratory; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 81–00275. Applicant: Jet Propulsion Laboratory, 4800 Oak Grove Drive, Pasadena, California 91103. Article: Millimeter Wavelength Carcinotron, CO 10.1/F–4178. Manufacturer: Thomson CSF, France. Intended use of article: See Notice on page 41543 in the Federal Register of August 17, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a frequency range of 270–290 gigahertz. The National Bureau of Standards advises in its memorandum dated December 11, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5286 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

Massachusetts Institute of Technology; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 81–00282. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. Article: Neutral Beam Atom Source with Accessories. Manufacturer: Ion Tech., Ltd., United Kingdom. Intended use of article: See Notice on page 41544 in the Federal Register of August 17, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article generates neutral argon atoms of sufficient energy for mass spectrometry. The Department of Health and Human Services advises in its memorandum dated November 10, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientic value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5287 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

Michigan Technological University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 81–00310. Applicant: Michigan Technological University, Department of Metallurgical Engineering, Houghton, MI 49931. Article: Jung Ultra-Milling Device for Non-ferrous Materials complete with Accessories. Manufacturer: Jung, West Germany. Intended use of article: See Notice on page 42895 in the Federal Register of August 25, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is capable of producing metal and metal alloy specimens with a surface roughness of less than 0.1 μm. The National Bureau of Standards advises in its memorandum dated December 14, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Program Staff.

[FR Doc. 82-5288 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

Smithsonian Institution; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 81–00321. Applicant: Smithsonian Institution, Department of Anthropology, National Museum of Natural History, Mail Stop 112, Washington, D.C. 20560. Article: Electromagnetic Terrain Conductivity Meter, EM 31 with Spare Parts Kit. Manufacturer: Geonics Limited, Canada. Intended use of article: See Notice on page 43729 in the Federal Register of August 31, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for

such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides resistivity mapping (variations of soil resistivity, either laterally or with depth). The National Bureau of Standards advises in its memorandum dated December 29, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no comparable domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5201 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

Solar Energy Research Institute; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 81-00280. Applicant: Solar Energy Research Institute, 1617 Cole Blvd., Golden, CO 80401. Article: Program Plus Ampmeter with Accessories. Manufacturer: Hewlett Packard, Japan. Intended use of article: See Notice on page 40347 in the Federal Register of August 7, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides measurement of dark current as a function of temperature and quasi-static capacitance/voltage. The National Bureau of Standards advises in its memorandum dated December 4, 1981 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument, apparatus or combination of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5202 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

SRI International; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 81-00338. Applicant: SRI International, Atmospheric Science Center, 333 Ravenswood Avenue, Menlo Park, CA 94025. Article: HF/DF Laser, Model TE-270 with Accessories. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: See Notice on page 42082 in the Federal Register of August 19, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has an energy output of at least 0.7 joule at wavelengths of 2.5–2.8 millimicrons (μm) (HF) and 3.5–4 μm (DF). The National Bureau of Standards advises in its memorandum dated December 30, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5203 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

University of California; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 81-00345. Applicant: University of California, San Diego, Department of Biology, C-016, La Jolla, CA 92093. Article: Voltage-clamp Unit. Manufacturer: Jens Mayers, West Germany. Intended use of article: See Notice on page 45074 in the Federal Register of September 18, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article, a specialized clamp for use with microelectrodes, provides a short time constant of 12 microseconds and a high input impedance of 10^{12} ohms. The Department of Health and Human Services advises in its memorandum dated December 1, 1981 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5204 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

The University of Chicago; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 81-00268. Applicant: The University of Chicago, 5540 S. Ellis Avenue, Chicago, IL 60637. Article: Electron Impact Ionization Source for a Mass Spectrometer. Manufacturer: Swiss Federal Institute of Technology, Switzerland. Intended Use of Article: See Notice on page 41125 in the Federal Register of August 14, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is capable of high sensitivity (1×10^{-8} A/torr, Ar) at low emission (250 μ A). The National Bureau of Standards advises in its memorandum dated December 29, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5205 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

University of Colorado; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Docket No. 81-00065. Applicant: University of Colorado, Joint Institute for Laboratory Astrophysics,. Boulder, Colorado 80309. Article: Excimer Laser-Pumped Dye Laser System, EMG 102. Manufacturer: Lambda Physik GmbH & Co., KG, West Germany. Intended use of article: See Notice on page 31465 in the Federal Register of June 16, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States, at the time U.S. Customs received this application (December 15, 1980).

Reasons: The foreign article provides a high repetition rate of 100 pulses per second. The National Bureau of Standards advises in its memorandum dated September 10, 1981 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time Customs received this application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5206 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

University of Colorado; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Docket No. 80-00121. Applicant: University of Colorado, Purchasing Department, Health Sciences Center, 4200 E. 9th Avenue, Denver, Colorado 80262. Article: Helium Dewar, Model MGD-203. Manufacturer: CTF Systems, Inc., Canada. Intended Use of Article: See Notice on page 15247 in the Federal Register of March 10, 1980.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article offers a helium capacity of three liters, 84 hours minimum hold time, helium evaporation rate of not more than one liter/day, experimental space of 45±5 millimeters (mm), a unit height not to exceed 750mm and low noise insulation and walls so that no magnetic Johnson noise eddy-current induced fields can be observed with state-of-art SQUID gradiometer (at the levels of 10^{-14} T.√Hz in the frequency range of 1 Hz to √ 100 Hertz). The Department of Health and Human Services advises in its memorandum dated December 1, 1981 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or

apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5284 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

University of Illinois; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Docket No. 81-00320. Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, 506 South Wright Street, Urbana, Illinois 61801. Article: Virtual Objective Aperture for Model HB5 Electron Microscope. Manufacturer: VG Microscopes Ltd., United Kingdom. Intended Use of Article: See Notice on page 43729 in the Federal Register of August 31, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to an accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5344 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

The University of Iowa; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 81-00337. Applicant: The University of Iowa, Hospitals and Clinics, Newton Road, Iowa City, Iowa 52252. Article: Single-Photon Emission Tomography System with Accessories. Manufacturer: Medimatic A/S, Denmark. Intended Use of Article: See Notice on page 45791 in the Federal Register of September 15, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article displays regional cerebral blood flow using a non-invasive radioactive tracer technique. The Department of Health and Human Services advises in its memorandum dated December 1, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5229 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

University of Kansas; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 81-00343. Applicant: University of Kansas, College of Health Sciences, 39th and Rainbow, Kansas City, KS 66103. Article: Automatic Recording Spectropolarimeter, Model J500-A. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended Use of Article: See Notice on page 45074 in the Federal Register of September 10, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has the capability of providing circular dichroism spectra and rapid switching between right and left polarized light to 50,000 times per second. The Department of Health and Human Services advises in its memorandum dated December 1, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5228 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

University of Texas Health Science Center; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Docket No. 81-00328. Applicant: The University of Texas Health Science Center at Dallas, purchasing Department, 5323 Harry Hines Blvd., Dallas, Texas 75235. Article: Electrophysiological Stereotaxic Equipment with Accessories. Manufacturer: AB Transvertex, Sweden. Intended use of article: See Notice on page 35327 in the Federal Register of July 8, 1981..

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is equipped with a manipulator frame specifically designed for study of the feline spinal cord. The Department of Health and Human Service advises in its memorandum dated October 21, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5231 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

Stanford University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 81-00283. Applicant: Stanford University, 651 Welch Road, Palo Alto, CA 94305. Article: Self Boring Pressuremeter, Mark 6. Manufacturer: Cambridge Institute, United Kingdom. Intended Use of Article: See Notice on page 40247 in the Federal Register of August 7, 1981.

Comments: No comments have have received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides on site measurements of soil in three directions to 2,800 kilonewtons per square millimeter. The National Bureau of Standards advises in its memorandum dated December 2, 1981 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus, used singly or in combination, of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5221 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

University of Wisconsin; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 81-00197. Applicant: University of Wisconsin, 1415 W. Johnson Drive, Department of Chemical Engineering, Madison, WI 53706. Article: Small-angle X-ray Camera System. Manufacturer: Anton Paar KG, Austria. Intended use of article: See Notice on page 31484 in the Federal Register of June 16, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is a small-angle camera system able to accept a position sensitive detector and having the capability to study extremely small samples in air (10–1000 Angstroms). The National Institutes of Health and National Bureau of Standards advise in their memoranda dated July 23, 1981 and December 28, 1981, respectively, that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5282 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

University of Wisconsin; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Docket No. 81-00291. Applicant: University of Wisconsin, Chemical Engineering Department, 1415 Johnson Drive, Madison, WI 53706. Article: Rotating Anode X-Ray Generator System GX-21. Manufacturer: Marconi Avionics Ltd., United Kingdom. Intended use of article: See Notice on page 41545 in the Federal Register of August 17, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a focused spot of minimal size (0.1xmm) and a rotating target for maximum X-ray beam intensity. The Department of Health and Human Services advises in its memorandum dated November 10, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5280 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

University of Wisconsin; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Docket No. 81-00161. Applicant: University of Wisconsin, Nuclear Engineering Department, 1500 Johnson Drive, 205 Engineering Research Building, Madison, WI 53706. Article: Spectrum Analyzer, Model W1745. Manufactuer: MESL-RACAL, Ltd., United Kingdom. Intended use of article: See Notice on page 22631 in the Federal Register of April 20, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a resolution of 80 kilohertz at input frequencies of 0-6 megahertz. The National Bureau of Standards advises in its memorandum dated January 22, 1982 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5283 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

University of Wisconsin-Madison; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 81-00278. Applicant: University of Wisconsin-Madison, Plasma Physics, 1150 University Avenue, Madison, WI 53706. Article: 140 GHz Klystron, Model VRT 2121A. Manufacturer: Varian Associates of Canada, Ltd., Canada. Intended use of article: See Notice on page 41544 in the Federal Register of August 17, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides high frequencies (CF = 140 GHz) permitting measurement of plasma densities to 2.0×10^{14} cm^{-3}. The National Bureau of Standards advises in its memorandum dated December 14, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Education and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5349 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

Subcommittee on Export Administration of the President's Export Council; Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Subcommittee on Export Administration of the President's Export Council will be held on Thursday, March 25, 1982.

The Subcommittee on Export Administration was initially established on June 1, 1976. Executive Order 12258 of December 31, 1980, continued the Subcommittee until December 31, 1982.

The Subcommittee provides advice on matters pertinent to those portions of the Export Administration Act of 1979 that deal with United States policies of encouraging trade with all countries with which the United States has diplomatic or trading relations, and of controlling trade for national security and foreign policy reasons.

TIME AND PLACE: The meeting will take place at 1:30 p.m., March 25, 1982, at the Main Commerce Building, Room 4830, 14th Street and Constitution Avenue, NW., Washington, D.C.

AGENDA: Executive Session. Discussion of matters properly classified under Executive Order 12065, dealing with U.S. and COCOM export control program developments and their related strategic criteria.

SUPPLEMENTARY INFORMATION: The Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 8, 1982, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Exective Session will be concerned with matters listed in 5 U.S.C. 522b(c)(1) and properly classified under Executive Order 12065.

A copy of the Notice of Determination to close the Subcommittee's meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, telephone: (202) 377-4217.

FOR FURTHER INFORMATION CONTACT: Ms. Debbie Kappler, Office of the Assistant Secretary for Trade Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-1455) or Mr. Jeffrey Jackson, President's Export Council, Room 1215 (202/377-1125).

Dated: February 22, 1982.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

[FR Doc. 82-5197 Filed 2-25-82; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Metric System of Measurement; Interpretation and Modification of the International System of Units for the United States

Section 3 of Pub. L. 94-168, the Metric Conversion Act of 1975, declares that the policy of the United States shall be to coordinate and plan the increasing use of the metric system in the United States. Section 403 of Pub. L. 93-380, the Education Amendments of 1974, states the policy of the United States to encourage educational agencies and institutions to prepare students to use the metric system of measurement as part of the regular education program. Under both these acts, the "metric system of measurement" is defined as the International System of Units as established by the General Conference on Weights and Measures in 1960 and interpreted or modified for the United States by the Secretary of Commerce (sec. 4(4), Pub. L. 94-168; sec. 403(a)(3), Pub. L. 93-380). The Secretary has delegated his authority under these subsections to the Director of the National Bureau of Standards.

In implementation of this authority, tables and associated materials were published in the Federal Register of October 20, 1977 (42 FR 56513-56514), setting forth the interpretation and modification of the International System of Units (hereinafter "SI") for the United States.

In accordance with recent decisions of the International Committee for Weights and Measures of the General Conference on Weights and Measures, and to refine the earlier interpretation and modification, it is deemed appropriate to amend that interpretation and modification, as published in the above-cited Federal Register notice of October 26, 1977. To assist interested parties and encourage the proper use of SI, the entire interpretation and modification, as hereby amended, is republished. Accordingly, this notice supersedes the notice of October 20, 1977.

The amendments consist of the inclusion in table 2 of the sievert, a special name for the SI derived unit of dose equivalent, the inclusion in table 6 of the electronvolt and the unified atomic mass unit, and the inclusion in table 7 of the rem, a unit of dose equivalent. The unit "standard atmosphere" is no longer included in table 7. The amendments are indicated by a dagger symbol (†).

The SI is constructed from seven base units for independent quantities plus two supplementary units for plane angle and solid angle, listed in table 1.

TABLE 1.—SI BASE AND SUPPLEMENTARY UNITS

Quantity	Name	Symbol
SI base units:		
length	meter	m
mass [1]	kilogram	kg
time	second	s
electric current	ampere	A
thermodynamic temperature	kelvin	K
amount of substance	mole	mol
luminous intensity	candela	cd
SI supplementary units:		
plane angle	radian	rad
solid angle	steradian	sr

[1] "Weight" in common parlance is often used to mean "mass."

Units for all other quantities are derived from these nine units. In table 2 are listed 19 SI derived units with special names which were derived from the base and supplementary units in a coherent manner, which means, in brief, that they are expressed as products and quotients of the nine base and supplementary units without numerical factors.

TABLE 2.—SI DERIVED UNITS WITH SPECIAL NAMES

Quantity	SI unit		
	Name	Symbol	Expression in terms of other units
frequency	hertz	Hz	s^{-1}
force	newton	N	$kg \cdot m/s^2$
pressure, stress	pascal	Pa	N/m^2
energy, work, quantity of heat	joule	J	N·m
power, radiant flux	watt	W	J/s
electric charge, quantity of electricity	coulomb	C	A·s
electric potential, potential difference, electromotive force	volt	V	W/A
capacitance	farad	F	C/V
electric resistance	ohm	Ω	V/A
conductance	siemens	S	A/V

TABLE 2.—SI DERIVED UNITS WITH SPECIAL NAMES—Continued

Quantity	SI unit: Name	Symbol	Expression in terms of other units
magnetic flux	weber	Wb	V·J
magnetic flux density	tesla	T	Wb/m²
inductance	henry	H	Wb/A
luminous flux	lumen	lm	cd·sr
illuminance	lux	lx	lm/m²
Celsius temperature[1]	degree Celsius	°C	K
activity (of a radionuclide)	becquerel	Bq	s⁻¹
absorbed dose, specific energy imparted, kerma, absorbed dose index	gray	Gy	J/kg
dose equivalent, dose equivalent index	sievert	Sv	J/kg

[1] In addition to the thermodynamic temperature (symbol T) expressed in kelvins (see table 1), use is also made of Celsius temperature (symbol t) defined by the equation $t = T - T_0$

where $T_0 = 273.15$ K by definition. The unit "degree Celsius" is equal to the unit "kelvin," but "degree Celsius" is a special name in place of "kelvin" for expressing Celsius temperature. A temperature interval or a Celsius temperature difference can be expressed in degrees Celsius as well as in kelvins.

All other SI derived units, such as those in tables 3 and 4, are similarly derived in a coherent manner from the 28 base, supplementary, and special-name SI units.

TABLE 3.—EXAMPLES OF SI DERIVED UNITS EXPRESSED IN TERMS OF BASE UNITS

Quantity	SI unit	Unit symbol
area	square meter	m²
volume	cubic meter	m³
speed, velocity	meter per second	m/s
acceleration	meter per second squared	m/s²
wave number	1 per meter	m⁻¹
density, mass density	kilogram per cubic meter	kg/m³
specific volume	cubic meter per kilogram	m³/kg
current density	ampere per square meter	A/m²
magnetic field strength	ampere per meter	A/m
concentration (of amount of substance)	mole per cubic meter	mol/m³
luminance	candela per square meter	cd/m²

TABLE 4.—EXAMPLES OF SI DERIVED UNITS EXPRESSED BY MEANS OF SPECIAL NAMES

Quantity	Name	Unit symbol
dynamic viscosity	pascal second	Pa·s
moment of force	newton meter	N·m
surface tension	newton per meter	N/m
heat flux density, irradiance	watt per square meter	W/m²
heat capacity, entropy	joule per kelvin	J/K
specific heat capacity, specific entropy	joule per kilogram kelvin	J/(kg·K)
specific energy	joule per kilogram	J/kg
thermal conductivity	watt per meter kelvin	W/(m·K)
energy density	joule per cubic meter	J/m³
electric field strength	volt per meter	V/m
electric charge density	coulomb per cubic meter	C/m³
electric flux density	coulomb per square meter	C/m²

TABLE 4.—EXAMPLES OF SI DERIVED UNITS EXPRESSED BY MEANS OF SPECIAL NAMES—Continued

Quantity	Name	Unit symbol
permittivity	farad per meter	F/m
permeability	henry per meter	H/m
molar energy	joule per mole	J/mol
molar entropy, molar heat capacity	joule per mole kelvin	J/(mol·K)
exposure (x and γ rays)	coulomb per kilogram	C/kg
absorbed dose rate	gray per second	Gy/s

For use with the SI units there is a set of 16 prefixes (see table 5) to form multiples and submultiples of these units. It is important to note that the kilogram is the only SI unit with a prefix. Because double prefixes are not to be used, the prefixes of table 5, in the case of mass, are to be used with gram (symbol g) and not with kilogram (symbol kg).

TABLE 5.—SI PREFIXES

Factor	Prefix	Symbol
10^{18}	exa	E
10^{15}	peta	P
10^{12}	tera	T
10^{9}	giga	G
10^{6}	mega	M
10^{3}	kilo	k
10^{2}	hecto	h
10^{1}	deka	da
10^{-1}	deci	d
10^{-2}	centi	c
10^{-3}	milli	m
10^{-6}	micro	μ
10^{-9}	nano	n
10^{-12}	pico	p
10^{-15}	femto	f
10^{-18}	atto	a

Certain units that are not part of the SI are used so widely that it is impractical to abandon them. The units that are accepted for continued use in the United States with the International System are listed in table 6.

TABLE 6.—UNITS IN USE WITH THE INTERNATIONAL SYSTEM

Name	Symbol	Value in SI unit
minute (time)	min	1 min = 60 s
hour	h	1 h = 60 min = 3 600 s
day	d	1 d = 24 h = 86 400 s
degree (angle)	°	1° = (π/180) rad
minute (angle)	′	1′ = (1/60)° = (π/10 800) rad
second (angle)	″	1″ = (1/60)′ = (π/648 000) rad
liter	L, l	1 L = 1 dm³ = 10^{-3} m³
metric ton	t	1 t = 10^{3} kg
hectare (land area)	ha	1 ha = 10^{4} m²
†electronvolt	eV	1 eV = 1.602 × 10^{-19} J, approximately**
†unified atomic mass unit	u	1 u = 1.660 57 × 10^{-27} kg, approximately**

* Both L and l are international symbols for liter. Because "l" can easily be confused with the numeral "1," the symbol "L" is recommended for United States use.

** The values of these units in terms of SI units are obtained experimentally.

In those cases where their usage is already well established, the use, for a limited time, of the units in table 7 is accepted, subject to future review.

TABLE 7.—UNITS IN USE TEMPORARILY WITH THE INTERNATIONAL SYSTEM

nautical mile	angstrom	curie
knot	barn	roentgen
	bar	rad [2]
	gal [3]	†rem [2]

[1] Unit of acceleration.
[2] Unit of absorbed dose.
[3] Unit of dose equivalent.

Metric units, symbols, and terms that are not in accordance with the foregoing Interpretation and Modification are no longer accepted for continued use in the United States with the International System of Units. Accordingly, the following units and terms listed in the table of metric units in section 2 of the Act of July 28, 1866 that legalized the metric system of weights and measures in the United States are no longer accepted for use in the United States:

myriameter
stere
millier or tonneau
quintal
myriagram
kilo (for kilogram)

For more information regarding the International System of Units, contact Dr. David T. Goldman, National Measurement Laboratory, National Bureau of Standards, U.S. Department of Commerce, Washington, D.C. 20234, telephone (301) 921–3304.

Dated: February 2, 1982.

Ernest Ambler,
Director.

[FR Doc. 82-5159 Filed 2-25-82; 8:45 am]
BILLING CODE 3510-13-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing Import Control Levels for Certain Cotton Textile Products from Haiti

February 25, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling imports of Men's and Boy's Woven Cotton Shirts and Cotton Trousers in Categories 340 and 347/348, produced or manufactured in Haiti and exported during the agreement year which began on May 1, 1981, at respective levels of 112,500 dozen and 258,427 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), and February 9, 1982 (47 FR 5928)).

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 17, 1979, as amended, between the Governments of the United States and Haiti, the United States has decided to control imports of cotton textile products in Categories 340 and 347/348 in the same manner as other categories are currently being controlled.

EFFECTIVE DATE: March 1, 1982.

FOR FURTHER INFORMATION CONTACT: Carl J. Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On May 1, 1981, there was published in the Federal Register (46 FR 24617) a letter dated April 28, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton and man-made fiber textile products, produced or manufactured in Haiti, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption during the twelve-month period which began on May 1, 1981 and extends through April 30, 1982. The letter published below amends the letter of April 28, 1981 to include import control levels of 112,500 dozen for Category 340 and 258,427 dozen for Category 347/348. The newly-established levels have not been adjusted to account for any imports after April 30, 1981. Imports during the May-December 1981 period have totaled 54,064 dozen for Category 340 and 160,087 dozen for Category 347/348 and will be charged. When the data become available, charges will also be made for the period which began January 1, 1982 and extends to the effective date of this action.

Paul T. O'Day,
Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on April 28, 1981, by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton and man-made fiber twelve-month period which began on May 1, 1981.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 17, 1979, as amended, between the Governments of the United States and Haiti; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on March 1, 1982 and for the twelve-month period beginning on May 1, 1981 and extending through April 30, 1982, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 340 and 347/348, produced or manufactured in Haiti, in excess of the following levels of restraint:

Category	12-mo. level of restraint[1]
340	112,500 dozen.
347 and 348	258,427 dozen.

[1] The levels of restraint have not been adjusted to account for any imports after April 30, 1981. Imports in Category 340 during the May-December 1981 period have amounted to 54,064 dozen; imports in Category 347/348 during the same period amounted to 160,087 dozen.

Textile products in Categories 340 and 347/348 which have been exported to the United States prior to May 1, 1981 shall not be subject to this directive.

Textile products in Categories 340 and 347/348 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), and February 9, 1982 (47 FR 5928).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Haiti and with respect to imports of cotton textile products from Haiti have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,
Paul T. O'Day,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-5409 Filed 2-25-82; 10:27 am]
BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows:

Tuesday, 6 April 1982, the Pentagon, Washington, D.C.

Wednesday, 7 April 1982, Plaza West, Rosslyn, Virginia.

The entire meeting, commencing at 0900 hours each day is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on the REIS program.

Dated: February 23, 1982.

M. S. Healy,
OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 82-5276 Filed 2-25-82; 8:45 am]
BILLING CODE 3810-01-M

Defense Science Board Task Force on Mapping, Charting and Geodesy; Notice of Advisory Committee Meeting

The Defense Science Board Task Force on Mapping, Charting and Geodesy (MC&G) will meet in closed session on 29–30 March 1982 at Fort Belvoir, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At its meeting on 29–30 March 1982 the Defense Science Board Task Force on MC&G will review the Defense Department's plans and programs concerning generation, derivation, collection and transmission of MC&G data which is critical to the guidance of cruise missiles and other future weapons systems.

In accordance with 5 U.S.C. App. 1 10(d) (1976), it has been determined that

this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

Dated: February 23, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82-5278 Filed 2-25-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Office of Energy Research

Multiprogram Lab Panel Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Multiprogram Lab Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770).

Date and time: March 11-12, 1982, 9 a.m. to 5 p.m.

Place: Department of Energy, Forrestal Building, Room 4A-110, 1000 Independence Avenue, SW., Washington, D.C. 20585

Contact: Mary Gant, Energy Research Advisory Board, Department of Energy, Forrestal Building, ER-6, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone: 202/252-6033

Purpose of the parent board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative agenda: Discussion of draft report of Multiprogram Lab Panel.

Public participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. between 8:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on February 22, 1982.

J. Ronald Young,

Director, Office of Management, Office of Energy Research.

[FR Doc. 82-5125 Filed 2-25-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2059-5]

Availability of Environmental Impact Statements Filed February 15 Through 19, 1982

Responsible Agency: Office of Federal Activities, Ms. Kathi Wilson (202) 245-3006.

Corps of Engineers: EIS# 820084, Final, COE, MI, Monroe Harbor Diked Disposal Area Construction/Operation, Monroe Co., due: March 29, 1982.

Department of Interior: EIS# 820086, Final, BLM, AK, Norton Sond OCS Oil and Gas Lease Sale #57, Anchorage, due: March 29, 1982.

Department of Transportation: EIS# 820080, Draft, FHW, TX, I-20 Widening, TX-183 to I-35W, Fort Worth, Tarrant County, due: April 12, 1982.

EIS# 820083, Draft, FHW, ID, ID-55 Upgrading, McCall to New Meadows, Valley and Adams Counties, due: April 12, 1982.

EIS# 820089, Draft, FHW, OR, McLoughlin Boulevard Widening, Union-Grand Viaduct to SE River Road, due: April 12, 1982.

EIS# 820091, Final, FHW, VT, US 7 Construction, Allen Road to I-189, Chittenden County, due: March 29, 1982.

Environmental Protection Agency: EIS# 820092, Draft, EPA, NM, Las Cruces Wastewater Treatment Facilities, Grant, Dona Ana County, due: April 12, 1982.

EIS# 820081, Revised, EPA, CA, San Francisco Channel Bar Dredged Material Disposal Site Designation, due: April 12, 1982.

EIS# 820085, Final, EPA, FL, Hardee County Phosphate Mine, NPDES Permit, Hardee County, due: March 29, 1982.

Department of Agriculture: EIS# 820082, Final, AFS, SEV, CA, NV, Lake Tahoe Basin Land Acquisition Plan, due: March 29, 1982.

Department of Energy: EIS# 820090, Draft, DOE, MA, Salem Harbor Generating Station Units 1, 2 and 3, Conversion to Coal, due: April 12, 1982.

General Services Administration: EIS# 820087, Final, GSA, DC, Ten Year Space Acquisition Program, due: March 29, 1982.

Nuclear Regulatory Commission: EIS# 820090, Draft, NRC, MD, National Bureau of Standards Reactor, License Renewal/Power Increase, due: April 12, 1982.

Amended Notice: EIS# 820069, *Final, SCS, PR, Guayanes River Watershed Multipurpose Project Municipality of Yabucoa, due: *March 22, 1982.

Date: February 23, 1982.

Louis J. Cordia,

Acting Director, Office of Federal Activities.

[FR Doc. 82-5276 Filed 2-25-82; 8:45 am]

BILLING CODE 6560-57-M

[ER-FRL-2060-5]

Intent To Prepare a Supplemental Environmental Impact Statement (EIS)

AGENCY: Environmental Protection Agency, Region 4, Atlanta.

CONTACT: Ms. Jean A. Tolman, Environmental Impact Statement Section, U.S. Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, GA 30365, telephone (404) 881-7458 (Commercial), 8-257-7458 (FTS).

SUMMARY: The U.S. EPA, Region 4 has determined that a Supplement to the FINAL EIS is required before taking action on an application for an NPDES permit for Estech General Chemicals Corporation's proposed phosphate mine in Manatee County, Florida. A detailed Notice has been issued by Region 4 and is available upon request. Estech proposes to construct and operate an open pit phosphate mine, beneficiation plant and rock dryer on a 10,394 acre site. Since issuance of the Final EIS, the State of Florida has reclassified the Manatee River at and below the discharge point form Class III to Class I Standards. In order to meet the more stringent standards, changes to the water quality management plan are being proposed as well as changes in Estech's proposed project.

The Draft Supplmental EIS is tentatively scheduled for issuance by June 1982 and will be circulated to all recipients of the Final EIS. Additional interested parties should contact Ms. Tolman to be included on the distribution list.

Dated: February 23, 1982.

Louis J. Cordia,

Acting Director, Office of Federal Activities.

[FR Doc. 82-5279 Filed 2-25-82; 8:45 am]

BILLING CODE 6560-37-M

*Incorrect status and due date published FR February 19, 1982.

[TSH-FRL-2058-5]

Administrator's Toxic Substances Advisory Committee; Notice of Renewal

The U.S. Environmental Protection Agency announces the renewal of the Administrator's Toxic Substances Advisory Committee. It has been determined that renewal of this advisory committee is in the public interest in connection with the performance of duties imposed on the Agency by law. The charter which continues the Administrator's Toxic Substances Advisory Committee through December 31, 1982, has been filed at the Library of Congress.

FOR FURTHER INFORMATION CONTACT: Mary Anne Beatty, EPA Committee Management Officer (PM-213), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 203-755-0866.

Dated: February 5, 1982.

John P. Horton,

Assistant Administrator for Administration.

[FR Doc. 82-5280 Filed 2-25-82; 8:45 am]

BILLING CODE 6560-31-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 80-286]

Agenda Set for Next Federal-State Joint Board Meeting

February 12, 1982.

The Federal-State Joint Board in this proceeding will hold its next meeting on February 24, 1982, at 2:30 p.m. in Room 856, 1919 M Street, NW., Washington, D.C. At that time, the Board will consider adoption of the following Joint Board staff reports and recommendations:

1. A Joint Board staff report on the February 2, 1982 meeting held between staff members and industry representatives in Arlington, Texas to discuss alternative mechanisms for allocating telephone companies' nontraffic sensitive exchange plant between jurisdictions, and access charges as they relate to jurisdictional separations.

2. Joint Board staff recommendations concerning:

a. An amendment to the Board's plan for phase out of the interstate revenue requirement for customer-premises equipment (CPE) which would permit States to freeze embedded CPE levels on a date prior to January 1, 1983;

b. *Ex parte* rules to govern Joint Board proceedings;

c. Scheduling of regional hearings to gather additional information concerning alternatives for allocating nontraffic sensitive exchange plant between jurisdictions; and

d. A timetable for completion of action on all remaining issues before the Board in this proceeding.

For additional information contact James W. McConnaughey of the Common Carrier Bureau at (202) 632-9342.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-5126 Filed 2-25-82; 8:45 am]

BILLING CODE 6712-01-M

[FCC 82-96]

Closed Circuit Test of the Emergency Broadcast System

February 19, 1982.

A test of the Emergency Broadcast System (EBS) has been scheduled during the week of March 1, 1982. Only ABC, MBS, NPR, AP Radio, CBS, IMN, NBC and UPI Audio Radio network affiliates will receive the Test Program for the Closed Circuit Test. AP and UPI wire service clients will receive activation and termination messages of the Closed Circuit Test. Television networks are not participating in the Test.

Network and press wire service affiliates will be notified of the test procedures via their network approximately 30 to 45 minutes prior to the test.

Final evaluation of the test is scheduled to be made about one month after the Test.

This Is a Closed Circuit Test and Will Not Be Broadcast Over the Air

Action by the Commission February 18, 1982. Commissioners Fowler (Chairman), Quello, Washburn, Fogarty, Jones, Dawson and Rivera.

William J. Tricarico,

Secretary.

[FR Doc. 82-5166 Filed 2-25-82; 8:45 am]

BILLING CODE 6712-01-M

Proposals Invited for New AM Stations on Canadian Clear Channels and Applications on U.S. Clear Channels Suspended

Canada has indicated its intention to file, shortly, formal notification of its withdrawal from the North American Regional Broadcasting Agreement (NARBA). Bi-lateral discussions have commenced for the purpose of drawing up U.S.-Canadian understandings as to the principles, standards and procedures which will govern the mutual protection of each other's AM broadcast service under agreed adaptations of the general hemisphere-wide provisions of the Final Acts of the recently concluded Administrative Conference at Rio de Janeiro on Medium Frequency (AM) Broadcasting in Region 2.

As a result of post-NARBA considerations, it is expected that the basis of interference protection on the 25 Class I-A frequencies on which NARBA accorded priority to the United States and the 7 others on which Canada has had priority will be discontinued. Consistently with the Rio Final Acts, to which both the United States and Canada are signatories, it may be expected that post-NARBA protection on the above noted channels will be to designated service contours. Although wide service areas of the dominant Class I-A stations will continue to be protected, the new scheme will make it possible for both countries to add new unlimited-time stations to each others' clear channels.

Negotiations being conducted with Canada to develop the details of a post-NARBA bilateral agreement are being impeded by two circumstances which the Commission seeks to remedy in the actions announced in this Public Notice. Because of severe NARBA restrictions on the use, within the United States of the Canadian clear channels (540, 690, 740, 860, 990, 1010 and 1580 kHz), the FCC Rules have not permitted the submission of applications which would indicate U.S. demand for additional unlimited-time AM stations on these channels. Canada has announced its proposed use of the foregoing channels for new and existing stations. In order to obtain needed information concerning U.S. needs for stations on these channels, persons interested in seeking station assignments on them are invited to submit, no later than April 15, 1982, statements of intention to file such applications when that becomes possible under rule amendments which will be introduced later to effectuate such post-NARBA agreements as will be arrived at with Canada. The statements of intention should be accompanied by the information called for in Questions No. 2, 3, and 10 of Section V-A of FCC Form No. 301, and should be addressed to FCC Headquarters, 1919 M Street, N.W., Washington, D.C. 20554, Attention: Technical and International

Branch, Policy and Rules Division, Broadcast Bureau.

Negotiations toward the resolution of any conflicts among proposed assignments on the Canadian clear channels will not be concluded until after the Commission has received the statements of intention we are now inviting interested persons to file. Thus, due account may be taken of indicated needs on the U.S., as well as the Canadian, side of the border. It should, of course, be recognized that in negotiating the acceptance of specific new assignments, due regard will be given to the protection of pre-existing stations, wherever located, in conformance with requirements of the Rio Final Acts.

Under the separate U.S. agreement with Mexico, recognition is given also to a Mexican priority in the use of Class I–A channel 540 kHz. In practice this restriction, coupled with conditions imposed under NARBA, leaves very little room for U.S. nighttime use of 540 kHz. While bilateral negotiations with Mexico have not yet been held since the Rio conference, it is anticipated that negotiations with Mexico may possibly lead to some modification of the protection which Mexico and the United States now afford to each other. While the outcome of future negotiations cannot be presumed, it would appear to be useful for persons responding to this call for proposals supported by basic engineering to note that Mexico has a station at San Luis Potosi on 540 kHz, and that proposals for possible future use of this frequency at night should protect this station in the manner required by the Rio Final Acts. Protection must be given also to Mexican stations on the other clear channel frequencies.

A different circumstance is impeding negotiations which have been commenced with Canada on the resolution of conflicts in the proposed use, on both sides of the border, of spectrum space available for new unlimited-time stations on the twenty-five U.S. clear-channels: 640, 650, 660, 670, 700, 720, 750, 760, 770, 780, 820, 830, 840, 870, 880, 890, 1020, 1030, 1040, 1100, 1120, 1160, 1180, 1200 and 1210 kHz. There has been ample opportunity, since the Commission opened these channels up to additional unlimited-time assignments in May, 1980, for interested persons to file over three hundred applications for such assignments. Negotiations on the resolution of conflicts between these proposals and stations proposed to be assigned by Canada on these twenty-five frequencies cannot proceed satisfactorily as long as additional applications continue to alter the interference calculations affecting preceding proposals. The Commission has therefore found it necessary to suspend, at this stage, the filing of additional applications for stations on the foregoing twenty-five clear channels. Accordingly, no applications for AM facilities on the above listed U.S. Class I–A clear channels will be accepted after five working days from the date of the publication of this Notice in the Federal Register, with the exception of applications for construction permits which are mutually exclusive with applictions for license renewal, and mutually exclusive applications which are timely filed in response to Public Notice of cut-off issued pursuant to § 73.571 of the Commission's rules. The filing of applications on the twenty-five U.S. clear channels will be permitted to be resumed after agreement has been reached with Canada on the assignment of new unlimited-time stations on these channels and the above-listed Canadian clear channels.

It is recognized that problems may arise from the filing of applications on channels adjacent to the U.S. and Canadian clear channels. However, there does not appear to be a likelihood of general difficulty serious enough to justify suspending the filing of applications on the adjacent channels. In processing such applications, attention will be given to the possibility of their conflict with assignments under negotiation for new stations on the clear channels. Those involving conflicts which cannot be accepted for filing, will be returned. They may be refiled after a bilateral agreement on the use of the clear channels has been concluded, provided all protection requirements which have been agreed upon are met. Separately, the Commission will release a list of the assignments which Canada proposes to add to the U.S. and Canadian clear channels. For information concerning those proposals and other matters covered by this Public Notice contact Mr. Larry W. Olson, FCC headquarters, (202) 254–3394.

Action by the Commission February 23, 1982. Commissioners Fowler (Chairman), Quello, Washburn, Fogarty, Dawson and Rivera. Commissioner Jones concurring.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-5270 Filed 2-25-82; 9:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 82-11]

Johnson & Johnson International v. Ecuadorian Line, Inc.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Johnson & Johnson International against Ecuadorian Line, Inc. was served February 18, 1982. Complaint alleges that respondent has subjected it to payment of rates for ocean transportation in violation of section 18(b)(3) of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge John E. Cograve. Hearing in this matter, if any is held shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Joseph C. Polking,

Assistant Secretary.

[FR Doc. 82-5110 Filed 2-25-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

BankEast Corp.; Proposed Acquisition of Portsmouth Trust Company

BankEast Corporation, Manchester, New Hampshire, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire 100 percent of the units of special deposit of Portsmouth Trust Company, Portsmouth, New Hampshire, through the merger of Portsmouth Trust Company into a currently inactive guaranty savings bank subsidiary of Applicant.

Applicant states that the resulting subsidiary would engage in the activities of a New Hampshire guaranty savings bank including the following: Accepting time and savings deposits, including NOW accounts; investing in residential and commercial mortgages; investing in U.S. government securities and other investments permitted by applicable laws; making secured and unsecured loans; providing safe deposit services; and servicing mortgages and other loans. These activities would be performed from offices of Applicant's subsidiary in Portsmouth, New Hampshire, and the geographic area to be served is the Portsmouth-Dover-Rochester banking market.

Although the operation of a guaranty savings bank has not been specified by the Board in § 225.4(a) of Regulation Y as permissible generally for bank holding companies, the Board has, by orders, approved the acquisition of New Hampshire guaranty savings banks by New Hampshire bank holding companies, determing that the operation of these savings banks was closely related to banking in New Hampshire. *Profile Bankshares, Inc.*, 61 Federal Reserve Bulletin 931 (1975); *Heritage Banks, Inc.*, 66 Federal Reserve Bulletin 390 (1980); *First Financial Group of New Hampshire, Inc.*, 66 Federal Reserve Bulletin 594 (1980); *Heritage Banks, Inc.*, 66 Federal Reserve Bulletin 917 (1980); *BankEast Corporation*, 68 Federal Reserve Bulletin —— (January 28, 1982).

Interested persons may express their views on the question whether the proposed activity is so closely related to banking or managing or controlling banks as to be proper incident thereto. Interested persons may also express their view on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on either of these questions must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than March 20, 1982.

Board of Governors of the Federal Reserve System, February 18, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5122 Filed 2-25-82; 8:45 am]

BILLING CODE 6210-01-M

Bowbells Holding Co.; Formation of Bank Holding Company

Bowbells Holding Company, Bowbells, North Dakota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Bowbells, Bowbells, North Dakota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 18, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 19, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5123 Filed 2-25-82; 8:45 am]

BILLING CODE 6210-01-M

Bradley Bancshares, Inc.; Formation of Bank Holding Company

Bradley Bancshares, Inc., Warren, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First State Bank of Warren, Warren, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 20, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 18, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5120 Filed 2-25-82; 8:45 am]

BILLING CODE 6210-01-M

Capital Bancorp; Acquisition of Bank

Capital Bancorp, North Bay Village, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 65 per cent or more of the voting shares of First Bank of Oakland Park, Oakland Park, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 20, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 18, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5119 Filed 2-25-82; 8:45 am]

BILLING CODE 6210-01-M

Cullen/Frost Bankers, Inc.; Acquisition of Bank

Cullen/Frost Bankers, Inc., San Antonio, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Chase National Bank, Austin, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 20, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of

fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 19, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5119 Filed 2-25-82; 8:45 am]

BILLING CODE 6210-01-M

Dairy State Financial Services, Inc.; Formation of Bank Holding Company

Dairy State Financial Services, Inc., Plymouth, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Dairy State Bank, Plymouth, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 20, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 19, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5118 Filed 2-25-82; 8:45 am]

BILLING CODE 6210-01-M

Detroitbank Corp.; Acquisition of Bank

Detroitbank Corporation, Detroit, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of The Detroit Bank-Grosse Pointe, National Association, Grosse Pointe, Michigan, a *de novo* bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 20, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 19, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5117 Filed 2-25-82; 8:45 am]

BILLING CODE 6210-01-M

Exchange Bancshares, Inc.; Formation of Bank Holding Company

Exchange Bancshares, Inc., El Dorado, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of the Exchange Bank and Trust Company, El Dorado, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 20, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 19, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5116 Filed 2-25-82; 8:45 am]

BILLING CODE 6210-01-M

Goddard Financial Corp.; Formation of Bank Holding Company

Goddard Financial Corporation, Goddard, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 66 per cent or more of the voting shares of Suburban West State Bank, Goddard, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 20, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 19, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5115 Filed 2-25-82; 8:45 am]

BILLING CODE 6210-01-M

International Bancorp.; Formation of Bank Holding Company

International Bancorp., Denver, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 95 percent of the voting shares of International Bank, Denver, Colorado; 90 percent of the voting shares of Community Bank and Trust Company, Englewood, Colorado; 35 percent of the voting shares of Orchard Valley Bank, Englewood, Colorado; and 75 percent of the voting shares of Viejo Bank and Trust, Denver, Colorado, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 20, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 19, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5114 Filed 2-25-82; 8:45 am]

BILLING CODE 6210-01-M

Ocheyedan Bancorporation; Formation of Bank Holding Company

Ocheyedan Bancorporation, Ocheyedan, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Ocheyedan Savings Bank, Ocheyedan, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 20, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 19, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5116 Filed 2-25-82; 8:45 am]

BILLING CODE 6210-01-M

Republic of Texas Corp.; Acquisition of Bank

Republic of Texas Corporation, Dallas, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of Republicbank Conroe, N.A., Conroe, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 20, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 19, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5115 Filed 2-25-82; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Line of Business Program; Request for Comments

AGENCY: Federal Trade Commission.

ACTION: Request for Comments on Costs and Benefits of the Line of Business Program.

SUMMARY: The Commission will consider in the near future whether to collect Line of Business data for years subsequent to 1977. The Commission requests comments on the costs and benefits of the Line of Business Program for use in making its decision.

ADDRESS: Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. In order to be considered, comments must be received no later than April 12, 1982. Twenty copies should be filed. If a comment contains any commercial or financial information that is privileged or confidential, within the meaning of section 6(f) of the amended Federal Trade Commission Act, 15 U.S.C.A. 46(f) (Sept. 1980 Supp.), it should be marked "confidential" on the first page, and the pages containing confidential information should be identified.

FOR FURTHER INFORMATION CONTACT: William F. Long, Manager, Line of Business Program, Bureau of Economics, (202) 254-8170.

SUPPLEMENTARY INFORMATION: Notices were published in the Federal Register on August 24, and August 28, 1981 (46 FR 42768, 46 FR 43500), of a authorization by the Federal Trade Commission to publish aggregated data in the *Annual Line of Business Reports* for 1974 and 1975. Those reports were published in September 1981. Data for 1976 and 1977 have been collected from firms and are being processed, and the Commission anticipates the release of aggregated *Annual Line of Business Reports* for 1976 and 1977 in the near future. Staff of the Line of Business ("LB") Program have been conducting basic research with the underlying data. Preliminary results of some research have been released, and final results may be published by the Commission and by professional journals.

The Commission plans to consider in the near future whether to collect LB data for years subsequent to 1977. Before making any decision, the Commission intends to evaluate the costs and benefits of the LB Program. The Commission invites written comments on the costs and benefits of the LB Program.

To be most helpful, comments on costs or benefits should incorporate, where meaningful to the commenter, several specific considerations which are listed below. Comments on factors not listed are also welcome.

Cost Considerations

1. If data on actual compilation costs are being submitted, please note the years to which the data apply.

2. If data on actual or anticipated compilation costs are being submitted, certain detail, including the following, would be helpful:

—Whether the costs are start-up or continuing;

—A breakdown of costs by category, including labor costs;

—The extent to which report compilation is computerized;

—Differences between company information systems and LB reporting requirements that contribute most to costs. Such differences might relate to the LB industry categories, the specialization requirements, the range of data items reported, or the treatment of vertical integration;

—Major changes, short of eliminating the reporting requirement, which would reduce the cost, including an estimate of the cost reduction, if possible.

3. If data on indirect costs, including losses, are being submitted, it would be helpful to note:

—The activity that would generate the cost of loss;

—The nature of the cost or loss that would be incurred;

—The approximate amount of the cost or loss;

—The parties that would gain, if any.

Benefit Considerations

If actual or anticipated applications of LB data are being enumerated, certain detail, including the following, would be useful:

—Whether the application is applied analysis or basic research;

—Major objectives of the application, listing substantially different objectives separately;

—The industries to which the applications apply, with detailed descriptions being most helpful;

—The frequency of use;

—The data items used;

—Whether the applications include comparisons across industries for a

given year, or comparisons across years for a given industry.

—The importance of the currency of the data;

—The other data files used in such applications;

—The approximate value of th LB data relative to the amount expended for the other files;

—If data were to be collected and published for years subsequent to 1977, any changes that would improve the quality of the commenter's application, with an estimated value of the change where possible.

By direction of the Commission, dated February 12, 1982.

Carol M. Thomas

Secretary.

[FR Doc. 82-5232 Filed 2-25-82; 8:45 am]

BILLING CODE 6755-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 82N-0045]

Radiation Therapy Quality Assurance; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces an open meeting to discuss quality assurance in radiation therapy and the draft recommendation developed by Task Force 24 of the American Association of Physicists in Medicine (AAPM).

DATES: The meeting will be held March 11 and 12, 1982, and will convene at 2 p.m. on March 11 and at 8:30 a.m. on March 12.

ADDRESSES: The meeting will be held at the Bureau of Radiological Health, Rm. 330, 1901 Chapman Ave., Rockville, MD 20857. The draft recommendation of AAPM Task Group 24 may be reviewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. The report of the forthcoming meeting will be placed on public display as soon as it is available.

FOR FURTHER INFORMATION CONTACT: Robert J. Morton, Bureau of Radiological Health (HFX–75), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3160.

SUPPLEMENTARY INFORMATION: FDA's Bureau of Radiological Health (the Bureau) believes that quality assurance is of major importance in monitoring and maintaining the proper operation of radiation therapy equipment and in assuring prescribed dose delivery to the patient. The Bureau has been cooperating with various scientific and professional organzations in the development of recommendations for quality assurance in radiation therapy. At this meeting, the draft recommendation developed by Task Force 24 of the American Association of Physicists in Medicine Radiation Therapy Committee will be discussed. Interested persons planning to attend the meeting are asked to advise the contact person listed above.

Dated: February 22, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-5139 Filed 2-25-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 79P–0031]

Standard Telephones and Cables, Ltd.; Approval of Amendment to Variance for an Infrared Illuminator

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that an amendment to a variance from the performance standard for laser products has been approved by the Bureau of Radiological Health for an infrared illuminator. The product is designed to illuminate a dark field of view with invisible infrared radiation that can be viewed with night vision equipment. Sales of the product are restricted to governmental, military, and law enforcement agencies.

DATE: The amended variance became effective January 20, 1982, and ends March 11, 1985.

ADDRESS: The application and all correspondence on the application are on public display in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Denis L. McCarthy, Bureau of Radiological Health (HFX–460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3426.

SUPPLEMENTARY INFORMATION: ITT Components Group, Standard Telephones and Cables, Ltd., Paignton, Devon, England, United Kingdom TQ4–7BE (U.S. Agents: ITT Components Group, 1551 Osgood St., North Andover, MA 01845, and Joseph A. Cipolla, Technical Representative, 1899 L St. NW., Washington, D.C. 20036) have applied for an amendment to the variance from the laser products performance standard (21 CFR 1040.10 and 1040.11) that FDA previously granted under 21 CFR 1010.4 for the firm's infrared illuminator, models RT4A and RT5A (see 45 FR 30603; May 9, 1980). The petition requests addition to the variance of two new models, LM06 and LM10. The specific requirements of the standard to which the variance applies are the performance features of a remote control connector (§ 1040.10(f)(3)), key control (§ 1040.10(f)(4)), and an emission indicator (§ 1040(f)(5)(ii)).

By letter of January 20, 1982, the Director, Bureau of Radiological Health, approved the amended variance, which will terminate March 11, 1985. All models subject to the variance shall bear the variance number 79P–0031.

In accordance with § 1010.4 (21 CFR 1010.4), the application and all correspondence (including the written notice of approval) on this application have been placed on public display in the Dockets Management Branch (address above). This material may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 16, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-5130 Filed 2-25-82; 8:45 am]

BILLING CODE 4160-01-M

Office of the Assistant Secretary for Health

Intent To Issue an Exclusive Patent License

Pursuant to 45 CFR, § 6.3 of the Department of Health and Human Services Patent Regulations and 41 CFR Part 101–4 of the Federal Procurement Regulations, notice is hereby given of an intent to issue to Westport Pharmaceuticals, Inc., of Westport, Connecticut, an exclusive license to manufacture, use, and sell an invention of Robert L Henkin entitled "Diagnostic Device and Method of Treatment," United States Patent No. 3,852,432 issued December 3, 1974.

Copies of the above United States patent may be obtained upon written request to Mr. Leroy B. Randall, Chief, Patent Branch, Department of Health and Human Services, c/o National Institutes of Health, Room 5A03, Westwood Building, Bethesda, MD 20205.

The proposed license will have a duration of five (5) years from the date of first commercial sale in the United States of America, of eight (8) years from the date of the license, whichever occurs first, may be royalty-bearing, and will contain other terms and conditions to be negotiated by the parties in accordance with the Department of Health and Human Services (HHS) Patent Regulations. HHS will grant the license unless, within sixty (60) days of this Notice the Chief of the Patent Branch, named hereinabove, receives in writing any of the following, together with supporting documents.

A. A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license; or

B. An application for a nonexclusive license to manufacture, use, or sell the invention in the United States is submitted in accordance with 41 CFR Part 101–4 of the Federal Procurement Regulations, and 45 CFR 6.3 of the Department of Health and Human Services Patent Regulations, and the applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Assistant Secretary for Health of the Department of Health and Human Services will review all written responses to this Notice.

(45 CFR 6.3 and 41 CFR Part 101–4)

Dated: February 19, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 82-5240 Filed 2-25-82; 8:45 am]

BILLING CODE 4160-17-M

National Institutes of Health

Ad Hoc Working Group on the Community Clinical Oncology Program; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Ad Hoc Working Group on Community Clinical Oncology Program, National Cancer Institute, March 4, 1982. The Committee will meet at the National Institutes of Health in Bethesda, Maryland in Building 31, Conference Room 11A10. The entire meeting will be open to the public from 6:30 p.m. to adjournment. This meeting will be concerned with discussion and review of Request for Applications (RFA) concerned with the Community Clinical Oncology Program. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Peter Greenwald, Director, Division of Resources, Centers, and Community Activities, National Cancer Institute, Building 31, Room 4A32, National Institutes of Health, Bethesda, Maryland 20205 (301/496–6616) will furnish substantive program information.

This notice is being published less than 15 days prior to the meeting because originally this was to be an informal internal group, however, it has now been decided to open the meeting to the public.

Dated: February 24, 1982.

Thomas E. Malone,

Deputy Director, NIH.

[FR Doc. 82-5401 Filed 2-25-82; 11:25 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Alaska School Transfers

The President's FY 1983 budget proposes to transfer the thirty-seven (37) Bureau-funded day schools in Alaska to the Alaska State School System at the end of the 1981–82 school year.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM8.

Ken Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82-5273 Filed 2-25-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Butte District Grazing Advisory Board; Meeting

The Butte District Grazing Advisory Board will meet on Tuesday, April 6, 1982, in the conference room of the Butte District Office at 106 North Parkmont (Industrial Park), Butte, Montana. The meeting will begin at 9:00 a.m.

The agenda for the meeting will include: (1) Range management policy, including range improvement maintenance; (2) implementation of the Mountain Foothills EIS; (3) an update on planning efforts in the Headwaters Resource Area; (4) an update on planning efforts in the Garnet Resource Area; (5) the Rebish-Anderson range line agreement; and (6) withdrawal reviews of stock driveways in the Dillon Resource Area.

The meeting is open to the public. Interested persons may make oral statements to the board or file written statements for the board's consideration. Persons wishing to make oral statements should make prior arrangements with the District Manager, Bureau of Land Management, P.O. Box 3388, Butte, Montana 59702.

Summary minutes of the board meeting will be maintained in the District Office and will be available for public inspection and reproduction within 30 days following the meeting.

Dated: February 19, 1982.

Jack A. McIntosh,

District Manager.

[FR Doc. 82-5200 Filed 2-25-82; 8:45 am]

BILLING CODE 4310-84-M

Colorado; Mt. Mestas/Rough Mountain Vehicle Use Designation Order

In accordance with Title 43 CFR Part 8300 and in conformance with the principles established by the National Environmental Policy Act of 1969 and the Federal Land Policy Management Act of 1976, notice is hereby given that the vehicle designation order for Mt. Mestas/Rough Mountain originally published in the Federal Register (Vol. 45, No. 48, Monday, March 10, 1980, page 15267) is amended.

The original order designated approximately 12,800 acres of land located north and east of U.S. Highway 160 and south of Colorado State Highway 69 near Gardner, Huerfano County, Colorado, in the limited category. An interim off-road vehicle management plan was prepared for the area through cooperation and careful review of other agencies. Primary direction for the plan came from the Raton Basin Management Framework Plan (MFP). Specific decisions in the MFP require that disruption to elk calving activity and elk winter habitat created from vehicle use in this area be mitigated. As a result, the plan specified that such use be regulated.

Following are provisions of the original off-road vehicle management designation:

a. The designated area is closed to all vehicular travel during the months of May and June.

b. Vehicular use is prohibited except on certain existing roads during the balance of the year.

c. These restrictions do not apply to emergency, law enforcement, and Federal or other government vehicles while being used for official or

emergency purposes, or to any vehicle whose use is expressly authorized by the Authorized Officer or otherwise officially approved by BLM.

During 1980 and 1981 a study was conducted to monitor elk calving activities in the area. The results of the study disclosed that modifications of the original designation should be made. First, vehicle use need not be restricted on some of the lands originally designated because they are not important for elk calving or other wildlife values. Second, certain lands were not found to be important for elk calving but do contain other important wildlife values. Consequently the closure portion of the original order need not apply to these lands, although the rest of the provisions of the order would. Third, some lands are crucial to elk calving and all provisions of the original order should continue to apply to these parcels.

Therefore based on the study results, the following amendment to the Mt. Mestas/Rough Mountain Vehicle Use Designation is made:

I. All of the following described public lands (approximately 4,900 acres) contain important wildlife values but are not critical for elk calving. They are subject to only the restrictions mentioned in b. and c. above:

Sixth Principal Meridian

T. 27 S., R. 69 W.
Secs. 33, 34: All public lands
T. 27 S., R. 70 W.
Secs. 10, 11, 14, 15, 22: All public lands
Sec. 23: W½
T. 28 S., R. 69 W.
Sec. 1: All public lands
Sec. 2: N½NW¼
Secs. 4, 5, 6, 8, 9, 12, 13, 14, 15, 17: All public lands
Sec. 23: NW¼NE¼, N½NW¼
Sec. 28: S½NE¼, NW¼
T. 28 S., R. 70 W.
Sec. 25: All public lands
T. 29 S., R. 69 W.
Sec. 8: All public lands

These lands are bounded on the south and southwest by U.S. Highway 160, on the west by Huerfano County Road 572 (Pass Creek Road), and on the east by Huerfano County Road 550 (Yellowstone Creek Road).

II. All of the following described public lands (approximately 6,400 acres) are critical for elk calving and are subject to all of the restrictions of the original order (i.e. a., b., and c.).

Sixth Principal Meridian

T. 27 S., R. 70 W.
Sec. 26: All public lands in the E½
Secs. 24, 25, 26, 27: All public lands
Sec. 34: All public lands east of Huerfano County Road 572
Sec. 35: All public lands
T. 28 S., R. 69 W.
Sec. 2: SE¼SE¼
Secs. 7, 10, 11, 18, 19: All public lands
Sec. 20: S½
Secs. 30, 31, 32: All public lands
T. 28 S., R. 70 W.
Secs. 1, 2, 12, 13, 24: All public lands
T. 29 S., R. 69 W.
Sec. 5: All public lands

Vehicular travel will not be allowed except as previously noted unless written permission is obtained from the Royal Gorge Resource Area Manager in Cannon City.

Maps of the designated area are posted along with this notice in the Cannon City District Office, 3080 East Main Street, and the Royal Gorge Resource Area Office, 831 Royal Gorge Boulevard, both in Cannon City, Colorado 81212. These maps are also available for the public at these offices.

This interim designation will become effective immediately and will remain in effect until further notice.

Dated: February 17, 1982.

Melvin D. Cleave,
District Manager.

[FR Doc. 82-5204 Filed 2-25-82; 8:45 am]
BILLING CODE 4310-84-M

Resource Management Planning; Initiation of a Resource Management Plan (RMP) for the Hollister Resource Area, Bakersfield District, California

January 20, 1982.

In accordance with 43 CFR 1601.3(g), notice is hereby given of resource management planning now underway.

The proposed action is the preparation of an RMP for the Coast portion of the Hollister and Folsom Resource Areas. The plan will address the management of public lands located in Stanislaus, Santa Clara, San Benito, Merced, Monterey, and Fresno Counties west of Interstate Highway 5. The plan is scheduled for completion by October, 1984.

The general types of issues anticipated in the development of the plan are: (1) Livestock grazing; (2) oil, gas, and minerals exploration and development; (3) fire management; (4) access to public lands; (5) unauthorized use of public lands (trespass); (6) recreation use; (7) air and water quality in the Clear Creek Recreation area; and (8) land tenure adjustment (purchase, lease, and/or exchange of public lands).

The RMP will address and analyze all resource values and uses for public lands within the described area and establish guidelines for future management of these lands.

The disciplines to be represented on the interdisciplinary study team are: Wildlife, soils and hydrology, grazing, recreation, cultural resources, socio-economics and lands and minerals.

The public is invited to participate in the planning process by identifying issues, commenting on the planning criteria which will be developed to guide the planning effort and providing information to be considered in the planning process. Notice of all public participation opportunities will be given through Federal Register notices, local media, and mailings to all parties on the mailing lists.

For further information, location of planning documents for public review throughout the development of the RMP, or to be placed on the mailing lists for the planning efforts, contact: David E. Howell, Area Manager, Hollister Resource Area, P.O. Box 365, Hollister, California 95023, (408) 637-8183.

Michael D. May,
Acting District Manager.

[FR Doc. 82-4998 Filed 2-25-82; 8:45 am]
BILLING CODE 4310-84-M

Oregon; Closure of Land To Protect Scientific Studies and Preserve Scientific Values

AGENCY: Bureau of Land Management, Interior.

ACTION: Closure of land.

SUMMARY: Closure of land to protect scientific studies and preserve scientific values, Medford District, Oregon.

ADDRESS: 3040 Biddle Road, Medford, Oregon 97501.

FOR FURTHER INFORMATION CONTACT: Robert Lewis (503) 770-4335.

SUPPLEMENTARY INFORMATION: Notice is hereby given that public access to certain public lands in the Medford District will be prohibited to protect scientific studies and to preserve scientific values in accordance with the provisions of 43 CFR 8010.4. This closure does not apply to emergency, law enforcement and federal or other government personnel while performing emergency or official acts, or to persons authorized to be present by permit or contract.

The following describes the land to be closed.

Lands to be Closed—

Willamette Meridian, Oregon:

T. 33 S., R. 5 W.,
Sec. 5, Lot 1, E½NW¼NE¼.

A total approximately 123 acres of public land will be involved in this closure. This closure will be in effect at all times. Closure notices shall be posted at normal points and at appropriate road junctions. The lands affected shall be listed on the closure notices and be designated on an attached map. Copies of this detailed closure will also be available at the following locations:

Oregon State Office, 729 NW. Oregon Street, Portland, OR 97208
Medford District Office, 3040 Biddle Road, Medford, OR 97501

The purpose of this closure is to protect scientific studies and preserve scientific values and to insure the effectiveness of silvicultural treatment of these lands. Persons violating this closure order are subject to arrest and criminal prosecution under Oregon Revised Statute 164.245 (criminal trespass in the second degree; 30 days and/or $250) or 43 CFR 8010.6 and 43 U.S.C. 1733 (1 year and/or $1000).

This closure notice expires on October 1, 1982.

Wayne A. Boden,
Acting District Manager.

[FR Doc. 82-5205 Filed 2-25-82; 8:45 am]
BILLING CODE 4310-84-M

National Park Service

Martin Luther King, Jr., National Historic Site; Meeting

Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Martin Luther King, Jr. National Historic Site Advisory Commission will be held at 11 a.m. on Monday, March 29, 1982, at the Richard B. Russell Federal Building, Room 1178, 75 Spring Street, SW., Atlanta, Georgia 30303.

The purpose of the Martin Luther King, Jr. National Historic Site Advisory Commission is to consult and advise with the Secretary of the Interior on matters of planning, development and administration of the Martin Luther King, Jr. National Historic Site. The agenda will include responsibilities of Federal Advisory Commissions, the Martin Luther King, Jr. National Historic Site Legislation, Martin Luther King, Jr. National Historic Site Advisory Commission Charter, and Planning Issues.

The members of the Advisory Commission are as follows:

Mr. William Allison, Chairman
Mr. John H. Calhoun, Jr.
Dr. Elizabeth A. Lyon
Mr. Randy C. Humphrey
Mrs. Willie Christine King Farris
Mr. Handy Johnson, Jr.
Mr. Howard H. Arnold, III
Mrs. Freddye Scarborough Henderson
Mrs. Millicent Dobbs Jordan
Mr. John W. Cox
Reverend Joseph L. Roberts, Jr.
Mrs. Coretta Scott King, Ex Officio Member
Director, National Park Service, Ex Officio Member

The meeting will be open to the public; however, facilities and space for accommodating members of the public are limited. Any member of the public may file with the commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning the meeting or who wish to submit written statements may contact Janet C. Wolf, Superintendent, Martin Luther King, Jr. Mr. National Historic Site, 75 Spring Street, SW Atlanta, Georgia 30303, Telephone 404/221-5190. Minutes of the meeting will be available for public inspection at park headquarters approximately 4 weeks after the meeting.

Dated: February 17, 1982.

Neal G. Guse, Jr.,
Acting Regional Director, Southeast Region.

[FR Doc. 82-5239 Filed 2-25-82; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Orgill Brothers Corporation, P.O. Box 140, Memphis, Tennessee 38101.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Orgill Brothers & Co., Inc., P.O. Box 140, Memphis, Tennessee 38101.

(b) The Jordan Companies, P.O. Box 18377, Memphis, Tennessee 38118.

(c) Ben Edwards Furniture Co., Inc., P.O. Box 68, Memphis, Tennessee 38101.

(d) Mint Products International, 4123 Barringer Drive, Charlotte, North Carolina 28210.

1. Parent corporation and address of principal office: Somers Corporation, P.O. Box 0, Navesink, New Jersey 07752.

2. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation:

(i) Mersman Table Company, P.O. Box 200, Celina, Ohio 45822.

(ii) Waldron Furniture Manufacturing Company, P.O. Box 0, Waldron, Arkansas 72958.

1. Parent corporation and address of principal office: Spectral Enterprises, Inc., Post Office Box 467, Grand Haven, MI 49417.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Spectral Enterprises, Inc., Michigan.

(ii) Meeuwsen Produce, Inc., Michigan.

(iii) Northland Produce, Inc., Michigan.

(iv) Bremer Sugar & Distribution Co., Inc., Michigan.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5183 Filed 2-25-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any

application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a noncomplying applicant shall stand denied.

Dated: February 22, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

MC F-14791, filed January 20, 1982. Applicant: ROSS NEELY, JR., an Individual, P.O. Drawer B, Pratt City Station, Birmingham, AL 35215—CONTROL—GADSDEN TRUCK LINE, INC., 1706 Mt. Zion Blvd., Gadsden, AL 35901. Representative: Alan E. Serby, SERBY & MITCHELL, P.C., 2300 Peachtree Road, N.E., Atlanta, Georgia 30326. Ross Neely, Jr., an Individual, seeks authority to acquire control of Gadsden Truck Line, Inc. through ownership of the capital stock, and in the same transaction, requests authority for approval of resultant common control with Ross Neely Express, Inc. and Neely Transport, Inc. Approval of common control between Ross Neely Express, Inc. and Neely Transport, Inc. is pending before the Commission in No. MC F-14745. Gadsden Truck Line, Inc. is a motor common carrier operating over regular and irregular routes pursuant to the certificated authority issued by this Commission in Docket No. MC 121000 and subs thereto. It is authorized to conduct general commodity operations generally between points in AL, on the one hand, and, on the other, points in the U.S. east of ND, SD, NE, CO, and NM.

Notes.—An application for temporary authority has been filed.

MC F-14798, filed February 5, 1982. Applicant: BARRY & FOLEY MOTOR TRANSPORTATION, INC. (Barry), 2 Keene Street, Worcester, MA 01604—PURCHASE—MONAHAN TRANSPORTATION CO. [FRANK ARNOT TRUSTEE IN BANKRUPTCY) (Monahan), 99 Colorado Avenue, Warwick, RI 02888. Representative: David E. McCabe, P.O. Box 402, Kittery, ME 03904. Barry seeks authority to purchase the operating rights of Monahan. F. Dalton Barry, who controls Barry, seeks to acquire control of said rights through the transaction. Barry is purchasing the operating rights of Monahan contained in Certificates No. MC 60203 and (Sub-Nos. 3, 4, 5, and 6), which generally authorize the transportation, as a motor carrier, over regular routes of general commodities, with exceptions, between points in CT, MA, and RI.

Barry presently holds rights under No. MC 99012.

Note.—An application for temporary authority has been filed.

Condition.—Although F. Dalton Barry has signed the application on behalf of the applicant, he must also join in the application as the person who controls the applicant.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5181 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-79407. By decision of February 16, 1982, Review Board 3 approved the transfer to INLAND COMMERCIAL CO., INC., of Seattle, WA, of Certificate No. MC-147748 Sub-2 issued to J. J. Riedinger, d.b.a. Overland Commercial Company of Seattle, WA, authorizing general commodities (except explosives), between (1) Seattle and Tacoma, WA (ex-water) (2) King, Pierce and Kitsap Counties, WA, and points in ID in and north of Nez Perce, Lewis and Clearwater Counties. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. TA lease is not sought. Transferee is not a carrier.

MC-FC-79460. By decision of November 25, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to AMERICAN CONTINENTAL VAN LINES, INC., of Owings Mills, MD, of Certificate No. MC-155807, issued August 28, 1981, the Elite Moving and Storage, Inc., of Owings Mills, MD, authorizing the transportation of *household goods,* (1) between points in MA, RI, CT, NY, NJ, PA, MN, DE, VA, WV, NC, SC, GA, FL, and DC; and (2) between points in (1) above, on the one hand, and, on the other, those points in the United States in and east of MN, IA, NE, CO, OK, and TX. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, NW, Suite 1200, Washington, DC 20036. TA has not been filed. Transferee is not a carrier.

MC-FC-79530. By decision of February 9, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to URBAN TRUCKING CO., INC. of Boston, MA of Certificate No. MC-148932 Sub 1 issued to Atlantic Transport, Inc., of Boston, MA (B&T Transportation Co., Creditor in Possession) authorizing general commodities (with exceptions) over described regular routes, serving named intermediate and off-route points between (1) Worcester, MA and Newark, NJ; and (2) Boston, MA and Newark, NJ; and over irregular routes between Worcester, Springfield, and Haverhill, MA on the one hand, and, on the other, points in described portions of NY and NJ, with restriction. Representative: John F. O'Donnell, 60 Adams St., P.O. Box 238, Milton, MA 02187. TA lease is not sought. Transferee is not a carrier.

MC-FC-79553. By decision of February 10, 1982, Review Board Number 3 approved the transfer to WILLIE K. and JUDITH A. HOLLAND, and GREGORY V. and BILLY S. ETCHISON, d.b.a. VAIL NORTHWEST, of Springfield, OR, of Certificate No. MC-157252 issued to Monarch Wood Products Co. Eguene, OR, authorizing: (1) Timber and wood products, between points in OR, WA, and CA; and (2) metal products, machinery, and clay, concrete, glass or stone products, between points in OR and WA. Representative: Gregory V. Etchison, P.O. Box 645, Springfield, OR 97477. TA lease is not sought. Transferee is not a carrier.

MC-FC-79563. By decision of February 18, 1982, Review Board 3 approved the transfer to BI COUNTY TRUCKING, INC. of Warden, WA, of Certificate No. MC-128102 and Subs 4 and 5 issued to State Motor Freight, Inc., of Pasco, WA, authorizing: *Wood shavings,* and *straw* when moving in mixed loads with wood shavings from points in Yakima and Kittitas Counties, WA to points in Umatilla, Wallowa, and Union Counties, OR; *Fertilizer and fertilizer ingredients,* (1) from Finley-Hedges, WA to points in Montana and (2) from Three Forks, Montana to Finley-Hedges, WA; *Commodities in bulk,* and *Chemicals and related products,* between points in WA, OR, ID, MT, and CA, and (2) *Food and related products* between points in Walla Walla County, WA and Ada County, ID and points in WA, OR, ID, MT, CA & NV. Representative: Boyd Hatman, P.O. Box 3641, Bellevue, WA 98009. TA lease is sought, Transferee is a carrier.

MC-FC-79571. By decision of February 5, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to W. M. BURNETT TRUCK LINE, INC., of Haleyville, AL, of Certificate No. MC-116110 (Sub-No. 18), issued to P. C. White Truck Line, Inc., of Dothan, AL (R. S. Renfro, Trustee in Bankruptcy), which authorizes the transportation, as a common carrier, over regular routes, of *general commodities* (except household goods, commodities in bulk, Class A and B explosives and commodities which because of size or weight require the use of special equipment), (1) between Troy, AL, and Memphis, TN, (2) between Columbus, GA, and Tupelo, MS, (3) between Clanton, AL and Memphis, TN, serving in connection with routes (1, 2, and 3) all intermediate points and (4) between junction Interstate Hwy 65 and Alternate U.S. Hwy 72, on the one hand, and, on the other, junction U.S. Hwy 72 and Alternate U.S. Hwy 72, for operating convenience only, serving as off-route points in connection with the routes in (1, 2, and 3) above Crittenden County, AR, Shelby County, TN, Harris, Meriwether, Troup, Talbot, and Upson Counties, GA, and Lauderdale, Colbert, Lawrence, Limestone and Morgan Counties, AL, restricted against the handling of traffic between Memphis, TN and its commercial zone, on the one hand, and, points in MS, on the other. Representative: Donald S. Sweeney, Jr., P.O. Box 2366, 1010 Massey Bldg., Birmingham, AL.

Note.—Transferee holds authority in Certificate of Registration MC-85578 and presently has an application pending to convert that authority into a certificate of public convenience and necessity.

MC-FC-79573. By decision of February 5, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to HAMILTON TRUCKING, INC. of Certificate No. MC-145172 (Sub-No. 1)F issued October 2, 1980 to Robert L. Welborn and Wanda Sue Welborn, d.b.a. ORIENT EXPRESS authorizing the transportation of *foodstuffs,* over irregular routes in vehicles equipped with mechanical refrigeration, from points in Los Angeles and Orange Counties, CA to points in Maricopa County, AZ. Representative: Donald W. Powell, Esq., 4150 North 12th Street, Phoenix, AZ 85014.

MC-FC-79591. By decision of February 17, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to GEORGE D. BALLMAN & TERRY M. DeMATTEI, a partnership, d.b.a. TURNER VAN LINES of Noster, MO of Certificate No. MC-144229 (Sub-No. 1), issued to Cameron Enterprises, Inc. of Blue Springs, MO authorizing household goods, in containers between Benton, Henry, Hickory, Johnson, Lafayette, Pettis, St. Clair, Saline and Jackson Counties, MO. Representative: George Ballman/Terry DeMattei, Rt. 2 Knob, Noster, MO 65336. TA lease is sought. Transferee in not a carrier.

MC-FC-79593. By decision of February 9, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to HAMILTON TRUCKING, INC. of Certificate No. MC-145172 (Sub-No. 1)F issued October 2, 1980 to Robert L. Welborn and Wanda Sue Welburn, d.b.a. ORIENT EXPRESS authorizing the transportation of *foodstuffs,* over irregular routes in vehicles equipped with mechanical refrigeration, from points in Los Angeles and Orange Counties, CA to points in Maricopa County, AZ. Representative: Donald W. Powell, Esq., 4150 North 12th Street, Phoenix, AZ 85014.

MC-FC-79591. By decision of February 17, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to GEORGE D. BALLMAN & TERRY M. DeMATTEI, a partnership, d.b.a. TURNER VAN LINES of Noster, MO of Certificate No. MC-144229 (Sub-No. 1), issued to Cameron Enterprises, Inc. of Blue Springs, MO authorizing household goods, in containers between Benton, Henry, Hickory, Johnson, Lafayette, Pettis, St. Clair, Saline and Jackson Counties, MO. Representative: George Ballman/Terry DeMattei, Rt. 2 Knob, Noster, MO 65336. TA lease is sought. Transferee in not a carrier.

MC-FC-79593. By decision of February 9, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to BOOK MFG. EXPRESS, INC., of Scranton, PA, of Permit Nos. MC-151948 and MC-151948 (Sub-No. 1), issued to C & E Transport, Inc., of Scranton, PA, authorizing the transportation, as a contract carrier, of *general commodities,* (except household goods as defined by the Commission and classes A and B explosives), between points in the United States, under continuing contract with Haddon Craftsmen, Inc., of Scranton, PA, and Lindenmeyr Paper Corporation of Long Island City, NY. Representative: S. Berne Smith, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108-1166.

Note.—Transferee is not a carrier but is affiliated with transferor.

MC-FC-79594. By decision of February 9, 1982, Review Board 3 approved the transfer to J & T INC. of Belchertown, MA of Permit No. MC-146857 Sub 2F issued to W. K. Thomas, Inc. of Ludlow, MA, authorizing: magazines and magazine parts and sections, from Chicago, IL, to points in CT, under contract(s) with U.S. News and World Report, Inc. Representative: Patrick A. Doyle, 40 Sky Ridge Lane,

Springfield, MA 01128. TA lease is not sought. Transferee in not a carrier.

MC-FC-79595. By decision of February 17, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to J & T INC., of Belchertown, MA, of Permit No. MC-146858 (Sub-No. 2) issued July 29, 1980, to Amherst Enterprises Inc., of North Amherst, MA, authorizing: malt beverages from points in Oswego County, NY, to points in ME, NH, VT, MA, CT, RI, and NY, under continuing contract with Lucy S. Abercrombie, Inc., of Deerfield, MA. Representative: Patrick A. Doyle, 40 Sky Ridge Lane, Springfield, MA 01128. TA lease is not sought. Transferee is not a carrier.

MC-FC-79605. By decision of February 9, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to C. L. YOUNG, INC., Page, AZ, of Certificate No. MC-127012 and 127012 (Sub-No. 3) issued, respectively, May 21, 1965, and August 4, 1981, to William E. Huff authorizing the transportation of *salt* (a) from Salt Lake City and Redmond, UT, and points within 20 miles of each, to points in a described portion of AZ, (b) from points in Salt Lake, Weber, Davis, and Utah Counties, UT, to the Glen Canyon Dam Site in AZ and points within 10 miles thereof, and (c) from Solar, UT, to points in AZ. Representative: William S. Richards, P.O. Box 2465, Salt Lake City, UT 84110.

MC-FC-79608. By decision of February 5, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to ROBERT G. GRAHAM* of Certificate No. MC-42894 issued December 14, 1973, to Frank M. Herbert, Inc. authorizing the transportation over irregular routes of *commodities* which because of size or weights require the use of special equipment, factor equipment and contractor's equipment, between points in CT, DE, MD, MA, NJ, NY, PA and RI. Representative: Ben Cotten, Attorney, 1899 L Street, NW., Suite 1200, Washington, D.C. 20036.

MC-FC-79609. By decision of February 16, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to PETER PAN WORLD TRAVEL, INC. of Certificate No: MC-61016 (Sub-No. 52) issued to Peter Pan Bus Lines, Inc. authorizing the transportation of *passengers and their baggage*, in charter and special operations, (1) between points in ME, NH, VT, MA, CT, RI, and NY; and (2) beginning and ending at points in the states named in (1) above and extending to points in the United States (including AK but excluding HI).

Notes.—(1) Transferee holds no motor carrier authority from the Commission (2) because transferee is retaining duplicative authority applicants elected to submit evidence showing a public need for the competitive service as required in 49 U.S.C. 10922. Representative: Robert J. Brooks, 1828 L Street, NW., Suite 1111, Washington, DC 20036.

MC-FC-79613. By decision of February 9, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to TRANS WEST SYSTEMS, INC., of Pocatello, ID, of (1) Certificate No. 64186, issued to Gary C. Cooper, d.b.a. Aberdeen Truck Line; (2) Certificate No. MC-140305, issued to Lee Hawkes Transfer, Inc., and (3) Permit No. MC-146859 (Sub-No. 2), issued to Western States Freport, Inc., which authorize the transportation of (1) *general commodities* (with usual exceptions over regular routes between Pocatello and Aberdeen, ID, serving all intermediate points and the off-route points of Groveland, Rockfort, and Sterling, ID, with restriction; (2) *household goods*, between points in ID, on the one hand, and, on the other, points in UT and MT; and (3) *general commodities* (except classes A and B explosives) between points in the United States, under continuing contracts with Amway Corporation of Kent, WA. Representative: Timothy R. Stivers, P.O. Box 1578, Boise, ID 83701.

Note.—Transferee does not hold any permanent authority from this Commission. Transferee and the 3 transferors are affiliated.

MC-FC-79617. By decision of February 16, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Harrell Transfer & Storage, Inc., of Tallahassee, FL of Certificate No. MC-66771 issued to Ernest Mitts, William J. Brown d.b.a. HARRELL TRANSFER & STORAGE of Tallahassee, FL authorizing household goods between named points in FL, on the one hand, and, on the other points in AL, GA, MS, SC, TN, NC, LA and TX. Applicant's representative: W. Guy McKenzie, Jr., P.O. Box 1200, Tallahassee, FL 32302. TA lease is not sought. Transferee is not a carrier.

MC-FC-79618. By decision of February 16, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Owens Bros. Trucking, Inc., of Bernie, MO, of Certificate No. MC-125527 issued March 8, 1974, MC-125527 (Sub-No. 3) issued April 20, 1976, MC-125527 (Sub-No. 4) issued August 12, 1980, and MC-125527 (Sub-No. 5) issued August 6, 1981, to Buford Owens and Jerry C. Owens, a partnership, d.b.a. OWENS BORS. TRUCKING & LINE CO., of Bernie, MO, authorizing: (1) *fertilizer*, from Walnut Ridge, AR, to Malden, MO; (2) *dry fertilizer and dry fertilizer materials*, in bulk, from the facilities of Cargill, Incorporated at or near New Madrid, MO, to points in AR, IL (except East St. Louis and those points in IL located within the St. Louis, MO-East St. Louis, IL, Commercial Zone), IA, KY, and TN; (3) *dry fertilizer and fertilizer ingredients*, in bulk, from points in Mississippi County, AR, to points in MO; (4) *fertilizer and fertilizer ingredients* (except petroleum and petroleum products), from points in Pemiscott County, MO, to points in AR, KY, and TN and (5) *agricultural chemicals and related products*, between points in AR, IL, MO, KY, TN, LA, and MS. Applicant's representative: Thomas P. Rose, P.O. Box 206, Jefferson City, MO 65102; phone: 314-636-2321. TA lease is not sought. Transferee is not a carrier.

MC-FC-79622. By decision of February 10, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Enid Transport, Inc. of Certificate Nos. MC-134419 and No. MC-134419 (Sub-No. 1) issued October 22nd and October 8, 1981 to Paul Gailey authorizing the transportation over irregular routes, of (1) *food and related products*, between points in St. Louis County, MO and St. Clair County, IL, on the one hand, and, on the other, Ponca City, OK and points in Garfield County, OK; (2) *malt beverages*, between points in Tarrant County, TX, on the one hand, and, on the other, points in Pottawatomie County, OK. Applicants' representative: C. L. Phillips, Room 248—Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106.

MC-FC-79627. By decision of February 16, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Tri-State Trailways, Inc. of Certificate No. MC-111118 issued May 6, 1971 to Dunlap Bus Lines, Inc. (Internal Revenue Service) authorizing the transportation over described regular routes of Passengers and their baggage, and express, mail and newspapers, in the same vehicle with passengers, (1) between Dresden, TN, and Memphis, TN, serving all intermediate points, but with service at Memphis, Brownsville, and points intermediate thereto restricted to traffic originating at, or destined to, or interchanged at Dresden or at points intermediate between Dresden and Brownsville; (2) between Paris, TN, and Dresden, TN, serving all intermediate points; and (3) between Union City, TN, and Jacks Creek, TN, serving all intermediate points. Applicants' representative: James Clarence Evans, 1600 Third National Bank Building, Nashville, TN 37219.

FD-29845. By decision of February 9, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1151, Review Board Number 3 approved the transfer to C-JOY INTERNATIONAL, INC. of Permit No. FF-371 issued to HIGA FAST PAC, INC., EDWARD M. WALSH TRUSTEE IN BANKRUPTCY, authorizing the operation as a freight forwarder of (a) *used household goods* (b) *used automobiles*, and (c) *unaccompanied baggage*, between points in the United States (including Hawaii but excluding Alaska), restricted in (b) to the transportation of export and import traffic. Applicant's representative: Alan F. Wohlstetter, 1700 K St. NW., Washington, D.C. 20006.

Note.—Transferee is a non-carrier.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5185 Filed 2-25-82; 8:45 am]
BILLING CODE 7035-01-M

*The agreement states the Chase Manhattan Bank as a buyer. However they are not shown as a transferee in the application and since they are only listed as buyer to secure that the purchase price is paid.

[Volume No. 236]

Motor Carriers; Permanent Authority Decisions; Restriction Removals, Decision-Notice

Decided: February 23, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the Federal Register of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,
Secretary.

MC 59800 (Sub-24)X, filed February 4, 1982. Applicant: GROSS & HECHT TRUCKING, INC., 35 Brunswick Avenue, Edison, NJ 08817. Representative: A. David Millner, P.O. Box Y-7 Becker Farm Road, Roseland, NJ 07068. Sub 17 permit and contract carrier authority acquired in MC-F-14437 and MC-F-14633. Broaden Sub 17 and F-14437F authorities to between points in US, except AK and HI under continuing contract(s) with named shippers; in F-14437F, broaden canned non-alcoholic beverages and beverage containers to "beverages and beverge containers"; in F-14639F authority, broaden flavoring syrup, liquid and invert sugar to "food and related products" and new and used containers to "containers"; to between points in the US, except AK and HI" under continuing contract(s) with named and unnamed shippers; remove restriction against liquid chocolate, liquid chocolate coatings and liquid chocolate liquor from flavoring syrups description; in Sub 17 and F-14437 authority, remove except in bulk restriction.

MC 102817 (Sub-31)X, filed February 2, 1982. Applicant: PERKINS FURNITURE TRANSPORT, INC., 5034 Lafayette Rd., P.O. Box 24335, Indianapolis, IN 46224. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204. Subs 11, 16, 23 and 28 certificates: (1) broaden to "furniture and fixtures" from (a) new furniture, uncrated, and/or in containers, when shipped with uncrated furniture, Sub 11; (b) crated store fixtures, and crated furniture, Sub 16; (c) new furniture, Sub 23; and, (d) new furniture, kitchen cabinets, store and office fixtures, hospital beds and related hospital furniture, Sub 28; (2) remove the (a) specified point restriction, Subs 11 and 28; and, (b) originating at and/or destined to restriction, Subs 11, 16 and 28; (3) broaden to county-wide authority: (a) Sub 11, Kosciusko County, IN (Warsaw) and, Perry County, IN (Tell City); (b) Sub 16, Charlevoix County, MI (Charlevoix); and (c) Sub 23, Allegan, Kent, Ottawa and Barry Counties, MI (Grand Rapids); Franklin, Delaware, Licking, Fairfield, Pickaway, Madison and Union Counties, OH (Columbus); Lucas County, OH (Holland); Fulton County, OH (Swanton); Boone and Kenton Counties, KY (Florence); Jefferson, Oldham, Shelby and Bullitt Counties, KY (Louisville); Davidson County, NC (Welcome); Marion, Dillion and Horry Counties, SC (Nichols); Catawba, Burke, Caldwell and Alexander Counties, NC (Hickory); and, Mecklenburg, Cabarrus, Gaston, and Union Counties, NC and Lancaster and York Counties, SC (Charlotte); and, (4) broaden to radial authority, all Subs.

MC 104637 (Sub-6)X, filed February 9, 1982. Applicant: AMERICAN VANLINES, INC., 2126 N.W. 1st ct., Miami, FL 33127. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Sub-No. 6G: broaden household goods to "household goods and furniture and fixtures."

MC 116949 (Sub-22)X, filed February 5, 1982. Applicant: BURNS TRUCKING, INC., RR#1, Box 304, So. Sioux City, NE 68868. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. Lead and Subs 8, 10, 11, 14 and 18F permits: (A) broaden to (1) "transportation equipment and materials, equipment, and supplies used in the manufacture and distribution of such commodities" from (a) new or used trailers, other than those designed to be drawn by passenger automobiles, in initial or secondary movements, in truckaway service, and parts for the repair of wrecked or disabled trailers, lead and Sub 11; (b) semi-trailers and semi-trailer parts and accessories or equipment thereof, Subs 8 and 10; (c) wrecked semi-trailers, Sub 10; and (d) wrecked truck tractors, in truckaway service, lead; (2) "transportation equipment and machinery and materials, supplies and equipment used in the manufacture and distribution of such commodities" from materials and supplies utilized in the manufacture of trailers and earth moving equipment, Sub 18F; and (3) "lumber and wood products and metal products" from new doors and windows and screens thereto, and returned shipments, Sub 14; (B) remove "except commodities in bulk" and "in tank vehicles" restriction, Sub 18F; and (C) broaden to between points

in the U.S., under continuing contract(s) with named shippers, all Subs.

MC 124408 (Sub-25)X, filed February 11, 1982. Applicant: THOMPSON BROS., INC., 3604 Hovland Drive, P.O. Box 1283, Sioux Falls, SD 57101. Representative: Richard P. Anderson, P.O. Box 2581, Fargo, ND 58108. No. MC–129974 Sub 18F permit, (1) broaden to "food and related products" from spices, flavorings, mustard, and mustard products; (2) to between points in the U.S., under a continuing contract(s), with named shipper; and (3) remove commodities in bulk, in tank vehicles exception.

MC 133604 (Sub-17)X, filed February 4, 1982. Applicant: LYNN TRANSPORTATION COMPANY, INC., 712 South 11th St., Oskaloosa, IA 52577. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Lead and Subs 6, 7, 10 and 11 broaden (1) to "lumber and wood products" from lumber and "metal products" from machined castings, lead; to "food and related products" from meat, meat products and meat by-products, lead and Subs 6, 7 and 10; from foodstuffs, Subs 6, 7 and 10 and from foodstuffs and materials, equipment and supplies used in the manufacture of gelation products, Sub 11, (2) Moravia, IA to Appanoose County; Jonesboro and Bearden, AR to Craighead and Ouachita Counties; Oskaloosa, IA to Mahaska County; Bay Minette and Mobile, AL to Baldwin and Mobile Counties; Ottumwa, IA to Wapello County, lead; Algona and Ft. Dodge, IA to Kossuth and Webster Counties, Subs 6 and 7; Knoxville and Ames, IA to Marion and Story Counties, Sub 7; Austin, MN to Mower County; Ottumwa and Ft. Dodge to Wapello and Webster Counties, Sub 10; and Davenport, IA to Davenport, IA, and Rock Island and Moline, IL commercial zone, Sub 11, (3) remove facilities limitation, restrictions against hides, commodities in bulk, originating at/destined to, and to specified commodities, and (4) to radial authority.

MC 144484 (Sub-16)X, filed February 1, 1982. Applicant: FREIGHTWAYS, INC., P.O. Box 31, Industrial Park Dr., Eldon, MO 65026. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. No. MC–144484 (Sub-No. 13) and MC–140241 (Sub-No. 31F (acquired in MC–F–14341)) certificates: (A) broaden from pipe, fittings, valves, and hydrants, and accessories to "rubber and plastic products; clay, concrete, glass, and stone product; metal products and machinery", Sub 31F; (B) remove the "specified commodities" and "commodities in bulk" restrictions, Sub 31F; (C) broaden to (1) city-wide and/or county-wide authority: (a) Chicago, IL and Will County, IL (facilities—Chicago and Wilmington), Sub 13; and (b) Boone, Callaway, Moniteau and Cooper Counties, MO (facilities—Columbia), Sub 31F; and, (2) radial authority, both Subs.

MC 145454 (Sub-25)X, filed February 8, 1982. Applicant: SOUTHERN REFRIGERATED TRANSPORTATION COMPANY, INC., 7336 West 15th Avenue, Gary, IN 46406. Representative: Anthony E. Young, Suite 350, 29 South LaSalle Street, Chicago, IL 60603. Lead and Subs 2F, 3F, 6F, and 21 (in part) certificates, broaden: (1) to "food and related products," from frozen foods, canned, chilled and frozen foods, bananas, and agricultural commodities exempt from regulations when transported in mixed loads, and edible meats and meat products; (2) to countywide authority, as follows: lead, Scott County, MS (facilities near Forest); Sub 2, Nashville, TN and Rutherford County, TN (facilities near Murfreesboro and Nashville); Sub 3, Charleston, Dorchester and Berkeley Counties, SC (Charleston), and Hillsborough and Pinellas Counties, FL (Tampa); Sub 6, Pasco County, FL (facilities near Dade City); Sub 21 (pp. 9 and 10), Harrison County, MS (Gulfport), and Orleans, St. Bernard, Plaquemines, Jefferson and St. John The Baptist Parishes, LA (New Orleans and Metairie); (3) replace one-way service with radial; and (4) remove "except in bulk" restrictions in Subs 2 and 9; "originating at and destined to" restrictions in the lead, Subs 2 and 21 (pp. 9 and 10); and "equipment" and "ex-water" restrictions in Sub 21.

MC 149561 (Sub-6)X, filed February 11, 1982. Applicant: VALLEY EXPRESS, INC., P.O. Box 68, Glyndon, MN 56547. Representative: Richard P. Anderson, P.O. Box 2561, Fargo, ND 58108. Sub 6 (1) broaden tree or weed killing compounds to "chemicals and related products"; and (2) remove in containers restriction.

[FR Doc. 82-5173 Filed 2-25-82; 8:45 am]
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[Volume No. OP4-67]

Motor Carriers; Permanent Authority Decision; Decision-Notice

Decided February 19, 1982.

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Carleton, Fisher, Williams.

Agatha L. Mergenovich,
Secretary.

MC–F–14796, filed February 2, 1982. Applicant: JAMES R. WEIR (WEIR) (P.O. Box 328, Columbia City, IN 46725)—CONTINUANCE IN CONTROL—TRAFCO, INC. (TRAFCO) (Diamond Ave., Columbia City, IN 46725). Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46725. Weir, an Individual, seeks to continue in control of Trafco upon the institution by Trafco of operations in interstate or foreign commerce, as a motor common carrier. Weir also controls Columbia City Freight Lines, Inc., a motor common carrier pursuant to Certificates issued in MC–107487 and subs which authorize the transportation of general commodities, with certain exceptions, over regular routes, between Fort Wayne, IN and Columbia City, IN, between Columbia City, IN and Howe, IN, between Columbia City, IN and Millersburg, IN, between South Bend, IN and Middlebury, IN, and between Elkhart, IN and junction U.S. Hwy 6 and IN Hwy 13, and over irregular routes, between Fort Wayne, IN, on the one hand, and, on the other, specified points in IN, and between points in specified counties in IN, IL, MI, OH. Trafco holds no present Authority. Simultaneously herewith it has filed a common carrier application docketed No. MC–155826 to transport general commodities (except classes A and B explosives), between points in Elkart, Allen, Kosciusko, Huntington, Noble, Dekalb, LaGrange, Marshall; St. Joseph, and Whitley Counties, IN, on the one hand, and, on the other, points in NE, and those points in the U.S. in and east of WI, IA, MO, AR, and TX.

[FR Doc. 82-5174 Filed 2-25-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume OP5-69]

Motor Carriers; Permanent Authority Decision; Decision-Notice

Decided: February 19, 1982.

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Carleton, Fisher, Williams.

Agatha L. Mergenovich,
Secretary.

MC 155826, filed February 2, 1982. Applicant: TRAFCO, INC., Diamond Ave., Columbia City, IN 46725. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 636–1301. Transporting *general commodities* (except classes A and B explosives), between points in Elkhart, Allen, Kosciusko, Huntington, Noble, DeKalb, LaGrange, Marshall, St. Joseph, and Whitley Counties, IN, on the one hand, and, on the other, points in NE, and those in the U.S. in and east of WI, IA, MO, AR, and TX.

Note.—This application is directly related to MC–F–14796, published in this same Federal Register issue.

[FR Doc. 82-5175 Filed 2-25-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the

Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7229.

Volume No. OP2-32

Decided: February 9, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 116093 (Sub-4), filed February 1, 1982. Applicant: CITY HAUL, INC., 705 E. 2nd St., Cincinnati, OH 45202. Representative: Richard Rueda, 135 N. 4 St., Philadelphia, PA 19106, (215) 627-1925. Transporting *general commodities* (except classes A and B explosives and household goods), between Cincinnati and Dayton, OH, on the one hand, and, on the other, Baltimore, MD, New York, NY, Norfolk, VA, and points in OH, IL, IN, KY, MI, MO, PA, WV and NJ.

MC 145102 (Sub-82), filed January 29, 1982. Applicant: FREYMILLER TRUCKING, INC., 1400 S. Union Ave., Bakersfield, CA 93307. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703, (608) 256-7444. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under a continuing contract(s) with Bostrum-Warren, Inc., of Seattle, WA.

MC 154323 (Sub-3), filed February 1, 1982. Applicant: S L X TRANSPORT, INC., 1703 Highway Two, Duluth, MN 55810. Representative: E. L. Newville (same as applicant), (218) 624-0370. Transporting *such commodities* as are dealt in or used by tree farmers and wood converters, between points in AR, CA, FL, ID, IL, IN, KY, LA, MA, MN, MO, NJ AND PA, on the one hand, and, on the other, points in the U.S.

MC 159962 (Sub-1), filed February 1, 1982. Applicant: O.L. EXPRESS, LTD., Box 327, Carlisle, IA 50047. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282-3525. Transporting *food and related products*, (1) between points in Kent County, RI, on the one hand, and, on the other, points in AR, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, OK, SD, TX and WI, and (2) between points in MA, on the one hand, and, on the other, points in IA, NE, and MO.

MC 160302, filed January 28, 1982. Applicant: THOMAS INDUSTRIES EXPRESS, INC., P.O. Box 769, 1700 Gilbert St., Hopkinsville, KY 42240. Representative: William H. Borghesani, Jr., 1150 17th St., NW., Suite 1000, Washington, DC 20036, (202) 457-1122. Transporting (1) *cloth fabric and piece goods*, between points in the U.S., under continuing contract(s) with Elk Brand Manufacturing Company, of Hopkinsville, KY; (2) *tool boxes, tool chests, fishing tackle boxes and fishing tackle chests*, between points in the U.S., under continuing contract(s) with Atkinson Manufacturing Company, of Ludington, MI; and (3) *plastic articles*, between points in the U.S., under continuing contract(s) with Nestier Corporation, of Dawson Springs, KY.

Volume No. OP3-350

Decided: February 12, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 107445 (Sub-42), filed February 5, 1982. Applicant: UNDERWOOD MACHINERY TRANSPORT, INC., 940 W. Troy Ave., P.O. Box 33051, Indianapolis, IN 46203. Representative: K. Clay Smith (same address as applicant), (317) 783-9235. Transporting (1) *machinery*, (2) *metal products* and (3) *those commodities* which because of their size or weight requires the use of special handling or equipment, between points in Berkshire County, MA, Lowndes County, MS, Multnomah County, OR, Aiken County, SC, Shelby County, TN, and Rock County, WI, on the one hand, one the other, points in the U.S.

MC 111274 (Sub-82), filed February 8, 1982. Applicant: SCHMIDGALL TRANSFER INC., P.O. Box 351, Morton, IL 61550. Representative Frederick C. Schmidgall (same address as applicant), (309) 266-9773. Transporting *lumber and lumber mill products*, between points in the U.S., under continuing contract(s) with Sprenger Midwest Inc., of Minneapolis, MN.

MC 135364 (Sub-51), filed February 5, 1982. Applicant: MORWALL TRUCKING, INC., Box 78C, R.D. 3, Moscow, PA 18444. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, (703) 893-3050. Transporting *machinery*, between points in the U.S. under continuing contract(s) with Matsushita Electric Coropration of America of Fayetteville, TN.

MC 142064 (Sub-6), filed February 5, 1982. Applicant CAROLINA CARPET CARRIERS, INCORPORATED, P.O. Box 6, Williamston, SC 29697. Representative: Mitchell King, Jr., P.O. Box 8711, Greenville, SC, 29606, (803) 288-6000. Transporting *malt beverages, wine and brandy*, between points in the U.S., under continuing contract(s) with Acme Distributing Co. of Spartanburg, Inc., of Spartanburg, SC, Better Beer and Wine Company, of Greenville, SC Central Distributing Company, of Sumter, SC, Frank Distributing Co., Inc., of Anderson, SC, Southern Distributing Co., Inc., of Florence, SC, Southern Distributors of Spartanburg, Inc., of Spartanburg, SC, Stevens Corporation, of Myrtle Beach, SC, and Western Beverage Co., Inc., of Taylors, SC.

MC 147965 (Sub-5), filed February 4, 1982. Applicant: GUNTHER H. M. KLIESE, d.b.a. P & M ENTERPRISES, 10650 SW Wilsonville Rd., Wilsonville, OR 97070. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 226-3755. Transporting *textile mill products, rubber and plastic products, and metal products*, between points in OR, WA and MT, on the one hand, and, on the other, points in OH, IN, IL, WI, MO, PA, NY, MA, GA, RI, NJ, NC, UT, CA and WA.

MC 147965 (Sub-6), filed February 11, 1982. Applicant: GUNTHER H. M. KLIESE d.b.a. P & M ENTERPRISES, 10650 SW Wilsonville Rd., Wilsonville, OR 97070. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 226-3755. Transporting *refractory materials, exothermics, fluxes, chemical compounds, mineral compounds, and steel mill and foundry materials, supplies and equipment* (except commodities in bulk), between points in OH, PA and IL, on the one hand, and, on the other, points in WA, OR and UT.

MC 148114 (Sub-1), filed February 8, 1982. Applicant: E. S. MARTINS TRUCKING, INC., R.D. #4, Box 344, Hanover, PA 17331. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, (717) 233-5731. Transporting *general commodities* (except classes A and B explosives), between points in PA, on the one hand, and, on the other, points in the U.S.

MC 150255 (Sub-3), filed February 11, 1982. Applicant: LEPRINO TRANSPORTATION COMPANY, 3740 Shoshone St., Denver, CO 80211. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202, (303) 892-6700. Transporting *alcoholic beverages* and *related mixes*, between points in the U.S., under continuing contract(s) with the Wyoming Liquor Commission, of Cheyenne, WY.

MC 150444 (Sub-6), filed February 10, 1982. Applicant: ADVANCE FREIGHT, LTD., 7637 Leesburg Pike, Falls Church, VA 22043. Representative: Wayne Hartke (Same address as above), (703) 734-2810. Transporting *glass and glass products, fibreboard, wood and wood products*, between points in the U.S., under continuing contract(s) with General Glass International Corp., of New Rochelle, NY.

MC 151014 (Sub-1), filed February 8, 1982. Applicant: WITTE ASSOCIATES, INC., d.b.a. WITTE TRAVEL, 7195 Thornapple River Dr., Ada, MI 49301. Representative: Curtis D. Jonker, 880 Union Bank Bldg., Grand Rapids, MI 49503, (616) 456-8633). As a *broker* at ada, MI in arranging for the transportation by motor vehicle, of *passengers and their baggage*, in special and charter operations, between points in MI, on the one hand, and, on the other, points in the U.S.

MC 151534 (Sub-6), filed February 12, 1982. Applicant: R & D TRANSPORTATION CORPORATION, P.O. Box 1906, Des Moines, IA 50306. Representative: Donald B. Strater, 1350 Financial Center, Des Moines, IA 50309, (515) 283-2411. Transporting *lumber, lumber products, metal products, and building materials*, between points in the U.S. (except AK and HI).

MC 154265 (Sub-2), filed February 10, 1982. Applicant: MIKE WILLIAMS TRANSFER, INC., 2 Foxhurst Court, Manhasset Hills, NY 11040. Representative: Kenneth M. Piken, Queens Office Tower, 95-25 Queens Blvd., Rego Park, NY 11374-4565, (212) 275-1000. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Sperry Corporation, of Fairfax, VA.

MC 156045 (Sub-2), filed February 8, 1982. Applicant: H. P. LEASING, INC., 44 Chandler Dr., Somerset, MA 02726. Representative: Francis E. Barrett, Jr., 10 Industrial Park Rd., Hingham, MA 02043, (617) 749-8500. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. under continuing contract(s) with Princess House, Inc. of No. Dighton, MA. Titleist Golf Division of Acushnet Co. of New Bedford, MA, Quality Carpet Inc. of Avon, MA, Poly-America Inc. of Grand Prairie, TX and Globe Manufacturing Company of Fall River, MA.

MC 156064 (Sub-1), filed February 9, 1982. Applicant: GENEVA AND JOHN NIXON, d.b.a. NIXON FREIGHT LINES, 3618 U.S. Route #42, Box 213, Mason, OH 45040. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215, (614) 224-3161. Transporting *scrap metals* and *used railroad car parts*, between points in the U.S. (except AK and HI).

MC 160414, filed February 4, 1982. Applicant: MARTIN TRANSFER, INC., 906 Gemini, Houston, TX 77058. Representative: Paul D. Angenend, P.O. Box 2207, 1806 Rio Grande, Austin, TX 78768, (512) 476-6391. Transporting *metal products* and *Mercer commodities*, between points in NM and TX, on the one hand, and, on the other, points in AR, CO, LA, NM, OK and TX.

MC 160434, filed February 5, 1982. Applicant: R. S. LIQUID WASTE DISPOSAL, INC., 163 Pinnery Ave., Warwick, RI 02886. Representative: David F. Sweeney, 10 Jefferson Blvd., Warwick, RI 02888, (401) 785-0200. Transporting (1) *chemicals and related products*, and (2) *hazardous materials*, between points in ME, NH, VT, MA, RI, CT, NY, and NJ, on the one hand, and, on the other, Williamsburg, OH.

Note.—The certificate in this proceeding to the extent it authorizes the transportation of hazardous materials shall expire 5 years from the date of issuance.

MC 160444, filed February 5, 1982. Applicant: B & T TRUCK LINES, INC., 2224 No. Knox St., Chicago, IL 60637. Representative: Themis N. Anastos, 120 W. Madison St., Chicago, IL 60602, (312) 782-8688. Transporting *food and related products*, between points in IL, MS, IN, MI, MN, WI, OH, TN, KY, AR and MO.

MC 160484, filed February 8, 1982. Applicant: CAHILL & SONS TRANSPORT INC., 17 Deerfield Rd., Port Washington, NY 11050. Representative: Bruce J. Robbins, 18 E. 48th St., New York, NY 10017, (212) 755-9400. Transporting *malt beverages*, between points in NY and NJ, on the one hand, and, on the other, those points in the U.S. in and east of MI, WI, IL, KY, TN and MS.

MC 160525, filed February 10, 1982. Applicant: ELITE EXPRESS, 2449 Faithhome Rd., Ceres, CA 95307. Representative: Lillie Mello (same address as applicant), (209) 537-4869. Transporting *food and related products*, between points in OR, WA and AZ.

MC 160554, filed February 12, 1982. Applicant: M.C.J. COACH LINES, INC., 127 16 34th Ave., Flushing, NY 11368. Representative: John J. Logan (same address as applicant), (212) 424-4800. Transportating *passengers*, between points in CT, NY, and NJ, under continuing contract(s) with Paul Shenkman Associates, of New York, NY.

MC 160555, filed February 12, 1982. Applicant: ERWIN R. GRAESE, d.b.a. GRAESE AUTOMOTIVE, 2872 Madison Ave., Loveland, CO 80537. Representative: Richard S. Mandelson, 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264, (303) 861-4028. Transporting (1) *lumber*, (2) *wood products*, and (3) *metal products*, between points in AZ, CA, CO, ID, IN, KS, MN, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, VA, WA, and WY.

MC 146724 (Sub-9), filed January 18, 1982, previously published in the Federal Register issue of February 2, 1982. Applicant: DEAN RAPPLEYE, INC., 7444 S. 2200 W., West Jordan, UT 8408. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200-A, Park Ridge, IL 60068, (312) 696-2235. Transporting *food and rlated products* (except commodities in bulk), (1) between Salem, OR, Kennewick, WA, points in Marion County, OR, Benton and Snohomish Counties, WA, Santa Clara, Santa Cruz, Stanislaus, Monterey and

Ventura Counties, CA, and Nez Perce County, ID, on the one hand, and, on the other, points in AZ, CA, CO, ID, IA, KS, MN, MO, NE, NV, NM, ND, OK, OR, SD, TX, UT and WA, and (2) between points in Salt Lake County, UT, on the one hand, and, on the other, points in CO, IA, KS, MN, MO, NE and SD. This republication corrects the territorial description.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5186 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-6 (Sub-109)]

Burlington Northern Railroad Co.; Abandonment in Kearney, Phelps and Harlan Counties, NE; Findings

The Commission has issued a certificate authorizing *Burlington Northern Railroad Company* to abandon its 14.58 mile rail line between Wilcox (milepost 24.50) and Huntley (milepost 9.92) in Kearney, Phelps and Harlan Counties, NE. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Richard A. Kelly, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5184 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-73N)]

Conrail Abandonment Between Nanty Glo and East Dias, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Nanty Glo and East Dias in the Counties of Cambria and Indiana, PA, a total distance of 15.5 miles effective on January 28, 1982.

The net liquidation value of this line is $277,738. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5185 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-58N)]

Conrail Abandonment Between Warwick and New York/New Jersey State Line; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Warwick and the New York/Jersey State Line in the County of Orange, NY, a total distance of 2.8 miles effective on January 6, 1982.

The net liquidation value of this line is $178,008. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5135 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-55N)]

Conrail Abandonment Between Plains Junction and Pittston, Pa; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Plains Junction and Pittston in the County of Luzerne, PA, a total distance of 0.2 miles effective on January 28, 1982.

The net liquidation value of this line is $20,686. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5187 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-79N)]

Conrail Abandonment Between West Cresson and Lilly, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between West Cresson and Lilly in the County of Cambria, PA, a total distance of 1.7 miles effective on January 28, 1982.

The net liquidation value of this line is $33,744. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5188 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-81N)]

Conrail Abandonment at Potts Run, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Potts Run and the end of the line in the County of Clearfield, PA, a total distance of 1.4 miles effective on January 28, 1982.

The net liquidation value of this line is $13,412. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish and equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5189 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-86N)]

Conrail Abandonment Between Benjamin No. 10 Mine and Madera, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Benjamin No. 10 Mine and Madera in the County of Clearfield, PA, a total distance of 1.4 miles effective on January 28, 1982.

The net liquidation value of this line is $26,777. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5190 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-87N)]

Conrail Abandonment at Youngwood, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 0.6 and milepost 1.9 in Youngwood in the County of Westmoreland, PA, a total distance of 1.3 miles effective on January 26, 1982.

The net liquidation value of this line is $61,128. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5191 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-89N)]

Conrail Abandonment at Tarr, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 0.0 and milepost 0.7 in Tarr in the County of Westmoreland, PA, a total distance of 0.7 miles effective on January 26, 1982.

The net liquidation value of this line is $69,541. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5192 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-92N)]

Conrail Abandonment at Connellsville, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 0.0 and milepost 0.3 at Connellsville in the County of Fayette, PA, a total distance of 0.3 miles effective on January 26, 1982.

The net liquidation value of this line is $39,221. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5193 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-50N)]

Conrail Abandonment between Kingston and New Paltz, NY; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Kingston and New Paltz in the County of ULster, NY, a total distance of 14.8 miles effective on January 6, 1982.

The net liquidation value of this line is $220,201. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5179 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-25)]

Conrail Abandonment Between Carey and Berwick, OH; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Carey and Berwick in the Counties of Wyandot and Seneca, OH, a total distance of 6.8 miles effective on January 22, 1982.

The net liquidation value of this line is $246,873. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5180 Filed 2-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-679)]

Conrail Abandonment Between Cochranton and Utica, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Cochranton and Utica in the County of Venango, PA, a total distance of 8.9 miles effective on January 26, 1982.

The net liquidation value of this line is $94,398. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5176 Filed 2-25-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket AB-167 (Sub-680)]

Conrail Abandonment Between Dimeling and Madera, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Dimeling and Madera in the County of Clearfield, PA, a total distance of 10.7 miles effective on January 28, 1982.

The net liquidation value of this line is $190,804. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5175 Filed 2-25-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket AB-167 (Sub-678)]

Conrail Abandonment Between Clearfield Junction and Dimeling, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Clearfield Junction and Dimeling in the County of Clearfield, PA, a total distance of 3.9 miles effective on January 26, 1982.

The net liquidation value of this line is $39,438. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5177 Filed 2-25-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket AB-167 (Sub-669)]

Conrail Abandonment at Hillman, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 0.0 and milepost 1.4 in Hillman in the Counties of Indiana and Jefferson, PA, a total distance of 1.4 miles effective on January 26, 1982.

The net liquidation value of this line is $62,977. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5173 Filed 2-25-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte 367 (Sub-24)]

Soo Line Railroad Company and Illinois Central Gulf Railroad Company, Exemption for Contract Tariff ICC-SOO-C-0017

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioners are granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., or Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: The Soo Line Railroad Company (SOO) and the Illinois Central Gulf Railroad Company (ICG) filed a petition on February 12, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). Petitioners request that we permit contract tariff ICC-SOO-C-0017 to become effective on March 5, 1982. The tariff was filed to become effective on March 15, 1982. The tariff provides for the joint movement of wheat from Duluth, Minnesota to destinations in Louisiana and Alabama.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 day's notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. In a supporting statement, the shipper states that in order to avoid shut-downs, it requires delivery of the wheat at its Venezuelan mills by April 1, 1982. Early implementation of the contract will insure that the rail shipments arrive by the expected sailing date. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioners' contract tariff ICC-SOO-C-0017 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505)

Dated: February 22, 1982.

By the Commission, Division 2, Commissioners Gresham, Gilliam, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5183 Filed 2-25-82; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. American Maize-Products Co. and Bayuk Cigars, Inc.; Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), that a proposed consent decree and competitive impact statement have been filed with the United States District Court for the Middle District of Florida, Jacksonville Division, in the case of *United States* v. *American Maize-Products Company*, Civil Action No. 81-1232-Civ-J-M.

The complaint in this case alleged that the proposed acquisition of all of the cigar business assets of Bayuk Cigars Incorporated by Jno. H. Swisher & Son, Inc., a wholly owned subsidiary of American Maize-Products Company, would substantially lessen competition in the manufacture and sale of cigars in violation of Section 7 of the Clayton Act.

The proposed judgment would enjoin Bayuk for a period of five years from transferring any trade name or manufacturing facility used in its cigar business to American Maize-Products Company, Consolidated Cigar Company, Culbro Corporation, or American Brands, Inc., without prior approval from the Department of Justice; however, the decree would allow Bayuk to sell its Garcia y Vega brand and any manufacturing facilities and assets necessary to produce that brand to any cigar manufacturer other than Consolidated Cigar Company.

Public comment on the proposed judgment is invited within the statutory 60-day comment period. Comments should be directed to Alan L. Marx, Acting Chief, General Litigation Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530.

Joseph H. Widmar,
Director of Operations Antitrust Division.

U.S. District Court for the Middle District of Florida, Jacksonville Division

United States of America, Plaintiff v. *American Maize-Products Company and Bayuk Cigars, Inc.*, Defendants.

Civil No. 81-1232-Civ-J-M

Stipulation. Filed: February 12, 1982.

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendants and by filing that notice with the Court.

2. In the event Plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated:

For the plaintiff: William F. Baxter, *Assistant Attorney General;* Mark Leddy, Charles F. B. McAleer, Alan L. Marx, *Attorneys, U.S. Department of Justice, Antitrust Division.*
Steven C. Douse; Richard W. Pierce; David S. Moynihan; Philip M. Eisenstat; *Attorneys, U.S. Department of Justice, Antitrust Division, Washington, D.C. 20530, (202) 724-6485.*

For the defendants: Donald F. Turner, Wilmer, Cutler & Pickering, 1666 K Street NW., Washington, D.C. 20006, (202) 872-6000, *Attorneys for Bayuk Cigars Incorporated;* Barbara A. Mentz, Hall, McNicol, Hamilton, Clark & Murray, 220 East 42nd Street, New York, New York 10017, (212) 682-3060, *Attorneys for American-Maize Products Company.*

U.S. District Court for the Middle District of Florida, Jacksonville Division

United States of America, Plaintiff, v. *American Maize-Products Company and Bayuk Cigars, Inc.*, Defendants.

Civil No. 81-1232-Civ-J-M.

Final Judgment. Filed: February 12, 1982.

Plaintiff, United States of America, having filed its complaint herein on December 22, 1981, and defendants American Maize-Products Company ("American Maize") and Bayuk Cigars, Inc. ("Bayuk") having appeared, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment, and without this Final Judgment constituting any evidence against, or any admission by, any party with respect to any issue of fact or law herein;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby Ordered, Adjudged and Decreed, as follows:

I

This Court has jurisdiction over the subject matter herein and the parties hereto. The complaint states a claim upon which relief may be granted against American Maize and Bayuk under section 7 of the Clayton Act, 15 U.S.C. 18, as amended.

II

As used in this Final Judgment:

(A) "Cigar" means a roll of tobacco wrapped in tobacco leaf or reconstituted tobacco weighing more than three pounds per thousand.

(B) "Cigar business" means the business of producing and selling cigars.

(C) "Manufacturing facility" means any plant used to manufacture cigars and all or substantially all of the equipment and machinery used to manufacture cigars in that plant.

III

The provisions of this Final Judgment shall apply to Bayuk and to each of its directors, officers, employees, agents, subsidiaries, affiliates, successors and assigns and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

(A) Bayuk is hereby enjoined and restrained from selling or transferring, directly or indirectly, without prior approval from the Department of Justice, any trade name or manufacturing facility used in its cigar business to American Maize, Consolidated Cigar Company, Culbro Corporation, or American Brands, Inc., or any of their parents, subsidiaries, affiliates, or successors; provided, however, that Bayuk shall be permitted to sell the Garcia y Vega brand and any manufacturing facilities and assets necessary to produce that brand to any cigar manufacturer other than Consolidated Cigar Company.

(B) Bayuk shall supply the Department of Justice with a copy of any contract for the sale of the Garcia y Vega brand and related assets to any company named in subsection (A) of this Section IV, together with a written description of such assets, at least ten days in advance of the closing date of the transaction.

(C) With respect to any application for approval of the Department of Justice pursuant to subsection (A) of this section IV, Bayuk shall supply the Department of Justice with a copy of the proposed contract of sale together with all pertinent information relating thereto. The Department of Justice shall have fifteen days from the receipt of such application to request such additional information as may be necessary for it to make its decision thereon.

V

For the purpose of determining or securing compliance with this Final judgment, and subject to any legally recognized privilege:

(A) Duly authorized representatives of the Department of Justice, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Bayuk made to its principal office, shall be permitted:

(1) Access during office hours of Bayuk to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Bayuk, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of Bayuk and without restraint or interference from it, to interview officers, employees, and agents of Bayuk, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to Bayuk's principal office, Bayuk shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section V shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by Bayuk to plaintiff, Bayuk represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under rule 26(c)(7) of the Federal Rules of Civil Procedure, and Bayuk marks each pertinent page of such material, "Subject to claim of protection under rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to Bayuk prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which Bayuk is not a party.

VI

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction, implementation or modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations hereof.

VII

This Final Judgment will expire five years from its date of entry.

VIII

Entry of this Final Judgment is in the public interest.

Dated: _____

_____

United States District Judge.

U.S. District Court for the Middle District of Florida, Jacksonville Division

United States of America, Plaintiff, v. *American Maize-Products Co. and Bayuk Cigars, Inc.*, Defendants.

Civil No. 81-1232-Civ-J-M Competitive Impact Statement.

Filed: February 12, 1982.

This competitive impact statement, relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding, is filed by the United States pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 10(b).

I. The Nature and Purpose of the Proceeding

This is an action brought under Section 7 of the Clayton Act, 15 U.S.C. 18, seeking to enjoin one cigar manufacturer from acquiring another. The defendants are American Maize-Products Company ("American Maize"), a Maine corporation with principal offices in Stamford, Connecticut, and Bayuk Cigars incorporated ("Bayuk"), a Maryland corporation located in Fort Lauderdale, Florida.

Jno. H. Swisher & Son, Inc. ("Swisher"), a wholly-owned subsidiary of American Maize located in Jacksonville, Florida, is the second largest manufacturer of cigars in the United States by unit volume of sales and the third largest by dollar volume of sales. Its principal brands are King Edward and Swisher Sweets.

Bayuk is the fourth largest manufacturer of cigars in the United States by unit volume of sales and the fifth largest by dollar volume of sales. Its principal brands are Phillies and Garcia y Vega.

On December 21, 1981, the shareholders of Bayuk approved a plan for the complete liquidation of the company, to be completed within one year. As part of its plan of liquidation Bayuk agreed to sell substantially all of its cigar business assets to Swisher (or to another company formed by American Maize for the purpose of acquiring the Bayuk assets) for approximately $14.5 million. Bayuk's plan of liquidation provides for the sale of the company's cigar business assets to another buyer if the sale to Swisher is not consummated.

On December 22, 1981, the government filed a complaint alleging that the proposed acquisition by Swisher of Bayuk's cigar business assets would substantially lessen competition in the manufacture and sale of cigars in violation of Section 7 of the Clayton Act and asking that the acquisition be preliminarily and permanently enjoined. The defendants subsequently agreed to postpone the closing of the transaction pending a hearing on the government's application for a preliminary injunction. The parties reached an agreement settling the case before a hearing could be held on the application.

II. The Nature of the Alleged Violation

The complaint alleges that the appropriate market within which to assess the proposed acquisition's effect on competition is the manufacture (including importation) and sale of cigars throughout the United States. A cigar is defined as any roll of tobacco wrapped in tobacco leaf or reconstituted tobacco and weighing more than three pounds per thousand.

The government relied on market shares calculated both in units (individual cigars) and in dollars. Because cigars vary widely in price, and the proportion of cigars sold at each price level varies from one manufacturer to the next, a firm's share of the market may be very different as computed by these two methods. Although we believe units are generally the more reliable measure of competitive strength in this industry, the most complete and accurate picture of the industry's structure is obtained by using a combination of the two.

In unit sales, Swisher's market share for 1980 was 19.55%. Bayuk's market share was 7.67%. In dollars, the comparable figures are 10.54% for Swisher and 6.86% for Bayuk. The top four firms, as measured by unit sales, have approximately 69.8% of the market, the top eight 86.1%. Measured in dollar sales, the four-firm concentration ratio is 59.9%, and the eight-firm concentration ratio is 76.4%. The combined shares of Swisher and Bayuk amount to 27.22% in units and 17.16% in dollars, and would have resulted in post-acquisition four-firm and eight-firm concentration ratios of 76.9% and 87.7% in units and 66.6% and 79.1% in dollars.

The government believes that an increase of this magnitude in the level of concentration in the cigar industry would have resulted in a substantial lessening of competition in the manufacture and sale of cigars. Among the important factors supporting this conclusion are the companies' extensive overlap in the low-priced segment of the market, the steady decline in demand for cigars, the low probability of new entry, and the impracticality of increased importation of inexpensive cigars.

III. The Proposal for a Consent Judgment and its Anticipated Effect on Competition

The proposed consent decree by which the parties would settle this case permits Bayuk to sell its cigar business assets and complete its liquidation, but it minimizes the potential increase in concentration in the cigar industry by limiting the buyers to whom Bayuk may sell. Section IV(A) of the proposed decree prohibits Bayuk from selling or transferring any trade name or manufacturing facility used in its cigar business to any of the largest cigar manufacturers—Consolidated Cigar Company, American Maize, Culbro Corporation, or American Brands, Inc.—without prior approval from the Department of Justice. Section IV(A) contains an exception for Bayuk's Garcia y Vega brand and related assets, which may be sold to any cigar manufacturer other than the largest, Consolidated Cigar Company. The decree is to remain in effect for five years and will bind the purchasers of Bayuk's cigar business assets during that period.

In effect, the defendants have agreed that they will not go forward with the acquisition as it was originally structured. Bayuk will be allowed under the decree to attempt to negotiate a sale of its Garcia y Vega brand to Swisher, but failing that it will be free to sell that brand to any cigar manufacturer other than Consolidated. Bayuk's Phillies brand cannot be sold to any of the largest cigar manufacturers without the consent of the Department of Justice.

The government relied on several factors in assessing the proposed decree's probable effect on competition and in concluding that it represented reasonable and adequate relief:

(1) The maximum increase in concentration in the cigar industry permitted under the decree is much smaller than would have occurred if the acquisition had gone forward in its original form. Given the characteristics of the market and the companies involved, it is unlikely to lead to a substantial lessening of competition.

(2) Phillies will be preserved as a competitive entity independant of the other major manufacturers.

(3) Continued litigation would not be a satisfactory alternative if Bayuk and Swisher voluntarily limited the transaction to Garcia y Vega.

A. Increase in Concentration

The Garcia y Vega brand accounts for approximately one-third of Bayuk's unit sales and one-half of its dollar sales. Standing alone, its 1980 market share would have been 2.57% in units and 3.84% in dollars. The comparable figures for Phillies would have been 5.10% in units and 3.14% in dollars. The market shares of the four largest manufacturers, excluding Bayuk, are as follows:

Manufacturer	1980 market share (units)	1980 market share (dollars)
Consolidated Cigar	[1] 24.82	[1] 26.58
Swisher	19.55	10.54
General Cigar (Culbro)	17.74	13.98
American Cigar (American Brands)	7.14	6.86

[1] Percent.

No other firm has as much as 4% of the market on either basis, and most of the remaining firms are significantly smaller on one dimension (units or dollars) than on the other.

A useful means of comparing the increases in concentration that would result from various dispositions of the Bayuk cigar business assets is the Hirshman-Herfindahl index, a measure of the level of concentration in a market calculated by adding the squares of the market shares of all companies in the market. The Hirschman-Herfindahl index for the cigar industry in 1980 was at least .1464 in units and .1190 in dollars. The original proposed acquisition would have increased these figures by .0500 and .0140, respectively. By comparison, Swisher's acquisition of Garcia y Vega would yield an increase of .0100 in units and .0050 in dollars. The comparable figures for Garcia y Vega and Culbro are .0091 in units and .0093 in dollars. a Sale to American Brands would increase the index by .0037 in units and .0059 in dollars. The maximum increase resulting from a sale of Phillies to one of the smaller manufacturers would be .0039 in units and .0018 in dollars, or .0033 in dollars and .0013 in units. An increase of .0100 in an moderately concentrated industry ordinarily would be considered significant.

Even in combination, the possible sales of Garcia y Vega and Phillies pursuant to the decree will produce a much smaller increase in concentration than the original transaction, and this assumes that Bayuk will in fact sell each brand to one of the largest manufacturers premitted under the decree. Alternative purchasers, either from outside the industry or from among the very small cigar manufacturers, would further lessen or even eliminate the increase in concentration.

This does not mean that increases in concentration of the magnitude possible under the decree are necessarily competitively benign. In another industry, or in other circumstances, the Department of Justice might oppose the acquisition of a company the size of Garcia y Vega by a competitor the size of Swisher or Culbro. Here, however, we believe that the risk of anticompetitive effect is acceptably low, in part because Garcia y Vega and Swisher compete primarily in different segments of the market.

There is general recognition that within the broader cigar market not all cigars compete equally with one another. Cigars of a particular size and price compete most directly with other cigars of similar size and price. The degree of substitutability, and hence of competition, decreases as the price differential between cigars increases.

Despite the wide range of prices for cigars, it would be difficult and possibly misleading to define discrete submarkets on this basis. There are no clear dividing lines between different price categories, and variations of size and shape affect patterns of substitutability in ways that may counteract apparent differences in price. Arbitrarily defined submarkets might obscure the meaningful competition that does exist between cigars in different price categories. Nevertheless, it is important in analyzing the broader cigar market to take account of the tendency for similarly-priced cigars to compete more vigorously with each other than with cigars selling for a substantially higher or lower price.

As originally structured, the acquisition would have combined Phillies, one of the largest-selling brands of inexpensive cigars, with Swisher, which produces only inexpensive cigars and is the largest seller in that segment of the market. The effect on competition, because of this direct overlap, would have been particularly acute.

Garcia y Vega cigars are generally more expensive than Phillies or the cigars sold by Swisher. The latter sell for thirteen cents each or less at retail. Suggested retail prices for Garcia y Vega run from seven cents to seventy-five cents, with most selling for more than fifteen cents each.

Although the Garcia y Vega brand does compete with the brands sold by Swisher, they compete less directly than brands in the same price range, and the significance of their combined shares in the overall market should be weighed accordingly. If Swisher is able to negotiate a purchase of only Garcia y Vega, it will thereby expand its production into the medium-priced segment of the market in which it is not now represented.

This analysis is applicable to Culbro, which has its greatest strength in the low-priced and premium segments of the market, though to a lesser degree, as it does have medium-priced brands. American Cigar is a strong competitor in the medium-priced segment but has a much smaller share of the overall market.

B. Preservation of Phillies as a Competitive Entity

A principal concern of the government in this lawsuit was that the number of significant competitors not be reduced because of Bayuk's desire to leave the industry. At present, the five largest cigar manufacturers control 76.9% of unit sales and 66.6% of dollar sales in the domestic market. The remainder is split among a multitude of small firms, many of which have limited product lines, regional or local sales territories, or both.

If Bayuk's cigar business and market share went entirely to one or more of the major manufacturers, the top five would have become the top four, and the market would be left with one less significant competitor. The resulting increase in concentration would almost certainly portend a loss of competitive vigor. Conversely, by insuring that the Phillies brand and manufacturing facilities are not sold to one of the major manufacturers, the decree guarantees that it will remain an independent and important presence in the market. If Phillies is sold to one of the smaller manufacturers, it will project that company into the top five in the industry, essentially replacing Bayuk as a major competitor. If sold to a new entrant or otherwise maintained as a separate entity, Phillies will still be large enough to have a meaningful impact on the market.

This assumes, of course, that Phillies would be independently viable (if not sold to an existing manufacturer) and that Bayuk will sell or maintain it as a going business. Bayuk currently manufactures its cigars in two plants. The entire Phillies line can be produced efficiently in a single plant, which we expect will be offered to the buyer of the Phillies brand. Obtaining additional manufacturing facilities in any event would not be difficult. The government is aware of no special impediments or disadvantages that would prevent Phillies' survival as a separate company.

The government believes that Bayuk's financial interest in maintaining Phillies as a valuable, saleable property is sufficient to guarantee that it will not be operated or disposed of in a way that would injure its standing as a viable competitor and thereby diminish its worth.

C. Alternatives to the Proposed Decree

If the government had rejected the proposed settlement, it is likely that Bayuk would have proceeded unilaterally to restructure its transaction with Swisher to cover only Garcia y Vega. The government's options then would have been to continue this case, challenging only the narrower acquisition, or to dismiss the original action and await the sale of Phillies before deciding if one or both of the transactions should be the subject of further litigation. Even if we

believed that Swisher's acquisition of Garcia y Vega itself was substantially anticompetitive, a case brought on that basis would be much more difficult to win than the present case and would require a greater commitment of resources.

The alternative of waiting for Bayuk to complete the sale of its cigar business assets, however, was even less satisfactory. Without the decree there would be no guarantee concerning the future disposition of Phillies. If Phillies subsequently were sold to one of the major manufacturers, the net effect, when considered with a sale of Garcia y Vega to Swisher, would have been very close to that of the original transaction. At that point, however, the sale to Swisher would have been consummated, and attacking the two acquisitions collectively would have been far more difficult.

On balance, therefore, the government believes the proposed decree represents a reasonable resolution of the case, one that minimizes the probability that Bayuk's liquidation will adversely affect the quality of competition in the cigar industry. The five-year term of the decree was deemed sufficient in light of the steady decline in demand for cigars and the industry's uncertain future.

IV. Remedies Available to Private Parties

Entry of the proposed consent judgment will have no effect on the rights of persons who may have been injured by the alleged violation. Private plaintiffs may sue for money damages or any other legal or equitable remedy. However, this judgment may not be used as prima facie evidence in private litigation pursuant to section 5(a) of the Clayton Act, 15 U.S.C. 16(a).

V. Procedures Available for Modification of the Proposed Consent Judgment

For a period of 60 days following the filing of the proposed consent judgment and its publication in the **Federal Register**, interested persons may submit written comments concerning the proposed judgment to Alan L. Marx, Acting Chief, General Litigation Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530. These comments and the government's response to each will be filed with the Court and published in the **Federal Register**. The government will carefully consider all comments to determine if there is any reason for withdrawing its consent to the proposed judgment, which it may do at any time before the decree is entered by the Court. The Court will retain jurisdiction over the judgment following its entry so as to permit any of the parties to apply for orders modifying or enforcing the decree.

VI. Alternatives Actually Considered

The complaint filed in this action requested that American Maise be enjoined from acquiring any interest in Bayuk's cigar business assets. This was the only other form of relief actually considered by the United States.

VII. Determinative Documents and Materials

There are no documents or materials that the government considered determinative in formulating the proposed judgment.

Dated:

Respectfully submitted,

Steven C. Douse, Richard W. Pierce, David S. Moynihan, Philip M. Eisenstat: *Attorneys, United States Department of Justice, Antitrust Division, Washington, D.C. 20530 (202) 724-6435.*

[FR Doc. 82-5112 Filed 2-25-82; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-10,589]

Alees Shake Mill, Taholah, Washington; Revised Determination on Reconsideration

On November 25, 1981, the Department made an Affirmative Determination Regarding Application for Reconsideration for former workers at the Alees Shake Mill, Taholah, Washington. This determination was published in the **Federal Register** on September 16, 1981 (46 FR 46426).

One of the petitioners claims that workers at Alees' sole customer were certified by the Department for trade adjustment assistance.

The Department found in its reconsideration investigation that the "contributed importantly" test of Section 222 of the Trade Act was met. The Department found that Alees' sole customer's workers were certified for trade adjustment assistance on October 14, 1981, TA-W-12,110. That customer purchased shakes from area shakemills for resale to brokers. The Department's survey of Alees' sole customer showed that it's customers reduced purchases of red cedar shakes and shingles while increasing imports of red cedar shakes and shingles in 1980 compared to 1979.

All production operations at Alees Shake Mill ceased in January 1980. U.S. imports of red cedar shingles, shakes, hips and ridges increased absolutely in 1979 compared to 1978 and increased relative to domestic production in 1979 and 1980 compared to the immediately respective years. The ratio of U.S. imports to domestic production of red cedar shakes and shingles in 1980 was 149.3 percent.

Conclusion

After careful review of the facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with red cedar shingles and shakes produced at Alees Shake Mill contributed importantly to the decline in sales or production and to the total or partial separation of workers and former workers at Alees Shake Mill in Taholah, Washington. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers of Alees Shake Mill, Taholah, Washington who became totally or partially separated from employment on or after August 1, 1979 and before March 1, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of February 1982.

Robert S. Kenyon,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 82-5214 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-12,525]

American Handling Equipment, Inc., Campbell Hall, New York; Negative Determination Regarding Application for Reconsideration

By an application dated January 4, 1982, one of the petitioners requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to apply for Worker Adjustment Assistance in the case of workers and former workers of American Handling Equipment, Inc., Campbell Hall, New York. The determination was published in the **Federal Register** on December 29, 1981 (46 FR 62872).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioner claims that the Department's investigation was not complete enough to reject the worker petition since imports of forklifts and forklift parts contributed importantly to worker separations at the American Handling Equipment, Inc., Campbell Hall, New York.

The Department's review showed that the workers of American Handling do not produce an article within the meaning of Section 222(3) of the Act. Workers at American Handling sell, rent, repair and rebuild equipment and parts. The Department of Labor has consistently determined that the performance of services does not constitute the production of an article as required by Section 222 of the Act. This determination has been upheld by the U.S. Court of Appeals. Therefore, workers of American Handling may be certified only if their separation was caused importantly by a reduced demand for their services by a parent firm, a firm otherwise related to American Handling by ownership or by a substantial degree of proprietary control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports. These conditions have not been met for workers of American Handling in this case.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 18th day of February 1982.

Robert S. Kenyon,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 82-5215 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-11,508]

Andrew Bruce Fashions, L.T.D., New York, New York; Negative Determination Regarding Application for Reconsideration

By an application postmarked December 19, 1981, a former worker requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of former workers producing men's suits at Andrew Bruce Fashions, L.T.D., New York, New York. The determination was published in the **Federal Register** on December 8, 1981 (46 FR 60072).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

A former worker claims that imports for the past ten years have been adversely affecting employment in the industry as well as at Andrew Bruce. He questions why workers at Vincent Formal and Leisure Wear, a clothing contractor for Andrew Bruce were certified for trade adjustment assistance while workers at Andrew Bruce were declared ineligible for trade adjustment assistance.

The Department's review showed that the worker petition did not meet the increased import criterion of Section 222 of the Trade Act for the years 1979 and 1980. Andrew Bruce closed in January, 1981. U.S. imports of men's and boys' suits decreased absolutely and relative to domestic production in 1979 and 1980 compared to the respective previous years.

The Department sees little purpose in using import data up to ten years prior to the date of the workers' petition, which was October 27, 1980 in this case, since Section 223(b)(1) of the Act limits the Department to certifications of workers whose layoffs occurred no earlier than one year before the date of the petition. Therefore, more recent import changes would be significant.

Concerning the claim that workers of Vincent Formal and Leisure Wear, Inc. were certified eligible for trade adjustment assistance (TA-W-6188), the Department notes that these workers met all the group criteria for a worker certification but filed their petition more than a year earlier than did workers of Andrew Bruce and that investigation relied on somewhat earlier import data than the Andrew Bruce investigation.

The exhaustion of workers' unemployment insurance benefits would not provide a basis for group certification under the Act.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 16th day of February 1982.

Robert S. Kenyon,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 82-5216 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-11,713 Plant #12, Fond Du Lac, Wisconsin, TA-W-11,714 Plant #14, Stillwater, Oklahoma, TA-W-11,715 Plant #64, Oshkosh, Wisconsin, TA-W-11,716 Plant #30, St. Cloud, Florida, TA-W-11,717 Plant #37, Placida, Florida, TA-W-11,718 Plant #38A, Oshkosh, Wisconsin, TA-W-11,719 Plant #38, Oshkosh, Wisconsin, TA-W-11,720 Plant #33, Oshkosh, Wisconsin, TA-W-11,721 Plant #6, Oshkosh, Wisconsin]

Brunswick Corp., Marine Power Group; Negative Determination Regarding Application for Reconsideration

By an application dated December 16, 1981, counsel for the company requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to apply for Worker Adjustment Assistance in the case of workers and former workers producing outboard motors at all of Brunswick Corporation's Marine Power Group plants listed above except Plant #14 in Stillwater, Oklahoma. The determination was published in the **Federal Register** on November 17, 1981 (46 FR 56518).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

Counsel claims that the Department was inconsistent by using different time-frames in reaching its negative determinations for workers filing under the instant petitions and its certification for workers of the Marine Power Group who filed under petitions TA-W-7593-7602.

The Department's review shows that the instant worker petitions did not meet the increased import criterion of Section 222 of the Trade Act of 1974. U.S. imports of outboard motors decreased absolutely and relative to domestic production in 1980 compared with 1979. U.S. imports of sterndrive motors are negligible.

The Department sees little validity in the claim concerning the Department's inconsistency since the worker petitions which were certified by the Department were filed in an earlier time-frame when import data for only a partial period of 1980 were available. The instant petitions, however, were filed in late 1980 and the Department had complete 1980 data which showed that U.S.

production as well as imports of outboard motors declined. The Department notes that the earliest the worker separations began at the instant plants was March 17, 1980. It is also noted that production and sales of outboard motors by the Marine Power Group increased in quantity and value in the first six months of 1981 compared to the same period in 1980.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C. this 16th day of February 1982.

Robert S. Kenyon,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 82-5237 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits; New Extended Benefit Periods in the States of Alabama, Iowa, and Maryland

This notice announces the beginning of new Extended Benefit Periods in the States of Alabama, Iowa, and Maryland, effective on February 14, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, each State unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determinations of "On" Indicator

The heads of the employment security agencies of the States of Alabama, Iowa, and Maryland have determined that the rate of insured unemployment in each State, for the period consisting of the week ending on January 30, 1982, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rates, so that for that week there was an "on" indicator in each State.

Therefore, new Extended Benefit Periods commenced in these States with the week beginning on February 14, 1982.

Information for Claimants

The duration of extended benefits payable in a new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the States of Alabama, Iowa, and Maryland, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on February 18, 1982.

Albert Angrisani,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 82-4839 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-11,952]

Gastrans, Inc., Stamford, Connecticut; Negative Determination Regarding Application for Reconsideration

By an application dated December 31, 1981, one of the petitioners requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of Gastrans, Inc., Stamford, Connecticut. The determination was published in the Federal Register on December 6, 1981 (46 FR 60072).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on mistake in the determination of facts previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

One of the petitioners claims that more ships could have been built had it not been for the impact of "foreign competition". The petitioner also asserts that inspection is a part of the normal production and that the worker's firm is Lachmar, not Gastrans, Inc. Two of the petitioners were inspectors; the third was a port engineer.

The Department's review reveals that the worker petition did not meet the "contributed importantly" test of the Trade Act of 1974. Workers at Gastrans are engaged exclusively in providing a service and perform no production operations. Gastrans is a wholly owned subsidiary of Moore McCormack Resources. Moore McCormack entered into a partnership, called Lachmar, with General Dynamics, a shipbuilder and Eastern Panhandle, a marketer and distributor of natural gas, to own two LNG vessels built by General Dynamics. Gastrans is to operate the LNG vessels between Algeria and Lake Charles, Louisiana. The two LNG vessels have not transported any LNG as yet.

The Department notes that the producer of the "articles", the two LNG vessels, in this case, is General Dynamics, the shipbuilder. The petitioners were all hired by Moore McCormack, not Lachmar, and loaned to the Gastrans project for their services. It is customary in the industry for paint and coatings and hull inspectors to be laid off after the completion of construction of a ship. The Department of Labor has consistently determined that the performance of services does not constitute the production of an article as required by Section 222 of the Act and this determination has been upheld by the U.S. Court of Appeals. Since workers at Gastrans do not produce an article they may be certified only if their separation was caused importantly by a reduced demand for their services by a parent firm, a firm otherwise related to the subject firm by ownership or by a substantial degree of proprietary control. In any case the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports. These conditions have not been met in this case.

The further arguments of the petitioner are not altogether clear. By implication he maintains that foreign LNG shipbuilders have been an important cause of worker separations at General Dynamics (and consequently at Gastrans). He also apparently contends that the lack of LNG imports contributed to the same separations. However, neither situation—even if true—would provide an adequate basis for certifying Moore McCormack (Gastrans) workers. Moore McCormack and its subsidiaries Gastrans and Lachmar only provide a service. There is no evidence in the record that the petitioners were employees of General Dynamics. Petitioners were hired by and paid by Moore McCormack to provide various services.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C. this 16th day of February 1982.

Robert S. Kenyon,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 82-5238 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-10,523]

Merck and Company, Inc.; Calgon Corp.; Neville Island Carbon Plant; Pittsburgh, Pennsylvania; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 22, 1981, published in the Federal Register on January 8, 1982 (47 FR 1060), applicable to all workers of the Calgon Corporation's Neville Island Carbon plant in Pittsburgh, Pennsylvania producing coconut based activated carbon. The Department also issued an Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on January 12, 1982. The amendment to cover layoffs which revised the impact date which occurred several weeks before the original impact date. The Notice of Amended Certification was published in the Federal Register on January 26, 1982 (47 FR 3647).

On the basis of additional information, the Office of Trade Adjustment Assistance, on its own motion, reviewed the amended certification. The additional information indicated that several layoffs occurred a few days after the termination date of February 1, 1981 set by the Department in the initial certification. Consequently, these layoffs were not covered by the certification.

The intent of the certification is to cover workers of Calgon Corporation who were affected by the decline in the sales or production of coconut-based activated carbon at the Neville Island carbon plant of the Calgon Corporation, which was related to increased import competition. The Notice of Amended Certification of January 12, 1982, therefore, is further amended to include a new termination date of February 10, 1981.

The certification applicable to TA-W-10,523 is hereby amended a second time and issued as follows:

All workers of Merck and Company, Inc., Calgon Corporation, Neville Island Carbon Plant, Pittsburgh, Pennsylvania engaged in the production of coconut-based activated carbon who became totally or partially separated from employment on or after August 1, 1980 and before February 10, 1981 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of February 1982.

Robert O. Deslongchamps,

Acting Deputy Administrator, Unemployment Insurance Service.

[FR Doc. 82-5239 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-12,889]

Midway Shake Co.; Tillamook, Oreg.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 10, 1981 in response to a worker petition received on August 4, 1981 which was filed on behalf of workers and former workers producing cedar shakes and shingles for Midway Shake Company, Tillamook, Oregon.

On August 28, 1979, all workers of Midway Shake Company, Tillamook, Oregon were certified eligible to apply for adjustment assistance benefits (TA-W-5654). The certification covered all employees separated on or after June 6, 1978, and on or before August 28, 1981. All production at Midway Shake ceased in July 1981, and all production workers were terminated at that time.

On August 4, 1981, the Office of Trade Adjustment Assistance received a petition filed by the Shingle Weavers' Union on behalf of workers at Midway Shake. Since the workers have all been laid off, and were covered by the previous certification, further investigation in this case would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 16th day of February 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-5240 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-12,765 and 12,766]

Norwock Shoe Co.; Norridgewock, Maine, and Skowhegan, Maine; Negative Determination on Reconsideration

On December 24, 1981, the Department made an Affirmative Determination Regarding Application for Reconsideration for former workers of the Norwock Shoe Company in

Norridgewock and Skowhegan, Maine. This determination was published in the Federal Register on January 8, 1982 (47 FR 1062).

An official of the company, in his application for reconsideration, challenges the "contributed importantly" finding upon which the Department's denial is based. In support of his claim, he notes that the Department certified workers at three plants of the Norrwock Shoe Company in 1978. It is also asserted that had the Shoe Corporation of America (SCOA), the parent company of Norrwock, closed the instant Norrwock plants in 1978 instead of trying to keep them operating, the workers would have been certified. Lastly, in support of the company official's claim, it is asserted that SCOA decreased its purchases from Norrwock Shoe in every year since 1978 and increased its imports.

The Department's review shows that the worker petition did not meet the "contributed importantly" test. The Department's survey of Norrwock's parent company and largest customer, SCOA, showed that SCOA increased purchases of men's, women's, boys' and misses' dress and casual shoes manufactured at domestic sources in 1980 compared to 1979. The survey also showed that SCOA decreased purchases of imported men's, women's, boys' and misses' dress and casual shoes in 1980 compared to 1979 and between the February through July period of 1981 compared to the same period in 1980. The Norrwock Shoe Company had increased sales and production of all footwear in 1980 compared to 1979. Workers are not identifiable by product line.

The Department notes that most of Norrwock's non-affiliated customers showed increased purchases of footwear from Norrwock in 1980 compared to 1979. SCOA officials indicated that most of the footwear purchases formerly purchased from Norrwock will be from domestic firms.

On reconsideration, the Department found that SCOA did not increase its import reliance in 1981 compared to 1980. Further, in value terms, SCOA reduced its import purchases in 1981 compared to 1980 and increased its domestic purchases.

Concerning the certification of workers at three other Norrwock plants in 1978 (See TA-W-2339 and 3541) it should be noted that the certification criteria are tested against each petitioning worker group. At that time the Norridgewock and Skowhegan, Maine plants (plants #1 and #12, respectively) did not meet the significant employment decrease criterion of the Trade Act. SCOA's decision to continue to operate these Norrwock Shoe Company plants a few years longer than the others would not provide an adequate basis for trade adjustment assistance.

Conclusion

After reconsideration, I reaffirm the original denial of eligibility to apply for adjustment assistance to former workers of the Norridgewock (plant #1) and Skowhegan (plant #12) Maine plants of the Norrwock Shoe Company.

Signed at Washington, D.C., this 12th day of February 1982.

Robert S. Kenyon,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 82-5231 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-12,268]

P. F. Industries, Inc.; Bristol, R.I.; Negative Determination Regarding Application for Reconsideration

By an application dated December 11, 1981, the United Rubber Workers requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of former workers producing athletic and protective footwear at the Bristol, Rhode Island plant of P.F. Industries, Inc. The determination was published in the Federal Register on November 17, 1981 (46 FR 56518).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The union claims in its application for reconsideration that the company's principal customer of athletic footwear reduced purchases from P.F. Industries because of increased imports of other firms. It is also claimed that the closing of the Bristol, Rhode Island plant because of the reduced purchases of athletic footwear from P.F. Industries' principal customer caused the loss of its protective footwear sales.

The Department's review showed that the worker petition did not meet the increased import criterion or the "contributed importantly" test of Section 222 of the Trade Act of 1974. The Bristol, Rhode Island plant closed on January 30, 1981. The Department's survey of customers showed that customers representing a major portion of P.F. Industries' athletic footwear sales in 1980 increased their purchases from P.F. Industries in 1980 compared to 1979. Customers purchasing athletic footwear from P.F. Industries reduced such purchases from all sources in 1981 compared to 1980 with P.F. Industries' principal customer increasing its own athletic shoe production. In determining whether the "contributed importantly" test is met the Department generally surveys the customers of the petitioning workers' firm rather than other domestic firms who are not customers because of the absence of a direct effect on the petitioning workers' firm.

The closing of the protective footwear line even if it was a consequence of the loss of orders from P.F. Industries' principal customer of athletic footwear would not provide a basis for certification. Further, U.S. imports of rubber and plastic protective footwear declined absolutely and relative to domestic production in 1980 compared to 1979. P.F. Industries' sole customer of protective footwear does not purchase any such footwear from foreign sources.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 18th day of February 1982.

Robert S. Kenyon,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 82-5232 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-12,844]

Treiber Brothers, Inc.; Brooklyn, N.Y.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 27, 1981, in response to a worker petition received on April 21, 1981, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers at Treiber Brothers, Incorporated, Brooklyn, New York.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C., this 17th day of February 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-5229 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-13,173]

Kaye Coat Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 11, 1982, in response to a worker petition received on December 29, 1981, which was filed on behalf of workers at Kaye Coat Company, Passaic, New Jersey.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA-W-11,970). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 12th day of February 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-5230 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

[V-82-1]

Occupational Exposure to Lead, New Trigger Levels for Medical Removal Protection

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: (1) Notice of applications for temporary variance and interim order.

(2) Grants of interim order.

SUMMARY: This notice announces the applications of 21 companies for temporary variance and interim order from the standards prescribed in 29 CFR 1910.1025(k)(1)(i)(C) and 29 CFR 1910.1025(k)(1)(iii)(A)(3), Medical Removal Protection, of the Occupational Exposure to Lead Standard. It also announces the granting of the interim orders until a decision is rendered on the applications for temporary variance. The 21 companies were also granted these interim orders by letter.

DATES: The interim orders became effective for 14 companies on September 25, 1981 and for 7 companies on November 25, 1981, the dates of the letters granting the interim orders. The last date for interested persons to submit comments on the variance applications is March 29, 1982. The date for affected employers and employees to request a hearing is March 29, 1982.

ADDRESSES: Send written comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3662, Third Street and Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: James J. Concannon, Director, Office of Variance Determination, at the above address, telephone (202) 523-7183, or the following Regional and Area Offices:

U.S. Department of Labor—OSHA, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036
U.S. Department of Labor—OSHA, 200 Mamaroneck Avenue, Room 403, White Plains, New York 10601
U.S. Department of Labor—OSHA, 2101 Ferry Avenue, Room 403, Camden, New Jersey 08104
U.S. Department of Labor—OSHA, Gateway Building, Suite 2100, 3535 Market Street, Philadelphia, Pennsylvania 19104
U.S. Department of Labor—OSHA, Progress Plaza, 49 North Progress Avenue, Harrisburg, Pennsylvania 17109
U.S. Department of Labor—OSHA, 1375 Peachtree Street, NE., Suite 587, Atlanta, Georgia 30367
U.S. Department of Labor—OSHA, Building 10, Suite 33, LaVista Perimeter Office Park, Tucker, Georgia 30084
U.S. Department of Labor—OSHA, Federal Building, Suite 1445, 100 West Capitol Street, Jackson, Mississippi 39201
U.S. Department of Labor—OSHA, Art Museum Plaza, Suite 4, 2809 Art Museum Drive, Jacksonville, Florida 32207
U.S. Department of Labor—OSHA, 1600 Hayes Street, Suite 302, Nashville, Tennessee 37203
U.S. Department of Labor—OSHA, 32nd Floor, Room 3244, 230 South Dearborn Street, Chicago, Illinois 60604
U.S. Department of Labor—OSHA, 344 Smoke Tree Business Park, North Aurora, Illinois 60542
U.S. Department of Labor—OSHA, 228 N.E. Jefferson, 3rd Floor, Peoria, Illinois 61613
U.S. Department of Labor—OSHA, 218A Main Street, Belleville, Illinois 62202
U.S. Department of Labor—OSHA, USPO & Courthouse, Room 422, 46 East Ohio Street, Indianapolis, Indiana 46204
U.S. Department of Labor—OSHA, 555 Griffin Square Building, Room 602, Dallas, Texas 75202
U.S. Department of Labor—OSHA, 1425 West Pioneer Drive, Irving, Texas 75061
U.S. Department of Labor—OSHA, Federal Building, Room 421, 1205 Texas Avenue, Lubbock, Texas 79401
U.S. Department of Labor—OSHA, 109 North Oregon, Room 910, El Paso, Texas 77901
U.S. Department of Labor—OSHA, 911 Walnut Street, Room 406, Kansas City, Missouri
U.S. Department of Labor—OSHA, 1150 Grand Avenue, 6th Floor, 12 Grand Building, Kansas City, Missouri 64106
U.S. Department of Labor—OSHA, 4300 Goodfellow Building, Room 105E, St. Louis, Missouri 63120
U.S. Department of Labor—OSHA, Overland-Wolf Building, Room 100, 6910 Pacific Street, Omaha, Nebraska 68106

SUPPLEMENTARY INFORMATION: On July 23, 1981, 46 FR 37891, the Occupational Safety and Health Administration (OSHA) denied petitions for stay of the new trigger levels for medical removal protection (MRP) under the lead standard for primary and secondary smelters and battery manufacturers. The petitions were based upon an assertion that the companies would be unable to fully comply with the MRP provisions because of the anticipated removal and resulting unavailability of certain employees under the 60/40 triggers of MRP. The petitions were denied because the data submitted by the industries involved did not support a conclusion that there was a general industry-wide inability to comply with the MRP provisions of the lead standard. Thus, the available evidence did not demonstrate a need for any industry-wide stays of the MRP triggers. However, OSHA did find that on a plant-by-plant basis, there were some feasibility problems. Thus, OSHA announced that the temporary variance and interim order mechanism, set forth in section 6(b)(6)(A) of the OSHAct and covered by regulations in 29 CFR Part 1905, would be used to afford relief to lead smelting and battery companies on a plant-by-plant basis, if warranted. Therefore, in the July 23, 1981 Federal Register notice, OSHA granted conditional interim orders to certain primary and secondary lead smelting and battery manufacturing companies who had already submitted data indicating severe problems in coming into compliance with the new triggers.

The notice incorporated the criteria for determining who would be eligible for the final grant of interim order. Nineteen companies listed in the July 23, 1981 Federal Register notice were granted final interim orders on October 2, 1981 (46 FR 48654).

OSHA also invited primary and secondary lead smelting and battery manufacturing companies whose plants met the following criteria, as set forth in the July 23, 1981 Federal Register notice, to apply for a temporary variance and an interim order:

(1) Plants where 10% or more of the total supervisory/maintenance/skilled employees have to be removed from lead exposure because of blood-lead levels between 60–70 μg/100g, and plants below the 10% figure that show by compelling evidence that this relief is needed.

(2) Eligible companies who submitted to OSHA by September 1, 1981, the following:

(a) An application for a temporary variance and an interim order;

(b) Written acceptance of the conditions and requirements of the interim order;

(c) Certification that affected employees had been notified of the variance application and of their right to petition the Assistant Secretary for a hearing; and,

(c) Certain data to support their application for temporary variance.

Where granted, the interim orders temporarily relieve those facilities from complying with the 60 μg/100g removal and 40 μg/110g return trigger levels, but obligate them to comply with the 70/50 μg/100g triggers, all other provisions of the lead standard, and the conditions and requirements of the order.

Notice of Applications

Notice is hereby given that 21 companies have made application pursuant to section 6(b)(6)(A) of the Occupational Safety and Health Act of 1970 (84 Stat. 1598; 29 U.S.C. 655) and 29 CFR 1905.10 for a temporary variance, and an interim order pending a decision on the variance, from the following medical removal protection (MRP) provisions of the lead standard:

29 CFR 1910.1025(k)(1)(i)(C) which states that an employer shall remove an employee from work having an exposure to lead at or above the 30 μg/m³ action level on each occasion that a periodic and a follow-up blood sample test indicate that the employee's blood-lead is at or above 60 μg/100g of whole blood; and,

29 CFR 1910.1025(k)(1)(iii)(A)(3) which states that an employer shall return the employee to his or her former job status when two consecutive blood sampling tests indicate that the employee's blood-lead is at or below 40 μg/100g of whole blood.

The purpose of the standards is to provide temporary medical removal for a worker with substantially elevated blood/lead levels.

The name and address of each plant that will be affected by the applications are as follows:

Primary Smelters

Amax Lead Company of Missouri, Boss, Missouri 65440
ASARCO Incorporated, P.O. Box 1111, El Paso, Texas 79999

Secondary Smelters

East Penn Manufacturing Company, Incorporated, Deka Road, Lyon Station, Pennsylvania 19536
General Battery Corporation, Spring Valley Road, Reading, Pennsylvania 19604
Gould Incorporated, Metals Division, 555 Farnan Street, Omaha, Nebraska 68101
Gould Incorporated, Metals Division, P.O. Box 288, Kempter Road, Route 84 South, Savanna, Illinois 61074
Gould Incorporated, Metals Division, P.O. Box 250, South 5th Street, Frisco, Texas 75034
Murph Metals, Incorporated, A Subsidiary of RSR Corporation, 2820 North Westmoreland, Dallas, Texas 75212
National Smelting and Refining Company Incorporated, 451 Bishop Street, NW, Atlanta, Georgia 30381
N. L. Industries, Penns Grove-Pedricktown Road, P.O. Drawer E, Pedricktown, New Jersey 08067
Refined Metals Corporation, A Corporation of Exide, 2640 Capitola Street, Jacksonville, Florida 32202
Refined Metals Corporation, A Corporation of Exide, 3700 South Arlington Road, Beech Grove, Indiana 46107
Refined Metals Corporation, A Corporation of Exide, 257 West Mallory Avenue, Memphis, Tennessee 38109
Revere Smelting and Refining, Incorporated (RSR), R.D. #2, Ballard Road, Middletown, New York 10940
RSR Quemetco, Incorporated, A Subsidiary of RSR Corporation, 7870 West Morris Street, Indianapolis, Indiana 46241
Seitzinger Lead Smelters and Reviners, Incorporated, 1401 West Paces Ferry Road, Suite D–211, Atlanta, Georgia 30327
Taracorp Industries, 16th and Cleveland, Granite City, Illinois 62040

Battery Manufacturers

Chloride Batteries (Main Plant), Joy Road, Columbus, Georgia 31902
Chloride Batteries (Satellite Plant), Joy Road, Columbus, Georgia 31902
Chloride Batteries, 250 Ellis Avenue, Florence, Mississippi 39073

Other Industry

Eagle-Picher Industries, Incorporated, Chemicals and Fibers Division, P.O. Box 550, Joplin, Missouri 64801

The applicants certify that employees who would be affected by the variance have been notified of the applications by providing copies to their authorized employees' representatives, and by posting copies at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing. The applicants further certify that they accept the conditions and requirements of the interim order published in the Federal Register of July, 23, 1981, which obligates them to continue to comply with 70/50 μg/100g triggers in § 1910.1025 paragraphs (k)(1)(i)(B) and (k)(1)(iii)(A)(2) and all other provisions of the lead standards, in lieu of complying with the present 60/40 μg/100g triggers. In addition, each applicant has submitted all of the data requested in support of each application for temporary variance.

Regarding the merits of the applications, the applicants contend that the implementation of the new 60 μg/100g removal and 40 μg/100g return triggers of the lead standard is infeasible because of the following reasons:

(1) The 60/40 triggers will require for the first time, the removal of many "supervisory" and "highly skilled" employees whose blood-lead levels allegedly tend to fall in the 60–70 μg/100g range;

(2) Their removal will be prolonged beyond OSHA's original expectations in order for their blood-leads to drop to the 40 μg/100g return level;

(3) Since these employees are highly paid, crucially positioned, and extremely difficult to replace, putting them on MRP not only will be costly, but also can result in reduced production and a less safe and healthful workplace; and,

(4) The 60/40 triggers will require the removal of many production workers as well, thus adding to the cost of MRP. In combination, these factors assertedly will make implementation of the new triggers infeasible.

Copies of the applications for variance will be made available for inspection and copying upon request at the locations listed above. All interested persons, including employers and employees, who believe they would be affected by the grant or denial of the application for variance are invited to submit written data, views, and

arguments relating to the application not later than March 29, 1982. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than March 29, 1982, in conformity with the requirements of 29 CFR 1905.15. Submission of written comments and request for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

Grants of Interim Order

It appears from the applications and supporting data that interim orders are necessary to prevent undue hardship on the applicants and their employees pending decisions on the variance. Therefore, it is ordered, pursuant to the authority in section 6(b)(6)(A) of the Occupational Safety and Health Act of 1970, in the Secretary of Labor's Order No. 8–76 (41 FR 25059), and in 29 CFR Part 1905, that the plants listed above are hereby authorized to comply with the requirements of the interim order set forth below, with respect to their supervisory, skilled, and maintenance employees, in lieu of complying with the requirements of 29 CFR 1910.1025(k)(1)(i)(C) and 29 CFR 1910.1025(k)(1)(iii)(A)(3). All other provisions of the lead standard are unaffected by this order and therefore must be complied with in conjunction with the terms of this order.

The terms of the interim order are as follows:

(1) As presently required by 29 CFR 1910.1025(j)(2) of the lead standard, employers shall perform blood-lead and zinc protoporphyrin (ZPP) tests every two months on each employee whose last blood test indicated a blood-lead level at or above 40 μg/100g and who is exposed to lead above the action level of 30 μg/m³.

(2) Employers shall remove and return all employees with blood-lead levels at or above 70 μg/100g in accordance with the provisions of §§ 1910.1025(k)(1)(i)(B) and 1910.1025(k)(1)(iii)(A)(2) of the lead standard, except that removal shall be to areas where lead exposure is below 30 μg/m³.

(3) For employees with blood-lead levels between 60–70 μg/100g, who work in jobs having airborne lead exposure at or above 30 μg/m³, the employer shall provide:

(a) A personal consultation with a licensed physician every two months; and,

(b) A comprehensive medical examination by a licensed physician every six months.

(4) After both the personal consultation and the comprehensive medical examination, the physician shall make a written determination as to whether the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead. If the employee is determined to have such a condition, he or she shall be removed from work having an exposure to lead at or above 30 μg/m³.

(5) For employees with blood-lead levels at or above 60 μg/100g who are working in areas with air-lead levels at or above 30 μg/m³, respirator usage shall be mandatory during the entire workshift.

(6) For all employees with blood-lead levels at or above 60 μg/100g who need not be removed under the terms of this order, the employer shall make an immediate inspection and evaluation of:

(a) The lead-related work practices affecting the employee;

(b) The employee's respirator usage; and,

(c) The use and availability of hygiene facilities, and the employee's relevant personal hygiene habits.

Based on that inspection and evaluation, the employer shall take all reasonable and appropriate corrective steps in these regards to reduce the employee's absorption of lead.

(7) The employer shall agree to allow OSHA to inspect its premises in connection with this variance application and this interim order.

EFFECTIVE DATES: This order became effective for the following plants on September 25, 1981:

Amax Lead Company of Missouri
ASARCO Incorporated (El Paso Plant)
Chloride Batteries (Main Plant Columbus)
Chloride Batteries (Satellite Plant, Columbus)
Chloride Batteries (Florence Plant)
East Penn Manufacturing Company, Incorporated
General Battery Corporation
Gould Incorporated (Savanna Plant)
Gould Incorporated (Frisco Plant)
N. L. Industries
Refined Metals Corporation (Jacksonville Plant)
Refined Metals Corporation (Beech Grove Plant)
Refined Metals Corporation (Memphis Plant)
Seitzinger Lead Smelters and Refiners, Incorporated

This order became effective for the following plants on November 25, 1981:

Eagle-Picher Industries, Incorporated
Gould Incorporated (Omaha Plant)
Murph Metals, Incorporated
National Smelting and Refining Company, Incorporated
Revere Smelting and Refining, Incorporated
RSR Quemetco, Incorporated
Taracorp Industries (Granite City Plant)

The above companies shall give notice of this grant of interim order to all affected employees by the same means required to be used to inform them of the application for variance.

The Assistant Secretary may revoke this order at any time if the applicant does not comply with any requirement of the order or the relevant standards, or if other information indicates that revocation of the interim order is warranted. Unless revoked, the interim order will remain in effect until a decision is made on the applications for variance.

Signed at Washington, D.C., this 19th day of February 1982.

Thorne G. Auchter,
Assistant Secretary of Labor.

[FR Doc. 82-5237 Filed 2-25-82; 8:45 am]
BILLING CODE 4510-26-M

Washington State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 26, 1973, notice was published in the Federal Register (38 FR 2421) of the approval of the Washington State plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington plan provides for the adoption of State standards which are at least as effective as those which are presently or will, in the future, be promulgated under section 6 of the Act. By letter dated August 27, 1980 from James P. Sullivan, Assistant Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State submitted Washington Administrative Order No. 80–15, safety standard for Logging. This State initiated standard, which is contained in

WAC Chapter 296–54 became effective as a permanent standard on September 18, 1980.

By letter dated March 17, 1981, illustrations and editorial amendments, Washington Administrative Order 81–3, to this standard were submitted to the Regional Administrator. This amendment became effective March 11, 1981.

2. Decision

Having reviewed the State submission in comparison with the Federal standards, it has been determined that there is no comparable Federal standard and that, therefore, the State standard exceeds Federal requirements.

As a result of discussions with the State, Region X requested additional background on paragraph WAC 296–54–557–19 that relates to the wearing of seat belts. The State has provided Region X with background information justifying that seat belts need not be worn in certain cases when the safety of the operator is jeopardized by limiting his escape and immediate movement in emergency situations. The rationale for this rule is prudent and Region X, OSHA, approves the Logging Standard.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administration Building, Olympia, Washington 98504; and the Technical Data Center, Room N2349R, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Washington State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standard is one for which there is no comparable Federal standard and therefore the State standard exceeds the Federal standards.

2. The standard was adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

The decision is effective February 26, 1982.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington this 18th day of June 1981.

Richard L. Beeston,

Acting Regional Administrator.

[FR Doc. 82-5284 Filed 2-25-82; 8:45 am]

BILLING CODE 4510-26-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence Report; Section 208 Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of Section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission (NRC) has published and issued the periodic report to Congress on abnormal occurrences (NUREG–0090, Vol. 4, No. 3). The release date is February 22, 1982.

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurrence is defined as "an unscheduled incident or event which the Commission (NRC) determines is significant from the standpoint of public health or safety." The NRC has made a determination, based on criteria published in the Federal Register (42 FR 10950) on February 24, 1977, that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and byproduct materials are abnormal occurrences.

This report to Congress is for the third calendar quarter of 1981. The report identifies the occurrences or events that the Commission determined were significant and the remedial actions that were undertaken. The report states that the following incidents or events were determined by the Commission to be significant and reportable.

1. There were two abnormal occurrences at the nuclear power plants licensed to operate. One involved a misalignment of a high head safety injection isolation valve. The other involved a failure of the high pressure safety injection system.

2. There were two abnormal occurrences at other licensee facilities. Both involved calculated radiation exposures in excess of 10 CFR 20 limits.

3. There were two abnormal occurrences reported by the Agreement States. One involved excessive radiation doses to hospital patients. The second involved overexposure of a radiographer and two barge crew members.

The report to Congress also contains updating information on two abnormal occurrences reported in previous reports.

Interested persons may review the report at the NRC's Public Document Room, 1717 H Street, NW, Washington, D.C. or at any of the more than 120 Local Public Documents Rooms throughout the country. Single copies of the report, designated NUREG–0090, Vol. 4, No. 3, may be purchased from the National Technical Information Service, Springfield, Virginia 22161, on or about March 8, 1982.

A year's subscription to the NUREG–0090 series publication, which consists of four issues, is available from the NRC/GPO Sales Program, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Microfiche of single copies of the publication are also available from this source.

Dated at Washigton, D.C., this 22nd day of February 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-5227 Filed 2-25-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–325 and 50–324]

Carolina Power & Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 45 and 68 to Facility Operating License Nos. DPR–71 and DPR–62 issued to Carolina Power & Light Company (the licensee) which revised Technical Specifications for operation of the Brunswick Steam Electric Plant, Unit Nos. 1 and 2 (the facility) located in Brunswick County, North Carolina. The amendments are effective as of the date of issuance.

The amendments revised the Technical Specifications to require that, for radioactive effluent release rate recordkeeping, the licensee employ a calendar year approach in lieu of a 12 consecutive month approach.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendment dated January 15, 1982, (2) Amendment No. 45 to License No. DPR–71 and Amendment No. 68 to DPR–62, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Southport-Brunswick County Library, 109 West Moore Street, Southport, North Carolina 28461. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 19th day of February 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-5229 Filed 2-25-82; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50–277 and 50–278]

Philadelphia Electric Co., et al.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 84 and 83 to Facility Operating Licenses Nos. DPR–44 and DPR–56, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications (TSs) for operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3 (the facility) located in York County, Pennsylvania. The amendments are effective as of the date of issuance.

These amendments modify the definition of "Refuel Mode" in the Definition section of the TSs.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated August 7, 1981, (2) Amendment No. 84 to License No. DPR–44 and Amendment No. 83 to License No. DPR–56 and (3) the Commission's letter to Philadelphia Electric Company dated February 18, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 18th day of February 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-5230 Filed 2-25-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Human Factors; Meeting

The ACRS Subcommittee on Human Factors will hold a meeting on March 17, 1982, Room 1046, 1717 H Street, NW., Washington, DC. The Subcommittee will review Safety Parameter Display System (SPDS) design concepts and the status of plant diagnostic systems. NUREG–0793, "Draft Criteria for Preparation of Emergency Operating Procedures" will be discussed. Additionally, the Subcommittee will discuss with representatives from industry ACRS concerns related to the management, organization, staffing, and technical resources of utilities that operate nuclear power plants. Other areas to be discussed include: the training of Shift Technical Advisors (STAs) in the areas of plant systems and transient/accident analysis, and Senior Reactor Operator (SRO) training programs and qualification. Notice of the meeting was published February 17.

In accordance with the procedures outlined in the Federal Register on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, March 17, 1982—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants and other interested persons regarding this review.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statement and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Richard Major (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EST

Dated: February 23, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-5230 Filed 2-25-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Reliability and Probabilistic Assessment; Meeting

The ACRS Subcommittee on Reliability and Probabilistic Assessment will hold a meeting on March 10, 1982, Room 1046, at 1717 H Street, NW., Washington, D.C. The Subcommittee

will review the draft Commission Policy Statement on Safety Goals. Notice of this meeting was published February 17.

In accordance with the procedures outlined in the Federal Register on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Friday, March 19, 1982—8:30 a.m. Until the Conclusion of Business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding the topics to be discussed.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on request for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Federal Employee, Mr. J. Michael Griesmeyer (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST. The Designated Federal Employee for this meeting is Mr. Gary Quittschreiber.

Dated: February 23, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-5231 Filed 2-25-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Proposed New Routine Use

AGENCY: Office of Personnel Management.

ACTION: Proposal for a new routine use to be added to an existing system of records.

SUMMARY: The purpose of this document is to propose a new routine use for the Office's Civil Service Retirement and Insurance Records System (OPM/Central-1). This routine use, once in effect, will permit the discretionary disclosure of data from the Office's Civil Service Retirement and Insurance File to agencies and organizations that provide Federal assistance to employees of the Federal government. The disclosure of this information will be used only for duly authorized matching programs.

COMMENT PERIOD: Any interested party may submit written comments regarding this proposal. To be considered, comments must be received on or before March 29, 1982.

ADDRESS: Address comments to: Assistant Director for Pay and Benefits Policy, Office of Personnel Management (Room 4351), 1900 E Street, NW., Washington, D.C. 20415. Comments received will be available for public inspection at the above address from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Glass, Chief, Technical Analysis Division, Office of Pay and Benefits Policy, Compensation Group, (202) 632-5677.

SUPPLEMENTARY INFORMATION: Recent reviews of various Federal assistance programs have indicated that some Federal retirees may have improperly received government assistance, or have outstanding debts that are not being repaid to the Federal government. Specifically, the improper receipt of government assistance in the U.S. Department of Agriculture's Food Stamp and the Veterans Administration's Compensation and Pension programs may be based upon fraudulently prepared applications which fail to disclose Federal employment. In addition, delinquent repayment of debts and defaulted loans by Federal employees and retirees have been identified in Health and Human Service's student loan and the Veterans Administration's educational assistance programs. The President's Council on Integrity and Efficiency (PCIE) believes that it is prudent to identify Federal employees and retirees, on a government-wide basis, who have improperly received benefits or have delinquent debts.

The objectives of this part of the PCIE project are twofold: (1) To identify Federal employees or retirees who may be erroneously or fraudulently receiving government payments, and (2) to identify Federal employees or retirees who are indebted to the government and then to initiate appropriate collection actions.

The most efficient way of comparing individuals who are recipients of various Federal assistance programs with those who are retired Federal civilian employees is for OPM to provide an extract of its Retirement Annuity Master File (RETF) with various relevant data elements to the agencies conducting these various assistance programs. (These agencies and programs are cited below and the data provided by OPM will be strictly limited to that listed).

The disclosure of individual data from the RETF to these agencies will be only for the purpose of conducting matching programs. The RETF is part of the OPM/Central-1 system of records. The matches will be conducted in accordance with the Office of Management and Budget's Supplemental Guidance for Matching Programs (44 FR 23138; April 18, 1979).

During OPM's participation in the formulation of this matching project, it was the Office's position that information could be disclosed from the RETF only if the various recipient agencies agreed to strictly adhere to OMB's Matching Guidelines. The agencies cited below will be required to submit written requests for the Office's information, including written assurance by the agency Inspector General that the privacy concerns expressed in the Matching Guideline will be followed.

Information on individuals that may be disclosed to the various matching agencies through this routine use includes: Name, social security number, date of birth, sex, OPM claim number, health benefit enrollment code, retirement date, retirement code (type of retirement), annuity rate, pay status of case, correspondence address and zip code. The Office retains the authority under the proposed routine use to withhold data from a requesting agency if it is believed that the particular specific data elements requested are not germane to the particular benefit program.

Upon receipt of this information or a portion thereof, and compliance with the OMB Guidelines on Matching Programs, the agencies will match it against their various files involving benefit recipients. For each match it is anticipated that the agencies will conduct a more thorough review of the recipient's status as to eligibility for assistance and the status of any debt that is owed to the Government.

Under Office regulations (5 CFR 831.106), the confirmation that an individual is or is not on the retirement rolls and if so, the type of annuity (employee or survivor) being paid is permitted without the data subject's prior approval. Thus, the routine use is necessary to permit the disclosure of the other data cited in the proposed routine use. Though these other data are not considered to be public information, anticipated benefits to the public justify disclosure of this information for matching purposes to these agencies under safeguards established jointly with the Office to protest against unauthorized disclosure.

Disclosure under the proposed routine use will permit the agencies to assure greater integrity of their various programs and is compatible with Federal personnel management responsibility for oversight of Federal employees' and retirees' conduct, with regard to the requirement that retirees not obtain financial benefits in a fraudulent manner, and pay their just obligations.

The Office fully recognizes that in this particular project authorized by this particular routine use, only the records of federal employees and retirees are being examined and has taken certain steps to protect the privacy of those individuals while furthering the goals of eliminating waste, fraud, and abuse in the numerous recipent programs administered by the Federal government. Care has been taken to determine the best approach to take to permit the Office's participation and also to comply with the intent of the Privacy Act. Analysis of these concerns was accomplished not only by the Office staff, but by various agencies of the Federal community. The result of this study was a clear determination that a matching program of this magnitude could be conducted without violating the Privacy Act if the conditions described in OMB's Matching Guidelines were followed.

The following agency programs which may be included in the PCIE computer matching project "Federal Employees Receiving Government Assistance," are listed below with the public law authorizing each program cited where appropriate.

I. Department of Agriculture

Food Stamp Program and Commodities In Lieu of Food Stamps. Pub. L. 95-113, The Food Stamp Act of 1977, as amended.

National School Lunch Program.

School Breakfast Program.

Special Milk Program.

Child Care Food Program.

Special Supplemental Food Programs.

Summer Food Service Programs. Pub. L. 79-396, National School Lunch Act of 1946, as amended; Pub. L. 89-642, Child Nutrition Act of 1966 as amended; and Pub. L. 95-313 (7 U.S.C. 612), Agriculture and Consumer Protection Act of 1973, as amended.

Elderly Feeding Program, Pub. L. 92-258 (42 U.S.C. 3030), Older Americans Act of 1965 and 1978, as amended; and Pub. L. 97-35, The 1981 Omnibus Reconciliation Act.

Rural Housing Support Programs.

Very Low-Income Housing Repair Programs.

Rural Low-Income Multi-Family Housing Program.

Rural Moderate-Income Multi-Family Housing Program.

Rural Moderate-Income Single Family Housing Loan Program.

Above Moderate-Income Single Family Housing Program.

Rural Low-Income Single Family Housing Program,

Rural Rental Assistance and Home Ownership Assistance Programs.

Farm Labor Housing Program. 63 Stat. 432, Title V of the Housing Act of 1949, as amended.

Farm Real Estate Loan Program.

Emergency Loan Programs.

Business and Industrial Loan Program. Pub. L. 87-128, Consolidated Farm and Rural Development Act, as amended; and Pub. L. 95-334, Emergency Articultural Credit Adjustment Act of 1978, as amended.

II. Department of Education

The following Department of Education programs are authorized by Pub. L. 95-374, the Higher Education Act, Title IV. The pertinent parts of Title IV, applying to specific programs, are indicated for each.

Basic Educational Opportunity Grants (Pell Grants).

Supplemental Educational Opportunity Grants. Title IV (Part A).

Guaranteed Student Loan Program. Title IV (Part B).

National Direct Student Loan Program. Title IV (Part D).

III. Department of Health and Human Services

Aid to Families with Dependent Children (AFDC): Pub. L. 74-271 (42 U.S.C. Subchapter IV), Title IV-A of the Social Security Act of 1935, as amended by Pub. L.'s 92-603, 93-66, 93-233 and 95-216.

Black Lung Benefit Programs: Pub. L. 91-173, Federal Coal Mine Health and Safety Act of 1969, Title IV and Pub. L. 92-303, Black Lung Benefit Act of 1972, as amended by Pub. L. 95-239.

Social Security Administration: Master Beneficiary Record, Title II.

Social Security Administration: Supplemental Security Income Record, Title 16.

Pay, Leave, and Attendance Records: HHS/OS/ASPER, 5 U.S.C. 5501 etc.; 5 U.S.C. 5525 etc.; 5 U.S.C. 6301 etc.; 42 U.S.C. 201 etc.; Pub. L. 90-83.

Health Professionals Educational Assistance Act of 1963: Pub. L. 92-157 as amended by Pub. L. 94-484.

IV. Department of Labor

Federal Employees Compensation Program. Pub. L. 93-416, Federal Employees Compensation Act (FECA).

Longshoremen's and Harbor Worker's Compensation Program. Pub. L. 92-576, Longshoremen's and Harbor Workers' Compensation Act Amendment of 1972

Black Lung Benefits. Pub. L. 95-239, Black Lung Benefit Reform Act of 1977.

V. Department of Transportation

Title V Employee Protection Program. Pub. L. 93-236, Regional Railroad Reorganization Act of 1973, as amended by Pub. L. 96-448, Staggers Rail Act of 1980.

VI. Veterans Administration

The following VA programs are authorized by Title 38 U.S.C. Chapter 3, section 210(c)(1). Additional chapters of Title 38, applying to specific programs, are indicated for each.

Patient Medical Records—VA (24 VA 136). Chapter 17.

Veterans, Dependents, and Beneficiaries Compensation and Pension Records—VA (49 VA 21). Chapters 11, 13, 15, and 23.

Veterans, Dependents, Beneficiaries, and Armed Forces Personnel Education and Rehabilitation Records—VA (50 VA 22). Chapters 31, 32, 34, 35, and 36.

Veterans and Beneficiaries Identification and Records Locator System—VA (38 VA 28).

TARGET System—Compensation, Pension, Education, and Rehabiliation Records—VA (58 VA 21/22). Chapters 11, 13 15, 17, 23, 31, 32, 34, 35, 36.

Loan Guaranty Home, Condominium, Mobile Home Loan Applicant Records and Paraplegic Grant Application Records—VA (55 VA 26) Chapters 21 and 27

A match between the RETF and the agencies' program files is not an indication that any illegality has occurred; the match will alert the agencies, however, that further study is warranted to see if there is any impropriety.

U.S. Office of Personnel Management,
Donald J. Devine,
Director.

PROPOSED ROUTINE USE:

The following routine use will be added to the Office of Personnel Management's system of records (OPM/Central–1). The current notice of this system is published at 45 FR 79415 et seq. (November 25, 1980).

OPM/Central–1

SYSTEM NAME:

Civil Service Retirement and Insurance Records.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

ff. To disclose information contained in the Retirement Annuity Master File including the name, social security number, date of birth, sex, Office of Personnel Management claim number, health benefit enrollment code, retirement date, retirement code (type of retirement), annuity rate, pay status of case, correspondence address, and zip code, of all Federal retirees to agencies participating in the "Federal Employees Receiving Government Assistance" Matching Project conducted by the President's Council on Integrity and Efficiency to help eliminate fraud and abuse in the benefit program administred by agencies within the Federal government and to collect debts and overpayment owed to the Federal government.

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[FR Doc. 82-5206 Filed 2-25-82; 8:45 am]
BILLING CODE 6325-01-M

Privacy Act of 1974; Proposed New Routine Use

AGENCY: Office of Personnel Management.

ACTION: Proposal for a new routine use to be added to an existing system of records.

SUMMARY: The purpose of this document is to propose a new routine use for the Office's General Personnel Records system (OPM/GOVT–1). This routine use, once in effect, will permit the disclosure of data from the Office's Central Personnel Data File (CPDF) to agencies and organizations that provide Federal assistance to employees of the Federal government. The disclosure of this information will be used for duly authorized matching programs.

COMMENT PERIOD: Any interested party may submit written comments regarding this proposal. To be considered, comments must be received on or before March 26, 1982.

ADDRESS: Address comments to: Assistant Director for Work Force Information, Office of Personnel Management (Room 5468), 1900 E Street, NW., Washington, D.C. 20415. Comments received will be available for public inspection at the above address from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: John Sanet, Work Force Records Management Division, (202) 254–0790.

SUPPLEMENTARY INFORMATION: Recent reviews of various Federal assistance programs have indicated that some Federal employees may have improperly received government assistance, or have outstanding debts that are not being repaid to the Federal government. Specifically, the improper receipt of government assistance in the U.S. Department of Agriculture's Food Stamp and the Veterans Administration's Compensation and Pension programs generally based upon fraudulently prepared applications which fail to disclose Federal employment have been identified. In addition, delinquent repayment of debts and defaulted loans by Federal employees have been identified in Health and Human Service's student loan and the Veterans Administration's educational assistance programs. The President's Council on Integrity and Efficiency (PCIE) believes that it is prudent to identify Federal employees, on a government-wide basis, who have improperly received benefits or have delinquent debts.

The objectives of this part of the PCIE project are twofold: (1) To identify Federal employees or retirees who may be erroneously or fraudulently receiving government payments, and (2) to identify Federal employees or retirees who are indebted to the government and then to initiate appropriate collection action.

The most efficient way of comparing individuals who are recipients of various Federal assistance programs with those who are active Federal civilian employees is for OPM to provide an extract of its Central Personnel Data File (CPDF) tape with various relevant data elements to the agencies conducting these various assistance programs. (These agencies and programs are cited below and the data provided by OPM will be strictly limited to that listed).

The disclosure of individual data from the CPDF to these agencies will be for the purpose of conducting matching programs. The CPDF is part of the OPM/GOVT–1 system of records. The matches will be conducted in accordance with the Office of Management and Budget's Supplemental Guidance for Matching Programs (44 FR 23138; April 18, 1979).

During OPM's participation in the formulation of this matching project, it was the Office's position that information could be disclosed from the CPDF only if the various recipient agencies agreed to strictly adhere to OMB's Matching Guidelines. The agencies cited below will be required to submit written requests for the Office's information, including written assurance by the agency Inspector General that the privacy concerns expressed in the Matching Guidelines will be followed.

Information on individuals that may be disclosed to the various matching agencies through this routine use includes: Name, social security number, date of birth, sex, annualized salary rate, service computation date, separation date, handicap, veterans preference, retirement status, occupational series, position occupied, work schedule, agency identifier, agency subelement identifier, geographic location, special program identifier, and submitting office number. The Office retains the authority under the proposed routine use to withhold data from a requesting agency if it is believed that the particular data requested are not germane to the particular benefit program.

Upon receipt of this information or a portion thereof, and compliance with the OMB Guidelines on Matching Programs, the agencies will match it against their various files involving benefit recipients. For each match it is anticipated that the agencies will conduct a more thorough review of the recipient's status as to eligibility for assistance and the status of any debt that is owed to the Government.

Under Office regulations (5 CFR 294.702), the disclosure of the name, agency, salary, and duty station location (including agency identifier, agency subelement identifier, and submitting office number) is permitted without the data subject's prior approval. Thus, the routine use is necessary to permit the disclosure of the other data cited in the proposed routine use. Though these other data are not considered to be public information, anticipated benefits to the public justify disclosure of this information for matching purposes with these agencies under safeguards established by those agencies jointly with the Office to protect against unauthorized disclosure.

Disclosure under the proposed routine use will permit the agencies to assure greater integrity of their various programs and is compatible with Federal personnel management responsibility for oversight of Federal employee's conduct, particularly with the requirment that employees conduct themselves in a proper manner, not obtain financial benefits in a fradulent manner, and pay their just obligations.

The Office fully recognizes that in this particular project authorized by this particular routine use, only the records of Federal employees are being examined and has taken certain steps to protect the privacy of those individuals while furthering the goals of eliminating waste, fraud, and abuse in the numerous recipient programs administered by the Federal government. Care has been taken to determine the best approach to take to permit the Office's participation and also to comply with the intent of the Privacy Act. Analysis of these concerns was accomomplished not only by the Office staff, but by various agencies of the Federal community. The result of this study was a clear determination that a matching program of this magnitude could be conducted without violating the Privacy Act if the conditions described in OMB's Matching Guidelines were followed.

The following agency programs which may be included in the PCIE computer matching project "Federal Employees Receiving Government Assistance," are listed below with the public law authorizing each program cited where appropriate.

I. Department of Agriculture

Food Stamp Program and Commodities In Lieu of Food Stamps. Pub. L. 95–113, The Food Stamp Act of 1977, as amended.
National School Lunch Program.
School Breakfast Program.
Special Milk Program.
Child Care Food Program.
Special Supplemental Food Programs.
Summer Food Service Programs. Pub. L. 79–396, National School Lunch Act of 1946, as amended; Pub. L. 89–642, Child Nutrition Act of 1966 as amended; and Pub. L. 95–313 (7 U.S.C. 612), Agriculture and Consumer Protection Act of 1973, as amended.
Elderly Feeding Program. Pub. L. 92–258 (42 U.S.C. 3030), Older Americans Act of 1965 and 1978, as amended; and Pub. L. 97–35, The 1981 Omnibus Reconciliation Act.
Rural Housing Support Programs.
Very Low-Income Housing Repair Programs.
Rural Low-Income Multi-Family Housing Program.
Rural Moderate-Income Multi-Family Housing Program.
Rural Moderate-Income Single Family Housing Loan Program.
Above Moderate-Income Single Family Housing Program.
Rural Low-Income Single Family Housing Program.
Rural Rental Assistance and Home Ownership Assistance Programs.
Farm Labor Housing Program. 63 Stat. 432, Title V of the Housing Act of 1949, as ameded.
Farm Real Estate Loan Program.
Emergency Loan Programs.
Business and Industrial Loan Program. Pub. L. 87–128, Consolidated Farm and Rural Development Act, as amended; and Pub. L. 95–334, Emergency Agricultural Credit Adjustment Act of 1978, as amended.

II. Department of Education

The following Department of Education programs are authorized by Pub. L. 96–374, the Higher Education Act, Title IV. The pertinent parts of Title IV, applying to specific programs, are indicated for each.

Basic Educational Opportunity Grants (Pell Grants).
Supplemental Educational Opportunity Grants. Title IV (Part A).
Guaranteed Student Loan Program. Title IV (Part B).
National Direct Student Loan Program. Title IV (Part D).

III. Department of Health and Human Services

Aid to Families with Dependent Children (AFDC): Pub. L. 74–271 (42 U.S.C. Subchapter IV), Title IV–A of the Social Security Act of 1935, as amended by Pub. L's. 92–603, 93–66, 93–233 and 95–216.
Black Lung Benefit Programs: Pub. L. 91–173, Federal Coal Mine Health and Safety Act of 1969, Title IV and Pub. L. 92–303, Black Lung Benefit Act of 1972, as amended by Pub. L. 95–239.
Health Professionals Educational Assistance Act of 1963: Pub. L. 92–157 as amended by Pub. L. 94–484.

IV. Department of Labor

Federal Employees Compensation Program. Pub. L. 93–416, Federal Employees Compensation Act (FECA).
Longshoremen's and Harbor Workers' Compensation Program. Pub. L. 92–576, Longshoremen's and Harbor Workers' Compensation Act Amendment of 1972.
Black Lung Benefits. Pub. L. 95–239, Black Lung Benefit Reform Act of 1977.

V. Department of Transportation

Title V Employee Protection Program. Pub. L. 93–236, Regional Railroad Reorganization Act of 1973, as amended by Pub. L. 96–448, Staggers Rail Act of 1980.

VI. Veterans Administration

The following VA programs are authorized by Title 38 U.S.C., Chapter 3, Section 210(c)(1). Additional chapters of Title 38, applying to specific programs, are indicated for each.

Patient Medical Records—VA (24 VA 136). Chapter 17.
Veterans, Dependents, and Beneficiaries Compensation and Pension Records—VA (49 VA 21). Chapters 11, 13, 15, and 23.
Veterans, Dependents, Beneficiaries, and Armed Forces Personnel Education and Rehabilitation Records—VA (50 VA 22). Chapters 31, 32, 34, 35, and 36.
Veterans and Beneficiaires Identification and Records Locator System—VA (38 VA 28).
TARGET System—Compensation, Pension, Education, and Rehabilitation Records—VA (58 VA 21/22). Chapters 11, 13, 15, 17, 23, 31, 32, 34, 35, 36.
Loan Guaranty Home, Condominium, Mobile Home Loan Applicant Records and Paraplegic Grant Application Records—VA 55 (VA 26) Chapters 21 and 27

A match between the CPDF and the agencies' programs is not an indication that any illegality has occurred; the match will alert the agencies, however, that further study is warranted to see if there is any impropriety.

U.S. Office of Personnel Management.
Donald J. Devine,
Director.

PROPOSED ROUTINE USE:

The following routine use will be added to the Office of Personnel Management's government-wide system of records (OPM/GOVT–1). The current notice of this system is published at 45 FR 78415 et seq. (November 25, 1980).

OPM/GOVT–1

SYSTEM NAME:

General Personnel Records.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

ss. To disclose information contained in the Central Personnel Data File including the name, social security

number, date of birth, sex, annualized salary rate, service computation date of basic active service date, separation or retirement date, reportable handicap, veteran's preference, retirement status, occupational series, position occupied, work schedule (full time, part time, or intermittent), agency identifier, geographic location (duty station location), standard metropolitan service area, special program identifier, submitting office number of all Federal employees to agencies participating in the "Federal Employee Receiving Government Assistance" Matching Project conducted by the President's Council on Integrity and Efficiency to help eliminate fraud and abuse in the benefit program administred by agencies within the Federal government and to collect debts and overpayment owed to the Federal government.

* * * * *

[FR Doc. 82-5200 Filed 2-25-82; 8:45 am]
BILLING CODE 6325-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Advisory Committee for Trade Negotiations; Meeting and Determination of Closing of Meeting

The meeting of the Advisory Committee for Trade Negotiations (the Advisory Committee) to be held Thursday, March 18, 1982, from 2:00 p.m. to 5:00 p.m. at the Federal Home Loan Bank Board, Amphitheater, will involve a review and discussion of the current issues involving the trade policy of the United States. The review and discussion will deal with information submitted in confidence by the private sector members of the Committee under section 135(g)(1)(A) of the Trade Act of 1974, as amended, (the Act), information submitted by government officials under section 135(g)(2) of the Act the disclosure of which could be reasonably expected to prejudice United States negotiating objectives, information the disclosure of which would be likely to significantly frustrate implementation of proposed government action, and information properly classified pursuant to Executive Order 12065 and specifically required by such Order to be kept secret in the interests of national security (i.e., the conduct of foreign relations) of the United States. All members of the Advisory Committee have all necessary security clearances. Consistent with previous determinations concerning other advisory committees, established under section 135(c) of the Act, I hereby determine that the meeting of the Advisory Committee will be concerned with matters listed above and with matters listed in section 552b(c) of Title 5 of the United States Code. Therefore, the meeting of the Advisory Committee for Trade Negotiations will be closed to the public.

More detailed information can be obtained by contacting Phyllis O. Bonanno, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, D.C. 20506.

William E. Brock,

United States Trade Representative.

[FR Doc. 82-5201 Filed 2-25-82; 8:45 am]
BILLING CODE 3195-01-M

PENSION BENEFIT GUARANTY CORPORATION

Request for Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from the Philadelphia National League Club and The Phillies, a limited partnership, for an exemption from the bond/escrow and sale-contract requirements of section 4204(a) (1) (B) and (C) of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. Two of these conditions are that the purchaser post a bond or deposit money in escrow for five plan years beginning after the sale, and that the contract of sale between the seller and the purchaser provide that the seller will be secondarily liable for its withdrawal liability if the purchaser withdraws from the plan within five years after the sale and does not pay its withdrawal liability. The PBGC is authorized to grant exemptions from these requirements. Prior to granting an exemption, the PBGC is required to give interested persons an opportunity to comment on the exemption request. The effect of this notice is to advise interested persons of this exemption request and to solicit their views on it.

DATES: Comments must be submitted on or before April 12, 1982.

ADDRESSES: All written comments (at least three copies) should be addressed to: Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. The request for an exemption and the comments received will be available for public inspection at the PBGC Public Affairs Office, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), 2020 K Street, NW., Washington, D.C. 20006; (202) 254-4862. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

The Statute

The Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96-364, 94 Stat. 1208 (the "Multiemployer Act") became law on September 26, 1980 and amended the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. 1001 *et seq.* As a result of the Multiemployer Act, an employer that withdraws, or partially withdraws, from a multiemployer pension plan covered under Title IV of ERISA may be liable to the plan for a portion of the plan's unfunded vested benefits. The withdrawal liability rules generally apply to withdrawals occurring after April 26, 1980.

Section 4204 of ERISA, 29 U.S.C. 1384, provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)–(C), are that—

(A) The purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred; and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Additionally, section 4204(b)(1) provides that if a sale of assets is covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the plan year in which the sale occurred and the preceding four plan years.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) and the sale-contract requirement of section 4204(a)(1)(C). The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. The granting of an exemption or variance from the requirements of section 4204(A)(1) (B) or (C) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1).

Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets, (46 FR 46127 (1981)), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

Seciton 4204(c) ERISA and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance of exemption in the Federal Register, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

The PBGC has received a joint request from the seller, the Philadelphia National League Club (the "Club"), and the purchaser, The Phillies ("Phillies"), a limited partnership, (collectively referred to as the "Parties") for an exemption from the requirements of section 4204(a)(1)(B) and (C) of ERISA. In the request, the Parties represent, among other things, that:

1. The Major League Baseball Players Benefit Plan (the "Plan") is established and maintained pursuant to a collective bargaining agreement between the 26 professional major league baseball teams and the Major League Baseball Players Association.

2. The Club was a participating employer in the Plan.

3. The major league clubs have established the Major League's Central Fund (the "Central Fund") pursuant to the "Major League Agreement in re Major League's Central Fund." Under this Agreement, the revenues to fund the plan for all parricipating employers are received by the Office of the Commissioner of Baseball and are then remitted on behalf of the clubs in satisfaction of their pension liability arising under the Plan's funding agreement. In addition, other expenditures on behalf of all 26 clubs are made from the Central Fund. The revenue to fund the Plan is currently derived directly from (i) gate receipts from All-Star games, (ii) radio and television revenues from World Series, League Championship intradivision play-off and All-Star games, and (iii) certain other radio and television revenue (including foreign broadcasts) from regular and exhibition games.

4. The major league clubs are currently obligated to contribute the sum of $15,500,000 per year to cover both pension and welfare benefits; approximately $13 million of which is remitted to the pension plan for the current plan year. Each major league club is responsible for 1/26 of that amount. In 1980, the Central Fund paid $500,000 as pension contributions to the Plan on behalf of the Club.

5. The Parties entered into an agreement on November 1, 1981 for the sale of the Philadelphia Phillies baseball team. The final closing occurred on December 14, 1981.

6. The contract of sale provides that Phillies will have an obligation to contribute to the Plan for substantially the same number of contribution units as the Club.

7. The sales agreement further provides that unless the PBGC grants a variance, Phillies will post the bond or escrow required under section 4204(a)(1)(B) of ERISA. The amount of the bond/escrow would be $500,000.

8. In support of the variance request, the Parties state that "(t)he payment of the employer contributions directly to the Plan from the Central Fund deposits, and the traditional adequacy of the Central Fund deposits to meet the Fund requirements of the Plan, provide adequate assurance to the Plan and the PBGC that the employer contributions will be made when due. A change in team employer does not affect the obligation to fund the Plan with Central Fund deposits nor create the possibility that there will be difficulty in collecting Plan contributions from any new team employer."

9. The Parties have sent by certified mail, return receipt requested, a complete copy of this request to the Plan and the collective bargaining representative of the Club's former employees.

It is noted that the Parties provided financial information on the purchaser, but requested that such information be held confidential. PBGC finds it appropriate to grant the Parties' request for confidentiality, because the variance is being considered on the grounds of the information set forth above. PBGC also notes that it has previously dealt with a request very similar to the pending request, involving the Chisox Corporation, the Chicago White Sox Baseball Club, Inc. and the Artnell Company. On September 1, 1981, PBGC granted that request for a variance from the purchaser's bond and sale-contract requirements of section 4204 (see 46 FR 44948 (Sept. 8, 1981)).

Comments

All interested persons are invited to submit written comments on the pending exemption to the above address, April 12, 1982. All comments will be made a part of the record. Comments received, as well as the non-confidential portions of the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D.C. on this 22nd day of February 1982.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-5199 Filed 2-25-82; 8:45 am]
BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

February 22, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

AmSouth Bancorporation—Common Stock, $1 Par Value (File No. 7–6160)
Argo Petroleum—Common Stock, $.10 Par Value (File No. 7–6161)
Caesars New Jersey, Inc.—Common Stock, $.10 Par Value (File No. 7–6162)
Dataram Corp.—Common Stock, $1 Par Value (File No. 7–6163)
Donaldson Co., Inc.—Common Stock, $5 Par Value (File No. 7–6164)
Dyco Petroleum Corp.—Common Stock, $.01 Par Value (File No. 7–6165)
Eastern Airlines, Inc. Warrants to Purchase One Common Share at $10 (Expires 1987) (File No. 7–6166)
First Atlanta Corporation—Common Stock, $5 Par Value (File No. 7–6167)
Gulfstream Banks, Inc.—Common Stock, $1 Par Value (File No. 7–6168)
Liberty National Insurance Holding Co.—Common Stock, $2 Par Value (File No. 7–6169)
Mexico Fund, Inc.—Common Stock, $1 Par Value (File No. 7–6170)
NCNB Corporation—Common Stock, $2.50 Par Value (File No. 7–6171)
Pan American Banks, Inc.—Common Stock, $1 Par Value (File No. 7–6172)
PennCorp Financial, Inc.—Common Stock, $.50 Par Value (File No. 7–6173)
Sealed Air Corp.—Common Stock, $.01 Par Value (File No. 7–6174)
Sun Banks of Florida, Inc.—Common Stock, $2.50 Par Value (File No. 7–6175)
Worldwide Energy Corporation—Common Stock, $.20 Par Value (File No. 7–6176)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 15, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-5196 Filed 2-25-82; 8:45 am]
BILLING CODE 8010-01-M

Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

February 22, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Caesars New Jersey Incorporated—Common Stock, $.10 Par Value (File No. 7–6144)
Dataram Corporation—Common Stock, $1 Par Value (File No. 7–6145)
MCO Resources, Inc.—Common Stock, $.01 Par Value (File No. 7–6146)
AmSouth Bancorporation—Common Stock, $1 Par Value (File No. 7–6147)
Barnett Banks of Florida, Inc.—Common Stock, $2 Par Value (File No. 7–6148)
Cray Research Inc.—Common Stock, $1 Par Value (File No. 7–6149)
Dyco Petroleum Corporation—Common Stock, $.01 Par Value (File No. 7–6150)
Enasource, Inc.—Common Stock, $.01 Par Value (File No. 7–6151)
First Atlanta Corporation—Common Stock, $5 Par Value (File No. 7–6152)
Gulfstream Banks, Inc.—Common Stock, $1 Par Value (File No. 7–6153)
Liberty National Insurance Holding Co.—Common Stock, $2 Par Value (File No. 7–6154)
Mexico Fund, Inc.—Common Stock, $1 Par Value (File No. 7–6155)
Pan American Banks, Inc.—Common Stock, $1 Par Value (File No. 7–6156)
Permian Basin Royalty Trust—Units of Beneficial Interest, No Par Value (File No. 7–6157)
Sullair Corporation—Common Stock, No Par Value (File No. 7–6158)
Sun Banks of Florida, Inc.—Common Stock, $2.50 Par Value (File No. 7–6159)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 15, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-5197 Filed 2-25-82; 8:45 am]
BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

February 22, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Allegheny International Incorporated $11.25 Convertible Preferred (File No. 7–6177)
Anderson, Greenwood & Company Common Stock, No Par Value (File No. 7–6178)
Dorchester Gas Corporation Common Stock, $.10 Par Value (File No. 7–6179)
HRT Industries Incorporated Common Stock, $1 Par Value (File No. 7–6180)
Norstar Bancorporation Incorporated Common Stock, $5 Par Value (File No. 7–6181)
Tacoma Boatbuilding Company Common Stock, $1 Par Value (File No. 7–6182)
Williams Electronics Incorporated Common Stock, $.50 Par Value (File No. 7–6183)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 15, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-5197 Filed 2-25-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 18505; SR-OCC-82-2]

Options Clearing Corp.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

February 22, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 15, 1982, the Options Clearing Corporation ("OCC"), 200 S. Wacker Drive, Chicago, Illinois 60606, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend OCC Rule 1309, which relates to the settlement of options on certificates issued by the Government National Mortgage Association ("GNMA"). The proposal would permit settlement to be made with GNMA certificates that are drawn from no more GNMA pools than the number of exercised option contracts for which settlement is required to be made, provided that certificates from each pool have an aggregate remaining unpaid principal balance that is equal to, or a multiple of, $100,000 (plus or minus 2.5%). OCC, however, would continue to allow settlement to be made with GNMA certificates that meet the Public Securities Association's stricter standards for delivery on settlement of GNMA securities. *See* Public Securities Association, Standards for Delivery on Settlement of GNMA Securities. The proposal lessens the strict good delivery standards in Rule 1309(3) for deliveries out of participant proprietary accounts. By so doing, OCC would apply identical good delivery standards to all accounts. The proposed rule change also makes certain nonsubstantive amendments in OCC's good delivery rule.

OCC believes that the proposal is consistent with Section 17A of the Act because it promotes the prompt and accurate clearance and settlement of securities transactions by eliminating unnecessarily restrictive delivery requirements and by removing a substantial impediment to the development of the GNMA options market. Together, the changes should facilitate the development of an active and liquid odd-lot market in GNMA securities and facilitates participation in GNMA options by smaller investors.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change on or before March 19, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–OCC–82–2.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to clearing agencies and, in particular, the requirements of Section 17A of the Act and the rules and regulations thereunder. The Commission also finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing. Approval of the proposed rule change at this time will enable OCC to complete its GNMA prospectus supplement with appropriate delivery rules prior to the scheduled commencement of trading in GNMA options. It is necessary for OCC to finalize its prospectus well in advance of that time so that copies can be printed and shipped to securities firms for distribution to the public before trading commences.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-5194 Filed 2-25-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 18506; SR-Phlx-81-39]

Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

February 22, 1982.

The Philadelphia Stock Exchange, Inc. ("Phlx") 1900 Market Street, Philadelphia, PA 19103, submitted on December 18, 1981, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to revise its listing fee schedule for stocks, warrants, bonds and similar securities.

Notice of the proposed rule change together with the terms of substance of the proposed rule was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18405, January 11, 1982) and by publication in the **Federal Register** (47 FR 2970, January 20, 1982). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-5195 Filed 2-25-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 12245; 812-4940]

Shearson FMA Municipal Fund; Filing of an Application for an Order of the Act Exempting Applicant

February 22, 1982.

Notice is hereby given that Shearson FMA Municipal Fund ("Applicant"), Two World Trade Center, New York, New York 10048, registered under the Investment Company Act of 1940 ("Act") as an open-end, management investment company, filed an application on August 11, 1981, and amendments thereto on February 4, 1982, and February 10, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act exempting the Applicant from the provisions of Section 12(d)(3) of the Act to the extent

necessary to permit the Applicant to acquire rights to sell its portfolio securities to brokers or dealers and from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit the Applicant to value in the manner described in the application such rights acquired from banks, brokers or dealers. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, shares of the Applicant will be offered only in connection with a Financial Management Account Program ("Management Account"). Applicant states that a Management Account will be a financial services account linking (1) a conventional securities margin account ("Securities Account"); (2) participation in one of three "money market" funds, one of which is the Applicant; (3) an American Express Gold Card ("Gold Card") provided by American Express Company; and (4) a checking privilege on an account maintained by Provident National Bank. Applicant states that any cash in a Management Account participant's Securities Account that is available on demand and transferable without giving rise to interest charges will be automatically invested in whichever "money market" fund the participant selects. Applicant further states that payment will be made to cover transactions involving use of the Gold Card and charges incurred in utilizing the checking privilege from and to the extent of (1) available cash in the Securities Account; (2) proceeds of a redemption of shares of the participant's "money market" fund; and (3) from margin loans extended by Shearson/American Express Inc.

Applicant represents that its investment objective is to maximize current income to the extent consistent with preservation of capital and the maintenance of liquidity by investing primarily, but not exclusively, in securities the income from which is exempt from federal income taxation. Applicant states that it will invest in various municipal obligations having a maturity of one year or less at the date of purchase, are of "high quality" as determined by a major rating service or, if not rated, are of comparable quality as determined by its board of trustees. Applicant further states that it may invest more than 20 percent of its total assets in taxable obligations during periods of abnormal market conditions, when it might be advantageous to its shareholders because market conditions dictate a defensive posture in taxable obligations. Among the taxable securities in which Applicant may invest are: (1) Obligations of the United States government, its agencies, instrumentalities or authorities; (2) prime commercial paper; (3) certificates of deposit of domestic banks with assets of $1 billion or more; and (4) repurchase agreements with respect to any securities that the Applicant is permitted to own. Applicant states that it will not invest in a repurchase agreement maturing in more than seven days if any such investment together with illiquid securities held by the Applicant exceed 10% of its total assets.

Applicant states that it expects to maintain a $1.00 consent net asset value per share and relatively stable daily dividend by keeping its dollar-weighted average portfolio maturity 120 days or less, by not purchasing any instrument with a remaining maturity of greater than one year, and calculating net asset value per share by using the amortized cost method of portfolio valuation. Applicant has applied for and received an exemptive order from the Commission (Investment Company Act Release No. 12212) subject to conditions, to utilize the amortized cost method of valuation.

Applicant states that in addition to a consent net asset value per share, its shareholders require the ability to receive same-day redemption proceeds. According to the application, the cash needed to meet net redemptions of Applicant's shares to pay a participant's debt balance in his Management Account must be obtained the same day from maturing portfolio securities or settlements arranged that day on sales of securities. Applicant further states that its portfolio manager has only a short period of time to make arrangements for sales of portfolio securities to meet redemptions since the federal funds wire closes for transmission purposes at 3:00 p.m. Therefore, Applicant states, unless prior arrangements assuring immediate liquidity have been made, the negotiation of same-day settlements on sales of portfolio securities within the brief time available is frequently impossible or may require the Applicant to receive a less favorable execution price on the sale even though the securities sold have a short remaining maturity. Applicant states that other investment techniques used by taxable money market funds to obtain liquidity are not as freely available because they are prohibitively expensive or would produce undesirable taxable income.

Applicant proposes to improve portfolio liquidity by assuring same-day settlements on portfolio sales (and thus facilitate the same-day payments of redemption proceeds) through the acquisition of "Stand-by Commitments". Applicant describes a Stand-by Commitment as a right of a fund, when it purchases a municipal obligation for its portfolio from a broker, dealer or other financial institution, to sell the same principal amount of such securities back to the seller, at the fund's option, at a specified price. Stand-by Commitments are also known as "puts". The Applicant states that its investment policies will permit the acquisition of Stand-by Commitments solely to facilitate portfolio liquidity, and that the acquisition or exercisability of a Stand-by Commitment will not affect the valuation or maturity of its underlying municipal obligations, which will continue to be valued in accordance with its amortized cost order.

Applicant states that the Stand-by commitments will have the following features: (1) They will be in writing and, will be physically held by Applicant's custodian; (2) they may be exercisable by Applicant at any time prior to the underlying security's maturity; (3) they will be entered into only with dealers, banks and broker dealers who in the investment adviser's opinion present a minimal risk of default; (4) Applicant's right to exercise them will be unconditional and unqualified; (5) although they will not be transferable, municipal obligations purchased subject to such commitments could be sold to a third party at any time, even though the commitment was outstanding; and (6) their exercise price will be (i) Applicant's acquisition cost of the municipal obligations which are subject to the commitment (excluding any accrued interest which the Applicant paid on their acquisition), less any amortized market premium or plus any amortized market or original issue discount during the period Applicant owned the securities, plus (ii) all interest accrued on the securities since the last interest payment date during the period the securities were owned by Applicant. Applicant further states that since it values its municipal obligations on an amortized cost basis, the amount payable under a Stand-by Commitment will be substantially the same as the value of the underlying security. Applicant submits that there is little risk of an event occurring that would make the amortized cost valuation of its portfolio securities inappropriate. However, the Applicant represents that in the unlikely event that the market or fair value of securities in its portfolio were not substantially equivalent to their amortized cost value, its Board of Trustees may determine that the securities should be valued on the basis of available market information. Applicant states that it expects to refrain from exercising the Stand-by commitments to avoid imposing a loss on a dealer and jeopardizing the Applicant's business relationship with that dealer.

According to the application, the Applicant expects that Stand-by Commitments generally will be available without the payment of any direct or indirect consideration. However, if necessary and advisable, the Applicant states that it will pay for Stand-by Commitments, either separately in cash or by paying a higher price for portfolio securities which are acquired subject to the commitment. As stated by Applicant, as a matter of policy, the total amount "paid" in either manner for outstanding Stand-by Commitments held in its portfolio will not exceed ½ of 1% of the value of its total assets calculated immediately after any Stand-by Commitment is acquired.

As stated in the application, it will be difficult to evaluate the likelihood of exercise or the potential benefit of a Stand-by Commitment. Therefore, the Applicant states that its Board of Trustees believes that the value of any such Stand-by Commitment is zero, regardless of whether any direct or indirect consideration is paid. Where the Applicant has paid for a Stand-by Commitment, its cost will be reflected as unrealized depreciation for the period during which the commitment is held. In addition, Applicant states that for purposes of complying with the condition of its amortized cost order that the dollar-weighted average maturity of its portfolio shall not exceed 120 days, the Stand-by Commitments will be valued at zero and that the dollar-weighted average maturity will not be affected by the acquisition of a Stand-by Commitment.

According to Applicant's prospectus, Applicant may apply to the Internal Revenue Service for a ruling, or seek from counsel an opinion, that interest on municipal obligations subject to a Stand-by Commitment will be tax-exempt. In the absence of such a favorable tax ruling or opinion of counsel, Applicant states it will not engage in the purchase of securities subject to Stand-by Commitments.

In relevant part, Section 2(a)(41) of the Act defines value to mean: (i) With respect to securities for which market quotations are readily available, the market value of such securities, and (ii) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 under the Act provides, in part, that no registered investment company issuing any redeemable security, and no principal underwriter thereof, shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of tender of the security for redemption or of an order to purchase or sell such security. Rule 2a–4 under the Act provides, in relevant part, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made in accordance with provisions of the rule and the portfolio securities with respect to which market quotations are readily available shall be valued at current market value and other securities and assets shall be valued at fair value as determined in good faith by the board of directors.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant requests an order pursuant to Section 6(c) of the Act exempting it from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit it to value the Stand-by Commitments as proposed.

Section 12(d)(3) of the Act, in relevant part, prohibits any registered investment company from purchasing or otherwise acquiring any security issued by or any other interest in the business of any person who is a broker, a dealer, is engaged in the business of underwriting or is an investment adviser. Therefore, Applicant also requests an order pursuant to Section 6(c) of the Act exempting it from the provisions of Section 12(d)(3) of the Act to the extent necessary to permit its acquisition of Stand-by Commitments from brokers or dealers.

Applicant asserts that the requested relief is appropriate, in the public interest, and consistent with the protection of investors. Applicant submits that the proposed acquisition of Stand-by Commitments will not affect its net asset value per share for purposes of sales and redemptions and will not pose new investment risks, but rather will improve liquidity and ability to pay redemption proceeds. Furthermore, Applicant states that the acquisition of Stand-by Commitments will not meaningfully expose its assets to the entrepreneurial risks of the investment banking business, nor require it to evaluate the credit of dealers in determining its net asset value. Applicant asserts that the relationship between it and the dealer will be comparable to a fully collateralized broker-dealer repurchase agreement or security loan. In this regard, Applicant states that while the failure of a broker or dealer to fulfill its obligation under the Stand-by Commitment could result in a loss to it, this risk of loss is not different quantitatively from the risk of loss faced by any investment company which is holding securities pending settlement after having agreed to sell the securities to a broker or dealer in the ordinary course of business. Finally, Applicant states it will not acquire Stand-by Commitments to promote reciprocal practices, to encourage the sale of its shares or to obtain research services.

Notice is further given that any interested person may, not later than March 19, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and

regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-5199 Filed 2-25-82; 8:45 am]
BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2023]

Mississippi; Declaration of Disaster Loan Area; Amendment #1

As a result of recalculating the formula interest rate for homeowners who are unable to obtain credit elsewhere we are reducing our previously published interest rate of 8 percent to 7¾ percent. All other information remains the same.

Dated: February 19, 1982.

Donald R. Templeman,
Acting Administrator.

[FR Doc. 82-5239 Filed 2-25-82; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/494]

Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on March 17, 1982 at 10:00 a.m. in Room 856 of the Federal Communications Commission, 1919 M Street, NW., Washington, D.C. This Study Group deals with U.S. Government aspects of international telegram and telephone operations and tariffs.

The Study Group will discuss international telecommunications questions relating to telegraph, telex, new record services, data transmission and leased channel services in order to develop U.S. positions to be taken at upcoming international CCITT Study Group III and I meetings.

Members of the general public may attend the meeting and join in the discussion subject to instruction of the Chairman. Admittance of public members will be limited to the seating available. Requests for further information should be directed to Earl S. Barbely, Conference Staff, Federal Communications Commission, Washington, D.C., telephone (202) 632-3214.

Dated: February 12, 1982.

Richard H. Howards,
Chairman, U.S. CCITT National Committee.

[FR Doc. 82-5198 Filed 2-25-82; 8:45 am]
BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

Customs Service

Removal of Prohibition on the Importation of Tuna and Tuna Products From Costa Rica

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This notice is to advise that under the Fishery Conservation and Management Act of 1976 ("the Act"), the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs has notified the Secretary of the Treasury that the reasons for the imposition of a prohibition on the importation of tuna and tuna products from Costa Rica no longer prevail.

EFFECTIVE DATE: The prohibition against the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Costa Rica is removed effective February 26, 1982.

FOR FURTHER INFORMATION CONTACT: Harrison C. Feese, Entry, Examination, and Liquidation Branch, Duty Assessment Division, Office of Operations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8551).

SUPPLEMENTARY INFORMATION:

Background

Section 205(a)(4)(C) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801, et seq.), provides that the Secretary of State shall certify to the Secretary of the Treasury any determination that a fishing vessel of the United States, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, has been seized by a foreign nation as a consequence of a claim of jurisdiction not recognized by the United States. The responsibility for this certification was delegated to the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs by Department of State Delegation of Authority No. 136 of April 29, 1977.

Pursuant to section 205(b) of the Act, upon receiving the certification, the Secretary of the Treasury is required to take such action as may be necessary and appropriate to prohibit the importation of all fish and fish products from the fishery involved.

Section 205(c) of the Act provides that if the Secretary of State finds that the reasons for the import prohibition under section 205 no longer prevail, the Secretary of State shall notify the Secretary of the Treasury, who shall promptly remove the import prohibition.

On February 1, 1980, a notice was published in the Federal Register (45 FR 7363) advising that under section 205(a)(4)(C) of the Act, on January 14, 1980, the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs certified to the Secretary of the Treasury that a United States fishing vessel, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, was seized by Costa Rica as a consequence of a claim of jurisdiction which is not recognized by the United States. Under the authority of sections 205 (b) and (c) of the Act on February 1, 1980, the Secretary of the Treasury determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Costa Rica was prohibited until the Department of State notified the Secretary of the Treasury that the reasons for this prohibition no longer prevailed.

On January 22, 1982, the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs informed the Secretary of the Treasury that the reasons for the imposition of the import prohibition on tuna and tuna products no longer prevail. Accordingly, the prohibition against the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Costa Rica is removed.

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations Control Branch, U.S. Customs Service. However, other personnel in the Customs Service and the Treasury Department participated in its development.

Dated: February 22, 1982.

John M. Walker, Jr.,
Assistant Secretary (Enforcement and Operations).

[FR Doc. 82-5194 Filed 2-25-82; 8:45 am]
BILLING CODE 4820-02-M

Office of Foreign Assets Control

Restricted Merchandise; Licensed Addressees of Prohibited Publications From Cuba

On January 29, 1982, a list of addressees licensed by the Office of Foreign Assets Control to receive prohibited publications was published in the Federal Register as an attachment to instructions issued by OFAC to the U.S. Customs Service regarding restricted merchandise. The list, as published, contained several incorrect addresses and was incomplete. A complete list, with corrections follows:

Licensed To Receive Publications From Cuba

Center for Cuban Studies, 220 E. 23rd Street, New York, New York 10010
Circulo de Cultura Cubana, GPO Box 2174, New York, New York 10001
Tri Continental Film Center Foundation, 419 Park Avenue, South, New York, New York 10016
Tri Continental Imports, Inc., 156 5th Avenue, Suite 232, New York, New York 10010

Licensed To Receive Publications From North Korean, Vietnam or Kampuchea (Cambodia)

None.

Dennis M. O'Connell,
Director, Office of Foreign Assets Control.

[FR Doc. 82-5120 Filed 2-25-82; 8:45 am]
BILLING CODE 4810-25-M

Internal Revenue Service

[Delegation Order No. 191]

Chief, Collection Branch, Compliance Division; Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Authorizes the Chief, Collection Branch, Compliance Division, in the service centers to levy on wages, salaries, other income and bank deposits in the possession of third parties. The text of the delegation order appears below.

EFFECTIVE DATE: February 25, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. William M. Gass, 1111 Constitution Avenue, NW., Room 7538, CP:C:O, Washington, DC 20224 (202) 566-4445 (Not a toll free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the Federal Register for Wednesday, November 8, 1978.

J. R. Starkey,
Director, Collection Division.

Delegation Order

Date of issue: February 25, 1982.

Effective Date: February 25, 1982.

Subject: Delegation of Authority to Levy on Property in Hands of Third Parties

The authority vested in the Commissioner of Internal Revenue and District Directors by 26 CFR 301.7701-9 and 301.6331-1, to levy on wages, salaries, other income and bank deposits in the possession of third parties is also delegated to the Chief, Collection Branch in the Compliance Division, Service Center.

This authority may be redelegated only to Collection Branch personnel in the GS-1169 series and to Collection GS-962 supervisory personnel.

Roscoe L. Egger, Jr.,
Commissioner.

[FR Doc. 82-5212 Filed 2-25-82; 8:45 am]
BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

Administrator's Educational Assistance Advisory Committee; Meeting

The Veterans Administration gives notice that a meeting of the Administrator's Educational Assistance Advisory Committee, authorized by section 1792, title 38, United States Code, will be held at the Veterans Administration Central office, 810 Vermont Avenue, NW, Washington, DC, on March 23, 1982, at 9 a.m. in the Omar N. Bradley Conference Room. The meeting will be for the purpose of considering alternative methods of measuring educational courses, reviewing provisions of VA education programs, and establishing subcommittee assignments and tasks.

The meeting will be open to the public up to the seating capacity of the conference room. Because of the limited seating capacity and the need for building security, it will be necessary for those wishing to attend to contact Mr. C. L. Dollarhide, Director, Education Service (22), Veterans Administration Central Office (phone 202-389-5154), before March 17, 1982.

Interested persons may attend, appear before or file statements with the committee. Statements, if in written form, may be filed before or within 10 days after the meeting. Oral statements will be heard at 2:30 p.m. on March 23, 1982.

Dated: February 19, 1982.

Robert P. Nimmo,
Administrator.

[FR Doc. 82-5211 Filed 2-25-82; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 39
Friday, February 26, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENT

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1

COMMODITY CREDIT CORPORATION

TIME AND DATE: 9 a.m., March 5, 1982.

PLACE: Room 104–A Administration Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Special Meeting of December 21, 1981.
2. Closed Meeting of December 21, 1981.
3. Docket WCX–312 re: Food Security Wheat Reserve.
4. Docket WCO–309a re: Flue-Cured Tobacco—Testing Levels of Maleic Hydrazide (MH) Residue in Cured Leaves.
5. Dockets XCP–101a and XCP–176a re: Wool and Mohair Payment Programs for the 1982–1985 Marketing Years.
6. Docket FCZ–247, Rev. 2 re: Policy on CCC Interest Rates on Commodity Loans, Grain Reserve Loans, Farm Storage and Drying Equipment and Certain Price Support Purchase Transactions.
7. Memorandum re: Interest Rates Charged by the Commodity Credit Corporation (50612–1–Hq).
8. Memorandum re: Status Report on the Extended Grain-Storage Program.
9. Memorandum re: Progress Report on Processed Cheese Distribution to States.
10. Memorandum re: Barter of Dairy Products for Jamaician Bauxite.
11. Resolution re: Ratification on Repurchase Offer on CCC Polish Credit Guarantees.

CONTACT PERSON FOR MORE INFORMATION: Edward D. Hews, Secretary, Commodity Credit Corporation, Room 3090–South Building, U.S. Department of Agriculture, Washington, D.C. 20013; telephone (202) 447–7583.

[S 309-82 Filed 2-24-82; 2:15 pm]
BILLING CODE 3410-05-M

2

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Wednesday, March 3, 1982.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: February 23, 1982.

William W. Wiles,
Secretary of the Board.

[S 296-82 Filed 2-25-82; 4:45 pm]
BILLING CODE 6210-01-M

3

FOREIGN CLAIMS SETTLEMENT COMMISSION

[FCSC Meeting Notice No. 2–82]

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Monday, March 22, 1982 at 10:30 a.m.
Consideration of decisions involving claims for Vietnam Prisoner of War Compensation and claims against the Socialist Republic of Vietnam.

Changed To

Thursday, March 25, 1982 at 10:30 a.m.
Consideration of decisions involving claims for Vietnam Prisoner of War Compensation, claims against the Socialist Republic of Vietnam, and claims against the Government of the Czechoslovak Socialist Republic.

Monday, April 26, 1982 at 10:30 a.m.
Consideration of decisions involving claims for Vietnam Prisoner of War Compensation, claims against the Socialist Republic of Vietnam, and claims against the Government of the Czechoslovak Socialist Republic.

Monday, May 24, 1982 at 10:30 a.m.
Consideration of decisions involving claims for Vietnam Prisoner of War Compensation, claims against the Socialist Republic of Vietnam, and claims against the Government of the Czechoslovak Socialist Republic.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 1111 20th Street, NW., Room 409, Washington, D.C. 20579. Telephone: (202) 653–6155.

Dated at Washington, D.C. on February 23, 1982.

Judith H. Lock,
Administrative Officer.

[S-301-82 Filed 2-24-82; 2:28 pm]
BILLING CODE 4410-01-M

4

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 10:30 a.m., Tuesday, March 9, 1982.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
a. High-precision solenoids (Docket No. 802).
5. Investigation 104–TAA–6 (Barley from France)—briefing and vote.
6. Investigation 731–TA–3 (Sugar from Canada)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary; (202) 523–0161.

[S-298-82 Filed 2-25-82; 2:04 pm]
BILLING CODE 7020-02-M

federal register

Friday
February 26, 1982

Part II

Department of Health and Human Services

Food and Drug Administration

Weight Control Drug Products for Over-the-Counter Human Use; Establishment of a Monograph

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 357

[Docket No. 81N-0022]

Weight Control Drug Products for Over-the-Counter Human Use; Establishment of a Monograph

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing an advance notice of a proposed rulemaking that would establish conditions under which over-the-counter (OTC) weight control drug products are generally recognized as safe and effective and not misbranded. This notice is based on the recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products and is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments by May 27, 1982, and reply comments by June 28, 1982.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's Office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In accordance with Part 330 (21 CFR Part 330), FDA received on March 2, 1979 a report on OTC weight control drug products from the Advisory Review Panel on OTC Miscellaneous Internal Drug Products. FDA regulations (21 CFR 330.10(a)(6)) provide that the agency issue in the Federal Register a proposed order containing (1) the monograph recommended by the Panel, which establishes conditions under which OTC weight control drugs are generally recognized as safe and effective and not misbranded; (2) a statement of the conditions excluded from the monograph because the Panel determined that they would result in the drugs not being generally recognized as safe and effective or would result in misbranding; (3) a statement of the conditions excluded from the monograph because the Panel determined that the available data are insufficient to classify these conditions under either (1) or (2) above; and (4) the conclusions and recommendations of the Panel.

The unaltered conclusions and recommendations of the Panel are issued to stimulate discussion, evaluation, and comment on the full sweep of the Panel's deliberations. The report has been prepared independently of FDA; however, the agency has reviewed a portion of the Panel's report because the Panel recommended a higher dosage for phenylpropanolamine than had previously been marketed OTC, and recent reports in the medical literature have shown moderate to marked elevations in blood pressure induced by this ingredient. The Panel's findings appear in this document to obtain public comment before the agency reaches a final decision on the Panel's recommendations. This document represents the best scientific judgment of the Panel members, but does not necessarily reflect the agency's position on all matters contained in it.

After reviewing all comments submitted in response to this document, FDA will issue in the Federal Register a tentative final monograph for OTC weight control drug products as a notice of proposed regulation. Under the OTC drug review procedures, the agency's position and proposal are first stated in the tentative final monograph, which had the status of a proposed rule. Final agency action occurs in the final monograph, which had the status of a final rule.

The agency notes that the Panel placed single doses of 25 to 50 milligrams (mg) and a total daily dose of not more than 150 mg of phenylpropanolamine hydrochloride in Category I. In addition, the Panel recommended that the single and daily doses for any timed-release preparation not exceed those for immediate-release preparations.

The agency is aware of reports of data, made available after the Panel's report was submitted, indicating that phenylpropanolamine doses higher than those currently marketed (but within the higher range recommended as safe by the Panel) cause elevation of blood pressure. Other studies show that currently marketed dosages produce no such effect. The most striking new finding, reported by Horowitz et al., demonstrates the acute effects of phenylpropanolamine from a single timed-release capsule (Ref. *1*). Specifically, in a double-blind trial, single timed-release capsules containing 85 mg and 50 mg of phenylpropanolamine respectively were compared with a placebo in medical students who did not have hypertension or heart disease. Both capsules had been marketed in Australia, the 85-mg capsule as a weight control product, and the 50-mg capsule as a nasal decongestant. The 85-mg product was given to 37 subjects, and a matching placebo was given to 35. In those who received the 85-mg product, mean supine diastolic pressure rose from 70 millimeters (mm) mercury at baseline to a mean peak level of 94 mm mercury. Peak supine diastolic pressures of 100 mm mercury or greater were recorded in 12 of the 37 subjects (32 percent). Peak blood pressure elevations occurred between 1.5 and 3 hours after phenylpropanolamine ingestion. In the placebo group, mean supine diastolic blood pressure rose from 74 mm mercury at baseline to a peak of 77 mm mercury; only one subject receiving a placebo had a peak diastolic blood pressure as high as 100 mm mercury. Side effects were reported by 20 subjects receiving the 85-mg product and 1 subject receiving a placebo. These effects, including dizziness, palpitations and headache, corresponded closely to the increase in blood pressure. The 50-mg product was given to 34 subjects, and a matching placebo to 35. In those who received the 50-mg product, mean supine diastolic blood pressure rose from 78 mm mercury to a peak of 83 mm mercury. In four subjects (11 percent), diastolic blood pressure rose to 100 mm mercury or more (maximum pressure of 110 mm mercury in one subject). There was no change in blood pressure in the placebo group. There were no other adverse reactions in either group.

Whether the significantly greater incidence and severity of hypertension seen with the 85-mg product as compared with the 50-mg product is due only to a higher dosage (85 mg vs. 50 mg phenylpropanolamine) or also to a greater release rate was not studied by the investigators. It should be noted, however, that the Panel recommended a dosage up to 50 mg of phenylpropanolamine in adults for single-dose immediate-release preparations. Eleven percent of the subjects given the 50-mg product in a timed-release capsule developed clinically significant hypertension. It is not likely, however, that the entire dose was released at one time, so that, with an immediate-release preparation of 50 mg, it would be expected that more than 11 percent of subjects would exhibit a clinically significant increase in supine blood pressure.

The authors did not report standing blood pressures. No subjects developed postural hypotension.

In another study (double blind, crossover) by Horowitz et al. (Ref. *2*) in six volunteer medical students with a baseline supine diastolic pressure of about 82 mm mercury, a single capsule of the same timed-released 85-mg product described above caused a mean peak supine diastolic pressure of 100 mm mercury. Levels of greater than 110 mm mercury were noted in two of the six subjects. Adverse effects (malaise, headache, tightness of the chest) were reported in five of six subjects. Blood pressure fell slightly when the placebo was given, and there were no adverse reactions to the placebo. With the 85-mg product, supine pulse rate dropped from 71 at baseline to a low of 55. The authors state that standing blood pressure also rose in the 85-mg product group but to a less marked degree. They did not give the figures for standing blood pressure. In the same article, the authors also report a case of severe hypertension in a patient taking the 85-mg product. A 17-year-old woman had ingested six capsules hoping for an increased anorectic effect. Three hours later she developed severe headache with a supine blood pressure of 200/130 mm mercury. While the patient remained fully conscious and well-oriented, she was hospitalized for bed rest for 48 hours until her blood pressure level returned to 130/70 mm mercury. Frewein, Leonello, and Frewin (Ref. *3*) reported a similar case involving a 21-year-old woman following ingestion of a single 85-mg capsule. Both sets of authors question the safety and further OTC availability of phenylpropanolamine.

King (Ref. *4*) reported two cases of presumed hypertension. In one case, cerebral hemorrhage was observed upon examination 36 hours after ingestion of only two capsules of the 85-mg product. In the other case, one capsule of the 85-mg product resulted in palpitations and neck pain 30 minutes after ingestion. Although the maximum blood pressure level is not known in either case, the author reports that the symptoms resemble those in previously reported cases in which acute hypertensive episodes were documented after taking the 85-mg product.

Peterson and Vasquez (Ref. *5*) reported severe hypertension and cardiac arrhythmias in a 15-year-old woman who had been ingesting, as an anorectic, the labeled dose of three tablets a day of a combination of 25 mg of phenylpropanolamine and 25 mg of caffeine. The hypertension and arrhythmias were reversed with therapy, and the patient remained normotensive and without arrhythmias with no further therapy.

Cuthbert, Greenberg, and Morley (Ref. *6*), in a study on themselves (three men), found that a dose of 50 mg phenylpropanolamine caused a modest rise in supine systolic blood pressure between 18 and 28 mm mercury, but only a very slight rise in diastolic pressure. A dose of 100 mg produced a more pronounced rise in blood pressure, increasing the supine diastolic pressure to 97, 109, and 123 mm mercury respectively in the three subjects. There was no effect on blood pressure of 50 mg phenylpropanolamine in a marketed timed-release product containing 50 mg phenylpropanolamine plus belladonna alkaloids equivalent to 0.25 mg or of another marketed product containing 50 mg phenylpropanolamine plus 2.5 mg isopropamide. Following administration of placebo, there was a slight fall in blood pressure.

The agency is aware of an additional study published since completion of the Panel review that examined the safety of the lower dosage limit of phenylpropanolamine recommended by the Panel. Silverman et al. (Ref. *7*) evaluated the effects of a 25-mg phenylpropanolamine dose on 37 healthy normal males at 3 separate study sites. The study subjects were divided into three groups. The first group consisted of 15 subjects, each of whom received a single capsule dose of 25-mg phenylpropanolamine. Supine systolic and diastolic blood pressures and pulse measurements were taken just prior to administration of the drug and at 1, 2, and 3 hours following ingestion. A statistically significant decrease in pulse rates occurred at 2 and 3 hours after administration of the drug, compared to pulse rates prior to administration. Supine systolic and diastolic blood pressures taken after administration of the drug did not differ significantly from those taken before.

In the second group, each of 10 subjects received a single dose of a product containing a combination of 25 mg phenylpropanolamine hydrochloride and 100 mg caffeine. Pulse rates and supine systolic and diastolic blood pressures were measured 30 minutes before administration of the drug and 30, 60, 90, 120, 150, 180, 210, and 240 minutes after. There was no statistically significant difference in pulse rates and supine systolic and diastolic blood pressures taken before and at the eight intervals after administration of the drug.

The third group consisted of 12 subjects who participated in a double-blind crossover study using a single dose of 25-mg of phenylpropanolamine hydrochloride and matching placebo dose containing lactose. The research covered 2 study days. On the morning of each study day, each subject's pulse rate and supine diastolic and systolic blood pressures were determined and each subject then ingested either a drug or placebo capsule. Supine blood pressures and pulse rates were taken at 30, 60, 90, 120, 150, 180, 210 and 240 minutes after ingestion. Following a 48-hour washout period, the subjects were crossed over, using the dosage form they did not take on the first study day. No statistically significant difference between pulse rate and supine blood pressures of subjects taking the drug and subjects taking the placebo capsule was reported at any sample time.

Silverman et al. did not report standing blood pressures for the 37 subjects at any point during the study.

Although the interaction of phenylpropanolamine with monoamine oxidase inhibitors is well known, another interaction has been reported recently by Lee, Bellin, and Vandongen (Ref. *8*). Severe hypertension occurred in a patient taking indomethacin along with an 85-mg dose of phenylpropanolamine, although neither of the drugs was associated with hypertension in the patient when given alone. The authors postulate that the mechanism of action of indomethacin is inhibition of prostaglandin synthesis which will reduce prostaglandin-controlled negative feedback acting on catecholamine release at sympathetic nerve endings. (Phenylpropanolamine is known to release norepinephrine from sympathetic nerve endings. Many nonsteroidal anti-inflammatory agents, including aspirin, are known to inhibit prostaglandin synthesis. Aspirin, of course, is frequently taken with phenylpropanolamine in treatment of the common cold. The authors questioned the continued marketing of phenylpropanolamine in view of the postulated risk of severe hypertension caused by interactions with various commonly used drugs.

In a recent survey Dietz (Ref. *9*) reported on seven patients who experienced acute central nervous system effects. These effects ranged from stimulation of the medullary respiratory center to tremor, restlessness, increased motor activity, agitation, and hallucinations. The author reviewed cases taken from emergency room records over a 6-month period. The patients were all women, ranging in age from 17 to 45 years. Side effects appeared within 1 to 2 hours after ingesting a single 50- or 75-mg dose of phenylpropanolamine. Results of

physical examinations, with the exception of tachypnea and tachycardia, were normal. Several patients complained of nausea and anxiety. All side effects, with the exception of those in one patient, subsided over the course of 2 to 4 hours without treatment. The author stated that physicians should be alerted to the possible side effects from ingesting preparations containing phenylpropanolamine. He concluded that warnings on products containing phenylpropanolamine should include the possible serious central nervous system effects of this agent.

In conclusion, these studies have reported that 11 percent of subjects given a single dose of 50 mg phenylpropanolamine in a timed-release product developed diastolic hypertension (100 mm mercury or more), and a single dose of 85 mg phenylpropanolamine in a timed-release product caused diastolic hypertension, sometimes severe, in 32 to 33 percent of subjects. Cases of significant hypertension, symptomatic and asymptomatic, have been reported by others in subjects and patients taking 25 mg, 50 mg, 85 mg, or 100 mg phenylpropanolamine. The interaction with indomethacin raises the possibility that an interaction might also occur with aspirin and other drugs with similar action. Acute central nervous system effects have also been reported. In addition, the use of weight control products containing phenylpropanolamine by obese persons with hypertension may significantly increase their risk of heart attack, stroke, and kidney failure. In considering the positive association between hypertension and obesity, the increase in risks becomes evident, because obese persons are most likely to use weight control products.

For these reasons, the agency is concerned about the suitable safe dose level of phenylpropanolamine hydrochloride for use in weight control products. Further studies appear necessary to resolve the safety questions raised by the studies discussed above. These studies would be needed to determine the extent to which phenylpropanolamine induces hypertension in normotensive patients or aggravates pre-existing hypertension, and interacts with aspirin and other medications that inhibit prostaglandin synthesis at the dose levels recommended for use by the Panel. Therefore, at this time the agency is specifically requesting comments and information on this issue.

At this time, the agency does not find it necessary to take action to remove from the market products containing phenylpropanolamine at dosage levels which have a marketing history of use in OTC weight control drug products. The daily dosage levels in these marketed products are an immediate-release dose of up to 37.5 mg and a timed-release dose of up to 75 mg phenylpropanolamine, with the total daily dose not to exceed 75 mg in either case.

Until the safety questions described above are resolved, the agency will not allow any increase in the OTC phenylpropanolamine dosages currently permitted, nor will it require any decrease in the currently permitted dosages for immediate-release products.

The agency points out that the OTC drug regulations establish conditions for marketing OTC active ingredients after publication in the Federal Register of an advance notice of proposed rulemaking but prior to publication of an applicable final monograph (final rule) (21 CFR 330.13(b)(2)). Under these regulations any OTC drug product containing an active ingredient with a dosage level higher than that in use on December 4, 1975 is regarded as a new drug and is subject to immediate regulatory action, even though a Panel may have recommended that the ingredient and/or dosage be considered Category I, if the agency issues a notice disagreeing with the Panel's recommendation and adopting a different position. The weight control drug products in use on December 4, 1975 had a maximum daily dose level of 75 mg, immediate-release doses of 25 to 37.5 mg, and a timed-release dose of 75 mg of phenylpropanolamine hydrochloride. OTC weight control drug products with a higher single and/or total daily dose of phenylpropanolamine than that available on December 4, 1975 are subject to immediate regulatory action in the absence of an approved new drug application.

Although the studies discussed above show that further testing is needed, the doses used are, with two exceptions (Peterson and Vasquez, Ref. 5, and Silverman et al., Ref. 7), above the levels found in currently marketed immediate-release products. Both this Panel and the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products have considered 25-mg single doses to be Category I, based on different, earlier studies. This Panel believed that these earlier studies warranted a Category I classification for single doses as high as 50 mg. Both Panels found that there were few reported side effects from doses up to 50 mg in nasal decongestants in spite of extensive use. Agency regulations currently recommend, in 21 CFR 369.20, that all marketed drug products containing phenylpropanolamine bear or contain a statement warning against use by individuals with high blood pressure, heart disease, diabetes, or thyroid disease. The agency will continue to monitor further studies and information on phenylpropanolamine. If new information shows that any of the existing uses, dosage levels, or dosage forms of phenylpropanolamine pose safety risks requiring immediate action, the agency will provide notice of its determination, and the marketing of these products after that time will require an approved New Drug Application (NDA) or be subject to appropriate regulatory action.

In addition to monitoring further studies and information on all phenylpropanolamine studies, the agency specifically requests information on the dissolution rates of timed-release products. This information an aid the agency in evaluating whether any safety problem is posed by these products that requires action before a final monograph is issued. It is also important to recognize that, under 21 CFR 200.31, timed-release formulations that contain a quantity of an active ingredient that is not generally recognized as safe as a single dose are regarded as new drugs. Therefore, the agency points out that an approved NDA will be necessary at the time of a final monograph to demonstrate that phenylpropanolamine in a timed-release dosage form is properly manufactured and controlled to release the total dose at a safe rate. Any such product without an approved NDA will be subject to regulatory action after the final monograph becomes effective.

At this time the agency has not evaluated the Panel's findings regarding the effectiveness of weight control drug products. However, the agency points out the Panel's finding that "while weight control drug products may assist in reducing an individual's appetite, a significant weight loss can be achieved only if accompanied by a reduction in total daily caloric intake below the energy output." (See part II. paragraph B. below—*General Discussion.*) In order to convey this point to consumers the Panel recommended that all product labeling contain the following statement, under the heading "*Directions*": "This product's effectiveness is directly related to the degree to which you reduce your usual daily food intake." (See part III. paragraph A.2. below—Category I labeling.) The agency is concerned that the past promotion of some weight control drug products may have engendered a misunderstanding among potential consumers that weight loss results directly from the use of the drug product, and, therefore, it is unnecessary to diet in order to lose weight. In order to overcome this possible misunderstanding the agency strongly recommends that manufacturers of OTC weight control drug products voluntarily undertake immediate steps to incorporate the Panel's recommended statement in their labeling.

The agency also points out that the Panel recommends as Category I the combination of phenylpropanolamine hydrochloride and caffeine with labeling that would bear all the warnings and directions specified in proposed §§ 340.50(d) and 357.550(c), as well as a consolidated statement of indications. The agency invites comment on alternate or consolidated labeling of such products. The agency is particularly concerned that the directions for phenylpropanolamine hydrochloride, as proposed in § 357.550(d), specify daily doses for up to 3 months, whereas the warning for caffeine as proposed in § 340.50(c)(2) states, "For occasional use only." FDA will address this difference in labeling in the tentative final monograph.

References

(1) Horowitz J. D. et al., "Hypertensive Responses Induced by Phenylpropanolamine in Anorectic and Decongestant Preparation," *Lancet*, 1:60–61, 1980

(2) Horowitz, J. D. et al., "Hypertension and Postural Hypotension Induced by Phenylpropanolamine (Trimolets)," *Medical Journal Australia*, 1:175–176, 1979.

(3) Prewin, D. B., P. P. Leonello, and M. E. Prewin, "Hypertension After Ingestion of Trimolets," *Medical Journal Australia*, 2:497–498, 1978.

(4) King, J., "Hypertension and Cerebral Hemorrahge After Trimolets Ingestion," *Medical Journal Australia*, 2:258, 1979.

(5) Peterson, R. B., and L. A. Vasquez, "Phenylpropanolamine-Induced Arrhythmias," *Journal of the American Medical Association*, 223:324–325, 1973.

(6) Cuthbert, M. F., M. P. Greenberg, and S. W. Morley, "Cough and Cold Remedies: A Potential Danger to Patients on Monoamine Oxidase Inhibitors," *British Medical Journal*, 1:404–405, 1960.

(7) Silverman, et al., "Lack of Side Effects form Orally Administered Phenylpropanolamine and Phenylpropanolamine with Caffeine: A Controlled three-Phase Study," *Current therapeutic Research*, 28:185–194, 1980.

(8) Lee, K. Y., L. J. Beilin, and R. Vandongen, "Severe Hypertension After Ingestion of an Appetite Suppressant (Phenylpropanolamine) with Indomethacin," *Lancet*, 1:1110–1111, 1979.

(9) Dietz, A. J., "Amphetamine-like Reactions to Phenylpropanolamine ," *Journal of the American Medical Association*, 245:601–602, 1981.

In the preamble to this report, the agency is inviting comment on additional information that has appeared in the medical literature after the Panel adopted its report. The agency is also disagreeing with higher dosage levels recommended by the Panel for phenylpropanolamine hydrochloride and is currently limiting the marketing of products containing phenylpropanolamine to those dosage levels for which there is a marketing history of use in OTC weight control products. Because this represents a maintenance of existing marketing conditions, the agency has determined that there is no regulatory impact of this action at this time.

The agency's full position on OTC weight control drug products will be stated initially when the tentative final monograph is published in Federal Register as a notice of proposed regulation. In that notice of proposed rulemaking, the agency also will announce its initial determination whether the proposed rule is a major rule under Executive Order 12291 and will consider the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The present notice is referred to as an advance notice of proposed rulemaking to reflect its actual status and to clarify that the requirements of the Executive Order and the Regulatory Flexibility Act will be considered when the notice of proposed rulemaking is published. At that time FDA also will consider whether the proposed rule has a significant impact on the human environment under 21 CFR Part 25 (proposed in the Federal Register of December 11, 1979, 44 FR 71742).

The agency invites public comment regarding any impact that this rulemaking would have on OTC weight control drug products. Types of impact may include, but are not limited to, the following: Increased costs due to relabeling, repackaging, or reformulating; removal of unsafe or ineffective products from the OTC market; and testing necessary, if any. Comments regarding the impact of this rulemaking on OTC weight control drug products should be accompanied by appropriate documentation.

In accordance with § 330.10a)(2), the Panel and FDA have held as confidential all information concerning OTC weight control drug products submitted for consideration by the Panel. All the submitted information will be put on public display in Dockets Management Branch, Food and Drug Administration, after March 29, 1982, except to the extent that the person submitting it demonstrates that it falls within the confidentiality provisions of 18 U.S.C. 1905 or section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)). Requests for confidentiality should be submitted to William E. Gilbertson, Bureau of Drugs (HFD–510) (address above).

FDA published in the Federal Register of September 29, 1981 (46 FR 47730) a final rule revising the OTC procedural regulations to conform to the decision in *Cutler* v. *Kennedy*, 475 F. Supp. 338 (D.D.C. 1979).The Court in *Cutler* held that the OTC drug review regulations (21 CFR 330.10) were unlawful to the extent that they authorize the marketing of Category III drugs after a final monograph had been established. Accordingly, this provision is now deleted from the regulations. The regulations now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process, before the establishment of a final monograph.

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "Category I," "Category II," and "Category III" at the final monograph stage in favor of the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III because that was the framework in which the Panel conducted its evaluation of the data.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 6 months after the date of publication of the final monograph in the Federal Register. On or after that date, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions which would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce. Further, any OTC drug products subject to this monograph which are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into

interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

A proposed review of the safety, effectiveness, and labeling of all OTC drugs by independent advisory review panels was announced in the Federal Register of January 6, 1972 (37 FR 85). The final regulations providing for this OTC drug review under § 330.10 were published and made effective in the Federal Register of May 11, 1972 (37 FR 9464). In accordance with these regulations, a request for data and information on all active ingredients used in OTC miscellaneous internal drug products was issued in the Federal Register of November 16, 1973 (38 FR 31696). (In making their categorizations with respect to "active" and "inactive" ingredients, the advisory review panels relied on their expertise and understanding of these terms. FDA has defined "active ingredients" in its current good manufacturing practice regulations (§ 210.3(b)(7), (21 CFR 210.3(b)(7))), as "any component that is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the body of man or other animals. The term includes those components that may undergo chemical change in the manufacture of the drug product and be present in the drug product in a modified form intended to furnish the specified activity or effect." An "inactive ingredient" is defined in § 210.3(b)(8) as "any component other than an 'active ingredient.' ") In the Federal Register of August 27, 1975 (40 FR 38179), a notice supplementing the initial notice with a detailed list of ingredients which included weight control active ingredients.

The Commissioner of Food and Drugs appointed the following Panel to review the information submitted and to prepare a report under § 330.10(a)(1) and (5) on the safety, effectiveness, and labeling of the active ingredients in these products:

John W. Norcross, M.D., Chairman
Ruth Eleanor Brown, R. Ph. (resigned May 1976)
Elizabeth C. Giblin, M.N., Ed. D.
Richard D. Harshfield, M.D.
Theodore L. Hyde, M.D.
Claus A. Rohweder, D.O.
Samuel O. Thier, M.D. (resigned November 1975)
William R. Arrowsmith, M.D. (appointed March 1976)
Diana F. Rodrigues-Calvert, Pharm. D. (appointed July 1976)

Representatives of consumer and industry interests served as nonvoting members of the Panel. Eileen Hoqles, nominated by the Consumer Federation of America, served as the consumer liaison until September 1975, followed by Michael Schulman, J.D. Francis J. Hailey, M.D., served as the industry liaison, and in his absence John Parker, Pharm. D., served. Dr. Hailey served until June 1975, followed by James M. Holbert, Sr., Ph. D. All industry liaison members were nominated by the Proprietary Association.

The following FDA employees assisted the Panel: Armond M. Welch, R.Ph., served as the Panel Administrator. Enrique Fefer, Ph.D., served as the Executive Secretary until July 1976, followed by George W. James, Ph.D., until October 1976, followed by Natalie Morgenstern until May 1977, followed by Arthur Auer until October 1978; Roger Gregorio followed as the liaison for the Office of New Drug Evaluation. Joseph Hussion, R.Ph., served as the Drug Information Analyst until July 1976, followed by Anne Eggers, R.Ph., M.S., until October 1977, followed by John R. Short, R.Ph.

To expand its medical and scientific base, the Panel called upon the following consultants for advice in areas which required particular expertise:

Ralph B. D'Agostino, Ph.D. (statistics)
Lynn R. Brady, Ph.D. (pharmacognosy)
Arthur E. Schwarting, Ph.D. (pharmacognosy)

The Advisory Review Panel on OTC Miscellaneous Internal Drug Products was charged with the review of many categories of drugs. Due to the large number of ingredients and varied labeling claims, the Panel decided to review and publish its findings separately for several drug categories and individual drug products. The Panel presents its conclusions and recommendations for weight control drug products in this document. The review of other categories of miscellaneous internal drug products will be continued by the Panel, and its findings will be published periodically in the Federal Register during the Panel's deliberations.

The Panel was first convened on January 13, 1975, in an organizational meeting. Working meetings were held on the following dates (the dates of these meetings which dealt with the topic of this document are in italics): February 23 and 24, March 23 and 24, April 27 and 28, June 22 and 23, *September 21 and 22*, and November 16 and 17, 1975; *February 8 and 9, March 7 and 8, April 11 and 12, May 9 and 10, July 11 and 12*, and *October 10 and 11*, 1976; February 28 and 29, *April 3 and 4, May 15 and 16, July 9, 10, and 11*, October 15, 16, and 17, and December 2, 3, and 4, 1977; January 26, 29, and 30, March 10, 11, and 12, May 5, 6, and 7, June 22, 24, and 25, *August 4, 5, and 6, September 29, 30, and October 1*, and *November 17, 18, and 19*, 1978; *January 19 and 20*, and *March 2*, 1979.

The minutes of the Panel meetings are on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration (address given above).

The following individuals were given an opportunity to appear before the Panel to express their views on weight control drug products, either at their own or at the Panel's request:

Stanley L. Altschuler, M.D.
Antony A. Conte, M.D.
Edgar E. Coons, Ph.D.
Devra Lee Davis, Ph.D
Donald J. Flaster, M.D.
Solomon I. Griboff, M.D.
Charles Hamilton, Ph.D.
Saul Heller, M.D.
Bartley G. Hoebel, Ph.D.
Peg Kaplin
Harry R. Kissileff, Ph.D.
Kurt S. Konigsbacher, D.Sc.
James Ramey, M.D.
Marianne Sebok, M.D.
Harold I. Silverman, D.Sc.
Edward L. Steinberg, M.S., O.D.
Charles Winick, Ph.D.

No person who so requested was denied an opportunity to appear before the Panel.

The Panel has thoroughly reviewed the literature and data submissions, has listened to additional testimony from interested persons, and has considered all pertinent data and information submitted through March 2, 1979 in arriving at its conclusions and recommendations for OTC weight control drug products.

In accordance with the OTC drug review regulations (21 CFR 330.10), the Panel's findings with respect to OTC weight control drug products are set out in three categories:

Category I. Conditions under which OTC weight control drug products are generally recognized as safe and effective and are not misbranded.

Category II. Conditions under which OTC weight control drug products are not generally recognized as safe and effective or are misbranded.

Category III. Conditions for which the available data are insufficient to permit final classification at this time.

The Panel reviewed 111 weight control active ingredients and classified 2 ingredients in Category I, 98 ingredients in Category II, and 11 ingredients in Category III.

I. Submission of Data and Information

Pursuant to the notices published in the Federal Register of November 16, 1973 (38 FR 31696) and August 27, 1975 (40 FR 38179) requesting the submission of data and information on OTC miscellaneous internal drug products, the following firms made submissions related to products used for weight control:

A. Submissions by Firms

Firm and Marketed Products

Alleghany Pharmaceutical Corp., New York, NY 10017—Hungrex w/P.P.A. tablets, Permathene-12 capsules.
Fox Pharmacal, Inc., Ft. Lauderdale, FL 33309—Odrinex tablets, Super-Odrinex tablets.
Marion Laboratories, Inc., Kansas City, MO 64137—Pretts tablets.
Purex Corp., Carson, CA 90745—Slendron capsules.
Thompson Medical Co., Inc., New York, NY 10022—Appedrine tablets, Slim-Mint gum, Slim-Line candy, Prolamine capsules.

B. Labeled Ingredients Contained in Marketed Products

1. *Ingredients in products submitted to the Panel for review.*

Alginic acid
Benzocaine
Caffeine
d-Calcium pantothenate
Citric acid
Corn syrup
Dextrose
Glycerides (mono- and di-)
Iron (ferrous sulfate, U.S.P.)
Lecithin
Methylcellulose
Niacinamide
Phenylpropanolamine hydrochloride
Riboflavin (vitamin B_2)
Salt (sodium chloride)
Sodium bicarbonate
Sodium carboxymethylcellulose
Sucrose
Thiamine mononitrate (vitamin B_1)
Vegetable oil
Vitamin A
Vitamin A palmitate
Vitamin B_1 (thiamine)
Vitamin B_2 (riboflavin)
Vitamin B_6 (pyridoxine hydrochloride)
Vitamin B_{12} (cyanocobalamin)
Vitamin B_{12} (cobalamin concentrate)
Vitamin C (ascorbic acid)
Vitamin D
Vitamin E (*dl*-alpha-tocopheryl acetate)
Xanthan gum food grade

2. *Other ingredients reviewed by the Panel.* In addition to those ingredients included in the products submitted to the Panel, the following ingredients were listed in the Federal Register notice of August 27, 1975 (40 FR 38179):

Alcohol
Alfalfa
Anise oil
Arginine
Biotin
Bone marrow-red-glycerin extract
Buchu
Buchu, potassium extract
Caffeine citrate
Calcium
Calcium carbonate
Calcium caseinate
Calcium lactate
Carrageenan
Choline
Chondrus
Cnicus benedictus
Copper
Copper gluconate
Corn oil
Corn silk, potassium extract
Cupric sulfate
Cystine
Dioctyl sodium sulfosuccinate
Ferric ammonium citrate
Ferric pyrophosphate
Ferrous fumarate
Ferrous gluconate
Flax seed
Folic acid
Fructose
Guar gum
Gum karaya
Histidine
Hydrastis canadensis
Inositol
Iodine
Isoleucine
Juniper, potassium extract
Lactose
Leucine
Liver concentrate
L-lysine
L-lysine monohydrochloride
Magnesium
Magnesium oxide
Malt
Maltodextrin
Manganese citrate
Mannitol
Methionine
Organic vegetables
Pancreatin enzymes
Pantothenic acid
Papain
Papaya enzymes
Pepsin
Phenacetin
Phenylalanine
Phosphorus
Phytolacca berry juice
Pineapple enzymes
Potassium citrate
Psyllium
Rice polishings
Saccharin
Sea kelp
Sea minerals
Sesame seed
Sodium
Sodium caseinate
Soy bean protein
Soy meal
Threonine
Tricalcium phosphate
Tryptophan
Tyrosine
Uva ursi
Uva ursi, potassium extract
Valine
Vitamin A acetate
Vitamin D_2
Wheat germ
Yeast

C. Classification of Ingredients

1. *Active ingredients.*

Alginic acid
Benzocaine
Carrageenan
Carboxymethylcellulose sodium
Chondrus
Guar gum
Karaya gum
Methylcellulose
Phenylpropanollamine hydrochloride
Psyllium
Sea Kelp
Sodium bicarbonate
Xanthan gum

2. *Other ingredients.* The Panel was not able to locate not is it aware of any significant body of data demonstrating the safety and effectiveness of the following OTC ingredients when used for weight control. The Panel, therefore, classifies these ingredients as Category II for this use, and they will not be discussed further in this document.

Alcohol
Alfalfa
Anise oil
Arginine
Ascorbic acid (vitamin C)
Biotin
Bone marrow-red-glycerin extract
Buchu
Buchu, potassium extract
Calcium
Calcium carbonate
Calcium caseinate
Calcium lactate
Calcium pantothenate (*D*-calcium pantothenate)
Choline
Citric acid
Conicus benedictus
Copper
Copper gluconate
Corn oil
Corn syrup
Corn silk, potassium extract
Cupric sulfate
Cyanocobalamin (vitamin B_{12})
Cystine
Dextrose
Dioctyl sodium sulfosuccinate
Ferric ammonium citrate
Ferric pyrophoshate
Ferrous fumarate
Ferrous gluconate
Ferrous sulfate (iron)
Flax seed
Folic acid
Fructose
Glycerides (mono-and di-)
Histidine
Hydrastis canadensis
Inositol
Iodine

Isoleucine
Juniper, potassium extract
Lactose
Lecithin
Leucine
Liver concentrate
L-lysine
L-lysine monohydrochloride
Magnesium
Magnesium oxide
Malt
Maltodextrin
Manganese citrate
Mannitol
Methionine
Niacinamide
Organic vegetables
Pancreatin enzymes
Pantothenic acid
Papain
Papaya enzymes
Pepsin
Phenacetin
Phenylalanine
Phosphorus
Phytolacca berry juice
Pineapple enzymes
Potassium citrate
Pyridoxine hydrochloride (vitamin B_6)
Riboflavin
Rice polishings
Saccharin
Sea minerals
Sesame seed
Sodium
Sodium caseinate
Sodium chloride (salt)
Soy bean protein
Soy meal
Sucrose
Thiamine hydrochloride (vitamin B_1)
Thiamine mononitrate (vitamin B_1 mononitrate)
Threonine
Tricalcium phosphate
Tryptophan
Tyrosine
Uva ursi
Ura ursi, potassium extract
Valine
Vegetable
Vitamin A
Vitamin A acetate
Vitamin A palmitate
Vitamin D
Vitamin D_2
Vitamin E
Wheat germ
Yeast

3. *Ingredients having a stimulant effect but no anorectic effect:*

Caffeine
Caffeine citrate

D. Referenced OTC Volumes

The "OTC Volumes" cited throughout this document include submissions made by interested persons pursuant to the call-for-data notices published in the Federal Register of November 16, 1973 (38 FR 31696) and August 27, 1975 (40 FR 36179). All of the information included in these volumes, except for those deletions which are made in accordance with the confidentiality provisions set forth in § 330.10(a)(2), will be put on public display after March 29, 1982, in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

II. General Statements and Recommendations

A. Definition of Terms

For the purpose of this document, the Panel agreed on the following definitions:

1. *Obesity.* An increase in body weight beyond the limitation of skeletal and physical requirements as the result of an excessive accumulation of fat in the body; that physical state in which body weight in relation to height and body build is more than 10 percent above the ideal desirable weight determined from the Metropolitan Life Insurance Company table of desirable weights (ref. 1).

2. *Anorectic.* An agent which reduces appetite.

Reference

(1) Metropolitan Life Insurance Company, "Desirable Weights for Men and Women," *Statistical Bulletin*, 58:5, 1977.

B. General Discussion

This document refers only to the common type of obesity which occurs in varying degrees in a significant percentage of our population, especially in those who have reached adulthood and who follow sedentary occupations. The condition is more common in females than in males. Obese persons as referred to in this document are otherwise free of known underlying organic causes such as hypothyroidism, hypothalamic disturbances, Frohlich's syndrome or hyperinsulinism.

The common type of obesity is always caused by the intake and absorption of food in excess of that needed by the body for its daily caloric energy output. Whenever the calories derived from food (whether protein, carbohydrate, or fat) are greater than the body needs, over a period of time the excess is stored as fat and obesity results. Childhood training in eating habits, changes in daily energy output, and psychological factors all may play a role in determining whether an individual develops obesity.

Anorectic drugs are sometimes used in an attempt to suppress appetite and thus reduce or control weight. The Panel wishes to stress that, while weight control drug products may assist in reducing an inidividual's appetite, a significant weight loss can be achieved only if accompanied by a reduction in total daily caloric intake below the energy output.

In this document the Panel evaluates the OTC anorectic drugs as to safety, effectiveness, and adequate labeling. The Panel at the same time, recognizes that effective and sustained weight reduction in large part depends upon the motivation of the person attempting to lose weight, the understanding that caloric reduction for weight loss must be temporary, and the correction of underlying psychological factors which may have originally produced the excessive caloric intake and gain in weight.

The Panel is aware that some weight control drug products now on the market contain a number of vitamins and minerals in addition to their weight control active ingredients. The Panel believes that it is the responsibility of the individual who is taking a weight control drug product to determine the dietary regimen to follow in order to maintain a well-balanced, low-caloric diet; therefore, the addition of vitamins and minerals serves no useful purpose for those following a well balanced diet. The Panel concludes that vitamins and minerals should not be constituents of weight control drug products.

The Panel reviewed timed release weight control drug products and concludes that such products are safe for OTC use when the amount of each safe and effective ingredient does not exceed the amount recommended in the specific ingredient review of non-timed release preparations. (See part III. paragraph A. below—Category I Conditions.) However, the Panel concludes that those timed release preparations which exceed the "per dose" or "daily dose" recommendations for non-timed release preparations, are not generally recognized as safe and effective at this time. The Panel concurs with the existing FDA regulations (21 CFR 200.31 (a) and (b)) which state:

* * * Any such dosage form that contains per dosage unit (for example, capsule or tablet), a quantity of active drug ingredients which is not generally recognized as safe for administration as a single dose under the conditions suggested in its labeling, is regarded as a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act. (b) The fact that the labeling of this type of drug may claim delayed or prolonged release of all or some of the active ingredients does not affect the new-drug status of such articles. A new-drug application is required in any such case to demonstrate that the drug is in fact safe because it is properly made and controlled to release the total dose at a safe rate. It should be noted particularly that such dosage forms are regarded as new drugs even when the total daily dosage recommended in the labeling is generally recognized as safe. * * *

C. Combination Policy

The Panel has reviewed FDA's general combination policy on OTC drug products (21 CFR 330.10(a)(4)(iv)) and believes that the policy is rational.

This policy is as follows:

An OTC drug may combine two or more safe and effective active ingredients and may be generally recognized as safe and effective when each active ingredient makes a contribution to the claimed effect(s); when combining of the active ingredients does not decrease the safety or effectiveness of any of the individual active ingredients; and when the combination, when used under adequate directions for use and warnings against unsafe use, provides rational concurrent therapy for a significant proportion of the target population.

The Panel believes that all combination weight control products must conform to each requirement of this general combination policy.

The Panel also believes that if a combination of ingredients is established which is intended to treat separate but concurrent conditions, the labeling of such a combination should inform the consumer that the product is to be used only when the symptoms of both conditions are present.

D. Labeling

The Panel has carefully reviewed the submitted labeling claims for products promoted for the reduction of obesity and has categorized them according to their acceptability into Category I, Category II, or Category III. The Panel is aware that there may be other terms that would be acceptable in expressing the same Category I indications.

Acceptable labeling must include the following: (a) The indication(s) for use, (b) pertinent warnings and contraindications, and (c) the recommended dosage range. The Panel believes that all labeling should be clear, concise, and easily read and understood by most consumers. It has followed this concept in the development of all Category I labeling. The Panel is also concerned about the size and color of the print used in labeling of these and all drug products, and recommends that the industry make the necessary effort to design labeling which can be read easily by consumers.

One of the primary functions of this Panel is to attempt to eliminate confusing labeling claims. Some of the labeling on currently marketed weight control drug products tends to be overly complicated, vague, unsupported by scientific data, and in some cases misleading. Accordingly, such labeling has been placed in Category II.

The indications for use should be simply and clearly stated, the directions for use should provide the user with enough information for safe and effective use of the product, and the label should include the statement that the product is intended only for temporary use in weight control and in conjunction with a reduced caloric intake. The Panel has defined "temporary" as "no more than a 3-month period" for ingestion of any weight control drug product, and this limitation must be clearly stated on the product's label. The Panel believes that a 3-month period should be long enough to establish the necessary change in eating habits. Therefore, the "Directions" should include the statement: "This product's effectiveness is directly related to the degree to which you reduce your usual daily food intake. Attempts at weight reduction which involve the use of this product should be limited to periods not exceeding 3 months, because that should be enough time to establish new eating habits."

The Panel is also concerned that if two ingredients are indistinguishable with regard to effectiveness, then it is misleading to claim superiority for one of the ingredients. The Panel understands that its function is not to compare various ingredients in order to determine the OTC drug of choice but to determine only safety and effectiveness for active OTC miscellaneous internal ingredients, as well as proper dosage ranges, warnings, and contraindications.

Undocumented, vague, or misleading claims such as "Lose weight starting today * * *. Look your best, feel your best." and colloquial or provincial expressions that do not have meaning to most people must not be used. Statements which recommend phrophylactic use to prevent the onset of obesity shall not appear on the label, as the Panel believes that this might lead to overuse of the medication. In the labeling, effectiveness shall not be related to the taste, odor, consistency, or other physical characteristics of the product except as they may affect the action of the active ingredients. Phrases such as "modern aid," "most powerful diet aid," "strongest diet aid," and "delightful aid," may be vague and misleading and should be avoided unless supported by sound scientific data. Phrases which have no scientific foundation or that are meaningless to the consumer shall not be included in labeling, (e.g., "the modern aid," "delightful aids," and "scientifically formulated").

The Panel is aware of the current OTC labeling regulation dealing with warning statements (21 CFR 330.1(g)) and recommends that weight control drug product labeling contain a "Warnings" section which contains the following warnings in addition to any drug-specific warnings: "Keep this and all drugs out of the reach of children" and "In case of accidental overdose, seek professional assistance or contact a poison control center immediately." However, the Panel recommends that the latter statement read as follows: "In case of accidental overdose, contact a Poison Control Center, emergency room, or physician immediately for advice." The Panel believes that this revision will be more informative to the consumer. The statement, "Do not give this product to children under 12 years of age," should be included under "Warnings" because the Panel has not been presented with evidence demonstrating the safety of these products for this age group.

Since OTC products can be purchased by anyone, it is the view of the Panel that the public generally does not regard these products as medicines which, if used improperly, can result in injurious or potentially serious consequences. The public needs to be continually alerted to the idea that these products, like all medicines, carry some risk and should be treated with respect. The consumer should also be informed of any possible signs of known toxicity or any symptoms requiring discontinuation of the use of the drug so that appropriate steps may be taken before more severe consequences become apparent.

In addition, the Panel recommends that instructions for the effective use of the product should be displayed prominently on all package labeling.

As previously stated, the Panel recommends that the labeling of combination products intended to treat separate but concurrent conditions should inform the consumer that the product is to be used only when treatment of both conditions is necessary.

The Panel recommends that the label should contain a listing of all ingredients and that it should clearly indicate which are active and which are inactive. Active ingredients should be listed by their established names, and the label should state the quantity of the active ingredient per dosage unit.

III. Weight Control Drug Products

A. Category I Conditions

The following are category I conditions under which weight control drug products are generally recognized as safe and effective and not misbranded.

1. *Category I active ingredients.*

Benzocaine
Phenylpropanolamine hydrochloride

a. *Benzocaine.* The Panel concludes that benzocaine (also known as ethyl aminobenzoate) is generally recognized as safe and effective for OTC weight control in the dose noted below.

(1) *Safety.* Benzocaine is a topical anesthetic of low toxicity. It is relatively insoluble in water and is poorly absorbed (Refs. *1* and *2*). Historically, the use of benzocaine preparations for topical anesthesia, both on the skin and mucous membranes, has been reported many times and has been associated with a high degree of safety. It has been used widely in troches and lozenges containing 1 to 10 mg of benzocaine for the treatment of pharyngitis with few side effects. Since benzocaine was introduced in 1903, the medical literature contains a great many case reports and references to its safety and clinical use both as a prescription drug and for OTC use. It is beyond the scope of this Panel to cite a detailed literature survey and case by case report.

Benzocaine, however, is not completely innocous. Allergic sensitivity reactions have infrequently been reported to occur after use as a local anesthetic (Ref. *3*). Methemoglobinemia has been reported rarely after use of benzocaine for diaper rash in an infant (Ref. *4*). The Panel concurs with the findings of the Advisory Review Panel on OTC Topical Analgesic Drug Products (OTC External Analgesic Report), published in the Federal Register of December 4, 1979 (44 FR 69768), that there is little or no evidence in controlled, investigative, or epidemiological studies that benzocaine is a potent sensitizer or strong allergen.

The Panel concludes that benzocaine is safe for oral use as an OTC anorectic in a dose of 3 to 15 mg in gum, logenzes, or candy.

(2) *Effectiveness.* One of the factors involved in overeating, and the resulting obesity, is the need to satisfy the senses of taste. Benzocaine is a topical anesthetic of low solubility which acts primarily on the nerve endings (Refs. *1* and *2*). The anesthetic action of benzocaine can be prolonged by keeping the preparations in contact with the mucosa, since its action is entirely within the skin or mucous membranes (Ref. *3*). This action can be obtained through the use of gum, lozenges, or candy containing benzocaine. There appears to be a decreased ability to detect degrees of sweetness by taste perception after chewing gum containing benzocaine (Refs. *5* and *6*).

Studies in weight control with benzocaine in both chewing gum and candy lozenges have demonstrated effective weight loss. Gould (Refs. *7* and *8*) in two studies reported a 1.5 to 2.0 pounds per week weight loss using lozenges containing benzocaine and essential oils in conjunction with dietary guidelines. Plotz (Ref. *9*) reported a satisfactory weight loss (2 pounds per week) in 45 of 50 patients using a benzocaine-methycellulose gum in conjunction with dietary instructions. McClure and Brusch (Ref. *10*) studied 308 patients in a comparative study over a period of 4 to 21 weeks and reported an average weight loss of 3.03 pounds per week over the 4-week period (53 out of the original 62 completed the 4-week trial) and 2.20 pounds per week over the 21-week period (43 out of the same 62 completed the entire study) for those patients using a benzocaine-caffeine-vitamin lozenge as an anorectic in conjunction with dietary restrictions.

In addition to the human studies cited above, work has been performed on rats by Coons (Ref. *11*) demonstrating the effect of a local anesthetic on hunger reduction. Rats were implanted with electrodes into the hypothalamus. The hypothalamus controls the sense of hunger and the taste recognitions of food. With appropriate electrical stimulation it was possible to induce the rats to eat at the desire of the operator. When the rats' tongues were anesthetized with a topical application of a 2 percent tetracaine (a local anesthestic which is structurally similar to benzocaine) solution, the same degree of stimulation that had previously been used did not induce the rats to eat. The Panel considers this study to be an objective demonstration of the effectiveness of a local anesthetic on hunger reduction.

The Panel concludes that benzocaine in the form of gum, lozenges, or candy is an effective OTC drug product for weight control.

(3) *Dosage.* The Panel has determined that a dose of 3 to 15 mg for use in gum, lozenges, or candy just prior to food consumption is generally recognized as safe and effective for weight control.

(4) *Labeling.* The Panel recommends the Category I labeling for weight control ingredients. (See part III. paragraph A.2. below—Category I labeling.)

References

(*1*) Ritchie, J. M., and P. J. Cohen, "Local Anesthetics," *in* "The Pharmacological Basis of Therapeutics," 5th Ed., edited by L. S. Goodman and A. Gilman, MacMillan Co., New York, p. 301, 1975.

(*2*) "AMA Drug Evaluations," 3d Ed., Publishing Sciences Group, Inc., Littleton, MA, p. 289, 1977.

(*3*) Swinyard, E. A., "Local Anesthetics," *in* "Remington's Pharmaceutical Sciences," 15th Ed., edited by A. Osol and J. E. Hoover, Mack Publishing Co., Easton, PA, p. 967, 1975.

(*4*) Haggerty, R. J., "Blue Baby Due to Methemoglobinemia," *New England Journal of Medicine*, 267:1303, 1962.

(*5*) Horowitz, S., and R.P. Scalici, "Results of Sensory Panel Tests on Slim-Mint Chewing Gum," contained in OTC Volume 170010.

(*6*) Rosner, L., "To Determine the Effect of Chewing Slim-Mint Gum Upon Taste Perception, Particularly Toward Sweetness," unpublished study, in OTC Volume 170010.

(*7*) Gould, W. L., "On the Use of a Medicament to Reduce the Appetite in the Treatment of Obesity and Other Conditions," *New York State Journal of Medicine*, 47:961–963, 1947.

(*8*) Gould, W. L., "Obesity and Hypertension: The Importance of a Safe Compound to Control Appetite," *North Carolina Medical Journal*, 11:327–334, 1950.

(*9*) Plotz, M., "Obesity," *Medical Times*, 80:850, 1958.

(*10*) McClure, C. W., and C. A. Brush, "Treatment of Oral Syndrome Obesity with Non-traditional Appetite Control Plan," *Journal of the American Medical Woman's Association*, 28:239–248, 1973.

(*11*) Summary Minutes of the 11th meeting of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products held on May 9–10, 1976.

b. *Phenylpropanolamine hydrochloride.* The Panel concludes that phenylpropanolamine hydrochloride is generally recognized as safe and effective when used for OTC weight control in the dosage noted below.

(1) *Safety.* The Advisory Review Panel on OTC Miscellaneous Internal Drug Products agrees with the report of the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products (as published in the Federal Register of September 8, 1976 (41 FR 38312)) which concluded that phenylpropanolamine and its salts are safe for oral use in adult doses of 25 mg every 4 hours or 50 mg every 8 hours, not to exceed 150 mg in 24 hours (41 FR 38400).

Phenylpropanolamine hydrochloride is a synthetic compound with actions similar to ephedrine; however, it has been reported to have less central nervous system stimulation than ephedrine (Ref. *1*). Since it has both alpha and beta adrenergic effects, ingestion of phenylpropanolamine hydrochloride can be expected to cause vasoconstriction, bronchodilation, and tachycardia. Large doses would be expected to cause anxiety, excitement, insomnia, headache, cardiac arrhythmias, convulsions, and circulatory collapse. The lethal dose of phenylpropanolamine is considered similar to ephedrine, which approximates 50 milligrams per kilogram (mg/kg) (Ref. *2*).

Ingestion of usually recommended doses of up to 50 mg as a nasal decongestant has resulted in few reported side effects in spite of its extensive use. However, because of its potential for adverse reactions, phenylpropanolamine is contraindicated for persons with hypertension, heart disease, diabetes, and thyroid disease.

In 1976, there were 31 reported cases of acute toxic ingestion (toxic overdosage) of OTC weight control drug products containing phenylpropanolamine hydrochloride by persons ranging in age from 14 months to 30 years. The ingested doses of phenylpropanolamine hydrochloride ranged from 12.5 mg (14-month-old patient) to 1.75 grams (g) (18-year-old patient). Symptoms reported were lethargy, hypertension, nausea, vomiting, dizziness, and tachycardia, and one report of convulsions related to ingestion of 200 mg phenylpropanolamine hydrochloride by a 28-year-old person. No deaths were reported (Ref. *3*).

In spite of extensive use of phenylpropanolamine as an OTC drug and as an ingredient in prescription drug products for many years, there have been no reports implicating its lack of safety in pregnancy or of any carcinogenic properties.

This Panel is concerned that a person might ingest a usual dose of phenylpropanolamine to reduce nasal congestion and another usual dose bearing a different trademark for weight reduction and that the combined dose might have adverse effects. Therefore, the Panel considers it necessary to put a warning statement concerning this possibility on all drug products containing phenylpropanolamine.

The Panel concludes that phenylpropanolamine hydrochloride is of a low order of toxicity when used as directed and that it has an adequate margin of safety for use by the general public without professional supervision.

(2) *Effectiveness.* It has been noted that hypothalamic lesions in animals and humans result in obesity and that in animals such overeating can be checked by amphetamines and similar agents, such as phenylpropanolamine hydrochloride (Ref. *4*). Amphetamines and similar agents have a long history of use as anorectics; however, a mechanism of action has not been proven.

The anorectic effect of phenylpropanolamine has been studied by various investigators for many years. The studies conducted may be criticized as lacking in one or more facets of proper study design and have resulted in confusing or contradictory findings. The Panel has reviewed some of these studies and found them inconclusive. In particular, the Panel is aware of the Fazekas et al. study (Ref. *5*) which has been claimed to demonstrate the ineffectiveness of phenylpropanolamine hydrochloride in weight control. The Panel reviewed this study and analyzed the data. The Panel concludes that accurate interpretation of the data in this study with regard to the effectiveness of phenylpropanolamine hydrochloride in weight control is impossible.

New studies (Refs. *6* through *11*) utilizing placebo-controlled, double-blind procedures involving test subjects on a controlled caloric intake have been performed and have been made available to the Panel. The test subjects approximate the target population who would use weight control drug products. The Panel has reviewed the available literature and considers the recent studies to be more valid in determining the effectiveness of phenylpropanolamine hydrochloride in weight control.

While each of these studies is defective in one of more important facets covered by the Panel's proposed protocol, the Panel believes that the combined evidence of these studies does establish the effectiveness of phenylpropanolamine hydrochloride. (See part III. paragraph D.1. below—Proposed protocol for evaluation of weight control ingredients.) In particular, two of the studies (Refs. *6* and *7*) are adequate to establish the effectiveness of phenylpropanolamine hydrochloride in weight reduction for short time periods (i.e., 4 to 6 weeks). Another study demonstrates statistical superiority of phenylpropanolamine hydrochloride over placebo for up to 16 weeks (Ref. *8*). Four other studies are adequate to establish the effectiveness of the combination of phenylpropanolamine hydrochloride and caffeine for time periods ranging from 4 to 12 weeks (Refs. *9* through *12*). Further, another 8-week, double-blind study without a placebo, comparing phenylpropanolamine hydrochloride to the combination of phenylpropanolamine hydrochloride and caffeine, did not establish a statistically significant difference between these two treatments (Ref. *13*). The sample population, protocol, and weight reductions in this latter study are in agreement with those from other placebo-controlled studies (Refs. *9* through *12*) and, therefore, permit a cross-study comparison of phenylpropanolamine hydrochloride (alone) with a placebo. Such a comparison further indicates the effectiveness of phenylpropanolamine. The Panel considered the above data sufficient to establish the effectiveness of phenylpropanolamine hydrochloride for weight reduction for time periods up to 12 weeks when taken in conjunction with a reduced caloric intake.

(3) *Dosage.* The Panel has determined that a single dose of phenylpropanolamine hydrochloride of 25 to 50 mg and a daily dose of not more than 150 mg given in divided doses 30 minutes before meals is generally recognized as safe and effective for weight control. In addition, for any timed release preparation, the per dose and daily dosage may not exceed those for the non-timed release preparation.

(4) *Labeling.* The Panel recommends the Category I labeling for weight control ingredients. (See part III. paragraph A.2. below—Category I labeling.) In addition, the Panel recommends the following warning statements under the heading "Warnings":

(i) "Do not exceed recommended dosage."

(ii) "If nervousness, dizziness, or sleeplessness occurs, stop taking this medication and consult your phyaician."

(iii) "If your are being treated for high blood pressure or depression, or have heart disease, diabetes, or thyroid disease, do not take this product except under the supervision of a physician."

(iv) "If you are taking a cough/cold or allergy medication containing any form of phenylpropanolamine, do not take this product."

References

(*1*) Koelle, G. B., "Parasympathomimetic Agents," *in* "The Pharmacological Basis of Therapeutics," 5th Ed., edited by L. S. Goodman and A. Gilman, The Macmillan Co., New York, p. 505, 1975.

(*2*) Gosselin, R. E., H. C. Hodge, R. P. Smith, and M. N. Gleason, "Clinical Toxicology of Commercial Products," 4th Ed., Williams and Wilkins Co., Baltimore, MD, 1976.

(*3*) Abstract of Poison Control Center case report forms for calendar year 1976—voluntary program. Attached to memo from Mr. Mark Keller to Mr. John Short dated August 9, 1978. See Volume II Panel Administrator's File (17EPAII).

(*4*) OTC Volume 170041 (Section III, Animal Safety Studies).

(*5*) Fazekas, J. F., et al., "Comparative Effectiveness of Phenylpropanolamine and Dextro Amphetamine on Weight Reduction," *Journal of the American Medical Association*, 170:1015–1021, 1959.

(*6*) OTC Volume 170028 (Section D).

(*7*) Hoebel, B. G., D. A. Willard, and I. K. Krauss, "The Effects of Propadrine on Body

Weight in Humans: Study II," contained in OTC Volume 170041 (Section IV and V—A1 and A2).

(*8*) OTC Volume 170050.

(*9*) Sebok, M., "Clinical Evaluation of the Efficacy of Phenylpropanolamine Compared with Placebo in a Double-Blind Six Week Trial," presentation made to the Panel on July 11, 1977. See Volume II Panel Administrator's File (17EPAII).

(*10*) OTC Volume 170060.

(*11*) OTC Volume 170147.

(*12*) Jolly, E. R., "To Assess the Utility of a Phenylpropanolamine-Caffeine Combination Product as an Adjunct in a Therapeutic Program for Uncomplicated Obesity," contained in OTC Volume 170050.

(*13*) OTC Volume 170155.

2. *Category I labeling.* The Panel recommends the following Category I labeling for weight control drug products as being generally recognized as safe and effective and not misbranded, as well as the specific labeling discussed in the individual ingredient statements.

a. *Indications.* The product labeling should contain one or more of the following statements:

(1) "For appetite control to aid weight reduction."

(2) "An aid for effective appetite control to assist weight reduction."

(3) "Helps curb appetite."

(4) "Appetite depressant in the treatment of obesity (excess weight)."

(5) "An aid to diet control in conjunction with a physician's recommended diet."

(6) "An aid in the control of appetite."

(7) "Helps control appetite."

(8) "For use as an aid to diet control."

(9) "Helps you eat less, weigh less."

b. *Directions.* All product labeling must contain the following statement: "This product's effectiveness is directly related to the degree to which you reduce your usual daily food intake. Attempts at weight reduction which involve the use of this product should be limited to period not exceeding 3 months, because that should be enough time to establish new eating habits."

c. *Warnings.* All product labeling must contain the following statement: "Do not give this product to children under 12 years of age."

3. *Category I combinations.* A number of submissions to the Panel contain a combination of phenylpropanolamine hydrochloride and caffeine for use as weight control agents. The Panel considered these extensively and concluded that such a combination is safe and effective if labeled as an "Anorectic/Stimulant." In reaching this decision the Panel had to decide whether or not a significant portion of the dieting population becomes fatigued while dieting. Based upon its professional experience the Panel concluded that such a significant patient population does exist and that the combination of phenylpropanolamine hydrochloride and caffeine meets the three criteria of FDA's combination policy. (See part II. paragraph C. above—Combination Policy.)

The Panel also considered the combination of phenylpropanolamine hydrochloride and caffeine as an anorectic only. One submitted study attempted to demonstrate this anorectic action; but, even though the study showed a greater weight loss for the combination than when using the phenylpropanolamine hydrochloride alone, the results were not statistically significant since the study was not long enough and did not contain a sufficient number of subjects (*Ref. 1*).

This Category I combination status only applies to phenylpropanolamine hydrochloride and caffeine when labeled as an "Anorectic/Stimulant" and does not apply to a combination of other Category I weight control ingredients and other Category I stimulants. All conditions (e.g., labeling) contained in the final monograph for each ingredient must be met for the marketing of this combination.

Reference

(*1*) OTC Volume 170155.

B. Category II Conditions

The following are Category II conditions under which drug products used for weight control are not generally recognized as safe and effective or are misbranded.

1. *Category II active ingredients.* The only ingredients which the Panel has classified as Category II are included earlier in this document. (See part I. paragraph C. 2 above—Other Ingredients.)

2. *Category II labeling.* The Panel concludes that some labeling claims are either vague, misleading, or unsupported by scientific data. The claims listed below and the related terms, are therefore, classified as Category II labeling for weight control drug products:

a. "Contains one of the most powerful diet aids available without prescription."

b. "Contains one of the strongest diet aids available without prescription."

c. "Encourages water loss with a gentle diuretic."

d. "Easy-to-follow reducing plan built around food you love to eat. You will eat well but less and lose weight without going hungry."

e. "A unique way to help your overweight patient eat less."

f. "The modern aid to appetite control."

g. "Now enjoy a slim, trim figure. Lose pounds. Reduce inches."

h. "Lose weight starting today * * *. Look your best, feel your best."

i. "The delightful aid to appetite control."

j. "Delightfully delicious, scientifically formulated to help you control your appetite quickly, pleasantly."

k. "A most pleasant aid to help you lose weight."

l. "Trim pounds and inches without crash diets or strenuous exercise."

m. "A modern aid to appetite control for people who love to eat."

n. "Get rid of unsightly bulges."

o. "Reduce to the weight and size you want to be."

p. "Lose inches from arms, hips tummy, derriere, waist, thighs, legs."

q. "An effective easy-to-follow diet plan that lets you enjoy eating delicious nutritious foods everday as you lose weight."

r. "Enables the obese individual to lose weight in the most comfortable manner by decreasing the desire for food."

s. "Hunger pains are spared and a low calorie reducing diet may now be more easily tolerated."

t. "You will look better and feel better."

u. "Removes excess body weight."

v. "May be used prophylactically."

C. Category III Conditions

The following are Category III conditions for which the available data are insufficient to permit final classification of weight control drug products at this time. The Panel recommends that a period of 2 years be permitted for the completion of studies which may support the change of Category III conditions to Category I.

1. *Category III active ingredients.* The Panel concludes that the safety of the following ingredients and combination in the recommended doses is unquestioned, except as noted in the individual ingredient evaluations:

Alginic acid
Carrageenan
Carboxymethylcellulose sodium
Chondrus
Guar gum
Karaya gum
Methylcellulose
Psyllium
Sea kelp
Sodium bicarbonate
Xanthan gum

a. *Alginic acid.* The Panel concludes that alginic acid is safe for OTC use in the dose noted below, but data are insufficient to demonstrate its effectiveness for use in weight control.

(1) *Safety.* Alginic acid has been used by the food industry since the turn of the century. The Advisory Review Panel on OTC Antacid Drug Products concluded (as published in the Federal Register of April 5, 1973 (38 FR 8722)) that alginic acid is safe in amounts of 4 g per day for antacid drug products. Alginic acid has also been marketed for many years in a weight control preparation at a dose of 200 mg per tablet with an average daily consumption of 4.8 g (24 tablets) with no apparent adverse effects. The Advisory Review Panel on OTC Miscellaneous Internal Drug Products concludes that alginic acid is safe for OTC use at 4.8 g per day in OTC weight control drug products.

(2) *Effectiveness.* Alginic acid is a hydrophilic colloidal substance and is marketed in combination with sodium bicarbonate. When this combination is ingested, sodium alginate is formed and carbon dioxide is released. The combination of sodium alginate with carbon dioxide creates a bulk-producing foam.

In the data submitted and reviewed by the Panel, no study supported the claim that alginic acid alone was effective in weight control. But one of four double-blind, placebo-controlled studies submitted to the Panel suggest that alginic acid may be of some benefit when used in combination with sodium bicarbonate and carboxymethylcellulose sodium (Ref. *1*). Because of this potential, the Panel recommends that alginic acid in combination with sodium bicarbonate be tested according to the proposed protocol to demonstrate whether or not it is effective for weight control.

(3) *Proposed dosage.* The Panel concludes that alginic acid is safe for OTC use in doses up to 4.8 g per day in divided doses when taken with a full glass of water (8 ounces) with each dose.

(4) *Labeling.* The Panel recommends Category I labeling for weight control ingredients. (See part III. paragraph A.2. above—Category I labeling.) In addition, the Panel recommends that the following statements be required on products containing the combination of alginic acid and sodium bicarbonate as bulk producers.

(i) *Directions.* "Take a full glass of water (8 ounces) with each dose."

(ii) *Warnings.* "If you are on a sodium-restricted diet, do not use this product except under the supervision of a physician" (only for products containing more than 5 milliequivalents (meq) of sodium in the recommended daily dose).

(5) *Evaluation.* The Panel concludes that alginic acid is safe in the dose recommended above and recognizes that alginic acid in combination with sodium bicarbonate produces bulk in the stomach, but the value of bulk producers in reducing weight by controlling appetite has not been established. the Panel, therefore, recommends that adequate testing of alginic acid in combination with sodium bicarbonate be performed according to the proposed protocol to determine whether or not the combination is effective for weight control. (See part III. paragraph D.1 below—Proposed protocol for evaluation of weight control ingredients.)

Reference

(*1*) Otc Volume 170119 (pp. 28–30).

b. *Carrageenan, chondrus, guar gum, karaya gum, sea kelp, and psyllium.* These ingredients were not submitted to the Panel but were contained in the second Federal Register notice dated August 27, 1975 (40 FR 36179). They all are hydrophyllic colloids and, therefore, may act as bulking agents in a way similar to those hydrophyllic colloids submitted and classified in Catagory III, i.e., alginic acid, carboxymethylcellulose sodium, and xanthan gum.

The safety of these ingredients is not questioned since they have been in use for years as food additives and some have had medicinal use.

Carrageenan and chondrus (chondrus crispus) are used as food additives as emulsifiers, stabilizers, or thickeners (21 CFR 172.620 and 21 CFR 182.7255) and have been evaluated and found to be safe by the Advisory Review Panel on Laxative, Antidiarrheal, Emetic, and Antiemetic Drug Products as published in the Federal Register of March 21, 1975 (40 FR 12917).

Guar gum and karya gum are used as food additives as emulsifiers, stabilizers, thickners, and formulation aids (21 CFR 184.1339 and 21 CFR 184.1349, respectively) and have been evaluated and found to be safe as bulk laxatives by the Advisory Review Panel on OTC Laxative, Antidiarrheal, Emetic, and Antiemetic Drug Products as published in the Federal Register of March 21, 1975 (40 FR 12917 and 40 FR 12907, respectively).

Kelp is safely used as a food additive as a source of iodine, provided that the maximum daily intake of iodine does not exceed 225 micrograms (ug) for foods labeled without reference to a person's age or physiological state (i.e., pregnancy or lactation) (21 CFR 172.365).

Psyllium has been evaluated and found to be safe as a bulk laxative by the Advisory Review Panel on OTC Laxative, Antidiarrheal, Emetic, and Antiemetic Drug Products as published in the Federal Register of March 21, 1975 (40 FR 12906).

Although no data were submitted to the Panel for these ingredients, the Panel believes that the same opportunity to demonstrate their effectiveness as weight control ingredients should be provided as is being provided for alginic acid, carboxymethylcellulose sodium, methylcellulose, and xanthan gum, since they are all hydrophyllic colloids. Therefore, the Panel classifies carrageenan, chondrus, guar gum, karay gum, sea kelp, and psyllium as Category III for use in weight control.

c. *Carboxymethylcellulose sodium.* The Panel concludes that carboxymethylcellulose sodium (also known as sodium carboxymethylcellulose) is safe in the dose noted below, but data are insufficient to demonstrate its effectiveness for use in weight control.

(1) *Safety.* The median lethal dose (LD_{50}) of carboxymethylcellulose sodium is 27 grams/kilogram (g/kg) of body weight for white rats and 16 g/kg for guinea pigs. It was nontoxic in doses of 1 g/kg daily when given orally for 6 months to white rats, guinea pigs, and dogs. No pathology was found, and most animals had normal weight gain. However, some experimental animals had greater weight increases than control animals. Doses of 1 g/kg produced no-ill effects on fertility or well-being of offspring in three generations of white rats (*Ref. 1*).

Carboxymethylcellulose sodium has been used daily as a laxative in humans in doses up to 6 g per day for a year without ill effects (*Ref. 2*). It was considered safe in a dose of 200 mg given two to four times daily by the Advisory Review Panel on Laxative, Antidiarrheal, Emetic, and Antiemetic Drug Products as published in the Federal Register March 21, 1975 (40 FR 12931). This Panel also noted in the Federal Register publication of March 21, 1975 (40 FR 12909) that cellulose has been shown to bind digitalis, nitrofurantoin, and salicyiate. According to Fingl (Ref. *3*) occasional cases of esophageal obstruction have occurred when this substance is chewed or swallowed without liquid.

The Panel concludes that carboxymethylcellulose sodium is safe when used in the dose noted below.

(2) *Effectiveness.* Carboxymethylcellulose sodium is a hydrophilic semi-synthetic cellulose which, when ingested orally with a full glass of water, forms a soft hydrated bulk creating a feeling of fullness (Ref.

4). Such bulk producers have been considered to act as anorectics by creating a bulky mass in the stomach which slows down the course of the meal and provides time for satiety to take place (Ref. 5). However, Drenick (Ref. 6) reported that a methylcellulose mass is almost completely gone from the stomach in 30 minutes and that intestinal peristalsis is increased following this rapid emptying. Some significant reductions in hunger were reported in a series of double-blind placebo-controlled studies involving 263 obese dieting individuals who took a combination of bulk-producing drugs including carboxymethylcellulose sodium for a 2-week period. However, no difference in weight loss was found (Ref. 7). The Panel concludes that carboxymethylcellulose sodium should be tested according to the proposed protocol to determine whether or not it is effective for weight control.

(3) *Proposed dosage.* The Panel concludes that carboxymethylcellulose sodium is safe for OTC use in doses of up to 2.4 g per day when taken with a full glass of water (8 ounces) with each dose.

(4) *Labeling.* The Panel recommends Category I labeling for ingredients used for weight control. (See part III. paragraph A.2. above—Category I labeling.) In addition, the Panel recommends that the following statements be required on products containing carboxymethylcellulose sodium:

(i) *Directions.* "Take a full glass of water (8 ounces) with each dose."

(ii) *Warnings.* (*a*) "If you are taking digitalis, nitrofurantoin, or salicylates, consult your physician before taking this product."

(*b*) "If you are on a sodium-restricted diet, do not use this product except under the supervision of a physician" (only for products containing more than 5 meq of sodium in the recommended daily dose).

(5) *Evaluation.* The Panel concludes that carboxymethylcellulose sodium is safe in the dose recommended above and recognizes that it does produce bulk in the stomach, but the value of bulk producers in reducing weight by controlling appetite has not been established. The Panel, therefore, recommends that adequate testing of carboxymethylcellulose sodium be performed according to the proposed protocol to determine whether or not it is effective for weight control. (See part III. paragraph D.1. below—Proposed protocol for evaluation of weight control ingredients.)

References

(1) Sheiewski, H. A., and A. M. Clark, "Physiological Action of Sodium Carboxymethylcellulose on Laboratory Animals and Humans," *Food Research*, 13:20–35, 1948.

(2) World Health Organization Technical Report Series 281, "Specifications for the Identity and Purity of Food Additives and Their Toxicological Evaluation: Emulsifiers, Stabilizers, Bleaching and Maturing Agents," World Health Organization, Geneva, Switzerland, 1964.

(3) Fingl, E. "Laxatives and Cathartics," *in* "The Pharmacological Basis of Therapeutics," 5th Ed., edited by L. S. Goodman and A. Gilman, The MacMillan Co., New York, p. 979, 1975.

(4) OTC Volume 170012 (p. 55).

(5) Fletcher, D., "Artificial Bulk Producers as Anorectic Agents," *Journal of the American Medical Association*, 230:901, 1974.

(6) Drenick, E. J., "Bulk Producers," *Journal of the American Medical Association*, 234:271, 1975.

(7) OTC Volume 170119 (pp. 28–36).

d. *Methylcellulose.* The Panel concludes that methylcellulose is safe for OTC use in the dose noted below, but data are insufficient to demonstrate its effectiveness for use in weight control.

(1) *Safety.* Methylcellulose is a hydrophilic semi-synthetic cellulose derivative which has been found to be nontoxic in animals and man (Ref. 1). According to Fingl (Ref. 2), occasional cases of esophageal obstruction have occurred when methylcellulose is chewed or swallowed without liquid.

According to the findings of the Advisory Review Panel on OTC Laxative, Antidiarrheal, Emetic, and Antiemetic Drug Products (as published in the Federal Register of March 21, 1975 (40 FR 12907)), cellulose has been shown to bind digitalis, nitrofurantoin, and salicylate.

The Advisory Review Panel on OTC Miscellaneous Internal Drug Products concludes that methylcellulose is safe in the dose noted below.

(2) *Effectiveness.* According to Fletcher (Ref. 3), bulk producers work because they absorb up to 50 times their weight in water to form a stable colloid mass. This mass is said to produce satiety by slowing down the course of the meal. However, Drenick (Ref. 4) found that methylcellulose is almost completely gone from the stomach in 30 minutes and that intestinal peristalsis is increased following the rapid emptying. The action of methylcellulose is similar to that of other bulk-producing agents. Studies indicate that other bulk-producing agents (i.e., the carboxymethylcellulose sodium, alginic acid, and sodium bicarbonate combination) may be effective in providing reduction in appetitie (Ref. 5).

The Panel concludes that methylcellulose should be tested according to the proposed protocol to determine whether or not it is effective for weight control.

(3) *Proposed dosage.* The Panel concludes that methylcellulose is safe for OTC use in a dose of up to 2.4 g per day in divided doses when taken with a full glass of water (8 ounces) with each dose.

(4) *Labeling.* The Panel recommends Category I labeling for ingredients used for weight control. (See part III. paragraph A.2. above—Category I labeling.) In addition, the Panel recommends that the following statements be required on products containing methylcellulose:

(i) *Directions.* "Take a full glass of water (8 ounces) with each dose."

(ii) *Warnings.* "If you are taking digitalis, nitrofurantoin, or salicylates, consult your physician before taking this product."

(5) *Evaluation.* The Panel concludes that methylcellulose is safe in the dose recommended above and recognizes that it does produce bulk in the stomach, but the value of bulk producers in reducing weight by controlling appetite has not been established. The Panel, therefore, recommends that adequate testing of methylcellulose be performed according to the proposed protocol to determine whether or not it is effective for weight control. (See part III. paragraph D.1. below—Proposed protocol for evaulation of weight control ingredients.)

References

(1) World Health Organization, Technical Report Series 539, "Toxicological Evaluation of some Food Additives Including Anticaking Agents, Antimicrobials, Antioxidants, Emulsifiers, and Thickening Agents," World Health Organization, Geneva, Switzerland, 1974.

(2) Fingl, E., "Laxatives and Cathartics," *in* "The Pharmacological Basis of Therapeutics," 5th Ed., edited by L. S. Goodman and A. Gilman, The MacMillan Co., New York, p. 978, 1975.

(3) Fletcher, D., "Artificial Bulk Producers as Anorectic Agents," *Journal of the American Medical Association*, 230:901, 1974.

(4) Drenick, E. J., "Bulk Producers," *Journal of the American Medical Association*, 234:271, 1975.

(5) OTC Volume 170119 (pp. 28–36).

e. *Sodium bicarbonate.* The Panel concludes that sodium bicarbonate is safe for OTC use in the dose noted below, but data are insufficient to demonstrate its effectiveness for use in weight control.

(1) *Safety.* Sodium bicarbonate (baking soda) is an alkalinizing agent which releases carbon dioxide when neutralized by acid. It has a long history of use as an antacid. Sodium bicarbonate was reviewed by the Advisory Review Panel on OTC Antacid Drug Products, and its conclusions were published in the Federal Register of April 5, 1973 (38 FR 8714). That Panel reviewed sodium and bicarbonate ions separately and concluded that antacids containing sodium would be safe in a maximum daily dosage of 200 meq of sodium for persons under 60 years of age and 100 meq of sodium for persons 60 years of age or older, and that this dosage would also apply to the bicarbonate ion (38 FR 8716). The agency also concluded that this dosage is safe (21 CFR 331.11(k)(1)). The Advisory Review Panel on OTC Miscellaneous Internal Drug Products agrees with these conclusions and recommends that they apply to weight control drug products containing sodium bicarbonate. This Panel concludes that sodium bicarbonate is safe for OTC use in weight control drug products when used as specified in the dosage section below, and under the labeling restriction noted.

(2) *Effectiveness.* The only data submitted to this Panel for use of sodium bicarbonate in weight control were related to its use as an adjunctive constitutent in combination with other ingredients (alginic acid and carboxymethylcellulose sodium). When wetted, a reaction ensues between the alginic acid and sodium bicarbonate that produces sodium alginate and carbon dioxide. The entrapment of carbon dioxide in the viscous sodium alginate creates a bulk-producing foam. This entrapment is assisted by the emulsifying action of the carboxymethylcellulose sodium in the formulation.

Results of one of four double-blind, placebo-controlled studies submitted to the Panel (Ref. 1) suggest that, within the limits of subjective appraisal, the combination of carboxymethylcellulose sodium, alginic acid, and sodium bicarbonate (but not the sodium bicarbonate alone) reduces the sensation of hunger to a significant degree when the tablets are taken by obese people trying to reduce their weight. But the studies did not show that the reduced hunger led to a reduction of weight, which the Panel believes should be the measure of a lower caloric intake due to reduced hunger.

The Panel recommends that sodium bicarbonate in combination with alginic acid be tested according to the proposed protocol to determine whether or not it is effective for weight control

(3) *Proposed dosage.* This Panel concludes that sodium bicarbonate is safe for OTC use in doses of up to 16.8 g (200 meq of sodium) for persons under 60 years of age and 8.4 g (100 meq of sodium) for persons aged 60 or older. Since each tablet of the combination in question contains only 1.17 meq of sodium and since the recommended dose is up to 24 tablets per day, this is well within the limits set by the Advisory Review Panel on Antacid Drug Products.

(4) *Labeling.* The Panel recommends Category I labeling for weight control ingredients. (See part III. paragraph A.2. above—Category I labeling.) In addition, the Panel recommends that the following statements be required on products containing the combination of alginic acid and sodium bicarbonate as bulk producers:

(i) *Directions.* "Take a full glass of water (8 ounces) with each dose."

(ii) *Warning.* "If you are on a sodium-restricted diet, do not use this product except under the supervision of a physician" (only for products containing more than 5 meq of sodium in the recommended daily dose).

(5) *Evaluation.* The Panel concludes that sodium bicarbonate is safe in the dose recommended above and recognizes that sodium bicarbonate in combination with alginic acid produces bulk in the stomach, but the value of bulk producers in reducing weight by controlling appetite has not been established. The Panel, therefore, recommends that adequate testing of sodium bicarbonate in combination with alginic acid be performed according to the proposed protocol to determine whether or not the combination is effective for weight control. (See part III, paragraph D.1. below—Proposed protocol for evaluation of weight control ingredients.)

Reference

(1) OTC Volume 170119 (pp. 28–36).

f. *Xanthan gum.* The Panel concludes that xanthan gum is safe for OTC use in the dose noted below, but data are insufficient to demonstrate its effectiveness for use in weight control.

(1) *Safety.* Xanthan gum is a regulated food additive for use as an emulsifier, stabilizer, or thickener in foods (21 CFR 172.695). Woodward, et al. (Ref. 1), using doses as high as 1 g/kg body weight in rats and dogs, found no evidence of toxicity and no significant difference in tumor incidence in rats. Doses as high as 0.5 g/kg body weight per day in three generations of rats had no effect on reproductive performance, litter size, or condition. In dogs given a daily intake of up to 1 g/kg body weight for 107 weeks, the incidence of soft stools was dose-related and accompanied by an increase in specific gravity of the urine and an increase in the occurrence of urinary albumin only with the highest doses.

The Panel concludes that xanthan gum is safe in the dose noted below for OTC use in weight control drug products.

(2) *Effectiveness.* Xanthan gum is a hydrophilic colloidal polysaccharide gum containing *d*-glucose, *d*-mannose, and *d*-glucuronic acid as either a potassium or sodium salt. After ingestion it passes through the digestive tract unchanged (Ref. 2).

Data were submitted to the Panel attempting to demonstrate the effectiveness of xanthan gum for weight control, but the data did not demonstrate statistical superiority of xanthan gum over placebo. However, its action is similar to that of other bulk-producing agents. A combination of carboxymethylcellulose sodium, alginic acid, and sodium bicarbonate was found to be somewhat more effective than placebo in providing subjective reduction of appetite (Ref. 3).

Since this ingredient seems to have a potential for use in weight control, the Panel recommends that it be tested according to the proposed protocol to determine whether or not it is effective for weight control.

(3) *Proposed dosage.* The Panel concludes that xanthan gum is safe for OTC use in the dosage of 1.1 g taken before each meal with a full glass of water (8 ounces).

(4) *Labeling.* The Panel recommends Category I labeling for weight control ingredients. (See part III, paragraph A.2. above—Category I labeling.) In addition, the Panel recommends that the following statement be required on products containing xanthan gum under the heading "Directions": "Take a full glass of water (8 ounces) with each dose."

(5) *Evaluation.* The Panel concludes that xanthan gum is safe in the dose recommended above and recognizes that it does produce bulk in the stomach, but the value of bulk producers in reducing weight by controlling appetite has not been established. The Panel, therefore, recommends that adequate testing of xanthan gum be performed according to the proposed protocol to determine whether or not it is effective for weight control. (See part III. paragraph D.1. below—Proposed protocol for evaluation of weight control ingredients.)

References

(*1*) Woodward, G., et al., "Xanthan Gum: Safety Evaluation by 2-year Feeding Studies in Rats and Dogs and a Three Generation Reproduction Study in Rats," *Toxic Applied Pharmacology*. 24:30–36, 1973.

(*2*) OTC Volume 170056.

(*3*) OTC Volume 170119.

2. *Category III labeling.* The Panel concludes that available data are insufficient to permit final classification of the following claim for bulk-producing ingredients:

"Provides bulk to add to low caloric intake and helps to satisfy the feeling of hunger caused by emptiness."

3. *Category III combinations.* The Panel concludes that data are insufficient to demonstrate the effectiveness of the following combinations for use in weight control and, therefore, classifies them as Category III. The Panel recommends that these combinations be tested according to the proposed protocol to determine whether or not they are effective for weight control. (See part III, paragraph D.1. below—Proposed protocol for evaluation of weight control ingredients.)

Alginic acid and sodium bicarbonate.

Alginic acid, sodium bicarbonate, and carboxymethylcellulose sodium.

D. Data Required for Evaluation

1. *Proposed protocol for evaluation of weight control ingredients*—a. *Objective of the study:* To determine the effectiveness of the substance under study in reducing weight. This will be accomplished by use of a randomized placebo-controlled double-blind study incorporating features of both a crossover and parallel sample design. The study will extend over 12 weeks.

b. *Target population.* Persons with obesity which is unrelated to a known disease.

c. *Sample population.* Persons who have no overt evidence of endocrine disorder or other organic disease predisposing to obesity, and who have exogenous obesity resulting in a weight at least 15 percent and not more than 30 percent above desirable weights for height, age, body frame, and sex as determined from the Metropolitan Life Insurance Company table of desirable weights (Ref. *1*).

d. *Study setting.* The study should be conducted by qualified investigators in clinical centers or private practices.

e. *Criteria for admissibility into sample.* The study can include males or females satisfying all of the following criteria:

(1) Must be over 18 years of age.

(2) Must be shown by proper medical evaluation to have no evidence of pregnancy or significant cardiac, renal, hepatic, or endocrine dysfunction.

(3) Must not be taking other drugs (including OTC drug products) since these might influence the response to the drug being tested or might cause weight changes independently of the diet. If females are on continual estrogen therapy, or a specific estrogen regimen, such medication may be continued during the study. This is the only exception made for other medication taken during the study.

(4) Must be able to comprehend instructions and adhere to the study protocol.

(5) Must not have lost 10 percent or more weight at any time within the past year by dieting.

f. *Variables to be measured before study.* The subject's pre-study body weight is to be determined from two weighings taken on consecutive days and at the same hour in the morning. The subject is to be weighed (without clothing except for a standard examination gown) by the investigator or an assistant. In addition, information concerning the following variables is to be obtained: age in years, sex, height in inches, subject's usual weight, desirable weight (from the Metropolitan Life Insurance Company's table of desirable weights (Ref. *1*)), percent overweight, usual degree of physical activity, subject's weight pattern over the years, subject's participation in weight reducing programs including diets and medication, estimate of subject's caloric intake for the week before the study, the subject's concept of his or her ideal weight, a subjective evaluation of the subject's usual feeling of hunger (none, slight, moderate, or marked), and an estimate of caffeine intake.

g. *Design of study.* The study design is a randomized placebo-controlled double-blind design incorporating the features of both a crossover and parallel sample design. A diagram of the design is:

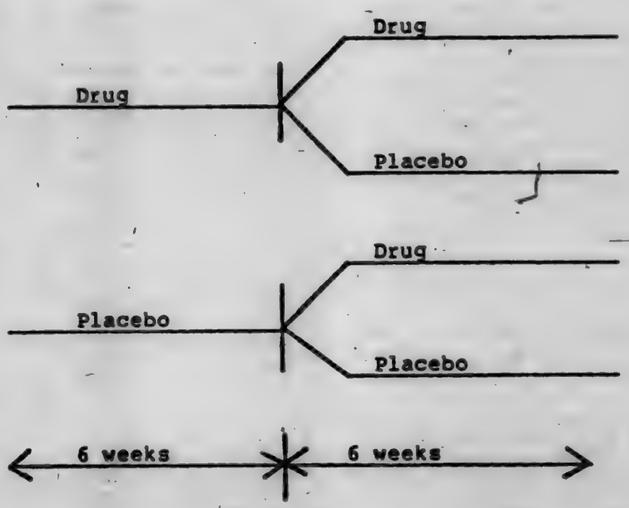

One-fourth of the subjects take the drug for 12 consecutive weeks;

One-fourth of the subjects first take the drug for 6 weeks and then take the placebo for 6 weeks;

One-fourth of the subjects first take the placebo for 6 weeks and then take the drug for 6 weeks; and

One-fourth of the subjects take placebo for 12 consecutive weeks.

Subjects are to be randomly assigned to one of the four schedules. The study is a double-blind study: neither the investigator nor the subjects should know the assignment of any subject.

The above design allows for direct comparisons between the drug and placebo for both 6 and 12 weeks, for estimation and adjustment of carryover and/or ordering effects (i.e., drug before placebo or placebo before drug), and for measurement of within subject variability (i.e., the subject acting as his or her own control).

h. *Instructions to the subjects.* Subjects are to be given diet instructions, if any, in accordance with the labeling instructions accompanying the drug. Each subject is to keep a daily diary which is to include estimated daily caloric intake, amount of caffeine-containing drink consumed, and amount of the treatment substance under study (i.e., drug or placebo) taken, and time at which it was taken. In addition, each subject is to record daily in the diary any side effects experienced and his or her subjective evaluation of "the feeling of hunger." The evaluation of the feeling of hunger is to be on a four-point scale (none, slight, moderate, or marked).

i. *Measurements of weights during the study.* During the 12 consecutive weeks of the study the subject is to make seven visits to the investigator. The visits are to be weekly for the first 2 weeks and then every 2 weeks. They are to be at the same hour in the morning and on the same day of the week. At each visit, the subject is to be weighed (without clothing except for a standard examination gown) by the investigator or an assistant. The investigator should attempt to arrange visits in such a manner so as to minimize interaction and discussion among the subjects.

j. *Statistical analysis.* The most important outcome variable is weight loss. At least three analyses should be performed.

(1) *An analysis of the weight loss after the first 6 weeks of study.* If the drug is effective, the weight loss of those on the drug should exceed that of those receiving the placebo.

(2) *An analysis of the weight loss after the 12 weeks of the study.* If the drug is effective, the weight loss of those always on the drug is expected to exceed the weight loss of those involved in the crossover schedules (i.e., those taking the drug and placebo). Further, those who are always on the placebo should have the smallest weight loss.

(3) *A comparison of the results of the first 6 weeks with the last 6 weeks.* If the drug is effective, those involved in the crossover schedules should show greater weight loss when on the drug than when on the placebo.

The statistical techniques used in the above analyses should include repeated measure techniques, multiple comparison techniques, and analysis of variance techniques which have sensitivity to ordered alternatives.

If a claim for appetite suppressant is desired in addition, analyses similar to those described above should be performed on the variables "feeling of hunger" and "adherence to diet" (i.e., the difference between the diet instruction and the actual caloric intake).

k. *Number of subjects.* At least 25 subjects should be in each of the 4 groups defined in the "Design of Study" section (for a total sample of at least 100). This sample size requirement is based on the assumption that the average weight loss is 1 pound per week (12 pounds in 12 weeks) for those on the placebo, 1.5 pounds per week (18 pounds in 12 weeks) for those on an effective drug, and 15 pounds in 12 weeks and for those on the crossover schedule. The standard deviation of weight loss for all four groups for 12 weeks is 8 pounds. Twenty-five observations in each group will be sufficient to detect the difference between an effective drug and placebo with a Type I error of 0.05 and a Type II error of 0.20.

l. *Number of studies.* Two studies by different investigators at separate geographic locations are required.

Reference

(*1*) Metropolitan Life Insurance Company, "Desirable Weights for Men and Women," *Statistical Bulletin, 58:5, 1977.*

2. *Background document on the proposed protocol for evaluation of weight control ingredients.* The preceding proposed protocol for evaluating the effectiveness of drug ingredients for weight control is the result of the Panel's consideration of information from a number of sources. This information came from drug companies' submissions of the results of their research and other relevant medical literature, testimonies delivered at open sessions of the Panel, literature prepared by FDA, and advice given by the Panel's consultants. The following is a commentary on each of the sections of the preceding proposed protocol.

a. *Objective of the study.* The stated objective of the proposed protocol is "to determine the effectiveness of the substance under study in reducing weight." The claims of some firms marketing these weight reducing aids do not include weight reduction. Rather, their claims state that their drugs are effective as "appetite suppressants." Further, some firms recommend that their products should be used as adjuncts to diets because they make dieting easier. The inference, which is not necessarily made in the firms' claims, is that weight reduction will follow. These firms state in their submissions to the Panel that the appropriate variable to determine effectiveness for appetite suppressants is the subjective variable "feeling of hunger." Effectiveness is equivalent to a significant reduction in that feeling. The Panel considered these claims and arguments and decided that if a drug is useful as a weight reducing aid or even solely as an appetite suppressant, then it should be possible to demonstrate that it is effective in reducing weight in obese individuals under well-controlled experimental conditions such as given in the proposed protocol.

b. *Target and sample populations.* The target population for weight control products are persons with obesity which is unrelated to a known disease. The Panel could not find a universally accepted definition of obesity. As a working definition, the Panel viewed obesity as that physical state in which body weight in relation to height and body build is more than 10 percent above the ideal desirable weight determined from the Metropolitan Life Insurance Company table of desirable weights (Ref. *1*). The Panel decided that the sample population (i.e., population from which the sample is chosen) should consist of "persons who have no overt evidence of endocrine disorder or other organic disease predisposing to obesity, and who have exogenous obesity resulting in a weight at least 15 percent and not more than 30 percent above desirable weights." This range (15 to 30 percent) was selected to ensure meaningful statistical data. First, 15 percent was selected as a lower limit to ensure that the subjects in the study would be sufficiently obese so that weight reduction could be expected during the study. Second, inclusion of individuals whose weights exceed 30 percent of ideal would introduce too much variability into the study. These individuals have the potential for large weight reductions. Many of these reductions would be due to simple changes of diet. Unless a very large sample was used, it would be very hard to judge if any weight reductions were associated with the drug.

The Panel also considered the possibility of defining the sample population in terms of pounds overweight rather than percent overweight (e.g., 10 to 30 pounds overweight). There was no justification for believing this could result in an improvement of the study design.

c. *Study setting.* The Panel was concerned that qualified investigators in appropriate settings be used in the study. There was agreement that the drug companies would reaffirm this and that the protocol only had to restate it.

The protocol's wording is, "The study should be conducted by qualified investigators in clinical centers or private practices."

d. *Criteria for admissibility into sample.* The objectives of admissibility criteria are to ensure that the study subjects are healthy, to ensure that they are as homogeneous as possible, to remove sources that could introduce confounding effects into the study, and to eliminate unnecessary sources of variation from the study. The proposed protocol has five admissibility criteria. The first (over 18 years of age) is routine in studies of this nature and eliminates the problem of dealing with weight fluctuations in adolescents. The second (proper medical evaluation to detect pregnancy or cardiac, renal, hepatic, or endocrine dysfunction) ensures that the subjects are healthy and not pregnant and also removes those persons who have organic reasons for being overweight. Inclusion of such persons would confound the study's results. The third criterion eliminates those subjects on medication which might influence response to the study medication or to a weight reduction diet. (The only exception is for women on estrogen therapy.) The fourth criterion eliminates those subjects who are unable to comprehend instructions and adhere to the study protocol. Inclusion of such persons would introduce bad data into the study. The final criterion eliminates those who have dieted within the past year and had a resulting weight loss of 10 percent or more. The Panel was concerned with the possibility of inclusion of those individuals who are constantly on diets and are successful for a short time period in reducing their weight. The Panel felt that such individuals have developed their own "technique for rapid weight loss" and inclusion of them in the study would supply no information about the usefulness of the study medication.

The Panel discussed extensively whether menstruating women should be included in the study. Because some of these women can show weight variations of 3 to 5 pounds monthly, many of the Panel members believed that it was best to exclude them from the study. However, other Panel members pointed out that these women constitute a significant proportion of the users of these drugs. Exclusion of them would make the study unrealistic. The Panel finally decided that they could be included. However, such a study requires more subjects than a study which excludes them. The Panel does not believe that an efficacy study must contain menstruating women as subjects.

e. *Variables to be measured before study.* Before the test medication is given, the subject's weight must be determined. This is required not only to decide upon admissibility into the study, but also for use as a reference point for determining weight loss. The pre-study weight must be as stable as possible. In order to achieve a stable estimate of the pre-study weight, the Panel decided that it should be "determined from two weighings taken on consecutive days and at the same hour in the morning." The subject is to be weighed (without clothing except for a standard examination gown) by the investigator or an assistant.

The Panel also decided that there is a collection of other variables that could influence the outcome of a subject's study response. The Panel believed these should be collected before the study. These variables are age in years, sex, height in inches, subject's usual weight, desirable weight (from the Metropolitan Life Insurance Company's table of desirable weights), percent overweight, usual degree of physical activity, subject's weight pattern over the years, subject's participation in weight reducing programs including diets and medication, estimate of subject's caloric intake for the week before the study, the subject's concept of his or her ideal weight, the subject's subjective evaluation of his or her usual feeling of hunger (none, slight, moderate, or marked), and an estimate of caffeine intake.

f. *Design of study.* The first problem facing the Panel in developing the design of the study was deciding upon the duration of it. Many of the studies reviewed in the drug companies' submissions lasted only 3 to 4 weeks. Even in the extensive review supplied by the FDA, only a few studies exceeded 6 weeks. The Panel was of the opinion that the study it was developing should be of sufficient duration so that, not only would weight reduction be established, but also the maintenance of it would be established. A drug is effective if it is instrumental in reducing weight and in aiding the individual to maintain the weight loss. It was decided that a study of 12 weeks' duration would satisfy the Panel's goal.

The next design problem facing the Panel was deciding whether the study should be a crossover or a parallel sample design. At first the Panel decided upon a placebo-controlled crossover design. The study was to be divided into two 6-week segments. With the crossover design some of the comparisons that are possible are:

(1) Drug vs. placebo for period one (i.e., on first 6 weeks);

(2) Drug vs. placebo for period two (i.e., on second 6 weeks);

(3) Drug followed by placebo (Does the drug have carryover effect?);

(4) Placebo followed by drug (Even after weight reduction with placebo in the first period, can the drug help?);

(5) Drug on period one vs. drug on period two;

(6) Placebo on period one vs. placebo on period two (If subject is on the drug during period one, will it affect the placebo effect during period two?);

(7) Comparison of group one and group two (i.e., those on drug followed by placebo vs. those on placebo followed by drug);

(8) Overall comparison of the drug and placebo;

(9) Comparison of period one and period two.

After some discussion it became obvious that the crossover design would not permit the resolution of some important problems. First, no one subject would be on either the drug or placebo for the full 12 weeks. Analysis and quantification of a 12-week drug effect would not be possible. The Panel wanted this feature to be added to the design. Second, the crossover would not supply the appropriate data to test a claim often made by the drug companies that their drugs are useful in aiding in the development of good dieting habits. (In summary the claim is that at first the drug suppresses the appetite so the subject finds it easier to diet. After a short time period, the drug effect on the appetite wears off, but by then the subject has developed good dieting habits.) In order to test this claim, a comparison must be made between two experimental groups—one group takes the drug for 6 weeks and then takes the placebo for 6 weeks, and the second group takes the placebo for all 12 weeks.

The Panel finally decided that the appropriate design should include features of both a crossover and a parallel sample design. This will allow investigation of the above two items without loss of any of the analyses possible with the crossover.

The Panel realizes that there is a serious potential problem of having a large dropout rate with a 12 week study (especially for those on the placebo for 12 weeks). Still it believes a study such as is being proposed is required to establish efficacy.

g. *Instructions to the subjects.* Routine instructions are to be given to the subjects in the study. They are to be given the diet instructions, if any, in accordance with the labeling instructions and/or the package insert accompanying the drug. The Panel assumes that each study that uses the proposed protocol will involve the use of a low calorie diet. The subjects should also keep a daily diary which is to include the following: estimated daily caloric intake, amount of caffeine-containing drinks consumed, and the amount of the treatment substance under study (i.e., the drug or placebo) taken and the time at which it was taken. Also, the subjects are to record daily any side effects experienced and their subjective evaluations of "the feeling of hunger" (on a four point scale—none, slight, moderate, or marked). The subjects must be instructed carefully on the use of the diary. The investigators should not admit a subject into the study if it appears the subject cannot comprehend the instructions of the diet for updating the daily diary.

h. *Measurements of weights during the study.* The major requirement here is to fix the schedule of visits to the investigator as much as possible so that unnecessary variables do not confound the study.

i. *Statistical analysis.* The Panel did not want to impose itself excessively here. The major variable is weight loss per week. The analysis must be whether the drug is effective (i.e., Is it more effective than placebo?). Beyond this consideration, the drug companies may investigate any other hypotheses of interest to them. The drug firms should be aware that the sample sizes may need to be increased substantially in order to test appropriately some hypotheses (e.g., if there is a relation of weight loss to age and sex).

j. *Number of subjects.* The submissions from the drug firms did not supply any consistent data from which a determination of appropriate sample size could be made.

In order to make a determination the Panel members were asked to state what they considered to be reasonable estimates of weight loss per week for the placebo and for the drug. The joint opinion of the Panel was that if the study includes a diet, a weight loss of 1 pound per week could be expected for the individuals on the placebo and 1.5 pound per week for the individuals on an effective drug. The weight loss would be greatest at the beginning of the study, and the 1 pound and 1.5 pound figures reflect an average over 12 weeks. Further, an estimate of the range in weight loss over the 12 weeks was given by the Panel as ranging from −6 pounds (i.e., a gain of 6 pounds) to 30 pounds. This corresponds to a standard deviation of about 6 pounds over the 12 weeks. Given the above, the required number of observations can be determined. Using the calculations given in Chapter 14 of Dixon and Massey's text (*Ref. 2*) for sample size determination in the one-way analysis of variance, the required sample size is at least 25 observations for each of the 4 groups defined in the section on "Design of study."

The 25 observations per group is the required number that finish the 12 weeks. In order to account for dropouts, more than 25 subjects should be included in each group at the start of the study.

k. *Number of studies.* Two studies by different investigators at two sites are required by the protocol. This is a standard requirement, and the Panel belives it is an essential feature in establishing efficacy. The samples from each of these sites should be representative of the sample population.

References

(1) Metropolitan Life Insurance Company, "Desirable Weights for Men and Women," *Statistical Bulletin*, 58:5, 1977.

(2) Dixon, W. J., and F. J. Massey, *Introduction to Statistical Analysis*, 3d Ed., McGraw-Hill, New York, 1969.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under 21 CFR 5.11 (see 46 FR 28052; May 11, 1981), the agency advise in this advance notice of proposed rulemaking that Subchapter D of Chapter I of Title of 21 of the Code of Federal Regulations would be amended by adding in Part 357, a new Subpart F, to read as follows:

PART 357—MISCELLANEOUS INTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

* * * * *

Subpart F—Weight Control Drug Products

Sec.

357.501 Scope.
357.503 Definitions.
357.510 Weight control active ingredients.
357.520 Permitted combinations of active ingredients.
357.550 Labeling of weight control drug products.
357.556 Labeling of premitted combinations.

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704).

Subpart F—Weight Control Drug Products

§ 357.501 Scope.

(a) An over-the-counter weight control drug product in a form suitable for oral administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this subpart in addition to each of the general conditions established in § 330.1 of this chapter.

(b) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 357.503 Definition.

Anorectic drug product. An agent that reduces appetite.

§ 357.510 Weight control active ingredients.

The active ingredients of the product in the indicated dosage form, where specified, consist of the following in the dosage limits established for each ingredient in § 357.550(d):

(a) Benzocaine (in gum, lozenges, or candy).

(b) Phenylpropanolamine hydrochloride.

§ 357.520 Permitted combinations of active ingredients.

Phenylpropanolamine hydrochloride described in § 357.510(b) may be combined with caffeine described in § 340.10 provided that the product is labeled as described in § 357.555.

§ 357.550 Labeling of weight control drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as an "Anorectic."

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to one or more of the following statements:

(1) "For appetite control to aid weight reduction."

(2) "An aid for effective appetite control to assist weight reduction."

(3) "Helps curb appetite."

(4) "Appetite depressant in the treatment of obesity (excess weight)."

(5) "An aid to diet control in conjunction with a physician's recommended diet."

(6) "An aid in the control of appetite."

(7) "Helps control appetite."

(8) "For use as an aid to diet control."

(9) "Helps you eat less, weigh less."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) *For products containing any ingredient identified in § 357.510.* "Do not give this product to children under 12 years of age."

(2) *For products containing phenylpropanolamine hydrochloride identified in § 357.510(b).* (i) "Do not exceed recommended dosage."

(ii) "If nervousness, dizziness, or sleeplessness occurs, stop taking this medication and consult your physician."

(iii) "If you are being treated for high blood pressure or depression, or have heart disease, diabetes, or thyroid disease, do not take this product except under the supervision of a physician."

(iv) "If you are taking a cough/cold or allergy medication containing any form of phenylpropanolamine, do not take this product."

(d) *Directions.* The labeling of the product contains the following statements under the heading "Directions":

(1) *For products containing benzocaine identified in § 357.510(a).* "This product's effectiveness is directly related to the degree to which you reduce your usual daily food intake. Attempts at weight reduction which involve the use of this product should be limited to periods not exceeding 3 months, because that should be enough time to establish new eating habits. Adult oral dosage is 3 to 15 milligrams just prior to eating or as directed by a physician."

(2) *For products containing phenylpropanolamine hydrochloride identified in § 357.510(b).* "This product's effectiveness is directly related to the degree to which you reduce your usual daily food intake. Attempts at weight reduction which involve the use of this product should be limited to periods not exceeding three months, because that should be enough time to establish new eating habits. Adult oral dosage is 25 to 50 milligrams in a single dose and not exceeding 150 milligrams daily in divided doses 30 minutes before meals or as directed by a physician."

§ 357.555 Labeling of permitted combinations.

The labeling of combinations identified in § 357.520 contains the following:

(a) *Statement of identity.* The labeling of the product contains the established names of the ingredients and identifies the product as an "Anorectic/Stimulant."

(b) *Indications.* The indication used for this product will be a consolidation of the requirements of § 340.50(b) and § 357.550(b) of this chapter, such as "A combination of an aid for effective appetite control to assist weight reduction and a stimulant that helps restore mental alertness or wakefulness when experiencing fatigue or drowsiness." Such a statement will be followed immediately by this statement: "This product is for use only by individuals who become fatigued because of dieting."

(c) *Warnings.* The warnings used for this product contain all those specified in § 340.50(d) and § 357.550(c) of this chapter.

(d) *Directions.* The directions used for this product contain all those specified in § 340.50(d) and § 357.550(d) (1) and (3) of this chapter.

Interested persons may, on or before May 27, 1982, submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments on this advance notice of proposed rulemaking. Three copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments replying to comments may also be submitted on or before June 28, 1982. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 3, 1981.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Dated: February 8, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82-4752 Filed 2-25-82; 8:45 am]

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federal register

Friday
February 26, 1982

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

Minnesota: MN82–3010
Pennsylvania: PA82–3006

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the Federal Register are listed with each State.

- Arkansas: AR81–4041 ..... June 19, 1981.
- Alabama: AL81–1125 ..... Dec. 30, 1980.
- California:
  - CA81–5119 ..... May 15, 1981.
  - CA81–5129 ..... July 6, 1981.
  - CA81–5132 ..... July 10, 1981.
  - CA81–5154 ..... Sept. 25, 1981.
- Delaware: DE81–3028 ..... May 8, 1981.
- Iowa:
  - IA81–4021 ..... April 10, 1981.
  - IA81–4091 ..... Nov. 13, 1981.
  - IA81–4092 ..... Nov. 27, 1981.
  - IA81–4093 ..... Nov. 27, 1981.
- Kansas: KS81–4053 ..... Oct. 2, 1981.
- Louisiana:
  - LA81–4086 ..... Nov. 6, 1981.
  - LA81–4084 ..... Nov. 6, 1981.
- Michigan: MI81–2058 ..... Oct. 30, 1981.
- Pennsylvania: PA81–3041 ..... July 6, 1981.
- Rhode Island: RI81–3042 ..... Aug. 21, 1981.
- Texas:
  - TX81–4078 ..... Oct. 2, 1981.
  - TX82–4005 ..... Jan. 29, 1982.
- Washington: WA81–5163 ..... Dec. 4, 1981.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the Federal Register are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

- Alabama: AL81–1295(AL82–1014) ..... Oct 9, 1981.
- Colorado: CO81–5146(CO82–5104) ..... Sept. 4,1 981.
- Michigan:
  - MI81–2035(MI82–2007) ..... July 6, 1981.
  - MI81–2039(MI82–2012) ..... July 6, 1981.
  - MI81–2059(MI82–2006) ..... Aug. 28, 1981.
- Mississippi:
  - MS81–1225(MS82–1008) ..... May 8, 1981.
  - MS81–1226(MS82–1009) ..... May 8, 1981.
  - MS81–1227(MS82–1010) ..... May 8, 1981.
  - MS81–1228(MS82–1011) ..... May 8, 1981.
  - MS81–1229(MS82–1012) ..... May 8, 1981.
  - MS81–1230(MS82–1013) ..... May 8, 1981.
- New Hampshire: NH81–3010(NH82–3008) ..... Jan. 23, 1981.
- New Jersey: NJ80–3024(NJ82–3008) ..... May 2, 1980.
- Pennsylvania: PA81–3060(PA82–3007) ..... Oct. 9, 1980.
- Wisconsin: WI81–3027(WI82–3004) ..... Apr. 10, 1980.

Signed at Washington, D.C. this 10th day of February 1982.

Dorothy P. Coms,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

NEW DECISION

STATE: PENNSYLVANIA — COUNTIES: BUCKS, CHESTER, DELAWARE, MONTGOMERY & PHILADELPHIA

DECISION NO.: PA82-3008 — DATE: DATE OF PUBLICATION

DESCRIPTION OF WORK: Heavy and Highway Construction

	Basic Hourly Rate	Fringe Benefits Payments: H & W	Pension	Vacation	Education and/or Appr. Tr.
CARPENTERS	12.97	2.63	1.40	*	.13
CEMENT MASONS	11.60	2.09	2.60		
ELECTRICIANS:					
Philadelphia (only)	15.75	1.10	3%+.95		.28
IRONWORKERS:					
Structural & Ornamental	15.00	1.49	1.46		.04
IRONWORKERS:					
Rigger, machinery mover Philadelphia (only)	14.78	1.49	1.46		.04
LABORERS:					
Group 1	11.30	.95	.85	/	.25
Group 2	11.10	.95	.85		.25
Group 3	11.00	.95	.85		.25
Group 4	11.15	.95	.85		.25
Group 5	10.90	.95	.85		.25
Group 6	11.55	.95	.85		.25
Group 7 & 8	11.40	.95	.85		.25
Group 9	11.25	.95	.85		.25

LABORERS CLASSIFICATIONS

Group 1 - Powderman, multiple wagon drill op. under pinning excavation, bottom man

Group 2 - Finished surface asphalt rakers spa., pipelayers, caulkers conduit and duct layers

Group 3 - Other pneumatic tools ops., labor stripping concrete forms, carrying or handling lumber, steel & steel mesh and other concrete materials, form pinners, tool room men, mortar mixers, concrete pitman & spaders, grademen, asphalt shovelers, men working in shoring, men working in lagging, laborers assistance in the setting of cut stone, granite or artifical stone, hod carriers, scaffold builders, all other laborers on construction with the exception of workers in compressed air

Group 4 - Wagon drill operators

NEW DECISION

STATE: MINNESOTA — COUNTIES: *SEE BELOW

DECISION NO.: MN82-3010 — DATE: Date of Publication

DESCRIPTION OF WORK: Heavy and Highway Construction Projects

*AITKIN, CROW WING, ITASCA, KANABEC, KOOCHICHING, MILLE LACS, & MORRISON

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS	$11.37				
CEMENT MASONS	11.52				
LABORERS:					
Common	8.07				
Ditch	9.75	.60	.15		
Landscape	9.00				
Pipelayers	9.85	.60	.15		
Rakers	7.56	.56	.47		
POWER EQUIPMENT OPERATORS:					
Asphalt Distributor Spreader; Paver; Pickup Sweeper; Roller Finish & Self Propelled; Tractor, Bulldozer over D2; & Turnapull	13.17	.95	.70		.05
Asphalt Plant; Cranes, Derricks & Draglines; Crushing & Screening Plant; & Motor Patrols	13.42	.95	.70		.05
Boring Machine	9.17				
Firemen; Rollers & Tractor, Rubber Tired Backhoe	9.33	.56	.47		
Front End Loader; & Tractor, Bulldozer, D2	10.20	.56	.47		
Front End Loader up to 1 cu. yd.	11.23				
Grader	11.71				
Mechanic	11.13	.56	.47		.03
Oiler	12.08	.95	.70		.05
Screedman	11.64	.95	.70		
Shouldering Machine	10.43				
TRUCK DRIVERS:					
Bituminous Distributor Driver	9.48				
Dumpman	11.20	1.15	.65		
Five Axle	9.76	.56	.47		
Four Axle	8.91				
Lowboy	12.05	1.15	.60		
Mechanical Broom Driver	9.33	.56	.47		
Packer	9.36				
Single Axle	8.36	1.15	.65		
Tandem	11.40				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Tunnel Compressed Air:					
Laborers:					
Blasters, shield drivers	116.25	.95	.85		
Miners, miner's bore driver	120.00	.95	.85		
Brakemen, trackmen, miners, helpers, grout-men, iron man, maintenance man, pump men, electrician, cement finisher, carpenters, hydraulic men, monorail men, conveyor men, powder carriers, pan men, conveyor men, powder carriers, pan men, riggers, lock tenders' helpers, nippers, derailed man, cablemen, hosemen, gravel men	107.73	.95	.85		
Mucking machine operators	124.00	.95	.85		
Laborers (Surface) per hour	9.75	.95	.85		
Between Locks					
Lock tenders, motor men	112.81	.95	.85		
All other men	107.73	.95	.85		
Outside of Locks					
Outside lock tenders, gauge tenders	107.73	.95	.85		
Outside lock tenders' helpers	102.65	.95	.85		

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	AMOUNT IN ADDITION TO BASE RATE (NOT CUMULATIVE)
Air Pressure	
15 lb. up to but less than 26 lb.	1.50
26 lb. up to but less than 31 lb.	2.00
31 lb. up to but less than 36 lb.	2.50
36 lb. up to but less than 41 lb.	3.00
41 lb. or more	3.50

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LANDSCAPING:					
Landscape Laborers	8.30	.95	.85	b	
Farm Tractor Driver	8.80	.95	.85	b b	
Hydroseeder Nozzleman	8.80	.95	.85	b b	
Mulcher Nozzlemen	8.80	.95	.85	b	
LINE CONSTRUCTION					
Journeyman Lineman	16.27	.60	3%		3%
Winch truck operator	11.39	.60	3%		3%
Groundman	9.76	.60	3%		3%
LINE CONSTRUCTION (RAILROAD ONLY)					
Linemen					
"A" equipment operator	13.28	.60	3%	c c	.75%
"B" equipment operator	11.61	.60	3%		.75%

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CLASSIFICATION DEFINITIONS FOR LINE CONSTRUCTION (RAILROAD ONLY)

"A" Equipment Operators:

1. Hoisting equipment - when erecting complete towers, erecting framed structures, erecting steel transmission poles, erecting railroad pole extensions and crossbeams and when operating personnel lift baskets.

2. Tension pulling equipment under energized conditions - parallel with other energized circuits or above energized circuits on the same structure, not to include crossovers. Bundled conductor stringing, including static conductors on bundled conductor lines.

3. Excavating augurs 36" inches in diameter or larger, 5/8 cubic yard backhoe and larger, trencher over four feet in depth, bulldozer D-6 (caterpillar) or larger, and blade on finish grade work

"B" Equipment Operators:

Operators of all other equipment

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MILLWRIGHTS:					
Philadelphia (only)	13.02	2.63	1.40		.13
PILEDRIVERMEN	12.97	3.13	1.40	e	.13
POWER EQUIPMENT:					
HEAVY CONSTRUCTION					
Wage Group 1	14.58	10%	10.3%	d	1.3%
Wage Group 2	14.32	10%	10.3%	d	1.3%
Wage Group 3	13.45	10%	10.3%	d	1.3%
Wage Group 4	13.24	10%	10.3%	d	1.3%
Wage Group 5	12.93	10%	10.3%	d	1.3%
Wage Group 6	12.76	10%	10.3%	d	1.3%
Wage Group 7	12.25	10%	10.3%	d	1.3%
Wage Group 8	11.51	10%	10.3%	d	1.3%

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HEAVY CONSTRUCTION CLASSIFICATION DEFINITIONS

Group 1 - Handling steel and stone in connection with erection, crane, doing hook work, any machines handling machinery, cable spinning machine, helicopters, machines similar to above

Group 2 - All types of cranes, all types of backhoes, cableways, draglines, keystones all types of shovels derricks, trench shovels, trenching machines, pippin type backhoes, hoist with two towers, pavers 21E and over, all types overhead cranes building hoists - double drum (unless used as single drum), mucking machines in tunnel, gradalls, front-end loaders 3½ cu. yds. & over, Boat Captain, tandem scrapers, tower type crane operation, erecting, dismantling, jumping or jacking, drills self- contained (drill-master type), fork lift (20 ft. and over), motor patrols (fine grade) batch plant with mixer, machines similar to the above

Group 3 - Conveyors (except building conveyors), building hoist (single drum), scrapers and tournapulls, asphalt engineer, roller (high grade finishing) front end loaders under 3½ cu. yds., mechanic-welder, spreaders high or low pressure boilers concrete pumps, well drillers, fork lift trucks of all types, bulldozers and tractors, ditch winch type trencher, motor patrol, machines similar to the above

Group 4 - Concrete breaking machines rollers machines similar to the above

Group 5 - Seaman pulverizing mixer fireman on power equipment maintenance engineer (power boat) machines similar to the above

Group 6 - Conveyors (building) welding machines, heaters, wellpoints, compressors, fram tractors, fine grade machines, form line graders, road finishing machines, form line graders, road finishing machines, pumps, power broom (self-contained), seed spreader, machines similar to the above

Group 7 - Fireman, grease truck

Group 8 - Oilers and deck hands (personnel boats), grease truck helper

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS HIGHWAY CONSTRUCTION:					
Wage Group 1	14.33	10%	10.3%	d	1.3%
Wage Group 2	14.10	10%	10.3%	d	1.3%
Wage Group 3	13.49	10%	10.3%	d	1.3%
Wage Group 4	12.97	10%	10.3%	d	1.3%
Wage Group 5	12.60	10%	10.3%	d	1.3%
Wage Group 6	12.25	10%	10.3%	d	1.3%
Wage Group 7	11.51	10%	10.3%	d	1.3%

HIGHWAY CONSTRUCTION CLASSIFICATIONS

Wage Group 1 - Handling steel and stone in connection with erection, cranes doing work, and machine handing machinery, helicopters, machines similar to the above

Wage Group 2 - All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, pavers 21E and over, trenching machines, gradalls, front-end loaders 3½ c.y. and over, boat captain, pippin type backhoes, tandem scrapers, tower type crane operation erecting, dismantling, jumping or jacking, drills self-contained, (drillmaster type), forklift (20 ft. and over), motor patrols (fine grade), batch plant with mixer, machines similar to the above

Wage Group 3 - Carryalls, scrapers, tournapulls, asphalt plant engineers, roller (high grade finishing) front-end loaders under 3½ c.y., spreaders (asphalt), concrete pumps, well drillers, bulldozers and tractors, ditch witch (small trencher), motor patrols, mechanic welder, machines similar to the above

Wage Group 4 - Conveyor loader, seaman pulverizer, ten-ton roller (grader fill stone base) concrete breaking machines, machines similar to the above

Wage Group 5 - Form line grader, fine grade machines, farm tractors, road finishing, concrete spreaders, compressors, power broom self contained, seed spreader, pumps, welding machines, fireman, power equipment, maintenance engineers (power boats), machines similar to the above

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HIGHWAY CONSTRUCTION CLASSIFICATIONS CONT'D

Wage Group 6 - Fireman, grease truck

Wage Group 7 - Oilers and deckhands (Personnel Boats), grease truck helper

FOOTNOTES:

a. Paid Holiday: Labor Day
b. Paid Holidays: July 4th, Labor Day, and Thanksgiving Day
c. Paid Holidays: New Year's Day; Decoration Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day and Good Friday
d. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day, providing the employee works the day before and after the holiday
e. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veteran's Day; Thanksgiving Day and Christmas Day.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)."

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY & HIGHWAY TRUCK DRIVERS: Including Site Preparation, Paving and Utilities on Building Construction					
Class 1	10.20	1.0675	1.225	a+b	
Class 2	10.30	1.0675	1.225	a+b	
Class 3	10.50	1.0675	1.225	a+b	

SITE PREPARATION, PAVING AND UTILITIES CLASSIFICATIONS

Class 1: Helpers, stake body truck (single axle, dumpster)

Class 2: Dump trucks, tandem & batch trucks, semi-trailers, agitator mixer trucks, and dumpcrete type vehicles, asphalt distributors, farm tractor when used for transportation, stake body truck (tandem)

Class 3: Euclid type, off-highway equipment or belly dump trucks and double hitched equipment, staddle (ross) carrier, low-bed trailers

FOOTNOTES:

a. Employee will earn one (1) vacation day every two (2) months up to a maximum of five (5) vacation days per calendar year. During each two (2) consecutive months period, employee must have worked twenty-six (26) days in that two month period. After 130 workdays the employee will be entitled to all days of vacation.

b. Paid Holidays: Memorial Day; Independence Day; Labor Day and Veterans Day and five (5) personal holidays provided such employee work the scheduled work days before and after said holiday; and employee gives employer one (1) week's notice requesting a personal holiday. The eligibility for personal holidays will be as follows: Employee will earn one (1) personal holiday every two (2) months up to a maximum of five (5) personal holidays per calendar year. During each two (2) consecutive month period, employee must have worked twenty-six (26) days in that two month period. After 130 workdays the employee will be entitled to all personal holidays.

MODIFICATION PAGE 1

DECISION #AR81-4041-Mod. #7 46FR32179-June 19, 1981 Garland, Hot Springs and Clark Counties, Arkansas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE: Modification Number seven published in FR dated February 12, 1982 to read "Modification Number six."					
Decision #AL81-1125 - Mod.#1 (45 FR 86185 - December 30, 1980) Barbour, Coffee, Covington, Dale, Geneva, Henry, Houston, and Russell Counties, AL. DELETE Russell County from area Covered					

MODIFICATION PAGE 2

DECISION NO. CA81-5119 - Mod. #5
(46 FR 27017 - May 15, 1981)
Alameda, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento San Benito, San Francisco, San Joaquin, San Mateo, Santa Cruz, Santa Clara, Solano, Sonoma, Sutter, Tuolumne, Yolo and Yuba Counties, California

Change:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS:					
Area 1:	$19.56	1.30	3.10		.13
IRONWORKERS:					
Fence Erectors	14.86	1.44	3.81	2.50	.12
Structural, Ornamental and Reinforcing	15.75	1.44	3.81	2.50	.12
PAINTERS:					
Area 5:					
Brush	18.51	1.65	2.12	1.20	.06
Spray	19.01	1.65	2.12	1.20	.06
Tapers	19.31	1.65	2.12	1.20	.06
Area 7:					
Brush	18.62	1.65	2.12	1.20	.06
Spray	19.12	1.65	2.12	1.20	.06
Tapers	19.42	1.65	2.12	1.20	.06
SOFT FLOOR LAYERS:					
Area 3:	17.19	1.15	2.25	2.00	.24

DECISION NO. CA81-5129 - Mod. #7
(46 FR 34941 - July 6, 1981)
Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California

Change:					
ELECTRICIANS:					
Area 4:					
Electricians	$19.32	1.40	3%+2.95		.12
Cable Splicers	19.92	1.40	3%+2.95		.12
IRONWORKERS:					
Fence Erectors	14.86	1.44	3.77	2.50	.12
Ornamental; Reinforcing; Structural	15.75	1.44	3.77	2.50	.12
SOFT FLOOR LAYERS:					
Area 2:	16.37	.98	1.40	1.08	.08

MODIFICATION PAGE 3

DECISION NO. CA81-5132 - Mod. #6
(46 FR 35860 - July 10, 1981)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Cruz, Santa Clara, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California

Change:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS:					
Area 1:	$19.56	1.30	3.10		.13
IRONWORKERS:					
Fence Erectors	14.86	1.44	3.81	2.50	.12
Structural, Ornamental, Reinforcing	15.75	1.44	3.81	2.50	.12
PAINTERS:					
Area 2:					
Brush; Tapers	15.48	.81	.30		
Spray; Structural Steel	15.98	.81	.30		
Area 6:					
Brush	18.51	1.65	2.12	1.20	.06
Spray; Sandblasting; Steam Cleaning	19.01	1.65	2.12	1.20	.06
Drywall Finisher	19.31	1.65	2.12	1.20	.06
Brush (exterior stage) 5,6 and 7 story bldgs. erected steel over 50 feet	19.66	1.65	2.12	1.20	.06
Area 9:					
Brush	18.62	1.65	2.12	1.20	.06
Spray	19.12	1.65	2.12	1.20	.06
Tapers (paint)	19.42	1.65	2.12	1.20	.06
SOFT FLOOR LAYERS:					
Area 3:	17.19	1.15	2.25	2.00	.24
Area 5:	17.21	1.15	2.25	2.00	.24
ELECTRICIANS:					
Area 12:					
Electrician	19.57	1.54	3%+2.50		.05
Cable Splicer	22.02	1.54	3%+2.50		.05

MODIFICATION PAGE 4

DECISION NO. CA81-5154 - Mod. #9
(46 FR 47384 - September 25, 1981)
Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Cos., California

Change:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Area 3:					
Electricians, Technicians	$19.32	1.40	3%+2.95		.12
Cable Splicers	19.92	1.40	3%+2.95		.12
IRONWORKERS:					
Fence Erectors	14.86	1.44	3.77	2.50	.12
Structural, Ornamental, Reinforcing	15.75	1.44	3.77	2.50	.12
LINE CONSTRUCTION:					
Groundman	14.49	1.40	3%+2.95		.12
Lineman	19.32	1.40	3%+2.95		.12
Cable Splicers	19.92	1.40	3%+2.95		.12
SOFT FLOOR LAYERS:					
Area 2:	16.37	.98	1.40	1.08	.08

DECISION NO. DE81-1028
MOD. NO. 18
(46 FR 25909 - May 8, 1981)
State of Delaware

CHANGE:					
Bricklayers & Stonemasons	$12.90	1.19	1.36		
Cement Masons:					
Building	11.90	1.60	1.15		
Heavy	11.95	1.60	1.15		
Electricians	15.31	1.17	3%+1.00		
Line Construction					
Linemen, Cable Splicer	15.72	.60	3%		3/4 of 1%
Winch truck operator	11.00	.60	3%		3/4 of 1%
Truck Driver	10.22	.60	3%		3/4 of 1%
Groundman	9.43	.60	3%		3/4 of 1%
Marble Setters	12.68	1.19	1.36		
Terrazzo Workers & Tile Setters	12.68	1.19	1.36		

MODIFICATION PAGE 5

DECISION NO. IA81-4021 - MOD. #3
(46 FR 21560 - April 17, 1981)
Statewide Iowa (except Scott County)

CHANGE:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Black Hawk, Linn & Polk Cos. & the Cities of Ames, Dubuque & Iowa City:					
Carpenters:					
Carpenters & pile-drivermen	$11.12	.60	.40		
Laborers - Group 1	9.76	.65	.50		.05
Group 2	9.46	.65	.50		.05
Group 3	9.26	.65	.50		.05
Power equipment ops.:					
Group 1	11.91	.90	.90		.10
Group 2	11.26	.90	.90		.10
Cities of Burlington & Clinton & Burlington Ordnance Plant:					
Carpenters:					
Carpenters & pile-drivermen	11.12	.60	.40		
Laborers - Group 1	9.76	.65	.50		.05
Group 2	9.46	.65	.50		.05
Group 3	9.26	.65	.50		.05
Cities of Fort Dodge & Mason City:					
Carpenters:					
Carpenters & pile-drivermen	9.88	.60	.40		
Laborers - Group 1	9.11	.65	.50		.05
Group 2	8.81	.65	.50		.05
Group 3	8.61	.65	.50		.05
Power equipment ops.:					
Group 1	11.91	.90	.90		.10
Group 2	11.26	.90	.90		.10
Group 3	10.56	.90	.90		.10
OMIT:					
Cities of Fort Dodge & Mason City:					
Power equipment ops.:					
Group 4	10.56	.90	.90		.10

MODIFICATION PAGE 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IA81-4091 - MOD. #3 (46 FR 56123 - November 13, 1981) Dubuque County, Iowa					
CHANGE: Building, water treatment plants & sewage disposal plants construction: Cement masons	$13.93				
DECISION NO IA81-4092 - MOD. #3 (46 FR 58025 - November 27, 1981) Johnson County, Iowa					
CHANGE: Building, water treatment plants & sewage disposal plants construction: Cement masons	13.67	.90			
DECISION NO. IA81-4093 - MOD. #3 (46 FR 58018 - November 27 1981) Linn County, Iowa					
CHANGE: Building, water treatment plants & sewage disposal plants construction: Cement masons	13.67	.90			

MODIFICATION PAGE 7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #KE81-4053-Mod. #4 (46 FR 48847-OCTOBER 2, 1981) LEAVENWORTH COUNTY, KANSAS					
Change: Painters:					
Brush, roller, tapers	$13.59	.55	.75		
Spray	14.59	.55	.75		
Paperhangers	14.09	.55	.75		
DECISION NO. LA81-4086 - MOD. #6 (46 FR 55189 - November 6, 1981) Statewide Louisiana					
CHANGE: Glaziers:					
Zone 1	$14.05			c+d	.02
Zone 3	13.80	.32	.40		.01
Laborers:					
Zone 4:					
Group 1	9.30	.40	.27		.05
Group 2	9.40	.40	.27		.05
Group 3	9.45	.40	.27		.05
Zone 5:					
Group 1	8.90	.40	.27		.05
Group 2	9.00	.40	.27		.05
Group 3	9.05	.40	.27		.05
DECISION NO. LA81-4084 - MOD. #6 (46 FR 55203 - November 6, 1981) Bossier, Caddo & Calcasieu Parishes, Louisiana					
CHANGE: Glaziers:					
Calcasieu Parish	14.05			c+d	.02

MODIFICATION PAGE 8

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MI81-2058 - Mod. #1 (46 FR 53929 - October 30, 1981) Statewide, Michigan					
CHANGE:					
CARPENTERS:					
Zone 3 LP	$13.44	.85	1.00		.05
IRONWORKERS:					
Zone 3	14.40	1.00	2.68		.03
SIGN INSTALLERS:					
Zone 1 -					
Class A	11.4975	a 39.50	a 51.00		
Class B	11.2475	a 39.50	a 51.00		
Zone 2 -					
Class A	10.6975	a 39.50	a 51.00		
Class B	10.4475	a 39.50	a 51.00		
TRUCK DRIVERS: (Underground)					
Zone 7 -					
Class 1	10.47	a 39.50	a 30.00		
Class 2	10.37	a 39.50	a 30.00		
Class 3	10.57	a 39.50	a 30.00		
Class 4	10.67	a 39.50	a 30.00		
FOOTNOTE:					
a. Per week, per employee.					

MODIFICATION PAGE 9

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. PA81-3041 MOD. NO. 6 (46 FR 34934 - July 6, 1981) Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Cameron, Centre, Clarion, Clearfield, Clinton, Crawford, Elk, Erie, Fayette, Forest, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Mercer, Lawrence, McKean, Mifflin, Potter, Somerset, Venango, Warren, Washington & Westmoreland Counties, Pennsylvania					
ADD: IRONWORKERS: Structural, Ornamental & Reinforcing Zone 3	$14.24	1.20	2.61		.07

AREA COVERED BY IRONWORKERS ZONE

ZONE - 3 - Allegheny, Armstrong, Beaver, Butler, Cambria, Clarion, Fayette, Indiana, Washington & Westmoreland Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. RI81-3042 - MOD. #4 (46 FR 42615 - August 21, 1981) STATEWIDE, RHODE ISLAND					
ADD: CARPENTERS, Residential (4 stories or less)	10.40	.90	2.00		.05

MODIFICATION PAGE 10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX81-4078 - MOD. #4 (46 FR 48865 - October 2, 1981) Bexar County, Texas					
CHANGE:					
Marble setters	$12.22	.67	.30	.25	
Terrazzo workers	12.22	.67	.30	.25	
Tile setters	12.22	.67	.30	.25	
DECISION NO. TX82-4005 - MOD. #1 (47 FR 4465 - January 29, 1982) Jefferson & Orange Cos., Texas					
CHANGE:					
Plumbers	15.71	.95			.04
DECISION NO. WA81-5163 - Mod. #6 (46 FR 59457 - Dec. 4, 1981) Statewide Washington					
CHANGE:					
ELECTRICIANS:					
Area 2:					
Electricians	$19.32	.95	3%+1.80		.10
Cable Splicers	20.29	.95	3%+1.80		.10
Area 4:					
Electricians	20.37	.98	3%+2.05		.10
Cable Splicers	22.41	.98	3%+2.05		.10

SUPERSEDEAS DECISION

STATE: ALABAMA COUNTY: MONTGOMERY
DECISION NUMBER: AL82-1014 DATE: Date of Publication
Supersedes Decision No.: AL81-1295 dated October 9, 1981 in 46 FR 50222.
DESCRIPTION OF WORK: Building Construction (does not include residential construction consisting of single family homes and apartments up to and including four (4) stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
A/C & HEATING MECHANICS	$7.22				
BRICKLAYERS	7.63				
CARPENTERS	7.37				
CEMENT MASONS	7.60				
ELECTRICIANS	7.71				
GLAZIERS	10.20	.60	.80		a
IRONWORKERS, Reinforcing	5.00				
LABORERS	4.00				
PAINTERS	6.85				
PLASTERERS	7.69				
PLUMBERS & PIPEFITTERS	7.95				
SCRAPERS	5.00				
ROOFERS	6.45				
SHEET METAL WORKERS	6.00				
SPRINKLER FITTERS	8.05				
SOFT FLOOR LAYERS	6.00				
TILE SETTERS	7.25				
TRUCK DRIVERS	4.00				
WELDERS - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
Scraper	5.00				
Backhoe	5.37				
Makers/Lutemen	5.00				
Motor Patrol	6.40				
Bulldozer	5.25				
Front End Loader	4.50				
Spreader	5.75				
Screed	5.00				
Roller	4.79				
Asphalt Distributor	4.50				
Asphalt Baker	4.77				

FOOTNOTE:
a. Six paid holidays-New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, & Christmas Day.

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Colorado COUNTY: El Paso
DECISION NUMBER: CO82-5104 DATE: Date of Publication
Supersedes Decision No. CO81-5146 dated September 4, 1981, in 46 FR 44607
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$15.39	.75	$1.49		
BOILERMAKERS	14.97	1.375	1.10		.05
BRICKLAYERS; Stonemasons	14.05	.85	.95		.06
CARPENTERS:					
Zone 1: 0-40 miles from Post Office in Colorado Springs	12.22	1.10	1.00	1.00	.10
Zone 2: 40-75 miles from Post Office in Colorado Springs	12.72	1.10	1.00	1.00	.10
Zone 3: 75 miles and over	12.97	1.10	1.00	1.00	.10
CEMENT MASONS:					
Cement Masons	12.04	.59	1.15		.13
Working with composition materials and color	12.54	.59	1.15		.13
Working on temporary platform over 25'	12.29	.59	1.15		.13
DRYWALL INSTALLERS	11.72	1.00	.85	1.00	.07
ELECTRICIANS	15.90	1.00	3%+1.00		.015
ELEVATOR CONSTRUCTORS	14.88	1.345	.95	a	.035
ELEVATOR CONSTRUCTORS' HELPER	10.42	1.345	.95	a	.035
ELEVATOR CONSTRUCTORS' HELPER (Prob.)	7.44				
GLAZIERS	15.32	.92	.60	b	
IRONWORKERS:					
Structural, Ornamental, and Reinforcing	14.35	1.18	1.35		.17
MARBLE SETTERS	13.31	.85	1.15		.05
MILLWRIGHTS	14.66	1.10	1.00		.29
PAINTERS:					
Brush and Roller; Tapers, hand texture	11.54	.95	.70		.04
Paperhangers; Steel Brush	12.04	.95	.70		.04
Spray Painters	12.29	.95	.70		.04
Steel, Spray	12.79	.95	.70		.04
PLASTERERS	13.44				.01
PLUMBERS; Pipefitters	14.80	1.00	1.50	1.60	.10
ROOFERS	12.36	.84	.40		

DECISION NO. CO82-5104 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS	$15.96	3%+.90	$1.76		.17
SOFT FLOOR LAYERS	13.14	.80	1.30	1.00	.13
SPRINKLER FITTERS	15.31	.95	1.40		.08
TERRAZZO WORKERS	15.53	1.30	1.45		.04
TILE SETTERS	13.31	.85	.70		
TILE, MARBLE and TERRAZZO FINISHERS:					
Finishers	9.55	1.20	1.30	.50	
Floor Grinders	9.70	1.20	1.30	.50	
Base Grinders	10.25	1.20	1.30	.50	
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental					

FOOTNOTE:
a. Employer contributes 8% of basic hourly rate for over 5 years' service; 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays: A through F, plus the Friday after Thanksgiving Day
b. 15 days Paid Vacation after 1600 hours

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

LABORERS:	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1	ZONE 2				
Group 1	$ 9.40	$9.90	.84	.70	.50	.05
Group 2	9.68	10.18	.84	.70	.50	.05
Group 3	10.20	10.70	.84	.70	.50	.05

Group 1: Building Construction Laborer

Group 2: Laborers - Underpinning and Shoring eight (8) feet or more below working surface.
Power tool Operators of all mechanical, air, gas, and electrical tools, including Self-propelled Buggies and Cement Finishers Tenders. Laborers preparing and placing of stone or any other aggregate in sand bed to be used as exposed face of Tilt-up Panels.
Burners on Demolition and Welders, Gunnite Nozzleman and Sandblasters

Group 3: Pipelayers on Building Construction.
Jackhammer Operator for Underpinning and Shoring over twelve (12) feet below working surface, Bellers and Steemers on Caisson Work.
Tender, Mason and Plaster

ZONE DESCRIPTIONS

ZONE 1: That area encompassed by 0 to 30 driving miles from the Main Post Office in Colorado Springs
ZONE 2: That area encompassed by 30 or more driving miles from the Main Post Office in Colorado Springs

POWER EQUIPMENT OPERATORS: (Other than for work in Tunnels, Shafts, and Raises):	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1	ZONE 2				
Group 1	$11.60	$11.80	$1.03	$1.20	.60	.12
Group 2	11.95	12.70	1.03	1.20	.60	.12
Group 3	12.30	13.05	1.03	1.20	.60	.12
Group 4	12.45	13.20	1.03	1.20	.60	.12
Group 5	12.60	13.35	1.03	1.20	.60	.12
Group 6	12.75	13.50	1.03	1.20	.60	.12
(For work in Tunnels, Shafts, and Raises)						
Group 1	11.75	12.50	1.03	1.20	.60	.12
Group 2	12.10	12.85	1.03	1.20	.60	.12
Group 3	12.20	12.95	1.03	1.20	.60	.12
Group 4	12.45	13.20	1.03	1.20	.60	.12
Group 5	12.60	13.35	1.03	1.20	.60	.12
Group 6	13.00	13.75	1.03	1.20	.60	.12
Group 7	12.75	13.50	1.03	1.20	.60	.12
See ZONE DESCRIPTIONS - following TRUCK DRIVERS' classifications						

POWER EQUIPMENT OPERATORS
(Other than for work in Tunnels, Shafts, and Raises)

Group 1: Air Compressor; Asphalt Screed; Oiler; Brakeman; Drill Operator - smaller than Williams MF and similar; Tender to Heavy Duty Mechanic and/or Welder; Operators of 5 or more light plants, Welding Machines, Generators, single unit conveyor; Pumps; Vacuum Well Point System; Tractor, under 70 HP with or without attachments; Grade Checker; Compressors, 360 C.F.M. or less

Group 2: Conveyor, handling building materials; Ditch Witch and similar Trenching Machine; Fireman or Tank Heater, road; Forklift; Haulage Motor Man; Pugmill; Portable Screening Plant with or without a spray bar; Screening Plants, with classifier; Self-propelled Roller, rubber-tired under 5 tons

Group 3: Asphalt Plant; Backfiller, Bituminous Spreader or Laydown Machine; Cableway Signalman; Caisson Drill; Williams MF, similar and larger; C.M.I. and similar; Concrete Batching Plants; Concrete Finish Machine; Concrete Gang Saws on concrete paving; Concrete Mixer, less than 1 yd.; Concrete Placement Pumps, under 8 inches; Distributors, Bituminous Surfaces; Drill, Diamond or Core; Drill Rigs, Rotary, Churn, or Cable Tool; Elevating Graders, Equipment Lubricating and service Engineer; Engineer Fireman; Grout Machine; Gunnite Machine; Hoist, 1 drum; Hydraulic Backhoes, wheel mounted under 3/4 yd.; Loader, Barber Green, etc.; Loader up to and including 6 cu. yds.; Machine Doctor; Mechanic; Motor Grader/Blade, rough; Road Stabilization Machine; Rollers, self-propelled, all types over 5 tons; Sandblasting Machine; single unit portable crusher, with or without washer; Tie Tamper, wheel mounted; Tractor, 70 HP and over with or without attachments; Trenching Machine Operator; Welder; Winch on truck

Group 4: Cable operated Crane, truck mounted; Cable operated power Shovels, Draglines, Clamshells, and Backhoes, 5 cu. yds. and under; Concrete Mixer over 1 cu. yd.; Concrete Paver 34E or similar; Concrete Placement Pumps, 8 inches and over; Crane, 50 tons and under; Hoist, 2 drums; Hydraulic Backhoe, 3/4 yd. and over; Loader, over 6 cu. yds.; Mechanic-welder, heavy duty; Mixer mobile; Motor Grader/blade, finish; Multiple unit portable Crusher, with or without washer; Pile-driver; Scrapers, single bowl under 40 cu. yds.; Self-propelled Hydraulic Crane; Tractor with sideboom; Truck mounted Hydraulic Crane

POWER EQUIPMENT OPERATORS (Cont'd)
(Other than for work in Tunnels, Shafts and Raises)

Group 5: Cable operated power Shovels, Draglines, Clamshells and Backhoes over 5 cu. yds.; Crane, over 50 tons carrier mounted; Derrick; Electric rail type Tower Crane; Hoist, 3 drum or more; Quad Nine and similar push unit; Scrapers single bowl inlcuding pups 40 cu. yds. and tandem bowls and over

Group 6: Cableway; Climbing Tower Crane; Crawler or truck mounted Tower Crane; Wheel Excavator, Tower Crane, truck type

(For work in Tunnels, Shafts and Raises)

Group 1: Brakeman

Group 2: Motorman

Group 3: Compressor (900 CFM and over) serving Tunnels, Shafts and Raises

Group 4: Air Tractors; Grout Machine; Gunnite Machine; Jumbo Form; Mechanic; Welder

Group 5: Concrete Placement Pumps, 8" and over discharge; Mucking Machines and Front End Loaders, underground, Slusher; Mine Hoist Operator

Group 6: Mole

Group 7: Mechanic - Welder, heavy duty

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$9.36	.94	.70	.40	
Group 2	9.46	.94	.70	.40	
Group 3	9.56	.94	.70	.40	
Group 4	9.60	.94	.70	.40	
Group 5	9.66	.94	.70	.40	
Group 6	9.71	.94	.70	.40	
Group 7	9.76	.94	.70	.40	
Group 8	9.81	.94	.70	.40	
Group 9	9.91	.94	.70	.40	
Group 10	9.96	.94	.70	.40	
Group 11	10.06	.94	.70	.40	
Group 12	10.21	.94	.70	.40	
Group 13	10.26	.94	.70	.40	
Group 14	10.36	.94	.70	.40	
Group 15	10.46	.94	.70	.40	
Group 16	10.56	.94	.70	.40	
Group 17	10.66	.94	.70	.40	
Group 18	10.86	.94	.70	.40	

Group 1: Pickups; Tenders; Dumpmen

Group 2: Dump Trucks, to and including 6 cu. yds.; Sweepers; Flat Rack, single axle; Liquid and Bulk Tankers, single axle

Group 3: Dump Trucks, over 6 cu. yds. to and including 14 cu. yds.; Flat Rack, tandem axle; Battery Men; Mechanics' Tenders; Man Haul Shuttle Truck or Bus

TRUCK DRIVERS (Cont'd)

Group 4: Straddle Truck; Lumber Carrier; Liquid and Bulk Tankers, tandem axle

Group 5: Fork Lift Driver; Fuel Truck; Grease Truck; Combination Fuel and Grease

Group 6: Distributor Truck Driver; Cement Mixer, Agitator Truck to and including 10 cu. yds.; Liquid and Bulk Tankers, semi or combination

Group 7: Multi-purpose Truck; Specialty and Hoisting

Group 8: Dump Trucks, over 14 cu. yds. to and including 29 cu. yds.; High Boy, Low Boy, Floats, semi; Cab operated Distributor Truck Driver, semi; Liquid and Bulk Tankers, Euclid, Electric or similar; Truck Drivers, dumptor type Youngbuggy, Jumbo and similar type equipment

Group 9: Truck Driver, Snow Plow

Group 10: Cement Mixer, Agitator Truck, over 10 cu. yds., to and including 15 cu. yds.

Group 11: Dump Trucks, over 29 cu. yds. to and including 39 cu. yds.

Group 12: Cement Mixer, Agitator Truck, over 15 cu. yds.

Group 13: Dump Trucks, over 39 cu. yds. to and including 54 cu. yds.; Fireman

Group 14: Mechanic

Group 15: Dump Trucks, over 54 cu. yds. to and including 79 cu. yds.

Group 16: Heavy Duty Diesel, Mechanic, Body Men, Welders or Combination Men

Group 17: Dump Trucks, over 79 cu. yds. to and including 104 cu. yds.

Group 18: Dump Trucks, over 104 cu. yds.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MICHIGAN COUNTIES: SEE BELOW
DECISION NUMBER: MI82-2007 DATE: DATE OF PUBLICATION
Supersedes Decision Number MI81-2035, dated July 6, 1981, in 46 FR 34993.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including 4 stories) and HEAVY CONSTRUCTION PROJECTS (excluding Bridge, Airport, & Sewer Projects).

COUNTIES: BAY, GENESEE, HURON, IOSCO, LAPEER, SAGINAW, ST. CLAIR, SANILAC, SHIAWASSEE, & TUSCOLA.	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
St. Clair County	$16.21	2.84	1.97		.07
Remainder of Counties	15.33	1.35	2.25		
BOILERMAKERS	18.315	1.375	1.75		.05
BRICKLAYERS & STONE MASONS:					
Genesee, Lapeer, & Shiawassee Counties	14.72	1.20	1.65		.06
St. Clair & Sanilac Counties	15.68	1.40	1.30		
Remainder of Counties	14.02	1.0"	1.15		
CARPENTERS, PILEDRIVERMEN, & SOFT FLOOR LAYERS:					
Sanilac (except the west 5 mi. portion of county) & St. Clair Counties:					
Carpenters & Piledrivermen	17.205	1.25	11%		.05
Soft floor layers	15.21	1.25	9%		
Remainder of Counties:					
Carpenters & Piledrivermen	14.60	.85	1.00		.02
Soft floor layers	13.07	.85	1.00		.01
CEMENT MASONS:					
St. Clair & Sanilac Counties	14.80	1.60	1.40		
Lapeer County	13.40	1.20	1.65		
Genesee & Shiawassee Counties	12.80	.90	1.25		.02
Remainder of Counties	13.32	1.05	1.15		
ELECTRICIANS:					
Iosco (Northern ½) County:					
Contracts over $35,000.00	14.19	.85	3% + 1.18		1/10 of 1%
Contracts under $35,000.00	11.35	.85	3% + 1.18		1/10 of 1%
Bay & Iosco (Southern ½) Counties	15.82	.85	3% + 1.18		½ of 1%
Genesee, Lapeer, & Shiawassee Counties	15.71	.85	1.18		
Saginaw & Tuscola Counties	15.05	1.05	3% + 1.50		½ of 1%
Remainder of Counties	17.80	1.85	3% + 1.45		.06
ELEVATOR CONSTRUCTORS:					
St. Clair County:					
Mechanics	17.00	1.345	.95	a	.035
Helpers	11.90	1.345	.95	a	.035
Probationary helpers	8.50				
Remainder of Counties:					
Mechanics	15.53	1.345	1.085	a	.035
Helpers	10.87	1.345	1.085	a	.035
Probationary helpers	7.765				

DECISION NO. MI82-2007

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS:					
Genesee, Lapeer, & Shiawassee Counties	$13.14	1.14	1.15		.02
St. Clair & Sanilac Counties	14.69	.85	1.45		.02
IRONWORKERS:					
Structural & Ornamental	14.98	11%	18%	18%	.09
Reinforcing	13.08	19%	19%	17%	.61%
Fence Erectors	12.80	9%	17%	18%	.09
LABORERS:					
Iosco County:					
General laborers	9.50	.75	.65		.04
Mortar mixers, plaster mixers, sewer & caisson workers, plasterer tenders, vibrator ops., operators of concrete mixers, chipping hammers, concrete breakers (90 lb. hammers or less), tamping machines, motor driven buggies, & sand blasters	9.65	.75	.65		.04
Cement gun nozzlemen	10.10	.75	.65		.04
LATHERS	13.91	1.06	1.00		.01
MARBLE, TILE, & TERRAZZO WORKERS:					
Genesee, Lapeer, & Shiawassee Counties	14.30	.90	1.65		
St. Clair, Sanilac Counties:					
Marble setters	15.93	1.00	2.25		
Tile setters	15.32	1.00	2.25		
Terrazzo workers	14.77	1.00	2.25		
Remainder of Counties	14.36		.40		
PAINTERS:					
Bay, Huron (West of M-53), Iosco, & Tuscola (Townships of Akron, Almer, Columbia, Elkland, Ellington, Elmwood, Fairgrove, Gilford, Novesta, & Wisner) Counties:					
New Construction:					
Brush, roller, & taper	12.55	.65	1.00		
Spray & sandblast	13.40	.65	1.00		
Repaint Work:					
Brush, roller, taper	11.95	.65	1.00		
Spray & sandblast	12.80	.65	1.00		
Industrial Work:					
Brush, roller, & taper	13.35	.65	1.00		
Spray & sandblast	14.20	.65	1.00		

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DECISION NO. MI82-2007	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (Cont'd):					
Saginaw & Tuscola (Remainder of County) Counties:					
Brush & Roller	$12.60	.65	1.05		.02
Wall covering, open structural steel, swing stage, & boatswain chair	13.20	.65	1.05		.02
Sandblast & Spray	13.35	.65	1.05		.02
Shiawassee County (Western ½):					
Brush & Roller & Drywall (hand)	14.80	.65	.40		.0025
Structural steel towers	15.20	.65	.40		.0025
Spray, sandblast, & drywall (machine)	15.55	.65	.40		.0025
Paperhanging	15.15	.65	.40		.0025
Genesee, Lapeer, Shiawassee (Remainder of County) Counties:					
Brush & Roller	12.75	1.10	1.05		
Spray, paper & vinyl hangers, swing stage, boatswain chair, & window jacks	13.05	1.10	1.05		
Sandblast & steamcleaning	13.25	1.10	1.05		
Drywall taper (Hand)	13.15	1.10	1.05		
Drywall taper (Machine)	13.50	1.10	1.05		
Drywall sander	11.75	1.10	1.05		
Huron (Remainder of County), St. Clair, & Sanilac Counties:					
New Construction:					
Brush & Roller	15.71	.70	1.00		.02
Spray & Sandblast	16.21	.70	1.00		.02
Repaint Work:					
Brush & Roller	14.14	.70	1.00		.02
Spray & Sandblast	14.59	.70	1.00		.020
PLASTERERS:					
Lapeer County	13.65	1.20	1.65		
Bay, Huron, Iosco, Saginaw, & Tuscola Counties	14.32	1.05	.40		
Genesee & Shiawassee Counties	12..0	.70	1.25		.02
St. Clair & Sanilac Counties	15.08	1.60	1.40		
PLUMBERS & PIPEFITTERS:					
Genesee, Lapeer, & Shiawassee Counties	16.71	1.40	1.05		.08
St. Clair & Sanilac Counties:					
Plumbers	14.15	1.65	1.80	1.69	.11
Steamfitters	15.00	1.65	1.70	2.00	.11

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DECISION NO. MI82-2007	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS (Cont'd):					
Bay, Huron (NW ½), Iosco, & Tuscola (N. ½) Counties	$16.12	1.30	1.00		.10
Saginaw & Tuscola (S. ½) Cos.	15.37	1.09	1.75		.10
Huron (Remainder of Co.) Co.:					
Plumbers	14.15	1.65	1.80	1.69	.11
Steamfitters	15.00	1.65	1.70	2.00	.11
ROOFERS:					
Bay, Huron, Iosco, Saginaw, & Tuscola Counties	13.65	1.40	1.40		.02
Genesee, Lapeer, Shiawassee Cos.:					
Composition	14.75	.90	1.20		
Slate, Tile, & Wood fiber	15.10	.90	1.20		
St. Clair & Sanilac Counties	11.20				
SHEET METAL WORKERS:					
Bay, Huron, Iosco, Saginaw, & Tuscola Counties	15.53	1.00	1.20		.06
Genesee, Lapeer, & Shiawassee Counties	15.63	.89	1.40		.04
St. Clair & Sanilac Counties	14.85	2.58	2.686	1.653	.2&1
SPRINKLER FITTERS	15.65	.95	1.40		.08
TRUCK DRIVERS:					
Bay, Iosco, Saginaw, & Tuscola Counties:					
Trucks under 8 cubic yards	10.30	a 42.50	41.00 a		
Trucks 8 cubic yards & over	10.40	b 42.50	41.00 b		
Semi-double bottom, low boy, Pitman ops. or related equip.	10.50	b 42.50	41.00 b		
Euclid type equipment	10.60	b 42.50	41.00 b		
Huron, St. Clair, & Sanilac Cos.:					
Pole trailers, low boys, straddle carriers, double bottoms & special load permit drivers	13.55	b 39.50	41.00 b		
Semi drivers	13.45	b 39.50	41.00 b		
All other truck drivers	13.30	b 39.50	41.00 b		
WELDERS - RATE FOR CRAFT.					

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day after Thanksgiving Day, & Christmas Day; and Vacation Pay Credit: employer contributes 4% of the basic hourly rate for employees with 5 years or more of service, or 6% of the basic hourly rate for employees with 6 months to 5 years of service.

b. Per Week, Per Employee

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clause (29 CFR, 5.5 (a) (1) (ii)).

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Bay, Huron, Saginaw & Tuscola Counties					
CLASS A	$ 11.24	.75	.65		.04
CLASS B	11.36	.75	.65		.04
CLASS C	11.44	.75	.65		.04
CLASS D	12.01	.75	.65		.04
Genesee, Lapeer & Shiawassee Cos.,					
CLASS A	11.56	.75	.95		.04
CLASS B	11.71	.75	.95		.04
CLASS C	11.81	.75	.95		.04
CLASS D	11.91	.75	.95		.04
CLASS E	12.16	.75	.95		.04
St. Clair & Sanilac Counties:					
CLASS 1	13.40	.75	.65		.04
CLASS 2	13.52	.75	.65		.04
CLASS 3	13.65	.75	.65		.04
CLASS 4	13.57	.75	.65		.04
CLASS 5	13.75	.75	.65		.04

LABORERS:

Bay, Huron, Saginaw & Tuscola Counties

CLASS A - All Construction Laborers on Building & Heavy Construction not specified in classes. B, C, & D, below; Also includes pumps with a 3" or less discharge and not hooked up in a battery; Mechanized Buggy Operator & Mortar Mixer when done by hand.

CLASS B - Mechanized Mortar Mixers; Air, electric and gas driven tools; vibrators

CLASS C - Air or Electric driven pavement Breakers; Plasterers Tenders; Plaster Mixers; Crock and/or Pipelayers; Signal Men & Top Man; Windlass and Tugger Operator; Caisson Worker

CLASS D - Drillers & Plasters; Burners

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LABORERS (CONT'D)

Genesee, Lapeer & Shiawassee Counties

CLASS A - Construction Laborers not specified in Classes B & E below

CLASS B - Mortar Mixer (includes concrete mixer ½ cu. yds. or smaller) Signal Men & Top men (on caisson work; Air, Gasoline or Electric Tool Operators.

CLASS C - Jackhammer & Air Spade; Tunnel Man Windlass Operators (on caisson work); Burner

CLASS D - Crock or Pipe Layers; Conduit and any Vertified Tile except 4" drain tile around Building; Caisson Workers & Tunnel Muckers

CLASS E - Tunnel Miners

St. Clair & Sanilac Counties

GROUP 1 - General Laborers; Mason Tenders; all Demolition Laborers

GROUP 2 - Mortar Mixers (Hand or Machine)

GROUP 3 - Air, Electric, Gas, Tool, Pump Operators

GROUP 4 - Concrete Gas Buggies; Concrete Saw Operators, Plasterers Tenders

GROUP 5 - Crock or Pipelayers - caisson workers in buildings

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LC-ZONE-I

LINE CONSTRUCTION HURON, LAPEER, ST. CLAIR, SANILAC & TUSCOLA COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lineman - Technician	$17.38	1.70	11%		4%
Cable Splicer	18.12	1.70	11%		4%
Combination equipment Operator & Groundman	13.94	1.70	11%		4%
Combination Driver-Groundman	13.12	1.70	11%		4%
Groundman	12.09	1.70	11%		4%

LC-ZONE-II

LINE CONSTRUCTION: ZONE II BAY, IOSCO, GENESEE, SAGINAW & SHIAWASSEE COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lineman; Technician	$13.72	.45	3%+4%	a+5%	.5%
Cable Splicer	14.28	.45	3%+4%	a+5%	.5%
Combination Digger Operator Tractor Operator Groudman	10.72	.45	3%+4%	a+5%	.5%
Light Equipment Operator Groundman: Distribution Line Truck Driver Operator Groundman	9.42	.45	3%+4%	a+5%	.5%
Combination Winch Truck	8.99	.45	3%+4%	a+5%	.5%
Combination Truck Driver Groundman	7.62	.45	3%+4%	a+5%	.5%

FOOTNOTE:
a. Seven Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day after Thanksgiving Day, & Christmas Day, provided the employee works the scheduled work day preceeding and the next work day following the day observed.

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MICH-1-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION ST. CLAIR COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$16.34	1.15	2.10	13%	.10
CLASS B	16.12	1.15	2.10	13%	.10
CLASS C	15.56	1.15	2.10	13%	.10
CLASS D	15.08	1.15	2.10	13%	.10
CLASS E	14.71	1.15	2.10	13%	.10
CLASS F	12.46	1.15	2.10	13%	.10
CLASS G	11.64	1.15	2.10	13%	.10

CLASS A - Crane with boom & jib or leads 220' or longer
CLASS B - Crane with boom and jib or leads 140' or longer
CLASS C - Crane with boom and jib 120' or longer
CLASS D - Crane Operator
CLASS E - Regular Engineer
CLASS F - Engineer when operting compressor or welding machine
CLASS G - Fireman or Oiler

ICH-2-PEO-22

POWER EQUIPMENT OPERATORS: STEEL ERECTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$18.52	1.15	2.10	13%	.10
CLASS B	18.24	1.15	2.10	13%	.10
CLASS C	17.25	1.15	2.10	13%	.10
CLASS D	17.02	1.15	2.10	13%	.10
CLASS E	13.95	1.15	2.10	13%	.10
CLASS F	12.65	1.15	2.10	13%	.10

CLASS A - Engineer when operating combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom jib 140' or longer Tower crane & derrick operator (where operators work stations is 501 or more above first sub level
CLASS C - Crane operator job mechanic
CLASS D - Hoisting operator
CLASS E - Compressor (or welder) operator
CLASS F - Oiler or fireman

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MICH-3-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION REMAINDER OF COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$16.20	1.15	2.10		.10
CLASS B	15.9[illegible]	1.15	2.10		.10
CLASS C	15.4[illegible]	1.15	2.10		.10
CLASS D	13.85	1.15	2.10		.10
CLASS E	13.55	1.15	2.10		.10
CLASS F	12.15	1.15	2.10		.10
CLASS G	11.30	1.15	2.10		.10

CLASS A - Crane with main boom & jib 220' or longer

CLASS B - Crane with main boom & jib 140' or longer, tower cranes, gantry cranes, whirley derrick

CLASS C - Regular equipment operator, cranes stiff leg derrick, scraper, dozer, grader, front end loader, hoist, job mechanic & head grease man

CLASS D - Aif Tugger (single drum), Material Hoist, Boiler Oprs., Sweeping Machine, winch Truck, Bob Cat & Similar type equipment, Fork Truck (over 20' lift

CLASS E - Pump 6" or over, Well Points, Freeze systems, Boom truck (non Swinging Fork Truck (20' Lift)

CLASS F - Air Compressor, Welder, Generators, Pumps under 6", Grease Man, Conveyors

CLASS G - Oiler, Firemen & Heater Operator

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MICH-9-PEO-U

POWER EQUIPMENT OPERATORS - UNDERGROUND CONSTRUCTION: IOSCO COUNTY:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$12.22	1.15	2.10	13%	.10
CLASS II	11.79	1.15	2.10	13%	.10
CLASS III	11.35	1.15	2.10	13%	.10
CLASS IV	11.10	1.15	2.10	13%	.10

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8" digging capacity), mechanic, endloader (over 1¼ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade or over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip from paver slope paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1¼ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom) tractor (neu-tired, other than backhoe or front endloader, crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min, or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ cu. yd. or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - including compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4"discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

SUPERSEDEAS DECISION

STATE: MICHIGAN — DECISION NUMBER: MI82-2012
COUNTIES: ALLEGAN, BARRY, BERRIEN, BRANCH, CALHOUN, CASS, CLINTON, EATON, HILLSDALE, INGHAM, IONIA, JACKSON, KALAMAZOO, LENAWEE, ST. JOSEPH, & VAN BUREN.
Supersedes Decision Number MI81-2036, dated July 6, 1981, in 46 FR 34986.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartment up to and including 4 stories) and HEAVY CONSTRUCTION PROJECTS (excluding Bridge, Airport, & Sewer Projects).
DATE: DATE OF PUBLICATION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Berrien & Cass Counties	$16.96	.97	1.60		
Remainder of Counties	15.33	1.35	2.25		
BOILERMAKERS:					
Hillsdale & Lenawee Counties	17.90	1.275	1.50		.28
Remainder of Counties	18.315	1.375	1.75		.05
BRICKLAYERS & STONE MASONS:					
Allegan (Northern tier twps.), Barry (Northern tier twps.), & Ionia (W. ½) Counties	13.40	.75	.35		.04
Allegan (SE. 2/3), Barry (SW. ½), Kalamazoo, St. Joseph, & Van Buren (E. ½) Counties	12.41	1.15	.70		.09
Allegan (Remainder of Co.), Berrien, Cass, & Van Buren (Remainder of Co.) Counties	13.35	1.15	1.35		
Barry (Remainder of Co.), Eaton (SW. Corner), & Calhoun Cos.	14.35	.85	1.25		
Clinton, Eaton (Remainder of Co.), Ingham (Except the Twps. of Onondaga, Leslie, Bunker Hill, & Stockbridge), & Ionia (Remainder of Co.) Counties	15.35		1.10		.01
Ingham (Remainder of Co.) & Jackson Counties	15.50	1.10	1.00		
Branch & Hillsdale Counties	13.80	1.17	1.20		.01
Lenawee County	14.88	1.16	.55		.05
CARPENTERS, PILEDRIVERMEN, & SOFT FLOOR LAYERS:					
Clinton, Eaton (Except the Twps. of Bellevue, Walton, Kalamo, & Vermontville), Ingham, & Ionia (SE. Corner) Counties:					
Carpenters & Piledrivermen	14.62	.85	1.00		.05
Soft floor layers	13.07	.85	1.00	.82	.01
Jackson & Lenawee Counties	14.62	.85	1.00		.05
Berrien (Twps. of Chikaming, New Buffalo, & Three Oaks) Co.					
Carpenters & Piledrivermen	16.00	1.20	1.50		.07
Remainder of Counties:					
Carpenters	13.79	.85	1.00		.10
Piledrivermen	14.19	.85	1.00		.10
Soft floor layers	11.69	.85	1.00		.10

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MICH-8-PED-F

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POWER EQUIPMENT OPERATORS - UNDERGROUND CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
RESIDENT OF COUNTIES:					
CLASS I	$13.73	1.15	2.10	13%	.10
CLASS II	13.44	1.15	2.10	13%	.10
CLASS III	12.80	1.15	2.10	13%	.10
CLASS IV	12.29	1.15	2.10	13%	.10

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8' digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (5' blade or over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, wall drilling rig, slip from paver slope paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom) tractor (neu-tired, other than backhoe or front endloader, crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min, or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ cu. yd. or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - including compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4"discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS & PLASTERERS:					
Branch & Hillsdale Counties	$13.80	1.17	1.20		.01
Lenawee County:					
Cement masons	14.14	1.16	.55		.05
Plasterers	13.79	1.16	.55		.05
St. Joseph County:					
Cement masons	11.59	1.15	.70		.09
Plasterers	12.41	1.15	.70		.09
Ionia County:					
Cement masons	12.07	.90	1.00		.02
Plasterers	13.54	.90	1.00		.03
Allegan (W. ½), Berrien, Cass, & Van Buren (W. ½) Counties:					
Cement masons	11.38	1.15	1.35		
Plasterers	12.75	1.15	1.35		
Remainder of Counties:					
Cement masons	13.05	.90	1.00		.02
Plasterers	13.54	.90	1.00		.03
ELECTRICIANS:					
Berrien & Cass Counties	15.60	4.8%	9%		½ of 1%
Hillsdale & Lenawee Counties	17.40	.85	3% + .95		.3%
Ionia (Except SE. Corner) Co.	11.00	.85	3% + .35		.01
Clinton, Eaton (Except the Twps. of Sunfield, Vermontville, Kalamo, Bellevue, Eaton, & Brookfield), Ingham (Except the Twps. of Onondaga, Leslie, Stockbridge, & Bunker Hill), & Ionia (Remainder of Co.) Counties	15.52	.85	3% + 1.50		½ of 1%
Ingham (Remainder of Co.) & Jackson Counties	16.52	1.00	1.19		2%
Barry (E. ½), Branch, Calhoun, & Eaton (Remainder of Co.) Counties	15.19	.85	9%		½ of 1%
Remainder of Counties	15.16	.85	9½%		½ of 1%
ELEVATOR CONSTRUCTORS:					
Ionia County:					
Mechanics	13.99	1.345	1.085	a	.035
Helpers	9.79	1.345	1.085	a	.035
Probationary helpers	6.995				
Clinton County:					
Mechanics	15.53	1.345	1.085	a	.035
Helpers	10.87	1.345	1.085	a	.035
Probationary helpers	7.765				

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ELEVATOR CONSTRUCTORS (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Eaton, Hillsdale, Ingham, & Jackson Counties:					
Mechanics	$16.60	1.345	1.085	a	.035
Helpers	11.62	1.345	1.085	a	.035
Probationary helpers	8.30				
Lenawee County:					
Mechanics	16.57	1.345	1.085	a	.035
Helpers	11.60	1.345	1.085	a	.035
Probationary helpers	8.285				
Remainder of Counties:					
Mechanics	15.13	1.345	1.085	a	.035
Helpers	10.59	1.345	1.085	a	.035
Probationary helpers	7.565				
GLAZIERS:					
Allegan (N. ½), Barry (N. ½), & Ionia Counties	11.00	.75	.40		
Allegan (S. ½), Barry (S. ½), Branch, Calhoun, Kalamazoo, St. Joseph, & Van Buren Cos.	11.75		.15		
Lenawee County	14.69	.85	1.45		.02
Remainder of Counties	13.14	1.14	1.15		.02
IRONWORKERS:					
Lenawee County	16.58	1.06	1.82		.09
Berrien & Cass Counties	14.40	1.00	2.68		.03
Clinton, Ingham, & Jackson Cos.:					
Ornamental & Structural	14.98	11%	18%	18%	.09
Reinforcing	13.08	1.98	19%	19%	.6166
Remainder of Counties	14.97	1.06	1.40		.20
LATHERS:					
Lenawee (E. ½) County	16.32	1.63	2.21		
Clinton, Eaton (Except SW. Corner), Ingham, Ionia (SE. Corner), Jackson, Lenawee (Remainder of Co.) Counties	13.91	1.06	1.00		.01
Remainder of Counties (Except SW Corner of Berrien Co.)	13.03	1.06	1.00		.01
MARBLE, TILE, & TERRAZZO WORKERS					
Branch & Hillsdale Counties	13.80	1.17	1.20		.01
Ingham (Southern tier Twps.), & Jackson Counties:					
Marble setters	15.30	1.10	1.00		
Tile & Terrazzo workers	13.94	1.10	1.00		
Clinton, Eaton (Except SW. Corner), Ingham (Remainder of County), & Ionia (E. ½) Cos.	14.03		1.10		

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MARBLE, TILE, & TERRAZZO WORKERS (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Barry (SE. ¼), Calhoun, & Eaton (Remainder of Co.) Cos.:					
Marble setters	$14.35	.85	1.25		
Tile & Terrazzo workers	10.52	.85	.35		
Allegan (Northern Tier Twps.), Barry (Northern Tier Twps.), & Ionia (W. ½) Counties	12.51	.75	.35		
Allegan (E. ½), Barry (Remainder of Co.), Kalamazoo, St. Joseph, & Van Buren (E. ½) Counties	10.75	.90			.05
PAINTERS:					
Allegan (Northern Portion) & Ionia (W. ½) Counties:					
Brush & Roller	11.25	.65	.40		.02
Swing stage & window jacks	11.75	.65	.40		.02
Spray, pressure roller, steam cleaning, sand & Water blast Paper hangers, wall coverers, drywall finishers, & Painters on railroad bridges	12.00	.65	.40		.02
Allegan (NE. ½), Berrien, Cass (W. ½), & Van Buren (W. ½) Counties:	11.50	.65	.40		.02
Brush & Roller	13.30				
Spray, sandblast, drywall finishers, tapers, swing stage, bosunwain chair, steeple jack, & structural steel	14.896				
Allegan (Remainder of Co.), Cass (Remainder of Co.), Kalamazoo, & St. Joseph Cos.:					
Brush, roller, & drywall taping	13.60	.70	.40		
Wallpaper - vinyl	13.80	.70	.40		
Structural steel	14.25	.70	.40		
Steeple jack	14.45	.70	.40		
Spray, sandblast, & swing stage	14.80	.70	.40		

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PAINTERS (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Barry, Branch, Calhoun, Hillsdale (W. 1/3) Counties:					
Brush & Roller	$12.90	.70	.25		
Swing stage, spray, sandblasting, drywall tapers, & wall covering	13.50	.70	.25		
Hillsdale (Remainder of Co.), Jackson, & Lenawee Counties:					
Brush & Roller	13.25	1.25	1.50	1.25	
Spray, sandblast, swing stage, & open steel	13.75	1.25	1.50	1.25	
Remainder of Counties:					
Brush, roller, & drywall (hand)	14.80	.65	.40		.0025
Structural steel & towers	15.20	.65	.40		.0025
Spray, sandblast, & drywall (machine)	15.55	.65	.40		.0025
PLUMBERS & PIPEFITTERS:					
Allegan (Northern tier Twps.), Barry (Northern tier Twps.), & Ionia (Except NE. Corner) Counties	14.89	.85	1.50		.02
Allegan (Remainder of Co.), Barry (SW. ¼), Kalamazoo, St. Joseph, & Van Buren Counties	16.04	.80	1.85		
Barry (Remainder of Co.), Branch, Eaton(Except Northern tier Twps.), & Calhoun Cos.	16.48	1.56	1.70		.08
Berrien County	15.69	1.22	1.00		.10
Cass County	15.28	.75	1.20		.10
Clinton, Eaton (Remainder of Co.), & Ingham Counties	15.43	1.30	2.00		.10
Hillsdale, Jackson, & Lenawee (Except NE. Corner) Counties	15.55	1.65	1.72		.05
Lenawee (NE Corner) County	14.93	1.30	.90	2.00	.05
ROOFERS:					
Allegan, Barry, & Ionia Counties:					
Slate, Tile, & Asbestos	10.85	1.10	.40		
Built-up	10.60	1.10	.40		
Berrien County:					
Composition	13.60	.80	.75		.03
Slate & Tile	14.10	.80	.75		.03
Clinton, Eaton, & Ingham Cos.	11.33	1.00	.70	.70	
Hillsdale & Jackson Counties	14.90	1.30	1.00	1.50	.10
Lenawee	15.95	1.06	2.00		.03

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ROOFERS (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Remainder of Counties:					
Roofers	$13.55				
‡ Slate & Tile	13.80				
Pitch work	14.05				
SHEET METAL WORKERS:					
Berrien, Cass, St. Joseph, & Van Buren (Western End) Cos.	15.76	.95	1.04		.07
Lenawee County	16.145	1.06	2.18		.075
Remainder of Counties	15.47	1.25	1.89		.09
SPRINKLER FITTERS	15.65	.95	1.40		.08
TRUCK DRIVERS:					
Allegan, Barry, Berrien, Cass, Kalamazoo, St. Joseph, & Van Burens					
Straight or dump trucks	10.02	b 39.50	b 46.00		
Semi and double bottom trucks	10.42	b 39.50	b 46.00		
Ionia (W. ½) County:					
Trucks 8 cu. yds. & Under	10.47	b 39.50	b 30.00		
Trucks over 8 cu. yds.	10.57	b 39.50	b 30.00		
Semi trucks, mechanics	10.67	b 39.50	b 30.00		
Clinton, Eaton (N. ½), Ingham, Ionia (Remainder of Co.) Cos.:					
Dump trucks 8 cu. yds. & Over, & Pole trailers	10.26	b 39.50	b 41.00		
Lowboy & Double bottom trucks	10.36	b 39.50	b 41.00		
All Other Trucks	10.16	b 39.50	b 41.00		

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day after Thanksgiving Day, & Christmas Day; and Vacation Pay Credit: Employer contributes 6% of the basic hourly rate for employees with 5 years or more of service, or 6% of the basic hourly rate for employees with 6 months to 5 years of service.

b. Per Week, Per Employee

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clause (29 CFR, 5.5 (a) (1) (ii)).

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LABORERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ALLEGAN, BARRY, BERRIEN, BRANCH, CALHOUN, CASS, KALAMAZOO, ST. JOSEPH, & VAN BUREN COUNTIES:					
GROUP 1	$10.50	.75	.65		.04
GROUP 2	10.65	.75	.65		.04
GROUP 3	10.75	.75	.65		.04
GROUP 4	11.00	.75	.65		
Clinton, Eaton and Ingham Counties					
GROUP 1	11.35	.75	.65		.04
GROUP 2	11.43	.75	.65		.04
GROUP 3	11.49	.75	.65		.04
GROUP 4	11.64	.75	.65		.04
GROUP 5	11.59	.75	.65		.04
GROUP 6	11.71	.75	.65		.04
GROUP 7	11.965	.75	.65		.04
HILLSDALE, JACKSON, LENAWEE COS.:					
GROUP 1	11.33	.75	.65		.04
GROUP 2	11.95	.75	.65		.04
IONIA COUNTY:					
GROUP 1	10.01	.75	.65		.04
GROUP 2	10.16	.75	.65		.04
GROUP 3	10.26	.75	.65		.04
GROUP 4	10.51	.75	.65		.04

LABORERS:

ALLEGAN, BARRY, BERRIEN, BRANCH, CALHOUN, CASS, KALAMAZOO, ST. JOSEPH, VAN BUREN & IONIA COUNTIES:

Group 1 - All construction laborers on buildings and Heavy Construction Pumps and Well Wheels

Group 2 - Plasterer Tenders, Material Mixers, Operators of Portable Mixers; Air, Electric or Gasoline Tools; Motor Driven Buggies; Swing Scaffolds

Group 3 - Jackhammer Oprs., Crocklayers & Caisson Workers in Building

Group 4 - Top men on Chimney or Towers over 30' in height

Clinton, Eaton and Igham Counties

Group 1 - Building Laborers

Group 2 - Mortar Mixers, hand or machine

Group 3 - Plasterer Tenders; Portable concrete mixer Opr., (14 and under); Air, Electric or Gasoline Tools; Tar Kettle tenders; Gasoline vibrators; Concrete gas buggies; concrete saw; Signal men and top men

Group 4 - Tunnel men; concrete shovelers; Car pushers, etc.

Group 5 - Windlass Operator (on caisson work)

Group 6 - Crock Layers (or pipe layers); Caisson workers; Tunnel muckers

Group 7 - Tunnel Miners

HILLSDALE, JACKSON, & LENAWEE COUNTIES:

Group 1- General Laborer

Group 2- Jackhammer and Acetylene Torch

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LC ZONE I

LINE CONSTRUCTION WILLIAMSTON, LOCKE, LEROY, WHEATFIELD & WHITE OAK TOWNSHIPS IN INGHAM COUNTY	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lineman - Technician	$17.38	1.70	11%		½%
Cable Splicer	16.12	1.70	11%		½%
Combination Equipment Oprs. & Groundman	13.94	1.70	11%		½%
Combination Driver & Groundmen	13.12	1.70	11%		½%
Groundman	12.09		11%		½%

LC ZONE II

LINE CONSTRUCTION: ZONE II REMAINING COS: & THE REMAINDER OF INGHAM COS.	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lineman; - Technician	13.72	.45	3%+4%	a+5%	.5%
Cable Splicer	14.28	.45	3%+4%	a+5%	.5%
Combination Digger Oprs., Tractor Oprs., Groundman	10.72	.45	3%+4%	a+5%	.5%
Light Equipment Opr., Groundman; Distribution Line					
Truck Driver Operator - Groundman	9.42	.45	3%+4%	a+5%	.5%
Combination Winch Truck Driver Groundman:	8.99	.45	3%+4%	a+5%	.5%
Combination Truck Driver Groundman	7.62	.45	3%+4%	a+5%	.5%

FOOTNOTE:

a. 7 paid Holiday; New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; and Christmas Day.

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DECISION NO. MI82-2012

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION - LENAWEE COUNTY:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$16.34	1.15	2.10	13%	.10
CLASS B	16.12	1.15	2.10	13%	.10
CLASS C	15.56	1.15	2.10	13%	.10
CLASS D	15.08	1.15	2.10	13%	.10
CLASS E	14.71	1.15	2.10	13%	.10
CLASS F	12.46	1.15	2.10	13%	.10
CLASS G	11.64	1.15	2.10	13%	.10

CLASS A - Crane with boom & jib or leads 220' or longer

CLASS B - Crane with boom & jib or leads 140' or longer

CLASS C - Crane with boom & jib or leads 120' or longer

CLASS D - Regular Crane Operator

CLASS E - Regular Engineer

CLASS F - Engineer when operating Compressor or Welding Machine

CLASS G - Fireman or Oiler

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MICH-1-PEO-1-2

POWER EQUIPMENT OPERATORS: BUILDING & HEAVY CONSTRUCTION REMAINDER OF COUNTIES:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$16.20	1.15	2.10		.10
CLASS B	15.95	1.15	2.10		.10
CLASS C	15.45	1.15	2.10		.10
CLASS D	13.85	1.15	2.10		.10
CLASS E	13.55	1.15	2.10		.10
CLASS F	12.15	1.15	2.10		.10
CLASS G	11.30	1.15	2.10		.10

CLASS A - Crane with main boom & jib 220' or longer

CLASS B - Crane with main boom & jib 140' or longer, tower cranes, gantry cranes, whirley derrick

CLASS C - Regular equipment operator, cranes, stiff leg derrick, scraper, dozer, grader, front end loader, hoist, job mechanic & head grease man

CLASS D- Air Tugger (single drum), Material Hoist, Boiler Oprs., Sweeping Machine, winch Truck, Bob Cat & Similar type equipment, Fork Truck (over 20' lift)

CLASS E - Pump 6" or over, Well Points, Freeze systems, Boom truck (non Swinging) Fork Truck (20' Lift)

CLASS F - Air Compressor, Welder, Generators, Pumps under 6", Grease Man, Conveyors

CLASS G - Oiler, Firemen & Heater operator

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MICH-2-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION CLINTON, INGHAM, JACKSON, & LENAWEE COUNTIES:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$18.52	1.15	2.10	13%	.10
CLASS B	18.24	1.15	2.10	13%	.10
CLASS C	17.25	1.15	2.10	13%	.10
CLASS D	17.02	1.15	2.10	13%	.10
CLASS E	13.95	1.15	2.10	13%	.10
CLASS F	12.65	1.15	2.10	13%	.10

CLASS A - Engineer when operating combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom & jib 140" or longer Tower crane & derrick operator (where operators work stations is 501 or more above first sub level)
CLASS C - Crane operator job mechanic
CLASS D - Hoisting operator
CLASS E - Compressor (or welder) operator
CLASS F - Oiler or fireman

MICH-6-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION REMAINING COUNTIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$16.55	1.15	2.10		.10
CLASS B	16.30	1.15	2.10		.10
CLASS C	15.80	1.15	2.10		.10
CLASS D	14.20	1.15	2.10		.10
CLASS E	12.85	1.15	2.10		.10
CLASS F	11.50	1.15	2.10		.10

CLASS A - Crane operator w/main boom & jib 220' or longer
CLASS B - Crane operator w/main boom & jib 140' or longer; power cranes, gantry crane; whirley derrick
CLASS C - Regular equipment operator; crane, dozer, loader; hoist, straddle wagon, Job mechanic
CLASS D - Air tugger (single drum); material hoist, pump 6" or or over
CLASS E - Air compressor, welder, generators-conveyors
CLASS F - oiler & Fireman

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MICH-8-PEO-U

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION BRANCH, CALHOUN, CLINTON, EATON, HILLSDALE, INGHAM, JACKSON, & LENAWEE COUNTIES:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$13.73	1.15	2.10	13%	.10
CLASS II	13.44	1.15	2.10	13%	.10
CLASS III	12.80	1.15	2.10	13%	.10
CLASS IV	12.29	1.15	2.10	13%	.10

CLASS I - Power shovel, crane (crawler, truck type or pile driving); dragline, backhoe, calmshell, trencher (over 8" digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade & over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip from paver slope paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom), tractor(pneu-tired, other than backhoe or front endloader), crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ cu. yd. or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - includes compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4" discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment; farm tractor (with attachment), finishing machine (concrete),roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

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MICH-9-PEO-U

POWER EQUIPMENT OPERATORS: UNDERGROUND CONSTRUCTION REMAINING COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$12.22	1.15	2.10	13%	.10
CLASS II	11.79	1.15	2.10	13%	.10
CLASS III	11.35	1.15	2.10	13%	.10
CLASS IV	11.10	1.15	2.10	13%	.10

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8" digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade or over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip from paver slope paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom) tractor (neu-tired, other than backhoe or front endloader, crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min. or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ cu. yd. or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - including compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4"discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

SUPERSEDEAS DECISION

STATE: MICHIGAN COUNTY: INGHAM
DECISION NUMBER: MI82-2005 DATE: DATE OF PUBLICATIONS
Supersedes Decision Number MI81-2058, dated August 28, 1981, in 46 FR 43632.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - consisting of single family homes and apartments up to and including four (4) stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$10.58				
CARPENTERS	11.81	.75	.90		.05
CEMENT MASONS	11.33				
DRYWALL FINISHERS/TAPERS	12.75	.55	.40		.01
DRYWALL HANGERS	10.81	.60	.80		.05
ELECTRICIANS	10.28				
LABORERS:					
General laborers	7.88				
Landscape laborers	4.20				
PAINTERS	11.44	.65	.40		.0025
PLUMBERS & PIPEFITTERS	11.37				
ROOFERS	8.40				
SOFT FLOOR LAYERS	9.80				
TILE SETTERS	12.05				
TRUCK DRIVERS	10.16	39.50 a	39.50 a		
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	11.04				
Bulldozer	11.58				
Crane	11.48				
Front end loader	12.92			1.51	
Paver	11.38	1.05	1.75		.10
Roller	11.38	1.05	1.75		.10
Scraper	10.00				

FOOTNOTE:

a. Per week, per employee.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clause (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI COUNTIES: ** See Below
DECISION NUMBER: MS82-1008 DATE: Date of Publication
Supersedes Decision No.: MS81-1225 dated May 8, 1981 in 46 FR 25914.
DESCRIPTION OF WORK: Highway Construction Projects (does not include Building Structures in Rest Area Projects; Bridges over Navigable Water; Tunnels and Railroad Construction).

** Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Ittawamba, LaFayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Pontotoc, Prentiss, Tippah, Tishomingo, Union, and Webster Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$5.58				
CARPENTERS	6.60				
CEMENT MASONS/FINISHERS	7.00				
ELECTRICIANS	9.30				
IRONWORKERS, Reinforcing & Structural	8.45				
LABORERS:					
Unskilled	3.54				
Mason Tender	4.75				
Asphalt Raker	4.00				
Grade Checker	5.32				
Air Tool Operator	3.54				
Concrete Saw	4.50				
PAINTERS, Structural Steel	4.75				
PIPELAYERS	4.50				
TRUCK DRIVERS	4.00				
WELDERS - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
Aggregate Spreader Operator	4.00				
Air Compressor	3.54				
Asphalt Distributor-Spreader	4.15				
Asphalt Plant	4.60				
Backhoe or Shovel	6.23				
Bulldozer	6.50				
Concrete Batch Plant	5.50				
Concrete Finishing Machine	5.79				
Curing Machine	3.54				
Concrete Paving Machine	5.50				
Concrete Spreader	5.50				
Crane/Dragline	6.63				
Guardrail Post Driver	3.54				
Earth Auger	4.00				
Fireman	5.00				
Joint Filler	3.54				
Joint Setter	3.54				
Loader (all types)	6.50				
Mechanic	6.50				
Mixer	4.65				
Motor Patrol	6.02				
Mulcher	3.54				

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SUPERSEDEAS DECISION

STATE: MISSISSIPPI COUNTIES: ** See Below
DECISION NUMBER: MS82-1009 DATE: Date of Publication
Supersedes Decision No.: MS81-1226 dated May 8, 1981 in 46 FR 25919.
DESCRIPTION OF WORK: Highway Construction (excluding tunnels, building structures in rest area projects, and railroad construction; bascule, suspension, and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges).

** Bolivar, Carroll, Coahoma, DeSoto, Grenada, LeFlore, Montgomery, Panola, Quitman, Sunflower, Tallahatchie, Tate, Tunica, Washington, and Yalobusha Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS, Cont'd:					
Oiler-Greaser	$5.63				
Piledriver	6.25				
Roller (self-propelled)	4.00				
Scales (all types)	3.54				
Scraper	6.00				
Striping Machine	5.08				
Tractor (track type)	4.74				
Tractor (wheel type)	3.84				
Trenching Machine	5.00				
Concrete Breaker & Hydro-hammer	3.54				
Subgrade Machine	3.54				

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$7.00				
CARPENTERS	6.00				
CEMENT MASONS	5.00				
CEMENT FINISHERS	6.50				
ELECTRICIANS	6.00				
IRONWORKERS, Reinforcing & Structural	4.75				
LABORERS:					
Air Tool Operators	3.50				
Asphalt Rakers	3.75				
Concrete Saw Operators	4.25				
Grade Checkers	3.75				
Mason Tenders	4.00				
Pipelayers	3.50				
Unskilled	3.35				
PAINTERS, Structural Steel	4.50				
TRUCK DRIVERS	3.65				
WELDERS - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
Aggregate Spreader	4.13				
Air Compressor	3.35				
Asphalt Distributor & Spreader	4.13				
Asphalt Plant	3.35				
Backhoe	5.00				
Bulldozer/Shovel	6.00				
Concrete Batch Plant	6.00				
Concrete Breaker	3.35				
Concrete Finishing Machine	5.55				
Concrete Paving Machine	6.50				
Concrete Spreader Machine	3.35				
Crane/Dragline	7.00				
Crusher Feeder	3.35				
Curing Machine	3.35				
Earth Auger	3.35				
Guardrail Post Driver	3.50				
Fireman	3.35				
Hydro-Hammer	3.35				
Joint Filler	3.35				
Loader (all types)	4.50				
Mechanic	5.15				
Mixer (all types)	4.00				

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SUPERSEDEAS DECISION

STATE: MISSISSIPPI COUNTIES: **See Below
DECISION NUMBER: MS82-1010 DATE: Date of Publication
Supersedes Decision No.: MS81-1227 dated May 8, 1981 in 46 FR 25918.
DESCRIPTION OF WORK: Highway Construction (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension, and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges).

** Clairborne, Copiah, Hinds, Holmes, Humphreys, Issaquena, Madison, Rankin, Sharkey, Simpson, Warren, and Yazoo Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS, (cont'd):					
Motor Patrol	$6.25				
Mulcher	3.50				
Oiler-Greaser	5.50				
Piledriver	5.50				
Roller (self-propelled)	3.35				
Scales (all types)	4.00				
Scraper	5.00				
Spreader	3.35				
Striping Machine	5.00				
Subgrade Machine	4.00				
Tractor (track type)	5.02				
Tractor (wheel type)	3.35				
Trenching Machine	4.00				

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$5.75				
CARPENTERS	6.07				
CEMENT MASONS/CEMENT FINISHERS	5.90				
ELECTRICIANS	10.65				
IRONWORKERS, Reinforcing	5.60				
LABORERS:					
Asphalt Rakers	4.10				
Grade Checkers	4.75				
Mason Tenders	4.07				
Pipelayers	4.30				
Unskilled	3.81				
PAINTERS, Structural Steel	5.00				
TRUCK DRIVERS	4.00				
WELDERS - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
A-Frame Truck (winch)	5.00				
Aggregate Spreader	4.25				
Air Compressor	3.35				
Asphalt Distributor-Spreader	5.00				
Asphalt Plant	4.00				
Backhoe-Shovel	5.70				
Bulldozer	5.50				
Concrete Batch Plant	4.25				
Concrete Breaker	3.35				
Concrete Finishing Machine	5.54				
Concrete Paving Machine	3.80				
Concrete Spreader	4.25				
Crane/Dragline	6.30				
Crusher Feeder	4.25				
Curing Machine	3.35				
Earth Auger	5.00				
Fireman	3.60				
Guardrail Post Driver	3.50				
Hydro-hammer	3.35				
Joint Filler	3.35				
Joint Setter	3.95				
Loader (all types)	5.10				
Mechanic	7.00				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (cont'd):					
Mixer	$4.25				
Motor Patrol	6.00				
Mulcher	3.50				
Oiler-Greaser	5.00				
Piledriver	5.00				
Roller (self-propelled)	4.47				
Scales (all types)	4.00				
Scraper	5.75				
Spreader	3.50				
Striping Machine	4.00				
Tractor (track type)	4.00				
Tractor (wheel type)	3.88				
Trenching Machine	3.35				

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI COUNTIES: **See Below
DECISION NUMBER: MS82-1011 DATE: Date of Publication
Supersedes Decision No.: MS81-1228 dated May 8, 1981 in 46 FR 25917.
DESCRIPTION OF WORK: Highway Construction (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension, and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges).

**Attala, Clarke, Jasper, Kemper, Lauderdale, Leake, Neshoba, Newton, Noxubee, Scott, Smith, and Winston Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$5.50				
CARPENTERS	6.50				
CEMENT MASONS/CEMENT FINISHERS	5.40				
ELECTRICIANS	7.00				
IRONWORKERS, Reinforcing	5.50				
LABORERS:					
Air Tool Operators	4.00				
Asphalt Rakers	4.10				
Concrete Saw Operators	4.00				
Grade Checkers	4.10				
Mason Tenders	3.88				
Pipelayers	3.35				
Unskilled	3.50				
PAINTERS, Structural Steel	6.00				
TRUCK DRIVERS	4.05				
WELDERS - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
A-Frame Truck (winch)	3.75				
Aggregate Spreader	4.75				
Air Compressor	3.65				
Asphalt Distributor-Spreader	4.75				
Asphalt Plant	3.88				
Backhoe	6.00				
Bulldozer/Shovel	6.00				
Concrete Batch Plant	3.35				
Concrete Finishing Machine	4.50				
Concrete Paving Machine	3.50				
Concrete Spreader Machine	3.35				
Crane/Dragline	6.00				
Crusher Feeder	3.50				
Curing Machine	3.35				
Earth Auger	3.35				
Fireman	3.35				
Guardrail Post Driver	3.35				
Joint Setter	3.35				
Loader (all types)	5.22				
Mechanic	6.00				
Mixer (all types)	4.00				
Motor Patrol	6.00				
Mulcher	3.35				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (cont'd)					
Oiler-Greaser	$4.50				
Piledriver	4.25				
Roller (self-propelled)	4.50				
Scales (all types)	3.50				
Scraper	4.75				
Spreader	4.19				
Striping Machine	4.25				
Tractor (track type)	3.35				
Tractor (wheel type)	3.80				
Trenching Machine	4.35				

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI COUNTIES: ** See Below
DECISION NUMBER: MS82-1012 DATE: Date of Publication
Supersedes Decision No.: MS81-1229 dated May 8, 1981 in 46 FR 25916.
DESCRIPTION OF WORK: Highway Construction (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension, and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges).

**Adams, Amite, Covington, Forrest, Franklin, Greene, Jefferson, Jefferson-Davis, Jones, Lamar, Lawrence, Lincoln, Marion, Perry, Pike, Walthall, Wayne, and Wilkinson Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$5.00				
CARPENTERS	6.43				
CEMENT MASONS/CEMENT FINISHERS	6.00				
ELECTRICIANS	9.70				
IRONWORKERS:					
Reinforcing	6.50				
Structural	6.00				
LABORERS:					
Asphalt Rakers	5.85				
Concrete Saw Operator	4.25				
Grade Checker	4.75				
Mason Tenders	4.79				
Unskilled	4.00				
PAINTERS, Structural Steel	4.00				
PILEDRIVERS	5.30				
TRUCK DRIVERS	4.25				
WELDERS- Rate for Craft					
POWER EQUIPMENT OPERATORS:					
A-Frame Truck (winch)	4.00				
Aggregate Spreader	4.40				
Air Compressor	4.88				
Asphalt Distributor	4.64				
Asphalt Plant	4.88				
Backhoe-Shovel	5.25				
Bulldozer	6.33				
Concrete Batch Plant	4.50				
Concrete Paving Machine	4.00				
Crane/Dragline	6.50				
Loader (all types)	5.03				
Mechanics	6.50				
Motor Patrol	6.54				
Oiler/Greaser	5.25				
Piledriver	5.75				
Roller (self-propelled)	4.52				
Scraper	5.00				
Striping Machine	4.00				
Tractor (wheel type)	5.00				
Trenching Machine	4.50				

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI

COUNTIES: George, Hancock, Harrison, Jackson, Pearl River, and Stone

DECISION NUMBER: MS82-1013

DATE: Date of Publication

Supersedes Decision No.: MS81-1230 dated May 8, 1981 in 46 FR 25915.

DESCRIPTION OF WORK: Highway Construction (excluding tunnels, building structures in rest area projects and railroad construction; basculé, suspension, and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$7.00				
CARPENTERS	6.50				
CEMENT MASONS/CEMENT FINISHERS	5.50				
ELECTRICIANS	6.00				
IRONWORKERS, Reinforcing	8.50				
LABORERS:					
Asphalt Rakers	4.00				
Air Tool Operators	4.18				
Concrete Saw Operators	5.00				
Grade Checkers	4.00				
Mason Tenders	4.50				
Pipelayers	3.35				
Form Setter	5.75				
Unskilled	3.92				
PAINTERS, Structural Steel	5.43				
PILEDRIVERMEN	5.52				
TRUCK DRIVERS	4.00				
TUGBOAT OPERATORS	5.50				
WELDERS - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
A-Frame Truck (winch)	4.50				
Aggregate Spreader	3.50				
Air Compressor	3.35				
Asphalt Distributor-Spreader	4.25				
Asphalt Plant	9.50				
Backhoe/Shovel	5.28				
Bulldozer	6.00				
Concrete Batch Plant	5.30				
Concrete Finishing Machine	6.50				
Curing Machine	3.35				
Concrete Paving Machine	3.55				
Concrete Spreader Machine	3.35				
Crane/Dragline	6.00				
Guardrail Post Driver	3.50				
Earth Auger	4.00				
Fireman	3.35				
Joint Filler	3.35				
Loader (all types)	5.13				
Mechanic	6.57				
Mixer (all types)	5.00				
Motor Patrol	6.25				

POWER EQUIPMENT OPERATORS: (cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Mulcher	$4.00				
Oiler-Greaser	4.50				
Piledriver	6.25				
Roller (self-propelled)	4.25				
Scales (all types)	3.40				
Scraper	3.25				
Striping Machine	4.00				
Tractor (track type)	5.00				
Tractor (wheel type)	4.20				
Trenching Machine	4.00				
Sub-Grade Machine	3.60				
Crusher Feeder	3.35				

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: New Hampshire

COUNTIES: Rockingham & Stafford

DECISION NUMBER NH82-3009

DATE: Date of Publication

Supersedes Decision No. NH81-3010, dated January 23, 1981 in 46 FR 7733

DESCRIPTION OF WORK: Building, Heavy and Marine Construction Projects

ROCKINGHAM COUNTY BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$15.91	1.50	1.20		.05
BOILERMAKERS	14.63	1.275	10%		.03
BRICKLAYERS, CEMENT MASONS, Marble Masons, Plasterers, Stonemasons, Tile Setters & Terrazzo Workers	11.41	1.01	.89		.02
CARPENTERS:					
Salem:					
Carpenters & Soft Floor Layers	13.10	1.00	1.00		.05
Remainder of County:					
Carpenters & Soft Floor Layers	11.36	.65	.85		.05
Piledrivers, Wharf & Dock Buildings & Millwrights	13.31	.65	.85		.05
ELECTRICIANS:					
Twps. of Exeter, Greenland, Hampton, Hampton Falls, Portsmouth, Newington, Newmarket, Northwood, Nottingham, Rye, Seabrook, Strathan, S. New Market & New Fields	14.05	.75	3%+.25		.05
Kingston, Kensington, N. Kingston, Hampstead, N. Plaistow, Westville, Atkinson, N. Salem & Salem	12.37	1.00	3%+.60		.02
Remainder of County	13.85	.80	3%		.03
ELEVATOR CONSTRUCTION:					
Constructors	13.88	1.195	.85	a+b	.035
Helpers	9.72	1.195	.95	a+b	.035
IRONWORKERS:					
Structural, Ornamental and Reinforcing	13.45	1.15	1.55		.02
LABORERS:					
Laborers	9.07	.80	1.10	d	.10
Plasterers Tenders	9.25	.80	1.10	d	.10
Drillers, Pavement Breakers, Pneumatic Tool Ops., Chipping Gun Ops., Blasters & Powdermen	9.70	.80	1.10	d	.10
All other Pneumatic Tool Ops., on Boiler & Stack Work	10.21	.80	1.10	d	.10

DECISION NO. NH82-3009

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Pipelayers, Fence & guard Rail Erectors	9.38	.80	1.10	d	.10
LABORERS, HEAVY:					
Laborers & Pipelayers	8.15	.85	1.20	d	.10
Pneumatic Tool Operator, Drillers Concrete Vibrators & Powderman	8.55	.50	.80	d	.10
Blasters & Powdermen	8.90	.60	.80	d	.10
LABORERS:					
Rockingham County - Heavy Laborers: Tunnel Free air Operation:					
Change House Attendant	10.19	.80	1.10	d	.10
Laborers Topside	10.38	.80	1.10	d	.10
Miners Helpers, Tunnel Laborers, Shaft Laborers; All other Men	10.49	.80	1.10	d	.10
Miners, Moturmen, Mucking Machine Operators, Nozzlemen, Grout Man, Cable Tenders, Shaft and Tunnel Steel and Rod Men, Concrete Workers, Form Erectors, Form Movers and Strippers, Cage Tenders, and Bellmen	10.88	.75	1.10	d	.10
LINE CONSTRUCTION:					
Lineman	15.00	.70	3%+.75	c	3/8%
Equipment Operator	12.75	.70	3%+.75	c	3/8%
Groundman	9.75	.70	3%+.75	c	3/8%
Driver Groundman	12.00	.70	3%+.75	c	3/8%
PAINTERS:					
Commercial and Industrial	10.30		.25		
Sandblasting and Spray	11.60		.25		
Structural Steel	11.01		.25		
Salem:					
New Construction:					
Brush and Taper	13.71	.82	1.90		.04
Sandblasting and Spray	14.71	.82	1.90		.04
Repaint Rate:					
Brush and Taper	12.29	.82	1.90		.04
Sanblasting and Spray	13.29	.82	1.90		.04
Steel, New and Repaint Rates	16.12	.82	1.90		.04

DECISION NO. NH82-3009

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS AND STEAMFITTERS:					
Plaistow, Atkinson, Danville, Hampstead, and Kingston	13.40	1.65	.87		.05
Salem and Windham	14.05	1.12	1.50		.10
Remainder of County	14.00	.88	.75		.02
ROOFERS	7.80				
SHEET METAL WORKERS	10.92	.85	.85		.02
SPRINKLER FITTERS	13.83	.95	1.40		.08
STRAFFORD COUNTY BUILDING AND HEAVY CONSTRUCTION					
ASBESTOS WORKERS	15.91	1.50	1.20		.05
BOILERMAKERS	14.63	1.275	10%		.03
BRICKLAYERS, CEMENT MASONS, Marble Setters, Plasterers, Stone Masons, Terrazzo Workers and Tile Setters	11.41	1.01	.89		.02
CARPENTERS & SOFT FLOOR LAYERS	11.36	.65	.85		.05
Pile Drivers, Dock Builders & Millwrights	12.31	.65	.85		.05
ELECTRICIANS	14.05	.75	3%+.25		.05
ELEVATOR CONSTRUCTORS:					
Constructors	13.88	1.195	.95	a+b	.035
Helpers	9.72	1.195	.95	a+b	.035
IRONWORKERS					
Structural, Ornamental & Reinforcing	13.45	1.15	1.55		.02
LABORERS:					
Laborers	9.07	.80	1.10	d	.10
Plasterers Tenders	9.25	.80	1.10	d	.10
Boilers, Stack Work, Pneumatic Tool Op., Drillers, Pavement Breakers, Electric Chipping Op., Blasterers, Powdermen & Creosote Work	9.70	.80	1.10	d	.10
Pipelayers, fence & Guardrail Erectors	9.38	.80	1.10	d	.10
Pneumatic Tool on Boiler and Stack Work	10.21	.80	1.10	d	.10

DECISION NO. NH81-3009

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen	15.00	.70	3%+.75	c	3/8%
Equipment Operator	12.75	.70	3%+.75	c	3/8%
Groundman	9.75	.70	3%+.75	c	3/8%
Driver Groundman	12.00	.70	3%+.75	c	3/8%
PAINTERS:					
Commerical and Industrial Sandblasting, Spray and Tender	10.30		.25		
Structural Steel	11.50		.25		
PLUMBERS AND STEAMFITTERS	11.01		.25		
ROOFERS	14.00	.88	.75		.02
SHEET METAL WORKERS	7.80				
SPRINKLER FITTERS	10.92	.85	.85		.02
	13.83	.95	1.40		.08

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C- Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay credit.

b. Holidays: A through F

c. Holidays: B through F provided employee has been employed 5 working days prior to the holiday and provided employee works the scheudled work days immediately preceding and following the holidays.

d. Holiday: B, C, & E provided employee works the scheduled work days before and after each holiday.

DECISION NO. NH82-3009 NH-1-FRO
BUILDING CONSTRUCTION
POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	14.28	1.18	1.15	a	.03
CLASS 2	15.62	1.18	1.15	a	.03
CLASS 3	14.16	1.18	1.15	a	.03
CLASS 4	13.19	1.18	1.15	a	.03
CLASS 5	12.20	1.18	1.15	a	.03
CLASS 6	11.50	1.18	1.15	a	.03
CLASS 7	10.95	1.18	1.15	a	.03

Booms lengths including jib over 150' add $.61; over 185' add $.99; over 210' add $1.38; over 250' add $2.10; over 295' add $2.92

CLASS 1 - Shovels, Cranes, Truck Cranes, Cherry Pickers; Dragline, Trench Hoe, Backhoe, 3 Drum Machine, Derricks, Pile, Elevator Tower Hoist, Gradall, Shovel Dozer (except when pushing), Front End Loader (except when pushing), Fork Lift Auger, Boring Machine, Rotary Drill Post Hole Hammer, Post Hole Digger, Pumpcrete Machine
CLASS 2- Master Mechanics
CLASS 3 - Sonic or Vibratory Hammer, Grader, Scraper more than 21 yds. struck, Tandem Scraper, Concrete Pump, Bulldozer, Scraper 21 yds. struck or less, Portable Steam Boiler, Portable Steam Generator, Roller, Spreader, Tamper, Asphalt Paver, Mechanics, Maintenance
CLASS 4 - Assistant Engineers (fireman)
CLASS 5 - Pumps (1-3 grouped), Compressor, Welding Machines (1-3 grouped), Generator, Concrete Vibrator, Lighting Plant, Heater (Power driven 1-5), Wellpoint (operating & installing), Syphons-Pulsometers, Conc. Mixers, Valves controlling Permanent Plant Air or Steam Conveyor, Jackson Type Tamper Cranes & Gradalls
CLASS 6 - Oilers on Truck Cranes & Gradalls
CLASS 7 - Oiler (other than truck cranes & gradalls)

FOOTNOTE: a. 10 paid holidays; New Year's Day; Memorial Day; Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Fast Day, Columbus Day, and Armistice Day

DECISION NO. NH81-3009
HEAVY CONSTRUCTION
POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	13.07	1.18	1.15	a	.03
CLASS 2	14.08	1.18	1.15	a	.03
CLASS 3	12.93	1.18	1.15	a	.03
CLASS 4	11.46	1.18	1.15	a	.03
CLASS 5	12.30	1.18	1.15	a	.03
CLASS 6	10.47	1.18	1.15	a	.03
CLASS 7	10.58	1.18	1.15	a	.03

Boom length including jib: over 150' - additional $.28 per hour
over 185' - additional $.55 per hour;
over 220' - additional $.83 per over 275' - additional $1.10 per hour

CLASS 1 - Power Shovels, Cranes, Truck Cranes, Derrick, Pile Drivers, Trenching Machines, Mechanical Hoist, Pavement Breakers, Cement Concrete Pavers, Draglines, Hoisting Engines, Three Drum Machines, Pumperete Machines; Elevating Graders, Shovels Dozers, (when used for digging or loading), Front End Loaders (when used for digging or loading), Mucking Machines (when used as in shafts and tunnels), Shaft Hoists, Steam Engineers, Backhoe, Gradalls and Cableways
CLASS 2 - Master Mechanics
CLASS 3- Grader, Scrapers, more than 21 yds., Struck and Tandem Scrapers, Bulldozers, Scrapers 21 yds., Struck or less, Grout Pumps, Portable Steam Boilers, Roller, Spreaders, Asphalt Pavers, Locomotive and Tampers Self-Propelled or Tractor-Drawn, Mechanics, Maintenance, Sonic or Vibratory Hammers
CLASS 4 - Pumps (s) (1-3 grouped), Compressors Welding Machine (2) (1-3 grouped) Generator, Lighting Plants, Heaters (Power driven (105), Syphons, Pulsometers, Concrete Mixers, Valves Controlling Permanent Plant Air or Steam, Conveyors, Wellpoint System (Operating and Installing)
CLASS 5 - Assistant Engineers (Firemen)
CLASS 6 - Oilers (other than truck Cranes and Gradalls)
CLASS 7 - Oilers on Truck Cranes and Gradalls

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: A Holidays: A through F; Washington's Birthday; Columbus Day; Veterans' Day; Fast Day

DECISION NO. NH82-3009

POWER EQUIPMENT OPERATORS MARINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	13.76	1.18	1.15	a	.03
CLASS 2	13.71	1.18	1.15	a	.03
CLASS 3	13.64	1.18	1.15	a	.03
CLASS 4	13.64	1.18	1.15	a	.03
CLASS 5	12.55	1.18	1.15	a	.03
CLASS 6	11.52	1.18	1.15	a	.03
CLASS 7	10.21	1.18	1.15	a	.03
CLASS 8	11.40	1.18	1.15	a	.03
CLASS 9	10.83	1.18	1.15	a	.03

Booms over 150' inlcuding jib-additional $.25 per hour
Booms over 185' including jib-additional $.50 per hour
Booms 220' including jib additional $.75 per hour. Booms over 275' including jib-additional $1.00 per hour

CLASS 1 - Power Shovel, Crane, Truck Crane, Derrick, Cherry Picker, Pile Driver, two or more Drum Machine, Lighter, Derrick Boat, Trenching Machine, Mechanical Hoist, Pavement Breaker Cement Concrete Paver, Dragline, Hoisting Engine, Pumpcrete Machine, Elevating Grader, Shovel Dozer (except when pushing) Front End Loader (except when Pushing), Backhoe, Gradall, Cableway, Boring Machine, Rotary Drill, Post Hole Hammer, Post Hole Digger for Lift
CLASS 2 - Swinger Engine
CLASS 3 - Sonic Vibratory Hammer, Grader, Scraper (over 21 yds. Struck), Tandem Scraper Concrete Pump, Bulldozer, Scraper (21 yds. Struck or less)
CLASS 4 - Portable Steam Boiler, Portable Steam Generator, Roller, Tractor Mechanic (maintenance), Concrete Mixer with Side Loader
CLASS 5 - Assistant Engineer (fireman)
CLASS 6 - Pump, Compressor, welding Machine, Heater (power Driven), Valve Controlling Permanent Plant (air or steam), Wellpoint System, Auger (power by independnet engine and attached to pile drivers), Hydraulic Saw, Generator, Lighting Plant, Syphon, Pulsometer, Concrete Mixer
CLASS 7 Oiler (other than truck cranes and gradall)
CLASS 8 - Oiler on Scow
CLASS 9 - Oiler on Truck Crane and Gradall

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; Christmas Day

FOOTNOTE: A. Holidays: A through F; Washington's Birthday, Patriot's Day, Columbus Day, & Veteran's Day; Provided the employee has worked 3 days during the week in which the holidays falls and is available for work the days preceding the Holidays.

DECISION NO. NH82-3009

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	6.41	.80	.50	a	
CLASS II	6.64	.80	.50	a	
CLASS III	6.87	.80	.50	a	

CLASS 1 - Two Axle Equipment
CLASS 2 - Three Axle Equipment including Low Beds
CLASS 3 - Special Earth Hauling Equipment other than Conventional type on the Road Truck and Semi-trailers Trailer Dumps

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: A. Holidays: A through F, plus Washington's Birthday and Columbus Day; (provided employee works two days in the calender week in which the holiday falls; reports for work the last day assigned prior to the holiday and the first assigned following the holiday).

SUPERSEDEAS DECISION

STATE: NEW JERSEY LOCATION: BERGEN, ESSEX HUDSON & PASSAIC COUNTIES
DECISION NO.: NJ82-3006 DATE: DATE OF PUBLICATION
Supersedes Decision No. NJ80-3024 dated May 2, 1980 in 45 FR 29515
DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & REFRIGERATION MECHANICS: Installation of refrigeration equipment for any type of building where the combined compressor tonnage does not exceed 5 tons; installation of water-cooled air conditioning that does not exceed 10 tons (includes the piping of component system and the erection of the water tower); installation of air-cooled air conditioning that does not exceed 15 tons	9.10	.065	.31	a	.04
ASBESTOS WORKERS	15.04	1.41	1.67		.04
BOILERMAKERS	14.97	8%	20%+.25	10%	.04
BRICKLAYERS, STONEMASONS, CEMENT MASONS & PLASTERERS:					
AREA 1	13.71	1.00	2.00		.05
AREA 2	12.60	.84	.90		.02
AREA 3	13.13	1.57	2.37		.03
AREA 4					
Bricklayers & Stonemasons	14.10	.75	1.35		.05
Cement Masons	14.10	.75	1.35		.05
Plasterers	13.92	.85	1.05		.02

AREAS COVERED BY BRICKLAYERS AND STONEMASONS

AREA 1 - Bergen (north Arlington and Lyndhurst east of Ridge Road, north to Nutherford Ave. and Barrys' Creek, and west of the Hackensacks River), Essex (except Millburn Twp), and Hudson (that portion west of the Hackensack River) Counties

AREA 2 - Bergen (Wallington, part of East Patterson, Garfield, Lodi, North Arlington, and part of Lyndhurst) and Passaic Counties'

AREA 3 - Bergen (remainder of County) County

AREA 4 - Hudson (remainder of county) County

AREA 5 - Essex (Millburn Twp.) County

DECISION NO. NJ82-3006

CARPENTERS, INSULATORS & MILLWRIGHTS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 1					
Carpenters & Insulators	14.75	8%	7%		4%
Millwrights	15.25	8%	7%		4%
AREA 2					
Carpenters & Insulators	14.75	8%	7%		4%
AREA 3	13.60	1.43	1.89		.06
AREA 4					
Carpenters & Insulators	12.57	8%	7%		1/5%
Millwrights	12.82	8%	7%		1/5%

AREAS COVERED BY CARPENTERS, INSULATORS & MILLWRIGHTS

AREA 1 - Essex and Hudson (that portion west of the Hackensack River) Counties

AREA 2 - Passaic County

AREA 3 - Bergen (east of Hackensack River including But not limited to Cliffside, Fort Lee, Grantwood, Palisades Park, Ridgefield Edgewater, Fairview, Leonia & Coytesville) and Hudson (that part east of the Hackensack River) Counties

AREA 4 - Bergen (remainder of county) County

DOCKBUILDERS & PILEDRIVERMEN	14.86	1.85	2.23	1.05	.10
DRYWALL TAPERS & FINISHERS	10.60	1.50	.50		.10
ELECTRICIANS & CABLE SPLICERS:					
Family residence construction not to exceed 4 unit apartments (Note: Firewalls alone are not a determinative criterion.)	9.25	7%	3%		.01
Other residential construction:					
Essex County	14.57	9%	17%		1/4%
Bergen & Hudson Counties	17.00	12%	9%+.50		5/10%
Passaic County:					
Wiremen	16.78	7%	10%+.50		
Cable Splicers	17.85	7%	10%+.50		

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DECISION NO. NJ82-3006	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTION:					
New Construction:					
Mechanics	13.21	1.195	.82+b	c+d	.02
Helpers	9.91				
Probationary Helpers	6.605				
Modernization:					
Mechanics	11.23	1.195	.82+b	c+d	.02
Helpers	8.42	1.195	.82+b	c+d	.02
Probationary Helpers	5.615				
Contract Repairs:					
Mechanics	11.23	1.195	.82+b	c+d	.02
Helpers	8.42	1.195	.82+b	c+d	.02
Probationary Helpers	5.615				
GLAZIERS:					
Bergen & Passaic Counties	11.17	.80	2.00	1.25	.03
Essex & Hudson Counties	15.70	1.25	3.00		.05
IRONWORKERS - STRUCTURAL, ORNAMENTAL & REINFORCING	15.35	1.15	2.85	1.15	.11
LABORERS:					
AREA 1					
Group 1	10.05	.85	.85		.10
AREA 2					
Group 1	9.55	1.20	1.00		.10
AREA 3					
Group 1	10.35	.70	.80		.10
Group 2	10.60	.70	.80		.10
AREA 4					
Unskilled Laborers	10.45	.80	.50		.10
AREA 5					
Unskilled Laborers	8.90	.75	.85		.10
AREA 6					
Group 1	8.50	.75	1.25		.10
AREA 7					
Unskilled Laborers	9.50	.90	.85		.10

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DECISION NO. NJ82-3006

CLASSIFICATION DEFINITIONS FOR LABORERS

AREA 1 - Group 1 - Laborers, air tool operators (jackhammers, vibrators), mason tenders, mortar mixers, pipelayers (concrete & clay & plasterer tenders).

AREA 2 - Group 1 - Laborers, air tool operators (jackhammers, vibrators), mason tenders, mortar mixers, pipelayers (concrete & clay plasterer tenders, wrecking & excavation).

AREA 3 - Group 1 - Regular Laborers

AREA 3 - Group 2 - Carpenters Tenders, Bell Men, Mortar mixers, scaffold men & pneumatic hammer operators.

AREA 6 - Group 1 - Unskilled laborers, air tool operators, mason tenders, mortar mixers & pipelayers (concrete & clay).

AREAS COVERED BY LABORERS

AREA 1 - Bergen (Athenia, Allwood, Clifton (to Piaget Ave.), Dellawanna, Lodi, plus Garfield, Passaic, and Wallington Twps.) and Passaic Counties.

AREA 2 - Bergen (remainder of county) County.

AREA 3 - Essex (City of East Orange, Townships of South Orange and Maplewood).

AREA 4 - Essex (Orange & Montclair) County.

AREA 5 - Essex (Millburn Township) County.

AREA 6 - Essex (remainder of county) and Hudson (Kearny, East Newark and Harrison) Counties.

AREA 7 - Hudson (remainder of county) County.

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DECISION NO. NJ82-3006	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	11.40	.15	.40		.02
LINE CONSTRUCTION:					
Essex County:					
Linemen, Cable Splicers, Line Equipment Operators, Line Truck Operators & Groundmen	15.13	9%	12%		3/4%
Passaic County:					
Linemen & Equipment Operators	16.78	7%	10%		3/4%
Cable Splicers	17.85	7%	10%		3/4%
Groundmen	70%JR				
Bergen & Hudson Counties:					
Linemen, Cable Splicers, Equipment Operators & Groundmen	17.00	12%	9%+.58		3/4%
MARBLE SETTERS, TERRAZZO WORKERS, & TILE SETTERS:					
Marble Setters	10.00	1.13	1.19	f	
Terrazzo Workers	11.18	1.21	1.50		
Tile Setters	9.15	.80	2.10		
MARBLE, TERRAZZO, AND TILE FINISHERS:					
Marble Finishers	8.28	1.09	1.23	f	
Terrazzo Finishers	9.49	.76	1.95		
Tile Finishers	9.35	.90	.90		
PAINTERS:					
Bergen & Passaic Counties:					
New & Old construction of one & two family houses:					
Painters & Tapers	9.30	1.35	2.60		.06
Other residential construction:					
Painters & Tapers	12.30	1.35	2.60		.06
Steel Outside	13.30	1.35	2.60		.06
Spray	13.85	1.35	2.60		.06
Essex & Hudson (West half of County) Counties:					
Painters on New Construction and Major Alterations	12.40	.80	.90		.08
Painters on Repaint Work	11.40	.80	.90		.08
Spraying or application of hazardous or dangerous materials on repaint work	12.00	.80	.90		.08

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DECISION NO. NJ82-3006	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (Cont'd)					
Exterior work exceeding 3 stories in height for painting of open structural steel and on interior work which requires painting higher than 20' above the ground or floor	12.55	.80	.90		.08
Repaint work as described above	11.55	.80	.90		.08
Spraying or application of hazardous or dangerous materials	13.00	.80	.90		.08
Hudson (remainder of county) County:					
Painters, paperhangers tapers, coverers, spacklers, preparatory and cleaning work	12.25	1.15	1.00	.50	.05
Extension ladder work (36 feet or over), scaffold work (except one or two family homes), and boatswain Chair	12.75	1.15	1.00	.50	.05
Spraying and sandblasting	13.25	1.15	1.00	.50	.05
PIPEFITTERS:					
Bergen, Hudson, and Passaic Counties	12.00	1.00	1.90	1.00	.25
Essex County	14.67	1.03	2.20	1.47	.10
PLUMBERS:					
Bergen, Hudson (excluding East Newark, Harrison, and Kearney), and Passaic Counties	15.78	1.00	2.65		.25
Hudson (East Newark, Harrison, and Kearney only) and Essex Counties	15.425	1.60	2.15		.25

DECISION NO. NJ82-3006

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS A	17.37	1.80	1.40	9	.20
CLASS B	16.18	1.80	1.40	9	.20
CLASS C	14.87	1.80	1.40	9	.20
CLASS D	13.64	1.80	1.40	9	.20
CLASS E	12.73	1.80	1.40	9	.20
CLASS F	19.19	1.80	1.40	9	.20

POWER EQUIPMENT OPERATORS

CLASS A - Autograde - Combin. Subgrader, Base Mtl. Spreader & Base Trimmer (CMI & Similar Types), Autograde Placer-Trimmer-Spreader - Combn. (CMI & Similar Types), Autograde Slipform Paver (CMI & Similar Types), Backhoe, Central Power Plants (All Types), Concrete Paving Machines, Cranes (All Types, Including Overhead & Straddle Travelling Type), Cranes, Gantry, Derricks (Land or Floating), Drillmaster, Quarrymaster (Down the Hole Drill) Rotary Drill, Self Propelled Hydraulic Drill, Self-Powered Drill, Draglines, Elevator Graders, Front End Loaders (5 yds. and over), Gradalls, Grader, Rago, Helicopters, Co-Pilot, Helicopters, Communications Engineer, Locomotive (Large), Mucking Machines, Pavement & Concrete Breaker, i.e., Superhammer & Hoe Ram, Pile Driver, Length of Boom Including Length of Leads, shall determine premium Rate Applicable, Roadway Surface Grinder, Scooper (Loader and Shovel), Shovels, Tree Chopper with Boom, and Trench Machines

CLASS B - "A" Frame, Backhoe (Combination), Boom Attachment on Loaders (Rate Based on size of Bucket) Not applicable to Pipehook, Boring and Drilling Machines, Brush Chopper, Shredder, and Tree Shredder, Cableways, Carryalls, Concrete Pump, Concrete Pumping System, Pumpcrete & Similar Types, Conveyors, 125 ft. and over, Drill Doctor (Duties include Dust Collector, Maintenance), Front End Loaders (2 yds. but less than 5 yds.), Graders (Finisher), Groove Cutting Machine (Ride on Type), Heater Planer, HOISTS: (All Type Hoists, shall also include Steam, Gas, Diesel, Electric, Air Hydraulic, Single and Double Drum, Concrete, Brick Shaft Caisson, Shorkel Roof, and/or any other Similar Type Hoisting Machines, Portable or Stationary, except Chicago Boom Type) Long Boom Rate to be applied if Hoist is "Outside Material Tower Hoist"., Hoists (Chicago Boom Type), Hydraulic Cranes -- 10 Tons and Under, Hydro-Axle, Jacks, Screw Air Hydraulic Power Operated Unit or Console Type (not Hand Jack or Pile Load Test Type), Log Skidder, Pans, Pavers (all) Concrete, Pumpcrete Machines, Squeezecrete & Concrete Pumping (Regardless of Size), Scrapers, Side Booms, "Straddle" Carrier, Ross and Similar Types, and Winch Truck (Hoisting)

DECISION NO. NJ82-3006

POWER EQUIPMENT OPERATORS (CONT'D)

CLASS C - Asphalt Curbing Machine, Asphalt Plant Engineer, Asphalt Spreader, Autograde Tube Finisher & Texturing Machine (CMI & Similar Types), Autograde Curecrete Machine (CMI & Similar Types), Autograde Curb Trimmer & Sidewalk, Shoulder, Slipform (CMI & Similar Types), Bar Bending Machines (Power), Batchers, Batching Plant & Crusher on Site, Belt Conveyor Systems, Boom Type Skimmer Machines, Bridge Deck Finisher, Bulldozers (All), Car Dumpers (Rail road), Chief of Party, Compressor and Blower Type Units (Used independently or Mounted on Dual Purpose Trucks, on Job Site or in conjunction with Job Site, in Loading and Unloading of Concrete, Cement, Fly Ash, Instancrete, or Similar Type Materials), Compressor (2 or 3)--Battery, Concrete Breaking Machines, Concrete Finishing Machines, Concrete Saws & Cutters (Ride on type), Concrete Spreaders, Hetzel, Rexomatic and Similar Types-Concrete Vibrators, Conveyors, Under 125 ft., Crushing Machines, Ditching Machine, Small (Ditchwitch or Similar Type), Dope Pots (Mechanical with or without Pump), Dumpsters, Elevator, Fireman, Fork Lifts (Economobile, Lull & Similar Types of Equipment), Front End Loaders (1 yd. and over but less than 2 yds.), Generators (2 or 3) in Battery, Giraffe Grinders, Graders & Motor Patrols, Gunnite Machines (Excluding Nozzle), Hammer Vibratory (In Conjunction with Generator), Hoists (Roof, Tugger, Aerial Platform Hoist and House Cars), Hoppers, Hopper Doors (Power Operated), Ladders (Motorized Laddervator, Locomotive, Dinky Type, Maintenance, Utility Man, Mechanics, Mixers (Excepting Paving Mixers), Motor Patrols & Graders, Pavement Breakers, Small, Self-Propelled Ride on Type (also maintains Compressor or Hydraulic Unit), Pavement Breaker, Truck Mounted, Pipe Bending Machine (Power), Pitch Pump, Plaster Pump (Regardless of Size), Post Hole Digger (Post Pounder and Auger), Rod Bending Machines (Power), Roller, Black Top, Scales, Power, Seaman Pulverizing Mixer, Shoulder Widener, Silos, Skimmer Machines (Boom Type), Steel Cutting Machine, Services & Maintans, Tractor, Tug Captain, Vibrating Plants (Used in conjunction with Unloading), and Welder & Repair Mechanics

DECISION NO. NJ82-3006

POWER EQUIPMENT OPERATORS (CONT'D)

CLASS D - Brooms and Sweepers, Chippers, Compressor (Single), Concrete Spreaders (Small Type), Conveyors (Under 125 ft.), Conveyor Loaders (Not including Elevator Graders), Engines, Large Diesel (1620 H.P.) and Staging Pump, Farm Tractors, Fertilizing Equipment (Operation and Maintenance of), Fine Grade Machine (Small Type), Form Line Graders (Small Type), Front Loader (Under 1 yd.), Generator (Single), Grease, Gas, Fuel and Oil Supply Trucks, Heaters (Nelson or other Type Including Propane, Natural Gas or Flowtype Units), Lights, Portable Generating Light Plants,Mixers, Concrete Small, Mulching Equipment (Operation and Maintenance of), Pumps (4 inch Suction and over Including Submersible Pumps)--Pumps- (3 of less than 4" suction & over including subm. pumps) --Pumps (Diesel Engine & Hyd.) immaterial of power Road Finishing Machines (Small Type), Rollers, Grade, Fill or Stone Base, Seeding Equipment (Operation and Maintenance of), Sprinkler and Water Pump Trucks (Used on Job Site or in Conjunction with Job Site), Steam Jennies and Boilers, Irrespective of Use, Stone Spreader, Tamping Machines, Vibrating Ride on, Temporary Heating Plant (Nelson or other Type Including Propane, Natural Gas or Flow Type Units), Water and Sprinkler Trucks (Used on Job Site or in Conjunction with Job Site), Welding Machines (Gas, Diesel, and/or Electric Converters of any type, Single, Two or Three in a Battery), Welding System, Multiple (Rectifier Transformer Type), Wellpoint Systems (Including Installation by Hull Gang and Maintenance of)

CLASS E - Assistant Engineer/Oiler, Tire Repair and Maintenance and Transit/Instrument Man

CLASS F - HELICOPTERS-Pilot and HELICOPTER-Engineer

DECISION NO. NJ82-3006

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Bergen & Passaic Counties:					
Composition	14.35	1.34	1.00		
Slate & Tile	12.15	1.00	1.30		
Essex County:					
Composition, Damp, Waterproofing, Slate, and Tile	16.47	1.00	1.00		
Hudson County:					
West of the Hackensack River:					
Composition, Damp, Waterproofing, Slate, and Tile	16.47	1.00	1.00		
East of the Hackensack River:					
Composition, Damp, and Waterproofing	9.85	1.59	2.65	.65	
SHEET METAL WORKERS:					
Bergen and Hudson Counties	12.80	1.22	4%+1.24	.58	.04
Essex and Passaic Counties	14.20	4%+.75	9%+.83	8%	.05
SOFT FLOOR LAYERS	12.73	7%	5%	4%	
SPRINKLER FITTERS	16.03	.95	1.40		.07
TRUCK DRIVERS:					
Bergen, Hudson and Passaic Counties:					
GROUP 1	7.27	.68	.75	h+i	
GROUP 2	7.50	.68	.75	h+i	
GROUP 3	7.55	.68	.75	h+i	
GROUP 4	7.65	.68	.75	h+i	
GROUP 5	7.75	.68	.75	h+i	
Essex County:					
GROUP 1	11.72	1.03	1.575	h+i	
GROUP 2	11.95	1.03	1.575	h+i	
GROUP 3	12.00	1.03	1.575	h+i	
GROUP 4	12.10	1.03	1.575	h+i	
GROUP 5	12.20.	1.03	1.575	h+i	

DECISION NO. WJ82-3006

CLASSIFICATION DEFINITIONS FOR TRUCK DRIVERS

GROUP 1 - Mechanic Helper

GROUP 2 - Drivers on the following type vehicles: Straight Dumps, Flats, Floats, Pickups, Container Haulers, Fuel, Water Sprinkler, Road Oil, Stringer, Bead, Hot Pass, Bus, Dumpcrete, Transit Mixers, Half Truck, Winch Truck, Side-o-Matic, Dynamite, Powder, X-Ray, Welding, Skid, Jeep, Station Wagon,Stringer, A-Frame, All Dual Purpose Trucks, Trucks with mechanical tail gates, Asphalt Distributor, Batch Trucks, Seeding, Mulching, Fertilizer, Air Compressor Trucks (in transit), Parts Chaser, Escort, Scissor, Hi-lift, Telescope, Concrete Breaker, Gin Pole, Stone, Sand, Asphalt Distributor & Spreader, Nipper, Fuel Trucks (drivers on Fuel Trucks including handling of hose & nozzle-entire unit), Team Drivers, Vacuum or Vac-all Trucks (entire unit), Skid Truck (debris container - - entire unit), concrete Mobile Trucks (entire unit), Expediter (parts chaser), Beltcrete Trucks, Pump Crete Trucks, Line Truck, Reel Truck, Wreckers, Utility Trucks, Tack Trucks, Warehouseman, Warehouse Parts-Man, Yardman, Lift Truck in Warehouse, Helper when required on Lift Truck in Warehouse, Warehouse Clerk, Parts Man, Material Checkers, Receivers, Shippers, Binning Man (Materials), Cardex Man, helper when required on Broyhill Coal Tar Epoxy Truck & Asphalt & Bituminous Distributor Truck, Drivers on the following type vehicles: Broyhill Coal Tar Epoxy Trucks, Little-Ford Bituminous Distributor, Slurry Seal Truck or Vehicle, Thiokol Track Master Pickup (Swamp Cat Pickup), Bucket Loader Dump Truck & any Rubber Tired Tractor used in pulling & towing Farm Wagons & Trailers of any description, similar type vehicles, Off-site & On-site Repair Shop, and Agitator Mixers

GROUP 3 - Driverson straight 3-Axle Materials: Truck & Floats.

GROUP 4 - Drivers on all Euclid Type Vehicles: Euclids, International Harvesters, Wabcos, Caterpillar, Koebring, Tractors & Wagons, Dumptors, Straight, Bottom, Rear & Side Dumps, Carryalls & Scrapers (not self loading-loading over the top), Water Sprinkler Trailer, Water Pulls & similar types of Vehicles; Drivers on Tractors & Trailer type vehicles: Flat, Floats, I-beams, Low Beds, Water Sprinkler, Bituminous Transit Mix, Road Oil, Fuel, Bottom Dump Hopper, Rear Dump, Office, Shanty, Epoxy, Asphalt, Agitator Mixer, Mulching, Stringer, Seeding, Fertilizing Pole, Spread, Bituminous Distributor, Water Pulls (entire unit) (Tractor Trailer), Reel Trailer, and similar types of vehicles

DECISION NO. WJ82-3006

GROUP 5 - Winch Trailers Drivers

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Years' Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day

FOOTNOTES:

a. Holidays: New Years' Day, Washingtons' Birthday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Armistice Day, and Christmas Day

b. Employer contributes $8.00 per day per employee to an Annuity Fund.

c. Holidays: A through F; plus Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day & Armistice Day.

d. Employees with 6 months of service but less than 5 years of service receive 2 weeks vacation; those with 5 or more years of service receive 3 weeks vacation.

e. Holidays: A through F; plus Washington's Birthday, Good Friday and Christmas Eve, providing the employee has worked 45 full days for the employer during 120 calendar days immediatmly prior to the holiday and the employee works his regularly scheduled work days immediately preceeding and following the holiday.

f. Holiday: St. Patrick's Day

g. Holidays: A through F; plus Washington's Birthday, Presidential Election Day and Veterans' Day providing the employee works any of the 3 days in the 5 days preceeding the holiday and the first work day after the recognized holiday.

h. All employees who are assigned to work on Sundays or the following Holidays: NEW YEARS DAY, MARTIN LUTHER KING'S BIRTHDAY, LINCOLN'S BIRTHDAY, WASHINGTON'S BIRTHDAY, GOOD FRIDAY, DECORATION DAY, INDEPENDENCE DAY, LABOR DAY, GENERAL ELECTION DAY, COLUMBUS DAY, VETERANS' DAY, THANKSGIVING DAY, CHRISTMAS DAY, and any new holiday proclaimed by the Federal Government (not days of mourning), shall be paid two and one half times the rates listed for all hours worked which includes the holiday pay.

DECISION NO. WJ82-3006

FOOTNOTES: (CONT'D)

i. Employees working or receiving pay for 80 days within a year receive one week's vacation (48 hours); 125 days receive two weeks vacation (96 hours); 145 days receive 15 days (120 hours); 15 years seniority and 145 days receive 4 weeks vacation (160 hours).

j. Employer contribution of $165 per month per employee Health and Welfare funds.

SUPERSEDEAS DECISION

STATE: Pennsylvania

COUNTIES: Bucks, Chester, Delaware, Montgomery & Philadelphia

DECISION NO.: PA82-3007

DATE: Date of Publication

Supersedes Decision No.: PA81-3060 dated October 3, 1980, in 45 FR 659028.

DESCRIPTION OF WORK: Building Construction, including single family homes and garden type apartments up to and including 4 stories (Chester County Building, Construction Only)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS					
ZONE 1	15.77	1.00	1.64		.08
ZONE 2	12.10	.90	1.05		.025

AREA COVERED BY ASBESTOS WORKERS

ZONE 1 - Chester, Delaware, Montgomery, Philadelphia and Remainder of Bucks County

ZONE 2 - Bridgeton, Durham, Lower Makefield, Middletown Falls, Morrimtown, New Hope, Newton, Noxkamixon, Plumstead Riegelsville, Solebury, Tullytown, Tinicum, Upper Makefield and Yardley Townships in Bucks County

BOILERMAKER	16.67	1.275	1.00		.02
BRICKLAYERS:					
Rehabilitation work to include demolition, repair, and alteration, on any existing structure of not more than four (4) stories which is intended for predominently residential use:					
ZONE 1	10.48	.77	1.05		.02
New Residential:					
Under 4 stories	12.47	1.00	1.30		.02
All other Work:					
ZONE 1	13.28	1.30	1.40		.02
ZONE 2	12.00	1.37	1.75		.02
ZONE 3	13.21	1.22	1.55		.02

AREA COVERED BY BRICKLAYERS ZONES

ZONE 1 - Bucks, Chester, Philadelphia Counties, Radnor and Haverford Township in Delaware County, Lower Marion, Abington, Upper Moreland and Cheltenhan Townships in Montgomery County

ZONE 2 - Remainder of Delaware County

ZONE 3 - Remainder of Montgomery County

DECISION NO. PA82-3007	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Rehabilitation work to include demolition, repair and alteration, on any existing structure of not more than four(4) stories which is intended for predominently resident use	11.52	2.63	1.40		.13
Residential Under 4					
Bucks, Delaware and Montgomery Counties	10.38	1.13	1.40		.13
Philadelphia County	12.42	2.61	1.40		.13
All other work	13.52	2.63	1.40		.13
CEMENT MASONS:					
Rehabilitation work to include demolition, on any existing structure of not more than four(4) stories which is intended for predominently residental use:					
ZONE 1	10.02	2.09	2.20		
All other work:					
ZONE 1	11.60	2.09	2.60		
ZONE 2	8.70	.58	.42		
ZONE 3	10.79		1.65		

AREA COVERED BY CEMENT MASONS ZONES

ZONE 1 - Bucks, Delaware and Philadelphia Counties, Remainder of Chester County and Remainder of Montgomery County

ZONE 2 - Oxford, Kenneth Square, Avondale and Longwood Townships in Chester County

ZONE 3 - Pennsburg and Pottstown Townships in Montgomery County

DECISION NO. PA82-3007	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
FINAL CLEAN-UP CREW: When construction cleaning completed and general contractor and all construction sub-contractors are off the job:					
Janitorial Cleaner	4.68	.30	.13	a+b	
Window Cleaner	5.99	.30	.13	a+b	

FOOTNOTES:

a. Paid Holidays: New Year's Day; Lincoln's Birthday; Good Friday; Decoration Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day, plus vacation pay for employee who have been employed by the employer for one year may receive five paid holidays; two years ten paid holidays, five years twelve paid holidays; ten years fifteen paid holidays, eighteen years twenty paid holidays, twenty five years twenty five paid holidays.

b. Funeral Leave: Employee's shall be granted three consecutive calendar days in the case of a parent, spouse, child, brother or sister of an employee, if the employee normal time off falls within the three day period, the employee will be reimbursed for that portion of time normally scheduled for work, should death occur during an employee's scheduled vacation, there will be no funeral leave payment. Funeral leave under no circumstances results in a change in employee's basic weekly salary.

DECISION NO. PA82-3007	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DRYWALL FINISHERS:					
Rehabilitation work to include demolition, repair and alteration, on any existing structures of not more than four(4) stories which is intended for predominently residential use	9.50	1.69	.75		.03
All other work	12.03	1.91	1.00	1.00	.03
ELECTRICIANS:					
Rehabilitation work to include demolition, repair & alteration, on any alteration, on any existing structure of not more than four(4) stories which is intended for predominently residential use:					
ZONE 1	14.92	6%	3%+6%		.24
ZONE 2	10.74	.71	3%+.81		.06
ZONE 3	9.75	.46	3%+.58		.15
ELECTRICIANS					
ZONE 1					
Commercial	15.75	1.10	3%+.95		.28
Residential up to and including 4 stories	14.23	6%	6%		.24
ZONE 2					
Commercial	16.09	5%	9%		1.5%
Residential up to and including 3 stories	10.74	.71	3%+.81		.06
ZONE 3					
Commercial	15.27	6%	3%+13%		1/2 of 1%
Residential up to and including 3 stories	9.85	.59	3%+1.28		1/2 of 1%
ZONE 4					
Commercial	14.03	1.15	1.26		1/4 of 1%
ZONE 5					
Commercial	14.49	.78	3%+.64		.04
ZONE 6					
Commercial	15.00	1.05	3%+1.00		.02
ZONE 7					
Commercial	14.05	.70	3%+.80		.04
ZONE 8					
Commercial	14.64	7%	3%+.80		.15
ZONE 9					
Commercial	12.55	.60	3%		.03%

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AREA COVERED BY ELECTRICIANS ZONES

ZONE 1

Bucks County - starting at the Delaware River and following the west limits of the Borough of Bristol, along the continuation of U.S. Highway 13 and under the Pennsylvania Railroad bridge to Route 09113, north 09113 to Route 152, north along Route 152 to the Hulmeville Road, east on Hulmeville Road to Route 333, north on Route 344 to the junction of Spurs 281 and 252, continue north on Spur 252 to Route 09028, west on 09028 to Route 152, north on 152 to TR 232, north on TR 532 to Tr 113, north on TR 113 to TR 232 at Anchor Inn, northeast on TR 232 and continue northeast along Route 659 to Route 09060, west on 09060 to Route 402, north on 402 to the Borough line at the southwest corner of the Borough of New Hope. The Borough of New Hope is excluded.

starting at the Delaware at the Delaware River and proceeding southwest along the Plumstead-Solebury and the Plumstead-Buckingham Township lines to Route 09064, northwest on 09064 to U.S. Highway 611 south on 611 to the spur of Route 270, northwest along the spur to Route 397, southwest on 397 to Route 350, southeast on 350 to Route 395, southwest on 395 to Route 09069, southeast on 09069 to Route 09041 southwest on 09041 to the Montgomery County line.

Delaware County - that portion east of a line following State Highway 320 from Montgomery County to Maple, then along the Springfield Road to Saxer Avenue, along Saxer Avenue to Powell Road, along Powell Road to State Highway 420 and continuing in a straight line to the Delaware River.

Montgomery County - that portion southeast of a line following Lower State Road from Bucks County southwest to the Bethlehem Pike (U.S. Highway 309), south on the Bethlehem Pike to the Penllyn Pike, southwest on the Penllyn and Blue Bell Pikes to the Wissahickon Creek, southeast on the Wissahickon Creek to the Butler Pike to North Lane near Conshohocken Borough, southwest on North Lane to Schuylkill River and continuing southeast in a line to the Spring Mill Road and southwest on the Spring Mill Road to Delaware County.

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AREA COVERED BY ELECTRICIANS ZONE CONT'D

Philadelphia County - in its entirety.

ZONE 2
Bucks County - Hilltown and New Britain Townships in their entirety; that portion of telford Borough northeast of County Line Road (Main Street) and bounded by West Rockhill and Hilltown Township; that portion of Dublin Borough west of State Highway 313, and that portion of Doylestown and Warrington Townships and Doylestown Borough northwest of a line following U.S. Highway 611 south from Route 09064 to the spur of Route 270, and proceeding northwest along the spur to Route 397, southwest on 397 to Route 350, Southeast on 350 to Route 395, southwest on 395 to Route 09069, southeast on 09069 to Route 09041, southwest on 09041 to the Montgomery County Line.

Chester County - East Coventry, East Vincent, West Vincent, East Pikeland, West Pikeland, Uwchlan, Upper Uwchlan, East Brandywine, Schuylkill and Charlestown Townships in their entirety, and that portion of Caln, East Caln, West Whiteland, East Whiteland, Tredyffrin, Willistown, Easttown Townships and the Borough of Downingtown north of U. S. Highway 30.

Delaware County - That portion of Radnor Township north of U.S. Highway 30 and west of State Highway 320.

Norristown, Montgomery County - That portion northwest of a line following Lower State Road from Bucks County southwest to the Bethlehem Pike (U.S. Highway 309), south on Bethlehem Pike to the Penllyn Pike, southwest onthe Penllyn and Blue Bell Pikes to the Wissahickon Creek to the Butler Pike, southwest Wissahickon Creek to the Butler Pike, southwest on the Butler Pike, to North Lane near Conshohocken Borough, southeast on North Lane to the Schuylkill River and continuing southeast in a line to the Spring Mill Road, southwest on the Spring Mill Road to Delaware County; but excluding Upper Hanover, Douglas, Upper Pottsgrove, West Pottsgrove Townships and also excluding that portion of the

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AREA COVERED BY ELECTRICIANS ZONE CONT'D

ZONE 2 CONT'D
Borough of Pottstown north and west of a line drawn northeast on Rein Street from the Schuylkill River to the Reading Railroad northwest on the railroad to Madison Street, to High Street, east on High Street to Green Street, north on Green Street and northeast on Mintzer Street to the Lower Pottsgrove Township Line, along this township line and the borough line northwest to Adams Street and the Beehive Road, northeast on the Beehive Road to the Township Line at Marvine Street in the State Of Pennsylvania.

ZONE 3
Chester County - That portion south of U.S. Highway 30 and north and west of U. S. Highway 1

Delaware County - That portion south of U.S. Highway 30 and north of that part of U.S. Highway 1 between U.S. Highway 202 and the Chester County Line, and east of that part of U.S. Highway 202 betwen U.S. Highway 1 and the Delaware Line, and west of a line extending from Montgomery County along State Route 320 to Maple, then along the Springfield Road to Saxer Avenue, along Saxer Avenue to Powell Road; along Powell Road to State Highway 420; along 420 and continuing in a straight line to the Delaware River in the State of Pennsylvania.

ZONE 4
Chester County - Oxford, Avondale and Kenneth Square Twps.

ZONE 5
Chester County - West Clan, West Brandywine, Honey Brook, Wallace, West Nantmeal, East Nantmeal, Warwich, South Coventy, Valley Twps. and Coatesville.

Montgomery County - West Pottsgrove, Upper Pottsgrove, Douglas Twps., Pottstown.

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AREA COVERED BY ELECTRICIANS ZONE CONT'D

ZONE 6
Bucks County - Plumstead, Bedminister, Tinicum, Nockomixon, Bridgeton and Durham Townships in their entireties, and that portion of Haycock and Springfield Townships east of a line following State Highway 412, from Northampton County south to Route 09071 to State Highway 212, along highway 212 to Route 09068, and along 09068 to State Highway 313. Also included is that portion of Bublin Borough east of State Highway 313.

ZONE 7
Bucks County - East Rock Hill, West Rock Hill, Milford and Richland Townships in their entirety and that portion of Haycock and Springfield Townships west of a line following State Highway 212 from Northampton County South to Route 09071 along 09071 to State Highway 212, along Highway 212 to Route 09068 and along 09068 to State Highway 313

Montgomery County - Upper Hanover in its entirety

ZONE 8
Bucks County - That portion east of a line starting at the Delaware River and following the west limits of the Borough of Bristol, along the continuation of U.S. Highway 13 and under the Pennsylvania Railroad Bridge to Route 09113, north along 09113 to Route 152, north along Route 152 to the Hulmeville Rd., east on the Hulmeville to Route 344, north on Route 344 to the junction of Spurs 281 and 252 continue north on Spur 252 and Route 09028, west on 09028 to Route 152, north on 152 to TR 532, north on TR 532 to TR 113, north on TR 113 to TR 232 as Anchor Inn, northeast on TR 232 and continue northeast along Route 659 to Route 09060, West on 09060 to Route 402, north on 402 to the Borough Line at the southwest corner of the Borough of New Hope. The Boroughs of New Hope and Bristol are included.

ZONE 9
Chester County - That portion of Sadsbury and West Sadsbury Township north of U. S. Highway 30.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Elevator Constructors	14.72	1.345	1.085	a+b	.035
Elevator Constructors Helpers	10.30	1.345	1.085	a+b	.035
Elevator Constructors Helpers (Prob.)	7.36				
GLAZIERS					
ZONE 1	13.66	.95	1.80		.03
ZONE 2	11.54	.75	.70		.015

AREA COVERED BY GLAZIERS ZONES

ZONE 1 - Delaware and Philadelphia Counties, Remainder of Bucks, Chester and Montgomery Counties

ZONE 2 - Milford, West Rockville, Rickland, E. Rockville, Haycock, Durham, Springfield, Richlandtown, Sqoherton, Nockamixon Townships in Bucks County, Warwick, S. Coventry, E. Coventry, N. Coventry, Spring City and Royersford Townships in Chester County, Pottstown, Lower Pottsgrove, Limrick, Lower Frederick, Upper Salford, Sounderton, Greeland, Upper Hanover, New Hanover, Douglas, Marlboro Twps. in Mongtomery County

IRONWORKERS:					
Rehabilitation work to include demolition, repair and alteration, on any existing structure of not more than four (4) stories which is intended for predominently residential use:					
ZONE 1	11.62	1.14	1.36		.04
All other work					
ZONE 1	12.20	1.34	1.11	1.05	.05
ZONE 2	14.95	1.49	1.46		.05
ZONE 3					
Structural & Ornamental	15.00	1.49	1.46		.04
Reinforcing	14.21	2.95	1.00		.05

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AREA COVERED BY IRONWORKERS ZONES

ZONE 1 - Bucks County

ZONE 2 - Chester County

ZONE 3 - Delaware, Montgomery and Philadelphia Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
Rigger, machinery mover	14.78	1.49	1.46		
LABORERS:					
Rehabilitation work to include demolition, repair and alteration, on any existing structure of not more than four (4) stories which is intended for predominently residential use:					
CLASS I	8.55	.90	.65		
CLASS II	8.65	.90	.65		
CLASS III	8.70	.90	.65		
CLASS IV	8.85	.90	.65		
CLASS V	8.95	.90	.65		
CLASS VI	8.49	.90	.65		

CLASSIFICATIONS DEFINITIONS

CLASS I - Stripping & dismantling concrete form work, loading, carrying 7 handling of all reinforced steel 7 steel mesh, handling lumber and other building materials, operating jackhammers, paving breakers 7 all other pneumatic tools, building scaffolds, raking, shoveling 7 tamping of asphalt, spading & concrete pit work, grading, form pinning, shoring, demolition except burners, laying conduits and ducts, sheathing, lagging, laying non metallic pipe & caulking, all other types of Laborers

CLASS II - Mason tender, power buggies, burners on demolition

CLASS III - Wagon drill operator (single)

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CLASSIFICATION DEFINITIONS CONT'D

CLASS IV - Powdermen, wagon drill operator (multiple), circular caissons excavation: Caisson groundmen, Underpinning excavation: Laborers, working at depth of 8 feet or under

CLASS V - Caisson bottom man

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
New Residential under 4 stories	9.08	.90	.85		.025
All other work					
CLASS I	11.05	.90	.85		.25
CLASS II	11.15	.90	.85		.25
CLASS III	11.20	.90	.85		.25
CLASS IV	11.35	.90	.85		.25
CLASS V	11.45	.90	.85		.25
CLASS VI	10.99	.90	.85		.25

CLASSIFICATIONS DEFINITIONS

CLASS I - Stripping & dismantling concrete form work, loading, carry 7 handling of all reinforced steel 7 steel mesh, handling lumber and other building materials, operating jackhammers, paving breakers 7 all other pneumatic tools, building scaffolds, raking, shoveling 7 tamping of asphalt, spading & concrete pit work, grading, form pinning, shoring, demolition except burners, laying conduits and ducts, sheathing, lagging, laying non metallic pipe & caulking, all other types of Laborers

CLASS II - Mason tender, power buggies, burners on demolition

CLASS III - Wagon drill operator (single)

CLASS IV - Powdermen, wagon drill operator (multiple), circular caissons excavation: Caisson groundmen, Underpinning excavation: Laborers, working at depth of 8 feet or under

CLASS V - Caisson bottom man

CLASS VI - Yard Workers

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LANDSCAPE LABORERS:					
CLASS I	8.30	.95	.85	c	
CLASS II	8.80	.95	.85	c	

CLASSIFICATIONS DEFINITIONS

CLASS I - Landscape Laborers

CLASS II - Farm tractor driver, hydroseeder nozzle man and mulcher nozzle man

LATHERS					
ZONE 1	12.52	1.67	1.40		.23
ZONE 2	11.15	1.25	.15		.01
ZONE 3	11.61	.65	.35		.01
ZONE 4	11.40	.15	.40		.02

AREA COVERED BY LATHERS ZONES

ZONE 1 - Delaware, Montgomery and Philadelphia Counties, Remainder of Bucks and Chester Counties

ZONE 2 - Coatesville & lower part of Chester County

ZONE 3 - Milford, Trumbersville, Richland, Quakertown, Springfield, Durham, Riegelsville, Bridgetown, Nockamixon, Tinicum, Plumstead, Dublin, Medminister, Haycock, East Rockhill, Perkasie, Sellersville, West Rockhill Townships in Bucks County

ZONE 4 - Solebury, New Hope, Upper Makefield, Wrightstown, Newton, Yardley, Lower Makefield, Morrisville, Falls, Tullytown Townships in Bucks County

LEAD BURNERS	10.75	.40	.25	d	.01
LINE CONSTRUCTION					
ZONE 1					
Linemen	16.27	.60	3%		1%
Groundmen	9.76	.60	3%		1%
Winch truck operator	11.39	.60	3%		1%
ZONE 2					
Linemen, cable splicers, heavy equipment operator, truck driver	15.27	7%	3%+.80		3/4%
Groundman, winch operator	12.22	7%	3%+.80		3/4%

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AREA COVERED BY LINE CONSTRUCTION

ZONE 1 - Remainder of Bucks County, Chester, Delaware, Montgomery, Philadelphia Counties

ZONE 2 - Bucks county: That portion east of a line starting at the Delaware River and following the west limits of the Borough of Bristol, along the continuation of U. S. Highway 13 and under the Pennsylvania Railroad Bridge to Route 09113, north along 09113 to Route 152, north along Route 152 to the Hulmeville Rd., east on the Hulmeville to Route 344, north on Route 344 to the junction of Spurs 281 and 252, continue north on Spur 252 and Route 09028, west on 09028 to Route 152, north on 152 to Tr 532, north on Tr 532 to Tr 113, north on Tr 113 to Tr 232 at Anchor Inn, northeast on Tr 232 and continue northeast along Route 659 to Route 09060, west on 09060 to Route 402, north on 402 to the Borough Line at the southwest corner of the Borough of New Hope. The Boroughs of New Hope and Bristol are included.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS	11.10	.87	1.57		
MARBLE FINISHERS	9.89	1.45	1.75		
MILLWRIGHTS	13.02	2.63	1.40		.13
PAINTERS:					
Rehabilitation work to include demolition, repair, and alteration, on any existing structures of not more than four (4) stories which is intended for predominently residential use:					
ZONE 1	10.00	1.225	.60		.06
All other work:					
ZONE 1					
Brush	13.00	1.30	.90		.08
Spray, steel & swing	13.45	1.30	.90		.08
Roller	13.00	1.30	.90		.08

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
ZONE 2					
Commercial, brush	13.28	1.24	1.25		
Commercial, spray	13.78	1.24	1.25		
ZONE 3					
Brush	11.05	1.10	1.00		
Steel and spray	12.05	1.10	1.00		
Roller	11.05	1.10	1.00		
ZONE 4					
Brush	13.14	1.60	1.30		
Steel	13.89	1.60	1.30		

AREA COVERED BY PAINTERS ZONES

ZONE 1 - Bucks & Philadelphia Counties: Randnor, Haverford, Newton, Maple, Springfield, Upper Darby, Barby, Ridley, Tinicum & Yeondon Townships in Delaware County, Cheltenahm, Abington, Upper and Lower Moreland, Springfield Whitemarsh, Plymouth, Upper Dubling, Horsham, Whitpain, Upper and Lower Gwynodd, Lower Marion, Upper Southampton, Townships in Montgomery County

ZONE 2 - Chester County and Remainder of Delaware County

ZONE 3 - Pottstown, Pottsgrove, New Hanover and Douglas Townships in Montgomery County

ZONE 4 - Remainder of Montgomery County

PAPERHANGERS:					
Rehabilitation work to include demolition, repair, and alteration, on any existing structure of not more than four (4) stories which is intended for predominently residential use	10.89	.95	.60		.03
PILEDRIVERMEN	12.97	3.13	1.40	f	.13

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POINTERS, CAULKERS AND CLEANERS	13.53	1.25	1.35		
PLASTERERS:					
Rehabilitation work to include demolition, repair, and alteration, on any existing structure or not more than four (4) stories which is intended for predominently residential use:					
ZONE 1	9.49	.93			.01
All other work					
Zone 1	12.96	.93			.01
Zone 2	10.81		1.65		.01
Zone 3	11.62	.90			.01
Zone 4	9.45				.01

AREA COVERED BY PLASTERERS ZONES

ZONE 1 - Bucks & Philadelphia Counties; remainder of Chester County, Remainder of Montgomery County

ZONE 2 - Pennsburg Township in Montgomery County

ZONE 3 - Longwood, Kennett Square, Avondale and Oxford Townships in Chester County

ZONE 4 - Delaware County

PLUMBERS:					
Rehabilitation work to include demolition, repair, and alteration, on any existing structure or not more than four (4) stories which is intended for predominently residential use:					
ZONE 1	12.13	.81	1.30		.14
All other work:					
ZONE 1	16.48	1.10	1.40		.14
ZONE 2	15.08	1.10	1.40		.14

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AREA COVERED BY PLUMBERS ZONES

ZONE 1 - Delaware, Chester, Montgomery, Philadelphia Counties; remainder of Bucks County

ZONE 2 - Bridgton, Durnham, Haycock, Milford, Nockamixon, Richland, East Rockhill, West Rockhill and Springfield Townships in Bucks County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Residential structure of not more than 4 stories re-roofing					
ZONE 1	12.10	1.00	.75		
All other work:					
ZONE 1					
Commercial Composition, damp & waterproofers	15.67	1.40	.95	a	
Roofers Assistant	7.75	1.40	.95	a	
ZONE 2					
Commercial Composition & slate	12.28		1.55		
ZONE 3					
Commercial Composition roofers	11.62	1.33	.80		

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AREA COVERED BY ROOFERS ZONES

ZONE 1 - Chester, Delaware, Montgomery and Philadelphia Counties, Remainder of Bucks County

ZONE 2 - Milford, Trumbbaversville, Richland, Quakertown, Strongfield, Durham, Smigllville Townships in Bucks County

ZONE 3 - Solebury, New Hope, Upper Makefield, Wrightstown, Newton, Yardley, Lower Makefield, Morrisville, Falls, Tullytown and Bistol Townships in Bucks County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS					
ZONE 1 (Commercial)	15.74	1.17	2.34		.07
ZONE 2 (Residential)	7.43	1.02	1.65		
ZONE 3 (Commercial)	13.86	2.67	1.32		.04

AREA COVERED BY SHEET METAL WORKERS ZONES

ZONE 1 - Remainder of Bucks, Chester, Delaware, Montgomery & Philadelphia Counties

ZONE 2 - Chester, Delaware, Montgomery Counties and Bucks County excluding the Townships of Falls, Buckingham, Newton, Upper and Lower Makefield, Solebury, Plumstead and Wrightstown

ZONE 3 - Townships in Bucks County; Plumstead, Solesbury, Buckingham, Wrightstown, Upper and Lower Makefield, Newton and Falls

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
Rehabilitation work to include demolition, repair, and alteration, on any existing structure of not more than four (4) stories which is intended for predominently residential use	9.06	2.63	1.40		.13
All other work	11.78	2.93	1.40		.13
SPRINKLER FITTERS					
ZONE 1	15.56	.95	1.40		.08
ZONE 2	15.62	.95	1.40		.10

AREA COVERED BY SPRINKLER FITTERS ZONES

ZONE 1 - Bucks, Chester, Delaware & Montgomery Counties

ZONE 2 - Philadelphia County

STEAM FITTERS					
ZONE 1	16.01	.95	2.05		.11
ZONE 2	15.61	.95	2.05		.11

AREA COVERED BY STEAMFITTERS ZONES

ZONE 1 - Chester, Delaware, Montgomery, Philadelphia Counties, Remainder of Bucks County

ZONE 2 - Bucks County; Townships of Bridgton, Durham, Haycock, Milford, Nockamixon, Richland, East Rockhill, West Rockhill and Springfield

STONE MASONS					
ZONE 1	12.20	.98	1.87		.02
ZONE 2	13.21	1.22	1.55		.02
ZONE 3	13.28	1.30	1.40		.02
ZONE 4	11.10	.87	1.57		

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AREA COVERED BY STONE MASONS ZONES

ZONE 1 - Delaware & Philadelphia Counties; Remainder of Bucks County

ZONE 2 - Montgomery County

ZONE 3 - Chester County

ZONE 4 - Bristol Township in Bucks County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOUND AND PUBLIC ADDRESS INSTALLATION TECHICIANS (Existing building only)	9.50		3%		
TERRAZZO WORKERS	11.84	.98	1.87		
TERRAZZO FINISHERS	9.87	1.45	1.75		
TILE SETTERS					
Rehabilitation work to include demolition, repair and alteration, on any existing structure of not more than four (4) stories which is intended for predominently residential	10.25	1.25	.40		.14
All other work	10.75	1.55	1.95		.14
TILE SETTERS FINISHERS	9.66	1.45	1.75		
WELDERS - rate prescribed for craft performing operation to which welding is incidental.					

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Paid Holidays (Where Applicable):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Footnotes:

a. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Holidays: A through F, plus the Friday after Thanksgiving Day.

c. Holidays: July 4th; Labor Day and Thanksgiving Day.

d. Holidays, A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 days for the employer during the 120 days prior to the holiday, and is available for work the day preceding and following the holiday.

e. Holidays: Election Day.

f. Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve providing the employee has worked 45 full days for the same employer during the 120 calendar days prior to the holiday & is available for work the days preceding & following the holiday.

DECISION NO. PA82-3007

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	14.58	10%	10.3%	a	1.3%
GROUP 2	14.32	10%	10.3%	a	1.3%
GROUP 3	13.45	10%	10.3%	a	1.3%
GROUP 4	13.24	10%	10.3%	a	1.3%
GROUP 5	12.93	10%	10.3%	a	1.3%
GROUP 6	12.76	10%	10.3%	a	1.3%
GROUP 7	12.25	10%	10.3%	a	1.3%
GROUP 8	11.51	10%	10.3%	a	1.3%

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1 - Handling steel and stone in connection with erection, cranes doing hook work, any machine handling machinery, cable spinning machine, helicopters, machines similar to above

GROUP 2 - All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, pippin type backhoes, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists - double drum (unless used as single drum) mucking machines in tunnel, gradalls, frontend loaders 3½ cu. yd. 7 over boat captain, tandem, scrapers, tower type crane operation, erecting, dismantling, jumping or jacking, drills self-contained (drillmaster type) fork lift (20 ft. and over), motor patrols (fine grade) batch plant with mixer, machine similar to the above

GROUP 3 - Conveyors (except building conveyors) building hoists (single drum) scrapers and tournapulls, asphalt plant engineers, roller (high grade finishing) front-end loaders under 3½ cu. yds. mechanic-welder, spreaders, high or low pressure boilers, concrete pumps, well drillers, front lift trucks of all types bulldozers and tractors, ditch witch type trencher, motor patrol, machines similar to the above

GROUP 4 - Concrete breaking machines rollers, machines similar to the above

DECISION NO. PA82-3007

POWER EQUIPMENT OPERATORS CLASSIFICATIONS CONT'D

GROUP 5 - Seaman pulverizing mixer, fireman on power equipment maintenance engineer(power boat) machines similar to the above

GROUP 6 - Conveyors (building) welding machines, heaters, well-points, compressors, farm tractors, fine grade machines, from line graders, road finishing machines, pumps, power broom (self-contained), seed spreader, machines similar to the above

GROUP 7 - Fireman, grease truck

GROUP 8 - Oilers and deck hands (personnel boats) grease truck helper

FOOTNOTE:
a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day providing the employee works the day before and after the holiday.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))."

DECISION NO. PA82-3007 BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
CLASS I	10.35	1.0675	1.225	a+b	
CLASS II	10.45	1.0675	1.275	a+b	
CLASS III	10.65	1.0675	1.275	a+b	

CLASSIFICATIONS DEFINITIONS

CLASS I - Warehouseman, checker, fork lift driver, stake body truck (single axle), 1½ ton and under vehicles

CLASS II - Truck driver over 1½ tons, dump trucks, tandem and batch trucks, semi-trailers, agitator mixer trucks, and dumpcrete type vehicles, asphalt distributors, farm tractor when used for transportation, stake body truck (tandem)

CLASS III - Euclid type-off-highway equipment - back or belly dump trucks and double - hitched equipment straddle (Ross) carrier, lowbed trailers

FOOTNOTES:
a. Employer will earn one (1) vacation day every two (2) months up to a maximum of five (5) vacation days (40 hours pay) calendar year. During each two (2) consecutive month period, employee must have worked twenty-six (26) days in that two month period. After 130 workdays the employee will be entitled to all days of vacation, employees with five (5) years or more senority shall be eligible for two (2) weeks of vacation.

b. Paid Holidays: Memorial Day; Independence Day; Labor Day; Veterans Day and (5) personal holidays for employees who have worked a minimum of thirty days and are on the employer's senority list, provided he works the schedule work days before and after the said holidays.

DECISION NO. PA82-3007	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: HEAVY & HIGHWAY INCLUDING SITE PREPARATION, PAVING & UTILITIES ON BUILDING CONSTRUCTION					
CLASS 1	10.20	1.0675	1.225	a+b	
CLASS 2	10.30	1.0675	1.225	a+b	
CLASS 3	10.50	1.0675	1.225	a+b	

SITE PREPARATION, PAVING, AND UTILITIES CLASSIFICATIONS

CLASS 1: Helpers, Stake Body Truck (single axle, dumpster)

CLASS 2: Dump trucks, tandem & batch trucks, semi-trailers, agitator mixer trucks, and dumpcrete type vehicles, asphalt distributors, farm tractor when used for transportation, stake body truck (tandem)

CLASS 3: Euclid type, off-highway equipment or belly dump trucks and double hitched equipment, staddle (ross) carrier, low-bed trailers

FOOTNOTES:
a. Employee will earn one (1) vacation day every two (2) months up to a maximum of five (5) vacation days per calendar year. During each two (2) consecutive months period, employee must have worked twenty-six (26) days in that two month period. After 130 workdays the employee will be entitled to all days of vacation.

b. Paid Holidays: Memorial Day; Independence Day; Labor Day and Veterans Day and five (5) personal holidays provided such employee work the scheduled work days before and after said holiday; and employee gives employer one (1) week's notice requesting a personal holiday. The eligibility for personal holidays will be as follows: Employee will earn one (1) personal holiday every two (2) months up to a maximum of five (5) personal holidays per calendar year. During each two (2) consecutive month period, employee must have worked twenty-six (26) days in that two month period. After 130 workdays the employee will be entitled to all personal holidays.

SUPERSEDEAS DECISION

STATE: WISCONSIN — COUNTIES: Ashland, Bayfield and Douglas

DECISION NO.: WI82-2004 — DATE: Date of Publication

Supersedes Decision No.WI80-2027 dtd April 18, 1980 in 45 FR 26656

DESCRIPTION OF WORK: Building (including Residential) Construction

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.85	.70	.75	1.65	.01
BOILERMAKERS	14.97	1.375	1.15		.05
BRICKLAYERS	13.82	.90	.65		.01
CARPENTERS: Ashland County	12.20	.60	1.10	.40	
Bayfield & Douglas Cos. (Residential) Bayfield & Douglas Cos.	12.40	.70	.85	.75	
(Residential) Ashland	7.67	.60	.50		.05
CEMENT MASONS:	9.20	.60	.50		
Douglas County	14.10	.70			
Ashland & Bayfield County	13.00	.90	.65		.01
ELECTRICIANS	14.62	5%	11%	11%	1%
Residential	9.50	.73	3%		¼ of 1%
ELEVATOR CONSTRUCTORS	13.51	1.345	1.085	a+b	.035
Helpers	9.46	1.345	1.085	a+b	.035
Helpers (Probationary)	6.755				
IRONWORKERS	13.97	.70	.90	1.00	.02
LINE CONSTRUCTION:					
Linemen	14.40	.45	9%		1+%
Heavy Equipment Operator	12.96	.45	9%		1+%
Light Equipment Operator	11.52	.45	9%		1+%
Heavy Groundman - Truck Driver	10.08	.45	9%		1+%
Light Groundman - Truck Driver	9.36	.45	9%		1+%
Groundman	7.92	.45	9%		1+%
MILLWRIGHTS & PILEDRIVERMEN					
Ashland County	12.40	.60	1.10	.40	
Bayfield & Douglas Cos.; Millwrights	12.87	.70	.85	.75	
Piledrivermen	12.65	.70	.65	.75	
PAINTERS:					
Brush	13.61	.70	.70		.13
Spray	14.21	.70	.70		.13
PLASTERERS	13.75	.70		.55	
PLUMBERS	13.66	.70	1.10	1.50	.20
ROOFERS	12.83	.70	.60	1.50	
SHEET METAL WORKERS	13.67	.70	.78	1.50	.06
SOFT FLOOR LAYERS	12.40	.70	.85	.75	
SPRINKLER FITTERS	15.31	.95	1.40		.08
TERRAZZO WORKERS	13.82	.90	.65		.01
TILE SETTERS	13.82	.90	.65		.01
Welders receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. WI82-2004

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers: Ashland County only General Laborer Concrete Work and carrying reinforcing or any steel	10.58	.65	.55		.03
Mason Tenders, Bricklayers' Tenders, Sewer Diggers, Pipelayers, Operating Small Mixers or mixing by hand, Operating Power Tools such as Jackhammers, Vibrator, Air spade and Forklift	10.73	.65	.55		.03
Laborers: Bayfield & Douglas Cos. General Laborer, Mason Tender, Mortar Mixer, Air Hammer, Air Spade & Jack Hammer Operators	10.92	.65	.55	.50	.03
Plasterer Laborer	11.17	.65	.55	.50	.03

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Holidays: A through F

b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Holidays: A through F plus Washington's Birthday and Good Friday providing employee has worked 45 full days during the 120 calendar days prior to the holiday, regularly scheduled work days immediately preceding and following the holiday.

DECISION NO. WI82-2004

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	14.12	1.55	1.00		.05
GROUP II	13.85	1.35	1.00		.05
GROUP III	13.52	1.35	1.00		.05
GROUP IV	13.41	1.35	1.00		.05
GROUP V	12.90	1.35	1.00		.05
GROUP VI	12.47	1.35	1.00		.05

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Dredge Operator and Traveling Cranes (Bridge Type), Concrete Paver (over 27E), Concrete Spreader and Distributor
GROUP II - Material Hoists, Tractor or Truck Mounted Hydraulic Backhoe, Tractor or Truck Mounted Hydraulic Crane (5 tons or Under), Manhoist, Tractor (over 40 H.P.), Bulldozer H.P.), Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (wheel type or chain type having over 8-inch bucket), Elevator
GROUP III - Concrete and Grout Pumps, Backfiller, Concrete Auto Breaker (large), Concrete finishing (Road Type), Roller (Rubber Tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw Type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (pile drivers and derricks)
GROUP IV - Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (tuggers) Stump chipper (large), Boats, Safety, Work, Barges and launch)
GROUP V - shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor Mounted Equipment, Post Hole Diggers, Stone Crushers and Screening Plants, Firemen (asphalt Plants), Air Compressor (300 CFM or over)
GROUP VI - Generators over 150 KW, Pumps over 3", Augers (vertical and horizontal), Combination Small Equipment Operator; Air, Electric Hydraulic Jacks (Slip Form), Compressors (under 300 CFM); Generators (under 150 KW0, Pumps (3" and under); winches (small electric), Oiler and Greaser, Boiler Operators (Temporary heat), Rotary Drill Helpers, Conveyors, Forklift (12' and under)

[FR Doc. 82-4677 Filed 2-25-82; 8:45 am]
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federal register

Friday
February 26, 1982

Part IV

Department of the Interior

Bureau of Land Management

Amendments to the Regulations Covering Oil and Gas Leasing on Federal Lands

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3100, 3110, and 3130

[Circular No. 2497]

Amendments to the Regulations Covering Oil and Gas Leasing on Federal Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Interim final rulemaking.

SUMMARY: This interim final rulemaking will dramatically reduce the regulatory burden imposed on the public and the Department of the Interior in connection with the noncompetitive oil and gas leasing program by eliminating from current regulations: (1) The requirement that simultaneous oil and gas lease application filing fees be paid by guaranteed remittance; (2) the mandatory use of pre-numbered assignment forms for the transfer of oil and gas leases; and (3) the requirement to submit documents related to qualifications prior to lease acquisition.

EFFECTIVE DATE: February 26, 1982.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240. Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Charles Weller; (202) 343-7722.

SUPPLEMENTARY INFORMATION: For several years, the Federal Government's noncompetitive oil and gas leasing effort has not kept pace with the demand for access to the public lands for oil and gas development. The Bureau of Land Management, in coordination with the Forest Service, the Minerals Management Service, the Department of Defense and other agencies, is aggressively pursuing initiatives designed to provide access to lands more quickly so that the United States can realize the fullest potential of its domestic resources. One major way to provide quicker access is to speed the process of lease issuance by eliminating unnecessary procedures which have been developed over time. Elimination of these procedures also allows significant savings to the public by reducing the amount of information that must be submitted in conjunction with oil and gas leasing.

This final interim rulemaking eliminates the requirement that simultaneous oil and gas lease application filing fees be paid by guaranteed remittance. This requirement has caused significant confusion to the public and the Bureau of Land Management as to what constitutes a guaranteed remittance, has resulted in a number of administrative appeals and has burdened the public out of proportion to the problem of bad checks that it was designed to address. In the future, the Bureau will use normal collection procedures for uncollected remittances instead of requiring all applicants to use particular forms of remittances.

This interim final rulemaking also eliminates the mandatory use of prenumbered assignment forms for the transfer of oil and gas leases. This requirement was imposed in May of 1980 in response to the preliminary indications of a criminal investigation that as much as 80 percent of all simultaneous oil and gas lease applications were fraudulent. More conclusive evidence from the ongoing investigation indicates that the extent of the problem was grossly overestimated. With this new perspective, the impediments to lease development which resulted from the required use of pre-numbered forms are not justified. The Department of the Interior is confident that the ongoing investigative effort under the Office of the Inspector General is sufficient to detect fraudulent manipulation of the leasing process should it reoccur.

Another change made by this final interim rulemaking would be the elimination of the requirement that documents relating to qualifications be submitted in conjunction with lease applications and assignments by trusts, associations, corporations, agents, other-parties-in-interest and municipalities. These documents were originally required in order to allow monitoring of Federal acreage limitations, foreign investment restrictions, multiple filing in the simultaneous oil and gas leasing program and the existence of agency relationships. The increase in the size of the program has rendered impossible the manual monitoring of these qualification documents. In the future, all lease applicants and assignees will be required to certify their compliance with statutory requirements on the lease or assignment application, subject to the criminal sanctions of 18 U.S.C. 1001 regarding fraudulent statements. Selective audits will be performed to verify compliance. Elimination of the requirement to submit these qualifications documents will save the public an estimated $20 million annually.

The Department of the Interior has determined that it is in the public interest to discontinue processing the thousands of qualifications documents presently on file. Compliance with the statute and regulations has been certified on all pending lease applications and assignments on the appropriate forms. Selective audits will verify compliance. Pending applications and offers for which there are no junior conflicting applications or offers pending on this date will not be subject to rejection for any failure to comply with the rules in Subpart 3102 of Title 43 of the Code of Federal Regulations in effect at the time of filing. All such failures are waived by promulgation of this rulemaking with respect to all requirements altered or eliminated by the rulemaking.

The Department of the Interior has determined that the public interest demands that the measures contained in this interim final rulemaking must be implemented immediately so as to speed the development of domestic oil and gas resources and to ease the regulatory burden on the public. Accordingly this rulemaking is being issued as an interim final rulemaking upon its publication. The changes made by this interim final rulemaking will also be published as part of the rewrite of Group 3100 of Title 43 of the Code of Federal Regulations that will be published in the near future. The public is requested to comment on the provisions of this rulemaking and these comments will be studied and considered at the time of decisionmaking on the issuance of a final rulemaking on Group 3100 of Title 43 of the Code of Federal Regulations.

Further, the Department of the Interior has determined that it is in the public interest to make this interim final rulemaking effective upon publication. The public will be benefitted by the reduction in paperwork burden immediately by making the rulemaking effective upon publication.

The principal author of this interim final rulemaking is Charles Weller, Division of Oil and Gas, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The information collection requirements contained in this amendment to 43 CFR Part 3100 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004-0034 and 0075.

Under the authority of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.), Part 3100, Group 3110, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

February 11, 1982.

PART 3100—OIL AND GAS LEASING

1. Subpart 3102 is revised to read:

Subpart 3102—Qualifications of Lessees

Sec.

3102.1 Who may hold leases.
3102.2 Aliens.
3102.3 Minors.
3102.4 Signatures.
3102.5 Evidence.

Authority: Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.).

Subpart 3102—Qualifications of Lessees

§ 3102.1 Who may hold leases.

Leases may be acquired and held only by citizens of the United States; associations (including partnerships) of such citizens; corporations organized under the laws of the United States or of any State or territory thereof; and municipalities.

§ 3102.2 Aliens.

Leases or interests therein may be acquired and held by aliens only through stock ownership, holding or control; and only if the laws, customs or regulations of their country do not deny similar or like privileges to citizens or corporations of the United States. (A list of those countries which have been determined to provide "similar or like" privileges is available from any Bureau of Land Management office).

§ 3102.3 Minors.

Leases shall not be acquired or held by an individual considered a minor under the laws of the State in which the lands are located, but leases may be acquired and held by legal guardians or trustees of minors in their behalf.

§ 3102.4 Signatures.

All applications, offers and requests for approval of an assignment shall be holographically (manually) signed in ink by the potential lessee or by anyone authorized to sign on behalf of the potential lessee. Documents signed by anyone other than the potential lessee shall be rendered in a manner to reveal the name of the potential lessee, the name of the signatory and their relationship. (Example: John Smith, agent for Mary Jones; or ABC Corporation, agent for Mary Jones by John Smith.) Machine or rubber stamped signatures shall not be used.

§ 3102.5 Evidence.

Submission of a lease application, offer or request for approval of an assignment constitutes certification of compliance with the regulations of this group and the Act. Compliance means that the potential lessee, all other parties who hold an interest (as defined in § 3100.0-5(a) of this title) in the application, offer, assignment or lease or all parties who hold or control more than 10 percent interest in a lessee which is a corporation or association are: (a) Citizens of the United States or qualified stockholders in a domestic corporation (see § 3102.2 of this title); (b) in compliance with the Federal acreage limitations (see §§ 3101.1-5 and 3101.2-4 of this title); (c) not minors (see § 3102.3 of this title); and (d) not participants in any agreement, scheme, plan or arrangement prohibited in relation to simultaneous oil and gas leasing (see § 3112.6-1(a) of this title). Anyone seeking to acquire, or anyone holding, a Federal oil or gas lease or interest therein, may be required to submit additional information to show compliance with the regulations of this group and the Act.

2. Section 3103.1-1 is revised to read:

§ 3103.1-1 Form of remittance.

All remittances shall be by U.S. currency, postal money order or negotiable instrument payable in U.S. currency. Remittances returned unpaid shall be assessed a $10 service charge. Applicants shall be barred from acquiring leases until the returned remittance is redeemed and the service charge paid.

3. Sections 3106.1 through 3106.1-3 are revised and §§ 3106.1-4 through 3106.1-6 are removed to read:

§ 3106.1 General.

§ 3106.1-1 What may be required.

Leases may be assigned as to all or part of the lease acreage and as to either a divided or undivided interest therein.

§ 3106.1-2 Qualifications.

Assignees shall comply with subpart 3102 of this title and post any bond which may be required.

§ 3106.1-3 Heirs and devisees.

If an offeror, applicant, assignee or lessee dies, his/her rights shall be transferred to the heirs, devisees, executor or administrator of the estate, as appropriate, upon the filing of a statement that all parties are qualified to hold a lease in accordance with subpart 3102 of this title.

§§ 3106.1-4—3106.1-6 [Removed]

§ 3106.3-1 [Amended]

4. Section 3106.2-1 is amended by removing the phrase "must be filed" after the figure "§ 3106.4" and replacing it with the phrase "of this title shall be filed within 90 days from the date of final execution."

5. Section 3106.2-2 is revised to read:

§ 3106.2-2 Forms.

(a) Assignments of record title or operating rights shall be filed in triplicate with the proper BLM office on a form approved by the Director or reproductions thereof. A separate instrument of assignment shall be used for each lease out of which an assignment is made.

(b) A single signed copy of all other instruments of transfer shall be sufficient.

PART 3110—NONCOMPETITIVE LEASES

§ 3112.2-2 [Amended]

6. Section 3112.2-2(a) is revised to read:

(a) Each filing shall be accompanied by a $75 filing fee.

• • • • •

7. Section 3112.2-3 is revised to read:

§ 3112.2-3 Qualifications.

Compliance with subpart 3102 of this title is required. The applicant shall set forth on the lease application, or on a separate accompanying sheet, the names of all other parties who hold an interest (as defined in § 3100.0-5(a) of this title) in the application, or the lease, if issued.

§ 3112.6-1 [Amended]

8. Section 3112.6-1(b) is revised to read:

• • • • •

(b) The application of any unqualified applicant shall be rejected.

PART 3130—OIL AND GAS LEASING—NATIONAL PETROLEUM RESERVE—ALASKA

9. Section 3132.4 is revised to read:

§ 3132.4 Qualifications.

Submission of a lease bid constitutes certification of compliance with the regulations of this part. Anyone seeking to acquire, or anyone holding, a Federal oil and gas lease or interest therein may be required to submit additional information to show compliance with the regulations of this part.

[FR Doc. 82-5408 Filed 2-25-82; 8:45 am]
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CFR PARTS AFFECTED DURING FEBRUARY

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This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
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DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
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DOT/UMTA			DOT/UMTA	

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REMINDERS

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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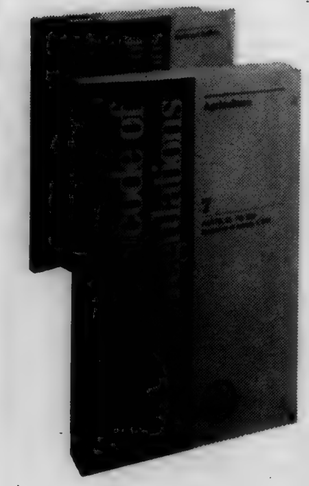

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Loren S. Myers was Chief Editor of the LSA, assisted by Carolyn T. Payne. The LSA was prepared under the direction of Martha B. Girard, assisted by Ruth C. Pontius. INQUIRIES, telephone 202–523–5227.

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189 Incorporation by reference approvals ..... △13670
189.110 (c) amended ..... △11855
189.130 (c) amended ..... △11855
189.135 (c) amended ..... △11855
189.145 (c) amended ..... △11855
189.155 (c) amended ..... △11855
189.165 (c) revised ..... △11855
189.175 (c) revised ..... △11855
189.180 (c) amended ..... △11855
189.190 (c) amended ..... △11855
193 Policy statement 24945
193.15 (a) correctly revised 39829, 42063
(a) corrected 45130
193.43 Added 58487
193.45 Added 32866
193.65 Added 32866
193.83 Added 57035
193.85 (e) added 31008
(f) added 54729
193.99 Revised 30494
Revised ..... △616
Table corrected ..... △2986
193.135 Added 55511
193.152 (c) revised 26762
193.160 Existing text designated as (a); (c) added 30339
(a) revised; (b) added ..... △8007
193.166 (d) added 47534
193.323 Added 32866
193.325 (d) added 23229
(a) revised 32239
Revised ..... △1375
193.375 Added 43965
201.160 Removed; CFR correction 55512
203.31 Addition and table revision effective dates deferred 23739
211 Incorporation by reference approvals ..... △13670
211.137 (f) redesignated as (g) and revised; new (f) added 56412
211.166 (d) added 56412
211.176 Amended ..... △9396
310.516 (e)(4) redesignated as (e)(5) and revised; new (e)(4) added 53657
(e)(4) and (5) effective date corrected to 11-30-81 57893
312.1 (a)(12) and (13) corrected 59969

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314.1 (c)(2) and (f)(7) corrected 21360
314.8 (n) corrected 21360
(a)(5)(xiv) revised; (a)(6) removed 32017
314.9 (e) corrected 21360
314.12 (e) corrected 21360
314.110 (a)(11) corrected 21360
320.22 (c)(1) table amended 36130
330.10 (e) corrected 21360
(a)(7), (9), (10), and (12) revised; (a)(13) removed 47738
331 Incorporation by reference approvals ..... △13670
331.22 Amended ..... △9396
430.4 (a)(48) added 61069
(a)(27) removed 61071
430.5 (b)(1)(xii) added 25602
(a)(71) and (b)(71) added 25605
(a)(72) and (b)(72) added 58298
(a)(73) and (b)(73) added 61069
(a)(1)(iv) and (v) and (28), (b)(1)(iv) and (b)(29) removed 61071
430.6 (b)(73) added 25605
(b)(74) added 58298
(b)(75) added 61069
(a)(1)(iv) and (b)(28) removed 61071
431.53 (b)(1) table amended 60568, 61071
436 Incorporation by reference approvals ..... △13670
436.33 (b) table amended 25602, 25605, 58298, 61069, 61071
(b) table corrected ..... △6615
(b) table amended ..... △11856
436.35 Revised 60568
(c) table amended 61071
436.101 (a) introductory text amended ..... △9396
436.102 (b) introductory text amended ..... △9396
436.105 (a) and (b) tables amended 25605, 46312
(a) table corrected; CFR correction 57477
(a) and (b) tables amended 61071
436.106 (b) table amended 25608
(a) table amended 33512
(b) table corrected; CFR correction 57477
(a) and (b) tables amended 61072
436.204 (b)(2) table amended 25602
(b)(1) table amended 46312
(b)(2) table amended 58298
(b)(1) and (2) tables amended 61072
436.205 (c) table amended 25602
(c) table corrected; CFR correction 57477
(b) and (c) tables amended 61072
436.314 Removed 25608
436.315 Removed 25608
436.330 Added 25602
436.332 Added 61069
436.333 Added 61070
436.541 (b) table amended; (c)(4) added 25603
(b) table amended; (c)(5) added ..... △11856
440.3 (b)(5)(ii) corrected; CFR correction 57477
440.8 Added 25603
440.37a Added 58298
440.69 Removed 61072
440.82 Removed 61072
440.108 Added 25604
440.169 Removed 61072
440.169a Removed 61072
440.169b Removed 61072
440.182 Removed 61072
440.182a Removed 61072
440.182b Removed 61072
440.237 Added 58299
442.13a Added 25606
442.25a Heading and (a)(1)(vii) revised; (a)(1) introductory text amended 46312
442.40 (b)(1)(ii)(b)(4) revised 25608
442.41 Added ..... △11856
442.104a (b)(1)(i) and (ii) corrected 21360
442.104b (b)(1)(i) and (ii) corrected 21360
442.106b (b)(1)(ii)(c) corrected; CFR correction 57477
442.141 Added ..... △11857
442.213 Added 25607
442.225c (a)(1), (3), and (b)(1) revised; (b)(7) and (8) added 38503
444.42b Correctly removed 41814, 42447
444.44 Removed 61072
444.62 (a)(1) introductory text corrected 22359
444.70a (a)(1)(v), (3)(i), and (b)(5) amended 60568
444.142a (b)(2) revised 25608
444.220 (a)(1), (3)(ii)(b)(1), and (b)(4) revised 31009
444.270b (a)(1), (3)(i)(a) and (b), and (b)(5) amended 60568

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444.380 (a)(1) heading and effective date corrected	22359
Redesignated at 444.380a; new 444.380 added	△7827
Heading corrected	△12951
444.380a Redesignated from 444.380	△7827
444.380b Added	△7827
444.442f Heading revised; (a)(1) amended	25608
444.442h (a)(1) corrected	55091
444.520b (b) revised	45332
444.542k Correctly removed	41814, 42447
444.542l Correctly removed	41814, 42447
444.542m Correctly removed	41814, 42447
446.10a (a)(1)(v), (3)(i), and (b)(5) amended	60568
446.16 (b)(1) corrected; CFR correction	57477
446.20a (a)(1)(v), (3)(i), and (b)(5) amended	60568
446.65a (a)(1)(v), (3)(i), and (b)(5) amended	60568
446.67a (a)(1)(v), (3)(i) and (b)(5) amended	60568
446.75a (a)(1)(v), (3)(i), and (b)(5) amended	60568
446.76a (a)(1)(v), (3)(i), and (b)(5) amended	60568
446.81a (a)(1)(v), (3)(i), and (b)(5) amended	60568
446.150a (a)(1) amended	46313
446.220 (a)(1), (3)(i)(b), and (b)(5) amended	60568
446.260 (a)(1), (3)(i)(b), and (b)(5) amended	60568
446.265 (a)(1), (3)(i)(b), and (b)(5) amended	60568
446.267 (a)(1), (3)(i)(b), and (b)(5) amended	60568
446.275a (b)(1) amended	46313
(a)(1), (3)(i)(b), and (b)(5) amended	60568
446.275b (b)(1) amended	46313
(a)(3)(i)(a) amended	60568
446.276a (b)(1) amended	46313
(a)(1), (3)(i)(b), and (b)(5) amended	60568
446.276b (b)(1) amended	46313
(a)(3)(i)(a) amended	60568
446.281c (a)(3)(i)(a) amended	60568
(a)(3)(i)(a) correctly designated	△13326
446.281d (a)(1), (3)(i)(b), and (b)(5) amended	△60568
(a)(1), (3)(i)(b), and (b)(5) correctly amended	△13326
446.282 (a)(1), (3)(i)(a), and (b)(6) amended	60568
446.381b (b)(1) amended; (b)(3) revised	46313
446.542 (b)(2)(iii) corrected	21361
448.15a (a)(1)(v), (3)(i), and (b)(5) amended	60568
448.30a (b)(1) corrected	22359
448.80a (a)(1)(v), (4)(i), and (b)(5) amended	60568
Removed	61072
448.280 Removed	61072
449.120d (a)(1) corrected	21361
(b)(1) corrected by removing the second (ii)	46313
450 Incorporation by reference approvals	△13670
450.10a (a)(1)(v), (3)(i), and (b)(5) amended	60568
(b)(5) correctly amended	△13326
450.20a (b)(4)(ii) amended	△9396
450.24 (b)(5)(ii) amended	△9396
450.220 (a)(1) amended; (b)(5) revised	46313
450.224 (a)(1), (3)(i)(b), and (b)(4) amended	60568
450.240 (a)(1), (3)(i)(b), and (b)(7) amended	60568
(b)(4)(ii) amended	△9396
450.245 (a)(1), (3)(i)(b), and (b)(5) amended	60568
452.40 Removed	61072
452.110b (a)(1) amended	44442
452.110c (b)(3) corrected	22359
453.22a (a)(1)(vi), (3)(i), and (b)(6) amended	60568
453.30a (a)(1)(v), (3)(i), and (b)(5) amended	60568
453.222 (a)(1), (3)(i)(b), and (b)(5) amended	60568
453.230 (a)(1), (3)(i)(b), and (b)(5) amended	60568
455.80a (a)(1)(vi), (3)(i), and (b)(6) amended	60568
455.170a (a)(1) amended	46314
455.230 Added	61070
455.251 (b)(5) revised	25608
455.310a (b)(1)(i) and (ii) removed	46313

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460.42 (a)(1) amended	60569
510.600 (c)(1) and (2) tables amended	20158, 21362, 22360, 23230, 33029, 37501, 45333, 48642, 50066, 50365, 56413, 60570
(c)(1) and (2) tables amended	△147, 2312, 2768, 4249, 5408, 8347
520 Incorporation by reference approvals	△13670
520.23 Revised	44443
520.82a (b) amended	48642
520.82b (b) amended	48642
520.222 (c) amended	48642
520.580 (b)(1) amended	20158
(b)(2) amended	31010
520.620b (a) revised	51383
520.622a Revised	23230
(a)(3) republished	41038
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(a)(5) added	46315
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(a)(6) added	61653
(a)(3) amended	△10805
520.622c (b)(5) added	25609
(b)(6) added	△8348
520.784 (b) amended	48642
520.863 (b) amended	48642
520.905a (e) added	29464
520.905b (c)(2) and (3) revised	37502
520.905c Added	32018
520.1120a (c) amended	48642
520.1120b (c) amended	48642
520.1236 Added	25085
520.1242a (c)(2) revised	25085
520.1320 (d)(1)(ii) revised	47218
(d)(2)(i) and (ii) amended	53658
520.1326 (c)(3) amended	52330
520.1448 (c) added	33029
(d) added	50067
Redesignated as 520.1448a; new 520.1448 added	△5408
520.1448a Redesignated from 520.1448	△5408
520.1448b Added	△5408
520.1450 Added	50949
520.1628 (c)(2) revised	26301
(b) amended	60570
520.1638 Added	50948
520.1660c Added	32440
520.1720a (b)(1) amended	48642
520.1720b (b) amended	31010, 48642
520.1804 (b) amended	20158
520.1870 Added	60570
520.1900 (b) revised	23231, 57477
520.2002 (c) amended	60570
520.2087 Added	41039
520.2088 Added	41040
(b) added	42448
Technical correction	44443
520.2122 (b)(2) amended	60570
520.2160 Redesignated as 520.2160a and revised; new 520.2160 added	38505
520.2160a Redesignated from 520.2160 and revised	38505
520.2160b Redesignated from 520.2162 and revised	38505
520.2160c Added	38506
520.2160d Added	46316
520.2162 Redesignated as 520.2160b and revised	38505
520.2260b Revised	36132
520.2320 (b)(1)(iii) revised	△9396
520.2362 (c) amended	48642
520.2380f Heading, (a) and (c) revised	52330
520.2610 (a) and (b) revised	23231
(b) revised	32438
(b) amended	48642, 60570
522.23 Revised	43831
522.82 (b) amended	48642
522.460 Added	△4678
522.518 Added	20159
522.540 (b)(2)(ii) revised	42841
(e) added	△5409
(e)(2) revised	△6616
522.690 (a), (b), (c), and (d)(1)(iii) revised; (d)(2)(iii)(e) and (f) removed; (d)(2)(iii)(g) redesignated as (d)(2)(iii)(e); (d)(3) added	39127
522.784 (b) amended	48642
522.840 Added	△10806
522.863 (b) amended	48642
522.900 Revised	23232
522.1143 Removed	26763
522.1155 (b) amended	48642
522.1183 (d)(1) revised	39128
522.1235 Added	25086
522.1244 (b) revised	△10807
522.1260 (a) amended	37043
522.1380 Technical correction	24553
522.1462 (b) amended	△147
522.1468 Redesignated as 522.1468a; new 522.1468 added	26763
522.1468a Redesignated from 522.1468	26763
522.1468b Added	26763

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522.1660 (c)(1)(i) revised 20169
(c)(2)(i) revised 27913
522.1662a (i) added 37501
522.1680 (b) revised 61073
522.1698 (c) revised ..... △5409
522.1720 (b)(1) amended 48642
522.1870 (c)(1), (2) and (3) redesignated as (c)(1)(i), (ii), and (iii); new (c)(1) heading and (2) added ..... △6617
522.1884 (c) revised; (d)(2)(iv) added 33513
522.2002 (c) amended 60570
522.2120 (b) amended 60570
522.2260 Added 62055
522.2610 Added 41041
522.2640 Redesignated as 522.2640a and revised; new 522.2640 added 48643
522.2640a Redesignated from 522.2640 and revised 48643
(e)(1) introductory text revised; (e)(1)(iii) and (2)(iii) amended ..... △9398
522.2640b Added 48643
524.463 Revised ..... △4250
524.1580b (b) revised 40183, 44755
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524.1580d Added 22360
(c)(2) and (3) revised 40182
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(b) revised ..... △10807
524.1742 (b) and (c)(1) introductory text revised; (c)(3) redesignated as (4) and amended; new (c)(3) added 27914
Technical correction 32440
524.2101 (b)(2) revised 37043
(b)(1) revised ..... △4250
526.820 (b) amended 60570
529.1115 Added 27915
540.274d (a)(4)(ii)(c) amended 60569
540.814 (c)(2)(ii) and (3)(ii) added 33030
540.815a Added 55954
540.874a (c)(4)(iii)(A) and (B) redesignated as (c)(4)(iii)(a) and (b); (c)(4)(i) and new (iii)(a) revised 43415
544.173a (a)(1) amended 60569
544.173b (a)(1) amended 60569
544.173c (a)(1) and (b)(2) amended 60569
544.173e (a)(1) amended 60569
544.211a (b)(3) amended 60569
544.211b (a)(1)(iv), (4)(ii)(a), and (b)(3) amended 60569
544.274 (a)(1)(ii), (4)(ii)(a), and (b)(2) amended 60569
544.370a (a)(4) and (b)(2) amended 60569
544.373a (a)(1) amended 60569
544.373b (a)(1) amended 60569
544.973b (a)(1) amended 60569
546.180c Revised ..... △4680
546.1801 Added 25086
546.312a (a)(1)(iii) amended 60569
548.314a (c)(2)(ii) amended 48642
548.314b (c)(2) amended 48642
555.110c (a)(1) amended; (c)(2) and (3)(i) revised 21362
(c)(2)(ii) revised 59969
556 Incorporation by reference approvals ..... △13670
556.240 (b) amended ..... △9397
556.250 (b) amended ..... △9397
556.425 Added 50950
556.540 (b) amended ..... △9397
556.710 (b) amended ..... △9397
556.750 (b)(4) revised; CFR correction 53658
558.15 (g)(1) table amended 23233
(g)(1) table amended ..... △12952
558.45 (c) revised 45333
558.55 (e)(2)(iv) table amended 46797
558.76 (e)(1) table amended 21363, 21749, 22361, 22755, 41042
558.78 (e)(1) table amended 21363
(e)(1) table amended; footnote 1 added 37044
(e)(1) table amended 60571, 61073
Technical correction ..... △12952
558.95 (e)(1)(x) added 54537
(b)(1) revised; (e)(3) added 58300
558.120 (e)(2)(ii) added 46797
558.128 (e)(4)(viii) through (x) redesignated as (e)(4)(ix) through (xi); new (e)(4)(viii) added ..... △9399
558.195 (g)(2) table amended 32019
558.274 (a) revised; (e)(1) table amended 20161, 21364
(a)(2) revised; (a)(3) added; (e)(1) table amended 32018
(a)(4) added; (e)(1) table amended 50067
(a)(5) added; (e)(1) table amended ..... △4251
(a)(4) revised; (e)(1) table amended ..... △8765

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(a)(5) and (e)(1) table corrected ..... △12338
558.311 (b) revised; (e) table amended 46798
(e) table amended 54538
558.325 (f)(2)(i)(b), (ii)(b), and (iii)(b) amended 24553
(e)(3) revised ..... △10808
558.348 Added ..... △6617
558.355 (b)(5) and (f)(1)(xiii) added 46799
(b)(8) and (f)(1)(xiv) added ..... △9399
558.360 Added 50950
558.369 Added 47535
558.450 (a) revised 26764
558.485 (a)(8) added 28840
(a)(11) added 38506
(a)(10) added 39128
(a)(9) added 39129
558.530 Revised 52331
558.565 Revised 43832
558.625 (b)(27) revised 20161
(b)(5) revised 20162
(b)(52) revised 53658
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(b)(65) revised 53660
(b)(8) and (69) revised 55956
(b)(77) added 56413
(b)(29) removed 57478
(b)(4) revised ..... △1289
(b)(59) removed ..... △2312
(b)(48) revised ..... △7829
(b)(74) revised ..... △8765
(b)(19) revised ..... △8766
(b)(14) revised ..... △9395
558.630 (b)(3) revised; (b)(8) added 36133
(b)(9) added 40183
(b)(3) amended 55955
(b)(3) amended; (b)(8) revised ..... △4252
(b)(8) revised ..... △7411
(b)(9) revised ..... △8349
(b)(9) revised ..... △10809
558.635 (f)(3)(ii) added 46798
(f)(3) added 46799
561 Policy statement 24945
561.53 (a) revised 36134
561.65 Added 55092
Technical correction 59533
561.67 Added 58488
Heading revised; (a) table amended ..... △1376
Existing text designated as (a); (b) added ..... △1377
(a) table amended ..... △2861
561.93 Added 57056
561.95 Revised 57479
561.97 Added 47772
561.98 (b) revised 31638
561.145 Added 55512
561.195 Revised 50366
561.215 Added 30340
561.225 Added 47536
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561.232 (a) revised 26765
561.385 (a) revised 37502
(a) and (b) revised 57480
561.395 (a) revised 55093
Technical correction 59533
573 Incorporation by reference approvals ..... △13670
573.310 Added 30082
573.450 (d) revised 49115
573.640 (b)(4)(i) revised; (b)(1)(ii) amended ..... △9397
573.920 (b)(1) and (c)(1) revised; (f) removed 43416
(b)(7) added; (c)(1) revised 49116
584 Added 52333
601.2 (a) corrected ..... △6618
610.12 (f) amended ..... △9397
610.13 (b) introductory text, (2), and (c) revised 62845
610.15 (a) revised 51903
610.53 (a) table amended 56412
630 Incorporation by reference approvals ..... △13670
630.74 (c) amended ..... △9397
640.63 (b)(2) revised 57480
660.2 (f) revised 36134
660.6 Added 36134
680 Incorporation by reference approvals ..... △13670
680.4 Added 39135
Technical correction 42448
680.40 (b)(2)(v) corrected 43832
700.3 (r) removed 38073
701 Incorporation by reference approvals corrected 29220
Incorporation by reference approvals ..... △13670
701.3 (c)(2)(i) introductory text revised; (c)(2)(ii), (iii), (iv), and (v) amended ..... △9397
710.4 Amended 38073
720 Incorporation by reference approvals ..... △13670
720.4 (d)(2) amended; footnote 1 through 4 removed 38073
720.5 (c)(1) amended; footnotes 1 through 4 removed 38073

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730.1 Amended 38073
730.2 (b) removed 38073
730.3 Amended 38073
730.4 (a)(5) revised; (a)(7) and (8), (b), and (c)(5) removed; (d) introductory text, (1), and (3) and (e) amended 38073
730.7 Amended 38074
740.18 Effective date deferred ..... △7829
801 Incorporation by reference approvals ..... △13670
801.410 (d)(2) amended ..... △9397
801.420 (c)(4) amended ..... △9398
808.101 Corrected 59236
809.3 (a) revision and (c) removal effective date confirmed 22359
809.4 Effective date confirmed 22359
809.10 (c) introductory text effective date confirmed 22359
809.30—809.35 (Subpart D) Effective date confirmed 22359
812.65 Correctly removed 21360
812.70 Correctly removed 21360
861 Effective date confirmed 22359
880.2440 (a) corrected 21364
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Chapter II—Drug Enforcement Administration, Department of Justice

Chapter II Nomenclature change; CFR correction 50068
1301.26 (e) amended 28841
1301.71 (d) amended 28841
1301.74 (k) amended 28841
1303.12 (b) and (d) amended 28841
1303.22 Amended 28841
1303.27 Amended 28841
1304.35 (a) amended 28841
1304.37 (a) and (b) amended 28841
1304.39 (d) amended 28841
1304.41 (d) amended 28841
1304.42 (a) amended 28841
1306.26 Added 48919
1308.04 (a) amended 28841
1308.11 (f) added 37504
(b)(6) through (45) redesignated as (b)(7) through (46); new (b)(6) added 46800
(f) revised 59970
(f) effective date corrected 60572
1308.13 (b)(5) removed; (b)(6) redesignated as (b)(5) 52334
1308.14 (c)(21) added 20672
(e) revised 52334
(c)(11) through (22) revised 53408
(c)(1) through (22) redesignated as (c)(2) through (23); new (c)(1) added 55688
1308.22 Table amended 51603
1308.23 (b) amended 28841
1308.24 (d) amended 28841
(i) table amended 32020, 53406
(i) table amended; eff. 5-17-82 ..... △11513
1311.53 (c) amended 28841
1312.13 (d) and (e) added 41776
1312.15 (b) amended 28841

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180 ..... 24593, 31020, 32453
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211—227 (Subchapter I) Heading revised ..... △13327
211 Redesignated as 134; new 211 redesignated from 171 ..... △13327
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256 Redesignated as 249; new 256 redesignated from 261 ..... △13327
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257 Redesignated as 178 ..... △13327
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258.18 Added 40511
259 Redesignated as 5 ..... △13327
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261—265 (Subchapter L) Heading revised ..... △13327
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265 Redesignated from 163 ..... △13327
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700.17 (a) introductory text amended 27915
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700.301—700.321 (Subpart L) Added 46801
700.331—700.343 (Subpart M) Added 27921
700.331 Redesignated from 700.17 27921
700.451—700.479 (Subpart N) Added 27916
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1.170A–4 (b)(4) amended ..... △4510
1.170A–4A Added ..... △4510
1.170A–11 (a)(3) amended; (a)(4) removed; (a)(5) redesignated as (a)(4) ..... △4512
1.217–2 (h) redesignated as (j); new (h) and (i) added ..... △6003
1.385–1 (a)(1) revised 24946
(a)(1) revised ..... △147
1.385–6 Nomenclature change 24946
1.472–8 (e)(3) added ..... △11272
1.482–2 (a)(2)(ii) and (iii) and (5) revised; (a)(2)(iv) removed; (a)(7) added 34569
1.483–1 (c)(2)(ii), (3) introductory text, (4), (d)(1)(ii), (4) introductory text, (e)(3) introductory text, (f)(5) introductory text, (6)(iv) introductory text, (g)(2) tables IV, V, and VI headings, (6), (7)(i), (ii) introductory text, and (8) revised 34570
(c)(3) example (7), (5), (d)(4) example (7), (e)(3) example (8), (g)(2) tables VII through IX, (9), (10), and (11) added 34570
Correctly designated 39589
(d)(1)(ii)(A) and (f)(6)(iv) corrected 39589
1.507–2 (c)(1)(iv)(A) amended 37889
1.509(a)–3 (a)(1) heading, (2) heading, and (4) heading added; (a)(1), (4), (c)(1)(i) and (iii)(*a*), (c)(3), 6, (d)(2) and (3) (iii), and (e)(4)(i)(*f*) amended; (a)(3) revised 37889
1.509(a)–4 (k)(2) amended 37890

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1.509(a)–5 (a)(1), (b)(1) and (c) amended 37890
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1.671–4 Revised 57481
1.819–2 Determination 20162
1.956–2 (b)(1)(ix) revised 57675
1.1033(g)–1 (b)(1) and (2)(i)(A), and (b)(2)(iii) heading corrected 23235
1.1244(a)–1 (b) revised 29467
1.1244(b)–1 Revised 29467
1.1244(c)–1 Revised 29468
1.1244(c)–2 Revised 29470
1.1244(d)–3 Revised 29472
1.1244(d)–4 Revised 29473
1.1244(e)–1 (a) revised 29473
(a)(2)(vi) corrected 31881
1.1441–4 (d)(1) revised 27636
(d)(1) corrected 31409
1.1502–42 (c) and (d) heading revised; (d)(1) amended ..... △11516
1.1563–3 (b)(5)(iii) revised 29474
1.6012–3 (a)(9) added 57482
1.6033–2 (j) amended; (a)(2)(ii)(*f*) added 38507
1.6056–1 (b)(3) amended 38507
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5c Added 51584
Heading revised 51907
5c.0 Added 54538
5c.44F–1 Added 51907
5c.103–1 Added 51907
5c.103–2 Added 63257
5c.103–3 Added 63257
5c.168(f)(8)–1 Added 51907
(d) revised; temporary 56148
5c.168(f)(8)–2 Added 51908
(a)(3)(ii) and (b) amended; (a)(5) revised; (a)(6) through (8) added; temporary 56148
(a)(3) revised 63257
5c.168(f)(8)–3 Added 51909
(c) revised; (d) amended; temporary 56149
5c.168(f)(8)–4 Added 51910
5c.168(f)(8)–5 Added 51910
5c.168(f)(8)–6 Added 51910
(b)(4) amended; temporary 56150
(a)(2)(ii) and (b)(3) revised 63258
5c.168(f)(8)–7 Added 51912
(b), and (c)(1) introductory text, (i), and (ii) revised; (d)(1) introductory text amended 56150

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5c.168(f)(8)–8 Added 51913
(b)(2) and (3) revised; (b)(10) through (12) added; (d) amended 56150
(b)(2) revised; (b)(13) and (14) added 63259
5e Added ..... △2987
5e.274–8 (c)(1)(i) and (ii) corrected ..... △4680
6a Added 34314
6a.103A–1 (c)(2), (d)(3), and (e)(2)(iii) corrected 37890
(b)(5) revised 55514
6a.103A–2 (c)(1)(ii) and (iv) introductory text and example (1), (d)(3), (i)(3)(iv) and (j)(2) revised; (c)(1)(iv) example (4) added 55514
6a.103A–3 (f) corrected 37890
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7.1023(h)–1 Removed ..... △4681
7a Added 25292
7a.2 (g) example corrected 30495
11.414(c)–4 (b)(5)(iii) revised 29474
14a Added 61840
15a Heading and authority citation correctly added 43036
15a.453–0 Correctly designated 43036
15a.453–1 Correctly designated; (b)(3)(i) corrected 43036
(b)(1)(ii), (iii), and (v) and (3)(ii) revised; (b)(5) amended 48920
16a Added 27637
16a.126–1 (g) corrected 41043
20.2032A–3 (b)(1) amended 43037
20.2032A–8 (a)(2) amended 43037
22 Added 54540
25.2514–3 (e) amended 27642
26.2601–1 (a)(1)(ii), (2) and (3), (e)(2), (3), (4) and (7) amended ..... △8995
26a.2621–1 (k) revised 54541
31.3401(e)–1 (b) amended ..... △3547
31.3402(f)(2)–1 (g) added ..... △3547
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31.3402(o)–2 Redesignated from 32.1 and nomenclature change and heading revised ..... △3546
31.3402(o)–3 Added ..... △11275
31.3402(q)–1 Added 46908
31.6051–3 Added ..... △11277
31.6205–1 (b)(2)(iii) added 37890

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48.4073–4 Revised ..... △6008
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150.4995–3 (g)(2)(ii) example (1) corrected 19935
150.4997–2 (b)(1) and (d)(1) revised ..... △8997
301.6059–1 Added 57483
(d) introductory text and (6) corrected 60435
301.6104–2 (a)(1), (c)(2), and (4) amended; (b) and (c)(1) revised 38507
301.6104–3 (b)(3)(ii)(a) and (c) and (c) amended 38508
301.6109–1 (a) redesignated as (a)(1) and heading added; (a)(2) added 57482
301.6305–1 (a), (b)(1), (2), and (6), and (c)(4) revised; (b)(4)(iii) added ..... △5713
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601.102 (b)(1)(iv) revised; (b)(1)(v) added 26053
601.103 (b) amended 26053
601.105 (b)(4) and (h) amended 26053

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601.106 (a)(1)(ii)(1a), (d)(2)(ii), and (g)(1) amended 26053
601.201 (e)(2), (8), (19), and (s)(2) amended 26053
601.203 (a)(1), (2), (c)(1)(iii), (iv), (c)(2)(i), (iv), (3), and (4) amended; (c)(2)(ii) revised; (c)(2)(v) removed 26054
601.506 (a) amended 26055
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4.10 Amended 55095
4.25a (b)(2)(i) and (ii), and (e)(1)(ii) and (3) revised 29261
(e)(2)(v) revised 46912
4.32 (a) introductory text revised; (c) removed; (d) redesignated as (c) 55095
4.37a Removed 55095
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4.39 (a)(7) revised; (d) amended 55095
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4.50 Footnote removed 46912
(a) amended; (b) and (c) removed; (d) redesignated as (b) 55096
4.64(a)(8) revised 55096
5.3 Added 46912
5.11 Amended 55096
5.22 (i) amended 55096
5.32 (b) and (c) revised; (d) removed 55096
5.33 (b)(5) removed; (b)(6) redesignated as (b)(5); (b)(1), (2), (4), and (5) revised 55096
5.39 (b) (to be effective until 1–1–83) retained; (b) (to become eff. 1–1–3) now revised as (c) 55097
5.39a (e) amended 46912
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5.51 Footnote removed 46912
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5.55 Footnote removed 46912
(a) revised; (b) and (c) removed; (d) and (e) redesignated as (b) and (c) and new (b) revised 55097
7.3 Added 46912
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7.28 (b)(1)(i) and (2)(i) revised; (b)(1)(iii) and (2)(iii) removed 55097

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8.100 (a), (c), and (d) amended	△11659
8.102 (a)(2) and (b)(2) amended; (a)(2) authority citation and (b)(2) authority citation added	△11659
8.103 Undesignated center heading revised; heading, (a), (b), (c) amended; authority citations for (a), (b), and (c) added	△11659
8.108 Introductory text amended; (a) through (v) revised; introductory text authority citation and (w) through (ff) added	△11659
8.110 (a) amended	△11660
8.111 (a)(5) and (6) revised; (b) amended; (a) authority citation and (b) authority citation added	△11660
8.112 (b) amended; (b) authority citation added	△11660
8.112a (a)(11) and (12) and (b)(10) and (11) revised; (e) amended; (a), (b), and (e) authority citation added	△11660
8.112b Revised	△11661
8.113 (c)(2) amended	△11661
17.600—17.612 Undesignated center heading and sections added	△10810
17.608 (b) and (d) correctly designated	△13523
17.610 (c) corrected	△13523
21.4131 Introductory text and (e) revised	62060
21.4135 (o) revised	48196
21.4136 (j)(2)(iii) amended; (j)(2)(iv) revised	43667
(k) revised	48664
21.4137 (g)(4) amended; (g)(5) revised	43667
21.5040 (a) revised	59247
21.5060 (b) revised	59247
21.5065 Added	59247
36.4204 (a)(4), (5), and (b) amended; (a)(6) and (d)(7) added; (e) revised	43669
(c) revised	△12346
36.4205 (a), (b), and (f) revised	43669
36.4206 Revised	43670
36.4209 (b) introductory text, (e), and (g) revised	43670
36.4212 (a) revised	42850
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(a) revised	46572, 57042
(a) revised	△9827
36.4214 Revised	43670
36.4216 (g) and (l) amended	43670
36.4220 (a) introductory text and (a)(1) revised	43670
36.4221 (b) and (d) amended	43671
36.4223 Added	43671
36.4232 (a)(4) amended; (a)(5) added; (c) revised	43671
36.4233 (a)(3), (b), and (d) amended	43671
36.4234 (a) introductory text amended	43671
36.4235 (a), (b), and (d) amended	43671
36.4254 (a)(4) amended; (c) revised	43671
36.4275 (a) revised	51386
36.4282 (c), (d), (e), and (f) amended	△12965
36.4283 (a) introductory text and (j) amended; (f), (h) introductory text and (1) revised	△12965
36.4301 (ff)(2) amended; (aa) revised	43671
36.4302 (e) amended; (a), (c), and (i) revised	43672
36.4303 (g) introductory text revised	43672
36.4306 (a) and (b) introductory text and (c) revised	43672
36.4360a Added	43672
36.4308 (b) revised	43673
(a) revised; (e) added	51386
36.4311 (a) revised	42849
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(a) revised	51741
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(a) revised	△4257
(a) and (b) revised	△9827
36.4312 (d)(6)(i)(A) amended	43673
36.4324 (f)(3) amended; (g) and (h) removed	43673
36.4329 Revised	43673
36.4336 (a)(1) and (2) revised	43673
36.4342 (b) and (d) amended	43673
36.4343 Heading revised	43673
36.4401 (a), (c), and (f) amended; (e) revised; (h) added	43673
36.4402 Revised	43673
36.4403 Revised	43674
36.4404 Revised	43674
36.4405 Amended	43674
36.4406 Amended	43674
36.4408 (b) revised	43674
36.4409 Amended	43674
36.4410 Introductory text and (b) revised	43674
36.4501 (a) and (e) amended	43674
36.4502 Revised	43675
36.4503 (a) revised	42849, 43675, 46573, 51741, 57042
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36.4505 Revised	43675
36.4506 Revised	43675
36.4507 (a) introductory text and and (c) revised	43675
36.4508 (a), (b), (c) introductory text and (3) amended	43675
36.4519 (a)(6) and (c) added	43675
36.4520 (b) and (d) amended	43675
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TITLE 39—POSTAL SERVICE

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2.2 Revised	34329
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10 Revised	△7831
10.3 Publication 42 amended; incorporation by reference	36695, 51518, 58077
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232 Heading revised	34330
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232.5 Redesignated as 233.1	34330
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233.1 Redesignated as 233.2 and (b)(2) amended; new 223.1 redesignated from 232.5	24303
233.2 Redesignated as 233.3; new 233.2 redesignated from 233.1 and (b)(2) amended	34330
233.3 Redesignated as 233.4; new 233.3 redesignated from 233.2	34330
233.4 Redesignated as 233.5; new 233.4 redesignated from 233.3	34330
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601 PCM amended; incorporation by reference	35503, 38691, 48196, 61116
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6 Authority citation ..... △9829
6.102 (c) amended ..... △9829
6.103 (a)(1)(iii)(A)(*4*), (*5*), and (*6*) redesignated as (a)(1)(iv), (v), and (vi) and revised; (a)(1)(iii) revised; (a)(2), (3)(iii) and (iv) amended ..... △9829
6.104 Amended ..... △9829
6.105 (b) revised ..... △9829
6.106 (a), (b)(1), (2) and (3) amended ..... △9829
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6.400 (b), (d) and (e) amended; (f) added ..... △9829
6.401 (a), (c), (d) and (e) amended ..... △9829
6.402 (b) amended ..... △9829
6.404 (b) amended ..... △9829
6.502 (a) introductory text revised ..... △9829
6.503 Revised; interim ..... △9832
6.504 Revised ..... △9830
6.505 Revised ..... △9830
6.506 (a) introductory text and (c) revised ..... △9830
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6.508 (a)(1), (2) and (b) revised ..... △9831
6.600 (b) revised ..... △9831
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50 Appendix G amended 44163
51.1 (z) revised; (ff) through (mm) added ..... △5868
51.12 (j), (k), and (l) added ..... △5869
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51.18 (j)(1)(iv), (vii)(e)(2), (xvii), and (2)(i) and (ii) temporarily deferred in part 36699
(j)(1)(ii) amended; (j)(1)(iii), (ix), and (x) removed; (j)(1)(iv) through (viii) and (xi) through (xxi) redesignated as (j)(1)(iii) through (xviii) 50771
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51.24 (b)(3)(vi)(b),(4), (5), (6), and (17) temporarily deferred in part 36699
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51 Appendix S temporarily deferred in part 36699
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52 Incorporation by reference approvals 47938
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52.24 (f)(1), (2), (4), (7)(v)(b), and (15) temporarily deferred in part 36699
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52.50 (c)(27) added 42659
(c)(29) added 46131
(c)(28) added 53410
(c)(22) and (23) added 55107
(c)(32) added 55518
(c) introductory text revised; (c)(33) added 57485
(c) introductory text revised; (c)(31) added 61122

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(c) introductory text revised; (c)(30) added 62061
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(c) introductory text revised; (c)(35) added ..... △7661
52.52 Added 55107
Existing text designated as (a); (b) added 63044
52.54 Table amended 55107
52.60 (a) and (b) removed 55518
52.120 (c)(41) added 40513
(c)(48) added 45606
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52.122 (d)(1) revised; (e) added 45606
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52.170 (c)(9) added 40006
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(c)(12) added 43147
(c)(13) added 50371
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52.220 (c)(90) added 40513
(c)(47)(iii)(B), (51)(i)(B), (52)(i)(B), (71), (75), and (76) added 42459
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52.222 (b)(4) added 42460
52.223 (b)(5) added 42460
(c)(2) added ..... △11869
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52.226 (a) removed 42461
52.231 (a) removed 42461
52.232 (a)(5) and (6) added 42460
(a)(4)(i)(B) and (ii) through (iv) removed ..... △10208
(a)(7)(i)(A) added ..... △11869
52.233 (a)(4) added; (d)(7) and (g)(1)(vii) removed 42460
52.237 (a)(2) added ..... △11869
52.238 Table amended 42461
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52.253 (b)(3) added 42461
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52.254 (a)(1) introductory text and (ii) revised 42461
(a)(4) revised ..... △11870
52.255 (b)(1)(ii) removed; (b)(3)(ii) added 42461
(b)(3)(xiv) added ..... △3550
52.256 (b) introductory text revised 60203
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52.262 Removed ..... △11870
52.320 (c)(24) added 58080
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52.331—52.340 Removed 58080
52.370 (c)(11) corrected 34801
(c)(16) correctly added 43418
(c)(14) and (15) added 43422
(c)(17) added 51915
(c)(18) added 56615
(c) introductory text revised; (c)(19) added 62062
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52.373 (a) added 56615
52.380 Correctly designated 34801
(d)(1) and (2) removed; (d)(9) and (10) and (e) added 56615
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(c)(18) added	43677
(c)(22) added	47544
(c)(18), (19), and (20) added	47779
(c)(16) added	53663
(c)(26) and (27) added	△5718
(c)(23), (24), and (25) added	△10536
(c)(28) and (29) added	△11014
52.432 (b) revised	△11014
52.433 (a), (b), (c), (d), (f), (g), and (h) removed; (e) revised and redesignated as (a)	47779
Removed	△10536
52.470 (d) and (c)(4) through (8) redesignated as (c)(4) through (9); (c)(19), (20), and (21) added	61262
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52.472 (c) revised	61263
52.473 Added	61263
52.474 (a) removed	61263
52.476 (a) through (d) removed	61263
52.478 Removed	61263
52.479 (a) and (c) removed; (b) revised	61263
52.481 Table revised	61263
52.483 Removed	61263
52.490 Removed	61263
52.491 Removed	61263
52.492 Removed	61263
52.493 Removed	61263
52.494 Removed	61263
52.495 Removed	61263
52.496 Removed	61263
52.520 (c)(28) added	36700
(c)(25) added	43151
(c)(29) added	47220
(c)(36) added	53141
(c)(31) added	55970
(c) introductory text revised; (c)(33) added	57486
(c) introductory text revised; (c)(32) added	57488
(c) introductory text revised; (c)(35) added	61122
(c)(18) amended; (c)(30) added	61270
(c) introductory text revised; (c)(34) added	62061
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(c) introductory text revised; (c)(40) added	△3112
(c) introductory text revised; (c)(41) added	△13337
52.528 (b) removed	61270
Technical correction	62850
52.570 (c)(22) added	40007
(c)(23) added	41051
(c)(24) added	41499
(c)(25) added	54941
(c)(29) added	55968
(c) introductory text revised; (c)(28) added	57488
(c)(26) added	△6018
52.581 (a) and (b) removed	△6018
52.620 (c)(12) added	40513
(c)(13) added	△3111
52.720 (c)(16) introductory text revised	44185
(c)(27) and (28) added	51605
(c)(33), (34), and (35), added	56198
(c)(16) amended; (c)(36) and (37) added	57895
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(c)(29) added	△12166
(c)(30) added	△13338
52.725 (a)(3) added; (b) revised; (c) removed	44185
(a)(1) removed	59972
52.737 Removed	56198
52.770 (c)(23) added	40005
(c)(22) added	44448
(c)(25) and (26) added	54943
(c)(27) and (28) added	57895
(c)(30) added	△4992
(c)(29) added	△6275
(c)(24) added	△6622
(c)(19) added	△10824
52.773 (e) added	△6275
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52.773 (a) revised; (b) added	△10825
52.783 (a) revised	△6275
52.795 (c), (d), and (e) added	△10825
52.820 (c)(37) added	51607
(c) introductory text revised; (c)(38) and (40) added	59974
(c)(34) added	△1120
(c) introductory text revised; (c)(39) added	△9462
52.822 (b) removed	47546
52.823 Amended	47546
52.825 (c) amended	51607
52.826 (b) removed	47546
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(c) introductory text revised; (c)(13) correctly added	△8358
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52.879 Table amended	51743, 61118
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52.920 (c)(17) added	40187
(c)(16) added	40189
(c)(20) added	45610
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(c)(25) added	53411
(c) introductory text revised; (c)(18) added	56199
(c) introductory text revised; (c)(24) added	57044
(c) introductory text revised; (c)(22) added	57488
(c) introductory text revised; (c)(21) and (27) added	58082
(c) introductory text revised; (c)(23) added	58083
(c)(26) added	△1292
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52.922 (d) and (e) added	40187
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52.932 (b) and (c) redesignated from 52.936 (a) and (b)	40188
52.936 Removed; regulations transferred to 52.932 (b) and (c)	40188
52.970 (c)(20) added	40006
(c)(24) and (25) added	53413
(c)(16) revised; (c)(20) through (22) added	△6017
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52.976 (c) removed	△6017
52.980 (c) added	△3116
52.1020 (c)(14) added	43152
(c) introductory text revised; (c)(15) added	△948
(c)(11) amended; (c)(17) added	△6830
(c)(16) added	△9463
52.1024 Table amended	△6830
52.1025 (e) removed	△ 6830
52.1030 Added	△948
52.1070 (c)(45) added	39822
(c)(48) added	41778
(c)(44) added	43679
(c)(46) and (47) added	44450
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(c)(51) and (52) added	49588
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(c)(54) added	56195
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(c)(55) added	62848
(c)(59) added	△7835
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52.1075 Added	45341
52.1116 (b) revised	△7835
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(c)(30) revised	43148
(c)(35) added	44186
(c)(33) amended	46133
(c)(39) added	47451
(c)(43) added	61119
(c)(41) added	61124
(c)(44) added	△3353
(c)(45) added	△6013
(c)(40) added	△9836
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(c)(39) added	43423
(c)(41) added	57896
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(c)(48) added	△3765
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(c)(52) and (53) added	△12626
52.1175 (e) table amended	34585, 58674
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52.1320 (c)(30) added 43139
(c)(16)(iii) revised; (c)(29) added 45131
(c)(32) added 53142
(c)(33) added 54732
(c) introductory text revised; (c)(31) added 55519
(c)(34) added 55969
(c) introductory text revised; (c)(35) added 61123
52.1324 (c)(1)(ii) removed 43140
(c)(2) removed 45131
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52.1420 (c)(21) added 49123
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52.1476 (c) added 43142
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52.1480 Table amended 45607
52.1481 (c)(1) revised 45607
52.1520 (c)(18) added 36700
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52.1570 (c)(30) added 47780
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52.1582 (c) removed 57677
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86.082-25 Added; interim 50480
86.082-26 (a)(3)(i)(A), (B), and (C), (ii)(A), (B), and (C), (4)(i), (ii), and (iii), (5), (6), (7), and (8), (b)(5) through (9) revised; (a)(4)(iv) added; interim 50483
86.082-28 (a)(4)(i)(A) introductory text and (B), (ii)(A) and (B), and (b)(4)(i)(B) revised; (a)(4)(i)(A)(4) and (b)(4)(i)(A)(4) added; interim 50485
86.082-30 (a)(2), (3), (6) through (9), and (b)(5)(ii) and (iii) revised; interim 50486

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233.31	Added; final	△5678
233.32	Added; final	△5678
233.33	Added; final	△5678
233.34	Added; final	△5678
233.35	Added; final	△5679
233.36	Added; final	△5679
233.37	Added; final	△5679
233.39	Redesignated from 233.30 and (b)(1)(ii) revised	△5678
233.50	Revised	△5680
233.51	Added; final	△5680
233.52	Added; final	△5680
233.90	(a)(1) and (b)(3) revised; (c)(1)(vi) and (2)(ii) removed; (c)(2)(iii) and (iv) redesignated as (c)(2)(ii) and (iii); new (c)(2)(iv) added	△5681
233.100	Amendatory language corrected	50372
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233.106	Added; final	△5682
233.140	Removed; final	△5682
234.60	(a)(1) and (12) revised; (a)(5), (11)(iii), and (b)(2) removed; (b)(1) redesignated as (b); (a)(14) added; final	△5682
235.64	Introductory text revised; footnote removed; final	△5683
235.70	Revised	△5683
238	Added; final	△5683
239	Added; final	△5685
260	Removed; interim	48598

Chapter III—Office of Child Support Enforcement (Child Support Enforcement Program), Department of Health and Human Services

301.16	Added	△8570
302.35	Revised	54556
302.60	Added; interim	△7428
302.70	Removed	54557
303.70	Added	54557
303.15	Added	54557
303.69	Added	54559
303.72	Added; interim	△7428
304.20	(b) introductory text revised	54559
304.23	(h) added	54559

Chapter IV—Office of Refugee Resettlement, Social Security Administration, Department of Health and Human Services

400.62	Added; interim	△10849
401	Added; interim	△10850

Chapter V—Foreign Claims Settlement Commission of the United States, Department of Justice

500.3	(c) revised	△10850
531.1	(k) added	△10851
531.2	(k) and (l) redesignated as (l) and (m); new (k) added	△10851

Chapter VI—National Science Foundation

605	Added	△8573

Chapter XI—National Foundation on the Arts and the Humanities

1170	Added	55897

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1203.5	(a)(1) amended	△3553
1206.2–1—1206.2–5	(Subpart B) Revised	△5719
1207.2–2	Amended	△3553
1208.2–2	Amended	△3553
1209.2–2	(a) amended	△3553

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1391—1393	(Subchapter J) Heading revised; interim	48598
1391	Removed; interim	48598
1392.10	Revised	△7669
1392.18	(c) revised	△7669
1393	Removed; interim	48598

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4.02–3 Redesignation effective date confirmed 49877
4.03–1 (b) and (c) effective date confirmed 49877
4.03–5 Removal effective date confirmed 49877
4.05–1 Effective date confirmed 49877
4.05–5 Effective date confirmed 49877
4.05–30 Effective date confirmed 49877
4.07–50 Removal effective date confirmed 49877
14.20–1—14.20–15 (Subpart 14.20) Added 56203
24.10–20 Revised 56204
25.25–1—25.25–15 (Subpart 25.25) Authority citation ..... △10558
25.25–5 (d) revised ..... △10558
26.08–1—26.08–25 (Subpart 26.08) Effective date confirmed 49877
33 Authority citation ..... △10559
33.40–1 (a) revised ..... △10559
34 Incorporation by reference approvals corrected 63478
35.15–1 (a) and (b) effective date confirmed 49877
42 Authority citation ..... △5721
42.01–1 Revised ..... △5721
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42.03–5 (a)(1) revised; (b)(1)(ii) amended ..... △5721
42.03–10 Revised ..... △5722
42.03–17 (c) removed ..... △5722
42.05–30 (b) and (c) removed ..... △5722
42.05–50 (b) and (c) removed ..... △5722
42.07–1 (e) introductory text, (e)(2), and (f) revised ..... △5722
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45.139 (b) revised; (c) added 56788
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151.50–72 Added; eff. in part 12–31–82 63279
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151.50–81 Added; eff. in part 12–31–82 63280
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164 Incorporation by reference approvals corrected 63478
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167 Incorporation by reference approvals corrected 63478
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193 Incorporation by reference approvals corrected 63478
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523 Authority citation; note added 62652
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Presidential Documents

Title 3—

The President

Executive Order 12348 of February 25, 1982

Federal Real Property

By virtue of the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 205(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(a)), in order to improve management of Federal real property, it is hereby ordered as follows:

Section 1. (a) There is hereby established a Property Review Board.

(b) The members of the Board shall be the Counsellor to the President; Director, Office of Management and Budget; Chairman, Council of Economic Advisers; Assistant to the President for Policy Development; Chief of Staff and Assistant to the President; Assistant to the President for National Security Affairs; and such other officers or employees of the Executive branch as the President may from time to time designate. One of the members of the Board shall be designated by the President as Chairman.

(c) Staff, including an Executive Director, and other administrative support shall be provided from resources available to the President.

Sec. 2. The Board shall perform such functions as may be directed by the President, including the following:

(a) develop and review Federal real property acquisition, utilization, and disposal policies with respect to their relationship to other Federal policies;

(b) advise the Administrator of General Services with respect to such standards and procedures for executive agencies that are necessary to ensure that real property holdings no longer essential to their activities and responsibilities are promptly identified and released for appropriate disposition;

(c) review and examine prior disposals of surplus property for public benefit discount conveyances to ensure that the property is being used and maintained for the purpose for which it was conveyed;

(d) receive the surveys and reports made by or to the Administrator of General Services pursuant to Sections 3 and 4 of this Order as well as other reports on Federal real property that are requested by the Board, with particular attention to resolution of conflicting claims on, and alternate uses for, any property described in those reports, consistent with laws governing Federal real property;

(e) provide guidance to the Administrator of General Services in accord with Section 6 of this Order;

(f) establish for each Executive agency annually the target amount of its real property holdings to be identified as excess; and

(g) submit such recommendations and reports to the President as may be appropriate.

Sec. 3. (a) All Executive agencies shall periodically review their real property holdings and conduct surveys of such property in accordance with standards and procedures determined by the Administrator of General Services pursuant to Section 206 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 487), and this Order.

(b) The head of each Executive agency, within 60 days of the date of this Order, shall report to the Administrator of General Services and the Board the agency's real property holdings which, in his judgment, are not utilized, are underutilized, or are not being put to optimum use.

(c) The head of each Executive agency shall identify, and report to the Board, all those properties which can be considered for disposition in response to the targets established by the Board in subsection 2(f) of this Order.

Sec. 4. The Administrator of General Services in consultation with the Board shall issue standards and procedures, conduct surveys, and cause surveys to be conducted, to ensure that the real property holdings of Executive agencies shall continually be evaluated with special emphasis on the identification of properties that are not utilized, are underutilized, or are not being put to optimum use. The Administrator shall consult with the Board and appropriate Executive agencies in order to (a) identify real property that is excess or surplus to the needs of the Executive agencies, and (b) make such real property available for its most beneficial use under the various laws of the United States affecting such property.

Sec. 5. The Administrator of General Services shall report to the Board with respect to any property or portion thereof which has not been reported excess to the requirements of the holding agency and which, in the judgment of the Administrator, is not utilized, is underutilized, or is not being put to optimum use, and which he recommends should be reported as excess property.

Sec. 6. Before the Administrator of General Services assigns or conveys property for public benefit discount conveyances, he shall first consult with the Board and consider such guidance as it may provide.

Sec. 7. The Administrator of General Services shall, to the extent permitted by law, provide necessary advice and assistance to the Board to accomplish the objectives of this Order.

Sec. 8. Executive Order No. 11954, as amended, is revoked.

Ronald Reagan

THE WHITE HOUSE,
February 25, 1982.

Presidential Documents

Proclamation 4902 of February 25, 1982

Save Your Vision Week, 1982

By the President of the United States of America

A Proclamation

The ability to see is precious. We depend on it for every waking moment. Most of us take this gift of sight for granted until it is threatened by disease or injury. There are, however, many things we can do to protect our eyes and prevent visual loss or impairment.

A very important sight-saving precaution is to have regular eye examinations by an eye care professional. Each year, checkups of this sort alert thousands of Americans to the fact that they have serious eye disease and should consider prompt treatment. For many, immediate attention to the eye problem saves vision that might otherwise be lost forever. This is particularly true for the more than one million people in this country who have diabetes. For years, diabetes has been the leading cause of blindness among middle-aged Americans. Now, however, there is a treatment that can help people with diabetic eye disease retain their vision. If all those who need help for this eye problem were to obtain treatment in time, thousands of cases of blindness could be prevented.

Children as well as adults can benefit greatly from regular eye examinations. A routine checkup may reveal some unsuspected eye problem that can be better corrected while a child is still young. Some of these childhood eye problems cause permanent visual loss if left untreated. Others remain correctable, but a delay in treatment may mean years of needless handicap in both schoolwork and play.

Protecting the eyes from injury is another important way to prevent visual impairment and even blindness. Safety glasses, goggles, or face shields should be worn in hazardous situations at work and while participating in potentially hazardous sports.

We should also remember that thousands blinded by corneal disease or injury could have their vision restored by corneal transplants if people would pledge their eyes at death to their local eye bank as a legacy of sight.

To encourage citizens of this country to cherish and protect their eyesight, the Congress, by joint resolution approved December 30, 1963 (77 Stat. 629, 36 U.S.C. 169a), has requested the President to proclaim the first week in March of each year as Save Your Vision Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the week beginning March 7, 1982, as Save Your Vision Week. I urge all of our citizens to participate in this observance by making plans to take care of their own eyes and by considering what they can do to protect the vision of family members and co-workers as well. I also invite eye care professionals, the communications media, educators, athletic coaches, and all public and private organizations that support sight conservation to join in activities that will foster concern for eye care and eye safety.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of Feb., in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

Onions Grown in South Texas; Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This continuing regulation requires fresh market shipments of onions grown in designated counties in South Texas to be inspected and meet minimum size and quality requirements. The regulation should promote orderly marketing of such onions and keep less desirable qualities and sizes from being shipped to consumers.

EFFECTIVE DATE: March 10, 1982. Information collection requirements contained in this regulation (§ 959.322) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0581-0074.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447-2615. The Final Impact Analysis relating to this final rule is available upon request from Mr. Porter.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR Part 959) regulate the handling of onions grown in designated counties of South Texas. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The South Texas Onion Committee, established under the order, is responsible for its local administration.

Notice was published in the December 18, 1981 **Federal Register** (46 FR 61664) regarding the proposal. It afforded interested persons an opportunity to file written comments by February 1, 1982. None was filed.

This continuing regulation is based upon recommendations made by the committee at its public meeting in McAllen, Texas, on October 27, 1981. The recommendations of the committee reflect its appraisal of the expected volume and composition of the 1982 early spring crop of South Texas onions and of the marketing prospects for the shipping season which is expected to begin about March 10, 1982.

The grade and size requirements are similar to last season's and are designed to prevent onions of poor quality or undesirable sizes from being distributed in fresh market channels.

Thus, only onions that contain not more than 20 percent defects of U.S. No. 1 grade and are not packed or loaded on Sunday except for export may be shipped from March 10 through May 10 of each season. In order to provide more orderly marketing from all districts, the inspection and container requirements are extended through June 15 each season.

The container requirements will prevent the use of off-size or deceptive containers which could adversely affect the reputation and returns of South Texas onions. However, they do not preclude the use of containers customarily packed for the retail trade. The prohibition on packaging and loading onions on Sunday is intended principally to provide more orderly marketing by tailoring shipments from the production area more closely to the ability of receiving markets to accept marketings. Again this season handlers are permitted, with the approval of the committee, to grade, package and load onions on Sunday for export, provided that they shut down packing and loading operations on the first working day after shipment for the same length of time as they operated on Sunday. This should prevent handlers who ship on Sunday for export from gaining a competitive advantage due to longer packing hours over handlers who do not have export orders.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements are inappropriate or unreasonable. Up to 110 pounds of onions may be handled, other than for resale, per day without regard to requirements of this section in order to avoid placing an unreasonable burden on persons handling noncommercial quantities of onions.

The requirements with respect to special purpose shipments allow the shipment of onions for experimental purposes or the use of containers including bulk bins which have been the subject of test shipments during past seasons, and encourage exports by allowing the use of containers required for such purposes. Onions for canning and freezing are exempt under the legislative authority for this part. Shipments for relief or charity are exempt since no useful purpose would be served by regulating such shipments. The shipment of small gift packages to individuals is permitted by an exemption from the container requirements.

These standardization and marketing efficiency types of regulation have no measurable effect on the quantity of onions shipped from South Texas, nor is there discernable effect on U.S. retail onion prices. This regulation enables the South Texas onion industry to better compete with major onion producing areas in California and Arizona by ensuring the use of grades, sizes and containers acceptable to buyers.

Requirements contained in this handling regulation, effective March 10, 1982, will continue in effect from marketing season to marketing season indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the committee or other information available to the Secretary. Heretofore, regulations issued under the marketing order were made effective for a single marketing season. However, virtually the same requirements have been imposed each season since 1982. The change to issue regulations which continue in effect from marketing season to marketing season reflects the fact that

regulations will probably continue to change infrequently from season to season and it is believed unnecessary to issue them for only a single season. In addition, the change could result in a reduction in operational costs to the committee and the government. Although the final regulation will be effective for an indefinite period, the committee will continue to meet prior to or during each season to consider recommendation for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee will submit to the Secretary a marketing policy for the season in accordance with § 959.50 of the order, including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings. Interested persons may file comments concerning the committee recommendations with Charges W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, before February 1 each year. The Department will evaluate committee recommendations and information submitted by the committee, comments filed, and other available information, and determine whether modification, suspension, or termination of the regulations on shipments of South Texas onions would tend to effectuate the declared policy of the act. Any such changes in the handling regulation will be published in the **Federal Register**.

Findings. After consideration of all relevant matters, including the proposal set forth in the notice, it is hereby found that the handling regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) shipments of onions grown in the production area will begin on or about the effective date specified herein; (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the marketing season, and (3) compliance with this regulation, which is similar to that in effect during the previous marketing seasons, will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective date.

PART 959—ONIONS GROWN IN SOUTH TEXAS

§ 959.321 [Removed]

Section 959.321 (46 FR 16238, March 12, 1981, and 17755, March 20, 1981) is hereby removed and a new § 959.322 is added as follows:

§ 959.322 Handling regulation.

During the period beginning March 10 and ending on June 15 each season no handler may package or load onions on Sunday or handle any onions except red varieties, unless they comply with paragraphs (a) through (d) or (e) or (f) of this section. However, the requirements of paragraphs (a) and (b) and the Sunday prohibition shall terminate at 11:59 p.m. on May 10 of each season.

(a) *Grade requirements.* Not to exceed 20 percent defects of U.S. No. 1 grade. In percentage grade lots, tolerances for serious damage shall not exceed 10 percent including not more than 2 percent decay. Double the lot tolerance shall be permitted in individual packages in percentage grade lots. Application of tolerances in U.S. onion standards shall apply to in-grade lots.

(b) *Size requirements.* (1) "Small"—1 to 2¼ inches in diameter, and limited to whites only;

(2) "Repacker"—1¾ to 3 inches in diameter, with 60 percent or more 2 inches in diameter or larger;

(3) "Medium"—2 to 3½ inches in diameter; or

(4) "Jumbo"—3 inches or larger in diameter.

(5) Tolerances for size in the U.S. onion standards shall apply except that for "repacker" and "medium" sizes not more than 20 percent, by weight, of onions in any lot may be larger than the maximum diameter specified. Application of tolerances in the U.S. onion standards shall apply.

(c) *Container requirements.* Except as provided in paragraph (f) this section, only the following containers may be used:

(1) 25-pound bags, with an average net weight in any lot of not more than 27½ pounds per bag, and with inside dimensions not larger than 29 inches by 31 inches; or

(2) 50-pound bags, with an average net weight in any lot of not more than 55 pounds per bag, and with inside dimensions not larger than 33 inches by 39½ inches.

(3) These container requirements shall not be applicable to onions sold to Federal agencies or for export.

(d) *Inspection.* (1) No handler may handle any onions regulated hereunder, except pursuant to paragraphs (e), (f)(1), or (f)(4)(ii) of this section, unless an inspection certificate has been issued by the Texas-Federal Inspection Service covering them and the certificate is valid at the time of shipment.

(2) No handler may transport by motor vehicle or cause such transportation of any shipment of onions for which an inspection certificate is required unless each such shipment is accompanied by a copy of the inspection certificate applicable thereto or by documentary evidence on forms furnished by the committee identifying truck lots to which a valid inspection certificate is applicable and a copy of such inspection certificate or committee document is surrendered upon request to authorities designated by the committee.

(3) For purpose of operation under this part each inspection certificate or committee form required as evidence of inspection is hereby determined to be valid for a period not to exceed 72 hours following completion of inspection as shown on the certificate.

(4) Handlers shall pay assessments on all assessable onions according to the provisions of § 959.42.

(e) *Minimum quantity exemption.* Any handler may handle, other than for resale, up to, but not to exceed 110 pounds of onions per day without regard to the requirements of this section, but this exemption shall not apply to any shipment or any portion thereof of over 110 pounds of onions.

(f) *Special purpose shipments.* (1) The minimum grade, size, quality, container, and inspection requirements set forth in paragraphs (a) through (d) shall not be applicable to shipments of onions for charity, relief, canning and freezing if handled in accordance with paragraph (g) of this section.

(2) Onions may be packed in 50-pound cartons or in 2, 3 or 5 pound containers customarily used for the retail trade. Such shipments shall be exempt from paragraph (c) of this section but must meet the provisions of paragraphs (a), (b) and (d) or paragraph (e) of this section and be handled in accordance with paragraph (g) of this section.

(i) Shipment of such containers shall not exceed 10 percent of a handler's total weekly onion shipments.

(ii) The average gross weight per lot of onions packed in master containers shall not exceed 115 percent of the designated net contents.

(iii) The average net weight per lot of 50-pound cartons shall not exceed 55 pounds.

(3) *Gift packages.* The handling to any person of gift packages of onions, not exceeding 25 pounds per package, individually addressed to such person and not for resale, is exempt from the container requirements of paragraph (c) of this section, but shall conform to all assessment requirements of § 959.42 and the grade, size and inspection requirements of paragraphs (a), (b), and (d) of this section.

(4) *Experimental shipments.* (i) Upon approval of the committee, onions may be shipped in bulk bins with inside dimensions of 47 inches x 37½ inches x 36 inches deep and having a volume of 63,450 cubic inches, or containers deemed similar by the committee. Each container shall have a new perforated polyethylene liner at least 2 mils in thickness. Also, onions may be shipped in 40-pound cartons, upon approval of the committee. Such experimental shipments shall be exempt from paragraph (c) of this section but shall not exceed 10 percent of a handler's total weekly onion shipments and shall be handled in accordance with safeguard provisions of § 959.54 and paragraph (g) of this section. The receiver shall furnish the committee with a report on the arrival condition of each shipment.

(ii) Upon approval of the committee, onions may be shipped for other experimental purposes exempt from regulations issued pursuant to §§ 959.42, 959.52 and 959.60, provided they are handled in accordance with safeguard provisions of § 959.54 and paragraph (g) of this section.

(iii) Upon approval of the committee, onions may be shipped for testing in types and sizes of containers other than those specified in paragraphs (c), (f)(2), and (3) of this section, provided that the handling of onions in such experimental containers shall be under the supervision of the committee.

(5) *Export shipments.* (i) Upon approval of the committee, the prohibition against packaging or loading onions on any Sunday may be modified or suspended to permit the handling of onions for export provided such handling complies with the procedures and safeguards specified by the committee.

(ii) Following approval, if the handler grades, packages, and ships onions for export on any Sunday, such handler shall on the first weekday following shipment, cease all grading, packaging and shipping operations for the same length of time as the handler operated on Sunday. Upon completion of such shipments, the handler shall report thereon as prescribed by the committee.

(iii) Export shipments shall also be exempt from all container requirements of this section.

(6) *Onions failing to meet requirements.* Onions failing to meet the grade, size and container requirements of this section, and not exempt under paragraphs (e) or (f) of this section, may be handled only pursuant to § 959.126. Such onions not handled in accordance with paragraph (g) of this section shall be mechanically mutilated at the packing shed rendering them unsuitable for fresh market.

(g) *Safeguards.* Each handler making shipments of onions for relief, charity, canning, freezing or experimental purposes or onions packed in 50-pound cartons or 2, 3 or 5 pound containers customarily packed for the retail trade shall:

(1) Apply to the committee for and obtain a Certificate of Privilege to make such shipments;

(2) Furnish reports of each shipment made under the applicable Certificate of Privilege;

(3) Such reports, in accordance with § 959.80, shall be furnished to the committee in such manner, on such forms and at such times as it may prescribe. Each handler shall maintain records of such shipments pursuant to § 959.60(c), and the records shall be subject to review and audit by the committee to verify reports thereon.

(4) In addition to the above, each handler making shipments for canning or freezing shall:

(i) Weigh or cause to be weighed each shipment prior to, or upon arrival at the canner or freezer.

(ii) Attach a copy of the weight ticket to a completed copy of the Report of Special Purpose Onion Shipment and return both promptly to the committee office.

(iii) Make each shipment directly to the applicable processor and attach a copy of the Report of Special Purpose Onion Shipment.

(iv) Each canner or freezer who receives cull onions shall weigh the onions upon receipt, complete the Report of Special Purpose Onion Shipment which accompanies each load and mail it immediately to the committee office.

(v) Each canner or freezer who receives cull onions shall make available at its business office at any reasonable time during business hours, copies of all applicable purchase orders, sales contracts, or disposition documents for examination by the Department or by the committee, together with any other information which the committee or the Department may deem necessary to enable it to determine the disposition of the onions.

(h) *Definitions.* "U.S. onion standards" means the United States Standards for Grades of Bermuda-Granex-Grano Type Onions (7 CFR 2851.3195–2851.3209), or the United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Types) (7 CFR 2851.2830–2851.2854), whichever is applicable to the particular variety, or variations thereof specified in this section. The term "U.S. No. 1" shall have the same meaning as set forth in these standards. All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 143, as amended, and this part.

(i) *Applicability to imports.* During the approximately mid-March through May period of each year, imported onions shall comply with the minimum grade, size, quality and maturity requirements imposed under this marketing order. The specific beginning and ending dates will be set forth in the summary of onion import regulation to be issued prior to the beginning of each season, after the Secretary determines when the imported onions are in most direct competition with regulated onions grown in South Texas. Therefore, under Section 8e of the act and Section 980.117 "Import regulations: onions" (7 CFR Part 980.117) such imported onions shall have not more than 20 percent defects of U.S. No. 1 grade and be at least 1 inch in diameter for white varieties and at least 1¾ inches in diameter for all other varieties. In percentage grade lots, tolerance for serious damage shall not exceed 10 percent including not more than 2 percent decay. Double the lot tolerance shall be permitted in individual packages in percentage grade lots. Applications of tolerances in the U.S. onion standards shall apply to in-grade lots.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Dated: February 23, 1982, to become effective March 10, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-5390 Filed 2-26-82; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1446

[Amdt. 4]

General Regulations Governing 1979 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations

AGENCY: Commodity Credit Corporation, Agriculture.

ACTION: Final rule.

SUMMARY: This rule amends the regulations at 7 CFR 1446.9 and 1446.10, the General Regulations Governing 1979 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations, to authorize the Executive Vice President of the Commodity Credit Corporation (CCC) to reduce or waive the liquidated damages specified in those regulations if the Executive Vice President determines that such reduction or waiver will not impair the effective operation of the price support program.

EFFECTIVE DATE: March 1, 1982.

FOR FURTHER INFORMATION CONTACT: David L. Kincannon, Agricultural Stabilization and Conservation Service (ASCS), (202) 382–0154. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures and Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified as "not major." It has been determined that the provisions of this rule will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or a geographic region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loans and Purchases; 10.051, as found in the Catalog of Federal Domestic Assistance.

This action will not have a significant impact specifically on area and community development. Therefore, a review, as established by Office of Management and Budget Circular A–95, was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Section 359(i) of the Agricultural Adjustment Act of 1938, as amended, authorizes handlers to contract with producers for the purchase of additional peanuts for crushing, export, or both. The regulations governing the peanut price support program provide that once such peanuts are exported, they are required to remain outside the United States in order to prevent damage to the domestic price support program for peanuts. (See 7 CFR 1446.9(j)(4) and 1446.10(k)(4).) If contract additional peanuts which have been exported are later reentered into the United States, the handler originally responsible for their exportation is subject to liquidated damages at a rate of 10 cents per pound.

The 1980 crop peanut short supply situation caused domestic buyers to seek supplies of peanuts in the world market. As a result, contract additional peanuts which had been exported were sold back to U.S. manufacturers for reentry into the United States. Under the regulations, such peanuts were subject to 10 cents per pound liquidated damages. Liquidated damages are intended to prevent contract additional peanuts from reentering the domestic market and thereby causing CCC to lose money on quota peanuts which were supported by CCC under the price support program at prices above the world market price.

However, because of the short crop, only small quantities of edible quality peanuts from the 1980 crop were placed under the CCC price support loan program and they have all been resold at prices substantially above the support level. Therefore, for the 1980 crop, it was not likely that CCC would incur program damage as a result of the entry into the United States of contract additional peanuts.

As a result, an interim rule was published in the Federal Register (46 FR 48117) on October 1, 1981, amending 7 CFR 1446.9 to authorize the Executive Vice President, CCC to waive or reduce the amount of liquidated damages assessed against contract additional peanuts which are subject to physical supervision and handling that had been exported and reentered into the United States.

There were no comments to the interim rule received by the end of the 60 day comment period. Accordingly, the interim rule published at 46 FR 48117 is adopted as a final rule with minor editorial changes. In addition, it has been determined that this rule should have also been made applicable to contract additional peanuts subject to nonphysical supervision, 7 CFR 1446.10(k)(4), as well as physical supervision, 7 CFR 1446.9(j)(4).

Final Rule

PART 1446—PEANUTS

Accordingly, the regulations at 7 CFR Part 1446 are amended to read as follows:

1. Section 1446.9 is amended by revising the section heading and paragraph (j)(4)(iii) to read as follows:

§ 1446.9 Physical supervision and handling of contract additional peanuts.

* * * * *

(j) * * *

(4) * * *

(iii) *Waiver or Reduction of Liquidated Damages.* The liquidated damages specified in paragraph (j)(4)(iii) of this section may be reduced or waived if the Executive Vice President determines that such waiver or reduction will not impair the effective operation of the peanut price support program. Such reduction or waiver may contain such terms and conditions as the Executive Vice President determines to be appropriate and necessary for effectuating the purposes of the peanut price support program.

2. Section 1446.10 is amended by adding a new paragraph (k)(4)(iii) to read as follows:

§ 1446.10 Nonphysical supervision and handling of contract additional peanuts.

* * * * *

(k) * * *

(4) * * *

(iii) *Waiver or Reduction of Liquidated Damages.* The liquidated damages specified in paragraph (k)(4)(ii) of this section may be reduced or waived if the Executive Vice President determines that such waiver or reduction will not impair the effective operation of the peanut price support program. Such reduction or waiver may contain such terms and conditions as the Executive Vice President determines to be appropriate and necessary for effectuating the purposes of the peanut price support program.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and 714c; secs. 101, 108, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1421); sec. 359, 52 Stat. 31, as amended (7 U.S.C. 1359)).

Signed at Washington, D.C. on February 23, 1982.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 82-5367 Filed 2-26-82; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 790

Federal Loan Guarantees for Geothermal Energy Utilization

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Rule-related notice.

SUMMARY: The Department of Energy (DOE) hereby gives notice that applications for new projects will no longer be accepted under the Geothermal Loan Guaranty Program. However, the Department will evaluate pending applications and, if such applications are eligible, may issue loan guarantees under its continuing authority.

EFFECTIVE DATE: This notice is effective March 1, 1982.

FOR FURTHER INFORMATION CONTACT: As to geothermal loan guaranty matters: Pauline A. Labrie, Geothermal and Hydropower Technology Division, Department of Energy, Room 5G–030, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–5343.
As to legal matters: Diane J. Stubbs, Office of General Counsel, Department of Energy, Room 6F067, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–2440.

SUPPLEMENTARY INFORMATION: The Geothermal Loan Guaranty Program was established by Title II of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (the Act), Pub. L. 93–410, as amended by Pub. L. 95–238 and Pub. L. 96–294. The program authorizes the Secretary of Energy to guarantee loans, and, under certain circumstances, to make interest payments on such loans for activities related to the development, construction and operation of facilities for the production of energy from geothermal resources. The Act also established the Geothermal Resources Development Fund to carry out the loan guaranty and interest assistance programs, including the payment of administrative expenses.

The Energy and Water Development Appropriations Act of 1981, Pub. L. 97–367, limits DOE authority to guarantee loans to an aggregate amount no greater than $500 million. At the present time, the DOE has committed $136 million in loan guarantees. The total amount of the loan guarantees requested by those eleven applications currently under evaluation by the Department exceeds the balance of $364 million in loan guaranty authority available for commitments. In light of this limitation on its guaranty authority, the Department considers it prudent from a program management standpoint and fairer to those parties who have applications pending with DOE to concentrate program efforts on applications presently undergoing review. In addition, those projects to which the Department has committed the $136 million have been undertaken with the understanding that commitment may be increased to accommodate follow on projects that might reasonably be necessary to assure successful project completion. Accordingly, the Department has determined that no further applications will be accepted for new projects under the Geothermal Loan Guaranty Program at this time.

Authority

Title II of the Geothermal Research, Development, and Demonstration Act of 1974, Pub. L. 93–410, set forth in Title VI of the Energy Security Act, Pub. L. 96–294.

Issued in Washington, D.C., February 22, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 82-5347 Filed 2-26-82; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81–NM–93–AD, Amdt. 39–4327]

Airworthiness Directives: Canadair Model CL–600–1A11 Airplanes, Serial Numbers 1005 Through 1007, 1010 Through 1014, and 1016 Through 1022

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires the inspection and repair, if required, of the crimped No. 8 AWG generator feeder wire on certain Canadair CL–600–1A11 airplanes. This inspection is necessary to ensure that the wire terminals are properly crimped. Incorrectly crimped terminals have been found on three separate aircraft.

EFFECTIVE DATE: March 11, 1982.

ADDRESSES: The service bulletin specified in this Airworthiness Directive may be obtained upon request to Canadair Ltd., Commercial Aircraft Technical Services, Box 6087, Station A, Montreal, Canada, PQ H3C 3G9, or may be examined at the FAA Northwest Mountain Region, 9010 E. Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Huhn, Foreign Aircraft Certification Branch, ANM–150S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 E. Marginal Way South, Seattle, Washington 98108, telephone (206) 767–2530.

SUPPLEMENTARY INFORMATION: The Canadian Department of Transport (DOT) has issued an Airworthiness Directive which requires a one-time inspection to ensure that No. 8 AWG generator feeder wire terminals are properly crimped. Incorrectly crimped No. 8 AWG generator feeder wire terminals have been found on three CL–600 aircraft. Separation of the wire from the terminal could result in loss of electrical power from the affected generator. In order to prevent this from occurring, the DOT, which is the Civil Air Authority of Canada, is requiring an inspection of the cable terminals in accordance with Canadair Service Bulletin A–600–0067, Revision 1, dated September 3, 1981.

This airplane model is manufactured in Canada and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is being issued which requires a one-time inspection of the cable wire terminals on certain Canadair CL–600 airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Canadair: Applies to Canadair Model CL–600–1A11 airplanes, serial numbers 1005 thru 1007, 1010 thru 1014, and 1016 thru 1022. To prevent loss of electrical power, unless already accomplished, accomplish the following:

1. Within the next 50 flight hours, or within the next 15 calendar days after the effective date of this Airworthiness Directive, whichever comes first, inspect, and repair if necessary, in accordance with accomplishment instructions contained in Canadair Alert Service Bulletin No. A600-0087, Revision 1, dated September 3, 1981, or a later revision approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

2. Airplanes may be flown in accordance with FAR 21.197 to a maintenance base for accomplishment of the inspection required by this AD.

3. Alternate methods of compliance with this AD may be used when they provide an equivalent level of safety and are approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the addresses listed above. These documents may also be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective March 11, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Wash., on February 16, 1982.

Robert O. Brown,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-5128 Filed 2-26-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 81-NW-72-AD; Amdt. 39-4329]

Airworthiness Directives; Lockheed-California Company Model L-1011-385 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On October 1, 1981, the FAA issued a Telegraphic Airworthiness Directive (AD) T81-21-51, effective upon receipt, to all known operators of Lockheed Model L-1011-385 series aircraft, certificated in all categories. This AD requires revision of the FAA approved Airplane Flight Manual, reactivation of the AVM input to the engine/APU status light, and modifications to the pilots' caution and warning panel. This action was prompted by three instances of failure of the Rolls-Royce RB.211 engine fan shaft, each resulting in significant damage to the aircraft. These instances were preceded by abnormally high vibration indication on the airborne vibration monitor (AVM) system and/or illumination of the engine oil filter pressure light. This AD is hereby published in the Federal Register to make it effective to all persons.

DATE: Effective date: March 11, 1982.

This AD was effective earlier to all recipients of Telegraphic AD T81-21-51, dated October 1, 1981.

Compliance schedule as prescribed in the body of the AD, unless previously accomplish.

ADDRESSES: The applicable service information may be obtained from: Lockheed-California Company, Attention: Commercial Support Contracts, Dept. 63-11, U-33, B-1, P.O. Box 551, Burbank, California 91520. A copy of the service information may also be reviewed at the Federal Aviation Administration, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or the Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT: Duane Naff, Supervisory Aerospace Engineer, Propulsion Branch, ANM-140L, Federal Aviation Administration, Northwest Mountain Region, Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2835.

SUPPLEMENTARY INFORMATION: There have been three instances of inflight failure of the low pressure (LP) fan shaft in RB.211 engines which resulted in significant damage to the aircraft. Failure of the fan shaft in each case was caused by LP shaft locator (thrust) bearing failure. All cases were preceded by unusually high vibration indication, and two cases were also preceded by illumination of the engine oil filter pressure light. A fourth case of imminent shaft failure was indicated by a high AVM reading during takeoff roll, whereupon the engine was shut down and the takeoff aborted, thus precluding damage to the aircraft.

Engine modifications which will prevent such consequences in case of bearing failure are not yet available. It is, therefore, necessary that the flight crew be promptly alerted to indications of possible LP shaft bearing failure and take appropriate action. Since this condition was likely to exist or develop on other airplanes of the same type design, a telegraphic airworthiness directive was issued October 1, 1981, to all known operators of Lockheed L-1011-385 series aircraft, which: (1) Requires at least one channel of the AVM system to be operative for each engine, (2) requires the AFM to be revised to direct shutdown of an engine which indicates high AVM or high oil filter pressure, (3) requires activation of the AVM input to the ENG/APU STATUS light on the caution and warning panel and changing the color of such status light from amber to red, and (4) subsequently requires the caution and warning panel and associated circuitry to be modified to remove the AVM signals from the status light and add them to the TURB AIR OVHT lights, as well as change these to be designated Vib/Turb OVHT. The AD is now published to make it effective to all persons.

The AD, as herein published, incorporates by reference Revision 1 of Lockheed Service Bulletin 093-77-A049, which was issued on October 13, 1981.

Since a situation existed and still exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Lockheed-California Company: Applies to Lockheed Model L-1011-385 series airplanes, certificated in all categories.

To alert the flight crew to conditions which may precede engine failure, perform the following, unless previously accomplished:

A. Within 25 hours time in service after the receipt of this AD or within 3 calendar days, whichever occurs later, revise the Lockheed L-1011 FAA approved Airplane Flight Manual LR-25625 to add the following and provide to flight crews:

Note.—FAA approved Lockheed L-1011 Airplane Flight Manual revision dated September 29, 1981, is considered an acceptable means of compliance for paragraph A.

Section 1—Limitations

Powerplant Limitations

Airborne Vibration Monitor (AVM) System

- At least one channel (A or B) (FAN or TURB) of the AVM System must be operative for each engine for all flight operations.
- The operative AVM channel (A or B) (FAN or TURB) must be the same for all engines and must be latched in.
- When both channels of the AVM System are operative, channel A or FAN must be latched in. If this channel becomes inoperative (indication goes to zero) inflight, select B or TURB.
- For single or dual channel operation, the AVM filter selector must be set to the NORM position.

Section 2—Emergencies

Engine Abnormal Vibration Indication

During steady running conditions, if an Airborne Vibration Monitor (AVM) System channel indicates a sudden increase of 1 unit or more, or exceeds 2.5 units (warning light setting) for more than 2 seconds, even if the indication returns to normal:

Immediate Action

Throttle—Close
Fuel and Ignition Switch—Off

Note.—During takeoff roll, a momentary fluctuation of the AVM indication with no other indication of engine malfunction is not cause for engine shutdown.

Reference

Hydraulic power—Check
Electrical loads—Monitor
AC essential power—Check

Do not attempt a relight unless a greater emergency exists.

Note.—When holding or descending in heavy icing conditions, the AVM indication may gradually increase to above 2.5 units (warning light setting). No action is required unless other indications of engine malfunction are observed. This condition can be alleviated by increasing Nl to 90% for 5 seconds when ice accumulation (gradual vibration increase) is first detected.

Section 2—Emergencies

Engine Oil Filter Pressure Light Illuminated

If the engine oil FILTER PRESSURE light illuminates steadily:

Immediate Action

Throttle—Close
Fuel and ignition switch—Off

Reference

Hydraulic power—Check
Electrical loads—Monitor
AC essential power—Check

Do not attempt a relight unless a greater emergency exists.

B. Within 25 hours time in service after the receipt of this AD, reactivate the AVM input to the ENG/APU STATUS light in accordance with the Accomplishment Instructions in Lockheed L-1011 Alert Service Bulletin 093-77-A044, Revision 2, dated September 29, 1981, or later revisions approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

C. Within 75 days calendar time after receipt of this AD, comply with paragraphs A and B (Parts I and II) of the Accomplishment Instructions in Lockheed L-1011 Alert Service Bulletin 093-77-A049 dated September 29, 1981, or Revision 1, dated October 13, 1981, or later revisions approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

D. When the indications specified in paragraph A above occur, engines must undergo the following appropriate maintenance actions prior to further engine operation for flight:

1. Rolls Royce Alert Service Bulletin RB.211-77-A6422 dated September 4, 1981, paragraph D.(3) for oil pressure and/or AVM indications.

2. Lockheed L-1011 Maintenance Manual Chapter 71-01-00, High Indicated Vibration.

E. Special flight permits for a two-engine ferry flight may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

F. Alternate methods of compliance with this AD which provide an equivalent level of safety may be used when approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts. These documents may also be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808.

This amendment becomes effective March 11, 1982, to all persons, except those to whom it was made immediately effective by Telegraphic AD T81-21-51, dated October 1, 1981.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1523); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United State Court of Appeals for the District of Columbia.

Issued in Seattle, Washington, on February 16, 1982.

Robert O. Brown,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-5167 Filed 2-26-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 81-NM-94-AD; Amdt. 39-4328]

Airworthiness Directive; Lockheed-California Company Model L-1011-385 Series Airplanes, Serial No. 1052 and Subsequent

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On December 11, 1981, the FAA issued a Telegraphic Airworthiness Directive (AD) T81-28-51, to all known operators of Lockheed Model L-1011-385 series aircraft, Serial Numbers 1052 and subsequent, with 10,000 or more landings, certificated in all categories. This AD requires inspection for cracks in the Fuselage Station (FS) 1363 bulkhead and repair and/or replacement of defective parts as necessary. This action was prompted by reports of fuselage cracks in the main landing gear wheel well area FS 1363 on the Lockheed L-1011 aircraft in that serial number range. Progression of these cracks could result in sudden decompression of the aircraft. This AD is hereby published in the Federal Register to make it effective to all persons. Further, this document amends T81-28-51 to require repetitive inspections, to increase the initial inspection threshold, and to include an alternate inspection procedure.

DATES: Effective date March 11, 1982.

This AD was effective earlier to all recipients of Telegraphic AD T81-26-51, dated December 11, 1981.

Compliance schedule as prescribed in the body of the AD, unless previously accomplished.

ADDRESSES: The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63-11, U-33, B-1. This information also may be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT: Harvey Chimerine, Aerospace Engineer, Airframe Branch, ANM-120L, Federal Aviation Administration, Northwest Mountain Region, Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2825.

SUPPLEMENTARY INFORMATION: On August 21, 1981, the FAA issued Telegraphic AD T81-18-51 applicable to the Lockheed L-1011-385 series aircraft, serial numbers 1001 through 1051, requiring inspection and repair, as necessary, of the aft bulkhead of the main landing gear wheel well as a result of cracks reported in that area on five aircraft with serial numbers within that range. Since then, three or more aircraft with serial numbers above 1051 have experienced similar cracks. Since progression of these cracks could result in sudden decompression of the aircraft, action was necessary to assure that cracking is detected and repaired on those aircraft with later serial numbers. On December 11, 1981 the FAA issued Telegraphic AD T81-26-51 applicable to L-1011-385 series airplanes, serial numbers 1052 and subsequent requiring inspection and repair as necessary.

Since this condition is likely to exist or develop in other airplanes of the same type design, an Airworthiness Directive (AD) is being issued which requires inspection for cracks and repair, as necessary, of defective parts. It is now published to make it effective to all persons.

This AD differs from the telegraphic AD by a revision to the inspection procedures to include an alternative inspection procedure called out in Lockheed L-1011 Service Bulletin 093-53-208, Revision 1, dated December 23, 1981. This AD also changes the initial inspection threshold from 50 hours to 300 flights and adds a repetitive inspection at intervals of 2000 flights thereafter until a permanent modification is incorporated.

Since a situation existed and still exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Aministrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Lockheed-California Company: Applies to Lockheed Model L-1011-385 series airplanes, Serial Numbers 1052 and subsequent, certificated in all categories. Compliance is required in accordance with paragraphs A and B or C below, unless previously accomplished:

To detect cracks in the Fuselage Station (FS) 1363 bulkhead lower cap, fuselage skin, adjacent web, and web horizontal stiffeners; and to prevent failure and possible sudden decompression of the pressurized fuselage, accomplish the following:

A. *Compliance Schedule*

Compliance is required within 300 flights after the effective date of this AD and at intervals not to exceed 2000 flights thereafter. Previously accomplished inspections, if conducted within the previous 300 flights in accordance with paragraph B *or* C below, satisfy this initial 300 flight inspection requirement.

B. *Accomplishment Instructions—OPTION 1*

1. Remove main landing gear fairing panel 195B, left hand side and;

2. Remove main landing gear fairing panel 196B, right hand side or;

3. Remove splash panels, Lockheed-California Company L-1011 P/N 1541020-101 and 1541020-102.

4. Perform a close visual inspection for cracks in Fuselage Station 1363 bulkhead, left hand side. Inspect from the main landing gear wheel well, paying particular attention to web and horizontal stiffeners at bulkhead cap, above and below water line 140 and;

5. Perform a close visual inspection for cracks in fuselage skin between Fuselage Stations 1363 and 1403, left hand side, paying particular attention to the area between Stringers 44 and 46 and;

6. Perform a close visual inspection for cracks in Fuselage Station 1363 bulkhead, right hand side. Inspect from the main landing gear wheel well, paying particular attention to the web and horizontal stiffeners at the bulkhead cap, above and below water line 140; and

7. Perform a close visual inspection for cracks in the fuselage skin between Fuselage Stations 1363 and 1403, right hand side, paying particular attention to the area between Stringers 20 and 22.

C. *Accomplishment Instructions—OPTION 2*

Inspect for cracks in FS 1363 bulkhead cap and surrounding areas in accordance with the inspection procedures called out in Section 2, Accomplishment Instruction, of Lockheed L-1011 Service Bulletins 093-53-208, dated August 26, 1981, or 093-53-208, Revision 1, dated December 23, 1981.

D. If cracks are found in the lower cap, adjacent web, fuselage skin, or web stiffeners they must be repaired before further flight in a manner approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA, Northwest Mountain Region.

E. If cracks are found only in the 1516531-121 reinforcing strap and not repaired, reinspect every 500 flights until a repair or permanent modification is incorporated.

F. Alternative means of compliance with this AD which provide an equivalent level of safety may be used when approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts. These documents may also be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108; or 4344 Donald Douglas Drive, Long Beach, California 90808.

This amendment becomes effective March 11, 1982, and was effective earlier to those recipients of Telegraphic AD T81-26-51, dated December 11, 1981.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review only by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington, on February 16, 1982.

Robert O. Brown,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-5186 Filed 2-26-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Airworthiness Docket No. 81-ASW-67; Amdt. 39-4330]

Bell Models 206L and 206L-1 Helicopters; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires modification, replacement, or retirement of the horizontal stabilizer assembly on Bell Models 206L and 206L-1 helicopters. The AD is needed to prevent possible failure of the horizontal stabilizer which could result in loss of the helicopter.

DATES: Effective March 30, 1982. Compliance required as prescribed in body of AD.

ADDRESSES: Bell Helicopter Service Information may be obtained from Product Support Department, Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101.

These documents may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas, or Rules Docket in Room 916, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Tom Dragset, Airframe Branch, Aircraft Certification Division, ASW-120, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 624-4911, extension 517.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring modification, replacement, or retirement of the horizontal stabilizer assembly installed on Bell Models 206L and 206L-1 helicopters was published in the **Federal Register** on December 24, 1981 (46 FR 62468). The proposal was prompted by the FAA's determination, based on additional flight strain data obtained on the horizontal stabilizer, that the stabilizers should be modified, replaced, or retired, depending on which part number is installed, to prevent possible failure of the horizontal stabilizer, which could result in loss of the helicopter. Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received. Accordingly, the proposal is adopted without change.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Bell: Applies to Bell Model 206L helicopters, all serial numbers, and 206L-1 helicopters, serial numbers 45154 through 45398, 45400 through 45491, 45493 through 45543, 45545 through 45614, 45616 through 45634, 45636 through 45638, 45643 through 45647, 45649 through 45652, and 45655 through 45657, certificated in all categories (Airworthiness Docket No. 81-ASW-67).

Compliance is required as indicated, unless previously accomplished.

To prevent possible failure of the horizontal stabilizer, accomplish the following, in accordance with Bell Helicopter Textron Alert Service Bulletin (ASB) 206L-81-23, Revision A, dated October 23, 1981, or FAA approved equivalent.

a. Remove horizontal stabilizer assemblies, P/N 206-704-143-105, -113, and -131, from service within 25 hours' time in service after March 31, 1982, and replace with a serviceable stabilizer.

b. Inspect horizontal stabilizer assemblies, P/N 206-023-119-011, -075, -107, and -113, and P/N 206-961-439-003, in accordance with paragraph B1 of Accomplishment Instructions of ASB 206L-81-23, Revision A, or FAA approved equivalent, within 25 hours' time in service after March 31, 1982.

c. Remove horizontal stabilizer assemblies, P/N 206-023-119-011, -075, -107, and -113, and P/N 206-961-439-003, that do not meet the inspection criteria for modification within 25 hours' time in service after March 31, 1982, and replace with a serviceable stabilizer.

d. Modify horizontal stabilizer assemblies, P/N 206-023-119-011, -075, -107, and -113, and 206-961-439-003, that meet the inspection criteria for modification, at one of the approved service centers listed in ASB 206L-81-23, Revision A, or remove from service within 25 hours' time in service after March 31, 1982, and replace with a serviceable stabilizer.

e. A serviceable horizontal stabilizer assembly (reference page 5 of ASB 206L-81-23) is one which is marked with modified P/N 206-704-040-003, -011, -075, -107, or -113, or current production P/N 206-023-119-151 or -703.

f. Compliance with this airworthiness directive and AD 78-24-06 is not required if serviceable horizontal stabilizer assemblies, modified P/N 206-704-040-003, -011, -075, -107, or -113, or current production P/N 206-023-119-151, or -703, are installed.

g. Compliance with this airworthiness directive eliminates the requirement for modification of the stabilizer supports and the daily inspection requirement for cracks required by AD 78-24-06, Amendment 39-3356, as amended by Amendment 39-4032.

h. The helicopter may be flown in accordance with FAR 21.197 to a base where compliance with this AD can be performed.

This amendment becomes effective March 30, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 25, 1979) and it is certified it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves a relatively low cost per aircraft. A final regulatory evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Note.—This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Tex., on February 16, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-5386 Filed 2-26-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 81-CE-1-AD; Amdt. 39-4332]

Cessna Model 172RG Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule, Revision of existing Airworthiness Directive (AD).

SUMMARY: This amendment revises Airworthiness Directive (AD) 81-05-05 (Amendment 39-4075) applicable to Cessna Model 172RG airplanes. AD 81-05-05 presently requires inspection and modification of the heater muffler on these airplanes to preclude dislocation of the shroud and resulting damage to the exhaust chamber. This revision authorizes an alternate modification of the shroud, which accomplishes the same objective. Either of these actions is necessary to prevent carbon monoxide poisoning in the airplane cabin.

EFFECTIVE DATE: March 8, 1982.

COMPLIANCE: As prescribed in the body of the AD.

ADDRESSES: Cessna Single-Engine Customer Care Service Information Letter SE82–4 dated January 25, 1982, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201; Telephone (316) 685–9111. A copy of the Service Information Letter is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106; and/or Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Paul O. Pendleton, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269–7010.

SUPPLEMENTARY INFORMATION: As a result of field reports of dislocation of the cabin heater shroud and resulting damage to the heater muffler exhaust chamber and possible carbon monoxide contamination of cabin air, the FAA issued AD 81–05–05, Amendment 39–4075 (44 FR 19222–24), applicable to certain Cessna Model 172RG airplanes. AD 81–05–05 requires inspection and installation of screws in the cabin heater shroud, to preclude dislocation of the shroud and resulting damage to the exhaust Chamber. Subsequent to the issuance of AD 81–05–05, the manufacturer has developed and made available an alternate modification to the shroud, which accomplishes the same objective. Accordingly the FAA is revising AD–81–05–05 to permit use of this alternative method on Cessna Model 172RG airplanes by those persons desiring to do so. The alternate modification is covered in Cessna Service Information Letter SE82–4, dated January 25, 1982.

Since this amendment is relieving in nature and imposes no additional burden on any person, notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days after the date of publication in the **Federal Register**.

Adoption of The Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, Amendment 39–4075 (44 FR 19222–19224), AD 81–05–05, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended as follows: Revise paragraph 2.b. so that it now reads:

b. Reinstall the shroud and drill a No. 36 (.107) hole in each end of the shroud and muffler flange and insert a #6, ⅛ inch long steel sheet-metal screw in each hole as shown in Figure 1 (CAUTION: Place a metal strip below the muffler flange prior to drilling through the flange to prevent damage to the muffler can), or comply with Cessna Service Information Letter SE82–4, dated January 25, 1982.

This amendment becomes effective on March 8, 1982.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89)

Note.—The FAA has determined that this regulation involves an emergency regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and certifies that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since the action prescribed herein is estimated to cost less than 1 percent of the value of any affected airplanes which may be owned by small entities. If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket; otherwise, an evaluation is not required. A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review by only the Courts of Appeals of the United States or the United States Court of Appeals of the District of Columbia.

Issued in Kansas City, Mo., on February 18, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-5289 Filed 2-26-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82–CE–6–AD; Amendment 39–4333]

Piper Models PA–28–151 and PA–28–161 Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment codifies into the **Federal Register** Emergency Letter Airworthiness Directive (AD) 81–23–05 issued November 3, 1981, applicable to Piper Models PA–28–151 and PA–28–161 airplanes. The AD requires, prior to further flight, inspection of the rear seat and the battery cover for condition and security and installation of a placard prohibiting use of the rear seat until the affected airplanes are modified per the applicable Piper Service Kit. This action is necessary to prevent possible inflight fire resulting from an electrical short between the rear seat bottom spring and the battery terminal.

EFFECTIVE DATE: March 8, 1982, to all persons except those to whom it has already been made effective by letter dated November 3, 1981.

COMPLIANCE: As prescribed in the body of the AD.

ADDRESSES: Piper Service Bulletin 631B dated October 29, 1981, applicable to this AD, may be obtained from Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745. A copy of the Service Bulletin is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106; and/or Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: C. W. Kaiser, Systems and Equipment Section, ACE–130A, Atlanta Aircraft Certification Office, FAA, P.O. Box 20636, Atlanta, Georgia 30320; Telephone (404) 763–7781.

SUPPLEMENTARY INFORMATION: There have been two confirmed reports of smoke and fire in the cabin resulting from the rear seat bottom spring contacting the battery terminal on the affected Piper model airplanes. This condition also may have contributed to a recent inflight fire and accident which resulted in two fatalities. The contact between the seat spring and the battery terminal can occur when the rear seat bottom is not properly positioned and the battery cover is not installed or is damaged. The weight of a rear seat passenger deflects the rear spring sufficiently to bring the spring in contact with the battery terminal, shorting the battery to ground. When this occurs, the seat spring can get sufficiently hot to ignite the rear seat material. Accordingly, the FAA determined that compliance with the instructions contained in Piper Aircraft Corporation Service Bulletin 631B dated October 29, 1981, was necessary in the interest of safety. As a result, Emergency AD 81–23–05 was mailed to all Piper PA–28–151 and PA–28–161 airplane owners of record on November 3, 1981.

Because the unsafe condition described herein may still exist on other

affected Piper model airplanes described herein, the AD is being published in the **Federal Register** as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the emergency letter notification.

Since the FAA has determined that there is an immediate need for this regulation to correct an unsafe condition and assure safe operation of the affected airplanes, notice and public procedure under 5 U.S.C. 553(b) are considered impractical and contrary to the public interest, and good cause exists for making the amendment effective in less than thirty (30) days after the publication in the **Federal Register**.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Piper Aircraft Corporation: Applies to Piper Aircraft Models PA–28–151 (S/N 28–7415001 through 28–7715314), and PA–28–161 (S/N 28–7716001 through 28–8216066) airplanes certified in any category.

Compliance: Required prior to further flight and as indicated in the body of this AD.

To prevent possible inflight fire, accomplish the following:

(A) On Piper Models PA–28–151 (S/N 28–7415001 through 28–7715314) and PA–28–161 (S/N 28–7716001 through 28–7916210) airplanes:

(1) Remove the rear seat base and check for any broken springs or evidence of electrical contact between the seat springs and the battery. Check the battery box and cover for any evidence of damage, especially wear of the battery box cover caused by contact with the seat springs. If the seat spring or the battery box cover is damaged, repair or replace with serviceable items. If not, reinstall the battery box cover and ensure that all fasteners lock and that the cover is secure.

(2) Install the seat base, ensuring that the saddle clamps at the rear of the seat, left and right, are engaged. When the seat base in lowered into position the forward edge of the seat legs must be at least 0.80 inch aft of the forward vertical face of the wing spar box.

(3) Install a placard in clear view of the pilot stating "DO NOT USE REAR SEAT FOR PASSENGERS OR CARGO" and operate the airplane in accordance with this limitation. The placard may be made from any convenient durable material with contrasting color letters at least ¼ inch high.

(4) The requirements of paragraphs (A)(1), (2) and (3) may be complied with by a person authorized to perform preventive maintenance in accordance with Federal Aviation Regulation 43.3(h), except that repair or replacement must be accomplished by appropriately rated persons.

(5) The placard required by paragraph (A)(3) may be removed after the rear seat has been modified in accordance with the instructions contained in Piper Aircraft Corporation Service Kit No. 764, 303V, SEAT AFT BOTTOM MODIFICATION, dated October 29, 1981, and Piper Service Bulletin 631B, dated October 29, 1981.

(B) On Piper Models PA–28–161 (S/N 28–7916211 through 28–8216066) airplanes:

(1) Remove the rear seat base and check for any broken springs or evidence of electrical contact between the seat springs and the battery. Check the battery box and cover for any evidence of damage, especially wear of the battery box cover caused by contact with the seat springs. If the seat spring or the battery box cover is damaged, repair or replace with serviceable items. If not, reinstall the battery box cover and ensure that all fasteners lock and that the cover is secure.

(2) Install the seat base, ensuring that the saddle clamps at the rear of the seat, left and right, are engaged. Ensure that the forward legs on the rear seat base are aft of the reference line established by the placard (Piper P/N 35668–194) on top of the spar box, reference Piper Service Bulletin 631B dated October 29, 1981.

(3) Before each flight, check that the rear seat base is properly positioned as indicated by the placard.

(4) The requirements of paragraphs (B)(1), (2) and (3) may be complied with by a person authorized to perform preventive maintenance in accordance with Federal Aviation Regulation 43.3(h), except that repair or replacement must be accomplished by appropriately rated persons.

(5) Within the next 50 hours time-in-service after the effective date of this AD, modify the rear seat base in accordance with the instructions contained in Piper Aircraft Corporation Servce Kit No. 764 303V, SEAT AFT BOTTOM MODIFICATION, dated October 29, 1981, and Piper Service Bulletin 631B, dated October 29, 1981. The repeat preflight checks of paragraph (B)(3) may be discontinued after this modification.

(C) An equivalent method of compliance may be approved by Chief, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320.

This amendment becomes effective on March 8, 1982, to all persons except those to whom it has already been made effective by priority letter from the FAA dated November 3, 1981, and is identified as AD 81–23–05.

(Secs. 313(a) 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this regulation involves an emergency regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and certifies that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since the action prescribed herein is estimated to cost less than 1 percent of the value of any affected airplanes which may be owned by small entities. If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket; otherwise, an evaluation is not required. A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Note.—This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review by the Courts of Appeals of the United States, or the United States Court of Appeals of the District of Columbia.

Issued in Kansas City, Mo., on February 18, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-5294 Filed 2-26-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Airworthiness Docket No. 82–ASW–4; Amdt. 39–4331]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale (SNIAS) Models SA360C and SA365 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document adopts a new Airworthiness Directive (AD). The AD requires reinforcement of the optional long slides on the pilot's and copilot's bucket seats on SNIAS Models SA360C and SA365 series helicopters. The long slides may deform and allow the affected seat to tilt backward thereby preventing the crewmember from maintaining proper control of the helicopter.

DATES: Effective March 12, 1982. Compliance required before April 12, 1982.

A copy of the service information may be examined at Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas. A copy of the service information may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, ATTN: Customer Support.

FOR FURTHER INFORMATION CONTACT: Chris Christie, Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, or James H.

Major, Helicopter Policy and Procedures Staff, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Texas 76101, telephone (817) 624–4911, extension 502.

SUPPLEMENTARY INFORMATION: It has been determined that the pilot's or copilot's bucket seat could tilt backwards or aft due to excessive deformation of the seats' long slides on Aerospatiale Model SA360C and SA365C series helicopters. The seat long slides (502mm or 20-inch long) installation is an optional design feature that is installed on several helicopters. When the seat tilts aft the crewmember may lose control of the helicopter.

Since the seats may tilt aft on those helicopters equipped with the optional long slides, an AD is being issued which requires within 30 days after the effective date of the AD the addition of a doubler in the center portion of each long slide for the pilot's and copilot's bucket seats. This doubler will stabilize the seat slide and prevent excessive deformation of the slide and resulting tilt of the seat.

Since a situation exists that requires the immediate adoption of this regulation, and the expected impact is minor, it is found that notice and public procedure hereon are unnecessary and good cause exists for making this amendment effective in less than 30 days.

Aerospatiale Helicopter Corporation personnel have verbally advised the agency that only 5 of the present 25 U.S. Registered SA360C and SA365C series helicopters do not have the seat slide doublers installed. Dauphin Service Bulletin No. 25.08, dated March 23, 1981, concerns installation of these doublers on affected helicopters prior to May 30, 1981. The expected impact of this AD is minor and expected to cost $535 per helicopter or $2,675 total.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Societe Nationale Industrielle Aerospatiale (SNIAS): Applies to Model SA360C and SA365C series helicopters certificated in all categories (Airworthiness Docket No. 82–ASW–4).

Compliance is required within 30 days after the effective date of this AD.

To prevent possible excessive deformation of the pilot's and copilot's seat long slides and resulting tilt of the seats, accomplish the following modification unless already accomplished.

(a) Add doublers to the 4 long slides as prescribed in Aerospatiale Dauphin Service Bulletin No. 25.08, dated March 23, 1981, or as prescribed in an equivalent modification approved by Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office.

(b) Aircraft may be flown in accordance with FAR 21.197 and 21.199 to a base where the slide doublers may be installed.

This amendment becomes effective March 12, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation that is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Note.—This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia. Issued in Forth Worth, Texas, on February 18, 1982.

F. W. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-5295 Filed 2-26-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81–ANE–13]

Alteration of VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns VOR Federal Airway V–99 between Hartford, CT, and Lawrence, MA. V–99 was realigned in order to provide a bypass route to circumnavigate the proposed Fort Devens, MA, Restricted Area R–4102. This action increases air safety for arrival and departing aircraft in the Boston terminal area.

EFFECTIVE DATE: May 13, 1982.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

History

On October 29, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign VOR Federal Airway V–99 between Hartford, CT, and Lawrence, MA (46 FR 53435). This airway realignment accommodates the proposed Fort Devens, MA, Restricted Area R–4102. This action increases safety for aircraft maneuvering in the Boston, MA, terminal area, and reduces air traffic control delays. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received objecting to the proposal. This amendment is that same as the proposed in the notice. Section 71.123 was republished on January 2, 1981 (46 FR 409).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) realigns VOR Federal Airway V–99 between Hartford, CT, and Lawrence, MA. The airway realignment would provide for accommodating Fort Devens, MA, Restricted Area R–4102. This action increases airway safety for aircraft maneuvering in the Boston, MA, terminal area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409), is amended, effective 0901 G.m.t., May 13, 1982, as follows:

V–99 [Amended]

By deleting the words "INT Putnam 011° and Gardner, MA, 097° radials; INT Gardner 097° and Boston, MA, 015° radials; to Boston." and substituting for them the words "INT Putnam 011° and Lawrence, MA, 225° radials; to Lawrence."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 18, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-5296 Filed 2-26-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 81–ANE–15]

Designation of Restricted Area R–4102—Fort Devens, MA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates new Restricted Area R–4102, located in the Fort Devens area, Fitchburg, MA. The joint use restricted area provides adequate protected airspace for controlled firing ranges necessary to accommodate mandatory training requirements for the U.S. Army, Army National Guard, and the U.S. Army Reserve Units. R–4102 would save considerable time, cost, and energy requirements by not transporting these units to other areas in the United States for training.

EFFECTIVE DATE: May 13, 1982.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

History

On October 15, 1981, the FAA proposed to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to designate new Restricted Area R–4102 located in the Fort Devens area, Fitchburg, MA, (46 FR 50807). Joint use R–4102 provides adequate protected airspace for controlled artillery/mortar firing necessary to accommodate mandatory national defense training for the U.S. Army, U.S. Army National Guard, and U.S. Army Reserve Units. Training will normally be conducted on Friday and Saturday, but may be conducted at other times to be announced by NOTAM. The designation of the joint use Restricted Area R–4102 is necessary in order to enhance air safety during the conduct of this training. Since the controlling agency is the FAA, both the U.S. Army and the public would be assured of adequate air traffic control safety measures.

The original proposal was circularized for comment on July 18, 1980. Forty-three letters objecting to the proposal were received; 24 objections cited safety hazards to air traffic; 10 objected to restricting the airspace; eight voiced economic reasons; and one letter discussed "environmental issues." Additionally, eight meetings were held with interested user groups because the Fitchburg, Shirley, and Minute Man Airports are impacted by the proposed R–4102.

As a result of those meetings, in an attempt to reach an agreement that would be acceptable to all sides, the following procedural/regulatory changes have been or will be made:

1. VOR Federal Airway V–99 will be relocated eastward to provide a new arrival route to the Boston, MA, terminal area.

2. An additional instrument approach to Fitchburg Airport has been developed that will be used when R–4102 is in use.

3. The "missed approach" procedure at Minute Man Airport will be changed from a right turn out to a left turn.

4. Should the proposed new Instrument Landing System (ILS) to serve Runway 32 at Fitchburg become a reality, procedures will be developed to accommodate ILS approaches during instrument weather conditions.

5. The Army has agreed to reduce the size of R–4102 to accommodate operations at Shirley Airport due to its close proximity. Shirley traffic can continue with little or no inconvenience by establishing a right hand traffic pattern.

6. To eliminate some of the concern over the restricted area at Fort Devens, MA, the Army has agreed to the following conditions:

a. In the event that an ILS is installed at the Fitchburg Airfield and the instrument procedure developed for the ILS penetrates the restricted airspace, the Commander of Fort Devens will negotiate a Letter of Agreement with the Chief of the Boston TRACON or other appropriate ATC facility that will permit aircraft on instrument flight plans to fly the ILS procedure when:

(1) The weather is below VFR minimums, and

(2) Other instrument procedures are not suitable or available, or

(3) An inflight emergency exists that will require flight through the restricted area.

b. The Commander, Fort Devens, will ensure that the present direct telephone line between the range facilities and Moore Army Airfield at Fort Devens, and the direct line between Moore Army Airfield and Boston TRACON remain as is or that an acceptable substitute will be installed.

The current NDB–"A" approach serving Fitchburg Airport has been supplemented with the new NDB–"B" approach to Runway 20. This procedure will provide instrument approach minima of 1,180 feet Minimum Decision Altitude (MDA), utilizing a step down fix on final approach course. (The Gardner, MA, 090° radial will be utilized.)

This action permits the U.S. Army to carry out mandatory training maneuvers without greatly restricting the operations at area airports. Section 73.41 of Part 73 was republished on January 2, 1981 (46 FR 807).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. The Aircraft Owners and Pilots Association (AOPA) objected to the proposal and has petitioned for a hearing concerning Airspace Docket No. 81–ANE–15. AOPA stated that a hearing is warranted because the FAA, New England Region and the Department of the Army held a number of informal airspace meetings concerning the R–4102 proposal and apparently failed to take into account comments made at those meetings. The FAA denied the petition for a hearing. As a result of all comments received the FAA and the Department of the Army made additional adjustments and compromises in order to answer AOPA's objections. FAA has determined that the Fort Devens training program can be conducted safely and without delay or inconvenience to the public.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) designates new Restricted Area R–4102, located in the Fort Devens, MA, area. The joint use restricted area provides protected airspace for controlled firing ranges to accommodate military training requirements for the Department of the Army.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 73.41 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (46 FR 807), is

amended, effective 0901 G.m.t., May 13, 1982, by adding the following:

R-4102 Fort Devens, MA [Added]

Boundaries. Beginning at lat. 42°31'15" N., long. 71°36'30" W.; to lat. 42°31'00" N., long. 71°36'15" W.; to lat. 42°30'45" N., long. 71°39'15" W.; to lat. 42°30'15" N., long. 71°40'00" W.; to lat. 42°29'45" N., long. 71°41'15" W.; to lat. 42°28'15" N., long. 71°41'15" W.; to lat. 42°28'00" N., long. 71°39'45" W.; to lat. 42°29'45" N., long. 71°37'45" W.; thence to point of beginning.

Designated altitudes. Surface up to and including 3,995 feet MSL.

Time of designation. 0000 Friday to 2359 Saturday—local time. Other times as specified by NOTAM issued 48 hours in advance.

Controlling agency. Federal Aviation Administration, Boston Control Tower.

Using agency. Director of Plans, Training and Security, Fort Devens, MA.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, DC, on February 18, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-5287 Filed 2-26-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76 (Louisiana-5); Order No. 212]

High-Cost Gas Produced From Tight Formations, Louisiana

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5) the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Office of Conservation of the State of Louisiana that the James Lime Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: February 22, 1982.

FOR FURTHER INFORMATION CONTACT:
Peter Roidakis, (202) 357-8307 or Walter W. Lawson, (202) 357-8556.

Issued: February 22, 1982.

The Commission hereby amends § 271.703(d) of its regulations to include the James Lime Formation in Louisiana as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, OPPR, issued November 13, 1981 (46 FR 56819, November 19, 1981)[1] based on a recommendation by the Office of Conservation of the State of Louisiana (Louisiana) in accordance with § 271.703(c) that the James Lime Formation be designated as a tight formation.

Evidence submitted by Louisiana supports the assertion that the James Lime Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Louisiana recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices available immediately establishes good cause to waive the thirty-day publication period.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3342; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective February 22, 1982.

By the Commisison.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703(d) is amended by adding new subparagraph (69) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(69) *James Lime Formation in Louisiana.* RM79-76 (Lousiana-6)

(i) *Delineation of formation.* The James Lime Formation is found in the Benson Field in the southern portion of De Soto Parish, Louisiana, in the area of Township 10 North, Range 13 West, Sections 1-18; Township 10 North, Range 14 West, Sections 1-18; Township 11 North, Range 13 West, Sections 1-36; and Township 11 North, Range 14 West, Sections 1-36.

(ii) *Depth.* The top of the James Lime Formation is encountered at approximately −5,072 feet subsea in the northwest portion and at approximately −5,400 feet subsea in the southern portion. It is situated directly below the Bexar Formation and above the Pine Island Formation. The maximum thickness of the formation is approximately 260 feet.

[FR Doc. 82-5371 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79-76 (Louisiana-5); Order No. 211]

High-Cost Gas Produced From Tight Formations, Louisiana

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5) the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Office of Conservation of the State of Louisiana that the Smackover C Zone be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: February 22, 1982.

FOR FURTHER INFORMATION CONTACT:
Peter Roidakis, (202) 357-8307 or Walter W. Lawson, (202) 357-8556.

Issued: February 22, 1982.

The Commission hereby amends § 271.703(d) of its regulations to include the Smackover C Zone in Louisiana as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, OPPR, issued October 22, 1981 (46 FR 52390, October 27, 1981)[1] based on a recommendation by the Office of Conservation of the State of Louisiana (Louisiana) in accordance with § 271.703(c) that the Smackover C Zone be designated as a tight formation.

Evidence submitted by Louisiana supports the assertion that the Smackover C Zone meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Louisiana recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices available immediately establishes good cause to waive the thirty-day publication period.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3342; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective February 22, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

[1] Comments were invited on the proposed rule and none were received. No party requested a hearing and no hearing was held.

[1] Comments were invited on the proposed rule and one favorable comment was received. No party requested a hearing and no hearing was held.

PART 271—CEILING PRICES

Section 271.703(d) is amended by adding new subparagraph (68) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(68) *Smackover C Zone in Louisiana.* RM79-76 (Louisiana-5).

(i) *Delineation of formation.* The Smackover C Zone is found within the East Dykesville Field in Claiborne and Webster Parishes, Louisiana, in the area of Township 22 North, Range 8 West, Sections 3-10, 15-18; Township 22 North, Range 9 West, Sections 1-3, 10-15; Township 23 North, Range 8 West, Sections 30-34; and Township 23 North, Range 9 West, Sections 25-27, 34-36.

(ii) *Depth.* The Smackover C Zone occurs between the measured depths of 11,290 feet and 11,340 feet on the induction electrical log of the Wheless Industries-Pelto Oil-Guy Lewis *et al.* No. 1 well.

[FR Doc. 82-5370 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79-76 (Texas-14); Order No. 213]

High-Cost Gas Produced From Tight Formations, Texas

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5) the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Railroad Commission of Texas that the Wolfcamp Formation be designated as a tight formation under 271.703(d).

EFFECTIVE DATE: February 22, 1982.

FOR FURTHER INFORMATION CONTACT:
Peter J. Roidakis, (202) 357-8307 or Walter W. Lawson, (202) 357-8556.

Issued: February 22, 1982.

The Commission hereby amends § 271.703(d) of its regulations to include the Wolfcamp Formation in Texas as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, OPPR, issued November 4, 1981 (46 FR 55540, November 10, 1981),[1] based on a recommendation by the Railroad Commission of Texas (Texas) in accordance with § 271.703(c) that the Wolfcamp Formation be designated as a tight formation.

Southern California Gas Company (SoCal) has raised two issues in its comments opposing the Texas recommendation:

(1) That production test data under unstable conditions "does not lend credible support" towards production rates under stable conditions, and

(2) That the Commission's regulations do not define condensate and SoCal is uncertain if the Railroad Commission's use of the term "condensate" is included within the Commission's use of the term "crude oil."

Among the guidelines that a formation must meet in order to be designated a tight formation are those set forth at § 271.703(c)(2) (B) and (C):

(B) The stabilized production rate, against atmospheric pressure, of wells completed for production in the formation, without stimulation, is not expected to exceed the production rate determined in accordance with the following table:

[The table shows that maximum allowable production rate is 927 Mcf per day for the average depth of the Wolfcamp Formation in the Gomez, N.W. (Wolfcamp) Field]

(C) No well drilled into the recommended tight formation is expected to produce, without stimulation, more than five barrels of crude oil per day.

SoCal's comments take issue first with Texas' filing of post-stimulation rates to qualify the Wolfcamp Formation in the Gomez, N.W. (Wolfcamp) Field. The Commission agrees that expected production rates should be based on pre-stimulation tests if such tests are available. Texas has filed both pre- and post-stimulation rates here. The flow rate of the one well tested prior to stimulation showed essentially no gas flow. The post-stimulation flow rates, with only one exception, do not exceed

[1] Comments were invited on the proposed rule and two were received, one supporting the recommendation (Champlin Petroleum Company), and the other opposing the recommendation (Southern California Gas Company).

the guidelines and the average post-stimulation flow rate of 708 Mcfd also does not exceed the maximum allowable of 927 Mcfd for the Gomez, N.W. Field. This information is a sufficient basis for finding that the stabilized production rate is not expected to exceed the limits prescribed by the Commission's regulations.

SoCal's second comment concerns the definition of "crude oil" in the Commission's regulations and as used by Texas. The Commission defines "crude oil" as follows:

> "Crude oil" means a mixture of hydrocarbons that exists in the liquid phase in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities. 18 CFR 270.102(b)(5).

The definition of the term, "crude oil" used by Texas states that it shall "not be construed to mean any liquid hydrocarbon mixture, or portion thereof, which is not in the liquid phase in the reservoir."

"Condensate," though not defined in the Commission's regulations, is the liquid hydrocarbons that were originally in the gaseous phase while in the reservoir. Since both Texas's and the Commission's definitions of "crude oil" require that the hydrocarbons be in the liquid phase in the reservoir, it is clear that Texas properly ignored "condensate" in determining whether any well in the recommended tight formation is expected to produce, without stimulation, more than five barrels of crude oil per day.

Evidence submitted by Texas supports the assertion that the Wolfcamp Formation meets the guidelines contained in § 271.703(c)(2). For the foregoing reasons, the Commission adopts the Texas recommendation, SoCal's comments notwithstanding.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices available immediately establishes good cause to waive the thirty-day publication period.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–33; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective February 22, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703(d) is amended by adding new subparagraph (70) to read as follows:

§ 271.703 Tight formations

* * * * *

(d) *Designated tight formations.* * * *

(70) *Wolfcamp Formation in Texas.* RM79–76 (Texas–14)

(i) *Delineation of formation.* The specified areas of the Wolfcamp formation are found in (1) the Gomez, N.W. (Wolfcamp) Field, in northern Pecos County northwest of Fort Stockton, Texas, underlying approximately 24,457, acres and in (2) the Wolf (Wolfcamp) Field, in the extreme southwestern portion of Loving County, between the town of Mentone, Texas, and the Pecos River in Sections 78–82, Block 33, H&TC RR Company Survey.

(ii) *Depth.* The top and base of the Wolfcamp Formation are encountered at the approximate depths of 11,384 feet and 11,720 feet, respectively, in the Gomez, N.W. (Wolfcamp) Field, and at the approximate depths of 10,118 feet and 10,696 feet, respectively, in the Wolf (Wolfcamp) Field.

[FR Doc. 82-5372 Filed 2-26-82; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7 82-06]

Drawbridge Operation Regulations; Broward River, Fla.

AGENCY: Coast Guard, DOT.

ACTION: Final rule; revocation.

SUMMARY: This amendment revokes the regulations for the drawbridge across the Broward River, mile 0.6, because the drawbridge has been removed from the waterway. Notice and public procedure has been omitted from this action due to removal of the bridge concerned.

EFFECTIVE DATE: This amendment is effective on March 1, 1982.

FOR FURTHER INFORMATION CONTACT: James R. Kretschmer, Bridge Administrator, Bridge Section (oan), Room 1006, Federal Building, 51 Southwest First Avenue, Miami, Florida 33130, telephone (305) 350–4106.

Drafting Information: The principal persons involved in drafting this proposal are: James Davis, Bridge Administration Specialist, Office of Aids to Navigation, Bridge Section and Lieutenant William J. Petersen, Office of Commander, Seventh Coast Guard District, Legal Office.

SUPPLEMENTARY INFORMATION: This action has no economic consequences. It merely revokes regulations that are now meaningless because they pertain to a drawbridge that no longer exists. Consequently, this action cannot be considered a major rule under Executive Order 12291. Furthermore, it has been found nonsignificant under the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80), and does not warrant preparation of an economic evaluation. Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (94 Stat. 1164). However, the requirements of the Act were taken into consideration, and this action will not have a significant effect on small entities.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.245 [Amended]

In consideration of the above facts, Part 117 of Title 33 of the Code of Federal Regulations is amended by removing § 117.245(h)(23a).

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5))

Dated: February 3, 1982.

B. L. Stabile,

Rear Admiral, U.S. Coast Guard, Seventh Coast Guard District.

[FR Doc. 82-5429 Filed 2-26-82; 8:45 am]
BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. AH400VA; A-3-FRL-2044-8]

Approval of Revision to the Commonwealth of Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval of a revision to the Virginia State Implementation Plan (SIP). This submittal contains a revision to Part III, Ambient Air Quality Standards. Section 3.08, Lead, is added to attain and maintain the national ambient air quality standard for lead The revisions are made in compliance with applicable provisions of the Clean Air Act.

EFFECTIVE DATE: March 31, 1982.

ADDRESSES: Copies of the amendment and associated support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, 6th and Walnut Streets, Philadelphia, PA 19106; ATTN: Patricia Sheridan

Virginia State Air Pollution Control Board, Room 801, Ninth Street Office Building, Richmond, VA 23219; ATTN: William Meyer, Executive Director

Public Information Reference Unit, EPA Library, Room 2922, Waterside Mall, 401 "M" Street, SW., Washington, D.C. 20460

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: Carol D. Peters (3AW13) at the address for EPA Region III above or telephone (215) 597–9139.

SUPPLEMENTARY INFORMATION: On December 30, 1980, the Commonwealth of Virginia submitted to EPA a revision to the Virginia State Implementation Plan (SIP). Section 3.08, Lead, is added to attain and maintain the national ambient air quality standard (NAAQS) for lead.

The available monitoring data on ambient air quality in Virginia indicate no violation of the NAAQS for lead. There is only one point source in the Commonwealth of Virginia which emits 5 tons or more of lead per year. The air quality analysis performed for the area around this source indicated lead concentrations far below the standards. Hence, Virginia determined that the NAAQS for lead has been attained and the same will be maintained without additional State regulations.

The control strategy demonstration that accompanies the regulation contained several deficiencies, as outlined in the proposed Federal Register Notice of June 23, 1981 (46 FR 32455). The baseline emission inventory did not contain a summary of the area or mobile sources. A more detailed summary of all lead air quality data collected since 1974 was needed with an evaluation of the data for reliability and representativeness (40 CFR 51.82(a)). The demonstration also did not contain a projection of maximum air quality concentrations based upon projected emissions (40 CFR 51.82(c)).

On November 25, 1981, the Commonwealth of Virginia submitted additional information to address the deficiencies noted above. EPA has evaluated this submittal and has determined that it adequately addresses all of the deficiencies.

In view of the above evaluation, the Administrator approves the Commonwealth of Virginia's plan to maintain the national ambient air quality standard for lead which includes the addition of § 3.08, Lead. In conjunction with the Administrator's approval, 40 CFR 52.2420 (Identification of Plan) of Subpart VV (Virginia) is revised to incorporate these amendments.

Pursuant to the provision of 5 U.S.C. 605(b), I hereby certify that SIP approvals under sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. This action only approves State actions. It imposes no new requirements.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of The Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(42 U.S.C. 7401–642)

Dated: February 19, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Virginia was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Title 40, Code of Federal Regulations is amended by adding a new paragraph (c)(61) to § 52.2420, to read as follows:

Subpart VV—Virginia

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(61) Amendments to Part III, Ambient Air Quality Standards, Section 3.08, Lead, submitted on December 30, 1980 by the Secretary of Commerce and Resources.

[FR Doc. 82-5358 Filed 2-26-82; 8:45 am]
BILLING CODE 6560-38-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 447

Medicaid Program; Public Notice of Changes in Method or Level of Reimbursement; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of interim final rule.

SUMMARY: This document corrects a technical error made in regulations published in the Federal Register on December 3, 1981, concerning public notice of changes in method or level of reimbursement.

EFFECTIVE DATE: December 3, 1981.

FOR FURTHER INFORMATION CONTACT: Nancy Drucker; (301) 594–1102.

SUPPLEMENTARY INFORMATION: Regulations at 42 CFR 447.205(d), published in the Federal Register on December 3, 1981 (46 FR 58677), contained a technical error in language. The word "and" was omitted in 42 CFR 447.205(d)(1).

PART 447—PAYMENTS FOR SERVICES

FR Doc. 81–34778, "Medicaid Program; Public Notice of Changes in Method or Level of Reimbursement", appearing at 46 FR 58677, is corrected as follows:

On page 58680, column 3, § 447.205(d)(1), in line 2, the word "and" is added after the semicolon.

(Sec. 1102, Social Security Act (42 U.S.C. 1302))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Approved: February 23, 1982.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 82-5386 Filed 2-26-82; 8:45 am]
BILLING CODE 4120-03-M

Office of Child Support Enforcement

45 CFR Part 301

Child Support Enforcement Program; Withholding of Advance Funds for Not Reporting

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Final rule.

SUMMARY: Section 407 of Pub. L. 96–265, the Social Security Disability Amendments of 1980, prohibits advance payment of the Federal share of State child support enforcement expenses for a calendar quarter unless the State submits a full and complete expenditure report and a full and complete report of the amount of child support collected and distributed for all calendar quarters, except the prior two. This regulation implements this new requirement. We published a Notice of Proposed Rulemaking (NPRM) on these provisions on January 6, 1981 (46 FR 1319). The comments received on this notice and our responses to the comments are discussed below.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Tom DePippo, Chief, Policy Branch, OCSE, (301) 443–5350.

SUPPLEMENTARY INFORMATION:

Background

Child support enforcement regulations at 45 CFR 301.15 describe the procedures for making grants to IV–D agencies. Under these procedures, IV–D agencies estimate the funds they will need for the ensuing quarter to operate the program. OCSE regional and central offices review the State's estimate and the central office computes the grant award after making any necessary adjustments to the estimate. The grant award computation form is transmitted to the IV–D agency and provides notification to the agency that it may draw the amount of the grant award as needed. In this way, IV–D agencies are able to obtain advances on the Federal share of IV–D expenditures for each quarter. The States use these advances for operating their IV–D programs during the period before their actual claims are submitted and processed for payment by OCSE.

Statutory Requirement

Section 407 of Pub. L. 96–265, enacted on June 9, 1980, prohibits the Department from paying an IV–D agency an advance for a quarter unless, for all quarters but the previous two, the agency has submitted a full and complete expenditure report and a full and complete report on child support collections received and distributed.

OMB Clearance of Reporting Forms

OCSE recently obtained clearance of new expenditure and collection reporting forms from the Office of Management and Budget (OMB). At present, the new form OCSE–34 (OMB clearance number 0960–0238) must be used for reporting collections. The OCSE–41 (OMB clearance number 0960–0235) must be used for reporting expenditures. OCSE published a supplemental notice to our NPRM on June 8, 1981 (46 FR 30372) to announce the approval of these new forms. OCSE is presently seeking an extension to OMB approval of these new forms which replaced form OCSE–4134 and the combined forms SRS–OA–41 and OCSE–OA–41.17.

Reporting of Expenditures

45 CFR 301.15 requires IV–D agencies to file with OCSE a statement of quarterly expenditures and any necessary supporting schedules within 30 days of the end of each quarter. The State shall use the OCSE–41 for this purpose. The OCSE–41 includes user instructions which reiterate the requirement that the report be submitted within 30 days of the end of the reporting quarter.

Reporting of Collections and Distributions

45 CFR 302.15 includes requirements that IV–D agencies maintain records on amounts of child support collections and distributions, and make reports as required by the Secretary of the Department of Health and Human Services. The State shall use the OCSE–34 to report child support collections and distributions. The OCSE–34 includes user instructions which require that the report be submitted within 30 days of the end of the reporting quarter.

Regulatory Requirement

To implement Section 407 of Pub. L. 96–265, we have added to the regulations a new 45 CFR 301.16, Withholding of advance funds for not reporting. This regulation provides that a State agency which fails to submit full and complete expenditure and collection reports for any quarter except the two most recent quarters cannot receive an advance of Federal funds for subsequent quarters. For example, in order for a State to receive advance funding for a quarter beginning January 1, it must have submitted full and complete expenditure and collection reports for all prior quarters except for the preceding quarters ended September 30, and December 31. It does not, however, alter the existing requirements that such reports be submitted to OCSE within 30 days of the close of the reporting quarter. Rather, this new statutory provision and regulation require OCSE to withhold advance funds until reports are complete when incompleteness persists for five months beyond this 30 day reporting deadline.

Definition of Complete Report

Section 407 of Pub. L. 96–265 specifies that IV–D agency reports must be full and complete in order for the agency to receive advance FFP. It also specifies that the reports shall be "in such form and manner and containing such information as the Secretary shall prescribe or require." We have defined a "full and complete" report for purposes of this regulation as follows. A full and complete report is a report in which all applicable line items of information are reported in accordance with OCSE instructions. Those line items must contain all of the applicable information the State has in its possession for the quarter being reported and prior quarters that is appropriate for inclusion in the report. This means a State report may be judged complete even if (1) an entity participating in the program under the State plan has failed to report data to the State and these data are, therefore, not included in the report or if (2) the entity has, in fact, reported data to the State but these data are not included in a report because the data are being questioned by the State and, therefore, not suitable for inclusion in the report. It also means that if a State fails to appropriately segregate its expenditures between AFDC and non-AFDC cases (line items on the expenditure report) or fails to report collections received from other States (a line item on the collection report), a State report may be judged incomplete. Under this definition, only line items that do not apply to a particular State may be left out of a report. If any applicable line items are not completed, the regional office will judge the entire report incomplete and notify the State in accordance with the procedures described below. With respect to a collection report, collections received by a State but not yet distributed due to adherence to normal distribution procedures under §§ 302.32 and 302.51 must be reported as undistributed collections on line 9 of the OCSE–34.

If the regional office receives a State expenditure report (OCSE–41) or collection report (OCSE–34) which it determines to be incomplete according to the criteria described above, the following procedures will be carried out. First, the regional office will review the expenditure and collection reports for purposes of determining the allowability of the expenditures claimed and acceptability of the collection data reported. In notifying a State of the results of its review, the regional office will, if appropriate, also inform a State that the report(s) is incomplete. If the complete expenditure and/or collection report is not submitted within two quarters after the close of the reporting quarter, the regional office will recommend to the central office, with proper notification to the State, that no funds be advanced to the State for the upcoming quarter. Advance funds will continue to be withheld until the State submits a complete report(s) for all quarters other than the two quarters prior to the quarter for which the advance is to be made.

Processing of Expenditure Claims

As noted above, the provisions of this final rule apply to the filing of both expenditure and collection reports with OCSE by the States. We believe the requirements for filing collection reports (OCSE–34) are adequately described above. However, with respect to the filing of expenditure reports (OCSE–41), we believe it is necessary to clarify the distinction between the provisions of the new § 301.16, Withholding of advance funds for not reporting, and the provisions of the new 45 CFR Part 95, Subpart A, Time Limits for States to File Claims. The latter provisions implement Section 306 of Pub. L. 96–272, which requires States to file claims for FFP (expenditure reports) within certain time limits. These time limits apply to all the public assistance programs under the Social Security Act. For more information regarding the time limits for filing claims, see the Final Rule published by the Department in the **Federal Register** on January 15, 1981 (46 FR 3527), and a subsequent clarifying Final Rule published in the **Federal Register** on September 17, 1981 (46 FR 46134). State requests for advance funds are submitted on the form OCSE–65. Until the enactment of the withholding of advance provisions, expenditure reports were used solely to report the disposition of the funds advanced under the OCSE–65 and to claim reimbursement for allowable expenditures. Now, under the requirements of Section 407 of Pub. L. 96–265, the submittal of the expenditure report (the OCSE–41) within two quarters after the close of the reporting quarter has for the first time become a prerequisite for receiving advance funds as requested on the OCSE–65.

Under the statute, OCSE must withhold advance funds from any State that fails to submit complete expenditure and collection reports within two quarters of the close of the reporting quarter. The term "complete" for purposes of this regulation has been defined above. We must stress, however, that the two quarter time limit of § 301.16 applies only to the *advance* Federal funds provided to the State and not to the time limit within which a claim must be submitted in order for it to be eligible for reimbursement by OCSE. Rather, the time limit for filing claims is covered by the new regulations at 45 CFR Part 95, Subpart A. Thus, an expenditure report which does not meet the requirements as previously defined will cause a withholding of advance Federal funds from the State if it remains incomplete after two quarters. OCSE will nevertheless determine the allowability of State expenditures if claims for those expenditures are submitted within the time limits prescribed in the regulations at Part 95, Subpart A on claims payment. Allowable expenditures for which claims are submitted within the time limits of Part 95, Subpart A will be eligible for reimbursement, notwithstanding any incompleteness in the State's OCSE–41 which might cause a withholding of advance funds.

Effective Date

Section 407(d) of Pub. L. 96–265 specifies that the provisions of Section 407 "shall be effective in the case of calendar quarters commencing on or after January 1, 1981." We believe this effective date clearly refers to the first quarter for which an advance might be withheld. Thus, to avoid having its advance funds withheld for the January through March 1981 quarter, each State must have submitted its collection and expenditure reports for all quarters through the quarter ending June 30, 1980. OCSE issued interim instructions to the States to implement the provisions of Section 407 on this schedule. The standard for judging completeness of State collection and expenditure reports in the interim period before the issuance of final regulations has been simply that the reports be submitted to OSCE.

In our NPRM, we proposed that the new, more stringent standards for judging "completeness" be adopted retroactively to the reporting quarter ended June 30, 1980. For the reasons discussed below under the heading "Discussion of Comments," we have instead decided that the new completeness standard will take effect beginning with the first full quarter after the quarter in which this final rule is published. Thus, a State's reports for the quarter ending June 30, 1982 would have to be full and complete in order for the State to avoid a withholding of its advance funds by OCSE for the quarter beginning January 1, 1983. Until the new completeness standard takes effect (for the quarter ending June 30, 1982), the State must continue to submit reports in accordance with the interim standards established in OCSE–AT–80–18, dated December 15, 1980.

Discussion of Comments

Comments on the NPRM were received from four State agencies. A summary of the substantive comments and our responses follow:

1. *Comment.* One State commented on the potential difficulty of applying the standard for completeness of State reports retroactively to the reporting quarter which ended June 30, 1980.

Response. As noted above under the heading "Effective Date," we have decided to apply the new standard for completeness prospectively, that is, beginning with the first full quarter after the quarter in which this final rule is published. We agree that applying the standard for completeness retroactively to a period during which forms' clearances were being obtained would be unfair to the States and would achieve a result not intended by the Congress in enacting the new provisions.

2. *Comment.* Two States commented that the final regulation should provide sufficient flexibility so that States would not be subject to a withholding of advance funds because of incompleteness of reports when that incompleteness was caused by failure of only one or two political subdivisions to file claims or to report collection data to the State.

Response. As noted above under the heading "Definition of Complete Report", OCSE will judge a report incomplete if a State fails to report *all* appropriate information in its possession for the quarter being reported and prior quarters. This means a State report may be judged complete even if entities participating in the program under the State plan have not reported to the State. Such entities include, but are not limited to, agencies of political subdivisions, courts and law enforcement officials, and private attorneys. OCSE will withhold advance funds, however, if a State report fails to include all available information appropriate for inclusion within two quarters from the close of the quarter in which the data became available to the State. OCSE firmly believes, however, that State agencies have a responsibility to ensure timely reporting from all entities participating in the program for which it has ultimate responsibility. Appropriate management steps should be taken to ensure such timely reporting.

3. *Comment.* One State commented that, because we refer to "line items that do not apply to a particular State" under our discussion of complete reports in the preamble to the NPRM, "the States and

Regional Offices should determine those line items not applicable to the States and put their agreement in writing * * * prior to the implementation of this regulation."

Response. The only line items on either of the new reporting forms which may not be applicable to all States are items 14 and 15 on the OCSE-41, pertaining to non-AFDC fees and cost recovery, respectively. Each of these items is a State plan option under Section 454(6) of the Social Security Act (42 U.S.C. 654(6)) and 45 CFR 302.33. The applicability of either of the two line items is determined by whether a given State elects either option in its IV-D State plan at Section 2.0 of the plan preprint. Therefore, there is no need for the type of agreement suggested by this commenter. However, if a State has identified a problem in this area, that State should contact the appropriate OCSE regional office to resolve the problem.

PART 301—STATE PLAN APPROVAL AND GRANT PROCEDURES

45 CFR Part 301 is amended to read as follows:

1. In 45 CFR Part 301, the table of contents is revised to read as follows:

Sec.
301.0 Scope and applicability of this part.
301.1 General definitions.
301.10 State plan.
301.11 State plan; format.
301.12 Submittal of State plan for Governor's review.
301.13 Approval of State plans and amendments.
301.14 Administrative review of certain administrative decisions.
301.15 Grants.
301.16 Withholding of advance funds for not reporting.

Authority: Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).

In 45 CFR Part 301, § 301.16 is added to read as follows:

§ 301.16 Withholding of advance funds for not reporting.

(a) No advance for any quarter will be made unless full and complete reports on expenditures and collections, as required by §§ 301.15 and 302.15 of this chapter, respectively, have been submitted to the Office by the IV-D agency for all quarters with the exception of the two quarters immediately preceding the quarter for which the advance is to be made.

(b) For purposes of this section, a report is full and complete if:

(1) All line items of information are reported in accordance with OCSE instructions; and

(2) The report contains all applicable information available to the State and appropriate for inclusion in the report for the quarter being reported and prior quarters.

(Collection reporting form approved by OMB under OMB No. 0960-0236 and expenditure reporting form approved by OMB under OMB No. 0960-0235)

(Sec. 1102, Social Security Act, 49 Stat. 647 (42 U.S.C. 1302))

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program)

Note 1.—The Secretary has determined that this document is not a major rule as described by Executive Order 12291, because it does not meet any of the criteria set forth in Section 1 of the Executive Order.

Note 2.—The Secretary certifies that because these regulations apply to States and will not have a significant economic impact on a substantial number of small entities, they do not require a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act of 1980.

Dated: December 9, 1981.

John A. Svahn,

Director, Office of Child Support Enforcement.

Approved: February 9, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-5388 Filed 2-26-82; 8:45 am]
BILLING CODE 4110-11-M

NATIONAL SCIENCE FOUNDATION

45 CFR Part 605

Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefitting From Federal Financial Assistance

AGENCY: National Science Foundation.

ACTION: Final rules.

SUMMARY: These rules implement section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, with regard to federal financial assistance administered by the National Science Foundation. Section 504 provides that "no otherwise qualified handicapped individual in the United States * * * shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." These rules, which apply to all recipients of NSF assistance, are intended to ensure that their federally assisted programs and activities are operated without discrimination on the basis of handicap. The rules define and forbid acts of discrimination against qualified handicapped persons in employment and in the operation of programs and activities receiving assistance from NSF. As employers, recipients must make reasonable accommodation to the handicaps of applicants and employees unless the accommodation would cause undue hardship. Otherwise, recipients are required to make programs operated in existing facilities accessible to qualified handicapped persons, and to ensure that new facilities are constructed so as to be readily accessible in a nondiscriminatory manner. The meaning of "qualified handicapped persons" in the context of scientific and technical experimentation, observation, or field work is specially elaborated.

DATES: Effective date: March 1, 1982. Comment date: No comment closing date has been established.

ADDRESS: Send comments to Director, Office of Equal Opportunity, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550, Attention: Perry W. Hooks.

FOR FURTHER INFORMATION CONTACT: Perry W. Hooks, (202) 357-9867.

SUPPLEMENTARY INFORMATION:

Comments and Changes From Proposed Rules

NSF published proposed rules for comment at 43 FR 16518 (19 April 1978). These final rules adhere to the philosophy there expressed that NSF's rules should parallel as closely as possible HHS's (previously HEW's) corresponding rules so as to ease comprehension, administration, and enforcement. Originally the Foundation sought to facilitate administration of NSF rules by those familiar with HHS rules by incorporating-by-reference HHS's rules. But this procedure was not permitted, as it is inconsistent with the rules of the Code of Federal Regulations, 1 CFR Part 51. Instead, at the end of this Supplementary Information section, we have indicated all changes made in the NSF rules compared with those of HHS. In addition, we have added a § 605.0 to our rules which sets out in an abbreviated form the changes that have been made. The few NSF departures from the HHS rules are explained below.

As a result of comments and further review NSF is incorporating in these final rules some changes from its proposed rules. Many are minor changes in wording or format that do not affect the substance. We should like to explain those changes that could be significant and to respond to substantive comments received on the proposed rules, particularly those that related to the few NSF provisions which would differ from HHS's.

The proposed rules elaborated the definition of "qualified handicapped person" in the special context of scientific facilities. Three comments expressed concern that this provision could prove a means for recipients to avoid the intent of the rules. Typical is the comment to the effect that the provision as proposed:

> * * * is unnecessary and would provide a loophole for those recipients who wish to evade the nondiscrimination requirements of section 504. Assertions that a handicapped person will be a danger to him- or herself or others are often used to exclude handicapped people from employment, education, and other activities. Such predictions of danger are often made on the basis of false assumptions about the capabilities and limitations of the handicapped persons involved. In addition, these assumptions often ignore the possibility of accommodations which would remove any possible source of danger. Any case in which a person's handicap could prove to be a genuine source of danger which could not be removed by a reasonable accommodation would be adequately covered by the "undue hardship" exception.

The concerns expressed in this comment are important, and NSF understands the problem of casual and unfounded assumptions about the limitations of handicapped persons. It also shares the belief that the concepts of "reasonable accommodation" and "undue hardship" might be adequate to deal with the exceptional cases. The difficulty is that, contrary to the assumption implicit in the comment, those concepts are not generally available to deal with such cases under the HHS rules. They are available under the employment subpart, but not under other important provisions. At one point the NSF seriously considered importing the concepts of "reasonable accommodation" and "undue hardship" into the scientific-activities provision. The principal enforcement agencies have indicated, however, that they prefer to reserve those concepts for use in the context of employment. The NSF is respecting their preference, but remains convinced that similar concepts are needed in the context of scientific and technical experimentation, observation, and field work. In infrequent but forseeable circumstances the participation of persons with particular handicaps could be made possible only by incurring undue costs, running undue risks (particularly safety risks), or unduly sacrificing other objectives. Such circumstances may arise, for example, on seagoing research vessels,[1] on research aircraft,[1] in remote field observing facilities (particularly in extreme weather conditions), or in laboratories handling extremely dangerous or delicate materials. An actual example of such a circumstance that may preclude the participation of persons with particular physical or mental handicaps is that experienced by researchers who spend the winter in Antarctica under unusually stressful conditions of extreme isolation and severe weather and without the possibility of medical evacuation. NSF is therefore retaining the intended substance of the proposed provision. But it has made several changes designed to clarify the provision and to ensure its effectiveness for the intended purpose and no other.

[1] Note That research vessels and research aircraft are "facilities" within the ambit of these rules.

First, the application of the provision has been shifted from any program or activity in certain types of facilities to only those types of activities for which there may be reasonable physical qualifications for participation. Second, by focusing on physical qualifications, the provision precludes exclusion of otherwise eligible handicapped persons on any other basis.

And third, the provision makes clear that physical qualifications are not "reasonable" if they could be obviated without unreasonable burden by modifying facilities or programs or by providing auxiliary aids.

A sentence has also been added to the provision in response to informal comments to make clear that decisions on the design and conduct of scientific research, such as choice of experiments, design of research protocols, location of observing sites, and so on, may continue to be made primarily on the basis of scientific merit, using scientific judgment. This does *not*, however, eliminate the obligation to provide for the participation of handicapped persons who are qualified to participate in the research so designed. Moreover, it does not apply to educational programs; in a "hands-on" science course, for example, a change in required experiments or in observing locations might very well be required as a modification to allow otherwise qualified handicapped students to participate.

NSF's proposed rules also deleted subsection (b) of § 84.46 of the HHS rules, which deals in essence with placement services, on the ground that it "would seem to require a college or university to assure itself that employers with which it places students for employment, either directly or through an agency, are in full compliance with Subpart B of the rules." Such a requirement, NSF believed and still believes, "would overextend the reach of its rules" and would be unwise on several counts. Three comments criticized this deletion, fearing its actual or perceived effect on the continuing unemployment or underemployment of the handicapped. One comment in particular questioned our conclusion that the provision would overextend the reach of the rules. The HHS rules, it suggests:

> add the words "as a whole", which are high[ly] significant in their policy interpretations of the rules. "On the whole" means that when an institution views all employment opportunities for students * * * a reasonable and representative sample of the whole are accessible to handicapped students. This provision allows institutions to choose some sites that are inaccessible, as long as other sites are accessible and that [sic] when looking at all placement opportunities, there are a variety of placements available to the handicapped which are comparable to those afforded the able-bodied.

NSF agrees that the provision interpreted in this way would be entirely reasonable and appropriate and would not overextend the reach of the rules. We also believe that this is the intended interpretation. However, the provision as it appears in the HHS rules seems susceptible to the more sweeping interpretation called out in the preamble to NSF's proposed rules. Instead of deleting the provision, NSF's final rules retain it with an amendment that eliminated the possibility of that interpretation and secures instead the interpretation suggested by the comment from which we have quoted.

One comment we received praised the definition of "undue hardship" that was included in NSF's proposed rules, saying that the clarification it provided "strengthened the language of the DHEW rules and reduced the possibilities for misinterpretations." The same comment urged, however, that the determination of undue "real dangers to people" which the "undue hardship" definition would have allowed should be made "only after (1) consultation with handicapped scientists or with materials produced [by] and about handicapped scientists; (2) consultation with the scientist whose handicap is being questioned as an undue hazard; or (3) demonstrable carelessness." For reasons already given, the "undue hardship" concept and the definition of that concept have been eliminated from these final rules; but a very similar test remains. Wishing to avoid overprescription and overregulation, we have not incorporated detailed consultation requirements. In many circumstances, however, a failure to consult handicapped persons or literature on means for accommodating handicapped persons or a failure to consult the handicapped person directly concerned (an obvious breach of

courtesy, if not of due process) would be very likely to vititate the recipient's findings.

We received three comments relating to provisions other than those in which NSF's rules would differ from HHS's. Two of these sought special language related to historic preservation; the third criticized a number of provisions NSF is adopting without significant change from the HHS rules. We have considered each of these comments carefully, but have decided to make no further changes in these provisions. None of them concerned matters on which NSF has any special expertise or involvement. Nor was any of them otherwise so inherently compelling that NSF would feel justified in overriding the judgment of those at HHS who were able to devote full attention over many months to the formulation of these rules and to whom all of the same points were presumably made. As a precaution, however, we have forwarded copies of these three comments to the HHS specialists for their consideration.

Some minor changes have been made to the procedures section to reflect the fact that HEW has been reorganized. NSF anticipates cooperating with the Department of Health and Human Services and the Department of Education in enforcement activities but has not yet made any formal delegation of enforcement authority. Any general delegation will be published as an appendix to this part. In the meantime, any delegations will be on a case-by-case basis.

To facilitate the administration of the Foundation's rules, we are setting out below in full the changes in the Foundation's rules and how ours differ from those of HHS.

1. In § 84.2; in paragraph (g) and (h) of § 84.3; and in paragraph (a) of § 84.5, "NSF" has been substituted for "HEW" or "Department."

2. In paragraph (k) of § 84.3 the following paragraph (5) has been added:

(5) With respect to scientific and technical experimentation, observation or field work a person who meets the academic, scientific, and technical standards for participation and any reasonable physical qualifications for participation. Physical qualifications are not "reasonable," however, if they can be obviated without unreasonable burden by facilities or programs or by providing auxiliary aids. In determining whether the burdens are unreasonable, factors such as costs, risks, or sacrifice of legitimate program objectives may be considered. In exceptional cases psychological qualifications may be considered 'reasonable physical qualifications' under this paragraph. Nothing in this provision or these regulations requires reversal of scientific judgments on research, including choice of experiments, protocols that are considered necessary to any line of scientific inquiry by the research scientists involved.

3. In paragraph (j) of § 84.3, "in the United States" has been inserted following the term "any person."

4. Also the assurances section of the HEW regulations (§ 84.5(a)) has been changed to allow NSF greater administrative flexibility now that most recipients of NSF support have already filed assurances with HEW.

5. Paragraph (c) of § 84.5 has been removed.

6. In §§ 84.6 and 84.9, "Director of NSF" has been substituted for "Director" wherever it appears.

7. In § 84.4(b)95) and in Subpart C (§§ 84.21 through 84.23) "qualified handicapped persons" has been substituted for "handicapped persons" wherever that phrase appears.

8. In § 84.33(d) the date "July 1, 1983, has been substituted as the date of compliance.

9. The following paragraph has been subtituted for paragraph (b) of § 84.46:

(b) *Assistance in making available outside employment.* A recipient that helps its students to obtain employment shall assure itself that the employment opportunities it helps to make available to students are, as a whole, made available in a manner that would not violate subpart B if they were provided by the recipient.

10. The following section has been substituted for § 84.61:

§ 605.61 Procedures.

The procedural provisions applicable to Title VI of the Civil Rights Act of 1964 apply to this part. These procedures are found in §§ 611.6–611.10 of this title (45 CFR). In the event that the Department of Education or the Department of Health and Human Services conducts a hearing under this part on behalf of NSF, the provisions of 45 CFR 84.61 shall also apply except that the Director of NSF or his designee shall also be 'the responsible Department official' for purposes of 45 CFR 81.102 and 81.121 and 'the reviewing authority' for purposes of 45 CFR 81.103, 81.104, and 81.108. Also, in such cases, the Director of NSF rather than the Secretary of HHS or Education shall conduct the review provided for in 45 CFR 81.106.

Request for Comment

The Department of Justice (DOJ) and the Equal Employment Opportunity Commission (EEOC) are currently reviewing the Government-wide section 504 guidelines and NSF's rules will be modified in compliance with any revisions that DOJ and EEOC make in those guidelines. Any revision in NSF rules will also have to comply with the provisions of Executive Order 12291.

Because of the possibility that the NSF rules will change as a result of the DOJ and EEOC reviews, the Foundation requests that comments as to desirable modifications in these rules be forwarded to the contact person identified below. Also information would be welcome that would allow the Foundation to accurately assess the economic impacts of the rules, as required by Executive Order 12291.

NSF therefore adds the following Part 605 to Title 45 of the Code of Federal Regulations.

Dated: February 22, 1982.

John B. Slaughter,

Director.

PART 605—NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

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Authority: Sec. 504, Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794); sec. 111(a), Rehabilitation Act Amendments of 1974, Pub. L. 98–516, 88 Stat. 1619 (29 U.S.C. 706).

Subpart A—General Provisions

§ 605.0 Adoption of HHS regulations.

The regulations of the Department of Health and Human Services on Nondiscrimination on the Basis of Handicap, 45 CFR Part 605, including any amendments thereto, have been adopted almost in their entirety to programs and activities receiving federal financial assistance from the National Science Foundation. The few changes in the Foundation's rules include a newly added sub-paragraph (5) to paragraph (k) of § 605.3; and modifications in paragraph (j), § 605.3; paragraph (a) of § 605.5; paragraph (b) of § 605.46; and § 605.61. Paragraph (c) of § 605.5 has been removed, and "qualified handicapped persons" has been substituted for "handicapped persons" wherever that phrase appears in § 605.4(b)(5) and in Subpart C (§§ 605.21 through 605.23). The date for compliance with § 605.33(d) has been changed.

§ 605.1 Purpose.

The purpose of this part is to effectuate section 504 of the Rehabilitation Act of 1973, which is designed to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.

§ 605.2 Application.

This part applies to each recipient of Federal financial assistance from the National Science Foundation and to each program or activity that receives or benefits from such assistance.

§ 605.3 Definitions.

As used in this part, the term:

(a) "The Act" means the Rehabilitation Act of 1973, Pub. L. 93–112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93–516, 29 U.S.C. 794.

(b) "Section 504" means section 504 of the Act.

(c) "Education of the Handicapped Act" means that statute as amended by the Education for all Handicapped Children Act of 1975, Pub. L. 94–142, 20 U.S.C. 1401 et seq.

(d) "Foundation" means the National Science Foundation.

(e) "Director" means the Director of the National Science Foundation.

(f) "Recipient" means any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(g) "Applicant for assistance" means one who submits an application, request, or plan required to be approved by a Foundation official or by a recipient as a condition to becoming a recipient.

(h) "Federal financial assistance" means any grant, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the Foundation provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of such property, including:

(i) Transfers or leases of such property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government.

(i) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

(j) "Handicapped person."

(1) "Handicapped persons" means any person in the United States who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment.

(2) As used in paragraph (j)(1) of this section, the phrase:

(i) "Physical or mental impairment" means (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(ii) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(iii) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(iv) "Is regarded as having an impairment" means (A) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation; (B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (C) has none of the impairments defined in paragraph (j)(2)(i) of this section but is treated by a recipient as having such an impairment.

(k) "Qualified handicapped person" means:

(1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question;

(2) With respect to public preschool elementary, secondary, or adult educational services, a handicapped person (i) of an age during which nonhandicapped persons are provided such services, (ii) of any age during which it is mandatory under state law to provide such services to handicapped persons, or (iii) to whom a state is required to provide a free appropriate public education under section 612 of the Education of the Handicapped Act; and

(3) With respect to postsecondary and vocational education services, a handicapped person who meets the academic and technical standards requisite to admission or participation in the recipient's education program or activity;

(4) With respect to other services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(5) With respect to scientific and technical experimentation, observation, or field work a person who meets the academic, scientific and technical standards for participation and any reasonable physical qualifications for participation. Physical qualifications are not "reasonable," however, if they can be obviated without unreasonable burden by modifying facilities or programs or by providing auxiliary aids. In determining whether the burdens are unreasonable, factors such as cost, risks, or sacrifice of legitimate program objectives may be considered. In exceptional cases psychological qualifications may be considered 'reasonable physical qualifications' under this paragraph. Nothing in this provision or these regulations requires reversal of scientific judgments on research, including choice of experiments, protocols for experiments, location of observing sites, or the like that are considered necessary to any line of scientific inquiry by the research scientists involved.

(l) "Handicap" means any condition or characteristic that renders a person a handicapped person as defined in paragraph (j) of this section.

§ 605.4 Discrimination prohibited.

(a) *General.* No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.

(b) *Discriminatory actions prohibited.* (1) A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipients program;

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

(2) For purposes of this part, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for handicapped and nonhandicapped persons, but must afford handicapped persons equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person's needs.

(3) Despite the existence of separate or different programs or activities provided in accordance with this part, a recipient may not deny a qualified handicapped person the opportunity to participate in such programs or activities that are not separate or different.

(4) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons, or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(5) In determining the site or location of a facility, an applicant for assistance or a recipient may not make selections (i) that have the effect of excluding qualified handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from Federal financial assistance or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to qualified handicapped persons.

(6) As used in this section, the aid, benefit, or service provided under a program or activity receiving or benefiting from Federal financial assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased or rented, or otherwise acquired, in whole or in part, with Federal financial assistance.

(c) *Programs limited by Federal law.* The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or executive order to a different class of handicapped persons is not prohibited by this part.

§ 605.5 Assurances required.

(a) Assurances. Recipients of Federal financial assistance under a program or activity to which this part applies will assure NSF, in a manner specified by the Director, that the programs will be operated in compliance with this part.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance extended in the form of real property or to provide real property or structures on the property, the assurance will obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for the purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) In the case of Federal financial assistance extended to provide personal property, the assurance will obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases the assurance will obligate the recipient for the period during which Federal financial assistance is extended.

§ 605.6 Remedial action, voluntary action, and self-evaluation.

(a) *Remedial action.* (1) If the Director finds that a recipient has discriminated against persons on the basis of handicap in violation of section 504 or this part, the recipient shall take such remedial action as the Director deems necessary to overcome the effects of the discrimination.

(2) Where a recipient is found to have discriminated against persons on the basis of handicap in violation of section 504 or this part and where another recipient exercises control over the recipient that has discriminated, the Director, where appropriate, may require either or both recipients to take remedial action.

(3) The Director may, where necessary to overcome the effects of discrimination in violation of section 504 or this part, require a recipient to take remedial action (i) with respect to handicapped persons who are no longer participants in the recipient's program but who were participants in the program when such discrimination occurred or (ii) with respect to handicapped persons who would have been participants in the program had the discrimination not occurred.

(b) *Voluntary action.* A recipient may take steps, in addition to any action that is required by this part, to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity by qualified handicapped persons.

(c) *Self-evaluation.* (1) A recipient shall, within one year of the effective date of this part:

(i) Evaluate, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, its current policies and practices and the effects thereof that do not or may not meet the requirements of this part;

(ii) Modify, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, any policies and practices that do not meet the requirements of this part; and

(iii) Take, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices.

(2) A recipient that employs fifteen or more persons shall, for at least three years following completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available for public inspection, and provide to the Director upon request: (i) A list of the interested person consulted (ii) a description of areas examined and any problems identified, and (iii) a description of any modifications made and any remedial steps taken.

§ 605.7 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* A recipient that employs fifteen or more persons shall designate at least one person to coordinate its efforts to comply with this part.

(b) *Adoption of grievance procedures.* A recipient that employs fifteen or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part. Such procedures need not be established with respect to complaints from applicants for employment or from applicants for admission to postsecondary educational institutions.

§ 605.8 Notice.

(a) A recipient that employs fifteen or more persons shall take appropriate initial and continuing steps to notify participants, beneficiaries, applications, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of handicap in violation of section 504 and this part. The notification shall state, where appropriate, that the recipient does not discriminate in admission or access to, or treatment or employment in, its programs and activities. The notification shall also include an identification of the responsible employee designated pursuant to § 605.7(a). A recipient shall make the initial notification required by this paragraph within 90 days of the effective date of this part. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipient's publication, and distribution of memoranda or other written communications.

(b) If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees, it shall include in those materials or publications a statement of the policy described in paragraph (a) of this section. A recipient may meet the requirement of this paragraph either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

§ 605.9 Administrative requirements for small recipients.

The Director may require any recipient with fewer than fifteen employees, or any class of such recipients, to comply with §§ 605.7 and 605.8, in whole or in part, when the Director finds a violation of this part or finds that such compliance will not significantly impair the ability of the recipient or class or recipients to provide benefits or services.

§ 605.10 Effect of state or local law or other requirements and effect of employment opportunities.

(a) The obligation to comply with this part is not obviated or alleviated by the existence of any state or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped persons to receive services or to practice any occupation or profession.

(b) The obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for handicapped persons than for nonhandicapped persons.

Subpart B—Employment Practices

§ 605.11 Discrimination prohibited.

(a) *General.* (1) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity to which this part applies.

(2) A recipient that receives assistance under the Education of the Handicapped Act shall take positive steps to employ and advance in employment qualified handicapped persons in programs assisted under that Act.

(3) A recipient shall make all decisions concerning employment under any program or activity to which this part applies in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(4) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this subparagraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

(b) *Specific activities.* The provisions of this subpart apply to:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(c) A recipient's obligation to comply with this subpart is not affected by any inconsistent term of any collective bargaining agreement to which it is a party.

§ 605.12 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include: (1) Making facilities used by employees readily accessible to and usable by handicapped persons, and (2) job restructuring, part-time or modified work schedules, acquisition or modification or equipment or devices, the provision of readers or interpreters, and other similar actions.

(c) In determining pursuant to paragraph (a) of this section whether an accommodation would impose an undue hardship on the operation of a recipient's program, factors to be considered include:

(1) The overall size of the recipient's program with respect to number of employees, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's workforce; and

(3) The nature and cost of the accommodation needed.

(d) A recipient may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

§ 605.13 Employment criteria.

(a) A recipient may not make use of any employment test or other selection criterion that screens out or tends to screen out handicapped persons or any class of handicapped persons unless: (1) The test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question, and (2) alternative job-related tests or criteria that do not screen out or tend to screen out as many handicapped persons are not shown by the Director to be available.

(b) A recipient shall select and administer tests concerning employment so as best to ensure that, when administered to an applicant or employee who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's or employee's job skills, aptitude, or whatever other factor the test purports to measure, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

§ 605.14 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not conduct a preemployment medical examination or may not make preemployment inquiry of an applicant as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

(b) When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 605.6(a), when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity pursuant to § 605.6(b), or when a recipient is taking affirmative action pursuant to section 503 of the Act, the recipient may invite applicants for employment to indicate whether and to what extent they are handicapped, *Provided*, That:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this part.

(c) Nothing in this section shall prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty, *Provided*, That: (1) All entering employees are subjected to such an examination regardless of handicap, and (2) the results of such an examination are used only in accordance with the requirements of this part.

(d) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained on separate forms that shall be accorded confidentiality as medical records, except that:

(1) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped persons and regarding necessary accommodations;

(2) First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and

(3) Government officials investigating compliance with the Act shall be provided relevant information upon request.

§§ 605.15-605.20 [Reserved]

Subpart C—Program Accessibility

§ 605.21 Discrimination prohibited.

No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which this part applies.

§ 605.22 Existing facilities.

(a) *Program accessibility.* A recipient shall operate each program or activity to which this part applies so that the program or activity, when viewed in its entirety, is readily accessible to qualified handicapped persons. This paragraph does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by qualified handicapped persons.

(b) *Methods.* A recipient may comply with the requirements of paragraph (a) of this section through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of health, welfare, or other social services at alternate accessible sites, alteration of existing facilities and construction of new facilities in conformance with the requirements of § 605.23, or any other methods that result in making its program or activity accessible to qualified handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, a recipient shall give priority to those methods that offer programs and activities to qualified handicapped persons in the most integrated setting appropriate.

(c) *Small health, welfare, or other social service providers.* If a recipient with fewer than fifteen employees that provides health, welfare, or other social services finds, after consultation with a qualified handicapped person seeking its services, that there is no method of complying with paragraph (a) of this section other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the qualified handicapped person to other providers of those services that are accessible.

(d) *Time period.* A recipient shall comply with the requirement of paragraph (a) of this section within sixty days of the effective date of this part except that where structural changes in facilities are necessary, such changes shall be made within three years of the effective date of this part, but in any event as expeditiously as possible.

(e) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including qualified handicapped persons or organizations representing qualified handicapped persons. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to qualified handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period of the transition plan is longer than one year, identify the steps of that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(f) *Notice.* The recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by qualified handicapped persons.

§ 605.23 New construction.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by qualified handicapped persons, if the construction was commenced after the effective date of this part.

(b) *Alteration.* Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this part in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by qualified handicapped persons.

(c) *American National Standards Institute accessibility standards.* Design, construction, or alteration of facilities in conformance with the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute, Inc. (ANSI A117.1–1961 (R1971)).[1] which is incorporated by reference in this part, shall constitute compliance with paragraphs (a) and (b) of this section. Departures from particular requirements of those standards by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

Note.—Incorporation by reference provisions approved by the Director of the Federal Register on March 1, 1982.

[1] Copies obtainable from American National Standards Institute, Inc., 1430 Broadway, New York, N.Y. 10018.

§§ 605.24-605.30 [Reserved]

Subpart D—Preschool, Elementary, and Secondary Education

§ 605.31 Application of this subpart.

Subpart D applies to preschool, elementary, secondary, and adult education programs and activities that receive or benefit from Federal financial assistance and to recipients that operate, or that receive or benefit from Federal financial assistance for the operation of, such programs or activities.

§ 605.32 Location and notification.

A recipient that operates a public elementary or secondary education program shall annually:

(a) Undertake to identify and locate every qualified handicapped person residing in the recipient's jurisdiction who is not receiving a public education; and

(b) Take appropriate steps to notify handicapped persons and their parents or guardians or the recipient's duty under this subpart.

§ 605.33 Free appropriate public education.

(a) *General.* A recipient that operates a public elementary or secondary education program shall provide a free appropriate public education to each qualified handicapped person who is in the recipient's jurisdiction, regardless of the nature or severity of the person's handicap.

(b) *Appropriate education.* (1) For the purpose of this subpart, the provision of an appropriate education is the provision of regular or special education and related aids and services that (i) are designed to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met and (ii) are based upon adherence to procedures that satisfy the requirements of §§ 605.34, 605.35 and 605.36.

(2) Implementation of an individualized education program developed in accordance with the Education of the Handicapped Act is one means of meeting the standard established in paragraph (b)(1)(i) of this section.

(3) A recipient may place a handicapped person in or refer such person to a program other than the one that it operates as its means of carrying out the requirements of this subpart. If so, the recipient remains responsible for ensuring that the requirements of this subpart are met with respect to any handicapped person so placed or referred.

(c) *Free education*—(1) *General.* For the purpose of this section, the provision of a free education is the provision of educational and related services without cost to the handicapped person or to his or her parents or guardian, except for those fees that are imposed on non-handicapped persons or their parents or guardian. It may consist either of the provision of free services or, if a recipient places a handicapped person in or refers such person to a program not operated by the recipient as its means of carrying out the requirements of this subpart, of payment for the costs of the program. Funds available from any public or private agency may be used to meet the requirements of this subpart. Nothing in this section shall be construed to relieve an insurer or similar third party from an otherwise valid obligation to provide or pay for services provided to a handicapped person.

(2) *Transportation.* If a recipient places a handicapped person in or refers such person to a program not operated by the recipient as its means of carrying out the requirements of this subpart, the recipient shall ensure that adequate transportation to and from the program is provided at no greater cost than would be incurred by the person or his or her parents or guardian if the person were placed in the program operated by the recipient.

(3) *Residential placement.* If placement in a public or private residential program is necessary to provide a free appropriate public education to a handicapped person because of his or her handicap, the program, including non-medical care and room and board, shall be provided at no cost to the person or his or her parents or guardian.

(4) *Placement of handicapped persons by parents.* If a recipient has made available, in conformance with the requirements of this section and § 605.34, a free appropriate public education to a handicapped person and the person's parents or guardian chooses to place the person in a private school, the recipient is not required to pay for the person's education in the private school. Disagreements between a parent or guardian and a recipient regarding whether the recipient has made such a program available or otherwise regarding the question of financial responsibility are subject to the due process procedures of § 605.36.

(d) *Compliance.* A recipient may not exclude any qualified handicapped person from a public elementary or secondary education after the effective date of this part. A recipient that is not, on the effective date of this regulation, in full compliance with the other requirements of the preceding paragraphs of this section shall meet such requirements at the earliest practicable time and in no event later than July 1, 1983.

§ 605.34 Educational setting.

(a) *Academic setting.* A recipient to which this subpart applies shall educate, or shall provide for the education of, each qualified handicapped person in its jurisdiction with persons who are not handicapped to the maximum extent appropriate to the needs of the handicapped person. A recipient shall place a handicapped person in the regular educational environment operated by the recipient unless it is demonstrated by the recipient that the education of the person in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. Whenever a recipient places a person in a setting other than the regular educational environment pursuant to this paragraph, it shall take into account the proximity of the alternate setting to the person's home.

(b) *Nonacademic settings.* In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in § 605.37(a)(2), a recipient shall ensure that handicapped persons participate with nonhandicapped persons in such activities and services to the maximum extent appropriate to the needs of the handicapped person in question.

(c) *Comparable facilities.* If a recipient, in compliance with paragraph (a) of this section, operates a facility that is identifiable as being for handicapped persons, the recipient shall ensure that the facility and the services and activities provided therein are comparable to the other facilities, services, and activities of the recipient.

§ 605.35 Evaluation and placement.

(a) *Preplacement evaluation.* A recipient that operates a public elementary or secondary education program shall conduct an evaluation in accordance with the requirements of paragraph (b) of this section of any person who, because of handicap, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the person in a regular or special education program and any subsequent significant change in placement.

(b) *Evaluation procedures.* A recipient to which this subpart applies shall establish standards and procedures for the evaluation and placement of persons who, because of handicap, need or are believed to need special education or related services which ensure that:

(1) Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;

(2) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and

(3) Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

(c) *Placement procedures.* In interpreting evaluation data and in making placement decisions, a recipient shall (1) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior, (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered, (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options, and (4) ensure that the placement decision is made in conformity with § 605.34.

(d) *Reevaluation.* A recipient to which this section applies shall establish procedures, in accordance with paragraph (b) of this section, for periodic reevaluation of students who have been provided special education and related services. A reevaluation procedure consistent with the Education for the Handicapped Act is one means of meeting this requirement.

§ 605.36 Procedural safeguards.

A recipient that operates a public elementary or secondary education program shall establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of handicap, need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, an opportunity for the parents or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of section 615 of the Education of the Handicapped Act is one means of meeting this requirement.

§ 605.37 Nonacademic services.

(a) *General.* (1) A recipient to which this subpart applies shall provide nonacademic and extracurricular services and activities in such manner as is necessary to afford handicapped students an equal opportunity for participation in such services and activities.

(2) Nonacademic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the recipients, referrals to agencies which provide assistance to handicapped persons, and employment of students, including both employment by the recipient and assistance in making available outside employment.

(b) *Counseling services.* A recipient to which this subpart applies that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provide these service without discrimination on the basis of handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandicapped students with similar interests and abilities.

(c) *Physical education and athletics.* (1) In providing physical education courses and athletics and similar programs and activities to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap. A recipient that offers physical education courses or that operates or sponsors interscholastic, club, or intramural athletics shall provide to qualified handicapped students an equal opportunity for participation in these activities.

(2) A recipient may offer to handicapped students physical education and athletic activities that are separate or different from those offered to nonhandicapped students only if separation or differentiation is consistent with the requirements of § 605.34 and only if no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

§ 605.38 Preschool and adult education programs.

A recipient to which this subpart applies that operates a preschool education or day care program or activity or an adult education program or activity may not, on the basis of handicap, exclude qualified handicapped persons from the program or activity and shall take into account the needs of such persons in determining the aid, benefits, or services to be provided under the program or activity.

§ 605.39 Private education programs.

(a) A recipient that operates a private elementary or secondary education program may not, on the basis of handicap, exclude a qualified handicapped person from such program if the person can, with minor adjustments, be provided an appropriate education, as defined in § 605.33(b)(1), within the recipient's program.

(b) A recipient to which this section applies may not charge more for the provision of an appropriate education to handicapped persons than to nonhandicapped persons except to the extent that any additional charge is justified by a substantial increase in cost to the recipient.

(c) A recipient to which this section applies that operates special education programs shall operate such programs in accordance with the provisions of §§ 605.35 and 605.36. Each recipient to which this section applies is subject to the provisions of §§ 605.34, 605.37 and 605.38.

§ 605.40 [Reserved]

Subpart E—Postsecondary Education

§ 605.41 Application of this subpart.

Subpart E applies to postsecondary education programs and activities, including postsecondary vocational education programs and activities, that receive or benefit from Federal financial assistance and to recipients that operate, or that receive or benefit from Federal financial assistance for the operation of, such programs or activities.

§ 605.42 Admissions and recruitment.

(a) *General.* Qualified handicapped persons may not, on the basis of handicap, be denied admission or be subjected to discrimination in admission or recruitment by a recipient to which this subpart applies.

(b) *Admissions.* In administering its admission policies, a recipient to which this subpart applies:

(1) May not apply limitations upon the number or proportion of handicapped persons who may be admitted;

(2) May not make use of any test or criterion for admission that has a disproportionate, adverse effect on handicapped persons or any class of handicapped persons unless (i) the test or criterion, as used by the recipient, has been validated as a predictor of success in the education program or activity in question and (ii) alternate tests or criteria that have a less disproportionate, adverse effect are not shown by the Director to be available.

(3) Shall assure itself that (i) admissions tests are selected and administered so as best to ensure that, when a test is administered to an applicant who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the applicant's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure); (ii) admissions tests that are designed for persons with impaired sensory, manual, or speaking skills are offered as often and in as timely a manner as are other admissions tests; and (iii) admissions tests are administered in facilities that, on the whole, are accessible to handicapped persons; and

(4) Except as provided in paragraph (c) of this section, may not make preadmission inquiry as to whether an applicant for admission is a handicapped person but, after admission, may make inquiries on a confidential basis as to handicaps that may require accommodation.

(c) *Preadmission inquiry exception.* When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 605.6(a) or when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity pursuant to § 605.6(6), the recipient may invite applicants for admission to indicate whether and to what extent they are handicapped, *Provided,* That:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide it will not subject the applicant to any adverse treatment, and that it will be used only in accordance with this part.

(d) *Validity studies.* For the purpose of paragraph (b)(2) of this section, a recipient may base prediction equations on first year grades, but shall conduct periodic validity studies against the criterion of overall success in the education program or activity in question in order to monitor the general validity of the test scores.

§ 605.43 Treatment of students; general.

(a) No qualified handicapped student shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any academic, research, occupational training, housing, health insurance, counseling, financial aid, physical education, athletics, recreation, transportation, other extracurricular, or other postsecondary education program or activity to which this subpart applies.

(b) A recipient to which this subpart applies that considers participation by students in education programs or activities not operated wholly by the recipient as part of, or equivalent to, an education program or activity operated by the recipient shall assure itself that the other education program or activity, as a whole, provides an equal opportunity for the participation of qualified handicapped persons.

(c) A recipient to which this subpart applies may not, on the basis of handicap, exclude any qualified handicapped student from any course, course of study, or other part of its education program or activity.

(d) A recipient to which this subpart applies shall operate its programs and activities in the most integrated setting appropriate.

§ 605.44 Academic adjustments.

(a) *Academic requirements.* A recipient to which this subpart applies shall make such modifications to its academic requirements as are necessary to ensure that such requirements do not discriminate or have the effect of discriminating, on the basis of handicap, against a qualified handicapped applicant or student. Academic requirements that the recipient can demonstrate are essential to the program of instruction being pursued by such student or to any directly related licensing requirement will not be regarded as discriminatory within the meaning of this section. Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaptation of the manner in which specific courses are conducted.

(b) *Other rules.* A recipient to which this subpart applies may not impose upon handicapped students other rules, such as the prohibition of tape recorders in classrooms or of dog guides in campus buildings, that have the effect of limiting the participation of handicapped students in the recipient's education program or activity.

(c) *Course examinations.* In its course examinations or other procedures for evaluating students' academic achievement in its program, a recipient to which this subpart applies shall provide such methods for evaluating the achievement of students who have a handicap that impairs sensory, manual, or speaking skills as will best ensure that the results of the evaluation represents the student's achievement in the course, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where such skills are the factors that the test purports to measure).

(d) *Auxiliary aids.* (1) A recipient to which this subpart applies shall take such steps as are necessary to ensure that no handicapped student is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under the education program or activity operated by the recipient because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills.

(2) Auxiliary aids may include taped texts, interpreters or other effective methods of making orally delivered materials available to students with hearing impairments, readers in libraries for students with visual impairments, classroom equipment adapted for use by students with manual impairments, and other similar services and actions. Recipients need not provide attendents, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

§ 605.45 Housing.

(a) *Housing provided by the recipient.* A recipient that provides housing to its nonhandicapped students shall provide comparable, convenient, and accessible housing to handicapped students at the same cost as to others. At the end of the transition period provided for in Subpart C, such housing shall be available in sufficient quantity and variety so that the scope of handicapped students' choice of living accommodations is, as a whole, comparable to that of nonhandicapped students.

(b) *Other housing.* A recipient that assists any agency, organization, or person in making housing available to any of its students shall take such action as may be necessary to assure itself that such housing is, as a whole, made available in a manner that does not result in discrimination on the basis of handicap.

§ 605.46 Financial and employment assistance to students.

(a) *Provision of financial assistance.* (1) In providing financial assistance to qualified handicapped persons, a recipient to which this subpart applies may not (i), on the basis of handicap, provide less assistance than is provided to nonhandicapped persons, limit eligibility for assistance, or otherwise discriminate or (ii) assist any entity or person that provides assistance to any of the recipient's students in a manner that discriminates against qualified handicapped persons on the basis of handicap.

(2) A recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established under wills, trusts, bequests, or similar legal instruments that require awards to be made on the basis of factors that discriminate or have the effect of discriminating on the basis of handicap only if the overall effect of the award of scholarships, fellowships, and other forms of financial assistance is not discriminatory on the basis of handicap.

(b) *Assistance in making available outside employment.* A recipient that helps its students to obtain employment shall assure itself that the employment opportunities it helps to make available to students are, as a whole, made available in a manner that would not violate subpart B if they were provided by the recipient.

(c) *Employment of students by recipients.* A recipient that employs any of its students may not do so in a manner that violates Subpart B.

§ 605.47 Nonacademic services.

(a) *Physical education and athletics.* (1) In providing physical education courses and athletics and similar programs and activities to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap. A recipient that offers physical education courses or that operates or sponsors intercollegiate, club, or intramural athletics shall provide to qualified handicapped students an equal opportunity for participation in these activities.

(2) A recipient may offer to handicapped students physical education and athletic activities that are separate or different only if separation or differentiation is consistent with the requirements of § 605.43(d) and only if no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

(b) *Counseling and placement services.* A recipient to which this subpart applies that provides personal, academic, or vocational counseling, guidance, or placement services to its students shall provide these services without discrimination on the basis of handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandicapped students with similar interests and abilities. This requirement does not preclude a recipient from providing factual information about licensing and certification requirements that may present obstacles to handicapped persons in their pursuit of particular careers.

(c) *Social organizations.* A recipient that provides significant assistance to fraternities, sororities, or similar organizations shall assure itself that the membership practices of such organizations do not permit discrimination otherwise prohibited by this subpart.

§§ 605.48–605.50 [Reserved]

Subpart F—Health, Welfare, and Social Services

§ 605.51 Application of this subpart.

Subpart F applies to health, welfare, and other social service programs and activities that receive or benefit from Federal financial assistance and to recipients that operate, or that receive or benefit from Federal financial assistance for the operation of, such programs or activities.

§ 605.52 Health, welfare, and other social services.

(a) *General.* In providing health, welfare, or other social services or benefits, a recipient may not, on the basis of handicap:

(1) Deny a qualified handicapped person these benefits or services;

(2) Afford a qualified handicapped person an opportunity to receive benefits or services that is not equal to that offered nonhandicapped persons;

(3) Provide a qualified handicapped person which benefits or services that are not as effective (as defined in § 605.4(b)) as the benefits or services provided to others;

(4) Provide benefits or services in a manner that limits or has the effect of limiting the participation of qualified handicapped persons; or

(5) Provide different or separate benefits or services to handicapped persons except where necessary provide qualified handicapped persons with benefits and services that are as effective as those provided to others.

(b) *Notice.* A recipient that provides notice concerning benefits or services or written material concerning waivers of rights or consent to treatment shall take such steps as are necessary to ensure that qualified handicapped persons, including those with impaired sensory or speaking skills, are not denied effective notice because of their handicap.

(c) *Emergency treatment for the hearing impaired.* A recipient hospital that provides health services or benefits shall establish a procedure for effective communication with persons with impaired hearing for the purpose of providing emergency health care.

(d) *Auxiliary aids.* (1) A recipient to which this subpart applies that employs fifteen or more persons shall provide appropriate auxiliary aids to persons with impaired sensory, manual, or speaking skills, where necessary to afford such persons an equal opportunity to benefit from the service in question.

(2) The Director may require recipients with fewer than fifteen employees to provide auxiliary aids where the provision of aids would not significantly impair the ability of the recipient to provide its benefits or services.

(3) For the purpose of this paragraph, auxiliary aids may include brailled and taped material, interpreters, and other aids for persons with impaired hearing or vision.

§ 605.53 Drug and alcohol addicts.

A recipient to which this subpart applies that operates a general hospital or outpatient facility may not discriminate in admission or treatment against a drug or alcohol abuser or alcoholic who is suffering from a medical condition, because of the person's drug or alcohol abuse or alcoholism.

§ 605.54 Education of institutionalized persons.

A recipient to which this subpart applies and that operates or supervises a program or activity for persons who are institutionalized because of handicap shall ensure that each qualified handicapped person, as defined in § 605.3(k)(2), in its program or activity is provided an appropriate education, as defined in § 605.33(b). Nothing in this section shall be interpreted as altering in any way the obligations of recipients under Subpart D.

§§ 605.55–605.60 [Reserved]

Subpart G—Procedures

§ 605.61 Procedures.

The procedural provisions applicable to Title VI of the Civil Rights Act of 1964 apply to this part. These procedures are found in §§ 611.8–611.10 of this title (45 CFR). In the event that the Department of Education or the Department of Health and Human Services conducts a hearing under this part on behalf of NSF, the provisions of 45 CFR 84.61 shall also apply except that the Director of NSF or his designee shall also be "the responsible Department official" for purposes of 45 CFR 81.102 and 81.121 and "the reviewing authority" for purposes of 45 CFR 81.103, 81.104, and 81.105. Also, in such cases, the Director of NSF rather than the Secretary of HHS or Education shall conduct the review provided for in 45 CFR 81.106.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 67

[OST Docket No. 58]

Yacht Documentation Fees

AGENCY: Coast Guard, DOT.

ACTION: Continuation of rule; amendment of authority citation.

SUMMARY: This notice continues the fee schedule established for the documentation of yachts used exclusively for pleasure. Originally, the Department of Transportation (DOT) FY 81 Appropriations Act (Pub. L. 96-400) contained a provision prohibiting any funds provided by the Act from being used for expenses related to yacht documentation, except to the extent fees were collected from yacht owners. The DOT FY 82 Appropriations Act (Pub. L. 97-102) extends this provision for another year. Both acts contain provisions authorizing the Secretary of Transportation to prescribe fees to recover the expense of yacht documentation. Extending the fee schedule established will enable the

Coast Guard to continue yacht documentation services.

In the rule which originally established the fee schedule, the Secretary of Transportation invited comments. This document responds to the public comments on the rule. It has been determined that the rule establishing the yacht documentation fee schedule will not be modified.

EFFECTIVE DATE: February 23, 1982.

FOR FURTHER INFORMATION CONTACT: Commander Michael J. DeWitt, Office of Merchant Marine Safety (G-MP-5/12), U.S. Coast Guard Headquarters, Washington, D.C., 20593 (202) 426-1483.

SUPPLEMENTARY INFORMATION: Originally, the fee schedule for yacht documentation was established under the authority of the Department of Transportation (DOT) FY 81 Appropriation Act (Pub. L. 96-400), which authorized the Secretary of Transportation to prescribe fees to recover the expenses of yacht documentation. The Act also prohibited any funds provided by the Act from being used for expenses related to yacht documentation, except to the extent fees are collected from those seeking to document yachts.

Issuance of the fee schedule was made by final rule, without prior notice of proposed rulemaking, to enable the Coast Guard, the agency within the Department of Transportation which carries out the documentation function, to continue yacht documentation services without interruption. Prior notice was precluded because the extent of the restriction on Coast Guard expenditures could not be determined with certainty until passage of the Appropriation Act and because the restriction became effective upon enactment.

This document contains response to public comments received on the fee schedule established in response to the restrictions contained in the DOT FY-81 Appropriations Act, its appropriateness, and on suggested alternative fee schedules. For the reasons discussed below, that schedule was not changed in response to the comments and is being continued under the authority of the DOT FY-82 Appropriations Act.

DRAFTING INFORMATION: The principal persons involved in drafting this notice are Commander Michael J. DeWitt, Office of Merchant Marine Safety, and Lieutenant Collin Lau, Project Attorney, Office of Chief Counsel, U.S. Coast Guard.

Discussion of Comments

Some of the commentors indicated that the prescribed fees exceeded the actual cost of yacht services performed by the Coast Guard. The established fees were based on the number of yacht documents and renewals/change of master transactions completed in 1979. The Coast Guard reviewed these figures and costs of the program and found them to be correct as stated.

One comment recommended that a committee representing industry, yacht owners, and the Coast Guard be initiated to review the yacht documentation process. Establishment of an advisory committee concerned with a particular class of vessels is not warranted. The documentation process for all vessels is undergoing revision pursuant to Pub. L. 96-594 which will be effective 1 July 1982. There will be ample opportunity for all interested parties to comment on proposed regulations to implement that law.

Numerous comments were received concerning the "discriminatory" nature of fees that were imposed only against yacht owners and not all documented vessel owners. Also, numerous comments were received that indicated there was insufficient public notice of the fee implementation schedule. The Department of Transportation FY 81 Appropriation Act (Pub. L. 96-400) prohibited the expenditure of appropriated funds for yacht documentation, except to the extent fees were collected. The Act did not require or authorize fees for other documentation services. The alternatives were to either immediately cease all yacht documentation or to prescribe full reimbursement for yacht services performed. Since the latter alternative was considered to be in the best interest of the public, fees had to be prescribed and collected promptly. As stated in the preamble to the rule establishing the fees, a yacht owner is not required to obtain a Federal document.

Two commentors submitted alternative fee schedules. One schedule outlined fees for ten separate documentation transactions. The other schedule covered the three transactions as published, but differed in the amounts charged. The three transactions covered by the Coast Guard's fee schedule comprise the most common and most readily identifiable separate transactions. Other transactions are already subject to fees in the form of surcharges authorized under other statutory authority. Therefore, fee costs were based only on the issuance of a new document and document renewals/change of masters.

One commentor thought fees would make it difficult to obtain loans, but did not explain why. The Coast Guard is not aware of any connection between charging fees for the documents and the availability of loans, although obtaining a document is necessary for the vessel to be eligible for financing under the Ship Mortgage Act.

One commentor requested the fees be waived in individual cases. There is no basis or authority under Pub. L. 96-400 for individual waivers of the fees.

Three comments were received concerning the requirement to pay one fee for a change in ownership and a second fee for a name change, when apparently conducting only one transaction. In actuality the changing of a yacht's ownership and a change of name are two transactions requiring two separate documents. A change-of-ownership transaction is required by law to be completed in the vessel's former name. If the new owner desires to change the vessel's name, a new document is issued.

Numerous comments suggested that the requirement for annual renewal for yacht documentation be eliminated. Present law requires annual renewal of vessel licenses.

One comment was received recommending that the method of payment be changed to "fees are to be payable to U.S. Coast Guard" and not to the "Officer in Charge, Marine Inspection." The commentor also recommended that fees be due upon application for documentation rather than upon completion of a transaction. The rule does not require that checks be made payable to the Officer in Charge, Marine Inspection. Rather, the rule requires that payment be made to that officer, who is the official responsible for documentation of vessels. Proper form of payment is specified by that officer. Payment is due upon completion of the transaction, rather than upon initial application, because at that time there is no question as to the amounts due. Since the fee is collected at the time the document is issued, the expenses incurred in providing yacht documentation services will be fully recovered.

Other comments were received that were not directed to the fee schedule established by the rule.

Three comments were received recommending simplification of the present forms used in yacht documentation. Also a more professional design and paper for better certificates of documentation was recommended. The forms currently in use are based on present specific statutory requirements. Regulations to be promulgated under Public Law 96-594 will simplify documentation procedures and forms.

One comment encouraged the Coast Guard to place the burden for reporting yacht documentation changes of status on the owner. The commentor also encouraged the enforcement of penalties for failure to do so. It is already the responsibility of the vessel owner to surrender the vessel document whenever required, such as when there is a change of ownership in whole or in part, rig change, tonnage change, etc.

Four comments were received supporting the rulemaking. One commentor stated that his boating association preferred to pay the fee schedule to continue documentation services. Two commentors, one representing a documentation service firm and the other a private yacht owner, agreed that the fee schedule was in order. The last commentor agreed that a fee schedule was in order as long as it was based on actual cost.

The fee schedule in 45 FR 70261, October 22, 1980 was published without prior notice because it was determined to be impractical if the Coast Guard was to continue yacht documentation services without interruption. A similar situation exists at the present time. Although it was anticipated that the Department of Transportation FY-82 Appropriations Act would continue to require the collection of fees for the documentation of yachts, this could not be determined with certainty until passage of the Act. In addition, these fees will be in effect only until revised documentation procedures are promulgated pursuant to Pub. L. 96-594. Therefore, no prior notice was prepared for this extension of the fee schedule.

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis was not prepared for this notice because it was not required under 5 U.S.C. 603 or 604 (Regulatory Flexibility Act). However, these regulations imposes no significant impact on small businesses. The $75 yacht documentation fee and $15 renewal fee are imposed upon individual owners of yachts and are insignificant when compared to the cost of vessels eligible for documentation.

Regulatory Evaluation

This rule was evaluated under E.O. 12291 and DOT Order 2100.5, Policies and Procedures for Simplification, Analysis, and Review of Regulation," dated May 22, 1980, and is considered to be neither significant nor major. An evaluation was prepared for the fee schedule in 45 FR 70261, October 23, 1980. Since this notice merely extends the fee schedule without modification, no new evaluation is necessary.

PART 67—DOCUMENTATION OF VESSELS

§ 67.77-5 [Amended]

Accordingly, the authority citation for § 67.77-5 *fees for the documentation of yachts,* is amended by adding "Pub. L. 97-102, 95 Stat. 1442."

Issued in Washington, D.C. on February 23, 1982.

Andrew L. Lewis, Jr.,
Secretary of Transportation.

[FR Doc. 82-5430 Filed 2-26-82; 8:45 am]
BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[FCC 82-26]

Radio Broadcast Services; Reregulation and Oversight of the Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends certain broadcast station rules in Part 73 of the rules of the Federal Communications Commission. These amendments are made to contemporize certain requirements, delete regulations that are no longer necessary and make corrections and editorial revisions as needed for purposes of clarity and ease of understanding.

DATE: Effective February 19, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steve Crane, Philip Cross, John Reiser, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

In the Matter of Reregulation and Oversight of the Radio and TV Broadcast Rules, Order.

Adopted: January 13, 1982.

Released: February 5, 1982.

By the Commission:

1. In this Order, the Commission again focuses its attention on the reregulation and oversight of its radio and TV broadcast rules. Modifications are made in this Order to update, delete, clarify and correct broadcast regulations as described in the following amendment summaries:

(a) While the basic reregulation function of reviewing rules to determine their current validity and deciding on their retention, modification or deletion has continued, the Commission has also addressed the need to create an optimal environment in Volume III to facilitate a better understanding of our rules. Such steps have been taken as the development of the alphabetical index, providing quick access to specific regulations; the expansion of Subpart H (Rules Applicable to All Broadcast Stations) and the resultant elimination of rule duplications in the separate service Subparts; the revising and transferrence of "applications and proceedings" rules from Part I to Part 73 which corrected a rule book problem termed by the Commission as "A shortcoming of the structure and format of the rule book [which was] the failure to locate all broadcast regulations in Volume III"; and the listing of all FCC broadcast policies, alphabetically and with citations, in Subpart H. Throughout the reformatting projects, a cross-reference of relocated rules has been clearly stated. For example, when the rule "Notification of filing of applications" was removed from Subparts A, B, C and E into Subpart H (§ 73.1030), a cross-reference was entered at each of the former rule sections in the separate subparts, directing the rule user to the new section with the text "See § 73.1030." [1] These cross-references which have served as "sign posts" for the rule seeker also provide another important service. As the Commission stated in the Reregulation Order adopted September 22, 1978, "Much case law, many documents and policy statements refer to these old section numbers and, for the present, we will retain them with the direction to 'See § 73. [new section number]', " 69 FCC 2d 979. The Commission decided the eventual fate of the cross references in this same Order by stating, "When the restructuring is finished, a complete listing of the transfers will be made a part of the rules for such number of years as this type of record is needed."

Therefore, via this Order, we transfer all the cross-references entered and utilized to this date into one complete listing. Such listing will be printed in Part 73, inserted between the Table of Contents and the alphabetical index. It will take a "from-to" form (see Appendix A, item 1 and items 6 through 10.) The cross-references now entered in Part 73 in the separate Subparts will be deleted. (Appendix A, item 2.) Also excised will be listings in the Table of Contents. Future cross-references will

[1] Of course, the quickest way for the rule seeker to get to a rule is via the alphabetical index.

be added to the "complete listing" and bring to an end the practice of entering them into the separate Subparts.

(b) The undesignated headnotes, *e.g.*, "Definitions," "Administrative Procedure," "Allocation of facilities: Authorizations," etc., are deleted in Subpart A, since they are unnecessary in view of rule relocation, clarification of rule titles and the creation of the alphabetical index. Such headnotes were formerly used to indicate that the rules which followed them pertained to the same subject. Without an alphabetical index, such a device was helpful in locating where the rule had been placed in Part 73. Over the years, as new regulatory philosophies, changes in the state of the art or new procedures were adopted into rule form, the matter of fitting them into the appropriate location in the various Subparts became a space availability problem. Rules, needing a section number, were forced into rule areas reserved for specific regulatory subjects that were completely foreign and unrelated to the new tenant, simply because there was no other place to put them. In view of the above, the validity of the undesignated headnote ceased. But the headnote remained, largely meaningless. They will be excised from Subpart A, and from the other Subparts in subsequent Reregulation Orders. Undesignated Headnotes will be used (and retained where they exist) within a rule section where it is used to identify unique elements of the rule (*e.g.*, a rule governing all TV stations with different provisos for commercial and noncommercial educational stations). (See Appendix A, item 3.)

(c) In formating the Subparts of Part 73, the Commission adopted new rule sections which describe the content of that Subpart. We adopt such a section here for Subpart A which contains those rules applying exclusively to the AM broadcast service and which are "in addition to those rules in Subpart H, which are common to all broadcast services—AM, FM and TV." Titled "Scope," it will be numbered § 73.1 and the text of this section, which presently contains the definition of an AM broadcast station, will be added to a new section (see paragraph (d) below) containing all definitions applicable to the AM service. (See Appendix A, item 4.)

(d) In Subpart A of Part 73, the rules for AM stations, many rule sections hold only a single definition of a term applicable to AM broadcasting. In another section of this Subpart, a large number of definitions are presented under one section number and title. In this larger section, definitions are listed as they were added to the rule over the years without order or alphabetical sequencing. In the FM and TV rules (Subparts B, C and E) definitions pertaining to those services are contained in one rule section and listed alphabetically. Via this Order, all AM broadcast service definitions will be included in one rule Section, § 73.14, in alphabetical sequence and the separate rule sections, each containing a single definition, will be deleted. Definitions which are no longer pertinent due to advances in broadcast technology or past rule amendments are being eliminated. Textual changes are made for clarity. (See Appendix A, item 5.)

(e) The headnote and text of § 73.33, Antenna systems; showing required, was inadvertently deleted from Part 73 due to a printing error (or, more exactly, a failure-to-print error) of the Government Printing Office. The rule is still in the Code of Federal Regulations (47 CFR 73.33) however, and the listing of it is still found in the Table of Contents and the alphabetical index in Part 73 of Volume III. In this Order, an amendment is made to remove it from the Code of Federal Regulations as well as the listing of it from the Table of Contents and the alphabetical index of Part 73, Volume III. The requirements contained in this now completely deleted rule will be transferred to § 73.45, Antenna systems, and denoted paragraphs (a)(1) and (a)(2). (See Appendix A, item 23.)

(f) Section 73.40, Transmission system requirements, and § 73.46, Standards of good engineering practice, contain three separate AM station transmission regulations: installation and safety requirements, emission limitations and performance requirements. For clarity and specificity we will revise the two rules into three new regulations each covering one specific technical subject. In rewriting, much obsolete material is deleted (*e.g.*, Detailed regulations on transmitter cabinet structure, wiring practices, circuit shielding and connections serve no useful purpose because almost no stations construct their own transmitters any more and because transmitter engineering and design are so well advanced since the era when these rules were first written.)

The three new or revised rules will be designated § 73.40, AM transmission system performance requirements; § 73.44, AM transmission system emission limitations; and § 73.49 AM transmission system installation and safety requirements. (See Appendix A, items 14, 21, 22 and 24.)

(g) The specifications for minimum and maximum output power ratings for transmitters at AM stations, based on maximum authorized operating power, is found in § 73.41, Maximum rated carrier power; tolerances. The provisions of § 73.41 are directly related to the main transmitter information as stated in § 73.1665, Main transmitters, and will be incorporated therein as new paragraph (a). § 73.41 will be deleted. (See Appendix A, items 11 and 26.)

Section 73.42, Maximum rated carrier power; how determined, states that the power rating of the transmitters is to be determined by the sum of the power ratings of the "vacuum tubes" used in the transmitter "last radio stage" (amplifier). This rule is obsolete with respect to today's transmitter technology. Modern transmitters use transistors or amplifier devices other than vacuum tubes, which use different types of power ratings. The manufacturer's rated operating power would be more directly applicable to the restrictions on the maximum power rating for the transmitter. Therefore, § 73.42 is deleted, and the amended § 73.1665 will use the manufacturer's rating for determining the station equipment limitations. (See Appendix A, items 12 and 26.)

(h) The AM, FM and NCE–FM Subparts of Part 73 contain the rule titled "Equipment performance measurements." (Sections 73.47, 73.254 and 73.554 respectively.) These rules describe the measurements which must be made when a licensee installs a new transmitter in a new station, installs a new transmitter in an existing station, or makes certain modifications in an existing transmitter. The measurments are made to determine if the station meets the minimum standards of signal quality and is not radiating spurious signals that could interfere with the service of other stations.

The TV equipment performance measurement requirements are similar to the radio requirements. However, the TV requirements are not included in a rule in Subpart E, but are only given in FCC Forms 302 and 341 (the forms used to apply for a license to cover construction of a new station or modification of an existing one). Through previous Reregulation Orders, many of the application filing requirements (including those in Forms 302 and 341) have been deleted. When replacing or modifying transmitting equipment, licensees need only keep a record of the modifications and equipment performance measurements. And notification to the FCC is now only required when certain equipment descriptions on the station license require revision.

With this Order, the three separate radio rules plus the TV equipment measurement procedures (found in Forms 302 and 341) are combined into a single rule and placed in Subpart H as Section 73.1590, Equipment performance measurements. The separate radio rules will be deleted from Subparts A, B and C. No changes are being made in either the existing measurement requirements or procedures. (See Appendix A, items 15, 16, 18 and 25.)

(i) The rules pertaining to restrictions and procedures for making changes in licensed transmission facilities are printed in the separate Subparts for AM, FM, NCE–FM and TV. (Sections 73.43, 73.257, 73.557 and 73.639 respectively.) These separate rules are essentially the same. In this Order, the separate rules are combined into one rule applicable to all broadcast services. The new rule will be entered into Subpart H as § 73.1690, Modification of transmission system. The new rule will make provision for certain differences which exist between the services. The separate rule sections in Subparts A, B, C and E will be deleted. (See Appendix A, items 13, 17, 19, 20 and 27.)

(j) The Part 73 Alphabetical Index is revised to reflect the rule changes described herein.

2. No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public.

3. We conclude that, for the reasons set forth above, adoption of these revisions will serve the public interest, and inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rulemaking, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B).

4. Inasmuch as a general notice of proposed rulemaking is not required, the Regulatory Flexibility Act does not apply.

5. Therefore, it is ordered, That pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, the Commission's Rules and regulations are amended as set forth in the attached Appendix, effective February 19, 1982.

6. For further information on this Order, contact Steve Crane, John Reiser or Philip Cross, Broadcast Bureau, (202) 632–9660.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

PART 73—RADIO BROADCAST SERVICES

1. The following separate listing of cross references will be added to Part 73 following the "Table of Contents—Part 73" and preceding "ALPHABETICAL INDEX—PART 73."

Cross References—Part 73

The following cross references will indicate certain rule sections in Part 73 which have been relocated to a new rule section as a result of the restructuring and reformatting of Parts 73 and 74.

From	To
Sec.	Sec.
73.6 Daytime.	73.1720.
73.9 Broadcast transmitters.	73.1700.
73.12 Portable transmitters.	73.1530.
73.15 NARBA and the U.S. Mexican agreement.	73.1650.
73.17 Cross reference to rules in other parts.	73.1010.
73.18 Notification of filing of applications.	73.1030.
73.23 Time of operation of the several classes of stations.	73.1705.
73.30 Station location and program origination.	73.1120, 73.1125, and 73.1130.
73.31 Authority to move main studio.	73.1125.
73.32 Special experimental authorizations.	73.1510 and 73.1520.
73.34 Normal license period.	73.1020.
73.36 Special field test authorization.	73.1515.
73.38 Limited time operation.	73.1725.
73.39 Indicating instruments—specifications.	73.1215.
73.41 Maximum rated carrier power; tolerances.	73.1665.
73.42 Maximum rated carrier power; how determined.	73.1665.
73.43 Modification of transmission systems.	73.1690.
73.46 Standards of good engineering practice.	73.49.
73.47 Equipment performance measurements.	73.1590.
73.48 Acceptability of broadcast transmitters for licensing.	73.1660.
73.52 Operating power.	73.62 and 73.1560.
73.55 Modulation.	73.1570.
73.59 Frequency tolerance.	73.1545.
73.60 Frequency measurements.	73.1540.
73.63 Auxiliary transmitter.	73.1670.
73.64 Alternate main transmitter.	73.1665.
73.65 Antenna structure, marking and lighting.	73.1213.
73.70 Extension meters.	73.1550.
73.71 Minimum-operating schedule.	73.1740.
73.73 Specified hours.	73.1730.
73.74 Sharing time.	73.1715.
73.76 Sharing time; experimental period.	73.1715.
73.77 Sharing time; departure from regular schedule.	73.1715.
73.78 Sharing time stations; notification to Commission.	73.1715.
73.79 License to specify sunrise and sunset hours.	73.1730.
73.80 Secondary station; filing of operating schedule.	73.1725.
73.81 Secondary station; failure to reach agreement.	73.1725.
73.82 Departure from schedule; material violation.	73.1725.
73.83 References to time.	73.1209.
73.87 Times and modes of program transmission.	73.1745.
73.91 Discontinuance of operation.	73.1750.
73.92 Station and operator licenses; posting of.	73.1230.
73.95 Equipment tests.	73.1610.
73.96 Program tests.	73.1620.
73.97 Station inspection.	73.1225.
73.98 Operation during emergency.	73.1250.
73.111 General requirements relating to logs.	73.1800.
73.112 Program logs.	73.1810.
73.113 Operating logs.	73.1820.
73.114 Maintenance logs.	73.1830.
73.115 Retention of logs.	73.1840.
73.116 Availability of logs and records.	73.1225 and 73.1850.
73.117 Station identification.	73.1201.
73.119 Sponsorship identification.	73.1212.
73.120 Broadcasts by candidates for public office.	73.1940.
73.122 Lotteries.	73.1211.
73.123 Personal attacks; political editorials.	73.1910, 73.1920, and 73.1930.
73.124 Fraudulent billing practices.	73.1205.
73.125 Equal employment opportunities.	73.2080.
73.126 Broadcast of telephone conversations.	73.1206.
73.139 Special rules relating to contracts providing for reservation of time upon sale of a station.	73.1150.
73.204 International agreements and other restrictions on use of channels.	73.636 and 73.1660.
73.210 Station location, main studio location and program origination.	73.1120, 73.1125, and 73.1130.
73.214 Cross reference to rules in other parts.	73.1010.
73.215 Notification of filing of applications.	73.1030.
73.216 Equipment tests.	73.1610.
73.217 Program tests.	73.1620.
73.218 Normal license period.	73.1020.
73.231 Special rules relating to contracts providing for reservation of time upon sale of station.	73.1150.
73.250 Acceptability of broadcast transmitters for licensing.	73.1660.
73.252 Frequency measurements.	73.1540.
73.254 Equipment performance measurements.	73.1590.
73.255 Auxiliary transmitter.	73.1670.
73.256 Alternate main transmitters.	73.1665.
73.257 Modification of transmission systems.	73.1690.
73.261 Time of operation.	73.1705 and 73.1740.
73.262 Experimental operation.	73.1510 and 73.1520.
73.263 Station inspection.	73.1225.
73.264 Station and operator licenses; posting of.	73.1230.
73.268 Modulation.	73.1570.
73.269 Frequency tolerance.	73.1545.
73.270 Antenna structure, marking and lighting.	73.1213.
73.271 Discontinuance of operation.	73.1750.
73.273 Emergency antenna.	73.1680.
73.276 Extension meters.	73.1550.
73.278 Special field test authorization.	73.1515.
73.281 General requirements relating to logs.	73.1800.
73.282 Program logs.	73.1810.
73.283 Operating logs.	73.1820.
73.284 Maintenance logs.	73.1830.
73.285 Retention of logs.	73.1840.
73.286 Availability of logs and records.	73.1225 and 73.1850.
73.287 Station identification.	73.1201.
73.288 Fraudulent billing.	73.1205.
73.289 Sponsorship identification.	73.1212.
73.290 Broadcasts by candidates for public office.	73.1940.
73.291 Personal attacks; political editorials.	73.1910, 73.1920 and 73.1930.
73.292 Lotteries.	73.1211.
73.296 Broadcast of telephone conversations.	73.1206.
73.298 Operation during emergency.	73.1250.

From	To
73.299 Equal employment opportunities.	73.2080.
73.320 Indicating instruments—specifications.	73.1215.
73.514 Cross reference to rules in other parts.	73.1010.
73.515 Notification of filing of applications.	73.1000.
73.516 Equipment tests.	73.1610.
73.517 Program tests.	73.1620.
73.518 Normal license period.	73.1020.
73.531 Special rules relating to contracts providing for reservation of time upon sale of a station.	73.1150.
73.550 Acceptability of broadcast transmitters for licensing.	73.1660.
73.552 Frequency measurements.	73.1540.
73.554 Equipment performance measurements.	73.1590.
73.555 Auxiliary transmitter.	73.1670.
73.556 Alternate main transmitters.	73.1665.
73.557 Modification of transmission systems.	73.1690.
73.562 Experimental operation.	73.1510 and 73.1520.
73.563 Station inspection.	73.1225.
73.564 Station and operator licenses; posting of.	73.1230.
73.568 Modulation.	73.1570.
73.569 Frequency tolerance.	73.1545.
73.570 Antenna structure, marking and lighting.	73.1213.
73.571 Discontinuance of operation.	73.1750.
73.573 Emergency antennas.	73.1680.
73.576 Extension meters.	73.1550.
73.578 Special field test authorization.	73.1515.
73.581 General requirements relating to logs.	73.1800.
73.582 Program logs.	73.1810.
73.583 Operating logs.	73.1820.
73.584 Maintenance logs.	73.1830.
73.585 Retention of logs.	73.1840.
73.586 Availability of logs and records.	73.1225 and 73.1850.
73.587 Station identification.	73.1201.
73.590 Broadcasts by candidates for public office.	73.1940.
73.591 Personal attacks.	73.1910 and 73.1920.
73.592 Lotteries.	73.1211.
73.596 Broadcast of telephone conversations.	73.1206.
73.598 Operation during emergency.	73.1250.
73.599 Equal employment opportunities.	73.2080.
73.608 International agreements.	73.1650.
73.613 Main station location.	73.1120, 73.1125, and 73.1130.
73.623 Applications for sharing of television channels.	73.1715.
73.624 Notification of filing of applications.	73.1090.
73.627 Special field test authorization.	73.1515.
73.628 Equipment tests.	73.1610.
73.629 Program test.	73.1620.
73.630 Normal license period.	73.1020.
73.633 Fraudulent billing practices.	73.1205.
73.637 Alternate main transmitters.	73.1665.
73.638 Auxiliary transmitter.	73.1670.
73.639 Modification of transmission systems.	73.1690.
73.640 Acceptability of broadcast transmitters for licensing.	73.1660.
73.651 Time of operation.	73.1705 and 73.1740.
73.652 Station identification.	73.1201.
73.654 Sponsorship identification.	73.1212.
73.656 Lotteries.	73.1211.
73.657 Broadcasts by candidates for public office.	73.1940.
73.659 Special rules relating to contracts providing for reservation of time upon sale of a station.	73.1150.
73.660 Station and operator licenses; posting of.	73.1230.
73.662 Antenna structure, marking and lighting.	73.1213.
73.664 Broadcast of telephone conversations.	73.1206.
73.665 Station inspection.	73.1225.
73.666 Experimental operation.	73.1510 and 73.1520.
73.667 Discontinuance of operation.	73.1750.
73.668 Frequency tolerance.	73.1545.
73.669 General requirements relating to logs.	73.1800.
73.670 Program logs.	73.1810.
73.671 Operating logs.	73.1820.
73.672 Maintenance logs.	73.1830.
73.673 Retention of logs.	73.1840.
73.674 Availability of logs and records.	73.1225 and 73.1850.
73.675 Operation during emergency.	73.1250.
73.678 Extension meters.	73.1555.
73.679 Political attacks; political editorials.	73.1910, 73.1920, and 73.1930.
73.680 Equal employment opportunities.	73.2080.
73.690 Frequency measurements.	73.1540.

2. The following section numbers, titles and texts are removed in their entirety:

Sec.
73.2 AM broadcast band (definition).
73.3 AM broadcast channel (definition).
73.4 Dominant station.
73.5 Secondary station.
73.6 Daytime.
73.7 Nighttime.
73.8 Sunrise and sunset.
73.9 Broadcast day.
73.10 Experimental period (definition).
73.11 Service areas.
73.12 Portable transmitters.
73.13 Critical hours.
73.15 NARBA and the U.S./Mexican Agreement.
73.17 Cross reference to rules in other parts.
73.18 Notification of filing of applications.
73.23 Time of operation of the several classes of stations.
73.30 Station location and program origination.
73.31 Authority to move main studio.
73.32 Special experimental authorizations.
73.34 Normal license period.
73.36 Special field test authorization.
73.38 Limited time operation.
73.39 Indicating instruments—specifications.
73.40 Acceptability of broadcast transmitters for licensing.
73.52 Operating power.
73.55 Modulation.
73.59 Frequency tolerance.
73.60 Frequency measurements.
73.63 Auxiliary transmitter.
73.64 Alternate main transmitter.
73.65 Antenna structure, marking and lighting.
73.70 Extension meters.
73.71 Minimum operation schedule.
73.73 Specified hours.
73.74 Sharing time.
73.76 Sharing time; experimental period.
73.77 Sharing time; departure from regular schedule.
73.78 Sharing time stations; notification to Commission.
73.79 License to specify sunrise and sunset hours.
73.80 Secondary station; filing of operation schedule.
73.81 Secondary station; failure to reach agreement.
73.82 Departure from schedule; material violation.
73.83 References to time.
73.87 Times and modes of program transmission.
73.91 Discontinuance of operation.
73.92 Station and operator licenses; posting of.
73.95 Equipment tests.
73.98 Program tests.
73.97 Station inspection.
73.98 Operation during emergency.
73.111 General requirements relating to logs.
73.112 Program logs.
73.113 Operating logs.
73.114 Maintenance logs.
73.115 Retention of logs.
73.116 Availability of logs and records.
73.117 Station identification.
73.119 Sponsorship identification.
73.120 Broadcasts by candidates for public office.
73.122 Lotteries.
73.123 Personal attacks; political editorials.
73.124 Fraudulent billing practices.
73.125 Equal employment opportunities.
73.126 Broadcast of telephone conversations.
73.139 Special rules relating to contracts providing for reservation of time upon sale of a station.
73.204 International agreements and other restrictions on use of channels.
73.210 Station location, main studio location; and program origination.
73.214 Cross reference to rules in other parts.
73.215 Notification of filing of applications.
73.216 Equipment tests.
73.217 Program tests.
73.218 Normal license period.
73.231 Special rules relating to contracts providing for reservation of time upon sale of a station.
73.250 Acceptability of broadcast transmitters for licensing.
73.252 Frequency measurements.
73.255 Auxiliary transmitter.
73.256 Alternate main transmitters.
73.261 Time of operation.
73.262 Experimental operation.
73.263 Station inspection.
73.264 Station and operator licenses; posting of.
73.266 Operating power.
73.268 Modulation.
73.269 Frequency tolerance.
73.270 Antenna structure, marking and lighting.
73.271 Discontinuance of operation.
73.273 Emergency antenna.
73.276 Extension meters.
73.278 Special field test authorization.
73.281 General requirements relating to logs.
73.282 Program logs.
73.283 Operating logs.
73.284 Maintenance logs.
73.285 Retention of logs.
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3. In Part 73, Subpart A, the following undesignated headnotes, preceding the sections indicated in parenthesis, are removed: "Definitions" (§ 73.1); "Administrative Procedure" (§ 73.17); "Allocation of Facilities; Authorizations" (§ 73.21); "Equipment" (§ 73.39); "Technical Operation" (§ 73.51). "Operation" (§ 73.72); "Licensing Policies" (§ 73.132); "Data and Measurements" (§ 73.150); "AM Technical Standards" (§ 73.181).

4. § 73.1 is revised in its entirety to read as follows:

§ 73.1 Scope.

This subpart contains those rules which apply exclusively to the AM broadcast service and are in addition to those rules in Subpart H which are common to all AM, FM and TV broadcast services, commercial and noncommercial.

5. Section 73.14 is revised in its entirety to read as follows:

§ 73.14 AM broadcast definitions.

AM broadcast band: The band of frequencies extending from 535 to 1605 kHz.

AM broadcast channel: The band of frequencies occupied by the carrier and two sidebands of a broadcast signal with the carrier frequency at the center. Channels shall be designated by their assigned carrier frequencies. The 107 carrier frequencies assigned to AM broadcast stations begin at 540 kHz and are in successive steps of 10 kHz.

Note.—See § 73.21 for the classification of AM broadcast channels.

AM broadcast station: A broadcast station licensed for the dissemination of radio communications intended to be received by the public and operated on a channel in the band 535–1605 kilohertz (kHz). The term "AM broadcast" is synonymous with the term "standard broadcast" as may appear elsewhere in this Chapter.

Antenna current: The radio-frequency current in the antenna with no modulation.

Antenna input power: The product of the square of the antenna current and the antenna resistance at the point where the current is measured.

Antenna resistance: The total resistance of the transmitting antenna system at the operating frequency and at the point at which the antenna current is measured.

Blanketing: The interference which is caused by the presence of an AM broadcast signal of one volt per meter (V/m) or greater intensity in the area adjacent to the antenna of the transmitting station. The 1 V/m contour is referred to as the blanket contour and the area within this contour is referred to as the blanket area.

Carrier-amplitude regulation; (Carrier shift): The change in amplitude of the carrier wave in an amplitude-modulated transmitter when modulation is applied under conditions of symmetrical modulation.

Combined audio harmonics: The arithmetical sum of the amplitudes of all the separate harmonic components. Root sum square harmonic readings may be accepted under conditions prescribed by the FCC.

Critical hours: The two hour period immediately following local sunrise and the two hour period immediately preceding local sunset.

Daytime: The period of time between local sunrise and local sunset.

Dominant station: A Class I station, as defined in § 73.21.

Effective field; Effective field strength: The root-mean-square (RMS) value of the inverse distance fields at a distance of 1 mile from the antenna in all directions in the horizontal plane. The term "field strength" is synonymous with the term "field intensity" as contained elsewhere in this Part.

Equipment performance measurements: The measurements performed to determine the overall performance characteristics of a broadcast transmission system from point of program origination at main studio to sampling of signal as radiated. (See § 73.1590)

Experimental period: the time between 12 midnight local time and local sunrise, used by AM stations for tests, maintenance and experimentation.

Frequency departure: The amount of variation of a carrier frequency or center frequency from its assigned value.

Input power: Means the product of the direct voltage applied to the last radio stage and the total direct current flowing to the last radio stage, measured without modulation.

Intermittent service area: Means the area receiving service from the

groundwave of a broadcast station but beyond the primary service area and subject to some interference and fading.

Last radio stage: The radio-frequency power amplifier stage which supplies power to the antenna.

Maximum percentage of modulation: The greatest percentage of modulation that may be obtained by a transmitter without producing in its output harmonics of the modulating frequency in excess of those permitted by these regulations.

Maximum rated carrier power: The maximum power at which the transmitter can be operated satisfactorily and is determined by the design of the transmitter and the type and number of vacuum tubes or other amplifier devices used in the last radio stage.

Modulated stage: The radio-frequency stage to which the modulator is coupled and in which the continuous wave (carrier wave) is modulated in accordance with the system of modulation and the characteristics of the modulating wave.

Modulator stage: The last amplifier stage of the modulating wave which modulates a radio-frequency stage.

Nighttime: The period of time between local sunset and local sunrise.

Percentage modulation (amplitude)
In a positive direction:

$$M = \frac{MAX-C}{C} \times 100$$

In a negative direction:

$$M = \frac{C-MIN}{C} \times 100$$

Where:
M = Modulation level in percent.
MAX = Instantaneous maximum level of the modulated radio frequency envelope.
MIN = Instantaneous minimum level of the modulated radio frequency envelope.
C = (Carrier) level of radio frequency envelope without modulation.

Plate modulation: The modulation produced by introduction of the modulating wave into the plate circuit of any tube in which the carrier frequency wave is present.

Primary service area: Means the service area of a broadcast station in which the groundwave is not subject to objectionable interference or objectionable fading.

Proof of performance measurements or antenna proof of performance measurements: The measurements of field strengths made to determine the radiation pattern or characteristics of an AM directional antenna system.

Secondary service area: Means the service area of a broadcast station served by the skywave and not subject to objectionable interference and in which the signal is subject to intermittent variations in strength.

Secondary AM station: Any AM station, except a Class I station, operating on a Class I frequency.

Sunrise and sunset: For each particular location and during any particular month, the time of sunrise and sunset as specified in the instrument of authorization (See § 73.1209).

"White area": The area or population which does not receive interference-free primary service from an authorized AM station or does not receive a signal strength of at least 1 mV/m from an authorized FM station.

6. Section § 73.40 is revised in its entirety and retitled as follows:

§ 73.40 AM transmission system performance requirements.

(a) The design, installation, and operation of an AM broadcast transmission system between a common audio input amplifier at the studio to the transmitting antenna terminals must meet the following specifications:

(1) Except when due to equipment failures or other conditions beyond the licensee's control, the transmitter must be capable of operating at the authorized power for each mode of operation, with a modulation level of not less than 85%.

(2) The total audio frequency distortion from terminals to antenna output does not exceed 5% harmonics (voltage measurements of arithmetical sum or r.s.s.) when modulated from 0 to 84% and not over 7.5% harmonics (voltage measurements of arithmetical sum or r.s.s.) when modulating 85% to 95% (distortion shall be measured with modulating frequencies of 50, 100, 400, 1000, 5000 and 7500 Hz up to tenth harmonic or 16,000 Hz, or any intermediate frequency that readings on these frequencies indicate is desirable).

(3) The audio frequency transmitting characteristics of the equipment from the common program input amplifier to the antenna output does not depart more than 2 dB from that at 1000 Hz between 50 and 7500 Hz.

(4) The carrier-amplitude regulation (carrier shift) at any percentage of modulation does not exceed 5%.

(5) The carrier hum and extraneous noise level, unweighted r.s.s. over the frequency band 30 to 20,000 Hz is at least 45 dB below the level of a sinusoidal tone of 400 Hz, producing 100% modulation of the carrier.

7. New § 73.44 is added to Subpart A, Part 73 to read as follows:

§ 73.44 AM transmission system emission limitations.

(a) Stations using main transmitters type accepted after January 1, 1960 must meet the following emission limitations.

(1) Any emission appearing on a frequency removed from the carrier by between 15 kHz and 30 kHz inclusive, must be attenuated at least 25 dB below the level of the unmodulated carrier. Compliance with the specification will be deemed to show the occupied bandwidth to be no greater than 30 kHz.

(2) Any emission appearing on a frequency removed from the carrier by more than 30 kHz up to and including 75 kHz must be attenuated at least 35 dB below the level of the unmodulated carrier.

(3) Any emission appearing on a frequency removed from the carrier by more than 75 kHz must be attenuated at least $43 + 10 \log_{10}$ (Power in watts) dB below the level of the unmodulated carrier, or 80 dB, whichever is the lesser attenuation.

(b) Stations using main transmitters installed or type accepted before January 1, 1960, must achieve the highest degree of compliance with the limitations specified in paragraph (a) of this section practicable with the equipment in use as of that date.

(c) Should harmful interference be caused to the reception of other broadcast or non-broadcast stations by out of band emissions, the licensee may be directed to achieve a greater degree of attentuation than specified in paragraphs (a) and (b) of this section.

(d) Measurements to determine compliance with this Section for transmitter type acceptance are to be made using signals sampled at the output terminals of the transmitter when operating into an artificial antenna of substantially zero reactance. Measurements made of the emissions of an operating station are to be made at ground level approximately 1 kilometer from the center of the antenna system. When a directional antenna is used, the carrier frequency reference field strength to be used in order of preference shall be:

(1) The measure non-directional field strength.

(2) The RMS field strength determined from the measured directional radiation pattern.

(3) The calculated expected field strength that would be radiated by a non-directional antenna at the station authorized power.

8. In § 73.45, the headnote is revised, and new paragraphs (a)(1) and (a)(2) are added to read as follows:

§ 73.45 AM antenna systems.

(a) * * *

(1) An application for authority to install an AM broadcast antenna must specify a definite site and include full details of the antenna system design and expected performance.

(2) All data necessary to show compliance with the terms and conditions of the construction permit must be filed with the application for the station license to cover the construction. If the station has constructed a directional antenna, a directional proof of performance must be filed. See §§ 73.150–73.157.

* * * * *

9. Section 73.46 is redesignated as § 73.49. As redesignated, § 73.49 is revised to read as follows:

§ 73.49 AM transmission system installation and safety requirements.

(a) The installation of the transmission system must be such that station personnel are not exposed to shock or burn hazards during their operating and maintenance duties. The following applies to all stations:

(1) Means must be provided for making all tuning adjustments, requiring voltages in excess of 350 volts to be applied to the circuit, from the front of the panels with all access doors closed.

(2) Proper bleeder resistors or other automatic means must be installed across all the condenser banks to remove any charge which may remain after the high voltage circuit is opened.

(3) All high voltage equipment, including transformers, filters, rectifiers and motor generators, must be protected so as to prevent injury to operating personnel.

(4) Commutator guards must be provided on all high voltage rotating machinery.

(5) The antenna ammeters (both regular and remote) and any other radio frequency instrument which it is necessary for the operator to read must be so installed as to be easily and accurately read without the operator having to risk contact with circuits carrying high potential radio frequency energy.

(6) Radio frequency power coupling, dividing and phasing networks must be installed with protective cabinets or enclosures which are locked or provided with safety interlocks, or so located or screened as not to be a hazard to operating personnel. Antenna coupling network cabinets located entirely within a locked enclosure around an antenna base, need not have a separate lock or interlock.

(7) The antenna lead-in, transmission line and counterpoise (when used) shall be installed so as not to present a hazard.

(8) Antenna towers having radio frequency potential at the base (series fed, folded unipole, and insulated base antennas) must be enclosed within effective locked fences or other enclosures. Keys to the antenna base fences, tuning houses and protective cabinet locks must be available at the transmitter site at all times, and safe access shall be provided to each antenna tower base for meter reading and maintenance purposes. Metal fencing and metal conduit and exposed nearby wiring must be effectively grounded, either directly or through bypass or static drain devices.

10. Sections 73.47, 73.254, and 73.554 are redesignated as § 73.1590. As redesignated, § 73.1590 is revised to read as follows:

§ 73.1590 Equipment performance measurements.

(a) The licensee of each AM, FM and TV station, except licensees of Class D non-commercial educational FM stations authorized to operate with 10 watts or less output power, must make equipment performance measurements for each main transmitter as follows:

(1) Upon initial installation of a main new or replacement transmitter.

(2) Upon modification of an existing transmitter made under the provisions of § 73.1690, Modification of transmission systems, and specified therein.

(3) Installation of FM stereophonic transmission equipment pursuant to §§ 73.297 or 73.597.

(4) When required by other provisions of the rules or the station license.

(5) AM and FM stations (except 10 watt non-commercial educational stations), once each calendar year. (One set of measurements must be made during the 4 month period immediately preceding the filing date of the application for renewal of the station license. Successive measurements are to be made at least annually by the anniversary calendar month, and completed within an additional 2 months, with no more than 14 months between measurements.)

(b) *Audio measurements.* Audio equipment performance measurements must be made with the equipment adjusted for normal program operation and must include all circuits between the main studio microphone terminals or amplifier input and the antenna circuit, including any correcting equalizer circuits normally used. Any dynamic audio processing or non-correcting equalizers must be disabled or neutralized. The measurements must yield the following information:

(1) *AM stations.*

(i) Data and curves showing overall audio frequency response from 50 to 5000 Hz for approximately 25, 50, 85 and if obtainable, 100% modulation. A family of curves must be plotted (one for each percentage above) with dB above and below the 1000 Hz reference frequency as ordinate and audio frequency as abscissa.

(ii) Data and curves showing audio frequency harmonic content for 25, 50, 85 and, if obtainable, 100% modulation for the audio frequencies of 50, 100, 400, 1000, 5000, and 7500 Hz (either arithmetical or RRS (root sum square) values up to the 10th harmonic or 16,000 Hz). A family of curves must be plotted (one for each percentage above) with percent distortion as ordinate and audio frequency as abscissa.

(iii) Data showing percentage of carrier amplitude regulation (carrier shift) for 25, 50, 85 and, if obtainable, 100% modulation with 400 Hz tone.

(iv) The carrier hum and extraneous noise level generated within the equipment, and measured throughout the audio spectrum, or bands, in dB below the reference level of 100% modulation by a 400 Hz tone.

(v) Measurements or evidence showing that spurious radiations, including radio frequency harmonics, are suppressed or are not present to a degree capable of causing objectionable interference to other radio services. Field strength measurements are preferred but observations made with a communications type receiver are acceptable. However, in particular cases involving interference or controversy, the FCC may require field strength measurements.

(2) *FM and TV (aural).*

(i) Audio frequency response from 50 to 15,000 Hz for approximately 25, 50 and 100% modulation. Measurements must be made using at least 50, 100, 400, 1,000, 5,000, 10,000 and 15,000 Hz tones. The frequency response measurements made without deemphasis are preferable; however, standard 75 microsecond deemphasis may be used in the measuring equipment provided the accuracy of the deemphasis circuit is sufficient to insure that the measured response is within the prescribed limits.

(ii) Audio frequency harmonic distortion for 25, 50, 100% modulation for the audio frequencies of 50, 100, 400, 1000, and 5000 Hz and audio frequency harmonics for 100% modulation for audio frequencies of 10,000 and 15,000 Hz. Measurements must normally include harmonics to 30,000 Hz. The

distortion measurements must be made with 75 microsecond deemphasis in the measuring equipment.

(iii) Output noise level (frequency modulation) in the band of 50 to 15,000 Hz in dB below the reference level of 100% modulation by a 400 Hz tone. The noise measurement must be made using 75 microsecond deemphasis in the measuring equipment.

(iv) Output noise level (amplitude modulation) in the band of 50 to 15,000 Hz in dB below the reference of 100% modulation by a 400 Hz tone. The noise measurement must be made using 75 microsecond deemphasis in the measuring equipment.

(v) If, after type acceptance, any changes have been made in the transmitter or associated equipment (filters, multiplexers, etc.) which could cause changes in its radiation product, data showing attenuation of spurious and harmonic radiation.

(c) *TV visual.* TV visual equipment performance measurements must be made with the equipment adjusted for normal program operation. When practical, the measurements should be made through the video transmission system from the studio program terminal to the transmitting antenna sampling port. The measurements must yield the following information:

(1) Overall attenuation versus frequency response for the visual transmitter.

(2) Field strength or voltage of the lower side-band for a modulating frequency of 1.25 MHz or greater, (including 3.58 MHz for color), and of the upper side-band for a modulating frequency of 4.75 MHz or greater.

(3) Data showing that the waveform of the transmitted signal conforms to that specified by the standards for TV transmissions.

(4) Photographs of a test pattern taken from a receiver or monitor connected to the transmitter output.

(5) Data showing envelope delay characteristics of the radiated signal.

(6) Data showing the transfer characteristics between reference black and reference white levels.

(7) If, after type acceptance, any changes have been made in the transmitter or associated equipment (filters, multiplexer, etc.) which could cause changes in its radiation products, data showing the attenuation of spurious and harmonic radiation.

(d) The data required by paragraphs (b) and (c) of this Section, together with a description of the equipment and procedure used in making the measurements, signed and dated by the qualified person(s) making the measurements, must be kept on file at the transmitter or remote control point for a period of 2 years, and on request must be made available during that time to duly authorized representatives of the FCC.

11. Sections 73.41 and 73.42 are redesignated into existing § 73.1665. As redesignated, § 73.1665, paragraph (a) is revised, existing paragraph (b) is redesignated as paragraph (c) and new paragraph (b) is added to read as follows:

§ 73.1665 Main transmitters.

(a) Each broadcast station must have at least one main transmitter which complies with the provisions of the transmitter technical requirements for the type and class of station. A main transmitter is one which is used for regular program service having power ratings appropriate for the authorized operating power(s).

(b) There is no maximum power rating limit for FM or TV station transmitters, however, the maximum rated transmitter power of a main transmitter installed at an AM station shall be as follows:

Authorized power	Maximum rated transmitter power (kW)
0.25, 0.5, or 1 kW	1
2.5 kW	5
5 or 10 kW	10
25 or 50 kW	50

* * * * *

12. Sections 73.43, 73.257, 73.557, and 73.639 are redesignated as 73.1690. As redesignated, § 73.1690 is revised as follows:

§ 73.1690 Modification of transmission systems.

The following procedures and restrictions apply to licensee modifications of authorized broadcast transmission system facilities.

(a) The following changes are prohibited:

(1) Those that would result in the emission of signals outside of the authorized channel exceeding limits prescribed for the class of service.

(2) Those that would cause the transmission system to exceed the equipment performance measurements prescribed for the class of service, (AM, § 73.44; FM, §§ 73.317, 73.319, and 73.322; TV, §§ 73.682 and 73.687).

(b) The following changes may be made only upon specific authority of the FCC. Applications requesting authorization must be filed on FCC Form 301 for commercial stations and on FCC Form 340 for noncommercial educational stations.

(1) Installation of a main transmitter which is not included on the FCC's "Radio Equipment List" as type accepted for broadcast use.

(2) Modification of an existing main transmitter which would affect its power rating, basic tube or semiconductor line up, frequency multiplication, or basic modulator circuits, except as permitted in paragraph (e) below.

(3) Any change in the location, overall height of antenna structure, or directional radiation characteristics of a directional antenna system. (See § 73.45 and § 73.150, AM; § 73.316, FM; § 73.510, noncommercial educational FM; or § 73.685, TV.)

(4) Change in the operating power of the stations.

(5) Change in location of the main studio to a location outside the station's principal community of license, except as provided for in § 73.1125.

(c) The following FM and TV station modifications may be made and operation commenced without prior authorization from the FCC, provided that the modifications would not possibly affect the operation of any co-located or nearby AM station. An application for license modification filed on FCC Form 302 (FCC Form 341 for noncommercial educational stations) must be filed within 10 days following completion of the changes. Equipment performance measurements are not required for applications covering changes described in (c) (1) and (2) of this section.

(1) Replacement of a non-directional antenna with one of the same or different type or number of bays, provided that the height above ground of the center of radiation is within ±2 meters of that specified in the station authorization, there is no change in the horizontal effective radiated power, and there is no increase in the radiation at any angle below the horizon in any direction.

(2) Installation of a transmission line with one of a different type or length which requires change in the transmitter output power to maintain the licensed effective radiated power.

(3) Installation of harmonic filters, sideband filters or diplexers of a different type which requires a change in the transmitter output power to maintain the licensed effective radiated power.

(d) The following changes may be made without authorization from the FCC, however informal notification of the changes must be made according to the rule sections specified:

(1) Change in studio location within the community of license. See § 73.1125.

(2) Commencement of remote control operation by all stations except AM stations using directional antenna systems, or the change or addition of remote control points. See § 73.3548.

(3) Modification of an AM directional antenna sampling system. See § 73.68.

(e) The following changes in the transmission system equipment may be made without prior authorization from or notification to the FCC. Equipment performance measurements must be made within 10 days after completing the modifications for items (1), (3), and (4).

(1) Installation of a new transmitter which is included on the FCC's "Radio equipment list" as type accepted for broadcast use.

(2) Replacement of the carrier frequency generator of the transmitter with one of a different type that has been demonstrated to the FCC to be compatible with the transmitter in use.

(3) Replacement of the modulator exciter unit of the FM or TV aural transmitter with one that has been acceptable for broadcast service through the FCC's type acceptance procedures and that has been demonstrated compatible with the transmitter in use.

(4) Installation or replacement of an FM stereophonic generator of the transmitter with one that has been demonstrated to the FCC to be compatible with the transmitter in use.

13. The alphabetical Index appearing at the beginning of Part 73 is revised to read as follows:

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Proposed Rules

Federal Register
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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 81–ASW–68]

Proposed Alteration of Transition Area; Leeville, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes the alteration of a transition area at Leeville, LA. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing new instrument approach procedure to the Caillou Island Seaplane Base. This action is necessary since new instrument operations will be conducted arriving/departing the seaplane base. The standard instrument approach procedure (SIAP) will utilize the Leeville VORTAC. Coincident with this action, the seaplane base is changed from visual flight rules (VFR) to instrument flight rules (IFR).

DATE: Comments must be received on or before March 31, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW–535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 624–4911, extention 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G, § 71.181 as republished in the **Federal Register** on January 2, 1981 (46 FR 540), contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the transition area at Leeville, LA,[1] will necessitate an amendment to this subpart. This amendment will be required at Leeville, LA, since there are proposed IFR procedures to the Caillou Island Seaplane Base.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 81–ASW–68." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 624–4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding the following:

Leeville, LA

* * * and within a 5-mile radius of the Caillou Island Seaplane Base (latitude 29°06'20" N., longitude 90°28'40" W.) and within 2.5 miles each side of the 258° radial of the Leeville VORTAC extending from the 5-mile radius area to 10 miles west of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 1103; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) it is certified that at promulgation, will not have significant effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on December 21, 1981.

F. E. Whitfield,
Acting Director, Southwest Region.

[FR Doc. 82-5191 Filed 2-26-82; 8:45 am]
BILLING CODE 4910-13-M

[1] A map is filed as apart of the original document.

14 CFR Part 75

[Airspace Docket No. 81-ANW-11]

Establishment of Jet Routes and Area High Routes; Alteration of Jet Routes—Revocation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This action withdraws a proposal published in the Federal Register on August 20, 1981 (46 FR 42283) to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75). The proposed amendment would have extended J-517 from Boise, ID, to Hayden, CO. After analysis of additional information, FAA determined that the proposed amendment does not satisfy current operational requirements.

EFFECTIVE DATE: March 1, 1982.

FOR FURTHER INFORMATION CONTACT:
Lewis Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

Withdrawal of the Proposal

Pursuant to the authority delegated to me, effective March 1, 1982 the proposal to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as described in Airspace Docket No. 81-ANW-11 and published in the Federal Register on August 20, 1981 (46 FR 42283) is hereby withdrawn.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this withdrawal of proposed rulemaking only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.

Issued in Washington, D.C., on February 2, 1982.

B. Keith Potts,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-5102 Filed 2-26-82; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 271, 273 and 274

[Docket No. RM82-8]

High-Cost Natural Gas Produced From Intermediate Deep Drilling; Reschedule a Public Hearing and to Permit Reply Comments

February 24, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of reschedule a public hearing and to permit reply comments.

SUMMARY: On December 30, 1981, the Federal Energy Regulatory Commission issued a Notice of Proposed Rulemaking in Docket No. RM82-8—High Cost Natural Gas Produced from Intermediate Deep Drilling. A public hearing concerning this proposal was originally scheduled for Tuesday, March 2, 1982. The public hearing will be rescheduled for Tuesday, April 6, 1982, beginning at 10 a.m. The commission will accept reply comments submitted in response to initial comments filed in this rulemaking no later than May 6, 1982.

DATES: The public hearing will be held on Tuesday, April 6, 1982. Requests to participate and the amount of time requested should be directed to the Secretary no later than March 29, 1982. Reply comments should be submitted to the Secretary no later than May 6, 1982.

ADDRESSES: The hearing will be held at: Hearing Room A, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

Request to participate and questions regarding participation should be directed: The Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

Reply comments should be submitted to: The Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:
Michael A. Stosser, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION: On December 30, 1981, pursuant to section 107 of the Natural Gas Policy Act of 1978 (NGPA), (15 U.S.C. 3317), the Commission issued a Notice of Proposed Rulemaking (47 FR 638, January 6, 1982) for an informal rulemaking procedure in Docket No. RM82-8.

The Notice proposes to identify as a category of high-cost natural gas, gas produced from depths between 10,000 and 15,000 feet. The Commission proposes to provide an incentive price ceiling of 150 percent of the NGPA section 103 price in order to encourage production from those depths.

Public Hearing

The Commission has received requests to postpone the public hearing to permit interested persons the opportunity to review the written comments filed in this proceeding prior to making oral presentations. In this way, interested parties would be able to respond to the written comments filed by March 15, 1982, at the public hearing. Pursuant to these requests, the Commission is rescheduling the public hearing to be held after March 15, 1982, the date the first set of written comments must be filed with the Commission.

The hearing will be held on Tuesday, April 6, 1982, at 10 a.m. at the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, Hearing Room A.

The hearing will not be of a judicial or evidentiary type. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearing. Transcripts of the hearing will be available in the public file for this proceeding, Docket No. RM82-8, in the Commission's Officer of Public Information, and may be ordered from that office.

Requests to participate in the hearing should be submitted by March 29, 1982, to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Requests should indicate the amount of time required for the oral presentation. Persons participating at the hearing should, if possible, bring 50 copies of their testimony to the hearing. A list of the participants in the hearing will be available in the Commission's Office of Public Information and at Hearing Room A on the morning the hearing is convened.

Reply Comments

The Commission has received a request to establish in this rulemaking proceeding a two-phase comment procedure whereby interested persons would have the opportunity to respond to initial comments filed. The Commission has considered this request and has agreed to permit interested persons to submit reply comments.

Initial comments are due on or before March 15, 1982, as established by Notice issued on January 22, 1982 [47 FR 4535, February 1, 1982].

Reply comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before May 6, 1982, and should give reasons including any supporting data for any recommendations. Reply comments should also indicate the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written reply comments will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426.

In order to facilitate replies, one week after the termination of initial comment period, the Commission will permit the sale to the public of bound copies of initial comments filed in this rulemaking proceeding. Interested persons may purchase these comments at the Federal Energy Regulatory Commission, the Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-5405 Filed 2-26-82; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7 82-03]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway (AIWW), Palm Beach County, Fla.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Village of North Palm Beach, the Coast Guard is considering changing the regulations governing the operation of the Parker Bridge across the Atlantic Intracoastal Waterway; mile 1013.7, North Palm Beach County, Florida, by permitting the number of openings to be limited on Saturdays, Sundays and legal holidays from April 16 through November 14 during peak traffic hours. The draw of the bridge presently opens on signal during this time frame.

DATE: Comments must be received on or before April 15, 1982.

ADDRESS: Comments should be submitted and are available for examination and copying from 7:30 a.m. to 4 p.m., Monday through Friday at the office of the Commander (oan), Seventh Coast Guard District, 51 S.W. 1st Avenue, Miami, Florida 33130.

FOR FURTHER INFORMATION CONTACT:
James R. Kretschmer, Bridge Administrator, Bridge Section (oan), Room 1006, Federal Building, 51 Southwest First Avenue, Miami, Florida 33130, telephone (305) 350-4108.

SUPPLEMENTARY INFORMATION:
Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped self-addressed envelope or post card.

The Commander, Seventh Coast Guard District, will evaluate all communications received and determine a course of final action on the proposal. The proposed regulations may be changed in the light of comments received.

Drafting Information

The principal persons involved in drafting this proposal are: James Davis, Bridge Administration Specialist, Office of Aids to Navigation, Bridge Section and Lieutenant William J. Petersen, Office of Commander, Seventh Coast Guard District, Legal Office.

Discussion of the Proposed Regulations

The additional restrictions are being considered to relieve increased vehicular traffic on Saturdays, Sundays and legal holidays on the Parker Bridge. This change would allow limited openings and provide a more even flow of vehicular traffic from 9 a.m. to 5 p.m. This action may accommodate the needs of vehicular traffic and may provide for the reasonable needs of navigation.

Regulatory Evaluation

The proposed regulation has been reviewed under the provisions of E.O. 12291 and has been determined not to be a major rule. In addition, the proposed regulation is considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (Department of Transportation Order 2100.5 of 22 May 1980). An economic evaluation has not been conducted since, for the reasons discussed above, the impact is expected to be minimal. In accordance with 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this rule, (if promulgated), will not have a significant economic impact on a substantial number of small entities.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.436c(b) and (c) to read as follows:

§ 117.436c AIWW, mile 1,013.7, Parker Bridge, U.S. 1, North Palm Beach, Florida.

* * * * * *

(b) The draw shall open on signal except that from April 16 through November 14 from 9 a.m. to 5 p.m. the draw need open only on the hour, 20 minutes after the hour, and 40 minutes after the hour on Saturdays, Sundays and legal holidays.

(c) The draw shall open at any time for the passage of public vessels of the United States, tugs with tows, cruise boats operated on a regular schedule, or vessels in distress. The opening signal from these vessels is four blasts of a whistle, horn, or by shouting.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937 (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(g)(3))

Dated: February 5, 1982.

B. L. Stabile,
Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 82-5439 Filed 2-26-82; 8:45 am]
BILLING CODE 4910-14-M

33 CFR 117

[CGD2 81-04]

Illinois Waterway, Illinois; Bridges (Highway and Railroad) at Pekin, Peoria, and Joliet, Ill.; Drawbridge Operation Regulations

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: At the request of the City of Joliet, Illinois, and with the concurrence

of the bridge owner, Illinois Department of Transportation, the Coast Guard is considering changing the regulations governing the operation of five drawbridges across the Illinois Waterway at Joliet, Illinois. The proposed changer would provide for an adjustment in the times that the bridges need not open for the passage of vessels and for a means of requesting the opening of the bridges by radiotelephone without sounding signals. The intended effect of this action is to relieve vehicular traffic congestion during peak morning and evening traffic hours, and to eliminate unnecessary noise emissions while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before April 15, 1982.

ADDRESS: Comments should be submitted to and are available for examination from 7:45 a.m. to 4:15 p.m., Monday through Friday, at the Office of the Commander (obr), Second Coast Guard District, 1430 Olive Street, St. Louis, Missouri 63103.

FOR FURTHER INFORMATION CONTACT:
S. W. Thoroughman, Chief, Bridge Branch, Room 400, 1430 Olive Street, St. Louis, MO 63103 (314) 425–4607.

SUPPLEMENTARY INFORMATION:

Comments

Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments to the office listed under "addresses" in this paragraph. Persons submitting comments should include their name and address, identify this Notice (CGD2 81–04) or the bridge, and give reasons for concurrence with or any recommended change in the proposal. Receipt of comments will be acknowledge if a stamped self-addressed postcard or envelope is enclosed. The Commander, Second Coast Guard District, will evaluate all communications received before final action is taken on this proposal. The proposed regulations may be changed in the light of comments received. No public hearing is planned but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this proposal are: S. W. Thoroughman, Project Manager, and LCDR R. A. KNEE, USCG, Project Attorney, c/o Commander, Second Coast Guard District, 1430 Olive Street, St. Louis, Missouri.

Discussion of the Proposed Regulation

The current regulation provides that the draws of the bridges at McDonough Street, Mile 287.3; Jefferson Street, Mile 287.9; Cass Street, Mile 288.1; Jackson Street, Mile 288.4; and Ruby Street, Mile 288.7 will not be required to open from 7:30 a.m. to 8 a.m. and 4:30 p.m. and 5:30 p.m. except on Sundays. Analysis of vehicular traffic flow by the City of Joliet, Illinois, indicates that an adjustment of these times by expanding the morning time period an additional half hour and adjusting the afternoon hour-long time period to begin and end 15 minutes earlier would improve traffic flow by alleviating vehicular congestion. Bridge operations were conducted on a trial basis in accordance with the proposed adjusted times during the period from 1 August 1981 to 1 October 1981. No objections or complaints were received. The Illinois Department of Transportation owns all five vehicular bridges in Joliet. There is a radiotelephone communication station at the Ruby Street bridge, the first bridge approached heading southbound, and the McDonough Street bridge, the first bridge approached heading northbound. The bridges are connected by telephone communications. The proposed regulation would allow an approaching vessel to contact the appropriate bridge tender by radiotelephone and establish acknowledgment for the opening of all five bridges. Upon receiving acknowledgment that the bridges would be open, sound signals would be unnecessary.

Presently 117.605(a) contains a list of bridges located in Pekin, Peoria and Joliet. Section 117.605(b) was removed and reserved by an amendment to 33 CFR Part 117, published at 46 FR 58665, dated December 3, 1981. The proposed change will have the effect of cancelling present paragraph (a). Section 117.605(c) will be revised and published as 117.605(a). The note applicable in paragraph (c) is unnecessary and will be removed. Section 117.605(b) will be a new provision allowing communication by radiotelephone in lieu of sound signals for the five listed bridges in Joliet.

These proposed amendments are seen to have an insignificant economic impact. Although no formal economic impact analysis has been conducted, it is expected that such impact, if any, will be positive. The economic impact of increased vehicular traffic flow during rush hours in Joliet would appear to be beneficial and outweigh the impact on the towing industry of an additional one half hour closure per day of the Illinois Waterway for transit through the city. The installation of radiotelephone stations by the bridge owner was voluntary and not attributable to this proposal. The elimination of the sound signal requirement for the bridges in Joliet will have a negligible impact.

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Proposed Regulation

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, it is proposed that Part 117 of Title 23 of the Code of Federal Regulations be amended by revising § 117.605 to read as follows:

§ 117.605 Illinois Waterway, Illinois; bridges (highway and railroad) at Pekin, Peoria, and Joliet, Illinois.

(a) The draws of bridges across the Illinois Waterway at Joliet, Illinois, shall open on signal. However, from 7:30 a.m. to 8:30 a.m. and 4:15 p.m. to 5:15 p.m., Monday through Saturday, the below listed draws need not open for the passage of vessels:

McDonough Street, Mile 287.3
Jefferson Street, Mile 287.9
Cass Street, Mile 288.1
Jackson Street, Mile 288.4
Ruby Street, Mile 288.7

(b) Requests by radiotelephone for opening any or all of the draws for the bridges listed in paragraph (a) may be made with the draw tender for the McDonough Street or Ruby Street bridges. When requests for draw opening and answering acknowledgements have been given by radiotelephone, sound signals shall not be required.

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(g)(3))

Dated: December 22, 1981.

T. H. Rutledge,
Acting District Commander, 2nd Coast Guard District.

[FR Doc. 82-5429 Filed 2-26-82; 8:45 am]
BILLING CODE 4910-14-M

33 CFR Part 117

[CGD7 82-04]

Drawbridge Operation Regulations; Hillsborough River, Tampa, Florida

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the City of Tampa, the Coast Guard is considering amending the regulations governing the operation of the drawbridges across the Hillsborough River at Platt Street, Brorein Street, Kennedy Boulevard, Cass Street and Laurel Street to require at least two hours notice from 4 p.m. to 9 a.m. Monday through Friday and 6 p.m. to 8 a.m. Saturdays, Sunday, and legal holidays. This change is being considered because of limited passage of vessels during these periods.

DATE: Comments must be received on or before April 15, 1982.

ADDRESS: Comments should be submitted and are available for examination and copying from 7:30 a.m. to p.m., Monday through Friday at the office of the Commander (oan), Seventh Coast Guard District, 51 S. W. 1st Avenue, Miami, Florida 33130.

FOR FURTHER INFORMATION CONTACT:
James R. Kretschmer, Bridge Administrator, Bridge Section (oan), Room 1006, Federal Building, 51 Southwest First Avenue, Miami, Florida 33130, telephone (305) 350–4106.

SUPPLEMENTARY INFORMATION:
Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped self-addressed envelope or post card.

The Commander, Seventh Coast Guard District, will evaluate all communications received and determine a course of final action on the proposal. The proposed regulations may be changed in the light of comments received.

Drafting Information

The principal persons involved in drafting this proposal are: James Davis, Bridge Administration Specialist, Office of Aids to Navigation, Bridge Section and Lieutenant William J. Petersen, Office of Commander, Seventh Coast Guard District, Legal Office.

Discussion of the Proposed Regulations

This amendment would revise the regulations governing the operation of five drawbridges across the Hillsborough River in Tampa, Florida, by requiring at least two hours notice from 4 p.m. to 9 a.m. Monday through Friday and 6 p.m. to 8 a.m., Saturdays, Sundays and legal holidays. Limited passage of vessels during these periods is the reason this proposal is being considered. This action may accommodate the needs of vehicular traffic and may still provide for the reasonable needs of navigation.

Regulatory Evaluation

The proposed regulation has been reviewed under the provisions of E.O. 12291 and has been determined not to be a major rule. In addition, the proposed regulation is considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (Department of Transportation Order 2100.5 of 22 May 1980). An economic evaluation has not been conducted since, for the reasons discussed above, the impact is expected to be minimal. In accordance with section 605(b) of The Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this rule, (if promulgated), will not have a significant economic impact on a substantial number of small entities.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.465 to read as follows:

§ 117.465 Hillsborough River, Tampa, Florida.

(a) The Hillsborough River Bridges at Platt Street, mile 0.0 Brorein Street, mile 0.16, Kennedy Boulevard, mile 0.4, Cass Street, mile 0.7, and Laurel Street, mile 1.0, from 9 a.m. to 4 p.m., Monday through Friday and from 8 a.m. to 6 p.m., Saturday, Sunday and legal holidays, the draws shall open on signal. At all other times at least two hours advance notice is required.

(b) Seaboard Coast Line Railroad Bridge at Cass Street, mile 0.7, from 4:00 p.m. to 12:00 midnight, Monday through Friday, the draw shall open on signal. At all other times, the draw shall be maintained in an open position for the passage of vessels.

(c) City of Tampa highway bridge at West Columbus Drive, mile 2.3, and the State of Florida highway bridge at West Hillsborough Avenue, mile 4.8. From 6:00 a.m. to 6:00 p.m., the draws shall open on signal. From 6:00 p.m. to 8:00 a.m., the draws shall open on signal if at least one hour advance notice is given.

(d) *Public vessels and vessels in distress.* (1) From 4 p.m. to 9 a.m., Monday through Friday and from 6 p.m. to 8 a.m. Saturdays, Sundays and legal holidays, the draws of the bridges listed in paragraph (a) of this section shall open as soon as possible but not longer than one hour after a request by a public vessel of the United States, vessels owned or operated by the state, county, or local governments used for public safety purposes, or any vessels in distress.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(g)(3))

Dated: February 5, 1982.

B. L. Stabile,
Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 82-5425 Filed 2-26-82; 8:45 am]
BILLING CODE 4910-14-M

33 CFR Part 117

[CGD7 82-02]

Drawbridge Operation Regulations; Clearwater Harbor, Gulf Intracoastal Waterway, Pinellas County, Florida

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Board of County Commissioners, Pinellas County, Florida, the Coast Guard is considering special drawbridge regulations governing the operation of the Belleair Causeway Bridge across Clearwater Harbor, Gulf Intracoastal Waterway, mile 131.8, Pinellas County, Florida, by limiting the number of openings on Saturdays, Sundays, and legal holidays during peak traffic hours. The draw of the bridge presently opens on signal.

DATE: Comments must be received on or before April 15, 1982.

ADDRESS: Comments should be submitted and are available for examination and copying from 7:30 a.m. to 4 p.m., Monday through Friday at the office of the Commander (oan), Seventh Coast Guard District, 51 SW. 1st Avenue, Miami, Florida 33130.

FOR FURTHER INFORMATION CONTACT: James R. Kretschmer, Bridge Administrator, Bridge Section (oan), Room 1006, Federal Building, 51 Southwest First Avenue, Miami, Florida 33130, telephone (305) 350-4106.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamp self-addressed envelope or post card.

The Commander, Seventh Coast Guard District, will evaluate all communications received and determine a course of final action on the proposal. The proposed regulations may be changed in the light of comments received.

Drafting Information

The principal persons involved in drafting this proposal are: James Davis, Bridge Administration Specialist, Office of Aids to Navigation, Bridge Section and Lieutenant William J. Petersen, Office of Commander, Seventh Coast Guard District, Legal Office.

Discussion of the Proposed Regulations

The restrictions are being considered in an effort to relieve the increased vehicular traffic on Saturdays, Sundays and legal holidays on the Bellair Causeway Bridge. This change would allow limited openings and provide a more even flow of vehicular traffic from 12 noon to 6 p.m. This action may accommodate the needs of vehicular traffic and may still provide for the reasonable needs of navigation.

Regulatory Evaluation

The proposed regulation has been reviewed under the provisions of E.O. 12291 and has been determined not to be a major rule. In addition, the proposed regulation is considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (Department of Transportation Order 2100.5 of 22 May 1980). An economic evaluation has not been conducted since, for the reasons discussed above, the impact is expected to be minimal. In accordance with section 605(b) of The Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this rule, (if promulgated), will not have a significant economic impact on a substantial number of small entities.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by adding a new § 117.466(g) immediately after § 117.466(f) to read as follows:

§ 117.466 Gulf Intracoastal Waterway (GIWW), Pinellas County, Florida.

* * * * *

(g) *Clearwater Harbor, GIWW, mile 131.8, Belleair Causeway, Pinellas County, Florida.* From 12 noon to 6 p.m., on Saturdays, Sundays, and legal holidays, the draw need not open except on the hour, quarter-hour, half-hour, and three-quarter hour, to allow any accumulated vessels to pass. At all other times, the draw shall open on signal.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937 (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(g)(3))

Dated: February 5, 1982.

B. L. Stabile,

Rear Admiral, U.S. Coast Guard Commander, Seventh Coast Guard District.

[FR Doc. 82-6427 Filed 3-30-82; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Grand Teton National Park, Wyoming; Snowmobile Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The proposed regulations set forth below are necessary to provide for public snowmobile access to most areas of the park where such use has occurred. These regulations are meant to provide for the enjoyment of Grand Teton National Park in a way that reduces conflicts between various user groups. Additionally, these regulations have been designed to afford greater resource protection while also providing the opportunities for the public to enjoy winter park values. They are also consistent with regulations proposed for the jointly administered John D. Rockefeller, Jr. Memorial Parkway.

This will be accomplished by: (1) Restricting the use of snowmobiles to some unplowed roads, the frozen surface of Jackson Lake and a designated area east of the Teton Park Road and west of the Snake River. (2) Describing in the regulations those routes and areas which are to be open to snowmobiles. (3) Prescribing periods of snowmobile use which are consistent with the protection of natural resources and public safety. (4) Providing for certain exceptions for emergency purposes or administrative use. (5) Controlling noise levels of all oversnow vehicles.

The proposal to designate a portion of the Potholes/Baseline Flats area for snowmobile use constitutes an exception to the National Park Service general snowmobile policy.

DATES: Written comments, suggestions, or objections will be accepted until March 31, 1982.

ADDRESS: Comments should be directed to: Superintendent, Grand Teton National Park, P.O. Drawer 170, Moose, Wyoming 83012.

FOR FURTHER INFORMATION CONTACT: Rebecca Griffin, Public Information Officer, Grand Teton National Park, Telephone: (307) 733-2880.

SUPPLEMENTARY INFORMATION:

Background

Executive Order 11644 (Use of Off-Road Vehicles on Public Lands) issued in 1972, directed Federal land managing agencies to develop unified regulations and to designate areas of use for off-road vehicles. Such areas must meet criteria which minimize resource damage, harassment of wildlife, disruption of wildlife habitat, and, in the case of national parks, not adversely affect scenic, natural or aesthetic values.

In response to Executive Order 11644, the Secretary of Interior issued a Departmental memorandum on May 5, 1972, to assure full compliance with the Order and to provide policies and procedures for its implementation. The National Park Service, as required by the above directive, promulgated 36 CFR 2.34 on April 1, 1974, which closed all National Park System areas to snowmobile use except those specifically designated as open by Federal Register notice or special regulation.

In order to comply with the requirements of Executive Order 11644 and 36 CFR 2.34, Grand Teton National Park published a notice in late 1976 to designate areas and routes open to snowmobile use in the Park. The notice appeared in the Federal Register on December 23, 1976 (41 FR 55945), and invited public review and comment. The routes and areas designated were most of those that had been open to snowmobiling since 1971. An environmental assessment (approved January 6, 1977) was also prepared concerning management of winter activities, including snowmobiling.

Because of the amount of response to the Federal Register announcement and the environmental assessment, the normal 30-day public review period was extended to March 6, 1977. The park received nearly 600 letters from interested individuals and groups. A majority (61 percent) recommended either no snowmobiling be allowed in the park or that snowmobiles be confined to designated routes.

In August of 1977, the National Park Service appointed a task force to review snowmobile use in all areas of the National Park System and to: "develop a policy * * * that will clearly state the National Park Service's position on the legitimacy of mechanized over-snow travel in the parks and enable the Superintendents to address the question uniformly."

The task force was formed in response to requests from pro-snowmobiling and anti-snowmobiling interests, both of whom were seeking a uniform policy that would more closely guide the "discretion" of individual superintendents.

The task force met with various user groups that included the International Snowmobile Industry Association, the International Snowmobile Council, the Sierra Club, and the National Parks and Conservation Association. A policy was proposed that, "* * * snowmobiles may be permitted * * * as a mode of transportation * * * (on) designated routes (to) be established only on existing public roadways and waterways open to motorized vehicles and vessels."

Pursuant to this policy, Grand Teton National Park drafted proposed regulations designating approximately 72 miles of unplowed roadways and 26,700 acres of waterways (Jackson and Jenny Lakes) as open to snowmobiling. On January 19, 1978, the National Park Sevice postponed implementation of this snowmobiling policy and delayed rulemaking for Grand Teton National Park to allow further public participation in the development of the National Park Service snowmobile policy.

The National Park Service published a proposed snowmobile policy in the Federal Register of December 7, 1978 (43 FR 57352). This policy was similar to that proposed in 1977 in that, "Where permitted, snowmobiles shall be confined to properly designated routes and water surfaces which are used by motorized vehicles or motorboats during other seasons." Three exceptions to this policy were proposed—Acadia National Park, Delaware Water Gap National Recreation Area, and the "Potholes Area" of Grand Teton National Park.

Following Public review, the National Park Service published a notice in the Federal Register of August 13, 1979 (44 FR 47412) adopting a Servicewide snowmobile policy that was very similar to the one proposed on December 7, 1978, but all exceptions to the policy were deleted. Following announcement that the Servicewide snowmobile policy would be implemented in Grand Teton National Park, considerable opposition by Wyoming residents emerged. On October 11, 1979, the Director of the National Park Service postponed implementation of the policy in the park pending public hearings.

Another environmental assessment (approved February 14, 1980) was prepared and released to the public for review in April 1980. At that time, the National Park Service's preferred alternative was to permit snowmobiling only under restrictions of the national policy. The public hearings (held in May) indicated substantial support, by local Wyoming residents, for off-road snowmobiling in Grand Teton National Park. Of 174 letters received in the park by June 30, 1980, the deadline for public input, 60 percent favored snowmobiling only under restrictions of the national snowmobile policy, 20 percent favored off-road snowmobiling and 12 percent favored no snowmobiling. All but two of the letters favoring off-road snowmobiling were from Wyoming.

In December 1980 the Regional Director, Rocky Mountain Region, appointed a special committee of five individuals from outside the National Park Service to review the issue and all public comment, and to make recommendations for an oversnow vehicle policy for the park. The committee convened in the park in February 1981 and voted three to two in support of application of the roads-only policy for Grand Teton National Park.

Off-road snowmobiling has been permitted in some areas of Grand Teton National Park for over ten years. In these areas, vegetation damage and disturbance to wildlife have not been apparent due to snow depths adequate to protect vegetation and seasonal movement of most wildlife to other areas of the park. Additionally, conflicts between snowmobilers and cross-country skiers have not been a serious problem.

In the late 1960's, park management became concerned about increased noise due to increased snowmobile use. Snowmobile noise regulations were promulgated in August 1971 (36 FR 16065) and adopted as paragraph (i) *Snowmobiles*, 36 CFR 7.22. The regulation limits the noise level of snowmobiles to 86 decibels, measured on the "A" weighting scale at a distance of 50 feet, but exempts snowplanes that were registered with the park for the 1970-71 season.

This proposed amendment differentiates between tracked oversnow vehicles and propeller driven snowplanes. Industry standards for tracked snowmobiles now provide that all vehicles manufactured after February 1974 will not exceed a noise level of 78 decibels. Snowplanes have operated, primarily on Jackson Lake, since 1935 and the Service has no desire to eliminate this historic use which would occur if a general prohibition was made to exclude oversnow vehicles that exceed 78 decibels. The combination of propeller and manifold noise cannot be reduced significantly below 86 decibels without seriously reducing the safety and maneuverability of snowplanes. Therefore, different noise levels are proposed for the two different kinds of oversnow vehicles.

Public Participation

It is the policy of the Department of the Interior, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed regulations to the address noted at the beginning of this rulemaking.

Drafting Information

The following persons participated in the writing of these regulations: Alan L. Atchison, Chief Park Ranger, Grand Teton National Park; Walter D. Dabney, District Park Ranger, Grand Teton National Park.

Compliance With Other Laws

Pursuant to the National Environmental Policy Act (42 U.S.C. 4332) the Service prepared an Environmental Assessment of alternatives for the management of oversnow vehicle use in Grand Teton National Park. The assessment, which was approved February 14, 1980, contains a full discussion of the various alternatives and the comments received from citizen committees and public meetings during an extended period of public participation.

Limited numbers of the Environmental Assessment with maps showing the proposed snowmobile routes and areas are available by writing to the park

superintendent at the address previously noted.

The Service has determined that this rulemaking is not a "major rule" within the meaning of E.O. 12291 (46 FR 13193; February 19, 1981).

This rule does not contain information collection or record keeping requirements as defined in the Paperwork Reduction Act of 1980 (94 Stat. 2812, 44 U.S.C. 3501 *et seq.*).

The Department of the Interior has determined that this document will not have a significant effect on a substantial number of small entities and does not require a regulatory analysis under the Regulatory Flexibility Act (94 Stat. 1164, 5 U.S.C. 601 *et seq.*).

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

In consideration of the foregoing, it is proposed to amend Part 7 of Title 36 of the Code of Federal Regulations by revising § 7.22, paragraph (i) to read as follows:

§ 7.22 Grand Teton National Park.

* * * * *

(i) *Snowmobiles.* (1) Designated routes to be open to snowmobile use: The Spread Creek Road, the unplowed portion of the Pacific Creek Road, the unplowed portion of the Ditch Creek Road, the Lost Creek Ranch Road, those portions of the unplowed roads connecting with the Shadow (Antelope) Mountain Forest Service Road at Cunningham Cabin, Lost Creek Road and Antelope Flats Road, the unplowed portions of the Moose-Wilson Road, the unplowed portion of the Teton Park Road north of Cottonwood Creek to a line of markers south of Timbered Island to South Jenny Lake Junction and north to Signal Mountain Lodge, except during the period previous to opening of Potholes-Baseline Flats area when the Teton Park Road will be open through to Signal Mountain, the Jenny Lake Loop Road, the Spalding Bay Road, the String Lake Picnic Area Road, the signal Mountain Summit Road, the Signal Mountain Launch Ramp Road, and the Lizard Creek Campground Road.

(2) Designated area open to snowmobile use: The Potholes-Baseline Flats area east of the Teton Park Road north of Cottonwood Creek, north of the Bar BC access road, east of Timbered Island, west of the River Road or as marked at the top of the Snake River Bench, northwest of Timbered Island as marked to the Teton Park Road and bounded on the north by the RKO Road.

(3) Designated water surface: The frozen surface of Jackson Lake.

(4) (i) On roads designated for snowmobile use, only that portion of the road or parking area intended for other motor vehicle use may be used by snowmobiles. Such roadway is available for snowmobile use only when the designated road or parking area is closed to all other motor vehicle use by the public. Where needed, these routes will be marked by signs, snow poles or other appropriate means.

(ii) The Superintendent shall determine the opening and closing dates for use of designated snowmobile routes and areas each year, taking into consideration snow depth adequate to protect vegetation, the location of wintering wildlife, road plowing schedules, and other factors related to public safety or resource protection. The Superintendent shall notify the public of such dates through normal news media channels.

(5) Snowmobile use outside designated routes and areas is prohibited. This prohibition shall not apply to a fire, military, emergency, or law enforcement snowmobile when used for emergency purposes, or administrative travel by employees of the National Park Service, or its contractors and concessioners who have obtained the approval of the superintendent.

(6) The operation of a snowmobile which makes excessive noise is prohibited. Excessive noise for tracked snowmobiles is defined as noise that exceeds 78 decibels and for snowplanes noise that exceeds 88 decibels. Snowplanes operated and registered in the park for the 1970–1971 season are excepted. Measurements are made on the "A" weighted scale in intensity of a sound level meter measured at a distance of not less than 50 feet when the snowmobile or snowplane is being operated at or near full throttle.

* * * * *

(Sec. 3, Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3))

G. Ray Arnett,
Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-5449 Filed 2-26-82; 8:45 am]
BILLING CODE 4310-70-M

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36 CFR Part 7

Herbert Hoover National Historic Site; Snowmobile Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The proposed regulation set forth below is necessary to designate the location in the Herbert Hoover National Historic Site where snowmobiles may be used for transportation purposes when that portion of Parkside Drive and its shoulder are covered by snow and ice. It is the objective of this proposed regulation to provide a link between local snowmobile routes situated adjacent to the Herbert Hoover National Historic Site in a way that is consistent with both the snowmobile policy of the National Park Service and the off-road vehicle policy of the Department of the Interior.

DATE: Written comments, suggestions, or objections will be accepted until March 31, 1982.

ADDRESS: Comments should be directed to: Superintendent, Herbert Hoover National Historic Site, P.O. Box 607, West Branch, Iowa 52358.

FOR FURTHER INFORMATION CONTACT: Superintendent, Herbert Hoover National Historic Site, Telephone: (319) 643-2541.

SUPPLEMENTARY INFORMATION:

Background

Executive Order 11644 (Use of Off-Road Vehicles on Public Lands) issued on February 9, 1972, 37 FR 2877, directed Federal land managing agencies to develop unified regulations and to designate areas of use for off-road vehicles. Such areas must meet criteria which minimize resource damage, harassment of wildlife, disruption of wildlife habitat, and, in the case of national parks, not adversely affect scenic, natural, and aesthetic values.

In response to Executive Order 11644, the Secretary of Interior issued a Departmental memorandum on May 5, 1972, to assure full compliance with the Order and to provide policies and procedures for its implementation. The National Park Service, as required by the above directive, promulgated 36 CFR 2.34 on April 1, 1974, which closed all National Park System areas to snowmobile use except those specifically designated as open by Federal Register notice or special regulation.

In order to comply with the requirements of Executive Order 11644 and 36 CFR 2.34, the National Park Service developed a Servicewide policy revision which was published in the Federal Register on August 13, 1979 (44 FR 47412). This policy provides for the use of snowmobiles in units of the National Park System as a mode of transportation to provide the opportunity for visitors to see, sense, and enjoy the special qualities of the park in the winter. The snowmobiles must be consistent with the park's natural, cultural, scenic and aesthetic values; safety considerations; park management objectives; and not disturb the wildlife or damage other park resources.

The policy further provides that, where permitted, snowmobiles shall be confined to properly designated routes and water surfaces which are used by motorized vehicles or motorboats during other seasons. Routes and water surfaces to be designated for snowmobile use shall be promulgated as special regulations in the Code of Federal Regulations.

This proposed regulation is necessary to comply with Servicewide policy. Its promulgation also responds to public interest in a snowmobile route through Herbert Hoover National Historic Site linking the town of West Branch with Cedar County when weather conditions are such that the roadway shoulder is snow covered. The designated route for snowmobiles will be that portion of Parkside Drive lying between Main Street, West Branch, and Interstate Highway 80, in conformance with State law.

Public Participation

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding this proposed regulation to the address noted at the beginning of this rulemaking.

Drafting Information

The following persons participated in the writing of this regulation: Richard Saunders and Ted H. Deets, Herbert Hoover National Historic Site.

Compliance With Other Laws

Pursuant to the National Environmental Policy Act, 42 U.S.C. 4332, the Service has prepared an environmental assessment. Copies of this assessment are available for public review and comment in the office of the park superintendent.

This rulemaking contains no provisions that would entail the collection of information in such manner as would be subject to the Paperwork Reduction Act, 94 Stat. 2812, 44 U.S.C. 3501 *et seq.*

The Service has determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (February 19, 1981), and that this rulemaking would not have a "significant economic effect on a substantial number of small entities," nor will it require the preparation of a regulatory analysis within the meaning of the Regulatory Flexibility Act, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

In consideration of the foregoing, it is proposed to amend Part 7 of Title 36, Code of Federal Regulations, by the addition of a new § 7.50 as follows:

§ 7.50 Herbert Hoover National Historic Site.

(a) *Snowmobiles.* After consideration of existing special situations, i.e., depth of snow, and depending on local weather conditions, the superintendent may permit the use of snowmobiles on the shoulder of the paved motor road known as Parkside Drive between Main Street of West Branch, Iowa, and Interstate Highway 80, which is used by motor vehicle traffic during other seasons in conformance with State law.

(Sec. 3, Act of August 25, 1916, 39 Stat. 535, as amended (16 U.S.C. 3))

J. Craig Potter,
Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-5451 Filed 2-26-82; 8:45 am]
BILLING CODE 4310-70-M

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36 CFR Part 7

John D. Rockefeller, Jr., Memorial Parkway, Wyoming; Snowmobile Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The proposed regulations set forth below are necessary to provide for public snowmobile access to routes of the Parkway in winter that are accessible to vehicles in the summer. These regulations are meant to provide for the preservation and enjoyment of the John D. Rockefeller, Jr. Memorial Parkway in a manner that is consistent with both the snowmobile policy of the National Park Service and the off-road vehicle policy of the Department of the Interior. They are also consistent with proposed snowmobile regulations on the jointly administered Grand Teton National Park and provide for snowmobile access to the South Entrance of Yellowstone National Park.

This will be accomplished by: (1) Restricting the use of snowmobiles to some unplowed roads which are open to motorized vehicles in the summer. (2) Describing in the regulations those roads which are to be open to snowmobiles. (3) Prescribing periods of snowmobile use which are consistent with protection of natural resources and public safety. (4) Providing for certain exceptions for emergency purposes or administrative use. (5) Controlling noise levels of all oversnow vehicles.

DATE: Written comments, suggestions, or objections will be accepted until March 31, 1982.

ADDRESS: Comments should be directed to: Superintendent, Grand Teton National Park, P.O. Box 170, Moose, Wyoming 83012.

FOR FURTHER INFORMATION CONTACT: Rebecca Griffin, Public Information Officer, Grand Teton National Park, Telephone: (307) 733-2880.

SUPPLEMENTARY INFORMATION:

Background

Executive Order 11644 (Use of Off-Road Vehicles on Public Lands) issued in 1972, directed Federal land managing agencies to develop unified regulations and to designate areas of use for off-road vehicles. Such areas must meet criteria which minimize resource damage, harassment of wildlife, disruption of wildlife, habitat, and, in the case of national parks, not adversely affect scenic, natural or aesthetic values.

In response to Executive Order 11644, the Secretary of Interior issued a Departmental memorandum on May 5, 1972, to assure full conformance with the order and to provide policies and procedures for its implementation. The National Park Service, as required by the above directive, promulgated 36 CFR 2.34 on April 1, 1974, which closed all National Park System areas to snowmobile use except those specifically designated as open by Federal Register notice or special regulation.

In order to comply with the requirements of Executive Order 11644 and 36 CFR 2.34, a notice was published in the Federal Register of December 23, 1976 (41 FR 55948) designating the area to be open for snowmobile use. This designated area included most of the terrain that had been open to snowmobiles since 1971. John D. Rockefeller, Jr. Memorial Parkway is administered jointly with Grand Teton National Park. The superintendent is responsible for the management of activities such as snowmobiling in both areas.

Because of the amount of response to the Federal Register notices for Grand Teton National Park and John D. Rockefeller, Jr. Memorial Parkway, the normal 30-day public review period was extended to March 8, 1977. The park received nearly 600 letters from

interested individuals and groups. A majority (61 percent) recommended either no snowmobiling be allowed in the park or that snowmobiles be confined to designated routes. Seventy-five percent of those Teton County, Wyoming, residents responding did not favor off-road use of snowmobiles in the park. Very little specific comment was received concerning the John D. Rockefeller, Jr. Memorial Parkway. Separate hearings for the Parkway have not been held.

In August of 1977, the National Park Service appointed a task force to review snowmobile use in all areas of the National Park System and to:

develop a policy . . . that will clearly state the National Park Service's position on the legitimacy of mechanized oversnow travel in the parks and enable the Superintendents to address the question uniformly.

The task force was formed in response to requests from pro-snowmobiling and anti-snowmobiling interests, both of whom were seeking a uniform policy that would generally eliminate the "discretion" of individual superintendents.

The task force met with various user groups that included the International Snowmobile Industry Association, the International Snowmobile Council, the Sierra Club and the National Parks and Conservation Association. A policy was proposed that, ". . . snowmobiles may be permitted . . . as a mode of transportation . . . (on) Designated routes (to) be established only on existing public roadways and waterways open to motorized vehicles and vessels."

Under the guidelines of this policy, the National Park Service developed a policy on snowmobile use which appeared in the **Federal Register** for public review on December 7, 1978 (43 FR 57352). This policy was similar to that proposed in 1977 in that, "Where permitted, snowmobiles shall be confined to properly designated routes and water surfaces which are used by motorized vehicles or motorboats during other seasons." No exemptions to that policy affected the John D. Rockefeller, Jr. Memorial Parkway.

Following public review, the National Park Service published a notice in the **Federal Register** on August 13, 1979, (44 FR 47412) adopting a Servicewide policy that was very similar to the one proposed on December 7, 1978. The policy requires that routes open to snowmobiles be published as special regulations in Part 7 of Title 36, Code of Federal Regulations.

Although the previously designated area permitted snowmobiling on nearly all of the Parkway north and west of the Snake River floodplain, snowmobiles have been confined to the unplowed roads since the adoption of the Service-wide snowmobile policy. These proposed regulations will officially designate and limit snowmobile use to these roads.

Rulemaking for John D. Rockefeller, Jr. Memorial Parkway has been delayed to coincide with proposed snowmobile regulations for Grand Teton National Park. The proposed snowmobile noise restrictions are the same as the noise levels proposed in the amendment to the Grand Teton National Park special regulations contained in 36 CFR 7.22(i).

This proposal differentiates between tracked oversnow vehicles and propeller driven snowplanes. Industry standards for tracked snowmobiles now provide that all vehicles manufactured after February 1974 will not exceed a noise level of 78 decibels. Snowplanes have been used periodically in the area now designated as the Parkway since 1935 and the Service has no desire to eliminate this use.

It is not possible to operate snowplanes efficiently or safely at much less than a noise level of 86 decibels due to a combination of propeller and manifold noise. Therefore, different noise levels are proposed for the two different kinds of oversnow vehicles.

Public Participation

It is the policy of the Department of the Interior, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed regulations to the address noted at the beginning of this rulemaking.

Drafting Information

The following persons participated in the writing of these regulations: Alan L. Atchison, Chief Park Ranger, Grand Teton National Park; Walter D. Dabney, District Park Ranger, Grand Teton National Park.

Compliance With Other Laws

Pursuant to the National Environmental Policy Act (42 U.S.C. 4332) the Service prepared an Environmental Assessment in 1981 on the Alternatives for Management of Oversnow Vehicle Use in John D. Rockefeller, Jr. Memorial Parkway. Copies of this assessment are available by writing to the Superintendent of Grand Teton National Park at the address previously noted.

Snowmobiling in John D. Rockefeller, Jr. Memorial Parkway was also considered and discussed during the extensive public involvement concerning Grand Teton National Park. However, very few comments received related directly to the Parkway.

The Service has determined that this rulemaking is not a "major rule" within the meaning of E.O. 12291 (46 FR 13191; February 19, 1981).

This rule does not contain information collection or record keeping requirements as defined in the Paperwork Reduction Act of 1980 (94 Stat. 2812, 44 U.S.C. 3501 *et seq.*).

The Department of the Interior has determined that this document will not have a significant effect on a substantial number of small entities and does not require a regulatory analysis under the Regulatory Flexibility Act (94 Stat. 1164, 5 U.S.C. *et seq.*).

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SERVICE

In consideration of the foregoing, it is proposed to amend Part 7 of Title 36 of the Code of Federal Regulations by adding a new § 7.21 to read as follows:

§ 7.21 John D. Rockefeller, Jr., Memorial Parkway.

(a) *Snowmobiles.* (1) Designated routes to be open to snowmobile use:

(i) The Ashton-Flagg Ranch Road between the western boundary of the Parkway and its junction with U.S. Highway 89–287.

(ii) The unplowed portion of U.S. Highway 89–287 between Flagg Ranch and the south boundary of Yellowstone National Park.

(2) On roads designated for snowmobile use, only that portion of the road or parking area intended for other motor vehicle use may be used by snowmobiles. Such roadway is available for snowmobile use only when the designated road or parking area is closed to all other motor vehicle use by the public.

(3) The superintendent shall determine the opening and closing dates for use of designated snowmobile routes each year, taking into consideration the location of wintering wildlife, road plowing schedules and other factors related to public safety or resource protection. The superintendent shall notify the public of such dates through normal news media channels.

(4) Snowmobile use outside designated routes is prohibited. This prohibition shall not apply to a fire, military, emergency, or law enforcement snowmobile when used for emergency purposes, or administrative travel by employees of the National Park Service, or its contractors and concessioners who have obtained the approval of the superintendent.

(5) The operation of a snowmobile which makes excessive noise is prohibited. Excessive noise for tracked snowmobiles is defined as noise that exceeds 78 decibels and for snowplanes noise that exceeds 86 decibels. Snowplanes operated and registered in the parkway for the 1970–1971 season are excepted. Measurements are made on the "A" weighted scale in intensity of a sound level meter measured at a distance of not less than 50 feet when the snowmobile or snowplane is being operated at or near full throttle.

(Sec. 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3))

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-5447 Filed 2-26-82; 8:45 am]

BILLING CODE 4310-70-M

36 CFR Part 7

St. Croix National Scenic Riverway, Wisconsin-Minnesota; Snowmobile Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The proposed regulations set forth are necessary to designate those locations within the St. Croix National Scenic Riverway where snowmobiles may be used for recreational purposes when the river is frozen. This is that portion normally used during the open water season by motor boats. It is the objective of this proposed regulation to provide for the preservation and enjoyment of the Riverway in a way that is consistent with both the snowmobile policy of the National Park Service and the off-road policy of the Department of the Interior.

DATES: Written comments, suggestions or objections will be accepted until March 31, 1982.

ADDRESS: Comments should be directed to: Superintendent, St. Croix National Scenic Riverway, P.O. Box 708, St. Croix Falls, WI 54024.

FOR FURTHER INFORMATION CONTACT: Gustaf P. Hultman, Superintendent, St. Croix National Scenic Riverway, Telephone: (715) 483–3287.

SUPPLEMENTARY INFORMATION:

Background

Executive Order 11644 (Use of Off-Road Vehicles on Public Lands) issued on February 9, 1972, 37 FR 2877, directed Federal land managing agencies to develop unified regulations and to designate areas of use for off-road vehicles. Such areas must meet criteria which minimize resource damage, harassment of wildlife, disruption of wildlife habitat, and in the case of national parks, not adversely affect scenic, natural, and aesthetic values.

In response to Executive Order 11644, the Secretary of Interior issued a Departmental memorandum on May 5, 1972, to assure full compliance with the Order and to provide policies and procedures for its implementation. The National Park Service, as required by the above directive, promulgated 36 CFR 2.34 on April 1, 1974, which closed all National Park System areas to snowmobile use except those specifically designated as open by **Federal Register** notice or special regulation.

In order to comply with the requirements of Executive Order 11644 and 36 CFR 2.34, the National Park Service developed a Servicewide policy revision which was published in the **Federal Register** on August 13, 1979 (44 FR 47412). This policy provides for the use of snowmobiles in units of the National Park System as a mode of transportation to provide the opportunity for visitors to see, sense, and enjoy the special qualities of the park in the winter. The snowmobiles must be consistent with the park's natural, cultural, scenic, and aesthetic values; safety considerations; park management objectives; and not disturb the wildlife or damage other park resources.

The policy further provides that, where permitted, snowmobiles shall be confined to properly designated routes and water surfaces which are used by motorized vehicles or motorboats during the other seasons. Routes and Water surfaces to be designated for snowmobile use shall be promulgated as special regulation in the Code of Federal Regulations.

This proposed regulation is necessary to comply with Servicewide policy. Its promulgation also responds to public interest in additional recreational opportunities along a portion of the St. Croix National Scenic Riverway when weather conditions are such that the St. Croix River is frozen. The recommended permitted area of snowmobile use will be the frozen river form St. Croix Falls to Highway 35 crossing near Riverside and that section from the Boomsite to Franconia, Minnesota. Operation off the river is prohibited except places where a Township, County, or State road terminates at the river and those locations authorized for such use by the National Park Service which are part of an approved trail system within the riverway boundary.

Public Participation

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding this proposed regulation to the address noted at the beginning of this rulemaking.

Drafting Information

The following persons participated in the writing of this regulation: Gustaf P. Hultman, Henry Hughlett, Ron Aldorfer, and Arnold Long, St. Croix National Scenic Riverway.

Compliance With Other Laws

Pursuant to the National Environmental Policy Act, 42 U.S.C. 4332, the Service has prepared an Environmental Assessment. Copies of this Assessment are available for public review and comment in the Office of the Superintendent.

This rulemaking contains no provisions that would entail the collection of information in such manner as would be subject to the Paperwork Reduction Act, 94 Stat. 2812, 44 U.S.C. 3501 *et seq.*

The Service has determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (February 19, 1981), and that this rulemaking would not have a "significant economic effect on a substantial number of small entities," nor will it require the preparation of a regulatory analysis within the meaning of the Regulatory Flexibility Act, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*

PART 7—SPECIAL REGULATIONS AREAS OF THE NATIONAL PARK SERVICE

In consideration of the foregoing, it is proposed to amend Part 7 of Title, 36, Code of Federal Regulations by the addition of paragraph (b) to § 7.9 as follows:

§ 7.9 St. Croix National Scenic Riverway.

* * * * *

(b) *Snowmobiles.* After consideration of existing special situations, i.e. depth of snow or thickness of ice, and depending on local weather conditions, the superintendent may permit the use of snowmobiles on the frozen surface of the St. Croix River to those sections normally used by motor boats during other seasons, between the Boomsite and Franconia, Minnesota, and St. Croix

Falls to Riverside, Wisconsin, and to those areas where county or other established snowmobile trails need to cross the riverway or riverway lands to connect with other established snowmobile trails.

(Sec. 3 of the Act of August 25, 1916, 39 Stat. 535, as amended (16 U.S.C 3))

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-5460 Filed 2-26-82; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL-2061-4]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Revised Gaseous Emission Regulations for 1984 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction of notice of proposed rulemaking.

SUMMARY: FR Doc. 82-663, published January 13, 1982 at page 1642, under Section V. Comments and the Public Docket, contained the following statement, "* * * Parties who wish to submit information in response to this Notice of Proposed Rulemaking are cautioned that EPA will not consider, but will return to the commenter, any comments which are claimed to be confidential."

EPA has decided that it would be more appropriate to accept and consider such information, and so therefore, by publication of this Correction, changing the Notice of Proposed Rulemaking to allow the submission of confidential information.

EFFECTIVE DATE: This correction is retroactively effective to January 13, 1982, the date of publication of the Notice of Proposed Rulemaking.

FOR FURTHER INFORMATION CONTACT: Mr. Glenn W. Passavant, U.S. Environmental Protection Agency, Emission Control Technology Division, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 668-4408.

SUPPLEMENTARY INFORMATION:

Correction

The section entitled, "*v. Comments and the Public Docket,*" is corrected to read as follows:

"*v. Comments and the Public Docket*

During final rulemaking, EPA will consider all written comments received on or before the 30th day following the public hearing. EPA requests that, to the extent possible, comments be submitted prior to the hearing. EPA will keep the record of the public hearing open for submission of rebuttal and other information following the close of the hearing until the above mentioned date.

Commenters desiring to submit proprietary information should segregate that information from other comments to the greatest extent possible, and label it "Confidential Business Information."

Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2. If no claim of confidentiality accompanies the information when it is received by EPA, it may be made available to the public without further notice to the commenter."

Dated: February 22, 1982.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 82-5389 Filed 2-26-82; 8:45 am]

BILLING CODE 6560-26-M

40 CFR Parts 85 and 86

[AMS-FRL-2016-5]

Averaging of Particulate Emissions From 1985 and Later Model Year Diesel-Fueled Light-Duty Vehicles and Light-Duty Trucks; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction of notice of proposed rulemaking.

SUMMARY: FR Doc. 81-36707, published December 24, 1981, at page 62614 under section VII, Special Requests for Comments, contained the following statement:

* * * parties who wish to submit information in response to this Notice of Proposed Rulemaking are cautioned that EPA will not consider, but will return to the commenter any comments which are claimed to be confidential.

In response to comments from interested parties at the public hearing on this Notice of Proposed Rulemaking, EPA has decided that it would be more appropriate to accept and consider such information.

EFFECTIVE DATE: This correction is retroactively effective to December 24, 1981, the date of publication of the Notice of Proposed Rulemaking.

FOR FURTHER INFORMATION CONTACT: Mr. F. Peter Hutchins, U.S. Environmental Protection Agency, Emission Control Technology Division, 2565 Plymouth Road, Ann Arbor, MI 48105, (313) 668-4340.

Correction

In the section entitled, SUPPLEMENTARY INFORMATION: *Subsection VII. Specific Requests for Comments is corrected to read as follows:*

VII. Specific Request for Comments

EPA hopes that a wide range of parties will comment on this important rulemaking. Outlined below are a series of items which the Agency would like addressed in comments. While EPA would appreciate comments identified according to items in this request, the outline is not meant to limit comment in any way, and the agency welcomes comments on other issues as well.

Commenters desiring to submit proprietary information should segregate that information from other comments to the greatest extent possible, and label it "Confidential Business Information."

Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2. If no claim of confidentiality accompanies the information when it is received by EPA, it may be made available to the public without further notice to the commenter.

Dated: February 22, 1982.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 82-5388 Filed 2-26-82; 8:45 am]

BILLING CODE 6560-26-M

40 CFR Part 265

[SW-FRL 1999-3]

Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

Correction

In FR. Doc. 82-4900 appearing at page 8307 in the issue for Thursday, February 25, 1982, the following correction should be made. In the text of proposed § 265.314 (f) on page 8313, the compliance date for paragraphs (b) through (e) of that section was stated as "March 29, 1982." This is incorrect. The second sentence of paragraph (f) should be corrected to read as follows:

(f) * * * The date for compliance with paragraphs (b) through (e) of this section is (insert date of publication of the final rule in the Federal Register].

BILLING CODE 1505-01-M

Notices

Federal Register

Vol. 47, No. 40

Monday, March 1, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

[Docket 40367]

Houston Airlines Fitness Investigation; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to Judge Kane.

Dated at Washington, D.C., February 23, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-5423 Filed 2-26-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 39366]

Julia Vigil-Andrade v. Eastern Air Lines, Inc.; Assignment of Proceeding

This proceeding has been assigned to Chief Administrative Law Judge Elias C. Rodriguez. Future communications should be addressed to him.

Dated at Washington, D.C., February 23, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-5424 Filed 2-26-82; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Massachusetts Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Massachusetts Advisory Committee to the Commission will convene at 4:00 p.m., and will end at 6:00 p.m., on April 13, 1982, a the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110. The purpose of this meeting is to conduct a discussion on the racial situation in Boston schools; the proposed Boston Fair Housing Commission; and affirmative action in the private sector.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Bradford E. Brown, 17 Roberts Jean Circle, Post Office Box 95, East Falmouth, Massachusetts, 02536, (617) 548-5123 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110, (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 23, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-5391 Filed 2-26-82; 8:45 am]

BILLING CODE 6335-01-M

Missouri Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Missouri Advisory Committee to the Commission will convene at 11:30 a.m., and will end at 1:00 p.m., on March 16, 1982, at the Federal Building, 1521 Market, Room 1612, St. Louis, Missouri, 63103. The purpose of this meeting will be for the Subcommittee on Fair Housing to discuss and plan activities to their recent report.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Joanne M. Collins, 4030 Bellefontaine, Kansas City, Missouri, 64130, (816) 274-1321 or the Central States Regional Office, Old Federal Office Building, 911 Walnut Street, Room 3103, Kansas City, Missouri, 64106, (816) 374-5253.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 23, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-5390 Filed 2-26-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Importers and Retailers' and Management-Labor Textile Advisory Committees; Cancellation of Public Meetings

On February 1, 1982 there was published in the Federal Register (47 FR 4547) a notice dated January 27, 1982 announcing meetings of the Importers and Retailers' and the Management-Labor Textile Advisory Committees on March 10 at the Department of Commerce.

The purpose of this notice is to announce that those meetings have been cancelled but will be rescheduled for a later date.

Dated: February 25, 1982.

Paul T. O'Day,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 82-5391 Filed 2-26-82; 9:23 am]

BILLING CODE 3510-25-M

Clear Sheet Glass From Taiwan; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on clear sheet glass from Taiwan. The review covers the three known exporters of this merchandise to the United States and the period August 1, 1980 through July 31, 1981. The review indicates the existence of dumping margins for one exporter.

As a result of this review, the Department has preliminarily determined to require cash deposits equal to the margin for the last shipments by those firms for which information was available. For the firm where information was lacking the Department has used the best information available. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: March 1, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–3814/5289).

SUPPLEMENTARY INFORMATION:

Background

On August 20, 1981, the Department of Commerce ("the Department") published in the Federal Register (46 FR 42315) the final results of its first administrative review of the antidumping finding on clear sheet glass from Taiwan (36 FR 16508, August 21, 1971) and announced its intent to conduct the next administrative review by the end of August 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

The review covers imports of clear sheet glass, which is currently classifiable under items 542.3120 through 542.4835 of the Tariff Schedules of the United States Annotated (TSUSA). The Department knows of three Taiwanese exporters of clear sheet glass to the United States, Hsinchu Glass Works, Inc., Taiwan Glass Corporation, and Yotak Trading Company, Ltd. The review covers the period August 1, 1980 through July 31, 1981. Two firms, Taiwan Glass and Hsinchu Glass, stated that they did not export clear sheet glass to the United States during the period of review. For these firms the estimated duty deposit rate shall be the most recent information for each firm. Since the third firm, Yotak Trading Company, Ltd., failed to respond to our questionnaire, we shall use for this firm the best information available. The best information is the higher of the most recent rates for the other two firms since it is higher than the sole rate calculated during the original fair value investigation.

Preliminary Results of the Review

As a result of our review, we preliminary determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Hsinchu Glass Works, Inc.	8/1/80–7/31/81	[1]7.0
Taiwan Glass Corporation	8/1/80–7/31/81	[1]1.6
Yotak Trading Company, Ltd.	8/1/80–7/31/81	7.0

[1] No shipments during the period.

Interested parties may submit written comments on these preliminary results on or before March 31, 1982, and may request disclosure and/or a hearing on or before March 11, 1982. Any hearing requested will be held 25 days after publication of the notice or the first work day thereafter. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries with purchase dates during the time period involved. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit based upon the margins calculated above shall be required on all shipments by these firms of clear sheet glass from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 22, 1982.

[FR Doc. 82-5440 Filed 2-26-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council and its Scientific and Statistical Committee and Advisory Panel; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The North Pacific Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), has established a Scientific and Statistical Committee (SSC) and an Advisory Panel (AP) to assist the Council in carrying out its responsibilities under the Act. The Council, its SSC and AP will hold separate meetings and the Council will also meet with the Alaska Board of Fisheries.

DATES: The Council and the Alaska Board of Fisheries will convene at 9 a.m., on Tuesday, March 23, 1982, in the Alaska Room of the Westward Hilton Hotel, Third Avenue at E Street, Anchorage, Alaska. The meeting will continue until approximately 5 p.m., on Friday, March 26, 1982, in the Council's Headquarters Conference Room, 333 West Fourth Avenue, Anchorage, Alaska. The SSC will convene on Monday, March 22, and Tuesday, March 23, 1982, at approximately 9:30 a.m., and will adjourn at approximately 5 p.m., in the Council's Headquarters Office. The AP will convene its meeting on Monday, March 22, 1982, at approximately 9 a.m., and adjourn at approximately 5 p.m., at the Trattoria Room of the Westward Hilton Hotel. The meetings may be lengthened or shortened depending upon progress on the agenda.

Proposed Agenda

Council—A detailed agenda will be sent to the public around March 5, 1982. The Council will hear reports on domestic and foreign fisheries, enforcement and surveillance, and joint venture operations. The Council intends to discuss alternates for SSC members, confirm new AP and SSC officers, make interim appointments to the AP, review the 1982 meeting schedule, and hear a report from the Limited Entry Workgroup. During the meeting the Board will receive public testimony on 1982 proposals for king crab, tanner crab, and troll salmon management. The Council and Board will take final action on proposed 1982 amendments to the Troll Salmon Fishery Management Plan (FMP), which includes alternatives for optimum yield, time and area closures, gear restrictions, reporting requirements, and heads-on requirements. The Council will also discuss further appointments to the Salmon Plan Development Team.

The Council and the Board will also discuss the Bering Sea/Aleutian Islands King Crab FMP and consider king and tanner crab management proposals for 1982. The Alaska Board of Fisheries will establish 1982 state regulations for the king and tanner crab fisheries off Alaska.

The Council plans to take final action on amendment 11 to the Gulf of Alaska Groundfish FMP, which includes proposals to reduce the optimum yield for sablefish; allow only hook and line gear for sable fish east of 140° W; close the sablefish fishery from November 15 to March 15 gulf-wide; open Davidson Bank to foreign longlining; establish domestic reporting requirements, and includes a new method for specifying groundfish domestic annual harvest and establishing reserves. The Council intends to discuss problems with amendment 1 to the Bering Sea/Aleutian Islands Groundfish FMP and the concept of fishery development zones for areas of heavy fish concentrations traditionally favored by domestic fishermen. The Council will also consider applications from ships of foreign nations to participate in joint ventures off Alaska and various contracts.

SSC and AP: Same as Council.

These meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510, Telephone: (907) 274–4563.

Dated: February 24, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-5438 Filed 2-26-82; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council's Anchovy/Jack Mackerel Subpanel; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), has established an Anchovy/Jack Mackerel Subpanel which will meet to discuss a proposed two-stage release of the harvest quota of anchovy for reduction purposes. Information obtained at this meeting will enable the subpanel to formulate a recommendation to the Pacific Council preparatory to releasing the proposal for public review.

DATES: These public meetings will convene on Monday, March 15, 1982, at approximately 10 a.m., and will take place in the Conference Room of the California Department of Fish and Game, 350 Golden Shore, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201, Telephone: (503) 221–6352.

Dated: February 24, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-5439 Filed 2-26-82; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), will meet to discuss the status of the Swordfish Fishery Management Plan (FMP); review the status of the Billfish FMP; discuss the Snapper/Grouper FMP; report on the Coral FMP hearings and review other management plans and Council business as necessary.

DATES: These public meetings will convene on Tuesday, March 23, 1982, at approximately 1 p.m., and will adjourn on Thursday, March 25, 1982, at approximately noon.

ADDRESS: The meetings will take place at the Council's Headquarters Office, One Southpark Circle, Suite 306, Charleston, South Carolina.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571–4366.

Dated: February 24, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-5437 Filed 2-26-82; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Medical Research and Development Advisory Committee, Subcommittee on Medical Defense Against Chemical Agents; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Subcommittee meeting:

Name of Committee

United States Army Medical Research and Development Advisory Committee, Subcommittee on Medical Defense Against Chemical Agents.

Date of Meeting

March 22 and 23, 1982.

Time & Place

0900 hrs, Room 14, U.S. Army Medical Research Institute of Chemical Defense, Aberdeen Proving Ground, MD.

Proposed Agenda

This meeting will be open to the public on March 22, from 1300 to 1630 hrs for the administrative review and discussion of the scientific research program of the U.S. Army Medical Research Institute of Chemical Defense.

Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), US Code, Title 5 and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 22 from 0900–1300 and from 0800–1630 on March 23, 1982 for the review, discussion and evaluation of individual programs and projects conducted by the US Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Richard Lindstrom, US Army Medical Research Institute of Chemical Defense, Aberdeen Proving Ground, MD 21010 (301/671–2833) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Rescission

Notice that appeared in the Federal Register, Vol. 47, No. 24, page 5280, February 4, 1982.

Harry G. Dangerfield,

Colonel, MC, Deputy Commander.

[FR Doc. 82-5390 Filed 2-26-82; 8:45 am]

BILLING CODE 3710-08-M

Army Medical Research and Development Advisory Committee; Notice of Cancellation

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) and AR 15–1, Committee Management, notice of cancellation of a meeting of the Army Medical Research and Development Advisory Committee on March 26, 1982 (47 FR 5288, February 4, 1982) is hereby given.

Due to extenuating circumstances the meeting of the Subcommittee on Blood Preservation and Substitutes was cancelled.

Harry G. Dangerfield,

Colonel, MC, Deputy Commander.

[FR Doc. 82-5389 Filed 2-26-82; 8:45 am]

BILLING CODE 3710-08-M

Privacy Act of 1974; Amendments to and Deletions of Notices for Systems of Records

AGENCY: Army Department, DOD.

ACTION: Proposed deletions of and amendments to notices for systems of records.

SUMMARY: The Department of the Army proposes to delete seven and amend seven system notices for systems of records subject to the Privacy Act of 1974. Following identification of changes in the notices being amended, they are printed in their entirety below.

DATE: Actions shall be effective March 31, 1982, unless public comments are received which result in a contrary determination.

ADDRESS: Public comments may be submitted to Headquarters, Department of the Army, ATTN: DAAG–AMR–R, Room 1146, Hoffman Building 1, Alexandria, VA 22331.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of the Adjutant General, at the above address; telephone: (703) 325–6163.

SUPPLEMENTARY INFORMATION: The Department of the Army inventory of systems of records subject to the Privacy Act of 1974, Title 5, United States Code 552a (Pub. L. 93–579; 88 Stat. 1896 *et seq.*) last appeared in the **Federal Register** at:

FR Doc. 82–674 (47 FR 2544) January 18, 1982.

The system notices being amended do not require an altered system report as provided for by 5 U.S.C. 552a(o).

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

February 23, 1982.

DELETIONS

A0403.18DAAG

System name:

Claims Back-up File (44 FR 73810), December 17, 1979.

Reason:

Records are covered by system of records A0403.01aDAJA, U.S. Army Claims Service Management Information System.

A0703.05aDAPC

System name:

ROTC Cadet Application Files (44 FR 73857), December 17, 1979.

Reason:

Records are covered by proposed amended system of records A0703.04aDAPC appearing in this **Federal Register.**

A1012.03cDAPE

System name:

USMAPS Academic Files (44 FR 73956), December 17, 1979.

Reason:

Records are described in proposed amended system of records A1012.01bDAPE appearing in this **Federal Register.**

A1012.04aDAPE

System name:

USMAPS Training Files (44 FR 73964), December 17, 1979.

Reason:

Records are described in proposed amended system of records A1012.01bDAPE appearing in this **Federal Register.**

A1106.05aDAAG

System name:

Postal Personnel Designation Files (44 FR 73980), December 17, 1979.

Reason:

Records are covered by proposed amended system of records A1106.16DAAG appearing in this **Federal Register.**

A1106.18DAAG

System name:

Standing Delivery Order Files (44 FR 73981), December 17, 1979.

Reason:

Records are covered by proposed amended system of records A1106.16DAAG appearing in this **Federal Register.**

A1420.06AMC

System name:

Equipment Operator Permit Register Files (44 FR 74005), December 17, 1979.

Reason:

Records are described in proposed amended system of records A1420.06DARCOM, Equipment Operator Permit and Register Files.

AMENDMENTS

A0101.20aAMC

System name:

Classified Matter Inventory Reporting Files (44 FR 73769), December 17, 1979.

Changes:

System Identification:

Delete "aAMC" and substitute therefor: "DAMI".

System name:

Delete present title and substitute therefor: "Controlled Accountable Document Inventory System".

System location:

After "Document Control Center", delete remainder and substitute: "/ Security Office of Army installations and/or major commands to the extent that classified inventories are directed by the commander. Addresses are listed in the Appendix to the Army inventory of system notices."

Categories of individuals covered by the system:

Change entry to read: "Custodians of classified Defense information."

Categories of records in the system:

Delete entry and substitute therefor: "Custodian's name, Social Security Account Number, and a listing of controlled classified documents for which the custodian is responsible. Records may also include document title, originator, and type and date."

Authority for maintenance of the system:

Delete entry and substitute therefor: "10 U.S.C., section 3012; 5 U.S.C., section 301."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry and substitute therefor: "By the Department of the Army to conduct periodic inventory of classified documents and to determine or validate custodian accountability of those documents."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Change entry to read: "Magnetic tapes and discs, and computer printouts; paper records."

Safeguards:

Change entry to read: "Access is restricted to authorized personnel having a need-to-know and to security officers to verify inventory of classified documents. Information is housed in buildings which are controlled by security guards during non-duty hours."

Retention and disposal:

Change entry to read: "Retained until the next inventory has been completed satisfactorily; is destroyed upon next inventory."

System manager(s) and address:

Delete entry and substitute therefor: "Assistant Chief of Staff for Intelligence, Headquarters, Department of the Army, The Pentagon, Washington, D.C. 20310."

Notification procedure:

Delete entry and substitute therefor: "Individuals who desire to know whether or not this system of records contains information on them should write to the commander of the installation where they believe such information was collected or maintained."

Record access procedures:

Delete entry and substitute therefor: "An individual should write to the commander as indicated under "Notification procedure", and provide his/her name, SSN, date and place of employment, and signature."

Contesting record procedures:

Change entry to read: "The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505)."

Record source categories:

Change entry to read: "From the individual who receipts for classified documents."

A0703.04aDAPC

System name:

ROTC Member File (44 FR 73856), December 17,1979.

Changes:

System Identification:

Delete alphabetical suffix following ".04".

System name:

After "ROTC", insert "Applicant/".

System location:

Delete entry and substitute therefor: "Manual records exist in Office of the Professor of Military Science at civilian educational institutions, in ROTC Regional Offices, and at US Army Military Personnel Center, Alexandria, VA. 22332.

"Automated records are maintained at HQ US Army Training and Doctrine Command, Ft. Monroe, VA. 23651."

Categories of records in the system:

Delete entry and substitute therefor: "Application for appointment, including such personal data as name, Social Security Account Number, date and place of birth, citizenship, home address and telephone, marital status, dependents; transcripts and certificates of education, training, and qualifications; medical examinations; financial assistance documents; awards; ROTC contract; photograph; correspondence between member and the Army or other Federal agencies; letter of appointment in Active Army on completion of ROTC status; security clearance documents. Official documents may include DA Form 131, DA Form 597, DA Form 61, DA Form 873, SF 88 and SF 93, DD Forms 4/1 – 4/4, and DOJ Form I–151 if applicable."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry and substitute therefor: "By the Department of the Army (a) in the selection, training, and commissioning of eligible ROTC cadets in the Active Army and Reserve Forces, and (b) for personal management, strength accounting, and manpower management purposes.

"May be disclosed to the Federal Aviation Administration to obtain flight certification/licensing.

"May be disclosed to the Veterans Administration for member Group Life Insurance and/or other benefits."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Retention and disposal:

Delete entry and substitute therefor: "DA Form 131 is retained in the ROTC unit for 5 years after cadet leaves the institution or is disenrolled from the ROTC program. Following successful completion of ROTC and academic programs and appointment as a commissioned officer with initial assignment to active duty for training, copy of pp. 1 and 2 will be reproduced and sent to the commandant of individual's basic branch course school.

"Records of rejected ROTC applicants are destroyed. Other records not mentioned in preceding paragraph and in the "Category of records" element above are destroyed if not required to become part of the MPRJ."

Contesting record procedures:

Delete entry and substitute therefor: "The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505)."

Record source categories:

Delete entry and substitute therefor: "From the individual, civilian educational institutions, official Army records addressing entitlement status, medical examination and treatment, security determination, and attendance and training information while an ROTC cadet."

A0726.06DAAG

System name:

Casualty Information System (CIS)

Changes:

System location:

Add: "A manual segment of this system pertaining to Army reserve members not on active duty exists at the US Army Reserve Components Personnel and Administration Center (RCPAC), St. Louis, MO 63132."

Categories of records in the system:

Add: "Manual records include DD Form 1300, notification/certificate of death, and documents pertaining to Servicemen's Group Life Insurance."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Add: "Pertinent data may be disclosed to Office, Servicemen's Group Life Insurance, for payment of insurance to beneficiary."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Retention:

Add: "Documents relevant to Servicemen's Group Life Insurance are retained at RCPAC until settlement of insurance claim, after which they are destroyed."

Notification procedures:

Add: "Information relating to Servicemen's Group Life Insurance may be obtained from Commander, US Army Reserve Components Personnel and Administration Center, 9700 Page Boulevard, St Louis, MO 63132."

Record source categories:

Add: "or from next-of-kin who provide notification or certificate of death."

A1012.01bDAPE

System name:

USMAPS Admissions File (44 FR 73943), December 17, 1979.

Changes:

System Identification:

Delete suffix "b".

System name:

Amend to read: "Applicants/Students, US Military Academy Preparatory School, Ft Monmouth, NJ 07703."

System location:

Delete "Office of the Director of Admissions, MAPS–A&R,".

Categories of individuals covered by the system:

After "Applicants", insert "and students,".

Categories of records in the system:

Delete entry; substitute therefor: "Application for admission, high school/college transcripts, Scholastic Aptitude/American College Test/CLEP, GT/Officer Candidate, and related test scores, admissions, evaluation worksheets and correspondence relating to admission, medical history, academic progress/grades and related reports, and relevant information comprising the cadet candidate's attendance and behavior at the school."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry and substitute: "By the Department of the Army to evaluate applicant's acceptance and, once admitted, to assess his/her leadership, academic, and physical aptitude potential for the US Military Academy."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Safeguards:

Delete entry and substitute therefor: "Records are stored in locked rooms within building which is secured during non-duty hours, and are available only to authorized persons having an official need for the information."

Retention and disposal:

Delete entry; substitute: "For applicants who are rejected or who choose not to enter the US Military Academy, records are maintained until individual exceeds the age limit for acceptance to the Academy. For applicants who are accepted and enter the US Military Academy, records are retained for 40 years after individual's class graduates from the Academy, following which records are destroyed by burning and/or shredding."

System manager(s) and address:

Delete entry and substitute: "Deputy Chief of Staff for Personnel, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310."

Notification procedure:

Delete entry and substitute: "Individuals wishing to inquire whether this system contains information about them should contact the Commandant, US Military Academy Preparatory School, Ft Monmouth, NJ 07709. Written requests should include the full name, Social Security Account Number, current address and telephone number of the requester, and year(s) of application and/or attendance. For personal visits, the individual should be able to provide acceptable identification such as military, employer, or other individually identifying number, valid driver's license, building pass, etc."

Record access procedures:

Delete entry and substitute therefor: "Individuals desiring access to their records should follow the procedures and provide the information set forth under "Notification procedure".

Contesting record procedures:

Add: "(32 CFR Part 505)."

Record source categories:

Delete entry and substitute: "From the individual, high school/college transcripts, nationally recognized and Army testing services, staff and faculty of the US Military Academy Preparatory School, military supervisors/unit personnel officers."

Systems exempted from certain provisions of the act:

Delete entry and substitute therefor: "Parts of this system which fall within 5 U.S.C., 552a(k) (5) and (7) are exempted from subsection (d) of 5 U.S.C., 552a."

A1015.01aDAAG

System name:

Dependent Children School Program Files (44 FR 73974), December 17, 1979.

Changes:

System location:

In the first paragraph, delete "overseas" after "Army-operated" and "in overseas areas or" following "located".

Categories of individuals covered by the system:

Delete the phrase "in oversea areas or in the US".

Categories of records in the system:

Delete all information; substitute the following: "School files include: enrollment/admission/registration/transfer applications; course preferences/curriculum; health records; attendance registers; academic achievements and report cards reflecting grades/credits earned; aptitude, IQ, and other test results; notes regarding student's special interests, hobbies, activities, sports; counseling documents; high school transcripts and certificates; and related supporting documents."

Authority for maintenance of the system:

Delete entries and substitute therefor: "Section 6, Public Law 81–874."

Routine uses of records maintained in the system, including categories of users, and the purposes of such uses:

Delete entries and add the following: "These records are created and maintained by the Department of the Army to record education provided for eligible dependent children of military and civilian personnel residing on Army bases identified under "System location" pursuant to Public Law 81–874.

"Records may be disclosed to Department of Education in connection with Federal funding for public education.

"Information from the system may be disclosed to Federal and State educational agencies in connection with student's application for financial aid.

"Records may be disclosed to students' parents/legal guardians when Army officials determine bonafide need therefor and disclosure is not otherwise precluded by the Family Educational Rights and Privacy Act of 1974 (The Buckley Amendment), 20 U.S.C. 1232g."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Retrievability:

Delete entry; substitute therefor: "By school, school year, and student surname."

Retention and disposal:

Delete entries and substitute the following:.

"Academic records for elementary school students are destroyed at the school attended after 5 years; those for secondary school students are destroyed after 65 years by the Washington National Records Center where such records are retired after graduation/withdrawal of student.

"Individual student health records and test/achievements documents are retained at the local school 1 year for elementary students; 2 years for secondary students, after which they are destroyed.

"Teacher class registers of attendance and scholastic marks and averages are retained at the local school for 5 years; then destroyed."

System manager(s) and address:

After "Army", delete remainder and substitute therefor: "(ATTN: Director of Education), Hoffman Building 1, Alexandria, VA 22331."

Notification procedure:

Delete entry and substitute: "Individuals who wish to know whether or not this system of records contains information concerning them may write to the principal of the school attended or, if the records have been retired to the Washington National Records Center, to The Adjutant General, Headquarters, Department of the Army (DAAG–AMR–S), Hoffman Building 1, Alexandria, VA 22331. Individuals must furnish full name; name at the time of school attendance, if different; date of birth; identity and location of school attended, dates of attendance; and signature."

Record access procedures:

Delete entry and substitute therefor: "Individuals requesting access to their records must submit a written request either to the principal of the school attended or to The Adjutant General, ATTN: DAAG–AMR–S if records have been retired to the Washington National Records Center. Information required under "Notification procedure" must be furnished. Personal visits may be made if the school retains the record."

Contesting record procedures:

Change entry to read: "The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505)."

Record source categories:

Delete entry and substitute: "Information in this system is provided by individual on whom record is maintained; school teachers, principal, counselors; medical personnel; parents/guardians."

A1106.16DAAG

System name:

Postal Directory Files (44 FR 73981), December 17, 1979.

Changes:

System name:

Delete entry; substitute: "Postal and Mail Service System".

System location:

Delete entry and substitute: "Postal facilities at Army headquarters offices, commands, and installations. Addresses are contained in the appendix to the Army's listing of system notices (44 FR 74011, December 17, 1979)."

Categories of individuals covered by the system:

Delete entry and substitute: "Persons designated as mail agents; military personnel assigned/attached to Army installations who desire mail handling service; standing delivery order agents designated by individuals who desire such service."

Categories of records in the System:

Delete entry and substitute: "DD Form 285 designating Army postal clerks/NCO's/supervisors; locator cards compriaing a directory of individuals assigned, en-route, and/or departing given installation showing individual's full name, grade, current mailing address, date of assignment/detachment, and Social Security Number (latter is voluntary); standing delivery order designations of agents to handle individual's mail."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Retention and disposal:

Change entry to read: "Postal personnel designations and designation of mail delivery agents by individuals are destroyed 3 years following termination of individual's duty as such. Directory locator cards are retained for 1 year after individual departs a unit."

Record access procedures:

Change to read: "Written requests should contain individual's full name, rank/grade, Social Security Account Number, and any other information that will assist in locating records. Personal visits may be made; individual must furnish proof of identity."

Contesting record procedures:

Delete entry; substitute: "The Army's rules for accessing records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505)."

Record source categories:

Delete entry; substitute: "From the individual, unit commanders, and Army postal officers."

A1420.08aAMC

System name:

Equipment Operator Permit Files (44 FR 74004), December 17, 1979.

Changes:

System Identification:

Delete "aAMC"; substitute therefor: "DARCOM".

System name:

After "Permit", add "and Register".

Categories of records in the system:

Delete period and add: "and a register of such individuals."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entries and substitute: "To determine qualifications of individuals and issue authorization for operation of Government equipment described above."

Contesting record procedures:

After "determinations", delete remainder and substitute: "are contained in Army Regulation 340–21 (32 CFR Part 505)."

Notification procedure:

Delete entry and substitute: "Individuals who believe information on them is contained in this system of records should inquire of the Mobility Equipment Examiner at the installation where record is thought to be maintained."

Record source categories:

Delete entry; substitute: "From the individual."

The amended systems of records are set forth below in their entirety.

A101.20DAMI

SYSTEM NAME:

Controlled Accountable Document Inventory System

SYSTEM LOCATION:

Document Control Center/Security Office of Army installations and/or major commands to the extent that classified inventories are directed by the commander. Addresses are listed in the appendix to the Army inventory of system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Custodians of classified Defense information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Custodian's name, Social Security Account Number, and a listing of controlled classified documents for which the custodian is responsible. Records may also include document title, originator, and type and date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012; 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Department of the Army to conduct periodic inventory of classified documents and to determine or validate custodian accountability of those documents.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes, discs, computer printouts; paper records.

RETRIEVABILITY:

Alphabetically by surname and numerically by Social Security Account Number.

SAFEGUARDS:

Access is restricted to authorized personnel having a need-to-know and to security officers to verify inventory of classified documents. Information is housed in buildings which are controlled by security guards during non-duty hours.

RETENTION AND DISPOSAL:

Retained until the next inventory has been completed satisfactorily; is destroyed upon next inventory.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Chief of Staff for Intelligence, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Individuals who desire to know whether or not this system of records contains information on them should write to the commander of the installation where they believe such information was collected or maintained.

RECORD ACCESS PROCEDURES:

An individual should write to the commander as indicated under "Notification procedure", and provide his/her name, SSN, date and place of employment, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual who receipts for classified documents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO703.04DAPC

SYSTEM NAME:

ROTC Applicant/Member Records

SYSTEM LOCATION:

Manual records exist in Office of the Professor of Military Science at civilian educational institutions, in ROTC Regional Offices, and at US Army Military Personnel Center, Alexandria, VA 22332.

Automated records are maintained at HQ US Army Training and Doctrine Command, Ft Monroe, VA 23651.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who apply and are accepted in the Army Reserve Officers Training Corps (ROTC) program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application for appointment, including such personal data as name, Social Security Account Number, date and place of birth, citizenship, home address and telephone; marital status, dependents; transcripts and certificates of education, training, and qualifications; medical examinations; financial assistance documents; awards; ROTC contract; photograph; correspondence between member and the Army or other Federal agencies; letter of appointment in Active Army on completion of ROTC status; security clearance documents. Official documents include DA Form 131, DA Form 597, DA Form 61, DA Form 873, SF 88 and SF 93, DD Forms 4/1–4/4, and DOJ Form I–151 if applicable.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C., sections 2101–2111.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Department of the Army (a) in the selection, training, and commissioning of eligible ROTC cadets in the Active Army and Reserve Forces and (b) for personnel management, strength accounting, and manpower management purposes.

May be disclosed to the Federal Aviation Administration to obtain flight certification/licensing.

May be disclosed to the Veterans Administration for member Group Life insurance and/or other benefits.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in folders, punched cards, microfilm/fiche, magnetic tape, drum, or disc.

RETRIEVABILITY:

By name, SSN, or ADP parameter of characteristics of qualification or identity.

SAFEGUARDS:

All records are maintained in areas accessible only to authorized personnel who are trained and cleared for duties relating to personnel administration. Insofar as automated records are concerned, each out-line terminal employs users identification and password edits to protect the system from unauthorized access and to restrict each user to specific files and data elements. User identifications and passwords are changed at random times, control data are maintained by the system manager in a sealed envelope in an authorized safe.

RETENTION AND DISPOSAL:

DA Form 131 is retained in the ROTC unit for 5 years after cadet leaves the institution or is disenrolled from the ROTC program. Following successful completion of ROTC and academic programs and appointment as a commissioned officer with initial assignment to active duty for training, copy of pp. 1 and 2 will be reproduced and sent to the commandant of individual's basic branch course school.

Records of rejected ROTC applicants are destroyed. Other records not mentioned in preceding paragraph an in the "Category of records" element above are destroyed if not required to become part of the MPRJ.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding General, U.S. Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332.

NOTIFICATION PROCEDURE:

Individuals desiring to know whether or not this system of records contains information on them should inquire of the Professor of Military Science of the civilian educational institution in which the individual is an enrolled ROTC member.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the official in "Notification procedure", furnishing his/her full name, current address and telephone number, and definitive description of the information sought. For personal visits, the individual must provide commonly used identification such as valid driver's license or personal identification card used in the normal transaction of business.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, civilian educational institutions, oficial Army records addressing entitlement status, medical examination and treatment, security determination, and attendance and training information while an ROTC cadet.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

AO726.06DAAG

SYSTEM NAME:

Casualty Information System (CIS)

SYSTEM LOCATION:

The Adjutant General's Office, Headquarters, Department of the Army, Alexandria, VA., 22331. A manual segment of this system pertaining to Army reserve members not on active duty exists at the U.S. Army Reserve Components Personnel and Administration Center, St. Louis, MO 63132.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Army personnel who are reported as casualties in accordance with Army Regulation 600–10.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computer data base contains information on casualties since 1961 including name, Social Security Number (SSN), date of birth, branch of service, organization, duty Military Occupational Specialty, rank, sex, race, religion, home of record, and other pertinent information related to casualty status. Manual records include DD Form 1300, notification/certificate of death, and documents pertaining to Servicemen's Group Life Insurance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 302; Pub. L. 93–289.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from the historical statistical record is used to provide monthly statistics to Army and Defense components of the type, number, place and cause of death of Army members and to respond to public inquiries.

Pertinent data may be disclosed to Office, Servicemen's Group Life Insurance for payment of insurance to beneficiary.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes, computer printouts, punch cards, and paper records.

RETRIEVABILITY:

By name, SSN.

SAFEGUARDS:

All information is restricted to a secure area in buildings which employ security guards. Computer printouts and magnetic tapes and files are protected by password known only to properly screened personnel possessing special authorization for access.

RETENTION AND DISPOSAL:

Records are permanent. Original DD Form 1300 exists in member's Official Military Personnel File; copy of this form and documents relevant to Servicemen's Group Life Insurance are retained only until settlement of insurance claims, after which they are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

The Adjutant General, Headquarters, Department of the Army (ATTN: DAAG–PEC), Alexandria, VA 22331.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager; information relating to Servicemen's Group Life Insurance may be obtained from the Commander, US Army Reserve Components Personnel and Administration Center, St. Louis, MO 63132.

RECORD ACCESS PROCEDURES:

Written requests should contain the individual's name, current address and telephone number, and should identify the person who is the subject of the inquiry by name, rank and SSN. For personal visits, individual should provide acceptable identification such as valid driver's license, or other normally acceptable business identification.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determination are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Casualty reports received from Army field commands or from next-of-kin who provide notification or certificate of death.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A1012.01DAPE

SYSTEM NAME:

Applicants/Students, US Military Academy Prep School.

SYSTEM LOCATION:

US Military Academy Preparatory School, Ft Monmouth, NJ 07703.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants and students, US Military Academy Preparatory School.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application for admission, high school/college transcripts, Scholastic Aptitude/American College Test/CLEP/GT/Officer Candidate, and related test scores, admissions evaluation worksheets and correspondence relating to admission, medical history, academic progress/grades and related reports, and relevant information comprising the cadet candidate's attendance and behavior at the School.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Department of the Army to evaluate applicant's acceptance and, once admitted, to assess his/her leadership, academic, and physical aptitude potential for the US Military Academy.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

By applicant/student surname.

SAFEGUARDS:

Records are stored in locked rooms within buildings which are secured during non-duty hours, and are available only to authorized persons having an official need for the information.

RETENTION AND DISPOSAL:

For applicants who are rejected or who choose not to enter the US Military Academy: records are maintained until individual exceeds the age limit for acceptance to the Academy. For applicants who are accepted and enter

the US Military Academy, records are retained for 40 years after individual's class graduates from Academy, following which records are destroyed by burning and/or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff for Personnel, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains information about them should contact the Commandant, US Military Academy Preparatory School, Ft Monmouth, NJ 07703. Written requests should include the full name, Social Security Account Number, current address and telephone number of the requester, and year(s) of application and/or attendance. For personal visits, the individual should be able to provide acceptable identification such as military, employer, or other individually identifying number, valid driver's license, building pass, etc.

RECORD ACCESS PROCEDURES:

Individuals desiring access to their records should follow the procedures and provide the information set forth under "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, high school/college transcripts, nationally recognized and Army testing services, staff and faculty of the US Military Academy Preparatory School, military supervisors/unit personnel officers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system which fall within 5 U.S.C. 552a(k) (5) and (7) are exempted from subsection (d) of 5 U.S.C. 552a.

A1015.01aDAAG

SYSTEM NAME:

Dependent Children School Program Files.

SYSTEM LOCATION:

Currently enrolled students: Army-operated dependents schools located at Ft Benning, GA; Ft Bragg, NC; Ft Campbell, KY; Ft Jackson, SC; Ft Knox, KY; Ft McClellan, AL; Ft Rucker, AL; Ft Stewart, GA; US Military Academy, West Point, NY.

Former students: Washington National Records Center, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Students in the Army-operated dependents schools located at installations identified in "System location".

CATEGORIES OF RECORDS IN THE SYSTEM:

School files include: enrollment/admission/registration/transfer applications; course preferences/curriculum; health records; attendance registers; academic achievements and report cards reflecting grades/credits earned; aptitude, IQ, and other test results; notes regarding student's special interests, hobbies, activities, sports; counseling documents; high school transcripts and certificates; and related supporting documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 6, Pub. L. 81–874.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

These records are created and maintained by the Department of the Army to record education provided for eligible dependent children of military and civilian personnel residing on Army bases identified under "System location" pursuant to Pub. L. 81–874.

Records may be disclosed to Department of Education in connection with Federal funding for public education.

Information from the system may be disclosed to Federal and State educational agencies in connection with student's application for financial aid.

Records may be disclosed to student's parents/legal guardians when Army officials determine bona fide need therefor and disclosure is not otherwise precluded by the Family Educational Rights and Privacy Act of 1974 (The Buckley Amendment), 20 U.S.C. 1232g.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By school, school year, and student surname.

SAFEGUARDS:

Records are accessible only to authorized personnel having need for the information in the performance of their official duties.

RETENTION AND DISPOSAL:

Academic records for elementary school students are destroyed at the school attended after 5 years; those for secondary school students are destroyed after 65 years by the Washington National Records Center where such records are retired 5 years following student's graduation/withdrawal.

Individual student health records and tests/achievements documents are retained at the local school 1 year for elementary students; 2 years for secondary students, after which they are destroyed.

Teacher class registers of attendance and scholastic marks and averages are retained at the local school for 5 years; then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

The Adjutant General, Headquarters, Department of the Army (ATTN: Director of Education), Hoffman Building 1, Alexandria, VA 22331.

NOTIFICATION PROCEDURE:

Individuals who wish to know whether or not this system contains information concerning them may write to the principal of the school attended or, if the records, have been retired to the Washington National Records Center, to The Adjutant General, Headquarters, Department of the Army (DAAG–AMR–S), Hoffman Building 1, Alexandria, VA 22331. Individuals must furnish full name, name at the time of school attendance if different, date of birth, identify and location of school attended, dates of attendance; and signature.

RECORD ACCESS PROCEDURES:

Individuals requesting access to their records must submit a written request either to the principal of the school attended or to The Adjutant General, ATTN: DAAG–AMR–S if records have been retired to the Washington National Records Center. Information required under "Notification procedure" above must be furnished. Personal visits may be made if the school still retains the record.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Information in this system is provided by the individual on whom record is maintained; school teachers, principal, counselors; medical personnel; parents/guardians.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

A1108.16DAAG

SYSTEM NAME:

Postal and Mail Service System

SYSTEM LOCATION:

Postal facilities at Army headquarters offices, commands, and installations. Addresses are contained in the appendix to the Army's listing of system notices (44 FR 74011, December 17, 1979).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons designated as mail agents; military personnel assigned/attached to Army installations who desire mail handling service; standing delivery order agents designated by individuals who desire such service.

CATEGORIES OF RECORDS IN THE SYSTEM:

DD Form 285 designating Army postal clerks/NCO's/supervisors; locator cards comprising a directory of individuals assigned, en-route, and/or departing given installation showing individual's full name, grade, current mailing address, date of assignment/detachment, and social security account number (latter is voluntary); standing delivery order designations of agents to handle individual's mail.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

By the Department of the Army to identify persons authorized to perform Army postal functions; to maintain current addresses of persons arriving/departing units for purpose of handling personal mail.

Information may be disclosed to US Postal Service.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Cards, paper records; microfiche.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Records are located in secured buildings, accessible only to designated persons having an official need for the information.

RETENTION AND DISPOSAL:

Postal personnel designations and designation of mail delivery agents by individuals are destroyed 3 years following termination of individual's duty as such. Directory locator cards are retained for 1 year after individual departs a unit.

SYSTEM MANAGER(S) AND ADDRESS:

The Adjutant General, Headquarters, Department of the Army (ATTN: DAAG–MAO), Hoffman Building 1, 2461 Eisenhower Avenue, Alexandria, VA 22331.

NOTIFICATION PROCEDURES:

Individuals desiring to know whether this system of records contains information concerning them should inquire of the Postal Director at the unit where assigned or employed.

RECORD ACCESS PROCEDURE:

Written requests should contain individual's full name, rank/grade, social security account number, and any other information that will assist in locating records. Personal visits may be made; individual must furnish proof of identity.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual, unit commanders, and Army postal officers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

A1420.08DARCOM

SYSTEM NAME:

Equipment Operator Permit and Register Files

SYSTEM LOCATION:

Decentralized to local installation level of the Department of the Army. Official mailing addresses are in the Appendix to the Army inventory of system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian personnel authorized to operate certain categories of Government equipment (generators, air/gas compressors, construction equipment, handling equipment, locomotives, guided missile hydraulic elevators, mobile floating assault bridges, fueled heaters and stoves, amphibious craft, and mine detecting equipment).

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's permit (SF 46) for operating kinds of equipment in preceding paragraph and a register of such individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To determine qualifications of individuals and issue authorization for operation of Government equipment described above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

Records are maintained in buildings protected from unauthorized entry by security guards, in areas accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed 3 years from date of issue or whenever revoked by proper authority, whichever occurs first.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Materiel and Readiness Command, ATTN: DRCSF–S, 5001 Eisenhower Avenue, Alexandria, VA 22333.

NOTIFICATION PROCEDURE:

Individuals who believe information on them is contained in this system of records should inquire of the Mobility Equipment Examiner at the installation where record is thought to be maintained.

RECORD ACCESS PROCEDURE:

Individuals should submit a written request to the local installation where record was created, providing full name, Social Security Account Number, date and place assigned when permit was issued, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

From the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82-5277 Filed 2-26-82; 8:45 am]
BILLING CODE 3710-08-M

Availability of Patent Application for Licensing

Pursuant to the provisions of the General Services Administration's temporary licensing regulations, the Department of Army announces that patent application, Serial No. 289,013 filed on July 31, 1981 for "Oral Vaccine for Immunization Against Enteric Disease" is available for licensing.

A copy of the patent application can be obtained from the Chief, Intellectual Property Division, Office of the Judge Advocate General, Department of the Army, Washington, D.C. 20310. Claims are deleted from the patent application to avoid premature disclosure in the event of an interference before the Patent and Trademark Office.

For further information concerning this notice, contact: LTC Neil K. Nydegger, HQDA (DAJA-IP) Pentagon—Room 2D 444, Washington, D.C. 20310, Telephone No. 695-9356.

John O. Roach II,

Army Liaison Officer with the Federal Register.

[FR Doc. 82-5408 Filed 2-26-82; 8:45 am]
BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Hickory/Spring Creek Flood Control Project at Joliet, Ill.; Intent To Prepare Draft Environmental Impact Statement

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: The Illinois Department of Transportation (IDOT), Division of Water Resources, has applied to the U.S. Army Corps of Engineers for a permit under Section 404 to the Clean Water Act of 1977 in conjunction with their proposed flood control project. IDOT proposes to provide protection from the 100-year flood event for homes and businesses in an 822-acre area in Joliet, Illinois, by means of channel modifications and construction of dry reservoirs on Hickory and Spring Creeks in Will Country, Illinois.

2. In addition to the proposed channel modifications and dry reservoirs, IDOT considered the following alternatives in detail:

a. No Action Alternative—No structural modifications would be made. Floodplain development restrictions and surface runoff controls established by county ordinances would continue.

b. Channel Improvements Only—Portions of Hickory and Spring Creek channels in Joliet would be modified.

3. Public involvement has included issuance of a public notice of an application for a permit for the proposed project. Interested parties and agencies were invited to express their views. Interagency coordination meetings and discussions have also been held. Additional interagency meetings are planned. In additional to coordination with IDOT, coordination has also involved the U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, and the Illinois Department of Conservation.

4. Significant issues to be analyzed in depth are adverse impacts on fisheries and aquatic habitat, potential mitigation for aquatic habitat losses, destruction of 26.1 acres of wetlands, and mitigation for that destruction.

5. No formal scoping meeting will be held.

6. The DEIS is expected to be available to the public in July 1982.

7. Questions regarding the proposed action and DEIS may be directed to: Keith Ryder, U.S. Army Corps of Engineers, Chicago District, Environmental and Social Analysis Section, 219 South Dearborn Street, Chicago, Illinois 60604 (312/353-6508).

Dated: February 17, 1982.

Christos A. Dovas,

LTC, Corps of Engineers, District Engineer.

[FR Doc. 82-5403 Filed 2-26-82; 8:45 am]
BILLING CODE 3710-HN-M

Department of the Navy

Science and Technology Sub-Panel of the Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Science and Technology Sub-Panel of the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on March 17-18, 1982, from 9 a.m. to 5 p.m. each day, at the Ballistic Missile Defense System Command in Huntsville, Alabama, on the 17th and in Alexandria, Virginia, on the 18th. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of ballistic missile defense systems and SLBM accuracy and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Lieutenant K. M. Cummings, Executive Secretary, CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, VA 22311, Phone (703) 756-1205.

Dated: February 24, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 82-5399 Filed 2-26-82; 8:45 am]
BILLING CODE 3810-AE-M

Office of the Secretary

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, April 6, 1982; Tuesday, April 13, 1982; Tuesday, April 20, 1982; and Tuesday, April 27, 1982 at 10:00 a.m. in Room 3D321, the Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Public Law 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b. (c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b. (c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b (c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b (c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, the Pentagon, Washington, D.C. 20301.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

February 24, 1982.

[FR Doc. 82-5398 Filed 2-26-82; 8:45 am]
BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Determination of Applicability of Equal Access to Justice Act

AGENCY: Department of Energy.

ACTION: Notice of determination.

FOR FURTHER INFORMATION CONTACT: Toni E. Moore, Office of General Counsel, Department of Energy, 1000 Independence Avenue SW., Room 6A-211, Washington, D.C. 20585, (202) 252-8618.

TEXT: The Equal Access to Justice Act, Pub. L. No. 96-481, 94 Stat. 2325 (the "Act") provides, among other things, that agencies conducting adversary adjudications shall award attorney fees and other expenses to eligible parties unless it is determined that the Government's position was substantially justified or that special circumstances make an award unjust. "Adversary adjudications" are defined as adjudications under 5 U.S.C. 554 in which the position of the United States is represented by counsel or otherwise. Excluded from the definition, however, are adjudications for the purpose of establishing or fixing rates or for the purpose of granting or renewing licenses. The Administrative Conference of the United States and the Department of Energy have construed the Act as applying only to proceedings in which hearings under 5 U.S.C. 554 are required by statute. The Act further provides that agencies shall establish uniform procedures for the submission and consideration of applications for an award of fees and other expenses.

After careful review and consideration, the Department has determined that none of the proceedings it presently conducts are adversary adjudications as defined by the Act; consequently, it is not necessary to establish procedures for the submission and consideration of applications for fee awards.

Should the Department conduct such proceedings in the future, it will promulgate procedures in accordance with the Department of Energy Organization Act and the Administrative Procedure Act (5 U.S.C. 551 *et se.*).

Dated: February 19, 1982.

R. Tenney Johnson,

Acting Secretary.

[FR Doc. 82-5282 Filed 2-26-82; 8:45 am]
BILLING CODE 6450-01-M

Intent to Prepare Environmental Impact Statement and Conduct Public Scoping Meetings

AGENCY: Department of Energy (DOE).

ACTION: DOE intends to prepare an Environmental Impact Statement (EIS) assessing the environmental effects of the construction and operation of an electric transmission line crossing the Canadian border. Public scoping meetings are to be held.

SUMMARY: Pursuant to the National Environmental Policy Act and the regulations of the Council on Environmental Quality at 40CFR1501.7, notice is hereby given that the Office of Energy Emergency Operations of the Department of Energy (DOE) intends to prepare an Environmental Impact Statement (EIS) to assess the enviromental implications of a proposed DOE action: to grant (with terms and conditions) or deny a permit authorizing either the Vermont Electric Power Company (VELCO) or the New England Electric Transmission Corporation (NEET) to construct, operate, and maintain facilities at the international border, between the United States and Canada, for the transmission of electric energy between Hydro-Quebec (HQ), a public agency of the Province of Quebec, and the New England Power Pool (NEPOOL), an association of New England utilities.

Written comments on this activity should be addressed to: Garet A. Bornstein, Department of Energy, Office of Energy Emergency Operations, EP-422, Forestal Building, Room GH-034-G, 1000 Independence Avenue, SW., Washington, D.C. 20585, 202-252-1714.

For general information on the EIS process contact: Environmental Compliance Division, Office of Environment, Safety and Health, Office of the Assistant Secretary for Environment, U.S. Department of Energy, Attn: Linda Desell, Forrestal Building, EP-33, 1000 Independence Avenue, SW., Washington, D.C. 20585, 202-252-6374.

DATE: Scoping meetings 1:00 p.m. and 7:00 p.m., March 10, 1982 in St. Johnsbury, Vermont, at The Lincoln Inn, 20 Hastings Street; 1:00 p.m. and 7:00 p.m., March 11, 1982 in Littleton, New Hampshire at the Congregational Church, 198 Main Street. Written comments due: April 30, 1982.

BACKGROUND INFORMATION: On December 11, 1981, VELCO and NEET (a wholly owned subsidiary of the New England Electric System) filed separate applications with the DOE to install and maintain electric power facilities at the border between the United States and Canada for the transmission of electric energy between HQ and NEPOOL. Specifically, VELCO and NEET independently seek authority to construct, connect, and operate the United States portion of high voltage direct current (DC) tranmission circuits extending between an HQ substation located near Sherbrooke, Quebec and a terminal facility at the Comerford Station located in Grafton County, New Hampshire where DC/AC conversion equipment will be installed. The transmission line will employ overhead cable with an ultimate capacity of 2000 megawatts (MW) and will have a design voltage of 450 kilovolts (kV). The VELCO application proposes a transmission line route through Vermont, and the NEET application proposes a route through New Hampshire. Since only one permit for the interconnection between HQ and NEPOOL will be granted by DOE, the two applications essentially represent two different route options for one interconnection permit. HQ will construct and operate all facilities on the Canadian side of the border; VELCO will construct and operate all facilities in Vermont; and NEET will construct and operate all facilities in New Hampshire. The DOE will review and process the two applications concurrently and will prepare one EIS covering the two applications.

Interested agencies, organizations, and other members of the general public desiring to submit written comments or suggestions for consideration in connection with the preparation of this EIS are invited to do so and/or to attend the public scoping meetings which will be held on March 10, 1982 in St. Johnsbury, Vermont and on March 11, 1982 in Littleton, New Hampshire in order to assist DOE in identifying significant environmental issues and the appropriate scope of the EIS. Parties who desire to present oral comments at the scoping meetings should provide advance notice to DOE as described below under Comments and Scoping Meeting. Upon completion of the draft EIS, its availability will be announced in the **Federal Register**, at which time comments will be solicited.

The purpose of the interconnection proposed by VELCO and NEET is to permit the utilities in New England, operating through NEPOOL, to obtain access to and the benefits of Canadian hydroelectric energy. An interconnection would connect the facilities of NEPOOL with those of the HQ system and thereby provide access to HQ's hydroelectric energy located in the Province of Quebec. Both applications contend the interconnection will improve the reliability of both the HQ and NEPOOL systems by permitting emergency energy transfers and by providing mutual backup, and will also permit New England utilities to reduce their consumption of and dependence on oil and thereby achieve significant cost savings for their customers. It is contended by the applicants that operation of the proposed interconnection could relieve the New England utilities of the necessity of installing as much as 500 MW of reserve capacity that would otherwisse have to be constructed for peaking or standby service.

The proposed interconnection potentially will have associated costs which should be weighed against potential benefits, including those associated with the construction of some 60 miles of 450 kV transmission line within the U.S. and with the energy losses in transmission, estimated by the applicants to be less than one percent. The EIS will include an assessment of the costs and risks for the proposed project and its alternatives.

DOE is involved with the proposed interconnection because a Presidential Permit is specifically required for construction, connection, operation and maintenance of electric transmission facilities at an international boundary of the U.S., under Executive Orders No. 10485 and No. 12038. Authority to grant (or deny) such permits has been delegated to the Secretary of Energy. VELCO and NEET, on December 11, 1981, applied independently for permits in connection with the interconnection. DOE has accepted the two parallel applications subject to the supplemental filing of certain materials. One of the actions required of VELCO and NEET prior to a DOE decision is preparation of an Environmental Report.

Preliminary Definition of Environmental Issues

The purpose of this notice is to solicit comments and suggestions for consideration in preparation of the EIS. As background for public comment and suggestions, either written or made orally at one of the scoping meetings, it is useful to list those environmental issues which have been tentatively identified for analysis and assessment in the EIS. This list is not intended to be all-inclusive nor to imply any predetermination of impacts.

Additionally issues for analysis may be identified as the result of public comments.

A. Environmental Issues Associated with Transmission Line Construction

A number of environmental effects could result from construction of the proposed line including:

(1) Temporary disruption of wildlife communities, agricultural production and other land uses along the line route during actual construction;

(2) Permanent removal of tall growing vegetative species from the right of way, and of all vegetation from tower footings, access roads and substation sites;

(3) Temporary socioeconomic perturbations due to the influx of construction workers into sparsely populated areas;

(4) Temporary noise and air pollution resulting from operation of construction equipment and from burning of rights-of-way slash.

B. Environmental Issues Associated with Transmission Line Operation and Maintenance

(1) Continuing limitation on the feasibility or efficiency of some agricultural activities within the right-of-way, particularly of irrigation devices;

(2) Periodic interference with plant and wildlife communities along the rights-of-way, due to the required maintenance activities, particularly vegetation control;

(3) Generation of acoustic noise and electromagnetic interference to radio and television reception along the rights-of-way;

(4) Possible biological effects such as reduced growth or variability for plant and animal species resident within or in proximity to the rights-of-way;

(5) Possible long term effects due to the use of herbicides for vegetation control;

(6) Indirect ecological and socioeconomic effects resulting from easier unauthorized human access to some areas via access roads and rights-of-way, such an increased hunting or use by motorcycles or snowmobiles; and

(7) permanent visual impacts.

C. Other Specific Environmental Issues

A number of other specific environmental issues will be addressed in the EIS. Such issues include:

(1) The possibility of affecting threatened or endangered species or critical habitats for such species;

(2) Identification and review of alternatives to construction within a 100-year flood plain or identified wetland and identification and review of mitigating measures to be taken if it is found that there are no practicable alternatives to construction in a floodplain or wetland;

(3) Possible direct and adverse effects on the values for which a wild scenic or recreational river was established;

(4) Environmental factors relevant to any proposed construction in or over navigable rivers, or to any proposed actions resulting in the discharge of dredge or fill materials into any waters of the U.S.;

(5) Actions having an impact on the continued use and viability of prime and unique farmlands;

(6) Possible effects on sites or properties included on, nominated for, or eligible for inclusion in the National Register of Historic Places, or on historical, architectural or archeological sites of national significance; and

(7) Possible adverse impacts on National Forest lands.

Preliminary Definition of Alternatives

The major purpose of an EIS is to define the reasonable alternatives to the proposed action, and the environmental impacts to be expected from each reasonable alternative. As background for public comments and suggestions concerning reasonable alternatives to be considered, the broad classes of alternatives which have been tentatively identified are described briefly below.

(1) *Proposed Actions by VELCO*, to construct and operate the interconnection as prepared by VELCO which would purportedly reduce the maximum level of generation required in the New England region and adjoining regions at seasonal peak loads and perhaps the average annual energy generated by the U.S. utilities;

(2) *Proposed Action by NEET*, to construct and operate the interconnection as proposed by NEET which would purportedly reduce the maximum level of generation required in the New England region and adjoining regions at seasonal peak loads and perhaps the average annual energy generated by the U.S. utilities;

(3) *The traditional course of action* of continuing the operation of oil and coal fueled generating plants as necessary to meet load, and the construction of new plants as necessary to satisfy future increases in load;

(4) *Develop and construct new types of generating plants*, for example, driven by sun and wind, which would reduce the need for generation fueled by oil or coal or for future construction of conventional generating plants;

(5) *Load management* by energy storage or conservation, or replacement of some end uses of electricity by other sources of energy, which would reduce seasonal variations in load and total annual electrical energy requirements; and

(6) *Purchases from utilities within the United states* which have differing peaking periods.

Mitigation Alternatives

The environmental impacts which would result from construction and operation of the proposed project would depend on the choice among a number of alternative possibilities as to where, when and how the project was constructed, as well as the choice of alternative maintenance and repair procedures during operation. Tentatively identified groups of alternatives for consideration in the EIS include: (a) design, (b) route selection, (c) construction practices and (seasonal) timing, (d) right-of-way clearing procedures, and (e) right-of-way maintenance practices.

Comments and Scoping Meeting

The scoping meetings will be conducted informally with the presiding officer afforded all interested individuals in attendance an opportunity to speak. A transcript of the meetings will be recorded. The DOE has designated Mr. Garet Bornstein as presiding officer at these meetings. The presiding officer will establish the order of speakers and provide any additional procedures necessary for the conduct of the meetings.

Speakers will be allotted approximately 15 minutes for their oral statements. Should any speaker desire to have additional time or to provide further information for the record, such additional information may be submitted in writing by April 30, 1982. Written comments will be considered and given equal weight with oral comments.

A transcript of the scoping meetings will be retained by DOE and made available for inspection at the Freedom of Information Library, Room 1E–090, Forrestal Bldg., 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. In addition, anyone may make scripts.

Draft EIS Schedule and Availability

The draft EIS (DEIS) will be completed by January 1, 1983 at which time its availability will be announced in the **Federal Register** and pubic comment will again be solicited.

Those individuals who do not wish to submit comments or suggestions at this time but who would like to receive a copy of the DEIS for review and comments when it is issued should notify Garet Bornstein at the address given in the prior section.

Copies of the applicants' Environmental Report and other documents to be used in preparation of the DEIS will be made available for public inspection at several public libraries of reading rooms within Vermont and New Hampshire and at other DOE locations throughout the U.S. A notice of the locations for such availability will be provided in the **Federal Register** at a later date.

Issued in Washington, D.C. on Febraury 26, 1982.

Barton R. House,

Deputy Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

[FR Doc. 82-5846 Filed 3-26-82; 10:48 am]

BILLING CODE 6450-01-M

Energy Information Administration

Revision of the Federal Power Commission Form 67

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of the revision of the Federal Power Commission Form 67 and solicitation of comments.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) announces that the Federal Energy Regulatory Commission (FERC), the Environmental Protection Agency (EPA), the Bureau of Economic Analysis of the Department of Commerce, the DOE Office of Nuclear Energy, and the EIA will jointly sponsor for 1 year a revision of the Federal Power Commission (FPC) Form 67, "Steam-Electric Plant Air and Water Quality Control Data." The revision will be renamed EIA–767 and will be managed by the EIA. The EIA–767 differs from the FPC–67 in that data not required by the sponsors have been deleted from the form and the plant reporting threshold has been raised to 100 megawatts.

DATES: Written comments must be submitted within 30 days of the publication of this notice.

ADDRESSES: Comments should be sent to Mr. Jerry M. Eyster at the address listed immediately below.

FOR FURTHER INFORMATION CONTACT:
To obtain additional information or copies of the EIA–767, contact: Mr. Jerry M. Eyster, Director, Electric Power Division, Energy Information Administration, Department of Energy, MS–7407, 12th and Pennsylvania Avenue NW., Washington, DC 20461, (202) 633–8798.

SUPPLEMENTARY INFORMATION:
I. Current Action
II. Deleted Data
III. Long-Range Plans

I. Current Action

The EIA announces that the orgnizations named in the summary will jointly sponsor for 1 year a revision of the FPC–67. The form was revised by deleting data not required by the sponsors. It will be renamed EIA–767. After the EIA–767 is approved by the Office of Management and Budget, electric utilities will be required to submit 1981 calendar year data on this form for all their plants that either had during 1981 or are projected to have before 1989 a steam-electric capacity of 100 megawatts or greater. The average respondent burden, defined as the number of person-hours required to complete a form, is 110 hours for the FPC–67. Since this form is currently filed for 973 plants, the total industry burden is 107 thousand hours. Given the reduced amount of data required by the EIA–767, its average respondent burden is estimated to be 92 hours. Given the higher reporting threshold, it is estimated that the EIA–767 will be filed for 779 plants. Thus, the total industry burden for this form should be 72 thousand hours. From their information collection budgets, the EPA, the FERC, and the DOE sponsors will allocate 16,

27, and 29 thousand hours respectively for this form.

II. Deleted Data

The following data on the FPC–67 have been deleted from the EIA–767:

Lines	Part	Page
16 to 18	1	5
10	2	14
7 to 10	2	19
16 to 18	3	21
(Column for the current year's data)	3	22
5 to 15	3	23
(Entire page)	NA	25
7 to 10	4	2
9 to 10	4	6
(Entire page)	4	12
(Entire page)	4	13

III. Long-Range Plans

In order to minimize reporting burden, avoid duplication of effort, and provide a comprehensive source of data, the organizations named in the summary plan to continue their joint sponsorship of EIA-767. However, during 1982 the form will be extensively redesigned. This redesign will be consistent with EIA's objective of minimizing respondent burden by using clear and concise instructions, standard industry definitions, and a simple but flexibile format that is easy to complete and compatible with the records kept by the utilities. The sponsors plan to solicit comments on the redesigned form at a later date. The redesigned form will be used to collect data beginning with calendar year 1982. The EIA will coordinate and manage this redesign, and continue the collection, processing, and distribution of these data.

Issued in Washington, D.C., February 22, 1982.

J. Erich Evered,

Administrator, Energy Information Administration.

[FR Doc. 82-5201 Filed 3-22-82; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA–FC–81–020; OFC Case No. 55006–9211–81–21, 24 55358–9012–02–12]

Order Granting Permanent Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice.

SUMMARY: On July 20, 1981, Federal Paper Board Company, Inc. (FPB), filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE), pursuant to section 503.37 of ERA's interim rules governing the cogeneration exemptions (44 FR 28950, May 17, 1979) ("interim rules"), seeking a permanent cogeneration exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act), which prohibits the use of petroleum or natural gas in new powerplants and the construction of new powerplants without alternate fuel burning capability. At the same time, FPB also sought a temporary public interest exemption for the same cogeneration facility. Additional information requested by ERA was received from FPB on November 9, 1981.

FPB proposes to install a 20.1 megawatt (MW) gas-fired combustion turbine, and a 3.5 MW steam turbine generator to produce electricity as well as hot water and process heat for the company's production process at its Commerce, California facility.

Pursuant to section 212(c) of the Act, and § 503.37 of ERA's interim rules, as revised (46 FR 59872, December 7, 1981) ("final rules"), ERA hereby grants a permanent cogeneration exemption to FPB to permit the use of natural gas or petroleum in the cogeneration facility.

For reasons discussed in ERA's notice of acceptance of FPB's petition (46 FR 44495, September 4, 1981), no further action will be taken on FPB's petition for a temporary public interest exemption for this same facility.

FOR FURTHER INFORMATION CONTACT:

Ellen Russell, Case Manager, Office of Fuels Programs, Economic Regulatory Administration, 2000 M Street, NW, Room 6114, Washington, D.C. 20461, (202) 653–3379

Henry Garson, Office of the General Counsel, Department of Energy, 1000 Independence Avenue, SW., Forrestal Building, Room 6B–178, Washington, D.C. 20585, (202) 252–2967

The public file containing a copy of this final order and other documents and supporting materials on this proceeding are available upon request from DOE, Freedom of Information Reading Room, 1000 Independence Avenue, S.W., Room 1E–190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m.–4:00 p.m., Telephone (202) 252–6020.

SUPPLEMENTARY INFORMATION: In accordance with the procedural requirements of FUA and ERA's regulations, ERA accepted FPB's petition and published notice of its acceptance in the **Federal Register** on September 4, 1981 (46 FR 44495). The notice of acceptance commenced a 45-day public comment period during which interested persons could submit comments on the petition for exemption and could request that a public hearing be convened. This period expired on October 19, 1981. One comment was received, from the California Cogeneration Task Force, encouraging a speedy and favorable determination regarding this and all future cogeneration exemption requests for facilities located in California.

ERA's staff reviewed the information contained in the record of this proceeding and based on that review prepared a Tentative Staff Analysis recommending that FPB be granted a cogeneration exemption, the notice of availability of which was published in the **Federal Register** on January 26, 1982 (47 FR 3582). The period during which ERA would accept comments on the Tentative Staff Analysis expired on February 8, 1982. No comments were received.

ERA has determined that grant of the requested cogeneration exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(c) of the National Environmental Policy Act (NEPA). In accordance with section 212 of FUA, ERA has also determined that FPB has satisfied the eligibility requirements of § 503.37(a)(1) of the interim rules, by demonstrating that the oil or gas to be consumed in the cogeneration facility will be less than that which would otherwise be consumed in the absence of the facility. ERA has determined that the proposed cogeneration facility would result in oil/gas savings of a minimum of 15,733 barrels of oil (or natural gas equivalent) per year. Accordingly, ERA hereby grants FPB's petition for a permanent cogeneration exemption for the afore-described facility to be installed at its Commerce, California plant. The exemption granted by this order shall become effective on April 30, 1982.

Pursuant to section 702(c) of the Act, any person aggrieved by this order may, at any time on or before April 30, 1982, petition for judicial review thereof.

Issued in Washington, D.C. on February 23, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-5422 Filed 3-26-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 3211–002]

Power Authority of the State of New York; Application for License (Over 5 MW)

February 20, 1982.

Take notice that the Power Authority of the State of New York (Applicant) filed on December 22, 1982, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for construction and operation of a water power project to be known as the Hinckley Project No. 3211. The project would be located on West Canada Creek in Oneida and Herkimer Counties, New York. Correspondence with the Applicant should be directed to: Mr. Thomas R. Frey, General Counsel, 10 Columbus Circle, New York, New York 10019.

Project Description—The proposed project would consist of: (1) A New York State Department of Transportation-operated and maintained dam consisting of earthen embankments 570 and 2600 feet long, both 53 feet high, a non-overflow gravity dam section 65 feet long and 82 feet high, and a 400-foot long spillway, 83 feet high; (2) Hinckley Reservoir, with a surface area of 4.46 square miles and a usable storage capacity of 76,200 acre-feet between spillway crest elevation of 1225 and elevation 1164.5; (3) a new intake structure in the non-overflow gravity section and a new 120-foot long conduit 15 feet in diameter through this section; (4) two 90-foot long power penstocks 10.5 feet in diameter; (5) a new powerhouse approximately 70 feet square containing two 4.5-MW turbine/generator units operating under a head of 63 feet; (6) a new, open trapezoidal tailrace channel 280 feet long and 50 feet wide at the bottom; (7) a short 46-kV transmission line; and (8) appurtenant facilities.

Purpose of Project—The average annual generation of 25,460,000 kWh would be sold to the Applicant's wholesale, industrial or municipal customers.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before May 6, 1982, either the competing application itself (See 18 CFR 4.33(a) and (d)) or a notice of intent (See 18 CFR 4.33(b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 6, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5536 Filed 3-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4253–001]

River Street Associates; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

February 25, 1982.

Take notice that on October 9, 1981, River Street Associates (Applicant) filed an application under section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 4253) would be located on the Nubanusit River in Hillsborough County, New Hampshire. Correspondence with the Applicant should be directed to: Kenneth L. King, River Street, Peterborough, New Hampshire 03458.

Project Description—The proposed project would consist of two run-of-the-river developments:

The Elm Street Site would consist of: (1) An existing dam, 2 feet high and 27 feet long; (2) an impoundment covering less than 0.5 acre with negligible storage; (3) an existing concrete penstock 60 feet long, 8 feet wide and increasing in depth from 3 to 8 feet; (4) an old mill building housing a new 12-kW turbine/generator unit operating under a head of 3 to 5 feet; and (5) the existing 240-volt domestic service line used as a transmission line.

The Bell Mill Site would consist of: (1) An existing dam, 6 feet high and 90 feet long; (2) an impoundment covering 0.75 acre with negligible storage; (3) a new steel penstock 42 inches in diameter and 60 feet long placed inside an old penstock; (4) a small power-plant housing a new 100-kW turbine/generator unit operating under a head of 24 feet; and (4) an existing 50-foot long, 480-volt transmission line.

The total average annual generation of 563,000 kWh would be sold to the Public Service Company of New Hampshire. The Applicant was issued a preliminary permit for a period of 18 months for this site on June 17, 1981.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments: The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the New Hampshire Fish and Game Department are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency

does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 15, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 15, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5325 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3783-001]

Rocky Brook Electric, Inc.; Application for License (5 MW or Less)

February 25, 1982.

Take notice that Rocky Brook Electric, Inc. (Applicant) filed on January 28, 1982, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791 (a)–825(r)) for construction and operation of a water power project to be known as the Rocky Brook Project No. 3783. The project would be located on Rocky Brook in Jefferson County, Washington. Correspondence with the Applicant should be directed to: Mr. Joseph B. Clarkson, 460 Duckabush River Road, Brinnon, Washington 98320.

Project Description—The proposed project would consist of: (1) An 8-foot high, 24-foot long steel arch diversion dam; (2) a 500-foot long steel pipe; (3) a surge tank; (4) a 1,230-foot long steel penstock; (5) a powerhouse containing two generating units, one rated at 1,000 kW and one rated at 500 kW; and (6) and underground tranmission line. The average annual energy generation is estimated to be 7 million kWh.

Propose of Project—The energy generated by the project would be sold to a local utility.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, The National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal request for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Any one desiring to file a competing application must submit to the Commission, on or before May 6, 1982, either the competing application, itself (See 18 CFR 4.33(a) and (d)) or a notice of intent (See 18 CFR 4.33(b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et. seq. (1981).

Comments, Protest, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but ony those who file petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 6, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION," "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5326 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5931-000]

Roseburg Lumber Co.; Application for Preliminary Permit

February 24, 1982.

Take notice that Roseburg Lumber Company (Applicant) filed on February 1, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5931 to be known as the Hatchet Creek Hydroelectric Project located on Hatchet Creek in Shasta County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Donald O. Prielipp, General Manager, Anderson Division, P.O. Box 697, Anderson California 96007.

Project Description—The proposed project would consist of: (1) A 5-foot high, 40-foot long diversion structure; (2) a 33-inch diameter, 17,000-foot long pipeline/penstock; (3) a powerhouse containing a single generating unit with an installed capacity of 4,300 kW and an estimated average annual energy production of 15 million kWh, and (4) a transmission line. The project will not occupy Federal lands.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a 36-month permit to study the feasibility of the project and to prepare a FERC license application. No new road will be required to conduct the studies.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 7, 1982 the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et. seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 7, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than July 7, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 7, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each repregentative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5330 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5945-000]

Shoshone Piute Tribe of the Duck Valley Reservations; Application for Preliminary Permit

February 24, 1982.

Take notice that Shoshone Puite Tribe of the Duck Valley Reservations (Applicant) filed on February 3, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5945 to be known as the Wild Horse Hydroelectric Project located on Owyhee River in Elko County, Nevada within Humboldt National Forest. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. James Paiva, Chairman, Shoshone Piute Tribe of the Duck Valley Reservations, P.O. Box 219, Owyhee, Nevada 89832.

Project Description—The proposed project would consist of: (1) An existing 435-foot long, 75-foot high, double curve concrete arch dam; (2) a 3-foot diameter, 2,000-foot long steel pipeline; (3) a powerhouse containing one generating unit with a total rated capacity of 750 kW; and (4) a 11-mile long transmission line connecting to an existing Idaho Power Company 34.5–kV line. The Applicant estimates a 2.2 million kWh average annual energy production.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, results of geological, environmental and economic feasibility studies. The cost of aforementioned activities, along with preparation of an environmental impact report, obtaining agreements with the Forest Service and other Federal, State, and local agencies, and preparing a license application is estimated by the Applicant to be $58,000. the market for power will be either Idaho Power Company or Bonneville Power Administration.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commision, on or before June 1, 1982, the competing application itself (see 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 3, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the

Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protest, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 3, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-5337 Filed 3-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP81-105-004, et al.]

Southern Natural Gas Co., et al.; Filing of Pipeline Refund Reports and Refund Plans

February 23, 1982.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 9, 1982. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
Jan. 29, 1982	Southern Natural Gas Company	RP81-105-004	LFUT Report.
Jan. 29, 1982	South Georgia Natural Gas Company	RP77-32-013	Report.
Feb. 1, 1982	National Fuel Gas Supply Corporation	RP80-126-010	Report.
Feb. 4, 1982	Southern Natural Gas Company	RP80-105-009	Report.
Feb. 11, 1982	East Tennessee Natural Gas Company	CP80-539-004	Report.

[FR Doc. 82-5310 Filed 3-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-107-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Informal Technical Conference

February 23, 1982.

On December 8, 1981, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), filed in Docket No. CP82-107-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing adjustments in the annual volumetric limitations of certain of its small volume customers.

Tennessee stated that a number of its small customers (those with a maximum daily quantity of 5,100 Mcf or less) have requested adjustments of their respective annual volumetric limitations. Tennessee states that its gas supply situation has substantially improved since 1974 when the Commission imposed annual volumetric limitations but not to the extent to justify a wholesale adjustment of annual volumetric limitations on the system generally. However, the application indicates that Tennessee's system gas supply is sufficient to serve the minor volumes of gas requested by these small customers without any significant adverse effect on its obligations to its other customers. Moreover, the volumes requested are small enough to be accommodated within Tennessee's existing capacity. The total of the requested annual volumetric adjustments is approximately 6,200,000 Mcf and that the increases requested by each of the customers represent volumes which would be used solely to serve high-priority requirements falling in Priorities 1 through 4 of Applicant's curtailment plan.

Tennessee has requested that an informal technical conference be convened on this matter.

Take notice that an informal conference in the above-captioned docket will be convened at 10:00 a.m., on March 2, 1982, at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorized intervention as a party in the proceeding.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-5311 Filed 3-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3795-000]

Thermalito Irrigation District and Table Mountain Irrigation District; Application for Preliminary Permit

February 24, 1982.

Take notice that Thermalito Irrigation District and Table Mountain Irrigation District (Applicant) filed on November 26, 1980, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 3795 to be known as the Concow Hydroelectric Project on Concow Creek in Butte County, California, five miles east of Paradise, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Jim Schmidt, Manager, Thermalito Irrigation District, 410 Grand Avenue, Oroville, California 95965.

Project Description—The proposed project would consist of: (1) The existing 97-foot high Concow Dam and the existing Lake Wilenor with a surface area of 280 acres and storage capacity of 8,600 acre-feet, owned and operated by the Applicant; (2) the existing diversion dam just downstream of the Concow Dam diverting some of the release from Concow Dam into the existing Spring Valley Ditch; (3) a wye joining the two existing outlet pipes from the Concow Dam conveying water to the Powerhouse No. 1; (4) the Powerhouse No. 1 with a total installed capacity of 370 kW; (5) improving 9,200 feet of the Spring Valley Ditch; (6) a 2,100-foot long, 3-foot diameter steel penstock; (7) the Powerhouse No. 2 with a total installed capacity of 2,270 kW; (8) a 3-mile long 69-kV transmission line interconnecting with an existing 69-kV PG&E transmission line. The Applicant estimates that the average annual output from Powerhouse No. 1 would be 1.3 million kWh and that from the Powerhouse No. 2 would be 7.95 million kWh.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant a preliminary permit for 36 months during which it would conduct technical, economic, and environmental studies and prepare an FERC license application. No new roads would be required for conducting these studies which are estimated to cost $56,000 by the Applicant.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 3, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981)).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 3, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than July 1, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 3, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-5338 Filed 3-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2905-001]

Vermont Public Power Supply Authority; Application for License (5 MW or Less)

February 25, 1982.

Take notice that Vermont Public Power Supply Authority (Applicant) filed on October 7, 1981, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for construction and operation of a water power project to be known as Enosburg Falls Hydroelectric Project No. 2905. The project would be located on the Missisquoi River in Franklin County, Vermont. Correspondence with the applicant should be directed to: Mr. Harland G. Titemore, General Manager, Vermont Public Power Supply Authority, P.O. Box C-5515, 32 Williston Road, Burlington, Vermont 05402. This application was filed during the term of Applicant's preliminary permit for Project No. 2905.

Project Description—The proposed project would consist of: (1) The existing concrete gravity dam 18.5 feet high and 195 feet long; (2) the existing impoundment which has a normal maximum surface area of 121 acres at an elevation of 386.5 feet NGVD, using 2-foot flashboards, a useable storage capacity of 240 acre-feet and a gross storage capacity of 750 acre-feet; (3) the existing intake structure will be enlarged to serve both; (4) the proposed powerhouse adjacent to the existing Village Plant powerhouse and containing one unit with a generating capacity of 2,000 kW; and (5) the existing Village Plant powerhouse containing one existing unit with a generating capacity of 600 kW; (6) the existing tailrace to be enlarged; (7) the existing 5-foot diameter penstock leading from the existing concrete dam to; (8) the existing Kendall Plant powerhouse containing one existing unit with a generator capacity of 150 kW; (9) the existing tailrace at Kendall Plant; and (10) appurtenant facilities. The Applicant estimates that the total annual energy output would be 9,200 MW-Hrs.

Purpose of Project—The energy will be sold to Applicant's Member Utilities. Applicant estimates the project cost would be $3,700,000.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the

issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before May 5, 1982, either the competing application itself (See 18 CFR 4.33 (a) and (d)) or a notice of intent (See 18 CFR 4.33 (b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 5, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-5328 Filed 2-26-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5824-000]

Webster Hydro Electric Co., Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

February 25, 1982.

Take notice that on December 28, 1981, Webster Hydro Electric Company, Inc. (Applicant) filed an application under section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed North Village Pond small hydroelectric project (Project No. 5824) would be located on the French River in the Town of Webster, Worcester County, Massachusetts. Correspondence with the Applicant should be directed to: Mr. David W. Wright, P.O. Box 275, Valley Road, South Barre, Massachusetts 01074.

Project Description—The proposed project would consist of: (1) An existing 13-foot foot high, 177.8-foot long concrete ogee-type, spillway dam in two sections, separated by a center pier; (2) an existing 47.1 acre reservoir at elevation 455.26 feet m.s.l.; (3) an existing powerhouse containing two turbines connected to a single 200 kW turbine-generator to be rehabilitated; (5) a transmission line; and (6) appurtenant facilities.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Massachusette Division of Fisheries and Wildlife are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and coniditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications.—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 16, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file a such a license application. Submission of a timely notice of intent allows an interested person to file the completing license applicantion no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 16, 1982.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing

application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-5329 Filed 2-26-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. ER82-160-000 and ER81-577-000]

Arkansas Power & Light Co.; Order Accepting for Filing and Suspending in Part Revised Rates, Granting Waiver in Part, Granting Intervention, and Consolidating Proceedings

Issued February 19, 1982.

On December 23, 1981, Arkansas Power and Light Company (AP&L) tendered for filing increased rates [1] for firm service to its seven wholesale customers in Arkansas (Arkansas customers) [2] and its three wholesale customers in Missouri (Missouri customers). [3] The proposed rates reflect an increase in AP&L's nuclear plant decommissioning surcharge from 0.06 mills/kWh to 0.114 mills/kWh, and would result in an increase in revenues of approximately $59,540 [4] for the twelve-month period ending October 31, 1981.

AP&L requests waiver of the notice requirements in order to permit the proposed rates to become effective on November 1, 1981, with respect to the Arkansas customers, and on January 30, 1982, with respect to the Missouri customers. In the absence of waiver, AP&L requests an effective date no later than 60 days after filing.

Notice of AP&L's filing was issued on January 4, 1982, with responses due by January 22, 1982. On January 22, 1982, the Arkansas customers filed a petiton to intervene. While the Arkansas customers raise no substantive issues, they state that they may be adversely affected by any Commission decision in this proceeding.

Background

On June 30, 1981, AP&L filed in Docket No. ER81-577-000, a proposed increase in firm service rates to the Arkansas and Missouri customers. AP&L concurrently filed a settlement agreement executed by the Arkansas customers, but not by the Missouri customers, who requested suspension of the filed rates. Both the settlement and non-settlement rates included the 0.06 mills/kWh decommissioning charge referred to above.

On August 28, 1981, the Commission accepted the settlement rates with respect to the Arkansas customers [5] and, pursuant to the settlement agreement, suspended them, without hearing, to become effective on the earlier of the date on which AP&L's pending retail rate increase was approved by the Arkansas Public Service Commission or the date on which the Arkansas Commission authorized AP&L to increase its retail rates subject to refund. As to the Missouri customers, the Commission accepted the non-settlement rates for filing (as modified by summary disposition), suspended them for five months to become effective, subject to refund, on January 30, 1982, and convened a hearing.

Discussion

The Commission finds that participation in this proceeding by the Arkansas customers is in the public interest. Accordingly, their petition to intervene will be granted.

The charge which AP&L seeks to increase in the instant filing is associated with a decommissioning adjustment clause which provides for the collection of an annual revenue requirement related to the decommissioning of AP&L's nuclear plants. The charge is a unit charge per kWh for all energy sold and is determined 2 for each customer class based on that group's contribution to the company's annual system peak. The unit charge is to be reviewed and redetermined on May 1 of each year; over- or under-collections from the prior year are to be applied to reduce or increase the amount collected in the current year.

The calculation of the charge as it applies to the Missouri customers is an issue in AP&L's pending rate proceeding in Docket No. ER81-577-000. With respect to the Arkansas customers, however, the settlement agreement with AP&L in Docket No. ER81-177-000 provides that AP&L will attempt to sychronize the amount and effectiveness of wholesale and retail rate increases. The instant filing is intended to give effect to the settlement agreement, consistent with a change in the charge for retail customers as authorized by the Arkansas Commission. [6] In addition, the Arkansas customers do not object to the redetermined surcharge. Thus, with respect to the Arkansas customers, good cause has been shown to accept the proposed rates for filing, to waive the notice requirements, and to permit the revised rates to become effective as of November 1, 1981, the date on which the corresponding Arkansas retail rates took effect.

As to the Missouri customers, the proposed rates are based on the same methodology and rate design as those at issue in Docket No. ER81-577-000. Inasmuch as the non-settlement rates in that docket are still subject to investigation, we find that the currently proposed rates, as applied to the Missouri customers, have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing, and suspend them as ordered below.

In a number of suspension orders, [8] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it might run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results.

Such circumstances have been presented here. With respect to the Missouri customers, we note that AP&L's previously filed rates were suspended for the maximum five month period and that the instant submittal represents only a nominal additional increased in the proposed charge ($4,879). Under these circumstances, we do not believe that another extended suspension is warranted. A nominal suspension and a refund obligation will adequately protect the affected

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[1] See Attachment A for rate schedule designations.

[2] Benton Municipal Light & Waterworks, Hope Water & Light Commission, City of North Little Rock, City of Osceola, Prescott Water & Light Plant, Farmers Electric Cooperative Corp., and North Arkansas Electric Cooperative.

[3] The Cities of Campbell and Thayer, and Missouri Utilities Company.

[4] $54,666 is attributable to the Arkansas customers and $4,879 to the Missouri customers.

[5] *Arkansas Power & Light Company*, 16 FERC ¶ 61,158.

[6] The charge is determined under the "Nuclear Decommissioning Revenue Requirement Model" approved by the Arkansas Commission in its Order No. 16 in its Docket No. U-2972.

[8] By order of October 1, 1981, the Arkansas Commission approved a redetermination of the charge for AP&L's retail customers, effective November 1, 1981.

[8] *E.g., Boston Edison Co.*, Docket No. ER80-506 (August 29, 1980) (five month suspension); *Alabama Power Co.*, Docket Nos. ER80-508, *et al.* (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating Co.*, Docket No. ER80-498 (August 22, 1980) (one day suspension).

customers pending the outcome of the hearing. However, we find that good cause has not been shown to waive the notice requirements as to the Missouri customers. Accordingly, the Commission will suspend these rates for one day from 60 days after filing, to become effective, subject to refund, on February 23, 1982.

Because the proceedings in Docket Nos. ER82-180-000 and ER81-577-000 present common questions of law and fact, we shall consolidate these dockets for purposes of hearing and decision.

The Commission orders:

(A) With respect to the Arkansas customers, AP&L's proposed rates are hereby accepted for filing without suspension. Waiver of the notice requirements is granted to permit the proposed rates to become effective as of November 1, 1981.

(B) With respect to the Missouri customers, waiver of notice is denied; the proposed rates are hereby accepted for filing, and are suspended for one day from 60 days after filing to become effective, subject to refund, on February 23, 1982.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Fedeal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of AP&L's rates for its Missouri customers.

(D) The Arkansas customers' petition to intervene in this proceeding is hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *provided, however,* that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(E) With respect to the Missouri customers, this proceeding is consolidated with Docket No. ER81-577-000 for purposes of hearing and decision.

(F) The administrative law judge designated to preside in Docket No. ER81-577-000 shall convene a conference at the earliest convenience of the parties for purposes of determining procedures best suited for pursuing the consolidated hearing.

(G) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A—Arkansas Power & Light Company, Docket No. ER82-180-000, Rate Schedule Designations

Designation and Other Party
Supplement No. 17 to Rate Schedule FPC No. 45 (supersedes Supplement No. 14), Farmers Electric Cooperative Corp.
Supplement No. 14 to Rate Schedule FPC No. 49 (supersedes Supplement No. 11), City of North Little Rock, Arkansas
Supplement No. 13 to Rate Schedule FPC No. 50 (supersedes Supplement No. 10), Hope Water & Light Commission
Supplement No. 12 to Rate Schedule FPC No. 56 (supersedes Supplement No. 9), City of Prescott, Arkansas
Supplement No. 13 to Rate Schedule FPC No. 60 (supersedes Supplement No. 10), Benton Municipal Light & Water Works
Supplement No. 9 to Rate Schedule FPC No. 62, North Arkansas Electric Cooperative, Inc.
Supplement No. 10 to Rate Schedule FPC No. 63 (supersedes Supplement No. 13), City of Osceola, Arkansas
Supplement No. 8 to Rate Schedule FERC No. 85, Missouri Utilities Company
Supplement No. 6 to Rate Schedule FERC No. 86, City of Thayer, Missouri.
Supplement No. 6 to Rate Schedule FERC No. 90, City of Campbell, Missouri.

[FR Doc. 82-5309 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-577-000]

Arkansas Power & Light Co.; Order Denying Rehearing

Issued February 22, 1982.

On September 25, 1981, the Cities of Campbell and Thayer, Missouri (Cities) filed an application for rehearing of the Commission's order issued on August 28, 1981, in this proceeding. In that order the Commission, *inter alia,* found that Arkansas Power and Light Company's (AP&L) proposed fuel clause did not conform to the requirements of § 35.14 of the Commission's regulations,[1] and for reasons there stated, granted waiver of those requirements with respect to AP&L's Arkansas customers, and rejected the proposed fuel clause with respect to AP&L's Missouri customers.[2]

Cities request that the Commission modify its August 28, 1981 order to accept AP&L's originally proposed fuel clause for service to the Missouri customers. In support of its request, Cities state that they do not object to AP&L's proposed fuel clause and that the use of a fuel clause different than that applicable to the Arkansas wholesale customers could result in rate discrimination. Cities further state that virtually the same fuel clause was accepted by the Commission as part of a settlement in a prior AP&L rate case in Docket No. ER 79-339 (order issued May 28, 1980).

Discussion

As explained in the August 28, 1981 order, the Commission accepted the proposed fuel clause for the Arkansas customers as one part of a settlement agreement so as to accommodate the parties' intent that the wholesale fuel clause track the Arkansas retail fuel clause and thereby maintain parity between wholesale and retail rate increases in Arkansas. Such reasoning is not applicable to the Missouri customers. The Missouri customers chose not to enter into the settlement agreement and since they are served in Missouri, we find no evident reason for their fuel clause to track the fuel clause used in Arkansas. Moreover, Cities have offered no proof or explanation in support of the assertion that use of a fuel clause different than that applicable to the Arkansas customers possibly could have discriminatory consequences.

Cities' reliance on the Commission's action in AP&L's prior rate case in Docket No. ER79-339 adds no support for their position. In that case, as in the instant case, the Commission granted waiver of certain requirements of § 34.14 and accepted AP&L's proposed fuel clause to service to its Arkansas wholesale customers, in the context of a settlement, so that parity could be maintained between wholesale and retail rates in Arkansas. The Missouri customers were not involved in that case and, in fact, were not served by AP&L at that time.[3] The Commission's action in Docket No. ER79-339, therefore, cannot serve as precedent for Cities' request for parity between the wholesale fuel clause applicable to Missouri customers and the fuel clause used in Arkansas.

For the foregoing reasons, Cities' application for rehearing will be denied.

The Commission orders:

(A) Cities' application for rehearing is hereby denied.

(B) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5304 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

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[1] The proposed fuel clause is non-conforming in that it incorporates (1) an estimated replacement cost of energy that is added to nuclear fuel costs during the months in which nuclear generation is operating to offset fuel costs incurred in months when nuclear units are down for refueling, and (2) a net change in capacity equalization revenues reflected in the monthy fuel adjustment calculation *See* 18 CFR 34.14.

[2] The Missouri Customers (*i.e.,* the Cities, and Missouri Utilities Company) were served by the Arkansas-Missouri Power Company (Ark-Mo) until Ark-Mo merged with AP&L on January 1, 1981.

[3] *See* note 2, *supra.*

[Project No. 3908-001]

Richard Bean and Fred Castagna; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

February 25, 1982.

Take notice that on January 4, 1982, Richard Bean and Fred Castagna (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hyroelectric project (Project No. 3908) would be located on Slate Creek near Lamoine in Shasta County, California. Portions of the project would be located within the Shasta-Trinity National Forest. Correspondence with the Applicant should be directed to: Mr. Fred Castagna, 1646 East Street, Redding, California 96001.

Project Description—The proposed project would consist of: (1) A 6-foot high, reinforced diversion structure at Slate Creek; (2) a reinforced concrete intake structure at Slate Creek; (3) a 48-inch diameter, 1,352-foot long low pressure conduit; (4) a 6-foot high, reinforced concrete diversion structure at South Fork Slate Creek; (5) a reinforced concrete intake structure at South Fork Slate Creek; (6) a 30-inch diameter, 2,760-foot long low pressure conduit; (7) a 60-inch, 12,745-foot long low pressure conduit conveying discharges from the two diversion structures; (8) a transition structure; (9) a 36-inch diameter penstock; (10) a powerhouse with a total installed capacity of 2,710 kW; and (11) a 656-foot long transmission line interconnecting with an existing Pacific Power and Light Transmission line.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish & Game are requested, for the purposes set forth in section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 15, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an intersted person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice if intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those whoe file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 15, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5312 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5865-000]

David Cereghino; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

February 26, 1982.

Take notice that on January 7, 1982, David Cereghino (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5865) would be located on John Day Creek, near Lucile, in Idaho County, Idaho. Correspondence with the Applicant should be directed to: Helen Chenoweth, Vice-President, Consulting Associates, Inc., Post Office Box 893, Boise, Idaho 83701.

Project Description—The proposed project would consist of: (1) a concrete intake structure placed at natural pool at approximate elevation 2,880 feet; (2) a steel penstock 18,500 feet long; (3) a powerhouse containing a turbine generator with 1.1 MW capacity and 0.425 GWh annual energy output; and (4) a transmission line 14 miles long.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho Fish and Game Department are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 16, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatroy Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5313 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4702-000]

City of Centralia, Wash.; Application for Preliminary Permit

February 26, 1982.

Take notice that City of Centralia, Washington (Applicant) filed on May 19, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 4702 to be known as the Skookumchuck Dam Project located on the Skookumchuck River in Thurston County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed To: Mr. Bill Moeller, Mayor, City of Centralia, City Hall, Centralia, Washington, 98531.

Project Description—The proposed project would consist of: (1) The existing 540-acre reservoir; (2) the existing 180-foot high Skookumchuck Dam owned by Pacific Power & Light Company; (3) a 1,200-foot long, 9-foot diameter rock tunnel; (4) a powerhouse containing two generating units, each rated at 2.6 MW; and (5) a transmission line. The average annual energy generation is estimated to be 22.9 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time it would conduct engineering, economic, environmental, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. The cost of the work to be done under the permit is $90,000.

Competing Applications—This application was filed as a competing application to Pacific Hydro, Inc. and City of Tenino's application for Project No. 3654 filed on November 3, 1980. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protest, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protest or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5314 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5771-000]

The City and County of Denver Board of Water Commissioners; Application for Exemption of Small Conduit Hydroelectric Facility

February 25, 1982.

Take notice that on December 15, 1981, The City and County of Denver Board of Water Commissioners (Applicant) filed an application under Section 30 of the Federal Power Act (Act) [16 U.S.C. Section 823(a)], for exemption of a proposed hydroelectric project from requirements of Part I of the Act. The proposed Foothills Water Treatment Plant Project (FERC Project No. 5771) would be located at the Foothills Water Treatment Plan in Douglas County, Colorado. Correspondence with the Applicant should be directed to: William H. Miller, Manager, Denver Water Department, 1600 West 12th Avenue, Denver, Colorado 80254.

Purpose of Project—Power generated by the proposed project would be utilized by the plant for the operation of equipment, lighting, and heating.

Project Description—The proposed project would consist of: (1) Existing Conduit 26, which transports 125 mgd of raw water into the headworks structure of the Foothills Water Treatment Plant and comprises 18,00 linear feet of 10.5-foot-diameter concrete-lined tunnel and 1,700 linear feet of 10.5-foot-diameter mortar-lined steel pipe; (2) a turbine-generator unit to be located in the headworks structure with a rated capacity of 3,000 kW; and (3) other appurtenances. The plant would produce approximately 11 million kWh of energy per year.

Agency Comments—The U.S. Fish and Wildlife Service and the Colorado Division of Wildlife are requested, pursuant to Section 30 of the Federal Power Act, to submit within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. If no comments are filed within this time period, an agency will be presumed to have determined that no terms or conditions to the exemption are necessary. Other Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide any comments they may have in accordance with their duties and responsibilities. Comments are due within 45 days from the date of issuance of this notice. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. One copy of an agency's comments must also be sent to the Applicant's representatives.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petitions to intervene must be received on or before April 15, 1982. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5315 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5768-000]

Commonwealth of Pennsylvania; Application for Preliminary Permit

February 24, 1982.

Take notice that the Commonwealth of Pennsylvania (Applicant) filed on December 15, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5768 to be known as the Little Pine Creek Project located on Little Pine Creek in Lycoming County, Pennsylvania. The Application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Peter S. Duncan, Secretary of Environmental Resources, P.O. Box 1467, Harrisburg, Pennsylvania 17120.

Project Description—The proposed project would utilize the existing Applicant-owned facilities consisting of: (1) A 1,123-foot long and 113-foot high embankment dam with a 300-foot long ogee-type spillway at the left abutment having crest elevation 780 feet m.s.l.; (2) a gated intake structure; (3) a 15-foot diameter concrete conduit enclosing an 8.5 foot diameter steel penstock through the dam; and (4) a reservoir having a surface area of 634 acres and a storage capacity of 24,800 acre-feet at pool elevation 780 feet m.s.l.

Applicant proposes to: (1) Modify the existing penstock outlet structure; and (2) construct a new powerhouse containing a generating unit having a rated capacity of 400-kW at a head of 28 feet and a flow of 210 c.f.s. Applicant estimates that the average annual energy output would be 2,600 MWh.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would expand the existing data base, conduct surveys, and would perform an engineering feasibility study and an economic and environmental assessment of the project. Depending upon the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $50,000.

Competing Applications—This application was filed as a competing application to United American Hydropower Group's application for Project No. 4883 filed on June 15, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of

intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [See: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to invervene must be received on or before April 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal, Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5827 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5869-000]

East Lexington Hydro Associates; Application for Preliminary Permit

February 24, 1982.

Take notice that East Lexington Hydro Associates (Applicant) filed on January 12, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5869 to be known as the East Lexington Hydropower Project located on the Maury River near Lexington, in Rockbridge County, Virginia. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Wayne L. Rogers, East Lexington Hydro Associates, 1444 Foxwood Court, Annapolis, Maryland 21401.

Project Description—The proposed project would consist of: (1) An existing 190-foot long and 8-foot high concrete dam; (2) a reservoir with a storage capacity of 15 acre-feet; (3) a proposed powerhouse located at right abutment of the dam; (4) proposed transmission lines; and (5) appurtenant facilities. Applicant estimates the capacity of the proposed project to be 300 kW, and the annual energy output to be 1.2 GWh. Energy produced at the proposed project would be sold to Virginia Electric Power Company.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 18-month permit to prepare a project report including preliminary designs, results of hydrological, environmental and economic feasibility studies. The cost of the above activities along with preparation of an environmental impact report, obtaining agreements with Forest Service and other Federal, State, and local agencies, prepering a license application, conducting final field surveys and preparing designs is estimated by Applicant to be $36,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 1, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 30, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 30, 1982.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5828 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5873-000]

Energenics Systems, Inc.; Application for Preliminary Permit

February 26, 1982.

Take notice that Energenics Systems, Inc. (Applicant) filed on January 13, 1982 an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for Project No. 5873 to be known as the Barre Falls Dam Project located on the Ware River in Worcester County, Mass. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas H. Clarke, Jr., Energenics Systems, Inc., 1727 Q Street, NW., Washington, D.C. 20009.

Project Description—The proposed project would utilize the existing Corps of Engineers' Barre Falls Dam and would consist of: (1) A new powerhouse containing a single generating unit with a rated capacity of .55 MW; (2) an existing 32-Kv transmission line; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 2.7 Gwh. The most likely market or the derived energy is New England Power Company.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorized construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis preparation of preliminary permit engineering plan, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to contruct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $30,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 7, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 6, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 6, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION" "COMPETING APPLICATIONS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5810 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5924-000]

Energenics Systems, Inc.; Application for Preliminary Permit

February 24, 1982.

Take notice that Energenics Systems, Inc. (Applicant) filed on January 29, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for Project No. 5924 to be known as the Trenton Dam located on the Republican River in Hitchcock County, Nebraska. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas H. Clarke, Jr., President, Energenics Systems, Inc., 1727 Q Street, N.W., Washington, D.C. 20009.

Project Description—The proposed project would consist of: (1) A proposed powerhouse with generating units having a total installed capacity of 1 MW; (2) a proposed penstock; (3) proposed 69-kV transmission lines; and (4) appurtenant facilities. The Applicant proposes to utilize an existing dam owned by the U.S. Army Corps of Engineers. The Applicant estimates the average annual energy output would be 3 GWh.

Purposed Scope of Studies Under Permit.—A preliminary permit, if issued, does not authorize construction. ENERGENICS seeks issuance of a preliminary permit for a period of 36 months. During this time the Applicant proposes to conduct studies to determine the engineering, economic and environmental feasibility of the project, along with consulting Federal, State, and local agencies to determine the environmental effects of the project. The Applicant estimates the cost of the studies would be $30,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 7, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 6, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file

comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 6, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5329 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5942-000]

Fairview Orchards Associates; Application for Preliminary Permit

February 24, 1982.

Take notice that Fairview Orchards Associates (Applicant) filed on February 2, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for Project No. 5942 to be known as the Big Branch Project located on the Big Branch Stream in the Town of Mount Tabor, Rutland County, Vermont. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Jr. Jeffrey C. Read, Controller, Fairview Orchards Associates, P.O. Box 307, Hancock, Maryland 21750.

Project Description—The proposed project (a totally new development) would consist of: (1) A new 330-foot long, 6-foot high diversion dam; (2) a reservoir with a total storage capacity of less than 1 acre-foot at elevation 1,230 feet m.s.l.; (3) a new 30 to 36 inch diameter, 7,200-foot long steel penstock; (4) a new powerhouse containing a single 1-MW turbine-generator discharging at elevation 760 feet m.s.l.; (5) a 4,500-foot long, 13.2-kV transmission line; and (6) appurtenant facilities. The project would be located within the Green Mountain National Forest. The project would produce up to 5,760,000 kWh annually. Energy produced at the project would be sold to Central Vermont Public Service Company.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of two years during which time the Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of studies under the permit would be $65,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 3, 1982, the competing application itself or a notice of intent to file such an application [see 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 3, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than July 1, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have not comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 3, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5330 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5312-001]

J. R. Ferguson and Associates, Inc.; Application for License (5 MW or Less)

February 26, 1982.

Take notice that J. R. Ferguson and Associates, Incorporated (Applicant) filed on December 23, 1981, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as Westfir Water Power Project No. 5312-001. The project would utilize the existing Westfir diversion dam owned by Westfir Energy Company and would be located on the North Fork of the Middle Fork of the Willamette River in Lane County, Oregon. Correspondence with the Applicant should be directed to: Mr. John Borgardus, J. R. Ferguson and Associates, Incorporated, 35 G Street S., Lakeview, Oregon 97630.

Project Description—The proposed project would consist of: (1) an existing diversion dam with negligible storage; (2) an existing log pond with modified outlet and inlet structures; (3) a 210-foot long, 8-foot diameter steel penstock to the proposed powerhouse 250 feet downstream of the dam; (4) a powerhouse to contain one Kaplan-type generating unit with a rated capacity of 3,000 kW; (5) a tailrace channel for the discharge from the powerhouse to be returned to the river; (6) a transformer, switchyard integral to the powerhouse to stepup from 4.8-kV to 12.0-kV; and (7) a 12-kV tapline to connect to the existing 12-kV nearby distribution line of Lane County Electric Cooperative System.

Purpose of Project—To develop the hydroelectric potential of the site to produce electricity for sale to the Lane County Electric Cooperative System pursuant to the Pacific Northwest Electric Power Planning and Conservation Act. Applicant estimates the project would produce about 14.0 million kWh annually. The total cost of the project is estimated to be $3.30 million.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before May 6, 1982, either the competing application itself [see 18 CFR 4.33 (a) and (d)] or a notice of intent [see 18 CFR 4.33 (b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 6, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice:

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5317 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5808-000]

John Fiorillo; Application for Preliminary Permit

February 24, 1982.

Take notice that John Fiorillo (Applicant) filed on December 21, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for Project No. 5808 to be known as the Claverack Project located on Claverack Creek in Columbia County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: John Fiorillo, River Road, Chatham, New York 12037, or 275 Central Park West, New York 10024.

Project Description—The proposed project would consist of: (1) the existing concrete gravity dam 12 feet high and 145 feet long, the dam is used to maintain the elevation of the existing natural falls; (2) a reservoir with negligible storage capacity and surface area and a normal water surface elevation of 140 feet msl.; (3) an existing penstock 5 feet in diameter and 15 feet long; (4) a new powerhouse with units having a total generating capacity of 400 kW; and (5) appurtenant facilities. The Applicant estimates the annual energy production would be 1,800,000 kWh. The existing project facilities are owned by Columbia County. Project energy would be sold to Niagara Mohawk Power Corporation.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of three years, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under the permit would be $25,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 31, 1982, the competing application itself [see: 18 CFR 4.30 et. seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 30, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR § 4.30 et. seq. or § 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file

comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION" "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5331 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-307-000]

Florida Power & Light Co.; Filing

February 23, 1982.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL) on February 12, 1982, tendered for filing an agreement with Seminole Electric Cooperative, Inc. (Seminole), entitled, "Interconnection Agreement Between Florida Power & Light Company and Seminole Electric Cooperative, Inc." (Agreement). The Agreement includes a Transmission Facilities Use Charge (TFUC) which FPL would charge Seminole to compensate FPL for its cost of building facilities in advance of its construction plans in order to provide Seminole service pursuant to the Agreement.

FPL proposes to place the TFUC into effect on March 1, 1982, and it seeks a waiver of the Commission's Notice requirements. FPL states that it provides no similar service to any wholesale customer and has no comparable rate schedule.

FPL further states that the proposed rate would produce revenues of approximately $232,700.00 during the initial 12 months of service.

According to FPL copies of this filing have been mailed to Seminole and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 10, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5303 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5707-001]

Albert Grossman; Application for Preliminary Permit

February 26, 1982.

Take notice that Albert Grossman (Applicant) filed on January 18, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5707 to be known as the Diamond Mill Project located on Esopus Creek at Saugerties, in Ulster County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Albert Grossman, c/o Empire State Hydro Corporation, 11 North Pearl Street, Suite 502, Albany, New York 12207.

Project Description—The proposed run-of-the-river project would consist of existing project works including: (1) a 346-foot long, 32-foot high concrete gravity dam owned by the Houseboat Realty Company; (2) at the northwest (left) abutment, a 17.5-foot wide channel with its right wall acting as a side channel spillway; (3) a reservoir with a surface area of 140 acres and 826 acre-feet of storage at spillway crest elevation 46.5 feet m.s.l.; (4) a steel penstock, 6 feet in diameter and 42 feet long, (to be replaced or repaired); (5) a powerhouse, 20 feet wide and 50 feet long (at the left bank of the river below the dam), with an installed capacity of 600 kW; (6) at the right abutment of the main dam, a bypass channel, 15 feet wide and 1,100 feet long, at the head of which would be installed new gates; (7) a new penstock; (8) a new powerhouse with an installed capacity of 2,200 kW; (9) electrical facilities; and (10) other appurtenances. Total estimated annual generation from the project is 9,200,000 kWh, and project energy will be marketed to Central Hudson Gas and Electric Corporation, industrial users, or other utilities.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $40,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 7, 1982, the competing application itself [see 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 7, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 7, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5318 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5932-000]

Hydro Management, Inc.; Application for Preliminary Permit

February 26, 1982.

Take notice that Hydro Management, Inc. (Applicant) filed on February 1, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5932 to be known as the Crane Creek Project located on Crane Creek on lands within the Flathead National Forest in Lake County, Montana. The application in on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: W. H. Edelman III, President, Hydro Management, Inc., Box 169, Ronan, Montana 59864.

Project Description—The proposed project would consist of: (1) a 3-foot high, 18-foot long diversion structure at elevation 4,650 feet; (2) an 8-inch diameter, 6,000-foot long penstock; (3) a power house at elevation 3,000 feet containing a single generating unit with a rated capacity of 210 kW and an estimated average annual energy production of 1,270 MWh; and (4) a 150-foot long transmission line.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit, during which time hydrological, geological, financial and engineering feasibility studies will be undertaken, as well as obtaining agreements with the U.S. Forest Service and other Federal, State and local agencies and preparation of a license application. According to the Applicant the estimated cost of the above activities is $2,100.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 7, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 7, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than July 5, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 7, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATIONS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5310 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-306-000]

Idaho Power Co.; Notice of Filing

February 23, 1982.

The filing Company submits the following:

Take notice that on February 12, 1982, Idaho Power Company (Idaho), tendered for filing a revised Appendix 1 as required by Exhibit C for retail sales in the State of Idaho and a completed Appendix 1 as required by Exhibit C for retail sales in the State of Oregon, in accordance with the provisions of the Residential Purchase and Sale Agreement (Agreement) between Idaho and the Bonneville Power Administration (BPA).

The Agreement was entered into pursuant to the Pacific Northwest Electric Power Planning and

Conservation Act, PL 96-501. The Agreement provides for the exchange of electric power between Idaho and BPA for the benefit of Idaho's residential and farm customers.

Idaho requests an effective date of January 1, 1982, and therefore requests waiver of the Commission's notice requirements.

A copy of the filing was served upon BPA.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 10, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5999 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5782-000]

International Paper Co.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

February 25, 1982.

Take notice that on December 14, 1981, International Paper Company (Applicant) filed an application, under section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project, Project No. 5782, would be located on the LaChute River in the Village of Ticonderoga, Essex County, New York. Correspondence with the Applicant should be directed to: Mr. Robert McK. Hunziker, International Paper Company, 77 West 45th Street, New York, New York 10036.

Project Description—The proposed project would consist of: (1) the existing D Mill Dam, 12 feet high and approximately 280 feet long, with a spillway section 170 feet long; (2) a small pond covering 2.3 acres with negligible storage; (3) a rehabilitated 112-foot long intake structure at the east end of the dam, with six hand-operated wooden gates; (4) a new steel penstock, nine feet in diameter, above-ground for 2,400 feet and buried for 600 feet; (5) a new reinforced concrete powerhouse, 20 by 37 feet, located in the Village of Ticonderoga's Bicentennial Park, containing one new turbine/generator unit rated at 3,465 kW, operating under a design head of 66 feet; (6) a new substation next to the powerhouse; (7) an existing 115-kV transmission line 2,000 feet long; and (8) appurtenant facilities.

The average annual generation of 10.6 million kWh would be sold to the Niagara Mohawk Power Corporation.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the New York Division of Fish and Wildlife are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its recources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 16, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5332 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5760-000]

International Paper Co.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

February 25, 1982.

Take notice that on December 14, 1982, the International Paper Company (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5760) would be located on the La Chute River, in the Village of Ticonderoga, Essex County, New York. Correspondence with the Applicant, should be directed to: Mr. Robert McK. Hunziker, 77 West 45th Street, New York, New York 10036.

Project description—The proposed run-of-the-river project would consist of: (1) the existing masonry "A Mill" Dam, 7 feet high, 114 feet long, with a main central spillway 58 feet long, with three aluminum slide gates; (2) Lake George, with a surface area of 44 square miles and usable storage of 42,240 acre-feet; (3) a new enclosed 24 by 23-foot reinforced concrete intake structure built into existing retaining wall in the north bank of the head-pond; (4) a new steel penstock, nine feet in diameter, underground for 600 feet from the intake structure, then supported for 1,700 feet by ring girders; (5) a new reinforced concrete powerhouse, 20 by 37 feet, containing one 4,625-kW turbine/generator unit operating under a net head of 124.8 feet; (6) an existing tailrace, 40 feet wide and 330 feet long; (7) a 115-kV transmission line, 5,750 feet long; and (8) appurtenant facilities. The average annual generation of 22.2 million kWh would be sold to the Niagara Mohawk Power Corporation.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the New York State Division of Fish and Wildlife are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representative.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 16, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulation to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5330 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5807-000]

Long Lake Energy Corp.; Application for Preliminary Permit

February 24, 1982.

Take notice that Long Lake Energy Corporation (Applicant) filed on December 22, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5807 to be known as the Rochester Upper Falls Project located on the Genessee River in Monroe County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Paul J. Elston, Long Lake Energy Corporation, 380 Madison Avenue, Seventh Floor, New York, New York 10017.

Project Description—The proposed project would consist of: (1) the existing dam which is a series of rolling steel gates supported by concrete piers with a height of 15 feet and a total length of 310 feet. This dam is located at a natural fall; (2) a reservoir having a surface area of 20 acres, a normal maximum pool elevation of 483.0 feet msl and a storage capacity of 100 acre-feet; (3) a new gated intake structure; (4) a new drop shaft lined with concrete with a length of 90 feet and a diameter of 12 feet; (5) a new powerhouse housing units with a total generating capacity of 10 MW; (6) a new tailrace; (7) a new switchyard; (8) a new transmission line with an approximate length of ¼ mile; and (9) appurtenant facilities.

The applicant estimates the annual energy production to be 30,600,000 KWh. The project energy will be sold to Rochester Gas and Electric Corporation. The existing project facilities are owned by the City of Rochester, and Rochester Gas and Electric Corporation.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would investigate project design alternatives, financial feasibility, environmental effect of project construction and operation, and project power potential.

Depending upon the outcome of the studies, the applicant would decide whether to proceed with an application for FERC license. Applicant estimates to cost of the studies under the permit would be $100,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 1, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 3, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commissions regulations [see, 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 3, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5333 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5878-000]

Ithaca Falls Development Association; Application for License (5 MW or Less)

February 26, 1982.

Take notice that Ithaca Falls Development Association (Applicant) filed on January 15, 1982, an application for license [pursuant to the Federal Pwer Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as the Ithaca Falls Project No. 5878. The project would be located on Fall Creek at Ithaca, in Tompkins County, New York. Correspondence with the Applicant should be directed to: Wayne L. Rogers, Ithaca Falls Development Association, 1444 Foxwood Court, Annapolis, Maryland 21401.

Project Description—The proposed run-of-the-river project would consist of: (1) an existing arch dam, 65 feet long and 8 feet high; (2) an existing reservoir of negligible storage at spillway crest elevation 540 feet m.s.l.; (3) a reinforced-concrete intake structure modifying the existing intake structure; (4) a new 60-inch diameter steel penstock, 1,065 feet long; (5) a new concrete powerhouse 30 feet wide and 60 feet long with an installed capacity of 1,750 kW (estimated average annual generation is 8,000,000 kWh); (6) a new tranamission line, rated at 8 kV, 150 feet long; and (7) other appurtenances.

Purpose of Project—Project energy will be sold to the New York State Electric & Gas Corporation.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before May 6, 1982, either the competing application itself [See 18 CFR 4.33(a) and (d)] or a notice of intent [See 18 CFR 4.33(b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before May 6, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5321 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5846-000]

Maury Hydro Associates; Application for Preliminary Permit

February 24, 1982.

Take notice that Maury Hydro Associates (Applicant) filed on January 4, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5846 to be known as the Maury Hydropower Project located on the Maury River near Lexington in Rockbridge County, Virginia. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Wayne L. Rogers, Maury Hydro Associates, 1444 Foxwood Court, Annapolis, Maryland 21401.

Project Description—The proposed project would consist of: (1) an existing 430-foot long and 18-foot high masonry dam; (2) a small reservoir; (3) a proposed powerhouse located at the left abutment of the dam; (4) proposed transmission lines; and (5) appurtenant facilities. Applicant estimates the capacity of the proposed project to be 600 kW, and the annual energy output to be 2.4 GWh. Energy produced at the proposed project would be sold to the Virginia Electric Power Company.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested an 18-month permit to prepare a definitive project report, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, and soils and foundation data. The cost of the aforementioned activities along with obtaining agreements with other Federal, State and local agencies is estimated to be $36,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 31, 1982, the competing application itself [see: 18 CFR § 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before April 30, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [See: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5334 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5912-000]

Moosshead Manufacturing Co.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capaity

February 25, 1982.

Take notice that on January 25, 1982, (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5912) would be located on the Piscataquis River in Piscataquis County, in Dover-Foxcroft, Maine. Correspondence with the Applicant should be directed to: Mr. Wayne O. Huff, Moosehead Manufacturing Company, Chapin Avenue, Box 285, Monson, Maine 04464.

Project Description—The proposed project would consist of: (1) an existing 12-foot high, 150-foot long reinforced concrete dam; (2) an existing 30-acre pond with little or no usable storage; (3) an existing powerhouse containing two existing Holyoke Turbines to be overhauled and connected to a new single induction generator with a total rated capacity of 300 kW; (4) an existing fishway; (5) an existing transmission line and substation; and (6) appurtenant facilities. Energy produced at the project would be sold to Central Maine Power Company. The project is owned by the town of Dover-Foxcroft and is to be leased by the Applicant. This application competes with an application for minor license at the upper dam of a two-dam development filed by Mr. Charles MacArthur on November 4, 1981, as FERC Project No. 5613–000.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State of Maine Department of Inland Fisheries and Wildlife and the Department of Marine Resources are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the

project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none.

Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 16, 1982 either the competing license application that proposed to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5322 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

Project No. 5930-000

Nevada Irrigation District; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

February 26, 1982.

Take notice that on February 1, 1982, Nevada Irrigation District (Applicant/NID) filed an application, under section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5930) would be located on Deer Creek near Nevada City in Nevada County, California. Correspondence with the Applicant should be directed to: Mr. Frederick G. Bandy, General Manager, Nevada Irrigation District, P.O. Box 1019, Grass Valley, California 95945.

Project Description—The proposed project would consist of: (1) the NID's existing 175-foot high earthfill dam, forming; (2) the existing NID's Scotts Flat Reservoir with a usable storage capacity of 48,500 acre-feet at elevation 2,925 feet (m.s.l.); (3) an existing intake structure within the reservoir; (4) an existing 751-foot long, 66-inch diameter tunnel; (5) an existing 600-foot long, 36-inch diameter penstock; (6) a proposed powerhouse at the existing outlet, containing a single generating unit with a rated capacity of 825 kW; and (7) appurtenant facilities.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 16, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments,

protests, or petitions to intervene must be received on or before April 16, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION" "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5323 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER81-545-000 and ER81-546-000]

New England Power Co.; Technical Conference

February 23, 1982.

Take notice that on March 3, 1982 an informal technical conference in the above-captioned case will be held at 10 a.m. in Room 406, 400 First Street, NW., Washington, D.C.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5307 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-557]

Philadelphia Electric Co.; Refund

February 23, 1982.

The filing Company submits the following:

Take notice that on February 11, 1982, Philadelphia Electric Company filed a refund report pursuant to the Commission's letter of December 11, 1981.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before March 11, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5309 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-558]

Philadelphia Electric Co.; Refund

February 23, 1982.

The filing Company submits the following:

Take notice that on February 11, 1982, Philadelphia Electric Company filed a refund report pursuant to the Commission's letter of December 11, 1981.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before March 11, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5308 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-M

[Volume 599]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 23, 1982.

JD NO	JA DKT	API NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION								
-ADA OIL EXPLORATION CORP		RECEIVED: 02/03/82 JA: TX						
8216861	F-03-029711	4205130818	102-2		BIRCH CREEK PARK #1	GIDDINGS	182.5	PHILLIPS PETROLEU
8216873	F-03-031436	4205130896	102-2		NEWMAN-GERDES #2	GIDDINGS	100.0	PHILLIPS PETROLEU
-ALAMO RESOURCES INC		RECEIVED: 02/03/82 JA: TX						
8216934	F-03-038435	4205100000	102-2		ZAVODNY-SKRIVANEK UNIT #1	GIDDINGS	0.0	FERGUSON CROSSING
-AMERADA HESS CORPORATION		RECEIVED: 02/03/82 JA: TX						
8216988	F-68-039329	4203331567	103		W ED MURPHY (RA) #11	VON ROEDER-WOLFCAMP	17.1	MONSANTO CO
-ANDERSON PETROLEUM INC		RECEIVED: 02/03/82 JA: TX						
8217013	F-7C-040550	4243532504	103	107-TF	GUY WYATT ASKEW 2-44	SAWYER (CANYON)	100.0	SUTTON COUNTY PIP
8217012	F-7C-040499	4243532518	103	107-TF	GUY WYATT ASKEW 4-44	SAWYER (CANYON)	100.0	SUTTON COUNTY PIP
-ANNIE MAE WOODRUFF		RECEIVED: 02/03/82 JA: TX						
8216983	F-78-036622	4209300000	103		LEE #3	BEATTIE N (MARBLE FAL	54.0	SOUTHWESTERN GAS
-ARKANSAS LOUISIANA GAS CO		RECEIVED: 02/03/82 JA: TX						
8216996	F-36-039787	4220330801	103	107-TF	SCOTT #4	WASKOM	550.0	ARKANSAS LOUISIAN
-AUSTIN ERWIN TRUSTEE		RECEIVED: 02/03/82 JA: TX						
8216935	F-78-038215	4208331643	103		J M THOMPSON 14793	COLEMAN COUNTY REGULA	15.0	EL PASO NATURAL G
-BARUCH-FOSTER CORP		RECEIVED: 02/03/82 JA: TX						
8216960	F-36-038568	4213500000	108-ER		TXL #1-S TEXAS-RRC-ID #19651	COWDEN NORTH	10.0	PHILLIPS PETROLEU
-BLUE RIDGE OIL & GAS EXPLOR INC		RECEIVED: 02/03/82 JA: TX						
8216985	F-7C-037444	4210532983	103	107-TF	A PHILLIPS #58	ADAMS-BAGGETT RANCH (	34.0	DETROIT-TEXAS GAS
-BRITTON OPERATING INC		RECEIVED: 02/03/82 JA: TX						
8216959	F-39-038558	4223732869	103		SUGAR EST #1 88776	JACK COUNTY REGULAR (	730.0	SOUTHWESTERN GAS
-BURK ROYALTY CO		RECEIVED: 02/03/82 JA: TX						
8217047	F-31-041855	4256730915	102-4	105	VAN CLEVE #2	PILOSA EAST (2ND SAN	1095.0	SONCETT ENERGY IN
-CHAMPLIN EXPLORATION INC		RECEIVED: 02/03/82 JA: TX						
8216866	F-03-033184	4214930655	102-2		ERWIN T ZOCH #1 (RRC ID #13469)	GIDDINGS (AUSTIN CHAL	42.6	CLAJON GAS CO
8216865	F-03-033178	4205130973	102-2		STEGMUELLER #6 (RRC ID #13204)	GIDDINGS (AUSTIN CHAL	340.0	CLAJON GAS CO
-CHAMPLIN PETROLEUM COMPANY		RECEIVED: 02/03/82 JA: TX						
8216892	F-03-034543	4205100000	102-2	105	ALVIN W PAUL #1	GIDDINGS	0.0	FERGUSON CROSSING
8216893	F-04-035312	4235531431	102-4	103	EVA M JONES #2-U	STRATTON (6-9 RES B)	236.0	TENNESSEE GAS PIP
8217C16	F-03-041547	4205130000	102-2	105	FLOYD W MOORE #1	GIDDINGS	0.0	FERGUSON CROSSING
8217049	F-03-041875	4205130000	102-2	105	FRANK DRGAC #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
8216934	F-04-035186	4235531799	103		G P GARDNER #156	STRATTON (M-23 SAND)	912.5	TENNESSEE GAS PIP
8217106	F-03-040125	4205100000	102-2	105	JIMMY OPPERMAN #1	GIDDINGS	0.0	FERGUSON CROSSING
8217014	F-03-040527	4205130000	102-2	105	MARTIN KNESEK #1	GIDDINGS	0.0	FERGUSON CROSSING
8216910	F-03-036782	4205100000	102-2	105	PETER B COURT #1	GIDDINGS	0.0	FERGUSON CROSSING
8216836	F-03-02b761	4205130557	102-2		R J SMITH #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
8217017	F-03-040734	4205100000	102-2	105	W G COTTON #1	GIDDINGS	0.0	FERGUSON CROSSING
-CLARION RESOURCES INC		RECEIVED: 02/03/82 JA: TX						
8216840	F-78-028523	4214300000	102-4	103	BOGGUS 85524	SAP OAK (DUFFER)	10.0	NORTHERN GAS PROD
8216840	F-78-028523	4214300000	108		BOGGUS 85524	SAP OAK (DUFFER)	10.0	NORTHERN GAS PROD

JD NO	JA DKT	API NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8216841	F-78-028521	4214300000	102-4	103	CARAWAY-LOWE #1 84759	LIBERTY OAK (BIG SALI	10.0	NORTHERN GAS PROD
8216841	F-78-028521	4214300000	108		CARAWAY-LOWE #1 84759	LIBERTY OAK (BIG SALI	10.0	NORTHERN GAS PROD
-CLAYTON W WILLIAMS JR		RECEIVED: 02/03/82 JA: TX						
8216871	F-03-031238	4228730739	102-2		CLARENCE MUMPHREY UNIT #1	GIDDINGS	0.0	VALERO TRANSMISSI
8216973	F-03-038951	4205131307	102-2		FRANK MATCEK #2	GIDDINGS	83.8	VALERO TRANSMISSI
8216943	F-06-038311	4236500000	103	107-TF	LATHAM EST #1	CARTHAGE (COTTON VALL	0.0	VALERO TRANSMISSI
8216942	F-06-038310	4236500000	103	107-TF	MIDDLEBROOK EST #1	CARTHAGE (COTTON VALL	0.0	VALERO TRANSMISSI
8216989	F-03-039345	4205100000	102-2		SIMPSON-BENTON UNIT A #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8216941	F-06-038309	4236531223	103	107-TF	W S MOSS EST #1	CARTHAGE (COTTON VALL	0.0	VALERO TRANSMISSI
-CLEMCO INC		RECEIVED: 02/03/82 JA: TX						
8216837	F-06-027149	4220330662	102-4		PEARCE GAS UNIT #1	LANSING N (COTTON VAL	188.0	ARKANSAS LOUISIAN
-CONOCO INC		RECEIVED: 02/03/82 JA: TX						
8216863	F-10-029962	4206500000	108		A F BENNETT #1	WEST PANHANDLE	16.0	CITIES SERVICE GA
8216864	F-10-029964	4217900000	108		G L HOLMES #1	WEST PANHANDLE	13.0	CITIES SERVICE GA
8217010	F-04-040364	4242731544	103		T B SLICK EST H-536 #83	RINCON (VICKSBURG 670	308.0	TENNESSEE GAS PIP
-COTTON PETROLEUM CORPORATION		RECEIVED: 02/03/82 JA: TX						
8216972	F-10-038914	4229530986	103		PARKER "B" #3	KIOWA CREEK	0.0	NORTHERN NATURAL
-CRB OIL & GAS INC		RECEIVED: 02/03/82 JA: TX						
8217033	F-03-041602	4205131750	102-2		ALFORD UNIT #1	GIDDINGS (AUSTIN CHAL	1000.0	CLAJON GAS CO
8217008	F-03-040237	4205131682	102-2		MAXWELL UNIT #1	GIDDINGS (AUSTIN CHAL	500.0	CLAJON GAS CO
-DANSON OIL CORPORATION		RECEIVED: 02/03/82 JA: TX						
8217043	F-02-041801	4202531260	103		L D SUGAREK #2-T	SLIVA S W (FRIO RUSSE	145.0	VALERO TRANSMISSI
-DELRAY OIL INC		RECEIVED: 02/03/82 JA: TX						
8216921	F-78-037801	4208332523	103		BERTIE E STONE #20	COLEMAN COUNTY REGULA	0.0	LONE STAR GAS CO
-DELTA DRILLING CO		RECEIVED: 02/03/82 JA: TX						
8216902	F-7C-036111	4210500000	103	107-TF	HENDERSON "26" #2	OZONA	0.0	NORTHERN NATURAL
-DONALD C SLAWSON		RECEIVED: 02/03/82 JA: TX						
8217046	F-10-041842	4235731150	102-4	105	DICKENSON #1-147	RICKS (MORROW UPPER)	40.0	HIGH PLAINS NATUR
-DORCHESTER EXPLORATION INC		RECEIVED: 02/03/82 JA: TX						
*8217044	F-38-041811	4243132992	103		F CONGER 30 #3	W A M FUSSELMAN	0.0	TEXAS UTILITIES F
*8217052	F-08-041946	4243131006	103		TERRY T-1	CONGER (PENN)	109.5	TEXAS UTILITIES F
-EAGLE OIL & GAS CO		RECEIVED: 02/03/82 JA: TX						
8216978	F-78-038863	4236732056	103		HAMBY-CROSS UNIT #1	RENO CONGLOMERATE	275.0	NATURAL GAS PIPEL
-EL PASO NATURAL GAS COMPANY		RECEIVED: 02/03/82 JA: TX						
8216872	F-10-031378	4206730169	103		WISCHKAEMPER H #1	PANHANDLE EAST BROWN	30.0	EL PASO NATURAL G
-ENERGY DEVELOPMENT CORPORATION		RECEIVED: 02/03/82 JA: TX						
8216975	F-06-039003	4241900000	103		METCALF-HENDRICKS #1	HUXLEY (6100)	90.0	TEXAS EASTERN TRA
-ENERGY RESOURCES OIL & GAS CORP		RECEIVED: 02/03/82 JA: TX						
8216896	F-10-035553	4217930823	103		ROSTON #1	EAST LAKETON GRANITE	200.0	NATURAL GAS PIPEL
-ENSERCH EXPLORATION INC		RECEIVED: 02/03/82 JA: TX						
8217032	F-09-041576	4249700000	103		EDWARD JACKSON #2	BOONSVILLE	73.0	LONE STAR GAS CO
8216922	F-02-037832	4229732417	103		H J SHULZ #1	THREE RIVERS	2.0	NATURAL GAS PIPEL
8216878	F-05-032517	4221300000	108-ER		J H LEWIS "B" #2-T	OPELIKA	6.0	LONE STAR GAS CO
-ESTATE OF WM D MCBEE		RECEIVED: 02/03/82 JA: TX						
8216966	F-06-038803	4220330753	102-4	107-TF	RUDD GAS UNIT #2 #1	LONGWOOD (COTTON VALL	0.0	TEXAS EASTERN TRA
-EVERGREEN OIL CORP		RECEIVED: 02/03/82 JA: TX						
8217041	F-01-041779	4217730657	102-2	103	POUNCEY #1	COST (AUSTIN CHALK)	12.0	TIPPERARY GATHERI
-EXXON CORPORATION		RECEIVED: 02/03/82 JA: TX						
*8217022	F-33-040992	4232130845	102-2		J C LEWIS FAMILY 1974 TRUST #2	LIVE OAK BAYOU	350.0	ARMCO STEEL CORP
-FISHER-WEBB INC		RECEIVED: 02/03/82 JA: TX						
8216948	F-78-038236	4235330957	103		MCLAUGHLIN 54-1	DOUBLE M RANCH (COOK	50.0	SUN GAS CO
-FLORIDA GAS EXPLORATION COMPANY		RECEIVED: 02/03/82 JA: TX						
8216883	F-04-033176	4235531642	103		JOHN C INGRAM #1	AGUA DULCE (7850)	0.0	FLORIDA GAS TRANS

JO NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-FOREST OIL CORPORATION				RECEIVED:	02/03/82	JA: TX			
8216877	F-04-032191	4221531088		103	107-TF	A A MCALLEN #21	MCALLEN RANCH (VICKSB	600.0	VALERO TRANSMISSI
-GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED:	02/03/82	JA: TX			
8216956	F-03-338472	4214930682		102-2		STANDARD TRUST CO #6	GIDDINGS (AUSTIN CHAL	91.0	SOUTH CEN-TEX CO
-GENERAL PRODUCTION CORP				RECEIVED:	02/03/82	JA: TX			
8216883	F-03-033239	4205100000		103		L J SANDERS #2	WILLARD SE (NAVARRO B	0.0	FERGUSON CROSSING
-GETTY OIL COMPANY				RECEIVED:	02/03/82	JA: TX			
8216886	F-06-033923	4236531109		103	107-TF	J B BAKER #3	CARTHAGE (COTTON VALL	6.0	DELHI GAS PIPE LI
-GILLIAND OIL CO				RECEIVED:	02/03/82	JA: TX			
8216825	F-04-004672	4235500000		108		C P TALBERT #2 (39247)	AGUA DULCE /5450/	0.0	TENNESSEE GAS PIP
-GOLDKING PRODUCTION COMPANY				RECEIVED:	02/03/82	JA: TX			
8216956	F-32-038470	4217531477		103		GENTRY T POWELL #1-T	MORDES CREEK	146.0	UNITED GAS PIPE L
8217035	F-02-041655	4239100000		102-4		WELDER #1	PAPALOTE E	106.0	HOUSTON PIPE LINE
-GRACE PETROLEUM CORPORATION				RECEIVED:	02/03/82	JA: TX			
8216938	F-06-036688	4241930333		103	107-TF	J W DEARMAN #2	TENAHA (JURASSIC)	0.0	UNITED GAS PIPELI
-GULF OIL CORPORATION				RECEIVED:	02/03/82	JA: TX			
8217057	F-01-041997	4201331285		103		EDNA S KOEHLER #2	FASHING (EDWARDS LIME	0.0	NATURAL GAS P/L C
8216833	F-39-326374	4225703900		108		LOU WORTHINGTON #1	BOONSVILLE BEND CONGL	12.0	NATURAL GAS PIPEL
8216969	F-03-030830	4210130700		102-4		R M PICKENS #5	N E SOUTHMAYD	258.0	LONE STAR GAS CO
-H P FINWELL TRUSTEE				RECEIVED:	02/03/82	JA: TX			
8216987	F-04-039181	4248930594		103		EL SAUZ RANCH NOPAL #3	ARROYO COLORADO (E-3)	91.0	NATURAL GAS PIPEL
-HANOVER MANAGEMENT CO				RECEIVED:	02/03/82	JA: TX			
8216991	F-06-039445	4240131170		102-2		HMC-CURTIS ALLEN #1	MINDEN W (TRAVIS PEAK	200.0	TEXAS UTILITIES F
-HENRY PETROLEUM CORP				RECEIVED:	02/03/82	JA: TX			
8217028	F-04-041385	4231700000		103		MCCULLOCH #1	TEX-HAMON (DEAN)	0.0	GETTY OIL CO
-HUMBLE EXPLORATION CO INC				RECEIVED:	02/03/82	JA: TX			
8216974	F-03-038985	4228730967		102-2	103	DONNA W #1	GIDDINGS (AUSTIN CHAL	257.0	PHILLIPS PETROLEU
-HUNT OIL COMPANY				RECEIVED:	02/03/82	JA: TX			
8216915	F-04-037435	4220738643		103		STATE TRACT 85 #3UT	GOOSE ISLAND (7100-C)	182.5	NATURAL GAS PIPEL
-INEXCO OIL COMPANY				RECEIVED:	02/03/82	JA: TX			
8217021	F-04-040984	4224731251		102-4		E VELA #1-582	EL PEYOTE (WILCOX 124	730.0	UNITED GAS PIPELI
8217037	F-03-041710	4214931012		102-2		HUGO #1	GIDDINGS (AUSTIN CHAL	48.0	PHILLIPS PETROLE
-INTERCONTINENTAL PRODUCTION CO				RECEIVED:	02/03/82	JA: TX			
8216907	F-09-036630	4249731995		103		SMITH/MORRIS #1	CHICO WEST CONGLOMERA	13.5	
-J CLEO THOMPSON & JAMES CLEO THOMPS				RECEIVED:	02/03/82	JA: TX			
8217034	F-7C-00693	4210533554		102-4		C W MEADOWS #4	UNIVERSITY 31 (STRAWN	245.0	PHILLIPS PETROLEU
-J M HUBER CORPORATION				RECEIVED:	02/03/82	JA: TX			
8216897	F-10-035548	4223300000		108		HERRING #1	WEST PANHANDLE	16.0	COLORADO INTERSTA
-JADE ENTERPRISES INC				RECEIVED:	02/03/82	JA: TX			
8216986	F-10-039131	4206500000		103		WYATT #1	PANHANDLE CARSON	146.0	GETTY OIL CO
8216997	F-10-039849	4206500000		103		WYATT #1	PANHANDLE WEST	237.0	GETTY OIL CO
-JAMES EDWARD HAYNES JR				RECEIVED:	02/03/82	JA: TX			
8216939	F-7B-038234	4234980000		102-4		HAYNES #2	HAYNES (CROSS CUT)	75.0	ODESSA NATURAL CO
-JAMES W RASMUSSEN				RECEIVED:	02/03/82	JA: TX			
8216920	F-30-037729	4213533161		103		TXL #2-A #11747	COWDEN NORTH	55.0	PHILLIPS PETROLEU
-JOHN L COX				RECEIVED:	02/03/82	JA: TX			
8217002	F-04-039888	4231732377		103		LOIS MADISON "B" #1-X RRC #21969	SPRABERRY (TREND AREA	10.0	ALPINE OIL CO
8217039	F-7C-041766	4238332050		103		MARY HUGHES "169" #2	SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
8217001	F-08-039867	4232931089		103		MILES #1	PARKS (SPRABERRY)	10.0	MOBIL PRODUCING T
8217000	F-7C-039885	4246100000		103		POWELL "16" #2 RRC #NA	SPRABERRY (TREND AREA	20.0	MOBIL PRODUCING T
8216999	F-7C-039884	4246100000		103		POWELL "20" #1 RRC #NA	SPRABERRY (TREND AREA	20.0	MOBIL PRODUCING T
8216998	F-7C-039882	4246100000		103		POWELL "35" #2 RRC #NA	SPRABERRY (TREND AREA	10.0	MOBIL PRODUCING T
8216926	F-7C-037987	4238500000		103		ROCKER B "D" #3-X (#04537)	SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G

JO NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-KILROY CO OF TEXAS				RECEIVED:	02/03/82	JA: TX			
8217015	F-03-040546	4236130368		102-4		STARK FOUNDATION #1	SHANNON N (NODOSARIA)	728.0	UNITED TEXAS TRAN
-L R SPRADLING				RECEIVED:	02/03/82	JA: TX			
8216990	F-10-039407	4217930799		103		FURNEAUX #1A 24592	PANHANDLE WEST	70.0	PHILLIPS PETROLEU
-MAGUIRE OIL COMPANY				RECEIVED:	02/03/82	JA: TX			
8216917	F-03-037589	4232100000		107-TF		HUEBNER GAS UNIT #2-3	FAITH-MAG (9500' FRIO	0.1	VALLEY PIPE LINES
-MARSHALL EXPLORATION INC				RECEIVED:	02/03/82	JA: TX			
8216994	F-26-039753	4241930327		102-4	105	LOCKE #1	CARLILE & HOWELL (640	370.0	UNITED GAS PIPELI
-MAY PETROLEUM INC				RECEIVED:	02/03/82	JA: TX			
8217003	F-10-039896	4235730910		182-4		TAYLOR #1 (#04397)	TAYLOR (LOWER MORROW)	91.3	NORTHERN NATURAL
-MGF OIL CORP				RECEIVED:	02/03/82	JA: TX			
8217045	F-7C-041824	4238300000		103		UNIVERSITY "16-C" #1	SPRABERRY (TREND AREA	0.0	J L DAVIS
-MHW INC				RECEIVED:	02/03/82	JA: TX			
8217050	F-7B-041892	4213300000		108		D HAMILTON ESTATE #1 (08863)	EASTLAND COUNTY REGUL	0.0	LONE STAR GAS CO
-MITCHELL ENERGY CORPORATION				RECEIVED:	02/03/82	JA: TX			
8216834	F-09-026516	4249700000		103		A S C CU #8-6	ALVORD SOUTH (CADDO C	0.0	NATURAL GAS PIPEL
8216899	F-03-035610	4228700000		103		ARNOLD KRAUSE UNIT A #1 14659	GIDDINGS (AUSTIN CHAL	20.0	
8216912	F-09-036880	4249700000		108-ER		B B MCCLURE #1 28735	BOONSVILLE (BEND CONG	13.2	NATURAL GAS PIPEL
8216951	F-03-038370	4228700000		102-2		BECKER UNIT A #1 13286	GIDDINGS (BUDA)	0.0	
8216826	F-09-005073	4249700000		108-ER		C D SIPES #1	BOONSVILLE BEND CONG	21.3	NATURAL GAS PIPEL
8216925	F-7B-037981	4236300000		108		CLAYTON -C- #1 76346	GRAFORD (BEND CONGL)	12.4	SOUTHWESTERN GAS
8216823	F-09-006172	4249700000		108-ER		D F MCCLESKEY UNIT #1 28734	BOONSVILLE BEND CONG	8.3	NAT GAS PIPELINE
8216827	F-09-005082	4249700000		108-ER		G KAKER #4	BRIDGEPORT (CADDO CON	8.4	NATURAL GAS PIPEL
8216995	F-09-039771	4249700000		108		GERTRUDE WILSON #3 68359	BOONSVILLE (BEND CONG	13.7	NATURAL GAS PIPEL
8216889	F-03-033986	4214900000		102-2		HOLMES UNIT B #1 13932	GIDDINGS (AUSTIN CHAL	18.0	SOUTH CEN-TEX GAS
8216964	F-09-038770	4249731962		103		J A LITTLE #2	BOONSVILLE (BEND CONG	835.0	NATURAL GAS PIPEL
8216931	F-7B-038159	4236732022		103		J T BAKER #3	MINERAL WELLS N (BIG	125.0	NATURAL GAS PIPEL
8216824	F-09-004186	4249700000		108-ER		J W THOMAS #1 28838	BOONSVILLE BEND CONG	7.1	NATURAL GAS PIPEL
8217004	F-09-039978	4249731862		103		KATIE MOORE #3	MORRIS (CONSOLIDATED	125.0	NATURAL GAS PIPEL
8216949	F-03-038371	4228730641		102-2		KRAUSE UNIT B #1	GIDDINGS (BUDA)	0.0	PGP GAS PRODUCTS
8216901	F-7B-036058	4236300000		108-ER		L O MCKEE #1 64075	GRAFORD (BEND CONGL)	10.3	SOUTHWESTERN GAS
8216829	F-7B-020519	4236332271		103		L WILLIAMS #1	MINERAL WELLS S (STRA	87.5	
8216948	F-03-038372	4228700000		102-2		LUECKE UNIT A #1 13931	GIDDINGS (AUSTIN CHAL	0.0	
8216821	F-09-004055	4249700000		108-ER		M M PEEK #1 28773	BOONSVILLE BEND CONG	13.2	NATURAL GAS PIPEL
8216838	F-09-027892	4249700000		108		OTIS MEEKS #1 28740	BOONSVILLE (BEND CONG	8.0	NATURAL GAS PIPEL
8216842	F-09-028558	4249700000		108		R C AUSTIN #1	BOONESVILLE (BEND CON	9.0	SOUTHWESTERN GAS
8216924	F-7B-037977	4236700000		108		R R HOWARD #3 91422	COYLE (MARBLE FALLS)	7.7	SOUTHWESTERN GAS
8216822	F-09-004063	4249700000		108-ER		ROY WOMACK #1	BOONSVILLE BEND CONG	18.0	NATURAL GAS PIPEL
8216830	F-33-322694	4237500000		108-ER		SOUTHLAND PAPER MILL A-4 71772	HORTENSE (WOODBINE)	5.6	HOUSTON PIPELINE
8216839	F-09-028062	4249700000		108		TELLIE WRIGHT #2 84101	BOONESVILLE (BEND CON	0.0	NATURAL GAS PIPEL
8216843	F-09-028669	4229330473		107-TF		THOMASON #1	POKEY EAST (COTTON VA	375.0	
8217025	F-09-041103	4249700000		108		W M MOBBS #2 74854	BOONSVILLE (BEND CONG	13.2	NATURAL GAS PIPEL
8216992	F-09-039539	4249700000		108		WENDEL A OSBURN #1 32553	BOONSVILLE (BEND CONG	13.5	NATURAL GAS PIPEL
8216950	F-03-038372	4228700000		102-2		WENKE UNIT A #1 14352	GIDDINGS (AUSTIN CHAL	0.0	
-MOBIL PROD TEXAS & NEW MEXICO INC				RECEIVED:	02/03/82	JA: TX			
8217053	F-04-041962	4247933042		102-4		W N MCELROY #2	CALLAGHAN N (WILCOX L	782.9	VALERO TRANSMISSI
-MWJ PRODUCING COMPANY				RECEIVED:	02/03/82	JA: TX			
8216869	F-08-030973	4231700000		103		ORY #2	SPRABERRY TREND AREA	0.0	PHILLIPS PETROLEU
-NATURAL GAS ANADARKO INC				RECEIVED:	02/03/82	JA: TX			
8216887	F-10-033917	4239330717		102-4		LEDRICK #1-7	LEDRICK RANCH	72.0	TRANSWESTERN PIPE
-ORO NEGRO OPERATIONS INC				RECEIVED:	02/03/82	JA: TX			
8216884	F-06-031271	4218330460		103	107-TF	JOHN HENDERSON #1	LANSING N (COTTON VAL	368.0	
-PALO PETROLEUM INC				RECEIVED:	02/03/82	JA: TX			

JD NO	JA DKT	API NO	SEC(1)	SEC(2)	WELL NAME
8216853	F-78-029542	4204931806	102-4	103	C ANDERSON #1
8216857	F-78-029671	4204931857	102-4	103	CAGLE #1
8216847	F-78-029337	4204931899	102-4	103	CLARK #1
8216858	F-78-029384	4204931914	102-4	103	CLAWSON "B" #1
8216855	F-78-029669	4204931920	102-4	103	CREATH DAVIS #2
8216844	F-78-029240	4213300000	102-4	103	DOYAL LASATER #2
8216854	F-78-029667	4204931867	102-4	103	E RILEY "A" #1
8217026	F-7C-041239	4238300000	103		FRED BALL #1
8216858	F-78-029672	4213300000	102-4	103	G STEEL "A" #1
8216859	F-78-029673	4204900000	102-4	103	G STEEL "C" #1
8216851	F-78-029586	4204931869	102-4	103	GARY JONES #1
8216848	F-78-029382	4213300000	102-4	103	GIBBONS #1
8216862	F-78-029744	4213331640	102-4	103	JOE BROWN #2
8216856	F-78-029673	4204931766	102-4	103	LASATER "B" #2
8216846	F-78-029288	4204931860	102-4	103	LEWALLEN #1
8216852	F-78-029667	4213331677	102-4	103	LEWALLEN "A" #1
8216849	F-78-029583	4204931934	102-4	103	LOW ESTATE #2
8216860	F-78-029679	4204932091	102-4	103	STANBAUGH "B" #1
8216845	F-78-029218	4204932090	102-4	103	STANBAUGH C #1
-PARAFFINE OIL CORP			RECEIVED:	02/03/82	JA: TX
8217031	F-02-041496	4206931780	102-4		KEERAN "B" #2-T
8217019	F-02-040831	4205731024	102-4		P H WELDER "C" #1-L
8217050	F-02-042059	4205731077	102-4		P H WELDER D #5
-PARKER OPERATING CO INC			RECEIVED:	02/03/82	JA: TX
8216971	F-C8-038893	4250300000	108		HALL-PARKS #2 RRC #91797
8216870	F-78-031160	4214300000	103		J C WATSON RRC #81710
-PAUL DE CLEVA			RECEIVED:	02/03/82	JA: TX
8216965	F-78-038786	4239330777	103		MATTHEWS "A" #1
-PAUL STEPHEN FUQUA			RECEIVED:	02/03/82	JA: TX
8216970	F-78-335135	4222150651	102-4		FUQUA -J T MILLS #1
-PDC GAS CO			RECEIVED:	02/03/82	JA: TX
8216828	F-C8-818973	4247500000	102-4		BRANDENBURG "B" #1
-PERRYMAN OPERATING CO INC			RECEIVED:	02/03/82	JA: TX
8216895	F-05-035462	4221300000	102-4	107-TF	STEVENS #1
-PETROLEUM MANAGEMENT INC			RECEIVED:	02/03/82	JA: TX
8216906	F-04-036455	4248900000	102-4		YTURRIA CATTLE CO #10
-PHILLIPS PETROLEUM COMPANY			RECEIVED:	02/03/82	JA: TX
8216963	F-10-038671	4217930935	103		BOONE #2
8216962	F-10-038625	4223331110	103		CATTLE L #2
8216938	F-10-038232	4240300000	108		DESON #4
8216928	F-10-038077	4229580000	103		DUKE E #1
8216876	F-10-032080	4235731071	103		FLOWERS D #2
8216918	F-10-037614	4242100000	108		GROVES #1
8216832	F-10-025328	4223300000	108		HARVEY UNIT B-5
8216937	F-10-038231	4223300000	108		KILLOUGH B #1
8217056	F-09-041995	4249732037	103		WILEY A #2
8216952	F-7C-038384	4241300056	108		WILLIAMS-F #2 (19095)
-PIONEER PRODUCTION CORPORATION			RECEIVED:	02/03/82	JA: TX
8216953	F-10-038398	4229530875	103		SCHULTZ "C" UNIT #2-960
-QUINTANA PETROLEUM CORP			RECEIVED:	02/03/82	JA: TX
8216945	F-02-038313	4239130581	103		FANNIE V W HEARD 96-U
8216961	F-02-038577	4239141351	103		MARY CLAIRE BAUER ET VIR 13-U
8216946	F-02-038317	4239131423	103		MAUDE WILLIAMS "A" D-115

FIELD NAME	PROD.	PURCHASER
PALO DAVIS (RANGER)	91.3	ODESSA NATURAL CO
PALO DAVIS (DUFFER)	27.4	ODESSA NATURAL CO
BLIND HOG (RANGER)	54.8	ODESSA NATURAL CO
PALO DAVIS (RANGER)	19.8	ODESSA NATURAL CO
PALO DAVIS (RANGER)	13.9	ODESSA NATURAL CO
BLIND HOG (RANGER)	151.5	ODESSA NATURAL CO
PALO DAVIS (RANGER)	63.9	ODESSA NATURAL CO
SPRABERRY TRENT	12.8	EL PASO NATURAL G
BLIND HOG (RANGER)	57.2	ODESSA NATURAL CO
BLIND HOG (RANGER)	164.3	ODESSA NATURAL CO
BLIND HOG (RANGER)	8.8	ODESSA NATURAL CO
WILDCAT	105.5	ODESSA NATURAL CO
BLIND HOG (RANGER)	63.9	ODESSA NATURAL CO
BLIND HOG (RANGER)	45.6	ODESSA NATURAL CO
BLIND HOG (RANGER)	60.2	ODESSA NATURAL CO
BLIND HOG (RANGER)	36.5	ODESSA NATURAL CO
BLIND HOG (RANGER)	38.3	ODESSA NATURAL CO
PALO DAVIS (DUFFER)	73.0	ODESSA NATURAL CO
PALO DAVIS (DUFFEY)	100.4	ODESSA NATURAL CO
KEERAN E (7000)	18.0	FLORIDA GAS TRANS
HEYSER SE (G-10)	217.0	FLORIDA GAS TRANS
KATIE WELDER (G-13)	67.0	SEAGULL PIPELINE
YOUNG COUNTY REGULAR	0.0	NATURAL GAS PIPEL
MORGAN MILL (MARBLE F	0.0	ENERGY PIPELINE C
BEATTIE N (MARBLE FAL	11.0	SOUTHWESTERN GAS
MILLS	9.5	EMPIRE PIPELINE C
BRANDENBURG PAYTON (S	0.0	EL PASO NATURAL G
THOMAS LAKE (COTTON V	0.0	TEXAS UTILITIES F
LA SARA NE (8080') PR	200.0	TEXAS EASTERN TRA
PANHANDLE GRAY	0.0	
PANHANDLE HUTCHINSON	0.0	EL PASO NATURAL G
PANHANDLE WHEELER	0.0	
KIOWA CREEK	0.0	PANHANDLE EASTERN
HORIZON (CLEVELAND)	0.0	PANHANDLE EASTERN
TEXAS HUGOTON	0.0	EL PASO NATURAL G
PANHANDLE HUTCHINSON	16.8	GETTY OIL CO
PANHANDLE HUTCHINSON	0.0	EL PASO NATURAL G
BOONSVILLE BEND CONGL	100.0	LONE STAR GAS CO
OTTO (STRAWN)	17.9	ARCO OIL & GAS CO
MAMMOTH CREEK NORTH (	0.0	TRANSWESTERN PIPE
TOM O'CONNOR (5500' S	9.0	UNITED TEXAS TRAN
TOM O'CONNOR (5900' S	36.0	UNITED TEXAS TRAN
LAKE PASTURE (H-440 S	0.3	UNITED TEXAS TRAN

JD NO	JA DKT	API NO	SEC(1)	SEC(2)	WELL NAME
8216947	F-02-038320	4239100000	103		MAUDE WILLIAMS "A" D-98-L
8216944	F-02-038312	4239131248	103		THOMAS O'CONNOR "C" 79-L
-RANGER OPERATING CO			RECEIVED:	02/03/82	JA: TX
8217029	F-09-041389	4250334208	103		IVY #2 #28620
-RIDDLE OIL CO			RECEIVED:	02/03/82	JA: TX
8217048	F-06-041872	4220330820	103		HARRISON ESTATE #1 108409
-ROCKWOOD RESOURCES INC			RECEIVED:	02/03/82	JA: TX
8216913	F-03-037017	4240132078	103		KULCAK #1 ID NO 93005
-S & B ENTERPRISES INC			RECEIVED:	02/03/82	JA: TX
8216929	F-08-038083	4237133141	103		OLIX "A" #3
8216930	F-08-038085	4237133336	103		OLIX "B" #4
-S K TUTHILL & B J BARBEE			RECEIVED:	02/03/82	JA: TX
8216923	F-02-037912	4239131432	102-4		C F ZARSKY #1
-SAMEDAN OIL CORPORATION			RECEIVED:	02/03/82	JA: TX
8216904	F-04-036271	4227331380	102-2		S T 818-L #A-4
-SAMSON RESOURCES COMPANY			RECEIVED:	02/03/82	JA: TX
8216914	F-03-037192	4237330491	103		THAMMEL TRUST #1
-SANCHEZ-OBRIEN OIL & GAS CORP			RECEIVED:	02/03/82	JA: TX
8217042	F-02-041800	4229732067	102-4		BODDEN-FROST GAS UNIT #1
8217007	F-04-040167	4250531363	107-TF		VAQUILLAS RANCH LTD #1
-SAXON OIL COMPANY			RECEIVED:	02/03/82	JA: TX
8216976	F-7C-039527	4238331842	103		DUKE #1
8216919	F-7C-037634	4246131724	103		KEENEY #3
8216981	F-08-039532	4231730000	103		KNOX #5A
8216978	F-08-039529	4231732323	103		KNOX #W
8216980	F-08-039031	4231732288	103		MOLLOW #3
8216979	F-08-039030	4231700000	103		MOLLOW "A" #2
8216958	F-7C-038490	4246131701	103		SKAGGS #2
8216957	F-7C-038489	4246131700	103		SKAGGS #3
8216916	F-7C-037533	4238331870	103		UNIVERSITY "15-58" #2
-SCANDRILL CO			RECEIVED:	02/03/82	JA: TX
8216909	F-09-036741	4250334661	103		B W KING #2
8216977	F-09-039028	4250334666	103		B W KING #3
8216982	F-09-039034	4223733457	103		HENDERSON-BRIDWELL #1
8216890	F-09-034063	4250334391	103		KISINGER #8
8216983	F-09-039038	4250334811	103		MORRIS STEPHENS #6
8216933	F-78-038174	4244732540	102-4	103	PUTNAM #4
8216932	F-78-038173	4244732539	102-4	103	PUTNAM #5
8216984	F-09-039039	4250334801	103		SCHLITTLER #1
-SHELL OIL CO			RECEIVED:	02/03/82	JA: TX
8217020	F-02-040880	4246931781	103		SOPHIE G BROWN #3
8216831	F-10-023842	4229500000	108-EH		WHEAT 1-678
-STALLWORTH OIL & GAS INC			RECEIVED:	02/03/82	JA: TX
8216861	F-78-032822	4236731826	102-4		BIRD #3
8216860	F-78-032807	4236731846	102-4	103	BIRD-BEDFORD UNIT #1
-SUN OIL COMPANY (DELAWARE)			RECEIVED:	02/03/82	JA: TX
8216886	F-04-033579	4200951458	103		J R HUNT #11-C
8216868	F-7C-030742	4208100000	108		J S WALKER #10
-SUPERIOR OIL CO			RECEIVED:	02/03/82	JA: TX
8217027	F-03-041349	4205131766	102-2	103	A A KOCUREK #1
8217051	F-03-041939	4205131653	102-2	103	B J YENDREY #1
8216835	F-34-026717	4221500000	108		JOHN HAMMAN B #1
8216867	F-02-030555	4205731004	102-4		M B TRAYLOR F #1

FIELD NAME	PROD.	PURCHASER
LAKE PASTURE (FT-740-	12.0	UNITED TEXAS TRAN
TOM O'CONNOR (6600' S	5.0	UNITED TEXAS TRAN
YOUNG COUNTY REGULAR	75.0	LONE STAR GAS CO
LANSING NORTH (PETTIT	182.5	ARKANSAS LOUISIAN
KULCAK (GRETA 4900)	0.0	DELHI GAS PIPELIN
PAYTON	18.3	PERRY GAS PROCESS
PAYTON	6.6	PERRY GAS PROCESS
TIVOLI SOUTH FRIO LO	30.0	
SAMEDAN FRIO	2200.0	EL PASO NATURAL G
LEGGETT (WOODBINE)	1175.4	BADISCHE CORP
GEORGE WEST W (10,400	500.0	UNITED TEXAS TRAN
LAS OVEJAS (LOBO)	500.0	TENNESSEE GAS PIP
SPRABERRY (TREND AREA	24.1	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	19.0	PHILLIPS PETROLEU
BREEDLOVE EAST (SPRAB	22.6	PHILLIPS PETROLEU
BREEDLOVE EAST (SPRAB	26.6	PHILLIPS PETROLEU
BREEDLOVE EAST (SPRAB	15.0	PHILLIPS PETROLEU
BREEDLOVE EAST (SPRAB	13.1	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	20.1	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	30.3	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	15.3	NORTHERN NATURAL
BRAZEEL (CADDO)	0.0	SUN GAS GATHERING
BRAZEEL (CADDO)	27.4	SUN GAS TRANSMISS
JACK COUNTY REGULAR	72.3	TEXAS UTILITIES F
SCAN (CONGL)	0.0	SOUTHWESTERN GAS
YOUNG COUNTY REGULAR	7.3	SUN GAS TRANSMISS
BOROCK (CADDO)	293.1	CLEAR FORK GAS CO
BOROCK (CADDO)	255.1	CLEAR FORK GAS CO
BRAZEEL (CADDO)	21.9	SUN GAS TRANSMISS
HELEN BOHLKE SW (FRIO	110.0	FLORIDA GAS TRANS
KIOWA CREEK	6.0	TRANSWESTERN PIPE
WILDCAT	0.0	SOUTHWESTERN GAS
WILDCAT	0.0	SOUTHWESTERN GAS
PLYMOUTH	3.0	HOUSTON PIPE LINE
BLOODWORTH/5700	0.3	LONE STAR GAS CO
GIDDINGS (AUSTIN CHAL	0.0	
GIDDINGS (AUSTIN CHAL	0.0	
NORTH MONTE CHRISTO	12.0	FLORIDA GAS TRANS
MAUDE B TRAYLOR N	0.0	

JD NO	JA ST	API NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8217005	F-92-040070	4228531588	102-3		RANDOM GAS UNIT #1 #2	NORTH HORD (EDWARDS)	429.8	VALERO TRANSMISSI
-TENNECO OIL COMPANY			RECEIVED:	02/03/82	JA: TX			
8216874	F-10-031636	4217930788	103		COMBS 31-A	PANHANDLE	9.8	PHILLIPS PETROLEU
-TENROC CORP			RECEIVED:	02/03/82	JA: TX			
8216985	F-03-039088	4205131556	102-2		BLEDSOE #1	GIDDINGS (AUSTIN CHAL	525.0	PHILLIPS PETROLEU
-TEXACO INC			RECEIVED:	02/03/82	JA: TX			
8217040	F-08-041770	4210931479	103		CULBERSON "W" FEE #4	FORD WEST (4100)	1.5	EL PASO NATURAL G
8216936	F-08-038227	4237133181	102-4		MANZANITA UNIT #1	MANZANITA (DEVONIAN)	857.8	INTRATEX GAS CO
8217011	F-08-040464	4252930999	102-4		ZULA B WYLIE B #2	BRADFORD RANCH (ATOKA	244.5	EL PASO NATURAL G
-TEXAS CRUDE INC			RECEIVED:	02/03/82	JA: TX			
8216993	F-06-039674	4207300000	102-4		SOUTHERN PINE GAS UNIT #3 #1	SOUTHERN PINE (TRAVIS	365.0	UNITED TEXAS TRAN
-TEXAS GENERAL PETROLEUM CORP			RECEIVED:	02/03/82	JA: TX			
8216988	F-04-035994	4235531599	102-4		LESLIE MUMME THOMAS #1-C	DOUGHERTY	156.0	UNITED GAS PIPE L
-TEXAS INTERNATIONAL PET CORP			RECEIVED:	02/03/82	JA: TX			
8216879	F-03-032680	4205131012	102-2		SCHINDLER-BIRCH CREEK RANCH #2	GIDDINGS	292.0	CLAJON GAS CO
-TEXAS OIL & GAS CORP			RECEIVED:	02/03/82	JA: TX			
8217030	F-33-041390	4285131345	102-2	103	CRIDDLE #1	GIDDINGS (AUSTIN CHAL	0.0	
8217054	F-05-041972	4228900000	102-4		GUEST #1	BEAR GRASS (TRAVIS PE	0.0	
8216875	F-05-031863	4216130601	102-4	103	JORDAN "A" #1	BEAR GRASS NE (COTTON	0.0	DELHI GAS PIPELIN
8216875	F-05-031863	4216130601	107-TF		JORDAN "A" #1	BEAR GRASS NE (COTTON	0.0	DELHI GAS PIPELIN
8217024	F-9A-041020	4226930928	103		MASTERSON "A" #2	JUNIPER	168.0	DELHI GAS PIPELIN
8217055	F-7C-041975	4240131182	102-4		WALLACE "F" #1	PINEHILL W (TRAVIS PE	0.0	
-THOMAS-POWELL ROYALTY INC			RECEIVED:	02/03/82	JA: TX			
8217018	F-7C-040829	4239931951	102-4		MCADAMS #2 (09212)	BROWN SUGAR (MISS)	3.0	UNION TEXAS PETRO
-UNION EXPLORATION			RECEIVED:	02/03/82	JA: TX			
8216968	F-7B-038836	4242932861	102-4		CLANTON #1 (96296)	RUSSELL (DUFFER)	292.0	LONE STAR GAS CO
-UNION OIL COMPANY OF CALIF			RECEIVED:	02/03/82	JA: TX			
8217023	F-03-041008	4214930962	102-2		ELMER KRAUSE #1	GIDDINGS-AUSTIN CHALK	326.8	CLAJON GAS CO
8217030	F-33-041718	4213535700	103		MOSS UNIT #6-14	COWDEN SOUTH	24.0	ODESSA NATURAL CO
-UNION TEXAS PETROLEUM			RECEIVED:	02/03/82	JA: TX			
8217036	F-7C-041703	4225531779	103		FARMAR 38 #1	ROCK PEN (CANYON)	109.5	CRA INC
-VORTT EXPLORATION CO INC			RECEIVED:	02/03/82	JA: TX			
8216911	F-09-036794	4250334436	102-4		D SINGLETON #1A (20769)	MURRAY N E (CONGLOMER	0.0	J H TAYLOR GAS CO
-W L PENNINGTON INC			RECEIVED:	02/03/82	JA: TX			
8216820	F-10-002054	4208760000	108-CR		TITTLE 1-83	PANHANDLE EAST	0.0	EL PASO NATURAL G
-WAINOCO OIL & GAS COMPANY			RECEIVED:	02/03/82	JA: TX			
8216898	F-33-035558	4216130623	102-4	107-TF	W E RILEY GAS UNIT #1	MCSWANE (13,020 BOSSI	156.0	DELHI GAS PIPELIN
-WILLIAM H DAVIS			RECEIVED:	02/03/82	JA: TX			
8216927	F-10-038057	4239330855	103		MORRISON #1	MORRISON RANCH	292.0	DIAMOND SHAMROCK
-WILLIAM PERLMAN			RECEIVED:	02/03/82	JA: TX			
8216891	F-7C-034465	4243532463	103	107-TF	W E SAWYER 16-1	SHURLEY RANCH (CANYON	0.0	EL PASO NATURAL G
-WILLIAMS-GIEGER RESOURCES INC			RECEIVED:	02/03/82	JA: TX			
8216905	F-06-036303	4220330774	103	107-TF	IRELAND WILLIAMS #1	WASKOM (COTTON VALLEY	156.0	UNITED GAS PIPE L
8217089	F-06-040311	4256531234	103	107-TF	TRAVIS LYNCH-#1	CARTHAGE (COTTON VALL	100.0	UNITED GAS PIPE L
-WORLD PRODUCERS INC			RECEIVED:	02/03/82	JA: TX			
8216967	F-7B-038N30	4236731711	102-4		BARRETT BROTHERS UNIT #1	WALES (4300')	70.0	SOUTHWESTERN GAS

OTHER PURCHASERS

8217022 E I DUPONT DE NEMOURS & CO
8217044 VALERO TRANSMISSION CO
8217052 VALERO TRANSMISSION CORP

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5431 Filed 2-26-82; 8:45 am]

BILLING CODE 6717-01-C

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: February 23, 1982.

JD NO	JA ST	API NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION								
-ADOBE OIL & GAS CORPORATION			RECEIVED:	02/03/82	JA: TX			
8217295	F-7B-044529	4239530243	102-2	107-TF	BAULCH UNIT #1	BALD PRAIRIE NORTH (C	292.0	UNITED TEXAS TRAN
-AKERS AND FULTZ INC			RECEIVED:	02/03/82	JA: TX			
8217334	F-09-044797	4223732018	103		ROY CHERRYHOMES F #2 18694	MARINA MAG (CONGL)	78.0	CITIES SERVICE CO
8217383	F-09-044965	4223732043	103		ROY CHERRYHOMES F #4 18694	MARINA-MAG (CONGL)	31.0	CITIES SERVICE CO
8217353	F-09-044882	4223732321	103		ROY CHERRYHOMES F #7-83924	MARINA MAG (CONGL)	1.0	CITIES SERVICE &
8217384	F-09-044966	4223732383	103		ROY CHERRYHOMES F #8 80769	MARINA-MAG (CONGL)	7.8	CITIES SERVICE CO
8217368	F-09-044914	4223732405	103		ROY CHERRYHOMES F #9 20048	ROY (CONGL)	16.0	CITIES SERVICE CO
-AMAX PETROLEUM CORPORATION			RECEIVED:	02/03/82	JA: TX			
8217127	F-03-043120	4215731207	102-4		L R MORGAN #1	KATY S (FIRST WILCOX)	1300.0	HOUSTON PIPE LINE
8217133	F-03-043181	4215731227	103		L R MORGAN #1	KATY S (FIRST WILCOX	1300.0	HOUSTON PIPE LINE
-AMERADA HESS CORPORATION			RECEIVED:	02/03/82	JA: TX			
8217386	F-7B-040966	4222732535	103		FLANAGAN #1	RED DRAW (FUSSELMAN)	57.6	PHILLIPS PETROLEU
8217149	F-9A-043426	4216531990	103		SEMINOLE SAN ANDRES UNIT #4123	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
-AMERICAN DELTA CORP			RECEIVED:	02/03/82	JA: TX			
8217550	F-7B-040609	42-5131752	102-2		ASHBURN-TIETJEN UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-AMERICAN QUASAR PETROLEUM CO			RECEIVED:	02/03/82	JA: TX			
8217239	F-8A-040311	4203330724	102-4		GOOD 1-11	SEC 11 BLK 32 T-32N T	0.0	
8217365	F-8A-042204	4244530488	103		MITCHELL FLACHE #2-71	S BROWNFIELD SEC 71 B	0.0	
-ANNEX PETROLEUM INC			RECEIVED:	02/03/82	JA: TX			
8217116	F-03-042940	4235131661	102-2	103	DALE UNIT #1	BIG A (TAYLOR)	367.2	CLAJON GAS CO
-AMOCO PRODUCTION CO			RECEIVED:	02/03/82	JA: TX			
8217206	F-7B-044011	4200332286	103		FRANK COWDEN R/A "D" #14	COWDEN NORTH DEEP	0.4	WESTAR TRANSMISSI
8217341	F-7B-044829	4200332630	103		FUHRMAN MASCHO UNIT #108 BLK 9	FUHRMAN-MASCHO	6.6	PHILLIPS PETROLEU
8217340	F-7B-044828	4200332599	103		FUHRMAN MASCHO UNIT #109 BLK 9	FUHRMAN-MASCHO	4.0	PHILLIPS PETROLEU
8217339	F-7B-044827	4200332945	103		FUHRMAN MASCHO UNIT #115 BLK 9	FUHRMAN-MASCHO	2.2	PHILLIPS PETROLEU
8217336	F-7B-044826	4200332624	103		FUHRMAN MASCHO UNIT #129 BLK 9	FUHRMAN-MASCHO	0.4	PHILLIPS PETROLEU
8217209	F-7B-044635	4200131118	102-4	107-TF	JESSE EARL SEALEY GAS UNIT #1	DIRGIN/COTTON VALLEY/	220.0	LONE STAR GAS CO
-ANDERSON PETROLEUM INC			RECEIVED:	02/03/82	JA: TX			
8217061	F-7C-042075	4243532446	103	107-TF	GUY WYATT ASKEW 1-54	SAWYER (CANYON)	35.0	SUTTON COUNTY PIP
8217062	F-7C-042074	4243532445	103	107-TF	GUY WYATT ASKEW 2-54	SAWYER (CANYON)	50.0	SUTTON COUNTY PIP
-ARCO OIL AND GAS COMPANY			RECEIVED:	02/03/82	JA: TX			
8217123	F-01-043068	4251130877	103		D W RHODE 9#3L	RHODE RANCH EAST (WIL	700.0	TEXAS EASTERN TRA
8217312	F-7C-044655	4223530459	108		KETCHUM MOUNTAIN (CLFK) UNIT #49-16	KETCHUM MTN (CLEARFOR	1.9	J L DAVIS
-ARIES PETROLEUM INC			RECEIVED:	02/03/82	JA: TX			
8217166	F-7A-043709	4205533314	102-4		N V GIBBS #1	J R G CANYON	142.0	SOUTHWESTERN GAS
-B & W EXPLORATION			RECEIVED:	02/03/82	JA: TX			
8217174	F-7C-044179	4213333149	102-4		CLARK #1	WILDCAT	265.0	NORTHERN GAS PROD
-BENNETT PRODUCTION CORP			RECEIVED:	02/03/82	JA: TX			
8217214	F-03-044945	4253730000	103		ANNA MCFALL #3	MPS ELLENBURGER	480.0	MATADOR PIPELINE
-BLAKE HAMMAN			RECEIVED:	02/03/82	JA: TX			

JD NO	JA AT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8217285	F-09-044491	4249700000		108		FRANK HARLAN #1 41267	BOONSVILLE (BEND CONG	18.0	CITIES SERVICE CO
-BTA OIL PRODUCERS				RECEIVED:	02/03/82	JA: TX			
8217297	F-7C-044536	4238331604		103		JACKSON-B-89	SPRAGBERRY (TREND AREA	30.0	EL PASO NATURAL G
-C. J. WOFFORD				RECEIVED:	02/03/82	JA: TX			
8217254	F-02-044363	4202531471		102-4		BRADY SMITH #1 ID#94712	DAHL (QUEEN CITY 5970	93.0	VALERO TRANSMISSI
-CARL M ARCHER				RECEIVED:	02/03/82	JA: TX			
8217111	F-10-042897	4219530213		108		MILLER-BUCKNER 62012	CLEMENTINE (MARMATON	9.0	PANHANDLE EASTERN
-CARTER ENERGY CORP				RECEIVED:	02/03/82	JA: TX			
8217106	F-39-042867	4223733420		102-4		CLAYTON HEIRS #2-C	CLAYTON (STRAWN 3980*	110.0	LONE STAR GAS CO
8217105	F-09-042866	4223733420		103		CLAYTON-HEIRS #2-T	CUSTARD (CONGL 4650*)	18.0	LONE STAR GAS CO
8217276	F-09-044458	4223733624		102-4		D L JOHNSON #1	CLAYTON (STRAWN 3900*	110.0	LONE STAR GAS CO
-CARTER EXPLORATION CO				RECEIVED:	02/03/82	JA: TX			
8217100	F-32-042817	4242531566		102-4	103	JANET PIST GAS UNIT #2	SLIVA SOUTHWEST (3880	100.0	VALERO TRANSMISSI
-CASABOR OIL & GAS CO				RECEIVED:	02/03/82	JA: TX			
8217284	F-78-044487	4249900000		103		FLETCHER #1	BROWN COUNTY REGULAR	312.0	ODESSA NATURAL GA
-CHAMPLIN EXPLORATION INC				RECEIVED:	02/03/82	JA: TX			
8217275	F-35-044457	4205130634		102-2		BARNETT #1 (RRC ID #130666)	GIDDINGS (AUSTIN CHAL	36.5	CLAJON GAS CO
8217250	F-35-044220	4205130305		102-2		BARNETT #2 (RRC LEASE #130666)	GIDDINGS (AUSTIN CHAL	120.0	CLAJON GAS CO
8217246	F-35-044356	4205130974		102-2		BARNETT #3 (RRC ID #902252)	GIDDINGS (AUSTIN CHAL	420.0	CLAJON GAS CO
8217250	F-35-044357	4205131035		102-2		BARNETT #4 (RRC ID 130666)	GIDDINGS (AUSTIN CHAL	280.0	CLAJON GAS CO
8217251	F-35-044358	4205130903		102-2		BARNETT #5 (RRC ID #130666)	GIDDINGS (AUSTIN CHAL	186.0	CLAJON GAS CO
8217274	F-8A-044455	4228730436		102-2		GARWOOD GERDES "A" (RRC ID #81236)	GIDDINGS (AUSTIN CHAL	182.5	P&P GAS PRODUCTS
8217306	F-83-044610	4228700000		102-2		GARWOOD GERDES "B" #1 (RRC #81966)	GIDDINGS (AUSTIN CHAL	187.5	P&P GAS PRODUCTS
8217307	F-33-044611	4205130559		102-2		STEGMUELLER #3 (RRC ID #87201)	GIDDINGS (AUSTIN CHAL	728.0	CLAJON GAS CO
8217313	F-33-044672	4205130627		102-2		STEGMUELLER #4 (RRC ID #15204)	GIDDINGS (AUSTIN CHAL	728.0	CLAJON GAS CO
8217305	F-33-044606	4205131077		102-2		STEGMUELLER #8 (RRC #15204)	GIDDINGS (AUSTIN CHAL	240.0	CLAJON GAS CO
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	02/03/82	JA: TX			
*8217077	F-04-02385	4227300000		108		G P WARDNER #129	STRATTON	3.0	TENNESSEE GAS PIP
*8217078	F-34-04234B	4235530000		108		G P WARDNER #17	STRATTON	1.6	TENNESSEE GAS PIP
8217134	F-04-043212	4243100C33		103		I W TERRY #13	CONGER SW (PENN)	66.0	NORTHERN NATURAL
*8217666	F-34-042213	4235500E0*		108		W S SELLERS #1	STRATTON (BERTRAM)	11.0	TENNESSEE GAS PIP
-CINCO OIL & GAS INC				RECEIVED:	02/03/82	JA: TX			
8217194	F-71-043921	4217900800		102-2		SIMPER "B" UNIT #2	PEACH CREEK (AUSTIN C	8.0	TIPPERARY GATHERI
-CIRCLE SEVEN PRODUCTION CO				RECEIVED:	02/03/82	JA: TX			
8217257	F-33-044376	4223733336		102-4		MARY C SEWELL #1-T (LEASE NO 21331)	GORDON (CONGL)	8.0	LONE STAR GAS CO
8217314	F-35-044677	4223733901		102-4		THETFORD EAST #1	LENORA (D-ZONE CONGL)	0.0	CITIES SERVICE CO
-CLARION RESOURCES INC				RECEIVED:	02/03/82	JA: TX			
8217218	F-78-044100	4214300000		102-4	103	CREECH 2	SAP OAK (DUFFER)	0.0	NORTHERN GAS PROD
-CLAYTON W WILLIAMS JR				RECEIVED:	02/03/82	JA: TX			
8217071	F-33-042255	4205100000		102-2		ELO JUNCK #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
-COATES ENERGY TRUST				RECEIVED:	02/03/82	JA: TX			
8217325	F-C4-044754	4215135207		102-4		ANNIE PEAL BARNES #1 (RRC ID 95388)	KOHLER (COX)	10.0	
-CONOCO INC				RECEIVED:	02/03/82	JA: TX			
8217343	F-84-044837	4242700000		108		FRIO D-5 UNIT #15	RINCON (FRIO D-5)	0.5	TENNESSEE GAS PIP
8217182	F-84-043831	4242731552		102-4		T B SLICK EST M-536 #165	RINCON (VICKSBURG 706	308.0	TENNESSEE GAS PIP
8217164	F-84-043690	4242731544		102-4		T B SLICK EST M-536 #83	RINCON (VICKSBURG 670	300.0	TENNESSEE GAS PIP
8217227	F-38-044296	4200380000		108		W H BOWER -A- #26 ID #81663	FUHRMAN-NIX	2.3	PHILLIPS PETROLEU
8217226	F-36-044203	4200300000		108		W H BOWER -A- #32 ID #81663	FUHRMAN-NIX	0.4	PHILLIPS PETROLEU
-CONVEST ENERGY CORP				RECEIVED:	02/03/82	JA: TX			
8217157	F-8A-043579	4226330678		102-2		WAYNE WILLIAMS "B" 3-8	POLLAN	8.0	EL PASO NATURAL G
-CORDOVA RESOURCES INC				RECEIVED:	02/03/82	JA: TX			
8217289	F-78-044500	4213332441		103		A E COOK #15	EASTLAND COUNTY REGUL	4.4	ODESSA NATURAL GA
8217288	F-78-044505	4213332543		103		A E COOK #17	EASTLAND COUNTY REGUL	9.9	ODESSA NATURAL GA

JD NO	JA AT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8217213	F-78-044031	4213332461		103		ALEXANDER "A" #2	EASTLAND COUNTY REGUL	0.0	SOUTHWESTERN GAS
8217290	F-78-044507	4213300000		103		BONNIE BROOKS #3	EASTLAND COUNTY REGUL	0.9	ODESSA NATURAL GA
8217294	F-78-044511	4213332919		103		C P BRANNIN #2	EASTLAND COUNTY REGUL	24.6	ODESSA NATURAL GA
8217115	F-78-042933	4213300000		103	108	CALDWELL #1	EASTLAND COUNTY REGUL	0.0	ODESSA NATURAL CO
8217291	F-78-044508	4213332527		103		D J ARMSTRONG #15	EASTLAND COUNTY REGUL	4.5	ODESSA NATURAL GA
8217292	F-78-044509	4213332529		103		D J ARMSTRONG #17	EASTLAND COUNTY REGUL	0.0	ODESSA NATURAL GA
8217118	F-78-042956	4213300000		108		HARRIS FISHER #4	EASTLAND COUNTY REGUL	0.0	ODESSA NATURAL CO
8217287	F-78-044497	4213330000		108		MORRIS "B" #1	EASTLAND COUNTY REGUL	0.4	ODESSA NATURAL GA
8217293	F-78-044510	4213332795		103		NICHOLS #1	EASTLAND COUNTY REGUL	4.3	ODESSA NATURAL GA
8217212	F-78-044030	4213332788		103		O G MOORE #3	EASTLAND COUNTY REGUL	1.5	SOUTHWESTERN GAS
8217119	F-73-042960	4213300000		108		SHEPPARD #2	EASTLAND COUNTY REGUL	0.0	ODESSA NATURAL CO
8217117	F-78-042955	4213300000		103	108	SHEPPARD #3	EASTLAND COUNTY REGUL	0.4	ODESSA NATURAL CO
8217210	F-78-044027	4213333058		103		SMOOT #1	EASTLAND COUNTY REGUL	54.8	SOUTHWESTERN GAS
8217211	F-78-044029	4213332660		103		T BOUQUET #1	EASTLAND COUNTY REGUL	6.6	SOUTHWESTERN GAS
8217286	F-78-044493	4213300000		108		UNDERWOOD #2	EASTLAND COUNTY REGUL	0.0	ODESSA NATURAL GA
-COTTON PETROLEUM CORPORATION				RECEIVED:	02/03/82	JA: TX			
8217153	F-10-043506	4229530907		103		IMKE #1	FOLLETT (MORROW)	35.0	PHILLIPS PETROLEU
-DALLAS SUNBELT OIL & GAS INC				RECEIVED:	02/03/82	JA: TX			
8217124	F-78-043073	4213332766		103		CARVER -A- #2	EASTLAND COUNTY REGUL	14.0	LONE STAR GAS CO
8217125	F-78-043074	4213332765		103		CARVER #1	EASTLAND COUNTY REGUL	36.0	LONE STAR GAS CO
-DALPORT OIL CORPORATION				RECEIVED:	02/03/82	JA: TX			
8217324	F-04-044748	4240931533		102-4		CAMPBELL EST #3	MIDWAY SOUTH (5077)	73.0	ARCO OIL & GAS CO
-DAMSON OIL CORPORATION				RECEIVED:	02/03/82	JA: TX			
8217073	F-34-02899	4247933076		103		O S PETTY #2-11	DOS HERMANOS/WEST (OL	219.0	DELMI GAS PIPELIN
8217072	F-09-042298	4247933077		103		O S PETTY #3-11	DOS HERMANOS/WEST (OL	0.0	DELMI GAS PIPELIN
-DELTA DRILLING CO				RECEIVED:	02/03/82	JA: TX			
8217129	F-06-043153	4242300000		103		JONES #1	CHAPEL HILL (TRAVIS P	0.0	ETEXAS PRODUCERS
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	02/03/82	JA: TX			
8217354	F-10-044491	4219500000		108		A P SPICER #3	TWIN	0.0	NORTHERN NATURAL
8217355	F-10-044892	4219500000		108		A P SPICER #4	TWIN	0.0	NORTHERN NATURAL
8217356	F-10-044893	4219500000		108		A P SPICER #5	TWIN	0.0	NORTHERN NATURAL
8217357	F-10-044894	4219500000		108		A P SPICER #6	TWIN	0.0	NORTHERN NATURAL
8217191	F-10-043901	4229530912		103		C C DUKE "D" #2	BRADFORD	0.6	
-DISCOVERY OPERATING INC				RECEIVED:	02/03/82	JA: TX			
8217152	F-7C-043502	4241331058		103	107-TF	HENDERSON C #1	CODY BELL (CANYON)	107.1	CRA INC
-DONALD C SLAWSON				RECEIVED:	02/03/82	JA: TX			
8217234	F-10-044273	4229531066		102-4	103	DICKENSON #2-147	RICKS (MORROW UPPER)	150.0	HIGH PLAINS NATUR
-DORCHESTER EXPLORATION INC				RECEIVED:	02/03/82	JA: TX			
*8217175	F-08-043794	4243133998		103		F CONGER 1 #3	CONGER (PENN)	422.7	TEXAS UTILITIES F
8217322	F-08-044732	4243130904		103		FOSTER 9 #2	CONGER (PENN)	354.0	ESPERANZA PIPELIN
8217161	F-31-043616	4217732842		103		PARR #1	GONZALES (AUSTIN CHAL	27.3	
*8217170	F-08-043762	4243131006		103		TERRY 7-1	CONGER (PENN)	86.5	TEXAS UTILITY FUE
-DORCHESTER GAS PRODUCING CO				RECEIVED:	02/03/82	JA: TX			
8217376	F-13-044952	4206500000		108		BEDNORZ #3 (24325)	PANHANDLE WEST	15.0	NORTHERN NATURAL
8217377	F-13-044955	4217900000		108		BURKE #6 (24336)	PANHANDLE WEST	20.0	NORTHERN NATURAL
8217375	F-13-044951	4216500000		108		COBB #1 (24339)	PANHANDLE WEST	16.0	NORTHERN NATURAL
8217372	F-13-044948	4206500000		108		PAN A #1 (24378)	PANHANDLE WEST	12.0	NORTHERN NATURAL
8217374	F-13-044950	4216500000		108		POWERS #1 (24383)	PANHANDLE WEST	20.0	NORTHERN NATURAL
8217373	F-13-044949	4217900000		108		WILSON-HART #1 (24403)	PANHANDLE WEST	18.0	NORTHERN NATURAL
-DYCO PETROLEUM CORPORATION				RECEIVED:	02/03/82	JA: TX			
8217121	F-10-043048	4248330862		107-DP		CAMPBELL WEBB #1-28	ALLISON PARKS (UPPER	1500.0	MICHIGAN WISCONSI
-EL PASO NATURAL GAS COMPANY				RECEIVED:	02/03/82	JA: TX			
8217217	F-13-044087	4238724130		108		LAYCOCK #13	PANHANDLE EAST	18.0	EL PASO NATURAL G

JD NO	JA TKT	API NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-ENERGY RESERVES GROUP INC			RECEIVED: 02/03/82 JA: TX					
8217359	F-13-044980	4223300000	108		SANFORD-BIVINS "A" #1RC	WEST PANHANDLE	6.7	PHILLIPS PETROLEU
-ENSERCH EXPLORATION INC			RECEIVED: 02/03/82 JA: TX					
8217112	F-09-042936	4249732209	103		B P VAUGHT #5	BOONSVILLE	654.0	LONE STAR GAS CO
-ENSOURCE INC			RECEIVED: 02/03/82 JA: TX					
8217331	F-7C-044775	4238331721	103		FRED BALL "A" #1	SPRABERRY (TREND AREA	9.1	EL PASO NATURAL G
-ENSO INC			RECEIVED: 02/03/82 JA: TX					
8217258	F-05-044381	4216533363	103	107-TF	CARTHAGE GAS UNIT #42	CARTHAGE (COTTON VALL	365.0	TENNESSEE GAS PIP
-ESENJAY PETROLEUM CORP			RECEIVED: 02/03/82 JA: TX					
8217317	F-03-044789	4214930882	103		L C HAIRE #1 #14811	GIDDINGS (AUSTIN CHAL	50.0	PHILLIPS PETROLEU
-EXXON CORPORATION			RECEIVED: 02/03/82 JA: TX					
8217268	F-7B-044634	4208332784	103		FULLERTON CLEARFORK UNIT #423	FULLERTON	15.0	PHILLIPS PETROLEU
8217198	F-7C-043885	4218332628	103		J B TUBB E #2U	SAND HILLS (MCKNIGHT)	37.0	EL PASO NATURAL G
8217184	F-9E-043834	4227330437	103		JANIE R NICHOLSON #9	NECHES (WOODBINE)	150.0	UNITED GAS PIPELI
8217176	F-04-044796	4227335971	103		K R TIJERINA J-131 (95440)	TIJERINA-CANALES-BLUC	276.0	ARMCO STEEL CORP
8217382	F-P3-044064	4247334389	103		KATY GAS FIELD CONSOLIDATED #4405	KATY (1-B)	1.2	UNITED TEXAS TRAN
8217366	F-7B-044866	4223531793	103		MC APEE-LINTHICUM #1	MERTZON (CANYON)	5.0	
8217388	F-9A-044962	4204730918	102-4		MCGILL BROS 463 (95709)	KELSEY SE (29-A N)	365.0	TRUNKLINE GAS CO
8217253	F-08-044263	4218332838	103		MEANS/SAN ANDRES/UNIT #1558	MEANS	15.0	PHILLIPS PETROLEU
8217379	F-04-044959	4226136634	102-4		MRS S K EAST 125-D (95937)	RITA (11-R II)	730.0	NATURAL GAS PIPEL
8217185	F-05-043836	4207330438	103		PERMELIA NAVE #3	NECHES (WOODBINE)	175.0	UNITED GAS PIPELI
8217371	F-8A-044663	4216532129	103		ROBERTSON CLEARFORK UNIT #6703	ROBERTSON N (CLEARFOR	15.0	PHILLIPS PETROLEU
8217113	F-34-042932	4208330661	102-4		S H BELL "8" B (95945)	WILLAMAR (GRABEN 4720	365.0	NATURAL GAS PIPEL
8217381	F-8A-044963	4226130444	102-4		SARITA OIL & GAS UNIT 145-D (09310)	SARITA (6-B)	10.0	NATURAL GAS PIPEL
8217183	F-6A-043833	4207330435	103		T J CUNNINGHAM EST #7	NECHES (WOODBINE)	33.0	UNITED GAS PIPELI
8217345	F-8A-044885	4210931479	103		TEXACO FEE C #1	FORD WEST (4100)	2.0	
8217219	F-11-044187	4230333476	103		W W MOORE #4	MENDOTA NW (DOUGLAS L	16.0	TRANSWESTERN PIPE
-FARGO ENERGY CORP			RECEIVED: 02/03/82 JA: TX					
8217356	F-03-044371	4218131858	103-2		CLEVELAND #1 RRC #14749	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-FERRIER & TIERNEY OIL INC			RECEIVED: 02/03/82 JA: TX					
8217103	F-01-043631	4217730998	102-4		BURCHARD #1	CHRISTIAN (6800)	18.0	VALERO TRANSMISSI
-FISHER-WEBB INC			RECEIVED: 02/03/82 JA: TX					
8217318	F-7C-044711	4241330993	103		EMMONS #3	PAGE WEST (CANYON)	58.0	INTRATEX GAS CO
8217319	F-7E-044712	4241331011	103		EMMONS #4	PAGE WEST (CANYON)	58.0	INTRATEX GAS CO
8217320	F-7C-044713	4241331039	103		EMMONS #5	PAGE WEST (CANYON)	56.0	INTRATEX GAS CO
8217365	F-7B-044687	4241331988	103		W BROWN #2	LAKE ABILENE (4800*)	58.0	FORT CHADBOURNE G
8217866	F-7B-044683	4241331943	103		W BROWN #3	LAKE ABILENE (4000*)	50.0	FORT CHADBOURNE G
-FLAG-REDFERN OIL CO			RECEIVED: 02/03/82 JA: TX					
8217337	F-8A-044892	4237132633	103		MCDONALD #2-U #034404	PUTMAN (WOLFCAMP)	267.0	DELHI PIPELINE CO
-FORUM ENERGY INC			RECEIVED: 02/03/82 JA: TX					
8217169	F-19-043788	4206932855	102-4		D HARDY "B" #1 (96015)	HARDY (MARBLE FALLS)	235.0	ODESSA NATURAL CO
-GENESIS PETROLEUM CORP			RECEIVED: 02/03/82 JA: TX					
8217110	F-04-042889	4213135178	102-4		G E MINOJOSA #1	STARR BRITE W (4900*)	146.0	HOUSTON PIPE LINE
-GEOBYNE RESOURCES INC			RECEIVED: 02/03/82 JA: TX					
8217132	F-10-043853	4229500888	103		LEONORE "8" #1-784	MAMMOTH CREEK (TONKAW	73.0	DIAMOND SHAMROCK
-GEORGE M MITCHELL			RECEIVED: 02/03/82 JA: TX					
8217262	F-06-044590	4237100000	108		MAUER #2	ABELL EAST (GLORIETA)	2.4	POP GAS PRODUCTS
-GERONIMO OIL CO			RECEIVED: 02/03/82 JA: TX					
8217178	F-19-043782	4206931506	103		DANIEL I COGGIN JR #1-B	MIDWAY (6200)	182.0	VALLEY PIPELINES
-GETTY OIL COMPANY			RECEIVED: 02/03/82 JA: TX					
8217161	F-13-043678	4275235857	108		NONA BERRY DAVIS #2 RRC #4835	YOUGEEN	22.0	UNITED GAS PIPELI
8217059	F-03-042073	4205100000	103-2		R P KOVAR #1	GIDDINGS (AUSTIN CHAL	148.0	FERGUSON CROSSING
-GHR ENERGY CORP			RECEIVED: 02/03/82 JA: TX					

JD NO	JA TKT	API NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8217103	F-04-042842	4247932970	102-4	107-TF	BRUNI RANCH #5-C	BRUNI RANCH (LOBO 980	365.0	VALERO TRANSMISSI
-GILLRING OIL CO			RECEIVED: 02/03/82 JA: TX					
8217308	F-04-044625	4204730939	103		D J SULLIVAN IV #1	ANN MAG (FRIO-VICKSBU	109.5	TENNESSEE GAS PIP
-GOLDKING PRODUCTION COMPANY			RECEIVED: 02/03/82 JA: TX					
8217098	F-33-042776	4232131129	103		IRA HICKS #1	E ASHBY (9000*)	637.0	HOUSTON PIPE LINE
-GROVER J GEISELMAN			RECEIVED: 02/03/82 JA: TX					
8217326	F-33-044767	4215731234	103		LEUS GAS UNIT #1	NEEDVILLE S (FLT BLK	100.0	PHILLIPS PETROLEU
-GULF ENERGY PRODUCING COMPANY			RECEIVED: 02/03/82 JA: TX					
8217086	F-04-042542	4217331115	103		W C HOUSTON JR #1 (26965)	SPRABERRY TREND AREA	0.0	PHILLIPS PETROLEU
-GULF OIL CORPORATION			RECEIVED: 02/03/82 JA: TX					
8217160	F-08-043607	4247532350	103		ESTES E W #248	ESTES BLOCK 34 (PENN)	37.0	CABOT CORP
8217141	F-08-043577	4247532330	103		HUTCHINGS STOCK ASSN #1126	WILDCAT	8.0	CABOT CORP
8217369	F-08-044957	4247511164	108		HUTCHINGS STOCK ASSN #766	WARD-ESTES NORTH	1.0	CABOT CORP
8217370	F-08-044943	4249501313	108		KEYSTONE CATTLE CO #160	KEYSTONE (DEVONIAN)	2.0	CABOT CORP
8217333	F-10-044785	4223300000	108		QUINN #11	PANHANDLE CARSON COUN	0.5	GETTY OIL CO
8217332	F-10-044784	4223300000	108		QUINN #12	PANHANDLE CARSON COUN	0.5	GETTY OIL CO
-H-R OIL CO			RECEIVED: 02/03/82 JA: TX					
8217079	F-02-042454	4228531605	102-4	103	MCELROY #1	SPEAKS SW (2850)	0.0	VALERO TRANSMISSI
-HAROLD D COURSON			RECEIVED: 02/03/82 JA: TX					
8217225	F-10-044193	4219500000	108		WAMBLE	HANSFORD (MORROW UPPE	15.0	NORTHERN NATURAL
-HERAGON OIL & GAS INC			RECEIVED: 02/03/82 JA: TX					
8217062	F-7B-042132	4236732077	103		MCCULLON #1	MOBY DICK (CONGLOMERA	182.0	SOUTHWESTERN GAS
-HNG OIL COMPANY			RECEIVED: 02/03/82 JA: TX					
8217128	F-11-043143	4221100000	108		LUCAS "9" #1	VIKING (MORROW UPPER)	35.0	MID-LOUISIANA GAS
8217223	F-7C-044173	4243500000	108		PFLUGER "85" #4	SAWYER CANYON	58.3	INTRATEX GAS CO
-HOWELL DRILLING INC			RECEIVED: 02/03/82 JA: TX					
8217197	F-02-043978	4228500000	103	107-TF	LAY MCCORD GAS UNIT #1 #1	SWEET HOME	0.0	VALERO TRANSMISSI
-HUGHES & HUGHES			RECEIVED: 02/03/82 JA: TX					
8217277	F-04-044465	4235531748	102-4		WALTER B NORRIS #C-1	W MINNIE BOCK (7575)	85.0	DELHI GAS PIPELIN
-HURLEY PETROLEUM CORPORATION			RECEIVED: 02/03/82 JA: TX					
8217104	F-06-042863	4236500000	108		VERA BLACK UNIT #1-C	BETHANY (PETTIT)	0.0	TENNESSEE GAS PIP
-INLAND OCEAN INC			RECEIVED: 02/03/82 JA: TX					
8217238	F-32-044303	4246900000	108		C SCHAAR A-2 (51912)	COLOGNE	0.0	VALERO TRANSMISSI
-J A LEONARD			RECEIVED: 02/03/82 JA: TX					
8217252	F-03-044361	4205100000	102-4		COFFIELD-WINSTON "A" #1	INEZ JAMESON (NAVARRO	14.0	FERGUSON CROSSING
8217253	F-03-044362	4205100000	102-4		COFFIELD-WINSTON "A" #2	INEZ JAMESON (NAVARRO	55.0	FERGUSON CROSSING
-J A WILBURN			RECEIVED: 02/03/82 JA: TX					
8217081	F-7B-042466	4215131079	103		J A WILBURN "B" #1	CLAYTONVILLE (CANYON	18.0	TIPPERARY OIL & G
-J CLEO THOMPSON & JAMES CLEO THOMPS			RECEIVED: 02/03/82 JA: TX					
8217126	F-7C-043100	4210533575	103	107-TF	MEADOWS "A" #5	OZONA (CANYON SAND)	278.0	PHILLIPS PETROLEU
8217154	F-7C-043512	4210533595	102-4		MEADOWS "B" #3	UNIVERSITY 31 (STRAWN	295.0	PHILLIPS PETROLEU
8217080	F-7C-042459	4210533571	103	107-TF	P L CHILDRESS #10	OZONA NE (CANYON 7520	300.0	PHILLIPS PETROLEU
8217329	F-7C-044771	4210500000	108		THOMPSON #1	OZONA (CANYON SAND)	7.0	EL PASO NATURAL G
8217330	F-7C-044772	4210500000	108		THOMPSON FEE #4	OZONA (CANYON SAND)	11.0	EL PASO NATURAL G
8217328	F-7C-044773	4210500000	108		THOMPSON FEE #8	OZONA (CANYON SAND)	15.0	EL PASO NATURAL G
8217327	F-7C-044769	4210500000	108		THOMPSON FEE #9	OZONA (CANYON SAND)	10.0	EL PASO NATURAL G
8217243	F-08-044329	4200332739	103		W MEANS (GRAYBURG SAN ANDRES) #9-5A	MEANS	23.0	PHILLIPS PETROLEU
8217244	F-08-044331	4200332747	103		WEST MEANS UNIT 9-6	MEANS	27.0	PHILLIPS PETROLEU
8217342	F-08-044832	4200332760	103		WEST MEANS UNIT 9-7	MEANS	24.0	PHILLIPS PETROLEU
8217246	F-08-044332	4200332746	103		WEST MEANS 8-10	MEANS	23.0	PHILLIPS PETROLEU
8217245	F-08-044331	4200332736	103		WEST MEANS 8-9	MEANS	23.0	PHILLIPS PETROLEU
8217247	F-08-044333	4200332762	103		WEST MEANS 9-8	MEANS	23.0	PHILLIPS PETROLEU
-JACKSON EXPLORATION INC			RECEIVED: 02/03/82 JA: TX					

JD NO	DI AT	API NO	SPECIAL SERIAL	WELL NAME
8217120	F-04-042969	4247932733	107-TF	BARRERA #2
-JEM PETROLEUM CORP			RECEIVED:	02/03/82 JA: TX
8217264	F-7C-044399	4243500000	108	STITES #1-M AND #1-L
-JOE MCGUIRE			RECEIVED:	02/03/82 JA: TX
8217241	F-7C-044326	4210533572	102-4 103	JOE F BEAN "D" #2
8217241	F-7C-044326	4210533572	107-TF	JOE F BEAN "D" #2
-JOHN B THOMPSON OPERATING INC			RECEIVED:	02/03/82 JA: TX
8217092	F-02-042581	4202500000	103	E S BROWN #1
-JUSTISS OIL CO INC			RECEIVED:	02/03/82 JA: TX
8217163	F-06-042192	4220330849	102-2 107-TF	BLALOCK GAS UNIT #2
-KENNEDY & MITCHELL INC			RECEIVED:	02/03/82 JA: TX
8217167	F-05-043720	4215731130	102-4	TDC #4-200-4
8217168	F-05-043721	4215731136	102-4	TDC #4-200-4
-KERR-MCGEE CORPORATION			RECEIVED:	02/03/82 JA: TX
8217239	F-13-044014	4229500003	108	BRILLHART 2-852
-LADD PETROLEUM CORPORATION			RECEIVED:	02/03/82 JA: TX
8217303	F-7B-044602	4236731555	103	DURHAM #3
8217074	F-7B-042381	4236731818	103	L B WILSON #3-T
-M BRAD BENNETT INC & R&M LTD			RECEIVED:	02/03/82 JA: TX
8217344	F-7A-044851	4238931207	102-4 103	COLLIE #1
-M S KLOTZMAN EXPLORATION			RECEIVED:	02/03/82 JA: TX
8217301	F-02-044567	4249330701	102-4	CLARENCE J SKLOSS #1-C
8217300	F-01-044566	4249330701	102-4	CLARENCE J SKLOSS #1-T
-MAGUIRE OIL COMPANY			RECEIVED:	02/03/82 JA: TX
8217150	F-8A-043469	4231730000	103	GWANTHAM "C" #1
-MARJANAS OPERATING CO INC			RECEIVED:	02/03/82 JA: TX
8217159	F-7B-043601	4208332536	102-4	COLEMAN COUNTRY CLUB #1
-MARSHALL EXPLORATION INC			RECEIVED:	02/03/82 JA: TX
8217180	F-7A-043821	4236332378	103	ALLEN "37" #3
8217070	F-06-042233	4236531303	103 107-TF	SABINE ROYALTY #2
-MATZINGER EXPLORATION CO			RECEIVED:	02/03/82 JA: TX
8217224	F-02-044181	4228531587	102-4 103	JACOBS RANCH #1
-MCCANN CORP			RECEIVED:	02/03/82 JA: TX
8217240	F-08-044322	4222732401	102-2 103	FLANAGAN "AP" #1
-MEWBOURNE OIL COMPANY			RECEIVED:	02/03/82 JA: TX
8217096	F-13-042627	4235731133	102-4	MCKEEL #1
8217064	F-10-042195	4229530963	103	SCHULTZ "7169" #1
-MGF OIL CORP			RECEIVED:	02/03/82 JA: TX
8217388	F-01-044976	4249330687	103	HUNTER MCDANIEL #1
8217389	F-01-044975	4249330688	103	HUNTER MCDANIEL #2
8217390	F-01-044976	4249330674	103	URBANCZYK UNIT #1
-MINERAL DEVELOPMENT INC			RECEIVED:	02/03/82 JA: TX
8217299	F-06-044552	4237133306	103	MAGNOLIA "EE" #13 #26136
-MITCHELL ENERGY CORPORATION			RECEIVED:	02/03/82 JA: TX
8217171	F-05-043771	4216930888	102-2	ABELL UNIT A #1
8217187	F-7C-043866	4210532956	103	CHILDRESS #15-2
8217349	F-09-044866	4249700000	108	DOLLIE THORELL #1 56289
8217186	F-3E-043852	4214900000	102-2 103	GEST UNIT A #1
8217068	F-09-042226	4249700000	108	H D SCROGGINS #1 88697
8217350	F-7B-044871	4236730000	108	I M PEEK #1 88291
8217348	F-09-044865	4249700000	108	J W HOUSTON #1C 28686
8217216	F-09-044082	4223700000	102-4	J W LOVING EST #7-U
8217139	F-09-043345	4223733540	102-4	J W LOVING EST #9-L

FIELD NAME	PROD	PURCHASER
BARRERA (WILCOX LOWER	25.0	VALERO TRANSMISSI
BRANCH NORTH (CANYON	17.0	EL PASO NATURAL G
PIKES PEAK DRAW (CANY	82.8	PERMIAN CORP.
PIKES PEAK DRAW (CANY	82.8	PERMIAN CORP
NORMANNA S (2050')	36.5	UNITED GAS PIPELI
BLOCKER (COTTON VALLE	275.0	UNITED GAS PIPE L
PECAN GROVE (8000)	500.0	HOUSTON PIPELINE
PECAN GROVE (7700)	75.0	HOUSTON PIPELINE
KIOWA CREEK	1.0	NORTHERN NATURAL
TOTO (STRAWN)	93.9	LONE STAR GAS CO
TOTO (BEND CONGLOMERA	86.2	LONE STAR GAS CO
COLLIE(DELAWARE)	10.9	INTRATEX GAS CO
PATTON (AUSTIN CHALK)	90.0	J L DAVIS
KLOTZMAN (EAGLEFORD)	90.0	J L DAVIS
ACKERLY	0.2	GETTY OIL CO
WILDCAT	272.0	ODESSA NATURAL CO
BRANSON N (DIB SALINE	73.0	SOUTHWESTERN GAS
BELLE BOWER (COTTON V	360.0	TENNESSEE GAS PIP
SARTWELLE	365.0	VALERO TRANSMISSI
RED DRAW (MISS)	64.0	PHILLIPS PETROLEU
TURNER SE (UPPER MORR	58.0	DIAMOND SHAMROCK
LIPSCOMB (MORROW)	60.0	TRANSWESTERN PIPE
MARCELINA CREEK (AUST	1.4	
MARCELINA CREEK (AUST	16.6	
MARCELINA CREEK (AUST	39.6	
PECOS VALLEY HIGH GRA	0.2	NORTHERN NATURAL
GIDDINGS (AUSTIN CHAL	7.2	SOUTH CEN-TEX GAS
KAMA (STRAWN)	50.8	
RHONE (ATOKA)	11.8	NATURAL GAS PIPEL
GIDDINGS (AUSTIN CHAL	7.2	SOUTH CEN-TEX GAS
BOONSVILLE (BEND CONG	3.7	SOUTHWESTERN GAS
RENO (CONGL)	3.8	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	5.5	NATURAL GAS PIPEL
JERNYN WEST (CADDO LO	10.5	SOUTHWESTERN GAS
JERNYN WEST (MARBLE F	31.8	SOUTHWESTERN GAS

JD NO	DI AT	API NO	SPECIAL SERIAL	WELL NAME
8217140	F-04-043348	4249731996	103	JACK DALY UNIT 1 #2
8217269	F-03-044039	4215100000	102-2 103	JOOST #1
8217155	F-09-043534	4223730000	108	R L MORRIS B #3-C 38686
8217067	F-7B-042220	4236700000	108	RAGLE #3 89746
8217347	F-7B-044865	4242900000	108	T RANDELL #1 76351
8217076	F-09-042354	4249732134	103	TCWB #27
8217069	F-09-042230	4249700000	108	W SIMPSON #1
8217351	F-7B-044872	4236730000	108	WOOTERS #1 65835
-MOBIL PROD TEXAS & NEW MEXICO INC			RECEIVED:	02/03/82 JA: TX
8217296	F-09-044531	4200332770	103	MCFARLAND QUEEN NORTH UNIT #5A
8217315	F-8A-044691	4237931426	103	NORTH CENTRAL LEVELLAND UNIT #398
-MORAN EXPLORATION INC			RECEIVED:	02/03/82 JA: TX
8217249	F-7C-044583	4225531615	103	ROCKER A "5" #6
8217242	F-08-044529	4217331101	103	SCHAEFER #2
-MORNAC ENERGY CORP			RECEIVED:	02/03/82 JA: TX
8217109	F-04-042881	4235531798	102-4	HENRY CABLE #1-C
-MORROW RESOURCES INC			RECEIVED:	02/03/82 JA: TX
8217259	F-7C-044566	4245130777	102-2 103	BROWN #1
-MR OIL CO			RECEIVED:	02/03/82 JA: TX
8217192	F-8A-043911	4247532405	103	MCFARLAND I B SEC 29 #12
8217090	F-04-042571	4247500000	108	RICHTER LOUIS #16
8217089	F-8A-042571	4247500000	108	RICHTER LOUIS #28
8217088	F-8A-042569	4247500000	108	RICHTER LOUIS #29
8217087	F-8A-042568	4247500000	108	RICHTER LOUIS #32
8217091	F-04-042572	4247500000	108	RICHTER LOUIS #8
-N D MCINTYRE			RECEIVED:	02/03/82 JA: TX
8217114	F-7C-042923	4243532585	103 107-TF	BAKER #1
-NICHOLS & BRADY PRODUCTION CO			RECEIVED:	02/03/82 JA: TX
8217142	F-8A-043585	4216931447	103	BINGHAM "A" #1-R 862566
-NORTH RIDGE CORP			RECEIVED:	02/03/82 JA: TX
8217082	F-7B-042481	4213301300	102-4	B A DANLEY #1
8217083	F-7B-042482	4213333200	102-4 103	D B THOMPSON #1
8217085	F-7B-042486	4213300000	102-4	J W BARNES #2
8217084	F-7B-042484	4213300000	102-4	J W BARNES #4
-NORTH STAR PETROLEUM CORPORATION			RECEIVED:	02/03/82 JA: TX
8217361	F-10-044902	4223300000	108	BIVINS #1 (02468)
8217360	F-10-044901	4223300000	108	BIVINS #4 (02468)
8217362	F-10-044903	4223300000	108	SHAFFER-SANFORD #3 (02725)
8217363	F-10-044904	4223300000	108	SHAFFER-SANFORD #4 (02725)
-ORIGINALA PETROLEUM CORP			RECEIVED:	02/03/82 JA: TX
8217236	F-09-044277	4273379000	103	WILLIE RUTH RICHARDS #21-94278
-ORLA PETCO INC			RECEIVED:	02/03/82 JA: TX
8217366	F-8A-044912	4210931439	103	BILL MEEKER #4
8217367	F-8A-044913	4210931451	103	BILL MEEKER #5
-ORMAND INDUSTRIES INC			RECEIVED:	02/03/82 JA: TX
8217158	F-7C-043586	4210500000	108	MONTGOMERY 17-#1
-OTIS ENERGY INC			RECEIVED:	02/03/82 JA: TX
8217281	F-7B-044487	4213332630	102-4	I N HART #1
8217282	F-7B-044491	4213332752	102-4	I N HART #1-C
8217280	F-7B-044477	4213332696	102-2	J S HART #5
-P C BURNS			RECEIVED:	02/03/82 JA: TX
8217220	F-7C-044116	4247731860	103	H O WINDLE #1 30666
-PARADON RESOURCES INC			RECEIVED:	02/03/82 JA: TX

FIELD NAME	PROD	PURCHASER
BOONSVILLE (BEND CONG	38.0	NATURAL GAS PIPEL
GIDDINGS (BUDA)	15.0	SOUTH CEN-TEX GAS
MORRIS (CONGL)	10.5	NATURAL GAS PIPEL
DICEY (CONGL)	10.4	SOUTHWESTERN GAS
STEPHENS COUNTY REG E	13.5	SOUTHWESTERN GAS
BOONSVILLE (BEND CONG	216.7	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	8.9	NATURAL GAS PIPEL
BRAZOS EAST (CADDO)	16.2	SOUTHWESTERN GAS
MCFARLAND (QUEEN)	6.4	PHILLIPS PETROLEU
LEVELLAND	8.4	AMOCO PRODUCTION
SPRABERRY (TREND AREA	6.0	NORTHERN NATURAL
SPRABERRY (TREND AREA	6.0	EL PASO NATURAL G
PARENTHOLD N (5500)	365.0	NUC-WELLS PIPELIN
WILDCAT	186.5	LONE STAR GAS CO
WARD-ESTES NORTH	23.0	WESTERN COUNTIES
WARD-ESTES NORTH	36.5	CABOT CORP
WARD-ESTES NORTH	0.4	CABOT CORP
WARD-ESTES NORTH	0.4	CABOT CORP
WARD-ESTES NORTH	0.4	CABOT CORP
WARD-ESTES NORTH	0.4	CABOT CORP
INTERSTATE (CANYON)	185.0	PRODUCERS GAS CO
HOMANN (SAN ANDRES)	1.6	PHILLIPS PETROLEU
RANGER NW (MARBLE FAL	14.6	PRISM ENTERPRISES
RANGER (BLACK LIME UE	22.3	PRISM ENTERPRISES
RANGER NW (MARBLE FAL	13.8	SUN GAS TRANSMISS
RANGER NW (MARBLE FAL	18.0	PRISM ENTERPRISES
PANHANDLE HUTCHINSON	24.0	PANHANDLE PRODUCI
PANHANDLE HUTCHINSON	24.0	PANHANDLE PRODUCI
PANHANDLE HUTCHINSON	12.0	PANHANDLE PRODUCI
PANHANDLE HUTCHINSON	12.0	PANHANDLE PRODUCI
CARY MAG (CONGLOMERAT	140.0	TEXAS UTILITIES F
ED KENNEDY (CHERRY CA	0.0	TEXACO INC
ED KENNEDY (CHERRY CA	0.0	TEXACO INC
OZONA	9.0	NORTHERN NATURAL
BANKLINE-OWEN N (MARB	918.5	ODESSA NATURAL CO
BANKLINE-OWEN N (CONV	182.5	ODESSA NATURAL CO
EASTLAND COUNTY REGUL	18.3	ODESSA NATURAL GA
CLAY COUNTY REGULAR	6.0	SANFORD P PASADAU

JD No.	JA ST	API No.	(CODE) SEC(2)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8217335	F-RA-044865	42505331253	103	107-TF	MUNOZ #1	HUNDIDO (LOBO)	146.0	
-PENNZOIL PRODUCING COMPANY			RECEIVED:	02/03/82	JA: TX			
8217097	F-34-042707	42355331268	103		E A KINSEY #A-3	AGUA DULCE (6400*)	330.0	UNITED GAS PIPE L
8217313	F-7A-044639	42505330300	102-4		JENNINGS #35-F	JENNINGS W (WILCOX 7,	657.0	NATURAL GAS PIPEL
8217135	F-34-043229	4221502025	108		SAVAGE UNIT #B-2	MIDALGO (MACKNEY B WE	4.0	VAL GAS CO
-PETROLEUM CORPORATION OF TEXAS			RECEIVED:	02/03/82	JA: TX			
8217263	F-82-044395	42175331484	102-3		WALTER DIETZEL #2	COLLETTOVILLE CREEK (	23.7	
-PETROLEUM EQUITIES CORP			RECEIVED:	02/03/82	JA: TX			
8217255	F-7C-044364	42435332315	103		VANDERSTUCKEN #6	SAWYER (CANYON)	138.0	LONE STAR GAS CO
-PHILLIPS PETROLEUM COMPANY			RECEIVED:	02/03/82	JA: TX			
8217231	F-7B-044236	42227324G2	103		BELLAH #15	IATAN EAST (HOWARD)	6.2	
8217298	F-8B-044541	42227324G3	103		BELLAH #16	IATAN EAST (HOWARD)	9.5	
8217149	F-3B-043406	42135326?0	108		GS ANDECTOR #R-12	GOLDSMITH (CLEARFORK)	13.0	EL PASO NATURAL G
8217316	F-9A-044693	42135328?R	108		N PENWELL #31	PENWELL (GLORIETA)	8.0	EL PASO NATURAL G
8217364	F-6C-044938	42401076P4	108		PENNY #4	EAST TEXAS	0.6	PARADE CO
8217365	F-6C-044909	42401076B5	108		THRASH #44	EAST TEXAS	1.2	PARADE CO
-PIONEER PRODUCTION CORPORATION			RECEIVED:	02/03/82	JA: TX			
8217337	F-13-044811	42211000000	103		G W SPORTSMAN #1-A*	WASHITA NW (DOUGLAS)	0.0	
-QUENTIN LITTLE CO			RECEIVED:	02/03/82	JA: TX			
8217278	F-03-044472	42149312?2	102-2		PENNY LOU UNIT #1	GIDDINGS (AUSTIN CHAL	80.0	PHILLIPS PETROLEU
-ROYAL OIL & GAS CORPORATION			RECEIVED:	02/03/82	JA: TX			
8217169	F-21-043724	42177331597	102-2 103		TILMON-H GRAY #2	CHRISTIAN (6800) FIEL	186.0	VALERO TRANSMISSI
-SAGE ENERGY CO			RECEIVED:	02/03/82	JA: TX			
8217152	F-25-043180	42051317?6	102-2		BIRCH CREEK "B" #1 RRC 14476	GIDDINGS (AUSTIN CHAL	256.0	PHILLIPS PETROLEU
8217279	F-7B-044075	42149329?8	102-2		KELLY #1 RRC #14446	GIDDINGS (AUSTIN CHAL	7.0	PHILLIPS PETROLEU
8217283	F-3B-044084	42149316?7	102-2		MARK I RRA #14525	GIDDINGS (AUSTIN CHAL	10.0	PHILLIPS PETROLEU
8217130	F-25-043174	42051315?3	102-2		NIX #1 RRC 8	GIDDINGS (AUSTIN CHAL	46.2	PHILLIPS PETROLEU
8217131	F-25-043179	42051314?6	102-2		TIGE UNIT #1 RRC 8	GIDDINGS (AUSTIN CHAL	167.7	PHILLIPS PETROLEU
-SAMSON RESOURCES COMPANY			RECEIVED:	02/03/82	JA: TX			
8217311	F-35-044654	42419303?2	102-4		V COOK GAS UNIT #1	NORTH TIMPSON (TRAVIS	153.5	DELHI GAS PIPELIN
-SANCHEZ-OBRIEN OIL & GAS CORP			RECEIVED:	02/03/82	JA: TX			
8217093	F-2A-042614	42405313?0	107-DP		MERCURIO MARTINEZ #1	LAS OVEJAS LOBO 6	500.0	TENNESSEE GAS PIP
-SANTA FE ENERGY PRODUCTS CO			RECEIVED:	02/03/82	JA: TX			
8217387	F-7B-044960	42135336?0	103		SPC #1	HARPER	12.0	PHILLIPS PETROLEU
-SCANDRILL CO			RECEIVED:	02/03/82	JA: TX			
8217225	F-29-044217	42237341?1	103		HENDERSON #3	BRYSON EAST	29.9	SUN GAS TRANSMISS
8217228	F-29-044218	42237341?2	103		HENDERSON #4	BRYSON EAST	27.8	SUN GAS TRANSMISS
-SCOTT & REMINGTON			RECEIVED:	02/03/82	JA: TX			
8217222	F-23-044150	42503000000	102-2		PACE & STRANGE #12	YOUNG COUNTY REGULAR	0.0	MID-STATES GAS CO
-SEATEX ENERGY CORP			RECEIVED:	02/03/82	JA: TX			
8217270	F-7B-044443	42503305?4	103		GILMORE #1	BRYSON SOUTH (CADDO M	36.5	SOUTHWESTERN GAS
-SECURITY PETROLEUM DRILLING INC			RECEIVED:	02/03/82	JA: TX			
8217215	F-1B-044047	42179309?6	103		EVANS #R 04731	PANHANDLE GRAY COUNTY	72.8	CABOT PIPELINE CO
-SEELY OIL CO			RECEIVED:	02/03/82	JA: TX			
8217197	F-7B-043293	42429328?7	102-4		T P ROBERTSON "61" #1 17287	ANN T (MISS)	10.0	GREAT WESTERN GAS
-SHELL OIL CO			RECEIVED:	02/03/82	JA: TX			
8217198	F-34-043981	42215311?8	103		A A MCALLEN #74	MCALLEN RANCH (VICKSB	430.0	VALERO INTERSTATE
8217275	F-34-042351	42135315?9	102-4		L C WEATHERBY GAS UNIT #2	ROSITA NW (WILCOX W)	350.0	UNITED TEXAS TRAN
8217196	F-34-043976	42215311?9	103		WOODS CHRISTIAN #25	MCALLEN RANCH (VICKSB	400.0	VALERO INTERSTATE
-SIOUX NATURAL GAS CORP			RECEIVED:	02/03/82	JA: TX			
8217302	F-74-044594	42059328?4	102-4		R L GRIGGS #5	MEXIA CREEK CONGLOMER	12.1	SIOUX PIPELINE CO
-SKLAR & PHILLIPS OIL CO			RECEIVED:	02/03/82	JA: TX			
8217148	F-26-043871	42423304?9	103		TELEDYNE #1	CHAPEL HILL (PETTET)	108.0	ETEXAS PRODUCERS

JD No.	JA ST	API No.	(CODE) SEC(2)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8217189	F-7C-043872	42423304?9	103		TELEDYNE #1	CHAPEL HILL (RODESSA)	50.0	ETEXAS PRODUCERS
-SONIO PETROLEUM CO			RECEIVED:	02/03/82	JA: TX			
8217267	F-7C-04411	42173312?5	103		D J CAUBLE #1C	CALVIN (DEAN)	85.8	EL PASO NATURAL G
-STEWART PETROLEUM CO			RECEIVED:	02/03/82	JA: TX			
8217235	F-03-044275	42167330?6	102-4		W H COON 1-M #10888	COON (6963)	102.9	
-STROUBE EXPLORATION INC			RECEIVED:	02/03/82	JA: TX			
8217221	F-7B-044129	42151312?0	103		FIELDS #5-A 16961	RAVEN CREEK NORTH (ST	10.8	PALO DURO PIPELIN
-SUPERIOR OIL CO			RECEIVED:	02/03/82	JA: TX			
8217358	F-34-044699	42273300000	108		ARCO-STORM #1	RICARDO	0.0	HOUSTON PIPELINE
8217232	F-72-044258	42123300?0	107-TF		E C PLACKE #1	TERRYVILLE W	0.0	LONE STAR GAS CO
8217336	F-03-044808	42051000?0	102-2 103		E L MOORE #3	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-TEXACO INC			RECEIVED:	02/03/82	JA: TX			
8217101	F-8A-042829	42219332?4	103		606 SLAUGHTER BLK #332	SLAUGHTER	0.0	AMOCO PRODUCTION
8217163	F-84-043647	42219332?2	103		808 SLAUGHTER BLK #333	SLAUGHTER	4.0	AMOCO PRODUCTION
8217273	F-7B-044452	42109314?3	103		CULBERSON "Y" FEE #2	FORD WEST (9100)	0.0	EL PASO NATURAL G
8217162	F-8A-043646	42219331?9	103		IRA P DELBACHE #16	LEVELLAND	0.7	AMOCO PRODUCTION
-TEXAS GENERAL PETROLEUM CORP			RECEIVED:	02/03/82	JA: TX			
8217096	F-04-042656	42355317?6	102-4		L W MUMME #1	DOUGHERTY (FRIO 4200)	60.0	UNITED GAS PIPELI
-TEXLAND-RECTOR & SCHUMACHER			RECEIVED:	02/03/82	JA: TX			
8217195	F-8A-043961	42219333?7	103		DAVIS "B" #7	SLAUGHTER	1.0	AMOCO PRODUCTION
-TEXOMA PRODUCTION CO			RECEIVED:	02/03/82	JA: TX			
8217095	F-13-042633	42321310?8	102-4		H L HENRY #1	SIMPSONVILLE (11000)	6.0	NATURAL GAS PIPEL
-THE DOW CHEMICAL COMPANY			RECEIVED:	02/03/82	JA: TX			
8217181	F-01-043824	42127318?5	103		BRISCOE RANCH #23	CATARINA SW (OLMOS)	48.0	VALERO TRANSMISSI
8217179	F-01-043817	42127319?8	103		BRISCOE RANCH #28	CATARINA SW (OLMOS)	61.0	VALERO TRANSMISSI
8217178	F-01-043816	42127319?7	103		BRISCOE RANCH #29	CATARINA SW (OLMOS)	45.0	VALERO TRANSMISSI
8217177	F-01-043815	42127319?6	103		BRISCOE RANCH #3C	CATARINA SW (OLMOS)	59.0	VALERO TRANSMISSI
8217102	F-25-042836	42349317?1	102-4 103		J A BREITHAUPT OIL UNIT C #1	CHENEYBORO	82.0	INTRASTATE GAS TR
-THOMAS G CAHAN			RECEIVED:	02/03/82	JA: TX			
8217352	F-73-044879	42429329?1	103		CURRY "C" #1	STEPHENS COUNTY REGUL	116.0	SOUTHWESTERN GAS
-THREE-B OIL CO			RECEIVED:	02/03/82	JA: TX			
8217156	F-08-043575	42475323?7	103		POTTS #1	PAYTON	32.8	PERRY PIPELINE CO
-TOWNER PETROLEUM CO			RECEIVED:	02/03/82	JA: TX			
8217138	F-03-043294	42149309?6	102-2		HUTSON #1	GIDDINGS (AUSTIN CHAL	432.0	CLAJON GAS CO
-TRITON OIL & GAS CORP			RECEIVED:	02/03/82	JA: TX			
8217323	F-05-044743	42213303?0	102-4		JARVIS #1	TRINIDAD S (RODESSA)	494.0	UNITED GAS PIPELI
-TUCKER DRILLING COMPANY INC			RECEIVED:	02/03/82	JA: TX			
8217145	F-7C-043409	42413300?0	108		JAMES T HUNT #1	W J B (CANYON)	1.0	LONE STAR GAS CO
8217147	F-7C-043422	42413301?2	108		JOHN E DYER #1	ELDORADO E (CANYON)	2.4	LONE STAR GAS CO
8217148	F-7C-043423	42235311?6	103		LINDLEY "40" #1	CHRISTI (CANYON 6800)	66.6	
8217321	F-7C-044714	42095308?3	102-4 103		MILLER #1	WILLENA (GOEN 4168)	272.6	SUN OIL CO
8217146	F-7C-043424	42413300?0	108		THAD A THOMSON "C" #1	W J B (CANYON)	13.1	LONE STAR GAS CO
-TXO PRODUCTION CORP			RECEIVED:	02/03/82	JA: TX			
8217108	F-13-042871	42357311?6	102-4		DANIELS "C" #1	RICKS (MORROW UPPER)	300.0	DELHI GAS PIPELIN
8217107	F-7C-042872	42105333?8	103		ROBERTSON "C" #3	OZONA (CANYON SAND)	0.0	DELHI GAS PIPELIN
-UNION OIL COMPANY OF CALIF			RECEIVED:	02/03/82	JA: TX			
8217260	F-08-044387	42303326?8	103		DOLLARHIDE UNIT #17-16-C	DOLLARHIDE (CLEARFORK	30.0	DOLLARHIDE GASOLI
8217261	F-7B-044388	42303326?7	103		DOLLARHIDE UNIT #4-11-C	DOLLARHIDE (CLEARFORK	20.0	DOLLARHIDE GASOLI
-W N LAUGHLIN			RECEIVED:	02/03/82	JA: TX			
8217385	F-04-044967	42131303?0	108		V C DE GONZALEZ #1	INDEPENDENCE (3150 GA	19.6	VALLEY GAS TRANSM
-WARREN PETR CO A DIV OF GULF OIL CO			RECEIVED:	02/03/82	JA: TX			
8217099	F-08-042799	42103326?0	103		W N WADDELL 1209	SAND HILLS (MCKNIGHT)	583.2	EL PASO NATURAL G
8217371	F-1B-044946	42103326?8	103		W N WADDELL 1214	SAND HILLS (MCKNIGHT)	26.0	EL PASO NATURAL G

JD NO	JD DATE	FIELD NAME	PROD	PURCHASER
-WCS PETROLEUM INC				
8217136	F-05-043615	WELLBORN (AUSTIN CHAL	0.0	FERGUSON CROSSING
-WILLIAM J ANIS				
8217207	F-09-043990	PHILPICK (6450)	105.0	UNION TEXAS PETRO
8217206	F-09-043989	PHILPICK (6450)	55.0	UNION TEXAS PETRO
8217205	F-09-043988	PHILPICK (6450)	52.0	UNION TEXAS PETRO
8217202	F-09-043985	PHILPICK (6450)	89.0	UNION TEXAS PETRO
8217201	F-09-043984	PHILPICK (6450)	42.0	UNION TEXAS PETRO
8217204	F-09-043987	PHILPICK (6450)	153.0	UNION TEXAS PETRO
8217203	F-09-043986	PHILPICK (6450)	55.0	UNION TEXAS PETRO
8217200	F-09-043983	PHILPICK (6450)	47.0	UNION TEXAS PETRO
8217199	F-09-043982	PHILPICK (6450)	39.0	UNION TEXAS PETRO
-WILLIAMS PETROLEUM CO				
8217222	F-73-044046	ERA (CONGLOMERATE)	500.0	TEXAS UTILITIES F
-WINDSOR PRODUCING CO				
8217193	F-33-043917	GIDDINGS (AUSTIN CHAL	36.5	PERRY PIPELINE CO
8217173	F-33-043784	GIDDINGS (BUDA)	36.5	PGP GAS PRODUCTS
-WOOD MCSHANE & THAMS				
8217376	F-08-044056	LITTMAN (SAN ANDRES)	224.0	

JD NO	JD DATE	FIELD SERVICE AREA	PROD	FIELD NAME
8217376	F-08-044056	103		LITTMAN (SAN ANDRES)

JD NO	JA, KT	API NO	T SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION								
-A E N ENERGY INC			RECEIVED: 02/03/82 JA: TX					
8217518	F-78-045251	4213333095	102-4		GEORGE STEEL #1	BLIND HOG (CADDO)	25.0	SOUTHWESTERN GAS
-AKERS AND FULTZ INC			RECEIVED: 02/03/82 JA: TX					
8217734	F-09-045831	4223700000	103		ROY CHERRYHOMES F #5 18694	MARINA MAG (CONGL)	11.0	CITIES SERVICE GA
-ALLAR CO			RECEIVED: 02/03/82 JA: TX					
8217448	F-09-045053	4223700000	103		MARY GRAHAM EST #1	CRUM (MARBLE FALLS)	75.0	SOUTHWESTERN GAS
-ALPS OIL CO			RECEIVED: 02/03/82 JA: TX					
8217633	F-38-045504	4210332701	103		M B MCKNIGHT "A" #7	SAND HILLS (MCKNIGHT)	32.9	WARREN PETROLEUM
-AMERADA HESS CORPORATION			RECEIVED: 02/03/82 JA: TX					
8217478	F-8A-045189	4216531935	103		SEMINOLE SAN ANDRES UNIT #1211	SEMINOLE SAN ANDRES	0.4	PHILLIPS PETROLEU
8217483	F-8A-045194	4216532031	103		SEMINOLE SAN ANDRES UNIT #1012	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217484	F-8A-045195	4216532044	103		SEMINOLE SAN ANDRES UNIT #1013	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217485	F-8A-045196	4216532030	103		SEMINOLE SAN ANDRES UNIT #1014	SEMINOLE SAN ANDRES	0.1	PHILLIPS PETROLEU
8217486	F-8A-045197	4216532043	103		SEMINOLE SAN ANDRES UNIT #1016	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217487	F-8A-045198	4216532096	103		SEMINOLE SAN ANDRES UNIT #1017	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217479	F-8A-045190	4216531905	103		SEMINOLE SAN ANDRES UNIT #1103	SEMINOLE SAN ANDRES	0.2	PHILLIPS PETROLEU
8217494	F-8A-045206	4216531943	103		SEMINOLE SAN ANDRES UNIT #1203	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217495	F-8A-045207	4216532027	103		SEMINOLE SAN ANDRES UNIT #1204	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217496	F-8A-045208	4216531969	103		SEMINOLE SAN ANDRES UNIT #1307	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217506	F-8A-045227	4216531906	103		SEMINOLE SAN ANDRES UNIT #1308	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217507	F-8A-045228	4216532044	103		SEMINOLE SAN ANDRES UNIT #1310	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217508	F-8A-045229	4216532041	103		SEMINOLE SAN ANDRES UNIT #1411	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217509	F-8A-045230	4216531920	103		SEMINOLE SAN ANDRES UNIT #1509	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217510	F-8A-045231	4216531910	103		SEMINOLE SAN ANDRES UNIT #1510	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217511	F-8A-045232	4216531908	103		SEMINOLE SAN ANDRES UNIT #1511	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217512	F-8A-045233	4216531938	103		SEMINOLE SAN ANDRES UNIT #1512	SEMINOLE SAN ANDRES	0.1	PHILLIPS PETROLEU
8217513	F-8A-045234	4216532020	103		SEMINOLE SAN ANDRES UNIT #1513	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217514	F-8A-045235	4216532039	103		SEMINOLE SAN ANDRES UNIT #1514	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217515	F-8A-045236	4216532042	103		SEMINOLE SAN ANDRES UNIT #1515	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217545	F-8A-045322	4216532015	103		SEMINOLE SAN ANDRES UNIT #1516	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217544	F-8A-045321	4216532038	103		SEMINOLE SAN ANDRES UNIT #1609	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217538	F-8A-045307	4216532048	103		SEMINOLE SAN ANDRES UNIT #1610	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217537	F-8A-045306	4216532037	103		SEMINOLE SAN ANDRES UNIT #1611	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217535	F-8A-045304	4216531888	103		SEMINOLE SAN ANDRES UNIT #1612	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217536	F-8A-045305	4216532047	103		SEMINOLE SAN ANDRES UNIT #1613	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217534	F-8A-045302	4216532046	103		SEMINOLE SAN ANDRES UNIT #1615	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217533	F-8A-045301	4216532035	103		SEMINOLE SAN ANDRES UNIT #1909	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217532	F-8A-045300	4216532056	103		SEMINOLE SAN ANDRES UNIT #2221	SEMINOLE SAN ANDRES	0.1	PHILLIPS PETROLEU
8217531	F-8A-045299	4216532124	103		SEMINOLE SAN ANDRES UNIT #2916	SEMINOLE SAN ANDRES	0.1	PHILLIPS PETROLEU
8217488	F-8A-045199	4216532128	103		SEMINOLE SAN ANDRES UNIT #2917	SEMINOLE SAN ANDRES	0.1	PHILLIPS PETROLEU
8217489	F-8A-045200	4216532127	103		SEMINOLE SAN ANDRES UNIT #2918	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU

JD NO	JA, KT	API NO	T SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8217490	F-8A-045201	4216532130	103		SEMINOLE SAN ANDRES UNIT #2919	SEMINOLE SAN ANDRES	0.1	PHILLIPS PETROLEU
8217460	F-8A-045191	4216532142	103		SEMINOLE SAN ANDRES UNIT #3407	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217460	F-8A-045170	4216531888	103		SEMINOLE SAN ANDRES UNIT #4010	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217461	F-8A-045171	4216531892	103		SEMINOLE SAN ANDRES UNIT #4011	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217462	F-8A-045173	4216531888	103		SEMINOLE SAN ANDRES UNIT #4015	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217463	F-8A-045174	4216532008	103		SEMINOLE SAN ANDRES UNIT #4018	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217464	F-8A-045175	4216532009	103		SEMINOLE SAN ANDRES UNIT #4019	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217497	F-8A-045209	4216531889	103		SEMINOLE SAN ANDRES UNIT #4118	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217498	F-8A-045210	4216531888	103		SEMINOLE SAN ANDRES UNIT #4119	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217499	F-8A-045211	4216531888	103		SEMINOLE SAN ANDRES UNIT #4120	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217500	F-8A-045212	4216531927	103		SEMINOLE SAN ANDRES UNIT #4121	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217501	F-8A-045213	4216531928	103		SEMINOLE SAN ANDRES UNIT #4122	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217502	F-8A-045214	4216532034	103		SEMINOLE SAN ANDRES UNIT #4124	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217491	F-8A-045202	4216532105	103		SEMINOLE SAN ANDRES UNIT #4127	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217492	F-8A-045203	4216532108	103		SEMINOLE SAN ANDRES UNIT #4128	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217493	F-8A-045204	4216532107	103		SEMINOLE SAN ANDRES UNIT #4129	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217465	F-8A-045176	4216531992	103		SEMINOLE SAN ANDRES UNIT #4205	SEMINOLE SAN ANDRES	0.1	PHILLIPS PETROLEU
8217466	F-8A-045177	4216531884	103		SEMINOLE SAN ANDRES UNIT #4313	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217467	F-8A-045178	4216531885	103		SEMINOLE SAN ANDRES UNIT #4314	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217468	F-8A-045179	4216530000	103		SEMINOLE SAN ANDRES UNIT #4315	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217469	F-8A-045180	4216531929	103		SEMINOLE SAN ANDRES UNIT #4316	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217470	F-8A-045181	4216531930	103		SEMINOLE SAN ANDRES UNIT #4317	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217471	F-8A-045182	4216531931	103		SEMINOLE SAN ANDRES UNIT #4318	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217472	F-8A-045183	4216531933	103		SEMINOLE SAN ANDRES UNIT #4320	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217473	F-8A-045184	4216531991	103		SEMINOLE SAN ANDRES UNIT #4322	SEMINOLE SAN ANDRES	0.1	PHILLIPS PETROLEU
8217458	F-8A-045163	4216531934	103		SEMINOLE SAN ANDRES UNIT #4908	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217474	F-8A-045185	4216531902	103		SEMINOLE SAN ANDRES UNIT #708	SEMINOLE SAN ANDRES	68.3	PHILLIPS PETROLEU
8217475	F-8A-045186	4216531903	103		SEMINOLE SAN ANDRES UNIT #709	SEMINOLE SAN ANDRES	78.2	PHILLIPS PETROLEU
8217481	F-8A-045192	4216531936	103		SEMINOLE SAN ANDRES UNIT #802	SEMINOLE SAN ANDRES	0.1	PHILLIPS PETROLEU
8217476	F-8A-045187	4216531904	103		SEMINOLE SAN ANDRES UNIT #904	SEMINOLE SAN ANDRES	117.6	PHILLIPS PETROLEU
8217482	F-8A-045193	4216531888	103		SEMINOLE SAN ANDRES UNIT #905	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8217477	F-8A-045188	4216532045	103		SEMINOLE SAN ANDRES UNIT #906	SEMINOLE SAN ANDRES	0.2	PHILLIPS PETROLEU
-AMOCO PRODUCTION CO			RECEIVED: 02/03/82 JA: TX					
8217698	F-08-045688	4200332944	103		FUHRMAN MASCHO UNIT #122 BLK 9	FUHRMAN-MASCHO	6.6	PHILLIPS PETROLEU
8217697	F-08-045686	4213533753	103		GOLDSMITH LANDRETH (DEEP) UNIT #233	GOLDSMITH (CLEARFORK)	275.8	PHILLIPS PETROLEU
8217771	F-08-046005	4213533766	103		GOLDSMITH LANDRETH DEEP UNIT #200	GOLDSMITH (CLEARFORK)	44.5	PHILLIPS PETROLEU
8217770	F-08-046004	4213533793	103		GOLDSMITH LANDRETH DEEP UNIT #202	GOLDSMITH (CLEARFORK)	30.3	PHILLIPS PETROLEU
8217768	F-08-046002	4213533769	103		GOLDSMITH LANDRETH DEEP UNIT #204	GOLDSMITH (CLEARFORK)	2.6	PHILLIPS PETROLEU
8217769	F-08-046003	4213533791	103		GOLDSMITH LANDRETH DEEP UNIT #231	GOLDSMITH (CLEARFORK)	18.6	PHILLIPS PETROLEU
8217767	F-08-046001	4213533772	103		GOLDSMITH LANDRETH DEEP UNIT #239	GOLDSMITH (CLEARFORK)	11.3	PHILLIPS PETROLEU
8217772	F-08-046006	4213533771	103		GOLDSMITH LANDRETH DEEP UNIT #240	GOLDSMITH (CLEARFORK)	11.3	PHILLIPS PETROLEU
8217699	F-08-045689	4213533756	103		GOLDSMITH LANDRETH/DEEP/UNIT #234	GOLDSMITH (CLEARFORK)	261.3	PHILLIPS PETROLEU
-ANADARKO PRODUCTION COMPANY			RECEIVED: 02/03/82 JA: TX					
8217411	F-10-045002	4234100000	108		BIVINS A-1	PANHANDLE RC/RED CAVE	12.5	PIONEER CORP
8217405	F-10-044996	4223300000	108		BOST A-1	PANHANDLE RC/RED CAVE	14.0	PIONEER CORP
8217406	F-10-044997	4223300000	108		BOST B-1	PANHANDLE RC/RED CAVE	12.2	PIONEER CORP
8217412	F-10-045003	4237500000	108		MASTERSON I-1	PANHANDLE RC/RED CAVE	21.1	PIONEER CORP
8217407	F-10-044998	4237500000	108		MASTERSON J-1	PANHANDLE RC/RED CAVE	19.4	PIONEER CORP
8217413	F-10-045004	4237500000	108		MASTERSON K-1	PANHANDLE RC/RED CAVE	19.4	PIONEER CORP
8217415	F-10-045006	4226500000	108		POLING A-1	PANHANDLE RC/RED CAVE	11.5	PIONEER CORP
8217414	F-10-045005	4226500000	108		POLING B-1	PANHANDLE RC/RED CAVE	14.6	PIONEER CORP
8217409	F-10-045000	4234100000	108		SNEED B-10	PANHANDLE RC/RED CAVE	21.8	PIONEER CORP
8217410	F-10-045001	4234100000	108		SNEED B-9	PANHANDLE RC/RED CAVE	11.6	PIONEER CORP

JD #	DE-ET				FIELD NAME	PROD	PURCHASER
8217408	F-13-044999	4235[illegible]000	139	STATE F-1A			
-ARCO OIL AND GAS COMPANY			RECEIVED:	02/03/82 JAI TX			
8217435	F-[illegible]-045[illegible]	42[illegible]332907	103	EMMA COWDEN #139	EMMA	2.6	EL PASO NATURAL G
8217433	F-[illegible]-045034	42[illegible]332814	103	EMMA COWDEN #95	EMMA	1.5	EL PASO NATURAL G
8217434	F-26-045039	42[illegible]332815	103	EMMA COWDEN #96	EMMA	7.3	EL PASO NATURAL G
8217583	F-24-045405	4213134947	107-DP	GORMAN GAS UNIT #2	SEVEN SISTERS EAST (H	348.0	VALERO TRANSMISSI
-ARKLA EXPLORATION COMPANY			RECEIVED:	02/03/82 JAI TX			
8217683	F-26-045632	4235531945	107-TF	MAURITZEN #1	CARTHAGE (COTTON VALL	100.0	ARKANSAS LOUISIAN
-BLAIR OIL COMPANY			RECEIVED:	02/03/82 JAI TX			
8217429	F-12-045[illegible]3	4206533953	103	SHELIA #1	PANHANDLE	0.0	PANHANDLE EASTERN
8217427	F-12-045027	4206533916	103	SHELIA #2	PANHANDLE	0.0	PANHANDLE EASTERN
8217428	F-12-045028	4206534521	103	SHELIA #3	PANHANDLE	0.0	PANHANDLE EASTERN
-BLAKE HAMMAN			RECEIVED:	02/03/82 JAI TX			
8217578	F-39-045586	4236700003	108-TF	WALTER R BENNETT 3(94)	BROWNSVILLE (BEND CONG	20.0	NATURAL GAS PIPEL
-C F LAWRENCE & ASSOC INC			RECEIVED:	02/03/82 JAI TX			
8217668	F-28-045605	4210500000	102-A	CHAMBERS COUNTY SCHOOL LAND "G"	KENLAW (SEVEN RIVERS)	6.0	APACHE GAS CORP
-CHALLENGER MINERALS INC			RECEIVED:	02/03/82 JAI TX			
8217747	F-AA-045924	4211531473	102-A	M E HANCOCK #1	CMI (SPRABERRY)	6.0	PHILLIPS PETROLEU
8217748	F-AA-045904	4211531558	102-A	M E HANCOCK #2-X	CMI (SPRABERRY)	26.0	PHILLIPS PETROLEU
-CHAMA PETROLEUM CO			RECEIVED:	02/03/82 JAI TX			
8217760	F-24-045956	4207531870	102-A	SEALY SMITH FOUNDATION #1	CHAMA (GLORIETA)	875.0	EL PASO NATURAL G
8217759	F-24-045955	4207532102	102-A	SEALY SMITH FOUNDATION #2	CHAMA (GLORIETA)	875.0	EL PASO NATURAL G
-CHAMPLIN EXPLORATION INC			RECEIVED:	02/03/82 JAI TX			
8217755	F-33-045942	4214930428	102-2	BAILEY-FIETSAM UNIT #1(RRC #13910)	GIDDINGS (AUSTIN CHAL	4.5	PHILLIPS PETROLEU
8217756	F-33-045944	4214930445	102-2	GOSCH-GJADIANO #1 (RRC ID #13933)	GIDDINGS (BUDA)	2.0	PHILLIPS PETROLEU
8217757	F-33-045945	4214930959	102-2	TILICEK UNIT #1 (RRC ID #14294)	GIDDINGS (AUSTIN CHAL	6.5	PHILLIPS PETROLEU
-CHARLES L WALKER			RECEIVED:	02/03/82 JAI TX			
8217752	F-CH-045923	4208330934	102-A 103	FISHER "4" #3	BLOCK A-34 (SAN ANDRE	6.1	PHILLIPS PETROLEU
8217761	F-CH-045897	42[illegible]830908	102-A 103	FISHER "5" #2	BLOCK A-34 (SAN ANDRE	25.2	PHILLIPS PETROLEU
-CHEVRON U S A INC			RECEIVED:	02/03/82 JAI TX			
8217439	F-7C-045044	4241331003	103	NEVA WEST (STRAWN) UNIT #1005	NEVA WEST (STRAWN)	43.0	ARCO OIL & GAS CO
8217774	F-AA-046215	4241531966	103	SACROC UNIT #9-13	KELLY - SNYDER	24.0	EL PASO NATURAL G
8217685	F-AA-045637	4241521932	103	SACROC UNIT 66-9	KELLY-SNYDER	2.0	EL PASO NATURAL G
8217684	F-AA-045636	4241531934	103	SACROC UNIT 70-6	KELLY-SNYDER	30.0	EL PASO NATURAL G
8217612	F-7B-[illegible]469	4249531298	103	W E BAIRD 13-79C	KEYSTONE (CLEAR FORK)	8.8	TRANSWESTERN PIPE
-CIRCLE SEVEN PRODUCTION CO			RECEIVED:	02/03/82 JAI TX			
8217586	F-09-045404	4223733862	102-A	D C CRAWFORD "D" #1	DEE CEE (CONGL)	0.0	LONE STAR GAS CO
8217423	F-09-045017	4223733788	102-A	D C CRAWFORD ESTATE C-1 (ID ND)	PERRIN (MARBLE FALLS)	0.0	LONE STAR GAS CO
8217421	F-09-045015	4223733025	102-A	MCCONNELL GAS UNIT #1 (ID NO #9762)	MIGL (5150)	0.0	LONE STAR GAS CO
8217422	F-09-045016	4223733661	102-A	WHITE #2 (ID NO)	ZUBER (STRAWN)	0.0	LONE STAR GAS CO
8217587	F-09-045017	4223733651	102-A	JM K MOORE #1	ENIS (CONGL)	0.0	LONE STAR GAS CO
-CITIES SERVICE COMPANY			RECEIVED:	02/03/82 JAI TX			
8217732	F-1[illegible]-045[illegible]25	42[illegible]5[illegible]90	103	CUNNETT RANCH E #12	PANHANDLE CARSON	90.0	CITIES SERVICE GA
8217696	F-[illegible]-045661	4213533866	103	CUMMINS-S #8	GOLDSMITH	15.0	PHILLIPS PETROLEU
8217696	F-[illegible]-045677	42497[illegible]000	108	DAVENPORT B #2	DAVENPORT (4TH CONGLO	16.0	CITIES SERVICE CO
8217670	F-[illegible]-045607	42[illegible]6[illegible]9	103	DEAHL B #17	PANHANDLE CARSON COUN	18.2	CITIES SERVICE GA
8217733	F-[illegible]-045626	4217933978	103	LAKIN A #4	PANHANDLE	0.5	PHILLIPS PETROLEU
8217702	F-7C-045697	4206131788	103	NEAL "C" #2	BENEDUM (FUSSELMAN)	165.0	UNION TEXAS PETRO
8217721	F-[illegible]-[illegible]69[illegible]	42[illegible]332[illegible]7	103	NORTH DOLLARHIDE UNIT #315	DOLLARHIDE (DEVONIAN)	29.0	UNION OIL OF CALI
-COASTAL OIL & GAS CORP			RECEIVED:	02/03/82 JAI TX			
8217650	F-13-045532	4235750857	103	MASTERSON "A" 8340 RQ	PANHANDLE (RED CAVE)	1.0	COLORADO INTERSTA
8217663	F-[illegible]-045[illegible]	4235750866	103	MASTERSON "A" 8365 F	PANHANDLE (RED CAVE)	25.0	COLORADO INTERSTA
-COLUMBIA GAS DEVELOPMENT CORP			RECEIVED:	02/03/82 JAI TX			

JD #	DE-ET				FIELD NAME	PROD	PURCHASER
8217754	F-03-045934	4228731060	102-C	LINDEN & FRANK BOWERS #6	GIDDINGS (AUSTIN CHAL	1.0	PHILLIPS PETROLEU
-COMINCO AMERICAN INC			RECEIVED:	02/03/82 JAI TX			
8217588	F-13-044918	424[illegible]00003	103	KELTON #1	MILLS RANCH (GRANITE	0.0	MISSISSIPPI RIVER
-COMMAND ENERGY CORP			RECEIVED:	02/03/82 JAI TX			
8217762	F-7B-045970	4213300003	102-A	T T FAIR #2 RRC #95578	FAIR (MARBLE FALLS LO	200.0	NORTHERN GAS PROD
-CONOCO INC			RECEIVED:	02/03/82 JAI TX			
8217680	F-08-045626	42227[illegible]000	108	G O CHALK-C-#10 ID #18989	HOWARD GLASSCOCK	0.0	PHILLIPS
8217677	F-08-045625	42227[illegible]000	108	G O CHALK-D-#14 ID 02688	HOWARD GLASSCOCK	1.1	PHILLIPS PETROLEU
8217675	F-06-045623	4217300000	108	BASHAM & GREEMAN #16 ID #22261	SPRAYBERRY TREND	0.4	ADOBE OIL
8217678	F-08-045626	4217300000	108	GRISHAM & GREEMAN #9 ID 22261	SPRAYBERRY TREND	0.2	ADOBE OIL
8217681	F-7C-045629	4213500000	108	J M SHANNON-A-#2C ID #30435	ELKHORN	2.5	PERMIAN CORP
8217679	F-08-045627	4213500000	108	TXL 44-43 #6 ID #16192	LAWSON	2.9	PHILLIPS
8217676	F-08-045624	42[illegible]332604	103	W T FORD #5R ID #01665	FUHRMAN MASCHE	5.7	PHILLIPS
8217682	F-06-045636	42135[illegible]000	108	WIGHT UNIT #76 ID #20661	CONDEN N	16.1	AMOCO PRODUCTION
-CPC EXPLORATION INC			RECEIVED:	02/03/82 JAI TX			
8217664	F-[illegible]-045[illegible]	42-5131832	102-A	JOHN MCKINNEY 1A LEASE NO 14711	CALDWELL (AUSTIN CHAL	100.0	FERGUSON CROSSING
-CROWN EXPLORATION CO			RECEIVED:	02/03/82 JAI TX			
4217426	F-7A-[illegible]021	4215131232	103	PLEMONS #1	ROYSTON (CANYON)	0.0	LONE STAR GAS CO
-DALTON H COBB			RECEIVED:	02/03/82 JAI TX			
8217524	F-[illegible]-045265	4234931073	102-A	MARMADUKE #1 ID NO #5581	ARNO NORTH (DELAWARE)	55.0	INTRATEX GAS CO
-DAVID ALBERT OIL & GAS			RECEIVED:	02/03/82 JAI TX			
8217549	F-7A-045329	4236300003	108	CALVIN 2A RRC #12493	PALO PINTO COUNTY REG	20.1	SOUTHWESTERN GAS
-DIAMOND SHAMROCK CORPORATION			RECEIVED:	02/03/82 JAI TX			
8217737	F-13-045855	4229533816	103	ALEX BORN "B" #2	BRADFORD	1.0	
8217738	F-AA-045860	4230330681	103	EDMOND A ANDERSON #3-17	EDMISSON NW	0.1	
8217739	F-7B-045862	4226533703	103	FORTNEY #1-25	J V T	0.0	
-DINERO OIL CO			RECEIVED:	02/03/82 JAI TX			
8217631	F-[illegible]-045497	42[illegible]531189	102-A	A ALGEA #1	LITTLE JOHN (3970)	180.0	UNITED GAS PIPE L
-E L SMITH III			RECEIVED:	02/03/82 JAI TX			
8217605	F-[illegible]-045[illegible]	4233731492	103	HINDS CLARK #1	NEWPORT SOUTH (BEND C	270.0	LONE STAR GAS CO
-EARL T SMITH & ASSOCIATES INC			RECEIVED:	02/03/82 JAI TX			
8217516	F-[illegible]-045[illegible]	42[illegible]3[illegible]	102-A	EUNICE TREADWELL #2	BRISCOE (MORROW)	1095.2	PIONEER CORP
-EL PASO NATURAL GAS COMPANY			RECEIVED:	02/03/82 JAI TX			
8217711	F-7C-045746	4243513213	108	MARTIN #1	SONORA (CANYON UPPER)	21.0	EL PASO NATURAL G
8217712	F-10-045747	4248330801	108	MCALISTER #2X	PANHANDLE EAST	19.0	EL PASO NATURAL G
8217710	F-10-045746	4248730169	108	MCDOWELL #13	PANHANDLE EAST	19.0	EL PASO NATURAL G
8217713	F-10-045744	4248730166	108	MCDOWELL #14	PANHANDLE EAST	19.0	EL PASO NATURAL G
-ENERGY RESERVES GROUP INC			RECEIVED:	02/03/82 JAI TX			
8217746	F-[illegible]-045901	4232131044	103	J L CAMP #2	NORTHERN RANCH (FRIO	230.4	
8217745	F-7C-045899	4238332217	103	ROCKER B "A" #21	SPRABERRY (TREND AREA	47.9	EL PASO NATURAL G
8217744	F-7C-045898	4238332015	103	ROCKER B "W" #22	SPRABERRY (TREND AREA	16.2	EL PASO NATURAL G
8217743	F-7C-045897	4238332018	103	ROCKER B "W" #23	SPRABERRY (TREND AREA	16.7	EL PASO NATURAL G
-ENERGY-AGRI PRODUCTS INC			RECEIVED:	02/03/82 JAI TX			
8217665	F-13-045591	4206531980	103	HENRY #2 (ID#049912)	PANHANDLE CARSON	167.0	GETTY OIL CO
8217540	F-13-045512	4206531981	103	PEELER #2 (ID #049825)	PANHANDLE CARSON	166.0	GETTY OIL CO
-ENRE CORP			RECEIVED:	02/03/82 JAI TX			
8217402	F-7A-044993	4205933160	102-A	JOHN PRUET #1 (17584)	J PRUET (MORAN 1990)	5.0	BENGAL GAS TRANSM
8217401	F-7A-044992	4215933376	102-A	JOHN PRUET #2 (17584)	J PRUET (MORAN 1990)	7.0	BENGAL GAS TRANSM
-ENSERCH EXPLORATION INC			RECEIVED:	02/03/82 JAI TX			
8217454	F-7A-045074	4247900000	108	D B DAWSON #1	POTTSVILLE/MARBLE FAL	19.0	LONE STAR GAS CO
8217456	F-7A-045076	4247900000	108	G A COX #1	LAS TIENDAS E (OLMOS)	17.0	LONE STAR GAS CO
8217455	F-7A-045075	4247900000	108	G A COX #2	LAS TIENDAS E (OLMOS)	17.8	LONE STAR GAS CO
8217453	F-7A-045073	4247900000	108	G V GARCIA #1	LAS TIENDAS E (OLMOS)	4.0	LONE STAR GAS CO

JD NO.	DI ST	API NO.	DRLG SEC(S)	SECT(S)	WELL NAME	FIELD NAME	PROD	PURCHASER
8217442	F-78-045762	4219330903	108		HENRY NEIMAN #1	POTTSVILLE (MARBLE FA	21.0	LONE STAR GAS CO
8217452	F-78-045772	4247910000	108		J T MALTSBERGER #2	LAS TIENDAS E (OLMOS)	9.0	LONE STAR GAS CO
8217451	F-78-045771	4247900000	108		J T MALTSBERGER #4	LAS TIENDAS E (OLMOS)	20.0	LONE STAR GAS CO
8217450	F-78-045770	4247900000	108		J T MALTSBERGER #5	LAS TIENDAS E (OLMOS)	9.0	LONE STAR GAS CO
8217449	F-78-045769	4247900000	108		J T MALTSBERGER #6X	LAS TIENDAS E (OLMOS)	18.0	LONE STAR GAS CO
8217448	F-78-045768	4247900000	108		J T MALTSBERGER #7	LAS TIENDAS E (OLMOS)	4.0	LONE STAR GAS CO
8217717	F-89-045764	4223760000	128		L M YATES "E" #1	BOONSVILLE (BEND CONG	18.0	LONE STAR GAS CO
8217441	F-78-045761	4219300000	108		OTTO REINERT #1	POTTSVILLE (MARBLE FA	4.0	LONE STAR GAS CO
8217457	F-78-045777	4219300000	108		T J EST BURKS #2	POTTSVILLE/MARBLE FAL	9.0	LONE STAR GAS CO
8217447	F-78-045767	4247900000	108		T MIDDLETON B-2	LAS TIENDAS E (OLMOS)	8.0	LONE STAR GAS CO
8217446	F-78-045766	4247900000	108		T MIDDLETON C-1	LAS TIENDAS E (OLMOS)	17.0	LONE STAR GAS CO
8217445	F-78-045765	4247900000	108		T MIDDLETON E-1	LAS TIENDAS E (OLMOS)	17.0	LONE STAR GAS CO
8217444	F-78-045764	4247900000	108		T MIDDLETON F-1	LAS TIENDAS E (OLMOS)	21.0	LONE STAR GAS CO
8217443	F-78-045763	4247900000	108		T MIDDLETON F-2	LAS TIENDAS E (OLMOS)	20.0	LONE STAR GAS CO
-ESENJAY PETROLEUM CORP			RECEIVED:	02/03/82	JA: TX			
8217724	F-93-045788	4216330682	102-2		L C HAIRE #1 #14811	GIDDINGS (AUSTIN CHAL	50.0	PHILLIPS PETROLEU
-EXXON CORPORATION			RECEIVED:	02/03/82	JA: TX			
8217557	F-84-045546	4221732551	103		BAYES BROTHERS #1	EAGLE (FUSSELMAN)	1.0	
*8217733	F-33-045711	4215731213	103		DON F MCMILLIAN "B" #1	KATY S (FIRST WILCOX)	1314.0	ARMCO STEEL CORP
8217558	F-84-045547	4210332703	103		ELIZABETH ARMSTRONG #5	MEANS SOUTH (WOLFCAMP	36.0	PHILLIPS PETROLEU
8217556	F-83-045544	4237133493	103		FORT STOCKTON UNIT #823	FORT STOCKTON (YATES	105.3	NUECES CO
8217554	F-78-045542	4230332940	103		FULLERTON CLEARFORK UNIT #3323	FULLERTON	15.0	PHILLIPS PETROLEU
8217555	F-79-045543	4230332894	103		FULLERTON CLEARFORK UNIT #917	FULLERTON	15.0	PHILLIPS PETROLEU
8217692	F-84-045665	4200131272	103		G W EATON ESTATE #31	NECHES (WOODBINE)	38.5	UNITED GAS PIPELI
*8217592	F-34-045625	4227331315	102-4		K R ALAZAN 325-D (955510)	ALAZAN (1-75)	118.0	ARMCO STEEL CORP
*8217591	F-34-045624	4227331572	103		K R LAGUNA LARGE 28 (955939)	T-C-B (V-3)	913.0	ARMCO STEEL CORP
*8217590	F-34-045623	4227331411	103		K R MORGAN M-66 (955154)	BORREGOS WEST (SEG F	44.0	ARMCO STEEL CORP
8217693	F-80-045667	4236534803	108		M J COLEMAN 1	CARTHAGE (PETTIT LO G	0.0	TEXAS EASTERN TRA
8217666	F-10-045599	4221181389	103		M A FLOWERS #5	MENDOTA NW (DOUGLAS L	77.0	TRANSWESTERN PIPE
*8217589	F-34-045622	4216730941	102-4		R J K JR TR VIBORAS PA 94-T (955938)	VIBORAS (G-59 VIII W)	456.0	ARMCO STEEL CORP
8217553	F-48-045539	4216532083	103		ROBERTSON CLFK UNIT #6001	ROBERTSON N (CLFK 710	15.0	PHILLIPS PETROLEU
8217669	F-83-045665	4216532711	103		SAM C JENKINS #8	JENKINS NORTH (CANYON	5.0	PHILLIPS PETROLEU
*8217709	F-34-045738	4204730959	103		VFGU #1 ZS-10-D (955941)	VIBORAS (MASSIVE FIRS	526.0	ARMCO STEEL CORP
8217599	F-83-045635	4220131206	103		WEBSTER FIELD UNIT #1827	WEBSTER	36.5	HOUSTON PIPELINE
8217598	F-83-045634	4220131184	103		WEBSTER FIELD UNIT #2138	WEBSTER	29.5	HOUSTON PIPELINE
8217656	F-83-045651	4220131104	103		WEBSTER FIELD UNIT #2769	WEBSTER	29.2	HOUSTON PIPELINE
-FAGADAU ENERGY CORP			RECEIVED:	02/03/82	JA: TX			
8217695	F-78-045674	4236332329	103		SEAMAN RANCH "A"	POSSUM KINGDOM (CONGL	16.0	FAGADAU ENERGY CO
-FISHER-WEBB INC			RECEIVED:	02/03/82	JA: TX			
8217629	F-7C-045494	4246131822	103		HARRIS "B" #3	BLOODWORTH SOUTH (570	50.0	SUN GAS CO
8217596	F-78-045632	4246131938	103		ROOF "B" #2	LAKE ABILENE (4000')	50.0	FORT CHADBOURNE C
8217630	F-78-045695	4246131942	103		ROOF "C" #1	LAKE ABILENE (4000')	50.0	FORT CHADBOURNE C
-FLORIDA GAS EXPLORATION COMPANY			RECEIVED:	02/03/82	JA: TX			
8217541	F-84-045315	4222732565	103		STELLA PETTY 31 #2	FLORAC	65.0	ODESSA NATURAL CO
-FRANK CASS			RECEIVED:	02/03/82	JA: TX			
8217528	F-7C-045273	4236530000	103		UNIVERSITY 30 #2 RRC #09197	SPRABERRY (TREND AREA	36.0	EL PASO NATURAL G
-GASE & CO			RECEIVED:	02/03/82	JA: TX			
8217432	F-7C-045037	4235331099	102-4		JAMESON JAHEW "I" #1 (09191)	SILVER (CANYON)	766.5	SUN GAS CO
-GAS DEVELOPMENT CORP			RECEIVED:	02/03/82	JA: TX			
8217503	F-7C-045214	4243500001	108		MILDRED CAUTHORN 16 #1	JO NELL (CANYON "D")	11.0	NORTHERN NATURAL
-GETTY OIL COMPANY			RECEIVED:	02/03/82	JA: TX			
8217614	F-83-045472	4237132876	103		MIRIAM RATCLIFF #1	COYANOSA (WOLFCAMP)	7.6	VALERO TRANSMISSI
-GOLDEN PETOLEUM			RECEIVED:	02/03/82	JA: TX			

JD NO.	DI ST	API NO.	DRLG SEC(S)	SECT(S)	WELL NAME	FIELD NAME	PROD	PURCHASER
8217424	F-78-045811	4223733526	103		FATHERLY #2 21467	JACK COUNTY REGULAR	18.0	SOUTHWESTERN GAS
-GOLDSTON OIL CORP			RECEIVED:	03/03/82	JA: TX			
8217586	F-01-045641	4231131596	102-4		LINDHOLM GAS UNIT #1-A	HOSTETTER N (SLICK BO	730.0	TEXAS EASTERN TRA
-GULF OIL CORPORATION			RECEIVED:	02/03/82	JA: TX			
8217561	F-84-045354	4247513122	108		HUTCHINGS STOCK ASSN #1322	WARD-ESTES NORTH	1.0	CABOT CORP
8217735	F-84-045850	4247532446	103		HUTCHINGS STOCK ASSN #1143	WARD-ESTES NORTH	6.0	CABOT CORP
8217552	F-83-045237	4247502324	108		HUTCHINGS STOCK ASSN #302	WARD-ESTES NORTH	1.0	CABOT CORP
8217551	F-84-045336	4247502452	108		HUTCHINGS STOCK ASSN #449	WARD-ESTES NORTH	1.0	CABOT CORP
8217560	F-84-045352	4247511166	108		HUTCHINGS STOCK ASSN #768	WARD-ESTES NORTH	2.0	CABOT CORP
8217563	F-84-045357	4247530573	108		HUTCHINGS STOCK ASSN #967	WARD-ESTES NORTH	3.0	CABOT CORP
8217517	F-83-045244	4202502579	108		ROSA E BORROUM #1	MINDAK (SLICK 7380)	4.0	TEXAS EASTERN TRA
-H & L OPERATING COMPANY			RECEIVED:	02/03/82	JA: TX			
8217542	F-10-045314	4229530932	102-4		SELL #1-3C RRC #04891	BOOKER N (MORROW UPPE	108.0	PHILLIPS PETROLEU
-H & S PRODUCTION INC			RECEIVED:	02/03/82	JA: TX			
8217700	F-84-045690	4247732157	103		LAKE UNIT #1 RRC #21402	WINKLER (CONGL)	72.0	TEXAS UTILITIES F
8217505	F-39-045227	4223733137	102-4		RALPH TIPTON #1 (20812)	TIPTON (ATOKA CONGL)	12.0	TEXAS UTILITIES F
8217504	F-39-045219	4223733437	102-4		RALPH TIPTON #1A (92064)	TIPTON (ATOKA CONGL)	36.0	TEXAS UTILITIES F
-HALVEY ENERGY CO			RECEIVED:	02/03/82	JA: TX			
8217716	F-7C-045769	4243131026	103		MUNN #4	JAMESON (STRAWN)	77.0	SUN GAS CO
-HAROLD D COURSON			RECEIVED:	02/03/82	JA: TX			
8217436	F-10-045042	4217900000	108		CARPENTER D-1	PANHANDLE EAST	5.5	COLTEXO CORP
8217604	F-10-045450	4217903000	106		CUBINE "B" #1		0.0	COLTEXO CORP
-HENRY PETROLEUM CORP			RECEIVED:	02/03/82	JA: TX			
8217733	F-84-045817	4231700000	103		MCCULLOCH #2	TEX-HAMON (DEAN)	0.0	GETTY OIL CO
-HERITAGE OPERATING CO INC			RECEIVED:	02/03/82	JA: TX			
8217729	F-82-045814	4239131411	102-4		F B ROOKE & SONS #1	ROCHE NE (FRIO 6700)	237.3	UNITED GAS PIPE L
-HHH OPERATORS			RECEIVED:	02/03/82	JA: TX			
8217613	F-84-045471	4243130000	103		FOSTER 6-23 #2	CONGER PENN	20.0	ESPERANZA PIPE LI
-HOUSTON OIL & MINERALS CORPORATION			RECEIVED:	02/03/82	JA: TX			
8217574	F-83-045376	4214930526	102-2		ED MORGAN #1	GIDDINGS (BUDA)	0.0	PGP GAS PRODUCTS
8217550	F-83-045330	4228700000	103		FRED UNGER #1	GIDDINGS (AUSTIN CHAL	0.0	PGP GAS PRODUCTS
8217575	F-83-045384	4228730293	103		IRMA SCHULTZ #2	GIDDINGS (AUSTIN CHAL	0.0	PGP GAS PRODUCTS
-HUGHES & HUGHES			RECEIVED:	02/03/82	JA: TX			
8217727	F-83-045801	4228730842	103		HARDEMAN #1	GIDDINGS (AUSTIN CHAL	550.0	CLAJON GAS CO
8217728	F-83-045802	4228700000	103		MARIE #1	GIDDINGS (AUSTIN CHAL	100.0	CLAJON GAS CO
-HULEN H LEMON			RECEIVED:	02/03/82	JA: TX			
8217753	F-84-045932	4232930915	103		TUBB #1	SPRABERRY (TREND AREA	8.0	PHILLIPS PETROLEU
-HYDROCARBON ENERGIES INC			RECEIVED:	02/03/82	JA: TX			
8217600	F-7C-045441	4252730407	103		NEEL #2 #08716	JACOBY (FRY)	10.9	SUN GAS CO
8217601	F-7C-045442	4252730406	103		NEEL #3 #08716	JACOBY (FRY)	6.8	SUN GAS CO
-INDIAN WELLS OIL CO			RECEIVED:	02/03/82	JA: TX			
8217672	F-7C-045609	4223531794	103		ATKINSON 10-1	TANKERSLEY (WOLFCAMP)	21.9	NORTHERN NATURAL
8217671	F-7C-045608	4223531802	103		ATKINSON 10-2	TANKERSLEY SW (STRAWN	11.0	NORTHERN NATURAL
8217673	F-7C-045610	4223531813	103		BROOKS 4-1	BROOKS (CANYON K)	27.0	NORTHERN NATURAL
8217674	F-7C-045618	4223531766	103		PROBANDT 56-1	PROBANDT (CANYON)	8.8	CRA INC
-INLAND OCEAN INC			RECEIVED:	02/03/82	JA: TX			
8217593	F-84-045426	4213100000	108		ROOS #1 (62817)	LABBE S	8.6	TENNESSEE GAS PIP
-J A LEONARD			RECEIVED:	02/03/82	JA: TX			
8217567	F-83-045364	4235100000	102-4		COFFIELD-WINSTON "A" 1	INEZ JAMESON (NAVARRO	40.0	FERGUSON CROSSING
8217568	F-83-045365	4235100000	102-4		COFFIELD-WINSTON "C" 1	INEZ JAMESON (NAVARRO	7.0	FERGUSON CROSSING
-J B PRODUCTION CO			RECEIVED:	02/03/82	JA: TX			
8217723	F-7C-045784	4236932053	103		PELZEL 9618A1	UNBAN (MILES)	0.8	ODESSA NATURAL CO
-J CLEO THOMPSON & JAMES CLEO THOMPS			RECEIVED:	02/03/82	JA: TX			

JD NO	DATE	API NO	DIST	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8217667	F-38-045602	4200332761		103		WEST MEANS UNIT 15-W	MEANS	23.0	PHILLIPS PETROLEU
-J M HUBER CORPORATION				RECEIVED:	02/03/82	JA: TX			
8217570	F-10-045372	4223331184		103		ARCO READ #3	PANHANDLE	38.0	COLORADO INTERSTA
8217708	F-10-045733	4206530903		103		CHAPMAN #5	PANHANDLE	16.0	COLORADO INTERSTA
8217742	F-10-045887	4223331147		103		INGERTON #6	PANHANDLE	44.0	COLORADO INTERSTA
8217751	F-10-045912	4223331185		103		READ #21	PANHANDLE	44.0	COLORADO INTERSTA
8217572	F-10-045374	4223331148		103		SOUTH HERRING #161	PANHANDLE	40.0	COLORADO INTERSTA
8217571	F-10-045373	4223331183		103		SOUTH HERRING #162	PANHANDLE	26.0	COLORADO INTERSTA
8217741	F-10-045886	4223331055		103		WEATHERLY "C" #59	PANHANDLE	33.0	COLORADO INTERSTA
-JAMES B HARBIN				RECEIVED:	02/03/82	JA: TX			
8217559	F-78-045351	4294900000		108		OLIVER STEELE 16148	SALT CREEK MARBLE FAL	13.0	LONE STAR GAS CO
-JER PETROLEUM CORP				RECEIVED:	02/03/82	JA: TX			
8217576	F-78-045385	4215100000		103		SCHEMERT #1	SYLVESTER (GOEN)	28.0	PALO DURO PIPELIN
-L M YOUNG				RECEIVED:	02/03/82	JA: TX			
8217725	F-78-045789	4204900000		102-4		W A CHAMBERS #D-1	DALE (CADDO)	0.0	ODESSA NATURAL CO
-LUNSFORD P LIVINGSTON				RECEIVED:	02/03/82	JA: TX			
8217654	F-78-045541	4244731000		102-4		THOMAS B MILLER "A" #2A (88092)	TUGGLE (TANNEHILL)	55.0	CLEAR FORK GAS CO
-MAGUIRE OIL COMPANY				RECEIVED:	02/03/82	JA: TX			
8217637	F-78-045043	4215130902		103		BOWDEN #1	SYLVESTER (FLIPPEN)	0.0	
-MARALO INC				RECEIVED:	02/03/82	JA: TX			
8217575	F-38-045375	4220332029		103		BITLER LOWE "B" #9	FULLERTON	1.8	PHILLIPS PETROLEU
-MARDAN EXPLORATION INC				RECEIVED:	02/03/82	JA: TX			
8217459	F-82-045160	4239131438		105		GILLIAM #1-C	BONNIE VIEW (5000)	110.0	UNITED TEXAS TRAN
8217597	F-82-045431	4225530815		102-4		IMPERIAL OIL #1	COY CITY (CARRIZO 474	110.0	VALERO TRANSMISSI
-MAY PETROLEUM INC				RECEIVED:	02/03/82	JA: TX			
8217691	F-13-045665	4229530955		103		WRIGHT #1	LIPSCOMB SE (MORROW)	547.5	DIAMOND SHAMROCK
-MCCANN CORP				RECEIVED:	02/03/82	JA: TX			
8217547	F-38-045325	4222732323		103		JANE READ #1	COAHOMA N (FUSSEL)	106.6	GETTY OIL CO
8217546	F-38-045324	4222732388		103		WOLF #1	COAHOMA (MISS)	24.5	GETTY OIL CO
-MEADCO PROPERTIES				RECEIVED:	02/03/82	JA: TX			
8217632	F-7C-045501	4223531775		102-4		E SUGG 11 84 ARC IO #08571	TAOS (CANYON)	43.0	NORTHERN NATURAL
-MEG PETROLEUM CORP				RECEIVED:	02/03/82	JA: TX			
8217580	F-7C-045393	4223531719		102-2	103	ROCK PEN NORTH #1	ROCK PEN (CANYON)	78.8	CRA INC
8217569	F-7C-045369	4223531610		102-2	103	ROCK PEN NORTH #2	ROCK PEN (CANYON)	111.6	CRA INC
8217581	F-7C-045394	4223531664		102-2	103	SUGG-FARMAR #1	ROCK PEN (CANYON)	10.0	NORTHERN NATURAL
8217579	F-7C-045392	4223531720		102-2	103	SUGG-FARMAR #2	ROCK PEN (CANYON)	79.6	NORTHERN NATURAL
-MGF OIL CORP				RECEIVED:	02/03/82	JA: TX			
8217391	F-01-044977	4249330743		103		FELIX J JANEK JR #1	MARCELINA CREEK (AUST	16.2	
8217530	F-01-045293	4249330719		103		FRANK LABUS #1	MARCELINA CREEK (AUST	6.5	
8217393	F-01-044981	4249330780		103		HUNTER MCDANIEL #5	MARCELIN CREEK (AUSTI	9.0	
8217392	F-01-044978	4249330903		103		MARVIN B OXFORD #1	MARCELINA CREEK (AUST	2.5	
8217529	F-01-045292	4249330749		103		SZALWINSKI UNIT #1	MARCELINA CREEK (AUST	11.8	
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	02/03/82	JA: TX			
8217527	F-08-045270	4237133394		103		E P SIRLEY "B" #7	COYANOSA N (DELAWARE)	17.5	EL PASO NATURAL G
8217619	F-08-045462	4233530851		103		W W WATSON #28	IATAN EAST (HOWARD)	0.4	GETTY OIL CO
8217689	F-08-045459	4233530850		103		W W WATSON #29	IATAN EAST (HOWARD)	0.4	GETTY OIL CO
8217608	F-08-045456	4233531153		103		W W WATSON #31	IATAN EAST (HOWARD)	0.4	GETTY OIL CO
8217715	F-08-045751	4233530858		103		W W WATSON #34	IATAN EAST (HOWARD)	0.4	GETTY OIL CO
8217716	F-08-045752	4233531277		103		W J WATSON #35	IATAN EAST (HOWARD)	8.4	GETTY OIL CO
-MONSANTO COMPANY				RECEIVED:	02/03/82	JA: TX			
8217628	F-8A-045493	4207931007		103		DYKE #2	LEVELLAND	5.0	CITIES SERVICE CO
8217749	F-38-045908	4249531315		103		MITCHELL #2	MONAHANS NE (PENN DET	112.8	EL PASO NATURAL G
8217750	F-8A-045913	4250132142		193		SAWYER #8	WASSON (SAN ANDRES)	3.0	SHELL OIL CO

JD NO	DATE	API NO	DIST	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-MORAN EXPLORATION INC				RECEIVED:	02/03/82	JA: TX			
8217707	F-01-045727	4217731025		103		JAMES D CLACK JR #1	PEACH CREEK (AUSTIN C	0.0	VALERO TRANSMISSI
-MORRIS STEPHENS				RECEIVED:	02/03/82	JA: TX			
8217706	F-39-045726	4223700000		108		MCQUERRY #1 RRC #42668	BARTONS CHAPEL S (STR	12.0	LONE STAR GAS CO
8217705	F-78-045725	4236300000		108		STEPHENS #1 RRC #35508	BRAD SW (BIG SALINE C	19.0	LONE STAR GAS CO
-NATOMAS NORTH AMERICA INC				RECEIVED:	02/03/82	JA: TX			
8217661	F-7C-045568	4245130745		103		JONES #2	HOUR (STAWN)	48.0	NORTHERN NATURAL
-NUCORP ENERGY INC				RECEIVED:	02/03/82	JA: TX			
8217577	F-33-045386	4228730796		102-2		SUSIE CLEMONS UNIT #2 #1	GIDDINGS (AUSTIN CHAL	23.7	PHILLIPS PETROLEU
-PEND OREILLE OIL & GAS CO				RECEIVED:	02/03/82	JA: TX			
8217594	F-42-045027	4229732746		102-4		C S NELSON TRUST #6	LIMES (WILCOX 9900)	1095.8	TRANSCONTINENTAL
-PETROC CO				RECEIVED:	02/03/82	JA: TX			
8217758	F-78-045951	4213333584		103		BOYD #1 (17700)	FOSTER (MARBLE FALLS)	69.0	ODESSA NATURAL CO
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	02/03/82	JA: TX			
8217521	F-09-045255	4213502678		108		GS ANDECTOR #L-09	GOLDSMITH (CLEARFORK)	7.0	EL PASO NATURAL G
8217519	F-08-045254	4213520787		108		N PENWELL #60	PENWELL	3.0	EL PASO NATJRAL G
8217520	F-08-045256	4213505776		108		TXL-D WELL #1	TXL (SAN ANDRES)	2.4	SHELL OIL CO
8217734	F-7C-045853	4243530422		108		WARD C #1	SONORA (CANYON UPPER)	19.0	INTRATEX GAS CO
-POGO PRODUCING COMPANY				RECEIVED:	02/03/82	JA: TX			
8217548	F-09-045328	4237133191		107-DP		PAGE ROYALTY #1	ROJO CABALLOS	730.8	VALERO TRANSMISSI
-POLK & PATTON INC				RECEIVED:	02/03/82	JA: TX			
8217688	F-09-045658	4223732600		102-4		GRACE HAWTHORNE #1(ID-54151	HAWTHORNE (B-ZONE CON	51.1	LONE STAR GAS CO
8217689	F-09-045659	4223732501		102-4		LENORA FRANKLIN #1(ID-84152	LENORA (D-ZONE CONGL)	288.3	LONE STAR GAS CO
-R A BLAIR				RECEIVED:	02/03/82	JA: TX			
8217603	F-78-045448	4204932099		108		LOLA LEE BLAIR #1 (15426)	BROWN COUNTY REGULAR	2.0	SIOUX PIPELINE CO
-R B INVESTORS INC				RECEIVED:	02/03/82	JA: TX			
8217687	F-7H-045651	4244732569		103		W M CARPENTER #1 (16996)	BURK GREGORY (CADDO)	18.0	THROCKMORTON GAS
-RALPH L MAY INC				RECEIVED:	02/03/82	JA: TX			
8217726	F-7C-045797	4238332048		193		UNIVERSITY "10" #7	FARMER (SAN ANDRES)	3.8	NORTHERN NATURAL
-REMUDA OIL & GAS CO				RECEIVED:	02/03/82	JA: TX			
8217602	F-38-045449	4247532181		103		CYNTHIA MONROE #1	QUITO WEST (CHERRY CA	36.5	DELHI GAS PIPELIN
-ROY FARRELL				RECEIVED:	02/03/82	JA: TX			
8217564	F-13-045360	4206500000		108		CULVER C L #1-A (ID-#98598)	PANHANDLE WEST	11.2	NAT'L GAS PIPELIN
-SABE ENERGY CO				RECEIVED:	02/03/82	JA: TX			
8217625	F-7C-045481	4238331646		103		UNIVERSITY 10 #10	FARMER (SAN ANDRES)	9.1	NORTHERN NATURAL
8217622	F-7C-045480	4238331647		103		UNIVERSITY 10 #11 RRC #07742	FARMER (SAN ANDRES)	1.8	NORTHERN NATURAL
8217621	F-7C-045479	4238331648		103		UNIVERSITY 10 #12 RRC #07742	FARMER (SAN ANDRES)	1.5	NORTHERN NATURAL
8217620	F-7C-045478	4238331649		103		UNIVERSITY 10 #13 RRC #07742	FARMER (SAN ANDRES)	18.0	NORTHERN NATURAL
8217619	F-7C-045477	4238332020		103		UNIVERSITY 10 #14 RRC 07742	FARMER (SAN ANDRES)	49.0	NORTHERN NATURAL
8217618	F-7C-045476	4238331651		103		UNIVERSITY 10 #15 PRC 07742	FARMER (SAN ANDRES)	28.0	NORTHERN NATURAL
8217617	F-7C-045475	4238331652		103		UNIVERSITY 10 #16 RRC#07742	FARMER (SAN ANDRES)	32.0	NORTHERN NATURAL
8217615	F-7C-045473	4238331653		103		UNIVERSITY 10 #17 RRC#07742	FARMER (SAN ANDRES)	1.5	NORTHERN NATURAL
8217616	F-7C-045474	4238331916		103		UNIVERSITY 10 #18 RRC 07742	FARMER (SAN ANDRES)	4.4	NORTHERN NATURAL
8217627	F-7C-045486	4238331633		103		UNIVERSITY 10 #3 RRC #07742	FARMER (SAN ANDRES)	1.8	NORTHERN NATURAL
8217626	F-7C-045485	4238231631		103		UNIVERSITY 10 #4 RRC #07742	FARMER (SAN ANDRES)	2.6	NORTHERN NATURAL
8217625	F-7C-045483	4238331642		103		UNIVERSITY 10 #6 RRC #07742	FARMER (SAN ANDRES)	21.9	NORTHERN NATURAL
8217624	F-7C-045482	4238331643		103		UNIVERSITY 10 #7 RRC #07742	FARMER (SAN ANDRES)	5.1	NORTHERN NATURAL
-SANDLIN DEVELOPMENT INC				RECEIVED:	02/03/82	JA: TX			
8217396	F-33-044987	4208930000		103		L E ENGSTROM #2	KAINER	255.0	GOLDENROD TRANSMI
-SCANDRILL CO				RECEIVED:	02/03/82	JA: TX			
8217731	F-09-045819	4250335304		103		PEARL T KURK #34	YOUNG COUNTY REGULAR	78.5	SUN GAS TRANSMISS
-SEAGO OIL INC				RECEIVED:	02/03/82	JA: TX			
8217763	F-7H-045985	4215131201		103		DOUGLAS #1 (17123)	SYLVESTER (GOEN)	10.0	PALO DURO PIPELIN

JD no	Jur st	well ID	Type	RRC(1)	SRC(2)	well name	field name	prod	purchaser
-SHA-JAM CORP				RECEIVED:	02/03/82	JA: TX			
8217704	F-31-045572	4217732704	103			GLASS #1	PEACH CREEK (AUSTIN-C	27.3	VALERO TRANSMISSI
-SHELL OIL CO				RECEIVED:	02/03/82	JA: TX			
8217618	F-39-045031	4213510330	108			FERRILL GEORGE A #5	G R C (V SDSTN)	15.5	UNION TEXAS PETRO
8217585	F-96-045404	4249900000	108			H H NOE UNIT #1	MANZIEL (RODESSA X)	11.0	ARKANSAS LOUISIAN
8217619	F-39-045011	4213500000	108			JORDAN UNIVERSITY UNIT 9616	JORDAN	0.4	PHILLIPS PETROLEU
8217584	F-96-045407	4249900000	108			S R REYNOLDS UNIT #1	MANZIEL (RODESSA X)	14.0	ARKANSAS LOUISIAN
8217628	F-39-045312	4213500000	108			TXL L A/C 3 #32	TXL (SAN ANDRES)	11.0	SHELL OIL ET AL
8217617	F-39-045309	4213500000	108			TXL NORTH UNIT #530	TXL (TUBB)	9.6	SHELL OIL ET AL
8217616	F-39-045308	4213500000	108			TXL NORTH UNIT #536-L	TXL (TUBB)	2.9	SHELL OIL ET AL
-SIERRA EXPLORATION CO				RECEIVED:	02/03/82	JA: TX			
8217400	F-07-044991	4223732189	102-A			GRAHAM #1 (18876)	KLM (CADDO B)	67.0	SOUTHWESTERN GAS
8217399	F-99-044997	4223732598	102-A			GRAHAM #2 (19436)	KLM (CADDO A)	35.0	SOUTHWESTERN GAS
8217398	F-99-044989	4223732599	102-A			POWELL #1 (19455)	LYNN CREEK (CADDO)	15.0	SOUTHWESTERN GAS
8217397	F-99-044948	4223732136	103			VINSON H #1 (18887)	JACK COUNTY REGULAR	0.3	SOUTHWESTERN GAS
-SIMPSON-MANN OIL PRODUCERS				RECEIVED:	02/03/82	JA: TX			
8217425	F-70-045127	4223531778	103			J A SCOTT EST #3	SPRABERRY (TREND AREA	45.8	NORTHERN NATURAL
-SNOW OIL CO				RECEIVED:	02/03/82	JA: TX			
8217765	F-78-045863	4213331997	102-A			DANIEL-TEXFEL #1 (15397)	PAT KAHAN (MISS)	17.0	LONE STAR GAS CO
8217766	F-78-045984	4213332317	102-A			DANIELS #2 (18963)	PAT KAHAN (MISS)	203.0	LONE STAR GAS CO
8217764	F-78-045985	4213331715	102-A			J W DANIELS #1 (15867)	PAT KAHAN (MISS)	82.0	LONE STAR GAS CO
-SOHIO PETROLEUM CO				RECEIVED:	02/03/82	JA: TX			
8217526	F-70-045267	4223331953	103			E G CAUBLE "C" #2	CALVIN (DEAN)	30.0	EL PASO NATURAL G
8217525	F-70-045266	4223331941	103			E G CAUBLE "L" #5	CALVIN (DEAN)	2.0	EL PASO NATURAL G
-SRC OIL & GAS PRODUCTION CO				RECEIVED:	02/03/82	JA: TX			
8217706	F-70-045684	4249732539	108			BROWN GAS UNIT #1	WILLMANN (3100)	438.0	UNITED GAS PIPELI
-SUEMAUR CORP				RECEIVED:	02/03/82	JA: TX			
8217395	F-96-044986	4213135124	103			WEDGER HEIRS #1-581	SEVEN SISTERS W (5700	100.0	VALERO TRANSMISSI
-SUMMIT ENERGY INC				RECEIVED:	02/03/82	JA: TX			
8217662	F-10-045569	4248330000	108			A L HOWARD #1	EAST PANHANDLE	12.0	EL PASO NATURAL G
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	02/03/82	JA: TX			
8217582	F-96-045404	4249700000	139			RENTSEN BROS A #5L	MINDE 6750	10.0	TRANSCONTINENTAL
8217718	F-78-045776	4213332432	103			J C LITTLETON #1	EASTLAND COUNTY REGUL	30.0	LONE STAR GAS CO
8217722	F-32-045781	4246951557	102-A			NANCY F SHELTON #7	PALO ALTO	22.0	UNITED TEXAS TRAN
8217720	F-84-045778	4221933217	103			SOUTHEAST LEVELLAND #266	LEVELLAND	144.0	AMOCO PRODUCTION
8217719	F-84-045777	4221933220	103			SOUTHEAST LEVELLAND UNIT #259	LEVELLAND	2.0	AMOCO PRODUCTION
8217721	F-84-045779	4221933204	103			SOUTHEAST LEVELLAND UNIT #268	LEVELLAND	6.2	AMOCO PRODUCTION
-TARINA OIL CO				RECEIVED:	02/03/82	JA: TX			
8217773	F-31-046069	4228300000	108			C W COOKE #C-1	COOKE (EDWARDS LIME)	6.0	TRANSCONTINENTAL
-TAUBERT & STEED				RECEIVED:	02/03/82	JA: TX			
8217566	F-96-045362	4249930905	102-A	107-TF	RUTH DAVIS GAS UNIT #1 RRC #96113		NEUHOFF (COTTON VALLE	318.3	UNITED GAS PIPELI
8217565	F-96-045361	4249933951	102-A	1.7-TF	SUN DAVIS UNIT #1 RRC ID #96018		NEUHOFF (COTTON VALLE	1825.0	UNITED GAS PIPELI
-TEE OPERATING CO				RECEIVED:	02/03/82	JA: TX			
8217539	F-38-045311	4216700000	102-2			FIRTH ESTATE #1	GREENS LAKE (MIOCENE	0.0	
-TEN OIL OPERATING CO				RECEIVED:	03/03/82	JA: TX			
8217543	F-70-045316	4210533409	103			UNIVERSITY BLOCK 46 #1003	BLOCK 46 EAST (GRAYBU	10.0	
-TEXACO INC				RECEIVED:	02/03/82	JA: TX			
8217638	F-38-045044	4216532051	103			A B SHARTON #94	HARRIS	0.7	PHILLIPS PETROLEU
8217655	F-38-045507	4216931636	103			I N MCCRARY #1	POST (GLORIETA)	8.5	
-THOMAS-POWELL ROYALTY INC				RECEIVED:	02/03/82	JA: TX			
8217494	F-70-044994	4219931942	102-A			CURNUTTE #1-L (95253)	WINGATE NW (ODOM)	325.0	UNION TEXAS PETRO
8217493	F-70-044994	4249931942	102-A			CURNUTTE #1-U (09157)	WINGATE NW (GARDNER)	41.0	UNION TEXAS PETRO
-TXO PRODUCTION CORP				RECEIVED:	02/03/82	JA: TX			

JD no	Jur st	well ID	Type	RRC(1)	SRC(2)	well name	field name	prod	purchaser
8217394	F-02-044986	4228531482	108			HANCOCK #3-3 RRC ID #89827	PROVIDENT CITY (WILCO	0.0	TEXAS EASTERN TRA
-UNION OIL COMPANY OF CALIF				RECEIVED:	02/03/82	JA: TX			
8217611	F-08-045464	4213533555	103			MOSS UNIT #17-17	COWDEN SOUTH	9.0	ODESSA NATURAL CO
-W H EDWARDS JR				RECEIVED:	02/03/82	JA: TX			
8217606	F-10-045454	4223300000	103			BEARKILLER #39	PANHANDLE HUTCHINSON	95.0	PANHANDLE PRODUCI
8217562	F-10-045355	4234100693	103			CASTLEMAN #1	PANHANDLE MOORE	95.0	DIAMOND SHAMROCK
8217607	F-10-045455	4223300000	103			MERCHANT #5	PANHANDLE HUTCHINSON	130.0	PANHANDLE PRODUCI
-WAGNER & BROWN				RECEIVED:	02/03/82	JA: TX			
8217638	F-38-045512	4243130801	103			GLASS "E" #3-36	CONGER (PENN)	239.0	VALERO TRANSMISSI
8217637		4243130A14	103			GLASS "E" #4-36	CONGER (PENN)	87.0	VALERO TRANSMISSI
8217636	F-38-045510	4243130874	103			GLASS "F" #3-12	CONGER (PENN)	438.0	VALERO TRANSMISSI
8217642	F-09-045518	4243130655	103			GLASS "G" #4-14	CONGER (PENN)	346.3	VALERO TRANSMISSI
8217641	F-08-045515	4243130667	103			GLASS "H" #2-32	CONGER (PENN)	480.0	VALERO TRANSMISSI
8217648	F-38-045530	4243130880	103			GLASS "I" #2-38	CONGER (PENN)	238.0	VALERO TRANSMISSI
8217649	F-38-045531	4243130924	103			GLASS "I" #3-38	CONGER (PENN)	192.0	VALERO TRANSMISSI
8217645	F-08-045523	4243130925	103			GLASS "I" #4-38	CONGER (PENN)	36.0	VALERO TRANSMISSI
8217646	F-08-045524	4243130886	103			GLASS "J" #2-26	CONGER (PENN)	85.0	VALERO TRANSMISSI
8217643	F-08-045519	4243130903	103			GLASS "J" #3-26	CONGER (PENN)	192.0	VALERO TRANSMISSI
8217647	F-08-045527	4243130922	103			GLASS "J" #4-26	CONGER (PENN)	68.0	VALERO TRANSMISSI
8217644	F-08-045521	4243130901	103			GRIGSBY #3-14	CONGER (PENN)	87.0	VALERO TRANSMISSI
8217640	F-08-045514	4243130951	103			GRIGSBY #4-14	CONGER (PENN)	0.0	VALERO TRANSMISSI
8217659	F-08-045566	4243130612	103			HILDEBRAND #22-20	CONGER (PENN)	256.8	VALERO TRANSMISSI
8217660	F-08-045567	4243130628	103			HILDEBRAND #23-12	CONGER (PENN)	216.0	VALERO TRANSMISSI
8217651	F-08-045535	4243130656	103			HILDEBRAND #24-9	CONGER (PENN)	220.0	VALERO TRANSMISSI
8217653	F-08-045538	4243130672	103			HILDEBRAND #25-26	CONGER (PENN)	201.0	VALERO TRANSMISSI
8217657	F-38-045559	4243130676	103			HILDEBRAND #26-4	CONGER (PENN)	160.0	VALERO TRANSMISSI
8217639	F-08-045513	4243130644	103			MARGARET #1-14	CONGER (PENN)	128.0	VALERO TRANSMISSI
8217658	F-08-045561	4243130668	103			RAY "A" #5-39	CONGER (PENN)	223.0	VALERO TRANSMISSI
8217635	F-08-045506	4243130608	103			RAY "C" #1-3	CONGER (PENN)	165.0	VALERO TRANSMISSI
8217634	F-08-045507	4243130717	103			REYNOLDS #1-11	CONGER (PENN)	28.0	VALERO TRANSMISSI
8217652	F-08-045537	4243130739	103			THELMA #1-34	CONGER (PENN)	229.0	VALERO TRANSMISSI
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	02/03/82	JA: TX			
8217522	F-38-045262	4210332578	103			W N WADDELL #1146	DUNE	8.5	EL PASO NATURAL G
8217523	F-38-045263	4210332599	103			W N WADDELL #1147	DUNE	2.4	EL PASO NATURAL G
8217595	F-38-045429	4210332640	103			W N WADDELL 1215	SAND HILLS (MCKNIGHT)	12.1	EL PASO NATURAL G
-WCS PETROLEUM INC				RECEIVED:	02/03/82	JA: TX			
8217431	F-35-045035	4205131421	102-2			WILLIE OPPERMANN #4	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-WESTERN CHIEF OIL & GAS CO				RECEIVED:	02/03/82	JA: TX			
8217430	F-39-045033	4223733538	103			JOHNNY DUNLAP #1-A	JACK COUNTY REGULAR	286.0	SOUTHWESTERN GAS
-WOOLSEY PETROLEUM CORP				RECEIVED:	02/03/82	JA: TX			
8217694	F-39-045672	4249732199	103			VERDA NORTH 21476	ALVORD SOUTH (ATOKA)	72.0	TEXAS UTILITIES F

OTHER PURCHASERS

8217589	E I DUPONT DE NEMOURS & CO INC
8217590	E I DUPONT DE NEMOURS & CO INC
8217591	E I DUPONT DE NEMOURS & CO INC
8217592	E I DUPONT DE NEMOURS & CO INC
8217703	E I DUPONT DE NEMOURS & CO INC
8217709	E I DUPONT DE NEMOURS & CO INC

Kenneth F. Plumb,
Secretary.

(FR Doc. 82-5488 Filed 2-26-82; 8:45 am)
BILLING CODE 6717-01-C

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRL 2064-2]

Management Advisory Group to the Construction Grants Program; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the Management Advisory Group (MAG) to the construction grants program will be held in the Regional Administrator's Conference Room, EPA-Region VIII, 1860 Lincoln Street, Denver, Colorado, on March 8-9, 1982. The meeting will begin at 9:00 a.m. on March 8, 1982.

The purpose of the meeting is to review the proposed reform regulations for the construction grants program, and to provide advice on the management of sludge.

The meeting will be open to the public. Any member of the public wishing to attend the meeting should contact the Executive Secretary, Mr. William A. Whittington, Acting Director, Municipal Construction Division, EPA, Washington, DC 20460. The telephone number is area code 202-426-8666.

This meeting is announced in less than the 15 days required for notice of meeting due to the need to obtain advice before the regulations are put into effect.

Dated: February 24, 1982.

Bruce R. Barrett,

Acting Assistant Administrator for Water.

[FR Doc. 82-5466 Filed 2-26-82; 8:45 am]

BILLING CODE 6560-29-M

[OPTS-59079A; TSH-FRL-2057-2]

Substituted Pyridinium Bromide; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-82-2) under section 5 of the Toxic Substances Control Act (TSCA) on January 13, 1982. Notice of receipt of the application was published in the Federal Register of January 26, 1982 (47 FR 3597). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on February 19, 1982.

FOR FURTHER INFORMATION CONTACT: Rose Allison, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-206, 401 M St., SW., Washington, DC 20460, (202-382-3733).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the Federal Register. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On January 13, 1982, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM-82-2. The manufacturer claimed its identity, the specific chemical identity, and the specific use of the new substance as confidential business information. The generic name of the new substance is substituted pyridinium bromide and it will be incorporated into a consumer article. A maximum of 20 kilograms (kg) will be manufactured for test marketing purposes, during a test marketing period not to exceed one year. During manufacturing, 18 workers in all shifts may be exposed for a total of 16 hours/day for 250 days. At a processing site, 18 workers in all shifts may be exposed for 16 hours/day for 250 days. At another site, 30 workers in all shifts may be exposed for 24 hours/day for 250 days. At an additional site, 150 workers in all shifts would be exposed for a total of 24 hours/day for 355 days. A maximum of 4 workers may have exposure for 24 hours/day for 355 days during disposal. A notice published in the Federal Register of January 26, 1982 (47 FR 3597) announced recipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did not receive any comments concerning the application.

EPA has established that the test marketing of the substance described in TM-82-2 under the conditions set out in the application will not present any unreasonable risk of injury to health or the environment. At the levels of expected exposure there are no high level health concerns. The production volume is low. Worker exposure should be low if proper protective equipment specified in the test marketing exemption application is worn, the area of expsoure is ventilated, and the specified safety procedures are followed. The final use of the substance will involve a restricted and minimal exposure to consumers as part of a consumer article. Environmental release is expected to be low and environmental effects are not expected at these levels.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.

3. The production volume of the new substance may not exceed the quantity of 20 kg described in the test marketing exemption application.

4. The test marketing activity approved in this notice is limited to a 1-year period commencing on the date of signature of this notice by the Administrator.

5. The number of workers exposed to the new chemical should not exceed that specified in the application and the exposure levels and duration of exposure should not exceed those specified.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: February 19, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-5397 Filed 2-26-82; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51401; TSH-FRL-2060-5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the Federal Register of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of eight PMNs and provides a summary of each.

DATES: Written comments by: PMN 82-128, 82-129, and 82-130—April 17, 1982. PMN 82-131, 82-132, 82-133, 82-134, and 82-135—April 18, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51401]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 82-128

Close of Review Period. May 17, 1982.

Manufacturer's Identity. American Color and Chemical Corporation, P.O. Box 88, Mt. Vernon Street, Lock Haven, PA 17745.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Naphthalenesulfonic acid, 5-phenyazo-8-toluidinoazo.

Use. The manufacturer states that the PMN substance will be used in nylon carpet and upholstery.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	1,500	3,000
2d year	2,000	5,000
3d year	3,000	10,000

Physical/Chemical Properties

Appearance—Orange powder.
pH—7.0-7.5.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture, processing and use, 4 workers may experience dermal and inhalation exposure 4 hrs/day, 10 days/yr.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to water 1 hr/day, 20 days/yr. Disposal is to a publicly owned treatment works (POTW).

PMN 82-129

Close of Review Period. May 17, 1982.

Manufacturer's Identity. GAF Corporation, 140 W. 51st Street, New York, NY 10020.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Esterfied copolymer of a vinyl compound and an unsaturated carboxylic acid.

Use. The manufacturer states that the PMN substance will be used as an electron resist resin.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Solubility:
Water—Insoluble.
Methyl alcohol—Insoluble.
N-octane—Soluble.
Toluene—Soluble.

Toxicity Data

Skin irritation (rabbit)—Moderate to severe.

Eye irritation (rabbit)—Mild to moderate.

Exposure. Claimed confidential business information.

Environmental Release/Disposal. Disposal is by incineration of sent to a treatment plant.

PMN 82-130

Close of Review Period. May 17, 1982.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Nitrobenzene sulfonate.

Use. The manufacturer states that the PMN substance will be used as a site-limited intermediate.

Production Estimates. 300,000 kg/yr over the next three years.

Physical/Chemical Properties

Appearance—White presscake (contains 35-40% water).

Solubility: water—Soluble.

Toxicity Data

Acute oral toxicity LD_{50} (rat)—>5.0 g/kg.

Acute dermal toxicity LD_{50} (rabbit)—>2.0 g/kg

Primary skin irritation (rabbit)—Slightly irritating.

Eye irritation (rabbit)—Moderately irritating.

Exposure. The manufacturer states that during manufacture 4-10 workers may experience minimal exposure 980 hrs annual totals during handling.

Enviornmental Release/Disposal. Disposal is to a biological waste water treatment plant.

PMN 82-131

Close of Review Period. May 18, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual Sales—$5,000,000.

Manufacturing site—Middle Atlantic region.

Standard Industrial Classification Code—285.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Zinc-containing alkenyl carboxamide.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in a contained use.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Brown clear liquid.

Flash point (Method ASTM D92)—350° F.

Viscosity @ 210° F—250 cs.

Pour point—0° F.

Density—.92.

Toxicity data

Acute oral toxicity LD_{50} (rat)—>5 g/kg.

Acute dermal toxicity LD_{50} (rat)—>2 g/kg.

Primary skin irritation (rabbit)—1.2/8.0.
Primary eye irritation (rabbit)—3/110 at 24 hrs. decreasing to 0/110 at 72 hrs.
Ames salmonella—Negative.
Exposure. Claimed confidential business information.
Environmental Release/Disposal. Claimed confidential business information.

PMN 82-132

Close of Review Period. May 18, 1982.
Importer's Identity. Naarden International USA, Inc., 919 Third Avenue, New York, NY 10022.
Specific Chemical Identity. Claimed confidential business information. Generic name provided; Terpene ester.
Use. The importer states that the PMN substance will be used in fragrance compounds.
Import Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Colorless liquid.
Boiling point @135° C—20 mm Hg.
@105° C—5 mmHg.
Flash point, Pensky Martens @2° C closed cup—114.
Assay—>98%.
Solubility:
Water—<1g/l. Alcohol 90%—1:0.6 and more.

$$\text{Density} \quad \frac{d20}{20} = 0.8778$$

$$\text{Refractive index} \quad \frac{n20}{D} = 1.445$$

Toxicity Data

Oral toxicity LD_{50} (rat)— 5 g/kg.
Primary skin irritation (rabbit)—Severe irritant.
Eye irritation (rabbit)—Not an irritant.
Ames Salmonella—No mutagenic activity.
Skin sensitization (guinea pig)—No sensitization potential.
Exposure. The importer states that 24 workers may experience exposure during compounding.
Environmental Release/Disposal. The importer states that release will be to land and water only from accidental spill. Disposal is by incineration.

PMN 82-133

Close of Review Period. May 18, 1982.
Manufacturer's Identity. Claimed confidential business information.
Specific Chemical Identity. Claimed confidential business information. Generic name provided: Substituted cyclopentadiene.
Use. The manufacturer states that the PMN substance will be used as a monomer for binder/adhesive products.
Production Estimates. Claimed confidential business information.
Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data

Acute oral toxicity LD_{50} (rat)—>10.0 g/kg.
Acute dermal toxicity LD_{50} (rabbit)—>4.64 g/kg.
Primary skin irritation (rabbit)—Not an irritant.
Primary eye irritation (rabbit)—Not an irritant.
Exposure. Claimed confidential business information.
Environmental Release/Disposal. Claimed confidential business information.

PMN 82-134

Close of Review Period. May 18, 1982.
Exporter's Identity. Claimed confidential business information. Organization information provided:
Annual sales—Over $500,000,000.
Manufacturing site—East North Central region.
Standard Industrial Classification Code—28.
Specific Chemical Identity. Propenoic acid/methylenebutanedioic acid copolymer, sodium salt.
Use. Claimed confidential business information.
Export and/or Production Estimates. Claimed confidential business information.
Physical/Chemical Properties.
pH—10.
Specific gravity @25° C—1.34.
Percent non-volatiles—45.
Toxicity Data. No data were submitted.
Exposure. The exporter states that during manufacture 2 workers may experience dermal exposure 2 hrs/day, 100 days/yr.
Environmental Release/Disposal. The exporter states that less than 10 kg/yr will be released to air and land with 100–1,000 kg/yr released to water. Disposal is to a POTW.

PMN 82-135

Close of Review Period. May 18, 1982.
Exporter's Identity. Claimed confidential business information. Organization information provided:
Annual sales—Over $500,000,000.
Manufacturing site—East North Central region.
Standard Industrial Classification Code—28.
Specific Chemical Identity. Polymer of 2-propenoic acid and methylenebutanedioic acid.
Use. The exporter states that the PMN substance will be used as a site limited intermediate.
Export and/or Production Estimates. Claimed confidential business information.
Physical/Chemical Properties.
pH—1.0.
Specific gravity @25° 1.220.
Percent solids—50.

Toxicity Data

Acute oral toxicity LD_{50} (rat)—>5 gm/kg.
Skin irritation (rabbit)—0.2.
Eye irritation (rabbit)—0.0.
Ames Salmonella—Non-mutagenic.

Environmental Test Data

LC_{50} 96 hr. (bluegill sunfish)—460 mg/l.
LC_{50} 96 hr. (rainbow trout)—280 mg/l.
Exposure. The exporter states that during manufacture 3 workers may experience dermal exposure 3 hrs/day, 70 days/yr.
Environmental Release/Disposal. The exporter states that less than 10 kg/yr will be released to air and land with 100–1,000 kg/yr released to water. Disposal is to a POTW.

Dated: February 22, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-5398 Filed 2-26-82; 8:45 am]
BILLING CODE 6560-31-M

[OPTS-51400; TSH-FRL-2060-3]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requiremens for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45FR 74378). This notice announces receipt of two PMNs and provides a summary of each.

DATE: Written comments by: PMN 82-89 and 82-90—April 12, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51400]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, D.C.20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 82-89

Close of Review Period. May 12, 1982.
Manufacturer's Identity. American Color and Chemical Corporation, Mt. Vernon Street, Lock Haven, PA 17745.
Specific Chemical Identity. Claimed confidential business information. Generic name provided: (Dialkylaminophenylazo) azobenzene sulfonic acid.
Use. The manufacturer states that the PMN substance will be used in nylon carpet and upholstery.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	200	500
2d year	500	1,000
3d year	1,000	2,000

Physical/Chemal Properties

Appearance—Dash red solution.
pH—9.0-9.5.
Toxicity Data. No data were submitted.
Exposure. The manufacturer states that during manufacture and use 2 workers may experience dermal exposure 2 hrs/day, 2 days/yr.
Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air, land and water. Disposal is to a publicly owned treatment works (POTW).

PMN 82-90

Close of Review Period. May 12, 1982.
Manufacturer's Identity. Dow Corning Corporation, P.O. Box 1592, S. Saginaw Road, Midland, MI 48640.
Specific Chemical Identity. Claimed confidential business information. Generic name provided: Siloxanes and silicones, aminoalkyl me, di—me.
Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used as a textile fiber treatment.
Production Estimates. Claimed confidential business information.
Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data

Acute oral toxicity LD_{50} (rat)—>5,000 mg/kg.
Dermal toxicity LD_{50} (rat)—>2,000 mg/kg.
Skin irritation (rabbit)—Moderately irritating.
Eye irritation (rabbit)—Moderately irritating.
Ames salmonella—No mutagenic activity.

Environmental Test Data

LC_{50} 96 hr. (rainbow trout)—6.1 parts per million (ppm).
LC_{50} 48 hr. (daphnia magna)—1.0 ppm.
Exposure. The manufacturer states that during manufacture 1 worker may experience inhalation exposure during drumming.
Environmental Release/Disposal. The manufacturer states that no release to the environment is anticipated.

Dated: February 18, 1982.

Woodson W. Bercaw,

Acting Director Management Support Division.

[FR Doc. 82-5399 Filed 2-26-82; 8:45 am]
BILLING CODE 6560-31-M

[OPTS-59081; TSH-FRL-2060-4]

Substituted Heteromonocycle; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for an exemption, provides a summary, and requests comments on the appropriateness of granting the exemption.

DATE: Written comments by March 16, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-59081]" and the specific TME number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E-401, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M Street, SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATOAN: The following is a summary of information provided by the manufacturer on the TME received by the EPA:

TME 82-4

Close of Review Period. April 3, 1982.
Manufacturer's Identity. Claimed confidential business information. Organization information provided:
Annual sales—$500,000,000.
Manufacturing site—Northeast region.
Specific Chemical Identity. Claimed confidential business information. Generic name provided: Disubstituted heteromonocycle.
Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in a way that will release less than 1.0 kg of the substance to the environment per year.

Production Estimates

One kg/yr—Maximum.

Physical/Chemical Properties

Melting point—>200° C.
Solubility: water—>1.0 g/l @ 96° C.
Toxicity Data. No data were available.
Exposure. The manufacturer states that a maximum of 150 workers (total all shifts) may have dermal exposure 24 hrs/day, 355 days/yr during processing at one site, a maximum of 40 workers (total all shifts) may have dermal and inhalation exposure 24 hrs/day, 250 days/yr during manufacturing and processing at other sites, and a maximum of 4 workers (total all shifts) may have dermal exposure 24 hrs/day, 355 days/yr during disposal.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air, land or water at any site.

Dated: February 18, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-5360 Filed 2-26-82; 8:45 am]

BILLING CODE 6560-31-M

FEDERAL RESERVE SYSTEM

Bank of Boston International South; Establishment of U.S. Branch of a Corporation

Bank of Boston International South, Miami, Florida, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish a branch in Houston, Texas. Bank of Boston International South operates as a subsidiary of The First National Bank of Boston, Boston, Massachusetts.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than March 17, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5341 Filed 2-26-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than March 17, 1982.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York (credit-related single interest insurance activities; Virginia): To expand the activities of an existing office of its subsidiary, Citicorp Person-to-Person Financial Center, Inc., located in Richmond, Virginia. The new activity in which the office proposed to engage *de novo* is the sale of credit-related single interest insurance protecting real and personal property subject to a security agreement with Citicorp Person-to-Person Financial Center, Inc. to the extent permissible under applicable state insurance laws and regulations. The proposed service area for this activity is the entire state of Virginia.

2. *Manufacturers Hanover Corporation*, New York, New York (consumer finance and insurance activities; Colorado and Utah): to expand the service area of its subsidiary, Finance One of Colorado, Inc., to include the states of Colorado and Utah. The subsidiary engages in the activities of arranging, making, or acquiring for its own account or the account of others extensions of credit such as would be made by a consumer finance company, and the sale as agent or broker of credit life and credit accident and health insurance directly related to extensions of credit by the subsidiary. These activities would be conducted at an office located in Denver, Colorado, serving the states of Colorado and Utah.

3. *Barclays Bank Limited* and its subsidiary, *Barclays Bank International Limited*, each a bank holding company whose principal office is in London, England (secured business lending, primarily real estate Louisville, Kentucky): to engage through their subsidiary, BarclaysAmerican/Mortgage, Inc., ("BAM"), in making business loans to small businesses or individuals borrowing for business purposes, primarily secured by first and second mortgages on real estate. This activity would be conducted from BAM's existing mortgage finance office located at 1950 Bishop Lane, Waterson Towers, Suite 720, Louisville, Kentucky 40218, serving customers in Louisville and surrounding areas in Kentucky.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

Mercantile Texas Corporation, Dallas, Texas (investment advisory services, direct lending and servicing activities, leasing personal and real property, and performing real estate appraisals; United States): to engage *de novo*, through a subsidiary known as MERCANTILE ENERGY CORPORATION, in the following activities: (A) Acting as investment or financial adviser, with respect to oil, gas, and other mineral real property interests and securities, to the extent of serving as the advisory company for a mortgage or a real estate investment trust; serving as an investment adviser, as defined in section 2(a)(20) of the Investment Company Act of 1940, to an investment company registered under that Act (within the limits of § 225.125 of Regulation Y); And providing portfolio investment advice to any person except with respect to real property to be used in the trade or business of the person being advised. The services will be provided as to all types of oil, gas and mineral interests and oil, gas and mineral securities for non-affiliated customers and for banking and nonbanking affiliates of the Applicant. (B) Making and acquiring for its own account and for the account of others, secured and unsecured loans and other extensions of credit primarily to energy development and exploration companies and individuals, and servicing such loans and other extensions of credit. In addition to direct lending and loan servicing activities, MEC will make equity investments in unaffiliated energy development and exploration companies subject to the limitations of section 4(c)(6) of the Bank Holding Company Act. (C) Leasing personal and real property and acting as agent, broker or adviser in leasing such property where the lease serves as the functional equivalent of an extention of credit to the lessee of the property. Such leases will relate primarily to energy development ane exploration projects. (D) Performing real estate appraisals for any person or entity.

Such activities are to be conducted from offices in Dallas, Texas, serving the entire United States.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

BankAmerica Corporation, San Francisco, California (financing, servicing, and insurance activities; expansion of geographic scope; Florida): to continue to engage, through its indirect subsidiaries, FinanceAmerica Corporation and FinanceAmerica Industrial Plan Inc., both Florida corporations, in the activities of making or acquiring for their own account loans and other extensions of credit such as would be made or acquired by a finance company, servicing loans and other extensions of credit, and offering credit-related life insurance and credit-related accident and health insurance. Credit-related property insurance will not be offered by either corporation in the state of Florida. Such activities will include, but not be limited to, making consumer installment loans; purchasing installment sales finance contracts; making loans and other extensions of credit to small business; making loans and other extensions of credit secured by real and personal property; and offering credit-related life and credit-related accident and health insurance directly related to extensions of credit made or acquired by FinanceAmerica Corporation and FinanceAmerica Industrial Plan Inc.

These activities will be conducted from an existing office located in Panama City, Florida. The service area for this office will be expanded to include the entire state of Florida.

D. Other Federal Reserve Banks: None.

Board of Governors of the Federal Reserve System, February 23, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5304 Filed 2-26-82; 8:45 am]

BILLING CODE 6210-01-M

Bushnell Bancorp; Formation of Bank Holding Company

Bushnell Bancorp, Bushnell, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C.1842(a)(1)) to become a bank holding company by acquiring 82 per cent or more of the voting shares of Kimball County Bank, Bushnell, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Bushnell Bancorp, Bushnell, Nebraska, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire Bushnell Insurance Agency, Bushnell, Nebraska.

Applicant states that the proposed subsidiary would engage in the activity of acting as agent in the sale of general insurance in a community with a population not exceeding 5,000. These activities would be performed from offices of Applicant's subsidiary in Bushnell, Nebraska, and the geographic areas to be served are Kimball County and the southern half of Banner County, Nebraska; the eastern third of Laramie County, Wyoming; and the northern half of Weld County, Colorado. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than March 22, 1982.

Board of Governors of the Federal Reserve System, February 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5342 Filed 2-26-82; 8:45 am]

BILLING CODE 6210-01-M

Universal Bancorp; Formation of Bank Holding Company

Universal Bancorp, Bloomfield, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Bloomfield State Bank, Bloomfield, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 22, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 22, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5343 Filed 2-26-82; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[F-82-2]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the

Iowa State Commerce Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly Sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Iowa State Commerce Commission involving the application of the Northwestern Bell Telephone and Telegraph Company for an increase in rates for telecommunications services. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add the General Services Administration to its service list in this case so that GSA will receive copies of testimony, briefs and other Department of Defense filings.

Dated: February 19, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82-5300 Filed 3-30-82; 8:45 am]

BILLING CODE 6820-25-M

[F-82-3]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Arizona State Corporation Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly Sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Arizona State Corporation Commission involving the application of the Mountain States Telephone and Telegraph Company for an increase in rates for telecommunications services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add the General Services Administration to its service list in this case so that GSA will receive copies of testimony, briefs and other Department of Defense filings.

Dated: February 19, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82-5299 Filed 3-30-82; 8:45 am]

BILLING CODE 6820-25-M

[F-82-4]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Nebraska Public Service Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly Sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Nebraska Public Service Commission involving the application of the Northwestern Bell Telephone Company in Application No. C-191 for a change in its telephone service offerings.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add the General Services Administration to its service list in this case so that GSA will receive copies of testimony, briefs and other Department of Defense filings.

Dated: February 19, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82-5298 Filed 3-30-82; 8:45 am]

BILLING CODE 6820-25-M

[F-82-6]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Missouri Public Service Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly Sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Missouri Public Service Commission involving the application of the Southwestern Bell Telephone Company in Case No. TO-82-17 for a change in its telephone service offerings.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add the General Services Administration to its service list in this case so that GSA will receive copies of testimony, briefs and other Department of Defense filings.

Dated: February 19, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82-5301 Filed 3-30-82; 8:45 am]

BILLING CODE 6820-25-M

[F-82-5]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interest of the executive agencies of the Federal Government in proceedings before the Hawaiian Telephone Company involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly Sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Hawaii Public Utilities Commission involving the application of the Hawaiian Telephone Company for an increase in rates for telecommunications services. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add the General Services Administration to its service list in this case so that GSA will receive copies of testimony, briefs and other Department of Defense filings.

Dated: February 19, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82-5302 Filed 3-30-82; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Allergy and Clinical Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Allergy and Clinical Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee, National Institutes of Allergy and Infectious Diseases, on March 24-27, 1982, at the National Institutes of Health, Building 31A, Conference Room 4, Bethesda, Maryland 20205 and, for some closed sessions, at the Holiday Inn, Chevy Chase, Maryland 20815. The meeting will be open to the public on March 25 from approximately 8:30 a.m. until 9:30 a.m. in Conference Room 4, Building 31A, National Institutes of Health, to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the meeting of the AITRC Allergy and Clinical Immunology Subcommittee will be closed to the public for review, evaluation, and discussion of individual grant applications from 8:00 p.m. to approximately 10:00 p.m. on March 24, from 9:30 a.m. until approximately 6:15 p.m. on March 25, from 8:00 a.m. until approximately 7:00 p.m. on March 26 and from 8:00 a.m. until approximately 4:00 p.m. on March 27. The sessions on March 24 and 27 will be held at the Holiday Inn, Chevy Chase. The balance of the sessions will be in Conference Room 4, Building 31A, National Institutes of Health.

These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A-32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496-5717, will provide summaries of the meetings and rosters of the Committee members as requested.

Dr. Nirmal K. Das, Executive Secretary, Allergy, Immunology and Transplantation Research Committee, NIAID, NIH, Westwood Building, Room 706, telephone (301) 496-7966, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in sections 6(b) (4) and (5) of that Circular.

Dated: February 22, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82-5294 Filed 3-30-82; 8:45 am]

BILLING CODE 4140-01-M

Clinical Applications and Prevention Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, National Institutes of Health, May 13-14, 1982. The meeting will be held at the Federal Building, 7550 Wisconsin Avenue, Conference Room B119, Bethesda, Maryland 20205.

This meeting will be open to the public on May 13-14, from 10:00 a.m. to adjournment, when the Committee will discuss 1982 Initiatives and the Ten Year Plan. Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of meetings and rosters of committee members. Dr. William Friedewald, Executive Secretary of the Committee, Federal Building, Room 212, Bethesda, Maryland 20205, phone (301) 496-2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in Section 6(b) (4) and (5) of that Circular.

Dated: February 16, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82-5286 Filed 2-26-82; 8:45 am]

BILLING CODE 4140-01-M

Microbiology and Infectious Diseases Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Advisory Committee, National Institute of Allergy and Infectious Diseases, March 25-26, 1982, at the National Institutes of Health, Building 31C, Conference Room 8, Bethesda, Maryland 20205.

The meeting will be open to the public on March 25 from approximately 9:00 to 9:40 a.m. to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the meeting of the Committee will be closed to the public for the review, evaluation, and discussion of individual grant applications and contract proposals. It is anticipated that this will occur from 9:40 a.m. until approximately 6:30 p.m. on March 25, 1982 and from 8:30 a.m. until approximately 4:30 p.m. on March 26, 1982.

These applications, proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Rearch Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A-32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496-5717, will provide summaries of the meetings and rosters of the Committee members as required.

Dr. Susan B. Spring, Executive Secretary, Microbiology and Infectious Diseases Advisory Committee, NIAID, NIH, Westwood Building, Room 706, telephone (301) 496-7465, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in sections 8(b) (4) and (5) of that Circular.

Dated: February 16, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82-5285 Filed 2-26-82; 8:45 am]

BILLING CODE 4140-01-M

Pulmonary Diseases Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given to the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute, on May 13 and 14, 1982 at the Bonaventure Hotel, Los Angeles, California.

The entire meeting, from 8:30 a.m. to 5:00 p.m., will be open to the public. The Committee will discuss the current status of the Division of Lung Diseases' programs and Committee plans for the fiscal year 1983, and complete the "10-year retrospective evaluation and 5-year forward plan of the Division of Lung Diseases" in order to plan a course of action to meet a final deadline date of summer 1982. Attendance by the public will be limited to the space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the Committee members.

Dr. Suzanne Hurd, Acting Executive Secretary of the Committee, Westwood Building, Room 6A16, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-7206, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.836, Lung Diseases Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of the Circular.

Dated: February 18, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82-5287 Filed 2-26-82; 8:45 am]

BILLING CODE 4140-01-M

Office of the Assistant Secretary for Health

Office of Adolescent Pregnancy Programs; Announcement of Competitive Grant Applications for Adolescent Family Life Demonstration Projects

AGENCY: Office of the Assistant Secretary for Health, HHS.

Subject

This is to announce the availability of grant funds, subject to the appropriation of funds, for the Adolescent Family Life Demonstration Projects Act. These grants are for the provision of care services, prevention services, or a combination of both as authorized by Title XX of the Public Health Service Act (42 U.S.C. 3002) (Catalog of Federal Domestic Assistance number 13.995). Regulations governing the Adolescent Family Life Demonstration Projects are being developed and are expected to be published before grants are awarded. Organizations receiving grants under this authority will be expected to comply with these regulations.

DATE: To be considered, competitive grant applications must be received in the Office of Adolescent Pregnancy Programs (OAPP) by 4:30 P.M. on April 30, 1982.

Scope of This Program Announcement

This program announcement covers only prevention and service demonstration projects authorized under Title XX of the Public Health Service Act. It does not include research and dissemination projects also authorized under Title XX; availability of funds for research projects will be announced in separate notices.

Program Purpose

The purposes of the demonstration projects covered in this announcement are: (1) "To find effective means, within the context of the family, of reaching adolescents before they become sexually active in order to maximize the guidance and support available to adolescents from parents and other family members, and to promote self discipline and other prudent approaches to the problem of adolescent premarital sexual relations, including adolescent pregnancy; (2) to promote adoption as an alternative for adolescent parents, and (3) to establish innovative, comprehensive, and integrated approaches in the delivery of care services for pregnant adolescents with primary emphasis on unmarried adolescents who are seventeen years of age or under and for adolescent parents." (Sec. 2001(b))

Available Funds

A request for $11 million in supplemental funds for Fiscal Year 1982 is currently pending before Congress. In the event an appropriation is not enacted for Fiscal Year 1982, formal applications will either be retained and reviewed competitively for possible funding in Fiscal Year 1983 or returned to the applicant organizations if funds are not appropriated for Fiscal Year 1983. If the supplemental funds are appropriated, it is anticipated that $7.6 million will be available for demonstration grants. Of this, up to $1.6 million will be available for prevention grants, and up to $6.0 million for grants providing care services or a combination of prevention and care services. It is anticipated that between 25 and 40 new projects will be funded pursuant to this announcement with the average award being $190,000 while ranging between $25,000 and $600,000.

Generally grants are approved for five-year project periods but funded in annual increments (budget periods). Funding for all approved budget periods beyond the first year of the grant is contingent upon satisfactory performance, adequate stewardship of Federal funds, and availability of funds. A grant award may not exceed 70 percent of the costs of the project for the first and second years, 60 percent of the costs for the third year, 50 percent for the fourth year, and 40 percent for the fifth year. Non-Federal contributions may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

Program Requirements

A copy of the legislation governing this program will be sent to applicants as part of the application kit package. In the event that the program regulations are not available at that time, applicants should use the legislation to guide them in meeting all requirements, which are specifically described. Awards will be made to only those applicants who have met all requirements as specified in the legislation.

The following services are eligible for Federal support:

1. " 'Necessary services' means services which may be provided by grantees which are—

(A) Pregnancy testing and maternity counseling;

(B) Adoption counseling and referral services which present adoption as an option for pregnant adolescents, including referral to licensed adoption agencies in the community if the eligible grant recipient is not a licensed adoption agency;

(C) Primary and preventive health services including prenatal and postnatal care;

(D) Nutrition information and counseling;

(E) Referral for screening and treatment of venereal disease;

(F) Referral to appropriate pediatric care;

(G) Educational services relating to family life and problems associated with adolescent premarital sexual relations, including

(i) Information about adoption;

(ii) Education on the responsibilities of sexuality and parenting;

(iii) The development of material to support the role of parents as the provider of sex education; and

(iv) Assistance to parents, schools, youth agencies, and health providers to educate adolescents and preadolescents concerning self-discipline and responsibility in human sexuality;

(H) Appropriate educational and vocational services and referral to such services;

(I) Referral to licensed residential care or maternity home services;

(J) Mental health services and referral to mental health services and to other appropriate physical health services;

(K) Child care sufficient to enable the adolescent parent to continue education or to enter into employment;

(L) Consumer education and homemaking;

(M) Counseling for the immediate and extended family members of the eligible person;

(N) Transportation;

(O) Outreach services to families of adolescents to discourage sexual relations among unemancipated minors;

(P) Family planning services; and

(Q) Such other services consistent with the purposes of this title as the Secretary may approve in accordance with regulations promulgated by the secretary." (Sec. 2002(a)(4))

2. " 'Core services' means those services which shall be provided by a grantee, as determined by the Secretary by regulation." (Sec. 2002(a)(5)) Until regulations are promulgated for Title XX, the regulations promulgated under Title VI of the Health Services and Centers Amendments of 1978 will be used to determine which necessary services are core services for purposes of this title. Accordingly, the services described in subparagraphs (A), (B), (C), (D), (E), (F), (G), (H), (J), and (P) are core services.

3. " 'Supplemental services' means those services which may be provided by a grantee, as determined by the Secretary by regulation." (Sec. 2002(a)(6)) Until regulations are promulgated, all services above not designated core services are supplemental services.

4. " 'Care services' means necessary services for the provision of care to pregnant adolescents and adolescent parents and includes all core services with respect to the provision of such care prescribed by the Secretary by regulation." (Sec. 2002(a)(7))

5. "Prevention services" means services to prevent adolescent sexual relations, including the services described in (A), (D), (E), (G), (H), (M), (N), (O), and (Q) of the necessary services listed above.

The legislation authorizes the Office of Adolescent Pregnancy Programs to award grants for demonstration projects which provide:

1. Care services,
2. Prevention services, or
3. A combination of care and prevention services.

Following are specific requirements for each type of demonstration.

I. Care Services Demonstrations

Purposes: "(2) To promote adoption as an alternative for adolescent parents; and (3) to establish innovative, comprehensive and integrated approaches to the delivery of care services for pregnant adolescents, with primary emphasis on unmarried adolescents who are seventeen years of age or under, and for adolescent parents, which shall be based upon an assessment of existing programs and, where appropriate, upon efforts to establish better coordination, integration, and linkages among such existing programs." (Sec. 2001(b) (2) and (3))

Each applicant for a care service demonstration project shall describe how all core services will be provided using funds under this title or otherwise provided by the project in the area to be served, the population to which such services will be provided, and where appropriate how the services will be coordinated, integrated, and linked with other related programs and services and the source or sources of funding of such core services in the public and private sectors.

II. Prevention Services Demonstrations

Purpose: "To find effective means, within the context of the family, of reaching adolescents before they become sexually active in order to maximize the guidance and support available to adolescents from parents and other family members, and to

promote self-discipline and other prudent approaches to the problem of adolescent premarital sexual relations, including adolescent pregnancy." (Sec. 2001(b)(1))

Each applicant applying for a prevention services demonstration grant shall list and describe all prevention services to be provided and describe the various prevention service strategies and models to be used. In describing these strategies, applicants must give careful consideration where appropriate to how such services will be integrated with existing programs so that maximum utilization of such services will occur.

III. Combined Services Demonstrations

Applicants may submit proposals that provide for a combination of care and prevention services. Applicants combining services shall address all program requirements outlined in I and II above and shall indicate how prevention and care services will be integrated to achieve project objectives.

Applicants will need to present an evaluation design that will assess the expected results of both prevention and care services components. In addition, applicants will be required to submit budget requests that provide a clear delineation between funds allocated for prevention services and funds allocated for care services.

IV. All Demonstration Projects

The following requirements apply to care services demonstrations, prevention services demonstrations, and combined services demonstrations:

A. Applicants shall describe objectives, service strategies and delivery models to be implemented, and expected results.

B. Applicants shall include innovative approaches as appropriate for encouraging and supporting the involvement of families, religious and charitable organizations and voluntary associations in the provision of services.

C. Applicants shall describe target groups to be served, client recruitment methods, selection criteria, case management and follow-up procedures.

D. Applicants shall indicate numbers and types of clients expected to be served.

E. Applicants must address several evaluation requirements mandated in the legislation. Each grantee receiving funds for services demonstration projects is required to expend between one and five percent of the grant award on program evaluation. The program evaluation shall be conducted by an organization or entity which is independent of the grantee providing services. To assist in conducting the evaluation each grantee shall develop a working relationship with a college or university located in the grantee's State which will provide or assist in providing for the monitoring and evaluation of services. The Secretary may arrange for the provision of technical assistance through another alternative in the event that no college or university in the grantee's State is willing or has the capacity to provide monitoring and evaluation assistance. Applicants shall describe arrangements they plan to implement in meeting this requirement. Applicants shall include an evaluation plan that describes all methods of data collection to be used in assessing the results and impact of planned services within each program component.

V. Special Considerations

The Office of Adolescent Pregnancy Programs will allocate a significant portion of its prevention and pregnancy care service demonstration funding for projects that (1) emphasize variations in particular sets of program strategies, (2) emphasize variations in client populations designated to receive services, (3) utilize a variety of institutional settings, affiliations and other organizational characteristics in order to test the efficacy of innovative models of service delivery. Special attention will be paid to applications which propose such projects using field experiments, quasi-experimental designs, or other innovative field research methods in order to determine program effects, both short- and long-term, on specific client populations.

Generally, OAPP is interested in obtaining a broad mix of prevention and pregnancy care service strategies, coupled with variations in target groups, sites, and organizational arrangements in order to develop and test program models that can be replicated, re-evaluated, and disseminated in conjunction with increasing our applied research knowledge in these areas.

Eligible Applicants

Any public or nonprofit private domestic organization or agency which demonstrates "(A) in the case of an organization which will provide care services, the capability of providing all core services in a single setting or the capability of creating a network through which all core services would be provided; or (B) in the case of an organization which will provide prevention services, the capability of providing such services" is eligible to apply for a grant. (Sec. 2002(a)(3))

Availability of Application Forms

Applications must be submitted on the standard forms supplied and in the manner prescribed by the Office of Adolescent Pregnancy Program. Application kits, including all necessary forms, instructions and information, may be obtained from: Grants Management Office, Office of Adolescent Pregnancy Programs, Room 725H, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington D.C. 20201 (202-472-5588 or 202-245-7473).

Applicants are required to submit an original application, signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award. State and local government and federally recognized Indian tribal government applicants are required to submit the original application and two (2) copies; all other applicants are required to submit the original application and ten (10) copies.

Circular A-95 Notification Process

In order to comply with the Office of Management and Budget Circular No. A-95 Revised (interim procedures at 41 FR 316, July 29, 1976), applicants for grant support must, prior to submitting the application to the OAPP, notify both the State and Areawide A-95 Clearinghouses of their intent to apply for Federal assistance. If the application is for a Statewide project which does not affect areawide or local planning and programs, the notification need be sent only to the State Clearinghouse. Some State and Area Clearinghouses provide their own forms on which this information is to be submitted.

Applicants are advised to contact the appropriate State Clearinghouse (listed at 42 FR 210, January 10, 1977) for detailed information on meeting the a-95 requirements.

It is strongly recommended that the Clearinghouse be notified at least 60 days before the submission deadline date for receipt of applications. The application can be submitted to the Clearinghouse concurrently with the submission to OAPP. Clearinghouse comments or verification that no comments were made within the period available can be submitted to OAPP no later than June 30, 1982.

Health Systems Agency (HSA) Review

In order to comply with the HSA review requirements under section 1513(e) of the Public Health Service Act, 42 U.S.C. 3001-2(e) as amended by Pub. L. 96-79 and Pub. L. 97-35 applicants must contact the HSA responsible for the area to be served by the proposed project to determine whether or not the HSA desires to review the application. If so, a copy of the application must be submitted to the HSA for review no later than April 30, 1982. Applicants are advised to contact the local HSA as soon as a decision is made to apply for a grant for detailed information on meeting this review requirement. Applications will not receive a formal review without satisfying this requirement.

Application Consideration and Assessment

Applications which are judged to be late or which do not conform to the requirements of this program announcement will not be accepted for review. Applicants will be so notified, and the applications will be returned.

All other applications will be subjected to a competitive review and assessment by qualified persons. The results of this review will assist the Director of the Office of Adolescent Pregnancy Programs in considering competing applications and in making the final funding decisions.

Eligible competing grant applications will be reviewed and assessed against the following criteria:

1. The applicant organization is capable of carrying out the proposed project, including provision of adequate resources and facilities; qualifications of proposed staff are adequate to carry out proposed work plan. *(20 points).*

2. The applicant's presentation of the project's objectives, methods for achieving them, and results or benefits expected demonstrate a clear understanding of the purpose of the demonstration program. *(10 points)*

3. The applicant's project narrative describes a work plan which is comprehensive, clear, innovative, of high quality, feasible, has the potential for attaining the project's objectives, and appears worthy of replication. *(45 points)*

4. The applicant's budget contains estimated costs to the Government which are reasonable considering the anticipated benefits. *(10 points)*

5. The applicant's evaluation plan indicates an understanding of program assessment methods and reflects a practical, technically sound approach toward applying the evaluation methods proposed. *(15 points)*

In making grant award decisions the Director of OAPP will take into account such factors as the population to be served, evidence of broad-based community support, the capability of the applicant to make rapid and effective use of the Federal assistance, the applicant's capacity to continue services as Federal funds decrease and in the absence of Federal funds and the special considerations noted under Section V of the program requirements.

When final funding decisions have been made, all applicants will be notified by letter of the outcome of their applications. The official document notifying an applicant that a project application has been approved for funding is the Notice of Grant Awards, which specifies to the grantee the amount of money awarded, the purpose of the grant, the terms and conditions of the grant award, the budget period for which support is being given, and the amount of funding to be contributed by the grantee to project costs.

Closing Date for Receipt of Applications

The closing date for receipt of applications under this program announcement is April 30, 1982. Applications will be judged to be on time if:

(1) The application is received in the Grants Management Office, OAPP, Room 725H, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201 by 4:30 p.m. on April 30, Hand delivered packages will be accepted only between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday except for Federal holidays, or

(2) The application was mailed to the above address on or before April 30, 1982 as evidenced by a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks will not be accepted without a legible date stamped by the U.S. Postal Service.

Note.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

For additional information, write to OAPP at the office address above, or telephone at (202) 472-5588 or (202) 245-7473.

Dated: February 24, 1982.

Marjory Mecklenburg,

Director, Office of Adolescent Pregnancy Programs.

[FR Doc. 82-5441 Filed 2-26-82; 8:45 am]
BILLING CODE 4110-17-M

Request for Research Grant Applications (RFA); Adolescent Family Life

The Office of Adolescent Pregnancy Programs (OAPP) of the Public Health Service invites research grant applications for investigations of adolescent sexual behavior, adoption, and services to pregnant and parenting youth.

The OAPP is required, by law, to support research efforts that will not only further our understanding of adolescent sexuality, pregnancy, and parenting, but will help improve the quality of programs for prevention of pregnancy and care of pregnant and parenting youth. This RFA is the mechanism used to procure that portion of the research agenda appropriate to field-initiated research studies. The RFA identifies the scope of OAPP interest in these questions but does not require that proposals conform to narrowly specified research requirements.

This request for applications is for a single competition with a specified deadline (April 19, 1982) for receipt of applications. Proposals will be reviewed by a specially convened group of scientific peer reviewers under the auspices of the Division of Research Grants, National Institutes of Health. Proposal review and award decisions will take place during the Summer, 1982. The earliest start date for grants would be September 1, 1982, and proposals should be written with that date in mind.

Please be advised that the OAPP is issuing a Program Announcement for Demonstration Grants which is separate and distinct from this research RFA. While some organizations may wish to submit proposals in both competitions, the two competitions are separate and distinct. Applications for this RFA should be prepared in accordance with the aims and requirements described in the following sections.

I. Background

With the passage of the Adolescent Family Life Demonstration Projects Act (Title XX, Public Health Service Act), the Federal government has broadened its concern with adolescent pregnancy and parenting. This Act provides for demonstration projects and research aimed at identifying effective means of both preventing early pregnancy and caring for already pregnant adolescents and young parents. The demonstration projects will work with adolescents and young parents. The demonstration projects will work with adolescents and their families to discourage and seek alternatives to early sexual involvement and early parenting. Research will be conducted in areas where current knowledge is inadequate or where assessment of programs and policies can inform practice.

Several areas for research are identified in this RFA. Others will be considered in a series of directed studies to be commissioned in the near future through Requests for Proposals. The areas outlined in this RFA include: (1) Influences upon adolescent sexual behavior, (2) adoption, and (3) the service system for pregnant and parenting youth. Special attention is devoted to the issue of *parental involvement* which "cross cuts" all three areas for research described in this RFA. Research will examine the role of parents in the sexual learning of their children and seek ways of increasing the involvement of parents and families in services to pregnant and parenting adolescents.

The research commissioned through this RFA will be instrumental in efforts to improve the quality of programs and services for youth. By understanding the influences on adolescent sexual behavior and the nature of current prevention services we can develop new approaches to service and different institutions and mechanisms to deliver those programs and services. As we increase our understanding of the social milieu in which youth become parents we can develop policies to ameliorate or eliminate the problems of adolescent pregnancy. Adoption, for example, can only become a viable alternative to parenting when we understand how it evolved and why it has become a rarely exercised option. Supporting research that shows promise of aiding policy and service is the purpose of this RFA.

II. Research Areas

A. Adolescent Sexual Behavior

The best available evidence indicates that adolescent sexual activity occurs at younger ages than in the past. This sexual activity results in large numbers of unintended pregnancies. Little is known about the social influences on or causes of adolescent sexual behavior, or differences in influences by race, sex, age, socio-economic status or other variables. Nor do we understand how the sexual influences on youth today are different from influences in the past. Accordingly, the RFA seeks proposals for research on the following two questions:

1. *What messages do families, institutions, and environmental influences (such as media) convey about adolescent sexual behavior and how are those messages conveyed?*

Adolescents learn about sexuality from many sources. Parents are major influences on the sexual learning of their children, yet little systematic information is available on how parents communicate their values and beliefs to children or how children learn them. Institutions including schools, religious organizations, and voluntary associations attempt to shape adolescent attitudes and behavior as well. Media are likely mechanisms by which adolescents absorb sexual information, yet we have had little systematic study of media content or the process of programming by the media. Finally, children learn from significant others, most notably their peers. Studies should focus on the process by which families, institutions, media, and peers convey sexual information as well as on the actual messages they present.

2. *How important (or effective) is each potential influence on adolescent sexual attitudes and behavior, and how do influences interact?*

This question deals with the impact of potential influences on the sexual learning of adolescents. In particular, research should examine the effects of influences on adolescent decisions to delay or engage in sexual relations. For teenagers who have engaged in sexual activity, are there influences that are effective in postponing further sexual involvement? For sexually active youth, how effective are public, voluntary and private institutions and physicians in delivering contraceptive services, and what are the relative impacts of families and professionals in insuring effective contraceptive use? When faced with conflicting messages about sexual values and behavior (including conflicts in the areas above), what influences seem to be most persuasive to adolescents? Studies should focus on links among family, institutional, and environmental influences, adolescent cognitive development, attitudes, and relevant aspects of behavior. Formal and informal efforts at providing prevention services may be examined.

B. Adoption Studies

There is considerable evidence that the rate at which unmarried, pregnant adolescents, choose to make an adoption plan for their babies has declined. Many explanations have been offered including changes in rates of single parenting and abortion. While these changes have had an impact, there is evidence that the decline of adoption as the plan of pregnant adolescents is a more complex phenomenon. Recent research suggests that the availability of adoption-related services (such as maternity homes) was declining prior to the legalization of abortion. Further, study of school-based services for pregnant adolescents reveals that officials do not see it as their responsibility to offer adolescents counseling on adoption. Pregnant peers and other significant influences on her life may convince a young woman considering adoption that this option would have terrible consequences for her child and be a selfish act. And while adolescents have not been placing babies for adoption recently, we know little about the rate of adoption of children born to unmarried adolescents in the past. The lack of research on adoption and adolescents, and on differences in adoption practices by race, socio-economic status and the like, limit our ability to design effective adoption service.

In order to address adoption issues such as those discussed here, we have identified three broad questions to guide research:

1. *Have overall rates of adoption continued to decline? To what exent are changes in rates of adoption attributable to changes in the behavior of adolescents pregnant out of wedlock?*

The lack of basic information about adoption rates compounds the difficulty of evaluating the role of the adoption option for unmarried adolescent parents and their families. Little is known about the rates of adoption for the decade. We have a few studies of the characteristics of birth parents who choose this option. We know little about who is most likely to make an adoption plan and what influences a young woman's decision to choose adoption or try to parent. What assistance or barriers does the pregnant adolescent considering adoption face? What kinds of information guide her decision? What is the influence of the baby's father, either family, significant others, or the media on decision-making about adoption? What is the role of community institutions (religious, voluntary, etc.) in shaping decisions?

2. *What agencies currently serve pregnant adolescents considering adoption? What factors account for the decline of the adoption care system?*

Despite the public concern with expanding and improving adoption-related services, little is known about the nature, scope and adequacy of current adoption services for pregnant adolescents. We know, in very general terms, that the availability of maternity homes has decreased and that public schools and non-residential voluntary organizations are increasingly the providers of service to pregnant adolescents. What brought about these changes and what do they mean for the provision of counseling about adoption or the availability of direct adoption services? There have been virtually no studies or assessments of private, voluntary, or public provision of adoption services, or of the legal and financial frameworks within which agencies and private individuals operate. Professionals involved in adoption serve many clients—birth parents, their babies, couples wanting to become parents. How professional counselors approach sensitive issues related to adoption, particularly when the birth parents are adolescents, has not been explored.

3. *Are there strategies that are effective in establishing adoption as a viable alternative to early parenting?*

Research may explore already existing programs, services, agencies, legal requirements, and Federal, State or local policies, but the emphasis must be on adoption in relation to adolescent birth parents. Research may assess existing programs or policies and make recommendations. In addition, small scale experimental demonstrations that provide research data will be considered (see III below).

C. Services to Pregnant and Parenting Youth

There is widespread concern with providing services to pregnant adolescents, yet we need to learn more about the programs already created to meet the needs of pregnant and parenting adolescents, or policies that provide the framework for services. Studies of adolescent childbearing and welfare dependency have begun to reveal the effects of public policies on adolescent behavior, but our knowledge is rudimentary. A recent critical examination of school-based services for pregnant adolescents has pointed up the gaps in our understanding of how programs operate and their effects on participants. Observers claim that poor pregnant young women must negotiate through a maze of public and voluntary programs to get basic assistance and subsidies, but we do not have detailed analyses of the range of services or the effects of multiple service providers on the delivery and outcome of services. We need to improve policies and develop programs that are more effective in producing healthy mothers and babies, economic self sufficiency, and fewer repeat pregnancies. Achieving those goals requires further basic information about the current system of care for pregnant and parenting youth.

In order to acquire that basic understanding, we have identified two major research questions:

1. *What is the scope of public and private sector services and policies to aid pregnant adolescents, adolescent families, their parents and their offspring?*

Some services take the form of programs—operated by school districts, hospitals, voluntary associations or other organizations. Others take the form of subsidies—direct subsidy through welfare or food stamps, indirect subsidy through medicaid, public housing or other Federal and State transfer payments. In addition, there are rules that govern the behavior of school, legal or medical authorities. We are interested in analyzing the historical development and current mix of services and sponsorships. How do programs and non-programmatic forms of assistance interact? Do the goals of programs and other policies coincide? What agencies and levels of government are shaping and implementing which policies and programs? What are the costs of different types of services? Studies should include policies that aim specifically at pregnant adolescents as well as those that serve pregnant and parenting adolescents as part of a larger population. Studies should analyze services and policies; descriptive catalogues or directories of programs will not be funded.

2. *Is the current array of programs and policies adequate? What are the effects on participants, their families, or their offspring?*

To what extent do current efforts to aid pregnant adolescents "pay off?" Do they reach youth most in need of service in an efficient and effective manner? How do public, voluntary and private efforts to provide service compare? What are the specific program elements responsible for successful efforts? What are the advantages and disadvantages associated with different programs goals and approaches for pregnant adolescents, their families and their offspring? For example, are some programs more successful in attracting families or partners and, if so, why? Are there aggregate effects associated with the multiplicity of programs, subsidies, and rules, on adolescents' ability to obtain services or on parent and child welfare? Are services delivered successfully and, in particular, do they result in "better" outcomes? Is program or service effectiveness related to program cost? Studies may observe effects at a single point or over time. As with adoption, the RFA will provide support for assessment of existing efforts and for small scale experimental demonstrations that provide research data (see III below).

III. Research Scope

This RFA encourages all applicable social science and other scholarly approaches to the study of the research questions it poses. *Research may be limited to a single aspect of the problem within any section of a research area within the RFA, or may consider broader questions posed across research areas in the RFA.* Applications should include a well-organized statement of the problem to be addressed, the research design, the conceptual framework within which the design has been developed, the methodology to be employed, the evidence upon which the analysis will rely, and the manner in which the evidence will be analyzed, experimental interventions, proposals should indicate how data and analysis from such activities will advance scientific understanding of the larger research questions. It is the goal of the program to develop a research base in all research areas and sub-areas described in the RFA. An attempt will be made to fund an array of proposals so that the program goal is achieved.

IV. Mechanism of Support

This program will award research grants under Title XX, Public Health Service Act (Adolescent Family Life Demonstration Project Act, 42 U.S.C. 3002, *Catalog of Federal Domestic Assistance*, 13.995). Because a variety of approaches would represent valid responses to this RFA, it is anticipated that direct costs will range from approximately $10,000 to $100,000 per award year. Under Title XX, no project may incur direct costs beyond $100,000 unless OAPP obtains a special waiver from the Secretary of Health and Human Services, and only if the Secretary determines that: "(A) Exceptional circumstances warrant such waiver and that the project will have national impact; or (B) additional amounts are necessary for the direct costs of conducting limited demonstration projects for the provision of necessary services in order to provide data for research carried out under this title." Sec. 2008(a)(3).

By statute, the total project period of the proposal must not exceed five years and no project will receive an initial award for more than a year. Applicants should specify whether cost sharing will be accomplished through Institutional Agreement or negotiated prior to award. Grant policies of the Public Health Service will prevail. Pending a Congressional vote on a appropriation for Title XX, as much as $1.2 million dollars may be available for grants in fiscal year 1982 under this announcement, and as many as 20–30 research grants may be awarded.

V. Eligibility

This competition is open to any corporation, public or private institution or agency, including corporations operated for profit. Salary information for all project personnel should be included in the original application but may be omitted from copies. Confidential business information in applications will be protected from disclosure under provisions of the Freedom of Information Act.

VI. Review Criteria

The review of applications is governed by Title 42, CFR, Parts 52 and 52h. Under those regulations, the following review criteria will be taken into consideration: "(a) The significance and originality from a scientific or technical standpoint of the goals of the proposed research; (b) the adequacy of the methodology proposed to carry out the research; (c) the qualifications and experience of the principal investigator and proposed staff; (d) the reasonable availability of resources necessary to the research; (e) the reasonableness of the proposed budget and duration in relation to the proposed research; (f) where an application involves activities which could have an adverse effect upon humans, animals or the environment, the adequacy of the proposed means for protecting against or minimizing such effects." (Title 42 CFR, 52h.6)

VII. Method of Applying

Applications should be submitted on Form PHS–398. This form may be obtained from university offices of sponsored research or from the Division of Research Grants, NIH (address below). The instructions in the application kit should be followed.

An original and twenty-five copies of the applications must be received before 4:30 p.m. Eastern time, on April 19, 1982. Applications should be sent or delivered to: Division of Research Grants, National Institutes of Health, Westwood Building, Room 240, 5333 Westbard Avenue, Bethesda, Maryland 20205.

Type across the top of the face page: THIS APPLICATION IS SUBMITTED IN RESPONSE TO THE RFA ENTITLED "ADOLESCENT FAMILY LIFE." A copy of the full proposal should be sent to Donald Underwood, Office of Adolescent Pregnancy Programs, Room 725H, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201. If you have questions regarding this RFA please contact Ms. Jacqueline M. Larry, OAPP, at (202) 472–7916.

Dated: February 24, 1982.

Marjory Mecklenburg,

Director, OAPP.

[FR Doc. 82-5440 Filed 2-26-82; 8:45 am]

BILLING CODE 4165-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Irrigation Operation and Maintenance Charges

This notice of operation and maintenance rates and related information is published under the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs in 230 DM 1 and redelegated by the Assistant Secretary—Indian Affairs to the Area Directors in 10BIAM 3. The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and Sections 463 and 465 of the revised Statutes (25 U.S.C. 2 and 9), and also under 25 CFR 101.1(e).

On January 7, 1982, in 47 FR 654, there was published a notice of proposed assessment rates and related provisions on the Wapato Irrigation Project for Calendar Year 1980 and subsequent years until further notice. These assessment rates were proposed pursuant to the authority contained in the Acts of August 1, 1914, (38 Stat. 583), and March 7, 1928, (45 Stat. 210).

Interested persons were given 30 days in which to submit written comments, views or arguments regarding the proposed rates and related provisions. During this period no comments, suggestions, or objections were submitted. Therefore, the assessment rates and related provisons as set forth below are adopted effective March 29, 1982.

Fort Hall Irrigation Project

Regulations and Charges

Administration

The Fort Hall Irrigation Project, which consists of the Fort Hall Unit including ceded area south of the Forth Hall Indian Reservation, the Michaud Unit and the Minor Units on the Fort Hall Indian Reservation, Idaho, is administered by the Bureau of Indian Affairs. The Superintendent of the Fort Hall Agency is the Officer-in-Charge and is fully authorized to carry out and enforce the regulations, either directly or through employees designated by him. The general regulations are contained in Part 191, Operations and Maintenance, Title 25—Indians, Code of Federal Regulations (42 FR 30362, June 14, 1977).

Irrigation Season

Water will be available for irrigation purposes from April 15 to September 30 of each year. These dates may be varied by 15 days depending on weather conditions and the necessity for doing maintenance work.

Methods of Irrigation

Where soil, topography, and other physical conditions are unfavorable for surface irrigation, and the project facilities are designed to deliver water to farm units for sprinkler irrigation, the Officer-in-Charge may limit deliveries to this type of irrigation.

Distribution and Apportionment of Water

(a) *Delivery:* Water for irrigation purposes will be delivered throughout the irrigation season by either the continuous flow or rotation method at the discretion of the Officer-in-Charge. If during a time when delivery is by the rotation method, a water user desires to loan his turn to another eligible water user, he shall notify either the watermaster or the ditch rider who may permit such exchange, if feasible.

(b) *Preparation and Submission of a Water Schedule:* If the decision of the Officer-in-Charge is to deliver water by the rotation method, the watermaster will assist the water users on each lateral in preparing a rotation schedule should they choose to get together and prepare the schedule. In cases where the water users fail to exercise this right before March 1, the watermaster will prepare the schedule which shall be final for the season. Owners of 120 acres or more in one farm unit may elect between the continuous flow and rotation method of delivery, provided such choice does not interfere with delivery to other lands served by the lateral.

(c) *Application for Deliveries of Irrigation Water:* Requests for water changes will be made at least 24 hours in advance. Not more than one change will be made per day. Changes will be made only during the ditch rider's regular tour. Pump shut-down, regardless of duration, without the required notice will result in the delivery being closed and locked. Repeated violations of this rule will result in strict enforcement of rotation schedules. Water users will change their sprinkler lines without shutting off more than one-half of their lines at one time. Sudden and unexpected changes in ditch flow results in operating difficulties and waste of water.

Duty of Water

Dependent upon available supplies of water for each unit of the Project, the duty of water is based on the delivery to the farm unit of 3.5 acre-feet of water per acre per irrigation season. This duty of water may be varied at the discretion of the Officer-in-Charge depending on supplies available, but each irrigable acre shall be entitled to its pro-rata share of the total water supply.

Charges

Bill covering irrigation charges will be issued to the owner of record taken from the Bannock, Bingham or Power County records as of December 31, preceding the due date. In the case of Indian-owned land leased to a non-Indian, when an approved lease contract is on file with the Superintendent of the Fort Hall Agency, operation and maintenance charges will be billed to the lessee of record.

Basic and Other Water Charges

(a) The annual basic water charges for the operation and maintenance of the Fort Hall Irrigation Project lands in non-Indian ownership, and assessable Indian-owned lands leased to a non-Indian or a non-member of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation, Idaho, are fixed for the Calendar Year 1982 and subsequent years until further notice as follows:

(1) Fort Hall Unit basic rate—$16.70 per acre.

(2) Michaud Unit basic rate—$20.00 per acre.

Additional rate for sprinkler when pressure is supplied by project—$8.50 per acre.

(3) Minor Units basic rate—$13.90 per acre.

(b) In addition to the foregoing charges there shall be collected a minimum charge of $5 for the first acre, or fraction thereof, on each tract of land for which operation and maintenance bills are prepared. The minimum bill issued for any area will, therefore, be the basic rate per acre plus $5.

Payments

The water charges become due on April 1 of each year and are payable on or before that date. To all assessments on lands in non-Indian ownership, and lands in Indian ownership which do not qualify for free water, remaining unpaid on or after July 1 following the due date, there shall be added a penalty of one and one-half percent per month, or fraction thereof, from the due date until paid. No water shall be delivered to any farm unit until all irrigation charges have been paid.

Assessments on Indian Owned Land

When land owned by members of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation is first leased to non-Indians or non-members of the tribe, and an approved lease is on file at the Fort Hall Agency, the leased land is not subject to operation and maintenance assessments for three years. The three years the land is not subject to assessment need not run consecutively. When land has been leased for a total of three years, the land, when under lease to non-Indians or non-members of the tribe, is subject to operation and maintenance assessments the same as lands on non-Indian ownership and lands owned by non-members of the tribe within the project. (See Solicitor's Opinion M 28701, approved September 24, 1936, and the instructions of September 19, 1938, approved September 24, 1938, and instructions of December 1, 1938, approved December 17, 1938).

Wilford G. Bowker,

Acting Area Director.

[FR Doc. 82-5383 Filed 2-26-82; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE INTERIOR

Land Management Bureau

[AA-38302]

Alaska Native Claims Selection

The document entitled Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area was ratified by Public Law (Pub. L.) 94–204 (89 Stat. 1145, 1151) on January 2, 1976, and clarified on August 31, 1976. Section II of the Terms and Conditions authorized reconveyance by the United States to Cook Inlet Region, Inc., of lands conveyed by the State of Alaska to the United States. On November 15, 1977, Sec. 3(a) of Pub. L. 95–178 (91 Stat. 1369) authorized the Secretary of the Interior to identify and reserve within 2 years after initial conveyance of such lands to Cook Inlet Region, Inc., any easement he could have lawfully reserved prior to conveyance and to issue immediately thereafter a revised conveyance reflecting such reservation.

On February 25, 1980, Patent No. 50–80–0050 and Interim Conveyance No. 292 were issued to Cook Inlet Region, Inc., for 5,755.19 acres and approximately 13,574.20 acres, respectively, of the surface and subsurface estates of lands conveyed to the United States by the State of Alaska. The lands were conveyed pursuant to Secs. 14(e) and 22(j) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(e), 1621(j)) (ANCSA), and Sec. 12(c) of Pub. L. 94–204 (89 Stat. 1145, 1152), as amended by Sec. 3(a) of Pub. L. 95–178 (91 Stat. 1369) and are described as follows:

Patent No. 50-80-0050 of February 25, 1980

Seward Meridian, Alaska (Surveyed)

T. 21 N., R. 4 W.,
Sec. 12, lot 2.
Containing 35.19 acres.

T. 22 N., R. 4 W.,
Sec. 36, NE¼, E½NE¼NW¼, S½NW¼, S½.
Containing 580.00 acres.

T. 23 N., R. 4 W.,
Sec. 11, E½, E½SW¼, E½W½SW¼;
Secs. 12 and 13, all;
Sec. 14, E½, E½W½, E½W½W¼;
Sec. 16, SE¼;
Sec. 21, N½;
Sec. 22, N½, E½SW¼, SW¼SW¼, SE¼;
Secs. 23 and 24, all;
Sec. 26, NW¼;
Sec. 27, E½, E½NE¼NW¼.
Containing 5,140.00 acres.
Aggregating 5,755.19 acres.

Interim Conveyance No. 292 of February 25, 1980

Seward Meridian, Alaska (Surveyed)

T. 22 N., R. 3 W.,
Those portions of the surveyed township more particularly described as (protracted):
Sec. 20, W½NE¼ excuding Kashwitna River, NE¼NW¼, S½NW¼, S½ excluding Kashwitna River;
Sec. 29, all, excluding Kashwitna River;
Secs. 30, 31, and 32, all.
Containing approximately 3,024.00 acres.

T. 23 N., R. 3 W.,
Those portions of the surveyed township more particularly described as (protracted):
Secs. 7 and 8, all;
Secs. 17 to 20, inclusive, all.
Containing approximately 3,756.00 acres.

T. 24 N., R. 3 W.,
Those portions of the surveyed township more particularly described as (protracted):
Sec. 5, N½NW¼, N½SW¼NW¼;
Secs. 6 and 7, all;
Sec. 8, S½;
Sec. 17, N½N½;
Sec. 18, N½.
Containing approximately 2,076.50 acres.

T. 25 N., R. 3 W.,
Those portions of the surveyed township more particularly described as (protracted):
Sec. 30, S½;
Sec. 31, all.
Containing approximately 957.50 acres.

T. 24 N., R. 4 W.,
Those portions of Tract A more particularly described as (protracted):

Sec. 1, all;
Sec. 2, E½E½, S½NW¼NE¼, SW¼NE¼, SE¼NW¼, E½SW¼ excluding Tract 30 of ASLS 79–109, E½NW¼SW¼, SW¼NW¼SW¼, W½SE¼;
Sec. 11, NE¼ excluding U.S. Survey No. 4863, N½SE¼ excluding Tract 30 of ASLS 79–109;
Sec. 12, N½, N½SW¼, E½SW¼SW¼ north of Yoder Road right-of-way, NW¼SW¼SW¼ north of Yoder Road right-of-way, SE¼SW¼, SE¼ north of Yoder Road right-of-way.
Containing approximately 1,020.20 acres.

T. 25 N., R. 4 W.,
Those portions of Tract A more particularly described as (protracted):
Sec. 24, S½S½NE¼ excluding Tract 17 of ASLS 79–109, N½SW¼ excluding Tract 17 of ASLS 79–109, SW¼SW¼, NE¼SE¼SW¼ excluding Baldy Lake, W½SE¼SW¼, SE¼ excluding Baldy Lake;
Sec. 25, all;
Sec. 26, E½NE¼ excluding Tract 33 of ASLS 79–109, E½SW¼ excluding Tract 23 of ASLS 79–109, E½SW¼SW¼ excluding Tract 23 of ASLS 79–109, SW¼SW¼SW¼ excluding Tract 23 of ASLS 79–109, SE¼ excluding Tract 23 of ASLS 79–109;
Sec. 36, all.
Containing approximately 1,631.00 acres.
Aggregating approximately 13,574.20 acres.

There are no easements to be reserved pursuant to Sec. 17(b) of ANCSA. When this decision becomes final, revised conveyance documents will be issued to Cook Inlet Region, Inc., for the above-described lands with no Sec. 17(b) easements reserved. The revised conveyance documents will remain subject to all other rights, terms, conditions, and covenants contained in Patent No. 50–80–0059 and Interim Conveyance No. 292.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the *Anchorage Times*. Any party claiming property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.
2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until March 31, 1982, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509.

Sandra C. Thomas,
Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-5361 Filed 2-26-82; 8:45 am]
BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Transco Exploration Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 2892, Block 10, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 22, 1982.

Lowell G. Hammons,
Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-5345 Filed 2-26-82; 8:45 am]
BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that ODECO Oil & Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3164, Block 135, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 22, 1982.

Lowell G. Hammons,
Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-5346 Filed 2-26-82; 8:45 am]
BILLING CODE 4310-31-M

Dated: February 22, 1982.

Lowell G. Hammons,
Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-5346 Filed 2-26-82; 8:45 am]
BILLING CODE 4310-31-M

National Park Service

Pelto Oil Co., Padre Island National Seashore, Texas; Availability of Plan of Operations for the Purpose of Drilling an Exploratory Gas Well

Notice is hereby given in accordance with § 9.52(b) of Title 36 of the Code of Federal Regulations that the National Park Service has received from Pelto Oil Company a plan of operations for the purpose of drilling an exploratory gas well within Padre Island National Seashore, Kleberg County, Texas.

The Plan of Operations is available for public review and comment for a period of 30 days from the publication date of this notice (until March 31, 1982) in the Office of the Superintendent, Padre Island National Seashore, 9405 South Padre Island Drive, Corpus Christi, Texas 78418. Copies of the document are available from Padre Island National Seashore and will be sent, upon request, to individuals or groups at a charge of $5.00 per copy, pursuant to the Freedom of Information Act. The document is 50 pages in length.

Dated: February 19, 1982.

Robert Kerr,
Regional Director, Southwest Region.

[FR Doc. 82-5420 Filed 2-26-82; 8:45 am]
BILLING CODE 4310-70-M

National Park System Advisory Board; Meeting

Notice is hereby given that the meetings of the National Park System Advisory Board previously announced for March 12 and 13, 1982, will convene in general business sessions starting at 8:00 AM, on March 12 and 13, Meeting Room, Homestead Holiday Inn, U.S. #1, Homestead, FL. All agenda items remain the same as published on February 17, 1982 (47 FR 7002).

Dated: February 22, 1982.

Shirley Luikens,
Program Specialist, Advisory Boards and Commissions, National Park Service.

[FR Doc. 82-5421 Filed 2-26-82; 8:45 am]
BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Shell Oil Co. Mining; Intent To Prepare Environmental Impact Statement on Mining and Reclamation Plan for Proposed Surface Coal Mine; North Rochelle Coal Mine, Campbell County, Wyoming

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of intent to prepare a draft environmental impact statement on a coal mining and reclamation plan.

SUMMARY: The Office of Surface Mining (OSM) has received an application from Shell Oil Company Mining for a mining and reclamation plan approval and permit pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA), for the proposed North Rochelle Coal Mine. OSM has determined that the approval or disapproval of this proposed mine is a significant Federal action affecting the human environment, thus requiring an environmental impact statement (EIS).

The proposed surface coal mine would be located approximately 45 miles south of Gillette, 70 miles north of Douglas, and 60 miles west of Newcastle, Wyoming. The mine would cover approximately 4,586 acres of state and private surface, and Federal surface within the Thunder Basin National Grasslands. The mine would be in operation for approximately 30 years, with a maximum annual production of 8 million tons of coal.

OSM and the U.S. Geological Survey will prepare the EIS with assistance from the Wyoming Department of Environmental Quality (DEQ) and the U.S. Forest Service. The EIS will present alternative actions that the Department of Interior and the State of Wyoming could take on the mining and reclamation plan and the environmental impacts of these alternatives. The major alternatives thus far identified for Departmental consideration are:

a. Approval of the Mining and Reclamation Plan with design modifications and/or necessary stipulations to meet the requirements of SMCRA and the Wyoming Environmental Quality Act, and regulations pursuant to these Acts.

b. Approval of the Mining and Reclamation Plan with additional mitigating measures.

c. Disapproval of the Mining and Reclamation Plan.

The EIS would be limited to a site-specific analysis of the North Rochelle Coal Mine within the permit area, adjacent areas, and regional areas. Since there are other energy developments, such as the North Antelope and Antelope Coal mines, proposed for the same regional area as the proposed North Rochelle Mine, the cumulative impacts from all known developments will be evaluated using available information.

A public scoping meeting on the EIS will be held at the Campbell County Community Recreation Center, Gillette, Wyoming, on Thursday, March 11, 1982. The meeting will be conducted from 7:30 p.m. to 9:00 p.m. Anyone interested is invited to attend and give his or her comments on the proposed EIS.

The mining and reclamation plan submitted by Shell Oil Company Mining, is available for public review during normal working hours at the Office of Surface Mining, Western Technical Center, second floor, Brooks Towers, 1020 15th Street, Denver, Colorado; the Office of Surface Mining, Wyoming State Office, Mills, Wyoming; the State of Wyoming Department of Environmental Quality, 401 West 19th Street, Cheyenne, Wyoming; and at the County Clerk's Office, Campbell County, Gillette, Wyoming. Comments on the proposed plan and/or significant issues may be submitted to the Acting Administrator, Western Technical Center, Office of Surface Mining, at the Denver address for a 30-day period after publication of this notice.

FOR FURTHER INFORMATION CONTACT: Jerry D. Gavette or William J. Kovacic, Office of Surface Mining, Western Technical Center, Brooks Towers, 1020 15th Street, Denver, Colorado 80202, telephone: (303) 837–5656.

Dated: February 24, 1982.

Thomas M. Butler,
Acting Director, Office of Surface Mining.

[FR Doc. 82-5422 Filed 2-26-82; 8:45 am]
BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Long-and-Short-Haul Application for Relief (Formerly Fourth Section Application)

February 23, 1982.

This application for long-and-short-haul relief has been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of the notice.

MC 43959, Southwestern Freight Bureau, Agent (No. B–152), reduced rates on anhydrous ammonia from Machovec, TX to stations in IL, Southwestern and Western Trunk Line Territories, in

Supplement 135 to its tariff ICC SWFD 4619–A, effective March 18, 1982.
Grounds for relief: Market Competition.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5375 Filed 2-26-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register**.

The original and one copy of opposing verified statements must be filed with the Commission within 45 days after the date of this **Federal Register** notice. Applicant may file a verified statement in rebuttal within 60 days. Such pleadings shall comply with 49 CFR 1100.247 (renumbered 1100.251) addressing specifically the issue(s) indicated as the purpose for republication. Special Rule 247 (renumbered 251) was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

MC 157195 (Sub-1) (republication), filed August 14, 1981, published previously in the **Federal Register** issue of September 1, 1981, and January 13, 1982. Applicant: DANIEL E. GAGAIN, d.b.a. D & L TRUCKING, 5715 Angola Road, P.O. Box 7490, Toledo, OH 43615. Representative: Keith D. Warner, 5732 West Rowland Road, Toledo, OH 43613. A Decision of the Commission, Review Board 2, decided November 30, 1981, and served December 7, 1981, finds that the performance by applicant of the serivce described herein to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting, *general commodities*, (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in Michigan and Ohio, on the one hand, and, on the other, points in the United States; that the applicant is fit, willing, and able to properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to reflect applicant's actual grant of authority.

By the Commission.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5377 Filed 2-26-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestanf must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–191

The following applications were filed in Region I: Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 160573 (Sub-1–1TA), filed February 11, 1982. Applicant: RONALD L. ABARE, East Hill, Barre, VT 05641. Representative: John P. Monte, P.O. Box 666, Barre, VT 05641. *Motorcycles* from Lewistown, NY to Newport, VT; *Motorcycles and outboard motors* from Gloucester City, NJ to East Montpelier, VT and Clarement, NH; *Motorcycles, generators, outboard motors and rototillers* from Port Newark, NJ to Derby, VT; *Motorcycles and snowmobiles* from points in NJ, Boston, MA and Manchester, NH to Barre, VT; *Snowmobiles, outboard boats, motors and trailers and lawn and garden equipment* from Portland, ME, Manchester, NH, Lancaster, NH and Troy Hills, NJ to Barre, VT; *Building Materials* between Montpelier, VT, North Haverhill, NH and Plattsburg, NY; *Materials relating to salvage yard business and materials relating to upholstery business* between East Montpelier, VT, on the one hand, and, on the other, points in NH, ME, CT and NY. Supporting shipper(s): There are 7 statements in support of this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 134806 (Sub-1–26TA), filed February 19, 1982. Applicant: B–D–R TRANSPORT, INC., P.O. Box 1277, Vernon Drive, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East-West Highway, Suite 404, Bethesda, MC 20814. *Contract carrier:* irregular routes: *Woodburning stoves and accessories*, from Claremont, NH to Sacramento, CA, Denver, CO, Boise, ID, and Portland, OR under continuing contract(s) with Garrison Stove Works, Inc., Claremont, NH. Supporting shipper: Garrison Stove Works, Inc., Box 837, Airport Road, Claremont, NH 03743.

MC 111625 (Sub-1–8TA), filed February 19, 1982. Applicant: BERMAN'S MOTOR EXPRESS, INC., P.O. Box 1566, Binghamton, NY 13902. Representative: J. Edward Derrick (same as applicant). *Building materials* from Bergen County, NJ to points in NY and PA. Supporting shipper: Tri States Products Company, 51 Winter Place, E. Rutherford, NJ 07073.

MC 116092 (Sub-1–2TA), filed February 18, 1982. Applicant: CHAMPLAIN EXPRESS TRANSPORT (INTERNATIONAL) INC., 411 Riviere, Cowansville, Quebec, CD J2K 1N4. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Pulp and paper and related products* between ports of entry on the U.S./CD International Boundary Line at or near Champlain and Rouses Point, NY, and Highgate Springs, Richford and Troy, VT, on the one hand, and, on the other, New York, NY Commercial Zone. Supporting shipper(s): Domtar Inc., P.O. Box 7211, Montreal, Quebec, CD H3C 3M2; Kruger, Inc., 600 Dorchester Blvd. W, Montreal, Quebec, CD H3B 1N4.

MC 154049 (Sub-1–2TA), filed February 16, 1982. Applicant: CONTRANS, INC., Rustic Acres Drive, Box 252 K, Chepachet, RI 02814. Representative: Frank M. Cushman, 36 South Main Street, Sharon, MA 02067. *Contract carrier:* irregular routes: *Office furniture, parts of office furniture, equipment and supplies used in the manufacture, merchandising and shipping of office furniture* in all of the 48 contiguous U.S., under continuing contract(s) with Office Furniture Centers, Waltham, MA. Supporting shipper: Office Furniture Centers, 411 Waverly Oaks Road, Waltham, MA 02154.

MC 158989 (Sub-1–1TA), filed February 16, 1982. Applicant: EASTERN GILLETTE INC., 20 Paulina Street, Somerville, MA 02144. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10123. *Contract carrier:* irregular routes: *Printed matter* between points in ME, NH, VT, CT, NY, MA, RI, PA, and NJ, under continuing contract(s) with C.B.S. Publications, New York, NY and Random House, Inc., Westminster, MD. Supporting shipper(s): C.B.S. Publications, 1515 Broadway, New York, NY 10036; Random House, Inc., 400 Hahn Road, Westminster, MD 21157.

MC 138701 (Sub-1–3TA), filed February 19, 1982. Applicant: G. D. & K. INC., 500 West Main Street, Wyckoff, NJ 07481. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier:* irregular routes: *Rubber and plastic articles, chemicals (except hazardous waste), and foodstuffs*, between points in the U.S. (except AK and HI), under continuing contract(s) with Ross Laboratories of Columbus, OH. Supporting shipper: Ross Laboratories, 6480 Bush Boulevard, Columbus, OH 43229.

MC 160430 (Sub-1–1TA), filed February 19, 1982. Applicant: HORAN TRUCKING CO., 72 Anderson Street, Hackensack, NJ 07601. Representative: J. David Grizzel, 45 Rockefeller Plaza, Tenth Floor, New York, 10111. *Contract carrier:* irregular routes: *Data processing supplies and business forms*, from Hauppauge, NY and Newtown, CT to New York City and its Commercial Zone and points in NJ, under continuing contract(s) with City Data Products, Inc., New York, NY; Ready Data Inc., New York, NY. Supporting shipper(s): City Data Products, Inc., 135 Williams Street, New York, NY 10038; Ready Data, Inc., 255 West End Avenue, New York, NY.

MC 146239 (Sub-1–2TA), filed February 16, 1982. Applicant: INTERNATIONAL FOODS, TRANSPORT, INC., Clinton Street, P.O. Box 150, Delaware, NJ 07833. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10123. *Food and related products* between the points in NY, NJ, PA, OH, MI, IL, MD, IN, MA, and CT. Supporting shipper(s): There are 12 statements in support of this application which may be examined at the Regional Office of the ICC in Boston, MA.

MC 158639 (Sub-1–2TA), filed February 12, 1982. Applicant: J. & A. TRANSPORT, LTD., 272 St. George Street, Moncton, New Brunswick, CD E1C 8P9. Representative: John C. Lightbody, Esq., Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. *Peat products* from points on the International Boundary Line between the U.S. and CD at points in ME to points in ME to points in AL, AK, CT, DE, DC, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI. Supporting shipper: JPA, 1400 Harvester Road, West Chicago, IL 60185.

MC 151193 (Sub-1–28TA), filed February 18, 1982. Applicant: PAULS TRUCKING CORPORATION, 286 Homestead Avenue, Avenel, NJ 07001. Representative: Michael A. Beam (same as applicant). *Contract carrier:* irregular routes: *Ice cream and equipment, materials and supplies used in the manufacture, sale and distribution of ice cream (except bulk)*, between points in MD, MA and NJ, under continuing contract(s) with Woodbridge Sweets, Inc., Woodbridge, NJ. Supporting shipper: Woodbridge Sweets, Inc., 1 Amboy Ave., Woodbridge, NJ 07095.

MC 160158 (Sub-1–1TA), filed February 16, 1982. Applicant: EDWIN J. PINA, SR. & SON, INC., 227 Bumps River Road, Osterville, MA 02655. Representative: Arthur M. White, Bikofsky, Walker & Tuttle, 281 Pleasant Street, P.O. 2547, Framingham, MA 01701. *Passengers and their baggage, in the same vehicle, in charter and special operations*, beginning and ending at points in Barnstable County, MA, and extending to all points in the U.S. (except AK and HI). Supporting shipper(s): There are 9 statements in support of this application which may be examined at the Regional Office of the ICC in Boston, MA.

MC 145059 (Sub-1–2TA), filed February 18, 1982. Applicant: SPINELLI BROS. TRUCKING, INC., 55 South Wade Boulevard, Millville, NJ 08332. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Foodstuffs* from the facilities of Anderson Clayton Foods Co., at Jacksonville, IL to points in CT, MD, MA, NJ, NY and PA. Supporting shipper: Anderson Clayton Foods, Co., 7389 Churchill Way, Dallas, TX 72251.

MC 144008 (Sub-1–1TA), filed February 16, 1982. Applicant: STORE TRANSFER & DELIVERY SERVICE INC., 12 Ferris Lane, Poughkeepsie, NY 12601. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10123. *Contract carrier:* Irregular routes: *Retail department store merchandise* between Greenville, SC, and the New York, NY Commercial Zone, under continuing contract(s) with Palmetto Freight Association, New York, NY. Supporting shipper: Palmetto Freight Association, 602 Airport Road, Greenville, SC 29607.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 160201 (Sub-II–1TA), filed January 21, 1982. This application was originally published in the **Federal Register**, February 1, 1982. Applicant: MOUNTAIN EXPIRE SERVICES, INC., d.b.a. MOUNTAIN EMPIRE DELIVERY SERVICES, P.O. Box 516, 100 N. Ridge Rd., Pound, VA 24279. Representative: Dan Mullins (same address as applicant). Contract, irregular: *Replacement parts*, from Wise, VA to points in WV, PA, TN, KY, under continuing contract(s) with Lee-Norse Co. An underlying ETA seeks 120 days authority. Supporting shipper(s): Lee-Norse Co., 6600 Steubenville Pike, POB 2663, Pittsburgh, PA 15230. The purpose of this re-publication is to show the states of TN and KY which were omitted in the first publication.

MC 160017 (Sub-II–1TA), filed January 11, 1982. Originally published in the **Federal Register** of January 25, 1982. Applicant: QUALITY SUPPLIER TRUCKING, INC., Keyser Industrial Park, Keyser, WV 26726. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. Contract, irregular: *Recyclable materials, paper and paper products, including materials, equipment and supplies*, between points in ME, MD, DE, NY, PA, OH, VA, WV, NC, MA and DC, under a continuing contract(s) with Allied Energy Business Systems and Quality Supplier. An underlying ETA seeks 120 days authority. Supporting shipper(s): Allied Energy Business Systems, P.O.B. 608, Petersburg, WV 26849; Quality Supplier, Keyser, WV 26726. The purpose of this re-publication is to show the state of ME which was omitted in the first publication.

MC 157720 (Sub-II–2TA), filed February 16, 1982. Applicant: B.E.I. TRANSPORT, INC., 789 Garver Road, Monroe, OH 45050. Representative: H. Neil Garson, 3251 Old Lee Highway, Fairfax, VA 22030. (1) *Pancake Mix* from Chattanooga, TN to Dayton, OH; (2) *Frozen orange juice* from Dunedin, FL to Dayton, OH; (3) *Frozen breaded chicken cutlets and nuggets* from Nashville, TN

to Dayton, OH; (4) *Processed cheese* from Green Bay, WI to Dayton, OH; (5) *Foam carton packages* from Chippewa Falls, WI to Dayton, OH; and (6) *Paper, plastic, and foam cups and plates, and paper and plastic and foam carton packages* from Fort Madison, IA to Dayton, OH for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Bill Krafts Distribution Center, 3561 Dayton Park Drive, Dayton, OH 45414.

MC 160567 (Sub-II–1TA), filed February 16, 1982. Applicant: BARNES TRUCKING, INC., 13609 Colony Lane, Burton, OH 44021. Representative: Lewis S. Witherspoon, 2455 North Star Road, Columbus, OH 43221. *Contract; Irregular: Spent hydrochloric and sulphuric acid, ferrous sulphate, and ferrous chloride* between points in IL, IN, OH, NY, PA, and WI, under continuing contract(s) with By-Products Management of Ohio, Inc. of Cleveland, OH for 270 days. Supporting shipper: By-Products Management of Ohio, Inc., 17877 St. Clair Ave., Cleveland, OH 44110.

MC 150776 (Sub-II–5TA), filed February 16, 1982. Applicant: ALFRED DANIELS, INC., P.O. Box 869, Jackson, OH 45640. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215. *Contract: Irregular: Food and related products* between the facilities of Jeno's Inc., at or near Wellston, OH, on the one hand, and, on the other, points in the U.S. for 270 days, under continuing contract(s) with Jeno's, Inc., Duluth, MN. Supporting shipper: Jeno's Inc., 525 Lake Ave. South, Duluth, MN 55802.

MC 160627 (Sub-II–1TA), filed February 18, 1982. Applicant: DEK TRANSPORTATION, INC., 7607 Bishop Court, Mentor, OH 44060. Representative: Lewis S. Witherspoon, 2455 North Star Road, Columbus, OH 43221. *Contract; Irregular: Spent hydrochloric and sulphuric acid, ferrous sulphate, and ferrous chloride* between points in IL, IN, MI, OH, NY, PA, and WI, under continuing contract(s) with By-Products Management of Ohio, Inc. of Cleveland, OH for 270 days. Supporting shipper: By-Products Management of Ohio, Inc., 17877 St. Clair Ave., Cleveland, OH 44110.

MC 155694 (Sub-II–1TA), filed February 16, 1982. Applicant: DYNASTY CORPORATION, RD 1, Box 1097, Nescopeck, PA 18635. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505. *Contract; Irregular: Furniture, Lamps and Lighting Fixtures, Plastic Articles* between Berwick, PA on the one hand, and, on the other, points in DC, IL, IN, MD, MA, MI, MN, MO, NJ, NY and TX under continuing contract with Berwick Lighting Co., Berwick, PA for 270 days. Supporting shipper(s): Berwick Lighting Co., 335 South Poplar St., Berwick, PA 18603.

MC 147723 (Sub-II–4TA), filed February 16, 1982. Applicant: E. B. CO., INC., 667 Front St., Berea, OH 44017. Representative: Susan J. Radwan (same as applicant). *Hardware; aluminum and aluminum articles; automobile parts; plastic and plastic articles; iron and steel products; electrical components; scrap metals and scrap plastics, glass and glass products and equipment, materials and supplies used in the manufacture and distribution of the above commodities,* between points in OH, IN, IL, MI, CA, TX, NJ, NYU, MA, GA, and WV, on the one hand, and, on the other, points in the U.S. for 270 days. Supporting shipper: Big Rig Components, Inc., 8000 Baker Ave., Cleveland, OH 44102.

MC 138000 (Sub-II–40TA), filed February 8, 1982. Applicant: ARTHUR H. FULTON, INC., P.O. Box 99, Stephens City, VA 22655. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. Irregular: Contract: *Dust collector cages, filter bags and synthetic yarn on cones, including materials, equipment and supplies,* between Winchester, VA, including its commercial zone, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, KS, OK, and TX, for 270 days under a continuing contract(s) with Filter Media Products, a Subsidiary of Kennecott Corporation. An underlying ETA seeks 30 days' authority. Supporting shipper: Filter Media Products, a Subsidiary of Kennecott Corp., 400 Battaile Dr., Winchester, VA 22601.

MC 149351 (Sub-II–3TA), filed February 9, 1982. Applicant: HEYMAN TRUCKING, INC., Box 97, 212 Mulberry St., Stephens City, VA 22655. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740. *Vending machines, materials, equipment, and supplies, used in the manufacture and sale thereof* between Jefferson and Berkley Counties, WV, and Washington County, MD, on the one hand, and, on the other, points in the U.S., restricted to traffic originating at or destined to the facilities of Dixie Narco, for 270 days. Supporting shipper: Dixie Narco, P.O. Box 460, Ranson, WV 25438.

MC 160300 (Sub-II–1TA), filed February 17, 1982. Applicant: JOHN J. MULDOON, d.b.a. J. & P. TRANSPORTATION, R.D. 1 Box 123–A, Tower City, PA 17980. Representative: John J. Muldoon (same as above). *Foodstuffs requiring mechanical refrigeration,* between points in NY, NJ, DE, MD, PA, OH, and DC, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Island Poultry Farm, Inc., R.D. 1 Box 192, Mill Hall, PA 17751.

MC 148275 (Sub-II–2TA), filed February 8, 1982. Applicant: J. L. McCOY, INC., Box 525, Ravenswood, WV 26164. Representative: John M. Friedman, 2930 Putnam Ave., P.O. Box 426, Hurricane, WV 25526. *Contract, Irregular: Paper and paper products, containers and supplies and equipment* used in the manufacture and distribution thereof, between points in the U.S. Supporting shipper(s): Stone Container Corporation, 360 North Michigan Ave., Chicago, IL 60601.

MC 148275 (Sub-II–3TA), filed February 8, 1982. Applicant: J. L. McCOY, INC., Box 525, Ravenwood, WV 26164. Representative: John M. Friedman, 2930 Putnam Ave., P.O. Box 426, Hurricane, WV 25526. Contract, Irregular: Mine roof bolts and plates and materials and supplies used in their manufacture, production and sale thereof, between Cambridge, OH, on the one hand, and, on the other, points in AL, AR, CO, IL, IN, KY, MO, OK, OH, PA, VA, WV, WY and UT. Supporting shipper(s): Met-Tech Industries, Inc., Star Route 209, P.O. Box 68, Cambridge Industrial Park, Cambridge, OH 43725.

MC 135364 (Sub-II–5TA), filed February 16, 1982. Applicant: MORWALL TRUCKING, INC., R.D. #3, Box 76C Moscow, PA 18444. Representative: Joseph A. Keating, Jr., 121 South Main St., Taylor, PA 18517. *Contact; Irregular: Perlite,* between Lake Zurick, IL on the one hand, and, on the other, Boston, MA; Groton, CT; Newark, NJ; Newark, NY; New Johnsonville, TN; New York, NY; Philadelphia, PA; Willmington, DE under continuing contract(s) with Filter Products Corp., Lake Zurick, IL 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Filter Products Corp., Lake Zurick, IL 60047

MC 144987 (Sub-II–6TA), filed February 16, 1982. Applicant: STAHLER TRUCKING & LEASING, INC., 208 E. Harrison St., Wapakoneta, OH 45895. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. *General commodities, (except Class A & B explosives),* between Auglaize, Shelby, Allen and Van Wert Counties, OH, on the one hand, and, on the other, points in the U.S. for 270 days. Supporting shipper(s): There are 9 supporting shippers. Their statements may be examined at the ICC Regional Office, Philadelphia, PA.

MC 160060 (Sub-II–1TA), filed February 8, 1982. Applicant: W. R. TRUCKING, INC., 4761 Austin Road, Geneva on the Lake, OH 44047. Representative: Lewis S. Witherspoon, 2455 North Star Road, Columbus, OH 43221. *Contract;* Irregular: *Spent hydrochloric and sulphuric acid, ferrous sulphate, and ferrous chloride* between points in IL, IN, MI, OH, NY, PA, and WI, under continuing contract(s) with By-Products Management of Ohio, Inc. of Cleveland, Ohio for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: By-Products Management of Ohio, Inc., 17877 St. Clair Ave., Cleveland, OH 44110.

MC 160566 (Sub-II-1TA), filed February 16, 1982. Applicant: LESLIE L. WHITAKER & SON, P.O. Box 306, Windber, PA 15963. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Contract; Irregular:* (1) *Liquid asphalt and liquid paving materials,* from Baltimore, MD and Rayland, OH, including their respective commercial zones, to Windber, PA, including its commercial zone and (2) *bituminous or asphalt emulsion* from Windber, PA, including its commercial zone, to points in MD and WV, for 270 days, under a continuing contract(s) with Bituminous Emulsion of Windber, PA. Supporting shipper: Bituminous Emulsion of Windber, PA, P.O. Box 8, Windber, PA 15963.

MC 146890 (Sub-II–10TA), filed February 16, 1982. Applicant: C. & E. TRANSPORT, INC., d.b.a. C. E. Zumstein Co., P.O. Box 27, Lewisburg, OH 45338. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. *Contract: irregular; metal products and chemicals and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Dayton Superior Corp of Miamisburg, OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Dayton Superior Corp., 721 Richard St., Miamisburg, OH 45342.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 157406 (Sub–3–2TA), filed February 17, 1982. Applicant: AUTAUGA TRANSPORT, INC., 1410 South Memorial Drive, Prattville, AL 36067. Representative: Terry P. Wilson, 428 South Lawrence St., Montgomery, AL 36104. *Scrap paper and waste paper,* from Lakeland and Miami, FL, to the facilities utilized by MacMillan Bloedel in Dothan and Pine Hill, AL. Supporting shipper: MacMillan Bloedel, Pine Hill, AL 36769.

MC 146451 (Sub–3–34TA), filed February 12, 1982. Applicant: WHATLEY-WHITE, INC., 211 Murray Road, Dothan, Alabama 36302. Representative: W. Larry White (same as above). *Chromium Dioxide Powder, except in bulk, in tank vehicles,* from Newport, DE to Dothan, AL for the account of Sony Magnetic Corporation of America. Supporting shipper, Sony Magnetic Corporation of America, Highway 84 West, Dothan, AL 36301.

MC 160276 (Sub–3–2TA), filed February 12, 1982. Applicant: BIGELOW TRANSPORTATION CO., INC., P.O. Box 3089, Greenville, SC 29602. Representative: William H. Borghesani, Jr., 1150 17th St. NW., Suite 1000, Washington, D.C. 20036. *Contract:* Irregular: *commodities dealt in and used by retail department stores and trading stamp redemption stores* from Jasper, AL; Antioch, Chicago, Polo, Rockford, Springfield, IL; Columbus, Peru, Seymour, IN; Arlington, KY; Chicopee, Everett, MA: Traverse City, MI; Neosho, MO; Hattiesburg, MS; Asbury Park, Bergenfield, Edgewater, Jersey City, Passaic, NJ; Brooklyn, Hicksville, Jamaica, M. Vernon, New York, NY; Cherokee, Eden, Kannapolis, NC; Canton, Toledo, OH; Aston, Easton, Hanover, Kingston, Philadelphia, Sinking Springs, PA; Greenville, Memphis, Murfreesboro, TN; Richmond, VA; Cudahy, WI to Norcross, GA; under continuing contract(s) with The Sperry and Hutchinson Company, Inc., New York, NY 10017. Supporting shipper: The Sperry and Hutchinson Company, Inc., Sperry and Hutchinson Bldg., 330 Madison Ave., New York, NY 10017.

MC 129712 (Sub–3–17TA), filed February 12, 1982. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 569, McDonough, GA 30253. Representative: Guy H. Postell, Attorney-at-Law, Suite 713, 3384 Peachtree Rd. NE., Atlanta, GA 30326. *Contract,* irregular, *Iron and steel articles, including, but not limited to, coil steel and partially finished steel items,* between the plantsite and warehouse facilities of Steelabrade Corp., at Granite City, IL, on the one hand, and, on the other, points in OH, PA, WV, VA, NC, SC, GA, AL, MS, LA, TX & NM, under continuing contract(s) with Steelabrade Corp. Supporting shipper: Steelabrade Corp., 1067 Mason Road, Suite 2, St. Louis, MO 63141.

MC 146202 (Sub–3–6TA), filed Feburary 12, 1982. Applicant: K & W ENTERPRISES, INC., P.O. Box 19133, Greensboro, NC 27410. Representative: Kim G. Meyer, 235 Peachtree Street NE., Suite 1200, Atlanta, GA 30303. *Contract,* irregular: *Such commodities as are dealt in or used by manufacturers, distributors, and wholesalers of health and beauty aids,* between points in the U.S. on and east of the Mississippi River *under a continuing contract(s) with Helene Curtis Industries, Inc.* Supporting shipper: Helene Curtis Industries, Inc., 4401 W. North Ave., Chicago, IL 60639.

MC 145154 (Sub–3–8TA), filed February 12, 1982. Applicant: YOUNG'S TRANSPORTATION CO., 3401 Norman Berry Drive, Suite 246, East Point, GA 30344. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue NW., Washington, DC 20005. *(1) pulp, paper, and related products; and (2) chemicals and related products,* between the facilities of National Cellulose Corporation at or near Butler County, OH, and Harris County, TX, on the one hand, and, on the other, points in the U.S. Supporting Shipper(s): National Cellulose Corporation, 12315 Robin Boulevard, Houston, TX 77045.

MC 31389 (Sub–3–13TA), filed February 16, 1982. Applicant: McLEAN TRUCKING COMPANY, P.O. Box 213, Winston-Salem, NC 27154. Representative: Daniel R. Simmons, P.O. Box 213, Winston-Salem, NC 27154. *Contract Carrier:* Irregular: *Such commodities as are dealt in by wholesale and retail chain department stores, and equipment, materials and supplies used in the conduct of such businesses,* between points in the U.S., under continuing contract or contracts with Kmart Corporation of Troy, MI, and its subsidiaries and/or divisions. Supporting Shipper: Kmart Corporation, 3100 West Big Beaver Road, Troy, MI 48084.

MC 160461 (Sub–3–1TA), filed February 16, 1982. Applicant: LLOYD HOOD, d.b.a. HOOD ENTERPRISES, Rt. 1, Jasper, TN 37347. Representative: D. R. Beller, P.O. Box 482, Franklin, TN 37064. *Metal products* (1) between Marion County, TN, Hamilton County, TN, and Jackson County, AL on the one hand and on the other, points in IN, PA, OH, IL, and MI; and (2) from points in KY, AL, MO, and VA to points in TN. Supporting shippers: U.S. Stove Company, P.O. Box 151, South Pittsburg, TN 37380; Consolidated Coal Company, P.O. Box 878, Jasper, TN 37347.

MC 145349 (Sub–3–3TA), filed February 16, 1982. Applicant: PROFESSIONAL DRIVER SERVICES, INC., 1631 Lebanon Road, Nahville, Tenn. 37210. Representative: James Martin (same address as applicant).

Transportation Equipment: From Newark, CA and Denton, TX to Casper and Riverton, WY and return. From Nashville, TN to Casper, WY and return. Supporting shipper: Wyoming Peterbilt, Inc.—185 Curtis St., P.O. Box 2580, Casper, Wyoming.

MC 151407 (Sub-3–2TA), filed February 16, 1982. Applicant: T & T TRUCKING, INC., 274 NW. 37th Street, Miami, FL 33127. Representative: Edwin M. Snyder, P.O. Box 45536, Dallas, TX 75245. *Recreational equipment* between Dade County, FL on the one hand, and on the other, points in the U.S. on and east of the Mississippi River. Supporting shipper(s): Ebonite Corporation, 14000 N.W. 57th Court, Miami Lakes, Florida 33014.

MC 160565 (Sub-3–1TA), filed February 16, 1982. Applicant: HILLSBORO TOURS, LTD., 1822 W. Hillsboro Boulevard, Deerfield Beach, FL 33441. Representative: Frank J. Hathaway, 7615 Biscayne Boulevard, Miami, FL 33138. *Passengers in vehicles limited to twenty (20) passengers, providing customized special charter-tour operations, including baggage,* on a round-trip basis between points in Broward County, FL and points in TN. Supporting witnesses: there are seven (7) supporting witness statements attached to this Application which can be examined at the Interstate Commerce Commission Regional Authority Center in Atlanta, GA.

MC 146869 (Sub-3–5TA), filed February 16, 1982. Applicant: CARRIER FREIGHT LINES, INC., P.O. Box 813, Hickory, NC 28601. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Contract:* irregular: *air compressor parts,* from Mossville, IL; Richmond, IN; Dubuque, ID; Dearborn, MI; Dallas, TX; and Hartford, WI to the facility of Ingersoll-Rand Company in Davie County, NC, under continuing contract with Ingersoll-Rand Company. Supporting shipper: Ingersoll-Rand Company, P.O. Box 868, Mocksville, NC 27028.

MC 139207 (Sub-3–6TA), filed February 16, 1982. Applicant: MCNABB-WADSWORTH TRUCKING CO., INC., 305 S. Wilcox Dr., Kingsport, TN 37665. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. *Such articles as are dealt in or used by manufacturers and distributors of printed matter,* between Hawkins and Sullivan Counties, TN, on the one hand, and, on the other, points in and east of TX, OK, MO, IL and WI. Supporting shipper(s): Kingsport Press, P.O. Box 711, Kingsport, TN 37662.

MC 119917 (Sub-3–7TA), filed February 16, 1982. Applicant: DUDLEY TRUCKING CO., INC., 724 Memorial Dr., Atlanta, GA. Representative: Thomas Gramling (same as above). *Rubber and Plastic Products* from Peachtree City, GA, Arlington, TN to MI, TX, FL, IL, NJ, WI, MS, AR, PA, AL, NY, LA. Supporting shipper: M.A. Industries, Inc., 303 Dividend Dr., Peachtree City, GA 30269.

MC 147494 (Sub-3–5TA), filed February 17, 1982. Applicant: BOBBY KITCHENS, INC., P.O. Drawer 5690, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205. *Fertilizer and fertilizer ingredients* from Hinds County, MS to points in LA and TX. Supporting shipper: Southeastern Chemical, Incorporated, Jackson, MS.

MC 129063 (Sub-3–7TA), filed February 17, 1982. Applicant: JIMMY T. WOOD, P.O. Box 248, Ripley, TN 38063. Representative: Thomas A. Stroud, 109 Madison Avenue, Memphis, TN 38103. *Flyash and flybottom,* between Redfield, AR, on the one hand, and, on the other, points in LA. Supporting shipper: Chem-Ash, Inc., P.O. Box 87, Redfield, AR 72132.

MC 158441 (Sub-3–2TA), filed February 17, 1982. Applicant: BOBBY FRYAR TRUCKING, 418 S. Seminole Drive, Chattanooga, TN 37411. Representative: Bobby Fryar (same address as applicant). *Contract:* Irregular: *Lime Stone Rock* in dump vehicles. Under a continuing contract or contracts with TAC Industries, Inc. between points in TN and GA. Supporting shipper: TAC Industries, Inc., 821 Tilton Bridge Road, Dalton, GA 30720.

MC 159932 (Sub-3–2TA), filed February 19, 1982. Applicant: CLARENCE KENNEDY, JR., d.b.a. KENNEDY & SON TRUCKING, Route 1, Box 81, Tryon, NC 28782. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue NW., Washington, DC 20005. *Plastic products and pigments,* between the facilities of Color Chip Corp. of NC, at or near Asheboro, NC, and Garwood, NJ, on the one hand, and, on the other, points in CA, TX, AZ, OK, LA, and DE. Supporting shipper: Color Chip Corp. of NC, P.O. Box 1717, Asheboro, NC 27203.

MC 128117 (Sub-3–12TA), filed February 19, 1982. Applicant: NORTON-RAMSEY MOTOR LINES, INC., P.O. Box 898, Hickory, NC 28601. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda, MD 20814. *New furniture and furniture parts,* from Nichols, SC to points in AR, LA, OK, TX, CO, NM, AZ and CA. Supporting shipper: Pilliod Cabinet Co., Inc., 105 Woodland Avenue, Swanton, OH 43558.

MC 134572 (Sub-3–1TA), filed February 19, 1982. Applicant: LAWRENCE MASSENGILL, P.O. Box 36, Hickory Flat, MS 38633. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103. *Silica sand, in pneumatic trailers,* from Pulaski County, AR, to New Albany, MS. Supporting shipper: Mesker Steel Co., P.O. Box 728, New Albany, MS 38652.

MC 146402 (Sub-3–25TA), filed February 19, 1982. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, Jackson, TN 38301. Representative: Charles W. Teske (address same as applicant). *Paper and plastic products and equipment, materials and supplies used in the manufacture, installation and distribution thereof,* between the facilities of Continental Bondware located at or near Chicago, IL on the one hand, and, on the other, points in the U.S. Supporting shipper: Continental Bondware, 1701 Golf Road, Rolling Meadows, IL 60008.

MC 151173 (Sub-3–17TA), filed February 19, 1982. Applicant: HAR-BET, INC., 7209 Tara Boulevard, P.O. Box 855, Jonesboro, GA 30236. Representative: O. L. Godfrey, Jr. (Same address as applicant). Contract: Irregular: *General Commodities (except commodities in bulk, and classes A and B explosives)* between points in the U.S. (except AK and HI). Under contrct or continuing contract(s) with Warren/Sherer Division of Kysor Industrial Corporation, of Conyers, GA. Supporting shipper: Warren/Sherer Division of Kysor Industrial Corporation, 1600 Rockdale Industrial Blvd., Conyers, GA 30207.

The following applications were filed in Region 5. Send Protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 61396 (Sub-5–21TA), filed February 26, 1982. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln NE 68501. *General commodities, in vans, (except Classes A and B explosives and household goods),* between Alpha, IL, on the one hand, and, on the other, points in IA. Supporting shippers: Growmark, Inc., 1701 Towanda Avenue, Bloomington, IL 61701.

MC 67234 (Sub-5–20TA), filed February 16, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract, Irregular; *Household Goods* between points in the US under continuing contract(s) with General Electric Company and its subsidiaries, Calma Company of Milpitas, CA and Intersil, Inc. of Cupertino, CA. Supporting shipper: General Electric Company, 175 Curtner Avenue, San Jose, CA 95125.

MC 67234 (Sub-5–21TA), filed February 16, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract, Irregular; *Machines and Parts and Accessories therefor and (2) Exhibits and Displays* between points and places in the U.S. under continuing contract(s) with Eastman Kodak Company. Supporting shipper: Eastman Kodak Company, 2400 Mount Read Boulevard, Rochester, NY 14650.

MC 115730 (Sub-5–7TA), filed February 16, 1982. Applicant: THE MICKOW CORP., 531 S.W. Sixth Street, Des Moines, IA 50306. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50307. *Commodities as are dealt in or used by manufacturers and dealers of (a) agricultural equipment, (b) industrial equipment, and (c) lawn care and leisure products (except commodities in bulk)* between Jackson County, MO and pts in OK and IA. Supporting shipper: John Deere Company, 3210 East 85th Street, Kansas City, MO 64132.

MC 117954 (Sub-5–4TA), filed February 16, 1982. Applicant: H. L. HERRIN, JR., P.O. Box 1106, Metairie, LA 70004. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. *Cheese and dairy products,* between Brown County, WI, and the states of AL, AR, LA, MS, OK, TN & TX. Supporting shipper: Pauly Cheese Co., P.O. Box 1467, Green Bay, WI 54305.

MC 117954 (Sub-5–5TA), filed February 16, 1982. Applicant: H. L. HERRIN, JR., P.O. Box 1106, Metairie, LA 70004. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. *Meats, meat products and meat byproducts, dairy products, and articles distributed by meat packing houses,* as described in *Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* (except hides and commodities in bulk), from Brown County, WI, to points and places in the states of AL, AR, LA, MS & TX. Supporting shipper: Packerland Packing, Inc., P.O. Box 1164, Green Bay, WI 54305.

MC 139382 (Sub-5–2TA), filed February 16, 1982. Applicant: DWIGHT PARKER TRUCKING CO., INC., P.O. Box 149, Hugo, OK 74743. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Contract, Irregular; *General commodities (except commodities in bulk, class A & B explosives)* between points in the U.S. under continuing contract with Goodluck Glove Co. Supporting shipper: The Goodluck Glove Co., Hugo, OK.

MC 139923 (Sub-5–11TA), filed February 16, 1982. Applicant: MILLER TRUCKING CO., INC., P.O. Drawer D, Stroud, OK 74079. Representative: Daniel O. Hands, Suite 200–A, 205 West Touhy Avenue, Park Ridge, IL 60068. *Electrical wire* from the facilities of Allwire, Inc., at or near Fresno, CA to Denver, CO and Salt Lake City, UT and points in their commercial zones. Supporting shipper: Allwire, Inc., 220 M Street, Fresno, CA 93778.

MC 141010 (Sub-5–2TA), filed February 16, 1982. Applicant: CONTRACT TRANSPORT, INC., P.O. Box 1575, Des Moines, IA 50306. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. Contract, irregular; *Finished custom cabinetry and millwork items* from Des Moines, IA to New Orleans, LA, under continuing contract(s) with Neuman Bros., Inc. Supporting shipper(s): Neuman Bros., Inc., Custom Millwork Division, 2424 Ruan Center, Des Moines, IA 50309.

MC 146616 (Sub-5–13TA), filed February 16, 1982. Applicant: B & H MOTOR FREIGHT, INC., 4724 West 21st Street, Tulsa, OK 74107. Representative: Fred Rahal, Jr., Suite 305 Reunion Center, 9 East Fourth Street, Tulsa, OK 74103. *Metal products, building materials, machinery,* and *chemicals and related products,* between points in OK, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shippers: 8.

MC 146729 (Sub-5–4TA), filed February 16, 1982. Applicant: JAMES S. HELWIG & ALLEN L. GRIMLAND, d.b.a. H & G LEASING, 4525 Irving Blvd., Dallas, TX 75247. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Cosmetics, perfumes or other toilet preparations* between points in Dallas County, TX on the one hand, and, on the other, Salt Lake City, UT, Portland, OR, Los Angeles and San Francisco, CA, Fredericksburg, VA, Baltimore, MD and McKeesport, PA. Supporting shipper(s): Superior Products Company, 13525 Denton Drive, Dallas, TX 75234.

MC 149235 (Sub-5–11TA), filed February 16, 1982. Applicant: C. MAXWELL TRUCKING CO., INC., 9108 Reeds Drive, Overland Park, KS 66207. Representative: Alex M. Lewandowski, 1221 Baltimore Ave., Ste. 600, Kansas City, MO 64105. Contract, irregular; *Food and related products* between Wyandotte County, KS, on the one hand, and, on the other, points in Denver and El Paso Counties, CO. Supporting shipper: Sunshine Biscuits, Inc., P.O. Box #7, Sayreville, NJ 08872.

MC 149462 (Sub-5–2TA), filed February 16, 1982. Applicant: BERNARD PAVELKA TRUCKING, INC., 1215 East "J" St., Hastings, NE 68901. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. (a) *Malt beverages,* from Longview, TX, to points in NE; and (b) *Wall accessories and clocks,* from Grand Island, NE to Dallas, TX. There are six supporting shippers.

MC 153723 (Sub-5–6TA), filed February 16, 1982. Applicant: A&M ENTERPRISES, INC., Post Office Box 884, Springdale, AR 72764. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72702. *Wire, Plastic and Metal Products* between Benton and Washington Counties, AR, on the one hand, and, on the other, points in the U.S. Supporting shippers: Clayton-Mark, Inc., 1203 North Sixth Street, Rogers, AR 72756; Performed Line Products, Post Office Box 808, Rogers, AR 72756.

MC 154586 (Sub-5–2TA), filed February 16, 1982. Applicant: MOO TRUCK LINES, INC., 1175 St. Patrice, Florissant, MO 63031. Representative: Roger R. Morris, P.O. Box 11134, St. Louis, MO 63135. Contract, Irregular; *general commodities (Except commodities in bulk, in tank vehicles)* from the facilities of Purex Corp to all points in the U.S. (except AK and HI). Supporting shipper: Purex Corporation, St. Louis, MO.

MC 155796 (Sub-5–5TA), filed February 16, 1982. Applicant: TRANSPORTATION SPECIALISTS, LTD., 440 Commercial Federal Tower, 2120 South 72nd Street, Omaha, Nebraska 68124. Representative: Arthur J. Cerra, P.O. Box 19251, Kansas City, Missouri 64141. *Such commodities as are dealt in and sold by household furniture and appliance stores* between Omaha, NE, on the one hand, and, on the other, points in AL, AR, AZ, CA, CO, FL, GA, IA, ID, IL, IN, KS, KY, LA, MA, MD, MI, MN, MO, MS, NC, NJ, NY, OH, OR, PA, SC, SD, TN, TX, VA, VT, WA and WI. Supporting shipper: Nebraska Furniture Mart, Inc., 700 South 72nd Street, Omaha, NE.

MC 156499 (Sub-5–6TA), filed February 2, 1982. Applicant: CIRCLE C TRUCKING, INC., P.O. Box 865, Grand Island, NE 68802. Representative: Robert D. Eklund, 175 W. Apple Avenue, Muskegon, MI 49443–0786. Contract, irregular; *Steel furniture for use in bank teller stations and safety deposit vaults* between all points in the U.S. Restricted to traffic under continuing contract with Security-Steelcraft Corporation. Supporting shipper: Security-Steelcraft Corporation; Muskegon Hts, MI.

MC 156499 (Sub-5–7TA), filed February 16, 1982. Applicant: CIRCLE C TRUCKING, INC., P.O. Box 865, Grand Island, NE 68802. Representative: Robert D. Eklund, 175 W. Apple Avenue, Muskegon, MI 49443–0786. Contract, irregular; *Dog food* between all points in the U.S. Restricted to traffic under continuing contract with Hi-Life Packing Company. Supporting shipper: Hi-Life Packing Company; Hamilton, MI.

MC 159638 (Sub-5–1TA), filed February 10, 1982. Applicant: EAGLE CREEK FARMS, INC., 3200 Brown St., Little Rock, AR 72204. Representative: Richard L. Smith, Suite 305, 300 Spring Bldg., Little Rock, AR 72201. *Meat, meat products, meat by-products and articles distributed by meat packing houses (except animal feed and animal feed ingredients and commodites in bulk),* from Crete, NE and Dennison, Carroll and Iowa Falls, IA; Polk, Carrol, Crawford, Woodbury and Cherokee, IA. to points in AR, LA, MO, TN, AL, KS, MO, TX, and OK. Supporting shipper: Farmland Foods, Inc., Dennison, IA.

MC 160331 (Sub-5–1TA), filed February 16, 1982. Applicant: SHELTON BROTHERS TRANSPORTATION, 877 Elmdale Street, Shreveport, LA 71108. Representative: Terry C. Shelton (same as applicant). *Petroleum products in tank vehicles* between Caddo Parish, LA, on the one hand, and on the other, all points in LA, TX, AR, MS, and OK. Supporting shipper: Atlas Refinery, Shreveport, LA.

MC 160557 (Sub-5–1TA), filed February 16, 1982. Applicant: PATTERSON FARMS TRUCKING, INC., RR #2, Garnett, KS 66032. Representative: William B. Barker, 641 Harrison Street, Topeka, KS 66601. *Food and related products, (except in bulk),* from Ford County, KS to points in the U.S. (except AK and HI). Supporting shipper: Hyplains Dressed Beef, Inc., P.O. Box 539, Dodge City, KS 67801.

MC 160571 (Sub-5–1TA), filed February 16, 1982. Applicant: DON FLEMING, d.b.a. FLEMING TRUCKING, P.O. Box 398, Loop, TX 79342. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. *(1) Chemicals and related products, and clay products (except commodities in bulk) and (2) oil field commodities* (1) between points in WY, SD, TX, and NM and (2) between Ector County, TX and points in MT, WY, and UT. Supporting shippers: Drilling Mud, Inc., Oklahoma City, OK; Mapp Tank Company, Inc., Odessa, TX.

MC 160572 (Sub-5–1TA), filed February 16, 1982. Applicant: APEX SERVICES, INC., P.O. Box 22757, St. Louis, MO 63147. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102. Contract, irregular; *such commodities as are dealt in by chair grocery stores and food business houses* between St. Louis, MO, on the one hand, and, on the other, Chicago, IL and Hammond, IN under a continuing contract or contracts with Lever Brothers Co. Supporting shipper: Lever Brothers Co., NY, NY.

MC 109084 (Sub-5–1TA), filed February 17, 1982. Applicant: TEX-O-KAN TRANSPORTATION CO., INC., 3301 E. Loop 820 South, Fort Worth, TX 76119. Representative: Paul F. Healy, P.O. Box 8367, Fort Worth, TX 76112. Common, Irregular, *Cooling towers and parts, equipment, material and supplies used in the manufacturing, construction, fabrication, and installation of cooling towers. (No transportation of commodities in bulk tank vehicles.)* Between all points in the continental U.S. restricted to serving the facilities and points of manufacture, installation, and fabrication of Ceramic Cooling Tower Comapny and its contractors and erectors. Supporting shipper: Ceramic Cooling Tower Company, P.O. Box 8367, Fort Worth, TX 76101.

MC 125535 (Sub-5–20TA), filed February 19, 1982. Applicant: NATIONAL SERVICE LINES, INC., of New Jersey 2275 Schuetz Road, St. Louis, MO 63141. Representative: Donald S. Heim (same as applicant). Contract: Irregular (1) *Ferrous and non-ferrous metals and (2) products used in the manufacture and distribution of products in one above (except commodities in bulk in tank vehicles).* Between the facilities of Jackson Iron and Metal, Inc. and its divisions and points in the U.S. Supporting shipper: Jackson Iron and Metal, Inc., 120 Beaty, Jackson, MS 39205.

MC 145271 (Sub-5–1TA), filed February 18, 1982. Applicant: SCHULTZ CARRIERS, INC., 6036 Linden Lane, Dallas, TX 75230. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Building and Construction Materials* between Centerville, IN on the one hand, and, on the other, points in TX. Supporting shipper: Builders & Contractors Materials, Inc., 3111 Oak Lane, Dallas, TX.

MC 147348 (Sub-5–10TA) filed. February 18, 1982. Applicant: SOUTHWEST FREIGHT DISTRIBUTORS, INC., 1320 Henderson, North Little Rock, AR 72114. Representative: James M. Duckett, 221 W. 2nd, Suite 411, Little Rock, AR 72201. *Such commodities as are dealt in or used by wholesale, retail, discount, variety and department stores,* from the facilities of K-Mart Corporation, at Corsicana, TX, to the facilities of K-Mart Corporation, at points in AR and Memphis, TN. Supporting shipper: K-Mart Corporation, 3100 West Big Beaver Road, Troy, MI 48084.

MC 148152 (Sub-5–15TA), filed February 18, 1982. Applicant: K & H TRUCKING, INC., 3301 South Lamar Street, Dallas, TX 75215. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *General Commodities (except classes A and B explosives or hazardous materials)* between points in the U.S. Under continuous contract(s) with Intex Plastics Corporation of Corinth, MS; Pratt & Lambert, Inc. of Wichita, KS; Davies Can Company of Houston, TX; and Dixico, Inc. of Dallas, TX.

MC 152407 (Sub-5–2TA), filed February 17, 1982. Applicant: ABLE TRUCK LINES, INC., 409 Forrest Gate, Garland, TX 75042. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *Machinery or Metal Products and Materials, Equipment or Supplies used in the manufacture, sale and distribution of Machinery and Metal Products* between points in the U.S. Restricted to shipments originating at or destined to the facilities of The Arwood Corporation and its subsidiaries: J & E Die Casting; Southern Die Casting, Castomatic; and W. L. Chapman Co., Inc. Supporting shipper: Arwood Corporation, P.O. Box 40820, Garland, TX 75040.

MC 155796 (Sub-5–6TA), filed February 19, 1982. Applicant: TRANSPORTATION SPECIALISTS, LTD., 440 Commercial Federal Tower, 2120 South 72nd Street, Omaha, NE 68124. Representative: Arthur J. Cerra, P.O. Box 19251, Kansas City, MO 64141. Contract, Irregular; transporting *batteries and battery related equipment, flashlights and lanterns; lamps to include but not limited to electric, incandescent, sealed beams and fluorescent; and materials, equipment and supplies used in the sale, manufacture and distribution thereof,* between points in WI and points in CA, restricted to movements having a prior or subsequent movement by rail, under continuing contract(s) with Rayovac Corporation of Madison, WI.

MC 159579 (Sub-5–2TA), filed February 17, 1982. Applicant: SIMPSON'S CARRIER, INC., Box 72, Rural Route, Plainview, NE 68769. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Metal buildings, and parts and accessories for metal buildings,* from the Oklahoma City, OK commercial zone to pts. in MN, IA, MO, KS, NE, SD, ND, MT, WY and CO. Supporting shipper: Star Manufacturing Company, 8600 South Interstate Hwy 35, Oklahoma City, OK 73109.

MC 160401 (Sub-5–1TA), filed February 18, 1982. Applicant: GLIDEWELL TRUCKING, INC. Rt. 1, Box 171, Ozark, MO 65721. Representative: Don Gildewell (same address as applicant). Contract, irregular; *Paper and paper products and plastic and plastic products (except hazardous materials)* between points in the U.S. under continuing contract(s) with Lily-Tulip, Inc. of Toledo, OH. Supporting shipper: Lily-Tulip, Inc., P.O. Box 1040, Toledo, OH 43697.

MC 160594 (Sub-5–1TA), filed February 17, 1982. Applicant: JAMES YARBROUGH, Rt. 1, Box 34, Iowa Park, TX 76367. Representative: James Yarbrouygh (same address as above). *Clay, concrete, glass or stone products,* between Wichita County, TX on the one hand, and Comanche, Caddo and Cotton Counties, OK, on the other. Supporting shippers: Wichita Ready-Mix, 3510 Keith, Wichita Falls, TX 76301; and Iowa Park Ready Mix, 700 West Chestnut, Iowa Park, TX 76367.

MC 160620 (Sub-5–1TA), filed February 18, 1982. Applicant: DERREL M. SNOW AND ANNE M. SNOW, d.b.a. DERREL SNOW TRUCKING, 504 Highland Avenue, Maryville, MO 64468. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, Iowa 50309. *Iron and steel articles,* from St. Joseph, MO, to points in CO, IL, KS, OK, TX, and WY. Supporting shipper: Mid America Forming, Inc., P.O. Box 162, St. Joseph, MO 64501.

MC 144616 (Sub-5–6TA), filed February 18, 1982. Applicant: SOUTHWESTERN CARRIERS, INC., P.O. Box 79495, Saginaw, TX 76179. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. (1) *Slate,* from Washington County, NY and Rutland County, VT to points in U.S., (2) *Food and related products,* between points in WI, on the one hand, and, on the other, points in AR, IA, IL, KS, LA, MO, NE, OK and TX, and (3) *Tractor parts,* between points in U.S. in and east of ND, SD, NE, KS, OK and TX. Supporting shippers: Hilltop Slate Co., 8 Main St., Middle Granville, NY, 12849; Armour Food Co., 1720–14th Ave., Monroe, WI 53566; and Bergman Supply Co., P.O. Box 40865, Jacksonville, FL 32203.

MC 148832 (Sub-5–9TA), filed February 19, 1982. Applicant: DELTA MOTOR FREIGHT, INC., 1616 Rowe Boulevard, Poplar Bluff, MO. 63901. Representative: Ronald D. Dodds (same as applicant). Common, Regular; *General Commodities (except Classes A and B explosives and harzardous wastes)* between Poplar Bluff, MO (and its commercial zone) on the one hand, and on the other Owensboro, KY serving all intermediate points and off route points of Calvert City, KY and the Plant Site of Pinkerton Tobacco, near Owensboro, KY (and their commercial zones): From Poplar Bluff, MO over US Hwy 60 to Ownesboro, KY serving all intermediate points and off route points of Calvert City, KY and Plant Site of Pinkerton Tobacco Co, near Owensboro, KY and return over same routes. Between Cairo, IL (and its commercial zone) on the one hand, and on the other Chicago, IL (and its commercial zone): From Cairo, IL over Interstate Hwy 57 to Chicago, IL and return over same route. Between Mt Vernon, IL (and its commercial zone) on the one hand, and on the other Evansville, IN (and its commercial zone) serving the intermediate point of Mt Vernon, IN: From Mt Vernon, IL over US Hwy 142 to its junction with ILL Hwy Rt 14, then over ILL Hwy Rt 69,then over ILL Hwy Rt 69 to its junction with US Hwy 62 to Evansville, IN and return over same route serving the intermediate point of Mt Vernon, IN. Between Hayti, MO (and its commercial zone) on the one hand, and on the other hand Dyersburg, TN (and its commercial zone) on the other: From Hayti, MO over Interstate Hwy 55 to Dyersburg, TN and return over same route serving all intermediate points. Applicant proposes to interline and serve all points in Alexander, Pulaski, Massac, Union, Johnson, Opoe, Hardin Shawnee, Williamson, Saline, Gallatin, White, Hamilton, Franklin, Perry, Jackson, Randolph, Jefferson, Wayne, Edwards Counties, ILL. and Stoddard, Bollinger, Madison, Dunklin, Pemiscott, New Madrid, Mississippi, Scott and Cape Girardeau Counties, MO as off route points in connection with regular routes. Tacking and interlining is intended. There are 50 supporting shippers.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 159921 (Sub-6–1TA), filed February 10, 1982. Applicant: ALASKA PACIFIC EXPRESS, INC., POB 950, Soldotna, AK 99669. Representative: David L. Hutchings, POB 895, Soldotna, AK 99669. *General commodities* (excluding class A & B explosives and hazardous waste) to and from points on Kenai Peninsula south of Girdwood AK (in the Third Judicial District) under contract with Sea-Land Service, Inc. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Sea-Land Service, Inc., 10 Parsonage Rd. Edison, NJ 08817.

MC 134534 (Sub-6–2TA), filed February 11, 1982. Applicant: BASTERRECHEA DISTRIBUTING, INC., 812 6th Ave. East, Gooding, ID 83330. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. *Meats, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix 1 to the report in Descriptions in Motor Carier Certificates,* 61 MCC 209 and 766, from the facilities of Blincoe's Magic Valley Peaking Co., located at or near Goooding, ID to points in AZ and CO, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Blincoe's Magic Valley Packing Co., P.O.B. 69, Gooding, ID 83330.

MC 159558 (Sub-6–3TA), filed February 8, 1982. Applicant: EIGHTEEN WHEEL TRANSPORTATION, INC., 355 South Santa Fe Ave., Los Angeles, CA 90013. Representative: Frederick J. Coffman, P.O.B. 1455, Upland, CA 91786. *Contract carrier,* irregular routes, *General Commodities* (except classes A & B explosives, household goods as defined by the Commission and hazardous waste material), between points in the U.S., on the one hand, and, on the other, all ports of entry in the U.S. for the account of Trade and Marketing International, Ltd., for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: Trade and Marketing International, Ltd, 3579 East Cliff Dr., Salt Lake City, UT 84117.

MC 154433 (Sub-6–2TA), filed February 11, 1982. Applicant: INDUSTRY ENTERPRISES, INC., 19465 Railroad Ave., City of Industry, CA 91748. Representative: Donald R. Hedrick, POB 4334, Santa Ana, CA 92702. *New furniture and related products,* from Los Angeles County, CA to points in OR, WA, ID, NV, MT, WY,

UT, AZ, CO, NM and TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ed Pauly and Associates, Inc., 2936 E. 46th St., Vernon CA, 90058; Commercial Chair, 16000 Phoenix Dr., City of Industry, CA. 91748; and, Universal Furniture Industries, Inc., 2690 Pellissier Pl., Whittier, CA., 90601.

MC 70903 (Sub-6-2TA), filed February 10, 1982. Applicant: OKANOGAN-SEATTLE TRANSPORT CO., INC., PO Box 722, Ellensburg, WA 98926. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. *Silva fiber ground cover and silva cell filter material,* between King County, WA on the one hand, and, on the other, points on the international boundary line between the US and CN located in WA for 270 days. Supporting shipper: David Oppenheimer and Associates, 3462 Cornett Road, Vancouver, BC, CN, V5M 2H1.

MC 160534 (Sub-6-1TA), filed February 10, 1982. Applicant: VANDOLF PARISH, DBA PARISH CHARTER LINES, 148 Hedge Rd., Menlo Park, CA 94025. Representative: Vandolf Parish (same as applicant). *Passengers and their baggage in charter and special operations,* from San Francisco, San Mateo, Santa Clara, Marin, Alameda and Contra Costa Counties, CA to points in Clark, Douglas, Wahoe Counties, NV and Carson City, NV and return for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): There are ten supporting shippers, their statements may be examined at the Regional Office listed.

MC 160543 (Sub-6-1TA), filed February 11, 1982. Applicant: PICKETT TRUCKING, R.R. Box 50, Tijeras, N.M. 87059. Representative: Lawrence Pickett (same as applicant). *Contract Carrier,* Irregular routes (1) *Tires, shocks, wheels* and *batteries,* from Memphis, TN. to points in N.M. (2) *Petroleum products* and *related items,* from Ponca City, OK. to Albuquoque N.M. and Los Angeles, CA. (3) *Animal, pet feeds,* from CO, AZ, NM to Albuquerque, NM., for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: N.M. Tire and Battery, 102 Lomas N.E. Alb. N.M. 87102 Duke City Dist, Co. Inc., 3203 Broadway S.E., Alb. N.M. 87102 Millers Feed and Supply, 8998 4th N.W., Alb. N.M. 87114.

MC 154409 (Sub-6-2TA), filed February 9, 1982. Applicant: SABRE TRANSPORTATION, INC., 2800 Standard St., Bakersfield, CA 93308. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306. *Petroleum Fuel Oil in bulk in tank vehicles* from the facility of Nevada Refining Co., approximately six miles east of Tonopah, NV, to the facility of Union Carbide Corporation, at or near Upper Scheelite, CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Union Carbide Corporation, One California St., San Francisco, CA 94111.

MC 160195 (Sub-6-1TA), filed February 8, 1982. Applicant: SAN RAFAEL TRUCK LINE, P.O. Box 3916, Phoenix, AZ 85030. Representative: Kinley T. Gleave (same as applicant). *Evaporative Coolers, related parts and supplies,* between Phoenix, AZ on the one hand, and, on the other, points in CA, CO, ID, NV, OR, UT and WA for 270 days. Supporting shippers: McGraw-Edison Co., International Metal Products Division, 500 South 15th Street, Phoenix, AZ 85036.

MC 160559 (Sub-6-1TA), filed February 12, 1982. Applicant: SUMMITT TRANSPORT, INC., 2955 South 300 West, Salt Lake City, UT 84115. Representative: John F. Huisman (same as above). *Alcoholic beverages,* between all points in the U.S., except AK and HI, for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: NMPC Recreational Services Division, San Francisco, Contracting Officer, Bldg. 1, Rm 182, Treasure Island, San Francisco, CA 94130.

MC 139723 (Sub-6-1TA), filed January 28, 1982. Applicant: FARISH THOMPSON, d.b.a. THOMPSON TRUCKING, RR. Rte. 1, Afton, WY 83110. Representative: Timothy R. Stivers, P.O.B. 1578, Boise, ID 83701. *Contract Carrier,* Irregular routes: *Aircraft fuel,* between points in CO, ID, MT, NV, UT and WY, for the account of High Life, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: High Life, Inc., 167-15 S. Meridian, Puyallup, WA 98373.

MC 160403 (Sub-6-2TA), filed February 12, 1982. Applicant: TRANS WEST SYSTEMS, INC., P.O. Box 2618, Pocatello, ID 83201. Representative: Timothy R. Strivers, P.O. Box 1578, Boise, ID 83701. *Contract Carrier,* Irregular routes: *Insulation, materials and supplies used in the distribution thereof,* from the facilities of Empro, Inc. at or near Emmett, ID to points in CA, ID, OR, MT, NV, UT, WA and WY, for the account of Empro, Inc., for 270 days. Supporting shipper: Empro, Inc., P.O. Box 38, Emmett, ID 83617.

MC 160403 (Sub-6-3TA), filed February 12, 1982. Applicant: TRANS WEST SYSTEMS, INC., P.O. Box 2618, Pocatello, ID 83201. Representative: Timothy R. Stivers, Registered Practitioner, P.O. Box 1578, Boise, ID 83701. *Contract Carrier,* Irregular routes: Commodities dealt in by grocery food business houses, from La Palma, CA to points in ID and MT, for the account of Shaklee Corporation, for 270 days. Supporting shipper: Shaklee Corporation, 456 22nd Street, Oakland, CA 94612.

MC 146892 (Sub-6-4TA), filed February 10, 1982. Applicant: ZABEN TRANSIT INC., 5320 Wadsworth Blvd., Arvade, Co. 80002. Representative: Jerry L. Mutchie (same address as applicant). *Food or kindred products and related items used in the manufacture sale or distribution of the above* between points AR, CO, IL, IN, IA, KS, MI, MN, MO, MT, NE, NM, OH, OK, PA, SD, TX, WI, WY, for 270 days. Supporting shipper: The Great Western Sugar Company, P.O. Box 5308, Denver, CO 80217.

MC 160585 (Sub-6-1TA), filed February 11, 1982. Applicant: DONALD ALBIN d.b.a. CHEMICAL TRANSPORTATION, 21119 Wilmington, Long Beach, CA 90810. Representative: Donald Albin (same address as applicant). *Water treatment compounds and related products* in bulk in tank trucks and trailers, from Bakersfield and Compton, CA to points in the U.S. for 270 days. Supporting shipper: Betz Laboratories, Inc., 5400 Harcourt, Compton, CA.

MC 160583 (Sub-6-1TA), filed February 11, 1982. Applicant: CHUCK COX d.b.a. CHUCK COX TRUCKING, P.O. Box 1546, Evanston, WY 82930. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. *Oil drilling mud compounds.* (1) Between points in ID, MT, NV, UT and WY; (2) from points in UT to points in CO; (3) between points in MT, ND, UT and WY, for 270 days. Supporting shippers: There are 5 shippers. Their statements may be examined at the Regional Office listed above.

MC 160582 (Sub-6-1TA), filed February 11, 1982. Applicant: TRANSPORTES MEXICANOS DE MUEBLES Y MUDANZAS, 901-C Greenwood Ave., Montebello, CA 90640. Representative: Julian Quintero (same as applicant). *Common carrier,* regular route: *Used household goods,* between Los Angeles, Ventura and Orange Counties, CA, on the one hand, and, on the other, ports of entry of the U.S. and Mexico border located in CA. North and South on Highway 5 or alternate 805 between San Ysidro, CA and Montebello, CA (location of company depot). Residential city streets to nearest highway from Oxnard on North and West to Claremont on East and Anaheim on South. Movement from company depot to U.S.-Mexico border, for 270 days. Supporting shipper: Transporters Mexicanos de Muebles Y Mudanzas, 901-C Greenwood Ave., Montebello, CA, 90640.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5379 filed 2-26-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29812]

Rail Carriers; Illinois Central Gulf Railroad Co.—Exemption—Trackage Rights—Southern Railway Co.; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption; correction.

SUMMARY: A notice was published and served on February 11, 1982 (47 FR 6394), with certain incorrect dates. The exemption notice stated the effective date as March 12, 1982. The correct date appears below.

DATES: Exemption effective on March 13, 1982. Petitions to stay the effective date must be filed by February 22, 1982 and the petitions for reconsideration of this action must be filed by March 4, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5378 Filed 2-26-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP2-34

Decided: February 22, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Chandler not participating.)

MC 160442, filed February 8, 1982. Applicant: GELCO RAIL SERVICES, a division of GELCO CORPORATION, 50 California St., Suite 2800, San Francisco, CA 94111. Representative: David M. Schwartz, 1025 Connecticut Ave. NW., Washington, D.C. 20036, 202-775-8190. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 120472 (Sub-7), filed February 3, 1982. Applicant: GOLLOTT & SONS TRANSFER & STORAGE, INC., 1255 Caillavet St., P.O. Box 468, Biloxi, MS 39533. Representative: David Earl Tinker, 1000 Connecticut Ave. N.W., Suite 1112, Washington, DC 20036-5391, 202-887-5868. (1) Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S., (2) Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S., (3) Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S., (4) As a *broker of general commodities* (except household goods), between points in the U.S., and (5) Transporting *used household goods* for the account of the United States Government incident to the performances of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

MC 160473, filed February 8, 1982. Applicant: J. C. ENWRIGHT, 7709 Kona Ave., Jacksonville, FL 32211. Representative: James C. Enwright, P.O. Box 8171, Jacksonville, FL 32239, 904-724-1443. (1) Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S., (2) Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. and (3) transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160483, filed February 8, 1982. Applicant: NEW MENASHA, INC., P.O. Box 367, Neenah, WI 54956.

Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956, 414–722–2848. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP3–83

Decided: February 23, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 158054 (Sub-1), filed February 11, 1982. Applicant: JUSTAK BROTHERS AND COMPANY, INC., P.O. Box 389, Whiting, IN 46394. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204, (317) 635–2339. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 160474, filed February 8, 1982. Applicant: ROBERT CHARD, 247 20th Ave., Coos Bay, OR 97420. Representative: (Same as applicant) (503) 233–5766. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160515, filed February 10, 1982. Applicant: C. D. P., INC., 3340 Oxbow Way, Eugene, OR 97401. Representative: Rodney Potts (same address as applicant), (503) 485–1389. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160564, filed February 16, 1982. Applicant: J. R. SPECIAL DELIVERY, INC., P.O. Box 375, Versailles, KY 40383. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602, (502) 227–2254. Transporting (1) for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) *shipments weighing 100 pounds* or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 160584, filed February 16, 1982. Applicant: KENNETH J. THOMSEN, d.b.a THOMSEN LIVESTOCK, 3829 Meridian Road, S.E., Olympia, WA 98503. Representative: Kenneth J. Thomsen (same address as applicant), (206) 491–0285. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs) *agricultural limestone and fertilizers and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP4–83

Decided: February 17, 1982.

By the Commission, Review Board No 2, Members Carleton, Fisher, and Williams.

MC 149267 (Sub-3), filed February 9, 1982. Applicant: SUPER TRUCK LINES, INC., 801 W. Pershing Rd., Chicago, IL 60609. Representative: William Shipley, P.O. Box 1585, Hot Springs, AR 71901, (501) 262–3600. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S., (2) transporting *shipments weighing 100 pounds or less if transported* in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S., and (3) transporting *general commodities* (except classes A and B explosives), between Weston and Parriott, GA; Alexandria, Kahoka, Wayland, Memphis, Downing and Lancaster, MO; Arm, Oakville, Hathorn, Columbia, Michigan City, Lamar, Hudsonville, Waterford, Abbeville, Oxford, Taylor, Water Valley, Velma, and Coffeeville, MS; Garwin and Toledo, IA; Equality and Shawneetown, IL; Nelson, NE; Benton, Tompsonville, Masonville, Edgoten, KY; Kenwood, Hickory Point, Doddsville, Fox Bluff, Chapmansboro, Malesus, Medon, Toone, Bolivar, Hickory Valley and Lexington, TN; Hamilton, Helmer, Wolcottsville and Wakarusa, IN; Edgefield, SC; Brisbin, MT and International, UT, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of part (3) of this application is to substitute motor common carrier for abandoned rail service.

Condition: Issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at specified points. The certification should be sent to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, D.C. 20423.

Volume No. OP4–84

Decided: February 17, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 160437, filed February 5, 1982. Applicant: BERNARD D. WINTERS, RD #1, Box 448, Willow Street, PA 17584. Representative: George E. Campbell, 985 Old Eagle School, Suite 501, Wayne, PA 19087, (215) 293–9220. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160447, filed February 8, 1982. Applicant: COLUMBIA TRANSPORT, P.O. Box 400, Royal City, WA 99357. Representative: Bryan Phillips, P.O. Box 400, Royal City, WA 99357, (509) 346–2258. As a *broker of general commodities* (except household goods), between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–5376 Filed 2–26–82; 8:45 am]

BILLING CODE 7535–01–M

MINORITY BUSINESS DEVELOPMENT AGENCY

Financial Assistance Application Announcement

Summary: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Technology Commercialization Center (TCC) Program to operate a Technology Commercialization Center for a period of 12 months beginning May 1, 1982 in the Baltimore/Washington area. Federal funds are estimated at $150,000. The project number is 98–10–82000–01. Catalog of Federal Domestic Assistance—11.800 Minority Business Development.

Closing Date: March 15, 1982.

Funding Instrument: It is anticipated that the funding instrument will be a grant, as defined by the Federal Grant and Cooperative Agreement Act of 1977.

Program Description: Provide and/or broker those services necessary to move technology-based projects from the initial evaluation stage through the product development phase into commercialization. These services shall benefit those minorities capable in engaging in technology-based and growth oriented businesses, inventors, innovators and sources of financial assistance.

Eligibility Requirements: There are no restrictions. Any profit or non-profit institution is eligible to submit an application.

Application Materials: An application kit for this project may be requested by writing to the following address: U.S. Department of Commerce, Minority Business Development Agency, Industry & Technology Division, Washington, D.C. 20230

In requesting an application kit, the applicant must specify its profit status; i.e., State or local government, Federally recognized Indian tribal units, education institutions, or other type of profit or non-profit institution. This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Dated: February 16, 1982.

Harold Jones,

Assistant Director for Enterprise Development.

[FR Doc. 82–5352 Filed 2–26–82; 8:45 am]

BILLING CODE 3510–21–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Dance Panel (Grants to Dance Companies); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Dance Panel (Grants to Dance Companies) to the National Council on the Arts will be held on March 22–26, 1982, from 9:00 a.m.–5:30 p.m., in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 19, 1982.

[FR Doc. 82–5404 Filed 2–26–82; 8:45 am]

BILLING CODE 7537–01–M

Design Arts Panel (Design Exploration); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Design Arts Panel (Design Exploration) to the National Council on the Arts will be held on March 23, 1982, from 9:00 a.m.–5:30 p.m. in room 1340 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 19, 1982.

[FR Doc. 82–5405 Filed 2–26–82; 8:45 am]

BILLING CODE 7537–01–M

Inter-Arts Panel (Services to the Field); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Inter-Arts Panel (Services to the Field) to the National Council on the Arts will be held on March 23, 1982, from 9:00 a.m.–5:30 p.m. and on March 24, 1982, from 9:00 a.m.–4:30 p.m. in room 1428 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on March 24, from 2:30 p.m. –4:30 p.m. to discuss policy.

The remaining sessions of this meeting on March 23 from 9:00 a.m.–5:30 p.m. and March 24, from 9:00 a.m.–2:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 19, 1982.

[FR Doc. 82–5406 Filed 2–26–82; 8:45 am]

BILLING CODE 7537–01–M

Visual Arts (Video Fellowships); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts (Video Fellowships) to the National Council on the Arts will be held on March 23–26, 1982, from 9:00 a.m.–5:30 p.m. in the 12th floor screening room of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

The meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applications. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 19, 1982.

[FR Doc. 82–5407 Filed 2–26–82; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SECURITY AGENCY

Invitation for Submission to NSA of Papers on Cryptography

AGENCY: National Security Agency (NSA).

ACTION: Notice.

SUMMARY: NSA has initiated a voluntary program of review of papers concerning cryptography based on the recommendations of the American Council on Education's Public Cryptography Study Group. NSA will receive and review papers on cryptography submitted by researchers and authors to determine if any national security concerns are raised by such papers. Procedures are being established to permit a submitter to appeal a determination by NSA that certain information should not be publicly disclosed. Researchers and authors are invited to submit their papers to NSA.

EFFECTIVE DATE: February 23, 1982.

ADDRESS: Papers should be mailed to: National Security Agency, Director of Policy, Fort George G. Meade, MD 20755.

FOR FURTHER INFORMATION CONTACT: Lt. Col. David Tisdale, Office of Policy, National Security Agency, Ft. George G. Meade, MD 20755, (301) 688–6527.

SUPPLEMENTARY INFORMATION: Two years ago at the suggestion of the Director, NSA, the American Council on Education sponsored, under a grant from the National Science Foundation, a Public Cryptography Study Group (PCSG) to address the concerns of the National Security Agency (NSA) that some information contained in published articles and mongraphs on cryptography could endanger the mission of NSA and the national security. The PCSG released a report in April 1981 that presents a detailed description of the concerns held by the involved parties. These concerns fall into two major categories—protection of national security and the issues that may affect private-sector research. The study-group report contained recommended guidelines for a voluntary prepublication review program designed to assist authors and researchers and NSA in protecting against the inadvertent disclosure of cryptologic information that would be damaging to national security. NSA has accepted the PCSG guidelines and is moving toward their full implementation.

Within this framework, NSA has developed internal procedures to facilitate timely review of research papers and provide a rapid response to submitters.

A central point has been established for receipt, staffing and response to authors submitting papers. As NSA has already received approximately 25 papers, it has been able to test the system. These papers have been reviewed and commented upon within 30 days of receipt. To date no national security concerns have been raised concerning the papers NSA has reviewed.

If a paper does raise a national security concern, NSA will communicate directly with the author to make arrangements for a personal discussion of how the paper might be made acceptable to all concerned. NSA fully expects that we will be able to reach an accord with the author in such a case. However, if not, the author will have an appeal mechanism. Although not yet fully staffed, a five-member Public Cryptography Advisory Committee (PCAC) is being established to serve as the appeal mechanism for authors who choose to use it. It will be composed of two members nominated by the Director, NSA, and three members nominated by the Science Advisor to the President. All members will be appropriately cleared for access to classified information. The PCAC will hear both sides of the issue and make a non-binding recommendation to both the Director, NSA, and the submitter. NSA anticipates, based on its experience to date, that papers will rarely prompt involvement by the PCAC.

Based on the recommendations of the Public Cryptography Study Group, NSA is working with various technical societies to reach agreement on a precise definition of areas which would be appropriate for submission. The following definition has been provided to the societies for their comments:

We are especially interested in reviewing papers that discuss or present the analysis and evaluation of cryptography (mechanical, manual or computer based systems, general or specific, whether intended for public or private use); specific cryptographic techniques or applications (for example, data encryption standard or techniques involving digital signature, authentication, etc.); and theoretical or actual evaluation methods (such as proofs of security or standards for cryptosystems).

NSA anticipates that it will take some time to reach agreement on the precise wording of this definition. In the interim, authors and researchers may currently have materials that they believe come within the scope of this program and which are appropriate for NSA review. In that event, NSA would welcome the opportunity to review and comment on papers, manuscripts or related items of any individual who is performing research in or related to the field of cryptology and who believes such research may have national security implications. In making this interim proposal, NSA recognizes that the entire prepublication review procedure is voluntary.

Since most researchers cannot be expected to know what information related to cryptology the government considers sensitive, NSA wishes to work together with researchers and authors on the assumption that it can be of assistance. NSA does not desire to suppress all research in cryptology and fully appreciates the need for good cryptography in the private sector and is interested in working with industry toward that end, commensurate with the protection of national security. Individuals or firms that have programs that deal with cryptology which are not related to a government contract or involve classified information made available to them by the government such may wish to submit such papers to NSA.

NSA supports this program and invites authors, researchers, and publishers in the academic and commercial communities to voluntarily forward their papers addressing subjects related to cryptology to NSA for this review.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

February 24, 1982.

[FR Doc. 82-5355 Filed 2-26-82; 8:45 am]

BILLING CODE 3810-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on Decay Heat Removal Systems; Meeting

The ACRS Subcommittee on Decay Heat Removal Systems will hold a meeting on March 16, 1982 in Room 1046, 1717 H Street, NW., Washington, DC. The Subcommittee will review the status of task Action Plan A–45, "Shutdown Decay Heat Removal Requirements" and the effectiveness of PWR Decay Heat Removal Systems with the emphasis on the CESSAR System 80 standard design. Notice of this meeting was published February 17.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Tuesday, March 16, 1982

8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close portions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: February 24, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-5416 Filed 2-26-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Reactor Operations and R. E. Ginna; Meeting

The ACRS Subcommittee on Reactor Operations and R. E. Ginna will hold a meeting on March 18 and 19, 1982, at the SHERATON INN, 1100 Brooks Avenue, Rochester, NY. The Subcommittee will discuss the January 25, 1982 steam generator tube failure and site emergency incident and the Systematic Evaluation Program (SEP) as applied at Ginna. Notice of this meeting was published February 17.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary and Industrial Security information. One or more closed sessions may be necessary to discuss such information. (Sunshine Act Exemption 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Thursday, March 18, 1982—8:30 a.m. until the conclusion of business.

Friday, March 19, 1982—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who maybe present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Rochester Gas and Electric Corporation, the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr Richard K. Major (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., E.S.T.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary and Industrial Security information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: February 24, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-5417 Filed 2-26-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Regulatory Activities; Change of Time

The March 3, 1982 meeting of the ACRS Subcommittee on Regulatory Activities has been rescheduled to start at 1:00 p.m. instead of 8:45 a.m. on March 3, 1982. All other items remain the same as published on Tuesday, Feb. 16, 1982, 31 FR 6741.

Dated: February 23, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-5418 Filed 2-26-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Waterford Steam Electric Station Unit No. 3; Change of Time

The March 3, 1982 meeting of the ACRS Subcommittee on Waterford Steam Electric Station Unit No. 3 has been rescheduled to start at 6:30 a.m. instead of 1:00 p.m. on March 3, 1982. All other items remain the same as published on Wednesday, February 17, 1982, 32 FR 7029.

Dated: February 23, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-5419 Filed 2-26-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-400/401-OL]

Carolina Power & Light Co. and North Carolina Municipal Power Agency No. 3; Establishment of Atomic Safety and Licensing Board To Preside in Proceeding

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register** (37 FR 28710) and §§ 2.105, 2.700 2.702, 2.711, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Carolina Power & Light Company and North Carolina Municipal Power Agency Number 3
Shearon Harris Nuclear Power Plant, Units 1 and 2
Construction Permit Nos. CPPR–158 and CPPR–159

This Board is being constituted pursuant to a notice published by the Commission on January 27, 1982 in the **Federal Register** (47 FR 3898–3900) entitled, "Notice of Receipt of Application for Facility Operating Licenses; Availability of Applicants' Environmental Report; Consideration of Issuance of Facility Operating Licenses; and Opportunity for Hearing."

The Board is comprised of the following administrative judges:

James L. Kelly, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Mr. Glenn O. Bright, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dr. James H. Carpenter, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Issued at Bethesda, Md., this 23d day of February 1982.

B. Paul Cotter, Jr.,
Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 82-5411 Filed 2-29-82; 8:45 am]
BILLING CODE 7590-01-M

[Perkins, Units 1, 2 and 3; Docket Nos. STN-50-488/489/490-CP]

Duke Power Co.; Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for the *Duke Power Company*, Perkins, Units 1, 2, and 3, Docket Nos. STN–50–488/489/490–CP, is hereby reconstituted by appointing the following Administrative Judge to the Board: Ivan W. Smith. Elizabeth Bowers, former chairman of this Board, has retired.

As reconstituted, the Board is comprised of the following Administrative Judges:

Ivan W. Smith, Chairman
Dr. Walter H. Jordan
Dr. Donald P. deSylva

All correspondence, documents and other materials shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board Chairman is: Judge Ivan W. Smith, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Issued at Bethesda, Md., this 22d day of February 1982.

B. Paul Cotter, Jr.,
Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 82-5412 Filed 2-26-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., et al., Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 51 to Facility Operating License No. DPR–72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the Technical Specifications (TSs) for operation for the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. The amendment is effective as of the date of issuance.

The amendment allows a one time only bypassing of the reactor coolant pump power monitor trip function at less than 40% full power in order to conduct tests. The tests involve switchover between the startup and the unit auxiliary transformers while monitoring the reactor coolant flow and the 6900 volt bus current and voltage.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 8, 1982, (2) Amendment No. 51 to License No. DPR-72, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and at the Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, MD., this 12th day of February 1982.

For the Nuclear Regulatory Commission.
John F. Stolz,
Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-5413 Filed 2-26-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-94]

Rockwell International; Order Terminating Facility License

By application dated January 28, 1976, as supplemented March 26, 1976 and January 6, 1982, Rockwell International (the licensee) requested authorization to dismantle the L–77 Reactor (the facility), a research reactor located in Canoga Park, California, to dispose of the component parts in accordance with the plan submitted as part of the application, and to terminate Facility License No. R–40. A "Notice of Proposed Issuance of Orders Authorizing Dismantling of Facility, Disposition of Component Parts, and Termination of Facility License" was published in the **Federal Register** on April 8, 1976 (41 FR 14955). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has found that the facility has been dismantled and decontaminated, and that satisfactory disposition has been made of the component parts and fuel in accordance with the Commission's regulations in 10 CFR Chapter I, and in a manner not inimical to the common defense and security or to the health and safety of the public. The facility was dismantled pursuant to the Commission's Order dated September 29, 1976.

The facility area has been inspected by the Commission's Office of Inspection and Enforcement and radiation surveys confirm that radiation levels meet the values defined in the dismantling plan, and the area is available for unrestricted access.

Therefore, pursuant to the application by the Rockwell International Facility License No. R–40 is hereby terminated as of the date of this Order.

For further details with respect to this action, see (1) application for authorization to dismantle facility and dispose of component parts and for termination of facility license dated January 28, 1976, as supplemented March 26, 1976 and January 6, 1982, (2) the Commission's Order Authorizing Dismantling of Facility and Disposition of Component Parts dated September 29, 1976, and (3) the Commission's related Safety Evaluation. Each of these items is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 11th day of February 1982.

For the Nuclear Regulatory Commission.
Darrell G. Eisenhut,
Director, Division of Licensing.

[FR Doc. 82-5414 Filed 2-26-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-339]

Virginia Electric & Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 18 to Facility Operating License No. NPF–7 issued to the Virginia Electric and Power Company (the licensee) for operation of the North Anna Power Station, Unit No. 2 (the facility) located in Louisa County, Virginia. The amendment is effective as of its date of issuance.

The amendment consists of a one-time two week extension to surveillance frequency requirements specified in Technical Specification 4.0.2.a for Specification 4.7.10.c regarding the 18-month hydraulic snubber testing requirement.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 5, 1982; (2) Amendment No. 18 to Facility Operating License No. NPF–4; and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 16th day of February 1982.

For the Nuclear Regulatory Commission.
Robert A. Clark,
Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-5415 Filed 2-26-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-329A and 50-330A]

Consumers Power Co.; Notice of Receipt of Antitrust Information

The Consumers Power Company as owner of the Midland Plant, Units 1 and 2, has submitted antitrust information in connection with its plans to operate two pressurized water reactors located in Midland County, Michigan. The data submitted contain antitrust information for review pursuant to NRC Regulatory Guide 9.3 necessary to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage.

On completion of staff antitrust review of the above-named application, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the Act. A copy of this finding will be published in the **Federal Register** and will be sent to the Washington and local public document rooms and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any significant changes, request for reevaluation may be submitted for a period of 60 days after the date of the **Federal Register** notice. The results of any reevaluation that is requested will also be published in the **Federal Register** and copies sent to the Washington and local public document rooms.

A copy of the general information portion of the application for operating licenses and the antitrust information submitted is available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the local public document room at the Grace Dow Memorial Library, 1710 W. St. Andrews Road, Midland, Michigan 48640.

Any person who desires additional information regarding the matter covered by this notice or who wishes to have his views considered with respect to significant changes related to antitrust matters which have occurred in the licensee's activities since the construction permit antitrust review for the above-named plant should submit such requests for information or views of the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Antitrust and Economic Analysis Branch, Nuclear Reactor Regulation, on or before April 5, 1982.

Dated at Bethesda, Maryland, this 25th day of January 1982.

For the Nuclear Regulatory Commission.
Calvin W. Moon,
Acting Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 82-5410 Filed 2-26-82; 8:45 am]
BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

February 22, 1982.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the act also considers comments on the forms and

recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available).

The office of the agency issuing this form.

The title of the form.

The agency form number, if applicable.

How often the form must be filled out.

Who will be required or asked to report.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

Whether small businesses or organizations are affected.

A description of the Federal budget functional category that covers the information collection.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

An estimate of the cost to the Federal Government.

An estimate of the cost to the public.

The number of forms in the request for approval.

An indication of whether section 3504(h) of Pub. L. 96–511 applies.

The name and telephone number of the person or office responsible for OMB review, and

An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of face entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—202–447–6201

Revisions

• Agricultural Marketing Service
California Olives—Marketing Order No. 932
On occasion, monthly
Businesses or other institutions
California olive handlers under marketing order 932
SIC: 515
Small businesses or organizations
Agricultural research and services: 5,387 responses; 1,283 hours; $625 Federal cost; 16 forms; $5,162 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

The Olive Administrative Committee forms are used to obtain information from handlers relating to the olives received, packed, processed, canned, stored, sold and shipped by them, and are needed to determine the composition and utilization of the supply, and to verify that all disposition are in accordance with requirements under the order.

• Agricultural Marketing Service
Washington Apricots—Marketing Order No. 922
On occasion
Businesses or other institutions
Washington apricot handlers under marketing order 921
SIC: 017
Small businesses or organizations
Agricultural research and services: 60 responses; 4 hours; $500 Federal cost; 2 forms; $25 Public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

The Washington Apricot Marketing Committee forms are used by the committee to ascertain if a handler's apricot shipments should be exempted from inspection requirements and if such shipments meet the other requirements specified under the order.

• Agricultural Marketing Service
California-Arizona Navel Oranges—Marketing Order No. 907
On occasion, annually
Farms/businesses or other institutions
Calif.-Ariz. navel orange growers, handlers, processor, etc.
SIC: 017, 515, 203
Small businesses or organizations
Agricultural research and services: 99,622 responses; 20,001 hours; $610 Federal cost; 15 forms; $104,693 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

The Navel Orange Administrative Committee forms are used to obtain information from handlers relating to the quantities of navel oranges shipped and utilized in various outlets during specified time periods, and by growers, handlers, processors, and exporters to apply for permission to ship navel oranges to certain non-regulated outlets.

• Agricultural Marketing Service
California-Arizona Valencia Oranges—Marketing Order No. 908
On occasion, annually
Farms/businesses or other institutions/growers, handlers, etc.
SIC: 017, 515, 203
Small businesses or organizations
Agricultural research and services: 106,957 responses; 21,607; $610 Federal cost; 16 forms; $113,037 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

The Valencia Orange Administrative Committee forms are used to obtain information from handlers relating to the quantities of Valencia oranges shipped and utilized in various outlets during specified time periods, and by growers, handlers, processors, and exporters to apply for permission to ship Valencia oranges to certain non-regulated outlets.

• Agricultural Marketing Service
Irish Potatoes grown in Colorado (Marketing Order No. 948)
On occasion
Farms/businesses or other institutions
Potato handlers in the production area
SIC: 515
Small businesses or organizations
Agricultural research and services: 426 responses; 13 hours; $435 Federal cost; 2 forms; $179 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

The Colorado Potato Committees forms are used as a safeguard for handlers who wish to be exempted from grade, size, quality, or maturity requirements of the order.

• Agricultural Marketing Service
Florida Oranges, Grapefruit, Tangerines & Tangelos
Marketing Order No. 905
On occasion
Businesses or other institutions
Florida fresh citrus handlers & rec. under marketing ord. 905
SIC: 017, 515
Small businesses or organizations
Agricultural research and services: 1,152 responses; 50 hours; $500 Federal cost; 3 forms; $653 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

The Citrus Administrative Committee forms are used to obtain information from handlers relating to their tangerine shipments, and from handlers and receivers relating to shipments of "organically produced" citrus to natural food outlets.

• Agricultural Marketing Service
California Desert Grapefruit—Marketing Order No. 904
On occasion, weekly
Businesses or other institutions
Calif. desert grapefruit handlers and processors, etc.
SIC: 515, 203
Small businesses or organizations
Agricultural research and services: 1,904 responses; 198 hours; $532 Federal cost; 5 forms; $1,353 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

California grapefruit administrative committee forms are used to obtain information from desert grapefruit handlers and processors relating to the grapefruit disposes of by them, as will as make application for special handling permits to make certain types of shipments as provided for in the marketing order.

• Agricultural Marketing Service
Oregon-Washington Bartlett Pears—Marketing Order No. 931
Weekly, other—see SF83
Businesses or other institutions
Wash-Oregon fresh bartlett pear han. under Mark. Ord. 931
SIC: 515, 017
Small businesses or organizations
Agricultural research and services: 245 responses; 261 hours; $500 Federal cost; 2 forms; $1,607 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

The fresh bartlett pear marketing committee forms are used to obtain information from handlers relating to their fresh bartlett pear shipments semi-monthly by date of shipment, quantity (by type of container), and destination, and weekly packout, including number of containers sold and unsold by variety.

• Agricultural Marketing Service
Red Tart Cherries—Marketing Order No. 930
Annually
Farms/Businesses or other institutions
Red tart cherry growers and handlers under Marketing Ord. 930
SIC: 017, 515, 203
Small businesses or organizations
Agricultural research and services: 3,336 responses; 548 hours; $570 Federal cost; 13 forms; $2,346 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

Cherry administrative board forms are used to obtain information from red tart cherry growers and handlers relating to the cherries received, processed, packed, placed in a reserve pool, and diverted by them, as well as make application for a permit to divert cherries by leaving them on the trees, as provided for in the marketing order.

• Agricultural Marketing Service
Marketing Order 929—Cranberries Grown in States of MA, RI, CT, NJ, WI, MI, MN, OR, WA, and Long Island in the State of New York
On occasion, semiannually, annually
Farms/businesses or other institutions
Cranberry growers and handlers under Marketing Order 929
SIC: 017, 515, 203
Small businesses or organizations
Agricultural research and services: 24 responses; 205 hours; $555 Federal cost; 11 forms; $1,179 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

Cranberry marketing committee forms are used to obtain information from cranberry handlers relating to the cranberries handled, acquired, in inventory, sold, and otherwise disposed of by them, and from cranberry growers relating to their cranberry businesses, and their base quantities and allotment transactions.

• Agricultural Marketing Service
Hawaiian Papayas—Marketing Order 928
Monthly, annually
Businesses or other institutions
Hawaiian papaya producers, handlers, and processors
SIC: 017, 515, 203
Small businesses or organizations
Agricultural research and services: 965 responses; 539 hours; $532 Federal cost; 3 forms; $3,016 public cost; not applicable under 3504(h)
Charles A. Ellett, 202–395–7340

Papaya administrative committee forms are used to obtain information from papaya producers, handlers, and processors relating to the papayas disposed of by them, as well as make application for benefits, including obtaining special handling permits to make certain types of shipments exempt from regulation, as provided for in the marketing order.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202–377–3627

New

• Bureau of the Census
1982 Census of Governments Survey of Government Employment
E–2, E–6
Nonrecurring
State or local governments
State institutions of higher education
SIC: 821, 822, 824, 829
Other advancement and regulation of commerce: 14,000 responses; 17,770 hours; $9,400,000 Federal cost; 2 forms; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

Part of the 1982 census of governments. Requests data on State and local government employment and payrolls (for one pay period), employer costs for selected employee benefits, and labor-management relations. Results are used by Federal, State and local government officials, agencies and programs, as well as by public interest groups, academic instructors and researchers, and the general public.

• Bureau of the Census
1982 Census of Governments Survey of Government Employment
E–1, E–3, E–4, E–5, E–7, E–9
Nonrecurring
State or local governments
State agencies and Noneducational Institutions
Sic: Multiple
Other advancement and regulation of commerce: 36,525 responses; 34,195 hours; $9,400,000 Federal cost; 6 forms not applicable under 3504(h)
Statistical Policy Branch, 202–395–7313

Part of 1982 census of governments. Requests for data on State and local government employment and payrolls (for one pay period) by governmental

function, employer costs for selected employee benefits, and labor-management relations. Results are used by Federal, State and local government officials, agencies and programs, as well as by public interest groups, academic instructors and researchers, and the general public.

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—703–697–1195

Extensions (No Change)

• Departmental and Others
DD 1850Ammunition Data Card
On occasion
Businesses or other institutions
Ordnance manufacturers
SIC: 348
Department of Defense-military: 9,375 responses; 18,750 hours; $99,000 Federal cost; 1 form; not applicable under 3504 (h)
Kenneth B. Allen, 202–395–3785.

This information is necessary for the ordnance officer to manage procurement and distribution of ammunition. A life cycle record is made on ammunition beginning with acceptance from the ordnance manufacturer, issue for field use, malfunction investigations, future procurements, and finally as historical data.

• Department of the Army
Prequalification Statement for Prime Construction Contracts
FNG 3627
On occasion
Businesses or other institutions
Construction contractors
SIC: Multiple
Small Businesses or organizations
Water resources: 400 responses; 8,000 hours; $3,280 Federal costs; 1 form; not applicable under 3504(h)
Andy Uscher, 202–395–4814.

These applications forms are used to determine competence to perform in the required manner. Application is kept on file as part of contractor's credentials.

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—202–633–9770

New

• Energy Information Administration
Weekly Crude Watch Report
FIA–739
Weekly
Businesses or other institutions
Petroleum refiners
SIC: 291
Energy information, policy, and regulation: 1,560 responses; 1,560 hours; $41,400 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

Data are used to support market analysis for strategic petroleum reserve purchases and to support U.S. participation in the international energy agency programs.

Reinstatements

• Federal Energy Regulatory Commission
Gas Producer Certificate Abandonment/Termination
FERC–530
Other-See SF83
Businesses or other institutions
Independent producers of natural gas
SIC: 131
Energy information, policy, and regulation: 270 responses; 1,350 hours; $533,350 Federal cost; 1 form; not applicable under 3504 (h)
Anita T. Ducca, 202–395–7340

Producers must file this information to secure abandonment authorization. No sale subject to the NGA may be abandoned or terminated unless the commission finds that the available supply of natural gas is depleted to the extent that continuance of service is unwarranted, or that the present or future public convenience or necessity permit such abandonment.

• Energy Information Administration
Energy Company Financial Reporting System
FIA–28
Annually
Businesses or other institutions
Major energy producing companies
SIC: 131, 111, 121
Energy information, policy, and regulation: 26 responses; 52,000 hours; $1,200,000 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

Data are required pursuant to public law no. 95–91. The financial reporting system (FRS) provides data to evaluate the competitive environment within which energy products are supplied and developed and to analyze the nature of institutional arrangements as they relate to energy resource development, supply and distribution.

• Federal Energy Regulatory Commission
Gas Pipeline Certificate Import/Export Related
FERC–539
Weekly
Individuals or households/businesses or other institutions. Natural gas pipeline companies or individuals
SIC: 492
Small businesses or organizations
Energy information, policy, and regulation: 55 responses; 105,600 hours; $472,000 Federal cost; 1 form; not applicable under 3504 (h)
Anita T. Ducca, 202–395–7340.

Section 3 of the Natural Gas Act requires importers or exporters of natural gas to receive authorization for such. Under the DOE act this authority rests with the Secretary of Energy with delegation in part to the commission.

• Federal Energy Regulatory Commission
Gas Producer Certificate: New Service.
FERC–531
Other-See SF83
Businesses or other institutions
Independent producers of natural gas
SIC: 131
Small businesses or organizations
Energy information, policy, and regulation: 600 responses; 1,800 hours; $671,500 Federal cost; 1 form; not applicable under 3504 (h)
Anita T. Ducca, 202–395–7340.

Producers who engage in the interstate transportation of sale of natural gas pursuant to sections 4, 5, and 7 of the NGA must file this information for certificates of public convenience and necessity.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488

New

• Centers for Disease Control
Health Risk Appraisal Study of a Hispanic Population
Nonrecurring
Individuals or households
Hispanics in a low-income neighborhood
Health: 4,800 responses; 840 hours; $236,000 Federal cost; 5 forms; $8,400 public cost; not applicable under 3504(h)
Fay S. Iudicello, 202–395–3090

This study will enable investigation of the strength of the association in change of health behavior and the degree of intervention following a health risk appraisal for a Hispanic population.

• Alcohol, Drug Abuse, and Mental Health Administration Validity/Reliability Study of Self-Reported Drinking
Nonrecurring
Individuals or households
Individual 18 years and older living in households in 3 SMSA'S
Health: 2,050 responses; 800 hours; $124,555 Federal cost; 6 forms; $8,900 public cost; not applicable under 3504(h)
Fay S. Iudicello, 202–395–3090

NIAAA has a working relationship with the national center for health statistics to develop and field measures for an alcohol use supplement to the 1983 national health information survey (NHIS). The proposed study tests the reliability and validity of alcohol use measures and identifies the best set to be used.

Revisions

• Social Security Administration
Supplement to Claim of Person Outside the U.S.
SSA–21
On occasion
Individuals or households
Applicants or benef. who are currently, have been res., etc.
General retirement and disability insurance: 90,000 responses; 15,000 hours; $500,000 Federal cost; 1 form; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

Section 202 of the Social Security Act provides that no payment will be made to any alien beneficiary for any month after 6 months during all of which he/she has been outside the United States. This form is used as a supplement to applications for benefits filed by persons who are or have been residing outside the U.S. during the retroactive life of their applications. It is also used by beneficiaries who are planning to go outside the United States.

Reinstatements

• Office of Assistant Secretary for Health
1982 National Master Facility Inventory Survey and Complement Survey
PHS–6093, A, C, D
Nonrecurring
Businesses or other institutions
Nursing and related care facilities in 9 States
SIC: 805, 806, 808, 836
Small businesses or organizations
Health: 5,000 responses; 1,650 hours; $922,000 Federal cost; 4 forms; $16,500 public cost; not applicable under 3504(h)
Fay S. Iudicello, 202–395–3090

The 1982 survey of the national master facility inventory will be conducted among nursing and related care homes from June–December 1982. The collected information will provide stratification criteria for the next national nursing home survey and will be published in the biennial edition of health, United States.

• Social Security Administration
Report on Claims of Good Cause for Refusing to Cooperate in Establishing Paternity and Securing Child Support and Case Report
SSA–4680 & SSA–4681–U4
On occasion, semiannually
State or local governments
State agencies administering AFDC programs
SIC: 944
Public assistance and other income supplements; 40,068 responses; 7,210 hours; $390 Federal cost; 2 forms; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

Section 402(a) (26)(b) and 545(4) (a) and (b) of the Social Security Act provide for information required to maintain records of activities that will make it possible to submit to HHS delineated information on good cause claims in administering the aid to families with dependent children (AFDC) program. This form elicits the required information from States.

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Larry E. Miesse—202–633–4312

Reinstatements

• Immigration and Naturalization Service
Application for Permission to Reapply for Admission into the United States After Deportation or Removal
I–212
Nonrecurring
Individuals or households
Applicants seeking readmission into the United States
Federal law enforcement activities: 5,000 responses; 1,666 hours; $187,000 Federal cost; 1 form; $16,660 public cost; not applicable under 3504(h)
Andy Uscher, 202–395–4814

Section 212(D)(3)(A) of the I&N Act provides that an alien applying for a nonimmigrant visa may at the discretion of the Attorney General be issued such a visa even though inadmissible because of previous deportation or removal from the United States. Information is used to determine eligibility.

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Windsor—202–426–1887

New

• Federal Railroad Administration
Application for Participation and Funding of the Federal Railroad Safety Program
Nonrecurring
State or local governments
State transportation departments
SIC: 401
Ground transportation: 30 responses; 150 hours; $6,000 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Information received is used to determine eligibility for participation in the Grant-in-aid State participation program—has legal authority and capability to conduct investigative and surveillance activities prescribed by the administrator, certification that States will provide program funding in excess of Federal payments and comply with OMB circular A–102.

• Federal Railroad Administration
Renewal of Certification and Annual Report
Annually
State or local governments
State transportation departments—State public commissions
SIC: 401
Ground transportation: 30 responses; 150 hours; $6,000 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Section 206(B) of the Railroad Safety Act of 1970 (PL–9–458) requires renewal of certification.

Reinstatements

• Federal Railroad Administration
Monthly Work Schedule
FRA F–74
Monthly
State or local governments
State transportation departments—State Utility Commissions
SIC: 401
Ground transportation: 360 responses; 120 hours; $7,200 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

This information becomes the basis for the joint Federal/State surveillance tasks for the projected 30 days period. This avoids duplication of inspection function between the Federal and State inspectors, which would result in a doubling effect on travel and man-hour costs.

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Ms. Joy Tucker—202–634–5384

Revisions

• Internal Revenue Service
Statement for Receipts of Interest on All-Savers Certificates
1099–ASC/1067–ASC
Annually
Individuals or households/businesses or other institutions
Financial institutions (including credit unions)
SIC: 602, 603, 605, 612, 614, 672
Small businesses or organizations
Central fiscal operations: 5,017,367 responses; 427,251 hours; $72,414

Federal cost; 2 forms; not applicable under 3504(h)
Karen P. Sagett, 202–395–680

Form 1099–ASC is to be filed by financial institutions paying interest on all-savers certificates. Form 1087–ASC will be filed by persons receiving form 1099–ASC when some or all of the income belongs to another person. The data is used to verify that the correct amount of interest income was reported on tax returns.

COMMODITY FUTURES TRADING COMMISSION

Agency Clearance Officer—Joseph G. Salazar—202–254–8735

Extensions (Burden Change)

- Futures Commission Merchant Report on Dealer Options

CFTC–145
Monthly
Businesses or other institutions
Futures commission merchants selling dealer options
SIC: 622
Other advancement and regulation of commerce: 144 responses; 432 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Robert Veeder, 202–395–4814

Reports are required to determine volume, open contracts and commercial use in dealer options by FCMS.

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Christine Scoby—202–382–2742

New

- Preliminary Assessment Information—Manufacturer's Reporting

586
Nonrecurring
Businesses or other institutions
Manufacturers of about 250 chemicals listed on rule
SIC: 286, 281, 282, MUL
Small businesses or organizations
Pollution control and abatement: 1,300 responses; 29,100 hours; $84,500 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

To obtain exposure-related information from manufacturers of about 250 chemicals with significant suspected toxicity. For most of these chemicals, TSCA requires EPA to evaluate the need for section 4 test rules. A few of the chemicals were brought to EPA attention by notices of substantial risk from the public. Based on data collected on this form, chemicals with significant exposure potential will receive further EPA attention.

Extensions (Burden Change)

- Submit Annual Updates to National Emission Data System & Hazardous & Trace Emission System (916)

916
Annually
State or local governments
State air pollution control agencies
SIC: 951
Pollution control and abatement: 54 responses; 4,999 hours; $733,000 Federal cost; 2 forms; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

States required to annually update information on stationary sources emitting at least prescribed amounts of pollutants regulated by national ambient standards. Data used in developing emission standards, dispersion modeling analyses, various types of air quality impact analyses and for national trends assessments used in reports to Congress, the public, etc.

Reinstatements

- Reporting Requirements for CFCS (151)

151
Annually
Businesses or other institutions
All manufacturers & processors of chlorofluorocarbons (CFCS)
SIC: 286
Small business or organizations
Pollution control and abatement: 300 responses; 600 hours; $2,475 Federal cost; 1 form; not applicable under 3504 (h)
Edward H. Clarke, 202–395–7340

Manufacturers and processors of CFCS are required by regulation to report annually to EPA on amounts and uses of CFC production so as to assure compliance with the CFC ban rule. EPA uses reports to monitor compliance and direct inspections in cases of suspected violations.

FEDERAL RESERVE SYSTEM

Agency Clearance Officer—William Jones—202–452–2983

Extensions (Burden Change)

Application to Establish Foreign Branch of Member Bank and Notification to Establish Foreign Branch of Member Bank
On occasion
Businesses or other institutions
Member banks
SIC: 602
General government: 23 responses; 212 hours; $225,000 Federal cost; 2 forms; $6,360 public cost; not applicable under 3504(h)
Richard Sheppard, 202–395–6880

This is a prior notification to establish a foreign branch of a member bank (when a bank already has a branch in two foreign countries) and an application for authority, under section 25 of the FRA. to establish a branch of a member bank in a foreign country.

- Application to: Establish Edge Corporations, Establish Branches of Edge Corporations, and Amend Articles of Association of Edge Corporations

On occasion
Businesses or other institutions
Member banks, bank holding companies, Edge Corporations
SIC: 602 605 671
General government: 69 responses; 900 hours; $300,000 Federal cost; 3 forms; $27,000 public cost; not applicable under 3504(h)
Richard Sheppard, 202–395–6880

This is an application to establish an Edge corporation (Sec. 25(a) of Federal Reserve Act empower the Board to charter Edge corporations(, to establish branches of Edge corporations as authorized by regulation K, and an application to amend articles of association of an Edge corporation (relates to changes in the fundamental constitution of such a corporation, such as name, location, and capital stock).

- Notification to Invest in Subsidiary of Joint Venture and Application to Invest in Other Organizations

On occasion
Businesses or other institutions
Member banks, bank holding companies, Edge corporations
SIC: 602 671 605
General government; 76 responses; 1,412 hours; $600,000 Federal cost; 1 form; $42,360 public cost; not applicable under 3504(h)
Richard Sheppard, 202–395–6880

(1) This is a 60 days prior notification to make an investment in a foreign company by a member bank, bank holding company, or Edge or agreement corporation

(2) This is an application by a member bank, bank holding company, or Edge or agreement corporation to make a foreign investment.

Extensions (No Change)

- Ongoing Intermittent Surveys of Households

FR 3016
On occasion
Individuals or households
Occasional samples of 700 households nationwide

General government: 8,400 responses; 467 hours; $107,580 Federal cost; 1 form; not applicable under 3504(h)
Richard Sheppard, 202–395–6880

This information is needed by Federal Reserve Board and Federal Open Market Committee to enhance interpretation of monetary aggregates and effects of monetary policy. The Board also requires this information to fulfill its statutory responsibilities to administer consumer credit regulations.

OFFICE OF PERSONNEL MANAGEMENT

Agency Clearance Officer—John P. Weld—202–632–7720

New

- Voluntary State Tax Withholding

Monthly
State or local governments
Income tax on Civil Svc. annuities
SIC: 999
Central personnel management: 408 responses; 1 hour; $382,920 Federal cost; 1 form; $65,280 public cost; not applicable under 3504 (h)
Robert Veeder, 202–395–4814

Sec. 1705 of Pub. L. 97–35 requires OPM to enter into agreements for voluntary State income tax withholding with requesting States. Under the proposed standard agreement (attached), participating States would select requests for withholding and transmit to OPM only the information necessary to effect the withholding requested from Civil Service annuities. The activity would commence with the 1st Federal-State agreement signed and continue indefinitely.

SECURITIES AND EXCHANGE COMMISSION

Agency Clearance Officer—George G. Kundahl—202–272–2142

Revisions

- Form N–1, Registration Statement Under the Securities and Investment Company Acts for Open End Management Investment Companies.

1715
On occasion
Businesses or other institutions
Open-end management investment companies
SIC: Multiple
Other advancement and regulation of commerce: 60 responses; 11,400 hours; $35,175 Federal cost; 1 form; $427,500 public cost; not applicable under 3504 (h)
Robert Veeder, 202–395–4814

Form N–1 is the registration statement form used by open-end management investment companies to register as investment companies under the Investment Company Act and to register their securities for sale to the public under the Securities Act. It contains the prospectus, the principal selling document for these companies' securities.

- Form S–6, for Registration Under the Securities Act of 1933 of Unit Investment Trusts Registered on Form N–8B–2

649
On occasion
Business or other institutions
Unit investment trusts registered under the invest. Co. Act
SIC: 999
Small businesses or organizations
Other advancement and regulation of commerce: 83 responses; 15,770 hours; $40,000 Federal cost; 1 form; $591,375 public cost; not applicable under 3504 (h)
Robert Veeder, 202–395–4814

Form S–6 is the registration statement form used by unit investment trusts to register their securities for sale to the public. Form S–6 contains the prospectus, the principal selling document for the trust's securities.

Nathaniel Scurry,
Chief, Reports Management.

[FR Doc. 82–5080 Filed 2–26–82; 8:45 am]
BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–18506; File No. SR–NYSE–80–43]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc., Relating to Dissemination of Quotations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given than on November 3, 1980,[1] the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would effect the following three basic changes:

(a) Establishment of "mode" in which quotations will be disseminated by the Exchange;

(b) Re-definition of the term "responsible broker-dealer" so that in most cases where quotes are firm, the specialist would be deemed the responsible broker-dealer for the quotes disseminated by the Exchange; and

(c) Delineation of the specialist's obligation, under certain circumstances, for assuming responsibility for "erroneous or non-current quotations."

In addition, the NYSE is proposing to issue an interpretation circular to its members concerning the administration of amended Rule 60. The circular will constitute a stated policy, practice or interpretation of the exchange and will state that, in most cases, the specialist will be deemed to be the "responsible broker or dealer" under SEC Rule 11Acl–1 and NYSE Rule 60, and as such will be responsible for the assimilation and communication to the reporter of the data and for honoring the quotation displayed. Furthermore, in the More Depth Mode, the specialist also will continue to ensure that the exchange displayed quotation reflects the aggregate size quoted in the crowd. Finally, the circular will point out that while the specialist is relieved of his obligation under SEC Rule 11Acl–1 and NYSE Rule 60, in both the Fast Trading and the Non-Firm Modes, he is required to communicate bids and offers on a "best efforts" basis.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C), below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose.* The proposed rule change is intended to accomplish the following objectives:

(a) By providing for Exchange dissemination of quotations with a descriptive "mode" the investment community will be furnished with a

[1] An amendment to the filing was submitted on February 8, 1982.

better picture regarding the nature of the trading environment on the Floor in each reported security.

(b) The rule change will better delineate the "firmness" of the Exchange's published quotations and which member has the obligation for the firmness of those quotations.

(c) The rule change with respect to the specialist assuming responsibility for quotations displayed a certain length of time will increase the integrity of Exchange disseminated quotations and aid in better enforcement of the "Firm Quote" Rule on the Exchange.

(2) *Statutory Basis.* The rule change proposed herein furthers the Congressional findings enunciated in Section 11A(a)(1) of the Securities Exchange Act of 1934, as amended, in that it will help assure the availability to brokers, dealers, and investors of information with respect to quotations for reported securities published by the Exchange that is the most accurate and best available.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that this filing will not impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited or received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before April 5, 1982 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or

(ii) As to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all writen statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in acordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, NW., Washington, D.C.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before March 22, 1982.

For the Division of Market Regulation, pursuant to delegated authority.

Dated: February 22, 1982.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-5291 Filed 2-28-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 22396; (70-6896)]

American Electric Power Co. et al.; Notice of Proposal To Organize Generating Subsidiary, To Enter Into Owners and Capital Funds Agreements, and To Issue and Deliver Unsecured Notes Pursuant to Revolving Credit Agreement

February 25, 1982.

In the Matter of American Electric Power Company, Inc., AEP Generating Company (180 East Broad Street, Columbus, Ohio 43215), and Indiana & Michigan Electric Company (One Summit Square, P.O. Box 60, Fort Wayne, Indiana 46801).

American Electric Power Company ("AEP"), a registered holding company, Indiana & Michigan Electric Company ("I&M"), an electric utility subsidiary of AEP, and AEP Generating Company ("AEGCo") a corporation to be organized under the laws of the State of Ohio as a new, wholly-owned generating subsidiary of AEP, have filed an application-declaration with this Commission pursuant to Sections 6(a), 7, 9, 10 and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 (a)(2) and (a)(3) thereunder.

AEGCo proposes to issue to AEP and AEP proposes to acquire 1,000,000 shares of common stock of AEGCo, par value $1.00 per share, for $1,000,000 such shares to constitute all of the issued and outstanding shares of AEGCo's common stock. It is further proposed that AEGCo and I&M will enter into an owners agreement ("Owners Agreement") pursuant to which AEGCo proposes to acquire, over time, a 35% undivided ownership interest ("Nominal Percentage") as tenant in common in the Rockport Generating Plant ("Rockport Plant"), a coal-fired steam electric generating station currently being built by I&M at an estimated cost of $2.1 billion based upon projected commercial operation of Unit No. 1 in late 1984 and Unit No. 2 in late 1986. AEGCo's Nominal Percentage would entitle it to a proportionate share of the generating capacity and energy output of the Rockport Plant units available at any time. Commencing upon the effective date of the Owners Agreement, AEGCo shall become obligated to pay all additional costs associated with construction of the Rockport Plant, including amounts properly recordable as components of construction costs of electric plant in service and construction work in progress (including an allowance for funds used during construction) until the earlier of (i) the date when the respective components of construction incurred by AEGCo shall, as a percentage of the total Rockport Plant construction costs, equal 35%, or (ii) the date upon which testing of Unit No. 1 of the Rockport Plant for commercial operation is commenced. In the event the AEGCo's percentage ownership in the Rockport Plant has not increased to 35% at the date of testing of Unit No. 1, AEGCo shall be obligated to reimburse I&M for construction costs previously paid or incurred by I&M and to make other necessary adjustments in amounts previously paid or incurred such that AEGCo's proportionate investment in construction of the Rockport Plant would thereupon equal 35%. Thereafter, AEGCo will supply additional funds for construction in proportion to its Nominal Percentage.

By order dated February 18, 1982, (HCAR) No. 22392) Kentucky Power Company ("KPCo"), an electric utility subsidiary of AEP, was authorized to purchase a 15% undivided interest in the Rockport Plant. Pursuant to that order KPCo will bear 15% of the future construction costs of the Rockport Plant. Upon completion of the transaction contemplated in this proceeding, I&M, AEGCo and KPCo would own, as tenants in common 50%, 35% and 15% undivided interests, respectively, in the Rockport Plant.

AEGCo proposes to finance its proportionate share of construction of the Rockport Plant through cash capital contributions or advances from AEP, through the issuance of notes to banks and through the issuance of securities to be the subject of future applications. AEP and AEGCo propose to enter into a capital funds agreement ("Capital Funds Agreement"), pursuant to which AEP will supply, or cause to be supplied, such amounts of capital as may be required to maintain stockholders' equity at not less than 35% of the capitalization of AEGCo, and such amounts of capital as shall be required in order for AEGCo to continue to own and to increase to 35% its undivided ownership in the Rockport Plant. Under the agreement AEP will also supply, or cause to be supplied, capital to provide for AEGCo's proportionate share of future construction costs, to meet AEGCo's sinking fund requirements and debt maturities, to provide for pre-operating and working capital requirements of AEGCo and to provide for AEGCo's proportionate share of funds required for the commercial operation of the two steam electric generating units at the Rockport Plant.

The Capital Funds Agreement will continue in effect until all of the notes issued by AEGCo under a revolving credit agreement ("Revolving Credit Agreement" to be discussed below) shall have been paid in full; provided, however, that, in the event AEGCo shall create a Mortgage and Deed of Trust, secured by a lien upon its fixed properties, and shall issue bonds thereunder, the Capital Funds Agreement will continue until the latter of (a) the satisfaction and discharge of such Mortgage and Deed of Trust, or (b) the payment in full of the notes.

I&M and AEGCo also propose to enter into a unit power agreement ("Unit Power Agreement"), pursuant to which AEGCo will make available, or cause to be made available, to I&M all power (and the energy associated therewith) to which AEGCo shall from time to time be entitled at the Rockport Plant, and I&M will pay to AEGCo in consideration for the right to receive all such power and energy available to AEGCo at the Rockport Plant, as a demand charge for the right to receive such power (and as an energy charge for any associated energy taken by I&M), such amounts from time to time as, when added to amounts received by AEGCo from all other sources, will at least be sufficient to enable AEGCo to pay, when due, all of its operating and other expenses, including provision for the depreciation and/or amortization of the cost of AEGCo's facilities and also including (i) any amount which AEGCo may be required to pay on account of any interest on all indebtedness for borrowed money issued or assumed by AEGCo and outstanding at the time, and (ii) such additional amounts as are necessary after any required provision for taxes on, or measured by, income to enable AEGCo to pay required dividends on any preferred stock which it may issue and such amount as will represent a return on the common stock equity of AEGCo equal to the return most recently allowed by the Federal Energy Regulatory Commission ("FERC") as an appropriate return on the common stock equity of I&M in a wholesale rate proceeding under the Federal Power Act, or, if within 24 months immediately preceding the date when such payments by I&M are to commence no such action by FERC shall have become final, then the return most recently allowed by the Public Service Commission of Indiana in a retail electric rate proceeding. AEGCo's rates will be subject to FERC jurisdiction.

The Unit Power Agreement will further provide that I&M shall commence the payment of such amounts on the earlier of (i) June 30, 1985, or (ii) the date on which any power, including any test power, and any energy associated therewith, shall become available to AEGCo at the Rockport Plant. The obligations under the Unit Power Agreement will continue in effect until all of the notes issued by AEGCo under the Revolving Credit Agreement shall have been paid in full, provided, however, that in the event AEGCo shall, prior to such payment, create a Mortgage and Deed of Trust secured by a lien on all or certain of its fixed properties, and shall issue bonds thereunder, the Unit Power Agreement will continue until the latter of (a) the satisfaction and discharge of such Mortgage and Deed of Trust, or (b) the payment in full of the notes.

AEGCo further proposes to enter into a Revolving Credit Agreement with a group of banks pursuant to which notes, in an aggregate principal amount outstanding at any time up to but not to exceed $300,000,000, are to be issued and delivered by AEGCo. The proceeds will be utilized by AEGCo for the construction of its interest in the Rockport Plant, the acquisition of equipment, materials and supplies for the Rockport Plant and other corporate purposes. Each borrowing under the Revolving Credit Agreement shall be made ratably from the Banks in proportion to their respective commitments and for the same period of time, and shall be evidenced by a note of AEGCo dated the date of such borrowings, and bearing interest on the unpaid principal amount thereof from the date of each such note to the date of payment in full, payable quarterly on the last day of each March, June, September and December, at the maturity thereof (whether by acceleration or otherwise) and after such maturity on demand. Interest on the principal amount of a note shall be: (a) Prior to maturity, and at AEGCo's option, equal to either (i) a fluctuating rate per annum equal at all times to the prime rate, as defined in the Revolving Credit Agreement, or (ii) the appropriate London Interbank Offered (LIBO) rate in accordance with the tenor of the advance, and (b) from maturity (whether by acceleration or otherwise), at a fluctuating rate per annum equal at all time to the sum of (i) 1% plus (ii) the prime rate until payment in full.

The Revolving Credit Agreement further provides that AEGCo will be obligated to pay to each bank for its commitment a fee computed at the annual rate of ⅜ of 1% per annum on the average daily unused amount of the commitment for such bank from the effective date of the Revolving Credit Agreement to the date of expiration or termination of such commitment. AEGCo may prepay notes bearing interest at the prime rate in whole at any time or in part from time to time, without premium or penalty, and may terminate in whole or reduce in part the unused commitments of the Banks. LIBO Rate notes are not prepayable. Based on a prime rate of 17% and full utilization of the commitment, the effective cost of borrowing would be 17%; based on a LIBO rate of 16 1/16% and full utilization of the commitment, the effective cost of borrowing would be 16 1/16%.

The total indebtedness of AEGCo for borrowed money, excluding short-term debt (as defined in the Revolving Credit Agreement) in a principal amount not exceeding 10% of capitalization (exclusive of short-term debt of AEGCo), will not, after giving effect to the issuance of notes or any other long-term debt subsequently issued, exceed 65% of the capitalization (exclusive of short-term debt) of AEGCo.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 19, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing

shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-5363 Filed 2-26-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22295; (70-6700)]

Consolidated Natural Gas Co.; Notice of Proposed Amendments of Certificate of Incorporation, Issuance and Sale of Common Stock in Connection With Two-for-One Stock Split and Employees' Long-Term Incentive Plan, and Solicitation of Proxies

February 23, 1982.

Consolidated Natural Gas Company ("Consolidated"), Four Gateway Center, Pittsburgh, Pennsylvania 15222, a registered holding company, has filed a declaration with this Commission pursuant to Sections 6(a), 7, and 12(e) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 62 and 65 promulgated thereunder.

Consolidated proposes to amend its Certification of Incorporation to increase and reclassify the authorized common stock from 22,000,000 shares of the par value of $8 each to 50,000,000 shares of the par value of $4 each primarily for the purpose of effecting a two-for-one stock split by changing each share of issued and unissued $8 par value common stock into two shares of $4 par value common stock. In connection therewith, Consolidated proposes to issue on or after May 18, 1982, such additional number of shares of common stock, $4 par value, as shall equal the total number of common shares outstanding on May 18, 1982, to common stockholders of record on that date. The company expects to have approximately 19,900,000 shares outstanding on May 15, 1982. The excess of shares over those required for the stock split will become available to the company for issuance in connection with its Dividend Reinvestment and Employee Stock Ownership Plans, the proposed new plan discussed hereinafter, and any future financing.

Consolidated also proposes to amend its Certificate of Incorporation to permit the Board of Directors to issue, without first making an offering to the common stockholders on a subscription basis, unissued shares of common stock.

Finally, Consolidated proposes, subject to stockholder approval, to issue and sell between May 18, 1982, and November 10, 1991, up to 585,000 shares of the common stock, $8 per value, or 1,170,000 shares, $4 par value, pursuant to a new Long-Term Incentive Plan ("Plan") which, in pertinent part, consists of (a) Incentive Stock Options and (b) Restricted Stock Awards. It is stated that the Plan was developed primarily to offer Consolidated key employees a comprehensive and competitive compensation package.

The stock option grants will be based on individual performance and individual salaries and will range from approximately 50% to 100% of base salary, but in no case will grants exceeding $100,000 be made to any individual in a calendar year. The option price of the stock will be set on the date of each grant and will not be less than the fair market value on the date of the grant.

The Restricted Stock Awards will be limited to approximately 25 senior executives in the Consolidated System unless they are within two years of normal retirement age 65. The awards will be based on individual salary and performance, recognizing past performance commensurate with the participating employee's position in the company. Restricted Stock Awards will only be granted once to each eligible employee except that the amount of the award may be increased in the event of future upward adjustment of his salary grade.

Consolidated proposes to solicit proxies regarding the proposed amendments to its Certificate of Incorporation in connection with the annual meeting of common stockholders to be held on May 18, 1982.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 17, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-5364 Filed 2-26-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22296 (70-6705)]

Mississippi Power Co.; Proposed Increase of Short-Term Debt Limit and Solicitation of Proxies

February 23, 1982.

Mississippi Power Company ("Mississippi"), 2992 West Beach, Gulfport, Mississippi 39501, an electric utility subsidiary of The Southern Company, a registered holding company, has filed a declaration with this Commission pursuant to Sections 6(a), 7, and 12(e) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 62 and 65 thereunder.

Mississippi proposes to submit to the holders of its outstanding preferred stock for consideration and action at a special meeting of such holders to be held on or about May 19, 1982, a proposal that Mississippi be authorized, by vote of its preferred stockholders, to issue or assume, until July 1, 1989, securities representing unsecured debt having maturities of less than ten years in excess of 10% of capital, surplus, and secured debt, provided that (a) the amount of securities representing unsecured debt having maturities of less than ten years outstanding on January 1, 1990, shall not exceed said 10% limitation and (b) Mississippi's total indebtedness represented by unsecured securities shall at no time exceed 20% of capital, surplus, and secured debt. Mississippi also proposes to solicit proxies from the holders of its preferred stock in connection with said proposal. This authorization would supersede a similar authorization approved by stockholders on October 15, 1975 (See HCAR No. 19143 (August 27, 1979).).

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 24, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-5362 Filed 2-26-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22297; (70-6693)]

The Southern Co.; Proposed Issuance and Sale of Common Stock Pursuant to Dividend Reinvestment and Stock Purchase Plan and to Employee Savings Plan

February 23, 1982.

The Southern Company ("Southern"), Perimeter Center East, P.O. Box 720071, Atlanta, Georgia 30346, a registered holding company, has filed an application-declaration with this Commission pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act"), and Rule 50(a)(5) promulgated thereunder.

Southern proposes to issue and sell from time to time through April 30, 1984 up to 20,000,000 shares of its authorized but unissued common stock, par value $5 per share ("Additional Common Stock"), pursuant to its Dividend Reinvestment and Stock Purchase Plan ("Dividend Plan"). These shares would be in addition to the balance of 6,939,639 shares at December 31, 1981, remaining under the authorization granted by order of this Commission dated May 1, 1981 (HCAR No. 22035). The proceeds from the sale estimated to total approximately $240,000,000 would be applied toward equity investments in the operating subsidiaries and other corporate purposes.

The Additional Common Stock will be offered to all holders of Southern's common stock pursuant to the Dividend Plan, a voluntary plan, whereby shareholders may elect to (1) have cash dividends on all of their shares of Southern common stock automatically reinvested in additional shares of such stock at a price equal to 95% of the average of the high and low sales prices of Southern's common stock, as published in the Wall Street Journal in its New York Stock Exchange ("NYSE") Composite Transactions, on the dividend payment date ("Market Price Average") or (2) reinvest less than all their cash dividends in shares of Southern's common stock at a price equal to 95% of the Market Price Average, or (3) reinvest all or less than all of their cash dividends as described above and, in addition, make optional cash payments (not less than $25 per payment nor more than a total of $3,000 per quarter) to invest in shares of Southern's common stock at a price equal to 100% of the Market Price Average, or (4) continue to receive cash dividends on all shares held and invest only optional cash payments. Cash dividends on shares credited to a participant's account will be reinvested in shares of Southern's common stock at a price equal to 95% of the Market Price Average. No shares will be sold under the Dividend Plan at less than par value.

Southern's management, as authorized by the board of Directors is considering the revision of the Dividend Plan in the following respects: (1) To provide that the price of shares purchased with reinvested dividends will be equal to 95% of the average daily high and low sales prices of Southern's common stock on the NYSE for the period of five trading days ending on the day of purchase (or the period of five trading days immediately preceeding the day of purchase, if the NYSE is closed on such day), ("Five Day Market Price Average"); and (2) to provide that optional cash payments will be invested in Southern's common stock once each month, on a date set by management, at a price equal to 100% of the Five Day Market Price Average.

The First National Bank of Atlanta currently administers the Dividend Plan and purchases the shares of Southern's common stock under the Dividend Plan as agent for the participants. No service charge or commission is paid by participants in connection with purchases under the Dividend Plan.

Southern also proposes to issue and sell from time to time through April 30, 1984 a maximum of 2,000,000 shares of its authorized but unissued common stock, par value $5 per share ("New Stock") pursuant to the Employee Savings Plan for the Southern Company System ("Savings Plan"). The proceeds from the sale of the New Stock, estimated to be approximately $24,000,000, would be applied to equity investments in its operating subsidiaries and for other corporate purposes.

The New Stock will be offered to employees of Southern's subsidiaries pursuant to the Savings Plan, a voluntary plan under which employees may contribute, through payroll deductions, not less than 2% nor more than 12% of their compensation. Each employing company will contribute, on behalf of each of the Savings Plan members in its employ, an amount not in excess of 6% of the member's compensation. Each Savings Plan member must direct that his contributions be invested in the Company Stock Fund, the Equity Fund and/or the Fixed Income Fund.

The First National Bank of Atlanta acts as Trustee for the trust which is part of the Savings Plan, and the Savings Plan is administered by the Savings Plan Committee, the members of which are appointed by the Board of Directors of Southern Company Services, Inc. The Trustee votes the shares of common stock of Southern held by it in accordance with written directions received from the individual members on whose behalf such shares are held and does not vote any such shares for which voting instructions are not received. The Trustee has the authority to vote all other securities in its discretion.

Investment purchases by the Trustee for the funds may be made either on the open market or by private purchase, provided that no private purchase may be made of common stock of Southern at a price greater than the last sale price or current independent bid price, whichever is higher, for such stock on the NYSE, plus an amount equal to the commission payable in a stock exchange transaction if such private purchase is not made from Southern. The Trustee may purchase common stock of Southern directly from Southern under the Dividend Plan or under any other similar plan made available to all holders of record of shares of common stock of Southern, at the purchase price provided for in such plan.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 19, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this

matter. After said date the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-5360 Filed 2-26-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Small Business Investment Company; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.301(c) sets forth the SBA Regulation governing the maximum annual cost of money to small business concerns for Financing by small business investment companies.

Section 107.301(c)(2) requires that SBA publish from time to time in the **Federal Register** the current Federal Financing Bank (FFB) rate for use in computing the maximum annual cost of money pursuant to § 107.301(c)(1). It is anticipated that a rate notice will be pubished each month.

13 CFR 107.301(c) does not supersede or preempt any applicable law that imposes an interest ceiling lower than the ceiling imposed by that regulation. Attention is directed to new subsection 308(i) of the Small Business Investment Act, added by section 524 of Pub. L. 96-221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Effective March 1, 1982, and until further notice, the FFB rate to be used for purposes of computing the maximum cost of money pursuant to 13 CFR 107.301(c) is 13.995% per annum.

Dated: February 23, 1982.

Edwin T. Holloway,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 82-5446 Filed 2-26-82; 8:45 am]

BILLING CODE 8025-01-M

[SBLC No. 03/B-0031]

Tidewater Dominion Small Business Lending Co.; Filing of Application for Eligibility Determination as a Small Business Lending Company

An Application for Eligibility Determination as a Small Business Lending Company has been filed by Tidewater Dominion Small Business Lending Company (Applicant) 15407 Warwick Drive, Newport News, Virginia 23608 with the Small Business Administration pursuant to § 120.4(b) of SBA Regulations (13 CFR 120.4(b)), promulgated under the Small Business Act.

As a Small Business Lending Company (SBLC), under Subsection (b) mentioned above, the Applicant will be engaged solely in the making of loans to small business concerns in participation with SBA, and in accordance with applicable SBA Regulations. It will be subject to supervision and examination by the SBA.

The Applicant is incorporated under the laws of the State of Virginia and will commence operation with a minimum capitalization of $500,000, which will be raised through a private stock offering. The only holder of 10 percent or more of the Applicants' outstanding stock will be:

Eugene Zepkin, 1108 Riverside Drive, Newport News, Virginia 23606

The Applicant intends to conduct its operations in the States of Virginia, Maryland, North Carolina and the District of Columbia, and to sell in the Secondary Market the SBA's guaranteed portion of loans made to small business concerns. The Officers and Directors of the Applicant are:

Name	Title
Eugene Zepkin, 1108 Riverside Drive, Newport News, Virginia 23606.	Director/President.
Harold G. Grossman, Rt. 622 Curriloman Lane, Montrose, Virginia 22520.	Director/Vice President.
Robert H. Roberts, 430 Yorktown Road, Yorktown, Virginia 23602.	Director/Secretary/Treasurer.

Matters involved in SBA's consideration of the application include the general business reputation and character of management, and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Act and Regulations promulgated thereunder.

Notice is hereby given that all interested parties may, not later than 15 days from the date of publication of this Notice, submit to SBA written comments on the proposed Applicant and/or its management. Any such communication should be addressed to:

Wayne S. Foren, Director, Office of Lender Relations & Certification, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416

A copy of this Notice shall be published in a newspaper of general circulation in Newport News, Virginia, as well as in the regional edition of the *Wall Street Journal* serving the area of operation of the Applicant.

(Catalogue of Federal Domestic Assistance Program No. 59.012 Small Business Loans)

Dated: February 23, 1982.

Edwin T. Holloway,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 82-5448 Filed 2-26-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/01-0302]

Transatlantic Capital Corp.; Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice if hereby given that Transatlantic Capital Corporation (Transatlantic), 60 Batterymarch Street, Boston, Massachusetts 02110, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application pursuant to § 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1981)), for approval of a conflict of interest transaction.

Transatlantic desires to invest up to $600,000 in Communications Intelligence Corporation (CIC), Hillsborough, California 94010. This amount includes Transatlántic's share of the total financing of $1.8 million.

CIC is considered an Associate of Transatlantic because Mr. Harvey J. Sarles, a Director of Transatlantic, is a Director and Chief Financial Officer of CIC and owns 1.63 percent of the common stock of CIC. Consequently, the proposed transaction falls within the purview of § 107.1004 of the Regulations and requires a written exemption granted by SBA.

Notice is hereby given that any person may, on or before March 16, 1982 submit written comments on the proposed transaction. Any such comments should be addressed to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Boston, Massachusetts and Hillsborough, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 23, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-5449 Filed 2-26-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 794]

Privacy Act of 1974; Systems of Records; Annual Publication

The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires agencies to publish annually in the **Federal Register** a notice of the existence and character of their systems of records. The Department of State last published the full text of its systems of records at 42 FR 49699, September 27, 1977.

A document published at 45 FR 83374, December 18, 1980, further updated the systems of records. Since that time the following new system of records was proposed: STATE-53, May 18, 1981 (46 FR 27219). After consideration of comments received from the public, the Routine Uses provision regarding dissemination to other agencies is amended to read as follows:

"* * * other Federal, state, local or foreign agencies having jurisdiction in the matter * * *"; this change is intended to eliminate what might be regarded as an over-broad use of dissemination to agencies having "an interest or jurisdiction" in the matter as had been proposed originally. For the convenience of the public, the amended system is published below.

The full text of the Department of State systems of records also appears in Privacy Act Issuances, 1980 Compilation, Volume II, page 399. This volume may be ordered through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Dated: February 4, 1982.

Richard T. Kennedy,

Under Secretary for Management.

STATE-53

SYSTEM NAME:

Records of the Inspector General of the Department of State and the Foreign Service.

SYSTEM LOCATION:

Department of State, 2201 C Street NW., Washington, D.C. 20520.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former employees of the Department of State (including foreign nationals); individuals (or firms) doing business with State, including contractors and grantees; individuals who have purchased USG employees' property overseas; members of the foreign affairs community who come under the direction, coordination and supervision of chiefs of mission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigatory material relating to any category of individual described above. Results of investigations, inquiries or audits conducted by the Inspector General and reports of investigations conducted by other departmental, Federal, state and local investigative agencies under the direction of, or on behalf of, the Inspector General.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Foreign Service Act of 1980, 22 U.S.C. 3901.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The information contained in the Records of the Inspector General is collected and maintained in the administration of the Department of State, Federal Criminal Statutes, Uniform Code of Military Justice, Executive Orders, and the Code of Federal Regulations to oversee and enforce Federal laws and regulations. Material gathered is used in the enforcement of the aforementioned laws and regulations. These records may be disseminated, depending on jurisdiction, to: Department of State officials in the administration of their responsibilities; other Federal, state, local or foreign agencies having jurisdiction in the matter; any source from which information is requested in the course of investigation, to the extent necessary to identify the individual, to inform the source of the nature and purpose of the investigation, and to identify the type of information requested. Also see the "Routine Uses" paragraph of the Prefatory Statement published in the **Federal Register** (42 FR 49699, September 27, 1977).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy, computer media.

RETRIEVABILITY:

Normally be coded case number which indicates the type of violation or deficiency involved, the date, the geographic location, category of source and the incident number. Cases are cross-indexed by individual's name pending referral for review and action to the Department of Justice, the Director General of the Foreign Service and Director of Personnel, or the Attorney General.

SAFEGUARDS:

All employees of the Department of State have undergone a thorough background security investigation. Access to the Department of State and its annexes is controlled by security guards, and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secure file cabinets or in restricted areas, access to which is limited to authorized personnel. Access to computerized files is password protected and under the direct supervision of the system manager. Inspector General reports are disseminated only by the Inspector General and only to the immediate Department principals or offices with a clear need to know the matter being reported. No secondary distribution is permitted without the expressed written permission of the Inspector General.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive, then retired and destroyed seven (7) years thereafter in accordance with published schedules of the Department of State. More specific information may be obtained by writing to the Information and Privacy Coordinator, Foreign Affairs Information Management Center, Room 1239, Department of State, 2201 C Street, NW., Washington, D.C. 20520.

SYSTEM MANAGER(S) AND ADDRESS:

The Inspector General, Office of the Inspector General, Room 6821, Department of State, 2201 C Street, NW., Washington, D.C. 20520.

NOTIFICATION PROCEDURE:

Individuals who have reason to believe that the Records of the Inspector General might have information pertaining to them, should write to the Information and Privacy Coordinator, Foreign Affairs Information Management Center, Room 1239, Department of State, 2201 C Street, NW., Washington, D.C. 20520. The individual must specify that he/she wishes the Records of the Inspector General to be checked. At a minimum, the individual should include: name, date and place of birth, current mailing address and zip code, and signature.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to or amend records pertaining to themselves should write to the Information and Privacy Coordinator, Foreign Affairs Information Management Center (address above).

RECORD SOURCE CATEGORIES:

These records contain information obtained from interviews, review of records, and other authorized investigative techniques.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Certain records contained within this system of records may be exempted from the requirements of any part of the Act except subsections (b), (c)(1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i) to the extent necessary to assure the effective completion of the investigative and judicial processes. See Department of State rules published in the Federal Register.

[FR Doc. 82-5365 Filed 2-26-82; 8:45 am]

BILLING CODE 4710-24-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 82-022]

Proposed Railroad Bridge Along the Bronx Shoreline of the Harlem River, Mile 1.8 to Mile 3.5, at New York, N.Y.; Public Hearing

The Commandant has authorized a public hearing to be held by the Commander, Third Coast Guard District in conjunction with the U.S. Army Corps of Engineers (COE) and New York State Department of Transportation (NYSDOT). The hearing will be held at the Landlord/Tenant's Court Room, Bronx County Court House, 851 Grand Concourse, Bronx, New York on April 1, 1982 from 1:00 P.M. to 4:30 P.M. and from 7:30 P.M. to 10:00 P.M. The purpose of the hearing is to gather information to aid the regulatory agencies in evaluating the environmental and navigational impacts of the proposed fixed, single-track railroad bridge project to be located along the Bronx Shoreline of the Harlem River, mile 1.8 to mile 3.5, at New York, New York.

The purpose of this project is to provide improved rail freight service into New York City and Long Island. Presently, rail freight service is restricted by low overhead clearances, conflicts with commuter operations and the lack of modern rail terminal facilities. NYSDOT projections show that nearly 25 percent of the conventional boxcars and 100 percent of the trailer-on-flatcar (TOFC) fleet are too high to fit underneath many of the bridges which span the railroad tracks. NYSDOT has projected that by the year 2000, nearly two-thirds of the nation's boxcars will be too high to operate along New York City's rail lines. NYSDOT has also projected increased TOFC's in the future. At present, TOFC traffic can reach New York City only by way of terminals located in New Jersey.

The project will be located in the South Bronx. There are three alternatives under consideration for the construction of the proposed project. Two alternatives (i.e., the Shore Route and Offshore Route) will begin immediately west of the Stadium—E. 161st Street exit on the southbound section of the Major Deegan Expressway, while the third alternative (Market Route West) will begin slightly north of the Macomb's Dam Bridge. All three alternatives will terminate immediately south of Lincoln Avenue at the Harlem River Yard. Construction is expected to begin in October 1982 and last approximately 2.5 years.

The Coast Guard, as lead federal agency, has determined that this project will have a significant impact on the environment, and has, therefore, prepared a draft Environmental Impact Statement (DEIS) in cooperation with NYSDOT and the COE. Copies of the DEIS and its technical supplements are available for review at: U.S. Coast Guard, Third District Building 135A, 2nd Floor, Governors Island, New York, New York, Phone: (212) 668-7994, and the following offices of the New York State DOT:

State Campus, Building 7A, 5th Floor, Albany, New York, Phone: (518) 457-2330

2 World Trade Center, Room 5478, New York, New York, Phone: (212) 488-5911

State Office Building, Room 6A15, Hauppauge, New York, Phone: (516) 979-5130

In addition to the above locations, copies of the DEIS are available at public and collegiate libraries and numerous community planning board offices. Locations of these depositories can be obtained by calling the Coast Guard or State DOT offices listed above.

The hearing will be informal. Representatives from the Coast Guard, U.S. Army Corps of Engineers, and New York State Department of Transportation will preside at the hearing, make brief opening statement, and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Commander (oan-br), Third Coast Guard District, Governors Island, New York, New York 10004, prior to the hearing date. Such notification should include the approximate time required to make the presentation. Comments previously submitted are a matter of record and need not be resubmitted at the hearing. Speakers are encouraged to provide written copies of their oral statements to the hearing officer at the time of the hearing. Those wishing to make written comments only, may submit those comments at the hearing, or to the Commander (oan-br), Third Coast Guard District through May 3, 1982. All comments will be considered.

A transcript of the hearing, as well as written comments received outside of the hearing will be available for public review in the offices of the Third Coast Guard District approximately 30 days after the hearing date. All comments will be made part of the official case record.

Subsequent to completion of the public hearing and preparation of the final EIS, the Commander (oan-br), Third Coast Guard District, will forward the case record, including all written comments, his findings, conclusions, and recommendations to the Commandant, U.S. Coast Guard, Washington, D.C. 20593, who will review the case record and make the final determination of issuance or denial of the bridge permit.

(Sec. 502, 80 Stat. 847, as amended (33 U.S.C. 525, 49 U.S.C. 1655(g)(6)(C); 49 CFR 1.46(c)(10)))

Dated: February 24, 1982.

R. A. Bauman,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 82-5402 Filed 2-26-82; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

[Summary Notice No. PE-82-4]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before March 19, 1982.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ——, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of §11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on February 22, 1982.

John H. Cassady,

Deputy Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
18623	St. Louis Helicopter Airways, Inc	14 CFR 135.261(b)	Extension of Exemption 2700A which allows petitioner to operate a helicopter in hospital emergency service without meeting the duty-time limitations.
22547	Mr. Amos K. Lapp	14 CFR 63.35(d)	To permit petitioner to take the flight test, which is required when applying for a flight engineer certificate, even though it has been more than 24 months since he passed the written test.
22568	Xerox Corporation	14 CFR 21.181, 91.27 and 91.29	To permit petitioner to operate a Challenger-CL600 model aircraft utilizing a minimum equipment list.
22552	Northern Pacific Transport, Inc. (NPT)	14 CFR 91.39(b) and 125.1(b)(2)	To permit petitioner to operate its jet pocket-equipped C-82A aircraft in the compensated private carriage of cargo under applicable provisions of Part 125.
22576	Ray's Flight Systems	14 CFR 61.157(d)(1) and 61.63(d)(2)	To allow trainees to complete a practical test for the issuance of a type rating to be added to any grade of pilot certificate that includes the items and procedures for testing in an airplane simulator although petitioner does not hold an operating certificate issued under Part 121.
22270	Air Fleet Corporation	14 CFR 135.25	To allow petitioner to operate without having the exclusive use of at least one aircraft that meets the requirements for at least one kind of operation authorized in the certificate holder's operations specifications.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
20252	Air Hall, S.A.	Portions of 14 CFR Parts 21 and 91	Extension of Exemption 2953B to permit petitioner to operate leased U.S.-registered B-707 aircraft using the FAA-approved master minimum equipment list and maintain the aircraft under continuous airworthiness maintenance programs. Withdrawn 1/25/82.
20568	Texas International Airlines	14 CFR 121.391(a)(3)	To amend Exemption 3139 which allows petitioner to use two flight attendants aboard its DC-9-30 airplanes configurated with 115 passenger seats when 15 passenger seats are blocked from use when a third flight attendant becomes ill or injured and another cannot be made available. The petitioner requests that the limitation or condition, required in the previous exemption, be changed which only allows the operation with blocked seats due to mechanical irregularities where additional flight attendants cannot be replaced without more than a 2-hour delay or flight cancellation. Petitioner requests that a change be made to allow operation with blocked seats when a flight attendant cannot be replaced without undue delay or flight cancellation. Amendment denied. Original exemption rescinded 1/25/82.
19910	Canadian Warplane Heritage Inc.	14 CFR 91.27(a)(1)	Extension of Exemption No. 2478c which permits certain Canadian-registered aircraft currently operating in Canada on a valid flight permit to attend various airshows in the United States during calender year 1982. Granted 1/25/82.
22441	United Airlines, Inc.	14 CFR 121.433, 121.441 and Appendix F of Part 121.	To permit the line check required for pilots in command to be administered in the sixth calendar month subsequent to annual combined training and proficiency check session, except that a line check given the month before or the month after the sixth calendar month subsequent to such a combined restructured training session would be considered to have been accomplished in the sixth calendar month subsequent to such session. In addition, in lieu of the proficiency check described in Appendix F, petitioner would be permitted to use a check concept designed for a particular crew position, aircraft type, and line operation. Granted 1/25/82.
22208	Finnair	14 CFR 21.197	To allow petitioner issuance of a special flight permit with a continuing authorization to operate U.S.-registered DC-10-30 aircraft when it does not meet all applicable airworthiness requirements and is capable of safe flight, but only for the purpose of flying the aircraft to a base where repairs, alterations or maintenance may be performed. Granted 1/25/82.
18243	Scenic Airlines, Inc.	14 CFR 135.113	Reconsideration of Denial of Petition to permit petitioner to carry a tenth passenger in its Cessna Model 404 aircraft by allowing such passengers to occupy the copilots seat. Granted 1/27/82.
18557	Frontier Airlines, Inc.	14 CFR 121.391(a)(3)	To permit petitioner to operate its B-737-200 airplanes with two instead of three required flight attendants on specific flights on which a crewmember could not continue due to illness, and a replacement crewmember could not be obtained at that location without more than a 2-hour delay or flight cancellation. Granted pending completion of reconsideration of denial 1/27/82.

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
21586	Royale Airlines, Inc.	14 CFR 61.31(a)(1)	To allow petitioner to type rate each of its pilots in command on its new EMB 110/41 aircraft at his or her next 6-month IFR flight check. Without the exemption the new aircraft could not be operated by pilots who are not type rated in the new aircraft. Granted 1/29/82.
25979	Arnolds Helicopter, Inc.	14 CFR 135.261(b)	To permit petitioner to assign a flight crewmember for duty during flight time when that assignment provides for less than 10 consecutive hours of rest during the 24-hour period preceding the planned completion of the assignment. Partial grant 1/29/82.
18596	Cayman Airways Limited (Cayman)	14 CFR Portions of Parts 21, 43, 91 and 121.	Extension of Exemption No. 2664A which permits Rich International Airways, Inc. to perform maintenance of Cayman Airways Limited leased DC-8 aircraft and to operate DC-8 aircraft using the master minimum equipment list and Rich International's continuous airworthiness program. Granted 1/29/82.
22529	British Midland Airways, Ltd.	14 CFR Portions of Parts 21 and 91	To permit petitioner to operate an F-27 aircraft owned by Aircraft Sales Co., under lease, with a minimum equipment list. Granted 1/29/82.
22558	Boeing Commercial Airplane Company	14 CFR 47.69(b) Exemption No. 3452	To allow petitioner the use of B-767-222, serial number 21863, registration number N602UA, outside the U.S. for flight testing. Granted 1/26/82.
22556	Boeing Commercial Airplane Company	14 CFR 47.69(b)	To allow petitioner the use of B-767-222, serial number 21862, registration number N601UA, outside the U.S. for flight testing. Granted 1/26/82.
22556	Boeing Commercial Airplane Company	14 CFR 47.69(b)	Amendment to Exemption No. 3440 to allow petitioner the use of B-767-222, serial number 21862, registration number N601UA, instead of the aircraft originally listed. Granted 1/29/82.
21972	Kodiak Western Alaska Airlines, Inc.	14 CFR 91.39 and 121.157	Reconsideration of a Denial of Exemption to permit petitioner to operate two restricted category C-118L aircraft for compensation or hire in a unique outsized cargo-carrying operation within the State of Alaska. Withdrawn 1/25/82.
16735	Cessna Aircraft Co.	14 CFR 65.81 & 145.59(d)	Extension of Exemption 2353 which allows petitioner's graduates to continue to perform and supervise propeller repair and maintenance of McCauley propellers. Granted 2/1/82.
21980	Florida Aircraft Leasing Corporation	14 CFR 91.31	To permit use of 5 percent increased zero fuel weight and landing weight in an all-cargo operation. Granted 2/1/82.
22407	Lloyd Gcheen	14 CFR 65.91	To permit petitioner to obtain an inspection authorization even though petitioner's current experience has been on aircraft that are not U.S. registered. Denied 2/1/82.
22349	American Cyanamid Co.	14 CFR 121.311	To permit petitioner to operate its Grumman Gulfstream II aircraft after March 6, 1982 compliance date without having installed the required seat belts/shoulder harnesses at each flight deck station. Granted 2/1/82.
22463	Mr. Anthony Hutton	14 CFR 91.27(a)(1)	To permit petitioner to obtain a special flight authorization to display his Yak 11 aircraft at airshows during the coming year. Granted 2/3/82.
15184	Compania Mexicana de Aviacion, S.A.	14 CFR Parts 21, 61, 63, and 91	Extension of Exemption 2165 as amended to permit petitioner to continue to operate two U.S.-registered B-727-3J7 aircraft on lease from Tiger Air, Inc., utilizing an FAA-approved continuous airworthiness maintenance and inspection program and the B-727 Master Minimum Equipment List. Granted 2/2/82.
22148	Royal Hawaiian Air Service	14 CFR 21.197(c)(2)	To allow issuance of a special flight permit with a continuing authorization for the aircraft to be maintained under an approved aircraft inspection program. Denied 2/8/82.
22549	Steven S. Fern	14 CFR 61.65(e)(1)	To permit petitioner to apply for an instrument-helicopter rating even though he does not have the required 50 hours of cross-country flight experience in helicopters. Vacated no longer required.

[FR Doc. 82-5230 Filed 2-26-82; 8:45 am]
BILLING CODE 4910-13-M

Random Drawing To Determine Priority of Air Carrier Sequence for Additional System Capacity

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public drawing.

PURPOSE OF MEETING: The Federal Aviation Administration invites all interested persons to observe the random selection of air carriers to determine the priority of sequence in which air carriers will be considered in accordance with Special Federal Aviation Regulation 44-3 for allocation of any additional slots at the 22 capacity limited airports and within each air traffic control center.

DATE: March 5, 1982, 10:00 a.m.

PLACE: FAA Auditorium, 800 Independence Avenue, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey B. Safeer, Director, Office of Aviation Policy and Plans, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, (202) 426-3331.

Drawing Procedures

Interested parties are invited to observe the drawing. The sequence of the drawing will be in the order listed in SFAR 44-3, i.e. Atlanta first, Boston second, etc. Once the 22 airports are finished, one draw will be conducted to determine priority listing of air carriers for all additional center capacity. The result of the drawing will be priority lists of air carriers for the allocation of any additional arrival slots at each airport. The actual allocation of the arrival slots will be made by the FAA Slot Allocation Committee during the week of March 7, 1982.

(Secs. 307, 313(a), and 601, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Washington, D.C. on February 25, 1982.

J. E. Murdock III,
Chief Counsel.

[FR Doc. 82-5558 Filed 2-26-82; 8:45 am]
BILLING CODE 4910-13-M

Federal Railroad Administration

[Waiver Petition Docket Nos. LI-81-4 through LI-81-13]

Petitions for Waiver of Locomotive Safety Standards; Notice of Submission

As required by 45 U.S. 431(c), and in accordance with 49 CFR 211.41 notice is hereby given that nine waiver petitions have been submitted to the Federal Railroad Administration (FRA) requesting temporary, or permanent waivers of compliance with the locomotive safety standards (49 CFR Part 229) and other safety standards for locomotives (49 CFR Parts 223 and 231).

Each of the petitioners are identified below. A brief discussion of each request for waiver is also provided.

Interested persons are invited to participate in these proceedings by submitting written data, views, or comments. The FRA does not anticipate scheduling a public hearing in connection with these aforementioned petitions since the facts do not appear to warrant a hearing.

All communications concerning these petitions must identify the appropriate docket number (e.g., FRA Waiver Petition No. LI-81-4) and should be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before April 12, 1982, will be considered by the FRA before final action is taken.

Detailed information concerning each petition is on file with the Docket Clerk.

Any comments received will also be on file. This material is available for examination by the public during regular business hours (9 a.m.-5 p.m.) in Room 7321A, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Chestnut Ridge Railway Company

[Waiver Petition Docket No. LI-81-4]

The Chestnut Ridge Railway Company seeks a permanent waiver of § 229.123 of the Locomotive Safety Standards. This section requires, in part, that after January 1, 1981, each lead locomotive must have an end plate extending across both rails, a pilot or a snow plow.

The petitioner is a switching and terminal railroad serving the Palmerton, PA yards of the New Jersey Zinc Company. It owns one locomotive and leases four switcher locomotives. Because of shipper cutbacks, only one locomotive is currently in use; two locomotives are on standby and two are in storage. Petitioner operates 5 day shifts per week, Monday through Friday, and handles about 20 cars per day. Maximum speed is 15 miles per hour, but actual speeds are usually much lower because most of the work is performed within the shipper's yard. Petitioner states that it experiences a minimal number of minor injuries and derailments and that acts of vandalism are rare. It believes that compliance with § 229.123 would impose an unnecessary financial burden without improving safety.

The Atchison, Topeka and Santa Fe Railway Company

[Waiver Petition Docket No. LI-81-5]

The Atchison, Topeka and Santa Fe Railway Company seeks a permanent waiver of the clearance limits for the pilot, snow plow or end plate required by 49 CFR 229.123. The regulation provides that the minimum clearance above the rail shall be 3 inches and the maximum 6 inches.

Petitioner advises that the end plate, pilot or snowplow of locomotive and slug units in hump yard service cannot clear the retarders when adjusted within the required 3 inch to 6 inch clearances. It states that granting the waiver would enhance rather than detract from safety and reduce the frequency of replacement of retarders to the normal inspection periods.

Little Rock Port Railroad

[Waiver Petition Docket No. LI-81-6]

The Little Rock Port Railroad seeks a permanent waiver of the requirements in § 229.133 that each lead locomotive have an end plate extending across both rails, a pilot or a snow plow. The petitioner operates one locomotive within the Little Rock Port Authority Industrial Park in the city of Little Rock. It provides switching services for industrial customers of the Park, during weekdays, in daylight only, and at speeds less than 10 miles per hour.

The petitioner has not experienced any acts of vandalism because the Park is patrolled by local police. There is little or no snow during the winter. Accordingly, the petitioner believes that compliance would impose an unnecessary financial burden for protection against situations it does not encounter in its operations.

Black River and Western Railroad

[Waiver Petition Docket No. LI-81-7]

The Black River and Western Railroad requests a permanent waiver of the requirement for speed indicators in 229.117 for its road locomotive and its maintenance of way locomotive. It also seeks a permanent waiver of the safety glazing requirements (49 CFR Part 223) and the switching step requirements (49 CFR 231.30) for its maintenance of way locomotive.

Petitioner operates a Class II, 20 mile short line in rural New Jersey. Its passenger service never exceeds 25 miles per hour and its freight service never exceeds 20 miles per hour.

Illinois Central Gulf

[Waiver Petition Docket No. LI-81-8]

The Illinois Central Gulf requests a waiver of the clearance requirements of § 229.123 for 8 locomotives operating at its Markham, Illinois hump yard. Petitioner request that it be allowed to raise the end plate clearances from the required "3 inches to 6 inches" to "6 inches to 9" inches to avoid damaging the end plate by hitting the retarders. Petitioner believes that the waiver would not change any aspect of safety.

The Port Authority of New York and New Jersey

[Waiver Petition Docket No. LI-81-9]

The Port Authority of New York and New Jersey seeks relief from 49 CFR, §§ 229.117, and 229.123, in connection with its 13.9 mile Port Authority Trans-Hudson (PATH) rapid transit operations.

PATH is a closed system, using a third rail for power. Half of its operations are underground and it does not interchange equipment with other railroads. It has 290 multiple units in service.

Section 229.17 requires locomotives to have speed indicators. Retrofitting would cost PATH $350,000 initially and $50,000 per annum for maintenance. PATH does not believe such retrofitting is necessary for safety purposes. The configuration of the system, lack of crossings, or connections, station spacings, acceleration and deceleration limitations all operate to make speed indicators unnecessary. In its 17-year history, PATH has never had an accident attributable to excessive speed.

Section 229.123 requires all lead locomotives to have pilots, snow plows or end plates. The cost to PATH would be $75,000. Deflection of a foreign objects against the electrified third rail by a pilot or plow could create an additional hazard. Half of the PATH system is underground. The above-ground portion is either in remote industrial areas with little public traffic or securely fenced to prevent public access. Exposure to foreign objects on the right-of-way is, therefore, minimal. No significant accident has resulted from a foreign object on its right-of-way during PATH's 17-year history.

Texas South-Eastern Railroad Company

[Waiver Petition Docket No. LI-81-10]

The Texas South Eastern Railroad Company seeks a permanent waiver from the requirements of 49 CFR 229.123 which requires all lead locomotives to have pilots, snow plows or end plates.

Petitioner has 17 miles of line, 90 per cent of which is in forest and the

remainder in an industrial area. It crosses 2 rural roads, one state loop and 4 city streets in Lufkin, Texas, all at less than 15 miles per hour. Due to the minimal number of crossings and slow speeds, Petitioner sees no safety benefit to its operations from compliance with § 229.123.

New York State Electric and Gas Corporation

[Waiver Petition Docket No. LI–81–12]

The New York State Electric and Gas Corporation seeks a waiver of compliance with 49 CFR 229.123, which requires all lead locomotives to have pilots, snow plows or end plates, for 2 locomotives at its Milliken Generating Station in Lansing, New York.

Petitioner uses the locomotives entirely within the facility except when they have to travel about 100 yards to bring a string of coal cars to their unloading facility. The facility is fensed and patrolled and has never had an accident or incident relating to the purposes of the requirement. Consequently, petitioner believes the required modification would not affect safety.

Tonawanda Coke Corporation

[Waiver Petition Docket No. LI–81–13]

Tonawanda Coke Corporation requests a waiver of compliance with 49 CFR 229.123, which requires pilots, snow plows or end plates on all lead locomotives.

Petitioner has one locomotive at its facility, in Tonawanda, New York. The locomotive is used almost entirely within the facility which is fenced and patrolled. Petitioner has never had an incident or accident relating to the purpose of the requirement and believes that the required modification would be economically unfeasible.

(Sec. 5, Locomotive Inspection Act, 36 Stat. 914 (45 U.S.C. 28) and § 1.49(c)(5) of the regulations of the Secretary of Transportation 49 CFR 1.49(c)(5))

Issued in Washington, D.C., on February 19, 1982.

Joseph W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 82–5133 Filed 2–26–82; 8:45 am]

BILLING CODE 4910–06–M

Maritime Administration

Approval of Request for Removal, Without Disapproval, From Roster of Approved Trustees

On January 14, 1982, there was published in the **Federal Register** (Vol. 47, No. 9), pursuant to Public Law 89–346 and 46 CFR 221.21–221.30, a Notice of Request for Removal, Without Disapproval, from the Roster of Approved Trustees pursuant to the request of Bank of Sturgeon Bay, with offices at 215 North Third Avenue, Sturgeon Bay, Wisconsin.

Therefore, pursuant to Public Law 89–346 and 46 CFR 221.21–221.30, Bank of Sturgeon Bay is removed from the Roster of Approved Trustees.

This notice shall become effective March 1, 1982.

Dated: February 22, 1982.

By Order of the Maritime Administrator.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 82–5282 Filed 2–26–82; 8:45 am]

BILLING CODE 4910–81–M

Office of the Secretary

[Notice No. 82–3]

Transfer of Services From Washington National Airport; Meeting

AGENCY: Department of Transportation.

ACTION: Notice of meeting.

SUMMARY: In conformity with Order 81–12–49 of the Civil Aeronautics Board (CAB Docket 39781), the Department of Transportation/Federal Aviation Administration (DOT/FAA) is holding public meetings with interested persons to discuss the shift of air carrier services from over-utilized Washington National Airport (National) to Dulles International and Baltimore Washington International Airports.

The initial meeting was held at the Department of Transportation on January 26, 1982. (See 47 FR 1230, January 11, 1982.) The second meeting, postponed from February 16 (47 FR 6513, February 12, 1982) will be held March 2. It will be open to the public.

TIME AND DATES: 11:00 a.m., Tuesday, March 2, 1982.

PLACE: Room 2230, DOT Headquarters Building, 400 Seventh Street, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Gregory Wolfe, Office of the General Counsel, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Telephone: (202) 426–4710.

Issued in Washington, D.C. on February 25, 1982.

Rosalind A. Knapp,

Deputy General Counsel.

[FR Doc. 82–5373 Filed 2–26–82; 8:13 am]

BILLING CODE 4910–62–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 40
Monday, March 1, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION

Additional item to be considered at special open meeting, Thursday, February 25th

The Federal Communications Commission will consider an additional item on the subject listed below at the Special Open Meeting scheduled for 2:00 p.m., Thursday, February 25, 1982 at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Common Carrier—2—*Title:* Cellular Communications Systems (CC Docket No. 79–318). *Summary:* The Commission will consider a staff draft of the order disposing of petitions for reconsideration of the Commission's Report and Order in CC Docket No. 79–318, *Cellular Communications Systems*, 86 FCC 2d 469 (1981).

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration of this additional item.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: February 23, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–307–82 Filed 2–25–82; 2:24 pm]

BILLING CODE 6712–01–M

2

FEDERAL COMMUNICATIONS COMMISSION

Additional item to be considered at special closed meeting, Thursday, February 25th

The Federal Communications Commission will consider an additional item on the subject listed below at a Special Closed Meeting, following the Special Open Meeting scheduled for 2:00 p.m., Thursday, February 25, 1982, in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1—Joint Request for Expedited Approval of Merger and Grant of Construction Permit and related pleadings in RKO General, Inc. (WNAC–TV), Boston, Massachusetts comparative renewal proceeding (Docket Nos. 18759–61).

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration of this additional item.

Action by the Commission February 23, 1982. Commissioners Fowler, Chairman; Quello, Washburn, Fogarty, Jones, Dawson and Rivera voting to consider this additional item in Closed Session.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: February 23, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–308–82 Filed 2–25–82; 2:24 pm]

BILLING CODE 6712–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that the following matters are expected to be added to the "Summary Agenda" for consideration by the Corporation's Board of Directors at its open meeting to be held at 2:00 p.m. on Monday, March 1, 1982:

Memorandum and Resolution re: Amendment to Part 303 of the Corporation's rules and regulations, entitled "Applications, Requests, Submittals, and Notices of Acquisition of Control," which would delegate authority to the Board of Review to act on requests for relief from reimbursement for certain violations of the Truth in Lending Act.

Memorandum and Resolution re: Proposed amendment to Part 337 of the Corporation's rules and regulations, entitled "Unsafe or Unsound Banking Practices," which would require insured State nonmember banks to maintain their books and records of account on the accrual basis of accounting.

No earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: February 24, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–309–82 Filed 2–25–82; 11:17 am]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552(e)(2)), notice is hereby given that the following matter is expected to be added to the "Discussion Agenda" for consideration by the Corporation's Board of Directors at its closed meeting to be held at 2:30 p.m. on Monday, March 1, 1982:

Memorandum re: Deferral of losses on asset sales.

The Board of Directors has previously determined that the matter is eligible for consideration in a closed meeting pursuant to subsection (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(9)(B)).

No earlier notice of the change in the subject matter of the meeting was practicable.

Dated: February 24, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–309–82 Filed 2–25–82; 11:17 am]

BILLING CODE 6714–01–M

5

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Thursday, March 4, 1982.

PLACE: Board room, sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6679).

MATTERS TO BE CONSIDERED:

Application for Merger—Midland Federal Savings and Loan Association Meridian, Mississippi *into* Unifirst Federal Savings and Loan Association Jackson, Mississippi.
Merger; Maintenance of Branch Offices; Cancellation of Membership and Insurance and Transfer of Stock—Surety Federal Savings and Loan Association, Southfield, Michigan *into* First Federal Savings and Loan Association, of Oakland, Pontiac, Michigan
Request for Waiver of Subordinated Debt Requirements; and Application to Utilize Subordinated Debt Securities to Meet Net Worth Requirements—Downey Savings and Loan Association, Costa Mesa, California
Employment Contracts and Compensation
Manufactured Mobile Home Loans
FSLIC Insurance Coverage of Deferred Compensation Plans sponsored by State and Local Governments

No. 14, February 25, 1982.

[S-308-82 Filed 2-25-82; 3:02 pm]

BILLING CODE 6720-01-M

6

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Change in Subject of Meeting

The National Credit Union Administration Board has determined that its business required that the previously announced closed meeting on Thursday, February 11, 1982, include the following additional item, which was closed to public observation:

Organizational structure. Closed pursuant to exemptions (2) and (6).

Earlier announcement of this change was not possible.

The previously announced items were:

1. Proposed charter amendment. Closed pursuant to exemptions (8) and (9)(A)(ii).
2. Proposed merger. Closed pursuant to exemptions (8) and (9)(A)(ii).
3. Administrative adjudication. Closed pursuant to exemptions (6), (9)(A)(ii) and (10).
4. Administrative action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
5. Requests from federally insured credit unions for special assistance under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
6. Requests for mergers with special assistance under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).

The Board voted unanimously to add this item to the closed agenda.

The meeting was held at 10:30 a.m., in the 7th Floor Board Room, 1776 G Street N.W., Washington, D.C.

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-304-82 Filed 2-25-82; 1:50 pm]

BILLING CODE 7535-01-M

7

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 9:30 a.m., Thursday, March 4, 1982.

PLACE: Seventh floor board room, 1776 G Street N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility lending rate.
2. Proposed rule deregulating share, share draft and share certificate accounts.
3. Proposed extension of the 21 percent loan rate ceiling.
4. Proposed rule deregulating Section 701.27-2 of the NCUA Rules and Regulations regarding Credit Union Service Corporations.
5. Applications for charters, amendments to charters, bylaw amendments, mergers that may be pending at that time.

RECESS: 10:30 a.m.

TIME AND DATE: 10:45 a.m., Thursday, March 4, 1982.

PLACE: Seventh floor board room, 1776 G Street N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Requests for mergers with special assistance under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
2. Appointments of staff to Intra-Agency Statutory and Standing Committees. Closed pursuant to exemptions (2) and (6).
3. Organizational structure. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-30-82 Filed 2-25-82; 1:30 pm]

BILLING CODE 7535-01-M

8

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1284]

TIME AND DATE: 10:15 a.m. (E.S.T.), Thursday, March 4, 1982.

PLACE: Conference Room B-32, West Tower, 400 Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

ACTION ITEMS: Old business:

1. Review of TVA load growth—plant construction schedule.
2. Negotiation No. 33-186573—Replacement turbine buckets for Paradise Fossil Plant.

New business:

B—Purchase Awards:

1. Negotiation No. 34-193001—Indefinite quantity term contract for services of turbine and generator service engineers, mechanics, brazers or fitters, balance and welding specialists, generator winders, and rental of necessary equipment for TVA fossil plants and power service shops.

C—Power Items:

1. Adoption of supplemental resolution authorizing 1982 Series A Power Bonds.
2. Resolution authorizing the Chairman and other executive officers to take further action relating to issuance and sale of 1982 Series A Power Bonds.
3. Renewal power contract with City of Fulton, Kentucky.
4. Proposed form agreements amending home insulation program and heat pump financing plan agreements to cover interim changes in financing arrangements.

D—Personnel Items:

1. Revision of management and physician staffing relocation payment.

F—Unclassified:

1. Sale of surplus tower cranes located at Phipps Bend Nuclear Plant.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: February 25, 1982.

[S-309-82 Filed 2-25-82; 3:45 pm]

BILLING CODE 8120-01-M

federal register

Monday
March 1, 1982

Part II

Department of Agriculture

Federal Grain Inspection Service

Official Grain Inspection Services

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Termination of Designations of the Fort Worth Grain Exchange Inspection Service, Inc., and the Kansas State Grain Inspection Department

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces that the designations of two official agencies will terminate on August 31, 1982, and requests applications from parties interested in being designated as agencies to conduct official inspection services in the geographic areas currently serviced by each of the two present agencies. The official agencies are the Fort Worth Grain Exchange Inspection Service, Inc., and the Kansas State Grain Inspection Department.

DATE: Applications to be postmarked on or before March 31, 1982.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, DC 20250, telephone (202) 447–8525.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

Section 7(f)(1) of the U.S. Grain Standards Act, as amended (7 U.S.C. 71, *et seq.*, at 79(f)(1)) (Act), specifies that the Administrator of the Federal Grain Inspection Service is authorized, upon application by any qualified agency or person, to designate such agency or person to perform official inspection services after a determination is made that the applicant is better able than any other applicant to provide official inspection services in an assigned georgraphic area.

The Fort Worth Grain Exchange Inspection Service, Inc. (Forth Worth), P.O. Box 4421, Fort Worth, Texas 76106, was designated as an official agency under the Act for the performance of official grain inspection functions on March 20, 1979. The Kansas State Grain Inspection Department (Kansas), 535 Kansas Avenue, 8th Floor, Topeka, Kansas 66603, was designated as an official agency under the Act for the performance of official grain inspection functions on March 31, 1979. The agencies' designations will terminate on August 31, 1982. This date reflects administrative extensions of official agency designations as discussed in the July 16, 1979, issue of the **Federal Register** (44 FR 41275). Section 7(g)(1) of the Act states generally that designations of official agencies shall terminate no later than triennially and may be renewed in accordance with the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Fort Worth in the State of Texas pursuant to section 7(f)(2) of the Act and which is the geographic area that may be assigned to the applicant selected for designation includes the following Counties:

Bell; Bosque; Brown; Coleman; Collins; Comanche; Cooke, Dallas; Denton; Ellis; Falls; Fannin; Grayson; Hamilton; Hill; Johnson; Lamar; Limestone; McLennan; Milam; Red River; Tarrant; and Williamson.

Also available for assignment is Hunt County, Texas, which is not presently assigned to an official agency. Until approximately May 1981, there had been no requests for official inspections in that County. Since that time, firms located in Hunt County have requested official service. Such service has been provided on an interim basis by Fort Worth. Fort Worth will continue to provide official service on an interim basis until the termination of its designation.

The geographic area presently assigned to Kansas pursuant to section 7(f)(2) of the Act and which is the geographic area that may be assigned to the applicant selected for designation is the entire State of Kansas.

Interested parties, including Fort Worth and Kansas, are hereby given opportunity to apply for designation as the official agency for each respective specified geographic area, as described above, under the provisions of section 7(f) of the Act and § 800.196(b) of the regulations issued thereunder. The designations in each specified geographic area are for the period beginning September 1, 1982, and terminating August 31, 1985. Parties wishing to apply for either of these designations should contact the Chief, Regulatory Branch, Compliance Division, at the address listed above for appropriate forms and information. Applications must be postmarked not later than March 31, 1982 to be eligible for consideration.

In making a determination as to which applicant will be designated to provide official inspection service in the geographic areas, consideration will be given to all applications submitted and all other information available to the Administrator. All applications submitted pursuant to this notice will be made available for public inspection at the above address during regular business hours.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: February 19, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82-5080 Filed 2-26-82; 8:45 am]

BILLING CODE 3410-EN-M

Request for Comments on Applicants for Designation in the Areas Currently Assigned to Sioux City Inspection & Weighing Agency, Inc., and A. V. Tischer and Son, Inc.

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for designation as the official agency in the areas currently assigned to the Sioux City Inspection & Weighing Agency, Inc. (Sioux City), and A. V. Tischer and Son, Inc. (Tischer). The designations terminate effective 12 p.m., June 30, 1982.

DATE: Comments to be postmarked on or before April 15, 1982.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Management Staff, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 1642, South Building, 1400 Independence Avenue, SW., Washington, DC 20250, telephone (202) 382–0231. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382–0231.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The December 30, 1981, issue of the **Federal Register** (46 FR 63170) contained a notice from the Federal Grain Inspection Service (FGIS) requesting applications for designation to perform official inspection services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71, *et seq.*) (Act), in the areas currently assigned to Sioux City and Tischer, respectively. Applications were to be postmarked by January 29, 1982.

Three applicants requested designation for all of the geographic area currently assigned to Sioux City. The first applicant is the Sioux City Inspection & Weighing Agency, Inc., Sioux City, Iowa, which applied for a renewal of designation for an additional 3-year period. The second applicant is the Fremont Grain Inspection Department, Inc., Fremont, Nebraska. If designated, this action would result in an amendment to their presently assigned geographic area in accordance with § 800.207 of the regulations under the Act. The third applicant is David L. Ayers, 3935 Winona Way, #7, Sioux City, Iowa 51104, who proposes to establish an official agency. A fourth applicant, Aberdeen Grain Inspection, Inc., requested designation for that portion of Sioux City's geographic area located in South Dakota. If designated, this action would result in an amendment to their presently assigned geographic area in accordance with § 800.207 of the regulations under the Act.

One applicant requested designation for all of the geographic area currently assigned to Tischer. That applicant is A. V. Tischer and Son, Inc., Fort Dodge, Iowa. Tischer applied for a renewal of designation for an additional 3-year period.

In accordance with § 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their views and comments concerning the suitability of the applicants for designation. All comments must be submitted to the Regulations and Directives Management Staff, specified in the address section of this notice, and postmarked not later than April 15, 1982.

Consideration will be given to all comments filed and to all other information available to the Administrator of FGIS before a final decision is made with respect to this matter. Notice of the final decision will be published in the **Federal Register** and the applicants will be informed of the decision in writing.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Date: February 19, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82-5081 Filed 2-26-82; 8:45 am]

BILLING CODE 3410-EN-M

Renewals of Designation of the Gibson City Grain Inspection Department, Indianapolis Grain Inspection & Weighing Service, Inc., and the Wyoming Department of Agriculture

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the renewals of designation of the Gibson City Grain Inspection Department (Gibson City), Indianapolis Grain Inspection & Weighing Service, Inc. (Indianapolis), and the Wyoming Department of Agriculture (Wyoming), as official agencies responsible for providing grain inspection services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71, *et seq.*) (Act).

EFFECTIVE DATE: April 1, 1982.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, DC 20250, telephone (202) 447–8525.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The October 1, 1981, issue of the **Federal Register** (46 FR 48418) contained a notice from the Federal Grain Inspection Service (FGIS) announcing that Gibson City, Indianapolis, and Wyoming's designations were terminating on March 31, 1982, and requesting applications for designation as the agency to provide official inspection services within each specified assigned area. Applications were to be postmarked by November 2, 1981.

FGIS announced the names of the applicants for designation for each of the three agencies and requested comments on same in the November 30, 1981, issue of the **Federal Register** (46 FR 58269). Comments were to be postmarked by January 27, 1982.

No comments were received regarding the renewal of designation of Gibson City (the only applicant) as the official agency in the area cited in the October 1 issue of the **Federal Register**.

After considering all available information in relation to the criteria for designation in section 7(f)(1)(A) of the Act, and in accordance with section 7(f)(1)(B), it has been determined that Gibson City is able to provide official services in the geographic area for which its designation is being renewed. This assigned area is the entire geographic area as described in the October 1 issue of the **Federal Register**.

No comments were received regarding the renewal of designation of Indianapolis (the only applicant) as the official agency in the area cited in the October 1 issue of the **Federal Register**.

After considering all available information in relation to the criteria for designation in section 7(f)(1)(A) of the Act, and in accordance with section 7(f)(1)(B), it has been determined that Indianapolis is able to provide official services in the geographic area for which its designation is being renewed. This assigned area is the entire geographic area as described in the October 1 issue of the **Federal Register**.

No comments were received regarding the renewal of designation of Wyoming (the only applicant) as the official agency in the area cited in the October 1 issue of the *Federal Register*.

After considering all available information in relation to the criteria for designation in section 7(f)(1)(A) of the Act, and in accordance with section 7(f)(1)(B), it has been determined that Wyoming is able to provide official services in the geographic area for which its designation is being renewed. This assigned area is the entire geographic area as described in the October 1 issue of the **Federal Register**.

Effective April 1, 1982, the responsibility for providing official inspection services in each geographic area as specified above will be assigned to Gibson City, Indianapolis, and Wyoming, respectively. Designations of each of the agencies will terminate March 31, 1985.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the agencies will provide official inspection services not requiring a licensed inspector to all locations within their geographic area.

Interested persons may obtain a list of the specified service points by contacting the specific agencies at the following addresses:

Gibson City Grain Inspection Department, Routes 47 and 9, P.O. Box 20, Gibson City, IL 60936;

Indianapolis Grain Inspection & Weighing Service, Inc., 4804 East Michigan Street, Indianapolis, IN 46201;
Wyoming Department of Agriculture, 2219 Carey Avenue, Cheyenne, WY 82002.

Interested persons may also contact the Regulatory Branch at the address listed above to obtain the information concerning specified service points.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2873, (7 U.S.C. 79))

Date: February 19, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82-5062 Filed 3-30-82; 8:45 am]

BILLING CODE 3410-EN-M

Amendment to the Assigned Geographic Area of the Detroit Grain Inspection Service, Inc., and Interim Assignment of Geographic Area to Grain Inspection Services, Inc.

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces an amendment to the assigned geographic area of the Detroit Grain Inspection Service, Inc., Detroit, Michigan (Detroit), and an interim assignment of geographic area to Grain Inspection Services, Inc., Battle Creek, Michigan (Battle Creek).

EFFECTIVE DATE: March 1, 1982.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, DC 20250, telephone (202) 447-8525.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512-1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The Detroit and Battle Creek agencies have both requested a change in a portion of the mutual boundary line between Detroit's northern and Battle Creek's eastern boundaries, in order to delete a portion of Detroit's assigned geographic area and add the same on an interim basis to Battle Creek's. Battle Creek has provided service to this area on a request basis for approximately the past 11 months. Battle Creek will continue to provide service to the area, on an interim basis, until the termination of its designation on April 30, 1983.

Accordingly, pursuant to section 7(g)(2) of the U.S. Grain Standards Act, as amended (7 U.S.C. 79(g)(2)) (Act), the Administrator of the Federal Grain Inspection Service has determined that amendment to Detroit's designation and interim assignment of geographic area to Battle Creek are consistent with the provisions and objectives of the Act in that these actions will facilitate providing official services in the respective areas.

The assigned geographic area of Detroit, published in the **Federal Register** on January 12, 1979 (44 FR 2640), and amended January 31, 1980 (45 FR 6978), is hereby further amended. The geographic area being deleted from Detroit's area and to be serviced on an interim basis by Battle Creek is as follows:

From Interstate 75, the northern Genesee County line east to State Route 15; State Route 15 north to Barnes Road; Barnes Road east to Sheridan Road; Sheridan Road north to State Route 46; State Route 46 west to Interstate 75; Interstate 75 south to the northern Genesee County line.

The new northern boundary for Detroit, which notes the deletion of the above area, is as follows (changes indicated by italics):

The northern Clinton County line east; the eastern Clinton County line south to State Route 21; State Route 21 east to State Route 52; State Route 52 north to the Shiawassee County line; the northern Shiawassee County line east to the Genesee County line; the western Genesee County line north; the northern Genesee County line east to *State Route 15; State Route 15 north to Barnes Road; Barnes Road east to Sheridan Road; Sheridan Road* north to State Route 46; State Route 46 east to State Route 53; State Route 53 north to the Michigan State line.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection and where the agency or one of more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the agencies will provide official inspection services not requiring a licensed inspector to all other locations within their geographic area.

Interested persons may obtain a list of the specified service points by contacting the individual agencies at the following addresses:

Detroit Grain, Inspection Service, Inc., P.O. Box 176, Emmett, MI 48022;
Grain Inspection Services, Inc., 24 First Street, Battle Creek, MI 49017.

Interested persons may also contact the Regulatory Branch at the address listed above to obtain the information concerning specified service points.

(Sec. 8, Pub. L. 94-582, Stat. 2870 (7 U.S.C. 79))

Date: February 19, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82-5063 Filed 3-30-82; 8:45 am]

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federal register

Monday
March 1, 1982

Part III

Department of the Interior

Bureau of Land Management

Combined Hydrocarbon Leasing; Conversion of Existing Oil and Gas Leases and Valid Mining Claims

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3140

Combined Hydrocarbon Leasing; Conversion of Existing Oil and Gas Leases and Valid Mining Claims

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would provide the procedures that the Secretary of the Interior will use to convert existing oil and gas leases and valid mining claims in Special Tar Sand Areas to combined hydrocarbon leases as required by the Combined Hydrocarbon Leasing Act of 1981.

DATE: Comments by March 31, 1982.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240. Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Edward E. Coggs (202) 343–6821; Richard J. Aiken (202) 343–4537; or Robert C. Bruce (202) 343–8735.

SUPPLEMENTARY INFORMATION: The Combined Hydrocarbon Leasing Act of 1981 (Pub. L. 97–78) amends the Mineral Lands Leasing Act of 1920 as amended and supplemented (30 U.S.C. 181 et seq.) and the Mineral Lands Leasing Act for Acquired Lands, as amended (30 U.S.C. 351 et seq.) to establish a competitive leasing program for 11 designated areas in eastern Utah. These areas are designated by Department of the Interior's Orders of November 20, 1980 (45 FR 76800), and January 21, 1981 (46 FR 6077). The Act allows holders of Federal oil and gas leases issued on or before November 16, 1981, and holders of valid mining claims to any hydrocarbon resources leasable under section 17 of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 226) which were located prior to January 21, 1920, in Special Tar Sand Areas to convert those leases or claims to combined hydrocarbon leases. The Act requires the Secretary of the Interior to promulgate regulations governing such conversions within 6 months of the effective date of the Act, November 16, 1981. This proposed rulemaking applies only to the conversion of existing oil and gas leases and valid mining claims in Special Tar Sand Areas to combined hydrocarbon leases. Regulations establishing a competitive combined hydrocarbon leasing program will be issued at a later date.

Discussion of the Proposed Rulemaking

Conversion of an existing oil and gas lease and/or valid mining claim to a combined hydrocarbon lease will be initiated only by the owner of such lease or claim filing three copies of a plan of operations with the Utah State Office of the Bureau of Land Management. The Bureau will forward two copies of every application received to the Minerals Management Service. Upon notification from the Minerals Management Service that the plan of operations is complete, the Bureau will suspend the running of the term of the oil and gas lease. The Minerals Management Service will coordinate its review of the plan of operations with any affected surface management agency and other Federal, State and local agencies. Applications for conversion should be in sufficient detail to allow for an appropriate environmental review of the plan of operations. Based upon the approval of a plan of operations by the Minerals Management Service, the Bureau will convert the oil and gas lease or mining claim to a combined hydrocarbon lease that entitles the lessee to develop all hydrocarbon deposits except coal, oil shale and gilsonite (including, but not limited to, tar sand, oil and gas) in the Federal lands covered by the combined hydrocarbon lease. Applicants for conversion must file a plan of operations prior to the expiration of their oil and gas lease by November 16, 1983, whichever is earlier. However, owners of leases which will expire during the period of time that this rulemaking is being promulgated, or within 6 months thereafter, have until 6 months after the effective date of this rulemaking to file a plan of operations, if they have filed a Notice of Intent to Convert prior to the expiration of their lease(s).

Definitions (§ 3140.0–5)

Paragraph (a) would define the term "combined hydrocarbon leases" in accordance with section 4 of the Combined Hydrocarbon Leasing Act. This term is only appropriate in Special Tar Sand Areas. It conveys the rights to all hydrocarbonaceous materials except coal, oil shale and gilsonite, thereby eliminating the need to distinguish tar sand from oil.

Paragraph (b) would define what consititues a complete plan of operations and is a restatement of that term as it is currently used in the Minerals Management Services' existing regulations in 30 CFR 231. The Minerals Management Service is amending their existing regulations governing solid and mineral development to provide cross reference to this part.

The term "Special Tar Sand Areas" would be defined in paragraph (c) of the proposed rulemaking. The definition in the proposed rulemaking follows that set forth in section 4 of the Combined Hydrocarbon Leasing Act and includes only those areas designed in the Department of the Interior's Orders of November 20, 1980, and January 21, 1981. These eleven areas, all in eastern Utah, are generally referred to as:

1. Asphalt Ridge—Whiterocks.
2. Ravenridge—Rimrock.
3. Pariette.
4. Argyle Canyon—Willow Creek.
5. Sunnyside.
6. Hill Creek.
7. PR Spring.
8. San Rafael Swell.
9. Tar Sand Triangle
10. White Canyon.
11. Circle Cliffs.

The definitions of terms contained in paragraphs (d), (e) and (f) of the proposed rulemaking are self-explanatory.

General Provisions (§ 3140.1)

Existing Rights (§ 3140.1–1)

Paragraph (a) explains that in accordance with the provisions of section 8 of the Combined Hydrocarbons Leasing Act, only owners of valid existing rights (i.e., oil and gas leases in effect on November 16, 1981, and valid mining claims to a hydrocarbon resource located prior to January 21, 1928) in Special Tar Sand Areas have the right to convert to a combined hydrocarbon lease.

Paragraph (b) would make it clear that electing not to convert to a combined hydrocarbon lease will neither increase nor diminish any rights currently held by owners of oil and gas leases or mining claims. Owners of oil and gas leases who elect not to convert their leases will not have the rights to any tar sand.

Notice of Intent To Convert (§ 3140.1–2)

In accordance with section 8 of the Combined Hydrocarbon Leasing Act, this section would set the requirement that for leases that expire prior to the finalization of this proposed rulemaking or within 6 months thereafter, a Notice of Intent to Convert must be filed with the Bureau of Land Management prior to the expiration date of the lease in order to preserve the right to convert. The filing of a Notice of Intent preserves the lessee's right to convert until 6 months after this rulemaking becomes effective.

Exploration Plans (§ 3140.1–3)

Many oil and gas lease owners may need additional data to file the required plan of operations on their lease. In those instances where the owner of the oil and gas lease needs to gather additional data in order to complete and file a plan of operations, this section would allow an exploration plan to be filed with the Minerals Management Service in accordance with 30 CFR 231.10. In addition, the proposed rulemaking would require a special use permit from the National Park Service if the area is located in a unit of the National Park System. The Minerals Management Service will obtain the necessary permit from the National Park Service.

Other Provisions (§ 3140.1–4)

Paragraph (a) would establish a maximum lease size of 5,120 acres to conform with the acreage limitation in section 6(a)(2) of the Combined Hydrocarbon Leasing Act. This paragraph also includes language covering section 5 of the Act which requires that combined hydrocarbon leases in Special Tar Sand Areas not be counted in Statewide acreage limitations established in existing oil and gas leasing regulations.

Paragraph (b) would establish the rental rate for a combined hydrocarbon lease at the current rental rate for competitive oil and gas leases.

Paragraph (c) would establish the royalty rate for combined hydrocarbon leases. As required in section 8 of the Combined Hydrocarbon Leasing Act, all oil and gas leases converted to combined hydrocarbon leases would have the same royalty rate as that provided in the existing lease, while the royalty rate for a lease converted from a mining claim would be set at 12½ percent. The percentage royalty would be applied to the amount or value of the crude oil removed or sold from the lease. It is recognized that some methods of extraction will result in the value of the crude oil produced from tar sand differing from that produced from more traditional sources. The paragraph would also restate the authority granted by section 39 of the Mineral Lands Leasing Act (30 U.S.C. 209) to the Secretary of the Interior to reduce the royalty on oil and gas leases if it is in the interest of conservation or to encourage the greatest possible ultimate recovery of the resource once the lease is producing. Since the Combined Hydrocarbon Leasing Act also redefined oil to include all hydrocarbonaceous substances (except coal, oil shale and gilsonite), the Secretary's authority concerning oil and gas leasing applies to combined hydrocarbon leasing, as well. In addition, a holder of a combined hydrocarbon lease would be allowed to apply for review of the royalty rate prior to commercial production in accordance with section 7 of the Act. The large extraction costs that may be encountered in tar sand development will be taken into account in consideration of an application for reduced royalty prior to commencing production.

In the interest of maximizing development of the resource, paragraph (d) would allow owners of Federal oil and gas lease and mining claims, State leases and/or fee lands to develop their holdings as one unit. In those instances, one plan of operations would be filed covering all of the lands to be included in the unit operation. The unit operations agreement would have to be approved prior to the approval of the plan of operations for that particular unit. For purposes of the unitized plans meeting the test of diligent development, the entire unit operation shall be considered as one area. The requirements for unitizing are set forth in 30 CFR 226.

Paragraph (e) would provide that the provisions of this proposed rulemaking are to be considered as an exception to the provisions in part 3100 of Title 43 of the Code of Federal Regulations.

Applications (§ 3140.2)

Forms (§ 3140.2–1)

This section would require no special form for a hydrocarbon lease conversion application.

Who May Apply (§ 3140.2–2)

Applications for conversion would only be accepted from owners of existing rights as explained in § 3140.1–1(a) of this proposed subpart.

Requirements (§ 3140.2–3)

Paragraph (a) would provide that a plan of operations accompanied by a written request to convert a lease or mining claim will serve as an application for conversion. The requirements as to what would be included in the plan of operations are set out in 30 CFR 231, Operating Regulations for Exploration, Development and Production. In compliance with the provisions of section 8 of the Combined Hydrocarbon Leasing Act, the proposed rulemaking requires that the plan of operations must ensure reasonable protection of the environment and demonstrate diligent development of the tar sand resource. Reasonable protection of the environment will be determined by the appropriate analysis under the provisions of the National Environmental Policy Act, of the plan of operations. Diligent development is considered to be met if the lease is planned to be in production or substantial development expenditures have been incurred prior to the expiration of the primary term of the combined hydrocarbon lease. Diligent development will also be based on a review of the plan of operations for the unitized area.

Paragraph (b) would require the plan of operations to detail how the lessee plans to develop the resource. The paragraph would allow the plan to be amended or modified because of changes in technology, slippages in schedules beyond the control of the lessee or other unforeseen circumstances. An amendment would have to be approved by the mining supervisor, who would be required to review the modification with the appropriate surface management agency. The amendment process would not extend the life of the lease.

Paragraphs (c), (d) and (e) are self-explanatory.

Paragraph (f), in accordance with the provisions of section 8 of the Combined Hydrocarbon Leasing Act, would provide that the filing of a complete plan of operations suspends the running of the term of the oil and gas lease that is being converted until the plan is finally approved or disapproved.

Time Limitations (§ 3140.3)

Conversion Applications (§ 3140.3–1)

As provided in section 8 of the Combined Hydrocarbon Leasing Act, this section would allow owners of existing oil and gas leases or valid mining claims two years from the date of the enactment of the Act (November 16, 1981) or the date of the expiration of the lease, whichever is earlier, to file an application for conversion.

Action on an Application (§ 3140.3–2)

This section would, in accordance with the provisions of section 8 of the Combined Hydrocarbon Leasing Act, require the Secretary of the Interior within 15 months of receipt of a proposed plan of operations to either reject it or process a conversion. The goal of the Department of the Interior will be to complete action on a plan of operations in less than 15 months, depending on the complexity and completeness of the plan.

Conversion (§ 3140.4)

Approval of Plan of Operations (and Unit and Operation Agreements) (§ 3140.4–1)

The Minerals Management Service mining supervisor would determine whether a plan of operations is acceptable and would approve, disapprove or recommend changes to a proposed plan of operations. In accordance with section 11 of the Combined Hydrocarbon Leasing Act, the section would require the National Park Service to make a finding of no significant adverse impact as outlined in § 3140.7 of this subpart prior to approval of a plan of operations by the mining supervisor for a plan of operations covering an area within a unit of the National Park System where mineral leasing is permitted.

Issuance of the Combined Hydrocarbon Lease (§ 3140.4–2)

Based upon the mining supervisor's approval of a plan of operations, this section would authorize the authorized officer of the Bureau of Land Management to convert the lease or claim covered by the plan of operations to a combined hydrocarbon lease. The manner of determining the effective date of the combined hydrocarbon lease would be consistent with that used in the oil and gas leasing program covered in part 3100 of Title 43 of the Code of Federal Regulations.

Duration of the Lease (§ 3140.5)

Primary Term (§ 3140.5–1)

This section would provide that the primary term of a combined hydrocarbon lease will be 10 years as specified in section 6(c) of the Combined Hydrocarbon Leasing Act.

Leasing of Additional Lands (§ 3140.6)

Section 302 of the Federal Land Policy and Management Act (43 U.S.C. 1732) authorizes the Bureau of Land Management to authorize the use of additional public lands off the lease which are required to support the lessee's operations. This authority is confirmed by section 6(a)(2) of the Combined Hydrocarbon Leasing Act for operations in support of development under a combined hydrocarbon lease and would be allowed under paragraph (a). The leases granted under this section would be nonmineral in nature and would be issued noncompetitively under existing provisions in Subchapter B of Title 43 of the Code of Federal Regulations.

Paragraph (b) would require the Bureau of Land Management to issue right-of-way grants under title V of the Federal Land Policy and Management Act (43 U.S.C. 1761–1771) rather than leases whenever the requested use is authorized under the right-of-way regulations in parts 2800 and 2880 of Title 43 of the Code of Federal Regulations.

Paragraph (c) would require that the provisions of the mineral management regulations recently issued by the National Park Service be applicable to lands which are in units of the National Park System.

Lands Within the National Park System (§ 3140.7)

As required in section 11 of the Combined Hydrocarbon Leasing Act, this section would require that conversions of oil and gas leases and mining claims located within units of the National Park System to combined hydrocarbon leases be allowed within specified restrictions. These restrictions include: (1) that the law establishing the particular unit allowed mineral development; (2) that tar sand development be in accordance with the applicable mineral management plan developed by the National Park Service; and (3) that there will be no significant adverse impact resulting from tar sand development in the National Park Service unit or contiguous units. This section would apply only to certain areas in the Glen Canyon National Recreation Area in which mineral development is authorized.

Section 17 of the Combined Hydrocarbon Leasing Act entitles the owner of a "valid claim to any hydrocarbon resource leasable under this section based on a mineral location made prior to January 21, 1926," to apply for conversion subject to the same requirements as an oil and gas lessee. The Department of the Interior is considering development of procedures and showings that will be used for purposes of converting valid mining claims to a combined hydrocarbon lease under the Act. Provisions specifying the appropriate procedures and showings may be proposed for rulemaking.

The primary authors of this proposed rulemaking are Richard Aiken and Edward Cogga, Division of Coal, Tar Sands and Oil Shale, Bureau of Land Management, assisted by William Murray, Division of Energy and Resources, Office of the Solicitor, Department of the Interior, the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management and other Bureau of Land Management and Department of the Interior staff.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is a major rule under Executive Order 12291 but that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The requirement in the Combined Hydrocarbon Leasing Act that the Secretary of the Interior issue final regulations implementing the right to convert an oil and gas lease or valid mining claim to a combined hydrocarbon lease within 6 months of the effective date of the Act makes it impossible to comply with the schedule for preparation of a regulatory impact analysis set forth in Executive Order 12291. In recognition of this fact, the Office of Management and Budget has agreed to the following schedule for preparation of the Preliminary and Final Regulatory Impact Analyses which are required by Executive Order 12291.

The Preliminary Regulatory Impact Analysis is being submitted to the Office of Management and Budget simultaneously with the publication of this proposed rulemaking and is available upon request from the Division of Coal, Oil Shale and Tar Sands, Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240. Comments on the Preliminary Regulatory Impact Analysis should be submitted by the close of the comment period on this proposed rulemaking.

The Preliminary Regulatory Impact Analysis will be based on an economic model to project tar sand production, revenues, after tax net present value, etc. The data from the model will be analyzed for its secondary impacts, (i.e., socio-economic impacts on the affected area of Utah).

The Final Regulatory Impact Analysis will be completed and a summary and notice of availability will be published with the final rulemaking on this subject in the **Federal Register** on May 14, 1982.

The information collection requirements contained in 43 CFR Part 3140 have been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3507. The collection of this information will not be required until it has been approved by the Office of Management and Budget.

Under the authority of the Combined Hydrocarbon Leasing Act of 1981 (Pub. L. 97–98), the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.), the Mineral Lands Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359 et seq.) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), it is proposed to amend Group 3100, subchapter C, Chapter II of the Code of Federal Regulations by adding a new Part 3140 as follows:

PART 3140—COMBINED HYDROCARBON LEASING

Subpart 3140—Conversion of Existing Oil and Gas Leases and Valid Mining Claims

Sec.

3140.0–1 Purpose.
3140.0–3 Authority.
3140.0–5 Definitions.
3140.1 General provisions.
3140.1–1 Existing rights.
3140.1–2 Notice of intent to convert.
3140.1–3 Exploration plans.
3140.1–4 Other provisions.
3140.2 Applications.
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3140.2–2 Who may apply.
3140.2–3 Application requirements.
3140.3. Time limitations.
3140.3–1 Conversion applications.
3140.3–2 Action on an application.
3140.4 Conversion.
3140.4–1 Approval of plan of operations (and unit and operating agreements).
3140.4–2 Issuance of the combined hydrocarbon lease.
3140.5 Duration of lease.
3140.5–1 Primary term.
3140.6 Leasing of additional lands.
3140.7 Lands within the National Park System.

Subpart 3140—Conversion of Existing Oil and Gas Leases and Valid Mining Claims

§ 3140.0–1 Purpose.

The purpose of this subpart is to provide for the conversion of existing oil and gas leases and valid hydrocarbon mining claims within Special Tar Sand Areas to combined hydrocarbon leases.

§ 3140.0–3 Authority.

These regulations are issued under the authority of the Mineral Lands Leasing Act of February 25, 1920 (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), and the Combined Hydrocarbon Leasing Act of 1981 (Pub. L. 97–78).

§ 3140.0–5 Definitions.

As used in this subpart, the term:

(a) "Combined hydrocarbon lease" means a lease issued in a Special Tar Sand Area for the removal of gas and nongaseous hydrocarbon substances other than coal, oil shale or gilsonite.

(b) "A complete plan of operations" means a plan of operations which contains the information required in 30 CFR 231.10.

(c) "Special Tar Sand Area" means an area designated by the Department of the Interior's orders of November 20, 1980 (45 FR 76800), and January 21, 1981 (46 FR 6077) (referred to in those orders as Designated Tar Sand Areas), as containing substantial deposits of tar sand.

(d) "Supervisor" means the Mining Supervisor of the Minerals Management Service, unless the plan of operations proposes only an in-situ process in which case it means the Oil and Gas Supervisor of the Minerals Management Service.

(e) "Owner of an oil and gas lease" means all of the record title holders of an oil gas lease.

(f) "Unitization" means unitization as that term is defined in 30 CFR Part 226.

§ 3140.1 General provisions.

§ 3140.1–1 Existing rights.

(a) The owner of an oil and gas lease issued prior to November 16, 1981, or a valid mining claim to any hydrocarbon substance based on a mineral location made prior to January 21, 1926, other than coal, oil shale or gilsonite, situated within a Special Tar Sand Area may convert that portion of the lease or claim so situated to a combined hydrocarbon lease, provided that such conversion is consistent with the provisions of this subpart.

(b) Owners of oil and gas leases in Special Tar Sand Areas who elect not to convert their leases to a combined hydrocarbon lease do not acquire the rights to any hydrocarbon resource except oil and gas as that term was defined prior to the enactment of the Combined Hydrocarbon Leasing Act of 1981. The rights of holders of valid mining claims who elect not to convert their claims to a combined hydrocarbon lease shall not be affected.

§ 3140.1–2 Notice of intent to convert.

(a) Owners of oil and gas leases in Special Tar Sand Areas which are scheduled to expire prior to the effective date of these regulations or within 6 months thereafter, may preserve the right to convert their leases to combined hydrocarbon leases by filing a Notice of Intent to Convert with the State Director, Utah State Office, Bureau of Land Management, 136 E. South Temple, Salt Lake City, Utah 84111.

(b) A letter, submitted by the lessee, notifying the Bureau of Land Management of the lessee's intention to submit a plan of operations shall constitute a notice of intent of convert a lease. The Notice of Intent shall contain the lease number or the recordation number of the mining claim filed pursuant to subpart 3833 of this title.

(c) The Notice of Intent shall be filed prior to the expiration date of the lease. The notice shall preserve the lessee's conversion rights only for a period ending 6 months after the effective date of this subpart.

§ 3140.1–3 Exploration plans.

(a) The supervisor may grant permission to holders of existing oil and gas leases to gather information to develop, perfect, complete or amend a plan of operations required for conversion upon the approval of the supervisor of an operation plan developed in accordance with 30 CFR 231.10.

(b) In addition to the requirements in § 3140.1–3(a) of this title, a special use permit issued by the National Park Service is required for the gathering of such information within units of the National Park System where mineral leasing is permitted. Minerals Management Services shall forward the exploration plans to the National Park Service for action on a special use permit.

§ 3140.1–4 Other provisions.

(a) A combined hydrocarbon lease shall be for no more than 5,120 acres. Acreage held under lease in a Special Tar Sand Area is not chargeable to State oil and gas limitations allowable in §§ 3101.1–5 and 3101.2–4 of this title.

(b) The rental rate for a combined hydrocarbon lease shall be $2 per acre per year and shall be payable annually in advance.

(c)(1) The royalty rate for a combined hydrocarbon lease converted from an oil and gas lease shall be that provided for in the original oil and gas lease.

(2) The royalty rate for a combined hydrocarbon lease converted from a mining claim shall be 12½ percent.

(3) A reduction of royalties may be granted as provided in § 3103.3–7 of this title or, at the request of the lessee, upon a review of information provided by the lessee prior to commencement of commercial operations.

(d) Existing oil and gas leases and mining claims may be unitized in accordance with 30 CFR Part 226. If a plan of operations is designed to cover a unit, a fully executed unit agreement shall be approved before the plan of operations applicable to the unit may be approved under § 3140.2 of this title. The approved unit agreement shall be effective after the leases or claims subject to it are converted to combined hydrocarbon leases. The plan of operations shall explain how and when each lease included in the unit operation will be developed.

(e) Except as provided for in this subpart, the regulations set out in part 3100 of this title are applicable, as appropriate, to all combined hydrocarbon leases issued under this subpart.

§ 3140.2 Applications.

§ 3140.2–1 Forms.

No special form is required for a conversion application.

§ 3140.2–2 Who may apply.

Only owners of oil and gas leases issued on or before November 16, 1981, in Special Tar Sand Areas or of valid claims to any hydrocarbon substance other than coal, oil shale or gilsonite that was filed prior to January 21, 1920, are eligible to convert leases or claims to combined hydrocarbon leases.

§ 3140.2–3 Application requirements.

(a) The applicant shall submit to the State Director, Utah State Office of the Bureau of Land Management, a written request for a combined hydrocarbon lease signed by the owner of the lease, which shall be accompanied by 3 copies of a plan of operations which shall meet the requirements of 30 CFR 231.10 and which shall provide for reasonable protection of the environment and diligent development of the tar sand resource.

(b) A plan of operations may be modified or amended before or after conversion of a lease or mining claim to reflect new technologies or other purposes. Any modifications shall be in accordance with 30 CFR 231.10(e). The approval of the modification or amendment is the responsibility of the supervisor. Changes or modification to the plan of operations shall have no effect on the primary term of the lease. The supervisor shall, prior to approving any amendment or modification, review the modification or amendment with the appropriate surface management agency. The National Park Service shall ensure conformance with the requirements of § 3140.7 of this title.

(c) The plan of operations may be for a single existing oil and gas lease or for an area of proposed unit operation.

(d) The plan of operations shall identify by lease number all Federal oil and gas leases proposed for conversion.

(e) The plan of operations shall include any proposed designation of operator or proposed operating agreement.

(f) Upon determination that the plan of operations is complete, the supervisor shall notify the authorized officer who shall then suspend the term of the Federal oil and gas lease(s) until the plan is finally approved or rejected.

§ 3140.3 Time limitations.

§ 3140.3–1 Conversion applications.

A plan of operations to convert an existing oil and gas lease or valid mining claim to a combined hydrocarbon lease shall be filed on or before November 15, 1983, or prior to the expiration of the oil and gas lease, whichever is earlier, except as provided in § 3140.1–2 of this title.

§ 3140.3–2 Action on an application.

The authorized officer shall, with the advice of the supervisor, take action on an application for conversion within 15 months of receipt of a proposed plan of operations.

§ 3140.4 Conversion.

§ 3140.4–1 Approval of plan of operations (and unit and operating agreements).

(a) The owner of an oil and gas lease, or the owner of a valid claim located for a hydrocarbon substance within a Special Tar Sand Area, shall have such lease or claim converted to a combined hydrocarbon lease when the plan of operations, filed under § 3140.2 of this title, is deemed acceptable and is approved by the supervisor.

(b) For conversion of leases within a unit of the National Park Service, the Regional Director of the National Park Service shall ensure conformance of the plan of operations with the requirements of § 3140.7 of this title.

(c) A plan of operations may not be approved in part.

§ 3140.4–2 Issurance of the combined hydrocarbon lease.

(a) After a plan of operations is found acceptable, and is approved, the authorized officer shall prepare and submit to the owner, for execution, a lease, including all special terms and conditions, converting an existing oil and gas lease or mining claim to a combined hydrocarbon lease.

(b) The effective date of the converted combined hydrocarbon lease shall be the first day of the month following the date that the authorized officer signs the lease.

(c) All stipulations attached to an oil and gas lease being converted to a combined hydrocarbon lease shall become a part of the combined hydrocarbon lease unless the authorized officer determines a stipulation is no longer necessary.

§ 3140.5 Duration of the lease.

§ 3140.5–1 Primary term.

The primary term of a combined hydrocarbon lease shall be 10 years.

§ 3140.6 Leasing of additional lands.

(a) The authorized officer may noncompetitively lease additional lands for ancillary facilities in a Special Tar Sand Area that are needed to support any operations necessary for the recovery of tar sand. Such uses include, but are not limited to, mill site or waste disposal. Application for a lease or permit to use additional lands shall be filed under the provisions of Part 2920 of this title with the proper BLM office having jurisdiction of the lands. The application for additional lands may be filed at the time a plan of operations is filed.

(b) A lease for the use of additional lands shall not be issued when the use can be authorized under Part 2800 of this title. Such uses include, but are not limited to, reservoirs, pipelines, electrical generation systems, transmission lines, roads, and railroads.

(c) The authorized officer shall not issue leases for additional lands and/or permits for rights-of-way within units of the National Park Service without the approval of the Regional Director of the National Park Service pursuant to § 3109.5–2(e) of this title.

§ 3140.7 Lands Within the National Park System.

Conversions of existing oil and gas leases and valid mining claims to combined hydrocarbon leases within units of the National Park System shall be allowed only where mineral leasing is permitted by law and where the lands are open to mineral resource disposition in accordance with any applicable minerals management plan. Such conversions shall be conditioned upon a finding by the Secretary of no resulting significant adverse impacts on the resources and administration of such areas or on other contiguous units of the National Park System as described in § 3100.0–3(d)(5) and §§ 3101.4–5, and 3109.5–2 of this title.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 27, 1982.

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March 1, 1982

Part IV

Department of Health and Human Services

Health Care Financing Administration

Medicaid Program; Health Care Financing Research and Demonstration Grants

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicaid Program; Health Financing Research and Demonstration Grants; Special Solicitation; Enhancing Competition Among Health Insurers and Providers of Care by Offering Alternative Health Plans to Medicaid Beneficiaries

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: General notice.

SUMMARY: HCFA is soliciting applications from State Medicaid agencies for demonstration projects that enhance competition among insurers and providers of health care by providing Medicaid beneficiaries the opportunity to select among alternative health plans comprised of a broad range of health care organization models.

The problems associated with the current fee-for-service system have been the focus of Congressional hearings, legislative proposals, and public debate. States are facing increased expenditures under the existing cost-based system; Medicaid beneficiaries are finding access to care more difficult since fewer physicians are willing to treat patients at Medicaid reimbursement rates, and some types of organized health care providers find it economically disadvantageous to provide care to Medicaid beneficiaries.

HHS is committed to a program of Medicaid reform with the objectives of increasing the efficiency with which Federal funds are spent on health care for the poor, and assuring access to care. The achievement of these long term objectives can be facilitated by State and Federal experimentation with competitive health care programs that provide comprehensive coverage for acute care and long term care services. We are interested especially in projects that include all of the essential components of competition models and include the largest population base.

This solicitation contains information about demonstration requirements, application procedures, and amount and duration of grant awards.

CLOSING DATE AND TIME FOR APPLICATIONS: The closing date for grant applications is April 30, 1982, 4:30 p.m. e.d.t.

ADDRESS: Standard grant application forms and guidance for the completion of the forms are available from: Health Care Financing Administration, Office of Management and Budget, Project Grants Branch, Area E–1, Gwynn Oak Building, 6325 Security Boulevard, Baltimore, Maryland 21207, (301) 594–3332.

FOR FURTHER INFORMATION CONTACT: Ronald Deacon, Health Care Financing Administration, Office of Research and Demonstrations, Office of Demonstrations and Evaluations, Area 1–E–5, Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207, (301) 594–1941.

SUPPLEMENTARY INFORMATION: This notice is published in accordance with HCFA's **Federal Register** notice of December 1, 1981 (46 FR 58368) which stated that a special solicitation on competition in the Medicaid program would be issued.

I. Availability of Grants

A. General

This special solicitation announces a Departmental initiative to fund demonstration projects that attempt to enhance competition among insurers and providers of care to the Medicaid population. HCFA's Office of Research and Demonstrations (ORD) is seeking projects to further this objective. Only the single State agency which administers the Medicaid program may apply, and the applications must be made under the authority of section 1110 or section 1115(a) of the Social Security Act. Section 1115 of the Act authorizes the Secretary to waive statutory Medicaid State plan requirements and to reimburse costs not otherwise Federally matchable in order to enable State agencies to carry out significant demonstration projects. Under that section of the Act, the States must share in the costs of the projects on the basis of their medical assistance matching rate.

This solicitation is independent of sections 2175 and 2178 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35). States that do not submit applications for section 1115 waivers through this solicitation may continue to pursue section 2175 or 2178 waivers through the HCFA regional offices.

B. Regulations

General policies and procedures that govern the administration of all HHS grants are located in 45 CFR Part 74. All applicants are urged to review the uniform grant requirements established in those regulations.

II. Background

Until recently, efforts to decrease the Medicaid cost burden on States and the Federal government have focused primarily on regulatory strategies. Typically, these strategies have been directed at individual facets of the health care delivery system; for example, State ratesetting agencies attempt to keep costs down by limiting hospital reimbursement. This and related cost containment approaches have achieved varying degrees of success, yet the problems facing most States in furnishing the funds to pay for health care for the poor have perhaps never been more acute.

Many States are considering the reduction or elimination of optional Medicaid benefits in the absence of more flexibility to implement other cost savings measures. Recognizing this problem, Congress, in sections 2175 and 2178 of Pub. L. 97–35, significantly increased States' opportunities to initiate a variety of cost-savings measures.

Rather than attempting to control costs by focusing on one or two components of the health care delivery system, we are interested in experiments in which the health care delivery system more closely resembles the classic competition model. Those experiments should yield the benefits generally associated with the free market without adversely affecting the quality of care of Medicaid beneficiaries. The classic competition model is also known as the free market competition model.

A. Relationship of the Classic Competition Model to Health Care

The classic or free market competition model assumes the presence of consumers armed with full knowledge about the commodity being purchased. Providers selling the same goods compete for buyers by lowering price. Generally, the provider makes a profit by selling more goods at a lower price than his or her competition, and society benefits because it obtains a commodity at a price that reflects the consumers' desire for it. Free markets are generally characterized by easy entry for all providers. Success or failure in the market is governed by having a competitive price and a quality product.

The current health care system fails to conform to this model in several respects. First, the consumers (that is, the patients) may lack the required technical knowledge to choose what kind of health care is needed. Second, the products (health care services) purchased by consumers are rarely identical. Furthermore, the provider (physician) does not usually gain an advantage by selling his or her service at a lower price because the consumer rarely seeks out the lowest cost provider since third party payers will cover most

or all of the physician's charges. Hospital costs, too, are covered in full by most insurance policies, so neither the patient, the physician, nor the hospital benefits financially from cost-conscious decisions.

In addition, other legislation and regulations designed to accommodate the peculiarities of the health care system have been criticized for contributing to the system's cost:

- Tax subsidies for employers and employees that discourage cost consciousness;
- Tax free bonds for hospital construction;
- Bias in favor of inpatient care;
- First dollar coverage for services;
- Bans on advertising;
- Administrative costs generated by reporting requirements and fee-for-service billing; and
- Retrospective cost-based reimbursement.

These kinds of barriers to the classic competition model were assumed as largely intractable until the mid-1970's, at which time a few individuals suggested that effective competition could reduce health care costs. In the book, *Health Plan* (Addison-Wesley Publishing Co., Reading, Mass., 1960), Alain Enthoven describes fully a "Consumer Choice Health Plan" which is an example of a competition model. The key components of this model that are applicable to Medicaid are described below.

B. Consumer Choice Health Plan

Enthoven's Consumer Choice Health Plan (CCHP) includes the following features that have come to be considered the general components of a competition model for the private sector:

1. *Multiple Choice.* Consumers would choose from multiple health plans. Health plans would face minimal barriers to entry in this market because health insurance would not be tied to employment. New plans would have to appeal to individuals rather than employers who usually do not offer more than three or four plan choices. Consumer choice, rather than regulation, would effectively eliminate providers of inferior quality. Plans would be required to publicize their characteristics with the objective of informing consumers.

2. *Organize Providers into Competing Units.* In order to profit economically in an environment where incentives force consumers to choose less costly plans, providers would organize themselves into units to achieve economies of scale.

3. *Community Rating.* Plans would be required to charge the same premium to all individuals in the same actuarial category who are enrolled for the same benefits and live in the same area. This would prevent plans from enrolling healthy persons at their usual rates while charging prohibitive rates to those with greater need for services.

4. *Open Enrollment.* All participating health plans would be required to accept as an enrollee anyone who wished to join during an open enrollment period each year. Not only would this enhance consumer choice, it would limit the ability of any plan to exclude high risk individuals.

5. *Vouchers.* Vouchers would be issued for Medicare and Medicaid beneficiaries to use for the purchase of health insurance. The value of the voucher for the poor would be related to income. Individuals choosing less costly plans than the value of the voucher could keep the difference or use it as a credit for the future purchase of services.

Since Enthoven first presented the above plan, the body of literature addressing the advantages and disadvantages of competition in health care has grown significantly. A paper by Clark C. Havighurst and Glenn M. Hackbarth ("Private Coat Containment," *New England Journal of Medicine*, Vol. 300, No. 23, p. 1298–1305, June 7, 1979) discusses strategies to contain costs in the private sector such as selectivity in benefit provision and selectivity toward providers of covered services. Two Journals that have devoted entire issues to the subject include (1) Milbank Memorial Fund Quarterly, *Health and Society*, Vol. 59, No. 2, Spring 1981; and (2) the *Vanderbilt Law Review*, Vol. 34, May 1981.

C. Legislative Proposals

Five bills were introduced in the 96th Congress that provided for reform of the health care system in a pro-competition framework. Three of these bills were reintroduced in 1981, of which only one included provisions for Medicaid. This is the Gephardt bill, H.R. 850, the National Health Care Reform Act of 1981.

This proposal is very closely modeled after CCHP with respect to employed persons, and makes use of a voucher concept for Medicaid and other needy individuals. There would be a single standard of eligibility that would be adjusted for cost-of-living variations between regions. Expenditures on health care for the poor by States that choose to participate would not exceed 1981 payments, indexed for inflation. Vouchers provided to eligible persons would be equal to the sum of the average of premiums of participating plans paid by members in the same actuarial category in the same area, plus the average out-of-pocket expenses paid by similar members. There would be no cost-sharing requirements.

D. Barriers to Competition Under Medicaid

There are a number of fundamental problems in integrating many concepts of competition into Medicaid as the program is currently structured. These problems are similar to many of the problems that have limited Medicaid enrollment in Health Maintenance Organizations (HMOs). As of 1981, only 2 percent of Medicaid eligibles were enrolled in the 55 HMOs nationwide that contract with States to serve this population. Thirty-six of these contracts are in only six States. (See Trieger, S., Galblum, T., and Riley, G., "HMOs: Issues and Alternatives for Medicare and Medicaid" for an indepth discussion of the problems and potential solutions for expanded enrollment of Federal beneficiaries in HMOs: Health Care Financing Administration Pub. No. 03107, April 1981.)

Some of the barriers to competition that alternative health plans (AHPs) currently face can be mitigated by waivers; others probably cannot. These barriers are discussed below.

1. *Benefit Package and Cost Sharing.* Under Medicaid, States are required to offer a mandatory benefit package and are not permitted to require cost sharing from categorically needy recipients. A major tenent of competition models that contradicts these requirements is that beneficiaries must be free to choose among health plans, with major choice factors being benefit package, cost sharing provisions, and premium payments. In addition, the ability of AHPs to offer a comprehensive health service package at a low premium may not provide sufficient motivation for Medicaid eligibles to enroll, since Medicaid normally pays the full cost of health care regardless of the provider selected by the beneficiary. Unless some other incentive is offered, a beneficiary may be reluctant to give up the freedom to seek care from any participating provider in the fee-for-service sector.

2. *Reimbursement.* Almost all prospective reimbursement models that have been tested thus far have involved Aid to Families with Dependent Children (AFDC) cases only. This is probably because the risk in insuring children and mothers with children is generally less than for the aged, blind, or disabled. Even though 17 States with Medicaid HMO contracts have demonstrated the feasibility of prepaid risk contracting for AFDC cases, some States still are reluctant to pursue HMO

contracts because of technical difficulties in setting rates.

3. *Adverse Selection.* A fear of providers in assuming risk under Medicaid (and Medicare) is that they would enroll the highest users of service. Since most prospective capitation rates are based on the average cost of covering a specific benefit package for a population, any plan that attracted persons who are more at risk than average would suffer financially. The evidence to date indicates that this has not occurred in HMOs with Medicaid contracts. Two major studies that compared AFDC utilization in HMOs to fee-for-service contracts found that costs and utilization were lower in the HMOs. (Utilization in the second study also compared prepaid group practices and independet practice associations (IPAs) and found that IPA use was comparable but not lower than fee-for-service contracts.)

Adverse selection poses and even greater threat to providers when they accept risk for long term care. States permit HMOs to disenroll Medicaid beneficiaries who become institutionalized for long term care services. However, with long term care comprising 40 percent of current Medicaid expenditures, it is becoming increasingly important that means be found for controlling costs for the aged, blind, and disabled, as well as the medically needy spend-down population who, by definition, are eligible for medical assistance because of extensive need for health care. These groups historically have been rejected by private insurers because of the perceived need for higher than normal levels of care. If vouchers for the poor are offered, insurance companies may continue to be reluctant to enroll Medicaid recipients for fear that health recipients will choose low options (especially if rebates are given) and the seriously ill will choose high cost options resulting in adverse selection.

4. *Welfare Image.* Some health care organizations have avoided extensive involvement with Medicaid because of the anticipated negative impact it would have on their private business. Evidence of this can be found in the difficulty some HMOs have had in meeting the requirement that no more than 50 percent of their enrollment can be drawn from Federal beneficiary populations. Even though Pub. L. 97–35 raised this limit to 75 percent, some HMOs will still not be able to enroll 25 percent of their members from private payment sources. Some of the sites that participated in the Massachusetts Case Management Project (described later in this solicitation) would not agree to more aggressive State marketing efforts toward Medicaid beneficiaries due to concern about developing a welfare image.

5. *Marketing to Medicaid Beneficiaries.* Special problems in conveying information to the Medicaid population pose a major difficulty in implementing competition models. Private insurance is usually marketed to groups through employers. The expense of marketing to Medicaid eligibles on an individual basis has probably deterred some HMOs from signing Medicaid contracts. Many Medicaid beneficiaries have little education and a significant proportion are not English-speaking. In addition, confidentiality restrictions in Medicaid regulations have been interpreted to prohibit States from releasing names of eligibles for any purpose other than direct administration of the medical assistance plan. This, then, precludes direct marketing approaches such as mailings and telephone contacts by AHPs.

6. *Administrative Burden.* The reasons for lack of HMO willingness to contract with States to serve Medicaid recipients have important implications for competition models under Medicaid since both HMO and AHP contracts would operate under similar mechanisms. One problem often cited is the fluctuation in eligibility. State Medicaid agencies that contract with HMOs typically report that tracking eligibility and HMO enrollment requires extensive administrative time. Most contractual agreements between States and HMOs require that the State notify the HMO of an enrollee's ineligibility before the State may terminate payment for that enrollee. However, in doing this, States may be forced to make payments which are not matched by Federal funds for an individual who is no longer Medicaid eligible. This may make States reluctant to contract with AHPs.

E. HCFA Experience With Medicaid Competition Models

A number of States have tested or are planning demonstrations involving HCFA waivers that include components of competition. To date, no State has established under Medicaid a system that incorporates all of the characteristics of a competitive model. However, the experience of these projects may be helpful to States in designing competitive systems with similar features. These projects are described below.

1. *Multnomah County, Oregon Project Health.* For Project health, Multnomah County assumed a "broker" approach to manage the program. The broker role involved contract negotiation, enrollment counseling, and screening out high risk cases. The county contracted with prepaid health plans from which noninstitutional medically needy beneficiaries had to choose to receive services. During the first two years of the program, beneficiaries could also choose a fee-for-service delivery system. The goal of the project was to permit the State of Oregon to test the effectiveness of a multiple choice delivery system for the medically needy.

Prepaid health plans that participated in Project Health informed the project of their charges for providing a specified benefit package. The project established a beneficiary premium that was dependent upon, but not equal to, the difference between the chosen plan's premiums and those of the lowest cost plan. For the highest income level eligible to participate, the monthly premium for individuals ranged from $0 to $22 in 1979.

Project health has shown that medically needy beneficiaries are willing and able to share in the cost of prepayment plan premiums and take this obligation seriously. The project collected 80 percent of enrollee debts without any special effort. This willingness to share costs was particularly evident when it was necessary for a beneficiary to maintain an existing provider-patient relationship. Thus, it appears that beneficiaries attach a high value on continuing a relationship with the family doctor, despite higher premiums to do so. This finding was reinforced by the results of a survey of Project Health enrollees, although the survey indicated that beneficiaries would have considered price a major plan choice factor if Project Health had not subsidized most of the differential costs between plans. The final evaluation of the project indicated that enrollment counseling was the most successful aspect of the project. Its beneficial results included (1) informed but mandatory consumer choice, (2) cost effectiveness, and (3) limited possibility for health plans to enroll low risk cases.

2. *Massachusetts Case Management.* The original objective of this demonstration was to attempt to integrate case management principles developed and used in the HMO setting into fee-for-service environments. It was theorized that many fee-for-service providers, given the right incentives, could achieve the efficiencies typically associated with HMOs without actually becoming an HMO. Case management is defined as a system of health care whereby each patient selects a specific primary care practitioner or team (known as the case manager) who provides primary care to that patient. The case manager also arranges, coordinates, and monitors all other medical care for that patient on a continuous basis. Only services under the case manager's purview that have been explicitly approved by the case manager will be approved for payment.

Case managers were selected through requests for proposals (RFPs) released by the State. Four contracts were initially awarded (two hospital outpatient departments and two community health centers). These contracts were based on fee-for-service reimbursement and involved no potential financial loss for case managers, although case managers could retain 40 percent of any savings. Later, two risk-sharing contracts were awarded (one community health center and one group practice). The potential of risk for these two sites was small and the enrolled population set at a maximum of 500 families each. A significant problem during the first two operational years of this project was an inability to control out-of-plan utilization. Initially, the State lacked computer edits to screen out claims from off-site providers. Even after edits were in place, it was difficult to impress upon the non-risk sharing sites the importance of documenting all legitimate referrals to off-site providers.

As of July 1981, Case Management had voluntarily enrolled approximately 3,000 AFDC families. Through October 1981, case management enrollees shared in the anticipated project savings by receiving incentive payments ($7 per family per month). Preliminary analysis of enrollee survey results indicates that the incentive check was not a prime concern; however, the State and case managers received calls from enrollees when the checks were received late.

3. *California Prepaid Health Research, Evaluation and Demonstration (PHRED).* The PHRED project was comprised of three demonstrations, one of which related to competition in that it experimented with offering a dual choice between a fee-for-service Medi-Cal card and HMO enrollment to AFDC eligibles. The PHRED Membership Studies demonstration was designed to test and evaluate alternative methods of identifying the HMO marketplace and motivating enrollment. The overall hypothesis of the project was that the joint eligibility process for welfare and Medicaid affords the best possibility for replacing door-to-door solicitation as a cost-effective locale for enrolling enough recipients for viable HMO contracts.

The welfare office methods tested in the PHRED project included (1) a printed brochure with no personal explanation, (2) a film, (3) a personal presentation by a county eligibility worker, (4) a similar presentation by a specially trained member of the PHRED staff, and (5) a personal presentation by an HMO sales representative. The preliminary conclusion of the State evaluation was that marketing in the welfare offices can yield a sufficient enrollment of AFDC eligibles, permitting the elimination of door-to-door solilcitation. This method does not adversely affect the HMOs. Costs of welfare office marketing appeared to be less than the plans' current methods. All methods tested in the welfare offices produced enrollments, but some methods were more productive than others. The overall choice rate was highest for HMOs using the HMO representative. Largely because of legal factors preventing special access for particular providers, California has chosen to implement the dual choice system with the presentations in the welfare offices being made by State-paid county employees.

4. *Monterey and Santa Barbara Counties, California.* These projects in the State of California, which are now being developed, will aid the counties in the development of primary care networks to serve all categories of the Medicaid population. The State will make prospective payment at the rate of 95 percent of projected fee-for-service costs to the counties that, in turn, will assume risk for Medicaid services. The primary care physicians will act as case managers, providing primary care and authorizing referrals when necessary. The physicians, through a shared savings mechanism, will have incentive to manage care efficiently. enrolled beneficiaries will have six months guaranteed eligibility for Medicaid services. In addition, the counties will develop contracts with hospitals and other secondary providers utilizing periodic prospective block payments. These two projects, although quite similar in scope, will differ somewhat in the incentive methodologies and the beneficiary eligibility plans.

III. Demonstration Objectives

A. General

HCFA recognizes the constraints imposed by current Federal and State Medicaid statutes that may prevent the implementation of competition models. States are encouraged to utilize all available authorities for waivers to State and Federal statutes to develop a comprehensive competitive model. Three examples of possible models that States may include in their grant proposals follow:

1. The State could encourage consumer choice to the maximum extent by a pure voucher approach in which Medicaid beneficiaries can shop for health insurance coverage using the voucher to pay for monthly premiums. The voucher amount could be set by an actuarial method that relates the payment level to previous State reimbursements under the existing Medicaid system. In setting the voucher rate, States would give consideration to each eligibility category and the associated risk as well as ability to pay any premiums or copayments required by the AHPs. Private health insurers and other health care providers would agree to offer a minimum benefit package and accept a voucher to be cashed by the State. The State would require an annual assessment of each plan's quality assurance system and grievance procedures.

2. Another possible model is one in which the State contracts with a broker who assumes responsibility for enrolling Medicaid beneficiaries in AHPs. A significant number of AHPs in the area including at least one private insurer are listed and described in a brochure. Potential enrollees are informed by the broker of all plans, associated premiums, and benefits. Medicaid beneficiaries are not aware of the State or Federal contributions paid on their behalf if certain plans are chosen. Once a selection is made, the AHP bills the State for its share of the monthly capitated premium and the medically needy beneficiaries for their share of the premium. The State could reimburse each plan a different amount, but the maximum level would be set at a percentage of the weighted average of each plan's negotiated rate. The weights are based upon projected enrollment.

3. A third model would involve the State contracting with an organization that would assume financial responsibility for the health care of Medicaid eligibles residing in a specific geographic area. Under this model, the State would describe the benefit package to be provided to any or all categories of Medicaid eligibles. Any organization that believed it could provide the required benefit package would be encouraged to bid a per capita reimbursement amount to cover those services. Organizations that might have an interest in bidding could include carriers and intermediaries, commercial insurers, provider consortiums, and

foundations. These organizations would have to be able to process claims, monitor quality of health care provided, and establish grievance and disenrollment mechanisms. An advantage of this model is that it would eliminate the problem of adverse selection since a waiver of freedom of choice would enable mandatory enrollment of entire populations.

These three competitive models have not been approved by HCFA in advance, but are examples of a suggested approach. States are encouraged to consider others and suggest innovative models to implement. Each proposed model will be analyzed on its own merits for its consistency with HCFA's statutory authority to conduct it. Demonstration projects should be designed to incorporate as many features of the competition models as are feasible. In summary, the key aspects of the model are listed below:

- Vouchers
- Contracting with Alternative Health Plans
- Marketing
- Benefits and Copayments
- Freedom of Choice

B. Vouchers

To date, voucher-type payments have been made by States only to health plans, not individuals. Applicants proposing to make such payments to individuals should consider and suggest solutions to the administrative problems that would accompany direct payment to beneficiaries.

Following are discussions of several aspects of voucher administration:

1. *Types of Vouchers.* The voucher instrument can take many forms in these demonstration projects depending upon the allocation process implemented by States. There are certain administrative issues to consider in designing the voucher type. The voucher could be issued in the form of a negotiable instrument given to the beneficiary before the actual purchase of care. This would allow the beneficiary freedom to purchase a private plan of his or her choice with the voucher, as long as the plan meets the minimum benefit package requirements.

The advantages of this allocation process are that the beneficiaries have maximum financial incentives to become prudent buyers. Problems with this system exist in that there is a possibility for forgeries that could create a black market in vouchers. This has occurred in the food stamp program. Beneficiaries may also delay enrolling in AHPs even after they have received the voucher.

The voucher could also take the form of a direct payment to an AHP. Beneficiaries would select one AHP from among several that offer insurance or enrollment to Medicaid beneficiaries. Upon notification of enrollment, the State would pay the plan a monthly capitated amount. This approach offers less financial incentive and buying power for the recipient and requires the State to directly reimburse each plan.

2. *Rebates Under the Voucher System.* To motivate cost conscious behavior on the part of beneficiaries, States should consider refunding the entire difference, or some portion of the difference, between the usual Medicaid reimbursement rate and the premium of a low cost AHP. A rebate equal to the entire difference would represent the truest voucher approach; however, it reduces the potential savings.

A partial rebate or shared savings would keep the essential ingredient of beneficiary incentive to join AHPs, though lowering it somewhat, and would allow for the government to share in savings over the capitated amount. The rebate could also be applied toward additional benefits. The issue of rebates also raises the question of how to deal with the beneficiary's extra income, that is, whether it would be treated as income under other Federal programs. In addition, if the cost of the plan is close to the 95 percent fee-for-service limit, then the cash rebate may be too small to be meaningful in altering beneficiaries' behavior.

3. *Cost Sharing Under the Voucher System.* States should consider whether the vouchers issued will constitute full or partial payment for AHPs for the categorical and medically needy groups. Beneficiary copayment is, in general, an important mechanism of government cost control if there is to be effective competition and incentives for users to economize. The more services the beneficiary uses and the more expensive plan he selects, the greater the amount he will have to pay. The State, by determining the voucher payment, can set the beneficiary's share of cost at levels that can influence utilization and cost patterns. States can propose levels of deductible, coinsurance, and copayment other than those permitted under current regulations. However, the State must justify why these levels are appropriate and demonstrate that they will not impose financial hardship on the eligible population.

States could design the copayment scheme in the form of premium sharing based on a sliding scale for income above the eligibility standard. This would allow for continuous eligibility of medically needy beneficiaries thus stablizing their health care costs and utilization patterns. States would have to apply actuarial methods in determining the ratemaking or premium sharing process for these beneficiaries.

4. *Voucher Amounts.* The capitation amount for the voucher instrument is a crucial issue in designing the system. Reimbursement should correspond with a minimum benefits package to be offered by AHPs. Current methods for calculating voucher reimbursement amounts include the following:

a. The voucher equals some percentage, approximately 80–95 percent, of the beneficiaries' estimated costs in the fee-for-service sector. In defining the fee-for-service upper limit, States should determine the expected per-capita costs of providing the minimum benefits package under fee-for-service to a population actuarially equivalent to the enrollees in the AHPs. The "Ratesetting Guide for Prepaid Medicaid Contracts" developed by California under the PHRED project may be useful to States for guidance. This report proposes the use of a model that applies demographic, utilization, and cost figures to derive a capitation rate and considers various technical issues related to ratesetting.

b. The voucher's value equals some percentage of the average premiums for health insurance plans in the area. The voucher would have to cover the minimum benefit package for Medicaid beneficiaries. This method resembles the ratemaking used for government employees under the Federal Employee Health Benefits Program (FEHBP).

C. Contracting With AHPs

Previously, Federal regulations have generally required prepaid Medicaid risk contracts be made only with Federally qualified HMOs. It has been argued that the stringency of these rules has been a major factor in the disappointing number of HMOs that have sought qualification and have signed a Medicaid contract. Section 2178 of Pub. L. 97–35 relaxes these contracting requirements.

In addition to qualified HMOs, States are now permitted to sign prepaid risk contracts with State certified public or private organizations that (1) make covered services accessible to Medicaid enrollees to the same extent they are accessible to unenrolled Medicaid eligibles, and (2) have made adequate provision against the risk of insolvency. Contractors must assure that Medicaid enrollees will not be held liable for debts in the event of plan insolvency. In addition, section 2178 increases the enrollment limit for Medicare and Medicaid beneficiaries to 75 percent of total enrollment.

Contracts between States and prepaid entities must also provide for Secretarial and State access to certain books and records of the HMO; nondiscrimination on the basis of health status or use of health services in the entity's enrollment, reenrollment, and disenrollment activities; rights to disenrollment for individuals after one full month of membership; and reimbursement for medically necessary emergency services received out-of-plan. Payments to prepaid plans must be made on an actuarially sound basis.

States may guarantee Medicaid eligibility for up to six months for individuals enrolled in qualified HMOs but only for purposes of their enrollment in the HMO.

States should consider involving in these competition demonstrations a wide range of AHPs including State-certified and Federally-qualified HMOs and commercial insurance companies. The only two essential qualifications that will remain are that (1) the organization be able to demonstrate financial solvency and (2) the organization (or network of organizations) be capable of providing the same benefits available to Medicaid beneficiaries outside the plan.

D. Marketing

1. *Incentives.* HCFA is interested in testing new incentives to encourage voluntary Medicaid enrollment in AHPs. It is generally recognized that the current ability of HMOs to offer a comprehensive health service package at a low premium may not provide sufficient motivation to Medicaid beneficiaries to give up their freedom to seek care from any participating provider. Since there is less of a financial incentive for Medicaid beneficiaries to voluntarily enroll in AHPs than there is for groups included in competition proposals, States should consider various incentives (cash from savings, extra benefits) and innovative marketing techniques in their proposal.

States may offer Medicaid beneficiaries who elect to enroll in a participating AHP one or more of the following incentives: (1) Guaranteed eligibility for Medicaid benefits through the AHP for a minimum period of six months; (2) a monthly cash incentive payable to the enrollee equal to some portion of the projected savings over the fee-for-service costs; and (3) additional benefits not normally covered by the individual State's Medicaid program. These incentives are described below.

a. *Guaranteed Eligibility Incentive.* Offering individuals guaranteed Medicaid eligibility may be an incentive for beneficiaries to enroll in AHPs, as well as a useful method of encouraging States to contract with AHPs. States are encouraged to propose a specific plan for guaranteed eligibility (and thus, guaranteed benefits to the beneficiaries) that would relieve the State of administrative problems and the risk of losing Federal funds for ineligible individuals. In order that HCFA may assess the effects on costs of guaranteed eligibility, the State should plan to continue tracking eligibility throughout the demonstration, even though Federal matching funds are guaranteed.

b. *Cash Incentives.* Another incentive suggested to encourage enrollment is a monthly cash payment equal to some portion of projected AHP savings over the fee-for-service system. The payment would not be counted as income in the determination of beneficiary Medicaid eligibility. There are two issues here that States should consider. First, should the incentive payment be made only to new enrollees in the project, or should the payment be extended to existing enrollees in the plan? If beneficiaries, who are already enrolled in an AHP are not allowed to share in the benefits granted new enrollees, they may try to terminate their current enrollment and then re-enroll under one of the options.

Second, what amount of cash payment should be offered? If the capitation rate is currently set close to the fee-for-service limit, the State may not have enough funds to afford cash payments.

c. *Additional Benefits.* For States that offer a minimal number of Medicaid benefits under their fee-for-service system, another incentive that an AHP could offer is one or more services not normally covered under the State plan. Additional benefits should be funded through savings achieved from cost-effective plans.

2. *Techniques.* We expect States, AHPs, and brokers to offer a variety of marketing techniques for the purpose of motivating Medicaid beneficiaries to enroll. For purposes of these demonstrations, HCFA can waive section 1902(a)(7) of the Act (42 CFR Part 431, Subpart F) which has precluded the release of Medicaid eligibles' names by States to AHPs.

Some insight to the marketing problems has been gained from the PHRED project developed by the State of California in which five marketing methods were tested in seven welfare offices throughout the State. One or more of these techniques could possibly be used to motivate Medicaid beneficiaries to enroll in AHPs. (Refer to discussion in section II.E.3.)

Where several AHPs are being offered to a group of eligible beneficiaries, States may feel that the task of designing marketing materials, holding public meetings, neighborhood canvassing, signing up of enrollees, etc. could be more efficiently managed by a broker. For Project Health, Multnomah County assumed a "broker" approach to manage the program. (See section II.E.1. for a discussion of this project.)

If there is no broker, these and related tasks will have to be carried out by the State and AHPs. HCFA is willing to implement competition demonstrations with and without a broker with the objective of determining whether the broker role is cost effective.

E. Benefits and Copayments

Any AHP that participates in Medicaid competition demonstrations must offer the mandatory minimum benefit package for the categorically needy as defined in section 1905(a)(1), (2), (3), and (5) of the Act. Although we would prefer that States include skilled nursing facility services, these are not mandated for the purpose of this demonstration. Benefits included in the State plan that are not provided by AHPs must continue to be provided under the fee-for-service arrangement. We recognize that States may want to propose competition models that include copayments for mandatory services to enable AHPs to offer a wide range of health plan choices. AHPs could offer plans with additional or expanded benefits but increased cost sharing.

AHPs could also offer additional benefits, financed with savings, to voluntarily attract enrollees. Of particular interest to us are expanded long term care and prevention benefits. States should weigh the benefits of offering coverage of certain community care services to aged and disabled recipients that could defer institutionalization.

F. Freedom of Choice

The implementation of a system where recipients are restricted to the most cost-effective providers may be used to further competition. Under certain circumstances, section 2175 of Pub. L. 97–35 authorizes the Secretary to waive provisions that permit a Medicaid beneficiary to obtain services from any participating provider. Beneficiaries can now be restricted to a primary care provider under a "case management" or "specialty physician services arrangement." A beneficiary can also be restricted to a provider or practitioner who complies with the reimbursement, quality, and utilization standards under

the State plan. It is assumed that the State, as a prudent buyer, would assign beneficiaries to the most cost-effecive plan within a reasonable transportation distance.

Section 1115 waivers of freedom of choice requested for demonstrations under this solicitation are not limited to the type possible under section 2175 of Pub. L. 97–35. States may request broader waivers of freedom of choice under this solicitation. However, where such waivers are requested, States should provide assurances that reasonable access is maintained for those beneficiaries assigned to an AHP. Preferably, although beneficiaries could no longer obtain care from any participating provider, the beneficiary would have several AHPs from which to choose. Those AHPs that serve beneficiaries without freedom of choice must have a well-defined grievance and disenrollment procedure. States are strongly encouraged to closely monitor such AHPs for trends of underutilization and excessive grievances and disenrollments.

G. Quality Assurance System

The role of States and AHPs, with respect to establishing and monitoring quality assurance activities takes on increasing importance in competitive delivery systems. A good quality assurance system can assist the AHPs in projecting resource needs, identifying excess or under utilization patterns, identifying inappropriate or aberrant care practices, detecting enrollee satisfaction, and generally assisting in the operation of an efficient AHP.

We envision that quality assurance in a competitive system should be responsive to the same factors as the traditional health care financing and delivery systems. These factors include statistical observations on morbidity and mortality; patterns of care by patient, clinician, and facility; staff suggestions for improvement; and beneficiaries' complaints.

In developing quality assurance programs, States and AHPs may wish to consider guidelines that were developed by the National Committee for Quality Assurance (NCQA) under contract to the Office of Health Maintenance Organizations. NCQA identified six major elements contributing to an effective quality assurance program. These elements are listed below in the context of AHP operations.

1. Organizational arrangements for the quality assurance program must be defined and understood by those involved in the process.

2. There should be a defined procedure for the identification and selection of clinical and administrative problems.

3. There should be procedures for problem evaluation. The AHP should document the manner by which it examines actual and potential problems.

4. The quality assurance activities should include the development of appropriate recommendations.

5. There should be evidence of adequate procedures for followup on recommendations.

6. The AHP should assume ultimate responsibility for the evaluation of the overall effectiveness of its quality assurance program.

IV. Research Design

The research design of applications submitted under this solicitation should state the measurable project goals and objectives, including hypotheses to be tested. The design should describe the control group that can be used to evaluate the effectiveness of the project. This can be achieved by defining a comparison group, or by doing a before and after analysis. If some States propose implementing different models throughout the State, it also may be possible to use some models as controls. Reasons should be given why the proposed research design was selected. Since the evaluation will require extensive analysis of data, the research design should also include a discussion of existing and proposed data bases.

V. Evaluation

The demonstration project should be designed to provide information that will enable HCFA to evaluate its effectiveness in increasing enrollment in AHPs, contributing to overall cost savings, and enhancing competition among insurers and providers of health care.

HCFA plans an independent evaluation of all demonstrations awarded from this special grant solicitation. The major hypothesis of the evaluation will be that competitive models are more cost effective than the current fee-for-service system. States are required to propose evaluation methods that HCFA may use to evaluate their demonstration design. The design should address the following:

A. The response by AHPs to the competitive approach in terms of:

- Enrichment and variability of benefit packages;
- Organizational relationship between the provision of the health care services and the financing of those services;
- Premium pricing strategies;
- Quality monitoring systems employed;
- Enrollment policies; and
- Qualification standards imposed by States.

The analysis should compare these effects to the fee-for-service conditions existing prior to the demonstration.

B. The extent to which the comparable fee-for-service system is affected by this competition initiative in terms of:

- Fees charged;
- Quality of care;
- Patient satisfaction;
- Utilization levels (hospital and medical service); and
- Reimbursements.

C. The effectiveness of the various incentives offered upon Medicaid enrollment by aid category.

D. The effectiveness of specific marketing techniques employed in conjunction with the respective incentives used.

E. An estimate of the savings achieved. If the proposed competition demonstration includes new cost sharing provisions, the evaluation should be designed to estimate the amount of savings attributed to cost sharing.

F. The existence and extent of selection bias. Preenrollment utilization for AHP enrollees should be compared to that of a control group. Enrollee utilization for 18 months before joining one of the AHPs could be tracked to determine whether favorable or adverse selection has occurred (this may not be possible for these enrollees who were not Medicaid-eligible for 18 months before enrolling). The State must also make enrollment, utilization, and cost data available to the evaluator for both enrollees and nonenrollees.

G. Determination of the following measures and comparative analysis between demonstration and control or fee-for-service groups:

- Access to care;
- Quality of care; and
- Patient satisfaction.

H. An analysis of the effect of administrative changes required in the State Medicaid program because of the following items:

- Issuance of special health insurance card in lieu of regular Medicaid eligibility card;
- Coordination of benefits between services covered under the voucher and those covered under the usual long-term care program; and
- Ability of Sates to assure that duplicate payment for sevices does not occur for individuals enrolled in AHPs.

VI. Award Policies

Grant funds will cover administrative costs only. The Medicaid program will cover the allowed service costs as appropriate. For fiscal year 1982, anticipated funding includes up to a total of $1.5 million for administrative costs. Funding of applications recommended for approval is subject to the availability of funds.

VII. Duration of Funding

Funding for grants is awarded for a period of one year. For a multiple year project, funding may be continued on a noncompeting basis. However, continuation funding is contingent upon the availability of future year funds, the applicant's ability to meet prior year objectives, and the continued relevance of the project to HCFA programs.

Waivers may be granted for multiple-year periods. Generally we expect these projects to be four yars in duration. Methodologies that require longer project periods will also be considered if the applicant can justify the need for thelonger period. Applicants are advised, however, that even though waivers may be granted for multiple-year periods, they can be withdrawn if the project is terminated or if funding is not extended.

VIII. Section 1115 Projects

Under section 1115(a)(1) of the Act, compliance with statutory State Medicaid plan requirements may be waived to enable a Medicaid agency to carry out a significant demonstration project that will further the general objectives of the Medicaid program.

All requirements of the Social Security Act, the Code of Federal Regulations, and other issuances that pertain to the title XIX categorical program are applicable to a project approved under section 1115 of the Act, except as specifically waived.

A Medicaid agency should give special attention to the preparation of the budget. Budgets under section 1115 waivers are substantially more extensive than the budgets for other grant applications (see HCFA–PG–11A, Instructions for Completion of Federal Assistance Application Form HCFA–PG–11).

Projects requesting waivers must define the waivers that are required, specify the statutory and regulatory provisions that are to be waived, discuss the impact of the waivers on program expenditures (that is, estimate service costs with and without the waiver), state the effect on Federal, State and local laws, and discuss the impact on beneficiaries enrolled in the project.

IX. Selection Procedures

A. General Criteria for Awarding Projects

The Director of ORD determines which projects will be awarded. These decisions are based on the recommendations of technical review panels and on the comments of other Department components and outside individuals or organizations. More specifically, the criteria employed in arriving at the award decision include the following:

1. The comprehensiveness and innovativeness of the competition demonstration in terms of the number of components included (vouchers, participation of AHPs including private insurance companies, marketing incentives, etc.) and the extent to which it includes the eligible Medicaid population (categories and numbers).

2. The adequacy and creativity of the demonstration design, methodology, and data base(s).

3. Whether there is a realistic expectation that the demonstration objectives can be achieved within the time specified.

4. Whether the proposed project methodology is precise and consistent with what is generally agreed to be the state of the art.

5. Whether the overall budget, the personnel resources to be used, and the facilities and equipment are appropriate for the proposed project.

6. Documentation of a commitment of the parties necessary to the success of the planned project.

7. Whether results would be of value in other State settings and are of national importance.

8. The cost of the project.

9. The extent to which the project can be replicated.

B. Specific Project Requirements

In addition to meeting the general criteria described above, the applications for grants must meet the specific requirements that follow:

1. The project goals and objectives must be clearly stated and must be measurable.

2. The research design, including the questions to be addressed, the hypotheses to be tested, and the methods and the data to be used must be explicitly described. The methodology must be well defined and scientifically valid.

3. The relevance of the findings to HCFA program operations and policy concerns should be discussed.

4. The tasks and milestones must be clearly described and scheduled and must include a schedule of reports to be submitted to HCFA. (See Reports, section D, below.) The work plan must distinguish the development and implementation phases and indicate which tasks must be completed before implementation.

5. Data that are collected under a HCFA grant must be available to HCFA or its agents. However, the applicant must ensure the confidentiality of any personally indentifiable information collected under the auspices of any HCFA grant.

6. The application must include the qualifications and experience of the personnel and demonstrate how their qualifications make the individuals capable of performing the tasks in the project. The application must also specify how the personnel are to be organized in the project, to whom they report, and how they will be used to accomplish specific objectives or portions of the project.

7. The application must specify the availability of adequate facilities and equipment for the project or clearly state how these are to be obtained.

8. The budget must be developed in detail with justifications and explanations for the amounts requested. The estimated costs must be reasonable considering the anticipated results.

9. Projects that require waivers under section 1115 of the Act must define the services, list the waivers, discuss the implications if those waivers are granted, state the effect on Federal, State, and local law as well as the effect (beneficial or adverse) on individuals enrolled in the project. In addition, these applications must estimate the amount of program and administrative expenditures that will occur under the waivers and compare these expenditures to those that currently occur in the programs. Particular emphasis must be given to this element.

10. Plans for utilization of the project's results must be discussed.

11. The application must assure the applicant's willingness to comply with the human subjects' regulations (45 CFR Part 46) by the inclusion of a completed form HEW–598, "Protection of Human Subjects".

12. Under Pub. L. 96–511, the Paperwork Reduction Act of 1980, the Department is required to submit to the Director of the Office of Management and Budget any Federally-sponsored information collection or recordkeeping requirements developed by the grantees for demonstration projects. Normally, an exemption is granted only when the information is collected from less than 10 members of the public. Before there are any data collections or

recordkeeping imposed, either a clearance package or request for exemption must be submitted to HCFA's Office of Management and Budget.

C. Other Specific Requirements

The application must contain information describing the specific competition model being proposed. The following issues should be addressed:

1. A description of the design and administration of each component of the competitive model including, but not limited to:

a. Method of voucher payment;

b. Criteria of participation for AHPs;

c. Identification of required and optional Medicaid services to be covered in the demonstration and those services retained by the regular fee-for-service program;

d. Eligibility criteria for participation, including any restrictions;

e. Marketing techniques;

f. Quality assurance systems; and

g. Management information systems.

2. An explanation of why the particular design for each component was selected and the extent to which it should contribute to the overall objectives of the competition model.

3. A description of the current AHP (including HMO) activity sponsored by the State (for example, total AHP enrollment, number of AHPs, Medicaid eligibles enrolled by category, etc.).

4. A description of the AHPs that will participate in the demonstration, including total enrollment, number of current Medicaid enrollees, Medicaid benefit package, potential for expansion, date of Federal qualification (if applicable) for HMOs, evidence of State license or certification for AHPs, letters of commitments from participating AHPs and their contractors, and other relevant information.

5. A description of current and proposed marketing procedures used by the State and the HMOs or AHPs.

6. An estimate of savings by eligibility and aid category in the State and each AHP's service area.

7. A description of the availability and quality of the State enrollment, utilization, and cost data bases for evaluation purposes.

8. A description of the method used for ratesetting and determining the fee-for-service upper limit.

9. A description of the voucher process (administrative system, safeguards, premium setting, etc.).

10. A description of the State's certification and licensing process permitting AHPs and providers the opportunity to participate in the demonstration.

11. An identification and description of possible control groups that could be utilized in the evaluation.

12. A description of the methods to be used to examine the issue of favorable or adverse selection of beneficiaries.

13. A description of the proposed evaluation plan.

14. A description of any contractual arrangements between the State and participating AHPs and between the AHPs and its staff physicians (for example, salary or salary plus bonus).

These requirements are in addition to the requirements indicated in the Project Narrative, Part IV of HCFA–PG–11A.

D. Reports

Quarterly and annual reports summarizing the progress to date must be submitted to ORD and to the Project Grants Branch of HCFA's Office of Management and Budget. The quarterly reports must contain a description of progress made in achieving the specific objectives stated in the grant's work plan. Once the model is implemented, the report should include a table showing current enrollment levels, and a status of each of the State's monitoring systems (for exemple, disenrollment, grievances, and quality). When a project is completed, each applicant must submit a final report. The report must contain a project description, and must, at a minimum, include the following:

1. Identification of the project director, grant number, grantee, and title of the project.

2. A complete description of initial hypotheses and objectives and the results of the demonstrations.

3. A list of the publications resulting from the project.

4. Acknowledgement of the support received from HCFA and a disclaimer to the effect that the findings do not necessarily reflect policies of HCFA.

5. An executive summary of the report in camera-ready format.

X. Application Procedure

A. Submitting Applications

When submitting applications, applicants must include a statement in the project title block that the application is in response to the special solicitation on Medicaid competition. This designation must also be marked clearly on the outside of the package or envelope. Applications should be addressed to the Project Grants Branch at the address shown in the address section at the beginning of this preamble. The grants application forms HCFA–PG–10 and 11 have been approved by the Office of Management and Budget under approval No. 0938–0078.

B. Closing Date and Time

Applications that are mailed must be postmarked (first class mail) by the closing date and received by HCFA before the independent review team concludes its review. Because of the importance of the postmark, we encourage applicants to request that the post office provide a legible postmark. If express, certified, or registered mail is used, the applicant should obtain a legible dated mailing receipt from the U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailings. Applications that are hand-delivered must be received by the closing date and time.

C. Grant Policies

Projects are awarded through a competitive process based on a choice of applications submitted in response to this notice. All grantees are expected to share directly in the costs of the projects.

Since these applications will be submitted only by State Medicaid agencies and may receive the majority of funding through section 1115 waiver authority, States will be required to maintain the normal State medical assistance matching rate.

Other policies, including responsibilities, awarding, and payment procedures, special provisions and assurances, are described in the following documents that are included in the application kit:

HCFA Grants Policy Handbook, DHEW Publication No. (HCFA) 79–04001 (Rev. 6/79); and 45 CFR Part 74, Administration of Grants.

(Section 1115 of the Social Security Act (42 U.S.C. 1315))

(Catalog of Federal Domestic Assistance Program No. 13.766, Research and Demonstration Grants)

Approved: February 22, 1982.

Paul Willging,

Deputy Administrator, Health Care Financing Administration.

[FR Doc. 82-5307 Filed 2-26-82; 8:45 am]

BILLING CODE 4120-03-M

Reader Aids

Federal Register
Vol. 47, No. 40
Monday, March 1, 1982

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Incorporation by reference	523–4534
Printing schedules and pricing information	523–3419
Federal Register	
Corrections	523–5237
Daily Issue Unit	523–5237
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TTY for the deaf	523–5229

FEDERAL REGISTER PAGES AND DATES, MARCH

8547–8748 1

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—MARCH 1982

This table is for determining dates in documents which give advance notice of compliance, impose time limits on public response, or announce meetings.

Agencies using this table in planning publication of their documents must allow sufficient time for printing production.
In computing these dates, the day after publication is counted as the first day. When a date falls on a weekend or a holiday, the next Federal business day is used (see 1 CFR 18.17).
A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
March 1	March 16	March 31	April 15	April 30	June 1
March 2	March 17	April 1	April 16	May 3	June 1
March 3	March 18	April 2	April 19	May 3	June 1
March 4	March 19	April 5	April 19	May 3	June 2
March 5	March 22	April 5	April 19	May 4	June 3
March 8	March 23	April 7	April 22	May 7	June 7
March 9	March 24	April 8	April 23	May 10	June 7
March 10	March 25	April 9	April 26	May 10	June 8
March 11	March 26	April 12	April 26	May 10	June 9
March 12	March 29	April 12	April 26	May 11	June 10
March 15	March 30	April 14	April 29	May 14	June 14
March 16	March 31	April 15	April 30	May 17	June 14
March 17	April 1	April 16	May 3	May 17	June 15
March 18	April 2	April 19	May 3	May 17	June 16
March 19	April 5	April 19	May 3	May 18	June 17
March 22	April 6	April 21	May 6	May 21	June 21
March 23	April 7	April 22	May 7	May 24	June 21
March 24	April 8	April 23	May 10	May 24	June 22
March 25	April 9	April 26	May 10	May 24	June 23
March 26	April 12	April 26	May 10	May 25	June 24
March 29	April 13	April 28	May 13	May 28	June 28
March 30	April 14	April 29	May 14	June 1	June 28
March 31	April 15	April 30	May 17	June 1	June 29

CFR CHECKLIST; 1981–82 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1981/82. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription service to all revised volumes is $525 domestic, $131.25 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1982): Title	Price
5 Parts:	
1–1199	$8.00
1200–end	6.00
CFR Unit (Rev. as of Apr. 1, 1981):	
17 Parts:	
1–239	8.50
240–end	8.00
18 Parts:	
1–149	8.00
150–399	8.00
400–end	7.00
19	13.00
20 Parts:	
1–399	7.00
400–499	8.50
500–end	9.00
21 Parts:	
1–99	7.00
100–169	7.50
170–199	7.50
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300–499	9.00
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600–799	6.50
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22	9.50
23	8.50
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0–199	7.00
200–499	9.00
500–799	7.00
800–1699	8.00
1700–end	7.00
25	9.00
26 Parts:	
1 (§§ 1.0–1.169)	9.00
1 (§§ 1.170–1.300)	7.50
1 (§§ 1.301–1.400)	6.50
1 (§§ 1.401–1.500)	8.00
1 (§§ 1.501–1.640)	8.50
1 (§§ 1.641–1.850)	7.50
1 (§§ 1.851–1.1200)	9.00
1 (§§ 1.1201–end)	9.50
2–29	8.00
30–39	7.00
40–299	8.50
300–499	7.00
27 Parts:	
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200–end	8.00
CFR Unit (Rev. as of July 1, 1981):	
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100–499	6.50
500–899	9.00
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1911–1919	6.00
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30 Parts:	
0–199	8.50
200–end	9.00
31 Parts:	
0–199	7.00
200–end	8.00
32 Parts:	
1–39, Vol. I (rev. Aug. 1, 1981)	9.00
1–39, Vol. II (rev. Aug. 1, 1981)	13.00
1–39, Vol. III (rev. Aug. 1, 1981)	9.50
40–399	13.00
400–699	10.00
700–799	8.50
800–999	8.50
1000–end	7.00
33 Parts:	
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200–end	8.50
34 Parts:	
1–399	14.00
400–end	8.50
36 Parts:	
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18–end	7.00
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40 Parts:	
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CFR Index	9.50
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61–399	6.50
43 Parts:	
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45 Parts:	
200–499	6.00
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1200–end	7.00
46 Parts:	
1–29	5.50
30–40	5.50
70–89	6.00
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47 Parts:	
0–19	7.50
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49 Parts:	
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200–399	7.50
1300–end	7.00
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Tuesday
March 2, 1982

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Presidential Documents

Title 3—

The President

Executive Order 12349 of February 26, 1982

Amending the Generalized System of Preferences

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Title V of the Trade Act of 1974 (88 Stat. 2066, 19 U.S.C. 2461 *et seq.*) as amended, and Section 604 of the Trade Act of 1974 (88 Stat. 2073, 19 U.S.C. 2483), and as President of the United States of America, in order to make technical corrections in Executive Order No. 11888, of November 24, 1975, as amended, and to make conforming modifications to the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), it is hereby ordered as follows:

Section 1. Annex II of Executive Order No. 11888 of November 24, 1975, as amended, listing articles that are eligible for benefits of the GSP when imported from any designated beneficiary developing country, is further amended by deleting items 306.52, 385.45, 606.11, and 687.65 and adding item 687.72, in numerical sequence.

Sec. 2. In order to make technical corrections to the TSUS, headnotes 2(b) and 4 of subpart A, part 6 of schedule 7 of the TSUS are modified by deleting in each such headnote "and 740.10" and substituting "through 740.15" in lieu thereof.

Sec. 3. The amendments made by this Order shall be effective with respect to articles both: (1) imported on and after January 1, 1976, and (2) entered, or withdrawn from warehouse for consumption, on and after January 1, 1982.

Ronald Reagan

THE WHITE HOUSE,
February 26, 1982.

[FR Doc. 82-5797
Filed 3-1-82; 11:20 am]
Billing code 3195-01-M

V 47/41 MR 2 82

Presidential Documents

Proclamation 4903 of February 26, 1982

Women's History Week, 1982

By the President of the United States of America

A Proclamation

American women of every race, creed and ethnic background helped found and build our Nation in countless recorded and unrecorded ways. As pioneers, teachers, mothers, homemakers, soldiers, nurses and laborers, women played and continue to play a vital role in American economic, cultural and social life. In science, business, medicine, law, the arts and the home, women have made significant contributions to the growth and development of our land. Their diverse service is among America's most precious gifts.

As leaders in public affairs, American women not only worked to secure their own rights of suffrage and equal opportunity but also were principal advocates in the abolitionist, temperance, mental health reform, industrial labor and social reform movements, as well as the modern civil rights movement. Their dedication and commitment heightened awareness of our society's needs and accelerated our common efforts to meet those needs.

As volunteers, women have provided invaluable service and leadership in American charitable, philanthropic and cultural endeavors. And, as mothers and homemakers, they remain instrumental in preserving the cornerstone of our Nation's strength—the family.

In 1981, the Congress by joint resolution (P.L. 97–28, August 4, 1981) designated the week beginning March 7, 1982, as "Women's History Week" and asked the President to issue a proclamation to commemorate and encourage the study, observance and celebration of the vital role of women in American history. In formally acknowledging the achievements of women, we honor a vital part of our common heritage.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning March 7, 1982, as Women's History Week. Recognizing that the many contributions of American women have at times been overlooked in the annals of American history, I encourage all citizens to observe this important week by participating in appropriate ceremonies and activities planned by individuals, governmental agencies, and private institutions and associations throughout the country.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of Feb. in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-5708
Filed 3-1-82; 11:21 am]
Billing code 3195-01-M

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Presidential Documents

Proclamation 4904 of February 27, 1982

Termination of Increased Rates of Duty on Certain Mushrooms and Technical Corrections in the Tariff Schedules of the United States

By the President of the United States of America

A Proclamation

1. By Proclamation 4801 of October 29, 1980, the President proclaimed increased duties on certain types of mushrooms, prepared or preserved, provided for in item 144.20 of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202). These increased duties were to be effective from November 1, 1980, through October 31, 1983, unless modified or terminated earlier. This action was taken under the following legal provisions: sections 202(b), 202(c), 203, and 604 of the Trade Act of 1974 (the Trade Act) (19 U.S.C. 2252(b), 2252(c), 2253, and 2483).

2. I have determined, pursuant to section 203(h)(4) of the Trade Act (19 U.S.C. 2253(h)(4)), after taking into account the advice of the U.S. International Trade Commission and after seeking the advice of the Secretary of Commerce and the Secretary of Labor as required by that section, that it is in the national interest to terminate the increased rates of duty currently in effect on imports of certain mushrooms now provided for in item 922.55 of the TSUS and to retain the increased rates of duties on imports of other mushrooms now provided for in that item.

3. I have further determined that certain technical corrections to the TSUS are necessary to embody therein, pursuant to section 604 of the Trade Act (19 U.S.C. 2483), the substance of relevant provisions of actions undertaken within the authority of the Trade Act; and that, pursuant to section 301, title 3 of the United States Code, responsibility for arranging for the certification by foreign government officials of "certified hand-loomed and folklore" products be assigned to the United States Trade Representative, and that pending completion of such arrangements, the detailed description contained in the definition of such products be removed from the TSUS. I have further determined that TSUS item 141.84, "kidney beans in airtight containers", established by Presidential Proclamation 4707 of December 11, 1979, has no classification effect since kidney beans were already provided for at a superior level in the classification hierarchy of the TSUS.

Therefore, pursuant to section 604 of the Trade Act (19 U.S.C. 2483), to make a technical correction to the TSUS, I have determined that TSUS item 141.84 should be deleted from the tariff schedules.

4. By Proclamation 4768 of June 28, 1980, the President modified the TSUS by adding numerous provisions to schedule 4 thereof for "products provided for in the Chemical Appendix to the Tariff Schedules" and by adding a Chemical Appendix to the TSUS. This action was taken under the authority of section 503(a)(1) of the Trade Agreements Act of 1979 (93 Stat. 251). The Chemical

Appendix lists chemicals and products which the President has determined were imported into the United States before January 1, 1978, or were produced in the United States before May 1, 1978. I have determined pursuant to section 604 of the Trade Act (19 U.S.C. 2483), that certain products included in the Chemical Appendix are properly classifiable in other items in schedule 4 of the TSUS, that their inclusion in the Chemical Appendix was a technical error of no classification effect, and that these products should therefore be deleted from the Chemical Appendix to the TSUS.

5. By Proclamation 4884 of November 13, 1981, the President proclaimed increased duties on certain high-carbon ferrochromium, provided for in TSUS item 607.31, effective through November 15, 1982. This action was taken under the authority of section 203 of the Trade Act (19 U.S.C. 2253). A technical error was made in incorporating these increased rates in the TSUS, in that the measure of assessment was incomplete.

6. By Proclamation 4887 of December 23, 1981, the President proclaimed import fees on certain sugars, sirups, and molasses, provide for in TSUS items 155.20 and 155.30. These import fees were imposed under the authority of section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), and were made effective as of December 24, 1981. A technical error was made in incorporating these import fees in the TSUS, in that the measure of assessment was incomplete.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including sections 203 and 604 of the Trade Act (19 U.S.C. 2253 and 2483), section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), and in accordance with Article XIX of the General Agreement on Tariffs and Trade (GATT) (61 Stat. (pt. 5) A58; 8 UST (pt. 2) 1786), do proclaim that—

(1) Part I of Schedule XX to the GATT is modified to take into account the actions taken in paragraphs (5) and (6) below and in the Annexes to this proclamation.

(2) The TSUS is modified as set forth in the Annexes to this proclamation.

(3) Annexes II and III to Presidential Proclamation 4707 of December 11, 1979, are amended as provided in Annex II to this proclamation.

(4) Annex II to Presidential Proclamation 4768 of June 28, 1980, is amended as provided in Annex II to this proclamation.

(5) Subpart A, part 2 of the Appendix to the TSUS is amended by inserting, in the columns titled Rates of Duty 1 and 2 of item 923.18, the symbol "¢" after "4.625" in each column. This modification is effective as to articles entered, or withdrawn from warehouse for consumption, on or after November 16, 1981.

(6) Part 3 of the Appendix to the TSUS is amended by inserting, in the column entitled Rates of Duty (Section 22 fees) for items 956.05, 956.15, and 957.15, the symbol "¢" after the numeral which precedes the word "per" in each such item. This modification is effective as to articles entered, or withdrawn from warehouse for consumption, on or after December 24, 1981.

(7) The modifications of Part 1 of Schedule XX to the GATT and of the Appendix to the TSUS made by Annex I hereto shall be effective as to articles entered, or withdrawn from warehouse for consumption, on or after March 1, 1982, and before the close of October 31, 1983, unless the period of their effectiveness is earlier expressly suspended, terminated, or modified.

(8) The remaining modifications made by paragraphs (1), (2), (3), and (4) hereof shall be effective as to articles entered, or withdrawn from warehouse for consumption, on or after the third day following publication of this proclamation in the **Federal Register**.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of Feb., in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

Billing code 3195-01-M

ANNEX I

Subpart A, part 2 of the Appendix to the TSUS (19 U.S.C. 1202) is modified by deleting item 922.55 and by inserting in numerical sequence the following new item:

Item	Articles	Rates of Duty		
		1		2
		Effective on or after--		
		March 1, 1982	November 1, 1982	
"922.56	Mushrooms, prepared or preserved, provided for in item 144.20 (except (1) mushrooms valued over $1.60 per pound (drained weight) of the genera Cantherellus, Boletus, or Morchella, (2) mixed mushrooms valued over $1.60 per pound (drained weight) of two or more of the types Boletus luteus, Lactarius deliciosus, Rozites caperata, Suillus grevillei, or Suillus granulatus, and (3) whole mushrooms (including buttons), in containers each holding not more than 9 ounces (drained weight) of the types Volvariella volvacea, Flammulina velutipes, Pleurotus ostreatus, or Pleurotus abalone).....	The rate provided for in item 144.20 + 15% ad val.	The rate provided for in item 144.20 + 10% ad val.	No change".

Annex II

(A) Part 8, subpart C of schedule 1 of the TSUS and Annex II, Section A and Annex III to Presidential Proclamation 4707 of December 11, 1979, are modified by deleting item 141.84 and its corresponding rates of duty.

(B) Headnote 6 of schedule 3 of the TSUS is modified to read:

"6. The term "Certified hand-loomed and folklore" as used with respect to products provided for in the tariff schedules, refers to such products as have been certified, in accordance with procedures established by the United States Trade Representative pursuant to international understandings, by an official of a government agency of the country where the products were produced, to have been so made."

(C) Annex II to Presidential Proclamation 4768 of June 28, 1980, and schedule 4 of the TSUS are modified--

1. by deleting, in item 404.40, "α-Resorcyclic acid;" and inserting in lieu thereof "α-Resorcylic acid;";

2. by deleting, in item 404.92, "λ-Phenylalanine;" and inserting in lieu thereof "L-Phenylalanine;";

3. by deleting, in item 405.28, "N-(7-Hydroxy-1-naphthyl) acetamide;" and inserting in lieu thereof "N-(7-Hydroxy-1-naphthyl)-acetamide;";

4. by deleting, in item 408.21, "5-Amino-4-chloro-alpha-phenyl-3-pyridazinone;" and inserting in lieu thereof "5-Amino-4-chloro-α-phenyl-3-pyridazinone;";

5. by deleting, in item 409.54, "Acid blue 45; 106;" and inserting in lieu thereof "Acid blue 45, 106;";

6. by inserting in item 409.86, a semicolon after "204";

7. by deleting, in item 410.60, "2-Naphthol (Beta-naphthol)" and inserting in lieu thereof "2-Naphthol (beta-Naphthol)";

8. by deleting, in item 410.80, "(Chlorophenir-amine maleate)" and inserting in lieu thereof "(Chlorphenir-amine maleate)";

9. by deleting, in headnote 11, part 1, subpart C of schedule 4, "411.32" and inserting in lieu thereof "411.30".

(D) Part 6, subpart B of schedule 6 of the TSUS is modified by deleting, in headnote 2(a) of that subpart and in TSUS items 692.03, 692.07, and 692.11, the reference to general headnote "3(d)" and substituting "3(e)" in lieu thereof.

(E) The Appendix to the TSUS is modified by deleting, in item 950.10A, "117.86, or 117.88" therefrom and substituting in lieu thereof "or 117.86".

(F) Annex II to Presidential Proclamation 4768 of June 28, 1980, and the Chemical Appendix to the TSUS are modified by deleting the following chemicals and products (identified by Chemical Abstracts Service (CAS) registry number or common chemical name or trade name):

CAS Number	CAS Number	CAS Number	CAS Number	CAS Number	CAS Number
59-49-4	104-87-0	527-84-4	1493-27-2	6409-44-5	29136-19-4
60-09-3	105-05-5	534-52-1	1758-88-9	6658-48-6	30845-78-4
81-10-7	106-49-0	535-77-3	1796-92-5	6742-54-7	32588-54-8
81-48-1	108-75-8	577-55-9	2049-95-8	7397-06-0	37871-12-8
81-96-9	109-08-0	604-88-6	2051-89-0	7786-17-6	40184-38-1
82-05-3	116-63-2	605-01-6	2142-63-4	9000-72-0	40560-30-3
82-34-8	117-10-2	606-17-7	2189-60-8	12217-48-0	40677-44-9
82-49-5	119-47-1	611-14-3	2400-00-2	12219-54-4	55812-59-4
82-76-8	119-58-4	614-45-9	2492-26-4	12224-22-5	55990-91-5
83-07-8	119-75-5	622-96-8	2498-66-0	12224-23-6	57248-90-5
84-47-9	119-94-8	716-79-0	2786-76-7	12226-22-1	57248-95-0
85-06-3	120-78-5	831-59-4	2835-96-3	12226-96-9	61702-43-0
85-86-9	121-69-7	836-30-6	2870-04-4	12235-00-6	61901-87-9
86-48-6	122-03-2	874-41-9	2905-17-1	12239-48-4	61969-46-8
88-24-4	123-02-4	933-98-2	3011-61-8	13024-90-3	64063-37-2
98-19-1	128-39-2	934-74-7	3089-17-6	13616-83-6	64346-07-2
98-23-7	128-56-3	934-80-5	3283-23-6	14752-75-1	65151-60-2
98-42-0	129-35-1	1012-72-2	3370-27-2	15418-16-3	66104-58-3
98-71-5	131-08-8	1074-17-5	3370-28-3	15782-05-5	67923-95-9
99-07-0	131-55-5	1074-43-7	3373-10-2	17467-15-1	68411-44-9
99-51-4	131-56-6	1074-55-1	3808-86-4	18472-87-2	71799-31-0
99-62-7	131-57-7	1077-16-3	3896-11-5	21734-43-0	71807-62-0
99-96-7	131-92-0	1078-71-3	4130-42-1	21799-87-1	71838-87-4
100-10-7	135-51-3	1081-77-2	4404-43-7	22346-43-6	71872-54-3
100-18-5	135-61-5	1124-11-4	4424-87-7	23894-07-7	71872-81-6
100-41-4	137-52-0	1128-67-2	4445-07-2	25155-15-1	71902-03-9
102-33-0	141-93-5	1131-62-0	5123-63-7	25340-18-5	71902-11-9
103-82-2	147-47-7	1324-35-2	5280-78-4	25550-14-5	71902-14-2
103-95-7	367-25-9	1326-82-5	5382-23-0	27080-90-6	
104-41-6	371-40-4	1326-85-8	5580-57-4	27241-31-2	
104-53-0	482-89-3	1330-38-7	5900-59-4	27692-91-7	
104-72-3	499-75-2	1477-63-0	6358-69-6	28279-41-6	

COMMON CHEMICAL NAME OR TRADE NAME

Acid Blue 129
Dispersol Black BT
Dispersol Black 2R-PC
Dispersol Brown GTP
Nylomine acid Black CG
Nylomine acid Black CR
Nylomine Blue BR
Procion Brown 3G-PC
Procion navy 2R-PC
Sandostalo P-EPQ
Vat Yellow 4

[FR Doc. 82-5700
Filed 3-1-82; 11:53 am]
Billing code 3195-01-C

Rules and Regulations

Federal Register
Vol. 47, No. 41
Tuesday, March 2, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of Guy-America Airways, Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds Guy-America Airways, Inc. to the list of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

EFFECTIVE DATE: February 4, 1982.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536; Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.3 is published pursuant to 5 U.S.C. 552. The Commissioner of Immigration and Naturalization Service entered into an agreement with Guy-America Airways, Inc. on February 4, 1982 to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

The agreement provides for the waiver of certain documentary requirements and facilitates the air travel passengers on international flights while passing throught the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely makes an editorial change to the listing of transportational lines.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

PART 238—CONTRACTS WITH TRANSPORTATION LINES

Accordingly, 8 CFR Part 238 is amended as follows:

§ 238.3 [Amended]

In § 238.3 *Aliens in immediate and continuous transit,* the listing of transportation lines in paragraph (b) *Signatory lines* is amended by adding in alphabetical sequence, "Guy-America Airways, Inc."

(Secs. 103, 66 Stat. 173 (8 U.S.C. 1103); 238, 66 Stat. 202 (8 U.S.C. 1228))

Dated: February 24, 1982.

Alan C. Nelson,
Commissioner of Immigration and Naturalization.

[FR Doc. 82-5484 Filed 3-1-82; 8:45 am]
BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 112

Viruses, Serums, Toxins, and Analogous Products; Revision of Packaging Biological Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the packaging requirement formerly entitled *Packaging desiccated products.* The amendment makes packaging standards applicable to all biological products rather than just desiccated products. The amendment also deletes the 1,000 dose limit for final containers of mass administration products for poultry.

As amended, this section now specifies the allowable number of doses in a final container of poultry products for administration to individual birds, the allowable number of final containers of biological product in a carton, when and to what extent containers of diluent must be included in a carton with final containers of desiccated product, when final containers of product must be packaged in a carton, and a poultry product labeling requirement for multiple container cartons reflecting the continuance of current labeling requirements.

Average poultry flock size has increased 5 to 10 times since the 1,000 dose per container limit was established for poultry products. The deletion of specified maximal doses per container for mass administration products makes these products more convenient and economical to use in larger flocks than the 1,000 dose containers.

Broadening the scope of the section to include all biological products makes a place in the regulations for current and future standards for packaging products other than desiccated ones.

EFFECTIVE DATE: This amendment becomes effective March 2, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. R. J. Price, Senior Staff Veterinarian, Veterinary Biologics Staff, USDA, APHIS, VS, Room 827, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8245.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512-1 to implement Executive Order 12291 and has been classified as a "non-major" rule.

This final rule may have a significant economic effect primarily on producers and consumers of mass administration poultry vaccines. Eighty percent of the total doses of such vaccines produced annually are either Newcastle Disease Vaccines, Bronchitis Vaccines, or Newcastle Disease-Bronchitis Vaccines. Available data suggest that production costs for these three types of products might be reduced 10 percent or more by packaging in 5,000 to 10,000 dose containers rather than the present limit of 1,000 doses per container. It is also estimated that these larger vials of vaccines might be sold 10 percent cheaper per dose. Based upon an estimated annual production of 6 billion doses of Newcastle and Bronchitis Vaccines, currently selling for approximately $1 per 1,000 doses, the annual reduction in cost to consumers

could be approximately $600,000. No estimate on economic impact is available for the other mass administered poultry products which include Laryngotracheitis Vaccine, Avian Encephalomyelitis Vaccine, Pasteurella Multocida Vaccine, and Bursal Disease Vaccine.

The economic effect of the packaging standards for nondesiccated products will be minimal, because the present revision merely codifies current licensee practices.

Additionally, Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

There are currently 11 USDA licensed establishments producing one or more of these mass administration poultry vaccines. Only three of these are considered small entities; i.e., a business which is independently owned and operated and which is not dominant in the field of veterinary biologics manufacturing. Two of these businesses responded in favor of this proposed rule. There is currently insufficient information to project the specific effect on the third small business entity concerned. However, a general production cost decrease is expected.

The limitation of 1,000 doses of desiccated poultry product per final container was intended to insure that all of the vaccine in a container would be used within a short time after reconstitution to prevent significant loss of potency. At the time this standard was enacted in 1961, the 1,000 dose container was convenient for the size of flocks grown. Presently, the average flock is 5 to 10 times larger, and houses have been expanded to accommodate up to 50,000 birds. The 1,000 dose container no longer meets the need of the poultry industry.

This final rule represents a relaxation of the regulations by removing the 1,000 dose per container limit for all mass administration poultry vaccines; i.e., vaccines administered by aerosol or in drinking water. Larger dose vials will enable producers to vaccinate the currently larger flocks of birds more conveniently and with some labor savings in vaccine preparation. As shown above, it is suggested that the larger dose vials could result in a 10 percent or more cost saving to the consumers of these vaccines. The 1,000 dose limit for poultry products for administration to individual birds has been retained, because the time involved in individual administration still poses a threat of loss of potency if larger, multiple-dose final containers are used. This regulation shall become effective immediately upon publication as authorized by the Administrative Procedure Act (5 U.S.C. 553(d)(1), (d)(3)). The major, substantive change in the rule herein amended relieves the packaging restrictions under which desiccated vaccine manufacturers are currently operating. By making the rule effective immediately Veterinary Services (VS) is enabling these manufacturers to market larger-dose vials of vaccine without undue delay to give the poultry industry the practical and economic benefits of larger-dose vaccines as soon as possible.

Presently this section only refers to desiccated products. Packaging standards and a place for future standards are needed for other products. Since the time § 112.6 was enacted, changes in the industry have warranted administrative interpretations of the applicability of the section and amendments to the section such as the one for packaging Marek's Disease Vaccine. Cumulative changes in the industry have brought to the attention of the agency the need to revise the entire section to develop a comprehensive, integrated, regulatory program with respect to packaging biological products. The latest change in the industry has been the development of a large, multiple-dose, mass administration poultry biological product which is not manufactured in desiccated form as previous products have been. As there were no standards in the regulations to cover the situation, the entire section has been revised to keep the regulations responsive to developments in the industry which the agency is charged with regulating. Therefore, to broaden the scope of the section, the heading has been revised to refer to packaging biological products instead of packaging desiccated products. The body of the section has been changed to refer to nondesiccated as well as desiccated biological products to increase the applicability of the standards to a broader range of products. Changes in language are intended to clarify the broader scope of this section.

On September 14, 1981, a notice of proposed rulemaking was published in the **Federal Register** at 46 FR 45616 discussing this revision and soliciting comments. Three poultry producers and a poultry producers' trade association responded favorably to the deletion of the 1,000 dose limit for final containers of mass administration products for poultry. None of them commented upon other items in the proposed rule. Eight vaccine manufacturers and a vaccine manufacturers' trade association responded. Five of the manufacturers favored or had no objection to deleting the 1,000 dose per vial limit for mass administration poultry products, but the other three manufacturers and the trade association were opposed to this change. Three manufacturers recommended specifying a maximum of 5,000 or 10,000 doses per vial for mass administration poultry products. The agency is charged with the responsibility of regulating the veterinary biologics industry to insure that only pure, safe, potent, and efficacious products, when used according to label directions, are permitted in interstate commerce. Frozen mass administration poultry products in 5,000 and 10,000 dose vials have met these criteria and been licensed. It is probable that desiccated or other forms of these products could also meet the above criteria. No purity, safety, potency, or efficacy data were submitted to indicate there is a need to specify a maximal number of doses per container. Therefore, the final rule is adopted as proposed deleting the 1,000 dose per vial limit for mass administration poultry products. The maximal container size is left unspecified to keep the regulation responsive to future developments which may affect the industry. Each manufacturer of desiccated mass administration poultry biologics must decide based upon its own technical and economic evaluation whether or not to produce these products and what dosage sizes to market. Two of the manufacturers questioned the source of economic data and accuracy of the estimated production cost and selling price reductions resulting from the deletion of the 1,000 doses per vial limit for mass administration poultry products. The estimates were derived from confidential data for both frozen and desiccated products supplied by members of the manufacturing industry. The estimates were based upon the limited available data. Veterinary Services intended to indicate that vaccine production cost and selling price changes are likely to vary from these estimates as more products are licensed and become subject to market pressures. Two of those opposed to the action predicted a long term increase in vaccine prices resulting from elimination of manufacturers from this market with subsequent diminution of competitive forces. This evaluation was unsupported by data. Therefore, VS considered this opinion highly speculative and an insufficient reason to change the proposed rule. Some of the manufacturers and the manufacturers' trade association recommended in addition to the VS proposals that the regulations be amended to delete the existing 10 final containers per carton limit for poultry products and to delete any requirement that diluent for poultry products be packaged with the final container(s) of the product. They also recommended that the proposal be changed to include the use of automatic vaccinating equipment in the definition of mass administration products for poultry. These recommendations have been favorably considered by the agency and will be published in the **Federal Register** later as a separate proposed rule. This is necessary to give the entire industry and all other interested parties an opportunity to comment upon these proposals before publication as a final rule. One manufacturer expressed concern that no exception was provided in paragraph (b) to permit the packaging of the USDA contract Brucella Abortus Vaccine and diluent used in the Brucellosis Eradication Program. Adequate exception for this vaccine is already provided for in 9 CFR 106.1.

After due consideration of all relevant matters, including the proposal set forth in the above notice, and under authority in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151–158), the amendment of Part 112, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations, as published in the above notice, is hereby adopted as follows:

PART 112—PACKING AND LABELING

Section 112.6 is revised to read:

§ 112.6 Packaging biological products.

(a) Each multiple-dose final container of a biological product which requires a diluent for administration shall be packaged in an individual carton with a container of the proper volume of diluent for that dose as specified in the filed Outline of Production. Each multiple-dose final container of a product which does not require a diluent for administration need not be packaged in an individual carton unless the final container labeling does not contain all information required by the regulations. Such information must be included in or on a carton. Exceptions are provided in paragraphs (c) and (d) of this section and § 112.8.

(b) Single-dose final containers of a product need not be packaged one per carton. For single-dose products which require a diluent for administration, the number of containers of the proper amount of diluent specified in the filed Outline of Production for the number of doses contained in the carton shall be included in each carton.

(c) Poultry products for mass administration (including, but not limited to such means as drinking water and aerosol sprays) may be packaged in multiple-dose final containers as specified in the filed Outline of Production. Poultry products for administration to individual birds shall not exceed 1,000 doses in each final container. One to ten poultry product final containers may be packaged in a single carton. For products which require a diluent for administration, the number of containers of the proper amount of diluent specified in the filed Outline of Production for the number of multiple-dose final containers contained in the carton shall be included in each carton, except as specified in paragraph (d) of this section. The following requirements apply to cartons containing more than one final container of poultry product or of diluent:

(1) They shall be sealed prior to leaving the licensed establishment;

(2) The contents may not be repackaged after the seal is applied to the carton;

(3) The contents of such cartons may not be sold in fractional units; and

(4) The following statement must appear in a prominent place on the label of the carton: "Federal regulations prohibit the repackaging or sale of the contents of this carton in fractional units. Do not accept if seal is broken."

(d) Diluent for the following products need not be packaged with the final container(s) of the product, but the licensee shall provide the consumer with the required number of containers of the proper amount of diluent as specified in the filed Outline of Production:

(1) Marek's Disease Vaccine.

(2) Poultry vaccines administered to individual birds using automatic vaccinating equipment.

Done at Washington, D.C., this 24th day of February 1982.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-5489 Filed 3-25-82; 12:41 pm]

BILLING CODE 3410-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Revised Organization

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revising the regulations setting forth its organization structure. Several reorganizations have occurred since the structure was last issued. These revised regulations will present FDA's latest organization structure and give the latest addresses for the field organization.

EFFECTIVE DATE: March 2, 1982.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA-340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly § 5.1; see 46 FR 26052; May 11, 1981)), Part 5 is amended by revising §§ 5.100 and 5.115 to read as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

§ 5.100 Headquarters.

The central organization of the Food and Drug Administration consists of the following:

Office of the Commissioner [1]

Commissioner of Food and Drugs.
Deputy Commissioner.
Office of Regulatory Affairs.
Office of Health Affairs.
Office of Policy Coordination.
Office of Management and Operations.
Office of Planning and Evaluation.
Office of Legislative Affairs.
Office of Public Affairs.
Office of Consumer Affairs.

Bureau of Biologics [2]

Office of the Director.
Division of Compliance (Biologics).
Division of Virology.
Division of Blood and Blood Products.
Division of Product Quality Control.
Division of Biochemistry and Biophysics.
Division of Bacterial Products.
Division of Biologics Evaluation.

Bureau of Drugs [1]

Office of the Director.
Office of Planning, Evaluation, and Management.
Associate Director for Drug Monographs.
Division of OTC Drug Evaluation.
Division of Biopharmaceutics.
Division of Generic Drug Monographs.
Associate Director for Biometrics and Epidemiology.
Division of Biometrics.
Division of Poison Control.

[1] Mailing address: 5600 Fishers Lane, Rockville, MD 20857

[2] Mailing address: 8800 Rockville Pike, Bethesda, MD 20014.

Division of Drug Experience.
Associate Director for Compliance.
Division of Methadone Monitoring.
Division of Drug Quality Evaluation.
Division of Drug Labeling Compliance.
Division of Drug Quality Compliance.
Associate Director for Pharmaceutical Research and Testing.
Division of Drug Biology.
Division of Drug Chemistry.
National Center for Antibiotics Analysis.
National Center for Drug Analysis.
Associate Director for New Drug Evaluation.
Division of Anti-Infective Drug Products.
Division of Cardio-Renal Drug Products.
Division of Surgical-Dental Drug Products.
Division of Metabolism and Endocrine Drug Products.
Division of Neuropharmacological Drug Products.
Division of Oncology and Radiopharmaceutical Drug Products.
Division of Drug Advertising and Labeling.
Division of Scientific Investigations.
Associate Director for Information Systems.
Division of Drug Information Resources.
Division of Information Systems Design.
Medical Library.

Bureau of Foods [3]

Office of the Director.
Associate Director for Compliance.
Division of Compliance and Industry Programs.
Division of Food and Color Additives.
Division of Food Animal Additives.
Division of Regulatory Guidance.
Division of Cooperative Programs.
Associate Director for Nutrition and Food Sciences.
Division of Consumer Studies.
Division of Nutrition.
Division of Microbiology.
Division of Food Technology.
Associate Director for Toxicology.
Division of Mathematics.
Division of Pathology.
Division of Toxicology.
Associate Director for Physical Sciences.
Division of Chemical Technology.
Division of Color Technology.
Division of Cosmetics Technology.
Division of Chemistry and Physics.

Bureau of Medical Devices [4]

Office of the Director.
Assistant Director for Consumer and Industry Programs.
Office of Small Manufacturers Assistance.
Assistant Director for Program Operations.
Associate Director for Health Affairs.
Associate Director for Standards.
Division of General Medical Device Standards.
Division of In Vitro Diagnostic Device Standards.
Associate Director for Compliance.
Division of Compliance Programs.
Division of Compliance Operations.
Division of Product Surveillance.
Associate Director for Device Evaluation.
Division of Cardiovascular Devices.
Division of Gastroenterology/Urology and General Use Devices.
Division of Anesthesiology and Neurology Devices.
Division of Obstetrics/Gynecology and Radiology Devices.
Division of Surgical and Rehabilitation Devices.
Division of Clinical Laboratory Devices.
Division of Ophthalmic, Ear, Nose, Throat, and Dental Devices.

Bureau of Radiological Health [1]

Office of the Director.
Associate Director for Management and Systems.
Associate Director for Health Affairs.
Division of Compliance.
Division of Biological Effects.
Division of Electronic Products.
Division of Training and Medical Applications.

Bureau of Veterinary Medicine [1]

Office of the Director.
Associate Director for Human Food Safety.
Associate Director for Research.
Division of Veterinary Medical Research.
Associate Director for Scientific Evaluation.
Division of Drugs for Avian Species.
Division of Drugs for Ruminant Species.
Division of Drugs for Swine and Minor Species.
Division of Drugs for Non-Food Animals.
Associate Director for Surveillance and Compliance.
Division of Compliance.
Division of Surveillance.
Division of Animal Feeds.

Executive Director of Regional Operations [1]

Office of the Executive Director.[2]
Associate Director for Administration.
Associate Director for Field Support.
Office of Resource Planning and Management.
Division of Field Science.
Division of Field Investigations.
Division of Field Regulatory Guidance.
Associate Director for Federal-State Relations.
Division of Federal-State Relations.

National Center for Toxicological Research [5]

Office of the Director.
Office of Scientific Intelligence.
Associate Director for Research Operations and Planning.
Office of Management.
Division of Management Services.
Division of Toxicological Data Management Systems.
Division of Facilities Engineering and Maintenance.
Associate Director for Research.
Division of Teratogenesis Research.
Division of Mutagenesis Research.
Division of Carcinogenesis Research.
Division of Molecular Biology.
Division of Biometry.
Division of Chemistry.
Associate Director for Chemical Evaluation.
Division of Chemical Toxicology.
Division of Pathology.
Division of Animal Husbandry.
Division of Microbiological Services.

§ 5.115 Field structure.

Region I

Regional Field Office: 585 Commercial St., Boston, MA 02109.
District Office: 585 Commercial St., Boston, MA 02109.
Winchester Engineering and Analytical Center: 109 Holton St., Winchester, MA 01890.

Region II

Regional Field Office: 830 Third Ave., Brooklyn, NY 11232.
District Office: 830 Third Ave., Brooklyn, NY 11232.
District Office: 599 Delaware Ave., Buffalo, NY 14202.
District Office: 20 Evergreen Place, East Orange, NJ 07018.
District Office: P.O. Box S-4427, San Juan Station, San Juan, PR 00905.
Import District Office: 830 Third Ave., Brooklyn, NY 11232.

Region III

Regional Field Office: Rm. 1294, 2nd and Chestnut Sts., Philadelphia, PA 19106.
District Office: Rm. 1294, 2nd and Chestnut Sts., Philadelphia, PA 19106.
District Office: 900 Madison Ave., Baltimore, MD 21201.

Region IV

Regional Field Office: 8800 W. Peachtree St., Atlanta, GA 30309.
District Office: 8800 W. Peachtree St., Atlanta, GA 30309.
District Office: 297 Plus Park Blvd., Nashville, TN 37217.
District Office: P.O. Box 118, Orlando, FL 32802.

Region V

Regional Field Office: Rm. A-1945, 175 W. Jackson Blvd, Chicago, IL 60604.
District Office: Rm. 1222, 433 W. Van Buren St., Chicago, IL 60607.
District Office: 1141 Central Parkway, Cincinnati, OH 45202.
District Office: 1560 E. Jefferson Ave., Detroit, MI 48207.
District Office: 240 Hennepin Ave., Minneapolis, MN 55401.
Minneapolis Center for Microbiological Investigations: 240 Hennepin Ave., Minneapolis, MN 55401.

Region VI

Regional Field Office: 3032 Bryan St., Dallas, TX 75204.
District Office: 3032 Bryan St., Dallas, TX 75204.
District Office: 4298 Elysian Fields Ave., New Orleans, LA 70122.
Houston Station Office: Suite 250, 1440 North Loop, Houston, TX 77008.

Region VII

Regional Field Office: 1009 Cherry St., Kansas City, MO 64106.
District Office: 1009 Cherry St., Kansas City, MO 64106.
St. Louis Station Office: Rm. 755, 1114 Market St., St. Louis, MO 63101.

Region VIII

Regional Field Office: Rm. 500, 721 19th St., U.S. Customhouse, Denver, CO 80202.
District Office: Rm. 500, 721 19th St., U.S. Customhouse, Denver, CO 80202.

Region IX

Regional Field Office: Rm. 518, U.N. Plaza Federal Office Bldg., San Francisco, CA 94102.
District Office: Rm. 518, U.N. Plaza Federal Office Bldg., San Francisco, CA 94102.
District Office: 1521 W. Pico Blvd., Los Angeles, CA 90015.

Region X

Regional Field Office: Rm. 5003, 909 First Ave., Seattle, WA 98174.
District Office: Rm. 5003, 909 First Ave., Seattle, WA 98174.

Effective date. This regulation shall become effective March 2, 1982.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: February 24, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-4982 Filed 3-1-82; 8:45 am]

BILLING CODE 4160-01-M

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[3] Mailing address: 200 C St. SW., Washington, DC 20204.

[4] Mailing address: 8757 Georgia Ave., Silver Spring, MD 20910.

[5] Mailing address: Jefferson, AR 72079.

21 CFR Part 14

Advisory Committees; Reestablishment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972, and the public advisory committee procedures (21 CFR Part 14), the Food and Drug Administration (FDA) announces the reestablishment of the Panel on Review of Allergenic Extracts. This document adds to the agency's list of standing advisory committees. In a notice published elsewhere in this issue of the Federal Register, FDA asks for nominations for membership on this committee.

DATES: Effective March 2, 1982; authority for the committee being reestablished will end on December 31, 1983, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and § 14.40(b) (21 CFR 14.40(b)), FDA announces the reestablishment of the Panel on Review of Allergenic Extracts.

The Panel on Review of Allergenic Extracts reviews and evaluates available data on the safety, effectiveness, and adequacy of labeling of currently marketed biological products for the diagnosis, prevention, or treatment of allergies and allergic diseases and advises the Commissioner of Food and Drugs on the affirmation or revocation of biological product licenses based on a current evaluation of the safety, effectiveness, and labeling of the products.

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 28052; May 11, 1981)), Part 14 is amended in § 14.100 by adding new paragraph (b)(1)(i), to read as follows:

§ 14.100 List of standing advisory committees.

* * * * *

(b) *Bureau of Biologics*—(1) * * *

(i) *Allergenic Extracts Panel.* (*a*) Date reestablished: January 18, 1982.

(*b*) Function: Reviews and evaluates available data on the safety, effectiveness, and adequacy of labeling of currently marketed biological products intended for the diagnosis, prevention, or treatment of allergies and allergic diseases.

* * * * *

Effective date. Because this is a technical conforming amendment to Part 14, the Commissioner of Food and Drugs finds that there is good cause for the rule to be published without notice and comment and to be effective immediately upon publication in the Federal Register, March 2, 1982.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: February 12, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-5460 Filed 3-1-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 172

[Docket No. 81F-0024]

Food Additives Permitted for Direct Addition to Food for Human Consumption; White Mineral Oil

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of white mineral oil as a dust control agent for wheat being stored in grain elevators. This action responds to a food additive petition filed by Witco Chemical Corp.

DATES: Effective March 2, 1982; objections by April 1, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204; 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of February 20, 1981 (46 FR 13378), FDA announced that a petition (FAP 0A3505) had been filed by Witco Chemical Corp., 277 Park Ave., New York, NY 10017, proposing to amend § 172.878 (21 CFR 172.878) to provide for the safe use of white mineral oil as a dust control agent for commodity seeds stored in grain elevators.

FDA has evaluated data in the petition and other relevant material and concludes that white mineral oil is safe for use as a dust control agent for wheat under the prescribed conditions of use, and that § 172.878 should be amended as set forth below. In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the potential environmental effects of this regulation as announced in the notice of filing published in the Federal

Register. No new information or comments have been received that would alter the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), § 172.878 is amended in paragraph (c) by adding a new use, to read as follows:

§ 172.878 White mineral oil.

* * * * *

(c) * * *

Use	Limitation (inclusive of all petroleum hydrocarbons that may be used in combination with white mineral oil)
* * *	* *
15. As a dust control agent for wheat	Applied at a level of no more than .02 percent by weight of wheat.

Any person who will be adversely affected by the foregoing regulation may at any time on or before April 1, 1982, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective March 2, 1982.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: February 24, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-5487 Filed 3-1-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for use in Animal Feeds; Hygromycin B

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Quali-Tech Products, Inc., providing for use of a 0.6-gram-per-pound hygromycin B premix for making complete swine feeds for control of large roundworm, nodular worm, and whipworm infections and for making complete chicken feeds for control of large roundworms, cecal worms, and capillary worms.

EFFECTIVE DATE: March 2, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Quali-Tech Products, Inc., 316 Lake Hazeltine Dr., Chaska, MN 55318, is the sponsor of a supplemental NADA (110–440) providing for use of a 0.6-gram-per-pound hygromycin B premix for making complete swine and chicken feeds. The complete swine feed is used as an aid in controlling large roundworm, nodular worm and whipworm infections. The complete chicken feed is used as an aid in controlling large roundworms, cecal worms, and capillary worms. The NADA was filed by Elanco Products Co. for the sponsor Quali-Tech Products, Inc. The NADA is based on safety and effectiveness data contained in Elanco's approved NADA's 10–918 and 11–948. Use of the data in NADA's 10–918 and 11–948 to support this application has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of the NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (December 23, 1977; 42 FR 64367), approval of NADA 110–440 does not require reevaluation of the safety and effectiveness data in NADA's 10–918 and 11–948. NADA 110–440 is approved, and the regulations are amended to reflect the approval. Satisfactory chemistry, manufacturing, and control information were also submitted. The firm currently holds approval for use of 1.2 and 2.4 gram-per-pound hygromycin B premixes for making complete swine feeds.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended § 558.274 by revising paragraph (a)(4) and by revising the first entry in paragraph (e)(1)(i) and (ii), to read as follows:

§ 558.274 Hygromycin B.

(a) * * *

(4) Premix level of 0.6 gram per pound granted to sponsors 016968 and 022422 in § 510.600(c) of this chapter for use in chickens as in paragraph (e)(1)(i) of this section and in swine as in paragraph (e)(1)(ii) of this section

* * * * *

(e) * * *

(1) * * *

Hygromycin B in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 8 to 12.		Chickens: Control of infestation of large roundworms (*Ascaris galli*), cecal worms (*Heterakis gallinae*), and capillary worms (*Capillaria obsignata*).	Withdraw 3 days before slaughter.	000986, 016968, 022422, 026186
* * *	* * *	* * *	* * *	* * *
(ii) 12		Swine: Control of infestation of large roundworms (*Ascaris suis*), nodular worms (*Oesophagostomum dentatum*), and whipworms (*Trichuris suis*).	Withdraw 15 days before slaughter.	000986, 043733, 011490, 016968, 022422, 026186.
* * *	* * *	* * *	* * *	* * *

* * * * *

Effective date: March 2, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 22, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-5484 Filed 3-1-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Micro Blenders, Inc., providing for revised labeling for use of a 10-gram-per-pound tylosin premix for making swine, beef cattle, and chicken feeds in addition to its current use for making certain swine feeds.

EFFECTIVE DATE: March 2, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Micro Blenders, Inc., Highway 210 E. at 291, P.O. Box 357, Liberty, MO 64068, is sponsor of an NADA (123–065) providing for use of a 10-gram-per-pound tylosin premix for making complete swine feeds for increased rate of weight gain and improved feed efficiency. On behalf of Micro Blenders, Elanco Products Co. submitted a supplement to their NADA which provides for use of the 10-gram-per-pound tylosin premix for making complete swine, beef cattle, chicken, and layer chicken feeds. The swine feed is used, in addition to use for increased rate of weight gain and improved feed efficiency, for prevention, treatment, and control of swine dysentery, and for maintenance of weight gains and promotion of feed efficiency in the presence of atrophic rhinitis; the beef cattle feed for reduction of incidence of certain liver abscesses; the chicken feed for increased rate of weight gain and improved feed efficiency; and the layer feed for improved feed efficiency.

Approval of this supplemental NADA relies upon safety and effectiveness data contained in Elanco's approved NADA 12–491. Use of the data in NADA 12–491 to support this supplement has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of this supplement poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this is a Category II supplemental approval which does not require reevaluation of the safety and effectiveness data in NADA 12–491 or NADA 123–065.

The supplement is approved and the regulations are amended accordingly.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.625 is amended by revising paragraph (b)(74) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(74) To 050782: 10 grams per pound, paragraph (f)(1)(i), (iii), (iv), and (vi) of this section.

* * * * *

Effective date. This regulation shall become effective March 2, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 22, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-5482 Filed 3-1-82; 8:45 am]

BILLING CODE 4160-01-M

SUPPLEMENTARY INFORMATION: Protein Blenders, Inc., 2420 Highway 218 S., P.O. Box 2090, Iowa City, IA 52244, is sponsor of supplemental NADA 96–273 submitted on its behalf by Elanco Products Co. The supplemental NADA provides for use of premixes containing 10 grams of tylosin (as tylosin phosphate) per pound for making complete feeds for swine, beef cattle, and broiler, layer, and replacement chickens. The swine feed is used for increased rate of weight gain and improved feed efficiency, for prevention, treatment, and control of swine dysentery, and to maintain weight gains and feed efficiency in the presence of atropic rhinitis; the beef cattle feed for reduction of incidence of certain liver abscesses; the chicken feed for increased rate of weight gain and improved feed efficiency; the layer feed for improved feed efficiency; and the broiler and replacement chicken feed to aid in the control of chronic respiratory disease.

Approval of this NADA relies upon safety and effectiveness data contained in Elanco's approved NADA 12–491. Use of the data in NADA 12–491 to support this NADA has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this is a Category II supplemental approval which does not require reevaluation of the safety and effectiveness data in NADA 12–491 or NADA 96–273.

This supplement is approved and the regulations are amended accordingly. This adds to the firm's existing approval for use of an 0.8-gram-per-pound premix for making swine feeds.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an envjronmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section (1)(a)(1) of the Order.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.625 is amended by revising paragraph (b)(19) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(19) To 033999: 0.8 grams per pound, paragraph (f)(1)(vi)(*a*); 10 grams per pounds, paragraph (f)(1) (i) through (vi) of this section.

* * * * *

Effective date. This regulation shall become effective March 2, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 23, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-5483 Filed 3-1-82; 8:45 am]

BILLING CODE 4160-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 201

[AID Regulation 1]

Revision of the U.S. Flag Vessel Shipping Requirements

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: The Agency for International Development (AID) is revising the provisions applicable to recipients of AID loans and grants (Borrower/Grantees) concerning the responsibilities AID imposes on them because of the U.S. flag vessel shipping requirements of the Cargo Preference Act of 1954. This revision reflects current AID practices adopted to simplify administrative supervision and to standardize compliance requirements necessary for AID to meet its responsibilities under the Cargo Preference Act.

EFFECTIVE DATE: March 2, 1982.

FOR FURTHER INFORMATION CONTACT: Kathleen O'Hara, Office of Commodity Management, Agency for International Development, Washington, D.C. 20523, 703–235–2173.

SUPPLEMENTARY INFORMATION: Changes have been made in the provisions of AID Regulation 1 which require the Borrower/Grantee to make sufficient use of U.S. flag vessels to enable AID to comply with the Cargo Preference Act of 1954.

First, there has been a change in the number of geographic areas from which compliance must be achieved. Previously, AID required compliance with the U.S. flag shipping requirements to be met separately for shipments from each of five different geographic areas. Under the new provisions, AID will require compliance to be met separately for shipments from only two geographic areas: (1) The United States and (2) all other countries. AID has determined that this simplification will not impair compliance.

Also, the period during which compliance must be achieved has been changed. Previously, AID's regulations specified that achievement must be attained by each type of vessel, i.e., dry cargo liners, dry bulk carriers and tankers, during the course of the fiscal year. Now there are different requirements depending on the type of vessel.

For dry cargo liners, the regulation now requires the Borrower/Grantee to achieve compliance over the term of the loan or grant agreement. AID does reserve the right to require the Borrower/Grantee to use up to 100 percent of available U.S. flag liner service if AID's monitoring of the Borrower/Grantee's shipments indicates this to be necessary in order to assure compliance.

For dry bulk carriers and tankers, the regulation now requires that compliance must be achieved for each quantitative unit of cargo. This unit is defined as the total tonnage of a commodity or commodities included in one invitation for bids or other solicitation of offers from ocean carriers for the transportation of cargo which may move in full shipload lots. AID adopted this means of compliance subsequent to the Maritime Administration's (MARAD) publication of a Cargo Preference Regulation (46 CFR 381.5) to ensure that such shipments financed by AID would be in compliance with the MARAD regulation. AID's regulation is now being changed to reflect this practice.

Regulatory Flexibility Act

The agency has determined that this rule will not have a significant economic impact on a substantial number of small organizational units and small governmental jurisdictions.

Executive Order 12291

This rule is not a major rule for purposes of Executive Order 12291 and has been submitted to OMB in accordance with Executive Order 12291.

PART 201—RULES AND PROCEDURES APPLICABLE TO COMMODITY TRANSACTIONS FINANCED BY AID

22 CFR Part 201 is amended as follows:

1. The authority citation for Part 201 reads as follows:

Authority: Sec. 621, Foreign Assistance Act of 1961, as amended, 75 Stat. 4214 (22 U.S.C. 2361) 22 CFR 201.85.

Subpart B—Conditions Governing the Eligibility of Procurement Transactions for AID Financing

2. Section 201.15 is revised as follows:

§ 201.15 U.S. flag vessel shipping requirements.

(a) *General requirements.* Unless AID determines that privately owned U.S. flag commercial ocean vessels are not available at fair and reasonable rates for such vessels, (1) at least fifty percent (50%) of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers from each of two geographic areas—the U.S. and all other countries) of all goods financed by AID which are transported on ocean vessels shall be transported on privately owned U.S flag commercial vessels, and (2) at least fifty percent (50%) of the gross freight revenue generated by all shipments of AID-financed commodities which are transported to the territory of the borrower/grantee on dry cargo liners shall be paid to or for the benefit of privately owned U.S. flag commercial vessels.

(b) *Methods of compliance.* (1) Compliance with these requirements with respect to dry cargo liner vessels shall be achieved for the total of liner shipments made during the term of the loan or grant agreement. If AID determines at any time during the term of the agreement that compliance may not be achieved, AID may require that all subsequent shipments be made on U.S. flag liners until compliance is assured. (2) Compliance with these requirements with respect to dry bulk carriers and tankers shall be achieved for each quantitative unit of cargo. A quantitative unit of cargo is the total tonnage of a commodity or commodities included in one invitation for bids or other solicitation of offers from ocean carriers for the transportation of cargo which may move in full shipload lots. AID shall approve a charter or other contract of affreightment for a non-U.S. flag vessel only if AID has determined that at least 50% of the quantitative unit will move on U.S. flag vessels, to the extent that such vessels are available at fair and reasonable rates for such vessels. U.S. flag dry cargo liners whose offers are responsive to the terms of the invitation for bids or other solicitation of vessels may be used for achieving compliance for the quantitative unit.

(c) *Nonavailability of U.S. flag vessels.* Upon application of the borrower/grantee or the supplier, AID/W, Office of Commodity Management, shall determine and advise the applicant whether or not privately owned U.S. flag vessels are available for any specific shipment of commodities at fair and reasonable rates. A determination that U.S. flag vessels are not available does not carry with it the authorization for AID to finance freight on a vessel not otherwise authorized.

(d) *Responsibility.* The borrower/grantee is responsible for compliance with the requirements of this section and for imposing upon subborrowers, contractors and importers such requirements regarding shipping arrangements with suppliers as will assure discharge of this responsibility.

(e) *Privately owned U.S. flag commercial vessels.* For purposes of this section the term "privately owned U.S. flag commercial vessels" shall not include any vessel which, subsequent to September 21, 1961, shall have been either built outside the U.S., rebuilt outside the U.S., or documented under any foreign registry until such vessel shall have been documented under the laws of the U.S. for a period of 3 years.

Dated: January 18, 1982.

John F. Owens,

Acting Assistant Administrator, Bureau for Program and Management Services.

[FR Doc. 82-5566 Filed 3-1-82; 8:45 am]

BILLING CODE 6116-01-M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

36 CFR Part 907

Procedures for Implementing the National Environmental Policy Act

AGENCY: Pennsylvania Avenue Development Corporation.

ACTION: Final rule.

SUMMARY: The Pennsylvania Avenue Development Corporation ("Corporation") adopts final procedures for implementing the provisions of the National Environmental Policy Act (NEPA) in accordance with the latest regulations of the Council on Environmental Quality (CEQ), 40 CFR Parts 1500–1508 (43 FR 55978–56007 (1978)). Interim regulations were published in the Federal Register in 1979 (44 FR 45926). The final regulations contain revisions which result from experience working with the interim regulations and comments received on them.

EFFECTIVE DATE: March 15, 1982.

FOR FURTHER INFORMATION CONTACT: Madeleine B. Schaller, Attorney, (202) 566–1078, Pennsylvania Avenue Development Corporation.

SUPPLEMENTARY INFORMATION: The Pennsylvania Avenue Development Corporation ("Corporation") is a wholly-owned government corporation of the United States created by Congress to develop and rejuvenate the north side of Pennsylvania Avenue, between the White House and the Capitol. The Corporation has prepared a development plan, The Pennsylvania Avenue Plan—1974 (the Plan), which has been adopted by Congress. As part of the process in preparing the Plan, the Corporation, in accordance with the NEPA, conducted extensive environmental reviews culminating in the Final Environmental Impact Statement (September 1974) on the Plan.

Subsequently the CEQ implementing regulations to provide Federal agencies with "efficient, uniform procedures for translating the law (NEPA) into practical action." These regulations provide "uniform standards applicable throughout the Federal government for conducting environmental reviews."

The CEQ regulations require that each agency develop its own procedures for their implementation. The agency procedures are required to supplement the CEQ regulations and to confine themselves to implementing procedures. The regulations that follow are the required Corporation implementing procedures for compliance with the

NEPA and the CEQ regulations. They are designed to:

(a) Integrate the NEPA process with other planning and decision making processes of the Corporation at the earliest possible time.

(b) Ensure that decisions of the Corporation are made according to the letter and spirit of the NEPA, as enforced by Section 102(2) of that Act.

(c) Involve the public in the NEPA process in an appropriate, responsible manner.

These procedures cover the Corporation's decision-making process and the substantive consideration of environmental factors, the procedural requirements for environmental documentation at critical stages of the decison making process and criteria to assist in determining the need for environmental assessments and impact statements. Sections of the interim rule have been subdivided and reorganized in the final rule for purposes of clarity and ease of use.

Statement of Significance

The Corporation has determined that this rule is not a major rule and does not require a regulatory impact analysis under Executive Order 12291, "Federal Regulations," (46 FR 13193, February 19, 1981.) It will not result in any of the effects described in Section 1.(b) of the Executive Order. In addition, the Chairman of the Corporation's Board of Directors, has determined and hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities and does not require a regulatory flexibility analysis under the Regulatory Flexibility Act (Pub. L. 96–354, September 19, 1980, 5 U.S.C. 603 and 604). The Corporation is responsible for implementing the rule. Environmental assessments or Environmental Impact Statements will be prepared by the Corporation for proposed actions within the statutorily established boundaries of the Pennsylvania Avenue Development area. The environmental review will have no significant economical impact on a substantial number of small entities.

Part 907 is revised to read as set forth below:

PART 907—ENVIRONMENTAL QUALITY

Sec.

907.1 Policy.
907.2 Purpose.
907.3 Definitions.
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907.5 Specific responsibilities of designated Corporation official.
907.6 Major decision points.
907.7 Determination of requirement for EIS.
907.8 Actions that normally require an EIS.
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907.11 Actions that normally require an environmental assessment.
907.12 Preparation of an environmental assessment.
907.13 Public involvement.
907.14 Corporation decision making procedures.
907.15 Approval of private proposals for development.
907.16 Actions where lead agency designation is necessary.
Appendix A.

Authority: Pennsylvania Avenue Development Corporation Act of 1972, as amended, sec. 6(8), Pub. L. 92–578, 86 Stat. 1270 (40 U.S.C. 875(8)); the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321); the Council on Environmental Quality NEPA Regulations 40 CFR Part 1500 (43 FR 55978 (1978)).

§ 907.1 Policy.

The Pennsylvania Avenue Development Corporation's policy is to:

(a) Use all practical means, consistent with the Corporation's statutory authority, available resources, and national policy, to protect and enhance the quality of the human environment;

(b) Ensure that environmental factors and concerns are given appropriate consideration in decisions and actions by the Corporation;

(c) Use systematic and timely approaches which will ensure the integrated use of the natural and social sciences and environmental design arts in planning and decision making which may have an impact on the human environment;

(d) Develop and utilize ecological and other environmental information in the planning and development of projects implementing the Plan;

(e) Invite the cooperation and encourage the participation, where appropriate, of Federal, District of Columbia, and regional authorities and the public in Corporation planning and decision-making processes, which affect the quality of the human environment; and

(f) Minimize any possible adverse effects of Corporation decisions and actions upon the quality of the human environment.

§ 907.2 Purpose.

These regulations are prepared to supplement Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act of 1969, as amended, and describe how the Pennsylvania Avenue Development Corporation intends to consider environmental factors and concerns in the Corporation's decision making process.

§ 907.3 Definitions.

(a) "CEQ Regulations" means the regulations for implementing the procedural provisions of the National Environmental Policy Act of 1969 as promulgated by the Council on Environmental Quality, Executive Office of the President, appearing at 40 CFR Parts 1500–1509 (43 FR 55978–56007) and to which this part is a supplement.

(b) "The Act of October 27, 1972" or "Act" means the Pennsylvania Avenue Development Corporation Act of 1972, Pub. L. 92–578, October 27, 1972, 86 Stat. 1266 (40 U.S.C. 871).

(c) "The Plan" means the Pennsylvania Avenue Plan—1974, prepared by the Pennsylvania Avenue Development Corporation pursuant to the Act of October 27, 1972.

(d) "The Corporation" means the Pennsylvania Avenue Development Corporation, a wholly owned government corporation of the United States created by the Act of October 27, 1972.

(e) "Board of Directors" means the governing body of the Corporation in which the powers and management of the Corporation are vested by the Act of October 27, 1972.

(f) "EIS" means an environmental impact statement as defined in § 1508.11 of the CEQ Regulations.

(g) "Final EIS" means The Final Environmental Impact Statement, dated September 1974, prepared by the Corporation on The Pennsylvania Avenue Plan—1974.

(h) "Development Area" means the area under the Corporation's jurisdiction as specified in Section 2(f) of the Act of October 27, 1972 and for which The Plan has been prepared and will be implemented by the Corporation.

(i) "Decision Maker" means the Board of Directors, unless a delegation to the Chairman, a member or committee of the Board of Directors, or the Executive Director has been made by the Bylaws of the Corporation, a resolution of the Board of Directors, or an appropriate written delegation of authority.

(j) "Private Developer" means an individual, firm, joint venture, or other entity other than the Corporation which seeks to construct, reconstruct, rehabilitate, or restore real property within the development area.

(k) Other terms used in this Part are defined in 40 CFR Part 1508 of the CEQ Regulations.

§ 907.4 Designation of responsible Corporation official.

The Development Director is the Corporation official responsible for implementation and operation of the Corporation's policies and procedures on environmental quality and control.

§ 907.5 Specific responsibilities of designated Corporation official.

(a) Coordinate the formulation and revision of Corporation policies and procedures on matters pertaining to environmental protection and enhancement.

(b) Establish and maintain working relationships with relevant government agencies concerned with environmental matters.

(c) Develop procedures within the Corporation's planning and decision-making processes to ensure that environmental factors are properly considered in all proposals and decisions in accordance with this part.

(d) Develop, monitor, and review the Corporation's implementation of standards, procedures, and working relationships for protection and enhancement of environmental quality and compliance with applicable laws and regulations.

(e) Monitor processes to ensure that the Corporation's procedures regarding consideration of environmental quality are achieving their intended purposes.

(f) Advise the Board of Directors, officers, and employees of the Corporation of technical and management requirements of environmental analysis, of appropriate expertise available, and, with the assistance of the Office of the General Counsel, of relevant legal developments.

(g) Monitor the consideration and documentation of the environmental aspects of the Corporation's planning and decisionmaking processes by appropriate officers and employees of the Corporation.

(h) Ensure that all environmental assessments and, where required, all EIS's are prepared in accordance with the appropriate regulations adopted by the Council on Environmental Quality and the Corporation, and are submitted with all proposed legislation.

(i) Consolidate and transmit to appropriate parties the Corporation's comments on EIS's and other environmental reports prepared by other agencies.

(j) Acquire information and prepare appropriate reports on environmental matters required of the Corporation. Information collection activities will be conducted in accordance with the Paperwork Reduction Act of 1980 and approval on OMB will be obtained prior to commencing such activities.

(k) Coordinate Corporation efforts to make available to other parties information and advice on the Corporation's policies for protecting and enhancing the quality of the environment.

§ 907.6 Major decision points.

(a) The possible environmental effects of a proposed action or project must be considered along with technical, economic, and other factors throughout the decisionmaking process. For most Corporation projects there are three distinct stages in the decision making process: (1) Conceptual or preliminary stage; (2) detailed planning or final approval stage; (3) implementation stage.

(b) Environmental review will be integrated into the decision making process of the Corporation as follows:

(1) During the conceptual or preliminary approval study stage, the responsible Corporation official shall determine whether the proposed action or project is one which is categorically excluded, requires an environmental assessment or an EIS.

(2) Prior to proceeding from the conceptual or preliminary approval stage to the detailed planning or final approval stage, an environmental assessment and the determination as to whether an EIS is required must be completed.

(3) An EIS, if determined necessary, must be completed and circulated prior to the decision to proceed from the detailed planning stage to implementation.

§ 907.7 Determination of requirement for EIS.

Determining whether to prepare an environmental impact statement is the first step in applying the NEPA process. In deciding whether to prepare an environmental impact statement, the responsible Corporation official will determine whether the proposal is one that:

(a) Normally requires an environmental impact statement.

(b) Normally does not require either an environmental impact statement or an environmental assessment (categorical exclusion).

(c) Normally requires an environmental assessment, but not necessarily an environmental impact statement.

§ 907.8 Actions that normally require an EIS.

PADC shall perform or have performed an environmental assessment, to determine if a proposal requires an environmental impact statement. However, it may be readily apparent that a proposed action will have a significant impact on the environment; in such cases, an environmental assessment is not required and PADC will immediately begin to prepare or have prepared the environmental impact statement. To assist in determining if a proposal or action normally requires the preparation of an environmental impact statement, the following criteria and categories of action are provided.

(a) *Criteria.* Criteria used to determine whether or not actions or proposals may significantly affect the environment and therefore require an environmental impact statement are described in 40 CFR 1508.27 of the CEQ Regulations and as follows:

(1) Buildings or facades designated for retention in the Plan will be adversely affected by the proposal or action.

(2) Traffic generated by the proposal or action would represent a substantial increase over the traffic projections assessed in the Final EIS in the average daily traffic volume on avenues and streets within the Development Area or its environs;

(3) Air quality in the Development Area and its environs would be substantially affected by the proposal or action based upon the District of Columbia's adopted standard for hydrocarbons and carbon monoxide;

(4) Solid waste disposal generated by a project of the Corporation or of a developer who is constructing, reconstructing, or rehabilitating that project, would have an adverse affect on the capacity of the relevant solid waste disposal facility and compliance with "Solid Waste Management Guidelines" of the U.S. Environmental Protection Agency and related local and regional controls;

(5) Public utilities have insufficient capacity to provide reliable service to a project within the Development Area; and

(6) A project will be inconsistent with major elements of the Zoning Regulations of the District of Columbia as they are applicable to the Development Area.

(b) *Categories of action.* The following categories of action normally require an environmental impact statement:

(1) Amendments or supplements to the Plan that constitute a "substantial change" to the Plan as defined in 40 U.S.C. 874(c) of the Act.

(2) Acquisition or disposal of real property by the Corporation *not* related to any specific decision, plan, or program adopted by the Board of

Directors of the Corporation for which an environmental assessment or an assessment and an EIS has been prepared.

(3) Legislative proposals made to Congress.

(4) Funding and/or construction by the Corporation or its agents or representatives of any building, if that activity is not consistent with the Plan and the Final EIS.

§ 907.9 Preparation of an EIS.

(a) *Notice of intent.* When PADC decides to prepare an environmental impact statement, it shall publish a notice of intent in the Federal Register in accordance with 40 CFR 1501.7 and 1508.22 of the CEQ Regulations.

(b) *Preparation.* After determining that an environmental impact statement will be prepared and publishing the notice of intent, PADC will begin to prepare or have prepared the environmental impact statement. Procedures for preparing the environmental impact statement are set forth in 40 CFR 1502, CEQ Regulations.

(c) *Supplemental environmental impact statements.* PADC may supplement a draft or final environmental impact statement at any time. PADC shall prepare a supplement to either the draft or final environmental impact statement when (1) substantial changes are proposed to an action contained in the draft or final EIS that are relevant to environmental concerns or there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts; or (2) actions are proposed which relate or are similar to other action(s) taken or proposed and that together will have a cumulatively significantly impact on the environment.

§ 907.10 Categorical exclusion.

The CEQ Regulations provide for the categorical exclusion (40 CFR 1508.4) of actions that do not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required for such actions.

(a) *Criteria.* Criteria used to determine those categories of action that normally do not require either an environmental impact statement or an environmental assessment include:

(1) The action or proposal is consistent with the Plan or the Act, and the environmental effects have been previously analyzed in the Final EIS, a supplement therein, or in an environmental assessment on an EIS previously prepared; or

(2) The total estimated cost directly attributable to the action or proposal does not exceed $500,000; or

(3) The action or proposal is related solely to internal administrative operations of the Corporation.

(b) *List of categorical exclusions.* Categories of action, identified in Appendix A (attached) have been determined by PADC to have no significant effect on the human environment and are therefore categorically excluded from the preparation of environmental impact statements and environmental assessments.

(c) *Changes to the list of categorical exclusion.*

(1) The PADC List of Categorical Exclusion will be continually reviewed and refined as additional categories are identified and as experience is gained in the categorical exclusion process.

(2) Additional categories of exclusion identified will be submitted to the Chairman of the Board of Directors for review and approval, and for amendments to this part, following public comment and review by the Council on Environmental Quality.

§ 907.11 Actions that normally require an environmental assessment.

If a proposal or action is not one that normally requires an environmental impact statement, and does not qualify for categorical exclusion, PADC will prepare or have prepared an environmental assessment.

(a) *Criteria.* Criteria used to determine those categories of action that normally require an environmental assessment, but not necessarily an environmental impact statement, include:

(1) Potential for minor degradation of environmental quality;

(2) Potential for cumulative impact on environmental quality; and

(3) Potential for impact on protected resources.

(b) *Categories of action.* The following categories of action normally require the preparation of an environmental assessment.

(1) Amendments to the Plan that do not constitute a "substantial change" to the Plan.

(2) Regulations promulgated by the Corporation that have significant environmental impact on the public or persons residing in the development area including businesses.

(3) Development proposals submitted to the Corporation by private developers that are consistent with the Plan and General Guidelines prepared by the Corporation.

(4) Activities related to the Public Improvements Program of the Corporation for which no previous environmental assessment or EIS has been prepared.

(5) Contracts, work authorizations, and master agreements related to and implementing programs, policies, and proposals not categorically excluded and for which no environmental assessments or for which no environmental assessment and EIS have been previously prepared.

(6) Street closures and other rearrangements of public space which were not covered in the Plan or the Final EIS.

(7) Acquisition/disposal of personal property by the Corporation not related to any specific decision, plan, or program adopted by the Board of Directors of the Corporation for which an environmental assessment or an environmental assessment and an EIS is required to be prepared.

(8) Proposed construction of any public building within the development area by any executive agency of the United States Government, any agency or department of the District of Columbia Government, or any other public or quasi-public entity.

§ 907.12 Preparation of an environmental assessment.

(a) *When to prepare.* PADC will begin the preparation of an environmental assessment as early as possible after it is determined by the responsible corporation official to be required. PADC may prepare an environmental assessment at any time to assist planning and decision-making.

(b) *Content and format.* An environmental assessment is a concise public document used to determine whether to prepare an environmental impact statement. An environmental assessment aids in complying with the Act when no environmental impact statement is necessary, and it facilitates the preparation of an environmental impact statement, if one is necessary. The environmental assessment shall contain brief discussions of the following topics:

(1) Purpose and need for the proposed action.

(2) Description of the proposed action.

(3) Alternatives considered, including the No Action alternative.

(4) Environmental effects of the proposed action and alternative actions.

(5) Listing of agencies, organizations or persons consulted.

(6) In preparation of the environmental assessment, the most important or significant environmental consequences and effects on the areas listed below should be addressed. Only those areas which are specifically relevant to the particular proposal should be addressed. Those areas should be addressed in as much detail as is necessary to allow an analysis of the alternatives and the proposal. The areas to be considered are the following:

(i) Natural/ecological features (such as floodplain, wetlands, coastal zones, wildlife refuges, and endangered species);

(ii) Air quality;

(iii) Sound levels;

(iv) Water supply, wastewater treatment and water runoff;

(v) Energy requirements and conservation;

(vi) Solid waste;

(vii) Transportation;

(viii) Community facilities and services;

(ix) Social and economic;

(x) Historic and aesthetic; and

(xi) Other relevant factors.

(c) *Finding of no significant impact.* If PADC completes an environmental assessment and determines that an environmental impact statement is not required, then PADC shall prepare a finding of no significant impact. The finding of no significant impact shall be made available to the public by PADC as specified in 40 CFR 1506.6 of the CEQ Regulations.

§ 907.13 Public involvement.

Interested persons may obtain information concerning any pending EIS or any other element of the environmental review process of the Corporation by contacting the Public Information Officer of the Corporation, Suite 1148, 425 13th Street, NW., Washington, D.C. 20004, telephone (202) 566-1218.

§ 907.14 Corporation decision making procedures.

To ensure that at major decision making points all relevant environmental concerns are considered by the Decision Maker, the following procedures are established.

(a) An environmental document, i.e., the EIS, Environmental Assessment, Finding of No Signficant Impact, or Notice of Intent, in addition to being prepared at the earliest point in the decision making process, shall accompany the relevant proposal or action through the Corporation's decision making process to ensure adequate consideration of environmental factors.

(b) The decision maker shall consider in its decision making process only those decision alternatives discussed in the relevant environmental documents. Also, where an EIS has been prepared, the decision maker shall consider all alternatives described in the EIS. A written record of the consideration of alternatives during the decision making process shall be maintained.

(c) Any environmental document prepared for a proposal or action shall be made part of the record of any formal rulemaking by the Corporation.

§ 907.15 Approval of private development proposals.

(a) Each development proposal submitted by a private developer to the Corporation for its approval, unless categorically excluded, shall require, at a minimum, an environmental assessment.

(b) The Board of Directors may not take any approval action on a submitted development proposal of a private developer until such time as the appropriate environmental review has been prepared and submitted to the Board of Directors.

(c) At a minimum, and as part of any submission made by a private developer to the Board of Directors for its approval, a private developer shall make available data and materials concerning the development proposal sufficient to permit the Corporation to carry out its responsibilities on environmental review. When requested, the developer shall provide additional information that the Corporation believes is necessary to permit it to satisfy its environmental review functions.

(d) As part of a development proposal submission, a private developer may submit an environmental assessment on its development proposal.

(e) Where the responsible Corporation official determines that the preparation of an EIS is required, the EIS shall be prepared in accordance with Part 1502 of the CEQ Regulations. The responsible Corporation official may set time limits for environmental review appropriate to each development proposal, consistent with CEQ Regulations 40 CFR 1501.8 and 1500.10.

(f) The responsible Corporation official shall at the earliest possible time ensure that the Corporation commences its environmental review on a proposed development project and shall provide to a private developer any policies or information deemed appropriate in order to permit effective and timely review by the Corporation of a development proposal once it is submitted to the Board of Directors for approval. The official shall designate, for the benefit of the developer, staff members of the Corporation to advise the developer with regard to information that may be required in order to accomplish the Corporation's environmental review.

§ 907.16 Actions where lead Agency designation is necessary.

(a) Consistent with CEQ Regulations, § 1501.5, where a proposed action by the Corporation involves one or more other Federal agencies, or where a group of actions by the Corporation and one or more other Federal agencies are directly related to each other because of their functional interdependence or geographical proximity, the Corporation will seek designation as lead agency for those actions that directly relate to implementation of the Plan and those actions that relate solely to the Development Area.

(b) For an action that qualifies as one for which the Corporation will seek designation as lead agency, the Corporation will promptly consult with the appropriate Federal agencies such as the National Capital Planning Commission, the Department of the Interior, and the General Services Administration to establish lead agency and cooperating agency designations.

Appendix A

(a) Specific Corporation actions categorically excluded from the requirements for environmental assessment and an EIS are:

(i) Personnel actions;

(ii) Administrative actions and operations directly related to the operation of the Corporation (e.g., purchase of furnishings, services, and space acquisition for the Corporation officers);

(iii) Property management actions related to routine maintenance, operation, upkeep, etc., of real property owned by the Corporation;

(iv) Review of permit applications relating to minor development activities in the Development Area (sign approval, interior renovations, minor exterior changes to facade, etc.);

(v) Promulgation of development general and square guidelines that implement the Plan as covered by the Final EIS;

(vi) Contracts, work authorizations, procurement actions directly related to and implementing proposals, programs, and master agreements for which an environmental assessment or an environmental assessment and an EIS have been prepared, or which are related to administrative operation of the agency;

(vii) Acquisition/disposal by lease, easement, or sale of real and personal property owned by the Corporation subsequent to and implementing a prior

decision of the Board of Directors for which an environmental assessment or an assessment and an EIS were prepared;

(viii) Activities directly related to and implementing the Public Improvements Program of the Corporation approved by the Board of Directors, and which are covered by a previously prepared environmental assessment or an environmental assessment and an EIS;

(ix) Demolition actions preparatory for development by the Corporation, other public agencies, or private developers subsequent to approval of development proposals made by the Board of Directors;

(x) Development proposal identical to the requirements of the Plan and which was included in an EIS previously prepared.

(b) An action which falls into one of the above categories may still require the preparation of an EIS or environmental assessment if the designated corporation official determines it meets the criteria stated in § 907.8(a) or involves extraordinary circumstances that may have a significant environmental effect.

Signed in Washington, D.C.

Dated: February 23, 1982.

T. J. Regan, Jr.,

Executive Director.

[FR Doc. 82-5557 Filed 3-1-82; 8:45 am]

BILLING CODE 7035-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2034-1]

Revision of Illinois State Implementation Plan for Commonwealth Edison Kincaid Station; Petition for Reconsideration and Response to Comments

AGENCY: Environmental Protection Agency.

ACTION: Response to additional comments and petition for reconsideration.

SUMMARY: On December 22, 1980 the State of New York petitioned the Environmental Protection Agency (EPA) for reconsideration of EPA's approval of the revised sulfur dioxide (SO_2) emission limitations for the Commonwealth Edison Kincaid plant in Christian County, Illinois. The emission limits for the Kincaid plant were approved by EPA as a revision to Illinois' state implementation plan (SIP) on October 24, 1980 (45 FR 70449). Based on EPA's evaluation of the petition and the supporting documentation, EPA finds that the evidence presented by New York does not warrant a revision of the current emission limits. EPA therefore reaffirms the emission limits as promulgated.

New York also requested that the Agency convene a consolidated hearing on all pending SIP revisions relating to SO_2 emission limitations, if upon reconsideration EPA did not disapprove the SIP revision for the Kincaid plant. At the request of New York and Pennsylvania, EPA held a consolidated hearing on June 18 and 19, 1981, in Washington, D.C., to consider under what circumstances and in what manner EPA should take into account aggregate SO_2 emissions in approving SIP revisions. 46 FR 24602, May 1, 1981. The comment period for that proceeding will close on March 18, 1982. (47 FR 1304, Jan. 12, 1982) and a proposed determination will be forthcoming.

EFFECTIVE DATE: March 2, 1982.

FOR FURTHER INFORMATION CONTACT: Randolph Cano, Regulatory Analysis, Air Programs Branch, U.S. EPA, Region V, 230 South Dearborn, Chicago, Illinois 60604; (312) 886-6035.

SUPPLEMENTARY INFORMATION:

Background

On December 14, 1978, the Illinois Pollution Control Board (IPCB) adopted changes to Illinois' Rule 204 which revised SO_2 emission limitations for fuel combustion emission sources located outside of the Chicago, Peoria and St. Louis major metropolitan areas (MMA's). Included in the revision were two pertinent proposals: Rule 204(c)(1)(C) which eliminated the federally approved maximum SO_2 emission limitation of 6.0 pounds (lbs.) SO_2 per million BTU (MBTU) for fuel combustion emission sources outside the MMA's, and Rule 204(e)(1) which established a new maximum hourly emission limit for these sources. The State of Illinois, however, failed to submit air quality impact studies demonstrating that the proposed revisions would adequately protect and maintain the National Ambient Air Quality Standard (NAAQS) for SO_2. Therefore on December 20, 1979 (44 FR 76308) EPA proposed to approve the revisions only as they applied to specific sources for which the rules did not represent a relaxation of the federally approved SIP. EPA proposed to disapprove the rules for all other sources, including the Kincaid plant, until such time as Illinois submitted air quality studies demonstrating that the revisions would not cause or contribute to violations of the NAAQS at such sources. The rulemaking action was final on September 19, 1980 (45 FR 62804).

On September 19, 1979 Illinois submitted an air quality study to EPA demonstrating that emissions allowed under the revised Rule 204(e)(1) would not cause or contribute to a violation of the NAAQS at Commonwealth Edison's Kincaid plant. EPA reviewed the study and determined that it was adequate to support a SIP revision. The Agency therefore proposed to approve an emission limit of 105,162 lbs. SO_2/hour for the Kincaid plant. 44 FR 76311 (December 26, 1979). One comment was received proposing a lower emission limit. Since a reference modeling analysis demonstrated that the proposed limit was sufficient to protect the NAAQS, EPA published a Notice of Final Rulemaking approving the SIP revision on October 24, 1980 (45 FR 70449).

The State of New York submitted a petition for reconsideration of the final approval, requested an additional comment period, and filed a petition for review in the U.S. Court of Appeals for the Seventh Circuit. That litigation is stayed pending response to the administrative petition.

On October 26, 1981, EPA announced an additional comment period for the Kincaid SIP revision (46 FR 52139), and stated that it would reconsider the emission limit in light of all timely comments. New York and several other parties submitted comments arguing that the revision will cause impermissible interstate pollution. EPA is responding to these comments herein.

Petition for Reconsideration

New York has petitioned for reconsideration pursuant to section 307(d)(7)(B) of the Clean Air Act (the Act), 42 U.S.C. 7607(d)(7)(B).[1] Commonwealth Edison and Peabody Coal Company have submitted responses to New York's petition. Several comments were submitted in support of New York's request. As noted by Commonwealth Edison and Peabody, New York's petition is not cognizable under section 307(d) since that section does not apply to a SIP revision unless it is promulgated by the Administrator pursuant to section 110(c) of the Act.

[1] Section 307(d)(7)(B) provides that the Administrator shall convene a proceeding to reconsider certain actions if a person raising an objection can demonstrate that (1) it was impracticable to raise such objection during the comment period or that the grounds for objection arose after the comment period, and (2) the objection is of central relevance to the outcome of the rule.

The action questioned herein is an approval pursuant to section 110(a) of a SIP revision promulgated by Illinois. Therefore EPA has decided to treat the petition as a petition for revision of a rule under section 3(e) of the Administrative Procedure Act which establishes a general right to petition for "issuance, amendment or repeal" of an agency rule 5 U.S.C. 553(e). The standard of review for such a petition is whether the petitioner presents new information that warrants reconsideration of the rule. See generally, *Oljato Chapter of the Navajo Tribe* v. *Train*, 515 F.2d 654 (D.C. Cir. 1975). Under this standard, New York has presented no basis for altering the Administrator's approval of the emission limits for the Kincaid plant.

Discussion

Long Range Transport. New York claims that EPA failed to comply with sections 110(a)(2)(E) and 128 of the Clean Air Act because it did not consider the long-range impacts of SO_2 on sulfate formation, total suspended particulate levels, and acid deposition. New York does not contend that the Kincaid plant, specifically, will interfere with attainment or maintenance of SO_2 standards in New York or any other state, or that EPA erred in its determination that the plants would have an insignificant impact on SO_2 concentrations in other states. Rather, New York argues that EPA was required to calculate the cumulative impacts of all pending SO_2 revisions on sulfate and particulate matter concentrations in other states. Furthermore, New York claims that long-range modeling tools are available and should have been used by EPA to evaluate the interstate transport problem. As support for its claim that SO_2 emissions from Kincaid are transported to and have adverse impacts in downwind states in the northeast, New York cites several studies (e.g., ORBES, a Climatology Study, and many trajectory analyses).

EPA's review and approval of the SIP revision was consistent with sections 110(a)(2)(E) and 128 for several reasons. First, this revision involved only SO_2 emission limitations. Accordingly, EPA modeled the revision for its impact on SO_2 concentrations. The revision did not alter the particulate matter emission limitations for the plant and therefore EPA did not model the effect of the revision on particulate matter levels.

Second, the modeling performed for the Kincaid plant indicated there would be no interstate transport problem for SO_2. In evaluating a plan revision, EPA models the proposed limitations to determine where the highest ambient concentrations will occur under the revised limits. (See EPA's "Guideline on Air Quality Models" April 1978, p. 33.) The modeling analyses demonstrate that the highest SO_2 concentrations occur within 2 kilometers (km) of the plant, and then decrease by 40% to concentrations well below the NAAQS at a distance of 7.5 km. The nearest state borders (Missouri and Indiana) are approximately 100 and 180 km distant, respectively, considerably beyond the point of maximum impact. New York's border is 750 km from the Kincaid plant. In view of the sharp decrease in concentrations within 8 kilometers of the source, EPA conducted no modeling in other states. Based on its modeling results, however, EPA reasonably concluded that SO_2 emissions from the two plants would not prevent attainment or maintenance of SO_2 standards in New York or other downwind states.

Third, EPA reference models are only valid out to 50 km from a source. No reference techniques have yet been established for accurately evaluating impacts beyond 50 km. The "state-of-the-art" of long-range transport models is not sufficiently advanced to be used for regulatory purposes. Commentors submitted information supporting this fact. See Doc. # V.D.1.b, at 30–34. Consequently, contrary to New York's claim, there are no EPA-approved regulatory tools currently available to assess long-range impacts.

Fourth, with respect to the claim that EPA should have modeled the SO_2 emissions for their effect on the particulate matter levels in other states, EPA's currently adopted models are simply not capable of such an analysis. EPA models estimate ground-level SO_2 emissions. Similarly, EPA models estimate ground-level particulate matter concentrations caused by a plant's particulate matter emissions. Models capable of estimating the impact of SO_2 emissions on ground-level particulate matter concentrations have been developed by researchers and EPA is presently evaluating their predictive accuracy as part of an overall revision to its Modeling Guideline. Application of these models at this time, however, is premature.

Fifth, for the purposes of section 110(a)(2)(E), it is important to note that New York has not shown that the SO_2 emissions from the Kincaid plant actually contributes materially or at all to SO_2 or particulate pollution in other states. Certainly New York cites nothing to support a finding that Kincaid is responsible for pollutant concentrations that prevent another state from attaining or maintaining the NAAQS or that interfere with the prevention of significant deterioration (PSD) or visibility protection in another state.

The ORBES study does not attempt to identify particular sources that contribute to violations of the NAAQS in downwind states, but only examines the potential impact of SO_2 emissions from the Ohio River Valley region as a whole. This study does not examine the Kincaid plant emissions among the aggregate effects, let alone individually. The study provides no methodology for determining the contribution of individual specific sources. The other studies cited by New York suffer from the same deficiencies. General conclusions are made that long-range transport occurs, without identifying responsible sources or states.

Finally, the sulfate question raised by New York is a complex one. To date, EPA has not established a national ambient air quality standard for sulfates. However, the sulfate issue is being evaluated as part of EPA's current review, under section 109(d)(1), 42 U.S.C. 7409(d)(1), of the criteria and national standards for sulfur oxides and particulate matter (see "Second External Review Draft, Air Quality Criteria for Particulate Matter and Sulfur Oxides," and notice announcing comment period on draft, 46 FR 15569 (March 6, 1981)). At present, in the absence of a national standard for sulfates, EPA is not required to consider the impact of the Kincaid revision on sulfate levels.

Prevention of Significant Deterioration

New York objects to EPA's failure to apply the PSD requirements of the Act to the Kincaid SIP revision, and claims that it had no notice of this decision during the public comment period. Part C of Title I of the Act provides that SO_2 and TSP emissions may not exceed certain allowable increases above the baseline ambient air quality in an attainment or unclassifiable area. 42 U.S.C. 7480–7489. The baseline ambient air quality is determined at the time the first permit application is filed within the area, and thereafter all emissions increases within the area must be reviewed under PSD regulations. Since no new major source or major modification had previously established the baseline concentration for Christian County, EPA was not required to review the Kincaid SIP revision for consumption of the SO_2 increment above the baseline concentration.

Nor did the SIP revision itself trigger a PSD review. Section 165 of the Act requires that, prior to a major modification, major facilities must

submit a permit application demonstrating that the facility will not cause or contribute to concentrations in excess of any maximum allowable increase or NAAQS. 42 U.S.C. 7475. The increase in allowable emissions at the Kincaid plant did not constitute a major modification within the terms of Part C and therefore did not require a permit application.[3] Contrary to New York's contention, EPA announced this determination in the Technical Support Document (TSD) dated August 28, 1980 that was included in the public docket (Doc. No. II.B.), and thereby gave adequate public notice of this decision. New York presents no new information on this point that warrants a contrary determination.

The Revised Stack Height Policy and its Application to Kincaid

New York also states that the public had no opportunity to comment on the supplemental modeling which EPA performed after the close of the comment period to determine whether EPA's revised stack height policy was applicable to the Kincaid plant. On June 24, 1980, EPA revised its stack height policy to require existing sources seeking stack height increases to demonstrate through fluid modeling or field studies that height increases are necessary to avoid excessive concentrations due to downwash or other problems. 45 FR 42279. That policy has since been withdrawn, and consequently New York's objections have been mooted. 46 FR 28650 (May 29, 1981). In any case, the policy revision was irrelevant to the Kincaid rulemaking because EPA's modeling analysis showed that no credit for increased stack height was necessary to demonstrate the adequacy of the current emission limitations. Therefore the application of the revised stack height policy would not have changed the result of this rulemaking. Furthermore, EPA's modeling analysis did not differ significantly from the analysis performed by Commonwealth Edison which was available during the comment period.

Conclusion

EPA has reconsidered the final emission limitations promulgated for Commonwealth Edison's Kincaid plant in light of the petitions for reconsideration and all comments received. The Agency has determined that the current emission limit of 105,162 lbs. SO_2/hour, as approved on October 24, 1980, is necessary and sufficient to attain and maintain the SO_2 NAAQS. Therefore, EPA is reaffirming these limits.

Under section 307(b)(1) judicial review of this action is available only by filing a petition for review in the U.S. Court of Appeals for the appropriate circuit by May 3, 1982. Under section 307(b)(2) today's action may not be challenged later in a separate civil or criminal proceeding.

Dated: February 19, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-5722 Filed 3-1-82; 8:45 am]

BILLING CODE 6560-38-M

[3]The PSD regulations define a major modification as "any physical change in, change in method of operation of, or addition to" a source that results in a potential emission increase of any pollutant of over 100 tons or 250 tons per year, depending on the type of source. 40 CFR 52.21(b)(ii). The SIP revision did not involve a physical change or a change in the method of operation at the Kincaid plant.

GENERAL SERVICES ADMINISTRATION

41 CFR Part 1-4

[FPR Temp. Reg. 64]

Agency ADP Requests for Delegations of Procurement Authority

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation extends, clarifies, and modifies the GSA alternate procedure that agencies may use to submit individual requests for delegation of procurement authority to acquire ADP resources. The changes are based on review and comments on the trial alternate procedure in effect over the last 12 months. The intended effect is to reduce paperwork and time consumed in the ADP resources acquisition authorization process.

DATES: Effective date: December 1, 1981. Expiration date: December 1, 1983, unless earlier revised or superseded. Comments are due: On or before May 31, 1982.

ADDRESS: Comments should be addressed to: General Services Administration (CPEP), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: Roger W. Walker, ADTS Procurement Policy and Regulations Branch (CPEP), 202-566-0194.

SUPPLEMENTARY INFORMATION: This regulation replaces FPMR Bulletin F-126, November 4, 1980 (45 FR 84151, December 22, 1980), and supersedes and cancels FPR Temporary Regulation 62, June 22, 1981 (46 FR 36143, July 14, 1981).

The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. The General Services Administration's decisions are based on adequate information concerning the need for, and consequences of, this rule. This rule has been written to ensure maximum benefits to Federal agencies. This is a Government-wide procurement regulation that will have little or no effect on society.

(Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c))

In 41 CFR Chapter 1, the following temporary regulation is added to the appendix at the end of the chapter.

Federal Procurement Regulations; Temporary Regulation 64

To: Heads of Federal agencies.

Subject: Agency requests for delegations of procurement authority for the acquisition of ADP equipment and services.

1. *Purpose.* This temporary regulation extends and modifies the alternate procedure that agencies may use to request delegations of procurement authority from GSA. The alternate procedure was established on a trial basis by the Administrator of General Services in a memorandum for heads of departments and agencies dated November 14, 1980, and was described in GSA Bulletin FPMR F-126 (45 FR 84151, December 22, 1980). Provisions of the FPR which were changed by FPR Temporary Regulation 62 (46 FR 36143, July 14, 1981) are further modified.

2. *Effective date.* This regulation is effective December 1, 1981.

3. *Expiration date.* This regulation expires December 1, 1983, unless earlier revised or superseded.

4. *Background.*

a. The trial procedure described in GSA Bulletin FPMR F-126 was established to place more responsibility on agencies to reduce paperwork, and to speed up processing of agency procurement requests.

b. The Administrator's memorandum advised agencies that GSA would conduct periodic reviews of procurement actions authorized under this alternate procedure to (i) verify compliance with authorization letter conditions, (ii) assess GSA's procurement policies and directions given to agencies, and (iii) identify agencies to whom greater procurement authority may be granted.

c. GSA has conducted agency on-site reviews of a number of agency requirements being procured under the alternate F-126 procedure. In addition, GSA has evaluated questionnaires sent to agencies concerning the alternate procedures. GSA has also examined its own Agency Procurement Request (APR) review procedure. Based on the on-site reviews and other comments, some findings are set forth below.

(1) Agencies have generally complied with existing policies and regulations in the planning and execution of F-126 procurement actions. File documentation was, as a rule, adequate and well-organized. It reflected compliance or statements of compliance with regulatory provisions. A few instances of noncompliance, questionable procurement practices, and notable areas for improvement were found.

(2) Some agencies were not aware that GSA expected more executive level involvement and oversight responsibility under the alternate APR submission procedure. Little evidence of increased executive level involvement and oversight was found. Most agencies felt they were already equipped to absorb the additional autonomy implied by the alternate APR submission procedure.

(3) Identification of the names of authorized ADP management and procurement officials was considered unduly burdensome by some agencies.

(4) Some agencies believed that withholding a DPA pending submission of additional information under the alternate procedure was contrary to its basic thrust; and further, that GSA's adjustment to granting a DPA with an immediate follow-on review on selected cases amounted only to a provisional clearance to proceed with unstated conditions.

(5) Some agencies have suggested that GSA's periodic on-site reviews are contrary to the intent of the alternate procedure and the Paperwork Reduction Act.

(6) The alternate procedure is perceived by agencies as being a positive program to place appropriate responsibilities on agenices and to shorten program approval time.

d. GSA has concluded that the findings support continuing the alternate APR submission procedure, modified in this regulation, as an agency option.

5. *Explanation of changes.*

a. The following are specific modifications to the alternate F-126 procedure.

(1) GSA will discontinue the practice of issuing DPA's subject to an immediate follow-on review. However, as warranted, GSA will continue to conduct in-depth reviews of selected requests submitted under the alternate APR submission procedure.

(2) Specific APR submission requirements under the alternate procedure are clarified in Attachment A to this regulation.

b. Any Federal agency may elect (or continue, if an election has been made) to use the alternate APR submission requirements as outlined in Attachment A of this regulation when submitting ADP equipment or service procurement requests to GSA. This procedure is an alternative to the APR submission provisions of § 1-4.1105—Request for procurement action, and the GSA Form 2068, Request for ADP Service, submission provisions of Federal Property Management Regulations (FPMR) § 101-36.203-2—Authorization for commercial procurement, as changed by FPMR Temporary Regulation F-495 (pending publication of § 1-4.1203-1 in a new Subpart 1-4.12 which establishes procurement and contracting policies and procedures for ADP services).

c. The provisions of §§ 1-4.1104—Procurement authority and 1-4.1107—Federal agency responsibility when procurement is delegated by GSA, as changed by FPR Temporary Regulation 62 and this regulation, apply to the alternate submission procedure authorized by this regulation as well as to APR submissions under standard procedures.

d. Section 1-4.1104 (as amended by FPR Temp. Reg. 62) is further amended by changing paragraph (a)(3) to remove the requirement for names of officials on the listings submitted to GSA, as follows:

Section 1-4.1104 Procurement Authority

(a)(1) To allow for the orderly implementation of a program for the economical and efficient procurement of ADPE, commercially available software, maintenance services, and related supplies, agencies are authorized to procure these items (i) in accordance with the provisions of this § 1-4.1104 provided that requirements are not fragmented in order to circumvent the established blanket delegation thresholds or (ii) when a specific delegation of procurement authority has been provided in accordance with the provisions of §§ 1-4.1105 and 1-4.1106. However, the applicable provisions of FPMR Subchapter F shall be complied with before initiating a procurement action.

(2) The provisions of Public Law 96-511 (the Paperwork Reduction Act of 1980) direct each executive agency head to designate a senior official (officials in DOD) reporting to the agency head to be responsible for implementing the Act. This designated senior official is assigned responsibility for the conduct of and accountability for any acquisitions made under a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) (see 44 U.S.C. 3506(c)(4)).

(3) The designated senior official in each agency shall advise GSA in writing of the position, title and organizational identity of those officials who have been authorized (i) to initiate acquisition actions (including submission of agency procurement requests to GSA) and (ii) to conduct authorized acquisitions (see also §§ 1-4.1105 and 1-4.1107). The designated senior official shall keep the listings current. (A change of incumbent in an unchanged position and organizational assignment does not require notification.) Listings shall be submitted to GSA (CPS), Washington, DC 20405.

* * * * *

e. Section 1-4.1105 (as amended by FPR Temp. Reg. 62) is further amended by making the preamble compatible with the listing submission requirements of § 1-4.1104, as follows:

Section 1-4.1105 Request for Procurement Action

If an agency determines that the conditions of the contemplated procurement are not covered by the blanket delegation of procurement authority provisions of § 1-4.1104, or if the conditions of the contemplated procurement change during the procurement process so that those provisions become inapplicable, four copies of the agency procurement request (APR) and other applicable documents shall be forwarded to the General Services Administration (CPS), Washington, DC 20405. The APR shall be signed by an official who has been authorized to initiate the acquisition action and shall identify the position title and organizational identity of the official who has been authorized to conduct the procurement. GSA will process only those submissions signed by authorized officials and identified by position title and organizational identity who appear on the submitted listing (see § 1-4.1104(a)). Other submissions will be returned without action to the submitting office for resubmission by an authorized agency official. In addition, the APR shall contain the name and telephone number of an individual within the agency who shall act as the

point of contact for GSA. The APR shall include, as applicable:

* * * * *

f. Section 1–4.1107 (as amended by FPR Temp. Reg. 62) is repeated in this regulation so that all changes in FPR Temp. Reg. 62 and GSA Bulletin FPMR F–126 can be consolidated in this regulation and FPR Temp. Reg. 62 can be canceled, as follows:

Section 1–4.1107 Federal Agency Responsibility When Procurement is Delegated by GSA

When acting under a GSA delegation of procurement authority under either §§ 1–4.1104 or 1–4.1106, the agency designated senior official is responsible for compliance with applicable procurement policies, regulations, and, in particular, § 1–4.1109 and the specific terms of the delegation (see § 1–4.1104(a)).

g. Section 1–4.1107–1 is added to explicitly reserve to GSA the right to review agency acquisition actions and documentation, as follows:

Section 1–4.1107–1 GSA Review of Agency Acquisition Actions

GSA reserves the right to review agency actions supporting any acquisition authorized under this Subpart 1–4.11. Documentation relative to agency actions made under the regulations issued under section 111 and other provisions of the Federal Property and Administrative Services Act of 1949, as amended, shall be made available for review upon request of GSA officials. (Documentation should be retained in agency files for such periods as required by applicable law or regulation.)

6. *Agency action.*

a. Pending the issuance of a permanent amendment to the Federal Procurement Regulations, agencies shall follow the policies and procedures in this temporary regulation. The agency senior designated official shall advise GSA (CPS), Washington, DC 20405, when the alternate APR submission procedure will be used by the agency. Agency notifications already submitted (under F–126 procedures) will be assumed to continue (as modified herein) unless GSA is notified to the contrary.

b. Agencies may elect to use the alternate APR submission procedure set forth in this regulation when submitting ADP equipment or service requests to GSA. However, because the procedure offers agencies broader procurement autonomy than otherwise provided by regulation, it places greater emphasis on the responsibilities of agency officials to ensure that current regulatory provisions are followed before acquisitions take place. In establishing internal procedures, agencies should strive to (i) designate executive level officials to initiate and accept accountability for acquisition actions under this regulation's alternate APR submission procedure and (ii) provide for an independent review to validate agency compliance with regulations.

7. *GSA action.*

a. When an agency selects the alternate APR submission procedure under paragraph 5b, above, GSA will promptly review and take appropriate action on the APR. When necessary, GSA will conduct a more in-depth review before issuing a DPA under the alternate APR submission procedure. In some instances, this may require the submission of additional information. DPA's will clearly describe the conditions or limitations, if any, of the delegation. GSA will discontinue the practice of issuing DPA's subject to an immediate follow-review.

b. GSA will conduct periodic reviews of current and past agency acquisition actions as it deems appropriate. These periodic reviews will (i) verify agency compliance with regulations and DPA conditions or limitations, (ii) assess GSA procurement policies and directions given to agencies, and (iii) assess the agency's planning and control mechanisms regarding the use of the delegated authority to accomplish economical and efficient acquisition, use, and management of ADP resources. GSA will take appropriate actions when findings indicate failures to comply with regulations or conditions or limitations of individual DPA's, or unauthorized deviations to regulations. Actions may include voiding a DPA before award and withdrawing an agency's authority to use the alternate APR submission procedure.

c. GSA encourages agencies to establish early planning coordination with GSA's agency planning and authorization officials (CPSA). Often potential delays and problem areas can be identified and remedied in advance of the formal APR submission.

d. For information and assistance in the agency APR submission, GSA authorization, and agency review procedures in this temporary regulation contact: General Services Administration (CPSA), Washington, D.C. 20405; Telephone: FTS or local 566–1566; Commercial toll—(202) 566–1566.

e. When required, the information submitted by an agency may be made available to Government oversight activities.

8. *Effect on other directives.*

a. The alternate APR submission procedure set forth in this regulation supersedes the procedures set forth in GSA Bulletin FPMR F–126, dated November 4, 1980, which has an expiration date of December 1, 1981.

b. This regulation supersedes and cancels FPR Temporary Regulation 62, dated June 22, 1981.

9. *Submission of comments.* Comments are invited concerning the effect or impact of this regulation and the policy and procedures that should be adopted in the future. Comments should be forwarded to GSA (CPEP), Washington, DC 20405, not later than May 31, 1982.

Ray Kline,

Acting Administrator of General Services.

Alternate APR Submission Requirements; Agency Request for ADP Equipment or Services

Agency Information: Provide agency name, address, and location where equipment will be installed or services will be performed. Provide names and telephone numbers of appropriate technical and contracting officials. Identify the position title and organizational identity of the official authorized to conduct the acquisition (see § 1–4.1104(a)).

Project Title and Description:

a. Provide the project title and a brief but specific description of the primary agency program(s) that the ADP equipment or services will support.

b. Provide a brief but specific description of the current major system components (including ADPE configuration) or services supporting the program(s).

c. Provide a brief but specific description of the major system components or services to be acquired during the systems life of the requirement. This should reflect resources required for system expansion (i.e., anticipated augmentations, upgrades, and other system modifications) during the systems life if such requirements will be included in the solicitation document as evaluated options. The delegation resulting from this submission will be limited to resources described herein.

Acquisition Strategy:

a. Indicate whether the proposed procurement approach is competitive or noncompetitive (sole source, including use of specific make and model purchase descriptions); if competitive, whether compatibility limited requirements will be used on either a mandatory or nonmandatory basis; what acquisition plans will be solicited (lease, lease with option, lease to ownership, or purchase plan); and specify the type of contract expected to be used.

b. Identify by fiscal year quarter the following planned milestones: Release of solicitation document and contract award.

c. If the request involves a pilot or prototype, the strategy for the follow-on implementation phase must be described.

Estimated Contract Life and Cost:

The estimated contract cost of the acquisition (not the overall system life cost) shall be identified by type of request for the contract life and shall include all anticipated optional quantities, services, and periods. Detailed cost breakdowns may be included when necessary to describe clearly the estimated costs. The estimated contract cost (for all years) should correspond to the planned contract life. The delegation of authority resulting from this submission will be limited to quantities and years described herein.

Type of request	Estimated contract cost	Contract life
ADPE system or item		
ADPE system replacement/augmentation		
Proprietary software		
Equipment maintenance		
ADP services acquired under TSP/BA		
ADP services acquired under TSP/MAS		
ADP services acquired under TSP exception		
ADP services outside TSP scope		

Regulatory Compliance:

a. Provide a statement which indicates that the agency has reviewed and complied (or will comply) with all applicable regulations, or (i) list those deviations to the regulations that apply to this request for which approval is sought and (ii) provide an explanation for each regulatory deviation request (see § 1–4.1100–3).

b. Provide the date of completion or most recent update of the following documentation, or indicate not applicable:

1. Requirement analysis (see FPMR § 101–35.207)
2. Comparative cost analysis (see FPMR § 101–35.209)
3. Performance evaluation for the currently installed ADP system (see FPMR Subpart 101–36.14)
4. Findings to support the use of compatibility limited requirements (see § 1–4.1109–12)
5. Software conversion study (see § 1–4.1109–13)
6. Justification to support a contemplated noncompetitive (sole source) procurement (including the use of specific make and model purchase description) (see § 1–4.1105(k))
7. Description of those planned actions necessary to foster competition for subsequent procurements (see FPMR § 101–35.208–1)

Agency remarks: Provide additional information deemed necessary concerning any of the above items or special conditions associated with this procurement; e.g., required building construction/modification by GSA.

Agency/GSA references: Provide references to previous GSA authorizations (including previous GSA case numbers), meetings, telephone discussions, etc.

Agency authorized signature, position title, organizational identity date.

Note.—GSA will process only those agency submissions signed by an authorized official (see § 1–4.1104(a)). The official's position title and organizational identity must be provided.

[FR Doc. 82-5462 Filed 3-1-82; 8:45 am]

BILLING CODE 6820-61-M

VETERANS ADMINISTRATION

41 CFR Part 8–1

Procurement of Binding

AGENCY: Veterans Administration.

ACTION: Final rule.

SUMMARY: This revision amends provisions pertaining to the purchase of binding by specifying that such purchases will be in accordance with GPO (Government Printing Office) specifications and will normally be procured from servicing GPO Regional Printing Procurement Offices.

EFFECTIVE DATE: February 19, 1982.

FOR FURTHER INFORMATION CONTACT: Chris A. Figg, Policy and Interagency Service, Office of Procurement and Supply, 810 Vermont Avenue, NW., Washington, D.C. 20420, Telephone (202) 389–2334.

SUPPLEMENTARY INFORMATION: Procurement of binding has been accomplished using a VA specification. This specification is no longer considered necessary, and binding procurements will now be done in accordance with GPO specifications. Additionally, binding and rebinding requirements in excess of $500 will be procured from GPO Regional Printing Procurement Offices.

The Administrator hereby certifies that this final rule, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this final rule is therefore exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604. The reason for this certification is because this rule is not likely to result in a major increase in costs to consumers or others, or to have other significant adverse effects.

It is the general policy of the VA to allow time for interested persons to participate in the rulemaking process (38 CFR 1.12). Since this amendment only affects internal procedures, the rulemaking process is considered unnecessary in this instance.

Approved: February 19, 1982.

Robert P. Nimmo,

Administrator.

PART 8–1—GENERAL

41 CFR Part 8–1, General Policies, is revised as follows:

§ 8–1.305–5 [Amended]

1. In § 8–1.305–5, paragraph (a) is revised by removing the title "Supply Service" in the second line and inserting "the Office of Procurement and Supply,"; paragraphs (c), (g), and (h) are revised by removing the title "Director, Supply Service" and inserting the title "Assistant Deputy Administrator for Procurement and Supply"; and paragraph (d) is revised by removing the word "Perishable" where it appears in the first sentence.

2. Section 8–1.305–51 is revised to read as follows:

§ 8–1.305–51 Veterans Administration binding specifications.

(a) All binding or rebinding of books, magazines, pamphlets, newspapers, slip cases and boxes will be procured in accordance with GPO (Government Printing Office) specifications and will be procured from the servicing GPO Regional Printing Procurement Office for procurements exceeding $500 or, when appropriate, from commercial sources (subpart 8–5.53).

(b) There are three types of binding/rebinding: (1) Class A (hard cover); (2) Perfect (glued); and (3) Lumbinding (sewn). The most suitable type of binding will be procured to satisfy the requirements, based upon the intended use of the bound material.

§ 8–1.306–1 [Amended]

3. In § 8–1.306–1, paragraph (a) is revised by removing the title "Chief Medical Director (134)" and inserting the title "Assistant Deputy Administrator for Procurement and Supply (93)."

(38 U.S.C. 210(c); 40 U.S.C. 486(c))

[FR Doc. 82-5463 Filed 3-1-82; 8:45 am]

BILLING CODE 8320-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–37

[FPMR Amendment F–53]

Ordering Major Changes or New Installations of Telecommunications Facilities

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation provides a revised chart that clarifies and updates information GSA requires of Federal agencies for major changes to local telephone services. The regulation also deletes the requirement for agencies to submit to GSA a quarterly report of data usage on the FTS intercity network. This rule is intended to simplify agency

requests for FTS intercity and local services.

EFFECTIVE DATE: March 2, 1982.

FOR FURTHER INFORMATION CONTACT: John F. Stewart or John E. Connor, Procurement Policy and Regulations Branch (202–566–0194).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. The General Services Administration's decisions are based on adequate information concerning the need for, and consequences of, this rule. This rule has been written to ensure maximum benefits to Federal agencies. This is a Government-wide management regulation that will have little or no effect on society.

PART 101–37—TELECOMMUNICATIONS MANAGEMENT

Subpart 101–37.1—General Provisions

1. Section 101–37.103(d) is revised to read as follows:

§ 101–37.103 Policy.

* * * * *

(d) Place maximum reliance on commercial sources for telecommunications services and facilities to meet the needs of the Federal Government, and to acquire these services and facilities competitively to the maximum practicable extent.

Subpart 101–37.2—Major Changes and New Installations

2. Section 101–37.201–1 is revised to read as follows:

§ 101–37.201–1 Changes to other than FTS.

Executive agencies requiring major changes in telecommunications facilities or the installation of new facilities, as described in § 101–37.202, shall send a written request to GSA for approval as far in advance as possible. GSA will approve or disapprove the request in writing within a 20-workday period provided that sufficient supporting data is furnished. If GSA has taken no action within the 20 workdays after receipt of a request, plus 5 days mail lag, the agency may proceed as if approval has been granted. GSA will notify the agency in writing if unusual or special circumstances will lengthen the period of time GSA needs to complete its evaluation.

3. Section 101–37.203 is amended by revising paragraphs a(1) and a(2) and removing paragraph a(3) to read as follows:

§ 101–37.203 Justification of major changes and new installations.

* * * * *

(a) *Local telephone service.*

(1) The information needed by GSA to review and to provide local telephone service is described in the chart illustrated in § 101–37.4901.

(2) Requests for ACD's shall include a statement that the monitoring, service observing, or listening-in features have been removed or disabled at the time of installation. These features are prohibited; all ACD's shall have the listening-in function removed unless specifically authorized. (See § 101–37.311 for guidance.)

* * * * *

Subpart 101–37.3—Ordering, Using, and Managing Telecommunications Services

4. Section 101–37.310 is revised so that it is consistent with FPMR Temporary Regulation F–498 as follows:

§ 101–37.310 Data services on the FTS intercity voice network.

The FTS intercity voice network is available for the transmission of data that can be transmitted over unconditioned switched satellite and terrestrial channels.

(a) *Controls.* Daytime use of the FTS intercity voice network for data transmission is subject to controls to protect the quality of voice transmissions. GSA may require that agencies terminate use of particular circuits for data transmission during normal business hours or when an FTS Minimize is in effect.

(b) *Prior approval.* No prior approval for the use of the intercity voice network is required when network service is available without modification and the annual cost for transmission of data is less than $50,000. Request for dedicated access to the FTS intercity network must be approved by GSA in accordance with Subpart 101–37.2.

(c) *Cost.* The transmission of data is billed at the same rate as network telephone calls, i.e., each call will be billed by minutes of usage as determined by the network random sample of agency calls. No charge will be made for calls placed between 5 p.m. and 8 a.m. local time on weekdays and all day Saturdays, Sundays, and holidays. Intercity telephone service is billed quarterly.

Subpart 101–37.49—Forms and Illustrations

§ 101–37.4901 [Amended]

Note.—This illustration will not appear in the Code of Federal Regulations.

5. The chart referenced in § 101–37.4901 is revised as follows:

REQUIRED INFORMATION FOR CHANGES IN TELEPHONE SERVICES

If	Submit
1. Making any submission that is a major local service change as required by § 101–37.203.	1. The agency's name and address (including street, city, state, and ZIP code). 2. The name and telephone number of the person to contact. 3. A brief statement describing the particular request: e.g., "This is a 200 main station addition to an existing PBX." 4. As appropriate, provide copy of a recent month's itemized equipment statement and actual cost, including mileage charges, number of operating positions, consoles, Central Office (C.O.) circuits, tielines, I.D. circuits, FTS circuits, main and extension stations, power plant, off-premise mileage, and other pertinent details.
2. Installing/changing, etc., a PBX/Centrex or similar system.	1. The make/model or equivalent of present system. 2. The type of ownership (lease or purchase) and estimated annual cost. 3. System life. 4. Annual maintenance and repair cost. 5. Telephone operator cost, number of persons, annual salaries. 6. OPX mileage and cost for each location served. 7. Space requirements. 8. Total termination liability and expiration date. 9. Main station capacity. 10. Number of stations installed, main and extension. 11. Number and type of circuits and monthly cost of: C.O., tielines, WATS, FTS, other. 12. Number and type of attendant positions. 13. Proposed system functional characteristics.
3. Changing and ACD system	1. Number of positions, trunks, or circuits by type, for supervisory consoles. 2. The name of the geographical area to be served. 3. Statement (Yes or No) indicating that the monitoring, service observing, or listening-in features of the ACD will be moved or disabled at the time of installation. In the event of "No," GSA requires the agency to certify that the provisions of FPMR 101–37.311 have been complied with.
4. Adding or revising tielines between PBX or like systems.	1. Number of calls per day and percent of calls during busy hour. 2. Monthly cost for calls, tieline, and terminal equipment. 3. Nonrecurring cost.
5. Adding or changing FTS intercity or inter-exchange service.	1. Estimated amount of increase or decrease in the daily number of intercity calls by destination.

Note.—This chart illustrates the information required by FPMR 101–37.203(a)(1), which is discussed on page 3705 of this text.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: February 8, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82–5484 Filed 3–1–82; 8:45 am]

BILLING CODE 6820–25–M

41 CFR Part 101–26

[FPMR Amendment E–250]

Procurement Sources and Programs; Payment for Nonstock Items Procured by GSA for Direct Delivery to Agencies

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation provides a reference to the current policy concerning agency payments for nonstock items ordered for them by GSA and delivered by the contractors directly to the agencies. This regulation is necessary to conform the part of the FPMR that covers supply and procurement with the part that covers payments to GSA for supplies and services furnished Government agencies.

EFFECTIVE DATE: March 2, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Renner, Director, Regulations Management Division (703–557–7970).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

This regulation continues § 101–26.102–4 to reference the provisions of Subpart 101–2.1 and provide an audit trail for references to the section.

PART 101–26—PROCUREMENT SOURCES AND PROGRAMS

1. The table of contents for Part 101–26 is amended by revising the following entry:

101–26.102–4 Payment to GSA contractors.

Subpart 101–26.1—General

2. Section 101–26.102–4 is recaptioned and revised to read as follows:

§ 101–26.102–4 Payment to GSA contractors.

Policies and procedures covering payment to GSA contractors for supplies and services furnished by GSA to Government agencies are in Subpart 101–2.1.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: February 3, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82–5509 Filed 3–1–82; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6149

[U–31099]

Utah; Revocation of Commissioner's Order Approved June 11, 1943; Revocation of Public Order Nos. 1868, 4036, and 4061

Correction

In FR Doc. 82–4153 appearing on page 6857 in the issue of Wednesday, February 17, 1982, the "Public Land Order" number was inadvertently omitted in the heading. The heading should have read as set forth above.

BILLING CODE 1505–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81–570; RM–3886]

FM Broadcast Stations in Naknek, Alaska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 265A to Naknek, Alaska, as a first FM assignment in response to a petition filed by Bay Broadcasting Company, Inc.

DATE: Effective April 26, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order; Proceeding Terminated

Adopted: February 16, 1982.

Released: February 24, 1982.

1. The Commission has under consideration a Notice of Proposed Rule Making, 46 FR 43205, published August 27, 1981, proposing the assignment of Channel 265A to Naknek, Alaska, in response to a petition filed by Bay Broadcasting Company, Inc. (petitioner). The proposed assignment would provide a first FM service to Naknek. Supporting comments were filed by the petitioner. No oppositions to the proposal were received.

2. Naknek (population 178),[1] in Bristol Bay Borough Division (population 1,147), is located approximately 480 kilometers (300 miles) southwest of Anchorage, Alaska. It has no local broadcast service.

3. In comments to the proposal, the petitioner incorporated by reference the information contained in the Notice that demonstrated the need for a first FM assignment to Naknek. Petitioner also restated its intent to apply for the channel, if assigned.

4. The Commission believes that the public interest would be served by assigning Channel 265A to Naknek, Alaska, since it would provide that community with an opportunity for a first local broadcast station. The assignment can be made in compliance with the minimum distance requirements.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, That effective April 26, 1982, the FM Table of Assignments, § 73.202(b) of the rules, is amended with regard to the following community:

City	Channel No.
Naknek, Alaska	265A

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau (202) 632–7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 82-5866 Filed 3-1-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-563; RM-3622 and RM-3809]

FM Broadcast Station in Hays, Junction City and Abilene, Kansas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a second Class C FM channel to Hays, Kansas, in response to a request from Central Radio, Inc., and assigns a first Class C FM channel to Abilene, Kansas, in response to a request from KABI, Inc. Also the license for Station KABI–FM, Abilene, is modified to specify operation on the Class C channel.

DATE: Effective April 26, 1982.

ADDRESS: Fedeal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order; Proceeding Terminated

Adopted: February 16, 1982.

Released: February 26, 1982.

1. The Commission has before it the Notice of Proposed Rule Making, 45 FR 64985, published October 1, 1980, and the Further Notice of Proposed Rule Making, 46 FR 40059, published August 6, 1981, proposing to assign Channel 258 to Hays, Kansas, and to upgrade Station KABI–FM from Channel 252A to Channel 253 at Abilene, Kansas.[1] KABI, Inc., licensee of Station KABI–FM, Abilene, filed a response to the Further Notice. Comments filed in response to the Notice were treated in the Further Notice and do not bear repeating herein.

2. Hays (population 16,301),[2] seat of Ellis County (population 26,098), is located approximately 312 kilometers (195 miles) west of Topeka, Kansas. It is currently served by AM Station KAYS and FM Station KJLS (Channel 277).

3. Abilene (population 6,572), seat of Dickinson County (population 20,175), is located approximately 128 kilometers (80 miles) west of Topeka, Kansas. It is currently served by co-owned Stations KABI (AM) and KABI–FM (Channel 252A).

4. The Further Notice indicated that sufficient information had been provided to justify a second Class C channel assignment to Hays and a higher powered FM channel for Abilene. The finding was primarily based on a showing of significant figures of first and second FM and nighttime aural services from both assignments. However, both petitioners Central Radio, Inc. (Hays) and KABI, Inc. (Abilene) had requested the same channel (Channel 253) for the respective communities. It was determined however, that Channel 258 could be assigned to Hays. We were prepared to make the respective assignments, but we had no indication from KABI, Inc. that it was aware of and willing to move its transmitter site in order to comply with a 5.2 mile south site restriction. Such an extraordinary action, *i.e.*, moving the transmitter location, would require an expression of consent from the affected licensee since we generally would not approve an assignment proposal requiring a site change without such consent. Therefore we issued the Further Notice for that purpose.

5. KABI, Inc. has stated in response to this concern that it is willing to apply for a new site to comply with the mileage spacing requirements. On that basis, we find no obstacle to the adoption of the proposals set forth in the Further Notice. We shall also modify Station KABI–FM's license to specify operation on Channel 253 as requested since there have been no other expressions of interest in an Abilene station on that channel.

6. Accordingly, It is ordered, That the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended for the following communities:

City	Channel No.
Abilene, Kansas	253
Hays, Kansas	258, 277
Junction City, Kansas	230

7. It is further ordered, That pursuant to Section 316 of the Communications Act of 1934, as amended, the license of Station KABI–FM, Abilene, Kansas, is modified to specify operation on Channel 253 subject to the following:

(a) At least 30 days before operating on the newly specified channel, the licensee shall file with the Commission a minor change application for a construction permit (Form 301).

(b) Within 10 days after commencing operation on the newly specified channel, the licensee shall submit a license application (Form 302) for the new channel.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

8. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

[1] Population figures are taken from the 1970 U.S. Census.

[2] Population data are taken from the 1980 U.S. Census, Advance Reports.

[1] Channel 252A was assigned to Junction City, Kansas, but has been in use at Abilene, Kansas, pursuant to Section 73.203(b) which, at the time, permitted the use of channels 25 miles from the city of assignment.

9. It is further ordered, That the Secretary of the Commission shall send by certified mail, return receipt requested, a copy of this Order to KABI, Inc., c/o 414 West Second Street, Kimball, Nebraska, 69145.

10. It is further ordered, That this proceeding is terminated.

11. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-5577 Filed 3-1-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-502; RM-3873]

FM Broadcast Station in Truth or Consequences, New Mexico; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action substitutes FM Channel 254 for unused Channel 244A in Truth or Consequences, New Mexico, in response to a petition filed by Sierra Industries, Inc.

DATE: Effective April 26, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order

(Proceeding Terminated)
Adopted: February 16, 1982.
Released: February 24, 1982.

1. The Commission has under consideration a Notice of Proposed Rule Making, 46 FR 42483, published August 21, 1982, proposing the substitution of Class C FM Channel 254 for unused Channel 244A in Truth or Consequences, New Mexico, in response to a petition filed by Sierra Industries, Inc. ("petitioner"). Supporting comments were filed by the petitioner restating its interest in the Class C channel. No oppositions to the proposal were received.

2. Truth or Consequences (population 5,219),[1] seat of Sierra County (population 8,454), is located approximately 216 kilometers (135 miles) south of Albuquerque, New Mexico. It is served locally by AM Station KCHS. It also has an unused FM channel (244A), and an unused educational channel (220A).

3. Petitioner incorporated by reference the information contained in the Notice which demonstrated the need for a Class C assignment, noting that unused Channel 244A has not been applied for since it was assigned in 1963. This, it argued, was primarily because of the inability of a Class A facility to reach the sparsely populated areas surrounding the community.

4. As stated in the Notice, the proposed substitution of channels will cause preclusion on the co-channel as well as five of the six adjacent channels. Petitioner claimed that alternative channels are available to most of the precluded area, however. Further, petitioner stated that the substitution will provide a first FM service to 11,145 persons in an area of 9,684 square kilometers (3,783 square miles).

5. After careful consideration of the proposal, we have determined that the public interest woud be served by the substitution of channels. Although a community of this size is not normally assigned a Class C channel, the proposed substitution would provide substantial first FM service to persons in sparsely populated areas. Further, we consider the preclusion impact insignificant since alternative channels are available in the precluded areas.

6. The Mexican Government has given its concurrence in the proposed substitution of Channel 254 for 244A in Truth or Consequences, New Mexico.

7. Accordingly, It is ordered, That effective April 26, 1982, the FM Table of Assignments (Section 73.202(b) of the Commission's rules) is amended with regard to the following community:

City	Channel No.
Truth or Consequences, New Mexico	254

8. It is further ordered, That this proceeding is terminated.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-5578 Filed 3-1-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1980 U.S. Census.

47 CFR Part 73

[BC Docket No. 81-567; RM-3881]

FM Broadcast Station in Bismarck, North Dakota; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 243 to Bismarck, North Dakota, as its third commercial FM channel in response to a request from Midwest Radio Company.

DATE: Effective April 26, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip Cross, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order; Proceeding Terminated

Adopted: February 16, 1982.

Released: February 24, 1982.

1. The Commission has before it for consideration a *Notice of Proposed Rule Making*, 46 FR 43204, published August 27, 1981, in response to a petition filed by Midwest Radio Company, ("petitioner"), proposing the assignment of FM Channel 243 to Bismarck, North Dakota, as the community's third FM assignment. Supporting comments were filed by petitioner in which it reaffirmed its intent to file for the channel, if assigned. No oppositions to the proposal were received.

2. Bismarck (population 44,485), the state capital, in Burleigh County (population 54,811)[1] is located in the south-central part of North Dakota. It is served locally by daytime-only AM Station KBMR, full-time AM Stations KBOM and KFYR; and FM Stations KQDY (Channel 233) and KYYY (Channel 225).

3. In support of its proposal, petitioner submitted information with respect to Bismarck which is persuasive as to its need for a third FM channel assignment. Petitioner has submitted a list of precluded communities and alternative available channels. Based on this showing, we find the preclusive impact of this assignment is insignificant.

4. We believe that the public interest would be served by the assignment of Channel 243 to Bismarck. An interest has been shown for its use, and such an assignment would provide the

[1] Population figures are taken from the 1980 U.S. Census.

community with an FM station which could render a third local broadcast service. Although the assignment would exceed the population guidelines, the preclusive impact is insignificant and does not present a bar to the assignment.

5. Authority for the adoption of the amendment herein is contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

6. Accordingly, it is ordered, That effective April 26, 1982, § 703.202(b) of the Commission's Rules, the FM Table of Assignments, is amended with regard to the following community:

City	Channel No.
Bismarck, North Dakota	225, 233, 243

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning the above, contact Philip Cross, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–5580 Filed 3–1–82; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[BC Docket No. 81–572; RM–3880]

FM Broadcast Station in Durant, Oklahoma; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 249A to Durant, Oklahoma, as its second commercial FM channel in response to a request from E.D.B. Company.

DATE: Effective April 26, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip Cross, Broadcast Bureau, (202) 632–5414.

SUPPLEMENTARY INFORMATION:

Report and Order; Proceeding Terminated

Adopted: February 16, 1982.

Released: February 24, 1982.

1. The Commission has before it for consideration a Notice of Proposed Rule Making, 46 FR 43202, published August 27, 1981, in response to a petition filed by E.D.B. Company ("petitioner"), proposing the assignment of FM Channel 249A to Durant, Oklahoma, as the community's second FM assignment. Supporting comments were filed by petitioner in which it affirmed its intent to file for the channel, if assigned. No oppositions to the proposal were received.

2. Durant (population 11,118), seat of Bryan County (population 25,552),[1] is located approximately 192 kilometers (120 miles) southeast of Oklahoma City, Oklahoma. It is served locally by daytime-only AM Station KSEO, FM Station KSEO (Channel 296A), and noncommercial educational FM Station KHIB. Channel 249A can be assigned to Durant provided the transmitter site is located not less than 5 kilometers (3.1 miles) east-northeast of Durant to comply with the minimum separation requirements of § 73.207 of the Commission's rules.

3. In support of its proposal, petitioner submitted information with respect to Durant which is persuasive as to its need for a second channel assignment.

4. We believe that the public interest would be served by the assignment of Channel 249A to Durant, Oklahoma. An interest has been shown for its use, and such an assignment would provide the community with an FM station which could render an additional local broadcast service.

5. Authority for the adoption of the amendment herein is contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

6. Accordingly, it is ordered, That effective April 26, 1982, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended with regard to the following community:

City	Channel No.
Durant, Oklahoma	249A, 296A

7. It is further ordered, That this proceeding is terminated.

[1] Population figures are taken from the 1970 U.S. Census.

8. For further information concerning the above, contact Philip Cross, Broadcast Bureau, (202) 632–5414.

(Secs. 4, 303, 48 stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin A. Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 5580 Filed 3–1–82; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[BC Docket No. 81–571; RM–3853]

FM Broadcast Station in Goose Creek, South Carolina; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 232A to Goose Creek, South Carolina, in response to a petition filed by Sonrise Broadcasting Company, Inc. The assigned channel could provide a first local broadcast service to Goose Creek.

DATE: Effective April 26, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order; Proceeding Terminated

Adopted: February 16, 1982.

Released: February 24, 1982.

1. The Commission has under consideration a Notice of Proposed Rule Making, 46 FR 43209, published August 27, 1981, proposing the assignment of Channel 232A to Goose Creek, South Carolina, as its first FM assignment. The Notice was issued in response to a petition filed by Sonrise Broadcasting Company, Inc. (petitioner). Supporting comments were filed by the petitioner, restating its intent to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Goose Creek (population (17,811),[1] in Berkely County (population 94,727) is located approximately 23 kilometers (14 miles) north of Charleston, South Carolina. It is without local broadcast service.

[1] Population figures are taken from the 1980 U.S. Census.

3. As stated in the Notice, Goose Creek is said to have experienced a considerable population growth in the past ten years, from 3,828 (1970) to 17,811 (1980). Goose Creek, which is primarily an industrial community, is also said to have 250–300 businesses and 2 banks serving the area. According to the petitioner, the proposed assignment could provide a needed service to the area through various public programs, news and musical entertainment.

4. The Commission believes that the petitioner has adequately demonstrated the need for a first FM assignment to Goose Creek, and that the public interest would be served by assigning Channel 232A to that community. The transmitter site is restricted to 8.16 kilometers (5.1 miles) northeast of the city to meet spacing requirements.

5. Accordingly, pursuant to §§ 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, That effective April 26, 1982, the FM Table of Assignments, § 73.202(b) of the rules, is amended with regard to the city of Goose Creek, South Carolina, as follows:

City	Channel No.
Goose Creek, South Carolina	232A

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 82–5582 Filed 3–1–82; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 76

[FCC 82–14]

Cable Television Service; Amendment of the Commission's Rules Concerning the Computation of the Cable Television Annual Fee Requirement of a Specific Section and Cable Television System Reports Requirement of a Specific Section

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The purpose of this action is to eliminate burdensome and unnecessary Commission filing requirements relative to annual fee payment by cable television operators. The amendment incorporates the following major features: (1) Elimination of the requirement of cable television operators to pay the Cable Television Annual Fee; (2) Elimination of the requirement of cable television operators to submit FCC Form 326–A to the Commission.

EFFECTIVE DATE: February 19, 1982.

ADDRESS: Federal Communications Commission; Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: J. L. Frenette, Cable Television Bureau, (202) 632–9797.

SUPPLEMENTARY INFORMATION:

Order

Adopted: January 13, 1982.

Released: February 5, 1982.

By the Commission.

In the matter of amendment of Part 76, Subpart I of the Commission's Rules and Regulations Concerning the Computation of the Cable Television Annual Fee Requirement of § 76.406 and Cable Television System Reports Requirement of § 76.403.

1. In its *Report and Order Docket 18397*, FCC 72–108, 36 FCC 2d 143 (1972) the Commission adopted amendments concerning FCC Forms and Reports. These rules list the forms and reports that cable television operators are required to file with the Commission. Annual Fee Data—"Computation of Cable Television Annual Fee," Form 326–A is among the forms listed in § 76.403. Computation of Cable Television Annual Fee § 76.406 provides additional information concerning the filing of Form 326–A.

2. In the case of *National Cable Television Association v. U.S.*, 415 U.S. 336 (1974) the Supreme Court found the system of collecting annual fees from cable television operators to exceed the Commission's authority. In compliance with this decision we are hereby deleting the requirements for computation of cable television annual fees and the filing of FCC Form 326–A from the rules.

3. Because the action taken is purely ministerial, conforming the written rules to the court's mandate and consistent with the Communication's Act 47 U.S.C. 402(h) and the Administrative Procedure Act, 5 U.S.C. 553, the prior notice and publication requirements of the Administrative Procedure Act are inapplicable.

Accordingly, it is ordered, that effective February 19, 1982, Part 76 of the Commission's rules and regulations is amended as set forth in the attached Appendix.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 76—CABLE TELEVISION SERVICE

Part 76 of Chapter 1 of the Code of Federal Regulations is amended as follows:

§ 76.403 [Amended]

1. In § 76.403, the entry "Annual Fee Data—Computation of Cable Television Annual Fee," Form 326–A is removed.

§ 76.406 [Removed]

2. Section 76.406 is removed.

[FR Doc. 82–5552 Filed 3–1–82; 8:45 am]

BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 47, No. 41
Tuesday, March 2, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

Spearmint Oil Produced in the Far West; Proposed Salable Quantities and Allotment Percentages for the 1982–83 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This is a proposal to establish the quantity of spearmint oil produced in the Far West, by class, that may be purchased from, or handled for, producers by handlers during the 1982–83 marketing year. This action is taken under the marketing order for spearmint oil produced in the Far West to promote orderly marketing conditions.

DATE: Comments due March 26, 1982.

ADDRESSES: Comments should be sent to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written material should be submitted, and they shall be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–5697.

SUPPLEMENTARY INFORMATION: The proposed rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified a "non-major" rule under criteria contained therein.

In order to minimize disruption, this proposed regulation is being issued with the understanding that the Spearmint Oil Administrative Committee will initiate action in 1982 under marketing order No. 985 so that operations under the program will conform to the Department's Guidelines for fruit, vegetable, and specialty crop marketing orders, issued January 25, 1982. The guidelines specify that producer allotment programs, like the spearmint oil marketing order, be carried out in a manner that will gradually eliminate barriers to entry.

The proposal is being published with less than a 60-day comment period because handlers and growers will soon be making preparations for handling and growing 1982 crop Spearmint Oil. Therefore, they must know as soon as possible what salable quantities and allotment percentages will be effective for the 1982–83 marketing year so they can plan their operations accordingly.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated ten handlers.

Information collection (reporting and recordkeeping) under this part are subject to clearance by the Office of Management and Budget and are in the process of review. These information requirements shall not become effective until such time as clearance by OMB has been obtained.

The proposed salable quantity and allotment percentage for each class of spearmint oil would be established in accordance with the provisions of Marketing Order No. 985, regulating the handling of spearmint oil produced in the Far West. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was recommended unanimously by the Spearmint Oil Administrative Committee.

The salable quantity and allotment percentage proposed for each class of spearmint oil for the 1982–83 marketing year are based upon recommendations of the Committee and the following data and estimates:

(1) "Class 1" Oil (First Cutting Scotch)

(A) Estimated carryin on June 1, 1982—457,015 pounds.

(B) The Committee's recommendation for the salable quantity—323,587 pounds.

(C) Estimated trade demand (domestic and export) for the 1982–83 marketing year—770,000 pounds.

(D) Recommended desirable carryout on May 31, 1983—15,000 pounds.

(E) Total allotment bases for "Class 1" Oil—1,406,899 pounds.

(F) Recommended allotment percentage—23 percent.

(2) "Class 2" Oil (Second Cutting Scotch)

(A) Estimated carryin on June 1, 1982—68,450 pounds.

(B) The Committee's recommendation for the salable quantity—0 pounds.

(C) Estimated trade demand (domestic and export) for the 1982–83 marketing year—30,000 pounds.

(D) Recommended desirable carryout on May 31, 1983—0 pounds.

(E) Total allotment bases for "Class 2" Oil—126,901 pounds.

(F) Recommended allotment percentage—0 percent.

(3) "Class 3" Oil (Native)

(A) Estimated carryin on June 1, 1982—812,289 pounds.

(B) The Committee's recommendation for the salable quantity—171,745 pounds.

(C) Estimated trade demand (domestic and export) for the 1982–83 marketing year—600,000 pounds.

(D) Recommended desirable carryout on May 31, 1983—0 pounds.

(E) Total allotment bases for "Class 3" Oil—1,717,453 pounds.

(F) Recommended allotment percentage—10 percent.

The salable quantity is the total quantity of each class of oil which handlers may purchase from or handle on behalf of producers during a marketing year. Each producer is alloted a share of the salable quantity by applying the allotment percentage to his allotment base for the applicable class.

The order has been in effect since April 14, 1980. The industry had an oversupply problem prior to the establishment of the order and has been working to reduce these burdensome supplies through the use of the order's volume control provisions. There still is a severe oversupply of spearmint oil in all three classes. While indications are that handlers and users have been attempting to reduce their inventories of spearmint oil, thereby putting the burden of storage costs on producers, it is believed that these stocks are heavy. Currently, the producers' market is reported to be inactive, with few sales at relatively low prices (below production costs). Low prices are expected to continue in 1982. The Committee believes that a continued effort to reduce stocks and bring supplies into balance with needs is the best way to create a stable market for each class of oil. The Committee's recommendations are expected to result in a reduction of the excessive stocks of all three classes of oil and appear appropriate for the 1982–83 season.

At the beginning of the 1980–81 season, "Class 1" Oil producer stocks were more than a year's supply. A volume regulation reduced these supplies during the first season and it is anticipated that it will be further reduced by the end of the 1981–82 season. The proposed regulation for the 1982–83 marketing year is intended to remove the balance of the excess grower stocks so supplies will be more in balance with demand.

It has been difficult to reduce the heavy stock level of "Class 2" Oil. Although, volume regulations issued the past two years have been increasingly restrictive, heavy stocks remain. The projected carryin at the beginning of the 1982–83 marketing year is 98,450 pounds, compared to estimated 1981–82 sales of 30,000 pounds and 1980–81 sales of 55,581 pounds. It is expected that growers would not make a second cutting of scotch in the 1982 season, thereby avoiding harvesting and distillation costs.

Sales of "Class 3" Oil have lagged behind early expectations in both the 1980–81 and 1981–82 season. With 1982–83 sales projected at about the 1981–82 level and anticipated carryin about two percent more than the expected 1982–83 sales, no 1982 crop would be needed. However, so that producers will have adequate supplies of roots to expand acreage if needed in 1983 or later, the Committee recommended a salable quantity of 171,745 pounds and an allotment percentage of 10 percent.

The Committee had recommended less restrictive allotment percentages for the past two marketing years, anticipating that the market would strengthen and absorb a portion of the excessive inventory of spearmint oil. The market has not absorbed these inventories and supplies remain burdensome. This has resulted in the current sluggish market situation. Other factors contributing to this condition are as follows:

1. Users (manufacturers of chewing gum and toothpaste) acquired large quantities of spearmint oil when prices were low in 1978 and 1979. Since spearmint oil is storable for long periods of time, users can draw upon these inventories for several years.

2. Manufacturers are hesitant to borrow money at the current high interest rates to stock spearmint oil since it is only a minor ingredient in their products.

3. Manufacturers are aware of the large inventories of spearmint oil held by producers and the sluggish market. Consequently, they are not under any pressure to acquire stocks. They can readily acquire the oil as they need it.

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

Therefore, the proposal is to add a new § 985.202 under Subpart—Salable Quantities and Allotment Percentages. (7 CFR 985.201; 46 FR 25424) as follows: (The following provisions will not be published in the Code of Federal Regulations.)

§ 985.202 Salable quantities and allotment percentages—1982–83 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year which begins June 1, 1982, shall be as follows:

(a) "Class 1" Oil—a salable quantity of 323,587 pounds and an allotment percentage of 23 percent.

(b) "Class 2" Oil—a salable quantity of 0 pounds and an allotment percentage of 0 percent.

(c) "Class 3" Oil—a salable quantity of 171,745 pounds and an allotment percentage of 10 percent.

Dated: February 25, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 82-5574 Filed 3-1-82; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Proposed Revision of REA Bulletin 181–3, Accounting Interpretations for Rural Electric Borrowers

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA proposes to revise REA Bulletin 181–3, Accounting interpretations for Rural Electric Borrowers, to clarify the accounting for interest income and expense related to the financing of pollution control facilities.

DATE: Public comments must be received by REA no later than: May 3, 1982.

ADDRESS: Persons interested in the proposed revisions may submit written data, views, suggestions or comments to the Director, Accounting and Auditing Division, Rural Electrification Administration, Room 4083, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon Chazin, Director, Accounting and Auditing Division, above address, telephone number (202) 382–9550. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend Appendix A to 7 CFR Part 1701 by revising REA Bulletin 181–3, Accounting Interpretations for Rural Electric Borrowers. This proposal has been issued in conformance with Executive Order No. 12291, Federal Regulation. Since no significant effect on the economy will occur, since no significant increase in cost for consumers, industries or government will result; and since no significant impact on economic conditions will be caused, this action has been determined to be "not major."

The Regulatory Flexibility Act (Pub. L. 96–354) is not applicable to this action, therefore a Regulatory Flexibility Analysis will not be prepared.

Electric utility cooperatives, including several with loans made or guaranteed by the Rural Electrification Administration have financed the construction and installation of pollution control facilities through tax exempt municipal securities. The funds from these securities are deposited in a Construction Fund and controlled by a designated "Trustee." Often the funds that are under the control of the fund trustee are invested, earning interest until they are needed. This creates the double accounting problem of interest income/expense: interest income arising from the invested funds and interest expense owing on the borrowed funds. The proposed accounting interpretation (outlined below) is intended to define the appropriate accounting procedures in both situations.

Proposed Accounting Interpretation; REA Bulletin 181–3

1. *General:* Tax exempt municipal securities have become a common means of financing the construction of pollution control facilities. The funds generated from the sale of these securities are deposited in a Construction

Fund account and controlled by a designated "Trustee." Often the funds under the control of the trustee are invested until needed. This process generates interest income from the investment of unapplied funds and interest expense from the securities issued.

To prevent duplicate capitalization of interest expense, the capitalization of interest on the municipal securities should be made independently of the capitalization of interest on equity funds used during construction. To accomplish this the charges made to construction for pollution control facilities should be deducted from the total construction work-in-progress account prior to calculating the allowance for funds used during construction.

The following questions and answers are designed to provide uniformity in accounting for both interest income and expense. The procedures detailed in the questions and answers are to be utilized unless otherwise instructed in the provisions of the debt instrument.

II. *Questions and Answers:*

1. *Question:* Prior to the completion of construction, what portion of the interest expense associated with the municipal securities should be capitalized?

Answer: Assuming that the municipal securities were sold for the sole purpose of financing the construction of pollution control facilities and that the total proceeds from the sale of the municipal securities will, at some point in time, be used in the construction, the entire interest expense associated with the municipal bonds should be capitalized. Whether or not the entire proceeds are immediately utilized for construction is not relevant to this question. Because the total proceeds are required to finance the project, the total interest expense is a cost of the project and should be capitalized.

2a *Question:* Prior to the completion of construction, what is the appropriate accounting treatment for the interest income generated from the investment of excess funds?

Answer: By investing the temporarily idle funds, the borrower may reduce the effective interest rate paid on the outstanding debt. The interest income should be recorded as a direct credit to the Construction Work-in-Progress amount. The effect of these entries is to capitalize the net cost of borrowed funds as prescribed in Electric Plant Instruction 3(17) in REA Bulletin 181–1, Uniform System of Accounts Prescribed for Electric Borrowers.

2b. *Question:* How should these transactions be recorded in the utility's accounting records?

Answer: The following entries should be recorded in the borrower's accounting records:

To record sale of pollution control bonds: Dr. Account 221.20 Funds Held by Trustee—pollution control; Cr. Account 221.21 Pollution Control Bonds.

To record costs incurred in construction: Dr. Account 107 Construction Work-in-Progress; Cr. Account 232 Accounts Payable.

To record transfer of funds from Trustee: Dr. Account 131.1 Cash—General Fund; Cr. Account 221.20 Funds Held by Trustee—pollution control.

To record interest expense on pollution control bonds: Dr. Account 107.AA Construction Work-in-Progress; Cr. Account 221.20 Funds Held by Trustee—pollution control.

To record earnings from investments made by Trustee: Dr. Account 171 Interest and Dividends Receivable; Dr. Account 171 Interest and Dividends Receivable; Cr. Account 107.BB Construction Work-in-Progress.

To record the receipt of cash as shown on the reconcilement of the Trustee's Status of Funds statement: Dr. Account 221.20 Funds Held by Trustee—pollution control; Cr. Account 171 Interest and Dividends Receivable.

3a. *Question:* After construction is complete, what is the appropriate accounting for the bonds and the interest income/expense associated with them?

Answer: The Trustee will continue to handle the bonds until they are retired. The Trustee receives payment from the utility to deposit into the Debt Service Fund for payment of principal and interest on the debt. Depending on the provisions of the indenture, the Trustee may require advance payments of one to two years. These advance payments, when invested by the Trustee, will provide additional earnings. Because the funds are not under the control of the utility, any earnings on the investments made by the Trustee should be treated as a reduction of the periodic interest expense incurred on the pollution control bonds.

3b. *Question:* How should these transactions be recorded in the utility's accounting records?

Answer: The following entries should be recorded in the borrower's accounting records:

To close completed construction to the plant in service accounts: Dr. Various Plant Accounts; Cr. Account 107 Construction Work-in-Progress.

To record interest on debt: Dr. Account 427 Interest on Long Term Debt; Cr. Account 237 Accrued Interest Payable.

To record interest and principal payments made to Trustee: Dr. Account 221.20 Funds Held by Trustee—pollution control; Cr. Account 131 Cash.

To record interest earned by Trustee to offset interest expense: Dr. Account 221.20 Funds Held by Trustee—pollution control; Cr. Account 427.1 Interest on Long Term Debt—Credit.

To record payment of interest and principal by Trustee: Dr. Account 221.21 Pollution Control Bonds, Dr. Account 237 Accrued Interest Payable; Cr. Account 221.20 Funds Held by Trustee—pollution control.

(This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees)

Dated: February 24, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-5488 Filed 3-1-82; 8:45 am]

BILLING CODE 3410-15-M

Office of the Secretary

7 CFR Part 2900

Proposed Amendment Regarding Certification of Essential Agricultural Uses and Requirements; Natural Gas Policy Act

AGENCY: Office of the Secretary, USDA.

ACTION: Proposed rule.

SUMMARY: The Department of Agriculture proposes to amend its regulations certifying essential agricultural uses and requirements under the Natural Gas Policy Act. This amendment would add monosodium glutamate (MSG) to the list of essential agricultural uses certified by the Secretary of Agriculture. The proposed amendment is in response to a petition submitted by the Stauffer Chemical Company.

DATES: Written comments are due by 4:30 p.m., May 3, 1982.

ADDRESS: All written comments should be sent to Earle E. Gavett, Acting Director, Office of Energy, Room 144–E, Administration Building, U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Earle E. Gavett, Acting Director, Office of Energy, Room 144–E Administration Building, U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, D.C. 20250; Telephone Number: (202) 447–2634.

The proposed action does not alter the impacts described or conclusions drawn in the combined Environmental Impact Statement and Final Impact Statement developed May 14, 1979, in connection with the Essential Agriculture Uses Requirements certification rule (7 CFR Part 2900). Thus, the combined statement describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from Earle Gavett, Office of Energy, Room 144–E, Administration Building, U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Description of Proposal.
III. Public Comment and Hearing Procedures.

I. Background

Under section 401 of the Natural Gas Policy Act of 1978 (NGPA), the Secretary of Agriculture is required to certify to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) essential agricultural uses of natural gas and the amounts of natural gas for such essential agricultural uses necessary for full food and fiber production. A final rule containing such certification was issued by the Secretary of Agriculture on May 17, 1979 (44 FR 28782).

The Secretary of Energy and the FERC have incorporated the USDA certification in their rules promulgating and implementing agricultural priority in curtailment plans of interstate pipelines, in accordance with the NGPA.

This proposed action has been reviewed under U.S. Department of Agriculture procedures established in Secretary's Memorandum 1512–1 which implements Executive Order 12291 and has been determined to be "nonmajor."

This proposed action has been determined to be "nonmajor" since the annual effect on the economy is less than $100 million, and there will be no increase in costs or prices for individuals, organizations, or other government agencies affected. There will be no significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets because the proposed action affects only one manufacturing facility and only 6,500 Mcf per day of natural gas. It has no impact at all except in instances of curtailments of deliveries from interstate natural gas pipelines, in which case it would grant priority for 100 percent of current natural gas requirements of the facility. Additional impacts arising from the exemption of the facility from incremental pricing under Title II as a result of Federal Engergy Regulatory Commission's exemption under that title of all uses certified by the Secretary of Agriculture will not occur because the Commission has already granted this facility such an exemption under Title II.

Earle E. Gavett, Acting Director, Office of Energy, has determined that this action will not have a significiant economic impact on a substantial number of small entitities since there is only a single monosodium glutamate production facility in the U.S. and only 6,500 Mcf of natural gas per day are involved.

Also, the proposal has been reviewed pursuant to USDA's responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and USDA has determined that the proposed action alters the impacts disclosed by less than one-tenth of 1 percent and does not affect the conclusions drawn in the combined Environmental Impact Statement and Final Impact Analysis prepared May 14, 1979, in connection with the Essential Agricultural Uses and Requirements certification rule. Therefore, this action is proposed under the same analysis.

II. Description of Proposal

Section 401(a) of the Natural Gas Policy Act provides certain protection against the curtailment of those "agricultural uses" of natural gas that the Secretary of Agriculture determines under section 401(c) to be "essential" uses. Such "agriculture uses" fall into two classes. Those uses certified under section 401(f)(1)(a), such as irrigation, crop-drying, and food processing, are protected from curtailment to the extent of their total natural gas use for feedstock, process, and boiler fuel use. Those certified under section 401(f)(1)(B), including fertilizers and agricultural chemcials, are protected only to the extend of their process and feedstock use of natural gas. Boiler fuel use is not protected from curtailment under this this section.

The NGPA does not permit distinctions in determining the types of food products to be certified as essential agricultural users. Instead, its language indicates that all food products are to be so certified. The production of monosodium glutamate must be included in the list of essential agricultural uses under section 401(f)(1)(A) because it is produced from food commodities, is manufactured under food-grade standards for sanitation and cleanliness, and is used solely as a food additive. Although the SIC Codes have been used by the Department as a method of certifying large groups of products, the SIC under which a product is produced has never been considered determinative in the certification procedure.

For example, SIC Code 3497 Metal Foil and Leaf initially was not included among essential agricultural uses but certain of the products produced under that SIC Code, having been shown to be integral to food quality maintenance, have been included under section 401(f)(1)(A) as SIC 3497 Metal Foil and Leaf (food related only). Likewise here, no attempt is being made to include all of SIC 2869 as essential agricultural uses. The majority of these products have no food application. However, monosodium glutamate has as its only use that of a food product, and therefore, must be certified as an essential agricultural use of natural gas under section 401(f)(1)(A).

Monosodium glutamate, classified in Standard Industrial Classification (SIC) Code 2869, Industrial Organic Chemicals, has been certified by the Secretary under section 401(f)(1)(B)—that is, only to the extent of its process and feedstock natural gas requirements. (44 FR 28788)

The Stauffer Chemical Company has petitioned the USDA to amend 7 CFR 2900.3 to include, under the "Food and Natural Fiber Processing—Food" list, the production of monosodium glutamate. Such an action would protect the total natural gas use of the monosodium glutamate industry from curtailments of deliveries from interstate pipelines.

Monosodium glutamate (MSG) is produced in only one plant in the United States, in San Jose, California. The basic material from which MSG is made is common molasses, derived from refining sugar beets or sugar cane. The manufacture of such molasses is classified under the major heading of "food" in SIC Codes 2063 and 2061. Sugar-beet molasses, sometimes blended with sugar-cane molasses, is combined with lesser amounts of trace nutrients and ammonia, and is fermented in large tanks by introduction of the bacteria *Corynebactrium lilium*. When the fermentation is completed, the resulting culture is harvested. After the bacterial cells and proteins are removed, the remaining broth is evaporated by the use of steam and further refined. Acid is added, and crystallized crude glutamic acid, an amino acid is produced. This substance is separated by filtration, dissolved, and converted into MSG by neutralization with sodium hydroxide. The resulting solution is decolorized and then crystallized, dried, screened, and packed for shipment. All chemicals used in the process are of food-grade quality, and the Food and Drug Administration inspects the San Jose facility for adherence to government regulations for the production of food and food additives. All of the natural gas used in the San Jose facility is employed in the manufacture of MSG. None of the byproducts requires the use of natural gas. MSG is sold to food processors (SIC major group 20) who use it in canned and preserved foods (SIC subgroup 203) and also is sold in grocery stores where it is generally grouped with salt or spices as a flavor enhancer. MSG is not sold for any known non-food use and is listed in Food Chemicals Codes, an authoritative compilation of foods and food additives.

The Stauffer Chemical Company San Jose MSG plant operates 24 hours a day, 365 days a year and uses an average of

8,000 Mcf of natural gas per day, approximately 6,500 Mcf of which is used as boiler fuel. Inclusion of the boiler fuel use will add about 2.4 billion cubic feet to the total agricultural gas use of 1,392 billion cubic feet, less than one-tenth of 1 percent of the interstate gas component identified as essential agricultural use in the May 14, 1979 combined Environmental Impact Statement and Final Impact Statement.

USDA believes that sufficient justification exists to institute rulemaking procedures to modify the existing Essential Agricultural Use certification.

III. Public Comment and Hearing Procedures

The public is invited to participate in any aspect of this proposed amendment by submitting data views, or arguments with respect to the proposal herein set forth.

Written comments must be submitted by 4:30 p.m., May 3, 1982, to the address indicated in the "Address" section of the preamble, and should be identified on the outside envelope and on the document with the designation: "Part 2900—Monosodium Glutamate." Five copies should be submitted. All comment received will be available for public inspection in Room 144–E, Administration Building, 14th and Independence, SW., Washington, D.C. 20250 between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday. All comments received by 4:30 p.m., May 3, 1982, and other relevant information will be considered by the Acting Director, Office of Energy before final action is taken on this proposed amendment.

Any information or data submitted which is considered by the party who submitted it to be confidential must be so identified and submitted in writing, one copy only. The Acting Director reserves the right to determine the confidential status of the information or data and to treat it accordingly. Section 2900.3 (Amended).

In consideration of the foregoing, it is proposed to amend Chapter XXIX of Title 7, § 2900.3 Code of Federal Regulations by adding at the end of the "Food and Natural Fiber Processing—Food" list: 2869—Industrial Organic Chemicals (Monosodium Glutamate only). (15 U.S.C. 3391).

Dated: February 24, 1982.

John R. Block,

Secretary of Agriculture.

[FR Doc. 82-5407 Filed 3-1-82; 8:45 am]

BILLING CODE 3410-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Issuance of Quarterly Report on the Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Regulatory Agenda.

SUMMARY: The Nuclear Regulatory Commission has issued the January 31, 1982, Regulatory Agenda. The Agenda, which is a quarterly summary of all rules on which the NRC has proposed or is planning action is issued to provide the public with information regarding NRC's rulemaking activities.

ADDRESSES: A copy of this report, designated NRC Regulatory Agenda January 31, 1982, is available for inspection and copying at the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Requests for single copies of the report, or a request to be placed on an automatic distribution list for single copies of future reports, should be made in writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Office of Administration, Telephone 301–492–7086, Toll free number 800–368–5642.

Dated at Bethesda, Maryland this 19th day of February, 1982.

For the Nuclear Regulatory Commission.

Jack Carr,

Acting Director, Division of Rules and Records, Office of Administration.

[FR Doc. 82-5647 Filed 3-1-82; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220 and 221

[Docket No. R-0385]

Securities Credit Transactions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Board of Governors, pursuant to its authority under the Securities Exchange Act of 1934, is considering establishing margin requirements for futures contracts based on stock indexes. The Board is now requesting comments on a proposed regulatory framework which could be used to implement a decision to establish margin requirements for futures contracts based on stock indexes. The Board has reviewed the question of applying margin requirements to any futures contracts involving a broadly-based stock index in light of approval by the Commodity Futures Trading Commission (CFTC) of an application by the Kansas City Board of Trade ("the Applicant") to trade such a contract. In considering the matter, the Board took into account that stock index futures contracts can, to an important degree, compete with, and be an economic substitute for, stock options, on which margin requirements are currently imposed. In addition to limiting the use of speculative credit, margin requirements, therefore, may be appropriate to assure competitive equality among functionally similar instruments.

DATE: Comments should be received on or before April 30, 1982.

ADDRESS: Comments, which should refer to Docket No. R–0385, may be mailed to the Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551 or delivered to Room B–2223 between 8:45 a.m. and 5:15 p.m. Comments received may also be inspected at Room B–1122 between 8:45 a.m. and 5:15 p.m. except as provided in section 261.6(a) of the Board's Rule Regarding Availability of Information (12 CFR 261.6(a)).

FOR FURTHER INFORMATION CONTACT: Laura Homer, Securities Credit Officer or Robert Lord, Attorney, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202) 452–2781.

SUPPLEMENTARY INFORMATION: The Board has reviewed the question of applying margin requirements to any futures contracts involving a broadly-based stock index in light of approval by the Commodity Futures Trading Commission (CFTC) of an application by the Kansas City Board of Trade ("the Applicant") to trade such a contract. In considering the matter, the Board took into account that stock index futures contracts can, to an important degree, compete with, and be an economic substitute for, stock options, on which margin requirements are currently imposed. In addition to limiting the use of speculative credit, margin requirements, therefore, may be appropriate to assure competitive equality among functionally similar instruments.

The Board understands that the Applicant has raised the initial margin on its stock index futures contract for a non-hedging position to a dollar level approximately equal to ten percent of the current value of the contract, and has raised margin requirements for hedging transactions to one half of that amount. In addition, the Board understands that the Applicant has taken steps to narrow the definition of hedging for margin purposes to better assure that situations permitting the lower margin requirement represent a true hedging transaction, a direction the Board believes appropriate.

The actions by the Applicant would appear to alleviate the need for immediate action by the Board and, consequently, the Board has decided not to specify at this time particular margin requirements on stock index futures contracts such as the one approved by the CFTC. The Board plans to monitor closely the development and operation of the market in stock index futures contracts so that an informed judgment on the matter can be reached based on experience.

Although the Board has decided not to specify margin requirements on stock index futures contracts at this time, there is a clear possibility that Board action may be necessary in the future. Therefore, the Board is asking for comment on specific issues, including a regulatory framework suggested by its staff, so that the Board may be fully prepared in the event a formal margin regulation becomes necessary. The public is asked to comment on the following specific issues in connection with stock index futures contracts and related instruments:

1. The appropriate level of margin;
2. The appropriate definition of a hedged transaction;
3. The use of Regulation G or T to cover futures commission merchants that may not otherwise be subject to the Board's margin regulations;
4. The proper customer account to use in Regulation T for these instruments; and
5. The treatment of bank loans and loans from other lenders for the purpose of meeting margin calls and related costs.

The objective of several of the foregoing questions is to design a regulatory framework that would create the least operational problems for broker-dealers presently subject to Regulation T and those firms not presently covered, while providing comparable treatment of the two groups. Specific comment is invited with respect to the following framework which has been suggested by Board staff.

First, a futures commission merchant would be considered a "creditor" subject to Regulation T, but only with respect to transactions in stock index futures contracts. Second, any Regulation T "creditor" who executes a stock index futures contract for a public customer would be required to obtain a specified initial margin. Third, transactions in stock index futures contracts would be required to be maintained in the "special commodity account" which presently exists in Regulation T. Fourth, credit extended to customers by banks and other lenders for the purpose of meeting a commitment under a stock index futures contract would be considered "purpose" credit. Thus, credit extended for such a purpose would be subject to the current margin level applicable to other "purpose" loans collateralized by margin securities. Finally, the level of margin would be placed in the Supplement to Regulation T with other margin levels.

By order of the Board of Governors of the Federal Reserve System, February 24, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-5481 Filed 3-1-82; 8:45 am]

BILLING CODE 6210-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 190

Bankruptcy Regulations; Extension of Comment Period

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On November 24, 1981, the **Federal Register** published the Commission's proposed new Part 190 which contains rules which would implement the Bankruptcy Reform Act of 1978 insofar as that Act pertains to the liquidation of certain commodity firms (46 FR 57535). The comment period expired on February 22, 1982.

The Commission has received several requests for an extension of the comment period. Because the Commission wishes to be certain that all parties have an opportunity to submit their comments, it is allowing an additional 45 days for comment.

DATES: Accordingly, notice is hereby given that all comments on the Commission's proposed Part 190 regulations (46 FR 57535 (November 24, 1981)) must be submitted by April 9, 1982.

FOR FURTHER INFORMATION CONTACT: Andrea M. Corcoran, Chief Counsel, Division of Trading and Markets (202) 254–8955.

Issued in Washington, D.C. on February 25, 1982, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-5553 Filed 3-1-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Federal Old-Age, Survivors and Disability Insurance; Withdrawal of Application

AGENCY: Social Security Administration, HHS.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Administration plans to revise its regulations on withdrawal of applications. The applications affected are those for reduced old-age benefits for which payment has not been made prior to the number holder's (NH's) death. Currently, even if the NH dies prior to the payment of monthly benefits, the monthly benefit amount payable to the widow(er) is limited to the amount that would have been payable to the NH. The change would permit a person eligible to receive benefits on the deceased's record to request withdrawal of the NH's application. The revision will change 20 CFR 404.640. HHS has determined that the proposed changes meet the criteria for a technical regulation change.

FOR FURTHER INFORMATION CONTACT: Linda Freud or Tom Paynter, 3–D–26 Operations Bldg., 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–2439, –2656.

Dated: February 3, 1982.

John A. Svahn,

Commissioner of Social Security.

[FR Doc. 82-5485 Filed 3-1-82; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 632

Army Regulation 190–28, Use of Force by Personnel Engaged in Law Enforcement and Security Duties

AGENCY: Department of the Army, DOD.

ACTION: Proposed rule.

SUMMARY: This regulation establishes policy and procedures governing the use of force by personnel engaged in law enforcement and security duties. It requires that only the minimum amount of force needed to accomplish law enforcement and security duties will be used and further identifies situations where deadly force is authorized. This regulation also delineate training requirements that must be completed by all personnel assigned to law enforcement, security, or US military prisoner guard duties prior to performing these duties.

EFFECTIVE DATE: Written comments submitted on or before April 1, 1982 will be considered.

ADDRESS: Send written comments to: HQDA, ATTN: DAPE–PEMP–O, Washington, D.C. 20310.

FOR FURTHER INFORMATION CONTACT: LTC Thomas J. McHugh, (202) 756–1896.

SUPPLEMENTARY INFORMATION: This regulation is not significant under the requirements of Executive Order 12044, and a regulatory analysis is not required. The Department of the Army has also determined as required by the Regulatory Flexibility Act (Pub. L. 96–354) that the proposed rule poses no burden upon small entities.

Accordingly, 32 CFR is amended by adding new Part 632.

Dated: February 23, 1982.

John O. Roach II,

Army Liaison Officer with the Federal Register.

PART 632—USE OF FORCE BY PERSONNEL ENGAGED IN LAW ENFORCEMENT AND SECURITY DUTIES

Sec.

632.1 Purpose.
632.2 Applicability.
632.3 Policy.
632.4 Deadly force.
632.5 Use of firearms.
632.6 Administrative instructions.

Authority: 10 U.S.C. 807.

§ 632.1 Purpose.

This regulation implements DOD Directive 5210.65. It sets uniform policy for use of force by DA law enforcement and security personnel.

§ 632.2 Applicability.

(a) This regulation applies to all DA including Army National Guard and Army Reserve military and civilian personnel engaged in law enforcement or security duties. These duties include responsibility for guarding U.S. military prisoners and interior guard duties.

(b) Except for personnel guarding U.S. military prisoners, this regulation does not apply to persons assigned to—

(1) A wartime combat zone.

(2) A non-wartime hostile fire area.

(3) Duties with the U.S. Secret Service.

(4) Civil disturbance control. (See para 4–12, FM 19–15.)

§ 632.3 Policy.

(a) Law enforcement and security personnel will use force only when they cannot fulfill their duties without it. They will use the minimum force needed; only as a last resort will they use deadly force. (See § 632.3(c), 632.4, and 632.5.)

(b) Commanders are encouraged to substitute nonlethal devices (such as night sticks) for firearms when adequate for law enforcement and security personnel to safely fulfill their duties.

(c) In evaluating the degree of force needed for specific law enforcement or security situations, consider these options:

(1) Verbal persuasion.

(2) Unarmed defense techniques.

(3) Chemical aerosol irritant projectors (M36). (May be subject to host nation or local restrictions.)

(4) MP club.

(5) MP working dogs.

(6) Deadly force. (§ 632.4)

(d) Entrapment, i.e., inducing someone to commit an offense in order to prosecute that person; is not permitted in law enforcement or security duties.

(e) Use MP working dogs in accordance with the provisions of AR 190–12. Release dogs only if a lesser measure of force would not be effective.

(1) Releasing a sentry dog to apprehend a suspect is a greater measure of force than releasing a patrol dog.

(2) Before releasing a military dog for attack, give a challenge or order to halt.

§ 632.4 Deadly force.

(a) Deadly force is destructive physical force directed against a person or persons (e.g., firing a lethal weapon). Use it only in extreme need, when all lesser means have failed or cannot reasonably be used. Use deadly force for one or more of the following reasons only:

(1) In self-defense, when in imminent danger of death or serious injury.

(2) To protect property related to national security, when reasonably necessary to prevent—

(i) Threatened theft, damage, or espionage aimed at property or information specified by a commander or other competent authority as vital to national security. (See § 632.4(b) below)

(ii) Actual theft, damage, or espionage aimed at property or information which, though not vital, is substantially important to national security. (See § 632.4(b) below.)

(iii) Escape of an individual whose unauthorized presence near property or information vital to national security is a reasonable threat of theft, sabotage, or espionage.

(3) To prevent actual theft or sabotage of property (such as operable weapons or ammunition) which could cause deadly harm to others in the hands of an unauthorized person.

(4) To prevent serious offenses against a person or persons (e.g., armed robbery, rape, or violent destruction of property by arson, bombing).

(5) To apprehend a suspect believed to have committed any of the types of offenses named in (a) (2), (3), and (4) of this section.

(6) To prevent the escape of a prisoner (when authorized by a commander or other competent authority and reasonably necessary).

(7) To obey lawful orders from higher authority governed by this regulation.

(b) A commander or other competant authority will specify that property or information is—

(1) Vital to national security only when its loss, damage, or compromise would seriously harm national security or an essential national defense mission.

(2) Substantially important to national security based on the mission and the material or information required to perform it.

(c) To comply with local law or international agreement or arrangements, a commander may impose further restrictions on using deadly force. (Restrictions should not unduly compromise U.S. security interests).

(d) Security criteria and standards for protection of nuclear weapons (§ 632.4(c)) AR 50–5–1) and for chemical agents (§ 632.4(c)) AR 50–6–1) also apply.

§ 632.5 Use of firearms.

(a) If it becomes necessary to use a firearm in any of the circumstances described in § 632.4 above, observe the following precautions when possible:

(1) Give an order to halt before firing.

(2) Do not fire if shots are likely to harm innocent bystanders.

(3) Since warning shots could harm innocent bystanders, avoid firing them. However, when lesser degrees of force have failed, the law enforcement or security person may judge that warning shots would help to control the situation without using deadly force. If able to avoid hazards to innocent persons in these cases, fire warning shots.

(4) Aim to disable. At times it may be difficult to fire with enough precision to ensure disabling rather than killing. If the use of firearms are otherwise authorized by this regulation, such circumstances will not rule out their use.

§ 632.6 Administrative instructions.

(a) Commanders will ensure that all persons assigned to law enforcement, security, or US military prisoners' guard duties will, before performing these duties—

(1) Receive instructions on regulations regarding use of force.

(2) Show knowledge and skill in the use of—

(i) Unarmed defense techniques.

(ii) MP club.

(iii) Individual chemical aerosol irritant projectors.

(iv) Their assigned firearms.

(b) Commanders will also—

(1) Provide periodic refresher training to ensure continued proficiency and updated knowledge in these skills. (Include applicable host nation requirements.)

(2) Require MPs with law enforcement duties to qualify yearly with their assigned handguns.

(3) Require interior guards to receive instructions regarding use of force. (Give periodic refresher training to ensure continued familiarity with regulations.)

(c) Requirements concerning use of the MP club and chemical aerosol irritant projectors apply only when these weapons are issued items or are carried on duty.

(d) FM 19–5 contains procedures and methods for using unarmed defense techniques and the MP club.

FR Doc. 82–5812 Filed 3–1–82; 8:45 am]

BILLING CODE 3710–08–M

Office of the Secretary

32 CFR Part 299

National Security Agency; Public Access of Records

AGENCY: National Security Agency.

ACTION: Proposed rule.

SUMMARY: The National Security Agency proposes to revise its policy concerning fee collection for Freedom of Information Act requests by providing for payment of the entire estimated fee prior to the initiation of any record search. The intent of this revision is to preserve public funds by requiring full payment in advance, thereby reducing the cost to the government of processing multiple checks and to avoid defaults by individuals who request costly record searches.

DATES: Comment must be received on or before May 3, 1982.

ADDRESSES: Send comments to: LCDR M. E. Bowman, JAGC, USN; Office of The General Counsel, National Security Agency, Fort George G. Meade, MD 20755.

FOR FURTHER INFORMATION CONTACT: LCDR M. E. Bowman, JAGC, USN; Office of The General Counsel; telephone: 301/688–8054.

SUPPLEMENTARY INFORMATION:

PART 299—PUBLIC ACCESS TO RECORDS

Therefore, Part 299 of Title 32, Code of Federal Regulations, is proposed to be amended by revising § 299.4(d) and § 299.6 to reads as follows:

§ 299.4 Procedures for request of records.

* * * * *

(d) Fees. The Chief, Office of Policy, will inform the requester of the estimated search and duplication fee, and will normally initiate the search upon receipt of the entire estimated fee. Upon completion of the search, the requester will be notified of the actual costs of the search. Should the estimated cost be greater than the actual cost, the difference will be refunded to the requester. In the case of under-payments, the requester will be requested to submit any balance due prior to further Agency action. If the unpaid balance is $30.00 or less, it will generally be forgiven. Fees will be computed in accordance with the Uniform Schedule of Fees promulgated by the Department of Defense. Fees paid in accordance with this paragraph must be paid by certified check or postal money order fowarded to the Chief, Office of Policy, and made payable to the Treasurer of the United States.

* — * * * *

§ 299.6 Effective date.

This Part shall become effective upon (date of final rule publication in the Federal Register.)

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

February 24, 1982.

[FR Doc. 82–5682 Filed 3–1–82; 8:45 am]

BILLING CODE 3810–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A–9–FRL–2062–7]

Designation of Areas for Air Quality Planning Purposes; California; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: On November 12, 1981 (46 FR 55722), EPA invited comments on certain California attainment status designations. Comments were received along with substantial support. documentation recommending that the designations for several areas be revised. The comment period for the previous extension expired February 16, 1982. In order to provide the State and other interested persons with an opportunity to examine and comment on the material received, EPA is extending the public comment period to March 17, 1982. Copies of this material are available for public inspection at the address below and at locations listed in the November 12 notice.

DATE: Comments are due on or before March 17, 1982.

ADDRESSES: Comments should be submitted to: Douglas Grano, Chief, State Implementation Plan Section, Air Programs Branch, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974–8222.

FOR FURTHER INFORMATION CONTACT: Doug Grano (415) 947–8222.

Dated: February 16, 1982.

Sonia F. Crow,

Regional Administrator.

[FR Doc. 82–5401 Filed 3–1–82; 8:45 am]

BILLING CODE 6560–38–M

40 CFR Parts 122, 123, 124, and 146

[WD-6-FRL 2064-1]

Oklahoma Department of Natural Resources Underground Injection Control; Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency has received a complete application from the Oklahoma State Department of Health requesting approval of its for Underground Injection Control Program; (2) the application is available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

This notice is required by the Safe Drinking Water Act as a part of the response to the States complying with the statutory requirement that there be an Underground Injection Control program in designated States.

The proposed comment period and public hearing will provide EPA the breadth of information and public opinion necessary either to approve, disapprove, or approve in part and disapprove in part the application from the Oklahoma State Department of Health to regulate Classes I, III, IV, and V injection wells.

DATES: Requests to present oral testimony should be filed by March 25, 1982; Public Hearing will be held on April 1, 1982 at 10:00 a.m. The Public Comment period closes April 8, 1982. Comments must be received by that date.

ADDRESSES: Comments and requests to testify may be mailed to Susan Stark, Ground Water Protection Section, Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas, 75270. Copies of the application and pertinent material are available between 9:00 a.m. and 4:00 p.m., Monday through Friday at the following locations:

Environmental Protection Agency, Region VI, Library, 26th Floor, 1201 Elm Street, Dallas, Texas 75270; (214) 767-7341.

Oklahoma State Department of Health, 1000 NE 10th Street, Room 803, Oklahoma City, Oklahoma 73152; (405) 271-5338.

The Hearing will be held in the Sequoyah Auditorium, State Capital Complex, Oklahoma City, Oklahoma.

FOR FURTHER INFORMATION CONTACT: Susan Stark, Ground Water Protection Section, Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2774. Comments should also be sent to this address.

SUPPLEMENTARY INFORMATION: This application from the Oklahoma State Department of Health is for the regulation of all Class I, III, IV, and V injection wells in the State. Class II oil and natural gas related injection wells are regulated by the Oklahoma Corporation Commission. The application includes a description of the State Underground Injection Control program, copies of all applicable rules and forms, a statement of legal authority, and a memorandum of agreement between the Oklahoma State Department of Health and the Region VI office of the Environmental Protection Agency.

Dated: February 24, 1982.

Bruce R. Barrett,

Acting Assistant Administrator for Water.

[FR Doc. 82-5510 Filed 3-1-82; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-817; RM-3954]

FM Broadcast Station in Pukalani, Hawaii; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Channel 252A to Pukalani, Hawaii, as a first FM channel, in response to a petition filed by Ethnic Minorities Broadcasting.

DATE: Comments must be filed on or before April 15, 1982 and reply comments on or before April 30, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: November 18, 1981.

Released: November 23, 1981.

1. The Commission herein considers a petition for rule making,[1] filed by Ethnic Minorities Broadcasting ("petitioner"), proposing the assignment of FM Channel 244A on a hyphenated basis to the communities of Kula and Pukalani, Hawaii.[2] Petitioner stated its intent to apply for the channel, if assigned. Opposing comments were filed by Maui Broadcasting Corporation,[3] to which the petitioner responded.

2. Kula (population not listed) on the Island of Maui (population 70,847),[4] is located on the slopes of Mt. Haleakala. Pukalani (population 1,629)[5] is also located on the Island of Maui approximately 160 kilometers (100 miles) east of Honolulu. Neither Kula nor Pukalani has any local aural service.

3. Petitioner states that Kula's major industry is agriculture, with pineapple and sugar plantations dominating the area, and that it is rapidly growing as a commercial and business center. Pukalani is the area's commercial hub, providing banking facilities, and other services. According to the petitioner, both communities have experienced explosive growth, which is projected to continue. Petitioner also claims that Kula-Pukalani needs a station which would serve the problems, needs and interests of the communities.

4. Maui Broadcasting in opposition to the proposal argues that for more than two years it has operated a translator on Channel 244A for its principal station, KAOI. The translator station is located 10 miles from the petitioner's proposed site, which would result in intolerable interference. Maui contends that considerable sums have been spent on its translator facility, and should there be another station authorized at Kula-Pukalani on Channel 244A, it would be required to spend additional funds for a frequency change. Maui requests the Commission to consider two options: (1) Condition the grant of Channel 244A to Kula-Pukalani, upon reimbursement of all reasonable expenditures incurred by the channel change or (2) direct the petitioner to specify another channel.

5. Petitioner, in reply comments, argues that Maui's opposition is predicated solely on interference to its translator station from the proposed assignment. Citing FM *Channel Assignments* 46 RR 2d 1628 (Broadcast Bureau 1981). Petitioner urges the Commission to deny the opposition's request for reimbursement and instead specify an alternate translator channel.

[1] *Public Notice* of the petition was given on August 7, 1981, Report No. 1303.

[2] The distance between Kula and Pukalani is 10 kilometers (6 miles).

[3] Maui Broadcasting Corp. is the licensee of FM Station KAOI, Wailuku, Maui, Hawaii.

[4] Population figures are taken from the 1980 U.S. Census unless otherwise indicated.

[5] This population figure is taken from the 1970 U.S. Census since the preliminary 1980 U.S. Census presently lists only incorporated communities.

6. Translators are licensed on a secondary basis and are not protected against interference under § 74.1203(a) from a regular broadcast station. However, Channel 252A is available for assignment to Kula or Pukalani as an alternative and we see no reason to cause unnecessary expense and inconvenience to the translator licensee even though there is no obligation to protect the translator station.

7. The petitioner requested the assignment to Kula-Pukalani on a hyphenated basis. Hyphenation is a tool we use very sparingly with regard to FM assignments. We have done so only where it appeared that the communities should be treated as one, due to their proximity, social, cultural, trade and economic interests. Petitioner provides no argument for doing so in this case. We have chosen Pukalani as the community to propose for assignment since it appears to be the larger of the two communities. In any event, the channel would be available for use at the other community under the provisions of the "10-mile rule," § 73.203(b) of the Commission's rules.

8. In view of the foregoing, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules as follows:

City	Channel No.	
	Present	Proposed
Pukalani, Hawaii		252A

9. The Commission's authority to institute rule making proceedings, showings, required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Interested parties may file comments on or before April 15, 1982 and reply comments on or before April 30, 1982.

11. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

12. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contract is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of §1.420 of the Commission's rules and regulatons, an orignial and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 82-5507 Filed 3-1-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-109; RM-3913]

FM Broadcast Station in Morgan City, Louisiana; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the substitution of Class C FM (Channel 243 for Channel 244A at Morgan City, Louisiana, and modification of the Class A license accordingly, in response to a petition filed by the licensee, Tri City Broadcasting, Inc.

DATES: Comments must be filed on or before April 12, 1982, and reply comments on or before April 26, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: February 16, 1982.

Released: February 25, 1982.

1. The Commission herein considers a petition for rule making filed by Tri City Broadcasting, Inc. ("petitioner"),[1] which seeks to substitute Class C FM Channel 243 for Channel 244A at Morgan City, Louisiana, and modify the license for

[1] Tri City Broadcasting, Inc. is the licensee of Stations KMRC(AM) and KFXY(FM), Morgan City, Louisiana.

Station KFXY from Channel 244A to specify operation on Channel 243.

2. Morgan City (population 16,586),[2] in St. Mary Parish (population 60,752) is located approximately 112 kilometers (70 miles) southwest of New Orleans, Louisiana. It is served locally by daytime only AM Station KMRC and FM Station KFXY (Channel 244A).

3. The petitioner states that Channel 244A was allocated to Morgan City in 1963, as a part of the Commission's overall revision of the FM rules.[3] Morgan City's population has increased more than 66 percent from 1963 to 1980, and due to the petroleum industry located along the Gulf Coast, the community is said to be experiencing substantial economic growth. Therefore, its present facilities are no longer adequate to provide quality broadcast service according to the petitioner.

4. According to the information submitted by the petitioner, the substitution of channels will cause preclusion on Channel 244A in two small areas of Louisiana, both of which have no significant population centers. However, except for Channel 244A, petitioner did not mention adjacent channel preclusion. In comments to this proposal, it is requested to submit a listing of the communities with a population greater than 1,000 precluded by the proposed assignment and their adjacent channels, and whether alternate channels are available to those communities.

5. We feel that the petitioner has demonstrated the need for a Class C assignment at Morgan City, inasmuch as it would provide expanded service to the outlying area. While no *Roanoke Rapids/Anamosa* showing was submitted, the petitioner states that the substitution of a Class C for a Class A channel would increase the station's 60 dBu contour over land by some 2,500 square miles, providing additional service to 1.3 million persons.

6. In accordance with our established policy, we shall propose to modify the license of Station KFXY (Channel 244A) to specify operation on Channel 243. However, should another party indicate an interest in the Class C assignment, then the modification could not be implemented. See *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976). Instead, if the channel is assigned, an opportunity for the filing of a competing application must be provided.

7. In view of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, as it pertains to Morgan City, Louisiana, as follows:

City	Channel No.	
	Present	Proposed
Morgan City, Louisiana	244A	243

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before April 12, 1982, and reply comments on or before April 26, 1982.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 Stat., as amended 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-5503 Filed 3-1-82; 8:45 am]

BILLING CODE 6712-01-M

[2] Population figures are taken from the 1980 U.S. Census.

[3] See *Revision of FM Broadcast Rules, Particularly as to Allocation and Technical Standards*, 40 F.C.C. 747 (1963).

47 CFR Part 73

[BC Docket No. 82-38; RM-3982]

FM Broadcast Station in Volga, South Dakota; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 272A to Volga, South Dakota, in response to a petition filed by Dakota-North Plains Corp. The assignment could provide Volga with a first FM service.

DATES: Comments must be filed on or before April 15, 1982, and reply comments must be filed on or before April 30, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 26, 1982.
Released: February 3, 1982.

1. Dakota-North Plains Corp. ("petitioner"), licensee of AM Station KVAA, Volga, South Dakota, has filed a petition for rule making[1] seeking assignment of Channel 272A to Volga, as that community's first FM assignment. Petitioner states that it will apply for the channel, if assigned. No oppositions to the proposal have been filed, and the channel could be assigned consistent with the minimum distance separation requirements of § 73.207 of the Commission's rules.

2. Volga (population 1,221), [2] in Brookings County (population 24,332), is located approximately 88 kilometers (55 miles) north of Sioux Falls, South Dakota. It is currently served by full-time AM Station KVAA.

3. Throughout its petition, petitioner has supplied demographic information for "Volga-Brookings," South Dakota. However, since the instant rule making proposal is for the specific community of Volga, we have set forth such data as it pertains only to Volga.

4. According to petitioner, Volga is part of an important regional transportation center. Because of the multiplicity of available transportation services, there is a constant influx of individuals into the area, whose presence, according to petitioner, enhances the community's need for an additional radio outlet. Petitioner states that an area university, real estate and financial institutions generate steady activity on civic, cultural, and commercial levels in Volga. Further, petitioner advises that Volga has its own government structure and educational facilities. In addition to the one aural facility licensed to Volga, information is provided to the community through several daily and weekly news publications.

5. Although petitioner submitted an engineering study indicating the preclusive effect that the proposed assignment of Channel 272A to Volga, South Dakota, would have on certain surrounding communities, we need not consider such impact with respect to a request for a first Class A channel allocation to a community that is removed from large population centers. See, *Policy Statement To Govern Requests for Additional Assignments*, 8 F.C.C. 2d 79 (1967).

6. In view of the fact that the proposed FM channel assignment would provide Volga with a first FM and a second nighttime aural broadcast service, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, as follows:

City	Channel No.	
	Present	Proposed
Volga, South Dakota		272A

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before April 15, 1982, and reply comments on or before April 30, 1982.

9. The Commission has determined that the relevant Provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table af Assignments, § 73.202(b) of the Commission's rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, published February 9, 1981.

10. For further information concerning this proceeding, contact Nancy V. Joyner, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commmission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or

[1] *Public Notice* of the petition was given October 22, 1981, Report No. 1314.

[2] Population figures are derived from the 1980 U.S. Census, Advance Reports.

persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 82-5586 Filed 3-1-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-110; RM-4012]

FM Broadcast Station in Goldendale, Washington; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of FM Channel 272A to Goldendale, Washington, in response to a petition filed by Klickitat Valley Broadcasting Service. The proposed assignment could provide Goldendale with a first local FM service.

DATES: Comments must be filed on or before April 12, 1982, and reply comments on or before April 26, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: February 16, 1982.

Released: February 25, 1982.

1. A petition for rule making was filed by Klickitat Valley Broadcasting Service ("petitioner"), requesting the assignment of Channel 240A to Goldendale, Washington,[1] as its first FM assignment.

[1] Petitioner requested the assignement of Channel 240A to Goldendale, Washington, which was short-spaced to pending applications for Channel 241 at Olympia, Washington. One of the applications specifies a site which would require a site restriction of 6.3 miles southeast of Goldendale which would not be adequate to provide a 70 dBu over Goldendale. Therefore, to avoid any problems, we have substituted Channel 272A for consideration here.

required due to Station KPQF in Wenatchee, Washington. Petitioner stated its intent to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Goldendale (population 3,414),[2] seat of Klickitat County (population 15,822), is located near the Washington-Oregon border, approximately 224 kilometers (140 miles) southeast of Seattle, Washington. It has no local broadcast service.

3. According to the petitioner, Goldendale's 1980 population figures showed an increase of 37 percent (3,414) over the 1970 population (2,484), and the projected population figures for the year 1985 is 5,300. Petitioner states that an aluminum plant is the primary employer for the area, and that local government, lumbering and agriculture also supports the economy. It contends that Goldendale, Klickitat County's largest city, has a need for a local broadcast outlet and for a local news source that cannot be adequately provided by its weekly newspaper.

4. In view of the apparent need for a first local FM service to Goldendale, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to Goldendale, Washington, as follows:

City	Channel No.	
	Present	Proposed
Goldendale, Washington		272A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE. A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before April 12, 1982, and reply comments on or before April 26, 1982.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[2] Population figures are taken from the 1980 U.S. Census.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of the proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations,

interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc 82-5584 Filed 3-1-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-111; RM-3978 and RM-4010]

FM Broadcast Station Lost Cabin, Wyoming; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of FM Channel 256 to Lost Cabin, Wyoming, in response to separate petitions filed by John S. Tyler and by Roy L. Bliss. The proposal could provide a first local broadcast service to Lost Cabin.

DATES: Comments must be filed on or before April 12, 1982, and reply comments on or before April 26, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: February 16, 1982.

Released: February 25, 1982.

1. The Commission herein considers two separate petitions for rule making. The first was filed by John S. Tyler ("petitioner"), proposing the assignment of Class C FM Channel 256 to Lost Cabin, Wyoming. The second was filed by Roy L. Bliss ("petitioner"), proposing the assignment of Class C FM Channel 287 to Lost Cabin, Wyoming.[1] Either proposal would provide a first FM service to Lost Cabin. Both petitioners stated their intent to apply for his requested channel, if assigned. No oppositions to the proposals were received.

2. Lost Cabin (population not listed), in Fremont County (population 40,251),[2] is located in the mountain country of Wyoming, near the center of the State. It is without local broadcast service.

3. The petitioners state that the rural area is rich in minerals, oils, gas, iron ore and uranium, and that there is marketing of major agricultural products. Petitioners, however, failed to provide information concerning the needs of Lost Cabin for broadcast service. Petitioners are requested to furnish additional economic and demographic information to demonstrate the need for a first FM assignment to Lost Cabin. Additionally, they are requested to submit a recent population estimate for the community of Lost Cabin.

4. While neither petitioner submitted a preclusion study, each did state that no community would be precluded by the proposed assignment since numerous Class A and Class C channels are available throughout the region. In the absence of a *Roanoke Rapids/Anamosa* showing, Tyler stated that the proposed assignment of Channel 256 to Lost Cabin will provide substantial first and second service to the area. In comments to this proposal either party may submit information to support his assertion, since we do not generally assign high powered Class C channels to small communities.[3] We shall propose one Class C assignment since no justification for two channel assignments has been attempted.

5. In view of the first local broadcast service that could be provided to Lost Cabin, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the rules, as it relates to Lost Cabin, Wyoming, as follows:

City	Channel No.	
	Present	Proposed
Lost Cabin, Wyoming		256

6. The Commission's authority to institute rule making proceedings,

[1] Public Notice of the petition was given on October 22, 1981, Report No. 1314.

[2] Population figures are taken from the 1980 U.S. Census.

[3] We do not know whether either petitioner is aware of the other's request. However, each used the same engineering firm and the information submitted is almost exactly the same.

showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before April 12, 1982, and reply comments on or before April 26, 1982.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do No Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station

promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceedings will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 82-5585 Filed 3-1-82; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 97

[PR Docket No. 82-83; RM-3705, RM-3729, RM-3734, RM-3778, RM-3831, RM-3833, RM-3860; FCC 82-73]

Expansion of the Telephony Segments of the High Frequency Amateur Radio Service Bands

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry and proposed rule.

SUMMARY: The Commission proposes to make additional segments of the 14 MHz amateur band available for telephony operation. The Commission is also inquiring about making additional segments available for telephony operation in the other high frequency (HF) amateur bands (those amateur bands between 3 and 30 MHz). Congestion on the frequencies currently authorized for telephony use is causing the employment of this mode to become increasingly difficult. The proposed rules revision would help alleviate this situation in the 14 MHz band. The inquiry looks towards finding a suitable set of frequencies for telephony expansion in the other HF amateur bands.

DATES: File comments on or before July 1, 1982, and reply comments on or before August 2, 1982.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Steve Lett, Private Radio Bureau, (202) 632-7597.

SUPPLEMENTARY INFORMATION:

Adopted: February 11, 1982.
Released: February 24, 1982.

Introduction

1. Notice of Inquiry and Proposed Rule Making in the above-entitled matter is hereby given.

2. The Commission has before it at this time seven petitions for rule making which request that the Amateur Radio Service Rules (Part 97) be amended by provide for the use of telephony operation (emission types A3 and F3) on additional portions of the amateur high frequency (HF) bands—the bands between 3 and 30 MHz. Six of the petitions propose some particular portion of certain bands for additional telephony authorization. Four of the petitions propose that additional telephony privileges be divided among or limited to certain operator classes. The petitions are described in the following paragraphs.

3. RM–3705, submitted by Philip Galasso and received by the Commission on 18, 1980, requests that the frequencies 3750–3775 kHz, 7050–7100 kHz, 14100–14200 kHz, 21200–21250 kHz and 28200–28500 kHz be added to those authorized for telephony in the United States. It further requests that these additional telephony privileges only be granted to Amateur Extra Class operators and that power input during such operation be limited to 250 watts. The petition claims that expansion of frequencies for telephony operation is warranted due to congestion on the currently authorized telephony subbands and under-utilization by U.S. stations of the frequencies proposed for expansion. Lack of use by U.S. amateurs is attributed to incompatibility between telegraphy operation currently authorized for U.S. stations and telephony operation in common use by foreign stations. Operator class and power restrictions are requested by the petition to help ". . . assure minimum interference to the existing radiotelephone users of these frequencies. . . ."

4. RM–3729, submitted by David Novoa and received by the Commission on June 30, 1980, requests that the frequencies 7075–7100 kHz and 14175–14200 kHz be allocated for exclusive use by Amateur Extra Class licensees and that telephony operation be authorized on these frequencies. This petition also cites crowding on existing telephony subbands and incompatibility of domestic telegraphy operations with foreign telephony operations as reasons for expanding the telephony subbands. The petition further claims that protection for foreign amateurs from powerful U.S. stations is no longer necessary and that foreign stations, in fact, favor a subband expansion which would enable them to engage in an exchange of telephony communications with U.S. stations on a single frequency.

5. RM–3734, submitted by James Simon and William Bennett and received by the Commission on August 1, 1980, requests that the frequencies 3750–3775 kHz, 7050–7150 kHz, 14100–14200 kHz, 21200–21250 kHz and 28400–28500 kHz be made available for telephony use by U.S. amateurs. This petition again cites overcrowding on currently authorized telephony subbands and lack of further need for protection of foreign stations as reasons for its request.

6. RM–3778, submitted for the Willamette Valley DX Club by Robert Herndon and received by the Commission on October 7, 1980, requests that the frequencies 3750–3775 kHz, 7050–7100 kHz, 14100–14200 kHz, 21200–21250 kHz and 28400–28500 kHz be authorized for telephony operation since, it contends, "the United States no longer has the dominant amateur population and there is little reason to think that the expansion of U.S. amateur (telephony) privileges into previously reserved frequencies will result in undue hardship on foreign amateurs." The expansion is necessary, it claims, to relieve congestion on currently authorized telephony subbands.

7. RM–3831, submitted by Ronald Kramer and received by the Commission on November 7, 1980, petitions the Commission to increase the portion of each amateur frequency band between 1.8 and 30 MHz available for voice (telephony) communication and correspondingly decrease the portion of each band available for telegraphy communications. The petition claims this is necessary since the telephony mode is becoming increasingly popular.

8. RM–3833, submitted by Fred Huntley and received by the Commission on January 13, 1981, requests that "Extra Class Amateur Radio licensees be granted radiotelephone operation privileges between 7.100 and 7.150 MHz" and that "(s)uch operation be authorized a maximum power input of 250 watts." The petition proposes that this additional operation be on a shared basis with existing Novice class operations. Relief of congestion and interference on the existing telephony segment of that band is cited as necessitating this action.

9. RM–3860, submitted by the American Radio Relay League (ARRL) and received by the Commission on March 9, 1981, requests that the frequencies 14150–14200 kHz be added to those authorized for telephony use and that operator privileges on the revised telephony portions of the 14 MHz band be changed to the following: 14150–14175 kHz, Amateur Extra Class only; 14175–14225 kHz, Amateur Extra and Advanced Classes; 14225–14350 kHz, Amateur Extra, Advanced and General Classes. The petition cites growing congestion in the present telephony subbands as warranting expansion of the subbands. The operator privilege changes are proposed by the petition in the interest of lessening the impact of telephony subband expansion on foreign amateur operations.

Background

10. The Commission has traditionally designated particular portions of the heavily used HF amateur frequency bands for operation using certain emission modes, while only permitting other modes on different portions of the bands. These designations have served to segregate incompatible operating modes. Since the early days of radio, simultaneous use of incompatible modes on the same frequencies has worked to the mutual detriment of communications using all modes. Placing certain emission modes on different frequencies avoids this type of interference and has the further beneficial effect of indicating to amateur operators where, in the amateur bands, to seek out certain forms of operation.

11. The subband allocations [1] have also been arranged to protect international amateur radio operations. Foreign operators have consistently, in the past, objected to expansion of U.S. subbands for increasingly popular, wide bandwidth emissions such as telephony.[2] They have claimed that such an expansion would create a situation where high powered U.S. stations would overrun low power foreign stations and effectively prohibit the foreign stations from using those bands.

12. Protection of foreign stations has also benefited U.S. operators desiring to contact them using telephony. The U.S. operator can listen for the foreign stations in a portion of the band where strong U.S. signals are not present [3] and then reply on frequencies within the U.S. telephony subbands. The foreign operators then listen for the U.S. stations in the U.S. telephony subbands.[4]

13. Current regulations permit emission type A1 Morse telegraphy operation on all amateur radio frequencies. This unique universal authorization for that mode results from its character as an efficient and widely recognized communications language that can be employed with the simplest type of equipment. In the amateur 160 meter band (1800–2000 kHz) type A3 telephony operation is currently permitted on all frequencies. In all HF amateur bands roughly half of the band may be used for A3 or F3 telephony emissions. The limitations on telephony operation in most of the HF bands were instituted in order to prevent such operation from overwhelming telegraphy operations as well as to protect international operations. Type F1 digitally coded emissions (radioteletype) are permitted in all portions of the HF bands where telephony operation is not permitted since this type of operation is more harmonious with type A1 operation. The only other modes permitted on the HF bands, emission types A5 and F5 "slow-scan" television operation and emission types A4 and F4 facsimile operation, require a bandwidth approximately equivalent to telephony operation and consequently are permitted in the telephony subbands.[5] This current state of subband allocation in the HF amateur bands is the result of the Report and Order in the last proceeding dealing with expansion of the telephony subbands.[6]

14. Small portions of the various subband allocations are reserved for Amateur Extra Class and Advanced Class licensees. These portions were set aside to help provide an incentive for amateurs to upgrade their license operator class. This program of reserved operator privileges resulted from the proceeding dealing with incentive licensing and distinctive call signs.[7]

Proposal

15. The Commission proposes to expand telephony privileges in the 14 MHz amateur band by adding the frequencies 14150–14200 kHz to those currently authorized for such use. We feel this action is warranted due to the extreme congestion experienced by amateurs on the existing 14200–14350 kHz telephony subband. Although the various petitions' requests ranged from a subband that would start as low as 14100 kHz and extend to 14350 kHz, to a subband that would start as high as 14175 kHz and extend to 14350 kHz, we have selected a starting point of 14150 kHz to propose as a compromise between competing objectives. We anticipate that our proposal would provide substantial relief to the current overcrowding in the 14 MHz telephony subband while causing only a minimal disturbance to international operations. The increasing sophistication of equipment used by both foreign and domestic amateur operators leads us to believe that foreign stations should not experience undue interference from U.S. operations and that U.S. amateurs attempting to contact foreign stations should have less difficulty using single frequency operation (as opposed to "split operation") than they have had in the past. We propose retaining the frequencies 14100–14150 kHz for traditional weak signal and other

[1] The term "subband" is popularly used to describe a segment of a frequency band where authorized modes of emission or authorized operator class privileges are different from those in other portions of the same band. This term is used throughout the text for the sake of clarity.

[2] Depending on the specific emission mode employed, telephony operations in the HF amateur bands occupy a bandwidth roughly between 3 kHz and 7kHz. The more popular telephony modes in use today (principally A3J single sideband) occupy somewhat less than 4 kHz. On the other hand, telegraphy emissions used in the HF bands (both A1 and F1 types) occupy less than 1 kHz.

[3] This portion of a band, where domestic telephony operation is not permitted and where operators listen for foreign stations to contact, is commonly known as the "DX window."

[4] This form of operation where an amateur transmits to a station on one frequency and listens for the station's reply on another frequency is commonly known as "split frequency operation."

[5] Authorization of emission types A5 and F5 "slow-scan" television operation, along with types A4 and F4 facsimile operation, in entire HF telephony subbands was the subject of the proceeding in PR Docket 80-252. See Report and Order, 47 FR 2672, January 20, 1982.

[6] Report and Order in Docket 19162, 37 FR 21328, October 7, 1972.

[7] Report and Order in Docket 15928, 32 FR 12662, September 1, 1967.

international operations by not changing the modes authorized on those frequencies.

16. Since we do not anticipate a significant detrimental impact on international operations from our proposal, and since we desire to provide the maximum relief possible from the current overcrowding, we propose to make all of the additional telephony subband frequencies available to Amateur Extra Class, Advanced Class and General Class operators. To this end, we have specifically proposed to not change any of the operator privileges. However, we invite comments as to whether it would be desirable to delete from General Class operators the privileges between 14150 kHz and 14200 kHz, and instead, add privileges between 14225 kHz and 14275 kHz to those authorized for General Class operators. In this way, the telephony subbands available to General Class operators will be contiguous. Also, consistent with our action in PR Docket 80–252 to permit the use of television and facsimile on most portions of the HF bands where telephony is permitted, we propose to include the use of type A4, A5, F4 and F5 emissions in the new 14150–14200 kHz subband allocation. We are not proposing a stricter power limitation for the additional subband allocation since we do not feel this would make any significant contribution toward avoiding interference.

Inquiry

17. The 14 MHz amateur band has one of the two smallest telephony subband allocations and is, perhaps, the most popular HF amateur band due to its reliability for long distance communications. Because of these factors, we believe that crowding on this band is severe enough to transcend much of the controversy surrounding telephony subband expansion, and for this reason we have set forth a specific proposal for that band. However, we are not proposing expansion of any of the other telephony subbands between 3.5 and 29.7 MHz because we feel the issues involved are too inadequately defined for us to commit ourselves to any particular course of action. Instead, we invite the submission of comments and supporting information with which these issues may be clarified. The Commission recognizes that the existing telephony subbands are often seriously overcrowded. However, we request commenters to weigh the magnitude of this problem against the issues addressed in the following questions:

A. Would expansion of the telephony subbands have a major detrimental impact on domestic telegraphy operations?

B. Do non-U.S. stations still have a legitimate requirement to be protected, on some frequencies, from U.S. telephony operations?

C. Does the current trend toward the use of transceivers (with a common transmit and receive tuner) make the reservation of frequencies suitable for contacting foreign stations using "split operation" unnecessary or undesirable?

D. Should additional subband allocations for telephony be contiguous with the existing telephony subbands?

E. Would it be appropriate to relocate the existing Novice subbands to new frequencies within the same HF bands in order to make a telephony subband expansion more orderly?

F. Are the current exclusive subbands for Amateur Extra and Advanced Class operators sufficient to meet the goals of our incentive licensing program if all additional telephony frequencies are authorized to General as well as Amateur Extra and Advanced Class operators?

G. How should the recent expansion of the Canadian telephony subband in the 7 Mhz band influence proposals for a U.S. telephony expansion in the same band?

18. We also encourage commenters to make specific recommendations as to what frequencies would be best suited to use for additional telephony privileges and the relative occupancy of those frequencies. Comments about related matters not explicitly mentioned above are also invited.

Conclusion

19. Notice is hereby given that it is proposed to amend 47 CFR Part 97 in accordance with the proposals set forth in the attached Appendix. Notice is also given of inquiry into the matter discussed above.

Procedural Matters

20. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contracts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's rules, 47 CFR 1.1231. A summary of the Commission's procedures governing *ex parte* contacts in informal rule makings is available from the Commission's Consumer Assistance Office, FCC, Washington, DC 20554, (202) 632–7000.

21. Authority for issuance of this Notice is contained in Sections 4(i), 303(r) and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r) and 403. Pursuant to applicable procedures set forth in Section 1.415 of the Commission's Rules, interested persons may file comments on or before July 1, 1982, and reply comments on or before August 2, 1982. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information, is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

22. In accordance with § 1.419 of the Commission's rules, 47 CFR 1.419, formal participants must file an original and five copies of their comments and other materials. Participants who wish each Commissioner to have a personal copy of their comments should file an original and eleven copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, DC.

23. The Commission has determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) do not apply to this rule making proceeding since the proposed rules would only change operating practice. These changes would not compel amateur operators to purchase new equipment and consequently would have no significant economic impact on them or any small businesses, small organizations or small governmental jurisdictions.

24. It is ordered that the Secretary shall cause a copy of this Notice to be served upon the Chief Counsel for Advocacy of the Small Business Administration and that the Secretary shall also cause a copy of this Notice to be published in the Federal Register.

25. For further information on this proceeding contact Steve Lett, Federal Communications Commission, Private Radio Bureau, Washington, DC 20554, (202) 632–7597.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 97—AMATEUR RADIO SERVICE

It is proposed that paragraph (a) of § 97.61 of the Commission's Rules and Regulations, 47 CFR 97.61, be amended as follows:

In the table in that paragraph, the row beginning with "14200–14350 (kHz)" would be revised by beginning the row with "14150–14350 (kHz)" so that the entire row reads as follows:

* * * * *

14150–14350 ..... A3, A4, A5, F3, F4, F5.

§ 97.61 [Amended]

[FR Doc. 82-6087 Filed 3-1-82; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1310

[No. 36135]

Rules Governing Publication of Exceptions Ratings Higher Than Classification Ratings; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking; notice of granting of replies; correction.

SUMMARY: At 47 FR 7294, February 18, 1982, the Commission published a notice granted a request for the filing of replies to comments in this proceeding, in which the Commission sought comments on the merits of a petition seeking the removal of 49 CFR 1310.7(r), and on the merits of modifying rather than removing the paragraph. That notice contained several errors, which are corrected as shown below:

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr. or Jane F. Mackall, 202–275–7656.

SUPPLEMENTARY INFORMATION: FR Doc. 82–4314 is corrected as follows:

(1) Change the date replies are due from May 16 to May 6, 1982.

(2) Change the date for filing comments mentioned in the Supplementary Information from April 16 to April 6, 1982; and

(3) Change the date for filing replies mentioned in the Supplementary Information from May 17 to May 6, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5804 Filed 3-1-82; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1137

[Ex Parte No. MC–142 (Sub–2)]

Freight Forwarder Restrictions

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Consistent with the appellate decision in No. FF–416 (Sub-No. 2)X, *Imperial Carriers, Inc.—Commodity and Territorial Broadening,* (not printed), served November 30, 1981, the Interstate Commerce Commission is proposing to amend its restriction removal rules to enable freight forwarders to remove operating restrictions from their permits pursuant to the restriction removal rules promulgated in Ex Parte No. MC–142 (Sub–No. 1). In the Commission's view, application of the restriction removal rules to freight forwarder permits ultimately would enable freight forwarders to provide more efficient services to a greater segment of the shipping public.

DATES: Comments are due on or before April 16, 1982. The Commission expects to issue its final decision in this proceeding within 90 days after Federal Register publication.

ADDRESS: The original and, if possible, 15 copies of comments should be sent to: Room 5316, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Robin K. Williams, (202) 275–1671.

SUPPLEMENTAL INFORMATION: Congress, in enacting Section 6 of the Motor Carrier Act 1980 [49 U.S.C. 10922(h)(1)(B)] instructed the Commission to provide for the expeditious removal of restrictions from motor carrier certificates and permits and for the broadening of narrowly drawn authorities. These statutory directives were not detailed, but clearly gave the Commission a significant amount of discretion in the procedures to be established and the substantive decisions to be made under them. In response to this mandate, the Commission in its decision of December 19, 1980, promulgated rules in Ex Parte No. MC–142 (Sub-No. 1), *Removal of Restrictions from Authorities of Motor Carriers of Property,* 132 M.C.C. 374 (1980) (45 FR 86747, December 31, 1980).

Subsequently, freight forwarders made application under these procedures to remove restrictions from their permits. The Commission's Restriction Removal Board, in an initial decision, found that the rules implemented in Ex Parte No. MC–142 (Sub-No. 1) *supra* could be applied to freight forwarders. *See* No. FF–416 (Sub-No. 2)X, *Imperial Carriers, Inc.—Commodity and Territorial Broadening,* (not printed) served July 1, 1981. The Board determined that the similarities in the regulatory treatment of freight forwarders and motor carriers of property and the statutes which specifically authorize the Commission to prescribe the conditions under which a freight forwarder must operate, as well as the legislative history of Section 6 of the Motor Carrier Act of 1980, permitted application of the restriction removal rules to freight forwarders.

On appeal the entire Commission, acting as an appellate body, disagreed. In its decision served November 30, 1981, the Commission concluded that the existing restriction removal rules could not be interpreted to allow for the removal of restrictions from freight forwarder permits. While recognizing the close operational relationship

between motor carriers and freight forwarders, the Commission found that the express language of the restriction removal rules and the lack of public notice in the proposed rulemaking for Ex Parte No. MC–142 (Sub-No. 1) *supra*, 132 M.C.C. 114 (1980), precluded freight forwarders from using the existing restriction removal procedures. The Commission concluded, however, that the public notice problem could be cured by implementing a rulemaking proceeding to include freight forwarders within the ambit of the restriction removal rules. Threrefore, we are instituting this proceeding for the solicitation of comments from freight forwarders, motor carriers, shippers, and other interested parties as to whether we should amend the restriction removal rules to afford freight forwarders access to the procedures for reformations of authority as contemplated by 49 U.S.C. 10922(h)(B)(i).

Background

Congress passed the Motor Carrier Act of 1980 (Pub. L. 96–289) with the intention of reducing unnecessary regulation of motor carriers. In enacting the provision for the removal of restrictions on certificates and permits of motor carriers of property, Congress submitted reasons why broadening authorities is in the public interest:

> The Committee believes that many of these restrictions serve little or no public purpose. Further, they often result in operating inefficiencies and wasted fuel which can mean inflated transportation costs to the ultimate consumer. H.R. Rept. No. 96–1069, 96th Cong., 2d. Sess. at 6.

While Congress did not specifically include freight forwarders in Section 6 of the Motor Carrier Act, there is no indication in the Act or its legislative history that Congress intended to preclude the Commission from allowing forwarders to use procedures to broaden their authorities. Rather, it appears that Congress simply addressed the primary area where reform seemed most needed. The Act, however, did make specific modifications in the regulatory treatment of freight forwarders in that it expanded the common carrier status of forwarders by enabling them to contract with rail carriers or water carriers for the arrangement of joint rates and through routes. See 49 U.S.C. 10703 and *Freight Forwarder Contract Rates—Imp. of Pub. L. 96–296*, 364 I.C.C. 413 (1980). The legislative history of section 10703 [1] makes it apparent that freight forwarders are to be considered common carriers. The history also indicates that the contemplated contracts are negotiated arrangements between common carriers relative to a mutual understanding, and that intermodalism is to be fostered.

In the absence of express legislative language, we believe that the close operational relationship between motor carriers and frieght forwarders gives rise to a presumption that the removal of restrictions in freight forwarder permits would be consistent with the tenor and purpose of Congress' most recent expressions in the area of transportation regulation. More specifically, the National Transportation Policy itself seems to encourage such a result, as we are under a mandate to preserve the inherent advantages of each mode of transportation as well as to promote economical and efficient transportation and to encourage reasonable rates for transportation without unreasonable discrimination or unfair competitive practices. See 49 U.S.C. 10101(a). The Congress has already given freight forwarders more flexibility by permitting them to contract with rail and other common carriers for the arrangement of joint rates and through routes. With this in mind, we conclude that allowing forwarders greater freedom to broaden the scope of their permits is consonant with the Congressional intent in enacting the Motor Carrier Act of 1980.

Finally, it would be an anomaly to allow motor carriers to broaden their authorities pursuant to the simplified procedures in 49 CFR 1137, but not to allow freight forwarders, a major group of users of motor carrier service, similarly to broaden their respective authorities. This appears to be a particularly discriminatory policy when on considers that the statute imposes on forwarders the same basic duties and responsibilities as those of motor common carriers subject to the act. Further, the phrasing of grants of authority and the type of restrictions imposed in freight forwarder permits correspond precisely to those in the authorities held by motor carriers of property. Inasmuch as Congress has declared the policy of granting narrowly drawn and restrictive authorities to be outmoded, we believe that equity requires that the benefits should accrue to all those carriers which were adversely affected by the archaic regulatory philosophy. Similarly, in our view, a failure to accord similar treatment to freight forwarders in the removal of operating restrictions could hinder their ability to obtain carriers to provide the underlying line-haul transportation.

A freight forwarder is a hybrid creature, being a consumer of motor carrier service as well as a competitor with motor carrier services, particularly where movements of small shipments are involved. Congress has plainly emphasized its intention to promote competition [2] and efficient transportation services in order to meet the needs of shippers, as well as to foster intermodal transportation. Accordingly, we are of the opinion that by removing certain operating restrictions from their permits, freight forwarders will be better able to facilitate more flexibility in the operations between themselves and motor carriers. Further, we believe that allowing freight forwarders greater freedom to select different transportation modes will not only promote congressional goals of intermodalism, but will also result in a more efficient and cost effective transportation service for the public. Thus, in our view, application of the restriction removal rules to freight forwarder permits ultimately will enable freight forwarders to provide more efficient services to a greater segment of the shipping public.

We believe the policy considerations which would allow us to include freight forwarders within the parameters of the restriction removal rules also would enable us to dispense with the requirement that in order to broaden their authorities forwarders must demonstrate their fitness and establish an evidentiary need for the proposed service. This also would be consistent with the existing restriction removal provisions relating to motor carrier applications.

[1] H. Rept. 96–1069, 96th Cong., 2d. Sess. (1980), House Comm. on Public Works and Transportation, Motor Carrier Act of 1980, report together with additional and minority views. It states at page 34:

> Subsection (h) amends section 10703(a)(4) by adding a new subparagraph. New subparagraph (E) permits freight forwarders to enter contracts with rail carriers or with water carriers providing transportation subject to the Shipping Act, 1916, or the Intercoastal Shipping Act. The Commission would have 180 days to promulgate regulations implementing the provisions of this subparagraph.
>
> This provision would enable freight forwarders to enter into contracts with other common carriers, including rail carriers for transportation services. The contracts contemplated by this section would be negotiated arrangements between common carriers relative to a mutual understanding. The contracts would be subject to rules promulgated by the Commission. Such rules should take into consideration that freight forwarders are common carriers. This provision is meant to foster intermodal transportation, and it is consistent with past legislative proposals submitted to the Congress by the Commission.

[2] Congress approved the Commission's recent approach of placing more emphasis on the benefits of competition 49 U.S.C. 10922(b) and H.R. Rept. 96–1069, 96th Cong., 2d. Sess., pages 13–15.

Environmental and Energy Considerations

We do not believe that this request for comments or the adoption of the proposed rule, amending 49 CFR Part 1137 and 49 CFR 1137.1, will have any significant impact upon the quality of the human environment. However, we anticipate that this rule change will improve operating efficiency, promote competition, and foster intermodalism. Comments on these issues are welcome.

Regulatory Flexibility Analysis

The Interstate Commerce Commission is instituting this proceeding in order to provide a mechanism for freight forwarders to remove restrictions from their authorities. The Commission recommended that such a proceeding be initiated pursuant to its decision in No. FF–416 (Sub-No. 2)X, *Imperial Carriers, Inc.—Commodity and Territorial Broadening* (not printed) served November 30, 1981.

We believe that the proposed rules will allow freight forwarders to achieve greater flexibility in their operations by enabling them to take advantage of the rules promulgated in *Ex Parte No. MC–142 (Sub-No. 1) Removal of Restrictions from Authorities of Motor Carriers of Property*, 132 M.C.C. 374 (1980). Such result, in our opinion, will be consistent with the provisions of the Motor Carrier Act of 1980, specifically 49 U.S.C. 10922(h), and will meet the Congressional goals directed toward fostering intermodalism.

There are approximately 250 active freight forwarders licensed by this Commission. Due to the fact that the Commission no longr requires freight forwarders to file annual reports, it is impossible to determine how many freight forwarders are small entities. We believe, however, that this decision will have a modest, albeit beneficial economic impact upon an unascertainable number of small entities, as well as the shipping public.

The effect of the proposed rule will not require the filing of reports or any record-keeping by small entities. The proposed rule will not duplicate, overlap, or conflict with any existing Federal rules.

The only alternative to the adoption of the proposed rule is to not make the restriction removal procedures available to freight forwarders. To preclude freight forwarders from using procedures designed to remove restrictions from operating authorities will, in effect, deny the public access to more efficient, cost effective transportation services.

We invite comments on the foregoing issues.

Conclusions

We propose to revise the title of 49 CFR Part 1137 and the introductory text of 49 CFR 1137.1, as described in the appendix to this notice, to include a provision allowing freight forwarders to take advantage of the restriction removal rules adopted in Ex Parte No. MC–142 (Sub-No. 1) *Removal of Restrictions from Motor Carriers of Property*, 132 M.C.C. 374 (1980).

This notice is issued pursuant to 49 U.S.C. 10321 and 10922(h) and 5 U.S.C. 553.

Decided: February 17, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp. Chairman Taylor concurred in the decision. Commissioner Clapp concurred with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Clapp, concurring:

There is one omission in the decision which bears correcting. We are proposing here to eliminate, as we did in Ex Parte No. 142 (Sub No. 1), the requirement of a fitness showing. There we believed that as a carrier requesting broadened authority had already been found fit in the underlying proceeding, to require a new showing was unnecessary. However, in *American trucking Ass'n, Inc. v. ICC*, 569 F. 2d 452, 470 (5th Cir. 1981) the court overruled that aspects finding that under restriction removal procedures, the Commission must still require the carrier to demonstrate that it is fit, willing, and able to perform the broader service to be authorized. Therefore, I believe comments are necessary along with a thorough analysis before we again attempt to remove the fitness requirement.

Appendix—Proposed Revisions

Title 49 CFR Part 1137, would be amended as follows:

1. The title of Part 1137 would be revised to read as follows:

PART 1137—REMOVAL OF RESTRICTIONS FROM AUTHORITIES OF MOTOR CARRIERS OF PROPERTY AND FREIGHT FORWARDERS

2. The introductory text of § 1137.1 would be revised to read as follows:

§ 1137.1 Purpose.

These regulations govern applications filed by motor carriers of property and freight forwarders seeking to remove operating restrictions from their certificates or permits in order to:

* * * * *

(49 U.S.C. 10321 and 10922(h) and 5 U.S.C. 553)

[FR Doc. 82–5554 Filed 3–1–82; 8:45 am]
BILLING CODE 7035–01–M

Notices

Federal Register
Vol. 47, No. 41
Tuesday, March 2, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Peanut Referendum Results; 1982 Through 1985 Crops of Peanuts

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of results of peanut poundage quota referendum for 1982 through 1985 crops of peanuts.

SUMMARY: The U.S. Department of Agriculture proclaims the results of the peanut poundage quota referendum which was held during the period January 25–29, 1982, pursuant to section 358(o) of the Agricultural Adjustment Act of 1938, as amended, in order to determine whether farmers favor or oppose poundage quotas for peanuts produced in the calendar years 1982, 1983, 1984 and 1985.

EFFECTIVE DATE: February 26, 1982.

FOR FURTHER INFORMATION CONTACT: Bruce D. Starnes, Tobacco and Peanuts Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 382–0152.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified as "nonmajor". It has been determined that these provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local Government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based industries to compete with foreign-based enterprises in domestic or foreign markets.

The title and number of the federal assistance program that this notice applies to are: Title—Peanut Production Stabilization, Number—10.051, as found in the Catalog of Federal Domestic Assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established under OMB Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since there is no requirement that a notice of proposed rulemaking be published with respect to the subject matter of these determinations in accordance with 5 U.S.C. 553 or any other provision of law.

In a Notice of Determination published in the **Federal Register** on January 22, 1982, (47 FR 3149), the Secretary of Agriculture announced that a marketing quota referendum for the 1982, 1983, 1984 and 1985 crops of peanuts would be held by mail ballot during the period January 25–29, 1982, inclusive. Section 358(o) of the Agricultural Adjustment Act of 1938, as amended, requires that the Secretary proclaim the results of the referendum within thirty days after the date on which it is held. Accordingly, the results of such referendum are set forth below:

Results of the national peanut poundage quota referendum for the 1982 through 1985 crops of peanuts.

(1) *Referendum period.* The national marketing quota referendum for the 1982 through 1985 crops of peanuts was held by mail ballot during the period January 25 to 29, 1982, inclusive, in accordance with 7 CFR Part 717.

(2) *Farmers voting.* A total of 38,755 producers engaged in the production of the 1981 crop of quota peanuts voted in the referendum. Of those voting, 36,383 producers, or 93.9 percent, favored peanut poundage quotas, and 2,372 farmers, 6.1 percent, opposed quotas.

(3) *1982 through 1985 peanut poundage quotas are in effect.* Since more than two-thirds of the farmers voting favored quotas, poundage quotas shall be effective for peanuts produced in the calendar years 1982, 1983, 1984 and 1985.

(Secs. 358, 375, 52 Stat. 66, as amended; 55 Stat. 88, as amended; 7 U.S.C. 1358, 1375)

Signed at Washington, D.C. on February 23, 1982.

Everett Rank,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 82-5510 Filed 3-26-82; 8:45 am]
BILLING CODE 3410-05-M

Forest Service

Modoc National Forest Grazing Advisory Board; Meeting

The Modoc National Forest Grazing Advisory Board will meet at 10:00 a.m., March 23, 1982, in the Conference Room of the Supervisor's Office at 441 North Main Street, Alturas, California.

The purpose of this meeting is to discuss expenditures of Range Betterment Funds and Allotment Management Plans.

The meeting will be open to the public. Persons who wish to attend or who would like further information should notify William E. Britton, Modoc Supervisor's Office, telephone 916–233–3521. Written statements may be filed with the Board before or after the meeting.

G. Lynn Sprague,
Forest Supervisor.

February 22, 1982.

[FR Doc. 82-5515 Filed 3-1-82; 8:45 am]
BILLING CODE 3410-11-M

Soil Conservation Service

Upper West Branch Pecatonica Watershed, Wisconsin

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Cliffton A. Maguire, State Conservationist, Soil Conservation Service, 4601 Hammersley Road, Madison, Wisconsin 53711, telephone (608) 264–5351.

Notice.—Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council of Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Upper West Branch Pecatonica Watershed, Grant, Iowa, and Lafayette Counties, Wisconsin.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Cliffton A. Maguire, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for flood control and watershed protection. The planned works of improvement include installation of 59 agricultural waste management systems, applying best management practices on 14,700 acres of cropland, applying streambank protection consisting primarily of livestock exclusion to 13 miles of perennial streams, and treating critical sediment sources near all perennial streams in the project area.

The notice of a finding of no significant impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Cliffton A. Maguire. An environmental impact appraisal has been prepared and sent to various Federal, state, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until April 1, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Cliffton A. Maguire,
State Conservationist.

February 18, 1982.

[FR Doc. 82-5513 Filed 3-1-82; 8:45 am]
BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Application for an All-Cargo Air Service Certificate

February 17, 1982.

In accordance with Part 291 (14 CFR Part 291) of the Board's Economic Regulations effective November 8, 1978, notice is hereby given that the Civil Aeronautics Board has received an application, Docket 40391, from Western Pacific Express, Inc., Box 9078–110, Van Nuys, California 91409 for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application on or before March 23, 1982. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-5540 Filed 3-1-82; 8:45 am]
BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

California Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the Commission on Civil Rights that a meeting of the California Advisory Committee to the Commission will convene at 10:00 a.m., and will end at 12:00 p.m., on March 20, 1982, at the Miyako Hotel, 1625 Post Street, San Francisco, California, 94115. The purpose of this meeting will be to hear a subcommittee report on the reapportionment project and plan a factfinding meeting on the subject. The Committee will also discuss other issues leading to future program plans.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Maurice B. Mitchell, 260 Eucalyptus Hill Drive, Santa Barbara, California, 93103, (805) 969–1563 or the Western Regional Office, 3660 Wilshire Boulevard, Suite 810, Los Angeles, California, 90010, (213) 688–3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 23, 1982.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 82-5516 Filed 3-1-82; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Privileges; Wolfgang R. Weber; Order

The Ofice of Export Administration, International Trade Administration, U.S. Department of Commerce, having determined to initiate administrative proceedings pursuant to section 11(c) of the Export Administration Act of 1979 (50 U.S.C. 2401, *et seq.* (Supp. III 1979)) (the Act) and the Export Administration Regulations (currently codified at 15 CFR Part 368, *et seq.* (1981)) (the Regulations) against Wolfgang R. Weber, c/o Oriel GmbH, Im Tiefen See 58, D–6100 Darmstadt, Federal Republic of Germany, based on allegations that Weber violated §§ 387.3, 387.4, and 387.6 of the Regulations promulgated pursuant to the Export Administration Act of 1969 (50 U.S.C. 2401, *et seq.* (1976)) and continued in effect by Executive Order No. 11940 of September 30 1976 (3 CFR Part 150 (1976 Comp.)); and

The Department and Weber having entered into a Consent Agreement whereby each has agreed to settle this matter by the imposition of a period of denial against Weber of all U.S. export privileges for the six month period from the date of entry of this Order;

It is therefore ordered, Wolfgang R. Weber is denied all U.S. export privileges described in § 388.3(a)(2) of the Regulations for a six month period from the date of entry of this Order.

Entered this 22d day of February, 1982.

Bohdan Denysyk,
Deputy Assistant Secretary for Export Administration.

[FR Doc. 82-5517 Filed 3-1-82; 8:45 am]
BILLING CODE 3510-25-M

Vitamin K From Spain; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on vitamin K from Spain. The review covers the period January 1, 1980 through December 31, 1980. As a result of this review, the Department has preliminarily determined to instruct the Customs Service to assess countervailing duties equal to the

calculated value of the net subsidy, 4.80 percent of the f.o.b. invoice price of the merchandise. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: March 2, 1982.

FOR FURTHER INFORMATION CONTACT:
Ms. Lorenza Olivas, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–1775).

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1976, the Department of the Treasury published in the **Federal Register** an affirmative final countervailing duty determination regarding vitamin K from Spain (T.D. 76–321, 41 FR 50419). The notice stated that Treasury had determined that the Government of Spain had provided bounties or grants on the manufacture, production or exportation of vitamin K, within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) ("the Tariff Act").

On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 ("the TAA") became effective. On January 2, 1980, the authority for administering the countervailing duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department"). The Department published in the **Federal Register** of May 13, 1980 (45 FR 32455) a notice of intent to conduct administrative reviews of all outstanding countervailing duty orders. As required by section 751 of the Tariff Act, the Department has conducted an administrative review of the order on vitamin K from Spain.

Scope of the Review

The merchandise covered by this review is vitamin K, commercially known as menadione sodium bisulfite, imported directly or indirectly from Spain. These imports are currently classifiable under item number 412.64 of the Tariff Schedules of the United States.

The review covers the period January 1, 1980 through December 31, 1980. The Department reviewed two programs: (1) The Desgravacion Fiscal a la Exportacion, which was found countervailable in the final determination, and (2) a working capital loans program which had been found countervailable in another investigation. The only known exporter of this merchandise to the United States is Lisac, S.A.

Analysis of Programs

(1) *Desgravacion Fiscal a la Exportaction.* Spain employs a cascading tax system, that is, a turnover tax based upon the total value of inputs at each transaction level, rather than upon the value added at each level. Under this system, the indirect taxes paid include both taxes levied at the final stage of production and prior stage taxes incorporated in the input costs of raw materials, energy and services used in the final stage of production.

The Spanish government studied the incidence of prior stage taxes on inputs in various sectors of the economy to determine the cumulative indirect tax incidence on the exported product. Then, under the Desgravacion Fiscal a la Exportacion program, the government rebated upon exportation the total indirect taxes calculated to be borne by the final product.

Although the Spanish government rebates upon exportation all indirect taxes paid under the cascading tax system, the Tariff Act allows the rebate of only the following: (1) Taxes borne by inputs which are physically incorporated in the export product (see Annex 1.1 of Part 355 of the Commerce Regulations) and (2) indirect taxes levied at the final stage (see Annex 1.2 of part 355 of the Regulations). If the tax rebate upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, a subsidy.

Physical incorporation is a question of fact to be determined for each product in each case. In this case, the physically incorporated inputs are raw materials previously allowed by the Department of the Treasury plus toluene, butonal and sodium chloride.

The rebate of the parafiscal tax on export licenses is also allowable when calculating whether or not there is an overrebate of indirect taxes under the Desgravacion Fiscal.

Based upon our review of the Spanish government study of tax incidence and upon our analysis of physically incorporated inputs and the parafiscal tax, we determine that an overrebate upon export of indirect taxes existed in the review period in an amount equal to 3.68 percent of the f.o.b. invoice price of the product.

As of January 1, 1981, the Spanish government increased the turnover tax on business transactions (IGTE) from 2.40 percent to 3.80 percent, while maintaining the previous rate for the export rebate. The change in tax incidence has eliminated the overrebate; therefore, we will lower the duty deposit rate for this program to zero for future entries, pending the results of the next annual administrative review.

(2) *Working Capital Loans.* The Spanish government requires banks to set aside funds to provide short-term operating capital loans. These loans are granted for a period of less than one year at an 8 percent interest rate which is 1.5 percent below the commercially available rate of 9.5 percent in 1980. The operating capital loans are applicable to exports of certain goods which are designated by the Spanish government, including vitamin K. The maximum loan principal available to a given exporter is determined as a percentage of the firm's previous year's exports. This amount may be increased by 10 percent if the firm has a government-issued Exporter's Card.

In the case of vitamin K, maximum eligibility is 30 percent. In calculating the subsidy attributable to this program we assumed maximum utilization of the loans by the only known exporter. For the period of review, the subsidy conferred under this program is equal to 1.12 percent of the f.o.b. invoice price of the merchandise.

Verification

We verified the submission of the Spanish government through access to company books and records. Documents examined included company financial statements, cost structure records, and production and export records.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the benefits conferred during the period of review under the two programs cited above are 3.68 and 1.12 percent *ad valorem*, respectively. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 4.80 percent of the f.o.b. invoice price on shipments entered, or withdrawn from warehouse, for consumption on or after January 1, 1980 and exported on or before December 31, 1980.

The provisions of T.D. 76–321 or T.D. 79–19 and section 303(a)(5) of the Tariff Act, prior to the enactment of the TAA, apply to all entries made prior to January 1, 1980. Accordingly, the Customs Service shall assess countervailing duties on unliquidated entries of vitamin K which were entered, or withdrawn from warehouse, for consumption prior to January 1, 1980, at the applicable rates set forth in T.D. 76–321 or T.D. 79–19.

Due to the change in the Spanish tax law effective January 1, 1981, the only subsidy remaining is that conferred under the operating capital loans program, which we calculate to be 1.12 percent. Therefore, the Department estimates countervailing duties to be 1.12 percent for calendar year 1981, and intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 1.12 percent of the f.o.b. invoice price on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Pending publication of the final results of the present review, the existing deposit of estimated duties, at the 3.07 percent *ad valorem* rate set forth in T.D. 79–19, shall continue to be required on each entry, or withdrawal from warehouse, for consumption of this merchandise and liquidation shall continue to be suspended.

Interested parties may submit written comments on these preliminary results on or before April 1, 1982 and may request disclosure and/or a hearing on or before March 17, 1982. Any request for an administrative protective order must be made on or before March 8, 1982. The Department will publish the final results of this administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 25, 1982.

[FR Doc. 82-5538 Filed 3-1-82; 8:45 am]

BILLING CODE 3510-25-M

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Corrales and Medina Carnations, 116 Quail Gardens Drive, Encinitas, California 92024, producer of flowers (accepted February 8, 1982); (2) Surf Line Hawaii, Inc., 1451 Kalani Street, Honolulu, Hawaii 96817, producer of men's and women's swimwear, shorts and shirts (accepted February 8, 1982); (3) Gold Beach Seafood, Inc., P.O. Box 1078, Gold Beach, Oregon 97444, producer of seafood (accepted February 10, 1982); (4) Munsingwear, Inc., Box 1369, Minneapolis, Minnesota 55440, producer of men's, women's and children's sleepwear, underwear, shirts and slacks (accepted February 10, 1982); (5) Autonumerics, Inc., 120 Plant Avenue, Hauppauge, New York 11788, producer of machine tools (accepted February 12, 1982); (6) Rodac Corporation, 1005 E. Artesia Boulevard, Larson, California 90746, producer of hand tools, plumbing fixtures, carpenters' aprons, tool holders and bags (accepted February 16, 1982); (7) Ferronics, Inc., 60 North Lincoln Road, East Rochester, New York 14445, producer of electronic components (accepted February 16, 1982); (8) Terry Jubilee Corporation, 209 West 38th Street, New York, New York 10018, producer of men's and women's shirts, jackets, pants, shorts and skirts (accepted February 16, 1982); (9) McNamara and Peepe Corporation, 1607 5th Street, Crescent City, California 95531, producer of softwood lumber (accepted February 16, 1982); (10) Novel Knit, Inc., 791 Paulison Avenue, Clifton, New Jersey 07011, producer of knitted fabrics and blankets (accepted February 16, 1982); (11) Shutzer Enterprises, Inc., 250 Canal Street, Lawrence, Massachusetts 01840, producer of men's, women's and children's coats, jackets and vests (accepted February 17, 1982); (12) General Energy, Inc., P.O. Box 336, Andrews, Indiana 46702, producer of stoves and accessories, and fabricated metals (accepted February 17, 1982); (13) Boulder Leather Designs, Ltd., 4949 N. Broadway, #208, Boulder, Colorado 80302, producer of men's and women's vests, belts, hatbands, skirts and tops (accepted February 17, 1982); (14) Lurie Sportswear, Inc., 251 Causeway Street, Boston, Massachusetts 02114, producer of women's blazers (accepted February 19, 1982); (15) Fall River Fireplace Company, Inc., 915 Dwelly Street, Fall River, Massachusetts 02724, producer of fireplace accessories and corn poppers (accepted February 19, 1982); (16) Great Atlantic Shellfish Company, Inc., 50 Emjay Boulevard, Brentwood, New York 11717, producer of seafood (accepted February 19, 1982); (17) Helbros Watches, Inc., 2 Park Avenue, New York, New York 10016, producer of watches (accepted February 19, 1982); (18) International Navigation Corporation, 66 Cummings Park, Woburn, Massachusetts 01801, producer of marine navigation equipment (accepted February 19, 1982); (19) MXR Innovations, Inc., 740 Driving Park Avenue, Rochester, New York 14613, producer of sound equipment (accepted February 22, 1982); (20) Ambico, Inc., 101 Horton Avenue, Lynbrook, New York 11563, producer of camera and guitar straps and camera filters (accepted February 22, 1982); and (21) Haarmann Steel Corporation, Meadow Street, Chicopee, Massachusetts 01013, producer of fabricated steel (accepted February 23, 1982).

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93–618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Director, Certification Division, Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business March 12, 1982.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.300, Trade Adjustment Assistance. Insofar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouses do not apply.

Jack W. Osburn Jr.,

Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 82-5561 Filed 3-1-82; 8:45 am]

BILLING CODE 3510-25-M

Withdrawal of Application for Duty-Free Entry of Scientific Article

The U.S. Geological Survey has withdrawn Docket Number 81–00297, an application for duty-free entry of a seismometer.

Accordingly, further administrative proceedings will not be taken by the Department of Commerce with respect to this application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5562 Filed 3-1-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Proposed Modification to Marine Mammals Permit

Notice is hereby given that Point Reyes Bird Observatory, 4990 Shoreline Highway, Stinson Beach, California 94970 has requested a modification of Permit No. 280 issued on April 9, 1979 (44 FR 23909) under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

The Permit Holder is requesting to tag 500 elephant seals in a period of two years in addition to the animals authorized in the Permit. The animals are to be tagged in the Point Reyes Peninsula area.

Concurrent with the publication of this Notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of the modification to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, on or before April 1, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in the modification are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Date: February 24, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-5560 Filed 3-1-82; 8:45 am]

BILLING CODE 3510-22-M

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. 82-1]

Determination of a Controversy With Respect to the Distribution of 1980 Cable Royalty Fees

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice.

SUMMARY: The Copyright Royalty Tribunal declares a controversy concerning the distribution of the 1980 cable royalty fees and requests comments on various procedural matters.

EFFECTIVE DATE: March 2, 1982.

FOR FURTHER INFORMATION CONTACT: Commissioner Frances Garcia, Chairman, Copyright Royalty Tribunal, (202) 653–5175.

SUPPLEMENTARY INFORMATION: At a public meeting on October 14, 1981, after reviewing and considering comments from claimants, the Tribunal adopted a motion, effective March 2, 1982, declaring in accordance with 17 U.S.C. 111(d)(5)(B) the existence of a controversy concerning the distribution of the 1980 cable royalty fees. A proceeding to determine the distribution of such fees is commenced as of March 2, 1982. As in previous proceedings, Phase I will determine the distribution of royalty fees to categories of claimants, while Phase II will resolve any disputes among claimants each category.

The Tribunal directs claimants or their authorized representatives who wish to participate in Phase I to inform the Tribunal of such intention not later than April 1, 1982.

The Tribunal has conducted protracted hearings, and developed an extensive record in the proceedings for the distribution of the 1978 and 1979 cable royalty fees. In such proceedings, the Tribunal has allowed the introduction of evidence concerning developments in subsequent years. The Tribunal directs claimants or their representatives to submit by April 30, 1982 proposals, in accordance with the Administrative Procedure Act, providing for procedures whereby the Tribunal could utilize the record of the previous proceedings in the 1980 Phase I distribution proceedings and limit the presentation of new testimony and written evidence.

The Tribunal further directs that claimants or their representatives submit not later than April 30, 1982, any comments on the legality and feasibility of proposals providing for the Tribunal prior to the termination of the 1980 royalty proceeding to make partial distribution of the royalty fees.

The Tribunal further directs that claimants or their representatives submit not later than April 30, 1982 any comments concerning proposed alteration of the Phase I categories of claimants established by the Tribunal in the 1979 royalty proceeding.

Reply comments on the April 30, 1982 submissions may be submitted by May 14, 1982.

Commissioner Frances Garcia,

Chairman.

February 17, 1982.

[FR Doc. 82-5354 Filed 2-26-82; 8:45 am]

BILLING CODE 1410-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Air Force Academy Board of Visitors; Meeting

The Air Force Academy Board of Visitors is scheduled to meet at the Air Force Academy, Colorado Springs, Colorado, during the period April 7–8, 1982. The meeting is pursuant to the Board's statutory charge (10 USC 9355) to meet at the Academy and to inquire into matters of morale, discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy which the Board decides to consider.

The tentative agenda calls for portions of the meeting to be open for public attendance on April 7 from 8:15 a.m. to 11:50 a.m. in the Superintendent's Conference Room, Harmon Hall. Among the items on the tentative agenda during the open portions of the meeting are briefings to the Board on the following subjects: academics, the airmanship program, admissions, and Academy facilities. In addition to the open portion of the meeting, a press conference which will be open to the public has been scheduled for 11:15 a.m. on April 8 in Arnold Hall.

Portions of this meeting are tentatively scheduled to be closed to the public as matters to be discussed are analogous to matters listed in subsections (2), (4) and (6) section 552b (c), Title 5, United States Code. These closed portions include panel discussions with groups of cadets, faculty members and military staff officers, involving personal information and opinions, the disclosure of which would be a clearly unwarranted invasion of personal privacy. Also included are the executive deliberations of the Board involving discussions of such personal information and discussions which might disclose financial information, or relate solely to the internal personnel rules and practices of the Academy.

FOR FURTHER INFORMATION CONTACT: Captain Curt Martin, Headquarters, U.S. Air Force (MPPA), Washington, DC 20330, at (202) 697–7116.

Winnibel F. Holmes,

Air Force Federal Register, Liaison Officer.

[FR Doc. 82-5551 Filed 3-1-82; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Tender Rates To Move Military Air Freight

AGENCY: Military Traffic Management Command (MTMC), Army Department, DOD.

ACTION: Notice.

SUMMARY: Effective April 1, 1982, the Military Traffic Management Command will route air cargo (except personal effects) only via air freight carriers or air freight forwarders which have Uniform Tenders on file with Headquarters, MTMC. Because of the extended time elapsing before audit of freight charges, MTMC, auditors, and carriers must have a rate structure available indicating what the rate was on any given date. The Uniform Tender (Form 280) is simple to prepare, easy to evaluate, and has been used effectively with other transportation modes. Standard information categories, sequence, and codes of Form 280 also facilitate source data automation into the MTMC Tender Index system, for rating and routing.

FOR FURTHER INFORMATION CONTACT: Mr. Martin T. Cunningham, Headquarters, Military Traffic Management Command, Attention: MT-INNT, 5611 Columbia Pike, Falls Church, Virginia 22041. Telephone: (202) 756–1567; 756–1149.

SUPPLEMENTARY INFORMATION: Issuing carrier or freight forwarder should submit two signed and thirteen unsigned copies of each Tender or supplement to Headquarters, Military Traffic Management Command, Attention: MT-INNT, 5611 Columbia Pike, Falls Church, Virginia 22041. An appendix to the Tender may be used for supplement rates, places, or other data.

Copies of Form 280 and of Tender preparation instructions can be obtained either from the Superintendent of Public Documents, U.S. Government Printing Office, Attention: Public Documents, Washington, D.C. 20402 (Stock No. 022-000-00163-3), or from the American Trucking Association, Inc., Government Traffic Department, 1616 P Street, NW., Washington, D.C. 20036.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

February 24, 1982.

[FR Doc. 82-5424 Filed 3-1-82; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

DOD Advisory Group on Electron Devices; Working Group A (Mainly Microwave Devices); Meeting

Working Group A (Mainly Microwave Devices) of the DOD Advisory Group on Electronic Devices (AGED) will meet in closed session on March 25, 1982 at the Army ERADCOM, Hexigon Building, Room 3C-121, Ft. Monmouth, New Jersey 07703.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with 5 U.S.C. App 1, section 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552(b)(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

February 25, 1982.

[FR Doc. 82-5487 Filed 3-1-82; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Working Group D (Mainly Laser Devices); Meeting

Working Group D (Mainly Laser Devices) of the DOD Advisory Group on Electronic Devices (AGED) will meet in closed session April 20–21, 1982 at the Goddard Space Flight Center, Greenbelt, Maryland.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices. The Working Group D meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include classified program details throughout. In accordance with 5 U.S.C. App 1, section 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

M.S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

February 25, 1982.

[FR Doc. 82-5488 Filed 3-1-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Law School Clinical Experience Program; Application Notice for New Projects for Fiscal Year 1982

Applications are invited for new projects under the Law School Clinical Experience Program.

Authority for this program is contained in Title IX, Part E of the Higher Education Act of 1965, as amended. (20 U.S.C. 1134n–1134p)

This program issues awards to accredited law schools or combinations or consortiums of accredited law schools.

The purpose of the Law School Clinical Experience Program is to establish or expand projects at accredited law schools to provide

supervised clinical experience to students in the practice of law.

Closing date for transmittal of applications: Applications for awards must be mailed (post-marked) or hand-delivered by April 14, 1982.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education Application Control Center, Attention: 84.097, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays and Federal holidays.

Applications that are hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information

Available Funds: There is authorized $960,000 for this program for fiscal year 1982. However, the President has proposed budget rescissions to the Congress that may eliminate funds for this program. The deadline in this notice will not be extended, and applicants should prepare and submit applications pending further notification. Applications must be submitted to the Application Control Center at the address in this notice.

The program legislation permits the Secretary to pay up to 90 percent of the cost of projects at law schools. The program regulations permit the Secretary to establish annually a lower maximum Federal share. In FY 1980 with a $4 million appropriation level the maximum Federal share was 90 percent. In FY 1981 with a $3 million appropriation the maximum Federal share was 80 percent. With the prospect of a funding level of $960,000 for FY 1982, the Secretary is establishing a maximum Federal share of 50 percent. A major objective of this program is to increase the financial commitment of a law school to clinical legal education. Support of clinical legal education is not considered a permanent Federal responsibility. The reduction of the Federal share to 50 percent supports the program's objective. The Secretary expects to make between 25 and 30 awards, with no individual grant exceeding $38,500.

These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless the amount is otherwise specified by statute or regulations.

Final regulations governing the Law School Clinical Experience Program were published in the Federal Register on July 14, 1981. These regulations broadly define the types of projects the Secretary intends to support under this program. The regulations also specify the selection criteria to be used in evaluating applications.

Application forms: Application forms and program information packages are expected to be ready for mailing by March 1, 1982. They may be obtained by writing to the Graduate Programs Branch, U.S. Department of Education, (Room 3060, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the criteria, instructions, and forms included in the program information packages.

Applicable regulations: The regulations applicable to this program are:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 75 (Direct Grant Programs) and 34 CFR Part 77 (Definitions). (These parts were previously codified as 45 CFR Parts 100a and 100c respectively); and

(b) The regulations in 34 CFR Part 639 published in the Federal Register on July 14, 1981, 46 FR 36338–36340.

Further information: For further information contact Dr. Donald N. Bigelow, Chief Graduate Programs Branch, U.S. Department of Education, (Room 3060, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–2347.

(20 U.S.C. 1134n–1134p)

Dated: February 24, 1982.

(Catalog of Federal Domestic Assistance Number 84.097, Law School Clinical Experience Program)

T. H. Bell,

Secretary of Education.

[FR Doc. 82-5579 Filed 3-1-82; 8:45 am]

BILLING CODE 4000-01-M

Pell Grant Program; Establishment of Deadline Dates

AGENCY: Department of Education.

ACTION: Notice of deadline dates for receipt of (1) applications for determining expected family contributions and Student Eligibility Reports, (2) Progress Reports and Student Validation Rosters, and (3) other actions.

SUPPLEMENTARY INFORMATION:

The Secretary gives notice to students of the deadline dates, types of forms, and addresses for filing and submitting (1) applications for determining expected family contributions, (2) recomputation requests, (3) requests for a variety of actions under special circumstances, and (4) Student Eligibility Reports (SER) that are required under the verification procedures (validation). Students need to be aware that the calculation of expected family contributions and the submission of valid SERs are prerequisties for receiving Pell Grant awards (formerly called Basic Grants). The Secretary also gives notice to institutions of the deadline dates for submitting Progress Reports and Student Validation Rosters that are required under this program. The authority for this program is contained in section 411 of the Higher Education Act of 1965, as amended (20 U.S.C. 1070a). The Pell Grant Program assists students in the continuation of their training and education at the postsecondary level by providing financial aid in helping them defray educational costs. In order to insure that applications, reports, and applicable requests are received by the deadline dates, students are encouraged to submit their information as early as possible.

STUDENT APPLICATIONS

Deadline date	Type of form	Address for submission
I. Deadline Date for Receipt of Applications Under Normal Circumstances:		
A. Received by March 29, 1982 or 30 days from the date of publication of this notice in the Federal Register, whichever is later.	Basic Grant Application Form	Basic Grants, P.O. Box 92781, Los Angeles, CA 90009.
	Basic Grant Special Condition Form	Basic Grants, P.O. Box 92609, Los Angeles, CA 90009.
	Family Financial Statement	American College Testing, Student Need Analysis Service, P.O. Box 4805, Iowa City, Iowa 52243.
	Financial Aid Form	College Scholarship Service, Box 2700, Princeton, NJ 08541; OR
	Financial Aid Form	College Scholarship Service, Box 380, Berkeley, CA 94701.
	Pennsylvania Higher Education Assistance Agency	PHEAA/BG Application, P.O. Box 3157, Harrisburg, PA 17105.
	Student Aid Application for California	College Scholarship Service, Box 70, Berkeley, CA 94701.
These forms are used to provide data for calculating a student's expected family contribution or eligibility index, which is the index of need of a student for financial assistance as it relates to the expected family contribution schedule established by the Secretary. (Reference: Final Regulations for the Pell Grant Program—expected Family Contribution—published January 19, 1981 (46 FR 5320–5327)).		
	APPLICANTS RECOMPUTATION REQUESTS	
B. Received by May 15, 1982	Requests for recomputation of an eligibility index because of clerical or arithmetic errors, or because of extraordinary circumstances as described in §§ 690.39 and 690.48 of the Pell Grant Program regulations.	Basic Grants, P.O. Box 92781, Los Angeles, CA 90009.
	Corrections to previously submitted data	
These forms are used to correct information reported on the Student Eligibility Report. (See Section III below.)		
II. Deadline Dates for Receipt of Applications and Other Requests Under Special Circumstances.		
A. Received by May 15, 1982	Basic Grant correction application (this form is described below in paragraph 1).	Basic Grants, P.O. Box 92781, Los Angeles, CA 90009.
B. Received by June 15, 1982	Requests for a duplicate SER (a student must submit a written request for a duplicate SER).	Basic Grants, P.O. Box 92609, Los Angeles, CA 90009.
	Verification of correct information (this procedure is described below in paragraph 2).	Basic Grants, P.O. Box 92609, Los Angeles, CA 90009.
C. Received by June 21, 1982	Requests for payment—ADS Form 304, for students who enroll before May 1, 1982.	Basic Grants, P.O. Box 92783, Los Angeles, CA 90009.
D. Received by July 29, 1982	Requests for payment—ADS, Form 304, for students enrolling after May 1, 1982.	Basic Grants, P.O. Box 92783, Los Angeles, CA 90009.
E. Received by August 10, 1982	Additional and/or corrected requests for payment—ADS, Form 304-1.	Basic Grants, P.O. Box 92693, Los Angeles, CA 90009.

1. A Basic Grant Correction Application is sent to applicants when:

(a) The applicant does not complete required sections of the original application.

(b) The applicant changes his or her status from dependent student to independent student or *vice versa* on the SER.

(c) The applicant indicates that information in Section B of the original application was incorrectly reported. (The student may notify the application processor by telephone or in writing.)

2. This deadline date applies to an applicant whose Student Eligibility Report is returned for verification even though it apparently is accurate and complete. These verification requests occur because of edit checks built into the processing systgem which are triggered by applicants reporting unusual information such as zero or very low income.

General Information

Application forms: Application forms and information brochures are available and may be obtained from college financial aid administrators, high school counselors, or Educational Opportunity Center counselors, or by writing to Basic Grants, P.O. Box 84, Washington, D.C. 20044.

III. Deadline Dates for Submission of Student Eligibility Reports Under "Validation" Procedures.

The verification procedures (validation) involve collecting documents from Pell Grant applicants and the applicants' parents to verify the information reported on the SER. It may also require the applicant to correct any inaccurate information on his or her SER, submit the corrected SER for reprocessing and resubmit the returned SER to the institution's student financial aid office.

This notice applies only to students undergoing validation and does not conflict with nor supersede the deadline dates established above by the Secretary.

Validation Process and Deadline Dates. A student who is selected to have his or her application verified under the Validation Process must adhere to the following procedures and deadlines in order to receive a Pell Grant award for the 1981–82 award year:

Regular Disbursement System. 1. If a student is selected to have his or her application verified under the Validation Process and that student attends an institution that participates in the Pell Grant Program under the Regular Disbursment System, he or she has 90 days from his or her last day of enrollment or September 30, 1982, whichever comes first, to provide the requested documents to the institution.

2. If the SER of that student contains inaccurate information, he or she must make the correction on the SER, submit the corrected SER to the Department of Education's processing center at the address indicated on the SER and resubmit the returned valid SER to the institution by the closing date for the submission of documents indicated in paragraph 1.

3. If the student did not submit the corrected SER to the Department of Education's processing center by May 15, 1982, the student must submit the corrected SER to his or her institution along with the requested documents. The institution submits the corrected SER and documents to the U.S. Department of Education, Student Validation Branch, P.O. Box 23185, Washington, D.C. 20024.

The Secretary reviews the documents, reprocesses the SER and returns the reprocessed SER to the student. The student must resubmit the returned SER to the institution by the deadline date for the submission of documents indicated in paragraph 1.

It should be noted that the Secretary requires about eight weeks to review the

documents and reprocess the SERs. Therefore, students are advised to provide the appropriate documents and forms to their institutions within the first 30 days of the 90-day period.

Alternate Disbursement System. If a student is selected to have his or her application verified under the Validation Process and that student attends an institution that participates in the Pell Grant Program under the Alternate Disbursement System, he or she has 90 days from his or her last day of enrollment or September 30, 1982, whichever comes first, to complete the Validation Process. In order to complete the Validation Process the student must—

1. Submit his or her SER along with requested documents to the Student Validation Branch, P.O. Box 23185, Washington, D.C. 20024;

2. Correct any inaccurate information reported on the SER;

3. Sign and return the corrected SER received from the Department of Education to the Student Validation Branch for reprocessing at the above address; and

4. Submit the new SER the student will receive from the Department of Education along with the ED Form 304 or 304–1 to Basic Grants, P.O. Box 92783, Los Angeles, California 90009.

Institution Reports

IV. Deadline Dates for Submission of Progress Reports and Student Validation Rosters to the Secretary.

Institutions must submit their Progress Reports (ED Form 255–3) and Student Validation Rosters (ED Form 255–4) in accordance with the following deadline dates:

Report	Deadline date
October 31 progress report	November 15.
February 28 progress report	March 15.
June 30 progress report	July 15.
Student validation roster	Six weeks of its receipt.

Institutions that fail to submit these reports by the applicable deadline date may be subject to a fine or to a suspension, limitation, or termination proceeding under Subpart G of the Student Assistance General Provisions in 34 CFR 668.71 through 668.85.

Applicable Regulations: The regulations applicable to this program are the Student Assistance General Provisions regulations in 34 CFR Part 668 and the Pell Grant Program regulations in 34 CFR Part 690.

For Further Information Contact: Mr. William L. Moran, Chief, Policy Section, or Mrs. Altia J. Jackson, Program Grant Branch, Division of Policy and Program Development, Office of Student Financial Assistance, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 4318, ROB–3), Washington, D.C. 20202. Telephone: (202) 472–4300.

Dated: February 26, 1982.

(Catalog of Federal Domestic Assistance No. 84.063—Pell Grant Program)

T. H. Bell,

Secretary of Education.

[FR Doc. 82-5729 Filed 3-1-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

Energy Conservation Program for Consumer Products; Petition for Waiver of Furnaces Test Procedures From Lennox Industries, Inc.

[Case No. F–004]

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Petition for waiver of test procedures.

SUMMARY: Today's notice publishes a "Petition for Waiver" from Lennox Industries, Inc., requesting a waiver from the existing Department of Energy (DOE) test procedures for furnaces. The petition requests DOE to grant relief from the test procedure requirements relating to the determination of the efficiency improvement attributable to the condensing of flue gases. DOE is soliciting comments, data and information respecting the petition.

DATE: DOE will accept comments, data, and information not later than April 1, 1982.

ADDRESSES: Written comments and statements shall be sent to: Department of Energy, Office of Conservation and Renewable Energy, Case No. F–004, Mail Stop CE–113.1, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: James A. Smith, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Stop CE–113.1, Forrestal Building, 1000 Independence Avenue, S.W., Washington, DC 20585, (202) 252–9127. Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Room 6B–128, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 252–9510.

SUPPLEMENTARY INFORMATION:

Background:

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Pub. L. 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Pub. L. 95–619, 92 Stat. 3266, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

DOE has amended the prescribed test procedures by adding 10 CFR 430.27, Petitions for Waiver, to allow the Assistant Secretary for Conservation and Renewable Energy temporarily to waive test procedures for a particular basic model. 45 FR 64108 (September 26, 1980). Waivers may be granted when one or more design characteristics of a basic model either prevent testing of the basic model according to the prescribed test procedures or lead to results so unrepresentative of the model's true energy consumption as to provide data materially inaccurate comparative data.

Lennox Industries, Inc., filed a Petition for Waiver from the DOE test procedures for furnaces. Specifically, the petitioner believes that the use of the existing furnace test procedure will lead to results that provide materially inaccurate comparative data when these test procedures are applied to the model G14 pulse combustion furnace line manufactured by Lennox Industries, Inc.

The Lennox petition seeks a waiver from the DOE test method basing condensation calculations on the average flue gas temperature. Lennox contends that its model G14 furnace line condenses more of the water vapor than the DOE test method predicts. The discrepancy is on the order of a 1 or 2 percentage points of efficiency. The company believes its model G14 Furnaces are the first warm air furnaces in the marketplace with 92 to 95 percent energy efficiency levels and represent significant improvements over existing furnace efficiency levels.

Lennox requests the option to use the condensate measuring method set forth in Appendix C of National Bureau of Standards Interagency Report 80–2110, Recommended Testing and Calculation Procedures for Estimating the Seasonal Performance of Residential Condensing Furnaces and Boilers, to determine the energy efficiency of its model G14 Furnace line. Lennox contends that the alternate test method is of sufficient reliability to permit in-house testing by manufacturers.

Pursuant to paragraph (b) of 10 CFR 430.27, DOE is hereby publishing the "Petition for Waiver." DOE solicits comments, data, and information respecting the petition, particularly the request to permit in-house testing.

Issued in Washington, D.C., February 22, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

October 9, 1981.

1. Petition for Waiver

Gentlemen: In accordance with 10 CFR 430.27, this is a petition for waiver from the test procedure specified in 10 CFR Part 430, Subpart B, Appendix N, as amended August 12, 1980. Lennox Industries Inc. has developed and is planning to market a line of pulse combustion, condensing, gas-fired, warm air furnaces that fall within the scope of 10 CFR Part 430, Subpart B, Appendix N. Inasmuch as a furnaces manufacturer may not make any energy efficiency representations on furnaces unless they are based on the results of the Appendix N tests, and the Appendix N tests do not give full credit for the efficiency increase due to latent heat recovery, we submit this petition.

2. General Description of Petitioner's Business

Lennox Industries Inc., a U.S. corporation, has been a major manufacturer of both residential and commercial heating applicances for more than 65 years and has now developed a line of high efficiency, gas-fired warm air furnaces which operate on the principle of pulse combustion that will condense a portion of the water vapor in the flue products. These furnaces will be manufactured in five input sizes, from 40,000 British thermal units per hour (Btuh) to 130,000 Btuh, and will be marketed in the U.S. beginning in November 1981, under the model designation "G14" and the Lennox brand name.

3. Lennox Model G14 Pulse Combustion Furnace Principles of Operations

The model G14 furnace uses a pulse combustion burner coupled with a heat exchanger that allows the flue gas to be cooled below its dew point, thus recovering a portion of the latent heat of the water vapor in the flue products. This enables the furnace to operate at steady state efficiency levels in excess of 90% as determined by the existing Appendix N tests performed at the Lennox laboratory.

The principles of operation of the Lennox G14 pulse combustion furnace are very similar to the Hydrotherm, Inc. Hydro-Pulse ™ boiler, which was granted a similar waiver of test procedure by the DOE on July 2, 1981.

4. DOE Test Does Not Adequately Measure Condensate

Lennox recognizes the 10 CFR Part 430, as amended on August 12, 1980, does account for condensation of water vapor in the flue gas of a furnace, but can prove that the Lennox model G14 Furnace condenses more of the water vapor than the DOE test method predicts. This discrepancy is on the order of one or two percentage points of efficiency, and is due to the DOE test method basing condensation calculations on the average flue gas temperature.

5. DOE Test Is Unfair to the General Public and the Petitioner

The new Lennox model G14 is expected to be the first warm air furnace in the marketplace with 92% to 95% energy efficiency levels (depending on input size), and represents a significant improvement over the existing furnace efficiency levels. In order to persuade the consumer to spend the additional dollars for a more efficient furnace rather than a lesser expensive-lesser efficient model, Lennox believes it is vital to be able to accurately represent the full energy efficiency of the model G14. The energy efficiency of a high efficiency furnace will have a major impact on the fuel usage, operating cost, and the economic justification of the purchase of a furnace of this type. If Lennox is not allowed to accurately represent the energy efficiency of the model G14, we will be placed at a competitive disadvantage and suffer economic hardship in recovering the substantial costs incurred in the G14 development. Failure to grant this petition would also tend to discourage the future development of high efficiency models by all manufacturers of these appliances.

6. Proposed Alternate Test Method

The condensate measuring method outlined in Appendix C of NBSIR 80–2110, *Recommended Testing and Calculation Procedures for Estimating the Seasonal Performance of Residential Condensing Furnaces and Boilers*, will result in a more accurate representation of the true energy efficiency of the model G14 furnace line. Therefore, this petition requests that Lennox be allowed the option to use the NBSIR 80–2110 method, in addition to the tests specified in 10 CFR Part 430, to determine the energy efficiency of the model G14 furnace line. This is the same method of test granted to Hydrotherm, Inc. on July 2, 1981, with the exception that Lennox recommends that the modified test method is of sufficient reliability to permit in-house testing by manufacturers, when those manufacturers have their own test facilities.

7. Public Policy

The granting of this waiver will serve to further the nation's energy conservation policy by encouraging the consumer to buy and use more efficient appliances and by encouraging manufacturers to continue to develop high efficiency heating appliances.

8. Other Manufacturers

It is our belief that two other manufacturers market basic models of furnaces or boilers in the United States that operate in the condensing mode. These manufacturers are:

1. Hydrotherm, Inc., Rockland Avenue, Northvale, New Jersey 07647: Boiler manufacturer.

2. SJC Corp. 206 Woodford avenue, Elyria, Ohio 44035; Furnace manufacturer.

If additional information is required, contact Jim Mullen or Hal Rhea of Lennox R&D.

Respectfully,

Lennox Industries Inc.

R. L. Stephens,

Vice President.

[FR Doc. 82-5800 Filed 3-1-82; 8:45 am]

BILLING CODE 6450-01-M

[Case No. DW–002]

Energy Conservation Program for Consumer Products; Petition for Waiver of Dishwasher Test Procedures From General Electric Co.

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Petition for waiver of test procedures.

SUMMARY: Today's notice publishes a "Petition for Waiver" from General Electric Company requesting a waiver from the existing Department of Energy (DOE) test procedures for dishwashers. The petition requests DOE to grant relief from the test procedure requirements relating to the calculation of per-cycle energy consumption for General Electric's dishwashers designed to operate with inlet water at a temperature of 120°F. Further, General Electric requested confidential treatment of information contained in the petition. DOE is soliciting comments, data and information respecting the petition.

DATES: DOE will accept comments, data, and information not later than April 1, 1982.

ADDRESSES: Written comments and statements shall be sent to: Department of Energy, Office of Conservation and Renewable Energy, Case No. DW–002, Mail Stop CE–113.1, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: James A. Smith, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Stop CE–113.1, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9127. Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Room 6B–128, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9510.

SUPPLEMENTARY INFORMATION:

Background

The Energy Conservation Program for

Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Pub. L. 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Pub. L. 95–619, 92 Stat. 3266, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including dishwashers. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

DOE has amended the prescribed test procedures by adding 10 CFR 430.27, Petitions for Waiver, to allow the Assistant Secretary for Conservation and Renewable Energy temporarily to waive test procedures for a particular basic model. 45 FR 64108 (September 26, 1980). Waivers may be granted when one or more design characteristics of a basic model either prevent testing of the basic model according to the prescribed test procedures or lead to results so unrepresentative of the model's true energy consumption so as to provide materially inaccurate comparative data.

The General Electric Company filed a Petition for Waiver from the DOE test procedures for dishwashers on the grounds that the procedures give materially inaccurate estimates of the energy consumed by all models of its "T" series dishwashers, which are designed to operate with inlet water temperature of 120°F. Dishwashers are one of the products the Federal Trade Commission has labeled. This information forms the basis of the EnergyGuide labels used in the Federal Trade Commission Appliance Labeling Program and assists consumers in making comparisons between dishwashers. General Electric's petition alleges the test procedure requirement that measurement of energy consumption based on an inlet temperature of 140°F and nominal water heater temperature rise of 90°F yields an inaccurate estimate of the annual operating cost of dishwashers designed to operate with inlet water at 120°F and a temperature rise of 70°F. On the same date, General Electric filed a request for confidential treatment contained in the petition. The petitioner believes the request for confidential treatment is justified in accordance with the applicable provisions of 5 U.S.C. 552(b)(4).

In accordance with the provisions of 10 CFR 430.27(b), DOE is hereby publishing the "Petition for Waiver" with the information deleted which DOE has determined to be confidential pursuant to 5 U.S.C. 552(b)(4). DOE solicits comments, data and information respecting the petition.

Issued in Washington, D.C., February 22, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

Note.—The original of this document contains information which is arguably confidential under 18 U.S.C. 1905. Such material has been deleted from this copy and replaced with XXXX's.

Petition for Waiver; Dishwasher Test Procedures—10 CFR Part 430 (Appendix C)

Pursuant to 10 CFR 430.27 General Company (GE) respectfully petitions for a waiver to the requirements of Sections 2.3 and 4.1 of Appendix C, "Uniform Test Method for Measuring the Energy Consumption of Dishwashers," 10 CFR Part 430.

Introduction

The Laundry and Dishwasher Products Division of General Electric Company, headquarters in Louisville, Kentucky, manufactures and sells clothes washers, clothes dryers, dishwashers, disposers, and trash compactors. GE has manufactured electric dishwashers since 1930. It has been and continues to be the objective of GE to provide the users of its products with the highest quality and performance.

Pub. L. 94–163 required the Department of Energy (DOE) to establish standardized test procedures and to establish minimum energy efficiency standards, if needed to save a significant amount of energy, and it required the Federal Trade Commission (FTC) to establish an energy label program. DOE established test procedures for dishwashers on August 8, 1977. The FTC established a label program on November 19, 1979, which included dishwashers. DOE has not, as yet, established minimum energy efficiency standards. It has, however, issued an Advance Notice of Proposed Rulemaking for dishwashers on December 13, 1979. GE, in its response to DOE's Advance Notice, expressed concerned that the "standard test procedure" for dishwashers did not contain any measure of performance or "output." Without a standardized measure of performance included in the test procedure, it becomes the responsibility of the manufacturer to assure high performance of the dishwashers when the test is performed to measure energy consumption which is needed to comply with the FTC's energy label program.

The label program can be a factor in the consumer's evaluation of competitive products and should provide the consumer with a true measure of the cost of annual operation of the dishwasher. The cost of operation, of course, is based on the measure of energy consumption as determined by the standard test procedure.

The DOE standard test is based on supplying 140°F ±5°F inlet water to the dishwasher. The test procedure was established based on the fact that the dishwasher detergent requires inlet water of this temperature to function properly in the attainment of acceptable washing performance. In recent years in an effort to conserve energy, there have been many public statements and efforts directed at lowering the temperature setting on household water heaters. GE feels that a response to this trend is imperative. We must provide a product that will function properly with lower inlet water temperature in order to maintain excellent washing performance.

General Electric's New Model Dishwashers

The basic thrust behind GE's new model dishwashers is to provide the consumer with consistently excellent wash/dry performance even if the temperature of the inlet water is reduced to 120°F.

General Electric Should Not Be Required To Test Its New Model Dishwashers at 140 ±F.

If GE is required to test its new model dishwashers using the standard test described in 10 CFR Part 430, the energy consumption measurement will result in an annual cost of operation that will mislead the consumer through the required FTC product energy label and will be detrimental to GE in relation to competitive brands of dishwashers. Test results on a representative model, equipped with this capability, are as follows:

Annual Cost of Operation

	Dollars
Tested per DOE test at 140°F. inlet water	61
Tested per DOE test modified to 120°F. inlet water	55.
Reduction	6

Since the label also has a table indicating various costs of energy, the difference could be as much as $19 per year. This difference represents approximately 10% of the annual operating cost and could certainly be significant both to the consumer and to GE in a competitive comparison. This illustrates that the label, under current DOE test procedures, would be misleading to the consumer by overstating the energy consumption.

Requested Test Procedure Waiver

GE requests that the DOE grant a waiver of the test procedures for all models of its dishwashers, designated as "T" series, and all subsequent models with the above-described feature. Specifically, GE requests that for such models the provisions of Sections 2.3 and 4.1 of Appendix C, 10 CFR Part 430, "Uniform Test Method for Measuring the Energy Consumption of Dishwashers," be modified as follows:

Section 2.3—Substitute "between 115°F. and 125°F." for "between 135°F. and 145°F."
Section 4.1—Substitute "70°F." for "90°F."

These modifications will provide for a true measure of energy consumption of GE's new model dishwashers as designed. GE will modify its user instructions to state that the product is designed to operate with inlet water as low as 120°F. and that the energy consumption used to calculate the cost of operation shown on the energy label is based on 120°F. supply water temperature.

Affected Persons

GE knows of no person or persons that will be adversely affected by granting this waiver.

Similar Design Models

GE has reason to believe that Hobart Corporation's model KD–10 and Norris Industries' LER series have similar characteristics in that there is an automatic thermostatic control of temperature. Although Norris Industries' LER series model is claimed to be unique, there are some similarities, at least, in that the machine can accept inlet water below the standard test requirements of 140°F. DOE has already granted waivers substantially similar to that requested herein to both Hobart Corporation (Model KD–19) and Norris Industries (LER series).

Expedited Resolution of Petition

GE * * * requests DOE to grant our request as early as practical * * * to allow time to procure and attach the proper product energy labels.

GE stands ready to provide DOE with additional information, if needed, to act on this request.

Respectfully submitted.

J. R. Britt,

General Manager, Laundry and Dishwasher Products Engineering Department, Laundry/Dishwasher Products Division AP–1–230, (502) 452–4519.

[FR Doc. 82–5894 Filed 3–1–82; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

City of Long Beach, California; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed consent order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with the City of Long Beach, California, and provides an opportunity for public comment on the terms and conditions of the proposed Consent Order.

DATE: April 1, 1982.

ADDRESS: Send comments to: Sandra K. Webb, Director, Los Angeles Office, Economic Regulatory Administration, U.S. Department of Energy, 845 South Figueroa Street, Suite 400, Los Angeles, California 90017.

FOR FURTHER INFORMATION CONTACT:

Sandra K. Webb, Director, Los Angeles Office, Economic Regulatory Administration, 845 South Figueroa Street, Suite 400, Los Angeles, California 90017, phone (213) 688–4014. Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On February 12, 1982, the ERA executed a proposed Consent Order with the City of Long Beach, California.

Under 10 CFR 205.199J(b), a proposed Consent Order which involves the sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than 30 days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. The Consent Order

The City of Long Beach, California is engaged in the production and sale of crude oil and was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212 during the period covered by this Consent Order. To resolve certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Parts 205, 210, 211, 212, in connection with the City's transactions involving crude oil during the period February 21, 1974 through January 15, 1975 ("the period covered by this Consent Order"), the ERA and the City of Long Beach entered into a Consent Order, the significant terms of which are as follows:

A. The Consent Order covers sales of crude oil by the City during the period from February 21, 1974 through January 15, 1975.

B. The DOE alleges that during the period covered by the Consent Order the City collected bonuses in sales of crude oil, which practice resulted in sales at prices in excess of the applicable ceiling established by 10 CFR 212.73.

C. Execution of the Consent Order constitutes neither an admission by the City nor a finding by DOE of any violation by the City of any statute or regulations.

II. Refunds

A. Disposition of Refunds

Under this Consent Order, the City will expend the sum of $1,000,000, including interest, for energy related programs or projects. Upon full satisfaction of the terms and conditions of this Consent Order by the City, the DOE releases the City from any civil claims that the DOE may have arising out of the specified transactions during the period covered by this Consent Order.

III. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation "Comments on the City of Long Beach, California Consent Order." The ERA will consider all comments it receives by 4:30 p.m., local time, on April 1, 1982. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures in 10 CFR 205.9(f).

Issued in Los Angeles on the 12th day of February 1982.

Sandra K. Webb,

Director, Los Angeles Office, Economic Regulatory Administration.

[FR Doc. 82–5895 Filed 3–1–82; 8:45 am]

BILLING CODE 6450–01–M

State of California and City of Long Beach, California; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed Consent Order and Opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with the State of California and the City of Long Beach, California, and provides an opportunity for public comment on the terms and conditions of the proposed Consent Order.

DATE: Comments by: April 1, 1982.

ADDRESS: Send comments to: Sandra K. Webb, Director, Los Angeles Office, Economic Regulatory Administration, U.S. Department of Energy, 845 South Figueroa Street, Suite 400, Los Angeles, California 90017.

FOR FURTHER INFORMATION CONTACT: Sandra K. Webb, Director, Los Angeles Office, Economic Regulatory Administration, 845 South Figueroa Street, Suite 400, Los Angeles, California 90017, phone (213) 688–4014. Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On February 12, 1982, the ERA executed a proposed Consent Order with the State of California and the City of Long Beach, California.

Under 10 CFR 205.199J(b), a proposed Consent Order which involves the sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than 30 days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. The Consent Order

The State of California and the City of Long Beach, California are engaged in the production and sale of crude oil and were subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212 during the period covered by this Consent Order. To resolve certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Parts 205, 210, 211, 212, in connection with the State and City's transactions involving crude oil during the period August 19, 1973 through January 28, 1981 ("the period covered by this Consent Order"), the ERA, the State of California and the City of Long Beach entered into a Consent Order, the significant terms of which are as follows:

A. The Consent Order covers sales of crude oil by the State and City during the period from August 19, 1973 through January 28, 1981.

B. The DOE alleges that during the period covered by the Consent Order the State of California and City of Long Beach sold crude oil at prices in excess of the applicable ceiling prices under 6 CFR 150.353 and 150.354 and 10 CFR 212.73 and 212.74.

C. Execution of the Consent Order constitutes neither an admission by the State of California or the City of Long Beach nor a finding by DOE of any violation by the State or City of any statute or regulations.

II. Refunds

A. Disposition of Refunds

Under this Consent Order, the State of California and City of Long Beach will expend the sum of $5,000,000, including interest, for energy related programs or projects. Upon full satisfaction of the terms and conditions of this Consent Order by the State and City, The DOE releases the State and City from any civil claims that the DOE may have arising out of the specified transactions during the period covered by this Consent Order.

III. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation "Comments on the State of California and City of Long Beach, California Consent Order." The ERA will consider all comments it receives by 4:30 p.m., local time, on April 1, 1982. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures in 10 CFR 205.9(f).

Issued in Los Angeles on the 12th day of February 1982.

Sandra K. Webb,

Director Los Angeles Office, Economic Regulatory Administration.

[FR Doc. 82-5466 Filed 3-1-82; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Order to Texaco, Inc. and Opportunity for Objection

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Proposed remedial order to Texaco, Inc. and opportunity for objection.

I. Introduction

Pursuant to 10 CFR 205.192, the Office of Special Counsel (OSC), of the Economic Regulatory Administration (ERA), Department of Energy (DOE), hereby gives notice that a Proposed Remedial Order (PRO) was issued on January 8, 1982 to Texaco, Inc. (Texaco), 2000 Westchester Avenue, White Plains, New York 10650, and that any aggrieved person may file a Notice of Objection to the Proposed Remedial Order in accordance with 10 CFR 205.193 on or before March 17, 1982.

II. The Proposed Remedial Order

Texaco is a refiner engaged in the production and sale of crude oil and natural gas, in refining, and in the marketing of petroleum products subject to DOE regulations. By this PRO, OSC sets forth proposed findings of fact and conclusions of law concerning Texaco's calculation and reporting of recoveries of increased costs for certain natural gas liquid products under the refiner price rules in 10 CFR Part 212, Subpart E, between September 1973 and December 1980. Texaco is charged with overstating the amount of its unrecovered increased costs available for pass-through by $30,930,438 in violation of the refiner price rules.

From August 1973 through January 28, 1981, refiners were required under the Mandatory Petroleum Price Regulations to file periodic reports describing the methods of calculation and amounts of increased costs used by refiners in determining their lawful selling prices for covered products. Refiners were also required to report amounts of increased costs recovered in sales of these products.

During the period September 1973 through December 1976, Texaco failed to properly calculate and report recoveries on sales of natural gasoline, propane, iso-butane, and normal butane. Specifically, Texaco either incorrectly reported or omitted from its reports certain of its sales of these products. Moreover, Texaco failed to calculate cost recoveries on the basis of the highest cost increment included in the selling price to each class of purchaser of these products for each reporting period, as required by the regulations. As a result, Texaco overstated the amount of its unrecovered increased costs available for pass-through during the period September 1973 through December 1976 by $30,930,438.

As a remedy, Texaco is directed to make adjustments to its banked costs to reflect the overstatement of unrecovered costs, to recompute its maximum allowable prices during the months of September 1973 through December 1976 for each product, to calculate recoveries on the basis of the highest increment charged each class of purchaser of a product during this period, and to resubmit its periodic reports during the period September 1973 through December 1980 to reflect the recalculations.

Requests for copies of the Proposed Remedial Order, with confidential information deleted, should be directed to: Freedom of Information Reading Room, Forrestal Building, Room 1E–190, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

III. Notice of Objection

In accordance with 10 CFR 205.193, any aggrieved person may file a Notice of Objection to the Proposed Remedial Order with the Office of Hearings and Appeals on or before March 17, 1982. A person who fails to file a Notice of Objection shall be determined to have admitted the findings of fact and conclusions of law as stated in the Proposed Remedial Order. If a Notice of Objection is not filed as provided by § 205.193, the Proposed Remedial Order may be issued as a final order.

All Notices, Statements, Motions, Responses, and other documents required to be filed with the National Office of Hearings and Appeals should be sent to: Office of Hearings and Appeals, Department of Energy, 2000 M Street, N.W., Washington, D.C. 20461.

No data or information which is confidential shall be included in any Notice of Objection.

Issued in Washington, D.C. February 10, 1982.

Milton Lorenz,

Special Counsel.

[FR Doc. 82-5497 Filed 3-1-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER82-313-000]

Arizona Public Service Co.; Filing

February 24, 1982.

The filing Company submits the following:

Take notice that Arizona Public Service Company on February 16, 1982, tendered for filing as an initial rate schedule an Interruptible Transmission Service Agreement between Tucson Electric Power Company (Tucson) and Arizona Public Service Company (APS) dated December 21, 1981.

It is requested that waiver under the provisions of § 35.11 so that service could be commenced on March 1, 1982, the date the Palo Verde-Devers line becomes operational.

A copy of this filing was served upon the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5630 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-308-000]

Arizona Public Service Co.; Filing

February 24, 1982.

The filing Company submits the following:

Take notice that Arizona Public Service Company (Arizona) on February 16, 1982, tendered for filing the Firm Transmission Service Agreement between the Tucson Electric Power Company (Tucson) and Arizona dated December 21, 1981.

Waiver is requested under the provisions of § 35.11 so that this Agreement becomes effective as of March 1, 1982, the date the line between Palo Verde-Devers line becomes operational.

A copy of this filing was served upon the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 11, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5627 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5452-000]

Chasm Hydro, Inc.; Application for Preliminary Permit

March 1, 1982.

Take notice that Chasm Hydro, Inc. (Applicant) filed on October 5, 1981, and revised on February 10, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r) for Project No. 5452 to be known as the LaSell Dam Project located on the Great Chazy River in the Town of Altona, Clinton County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. John H. Dowd, Box 319, Chateaugay, New York 12920.

Project Description. The proposed project would utilize the existing facilities owned by the Town of Altona, New York, consist of: (1) A 300-foot long and 30-foot high concrete reinforced masonry buttress-type dam having a 64-foot long spillway section and with a 250-foot long wingwall at each side; (2) a 72-inch sluice pipe and a 72-inch intake gate located at the dam's left side; (3) a 5-foot long 72-inch penstock; (4) a reservoir having a surface area of 12 acres and a storage capacity of 93 acre-feet at normal maximum surface elevation 712 feet; and (5) appurtenant facilities.

Applicant proposes to repair the dam and to construct: (1) A 2,350-foot long diameter penstock; (2) a reinforced concrete powerhouse containing a generating unit having a rated capacity of 700 kW; (3) a 2,400-foot long transmission line; and (4) appurtenant facilities. The Applicant estimates that the average annual energy output would be 3,644,305 kWh. Applicant would sell the project energy to New York State Electric & Gas Corporation.

Proposed Scope of Studies Under Permit. A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would evaluate the existing facilities, determine engineering, economic and environmental feasibility, perform studies, and gather the information necessary for inclusion in an application for an FERC license or exemption. Applicant estimates the cost of the work under the permit to be $45,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 8, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to

submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 10, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments. Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene. Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 10, 1982.

Filing and Service of Responsive Documents. Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5805 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-84-000]

Chevron USA, Inc.—Bakersfield; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

February 24, 1982.

On January 25, 1982, Chevron USA, Inc., of Concord, California filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The facility will be a topping-cycle cogeneration facility located near Bakersfield, California. The primary energy source will be crude oil. The capacity of the facility will be 4276 kilowatts. Thermal output in the form of steam will be 336 million Btu/hour which will be injected for tertiary oil recovery. Installation of the facility was scheduled to begin in February 1982. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before April 1, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5810 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-324-000]

Cincinnati Gas & Electric Co.; Proposed Tariff Change

February 24, 1982.

The filing Company submits the following:

Take notice that The Cincinnati Gas & Electric Company (Cincinnati) tendered for filing on February 18, 1982 a Seventh Supplemental Agreement dated as of January 1, 1982, to the Interconnection Agreement dated July 15, 1969, between Cincinnati and the Louisville Gas and Electric Company.

The Seventh Supplemental Agreement increases the Demand Charge for Short-Term Power from $0.85 per kilowatt of billing demand for each calendar week of short-term power reservation or $0.14 per kilowatt of billing demand per day for each day of short-term power reservation of less than a full calendar week to $1.05 per kilowatt of billing demand for each calendar week of short-term power reservation or $0.175 per kilowatt of billing demand per day for each day of short-term power reservation of less than a full calendar week. There is no estimate of increased revenues from the proposed charges since Short-Term Power transactions will occur only as load and capacity conditions dictate.

Cincinnati states that the increase in rates was negotiated by the parties. Louisville Gas and Electric Company concurs in the filing of the Seventh Supplemental Agreement.

A copy of the filing was served upon Louisville Gas and Electric Company, the Public Utilities Commission of Ohio and the Public Service Commission of Kentucky.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5826 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-159-000]

Cities Service Gas Co.; Application

March 1, 1982.

Take notice that on January 18, 1982, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP82-159-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued operation of existing facilities and the sale of natural gas to The Gas Service Company (Gas Service) for resale to the distribution area formerly served by Sekco Gas Company, Inc. (SEKCO) and the construction and operation of an additional delivery point to Gas Service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is asserted that Gas Service agreed to purchase the gas distribution facilities owned by SEKCO because SEKCO was experiencing operational difficulties and proposed abandonment of service to the area.

Applicant asserts that pursuant to an agreement dated November 6, 1981, it would continue the sale of gas to Gas Service for resale in the distribution area in southeastern Kansas formerly served by SEKCO. Applicant also proposes to install measuring, regulating and appurtenant facilities in Bourbon County, Kansas, as an additional delivery point to Gas Service in this area.

Applicant estimates that the total cost of the proposed facilities would be $7,500. Such cost, it is asserted, would be financed from treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5806 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-1-21-002]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 25, 1982.

Take notice that Columbia Gas Transmission Corporation (Columbia) on February 11, 1982, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, to be effective as follows:

March 1, 1982

Eight Revised Sheet No. 16B

April 1, 1982

Ninth Revised Sheet No. 16B

Columbia states that the filing of Eighth Revised Sheet No. 16B is being made for the sole purpose of adjusting its surcharge effective March 1, 1982, to provide for the difference between the estimated balance and the actual balance in its Unrecovered Cost Adjustment Account on March 31, 1981, which results in an additional credit of $9,304. Columbia further states that Ninth Revised Sheet No. 16B is being tendered herein to provide for the elimination of said surcharge effective April 1, 1982, which is consistent with the provisions of Section 11 of Columbia's Rate Schedule CSS.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions of protests should be filed on or before March 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5811 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-157-000]

Consolidated Gas Supply Corp.; Application

March 1, 1982.

Take notice that on February 1, 1982, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No CP82-157-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to New Jersey Natural Gas Company (NJN), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant specifically proposes to sell to NJN on a best-efforts interruptible basis up to 60,000 dekatherms (dt) equivalent of natural gas per day at the rate specified in Applicant's Rate Schedule E, FERC Gas Tariff, Third Revised Volume No. 1, or any effective superseding rate schedule which is currently $3.2778 per dt equivalent including all adjustments. It is stated that NJN is required to take or pay for an average daily quantity of 40,000 dt equivalent of gas. Applicant explains that the proposed sale would commence on the later of the day following receipt of all regulatory approvals or May 1, 1982, and would continue until October 31, 1982.

Applicant submits that the point of delivery for NJN's gas would be the existing interconnection between the facilities of Applicant and Texas Eastern Transmission Corporation in Westermoreland County, Pennsylvania, known as the Oakford Connection.

Applicant requests that the sales quantities to NJN would not be considered in allocating costs and designing rates in Docket No. RP81-80 or any future rate proceeding under Section 4 or 5 of the Natural Gas Act and that Applicant be permitted to retain all revenues from this proposed sale.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 22, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or

1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5887 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5851-000]

Emerald Peoples Utility District; Application for Preliminary Permit

March 1, 1982.

Take notice that Emerald Peoples Utility District (Applicant) filed on January 5, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for Project No. 5851 to be known as the Black Creek Water Power Project located on Waldo Lake and using the waters of Noth Fork of Middle Fork of Williamette River, Black and Salmon Creeks in Lane County, near Oakridge, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mrs. Enid Smith, 84899 Tillicum Avenue, #9, Pleasant Hill, Oregon 97401, with a copy to: Fairman, Frisk & Monaco, Attorneys at Law, Suite 1822, 2025 Eye Street, N.W., Washington, D.C. 20006.

Project Description. The proposed project, to be located within the boundaries of the Williamette National Forest, would consist of: (1) Waldo Lake, a natural lake; (2) the existing diversion gate and connecting tunnel (both to be rehabilitated); (3) a 3.5-mile long, 30-inch diameter penstock; (4) a powerhouse to contain three generating units with a total rated capacity of 9 MW; and (5) a transmission line to connnect to an existing Bonneville Power Administration 12.5-kV line.

Proposed Scope of Studies Under Permit. A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 30-month permit to study the feasibility of the project. No new roads would be required to conduct the studies.

Competing Applications. This application was filed as a competing application to Hydro Dyne Company's application for Project No. 5552 filed on October 21, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments. Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene. Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents. Any filing must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5886 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5716-000]

Energenics Systems Inc.; Application for Preliminary Permit

March 1, 1982.

Take notice that Energenics Systems Inc. (Applicant) filed on December 4, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 7981(a)–825(r)] for Project No. 5716 to be known as the Newt Graham Lock and Dam Project located on the Verdigris River in Wagoner County, Oklahoma. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas H. Clarke, Jr., Energenics Systems Inc., 1727 Q Street, N.W., Washington, D.C. 20009.

Project Description.—The proposed project would utilize the exiting Corps of Engineers' Newt Graham Lock & Dam and would consist of: (1) A new powerhouse containing one or more generating units with a total rated capacity of 2 MW; (2) an existing 115 kV transmission line; and (3) appurtenant facilities. The applicant estimates that the average annual energy output would be 4 GWh. The most likely market for the energy derived at the project is the Kamo Electric Cooperative.

Proposed Scope of Studies Under Permit.—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicants would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $35,000.

Competing Applications.—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 14, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 14, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comment within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 14, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy of must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5889 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5717-000]

Energenics Systems, Inc.; Application for Preliminary Permit

March 1, 1982.

Take notice that Energenics Systems, Inc. (Applicant) filed on December 4, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5717 to be known as the Chouteau Lock and Dam Project located on the Verdigris River in Wagoner County, Oklahoma. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas H. Clarke, Jr., Energenics Systems, Inc., 1727 Q Street, N.W., Washington, D.C. 20009.

Project Description. The proposed project would utilize the existing Corps of Engineers' Chouteau Lock and Dam and would consist of: (1) A new powerhouse containing two generating units with a total rated capacity of 2 MW; (2) an existing 115–kV transmission line; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be approximately 4 GWh. The most likely market for the power is Kamo Electric Cooperative.

Proposed Scope of Studies Under Permit. A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $35,000.

Completing Applications. Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 14, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 14, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments. Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene. Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 14, 1982.

Filing and Service of Responsive Documents. Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must

also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5600 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-166-000]

EOOE Gas Co.; Application

March 1, 1982.

Take notice that on January 28, 1982, EOOE Gas Company (Applicant), 606 Page Street, DeQuincy, Louisiana 70633, filed in Docket No. CP82-166-000 an application pursuant to Section 1(c) of the Natural Gas Act for exemption from the provisions of the Natural Gas Act and the Regulations of the Commission thereunder, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant owns and operates nineteen miles of intrastate pipeline in Allen Parish, Louisiana, which was acquired from the Boise Southern Company (Boise Southern) on January 1, 1982. Applicant asserts that by order dated February 29, 1980, Applicant was authorized by the Commissioner of Conservation of the State of Louisiana to acquire and operate the pipeline facilities to supply natural gas to the Town of Elizabeth, Louisiana, and to nerby agricultural and industrial users. Applicant, it is explained, was authorized to secure natural gas from both intrastate and interstate sources to provide the service but does not presently have any gas supplies under contract and is not presently negotiating with any supplier.

Applicant submits that a fourteen-mile portion of the acquired facilities has been used since 1975 to transport gas purchased by Elizabeth under the terms of an order pursuant to Section 7(a) of the Natural Gas Act issued by the Federal Power Commission on September 3, 1975, in Docket No. CP75-302. Applicant avers that until recently it had intended to purchase intrastate gas to supply residential and commercial gas to Elizabeth and industrial gas to Boise Southern. However, as Boise Southern was closing its Elizabeth plant, the transportation and sale arrangements contemplated were no longer economically viable, it is explained.

Applicant avers that its rates and charges would be subject to regulation by the Louisiana Public Service Commission and the Louisiana Commissioner of Conservation.

Applicant further states that all gas sold or transported by it would be consumed within the State of Louisiana.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 22, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5601 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3363-001]

Hydro Corporation of Pennsylvania; Surrender of Preliminary Permit

March 1, 1982.

Take notice that Hydro Corporation of Pennsylvania, Permittee for the U.S. Army Corps of Engineers' Union City Dam, Project No. 3363, has requested that its preliminary permit be terminated. The preliminary permit was issued February 9, 1981, and would have expired on July 1, 1982. The project would have been located on French Creek in Erie County, Pennsylvania. Hydro Corporation of Pennsylvania cites that after evaluation of the site, "Construction costs for dam improvement alone renders this site infeasible for hydro development."

Hydro Corporation of Pennsylvania filed its request on February 4, 1982, and the surrender of its permit for Project No. 3363 has been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5629 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-310-000]

Illinois Power Co.; Filing

February 24, 1982.

The filing Company submits the following:

Take notice that on February 16, 1982, Illinois Power Company (Illinois) tendered for filing proposed Modification No. 8, dated December 7, 1981, to the Interconnection Agreement, dated July 25, 1975, between Western Illinois Power Cooperative, Inc. and Illinois.

Illinois indicates that this filing is made for an increase for Short-Term Firm Capacity, Maintenance Power and Short-Term Non-Firm Power reservation charges, an increase in the minimum charge for Emergency Energy and for a new service schedule, Non-Displacement Energy.

Illinois Power states that a copy of the filing was served upon Western Illinois Power Cooperative, Inc. and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5630 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-155-000]

Interstate Power Co.; Application

March 1, 1982.

Take notice that on January 15, 1982, Interstate Power Company (Applicant), 1000 Main Street, Dubuque, Iowa 52001, filed in Docket No. CP82-155-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline facilities and the limited-term leasing and operation of certain pipeline facilities; all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct approximately 6.72 miles of 14-inch pipeline from a point north of Albany, Illinois, where its 27-mile Hoeppole pipeline meets the Mississippi River looping in a southerly arc to a point just north of and along the Meredosia Dike

by Illinois State Highway 84 to the Mississippi River to the Dome Pipeline Company (Dome) 12-inch pipeline river crossing. Applicant indicates that the Dome pipeline crossing is presently an Interstate Commerce Products Pipeline. Applicant further proposes to lease one of Dome's four river crossings for a period of 15 years. Applicant states that said crossing crosses the Mississippi river via the Dome pipeline to its Clinton area integrated distribution system at a point north of U.S. Highway 67 within the city limits of Camanche, Iowa.

Applicant states that following the termination of the aforesaid 15-year lease, the Dome Petroleum Pipeline leased line would revert back to Dome as a products line and Applicant at that time would seek authorization to construct a river crossing within the vicinity of the Dome leased line.

Applicant states that the proposed construction and leasing is needed in order to provide added capacity to serve its Iowa distribution customers and still meet its reliability criteria.

Applicant estimates the total cost of the proposed construction to be $2,750,000 which cost would be financed from Applicant's earnings.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Comisison or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5602 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-311-000]

Kentucky Utilities Co.; Filing

February 24, 1982.

The filing Company submits the following:

Take notice that on February 16, 1982, the Kentucky Utilities Company (Kentucky) tendered for filing a change in its Rate Schedule FERC 164 to include an additional delivery point to Old Dominion Power Company (Customer). Service is expected to begin on or about February 15, 1982, which is requested as the effective date.

Kentucky states that no reasonable billing estimates can be made since the load served will be that transferred from other delivery points from time to time.

Kentucky requests an effective date of February 15, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been sent to Customer, Virginia State Corporation Commission, and the Kentucky Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 or the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). Any such petitions or protests should be filed on or before March 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. All person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5631 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-160-000]

Lone Star Gathering Co.; Application

March 1, 1982.

Take notice that on January 18, 1982, Lone Star Gathering Company, (Applicant), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP82-160-000 and application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of three natural gas taps, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that two of the proposed taps would be located in Panola County, Texas, and one tap would be constructed in Rusk County, Texas. Applicant states that the purpose of said taps would be to augment Applicant's ability to take delivery of and transport natural gas for the account of Natural Gas Pipeline Company of America.

Applicant estimates the total cost of the proposed facilities to be $1,560 which cost would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if

the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5603 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST82-81-000]

Louisiana Resources Co.; Application for Approval of Rates

March 1, 1982.

Take notice that on December 2, 1981, Louisiana Resources Company (Applicant), P.O. Box 3102, Tulsa, Oklahoma 74101, filed in Docket No. ST82-81-000 an application pursuant to Section 284.123(b)(2) of the Commission's Regulations for approval of rates charged for the transportation of natural gas on behalf of Southern Natural Gas Company (Southern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that on May 6, 1981, Applicant and Southern entered into an agreement whereby Applicant would transport for the account of Southern up to 25,000 Mcf of gas per day from a point in Cameron Parish, Louisiana, to a point in Vermilion Parish, Louisiana, where such gas is delivered to Sugar Bowl Gas Corporation for delivery by exchange to Southern.

For said service, Applicant proposes to charge Southern an initial amount of 22.25 cents per million Btu of gas transported. Applicant asserts that the proposed rate would be fair and equitable in that it would reasonably compensate it for transportation services rendered and would not be in excess of rates charged for comparable intrastate service. Applicant notes that the rates for which approval is sought are the same as those which previously have been approved by the Commission for comparable transportation services provided by Applicant in Docket Nos. ST79-26, ST80-153, and ST80-277.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5604 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-146-000]

Mid-Continent Gas Storage Co.; Application

March 1, 1982.

Take notice that on January 7, 1982, Mid-Continent Gas Storage Company (Applicant, P.O. Box 190. Aurora, Illinois 60507, filed in Docket No. CP82-146-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing storage service of from 1,000,000 Mcf to 6,000,000 Mcf of natural gas annually for a term ending November 1, 2000, for East Tennessee Natural Gas Company (East Tennessee), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant entered into an agreement dated January 1, 1982, with its parent, Northern Illinois Gas Company (NI-Gas), whereunder Applicant leases an undivided interest in NI-Gas' intrastate storage and transportation system for a fixed period ending November 1, 2000. It is further stated that under this agreement Applicant acquired those rights necessary to provide East Tennessee with the storage service outlined in the limited-term storage agreement dated January 1, 1982, between Applicant and East Tennessee.

It is submitted that the storage agreement provides that during each injection period (April 1 through October 1) Applicant would deliver or cause to be delivered into storage an injection volume of natural gas for East Tennessee's account. East Tennessee may rather than have Applicant inject volumes on its behalf deliver or cause to be delivered to Applicant the injection period volume for storage. If the election is made, applicant has an obligation to accept up to the injection period volume of gas during the injection period except that Applicant is obligated to accept gas only on 200 days of each injection period, it is stated. During each injection period, 2 percent of the volume of gas delivered to applicant for injection on any given day would be delivered at no cost for use as compressor fuel and would not be included in the injection period volume, Applicant asserts. If East Tennessee has not made the election for any injection period such volumes stored for its account are required to be made up at no cost to Applicant with a 2 percent allowance for compressor fuel as the first gas delivered in the next injection period, it is states.

Applicant submits that during the term of the storage agreement the injection period volumes are 1,000,000 Mcf in the 1982 injection period and 4,000,000 for each successive injection period. These volumes can be increased up to 6,000,000 Mcf for the 1985 injection period and thereafter and up to 8,000,000 Mcf for the 1986 injection period and thereafter.

Applicant further explains that during each of the withdrawal periods (November 1 through March 31 of each succeeding storage year) Applicant would make available to East Tennessee an aggregate storage withdrawal volume of gas thermally equivalent to the injection period volume of the immediately preceding injection period. Applicant is obligated to make deliveries on 150 days of each withdrawal period.

It is stated that the rate charged East Tennessee would be based upon the most current rate order approved by the Illinois Commerce Commission. East Tennessee would pay a proportionate share of the total cost of service for NI-Gas' storage facilities derived from the most current NI-Gas rate order. Under the storage agreement, there is a minimum bill equal to 80 percent of the product of the applicable injection period volume and the storage rate. If injections are made above 80 percent of the applicable injection period volume, it is stated that the resulting annual charge less the minimum bill payment is due as an additional charge allocated equally to the five months of the applicable withdrawal period. If East Tennessee does not make the election described above, there is also a deferred injection charge based on NI-Gas' approved rate of return, the volume of gas injected for East Tennessee's account, and NI-Gas' average cost of gas purchased and produced, it is explained.

Applicant states that all injection and withdrawal gas required for the storage service would be furnished by East Tennessee. East Tennessee, however, would not be required to furnish any base gas.

East Tennessee, it is stated, agrees to deliver injection gas and accept withdrawal gas at already existing interconnections of NI-Gas' intrastate facilities with those of one or more of NI-Gas' existing pipeline suppliers.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 22, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5605 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-320-000]

Montana Power Co.; Filing

February 24, 1982.

The filing Company submits the following:

Take notice that on February 16, 1982, the Montana Power Company (Montana) tendered for filing in compliance with the Federal Power Commission's Order of May 8, 1977, a summary of sales made under the Company's FPC Electric Tariff M-1 during December, 1981, along with cost justification for the rate charges.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5614 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5512-000]

New York State Energy Research and Development Authority; Application for Preliminary Permit

March 1, 1982.

Take notice that the New York State Energy Research and Development Authority (Applicant) filed on October 16, 1981, and revised on January 8, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 5512 to be known as the Comprehensive Erie Barge Canal Development Project located on the New York State Barge Canal and the Mohawk River in or near the towns of Tribes Hill, Randall, Canajoharie, Fort Plain, Mindenville, and Jacksonburg, in Montgomery and Herkimer Counties, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. C. Todd Miles, New York State Energy Research & Development Authority, Two Rockefeller Plaza, Albany, New York 12223.

Project Description.—The proposed run-of-river project would utilize existing Barge Canal facilities owned by New York State and would consist of six developments:

A. The Lock 12 Development comprising: (1) An existing bridge-type movable dam; (2) a reservior having a surface area of 325 acres and a storage capacity of 4,875 acre-feet at normal pool elevation 276.8 USGS; (3) an intake structure; (4) four 10-foot diameter 200-foot long penstocks; (5) a powerhouse containing a generating unit having a rated capacity of 4,400 kW at a head of 10 feet and a flow of 6,500 c.f.s.; (6) a switchyard; (7) a 5,000-foot long transmission line; and (8) appurtenant facilities. Applicant estimates that the average annual energy output would be 17,600,000 kWh.

B. The Lock 13 Development comprising: (1) An existing bridge-type movable dam; (2) a reservoir having a surface area of 100 acres and a storage capacity of 1,500 acre-feet at normal pool elevation 284.8 USGS; (3) an intake structure; (4) four 10-foot diameter 200-foot long penstocks; (5) a powerhouse containing a generating unit having a rated capacity of 2,000 kW at a head of 7 feet and a flow of 4,200 cfs; (6) a switchyard; (7) a 5,000-foot long transmission line; and (8) appurtenant facilities. Applicant estimates that the average annual energy output would be 8,200,000 kWh.

C. The Lock 14 Development comprising: (1) An existing bridge-type movable dam; (2) a reservoir having a surface area of 125 acres and a storage capacity of 1,875 acre-feet at normal pool elevation 292.8 USGS; (3) an intake structure; (4) a penstock; (5) a powerhouse containing a generating unit having a rated capacity of 1,800 kW at a head of 7 feet and a flow of 3,800 cfs; (6) a switchyard; (7) a 600-foot long transmission line; and (8) appurtenant facilities. Applicant estimates that the average annual energy output would be 7,400 kWh.

D. The Lock 15 Development comprising: (1) An existing bridge-type movable dam; (2) a reservoir having a surface area of 60 acres and a storage capacity of 900 acre-feet at normal pool elevation 300.8 USGS; (3) an intake structure; (4) a penstock; (5) a powerhouse containing a generating unit having a rated capacity of 1,800 kW at a head of 7 feet and a flow of 3,700 cfs; (6) a switchyard; (7) a 500-foot long transmission line; and (8) appurtenant facilities. Applicant estimates that the average annual energy output would be 7,200,000 kWh.

E. The Lock 16 Development comprising: (1) An existing bridge-type movable dam; (2) a reservoir having surface area of 85 acres and a storage capacity of 1,275 acre-feet at normal pool elevation 321.3 USGS; (3) a four-mile long portion of the Barge Canal (to be used as an intake channel); (4) a power canal; (5) a powerhouse containing two generating units having a total rated capacity of 3,700 kW at a

head of 19.5 feet and a flow of 2,600 cfs; (6) a switchyard; (7) a 500-foot long transmission line; (8) a tailrace; and (9) appurtenant facilities. Applicant estimates that the average annual energy output would be 15,200,000 kWh.

F. The Lock 18 Development comprising: (1) An existing bridge-type movable dam; (2) a reservoir having a surface area of 100 acres and a storage capacity of 1,500 acre-feet at normal pool elevation 361.8 USGS; (3) a 4-mile long portion of the Barge Canal (to be used as an intake channel); (4) a head canal; (5) a powerhouse containing a generating unit having a rated capacity of 1,700 kW at a head of 19 feet and a flow of 1,300 cfs; (6) a switchyard; (7) a 500-foot long transmission line; (8) a tailrace; and (9) appurtenant facilities. Applicant estimates that the average annual energy output would be 7,300,000 kWh.

The project would comprise 7 generating units having a total rated capacity of 15,400 kW and would produce an average annual energy output of 62.9 million kWh. Project energy would be sold to Niagara Mohawk Power Corporation.

Proposed Scope of Studies under Permit. A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18-months, during which time it would review existing studies and would perform economic, marketing, environmental and feasibility assessment studies and would prepare an application for an FERC license. Applicant estimates the cost of the work under the permit would be $257,000.

Competing Applications. This application was filed as a competing application to Mohawk Energy Corporation's application for Project No. 4339 filed on March 16, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Agency Comments. Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene. Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Pracatice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents. Any filings must bear in all capital letters the title "COMMENTS," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secreatary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5600 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-322-000]

Niagara Mohawk Power Corp.; Filing

February 24, 1982.

The filing Company submits the following:

Take notice that Niagara Mohawk Power Corporation (Niagara) of February 18, 1982, tendered for filing a cancellation of its FERC Rate Schedule No. 116 between Niagara and Vermont Public Power Supply Authority (VPPSA), which became effective October 1, 1981.

Niagara presently has on file an agreement with VPPSA dated October 1, 1981. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule FERC No. 116. This cancellation is a result of the short term nature of the original agreement which called for the service to end October 31, 1981.

This cancellation terminates the transmission rate for wheeling power and energy from and to VPPSA as provided for in the terms of the original agreement. The cancellation is provided to be effective October 31, 1981.

Copies of the filing were served upon the Vermont Public Supply Authority and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5615 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-48-000]

Nornev Demonstration Geothermal Co.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 24, 1982.

On January 11, 1982, Nornev Demonstration Geothermal Co., of Reno, Nevada filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The proposed facility will be a 13.5 megawatt geothermal facility located in the Northern Nevada Beowawe Geothermal Field. The primary energy source will be geothermal fluid. Applicant states that there are no other small power production facilities located within one mile of the proposed facility which are owned by Applicant and which use the same energy source. The planned facility will not use any natural gas, coal or oil.

Membership interests in Nornev Demonstration Geothermal Co. are held in equal parts by Pacific Power and Light, Sierra Pacific Power Company, Eugene Water and Electric Board (EWEB), and Sacramento Municipal Utility District (SMUD). Applicant contends that, being municipal utilities, neither EWEB nor SMUD is a "definitional" electric utility, and thus no more than 50 percent of the equity interest of the facility is owned by electric utilities, electric utility holding companies or any combination thereof.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests must be filed on or before April 2, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5632 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-54-000]

North Canal Waterworks; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 25, 1982.

On January 21, 1982, North Canal Waterworks of Boston, Massachusetts filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility is a 2.52 megawatt hydroelectric facility located on the North Canal below the Great Stone Dam on the Merrimack River in Lawrence, Massachusetts. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility. Applicant states that the facility is partly owned by Rowland Industries and partly by Essex Company both of Lawrence, Massachusetts. North Canal Waterworks is the lessee and operator of the facility. The Essex Company is also the general partner of Lawrence Hydroelectric Associates, which owns and operates the Lawrence Hydroelectric Project. The Lawrence Hydroelectric project, which is located within one mile of the North Canal Waterworks, is a qualifying hydroelectric small power production facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before April 2, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5616 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA 82-2-37-000 (PGA 82-2, IPR 82-2)]

Northwest Pipeline Corp.; Change in Rates Pursuant to Purchased Gas Cost Adjustment

February 25, 1982.

Take notice that Northwest Pipeline Corporation (Northwest), on February 12, 1982, tendered for filing a proposed change in rates applicable to service rendered under rate schedules affected by and subject to Article 16, Purchased Gas Cost Adjustment Provision ("PGAC"), contained in its FERC Gas Tariff, First Revised Volume No. 1. Such change in rates is for the purpose of (1) reflecting changes in Northwest's cost of purchased gas which will become effective during the period April 1, 1982 through September 30, 1982, applied to volumes purchased for the 12-month period ending December 31, 1981; (2) its change in unrecovered purchased gas costs since Northwest's prior PGAC filing dated August 14, 1981 and (3) projecting incremental surcharges to be assessed Northwest's affected direct and sales for resale customers pursuant to Order 49. Northwest has not included any change in rates for the level of costs associated with its pre-1973 leasehold production which is treated on a cost-of-service basis for rate purposes.

The current PGAC adjustment, for which notice is given herein, aggregates to an increase of .703¢ per therm in all rate schedules affected by and subject to the PGAC. The annualized change in Northwest's rates is an increase of $23,984,384. Northwest proposes to recover, through a surcharge, the balance of $20,872,986 in its FERC Account No. 191, as of December 31, 1981. The proposed change in rates from the PGAC and the other changes proposed by Northwest would result in a net increase in its annual revenues from jurisdictional sales and sevice of $95,857,535.

Northwest is concurrently filing a notice of change in rates applicable to section 13.7, changes in Rates to Reflect Curtailment Credits, contained in its First Revised Volume No. 1 Tariff. In accordance with Article 13.7 contained in the aforementioned tariff, the current rate adjustments under the Demand Charge Credit Adjustment provision is to become effective on Northwest's PGAC adjustment date. Accordingly, both rate adjustments are reflected on the tendered Sixth Revised Sheet No. 10 which is proposed to become effective on April 1, 1982. Northwest also tendered for filing and acceptance Fourth Revised Sheet No. 10–B. Fourth Revised Sheet No. 10–B sets forth revised projected incremental pricing surcharges to become effective April 1, 1982 as part of the instant filing.

A copy of this filing has been served on all parties on record in Docket No. RP72–154, upon all jurisdictional customers, and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeidng. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5617 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-37-001]

Northwest Pipeline Corp.; Change in Rates Pursuant to Demand Charge Credit Adjustment

February 25, 1982.

Take notice that Northwest Pipeline Corporation ("Northwest"), on February 12, 1982 tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1, filed pursuant to the Commission's order issued March 29, 1974, at Docket No. RP74-72 and Article 13.7 of Northwest's FERC Gas Tariff, First Revised Volume No. 1. The change in rates will result in .000¢ per therm for Rate Schedules ODL-1, DS-1 and PL-1. As more fully explained in the instant filing, the demand charge credit adjustment reflected on Northwest's Statement of Rates is zero.

Northwest is concurrently filing a notice of change in rates applicable to Article 16, Purchased Gas Cost Adjustment Provision contained in its First Revised Volume No. 1 Tariff. Both rate adjustments are reflected on the tendered Sixth Revised Sheet No. 10 which is proposed to become effective April 1, 1982.

Copies of this filing have been served upon Northwest's jurisdictional customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the FERC, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1982. Protests will be considered by the Commission in determining the appropriate actions to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5610 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-309-000]

Oklahoma Gas and Electric Co.; Filing

February 24, 1982.

The filing Company submits the following:

Take notice that on February 16, 1982, Oklahoma Gas and Electric Company (Oklahoma) tendered for filing Agreements for sale of 150 MW of power and energy increasing to 200 MW in April, to Gulf States Utilities Company (GSU) for the year 1982. Oklahoma states that the rate is the same as that contained in Docket No. ER81-256-000 which covered a similar sale during year 1981.

Oklahoma requests an effective date of January 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5619 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-314-000]

Pacific Gas and Electric Co.; Filing

February 24, 1982.

The filing Company submits the following:

Take notice that Pacific Gas and Electric Company (PG&E) on February 16, 1982, tendered for filing a letter agreement between PG&E and the Department of Water and Power of the City of Los Angeles (Los Angeles) dated February 10, 1977.

PG&E States that the letter agreement provides for the sale, purchase or exchange by PG&E of such energy as each determines is surplus to its needs. Such energy in nonfirm and interruptible. The price for energy to be sold or exchanged shall be mutually agreed upon prior to delivery.

PG&E proposes and effective date of January 26, 1977, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5611 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-316-000]

Pacific Power & Light Co.; Filing

February 24, 1982.

The filing Company submits the following:

Take notice that Pacific Power & Light Company (Pacific) on February 16, 1982, tendered for filing, in accordance with § 35.13 of the Commission's Regulations, Contract No. DE-MS79-81BP90867 between Pacific and Bonneville Power Administration (Bonneville).

This Contract provides for the sale of firm electric capacity and energy by Pacific to Bonneville.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective on September 1, 1981.

Copies of the filing were supplied to Bonneville.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.9 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5614 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-317-000]

Pacific Power & Light Co.; Filing

February 24, 1982.

The filing Company submits the following:

Take Notice that Pacific Power & Light Company (Pacific) on February 16, 1982, tendered for filing, in accordance with § 35.13 of the Commission's Regulations, Supplement and Amendment No. 3 to the Transmission Agreement dated January 28, 1981, with Tri-State Generation & Transmission Association, Inc. (Tri-State). Supplement and Amendment No. 3 provides a new Point-of-Delivery to Tri-State and transmission of power and energy by Pacific for Tri-State.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective July 9, 1981, which it claims is the date service became available to Tri-State.

Copies of the filing were supplied to Tri-State.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5620 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-318-000]

Philadelphia Electric Power Co., et al.; Filing

February 24, 1982.

Take notice that Philadelphia Electric Power Company, The Susquehanna Electric Company and The Susquehanna Power Company (collectively referred to as "the Companies") on February 17, 1982, tendered for filing proposed changes in their FERC Electric Service Tariffs Volume No. 1 applicable to the Conowingo Project (FERC Project No. 405) sales and services. The proposed changes would increase revenues from jurisdictional sales and service by $4,838,461 based on the 12-month period ending December 31, 1981.

The change modifies existing cost of service tariffs by substituting a variable rate of return for the previously established fixed rate of return.

The Companies request an effective date of April 19, 1982.

Copies of the filing were served upon Philadelphia Electric Company, the Public Service Commission of Maryland and the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5621 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-312-000]

Potomac Edison Co.; Filing

February 24, 1982.

Take notice that the Potomac Edison Company (Potomac) on February 16, 1982, tendered for filing an Electric Service Agreement with BARC Electric Cooperative. The changes proposed in this Agreement, which supersedes a previous Agreement between the parties, do not contemplate any change in rates from those under which BARC Electric Cooperative is now being served.

Potomac states that the changes proposed are for the purpose of superseding a previous Agreement between the parties and for consistency between this Agreement and those under which similar customers are served.

Potomac requests an effective date of November 1, 1981, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon BARC Electric Cooperative and the Virginia State Corporation Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5615 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-321-000]

Public Service Company of New Mexico; Filing

February 24, 1982.

Take notice that on February 18, 1982, Public Service Company of New Mexico (PNM) tendered for filing an amendment to an Interconnection Agreement (designated PNM Rate Schedule FPC No. 31) and an Electric Service Agreement (designated PNM Rate Schedule FPC No. 36) with Plains Electric Generation and Transmission Cooperative, Inc. (Plains). The amendment will modify certain operating procedures to provide load patterning capabilities and the treatment of diversity in cost of service allocations.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5622 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5949-000]

Public Utility District No. 1 of Lewis County, Washington; Application for Preliminary Permit

March 1, 1982.

Take notice that Public Utility District No. 1 of Lewis County, Washington (Applicant) filed on February 5, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5949 to be known as the Summit Creek Waterpower Project located on Summit Creek, within the Gifford Pinchot National Forest in Lewis County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Gary H. Kalich, Manager, Public Utility District No. 1 of Lewis County, P.O. Box 330, Chehalis, Washington 98532.

Project Description. The proposed project would consist of: (1) A 10-foot high concrete-gravity diversion structure; (2) a 60-inch diameter, 5,800-foot long pipeline; (3) a 60-inch diameter, 800-foot long penstock; (4) a powerhouse containing two generating units with a total installed capacity of 10.4 MW and an estimated average annual energy production of 37.4 GWh; and (5) a 1.5-mile long transmission line.

Proposed Scope of Studies Under Permit. A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a 36-month permit. During the permit period technical, economic, financial, environmental and engineering feasibility studies will be undertaken; consultations with and obtaining necessary permits from the U.S. Forest Service and other Federal, State and local agencies, and an application for a license will be prepared. The estimated cost of the above activities is $200,000.

Competing Applications. This application was filed as a competing application to Hydro Resource Company's application for Project No. 5320 filed on September 4, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et deq. (1981), as appropriate).

Agency Comments. Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agenies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene. Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practices and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents. Any filings must bear in all capital letters the title "COMMENTS," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5607 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-323-000]

Southwestern Electric Power Co.; Filing

February 24, 1982.

Take notice that on February 16, 1982, Southwestern Electric Power Company (SWEPCO), tendered for filing two Letter Agreements between SWEPCO and Gulf States Utilities Company (GSU), dated December 11, 1981, which provide for SWEPCO to furnish transmission service through its system for capacity and associated energy GSU purchased from Oklahoma Gas and Electric Company (OGE) in the amount of: (1) 50 MW for the period of January 1, 1982 through December 31, 1982; (2) 100 MW for the period of January 1, 1982 through March 31, 1982, and increasing to 150 MW beginning on April 1, 1982 and continuing through December 31, 1982.

SWEPCO requests waiver of the prior notice requirement to allow an effective date of January 1, 1982.

A copy of the filing was furnished to the Louisiana Public Service Commission, the Public Utility Commission of Texas, Oklahoma Gas and Electric Company, and Gulf States Utilities Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5623 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 405-008]

Susquehanna Power Co. and Philadelphia Electric Power Co.; Application for Amendment of License

March 1, 1982.

Take notice that an application was filed on November 19, 1981, under the Federal Power Act, 16 U.S.C. 791(a)–825(r), by the Susquehanna Power Company and the Philadelphia Electric Power Company, joint Licensees of the Conowingo Project No. 405, located in Cecil and Harford Counties, Maryland and York and Lancaster Counties, Pennsylvania, for approval of a revision to its recreation use plan, Exhibit R. This filing was made in response to Article 43 of the FERC Order Issuing New Major License of August 13, 1980. Correspondence with the Licensees should be directed to: Mr. Eugene J. Bradley, 2301 Market Street, Philadelphia, Pennsylvania 19101.

The Licensees propose to make minor improvements at six existing boat access areas and to study and identify potential swimming areas for development at the project.

Comments, Protests, or Petitions To Intervene. Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petitions to intervene must be filed on or before April 23, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5636 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RA82-14-000]

Texas City Refining, Inc.; Filing of Petition for Review Under 42 U.S.C. 7194

February 24, 1982.

Take notice that Texas City Refining, Inc. on February 16, 1982 filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before March 11, 1982, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before March 11, 1982, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H–025, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5637 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-188-000]

Texas Eastern Transmission Corp.; Application

March 1, 1982.

Take notice that on February 2, 1982, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP82–188–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for New Jersey Natural Gas Company (New Jersey), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 80,000 dekatherms (dt) equivalent of natural gas per day, less quantities retained for applicable shrinkage, pursuant to a gas transportation agreement dated January 21, 1982. It is stated that pursuant to a gas purchase agreement between New Jersey and Consolidated Gas Supply Corporation (Consolidated) Consolidated would make said gas available by displacement to Applicant at the existing point of interconnection between Applicant and Consolidated located at Applicant's meter station 062 in Westmoreland County, Pennsylvania, or at other mutually agreeable existing points of delivery in Applicant's Zone C. It is further stated that Applicant would deliver said gas to New Jersey at Applicant's meter station 963 in Middlesex County, New Jersey, or other mutually agreeable existing points of delivery.

It is stated that Applicant would charge New Jersey the applicable effective TS–1 basic rate under its Rate Schedule TS–1 which rate is currently 13.98 cents per dt equivalent. It is noted, however, that Applicant would charge New Jersey the applicable effective TS–1 excess rate which is currently 16.02 cents per dt equivalent for quantities of gas transported and delivered by Applicant which when added to the quantities delivered to New Jersey under Applicant's Rate Schedule TS–1 and SS–11 and other transportation agreements exceed the combined total curtailment of natural gas sales to New Jersey under all of Applicant's firm sales rate schedules. It is stated that Applicant would retain applicable shrinkage for use in providing the transportation service proposed herein and would have the right to increase the amount of applicable shrinkage from time to time in order to insure that it retains a quantity of gas sufficient to meet its requirements in providing such transportation service. Applicant proposes to retain all revenues resulting from transportation of gas for New Jersey.

Applicant states that the proposed service would not adversely affect or displace capacity for services or sales to high priority users.

Applicant further requests that the authorization granted herein be limited to a term commencing upon the date of initial delivery or sixty days after receipt of certificate authorization whichever occurs earlier and terminating one year from such date.

It is asserted that the proposed service would enable New Jersey to implement its purchase of natural gas and help it fulfill its need for a greater natural gas supply.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 22, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or

1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5600 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-480-001]

Topico; Application

March 1, 1982.

Take notice that on January 28, 1982, Topico (Applicant), 4000 Mahoning Avenue, Warren, Ohio 44482, filed in Docket No. CP81-480-001 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for National Fuel Gas Supply Corporation (National Fuel) and the operation of facilities necessary for such transportation, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is submitted that Applicant is an intrastate pipeline subject to the jurisdiction of the Public Utilities Commission of Ohio (PUCO).

It is also submitted that on August 18, 1981, Applicant filed in the instant docket a Petition for Declaratory Order requesting approval of the subject transport pursuant to section 311(a) of the Natural Gas Policy Act of 1978. Applicant asserts that this application is filed in the alternative to the request for a declaratory order.

Applicant states that it has entered into a transportation arrangement with National Fuel pursuant to which Applicant would transport natural gas on behalf of National Fuel from Applicant's meter in Ohio through approximately ninety-three feet of facilities to National Fuel's meter in Pennsylvania for seven years and for so long thereafter as the contract seller to National Fuel continues to produce gas from the wells dedicated to National Fuel.

Applicant asserts that it would deliver to National Fuel up to 7 billion Btu of gas per day and would charge the 35.5-cent per Mcf PUCO tariff rate for the Ohio portion of the transportation as per the agreement with National Fuel.

Applicant further requests a Commission declaration that Applicant would remain an intrastate pipeline not subject to the Commission's jurisdiction for any purpose not contemplated by this application and that the facilities and transportation of gas by suppliers of Applicant would remain exempt from the Commission's jurisdiction.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5600 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-315-000]

Tucson Electric Power Co.; Filing

February 24, 1982.

Take notice that Tucson Electric Power Company (Tucson) on February 16, 1982, tendered for filing Amendment No. 2 to the "Tucson-Los Angeles 1979 Nonfirm Energy Agreement" between Tucson and Los Angeles Department of Water and Power ("Los Angeles"). The primary purpose of this Amendment No. 2 is to extend the term of the Agreement by advancing the termination date from December 31, 1981 to May 31, 1982. Tucson states that copies of the filing were served upon Los Angeles.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5604 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-319-000]

Vermont Electric Power Co., Inc.; Filing

February 24, 1982.

Take notice that on February 17, 1982, Vermont Electric Power Company, Inc. ("Velco") tendered for filing Agreements between itself and utilities in Vermont on whose behalf Velco purchases power from sources outside the state. The agreements provide for Velco's resale of the power to those utilities at cost, for transmission across Velco's facilities, and for allocation of the cost of Velco substation facilities used by those utilities. This filing would not affect Velco's revenues but, for ease of administration, would replace existing individual contracts for resale of power and transmission with a standard Power Purchase Agreement and Transmission Agreement. It would also replace individual contracts for sharing of the cost of Velco substation facilities with a standard Substation Participation Agreement.

The filing includes two amendments to existing contracts. Velco purchases Vermont Yankee power under a Three-Party Power Agreement assigning to it entitlements to that power acquired by Central Vermont Public Service Corporation and Green Mountain Power Company. In accordance with those two utilities' commitments to offer their entitlements on a non-discriminatory basis to all Vermont utilities, the Three-Party Power Agreement requires Velco to resell Vermont Yankee power to Central Vermont and Green Mountain and a portion to other Vermont utilities. Under a Three-Party Transmission Agreement, Velco provides transmission service to each of the purchasing utilities for Vermont Yankee and other power. Both three-party agreements will continue in effect under this filing. Velco tendered amendments to both agreements to conform several of their provisions to the new Power Purchase Agreement and Transmission Agreement. The amendment to the Three-Party Transmission Agreement provides for termination of four existing contracts.

The Power Purchase Agreement, the Transmission Agreement and the amendments to the two Three-Party Agreements are executed as of June 1, 1981 and provide that they will become effective as of that date. The Substation Participation Agreement is to become effective December 1, 1981. Velco requests waiver of the 60-day notice requirement to permit these effective dates, which also apply to cancellation of existing contracts.

Copies of the filing have been served on all the affected customers and the Vermont Public Service Department.

Any person wishing to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this applications are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5605 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-63-000]

Westfir Energy Co.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 24, 1982.

On January 28, 1982, Westfir Energy Co. of Pasco, Washington filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The proposed small power production facility will be located in Westfir, Oregon 97492. The primary energy source will be biomass in the form of mill wastes and residues from logging and thinning operations. Coal will be used as a backup energy source, providing an estimated 8 percent of the total Btu input to the facility. The capacity of the facility will be 7.5 megawatts. Westfir has proposed to build another biomass fueled facility and combined capacity of the facilities will not exceed 80 megawatts on an average annual basis. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before April 1, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5606 Filed 3-1-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-64-000]

Westfir Energy Co., Application for Commission Certification of Qualifying Status of a Small Power Production Facility

February 24, 1982.

On January 28, 1982, Westfir Energy Co. of Pasco, Washington filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to §292.207 of the Commission's rules.

The proposed small power production facility will be located in Westfir, Oregon 97492. The primary energy source will be biomass in the form of hogged wood waste and residue from logging and thinning operations. Coal will be used as a backup energy source, providing an estimated 8 percent of the total Btu input to the facility. The capacity of the facility will be 4.5 megawatts. Westfir has proposed to build another biomass fueled small power production facility within one mile of this facility and combined capacity of the facilities will not exceed 80 megawatts on an average annual basis. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before April 1, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-5839 Filed 3-1-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CS81-118-001, et al]

Natural Gas Companies; Applications for "Small Producer" Certificates [1]

February 24, 1982.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and to open public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before March 10, 1982 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become a parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules and Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

Docket No.	Date filed	Applicant
CS81-118-001	*2/10/82	G. & W. Company & WIN-JAC, Inc., (G. & W. Company), Post Office Box 396, Smackover, Arkansas 71762.
CS82-17-000	1/25/82	Alfred P. Otte, Rt. 2, Box 25, Victoria, Texas 77901
CS82-18-000	2/3/82	Penrod Production Co. Inc., One Elizabethtown Plaza, Elizabeth, New Jersey 07207
CS82-19-000	1/6/82	ORC Limited Partnership, P.O. Box 34190, Dallas, Texas 75234
CS82-20-000	2/5/82	Lester Smith, Box 375, Syracuse, Kansas 67878
CS82-21-000	2/8/82	OCFOOD, Inc., P.O. Box 751, Toledo, Ohio 43605
CS82-22-000	2/4/82	Energy Rock Inc., Suite 201, 730 Main, Billings, Montana 59105
CS82-23-000	2/11/82	William H. Davis, 1620 Liberty Tower, Oklahoma City, Oklahoma 73102
CS82-24-000	2/16/82	Titan Energy Corporation, 9430 So. Yosemite St., Suite 315, Englewood, Colorado 80111

[1] Applicant is filing to add WIN-JAC Inc. as certificate holder of the small producer certificate.

[FR Doc. 82-5812 Filed 3-1-82; 8:45 am]
BILLING CODE 6717-01-M

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[Docket Nos. G-11943-001, et al.]

Natural Gas Companies; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificate [1]

February 24, 1982.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before March 10, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-11943-001, D, Feb. 5, 1982	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046	Tennessee Gas Pipeline Co., Chesterville Field, Colorado County, Texas.	(1)	
G-11943-002, D, Feb. 5, 1982	do	Tennessee Gas Pipeline Co., Chesterville and Lissie Fields, Colorado and Wharton Counties, Texas.	(2)	
G-13788-000, C, Feb. 12, 1982	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Transcontinental Gas Pipe Line Corp., South Pelto Block 20 Field, Offshore Louisiana.	(3)	15.025
G-14943-000, D, Feb. 8, 1982	Sun Oil Co., P.O. Box 20, Dallas, Texas 75221	Tennessee Gas Pipeline Co., North Sun Field (K-1 Sand Unit Only), Starr County, Texas.	(4)	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
C61-949-000, D, Sept. 24, 1980	Arco Oil & Gas Co., Division of Atlantic Richfield Co., P.O. Box 2819, Dallas, Texas 75221.	Lone Star Gas Co., East Durant Field, Bryan County, Oklahoma.	(5)	
C64-799-000, D, Feb. 12, 1982	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	El Paso Natural Gas Co., Waha Field, Pecos and Reeves Counties, Texas.	(6)	
C182-171-000, D, Feb. 3, 1982	Harold D. Courson, 800 N. Main, P.O. Box 809, Perryton, Texas 79070.	Northern Natural Gas Co., Hansford (Upper Morrow) Field, Ochiltree County, Texas.	(7)	
C182-172-000 (C165-260), B, Feb. 8, 1981.	Sohio Petroleum Co., 50 Penn Place, Suite 1100, Oklahoma City, Oklahoma 73118.	Mississippi River Transmission Corp., Woodlawn Field, Harrison County, Texas.	(8)	
C182-173-000, A, Feb. 8, 1982	Arco Oil & Gas Co., Division of Atlantic Richfield Co., Post Office Box 2819, Dallas, Texas 75221.	Arkansas-Louisiana Gas Co., Mississippi Canyon Blk. 149 Field, Offshore Louisiana.	(9)	15.025
C182-174-000, A, Jan. 21, 1982	Getty Oil Co., P.O. Box 1404, Houston, Texas 77001.	Transcontinental Gas Pipe Line Corp., South Pelto Area Blocks 12 (E/2) & 18, Offshore Louisiana.	(10)	15.025
C182-175-000, (G-5903), B, Feb. 11, 1982.	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Transcontinental Gas Pipe Line Corp.; The Mission Valley Field, Victoria County, Texas; St. Charles Bay and Black Jack Fields, Aransas County, Texas; and the San Antonio Bay Field, Calhoun County, Texas.	(11)	
C182-177-000, A, Feb. 16, 1982	Texoma Production Co., P.O. Box 90095, Houston, Texas 77090.	Natural Gas Pipeline Co. of America, East Cameron Block 340 Field, Offshore Louisiana.	(12)	15.025
C172-724-001, D, Feb. 10, 1982	Sun Exploration and Production Co., (formerly Sun Oil Co., P.O. Box 20, Dallas, Texas 75221.	Michigan Wisconsin Pipe Line Co., N.E. Boiling Springs Area, Woodward County, Oklahoma.	(13)	
C182-47-001, C, Feb. 18, 1982	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	El Paso Natural Gas Co., Hughes #12 Well, San Juan Area, Rio Arriba County, New Mexico.	(14)	14.65
C182-129-000, (C173-475), B, Dec. 9, 1981.	do	El Paso Natural Gas Co., Jalmat-Langlie-Mattix Field, Lea County, New Mexico.	(15)	
C182-136-000, (C173-474), B, Dec. 9, 1981.	do	do	(15)	
C182-178-000, A, Feb. 16, 1982	Sun Exploration and Production Co., P.O. Box 20, Dallas, Texas 75221.	Transline Gas Co., West Cameron Area (South Addition), Block #324, Offshore Louisiana.	(16)	15.025
C182-179-000 (C175-404), B, Feb. 16, 1982.	Texaco Inc., P.O. Box 60252, New Orleans, Louisiana 70160.	United Gas Pipe Line Co., Arnaudville Field, St. Martin Parish, Louisiana.	(17)	

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.
[1] Cessation of production of the Anderson Section 20 Unit and the Clara M. Anderson Unit wells.
[2] By assignment of Oil, Gas and Mineral Leases, effective July 20, 1978, Mobil Oil Corporation, predecessor to MPTM assigned to Goldston Oil Corporation all of its right, title and interest from the surface down to the depth of 6,790 feet.
[3] Applicant is filing under Gas Sale Contract dated September 18, 1957, amended by Amendment dated December 7, 1961.
[4] Sun's rights only insofar as to the K-1 Sand Unit released because all economically recoverable reserves had been depleted.
[5] Leases have expired and applicant no longer owns any interest.
[6] Acreage is non-producing and so no sales have taken place.
[7] Partial abandonment for use by the royalty/surface owner for necessary agricultural pumping of irrigation water.
[8] Sales of natural gas previously authorized by this certificate have ceased due to depletion of the reserves underlying the dedicated acreage.
[9] Applicant is filing under Gas Purchase and Sales Agreement dated October 1, 1981.
[10] Applicant is filing under Gas Purchase Contract dated December 3, 1981.
[11] The remove vacant Rate Schedule No. 105 from Commission Records. The contract was revised June 16, 1966, to exclude: 1) The Mission Valley Field in Victoria County, Texas; 2) The St. Charles Bay and Black Jack Fields in Aransas County, Texas and 3) The San Antonio Bay Field in Calhoun County, Texas. The revised contract was cancelled January 16, 1968. No longer feasible for purchaser to operate its facilities to purchase the small volume of gas available.
[12] Applicant is filing under Gas Sales Contract Sales dated February 3, 1982.
[13] Sun released rights to these leases because all economically recoverable reserves had been depleted.
[14] Applicant is filing under Gas Purchase Agreement dated June 9, 1981, amended by Supplemental Gas Purchase Agreement dated December 22, 1981.
[15] No initial delivery, contract expired and no well on property subject to RS 396.
[16] Applicant is filing under Gas Purchase Contract dated August 7, 1981.
[17] Well depleted.
[18] No initial delivery, contract expired and no well on property subject to RS 396.

[FR Doc. 82-5813 Filed 3-1-82; 8:45 am]
BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures and solicitation of further comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures to be followed in refunding $4,073,532.67 in consent order funds. The funds are maintained in two escrow accounts that were established in settlement of enforcement proceedings brought by the Office of Enforcement (now the Office of Special Counsel) in the matters of Olin Corporation ($3,738,926.71), and Anadarko Production Company ($334,605.96).

DATES AND ADDRESSES: Applications for Refund must be postmarked on or before June 1, 1982 and should be addressed to Olin (Anadarko) Consent Order Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461. Comments must be filed on or before April 1, 1982 and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461. All applications and comments should display conspicuously a reference to the appropriate case number.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, Department of Energy, 1200 Pennsylvania Avenue NW., Washington, D.C. 20461 (202) 633-6377.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the final decision and order set out below. The final decision and order relates to two consent orders entered into by the Office of Enforcement of the DOE's Economic Regulatory Administration and Olin Corporation, *see* 45 FR 21339 (1980), and Anadarko Production Company, *see* 45 FR 11527 (1980). Both firms are gas plant operators that produced natural gas liquids (NGLs). Pursuant to the consent orders, these firms have agreed to make refunds totaling over $4 million with respect to violations of DOE price regulation alleged to have occurred at various times between 1973 and 1978.

The Office of Hearings and Appeals has previously issued a proposed decision and order which tentatively established a two-stage refund procedure and solicited comments from interested parties concerning the proper disposition of the consent order funds.

The proposed decision and order discussing the distribution of funds obtained through these consent orders was issued on October 16, 1981, 46 FR 52024 (1981).

The final decision and order, reflects our analysis of comments received from interested parties. As we indicate in the final decision, applications for refund from the consent order funds may now be filed. Applications will be accepted provided they are postmarked no later than ninety days from the date of publication of this notice. *See* 10 CFR 205.283. We will accept applications from all claimants that can affirmatively demonstrate that they have been directly injured by the violations alleged in the consent orders. A detailed discussion of what information a party must provide in order to assert a successful claim is set forth in the final decision and order appended to this notice.

The final decision reaches no determination with regard to the disposition of any funds in the second stage of the proceeding, however, because the most appropriate disposition of the remaining funds may be determined, to a great extent, by the amount of money that remains after the first stage of the proceeding. Instead, the final decision solicits further comments on the appropriate distribution of these funds.

Commenting parties are requested to submit two copies of their comments. Comments should be filed on or before April 1, 1982 and should be addressed to the address set forth at the beginning of that notice. All comments received in this proceeding will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, between the hours of 1:00 to 5:00 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. on February 24, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Special Refund Procedures

Name of Petitioner: Office of Enforcement, Economic Regulatory Administration: In the Matters of Olin Corporation and Anadarko Production Company

Dates of Filing: September 1, 1981, September 4, 1981

Case Numbers: BEF-0079, BEF-0085

Under the procedural regulations of the Department of Energy, the Economic Regulatory Administration's Office of Enforcement (OE) (now the Office of Special Counsel) may request the Office of Hearings and Appeals (OHA) to formulate and implement special procedures to make refunds in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V.

In accordance with these regulatory provisions, the OE filed Petitions for the Implementation of Special Refund Procedures in connection with consent orders entered into with Olin Corporation (Olin) and Anadarko Production Company (Anadarko). Under the terms of these consent orders, the firms agreed to make refunds for their alleged violations of the DOE price regulations in sales of natural gas liquids (NGLs) in the amounts of $3,738,928.71 (Olin) (*1*) and $334,605.96 (Anadarko) (*2*). The funds have been paid to the DOE and are now being held in an escrow account under the jurisdiction of the DOE pending instructions from the Office of Hearings and Appeals regarding their distribution.

Background

A proposed decision and order which tentatively established special refund procedures to be used in adjudicating claims to the settlement funds involved in this proceeding has been previously issued, and comments have been received from interested parties concerning the proper disposition of the consent order funds. (*3*) In the proposed decision we tentatively established a two-stage refund procedure for the consent order funds. In the first stage, we determined that those firms which purchased NGLs during the relevant period from the firms involved and which believed they were eligible for a portion of the consent order funds should file Applications for Refund pursuant to 10 CFR 205.283. Downstream purchasers would also be permitted to file Applications for Refund during the first stage of the refund process. Each application would be analyzed, individual determinations on the merits of each application would be rendered, and all meritorious claims would then be paid. Finally, we suggested as the second stage of the refund process that first purchasers submit proposals which set forth appropriate mechanisms for returning moneys to the parties who likely paid increased prices as a result of the alleged overcharges. Alternatively, we proposed that if such plans proved infeasible, the portion of the settlement fund which, because of prohibitive administrative costs, might otherwise go undistributed be deposited in the Treasury of the United States. *See* 10 CFR 205.287(c).

The proposed decision and order was published in the **Federal Register**, and copies were sent to all interested parties. 46 FR 52024 (1981). The comment period specified in the **Federal Register** has passed. The case involving Olin and Anadarko have in common many factual and legal issues. Both firms are "gas plant operators" as that term was defined in 10 CFR 212.162. Both have identified first purchasers who have filed claims which, if properly established, would completely exhaust the consent order funds. Furthermore, the proposed decision and order suggested identical first-stage refund procedures for both firms. Finally, many of the commenters who responded to our request for comments filed virtually the same comments in each case. Consequently, we believe that these two cases should be consolidated for a final determination concerning the first stage of the refund procedures.

This decision establishes the mechanism by which firms that purchased NGLs from the firms may file Applications for Refund. We shall first discuss the comments which we received concerning the first stage refund procedures which we tentatively adopted in the proposed decision and order in these cases. Then we shall discuss in detail the Application for Refund procedures that we have decided to adopt. We shall not, however, discuss the second stage refund process in this decision. As noted above, the first purchasers identified in these cases have filed claims which, if meritorious, could thoroughly deplete the consent order funds involved. In that event no second stage would be necessary. (*4*) Moreover, our determination concerning the final disposition of any residual funds will necessarily depend on the size of the fund. *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*). It is therefore unnecessary at this time for us to reach the issues raised by the commenters concerning the proposed disposition of funds remaining after all meritorious claims have been paid. (*5*)

Jurisdiction

In our October 16 proposed decision we determined that we should assert jurisdiction over these cases. Specifically, we stated that:

> After reviewing the record developed in this proceeding, we have concluded that the implementation of Subpart V procedures is appropriate. In the instant case, there is a significant degree of difficulty inherent in identifying the persons who were injured by the alleged overcharges. Moreover, even in cases where an injured person can be identified, it is difficult to ascertain the amounts that such persons should receive. Until recently, NGLs were subject to a comprehensive price regulation scheme which could be used to channel refunds to ultimate consumers. However, on January 28, 1981, President Reagan exempted crude oil and all refined products from the DOE regulatory program E.O. No. 12287, 46 FR 9909 (1981). As a result, price rollbacks are now an ineffective means of making restitution to purchasers who have been injured since there are currently no price ceilings against which price rollbacks can be measured. Moreover, to make refunds to the parties affected by the alleged overcharges, a determination must be made regarding the extent to which the higher costs were passed through to downstream customers. As a result, the persons entitled to refunds are not readily identifiable, and the amounts of the refunds that such persons should receive are not readily ascertainable. Under these circumstances, we believe that Subpart V provides the most useful mechanism to effect restitution to persons actually injured by alleged pricing violations. We have therefore decided to exercise jurisdiction over the funds received by the DOE in settlement of the enforcement proceeding underlying the Petition for Implementation of Special Refund Procedures filed by the OE in these two cases.

46 FR 52025. None of the parties filing comments in this proceeding objects to OHA's jurisdiction over these cases or challenges our authority to fashion special refund procedures. Consequently, we have decided to grant the two Petitions and hereby accept jurisdiction over the Olin and Anadarko consent order funds.

The Attorney General for the State of Michigan, however, contends that the procedures set forth in the proposed determination fail to effectuate its restitutionary purpose. In that regard, the Michigan Attorney General asserts that state governments are better suited to adjudicate the disposition of the settlement funds than the Office of Hearings and Appeals. The Attorney General notes that under the American common law system, States have traditionally held the sovereign right to take possession of unclaimed funds belonging to their citizens. The Attorney General asserts that the State of Michigan has ample procedures and expertise to assure all claimants of due process in the adjudication of their claims. The Attorney General therefore suggests that it would be more efficient to turn over each state's share of the settlement funds to the appropriate state government for distribution in accordance with the national restitutionary goals and state procedures, rather than utilizing Subpart V in these cases.

Generally, we agree with the Attorney General that the states can serve as effective conduits for the distribution of settlement funds in appropriate cases. Indeed, in a recent case we suggested that a portion of certain settlement funds may be distributed through the states if substantial amounts remain after all meritorious claims have satisfied. *See Office of Enforcement*, 9 DOE ¶ 82,521 (1982) (hereinafter cited as *Alkek*). However, the cases presently before us involve circumstances that are materially different from those present in *Alkek*. In *Alkek* most of the settlement funds were obtained from producers or resellers of crude oil whose alleged regulatory violations fell into three major categories. The first category concerned producers' sales of "old" price-controlled crude oil as "new" or "stripper well" oil subject to less stringent controls. The second type of violation involved producers who allegedly miscalculated the prices of "old" oil which they sold. The third type involved resellers or brokers of crude oil who miscertified "old" crude oil. We observed that due to the nature of these violations and the operation of the Crude Oil Entitlements Program, 10 CFR 211.67, it was likely that few firms would be able to demonstrate during the first stage that they had been injured. Consequently, we predicted that there would be a large fund remaining at the conclusion of the first stage of the refund process. In contrast, in the present cases we have received numerous notices of claims which, if meritorious, would exhaust the settlement funds.

In addition, the locale of the injured parties may be more readily ascertained in the present cases than in *Alkek*. In *Alkek*, we determined that it was unlikely that the effects of crude oil violations could be localized due to the operation of the DOE regulatory program. In particular, we noted that the operation of the Entitlements Program would have spread the effects of the violations among all refiners even if they had not purchased crude oil from any of the crude oil producers involved. Consequently, we proposed to disburse the remainder of the *Alkek* funds through a nation-wide mechanism. In the case of NGLs, tracing the effects of overcharges may be much less complex because they were not subject to the Entitlements Program. Furthermore, it may develop that in the course of adjudicating Applications for Refund we may determine that a firm who purchased NGLs passed on the overcharges to customers in a discrete marketing area. *See, e.g., Vickers*. In that event we may conclude that distribution through the indicated States would be appropriate if the amount of money involved is substantial. However, we do not know the amount, if any, of the funds that will be available for distribution after the first stage is completed. As we have stated above, the DOE has received notices of claims which, if meritorious, would exhaust the settlement fund, and there would not be a second-stage distribution. Consequently, we have concluded that it would be premature to establish a second-stage refund mechanism and that it would be inappropriate for us to relinquish these funds to the States at this time.

Comments on the Proposed First Stage. In the proposed decision which we issued for these cases, we tentatively concluded that as the first stage of the refund procedures we would accept Applications for Refund from parties which had purchased NGLs produced by the two natural gas processors involved. In addition to satisfying the filing requirements of 10 CFR 205.283, the applicant would be required to demonstrate that it purchased during the relevant time period a specific quantity of products which was produced with or from the NGLs sold by Olin or Anadarko. In addition, unless the applicant was an ultimate consumer, a party claiming that it was injured would also have to demonstrate that it absorbed any cost increase resulting from the alleged overcharges. We also stated that we would accept and evaluate on a case-by-case basis applications filed on behalf of groups of claimants identifying themselves as adversely affected purchasers. Finally, we solicited comments from all interested parties concerning our proposals.

In response to our request, we received comments from numerous parties including one of the firms, their first purchasers, their downstream purchasers, state governments, offices within the DOE, and public interest groups. Commenting parties suggested various modifications of the proposed procedures and expressed several concerns which we shall discuss below. They commented that: (1) the proposed first stage is unfair because it would give direct purchasers first priority in filing claims for the settlement funds (those commenters also thought that the Proposed Decision did not establish an adequate level of proof of injury for claimants); (2) the OHA cannot as a matter of law require that a claimant prove that it did not pass on the overcharges to its customers; and (3) claimants who have themselves entered

into DOE consent orders or are the subject of DOE enforcement proceedings for the relevant time periods should not be permitted to file Applications for Refunds. We will discuss each of these points in turn.

Some of the commenters complained that the proposed decision appeared to give priority to first purchasers and thereby prejudice the claims of downstream purchasers. In addition, those commenters objected to the proposed procedures because they believed the proposals would permit first purchasers to automatically recover refunds to the extent that their "banked" (unrecovered increased product) costs for the relevant period equalled or exceeded the amount claimed.

We believe that these commenters have taken an unnecessarily narrow view of the proceedings envisioned by the proposed decision and the Subpart V regulations. As an initial matter, our proposed decision clearly stated that Applications for Refund would be accepted from *all* claimants, including representatives of groups of consumers. *See Office of Enforcement*, 46 FR at 52026. In addition, the required showing of sufficient banks is only a threshold showing to be applied in making a determination as to whether a claimant actually suffered any injury. If a claimant meets this test, it will still be necessary for the firm to proffer some type of additional evidence, depending upon the size and nature of firm, to demonstrate that it indeed was injured by the alleged overcharges. To the extent that a first purchaser can establish that it did not pass on overcharges to its downstream customers, those customers were not injured and would have no claim. We therefore disagree with commenters who believe that first purchasers are being accorded an unwarranted priority status in these proceedings.

Several commenters claim that the OHA cannot as a matter of law require a claimant to prove that it did not pass on the alleged overcharges to its customers. In support of that position, the commenters cite the antitrust case of *Illinois Brick Co. v. Illinois*, 431 U.S. 720 (1977). In *Illinois Brick*, The Court held that the "pass-on" theory could not be used offensively by a plaintiff who was not a direct purchaser from the defendant but claimed that the effects of an antitrust violation had been passed on to it by an intermediate party. The Court had previously held in *Hanover Shoe v. United Shoe Machine Corp.*, 392 U.S. 481 (1968), that "passing on" could not be used as a defense in a private antitrust action by a defendant alleging that the plaintiff had passed on the resulting overcharges to its customers and therefore suffered no injury.

We have discussed at great length the factors distinguishing private antitrust actions brought under section 4 of the Sherman Act from government actions brought under section 209 of the Economic Stabilization Act, such as the instant cases, in our recent decision in *Office of Enforcement*, 9 DOE ¶ 82,508 (1981) (hereinafter cited as *Coline*). In *Coline* we held that the considerations underlying the exclusion of pass-on evidence in private antitrust actions, as well as private actions brought under section 210 of the ESA, were inapplicable to section 209 actions. Consequently, we reaffirmed our authority to require proof by a claimant that it absorbed overcharges in order to establish entitlement to a portion of the settlement fund. No new arguments have been presented in this proceeding which would lead us to alter our position on this matter.

Some of the commenters, including enforcement officials of the DOE, have contended that claimants who have themselves entered into consent orders or who are currently the subject of enforcement proceedings should be precluded from filing Applications for Refunds. Those commenters contend that since such claimants have also violated the DOE regulations they should be excluded from these equitable proceedings because they have "unclean hands." (*6*) In addition, the Office of Special Counsel (OSC) observed that since it has closed its investigation of firms with which it has entered into consent orders, there is no mechanism for ascertaining the truth of a firm's allegations concerning its banks of unrecovered product cost increases. Moreover, the OSC asserts that its agreement to a consent order does not indicate that it has retreated from its position that a firm violated the DOE regulations. Finally, several parties noted that there are still numerous unresolved enforcement cases involving parties who have filed notices of claims. Consequently, the OHA has been urged to delay or deny disposition of any consent order funds to any claimant who has been or is currently the target of enforcement proceedings.

Upon consideration of the documents filed in these proceedings, we have concluded that it would be inappropriate at this time to refuse to entertain Applications for Refund from any class of claimants. The purpose of the present determination is simply to "set forth the standards and procedures that will be used in evaluating individual Applications for Refunds." 10 CFR 205.282(d). A determination on the merits of a particular Application for refund is a separate process which may include an investigation of statements made by the applicant, submission of information by other sources, and the convening of a conference or hearing. 10 CFR 205.284. While we agree that consent order funds should not be distributed to parties who, for example, have profited from a criminal scheme to circumvent the DOE regulations, we certainly are in no position to rule on a claimant's eligibility in advance of the filing of an Application for Refund. Moreover, we think it would be undesirable to delay distribution of these funds for the period of years that may elapse before pending enforcement actions have been completed.

Instead of adopting a blanket prohibition against certain claimants, we shall require that each person filing an Application for Refund specify whether there is or has been an enforcement proceeding covering its compliance with the DOE regulations. The applicant should also state whether the matter has been concluded and provide a copy of any adjudicated order issued in the case or any consent order, or other settlement entered into by the applicant. Where appropriate, the relevant enforcement office may be informed of the application by the OHA. We shall then decide on a case-by-case basis whether the applicant was injured by the alleged overcharges in light of all the available information, including substantial evidence of violations.

Thus, it is possible that a firm which is the subject of an ongoing enforcement proceeding might still be eligible to receive a refund from the consent order funds. However, if a final remedial order is ultimately issued against such a firm, some adjustment might be appropriate at the conclusion of the enforcement proceeding to ensure that it does not retain any unwarranted benefits. (*7*) If it ever becomes necessary, this type of determination will be made on a case-by-case basis, according to the equities involved. Where a claimant has already negotiated a consent order, we believe that it will generally be contrary to the policy encouraging settlements to exclude a claimant solely on that basis. Finally, we wish to emphasize that these refund proceedings may not be used as a substitute for private actions that might be brought under section 210 of the ESA. The purpose of these proceedings is to provide an equitable mechanism for refunding monies to persons who were injured by alleged overcharges, not to provide an alternative legal forum to adjudge the regulatory compliance of claimants.

Application for Refund Procedures. After having considered all the comments received concerning the first-stage proceedings tentatively adopted in our Proposed Decision and Order we have concluded that: (i) the OHA has properly asserted jurisdiction over these cases pursuant to 10 CFR Part 205, Subpart V; (ii) the OHA has authority to implement all of the procedures which were tentatively adopted in the Proposed Decision for these cases; and (iii) Applications for Refund should now be accepted from parties who purchased NGLs from Olin or Anadarko or who purchased products made from those NGLs. We shall now discuss the specific requirements for Applications for Refund that we have decided to adopt.

We have determined to accept Applications for Refund of a portion of the two firms' consent order funds filed on or before June 1, 1982. *See* 10 CFR 205.283. We will consider all applications, although we may later impose a lower dollar limit on claims. *See* 10 CFR 205.286(b). Applications made on behalf of a class of claimants will be considered on a case-by-case basis. An application must be in writing, signed by the applicant, and specify which case it pertains to, by firm name and case number. If the applicant is not a direct purchaser from one of the five firms, it should submit evidence indicating from whom the NGLs were purchased and what basis the applicant has for its belief that the NGLs which it purchased originated from the natural gas processing plants named in the consent orders.

Any application for a refund in excess of $100 must be filed in duplicate, and a copy of that application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, Federal Building, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. Any applicant who believes that his application contains confidential information must so indicate on the first page of his application and submit two additional copies of his application from which the information that the applicant claims is confidential has been deleted, together with a statement specifying why any such information is privileged or confidential. Each application shall indicate whether the applicant or any person acting on his instructions has filed or intends to file any other application or claim of whatever nature regarding the matters at issue in the underlying enforcement proceeding. Each application shall also include the following statements: I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief. *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name, title, and telephone number of a person who may be contacted by the OHA for additional information concerning the Application. All applications should be sent to: Consent Order Refund Proceeding, Case Nos. BEF-0079; 0085, Office of Hearings and Appeals, Department of Energy, 12th Street & Pennsylvania Avenue, NW., Washington, D.C. 20461. All applications for Refund received within the time limit specified will be processed pursuant to 10 CFR 205.284.

In order to assist applicants in establishing eligibility for a portion of the consent order funds, the following section discusses the showing that should be made by refiners, resellers, retailers and end-users of the NGLs covered by the consent orders:

A. Each applicant should report its volume of purchases of NGLs by calendar quarter for the period of time for which it is claiming it was injured by the alleged overcharges;

B. Each applicant should specify how it used the NGLs—as a petrochemical producer, refiner, reseller or ultimate consumer;

C. If the applicant is a refiner or reseller, it should state whether it maintained banks of unrecouped product cost increases from the date of the violation through January 27, 1981. It should also furnish the OHA with quarterly bank calculations for the entire period;

D. The applicant must submit evidence to establish that it did not pass on the overcharges to its customers. For example, a firm may submit market surveys to show that price increases to recover overcharges were infeasible; and

E. The applicant should report whether it is or has been involved as a party in other DOE enforcement proceedings or section 210 actions. If these actions have terminated, the applicant should furnish a copy of any final order issued in the matter. If the action is ongoing, the applicant should briefly describe the action and its current status. Of course, the applicant is under a continuing obligation to keep the OHA informed of any change in status during the pendency of its Application for Refund. *See* 10 CFR 205.9(d).

Distribution of the Remainder of the Consent Order Funds. Several comments addressed our proposed distribution of the remainder, if any, of the consent order funds after all meritorious claims have been paid. Those comments can be divided into two groups. First, some comments contend that the Office of Hearings and Appeals lacks the statutory or regulatory authority to implement the proposed distribution. Secondly, some comments acknowledge that this Office possesses the authority to fashion such a restitutionary mechanism, but suggest alternatives to or modifications of our original proposal. In this Decision, we are not implementing the second-stage refund procedure. Such a step would be difficult to take before the analysis and processing of Applications for Refund filed in the first stage of the distribution of the consent order funds to claimants, since the amount remaining after all meritorious claims have been paid directly affects the appropriateness of the second-stage distribution scheme. Moreover, in the present cases claimants have asserted claims which, if meritorious, would completely exhaust the consent order funds. However, in order for members of the public to be made aware of outstanding issues and be able to comment on them, we summarized and briefly addressed the comments received concerning the proposed second-stage procedure in the *Vickers* decision. *See Vickers*, 8 DOE at 85, 398-99. Many of the same parties who commented on the second-stage procedures proposed for the *Vickers* case submitted virtually identical comments in the present cases. We will not reiterate our discussion of these issues. We continue to seek additional comments on these issues.

It is therefore ordered That: The refund amounts provided by Olin Corporation and Anadarko Production Company will be distributed in the manner set forth in the foregoing Decision.

Dated: February 24, 1982.

George B., Breznay,

Director, Office of Hearings and Appeals.

Footnotes

(*1*) As a part of its enforcement activities, the OE conducted an audit of Olin in order to determine whether the firm had complied with the DOE pricing regulations applicable to NGLs. *See* CFR Part 150, Subpart L and 10 CFR Part 212, Subparts E and K. The OE audit of Olin's first sales of NGLs during the period September 1, 1973 through December 31, 1978. Olin sold NGLs to only two firms during this period: Phillips Petroleum Company (Phillips) and Enterprise Products Company (Enterprise). In order to settle all claims and disputes between the parties regarding the firm's first sales of NGLs, Olin

agreed to pay $3,738,928.71 to the DOE. The parties further agreed that this amount would be distributed by the DOE pursuant to 10 CFR, Part 205, Subpart V. The Olin proposed consent order was finalized without modification on March 12, 1980. *See* 45 CFR 21339 (1980). Phillips has indicated that it intends to file an Application for Refund.

(*2*) The audit of Anadarko revealed possible overcharges with respect to first sales of NGLs during the period August 1973 through December 1978. Anadarko sold NGLs to four firms during this period: Farmland Industries; Bultman, Inc.; Derby Refining Company; and Sauvage Gas Company. In order to settle all claims and disputes between the parties regarding the firm's first sales of NGLs, Anadarko agreed to pay $334,605.97 to the DOE. The parties further agreed that this sum would be distributed by the DOE pursuant to Subpart V. Notice of the proposed consent order was published in the Federal Register on February 21, 1980. *See* 45 CFR 11527 (1980). The proposed consent order was finalized without modification on April 3, 1980. *See* 45 CFR 22185 (1980). Farmland has indicated that it intends to file an Application for Refund.

(*3*) We issued a proposed decision and order discussing the distribution of the funds obtained through consent orders with Olin and Anadarko on October 10, 1981. *See* 46 FR 52024 (October 23, 1981).

(*4*) Since most of the first purchasers claim that they have adequate banks of unrecouped product costs to establish that they could not have passed through the overcharge amounts, none of the identified first purchasers submitted plans for distribution of the remainder of the funds.

(*5*) We have already discussed many of these comments in *Vickers*.

(*6*) We have previously held that the equitable doctrine of clean hands will be applied by the OHA in temporary stay, and exception cases that involve requests for equitable relief. *See Acomi Corporation*, 4 DOE ¶82,542 (1979) and cases cited therein. Special refund proceedings are likewise equitable cases.

The Temporary Emergency Court of Appeals has recently approved the use of the "clean hands" doctrine in determining whether a purchaser may receive refunds for violations of the DOE regulations. In *Citronelle-Mobile Gathering, Inc. v. Edwards*, No. 5–60 (Temp. Emer. Ct. App. January 21, 1982), the court held that because the purchasers of the crude oil involved "aided and abetted" the producer in its violation of the price regulations for their material benefit, "they are barred by 'unclean hands' from seeking or recovering any of the illegal profits." *Id.*, slip op. at 11–12. This was true even though the purchasers sought the advice of counsel before proceeding with the transactions involved and made a good faith effort to comply with the price regulations. *Id.*, slip op. at 9, *approving Citronelle-Mobile Gathering, Inc. v. O'Leary*, 499 F. Supp. 871, 885 (S.D. Ala. 1980).

(*7*) *See* note 6 *supra*.

[FR Doc. 82-5880 Filed 3-1-82; 8:45 am]
BILLING CODE 6450-01-M

Office of Energy Research

DOE/NSF Nuclear Science Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: DOE/NSF Nuclear Science Advisory Committee

Date and time: Monday, March 22, 1982—9:00 a.m.–6:00 p.m. Tuesday, March 23, 1982—9:00 a.m.–6:00 p.m.

Place: U.S. Department of Energy, Room 4A–104, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585

Contact: John R. Erskine, U.S. Department of Energy, Division of Nuclear Physics, ER–23 GTN, Washington, DC 20545, Telephone: 301–353–3613, FTS 233–3613.

Purpose of Committee

To provide advice to the Department of Energy and the National Science Foundation on the management of and long range planning for basic nuclear research programs.

Tentative Agenda

Reports of working groups on facility proposals. Discussion of facility proposals and formulation of recommendations. Review of draft report to NSF and DOE. "Recommendations for FY 84 Facility Construction" Reports from Subcommittees Public Comment (10 minute rule)

Public Participation

The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Gloria Decker at 202–252–5187. Requests must be received at least 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcripts

Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on February 24, 1982.

Howard H. Raiken,
Deputy Advisory Committee Management Officer.

[FR Doc. 82-5849 Filed 3-1-82; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51402; TSH-FRL-2062-5]

Toxic Substances; Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the Federal Register of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of forty-one PMNs and provides a summary of each.

DATES: Written comments by:

PMN 82–91 to 82–127, April 11, 1982.
PMN 82–136, April 19, 1982.
PMN 82–137, 82–138, and 82–139, April 20, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–51402]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St. SW., Washington, DC 20460 (202–382–3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St. SW., Washington, DC 20460 (202–382–3729).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 82–91

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Specific Chemical Identity. Octanoic acid, heptyl ester.
Use. The manufacturer states that the PMN substance will be used in time-temperature indicating devices.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	0	9
2d year	0	5
3d year	0	9

Physical/Chemical Properties. No data were submitted.
Toxicity Data. No data were submitted.
Exposure. The manufacturer states that during manufacture and processing 2 workers may experience dermal exposure 0.5 hr/day, 20 days/yr during transfer and cleanup.
Environmental Release/Disposal. Disposal is by approved landfill and treatment works.

PMN 82–92

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Octanoic acid, decyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–93

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Octanoic acid, dodecyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–94

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Octanoic acid, tetradecyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–95

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Octanoic acid, hexadecyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–96

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Decanoic acid, butyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–97

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Decanoic acid, pentyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–98

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Decanoic acid, isopentyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–99

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Decanoic acid, hexyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–100

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Decanoic acid, heptyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–101

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Decanoic acid, octyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–102

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Decanoic acid, tetradecyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–103

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Decanoic acid, hexadecyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–104

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Decanoic acid, octadecyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–105

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Dodecanoic acid, propyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–106

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Dodecanoic acid, butyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–107

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Dodecanoic acid, isobutyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–108

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Dodecanoic acid, pentyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–109

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Dodecanoic acid, heptyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–110

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Tetradecanoic acid, propyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–111

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Tetradecanoic acid, isobutyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–112

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Tetradecanoic acid, pentyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–113

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Tetradecanoic acid, isopentyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–114

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Tetradecanoic acid, hexyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–115

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Tetradecanoic acid, heptyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–116

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Tetradecanoic acid, octyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–117

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Hexadecanoic acid, propyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–118

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Hexadecanoic acid, pentyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–119

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Hexadecanoic acid, isopentyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–120

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity Hexadecanoic acid, hexyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–121

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Hexadecanoic acid, heptyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–122

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Hexadecanoic acid, decyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–123

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Hexadecanoic acid, dodecyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–124

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Octadecanoic acid, propyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–125

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Octadecanoic acid, pentyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–126

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Octadecanoic acid, isopentyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–127

Close of Review Period. May 11, 1982.
Manufacturer's Identity. Minnesota Mining and Manufacturing Company, 3M Center, St. Paul, MN 55133.
Chemical Identity. Octadecanoic acid, heptyl ester.

Note.—For specific information regarding this PMN refer to PMN 82–91.

PMN 82–136

Close of Review Period. May 19, 1982.
Manufacturer's Identity. Claimed confidential business information.
Organization information provided:
Annual sales—Over $500,000,000.
Manufacturers site—Northeast region.
Specific Chemical Identity. Claimed confidential business information.
Generic name provided: Disubstituted heteromonocycle.
Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used as a consumer article.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	5.0	20.0
2d year	5.0	20.0
3d year	5.0	20.0

Physical/Chemical Properties

Appearance—Yellow needles, odorless.
Melting point—>200° C.
Solubility: water @ 90° C—>1.0 g/l.
Toxicity Data. No data were available.
Exposure. The manufacturer states that during manufacture, processing and disposal a total of 204 workers may experience dermal and inhalation exposure up to 24 hrs/day, up to 355 days/yr.
Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air, land and water. Disposal is by publicly owned treatment works (POTW) or landfill, or treatment or recovery.

PMN 82–137

Close of Review Period. May 20, 1982.
Manufacturer's Identity. Claimed confidential business information.
Specific Chemical Identity. Claimed confidential business information.
Generic name provided: Substituted amine complex.
Use. The manufacturer states that the PMN substance will be used as a component of a formulation used by specialized commercial customers.

PRODUCTION ESTIMATES

[Kilograms per year]

	Maximum
1st year	10,000
2d year	20,000
3d year	40,000

Physical/Chemical Properties

Appearance—Liquid.
Solubility: water—>10%.

Toxicity Data

Acute oral toxicity LD_{50} (rat)—1,100–1,900 mg/kg.
Acute dermal toxicity LD_{50} (rat)—1.0–5.0 ml/kg.
Skin irritation (rabbit)—Strong.
Eye irritation (rabbit)—Strong.
Skin absorption—May be absored.
Environmental Test Data. Claimed confidential business information.
Exposure. The manufacturer states that during manufacture and processing 20 workers may experience dermal and inhalation exposure 1 hr/day, 5 days/yr during transfer.
Environmental Realease/Disposal. The manufacturer states that there will be no release to air, land and water. Disposal is to a publicly owned treatment works (POTW)

PMN 82–138

Close of Review Period. May 20, 1982.
Manufacture's Identity. Claimed confidential business information.
Specific Chemical Identity. Claimed confidential business information.
Generic name provided: Trisubstituted phenol.
Use. The manufacturer states that the PMN substance will be used as a company-limited chemical intermediate.

PRODUCTION ESTIMATES

[Kilograms per year]

	Maximum
1st year	4,000
2d year	5,000
3d year	6,000

Physical/Chemical Properties

Melting point—170–182° C.
Toxicity Data. No data were sumitted.
Exposure. The manufacturer states that during manufacture and use a total of 56 workers may experience dermal and inhalation exposure up to 3 hrs/day, up to 10 days/yr during transfer.
Environmental Release/Disposal. The manufacturer states that there will be no release to the air, land and water. Disposal is by incineration.

PMN 82–139

Close of Review Period. May 20, 1982.
Manufacturer's Identity. Claimed confidential business information.
Specific Chemical Identity. Polymer of hexanedioic acid and 2-(methylamino)ethanol.
Use. The manufacturer states that the PMN substance will be used as a site-limited non-intermediate, used in chemical manufacture.

PRODUCTION ESTIMATES

[Kilograms per year]

	Maximum
1st year	15
2d year	15
3d year	15

Physical/Chemical Properties

Solubility: water—>10%.
Number average molecular weight—700–800.
Glass transition temperature—−40° C.
Toxicity Data. No data were submitted.
Exposure. The manufacturer states that during manufacture and use 5 workers may experience dermal and inhalation exposure 0.3 hr/day, 2 days/yr during transfer.
Environmental Release/Disposal. The manufacturer states that there will be no release to air and land with 0–15 kg released to water. Disposal is to a biological treatment system.

Dated: February 22, 1982.

Woodson W. Bascom,
Acting Director, Management Support Division.

[FR Doc. 82-5326 Filed 3-1-82; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee on Preparations for the ITU 1983 Region 2 Broadcasting Satellite Service Planning Conference; Subgroup Meeting

February 23, 1982

Subgroup 3: Inter-Service Sharing

Meeting: March 3, 1982, 2:30 P.M.–5:30 P.M., CBS Viewing Room, 1800 M Street, NW., 3rd Floor, Washington, D.C.

Agenda: Discussion and Review of Final Reports of Working Groups 3A, B, C and D.

Note.—If unable to complete business by 5:30 P.M. on March 3, meeting will be continued on March 4 in conjunction with CCIR Working Groups 10/11S as follows:

8–10:30 A.M., NASA Headquarters, 600 Independence Avenue, SW., Room 226A, Washington, D.C.

William J. Tricarico,
Secretary, Federal Communications Commission.

[FR Doc. 82-5328 Filed 3-1-82; 8:45 am]
BILLING CODE 6712-01-M

[PR Docket Nos. 82-69, 82-100; File Nos. 116-A-RL-71, 272-A-L-71]

Aero Flite Service, Inc. and Cirrus Flight Operations, Inc.; Designating Applications for Consolidated Hearing on Stated Issues

Order

Adopted: February 12, 1982.
Released: February 18, 1982.

In re the Application of Aero Flite Service, Inc., Minneapolis, Minnesota, PR Docket No. 82-69, File Number 116-A-RL-71; Cirrus Flight Operations, Inc., Minneapolis, Minnesota, PR Docket No. 82-100, File Number 272-A-L-71. For an

Aeronautical Advisory Station to serve Anoka County Airport, Minneapolis, Minnesota.

1. Aero Flite Service, Inc. (hereafter Aero) and Cirrus Flight Operations, Inc. (hereafter Cirrus) have each filed an application for authority to operate an aeronautical advisory station at Anoka County Airport, Minneapolis, Minnesota. Aero seeks renewal of its current station license while Cirrus filed for a new station authorization. Since Section 87.251(a) of our rules provides that only one aeronautical advisory station may be authorized at an airport, the above-captioned applications are mutually exclusive. Accordingly, it is necessary to designate these applications for comparative hearing in order to determine which, if any, should be granted.

2. In view of the foregoing, it is ordered, That pursuant to the provisions of Section 309(e) of the Communications Act of 1934, as amended, and Section 0.331 of the Commission's rules, the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order on the following comparative issues:

(a) To determine which applicant would provide the public with better aeronautical advisory service based on the following considerations:

(1) Location of the fixed-base operation and proposed radio station in relation to the landing area and traffic patterns;

(2) Hours of operation;

(3) Personnel available to provide advisory service;

(4) Experience of applicant and employees in aviation and aviation communications, including but not limited to operation of stations in the Aviation Services (Part 87) that may be or have been authorized to the applicant;

(5) Ability to provide information pertaining to primary and secondary communications as specified in Section 87.257 of the Commission's rules;

(6) Proposed radio system including control and dispatch points; and

(7) The availability of the radio facilities to other fixed-base operators;

(b) To determine the manner in which Aero has operated Aeronautical Advisory Station KOLA and whether such operations were in accordance with the rules governing the operation of this class of station.

(c) To determine in light of the evidence adduced on the foregoing issues which of the applications should be granted.

3. It is further ordered, That the burden of proof and the burden of proceeding with the introduction of evidence is on each applicant with respect to its application except issue (b) where the burdens are on Aero and issue (c) which is conclusory.

4. It is further ordered, That to avail themselves of an opportunity to be heard Aero and Cirrus, pursuant to Section 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this Order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

Federal Communications Commission.

James C. McKinney,

Chief, Private Radio Bureau.

[FR Doc. 82-5531 Filed 3-1-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 82-115, 82-116; File Nos. BP-790222AE, BP-791012AG]

Blue Ridge Media Inc. and Mountaineer Broadcasing Service, Inc.; Designating Applications for Consolidated Hearing on Stated Issues

Memorandum Opinion and Order

Adopted: February 17, 1982.

Released: February 23, 1982.

In re Applications of Blue Ridge Media, Inc. Boone, North Carolina, BC Docket No. 82-115 File No. BP-790222AE, Req: 1510 kHz, 500 W (250 W-CH), Day; Mountaineer Broadcasting Service, Inc., Blowing Rock, North Carolina, BC Docket No. 82-116, File No. BP-791012AG, Req: 1510 kHz, 1 kW (250 W-CH), Day, for construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it for consideration the above-captioned mutually exclusive applications for new AM stations. In addition it has before it (1) a petition to deny the application of Blue Ridge Media, Inc. (Blue Ridge) filed by Wilkes Broadcasting Company (Wilkes), an opposition thereto filed by Blue Ridge, and a reply pleading filed by Wilkes; (2) a petition to deny the application of Mountaineer Broadcasting Service, Inc. (Mountaineer) filed by Blue Ridge, an opposition thereto filed by Mountaineer, and a reply pleading filed by Blue Ridge, and (3) various related pleadings.[1]

[1] For good cause shown, we grant Mountaineer's petitions for leave to amend and accept the associated amendments filed on June 23, 1980, and March 4, May 1, and November 30, 1981. Blue Ridge urges that the latter amendment (which notified us pursuant to § 1.65 that an application by one of Mountaineer's principals for a new AM station in Raleigh, North Carolina, had been denied on comparative grounds) not be permitted to improve Mountaineer's comparative position in this proceeding. Blue Ridge's concern is unfounded, as the Raleigh proposal was not an "existing" mass communications outlet, and hence was outside the scope of the comparative issue. See *Policy Statement on Comparative Broadcast Hearings*, 1 FCC 2d 393, 394-95 (1965). Also, though unaccompanied by a petition for leave to amend, we accept Blue Ridge's amendments filed on September 5 and December 24, 1980, as they obviously are updating amendments required by § 1.65 of our Rules.

Application of Blue Ridge Media, Inc.

2. *Standing.* As licensee of station WATA, Boone, North Carolina, Wilkes would compete with Blue Ridge for audience and revenue. Hence, it has standing to file a petition to deny. *FCC* v. *Sanders Bros. Radio Station*, 309 U.S. 470 (1940). Wilkes' allegations of objectionable interference provide standing to petition as well. *FCC* v. *National Broadcasting Co.*, 319 U.S. 239 (1943).

3. *Misrepresentation Issues.* The Blue Ridge application as submitted to the Commission characterized the applicant as a corporation whose sole principal and stockholder was William E. Dollar. It is undisputed that Blue Ridge was not in fact incorporated at that time, its articles of incorporation not having been filed with the North Carolina Secretary of State until a month after the application was tendered. Wilkes argues that a misrepresentation issue is warranted, but we find no error of potential decisional significance. While not technically accurate, Blue Ridge's application did reflect Dollar's intentions. Hence there was never confusion as to the form in which Blue Ridge intended to operate. Furthermore, the applicant completed the incorporation process on its own initiative before petitioner raised the issue. Under these circumstances, we believe, further inquiry is not warranted.[2]

4. Turning next to Blue Ridge's ascertainment of community needs,[3] Wilkes maintains that the applicant's survey of community leaders did not involve face-to-face interviews as claimed in the application. Rather, Wilkes argues, supported by the affidavits of two leaders interviewed for the survey, Blue Ridge's owner met with community leaders as a group, passed out questionnaires, and informed participants that they were "free to go" once the forms were completed. Blue Ridge, in contrast, claims that a person-to-person discussion followed the meeting, offering in support of this position affidavits from seven community leaders who attended the meeting in question and from three leaders personally contacted at a different time.

5. While the issue is not free of ambiguity, we find on balance insufficient grounds to warrant an issue. Read together, the affidavits suggest that community leaders met, that survey forms were distributed, and that a group of leaders (numbered as 25-30 in Blue Ridge's affidavits) engaged in a discussion of problems with Blue Ridge's president.[4] Though not a "face-to-face" meeting in the usual sense of the expression, *i.e.*, a one-to-one conversation, this discussion does seem to have been personal and to have been conducted in person. Given this, Blue Ridge's description does not seem to us so inaccurate as to call its good faith into question.[5]

6. *Engineering Issues.* We will specify an issue to determine whether Blue Ridge's proposed operation would so seriously distort the operation of Wilkes' station WATA—and vice versa—as to require denial of the application. The proposed antenna tower would be only about 700 feet from WATA's tower, and the parties appear to agree that Blue Ridge's operation could cause indentations in WATA's existing signal and create "dead spots" in its coverage of Boone. Blue Ridge has offered to provide and install any necessary corrective equipment, but Wilkes claims in opposition that available equipment and techniques will be useless for the purpose. Further inquiry is necessary to resolve the conflict.

7. Further inquiry is also necessary to determine whether Blue Ridge's proposed station would encompass Boone's business district with its 25 mV/m contour, as required by § 73.24(j) of our rules.[6] The information before us is inadequate to support any conclusions as to compliance, and is also insufficient to justify a waiver, should one be necessary. Blue Ridge argues in this latter regard that unique technical and topographicl conditions made compliance impossible, a position Wilkes disputes. We will specify an issue to permit exploration of this question.

Application of Mountaineer Broadcasting Service, Inc.

8. *Misrepresentation Issues.* Blue Ridge seeks a misrepresentation issue based upon the fact that Mountaineer's principals in their balance sheets erroneously listed as the "cash value" of their life insurance the face value of the policies.[7] We are persuaded, however, that an intent to deceive did not cause the error. It is significant in this regard that the balance sheets were of no decisional significance, in that the partners did not rely upon liquid assets to finance their proposal. Rather, the balance sheets were submitted simply to demonstrate that bank commitments were not unreasonable. Furthermore the applicant immediately made the necessary corrections upon being notified of the error. Under the circumstances, confusion seems a more likely explanation of the error than does bad faith.

9. Second, Blue Ridge challenges Mountaineer's claimed interviews of two community leaders, Dennis Cook and John Sodderth, supporting its charge with their affidavits. In opposition, Mountaineer submits new affidavits from both leaders and the principals who interviewed them, confirming that the two had participated in the ascertainment survey. In its reply, Blue Ridge says that if Sodderth was in fact interviewed, it was neither by a Mountaineer principal nor before the application was filed. This claim is supported only by an unexecuted affidavit of Mr. Sodderth, however, and petitioner has stated that it is unable to obtain an executed affidavit from him. We therefore find these allegations unsubstantiated.

10. Finally, Blue Ridge has filed an unauthorized supplemental pleading supported by the affidavit of a third leader, Charlie Brown, who states generally that "to the best of my knowledge and belief," he was not interviewed as claimed. Applicant replies with affidavits of the principal who claimed to have interviewed Brown and of a witnessing prospective management-level employee, and with a purported summary of Brown's comments. Petitioner has not replied to this showing. The dispute over a single ascertainment interview (out of 42), however, does not raise a substantial question of misrepresentation. See *Mize & Rowland Radio*, 86 FCC 2d 782 (1981). See also *Alabama Citizens for Responsive Television, Inc.*, 78 FCC 2d 615 (1979).

11. *Public File Issue.* Both parties agree that an amendment to the Blue Ridge application was not in the public files when William Dollar made a search in May 1980. The omission was not so significant in content or so extensive in scope as to render the public file substantially incomplete, though, and the incident itself was an isolated one. An issue is not warranted under these circumstances. See *Peoples Broadcasting Corp.*, 68 FCC 2d 1570 (1978).

Conclusions

12. Except as indicated by the issues specified below, both applicants are qualified to construct and operate as proposed. However, the proposals are mutually exclusive, so they must be set for hearing in a consolidated proceeding. Although the proposals are for different communities, they would serve substantial areas in common. Consequently, in addition to determining pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of them would better provide a fair, efficient, and equitable distribution of radio service, a contingent comparative issue will be specified.

13. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at at time and place to be specified in a subsequent order, upon the following issues:

1. To determine with respect to the application of Blue Ridge Media, Inc.:

a. The nature and extent of distortion of the radiated signals of station WATA, Boone, North Carolina, and of Blue Ridge's proposed station, due to their proximity, and

[2] Even assuming, as Wilkes maintains, that Blue Ridge did not file its articles of incorporation with the county Recorder of Deeds within the time specified by state law, an isolated incident of this nature does not on its face raise questions as to the applicant's ability to operate in the public interest. *Violation by an Applicant of Laws of the U.S.*, 42 FCC 2d 399 (1951).

[3] The adequacy of Blue Ridge's efforts is no longer at issue here. *Deregulation of Radio*, 84 FCC 2d 968, 998 (1981).

[4] As the discussion appears to have been voluntary and informal, it might well have been overlooked by Wilkes' affiants.

[5] The Commission expressly allowed ascertainment of community leaders in group meetings. See *Southern California Broadcasting Assoc., Inc.*, 30 FCC 2d 705 (1971). In response to Wilkes' allegation that community leaders were not informed of the meeting's purpose, Blue Ridge has submitted a copy of its invitation characterizing the event as an effort to obtain community information required by the Commission.

[6] Wilkes' allegation to the contrary notwithstanding, we find that Blue Ridge's critical-hours proposal substantially complies with our requirements concerning coverage of residential areas.

[7] While Mountaineer at one time relied upon loans to its principals, it has amended its application to specify a corporate capitalization and a bank loan to the corporation rather than to the individuals involved. Therefore we need not consider here the effect of Mountaineer's reporting error on the applicant's financial qualifications.

b. The susceptibility of such distortion to reasonable corrective measures.

2. To determine whether the proposal of Blue Ridge Media, Inc., would encompass the Boone business district with its 25 mV/m contours, as required by § 73.24(j) of the Commission's rules, and if not whether circumstances exist which warrant waiver of the rule.

3. To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary aural service to such areas and populations.

4. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

5. To determine, in the event it be concluded that a choice between the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, better serve the public interest.

6. To determine, in light of the evidence adduced pursuant to the foregoing isues, which application should be granted.

14. It is further ordered, That the petition to deny filed by Wilkes Broadcasting Company, is granted to the extent indicated herein, and IS DENIED in all other respects, and that the petition to deny filed by Blue Ridge Media, Inc., is denied.

15. It is further ordered, that Wilkes Broadcasting Company is made a party to this proceeding.

16. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to Section 1.221(c) of the Commission's Rules, the parties shall, in person or by attorney, within 20 days of the mailing of this order, file with the Commission in triplicate written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

17. It is further ordered, That pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing, as prescribed in the rule, and shall advise the Commission of pulbication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Laurence E. Harris,

Chief, Broadcast Bureau.

[FR Doc. 82-5532 Filed 3-1-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 82-90—82-93; File Nos. BPCT-790130KO, etc.]

Family Television, et al.; Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: February 12, 1982.

Released: February 22, 1982.

In re Applications of Family Television, Inc., Boulder, Colorado, BC Docket No. 82-90, File No. BPCT-790130KO; Rocky Mountain 14, Inc., Broomfield, Colorado, BC Docket No. 82-91, File No. BPCT-790130KP; C.S.T.V., Inc., Boulder, Colorado, BC Docket No. 82-92, File No. BPCT-790130KR; Boulder Telecasting Corporation, Boulder, Colorado, BC Docket No. 82-93, File No. BPCT-790130KS; for a construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned applications of Family Television, Inc. (Family), Rocky Mountain 14, Inc. (Rocky Mountain), C.S.T.V., Inc. (CSTV) and Boulder Telecasting Corporation (BTC)[1] for a new commercial television station to operate on Channel 14 in Boulder Colorado;[2] a statement filed August 15, 1979, by the Association of Maximum Service Telecasters (AMST) against the applications of Family, CSTV and BTC; a response to that statement filed August 29, 1979, by CSTV;[3] a petition for leave to amend filed April 21, 1981, by BTC; an opposition to BTC's petition filed May 6, 1981 by CSTV; a request for waiver of § 73.685[4] of the Commission's Rules filed by CSTV; and a request for waiver of § 73.1125[5] of the Commission's rules filed by BTC.

Section 307(b) Issue

2. These applications propose to serve different communities. Consequently, it will be necessary to determine, pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of broadcast service. Since these proposals do serve substantial common areas, however, in addition to the Section 307(b) issue, a contingent comparative issue will also be specified.

Protection of Table Mountain Radio Receiving Zone

3. Applicants for station authorization to operate in the vicinity of Boulder County, Colorado, are advised by § 73.1030(b) of the Commission's Rules to give due consideration, prior to filing applications, to the need to protect the Table Mountain Radio Receiving Zone—from harmful interference. Family and BTC both propose facilities subject to that rule, but neither has submitted any evidence that they have communicated with the Table Mountain Research Laboratories of the Department of Commerce as recommended by § 73.1030(b)(2). These applicants will be expected to consult with the Department of Commerce to avoid objections or proceedings to modify any authorization that may be granted. *See* § 73.1030(b)(3) of the Commission's Rules.

Family Television, Inc.

4. *Air hazard.* We have not received notification from the FAA that the tower height and location proposed by Family would not be a hazard to air navigation. Accordingly, an appropriate issue will be specified.

Rocky Mountain 14, Inc.

5. Because of the proximity of Rocky Mountain's proposed tower to KICM, a directional AM station, a grant of a construction permit to Rocky Mountain will be conditioned to ensure that KICM's radiation pattern is not adversely affected by the proposed construction.

[1] The following amendments are accepted pursuant to § 1.65 of the Commission's rules: Family's amendment filed December 3, 1980; CSTV's amendments filed March 31, July 6 and October 28, 1981; Rocky Mountain's petitions for leave to amend filed January 22, February 20, April 23 and 24, 1981; and BTC's amendment filed June 3, 1981. The acceptance of other amendments filed by BTC is discussed below.

[2] Rocky Mountain filed its application for Channel 14 in Broomfield, Colorado. Channel 14 is allocated to Boulder, Colorado. Since Broomfield is within fifteen miles of Boulder, this application complies with § 73.607(b) of the Commission's rules.

[3] AMST's statement concerns a short-spacing problem between the facilities proposed by an applicant for Channel 22 in Loveland, Coloredo and three of the Boulder applicants; Family, CSTV and BTC. The Loveland application, filed January 29, 1979 by Satellite Outreach Ministries, Inc. (file no. BPCT-790129LE), was dismissed by the Commission on September 17, 1979 and a petition for reconsideration of that dismissal was denied on July 15, 1980. *Satellite Outreach Ministries, Inc.*, 47 RR 2d 1361 (1980). Therefore, the Boulder applicants no longer have a short-spacing problem and AMST's statement will be dismissed as moot.

[4] Section 73.685(e) states that stations operating on Channel 14 with peak visual power output of more than 1 Kw may not employ directive transmitting antennas with a ratio of maximum to minimum radiation in the horizontal plane in excess of 15 dB.

[5] Section 73.1125 states that television stations shall maintain a main studio in the community of license except when good cause exists for locating the main studio outside the community of license and when to do so would be consistent with operation of the station in the public interest.

C.S.T.V., Inc.

6. *Waiver Request.* CSTV requests a waiver of § 73.685 of the Commission's Rules which states that the ratio of maximum to minimum radiation in the horizontal plane may not exceed 15 dB. CSTV proposes a horizontal plane pattern which will exceed the 15 dB maximum by approximately 5 dB. CSTV requests a waiver of § 73.685, stating that the use of a transmitting antenna with deep supression characteristics is necessary to protect the Table Mountain Radio Receiving Zone. We note that a letter from the Department of Commerce to CSTV, filed November 12, 1981, states that "successful coordination is obtained with the TV Channel 14 application of C.S.T.V." We find that CSTV has "set forth reasons, sufficient if true, to justify" a waiver of § 73.685 of the Commission's Rules. *Storer Broadcasting Company*, 351 U.S. 192, 204 (1956). Accordingly, CSTV's waiver request will be granted.

Boulder Telecasting Corporation

7. *Petition for leave to amend.* A petition for leave to amend filed April 24, 1981 and amendments filed May 26 and 29, 1981, revise BTC's financial qualifications to eliminate a possible issue. CSTV filed an opposition to BTC's petition. We find, however, that good cause exists for acceptance of the amendments. As discussed below, BTC has succeeded in eliminating a financial issue and acceptance of the amendments will neither delay the proceeding nor prejudice any of the competing applicants.[6] Accordingly, pursuant to § 73.3522(a)(2) of the Commission's Rules, BTC's petition for leave to amend filed April 21, 1981, will be granted and the amendments filed May 26 and 29, 1981 are accepted.

8. *Financial qualifications.* BTC indicates that $754,850 would be required to construct and operate its proposed facility for three months. To meet these expenses, BTC relies, in part, on $1,000 capital, deferred equipment credit of $447,281 and a $600,000 bank loan. The letters from the Lake View Bank, filed April 21, and May 26, 1981, indicate that a $600,000 loan commitment was made to BTC and Newsweb Corporation, its parent company. If the bank's commitment is to lend $600,000 to Newsweb, which it will relend to BTC, the applicant is required by Item 4(b), Section III, page 3 of FCC Form 301, to submit Newsweb's balance sheet and any loan or stock subscription agreement between Newsweb and the applicant. BTC has not submitted these items. In *Contemporary Television Broadcasting, Inc.*, 46 FR 9202 (January 28, 1981), the Commission held that bank loan commitment letters, directed to investors in an applicant, which earmark funds specifically for the construction and operation of the proposed station, will be accepted as part of the applicant's source of funds, without an examination of the investor's financial statement to determine whether he has sufficient net liquid assets, as supplemented by the bank loan, to meet his commitment to the applicant. FCC Form 301, however, still requires the applicant to submit this financial data. We find, however, that the bank letter submitted by BTC meets the requirements of FCC Form 301 for such commitments. We also find that this bank loan, as supplemented by BTC's other financial sources, establishes BTC's financial qualifications. Therefore, we hold that a bank loan commitment letter, directed to an investor in an applicant, which earmarks funds specifically for the construction and operation of the proposed station will be accepted as a part of the applicant's source of funds even if the investor's financial statement has not been submitted. *See Washington's Christian Television Outreach, Inc.*, FCC Mimeo No. 002820 (released August 19, 1981). In addition, we find it reasonable to assume, even in the absence of a loan or stock subscription agreement, that Newsweb will relend the $600,000 to BTC because Newsweb is wholly owned by Fred J. Eychaner, BTC's president, director and guarantor of the bank loan. Accordingly, we find BTC financially qualified to construct and operate its proposed facility.

9. *Main studio location.* BTC proposed a main studio located outside Boulder, the principal community to be served, and requested a "waiver" of § 73.613 of the Commission's Rules (current version at § 73.1125). BTC proposes locating its main studio at the transmitter site in Marshall, Colorado and therefore, BTC stated, its proposal would be consistent with the operation of the station in the public interest. BTC has not submitted any showing of good cause to support its proposed location and has not shown that the location of its main studio outside the community of license would be consistent with operation of the station in the public interest as required by § 73.1125(a)(3) of the Commission's Rules. An appropriate issue will be specified.

Conclusion and Order

10. Except as indicated by the issues specified below, the Commission finds the applicants legally, financially, technically and otherwise qualified. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that a grant of the applications will serve the public interest, convenience and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues set out below.

11. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, on the following issues:

1. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of broadcast service.

2. To determine, if it is concluded that a choice among the applicants should not be based on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, with respect to Family Television, Inc., whether there is a reasonable possibility that the tower height and location proposed by the applicant would be a hazard to air navigation.

4. To determine, with respect to Boulder Telecasting Corporation, whether good cause exists for locating the main studio outside the city of Boulder and whether to do so would be consistent with the operation of the station in the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

12. It is further ordered, That, if Rocky Mountain 14, Inc.'s application is granted, the construction permit shall contain the following condition:

Prior to the construction of the TV tower authorized herein, the permittee shall notify AM station KICM so that, if necessary, the

[6] One of the grounds of CSTV's opposition is the involvement of Newsweb, BTC's parent company, in a hearing in another proceeding for a construction permit to operate on Channel 60 in Aurora, Illinois. CSTV argued that Newsweb failed to demonstrate that it can construct and operate both the Aurora and Boulder facilities. We note that Newsweb's subsidiary, Metrowest Corporation demonstrated its financial qualifications in the Aurora case. *See Metrowest Corporation*, FCC 81M-3684 (released Nov. 19, 1981). We also note that Metrowest was granted a construction permit to operate shared facilities on Channel 60 in Aurora. *Metrowest Corporation*, FCC 81M-3686 (released Nov. 19, 1981).

AM station may determine operating power by the indirect method and request temporary authority from the Commission in Washington to operate with parameters at variance in order to maintain monitoring point field strengths within authorized limits. The permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the aforementioned AM station. Both prior to construction of the TV tower and subsequent to the installation of all appurtenances thereon, a partial proof of performance, as defined by § 73.154(a) of the Commission's rules, shall be conducted to establish that the AM array has not been adversely affected and, the results submitted to the Commission and to the AM station. Thereafter the TV station may commence *Limited Program Tests.*

13. It is further ordered, That, AMST's statement filed against the applications of Family Television, Inc., C.S.T.V., Inc. and Boulder Telecasting Corporation is DISMISSED AS MOOT.

14. It is further ordered, That, the request for waiver of § 73.685 of the Commission's Rules filed by C.S.T.V., Inc. is granted.

15. It is further ordered, That, the Petition for Leave to Amend filed April 21, 1981 by Boulder Telecasting Corporation is granted.

16. It is further ordered, That, the Federal Aviation Administration is made a party respondent to this proceeding.

17. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

18. It is further ordered, That, the applicants herein shall, pursuant to § 73.3594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-5533 Filed 3-1-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 82-97; 82-98; File Nos. BPH-801003AB; 801003AC]

K-106, Inc. and East Delta Communications, Inc.; Designating Applications For Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: February 12, 1982.
Released: February 22, 1982.

In the matter of K-106, Inc., Carthage, Texas, BC Docket No. 82-97, File No. BPH-801003AB, Req: 98.9 MHz, Channel 255 100 kW (H&V), 620 feet; East Delta Communications, Inc., Carthage, Texas, BC Docket No. 82-98, File No. BPH-801003AC, Req: 98.9 MHz, Channel 255 100 kW (H&V), 549.36 feet, For Construction Permit for a New FM Station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by K-106, Inc. (hereafter K-106), and East Delta Communications, Inc. (hereafter East Delta).

2. *K-106.* On December 12, 1980 the Chief, FM Branch, Broadcast Facilities Division, returned as unacceptable for filing the application of K-106, Inc. for a new FM station to operate on Channel 255 at Carthage, Texas because the proposed site was short-spaced with co-channel KDEY, Lufkin, Texas.[1] On January 12, 1981, K-106, Inc. filed a petition for reconsideration of the return of its application together with an amendment to its application eliminating the short-spacing. It also requested reinstatement of its application *nunc pro tunc.* An opposition to the petition was filed by Beverly Brown, a competing applicant who has since withdrawn his application.[2] Brown's opposition was based on the grounds that while the original application of K-106 was timely tendered, it contained an undisclosed "fundamental defect," which forecloses the *nunc pro tunc* acceptance of the amended application. The "fundamental defect" Brown relied on was that, at the time of the filing of the original application, K-106 had no reasonable assurance that the transmitter site specified in it application would be available to it. The transmitter site location specified in K-106's application: N 32° 05' 42" W 94° 04' 43" is owned by the International Paper Company. Inquiry by Brown revealed that no request had been made nor approval obtained for the use of International Paper Company's land.[3] Brown contended, therefore, that at the time of the filing of the original application no reasonable assurance existed that the transmitter site specified in K-106's application would be available to it.

3. In its reply to the opposition to the petition for reconsideration K-106 states that it committed a technical error in the plotting of the coordinates of the transmitter site location specified in its application. Instead of plotting the transmitter site coordinates as N 32° 05' 36". W 94° 04' 49", it erroneously plotted the coordinate which appear on the application. K-106 maintains that although its coordinates were in error, it had indeed secured an antenna-transmitter site. To reinforce this contention, K-106 has provided a copy of the option contract for the corrected coordinates.

4. In order to determine whether an application is entitled to *nunc pro tunc* treatment, we do not look to the question of whether it contained a "fundamental defect" when orignally tendered. Rather, the applicant must meet a two fold test. First, was the application substantially complete when tendered and second, if so, did the amendment correcting the defect require the assignment of a new file number. In other words, was the defect curable by the filing of a minor rather than a major amendment. Since the application in this instance was substantially complete and since the ameliorative amendment was a minor one, the proposal is entitled to *nunc pro tunc* consideration. *James River Broadcasting Corp., v. FCC,* 399 F. 2d 581 (D.C. Cir. 1968); *North American Broadcasting Co., Inc.,* 14 FCC 2d 617 (1968):

5. Since no determination has been reached that the antenna proposed by East Delta would not constitute a menace to air navigation, an issue regarding this matter is required.

6. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and population which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to one of the applicants.

7. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by East Delta would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, That the petition for reconsideration filed by K-106, Inc., is granted and the application is accepted *nunc pro tunc.*

10. It is further ordered, That the Federal Aviation Administration is made a party to the proceeding.

11. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

12. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-5534 Filed 3-1-82; 8:45 am]

BILLING CODE 6712-01-M

[1] See letter from Chief, FM Branch, December 12, 1980 to K-106, Inc. (8920-GAE).

[2] Since Brown has withdrawn, the opposition to petition for reconsideration is moot. However, on our own motion, we will consider the issues raised in Brown's petition.

[3] See Opposition to Petition for Reconsideration by Beverly E. Brown, filed date April 9, 1981.

[BC Docket Nos. 82-105—82-108; File Nos. BPET-810512KE, etc.]

Kentucky Authority for Educational TV, et al.; Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: February 16, 1982.
Released: February 22, 1982.

In re Applications of KENTUCKY AUTHORITY FOR EDUCATIONAL TV, Lexington, Kentucky, BC DOCKET NO. 82-105, File No. BPET-810512KE; FBC, INCORPORATED, Lexington, Kentucky, BC DOCKET NO. 82-106, File No. BPCT-810529KP; LEXINGTON FAMILY TELEVISION, INC., Lexington, Kentucky, BC DOCKET NO. 82-107, File No. BPCT-810804KF; WAY OF THE CROSS OUTREACH, INC., Lexington, Kentucky, BC DOCKET NO. 82-108, File No. BPCT-810606KK, For Construction Permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Kentucky Authority for Educational TV (KAETV), FBC, Incorporated (FBC), Lexington Family Television, Inc. (Family) and Way of the Cross Outreach, Inc. (Way) for a new television broadcast station[1] on Channel 62, Lexington, Kentucky.

2. Channel 62 is one of five television channels allocated to Lexington, Kentucky, and is the only channel not authorized to an existing station. Channel 46 is reserved for noncommercial educational use. Kentucky Educational Television Foundation (KET) is the licensee of noncommercial educational station WKLE(TV), Channel 46, Lexington, Kentucky.[2] KAETV is the only applicant requesting noncommercial educational use of Channel 62. A question arises, therefore, as to whether there is a greater need for commercial programming as proposed by three of the applicants or for educational programming as proposed by KAETV. If it is determined that there is a greater need for noncommercial educational programming, a selection can be made without reliance on the standard comparative evaluation; if there is a greater need for commercial programming, a selection among those applicants proposing commercial programming can be made under the standard comparative issues. If no determination can be made with respect to whether there is a greater need for one or another of these types of programming, all of the applicants will be evaluated under the standard comparative issue. *Houma Broadcasters, Inc.,* FCC 80-534 (released September 30, 1980).

3. Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in § 73.3580(h) of the rules. We have no evidence that KAETV and Family have published the required local notice. To remedy this deficiency, KAETV and Family will each be required to file a statement of publication with the presiding Administrative Law Judge within 40 days after this Order appears in the Federal Register (April 12, 1982).

4. No determination has been reached that the tower heights and locations proposed by Family and Way would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

Kentucky Authority for Educational TV

5. Applicant estimates that it will require approximately $757,000 to construct its proposed facility and operate for three months, itemized as follows:

Equipment	$600,000
Land and building (existing)	
Installation	147,000
Operating costs (3 months)	10,000
Total	757,000

6. Review of the applicant's financial plan reveals that no allowance has been made for legal and miscellaneous costs. In view of the fact that this application must be prosecuted through a comparative hearing, KAETV will incur legal costs and other incidental costs that may arise. An appropriate issue will be specified.

7. To meet these expenses, KAETV intends to rely upon its bi-annual budget allocated by the State Legislature; funds requested from the National Telecommunications and Information Administration (NTIA) and assets belonging to KET (see footnote 2) which totalled $2,241,791 as of March, 1981. Kentucky may not rely on any of its sources of funds for the following reasons:

(1) Applicant has not indicated how much money will be allocated to it by the state; nor how much of it will be available for its proposed facility;

(2) The request for funds from NTIA, in January, 1981, does not ask for funds

[1] KAETV proposes a noncommercial educational facility.

[2] Kentucky Educational Television Foundation is a non-profit, tax exempt corporation established to assist in furthering the objectives of KAETV.

for a new UHF facility in Lexington, Kentucky;

(3) No balance sheet has been filed for KET as required by FCC Form 301 Section III, page 3, item 4.

Accordingly, a financial issue will be specified to determine the availability of at least $757,000, plus funds for any additional costs, to construct and operate as proposed.

Way of the Cross Outreach, Inc.

8. Applicant estimates that it will require $1,281,470 to construct its proposed facility and operate for three months, itemized as follows:

Equipment	$1,080,970
Land and building	
Other items	55,000
Operating expenses (3 months)	136,500
Total	1,281,470

9. Applicant indicates that it will incur no expenses for land and building. Way of the Cross Television, Inc. has agreed to loan the applicant a remote control truck equipped for broadcast operation, without charge for one year, but no provision has been made for the costs of a studio and office building.[3] An appropriate issue will be specified.

10. To meet these expenses, applicant intends to rely on commitments by individuals and institutions, and donations. Section III, page 3, item 4 requires that loans, donations and credit be supported by copies of the agreements, as well as balance sheets showing the ability of the individuals and institutions to meet their commitments. Such documentation has not been provided. Further, Way states that it is in the process of negotiating an equipment lease. We have no evidence that Way was successful in doing so; therefore, we must assume that the applicant will pay cash for its technical equipment. Accordingly, a financial issue will be specified to determine the availability of $1,281,470 plus such additional costs as may be incurred for studios and offices.

11. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

12. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934 as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues.

1. To determine whether there is a greater need for noncommercial educational programming or for commercial programming in Lexington, Kentucky and the surrounding area to be served.

2. To determine, with respect to Family and Way, whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

3. To determine with respect to Kentucky Authority for Educational TV:

(a) Whether applicant has at least $757,760, plus any additional funds required for legal and miscellaneous costs;

(b) Whether, in light of the evidence adduced pursuant to issue (a), applicant is financially qualified.

4. To determine with respect to Way of the Cross Outreach, Inc.:

(a) Whether the applicant has made provision for the costs of land and buildings for studios and offices and, if not, to determine the reasonable additional costs which will be incurred;

(b) Whether the applicant has available $1,281,470, plus any additional costs to be incurred for land and studios and offices.

(c) Whether, in light of the evidence adduced pursuant to issues (a) and (b), applicant is financially qualified.

5. To determine, on a comparative basis, which of the proposals would best serve the public interest.

6. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

13. It is further ordered, That, KAETV shall file with the presiding Administrative Law Judge proof of publication of local notice of the filing of their application within 40 days after this Order is published in the **Federal Register.**

14. It is further ordered, That, in the event of a grant of the application of KAETV, such grant shall be made subject to the outcome of the rule making proceeding in BC Docket No. 78-165, relating to multiple ownership of non-commercial educational broadcast facilities.

15. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 2.

16. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

17. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division
Broadcast Bureau.

[FR Doc. 82-5836 Filed 3-1-82; 8:45 am]
BILLING CODE 6712-01-M

[3] The applicant proposes a staff of 10 persons.

[BC Docket Nos. 82-94—82-96; File Nos. BPH-800324AE, Etc.]

Minn-Iowa Christian Broadcasting, Inc., et al.; Designating Applications for Consolidated Hearing of Stated Issues

Hearing Designation Order

Adopted: February 12, 1982.
Released: February 16, 1982.

In re Applications of Minn-Iowa Christian Broadcasting, Inc., Blue Earth, Minnesota, BC Docket No. 82-94, File No. BPH-800324AE, Req.: 100.9 MHz, Channel 265 3 kW (H&V), 300 feet; Logos Communications, Inc., Blue Earth, Minnesota, BC Docket No. 82-95, File No. BPH-800529AB, Req.: 100.9 MHz, Channel 265 3 kW (H&V), 245 feet; Minn-Iowa Radio, Inc., Blue Earth, Minnesota, BC Docket No. 82-96, File No. BPH-800828AD, Req.: 100.9 MHz, Channel 265 3 kW (H&V), 256 feet.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive application filed by Minn-Iowa Christian Broadcasting, Inc. (MIC); Logos Communications, Inc. (Logos); and Minn-Iowa Radio, Inc. (MIR).

2. *MIC.* In Article VIII of the MIC Articles of Incorporation, MIC lists seven directors but has provided the information required by Section II, Tables 1 and 2 for only four directors. In addition, Section II, paragraph 9, and Table 1 show 10,000 shares issued and outstanding, but page 9 of the By-laws shows only 8,000 shares issued and outstanding. Since these discrepancies may be inadvertent, we will direct MIC to file with the Administrative Law Judge an amendment correcting these inconsistencies in its application.

3. *Logos.* Analysis of the financial data submitted by Logos reveals that $71,468 will be required to construct the proposed station and operate for three months, itemized as follows:

Cash equipment purchases	$10,225
Equipment down payment	9,406
Equipment payments with interest	6,800
Miscellaneous	5,200
Operating costs (three months)	36,837
Total	71,468

Logos plans to finance construction and operation with the following funds: $22,281 in existing capital and a $60,000 bank loan. However, Logos has not adequately established the availability of the bank loan to meet the costs of construction and operation of the proposed FM station. Logos has failed to provide the terms of payment, collateral or security required, and rate of interest to be charged, as required by Section III, Paragraph 4(e) of FCC Form 301. Therefore, Logos has demonstrated only $22,281 available to meet the $71,468 required to operate and construct the proposed station, and a limited financial issue will be specified.

4. *MIR.* Analysis of the financial data submitted by MIR reveals that $75,211 will be required to construct the proposed station and operate for three months, itemized as follows:

Cash equipment purchases	$49,136
Miscellaneous	9,200
Operating costs (three months)	16,875
Total	75,211

MIR plans to finance construction and operation with the following funds: $70,000 line of credit from Blue Earth State Bank and $100,000 line of credit from KAGE, Inc. However, MIC has not adequately established the availability of the line of credit from KAGE, Inc. From the information before us, we only find evidence of $4,875 in current liquid assets offset by $56,399 in current liabilities in the financial statement dated December 31, 1979 from KAGE, Inc. Accordingly, MIR has failed to show the necessary documentation to support more than $70,000 to meet the $75,211 required for construction and operation, and a limited financial issue will be specified.

5. Data submitted by the applicants indicates that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Logos Communications, Inc.: (a) The source and availability of additional funds over and above the $22,281 indicated; and (b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine with respect to Minn-Iowa Radio, Inc.: (a) The source and availability of additional funds over and above the $70,000 indicated; and (b) Whether in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

3. To determine which of the proposals would on a comparative basis, best serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications, if any, should be granted.

8. It is further ordered, That Minn-Iowa Christian Broadcasting, Inc. shall file an amendment with the Presiding Administrative Law Judge (i) showing compliance with Section II information on its directors, and (ii) clarifying its issued and outstanding stock status.

9. It is further ordered, That in the event the application of Minn-Iowa Radio, Inc. is granted, it is subject to the condition that if the Commission ultimately adopts a rule prohibiting commonly owned AM and FM stations in the same market, Minn-Iowa Radio, Inc. will divest itself of either its AM station or FM station in accordance with the requirements established in such rulemaking proceeding.

10. It is furthered ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division.

[FR Doc. 82-5836 Filed 3-1-82; 8:45 am]
BILLING CODE 6712-01-M

[BC Docket Nos. 82-101-82-104; File Nos. BPCT-810701 KH, etc.]

New West Broadcasting Co., Inc.; Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: February 12, 1982.
Released: February 22, 1982.

In re Applications of NEW WEST BROADCASTING CO., INC., Bozeman, Montana, BC DOCKET NO. 82-101, File No. BPCT-81070JKH; EDWARD M. JOHNSON, Bozeman, Montana, BC DOCKET NO. 82-102, File No. BPCT-810828 KF; TRI-B BROADCASTING, INC., Bozeman, Montana, BC DOCKET NO. 82-103, File No. BPCT-810904KF; BEE BROADCASTING INCORPORATED, Bozeman, Montana, BC DOCKET NO. 82-104, File No. BPCT-810908KJ, For Construction Permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for authority to construct a new commerical television broadcast station on Channel 7, Bozeman, Montana.

2. Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in § 73.3580(h) of the rules. We have no evidence that Edward M. Johnson or Bee Broadcasting Incorporated published the required notice. To remedy this

deficiency, Edward M. Johnson and Bee Broadcasting Incorporated will be required to publish local notice of their applications and to file statements of publication with the presiding Administrative Law Judge.

Edward M. Johnson

3. Since no determination has been reached that the tower height and location proposed by applicant would not constitute a hazard to air navigation, an issue regarding this matter is required.

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Edward M. Johnson, whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

2. To determine which of the proposals, on a comparative basis, would best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

6. It is further ordered, That the Federal Aviation Administration is made a party to the proceeding with respect to issue 1.

7. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and party respondent herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

8. It is further ordered, That, Edward Johnson and Bee Broadcasting Incorporated shall file with the presiding Administrative Law Judge proof of publication of local notice of the filing of their application within 40 days after this Order is published in the Federal Register (On or before April 12, 1982).

9. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-5837 Filed 3-1-82; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1236]

Petitions for Reconsideration of Actions in Rule Making Proceedings

February 24, 1982.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to 47 CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed on or before March 17, 1982. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Part 74 of the Commission's Rules to provide for the elimination of harmful interference safety to life and protection of property. (BC Docket No. 81-394)

Filed by: Eleanor S. Applewhaite & R. Bryan Hatchett, Attorneys for CBS Inc., on 2-12-82. Howard Monderer & John F. Sturm, Attorneys for National Broadcasting Company, Inc., on 2-12-82.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-5838 Filed 3-1-82; 8:45 am]

BILLING CODE 6712-01-M

Steering Committee of the Telecommunications Industry Advisory Group; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Steering Committee of the Telecommunications Industry Advisory Group scheduled to meet on Tuesday, March 16, 1982, at 9:30 a.m. in Room 650 of the Commission's offices at 1919 M St., NW., Washington, D.C. In the event that all matters to be discussed are not covered at that time, the meeting will reconvene on the following day, March 17, at the same time and place. This meeting will be open to the public. The preliminary agenda is as follows:

I. General Administrative Matters.
II. Results of February 26 Assembly Meeting.
III. Procedures for Guidance and Control of Subcommittee Activities.
IV. Additional Subcommittee Proposals.
V. Presentation of Assigned Position Papers.
VI. Other Business.
VII. Presentation of Oral Statements.
VIII. Adjournment.

With prior approval of the Chairman, Gerald P. Vaughan, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Steering Committee objectives. Anyone not a member of the Steering Committee and wishing to make an oral presentation should contact Stephen T. Duffy, TIAG and Steering Committee Vice-Chairman (202/634-1509), at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-5837 Filed 3-1-82; 8:45 am]

BILLING CODE 6712-01-M

Study Group A of the U.S. Organization for the International Telegraph & Telephone Consultative Committee (CCITT); Meeting

February 23, 1982.

The Department of State announces that Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on March 17, 1982 at 10:00 a.m. in Room 856 of the Federal Communications Commission, 1919 M Street, NW., Washington, D.C. This Study Group deals with U.S. Government aspects of international telegram and telephone operations and tariffs.

The Study Group will discuss international telecommunications questions relating to telegraph, telex, new record services, data transmission and leased channel services in order to develop U.S. positions to be taken at upcoming international CCITT Study Group III and I meetings.

Members of the general public may attend the meeting and join in the discussion subject to instruction of the Chairman. Admittance of public members will be limited to seating available. Requests for further information should be directed to Earl S. Barbely, Conference Staff, Federal Communications Commission, Washington, D.C., telephone (202) 632-3214.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-5839 Filed 3-1-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL LABOR RELATIONS AUTHORITY

Professional Air Traffic Controllers Organization, Affiliated with MEBA, AFL-CIO, and Federal Aviation Administration, DOT; Hearing

AGENCY: Federal Labor Relations Authority.

ACTION: Notice of hearing.

SUMMARY: This notice sets forth the time and place of a forthcoming hearing of the Federal Labor Relations Authority held pursuant to an Order of the United States Court of Appeals for the District of Columbia Circuit to hold an evidentiary hearing to determine the nature, extent, source and effect of any and all *ex parte* contacts and other approaches that may have been made to any member or members of the Authority while the appeal from the decision of the Administrative Law Judge in Case No. 3-CO-105, *Professional Air Traffic Controllers Organization, Affiliated with MEBA, AFL-CIO and Federal Aviation Administration, Department of Transportation,* was pending before the Authority. The Administrative Law Judge selected by the Office of Personnel Management to preside over the hearing is Judge John M. Vittone.

DATE: Thursday, March 4, 1982, 10:00 a.m.

ADDRESS: Courtroom 10, United States Courthouse, Constitution Avenue and John Marshall Place, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: James J. Shepard, Executive Director, Federal Labor Relations Authority, 500 C Street, S.W., Washington, D.C. 20424, (202) 382-0711.

SUPPLEMENTARY INFORMATION: During the prehearing conference held on February 26, 1982, it was determined that this hearing would commence at 9:30 a.m. After the hearing, however, it was discovered that the hearing room is not available until 10:00 a.m. Accordingly, the hearing will begin at that time.

Dated: Washington, D.C., February 26, 1982.

For the Authority.

James J. Shepard,

Executive Director.

[FR Doc. 82-5787 Filed 3-1-82; 8:45 am]

BILLING CODE 6727-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 82-12; Agreement No. 7680-39]

American West African Conference; Agreement Order of Further Investigation and Hearing

Agreement No. 7680-39, an amendment to the basic conference agreement of the American West African Freight Conference, has been filed for approval pursuant to section 15 of the Shipping Act, 1916 (46 U.S.C. 814).

The proposed amendment would modify the Agreement to authorize ratemaking for intermodal service in the trade between St. Lawrence River, Atlantic and Gulf ports and ports on the Gulf of Guinea.[1] Proponents were initially granted such authority for a period of 18 months commencing April 13, 1978, *American West African Freight Conference (Agreement No. 7680-36-Intermodal Services)*, 18 S.R.R. 339 (1978), but it expired on September 6, 1979, without any intermodal cargo having been carried. The subject modification requests reinstatement of the intermodal provisions for a two-year period.

Notice of the filing of Agreement No. 7680-39 was published in the Federal Register on October 23, 1979. No protests or comments regarding the Agreement were received by the Commission.

By Order of June 8, 1981, the Commission conditionally disapproved Agreement No. 7680-39 on the ground that the Proponents had not justified Commission approval of the Agreement.[2] The Conference had not described present operating conditions in the trade and how they would be affected by its proposed activities. Therefore, the Commission could not determine if the trade would support a conference intermodal service and if conference control of intermodal rates would be reasonably likely to produce public benefits. In its Order of Conditional Disapproval, the Commission listed several topics to exemplify the type of information required to evaluate the Agreement. These items included:

1. The intermodal points which would be actually served in the United States and Africa, the commodities to be carried, the inland modes and routings, and the frequency of service contemplated by each member line;

2. The percentage of total trade traffic and the percentage of containerized trade traffic carried by the Conference;

3. The percentage of conference cargo and trade cargo that is containerized;

4. The percentage of conference containerized cargo that moves house-to-house from inland origins to inland destinations;

5. The level of existing intermodal rates in the trade and the level of proposed conference rates; and

6. The names and service descriptions of the Conference's competitors with particular emphasis on their intermodal activities and capabilities.

The Commission's Order of Conditional Disapproval recognized the Proponents' right to request a further hearing on or before August 6, 1981. The time within which the request was to be submitted was extended twice, finally resulting in an extension to November 24, 1981.

On November 23, 1981, Proponents submitted a request for further hearing stating that they would submit the following information: liner trade data and descriptions of port improvements, carrier equipment, and vessel assignments demonstrating the growth of the U.S.-West Africa trade, as well as the growth of containerization in the trade; a description of the economic incentives which support containerization of the subject trade and the benefits to be gained by its shippers; a description of competitors in the trade and data demonstrating that significant non-conference competition exists; an analysis of the cargo routes presently utilized in the U.S.-West Africa trade to show that intermodal service would move the cargo more naturally and efficiently through ports already served by the Conference; evidence of shipper demand for intermodal service; and evidence that conference control of ratemaking would lead to a more efficient service to a broader range of

[1] The intermodal services contemplated include a full range of point-to-point, port-to-port and point-to-port operations in both directions.

[2] Section 15 requires the Commission to disapprove any agreement which it finds to be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, detrimental to the commerce of the United States, contrary to the public interest, or violative of the Shipping Act. Amendment No. 39 to Agreement No. 7680 provides for rate fixing and therefore is *per se* violative of the antitrust laws and deemed contrary to the public interest unless justified by Proponents. The justification required is a demonstration that the Agreement is required by a serious transportation need, necessary to secure important public benefits, or furthers a valid regulatory purpose of the Shipping Act, 1916. *Federal Maritime Commission v. Aktiebolaget Svenska Amerika Linien*, 390 U.S. 238 (1968).

points, and will cover a broad range of commodities at competitive rates. Accordingly, the request for a hearing is granted.

Therefore it is ordered, that pursuant to sections 15 and 22 of the Shipping Act, 1916 (46 U.S.C. 814 and 821), a formal investigation and hearing is hereby instituted to determine whether Agreement No. 7680–39 should be approved, disapproved or modified;

It is further ordered, that the carriers listed in the Appendix attached hereto are designated as Proponents in this proceeding;

It is further ordered, that pursuant to § 502.42 of the Commission's rules (46 CFR 502.42), the Commission's Bureau of Hearings and Field Operations (Hearing Counsel), shall be a party to this proceeding;

It is further ordered, that Proponents will submit two copies of their direct case, consisting of the information which they have said they would submit in their request for a hearing, along with any additional information which Proponents believe supports the approvability of this Agreement, to the Secretary of the Commission and one copy to each of the parties to this proceeding within 60 days from the date of this Order;

It is further ordered, that discovery shall be in accordance with the process set forth in § 502.201 of the Commission's rules (46 CFR 502.21) but shall not commence until the receipt by the Commission of Proponents' direct case;

It is further ordered, that after completion of such discovery, Hearing Counsel shall have an opportunity to submit written rebuttal testimony;

It is further ordered, that this matter is assigned to an Administrative Law Judge for public hearing and decision at a date and place to be hereafter determined by the Administrative Law Judge. This hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents, or that the nature of the matters in issue otherwise requires an oral hearing and cross-examination for the development of an adequate record;

It is further ordered, that this Order be published in the **Federal Register** and a copy served upon Proponents and the Commission's Office of Hearing Counsel;

It is further ordered, that all further notices, orders, or decisions issued in this proceeding, including notice of the time and place of hearing or prehearing conference, be mailed directly to all parties of record; and

It is further ordered, that all documents submitted by any party inthis proceeding be filed in accordance with § 502.118 of the Commission's rules (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

Joseph C. Polking,

Assistant Secretary.

Agreement No. 7680–39 Order of Further Investigation and Hearing

Commissioner Richard J. Daschbach, concurring.

Although I agree with the Commission's decision to grant Proponents' request for a further hearing now that the proceeding has progressed this far, I still believe that the Commission should simply have approved Agreement No. 7680–39 as filed. My reasons for granting the American West African Freight Conference's request for intermodal authority were explained in detail in my June 11, 1981 dissent to the Commission's Order of Conditional Disapproval.

Appendix—Members of the American West African Freight Conference

Barber Lines, A/S, c/o Barber Steamship Lines, Inc., 17 Battery Place, New York, New York 10004
Black Star Line, c/o F. W. Hartmann & Co., Inc., 17 Battery Place, New York, New York 10004
Compagnie Maritime Zairoise, S.A.R.L., c/o Tilston Roberts Corp., 17 Battery Place, New York, New York 10004
Companhia Nacional De Navegacao, c/o East Coast Overseas Corp., 80 Broad St., New York, New York 10004
Delta Steamship Lines, Inc., P.O. Box 60250, 1700 International Trade Mart Bldg., New Orleans, LA 70150
Elder Dempster Lines, Limited, c/o Atlantic Overseas Corp., Five World Trade Center, New York, New York 10048
Farrell Lines Incorporated, One Whitehall St., New York, New York 10004
Hayling Seas Lines, S.A., c/o Fbright Shipping Corp., Ltd., 17 Battery Place, New York, New York 10004
Joco Shipping Line Int'l, N.V., c/o Combined Maritime Agencies, Inc., 50 Broadway, Suite 2100, New York, New York 10004
Medafrica Line, c/o Crossocean Shipping Co., Inc., One World Trade Center, New York, New York 10048
Nigeria America Line, Ltd., c/o Crossocean Shipping Co., Inc., One World Trade Center, New York, New York 10048
Torm West Africa Line, c/o Kerr Steamship Co., Inc., Two World Trade Center, New York, New York 10048
Ulterwyk Liberia Lines, 3105 West Waters Ave., Tampa, Florida 33614
Westwind Africa Line Limited, c/o Southern Star Shipping Co., Inc., 245 Park Ave., New York, New York 10017.

[FR Doc. 82-5844 Filed 3-1-82; 8:45 am]
BILLING CODE 6730-01-M

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the justification offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10427; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiand, San Francisco, California, Chicago, Illinois, and San Juan, Puerto Rico. Interested parties may submit comments on the agreement, including request for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before March 22, 1982. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreement and the statement should indicate that this has been done.

Agreements Nos.: T–3875–1 and T–3875–2.

Filing Party: Mr. Frank G. Martin, Jr., General Manager, Chicago Regional Port District, Butler Drive—Lake Calumet, Chicago, Illinois 60633.

Summary: Agreement No. T–3875–1, between the Chicago Regional Port District (Port) and Ceres Terminals, Incorporated, modifies the basic agreement between the parties which provides for the exclusive licensing of Ceres to perform stevedoring and other terminal services at the Iroquois Landing Lakefront Site in the Port of Chicago. The purpose of the modification is to reduce the minimum license fee by $8,250 per month or portion thereof after June 30, 1980, that the Port has not completed its paving and utilities service obligations, and to extend the term of the second renewal option period.

Agreement No. T–3875–2, between the same parties, provides for a reduction in the fee for breakbulk general cargo from $.95 per 2,240 pounds to $.85 per 2,240 pounds.

Dated: February 25, 1982.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-5842 Filed 3-1-82; 8:45 am]
BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2195]

Cargo International, Inc.; Order of Revocation

On February 5, 1982, Cargo International, Inc., 705 Third Avenue, North, Nashville, TN 37201 surrendered its Independent Ocean Freight Forwarder License No. 2195 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 2195 issued to Cargo International, Inc. be revoked effective February 5, 1982.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Cargo International, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82-5843 Filed 3-1-82; 8:45 am]
BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Inex, Incorporated, 746 Birginal Drive, Bensenville, IL 60106, Officer: Dale T. Gomez, Sole Officer

C. H. Powell Co., Inc., Suite 1119, One World Trade Center, New York, NY 10048, Officers: Lillian Powell, President/Treasurer, Alfred E. Powell, Vice President, John S. Powell, Vice President, Paul A Powell, Vice President, Peter H. Powell, Vice President, Joseph P. Lisa, Secretary

International Traffic Corporation, 416 Bremer Bldg., St. Paul, MN 55101, Officer: Krikor A. Mokhtarian, Sole Officer.

Dated: February 25, 1982.

By the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-5841 Filed 3-1-82; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Allied Bancshares of Illinois, Inc.; Formation of Bank Holding Company

Allied Bancshares of Illinois, Inc., Joliet, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of East Joliet Bank, Joliet, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 20, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 24, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5470 Filed 3-1-82; 8:45 am]
BILLING CODE 6210-01-M

Dahlonega Bancorp., Inc.; Formation of Bank Holding Company

Dahlonega Bancorp., Inc., Dahlonega, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Dahlonega, Dahlonega, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 25, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 24, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5471 Filed 3-1-82; 8:45 am]
BILLING CODE 6210-01-M

Farmers National Bancorp, Inc.; Formation of Bank Holding Company

Farmers National Bancorp, Inc., Geneseo, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company be acquiring 100 percent of the voting shares (less directors' qualifying shares) of The Farmers National Bank of Geneseo, Geneseo, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 25, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 24, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5472 Filed 3-1-82; 8:45 am]
BILLING CODE 6210-01-M

First City Bancorp, Inc.; Acquisition of Bank

First City Bancorp, Inc., Marietta, Georgia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more

of the voting shares of Citizens DeKalb Bank, Clarkston, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 23, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 24, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5473 Filed 3-1-82; 8:45 am]

BILLING CODE 6210-01-M

First State Bank Holding Co.; Formation of Bank Holding Company

First State Bank Holding Company, Lynnville, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 50 percent or more of the voting shares of First State Bank, Lynnville, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

First State Bank Holding Company, Lynnville, Iowa, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission for L.W. Gause Company, Lynnville, Iowa to engage in the sale of casualty insurance in a community with a population of less than 5,000. These activities would be performed from offices of Applicant's subsidiary in Lynnville, Iowa, and the geographic area to be served is Lynnville, Iowa. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than March 25, 1982.

Board of Governors of the Federal Reserve System, February 24, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5474 Filed 3-1-82; 8:45 am]

BILLING CODE 6210-01-M

Gary-Wheaton Corp.; Acquisition of Bank

Gary-Wheaton Corporation, Wheaton, Illinois, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of Batavia Investment Company, Batavia, Illinois, and thereby indirectly acquire control of Batavia Bank, Bativia, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 25, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 24, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5475 Filed 3-1-82; 8:45 am]

BILLING CODE 6210-01-M

National City Corp.; Acquisition of Bank

National City Corporation, Cleveland, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of The Goodyear Bank, Akron, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 25, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 24, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5476 Filed 3-1-82; 8:45 am]

BILLING CODE 6210-01-M

Seaport Bancorp, Inc.; Formation of Bank Holding Company

Seaport Bancorp, Inc.; Lewiston, Idaho, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Seaport Citizens Bank, Lewiston, Idaho. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 20, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summariazing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 24, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5477 Filed 3-1-82; 8:45 am]

BILLING CODE 6210-01-M

Security Bancorp, Inc.; Formation of Bank Holding Company

Security Bancorp., Inc., Vincennes, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of the successor by merger to Security Bank and Trust Company, Vincennes, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 25, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 24, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5478 Filed 3-1-82; 8:45 am]

BILLING CODE 6210-01-M

Standard Bancshares, Inc.; Formation of Bank Holding Company

Standard Bancshares, Inc., Evergreen Park, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Heritage Standard Bank, Evergreen Park, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 25, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 24, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5479 Filed 3-1-82; 8:45 am]

BILLING CODE 6210-01-M

Westlands Diversified Bancorp, Inc.; Formation of Bank Holding Company

Westlands Diversified Bancorp, Inc., Santa Ana, California, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Compnmy Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Westlands Bank, Santa Ana, California ("Westlands Bank"). The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

In connection with this application, Canadian Commercial Bank, Edmonton, Canada, and CCB Bancorp, Inc., Los Angeles, California, have each applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire indirect control of 40.12 percent or more of the voting shares of Westlands Bank.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the applications should submit views in writing to the Reserve Bank, to be received not later than March 23, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 24, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5480 Filed 3-1-82; 8:45 am]

BILLING CODE 6210-01-M

GOLD COMMISSION

Notice of Meeting

Notice is hereby given that the Commission established pursuant to Pub. L. 96-389 to review the role of gold in the domestic and international monetary systems and report its findings and recommendations to the Congress, will meet in the Treasury Department Cash Room on Monday, March 8, 1982, beginning at 9:30 a.m. The meeting is open to the public.

Any comment or inquiry with respect to this notice can be addressed to Ralph V. Korp, Director, Office of International Monetary Affairs, U.S. Department of the Treasury, Washington, D.C. 20220, (202) 566-5365.

Dated: February 25, 1982.

Ralph V. Korp,

Director, Office of International Monetary Affairs, Department of the Treasury.

[FR Doc. 82-5605 Filed 3-1-82; 8:45 pm]

BILLING CODE 4810-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 81D-0300]

Antimicrobial Drugs for Intramammary Infusion; Availability of Proposed Guideline; Open Meeting and Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces an open meeting to allow public discussion, and is extending the time for submitting comments, on a proposed revised guideline concerning the evaluation of antimicrobial drugs for intramammary infusion (infectious bovine mastitis) as related to target animal safety and effectiveness.

DATES: Comments by July 6, 1982. The meeting will be held on May 19, 1982, Conference Rm. J, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD, from 9 a.m. until approximately 4 p.m.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Terence Harvey, Bureau of Veterinary Medicine (HFV-2), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3450.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 9, 1981 (46 FR 50152), FDA announced the availability of a proposed revised guideline (last revised in 1973) that describes the types of studies needed to establish target animal safety and

effectiveness of antimicrobial drugs for intramammary infusion for treatment and control of infectious bovine mastitis. The agency invited the submission of written comments on or before December 7, 1981. In the Federal Register of December 4, 1981 (46 FR 59308), the comment period was extended until February 5, 1982.

In a letter dated February 4, 1982 (on file with the Dockets Management Branch), the Animal Health Institute (AHI) requested that FDA extend the comment period for an additional 60 days and requested a meeting with the Bureau of Veterinary Medicine (BVM) to consider ways to reorganize and rewrite the guideline. After reviewing all the comments received, BVM believes it would be beneficial to hold an open meeting in which members of the Bureau and interested persons can exchange ideas about development of a practical and useful guideline. FDA will consider information presented at this meeting in developing the revised guideline.

In addition, interested persons may submit written comments on the proposed revision to the guideline to the Dockets Management Branch (address above) on or before July 6, 1982. Respondents should submit two copies (except that individuals may submit one copy) identified with the docket number found in the heading of this document. The guideline and received comments may be seen in the Dockets Management Branch from 9 a.m. to 4 p.m., Monday through Friday.

Dated: February 24, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-5456 Filed 3-1-82; 10:34 am]

BILLING CODE 4160-01-M

[Docket No. 82M-0035]

Avery Laboratories, Inc.; Premarket Approval of Model E-355F Spinal Epidural Electrode

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Model E-355F Spinal Epidural Electrode sponsored by Avery Laboratories, Inc., Farmingdale, NY 11735. After reviewing the recommendation of the Neurological Device Section of the Respiratory and Nervous System Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by April 1, 1982.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On July 9, 1981, Avery Laboratories, Inc., Farmingdale, NY 11735, submitted to FDA an application for premarket approval of the Model E-355F Spinal Epidural Electrode, a device used in conjunction with percutaneous electrical nerve stimulators to electrically stimulate the spinal cord in the treatment and management of chronic pain patients. The application was reviewed by the Neurological Device Section of the Respiratory and Nervous System Devices Panel, an FDA advisory committee, which recommended approval of the application. On February 2, 1982, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Charles Kyper (HFK-402) (address above). Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before April 1, 1982, file with the Dockets Management Branch (address above), four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 24, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-5691 Filed 3-1-82; 8:45 am]

BILLING CODE 4160-01-M

Board of Tea Experts; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Board of Tea Experts

Date, time, and place. March 18 and 19, 10 a.m., Rm. 700, 850 Third Ave., Brooklyn, NY.

Type of meeting and contact person. Open public hearing, March 18, 10 a.m. to 11 a.m.; open committee discussion, March 18, 11 a.m. to 4:30 p.m., March 19, 10 a.m. to 4:30 p.m.; Robert H. Dick, Food and Drug Administration, 850 Third Ave., Brooklyn, NY 11232, 212-965-5739.

General function of the Committee. The Board advises on establishment of uniform standards of purity, quality, and fitness for consumption of all teas imported into the United States pursuant to 21 U.S.C. 42.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Board.

Open committee discussion. Discussion and selection of tea standards.

The Commissioner approves the scheduling of meetings at locations outside of the Washington, DC area on the basis of the criteria of 21 CFR 14.22 of FDA's regulations relating to public advisory committees.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Section 10.210 (21 CFR 10.210) of FDA's procedural regulations requires FDA to give notice of the availability of reimbursement for participation and certain FDA proceedings including advisory committee meetings. However, on November 27, 1981, the United States Court of Appeals for the Fourth Circuit held that FDA does not have authority to reimburse public participants in its administrative proceedings. *Pacific Legal Foundation* v. *Goyan*, No. 80-1854 (4th Cir. November 27, 1981). Accordingly, reimbursement will not be available for participation in the proceedings described in this notice.

Dated: February 24, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-5692 Filed 3-1-82; 8:45 am]

BILLING CODE 4160-01-M

Public Advisory Committees; Request for Nominations for Voting Members

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for voting members to serve on the Panel on Review of Allergenic Extracts in the Bureau of Biologics. A notice of reestablishment of this committee appears elsewhere in this issue of the Federal Register.

DATE: Nominations should be received by April 1, 1982.

ADDRESS: All nominations for membership must be sent to: Clay Sisk, Bureau of Biologics (HFB-5), Food and Drug Administration, 8800 Rockville Pike (Bldg. 29), Bethesda, MD 20205.

FOR FURTHER INFORMATION CONTACT: Clay Sisk, at the address given above (301-443-5455).

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for voting members on the Panel on Review of Allergenic Extracts. The function of the committee is to review and evaluate available data on the safety, effectiveness, and adequacy of labeling of currently marketed biological products for the diagnosis, prevention, or treatment of allergies and allergic diseases and advise the Commissioner of Food and Drugs on the affirmation or revocation of biological product licenses based on a current evaluation of the safety, effectiveness, and labeling of the products. The committee will have seven voting members and two nonvoting members. In the interests of efficiency and continuity, FDA intends to select as voting members those voting members of the original Panel on Review of Allergenic Extracts who are willing to serve on the new Panel. Three members of the original Panel have indicated their willingness to serve on the new Panel. The agency will consider the individuals nominated in response to this notice in selecting the remaining voting members. FDA intends to select as the nonvoting member representing consumer interests the same individual who served in this capacity on the original Panel on Review of Allergenic Extracts. The regulated industry may select the nonvoting industry representative and should notify the contact person listed above when this selection is made and who the industry representative will be.

Persons nominated for voting membership shall have adequately diversified experience appropriate to the work of the committee in one or more fields such as allergy, pediatrics, chronic respiratory diseases, immunology, internal medicine, microbiology, and related specialties. The specialized training and experience necessary to qualify the nominee as an expert suitable for appointment is subject to review, but may include experience in medical practice, teaching, and/or research relevant to the field of activity of the committee. The term of office is from the date of selection through December 31, 1983, unless the committee is renewed for an additional period of time by the Secretary of Health and Human Services.

Any interested persons may nominate one or more qualified persons for membership on the advisory committee. A complete curriculum vitae of the nominees shall be included. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the advisory committee, and appears to have no conflict of interest that would preclude committee membership. Potential candidates will be asked by FDA to provide detailed information

concerning such matters as financial holdings, consultancies, and research grants or contracts to permit evaluation of possible sources of conflict of interest.

FDA has a special interest in assuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and therefore extends particular encouragement to nominations for appropriately qualified female, minority, and physically handicapped candidates.

This notice is issued under the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)) and 21 CFR Part 14 relating to advisory committees.

Dated: February 12, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-5480 Filed 3-1-82; 8:45 am]

BILLING CODE 4160-01-M

Health Services Administration

List of Recipients of Indian Health Scholarships Under the Indian Health Scholarship Program

The regulations governing Indian Health Care Improvement Act Programs (Pub. L. 94–437) provides at 42 CFR 36.334 that the Indian Health Service shall publish annually in the Federal Register a list of recipients of Indian Health Scholarships, including the name of each recipient, school and tribal affiliation if applicable. These scholarships were awarded under authority of section 787 of the Public Health Service Act (42 U.S.C. 294y–1). The following is a list of Indian Health Scholarship recipients for Fiscal Year 1981:

Abe, Winifred, University of New Mexico, Navajo
Abeita, Esther, University of Hawaii at Manoa, Pueblo
Allary, Ronnie, University of North Dakota, Chippewa
American Horse, Cora, Brigham Young University, Navajo
Ami, Carletta June, Phoenix College, Hopi
Anderson, Ella Mae, University of Albuquerque, Navajo
Anderson, Mitchell, Northeastern State University, Choctaw
Anderson, Sharon, Cheyenne River Nursing Pgm, Sioux
Antone, Lenora, Charles Drew, Papago
Arbuckle, Katherine, University of Montana, Chippewa
Archuleta, Margaret, University of California, Paiute/Shoshone/Tewa
Arkie, Vaughan, University of Denver, Mohave
Armachain, William, Western Carolina University, Cherokee
Arthur, Lena, University of Montana, Chippewa
Ashley, Partick, University of Albuquerque, Navajo
Atcitty, Candace, Arizona State University, Navajo
Azure, Madonna, University fo North Dakota, Arickara
Azure, Vernon D University of North Dakota, Chippewa
Baptisto, Carolyn, Arizona State University, Chippewa
Barsness, Linda, University of Utah, Sioux
Barton, Michael, University of North Dakota, Navajo
Bear, Sue Ann, East Central OK State University, Creek/Seminole
Bear, Walletta, Massachusetts College of Pharmacy, Penobscot
Beatty, Beverly, University of Oklahoma, Apache
Beatty, Eileen, San Bernardino Valley College, Apache
Becenti, Sandra, University of New Mexico, Navajo
Begay, Martha, Marion College, Navajo
Begay, Natalie, California State University, Navajo
Begay, Lydia, University of Oklahoma, Navajo
Begay, Rita Weyrauch, University of California, Papago
Begaye, Louise, University of New Mexico, Navajo
Belanger, Alanna, College of St Scholastica, Chippewa
Belcourt, Daniel, University of Montana, Chippewa
Belcourt, Gordon, University of California, Blackfeet
Belcourt, Janet, University of Hawaii, Chippewa
Bell, Joseph, University of North Carolina, Lumbee
Bell, Michael, University of Oregon, Hopi
Beller, Barbara, American River, Sioux
Bellinger, Thomas, University of North Dakota, Eskimo
Bemo, Warren Lee, East Central OK State University, Seminole/Creek
Ben, Timothy, Mississippi State University, Choctaw
Benally, Dorothy, Bacone College, Navajo
Bender, Barry, University of North Dakota, Sioux
Bender, Le Ann, Mary College, Sioux
Bergen, Velina, University of Arizona, Navajo/Pima
Berrey, Katerhine, Arizona State University, Osage/Quapaw
Bigpond, Wendell, Tulsa University, Creek
Billedeaux, Louis, Brigham Young University, Blackfeet
Billy, Harrison, University of Arizona, Navajo
Black Lance, Julie, Indiana University, Sioux
Blankenship, Ronald, Western Carolina University, Cherokee
Bloom, Kelly Marie, Northern Arizona University, Taos/Paiute
Bluehouse, Orrin, Northern Arizona University, Navajo
Bockius, Melissa, University of Oklahoma, Osage
Boham, Randall, Montana State University, Chippewa
Bolinsky, Catherine, South Oklahoma City Jr. College, Kiowa
Boyiddle, Betty, South Oklahoma City Jr. Collete Blackfeet
Bradley, Cinda, University of Kansas, Cherokee
Brafford, Debra, California State University, Sioux
Brafford, Donald, California State University, Sioux
Brewington, Belinda, University of North Carolina, Lumbee
Brewster, Elmer, University of California, Paiute
Brooks, Carlotta, University of Wyoming, Chippewa
Brown (Freese), Teresa, University of Arizona, Cherokee
Brown, Lorraine, Tulsa Jr College, Sioux
Buckanaga, Sharon, Bemidji State University, Chippewa
Bullard, Wanda, East Carolina University, Lumbee
Burdette, Melinda, Maricopa Tech Comm College, Apache
Burgess, Rea, Northern Oklahoma College, Ponca
Burt, Rand, Northeastern State University, Cherokee
Buterin, Terenty, Anchorage Community College, Aleut
Callan, Thelma, Mesa Community College, Navajo
Castilla, Kim, University of North Dakota, Spokane/Winnebago
Chargin, Clarice, University of New Mexico, Hidatsa
Chavez, Elvira, University of New Mexico, Acoma Pueblo
Chavis, Lorrie, East Carolina University, Lumbee
Choate, Lymona, East Central OK State University, Choctaw
Christensen, Michael, University of North Dakota, Mandan/Hidatsa
Clark, Lynda, Portland Community College, Tsimpsian
Clay, Julie, University of Oklahoma, Omaha
Clayton, Jerdie, Central State University, Cheyenne
Clevenger, James, Central State University, Cherokee
Click, James, Oklahoma University, Creek
Coburn, Dugan, Oregon Institute of Technology, Blackfeet
Conlan, Christopher, Dartmouth Medical School, Seneca
Conlan, Marigold, College of St Catherine, Hopi-Miwok
Conter, Catherine, Eastern Montana, Crow
Coolbaugh, Roxanne, Spokane Community College, Chippewa
Crawford, Georgia, University of New Mexico, Navajo
Cropp, Thomas, East Central OK State University, Creek
Cucumber, Raymond, University of North Carolina, Cherokee
Cully, Harold, East Central OK State University, Creek/Seminole
Curley, Sylvia, University of New Mexico, Sioux
Cypress, Jennette, University of Albuquerque, Seminole

Dale, Regena, Arizona State University, Navajo
Daney, Elizabeth, Eastern OK State College, Choctaw
Daniel, Lucy, Pima Community College, Papago
Danielson, James, University of Maryland, Cherokee
Danielson, Robert, George Mason University, Cherokee
Danielson, Thomas, Prince Georges Community College, Cherokee
Danny, Lorraine, Arizona State University, Navajo
Dause, Daniel, Oklahoma University, Cherokee
Dayzie, Bernadette, University of Arizona, Navajo
De Asis, Bernard, University of Arizona, Tlingit
De Costy, Patricia, Mohawk Valley Community College, Caddo
De Haas, Delores, University of Arizona, Sioux
De Montigny, Suzanne, Dartmouth College, Chippewa
De Vaney, Carol Ann, Chemeketa Community College, Eskimo
Decorse, Judith, Arizona State University, Quechan-Papago
Delaney, Henry, Southern Oregon State College, Klamath
Denetclaw, Deborah, New Mexico State University, Navajo
Deschenie, Maybelle, University of Albuquerque, Navajo
Detsoi, Fern, University of New Mexico, Navajo
Dial, Lydia, University of North Carolina, Lumbee
Dion, Donald, University of South Dakota, Crow Creek
Dodge, Marilyn, Mesa Community College, Hoopa
Douglas, Stan, Seminole Junior College, Creek
Dreadfulwater, JB, University of OK Health Sciences, Cherokee
Duganne, Martha, Texas Womans University, Seminole
Earl, Anita, Arizona State University, Navajo
Earl, Alta, University of NM Gallup Branch, Navajo
Ecoffey, Allen, University of Nebraska, Sioux
Ecoffey, Patricia, School of Radiologic Technology, Sioux
Eder, Kathy, Rocky Mountain College, Sioux
Ellery, Loren, Carroll College, Chippewa
Ellis, Karen, Yakima Valley Community College, Assiniboine
Epps, Donald, Florida State University, Lumbee
Eriacho, Johanna, New Mexico State University, Zuni
Etcitty, Theodora, Carroll College, Sioux
Eteeyan, William, Highland Community Jr College, Potawatomi
Everling, Linus, University of California, Chippewa
Falcon, Gary E., University of North Dakota, Chippewa
Faulkner, Martha, University of Oklahoma, Non Indian
Felter, Ernest, Northern Arizona University, Arapahoe
Fischer, Gloria, Mary College, Sioux
Flanagan, Ronal, Northeastern State University, Cherokee
Folster, Laddie, California State University, Sioux
Forrest, Poco Erin, University Reno Nevada, Paiute
Fowler, Renda, Navajo Community College, Navajo
Fox, Vickie (Mason), University of North Dakota, Arickara
Frank, Jo Ann, Mountain View College, Choctaw
Frank, Marth Kea, University of New Mexico, Navajo
Frank, Linda, University of New Mexico, Navajo
Franklin, Valerie, University of New Mexico, Navajo
Frazier, Madeline, University of Colorado, Pueblo
Frederick, Dennis, Presentation College, Cheyenne
Freese, Richard, University of Arizona, Non-Indian
French, Gary, Western Carolina University, Cherokee
Frost, Jean, University of Arizona, Navajo
Fulgham, Rebecca, University of Montana, Blackfeet
Gachupin, Rosalind, University of Arizona, Pueblo
Gallo, Roel, University of North Dakota, Comanche
Gano, Mary Susan, Skagit Valley College, Cherokee
Garcia, Lori, University of North Dakota, Chippewa
Garcia, Timothy, University of North Dakota, Pueblo
George, Bella, University of New Mexico, Navajo
Ghachu, Jolene, Brigham Young University, Zuni
Glenn, Kathleen, University of Oklahoma, Osage/Cherokee
Gomez, Myrna, University of Oklahoma, Wichita
Gourneau, Linda, University of North Dakota, 3 Affiliated
Gregory, Eric, University of Wyoming, Delaware
Grijalva, Edwin, University of California, Miwok
Guerriere, Sherry, University of Pennsylvania, Sioux
Gullickson, Janet, Mary College, Sioux
Hacker, Marlene, Hount Marty College, Sioux
Hall, Leslie, University of the Pacific, Maidu
Hansen, Shelley, University of Portland, Aleut
Harjo, Loretta, Sacramento City College, Pomo
Harjo, Lucille, University of Oklahoma, Creek
Harlan, Birdie, University of Oklahoma, Cherokee
Harrison, Carlene, Oscar Rose Jr. College, Navajo/Hopi
Harrison, Jane, Phoenix College, Navajo
Harwood, Donna, University of New Mexico, Blackfeet
Haukaas, Thomas, University of North Dakota, Sioux
Hawronsky, John, University of North Dakota, Chippewa
Henke, Margaret, University of North Dakota, 3 Affiliated
Hensley, Eloise, Casper College, Arapahoe
Herman, Linda Susan, South Dakota State University, Sioux
Hernandez, Marie, Phoenix College, Pima/Pueblo
Higby, Georgina, San Bernardino Valley College, Menominee
Hill, Sammy, East Central OK State University, Creek
Hill, Lucinda, University of Arizona, Navajo
Hockert, Melissa, St. Marys Jr. College, Chippewa
Homer, Judith, Scottsdale Community College, Pmeoda
Honanwaima, Mary, College of Santa Fe, Hopi
Hopper, Robert, University of North Dakota, Cherokee
Hopper, Melanie, Oklahoma State University, Choctaw
Howard, Reyes, University of New Mexico, Pueblo Isleta
Hubbard, Joseph, Arizona State University, Navajo
Huma, Violet Nita, University of Arizona, Hopi/Tewa
Humeyeatewa, Maggie, Fort Lewis College, Hopi
Humphrey, Lisa Gay, Oklahoma State University, Cherokee
Humphrey, Irene, University of Montana, Blackfeet
Hunt, Cassina, East Carolina University, Lumbee
Hunt, Peggy, Pembroke State University, Lumbee
Hunt, Wanda, East Carolina University, Lumbee
Innis, Emma, Phoenix College, Seneca
Isaacs, Barbara, East Central OK State University, Chickasaw
Jackson, Gayle, Northern Arizona University, Pima
Jackson, Robin, Collete of the Redwoods, Hoopa/Yurok
Jacobs, Ella May, University of Oklahoma, Creek
Jacobs, Karla, Troy State University, Lumbee
Janke, Wendy, College of St. Scholastica, Chickasaw
Jenkins, Patrick, University of Texas, Creek
Jewett, Lorraine, Cheyenne River Nursing PGM, Sioux
Jimerson, Crystal, Syracuse University, Sioux
Joe, Laverne, Northern Arizona University, Navajo
John, Sharon, Washington State University, Yakima
John, Barbara, Oklahoma University, Choctaw
Johnson, Dagne, Presentation College, Chippewa
Johnson, Doriann F., Pima Community College, Papago/Navajo
Johnson, Samuel, University of Oklahoma, Choctaw
Johnson, Sheila, Murray State College, Choctaw
Johnson, Virginia, University of Toledo, Cherokee
Johnson, Karen, Alexandria Area Voc Technical Inst., Brotherton
Johnson, Lena, University of New Mexico, Navajo
Johnson, Virginia, Western Carolina University, Cherokee
Johnston, Rosemary, Arizona State University, Hualapai

Johnston, Mary Ann, Fresno City College, Seminole
Jojola, Shirly, University of New Mexico, Pueblo
Jones, Patsy Ann, Sandhills Community College, Lumbee
Jones, Terry, (Inmed) Ohio State University, Cherokee
Jones, Jerri, Oklahoma Baptist University, Seminole
Kanouse, Charlotte, University of New Mexico, Navajo
Keoke, Emory, University of North Dakota, Sioux
Kinsley, Molly, Pima Community College, Papago
Kipp, Christine, Yakima Valley Community College, Yakima
Kohl, Cindy, University of Texas, Sioux
Koomsa, Elisa, American University, Kiowa
Koplin, Brett, Princeton University, Sioux
Kuper, Marjorie, Northeastern OK A & M College, Cherokee
Kurley, Charlene, University of New Mexico, Navajo
Kuwanhoyioma, Peggy, Northern Arizona University, Hopi/Papago
LaFernier, Richard, University of Wisconsin, Chippewa
LaMarr, Thomazine, Bacone College, Cherokee
LaPlante, Jay Paul, University of North Dakota, Blackfeet
Labelle, Brian, University of North Dakota, Sioux
Lambert, James, Northeastern OK State University, Cherokee
Lambert, Valerie, University of Washington, Assiniboine
Lane, Gloria, University of New Mexico, Navajo
Larson, Richard Lee, University of North Dakota, Chippewa
Larson, Rodney, University of North Dakota, Chippewa
Larvie, Aloysius, South Dakota State University, Sioux
Lazo, Ronald, Southeastern Louisiana University, Choctaw/Apache
LeBeau, Chase, Lilliam, St Joseph Mercy School, Sioux
LeBeau, Brenda, University of North Dakota, Sioux
LeCornu, Andre, Anchorage Community College, Haida
Leonardelli, Lynn, Cameron University, Delaware
Lewis, Madeline, PIMA Community College, Papago
Lipnick, Ronald, Oral Roberts University, Coyote
Livermont, Pauline, Cheyenne River Nursing PGM, Sioux
Locklear, Anthony, University of North Carolina, Lumbee
Locklear, Cynthia, Sandhills Community College, Lumbee
Locklear, Eric, University of North Carolina, Lumbee
Locklear, Lita, University of North Carolina, Lumbee
Locklear, Nan O. Lene, University of North Carolina, Lumbee
Long Tjaden, Laura Ann, University of Wyoming, Aparahoe
Long, Reno Micheal, University of North Dakota, Arapahoe
Long, Bernard, University of North Dakota, Sioux
Lookinglass, Rita, Arizona State University, Navajo
Lopez, Juan, Maricopa Tech Comm College, Papago
Lowery, Cornelia, East Carolina University, Lumbee
Lowery, Phyllis, Pembroke State University, Lumbee
Lowery, Jinnie, University of North Carolina, Lumbee
Lowery-Calvo, Cara, Portland State University, Lumbee
Lufkin, Eula Mae, East Central OK State University, Choctaw
Lujan, Ernestine, New Mexico State University, Pueblo
Lupe, Joy, Northern Arizona University, Apache
Lynch, Mavis, California State University, Cree
Mac Clain, Alma, Gonaga University, Colville
Mac Warren, Alice, Everett Community College, Siletz of Oregon
Maciel, Loraine, Mt San Jacinto Community College, Sobobo
Maggard, Florence, University of Nevada/Reno, Mi-Wok
Manica, Mary Kathryn, Mount Marty College, Sioux
Manuel, Frances, University of Arizona, Papago
Marcus, Erlinda, Mt San Jacinto College, Cahuilla
Mariano, Joanne, University of New Mexico, Acoma
Marshall, David P., University of Arizona, Cherokee/Creek
Marshall, Karen, East Carolina University, Lumbee
Martin, Gwen, University of New Mexico, Navajo
Martin, Karen, University of Arizona, Hopi
Martinez, Cleoves, University of New Mexico, Non-Indian
Mason, Verna, University of Texas at Arlington, Comanche
Mathis, Curtis, Northeastern State University, Cherokee
Maude, Sally Ann, California State University, Quechan
Maynor, Angela, University of North Carolina, Lumbee
McAdams, E. Lucille, University of Hawaii, Shoshone
McCabe, Kathy, Northern Arizona University, Navajo
McCoy, David, University of North Carolina, Chippewa
McCrary, Leesa, Northeastern OK State University, Cherokee
McKerry, Rosita, Navajo Community College, Navajo
McKinley, Laura, Arizona State University, Northern Ute
McSwain, Gayle, Loma Linda University, Mono
McThomas, Vivian, Phoenix College, Navajo
Mells, Colleen, Mary College, Sioux
Mierwa, Judith, University of North Dakota, Chippewa
Milane, Priscilla, Highland Community jr. College, Zuni
Milane, Velda, University of New Mexico, Zuni
Miller, Mindy, East Carolina University, Lumbee
Mills, Brenda, S.D. School of Mines & Tech, Sioux
Mitchell, Marcinda, Oklahoma State University, Cherokee
Mitchell, Natalie, University of Maine, Penobscot
Mitchell, Robert, Oklahoma State University, Cherokee
Montes de Oca, Elouise, Haskell Jr. College, Klamath
Montgomery, Fermina, Fresno City College, Paiute
Moore, Caroline, University of Portland, Sioux
Morris, Stella, Fresno City College, Mono
Morrison, Sarah, Eastern OK State College, Creek
Morrison, Marjorie, University of New Mexico, Cheyene
Moseley, Jeanette, Montana State University, Blackfeet
Mouse, Joyce, Bacone College, Cherokee
Mowrer, Karla, South Dakota State University, Cheyenne
Myron, Clarence, University of New Mexico, Hopi
Nakai, Robert, University of California, Navajo
Nations, Elnora, Western Carolina University, Cherokee
Neal, Barbara, Oral Roberts University, Cherokee
Nephew, Mark, Springfield College, Cherokee
Neptune, Neana, Eastern Maine Vocational Tech Inst., Penobscott
Netterville, Juanita, Mary College, Sioux
Nez, Charity, University of Albuquerque, Navajo
Nuvamsa, Wanda, Mesa Community College, Pima
O'Connor, Rose, Montana State University, Chippewa
O'Rourke, Charlene, Phoenix College, Sioux
Olin, Rebecca, Yale University, Koyukuk
Olney, Arlene, Central Washington University, Yakima
Olney, Jeanne, Washington State University, Yakima
Olson, Donald, Oral Roberts University, Eskimo
Ondelacy, Loretta, University of Albuquerque, Navajo
Ortiz, Lorraine, Fresno City College, Navajo
Osborne, Shine Ray, Idaho State University, Shoshone
Otero, Beverly, Phoenix College—Maricopa, Sioux
Owle, Sue, Western Carolina University, Cherokee
Oxendine, Sandra, Sandhills Community College, Lumbee
Oxandine, Dwight, University of North Carolina, Lumbee
Paisano, Roberta, Northern Arizona University, Pueblo
Parker, Maria, Brigham Young University, Sioux
Parker, Myra, University of East Tennessee State, Cherokee
Parsons, Janelle, Seminole Jr College, Creek/Seminole
Pattee, Sandra, Scottsdale Community College, Mohave/Apache

Patterson, Nancy, Kansas Newman College, Cherokee
Pavatea, Myrna, Arizona State University, Hopi
Pearson, Betsy, Brown University, Choctaw
Pearson, Mark, Northeastern University, Choctaw
Peel, Kayla, Fayetteville Tech Institute, Seminole
Pete, Deanne, University of Oklahoma, Navajo
Peters, Irene, University of Oklahoma, Cherokee
Pfeifer, Mary, Northeastern University, Cherokee
Picotti, Wesley, James Madison University, Mandan/Hidatsa
Pierce, Cathy, Massachusetts, Nanticoke
Pierce, Rosalie, Mesa Community College, Papago
Pittman, Robert, University of Arizona, Sioux
Pittman, Russell, University of Arizona, Sioux
Plentyholes, Paul, Metro State College, Sioux
Polaco, Diane, College of Santa Fe, Chippewa/Minnesota
Porter, Linda, East Central OK State University, Cherokee
Powers, Yvonne Jean, Union College, Sioux
Powskey, Linda Mae, Maricopa Tech Comm College, Hualapai
Pratt, Regina, Maricopa Tech Comm College, Pima
Quade, Velas, Phoenix College, Apache
Queen, Kathryn, Southwestern Technical College Cherokee
Queen, Mary Jo, Brevard College, Cherokee
Queen, Steven, East Carolina University, Cherokee
Ramon, Leona, Southwestern State University, Navajo
Randall, Carol, Oglala Sioux Community College, Sioux
Rattler, Mickey, Western Carolina University, Cherokee
Raymond, Arthur, University of North Dakota, Sioux
Redhouse, Diane, Bacone College, Navajo
Redleaf, Betty, University of South Dakota, Non-Indian
Redwing, Lisa, University of Minnesota-Morris, Sioux
Reevis, Virginia, Yakima Valley College, Yakima
Riddles, Dorney, University of OK Health Sciences, Comanche
Riggs, Sarah, Arizona State University, Navajo
Ripley, David, University of North Dakota, 3 Affiliated
Roberts, Andrew, University of California, Sac & Fox
Rodriguez, Brenda, Idaho State University, Oneida
Romsa, Daniel, University of North Dakota, Blackfeet
Roosevelt, Leeann, Arizona State University, Apache
Rosas, Darlene, Cheyenne River Nursing Pgm, Sioux
Ross, Randall, Black Hills State College, Pawnee
Roth, Beverly, Portland State University, Tsimpsian
Roubidoux, Mary, Chaffey College, Kansas/Nebraska
Sage, Freida, Arizona State University, Navajo
Samis, Shellean, Murray State College, Choctaw
Sampson, Diane, Temple University, Lumbee
Sampson, Karen, University of North Carolina, Lumbee
Sanchez, Charlotte, Paris Jr College, Choctaw
Sandoval, Brenda, University of Albuquerque, Chippewa/Sioux
Sandoval, Katherine, New Mexico State University, Navajo
Savoy, Norma, University of Denver, Cheyenne
Schildt, Robin, Whitworth College, Blackfeet
Schweigman, Linda, Rapid City Regional Hosp, Navajo
Scott, Louella, Meridian Jr College, Choctaw
Sepeda, Catherine, Sacramento City College, Mi-Wok
Sepulvado, Donald, Catholic University of America, Apache
Seversen, Gordon, University of Colorado, Alaska Indian
Shije, Amadeo, New Mexico Highlands University, Pueblo
Shinn, Cynthia, Western Nevada Community College, Paiute
Sigana, Diane, College of St. Catherine, Chippewa
Sinclair, Linda, University of North Dakota, Blackfeet
Singer, Bobby, Northern Arizona University, Navajo
Skupien, Mary Beth, University of Michigan, Chippewa
Slack, Janet, College of Great Falls, Salish/Kootenai
Smith, Geraldine, University of Oklahoma, Cherokee
Smith, Donald Lee, Arizona State University, Sioux
Smith, Frances, Western Carolina University, Cherokee
Smith, Linda, Eastern Washington University, Peoria
Smith, Mary, Seattle University, Blackfeet
Smith, Nannie, University of Southern Mississippi, Choctaw
Solis, Miguelita, University of New Mexico, Pueblo
Sollars, Bridgette, University of Wyoming, Shoshone
Sprengler Wesley, Lois, Carroll College, Apache
St John, Janice, Dakota Wesleyan University, Sioux
Stamp, Juanita, Miles Community College, Arapahoe
Stanton, Terry, Rhode Island College, Narragansett
Starr, Patricia, Arizona State University, Navajo
Stars, Lorenzo, University of South Dakota, Sioux
Stetter, Maria, Regis College, Tigua Isleta
Storch, Catherine, Everett Community College, Menominee
Stubbs, Kathy, Oklahoma College of Osteopathic, Creek
Summers, Tracy, University of North Dakota, Sioux/Assiniboine
Sutter, Virginia Watan, University of Colorado, Arapahoe
Tahmahkera, Garrison, Arizona State University, Comanche
Tanniehill, Jean, Carroll College, Chippewa
Tapscott, Frances, Sandhills Community College, Lumbee
Taylor, Debra Lee, University of Montana, Blackfeet
Tenorio, Mary Frances, University of New Mexico, Pueblo
Thomas, Marilyn, Murray State College, Seminole/Creek
Thomas, Mark, Montana State University, Arapahoe
Thomas, Wilburn, Northeastern OK A & M College, Cherokee
Thomas, Gloria, University of Oklahoma, Winnebago
Thompson, Deborah, University of South Dakota, Sioux
Thompson, Joyce Ellen, Oklahoma University, Cherokee
Thompson, Renee, Connors State College, Cherokee
Tonemah, Beth, Mary College, Tuscarora
Townsend, Dennis, University of Arizona, Shoshone
Toyekoyah, Dawn, U of Science and Arts of OK, Keowa
Tsosie, Laverne, University of New Mexico, Navajo
Tsosie, Marlene, University of New Mexico, Navajo
Tsosie, Theresa, Brigham Young University, Navajo
Tutt, Michael, University of Arizona, Navajo
Tyler, Scott, University of North Dakota, Makah
Vallee, Marcia, East Central OK State University, Salish/Kootenai
Van Brunt, Kristy, University of Washington, Colville
Van Brunt, Bruce, Gonzaga University, Colville
Verny, Jann Carol, University of Washington, Tsimpsian
Vest, Lisa, Phoenix College, Pima
Vieux, Teresa, Seminole Jr College, Potawatomi
Vigil, Martin, College of Santa Fe, Pueblo
Vivier, Mercal Cook, University of California, Chippewa
Wakatani, Christine, Richard Daley City College, Creek
Walker, Amy, University of Tennessee, Cherokee
Walker, Anne, University of Hawaii at Manoa, Eskimo
Walker, David, Oscar Rose Jr College, Sac & Fox
Wall, Teresa, Arizona State University, Choctaw/Pima
Wallen, Cariyle, Phoenix College, Apache
Wallette, Janice, University of North Dakota, Chippewa
Walton, Peggy, University of New Mexico, Comanche
Wanya, Ramona, University of New Mexico, Acoma/Hopi
Warne, Beverly, Arizona State University, Oglala Sioux
Warren, Sheila, Everett Community College, Siletz
Watson, Jo Denise, East Central OK State University, Chickasaw
Wells, Kathryn, East Central OK State University, Choctaw
Werk, Diane, Northern Montana College, Arapahoe
Whirlwindhorse, Kevin, S.D. School of Mines & Tech, Sioux

White Temple, Emmett, University of North Dakota, Sioux
White, Leight, Russell Sage College, St Regis
Whiteplume, Burnett, University of Hawaii, Arapahoe
Whitford, Lisa, Montana State University, Chippewa
Whitman, Darrel, Colorado State University, Pima
Widenhouse, Ernest, Southern Missionary College, Cherokee
Wiley, Dorinda, University of Albuquerque, Apache-Hopi
Willburn, Sandra Jo, University of California, Wailaki/Wintu
Williams, Lori Marie, University of Montana, Sioux
Wilson, Timothy, University of North Dakota, Cheyenne
Withers, Ruth, University of Alaska, Aleut
Wood, Wanda, Hood College, Oneida
Wright, Richard, Southern Oregon State College, Klamath
Wyaco, Berlinda, Weber State College, Zuni
Yazzie, Martha, University of New Mexico, Navajo
York, Donna, Bacone College, Creek
Youst, Lauri, College of the Redwoods, Wintun
Yoyokie, Zelda, Northern Arizona University, Hopi
Ziegler, Donna, St Marys Jr College, Chippeaw
Zighami, Martha, South OK City Junior College, Choctaw
Zizzo, Neva Jean, Southwestern OK State University, Wichita

FOR FURTHER INFORMATION CONTACT:
Mr. Pierre Columbel, Indian Health Service, Parklawn Building, Room 6A–29, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: 301–443–5441.

Dated: February 10, 1982.
John H. Kelso,
Acting Administrator.

[FR Doc. 82-5510 Filed 3-1-82; 8:45 am]
BILLING CODE 4160-16-M

Public Health Service

Notice of Assessment of Medical Technology

The Public Health Service (PHS) through the Office of Health Research, Statistics, and Technology (OHRST) announces that it is coordinating an assessment of what is known of the safety and clinical effectiveness of non-invasive (transcutaneous) method of monitoring cardiac output by Doppler ultrasound in acute myocardial infarction or other cardiac disease. The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal government.

PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHRST with information relevant to this assessment should do so in writing no later than June 1, 1982. The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published controlled clinical trials and other well designed clinical studies, and other information related to the clinical acceptability and relative utility of this technology. Proprietary information is not being sought.

Written material should be submitted to: Medical and Scientific Evaluation Staff, Office of Health Research, Statistics and Technology, Room 17A40, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

For further information contact: Pierre F. Renault, M.D., Associate Director for Medical and Scientific Evaluation at the above address or by telephone (301) 443–4090.

Dated: February 10, 1982.
Wayne C. Richey, Jr.,
Acting Executive Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 82-5494 Filed 3-1-82; 8:45 am]
BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AR 035766]

Arizona; Order Providing for Opening of Public Lands

February 19, 1982.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1272, amended, 43 U.S.C. 315g) the following lands have been reconveyed to the United States:

Gila and Salt River Meridian, Arizona

That portion of sec. 20, T.13 N., R. 20 W., described as follows:

Parcel 1

Beginning at the east quarter corner of said section 23; thence southerly along the east line of said section 23 south 00°19'19" west 1,319.47 feet to the southeast corner of the northeast quarter of the southeast quarter; thence westerly along the south line of said northeast quarter of the southeast quarter north 89°40'04" west 1,320.41 feet to the southwest corner of said northeast quarter of the southeast quarter; thence northerly along the west line of said northeast quarter of the southeast quarter north 00°18'20" east 659.76 feet to the southeast corner of the northeast quarter of the northwest quarter of the southeast quarter; thence westerly along the south line of said northeast quarter of the northwest quarter of the southeast quarter north 89°40'00" west 660.29 feet to the southwest corner of said northeast quarter of the northwest quarter of the southeast quarter; thence northerly along the west line of said northeast quarter of the northwest quarter of the southeast quarter north 00°17'51" east 659.76 feet to the northwest corner of said northeast quarter of the northwest quarter of the southeast quarter; thence westerly along the south line of the north half of said section 23 north 89°39'57" west 660.39 feet to the center of said section 23; thence northerly along the west line of the east half of said section 23 north 00°17'22" east 616.39 feet to a point, said point also lies south 00°17'22" west 701.26 feet from the northwest corner of the southwest quarter of the northeast quarter, said point also being on a nontangent curve concave northeasterly having a radius of 5100.00 feet, a radial line of said curve at said point bears south 26°47'49" west, thence southeasterly along said curve through a central angle of 26°28'53" a distance of 2,535.17 feet; thence tangent to said curve south 89°41'04" east 209.80 feet to the point of beginning.

Parcel 2

Beginning at the southwest corner of the northeast quarter of northwest quarter of said section 23; thence northerly along the west line of said northeast quarter to the northwest quarter, north 00°18'15" east 325.16 feet to a point on a nontangent curve concave northeasterly having a radius of 5,100.00 feet, a radial line of said curve through said point bears south 47°40'19" west; thence southeasterly along said curve through a central angle of 05°11'44" a distance of 462.45 feet to a point on the south line of said northeast quarter of the northwest quarter, a radial line of said curve through said point bears south 42°28'35" west; thence westerly along said south line north 89°37'23" west 328.20 feet to the point of beginning.

The areas described aggregate approximatley 62.36 acres in Mohave County.

2. Subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law, the lands described in paragraph 1 are hereby open to operation of the public land laws including the mining laws (Ch. 2, Title 30 U.S.C.), and the mineral leasing laws. All valid applications received at or prior to March 31, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602–261–3706).

Mario L. Lopez,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-5525 Filed 3-1-82; 8:45 am]
BILLING CODE 4310-84-M

[2920 (14.33) OR 33224 9230/OR-08-5256]

Oregon; Public Land in Clackamas County; Modification of Realty Action Noncompetitive Occupancy Lease

February 19, 1982.

This notice will amend the original notice dated February 10, 1982. Transamerica Title Insurance Company has received sole interest in the improvements located on the land in:

T. 6 S., R. 2 E.,
Willamette Meridian, Oregon
Sec. 5, portion of SE¼NW¼.
Containing approximately 0.3 acre.

The proposed lessee for the non-competitive occupancy lease is changed from Associates Financial Services to Transamerica Title Insurance Company. All terms and conditions mentioned in the original notice will remain the same.

John D. Evans,
Acting District Manager.

[FR Doc. 82-5519 Filed 3-1-82; 8:45 am]
BILLING CODE 4310-84-M

[M 45901(SD)]

South Dakota; Conveyance of Public Lands, Lawrence County

February 18, 1982.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), the following described lands have been sold by noncompetitive sale to the Black Hills Chairlift Corporation, Lead, South Dakota:

Black Hills Meridian
T. 4 N., R. 2 E.,
Sec. 1, lots 9, 14, 15, 16, 17, 18, 19, 20, 21, and MS 997;
Sec. 12, lots 2 and 3.
Containing 17.61 acres.

The purpose of this notice is to inform the pubic and interested state and local governmental officials of the issuance of the conveyance document to the Black Hills Chairlift Corporation.

Roland F. Lee,
Chief, Branch of Lands and Minerals Operation.

[FR Doc. 82-5521 Filed 3-1-82; 8:45 am]
BILLING CODE 4310-84-M

[U-48538]

Utah; Salt Lake District Realty Action—Land Exchange; Correction

In **Federal Register** January 21, 1982, Volume 47, No. 14, appearing on pages 3038, 3039 in the issue of Thursday, January 21, 1982 make the following addition on page 3039 to include reservation on lands to be transferred from the United States:

The patent will contain a reservation of a right-of-way for ditches and canals constructed by the authority of the United States in accordance with 43 U.S.C. 945.

Frank W. Snell,
Salt Lake District Manager.

[FR Doc. 82-5523 Filed 3-1-82; 8:45 am]
BILLING CODE 4310-84-M

[OR 11469 (WASH)]

Washington; Termination of Proposed Withdrawal and Reservation of Lands

Notice of Forest Service, U.S. Department of Agriculture, application OR 11469 (WASH) for withdrawal and reservation of lands was published as FR Doc. 74–13422 on page 20618 of the issue of June 12, 1974, and republished as FR Doc. 77–3464 on page 6915 of the issue of February 4, 1977, and as FR Doc. 81–37209 on page 63399 of the issue of December 31, 1981. The purpose of the proposed withdrawal was to protect the Hannegan Road and Whatcom Pass Trail Travel Influence Zones, and the following described lands were temporarily segregated from location and entry under the mining laws (30 U.S.C. Ch. 2):

Willamette Meridian

Mt. Baker National Forest

Hannegan Road (Forest Service Road No. 402) Travel Influence Zone A strip of land, 1,300 feet on each side of the surveyed centerline of said road from the west line of Lot 8 Sec. 31, T. 40. N., R. 9 E., to its terminus at Hannegan Campground in the NE¼SE¼, Sec. 35, T. 40 N., R. 9 E., through the following sections:

T. 39 N., R. 9 E.,
Sec. NW¼NE¼, N½NW¼, and SW¼NW¼;
Sec. 4, N½, and N½S½;
Sec. 5, N½, and N½SE¼;
Sec. 6, N½NE¼.
T. 40., N., R. 9 E., partly unsurveyed,
Sec. 31, Lots 8, N½SE¼, and SE¼SE¼;
Sec. 32, W½SW¼, SE¼SW¼, and SW¼SE¼;
Sec. 33, S½SE¼;
Sec. 34, S½NE¼, SE¼NW¼, and S½;
Sec. 35, SW¼NE¼, W½SE¼NE¼, W½E½SE¼NE¼, S½NW¼, SW¼, W½SE¼, W½E½SE¼, and W½E½E½SE¼.

Whatcom Pass Trail (Forest Service Trail No. 674) Travel Influence Zone.

A strip of land 1,320 feet on each side of said existing trail is located on-the-ground from its beginning at the end of the Hannegan Road No. 402 in the NE¼SE¼, sec. 35, T. 40 N., R. 9 E., to where it enters the North Cascades National Park on the east line of the NE¼NE¼, sec. 6, T. 39 N., R. 10 E., through the following sections:

T. 39 N., R. 9 E., unsurveyed,
Sec. 1, NE¼, N½NW¼, SE¼NW¼, and N½SE¼.
T. 39 N., R. 10. E., unsurveyed,
Sec. 5, SW¼SW¼, and S½SE¼;
Sec. 6, SW¼NE¼, W½NW¼, SE¼NW¼, and S½;
Sec. 7, NE¼, NE¼NW¼, and NE¼SE¼;
Sec. 8, N½ SW¼, N½SE¼, and SW¼SE¼.
T. 40 N., R., 9 E., unsurveyed,
Sec. 35, E½E½SE¼NE¼, and E½E½E½SE¼;
Sec. 36, S½NW¼, SW¼, W½SE¼, and SE¼SE¼.

The areas described aggregate approximately 2,886 acres in Whatcom County, Washington.

The applicant agency has cancelled the application in its entirety therefore, pursuant to the regulations contained in 43 CFR 2310.2–1(c), the above described lands will be relieved of the above-mentioned segregative effect at 7:30 a.m., on April 9, 1982.

Dated: February 23, 1982.
Leland D. Morrison,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-5522 Filed 3-1-82; 8:45 am]
BILLING CODE 4310-84-M

[W-5697]

Wyoming; Termination of Classification of Public Lands for Multiple-Use Management and Mineral Segregation

February 22, 1982.

1. On November 8, 1967, (FR Vol. 32, No. 217, Pages 15552 and 15553), the public lands described in the notice aggregating 1,300.356 acres, were classified for multiple-use management under the Act of September 19, 1964, and segregated as follows: (a) All the described lands from appropriation under the agricultural lands laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. 334), and from sales under section 2455 of the Revised Statutes 28 Stat. 687, (formerly U.S.C. 1171); (b) the public lands described in paragraph 4 of the notice

were further segregated from appropriation under the general mining laws (30 U.S.C. 21).

2. Pursuant to the regulations set forth in 43 CFR 2461.5(c)(2), the classification referred to under paragraph 1 above, is hereby terminated. This action will restore all of the lands to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

3. The lands described in paragraph 4 of the notice, which were further segregated from appropriation under the general mining laws (30 U.S.C. 21), will be open to location under the United States mining laws at 10:00 a.m. on April 6, 1982, subject to valid existing rights. The lands aggregate approximately 23,113 acres in Uinta and Sublette Counties, Wyoming.

4. The lands have been and will continue to be open to the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, P.O. Box 1828, Cheyenne, Wyoming 82003.

F. William Eikenberry,
Associate State Director.

[FR Doc. 82-5830 Filed 3-1-82; 8:45 am]
BILLING CODE 4310-84-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 19, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by March 17, 1982.

Carol D. Shull,
Acting Keeper of the National Register.

ALABAMA

ANTEBELLUM HOMES IN EUTAW THEMATIC RESOURCES. Reference—see individual listings under Greene County.

Calhoun County

Anniston, *Berman House*, 1807 Quintard Ave.

Greene County

Eutaw, *Anthony, David Sinclair, House (Antebellum Homes in Eutaw Thematic Resources)* 307 Wilson Ave.
Eutaw, *Broune, Gustave, House (Antebellum Homes in Eutaw Thematic Resources)* 236 Prairie St.
Eutaw, *Cockrell, Samuel W., House (Antebellum Homes in Eutaw Thematic Resources)* 210 Wilson St.
Eutaw, *Davis, Attorney R., House (Antebellum Homes in Eutaw Thematic Resources)* 305 Main St.
Eutaw, *Elliott, John W., House (Antebellum Homes in Eutaw Thematic Resources)* 244 Prairie St.
Eutaw, *Elliott, John W., House (Antebellum Homes in Eutaw Thematic Resources)* 244 Prairie St.
Eutaw, *Carcassiere of James B. Clark House (Antebellum Homes in Eutaw Thematic Resources)* 400 Mesopotamia St.
Eutaw, *Gray, Rev. John H., House (Antebellum Homes in Eutaw Thematic Resources)* 709 Mesopotamia St.
Eutaw, *Gullett, Benjamin D., House (Antebellum Homes in Eutaw Thematic Resources)* 317 Main St.
Eutaw, *Hale, Stephen Fowler, House (Antebellum Homes in Eutaw Thematic Resources)* 223 Wilson St.
Eutaw, *Jones, William C., House (Antebellum Homes in Eutaw Thematic Resources)* 307 Mesopotamia St.
Eutaw, *Meriwether, Dr. Willis, House (Antebellum Homes in Eutaw Thematic Resources)* 243 Wilson Ave.
Eutaw, *Perkins, William, House (Antebellum Homes in Eutaw Thematic Resources)* 80 Spencer St.
Eutaw, *Pippen, Littleberry, House (Antebellum Homes in Eutaw Thematic Resources)* 431 Springfield St.
Eutaw, *Reese, Edwin, House (Antebellum Homes in Eutaw Thematic Resources)* 244 Wilson Ave.
Eutaw, *Roberts, Charles L., House (Antebellum Homes in Eutaw Thematic Resources)* 303 Washington Ave.
Eutaw, *Schoppart, Phillip, House (Antebellum Homes in Eutaw Thematic Resources)* 230 Prairie St.
Eutaw, *Steele, Richard G., House (Antebellum Homes in Eutaw Thematic Resources)* 1155 Mesopotamia St.
Eutaw, *Vaughan, Iredell, P., House (Antebellum Homes in Eutaw Thematic Resources)* 409 Wilson St.
Eutaw, *Webb, William Peter, House (Antebellum Homes in Eutaw Thematic Resources)* 401 Main St.
Eutaw, *White, Asa, House (Antebellum Homes in Eutaw Thematic Resources)* 314 Mesopotamia St.
Eutaw, *Wilson, Catlin, House (Antebellum Homes in Eutaw Thematic Resources)* 237 Wilson Ave.
Eutaw, *Wright, Daniel R., House (Murphy-Dunlop House) (Antebellum Homes in Eutaw Thematic Resources)* 501 Pickens St.
Eutaw vicinity, *Coleman, John, House (Grassdale) (Antebellum Homes in Eutaw Thematic Resources)* 1160 Mesopotamia St.
Eutaw vicinity, *Glenville (Jincy P. Glenn House) (Antebellum Homes in Eutaw Thematic Resources)* 200 Sosers St.
Eutaw vicinity, *Herndon-Liverman House (Antebellum Homes in Eutaw Thematic Resources)* 822 Mesopotamia St.
Eutaw vicinity, *Murphy, Samuel R., House (Antebellum Homes in Eutaw Thematic Resources)* 1150 Mesopotamia St.
Eutaw vicinity, *Rogers, William A., House (Antebellum Homes in Eutaw Thematic Resources)* 1149 Mesopotamia St.

Jefferson County

Birmingham, *Empire Building*, 1928 1st Ave., N.

CALIFORNIA

Orange County

Orange, *Plaza Historic District*, Roughly bounded by Maple and Almond Aves., Orange and Olive Sts.

COLORADO

Larimer County

Estes Park vicinity, *Rocky Mountain National Park Utility Area Historic District*, Beaver Meadows Entrance Rd.

ILLINOIS

Calhoun County

Michael vicinity, *Klunk, Michael, Farmstead*

Coles County

Mattoon, *Unity Church*, 2300 Western Ave.

Fayette County

Vandalia, *First Presbyterian Church*, 301 W. Main St.

Greene County

Eldred vicinity, *Columbiana Archeological Site (Ge 90)*

Kane County

Aurora, *Graham Building*, 33 S. Stolp Ave.
Aurora, *Masonic Temple*, 104 S. Lincoln Ave.
Batavia, *First Methodist Church of Batavia*, 355 1st St.

Lee County

Dixon, *Reagan's, Ronald, Boyhood Home*, 816 S. Hennepin Ave.

Madison County

Alton, *Rutherford House*, 1006 Pearl St.

McLean County

Ellsworth vicinity, *Bane, Warren, Site (M1-6)*

Peoria County

Peoria, *Gale, Judge Jacob, House*, 405 NE. Jefferson St.
Peoria, *Peoria Cordage Company*

Will County

Peotone, *Rathje, H. A., Mill*, 433 W. Corning Ave.

Winnebago County

Rockford, *Svea Music Hall*, 328 7th St.

MICHIGAN

Bay County

Bay City, *Bay County Building*, 515 Center Ave.

Houghton County

South Range, *Kaleva Temple*, Trimountain Ave.

Lenawee County

Adrian vicinity, *Raisin Valley Friends Meetinghouse*, 3552 N. Adrian Hwy.

Oakland County

Orchard Lake, *Orchard Lake Schools Historic District*, Indian Trail

Ottawa County

Grand Haven, *Ferry, Edward P., House*, 514 Lafayette St.

Washtenaw County

Ann Arbor, *Hoffstetter, Jacob, House*, 322 E. Washington St.
Ann Arbor, *Methodist Episcopal Church Parsonage*, 322 E. Washington St.

Wayne County

Detroit, *Boydell, William C., House*, 4014 Cass Ave.
Detroit, *State Savings Bank*, 151 W. Fort St.

MINNESOTA

Carver County

Chanhassen, *St. Hubertus Catholic Church*, Great Plains Blvd. and W. 78th St.

Olmsted County

Chatfield, *White, Milo, House (Hazelwood)* 122 Burr Oak St.
Rochester, *Avalon Hotel*, 301 N. Broadway
Rochester vicinity, *Mayowood Historic District*, SR 125.

Pope County

POPE COUNTY MULTIPLE RESOURCE AREA. This area includes: Glenwood, *Fremad Association Building (Pope County State Bank Building)* 2—22 S. Franklin St.; *Glenwood Public Library*, 108 SE. 1st Ave.; *Pope County Courthouse*, E. Minnesota St.; Glenwood vicinity, *Sunset Beach Hotel*, SR 17 (published as pending 1–28–82); *Terrace Mill Historic District*, Skarpness Rd. and SR 21 (previously listed in the National Register 7–17–79); *Terrace Historic District*, Off MN 104 (expansion of Terrace Mill Historic District); Lowry, *Lowry Public School*, Florence Ave. and Maple St.; Sedan vicinity, *Iverson, Urjans, Cabin*, Off MN 104 (published as pending 1–28–82); Starbuck, *Minnewaska Hospital*, Wollan and 5th Sts.; Villard vicinity, *Pennie, Daniel, House*, SR 27

Ramsey County

St. Paul, *St. Paul Womens' City Club*, 305 St. Peter St.

MISSISSIPPI

Adams County

Natchez, *Brandon, Gerard, IV House, 708 N. Union St.*
Natchez vicinity, *Cedar Grove*, SE of Natchez
Washington vicinity, *Warren-Erwin House*, Palestine Rd.

Amite County

Centreville vicinity, *Sunnyslope*, NE of Centerville

Warren County

Vicksburg, *Anchuca, 1010 1st E. St.*
Vicksburg, *Walnut Hills*, 1214 Adams St.

Wilkinson County

Centreville vicinity, *Forest Home Plantation*, SW of Centreville

MISSOURI

St. Louis (independent city) Hotel Statler, 822 Washington Ave. *Lincoln Trust Building*, 706 Chestnut St.

NEW HAMPSHIRE

Grafton County

Bethlehem, *Burt-Cheney Farm*, U.S. 302

OKLAHOMA

Alfalfa County

Cherokee, *Hotel Cherokee*, 117 W. Main St.

Bryan County

Durant, *Bryan Hotel*, 101 W. Main St.

Choctaw County

Hugo vicinity, *Everidge Cabin and Cemetery*, SR

Coal County

Coalgate vicinity, *Gassaway, Percy L., House*, NW of Coalgate

Creek County

Drumright, *First United Methodist Church of Drumright*, 115 N. Pennsylvania Ave.
Drumright vicinity, *Barnett, Jackson, No. 11 Oil Well*, S of Drumright
Oilton, *First Baptist Church*, 109 E. Main St.
Sapulpa, *Crothers, James I., House*, 618 S. Main St.

Lincoln County

Chandler, *Clapp-Cunningham Building*, 1021–1025 Manvel Ave.

Oklahoma County

Oklahoma City, *Farmers Public Market*, 311 S. Klein St.

Payne County

Yale, *First Baptist Church*, 303 E. Boston St.

Seminole County

Sasakwa, *Brown, Alice, House*, Chestnut St.

SOUTH CAROLINA

Abbeville County

Due West, *Erskine College-Due West Historic District, Main*, Church, College, Bonner, Hayne, Washington, Cleveland, Depot and Abbeville Sts.

Aiken County

Aiken, *Willcox's* Colleton Ave.

Charleston County

McClellanville, *McClellanville Historic District*, S. Pinckney, Lofton, Charlotte, Church, Water, Oak, Venning, Legare, Morrison and Scotia Sts.

Greenville County

Greer vicinity, *Barnwell, Arthur, House*, S of Greer on SR 14

Kershaw County

Camden, *Kendall Mill Historic District*, Roughly bounded by RR tracks, Kendall Lake, Lakeshore Dr., McRae Rd., and Haile St.

Newberry County

Chappells vicinity, *Moon-Dominick House*, NE of Chappells

Oconee County

Newry, *Newry Historic District*, Broadway, River Ridge Rd., South, Branch, and Palmetto Aves.

Orangeburg

Eutawville vicinity, *Numertia Plantation*, E of Eutawville

TENNESSEE

Loudon County

Lenoir City, *Lenoir City Company*, Depot St.

Shelby County

Memphis, *Calvary Episcopal Church and Parish House*, 102 N. 2nd St.

TEXAS

Chambers County

Wallisville, *Old Wallisville Town Site (Wallisville 41Ch228, 41CH237–241, and 41CH243)* I 10

WASHINGTON

Missions in Stevens County Thematic Resources. Reference—see individual listings under Stevens County.

Jefferson County

Port Townsend, *Gagen-Sherlock House*, 1906 Cherry St.

Okanogan County

Winthrop, *Waring, Guy, Cabin (The Castle)* 285 Castle Ave.

Pierce County

Eatonville, *Galbraith, John, House*, 140 Oak St. E.
Tacoma, *Thornewood*, Manor House, 8501 N. Thorne Lane, SW., Carriage House, 4 Tornewood Lane, SW., Gatehouse, 8307 N. Thorne Lane, SW.

Snohomish County

Lynnwood, *Keeler's Korner*, 16401 U.S. 99

Stevens County

Chewelah, *St. Francis Regis Mission Cemetery (Missions in Stevens County Thematic Resources)* Old Valley Ave.
Ford vicinity, *Tshimakain Mission Site (Missions in Stevens County Thematic Resources)* NE of Ford
Kettle Falls vicinity, *Pia Mission (Missions in Stevens County Thematic Resources)* Kelly Hill and Barstow Rd.
Kettle Falls vicinity, *St. Francis Regis Mission Site (Missions in Stevens County Thematic Resources)* U.S. 395
Kettle Falls vicinity, *St. Paul's Mission (Missions in Stevens County Thematic Resources)* (previously listed in the National Register in Kettle Falls District 11–20–74)

WISCONSIN

Eau Claire County

Eau Claire, *Walter-Heins House*, 605 N. Barstow St.

St. Croix County

Boardman vicinity, *Lewis Farmhouse*, Farm Dr.

[FR Doc. 82-5845 Filed 3-1-82; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nomination of the following historic district for listing in the National Register of Historic Places was received by the National Park Service February 22, 1982. Waiver of the 15-day public commenting period following this publication is necessary in order to list the district before March 15, 1982. Listing of the district by this date will allow owners of two of the buildings within the district to qualify for preservation tax incentives under provisions of the Economic Recovery Tax Act of 1981 and assist the developers in meeting a deadline for securing financing of the project. The Michigan State Historic Preservation Officer has stated that the project is of considerable importance in the preservation of the historic district and particularly the two buildings which will undergo rehabilitation. Waiver of the public commenting period will allow timely listing which is necessary to aid in the preservation of properties within this historic district.

Carol D. Shull,

Acting Keeper of the National Register.

MICHIGAN

Kent County

Grand Rapids, *Heartside Historic District*, Division, Commerce, and Ionia Aves. Fulton, Weston, Oakes and Cherry Sts

[FR Doc. 82-5846 Filed 3-1-82; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Abandoned Mine Lands Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (SMREO), Interior.

ACTION: Notice of availability of Finding of No Significant Impact (FONSI) addressing Environmental Assessments (EAs) for development of twenty-two (22) abandoned mine land projects under the Commonwealth of Virginia Reclamation Plan.

SUMMARY: OSM, has prepared Environmental Assessments on 22 projects included in the Federal Grant Application submitted by the Commonwealth of Virginia to the Office of Surface Mining.

A Finding of No Significance Impact (FONSI) has been made on the twenty-two (22) reclamation projects indicated below and included in the grant application developed under Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1231–1234.

ADDRESS: Copies of the EAs and FONSI are available for inspection or may be obtained at the following location between the hours of 8:00 a.m. and 4:00 p.m.: Office of Surface Mining, Region I, U.S. Department of the Interior, 603 Morris Street, Charleston, West Virginia 25301.

FOR FURTHER INFORMATION CONTACT: Robert J. Biggi, Assistant Regional Director, Division of Abandoned Mine Lands, Office of Surface Mining, U.S. Department of the Interior, 603 Morris Street, Charleston, West Virginia 25301; Telephone: 304/342–6125.

SUPPLEMENTARY INFORMATION: Reclamation Projects included in FONSI by county:

Buchanan County

—Jewell Valley gob pile No. 1, Rt. 638,
—Gob pile No. 2, Jewell Valley,
—Gob pile No. 1, Roseann,
—Gob pile and tipple, Roseann,
—Levisa Fork Tipple, Grundy,
—Swan Fork landslide, Hurley,
—Paw Paw landslide, Keiss,
—Mill Branch landslide, State Route 660 near U.S. 460,
—Fox Creek landslide, State Route 619 near Leemaster,

Wise County

—Impoundment and landslide, Inman,
—No. 2 refuse pile, Inman,
—Surface mine, Dixiana,
—Deep mines No. 1 and 2, Derby,
—Sedimentation, Bold Camp,
—Dry Fork Coeburn,
—Straight Hollow refuse area, Dante,
—Meade Fork refuse pile, Routes 83 and 632,

Tazewell County

—Boisse Vain refuse area, Pocahontas,
—Townhill tipple, Richlands,

Dickenson County

—Crabtree Fork sedimentation, State Route 633,

Lee County

—Driftwood landslide, Pennington Gap,

Russell County

—Lynn Springs deep mine, Route 732 near Dye.

Dated: February 24, 1982.

Thomas M. Butler,

Acting Director, Office of Surface Mining.

[FR Doc. 82-5848 Filed 3-1-82; 8:45 am]

BILLING CODE 4310-05-M

Abandoned Mine Land Reclamation Program; Kentucky

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Receipt of the abandoned mine land reclamation (AML) grant application from the State of Kentucky.

SUMMARY: On January 5, 1982, the State of Kentucky submitted to OSM its proposed abandoned mine land reclamation grant application under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is seeking public comment on the adequacy of the State grant application. The grant will not be approved until the Secretary has approved the Title V Regulatory Program and the Title IV Reclamation Program.

DATES: Written comments on the application must be received on or before 5:00 p.m. April 1, 1982.

ADDRESS: Copies of the full text of the proposed Kentucky application are available for review during regular business hours at the following locations: Office of Surface Mining Reclamation and Enforcement, Region II, 530 Gay Street, Suite 500, Knoxville, Tennessee.

Written comments should be sent to: W. Hord Tipton, Acting Regional Director, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, Suite 500, Knoxville, Tennessee 37902.

FOR FURTHER INFORMATION CONTACT: Assistant Regional Director, AML, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, Suite 500, Knoxville, Tennessee 37902; (615) 637–8060.

SUPPLEMENTARY INFORMATION: On May 20, 1981, a State reclamation plan was submitted to the Secretary. Action by the Secretary on the Reclamation Plan has been delayed because Kentucky does not have an approved State regulatory program under Title V of SMCRA and was enjoined from submitting its program. Under Section 405(c) of the SMCRA, the Secretary connot approve a State abandoned mine land reclamation program unless that State has an approved State regulatory program pursuant to Section 503 of the SMCRA.

On January 5, 1982, OSM received an AML reclamation grant application from the State of Kentucky.

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, established an Abandoned Mine Land Reclamation Program for the purposes of reclaiming and restoring land and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation under the program are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State and Federal law.

Each State having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA may submit to the Secretary a State reclamation grant application to implement the provisions of the approved State Reclamation Plan.

Grants may be issued only to States with an approved Title V Regulatory Program for active mine reclamation and an approved Title IV Reclamation Program. The grant application received from the State of Kentucky will be reviewed and held pending a final approval by the Secretary on the State of Kentucky Title V and Title IV programs in accordance with SMCRA.

This notice describes the nature of the proposed projects and sets forth information concerning public participation in the development of the projects. This publication does not represent any decision by the Secretary on the Title V Regulatory Program or the Title IV Reclamation Program but is published solely for the purpose of expediting the review process and the implementation of the reclamation program if the State of Kentucky Title V and Title IV programs are approved.

All written comments must be mailed or hand carried to the Regional Director's Office above.

The Regional Director has found that the State has given the public adequate notice and opportunity to comment in public hearings, and the record of such hearings does not reflect major unresolved controversies.

The comment period will close at 5:00 p.m. on April 1, 1982. Comments received after that time will not be considered. During the comment period representatives of the Regional Director's office will be available to meet between 8:00 a.m. and 4:00 p.m. at the request of members of the public to receive their advice and recommendations concerning the proposed State AML reclamation application.

Persons wishing to meet with representatives of the Regional Director's Office during this time period may place such requests with William Bradford, Public Information Officer, telephone 615/971–5237, at the Regional Director's office above.

Meetings may be scheduled between 9 a.m. and noon and 1 p.m. and 4 p.m. Monday through Friday excluding holidays at the Regional Director's office.

The Director intends to continue to discuss the State's application with representatives of the State throughout the review process.

In order to comply with the requirements of the National Environmental Policy Act, OSM will assess the environmental effects of all State reclamation projects. The primary basis for this assessment will be the environmental information provided in the project grant application.

The Director has determined that this is not a significant issue within the meaning of 43 CFR Part 14 and no regulatory analysis is being prepared on the Director's decision relating to the AML grant application.

The Kentucky AML Reclamation Grant Application can be approved if:

1. The Director finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.
2. Views of other Federal agencies have been solicited and considered.
3. The application meets all the requirements of the OSM, AML reclamation program provisions and the required Federal circulars.
4. The State has an approved regulatory program and an approved State reclamation plan.

The following constitutes a summary of the contents of the submission:

1. Designation of authorized State Agency to administer the program,
2. Objectives and need for the assistance,
3. Project ranking and selection,
4. Coordination with other reclamation programs,
5. Results and benefits expected,
6. Plan of action pertaining to the scope,
7. Monthly or quarterly projections of accomplishments to be achieved,
8. Kinds of data to be collected and maintained,
9. Criteria used to evaluate the results and success of the projects,
10. Key individuals to be employed,
11. Precise location of the project and area to be served,
12. Budgetary calculations for each project,
13. Description of the public's participation in planning and preparation of the grant application,
14. A complete environmental assessment for each project.

Dated: February 24, 1982.

Thomas M. Butler,

Acting Director, Office of Surface Mining.

[FR Doc. 82-5848 Filed 3-1-82; 8:45 am]

BILLING CODE 4310-05-M

Abandoned Mine Land Reclamation Program; Montana

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Receipt of the abandoned mine land reclamation (AML) grant application from the State of Montana.

SUMMARY: On December 14, 1981, the State of Montana submitted to OSM a proposed abandoned mine land reclamation grant application under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is seeking public comment on the adquacy of the State grant application.

DATES: Written comments on the application must be received on or before 5:00 p.m. April 1, 1982.

ADDRESS: Copies of the full text of the proposed Montana grant application are available for review during regular business hours at the following locations: Office of Surface Mining Reclamation and Enforcement, Wyoming State Office, 935 Tendell Blvd. (Freden Bldg.), Mills, Wyoming.

Written comments should be sent to: Bill Thomas, State Director, Office of Surface Mining Reclamation and Enforcement, P.O. Box 1420, Mills, Wyoming 82644.

FOR FURTHER INFORMATION CONTACT: Bill Thomas, State Director, Office of Surface Mining Reclamation and Enforcement, Same address as above, Telephone (307) 265–5550 x5770.

SUPPLEMENTARY INFORMATION: On December 14, 1982, OSM received an abandoned mine reclamation grant application from the State of Montana. The purpose of this submission is to implement the State reclamation program as codified in 30 CFR, Chapter VII, Subchapter T, Part 926 as published in the Federal Register 45 FR 70445 on October 24, 1980.

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA),

Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, establishes an Abandoned Mine Land Reclamation Program for the purpose of reclaiming and restoring land and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation under the program are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continung reclamation responsiblity under State and Federal law.

Each State having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA may submit to the Secretary a State reclamation grant application to implement the provisions of the approved State Reclamation Plan. Grants may be issued only to States with an approved Title V Regulatory Program for active mine reclamation and an approved Title IV State Reclamation Plan.

A State Reclamation Plan for Montana was submitted to the Secretary on June 16, 1980 and approved on October 24, 1980 which demonstrated the capability of the State to administer an abandoned mine reclamation program in accordance with Title IV of SMCRA. In approving the State Plan the Secretary determined that the State had the necessary legislation to implement the provisions of the Plan.

This notice describes the nature of the proposed projects and sets forth information concerning public participation in the Director's determination of whether or not the submitted application should be approved.

The receipt of the application will result in the implementation of approved projects for the reclamation of abandoned mine lands in Montana.

All written comments must be mailed or hand carried to the State Director's Office above.

The Director has found that the State has given the public adequate notice and opportunity to comment in public hearings, and the record of such hearings does not reflect major unresolved controversies.

The comment period will close at 5:00 p.m. on April 1, 1982. Comments received after that time will not be considered. During the comment period representatives of the State Director's office will be available to meet with the public to receive their advice and recommendations concerning the proposed State AML reclamation grant application.

Persons wishing to meet with representatives of the State Director's office during this time period may place such request with Bill Thomas, State Director, telephone 307/265–5550 x5776 at the State Director's office above.

Meetings may be scheduled between 9 a.m. and noon and 1 p.m. and 4 p.m. Monday through Friday excluding holidays at the State Director's office.

The Director intends to continue to discuss the State's application with representatives of the State throughout the review process.

In order to comply with the requirements of the National Environmental Policy Act, OSM will assess the environmental effects of all State reclamation projects. The primary basis for this assessment will be the environmental information provided in the project grant application.

The Director has determined that this is not a significant rule within the meaning of 43 CFR Part 14 and no regulatory analysis is being prepared on the Director's decision relating to the AML grant application.

The Montana AML Reclamation Grant Application can be approved if:

1. The Director finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.
2. Views of other Federal agencies have been solicited and considered.
3. The application meets all the requirements of the OSM, AML reclamation program provisions and the required Federal circulars.
4. The State has an approved regulatory program and an approved State reclamation plan.

The following constitutes a summary of the contents of the submission:

1. Designation of an authorized State Agency to administer the program,
2. Objectives and need for the assistance,
3. Project ranking and selection,
4. Coordination with other reclamation programs,
5. Results and benefits expected,
6. Plan of action pertaining to the scope,
7. Monthly or quarterly projections of accomplishments to be achieved,
8. Kinds of data to be collected and maintained,
9. Crirteria used to evaluate the results and success of the projects,
10. Key individuals to be employed,
11. Precise locations of the project and area to be served,
12. Budgetary calculations for each project,
13. Description of the public's participation in planning and preparation of the grant application,
14. A complete environmental assessment for each project.

Dated: February 23, 1982.

Thomas M. Butler,

Acting Director, Office of Surface Mining.

[FR Doc. 82–5054 Filed 3–1–82; 8:45 am]

BILLING CODE 4310–05–M

Abandoned Mine and Land Reclamation Program; Virginia

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Receipt of the abandoned mine land reclamation (AML) grant application from the State of Virginia.

SUMMARY: On January 8, 1982, the State of Virginia submitted to OSM its proposed abandoned mine land reclamation grant application under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is seeking public comment on the adequacy of the State grant application.

DATES: Written comments on the application must be received on or before 5:00 p.m. April 1, 1982.

ADDRESS: Copies of the full text of the proposed Virginia grant application are available for review during regular business hours at the following locations: Office of Surface Mining Reclamation and Enforcement, Region I, 603 Morris Street, Charleston, West Virginia.

Written comments should be sent to: Patt Boggs, Regional Director, Office of Surface Mining Reclamation and Enforcement, Same address as above.

FOR FURTHER INFORMATION CONTACT: Robert Biggi, Assistant Regional Director, AML, Office of Surface Mining Reclamation and Enforcement, Same address as above; (717) 823–0563.

SUPPLEMENTARY INFORMATION: On January 8, 1982, OSM received an abandoned mine reclamation grant application from the State of Virginia. The purpose of this submission is to implement the State reclamation program as codified in 30 CFR, Chapter VII Subchapter T, Part 946 as published in the **Federal Register** 46 FR 61085 on December 15, 1981.

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, establishes an Abandoned Mine Land Reclamation Program for the purpose of reclaiming and restoring land and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation under the program are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State and Federal law.

Each State having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA may submit to the Secretary a State reclamation grant application to implement the provisions of the approved State Reclamation Plan. Grants may be issued only to States with an approved Title V Regulatory Program for active mine reclamation and an approved Title IV State Reclamation Plan.

A State Reclamation Plan for Virginia was submitted to the Secretary on September 22, 1980 and approved on December 15, 1981 which demonstrated the capability of the State to administer an abandoned mine reclamation program in accordance with Title IV of SMCRA. In approving the State Plan the Secretary determined that the State had the necessary legislation to implement the provisions of the Plan.

This notice describes the nature of the proposed projects and sets forth information concerning public participation in the Director's determination of whether or not the submitted application should be approved.

The receipt of the application will result in the implementation of approved projects for the reclamation of abandoned mine lands in Virginia.

All written comments must be mailed or hand carried to the Regional Director's Office above.

The Regional Director has found that the State has given the public adequate notice and opportunity to comment in public hearings, and the record of such hearings does not reflect major unresolved controversies.

The comment period will close at 5:00 p.m. on April, 1982. Comments received after that time will not be considered. During the comment period representatives of the Regional Director's office will be available to meet with the public to receive their advice and recommendations concerning the proposed State AML reclamation grant application.

Persons wishing to meet with representatives of the Regional Director's office during this time period may place such request with Richard Leonard, Public Information Officer, telephone 304/342–8125 at the Regional Director's office above.

Meetings may be scheduled between 9 a.m. and noon and 1 p.m. and 4 p.m. Monday through Friday excluding holidays at the Regional Director's office.

The Director intends to continue to discuss the State's application with representatives of the State throughout the review process.

In order to comply with the requirements of the National Environmental Policy Act, OSM will assess the environmental effects of all State reclamation projects. The primary basis for this assessment will be the environmental information provided in the project grant application.

The Director has determined that this is not a significant rule within the meaning of 43 CFR Part 14 and no regulatory analysis is being prepared on the Director's decision relating to the AML grant application.

The Virginia AML Reclamation Grant Application can be approved if:

1. The Director finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.
2. Views of other Federal agencies have been solicited and considered.
3. The application meets all the requirements of the OSM, AML reclamation program provisions and the required Federal circulars.
4. The State has an approved regulatory program and an approved State reclamation plan.

The following constitutes a summary of the contents of the submission:

1. Designation of a authorized State Agency to administer the program,
2. Objectives and need for the assistance,
3. Project ranking and selection,
4. Coordination with other reclamation programs,
5. Results and benefits expected,
6. Plan of action pertaining to the scope,
7. Monthly or quarterly projections of accomplishments to be achieved,
8. Kinds of data to be collected and maintainied,
9. Criteria used to evaluate the results and success of the projects,
10. Key individuals to be employed,
11. Precise location of the project and area to be served,
12. Budgetary calculations for each project,
13. Description of the public's participation in planning and preparation of the grant application,
14. A complete environmental assessment for each project.

Dated: February 23, 1982.

Thomas M. Butler,

Director, Office of Surface Mining.

[FR Doc. 82–5053 Filed 3–1–82; 8:45 am]

BILLING CODE 4310–05–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 ICC 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in

accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: February 24, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

MC–F–14756, filed February 8, 1982. Applicant: MICHAEL E. KLEPFER, P.O. Box 1585, Binghamton, NY 13902. Representative: Donald C. Carmien, Esq., P.O. Box 1922, Binghamton, NY 13902–1922. Applicant is a director and officer of Canny Trucking Co., MC–29929, a motor common carrier of general commodities NY, NJ and PA. Applicant seeks to continue to control his wholly owned contract carrier, Kem Contract Carriers, Inc., MC–155370, which transport food and relates products between points in the U.S. under continuing contract with Spaulding Bakeries, Incorporated, of Binghamton, NY 13903 transporting typewriters between points in U.S. Corporation of Cleveland, OH. Applicant was granted a partial waiver of filing the requirements of Form OP–F–44 Appendix A, Attachments A–5 and A–8 in MC–F–14756, service January 2, 1982.

MC–F–14788F, filed January 26, 1982. Applicant: RUAN TRANSPORT CORPORATION (RUAN) (666 Grand Avenue, Des Moines, IA 50309)—continuance in control—Peake, Inc. (Peake) (P.O. Box 855, Des Mones, IA 50304). Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. Ruan seeks authority to continue in control of Peake. John Ruan, president and sole stockholder of Ruan, also seeks to continue in control through the transaction. Peake is a motor common carrier pursuant to certificates issued in docket No. MC–149244 and subnumbers thereunder. Ruan Transport Corporation is a motor common carrier pursuant to certificates issued in docket No. MC–107496 and subnumbers thereunder. In addition to controlling Ruan, John Ruan controls Arizona Tank Lines, Inc. (MC–99427 and subs thereunder), Sooner Transport Corporation (MC–110567 and subs thereunder), and Lambert Transfer Company (MC–154234).

Note.—Ruan was authorized to control Peake (formerly known as Denver Chicago Transport Co., Inc.) a noncarrier in MC–F–6080. Since Peake recently acquired interstate operating authority, Peake is now an I.C.C. regulated carrier. Peake in its new status as an interstate carrier properly filed an application under 49 U.S.C. 11343.

MC–F–14793, filed February 2, 1982, authority sought by BIRMINGHAM-NASHVILLE EXPRESS, INC., 715 Poplar Ave., Nashville, TN, 37210 to acquire Certificate No. MC–121656 (Subs 2, 4, and 5) from Springfield Express, Inc., P.O. Box 310, Springfield, TN, 37172, and for control by Mr. Forrest M. Durrett, 715 Poplar Ave., Nashville, TN 37210 of said operating rights through the transaction. Representatives: Henry E. Seaton, 1024 Pennsylvania Bldg., 13th & Pennsylvania Ave., N.W., Washington, DC 2004 and Steven L. Edwards, Suite 806, 315 Union St., Nashville, TN 37201. Operating rights transferred authorized general commodities, with exceptions, over *regular routes*, with restrictions, (1) between Nashville, TN, and Springfield, TN, serving all intermediate points in Robertson Cy., and serving Barren Plains, TN, as an off-route point; (2) between Springfield, TN, and Russellville, KY, and between Russellville, KY, and Owensboro, KY, serving all intermediate points; (3) between Owensboro, KY and Nashville, TN, serving no intermediate points, as an alternate route. Transferee is a common carrier (MC–128521) operating in all States. Application for temporary transfer has been filed.

MC–F–14794, filed February 2, 1982. TRANSPORT INVESTMENT CORPORATION (TRANSPORT) (322 U.S. Hwy 20 West, Michigan City, IN 46360)—control—Arrow Transportation Co. (Arrow) (1911 N.E. 56th Avenue, Des Moines, IA 50313) and Arrow Leasing Co. (Leasing) (1911 N.E. 56th Avenue, Des Moines, IA 50315)—and continuance in control—Tri State Tire & Rubber, Inc. d.b.a. Tandem Transport (Tandem) (322 U.S. Hwy 20 West, Michigan City, IN 46360) and St. Louis Freight Lines, Inc. (debtor-in-possession) (St. Louis) (1000 Michigan Avenue, St. Louis, MI 48880). Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312). Transport, and, in turn, Walter G. Bay, of Claire, MI, who controls Transport through stock ownership, seek authority to acquire control of Arrow and Leasing through the purchase of all their outstanding captial stock. By the same application, Transport and Mr. Bay seek authority to continue in control of Tandem and St. Louis. Arrow holds authority in Permit No. MC–116164 and subnumbers thereunder authorizing the transportation of brick and brick products, and insulation, from Des Moines, IA to points in the coterminous States, and brick and refractory products from Grimes, Redfield and Ottumwa, IA to points in IA, IL, IN, KS, OH, MI, MN, MO, NE, ND, SD, and WI. Arrow also holds common carrier authority in Certificate No. MC–116164 (Sub-No. 15) authorizing the nonradial transportation of metal products, rubber and plastic products and fiberglass products, between points in IL, IN, IA, KS, MI, MO, MN, NE, ND, SD, and WI. Leasing is a noncarrier engaged in equipment leasing. Tandem is also a noncarrier at present, but is subject to the Commission's jurisdiction by virtue of temporary and emergency temporary authority granted in the No. MC–156133 series. St. Louis is a motor common carrier holding authority in Certificate No. MC–117165 and subnumbers thereunder. It specializes in the transportation of building materials, lumber, and wood products, plastic pipe and insulation, and salt products between points in and east of ND, SD, NE, KS, OK, and TX. St. Louis is presently in reorganization under Chapter XI of the Bankruptcy Act under the supervision of the U.S. Bankruptcy Court for the Eastern District of MI Northern Division. Mr. Bay is President of St. Louis and in addition is a director and minority stockholder.

Note.—Leasing and Tandem are noncarriers and, accordingly, the application will be dismissed insofar as it relates to these entities. When Tandem applies for permanent authority, it should request authority for continuance in control in conjunction with Arrow and St. Louis.

[FR Doc. 82-5500 Filed 3-1-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the commission's policy of simplifying grants of operating authority.

Findings

With the exception of these applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP2-33

Decided: February 18, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Chandler not participating).

MC 99143 (Sub-6), filed February 4, 1982. Applicant: OHIO VALLEY CHARTER SERVICE, INC., 15583 Sprucevale Rd., East Liverpool, OH 43920. Representative: Donald J. Balsley, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219, 412–471–1800. Transporting *passengers and their baggage*, in the same vehicle with passengers, in round-trip charter and special operations, between points in Belmont, Trumbull, Harrison, Portage, Stark, Guernsey, and Tuscawaras Counties, OH, Brooke, Ohio, and Marshall Counties, WV, and Beaver, Lawrence, and Mercer Counties, PA, on the one hand, and, on the other, points in the U.S.

MC 130162 (Sub-1), filed January 29, 1982. Applicant: GEM TOURS, INC., 4129–C State St., Santa Barbara, CA 93110. Representative: Gerald M. Chaput (same address as applicant), 805–964–6985. Transporting *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, in round trip sight-seeing and pleasure tours, between points in Santa Barbara, San Luis Obispo, and Ventura Counties, CA, on the one hand, and on the other, points in the U.S.

MC 143553 (Sub-9), filed February 4, 1982. Applicant: CONTINENTAL TRANSPORT SYSTEMS, INC., 35 Main St., P.O. Box 236, Versailles, CT 06383. Representative: Bradford I. Greene (same address as applicant), 203–822–8261. Transporting *such commodities* as are produced, used or dealt in by manufacturers of forest products, paper, lumber, and wood and paper products, between points in the U.S., under continuing contract(s) with (a) Simkins Industries, Inc., of New Haven, CT, and (b) Federal Paper Board Company, Inc., of Montvale, NJ.

MC 160262, filed January 28, 1982. Applicant: GARY TORNABENE, d.b.a. J.T.T., 305 West Lewis St., Canastota, NY 13032. Representative: Herbert M. Canter, 305 Montgomery St., Syracuse, NY 13202, 315–472–8845. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Queensboro Farm Products, Inc., of Long Island City, NY.

MC 160383, filed February 1, 1982. Applicant: JIM MILLER TRUCKING, INC., 644 East Slater St., Marshall, MO 65340. Representative: Thomas P. Rose, P.O. Box 205 Jefferson City, MO 65102, 314–636–2321. Transporting *food and related products*, (1) between facilities used by Wilson Foods Corporation, at Independence, Marshall, Kansas City and Sedalia, MO, on the one hand, and, on the other, points in the U.S., and (2) between facilities used by Banquet Foods Corporation at points in the U.S., on the one hand, and, on the other, points in the U.S.

Volume No. OP 2-35

Decided: February 22, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Chandler not participating.)

MC 172 (Sub-10), filed February 4, 1982. Applicant: WADE TOURS, INC., 251 Burdek St., Schenectady, NY 46624. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St. N.W., Washington, DC 20005 202–783–3525. Transporting *passengers and their baggage*, in the same vehilce with passengers, in round trip charter and special operations, beginning and ending at points in Albany, Fulton, Montgomery, Otsego, Saratoga, Schenectady, Schoharie, Warren, and Washington, Counties, NY, and extending to points in the U.S. (except AK).

MC 4312 (Sub-2), filed January 20, 1982. Applicant: GARY WILLIAM MILLER d.b.a. COTTAGE GROVE-EUGENE FREIGHT COMPANY, 1051 South 4th St., Cottage Grove, OR 97424. Representative: Gary William Miller, (same address as applicant), 503–942–3422. *Over Regular Routes* transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Cottage Grove and Yoncalla, OR over OR Hwy 99 and Interstate Hwy 5.

Note.—Applicant intends to tack its existing authority at Cottage Grove and Eugene, OR.

MC 20992 (Sub-67), filed February 8, 1982. Applicant: DOTSETH TRUCK LINE, INC., Knapp, WI 54749. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501, 402–475–6761. Transporting *metal products*, between Detroit, MI, Pittsburgh, PA and Chicago, IL, and points in St. Clair County, MI, on the one hand, and, on the other, points in IL, IA, MN and WI.

MC 80252 (Sub-25), filed February 4, 1982. Applicant: SOUTHWESTERN MOTOR TRANSPORT, INC., 4600 Goldfield, San Antonio, TX 78285. Representative: Leroy Hallman, 4555 First National Bank Bldg., Dallas, TX 75202, 214–741–6263. Transporting, in foreign commerce only, *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in TX, on the one hand, and, on the other, ports of entry in TX on the international boundary line between the U.S. and the Republic of Mexico.

MC 107913 (Sub-24), filed February 5, 1982. Applicant: F & W EXPRESS, INC., 165 S. Parkway West, Memphis, TN 38109. Representative: Dale Woodall, 900 Memphis Bank Bldg., Memphis, TN 38103, 901–525–6781. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Shelby County, TN, on the one hand, and, on the other, those points in AR on and north of Interstate Hwys 40 and 30, between Memphis, TN and Texarkana, TX.*

MC 114052 (Sub-11), filed February 1, 1982. Applicant: CANTENCAMP TRANSFER & STORAGE, INC., 218 East Richmond St., Shawano, WI 54166. Representative: William P. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53202, 414–273–7410. Transporting *such commodities* as are dealt in, used by or distributed by a manufacturer or converter of paper and paper products and medical products, between points in the U.S., under continuing contract(s) with Little Rapids Corporation of Green Bay, WI.

MC 120473 (Sub-51), filed February 8, 1982. Applicant: HAROLD DICKEY TRANSPORT, INC., Packwood, IA 52580. Representative: Doug Dickey, (same address as applicant), 319–695–3601. Transporting *clay, concrete, glass or stone products*, between points in Thomas County, GA and Tippah County, MS, on the one hand, and, on the other, points in AL, AR, FL, IL, IN, KY, LA, MI, MO, OH, PA, TX and WI.

MC 136123 (Sub-34), filed February 1, 1982. Applicant: MD TRANSPORT SYSTEMS, INC., P.O. Box 1058, Palmetto, FL 33561. Representative: David M. Kuehl, (same as above), (813) 722–0506. Transporting *such comodities* as are dealt in or used by the printing industry, between points in the U.S.

MC 136123 (Sub-35), filed February 2, 1982. Applicant: MD TRANSPORT SYSTEMS, INC., P.O. Box 1058, Palmetto, FL 33561. Representative: David M. Kuehl, (same as applicant), (813) 722–0506. Transporting *plastic and plastic articles*, between the facilities of Thompson Industries Company, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 136123 (Sub-36), filed February 8, 1982. Applicant: MD TRANSPORT SYSTEMS, INC., P.O. Box 1058, Palmetto, FL 33561. Representative: David M. Kuehl, (same address as applicant), (813) 722–0506. Transporting *agricultural chemicals, materials, and supplies*, between those points in the U.S., in and east of ND, SD, NE, KS, OK, and TX.

MC 139823 (Sub-86), filed February 8, 1982. Applicant: MILLER TRUCKING CO., INC., P.O. Box Drawer D, Stoud, OK 74079. Representative: Daniel O. Hands, Suite 200–A, 205 West Touhy Ave., Park Ridge, IL 60068, 312–696–2235. Transporting (1) *general commodities (except classes A and B explosives, household goods and commodities in bulk), between points in Fresno County, CA, on the one hand, and, on the other, those points in the U.S. in and west of MT, WY, CO and TX, and* (2) *such commodities* as are dealt in or used by food business houses, between points in the U.S. (except AK and HI).

MC 144153 (Sub-3), filed February 8, 1982. Applicant: OSCAR G. BJUGSTAD, OSCAR L. BJUGSTAD, AND AUGUST D. BJUGSTAD, d.b.a. BJUGSTAD TRUCKING CO., Route 2, Hwy 51, Stoughton, WI 53589. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703, 608–256–7444. Transporting (1) *salt*, between points in the U.S., under continuing contract(s) with Waukesha Warehouse, Inc., of Waukesha, WI, and (2) *such commodities* as are dealt in or used by manufacturers and distributors of pre-engineered buildings, between points in the U.S., under continuing contract(s) with Varco-Pruden Metal Building Systems, Inc., a Unit of AMCA International Corporation, of Evansville, WI.

MC 146233 (Sub-3), filed February 8, 1982. Applicant: BOBBY REEVES CO., INC., 310 Edwards St., P.O. Box 576, Calhoun, GA 30701. Representative: Mark S. Gray, 235 Peachtree St., N.E., 1200 Gas Light Tower, Atlanta, GA 30303, 404–522–2322. Transporting *iron and steel articles*, between points in the U.S. (except AK and HI), under continuing contract(s) with National-Standard Company, of Niles, MI.

MC 146343 (Sub-15), filed February 2, 1982. Applicant: SOUTHERN EXPRESS CORPORATION, 505 South Ocean Blvd., Pompano Beach, FL 33062. Representative: Southern Enterprises Incorporated, 2 Sawyer Dr., Coventry, RI 02816, 401–822–0878. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Diversified Appliance Corporation, of Providence, RI.

MC 147423 (Sub-2), filed February 5, 1982. Applicant: BOND TRANSFER, INC., 1631 Mills Ave., El Paso, TX 79901. Representative: Gary L. Thompson (same address as applicant), 915–533–9887. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in El Paso County, TX, on the one hand, and, on the other, points in NM.

MC 149133 (Sub-12), filed February 8, 1982. Applicant: DIST/TRANS MULTI-SERVICES, INC., d.b.a. TAHWHEELALEN EXPRESS, INC., 1333 Nevada Blvd./P.O. Box 7191, Charlotte, NC 28217. Representative: Wyatt E. Smith (same address as applicant), 704–588–2109. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with National Shirt Shops, of New York, NY.

MC 153763 (Sub-1), filed February 5, 1982. Applicant: GARY NIPPERT TRUCKING, INC., 114 Duffer, Mangum, OK 73554. Representative: James W. Hightower, 5601 Marvin D. Love Freeway, #301, Dallas, TX 75237. Transporting *metal products*, between points in OK, KS and TX.

MC 153862 (Sub-2), filed February 8, 1982. Applicant: E & F TRUCKING, INC., R.D. #3, Denver, PA 17517. Representative: Daniel W. Krane, P.O. Box E, Shiremanstown, PA 17011, 717–232–8324. Transporting (1) *food and related products*, between Philadelphia, PA and points in Dauphin, Montgomery, Berks, Bucks, Lebanon, Chester, Delaware, Lancaster, Lehigh and Schuylkill Counties, PA, on the one hand, and, on the other, points in the U.S. and (2) *chamicals and related products*, between points in Lancaster and Lebanon Counties, PA, on the one hand, and, on the other, points in the U.S.

MC 155103 (Sub-1), filed February 1, 1982. Applicant: FREIGHTMASTER, INC., P.O. Box 488, Taylorsville, NC 28681. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064, 615–790–2510. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Beacon Hose Manufacturing Company, of Charlotte, NC.

MC 155523 (Sub-5), filed February 4, 1982. Applicant: PHOENIX MOTOR EXPRESS, INC., P.O. Box 246, Hasbrouck Heights, NJ 07604. Representative: Gerald K. Gimmel, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301–840–8565. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 156313 (Sub-2), filed February 5, 1982. Applicant: FALCON, INC., R.D. #1, Rte. 19, Harmony, PA 16037. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219, 412–281–9494. Transporting *paper and paper products, plastics and plastic products, adhesives, chemicals, and machinery*, between points in the U.S., under continuing contract(s) with Weyerhaeuser Company, of Harmony, PA.

MC 156313 (Sub-4), filed February 5, 1982. Applicant: FALCON, INC., R.D. #1, Rte. 19, Harmony, PA 16037. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219, 412–281–9494. Transporting *floor coverings, appliances, and plumbing and heating supplies*, between points in the U.S., under continuing contract(s) with Weinheimers, of Tonawanda, NY.

MC 157183 (Sub-1), filed February 4, 1982. Applicant: SERVICE LINES, INC., 5720 Tulane Dr. SW., Atlanta, GA 30336. Representative: Howard W. Teal, 3002 East Anderson Dr., Lithia Springs, GA 30057, 404–948–3314. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with J.C. Penney Company, Incorporated, of New York, NY.

MC 157302 (Sub-3), filed February 1, 1982. Applicant: OLD SOUTH FREIGHT SERVICE, INC., 2805 Foster Ave., Suite 202, Nashville, TN 37210. Representative: Stephen L. Edwards, 315 Union St., 806 Nashville Bank & Trust Bldg., Nashville, TN 37210, 615–244–2926. Transporting *metal products*, between points in Jefferson County, AL, Wake and Nash Counties, NC, and Greenville County, SC, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 159193, filed February 2, 1982. Applicant: JAMES H. VAUGHN d.b.a. VAUGHN TRUCKING CO., P.O. Box 127, Jonesboro, AR 72401. Representative: R. Conner Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103, 901–526–4114. Transporting *glass products*, between points in Craighead County, AR, on the one hand, and, on the other, points in AL, AZ, CA, CO, FL, GA, IL, IN, IA, KS, KY, LA, MA, MN, MI, MS, MO, NE, NJ, NY, NC, OH, OK, OR, PA, SC, TN, TX, VA, WA, and WI.

MC 159513, filed February 8, 1982. Applicant: LOK TRUCKING COMPANY, P.O. Box 44B, Route 2, Frisco, TX 75034. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, 214–255–6279. Transporting *textile products*, between points in CT, GA, MA, NJ, NC, RI, SC, TN, on the one hand, and, on the other, TX.

MC 159803 (Sub-1), filed February 1, 1982. Applicant: K & L ASSOCIATES, 417 Washington Ave., North Haven, CT 06473. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415, 212–263–2078. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with (a) Country Home Bakeries, Inc., of Atlanta, GA and (b) Simkins Industries, of New Haven, CT.

MC 159992, filed January 7, 1982. Applicant: FAYE B. EMORY, d.b.a. ACCENT TRAVEL AND TOUR ARRANGEMENTS, P.O. Box 8096, Spartanburg, SC 29303. Representative: Faye B. Emory, Rte. #8 Highway 9, Spartanburg, SC 29303, 803–578–2526. As a *broker*, at Spartanburg, SC, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, between points in SC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160343, filed February 4, 1982. Applicant: LIQUID LINES, INC., 564 Merrill Rd., Pittsfield, MA 01201. Representative: Raymond A. Richards, 35 Curtice Pk., Webster, NY, 716–265–9510. Transporting *petroleum and petroleum products*, between points in NY and MA.

MC 160412, filed February 4, 1982. Applicant: PETRO TANK LINES, INC., P.O. Box 2184, West Memphis, AR 72301. Representative: John Paul Jones, P.O. Box 3140, Front Street Station, 189 Jefferson Ave., Memphis, TN 38103, 901–527–2482. Transporting *petroleum*, between points in Shelby County, TN, on the one hand, and, on the other, points in Ashley, Chicot, Clay, Cleburne, Craighead, Crittenden, Cross, Desha, Drew, Greene, Independence, Jackson, Jefferson, Lawrence, Lee, Lincoln, Lonoke, Mississippi, Monroe, Phillips, Poinsett, Prairie, Pulaski, Randolph, St. Francis, Sharp, White and Woodruff Counties, AR.

MC 160413, filed February 4, 1982. Applicant: BARBARA A. BROWN, d.b.a. FREEDOM TRAVEL, Box 90–A RDI Lake Carey, Tunkhannock, PA 18657. Representative: John Hovan, 154 Warren St., Tunkhannock, PA 18657, 717–836–2850. As a *broker*, at Tunkhannock, PA, in arranging for the transportation of *passengers and their baggage*, between points in PA, on the one hand, and, on the other, points in the U.S.

MC 160422, filed February 5, 1982. Applicant: CLEAR LAKE TRUCK & CRANE, INC., 3430 Finley Rd., Lakeport, CA 95453. Representative: Mike Pavlakis, Box 646, Carson City, NV 89702, 702–882–0202. Transporting *machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and pick up thereof, between points in WA, OR, CA, ID, NV, UT, and CO.

MC 160452, filed February 5, 1982. Applicant: ONLY WAY TRUCKING, INC., 6920 East U.S. 223, Ottawa Lake, MI 49267. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215, 614–228–8575. Transporting *metal products*, between points in OH, IN, IL, and MI, on the one hand, and, on the other, points in WI, IL, MI, IN, KY, TN, OH, WV, PA, NY, NJ, CT, RI and MA.

Volume No. OP–37

Decided: February 23, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 73533 (Sub-27), filed February 8, 1982. Applicant: KEY WAY TRANSPORT, INC., 620 South Oldham St., Baltimore, MD 21224. Representative: W. F. Lamperelli (same address as applicant), 301–327–5800. Transporting *food and related products*, between points in the U.S., under

continuing contract(s) with Pompeian, Inc., of Baltimore, MD.

MC 80653 (Sub-33), filed February 2, 1982. Applicant: DAVID GRAHAM CO., P.O. Box 254, Levittown, PA 19059. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005–2075, (202) 347–3867. Transporting *machinery, building materials, metal products, lumber and wood products, clay, concrete, glass or stone products,* and *such commodities,* the transportation of which, because of size or weight, require the use of special equipment, between points in the U.S. (except AK, CT, DE, HI, IL, IN, KY, MA, MI, MD, NC, NJ, NY, OH, PA, RI, VA, WV, and DC).

MC 128473 (Sub-50), filed February 5, 1982. Applicant: HAROLD DICKEY TRANSPORT, INC, Packwood, IA 52580. Representative: Doug Dickey (same as applicant), (319) 695–3601. Transporting *food and related products,* between points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 145742 (Sub-10), filed February 5, 1982. Applicant: BOLES TRUCKING, INC., R.R. #1 Ina, IL 62846. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (618) 437–5428. Transporting *acids and chemicals, machinery, engines, and machinery and engine parts,* between points in the U.S., under continuing contract(s) with Precision National, Inc., of Mt. Vernon, IL.

MC 154103 (Sub-6), filed February 5, 1982. Applicant: MID-SOUTH FREIGHT, INC., 28 Industrial Park Drive, P.O. Box 446, Hendersonville, TN 37075. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202, (502) 589–5400. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with R. R. Donnelley and Sons, of Gallatin, TN, Target Trading, of New Milford, CT, Apex International, of Bicknell, IN, and Golden Dipt Company, of Millstadt, IL.

MC 154772, filed February 1, 1982. Applicant: CUTLER-MAGNER COMPANY, 12th Ave. W. & The Waterfront, P.O. Box 60607, Duluth, MN 55802. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402, 612–340–0600. Transporting *building and construction materials,* between points in Cook, Kane, Whiteside, Tazewell, and Peoria Counties, IL, Henry County, IA, Upper Peninsula of MI, and points in WI, MN, ND, and SD.

MC 156103 (Sub-2), filed February 4, 1982. Applicant: MASS TRANSPORT, INC., 12 Mason St., Worcester, MA 01609. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, 413–781–8205. Transporting (1) *coin, currency and instruments and documents used in the business of banks and banking institutions in armored motor vehicles escorted by armed guards,* and (2) *such commercial papers, documents and written instruments* (except coin, currency, and negotiable instruments) *as are used in the business of banks and banking institutions,* between points in the U.S., under continuing contract(s) with (a) Northern Connecticut National Bank, of Windsor Locks, CT, (b) Worcester County National Bank, of Worcester, MA, (c) Federal Reserve Bank of Boston, of Boston, MA, (d) Guaranty Bank and Trust, of Worcester, MA, and (e) Food Mart, division of Waldbaum, Inc., of Holyoke, MA.

MC 156313 (Sub-1), filed February 5, 1982. Applicant: FALCON, INC., RD. #1, Rte. 19, Harmony, PA 16037. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219, 412–281–9494. Transporting *metals,* between points in the U.S., under continuing contract(s) with Keystone Resources, of Pittsburgh, PA

MC 156313 (Sub-3), filed February 5, 1982. Applicant: FALCON, INC., R.D. #1 Rte. 19, Harmony, PA 16037. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219, 412–281–9494. Transporting *fire suppression units,* between points in the U.S., under continuing contract(s) with T. Messner & Associates, of Williamsville, NY.

MC 160432, filed February 5, 1982. Applicant: MICHAEL J. CANGELOSI, d.b.a. MICHAEL J. CANGELOSI TRUCKING, 1383 Fremont St., Anaheim, CA 92804. Representative: Michael J. Cangelosi (same as applicant), (712) 827–8357. Transporting *lumber and wood products, and building materials,* between points in Clark County, NV, AZ and CA.

MC 160453, filed February 5, 1982. Applicant: SCHROCK, INC., Broderick St., Berlin, PA 15530. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219, 412–281–9494. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Somerset County, PA, and extending to points in the U.S. (including AK but excluding HI).

Volume No. OP 3–032

Decided: February 23, 1982.

By the Commission, Review Board No. 2. Members Carleton, Fisher, and Williams.

MC 74 (Sub-11), filed February 4, 1982. Applicant: VALLEY TRANSIT COMPANY, INC., P.O. Box 1870, Harlingen, TX 78551. Representative: Paul D. Angenend, P.O. Box 2207, 1806 Rio Grande, Austin, TX 78551, (512) 476–6391. (A) Over regular routes, transporting *passengers and their baggage, and express and newspapers,* in the same vehicles with passengers, (1) between Mission, TX and Roma, TX over U.S. Hwy 83, serving all intermediate points; (2) between Harlingen, TX and Houston, TX, from Harlingen over U.S. Hwy 77 to junction Texas Hwy 44, then over Texas Hwy 44 to Corpus Christi, then over Interstate Hwy 37 to junction U.S. Hwy 77, then over U.S. Hwy 77 to junction U.S. Hwy 59, then over U.S. Hwy 59 to Houston, and return over the same route, serving the intermediate points of Corpus Christi and Raymondville, TX; (3) between Harlingen, TX and San Antonio, TX, from Harlingen over U.S. Hwy 77 to junction Interstate Hwy 37 and Texas Hwy 9, then over Interstate Hwy 37 and Texas Hwy 9 to junction U.S. Hwy 281, then over U.S. Hwy 281 to San Antonio, and return over the same route, serving the intermediate points of Raymondville, Kingsville, and Robstown, TX; (B) over irregular routes, transporting passengers and their baggage, in charter and special party operations, beginning and ending at Corpus Christi, Kingsville, Mission, Raymondville, Robstown and Roma, TX and extending to points in the U.S.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 10115 (Sub-13), filed February 8, 1982. Applicant: C. D. ZIMMERMAN, INC., P.O. Box 293, R.D. #2, Mifflintown, PA 17059. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, (717) 233–5731. Transporting *fabricated metal products* (except ordnance) between points in Mifflin County, PA, on the one hand, and, on the other, points in CT, DE, FL, GA, IL, IN, MD, MI, NC, NJ, NY, OH, OK, SC, TX, VA and WV.

MC 30114 (Sub-13), filed February 10, 1982. Applicant: MOLA TRUCKING, INC., d.b.a. MITCHKO TRUCKING, 650 Myrtle Ave., Boonton, NJ 07005. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 435–7140. Transporting *general commodities* (except classes A and B explosives, hazardous materials, household goods, and commodities in bulk), between the facilities of Drew Chemical Corporation, its subsidiaries, division, and vendors,

at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 116004 (Sub-67), filed February 8, 1982. Applicant: TEXAS OKLAHOMA EXPRESS, INC., P.O. Box 47112, Dallas, TX 75247. Representative: Doris Hughes (same address as applicant), (214) 438–2611. Over regular routes, transporting *general commodities* (except classes A and B explosives), between Texarkana, AR/TX and New Orleans, LA; from Texarkana, AR/TX over US Hwy 71 to junction U.S. Hwy 190, then over US Hwy 190 to junction Interstate Hwy 10, then over Interstate Hwy 10 to New Orleans, LA, and return over the same route, serving all intermediate points and serving points in Calcasieu, Ouachita and Lafayette Parishes, LA and Jefferson County, TX as off-route points.

MC 142935 (Sub-28), filed February 10, 1982. Applicant: PLASTIC EXPRESS, 2301 E. Francis Street, Ontario, CA 91761. Representative: Richard C. Celio, 2300 Camino Del Sol, Fullerton, CA 92833, (714) 738–3889. Transporting *food and related products,* between points in CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 144225 (Sub-5), filed February 10, 1982. Applicant: JADEEL TRUCKING, INC., 8333 W. McNab Rd., Tamarac, FL 33321. Representative: Raymond P. Keigher, 401 E. Jefferson St., Suite 102, Rockville, MD 20850, (301) 424–2420. Transporting *metal and vinyl products,* between points in the U.S., under continuing contract(s) with A.D.M. Industries, Inc., of Miami, FL.

MC 145825 (Sub-2), filed February 8, 1982. Applicant: TRANS CONTINENTAL LEASING, LTD., 6920 Pershall Road, Hazelwood, MO 63042. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Thomas J. Lipton, Inc., of Englewood Cliffs, NJ, Ralston Purina Company, of St. Louis, MO, Banquet Foods Corporation, of Ballwin, MO, Dana Brown Private Brands, Inc., of St. Louis, MO, Green Bay Food Co., Division of Dean Foods, Green Bay, WI, and Schnuck Markets, Inc., of Bridgeton, MO.

MC 147585 (Sub-12), filed February 17, 1982. Applicant: DICK WELLER, INC., Shoham Rd., Warehouse Point, CT 06088. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, (413) 781–8205. Transporting *food and related products,* between the facilities of Chef Reddy, at or near Park Rapids, MN, on the one hand, and, on the other, points in the U.S.

MC 148175 (Sub-5), filed February 16, 1982. Applicant: ROBERT DENTON d.b.a. SPIRIT TRUCKING, 8700 S. Wolf Rd., Hinsdale, IL 60521. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603, (312) 782–8880. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NJ, on the one hand, and, on the other, Chicago, IL.

MC 148275 (Sub-8), filed February 16, 1982. Applicant: J. L. McCOY, INC., P.O. Box 525, Ravenswood, WV 26164. Representative: John M. Friedman, 2930 Putnam Ave., P.O. Box 426, Hurricane, WV 25526, (304) 562–3480. Transporting (1) *metal products,* between points in the U.S., (except AK and HI), under continuing contract(s) with Met-Tech Industries, Inc., of Cambridge, OH, and (2)(a) *paper and paper products,* and (b) *containers,* between points in the U.S., under continuing contract(s) with Stone Container Corporation, of Chicago, IL.

MC 148445 (Sub-11), filed February 16, 1982. Applicant: WLD TRUCKING COMPANY, a Corporation, 4527 North 16th St., P.O. Box 32458, Phoenix, AZ 85064. Representative: Phil B. Hammond, 3003 N. Central, Suite 2201, Phoenix, AZ 85012, (602) 266–2224. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Sunshine Mills, Inc., of Tupelo, MS.

MC 152744 (Sub-3), filed February 16, 1982. Applicant: CITADEL TRANSPORT, INC., 180 N. Michigan Ave., Chicago, IL 60601. Representative: Thomas M. O'Brien, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603, (312) 263–1600. Transporting *such commodities* as are dealt in or used by processors and distributors of food and related products, between points in the U.S., under continuing contract(s) with Swift & Company, of Chicago, IL.

MC 153474 (Sub-2), filed February 16, 1982. Applicant: WAYNE THOMAS, d.b.a. C & W TRUCKING, P.O. Box 261, R.D. 3, DuBois, PA 15801. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 No. Second St., Clearfield, PA 16830, (814) 765–0611. Transporting *metal products,* between points in Clearfield County, PA, on the one hand, and, on the other, points in the U.S.

MC 157045, filed February 16, 1982. Applicant: R.T.C., INC. d.b.a. REPKA TRUCKING COMPANY, INC., 1515 South Walnut, South Bend, IN 46614. Representative: Richard A. Huser, 1301 Merchants Plaza, Indianapolis, IN 46204–3491, (317) 636–1301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in La Porte, St. Joseph, Elkhart, Starke, Allen, Marshall, Kosciusko, Pulaski, and Fulton Counties, IN, Berrien and Cass Counties, MI, and Chicago, IL.

MC 157514, filed February 16, 1982. Applicant: WILLIAM A. SMITH, 308 E. Maumee, Adrian, MI 49221. Representative: James R. Neal, 1200 Bank of Lansing Bldg., Lansing, MI 48933, (517) 482–2400. Transporting *food and related products,* (1) between points in Hillsdale County, IL, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, ME, MD, MA, MI, MO, NH, NJ, NY, OH, PA, RI, VT, VA and WV, and (2) between points in Suffolk County, MA, on the one hand, and, on the other, points in IL, IN, MI, OH and WI.

MC 158585, filed February 16, 1982. Applicant: U.S. SERVICES, INC., 14168 Orange Ave., Suite D, Paramount, CA 90723. Representative: David P. Christianson, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017, (213) 627–8471. Transporting *waste materials, hazardous waste materials, recycleable materials and polychlorinated biphenols,* between points in the U.S. Condition: The authority granted herein to the extent it authorizes the transport of hazardous materials is limited in point of time to a period of five (5) years from the date of issuance.

MC 160085, filed February 8, 1982. Applicant: NEBRASKA SALT & GRAIN CO., Route 2, Box 1, Gothenburg, NE 69138. Representative: Jesse F. Davis, 3917 East Funston, Wichita, KS 67218. Transporting *shale aggregate,* in bulk, between points in the U.S., under continuing contract(s) with Valley Block Co., of Loveland, CO.

MC 160155, filed February 11, 1982. Applicant: MCT, INC., 6640 West Touhy Ave., Niles, IL 60648. Representative: Leonard R. Kofkin, 29 South La Salle St., Chicago, IL 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contracts with (a) Wells Lamont Corporation, of Niles IL, (b) Reliance Comm/Tec, a Division of Reliable Electric, of Franklin Park, IL, (c) Contract Designs, Inc., of Memphis, TN, (d) National Presto Industries, Inc., of Eau Claire, WI, (e) A1-Ways Air Freight, Inc., of Bensenville, IL, (f) All-Pro Air Systems, Inc., of Elk Grove Village, IL, and (g) Southeast Shippers Association, of Memphis, TN.

MC 160195 (Sub-1), filed February 2, 1982. Applicant: SAN RAFAEL TRUCK

LINE, P.O. Box 3916, Phoenix, AZ 85030. Representative: Kinley T. Gleave (same address as applicant), (602) 254–1957. Transporting *primary metal products* and *fabricated metal products*, between points in Maricopa County, AZ, on the one hand, and, on the other, points in CA, CO, ID, NV, OR, UT and WA.

MC 160514, filed February 10, 1982. Applicant: BROTHERS SAVARESE TRUCKING, INC., 100 Hollister Road, Teterboro, NJ 07608. Representative: Edward F. Bowes, Seven Becker Farm Rd., P.O. Box Y, Rodeland, NJ 07068, (201) 992–2200. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Majestic Industries, Inc., of Teterboro, NJ.

MC 160545, filed February 11, 1982. Applicant: TLC TOURS, RD #1, Box 155, Eaton, IN 42338. Representative: June Medsker (same address as applicant), (317) 396–3434. Transporting *passengers and their baggage*, in special operations, limited to the transportation of not more than 15 passengers (excluding the driver thereof), beginning and ending at points in IN and OH, and extending to points in the U.S.

MC 160604, filed February 16, 1982. Applicant: CASTLE LEASING, INC., R.R. #4, Box 157, New Castle, IN 47362. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting (1) *metal products*, (2) *machinery* and (3) *those commodities* which because of their size or weight require specialized equipment or handling, between Denver, CO, Philadelphia, PA, Houston, TX, and points in IN, on the one hand, and, on the other, points in the U.S.

Volume No. OP4–65

Decided: February 23, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 51146 (Sub-862), filed February 18, 1982. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Charles Singer, 3061 Ridge Rd., Green Bay, WI 54304, (414) 497–2201. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with General Foods Corporation, of White Plans, NY, and its subsidiaries.

MC 105636 (Sub-43), filed February 18, 1982. Applicant: ARMELLINI EXPRESS LINES, INC., Crane Creek Pky., P.O. Box 2394, Stuart, FL 33494. Representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 11th St., NW, Washington, DC 20001, (202) 628–6243. Transporting *general commodities* (except classes A and B explosives), between points in Cattaraugus County, NY and points in OH and PA, on the one hand, and, on the other, points in FL.

MC 144606 (Sub-25), filed February 16, 1982. Applicant: DUNCAN & SON LINES, INC., 714 E. Baseline Rd., Buckeye, AZ 85326. Representative: Donald W. Powell, 4150 N. 12th St., Phoenix, AZ 85014, (602) 241–0777. Transporting *waste or scrap materials* not identified by industry producing, between points in AZ, CA, CO, NM, TX, and UT.

MC 144616 (Sub-18), filed February 16, 1982. Applicant: SOUTHWESTERN CARRIERS, INC., P.O. Box 79495, Saginaw, TX 76179. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Ft. Worth, TX 76112, (817) 457–0604. Transporting *food and related products*, between points in the U.S.

MC 159386, filed February 16, 1982. Applicant: DOUG EHRLICH, INC., 201 East Arbor, #202E, Bismarck, ND 58501. Representative: Charles E. Johnson, P.O. Box 773, Bismarck, ND 58502, (701) 223–5300. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Plywood Distributing Co., Inc., of Wheaton, IL, Holland Construction Co., and Holland Loader Co., both of Billings, MT.

MC 160128, filed February 16, 1982. Applicant: STARLINE SIGHTSEEING TOURS, INC., 6845 Hollywood Blvd., Los Angeles, CA 90028. Representative: James H. Lyons, 523 W. 6th St., Suite 1216, Los Angeles, CA 90014, (213) 626–6451. Transporting *passengers and their baggage*, in the same vehicle with passengers, in round-trip charter and special operations, beginning and ending at points in Los Angeles and Orange Counties, CA, and extending to points in AZ, ID, NM, NV, OR, UT, and WA.

MC 160276 (Sub-1), filed February 11, 1982. Applicant: BIGELOW TRANSPORTATION CO., INC., P.O. Box 3089, Greenville, SC 29602. Representative: William H. Borghesani, Jr., 1150 17th St., NW., Washington, D.C. 20036, (202) 457–1122. Transporting *such commodities* as are dealt in or used by department and trading stamp redemption stores, between points in the U.S., under continuing contract(s) with The Sperry and Hutchinson Company, Inc., of New York, NY.

MC 160436, filed February 16, 1982. Applicant: CUSTOMIZED TRANSPORTATION SERVICE, INC., 2414 Jacobs Dr., New Albany, IN 47150. Representative: Harold C. Jolliff, 3242 Beech Dr., Columbus, IN 47201, (812) 379–2556. Transporting *pulverized limestone*, between points in the U.S., under continuing contract(s) with Airco Carbide, a division of Airco, Inc., of Louisville, KY.

Volume No. OP4–69

Decided: February 23, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 144606 (Sub-24), filed February 16, 1982. Applicant: DUNCAN & SON LINES, INC., 714 E. Baseline Rd., Buckeye, AZ 85326. Representative: Donald W. Powell, 4150 N. 12th St., Phoenix, AZ 85014, (602) 241–0777. Transporting *pulp, paper and related products*, between points in Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties, CA, on the one hand, and, on the other, points in Maricopa and Pima Counties, AZ.

MC 146516 (Sub-10), filed February 16, 1982. Applicant: ALEXANDER TRUCKING, INC., 1209 S. Woodland Dr., Dothan, AL 36301. Representative: Daniel O. Hands, Suite 200–A 205 W. Touhy Ave., Park Ridge, IL 60068, (312) 696–2235. Transporting *chemicals and related products* (except classes A and B explosives and commodities in bulk), between New Orleans, LA, on the one hand, and, on the other, points in AL, AR, GA, MS, OK, TN, and TX.

MC 158406 (Sub-1, filed February 18, 1982. Applicant: COMPU-TRANSPORT, INC., 5800 Corporate Way, West Palm Beach, FL 33407. Representative: Dr. H. Nathan Yagoda, 75 Anderson Dr., Wayne, NJ 07040, (201) 595–5177. Transporting *used automobiles and used trucks*, between points in the U.S.

MC 160626, filed February 18, 1982. Applicant: RONNIE G. SMITH, d.b.a. BLUE RIDGE MOUNTAIN TOURS, 20 A S. Main St., Marion, NC 28752. Representative: Bobby Lynn Frisbee (same address as applicant), (704) 652–4594. To operate as a broker, at Marion, NC, in arranging for the transportation of *passengers and their baggage*, in charter and special operations, beginning and ending at points in McDowell, Burke, Rutherford, Avery, Yancey, Catawba, Iredell, and Mitchell Counties, NC, and extending to points in the U.S.

Volume No. OP4–70

Decided: February 22, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 28067 (Sub-25), filed February 16, 1982. Applicant: WILLIAMS MOTOR TRANSFER, INC., South Vine St., Barre, VT 05641. Representative: John P. Monte, P.O. Box 686, Barre, VT 05641, (802) 476–6671. Transporting *building materials equipment and machinery* between those points in the U.S. in and east of ND, SD, NE, CO, OK, and TX, on the one hand, and, on the other, points in NH and VT.

MC 89617 (Sub-31), filed February 17, 1982. Applicant: LEWIS TRUCK LINES, INC., P.O. Box 1494, Conway, SC 29526. Representative: Herbert Alan Dubin, 818 Connecticut Ave., NW. Washington, DC 20006, (202) 331–3700. Transporting *machinery and metal products*, between points in Franklin County, PA, on the one hand, and, on the other, points in Horry County, SC.

MC 100507 (Sub-11), filed February 16, 1982. Applicant: FAIRFIELD TRUCKING, INC., Box 272, Hamburg, AR 71646. Representative: James R. Holt, P.O. Box 523, Collierville, TN 38017. Transporting *chemicals and related products*, between points in AL, AR, LA, MS, MO, TN, and TX.

MC 126327 (Sub-21), filed February 18, 1982. Applicant: TRAILS TRUCKING, INC., 1825 De La Cruz Blvd., Santa Clara, CA 95050. Representative: John W. White Jr. (same address as applicant), (408) 727–9000. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of grocery products, between points in the U.S.

MC 149157 (Sub-8), filed February 18, 1982. Applicant: STYLE CRAFT TRANSPORT, INC., Highway 71 South, Milford, IA 51351. Representative: Foster L. Kent, P.O. Box 285, Council Bluffs, IA 51502–285, (712) 323–6124. Transporting *such merchandise* as is dealt in or used by home furnishing outlet stores, between points in the U.S., under continuing contract(s) with Midwest Waterbed Distributors, Inc., of Waite Park, MN.

MC 126327 (Sub-22), filed February 16, 1982. Applicant: TRAILS TRUCKING, INC., 1825 De La Cruz Blvd., Santa Clara, CA 95050. Representative: John W. White Jr. (same address as applicant), (408) 727–9000. Transporting *plastic and rubber products*, between points in the U.S.

MC 153987, filed February 16, 1982. Applicant: CONTRANS, INC., 25 James St., New Haven, CT 06513. Representative: Donald S. Baillie, P.O. Box 765, Cheshire, CT 06410, (203) 272–2933. Transporting *general commodities* (except classes A and B explosives), between points in CT, on the one hand, and, on the other, New York, NY. Condition: A grant of authority is conditioned upon the receipt from applicant of a satisfactory explanaton why the proposed operations are not proscribed by 49 U.S.C. 11323, which limits the ownership and control of other carriers by freight forwarders.

MC 150987 (Sub-4), filed February 16, 1982. Applicant: DYSART'S TRANSPORTATION, INC., MRC 158, Bangor, ME 04401. Representative: John F. O'Donnell, 60 Adams St., P.O. Box 238, Milton, MA 02187, (617) 696–7010. Transporting *general commodities* (except household goods and classes A and B explosives), between points in ME, on the one hand, and, on the other, points in the U.S. (except HI and AK).

MC 156207, filed February 16, 1982. Applicant: CHARLES J. UNRATH AND JAMES C. UNRATH, d.b.a. BLUE RIVER TRANSPORT, P.O. Box 237, Delafield, WI 53018. Representative: Richard C. Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203, (414) 273–7410. Transporting *transportation equipment*, between points in the U.S. (except AK and HI), under continuing contract(s) with Canadian Kenworth Company, division of Paccar, of Canada, Ltd.

MC 160557, filed February 16, 1982. Applicant: PATTERSON FARMS TRUCKING, INC., R.R. 2, Garnett, KS 66032. Representative: William B. Barker, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601, (913) 234–0565. Transporting *food and related products*, between points in Ford County, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160587, filed February 16, 1982. Applicant: RONALD H. MOORE, d.b.a. MOORE TRUCKING, 1660 Dearborn St., Aurora, IL 60505. Representative: Anthony E. Young, 29 S, LaSalle St., Chicago, IL 60603, (312) 782–3660. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of insulation, between points in the U.S., under continuing contract(s) with Forty-Eight Insulators, Inc., of Aurora, IL.

Volume No. OP5–41

Decided: February 18, 1982.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

MC 118836 (Sub-94), filed February 5, 1982. Applicant: GABOR TRUCKING, INC., P.O. Box 678, Detroit Lakes, MN 56501. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333–1341. Transporting *metal products* between points in the U.S., under continuing contract(s) with Ex-L-Tube, Inc., of Minneapolis, MN.

MC 127739 (Sub-9), filed February 10, 1982. Applicant: BOYCE BRUCE TRUCKING CO., INC., 517 N. Metts St., Louisville, MS 39339. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205, 601–948–5711. Transporting *iron and steel articles*, between points in Winston County, MS, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MO, NE, NM, NC, ND, OH, OK, PA, SC, SD, TN, TX, VA, WV, and WI.

MC 141318 (Sub-18), filed February 4, 1982. Applicant: WEATHER SHIELD TRANSPORTATION, LTD., P.O. Box Ltd., Medford, WI 54451. Representative: Robert S. Lee, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, (612) 333–1314. Transporting *salt, salt products, and food seasoning compounds*, between points in the U.S., under continuing contract(s) with Morton-Norwich Products, Inc., of Chicago, IL.

MC 144180 (Sub-18), filed February 10, 1982. Applicant: CORPORATE TRANSPORT INC., 107 7th North St., Liverpool, NY 13088. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528, 914–835–4411. Transporting *such commodities* as are dealt in by manufacturers of paper and paper products, between points in the U.S. under continuing contract(s) with Foster Paper Company, Inc. of Utica, NY.

MC 145106 (Sub-62), filed February 4, 1982. Applicant: BULLET EXPRESS, INC., P.O. Box 280, Bay Ridge Station, Brooklyn, NY 11220. Representative: Robert L. Van Buren, (same address as applicant), (212) 492–7332. Transporting *food and related products* between points in the U.S. (except AK and HI), under continuing contract(s) with Kane-Miller Corporation and Amelio Brothers and Co., Inc., both of Chicago, IL.

MC 151118 (Sub-18), filed February 9, 1982. Applicant: MDR CARTAGE, INC., 516 West Johnson, Jonesboro, AR 72401. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701, 601–355–2576. Transporting (1) *pulp, paper and related products*, (2) *printed matter*, and (3) *machinery*, between Chicago, IL; and points in Iroquois County, IL; Lenawee County, MI; Middlesex County, CT; Dunklin County, MO; Lamar County, TX; Hardin County, TX; Douglas County, OR; Stevens County, GA; Lake County, OH; and Riverside County, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151669, filed February 8, 1982. Applicant: A. M. ROUTLEY TRUCKING

LTD., 11420 Granville Ave., Richmond, B.C. Canada V6Y 1R6. Representative: Jim Pitzer, 15 South Grady Way—Suite 321, Renton, WA 98055, (206) 235–1111. In foreign commerce only, transporting (1) *general commodities in containers*, (2) *concrete, clay and stone*, (3) *chemicals* (except classes A and B explosives), (4) *scrap metal*, (5) *roofing tile and systems, and* (6) *lumber and wood products*, between ports of entry on the International boundary line between the U.S. and Canada in WA, on the one hand, and, on the other, points in WA, OR, CA, UT, NV, TX, and CO.

MC 155769 (Sub-1), filed February 8, 1982. Applicant: A.G.S. TRANSPORT, INC., 8428 Southampton Dr., Miramar, FL 33025. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 N.W. 53rd. St., Miami, FL 33166, 305–592–0036. Transporting *rubber and plastic products*, between points in the U.S.

MC 156129 (Sub-1), filed February 10, 1982. Applicant: REGAL TRANSPORTATION, INC., P.O. Box 310, Niles, OH 44446. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between the facilities of Bostwick Steel Lath Company of Niles, OH, and The Bostwick Steel Framing Company of Knoxville, TN, on the one hand, and, on the other, points in the U.S.

MC 159439, filed February 9, 1982. Applicant: RICHARD McDOLE, d.b.a. REX TOWING AND WELDING, 1931 First St., Rock Island, IL 61201. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *wrecked and disabled motor vehicles and trailers, and replacements therefor*, between points in Rock Island County, IL, on the one hand, and, on the other, points in IA.

MC 159859, filed February 10, 1982. Applicant: J WAY STERILE SERVICE, INC., 639 Ramsey Ave., Hillside, NJ 07205. Representative: A. David Millner, 7 Becker Farm Rd., P.O. Box "Y", Roseland, NJ 07068, 201–992–2200. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Mars Manufacturing Company of Asheville, NC; Isomedix, Inc. of Whippany, NJ; International Corp. of Hillside, NJ; Baumgartner Associates of So. Plainfield, NJ; Bridgestone Tire Co. of America, Inc. of Torrance, CA; and C. H. Dexter Division, The Dexter Corporation of Windsor Locks, CT.

MC 160419, Filed February 4, 1982. Applicant: POE TRAVEL SERVICE, 915 Cumberland St., P.O. Box 2576, Little Rock, AR 72203. Representative: James B. Rule (same address as applicant), (501) 376–4171. To operate as a *broker* at Little Rock, AR in arranging transportation of *passengers and their baggage*, in special and charter operations, between points in the U.S.

MC 160429, filed February 5, 1982. Applicant: OHIO HIGHWAY EXPRESS, INC., 2416 W. Superior Ave., Cleveland, OH 44113. Representative: Ted Waite, Jr., (same address as applicant), (216) 771–4429. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in OH, on the one hand, and, on the other, points in MI.

MC 160489, filed February 8, 1982. Applicant: MARTIN BROTHERS, INC., P.O. Box 851, Evanston, WY 82930. Representative: Dennis S. Chapman, 656 E. 3230 North, Provo, UT 84604, 801–375–0971. Transporting *Mercer commodities*, between those points in the United States in and west of ND, SD, NE, KS, OK, TX, and LA.

MC 160506, filed February 10, 1982. Applicant: THE DEPOT, INC., 3301 West Central Ave., Toledo, OH 43606. Representative: Jerry Simons (same address as applicant), 419–537–1500. To operate as a *broker* at Toledo, OH, in arranging for the transportation of *passengers and their baggage*, in the same vehicle with passengers, in special or charter operations, beginning and ending at points in OH, MI, IN, PA and WV, and extending to points in the U.S.

MC 160509, filed February 9, 1982. Applicant: NORTH AMERICAN TRAILS, 111 Stoney Brook Rd., Belmont, MA 02178. Representative: Robert Accetta (same address as applicant), 617–489–2883. To operate as a *broker*, at Belmont, MA, in arranging the transportation of *passengers and their baggage*, in the same vehicle with passengers, in special or charter operations between points in the U.S.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5801 Filed 3-1-82; 8:45 am]
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[Volume No. 237]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: February 24, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the Federal Register of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,
Secretary.

MC 18738 (Sub-No. 68)X, filed February 4, 1982. Applicant: SIMS MOTOR TRANSPORT LINES, INC., 610 West 138th St., Riverdale, IL 60627. Representative: Carl L. Steiner, 29 South LaSalle St., Chicago, IL 60603. Lead and Subs 20, 21, 22, 23, 24, 25, 27, 28, 32, 33, 37, 38, 43, 44, 46F, 59F, 61F, 62F, 63F, 64F and 66F certificates: (A) Broaden from (1)(a) lead (pages 1, 2, 3, 4 and 5) and Subs 21, 25, 27, 28, 32, 38, 43, 44, 46F, 59F, 61F, 62F, 63F, and 64F, iron and steel products; scrap, iron, steel and metals; iron and steel and articles made thereof; wire, coated iron and steel articles; sheet steel and coils; and steel mill products to "metal products"; (b) lead (pages 2 and 3), soap, ammonia and glycerin and soap to "chemicals and related products"; (c) lead (pages 2, 4 and 5), glass products and stone to "stone, clay and glass products"; (d) lead (pages 2 and 3), dog food, canned eggs, and packing house products to "food and related products to "food and related products"; (e) lead (page 2) and Sub 43, refrigeration equipment and contractors machinery, equipment, supplies and material to "machinery"; (f) lead (page 2), pitch to "petroleum and petroleum products"; and, (g) lead (page 3) and Subs 24, 33 and 37, roofing materials, composition building slabs, reinforced precast concrete forms or shapes and laminated panels to "building materials"; (B) remove (1) lead and Subs 20, 22 and 23, all exceptions from the general commodities description, except classes A and B explosives, household goods and commodities in bulk; (2) lead (pages 2 and 3) "in truckload lots only" restriction; (3) Sub 20, "immediately prior movement by water carrier" restriction; (4) Sub 28, "size or weight" restriction; (5) Subs 28, 32, 37 and 43, "originating at and/or destined to" restriction; (6) Subs 32 and 43, "commodities in bulk" restriction; (7) Subs 24, 32, 44, 46F, 61F, 62F, and 63F, facilities restriction; and (8) Sub 24, restriction prohibiting service at (a) points any part of which is traversed by indicated portions of said highways, and, (b) Detroit, MI, and points in the Detroit, MI, commercial zone; (C) broaden to (1) lead (regular routes), all intermediate points; (2) lead, county-wide authority from off-route points: (a) (page 1), Lafayette (Tippecanoe County, IN) and Bradley (Kankakee County, IL); and (b) (page 3), Dunkirk (Jay County, IN) (3) countywide authority: (a) lead (page 4), St. Paul (Decatur County, IN) and Glenmont (Holmes County, OH); Federal and Chicago, IL (Madison and Cook, Lake, DuPage and Will Counties IL, and Lake and Porter Counties, IN) and Middletown (Butler County, OH); Mansfield (Richland County, OH) and Buffalo (Erie County, NY); (b) lead (page 5), Chicago, IL (Cook, Lake, DuPage and Will Counties, IL and Lake and Porter Counties, IN); (c) Sub 20, Piqua (Miami County, OH) and Holland, Grand Rapids and Lansing (Ottawa, Kent and Ingham Counties, MI); (d) Sub 21, Aurora (Dearborn County, IN); (e) Sub 22, Buckner (Oldham County, KY); (f) Sub 23, Burlington (Des Moines County, IA); Paducah (McCracken County, KY); Piqua (Miami County, OH), and Holland, Grand Rapids and Lansing (Ottawa, Kent and Ingham Counties, MI); (g) Sub 24, North Judson (Starke County, IN); (h) Sub 25, Joliet (Will County, IL); (i) Sub-No. 33, Pittsburgh (Allegheny, Butler, Westmoreland, Washington and Beaver Counties, PA); (j) Sub 38, Danville and Decatur (Vermilion and Macon Counties, IL) and Edon, Sidney and Toledo (Williams, Shelby and Lucas Counties, OH); (k) Sub 43, Indian Oaks (Kankakee County, IL); (l) Sub 44, Kingsbury (La Porte County, IN); (m) Sub 46F, Sterling and Rock Falls (Whiteside County, IL); (n) Sub 59F, Joliet (Will County, IL); (o) Sub 61F, Youngstown and Lorain (Mahoning and Lorain Counties, OH); (p) Sub 62F, Butler and Leechburg (Butler and Armstrong Counties, PA); Zanesville (Muskingum County, OH); and Chicago, IL (Cook, Lake, DuPage and Will Counties, IL, and Lake and Porter Counties, IN); (q) Sub 63F, Aliquippa and Pittsburgh (Beaver, Allegheny, Butler, Westmoreland, and Washington Counties, PA) and Youngstown (Mahoning County, OH); and, (r) Sub 64F, Chicago, IL, (Cook, Lake, DuPage and Will Counties, IL, and Lake and Porter Counties, IN) and Horicon (Dodge County, WI); and, (4) radial authority, lead (irregular routes), and Subs 21, 24, 27, 28, 32, 33, 37, 38, 44, 46F, 62F, 63F, and 64F.

MC 35835 (Sub-No. 35)X, filed February 10, 1982. Applicant: JENSEN TRANSPORT, INC., 300 Ninth Ave., S.E., Independence, IA 50644. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Lead and Subs 17, 18, 19, 22, 24, 25, 26, 29, 30, 31, 32 and 34 certificates: (A) Broaden to (1) lead, "farm products" from livestock; "metal products" from hardware; "textile mill products" from twine; "chemicals and related products" from fertilizer; "machinery" from agricultural implements and parts, and batteries and electric generators; "pulp, paper and related products" from egg cases, egg case fillers, and egg case materials; "materials, equipment and supplies used in the manufacture of Casein" from equipment used in the manufacture of casein; "transportation equipment" from automobile parts and accessories; "household goods" from emigrant moveables; "printed matter" from advertising matter; (2) "food and related products" from (a) lead, feed, casein, corn oil, corn syrup, corn syrup mixtures, liquid sugar and blends thereof, beer and malt beverages; (b) Subs 17 and 19, Corn Syrup, liquid sugar and blends thereof; (c) Sub 18, corn syrup; (d) Sub 22, corn oil, corn gluten, corn starch, potato starch, corn gluten feed and meal and corn germ meal; (e) Sub 24, corn products and blends; (f) Sub 25, dry soybean products; (g) Sub 26, liquid animal and poultry feed; (h) Subs 29, 31 and 32, corn products; (i) Sub 30, lactose and Lactose products; and (j) Sub 34, beverages; (B) remove (1) commodities in bulk restriction, all Subs, except 30, 32 and 34; (2) plantsite restriction, Subs 19, 29 and 31; (3) in containers restriction, lead and Sub 32; (4) specified commodity restriction, Sub 31; (5) in tank vehicles restriction, lead and Subs 17, 19, 22, 26, 29 and 31; and (6) originating at and/or destined to restriction, Subs 19, 24 and 29; (C) broaden to (1) county-wide authority: (a) lead and Sub 30, Buchanan County, IA (Independence); (b) lead, Buchanan County IA (Jesup, Aurora, Fairbank, Hazelton and Lamont), and Benton, Bremer, Black Hawk, Delaware, Fayette and Linn Counties, IA (points within 25 miles of Independence); (c) Sub 29, Cook County, IL (Elk Grove Village); (d) lead, Bremer County, IA (Summer, Tripoli and Plainfield); Fayette County, IA (Hawkeye, Oelwein, Randalia and Westgate), Bremer, Chickasaw and Fayette Counties, IA (points within 15 miles of Sumner), Bremer, Chickasaw, Fayette and Winneshiek Counties, IA (points within 15 miles of Hawkeye), Linn County, IA (Alburnett and Cedar Rapids); (e) Sub 24, Linn County, IA (Cedar Rapids); (f) lead, Linn, Benton, Buchanan, Cedar, Johnson and Jones Counties, IA (points within 15 miles of Alburnett); McHenry County, IL (Union); (g) lead and Sub 24, Clinton County, IA (Clinton); (h) lead, Jones County, IA (Olin), Muscatine County, IA (Wilton Junction (now Wilton)); (i) Sub 24, Muscatine County, IA (Muscatine); (j) lead, Black Hawk County, IA (Waterloo), Bulter County, IA (Clarksville and Shell Rock), Johnson County, IA (Iowa City), Whiteside County, IL (Erie), Winnebago County, IL (Rockford), Hancock County, IL (Warsaw), Cerro Gordo County, IA (Mason City), LaCrosse County, WI (LaCrosse), St. Joseph County, IN (South Bend); (k) Sub 30, Franklin County, OH and St. Joseph County, MI (Columbus, OH and Sturgis, MI); and, (1) Sub 31, Tazewell County, IL (Pekin); and, (2) radial authority, all Subs.

MC 73828 (Sub-No. 5)X, filed February 16, 1982. Applicant: D & R MOVING & TRUCKING, INC., 3670 West Oceanside Road, Oceanside, NY 11572. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, D.C. 20036. Subs 2 and 3, broaden household goods to "household goods and furniture and fixtures".

MC 89369 (Sub-26X), filed February 16, 1982. Applicant: JOART TRUCKING COMPANY, P.O. Box 332, New Brunswick, NJ 08903. Representative: Edward F. Bowes, Seven Becker Farm Road, P.O. Box Y, Roseland, NJ 07068. Lead and Subs 12, 13, 15, 16, 17, 18, 20F, 22F, and 23F: (1) Broaden to

"commodities in bulk" from (all in bulk) liquid commodities, vegetable and fish oil, and sea animal oils, lead; dry synthetic plastics, Subs 13 and 18; dry chemicals, Sub 15; plastic materials and synthetic latex, Sub 16; chlor-alkali products, Subs 17 and 23F; dry plastic materials, Sub 20F; soda ash and dry plastic materials, Sub 22F; and benzyl chloride, in shipper owned cargo tanks, Sub 12; (2) remove the in tank and/or hopper type vehicles restrictions, lead and Subs 13, 15, 17, 18, 20F, 22F, and 23F; (3) remove facilities limitations, Subs 15, 16 and 23F and the originating at and/or destined to restriction, Subs 16 and 17; (4) eliminate ex-rail or ex-water restriction, Sub 22F; (5) change one-way to radial authority, lead, and Subs 12, 13, 15, 16, 17, 18, 22F, and 23F; and (6) change cities to county-wide authority: Philadelphia, PA (Philadelphia, Bucks, Montgomery, Chester and Delaware Counties), Stamford and Bridgeport, CT (Fairfield County), New Haven and Hartford, CT (New Haven and Hartford Counties), Providence, RI (Providence, Bristol and Kent Counties, RI and Bristol County, MA), Easton, PA (Northampton and Bucks Counties, PA and Warren County, NJ), Allentown, PA (Lehigh County), Chester, PA (Delaware County), Marcus Hook, PA (Delaware County), Pottstown, PA (Montgomery, Berks, and Chester Counties), Reading, PA (Berks County), Conshohocken and Catasauqua, PA (Montgomery and Lehigh Counties), and Buchanan and Newburgh, NY (Westchester, Orange, and Dutchess Counties), lead; Delaware City, DE (New Castle County), Subs 13, 18 and 23F; Burlington, NJ (Burlington County), Sub 15; Perryville, MD (Cecil County), Sub 16; Linden, NJ (Union County), Sub 17; Anderson, SC (Anderson County), Sub 18; and Solvay, NY (Onondaga County), Bayonne, NJ (Hudson, Essex, Middlesex and Union Counties, NJ, Bronx, New York, Queens, Kings and Richmond Counties, NY), and Paulsboro, NJ (Gloucester County), Sub 23F.

MC 107496 (Sub-1285X), filed February 4, 1982. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. Subs 398, 408, 421, 476, 538, 661, 724, 737, 767, 801, 965, 985, 992, 1010, 1011, 1019, 1027, 1028, 1030, 1037, 1045, 1083, 1087, 1119, 1139, 1176, 1200, 1219, 1222, 1223, 1250, 1288, and 1278 broaden (1) to "food and related products" from Sub 398, liquid animal feed supplements; Sub 408, feed ingredients; Sub 421, inedible tallow; Sub 476, dry sugar; 538, fish oils, fish protein meals, fish flours and blends; Sub 661, starch and blends thereof, and corn products; Sub 724, edible oils and blends thereof; Sub 737, vegetable oil; Sub 767, liquid feed and liquid feed supplements, feed, liquid feed supplements, dry feed ingredients; Subs 801, 1010 and 1083, corn products and blends containing corn products; Sub 985, flour, sugar, corn syrup and blends thereof; Sub 985, liquid animal feed and feed supplements, inedible tallow; Sub 992, liquid feed supplements; Sub 1011, sugar, corn products, and blends containing corn products; Sub 1019, animal mucosa; Sub 1027, products of corn (except corn oil); Sub 1028, sugar and corn products; Sub 1030, hog mucosa; Sub 1037, products derived from corn and blends containing corn products derived from corn, Sub 1045, liquid feed and liquid feed supplements, and liquid feed supplements; Sub 1087, animal and poultry feed and animal and poultry feed ingredients; Sub 1119, liquid sugar and corn syrup; Sub 1139, feed grade phosphate; Sub 1176, sweeteners; Subs 1200 and 1223, flour; Subs 1219 and 1250, sugar, corn syrup, and blends of sugar and corn syrup; Subs 1222 and 1288 tallow; and Sub 1278, soybean oil, animal fats & oils, and animal and plant foods, feeds, supplements and ingredient; to "chemicals and related products" from potash and superphosphate, dry, Sub 737; liquid chemicals, Sub 965; vinyl acetate, Sub 985; liquid chemicals (except fertilizer) and liquid weed killing compounds, Sub 992; lead oxide (litharge) and caustic soda, Sub 1011; (2) remove facilities limitation, in bulk, in tank vehicles, originating at/destined to, interlining and ex-rail restriction, (3) remove excetion to named commodities, Subs 396 (4) remove restriction to service from named facilities in Sub 801; (5) remove exception to (a) Phoenix, AZ, in Sub 724 (b) Springfield, MO in Sub 985 to allow statewide authority, (c) Richmond and Smithfield, VA, Springfield and Verona, MO, Chattanooga, TN and West Alexandria, OH, to allow nationwide authority, Sub 1030, (6) from Morrill, NE to Scottsbluff County; Lucerne, CO to Weld County; Weeping Water, NE to Cass County; Denver, CO to Denver County; Memphis, TN to Shelby County, TN and Crittenden County, AR; Menominee, MI to Menominee County; Lincoln, NE to Lancaster County; Des Moines and West Des Moines, IA to Polk County; Havana, IL to Mason County; Savage, MN to Scott, Hennepin and Dakota Counties; Omaha, NE to Douglas and Sarpy Counties, NE and Pottawattamie County, IA; Battle Creek, MI to Calhoun County; Crete, NE to Saline County; Cedar Rapids, Clinton, Muscatine and Keokuk, IA to Linn, Clinton, Muscatine and Lee Counties; Kansas City, MO to Jackson and Clay Counties, MO and Wyandotte County, KS; Union, IL to McHenry County; Clarence, IA to Cedar County, Smithfield, KY to Henry County; Blair, NE to Washington County, Lafayette, IN to Tippecanoe County; Decatur, AL to Morgan County, Indianapolis, IN to Marion County; St. Paul, MN to Ramsey and Hennepin Counties; Cordova, IL to Rock Island County; Chicago and Pekin, IL to Cook and Tazewell Counties; Kansas City, KS-Kansas City, MO to Jackson and Clay Counties, MO and Wyandotte County, KS; Franklin, OH to Warren and Williams Counties; North Chicago, IL to Cook County; Montezuma, NY to Cayuga County; Sterling, CO to Logan County; Nebraska City, NE to Otoe County; Supreme, LA to Assumption Parish; Marseilles, IL to La Salle County; St. Louis, MO to St. Louis, MO and St. Louis and St. Charles Counties, MO and Madison and St. Clair Counties, IL; Reserve, LA to St. John the Baptist Parish; Amarillo, TX to Potter and Randall Counties; Dakota City and West Point, NE to Dakota and Cuming Counties; Denison and Ft. Dodge, IA to Crawford and Webster Counties; Luverne, MN to Rock County; Emporia, KS to Lyon County; St. Joseph, MO to Buchanan County; Birmingham, AL to Jefferson County; Holcomb, KS to Finney County, and (7) to radial authority.

MC 112223 (Sub-136X) filed February 10, 1982. Applicant: QUICKIE TRANSPORT COMPANY, 1700 N.E. New Brighton Blvd., Minneapolis, MN 55413. Representative: Val M. Higgins, 1600 TCF Tower, Minneapolis, MN 55402. Subs 2, 4, 6, 8, 31, 34, 35, 36, 38, 41, 43, 45, 47, 49, 52, 54, 57, 58, 60, 63, 64, 65, 67, 71, 73, 78, 79, 81, 83, 85, 86, 87, 88, 91, 92, 93, 97, 98, 100, 103, 104, 105, 106F, 109F, 111F, 113F, 115F, 116F, 121F, 123F, 125F, 128F, 130, 131F, 132, 133F, and 134F; (1) broaden to (a)"food and related products" from molasses (Subs 2, part 1, and 8), fat and tallow (Sub 35), tallow (Sub 52), and edible sugar, dry (Sub 131F); (b) "coal and coal products" from coal and coke (Subs 2, part 2, 31, 49, 65, 73, and 91); (c) "petroleum, natural gas and their products" from petroleum products (Subs 2, part 3,4, 6, 36, 59, 61, 109F, and 123F), petroleum and petroleum products (Subs 34, 45, 83, and 85), petroleum and petroleum products (except anhydrous ammonia (Sub 93), jet fuel (sub 54), liquified petroleum gas (Subs 106F, 130, and 132F), and liquid gas, LPG (Sub 128F); (d)"chemicals and related products" from phosphate & phosphate compounds, dry (Sub 38), liquid fertilizer and fertilizer solutions (Subs 41, 113F, and 133 F), fertilizer compounds, urea ammonium nitrate fertilizer and superphosphate (Sub 57), dry fertilizer, dry fertilizer compounds and dry fertilizer materials (Sub 60), mixed liquid fertilizer (Sub 63), dry fertilizer and dry fertilizer ingredients (Sub 71), inedible animal fat (Sub 78), epoxidized vinyl plasticizers (Sub 86), salt (Sub 87), liquid concrete admixture (Sub 88), anhydrous ammonia (Subs 97, 103, 104, 105, and 125F), fertilizer and fertilizer ingredients (Subs 111F and 115F); (d) "clay, concrete, glass or stone products" from cement (Subs 43, 64, and 67) and mineral filler (Sub 79); (e) "ores and minerals" from aggregate, silica sand, trap rock, and limestone (Sub 47, landscape rock (Sub 92), crushed stone (Sub 98, parts 2 and 3), and bentonite clay (Sub 121F); (f) "building materials" from roofing granules (Sub 98, part 1); and (g) "metal products" from foundry slag (Sub 100), castings (Sub 116F), and fly ash (Sub 134F); (2) remove in bulk and/or vehicles restrictions, wherever they appear in the above named Subs; (3) remove the facilities or airport limitations, Subs 2, 4, 6, 36, 43, 54, 64, 67, 81, 83, 85, 97, 100, 103, 104, 106F, 115F, and 116F, and the originating at or destined to restrictions, Subs 45, 49, 59, and 116F; (4) change one-way to radial authority in the above named Subs; and (5) replace cities with counties: Crookston and Port Cargill (Savage), MN (Polk and Scott Counties), Chaska, East Grand Forks, Moorehead, Minneapolis and St. Paul, MN (Carver, Scott, Polk, Clay, Anoka, Hennepin, Dakota, Washington and Ramsey Counties, MN, Grand Forks and Cass Counties, ND, and St. Croix and Pierce Counties, WI), and Hastings, MN and Des Moines, IA (Dakota and Washington Counties, MN, Pierce County, WI and Polk County, IA), Sub 2; Hastings, MN and Des Moines, IA (Dakota and Washington Counties, MN, Pierce County, WI and Polk County, IA), Sub 4; Wrenshall, MN (Carlton County), Sub 6; Crookston and Polk Cargill (Savage), MN (Polk and Scott Counties), Sub 8; Superior, WI (Douglas County, WI and St. Louis County, MN), Ashland, WI (Ashland and Bayfield Counties), La Crosse, WI (La Crosse County, WI and Winona and Houston Counties, MN), Duluth, MN (St. Louis and Carlton Counties, MN and Douglas County, WI), Red Wing, MN (Goodhue County, MN and Pierce County, WI) and points in Wisconsin within 100 miles and Red Wing (Vernon, Monroe, Jackson, Clark, Taylor, Buffalo, Rusk, Sawyer, Washburn, Burnett, Pierce, St. Croix, Chippewa, Polk, Barron, Dunn, Eau Claire, Pepin, Trempealeau, Crawford, Vernon, La Crosse, Wood, and Marathon Counties, WI), Sub 31; Eau Claire and points with 20 miles thereof (Eau Claire, Trempealeau, Buffalo, Pepin, Dunn and Chippewa Counties, WI), Sub 34; New Richmond, WI (St. Croix County), Sub 35, approximately 4 miles west of Duluth, MN and points within 2 miles thereof (St. Louis County, MN), Sub 36; Stillwater, Red Wing and Wabasha, MN (Washington, Goodhue, and Wabasha Counties, MN, and St. Croix, Pierce and Buffalo Counties, WI), and Minneapolis and St. Paul, MN (Anoka, Carver, Hennepin, Ramsey, Scott, Dakota and Washingto Counties, MN and St. Croix and Pierce Counties, WI), Sub 38; Prescott, WI and Jackson, MN (Pierce County, WI and Dakota, Washington and Jackson Counties, MN), Sub 41; Mason City, IA (Cerro Gordo County), Sub 43; Marshall, MN (Lyon County), Sub 45; Berlin and Portage, WI (Green Lake and Columbia Counties), Dresser, WI (Polk County), and Linwood, IA and Kenosha, Manitowoc, Milwaukee, Racine and Sparta, WI (Scott County, IA and Kenosha, Manitowoc, Milwaukee, Waukesha, Washington, Ozaukee, Racine and Monroe Counties, WI), Sub 47; Pine Bend, MN (Dakota County), Sub 49; Barron, WI (Barron County), Sub 52; Grand Forks, ND and points within 10 miles thereof and Duluth, MN (Grand Forks County, ND and Polk and St. Louis Counties, MN), Sub 54; Port Cargill, MN (Scott County), Sub 57; Wrenshall, MN (Carlton County), Sub 59; St. Paul, MN (Anoka, Hennepin, Dakota, Carver, Scott, Ramsey and Washington Counties, MN and St. Croix and Pierce Counties, WI), Sub 60; Jackson, MN (Jackson County), Sub 63; Burnsville Township, Dakota County, MN (Dakota County), Sub 64; Fargo, ND (Cass County, ND and Clay County, MN), Sub 67; Pine Bend, MN (Dakota County), Sub 71; Arcadia, WI (Trempealeau County), Sub 78; Eyota, MN (Olmstead County), Sub 81; St. Cloud, MN (Stearns, Benton and Sherburne Counties), and Milford, and Le Mars, IA (Dickinson and Plymouth Counties), Sub 83; Spring Valley, MN (Fillmore County), Sub 85; Blooming Prairie, MN (Steele County), Sub 86; Pine Bend, MN (Dakota County), Sub 87; Minneapolis, MN (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington Counties, MN and St. Croix and Pierce Counties, WI), Sub 88; Glenwood, MN (Pope County), and Grand Forks, ND (Grand Forks County, ND and Polk County, MN), Sub 97; Wausau and Kremlin, WI (Marathon and Chippewa Counties), Sub 98; Waupaca, WI (Waupaca County), Sub 100; Barnesville and Benson, MN (Clay and Swift Counties), Sub 103; Spencer and Holstein, IA, and David City, NE (Clay and Ida Counties, IA and Butler County, NE), Sub 104; Algona, Spencer and Garner, IA (Kossuth, Clay, and Hancock Counties), Sub 105; New Hampton, IA, Benson and Mankato, MN, and Carrington, ND (Chickasaw County, IA, Swift, Blue Earth and Nicollet Counties, MN, and Foster County, ND), Sub 108F; Superior, WI (Douglas County, WI and St. Louis County, MN), Sub 109F; Grand Forks ND (Grand Forks County, ND and Polk County, MN), Sub 111F; Alexandria, MN (Douglas County), Sub 113F; Mason City, IA (Cerro Gordo County), Sub 115F; Berlin and Waupaca, WI and Fridley, MN (Green Lake, Waushara and Waupaca Counties, WI and Anoka, Hennepin and Ramesy Counties, MN), Sub 116F; Minot, ND (Ward County), Sub 123F; Pine Bend and Vernon Center, MN (Dakota and Blue Earth Counties), Sub 125F; Mankato and Vernon Center, MN (Blue Earth and Nicollet Counties), Sub 128F; Minneapolis and Vernon Center, MN (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, Washington and Blue Earth Counties, MN and St. Croix and Pierce Counties, WI), and Clear Lake and Sanborn, IA (Cerro Gordo and O'Brien Counties), Sub 130; Chaska, Crookston, Moorehead and Renville, MN and Wahpeton, ND (Carver, Scott, Polk, Clay, Renville, and Wilkin Counties, MN and Cass and Richland Counties, ND), Battle Creek, MI (Calhoun County), Evansville and Lafayette, IN (Vanderburgh and Tippecanoe Counties, IN and Henderson County, KY), Chicago and Kankakee, IL (Lake, Cook, DuPage, Will and Kankakee Counties, Il and Lake County, IN), Sub 131; Mentor, MN (Polk County), Sub 132F; Minneapolis, St. Paul and Pine Bend, MN (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington Counties, MN and St. Croix and Pierce Counties, WI); Sub 133F; and Alma, WI (Buffalo County), Sub 134F.

MC 119700 (Sub-81X), filed February 8, 1982. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Alex M. Lewandowski, Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Lead and Subs 2, 3, 7, 8, 9, 12, 14, 15, 16, 16G, 28, 29, 31, 34, 36, 37, 41, 42, 44, 45, 48, 49, 50, 51, 53, 54, 61, 63, 66, 69, 70, 71, 72, 73, 74, and 75: (1) Replace one-way service with radial; (2) broaden commodities to: (a) "metal products," from iron and steel articles (Subs 2, 3, 7, 9, 12, 29, 31, 34, 36, 37, 42, 45, 50, 53, 54, 61, 66, 70, 71, 72, 73, 74, and 75), and from iron and steel,

aluminum, and tanks and parts (Sub 28); (b) "metal products, building materials, and lumber and wood products," from steel articles, such materials as are used or useful on highway construction projects, used steel forms used on highway construction projects, iron and steel wire, in coils, used steel and wooden spools, and pallets and other incidental articles (lead certificate); (c) "lumber and wood products," from lumber, wooden pallets, posts and poles, particleboard, and lumber mill products (Subs 14, 16, and 18); (d) "lumber and wood products, and building materials," from lumber, lumber mill and wood products, plywood, and particleboard (Sub 48), and from wallboard, particleboard, composition board, lumber, insulation, piling, posts and poles, and construction materials (Sub 49); (e) "ores and minerals," from quarry stone and granite (Sub 14); (f) "pulp, paper and
related products," from wood pulp, paper, and paper products (Sub 15); (g) "clay, concrete, glass or stone products," from refractories (Sub 28); (h) "building materials," from gypsum, wallboard and joint cement (Sub 41), from plastic pipe and conduit, plastic and iron fittings and connections, valves, hydrants, gaskets, and commodities used in the installation of plastic pipe and conduit (Sub 51), and from plastic pipe and fittings (Sub 63); (i) "prefabricated metal buildings," from prefabricated metal buildings, knocked down (Sub 31); and (j) "metal products, and building materials," and manufactured wire products (Sub 69); (3) broaden cities and plantsites to countywide: lead certificate, Jackson, Clay, Platte and Cass Counties, MO and Johnson, Wyandotte and Leavenworth Counties, KS (Kansas City, MO): St. Louis, St. Charles and Jefferson Counties, MO, St. Louis, MO, and Monroe, St. Clair and Madison Counties, IL (St. Louis): Green County, MO (Springfield): Cook, DuPage, Lake and Will Counties, IL and Lake County, IN (Chicago): Washington, Douglas and Sarpy Counties, NE and Pottawattamie and Mills Counties, IA (Omaha): Oklahoma and Cleveland Counties, OK (Oklahoma City): and Racine, Waukesha, Milwaukee and Washington Counties, WI (Milwaukee); lead and Sub 9, Tulsa County, OK (Tulsa); lead and Sub 2, Monroe, St. Clair and Madison Counties, IL (points in IL within the St. Louis, MO-East St. Louis, IL commercial); Sub 2, Porter County, IN (Portage); Subs 3 and 36, Whiteside County, IL (Sterling); Subs 7 and 37, Putnam County, IL (plantsite in Putnam County); Sub 12, Jackson, Clay, Platte and Cass Counties, MO and Johnson, Wyandotte and Leavenworth Counties, KS (plantsite in the Kansas City, MO/KS commercial zone); Sub 14, Iron County, MO (Graniteville); Sub 15, Harris and Angelina Counties, TX (plantsites at Herty and Sheldon); Sub 16, Union County, AR (Huttig): and Winn Parish, LA (Lillis and Winnfield); Sub 18, Shelby and Fayette Counties, TN, Crittenden County, AR, and DeSoto and Marshall Counties, MS (Memphis); Sub 29, Liberty County, TX (facilities in Liberty County); Sub 31, Doniphan County, KS (facilities near Wathena); Sub 34, Franklin County, MO (Gerald); Sub 41, Hardeman County, TX (Acme); Sub 42, Leon County, TX (facilities near Jewett); Sub 44, Dallas, Kaufman, Johnson, Tarrant, Denton, Collin and Rockwall Counties, TX (facilities at Dallas); Sub 45, Franklin County, MO (facilities near Union); Sub 48, Sabine and Natchitoches Parishes, LA (plantsites near Zwolle and Natchitoches); Sub 49, Angelina and Sabine Counties, TX (facilities near Diboll and Pineland); Sub 50, Trumbull, Mahoning, Cuyahoga, Medina, Summit, Geauga, Lake and Lorain Counties, OH (facilities at McDonald, Cleveland, and Lorain); Sub 51, Boone County, MO (facilities near Columbia); Sub 53, Boyd and Greenup Counties, KY (facilities at Ashland), and Warren and Butler County, OH (Middletown); Sub 54, Washington and Dakota Counties, MN (facilities near Newport); Sub 61, Monroe County, MI (facilities near Monroe); Sub 63, Phelps County, MO (facilities at Rolla); Sub 66, St. Francois County, MO (Farmington); Sub 69, Marshall County, OK (Madill); Sub 70, Shelby and Fayette Counties, TN, Crittenden County, AR, DeSoto and Marshall Counties, MS (Memphis): Harris, Brazoria, Fort Bend and Chambers Counties, TX (Houston): and Sandusky, Erie, Seneca and Huron Counties, OH (Bellevue); Sub 71, Douglas County, KS (facilities near Lawrence); and Sub 72, Franklin County, KS (Ottawa); and (4) remove various restrictions: (a) against transportation of cement, rock, sand, and gravel (lead certificate), pipe, tubes, tubing, and commodities requiring special equipment (Subs 2 and 3), oilfield and pipeline commodities (Sub 12), commodities in bulk (Subs 7, 29, 41, and 49), and newsprint (Sub 15); (b) requiring transportation in "vehicles equipped with filtered ventilators (lead certificate); (c) on service "originating at or desinted to" the named origins and destinations (Subs 7, 12, 16, 28, 29, 34, and 38); (d) against service to Gary, IN and its commercial zone (Sub 9); and St. Louis, MO and its commercial zone (Sub 14); and (e) limiting traffic to specified commodities when moving together with other specified commodities (Sub 12).

MC 142983 (Sub-3X), filed February 16, 1982. Applicant: IRON & METAL TRUCKING, INC., 701 Stones Levy, Cleveland, OH 44113. Representative: Andrew Jay Burkholder, 275 E. State St., Columbus, OH 43215. Sub 2 permit, broaden (1) coke, flue dust, and mill scale, in bulk, in dump vehicles to "commodities in bulk", and (2) to between points in the U.S. (except AK and HI), under a continuing contract(s) with named shipper.

MC 146436 (Sub-12X), filed February 16, 1982. Applicant: ETV, INC., P.O. Box 393, Comstock Park, MI 49321. Representative: Miss Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226. Subs 2F, 4F, and 6F: (1) Broaden frozen food and materials and supplies (Subs 2F and 6F) and frozen bakery goods and material and supplies (Sub-4F) to "food and related products, and material and supplies"; (2) change one-way to radial authority, Subs 2F, 4F, and 6F; (3) remove facilities limitations and/or the originating at and destined to restriction, Subs 2F, 4F, and 6F; (4) remove except commodities in bulk restriction, Subs 2F and 6F, and size and weight restriction, Sub 6F; and (5) change cities to counties: Saugtuck and Benton Harbor, MI (Allegan and Berrien Counties), Louisville, KY (Jefferson County), and Montgomery and Fort Payne, AL (Montgomery and DeKalk Counties), Sub 2F; Zeeland, MI (Ottawa County), Pottstown, Lake Winola, Fogelsville and Philadelphia, PA (Montgomery, Wyoming, Lehigh and Philadelphia Counties), and McMinnville, Portland, and Salem, OR (Yamhill, Multnomah and Marion Counties), Sub 4F; and Traverse City, MI (Grand Traverse County) and Forest, MS (Scott County), Sub 6F.

MC 148335 (Sub-3X), filed February 16, 1982. Applicant: RAIL FLITE TRANSPORTATION, INC., 7718 Stevens Rd., Darien, IL 60559. Representative: Alex J. Miller, 555 S. Woodward Ave., Suite 512, Birmingham, MI 48011. Sub 2F, broaden (1) from general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) to general commodities (except classes A and B explosives), and (2) remove the ex-rail restriction.

MC 148472 (Sub-6X), filed February 16, 1982. Applicant: CLOVER CLUB FOODS COMPANY, P.O. Box 228, Kaysville, UT 84037. Representative: Bruce W. Shand, Ste. 280, 311 S. State St., Salt Lake City, UT 84111. Sub 2 Permit broaden to between points in the United States, under continuing contract(s) with named shippers.

[FR Doc. 82-5800 Filed 3-1-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP3-037]

Motor Carriers; Permanent Authority; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of opposing verified statements must be filed with the Commission within 45 days after the date of this Federal Register notice. Applicant may file verified statement in rebuttal within 60 days. Such pleadings shall comply with 49 CFR 1100.247 (renumbered 1100.251) addressing specifically the issue(s) indicated as the purpose for republication. Special Rule 247 (renumbered 251) was published in the Federal Register of July 3, 1980, at 45 FR 45539.

MC 139785 Sub-4 (republication) filed August 3, 1981 previously published in Federal Register issue of August 26, 1981. Applicant: LIETZ TRANSPORTATION, INC., Route 1, Coloma, WI 54930. Representative: John L. Bruemmer, 121 W. Doty St., Madison, WI 53703. A Decision by the Commission, Division 2, Acting as an Appellate Division, decision February 12, 1982, and served February 19, 1982, finds that the performance by applicant of service described herein to operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *food and related products*, between points in the United States under continuing contract(s) with Kickapoo Fur Foods, Inc. and Lea Bros., of Alma Center, WI, Coloma Meat Products, Inc., Coloma, WI, and Wisconsin Brand, Inc., of Iola, WI, and (2) *metal products, lumber and wood products*, and *packaged oils and greases*, between points in the United States, and under continuing contract(s) with ORC Industries, Inc. and its subsidiary, Weber Industries, Inc., of LaCrosse, WI. Robert Netzer doing business as Ronco Body Co., Coloma, WI, Performance Products, Ltd., of Rice Lake, WI, and Ted Mannstedt & Son, Inc., of LaCrosse, WI; that the applicant is fit, willing, and able to properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to reflect the applicant's actual grant of authority.

MC 258754 (republication) filed October 13, 1981, previously published in Federal Register issue of October 29, 1981. Applicant: LLOYD C. PIERCE d.b.a. ASSOCIATED EXPRESS, 1539 Mines Avenue, Montebello, CA 90640. Representative: Lloyd C. Pierce, 1539 Mines Avenue, Montebello, CA 90640. A Decision of the Commission, Review Board 2, decided February 11, 1982, and served February 22, 1982, finds that the performance by applicant of the service described herein to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting, (1) *chemicals and related products* (except classes A and B explosives), between points in Los Angeles and Orange Counties, CA, on the one hand, and, on the other, points in California, Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Texas, Washington, and Wyoming, (2) contractors' *equipment and building materials*, between points in Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada Oregon, Utah, Texas, Washington, and Wyoming, and (3) metal products, between Los Angeles, CA, and Memphis, TN, on the one hand, and, on the other, those points in the United States on and west of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundaries of Itasca County, MN, thence northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary between the United States and Canada; that the applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to reflect the applicant's actual grant of authority.

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5802 Filed 3-1-82; 8:45 am]
BILLING CODE 7035-01-M

[Rate Application No. MC-1523]

Motor Carriers; Rate Application; Proposed Amendment

AGENCY: Interstate Commerce Commission.

ACTION: Notice. Released Rate Application No. MC-1523.

SUMMARY: National Motor Freight Traffic Association, on behalf of all common carriers by motor vehicles or railroads and freight forwarder participants in the National Motor Freight Classification ICC NMF-100-H, seek to amend Released Rate Order No. MC-545 to increase the released values on glass-ceramic ware or laminated glassware, cooking or serving, from the existing range of 35¢ to $5 per pound to a range of 90¢ to $12.65 per pound.

ADDRESS OF APPLICANT: William W. Pugh, Counsel, National Motor Freight Traffic Association, Inc., 1616 "P" Street, NW., Washington, DC 20036, Tel. (202) 797-5310.

FOR FURTHER INFORMATION CONTACT: Mr. Max Pieper, Unit Supervisor, Bureau of Traffic, Interstate Commerce Commission, Washington, DC 20423, Tel. (202) 275-7832.

SUPPLEMENTARY INFORMATION: Relief is sought under 49 U.S.C. 10730 and 11707.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5801 Filed 3-1-82; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Crown Oil Corp.; Proposed Final Judgment and Competitive Impact Statement

Pursuant to the Antitrust Procedures and Penalties Act ["APPA"] 15 U.S.C. 16(d), the Antitrust Division published below Comments it received on the proposed Final Judgment in *U.S. v. Crown Oil Corporation, et al.*, Civ. No. 81-0787-TJH C.D. Ca., together with its Responses thereto.

Joseph H. Widmar,
Director of Operations, Antitrust Division.

Copies of the exhibits are filed with the original document and may be inspected at the Office of the Clerk, Central District of California, and in the Legal Procedures Unit, Room 7418, Department of Justice, Washington, D.C.

U.S. District Court, Central District of California

United States of America, Plaintiff, v. *Crown Oil Corporation; Granex Corporation, U.S.A.; and Pan Pacific Commodities*, Defendants.

Civil No. 81-0787-TJH, Government's response to comments of PVO International Inc.; Comments of PVO International Inc.

Pursuant to the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. 16(d), the Government hereby publishes and responds to the comments of PVO International Inc.

(hereinafter "PVO") concerning the proposed Final Judgment in *United States* v. *Crown Oil Corp., et al.*, Civ. No. 81-0787-TJH (C.D. Cal., filed Feb. 17, 1981). The Government has carefully reviewed the comments of PVO and has concluded that the issues it raises do not warrant any modification of the proposed Final Judgment.

I. The Terms of the Proposed Final Judgment Will Provide Effective Relief

As PVO recognizes (PVO Comment, at 2), the complaint in this action alleged a price-fixing conspiracy. The proposed Final Judgment enjoins not only the fixing of prices but also any discrimination in prices or other terms of sales between or among refiners, end-users or dealers of crude or refined coconut oil. In addition, the proposed Final Judgment prohibits communication of information on price or other terms of sales with others involved in marketing coconut oil, except in connection with a bona fide purchase or sale. The defendants are also required to institute antitrust compliance programs, and the proposed decree allows for inspection by the Government to assure compliance with the Judgment's terms. Thus, contrary to PVO's suggestion that the proposed Final Judgment will provide ineffective relief, the proposed decree provides all of the injunctive relief sought by the complaint as well as all of the relief that could reasonably be expected to be obtained after a full trial.

Despite this high level of consistency between the complaint and the proposed decree, PVO attempts to demonstrate that the decree will not provide effective relief by suggesting that the defendants' activities are currently illegal. Such a claim is both factually unsupported by PVO and inappropriate in the context of the Court's determination of whether or not the proposed Final Judgment should be entered. Although the complaint alleges activities which would be a *per se* violation of the Sherman Act, 15 U.S.C. 1, the existence and legality of those activities were at issue in this case. Thus, unless and until the Court enters the proposed decree, defendants are not enjoined from any of those activities.

Further, the nature of the alleged illegal practices concerning PVO is peculiarly underfined in its Comment. Notwithstanding PVO's assertion that it is particularly well qualified to know of the continuing illegality (PVO Comment, at 2), PVO makes no showing of illegal activity. It does not claim, for instance, that the defendants' prices for crude coconut oil sold to PVO were uniformly determined. Indeed, its only "proof" of alleged price discrimination is that defendant Granex Corp. sells refined coconut oil at a lower price than PVO is able to, even though PVO has a new and efficient refinery.

PVO seeks modification of the proposed decree before its entry "so that relief will be accomplished * * *." (PVO Comment, at 4). Not surprisingly, however, inasmuch as the proposed Final Judgment is highly consistent with the complaint in this action, PVO makes no suggestion for modification of that proposed decree to accomplish that nonspecific desire for relief.

This proposed decree fully meets the test of *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1144 (C.D. Cal. 1978), and it should be entered. Once entered, if PVO has evidence of business practices in violation of the decree and brings it to the Government's attention, the Government will be in a position to enforce the decree against any defendant in violation of it.

II. The Terms of the Proposed Final Judgment Are Consistent With the Public Interest

The APPA conditions entry of the proposed Final Judgment on the Court's finding the Judgment to be in the public interest. 15 U.S.C. 16(e). In making the public interest determination, this Court may consider:

(1) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) The impact of entry of such judgment upon the public generally and individuals *alleging specific injury from the violations set forth in the complaint* including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e) (1), (2) (emphasis added).

PVO relies upon 15 U.S.C. 16(e)(2) to claim that entry of the proposed Final Judgment will adversely affect the public in two ways. First, it asserts that the public will be harmed by the resulting unemployment and economic dislocation which will follow possible closure of PVO's refinery. Second, the public, as consumers, will be injured if defendants increase their prices following PVO's demise.

Even assuming PVO's parade of horribles were more than mere speculation, the underlying illegality complained of by PVO is an attempt to monopolize by defendants. (PVO Comment, at 4). That allegation, however, was not made by the Government in the complaint in this action. Thus, even were the need for such remedies factually supported, remedies for an attempt-to-monopolize violation are not appropriate for inclusion in the proposed Final Judgment.

The Government has examined the impact of the proposed decree on competition. The terms of the Final Judgment are designed to prevent any recurrence of the activities alleged in the complaint. It is also designed to ensure that in the future the defendants' prices will be independently determined and will be free from the restraining and artificial influences which result from communications and agreements among competitors. Thus, the proposed decree protects the public interest by remedying the violations alleged in the complaint and assuring healthy competition in the future. It should therefore be entered.

Conclusion

The terms of the proposed Final Judgment provide effective relief. They provide all of the injunctive relief sought in the complaint. Therefore, the proposed decree is consistent with the public interest as it fully redresses the violations alleged in the complaint. For these reasons, it is appropriate that the proposed Final Judgment be entered without modification upon certification by the Government of its compliance with the publication requirements of the APPA.

Dated: February 10, 1982.

Respectfully submitted,

Stephen S. Trott,
U.S. Attorney.
Leon W. Weidman,
Assistant U.S. Attorney, Chief, Antitrust Division.
Kathryn W. Tate,
Assistant U.S. Attorney.

U.S. District Court Central District of California

United States of America, Plaintiff, v. *Crown Oil Corporation; Granex Corporation, U.S.A.; and Pan Pacific Commodities*, Defendants.

Civil No. 81-0787-TJH.
Filed.
Entered.

Comment Relating to Proposed Consent Judgment

PVO International Inc. (hereinafter PVO) objects to entry of the proposed final judgment on the grounds that the judgment would provide no effective relief from the unlawful price fixing and discriminatory pricing by defendant described in the government's complaint. PVO also objects to entry of the proposed judgment on the further grounds that it would be contrary to the public interest. For those reasons PVO requests that the Court refuse to approve the proposed judgment unless and until it terms are refined and modified so that it will afford meaningful relief from defendants' violations of the antitrust laws.

1. The Proposed Judgment Provides No Effective Relief

The complaint in this action alleged violations of Section 1 of the Sherman Act by which the three named defendant corporations and unnamed co-conspirators agreed, *inter alia*, to: "raise, fix, maintain and stabilize the price of crude coconut oil in the United States" and to "refuse to sell crude coconut oil to purchasers in the United States, other than defendants or their co-conspirators, for less than certain set prices". *See* Complaint, § 12 (a) and (c) at p. 5.

The government has now entered into a consent agreement with defendants under which these violations supposedly are to have ceased. But that consent agreement has not resulted in any change in defendants' illegal business practices, as PVO can attest. PVO, a California corporation, engages in the business of refining, processing, and marketing edible and industrial oils. A very substantial part of PVO's business has involved coconut oil. PVO is and has been a direct purchaser of crude coconut oil from defendants. PVO is also a refiner which converts crude coconut oil into refined and sells refined oil in competition with defendant Granex Corporation. Because of the nature of its business, PVO is thus particularly well qualified to know that this consent decree has not caused defendants to cease their illegal practices.

Throughout the pendency of the government's suit, and continuing to the present, defendant Granex is selling refined coconut oil on the open market in the United States at one cent a pound less than PVO's manufacturing costs—the cost of buying crude coconut oil and refining it. PVO's costs of refining crude coconut oil are less than those of its competitors because PVO has a newer, larger, and more efficient refinery. Therefore, the conclusion is inescapable that defendants are continuing to fix prices and to discriminate in price by charging PVO higher prices for crude coconut oil than they charge each other, and particularly Granex Corporation. The factual support for the assertions made in this paragraph is contained in the attached declaration of James W. Karson.

Therefore, the terms of the consent agreement, which have not been sufficient to terminate defendants' illegal price fixing and price discrimination, should not be approved as a final judgment in this matter. The injunctive relief agreed to by the parties does not accomplish cessation of the activities of which the government complained. That fact should be accorded great weight by this Court in evaluating the proposed final judgment under the rationale set forth in *United States* v. *Nat. Broadcasting Co., Inc.*, 449 F. Supp. 1127 (C.D. Cal. 1978). That Court described the standards by which a final judgment like that proposed here should be tested.

(I)n evaluating a proposed consent decree, one highly significant factor is the degree to which the proposed decree advances and is consistent with the government's original prayer for relief * * *. 449 F. Supp. at 1414. Citations omitted.

Because the proposed final judgment here does not effectuate the relief sought in the government's complaint, it does not merit approval without modification so that relief will be accomplished by its terms.

2. Approval Of The Proposed Judgment Would Be Contrary To The Public Interest.

PVO also opposes approval of the proposed final judgment as it presently stands because approval would be inconsistent with the public interest. Pursuant to 15 U.S.C. 16(e), a determination that entry of a proposed consent judgment is in the public interest is a prerequisite to approval. The statute further provides that the impact of entry of the judgment upon the public generally is a matter which the court may consider in making that necessary determination. Entry of the proposed judgment would adversely affect the public generally in two significant ways, making approval of the proposed judgment incompatible with the statutory scheme.

First, if the judgment is approved, it is readily foreseeable that PVO will shortly be forced to close its refining plant in Richmond, California. In the past, prior to defendants' unlawful attempt to monopolize the market for coconut oil, PVO processed and refined coconut oil through a two-part integrated system. The first stage of this system was PVO's San Pablo plant in the Philippines, which processed copra into crude coconut oil. The second stage of the process was to refine crude oil into refined oil at the Richmond plant. Through unlawful activities, these defendants and their co-conspirators forced PVO to sell its San Pablo plant. That made PVO totally dependent on the defendants and their co-conspirators for its supply of crude coconut oil. Thereafter, the defendants and their co-conspirators sold crude coconut oil to PVO at prices substantially higher than those paid by the defendant domestic refiners and competitors of PVO. This unlawful trade practice continues to this very day causing PVO losses of thousands of dollars. *See* Karson declaration, p. 4. As a result, unless those practices cease, PVO will no longer be able to operate the Richmond coconut oil refinery. The closure of that plant would seriously and directly harm the public interest by leading to the unemployment of the plant's 75 employees and the resulting economic dislocation of the Richmond community.

Second, approval of the judgment would harm consumers monetarily. PVO's Richmond plant now produces 25-30% of the edible coconut oils consumed in the United States. Elimination of PVO from this market would lessen competition, and would concentrate monopoly power in the market for coconut oil products in this country in the hands of defendants. The predictable effect, of course, is a significant increase in the price charged for coconut oil products, to the detriment of the United States' consumers.

For these reasons, PVO opposes entry of the proposed judgment as it presently exists, and will seek to participate in the proceedings before the Court in order to obtain the modifications of the judgment necessary to accomplish effective relief.

Dated: January 21, 1982.

Alioto & Alioto,
Joseph L. Alioto,
Joseph M. Alioto,
Patricia Tenoso Sturdevant
Patricia T. Sturdevant,
Attorneys for plaintiff.

Affidavit

State of California,
City and County of San Francisco, ss:

James W. Karson, being first duly sworn, on oath deposes and says:

1. I am, and have been since November 17, 1975, a Vice President of PVO International Inc. ("PVO"). From July 1, 1976 to March 3, 1980 and beginning again in May, 1981 until the present, I have been and am now responsible for the operation and profitability of PVO's vegetable oil refining facility located in Richmond, California.

2. That beginning prior to the initiation of the United States Government Grand jury investigation concerning the defendants' involvement in the United States coconut oil market and continuing to the present, Granex Corporation, U.S.A. has consistently sold finished coconut oil products at prices lower than PVO could profitably sell the same even when PVO eliminated its profit margin in an attempt to meet Granex's prices.

3. That PVO's Richmond, California vegetable oil refinery is larger and more cost-efficient on a unit basis than Granex's refinery in San Francisco, California when compared on a utilization basis.

4. That for the eleven (11) month period ending November 30, 1981, PVO incurred a loss of approximately One Million Six Hundred and Ten Thousand Dollars ($1,610,000.00) on its coconut oil business.

5. That PVO employs approximately 75 employees at its Richmond, California plant.

6. That should PVO's Richmond facility close as a result of Granex's pricing policies, the coconut oil market will, in fact, be left predominantly to Granex. I believe PVO's Richmond facility produces and supplies approximately 25% to 30% of the edible coconut oil consumed in the United States.

Dated: January 21, 1982.

James W. Karson.

Subscribed to and sworn before me at San Francisco, California this 21st day of January 1982.

Lois B. Snyder,
Notary Public.

Certificate of Mailing

I declare that I am employed in the County of San Francisco. I am over the age of 18 years and not a party to the within action. My business address is 111 Sutter Street, San Francisco, California 94104.

On January 21, 1982 I served the attached document by placing a true and correct copy thereof enclosed in a sealed envelope with postage fully prepaid in the United States mail at San Francisco, California, addressed as follows:

James F. Kirkham, Esq., Pillsbury, Madison & Sutro, 225 Bush Street, P.O. Box 7880, San Francisco, California 94120
William J. Linklater, 130 East Randolph Drive, Chicago, Illinois 60601
Leon W. Weidman, Chief, Antitrust Division, U.S. Attorneys Office, Rm. 1443A, U.S. Court House, 312 N. Spring Street, Los Angeles, California 90012

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 21st day of January, 1982 at San Francisco, California.

Lloydel Roesch.

Certificate of Service by Mail

I, Margaret S. Isenberg, declare:

That I am a citizen of the United States and resident or employed in Los Angeles County, California; that my business address is U.S. Attorney's Office, Antitrust Division, Room 1441A, U.S. Courthouse, 312 North Spring Street, Los Angeles, California 90012; that I am over the age of eighteen years, and am not a party to the above-entitled action;

That I am employed by the U.S. Attorney's office at whose direction the service by mail described in this Certificate was made; that on February 10, 1982, I deposited in the United States mails in the U.S. Courthouse Building, 312 North Spring Street, in the above-entitled action, in an envelope bearing the requisite postage, a copy of Government's Response to Comments of PVO International, Inc.; Comments of PVO International Inc. addressed to: See attached list of counsel at their last known address, at which place there is a delivery service by United States mail.

This Certificate is executed on February 10, 1982, at Los Angeles, California.

I certify under penalty of perjury that the foregoing is true and correct.

Margeret S. Isenberg,

William J. Linklater,

Baker & McKenzie, 2700 Prudential Plaza, Chicago, IL 60601.

James F. Kirkham,

Pillsbury, Madison & Sutro, 225 Bush Street, San Francisco, CA 94104.

Patricia Sturdevant,

Alioto & Alioto, 111 Sutter Street, Suite 2100, San Francisco, CA 94104.

U.S. District Court, Central District of California

United States of America, Plaintiff v. *Crown Oil Corporation; Granex Corporation, U.S.A.; and Pan Pacific Commodities*, Defendants.

Civil No. 81-0787-TJH.

Government's response to memorandum amicus curiae and public comments of private plaintiffs; public comments of private plaintiffs

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S. Rep. No. 93–298, 93d Cong., 1st Sess. (1973)

Pursuant to the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. 16(d), the Government hereby publishes and responds to the Memorandum Amicus Curiae and Public Comments of the plaintiffs in *In re Coconut Oil Antitrust Litigation*, M.D.L. No. 474 (N.D. Cal.) (hereinafter "the movants") concerning the proposed Final judgement in *United States* v. *Crown Oil Corp., et al.*, Civ. No. 81–0787–TJH (C.D. Cal., filed Feb. 17, 1981). The Government has carefully reviewed the Comments of the movants and has concluded that the issues they have raised do not warrant modification in the proposed Final Judgment.

The movants have failed to demonstrate that the proposed decree is against the public interest. The proposed judgment provides all of the injuctive relief sought by the Government's complaint. Those other remedies suggested by the movants—restitution or fines—are inappropriate in civil injuctive actions. Further, under *Douglas Oil Co.* v. *Petrol Stops Northwest*, 441 U.S. 211 (1979), movants' discovery concerns cannot be addressed in the proposed decree.

Movant's fears concerning the scope of certain specific paragraphs of the proposed decree are equally without merit. These paragraphs, as well as the entire proposed Final Judgment, are designed to provide effective relief against those violations alleged in the complaint.

For the reasons set forth below, this Final Judgment is in the public interest and should be entered without the delay associated with further procedural hearings.

I. The Terms of the Proposed Final Judgment Are Consistent With the Public Interest

A. Section 5(a) of the Clayton Act Does Not Preclude Entry of This Decree

The underlying theme of movants' objections to the entry of the proposed Final Judgment is that its entry will deny them the advantage of using the Judgment to establish prima facie proof or invoke collateral estoppel to establish liability in their private action. See, *e.g.*, Movants' Comments at 3–5, 14. Indeed, Section I of Movants' Comments is limited to the theory that the proposed decree should not be entered solely because it would not assist the movants in their private action. This theory ignores the express proviso of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), whose very language makes clear that Congress intended that consent decrees would not assist private litigants.

Section 5(a) of the Clayton Act " " " expressly excepts from these provisions consent decrees entered in such actions. In so doing, it implicitly recognizes consent decrees as a means of terminating civil anti-trust actions brought by the Government, and their use has become a most effective technique in anti-trust enforcement.

United States v. *Automobile Manufacturers Association*, 307 F. Supp. 617, 620 (C.D. Cal.), *aff'd per curiam sub nom., City of New York* v. *United States*, 397 U.S. 248 (1970).

The importance of antitrust enforcement by consent decree has been recognized both by Congress when it enacted the APPA and by the courts.

The Senate Judiciary Committee reported that a high percentage of government antitrust actions are settled prior to trial, and recognized that the consent decree process was a "legitimate and integral part of antitrust enforcement." [S.Rep. No. 93–298, 93d Cong., 1st Sess. 3 (1973).] "Obviously, the consent decree is of crucial importance as an enforcement tool, since it permits the allocation of resources elsewhere." S.Rep. at 5. "[T]he Committee wishes to retain the consent judgment as a substantial antitrust enforcement tool." S.Rep. at 7.

United States v. *Gillette Co.*, 406 F. Supp. 713, 715 (D. Mass. 1975). *Accord, United States* v. *Bechtel Corp.*, 648 F. 2d 660, 666 (9th Cir. 1981); *United States* v. *Automobile Manufacturers Association, supra*, 307 F. Supp. at 620; H.R.Rep. No. 93–1463, 93d Cong., 2d Sess. *reprinted in* [1974] U.S. Code Cong. & Ad. New 6535, 6537 ("Present Law, 15 U.S.C. 16(e), encourages settlement by consent decrees as part of the legal policies expressed in the antitrust laws " " ". The bill preserves these legal and enforcement policies " " ".").

In determining whether a proposed consent decree is in the public interest, the APPA sets forth various factors the Court may consider. 15 U.S.C. 16(e). Among these discretionary factors are the impact of the proposed decree's entry upon individuals alleging specific injury from the violations set forth in the complaint, including the public benefit, if any, to be derived from a full adjudication at trial. *Id.* section 16(e)(2). In discussing the meaning of this provision, however, Congress declared:

Nor is Section 2(e) [15 U.S.C. 16(e)(2)] intended to force the government to go to trial for the benefit of potential private plaintiffs. The primary focus of the Department's enforcement policy should be to obtain a judgment either litigated or consensual which protects the public by insuring healthy competition in the future. The Committee believes that in the majority of instances the interests of private litigants can be accommodated without the risk, delay and expense of the government going to trial.

H.R. Rep. No. 93–1463, *supra*, at 6539, *quoting* S. Rep. No. 93–298, *supra*, at 6. Thus, the mere existence of private litigants, such as movants, provides no basis for finding that this proposed decree is not in the public interest. Therefore, the proposed Final Judgment should be entered without delay.

B. The Proposed Decree Provides All of the Injunctive Relief Sought by the Government's Complaint

The proposed Final Judgment in this case protects the public interest by remedying the violations alleged in the complaint. The complaint in this action alleged a price fixing conspiracy and prayed for injunctive relief against those practices which the Government alleged perpetrated the conspiracy. The proposed Final Judgment enjoins not only the fixing of prices but also any discrimination in prices or other terms of sales both between or among refiners, end-users or dealers of crude or refined coconut oil, or for the benefit of any defendant. In addition, the proposed Final Judgment prohibits the defendants from refusing to sell coconut oil to any United States firm and from conspiratorial agreements to store coconut oil. The proposed decree further enjoins communication of information on price or other terms of sales with others involved in marketing coconut oil, except in connection with a bona fide purchase or sale. The defendants are also required to institute antitrust compliance programs, and the proposed decree allows for inspection by the Government to assure compliance with the Judgment's terms. The proposed decree thus provides all of the injunctive relief sought by the complaint as well as all of the relief that could reasonably be expected to be obtained after a full trial.

1. *Restitution or Fines Are Inappropriate Remedies.* Despite this high level of consistency between the complaint and the proposed decree,[1] the movants complain because "there has been no restitution to the victims of the conspiracy " " "." Movants' Comments at 19. The movants do not make clear what it is they expect the Court to do to remedy their complaint. At one point they imply that the Government should be forced to trial. Movants' Comments at 16 ("Such circumstances increase the public interest in having a full public record developed rather than summary termination of the case through a consent decree."). Later, however, they suggest they might be satisfied if the consent decree were modified to include a restitution provision or a Court-imposed fine. *Id.* at 18 ("In the instant action where no fine has been levied and no restitution provision included in the final decree, [the public interest] considerations assume particular force.").

[1] "[I]n evaluating a consent decree, one highly significant factor is the degree to which the proposed decree advances and is consistent with the Government's original prayer for relief " " "." *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1144 (C.D. Cal. 1978).

These remedial suggestions ignore the realities of the nature of this case. Nothing in the APPA or case precedents support movants' novel theories. Unlike the cases cited by movants, all but one of which involved denial of *nolo contendere* pleas, this is not a criminal case wherein the Court is authorized by statute to impose fines. Nor is this a case analogous to the Federal Trade Commission ("FTC") proceeding movants cite. *FTC* v. *Great Western United Corp.*, [1976–1979 Transfer Binder, FTC Complaints and Orders] Trade Reg. Rep. (CCH) ¶21,261 (FTC Dkt. C–2308, 1977). Unlike the Antitrust Division of the Department of Justice, the FTC is empowered to seek *civil* penalties for violations of its cease and desist orders. 15 U.S.C. 45(1). *See also id.* section 45(m)(1)(A). Imposition of a fine is a penalty and not appropriate in a civil injunctive action brought by the Government under Section 4 of the Sherman Act. 15 U.S.C. 4.

Movants' amorphous claim concerning restitution likewise misapprehends the nature of this proceeding. In a civil injunctive action, the Court does not concern itself with sentencing mitigation factors. Further, the movants' suggestion that restitution would be in the public interest assumes that this Court can easily and quickly determine who are the victims of the conspiracy and what is the amount of their individual damage. That assumption is ill-founded. To resolve such issues would require protracted hearings, if not a full-blown trial. Yet,

[t]he legislative history clearly and expressly establishes that "[i]t [was] not the intent of the committee to compel a hearing or trial on the public interest issue." S.Rep. No. 93–298 [*supra*, at 6], quoted with approval in H.Rep. No. 93–1463 [*supra*, at 6539], quoted in [*United States* v. *Associated Milk Producers, Inc.*, 394 F. Supp. 29, 45 (W. D. Mo. 1975), *aff'd* 534 F.2d 113 (8th Cir.), *cert. denied sub nom., National Farmers Organizations, Inc.* v. *United States*, 429 U.S. 940 (1976)].

United States v. *National Broadcasting Co., supra*, 449 F. Supp. at 1143–44.

As movants state in their Motion to Appear Amicus Curiae (at 1–2), they have already instituted their own class action against these same defendants averring causes of action arising out of the same activities alleged by the Government. If movants are entitled to restitution, it will come as a result of that action. This, therefore, is not the appropriate time nor the appropriate forum for determination of damage issues which are in the private interest of movants and not in the larger public interest.

2. *Movants' Discovery Concerns Cannot be Incorporated Into the Decree.* Similarly, this is not the appropriate forum for movants to interject their personal discovery concerns. As a result of having filed their own action, movants are able to exercise full discovery powers to secure documents from defendants and others.[2] Notwithstanding movants' citation of *United States* v. *Automobile Manufacturers' Association, Inc., supra*, 307 F. Supp at 620, to support their view that this Court can modify the proposed decree to add a document impounding provision, the Supreme Court has since established specific procedures that private litigants must follow to obtain grand jury materials protected from disclosure by Rule 6(e) of the Federal Rules of Criminal Procedure. *Douglas Oil Co.* v. *Petrol Stops Northwest*, 441 U.S. 211 (1979). Under these procedures, to overcome the prohibitions of Rule 6(e), movants must petition at least the Honorable William Orrick, the judge in the United States District Court of the Northern District of California presiding over movants' private class action, and perhaps the Central District of California criminal duty judge who supervised the grand jury, to evaluate the continued need for secrecy, the litigants' particularized need for disclosure, and the extent to which the request is limited to material directly pertinent to the need for disclosure. *Id.* at 222, 224–26. It would thus be improper under *Douglas Oil* for this Court to make grand jury materials available to movants through the inclusion of an impounding order as a provision of a consent decree.

[2] The Government notes that movants have already arranged with one subpoenaed party to have that company permit the Government to allow its documents to be examined while still in the Government's hands.

The terms of the proposed Final Judgment are consistent with the public interest. The proposed decree remedies the violations alleged in the Government's complaint. Movants' concerns about restitution and document impoundment in fact need to be resolved in other forums. For these reasons, the proposed Final Judgment should be entered without modification.

II. The Terms of the Proposed Final Judgment Will Provide Effective Relief

A. Paragraphs II and V Extend, Rather Than Limit, the Scope of the Proposed Decree

The terms of the proposed Final Judgment are intended to prevent any recurrence of the activities alleged in the Government's complaint. The proposed decree is also particularly designed to provide effective relief from those of the alleged activities which have international aspects. Therefore, certain provisions of the proposed Final Judgment seek to extend the Court's jurisdiction as far as possible within the parameters of applicable law. *E.g.*, Proposed Final Judgment ¶¶ II, V. Given their purpose, it is surprising that it is these provisions that movants have labeled "illusory" and "cosmetic." Movants' Comments at 9, 13.

Paragraph II of the proposed decree includes the proviso that "this Final Judgment shall not apply to transactions or activities required by the laws or the regulations having the force of law of the jurisdictions *in which such transaction or activity takes place.*" (Emphasis added.) Movants try to suggest that because the defendants as parties in movants' private class action have asserted certain international law defenses—act of state and foreign compulsion—this proviso will permit continuation of defendants' anticompetitive behavior. Paragraph II's proviso merely incorporates "[t]he classic American statement of the act of state doctrine:"

Every sovereign state is bound to respect the independence of every other sovereign state, and the courts of one country will not

sit in judgment on the acts of the government of another, done within its own territory.

Banco Nacional de Cuba v. *Sabbatino*, 376 U.S. 398, 416 (1964), *quoting Underhill* v. *Hernandez*, 168 U.S. 250, 252 (1897). *Accord, Timberlane Lumber Co.* v. *Bank of America, N.T. & S.A.*, 549 F. 2d 597, 605 (9th Cir. 1976); *Occidental Petroleum Corp.* v. *Buttes Gas & Oil Co.*, 331 F. Supp. 92, 108 (C.D. Cal. 1971), *aff'd per curiam*, 461 F. 2d 1261 (9th Cir.), *cert. denied*, 409 U.S. 950 (1972).

Movants fear that the proviso will permit defendants to "contrive to effectively undertake conduct similar to that charged in the civil complaint under the guise of compulsion 'by the laws or regulations' of the Philippines." Movants' Comments at 12. Such a fear is unsubstantiated by both applicable principles of international law and by a logical interpretation of the proposed decree. Should the Government in the future allege defendants' conduct is a violation of the proposed decree, that conduct will be excepted under Paragraph II's proviso if, and only if, the conduct were to take place in the Philippines and were required by Philippine law or regulations. Whether that conduct is excepted will be an issue in any subsequent contempt hearing, even as it will be in movants' own litigation.

Movants also create a smoke screen of misplaced concern over the interrelationship of Paragraph II's edict that the proposed Final Judgment applies to "all other persons in active concert or participation with [the defendants] who shall have received actual notice" of it, with Paragraph V's notice requirements. Paragraph V requires the defendants to give notice to, among others, their parent corporations' officers and directors and the officers and directors of United Coconut Mills, Inc. ("UNICOM") and United Coconut Planters Bank ("UCPB"). Movants are wrong in asserting that these provisions have no legal import.

The provisions of Paragraph II which state when the proposed decree shall be applicable to non-parties tracks the language of Rule 65(d) of the Federal Rules of Civil Procedure.[2]

This [rule] is derived from the common-law doctrine that a decree of injunction not only binds the parties defendant but also those identified with them in interest, in "privity" with them, represented by them or subject to their control. In essence it is that defendants may not nullify a decree by carrying out prohibited acts through aiders and abettors, although they were not parties to the original proceeding.

Regal Knitwear Co. v. *NLRB*, 324 U.S. 9, 14 (1945)

Read together with paragraph II, Paragraph V of the proposed Final Judgment insures that all those who are likely to play a part in any continuation of the conspiracy alleged in the complaint are made aware of the terms of the decree. If, in the future, it is shown that such non-parties have aided and abetted the defendants in violating the judgment and had notice of its terms, the Court could hold them in contempt. *McGraw-Edison Co.* v. *Preformed Line Products Co.*, 362 F. 2d 339, 344 (9th Cir.), *cert. denied*, 385 U.S. 919 (1966). By specifically requiring that notice be provided to the defendants' parents, UNICOM, and UCPB, as well as requiring the defendants to certify that such notice has been made, Proposed Final Judgment ¶¶ V(A), (B), the proposed decree provides relief beyond what might have been achieved if the Government had been successful at trial.

Movants' own conclusion in regard to these questionable concerns demonstrates that once again their true motive is to force the Government to trial so that movants can benefit in their own litigation. Movants' Comments at 14. Inasmuch as Paragraphs II and V are not illusory or cosmetic and do provide meaningful and effective relief by making judgment enforcement against conspiring non-parties easier, the proposed Final Judgment should be entered.

B. The Judgment's Effectiveness Is Undilluted by the Allowance of Price Communication Between Parent and Subsidiary

The allowance by Paragraph IV(B) of communication of price or other terms/conditions of sale between either defendant and its parent does not weaken the effective relief of the proposed Final Judgment. Such communication, recognized by the Government as a necessary part of a parent-subsidiary relationship, bears no similarity to those communications which can lead to the type of conspiratorial price fixing alleged in the complaint.

Movants' assumption that paragraph IV(B) will lead to price communications between the defendants themselves ignores the existence of Paragraph IV(A) (5)'s requirements. This provision requires for a period of 10 years that every officer and employee involved in pricing or marketing coconut oil of each defendant must file a detailed written report of any price discussion communication with others in the industry which is contrary to Paragraph IV of the proposed decree. In addition, those not filing such reports must regularly certify that they have not participated in such communications. This portion of the proposed decree fully ensures that illegal communications of the type movants fear—between the defendants—as well as illegal communications between any defendant and other industry members will not occur.

Adequate safeguards exist in the proposed Final Judgment to ensure compliance with the spirit as well as the letter of the consent decree. For these reasons, this proposed decree should be entered.

Conclusion

The Government has examined the impact of the proposed decree on competition. The proposed Final Judgment is designed to ensure that, in the future, defendants' prices will be independently determined and free from the restraining and artificial influences which result from communications among competitors. The proposed decree provides all the relief which the Government sought in its complaint. The proposed decree protects the public interest by remedying the violations alleged in the complaint and assuring healthy competition in the future. For all these reasons, it is appropriate that the Court enter the Judgment without modification upon certification by the Government of its compliance with the APPA publication requirements.

Dated: February 10, 1982.

Respectfully submitted,

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U.S. District Court for the Central District of California

United States of America, Plaintiff, v. *Crown Oil Corporation, Granex Corporation, U.S.A., and Pan Pacific Commodities*, Defendants.

Civil No. 81-0787-TJH.

Memorandum Amicus Curiae and Public Comments of Private Class Action Plaintiffs in Opposition to Entry of the Proposed Final Order in its Present Form

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Conclusion.

U.S. District Court for the Central District of California

United States of America, Plaintiff v. *Crown Oil Corporation, Granex Corporation, U.S.A. and Pan Pacific Commodities*, Defendants.

[2] Rule 65(d) provides: "Every order granting an injunction and every restraining order * * * is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise."

Civil No. 81-0787-TJH.

Memorandum Amicus Curiae and Public Comments of Private Class Action Plaintiffs in Opposition to Entry of the Proposed Final Order in Its Present Form

Introduction

Plaintiffs in the related civil treble damage class actions, *In re Coconut Oil Antitrust Litigation*, M.D.L. No. 474 (N.D. Cal.), currently pending before the Honorable William Orrick, respectfully urge this Court to reject the proposed Final Judgment submitted by the parties in this civil action. Entry of the proposed judgment in its current form would not be in the public interest as required under the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(e), in that the proposed judgment may offer no genuine relief and would impact adversely upon the purchasers alleging specific injury from the violations while allowing the facts of defendants' illegal activities to remain concealed.

The Antitrust Procedures and Penalties Act specifically authorizes both intervention or appearance as *amicus curiae* in government civil proceedings of interested persons to assist the court in its determination of whether a proposed final order is in the public interest, 15 U.S.C. 16(f). Section 16(e)(2) states that the impact upon individuals alleging specific injury from the violations alleged is one of the two criteria under which the purlic interest in entering the Order is to be determined.[1]

The private civil action plaintiffs representing those individuals alleging specific injury are thus in a particular position to comment upon the public interest, or lack thereof, of a proposed decree. *See, e.g., United States* v. *R & G Sloane Manufacturing, Inc.*, 1973 Trade Cases ¶ 74,289 (C.D. Cal. 1972). ("The real issue, however, is pointed up by the *amicus curiae* briefs filed by certain treble damage claimants.").

I. Entry of the Proposed Consent Decree at This Juncture Would Violate the Import of Section 5(a) of the Clayton Act Which Provides That a Judgment Obtained in Civil Proceedings Brought by the Government May Be Introduced in a Private Civil Case as at Least Prima Facie Proof of a Defendant's Violation of the Antitrust Laws

Entry of the proposed Final Judgment at this juncture "without trial or adjudication of any issue of fact or law and without [the] Final Judgment constituting any evidence against or an admission by any party with respect to any such issue," (proposed Final Judgment at 1) would impact adversely upon the individuals alleging specific injury from violations charged in the action and thereby directly contravene 15 U.S.C. 16(e)(2). Moreover, entry of such an order would substantially vitiate the clear import of the Clayton Antitrust Act, 15 U.S.C. 16(a), which provides that a decree obtained after the taking of evidence in a government antitrust action establihes at least *prima facie* proof of a violation in a subsequent private civil action.

The important purpose served by government proceedings in assisting civil plaintiffs to establish an antitrust defendant's liability was recently reaffirmed by Congress by enactment of the Antitrust Procedural Improvements Act of 1980 which amended section 5(a) of the Clayton Act, 15 U.S.C. 15(a), to provide that a judgment obtained by the government may be invoked as collateral estoppel against the defendants in the subsequent private civil actions.[2] The proposed Final Judgment could not be introduced by civil plaintiffs under section 5 either to establish *prima facie* proof of their case or to collaterally estop defendants from contesting their violation. See, 15 U.S.C. 15(h); *Lindy Bros. Builders, Inc.* v. *American Radiator & Standard Sanitary Corp.*, 487 F. 2d 161, n.12 (3d Cir. 1973).

Even prior to the recent amendments to the Clayton Act, courts held in the analogous context of acceptance of *nolo contendere* pleas in criminal antitrust proceedings, that the public interest represented by private civil litigants precluded entry of pleas of *nolo contendere* in pending government proceedings. "To routinely accept *nolo contendere* please where there is a high potential of a treble damage action would make a mockerly of section 5—any guilty defendant might avoid serious private actions by pleading the magic words." *United States* v. *American Bakeries Co.*, 204 F. Supp. 864, 869 (E.D. Mich. 1966). Thus, the fact that private civil actions are pending underscores the necessity to reject the proposed final order in its present form. *See also, United States* v. *Rockwell International Corp.*, 1976-2 Trade Cases ¶ 62,402 (E.D. Pa. 1976); *United States* v. *Westinghouse Electric Corp.*, 1960 Trade Cases ¶ 69,699 (E.D. Pa. 1960); *United States* v. *David E. Thompson, Inc.*, 621 F. 2d 1147 (1st Cir. 1980); *United States* v. *Brighton Building and Maintenance*, 431 F. Supp. 1118 (N.D. Ill. 1977), *aff'd*, 598 F. 2d 1103 (7th Cir. 1979); *United States* v. *Ultramarine and Color Co.*, 137 F. Supp. 167 (S.D.N.Y. 1955); *United States* v. *SIGMA*, Criminal Action No. 75-0314 (D. Md. Transcript April 15, 1977) (relevant pages attached hereto as Exhibit "A").

The application of this reasoning to government civil actions was underscored by Judge Curtis in *United States* v. *R & C Sloane Manufacturing Company*, 1973 Trade Cases ¶74,289 (C.D. Cal. 1972) in which the court accepted pleas of *nolo contendere* in a criminal action precisely because a government civil action was to proceed and would protect the interest of the private civil plaintiffs under § 5 of the Clayton Act to subsequently use any judgment obtained after the government civil trial in the private action, at p. 93,322. *Accord, United States* v. *Standard Ultramarine & Color Co.*, 137 F. Supp. 167, 174 (S.D.N.Y. 1955).

In his seminal decision rejecting proferred *nolo contendere* pleas in *United States* v. *Standard Ultramarine and Color Co., supra*, 137 F. Supp. at 172, Judge Weinfeld explained that the very purpose of enactment of section 5 of the Clayton Act was to assure that the government enforcement action would assist and encourage private litigants:

It was fashioned as a powerful weapon to aid private litigants in their suits against antitrust violators by reducing the almost prohibitive costs and staggering burdens of such litigation in making available to him the results of the *Government's successful action, whether an equity suit* or a criminal prosecution. And the hoped for by-product of the benefit to a plaintiff was increased law enforcement.[3] (emphasis added)

In *United States* v. *David E. Thompson, Inc.*, 621 F. 2d 1147, 1150-51 (1st Cir. 1980), Judge Coffin writing for the First Circuit noted that in light of pending civil cases, it was "almost inconceivable" for a district court to find that a plea of *nolo contendere* was in the public interest.

II. The Specific Circumstances Relating to the Civil Action Sub Judice Demonstrate That the Proposed Final Judgment is, in its Present Form, Against the Public Interest

Entry of the proposed final judgment is particularly inappropriate in the instant action because of extraordinary obstacles obstructing the private civil litigants' access to the facts from which proof of conspiracy may be derived; the lack of any provision in the proposed final judgment impounding documents and grand jury transcripts for use by subsequent civil litigants; the genuine possibility that no meaningful relief is

[1] That provision reads:

Public interest determination

(e) Before entering any consent judgment proposed by the United States under this section, the court shall determine that the entry of such judgment is in the public interest. For the purpose of such determination, the court may consider—

(2) the impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

[2] Section 5(a) of the Clayton Act, 15 U.S.C. 15(a), as amended by the Antitrust Procedural Improvements Act of 1980 (Pub. L. 96-349) reads:

[GOVERNMENT JUDGMENT AS EVIDENCE]

Sec. 5. (a) A final judgment or decree heretofore or hereafter rendered in any civil or criminal proceedings brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any action or proceeding brought by any other party against such defendant under said laws as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto: *Provided*, That this section shall not apply to consent judgments or decrees entered before any testimony has been taken. Nothing contained in this section shall be construed to impose any limitation on the application of collateral estoppel * * *.

[3] Judge Weinfeld set out the legislative history of Section 5 of the Clayton Act:

A reading of the interesting debates which followed shows that the unmistakable purpose of the Congress in enacting § 5 in response to the Presidential message was "to minimize the burdens of litigation for injured private suitors by making available to them all matters previously established by the Government in antitrust actions." *The defendants urge that there is no obligation upon the Government to assist or encourage litigants. But a fair reading of the debates and the Committee Reports indicates that such was the very purpose of the clause.*

137 F. Supp. at 171 (footnote omitted; emphasis added)

contained in the injunctive provisions of the proposed Final Judgment; the extraordinary overcharges wrought by the conspiracy; and the failure of defendants to have made restitution to the victims of their conspiracy prior to entry of the Final Order.

In *United States* v. *Everest & Jennings International*, CCH Trade Cases, U.S. Antitrust Case Summaries Transfer Binder 1970–79 ¶45,077 case 2585 (C.D. Cal. 1979), Judge Real rejected an initial consent agreement in a civil action between the government and the defendants on the grounds that it violated the Clayton Act's public interest standard. The Court set a trial date after which the parties renegotiated the consent decree to include meaningful relief which was ultimately approved by the Court. 1979–1 Trade Cases ¶62,508 (C.D. Cal. 1979).

A. The Injunctive Provisions of the Proposed Final Judgment may be of Little Meaning in Light of the Facts Asserted by the Defendants in Their Submissions in the Related Private Civil Actions

In light of the position taken by defendants in the related private civil actions several provisions contained in the injunctive section of the proposed Final Judgment may render the entire injunctive relief provided in the Final Judgment illusory. The specific provisions to which civil plaintiffs object are paragraphs II and V of the Final Judgment and the proviso contained in paragraph IV(B)(2).

1. *Paragraphs II and V Of The Proposed Final Judgment May Offer An Illusory Remedy And Do Not Adequately Assert The Court's Jurisdiction To Impose Its Contempt Power.* Paragraph II reads as follows:

This Final judgment applies to each Defendant and each of said Defendant's officers, directors, agents, employees, subsidiaries, successors and assigns and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise; provided, *however, that this Final Judgment shall not apply to transactions or activities required by the laws or the regulations having the force of law of the jurisdictions in which such transaction or activity takes place.* (emphasis added)

The proviso may effectively permit continuation of defendants' antitrust violations. In the related civil proceedings, defendants have asserted an "act of state and sovereign compulsion" defense and taken the position that there otherwise illegal conduct in participating in the conspiracy was mandated by "laws or the regulations having the force of law of the jurisdiction in which such transaction or activity takes place," *i.e.*, the Philippines.[4]

In their "Memorandum of Points and Authorities In Support of Defendants' * * * Motion to Dismiss" filed in the private actions, the defendants argue as follows:

Since the three defendants were directly controlled by the Philippine Coconut Authority, any actions on their part with respect to the marketing of coconut oil and its by-products were carried out at the express command of the Philippine Coconut Authority. Therefore, defendants' conduct is insulated from any claimed violations of the American antitrust laws by the doctrine of sovereign compulsion * * *

* * * * * * *

If the activity complained of by plaintiffs did have any anticompetitive effects, such activity is not cognizable as a restraint of trade under the Sherman Act because it was compelled by a foreign sovereign.

Under the proviso of ¶ II defendants could continue to effectively undertake conduct similar to that charged in the civil complaint under the guise of compulsion "by the laws or regulations" of the Philippines.

Additionally the provision of ¶ II extending the Court's jurisdiction to all persons "who shall have received actual notice of this Final Judgment by personal service or otherwise" would appear to be meaningless. This provision is apparently intended to be read in conjunction with paragraph V which requires the defendants to provide notice of the decree to, *inter alia:*

(3) The officers and directors of its parent corporations, if any; and

(4) The officers and directors of UCBP and UNICOM.[5]

UCPB, United Coconut Planters Bank, is, according to defendants' submissions in M.D.L. 474, the Philippine parent of both Granex and Pan Pacific ("All of the shares of Granex and Pan Pacific are now owned by the United Coconut Planters Bank, which purchased Granex and Pan Pacific at the direction of the Philippine Coconut Authority pursuant to legislative mandate." Memorandum in Support of Defendants' Motion to Dismiss at 4).[6]

If, as defendants assert in their submissions in M.D.L. 474, UCPB and UNICOM are, in fact, Philippine corporations and controlled, in part, by legislative action, the provisions of the Final Order purporting to extend the Court's jurisdiction and contempt power to these entities which are not yet named parties to these proceedings is meaningless absent their specifically submitting to the jurisdiction of the Court as signatories to a consent decree. Absent their genuine submission to the Court's jurisdiction, these provisions relating to UCPB and UNICOM, whom defendants assert in M.D.L. 474 to be the central entities through which the conspiracy was controlled, are merely cosmetic and of no apparent legal import.

These meaningless cosmetic provisions are no substitute for full litigation of the claims by the government against the American subsidiaries which would lay a predicate for assertion of jurisdiction over the parents or would provide some other meaningful relief.

2. *Paragraph IV.B.2 Vitiates Any Effective Prohibition of Price Communication Among the Defendants.* Paragraph IV.B.2 contains a proviso which further emasculates the proposed Final Judgment. That provision prohibits defendants from:

(B) Communicating to, requesting from or discussing with any other person who imports, sells or markets crude or refined coconut oil in the United States any information about past, present, future or proposed prices, discounts or other terms or conditions for the sale of crude or refined coconut oil; provided, however, that this section does not apply to (1) any necessary communication in connection with a *bona fide* contemplated or actual sale of crude or refined coconut oil by a Defendant, *or (2) communication of price or other terms or conditions of sale between a Defendant and its parent.* (emphasis added)

The final proviso, *i.e.* subpart (2), permits price communications between the subsidiaries and their parents. Since Granex and Pan Pacific are both independent subsidiaries of the same parent the proviso effectively sanctions a vehicle for price communication between two independent entities. Absent such a provision, this conduct would be a violation of the antitrust laws.

The proviso contained in subpart (2) departs from the specific relief sought in the government's initial complaint which contained no such proviso but sought a meaningful order enjoining defendants from:

(c) communicating any information concerning prices, discounts or terms or conditions of sale, marketing, or storage of coconut oil to any person engaged in the importation, sale, or marketing of coconut oil except as necessary in connection with a bone fide purchase or sales transaction between the parties to such communications.

Because the central substantive provisions of the proposed Final Judgment contain provisions which are essentially cosmetic when viewed in the light of defendants' assertions in their submissions in M.D.L. 474, the proposed Final Judgment does not provide meaningful relief in the public interest. Indeed, to the contrary, it provides defendants and their co-conspirators with a vehicle for resolving the claims against them without public airing of the facts of their violations discovered by a government investigation while requiring virtually nothing from defendants in return.

[4] The American antitrust laws reach actions directed at the American markets though undertaken on foreign soil. *See, e.g., Continental Oil Co.* v. *Union Carbide & Carbon Corp.*, 370 U.S. 690, 706 (1962); *United States* v. *The Watchmakers of Switzerland*, 1963 Trade Cases ¶ 70,600 (S.D.N.Y. 1962) *order modified* 1965 Trade Cases ¶ 70,352 (S.D.N.Y. 1965); *Timberlane Lumber Co.* v. *Bank of America*, 549 F. 2d 597 (9th Cir. 1977); *Industrial Investment Development Corp.* v. *Mitsui & Co.*, 594 F. 2d 48 (5th Cir. 1979), *see also, United Nuclear Corp.* v. *General Atomic Corp.*, 1980–81 Trade Cases ¶ 63,639 (N. Mex. Sup. Ct. 1980) *cert. denied* 101 S. Ct. 1966 (1981); *United States* v. *Vetco, Inc.* 644 F. 2d 1324 (9th Cir. 1981). The allegations of the government complaint explicitly charge a conspiracy directed specifically at raising prices of coconut oil on the American market.

[5] Paragraph V (A)(4) reads:

(A) Within sixty (60) days after the date of entry of this Final Judgment, each Defendant shall furnish a conformed copy hereof to the following persons and advise each that violation of this Final Judgment could result in a conviction for contempt of court and imprisonment and/or a fine:

(4) The officers and directors of UCBP and UNICOM.

[6] Significantly, the initial provision of paragraph II extends specifically to "defendant's officers, directors, agents, employees, subsidiaries, successors and assigns * * *" but does not specifically include each defendant's parents.

III. The Proposed Final Judgment Allows Defendants To Retain the Fruits of a Scheme Which Unlawfully Astroconically Inflated the Price of Coconut Oil in the United States

Neither the final judgment nor the competitive impact statement contain any estimate of the damage inflicted by the defendants' violation. Preliminary review of the prices for coconut oil in the period of defendants' conspiracy in comparison with the historical price spread of coconut oil and related vegetable oils shows the damages over the six months of the conspiracy to have been far beyond those achieved in even the most successful of price-fixing conspiracies. Such circumstances increase the public interest in having a full public record developed rather than summary termination of the case through a consent decree.[7]

A preliminary estimate by civil plaintiffs presently demonstrates the average overcharge during the conspiracy period alleged by the government to have been between 17 and 20 percent. This estimate is derived by utilizing the actual price of soybean oil as a benchmark to estimate what the price of coconut oil would have been absent the conspiracy. This is the precise method defendants themselves apparently used to estimate non-conspiratorial market prices.[8] The price relation of coconut and soybean oil is indexed by defendants' own studies to be 1.2936 over the twelve year period prior to January, 1980.[9] Thus by multiplying the soybean prices during the alleged conspiracy period by the index an estimated non-conspiratorial price of coconut oil can be derived based on the price behavior over the prior twelve years. The overcharge was derived by subtracting the estimated non-conspiratorial price from the actual prices of coconut oil published in the Wall Street Journal. The resulting estimated overcharge is in excess of 17 percent.[10]

In the analogous cases involving acceptance of *nolo contendere* pleas under the identical "public interest" standard under which the proposed Final Judgment is to be evaluated, courts have considered the nature and severity of the price fixing conspiracy in rejecting as against the public interest pleas tendered by parties. In the instant action in which no fine has been levied and no restitution provision included in the final decree, despite the exhorbitant overcharge, these considerations assume particular force.

In *United States* v. *SIGMA*, Crim. No. 76–0314 (D. Md.), (attached hereto as Exhibit "A") the court reviewed the nature of the antitrust violation before it and found that acceptance of *nolo* pleas would be against the public interest by concealing the facts of a serious conspiracy.

Similarly, in *United States* v. *Rockwell International Corp.*, 1978–2 Trade Cases ¶ 62,402 (E.D. Pa. 1978), Judge Cahn rejected pleas of *nolo contendere* after determining they were not in the public interest. Judge Cahn considered such factors as the effectiveness of the conspiracy and its impact on the economy in finding the pleas against the public interest.

In the instant action, there has been no restitution to the victims of the conspiracy who, as the analysis above demonstrates, were injured severely as a result of defendants' price fixing.

An analogous line of cases has considered whether restitution had been made by a party as a factor in assessing the public interest in accepting *nolo contendere* pleas or government civil settlements.

Judge Merhige of the United States District Court in Richmond, Virginia, reduced, from $13 million to $5 million, a fine imposed pursuant to a *nolo contendere* plea because the criminal defendant agreed to make restitution of $8 million to injured private parties. *United States* v. *Allied Chemical Corp.*, Cr. No. 76–0129. *See* Exhibit "E" hereto. (Civil plaintiffs ascertained amounts through inquiry at Judge Merhige's chambers).

In the criminal proceeding of *United States* v. *Robert S. Trippett*, 76 CR 23–B (N.D. Okla.) Judge Allen A. Barrow of the United States District Court in Tulsa, Oklahoma, ordered Trippett, alleged mastermind of the multimillion dollar Home-Stake Production Company swindle, to pay $100,000 to set up a fund for claimants. *See* Orders attached as Exhibits "F" and "G" hereto. *See also, F.T.C.* v. *Great Western United Corp.*, F.T.C. Docket C–2305, where the F.T.C. conditioned settlement of a civil penalty action against Great Western upon restitution of approximately $20 million in connection with allegedly fraudulent land sales. 3 CCH Trade Regulation Reporter ¶ 21,261.

IV. The Proposed Final Judgment Fails To Provide for Impoundment of Grand Jury Transcripts and Documents Obtained by the Government Despite the Great Risk That the Information Relating to the Conspiracy May Be Otherwise Inaccessible to Subsequent Private Civil Litigants

The facts relating to the instant conspiracy are to a great extent apparently within the knowledge of Philippine nationals and Philippine corporations. Of the twenty-five individuals listed in the "Government's List of Persons with Knowledge of Relevant Facts * * *" filed March 24, 1981 (exhibit "B" hereto), fifteen persons appear to be Philippine nationals.[10] Beyond the usual difficulties facing a litigant seeking to obtain facts from foreign nationals is the fact that the Philippines have issued a Presidential Decree prohibiting as a criminal felony compliance with a subpoena or other process of an American court relating to an antitrust proceeding unless the recipient of the subpoena receives prior permission of President Marcos or his designee. *See*, Presidential Decree No. 1718, attached hereto as exhibit "C". The practical effect of this decree has been to prevent Philippine nationals from testifying in the civil proceeding.

On January 13, 1982 plaintiffs sought to depose Rafael Fernando, former Vice President of Pan Pacific. Mr. Fernando stated on the record his willingness and desire to testify but refused to answer any questions posed to him for fear of violation of the Philippine Presidential decree.

Thus, it is of particular importance that any decree entered in this action contain a provision impounding the grand jury transcripts and all documents obtained in the grand jury and government proceedings and providing means for access to such documents by the Civil plaintiffs. *See e.g., United States* v. *Automobile Manufacturers Association, Inc.*, 307 F. Supp. 617, 620 (C.D. Cal. 1969) (order entered prior to entry of final judgment "requiring that all evidence obtained by the grand jury, as well as its own transcript, be impounded in the hands of the Justice Department, where it may be obtained by treble damage claimants * * * where good cause therefor can be shown.")

Conclusion

For the reasons set forth above, private civil class action plaintiffs respectfully urge that the proposed Final Order be rejected in its present form at this juncture as against the public interest.

Respectfully submitted,

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Sarah R. Wolff,

[7] As the court stated in *United States* v. *SIGMA*, Criminal No. 76–0314 (D. Md., Transcript, April 15, 1977) (attached hereto as Exhibit "A"):

If this Court accepts the *nolo* pleas from any or all of the seven defendants who have proferred it, little would be revealed and much would be concealed. Trial, on the other hand, will reveal either the lack of substance of the charges, or the grievous and unlawful conduct of the defendants, as has been charged by the grand jury of this District. At page 35. Accord. *United States* v. *Standard Ultramarine & Color Co., supra*, 137 F. Supp. at 172.

[8] See, Unidentified Study [produced to Grand jury by defendants] p. 17 (attached hereto Exhibit "D").

[9] The published prices of coconut oil during the 6 month alleged conspiracy period ranged between 36.75 and 42.25 cents per pound. Between March 31, 1980 and April 30, 1980, the price dropped 9.25 cents from 35.75 cents to 27.50 cents. Source, *Wall Street Journal*, daily price listings.

[10] Anacleto Rennel, Eduardo M. Cojuangco, Jr., Chairmen, Granex; Jose Concepcion, Director, Corporate Secretary, Granex; Juan Ponce Enrile; Rafael Fernando, Executive Vice President, Pan Pacific; Lay Kim Gaw; Cayetano Ly; Douglas Lu Ym, Executive Vice President, Unicom; Paterno La Yn; Guy Mangeis; Lee Nguyen; Richard Nugaid, Assistant Comptroller, Pan Pacific; Jesus Pineda, President, Pan Pacific; Eduardo Senios, Assistant Treasurer, Granex; and Danilo Ureua, Vice President, United Coconut Planters Bank.

Sachnoff Weaver & Rubenstein, LTD., One IBM Plaza, Suite 4700, Chicago, Illinois 60611, (312) 644-2400,
and
Guido Saveri,
Saveri & Saveri, 111 Sutter Street, Suite 2140, San Francisco, CA 94104, (415) 391-0300,
and
Harold B. Kohn,
Dianne M. Nast,
Kohn, Savett, Marion & Graf, P.C., 1214 IVB Building, 1700 Market Street, Philadelphia, PA 19103, (215) 665-0900,
and
Leonard Barrack,
Barrack, Rodos & McMahon, 2000 Market Street, Philadelphia, PA 19103, (215) 963-0600,
and
Elwood S. Kendrick, Elwood S. Kendrick, Inc., 612 South Flower Street, Suite 600, Los Angeles, CA 90017, (213) 626-7792,
and
J. Garrett Kendrick, Kendrick, Netter & Bennett, 612 Flower Street, Suite 600, Los Angeles, CA 90017, (213) 977-7792
and
Robert W. Morgan, Esquire,
Morgan, Morgan, Towery, Morgan & Spector, 210 South First Street, San Jose, CA 95113, (408) 295-7677.

[FR Doc. 82-5811 Filed 3-1-82; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated December 28, 1981, and published in the Federal Register on January 5, 1982; (47 FR 362), Sterling Drug Inc., 1776 North Centennial Drive, McPherson, Kansas 67460, made application to the Drug Enforcement Administration to be registered as an importer of buprenorphine (9064), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21 Code of Federal Regulations § 1311.42, the above firm is granted registration as an importer of the basic class of controlled substance listed above.

Dated: February 24, 1982.

Frank V. Monastero,

Assistant Administrator for Operations, Drug Enforcement Administration.

[FR Doc. 82-5806 Filed 3-1-82; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Notice of Withdrawal

On November 19, 1981, the Drug Enforcement Administration published a Notice of Application in the Federal Register (Vol. 46, No. 223, pg. 56955) stating that Johnson Matthey, Inc., 1401 King Road, West Chester, Pennsylvania 19380, had submitted an application for registration as a bulk manufacturer of methaqualone (2565), a basic class of controlled substance in Schedule II.

On January 20, 1982, the Drug Enforcement Administration was advised that Johnson Matthey, Inc., 1401 King Road, West Chester, Pennsylvania 19380, wishes to withdraw its application for registration as a bulk manufacturer of methaqualone (2565).

The application having been withdrawn, any proceedings relating to the application have been terminated and the publication withdrawn.

Dated: February 24, 1982.

Frank V. Monastero,

Assistant Administrator for Operations, Drug Enforcement Administration.

[FR Doc. 82-5804 Filed 3-1-82; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period February 15, 1982—February 19, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-11,913; United Plastics Div., International Telephone & Telegraph Corp., Medora, IN
TA-W-11,836; Marco Electric Manufacturing Co., Womelsdorf, PA
TA-W-12,153; Lane Cedar Products, Inc., Springfield, OR
TA-W-11,932; Frank Foundries Corp., Muncie, IN
TA-W-11,155; Ford Motor Co., Cincinnati Dealer Development Office, Cincinnati, OH
TA-W-11,146; Allis-Chalmers, Matteson, IL
TA-W-11,975; Society Lingerie, Inc., Michigan City, IN
TA-W-11,347; Arista Knitwear Manufacturing Corp., New York, NY
TA-W-11,739; Syntax Corp., Bay City, MI
TA-W-12,116; Eutaw Manufacturing, Baltimore, MD
TA-W-12,117; Misty Manufacturing, Baltimore, MD
TA-W-12,118; Aero Manufacturing, Baltimore, MD
TA-W-12,119; Misty Harbor, Ltd., Baltimore, MD
TA-W-12,468; Batino Fashions, Hoboken, NJ
TA-W-12,144; Regal Sportogs, Inc., Hackensack, NJ

Affirmative Determinations

TA-W-11,160; Ford Motor Co., San Fancisco Dealer Development Office, San Francisco, CA

A certification was issued in response to a petition received on September 29, 1980 covering all workers separated on or after September 15, 1980 and before December 1, 1980.

TA-W-12,076; Modulus Corp., Mount Pleasant Div., Mount Pleasant, PA.

A certification was issued in response to a petition received on January 12, 1981 covering all workers separated on or after December 29, 1980.

TA-W-11,448 & TA-W-11,958; Bertsch & Co., Cambridge City, IN

A certification was issued in response to a petition received on October 21, 1980 and December 16, 1980 covering all workers separated on or after October 17, 1979 and before March 31, 1981.

I hereby certify that the aforementioned determinations were issued during the period February 15-19, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street NW, Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 23, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-5581 Filed 3-1-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-6689 and 6692]

General Tire and Rubber Co.; Negative Determination on Reconsideration Following Remand

On June 25 , 1981, the United States Court of Appeals for the Seventh Circuit vacated and remanded for further proceedings the Secretary's Determination in Worker Petition TA-W-6489, General Tire and Rubber Company, Logansport, Indiana, *United Rubber Workers, Local 798* v. *Donovan*, 642 F.2d 702 (7th Circuit 1981). On May 9, 1980 the Department denied the union's request for administrative reconsideration. This determination was published in the Federal Register on May 23, 1980 (45 FR 35052). The initial denial was published in the Federal Register on April 18, 1980 (45 FR 26486).

The Logansport Rubber Workers were denied certification of eligibility to apply for adjustment assistance because their petition did not meet the "contributed importantly" test as required by Section 222 of the Trade Act of 1974. The workers produced primarily automotive bushings. Imports of bushings decreased both in absolute terms and relative to domestic consumption from 1977 to 1978 and from 1978 to 1979. The Department's survey of General Tire and Rubber Company's customers revealed that the surveyed customers either purchased no imports of bushings or decreased their purchases of imported bushings.

In the union's request for administrative reconsideration it asserted that the Department gave no consideration to whether they may have been eligible base on their production of window channeling and beltstrip. The Department's notice provided that the workers incorrectly assumed that the production of window channeling and beltstrip was overlooked in the initial investigation and referred to the results of an industry survey which indicated that imports of window channeling were negligible and that window channeling and beltstrip production was not enough, by itself, to have been an importantly contributory cause for the decline in production and sales or to the actual or partial separations of workers at the Longansport plants.

On July 7, 1980, the Rubber Workers petitioned the United States Court of Appeals for the Seventh Circuit for judicial review. On June 25, 1981, the Court determined that there was insufficient evidence in the record to support the Secretary's decision, and it directed that further proceedings be conducted to produce additional evidence regarding the following findings of fact: (1) Imports of window channeling and beltstrip were negligible and (2) mounts and bushings are not "like or directly competitive" with each other.

With regard to the imports of window channeling and beltstrip, on remand the Department surveyed four domestic automobile manufacturers since auto manufacturers apparantely constitute virtually the entire (if not the entire) market for window channeling. All reported that they did not import window channeling. The survey covered full or partial years 1978 to 1979, and it supports the Secretary's initial finding that imports of window channeling and beltstrip are negligible.

The Court also instructed that the Secretary gather further evidence to support his finding that mounts and bushings are not "like or directly competitive." This finding means that data concerning the increased importation of mounts are not relevant to a determination of the eligibility of the Logansport workers since mounts were not produced at Logansport. On remand, the Department found that mounts and bushings are not "like or directly competitive" with each other, since they have functional differences implying differences in design, materials and construction. Although they both tend to isolate virbrations and road shock, bushings are subject to loads and forces different in both kind and degree from those imposed on mounts. Further, mounts are found between the body and the frame and between the engine and the frame whereas bushings are found especially between suspension components. These clear distinctions between the two were corroborated by the manufacturer.

Conclusion

After reconsideration on remand, I reaffirm the original denial of eligibility to apply for adjustment assistance to workers and former workers of The General Tire and Rubber Company's plant in Logansport, Indiana.

Signed at Washington, D.C., this 22nd day of February 1982.

Stephen A. Wandner,

Deputy Director, Office of Research, Legislation and Program Policies.

[FR Doc. 82-5580 Filed 3-1-82; 8:45 am]

BILLING CODE 4510-28-M

Mine Safety and Health Administration

[Docket No. M-81-271-C]

Amax Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Amax Coal Company, 105 South Meridian Street, Indianapolis, Indiana 46225 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Wabash Mine Located in Wabash County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that mobile battery equipment have either a plug interlock or plug padlocks.

2. As an alternative method, petitioner proposes to use a mechanical locking device that will prevent the coupler's threaded ring from backing off and inadvertently separating the couplers while under load. The hook-like locking device will be attached to the coupler at all times, sliding into the groove on the threaded coupler for a secure connection and held in place by the ridge on the coupler.

3. Petitioner states that application of the standard would result in a diminution of safety for the miners affected because:

a. Padlocks would increase battery disconnect time. If a fire occurred from a short circuit in the power leads between the battery and the main circuit breaker, the additional disconnect time would pose increased safety hazards;

b. Padlocks ensure only against accidental separation under load, while threaded rings ensure a good mechanical connection and the mechanical locking device prevents the connection from backing off and becoming loose; and

c. Padlocks cannot be removed and connections unplugged simultaneously, while the locking device can be.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April

1, 1982. Copies of the petition are available for inspection at that address.

Dated: February 22, 1982.

Patricia W. Silvey,

Acting Director Office of Standards, Regulations and Variances.

[FR Doc. 82-5566 Filed 3-1-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-5-C]

BCNR Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

BCNR Mining Corporation, 455 Race Track Road, P.O. Box 500, Meadow Lands, Pennsylvania 15347 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Clyde Mine (I.D. #36-00967) located in Washington County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return aircourses be examined in their entirety on a weekly basis.

2. The return aircourses between the 2 flat junction and Hawkins shaft contain bad roof conditions, pools of standing water and numerous roof falls which make passage through or access to such returns impassable and/or extremely hazardous to the miners making such examinations.

3. Rehabilitation work to make such aircourses accessible, passable and safe for weekly examinations would expose an even greater number of miners to such hazards.

4. No electrical equipment or power lines which cold be sorces of ignition are present in the areas of these returns. No significant amounts of methane have been detected in such returns or in the sections served by them.

5. As an alternative method, petitioner proposes to establish and maintain specified ventilation monitoring stations at the inby and outby ends of inaccessible portions of the return.

6. Petitioner states that the proposed alternative method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 1, 1982. Copies of the petition are available for inspection at that address.

Dated February 22, 1982.

Patricia W. Silvey,

Acting Director Office of Standards, Regulations and Variances.

[FR Doc. 82-5567 Filed 3-1-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-6-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.519 (main power circuits; disconnecting switches) to its Itmann No. 3A Mine located in Wyoming County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that in all main power circuits, disconnecting switches be installed underground within 500 feet of the bottoms of shafts and boreholes through which main power circuits enter the underground area of the mine and within 500 feet of all other places where main power circuits enter the underground area of the mine.

2. Petitioner seeks a modification of the portion of the standard which requires the location of a disconnecting device within 500 feet of the bottom of Cabin Creek Shaft through which a main power circuit enters the underground area of the mine.

3. Cabin Creek Shaft was installed at the mine in the 1930's. Some time after it was installed, a main power circuit was routed through this shaft, and a disconnect switch was located within approximately 425 feet of Cabin Creek Shaft.

4. The average height of the seam of coal being mined is 50 inches.

5. Petitioner states that application of the standard will result in a diminution of safety to the miners because the disconnect switch is located in an area subject to water accumulation. During periods in which the amount of rainfall is above average, the water level in the area within 500 feet of Cabin Creek Shaft is likely to rise very rapidly and remain at an abnormally high level. The elevation of the area within 500 feet of Cabin Creek Shaft is the lowest in the mine and is subject to constant drainage.

6. As an alternative method, petitioner requests that it be permitted to locate the disconnect switch at a site approximately 1,200 feet from Cabin Creek Shaft. The proposed site provides the same measure of protection to the miners affected as would be provided by the standard. No miners are regularly assigned to work in the area between the proposed location of the disconnect switch and Cabin Creek Shaft.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 1, 1982. Copies of the petition are available for inspection at that address.

Dated: February 22, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-5568 Filed 3-1-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-3-M]

Franklin Limestone Co.; Petition for Modification of Application of Mandatory Safety Standard

Franklin Limestone Company, P.O. Box 95, Crab Orchard, Tennessee 37723 has filed a petition to modify the application of 30 CFR 57.4-61B (fire doors) to its Crab Orchard Mine located in Cumberland County, Tennessee. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that fire doors be installed in each opening to the underground mine shop.

2. Petitioner states that the Crab Orchard Mine is categorized as a "drive-in" mine with all working areas being fully accessible by conventional mobile equipment. The mine is non-gassy and is composed of non-combustible rock stratum. The most recent evacuation drill resulted in the complete evacuation of 16 miners in five minutes and fifty-eight seconds. The miners are safety oriented and are fully trained in fire fighting and evacuation techniques. Each miner wears and is fully trained in the use of a self-rescuer. Safe evacuation could be executed regardless of the location of an underground fire.

3. Petitioner further states that the likelihood of a fire in the shop is no greater than any other area of the mine.

4. Petitioner proposes the following alternative methods of achieving the result of the standard which will at all times guarantee no less than the same measure of protection for the miners as that afforded by the standard:

(a) Suitable fire fighting equipment will be located no less than 25 feet apart in the underground shop area;

(b) The amount of mobile equipment will be restricted to a minimum by allowing only malfunctioning equipment that is to be immediately repaired to remain in the shop to prevent a "parking lot" situation;

(c) A fire prevention training program will be regularly continued using comprehensive educational material and training aids;

(d) Fuel and other flammable materials will not be stored in the shop in excess of one day's supply; and

(e) Good housekeeping practices will be strictly enforced to eliminate the occurrence of any combustible material hazards.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 1, 1982. Copies of the petition are available for inspection at that address.

Dated: February 22, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-5569 Filed 3-1-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-2-M]

Morton Salt Division of Morton-Norwich Products, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Morton Salt Division of Morton-Norwich Products, Inc., P.O. Box 1496, New Iberia, Louisiana 70560 has filed a petition to modify the application of 30 CFR 57.4-61A (ventilation doors) to its Weeks Island Mine located in Iberia Parish, Louisiana. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that ventilation doors be installed at or near shaft stations of intake shafts and at any shaft designated as an escapeway.

2. This is a single-level mine served by two 18-feet-diameter shafts. Intake air is provided by a fan installation, on the surface, which is capable of air reversal. Normal operation of the fan is blowing, rather than exhausting, so that the Service Shaft (No. 4) is downcast and the Production Shaft (No. 3) is upcast. Both shafts are vertical, concrete-lined in overburden and underlined in salt (non-combustible). They are circular, non-compartmented, and have fire-retardant guides and guide-support timbers. Shaft stations are unlined, but are entirely in salt and free of combustible materials. Headframe sheathing, if any, is of non-combustible material (transite).

3. Evacuation of personnel along a route of fresh air (toward the No. 4 Shaft) is an established and accepted procedure. The shaft is provided with a mancage which accommodates an entire crew. It is provided with auxiliary power from a diesel generator for hoisting during a general power outage. Evacuation of miners up the No. 3 Shaft would be considered only in the event of a shaft fire in the No. 4 Shaft, and after main fan reversal as a result thereof. Reversal of the main fan at the collar of the No. 4 Shaft can be sustained, as fan and housing are non-flammable, and the No. 4 Shaft can be naturally upcast by opening collar doors.

4. Petitioner states that only three possible locations exist where a fire would endanger miners. They are: in the downcast shaft, in the upcast shaft, and in the mine between the shafts. In the event of fire in the downcast shaft, fan reversal is the recommended procedure, once it has been positively determined that the fire is in the shaft; in the upcast shaft, the closing-off of intake air would have the effect of removing an oxygen source for the fire, so that it would use up the oxygen in the mine and, possibly, suffocate miners; and in the mine and between the shafts the time-honored procedure of heading towards fresh air would be abandoned, and evacuation would have to proceed either ahead of smoke out of the upcast shaft or through smoke toward a static shaft. Few miners would be inclined to proceed ahead of smoke for fear of it overtaking them, especially if they were not certain that doors were closed.

5. Petitioner further submits that in static air, smoke from a fire would spread equally in all directions, and approach toward the source for the purpose of extinguishment would be far more difficult than approach in moving fresh air. Depending on the magnitude of the fire, oxygen depletion might be a problem in this case also. If a miner chooses to proceed through smoke toward the static shaft, he or she would encounter concentrated, undiluted smoke.

6. For these reasons, petitioner states that application of the standard would result in a diminution of safety for the miners affected and requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 1, 1982. Copies of the petition are available for inspection at that address.

Dated: February 22, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-5570 Filed 3-1-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-266-C]

New Way Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

New Way Coal Company, R.D. No. 1, Box 618, Ashland, Pennsylvania 17921 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity and velocity) to its Orchard Slope No. 1 located in Columbia County, Pennsylvania. The petition is filed under Sectioon 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Air sample analysis history reveals that harmful quantities of methane are non-existent in the mine.

2. Ignition, explosion and mine fire history are non-existent for the mine.

3. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

4. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

5. Extremely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

6. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines.

7. As an alternative method, petitioner proposes that:

a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

b. The minimum quantity of air reaching the last open crosscut in any pair of set of developing entries be 5,000 cubic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

9. Petitioner states that the alternative method proposed will at all times provide the same measure of protection for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 1, 1982. Copies of the petition are available for inspection at that address.

Dated February 22, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-5571 Filed 3-1-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-72-M]

Ziegler Chemical and Mineral Corp.; Petition for Modification of Application of Mandatory Safety Standard

Ziegler Chemical and Mineral Corporation, Star Route, Vernal, Utah 84078 has filed a petition to modify the application of 30 CFR 57.19-3 (hoists; requirements) to its Bonanza III Mine located in Unitah County, Utah. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that belt, rope or chains not be used to connect driving mechanisms to man hoists.

2. Petitioner requests a modification to allow use of a seven belt pulley drive mechanism on a man hoist at the mine. The proposed equipment consists of a ¾ inch wire rope, 50 h.p. G.E. 440 volt 1130 rpm slipring motor with hoisting speed near 300 feet per minute.

3. In support of this proposed alternative method, petitioner states that the seven belt pulley drive mechanism will provide the same or greater degree of safety for the miners affected as as that afforded by the standard. Specifically, while the belt driven system may at times allow for minor amounts of slippage, the direct drive system which was a set of gears to drive the hoist mechanism could fail completely if one or more of the gear teeth were broken or the gear drive mechanism jammed or came out of its track. The seven (7) belt drive system is actually two belts, one of which has 3 ribs and one of which has 4 ribs. These belts are stronger than seven individual belts and are not subject to stretching or twisting as are seven individual belts. Petitioner plans to replace both the three rib belt and the four rib belt on an annual basis in order to insure that fresh new belts are always in place on the drive mechanism. The man hoist belt drive system will be used on an escape shaft, and is not intended for use on a working shaft. The man hoist would be used by supervisory personnel for periodic inspections of the escape shaft and would be used by miners only in case of an emergency which prevented them from using the primary man hoist.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 1, 1982. Copies of the petition are available for inspection at that address.

Dated: February 22, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-5572 Filed 3-1-82; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Meeting

AGENCY: National Commission for Employment Policy.

ACTION: Notice of meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is given of a conference on improving the labor market position of Hispanic-Americans, sponsored by the National Commission for Employment Policy. The conference will be held at the International Hotel, Vermont at Massachusetts Avenues, NW., Washington, D.C.

DATES: March 25, 1982, 8:30 a.m.–5:00 p.m. and March 26, 8:30 a.m.–12:00 noon.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The purpose of the conference is to provide background and direction to policymakers and Commission members for the development of recommendations on improving the labor market position of Hispanic-Americans. Sessions will consider their economic position, the sources of the problems, the role of employment and training programs, education, and policy implications.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph E. Smith, Acting Director, National Commission for Employment Policy, 1522 K Street, NW., Suite 300, Washington, D.C. 20005; (202-724-1553).

SUPPLEMENTARY INFORMATION: The National Commission for Employment Policy was established as title V of the Comprehensive Employment and Training Act Amendments of 1978 (Pub. L. 95-524). The Act gives the Commission the broad responsibility of advising the President and the Congress on national employment issues.

Signed in Washington, D.C., this 24th day of February, 1982.

Ralph E. Smith,

Acting Director, National Commission for Employment Policy.

[FR Doc. 82-5582 Filed 3-1-82; 8:45 am]

BILLING CODE 4510-30-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-313 and 50-368]

Arkansas Power & Light Co., Arkansas Nuclear One, Units No. 1 and 2; Exemption

I

The Arkansas Power & Light Company (the licensee) is the holder of Facility Operating Licenses Numbered DPR-51 and NPF-6 which authorized operation of Arkansas Nuclear One, Units 1 and 2 (ANO-1 and 2 or the facility). The license provides, among other things, that ANO-1 and 2 are subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility consists of two pressurized water reactors located at the licensee's site in Pope County, Arkansas.

II

Section 50.48(c)(2) of 10 CFR Part 50 requires that certain features of the ANO, Units 1 and 2 fire protection program those that involve installation of modifications, shall be implemented by November 17, 1981. One such feature is the installation of emergency lighting units in all areas needed for operation of safe shutdown equipment.

By letter dated November 16, 1981 as supplemented December 22, 1981, the licensee requested an exemption from the 50.48 schedular requirement, delaying the installation of these lighting units from November 17, 1981, to March 1, 1982. The delay was necessitated by the licensee's determination that the scope and number of lighting units required to meet Appendix R requirements was signifcantly greater than previously estimated. The licensee states that the majority of the additional emergency lighting required by Appendix R has already been installed and in addition to the previously existing emergency lighting will provide adequate illumination for operation of safe shut down equipment. In addition, backup direct current prowered emergency lights are provided throughout the auxiliary buildings and hand held emergency lighting is available to plant personnel.

As the licensee will have the system operational in a relatively short period of time, already has the current system powered from class 1E buses operable, and has backup D-C powered and backup hand-held emergency lighting available, we conclude that the licensee's request to be exempted from the schedular requirement of 10 CFR 50.48(c)(2) should be granted.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption requested by the licensee's letters dated November 16, 1981 and December 22, 1981, as discussed above, is authorized by law and will not endanger life or property or the common defense and security, is otherwise in the public interest, and is hereby granted.

The Commission has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action. This exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 17th day of February, 1982.

For the Nuclear Regulatory Commission.

E. G. Case,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-5640 Filed 3-1-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-293, License No. DPA-35 EA-81-63]

Boston Edison Co. and Pilgrim Nuclear Power Station; Order Extending Time

In the matter of Boston Edison Co. and Pilgrim Nuclear Power Station; Order extending time to reply to order modifying license effective immediately issued January 21, 1982.

I

The Boston Edision Company (the "licensee") is the holder of Facility Operating License No. DPR-35 (the "license") which authorizes the operation of the Pilgrim Nuclear Power Station (the "facility"). The license was originally issued on June 8, 1972, and will expire on August 26, 2008.

II

On January 18, 1982, the Commission, by the Director of the Office of Inspection and Enforcement (the "Director"), issued an Order Modifying License Effective Immediately (the "Order"). This Order required that the licensee submit by February 17, 1982, to the Administrator of Region I of the Nuclear Regulatory Commission (NRC), for review and approval, a comprehensive plan of action (the "plan") that will yield an independent appraisal of site and corporate management organizations and functions, recommendations for improvements in management controls and oversight, and a review of previous safety-related activities to evaluate compliance with NRC requirements.

III

On February 10, 1982, the Director received Licensee's Request for Modification of Order Modifying License Effective Immediately (the "Request"). The Request seeks an extension of time to submit the plan from February 17, 1982 to March 19, 1982. The reason given to justify this extension is that the licensee is awaiting additional information from several activities which is needed to prepare a plan fully responsive to the Order. These activities will not completed until after February 17, 1982. These acitivities include obtaining a report from a team from the General Electric Company which has been appraising the situation at the facility, and the selection of an independent appraiser.

IV

Accordingly, for good cause shown and pursuant to 10 CFR Part 2, it is hereby ordered that the time for submission of the plan be extended to March 19, 1982.

Dated at Bethesda, Maryland this 16th day of February, 1982.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 82-5641 Filed 3-1-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-269, 50-270, and 50-287]

Duke Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 107, 107 and 104 to Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, issued to Duke Power Company, which revised the Technical Specifications (TSs) for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

The amendments revise the TS requirements concerning heatup, cooldown and inservice testing limitations for the reactor coolant system.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental

impact statement or negative declaration and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated January 12, 1982, (2) Amendments Nos. 107, 107, and 104 to Licenses Nos. DPR–38, DPR–47 and DPR–55, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina 29691. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 22nd day of February 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82–5643 Filed 3–1–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–498–A, 50–499–A; 50–445–A, 50–446–A]

Houston Lighting & Power Co. (South Texas Project, Units 1 and 2) and Texas Utilities Generating Co., et al. (Comanche Peak Steam Electric Station, Units 1 and 2); Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.105 (effective November 6, 1981), the Atomic Safety and Licensing Board for *Houston Lighting and Power Company* (South Texas Project, Units 1 and 2), Docket Nos. 50–498–A and 50–499–A, and *Texas Utilities Generating Company, et. al.* (Comanche Peak Steam Electric Station, Units 1 and 2), Docket Nos. 50–445–A and 50–446–A, is hereby reconstituted by appointing Administrative Law Judge James A. Laurenson to serve in place of the Board. Administrative Judge Michael L. Glaser has retired, and Administrative Judges Marshall E. Miller and Sheldon J. Wolfe, because of schedule conflicts, are unable to continue to serve.

All correspondence, documents and other materials shall be filed with Judge Laurenson in accordance with 10 CFR 2.701 (1980). His address is: Administrative Law Judge James A. Laurenson, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Issued at Bethesda, Maryland, this 23rd day of February, 1982.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 82–5643 Filed 3–1–82; 8:45 am]

BILLING CODE 7590–01–M

[Source Material License No. STC–1333 EA 82–06]

Stepan Chemical Co., Order Imposing a Civil Penalty

I

The Stepan Chemical Company, Maywood, New Jersey, 07607 (the "licensee") is the holder of Source Material License No. STC–1333 (the "license") issued by the Nuclear Regulatory Commission (the "Commission" or the "NRC") which authorizes the licensee to possess source material in two burial sites in accordance with the conditions specified therein. The license was issued on April 4, 1978, and has an expiration date of April 30, 1983.

II

A special inspection was conducted at the licensee's Maywood, New Jersey facility between November 13, 1980 and January 22, 1981. This inspection was conducted to review the storage of thorium waste at that facility and to gather information concerning the recently identified thorium contamination on and adjacent to the licensee's property. During this inspection, the General Manager of the licensee's Maywood Department was interviewed and failed to provide complete information concerning his knowledge of thorium on the licensee's site. Specifically, he stated there were two thorium waste burial sites when he knew there actually were three. As a result of this inspection, a Notice of Violation was served upon the licensee by letter dated April 29, 1981, which identified two apparent items of noncompliance, including the storage of source material in a third burial site not authorized by the license. In the course or pursuing issues raised during this inspection, a meeting was held on October 8, 1981 between the General Manager of the licensee's Maywood Department and the Director of the Commission's Office of Inspection and Enforcement to discuss the General Manager's knowledge of the burial of thorium waste on the licensee's site. As a result of these discussions, it appears that the General Manager, on November 19 and 20, 1980, knowingly withheld information concerning the number and location of thorium waste burial sties on the property of the Stepan Chemical Company, Maywood, New Jersey and that the licensee's corporate officials did not take steps on November 19, 1980, to immediately notify the Commission when they were informed by the General Manager on that date that the information had been withheld. Based on these findings, it appears that the licensee has not conducted its activities in full compliance with the requirements of the Nuclear Regulatory Commission's "Domestic Licensing of Source Material", Part 40, Title 10, Code of Federal Regulations.

A written Notice of Violation and Proposed Imposition of a Civil Penalty was served upon the licensee by letter dated October 26, 1981. This Notice stated the nature of the violation, the provision of the Nuclear Regulatory Commission regulations which had been violated and the proposed amount of civil penalty. Answers dated December 2, 1981, to the Notice of Violation and Proposed Imposition of a Civil Penalty were received from the licensee.

III

Upon consideration of the answers received and the statements of fact, explanation, and argument for remission, mitigation or cancellation contained therein, as set forth in the attachment to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalty proposed for the violation designated in the Notice of Violation and Proposed Imposition of a Civil Penalty should be imposed.

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96–295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil penalty in the amount of Twenty Thousand Dollars within thirty days of the date of this Order, by check, draft, or money order payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement.

IV

The licensee may, within thirty days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement, U.S.N.R.C., Washington, D.C. 20555. A copy of the hearing request shall be sent to the Executive Legal Director, U.S.N.R.C., Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. Upon failure of the licensee to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

V

In the event the licensee requests a hearing as provided above, the issues to be considered at such a hearing shall be:

a. Whether the licensee violated a Commission regulation as set forth in the Notice of Violation and Proposed Imposition of a Civil Penalty dated October 26, 1981; and

b. Whether, on the basis of such violation, this Order should be sustained.

Dated at Bethesda, Maryland this 18th day of February 1982.

For the Nuclear Regulatory Commission.

James H. Sniezek,

Acting Director, Office of Inspection and Enforcement.

Appendix—Evaluations and Conclusions

For the violation identified in the Notice of Violation and Proposed Imposition of the Civil Penalty dated October 26, 1981, the original violation is restated and the Office of Inspection and Enforcement's evaluation and conclusion regarding the licensee's response contained in the licensee's letter dated December 2, 1981, is presented. Response to the licensee's protest and arguments in support of remission of the penalty is provided following discussion of the violation.

A. Response to Violation

Statement of Violation. "10 CFR 40.62 requires that each licensee afford the Commission reasonable opportunity to inspect source or byproduct material.

Contrary to this requirement, on November 19 and 20, 1980, during an inspection of the licensee's Maywood, New Jersey plant, the licensee's General Manager impeded inspection of source material by knowingly withholding information from an NRC inspector regarding the existence of a source material (thorium waste) burial site at the plant with full knowledge that the site did, in fact, exist.

This is a Severity Level III Violation. Paragraph III of the Interim Enforcement Policy entitled *Severity of Violations*, states, in part, 'Violations not specifically identified by a severity level will be placed at the level best suited to the significance of the particular matter.'

(Civil Penalty—$20,000)."

Evaluations and Conclusions. The licensee denies the violation, but admits, "When asked if there were any other sites, the general manager failed to disclose the existence of a third site * * *" The licensee makes the following arguments to support its contention that it did not violate the requirements of 10 CFR 40.62:

1. "The Stepan employee who dealt with the NRC inspectors on November 19 had never dealt with the NRC before, had no knowledge of NRC regulations or Stepan's responsibilities as an NRC licensee, and had only a sketchy understanding of the facts surrounding the burial sites in question. His failure to repond to a question posed by the inspectors was not a deliberate attempt to withhold information from the NRC; he intended only to defer discussion for a short period of time until a more knowledgeable individual was available to speak with the inspectors.The employee who spoke with the NRC inspectors during their unannounced inspection on Wednesday, November 19, was the general manager of Stepan's Maywood Department, which is only one of the businesses located at the Maywood Plant."

NRC Evaluation. The individual in question, the General Manager of the licensee's Maywood Department, was fully aware of the existence of the three thorium waste burial sites. He had actively participated in the annual surveys of the third burial site, which is located in an area used exclusively by Stepan's Maywood Department. Regardless of his intent, he made a conscious determination not to disclose the existence of the third burial site to the NRC inspectors.

NRC Conclusions. We conclude that the General Manager deliberately withheld information from the Commission when he specifically denied knowledge of thorium waste located in any place other than the two burial sites referenced in the license.

2. "As soon as Stepan learned that NRC inspectors has met with the general manager, it immediately contacted its Maywood plant manager, the responsible official for NRC liaison, and expressly instructed him to cooperate with the NRC inspectors and to provide any and all information which the NRC might request. As the plant manager was scheduled to meet with the inspectors on Friday, November 21, this action by Stepan was expected to provide the NRC with an appropriately prompt response to any questions it might have concerning Stepan's NRC license. The meeting was postponed one business day by the NRC.

It took place on Monday, November 24, at which time, as the NRC staff itself concedes, a full and complete explanation of the three burial sites was obtained."

NRC Evaluation. Despite the fact that licensee management was informed on Wednesday, November 19, that the General Manager had failed to disclose the existence of the third burial site, it took no immediate action to provide this information to the NRC, either directly or by instructing General Manager to contact the NRC. The meeting scheduled for Friday, November 21, was postponed to Monday, November 24, at the request of the licensee, not the NRC, because the Plant Manager would not be in Maywood, New Jersey until November 24. In addition, NRC inspectors returned to the site on November 20, but neither the General Manager nor any other personnel used this opportunity to disclose the existence of the third burial site.

NRC Conclusion. The information presented by the licensee does not provide a basis for modification of the enforcement action.

3. "The inspectors advised the general manager that the NRC's files on Stepan had been lost, and that they had a copy only of the license. The existence of the third site was in fact already known to the NRC, as it had been created with AEC approval and numerous documents reflecting its location and contents have been in AEC and NRC files since the late 1960's."

"These files were not lost after all as a complete set was made available to Stepan's counsel on November 25, 1980."

"Given that the wastes buried at Maywood consist of low-level material, and given the AEC's and NRC's historic lack of interest in the site, this response time was clearly adequate".

NRC Evaluation. The purpose of the NRC's inspection on November 19, 1980 was to determine the amounts and extent of thorium contaminants present at and around the licensee's Maywood site. Thorium contamination had recently been discovered in areas on the adjacent to licensee property. A portion of the Commission's Region I file could not be located.[1] While prompt efforts were made to reconstruct this portion of the file from other Commission files, information available to the inspectors, including the reconstructed file, indicated no previous Commission knowledge of the thorium

[1] This portion of the file was not located until August 1981. The inspectors do not recall stating, "* * * that they had a copy only of the license," during the inspection on November 19, 1981.

contamination. The inspector's questions were intended to elicit from the General Manager all the information he had regarding the presence of thorium at the licensee's Maywood site. The Commission needed complete information in order to decide whether the recently identified thorium contamination required remedial measures to protect the health and safety of the public. The Commission staff concedes the General Manager had no knowledge of this additional contamination, but by withholding information about the third burial site, he cast doubt upon his credibility and his and the licensee's willingness to make open and complete disclosures of information to the Commission.

The Commission's concern in this matter is based not on the hazard posed by the material in the third burial site, but on the fact that a responsible licensee representative knowingly withheld information during the course of the inspection and corporate management subsequently failed to promptly correct this omission when informed of it. Previous AEC/NRC interest in this site does not affect the licensee's responsibility to provide the Commission with truthful, complete and factual information.

NRC Conclusion. An open and honest relationship must exist between the Commission and licensees in order for the Commission and licensees to discharge their respective responsibilities to protect the health and safety of the public. The regulatory process cannot function as intended if licensee officials withhold information from inspectors. In this case, a knowledgeable, responsible representative of the licensee did withhold information relevant to the inspection and thereby impeded the Commission in carrying out its regulatory responsibilities.

Furthermore, licensee corporate management, when apprised by the General Manager of the Maywood Department of his having withheld the information, did not immediately correct his misstatement. Commission knowledge of the withheld information, and the level of previous Commission interest do not bear on the basic finding that the licensee deliberately withheld information which was specifically requested during an inspection. The information presented by the licensee does not provide a basis for modifying or withdrawing the cited violation.

B. Licensee's Protest of Imposition of a Civil Penalty

The licensee requests remission or mitigation of the proposed civil penalty and makes the following arguments in support of this request:

(1) The circumstances and intentions of Stepan's employees and management mitigate the severity of any violation;

(2) The violation should be classified at Severity V or VI, rather than Severity III, because the violation did not involve "actual or high potential impact on the public;"

(3) Even assuming the violation is properly classified at Severity III, the base penalty for such violation is $4,000, and the circumstances do not indicate that the conduct at issue was either egregious or willful so that a significant increase in the amount of penalty is warranted under the enforcement policy; and

(4) The amount of the proposed penalty is not consistent with other recently imposed civil penalties, because fines equal or greater than $20,000 have been typically imposed in cases, unlike the one at hand, involving direct threats to the health and safety of the public or licensee's employees.

The intentions of the licensee's General Manager do not warrant mitigation of the proposed civil penalty. Whatever his reasons may have been, the fact remains that he consciously determined not to inform the inspectors of his knowledge of the existence of the third burial site. Although he had an opportunity to correct this omission when the inspectors returned to the site on the following day, he did not do so. Although the licensee fully informed the NRC of its knowledge of the burial of material on its property in a meeting on November 24, 1980, the licensee's management did not immediately correct the omission upon learning of it on November 19 or assure that the General Manger corrected it.

The violation is appropriately classified as a Severity III violation. Under the interim enforcement policy, Severity III violations are violations involving matters of "significant regulatory concern." The withholding of information by a licensee from an NRC inspector is significant because it undermines the NRC's confidence in the intergrity of the licensee and it impedes the inspection program that is fundamental to the NRC's licensing scheme. The Commission required forthright information to ensure that its understanding of the circumstances surrounding the presence of radioactive material or contamination on and near Stepan Chemical's property was complete and correct. It should be noted that material false statements, which are analogous to the violation cited here, are generally classified at Severity Levels I, II, or III under the policy.

The penalty was proposed here because of the willful nature of the violation. Although the base penalty is $4,000 for Severity III violations by licensees like Stepan Chemical, the imposition of civil penalties up to the statutory maximum of $100,000 may result under the interim enforcement policy in "particularly egregious cases including cases involving willfulness." Because the General Manager consciously determined not to reveal the extent of his knowledge of the presence of radioactive material on Stepan Chemical's property to the inspectors, this conduct warrants a significant increase over the base penalty normally assessed for Severity III violations by similar licensees. Our recognition that the violation ultimately did not have a significant impact on public health and safety, and that Stepan fully explained the extent of its knowledge of the existence of radioactive material on its property at a meeting with the NRC a few days after the violation occurred, resulted in the NRC not exercising its full statutory authority.

NRC Conclusion. The proposed penalty will be imposed.

[FR Doc. 82-5044 Filed 3-1-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-404]

Virginia Electric & Power Co.; Issuance of Amendment Construction Permit No. CPPR-114

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Construction Permit CPPR-114, issued to Virginia Electric and Power Company (applicant) for the North Anna Power Station, Unit 3 (the facility) located in Louisa County, Virginia. This amendment deletes three environmental conditions because these conditions imposed water quality requirements beyond those specified in the National Pollutant Discharge Elimination System Permit. See Tennessee Valley Authority, ALAB-515, 8NRC702 (1978). The amendment is effective as of its date of issuance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Virginia Electric and Power Company letter dated November 30, 1981, and (2) Amendment No. 1 to Construction Permit No. CPPR-114.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901, and the Board of Supervisors, Louisa County Courthouse, P.O. Box 27, Louisa, Virginia 23093. A copy of Amendment No. 1 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 22nd day of February 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 82-5045 Filed 3-1-82; 8:45 am]
BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

Presidential Advisory Committee on Small and Minority Business Ownership; Public Meeting

The President Advisory Committee on Small and Minority Business Ownership, located in Washington, D.C. will hold a 2-day public meeting, 9:00 a.m. until 5:00 p.m., Monday and Tuesday, March 8-9, 1982 at the U.S. Small Business Administration, 2nd Floor Conference Room, 1441 L Street, NW., Washington, D.C. 20416, to discuss such business as may be presented by the Committee members. The meeting will be open to the interested public, however, space is limited.

Persons wishing to present written statements should notify Mrs. Bettye Bolden, Office of the Associate Administrator for Minority Small Business and Capital Ownership Development, Small Business Administration, Room 317, 1441 L Street NW., Washington, D.C. 20416, (202) 653-6851, in writing or by telephone no later than March 3, 1982.

Dated: February 23, 1982.

Edna E. Powers,

Director, Office of Advisory Councils.

[FR Doc. 82-5490 Filed 3-1-82; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Debt Management Advisory Committee; Meeting

Notice is hereby given, pursuant to Section 10 of Pub. L. 92-463, that a meeting will be held at the Federal Reserve Bank of New York on March 16, 1982, of the following debt management advisory committee:

Public Securities Association
U.S. Government and Federal Agencies Securities Committee

The agenda for the Public Securities Association U.S. Government and Federal Agencies Securities Committee meeting provides for a working session and the preparation of a written report to the Secretary of the Treasury on March 16, 1982.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Pub. L. 92-463, and vested in me by Treasury Department Order 101-5 (January 7, 1981), I hereby determine that this meeting is concerned with information exempt from disclosure under section 552b(c)(4) and (9)(A) of Title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees have been utilized by the Department at meetings called by representatives of the Secretary. When so utilized, such a committee is recognized to be an advisory committee under Pub. L. 92-463. The advice provided consists of commercial and financial information given and received in confidence. As such debt management advisory committee activities concern matters which fall within the exemption covered by section 552b(c)(4) of Title 5 of the United States Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential."

Although the Treasury's final announcement of financing plans may or may not reflect the recommendations provided in reports of an advisory committee, premature disclosure of these reports would lead to significant financial speculation in the securities market. Thus, these meetings also fall within the exemption covered by Section 552b(c)(9)(A) of Title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552b.

Dated: February 24, 1982.

Roger W. Mehle,

Assistant Secretary (Domestic Finance).

[FR Doc. 82-5496 Filed 3-1-82; 8:45 am]
BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 41
Tuesday, March 2, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

TIME AND DATE: 10 a.m., March 4, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 40147, Carrier Selection Case for Stockton, Modesto and Merced, California, Instructions on Merced. (BDA)
3. Docket 34141, Application of Trans-Panama, S.A.—Opinion and Order on Review. (Memo 544–A, OGC)
4. Docket 39851, *Pan American-Acquistion of Control Of, And Merger With National Petition of P.A.I.N., Inc., et al.*, for order setting aside integrated seniority list and directing arbitration pursuant to Board's LPP jurisdiction. (Memo 1106, OGC)
5. Docket 39585, (*Action On Smoking and Health* v. *American Airlines, et al.*), ASH's petition for review of BCCP's dismissal of complaint alleging that twelve U.S. airlines have violated the Board's rules governing smoking aboard aircraft. (Memor 1122, OGC)
6. Docket 40135, Change in the definition of commuter to remove small cargo and mail carriers from that classification. (Memo 816–A, OGC, BDA)
7. Amendment of the delegation of authority to grant or deny waivers from the Board's smoking rule. (Memo 1112, OGC, OCCCA)
8. Docket 38532, Draft final rule simplifying the reporting requirements imposed upon foreign commercial carriers that operate occasional planeload charters or continuing cargo operations. (OGC, BIA, OC)
9. Docket 39810, Draft final rule removing the tariff requirement that carriers charge the published through fare or rate between two points even if different than the sum of fares or rates for the segments over the same route. (Memo 629–A, OGC, BIA, BDA)
10. Docket 38804, A two-year review for fitness determinations for non-operating carriers. (Memo 1130, OGC, BDA)
11. Reduction of required reports in Part 374a for extension of credit to political candidates by airlines. (Memo 1110, OGC, OC)
12. Docket 40155, *A.V. Costantini d.b.a. United Travel Service and Halliburton Tours* v. *American Express Co., et al.*, motion to review dismissal of third-party complaint alleging rebating conspiracy to keep complainant out of international package tour business. (Memo 1125, OGC)
13. Docket 39871, Aspen's petition for reconsideration of Order 81–7–120. (Memo 735–D, BDA, OCCCA, OC)
14. Docket 38442, Essential Air Service at Kokomo/Logansport/Peru, Indiana. (BDA, OCCCA, OC)
15. Docket 37565, Petition of Cardinal/Air Virginia for advance compensation for losses at Danville, Virginia. (Memo 1114, BDA, OCCCA, OC)
16. Dockets 38445 and 38538, WestAir's rate of compensation for the provision of essential air service at Chico, California. (BDA, OCCCA, OC)
17. Dockets 39480 and 39289, Essential air service for Yankton, South Dakota, and Norfolk, Nebraska. (BDA, OCCCA)
18. Docket 40142, Service to Bakersfield, Santa Maria and San Luis Obispo Proceeding. (Memo 1040–A, BDA, OCCCA, OC)
19. Dockets EAS–645 and 37703, Essential Air Service Determination for Aguadilla, Puerto Rico and Notice of Intent of Sun International Airways to suspend service at Aguadilla. (OGC, OCCCA, BDA)
20. Docket EAS–771, Appeal of 419(b) eligibility determination of Elizabeth City, North Caroline for designation as an eligible point. (Memo 1121, BDA, OGC, OCCCA)
21. Docket EAS–763, Request for instructions on the appeal of Sedalia, Missouri, concerning its eligibility for inclusion in the small community program under section 419(b) of the Act. (Memo 628–A, BDA, OCCCA, OGC)
22. Commuter carrier fitness determination of Barken International, Inc. (Memo 1107, BDA)
23. Commuter carrier fitness determination of Planes, Inc. (Memo 1129, BDA)
24. Commuter carrier fitness determination of Midwest Aviation Division of Southwest Aviation, Inc. (Memo 1128, BDA)
25. Docket 40435, Commuter Fitness Determination of Dolphin Airways and petition for reconsideration of Order 81–12–96 to the extent that it requires Dolpin Airways to change its name. (BDA, OGC)
26. Docket 39550, Application of People Express Airlines, Inc. for an exemption and Petition of American Airlines for review and reversal of staff action in Order 81–8–41 granting People Express exemptions from the Board's oversales and denied boarding regulations. (BDA, OCCCA)
27. Dockets EAS–633, 40340, 40341, 90-day notice of Continental Air Lines to terminate Honolulu-Pago Pago service and Request of the American Samoa Government for production by South Pacific Island Airways of documents. (BDA, OCCCA, OGC)
28. Dockets 40123 and 40165, Thirty and Ninety Day Notices of Air Oregon to terminate all service at Salem, North Bend, and Pendleton, Oregon. (BDA, OCCCA)
29. Docket 40378, Petition of Big Sky Airlines for emergency subsidy relief, or, in the absence of such relief, a notice of intent to suspend service at Devils Lake and Jamestown, North Dakota. (BDA, OCCCA)
30. Docket 34396, Request of Braniff Airways, Inc. for discussion authority under section 412 and an antitrust exemption under section 414. (Memo 1126, BDA, OGC)
31. Dockets 39422, 39423, 39424, Selection of carrier to serve Roswell, Carlsbad and Hobbs, New Mexico. (BDA, OCCCA, OC)
32. Docket 40345, Application of Airpac, Inc., under expedited procedures, for a section 401 certificate. (Memo 1119, BDA)
33. Docket 35634, IATA agreements proposing various U.S.-Europe cargo rate revisions. (BIA)
34. Docket 39440, Delta's petition for reconsideration of Order 81–8–109. (Memo 589–A, BIA, OGC)
35. Request of Thomson Travel Limited for cancellation of its section 402 permit. (BIA, OGC)
36. Docket 33068, Transpacific Low Fare Route Investigation, Docket 38941, Application of Northwest Airlines for exemption, Docket 40303, Application of Continental/Air Micronesia for exemption. (Memo 168–F, BIA, OGC)
37. Dockets 34200 and 40316, Applications of Ceskoslovenske Aerolinie (CSA) for amendment and renewal of its foreign air carrier permit. (BIA, OGC, BAL])
38. Slot Allocation Program of FAA at Restricted Airports.

STATUS: Items No. 1–37 Open. Item No. 38 Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary; (202) 673–5068.

[S–313–82 Filed 2–26–82; 3:49 pm]

BILLING CODE 6320–01–M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, March 4, 1982.

LOCATION: Room 456, Westwood Tower, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Section 6(b) CPSA: Proposed Rule*

The Commission will consider a proposed rule which would establish the Commission policy and procedure for the public disclosure of information under Section 6(b) of the Consumer Product Safety Act.

2. *Chain Saws: Preliminary Evaluation Voluntary Standard*

The staff will brief the Commission on the results of the staff's preliminary assessment of the potential of the standard developed by the Chain Saw Manufacturers Association to reduce chain saw kick back injuries.

Closed to the Public:

3. *Enforcement Matter (OS# 2010)*

The Commission will consider issues related to enforcement matter OS# 2010.

4. *Enforcement Matter (OS# 2020)*

The Commission will consider issues related to enforcement matter OS# 2020.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 342, 5401 Westbard Avenue, Bethesda, MD 20207; Telephone (301) 492–6800.

[S–313–82 Filed 2–26–82; 1:17 pm]

BILLING CODE 6355–01–M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

February 24, 1982.

TIME AND DATE: 10 a.m., Tuesday, March 2, 1982.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Victor McCoy v. Crescent Coal Company, et al., Docket No. PIKE 77–71; Petition for Interlocutory Review. (Issues include whether judge erred in denying motion to dismiss United Coal Company (alleged successor company) as party respondent.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen; (202) 653–5632.

[S–310–82 Filed 2–26–82; 11:20 am]

BILLING CODE 6820–12–M

4

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–82–6]

TIME AND DATE: 10 a.m., Tuesday, March 9, 1982.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Ave., S.W., Washington, D.C. 20594.

STATUS: The first three items will be open to the public; item four will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Highway Accident Report:* Miller Transporters, Inc., Tractor-Cargo Tank Semitrailer/Southern Railway System Freight Train Collision and Fire, Huntsville, Alabama, September 15, 1981, and Recommendations.
2. *Railroad Accident Report:* Head-on Collision Between Boston & Maine Corporation Extra 1731 East and Massachusetts Bay Transportation Authority Train No. 570 August 11, 1981, and Recommendations.
3. *Special Investigation Report:* Accidents Involving Passenger Fatalities and Injuries Between Coupled Cars on Rail Rapid Transit Systems.
4. *Opinion and Order:* Administrator v. DiGiovanni, Dkt. SE–4841; disposition of respondent's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

February 26, 1982.

[S–314–82 Filed 2–26–82; 3:49 pm]

BILLING CODE 4910–58–M

5

POSTAL RATE COMMISSION

TIME AND DATE: 2 p.m., Wednesday, March 3, 1982.

PLACE: Room 500, 2000 L Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: [Proposed] Amendments to Commission's Rules of Practice and Procedure regarding supporting materials required for computer-based studies and other analyses offered into evidence.

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, N.W., Washington, D.C. 20268. Telephone (202) 254–5614.

[S–313–82 Filed 2–26–82; 11:30 am]

BILLING CODE 7715–01–M

6

RAILROAD RETIREMENT BOARD

TIME AND DATE: 10 a.m., March 8, 1982.

PLACE: Board's meeting room, Eighth floor, headquarters building, 844 Rush Street, Chicago, Illinois, 60611.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portion open to the public:

(1) Detection and prevention of fraud, waste, and abuse at the Railroad Retirement Board.
(2) Bureau of Audit and Investigation and Bureau of Planning and Information Management.
(3) Appeal of Railroad Concrete Crosstie Corporation.
(4) Suggestion re shortening public service hours in district offices.
(5) Survey of the Division of Disability Benefits.
(6) Requesting change in Treasury Department regulations re deposit of railroad retirement taxes.
(7) Furnishing copies of audit reports to Senate Committee on Labor and Human Resources.
(8) Delayed registration by Alan L. Thompson.
(9) Delayed registration by David H. Wilson.
(10) Processing appeals at the Board level.

Portion closed to the public:

(A) Appeal from referee's denial of disability annuity, Clifford R. Darnell.
(B) Appeal from referee's denial of disability annuity, Arnold L. Marcum.
(C) Appeal from referee's denial of disability annuity, Joseph B. James.

CONTACT PERSON FOR MORE INFORMATION: Beatrice Ezerski, COM No. 312–751–4920; FTS No. 387–4920.

[S–316–82 Filed 2–26–82; 3:59 pm]

BILLING CODE 7905–01–M

7

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

STATUS: Open/closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, February 22, 1982.

CHANGES IN THE MEETING: Additional items. The following additional item will be considered at an open meeting scheduled for Wednesday, March 3, 1982, at 10:00 a.m.:

Consideration of whether to issue a release discussing the status of the linkage between the Intermarket Trading System ("ITS") and the National Association of Securities Dealers, Inc.'s NASDAQ system and discussing what steps the Commission could take to foster that linkage. For further information, please contact Robert Colby at (202) 272–2888.

The following additional item will be considered at a closed meeting scheduled for Thursday, March 4, 1982, at 10:00 a.m.

Settlement of administrative proceeding of an enforcement nature.

Chairman Shad and Commissioners Lommis, Thomas and Longstreth determined by vote that Commission business required consideration of these

matters and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Diane Klinke at (202) 272–2178.

February 25, 1982.

[S–311–82 Filed 2–26–82; 11:39 am]
BILLING CODE 6210–01–M

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federal register

Tuesday
March 2, 1982

Part II

Office of Personnel Management

Positions Which Were Career Reserved During 1981

OFFICE OF PERSONNEL MANAGEMENT

Positions Which Were Career Reserved During 1981

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY. As required by the Civil Service Reform Act of 1978 this gives notice of all positions in the Senior Executive Service (SES) that were career reserved during 1981.

FOR FURTHER INFORMATION CONTACT: Anne A. Andrews, Office of Executive Personnel, (202) 632–6620.

SUPPLEMENTARY INFORMATION: Below is a list of titles of SES positions that were designated career reserved any time in 1981, whether or not they were still career reserved on December 31, 1981. Section 3132(b)(4) of Title 5 U.S.C. requires that the head of each agency publish the list by March 1 of the following year; OPM is publishing the list for all agencies.

Office of Personnel Management.

Donald J. Devine,

Director.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981

Agency and organization	Career reserved positions
ACTION:	
Olc of the Director	Budget Officer.
	Assistant Director for Compliance.
	Deputy Assistant Director for Compliance.
	Inspector General.
Ofc Assoc Dir for Domestic & Anti-Poverty Operations.	Director-Accounting Division.
Administrative Conference of the U.S.:	
Administrative Conference of the U.S..	Executive Director.
	General Counsel.
	Research Director
Advisory Council on Historic Preservation:	
Olc of the Exec Director	Princ Dep Exec Dir.
	Dep Exec Dir.
Department of Agriculture:	
Olc of the Inspector General	Asst Inspector General for Investigations.
	Dep Asst Inspector General for Investigation.
	Asst Inspector General for Auditing.
	Dep Asst Inspector General for Auditing.
	Asst Inspector Gen for Planning Res & Eval.
	Asst Insp Gen for Security and Intern Opers.
Office of Asst Sec'y Administration.	Assistant Secretary for Administration.
	Dep Dir for Administrative Services.
	Dep Admr-Financial and Administrative Opers.
	Dir Finance Ofc.
Farmers Home Administration.	Asst Admr-Mgmt.
	Financial Mgr (Director) REA.
Rural Electrification Administration.	Director Distribution Systems Division.
	Director Power Supply Division.
Agricultural Marketing Service.	Deputy Administrator, Management.
	Director, Fruit & Vegetable Division.
	Director, Cotton Division.
	Director, Dairy Division.
	Dir-Livestock Poultry Grain and Seed Division.
	Dir Fruit & Vegetable Quality Div FSQS.
	Dir Meat Quality Div FSQS.
	Dir Warehouse Division.
	Director, Tobacco Division.
	Agricultural Marketing Svc. Dir Poultry Div.
Animal & Plant Health Inspection Service.	Dep Admr for Management.
	Asst Dep Admin for Mgt.
Veterinary Services	Asst Dep Adm: R-Animal Health Progs-Vet Serv.
	Asst Dep Admr, Inmstl Prog, Vet Services.
	Dir, Veterinary Services Laboratories, Ames.
	Dir, Nat Prog Planning Staffs, Vet Services.
	Co-Dir, US/Mexico Screwworm Comm.
	Director, Northern Region.
	Dir, SE Region, Veterinary Services.
	Dir, Natl Brucellosis Eradication Program.
Plant Protection & Quarantine Service.	Dir, Nat Prog Plan Staff, Plant Prot & Quarantine.
	Dir, SE Region, Plant Prot & Quarantine.
	Asst Dep Admr for Natl Programs, PPQ.
	Asst Dep Adm Internl & Emerg Progs Staff PPQ.
	Director Northeastern Region.
Federal Grain Inspection Service.	Asst Dep Admr-Program Operations (Staff).
	Asst Dep Admin-Program Opers (Field).
Food & Nutrition Service.	Dep Admr-Financial Mgmt (Comptroller).
	Deputy Admr for Management.
Food Safety and Inspection Service.	Asst Dep Admr Technical Services.
	Dir, Poultry & Dairy Quality Div.
	Dep Admr-Administrative Mgmt.
	Dir Technical Service Staff.
	Dir Northeast Region, Phila., PA.
	Regl Director, Atlanta, Georgia.
	Dir, North Central Region, Des Moines, Iowa.
	Director, Southwestern Region, Dallas, Texas.
	Dir, Western Region, Alameda, California.
	Assistant Deputy Admr Compliance FSQS.
	Director of Operations MPI-FDFSOS.
	Assistant Deputy Admr Science FSQS.
	Asst Dep Admin (Admin Mgt).
	Deputy Administrator, Science.
	Regional Director, Atlanta, Georgia.
Agricultural Stabilization & Conservation Service	Accounting officer.
Foreign Agricultural Service	Asst Administrator, Management.
Commodity Programs	Dep Asst Admin, Commodity Programs.
	Director Tobacco Cotton & Seeds Division.
	Dir, Grain & Feed Div.
	Dir, Oilseeds & Prod Div.
	Dir, Dairy, Livestock & Poultry Div.
	Deputy Assistant Administrator Export Credits.
Agricultural Attaches	Dep Asst Admr, Internl Agric Statistics.
Olc of Dir Science and Education Administration	Research Leader, Wheat Research.
	Research Leader-Fruit & Vegetable Chem Research.
	Research Leader-Forage And Turf Research.
	Res Leader-Plant Physio & Photosynthesis Res.
	Dep Dir for Adm.
	Chf International Programs.
	Director, Nutrition Research Ctr on Aging.
	Assoc Dep Dir for Adm Management.
	Dir, Children's Nutrition Research Center.
	Chief Livestock and Veterinary Sciences Staff.
	Chief Post Harvest Science and Technology Stf.
	Chief Crop Production Staff.
	Dir, Western Human Nutrition Research Center.
Agricultural Research Service.	Chrman-Nutrition Inst. Beltsville MD.
	Chief Oilseed Crops Laboratory.
	Chief Fermentation Laboratory.
	Research Leader-soil & Water Research Mgmt.
	Chf, Plant Virology Lab Beltsville, MD.
	Res Leader Natural Products Chemistry Res.
	Dir, Southern Regional Res Center, New Orleans.
	Chief, Crop Protection Staff.
Regional Offices, ARS	Dir, Northern Region Research Center.
	Dir, Nat'l Animal Disease Ctr.
	Dir, Beltsville, Agricultural Research Center.
	Chf Tobacco Lab.
	Director, Eastern Regl Research Center.
	Dir, Plum Island Animal Disease Ctr.
	Chf Scientist, Pledo-Orient Point, NY
	Director, Western Regional Research Center
	Research Leader Feedstuffs Research.
	Director, California-Hawaii-Nevada Area.
	Director, Florida-Antilles Area.
	Director, Oklahom-Texas Area.
	Director, Athens, Georgia Area.
	Chief Soil Water & Sci Staff
National Program Staff	Asst Admr, National Program Staff
Research Staff	Director, U.S. Salinity Laboratory.
	Dir Insects Affecting Man Laboratory
Soil Conservation Service	Dir Midwest Tech Service Center.
	Dir NE Tech Service Center.
	Dir, SW Technical Service Center
	Dir Technical Field Service Center
	Asst Admr:R for Soil Survey.
	Asst Admr for Mgmt.
	Dir Conservation Operations Division.
	Dir, Resource Dev Div.
	Dir River Basin Div.
	Dir Watersheds Division.
	Director Engineering Division.
	Dir Ecological Sciences and Technology Divsi.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
	Dep Chf for Administration.
	Dir, Consv Planning and App.
	Dir, Project Dev and Maint.
	Dir, Basin & Area Planning (Soil Conserv).
	Assoc Dep Chief for Administration.
	Dir, Soils (Soil Scientist).
	Dir, Land Treatment Program.
Forest Service	Dep Chf for Administration.
	Assoc Dep Chief for Adm.
	Dir Forest Insect & Disease Mgmt Staff.
Research	Director, Timber Mgmt Research Staff.
	Dir Insect and Disease Research Staff.
	Dir Forest Environment Research Staff.
	Dir Forest Economics Research Staff.
	Dir Forest Products & Eng Res Staff.
Nat'l Forest System	Dir, Range Management Staff.
	Dir, Recreation, Mgmt Staff.
	Dir Timber Management Staff.
	Director, Engineering Staff.
	Director, Aviation and Fire Management Staff.
	Director, Lands Staff.
	Dir Land Management Planning Staff.
	Dir, Wildlife Mgt Staff.
	Dir, Minerals & Geology Staff.
	Dir, Watershed Mgt Staff.
State & Private Forestry	Dir of Area Planning & Dev Staff.
Field Units	Dir Cooperative Forestry
	NE Area Dir, State & Private Forestry, U Darb.
	Dir, SE Area State & Private Forestry.
	Dir Intermountain Forest & Range Exp Stat, OGD.
	Dir N Eastern Forest Experiment Station.
	Dir, North Central Forest Exp Station.
	Dir, Pacific NW Forest & Range Exp Station.
	Dir, Pacific SW For & Range Exper Sta.
	Director Rocky Mt Forest & Range Expr Stat.
	Dir S Eastern Forest Experiment Station.
	Dir, S. Forest Experiment Station, New Orleans.
	Director, Forest Products Laboratory.
	Dep Dir Forest Products Lab.
Economic Research Service	Assoc Admr.
	Admr, Economic Research Service.
	Dep Admr for Economics.
	Dep Admr for Statistics.
	Deputy Admr for Cooperativmnt.
	Deputy Administrator for Management.
	Dep Admr for Adm.
	Director, Commodity Economics Div.
	Director, International Economics Division.
	Director, National Economics Division.
	Dir, Natural Resource Economic Div.
	Dir, Economic Dev Div.
	Outlook & Situation Officer
	Deputy Administrator.
	Asst Dep Admr for Statistics.
Statistical Reporting Service	Dir, Estimates Div.
	Director Survey Division.
	Dir, Statistical ReSearch Div.
	Dir, State Statistical Div.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
World Food & Agric Outlook & Situation Board.	Chairperson.
	D/Chrperson for Rese Weather & Remote Sensing.
	Deputy Chairperson for Economic Intelligence.
Board for International Broadcasting:	
Board of International Broadcasting.	Exec Director.
	Dir, for Research & Engineering.
	Financial Manager.
	Foreign Information Officer.
	Foreign Information Officer.
Department of Commerce:	
Olc of the Inspector General	Asst Inspector Gen for Audits.
	Dep Dir Olc of Audits.
	Asst Inspector General for Investigations.
	Dir, Olc of Policy & Administration.
	Technical Advisor to the Inspector General.
Olc of Personnel	Dir, Office of Personnel.
	Dep Dir for Personnel Administration.
	Dep Dir for Personnel Development.
	Deputy Director of Personnel.
Executive Director for Operations.	Dir, Olc of Investigations & Security.
Executive Director for Information Resources Management.	Dir, Olc of Information Management.
	Dir, Olc of Information Systems.
Olc of Acquisition, Grants and Information.	Dep Asst Secy for Acquisition, Grants & Info.
	Dir-Olc of Procurement and ADP Mgmt.
	Dep Dir for ADP Management.
	Dep Dir for Procurement.
	Director, Office of Information Management.
Economic Development Administration	Dir, Off of Public Works.
	Dir, Olc of Technical Assistance.
	Director Olc of Economic Research.
	Spec Asst for Indian Affairs.
	Dir, Olc of Development Finance Management.
	Dir Olc of Dev Finance Projects.
	Dir Olc of Eligibility and Industry Studies.
	Dir Olc of Portfolio Administration.
Organization no Longer in Existence.	Director Olc of Business Development.
	Associate Dep Asst Sec for Policy & Planning.
	Dir Olc of Dev Organization.
National Oceanic and Atmospheric Administration.	Asst Dir Ocean Minerals and Energy.
Organization no Longer in Existence.	Dir Olc of Mgmt and Computer Sys.
	Dep, Dir, Off, Prog, Eval, & Budget.
	Chf, Non-Living Resources Office.
Asst Admr for Policy and Planning	Dir National Marine Pollution Program Office.
	Program Analysis Officer.
Management and Budget	Director, Olc of Program evaluation & Budget.
	Director, Office of Personnel.
	Dir Olc of Policy Dev & Long Range Planning.
	Asst Dir for Intern'l Fisheries.
	Director Office of Management & Computer Sys.
	Dir Office of Administrative Operations.
	Chf Officer of Internl Eng Standards.
Organization no Longer in Existence.	Dep Dir, Manned Undersea Science & Technology.
	Internat'l & Interagency Affairs Officer.
Fisheries Centers and Laboratories.	Dir NE Fisheries Ctr.
	Dir-SE Fisheries Ctr.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Regional offices	Dir SW Fisheries Center.
	Dir NW & Alaska Fisheries Ctr.
	Regl Dir, Northeast Reg, Reg III.
	Reg Dir Southeast Reg Reg II.
	Dir SW Region.
	Regl Dir Northwest Reg, Reg I.
	Regl Dir, Alaska Reg, Region V.
National Earth Satellite Service	Dep Dir, Nat'l Environmental Satellite Servic.
	Dir, Olc of Operations.
	Assoc Dir for Data Processing.
	Dir, Olc of Research.
	Director, Systems Integration.
	Director, Systems Engineering.
	Dir, Meteorological Satellite Lab.
	Dir, Satellite Experiment Lab.
	Director Office of Data Services.
	Director Systems Development.
	Director of Satellite Operations.
	Director Earth Sciences Laboratory.
Olc of Research and Development.	Director, Olc of Ocean Programs.
	Dep Dir. Olc of Marine Pollution Assessment.
	Director Special Research Programs Office.
Environmental Research Laboratories.	Dep Dir, Environmental Research Laboratories.
	Dir, Weather Modification Prog Dlc.
	Director, Space Environment Laboratory.
	Director, Outer Continental Shelf Program Olc.
	Dir, Art.
	Dir, Meteorological Lab. Durham, NC.
	Dir, AR ATM Turbulence & Diffusion Lab.
	Dir, Great Lakes Environmental Research Lab.
	Dir Pacific Marine Environmental Lab.
	Dir Nat'l Severe Storms Lab.
	Chief, Oceanographic Services.
	Chf, Rid Res Projects Div.
	Chf, Meteorological & Hydrological Services.
	Dir Olc of Weather Res & Modifications.
Atlantic Oceanographic and Meteorological Labs.	Dir, Atlantic Oceanographic & Meteorological
	Deputy Dir Atlantic Oceanographic & Meteorology.
Wave Propagation Lab.	Director.
	Dep Dir, Wave Propagation Laboratory.
Aeronomy Lab	Director, Aeronomy Laboratory.
	Senior Scientist/Deputy Director.
Geophysical Fluid Dynamics Laboratories	Director.
	Research Meteorologist.
	Res Team Leader Exp Predictions.
	Research Meteorologist.
Oceanic and Atmospheric Services.	Dir, Satellite & Advanced Technology.
	Dir, Operations and Program Evaluation Office.
Olc of Ocean Technology and Engineering Services.	Dep Dir Olc of Ocean Tech & Engr Serv.
	Director Plans and Programs Office.
	Dir, Undersea Science & Technology Program.
	Dir NOAA Data Buoy Olc
	Dir Ocean Inst Eng Olc.
National Ocean Survey	Dep Dir.
	Chf Scientist.
	Dir Geodetic Research & Development Lab.
	Chf, Control Hydrogrfa Division.
	Assoc Dir Olc of Aeronautical Charting & Chart.
	Assoc Dir for Marine Technology.
	Dir, Engrg Dev Lab.
	Oceanographic Science Advisor.
	Chief Geodesist.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Environmental Data and Information Service.	Dep Dir, Environmental Data Service. Associate Director for Marine Sciences. Dir Center for Environmental Assessment Svcs. Dir, Environmental Science Info Center. Dir, Nat'l Oceanographic Data Center. Dir, Nat'l Climatic Center. Dir, National Geophy & Solar Terres Data Cente.
National Weather Service.	Dep Dir-National Weather Service. Chf, AFOS Implementation Staff Superv Meteoro. Executive Director, NWS. Dir, Nexrad Joint Systems Program Ofc.
Office of Meteorology and Oceanography.	Dir-Atmospheric Physics and Chemistry Lab. Dir, Ofc. of Meteorology & Oceanography.
Office of Hydrology	Chf Meteorological Services Division. Associate Director. Dir Hydrologic Services Division. Dir, Hydrologic Research Lab.
National Meteorological Center.	Dir Climate Analysis Ctr. Director National Meteorological Center. Deputy Director. Chf, Data Automation Div. Chief, Development Div. Chf-Forecast Division.
Systems Development Office.	Dir Systems Development Ofc. Director, Integrated Systems Laboratory. Director, Equipment Development Laboratory. Dir, Techniques Dev Lab. Director Advanced Systems Laboratory.
Office of Technical Services.	Dir, Ofc of Technical Services. Chf, Communications Division. Chf, Data Systems Division. Chief, Engineering Division. Chief AFOS Operations Division.
Regional Offices	Dir, Natl Severe Storms Forecast Center. Dir Southern Region, Ft Worth. Director, Nat'l Hurricane Center. Dir, Salt Lake City Region. Dir, Alaska Region, Anchorage. Dir Eastern Region NWS. Director Central Region.
Institute for Telecommunications Sciences.	Assoc Admr for Telecommunication Science. Assoc, Dir, ITS. Dep Assoc Admin for Telecommunication Scie. Associate Director, ITS. Assoc, Dir, ITS.
Organization no Longer in Existence.	Chief Program Office. Chf-Gas and Particulate Science Division. Group Leader for Thermal Analysis. Group Leader for Spectro-Chemical Analysis. Chf Off of Eng Stds.
National Bureau of Standards.	Assoc Dir for International Affs. Director, Boulder Labs. Tech Advisor to the Director. Chief Program Office. Director, Planning Ofc. Assoc Dir for Programs, Budget, and Finance.
National Measurment Lab.	Assoc Dir for Long Range Planning. Senior Science Advisor. Senior Mathematical Statistician. Assoc Dir for Measurement Service. Associate Director for Planning.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Deputy Director for Programs.	Deputy Director for Programs. Chief, Off of Environmental Mgmts. Chief, Office of Standard Reference Data. Chief Office Nondestructive Evaluation Progra. Chief Off of Standard Reference Materials. Chf-Ofc of Measurements for Nuclear Safeguard. Prog Manager, Industrial Process Data. Program Manager, Energy and Environmental Dat. Program Manager Materials Utilization Data. Principal Scientist for Environmental Measure.
Center for Absolute Physical Quantities.	Dir-Ctr for Absolute Physical Quantities. Dep Dir, Center for Absolute Physical Quantite. Sr Research Fellow and Chf quantum Metrology. Chf-Electrical Measurements and Stds Divisin. Research Physicist (Nuclear). Senior Scientist.
Quantum Physics Division.	Chf, Quantum Physics Div (Dir for APQ). Sr Sci & Fellow of JILA. Senior Research Scientist. Senior Scientist, Boulder. Sr Scientist & Fellow of JILA. Senior Scientist-Fellow of JILA.
Time and Frequency Division.	Chf, Time & Frequency Div. Group leader-Time and Frequency Division. Senior Sci time & Frequency Div Ctr for APQ.
Center for Analytical Chemistry.	Director-Center for Analytical Chemistry. Chf, Radiochemical Analysis Section. Scientific Asst to the Dir Ctr for Analytical. Chf, Organic Anal Research Div.
Center for Radiation Research.	Dir Center for Radiation Research. Dep Dir, Ctr for Radiation Research. Group Leader for Radiation Thermometry. Chf Atomic & Plasma Radiation Div. Chf-Radiation Source & Instrumentation Divisi. Chief Nuclear Radiation Div.
Nuclear Radiation Division.	Physicist, (Nuclear). Physicist (Nuclear). Principal Scientist, Neutron Standards. Chief, Radiation Theory Section. Group Leader for Radioactivity.
Radiation Physics Division.	Prin Scientist in X-Ray Physics. Group Leader for Far Ultraviolet Physics.
Center for Materials Science.	Dir-Center for Materials Science. Deputy Dir Center for Materials Science. Dep Dir-Ctr for Materials Science. Senior Scientist. Group Leader for Fiberous Systems. Group Leader for Solid State Materials Sectio. Research Chemist. Chf, Metallury Div-Ctr for Materials Science.
Fracture and Deformation Division.	Scientific Assistant to the Director. Chf Fracture and Deformation Division. Group Leader, Frac Cer & Comp Frac & Def Div.
Chemical Stability and Corrosion Division.	Chf-Chemical Stability & Corr Div. Group Leader, Corrosion and Electrodeposition.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Ceramics Glass and Solid State Science Division.	Chf Ceramics Glass & Solid-State Sci Division. Group Leader for Crystallography. Chf, Inorganic Glass Section. Grp Leader Solid State Transport & Stability.
Polymer Science and Standards Division.	Chf, Polymers Science and Standards Div. Physicist (Solid State). Chf, OPS Res Division.
Reactor Radiation Division.	Chf, Reactor Radiation Div. Group Leader, Reactor Radiation Division.
Center for Chemical Physics.	Director Center for Chemical Physics. Dep Dir Ctr for Therm & Mol Science. Quantum Chemistry Group Leader. Group Leader for Environ Chemical Process.
National Engineering Lab.	Senior Scientist. Scientific Asst to Dir Cen for Thermo & M/S. Group Leader Equation of State. Chief, Surface Science Div. Senior Research Scientist. Assoc Dir for Technical Evaluation. Assoc Director for Program Planning. Asst Chf for Fluid Dynamics/Chf Aerodynamics. Assoc Dir for Program Coordination.
Center for Fire Research.	Director-Center for Fire Research. Deputy Director, Center for Fire Research. Chf Fire Science Division.
Center for Building Technology.	Chf Fire Safety Engineering Div. Director-Center for Building Technology. Deputy Director, Center for Building Tech. Dep Dir (Operations), Ctr for Building Techno. Chf, Structures, Materials, & Life Safety Div. Chief, Building Thermal and Service Systems. Chf-Building Economics & Regulatorytech Divis. Chf Thermal Analysis Program. Chf, Building Materials Div.
Ctr for Mechanical Engring & Process Technology.	Dir-Ctr for Mechanical Engineering & Process. Dep Dir Ctr for Mechanical Engineering & Proc. Chf-Mechanical Processes Division. Chf Thermal Processes Division. Chief Automated Production Technology Div.
Center for Applied Mathematics.	Chf, Thermophysical Properties Div. Director, Center for Applied Mathematics. Deputy Director. Chf Mathematical Analysis Div. CHF Statistical Engineering Division. Senior Research Fellow. Assoc Dir for Computing.
Center for Electronics and Electrical Engring.	Chief, Operations Research Division. Dir-Ctr for Electronics & Electrical Engineer. Dep Director. Chief, Electron Devices Div. CHF Electrosystems Division. Chief, Electromagnetic Division. CHF-Electromagnetic Technology Division.
Center for Consumer Product Technology.	Senior Research Scientist. Director Office of Engineering Standards. Dep Dir-Center for Consumer Product Technolog. Dir-Center for Consumer Product Technology.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Center for Field Methods	Dir-Ctr for Field Methods. Chf, Ofc of Energy Programs. Chf, Product Perform Eng Div.
Center for Chemical Engineering	Director Center for Chemical Engineering. Chief Thermophysics Division.
Inst for Computer Sciences and Technology	Chief, Fluid Engineering Division Assoc Dir, Teleprocessing & Supportcomm Tech. Assoc Dir Automatic Data Processing Standards. Dir Center for Programming Science & Techn. Chf, Ofc of Developmental Automation & Comm. Dir Center for Computer Systems Engineering. Staff Asst for Computer Science Chf Systems and Network Architecture Div. Assoc Dir for Planning Budget & Evaluation. Chief System Components Division.
Office of Chief Economist	Dir, Ofc of Federal Statistical Policy & Stds. Deputy Director, Social Statistics. Deputy Director, Economic Statistics. Statistical Coor for the Asst Sec for Eco Aff.
Organization No Longer In Existence	Director, Ofc of Industrial Economics. Chf, Res Center for Measurement Methods. Chief, Statistical Rsch Division.
Bureau of the Census	Dep Dir. Chief Data User Services Division Asst Dir for International Programs.
Administration	Associate Director for Administration. Assistant Director for Administration Asst to the Associate Dir for Field Operation.
Statistical Standards and Methodology.	Assoc Dir for Statistical Standards & Methods. Asst Dir for Statistical Research.
Information Technology	Asst Dir for Computer Services. Chief, Computer Operations Division.
Demographic Fields	Associate Director for Demographic Fields. Asst Dir for Demographic Censuses. Chf, Population Div. Chf, Statistical Methods Div. Chief Demographic Surveys Division.
Economic Fields	Assoc Dir for Economic Fields. Asst Dir for Economic & Agri Censuses. Chief, Agriculture Div. Chf, Business Div. Chf, Construction Statistics Div Chf, Econ Surveys Div. Foreign Trade Div. Chf, Government Div. Chf, Industry Div. Chief Senior Economic Advisor, Center for Economic Studies.
Field Operations	Assoc Dir for Field Operations. Chf, Geography Div. Chief, Field Div. Assistant Director for Processing
Bureau of Economic Analysis.	Director. Dep Dir, Bur of Economic Analysis. Assoc Dir For National Economic Accounts. Assoc Dir for National Analysis & Projections. Assoc Dir for Regional Economics Assoc Dir for Internatl Economics Chief Economist. CHF Statistician. Asst to the Director for Econometrics.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Bureau of Industrial Economics	Chf Nat'l Income & Health Div Chief, Current Business Analysis Div. Chief, Business Outlook Div. Dir, Bureau of Industrial Economics Dep Dir Bureau of Industrial Economics. Dir Ofc of Ind Stat & Data Coord & Dev. Dir Ofc of Industry Econ Res and Analysis. Director Office of Producer Goods Dir Ofc of Basic Industries. Dir, Ofc Consumer Goods & SVC Ind.
Patent and Trademark Administration	Deputy A/S for Admin & Legis Policy
Office of Assistant Commissioner for Patents	Admn'r for Documentation. Dir Ofc of Patent Prog Control
Chemical	Group Director 110. Group Director 120. Group Director 140. Group Director 160. Group Director 170.
Electrical	Group Director 210. Group Director 220. Group Director 230. Group Director 240. Group Director 250.
Mechanical	Group Director 310. Group Director 320. Group Director 330. Group Director 340. Group Director 350.
Office of Assistant Commissioner for Trademarks	Director, Trademark Examining Operation. Chairman, Trademark Trial & Appeal Board. Deputy Asst Commissioner for Trademarks.
Board of Patent Interferences	Chairman.
Commodity Futures Trading Commission: Office of the Chairman.	Executive Assistant to the Chairman.
Office of the General Counsel	Assoc Gen Counsel for Opinions and Review. Assoc Gen Coun (Litigation). Assoc Gen Counsel (Rules). Dep Exec Dir.
Office of the Executive Director	Dep Chf Economist.
Office of the Chief Economist	Chf, Analysis Section.
Division of Enforcement	Deputy Dir Division of Enforcement.
Division of Trading and Markets.	Dep Dir, Div of Trading and Markets.
Div of Mgmt Programming Planning and Evaluation.	Dir Div of Mgmt Program Planning & Evaluation.
Regional Offices	Regional Director-Central Region.
Community Services Administration (Term 9-30-81): Ofc of Inspector General	Deputy Inspector General. Asst Inspector General for Investigations. Asst Inspector General for Auditing.
Ofc of Management	Controller.
Consumer Product Safety Commission: Office of Commissioners	Dir, OFC of Prog Mgt.
Office of AED for Epidemiology	Associate Exec Dir for Epidemiology.
Ofc of AED for Engineering Science.	Dep Associate Executive Dir for Engr Sciences.
Ofc of AED for Compliance & Administrative Litigation.	Assoc Exec Dir for Compl & Admin Litigation.
Ofc of AED for Health Sciences	Assoc Exec Dir for Field Opers

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Ofc of AED for Administration.	Assoc Exec Dir for Adm.
Ofc Secy of Defense	
Office of the Secretary.	Inspector General for Defense Intelligence.
Ofc of Asst to the Secy of Defense	Principal Deputy Asst to Sec of Defense. Dep Asst to the Secy (Follow-up Report & Mgmt). Dep Asst to the Secy of Def (O E & C P). Director Contract Audit Followup. Dir Audit Resolution & Audit & Invest Followup. Dep Asst to the Sec of Def (Criminal Invest). Dir Special Projects & Analyses. Dir Internal Audit Oversight & Evaluation. Dir, Control & External O/Sight & Evaluation. Director for Criminal Policy and Oversight.
Ofc of Deputy Under Secy (Policy).	Dir, Counter Intel & Investigative Prog.
Ofc of the Asst Secy of Def (Internal Security Programs).	Dir, Information Security. DEP Director-DOD Salt Task Force. Asst Dep Dir for Strat Sys & Senior OSD Adv.
Ofc Deputy Asst Sec, Civilian Personnel Policy.	Staff Dir CPP/Dir for Personnel Mgmt. Dir Career Dev & Training. Dir Labor-Management Relations. Dir Compensation & Position Mgmt. Dir Staffing and Career Mgmt. Dir, Overseas & Nonappropriated Fund Per/Mgmt. Dir Personnel Management. Deputy Director For Labor Management Relation.
Ofc of Deputy Asst Sec. Equal Opportunity.	Dir for Civilian Equal Opportunity programs.
Ofc of Dir of DOD Dependents Schools.	Dir DOD Dependents Schools. Dir Pacific Region Dodds.
Office of Assistant Secretary, Public Affairs.	Dir, Freedom of Information & Security Review
Ofc of Dep Director (Strategic Programs).	Dir Strat Def and Theater Nuclear Forces Div
Washington Headquarters Services.	Director of Personnel and Security
Ofc Dep Asst Secy of Defense (Cost & Audit).	Deputy Asst Secy of Defense (Audit Policy). Dir for Internal Audit Policy. Dep Comptroller for Audit Policy Director, Program Control and Administration.
Ofc of Under Secretary for Research and Engineering.	Staff Specialist for Program Planning.
Ofc of Asst to Secy for Atomic Energy.	Staff Spec for Strategic Sys Assessment. Spec Asst for Assessment & Exec Order—DSB. Dir-Salt/Arms Control Support Group. Specialist for Arms Control Assessment. Sr Analyst for Long Range Resource Planning.
Ofc of Dep Under Secy (International Programs and Tech).	Dir, Technology Export. Director, Technology Trade. Staff Specialist for Internl Programs & Poli. Special Asst for Planning and Requirements.
Ofc of Asst Dep Und Secy of Def (Prod Policy).	Asst Dep Under Secy of Def (Production Poli). Director Embedded Computer Resources. Dir Standardization & Acquisition Support. Director for Production Resources.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Ofc of Asst Dep Und Secy of Def (Acquisition).	Asst Dep Under Secy of Defense (Acquisition).
	Director Cost Pricing and Finance.
	Dir Contract Placement and Administration.
	Dir, Defense Acquisition Regulatory Systems.
	Director Major Systems Acquisition.
Ofc Dep Under Secy Test and Evaluation.	Dep Dir (Strategic & Naval Sys Div).
	Dep Dir for Test Facilities and Resources.
Ofc of Dep Under Secy for Research and Advanced Tech.	Spec Asst to Dus (Research & Advanced Technol.
Ofc-Dir-Engineering Technology.	Dir (Engineering Technology).
	Staff Spec for Aeronautics and Hydronautics.
	Staff Specialist for Vehicle Propulsion.
	Staff Specialist for Materials & Structures.
	Staff Specialist for Ordnance.
	Staff Specialist for Weapons Technology.
Ofc-Dir-Electronics and Physical Sciences.	Dir Electronics and Physical Sciences
	Staff Spec for Electron Dev & Integrated Circ.
	Staff Spec for Elec Warfare and Target Acq.
	Staff Specialist for Search and Surveillance.
Ofc-Dir.-Environmental Life and Sciences.	Staff Specialist for Chemical Technology.
Ofc-Dir-Rsch and Technical Info.	Dir, Research & Technical Information OFC.
Office of Directed Energy Programs.	Dir, Directed Energy Programs
Ofc of the Dir, Offensive and Space Systems.	Dir Offensive and Space Systems
	Staff Specialist for Space & Advanced Systems.
	Staff Spec for Techn & Analysis (Off Sys).
Ofc-Dir-Defensive Systems.	Dir Defensive Systems.
	Staff Specialist for Early Warning & Attack.
	Staff Specialist for Defensive Systems.
Ofc of Dir Cruise Missile Systems.	Dir Ofc of Cruise Missile Sys.
Ofc-Dir-Start & Arms Control Office.	Director, Start and Arms Control Office.
Ofc of Dep Under Secy Tactical Warfare Progs.	Asst for Material Acquisition.
	Spec Asst for Plans and Analysis.
Ofc-Dir-Land Warfare.	Dir-Ofc of Land Warfare.
	Staff Specialist for Close Combat Systems
	Staff Specialist for Ground Air Defense Sys.
Organization no Longer in Existence.	Dir-Ofc of Aircraft Systems.
Ofc Dir Air Warfare	Director Air Warfare.
	Staff Spec for Interdiction/Naval Strike.
	Staff Spec, Close Air Sup/Battlefield Int.
Ofc of Director-Naval Warfare.	Director-Naval Warfare.
	Staff Spec-Sub Warfare & Undersea Surveillanc
	Staff Spec for TO's and Electromagnetic Techno
	Staff Spec for Strategic & Naval Warfare Sys.
	Staff Specialist for Antisub & Mine Systems.
Office of Mobility and Special Projects.	Director Mobility and Special Projects

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Ofc of Asst Dep Under Secy of Def (C3I).	Asst Dep Under Sec of Def (Commun Comm & Cont).
	Dir (Combat Support).
	Staff Spec for Switched & Spec Purpose Comm S.
	Spec Asst for Technical Plans and Research.
	Staff Spec for WWMCCS and Other C Systems Arc.
	Staff Spec for Satellite Communications Syste.
	Staff Specialist for Tactical Command & Contr.
	Dir Office of Communication Systems.
	Dir, Electronic Warware & C3 Countermeasures.
	Director, Information Systems.
	Std Spec/Elec Warfare & C3 C/ Missi Supt Activ.
	Dir Theater & Tactical Commun Command & Contr.
Ofc of Asst Dep Under Secy of Defense (Intelligence).	Sr Staff Spec for Elec Subsys Integ & Stud.
	Director, Tactical Intelligence Systems.
	Director National Intelligence Systems.
	Sr Staff Spec for Recnm Surveil & Target Acq.
Ofc of Asst Dep Under Secy of Def (Plans and Resources).	Asst Dep Under Sec of Defense (Plans & Res).
	Dir Ofc Strategic & Theater Case & Cont Sys.
	Dir Systems Research and Evaluation.
Organization no Longer in Existence.	Dir-Ofc of Intelligence Sys.
	Staff Specialist (Intelligence Programs).
	Director-Ofc of Surveillance & Warning System.
	Stf Spec-(Elec Warfare and Counter C31).
Defense Advance Research Projects Agency.	Deputy Director for Research.
	Deputy Director for Technology.
Regional Office-Europe.	Dir, DARPA Reg'l. Ofc-Europe.
Regional Office-Pacific.	Dir, DARPA Regional Ofc, Pacific.
Tactical Technology Office.	Dir-Tactical Technology Office
	Dep Dir Tactical Technology Office.
	Asst Dir for Target Acq and Engagement.
	Asst Dir for Ocean Monitoring & Control.
	Asst Dir for Weapons Technology & Concepts.
Information Processing Techniques Office.	Dep Dir, Info Processg Techniques Ofc.
	Dir, Information Processing Techn Ofc.
	Prin Res Manager (Info Process Tech Ofc).
Material Sciences Office.	Director for Materials Sciences.
	Stf Spec for Electro-Optical Materials & Devi.
	Staff Specialist for Advanced System Material.
	Asst Dir for Cybernetics Technology.
	Assistant Director for Materials Sciences.
Defense Sciences Office.	Dir, Defense Sciences Ofc.
Nuclear Monitoring Research Office.	Dep Dir, Def Sciences Ofc.
	Dir for Nuclear Monitoring Research.
Strategic Technology Office.	Dir-Strategic Technology Office.
	Asst Dir (Tech)
	Asst Director, Systems.
	Chf Space and Optics Technology Division.
	Chief, Laser Technology Div.
	Chf Directed Energy Div.
	Asst Dir, Surveillance.
	Dep Dir, Strategic Techn Ofc.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Directed Energy Office.	Dir, Directed Energy Ofc.
	Dep Dir, Directed Energy Ofc.
	Asst Dir for Technology, Directed Energy Ofc.
	Assistant Dir for Space Defense Technology.
Vehicles Technology Office.	Dir, Air Vehicles Technology Ofc.
Office of the Joint Chiefs of Staff.	Scientific and Technical Advisor to the Chief.
Defense Contract Audit Agency.	Director, DCAA.
	Deputy Director DCAA.
	Asst Dir Operations & Professional Dev.
	Asst Dir Policy & Plans
Regional Managers	Regional Director, Atlanta.
	Regional Director, Boston.
	Regional Director, Chicago.
	Regional Director, Los Angeles.
	Regional Director, Philadelphia.
	Regional Director, San Francisco
Defense Logistics Agency.	Staff Director Logistics Concepts and Mgmt.
Office Deputy Director for Contract Adm Services.	Asst Dep Dir Contract Administration Service.
Organization no Longer in Existence.	Dep Exec Dir, Contract Management.
Off of Exec Dir, Production, DDDCAS.	Executive Director, Production.
Off of Exec Dir, Qual Assurance, DDDCAS.	Dep Exec Dir, Quality Assurance.
Ofc of the Staff Dir—Small & Disadvantaged Business Utl.	Staff Dir Small & Disadvantaged Business Utl.
Office of Staff Director, Personnel.	Staff Director, Personnel.
Exec Dir, DLA Contracting.	Executive Director, Contracting.
	Chief, Contracts Division.
Exec Dir, DLA, Tech & Logistics Services.	CHF Property Disposal Div.
Defense Contract Admin Service Regions.	Deputy (DCASR, Los Angeles).
Office of the Director	Chief Scientist & Assoc Dir, Technology.
	Asst Manager for Technology and Standards.
National Communications System.	Deputy Manager National Communications System.
	Asst Mgr NCS Plans and Operations.
WWMCCS System Engr Organ.	WWMCCS—System Engineer.
	Dep WWMCCS System Engineer.
	Dep WWMCCS System Engineer.
	Chief WWMCCS Information System Office.
Defense Communications Engineering Center.	Dep Dir, Def Communications Engineering Center.
	Chf, Computer & Software Systems Division.
	Senior Science Advisor for Technology.
	Chf, Switched Systems Engr Div.
	Chf, Systems Engineering Div.
Ofc of Dep Dir, Comnd & Control Techn Dir.	Dep Dir, Command and Control Technical Center.
	Tech Dir, WWMCCS ADP Technical Supt Direct.
Command and Control Engineering Directorate.	Ch, Subsystem Engineering Division.
	Chf ADP System Engineering Div.
	Tech Dir Mscen Engineering Division.
	Chief, Systems Plans and Programs Division.
	Technical Dir UAMHS Project Management Office.
	Assoc Dep Dir for Research & Technology.
	Chief Strategic Connectivity Engineering Div.
	Deputy Director for C2 Engineering.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
System Directorate, CCTC.	Deputy Director for Engineering.
Natl Military Comd Syst ADP Directorate, CCTC.	Asst Deputy Dir, NMCS ADP.
Military Satellite Communications Office.	Asst Dep Dir for Computer Services.
	Dep Dir, Military Satellite Communications Sy.
Office of the Director	Dir (BioMedical Effects).
	Scientific Advr to the Commander, Ed Command.
	Dir, Acquisition Management Directorate.
Office of Deputy Director Science & Technology.	Dep Dir (Science & Technology).
	Scientific Asst to Dep Dir (Science and Tech) for Theoretical R.
	Asst to the Dep Dir (Experimental Resj.
	Asst to the Dep Dir (Sci & Tech) for Testing.
	Chf, Electronics Vulnerability Division.
	Chf, Strategic Structures Divison.
	Chf, Aerospace Sys Div.
	Chief, Atmospheric Effects Division.
	Scientific Advisor (AFFRI).
	Techn Pro Mngr for Nuclear Assessmnt Director.
	Chief Emp Effects Division.
DMA Headquarters	Dep Dir for Systems & Techniques.
	Dep Dir, Mngmt & Technology.
	Dep Dir for Progs, Prod & Opers.
	Asst Dep Dir for Plans and Requirements.
	Chief, Advanced Technology Division.
	Chf Acq Sys Dev Div.
	Staff Director of Personnel.
	Asst Deputy Dir for Programming.
	Asst Deputy Dir for Production and Distributi.
DMA Field Activities	Chief, Program Integration Divison.
	Chf Spec Programs Div.
	Tech Dir DMA Aero Center.
	Tech Dir—DMA) Hydrographic/ Topographic Center.
	Dep Dir Prog Prod Oper DMA HTC.
	Dep Dir for Progs, Production and Operations.
Defense Audit Service.	Director, Defense Audit Service.
	Deputy Director, Defense Audit Service.
	Assoc Director—Special Program Audits.
	Assoc Dir, Intelligence and Communications Aud.
	Assoc Dir, Systems & Logistics Audits.
	Assoc Dir, Resources & Overseas Audits.
	Assoc. Dir Financial Mgmt and Manpower Audits.
Defense Investigative Service.	Dir Defense Investigative Service.
	Director for Investigations.
	Director for Industrial Security.
Department of Air Force:	
Office of the Secretary.	Administrative Assistant to the Secy.
	Dep Adm Asst.
Office of the Under Secretary.	Dep Under Sec for Intenti Affairs.
OAS Manpower and Reserve Affairs and Installations.	Dep for Air Force Review Boards.
OPDAS Installations	Deputy for Installations Management.
	Asst Deputy for Base Utilization.
OAS Research Development and Logistics.	Principal Depy Asst Secy (Research Dev Logist).
ODAS Research & Development.	Deputy for systems Requirements.
ODAS Acquisition Management.	Dep for Acquisition.
	Dep for Programs & Production.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
ODAS Logistics	Dep for Supply & Maintenance.
	Dep for Transportation & Civil Aviation.
Office of Assistant Secretary, Financial Management.	Deputy for Accounting and Internal Audit.
	Deputy for Productivity Management.
	Deputy for Financial Systems & Analysis.
The Air Force Audit Agency.	Deputy Auditor General.
	Dir, Acquisition & Logistics Systems.
	The Auditor General of the Air Force.
	Director of Field Activities.
	Director of Operations.
	Director of Forces and Support Management.
Office, Chief of Staff	Chief Office of Air Force History.
	Deputy Director, Air Force Comissary Service.
Office, Vice Chief of Staff.	Chief, Publishing Div.
Dir of Data Automation/ Commander Data Automation Agency.	Associate Director (Technical).
Office of Deputy Chief of Staff, Systems and Logistics.	Assoc Dir for Logistics Plans & Programs.
	Assoc Dir of Maintenance Engineering & Supply.
	Assoc Director of Procurement Policy.
Dir Dir of Procurement Policy. Special Advisory Group.	Dir, Ofc of Small & Disadv Bus Utilization.
	Special Advisor.
Director of Civilian Personnel.	Das (Dir Personnel Pol) Dir Civilian Pers.
	Deputy Director of Civilian Personnel.
	Chf Ofc of Civilian Personnel Opers.
	Dep Comptroller.
Office of Deputy Chief of Staff, Comptroller.	
Director of Management Analysis.	Chief Budget Management Division.
	Assoc Dir of Mgmt Analysis.
Director of Budget	Asst Dir of Budget (Operating Appropriations).
	Chf, Investment Appropriations Div.
	Deputy Director of Budget.
Directorate of Accounting & Finance.	Director, Plans & Systems.
	Dep Dir, Acctng & Finance.
Director of Programs	Associate Dir for Progs.
National Guard Bureau.	Dir of Personnel.
Directorate of Engineering and Services.	Assoc Dir For Engineering & Services.
AF Engrg and Services Center (Field).	
Office of the Commander.	Technical Director.
DCS Procurement & Manufacturing.	
	Assistant for Product Assurance
	Prin Asst/Contracting & Manufacturing
	Chairperson Contract Review Committee
	Dir of Manufacturing
	Director of Civilian Personnel
Deputy Chief of Staff/Personnel.	
Deputy Chief of Staff/Comptroller.	Asst to the DCS/Comptroller
Space and Missile Systems Organization.	Asst Dep for Procurement & Manufacturing
Foreign Technology Div.	Tech Dir (Electromagnetic Threat)
	Technical Director (Engineering)
	Technical Director (Technology and Threat)
Flight Test Center, Edwards AFB, Calif.	Technical Director, Test Engineering & Service
AF Weapons Lab	Techn Dir (Physical Optics, Lasers, Prototype
	Sr Advisor (Radiation Effects)

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Materials Laboratory AFWAL.	Dir, Metals & Ceramics Div.
Materials Laboratory AFWAL.	Senior Scientist (Engironment Effects).
	SR SCI Organic Chemistry.
	Dir, Systems Support Division.
	Dir, Turbine Engine Div.
Aero Propulsion Laboratory AFWAL.	
AF Rocket Propulsion Laboratory.	Dir, Solid Rocket Div.
USAF School of Aerospace Medicine.	Research Director (Crew Technology).
Aerospace Medical Research Lab.	Dir, Toxic Hazards Div.
Aeronautical Syst Div.	Chf, Mathematics & Analysis Br.
	Deputy Comptroller.
	Techn Dir, Flt Systems Engineering.
Dep for Systems Mgmt, ASD.	Technical Director (Systems).
Deputy for Tactical Warfare, ASD.	Tech Dir, (Propulsion System).
Dep for Proc & Manufacturing ASD.	Asst Deputy for Procurement and Manufacturing.
Deputy for Engineering.	Tech Dir Directorate of Equipment Engineering.
	Techn Dir, Directorate of Avionics.
	Technical Director, Deputy for Avionics.
Sys Engrg Office Dep for Engrg ASD.	Sys Eng Dir, F-19.
	Systems Engineering Dir (Advanced Systems).
	Systems Engineering Director (F-16).
Electronic Systems Division.	Deputy-Command and Mgmt Systems.
	Asst Dep for Contracting & Manufacturing.
Rome Air Development Center.	Director (Plans).
	Techn Dir (Intelligence & Reconnaissance).
	Technical Director (Communications & Control).
	Tech Dir Reliability & Compatibility.
	Technical Dir (Surveillance).
Armament Division	Technical Advisor.
	Techn Dir, Directorate of Range Engineering.
Aeronomy Division	Director Aeronomy Division.
	Ch, Atmospheric Structure Br.
Space Physics Division.	Dir, Space Physics Div, AFGL.
Aerospace Instrumentation Division.	Dir, Aerospace Instrumentation Div, AFGL.
Meteorology Division	Chief Climatology Dynamics Branch.
	SR Scientist Heat Transfer.
Optical Physics Division.	Dir Optical Physics Division.
Air Force Logistics Command.	Asst Dep Chf of Staff, Maintenance.
	Chairman AF Logistics Command Procur Committee.
	Asst DCS/Logistics Operations.
	Asst DCS/Plans & Operations.
	Asst DCS/Procurement & Production.
	Dir, Direc of Mat Requ & Financial Res Mgmt.
	Deputy Asst to the Commit-Internl. Logistics.
Headquarters, Dayton, Ohio.	Director of Civilian Personnel.
AF Acquisition Logistics Div.	Asst DCS-Comptroller.
	Asst to the Commander AFALD.
	Deputy for Contracting and Manufacturing.
Air Logistics Center, San Antonio.	Dep Dir, Directorate of Maintenance.
	Dep Dir, Directorate of Material Mgmt.
Air Logistics Center, Oklahoma City.	Dep Dir, Directorate of Material Mgmt.
	Dep Dir, Directorate of Maintenance.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Air Logistics Center, Warner Robins.	Deputy Director, Directorate of Material Mgmt.
	Deputy Dir, Dir of Maintenance.
Air Logistics Center, Ogden.	Dep Dir Directorate of Maintenance.
	Deputy Director, Directorate of Material Mgmt.
Air Logistics Center, Sacramento.	Dep Dir Directorate of Material Mgmt.
	Dep Dir, Directorate of Maintenance.
Air Force Security Service.	Asst to the Commander.
Air Force Communications Command.	Tech Asst to Comdr Data Sys Design Center.
	Tech Dir-Space Satellite Communications OFC.
Military Airlift Command.	Asst Dep Chf of Staff Plans, Scott AFB, Ill.
Science & Research	Chf Technology Assessment Division.
	Chf Systems Evaluation Division.
Tactical Air Command.	Chief Scien Tactical Fighter Weapons Ctr.
	Chief Scientist Tactical Air Warfare Ctr.
Headquarters, Pacific Air Forces.	Chief, Operations Analysis.
U.S. Air Forces in Europe.	Director of Civilian Personnel.
AF Test and Eval Center (AFTEC).	Scientific Advisor (Test & Evaluation).
Joint Electronic Warfare Center (JEWC).	Technical Director.
Department of Army:	
Office of the Under Secretary.	Asst Dep Under Sec (Operations Research).
	Operations Research Analyst.
	Chf, Opers Res Grp for Forces & Readiness.
	Operations Research Analyst for Systems.
	Opers Research Analyst for Cmd. Cont. C & I.
Ofc of the Administrative Assistant.	Adm Asst to the Secy of the Army.
DASA Research Development and Acquisition.	Dep Administrative Assistant
	Assoc Dir for Procurement Mgmt Review.
	Director Acquisition Managment Review Agency.
ODASA Acquisition	Dep for Materiel Acq Mgmt.
	Dep for Procurement Policy.
ODASA Management and Budget.	Deputy for Management & Budget.
Ofc of Asst Secy-Installations Logistics and Finan Mgmt.	Asst Deputy for Installations & Housing.
	Asst Dep for Logistics.
Off of Asst Secretary, Manpower & Reserve Affairs.	DASA (DA Review Bds and Personnel Security).
Office, Assistant Chief of Staff, Intelligence	Spec Asst to the ACSI.
Ofc of Asst Chief of Staff, Automation & Communications.	Dir, Army Mgmt Systems Support Agency.
	Deputy Director, Network Integration Direct.
	Dep Asst Chf of Staff Automation and Comms.
	Army Spectrum Manager.
Ballistic Missile Def Sys Command.	Spec Asst to Asst Chf of Staff.
Ballistic Missile Def Adv Techn Ctr.	Chief, Contracts Office.
	Dir Technology Analysis Directorate.
	Dir Discrimination Directorate.
	Dir Missile Directorate.
	Director Radar Directorate.
	Dir-Data Processing Directorate.
	Director Optics Directorate.
Chf Scientist & Director of Army Research.	Asst Dir for Laboratory Activities.
	Asst Director for Research Programs.
	Asst Dir for Technology Overview.
	RDA Analysis Officer.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Dir of Combat Support Systems.	Physical Scientist Admr (Chem & Engr Sci).
	Combat Spt Sys Technol Mgr.
Dir of Weapons Systems.	Physical Scientist (Aerospace Engr).
	Weapons Systems Technol Mgr.
	U.S. Army Safety Director.
Office, Dep Chief of Staff for Personnel.	Chief, Labor and Employee Relations Division.
Directorate of Civilian Personnel.	Director of Civilian Personnel.
	Dep Director, Off Civ Personnel.
	Chief, Position & Pay Management Division.
	Chief, Staffing and Career Management Div.
Civilian Personnel Center.	Chf-Civilian Personnel Ctr.
Army Research Institute for Behavioral & Social Sciences.	Dir Org and Systems Lab and Assoc Dir ARI.
	Dir, Ind Train & Perf Res Lab, & Assoc Dir, ARI.
	Dir, Training Res Lab & Assoc Dir, ARI.
	Dir, Manp & Pers Res Lab 7 Assoc Dir, ARI.
Dir Manpower Plans and Budget.	Dep Dir Manpower Plans and Budget.
Office, Deputy Chief of Staff for Logistics.	Chief Security Assistance Policy Coord Ofc.
	Asst Director for Supply Mgmt.
	Asst Dir of Resources and Mgmt.
	Asst Dir for Maintenance Mgmt.
	Spec Asst to DCSLOG & Chf Av Log Ofc.
Office of the Comptroller of the Army.	Dep Comptroller.
	Director of Cost Analysis.
	Deputy Director of Operations & Maintenance.
Finance and Accounting Center.	Dep Cmdr US Army Finance & Acctng Ctr.
	Dep Dir of Finance & Accounting.
Director of Army Budget.	Deputy Director.
	Dep Dir of Army Budget for Budget Management.
Army Audit Agency	Auditor General.
	Deputy Auditor General.
	Director, Logistical & Financial Audits.
	Dir Acquisition and Force Management Audits.
	Dir Personnel and Force Management Audits.
	Dir Audit Policy Plans and Resources.
	Tech Adv to Dep Chf of Staff for Opers & Plans.
Ofc Dep Chf of Staff for Operations & Plans.	Dep Dir, Force Program & Structure Direc, DCS.
	Technical Director.
U.S. Army Nuclear Agency.	Dir for Joint Forces & Strategy.
Concepts Analysis Agency, DCSOPS.	Dir of Methodology & Resources & Computation.
	Chief Historian.
Army Center of Military History.	
Army War College	Director of Academic Affairs.
U.S. Army Med Res Inst of Infectious Dis, Ft Detrick Md.	Program Director Hazardous Viruses.
	Deputy for Science.
Training and Doctrine Command (TRADOC).	Dir, Combined Arms Studies & Analysis Activ.
Combat Developments Experimentation Command.	Scientific Advisor.
U.S. Army Tradoc Systems Analysis Activity.	Dir US Army Tradoc Systems Analysis Activity.
Tradoc Combined Arms Test Facility.	Scientific Advisor.
Military Traffic Mgmt Command.	Spec Asst for Transportation Engr.
U.S. Army Forces Command.	Civilian Personnel Director.
U.S. Army Corps of Engineers.	Chief, Office of Personnel.
	Spec Asst to the Chf of Engin for Intern'l Aff.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Ofc, Asst Chf of Engineers.	Chief, Programming Div, Ace.
Director of Civil Works.	Chf-Ofc of Policy.
	Chf, Eng Div, Civil Works.
	Chief, Elect & Mech Br, Engineering Div.
	Chf, Programs Div.
	Chf-Planning Division.
	Chf Construction-Operations Division.
Mx Program Agency	Deputy Director for Cemxpa.
	Chief Engineering Directorate.
Director of Military Programs.	Chief, Engineering Division.
	Chf, Construction Division.
	Chf, Operations & Maintenance DIV.
Board of Engineers for Rivers and Harbors.	Tech Dir, Bd Engr rivers and Harbors.
Institute for Water Resources.	Director Institute for Water Resources.
Planning Divisions, COE.	Chief Planning Division.
	Chf Planning Div, Ohio River Div.
	Chf Planning Div, No Pacific Div.
	Chf, Planning Div, South Atlantic Div.
	Chief, Planning Division Lower Mississippi Valley.
	Chf Planning Div, Mo River Div.
	Chf, Planning Div, South Pacific.
	Chf, Planning Div-Southwestern Div.
	Chf, Planning Dir North Central Div.
Engineering Divisions, COE.	Chief, Engineering Div, Ohio River Div.
	Chief, Engineering Div, Southwest Div.
	Chf, Eng Div, N Central Div, Chicago.
	Chief, Engr Div, S Pacific Div, San Francisco.
	Chief, Engineering Div, N Atlantic Div, NY.
	Chf Engineering Div, S Atl Div, Atlanta.
	Chief, Engr Div, L Miss Val Div, Vicks, Miss.
	Chief, Engineering Div Middle East.
	Chief, Engineering Div, Missouri River Div.
	Chief Engineering Div, North Pacific Div.
	Chief, Eng Div, Pacific Ocean Div, Honolulu.
	Chf Engineering Div, European Div.
	Chf Engineering Div, Huntsville.
Construction Divs-COE.	Chief Construction-Operations Division.
	Chf Construction Div, Middle East.
	Chf, Construction-Operations Div, S Atlantic.
Direc for Mgmt Info Sys.	Dir of Mgmt Information Systems.
Direc for Quality Assurance Darcom Hq.	Director of Product Assurance.
Ofc Dep Cmdg Gen Materiel Devel DARCOM.	Asst Dep for Materiel Devel.
	Asst Dep for Intern'l: L Research, Dev & Standar.
	Chief Lab and Dev Command Management.
	Assoc Dir for Systems Evaluation & Testing.
Dir for Dev & Energ Darcom.	Assoc Dir for Systems Development.
	Chf Ofc of Manufacturing Technology.
Office of Manufacturing Technology.	Asst Dep for Material Readiness.
Ofc Dep Cmdg Mat'l Readiness.	Dep Dir of Security Assistance.
Direc for Internat'l Logistics.	Associate Director for Materiel Programs.
Desc for Material Management.	Dep Dir of Materiel Mgmt.
	Assoc Dir for Requirements and Resources.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Direc for Readiness	Dep Dir of Readiness.
Direc for Procurement & Production.	Assoc Dir for Procurement.
	Dep Dir Procurement and Production.
Ofc Dep Commanding General for Resource Management.	Assistant Deputy for Resources and Management.
Direc for Personnel Trng & Force Dev.	Dep Dir for Personnel Train & Force Development.
	Chief, Civilian Personnel Div.
Office of Comptroller Darcom Hq.	Deputy Comptroller.
	Chf, Cost Analysis Div.
Armament Materiel Readiness Command (ARRCOM).	Deputy for Logistics Readiness.
	Comptroller.
	Deputy for Procurement and Production.
Office of Commander ARRADCOM.	Tech Dir Armament Research & Dev Command.
	Assoc Tech Dir (Adv Process Technology).
	Assoc Tech Dir (Sys Dev. & Engineering).
Large Caliber Weapon Systems Lab ARRADCOM.	Chief Nuclear and Fuze Division.
	Chf-Energetic Materials Div.
	Chf-Non Nuclear Munitions Div.
	Chf-Applied Sciences Division.
Fire Cont & Small Caliber Weapon Sys Lab ARRADCOM.	Chf Fire Control Systems Division.
	Chf, Armament Div.
Chemical Sys Lab ARRADCOM.	Chf Munitions Division.
	Chf-Research Division.
Ballistics Research Lab ARRADCOM.	Chf toxicology Branch.
	Chf, Ballistic Modeling Div.
	Chief Interior Ballistics Division.
	Chf-Launch and Flight Division.
	Chf Terminal Ballistics Div.
	Chf Vulnerability Lethality Division.
Directorate of Systems Engineering.	Director, Development and Qualification.
Research and Technology Labs-AVRADCOM.	Dir-Aeromechanics Laboratory.
	Dir-Structures Laboratory.
	Director Propulsion Laboratory.
	Dir-Research and Technology Labs.
Communications & Elect Materiel Readiness Cmmd (CERCOM).	Comptroller, CERCOM
	Dir of Procurement and Production.
Communications Res & Dev Command (CORADCOM).	Director, Communications Systems Center.
	Dir Systems Engineering and Integration.
	Dir of Engineering Dev.
Satellite Communication Agency (CORADCOM).	Deputy Program Manager, Army Tact Data Sys.
Program Mgr Army Tactical Data Systems (CORADCOM).	Assoc Techn Dir (Command, Control & Commun)
Depot Systems Command (DESCOM).	Deputy for Technical Operations.
Electronics Research & Development Cmmd (ERADCOM).	Assoc Technical Dir for Res & Technology.
	Assoc Techn Dir for Elec Warfare and Intel.
	Assoc Techn Dir for Production & Acqui.
Harry Diamond Labs (ERADCOM).	Chf. Dev. & Eng Div.
Night Vision & Electro-Optics Lab (ERADCOM).	Dep Dir, Night Vision and Electro-Optics Lab.
Ofc of Commander-(MICOM).	Associate Director for Systems.
	Dir, Missile Logistics Ctr.
	Director for Procurement and Production.
	Chief Guidance and Control Analysis.
Project Mgmt Offices (MICOM).	Deputy Project Manager, US Roland.
	DEP Proj Mngr, High Energy Laser Sys. Ala.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Engineering Lab (MICOM).	Deputy Director for Directed Energy.
	Dir for Test and Evaluation.
	Dep Dir Systems Simulation & Development.
	Dir for System Engineering.
	Dir-Engineering Laboratory.
Technology Lab (MITCOM).	Dir for Sys Engineering and Product Dev.
	Chf Solid Propellant Chemistry function.
	Asst Dep for Readiness.
	Director for Advanced Sensors.
Missile Intelligence Agency.	Chief, Advanced Technology Function.
Mobility Equip Rsch & Dev Command (MERADCOM).	Dep, Dir, Missile Intelligence Agency.
	Assoc Techn Dir for Research & Dev.
Natick Res and Dev Cmd (NARADCOM).	Assoc Tech Dir for Engr and Acquisition.
	Dep Techn Dir, Clothing & Equipment Sys Prog.
	Dir, Clothing, Equip & Matls Engr Lab.
	Dir, Food Science Laboratory.
	Director, Food Engineering Laboratory.
Tank-Automotive Mat Readiness Comd (TARCOM).	Dep Techn Dir, Food Service Systems Program.
	Comptroller, TARCOM.
Aberdeen Proving Ground, Md. T & E Command.	Dir for Procurement and Production.
White Sands Missile Range, T & E Command.	Assoc Dir-Materiel Testing Directorate.
Troop Spt & Aviation Mat ReadiSness Cmd (TSARCOM).	Tech Dir & Chf Sci.
Patriot Project Office	Dir of Procurement and Production.
	Dep Project Manager, Patriot.
	Asst Proj Mgr for Dev and Acq Operations.
XM-1 Tank Project Office.	Chf Engineer/Chf, Systems Engineering Division.
Fighting Vehicle Systems Project Ofc.	Dep Program Mgr-Fighting Vehicle System.
Army Research Office DARCOM (Durham, NC).	Dir, Engr Sci Div.
Foreign Science & Technol Ctr (DARCOM).	Dep Dir—Foreign Science & Technology Center.
Army Material Systems Analysis Agency (DARCOM).	Dir of Intelligence Production.
	Chf Combat Support Div AMSAA.
	Chf Air Warfare Div.
	Chf, Reliability, Availability & Maintainabil.
Army Communications Command.	Chf Ground Warfare Division-AMSAA.
Headquarters, US Army, Europe.	Comptroller.
Joint Tactical Communications (TRITAC).	Asst Dep Chf of Staff, Personnel (Civ Pers).
	Director, Overseas Dependents Schools, Europe.
DOD Wage Fixing Authority.	Dep Dir Acquisition Management Directorate.
Department of Navy:	Dep Dir for Engineering.
OAS, Financial Management/ Comptroller of the Navy.	Associate Director Tri-Tac Office.
	CHF, Systems Div.
Asst Comptroller Budget & Reports/ Fiscal Mgt Div.	Director, Technical Staff.
	Director of Banking and Contract Financing.
	Assoc Dir, Budget & Reports/ Fiscal Manag Div.
	Dir, Investment & Dev Div.
	Assoc Dir for Finance.
	Dir Budget Policy & Procedures Division.
	Dir, Budget Evaluation Group.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Asst Comptroller Financial Mgt Systems.	Dep Asst Comptroller (Financial Management).
	Deputy Assistant Comptroller (Accounting).
	Dep Asst Comptroller (Fin Mgmt Systems).
	Dir Civilian Manpower Division.
Ofc of Auditor General.	Auditor General of the Navy.
	Dep Auditor Gen/Dep Dir Naval Audit Service.
	Dir Naval Audit Service Capital Region.
Office of the Comptroller.	Dir, Fin Mgmt/Comptr/Spec Asst(FM) to ASN(R, E&S).
	Deputy Comptroller.
	Dir Navy Patents Program.
Office of Assistant Chief for Patents.	Field Dir, Navy Patents.
	Departmental Director, Navy Patents.
	Director, Acquisition.
Office of Procurement Services.	Dir, Physiology Program.
	Dir, Physics Program.
Office of Assistant Chief for Research.	Engineering Sciences Advisor, Math Sciences Di.
	HD, Fluid Dynamics Br, Math Sciences Div.
	Tactical Develop & Evaluation Sup Proj Mgr.
Asst Chief for Technology.	Dir-Naval Vehicles and Weapons Technology Div.
	Director Corporate Management.
	Dir, Ocean Sci & Technology Dir.
Ocean Science and Technology Division.	Assoc Tech Dir & Dir Ocean Prog Mgmt Ofc.
Navy Ocean Research and Development Activity.	Head Magnetism Branch.
	Chf Sci, Lab for Structure of Matter.
Material Science and Component Technology Directorate.	Head Combustion and Fuels Branch.
Chemistry Division	Assoc Supt Mat Sci & Tech Div/ Hd Thermo Mat B.
Material Science and Technology Division.	Associate Superintendent Optical Science.
	Head, X-Ray Optics Br.
Optical Sciences Division.	Head, Cyclotron Applications Branch.
Radiation Technology Div.	Chf Sci, Lab for Cosmic Ray Physics.
	Head, Spacecraft Technology Center.
Space and Communications Technology Directorate.	Manager, Advance Projects Ofc.
	Hd Space Applications Branch.
	Head, Space Technology Br.
Space Systems Division.	Superintendent Environmental Sciences Div.
Environmental Sciences Division.	Assoc Superintendent for Ocean Sci Applicatio.
U.S. Marine Corps	Fiscal Dir of the Marine Corps.
	Asst Dcs for Installations and Logistics.
	Dir Contracts Division.
	Accounting Officer of Marine Corps.
	Dir, Electromagnetic Spectrum Management.
Dir Command and Control and Communications (C3) Programs.	Spec Asst to Dir of Naval Intel-Investigatns.
Dir-Naval Intelligence	Sr Adv to the Dir of Naval Intel for Sov Doc.
Asst Dep Chf of Naval Operations (Civilian Personnel).	Asst Dep Chf of Naval Opers (Civilian Personn).
	Dep Dir, Civilian Personnel Div.
	Hd, Personnel Dev Branch.
	Hd Personnel Mgmt Branch.
	Hd, Labor & Employee Relations Branch.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
	Dir-Navy Civilian Personnel Command.
	Director, Total Force Info Systems Div.
	Dir Pacific Field Div.
	Head Personnel Management & Evaluation Br.
Director, Research, Development, Test & Evaluation.	Spec Asst for Financial Matters.
Ofc DCNO (Submarine Warfare).	
Systems Analysis Div.	Scientific & Techn Adv. for SSBN Survivability.
	Asst for Net Assessment & Mid-Range Objective.
	Asst for Spec Analyses & Head, Proj Forces Br.
	Asst for Advanced Res & Analytical Techniques.
	Hd Support Force Manpower & Logistics Branch.
U.S Naval Observatory.	Dir, Time Service Div.
Office of the Oceanographer.	Dep for International & Interagency Affairs.
Ofc of the Chf of Naval Training.	Comptroller.
Spec Assts to Chief of Bureau.	Comptroller.
Naval Aerospace Medical Institute.	Spec Asst. Scien Progs & HD. Psychophysiology.
Naval Medical Research Unit #3.	Hd. Medical Zoology Dept, Cairo, Egypt.
Naval Data automation Command.	Comptroller.
Military Sealift Command.	Depo Ex Dir.
Naval Material Command.	Comptroller.
Executive Development Cadre.	Dir, Civilian Personnel Operations Div.
Director of Resources Management.	Manager for Executive Development.
	Dir of Resources Management.
	Cnm Advisor for Cost Analysis/Estimating.
	Spec Asst to Dir Res Mgmt/Dir Fin Mgmt Sys Di.
Dep Chf of Naval Material (Logistics).	Asst Dep Chf of Naval Material (Oper & Logist)
	Asst Dep Chf of Naval Mat for Acquisit Div.
Asst Dep Chf of Naval Material (Contracts & Bus Mgmt).	Hd-Tri Svc Negotiation Staff.
	Exec Dir for Contracts and Business Management.
	Dir, Procurement Control & Clearance Division.
	Dir, Procurement Control & Clearance Div.
Asst Dep Chf of Naval Material (Technology & Labs).	Assoc Dir of Nv Labs.
	Hd, Vehicles Branch.
	Hd, Weapons Branch.
	Dep Admn for Acquisition Cntrl.
Asst Dep Chf of Naval Material (Reliability & Eng).	Asst Dep Chf Nav Mat (Reliability and Eng).
US Navy Ord Test Unit.	Chf Engr, US Nav Ord Test Unit.
Technical Division, Navigation Branch.	Hd, Navigation Equip Sect.
Test & Operations Branch.	Hd, Navigation Systems Sect.
	Test & Operations Branch Engineer.
Fire Control & Guidance Branch.	Hd. Guidance Section.
Missile Branch	Head Fire Control Section.
	Sec Engr, Re-Entry Body Section.
	Head Operating Engineering Section.
	Sec Engr, Engrg Section.
	Sect Head, Reentry System Sect, Missile Br.
	Asst for Systems Integration & Compatibility.
Launcher & Handling Branch.	Branch engr, Launcher & Handling Branch.
Antisubmarine warfare Systems Project Office.	Director, Financial Management Division.
Trident System Project Office.	Technical Dir, Trident Systems Project Office.

Agency and organization	Career reserved positions
Joint Cruise Missile Project Office.	Exec Dir, Acquisition Directorate.
David W Taylor Naval Ship R&D Center.	Dir of Long Range Plans and Programs and, Md.
Aviation & Surface Effects Dept.	Assoc Tech Dir for Systems Development.
	Asst Tech Dir (Research Consultant).
Ship Performance Department.	Head, Naval Hydromechanics Div.
Structures Dept.	Head Submarine Division.
Naval Ocean Sys Center, San Diego.	Dir Command Control and Communications.
	Hd Electronics, Engineering & Comp Sci Dept.
	Director Ocean Surveillance.
	Scientific Consultant-Electromagnetics.
	Director Weapon System.
	Director Engineering and Computer Sciences.
	Chief Res Sci Subm Arctic Tech & Dir Arctic Subm.
	Dir, Independent Research and Development.
	Dir for Administration.
	Head Electronics Engineering & Sciences Dept.
Laboratory Directorate-NWC.	Hd, Earth & Planet Sci Div, Research Dept.
	Hd, Detonation Physics Div, Research Dept.
Naval Air Development Center, Johnsonville, PA.	Dir-Communication & Navigation Tech Directors.
	Dir Sensors & Avionics Technology Directorate.
	Head-Computer Department.
	Dir-Systems Directorate.
	Dir Aircraft and Crew Systems Technology Dire.
	Dir Software & Computer Tech Directorate.
Naval Underwater System Center.	Deputy Technical Director.
Assoc Tech Dir Plans & Analysis.	Head, Systems Analysis Dept.
	Head, Warfare Analysis Dept.
Systems Development Directorate.	Hd Submarine Sonar Sys Dept.
	Hd Weapons Sys Dept.
	Hd Surface Ship Sonar Sys Dept.
	Hd Spec Projects Dept.
	Hd Combat Sys Control Dept.
Off of Asst Commander for Res & Technology.	Dir Res Division Res & Tech Group (Air-03).
	Surveillance Technology Admr.
	Propulsion Technology Admr.
	Command Control & Guidance Technology Admr.
	Ordnance Technology Admr.
	Aerodynamics & Structured Technology Administ.
	Dir, Advanced Weapons Systems Division.
Off of Asst Chf for Contracts.	Exec Dir, Procurement Management.
	Dir Aircraft Weapons Systems Purchase Dir.
	Dir, Missile Weapons Systems Contracts Div.
Dep Cmdr for ASW Warfare Projects.	Deputy Project Manager (tempo).
Organization & Manpower Management Office.	Asst Dir, Org & Manpwr Mgmt Off.
Deputy Comptroller	Deputy Comptroller.
Asst Comdr for Systems and Engineering.	Exec Dir for Acquisition Management.
	Asst Dir, Adv Sys Div.
	Asst Dir, Evaluation Div.
	Tech Dir—Armament Div.
	Asst Dir, Engr Div.
	Techn Dir, Core Avionics Div.
	Dir, Systems Alternatives Directorate.
	Dir, Design Analysis Div.
	Asst Dir Propulsion & Power Division.
Asst Cmdr for Test & Evaluation, Naval.	Tech Dir, Test & Evaluation Group (Air-05).

Agency and organization	Career reserved positions
Naval Air Engineering Center.	Technical Director.
Naval Avionics Facility.	Dir of Applied Research, Research & Engr Div.
	Director of Engineering.
Naval Aviation Logistics Center.	Exec Dir.
Systems Evaluation Directorate.	Assoc Dir—Sys Evaluation Directorate.
	Head Systems Technology Department.
Range Directorate	Assoc Dir and Assoc TD (Ranges and Tests).
	Head, Capabilities Development Dept.
Naval Electronic Systems Command.	Deputy Comptroller.
	HD Command and Control Systems Department.
Director, Logistics Directorate.	Exec Dir, Logistics Directorate.
Contracts Directorate.	Executive Director-Contracts.
Navsea Project Offices.	Dep Proj Mgr & Tech Dir Rewson Systems Proj.
	Asst Project Mgr for Elf Communications.
	Asst Proj Mgr for Onboard Submarine Systems.
	Project Manager for Communications Systems.
Research & Tech Directorate.	Tech Dir—Research and Technology.
Acquisition Engrg Directorate.	Techn Dir, Material Acquisition Directorate.
	Techn Dir, Telecommunications Div.
	Techn Dir, Air Traffic Cont Surv & Nag Sys Di.
	Techn Dir, Marine Corps & Amphibious Div.
Command Support Sys Ofc.	Techn Dir, Command and Control and Communications.
	Exec. Director for Systems Engineering.
Designated Project Offices, NAVSEA.	Dep Proj Mgr for Anti Ship Miss Defense Proj.
	Exec Dir—Aegis Shipbuilding Project.
	Dep Proj Mgr/Tech Dir Nucl Power Aircraft Lab.
	Dep Proj Mgr/Tech Dir Attack Sub Project Ofc.
	Dep Proj Mgr—Destroyer Ship Acq Project.
	Dep Proj Mgr & Techn Dir—Amphib Ship Acqui Proj.
	Director—SSN Submarine Systems Division.
	Deputy Project Manager.
	Proj Mgr Destroyer Ship Acquisition Project.
	Executive Director Acquisition Directorate.
Acquisition Directorate, NAVSEA (90).	Dep Commander Management & Adm Directorate.
Management Support Directorate, NAVSEA (09).	Asst Dep Commdr, Plans, Prog Financ Mgt/Dep Com.
Compt Directorate NAVSEA (01).	Asst Dep Commander for Contracts.
Contracts Directorate, NAVSEA (02).	Dir, Shipbldg & Overhaul Contracts Div.
Surface Combatant Ships Directorate, NAVSEA (93).	Dep Dir, Surface Combatant Ship Logistics Div.
A/Craft Carriers, Amphib & Aux Ships Direct NAVSEA (94).	Exec Dir Aircraft Carriers Amph & Aux Ships.
Surface Warfare Systems Group WS&E NAVSEA.	Exec Dir, Surface Warfare Sys Grp.
Nuclear Propulsion Directorate, NAVSEA (08).	Hd Advanced Design Br.
	Dir Nuclear Propulsion Plant Valves Division.
	Director-Reactor Materials Division.
	Head Advanced Design Branch.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
	Head, Improved Reactor Design Branch.
	Hd, Surface Ship Br.
	Dir-Secondary Plant Components Division.
	Deputy Director for Submarines.
	Dir Surface Ship Systems Division.
	Technical Assistant for Surface Ship Systems.
Naval Undersea W/ Fare Engr Sta, K. Wa. N/Sea Fld Act.	Technical Director.
Naval Weapons Sta, Seal Bch, Ca-NAVSEA Field Activity.	Tech Dir, Flt Msl Sys Anal & Eval Group.
Naval Ordance Sta, Indian Hd, Md-NAVSEA Field Activity.	Special Assistant/Propulsion Technologist.
Ship Design and Integration Directorate, NAVSEA (05).	Dir, Ship Des Res & Tech Ofc (Sea-03R).
	Dir, Adv Des Div/At Dep Dir, Ship Conc Dev Gp.
	Exec Dir/Dep Ofc Dir/Dep Grp Dir/Div Dr.
	Exec Dir/Dep Ofc Dir/Dep Grp Dir/Div Dr.
Ship Systems Directorate, NAVSEA (05).	Dir, Ship Systems Res & Technology Office.
	Asst for Propulsion Sys.
	Deputy Director Hull Systems Group.
	Dep Dir, Auxiliary Systems Group.
Combat Systems Directorate, NAVSEA (06).	Head Tactical Data Systems Branch.
	Hd Ship Design & Fleet Engineering Branch.
	Exec Director, Combat Systems Directorate.
Headquarters	Asst Dep Commander for Plans, Policy & Syst D.
	Asst Dep Cmdr for Fin Mgmt/Comp.
Aviation Supply Office	Executive Dir Logistics Planning & Support.
Navy Ship Parts Control Center.	Exec Dir Acquisition & Logistics Plng & Suppt.
Office of Commander	Dep Dir of Programs & Comptroller.
Dep Comdr for Acquisition.	Assistant Commander for Contracts.
Department of Education:	
Management	Deputy Asst Secy for Finance—Controller.
	Dir, Ofc of Procurement & Assistance Mgmt.
Inspector General	Assistant Inspector General for Audits.
	Asst Inspector General for Investigation.
	Deputy Asst Inspector Gen for Investigation.
	Dep Asst Insp General for Tech Serv & Rld Ops.
	Dep Asst Inspector General (Hq Audit Divi.
Department of Energy:	
Ofc of the Under Secretary.	Dir Ofc of Program Plan & Integration.
Albuquerque Operations Office.	Dir Weapons Prod Div.
	Asst Mgr for Admin.
	Asst Mgr for Plns and Bud.
	Dir Res Mgmt Div.
	Dir Weapons Dvlmp Div.
	Director Quality Assurance Division.
	Dir Operational Safety.
	Asst Mgr for Logistics.
	Dir Fac and Const Mgmt Div
	Dir Transportation & Safeguards Div.
	Asst Mgr for Administration.
Chicago Operations Office.	Asst Manager for Administration.
	Area Manager Batavia Area Office.
	Asst Mgr for Acquisition and Assistance.

Agency and organization	Career reserved positions
Idaho Operations Office.	Asst Mgr for Plns Budget & Engr.
	Asst Mgr for Admin.
	Dir Reactor Ops & Prgms.
	Dir Nuclear Fuel Cycle and Waste Mgmt Div.
Nevada Operations Office.	Asst Mgr for Admin.
	Asst Mgr for Plns Engr & Bud
Oak Ridge Operations Office.	Dir Switching Op Div.
	Dir Mdlg Div.
	Asst Mgr for Admin.
Richland Operations Office.	Asst Mgr for Admin.
	Asst Mgr for Tech Op.
	Dir Nuc Fuel Cy and Prod Div.
	Dep Asst Manager for Technical Operations.
San Francisco Operations Office.	Asst Mgr for Admin.
	Asst Mgr for Projects.
Savannah River Operations Office.	Asst Mgr for Admin.
Ofc of Ast Insp Gen for Audits.	Asst Inspector General for Audits.
	Dep Asst I/G for Programs.
	Dir Financial and Procure Audits.
	Director Division of Program Audits.
Ofc of Asst Insp Gen for Inspections.	Asst Insp Gen for Inspec.
	Dep Asst IG for Inspec.
	Dep Inspector General for Inspections.
Ofc of Asst Insp Gen for Investigations.	Asst Ins/Gen for Investigations.
	Dep Asst I/G for Investigations.
Ofc of Hearings and Appeals.	Dep Dir for Legal Analysis.
	Dep Dir for Financial Analysis.
	Dep Dir for Econ Analysis.
Dfc of Chief Accountant.	Deputy Chief Accountant.
Ofc of Pipeline and Producer Regulation.	Dir Division of Audits.
	Dep Dir. Div of Audits.
Economic Regulatory Administration.	Dir Reg Asst Div.
	Dir Reg Intervention Div.
Office of the Administrator.	Dir Ofc of Mgmt and Program Coordination.
Organization no Longer in Existence.	Dir Ofc of Op Plng and Eval.
Energy Information Administration.	Dir Ofc of ADP Svcs.
	Dir Ofc of Energy Use Anal.
	Asst Admr for Energy Data Operations.
	Dir-Engy Emergency Mgmt Info Sys Project Ofc.
	Asst Admr for Energy Data Valid.
	Dep Asst Adm for En Info Valid.
	Asst Adm for Applied Analysis.
	Dir Ofc of En Source Analysis.
	Dir-Ofc of Intergrative Analysis.
	Dir Ofc of Financial Reporting System.
	Dir Ofc of Oil and Gas Info Sys.
	Dep Asst Admr for Energy Data Operations.
	Dir Ofc of Validation Anal.
	Dir Ofc of Oil and Gas Statistics
	Dir Ofc of Systems Validation.
	Dir Ofc of Analysis Oversight & Access.
	Dir Ofc of Coal and Elec Power Statistics.
	Dir Ofc of the Natl En Info Sys.
	Dep Asst Adm for Sys Spt.
	Asst Admr Energy Systems and Support.
	Dep Asst Admr for Appl Analysis.
	Dir Ofc of Economic Analysis.
	Dir Ofc of Consumption Data Systems.
	Dir Ofc of Interfuels Int'l & Emg Engs Stats.
	Dir, Ei ADP Services Staff.
	Director Nuclear & Alternate Fuels Division.
	Dir Transportation Ind & Model Coor Br.

Agency and organization	Career reserved positions
	Chief Macro and Financial Int Branch.
	Dir, Ofc of Statistical Design & Analysis.
	Dir Ofc of Coal Elec & Alter Sources Data Div.
	Dir, Ofc of Petroleum & Natural Gas Data Div.
	Director, Office of Management and Programs.
Ofc of Oil and Gas	Dir, Ofc of Oil and Gas.
	Dep Dir, Ofc of Oil and Gas.
	Director Petroleum Supply Division.
	Chf Develop Collection Proc & Maintenance Br.
	Chief Data Analysis & Forecasting Branch.
	Director Petroleum Marketing Division.
	Director Natural Gas Division.
	Dir Reserves & Data Consolidation Division.
	Director Electric Power Division.
Ofc of Coal, Nuclear and Alternate Fuels.	Dir, Coal, Nucl, Elec & Altern Fuels Div.
	Director, Coal Division.
	Chf Develop Collection Proc & Maintenance Br.
Ofc of Energy Markets and End Use.	Dir Ofc of Energy Markets & End Use.
	Director Energy End Use Division.
	Director Short-Term Information Division.
	Director Longe-Term Information Division.
	Director Economics & Statistics Division.
Dfc of Statistical Standards.	Dir Ofc of Statistical Standards.
	Director Quality Assurance Division.
Organization no Longer in Existence.	Dir Ofc of En Data Stnd and Stat Design.
	Director, Ofc of Energy Data Development.
	Dir Ofc of Validation Resources.
	Dir Ofc of Functional Anal.
	Dir Ofc of Energy Info Serv.
Natl Energy Information Center.	Director Natl Energy Information Center.
	Dir Div of Interfuel Nucl and Oil En Sources.
Organization no Longer in Existence.	Project Advisor.
Asst Secy for Conservation and Renewable Energy.	Dep Dir Geo En/Chf Hydro Spt Br.
	Chf Thermal and Mechanical Sys Br.
	Dir, Wind Energy Systems Div.
	Dep Dir Central Solar Tech Div.
	Dir, Power Supply & Integration Branch.
	Dir Ofc of International & Sci Prgms.
	Dir Market Development Division.
	Dir, Conservation Techn Dev Div.
	Director, Consumer Products Division.
	Director Automotive Tech Development Division.
	Dir Resource Management Division.
	Dir, Photovoltaic Energy Systems Division.
	Director Buildings Division.
Ofc of Policy Planning and Evaluation.	Dir Policy Plng and Eval Div.
Ofc of Budget and Management.	Dir Ofc of Budg and Adm Spt.
Bonneville Power Administration.	Asst Admr for Mgmt Serv.
Western Area Power Administration.	Asst Admr for Mgmt Svcs.
Ofc of Vehicle and Engine R&D.	Dir, Transportation Systems Utilization Div.
Ofc of State and Local Asst Programs.	Dir Weatherization Assistance Programs Div.
Organization no Longer in Existence.	Chf Photovoltaics Sys Br.
	Progm Mgr for Elec Sys.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Olc of Solar Heat Technologies.	Dep Dir, Olc of Solar Applications for Buildg.
Olc of Renewable Technology.	Dir Biomass Energy Systems Division.
	Dir Program Res Mgmt Div.
	Chf Solar Thermal Branch.
	Manager, Technology Transfer.
	Dir, Solar Thermal Energy Systems Div.
Organization no Longer in Existence.	Dep Dir Distributed Solar Tech Division.
	Director Finance & Administration Division.
	Dir, Prog/Proj Mgmt and Planning Division.
	Chf Power Delivery Br.
	Dep Dir Lpd and Dir P and Pd Div.
A/S for Environmental Protection, Safety & Emerg Prepar.	Dir Olc of Resource Mgmt.
Director Financial Management.	Dir Pwr Supply and Reliability Div.
	Chief Envir Control Technology Branch.
	Dir Olc of Mgmt Support.
	Dep Dir, Olc of Management Support.
Dep A/S for Environment, Safety and Health.	Dep Dir Tech Ass Div and Chf N T Br.
	Chf Nuclear Tech Br.
	Chf Fossil and Inexhaustible Prog Br.
	Chf Safety Analysis Branch.
	Chf Policy Measurements & Instit Stnds.
	Medical Director.
	Chf, Environmental Protection & Pub Safe Br.
	Chf, Occupational Safety Branch.
Olc of Operational Safety.	Dep Dir Op and Env Safety.
Dep A/S for Strat Petrol Reserve.	Dir Mgmt Div.
Asst Secy for Defense Programs.	Dir Off of Prgms Coord.
Organization no Longer in Existence.	Dir for Assessments & Liaison.
Dep Asst Secy for Military Applications.	Exec Dir.
	Dir Olc of Spec Proj.
	Dir, Prog Analysis & Resource Management Div.
	Special Asst.
Dir of Safeguards and Security.	Dir Incident Mgmt Div.
Office of International Program Support.	Dir Olc of Intl Prgm Spt.
Office of Policy Planning and Analysis.	Dir Div of Plng and Budget Sys.
Office of Energy Research.	Div, Div of Financial Management.
	Dir Div of Acquisition & Coordination.
Olc of Program Administration and Operation.	Asst Dir for Pgm Adm and Op.
	Dir Budg and Prm Coord Div.
	Deputy Associate Director for Management.
Olc of Management	Director, Fiscal Management Division.
OFC of Health and Environ Research.	Director, Human Health & Assessment Div.
	Dir Health Effects Research Division.
Olc of Fusion Energy	Mgr R&D Prog Planning.
	Dir Div of Rsrc Mgmt & Acq.
	Assoc Dir, Olc of Management.
Office of Basic Energy Sciences.	Dir Admin Div.
	Dir Engr Math and Geo Sci Div.
	Dir Chem Sci Div.
	Dir Adv Egy Proj Div.
	Dir Mat Sci Div.
	Chf Metallurgy and Ceramics Br.
	Chf Fund Interactions Br.
	Chf Processes and Tech Br.
	Chf Solid St Phy and Mat Chemistry Branch.
Office of High Energy & Nuclear Physics.	Chf Physics Research Branch.
	Dir High En Physics Div.
Organization No Longer in Existence.	Dir Olc of Prgm Mgmt Support.
Assistant Secretary for Fossil Energy.	Dir Olc of Res Mgmt and Acquis.
	Spec Adver to Prgm for Fos En.
	Manager, Prog, Facilitation—Solar.
	Mgr Prog Facilitation—Fossil Energy.
	Manager, Prog, Facilitation—Nucl, Wst.
	Deputy Director For Management.
	Director, Office of Resource Mgmt.
	Dir, Olc & Major Proj Management.
Olc of Mgmt and Planning.	Chf Plans and Policy Br.
	Asst Dir For Budget.
	Dep Asst Secy for Management.
	Dir, Olc of Prog Support.
Olc of Coal Processing.	Dep Dir Magnetohydrodynamics Div.
	Dep Dir Fossil Fuel Extraction Div.
Organization No Longer in Existence.	Chf Syn Fuels Pgm Dvlmt Br.
	Asst Dir for Tech Acquis and Eval.
Assistant Secretary for Nuclear Energy.	Dir Fossil Energy Research Div.
	Mgr., Process & Prgm, Mgmt, Br.
	Exec Dir Olc of Nuc En Pgms.
	Executive Director.
	Director, Fiscal Division.
	Dir Olc of Plans & Resource Mgmt.
Resource Mgmt Staff	Chief Reactor Engineer.
	Director, Olc of Resource Management.
Dep Asst Secy For Naval Reactors.	Assoc Dir for Commas Subs.
	Asst Dir for Reactor Saf & Comp.
	Assoc Dir For Reactors.
	Hd Op Reactors Sec.
	Sr Nav Reactors Rep (MAO).
	Chf Surface Ship Sys Br.
	Chf Submarine Sys Br.
	Chf Instrumentation & Control Br.
	Assoc Dir for Fiscal Mtrs.
	Asst to Assc Dir For SS & WCB.
	HD Welding & Non-Dest Test Sec.
	HD Submarine Section.
	Assoc Dir For Trid & Adv Sub Projs.
	Chf Reactor Refueling Br.
	Dep Reactors Refueling Br.
	Assoc Dir for Surf Ship & Wcb.
	Sr Nav Reactors Rep (Mare Is).
	Chf Nuclear Technology Branch.
	Hd Surface ship Section.
	Sr Nav Reactors Rep (W Milton).
	Asst, Dir, For Shpyd, Mtrs.
	Asst. to the Assoc. Dir. for SS & WCB.
	Dep. Chf. Nucl. Compon Branch.
	Assoc. Dir. for High SPD Sub Proj.
	Chf Nucl Compon Branch.
	Dep Dir Nav Reactors Div.
	Waste Isolation Pilot Plnt. Pjt. Coord.
	Spec Asst to Dep Dir Nr Div.
	Porg Mgr Prototype and Seps Operations.
	Dir Mgmt Supt Div.
	Asst Chf Scientist.
	Chf Nuc Tech Br.
	Asst to the Dir For Special Projects.
	Assoc Dir for Security, Public & Foreign Mat.
	Chf Quality Assurance and Stds & Opor Saf Br.
	Dir Reactor Engineering Division.
	Chief Advanced Core Manufacturing Branch.
	Asst Manager for Operations.
Schenectady Naval Reactors Office.	Sr. Naval Reactors Rep (Portsmth).
Pittsburgh Naval Reactors Office.	Sr. Naval Reactors Rep (Nwpt News).
	Senior Naval Reactors Rep (Pearl Harbor).
	Sr Naval Reactors Representative (Pasco, Wa).
	Senior Naval Reactors Representative.
Deputy Assistant Secretary for Nuclear Reactor Program.	Deputy Director for Nuclear reactor Programs.
	Chf Adv Isotope Separation Br.
	Chf Fact Mgmt Br.
	Chf Nuct Reactor Eval Br.
	Chf Safety & Physics Br.
Olc of Uranium Enrichment and Assessment.	Chf Nuclear Fuel Cycle Program Branch.
	Dep Dir Nucl Pwr Devlp Div.
	Dir, Engineering Components Div.
	Dir Nucl Pwr Dvlpmt Div.
	Chf Space & Terres Sys Br.
	Chf Gas Cooled Fast Reactor Br.
	Chf Supl Eval Br.
	Chf, Facilities Construction Branch.
	Chf Tech Spt Br.
Olc of High Energy & Nuc Pys Direct of Admin.	Chf Contracting & Marketing Br.
	Director Personnel Management Evaluation.
Olc of Personnel	Dir Olc of Personnel.
	Dep Dir of Personnel.
	Dir-Exec Resources Management Division.
	Dir Policies and Prgm Div.
	Dir Empl Dvlmt & TRng Div.
	Dir Hq Personnel Operations Div.
	Dir Labor Relations& Dis.
Olc of Orgn and Mgmt Systems.	Dir Olc of Org and Mgmt Sys.
	Dir Management Sys Analysis Div.
	Dir Manpwr Res Mgmt Div.
	Dep Dir Olc of Org and Mgmt.
	Dir Org Polng and Mgmt Div.
	Dir Records and Rep Mgmt Div.
	Dir Office of Facility Planning & Support.
Office of Project and Facilities Management.	Dir Div of Real Estate and Fac Mgmt.
	Dir of Construction and Facility Mgmt.
Olc of Admin Services.	Dir Olc of Admin Svcs.
	Dep Dir Olc of Admin Serv.
Olc of Adp Management.	Dir Olc of Adp Mgmt.
	Dep Dir Olc of Adp Mgmt.
Olc of Comp Serv & Telecommun Management.	Dir Olc of Comp Serv and Tel Mgmt.
	Dep Dir Olc of Comp Serv and Tele Mgmt.
	Asst Dir for Ops.
	Dir Div of Telecommunications.
	Director, Operations Division.
	Director Division of Technical Support.
Olc of Contractor Indus Relations.	Dir Olc of Industrial Relations.
	Dir Conf Pani Mgmt Div.
	Dir Prgm Mgmt and Asmt Div.
	Dep Dir Olc of Industrial Relations.
Directorate of Procurement & Asst/Mgmt.	Dir Tech & Resource Applications Support Div.
	Director, Procurement Management Rev Div.
	Director, Financial Incentives Olc.
Of Small and Disadvantage Business Utilization.	Dir of Sm and Disadv Bus Utiz.
	Dep Dir Proc Bus Affs Olc.
Office of Policy	Dir Olc of Policy.
	Dir Policy and Procedures Div.
	Dir Contr and Prop Mgmt Div.
Office of Program Support.	Dir Olc of Prgm Support.
	Dep Dir Pso and Dir Cs and Is Div.
Office of Procurement Management.	Dir Olc of Procur Mgmt.
	Dir Cont Bus Clmcs Div.
Office of Procurement Operations.	Dir Olc of Procurement Operations.
	Dep Dir Olc of Procur Op.
	Director Operations Review Staff.
Controller	Dep Dir, Olc of Management Info Systems.
	Dir, Olc of Management Inf Systems.
Office of Budget	Dir Olc of Budget.
	Dir Budget Anal Div.
	Dir Budget Oper Div.
	Dir, External Coord & Spec Projects Staff.
	Dep Dir Olc of Budget.
	Dir Budget Analysis Div.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Office of Program and Project Assessment.	Dir Engr and Const Support Div
	Dir Olc of Prgm Apvl and Contr.
	Dir Program and Project Mgmt Division.
	Dir Policy and Analysis Division
Office of Finance and Accounting.	Dir Olc of Finance and Accounting.
	Dir Accounting Pol and Proc Div
	Dir Wash Finan Serv Div.
	Dep Dir, Olc of Fin and Acctg
	Deputy Dir, Washington Financial Services Div.
Olc of Financial Pol & Analysis & GAO Liaison.	Dir Olc of Financial Pol Analysis & GAO Liaso.
	Dir, Financial Analysis Div.
	Dir, Financial Policy Div.
Asst Secy Congressional, Intergovernmental & Pub/Affs.	Dir Exec Office.
Environmental Protection Agency:	
Olc of the Administrator.	Principal Radiation Science Advisor.
Office of the Inspector General.	Assist Inspector Gen for Investigations.
	Dep I/G-Asst I/G for Auditing.
	Asst Inspector General for Audits.
	Dep Asst Inspector General for Ajudts.
	Dep Inspector General.
Office of International Activities.	Dep Dir, Programs & Operations
Region I—Boston	Dir, Envl Div Reg I.
	Dir Water Div Reg I.
	Dir-Air and Hazardous Materials Div Reg I.
Region II—New York	Dir-Surveillance & Analysis Div—Reg II.
	Dir-Enforcement Div—Reg II.
	Dir-Water Div Reg II.
	Asst Regl Admr for Planning & Mgmt.
	Dir Air and Hazardous Material Div.
Region III—Philadelphia	Dir Enforcement Div Reg III
	Dir Water Div Reg III.
	Dir Air and Hazardous Materials Division.
Region IV—Atlanta	Dir Water Div Reg IV.
	Dir Envl Div Reg IV.
	Dir Air & Hazardous Materials Div Reg IV.
	Dir Surveillance and Analysis Division.
	Dir, Surveillance & Analysis Division.
Region V—Chicago	Dir Enforcement Div Reg V.
	Dir, Air & Hazardous Materials Div Reg V.
	Dir Surveillance and Analysis Region V.
	Director—Water Div Reg V.
	Asst Regl Admr For Planning and Management.
Region VI—Dallas	Dir Envl Div Reg VI.
	Dir—Air & Hazardous Materials Div Reg VI.
	Director—Water Div Reg VI.
	Dir—Surveillance & Analysis Div
	Asst Regional Admr for Planning and Mgmt.
Region VII—Kansas City	Dir Water Div Reg VII.
	Dir—Enforcement Div-Reg-VII.
	Dir—Air & Hazardous Materials Div Region VII.
Region VIII—Denver	Dir Water Div Reg VIII.
	Dir Air & Hazardous Materials Div Reg VIII.
	Director Enforcement Division Region VIII.
Region IX—San Francisco	Dir, Surveillance & Analysis Div
	Dir—Water Div Reg IX.
	Dir, Air & Hazardous Material Div
	Dir—Enforcement Div-Reg IX.
	Director Surveillance and Analysis Division.
Region X—Seattle	Dir, Air & Hazardous Materials Div Reg X.
	Dir—Water Div Reg X.
	Dir Enforcement Div-Reg X.
	Dir Surv and Analysis Division—Reg 10.
Olc of Assoc Admr for Pol & Resources Management.	Dep Asst Admr for Resources Mgmt.
	Dep Assoc Admr for Policy & Resources Mgmt.
	Dir Program Integration Divison.
	Senior Resources Management Assistant.
	Dir Program Analysis Division
	Dir, Control Project Staff.
Office of Comptroller	Dir, Olc of the Comptroller.
	Deputy Director, Office of Comptroller.
Office of Policy Analysis.	Dir Econ Analysis Div.
Office of Standards and Regulations.	Director, Energy Policy Division.
	Dir Standards and Regulations Div.
Office of Management Systems and Evaluation.	Dir Olc of Management Systems & Evaluation.
	Dir, Program Reporting Div.
	Director Program Evaluation Division.
Olc of the Assoc Admr For Legal and Enforcement Counsel.	Dir Olc of Progs and Mgmt Opers.
National Enforcement Investigations Ctr—Denver	Dir Nat'l Enforcement Investigations Center-D.
Office of the Asst Admr For Administration.	Dir Olc of Occupational Health and Safety.
	Assoc to Asst Admr for Management Reform.
	Dir, Contracts Mgmt Div.
	Assoc to Asst Admr for Prog Mgmt and Policy.
	Dir Olc Admin Cincinnati.
	Dir Olc Admin Research Triangle Park.
Office of Personnel and Organizations.	Director, Personnel Management Div.
	Dir, Management and Organization Division.
	Dir, Grants Admin Div.
Office of Fiscal and Contracts Management.	Dir, Financial Mgmt Div.
Office of Management InformaAtion & Support Services.	Dir, Olc of Mgmt Info and Support Services.
	Dir Mgmt Info and Data Sys.
	Dep Dir, Olc of Mgmt Info & Support Services.
	Dir, Facilities and Support Services Division.
Office of the Assistant Administrator for Water	Policy Advisor.
Office of Water Enforcement.	Director, Enforcement Division.
	Director, Permits Division.
	Assoc Dep Asst Admr for Water Enforcement.
Office of Water Regulations and Standards.	Director, Effluent Guidelines Division.
	Director, Monitoring & Data Support Div.
	Dir Criteria and Stds Div.
Office of Water Program Operations.	Dir, Oil & Hazard—US Materials Division.
	Director Municipal Construction Division.
	Dir Facility Requirements Division.
	Dir Municipal Operations & Training Division.
	Dir Water Planning Division.
Office of Drinking Water.	Dir Criteria and Standards Division.
	Dir, Olc of Prog Dev & Evaluation.
	Dir State Programs Div.
Office of Solid Waste.	Dir, Hazardous & Industrial Waste Div.
	Director, Land Disposal Division
	Dir, State Prog & Resource Recovery Div.
Office of Emergency and Remedial Response	Dir, Hazardous Response Support Div.
Olc of the Asst Admr for Air, Noise and Radiation.	Director, Olc of Program Mgmt.
Olc of Air, Noise and Radiation Enforcement	Dir—Stationary Source Enforcement Div.
	Dir Manufacturers Operations Division.
	Dir Field Operations & Support Division.
Office of Air Quality Planning and Standards	Director Control Programs Development Division.
	Director, Monitoring & Data Analysis Division.
	Dir, Strategies & Air Stds Div—Durham, NC.
	Dir, Standards and Engineering Division.
Office of Mobile Source Air Pollution Control.	Director, Emission Control Technology Div.
	Dir Certification Division.
Office of Noise Abatement and Control.	Dir Tech & Federal Programs Division.
	Director Health Effects Scientific Staff.
	Director State & Local Programs Div.
	Director, Standards & Regulation Div.
	Director, Health Effects Scientific Staff.
Office of Radiation Programs.	Director Technology Assessment Div.
	Dir, Criteria & Standards Div.
	Dir, Surveillance & Emergency Preparedd Div.
	Dir Statistics & Applied Mathematics Div.
Olc of Asst Admr for Pesticides & Toxic Substances.	Dir International Chemical Affairs Staff.
	Dir, Integration Staff.
Office of Pesticides and Toxic Substances Enforcement.	Dir, Pesticides Enforcement Div
Office of Pesticide Programs	Dir, Olc of Pesticides Programs.
	Chf, Toxicology Branch.
	Senior Science Advisor (Minor Use Pesticides).
	Dir, Spec Pesticide Review Division.
	Dir—Registration Division.
	Director—Program Support Division.
	Dir—Hazard Evaluation Division.
	Dir Benefits and Field Studies Div.
	Sr Science Advr (Hazard Evaluators).
	Dir—Environmental Review Division.
Office of Toxic Substances	Director Exposure Evaluation Division.
	Director Assessment Div.
	Dir, Health & Environmental Rev Div.
	Director Chemical Control Division.
	Sr Scientific Advisor for Chemical Info.
	Dir, Industry Assistance Olc.
Olc of the Asst Admr for Research and Development.	Dep Dir for Technical Information.
	Principal Engineering Science Advisor.
	Principal Physical Science Advisor.
	Dir, Olc of Exploratory Research.
	Principal Science Advisor for Ecology.
Olc of Research Program Management.	Dir Environmental Research Information Center.
	Dep Dir for Operations.
Center for Environmental Research Info—Cincinnati.	Director Environ Rsch Info Center—Cincinnati.
Office of Health and Environmental Assessment.	Exec Dir, Reproductive Effects Assess Group.
	Executive Director Exposure Assessment Group.
Olc of Monitoring Systems and Quality Assurance.	Dir Air Toxics & Radiation Monitoring Res Div.
	Dir Water & Waste Mgmt Monitoring Res Div.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Otc of Environmental Engineering and Technology.	Dir, Industrial & Extractive Processes Div. Dir Water Supply Research Div. Dir Waste Management Division. Dir Energy Processes Division. Dep Dir, Industrial Environmental Res Lab-Rtp. Dir Energy Coordination Staff.
Industrial Environmental Research Lab—Cincinnati.	Dep Dir—Environmental Research Lab Cincinnati.
Office of Environmental Process and Effects Res.	Dir, Integrated Pest Management Program. Director Toxics and Pesticides Division. Director, Water and Land Division.
Environmental Sciences Research Laboratory—Rtp.	Dep Dir—Environmental Sciences Rsch Lab-Rtp.
Office of Health Research.	Dir Health Effects Division. Director Criteria Development & Special Studies. Dir, Air, Noise & Radiation Health Res Div. Dir Water & Toxic Substance Health Res Div.
Health Effects Laboratory—Rtp.	Dir, Res Adv & Spec Studies Otc.
Organization no Longer in Existence.	Dir, Otc of Audit. Dir—Mobile Source Enforcement Div. Dir Noise and Radiation Enforcement Div. Dir, Chemical Into Div. Tech Asst for Industrial Liaison. Director Premanufacturing Review Division. Director Correct Action Division. Senior Scientific Advisor.
Equal Employment Opportunity Commission:	
Regional Directors	Dist Dir (Baltimore). Dist Dir (New York). Dist Dir (Atlanta). Dist Dir (Houston). District Director (Detroit). Dist Dir (San Francisco). Dist Dir (Dallas). Dist Dir (Chicago). Dist Dir (St Louis). Dist Dir (Miami). Dist Dir (Indianapolis). Dist Dir (Memphis). Program Manager. Dist Dir (Denver). Dist Dir (Birmingham). Dist Dir (New Orleans). Dist Dir (Phoenix). Dist Dir (Milwaukee). Dist Dir (Charlotte). Dist Dir (Seattle). Dist Dir (Cleveland). Dist Dir (Philadelphia).
Farm Credit Administration:	
Otc of Supervision	Asst Dep Governor—Supervision.
Office of Examination	Assoc Dep Governor and Chf Examiner.
Otc of Administration	Director Administrative Division.
Federal Communications Commission:	
Organization no Longer in Existence.	Chief Data Automation Division.
Broadcast Bureau	Chf, Complaints & Compliance Div. Chief Broadcast Facilities Div. Chief Renewal & Transfer Division. Chf Hearing Div.
Field Operations Bureau.	Chief Enforcement Division.
Common Carrier Bureau.	Managing Coun Comp and Litigation Task force. Chf Program Evaluation Staff. Chief Economics Division. Chf Enforcement Division. Chf, Mobil Services Div. Asst Bureau Chief (International).

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Otc of Science & Technology.	Chief International and Operations Division. Chief Research and Standards Division. Chief Laboratory Division. Chief Spectrum Management Division. Chief Research & Analysis Division. Chief Authorization & Standards Div.
Federal Emergency Management Agency:	
Organization no Longer in Existence.	Dir of finance and Administration.
Office of the Director	Asst Dir for Information Services. Chief Scientific Advisor. Inspector General. Deputy Director of Finance & Administration. Supervisory Mathematician.
Office of Executive Administrator.	Asst Assoc Dir.
National Preparedness Programs Directorate.	Asst Associate Director. Dir, Resources Assessment Div. Staff Dir, Techn Hazards Mitigation.
Resource Management and Administration Directorate.	Asst Dir for Research. Chf, Hazard Evaluation & Vulnerability Red Di. Chf, Emergency Operations Systems Division. Dir, Computer Model Div. Director, Special Facility Div. Asst Assoc Dir for Natl Security. Deputy Director Finance and Administration. Dir of Finance and Administration.
Federal Home Loan Bank Board:	
Office of Administration.	Director Administration.
Office of Examinations & Supervision.	Dep Dir Examinations/Field Operations. Deputy Director-Examinations/Policy. Dir Internal Evaluation and Compliance Otc.
Otc of Internal Eval and Compliance.	
Federal Labor Relations Authority:	
Federal Service Impasses Panel.	Exec Director FSIP.
Otc of the Executive Director.	Executive Director. Deputy Executive Director. Solicitor. Dir, Otc of Oper & Technical Asst.
Otc of Operations and Technical Assistance.	
Office of Case Handling.	Chf Counsel, Otc of Case Handling. Asst Chf Counsel (SES). Asst Chief Counsel for Negotiability. Asst Chf Coun for Rep & Unfair Labor Practice.
Otc of the General Counsel.	Deputy General Counsel. Assoc General Counsel. Asst General Counsel (Field Management). Asst General Counsel (Field Management). Asst General Counsel (Appeals).
Regional Offices	Regional Director—Washington, D.C. Regional Director-Boston. Regional Director-New York. Regional Director—Atlanta. Regional Director—Kansas City. Regional Director-Dallas. Regional Director, Chicago Illinois. Regional Director—Los Angeles. Regional Director, San Francisco.
Federal Maritime Commission:	
Office of the Members.	Secretary.
Office of the General Counsel.	Dep Gen Coun for Legis and Ord and LRA. Dep Gen Coun for Reports Opinions and Decisions.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Office of the Managing Director.	Dep Managing Dir. Dir Bureau of Certification and Licensing. Dir, Bureau of Agreements.
Organization no longer in existence.	Director, Bureau of Certification & Licensing. Dir. Bureau of Investigation & Enforcement. Dir. Bureau of Tariffs. Dir. Bur of Industry Economics. Dep Dir Bur of Ocean Comm Regulation. Dir Bureau of Hearing Counsel. Dir Bureau of Enforcement.
Federal Mediation and Conciliation Service:	
Otc of Administration	Dir Office of Administration.
Federal Trade Commission:	
Otc of Executive Director.	Deputy Executive Director.
General Services Administration:	
Office of the Administrator.	Special Council to the Admr for Ethics. Dir, Otc of Small & Disadvantaged Bus Utiliz.
Office of Policy and Management Systems.	Dir of Management Improvement.
Office of Oversight	Director Office of Oversight.
Office of the Inspector General.	Asst Inspector Gen for Auditing. Deputy Asst Inspector General for Auditing. Asst I/G for Investigations. Asst Insp General for Inspections.
Office of Acquisition Policy.	Asst Admr for Acquisition Policy. Deputy Assistant Admr for Acquisition Policy. Dir, of Contract Clearance. Dir, Acquisition Management Rev Directorate. Dir, Acquisition Policy. Director Federal Procurement Regulation.
Office of Organization and Personnel.	Director of Personnel. Dep Dir of Personnel (EP&PD). Director, Otc of Employee Dev & Training. Dir, Otc of Organization and Management. Executive Director. Dir of Organization & Staff Utilization. Dep Dir for Personnel Admin and Opers.
Office of Plans, Programs and Financial Management.	Dir of Finance. Director of Budget. Director of Data Systems. Deputy Director of Planning and Analysis.
Federal Property Resources Service.	Deputy Director of Data Systems. Asst Commr for Personal Property. Dep Asst Commr for Personal Property. Asst Comm: R for Real Property. Asst Commissioner for Stockpile Management. Asst Commissioner for Stockpile Transactions.
Transportation and Public Utilities Service.	Asst Comm for Transportation Audits. Asst Commr for Transportation & Travel Mgmt. Asst Commr for Public Utilities. Asst Commr for Motor Equipment. Asst Commissioner for Buildings Management. Dep Asst Commr for Buildings Management. Asst Regional Admin for Pbs Regional 5 Asst Commr for Space Planning & Management.
Public Buildings Service.	

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Automated Data and Telecommunications Service.	Asst Commr for Design and Construction. Internall Projects Officer. Dep Asst Commr for Construction Programs. Asst Commr for Contracts. Asst Commissioner for Fed Protective Ser Mgmt. Asst Commr for Procurement. Asst Commr for Systems Engineering & Oper. Asst Commr for Policy & Planning. Dir-Data Communications Systems Div. Director, Advanced Planning & Research Divsn. Dir Voice Communications Systems Division. Dir Software Development Office.
National Archives and Records Service.	Asst Archivist, Pres Libraries. Dir, L B Johnson Library. Asst Archivist for Fed Archives & Records Ctr. Asst Archivist for Records and Info Mgmt. Dir, Harry S Truman Library. Dir, Dwight D Eisenhower Library. Asst Archivist, Natl Archives. Asst Archivist for Educational Programs. Assistant Archivist for Program Development.
Federal Supply Service	Dir of Supply. Dep Dir of Contracts. Asst Dir for Requirements. Asst Commissioner for Supply. Asst to the Dir of Programs and Requirments. Asst Commissioner for Contracts. Asst Commissioner for Contract Management. Asst Commissioner for Programs & Requirments. Asst Commr for Supply Policy. Asst Comr for Property Management Asst Commr for Acquisiton Planning.
Region 1 Boston	Dep Regional Administrator Region 1.
Region 2-New York	Asst Regl Admr for PBS. Asst Regl Admr for Federal Supply Service.
Region 3-Philadelphia	Asst Regional Admr for Contracting.
National Capital Region	Deputy Regional Admr. National Capital Region. Asst Regl Admr for Administration. Asst Regl Adm for Public Buildings Service.
Region 5-Chicago	Deputy Regional Admr R-5 (Chicago).
Region 6-Kansas City	Asst Regional Administrator for Admin. Asst Regl Admr for Administration.
Region 7—Fort Worth	Asst Regl Admr for Public Buildings Service.
Region 8—Denver	Asst Regional Adm For Public Buildings Serv.
Region 9—San Francisco	Asst Regl Administrator for Administration Asst Regl Admr for Public Buildings Service.
Department of Health and Human Services:	
Office of the Inspector General.	Dep Asst Inspector General for Auditing. Assoc Dir-Division of Audit Coordination. Asst I/G for Health Care and Systems Review. Asst Inspector General for Investigations. Dep Asst Inspector Gen for Investigations. Assoc Dir, Div of Univ & Nonprofit Audits.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Oss-for Management and Budget.	Sr Asst Insp Gen for Audit & Systems. Executive Assistant Inspector General. Asst Sec for Mgmt and Budget Dep Asst Sec. Finance. Dir. Div of Accounting Systems & Procedures. Dep Asst Secy for Grants & Procurement Mgmt. Dir. Div of Grants Policy & Regulations Devel. Dir Otc of Grant & Contract Financial Mgmt. Dep Asst Secy for Procurement, Asst and Log. Asst Sec for Personnel Administration. Dir Otc of Personnel Systems Integrity. Asst Gen Counsel (Business & Admin Law Div). Director of Evaluation.
Otc of Asst Secy for Personnel Administratiin.	Dep. Dir. Bureau of Support Services. Dir Otc of Prog Adm. Bur of Prog Operations. Dir. Bur of Support Services. Dir Otc of Demonstrations & Evaluations. Dir Otc of Program Validation. Dir Otc of Financial Management. Deputy Director Bureau of Quality Control. Director, Otc of Research. Dir Office of Quality Control Programs. Dir Office of Human Resources & Admin Service. Chairman Provider-Reimbursement Review Board. Dir. Otc of Financiel & Acturial Analysis. Dep Dir. Otc of Res Demonstrations & Stat. Dir. Otc of Professional Stds Review Org. Dir. Bureau of Data Management and Strategy. Dep Dir. Bureau of Data Management & Strategy. Chf Actuary. Dep Chief Actuary (Long-Range). Chief Mathematical Statistician. Dep Chief Actuary Short Range SSA. Dep Dir. Otc of Research and Statistics, SSA. Dir Div of Supplemental Security Studies. Dir Otc of Material Resources. Dir Otc of Financial Resources. Asoc. Commr. for Assessment. Dir Otc of Security and Program Integrity. Dir Supplemental Security Studies SSA. Deputy Associate Commissioner Assessment. Dep Assoc Commr OHA.
Office of the General Counsel.	
Assistant Secretary for Planning and Evaluation.	
Health Care Financing Administration.	
Otc of Policy	
Otc of Mgmt, Budget, and Pers.	
Otc of Assessment	
Otc of Hearings and Appeals.	
Assistant Secretary for Health.	Dir, Natl Ctr, Hlth Svcs Research. Dep Dir, Office of Administrative Management. Director, Office of Resource Management. Director, Division of Analysis. Assoc Dir for Data Systems. Assoc Dir, Cooperative Hlth Stats Sys. Assoc Dir for Mathematical Statistics. Economist.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Immediate Office of the Director.	Dir, Div of Intramural Research. Associate Director for Research. Assoc Dir for Coop Health Statistics System. Assoc Dir for Analysis & Epidemiology. Assoc Dir for Research & Methodology. Deputy Director Fogarty International Ctr. Associate Dir for Med Applications of Resch. Assoc Dir for Statistics & Analysis Org.
Division of Research Grants.	Dir, Div of Res Resources. Dep Dir, Div of Res Resources.
Division of Research Resources.	Chf Biomedical Engineering & Instrumentation.
Division of Research Services.	Director, Div of Financial Management. Director, Division of Contracts & Grants.
Associate Director for Administration.	Chief, Computer Center Branch. Chief, Lab of Applied Studies. Chief, Physical Sciences Lab.
Division of Computer Research & Tech.	Dep Dir, Natl Lib of Medicine. Dep Dir for Res and Education. Assoc Dir for Library Operations. Associate Director Div of Extramural Programs.
National Library of Medicine.	Dir-Lister Hill Nat'l Ctr for Biomedical Comm. Assoc Dir, Specialized Info Services. Asst Dir for International Programs. Dep Dir, Lister Hill Natl Ctr for Biomedical.
National Institute of Health Clinical Center.	Associate Director for Planning. Director Natl Medical Audiovisual Ctr. Assoc Dir for Clin Care NIH & Dir Clin'al Cen. Dep Assoc Dir for Clin Care NIH & Dep Dir Dil.
Natl Institute of Environmental Health Sciences.	Health Systems Administrator. Assoc Dir for Health Hazard Assessment. Chf Lab of Pharmacology. Chf Laboratory of Biomedical Genetics. Chf Laboratory of Molecular Genetics. Chf, Lab of Animal Genetics. Chf, Lab of Pulmonary Function and Toxicology. Chief, Biometry Branch.
Natl Institute of Allergy and Infectious Diseases.	Dir-Immunology-Allergic & Immunologic Diseases. Assoc Dir for Extramural Programs. Assoc Dir Intramural Research Prog. Chf, Lab of Parasitic Diseases. Chf, Lab of Biology of Viruses. Chf, Laboratory of Microbial Immunity. Dep Dir Extramural Activities Program. Spec Asst for Biometry, Off Sci Dir. Chf Molecular Biology Rocky Mt Lab Hamilton M. Hd, Molecular Viral Diseases.
Natl Institute of Neurological & Comm Disorders & Stroke.	Director, Microbiology & Infectious Dis Progs. Chief, Lab of Immunogenetics. Laboratory Director Chf, Otc Of Biometry and Epidemiology Chf Lab of Neurochemistry. Chf, Surgical Neurology Branch. Chf, Lab of Neuro-Otolaryngology.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Intramural Research	Clinical Dir, Nincds.
	Chief Perinatal Physiology.
	Director, Communicative Disorders Program.
	Director, Stroke and Trauma Program.
	Chief, Laboratory Neural Control.
	Chf, Devel & Metab Neurology Branch.
	Chf Lab of Molecular Biology.
	Hd Cellular Neuropathology Section.
	Chief, Section on Neuroradiology.
	Chief, Lab of Biophysics.
	Chf, Lab of Neuropathology & Neuroanatomical S.
	Hd, Section on Neuronal Interactions.
	Dir Fundamental Neurosciences Program.
	Chf, Lab of Expert Neurology.
Collaborative and Field Research	Chief Lab of Central Nervous System Studies.
	Deputy Chief, Lab of Central Nervous Sys Stud.
Nat'l Heart, Lungs, and Blood Institute	Assoc Director for Review.
	Dir Div of Lung Diseases.
	Dep Dir Div of Lung Diseases.
	Dir, A/Sclerosis, Hypertension & Lip Met Prog.
Div of Blood Diseases and Resources	Chf Sickle Cell Disease Branch.
	Dir, Div of Blood Diseases & Resources.
Associate Director for Intramural Research	Chf Surgery Br.
	Chf Lab of Biochemical Genetics.
	Chf Lab of Biochemistry.
	Chief Lab of Molecular Hematology.
	Chief Macromolecules Section.
Laboratory of Biochemistry	Sr Rsch Chemist, Sect on Cell Biology.
Laboratory of Chemical Pharmacolgy.	Hd, Sect on Enzyme Drug Interaction.
Molecular Disease Branch.	
Division of Heart & Vascular Diseases	Hd, Section on Chemistry.
	Dir Div of Heart & Vascular Diseases.
	Assoc Dir for Epidemiology and Biometry.
Associate Director for Extramural Research and Training.	Dep Assoc Dir, Extramural Res & Training.
National Cancer Institute	Dep Director Div of Extramural Affairs.
	Dir, Div of Cancer Res Resources & Center.
	Chf-Drug Evaluation Branch.
	Chf-Lab of Medical Chemistry and Biology.
	Chief Clinical Epidemiology Branch.
	Chief Laboratory of Biochemistry.
	Assoc Dir for Medical Appl of Cancer Research.
	Director, Extramural Research Program.
	Dir, Collaborative Research Program.
	Dir, Div of Extramural Activities.
	Chief, Radiotherapy Development Branch.
	Assoc Dir, Cancer Therapy Evaluation Program.
Div of Resources Centers & Community Activity.	Director Div of Cancer Control & Rehabilitat.
	Special Asst for Liaison Activity.
	Dir, Div of Resources, Centers Comm Activity.
Div of Cancer Cause & Prevention.	Chf Lab of Experimental Pathology.
	Sci Coord for Environmental Carcinogenesis.
	Deputy Director, Div of Cancer Cause & Prevent.
	Assoc Director, Carcinogenesis Testing Program.
	Chief, Lab of Viral Carcinogenesis.
	Dir, Div of Cancer Cause and Prevention.
General Laboratories and Clinics	Head, Mathematical Biology Section.
	Chief, Laboratory of Cell Biology.
	Head, Nucleic Acids Section.
	Hd, Protein Chemistry Section.
Division of Cancer Biology and Diagnosis	Chf-Laboratory of Pathophysiology.
	Chf Lab of Immunobiology.
	Head, Nucleic Acid Enzymology Section.
	Hd Biochemical Genetics Section.
	Head Comparative Oncology Section.
	Assoc Chf-Lab/Immunbiology/Hd Humoral Immunl.
	Head, Cell Organization Sect, Lab Molecular.
	Head Invitro Carcinogenesis Section.
	Head Tumor Immunology Sct/Asst Chf Surgery Br.
	Head Developmental Biochemistry Section.
Radiation Branch	Chf-Radiation Oncology Br.
Associate Scientific Director for Viral Oncology	Chief, Lab of Molecular Virology.
	Assoc Scientific Director for Viral Oncology.
Associate Scientific Director for Demography	Chf Biometry Branch.
	Assoc Dir, Field Studies & Statistics.
	Head, Math Statistics & Applied Mathematics S.
Associate Scientific Director for Carcinogenesis.	Chief Lab of Biology.
	Chief Laboratory of Molecular Carcinogenesis.
Chemotherapy	Dep Dir-Div of Cancer Treatment.
	Assoc Dir Developmental Therapeutics Prog.
	Chf, Laboratory of Chemical Pharmacology.
	Director Division of Cancer Treatment.
	Assoc Dir Prog Anal & Scientific Communication.
Nat'l Inst of Arthritis, Diabetes & Digest & Kidney Dis.	Assoc Dir for Digestive Diseases & Nutrition.
	Assoc Dir for Kidney, Urologic, & Blood Diseases.
	Ad for Diabetes, Endocrine & Metabolic Dis.
	Assoc Dir for Arthritis, Bone, Skin Diseases.
	Chief, Laboratory of Bio-Organic Chemistry.
Extramural Programs	Assoc Dir for Extramural Prog Activities.
Intramural Research	Chf Sect on Enzymes & Cellular Biochemistry.
	Chf Sect on Intermediary Metabolism.
	Chief Section on Biochemical Mechanisms.
	Chf, Laboratory of Chemical Physics.
	Chf, Section on Spectroscopy & Structure.
	Chf, Section on Human Biochemical Genetics.
	Sr Res Physicist, Mathematical Research Br.
	Sr Chemist, Clinical Endocrinology Br.
	Senior Research Chemist.
	Chf, Mathematical Res Br.
	Chief Section on Physical Biochemistry.
	Chf Arthritis & Rheumatism Br.
	Chf Pediatric Metabolism Br.
Laboratory of Physical Biology	Chf. Lab of Physical Biology
	Chf, Section on Comparative Physiology.
Laboratory of Biochemical Pharmacology.	Chf Sect on Biochemistry.
	Ch Sect Biochemistry of Amino Acids.
Laboratory of Chemistry.	Chief Lab of Chemistry.
Laboratory of Nutrition and Endocrinology.	Chf, Laboratory of Nutrition & Endocrinology.
	Chf Sect Nutritional Biochemistry.
Laboratory of Molecular Biology	Senior Research Chemist
	Chf Sect on Metabolic Enzymes.
	Chf Sect on Physical Chemistry.
	Head, Section on Molecular Structure.
Laboratory of Chemical Biology.	Chf Lab of Chemical Biology.
Nat'l Institute of General Medical Sciences.	Dir, Pharmacology/Toxicology Program.
	Dir, Cell & Molec Basis of Disease Prog.
	Dir Genetics Program.
	Assoc Dir For Program Activities.
National Institute of Child Health and Human Development.	Director Clr Forres for Mothers & Children.
	Clin Dir Nat'l Inst for Child Hlt & Human Dev.
	Dir Epidemiology & Biometry Res Program.
Center for Population Research.	Dep Dir Center for Population Res.
Intramural Research	Chief, Laboratory of Molecular Genetics.
	Chf, Endocrinology & Reproduction Research Br.
National Institute on Aging.	Scientific Dir NIA.
	Clinical Dir and Chf Clin Physiology Branch.
	Chief, Lab of Molecular Aging.
National Eye Institute	Clinical Director NEI.
	Chf, Lab of Vision Research.
	Chf, Olc of Biometry & Epidemiology.
	Dep Chief Olc of Biometry and Epidemiology.
	Head, Sec on Exp Embryology.
	Head Experimental Pathology Section.
	Dir, Intramural Research Program, NEI.
National Institute for Dental Health.	Chief, Lab of Biochemistry.
	Chief Lab of Microbiology & Immunology.
	Chf, Laboratory of Dev Biology & Anomalies.
	Chf, Oral Pharyngeal Dev & Function Sec.
	Chf, Enzyme Chemistry Section.
	Chf, Caries Prevention and Research Branch.
Food and Drug Administration.	Dep, Assoc Commissioner for Regulatory Affairs.
	Regional Director, Fda, Reg. II, New York.
	Regl Dir, Food & Drug Adm, Reg IX (San Franc.
	Regl Dir, Food & Drug Adm. Reg. IV, Atlanta.
	Regl Food and Drug Director, Reg V, Chicago.
	Regl Food & Drug Dir, Reg X, Seattle.
	Regl Food & Drug Dir, Reg III, Philadelphia.
	Regl Food & Drug Dir, Reg VII, Kansas City.
	Regl Food & Drug Dir, Reg I, Boston.
	Regional Food & Drug Dir, Reg VI, Dallas.
	Regl Food and Drug, Reg VIII, Denver.
National Center for Toxicological Research.	Director, Enforcement Policy Staff.
	Assoc Dir for Biometry & Experimental Design.
	Assoc Dir for Research.
	Assoc Dir for Chemical Evaluations.
Bureau of Foods	Assoc Dir for Nutrition & Food Sciences.
	Dir, Div of Nutrition.
	Dep Dir, Office of Sciences.
	Dir, Div of Pathology.
	Dir Division of Toxicology.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Bureau of Drugs	Dir, Div of Chemistry & Physics.
	Dep Dir, Div of Microbiology.
	Assoc Dir for Regulatory Evaluation.
	Associate Director for Physical Sciences.
	Dir, Div of Food Technology.
	Deputy Associate Dir for Physical Sciences.
	Assoc Dir for Laboratory Investigations.
	Dir Div of Food and Color Additives.
	Assoc Dir for Compliance.
	Dep Dir, Bureau of Foods.
	Dir, Div of Microbiology.
	Director, Division of Regulatory Guidance.
	Dep Associate Dir for Nutrition & Food Sci.
	Dir, Div of Chemical Technology.
	Assoc Director for New Drug Evaluation.
	Dir, Div of Anti-Infective Drug Products.
	Dir, Div Oncology & Radiopharmaceutical Drug P.
	Dir Div of Scientific Investigations.
	Dir, Div of Cardio-Renal Drug Products.
	Assoc Dir for Compliance.
	Dep Assoc Dir for Drug Monographs.
	Assoc Dir for Pharmaceutical Research & Test.
	Chief Drug Pharmacology Br.
	Dir, Div of Drug Biology.
	Director-Divison of Drug Chemistry.
	Assoc Dir for Information Systems.
	Dep Assoc Dir for Biometrics & Epidemiology.
	Dir, Div of Biometrics.
	Dir, Div of Drug Experience.
	Director Div of Biopharmaceutics.
	Dir, Div of Neuropharmacological Drug Prod.
	Dir, Nat'l Ctr for Antibiotic Analysis.
	Assoc Dir For Regulatory Affairs.
	Dir, Div of Surgical Dental Drug Products.
	Dir, Div of Metabolism & Endocrine Drug Prod.
	Assoc Dir, Biometrics and Epidemiology.
	Dep Assoc Dir, Pharmaceutical Res & Testing.
Bureau of Biologics	Asst to the Dir for Medical Programs.
	Dir, Div of Control Activities.
	Dir, Div of Pathology.
	Dir, Div of Blood & Blood Products.
	Dir, Division of Control Activities.
	Assoc Dir for Comp, Bureau of Biologics.
Bureau of Veterinary Medicine.	Dir, Div of Veterinary Medical Research.
	Dir, Div of Drugs for Ruminant Species.
	Dir-Div of Drugs for Non Food Animals.
	Dir, Div of Drugs for Avian Species.
	Dir, Div of Drugs for Swine and Minor Species.
	A/D for Surveillance & Compliance.
	Assoc Dir for Science Evaluation.
	Assoc Dir for Research.
	Deputy Dir Bureau of Veterinary Medicine.
	Assoc Dir for Human Food Safety.
Bureau of Radiological Health.	Dir, Div of Biological Effects.
	Dir Div of Radioactive Mat & Nuclear Medicine.
Bureau of Medical Devices.	Assoc Dir for Standards.
	Assoc Dir for Device Evaluation.
	Associate Director for Compliance.
	Assoc Dir for Device Research and Testing.
	Dir, Bureau of Training.
	Dep Dir Bur of Laboratories.
	Dir Virology Division.
	Dir, Div of Biomedical and Behavioral Science.
	Dir, Bacteriology Div.
	Chf, Licensure & Proficiency Testing Division.
	Dir, Parasitology Div.
	Assoc Institute Director (Cincinnati Operations)
	Dir Clinical Chemistry Div.
	Director Division of Safety Research.
	Assoc Director for Research.
	Assoc Dir, Morgantown Operations.
	Assistant to the Director.
Alcohol, Drug Abuse & Mental Health Administration.	Assoc Admr for Extramural Programs.
National Institute of Mental Health.	Associate Director for Research.
	Dir Div of Extramural Res Progs.
	Dir, Div of Scientific & Techn Info.
	Chf, Theoretical Statistics & Mathematics Bran.
	Dir, Intramural Research Programs.
	Dir Division of Special Mental Health Researc.
	Chief, Lab of Preclinical Pharmacology.
	Chf, Lab of Cerebral Metabolism.
	Chief, Section on Myelin Chemistry.
	Chf, Lab of Neurochemistry.
	Chf Lab of Gen & Comparative Biochemistry.
	Chief, Lab of Brain Evolution & Behavior.
	Chief Lab of Neurobiology.
	Chf, Lab of Neurophysiology.
	Dir Div of Clinical & Behavioral Research.
	Chf Lab of Socio-Environmental Studies.
	Chf Lab of Developmental Psychology.
	Chf Sect on Neuropsychology.
	Chf, Sect on Pharmacology.
	Chf-Clinical Neuropharmacology Branch.
	Chf Clinical Psychobiology Branch.
	Dir Div of Mental health SVC Programs.
	Assoc Dir Extramural Programs.
	Chief Lab of Psychology and Psychopathology.
	Associate Director, Minority Concern.
	Chf, Section of Cerebral Mechanism.
	Chf, Pharmacologic & Somatic T/ Monts Res Br.
Saint Elizabeths Hospital.	Asst Superintendent, St Elizabeths Hospital.
	Assoc Superintendent for Psychiatry.
	Director John F Marr Division.
	Dir, Gooding Div.
	Director Richardson Division.
	Clinical Director, Mary O'Malley Division.
	Dir Overholser Division of Training.
	Dir, Div of Medical Surgical Support Programs.
	Chief Blackburn Laboratory.
	Dir, Medicine & Surgery Branch.
	Chief Department of Medicine.
	Chf Dept of Surgery.
	Director, Div of Forensic Programs.
	Chf, Psychopharmacology Research.
Nat'l Inst of Alcohol Abuse and Alcoholism.	Director, Div of Alcohol SVCS Development.
Department of Housing and Urban Development:	
Olc of the Inspector General.	Asst Inspector General for Investigations.
	Asst Inspector General for Audit.
	Deputy Inspector General.
	Asst I G for Fraud Control & Mgmt Operations.
	Dep Asst Inspector General for Investigation.
Asst Sec for Fair Housing and Equal Opportunity.	Dir Olc of HUD Program Compliance.
	Dir Olc of Fair Housing Enforce and Sec 3.
Assistant Secretary for Administration.	Deputy Director of Personnel.
	Director, Office of Finance & Accounting.
	Dir, Mortgage Insurance Accounting Group.
	Director Olc of Procurements & Contracts.
	Director, General & Program Accounting Group.
	Deputy Director Office of Finance & Accounting.
Assistant Secretary for Policy Development & Research.	Dir Div of Energy Building & Tech Standards.
	Dir, Div of Gov Capacity Building.
Olc of Asst Secy for Community Planning & Development.	Dir, Olc of Environmental Quality.
Asst Secretary for Housing.	Dir Olc of Interstate Land Sales Regis.
Region I Boston	Area Manager Reg I Boston.
Region II New York	Area Manager Newark Region II.
	Area Manager NY Region II.
Region III Philadelphia.	Area Manager Philadelphia Region III.
	Area Manager, Pittsburgh Reg III.
Region IV Atlanta	Area Director, Reg IV Atlanta.
	Area Mgr-Reg IV Jacksonville, Fla.
	Area Mgr, Reg IV, Greensboro, NC.
Region V Chicago	Area Mgr Columbus Area Office.
	Area Manager, Chicago Area.
	Area Mgr, Detroit Area.
	Area Manager, Indianapolis Area.
	Area Manager, Minn/St Paul Area.
Region VI Dallas	Area Manager, Dallas, Reg VI.
	Area Mgr, Okla City Area, Dallas.
	Area Mgr New Orleans Area.
Region IX San Francisco.	Area Office Director (Los Angeles, Calif).
	Area Mgr.
Department of Interior:	
Olc of the Inspector General.	Assistant Inspector General for Auditing.
	Asst Inspector General for Investigations.
	Asst inspect Gen for Policy & Resource Manage.
	Chairman, Board of Land Appeals.
Office of Hearings and Appeals.	Chrman-Bd of Surface Mining and Reclamation A.
Board bf Surface Mining and Reclamation Appeals.	Mem-Bd of Surface Mining and Reclamation Appe.
	Mem-Bd of Surface Mining & Reclamation Apeal.
Office of Territorial and International Affairs.	Dep Dir for Finance & Administration.
Olc of the Solicitor	Director, Office of the Comptroller.
	Deputy Assoc Solicitor, General Law.
	Deputy Assoc Solicitor, Indian Affairs.
	Asst Solicitor Bureau of Parks and Recreation.
	Asst Solicitor, Offshore Minerals & Int Law.
	Special Asst to the Assoc Solicitor-Gen Law.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Asst Sec'y-Policy & Budget & Administration.	Chief, Division of Acquisition and Grants.
	Asst Dir for Economics.
	Asst Dir for Studies.
	Asst Dir for Programs.
	Asst Director for OCS Program Coordination.
	Chf, Div of Budget Operations.
	Chief Division of Prgram Review.
Nat'l Park Service	Ch Off of Pk Plan & En Qual.
	Asst Dir, Park Operations.
	Asst Dir, Cultural Resources.
	Senior Scientist.
US Fish & Wildlife Service.	Deputy Assoc Dir-Federal Assistance.
	Chief Office of Biological Services.
	Deputy Assoc Dir—Natl Wildlife Refuge Syste.
	Deputy Associate Director-Research.
	Senior Scientist.
	Dir, Natl Fisheries Center.
	Dir Denver Wildlife Research Center.
	Assoc Dir, Planning and Budget.
Bureau of Mines	Chf Mining Engineer.
	Chief Scientist.
	Dir Div of Minerals Resource Technology.
	Research Director Denver Mining Res Cen.
	Dir Div of Minerals Health and Safety Technol.
	Dir Div of Analytic Studies.
	Dir Div of Minerals and Land Assessment.
	Chief, Division of Helium.
	Chief Branch of Foreign Data.
	Dir Div of Prod/Consump/Data Collec & Interp.
	Dir Div of Minerals Availability.
	Res Dir Pittsburgh Mining and Safety Res Ctr.
	Research Dir, Twin Cities Research Ctr.
	Research Dir, Albany Metallurgy Res Ctr.
	Dir, Ofc of Mineral Information Systems.
	Dir Div of Research Ctr Operations.
	Dir Div of Minerals Environmental Technology.
	Dir Div of Minerals Availability.
	Chf Branch of Domestic Data.
	Research Director, Twin Cities.
	Dir Div of Field Operations.
	Deputy Management Services Officer.
	Dir-Minerals Information Systems.
US Geological Survey	Chief, Earth Resources Observation Sys Prog.
	Chief Computer Center Div.
	Chief Publication Div.
	Prog Chf-Environmental Impact Analysis Progra.
	Chief of Natl Petroleum Reserve in Alaska.
	Assoc Chf, Land Information & Analysis Ofc.
	Chief, Eros Data Center.
	Chief, Geography Program.
National Mapping Div	Chief, National Mapping Division.
	Associate Chief, National Mapping Division.
	Chf, Special Mapping Center.
	Asst Division Chief for Plans Operations.
	Chief, Off of Res & Tech Stds.
	Chief Western Mapping Center.
	Chief Mid-Continent Mapping Center.
	Chief Rocky Mountain Mapping Center.
	Asst Div Chief for Information & Data Sys.
	Chief Eastern Mapping Center.
	Asst Div Chf for Research.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Water Resources Div	Chief Hydrologist.
	Assoc Chief Hydrologist.
	Regl Hydrologist Central Reg Lakewood.
	Chief Branch of Surface Water.
	Research Hydrologist.
	Chief, Branch of Ground Water.
	Regl Hydrologist Southeastern Region.
	Asst Chief Hydrologist, Res & Tech Coordinati.
	Regional Hydrologist, Western Region.
	Regional Hydrologist, Northeastern Region.
	Chief Branch of Water Quality.
	Chf, Water Data Coordin.
	Asst Chf Hydrologist for Operations.
	Asst Chf Hydrologist, Solen Public & Data Mg.
	Dep Asst Chf Hydrologist for Res & Tech Coord.
Geologic Div	Chief Geologist.
	Chf Otc Earthquake Studies.
	Chief, Otc of Scientific Publications.
	Assoc Chf Geologist.
	Chf Otc of Mineral Resources.
	Chf, Otc of Energy Resources.
	Chief, Office of International Geology.
	Chief Office of Regional Geology.
	Chief Otc of Marine Geology.
	Chief, Otc of Geochemistry & Geophysics.
Conservation Div	Chf Conservation Division.
	Asso Chief, Conservation Division.
	Regional Conservation Manager-Western Region.
	Regional Conservation Mgr-Eastern Region.
	Asst Div Chf for Operations.
	Depy Div Chief for Offshore Minerals Regula.
	Regional Manager, Central Region.
	Regl Conservation Mgr, Gulf of Mex OCS Operat.
	Reg'l Conservation Mgr, No., Central Region.
	Dep Div Chf for Onshore Minerals Regulation.
	Dep Div Chf Royalty Management.
	Regional Conservation Mgr, Pacific (OCS).
	Special Assistant to Chief, Conservation Div.
Otc of Surface Mining Reclam and Enforcement.	Dep Asst Dir for Prog Opers & Imp (East).
	Administrator, Technical Service Ctr (West).
Bureau of Reclamation.	Spec Asst for Emergency Water Planning.
	Chief Div of Design.
	Chief, Div of Construction.
	Chief, Div of Atmospheric Water Resources Mgm.
	Chief, Div of Research.
	Spec Asst for Research Programs.
	Asst Dir-Technical Services.
	Asst Dir-Renewable Resources.
Bureau of Land Management.	Asst Dir-Lands & Rights of Way.
	Asst Dir-Energy & Minerals Resources.
	Asst Director Recreati & Environmental Assns.
	Assistant Director, Administration.
	Asst Dir, Land Resources.
	Asst Dir for Onshore Energy & Mineral Res.
	Asst Dir Offshore Energy & Mineral Resources.
Otc of Water Research & Technology.	Assoc Dir-Technology and Information Transfer.
	Asst Dir-Technology and Information Transfer.
	Asst Dir, Research.
	Interagency Water Research Coordinator.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Bureau of Indian Affairs.	Deputy Dir-Indian Education Programs.
	Director Technical Assistance & Training.
	Assistant Dir of Admin (Financial Manager).
International Communication Agency:	
Otc of Assoc Dir for Management.	Dir, Otc of Personnel Services.
	Dir, Otc of Comptroller Services.
	Dir Off Security.
	Dir, Otc of Sys Techn.
Otc of the Gen Counsel & Cong Liaison.	Dep General Counsel.
International Development Cooperation Agency:	
Otc of the Auditor General.	Deputy Auditor General.
Otc of Financial Management.	Deputy Controller.
Otc of Personnel Management.	Dep Dir Otc of Personnel Management.
Bureau for Program and Management Services.	Dir Otc of Contract Management.
	Dir Commodity Management.
	Dep Dir Otc of Contract Management.
Interstate Commerce Commission:	
Office of the General Counsel.	Associate General Counsel, Litigation.
	Assoc Gen Counsel for Legal Counsel.
	Associate General Counsel for Legal Counsel.
Otc of the Managing Director.	Dir of Personnel.
Bureau of Accounts	Dir, Bur of Accounts.
	Dep Dir, Accounting Policy & Fin Data Report.
	Dep Dir for Cost, Economic & Financial Anal.
Bureau of Traffic	Director, Bu of Traffic.
	Asst Dir, Bu of Traffic.
Office of Consumer Protection.	Asst Director.
Office of Transportation analysis.	Assoc Dir, Otc of Transportation Analysis.
	Deputy Director & Chief, Section of Analysis.
	Dep Dir, Section of Rail Services Planning.
	Dep Dir and Chf, Sect of Motor Policy.
	Deputy Director for Special Projects.
Office of Compliance & Consumer Assistance.	Dir Otc of Compliance & Consumer Assistance.
	Dir, Otc of Consumer Protection.
	Deputy Director for Enforcement.
	Associate Director.
	Dep Dir for Policy Dev & Coordination.
Regional Offices	Regional Director (Boston).
	Regional Director (Philadelphia).
	Regional Director (Atlanta).
	Regional Director (Chicago).
	Regional Director (Fort Worth).
	Regional Director (San Francisco).
Otc of Proceedings	Associate Dir.
	Assistant to Director.
Section of Finance	Dep Dir & Chf, Section Finance.
	Asst Dep Dir & Asst Chief, Section of Finance.
Section of Rates	Dep Dir & Chf Section of Rates.
	Asst Dep Dir & Asst Chf, Section of Rates.
Section of Operating Rights.	Dep Dir & Chief Section of Operating Rights.
	Asst Dep Dir & Asst Chf, Sect of Operating Ri.
Department of Justice: Office of the Attorney General.	Counsel on Professional Responsibility.
	Dep Counsel on Professional Responsibility.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Justice Management Division.	Asst Attorney General for Administration.
	Prin Dep Asst Atty General for Administration.
	Special Asst to the Asst Attorney Gen for Adm.
Office of the Controller.	Director, Budget Staff.
	Dir Finance Staff.
	Deputy Assistant Attorney General.
Office of Personnel and Administration.	Director, Evaluation Staff./
	Director Personnel and Training Staff.
	Deputy Assistant Attorney General.
Otc of Litigation and Management Systems.	Dir. Property Management & Procurement Staff.
	Dep Asst Attorney General.
	Dir Audit Staff.
	Dir, Security Programs Staff.
	Dir-Systems Design and Dev Staff.
	Dir Systems Operations Staff.
	Dir Library Staff.
	Dir, Systems Policy and Planning Staff.
Otc of Justice Assistance, Research and Statistics.	Deputy Director Audit Staff.
	Asst Dir, Otc of Planning and Management.
	Asst Dir, Otc of Audit & Investigations.
	Asst Dir, Otc of Operations Support.
	Gen Counsel.
	Comptroller, Otc of the Comptroller.
Law Enforcement Assistance Administration.	Asst Administrator Otc of Criminal Justice Pr.
	Dep Asst Admr, Otc of Criminal Justice Progs.
National Institute of Justice.	Asst Dir, Otc of Research Programs.
	Asst Dir, Otc of Dev Testing & Dissemination.
Bureau of Justice Statistics.	Deputy Dir, Bureau of Justice Statistics.
	Asst Dir, Systems Dev Div.
	Dir, Statistics Div.
Community Relations Service.	Regl Director, Region V, Chicago.
	Regl Director, Region IX, San Francisco.
	Regl Director, Region III, Philadelphia.
Executive Otc for U.S. Attorneys.	Dep Dir Exec Otc for U.S. Attorneys.
Bureau of Prisons	Asst Dir for Planng & Dev.
	General Counsel
	Assoc Commr, Fed Prisons Industries, Unicor.
	Dep Assoc Commr-Sec. Fed Prison Industries, I.
	Deputy Associate Commissioner.
Office of Correctional Programs.	Asst Dir Correctional Programs Div.
Office of Correctional Programs.	Dep Asst Dir for Correctional Programs.
	Dep Asst Dir for Correctional Programs.
Northeast Region	Regional Director.
	Warden, Lewsburg, PA.
	Asst Regional Dt.
Southeast Region	Regional Director.
	Warden Atlanta.
	Warden, Lexington Kentucky.
	Warden Butner North Carolina.
North Central Region	Regional Director.
	Warden Leavenworth Kansas.
	Warden Springfield, Missouri.
	Warden Marion Illinois.
	Warden Terre Haute, IN.
South Central Region	Regional Director.
	Warden El Reno Okla.
Western Region	Regional Director.
	Warden Terminal Island, CA.
	Warden, Lompoc, CA.
	Warden, McNeil Island, WA.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Immigration & Naturalization Service.	Exec Asst to the Commissioner.
	Asst Commr for Naturalization.
	Chf Spec Inquiry Officer.
	Asst Commissioner for Detention & Deportation.
	Asst Comm for Administration.
	Asst Comm:R for Adjudicaton.
	Asst Comm for Inspection.
	Asst Commissioner for Information Services.
	Asst Commissioner for Investigation.
	Asst Commr for Border Patrol.
	Comptroller.
Regional Offices—Ins	Dep Regional Commissioner, Burlington, VT.
	Dep Regl Commr, Twin Cities, Min.
	Dep Regional Commissioner—Southern Region.
Regional Offices—Ins	Dep Regional Commissioner, San Pedro, Calif.
District Offices—Ins	Dist Director, Sw Region, San Francisco Dis.
	District Director-San Diego.
	Asst Dir for Administration.
	Asst Dir for Operations.
U.S. Marshals Service.	Asst Dir for Planning Budget & Admin.
	Asst Dir for Legal and Personnel Programs.
Department of Labor: Otc of the Inspector General.	Deputy Inspector General.
	Asst Inspector Gen for Investigations.
	Asst Inspector Gen for Audit.
	Dir Otc of Loss Prevention and Analysis.
	Dir Otc of Management Administration & Planng.
Office of the Dep Under Secy for International Affairs.	
Office of the Solicitor	Associate Solicitor for Labor-Management Laws.
	Assoc Solicitor for Plan Benefits Security.
	Assoc Solicitor for Labor Relations & Civil R.
	Assoc Solicitor for Occupational Safety & Hlt.
	Assoc Solicitor for Mine Safety & Health.
Office of the Solicitor	Assoc Solicitor for Fair Labor Standards.
	Assoc Solicitor for Employee Benefits.
	Assoc Solicitor for Gen Legal Services.
	Associate Solicitor for Spec Litigation.
	Deputy Solicitor (Regional Operations).
	Assoc Sol for Spec Appel & Sup Court Lit.
Regional Solicitors	Regional Solicitor, Chicago.
	Regional Solicitor Regional IV—Atlanta.
	Regl Solicitor Boston.
	Regl Solicitor New York.
	Regional Solicitor Philadelphia.
	Regl Solicitor Dallas.
	Regl Solicitor Kansas City.
	Regl Solicitor San Francisco.
OAS for Administration and Management.	Asst Sec'y for Admin & Mgmt.
	Dep Asst Sec for Adm and Mgmt.
	Director Administrative Programs & Service.
	Dir Otc of Budget.
	Dir Otc Labor Mgmt Relations.
	Dir of Management Policy.
	Comptroller for the Department.
	Dir, Office of Education & Career Development.
	Dir, Office of Equal Employment Opportunity.
	Dir of Personnel Management.
	Dep Dir of Personnel Management.
	Deputy Comptroller.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
	Dir Otc of Information Technology.
	Dir otc of Executive Personnel Management.
	Deputy Director Office of Civil Rights.
	Dir, Otc of Civil Rights.
Otc of Prog Dev and Accountability.	Dir Otc of Prog Dev & Accountability.
Otc of Federal Contract Compliance Programs.	Dir-Dir of Enforcement Coordination.
Wage and Hour Division.	Asst Admr for Fair Labor Standards.
	Asst Admr for Govt Contract Wage Standards.
	Dir Federal Employees Compensation.
	Dir Coal Mine Workers Compensation.
Otc of Workers Compensation Programs.	Asst Admr for Field Operations.
Labor-Management Services Administration.	
Pension & Welfare Benefit Programs.	Dep Admr for Pension & Welfare Benefits Prog.
	Asst Admr, Enforcement.
	Asst Admr for Pension & Welfare Benefit Prog.
	Asst Admr for Fiduciary Standards.
Planning Evaluations & Systems.	Asst Admr, Reporting & Plan Standards.
Labor-Management Standards Enforcement.	Director, Office of Management.
	Dir Otc of Labor-Management Stds Enforcement.
	Dep Dir Otc Labor Mgt Standards Enforcement.
	Asst Director for Compliance & Enforcement.
	Asst Dir for Standards Tech Asst & Disclosure.
Bureau of Labor Statistics.	Deputy Commissioner.
	Asst Commr for Field Operations.
Data Analysis	Dir/Prog Eval & Coord.
	Asst Commr, Occupational Safety & Health Stat.
	Asst Commr, Economic Growth.
	Assoc Comr for Prices and Living Conditions.
	Asst Comm Productivity & Technology.
	Asst Commissioner for Current Employment Anal.
	Asst Commr for Wages & Industrial Relations.
	Asst Comm for Research Methods & Standards.
	Asst Commr for Employment Structure & Trends.
	Dep Assoc Commr for Prices & Liv Conditions.
	Asst Commr for Consumer Prices & Price Indexes.
	Asst Comm for Indust Prices & Price Indexes.
	Deputy Asst Commr for Employment Str & Trends.
Statistical Operations & Proceeding.	Asst Commissioner for Survey Design.
	Assoc Commr for Statistical Operations.
	Asst Commissioner for Systems & Standards.
	Dep Assoc Commr for Statistical Operations.
	Assoc Commr for Administrative Management.
	Regional Comms: R New York.
Regional Commissioners.	Reg Comms-BLS (Chicago).
Employment and Training Admin.	Dir Otc of Investigation and Compliance.
U.S. Employment Service.	Director, Office of Technical Support.
Unemployment Insurance Service.	Dir Otc of Trade Adjustment Assistance.
Otc of Management Assistance.	Director Office of Management and Training.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Ofc of Administration and Management.	Adm'r Administration and Mgt.
	Dir, Ofc of Mgmt Info Syss.
	Comptroller.
	Dep Admr, Administration and Mgmt.
Ofc of National Programs.	Chf, Div of Indian & Native American Programs.
Ofc of Policy, Eval, and Research.	Director Ofc of Program Evaluation.
Administrative Programs.	Dir, Adm Progs Occup Safety & Health Administ.
Health Standards Programs.	Dir Health Standards Programs.
Safety Standards Programs.	Director Safety Standards Programs.
Federal Compliance & Staff Programs.	Dir Federal Compliance & State Programs.
Technical Support	Dir Tech Support.
Mine Safety and Health Administration.	Chf of Standards, Regulations & Variances.
	Director of Administration and Management.
	Director of Assessments.
	Director of Technical Support.
Merit System Protection Board:	
Ofc of Managing Director.	Managing Dir.
	Deputy Managing Director.
Ofc of General Counsel.	General Counsel.
	Deputy General Counsel.
Office of Legislative Counsel.	Legislative Counsel.
Ofc of Merit Systems Review and Studies.	Assoc Dir for Special Studies, Mem.
	Associate Director for Operations, Mem.
Ofc of Appeals	Dir Ofc of Appeals.
Ofc of Administration	Director of Administration.
Field Offices	Regional Director, New York.
	Regional Director, San Francisco.
	Regional Director, Chicago.
	Regional Director, Atlanta.
	Regional Director, Philadelphia.
	Regional Director, Dallas.
	Regional Director, Washington, D.C.
Ofc of Special Counsel.	Assoc Spec Counsel (Investigation).
	Dep Assoc Spec Counsel (Prosecution).
	Assoc Special Counsel (Prosecution).
National Aeronautics and Space Administration:	
Office of the Comptroller.	Asst to the Compr for Mgmt Pol Rev & Analysis.
	Asst Compt for Prog Status Rev & Cost Assess.
	Spec Asst to the Comptroller.
Financial Management Division.	Dir Financial Mgmt Div.
	Dep Dir, Financial Management Div.
Resources Analysis Division.	Deputy Dir Resources Analysis Div.
Budget Operations Division.	Dir, Budget Operations Div.
Ofc of Chief Engineer, Nasa.	Director, Program Assurance Division.
Ofc of the Assoc Admr, Space Science and Applications.	Chief, Applications Development Branch.
	Mgr Adv Progs and Tech.
	Spec Asst to Assoc Admr for Sp & Terres Apps.
	Asst Assoc Admr for Advanced Planning.
Materials Processing in Space Office.	Asst Dir for Materials Science.
Environmental Observations Division.	Dep Director, Environmental Observations Div.
	Chief, Atmospheric Processes Branch.
	Manager, Operational Meteorological Satellite.
	Chief, Oceanic Processes Branch.
	Discipline Scientist, Space Plasma Physics.
Communications Division.	Chief, Data Systems Branch.
	Chf, Communications Systems Branch.
Life Sciences Division.	Dep Dir Life Sciences Division.
	Chief, Biological Sciences.
	Associate to the Director, Life Sciences Div.
	Chf, Res & Tech Development Branch.
	Manager Operational Medicine.
Earth and Planetary Exploration Division.	Deputy Director, Special Programs.
	Chief, Non-Renewable Resources Branch.
	Chief, Renewable Resources Branch.
	Chief, Scientist, Earth & Ocean Dynamics.
	Deputy Dir, Resource Observation Div.
	Chief, Flight Systems Branch.
	Chief, Geodynamics Branch.
	Dep Dir, Earth Planetary Exploration Division.
	Chf, Solar Sys Mission Operations Br.
	Dep Dir, Earth and Planetary Exp Div (Tech).
	Dep Dir, Earth & Planetary Exploration Div.
	Chf, Planetary Astronomy and Atmosphere Br.
Spacelab Flight Division.	Mgr, Advanced Instrumentation & Sensor Engineer.
	Chief, Terrestrial Applications Branch.
	Chf, Space Science Mission Branch.
	Dep Dir, Spacelab Flight Div.
	Chief, Instrument Development Branch.
Astrophysics Division.	Dep Dir, Solar Terrestrial Division.
	Manager, International Solar Polar Mission.
	Deputy Director, Astrophysics Division.
	Manager, Advanced Programs & Technology.
	Chf, High Energy Astrophysics Br.
	Chief, Astronomy/Relativity Branch.
	Mgr Explorers/Suborbital Progs & A/Phy Payids.
	Chf, Research Flight Progs Dev Br.
	Chf, Astrophysical Observ Dev Br.
	Chf, Solar Terrestrial Observ Dev Br.
	Chf, Solar & Heliospheric Physics Br.
	Asst Director, Astrophysics Div (Technical).
Office of Procurement	Director of Procurement.
	Deputy Director of Procurement.
	Assoc Dir, of Procurement (Policy & Management).
Orbiter Programs Division.	Chief, Mechanical/Structural Systems Br.
Engine Program Division.	Dep Dir, Space Shuttle Main Engine Program.
	Dir, Space Shuttle Main Engine Program.
Ground Systems and Flight Tests Division.	Deputy Director, Space Shuttle Program.
	Chf, Space Shuttle Systems Operations.
	Chief, Avionics and Electrical Systems Branch.
	Career Reserved Positions.
	Dir, Sts Ground Sys & Flight Tests Div.
	Dep Dir, Sts Ground Sys & Flight Tests Div.
	Chf, Flight Test Branch.
Solid Rocket Booster and External Tank Division.	Chief, External Tank Branch.
	Director Space Shuttle Orbiter Division.
	Dir, Solid Rocket Booster & External Tank Div
Systems Engineering and Integration Division.	Chief Systems Engineering Branch.
	Dir, Sts Systems Eng & Integration Div.
	Chief Sts Integration Branch.
Reliability, Quality and Safety Office.	Director, Reliability/Quality & Safety Office.
Resource Management/ Administration Office.	Dep Dir, Resource Management Administration.
	Chief Space Shuttle Prog Budget and Control.
	Chf Budget Ofc.
	Chief Sts Program Budget and Control.
Advance Programs Division.	Dep Dir Adv Progs.
	Chf Adv Concepts Br.
	Chf Integrated Operations Branch.
	Chf Adv Dev.
Expendable Equipment Division.	Chief, Inertial Upper Stage Branch.
	Deputy Director Upper Stage Division.
Organization No Longer in Existence.	Dep Dir, Sts Expendable Equipment Div.
Office of the Associate Administrator, Management.	Chief, Nasa Safety Office.
Inventions and Contributions Board.	Chrman Nasa Inventions and Contr Bd.
Headquarters Administration Division.	Dep Dir Headquarter Administration Division.
Facilities Division	Director of Facilities.
	Deputy Director, Facilities Division.
	Asst Dir Inst Opers Div.
Supply and Equipment Management Division.	Dir, Supply & Equipment Management.
Personnel Programs Division.	Dir, Personnel Programs Div.
	Dep Dir Personnel Progs Div.
Information Systems Division.	Chf Mgmt Processes and Directives Br.
	Dep Dir Info Sys Div.
	Chf Scientific and Tech Info Br.
System Planning and Effectiveness Div.	Dir, Systems Planning & Effectiveness Div.
Expendable Launch Vehicles Program Division.	Dep Dir, Expendable Launch, Veh Prog Div.
	Chf, Upper Stages Branch.
	Chf, Small and Medium Launch Veh Progs.
Resources Management and Administration.	Chf, Sts Operations Program Budget Control
	Director, Resources Management & Admin.
	Deputy Director, Resources Management & Admin.
Space Shuttle Operations Division.	Chief, Systems Engineering Branch.
	Chf, Production & Logistics Branch.
	Director Space Shuttle Operations Division.
Spacelab Program Division.	Deputy Director, Spacelab Program Division.
	Chief, Engineering Branch.
	Chf Integration and Test Branch.
Sts Utilization Division	Dep Dir, Space Transportation Sys Operations.
	Chief, Pricing Launch Agreements & Customer.
	Chief, Mission Analysis & Integration Branch.
Ofc of the Assoc Admr, Aeronautics and Space Tech.	Deputy Chief Engineer for Facilities.
	Asst Assoc Administrator for Mgmt Support.
Energy Systems Division.	Dep Dir, Energy Systems Div.
	Space Utilization Sys Offic.
	Solar Terrestrial Sys Office.
	Conservation and Fossil Energy Systems.
Aeronautical Systems Division.	Deputy Director, Aeronautical Systems Div.
	General Aviation Ofc, Manager of the.
	Low-Speed Aircraft, Manager of the.
	High-Speed Aircraft, Manager of the.
	Transport Aircraft Ofc, Manager of the.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Space Systems Division.	Dep Dir Space Sys Div.
	Information Systems Ofc, Manager.
	Manager, Transportations Systems Office.
	Manager, Spacecraft Systems Office.
Research and Technology Division.	Dep Dir Res and Tech.
	Elec and Human Factors Office.
	Space Power and Propulsion Office.
	Aeronautical Propulsion Manager.
	Manager for propulsion.
	Mangr of the Aerodynamics and Bulk.
	Materials and Structures, Manager of the.
Organization No Longer in Existence.	Chf, Planetary Programs Branch.
	Discipline Scientist, Planetary Astronomy.
	Dep Dir, Prog Analysis Div & Chief Resources.
Ofc of the Assoc Admr, Space Tracking and Data Systems.	Chief, Advanced Systems.
	Asst Assoc Admr (Technical).
	Spec Asst (Operations).
Network System Division.	Associate Director Network Systems Division.
Communications and Data Systems Division.	Assoc Dir, Communications & Data Systems Div.
	Dir, Communications & Data Systems Div.
	Chief, Network Operations Branch.
Deep Space Network Operations Programs.	Manager, Deep Space Network Operations Program.
	Mgr Space Tracking and Data Network Prog.
Network Systems Development Programs Division.	Chief, System Support Program.
	Director, Deep Space Network Systems.
TDRSS Division	Assoc Dir, Tracking & Data Relay/ SSPD.
	Chief, TDRSS Operations.
Discrimination Complaints Division.	Director, Discrimination Complaints Division.
Office of the Inspector General.	Asst Insp General for Mgmt & Evaluation.
	Assist Inspector General for Investigation.
	Assistant Inspector General for Auditing.
AMES Research Center.	Assoc Dir, NASA Ames Res Ctr.
Aeronautics and Flight Systems Directorate.	Chief, Engineer.
	Dep Dir of Aeronautics and Flight Systems.
	Chief, Aircraft Operations Division.
	Chief, Flight Systems Research Division.
	Chief, Helicopter Technology Division.
	Chief, Simulation Sciences Division.
	CHF Helicopter & Powered Lift, Technology Div.
	Chief, Aerodynamics Division.
	Deputy Chief Flight Support Division.
Life Sciences Directorate.	Deputy Director of Life Sciences.
	Chief, Biomedical Research Division.
	Chief, Extraterrestrial Research Division.
	Chief, Biosystems Division.
	Chief, Man-Vehicle Systems Research Division.
Research Support Directorate.	Chief, Research Facilities & Instrumentation.
Astronautics Directorate.	Deputy Director of Astronautics.
	Chief, Airborne Mission & Applications Div.
	Project Manager, Pioneer.
	Chief, Space Science Division.
	Chief, Thermo- and Gas-Dynamics Division.
	Chief, Computational Fluid Dynamics Branch.
	Chief, Space Projects Division.
Flight Operations Directorate.	Deputy, Dir, Flight Operations & Support.
	Chief, Research Pilots Division.
	Chief, Engineer.
	Chf, Engineer.
	Chief, Dryden Aircraft Operations Division.
	Chief, Flight Support Division.
	Deputy Chief Dryden Aircraft Operations Div.
	Chief, Shuttle Project Office.
	Director of Project/Test Liaison Office.
Organization no Longer In Existence.	Deputy Dir of Project/Test Liaison Office
	Deputy Director for Engineering.
Goddard Space Flight Center.	Special Assistant to the Director.
	Chief, Advanced Plans Office (Staff).
	Comptroller.
	Dir, Prog and Institutional Planning Ofc.
	Spec Asst to the Dir.
	Assistant Director for Program Planning.
	Deputy Comptroller.
Management Opers Directorate.	Dep Dir of Management Operations.
	Procurement Officer.
Flight Assurance Directorate.	Director of Flight Assurance.
Flight Projects Directorate.	Mgr, Preliminary Systems Design Group.
	Project Manager, Landsat-D.
	Assoc Dir of Flight Proj For User Systems.
	Assoc Dir of Flight Proj For Sys Mgmt.
	Assoc Dir of Flight Projects for New Projects.
	Delta Project Manager.
	Project Mgr, Tracking & Data Relay Satellite Sy.
	Dep Dir of Project Management.
	Proj Mgr, Natl Oceanic Satell Sys Proj.
	Proj Mgr, Shuttle Payloads Interg & Rocket Ex.
	Proj Mgr, Tires Proj.
	Assoc Dir of Flight Proj for Mission Systems.
	Deputy Director of Flight Projects.
	Manager Adv Land Obser Sys Studies Ofc.
	Proj Mgr Attached SCI & Appl Payloads Proj.
	Deputy Director of Flight Projects.
Mission and Data Operations Directorate.	Dep Dir of Mission & Data Operations.
	Asst Dir of Mission & Data Ops (Rsch & Tech).
Sciences Directorate	Assoc Dir of Sciences.
	Head, Electrodynamics Branch.
	Chief, Lab for High Energy Astrophysics.
	Chief, Lab for Astronomy and Solar Physics.
	Chief, Lab for extraterrestrial Physics.
Engineering Directorate.	Dep Dir of Engineering.
	Chief, Instrument Division.
	Chf, Applied Engineering Div.
Networks Directorate	Deputy Director of Networks.
	Assoc Dir of Networks (for Operations).
Applications Directorate.	Asst Dir of Applications for Operations.
	Asst Dir of Aps for Earth & Ocean Phys Aps Prog.
	Asst Dir of Applications for System Studies.
	Chief, Lab for Atmospheric Sciences.
Johnson Space Center.	Chief, Information Extraction Div.
	Chief, Lab for Planetary Atmospheres.
	Chief, Earth Observations Systems Dir.
	Deputy Director of Applications.
	Chief, Applications Systems Analysis Ofc.
	Tech Asst to the Dir.
	Spec Asst for Mgmt.
	Dir of Public Affairs.
Technical Planning Office.	Chief, Tech Planning Office.
Administration and Program Support.	Dep Dir of Administration & Program Support.
	Asst Dir of Administration & Program Support.
	Dir of Procurement.
Flight Operations	Deputy Dir of Flight Operations.
	Chief, Astronaut Office.
	Chief, Aircraft Operations Division.
	Chief, Training Division.
	Chf, Flight Control Div., Flight Operations.
	Chief, Flight Operations Integration Office.
Engineering and Development.	Assoc Dir of Eng & Dev (For Program Support).
	Assoc Dir of Eng & Dev (For Program Dev).
	Asst Dir of Eng & Dev (for Avionic Systems).
	Chief, Tracking & Communications Dev Div.
	Chief, Avionics Systems Div.
	Manager, Engineering Office, Orbiter Project.
	Chief, Propulsion & Power Division.
	Chief, Structures & Mechanics Division.
	Chf, Engineering Analysis Div.
	Chf, Spacecraft Design Div, Engineering.
	Chf, Shuttle Avionics Integ Div, Engineeri.
	Chf, Crew Systems Div, Engineering & Dev.
	Chf, Experiment Systems Div, Engineering.
	Chf, Space Environ Test Div, Engineering & Deputy Director of Engineering and Dev.
	Asst Director for Systems Engineering.
	Assistant Director for Research and Dev.
	Assistant to the Director for Future Programs.
	Asst Director for Integration and Products.
	Special Asst to the Dir Engineering & Develop.
Data Systems and Analysis.	Dep Dir of Data Systems & Analysis.
	Chf, Flight Simulation Div.
	Chief, Mission Planning & Analysis Division.
	Chf, Ground Data Systems Div, Data Systems.
	Chf, Spacecraft Software Div, Data Systems.
	Chf, Institutional Data Systems Div.
	Asst Dir of Data Systems & Analysis.
Center Operations	Dep Dir of Center Operations.
Space Shuttle Program Office.	Asst Mgr Space Shuttle Prog Offic, Houston, Tex.
	Manager for Orbital Flight Test.
	Mgr for Flight Safety, Space Shuttle Prog Offc.
	Manager for Operational Integration.
	Manager Systems Integration.
	Chief, Operations Division.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Space Shuttle Orbiter Program Office.	Manager Systems Integration
	Dep Mgr, Space Shuttle Orbiter Project Otc.
	Manager, Manufacturing & Test Ofc.
	Manager, Orbiter Avionics Systems Offices.
	Asst Manager Space Shuttle Orbiter Project
	Dep Manager, Space Shuttle Program Ofc.
Safety, Reliability and Quality Assurance.	Dir, Safety, Reliability, & Quality Assurance.
	Deputy Dir, Safety, Reliability & Quality.
	Dep Dir, Safety, Reliability & Qual Assurance.
Sts Operations Program.	Deputy Manager, Sts Operations Program Ofc.
NASA White Sands Test Facility.	Manager, NASA White Sands Test Facility.
Space and Life Sciences.	Asst Dir for Medical Operations.
	Deputy Dir for Earth Resources.
	Asst Dir of Space and Life Sciences.
	Chief Planetary & Earth Sciences Div.
	Chief, Medical Sciences Division.
	Dep Dir of Space and Life Sciences.
Program Operations Office.	Manager, Programs Operations Ofc.
Kennedy Space Center.	Dir, Exec Management Ofc.
	Dir, Public Affairs.
Biomedical Office	Chf, Biomedical Office.
Safety, Reliability and Quality Assurance.	Dir, Safety, Reliability & Quality Assurance.
Sts Development	Associate Director for Sts Development.
Shuttle Operations	Deputy Director of Shuttle Operations.
Shuttle Engineering	Director, Shuttle Engineering.
Cargo Operations	Director, Spacelab Operations.
	Deputy Director, Cargo Operations.
	Director, Deployable Payloads.
Design Engineering	Deputy Director of Design Engineering.
	Director, Project Management.
	Dir, Mechanical & Facilities Engineering.
	Director, Electronic Engineering.
Technical Support	Deputy Director of Technical Support
Information Systems	Director of Information Systems.
Ground Systems	Director, Ground Systems.
Cargo Projects	Deputy Manager, Cargo Projects Office.
Operations Management.	Director, Shuttle Processing.
	Director, Operations Managements.
	Deputy Director of Center Support Operations.
	Director of Center Support Operations.
Shuttle Processing	Dir Sts Cargo Operations.
Shuttle Projects Office.	Deputy Manager, Shuttle Projects Office.
	Manager, KSC Off-Site Operations Shuttle Proj
Projects Directorate	Mgr Aircraft Energy Efficiency Project Ofc.
Electronics Directorate.	Chf, Terminal Configured Vehicles Pro. Ofce.
	Chf, Analysis & Computation Division.
	Chief, Flight Dynamics & Control Div.
	Chf, Flight Electronics Division.
	Chf, Instrument Research Division.
Structures Directorate	Chf, Acoustics & Noise Reduction Div.
	Asst Chief, Acoustics & Noise Reduction Div.
	Chief Structural Mechanics Division.
	Chf, Materials Division.
	Chief, Loads and Aeroelasticity Division.
Aeronautics Directorate.	Chief, Aeronautical Systems Div.
	Chief, Subsonic-Transonic Aerodynamics Div.
	Head, Transonic Aerodynamics Branch.
	Chief, High-Speed Aerodynamics Div.
	Assoc Chief High-Speed Aerodynamics Div.
	Chief, Flight Mechanics Div.
Space Directorate	Chief, Space Systems Division.
	Chief, Marine & Applications Technology Div.
	Chief, Atmospheric Environmental Sciences Div.
Systems Engineering and Operations Directorate.	Assistant Dir for Systems Engineering Oper.
	Chief Systems Engineering Div.
Lewis Research Center	Chief Scientist.
Administration Directorate.	Dep Dir of Adm (Resources & Financial Manag).
	Chief, Computer Services Division.
	Asst for Computer Systems.
Aeronautics Directorate.	Chf Propulsion Systems Division.
	Chief Engine Systems Division.
	Chief Transport Propulsion Office.
Energy Directorate	Dep Dir of Energy Programs (Technology).
	Dep Dir of Energy.
	Chief, Transportation Propulsion Division.
	Chief, Solar & Electrochemistry Div.
	Chief, Materials & Structures Div.
	Chf Fractures Branch.
	Chief, Wind and Stationary Power Division.
	Dir, Reliability & Quality Assurances.
Science and Technology Directorate.	Chf Aerothermodynamics and Fuels Division.
	Chief Fluid Mechanics and Acoustics Div.
	Chf Physics and Electronics Division.
	Director of Science & Technology.
	Chief Structures & Mechanical Technol Div.
Space Directorate	Chf, Communications & Applications Div.
	Chief, Space Propulsion & Power Division.
	Chf, Launch Vehicles Div.
	Deputy Director of Space
	Center Comptroller, NASA Malc.
Marshall Space Flight Center.	Manager, Space Science Projects Office (Prog).
	Director, Electronics & Control Laboratory.
	Dir, Materials & Processes Laboratory.
	Director, Structures & Propulsion Laboratory.
Science and Engineering	Director, Syst Anal & Integration Laboratory.
	Assoc Dir for Engineering.
	Dir, Data Systems Laboratory.
	Director, Space Sciences Lab.
	Manager, Office of Applications Missions.
	Dep Dir, Science & Engineering.
	Deputy Associate Director for Engineering.
	Chf Engineer, Solid Rocket Booster Integratio.
	Chf, Engineer, Space Shuttle Main Engineer.
	Chf Engineer, Space Telescope.
	Chf Engineer, Inertial Upper Stage.
	Dir, Reliability & Quality Assurance Ofc.
	Dep Dir Data Systems Lab.
Special Projects Office.	Manager, Solar Energy Applications Project.
	Manager, Inertial Upper Stage Project.
Spacelab Payload Project.	Dep Mgr, Spacelab Payload Proj Ofc.
	Manager, Office of Space Science Missions.
	Mgr, Payload Dev Otc.
Spacelab Program Office.	Deputy Manager, Spacelab Program Office.
Program Development.	Deputy Director, Program Development.
	Director, Program Planning Office.
	Director, Preliminary Design Office.
	Manager, 25 kW Power Module Project.
Shuttle Prjects Office	Deputy Manager, Shuttle Projects Office.
	Manager, External Tank Project Office.
	Manager, Solid Rocket Booster Project Office.
	Project Manager, Main Engine Project.
	Manager Major Test & Engineering Mgmt Office.
	Deputy Manager, Space Telescope Project.
	Dep Dir, Administration & Program Support.
	Deputy Manager.
	Deputy Manager—Programs.
Space Telescope Project Office.	
Administration and Program Support.	
National Space Technology Laboratories.	
National Capital Planning Commission: National Capital Planning Commission.	Assoc Exec Dir Regional Affairs.
	Executive Director.
	Assoc Exec Dir D.C. Affairs.
	Asst Executive Dir (Admin).
	General Counsel.
National Credit Union Administration: National Credit Union Adm.	Comptroller.
	Director, Off of Internal Audit & Invest.
	Dir, Ofc of Administration.
	Deputy Director of Administration.
	Executive Vice President/Dep Dir.
National Endowment for the Arts: National Endowment for the Arts.	Director of Adm.
	Director of Program Coordination.
National Endowment for the Humanities: National Endowment for the Humanities.	Deputy Chairman for Management.
National Labor Relations Board.	
Ofc of the Board Members.	Executive Secy.
	Deputy Executive Secretary.
Div of Enforcement Litigation.	Deputy Assoc. Gen. Counsel Appellate Court Br.
	Director, Office of Appeals.
Div of Advice	Associate Gen Counsel, Div of Advice.
	Deputy Assoc Gen Counsel.
Div of Administration	Director of Administration.
	Deputy Director of Administration.
Div of Operations Management.	Assoc General Counsel, Div of Operation-Mgmt.
	Dep Asso Gen Counsel, Div of Operations-Mgmt.
	Assistant General Counsel.
	Assistant General Counsel.
	Assistant General Counsel.
	Assistant General Counsel.
	Assistant General Counsel.
	Assistant General Counsel.
Regional Offices	Regl Dir Reg 1 Boston.
	Regional Director, Reg. 2, New York.
	Regional Director, Reg. 3, Buffalo.
	Regl Dir, Reg 4, Philadelphia.
	Regional Director, Reg 5, Baltimore.
	Regional Director, Reg 6, Pittsburgh.
	Regl Dir, Region 7, Detroit, Mich.
	Regional Director, Reg 8, Cleveland.
	Regional Director, Reg 9, Cincinnati.
	Regl Dir, Reg 10, Atlanta.
	Regl Dir, Reg 11, Winston Salem.
	Regional Director, Reg 12, Tampa.
	Regional Director, Reg 13, Chicago.
	Regl Dir, Reg 14, St Louis.
	Regl Dir, Reg 15, New Orleans.
	Regl Dir, Reg 16, Ft Worth.
	Regl Dir, Reg 17, Kansas City.
	Regl Dir, Reg 18, Minneapolis.
	Regl Dir, Reg 19, Seattle.
	Regional Dir, Reg 20, San Francisco.
	Regional Director, Reg 21, Los Angeles.
	Regional Director, Reg 22, Newark.
	Regional Director, Reg 23, Houston, Texas.
	Regional Director, Reg 24, Hato Rey, Puerto Rico.
	Regl Dir, Reg 25, Indianapolis.
	Regl Dir, Reg 26, Memphis.
	Regl Dir, Reg 27, Denver.
	Regl Dir, Reg 28, Phoenix.
	Regl Dir, Reg 29, Brooklyn.
	Regl Dir, Reg 30, Milwaukee.
	Regl Dir, Reg 32, Oakland.
	Regional Director, Reg 33, Peoria, Ill.
	Regl Dir, Reg 31, Los Angeles.
National Science Foundation:	
Office of the Director	Special Assistant.
Office of Scientific Ocean Drilling.	Field Operations Officer.
Office of the General Counsel.	Associate Gen Counsel.
Office of Audit and Oversight.	Director
National Science Foundation:	
Office of Audit and Oversight.	Deputy Director.
	Head, Evaluation Staff.
Ofc of Planning and Resources Management.	Executive Assistant for Budget Policy.
Division of Budget and Program Analysis.	Division Director.
Division of Planning and Policy Analysis.	Division Director.
Division of Program Development.	Prog Dir Experimntl Prog to Stimulate Comp Re.
	Division Director.
Office of Government and Public Programs.	Assoc Dir for Public Programs.
	Head Congressional Liaison Branch.
Direct for Astro, Atmospheric, Earth and Oc Sci.	Senior Staff Associate.
Div of Astronomical Sciences.	Section Head, Ast Center Section.
	Section Head, Ast Research Section.
Division of Atmospheric Sciences.	Section Head Grant Programs Section.
	Section Head, Oceanographic Facilities Support Sec.
	Section Head Ocean Sciences Research Section.
	Deputy Division Director.
Division of Polar Programs.	Manager of Polar Ops Section.
Directorate for Engineering.	Senior Staff Associate.
	Special Assistant to Assistant Director.
Organization no Longer in Existence.	Deputy Div Director.
	Integrated Basic Research Group Leader.
	Section Head Math & Bio Sci and Eng.
Division of Civil and Environmental Engineering.	Head Civil and Environmental Engr Section.
Director of Electrical Computer and Systems Engineering.	Deputy Division Director.
Division of Chemical and Process Engineering.	Deputy Division Director.
Direct for Biological, Behavioral and Soc Sciences.	Executive Assistant.
	Executive Asst/Planning.
Division of Environmental Biology.	Deputy Division Director.
Division of Physiology, Cellular, and Molecular Biology.	Senior Scientist.
Division of Behavioral and Neural Sciences.	Deputy Division Director.
Division of Social and Economic Sciences.	Deputy Division Director.
	Section Head Political & Policy Sciences Sect.
	Section Head Economics Section.
	Section Head Social Meas and Anal.
	Special Assistant.
Direct for Mathematical and Physical Sciences.	Senior Staff Associate for Planning.
	Senior Staff Associate for Operations.
Division of Physics	Deputy Division Dir.
	Section Head Nuclear Science.
	Section Head Nuclear Science Section.
Divison of Mathematical and Computer Sciences.	Section Head Computer Sciences.
	Section Head Math Sciences.
Division of Materials Research.	Senior Staff Associate.
	Section Head Material Research Lab.
	Section Head Mettalurgy & Metals.
	Section Head Cond Matter Science.
Division of Chemistry	Section Head Chem Syn and Analy.
	Section Head Phy Chem and Dynam.
	Senior Staff Associate.
Directorate for Science & Engineering Education.	Senior Staff Associate.
Division of Scientific Personnel Improvement.	Deputy Division Director.
Division of Scientific Education Resources Improvement.	Deputy Division Director.
Division of Science Education Dev and Research.	Deputy Division Director.
Division of Policy Research and Analysis.	Deputy Division Director.
	Group Leader, Socio Econ.
	Group Leader, Tech Assessment.
	Group Leader, Envir Energy & Resources.
Division of Science Resources Studies.	Deputy Division Director.
	Section Head, Sci & Tech Pers.
Division of International Programs.	Deputy Division Director.
	Section Head Africa and Asia.
	Section Head Latin Amer & Pacific.
	Section Head Western Europe Section.
	Section Head Oper Studies & Analysis.
	Section Head Middle East.
	Senior Staff Associate.
	Section Head Special Program Section.
Divisions of Industrial Science & Technical Innovation.	Section Head Industrial Support Section.
	Head Innovation Processes Research Section.
Division of Intergl and Public Service Sci & Technology.	Head Intergovernmental Programs Section.
	Section Hd, Public Serv Progs Section.
Div of Grants and Contracts.	Division Director.
	Deputy Division Director
Div of Financial and Admin Mgmt.	Division Director.
Div of Information Systems.	Division Director
Div of Personnel and Management.	Division Director.
National Transportation Safety Board:	
Office of the Managing Director.	Project Manager.
	Deputy Managing Director.
Bureau of Administration.	Dir Bureau of Administration.
Bureau of Accident Investigation.	Dir Bureau of Accident Investigation.
	Deputy Director for Operations.
	Dep Dir for Operations.
	Dep Dir for Management.
Bureau of Technology.	Dir Bureau of Technology.
	Deputy Director for Operations.
	Dep Dir For Management.
Nuclear Regulatory Commission:	
Atomic Safety and Licensing Brd. Panel.	Chairman ASLBP.
	Exec Sec ASLBP.
	V Chairman—Exec Secy.
Atomic Safety and Licensing Appeal Panel.	Chairman ASLAP
	Vice Chairman ASLAP.
Office of Inspector and Auditor.	Dir OIA.
	Asst Dir for Investigations.
	Asst Dir for Audits.
	Dep Dir and Asst Dir for Audits.
Office of Public Affairs.	Dep Dir OPA.
Contracts	Director Division of Contracts.
Hearing Division	Assistant Chief Hearing Counsel.
	Assistant Chief Hearing Counsel.
	Assistant Chief Hearing Counsel.
	Assistant Chief Hearing Counsel.
Division of Accounting.	Director Division of Accounting.
Organization no Longer in Existence.	Chf Applied Statistics Br.
	Chf Structures and Components Stds Br.
	Chf Eng Methodology Stds Br.
	Chf Reactor Sys Stds Br.
	Chf Transpo and Product Stds Br.
	Chf Fuel Process Sys Stds Br.
	Chf Site Safety Stds Br.
	Chf Site Designations Stds Br.
	Chf Env Protection Stds Br.
	Chf, Waste Management Standards Br.
	Chf, Geosciences Standards Br.
	Chf, Siting & Environmental Standards Br.
	Chf Occupational Hlth Stds Br.
	Chf Safeguards Stds Br.
	Chf Radiological Hlth Stds Br.
Planning and Program Analysis Staff.	Chf Research Analysis Branch.
TMI Program Office	Chf Antitrust and Indemnity Group.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Organization no Longer in Existence.	Chf Lwr Branch #1.
	Chief Lwr Branch #2.
	Chf Lwr Branch #3.
	Chf Lwr Branch #4.
	Chf Operator Licensing Branch
	Chf Quality Assurance Branch
	Chief Standardization Branch.
	Chief Advanced Reactors Branch
Operating Reactors	Chief Operating Reactors Branch #3.
	Chief Operating Reactors Branch #4.
	Chief Engineering Branch.
	Chief Environmental Evaluation Branch.
	Chf Operating Reactors Branch #1.
	Chief Operating Reactors Br #2.
	Chief Operating Reactors Br #3
	Chief Operating Reactors Br #4.
Licensing	Chief Operating Reactors Branch #1.
	Chief Operating Reactors Br #2.
	Chief Reactor Safety Branch.
	Chief Systematic Evalu Program Branch.
	Chief Plant Systems Branch.
	Chief Licensing Branch #1.
	Chief Licensing Branch #2.
	Chf Standardization & Spec Projects Board
	Chief Licensing Branch #3.
	Chief Licensing Branch #4.
Safety Assessment	Chief Reactor Safeguards Licensing Bu.
	Chief Operating Reactors Branch #5.
	Chief Operating Reactors Assessment Branch.
	Chf, Systematic Evaluation Program Branch.
	Chf, Operations Reactors Assessment Br.
Components and Structure Engineering.	Chief Mechanical Engineering Branch.
	Chief Materials Engineering Branch.
	Chief Structural Engineering Br.
	Chief Mechanical Engineering Branch.
	Chief Hydrologic and Geotech Eng Branch.
	Chief Geoscience Branch.
Materials and Qualifications Engineering.	Chief Core Performance Branch.
	Chief Reactor Systems Branch.
	Chief Analysis Branch.
	Chief Containment Systems Branch.
	Chief Materials Engineering Branch.
	Chief Equipment Quals Branch.
	Chief Quality Assurance Branch.
	Chief Chemical Engineering Branch.
Environmental Technology.	Chief Auxiliary Systems Branch.
	Chief Power Systems Branch.
	Chief Instrumentation & Control Systems.
	Chief, Environmental Engineering Br.
	Chief Siting Analysis Branch.
	Chief Utility Finance Branch.
Plant Systems	Chf Environmental Specialists Branch.
	Chf Cost Benefit Analysis Branch.
	Chief Instrum & Control Systems Branch.
	Chief Power Systems Branch.
	Chief Containment Systems Branch.
	Chief Auxiliary Systems Branch.
Radiation Protection	Chf Environmental Projects Brl #1.
	Chf Env Proj Branch #2.
	Chief Radiological Assessment Branch.
	Chief Accident Evaluation Branch.
	Chief Effluent Treatment Systems Branch.
Reactor Systems	Chf Effluent Treatment Sys Br.
	Chf Accident Analy Br.
	Chf Radiological Assessments.
	Chief Reactor Systems Branch.
	Chief Systems Interaction Branch.
	Chief Core Performance Branch
Site Technology	Chf Hydrology-Meteorology Br.
	Chf Geosciences Br.
Human Factors Engineering Branch.	Chief Human Factors Engr Branch.
	Chief Procedures and Test Review Branch.
	Chief Licensee Qualifications Branch.
	Chief Operator Licensing Branch.
Asst Dir for Generic Projects.	Chief Generic Issues Branch.
	Chief Licensing Guidance Branch.
	Chief Research and Stds Coordination Branch.
Asst Director for Technology	Chief, Safety Program Evaluation Branch.
	Chief Operating Experience Eval Branch.
	Chief Reliability & Risk Assessment Branch.
Offc of Nuc Material Safety and Safeguards.	Dir NMSS.
Safeguards	Chief Physical Security Development Br.
	Chief Regulatory Improvements Branch.
	Chief Physical Security Licensing Br.
	Chief Mtl Control & Accountability Lic Br.
	Chf, Technical Planning and Integration Br.
	Chief Technology Assessment Branch.
Fuel Cycle Safety and Licensing.	Chf Uranium Fuel Licensing Br.
	Chf Advanced Fuel & Spent Fuel Licensing Br.
Material Safety and Licensing.	Chief Transportation Branch.
	Chief Procedures and Certification Br.
Operations and Technology.	Chf Tech Assessment Br.
Waste Management	Chf Hi-Level Waste Tech Dev Br.
	Chf Hi-Level Waste Licens Mgmt Br.
	Chf Licensing Proc and Integration Br.
	Chf Uranium Recovery License Br.
	Chief Low-Level Waste License Br.
Ofc of NUC Regulatory Research.	Chief Systems Analysis Branch (Reactor Risk).
Admin and Resources Control Staff.	Dir Prob Anal Staff.
Division of Engineering Technology.	Chief Mechanical Structural Branch.
	Chief Materials Engineering Br.
	Chief Chemical Engineering Branch.
	Chief Electrical Engineering Branch.
	Chf Site Safety Res Br.
Division of Accident Evaluation.	Chf, Analytical Models Br.
	Chief, Severe Accident Assessment Branch.
	Chief Fuel Behavior Branch.
	Chief Experimental Programs Branch.
	Chf Analytical Adv Reac Sfty Res Br.
Organization no longer in existence.	Chf Analysis Dev Br.
	Chief Fuel Behavior Res Branch.
	Chf Metallurgy and Materials Res Br.
	Chief Experimntl Fast Reactor Safety Res Br.
	Chf, Fuel Behavior Br.
Division of Risk Analysis.	Chief, Transportation & Materials Risk Br.
	Chief, Reg Analysis Br.
	Chief Risk Methodology Data Branch.
Safeguards Research	Chf Tech Support Br.
Fuel Cycle and Environ Res.	Chf, Waste Management Branch.
Division of Facility Operations.	Chief, Human Factors Br.
	Chief, Instrumentation & Control Staff.
	Chief, Safeguards Br.
	Chief Occupational Protection Branch.
Division of Health Siting and Waste Management.	Chief Earth Sciences Branch.
	Chief Waste Management Branch.
Office of Inspection and Enforcement.	Chief Health Effects Branch.
	Exec Officer for Mgmt and Analysis.
	Executive Office for Operations.
	Chf, Safeguards Branch.
Region I	Dep Dir Reg I.
	Dir, Div of Resident and Reactor Project Insp.
	Dir Div of Eng & Tech Inspection Region 1.
Region II	Dep Dir Reg II.
	Dir Div of Engineering & Technical Inspection.
	Dir Div of Res and Reactor Project Inspection.
Region III	Dep Dir Reg III.
	Dir Div of Eng & Tec Inspection.
	Dir Div of Res & Reactor Project Inspection.
Region V	Dir Div of Res Reactor Project & Eng Inspec.
Reactor Construction and Inspection.	Dir Div of Reac Cons Insp.
	Asst Dir Div of Reac Cons Insp.
	Chf, Performance Appraisal Br.
Reactor Opn Inspection.	Dir Div of Reac Operation Inspection.
	Asst Dir for Field Coordination.
	Asst Dir for Tech Prog.
Fuel Facilities and Mtls Safety Inspection.	Dir Div of Fuel Facil and Mtls Sfty Insp.
	Asst Dir Div of Fuel Fac & Mtl Sfty Insp.
	Chief Reactor Engineering Branch.
Emergency Preparedness	Dir Div of Safeguards Inspection.
	A/D Div of Safeguards Inspection.
	Chf Emergency Preparedness Licensing Branch.
Office of Management and Budget:	
Ofc of Administration	Asst to the Director for Administration.
Legislative Reference Division.	Asst Dir Legislative Reference.
	Dep Asst Dir, Legislative Reference Division.
	Chief, Economics, Science & Govt Branch.
	Chf, Resources, Defense, Intern'l Br.
Budget Review Division.	Asst Dir for Budget Review.
	Dep Assistant Director for Budget Review.
	Chief, Fiscal Analysis Branch.
	Dep Chief, Fiscal Analysis Branch.
	Chf, Budget Preparation Branch.
	Chief, Financial Management Branch.
	Chief, Resources Systems Branch.
	Chief, Fed Prog Info Branch.
Organization No Longer in Existence.	Dep Assoc Dir for Regulatory Pol & Reports Mg.
	Director, Human Services Reorg Study.
Office of Federal Procurement Policy.	Principal Assoc Admr for Procurement.
	Asst Admr for Logistics.
	Asst Admr for Regulations.
	Asst Admr for Commercial Products.
	Dir, Federal Acquisition Institute.
Office of Information and Regulatory Affairs.	Chief, Information Policy Branch.
	Chief, Reports Management Branch.
	Senior Mgmt Policy Analyst.
	Chief, Regulatory Policy Branch.
	Senior Regulatory Policy Analyst.
	Chief, Statistical Policy Branch.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Management Improvement and Evaluation Division.	Asst Dir, Mgt Improvement & Eval.
	Dep Asst Dir for Evaluation.
	Sr Mgmt Assoc, Mgmt Improvement & Eval.
	Sr Mgmt Assoc.
	Senior Management Associate.
Federal Personnel Policy Division.	Asst Dir, Fed Pers Policy.
	Asst to the Asst Dir for Fed Pers Policy.
Intergovernmental Affairs Division.	Dep Assoc Dir for Intergovernmental Affairs.
	Chief, Field Operations Branch.
	Chief, Assistance Policy Branch.
	Chf, Fed Assistance Information Branch.
Assoc Dir for National Security and International Affs.	Dep Assoc Dir for Management.
International Affairs Division.	Dep Assoc Dir for Internatl Affairs.
	Dep Chief, International Affairs Division.
	Chief, State—ICA Branch.
	Chief, Economic Affairs Branch.
	Chief, International Security Affairs Branch.
National Security Division.	Dep Assoc Dir for National Security.
	Dep Chief.
	Chf, Intelligence Community Branch.
	Chief, Navy Branch.
	Chief, Air Force Branch.
	Chief, Army Branch.
	Chief, Manpower, Pay & Policy Branch.
Assoc Dir for Human Resources, Veterans and Labor.	Dep Assoc Dir for Management.
Health and Income Maintenance Division.	Dep Assoc Dir for Health & Income Maintena.
	Chief, Health Branch.
	Chf, Income Maintenance Branch.
Labor, Veterans, and Education Division.	Deputy Associate Director for Labor, Vet & Ed.
	Dep Div Chf, Labor.
	Chief, Education Branch.
	Chf, Veteran Affairs Branch.
Associate Director for Economics and Government.	Dep Assoc Dir for Special Studies.
Transportation, Commerce, and Housing Division.	Dep Assoc for Transportation Dir Comm & Housi.
	Dep Div Chief (Transportation).
	Chief, Commerce Branch.
	Chf, Housing & Urban Dev Branch.
Justice, Treasury, and General Management Division.	DAD for Justice, Treas & Gen Mgmt.
	Chf, General Management Branch.
	Chief, Justice, Treasury Branch.
Assoc Dir for Natural Resources, Energy, and Science.	Dep Assoc Dir for Spec Studies.
Natural Resources Division.	Dep Associate Dir for Natural Resources.
	Chief, Water Resources Branch.
	Chief, Agricultural Branch.
	Chief, Environment Branch.
	Chief, Interior Branch.
Energy and Science Division.	Dep Assoc Dir for Energy & Science.
	Dep Div Chf for Programming.
	Chief, Energy Technology Branch.
	Chief, Science and Space Programs Branch.
	Chief, Energy Conservation & Regulation Branch.
	Chief, Science & Space Programs.
Office of Personnel Management:	
Office of Internal Evaluation.	Assistant Dir for Internal Evaluation.
Organization No Longer in Existence.	Dep Asst Dir for Grants Administration.
Asst Dir/Agency Compliance & Evaluation.	Asst Dir for Agency Compliance & Evaluation.
	Dep Asst Dir for Agency Compliance & Evaluation.
Personnel Research and Development Center.	Asst Dir for Personnel Research & Development.
Standards Development Center.	Assistant Dir for Standards Development.
Dep Assoc Dir—Personnel Investigations.	Asst Dir for Personnel Investigations.
Compensation	ADAD, Personnel Investigations.
Asst Dir for Retirement Programs.	Chief Actuary.
	Asst Dir for Retirement Programs.
Asst Director for Insurance Programs.	Chief Medical Division.
	Asst Dir for Insurance Program.
Railroad Retirement Board:	
Railroad Retirement Board.	Dir of Research.
	Dir, Unemployment & Sickness Ins.
	Dir of Retirement Claims.
	Chief Executive Officer.
	Chf Actuary.
	Dep Executive Officer.
	Dir, Budget & Fiscal Opers.
	Dir, Bureau Processing and Accounts.
	Gen Counsel.
	Director of Investments.
	Assistant Executive Officer.
	Director of Management Control.
Securities and Exchange Commission: Office of the Chairman.	Dep Chf Accountant.
Securities and Exchange Commission: Office of the Executive Director.	Dep Exec Director.
Div of Corporation Finance.	Assoc Dir (Operations).
Selective Service System: Selective Service System.	Assoc Dir, Administration.
	Assoc Director, Planning.
	Assoc Dir, Management Information Systems.
	Assoc Dir Policy Development.
Small Business Administration: Office of the Administrator.	Dir, Ofc of Equal Employment Opport & Complian.
Ofc of the Inspector General.	Asst Insp Gen Audits.
	Asst Inspector General for Investigations.
Bureau for Minority Small Business & Cap Own Dev.	Dir of Business Development.
Bureau for Support Services.	Deputy Dir of Business Development.
District Directors	Director of Personnel.
	Director of Computer Sciences.
	District Dir, Phila.
	District Director, Region IX, San Francisco.
	District Dir, Reg IX, Los Angeles.
	District Dir, Puerto Rico.
	District Director, Region V, Chicago.
	District Director, New York.
Department of State: Policy Planning Staff	Member, Planning & Coordination Staff.
Office of Under Sec for Economic Affairs.	Dir, Office of East-West Trade.
Bureau of European Affairs.	Spec Asst Asst Sec State Economic Affs.
Bureau of Intelligence and Research.	Spec Asst (Labor and UN Affs).
	Deputy Director for Research.
	Deputy Director for Coordination.
	Dir, Ofc of Resources Policy.
	Dir, Ofc of Res & Analysis Near East & S Asia.
	Dir, Ofc of Research & Analysis Soviet Affs.
International Boundary & Water Commission.	Supervisory Civil Engineer.
Bureau of Personnel	Dir, Ofc of Civil Svc Career Dev & Assign.
Department of Transportation: Office of Inspector General.	Assistant Inspector General for Audits.
	Dep Asst Inspector General for Audit.
	Director, Special Programs & Evaluations.
	Asst I/G for Policy, Planning and Resources.
	Dir, DOT-Wide Programs.
	Director, Regional Programs.
	Asst I/G for Investigations.
	Dir, Ofc of Surface Transportation Programs.
Asst Sec for Administration.	Asst Secy for Administration.
Ofc of Installations and Logistics.	Dir, Ofc of Installations & Logistics.
	Dep Dir, Ofc of Installations & Logistics.
Assoc Admr for Safety.	Assoc Admr for Safety.
Ofc of Pipeline Safety Regulation.	Assoc Dir, Ofc of Pipeline Safety Regulation.
Ofc of Operations and Enforcement.	Assoc Dir, Ofc of Opers & Enforcement-M.T.B.
Maritime Administration.	Secy, Maritime Subsidy Board.
	Deputy Administrator.
	International Activities Officer.
	Assoc Admin Marketing & Domestic Enterprise.
Office of Associate Administrator for Research and Dev.	Asst Program Dev & Control.
	Dir, Ofc of Advanced Ship Development.
	Dir, Ofc of Advanced Ship Operations.
	Director Ofc of Maritime Technology.
	Dir., National Maritime Research Center, K. P.
	Director, Office of Advanced Ship Development.
	Dir., Office of Advanced Ship Operations.
	Director, Office of Maritime Technology.
	Dir, Ofc. of Ship Construction.
	Dir. Ofc. of Shipbuilding Costs.
Office of Assoc. Admr. for Shipbuilding and Ship Opers.	
Office of Associate Administrator for Maritime Aids.	Associate Administrator for Maritime Aids.
	Dep. Assoc. Admin. for Maritime Aids (Trade).
	Dep. Assoc. Adm'r. for Maritime Aids (Finance).
Office of Accounting and Audit.	Director, Office of Accounting and Audit.
Logistics Service	Director, Logistics Service.
	Dep. Dir., Logistics Service.
	Chf., Contracts Div.
Air Traffic Service	Dir. Air Traffic Svc.
	Deputy Director, Air Traffic Service.
	Chief, Atc. Operations & Procedures Div.
	Chief Flight Service Division.
	Chf., Atc. Automation Division.
	Chief, System Programs Division.
	Chief, Airspace & Air Traffic Rules Division.
Office of Airport Planning & Programming.	Dir., Office of Airport Planning & Program.
	Dep. Dir., Office of Airport Planning & Program.
	Chief, Grants-in-Aid Division.
Assoc. Admr. for Aviation Standards.	Assoc. Adm'r. for Aviation Standards.
	Deputy Assoc. Adm'r. for Aviation Standards.
	Chf., Safety Regulations Staff.
Office of Airworthiness.	Director, Office of Airworthiness.
	Chief, Aircraft Engineering Division.
	Chief, Aircraft Maintenance Division.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Office of Aviation Safety	Director, Office of Aviation Safety
	Dep. Dir. Ofc. of Aviation Safety
Office of Civil Aviation Security	Director, Office of Civil Aviation Security
	Dep. Dir. of Civil Aviation Security
Office of Flight Operations	Dir. Ofc. of Flight Operations.
	Chf., Aircraft Programs Division.
	Chief, Flight Standards Nat'l. Field Ofc.
	Chief, General Aviation and Commercial Div.
	Chief, Air Transportation Div.
Office of Aviation Medicine	Fed. Air Surgeon.
	Deputy, Federal Air Surgeon.
	Chief, Aeromedical Stds. Div
	Chief, Civil Aeromed Institute.
Mike Monroney Aeronautical Center	Chief, Air Traffic Division.
Great Lakes Region—Chicago	Chf., Flight Standards Division.
New England Region—Burlington, Ma	Chief, Flight Standards Division
Northwest Mountain Region—Seattle	Chief, Aircraft Certification Division.
	Chief, Flight Standards Division.
	Chf., Los Angeles Area Aircraft Cert. Ofc.
	Chief, Seattle Area Aircraft Cert. Office.
Central Region—Kansas City	Chief, Flight Standards Div.
Rocky Mountain Region—Denver	Chf., Air Traffic Div.
Eastern Region—New York	Chief, Air Traffic Division.
	Chf., Flight Standards Div.
Southern Region—Atlanta	Chief, Flight Standards Div
	Chief, Air Traffic Division
Southwest Region—Fort Worth	Chf., Air Traffic Div.
	Chf., Flight Standards Div.
Western Region—Los Angeles	Chf., Air Craft Engr. Div., Western Region.
	Chf., Flight Standards Div.
	Chf., Air Traffic Div.
Federal Highway Administration	Executive Director.
Assoc. Adm'r. for Safety	Assoc. Adm'r. for Safety
Bu. of Motor Carr Safety	Director.
	Dep. Dir.
Office of Highway Safety	Dir. Ofc. of Highway Safety.
Assoc. Adm'r. for Right-of-Way & Environment	Assoc. Adm'r. for Right-of-Way & Environment.
Off. of Environmental Policy	Dir., Ofc of Environmental Policy
Off of Environmental Policy	Chf Environmental Programs Div.
Off of Right of Way	Director, Office of Right-of-Way.
	Chf Real Property Acquisition Div
	Chf, Relocation Assistance Div.
Nat'l Center for Stastics and Analysis	Chf, Mathematical Analysis Div
	Chf, Accident Investigation Div.
Vehicle Research and Test Ctr	Chf-Engineering Test Facility
	Chf Safety Research Lab.
Ofc of Vehicle Safety Comp	Chief, Validation Division
Ofc of Vehicle Safety Standards	Chf Crash Avoidance Division
	Chf Crashworthiness Division
Ofc of Automotive Fuel Economy Standards	Chf, Light Truck Standards Division
	Chf, Passenger Automobile Standards Branch.
US Coast Guard	Technical Director.
Department of Treasury:	
Office of the Secretary	Senior National Intelligence Advisor.
Ofc of the Inspector General	Deputy Inspector General (Audit).
Ofc of Tax Analysis	Deputy Director (Revenue Estimating).
	Assistant Director (Revenue Forecasting).
Debt Management	Deputy Director, Office of Debt Analysis.
	Dir, Ofc of Government Financing

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Ofc of Asst Secy (Economic Policy)	Asst Dir for Economic Forecasting.
	Dir, Ofc of Pol Research.
	Senior Adv for Bal of Payments Anal & Proj.
	Dir, Energy Leg & Regulatory Anal Staff.
	Sr Economist.
Ofc of Under Sec for Monetary Affs.	Spec Asst to the Under Sec (Monetary Affs).
Ofc of Developing Nations Finance	Dep Dir, Ofc of Dev Nations Finance.
Ofc of Multilateral Development Banks	Alternate Dir, Asian Dev Bank.
	Dep Dir Ofc of Internat'l Development Banks.
Ofc of Foreign Exchange Operations	Dir Ofc of Foreign Exchange Operations.
Ofc of International Monetary Affairs	Dep Dir International-Monetary Affairs.
	Dep Dir, Ofc of International Monetary Affs.
Ofc of the Comptroller of the Currency	Dir for Inspections and Audit.
Ofc of the Chief Counsel	Dir, Enforcement & Compliance.
	Dir Securities Disclosure Div.
	Dir, Litigation Div.
Comptroller of the Currency	Senior Deputy Comptroller for Policy.
Interagency Coordination	Dep Comp for Interagency Coordination.
Customer and Community Programs	Dep Comp Customer and Comm Progs.
	Asst Dep Comptroller for Customer & Comm Prog.
Research and Economic Programs	Dep Compt for Research & Economic Progs.
	Dir Bank Org and Structure.
	Dir, Strategic Analysis Division.
Sr Dep Comptroller for Bank Supervision	Sr Dep Comptroller for Bank Supervision.
Multinational Banking	Dep Comp for Multinational Banking.
	Dep Compt for Specialized Exams
Specialized Examinations	
Special Surveillance	Dep Comptroller for Spec Surveillance.
	Dir for Spec Projects.
Chief National Bank Examiner	Chf National Bank Examiner.
	Asst Chf National Bank Examiner.
	Asst Chf Natl Bank Exam (Multi-dl Banking).
Senior Dep Comptroller for Operations	Senior Dep Comptroller for Operations.
Administration	Dep Comp for Adm.
Regional Offices	Reg'l Adm'r of National Banks (Region 2).
	Reg'l Adm'r of National Banks (Reg 7).
	Reg'l Adm'r of Nat'l Banks (Reg 12).
	Reg'l Adm'r of Nat'l Banks (Reg 5).
	Reg'l Adm'r of Nat'l Banks (Reg 3).
	Regional Administrator of National Banks
	Regl Adm'r of Natl Banks (Reg 10).
	Regl Adm'r of Natl Banks (Reg 11).
	Regl Adm'r of Natl Banks (Reg 9).
	Regl Adm'r of National Banks (Reg 13).
	Regl Adm'r of Natl Banks (Reg 5).
	Regl Adm'r of Natl Banks (Reg 14).
	Regl Adm'r of Natl Banks (Reg 1).
	Regl Adm'r of Natl Banks (Reg 4).
Ofc of the Fiscal Asst Sec'y	Fiscal Assistant Secretary.
	Deputy Fiscal Asst Secy.
	Asst Fiscal Asst Secy (Financing).
	Asst Fiscal Assistant Secretary (Banking).

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Bureau of Government Financial Operations	Comm'r of Government Financial Operations.
	Dep Comm'r Bur of Gov Financial Operations.
	Asst Commissioner, Banking & Cash Management.
	Asst Commissioner, Comptroller.
	Asst Comm'r Govt-Wide Accounting.
	Asst Comm'r Disbursement & Claims.
	Asst Comm'r Adm.
	Dir Div of Check Claims.
	Disbursing Officer.
	Dir Govt Accounting Sys Staff.
	Dir Div of Govt Accounts and Reports.
	Dir Div of Adp
	Assoc Comm'r, Bur of Gov Financial Operations.
Bureau of Public Debt	Commissioner.
	Dep Comm'r of the Public Debt.
	Asst Comm'r (Field).
	Assistant Commissioner (Washington).
	Asst Comm'r (Financing).
Ofc of Personnel	Dep Dir of Personnel.
	Asst Dir (Exec Manpower and Empl).
Ofc of Budget & Prog Ana.	Dep Dir (Prog Analysis) Chf Prog Analysis Div
Organization No Longer in Existence.	Dir of Audit.
Bur of Alcohol, Tobacco, Firearms	Asst Dir (Regulatory Enforcement).
	Asst Dir (Criminal Enforcement).
	Asst Dir (Tech and Scientific Ser).
	Dep Asst Dir (Reg Enforcement).
	Dep Asst Dir (Criminal Enforcement).
	Regional Director for Investigations.
	Regional Director for Investigations.
	Regional Director for Investigations.
	Special Asst to the Dir
	Midwest Regl Counsel.
	Central Regl Counsel.
	Southwest Regl Counsel.
US Customs Service	Assistant Director (Internal Affairs)
	Asst Comm'r (Mgmt Integrity).
	Director Office of Management Inspection.
Ofc of The Chief Counsel	Asst Chief Counsel (Customs Court Litigat).
	Miami Regl Counsel.
	Chicago Regl Counsel.
	New York Regl Counsel.
	San Francisco Regl Counsel.
Office of the Comptroller	Asst Comm'r (Human Res Mgmt and Devl).
	Director, Planning and Budget Division.
	Dir, Ofc of Financial Management & Prog Eval.
Ofc of Asst Comm'r for Border Operations	Director, Ofc of Inspection.
	Dep Asst Comm'r (Border Operations).
	Dir Ofc of Patrol.
	Dir Ofc of Investigation.
Ofc of Asst Comm'r for Commerical Operations	Asst Comm'r, for the Ofc of Regulations & Rul'g.
	Director, Technical Services Div.
	Director, Classification and Value Division.
	Dir Ofc of Regulations and Rulings.
	Director, Entry Procedures & Penalties Div.
	Dir Duty Assessment Div.
	Dir Ofc of Trade Operations.
Regional Offices	Regl Comm'r Reg 2, NY.
	Dir, Ofc of Investigations.
	Reg Comm'r, Reg 1, Boston.
	Regl Comm'r of Customs, Reg 7, Los Angeles.
	Asst Regn Comm'r Operations Reg II New York.
	Dir Inspection and Control Div-Reg II New York.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
	Regl Comm'r Reg 3, Baltimore.
	Regl Comm'r Reg 4, Miami.
	Regl Comm'r of Customs, Reg 8, San Francisco.
	Regl Comm'r, Reg V, New Orleans.
	Reg Comm'r of Customs Reg VI.
	Regional Commissioner of Customs.
	Asst Regional Comm'r (Operations).
	Asst Regl Comm'r (Operations).
	Asst Regl Comm'r (Operations).
	Asst Regl Comm'r.
	Asst Regl Comm'r (Operations).
	Asst Regional Comm'r (Operations).
US Secret Service	Director of the Secret Service.
	Deputy Director U.S. Secret Service.
	Asst to the Dir, Training.
	Asst to the Dir, Pub Affs.
	Spec Asst to Dep Secy/Dir, Border Mgmt Study.
Ofc of Administration	Assistant Director, Administration.
Ofc of Inspection	Assistant Director Inspection.
Ofc of Protective Research	Asst Dir (Protective Research).
	Dep Asst Dir Protective Res.
	Spec Agent in Charge-Tech Sec Div.
	Spec Agent in Charge-Intelligence Div.
Ofc of Protective Operations	Asst Dir (Protective Operations).
	Dep Asst Dir (Protective Operations).
	Spec Agent in Charge-Presidential Protective.
	Dad Protective Opers (Uniformed Div).
	Spec Agent in Charge-VP Protect Div.
Office of Investigations	Asst Director, Investigations.
	Dep Asst Dir Investigations.
	Special Agent in Charge, New York Office.
	Dep Spec Agent in Charge-NY Field Office.
	Special Agent in Charge, Chicago.
	Special Agent in Charge, Los Angeles Office.
	Spec Agent in Charge-Wshington Field Office.
	Spec Agent in Charge-Philadelphia Field Office.
Ofc of the Commissioner	Deputy Commissioner IRS.
	Problem Resolution Officer.
	Asst to the Deputy Commissioner.
	Asst to the Commissioner (Public Affairs).
	Asst to the Commissioner (Equal Opportunity).
	Asst to the Dep Comm'r.
Ofc of Asst Comm'r, Compliance	Assistant Commissioner (Compliance).
	Deputy Assistant Commissioner (Compliance).
	Dir, Examination Div.
	Asst Dir, Examination Div.
	Director, Appeals Division.
	Dir, Criminal Div.
	Director, International Operations.
	Asst Dir, Criminal Investigation Div.
	Asst Dir, Appeals Div.
Asst Comm'r, Planning & Research	Assistant Commissioner (Planning & Research).
	Dir-Legis/Regs Analysis Div.
	Director, Statistics Division.
	Dir Research & Operations Analysis Div.
	Asst Dir Statistics Division.
	Asst Dir, Research Operations Analysis Div.
	Asst Dir, Research.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Asst Comm'r, Technical	Assistant Commissioner.
	Dep Asst Commr (Technical).
	Director Individual Income Tax Div.
	Director, Corporation Tax Div.
	Director, Corporation Tax Division.
	Tech Adv to Dir-Corp Tax Div.
	Chf, Corporation Tax Branch.
	Chf Individual Income Tax Branch
	Chf, Excise Tax Branch.
	Chief, Engineering & Valuation Branch Corp Tax.
	Asst Dir, Individual Tax Division.
	Dir, Tax Forms & Publications Div.
	Asst Dir, Corportation Tax Div.
	Assistant Director Tax Forms & Publications
	Branch Chf, Reorg Br Corp Tax Div.
	Techn Advr to the Asst Commr (Technical).
Asst Comm'r, Tax Payer Serv & Returns Processing	Asst Commissioner (Taxpayer Service & Returns).
	Deputy Asst Commissioner.
	Director, Taxpayer Service Division.
	Dir-Systems Programming Div.
	Director, National Computer Center.
	Dir, IRS Data Center Detroit.
	Dir, Returns Processing and Accounting Div.
	Assistant Dir Taxpayer Service Division.
	Dir, Disclosure Operations Div.
	Director, Tax Administration Adv Serv Div.
	Asst Dir Returns Processing & Accounting Div.
	Asst Dir, Collection Div.
	Director, Collection Division.
Ofc of the Asst Comm'r (Data Services)	Asst Commr (Data Services).
	Deputy Asst Commissioner (Data Services).
	Director Planning and Control Staff.
	Dir, Systems Analysis Div.
	Dir Systems Development Office.
	Asst Dir, Sys Design and Programming Div.
	Dir, Systems Design and Programming Div.
	Dir, Systems Support Div.
	Director, Management Systems Div.
	Asst Dir, Tax Systems Division.
	Director Tax Systems Division.
Ofc of Asst Comm: R, Inspection	Assistant Commissioner (Inspection).
	Dep Asst Commr (Inspection).
	Director, Internal Audit Div.
	Director, Internal Security Division.
	Asst Commr (Inspection).
	Dir-Service and Design Division.
	Asst Dir, Internal Security Division.
	Regional Inspector, Midwest Reg.
	Regional Inspector, North Atlantic.
	Regional Inspector Western Region.
	Regional Inspector, Southwest Reg.
	Regional Inspector, Mid-Atlantic Reg.
	Regional Inspector, Central.
	Regional inspector Southeast.
	Asst Dir Internal Audit Division.
Ofc of Asst Comm'r, Resources Management	Asst Comm: R (Resources Management).
	Dep Asst Comm: R, (Resources Management).
	Fiscal Management Officer.
	Director, Security Standards & Evaluation Div.
	Dir, Training Div.
	Dir, Facilities Mgt Div.
	Director, Personnel Division.
	Asst Dir, Personnel Div.
	Asst Dir, Fiscal Management Div.
	Dir, Resources Management Div.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
	Dir, Program Planning & Review Staff.
	Exec Asst to Ac (Compliance).
Central Region	Regional Commr.
	Arc (Tax Payer Service & Returns Processing).
	Asc (Examination) Central Region.
	Regl Dir of Appeals—Central Region.
	Asst Regional Commissioner (Criminal Invest).
	Asst Reg'l Comm (Resource Management).
	Assistant Regional Commissioner (Collection).
	District Dir (Cleveland).
	District Director Detroit.
	Dir Service Ctr Cincinnati.
	Program Manager District Director Parkersburg
	District Director, Indianapolis.
	District Director, Louisville.
	District Dir. Cincinnati.
Mid-Atlantic Region	Asst District Director, Cleveland.
	Assistant District Director Detroit.
	Reg'l Commissioner.
	Arc (TS/RP) Mid-Atlantic Region.
	Arc (Examination) Mid-Atlantic.
	Reg Dir of Appeals, Mid-Atlantic Region.
	Arc (Criminal Investigation) Mid-Atlantic Reg.
	Arc (Resources Mgmt).
	Asst Reg'l Commr (Collection).
	District Dir, Newark.
	District Dir, Philadelphia.
	Service Center Dir, Philadelphia.
	District Dir, Pittsburgh.
	District Director Richmond District.
	Asst District Dir. Philadelphia.
	Program Manager Asst District Dir Newark Dist.
	Assistant District Director—Baltimore, Md.
	District Director, Wilmington.
	District Dir, Baltimore.
Midwest Region	Regional Commr, Midwest Region.
	Regional Commissioner Midwest Region.
	Arc (Taxpayer Serv & Return Processing).
	Regl Dir of Appeals, Midwest Reg.
	Asst Reg'l Commr (Resources Mgmt).
	Arc (Examination, Midwest Region.
	Arc (Collection) Midwest Region.
	District Dir, Chicago.
	District Director St. Louis.
	Srvc Ctr Dir, Kansas City.
	District Dir, Des Moines.
	District Dir, St. Paul.
	District Dir, Omaha.
	District Dir, Springfield.
	District Dir, Milwaukee.
	Asst District Dir, Chicago.
	Asst District Dir, St. Louis.
	Asst Regional Commr—Comp (Midwest Region).
	District Director, Fargo.
	District Director, Aberdeen.
	Chief, Examination Division Chicago
North Atlantic Region	Reg'l Comm'r.
	Asst Regl Comm (Taxpayer Svc & Returns Proc).
	Asst Reg'l Commr (Exam) North Atlantic Reg.
	Regional Dir of Appeals North Atlantic Region.
	Arc (Criminal Investigation).
	Arc (Resources Mgmt).
	Arc (Collection) North Atlantic Region.
	District Dir, Manhattan
	District Dir, Brooklyn
	District Dir, Boston.
	Service Center Director, Andover, Mass.
	Serv Ctr Dir, Brookhaven.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
	Chief Examination Div Manhattan.
	District Dir, Albany.
	Dist Dir (Hartford).
	District Dir, Buffalo.
	Asst Dist Dir, Brooklyn.
	Assistant District Director, Manhattan.
	Asst District Dir, Boston.
	District Director, Providence.
	Dist Dir, Augusta.
	District Director, Portsmouth.
	District Director, Burlington.
	Chief Appeals Office, New York City.
Southeast Region	Reg'l Comm'r.
	Arc (TS/RP) Southeast Region.
	Arc (Examination) Southeast Region.
	Reg'l Dir of Appeals—Southeast Reg.
	Asst Reg Commissioner—Criminal Investigation.
	Asst Reg'l Commr (Resources Management).
	Asst Reg'l Commr (Collection)—SE Reg Atlanta.
	District Dir, Jacksonville.
	District Dir, Atlanta.
	Service Center Director, Memphis.
	Srvc Ctr Dir, Atlanta.
	District Director, Greensboro.
	District Dir, Nashville.
	District Director, Birmingham.
	District Director, Columbia.
	District Director, Jackson, Miss.
	Asst District Director, Jacksonville.
	Assistant District Director, Atlanta.
Southwest Region	Regional Comm'r.
	Asst Reg Comm'r (Taxpayer Serv & Returns Proc).
	Asst Reg Comm'r, Southwest Region.
	Arc (Criminal Investigation) SW Region.
	Arc (Resources Mgmt).
	Assistant Regional Commissioner (Collection).
	District Dir, Austin.
	District Director, Dallas.
	Service Center Dir, (Austin).
	District Director, Wichita.
	District Director, Oklahoma City.
	District Dir, New Orleans.
	District Director, Little Rock District
	District Dir, Denver.
	Asst Dist Dir, Austin.
	Assistant District Director, Dallas.
	Reg'l Dir of Appeals—Southwest Reg.
	District Director, Albuquerque.
	District Director, Cheyenne.
	Assoc District Director (Wichita).
	Program Manager (District Director).
Western Region	Reg'l Comm'r.
	Arc (Taxpayer Service and Returns Proc) WR.
	Asst Reg'l Comm'r (Examination).
	Reg'l Dir of Appeals.
	Arc (Criminal Investigation).
	Arc (Resources Management).
	Asst Reg'l Commr (Collection)—Western Region.
	District Dir, Los Angeles.
	District Dir, San Francisco.
	Service Center Director, Fresno.
	Service Center Dir, Ogden.
	District Dir, Reno.
	District Director, Portland District.
	District Dir, Seattle.
	District Dir, Phoenix.
	Asst District Dir, Los Angeles.
	Asst Dist Dir, San Francisco.
	District Director, Salt Lake City.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
	District Director, Honolulu.
	District Director, Anchorage.
	District Director, Boise.
	District Director, Helena.
	Chf, Examination Div, Los Angeles.
Employee Plans & Exempt Organizations.	Asst Comm'r (Employee Plans & Exemp & Organiza.
	Deputy Asst Comm'r.
	Director, Exempt Organizations Division.
	Dir, Employee Plans Division.
	Director, Actuarial Division.
	Special Asst for Exempt Organization Matters.
	Asst Dir, Exempt Organizations Div.
	Assistant Director Employee Plans Division.
	Chf, Technical Branch.
	Chf, Operations Branch.
	Chf, Technical Branch.
	Chief, Operations Branch.
	Asst Dir, Otc International Operations.
	Spec Asst for Employee Plans.
	Tech Adv//Asst to Dir Employee Plans Div.
Ofc of Chf Counsel	Dep Chf Counsel (Technical).
	Dep Chief Counsel (Litigation).
	Dep Chf Counsel (General).
	Dir, General Litigation Div.
	Dir, Tax Litigation Div.
	Dir, Interpretive Div.
	Dir, Legislation & Regulations Div.
	Dir, Administrative Services Div.
	Dir, Criminal Tax Div.
	Dir, Gen Legal Services Div.
	Technical Advisor to the Chf Counsel.
	Dir, Disclosure Litigation Division.
	Dir-Employee Plans & Exempt Org Dir.
	Asst Dir, Tax Court Litigation Div.
	Technical Advisor to the Chief Counsel.
	Asst Dir Interpretive Div.
	Asst Dir, Legislation & Regulations Div.
	Techn Asst to the Dep Chf Coun (Gen).
	Assistant Deputy Chief Counsel (Litigation).
	Special Assistant to the Chief Counsel.
Reg'l Counsels	Reg'l Counsel, Central Reg.
	Dep Reg'l Counsel (Criminal Tax).
	Regional Counsel, Mid-Atlantic Region.
	Dep Reg'l Counsel (Criminal Tax).
	Reg'l Counsel Midwest Region.
	Dep Reg'l Counsel (Criminal Tax).
	Dep Reg'l Counsel (General Litigation).
	Dep Reg'l Counsel (Tax Litigation).
	Reg'l Counsel, North Atlantic Region.
	Dep Reg'l Coun (Tax Litigation) Nn-Atlantic Reg.
	Deputy Regional Counsel (General Litigation).
	Regional Counsel Se Region.
	Reg'l Counsel Southwest Region.
	Reg'l Counsel Western Region.
	Dep Reg'l Counsel (Gen Litigation).
	District Counsel—Boston.
	District Counsel—Los Angeles.
	District Counsel—Cincinnati.
	District Counsel—Philadelphia.
	District Counsel—Newark.
	District Counsel—Chicago.
	District Counsel—Manhattan.
	Dep Reg'l Counsel (Tax Litigation).
	District Counsel—Atlanta.
	District Counsel—Dallas.
	District Counsel—San Francisco.
U.S. Arms Control and Disarmament Agency: Office of the Director	Chf Scientist.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Ofc of Administration	Administrative Director.
Office of Operations Analysis.	Chf—Otc of Operations Analysis.
	Dep Chf—Otc of Operations Analysis.
Office of the General Counsel.	Assistant General Counsel.
	Assistant General Counsel.
Office of Congressional and Public Affairs.	Dep Public Affairs Adviser.
Regional Division	Chief, Regional Div
Strategic Affairs Division.	Chf, Strategic Affs Div.
	Chf, Strategic Affs Div.
Nuclear and Weapons Control Bureau.	Chief, Nuclear Energy Division.
	Chief, Nuclear Exports Div.
	Chief, Def Prog & Analysis Div.
	Chief, Technology Transfer Group.
	Chf, Arms Transfer Div.
	Chf, Nuclear Safeguard Division.
	Chf, Nuclear Safeguards & Technology Div.
	Chief, International Nuclear Affairs Division.
U.S. Arms Control and Disarmament Agency: Multilateral Affairs Bureau.	Chief, Advanced Technology Div.
U.S. International Trade Commission: Ofc of Operations	Dep Dir, Otc of Operations.
Office of Industries	Dir, Otc of Industries.
Office of Investigations.	Dir, Otc of Investigations.
Veterans Administration: Inspector General	Dep Inspector General.
	Asst Inspector General for Auditing.
	Asst Inspector General for Investigation.
	Asst Insp Gen for Policy, Plan & Resources.
	Executive Asst to Inspector General.
	Dep Inspector General.
	Dep Inspector General for Mgmt and Operations.
Board of Veterans Appeals.	Chairman.
	Vice Chairman.
Office of Construction	Project Director, Northeastern Region.
	Project Dir, Southern Region.
	Project Director, Central Region.
	Project Director, Western Region.
Veterans Administration: Office of Construction	Dir, Program Control and Analysis.
Office of Procurement and Supply.	Asst Dep Admr for Supply Services.
Office of Reports and Statistics.	Asst Deputy Admin for Reports & Statistics.
Office of Data Management and Telecommunications.	Dir, Benefits Delivery Support Svc.
	Dir, Health Care Delivery Systems Support Svc.
	Dir, Memorial Affairs and Genl Sys Support Svc.
Data Processing Center (DPC) Directors.	Director, DPC Austin.
Office of Administration.	Dir, Reports and Statistics Svc.
Office of Personnel and Labor Relations.	Assoc Asst Admr for Personnel.
	Assoc Assistant Administrator for Personnel.
	Asst for Classification and Compensation.
	Assoc Asst Admr for Personnel.
	Assoc Asst Admin for Personnel Policy.
	Assoc Asst Admin for Personnel Operations.
	Executive Assistant.
Department of Veterans Benefits.	Director, Budget Staff.
	Dep Dir, Compensation & Pension Service.
	Dep Dir, Loan Guaranty Svc.
	Dep Dir, Education and Rehabilitation Svc.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1981—Continued

Agency and organization	Career reserved positions
Department of Medicine & Surgery.	Dep Dir, Resources Mgmt.
	Dep Dir, Adp Sys Management Otc, VA Central Ofc.
	Dir, Facility Eng Plann & Construction Office.
	Director, Health Systems Information Svc.
	Dep Dir, Mental Health & Behavioral Sciences.
	Director, Supply Service.
	Dir, Canteen Service.
	Dep Dir, Facility Eng, Plan & Const Otc.
	Dep to Asst Chf Med Dir for Academic Affairs.
	Dir, Resources Managment Otc.
	Deputy Director, Resource Management Office.
Research Positions	Chf, Calcium Research Lab.
Water Resources Council: Water Resources Council Staff.	Asst Director, Program Coordination & Manage.
	Assistant Director, Policy.
	Dir, Reports Evaluation Division.

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Tuesday
March 2, 1982

Part III

Environmental Protection Agency

Procurement Under Assistance Agreements

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 33

[OA-FRL 1999-4]

Procurement Under Assistance Agreements

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule with request for comments.

SUMMARY: This document proposes changes to the regulations for procurement under all EPA assistance agreements. The proposed regulation replaces regulations now located at 40 CFR 35.936 through 35.939 and 40 CFR Part 33 with a new 40 CFR Part 33 and includes only those procurement requirements which are mandated by statute or Office of Management and Budget Circulars, or which are necessary for economic and effective program management. The changes are designed to clarify and simplify the existing regulations governing procurement under assistance agreements.

DATES: Comments must be received on or before April 1, 1982.

ADDRESSES: Comments should be addressed to: Central Docket Section [A-130], Attention: Docket No. G-81-4, Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

The public may inspect the comments received on the proposed rules at: Central Docket Section, Gallery 1, West Tower, Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460, between 8 a.m. and 4:30 p.m., business days.

FOR FURTHER INFORMATION CONTACT: Richard A. Johnson, Grants Administration Division (PM-216), Environmental Protection Agency, Washington, D.C. 20460, (202) 755-0860.

SUPPLEMENTARY INFORMATION: In keeping with the President's mandate to reduce the burden of government regulation and in order to implement the provisions of Attachments O to OMB Circular A-102 and A-110, EPA has undertaken a comprehensive review of its regulations governing procurement of supplies, services, equipment, and construction under assistance programs. This proposed regulation reflects both EPA's extensive experience with procurement under assistance and EPA's response to comments received over the years from a broad spectrum of public and private sector interests. In addition, EPA received numerous comments on a preliminary draft of this regulation which was circulated in September to a range of interested groups, including many who responded to a notice of availability published in the **Federal Register** on September 16, 1981. This input has been coupled with the Administration's commitment to reducing regulatory burdens while maintaining standards to guard against fraud, waste, and abuse in procurement actions undertaken with EPA assistance.

This regulation includes only items required by statute, those required by OMB Circulars, and certain additional minimum requirements that EPA considers necessary for sound economic and effective program management. Thus, this regulation is free of detailed procedures to be followed in carrying out the procurement process. The proposed regulation combines the procurement under assistance requirements currently contained in 40 CFR 35.936 through 35.939, which cover procurements under the wastewater treatment construction grant program, and 40 CFR Part 33, which covers procurement under all other EPA assistance, into one separate Part.

This regulation covers procurement under all EPA assistance programs including procurement under the Clean Air Act, the Clean Water Act, and the Comprehensive Environmental Response, Compensation and Liability Act, etc. In this regard, assistance means either the award of a grant or a cooperative agreement by EPA to a recipient. It also includes procurements conducted under intergovernmental agreements between State or local recipients and other governmental bodies.

This proposed regulation describes four different methods of procurement which assistance recipients may use depending upon the circumstances: small purchase, formal advertising, competitive negotiation, and noncompetitive negotiation. For all subagreements expected to exceed $10,000, EPA prefers the use of the formal advertising method but recognizes that there are instances, as in the purchase of automatic data processing technology, when a recipient cannot draft an adequate or realistic purchase description or otherwise meet the requisite elements of formal advertisement as set forth in proposed § 33.405. In those circumstances, EPA encourages the use of the competitive negotiation technique. The least favored procurement method is noncompetitive (i.e., sole source) negotiation. For purchases which are not anticipated to exceed $10,000, EPA recommends that recipients follow the small purchase rules set forth in proposed § 33.305.

Description of Major Issues

Guidance

In conjunction with this effort to reduce regulatory requirements, EPA will issue appropriate guidance documents. These guidance documents will be non-regulatory in effect. The guidance materials will contain information which is helpful to assistance recipients in managing and carrying out the procurement function. For example, working in conjunction with the American Bar Association (ABA), EPA has been developing a Model Procurement Ordinance for small communities which is based upon the ABA Model Procurement Code for State and Local Governments. Also, EPA and the ABA are developing a Purchasing Manual to accompany the Model Procurement Ordinance. The Purchasing Manual is designed to assist local officials on all aspects of the procurement process. Use of the information in the guidance documents will be discretionary. Therefore, the recipient may adopt other procurement procedures provided they do not contravene any Federal requirement. By linking these two efforts—reducing mandatory requirements and providing guidance—it is hoped that the greatest possible flexibility is provided to States and local governments to carry out the procurement of goods, construction, and services under all EPA assistance programs.

EPA is committed to issuing additional necessary guidance as soon as possible. Copies of the Model Procurement Ordinance are available from the American Bar Association. Copies of the draft purchasing manual will be available for comment in April 1982. Suggestions are invited on priority areas for which EPA should develop other guidance materials.

Recipient Certification

EPA recognizes that under this proposed regulation much of the responsibility for conducting procurement will be shifted to its assistance recipients. The new procurement regulation places the responsibility to evaluate and certify a recipient's procurement system with the recipient. After the recipient has compared its procurement policies and procedures to the procurement requirements in the revised Part 33, the recipient will complete and sign a procurement system certification form (EPA Form 5700-48). The recipient will submit the completed form with its assistance application package.

If the recipient certifies its procurement system to EPA as meeting the requirements of the proposed regulation, EPA generally will perform a pre-award review of a proposed contract only on an exception basis (see § 33.115). Recipients are cautioned that by certifying their procurement systems they are not released from their continuing obligation to conduct their procurements in accordance with the standards they have certified to meet. Failure to comply with this obligation may be the cause of an audit finding which could result in the disallowance of costs. Also, because the procurement system certification is part of the process of applying for EPA assistance and is, therefore, a pre-award cost, EPA will not pay for the cost to the recipient of evaluating its procurement system.

Because this concept of recipient self-certification is new, EPA invites comments both on the concept of self-certification and on the proposed procurement system certification form which appears immediately following this preamble. In addition, we solicit comments on the length of time and resources required for recipients to complete the certification.

This regulation presents only minimum requirements that assistance recipients must follow in conducting their procurements using EPA assistance. Recipients are, however, expected to satisfy all of their obligations under this regulation. For example, § 33.290 requires recipients to conduct a cost or price analysis. Although EPA will no longer require that recipients use a specific format to obtain cost and price data from their proposers or contractors, it is the recipients' responsibility to determine the reasonableness and necessity of the costs and amounts proposed. To establish the reasonableness and necessity of costs and amounts proposed, recipients should consider prices charged in the surrounding geographical areas for similar work, the complexity of the tasks involved, and the risk borne by the proposer or contractor.

With respect to profit, for each subagreement or change order for which there is no price competition and where price is based on cost analysis, any profit shall be negotiated as a separate element of price.

Protests

With respect to protests, § 33.1030 does not require a recipient to defer procurement actions at the time a protest is filed. Recipients are cautioned that if they do not defer the protested procurement action at the time of initial protest, they bear the risk that the award official will disallow the cost of procurement action if the appeal is upheld.

Specifications

EPA will not condone the use of procurement practices that unduly restrict or eliminate competition. Examples of such practices include unreasonable prequalification requirements imposed upon a prospective contractor or its products and services, noncompetitive or collusive practices among firms, organizational conflicts of interest, and unnecessary experience and bonding requirements.

The proposed regulations reflect the basic principles of Federal procurement as articulated by the Federal Courts and the General Accounting Office and in EPA Regional Administrator bid protest determinations. The proposed regulation does not include a separate exception for treatment of so-called "single material" specifications. This is not to say, however, that an assistance recipient cannot use a specification that calls for the use of only one type of material. As in the case of any specification which has the effect of limiting competition, the procuring official may use a restrictive specification if it reflects the minimum, essential performance needs of the recipient and if the procuring official adequately justifies its use in writing prior to issuance of the specification. If the procurement becomes the subject of a bid protest, the recipient will have the burden of justifying that use of this restrictive specification is not unreasonable.

The regulations expressly authorize the use of a brand name or equal specification only when it is impractical or uneconomical to state the purchase description clearly and accurately. The specific features (salient characteristics) of the named brand item(s) by which the recipient gauges an item's equivalency must be clearly stated in the specification. The December 29, 1981, changes to the Clean Water Act (Pub. L. 97-117), eliminate the "two brand name or equal" provision and makes procurement on a "brand name or equal" basis under the Clean Water Act the same as the "brand name or equal" provisions of OMB Circular A-102 Attachment O. In addition to these requirements, a recipient of wastewater treatment construction grant funding under Title II of the Clean Water Act, 33 U.S.C. 1281 *et seq.*, must comply with the Buy America provision in section 33.710.

Minority and Women's Business Enterprises

With respect to minority and women's business enterprises, the proposed regulation continues the requirement that the recipient take affirmative steps to contract with small, minority-owned, and women-owned businesses. This requirement is consistent with Office of Management and Budget Circular A-102, Attachment O, Section 9, which requires that such businesses be used whenever possible, and includes the six affirmative steps set forth in Attachment O.

EPA is currently developing a minority and women's business enterprise policy. Accordingly, we are reserving § 33.240(b) for any additional requirements that the Agency may adopt. EPA will be defining the terms Minority Business Enterprise and Women's Business Enterprise in the new policy. These terms will then be inserted in § 33.005, "Definitions."

Until this Part becomes effective, the Agency's existing policies, the Policy for Increased Use of Minority Consultants and Construction Contractors, 43 FR 60220 (December 26, 1978) and the Women's Business Enterprise Policy for the Construction Grants Program, 45 FR 51490 (August 1, 1980), will continue to apply. When this Part becomes effective, these policies will become nonmandatory guidance. Recipients will, therefore, not be required to include the requirements of these policies in their specifications. However, any requirements which a recipient chooses

to include in the contract specifications with regard to MBE/WBE requirements will be mandatory for bidders and offerors.

Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund)

EPA has included a requirement in § 33.910 that recipients of Superfund remedial action cooperative agreements:

1. Prepare a written justification if they do not intend to use the formal advertising method of procurement, and

2. Obtain the EPA award official's concurrence with the procurement method the recipient intends to use. The requirement to obtain the award official's concurrence does not apply to studies, investigations, or engineering activities preceding the remedial action.

EPA believes that formal advertising will provide the most cost-effective use of Superfund monies to implement cleanup activities (remedial actions) at these sites. However, a recipient may use another method of procurement if it makes all reasonable efforts to determine that formal advertisement is not feasible and receives EPA concurrence with the alternative method of procurement selected

Payments

The proposed regulation does not establish standards governing the payment schedule between a recipient and its contractor. Issues concerning retainage and progress payments, therefore, are governed by appropriate State and local law. However, to the extent that a recipient's payment policies directly contribute to increased costs which the recipient ultimately seeks to pass on to EPA, EPA will not participate in such funding.

Subagreement Clauses

The proposed regulation contains a set of fourteen subagreement clauses in § 33.930. Recipients must include these clauses or their equivalent in each subagreement. Most of these clauses are taken from the existing Appendix A to 40 CFR Part 33, Appendices C–1 and C–2 of 40 CFR Part 35, and Attachment O to OMB Circular A–102. The clauses, taken together, are intended only to provide a minimum level of protection to safeguard EPA's financial interests and, therefore, do not constitute a complete contract document. Many of the clauses which appear in the existing regulations have not been included in the proposed regulation's required clauses. This is because neither OMB Circular A–102, Attachment O, nor OMB Circular A–110, Attachment O, provides or authorizes their use. However, other clauses, such as the "Gratuities" and "Responsibility of the Contractor" clauses are included in the proposed regulation because EPA considers their inclusion in its recipients' subagreements to be essential for the protection of the Government's financial interests. EPA invites the public to comment on the agency's selection of the clauses in the proposed regulation and their wording.

Effective Dates

EPA plans to make this Part effective for grants for the construction of treatment works under section 201 of the Clean Water Act when the regulation for that program (40 CFR Part 35, Subpart I) becomes effective, on or about April 9, 1982. For all other assistance programs, this Part will become effective October 1, 1982. EPA anticipates publishing the final rule in June, 1982.

For Superfund awards, after publication of this proposed rule, the EPA award official shall incorporate this Part as a special condition in each cooperative agreement. This will provide necessary procurement procedures for Superfund awards at the earliest possible date.

We are accelerating the effective date of this Part for construction grants to coincide with the publication of revisions to the regulations affecting new construction grant awards and with the expected receipt of the supplemental appropriation for the construction grants program in April, 1982.

Comments

EPA received a substantial number of comments from the public in response to the September 16, 1981 draft of this Part (see 46 FR 45963). We have reviewed all comments received, and this Part reflects changes based on the comments to the earlier draft. Therefore, EPA will only consider comments submitted in response to this proposed rule.

Because EPA anticipates that the effective date of this Part for the construction grants program will be on or about April 9, 1982, EPA encourages the public to provide us comments as early as possible so that they can be given careful and thorough review.

Regulation Development Process

Under Executive Order 12291, EPA is required to judge whether a regulation is "major" and, therefore, subject to the regulatory impact analysis requirements of the Order or whether it may follow other development procedures. We have determined that this regulation is not "major" as it will not have a substantial impact on the economy. Consequently, the regulation is not subject to the impact analysis requirements of Executive Order 12291.

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq* (the Act), the reporting or recordkeeping provisions that are included in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB) under section 3504(h) of the Act. Any final rule will include an explanation of how the reporting or recordkeeping provisions contained therein respond to any comments by OMB and the public.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Dated: February 24, 1982.

Anne M. Gorsuch,

Administrator.

BILLING CODE 6560-38-M

PROCUREMENT SYSTEM CERTIFICATION FORM
FOR APPLICANTS FOR EPA ASSISTANCE

Form approved
OMB No.

SECTION I - INSTRUCTIONS

This form must accompany each application for EPA assistance. If the applicant has certified its procurement system to EPA within the past two years and the system has not been substantially revised, check block a in Section II, then sign and date the form. If the system has not been certified within the past two years, part b of Section II must be completed.

SECTION II - CERTIFICATION

☐ a. I affirm that the applicant has within the past two years certified its procurement system to EPA as complying with 40 CFR Part 33 and that the system has not been substantially revised. The date of the applicant's latest certification is _____.
month,year

b. Based upon my evaluation of the applicant's procurement system, I, as authorized representative of the applicant: (Check one of the following)

☐ 1. certify that the applicant's procurement system will meet all of the requirements of 40 CFR Part 33 including the attached subparts before undertaking any procurement action with EPA assistance/funds.

Please furnish citations to applicable state or local ordinances and regulations. Citations _____
_____.

☐ 2. do not certify. The applicant will follow the requirements of 40 CFR Part 33 with EPA review and pre-award approval of proposed procurement actions that will use EPA assistance/funds.

Typed name and title of Chief Executive Officer	Signature	Date

EPA form 5700-48

BILLING CODE 6560-38-C

Below is a list of subparts and sections of 40 CFR Part 33 which contain some but not all of the requirements for procurements under EPA assistance. The purpose of this list is to assist in the evaluation of the applicant's procurement system to determine if it is certifiable as meeting the basic Federal procurement principles as articulated in Part 33. As such, this section highlights certain aspects of the regulations which the recipient shall use in its evaluation process and is not intended to replace a detailed reading of the Part 33 requirements themselves.

Part 33 reference and Section title—Summary of requirements

33.202 *Contract Administration*—system must ensure that contractors perform in accordance with all applicable contract requirements.

33.210 *Limitation on recipient award*—system must consider listed factors in determining contractor responsibility.

33.230 *Competition*—system must have procurement transaction procedures that provide maximum open and free competition.

33.235 *profits*—system procedures must allow only fair and reasonable profits to contractors.

33.240 *Small, minority, women's, and labor surplus area business*—system must provide for use of these businesses as specified in this section.

33.250 *Documentation*—system must require that procurement records and files for purchases over $10,000 include items specified in this section.

33.255 *Specifications*—system procedures for establishing specifications for products or services to be procured must meet requirements of this section.

33.265 *Bonding and insurance*—system procedures and requirements related to bonding and insurance must meet requirements of this section.

33.270 *Code of conduct*—system must have a written code or standards of conduct meeting the requirements of this section.

33.275 *Federal cost principles*—system procedures for determining allowable costs must comply with the cost principles specified in this section.

33.285 *Prohibited types of contracts*—system may not allow use of cost-plus-percentage-of-cost (multiplier) or percentage-of-construction-cost types of contracts.

33.290 *Cost and price considerations*—system procedures must allow for consideration of cost and price as required in this section.

33.295 *Lower tier subagreements*—system must provide that subagreements below the first tier comply with all provisions of 40 CFR specified in this section.

33.305–310 *Small purchase*—system small purchase procedure must meet requirements of these sections.

33.405–435 *Formal advertising*—system procedures related to formal advertising, including those for bidding documents and contract awards, must meet the requirements of these sections.

33.505–535 *Competitive negotiation*—system procedures for competitive negotiation must meet the requirements of these sections.

33.605 *Noncompetitive negotiation*—systems procedures for noncompetitive negotiation must meet the requirements of this section.

System must comply with requirements in these subparts:

Subparts C–G

C *Clean Water Act Requirements*—subpart applies to procurement under assistance agreements for construction of treatment works under the Clean Water Act.

D *Requirements for Institutions of Higher Education and Other Nonprofit organizations*—subpart describes the procurement requirement for nonprofit organizations.

E *Requirements for Recipients of Remedial Action Cooperative Agreements Under the Comprehensive Environmental Response, Compensation and Liability Act of 1980*—subpart describes the procurement method requirements for recipients of these cooperative agreements.

F *Subagreement Provisions*—subagreements for procurement under EPA assistance must contain the appropriate clauses, or their equivalent, specified in this subpart.

G *Protests*—subpart applies to all applicants for EPA assistance except for non profit organizations.

For the reasons set forth in the preamble, we are proposing that 40 CFR Part 33 be revised as follows:

PART 33—PROCUREMENT UNDER ASSISTANCE AGREEMENTS

Sec.

33.001 Applicability and scope of this Part.
33.005 Definitions.

Subpart A—Procurement System Evaluation

33.105 Applicability and scope of this subpart.
33.110 Applicant and recipient certification.
33.115 Procurement system review.

Subpart B—Procurement Requirements

33.205 Applicability and scope of this subpart.
33.210 Recipient responsibility.
33.215 EPA responsibility.
33.220 Limitation on subagreement award.
33.225 Violations.
33.230 Competition.
33.235 Profits.
33.240 Small, minority, women's, and labor surplus area businesses.
33.245 Privity of contract.
33.250 Documentation.
33.255 Specifications.
33.260 Intergovernmental agreements.
33.265 Bonding and insurance.
33.270 Code of Conduct.
33.275 Federal cost principles.
33.280 Payment to consultants.
33.285 Prohibited types of subagreements.
33.290 Cost and price considerations.
33.295 Lower tier subagreements.

Small Purchase

33.305 Small purchase procurement method.
33.310 Small purchase procedures.
33.315 Requirements for competition.

Formal Advertising

33.405 Formal advertising procurement method.
33.410 Public notice and solicitation of bids.
33.415 Time for preparing bids.
33.420 Adequate bidding documents.
33.425 Public opening of bids.
33.430 Award to lowest, responsive, responsible bidder.

Competitive Negotiation

33.505 Competitive negotiation procurement method.
33.510 Public notice.
33.515 Evaluation of proposals.
33.520 Negotiation and award of subagreement.
33.525 Optional procedure for negotiation and award of subagreement for architectural and engineering services.

Noncompetitive Negotiation

33.605 Noncompetitive negotiation procurement method.

Subpart C—Clean Water Act Requirement

33.705 Applicability and scope of this subpart.
33.710 Buy American.

Subpart D—Requirements for Institutions of Higher Education and Other Nonprofit Organizations

33.805 Applicability and scope of this subpart.
33.810 Nonapplicable subagreement clauses.
33.815 Nonapplicable procurement provisions.
33.820 Additional procurement requirements.

Subpart E—Requirements for Recipients of Remedial Action Cooperative Agreements Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

33.905 Applicability and scope of this subpart.
33.910 Preference for formal advertising.
33.915 Award official approval.

Subpart F—Subagreement Provisions

33.1005 Applicability and scope of this subpart.
33.1010 Requirements for subagreement clauses.
33.1015 Subagreement provisions clause.
33.1016 Equal employment opportunity clauses.
33.1019 Anti-kickback clause.
33.1020 Minimum wage clause.
33.1021 Work hours and safety standards clause.
33.1022 Patents, data and copyrights clause.
33.1023 Violating facilities clause.
33.1024 Energy efficiency clause.
33.1030 Model subagreement clauses.

Subpart G—Protests

33.1105 Applicability and scope of this subpart.
33.1110 Limitations on protest appeals.
33.1115 General requirements.
33.1120 Filing requirements for protest appeals.
33.1125 Protest appeal documents.
33.1130 Deferral of procurement action.
33.1135 Award official's review.

Authority: 7 U.S.C 135 et seq.; 15 U.S.C. 2601 et seq.; 33 U.S.C. 1251 et seq.; 42 U.S.C. 241, 242b, 243, 246, 300j–1, 300j–2, 300j–3; 1857 et seq., 1891 et seq., and 6901 et seq.

§ 33.001 Applicability and scope of this part.

(a) This Part:

(1) Describes EPA's procurement system evaluation process.

(2) Identifies the minimum procurement requirements that recipients of EPA assistance agreements must meet.

(3) Identifies an additional specification requirement for procurement under assistance agreements for the construction of treatment works awarded under 40 CFR Part 35, Subpart I.

(4) Identifies the procurement standards that institutions of higher education and other nonprofit organizations must follow.

(5) Identifies the provisions that recipients of EPA assistance agreements must include in their subcontracts.

(6) Describes the procedures that EPA will use to handle appeals concerning the award of a subagreement by the recipient of an EPA assistance agreement.

(b) This Part does not apply to work beyond the scope of the project for which an assistance agreement is awarded (i.e., ineligible work).

(c) This part does not apply to expenses for services for which the recipient will receive an allowance or a potential recipient will receive an advance of an allowance under 40 CFR Part 35, Subpart I.

(d) This Part supplements the requirements in

(1) 40 CFR Part 30 "General Assistance Regulations," and

(2) 40 CFR part 32, "Debarments and Suspensions under EPA Assistance Programs".

(e) If the award official determines that the recipient failed to comply with any provision of this Part, the sanctions of 40 CFR Part 30 shall apply.

(f) The following types of recipients must comply with the specified subparts in this Part.

(1) Recipients of assistance agreements for the construction of treatment works awarded under 40 CFR Part 35, Subpart I must follow the requirements in all of the subparts except Subpart D.

(2) All other State and local government recipients must follow the requirements in all subparts in this Part except Subparts C and D.

(3) Institutions of higher education, hospitals and other nonprofit organizations must follow the requirements in all Subparts of this Part except those stated in Subpart D.

(4) Recipients of cooperative agreements under the Comprehensive Response, Compensation, and Liability Act of 1980, must follow the requirements in all subparts except Subparts C and D.

(g) In the construction of treatment works program under the Clean Water Act (33 U.S.C. 1251 et. seq., as amended), it is EPA's policy to delegate determinations on individual projects to State agencies to the maximum extent possible (see 40 CFR Part 35, Subpart F). This Part uses the term award official. To the extent that the award official for a treatment works assistance agreement delegates responsibility for determining compliance with the requirements of this Part (except for Subpart G "Protest") to a State agency under a delegation agreement (40 CFR 35.1130), the term award official may be read State agency.

§ 33.005 Definitions.

(a) Words and terms not defined below shall have the meaning given to them in 40 CFR Part 30 and 40 CFR Part 35.

(b) As used in this Part, the following words and terms mean:

Architectural or engineering (A/E) services. Consultation, investigation, reporting, and design services within the scope of the practice of architecture or professional engineering as defined by the laws of the State or territory in which the recipient is located.

Construction. Erection, building, acquisition, alteration, remodeling, improvement, extension, modification, replacement, or correction of buildings, structures or other property. Construction also includes remedial actions in response to a release or a threat of a release at an uncontrolled hazardous waste facility as determined by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

Contractor. Any party to whom a recipient awards a subagreement.

Cost analysis. The review and evaluation of each element of subagreement cost to determine reasonableness, allocability, and allowability.

Minority Business. [Reserved]

Price Analysis. The process of evaluating a prospective price without regard to the contractor's separate cost elements and proposed profit. Price analysis determines the reasonableness of the proposed subagreement price based on adequate price competition, previous experience with similar work, established catalog or market price, law, or regulation.

Profit. The net proceeds obtained by deducting all allowable costs (direct and indirect) from the price. (Because this definition of profit is based on Federal procurement principles, it may vary from many firm's definition of profit, and may correspond to those firm's definition of "fee.")

Services. A contractor's labor, time, or efforts which do not involve the delivery of a specific end item, other than documents which may result from the contractor's labor, time, or efforts. This term does not include employment agreements or collective bargaining agreements.

Small business. A business as defined in Section 3 of the Small Business Act, as amended (15 USC 632).

Subagreement. A written agreement between an EPA recipient and another party (other than another public agency) and any lower tier agreement for services, supplies, equipment, or construction necessary to complete the project. Subagreements include contract and subcontracts for personal and professional services, agreements with consultants, and purchase orders.

Women's Business. [Reserved]

Subpart A—Procurement System Evaluation

§ 33.105 Applicability and scope of this subpart.

(a) This subpart applies to all recipients of EPA assistance agreements.

(b) For procurements involving EPA funds, recipients shall use their own procurement policies and procedures if those policies and procedures reflect applicable Federal, State, and local laws and regulations, and at least meet the standards set forth in this Part.

(c) This Subpart describes when EPA will review the recipient's procurement practices.

§ 33.110 Applicant and recipient certification.

(a) It is the applicant's and recipient's responsibility to evaluate its own procurement system and to determine whether its system meets the requirements in this Part.

(b) After evaluating its procurement system, the applicant or recipient will

complete the Procurement System Certification Form For Applicants For EPA Assistance (EPA Form 5700-48). The applicant or recipient will certify that:

(1) Its system will meet the intent of all the requirements in this Part before any procurement action with EPA assistance is undertaken.

(2) Its current system does not meet the intent of the requirements of this Part, and instead, the applicant will follow the requirements of 40 CFR Part 33 and will allow EPA review and approval of proposed procurement actions that will use EPA funds.

(c) The applicant must submit the signed certification form to the award official with the assistance application.

(d) The certification will be valid for two years or the project period specified in the assistance agreement, whichever is greater, unless the recipient substantially revises its procurement system, or the award official determines that the recipient is not following the requirements in this Part. If the recipient substantially revises its procurement system, the recipient must revise its certification.

§ 33.115 Procurement review.

EPA reserves the right to review a recipient's procurement system or procurement action:

(a) To determine if the recipient is following the procurement requirements in this Part; or

(b) When there is sufficient reason to do so based on the following sources of information:

(1) Information concerning the review or certification of the recipient's procurement system or actions by other Federal agencies or Congress;

(2) Information from the recipient's cognizant audit agency;

(3) Information from State agencies and organizations independent of the recipient's procurement activity;

(4) Recipient responses to the procurement system certification form;

(5) Previous EPA experience with the recipient; and

(6) Information from contractors or prospective contractors.

Subpart B—Procurement Requirements

§ 33.205 Applicability and scope of this subpart.

This subpart contains:

(a) The recipient's and EPA's responsibilities; and

(b) The minimum procurement standards for each recipient's procurement system.

§ 33.210 Recipient's procurement responsibilities.

(a) The recipient is responsible for the settlement and satisfactory completion in accordance with sound business judgment and good administrative practice of all contractual and administrative issues arising out of subagreements entered into under the assistance agreements. This includes issuance of invitations for bids or requests for proposals, selection of contractors, award of subagreements, settlement of protests, claims, disputes, and other related procurement matters.

(b) A recipient may request technical and legal assistance from the award official for the administration and enforcement of any subagreement awarded under this Part. The award official's assistance does not relieve the recipient from its responsibilities identified in this Part.

(c) The recipient shall maintain a subagreement administration system ensuring that contractors perform in accordance with the terms, conditions, and specifications of their subagreements.

(d) The recipient shall review its proposed procurement actions to avoid purchasing unnecessary or duplicative items.

(e) The recipient shall consider consolidating its procurement or dividing it into parts to obtain a more economical purchase.

(f) Where appropriate, the recipient shall make an analysis of lease versus purchase alternatives in its procurements actions.

(g) A recipent of a remedial action cooperative agreement awarded under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, must obtain the EPA award official's approval to use a procurement method other than the formal advertising method (see subpart E).

(h) Innovative procurement methods or procedures may be used by recipients with the prior written approval of the award official.

§ 33.215 EPA responsibility.

(a) EPA will not substitute its judgement for that of the recipient unless the matter is primarily a Federal concern.

(b) If the recipient has not certified its procurement system under § 33.110 and if the procurement action is expected to exceed $100,000, EPA may review the recipient's proposed subagreements and related procurement documents, and approve the recipient compliance with the requirements of this Part.

§ 33.220 Limitation on subagreement award.

(a) The recipient shall award subagreements only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of a proposed procurement.

(b) Contractors shall meet the requirements of § 30.340-2(a) through (d) and (g) of this subchapter.

(c) The recipient shall not make awards to contractors who have been suspended or debarred under 40 CFR Part 32 or to contractors on the EPA List of Violating Facilities (see 40 CFR Part 15).

§ 33.225 Violations.

Violations of law are to be referred to the local, State, or Federal authority having the proper jurisdiction.

§ 33.230 Competition.

(a) All procurement transactions without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition.

(b) Procurement practices shall not unduly restrict or eliminate competition. Examples of practices considered to be unduly restrictive include:

(1) Placing unreasonable requirements on firms in order for them to qualify to do business;

(2) Noncompetitive practices between firms;

(3) Organizational conflicts of interest; and

(4) Unnecessary experience and bonding requirements.

(5) State or local laws, ordinances, regulations or procedures which give local or in-State bidders or proposers preference over other bidders or proposes in evaluating bids or proposals.

§ 33.235 Profit.

(a) Recipients must assure that only fair and reasonable profits are to be paid to contractors awarded subagreements under EPA assistance agreements.

(b) For each subagreement in which there is no price competition and where price is based on cost analysis, any profit shall be negotiated as a separate element of price.

(c) Profit included in a formally advertised, competitively bid, fixed price subagreement shall be considered reasonable.

(d) Commercially available products sold to the general public shall not be covered by this section.

§ 33.240 Small, minority, women's, and labor surplus area businesses.

(a) It is EPA policy to award a fair share of subagreements to small, minority, and women's businesses. The recipient must take affirmative steps to assure that small, minority and women's businesses are used when possible as sources of supplies, equipment, construction, and services. Affirmative steps shall include the following:

(1) Including qualified small, minority, and women's businesses on solicitation lists.

(2) Assuring that small, minority and women's businesses are solicited whenever they are potential sources.

(3) Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation of small, minority, and women's businesses.

(4) Establishing delivery schedules, where the requirements of the work permit, which will encourage participation by small, minority and women's businesses.

(5) Using the services and assistance of the Small Business Administration, and the Office of Minority Business Enterprise of the U.S. Department of Commerce.

(6) Requiring each party to a subagreement to take the affirmative steps in paragraphs (a)(1) through (a)(5) of this section.

(b) [Reserved]

(c) Recipients are encouraged to procure goods and services from labor surplus area firms.

§ 33.245 Privity of contract.

Neither EPA nor the United States shall be a party to any subagreement nor to any solicitation or request for proposals.

§ 33.250 Documentation.

(a) Procurement records and files for procurements in excess of $10,000 shall include the following:

(1) Basis for contractor selection.

(2) Written justification for selection of the procurement method;

(3) Selection of type of subagreement; and

(4) Basis for award cost or price, including a copy of the cost or price analysis made under § 33.290 and documentation of negotiations.

(b) The reasons for rejecting any or all bids and the justification for procurements on noncompetitively negotiated basis shall be available for public inspection.

§ 33.255 Specifications.

Recipients must incorporate in their specifications a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description shall include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications shall be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated. (An additional specification requirement for the construction of treatment works under 40 CFR Part 35, Subpart I is contained in Subpart C of this Part.)

§ 33.260 Intergovernmental agreements.

(a) To foster greater economy and efficiency, recipients are encouraged to enter into State and local intergovernmental agreements for common procurement or use of goods and services.

(b) All procurements under an intergovernmental agreement must follow the procurements in this Part except for procurements that are:

(1) Incidental to the purpose of the assistance agreement, and

(2) Made through a central public procurement unit.

§ 33.265 Bonding and insurance.

(a) These requirements apply to subagreements for construction only.

(b) The recipient shall follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction subagreement exceeds $100,000.

(c) For those subagreements exceeding $100,000, the award official may accept the recipient's bonding policy and requirements provided that the Government's interest is adequately protected. Otherwise the minimum bonding requirements are:

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the subagreement price. A "performance bond" is one executed in connection with a subagreement to secure fulfillment of all the contractor's obligations under such subagreement.

(3) A payment bond on the part of the contractor for 100 percent of the subagreement price. A "payment bond" is one executed in connection with a subagreement to assure payment as required by law to all persons supplying labor and material in the execution of the work provided for in the subagreement.

(d) Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties (31 CFR Part 223).

(e) The flood hazard area requirements of the Flood Disaster Protection Act of 1973 contained in Part 30 apply.

§ 33.270 Code of conduct.

(a) Recipients shall maintain a written code or standards of conduct which shall govern the performance of its officers, employees, or agents engaged in the award and administration of subagreements supported by EPA funds. No employee, officer, or agent of the recipient shall participate in selection, or in the award or administration of a subagreement supported by EPA funds if a conflict of interest, real or apparent, would be involved.

(b) Such a conflict would arise when:

(1) Any employee, officer, or agent of the recipient, any member of their immediate families, or their partners, have a financial or other interest in the firm selected for award; or when

(2) An organization which may receive or has been awarded a subagreement employs, or is about to employ any person under paragraph (b)(1) of this section.

(c) The recipient's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or other parties to subagreements.

(d) Recipients may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.

(e) To the extent permitted by State or local law or regulations, the code of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of the code by the

recipient's officers, employees, or agents, or by contractors or their agents.

§ 33.275 Federal cost principles.

The following are the cost principles applicable to assistance agreements and subagreements:

(a) State and local governments must comply with OMB Circular A-87 to determine allowable costs.

(b) Educational institutions must comply with OMB Circular A-21 to determine allowable costs and with OMB Circular A-88 for indirect cost rates.

(c) Nonprofit institutions must comply with OMB Circular A-122 to determine allowable costs.

(d) All other recipients, contractors and subcontractors must comply with the cost principles contained in the Federal Procurement Regulations (41 CFR 1-15.2 and, if appropriate, 1-15.4) to determine allowable costs.

§ 33.280 Payment to consultants.

(a) For all EPA assistance agreements, the maximum daily rate paid to individual consultants retained by recipients, or a recipient's contractors or subcontractors will not exceed the maximum daily rate for GS-18. This limitation applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed, which will be paid in accordance with the normal travel reimbursement practices.

(b) Subagreements for services which are awarded using the procurement requirements in this Part are not affected by this limitation.

§ 33.285 Prohibited types of subagreements.

The cost-plus-percentage-of-cost (e.g., a multiplier which includes profit) and the percentage-of-construction-cost types of subagreements shall not be used.

§ 33.290 Cost and price considerations.

(a) The recipient shall conduct a cost analysis of all negotiated change orders and all negotiated subagreements estimated to exceed $10,000.

(b) The recipient shall conduct a price analysis of all formally advertised procurements estimated to exceed $10,000 if there are fewer than three bidders.

(c) For negotiated procurement, contractors and subcontractors shall submit to the recipient cost or pricing data in support of their proposals.

§ 33.295 Lower tier subagreements.

All subagreements below the first tier must comply with the following provisions:

(a) Section 33.285 (Prohibited types of subagreements);

(b) Section 33.240 (Small, minority, women's and labor surplus area businesses);

(c) Section 33.290 (Cost and price considerations);

(d) Applicable subagreement clauses contained in Subpart F;

(e) Section 33.275 (Federal cost principles);

(f) 40 CFR Part 32 (Debarment and Suspension) and the prohibition in Part 30 against fraud and other unlawful or corrupt practices; and

(g) Subpart C (Clean Water Act Requirement).

Small Purchases

§ 33.305 Small purchase procurement method.

If the aggregate amount involved in any one procurement transaction does not exceed $10,000, including all estimated handling and freight charges, overhead, and profit, the recipient may use small purchase procedures.

§ 33.310 Small purchase procedures.

Small purchase procedures are relatively simple procurement methods that are sound and appropriate for a procurement of services, supplies, or other property costing in the aggregate not more than $10,000.

§ 33.315 Requirements for competition.

(a) Recipients shall not divide a procurement into smaller parts to avoid the dollar limitation for competitive procurement.

(b) Recipients shall obtain price or rate quotations from an adequate number of qualified sources.

Formal Advertising

§ 33.405 Formal advertising procurement method.

(a) The requirements in §§ 33.405 through 33.435 apply to all formally advertised subagreements in excess of $10,000. Formal advertising means the public solicitation of sealed bids and subagreement award based on a fixed price (lump sum, unit price, or a combination of the two) to the lowest, responsive, responsible bidder.

(b) Formal advertising requires at a minimum:

(1) A complete, adequate, and realistic specification or purchase description of what is required.

(2) Two or more responsible bidders are willing and able to compete effectively for the recipient's business.

(3) A procurement that lends itself to the award of a fixed-price subagreement, and

(4) That the selection of the successful bidder can be made principally on the basis of price.

§ 33.415 Public notice and solicitation of bids.

The recipient shall give adequate public notice of the solicitation, inviting bids and stating when and how the bidding documents may be obtained and examined.

§ 33.420 Time for preparing bids.

The recipient must allow adequate time between the date the public notice is first published and the date by which bids must be submitted.

§ 33.425 Bidding documents.

(a) Bidding documents shall include:

(1) A complete statement of work to be performed, including, where appropriate, design drawings and specifications and the required performance schedule;

(2) The terms and conditions of the subagreement to be awarded, including, where appropriate, payment, delivery schedules, point of delivery, and acceptance criteria;

(3) A clear explanation of the method of bidding and the method of evaluating bid prices, and the basis and method for awarding the subagreement;

(4) The responsibility requirements or criteria which will be employed in evaluating bidders;

(5) The prevailing wage determination, made under the Davis-Bacon Act, if applicable, and

(6) The deadline and place to submit bids and a copy of § 33.295, Subpart F and Subpart G.

§ 33.430 Public opening of bids.

The recipient shall publicly open bids at the place, date, and time announced in the bidding documents.

§ 33.435 Award to the lowest, responsive, responsible bidder.

(a) The recipient shall evaluate all bids in accordance with the methods and criteria in the bidding documents.

(b) The recipient shall award a fixed-price subagreement to the lowest, responsive, responsible bidder. Where specified in the bidding documents, factors such as discounts, transportation costs and life cycle costs shall be considered in determining the low bid. Payment discounts may be used to determine low bid only when prior experience of the recipient indicates that such discounts are generally taken.

(c) The recipient may reject all bids only when it has sound, documented business reasons which are in the best interest of the program for which EPA assistance is awarded (see § 33.250 "*Documentation*").

Competitive Negotiation

§ 33.505 Competitive negotiation procurement method.

(a) The requirements in §§ 33.505 through 33.540 apply to all competitively negotiated subagreements in excess of $10,000.

(b) Competitive negotiation may be used only if conditions are not appropriate for the use of the formal advertising method of procurement.

§ 33.510 Public notice.

(a) The recipient must give adequate public notice for competitively negotiated procurements.

(b) The notice of a request for proposals shall invite proposals and state the method by which associated documents may be obtained and examined and the basis upon which the award will be made.

(c) Requests for proposals must be in writing and must contain the information necessary to enable a prospective offeror to prepare a proposal.

(d) Offerors must be informed of all evaluation criteria, and of the relative importance attached to each criterion.

(e) Requests for proposals must clearly state the deadline and place to submit proposals.

§ 33.515 Evaluation of proposals.

(a) Recipients must uniformly and objectively evaluate all proposals submitted in response to the request for proposals.

(b) Recipients must base their determination of best qualified and qualified offerors solely on the evaluation criteria stated in the request for proposals.

§ 33.520 Negotiation and award of subagreement.

(a) If the recipient does not base its award of the subagreement on initial proposals, the recipient may conduct negotiations with all of the best qualified offerors. All of the best qualified offerors shall be given the same opportunities to negotiate or revise their proposals as to price and other evaluation factors. Before the recipient makes the award, the recipient may permit revisions for the purpose of obtaining best and final offers.

(b) The recipient shall award the subagreement to the responsible offeror whose proposal is determined in writing to be the most advantageous to the recipient, taking into consideration price and other evaluation factors set forth in the request for proposal.

(c) The recipient shall promptly notify unsuccessful offerors that their proposals were rejected.

§ 33.525 Optional procedure for negotiation and award of a subagreement for architectural and engineering services.

(a) This optional procedure for negotiating and awarding a subagreement for architectural and engineering services may be used if price is not an evaluation factor set forth in the request for proposals.

(b) The recipient may negotiate and award a subagreement for architectural or engineering services with an offeror on a prequalified list provided:

(1) The recipient develops the list using the public notice procedures in § 33.510.

(2) The recipient updates the list at least every six months;

(3) The recipient reviews an architect's or engineer's qualifications and makes a decision regarding prequalification within 30 days of receipt of a request from an architect or engineer to be placed on the prequalified list.

(c) The recipient shall negotiate fair and reasonable compensation with the best qualified offeror. If the recipient and the best qualified offeror cannot agree on the amount of compensation, the recipient shall formally terminate negotiations with the selected offeror. The recipient shall then negotiate with other qualified offerors, in the order of their respective qualification, until compensation can be agreed upon.

(d) The recipient shall award the subagreement to the offeror whose proposal is determined in writing to be the best qualified based upon the evaluation factors set forth in the request for proposals, and after the negotiation of fair and reasonable compensation.

(e) The recipient shall promptly notify unsuccessful offerors that their proposals were rejected.

Noncompetitive Negotiation

§ 33.605 Noncompetitive negotiation procurement method.

(a) Noncompetitive negotiation may be used only when the award of a subagreement is not feasible under small purchase, formal advertising, or competitive negotiation procedures.

(b) The recipient may award a noncompetitively negotiated subagreement only under the following circumstances:

(1) The item is available only from a single source;

(2) Public exigency or emergency when the urgency for the requirement will not permit a delay incident to competitive procurement;

(3) The EPA award official authorizes noncompetitive negotiation; or

(4) After solicitation from a number of sources, competition is determined to be inadequate.

Subpart C—Clean Water Act Requirement

§ 33.705 Applicability and scope of this subpart.

In addition to the specification requirements in § 33.255, recipients of an assistance agreement awarded under 40 CFR Part 35, Subpart I must comply with the following specification requirement.

§ 33.710 Buy American.

Section 215 of the Clean Water Act requires that contractors give preference for the use of domestic material in the construction of the treatment works for which EPA awards assistance.

(a) Domestic construction material must be used in preference to nondomestic materials if it is priced no more than 6 percent higher than the bid or offered price of the nondomestic materials including all costs of delivery to the construction site, and any applicable duty, whether or not assessed. Computations will normally be based on costs on the date of opening of bids or proposals.

(b) The award official may waive the Buy American provision based upon those factors that the award official considers relevant, including:

(1) Such use is not in the public interest;

(2) The cost is unreasonable;

(3) The Agency's available resources are not sufficient to implement the provision, subject to the Deputy Administrator's concurrence;

(4) The articles, materials, or supplies of the class or kind to be used or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities or satisfactory quality for the particular project; or

(5) Application of this provision is contrary to multilateral government procurement agreements, subject to the Deputy Administrator's concurrence.

(c) Notwithstanding any other provision of this Part, bidding documents and subagreements shall

contain the "Buy American" provision in § 33.1030.

Subpart D—Requirements for Institutions of Higher Education and Other Nonprofit Organizations

§ 33.805 Applicability and scope of this subpart.

Recipients who are subject to the provisions of A–110, "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations" are not subject to all of the requirements in this Part.

§ 33.810 Nonapplicable subagreement provisions.

The following clauses in Subpart F of this Part do not apply to institutions of higher education and other nonprofit organizations.

(a) Energy efficiency (§ 33.1024);
(b) Changes (§ 33.1030,3);
(c) Differing site conditions (§ 33.1030,4); and
(d) Price reduction for defective cost or pricing data (§ 33.1030,8).

§ 33.815 Nonapplicable procurement provisions.

The following procurement provisions do not apply to institutions of higher education and other nonprofit organizations:

(a) §§ 33.405 through 33.430 "Formal advertising;"
(b) §§ 33.505 through 33.540 "Competitive negotiation;"
(c) §§ 33.605 "Noncompetitive negotiation" (see § 33.820(b));
(d) The requirement in 33.270(a) "Code of conduct" to have a written code of conduct;
(e) The provisions of § 33.240 "Small, minority, women's and labor surplus area businesses" which:
(1) Encourage the award of a fair share of contracts to women's and labor surplus area businesses;
(2) Require the specific affirmative action steps in § 33.240(a) (1) through (6). However, nonprofit organizations are required to make positive efforts to use small businesses and minority owned businesses as source of supplies and services.
(f) Subpart G "Protests."

§ 33.820 Additional procurement requirements.

(a) Contractors that develop or draft specifications, requirements, statements of work, invitation for bids, or request for proposals must be excluded from competing for awards from institutions of higher education and other nonprofit organizations resulting from the prior effort.

(b) For all proposed sole source contracts and where only one bid or proposal is received, the recipient must request the award official's prior approval to award the contract if the aggregate expenditure is expected to exceed $10,000.

Subpart E—Requirements for Recipients of Remedial Action Cooperative Agreements Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

§ 33.905 Applicability and scope of this subpart.

(a) The requirements in this subpart apply only to remedial actions which EPA funds as a part of a cooperative agreement under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980. Activities under CERCLA other than remedial action activities are subject to the requirements in Subpart A, B, F & G.

(b) Studies, investigations, or engineering activities which precede a remedial action activity are not subject to the requirements in this subpart.

§ 33.910 Preference for formal advertising.

If a recipient wants to use a procurement method other than formal advertising, it must determine in writing that formal advertising is not appropriate and must receive the EPA award official's concurrence with the determination.

§ 33.915 Award official approval.

The award official shall approve the recipients use of a procurement method other than formal advertising only after the recipient has completed remedial planning activities and selected a cost-effective alternative.

Subpart F—Subagreement Provisions

§ 33.1005 Applicability and scope of this subpart.

(a) This subpart applies to all EPA recipients and describes the minimum content of each subagreement (contract and subcontract).

(b) Nothing in this subpart shall be construed to prohibit a recipient from requiring more assurances, guarantees, or indemnity or other contractual requirements from any party to a subagreement.

§ 33.1010 Requirements for subagreement clauses.

Recipients shall include clauses that meet the requirements of §§ 33.1015 through 33.1024, in each procurement subagreement.

§ 33.1015 Subagreement provisions clause.

Each subagreement must include provisions defining a sound and complete agreement, including the:

(a) Nature, scope, and extent of work to be performed;
(b) Timeframe for performance;
(c) Total cost of the subagreement; and
(d) Payment provisions.

§ 33.1018 Equal employment opportunity clause.

All subagreements awarded in excess of $10,000 shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

§ 33.1019 Anti-kickback clause.

All subagreements for construction (as defined by the Secretary of Labor) or repair shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in the Department of Labor regulations (29 CFR Part 3). This Act provides that each contractor or subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to EPA.

§ 33.1020 Minimum wage clause.

When required by the EPA assistance program legislation, all construction (as defined by the Secretary of Labor) subagreements in excess of $2,000 awarded by recipients and any lower tier shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). Under this Act contractors are required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Secretary of Labor in each solicitation and the award of a subagreement shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to EPA.

§ 33.1021 Work hours and safety standards clause.

All subagreements in excess of $2,000 for construction contracts (as defined by the Secretary of Labor) and in excess of $2,500 for other subagreements which involve the employment of mechanics or laborers shall include a provision of compliance with section 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR Part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workday of 8 hours and a standard workweek of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calender day or 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety, and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

§ 33.1022 Patents, data, and copyrights clause.

Subagreements shall include notice of EPA requirements and regulations pertaining to reporting and patent rights under any subagreement involving research, developmental, experimental or demonstration work with respect to any discovery or invention which arises or is developed in the course of or under such subagreement and of EPA requirements and regulations pertaining to copyrights and rights in data contained in 40 CFR Part 30.

§ 33.1023 Violating facilities clause.

Subagreements in excess of $100,000 shall contain a provision which requires contractor compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and EPA regulations (40 CFR Part 15) which prohibit the awarding of nonexempt Federal contracts, grants, or loans to facilities included on the EPA List of Violating Facilities. The provision shall require contractors to report violations to the EPA.

§ 33.1024 Energy efficiency clause.

Subagreements shall follow mandatory standards and policies on energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94–163).

§ 33.1030 Model subagreement clauses.

(a) Recipients must include, when appropriate, the following fourteen clauses or their equivalent in each subagreement.

(b) Recipients may substitute other terms for "recipient" and "contractor" in their subagreements.

1. *Supersession.* The recipient and the contractor agree that this and other appropriate clauses in 40 CFR 33.1030 or their equivalent apply to the EPA grant-eligible work to be performed under this subagreement and that these clauses supersede any conflicting provisions of this subagreement.

2. *Privity of Subagreement.* This subagreement is expected to be funded in part with funds from the U.S. Environmental Protection Agency. Neither the United States nor any of its departments, agencies, or employees is or will be a party to this subagreement or any lower tier subagreement. This subagreement is to be subject to regulations contained in 40 CFR Part 33 in effect on the date of the assistance award for this project.

3. *Changes. (a) This clause in paragraph (a) applies only to subagreements for construction.* (1) The recipient may, at any time, without notice to any surety, by written order designated or indicated to be a change order, make any change in the work within the general scope of the subagreement, including but not limited to changes:

(i) In the specifications (including drawings and designs);
(ii) In the time, method, or manner of performance of the work;
(iii) In the recipient-furnished facilities, equipment, materials, services, or site; or
(iv) Directing acceleration in the performance of the work.

(2) A change order shall also be any other written or oral order (including direction, instruction, interpretation or determination) from the recipient, which causes any change, provided the contractor gives the recipient written notice stating the date, circumstances, and source of the order and that the contractor regards the order as a change order.

(3) Except as provided in this clause, no order, statement, or conduct of the recipient shall be treated as a change under this clause or entitle the contractor to an equitable adjustment.

(4) If any change under this clause causes an increase or decrease in the contractor's cost or the time required to perform any part of the work under this contract, whether or not changed by any order, an equitable adjustment shall be made and the subagreement modified in writing and, except for claims based on defective specifications, no claim for any change under paragraph (a)(2) above shall be allowed for any costs incurred more than 20 days before the contractor gives written notice as required in paragraph (a)(2). In the case of defective specifications for which the recipient is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the contractor in attempting to comply with those defective specifications.

(5) If the contractor intends to assert a claim for an equitable adjustment under this clause, he must, within 30 days after receipt of a written change order under paragraph (1) of this change clause or the furnishing of a written notice under paragraph (2) of this clause, submit to the recipient a written statement setting forth the general nature and monetary extent of such claim. The recipient may extend the 30-day period. The statement of claim may be included in the notice under paragraph (2) of this change clause.

(6) No claim by the Contractor for an equitable adjustment shall be allowed if made after final payment under this subagreement.

(b) The clause in this paragraph applies only to subagreements for services. (1) The recipient may, at any time, by written order, make changes within the general scope of this agreement in the services or work to be performed. If such changes cause an increase or decrease in the contractor's cost or time required to perform any services under this agreement, whether or not changed by an order, an equitable adjustment shall be made and this agreement shall be modified in writing. The contractor must assert any claim for adjustment under this clause in writing within 30 days from the date of receipt by the contractor of the notification of change unless the recipient grants additional time before the date of final payment.

(2) No services for which an additional compensation will be charged by the contractor shall be furnished without the written authorization of the recipient.

(c) This clause in paragraph (c) applies only to subagreements for supplies. (1) The recipient may at any time, by a written order, and without notice to the sureties, make changes, within the general scope of this subagreement, in any one or more of the following:

(i) Drawings, designs, or specifications, where the supplies to be furnished are to be specially manufactured for the recipient;
(ii) Method of shipment or packing; and
(iii) Place of delivery.

(2) If any change causes an increase or decrease in the cost or the time required to perform any part of the work under this subagreement, whether or not changed by any such order, an equitable adjustment shall be made in the subagreement price or delivery schedule, or both, and the subagreement shall be modified in writing. Any claim by the contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the contractor of the notification of change. If the recipient decides that the facts justify such

action, the recipient may receive and act upon any such claim asserted at any time before final payment under this subagreement. Where the cost of property made obsolete or excess as a result of a change is included in the contractor's claim for adjustment, the recipient shall have the right to prescribe the manner of disposition of such property. Nothing in this clause shall excuse the contractor from proceeding with the subagreement as changed.

4. *Differing Site Conditions. This clause is applicable only to construciton subagreements.* (a) The contractor shall promptly, and before such conditions are disturbed, notify the recipient in writing of:

(1) Subsurface or latent physical conditions at the site differing materially from those indicated in this subagreement, or

(2) Unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in this subagreement. The recipient shall promptly investigate the conditions, and if it finds that conditions materially differ and will cause an increase or decrease in the contractor's cost or the time required to perform any part of the work under this subagreement, whether or not changed as a result of such conditions, an equitable adjustment shall be made and the subagreement modified in writing.

(b) No claim of the contractor under this clause shall be allowed unless the contractor has given the notice required in paragraph (a) of this clause. However, the recipient may extend the time prescribed in paragraph (a).

(c) No claim by the contractor for an equitable adjustment shall be allowed if asserted after final payment under this subagreement.

5. *Suspension of Work.* (This clause is applicable only to construction subagreements.) (a) The recipient may order the contractor in writing to suspend, delay, or interrupt all or any part of the work for such period of time as the recipient may determine to be appropriate for the convenience of the recipient.

(b) If the performance of all or any part of the work is suspended, delayed, or interrupted for an unreasonable period of time by an act of the recipient in administration of this subagreement, or by the recipient's failure to act within the time specified in this subagreement (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in the cost of performance of this subagreement (excluding profit) necessarily caused by such unreasonable suspension, delay, or interruption and the contract modified in writing. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent (1) that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the contractor or (2) for which an equitable adjustment is provided for or excluded under any other provision of this subagreement.

(c) No claim under this clause shall be allowed (1) for any costs incurred more than 20 days before the contractor notified the recipient in writing of the act or failure to act involved (this requirement does not apply to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, but not later than the date of final payment under the subagreement.

6. *Termination.* (a) This subagreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this subagreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with the terminating party prior to termination.

(b) This subagreement may be terminated in whole or in part in writing by the recipient for its convenience, provided that the contractor is given (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with the terminating party prior to termination.

(c) If termination for default is effected by the recipient, an equitable adjustment in the price provided for in this subagreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to the contractor at the time of termination may be adjusted to cover any additional costs to the recipient because of the contractor's default. If termination for default is effected by the contractor, or if termination for convenience is effected by the recipient, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the contractor for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the contractor relating to commitments which has become firm prior to the termination.

(d) Upon receipt of a termination action pursuant to paragraphs (a) or (b) above, the contractor shall (1) promptly discontinue all services affected (unless the notice directs otherwise), and (2) deliver or otherwise make available to the recipient all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the contractor in performing this subagreement, whether completed or in process.

(e) Upon termination under paragraphs (a) or (b) above, the recipient may take over the work and may award another party a subagreement to complete the work under this subagreement.

(f) If, after termination for failure of the contractor to fulfill contractual obligations, it is determined that the contractor had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the recipient. In such event, adjustment of the price provided for in this subagreement shall be made as provided in paragraph (c) of this clause.

7. *Remedies.* Except as may be otherwise provided in this subagreement, all claims, counter-claims, disputes, and other matters in question betwen the recipient and the contractor arising out of or relating to this subagreement or the breach thereof will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the recipient is located.

8. *Price Reduction for Defective Cost or Pricing Data.* (Note—This clause is applicable to (1) any subagreement negotiated between the recipient and its contractor in excess of $500,000; (2) negotiated subagreement amendments or change orders in excess of $500,000 or 10 percent of the subagreement whichever is less, affecting the price of a formally advertised, competitively awarded, fixed price subagreement; or (3) any lower tier subagreement or purchase order in excess of $500,000 or 10 percent of the assistance agreement, whichever is less, under a subagreement other than a formally advertised, competitively awarded, fixed price subagreement. This clause is not applicable for subagreements to the extent that they are awarded on the basis of effective price competition.)

The contractor and subcontractor, where appropriate, warrant that cost and pricing data submitted for evaluation with respect to negotiation of prices for negotiated subagreements, lower tier subagreements, and change orders is based on current, accurate, and complete data supported by their books and records. If the recipient or EPA determines that any price (including profit) negotiated in connection with this subagreement, any lower tier subagreement, or any amendment thereunder was increased by any significant sums because the data provided was incomplete, inaccurate, or not current at the time of submission, then such price or cost or profit shall be reduced accordingly; and the subagreement shall be modified in writing to reflect such action.

Note—Since the subagreement is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with lower tier subagreements, the contractor may wish to include a clause in each lower tier subagreement requiring the lower tier subcontractor to appropriately indemnify the contractor. It is also expected that any lower tier subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by lower tier contractors.

9. *Audit; Access to Records.* (a) The contractor shall maintain books, records, documents, and other evidence directly pertinent to performance on EPA grant work under this subagreement in accordance with generally accepted accounting principles and practices consistently applied, and 40 CFR Part 30, in effect on the date of execution of this subagreement. The contractor shall also maintain the financial information and data used by the contractor in the preperation or support of the cost submission required under 40 CFR 33.290 for any negotiated subagreement or change order and a copy of the cost summary submitted to the recipient. The United States Environmental Protection Agency, the Comptroller General of the United States, the United States Department of Labor, recipient, and [the State] or any of their authorized representatives shall have access to all such books, records, documents, and other evidence for the purpose of inspection, audit and copying during normal business hours. The contractor will provide proper facilities for such access and inspection.

(b) If this is a formally advertised, competitively awarded, fixed price subagreement, the contractor agrees to make paragraphs (a) through (f) of this clause applicable to all negotiated change orders and subagreement amendments affecting the subagreement price. In the case of all other types of prime subagreements, the contractor agrees to include paragraphs (a) through (f) of this clause in all his subagreements in excess of $10,000 and all lower tier subagreements in excess of $10,000 and to make paragraphs (a) through (f) of this clause applicable to all change orders directly related to project performance.

(c) Audits conducted under this provision shall be in accordance with generally accepted auditing standards and established procedures and guidelines of the reviewing or audit agency(ies).

(d) The contractor agrees to disclose all information and reports resulting from access to records under paragraphs (a) and (b) of this clause, to any of the agencies referred to in paragraph (a).

(e) Records under paragraphs (a) and (b) above, shall be maintained and made available during performance on EPA assisted work under this subagreement and until three years from the date of final EPA payment for the project. In addition, those records which relate to any controversy arising under an EPA assistance agreement, to litigation, to the settlement of claims arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim, or exception.

(f) This right of access clause (with respect to financial records) applies to:

(1) Negotiated prime subagreements,

(2) Negotiated change orders or subagreement amendments in excess of $10,000 affecting the price of any formally advertised, competitively awarded, fixed price subagreement, and

(3) Subagreements or purchase orders under any subagreement other than a formally advertised, competitively awarded, fixed price subagreement. However, this right of access does not apply to a prime subagreement, lower tier subagreement, or purchase order awarded after effective price competition, except:

(i) With respect to records pertaining directly to subagreement performance, (excluding any financial records of the contractor,)

(ii) If there is any indication that fraud, gross abuse, or corrupt practices may be involved or gross abuse, or corrupt practices may be involved or

(iii) If the subagreement is terminated for default or for convenience.

10. *Covenant Against Contingent Fees.* The contractor warrants that no person or selling agency has been employed or retained to solicit or secure this subagreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business. For breach or violation of this warranty the recipient shall have the right to annul this agreement without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

11. *Gratuities.* (a) If the recipient finds after a notice and hearing that the contractor, or any of the contractor's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts, or otherwise), to any official, employee, or agent of the recipient, the State, or EPA in an attempt to secure a subagreement or favorable treatment in awarding, amending, or making any determinations related to the performance of this agreement, the recipient may, by written notice to the contractor, terminate this agreement. The recipient may also pursue other rights and remedies that the law or this agreement provides. However, the existence of the facts on which the recipient bases such findings shall be in issue and may be reviewed in proceedings under the Remedies clause of this agreement.

(b) In the event this subagreement is terminated as provided in paragraph (a) the recipient may pursue the same remedies against the contractor as it could pursue in the event of a breach of the subagreement by the contractor, and (2) as a penalty, in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the recipient) which shall be not less than three nor more than ten times the costs the contractor incurs in providing any such gratuities to any such officer or employee.

12. *Buy American.* (This clause applied to subagreements awarded under 40 CFR Part 35, Subpart I.) In accordance with § 215 of the Clean Water Act (33 U.S.C. 1251 et. seq., as amended) and implementing EPA regulations and guidelines, the contractor agrees that preference will be given to domestic construction material by the contractor, subcontractors, materialmen, and suppliers in the performance of this subagreement.

13. *Responsibility of the Contractor.* (a) This clause in paragraph (a) applies to all subagreements for services.

(1) The contractor is responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by the contractor under this agreement. The contractor shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in his designs, drawings, specifications, reports, and other services.

(2) The contractor shall perform the professional services necessary to accomplish the work required to be performed under this agreement, in accordance with this agreement and applicable EPA requirements in effect on the date of execution of the assistance agreement for this project.

(3) The owner's or EPA's approval of drawings, designs, specifications, reports, and incidental work or materials furnished hereunder shall not in any way relieve the contractor of responsibility for the technical adequacy of his work. Neither the owner's nor EPA's review, approval, acceptance, or payment for any of the services shall be construed as a waiver of any rights under this agreement of any cause of action arising out of the performance of this agreement.

(4) The contractor shall be and shall remain liable, in accordance with applicable law, for all damages to the owner or EPA caused by the contractor's negligent performance of any of the services furnished under this agreement, except for errors, omissions or other deficiencies to the extent attributable to the owner, owner-furnished data, or any third party. The contractor shall not be responsible for any time delays in the project caused by circumstances beyond the contractor's control.

(5) The contractor's obligations under this clause are in addition to the contractor's other express or implied warranties under this agreement or State law and in no way diminish any other rights that the owner may have against the contractor for faulty materials, equipment, or work.

(b) The clause in paragraph (b) applies only to subagreements for construction. (1) The contractor agrees to perform all work under this agreement in accordance with this agreement's designs, drawings, and specifications.

(2) The contractor warrants and guarantees for a period of one (1) year from the date of substantial completion of the system that the completed system is free from all defects due to faulty materials, equipment or workmanship; and the contractor shall promptly make whatever adjustments or corrections necessary to cure such defects, including repairs of any damage to other parts of the system resulting from such defects. The owner shall give notice to the contractor of observed defects with reasonable promptness. In the event that the contractor fails to make adjustments, repairs, corrections or other work that may be made necessary by such defects, the owner may do so and charge the contractor the cost incurred. The performance bond shall remain in effect through the guarantee period.

(3) The contractor's obligations under this clause are in addition to the contractor's other express or implied warranties under this agreement of State law and in no way diminish any other rights that the owner may have against the contractor for faulty materials, equipment, or work.

14. *Final Payment.* Upon satisfactory completion of the work performed under this agreement, as a condition before final payment under this agreement, or as a termination settlement under his agreement, the contractor shall execute and deliver to the owner a release of all claims against the

owner arising under or by virtue of this agreement, except claims which are specifically exempted by the contractor to be set forth therein. Unless otherwise provided in this agreement or by State law or otherwise expressly agreed to by the parties to this agreement, final payment under this agreement or settlement upon termination of this agreement shall not constitute a waiver of the owner's claims against the contractor or his sureties under this agreement or applicable performance and payment bonds.

Subpart G—Protests

§ 33.1105 Applicability and scope of this subpart.

(a) This subpart sets forth an informal adminsitrative process that EPA will use for the rapid resolution of protest appeals filed with the award official.

(b) A protest is a written complaint concerning the award of a recipient's subagreement filed with the recipient by a party with a direct financial interest adversely affected by a recipient's procurement action.

(c) A protest appeal is a complaint filed with the award official regarding the recipient's determination of protest.

§ 33.1110 Limitations on Protest Appeals.

(a) The award official shall not accept a protest appeal from a recipient's determination of protest until the protester has exhausted all administrative remedies at the recipient level.

(b) A protest appeal may only be filed with the award official for:

(1) Issues arising under the procurement provisions of this Part;

(2) Alleged violations of State or local law or ordinances and when the award offical determines that there is a contravening Federal requirement;

(3) Provisions of Federal regulations applicable to direct Federal contracts, if such provisions are explicitly referred to or incorporated in this Part;

(4) Basic project design determinations which clearly relate to questions of source selection or application of restrictive specifications; or

(5) Award of lower tier subagreements;

(i) If the recipient mandated the award to a particular entity; or

(ii) Based on a violation of the requirements in § 33.295 "Lower tier subagreements."

§ 33.115 General requirements.

(a) Any party with an adversely affected direct financial interest may file a written protest appeal with the award official in accordance with this subpart.

(b) The recipient is responsible for the prompt initial determination of the protest.

(c) The award offical may summarily dismiss an appeal without proceedings under this subpart, if the protest or appeal is untimely or entirely addresses issues which are beyond the scope of this subpart, or the protester fails to comply with the intent of the procedural requirements of this subpart.

(d) The award official may summarily deny a protest appeal, without proceedings under this subpart, if, after considering the facts in a light most favorable to the protester, the award official believes that the protest lacks merit.

§ 33.1120 Filing requirements for protest appeals.

(a) A protest appeal to the award offical must be in writing and must adequately state the basis for the protest appeal. Appeals must be received by the award offical within one week after the complaining party has received the recipients determination of protest. If the last day falls on a Saturday, Sunday or holiday, the last day to submit a request shall be the next working day. A copy of the recipient's determination of protest and other documentation in support of the appeal shall be transmitted with the appeal.

(b) The award official will dismiss as untimely any protest appeals based upon alleged improprieties in the solicitation which were apparent before bid opening or the closing date for receipt of initial proposals if the initial protest was not received by the recipient before bid opening or the closing date for receipt of proposals respectively. In the case of negotiated procurements, protests of alleged improprieties which were incorporated in a new solicitation must have been received by the recipient not later than the next closing date for receipt of proposals.

(c) In cases not based upon alleged improprieties in solicitation, the award official will dismiss as untimely any appeals if the initial protest was not received by the recipient within one week after the basis for the protest was known or should have been known, whichever is earlier.

(d) The protester may notify the award official of a protest or appeal by brief telegraphic notice but the protester must provide the award official with a more detailed statement of the basis for the protest appeal within seven days after the date on the telegraphic notice.

(e) The award official will not consider oral protest appeals.

§ 33.1125 Appeal documents.

(a) The protest appeal document must state the legal and factual grounds for the appeal and request a determination under this subpart.

(b) Upon filing of a protest or appeal with the award official the protester must concurrently transmit a copy of the documents and any attachments to all other parties with a direct financial interest which may be adversely affected by the determination of the protest. Also, a party which submits a document to the award official during the course of a protest appeal must simultaneously furnish all other affected parties with a copy of the document.

§ 33.1130 Deferral of procurement action.

(a) The recipient should review each protest filed with it to determine whether it is appropriate to defer the protested procurement action.

(b) When the award official receives a protest appeal, the award official must promptly request that the recipient defer the protested procurement action, if it has not already done so, until the award official notifies the recipient of the formal or informal resolution of the appeal. Such deferral of the procurement action shall be limited to the award of the subagreement, or subitem which is the basis of the protest.

(c) If the recipient does not defer the procurement action it bears the risk that the award official will disallow the cost of the protested procurement action if the protest appeal is upheld.

(d) If the protester does not agree to the recipient's request for a reasonable extension of the bid and bid bond period, the recipient or award official can summarily dismiss the protest appeal.

§ 33.1135 Award official's review.

(a) The award official will give both the recipient and the protester, as well as any other party with a financial interest which may be adversely affected by the determination of protest, an opportunity to present arguments in support of their views in writing or at a conference.

(b) The award official shall review the record considered by the recipient, and any other documents or arguments presented by the parties, to determine whether the recipient has complied with the procurement requirements of this Part and has a rational basis for its determination of protest.

(c) After the award official's announced date for receipt of written arguments, the record shall be closed.

(d) The award official's determination shall constitute final EPA action, from which there shall be no further administrative appeal. No party may appeal an award official's determination

of appeal to the EPA Board of Assistance Appeals.

(e) Nothing in this subpart precludes the award official from reviewing the recipient's procurement action. (See § 33.115.)

(f) Noncompliance with the award official's determination of protest shall be cause for enforcement action under 40 CFR Parts 30 and 32.

(g) If an appeal involves legal issues not explicitly addressed by this Part or State or local law, the award official shall resolve the issue by referring to other protest determinations under this section and decisions of the Comptroller General of the United States or of the Federal courts addressing Federal requirements comparable to procurement requirements of this Part.

[FR Doc. 82-5514 Filed 3-1-82; 8:45 am]
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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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federal register

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March 3, 1982

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Presidential Documents

Title 3—

The President

Proclamation 4905 of March 1, 1982

National Construction Industry Week, 1982

By the President of the United States of America

A Proclamation

The construction industry is one of the largest sectors of the economy of this nation, providing jobs for five percent of our workforce. Over the decades, this industry has played a vital role in our lives, helping us meet the need for more homes, schools, hospitals, roads, subways, factories, and recreation facilities. The American construction industry has always met the challenge, supplying us with the highest quality craftsmanship in the world and pioneering countless advances in the field.

Construction labor and management alike have historically taken pride in their spirit of rugged individualism, a spirit that has enabled them to overcome the adversities imposed upon a seasonal and cyclical industry.

Because of its unique nature, however, the construction industry is also unusually affected by downturns in the economy. It is with pride that I salute the hearty individuals who persevere in the face of tough obstacles, and I reiterate my commitment to revitalize the construction industry and bring it back to an environment of prosperity.

The Congress has, by Senate Joint Resolution 122, demonstrated its commitment by requesting me to designate February 28 through March 6, 1982, as National Construction Industry Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim February 28 through March 6, 1982, as National Construction Industry Week. I call upon the people of the United States and all Government agencies to observe the week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereby set my hand this first day of March, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-5041
Filed 3-2-82; 10:35 am]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

Tobacco: Nonquota Tobaccos Produced in Quota Areas; Identification and Certification

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule.

SUMMARY: The purpose of this interim rule is to implement the provisions of Section 320 of the Agricultural Adjustment Act of 1938, as amended by Section 1108 of the Agriculture and Food Act of 1981 (Pub. L. 97–98), as amended, with respect to nonquota tobacco. Nonquota tobacco which is produced in a State where marketing quotas are in effect for that kind of tobacco, will be subject to the marketing quota for such kind of tobacco. These regulations, applicable beginning with the 1982 crop of tobacco, set out procedures for obtaining through permissive inspection the certification to qualify for exemption under the Act.

EFFECTIVE DATE: March 3, 1982.

ADDRESS: Comments should be sent to J. T. Bunn, Acting Director, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250 (202) 447–7235.

FOR FURTHER INFORMATION CONTACT: J. T. Bunn, (202) 447–7235.

SUPPLEMENTARY INFORMATION: This interim final rule has been issued in accordance with Executive Order 12291 and has been determined to be a nonmajor rule because it does not meet any of the criteria established for major rule under the executive order. The Department's indepth review of these regulations contained in 7 CFR Part 29, Subpart F, for need, currency, clarity, and effectiveness has been accomplished.

Additionally, in conformance with the provisions of the Regulatory Flexibility Act, full consideration has been given to the potential economic impact upon small business. All tobacco warehousemen and producers fall within the confines of "small business," as defined in the Regulatory Flexibility Act. It has been determined that the economic impact upon small entities would not be adverse and would in no way affect normal competition in the market place.

All persons who desire to submit written data, views, or arguments for consideration in connection with this interim final rule may file the same with J. T. Bunn, Acting Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 502 Annex Building, Washington, D.C. 20250 not later than April 2, 1982.

All written submissions made pursuant to this notice will be made available for public inspection at the above location during regular business hours.

J. T. Bunn, Acting Director, Tobacco Division, Agricultural Marketing Service, has determined that an emergency situation exists which requires that the interim final rule be made effective upon publication and which warrants less than a 60-day comment period on this interim final rule because tobacco producers affected by this amendment need sufficient lead time to make plans for the 1982 crop—such as purchasing tobacco seed and preparing seed beds. All segments of the tobacco industry must be informed of any rule change affecting the marketing process to continue orderly marketing of their product. Accordingly, this action is being implemented as an interim final rule, effective on March 3, 1982. Under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this action are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making this action effective on the date of publication. The Department will, after evaluating the comments received, issue a final rule concerning Subpart F of 7 CFR Part 29.

Subpart F—Policy Statement and Regulations Governing the Identification and Certification of Nonquota Maryland Broadleaf Tobacco, U.S. Type 32, on June 24, 1975 (40 FR 26528). Past certifications of nonquota Maryland tobacco produced in quota areas showed the need for establishing procedures to be followed in certifying such tobacco as to type and for use in distinguishing nonquota Maryland Type 32 tobacco from quota tobacco. In certifying nonquota Maryland Type 32 tobacco produced in quota areas it was necessary to determine whether the nonquota was readily and distinguishably different from the quota tobacco grown in the area as determined through the application of the official tobacco standards for the quota tobacco grown in the area. However, Pub. L. 97–98 enacted December 22, 1981, amended Section 320 of the Agricultural Adjustment Act of 1938, required that the Department, in making such certification for nonquota tobacco, determine whether the tobacco is readily and distinguishably different from all kinds of quota tobacco wherever grown. Further, while Section 320 refers to tobacco produced in an "area" when identifying different kinds of tobacco, the Conference Report which accompanied S. 884, the bill which became the Agriculture and Food Act of 1981, stated as follows:

> The conferees intend that the Secretary, in implementing Section 320, construe the term "area" to mean the entire State in which any kind of quota tobacco is produced. This construction will avoid the disruption caused by the production of nonquota tobacco in States where producers have approved marketing quotas and will help ensure the effectiveness of the tobacco program in those States (See Senate Report No. 97–377, 97th Cong., 1st Sess., p. 192 (1981)).

Thus, Subpart F has been amended to provide that the term "area" means the entire State in which any kind of quota tobacco is produced. Also, the 1981 amendments specify that certain tobacco is not subject to the provisions of Section 320 and include the following: (1) Maryland (type 32) tobacco when it is nonquota and produced in a quota State on a farm for which a marketing quota for Maryland (type 32) tobacco was established when marketing quotas for that kind of tobacco were last in effect (1965); and (2) certain types of cigar-filler and cigar-wrapper tobaccos that have never been under quota but are produced within a State where

marketing quotas for other kinds of tobacco are in effect.

Therefore, Subpart F of the Department's regulations is amended in its entirety to conform to the provisions of Pub. L. 97–98. All reference to nonquota Maryland Type 32 tobacco is eliminated and Subpart F is expanded to cover identification and certification procedures to be followed for all nonquota tobaccos produced in quota areas.

PART 29—TOBACCO INSPECTION

Accordingly, the regulations contained in 7 CFR, Part 29, Subpart F, are revised to read as follows:

Subpart F—Policy Statement and Regulations Governing the Identification and Certification of Nonquota Tobacco Produced and Marketed in a Quota Area

Definitions

Sec.

29.9201 Terms defined.
29.9202 Approved receiving station.
29.9203 Certification.
29.9204 Crop-lot.
29.9205 Identification number (farm serial number).
29.9206 Inspection.
29.9207 Nonquota tobacco.
29.9208 Permissible inspection.
29.9209 Lot.
29.9210 Office of inspection.

Policy Statement

29.9221 Policy Statement.

Administration

29.9231 Administration.
29.9232 Where certification is available.
29.9233 When certification will be made.
29.9234 Who may obtain certification.
29.9235 How to make application.
29.9236 Form of application.
29.9237 When application deemed filed.
29.9238 When application may be rejected.
29.9239 When application may be withdrawn.
29.9240 Responsibilities of applicant.
29.9241 Accessibility of tobacco.

Fees and Charges

29.9251 Fees and charges.

Certifying Procedures

29.9261 Procedure to be followed.
29.9262 Issuance of certificates.
29.9263 Tobacco classification certificate.
29.9264 Forms.
29.9265 Disposition of certificate.
29.9266 Changes or alterations.

Preclusion

29.9281 Preclusion.

Authority: Tobacco Inspection Act (49 Stat. 731; 7 U.S.C. 511 et seq.) Agricultural Adjustment Act of 1938, as amended 95 Stat. 1266; 7 U.S.C. 1314f.)

Subpart F—Policy Statement and Regulations Governing the Identification and Certification of Nonquota Tobacco Produced and Marketed in a Quota Area

Definitions

§ 29.9201 Terms defined.

As used in this subpart and in all instructions, forms, and documents in connection therewith, the words and phrases hereinafter defined shall have the indicated meanings so assigned.

§ 29.9202 Approved receiving station.

Points approved by the Director at which tobacco is offered for marketing or shipment into commerce including tobacco auction warehouses, packing houses, prizeries, or places where tobacco is handled or stored.

§ 29.9203 Certification.

The documentation of class or type, weight, or other tobacco characteristics as required in § 29.9263.

§ 29.9204 Crop-lot.

The assemblage of individual lots representing the season's production of each kind or type of nonquota tobacco produced on an individual farm.

§ 29.9205 Identification number (farm serial number).

The serial number assigned to an individual farm by the appropriate office of the Agricultural Stabilization and Conservation Service.

§ 29.9206 Inspection.

The examination by an inspector of a lot or crop-lot of tobacco to make determinations necessary for proper certification.

§ 29.9207 Nonquota tobacco.

Any kind or type of tobacco not subject to production and/or marketing limitations or restrictions under regulations issued by the Agricultural Stabilization and Conservation Service.

§ 29.9208 Permissive inspection.

Permissive inspection consists of inspecting and certificating tobacco, upon the request of an interested party.

§ 29.9209 Lot.

A pile, basket, bulk, package, or other definite unit.

§ 29.9210 Office of inspection.

A field office of the inspection service of the Tobacco Division.

Policy Statement

§ 29.9221 Policy statement.

Pub. L. 97–98 enacted on December 22, 1981, amended Section 320 of the Agricultural Adjustment Act of 1938, to preserve the effectiveness of the tobacco program by discouraging the production of tobacco not under quota in states where tobacco farmers have elected to comply with marketing quotas. Under the amendment, any tobacco represented by the producer as nonquota which is produced in a state where producers have approved marketing quotas shall be determined to be subject to marketing quotas for the quota tobacco produced in that state having the highest price support, with the specific exemptions provided for in Section 320(b) and set out in 7 CFR Parts 724, 725, and 726 of these regulations. The regulations in this subpart set out procedures for requesting a Tobacco Classification Certificate which would certify that the inspected tobacco is readily and distinguishably different from all kinds of quota tobacco, as determined through application of the standards for inspection and identification of tobacco.

Administration

§ 29.9231 Administration.

The Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., 20250, is charged with the supervision of the Division and the performance of all duties assigned thereto in the administration of the act. The conduct of all services and the licensing or employment of inspection/grading/sampling personnel under these regulations shall be accomplished without discrimination as to race, color, creed, sex, or national origin. Information concerning such administration may be obtained from the Director.

§ 29.9232 Where certification is available.

Nonquota tobacco may be inspected and certified by class or type, upon request of an interested party, when the tobacco is displayed at an approved receiving station where the tobacco is accessible to the inspector.

§ 29.9233 When certification will be made.

Certification services for the nonquota tobacco shall be made when inspectors are available and such sales will not interfere with scheduled sales on designated auction markets.

§ 29.9234 Who may obtain certification.

Certification of nonquota tobacco may be requested by an interested party (applicant) by filing an application in accordance with §§ 29.9236 and 29.9237.

§ 29.9235 How to make application.

Application for certification by class or type of nonquota tobacco shall be made to the office of inspection, not less than 14 days before the date of requested certification. The application shall be in writing and signed by the applicant.

§ 29.9236 Form of application.

Application for inspection and certification of class or type of nonquota tobacco shall include the following information; (a) The date of the application; (b) the producer's certification of the type of the tobacco, the crop year when produced, and where produced; (c) the name and post office address of the applicant; (d) the financial interest of the applicant in the tobacco; (e) the exact nature of the service desired; (f) a statement that the tobacco is (1) in commerce, as defined in the act, or (2) entering such commerce; and (g) such other necessary information as the Director may require.

§ 29.9237 When application deemed filed.

An application shall be deemed filed when delivered to the office of inspection. When an application is filed, the date and time of filing shall be recorded by the official receiving it.

§ 29.9238 When application may be rejected.

An application may be rejected (a) for noncompliance with the act or the regulations in this subpart, or (b) when it is not practicable to provide the service. All expenses incurred in connection with an application rejected for noncompliance with the act or the regulations in this subpart shall be paid by the applicant as provided in § 29.124 of Subpart B of this part.

§ 29.9239 When application may be withdrawn.

An application may be withdrawn at any time before the requested service is rendered. Payment of expenses incurred in connection therewith shall be paid by the applicant as provided in § 29.124 and Subpart B of this part.

§ 29.9240 Responsibilities of applicant.

Any applicant requesting class or type certification on nonquota tobacco produced in a quota area, shall obtain from the appropriate county office of the Agricultural Stabilization and Conservation Service a certificate showing the acreage of nonquota tobacco grown on each affected farm and the identification number. It shall also be the responsibility of the applicant to: (a) Make available to the inspector any or all information required by the inspector for completion of the Tobacco Classification Certificate, (b) make the tobacco accessible to the inspector, and (c) surrender to the inspector at time of certification a copy of the ASCS certificate and sale bill.

§ 29.9241 Accessibility of tobacco.

All tobacco to be inspected and certified by class or type upon application shall be made accessible by the applicant for proper examination, including any necessary display in proper light for determination of grade, class, type, or other characteristics or for drawing of samples. Each croplot shall be displayed at an approved receiving station in a continuous and orderly sequence with no other quota, nonquota, or other producer's tobacco in between. The lots shall be arranged in rows 18 inches apart with the leaves of adjacent lots not touching within the rows. Coverings shall be removed by the applicant in such manner as may be prescribed by the inspector.

Fees and Charges

§ 29.9251 Fees and charges.

Fees and charges for inspection and certification services shall comprise the cost of salaries, travel, per diem, and related expenses to cover the cost of performing the service. Fees shall be for actual time required to render the service calculated to the nearest 30-minute period. The base hourly salary rate shall be $17.80. The overtime rate for service performed outside the inspector's regularly scheduled tour of duty shall be $21.30. The rate of $26.70 shall be charged for work performed on Sundays or holidays.

Certifying Procedures

§ 29.9261 Procedure to be followed.

In certifications based on permissive inspection of nonquota tobacco produced in a state where any quota tobacco is produced, the inspector shall use the Official Standard Grades for all types of quota tobacco. The inspector shall determine by inspecting each lot in the crop-lot whether the crop-lot can be certified as the nonquota tobacco requested by the applicant. If the inspector determines upon inspection that any individual *lot* in the crop-lot meets the specifications of any grade of any quota tobacco, no certificate will be issued on any tobacco in the crop-lot.

§ 29.9262 Issuance of certificates.

A "Tobacco Classification Certificate" may be issued upon request of an applicant for nonquota tobacco certified in accordance with § 29.9261. The Tobacco Classification Certificate will be supplied by the inspection office.

§ 29.9263 Tobacco classification certificate.

Each tobacco classification certificate shall show (a) the caption "Tobacco Classification Certificate", (b) whether it is an original, first, second, or other copy; (c) the number of the certificate; (d) the sale bill identification number; (e) the location of the tobacco at the time of inspection and certification; (f) the date of certification; (g) the class or type of tobacco; (h) the number of lots in the crop-lot; (i) the weight of each lot; (j) the signature of the inspector and, (k) such additional information as may be required by the Director.

§ 29.9264 Forms.

Each certificate issued under this regulation shall (a) show that it was issued under the Tobacco Inspection Act; (b) be in a form approved for the purpose by the Director, and (c) embody within it, written or printed terms with respect to the particular kind of service, all applicable information required by § 29.9263. Each certificate may also contain any information, not inconsistent with the act and the regulations in this subpart, as may be approved or required by the Director. The Director may, in his discretion, specify or limit the period in which a certificate shall be valid.

§ 29.9265 Disposition of certificate.

Distribution of the Tobacco Classification Certificate shall be limited to the provisions of this section. The original certificate and one copy shall be delivered or mailed to the applicant or his agent. One copy and the copy of the ASCS certificate shall be forwarded by the inspector to the Division or office of inspection.

§ 29.9266 Changes or alterations.

No change or alteration shall be made in the weight or other identification of a lot on the Tobacco Classification Certificate after the certification of class or type, and any such change or alteration shall constitute and be construed as a change or alteration in the certificate issued or authorized under the act.

Preclusion

§ 29.9281 Preclusion.

The provisions of this subpart shall not preclude the application of other administrative remedies or the institution of criminal proceedings in appropriate cases as provided by the act.

Dated: February 25, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-5701 Filed 3-3-82; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

7 CFR Part 301

Pink Bollworm Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the list of regulated areas (regulated areas are divided into suppressive areas and generally infested areas) under the pink bollworm quarantine and regulations by deleting Craighead County in Arkansas from the list of suppressive areas. The quarantine and regulations restricts the interstate movement of regulated articles from suppressive areas and generally infested areas. The amendment is necessary as an emergency measure to delete Craighead County from the list of suppressive areas in Arkansas in order to delete unnecessary restrictions on the movement of regulated articles.

DATES: Effective date of this interim rule March 3, 1982. Written comments concerning this interim rule must be received on or before May 3, 1982.

ADDRESSES: Written comments concerning this interim rule should be submitted to Thomas J. Lanier, Chief Staff Officer, Regulatory Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 635 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 635 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lanier, Chief Staff Officer, Regulatory Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 635 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8247.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Emergency Action

This interim rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this interim rule will have an estimated annual effect on the economy of less than $1,000; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this interim rule. Due to the finding that unnecessary restrictions are imposed concerning the regulation of articles, a situation exists requiring immediate action, to delete such unnecessary restrictions.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective less than 30 days after publication of this document in the **Federal Register**. Comments have been solicited for 60 days after publication of this document (May 3, 1982), and a final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action involves removing restrictions on the interstate movement of regulated articles from Craighead County in Arkansas. There are hundreds of small entities that move such articles interstate from other States. However, based on information compiled by the Department, it has been determined that fewer than five small entities move such articles interstate from the regulated area in Craighead County. Further, the overall economic impact from this action is estimated to be less than $1,000.

Background

The pink bollworm (*Pectinophora gossypiella* (Saunders)) is one of the most destructive and widespread insect pests of cotton in the world. This insect spread to the United States from Mexico in 1917 and now occurs throughout most of the cotton-producing States west of the Mississippi River.

The pink bollworm quarantine and regulations (7 CFR 301.52 through 301.52–10) quarantine the States of Arizona, Arkansas, California, Louisiana, New Mexico, Nevada, Oklahoma, and Texas; and restricts the interstate movement of regulated articles from regulated areas in these States in order to prevent the artificial spread of the pink bollworm.

Under the quarantine and regulations an area may be designated as a regulated area if it is an area in which the pink bollworm has been found, or in which there is reason to believe that the pink bollworm is present, or which it is deemed necessary to regulate because of its proximity to infestation or its inseparability for quarantine enforcement purposes from infested localities. Regulated areas are divided into suppressive areas and generally infested areas. Suppressive areas are regulated areas in which eradication of the pink bollworm is undertaken as an objective. Generally infested areas are regulated areas not designated as suppressive areas. Restrictions are imposed on the interstate movement of regulated articles from both generally infested areas and suppressive areas in order to prevent the artificial movement of the pink bollworm into noninfested areas, and to prevent the reinfestation of suppressive areas after the pink bollworm has been eradicated.

Surveys conducted by inspectors of the U.S. Department of Agriculture and officials of State agencies of Arkansas establish that pink bollworm no longer occurs in Craighead County in Arkansas, and that there is no basis to continue listing Craighead County as a regulated area for the purpose of preventing the artificial spread of pink bollworm. Therefore, as an emergency measure, it is necessary to delete Craighead County from the list of suppressive areas in Arkansas in order to delete unnecessary restrictions on the movement of pink bollworm regulated articles.

PART 301—DOMESTIC QUARANTINE NOTICES.

Accordingly, the list of regulated areas for Arkansas in § 301.52–2a of the Pink Bollworm Quarantine and Regulations (7 CFR 301.52–2a) is revised to read as follows:

§ 301.52-2a Regulated areas; suppressive and generally infested areas.

* * * * *

Arkansas

(1) *Generally infested area.* None.

(2) *Suppressive area.*

Clark County. The entire county.

Dallas County. The entire county.

Jefferson County. The entire county *except* that area south of U.S. Highway 65.

Lafayette County. The entire county.

Lonoke County. That area of the county lying south of interstate 40.

Miller County. The entire county.

Ouachita County. The entire county.

Pulaski County. That area of the county lying east of the Arkansas River and south of Interstate 40.

* * * * *

(Secs. 6, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 37 FR 28464, 28477, as amended; 38 FR 19141; 7 CFR 301.52–2, as amended)

Done at Washington, D.C., this 24th day of February.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82-5677 Filed 3-3-82; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 14

Administrative Claims Under Federal Tort Claims Act

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Tort Claims Act authorizes each Federal agency, in accordance with regulations prescribed by the Attorney General, to administratively settle any claim for damages against the United States caused by the negligent or wrongful act or omission of any employee of the agency while acting within the scope of his or her employment. The Nuclear Regulatory Commission is amending its regulation on administrative claims under the Federal Tort Claims Act to make it current and consistent with regulation of the Attorney General, 28 CFR Part 14, to change the office where claims are filed and the NRC officials who are authorized to act on claims, and to provide procedures when NRC emloyee drivers are sued in State courts.

EFFECTIVE DATE: March 3, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Clarke, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Phone 301–492–7241).

SUPPLEMENTARY INFORMATION: The amended regulation, in addition to the matters stated in the Summary above, primarily—

(1) Requires claimants, to the extent reasonably practicable, to furnish evidence and information of specified types when the claim is initially presented;

(2) Informs claimants that if such evidence and information is not furnished within 6 months, the claim will be considered a nullity;

(3) Adopts 28 CFR 14.10 regarding the funds from which claims are paid;

(4) Provides that when an NRC employee driver was acting within the scope of his or her employment, the remedy against the United States is exclusive; and

(5) Provides limits on attorney fees and provides penalties for exceeding the limits.

Comment Received

Only one comment was received. The commenter observed that since the reorganization of the Civil Division, Department of Justice, the title and organization should be changed from "Chief of Torts Section" to "Director of the Torts Branch." This change was made.

Environmental Impact Statement

This final rule does not significantly affect the environment. An environment impact statement is not required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act

Although the final rule may require the "collection of information" as that term is defined in the Paperwork Reduction Act, the exemption provided by the Act applies to this final rule. The filing of an administrative claim is a statutory prerequisite to the commencement of a civil action against the United States. 28 U.S.C. 2675(a). The furnishing of evidence and information in support of a claim may be required during the conduct of an administrative action involving the NRC against an individual claimant. The collection of such evidence and information is therefore exempt under 44 U.S.C. 3518. The final rule imposes no requirement on persons or entities to maintain specified information, except to the extent necessary to furnish evidence and information in support of a claim.

Regulatory Flexibility Certification Statement

In accordance with sec. 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the undersigned hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities.

During the past 4 years, approximately 48 claims were filed with the NRC under the Federal Tort Claims Act. Of these, 22 were filed by car rental agencies and were allowed in the average amount of $242.00; 18 were filed by individuals and were allowed in the average amount of $1,562.00; 6 were for personal injuries alleged to have resulted from radiation accidents or at testing sites and were transferred to other agencies; and 2 were for losses alleged to have resulted from the shut down of nuclear power plants. One of the 2 was filed by the Commonwealth of Massachusetts which asserted losses of $7,740,000.00. The owners of Three Mile Island filed the other claim and asserted losses of $4,010,000,000.00. Both of those claims were denied. NRC's disposition of claims filed under the Federal Tort Claims Act indicates that these requirements do not have an adverse economic impact on small entities. In addition, the final rule is limited to procedural and conforming amendments that do not have an economic impact on any potential claimant. It appears, therefore, that the final rule will not have a significant economic impact on a substantial number of small entities.

The Final Rule

For the reasons set out in the preamble and pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, section 553 of Title 5, United States Code, the Federal Tort Claims Act, as amended (28 U.S.C. 1346b and 2671–2680) and the regulations of the Department of Justice, as amended (28 CFR Parts 14 and 15), notice is hereby given that the Commission hereby adopts the following amendment to 10 CFR Part 14.

1. Part 14 is revised to read as follows:

PART 14—ADMINISTRATIVE CLAIMS UNDER FEDERAL TORT CLAIMS ACT

Subpart A—General

Sec.

14.1 Scope of regulations.

14.3 Limit on attorney fees; penalty.

Subpart B—Filing Procedures and Requirements

Sec.
14.11 Who may file a claim.
14.13 When is a claim presented to NRC.
14.15 Where to present a claim to NRC.
14.17 A claim must be presented to the appropriate agency.
14.19 When a claim is filed with more than one agency.
14.21 Filing a claim after an agency final denial.
14.23 Evidence and information to be submitted.
14.25 Amending a claim.
14.27 Time limit.

Subpart C—Commission Action and Authority

14.31 Investigation.
14.33 Officials authorized to act.
14.35 Limitation on NRC's authority.
14.37 Final denial of claim.
14.39 Reconsideration of a claim.
14.41 Payment of approved claims.
14.43 Acceptance of payment constitutes release.

Subpart D—Employee Drivers

14.51 Procedures when employee drivers are sued.
14.53 Scope of employment report.
14.55 Removal of state court proceedings.
14.57 Suit against the United States exclusive remedy.

Authority: Sec. 1, 80 Stat. 306 (28 U.S.C. 2672); sec. 2679, 62 Stat. 984 as amended (28 U.S.C. 2679); sec. 161, 68 Stat. 951 as amended (42 U.S.C. 2201); 28 CFR 14.11.

Subpart A—General

§ 14.1 Scope of regulations.

(a) The terms "Nuclear Regulatory Commission" and "NRC" as used in this part mean the agency established by section 201(a) of the Energy Reorganization Act of 1974, but do not include any contractor with the Nuclear Regulatory Commission.

(b) The regulations in this part supplement the Department of Justice's regulations in 28 CFR Parts 14 and 15.

(c) These regulations apply to administrative claims under the Federal Tort Claims Act, as amended, asserted on or after the effective date of this rule, for money damages against the United States for damage to or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the NRC while acting within the scope of his or her office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

(d) These regulations also set forth the procedures when lawsuits are commenced against an employee of the NRC resulting from the operation of a motor vehicle while acting within the scope of his or her employment.

§ 14.3 Limit on attorney fees; penalty.

(a) An attorney may not charge or receive fees in excess of—

(1) 25 percent of any judgment rendered under 28 U.S.C. 1346(b);

(2) 25 percent of any settlement made under 28 U.S.C. 2677; or

(3) 20 percent of any award, compromise, or settlement made under 28 U.S.C. 2672.

(b) Any attorney who charges or receives any amount in excess of that allowed under this section is subject to a fine of not more than $2,000 or imprisonment for not more than one year, or both. (28 U.S.C. 2678)

Subpart B—Filing Procedures and Requirements

§ 14.11 Who may file a claim.

(a) A claim for damage to or loss of property may be presented by the owner of the property interest which is the subject of the claim, his or her duly authorized agent, or his or her legal representative.

(b) A claim for personal injury may be presented by the injured person, his or her duly authorized agent, or his or her legal representative.

(c) A claim based on death may be presented by the executor or administrator of the decedent's estate, or by any other person legally entitled to assert the claim under applicable State law.

(d) A claim for loss wholly compensated by an insurer with the rights of a subrogee may be presented by the insurer. A claim for loss partially compensated by an insurer with the rights of a subrogee may be presented by the insurer or the insured individually, to the extent of their respective interests, or jointly. Whenever an insurer presents a claim asserting the rights of a subrogee, the insurer shall present with the claim appropriate evidence that the insurer has the rights of a subrogee.

(e) If a claim is presented by an agent or legal representative that person shall—

(1) Present the claim in the name of the claimant;

(2) Sign the claim;

(3) Show the title or legal capacity of the person signing the claim; and

(4) Include with the claim evidence of his or her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian, or other representative.

§ 14.13 When is a claim presented to NRC.

For purposes of the provisions of 28 U.S.C. 2672, a claim is presented when NRC receives from a claimant, or the claimant's duly authorized agent or legal representative, an executed Standard Form 95 or other written notification of an incident. An executed Standard Form 95 or written notification must be accompanied by a claim for money damages in a sum certain for damage to or loss of property, personal injury, or death alleged to have occurred by reason of the incident.

§ 14.15 Where to present a claim to NRC.

A claimant shall mail or deliver the claim to the office of employment of the NRC employee whose negligent or wrongful act or omission is alleged to have caused the loss or injury. If the office of employment is not known, the claimant shall file the claim with the Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

§ 14.17 A claim must be presented to the appropriate agency.

A claimant shall present the claim to the Federal agency whose activities gave rise to the claim. If a claim is erroneously presented to the NRC, the NRC shall transfer it to the appropriate agency, if the proper agency can be identified from the claim, and shall advise the claimant of the transfer. If transfer is not feasible, the NRC shall return the claim to the claimant. The fact of transfer does not, in itself, preclude further transfer, return of the claim to the claimant, or other appropriate disposition of the claim. A claim shall be presented, as required by 28 U.S.C. 2401(b), as of the date it is received by the appropriate agency.

§ 14.19 When a claim is filed with more than one agency.

(a) If the NRC and one or more other Federal agencies is or may be involved in the events giving rise to the claim, and if the claim is filed with the NRC, the NRC shall contact all other affected agencies in order to designate the single agency which will investigate and decide the merits of the claim.

(1) In the event that an agreed upon designation cannot be made by the affected agencies, the Department of Justice will be consulted and will designate a primary agency to investigate and decide the merits of the claim. If the NRC is designated as the primary agency, it shall notify the claimant that all future correspondence concerning the claim shall be directed to the NRC.

(2) All involved Federal agencies can agree either to conduct their own administrative reviews and to coordinate the results or to have the investigations conducted by the primary agency. In either event, the primary agency is responsible for the final determination of the claim.

(b) A claimant presenting a claim arising from an incident to more than one agency should identify each agency to which the claim is submitted at the time each claim is presented. If a claim arising from an incident is presented to more than one Federal agency without any indication that more than one agency is involved, and any one of the concerned Federal agencies takes final action on that claim, the final action is conclusive on the claims presented to the other agencies in regard to the time required for filing suit set forth in 28 U.S.C. 2401(b). However, if NRC, as a subsequently involved Federal agency, desires to take further action with a view towards settling the claim, the NRC may treat the matter as a request for reconsideration of the final denial under 10 CFR 14.39, unless suit has been filed in the interim, and advise the claimant of the action.

§ 14.21 Filing a claim after an agency final denial.

If, after a final denial by another agency, the claimant files with the NRC a claim arising out of the same incident on which the claim filed with the other agency was based, the submission of the claim to NRC will not toll the requirement of 28 U.S.C. 2401(b) that suit must be filed within six months of the final denial by the other agency, unless the other agency specifically and explicitly treats the submission to NRC as a request for reconsideration under 10 CFR 14.39 and advises the claimant of the action.

§ 14.23 Evidence and information to be submitted.

(a) *Death.* In support of a claim based on death, the claimant may be required to submit the following evidence or information:

(1) An authenticated death certificate or other competent evidence showing cause of death, date of death, and age of decedent.

(2) Decedent's employment or occupation at time of death, including his or her monthly or yearly salary or earnings (if any), and the duration of his or her last employment or occupation.

(3) Full names, addresses, birth dates, kinship, and marital status of the decedent's survivors, including identification of those survivors who were dependent for support upon the decedent at the time of death.

(4) Degree of support afforded by the decedent to each survivor dependent upon him or her for support at the time of death.

(5) Decedent's general physical and mental condition before death.

(6) Itemized bills for medical and burial expenses incurred by reason of the incident causing death, or itemized receipts of payment for these expenses.

(7) If damages for pain and suffering prior to death are claimed, a physician's detailed statement specifying the injuries suffered, duration of pain and suffering, any drugs administered for pain, and the decedent's physical condition in the interval between injury and death.

(8) Any other evidence or information which may have a bearing on either the responsibility of the United States for the death or the amount of damages claimed.

(b) *Personal injury.* In support of a claim for personal injury, including pain and suffering, the claimant may be required to submit the following evidence or information:

(1) A written report by the attending physician or dentist setting forth the nature and extent of the injury, nature and extent of treatment, any degree of temporary or permanent disability and prognosis, period of hospitalization, and any diminished earning capacity. In addition, the claimant may be required to submit to a physical or mental examination by a physician employed by the NRC or another Federal agency. The claimant may request in writing a copy of the report of the examining physician if the claimant has—

(i) Furnished the report referred to in paragraph (a)(1) of this section on request; and

(ii) Made or agrees to make available to the NRC all other reports of the claimant's physical or mental condition which have been or are made by any physician.

(2) Itemized bills for medical, dental, and hospital expenses incurred, or itemized receipts of payment for these expenses.

(3) If the prognosis reveals the necessity for future treatment, a statement of expected expenses for the treatment.

(4) If a claim is made for loss of time from employment, a written statement from his or her employer showing actual time lost from employment, whether he or she is a full- or part-time employee, and wages or salary actually lost.

(5) If a claim is made for loss of income and the claimant is self-employed, documentary evidence showing the amount of earnings actually lost.

(6) Any other evidence or information which may have a bearing on either the responsibility of the United States for the personal injury or the damages claimed.

(c) *Property damage.* In support of a claim for damage to or loss of property, real or personal, the claimant may be required to submit the following evidence or information:

(1) Proof of ownership of the property interest which is the subject of the claim.

(2) A detailed statement of the amount claimed with respect to each item of property.

(3) An itemized receipt of payment for necessary repairs or itemized written estimates of the cost of these repairs.

(4) A statement listing date of purchase, purchase price, and salvage value, where repair is not economical.

(5) Any other evidence or information which may have a bearing on either the responsibility of the United States for the injury to or loss of property or the damages claimed.

§ 14.25 Amending a claim.

The claimant may amend a claim presented in compliance with 10 CFR 14.13 at any time prior to final agency action or prior to the exercise of the claimant's option under 28 U.S.C. 2675(a). The claimant or his or her duly authorized agent or legal representative shall sign each amendment and submit it in writing. Upon the timely filing of an amendment to a pending claim, the agency shall have six months in which to make a final disposition of the claim as amended and the claimant's option under 28 U.S.C. 2675(a) does not accrue until six months after the filing of an amendment.

§ 14.27 Time limit.

The claimant shall furnish evidence and information of the types described in 10 CFR 14.23, to the extent reasonably practicable, when the claim is initially presented. If the claimant fails to furnish sufficient evidence and information within six months after the claim was initially presented to enable NRC to adjust, determine, compromise and settle the claim, NRC may consider the claim a nullity.

Subpart C—Commission Action and Authority

§ 14.31 Investigation.

The NRC may—

(a) Require the claimant to furnish any evidence or information which is

relevant to its consideration of the claim:

(b) Examine the claimant; or

(c) Investigate, or request any other Federal agency to investigate, a claim filed under this part.

§ 14.33 Officials authorized to act.

The Executive Legal Director or the Executive Legal Director's designee shall exercise the authority to adjust, determine, compromise and settle a claim under the provisions of 28 U.S.C. 2672.

§ 14.35 Limitation on NRC's authority.

(a) The NRC shall effect an award, compromise, or settlement of a claim hereunder in excess of $25,000 only with the prior written approval of the Attorney General or his designee. For the purposes of this paragraph, a principal claim and any derivative or subrogated claim are treated as a single claim.

(b) The NRC may adjust, determine, compromise, or settle a claim under this part only after consultation with the Department of Justice if, in the opinion of the Office of the Executive Legal Director—

(1) A new precedent or a new point of law is involved;

(2) A question of policy is or may be involved;

(3) The United States is or may be entitled to indemnity or contribution from a third party and the NRC is unable to adjust the third party claim; or

(4) The compromise of a particular claim, as a practical matter, will or may control the disposition of a related claim in which the amount to be paid may exceed $25,000.

(c) The NRC may adjust, determine, compromise, or settle a claim under this part only after consultation with the Department of Justice if the NRC is informed or is otherwise aware that the United States, or an employee, agent, or cost-plus contractor of the United States, is involved in litigation based on a claim arising out of the same incident or transaction.

(d) When Department of Justice approval or consultation is required under this section or the advice of the Department of Justice is otherwise requested, the NRC shall direct the referral or request to the Assistant Attorney General, Civil Division, Department of Justice, in writing. The NRC shall ensure that the referral or request contains—

(1) A short and concise statement of the facts and the reasons for the referral or request;

(2) Copies of relevant portions of NRC's claim file; and

(3) A statement of the recommendations or views of the NRC.

A referral or request to the Department of Justice may be made at any time after presentment of a claim to the NRC.

§ 14.37 Final denial of claim.

The NRC shall send notice of a final denial of a claim in writing to the claimant, his or her attorney or legal representative, by certified or registered mail. The notification of final denial may include a statement of the reasons for the denial. The NRC shall include a statement in the notification of final denial that, if the claimant is dissatisfied with NRC's action, he or she may file suit in an appropriate U.S. District Court not later than 6 months after the date of mailing of the notification.

§ 14.39 Reconsideration of a claim.

Prior to the commencement of suit and prior to the expiration of the 6-month period provided in 28 U.S.C. 2401(b), a claimant, or his or her duly authorized agent, or legal representative, may file a written request with the NRC for reconsideration of a final denial of a claim. Upon the timely filing of a request for reconsideration, the NRC shall have 6 months from the date of filing in which to make a final disposition of the claim, and the claimant's option under 28 U.S.C. 2675(a) does not accrue until 6 months after the filing of a request for reconsideration. Final NRC action on a request for reconsideration shall be effected in accordance with the provisions of 10 CFR 14.37.

§ 14.41 Payment of approved claims.

(a) The NRC shall pay any award, compromise, or settlement in an amount of $2,500 or less made under the provisions of 28 U.S.C. 2672 out of the appropriations available to it. The NRC shall obtain payment of any award, compromise, or settlement in excess of $2,500 from the Department of the Treasury by forwarding Standard Form 1145 to the Payment Branch, Claims Group, General Accounting Office. If an award, compromise, or settlement is in excess of $25,000, Standard Form 1145 must be accompanied by evidence that the award, compromise, or settlement has been approved by the Attorney General or the Attorney General's designee. When the use of Standard Form 1145 is required, it must be executed by the claimant or it must be accompanied by either a claims settlement agreement or a Standard Form 95 executed by the claimant.

(b) If a claimant is represented by an attorney, the voucher for payment must designate both the claimant and his or her attorney as payees, and the check must be delivered to the attorney whose address appears on the voucher.

§ 14.43 Acceptance of payment constitutes release.

Acceptance by the claimant, his agent, or legal representative, of any award, compromise, or settlement made under the provisions of 28 U.S.C. 2672 or 2677, is final and conclusive on the claimant, his or her agent or legal representative and any other person on whose behalf or for whose benefit the claim has been presented. Acceptance constitutes a complete release of any claim against the United States and against any employee of the Government whose act or omission gave rise to the claim.

Subpart D—Employee Drivers

§ 14.51 Procedures when employee drivers are sued.

(a) Any NRC employee against whom a civil action or proceeding is brought for damage to property, or for personal injury or death, on account of the employee's operation of a motor vehicle in the scope of his or her office or employment with the NRC, shall promptly deliver all process and pleadings served upon the employee, or an attested true copy, to the Office of the Executive Legal Director. If the action is brought against an employee's estate, this procedure applies to the employee's personal representative.

(b) In addition, upon the employee's receipt of any process or pleadings, or any prior information regarding the commencement of a civil action or proceeding, the employee shall immediately advise the Office of the Executive Legal Director by telephone or telegraph.

(c) The Executive Legal Director or designee shall promptly inform the General Counsel of NRC concerning the commencement of the action and furnish to the General Counsel:

(1) Copies of all process and pleadings, and

(2) Copies of all accident, police, and investigation reports and other evidence relating to the action or proceeding.

§ 14.53 Scope of employment report.

Copies of the documents received by the General Counsel from the Executive Legal Director and a report containing all data bearing upon the question whether the employee was acting within the scope of his or her office or employment will be furnished by the General Counsel or designee to the United States Attorney for the district encompassing the place where the civil action or proceeding is brought. A copy of such documents and the report also will be furnished to the Director of the Torts Branch, Civil Division, Department of Justice, at the earliest possible date, or within the time specified by the United States Attorney.

§ 14.55 Removal of state court proceedings.

Upon a certification by the United States Attorney that the defendant employee was acting within the scope of his or her office or employment at the time of the incident out of which the suit arose, any civil action or proceeding commenced in a State court may be removed to the district court of the United States for the district and division encompassing the place where the action or proceeding is pending in accordance with 28 U.S.C. 2679.

§ 14.57 Suit against United States exclusive remedy.

The remedy against the United States provided by 28 U.S.C. 1346(b) and 2672 for damage to or loss of property or personal injury or death, resulting from the operation by an employee of the Government of any motor vehicle while acting within the scope of his or her office or employment, is exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or his or her estate whose act or omission gave rise to the claim.

Dated at Bethesda, Maryland the 17th day of February 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-5775 Filed 3-2-82; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 204 and 217

[Docket No. R-0397; Regs. D and Q]

Eligibility of Investment Companies and Trusts in Which the Entire Beneficial Interest is Held Exclusively by Depository Institutions To Sell Federal Funds

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final interpretation.

SUMMARY: The Board of Governors has issued an interpretation of the definition of deposit in Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204) and Regulation Q—Interest on Deposits (12 CFR Part 217) to permit investment companies and trusts in which the entire beneficial interest is held exclusively by depository institutions to sell Federal funds.

DATE: February 25, 1982.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Associate General Counsel (202/452-3625), or Paul S. Pilecki, Senior Attorney (202/452-3281), or Robert G. Ballen, Attorney (202/452-3265), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Effective February 25, 1982, pursuant to its authority under section 19 of the Federal Reserve Act (12 U.S.C. 461 *et seq.*), the Board amends Regulation D (12 CFR Part 204), and Regulation Q (12 CFR Part 217) as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS

1. Regulation D (12 CFR Part 204) is amended by adding a new § 204.123 as follows:

§ 204.123 Sale of Federal funds by investment companies or trusts in which the entire beneficial interest is held exclusively by depository institutions.

(a) The Federal Reserve Act, as amended by the Monetary Control Act of 1980 (Title I of Pub. L. 96-221) imposes Federal Reserve requirements on transaction accounts and nonpersonnel time deposits held by depository institutions. The Board is empowered under the Act to determine what types of obligations shall be deemed a deposit. Regulation D—Reserve Requirements of Depository Institutions exempts from the definition of "deposit" those obligations of a depository institution that are issued or undertaken and held for the account of a domestic office of another depository institution (12 CFR 204.2(a)(1)(vii)(A)(1)). A parallel exemption in Regulation Q—Interest on Deposits exempts from the definition of "deposit" obligations issued to (or undertaken with respect to) and held for the account of a bank (12 CFR 217.1(f)(1)). These exemptions from the definition of "deposit" are known collectively as the "Federal funds" or "interbank" exemption.

(b) Title IV of the Depository Institutions Deregulation and Monetary Control Act of 1980 authorizes Federal savings and loan associations to invest in open-ended management investment companies provided the funds' investment portfolios are limited to the types of investments that a Federal savings and loan association could hold without limit as to percentage of assets (12 U.S.C. 1464(c)(1)(Q)). Such investments include mortgages, U.S. Government and agency securities, securities of states and political subdivisions, sales of Federal funds and deposits held at banks insured by the Federal Deposit Insurance Corporation. The Federal Credit Union Act authorizes Federal credit unions to aggregate their funds in trusts provided the trust is limited to such investments that Federal credit unions could otherwise make. Such investments include loans to credit union members, obligations of the U.S. government or secured by the U.S. government, loans to other credit unions, shares or accounts held at savings and loan associations or mutual savings banks insured by FSLIC or FDIC, sales of Federal funds and shares of any central credit union whose investments are specifically authorized by the board of directors of the Federal credit union making the investment (12 U.S.C. 1757(7)).

(c) The Board has considered whether an investment company or trust whose entire beneficial interest is held by depository institutions, as defined in Regulation D, would be eligible for the Federal funds exemption from Reserve requirements and interest rate limitations. The Board has determined that such investment companies or trusts are eligible to participate in the Federal funds market because, in effect, they act as mere conduits for the holders of their beneficial interest. To be regarded by the Board as acting as a conduit and, thus, be eligible for participation in the Federal funds market, an investment company or trust must meet each of the following conditions:

(1) The entire beneficial interest in the investment company or trust must be held by depository institutions, as defined in Regulation D. These institutions presently may participate directly in the Federal funds market. If the entire beneficial interest in the investment company or trust is held only by depository institutions, the Board will regard the investment company or trust as a mere conduit for the holders of its beneficial interest.

(2) The assets of the investment company or trust must be limited to investments that *all* of the holders of the beneficial interest could make directly without limit.

(3) Holders of the beneficial interest in the investment company or trust must not be allowed to make third party payments from their accounts with the investment company or trust. The Board does not regard an investment company or trust that offers third party payment capabilities or other similar services which actively transform the nature of the funds passing between the holders

of the beneficial interest and the Federal funds market as mere conduits.

The Board expects that the above conditions will be included in materials filed by an investment company or trust with the appropriate regulatory agencies.

(d) The Board believes that permitting sales of Federal funds by investment companies or trusts whose beneficial interests are held exclusively by depository institutions, that invest solely in assets that the holders of their beneficial interests can otherwise invest in without limit, and do not provide third party payment capabilities offer the potential for an increased yield for thrifts. This is consistent with Congressional intent to provide thrifts with convenient liquidity vehicles.

PART 217—INTEREST ON DEPOSITS

2. Regulation Q (12 CFR Part 217) is amended by adding a new § 217.158 as follows:

§ 217.158 Sale of Federal funds by investment companies or trusts in which the entire beneficial interest is held exclusively by depository institutions.

For text of this interpretation see § 204.123 of this subchapter.

By order of the Board of Governors, February 25, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-5666 Filed 3-2-82; 8:45 am]
BILLING CODE 6210-01-M

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12 CFR Parts 207, 220, 221 and 224

[Reg. G, T, U and X]

Securities Credit Transactions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The List of OTC Margin Stocks is comprised of stocks traded over the-counter (OTC) that have been determined by the Board of Governors of the Federal Reserve System to be subject to margin requirements under certain Federal Reserve regulations. The List is published from time to time by the Board as a guide for lenders subject to the regulations and the general public. As announced in the Federal Register on November 24, 1981, the Board has decided to revise the List three times a year. This will be accomplished by publishing a complete List once a year and two Supplements of additions to and deletions from the List twice a year, at approximately four month intervals. This document sets forth additions to or deletions from the previously published List on October 5, 1981 and will serve to give notice to the public about the changed status of certain stocks.

EFFECTIVE DATE: March 1, 1982.

FOR FURTHER INFORMATION CONTACT: Jamie Lenoci, Financial Analyst, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2781.

SUPPLEMENTARY INFORMATION: Set forth below are stocks representing additions to or deletions from the Board's List of stocks traded over-the-counter on file at the Office of the Federal Register as of October 5, 1981. The List, as amended, includes those stocks that the Board of Governors has found meet the criteria specified by the Board and thus have the degree of national investor interest, the depth and breadth of market, the availability of information respecting the stock and its issuer to warrant incorporating such stocks within the requirements of Regulations G, T, U, and X. Copies of the current List and the Supplement of changes thereto may be obtained from any Federal Reserve Bank. Such copies are also on file at the Office of the Federal Register.

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion on the List specified in 12 CFR 207.5 (d) and (e), 220.8 (h) and (i), and 221.4 (d) and (e). No additional useful information would be gained by public participation. The requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of this List as soon as possible.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exhange Act of 1934 (15 U.S.C. 78g and 78w) and in accordance with § 207.2(f)(2) of Regulation G, § 220.2(e)(2) of Regulation T, and § 221.3(d)(2) of Regulation U, there are set forth below additions to and deletions from the Board's List:

Board of Governors of the Federal Reserve System, Supplement to List of OTC Margin Stocks, March 1, 1982

Additions to the List

Adage, Inc., $.10 par common
Advest Group, Inc., The, $1.00 par common
Aero Services International, Inc., No par common
Allegheny & Western Energy Corporation, $.01 par common
Alpha Microsystems, No par common
American Recreation Centers, Inc., No par common
Amicon Corporation, $.33⅓ par common
Analysts International Corporation, $.10 par common
Apple Computer, Inc., No par common
Austin Bancshares Corporation, $1.00 par common
Autoclave Engineers, Inc., $.15 par common
Avatar Holdings, Inc., $1.00 par common
BSD Medical Corporation, $.0005 par common
BSN Corporation, $.01 par common
Bank Securities, Inc., $5.00 par common
Barringer Resources, Inc., $.01 par common
Barton Valve Company, Inc., $.01 par common
Base Ten Systems, Inc., Class A, $1.00 par common
Beefsteak Charlie's, Inc., $.10 par common
Biospherics, Inc., $.01 par common
Biotech Research Laboratories, Inc., $.01 par common
Birtcher Corporation, The, $1.00 par capital
Bliss, A. T., and Company, Inc., $.01 par common
Blue Ridge Real Estate Company, Big Boulder Corporation, Unit, no par common
Bogert Oil Company, $.01 par common
Bonray Drilling Corporation, $.10 par common
Brady Energy Corporation, $.01 par common
C-Cor Electronics, Inc., $.10 par common
CPAC, Inc., $.01 par common
C3, Inc., $.01 par common
Cable TV Industries, No par common
Centuri, Inc., $.05 par common
Cetus Corporation, $.01 par common
Chem-Tronics, Inc., No par common
Cibola Energy Corporation, $.01 par common
Commonwealth Realty Trust, Class A, No par common
Computer Entry Systems Corporation, $.05 par common
Computer Microfilm Corporation, $.25 par common
Computer Task Group, Inc., $.01 par common
Consolidated Capital Income Trust, No par shares of beneficial interest
Consolidated Petroleum Industries, Inc., $.10 par common
County Tower Bancorporation, $5.00 par common
Cymaticolor Corporation, $.01 par common
DBA Systems, Inc., $.10 par common
Data I/O Corporation, No par common
Datavision, Inc., $.01 par common
Dawson Geophysical Company, $.33⅓ par common
Delmed, Inc., $.10 par common
Delta Drilling Company, $.10 par common
Delta Petroleum & Energy Corporation, $.01 par common
Delta Queen Steamboat Co., The, $.25 par common
Deltak Corporation, $.01 par common
Detector Electronics Corporation, $.10 par common
Diagnostic/Retrieval Systems, Inc., $.01 par common
Digital Products Corporation, $.01 par common
Digital Switch Corporation, $.01 par common
Dorado Micro Systems, No par common
Drew National Corporation, $.01 par common
Dreyer's Grand Ice Cream, Inc., No par common
Duralith Corporation, No par common
Dysan Corporation, No par common
Econo-Therm Energy Systems Corporation, $.15 par common
Eldorado Bancorp (California), $1.25 par common
Electro-Biology, Inc., $1.00 par common
Electro-Catheter Corporation, $.05 par common
Electronics, Missiles & Communications, Inc., $.01⅔ par common
Emulex Corporation, $.10 par common
Fabri-Tek, Inc., $.10 par common
Fafco, Inc., $.125 par common
Federated Investors, Inc., Class B, $.05 par common
First American Bank of Palm Beach County, Class A, $1.00 par common
First City Federal Savings and Loan Association (Florida), $.01 par common
First Financial Savings and Loan Association (Wisconsin), $1.00 par common
Foster, L. B., Company, $.01 par common
Frequency Control Products, Inc., $.01 par common
G & K Services, Inc., $.50 par common
GTS Corporation, $.01 par common
Geophysical Systems Corporation, $1.00 par common
Gibraltar Exploration, Ltd., $.01 par common
Griffin Petroleum Corporation, No par common
HBO & Company, $.05 par common
Heritage Communications, Inc., No par convertible preferred
IPL Systems, Inc., Class A, $.01 par common
ISSC Industrial Solid State Controls, Inc., $1.00 par common
Ike Lovelady, Inc., $1.00 par common
Immuno Nuclear Corporation, $.01 par common
Infotron Systems Corporation, $.01 par common
Intelligent Systems Corp., $.05 par common
Inter-Tel, Inc., No par common
Intergraph Corporation, $.10 par common
Intermagnetics General Corporation, $.10 par common
International Income Property, Inc., $.01 par common
Interstate Motor Freight System, $1.00 par common
Isomet Corporation, $1.00 par common
Jamaica Water Properties, Inc., $.10 par common
Jones Intercable, Inc., Class A, $.01 par common
K-Tron International, Inc., $.01 par common
Kelly-Johnston Enterprises, Inc., $1.00 par common
Kencope Energy Companies, $.10 par common
Kyle Technology Corporation, No par common
Liebert Corporation, No par common
Liz Claiborne, Inc., $1.00 par common
Management Science America, Inc., $.0025 par common
Matrix Science Corporation, $.01 par common
Medical Graphics Corporation, $.05 par common
Micom Systems, Inc., No par common
Midway Airlines, Inc., $.01 par common
Mizel Petro Resources, Inc., No par common
Monarch Avalon, Inc., $.25 par common
Nahama & Weagant Energy Company, No par common
National Bancshares Corporation of Texas, $5.00 par common
National City Bancorporation (Minnesota), $1.25 par common
Nautilus Fund, Inc., $1.00 par common
Nelson Research & Development Company, No par common
Nike, Inc., Class B, No par common
Norpac Exploration Services, Inc., $.20 par common
North East Insurance Company, $1.00 par common
Northeast Energy Development Corporation, No par common
Northeastern Bancorp, Inc. (Pennsylvania), $10.00 par common
Novametrix Medical Systems, Inc., $.01 par common
Numerax, Inc., $.01 par common
Nutri/System, Inc., $.01 par common
Object Recognition Systems, Inc., $.01 par common
Ocilla Industries, Inc., $.01 par common
Oglebay Norton Company, $1.00 par common
Olson Farms, Inc., $3.00 par common
Orbit Instrument Corporation, Warrants (expire 03/09/88)
Originala Petroleum Corp., $.10 par common
Oxygen Enrichment Company, Ltd., $.01 par common
Partners Oil Company, $.01 par common
Pennbancorp, $5.00 par common
Permeator Corporation, $.10 par common
Petroleum Helicopters, Inc., Non-voting, $.08⅓ par common
Pizza Time Theatre, Inc., No par common
Prairie Producing Company, $.01 par common
Production Operators Corporation, 9.25% convertible subordinated debentures
Quixote Corporation, $.01⅔ par common
Republic Resources Corporation, $.01 par common
Rio Verde Energy Corporation, $.10 par common
Sei Corporation, $.01 par common
Satellite Television & Associated Resources, Inc., $.01 par common
Saxon Oil Company, $.10 par common
Scan-Optics, Inc., $.02 par common
Scientific Radio Systems, Inc., $.01 par common
Scott Instruments Corporation, $.01 par common
Sea Galley Stores, Inc., $.05 par common
Seven Oaks International, Inc., $.10 par common
Silicon Systems, Inc., No par common
Skipper's, Inc., $.10 par common
Software AG Systems Group, Inc., $.01 par common
Specialized Systems, Inc., No par common
Steiger Tractor, Inc., $1.00 par common
Sterling Pipe & Supply Company, $.01 par common
Summit Bancorporation, The, No par common
Survival Technology, Inc., $.10 par common
Swanton Corporation, $.10 par common
Syncor International Corporation, $.01 par common
Syntech International, Inc., $.10 par common
Tandon Corporation, $.01 par common
Teeco Properties, Ltd., Units of limited partnership interest
Texas Energies, Inc., $.10 par common
Times Fiber Communications, Inc., $1.00 par common
Transducer Systems, Inc., No par common
Transnet Corporation, $.01 par common
Ultrasystems, Inc., No par common
United Television, Inc., $.10 par common
Velo-Bind, Inc., $1.00 par common

Ventrex Laboratories, Inc., $.01 par common
Viratek, Inc., $.10 par common
Waterman Marine Corporation, $1.00 par common
Westlands Bank (California), $1.25 par common
Wometco Cable TV, Inc., $1.00 par common
XRG International, Inc., $.001 par common
Zentec Corporation, No par common

Deletions from the List

*API Trust, $1.00 par shares of beneficial interest
Acme Electric Corporation, $1.00 par common
Alexander & Alexander Services, Inc., $1.00 par common
Allied Telephone Company, $2.00 par common
Alton Packaging Corporation, $5.00 par common
Anderson, Greenwood & Co., No par common
Anta Corporation, $1.00 par common
Applicon, Inc., $.05 par common
Bally's Park Place, Inc., $.10 par common
Beard Oil Company, $.05 par common
Beehive International, Paired certificates, $.02 par common
Bentley Laboratories, Inc., $.10 par common
Boston Company, The, Class B, $1.00 par common
Brock Hotel Corporation, $.10 par common
Central Vermont Public Service Corporation, $6.00 par common
*Coastal Industries, Inc., $.25 par common
Commerce Southwest, Inc., $1.00 par common
Dataram Corporation, $1.00 par common
Dean Foods Company, $1.00 par common
Drum Financial Corporation, $1.00 par common
*Eaton Corporation, Series A, no par convertible preferred
*First Executive Corporation, $1.00 par convertible preferred
First Newport Corporation, $1.00 par common
First Savings and Loan Association (California), No par common
First State Banking Corporation, $5.00 par common
Floating Point Systems, Inc., No par common
GNC Energy Corporation, $.40 par common
Galaxy Oil Company, 9% convertible subordinated debentures
*Gold Medallion Corporation, $.10 par common
Government Employees Life Insurance Company, $1.50 par common
*Graphic Scanning Corporation, 10% convertible subordinated debentures
Green Mountain Power Corporation, $3.33⅓ par common
Gulfstream Banks, Inc., $1.00 par common
Hyatt International Corporation, Class A, $.10 par common
Integrity Entertainment Corporation, $.01 par common
KDI Corporation, $.35 par common
*Keldon Oil Company, No par common
Kent-Moore Corporation, $1.00 par common
Kinnard Companies, Inc., $.10 par common
*MCI Communications Corporation, $1.84 par cumulative convertible preferred
Marcade Group, Inc., $.10 par common
Mayflower Corporation, No par common
*Mercantile Bankshares Corporation (Maryland), No par cumulative convertible preferred
*Meyer, Fred, Inc., No par common
Mid-America Industries, Inc., $1.00 par common
NBI, Inc., $.10 par common
National Old Line Insurance Company, Class BB, $1.00 par common
Nevada Savings and Loan Association, $.3277 par capital
*New Virginia Bancorporation, $1.00 par common
North European Oil Royalty Trust, No par units of beneficial interest
Northern States Bancorporation, Inc., $5.00 par common
Olsten Corporation, The, $.10 par common
Payless Cashways, Inc., $.50 par common
Postal Instant Press, No par common
Premier Resources, Ltd., No par common
Presidio Oil Company, $.10 par common
*Q1 Corporation, $.01 par common
Rapidata, Inc., $.01 par common
Russell Stover Candies, Inc., $1.00 par common
*Southland Bancorporation, $2.50 par common
Southwestern Energy Company, $2.50 par common
*Strother Drug Company, $2.00 par common
T G Bancshares Company, $5.00 par common
T.I.M.E.–DC, Inc., *$2.00 par common; *Series A, $10.00 par cumulative convertible preferred
UA-Columbia Cablevision, Inc., $.05 par common
Unit Drilling & Exploration Company, $.20 par common
United Bank Corporation of New York, $5.00 par common
United Cable Television Corporation, $.10 par common
*Walter Realty Investors, Inc., $.10 par common
Western Gear Corporation, $1.00 par common

*Removed for failing continued listing requirement.

By order of the Board of Governors of the Federal Reserve System acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)), February 23, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-5721 Filed 3-2-82; 8:45 am]

BILLING CODE 6210-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

[Rev. 6, Amdt. 28]

Business Loan Policy

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: A proposed amendment to § 120.2(d)(9) was published on February 17, 1981 (46 FR 12500). The amendment would make any concern engaged in any degree in the production, servicing, distribution or selling of items related to the unlawful use of drugs and controlled substances ineligible for financial assistance. The present regulation allows applicants to receive up to 30 percent of their gross receipts from such sources and still retain eligibility. This policy change was proposed, in part, because many local jurisdictions were making trade in such items illegal and the business would not have repayment ability. Also, the SBA does not believe it is necessary and appropriate to use the taxpayers' money to support or encourage trade in items whose sole or principal function involves activities prohibited by law. SBA believes that the impact of this amendment will be minor.

DATE: Effective March 3, 1982.

SUPPLEMENTARY INFORMATION:

SBA received two written comments on the proposed amendment. One was from a participating lender and one was from within the Agency.

The participating lender identified three areas of concern: (1) With the complex structure of business it can be virtually impossible to determine, in every case, whether the applicant gets some income, directly or indirectly, from an illegal activity, (2) the need for a definition of what constitutes an illegal product or service, and (3) whether SBA's guarantee would be voided, in whole or in part, if a borrower enters an illegal activity after a loan is disbursed. The comment from within SBA expressed the concern that the wording of the proposed regulation was too limiting, making the only illegal activity one related to controlled substances or drugs.

The SBA recognizes that, in some instances, an affiliate of an applicant could have one product out of many being sold that is ineligible. SBA expects its participants to make a good-faith effort to determine the eligibility of applicants. In the absence of fraud or misrepresentation by the participant, an error or failure to discover such a situation would not invalidate the SBA guarantee.

Defining specific illegal products is not possible. As new methods of using drugs and controlled substances are devised, someone will produce a new product or service. Examples of the types of services or products SBA intends to exclude from eligibility include a lab that produces, either on contract or for sale, uppers, downers or other drugs for unlawful use; a product that has no purpose except for the unlawful use of drugs; or a boat or airplane operator that provides a service to smugglers. A manufacturer, distributor or seller of syringes to be used in the lawful injection of prescription drugs would not be ineligible under this regulation.

If a participant and SBA first learn after a loan is disbursed that a borrower engages in, or the borrower starts to engage in, an illegal activity, the loan guarantee would remain valid. The circumstances of the loan would determine whether the participant and SBA would take legal action against the borrower, accelerate the loan or take some other action.

The concern voiced from within SBA was resolved by rewording the regulation. The final regulation clearly shows that drug related activities are merely an example of an illegal activity and that all illegal activities make an applicant ineligible for consideration.

For the purpose of Executive Order 12291, effective February 17, 1981, SBA hereby determines that this final rule does not constitute a major rule. In addition, it is hereby certified for the purpose of section 604 of the Regulatory Flexibility Act (Pub. L. 96-354, Sept. 19, 1980, 5 U.S.C. 604), that this final rule will not have significant economic impact on a substantial number of small entities. In this regard, SBA has historically received few applications for assistance from the type of entity this rule is intended to cover. Further, if the entity is conducting illegal activities in the jurisdiction in which it is located it would be per se ineligible for SBA assistance.

Accordingly, pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 631 et seq.) § 120.2(d)(9), Part 120, Chapter I, Title 13 of the Code of Federal Regulations is revised to read as follows:

§ 120.2 Financial assistance will not be granted by SBA.

* * * * *

(d) * * * (9) If an applicant is engaged in an illegal activity or is engaged in the production, servicing, or distribution by sale or otherwise of products or services used in connection with an illegal activity. This includes, but is not limited to, the production, servicing, distribution of paraphernalia, products or services that are used or intended to be used primarily or exclusively in connection with the unlawful use of drugs or controlled substances.

* * * * *

Dated: February 18, 1982.

Donald R. Templeman,

Acting Administrator.

[FR Doc. 82-5724 Filed 3-2-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket Nos. RM80-42, R-424, R-446; Order No. 144-A]

Order Denying Rehearing, Lifting Stay and Clarifying Order

Correction

In FR Doc. 82-5269, appearing at page 8329, in the issue of Friday, February 26, 1982, make the following change:

On page 8342, in the first column, the section heading should be changed to "§ 35.24 [Reserved]"

On page 8342, in the first column, the amendatory language in paragraph "1." should read "1. Section 35.24 of Part 35 is reserved."

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 111

[Docket No. R-82-796]

Fair Housing Assistance Program; Program Description and Eligibility Criteria

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity; HUD.

ACTION: Final rule.

SUMMARY: This final regulation describes the program components for State and local fair housing agencies and sets forth the threshold eligibility criteria for their participation in the Fair Housing Assistance Program (FHAP), as well as the specific criteria which proposals must meet in order to qualify for consideration under the various components of the program.

EFFECTIVE DATE: April 2, 1982, except §§ 111.106 and 111.108(c), which contain information collection requirements to be reviewed by OMB.

FOR FURTHER INFORMATION CONTACT: Elizabeth S. Ramadass, Acting Director, Federal, State, and Local Programs Division, Office of Fair Housing Enforcement and Section 3 Compliance, U.S. Department of Housing and Urban Development, 451 7th Street, SW., Room 5220, Washington, D.C. 20410, (202) 426-3500. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 14, 1980, the Department of Housing and Urban Development published in the Federal Register (95 FR 31660) an interim rule setting forth the eligibility criteria for participation in the Fair Housing Assistance Program (FHAP) and the minimum standards which specific project proposals had to meet in order to qualify for consideration under the various components of the program. All interested persons and organizations were invited to submit written comments on or before July 28, 1980.

Comments were received from four organizations, and were carefully reviewed. One organization expressed concern that the threshold eligibility criterion of "substantial equivalency" recognition would be too stringent for localities to meet, and financial assistance would therefore not reach the grass roots level. This criterion, however, has been retained, inasmuch as the Congressional appropriation is specifically earmarked for substantially equivalent agencies. The Department

notes that 10 of the 32 agencies to which FY–80 monies were obligated were in fact localities, and eight additional localities became eligible and applied for funding in FY–81. The same organization commented that professional private fair housing organizations should be able to receive monies to sponsor training workshops. The Congressional authorization is reserved for State and local government agencies. However, within this limitation, nothing precludes private organizations from proposing joint fair housing activities to eligible agencies. A number of the projects funded with FY–80 funds include cooperative activities with State or local agencies and such private groups.

Another organization commented that HUD should target future assistance to local agencies that are not currently determined to be substantially equivalent, in order to encourage the expansion of the number of such agencies. While this comment is being considered in the context of future planning, the funding as presently authorized by Congress is limited to substantially equivalent agencies, and the rule must reflect this authorization. The same organization commented that HUD should consider delineating the relationship between FHEO funded agencies and Office of Neighborhoods, Voluntary Associations and Consumer Protection (NVACP) funded agencies, as housing counseling agencies have contact with potential victims of discrimination. While the responsibility for housing counseling agencies has been transferred to the Assistant Secretary for Housing, the comment highlights an important coordination issue between the Offices of FHEO and other Offices having responsibilities that interface with the program. The Department is addressing this issue internally rather than in the context of FHAP eligibility.

Another organization commented that by basing contributions funding on the number of complaints adequately processed, HUD may be encouraging agencies to "find" cases that do not exist. The Department will be contributing toward the cost of processing only those complaints that are cognizable under Title VIII, and all such complaints must be dual-filed with HUD to ensure that the complaints, in fact, allege a violation of the Federal Fair Housing Law. The same organization commented that the Department needs a more stringent monitoring system, rather than concentrating efforts solely on the eligibility criteria. In fact, one of the threshold eligibility criteria contained in this final rule is that the agency must enter into a complaint handling Memorandum of Understanding with HUD. In the Memorandum which HUD negotiates with equivalent agencies, there is a provision on reporting of complaint processing activity which is designed to facilitate meaningful monitoring of referrals.

Another comment in this submission was that proposals for new data systems should be encouraged, but instituted uniformly with funding made available for its institution as necessary. HUD is revising its internal ADP system to provide for expanded recording of data on State and local agency complaint processing, in order to be able to advise agencies more specifically on HUD data systems requirements. We have also instituted a change in the FHAP to allow for noncompetitive funding of agency complaint management data systems, thereby ensuring that agencies needing assistance in this area receive it. The last suggestion in the comments from this organization was that efforts should be made to educate the housing industry so there would be a decreasing need for policing agencies. This is one of the Department's objectives for the FHAP. Numerous State and local agencies already participating in the FHAP have indicated in their applications an intent to expend substantial portions of their funding on efforts to educate and work cooperatively with the housing industry. These proposals have been very favorably received by the Department. The greater flexibility given to applicant agencies by the less rigid nature of the competitive component is designed to further this goal in future years.

The final organization which commented on this interim rule was a national fair housing organization which suggested that the section on Threshold Agency Eligibility Criteria be amended by including provisions requiring citizen and private fair housing group participation in the planning and design of project proposals by eligible agencies, and by allowing subcontracting to private fair housing groups and organizations. The Department is of the view that citizen participation is important in framing appropriate project proposals. However, all agencies eligible to participate in this program are, by virtue of their Substantial Equivalency recognition, deemed to be responsive to their constituent populations. Given the extremely limited time frames provided to agencies to apply under this program (normally 45–60 days), and considering the overall objective of the Federal government to provide State and local governments with more discretion and less regulatory oversight, the Department believes that such a requirement should not be a threshold criterion for FHAP participation. Departmental notices of availability of funds contain adequate and timely information concerning the amount of funds available, the range of activities eligible for funding, the allocation of funds for capacity building activities and other important requirements. We have modified the application section to include that for all proposals involving competitive funds, citizens and private organizations may participate in the development of proposals from the recognized agencies in their jurisdiction, by submitting suggested proposals to the agencies. Eligible agencies shall consider the views and any project proposals submitted.

With regard to the suggestion that a statement is needed that agencies may provide compensation to private organizations from program funds, we do not consider such authorization to be an appropriate eligibility criterion. Specific Notices of Fund Availability (NOFA) provide for the use of subcontractors, including private fair housing groups. A substantial number of the proposals approved thus far have involved using private fair housing organizations as subcontractors and consultants, and therefore the Department does not feel there is a lack of clarity on this matter.

The Fair Housing Assistance Program involves two types of funding support for State and local fair housing agencies; Type I, Non-competitive, and Type II, Competitive. All funding support under the Type I component is based on the actual level of housing discrimination complaints within a jurisdiction, and is directed at improving an agencie's ability to deal with such complaints. The Department believes that all agencies initially entering into a cooperative complaint processing relationship with HUD need a firm commitment indicating that HUD would provide a reasonable level of financial support in the short term, unrelated to the actual number of complaints processed by the agency, to enable the agency to develop or enhance its complaint processing resources, and to firmly establish its working relationship with HUD Regional Offices. Monies are allocated to agencies according to a formula (periodically published in NOFA in the Federal Register (FR)), and are used to provide resources for actual complaint processing efforts, to establish or improve complaint monitoring, reporting and related data management systems, and to train agency staff in fair housing compliance techniques. Subsequent to two years of capacity building, support will be based on the number of complaints actually processed by the agency. These funds are, by definition, cyclical in nature, with each year's funding level being dependent on complaint activity in a prior twelve month period.

Type II funding is designed to lend support to an agency' non-complaint driven fair housing activity. Funds in this component are available on a competitive basis based upon the submission of viable project proposals aimed at eliminating housing discrimination by a variety of means. These may include, but are not limited to fair housing educational campaigns, programs of assistance and advice to the housing industry, projects designed to gather information through data-based research into specific aspects of the housing market place related to Title VIII enforcement, proposals to modify or streamline an agency's internal practices or procedures, and projects geared toward identifying and eliminating widespread patterns and practices of housing discrimination.

Agencies meeting the Threshold Eligibility Criteria set forth at § 111.104 may apply under either or both of these program components. The additional criteria which agencies must meet under each component are detailed in this regulation.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 19, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the reporting or recordkeeping provisions that are included in this regulation have been or will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained and the public notified to that effect through a technical amendment to this regulation.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying (at a charge of 10 cents per page) during regular business hours in the Office of the Rules Docket Clerk, Room 5218, 451–7th Street, SW., Washington, D.C. 20410.

Pursuant to section 605(b) of the Regulatory Flexibility Act, the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

This rule was listed as item (B)2 FH&EO–1–80 under the Office of Fair Housing and Equal Opportunity in the Department's Semi-Annual Agenda of Regulations published on August 17, 1981 (46 FR 41708), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance numbers are: 14.400, Equal Opportunity in Housing and 14.401, Fair Housing Assistance Program.

OMB Control Number

Approval by OMB is pending.

Accordingly, 24 CFR Part 111 is revised to read as follows:

PART 111—FAIR HOUSING ASSISTANCE PROGRAM

Sec.

111.101 Purpose.
111.102 Program description for type I—non-competitive funding.
111.103 program description for type II—competitive funding.
111.104 Threshold eligibility criteria.
111.105 Criteria for type I—non-competitive funding.
111.106 Criteria for type II—competitive funding.
111.107 Application.
111.108 Program administration.

Authority: Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601).

§ 111.101 Purpose.

The purpose of the Fair Housing Assistance Program is to provide assistance to State and local agencies charged with the administration of fair housing laws which have been recognized by the Department as substantially equivalent to Title VIII of the Civil Rights Act of 1968. This assistance is designed to encompass support for complaint processing, training, technical assistance, data and information systems, and other fair housing projects. The intent of the program is to build a coordinated intergovernmental enforcement effort to further fair housing and to provide incentives for States and localities to assume a greater share of the responsibility for administering fair housing laws.

§ 111.102 Program description for type I—non-competitive funding.

The non-competitive component of the program supports agencies in all aspects of their housing discrimination complaint processing efforts. This component is divided into the following categories:

(a) Capacity Building. HUD will provide all first and second year agencies participating in the Fair Housing Assistance Program with a level of funding bearing a reasonable relationship to the number of complaints of housing discrimination filed with HUD during a fixed 12 month period. Provided, however, that any agency participating in its second year of the FHAP which can demonstrate that it would be entitled to a greater level of funding based upon direct reimbursement, may apply pursuant to the provisions of paragraph (b) of this section, in lieu of the provisions of this paragraph.

(b) Contributions. All agencies participating in their third year of the FHAP and beyond will be provided with support for complaint processing based solely on the number of dual-filed housing discrimination complaints actually processed by the agency. A dual-filed complaint is a complaint which has been docketed at both HUD and a substantially equivalent agency. The agency's prior year complaint processing performance will be used in determining the total amount of funding for the agency, in accordance with specific unit reimbursement levels.

(c) Training. Funding will be available to support training designed to provide skills and technical knowledge in the administration of fair housing laws and programs. HUD sponsored training support funds will be available on a non-competitive basis to first and second year participating agencies as a fixed percentage of their levels of funding under capacity building, not to exceed a set maximum. Any agency otherwise eligible to receive funding for capacity building, but electing not to apply for same, may apply for training support funds up to the level the agency would have been entitled to had it applied for capacity building support.

(d) Complaint Monitoring and Reporting Systems. Any agency

participating in either its first or second year of FHAP, and receiving support pursuant to paragraph (a) of this section, will be entitled to additional financial support designed to create, modify or improve an agency's complaint information and monitoring capacity, to result in a system compatible with that of HUD, for internal monitoring of fair housing complaint activity. A fixed funding amount will be available non-competitively on a one-time only basis.

§ 111.103 Program description for type II—competitive funding.

(a) Types of projects. Funding will be available to support specialized project proposals developed by State and local agencies to enhance the agencies' fair housing programs. Such proposals may include, but are not limited to:

(1) Education and outreach projects designed to provide information to the public about the agency's fair housing programs;

(2) Technical assistance projects to enable the agency to work with the real estate industry, private fair housing groups, educational institutions, other government entities and similar constituents;

(3) Projects designed to create, modify or improve local, regional, or national data/information systems; and

(4) Projects designed to improve an agency's capability to ensure fair housing through new or re-directed approaches to the agency's internal structure or compliance techniques.

(b) Classes of competition. Competitive funding under the program will be divided into classes, based on size of jurisdiction and level of complaint processing activity, to enable agencies to compete with other agencies in jurisdictions of similar size and level of complaint processing activity.

§ 111.104 Threshold agency eligibility criteria.

(a) In order to be eligible to participate in funded programs under any of the categories described above, an agency must first meet the following criteria:

(1) It must be certified as a substantially equivalent agency pursuant to the standards enunciated at 24 CFR Part 115; and

(2) It must have executed a written Memorandum of Understanding with the Department. At a minimum, such a Memorandum must describe the working relationship to be in force between the agency and the appropriate HUD Regional Office of Fair Housing.

(b) Notwithstanding the provisions of paragraph (a)(1) of this section, in the event that an agency has been found by the Department to have both statutory authority equivalent to Title VIII and an equivalent operational capability to that of the Department, the fact that the agency has not yet been listed in the Federal Register as a recognized agency shall not prevent the agency from submitting funding proposals pursuant to the Fair Housing Assistance Program. Evidence of such a Department finding shall consist of Secretarial approval to publish such a jurisdiction as a *proposed* addition to the list of recognized equivalent jurisdictions. In such circumstances, the agency may enter into negotiations with the Regional Office of Fair Housing in order to develop a Memorandum of Understanding and may, at the same time, submit funding proposals. However, no funds will be obligated to any agency which has not been recognized as substantially equivalent.

(c) All proposals under all categories must address or have ultimate relevance to matters affecting fair housing which are cognizable under Title VIII.

§ 111.105 Criteria for type I—non-competitive funding.

(a) As detailed in § 111.102, the level of funds to be provided to each agency under this component of the program will be based upon specific complaint levels in that agency's jurisdiction. In order to be eligible to receive these funds, however, an agency must:

(1) Have entered or be prepared to enter into a formal written Memorandum of Understanding with the Department, negotiated with the appropriate Regional Office of Fair Housing, which provides for the dual-filing of all complaints of housing discrimination cognizable under both Title VIII and State or local law;

(2) Be prepared to develop procedures accepable to HUD for cooperating with other substantially equivalent agencies having concurrent jurisdiction; and

(3) Not unilaterally reduce the level of financial resources currently committed to fair housing complaint processing. Budget and staff reductions occasioned by legislative action outside the control of the agency will not result in a per se determination of ineligibility. HUD will, however, take such actions into consideration in assessing the ongoing viability of an agency's fair housing program.

(b) In addition, all first and second year program participants seeking capability building support must:

(1) Have within the geographic jurisdiction of the agency, a sufficient volume of current or potential complaint activity to justify the requested allocation of funds.

(2) Participate in training sponsored by HUD and designed in consultation between HUD staff and agency representatives to provide uniform skills and technical knowledge.

§ 111.106 Criteria for Type II—competitive funding.

All competitive project proposals must:

(a) Describe purpose and objectives of the proposal;

(b) Specify a fixed time period in which the project will be completed;

(c) Describe the final product or products in which the project is expected to result;

(d) Detail the benefits which successful completion of the project will produce to enhance the overall fair housing goals of the agency, and the indicators by which these benefits are to be measured;

(e) Identify the current or potential availability of any data or information necessary to successfully complete the project; and

(f) Describe the expected long-term viability of the project results. Projects will be most favorably considered which are replicable by other agencies and have a high degree of recurring utility.

§ 111.107 Application.

Complete information on all application requirements will be included in the periodic "Notices of Availability of Fair Housing Assistance Program Funds." Application kits will be available from the designated HUD Office upon request at the time of the notices. Citizens and organizations wishing to participate in the development of proposals for competitive funds should contact the recognized fair housing enforcement agency in their jurisdiction. Such agencies shall provide, upon request, information regarding their intent to apply for funds, the uses they intend to propose, and any deadline for submission of comments. Eligible agencies shall allow citizens and organizations to submit views and alternative project proposals and shall consider views and proposals submitted.

§ 111.108 Program administration.

(a) The Fair Housing Assistance Program shall be administered by the Office of the Assistant Secretary for Fair Housing and Equal Opportunity.

(b) Notices of Availability of Funds under this program will be periodically published in the Federal Register. Such notices will announce types and amounts of funds available, specific program totals and agency maximums, formulas for capacity building support, levels of reimbursement for complaint processing, amounts of support for training and data systems, classifications of agencies for competitive funding and maximums available by classification and the factors for award which HUD will use in selecting projects for competitive funding.

(c) All agencies which receive support under this program must conform to reporting and record maintenance requirements determined appropriate by the administering office. Procedures for monitoring funding instruments will be established by the Office of the Assistant Secretary for Fair Housing and Equal Opportunity. Funding instruments will include terms by which HUD may recapture funds if the agencies receiving funding do not conform to these requirements.

Dated: February 25, 1982.

Antonio Monroig,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 82-5652 Filed 3-2-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 26

[T.D. 7812; LR-338-81]

Generation-Skipping Transfer Tax Regulations; Effective Date Provisions

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final rule.

SUMMARY: This document modifies portions of the existing regulations relating to the generation-skipping transfer tax by extending the effective date to January 1, 1983. The regulations reflect the change made by the Economic Recovery Tax Act of 1981 and affect those persons subject to the transitional rules under section 2601 of the Internal Revenue Code of 1954 (Code).

DATE: The regulations are effective for certain generation-skipping transfers (as defined in section 2611(a) of the Code) made after June 11, 1976.

FOR FURTHER INFORMATION CONTACT: Fred E. Grundeman of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224. Attention CC:LR:T 202-566-3287, not a toll-free number.

SUPPLEMENTARY INFORMATION:

Background

Under Chapter 13 of the Code, a tax is imposed on every generation-skipping transfer occurring after June 11, 1976. However, section 2006(c) of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1889, as amended by section 702(n) of the Tax Reform Act of 1976 (Pub. L. 95-600, 92 Stat. 2035)) provided a transitional rule whereby certain trusts in existence on that date (or created under wills in existence on that date) were excluded from the application of the tax if the grantor (or testator) died before January 1, 1982. Section 428 of the Economic Recovery Tax Act of 1981 (Pub. L. 97-34, 95 Stat. 319) extended that date to January 1, 1983.

The purpose of this regulation is to amend the existing regulation to reflect the new transition rule date.

Because this regulation is liberalizing in nature, it is found unnecessary to issue this Treasury decision with notice and public procedure.

Drafting Information

The principal author of these regulations is Fred E. Grundeman of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 26 is amended as follows:

PART 26—GENERATION-SKIPPING TRANSFER TAX REGULATIONS

§ 26.2601-1 [Amended]

Section 26.2601-1 is amended as follows:

a. By removing the year "1982" and inserting, in its place, the year "1983" in the following places:

1. Section 26.2601-1(b) (1)(ii), and (2);

2. Section 26.2601-1(e) (2), (3), (4), and

3. Section 26.2601-1(e)(7), examples (3), (7), (8), (9), (10), (11), (12) and (13); and

b. By removing the year "1981" and inserting, in its place, the year "1982" in the following places:

1. Section 26.2601-1(b)(3), example (3); and

2. Section 26.2601-1(e)(7), examples (7), (8), (10) and (11).

Because this regulation is liberalizing in nature it is found unnecessary to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: February 24, 1982.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 82-5720 Filed 3-2-82; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 150

[T.D. 7811]

Temporary Excise Tax Regulations Under the Crude Oil Windfall Profit Tax Act of 1980; Exempt Royalty Oil

AGENCY: Internal Revenue Service, Treasury.

ACTION: Amendment of temporary regulations.

SUMMARY: This document amends temporary excise tax regulations relating to the windfall profit tax on domestic crude oil. Changes to the applicable tax law were made by the Economic Recovery Tax Act of 1981. The new temporary regulations relate to exempt royalty oil and the procedure for executing an exempt royalty owner's certificate. In addition, the text contained in the temporary regulations set forth in this document serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the proposed rules section of this issue of the Federal Register.

DATE: The regulations apply to oil removed after December 31, 1981.

FOR FURTHER INFORMATION CONTACT: David R. Haglund of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3459).

SUPPLEMENTARY INFORMATION:

Background

On April 4, 1980, the Federal Register published temporary regulations (45 FR 23384) under sections 4988, 4987, 4988, 4989, 4991, 4992, 4993, 4994, 4995, 4996, 4997, 6050C, 6075, and 6402 of the Internal Revenue Code of 1954. The temporary regulations were required to implement various sections of the Crude

Oil Windfall Profit Tax Act of 1980. Certain amendments to the temporary regulations have since been published. This document contains further amendments to several sections of those temporary regulations to reflect the changes made by section 601(b) of the Economic Recovery Tax Act of 1981 (Pub. L. 97-34, 95 Stat. 336).

Section 601(b) of the Economic Recovery Tax Act of 1981 amends sections 4991, 4994 and 4995 to provide for an exemption for a qualified royalty owner's qualified royalty production. The amendment to section 4995 added subsection (a)(9) to provide the Secretary with authority to prescribe regulations for adjusting the withholding of the tax imposed by section 4986 to take into account the royalty owner's exemption. A procedure for the adjustment of the withholding of the tax imposed by section 4986 is provided in the regulations. The temporary regulations provided by this document remain in effect until superseded by final regulations on this subject.

Section 4986 of the Code imposes a tax on the windfall profit from taxable crude oil. Section 4991 defines taxable crude oil to include all domestic crude oil other than exempt oil. Section 601(b) of the Economic Recovery Tax Act of 1981 adds "exempt royalty oil" to the class of exempt oils under section 4991(b). Section 4994(f) defines the term "exempt royalty oil" to mean that portion of the qualified royalty owner's qualified royalty production (as defined in section 6429(d)(2)) for the quarter which does not exceed the royalty limit for such quarter. For oil removed during 1982 through 1984 the royalty limit is 2 barrels per day per quarter. For oil removed after 1984 the royalty limit is 3 barrels per day per quarter.

Royalty Owner's Exemption Certificate

Form 6783 is to be used by an exempt royalty owner (as defined in section 6429(d)(1)) for certifying that the entire amount of production from certain property attributable to his interest is exempt royalty oil as defined in section 4994(f). There must be reasonable belief that the production from the property to be certified plus the production from all other properties previously certified will not exceed the applicable royalty owner's exemption limit under section 4994(f)(2). The royalty owner may not certify a portion of his production from a property. For example, an exempt royalty owner with qualified production of 1½ barrels per day from property A executes an exemption certificate with respect to that property. The royalty owner also owns a royalty interest in property B with a production level of ¾ of a barrel per day. The royalty owner may not issue an exemption certificate with respect to property B since the total production, taking into account the production from both properties A and B, is more than the 2 barrels per day royalty limit. Neither can the royalty owner certify that ½ of a barrel from property B is exempt. The exempt royalty owner's certificate does not need to be filed with the Internal Revenue Service.

Other Provisions

Where an exempt royalty owner's certificate has been furnished to the purchaser, the monthly statement to the producer required by § 150.4997-2(b) shall include the number of barrels of oil for the month as if the oil had been taxable crude oil. An exempt royalty owner may also request the detailed statement under § 150.4997-2(d) as if the oil removed had been taxable crude oil.

Drafting Information

The principal author of this regulation is David R. Haglund of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of amendments to the regulations

PART 150—TEMPORARY EXCISE TAX REGULATIONS UNDER THE CRUDE OIL WINDFALL PROFIT TAX ACT OF 1980

Accordingly, 26 CFR Part 150 is amended as follows:

1. Section 150.4994-1 is revised to read as follows:

§ 150.4994-1 Exemptions.

Section 4994 defines the terms "qualified governmental interest", "qualified charitable interest", "exempt front-end oil", "exempt Indian oil", "exempt Alaskan oil", and "exempt royalty oil", the categories of oil that are exempt from the tax imposed by section 4986.

2. Section 150.4995-2 is amended as follows:

1. The first and eighth sentences in paragraph (a) are revised to read as set forth below.

2. Paragraph (b) is revised to read as set forth below.

§ 150.4995-2 Producer's certificate.

(a) *In general.* The producer of "exempt front-end oil" (as defined in section 4994(c)), "exempt Indian oil" (as defined in section 4994(d)) or "exempt royalty oil" (as defined in section 4994(f)), or the holder of any interest in crude oil that is a "qualified governmental interest" (as defined in section 4994(a)) or is a "qualified charitable interest" (as defined in section 4994(b)), may execute an exemption certificate with respect to such oil. * * * Forms 6458 and 6783 are provided for this purpose. * * *

(b) *Exemption certificate*—(1) *In general.* For purposes of this section, an exemption certificate is a written statement certifying that the producer's oil is exempt from the tax imposed by section 4986 because the oil constitutes exempt Indian oil, exempt front-end oil or exempt royalty oil or the oil is from a qualified governmental interest or a qualified charitable interest. Any producer who furnishes an exemption certificate (other than an exempt royalty owner's certificate) to an operator, purchaser, partnership, or other disburser shall also file an exemption certificate with the Internal Revenue Service Center, Austin, Texas (unless the producer filed the certificate with a different service center prior to January 19, 1981). Only one such certificate need be filed even though the producer may furnish certificates to more than one operator, purchaser, partnership, or other disburser.

(2) *Exempt royalty owner's certificate.* An exempt royalty owner's certificate shall certify that the producer is a qualified royalty owner (as defined in section 6429(d)(1)) and that the entire amount of production from certain property attributable to his interest is qualified royalty production (as defined in section 6429(d)(2)). No certificate may be furnished with respect to oil if it is reasonable to believe that the number of barrels attributable to the interest to be certified, taken together with all other oil with respect to which an exempt royalty owner's certificate has been furnished by the producer to any operator, purchaser, partnership, or other disburser, will exceed the producer's royalty limit amount (see section 4994(f)(2)). Allocation rules similar to the rules of section 6429(c) (2), (3), and (4) shall apply to the royalty limit amount. A certificate may be furnished with respect to oil removed after December 31, 1981.

3. Paragraphs (b)(1) and (d)(1) of § 150.4997-2 are revised to read as follows:

§ 150.4997-2 Certain information to be furnished by purchaser and others.

* * * * *

(b) *Monthly statement*—(1) *In general.* The purchaser shall furnish statements for each calendar month showing the total amount of windfall profit tax withheld by the purchaser from payments made to the producer, operator, partnership, or disburser with respect to oil removed during that month. If the purchaser did not withhold tax from payments to that person because of the receipt of an exemption certificate, the monthly statement need only state the reason for the absence of withholding. Where an exempt royalty owner's certificate has been furnished to the pruchaser, the monthly statement to the producer shall also include the number of barrels of oil removed during the month on a property-by-property basis as if the oil had been taxable crude oil.

* * * * *

(d) *Detailed statement to be furnished upon request.* (1) Any producer, operator, partnership, or disburser receiving sales proceeds from which windfall profit tax has been withheld or an exempt royalty certificate has been given may furnish the person from whom the proceeds are received a written request for some or all of the following information: The quantity of oil in each tax tier and the removal price, severance tax adjustment, adjusted base price, and tax rate applicable to that quantity. The information request may specify that the information is requested either on a property-by-property basis or in the aggregate. If an exempt royalty certificate has been given to the person receiving such a request, such person shall provide the information requested as if the oil removed had been taxable crude oil. Any person receiving such a request who has made payments to the person making the request shall provide the requested information for the period and at the time specified in paragraph (d)(2).

* * * * *

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in sections 4995 and 7805 of title 26 of the United States Code (95 Stat. 337 and 68A Stat. 917; 26 U.S.C. 4995 and 7805).

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: February 17, 1982.

John E. Chapoton,
Assistant Secretary of the Treasury.

[FR Doc. 82-5712 Filed 3-39-82; 2:40 pm]
BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[WH-FRL 2025-5]

Interim Primary Drinking Water Regulations, Amendment

AGENCY: Environmental Protection Agency [EPA].

ACTION: Final rule.

SUMMARY: This regulation amends the National Interim Primary Drinking Water Regulations (NIPDWR) promulgated pursuant to section 1412 of the Safe Drinking Water Act (SDWA). This gives public water systems the option to use an analytical technique for turbidity which uses the turbidity standard "Nephelometric Method with Styrene Divinylbenzene Polymer Standard," as well as the currently prescribed formazin standard for the calibration of the turbidimeter. Neither the monitoring frequency in determining compliance with the turbidity maximum contaminant level (MCL) nor the references cited in § 141.22(a) of the NIPDWR are affected by this ruling.

EFFECTIVE DATE: March 3, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Cotruvo, Ph. D., Director, Criteria and Standards Division, Office of Drinking Water (WH-550), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202/472-5016.

SUPPLEMENTARY INFORMATION: The National Interim Primary Drinking Water Regulations state that compliance with a MCL is to be determined pursuant to the applicable monitoring and analytical requirements set forth in Subpart C of the NIPDWR. Section 141.22(a) of this subpart specifies the use of the Nephelometric Method for compliance monitoring with the turbidity MCL. The Nephelometric Method requires the use of a formazin standard for calibration of the turbidimeter. Today's amendment permits the use of a Styrene Divinylbenzene Polymer Standard as well as the formazin standard for calibration of the turbidimeter.

Amco Standards International submitted an application and obtained initial approval for the nationwide use of its analytical technique for turbidity measurements "Nephelometric Method with Styrene Divinylbenzene Polymer Standard." This technique was proposed in the July 19, 1979, Federal Register along with other analytical techniques which had also received initial approval. As a result of issues raised during the comment period to the proposed amendments, EPA decided to postpone final approval of the turbidity technique and requested from the manufacturer additional information related to the preparation and use of the standard. Specifically, EPA requested the following information:

1. A technical reference containing a documented step-wise procedure for the preparation and use of the standard.
2. Adequacy of the present supply of the standard.
3. Reproducibility of the standard.
4. Stability of the standard.

The manufacturer supplied additional information requested by the EPA including supporting materials from a patent application and estimates which indicate a supply of the standard sufficient to meet the anticipated demand.

Additionally, EPA's Environmental Monitoring and Support Laboratory has conducted stability studies of the Amco standard which indicate that the Amco standard is equivalent to the formazin standard in terms of stability. The stability studies were carried out over a two-week period. This time period was considered adequate because the EPA prescribed standard, formazin, must be prepared weekly, as recommended in Method [1] 180.1—Nephelometric Method.

Executive Order 12291 (46 FR 13193, February 19, 1981), requires a regulatory impact analysis if it is determined that the regulations are considered to be "major rules." EPA has determined that this regulation is not a "major rule," and thus a regulatory impact analysis has not been prepared.

Section 1412 of the SDWA, 42 U.S.C. 300g-1, provides that EPA's National Primary Drinking Water Regulations take effect 18 months after their promulgation. The purpose of this requirement is to allow public water systems sufficient lead time to prepare to comply with major new regulatory requirements. However, the purpose and effect of the amendment promulgated

[1] "Methods of Chemical Analysis of Water and Wastes," EPA Environmental Monitoring and Support Laboratory, Cincinnati, Ohio 45268 (EPA 600/4-79-020), March 1979. Available from ORD Publications, CERI, EPA Cincinnati, Ohio 45268.

today is to provide greater flexibility to public water systems in meeting the turbidity monitoring requirements. Consequently, the 18 month delay is unnecessary, and the Agency is setting an effective date of March 3, 1982, for this amendment.

Dated: February 23, 1982.

Anne M. Gorsuch,

Administrator.

PART 141—NATIONAL INTERIM PRIMARY DRINKING WATER REGULATIONS

Accordingly, 40 CFR, in § 141.22 paragraph (a) is revised to read as follows:

§ 141.22 Turbidity sampling and analytical requirements.

(a) Samples shall be taken by suppliers of water for both community and non-community water systems at a representative entry point(s) to the water distribution system at least once per day, for the purposes of making turbidity measurements to determine compliance with § 141.13. If the State determines that a reduced sampling frequency in a non-community will not pose a risk to public health, it can reduce the required sampling frequency. The option of reducing the turbidity frequency shall be permitted only in those public water systems that practice disinfection and which maintain an active residual disinfectant in the distribution system, and in those cases where the State has indicated in writing that no unreasonable risk to health existed under the circumstances of this option. The turbidity measurements shall be made by the Nephelometric Method in accordance with the recommendations set forth in "Standard Methods for Examination of Water and Wastewater," American Public Health Association, 14th Edition, pp. 132–134; or "Methods of Chemical Analysis of Water and Wastes," EPA Environmental Monitoring and Support Laboratory, March 1979, Method 180.1—Nephelometric Method. Calibration of the turbidimeter shall be made either by the use of a formazin standard as specified in the cited references or a styrene divinylbenzene polymer standard (Amco-AEPA–1 Polymer) commercially available from Amco Standards International, Inc., 230 Polaris Avenue, No. C, Mountain View, California 94043.

* * * * *

[FR Doc. 82-5888 Filed 3-2-82; 8:45 am]

BILLING CODE 6560-20-M

40 CFR Part 180

[PP 9E2283/R402; PH-FRL-2059-7]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Thiabendazole

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the fungicide thiabendazole in or on papayas. This regulation to establish a maximum permissible level for residues of thiabendazole in or on the above commodity resulting from postharvest application of the fungicide was submitted by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: March 3, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Emergency Response Section, Registration Division (TS–767C), Environmental Protection Agency, Rm. 502B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7123).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking in the Federal Register of January 6, 1982 (47 FR 654) which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number 9E2283 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of Hawaii.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the fungicide thiabendazole (2-(4-thiazolyl)benzimidazole) (TBZ) in or on papayas at 5 parts per million (ppm) resulting from postharvest application to the raw agricultural commodity. The petition was later amended to limit pesticide use to spray applications of a TBZ-water mixture only.

No comments or request for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought.

Based on the information considered by the Agency, it is concluded that the tolerance established by amending 40 CFR 180.242 will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, on or before April 2, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Effective on: March 3, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

Dated: February 19, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.242 is amended by adding and alphabetically inserting the raw agricultural commodity papayas (post-H) to paragraph (a) to read as follows:

§ 180.242 Thiabendazole; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Papayas (post-H)	5
* * * * *	

[FR Doc. 82-5884 Filed 3-2-82; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[PP 9F2238/R407; PH-FRL-2060-7]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Oxamyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide/nematocide oxamyl in or on certain raw agricultural commodities. This regulation to establish a maximum permissible level for residues of oxamyl in or on these commodities was requested by E. I. duPont de Nemours and Co.

EFFECTIVE DATE: March 3, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product Manager (PM) 12, Registration Division (Ts–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2368).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the Federal Register of August 24, 1979 (44 FR 49789) which announced that E. I. duPont de Nemours and Co., Wilmington, DE 19898, had submitted pesticide petition 9F2238 to the EPA proposing that tolerances be established for residues of the insecticide/nematocide oxamyl (methyl *N,N'*-dimethyl-*N*- [(methylcarbamoyl) oxyl-1-thiooxamimidate) in or on the raw agricultural commodities peanuts and peanut hulls at 0.2 part per million (ppm) and peanut hay at 10.0 ppm.

The petition was subsequently amended by adding the commodity peanut forage at a level of 2.0 ppm and decreasing the tolerance for peanut hay from 10.0 ppm to 2.0 ppm.

No comments were received in response to this notice of filing.

The data submitted in the petition and all other relevant material have been evaluated. The toxicological data considered in support of the tolerances included: a 2-year rat feeding/oncogenicity study and a 2-year dog feeding study with no-observed-effect levels (NOEL) of 50 ppm and 100 ppm, respectively; a mouse oncogenicity study which was negative at dietary levels up to 75 ppm for 2 years; a three-generation rat reproduction study with a NOEL of 50 ppm; a rat teratogenicity study which was negative; and a rabbit teratogenicity study which was negative at up to 4 milligrams (mg)/kilogram (kg)/day with a NOEL of 2 mg/kg/day for fetoxicity. Based on the 2-year chronic rat feeding/oncogenicity study with a NOEL of 500 ppm and using a safety factor of 100, the acceptable daily intake (ADI) for humans is calculated to be 0.025 mg/kg of body weight (bw)/day. The theoretical maximum residue contribution (TMRC) in the human diet from previously established tolerances, at levels ranging from 0.1 ppm to 10.0 ppm, and the proposed tolerances do not exceed the ADI.

The metabolism of oxamyl is adequately understood, and an adequate analytical method (gas chromatography using a flame photometric detector) is available for enforcement purposes. No regulatory actions are currently pending against continued registration of oxamyl nor are there any relevant considerations involved in the establishment of these tolerances. There is no expectation of secondary residues in eggs, meat, milk, or poultry; therefore, § 180.6(a)(3) applies.

The pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before April 2, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

Effective on: March 3, 1982.

(Sec 406(d)(2), 68 Stat. 512 (21 U.S.C. 345a(d)(2)))

Dated: February 17, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.303 is amended by adding and alphabetically inserting the raw agricultural commodities peanuts, peanut forage, peanut hay, and peanut hulls to read as follows:

§ 180.303 Oxamyl; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Peanuts	0.2
Peanut, forage	2.0
Peanut, hay	2.0
Peanut, hulls	0.2
* * * * *	

[FR Doc. 82-5886 Filed 3-2-82; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[PP 1E2462/R403; PH-FRL-2060-4]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Bromoxynil

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for negligible residues of the herbicide bromoxynil from application of its octanoic acid ester. This regulation to establish a maximum permissible level for residues of bromoxynil in or on dry bulb onions was requested by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: March 3, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708 (A–110), 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Emergency Response Section, Registration Division (TS–767C), Environmental Protection Agency, Rm. 502 CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–7123).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking in the Federal Register of January 6, 1982

(47 FR 651) which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number 1E2462 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of California and Texas.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance at 0.1 part per million (ppm) for residues of the herbicide bromoxynil (3,5-dibromo-4-hydroxybenzonitrile) resulting from application of its octanoic acid ester on the raw agricultural commodity onions. The petitioner subsequently amended the petition by requesting a tolerance on dry bulb onions only.

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought.

Since this commodity is not a feed item, there is no reasonable expectation of finite residues in meat, milk, poultry or eggs from the proposed use. There are presently no actions pending against the continued registration of this chemical.

Based on the information considered by the Agency, it is concluded that the tolerance established by amending 40 CFR 180.324 will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, on or before April 2, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Effective on: March 3, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

Dated: February 16, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.324 is amended by adding and alphabetically inserting the raw agricultural commodity onions (dry bulb) to read as follows:

§ 180.324 Bromoxynil; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Onions (dry bulb)	0.1(N)
* * * * *	

[FR Doc. 82-5363 Filed 3-2-82; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[PP OE2283/R404; PH-FRL-2059-6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the insecticide chlorpyrifos and its metabolite 3,5,6-trichloro-2-pyridinol in or on strawberries. This regulation to establish a maximum permissible level for residues of the insecticide and its metabolite in or on strawberries was submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: March 3, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response Section, Registration Division (TS-767C), Environmental Protection Agency, Rm. 502B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7123).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking in the Federal Register of January 6, 1982 (47 FR 653) which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number OE2283 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of New Hampshire, New York, and Michigan.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the insecticide chlorpyrifos (*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate) and its metabolite 3,5,6-trichloro-2-pyridinol (TCP) in or on the raw agricultural commodity strawberries at 0.3 part per million (ppm). The petition was later amended increasing the tolerance to 0.5 ppm.

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. Based on the information considered by the Agency, it is concluded that the tolerance established by amending 40 CFR 180.342 will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, on or before April 2, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Effective on: March 3, 1982.

(Sec. 408(e), 68 Stat 514 (21 U.S.C. 346(a)(e)))

Dated: February 16, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.342 is amended by adding and alphabetically inserting the raw agricultural commodity strawberries to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Strawberries	0.5
* * * * *	

[FR Doc. 82-5365 Filed 3-2-82; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[OPP-300065A; PH-FRL-2062-6]

Alpha-[P-(1,1,3,3-Tetramethylbutyl) Phenyl]-omega-Hydroxypoly (Oxyethylene); Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule broadens the lower range of the pesticide alpha-[*p*-(1,1,3,3-tetramethylbutyl) phenyl]-*omega*-hydroxypoly (oxyethylene) presently listed in paragraphs (c) and (e) of 40 CFR 180.1001, exemptions from requirement of a tolerance to include a lower range of 1–14 moles ethylene oxide. This exemption is granted in response to a petition by Rohm and Haas Co.

EFFECTIVE DATE: March 3, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3706, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Peter Gray, Emergency Response Section, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 514D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7110).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the Federal Register of December 8, 1981 (46 FR 60020) that Rohm and Haas Company, Independence Mall West, Philadelphia, PA 19015, had requested that the Administrator amend 40 CFR 180.1001 (c) and (e) by revising the entry for alpha-[*p*-(1,1,3,3-tetramethylbutyl) phenyl]-*omega*-hydroxypoly (oxyethylene) to broaden the range from 4–14 moles of ethylene oxide to a lower range of 1–14 moles.

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

Therefore, it is concluded that the amendment to 40 CFR 180.1001 (c) and (e) will protect the public health, and the regulation is amended as set forth below.

Any person adversely affected by this regulation may, on or before April 2, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

Effective on: March 3, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

Dated: February 16, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.1001 (c) and (e) are amended by alphabetically inserting the inert ingredient "alpha-[*p*-(1,1,3,3-tetramethylbutyl)phenyl]-*omega*-hydroxypoly (oxyethylene)" in the tables to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredient	Limits	Uses
* * *		
Alpha-[*p*-(1,1,3,3-Tetramethylbutyl)phenyl]-*omega*-hydroxypoly (oxyethylene) produced by the condensation of 1 mole of *p*-(1,1,3,3-tetramethylbutyl)phenol with a range of 1–14 or 30–70 moles of ethylene oxide: If a blend of products is used, the average range number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 1–14 or 30–70.		Surfactants, related adjuvants or surfactants.
* * *		

(e)* * *

Inert ingredient	Limits	Uses
* * *		
Alpha-[*p*-(1,1,3,3-Tetramethylbutyl)phenyl]-*omega*-hydroxypoly (oxyethylene) produced by the condensation of 1 mole of *p*-(1,1,3,3-tetra-methylbutyl)phenol with a range of 1–14 or 30–70 moles of ethylene oxide: If a blend of products is used, the average range number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 1–14 or 30–70.		Surfactants, related adjuvants of surfactants.
* * *		

[FR Doc. 82-5400 Filed 3-2-82; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[PP 1E2478/R401; PH-FRL-2059-8]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Methyl Eugenol/Malathion Combination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for residues of the insect attractant methyl eugenol and the insecticide malathion in or on all raw agricultural commodities when used in combination in Oriental fruit fly eradication programs under the authority of the U.S. Department of Agriculture. This regulation was submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: March 3, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Emergency Response Section, Registration Division (TS–767), Environmental Protection Agency, Rm. 502B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7123).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking in the **Federal Register** of January 6, 1982 (47 FR 652) which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number 1E2478 to EPA on behalf of the IR–4 Technical Committee and the U.S. Department of Agriculture.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of an exemption from the requirement of a tolerance for residues of the insect attractant methyl eugenol and the insecticide malathion in or on all raw agricultural commodities when used in combination in Oriental fruit fly eradication programs under the authority of the U.S. Department of Agriculture.

No requests for referral to an advisory committee were received in response to this notice of proposed rulemaking; however, one favorable comment was received from the Agricultural Commissioner of the County of San Diego, CA, Department of Agriculture, Weights, and Measures. The Commissioner stated that: "When used as a bait in a trap, this material is the best known lure for the Oriental Fruit Fly."

The data submitted in the petition and all other relevant material have been evaluated. The attractant-insecticide combination is considered useful for the purpose for which the exemption is sought. There are presently no actions pending against the continued registration of these chemicals.

Because of the methods of application and the extremely low application rates involved, it is highly unlikely that detectable residues would result in or on any raw agricultural commodity or in meat or milk. Therefore, the exemption is established as set forth below.

Any person adversely affected by this regulation may, on or before April 2, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Effective on: March 3, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

Dated: February 10, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR Part 180 is amended by establishing a new § 180.1067 to read as follows:

§ 180.1067 Methyl eugenol and malathion combination; exemption from the requirement of a tolerance.

The insect attractant methyl eugenol and the insecticide malathion are exempt from the requirement of tolerances on all raw agricultural commodities when used in combination in Oriental fruit fly eradication programs under the authority of the U.S. Department of Agriculture, in accordance with the following directions and specifications:

(a) The combination shall be at the ratio of three parts methyl eugenol to one part technical malathion (3:1).

(b) This combination is to be impregnated on a carrier (cigarette filter tips (cellulose acetate); cotton strings; fiberboard squares) or mixed with a jel cleared under 40 CFR 180.1001(d).

(c) The maximum actual dosage per application per acre shall be 28.35 grams (one ounce avoirdupois) methyl eugenol and 9.45 grams (one-third (0.33) ounce avoirdupois) technical malathion.

[FR Doc. 82-5335 Filed 3-2-82; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 256

[SW-1-FRL-2061-6]

Approval of Connecticut Solid Waste Management Plan

AGENCY: Environmental Protection Agency, Region 1.

ACTION: Final rule.

SUMMARY: As provided by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), the State of Connecticut has received Federal financial assistance for development of a State solid waste management plan. The State of Connecticut has submitted to the U.S. Environmental Protection Agency (EPA or the Agency) its adopted State solid waste management plan. Today, EPA is announcing its approval of the Connecticut solid waste management plan. Approval of the plan indicates that it meets the requirements set forth in RCRA, which provides for the identification of State, local and regional responsibilities for solid waste management; the encouragement of resource conservation and recovery; and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

The purpose of this notice is to inform the public that the Agency is approving the Connecticut solid waste management plan.

EFFECTIVE DATE: March 3, 1982.

FOR FURTHER INFORMATION CONTACT: Conrad O. Desrosiers, Chief, Solid Waste Section, U.S. EPA, Region I, JFK Federal Building, Boston, Mass. 02203 (617) 223–5775.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1979, (44 *FR* 45066) EPA published Guidelines for the Development and Implementation of State Solid Waste Management Plans. These guidelines were required by section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

The guidelines reflect the minimum statutory requirements for the State plans and recommend methods and procedures to meet those requirements. Under section 4007 of RCRA, the

Administrator approves State plans which meet the requirements of paragraphs (1), (2), (3), and (5) of section 4003 of RCRA and which contain provisions for revision. Briefly, these requirements are:

1. The plan shall identify the responsibilities of State, local and regional authorities in the implementation of the State plan; the distribution of Federal funds to the authorities responsible for development and implementation of the State plan; and the means for coordinating regional planning and implementation under the State plan;

2. The plan shall prohibit the establishment of new open dumps within the State and contain requirements that all solid waste be utilized for resource recovery or disposed of in sanitary landfills, as defined by Section 4004(a) of RCRA, or otherwise disposed of in an environmentally sound manner. The State prohibition must be effective as of the date on which EPA approves the plan;

3. The plan shall provide for the closing or upgrading of all existing open dumps within the State;

4. The plan shall provide that no local government within the State shall be prohibited under State or local law from entering into long-term contracts for supply of solid waste to resource recovery facilities; and

5. The plan must contain specific provisions for revision.

The guidelines also addressed Section 4005 of RCRA which requires a mechanism in the State plan for establishment of compliance schedules for entities engaged in the prohibited act of open dumping. The plan must provide that, in attempting to obtain such compliance schedules, entities must demonstrate their inability to utilize other public or private alternatives to comply with the prohibition.

Response to Comments

On November 4, 1981, at (46 FR 54772) the Connecticut solid waste management plan was noticed for public review and comment. No substantive comments were received during the 30-day review period.

Finding

I have reviewed the solid waste managment plan submitted by the State of Connecticut for approval.

I find that the plan meets the requirements of RCRA for approval. Under authority of Section 4007 of RCRA, I approve the Connecticut solid waste management plan.

The plan prohibits the establishment of open dumps, and the State prohibition was in effect on March 3, 1982.

Also, the plan provides for compliance schedules for entities engaged in open dumping where those entities can demonstrate that they are unable to utilize other public or private alternatives for solid waste management to comply with the RCRA prohibition of open dumping. As of this date entities engaged in open dumping may, pursuant to the plan, approach the State for further information on compliance schedules and necessary demonstrations. Parties that receive compliance schedules satisfying Section 4005 from EPA approved States and that are in compliance with these schedules are not in violation of the open dumping prohibition in Section 4005. Such compliance schedules cannot extend beyond September 13, 1984.

Compliance With Executive order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Authority

(Section 4007(a), Pub. L. 94–580, 90 Stat. 2817 (42 U.S.C. 6947))

Dated: January 28, 1982.

Lester A. Sutton,

Regional Administrator.

Subject: Approval of Connecticut Solid Waste Management Plan, Certification Under the Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the approval of the Connecticut solid waste management plan will not have a significant economic impact on a substantial number of small entities. This Approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

Dated: February 23, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-5707 Filed 3-2-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 256

[SW-4-FRL-2061-7]

Approval of the Georgia Solid Waste Management Plan

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Final rule.

SUMMARY: As provided by the Resource Conservation and Recovery Act (RCRA), the State of Georgia has submitted to the Environmental Protection Agency (EPA) its adopted State Solid Waste Management Plan. Today, EPA is announcing its approval of the Georgia Solid Waste Management Plan. Approval of the Georgia plan indicates that the plan meets the requirements set forth in the RCRA, which provides for the identification of State, local and regional responsibilities for Solid Waste Management; the encouragement of resource conservation and recovery; and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

The purpose of this notice is to inform the public that the Agency is approving the Georgia Solid Waste Management Plan.

EFFECTIVE DATE: March 3, 1982.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365.

SUPPLEMENTARY INFORMATION:

I. Background

On July 31, 1979, (44 FR 45066) EPA published "Guidelines for the Development of State Solid Waste Management Plans." These guidelines were required by Section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

The guidelines reflected the statutory requirements for State plans and recommended methods and procedures to meet these requirements. Under Section 4007 of RCRA, the Administrator approves State plans which meet the requirements of paragraphs (1), (2), (3), and (5) of Section 4003 of RCRA and which contain provisions for revisions. For additional background information on the plan approval process, refer to 46 FR 34802 (July 6, 1981), Approval of the Iowa Solid Waste Management Plan.

On March 2, 1981, the Georgia Department of Natural Resources, Environmental Protection Division, submitted the final, officially adopted, Solid Waste Management Plan for the State of Georgia. Among EPA concerns regarding the Georgia plan were coverage of coal mining wastes and livestock feeding facilities. Mining wastes are regulated in the State by the Georgia Surface Mining Act. EPA has determined that mining wastes subject to RCRA Subtitle D criteria fall under the purview of the Georgia Division of Waste Management and are regulated by the State in a manner equivalent to

the Federal criteria. Livestock feeding facilities are also covered by the Division if they present a health hazard or public nuisance. Thus, these wastes will be disposed of in an environmentally sound manner as required by Section 4003 of RCRA.

Another consideration concerned use of the State's permitting system to prohibit establishment of new open dumps. The State considers that their standards for sanitary landfills are equivalent to Federal Part 257 criteria. The State possesses broad authority to set specific requirements in permit conditions in their regulations.

The State assured EPA that their on-site disposal exemption applied only to residential wastes, thus, preventing the creation of new open dumps.

The State also confirmed that constitutional revisions have removed any restrictions on any local government or county from entering into long-term contracts for resource recovery.

The State assured EPA that consent agreements would be issued to non-complying facilities to bring them into compliance. These consent agreements will be used only where alternative public or private disposal methods cannot be utilized.

II. Summary of Comments

On November 4, 1981, at 46 FR 54772, the Georgia Solid Waste Management Plan was noticed for public review and comment for 30 days. On December 3, 1981, EPA received a request from the Pea Ridge–Mud Creek–Level Grove Association, Inc. to withhold approval of the Plan until final resolution of a State Administrative proceeding involving the association. EPA's response to the association indicated that the scope of the Agency's approval/disapproval authority is limited to the sufficiency of the Plan and that final rulemaking should not be deferred.

III. Finding

The authority to approve State plans under Section 4007 of RCRA has been delegated to the Regional Administrator.

I have reviewed the Solid Waste Management Plan submitted by the State of Georgia for approval. I find that the Georgia plan meets the requirements of RCRA for approval. Under authority of Section 4007 of RCRA I approve the Georgia Solid Waste Management Plan.

IV. Compliance with Executive Order 12291

The Office of Management and budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(90 Stat. 2817, 42 U.S.C. 6947)

Charles R. Jeter,

Regional Administrator.

Subject: Approval of the Georgia Solid Waste Management Plan, Certification Under the Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the approval of the Georgia Solid Waste Management Plan will not have a significant economic impact on a substantial number of small entities. This approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

Dated: February 23, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-5700 Filed 3-3-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 256

[SW-5-FRL-2061-8]

Approval of Illinois, Michigan, and Minnesota Solid Waste Management Plans

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Section 4008(a)(1) of the Solid Waste Disposal Act of 1976, as amended by the Resource Conservation and Recovery Act of 1976, as amended, (RCRA) authorized financial assistance for the development and implementation of State Solid Waste Management Plans (State Plans). The following States submitted adopted State Plans to the U.S. Environmental Protection Agency (EPA), as required under 40 CFR Part 256: Illinois (submitted February 9, 1981); Michigan (submitted January 28, 1981); and Minnesota (submitted January 28, 1981). Under Section 4007 of RCRA, EPA shall approve State Plans which meet the requirements of paragraphs (1), (2), (3), and (5) of Section 4003 and which contain provisions for revision. Under the guidelines published in the July 31, 1979, **Federal Register** (44 FR 45066), and the September 23, 1981, **Federal Register** (46 FR 47048), EPA shall approve, partially approve or disapprove a State Plan within six months of submittal. The purpose of this notice is to announce EPA's approval of the Illinois, Michigan, and Minnesota State Plans.

EFFECTIVE DATE: March 3, 1982.

FOR FURTHER INFORMATION CONTACT: Lillian Bagus, Regulatory Analysis & Information Section Waste Management Branch (5AHWM), U.S. Environmental Protection Agency, 111 West Jackson Boulevard, Chicago, Illinois 60604 (312) 886-6142.

SUPPLEMENTARY INFORMATION:

I. Background

On July 31, 1979 (44 FR 45066), EPA published Guidelines for the Development and Implementation of State Solid Waste Management Plans. These guidelines were required by Section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (RCRA). The guidelines establish the requirements for State Plans and recommend methods and procedures to meet those requirements. On September 23, 1981 (46 FR 47048) EPA published amendments to the Guidelines for Development and Implementation of State Solid Waste Management Plans and Criteria for the Classification of Solid Waste Disposal Facilities and Practices, 40 CFR Parts 256 and 257. In part, these amendments allow EPA to give partial approval for that portion of the adopted State Plan that covers State issuance of compliance timetables while the State is developing the other parts of the State Plan. The completion of the remaining parts of the State Plan will be conducted in a timely and orderly manner as set forth in a schedule mutually agreed upon by the State and EPA. Under Section 4007 of RCRA, EPA shall approve State Plans which meet the requirements of paragraphs (1), (2), (3) and (5) of Section 4003 and which contain provisions for revision. These requirements were summarized in the notice of availability and request for public comment published for each State Plan. Approval of the State Plan indicates that the State Plan meets the requirements set forth in RCRA, which provides for the identification of State, local and regional responsibilities for solid waste management; the encouragement of resource conservation and recovery; and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

II. State Specific Background and Response to Public Comments

A. Illinois

On February 9, 1981, the State of Illinois submitted its adopted State Plan to EPA. In response to EPA's comments on the plan, Illinois submitted additions and revisions on June 18, 1981, and July 7, 1981, which provided additional information and clarifications in several areas. These additions and revisions were attached as part of the State Plan.

On October 15, 1981, EPA published a notice of availability and request for public comments on the Illinois State Plan (46 FR 50810). Comments were due by November 16, 1981. In response to several requests, EPA agreed to extend the public comment period, and on November 30, 1981, EPA published a notice in the **Federal Register** (46 FR 58108) announcing the extension of the comment period until December 4, 1981. EPA received three comments during the public comment period. Two Commenters supported approval of the Illinois State Plan. The third comment and EPA's response is summarized below.

Comment: One commenter felt the Illinois State Plan was inadequate because it did not address more than the minimum Federal requirements. Specifically, the commenter felt that the State should have addressed in more detail the areas of siting, data collection, and public participation.

Response: EPA cannot require a State to address more than the minimum Federal requirements in its State Plan. Under Section 4007 of RCRA, EPA shall approve State Plans which meet the requirements of paragraphs (1), (2), (3), and (5) of Section 4003 and which contain provisions for revision.

Although addressing the siting issue was not a specific Federal requirement, the State of Illinois addressed this area under the portions of the State Plan meeting the requirements of paragraph (1) of Section 4003 and the guidelines published July 31, 1979, (44 FR 45066) by: (a) Identifying the responsibilities of State, local, and regional authorities in the implementation of the State Plan; and (b) providing for adequate resource conservation, recovery, storage, treatment and disposal facilities and practices necessary to use or dispose of solid and hazardous waste in an environmentally sound manner.

The Federal guidelines do not require that State Plans provide for data collection and analysis and specific schedules for dealing with on-site disposal problems although Illinois does address these items in its State Plan.

Subpart G of the Federal guidelines (44 FR 45065) requires a State Plan to develop and implement specific public participation provisions in the following areas: (a) State and substate plans; (b) the annual State work program; (c) State regulatory development; and (d) the permitting of facilities. The Illinois State Plan addresses public participation in these four areas in Part 6 of the State Plan (pages 75 to 83). EPA believes Illinois has met the requirements of the guidelines.

B. Michigan

On January 28, 1981, the State of Michigan submitted its adopted State Plan to EPA. In response to EPA's comments on the plan, Michigan submitted additions and revisions on July 9, 1981, and September 1, 1981, which provided additional information and clarifications in several areas. These additions and revisions were attached as part of the State Plan.

On November 4, 1981, EPA published a notice of availability and request for public comments on the Michigan State Plan (46 FR 54775). Comments were due by December 4, 1981. EPA received no comments on the plan.

C. Minnesota

On January 28, 1981, the State of Minnesota submitted its adopted State Plan to EPA. In response to EPA's comments, Minnesota submitted additions and revisions on July 31, 1981, and October 15, 1981, which provided additional information and clarifications in several areas. These additions and revisions were attached as part of the State Plan.

On November 17, 1981, EPA published a notice of availability and request for public comments on the Minnesota State Plan (46 FR 56465). Comments were due by December 17, 1981. EPA received no comments on the plan.

III. Finding

Section 4007 of RCRA contains the statutory policy for approval of State Plans. The authority to approve State Plans under Section 4007 of RCRA has been delegated to the Regional Administrator. I have reviewed the State Plans submitted by the States of Illinois, Michigan, and Minnesota. I find that the Illinois State Plan, the Michigan State Plan and the Minnesota State Plan meet the requirements of RCRA for approval. Under authority of Section 4007 of RCRA, I approve the Illinois State Plan, the Michigan State Plan, and the Minnesota State Plan.

Each of the three State Plans provide for compliance schedules for entities engaged in open dumping where those entities can demonstrate that they are unable to utilize other public or private alternatives for solid waste management to comply with the RCRA prohibition of open dumping. As of the date of publication of this notice, entities engaged in open dumping may, pursuant to the State Plans listed above, approach the respective States for further information on compliance schedules and necessary demonstrations. This approval should be of special interest because of two provisions of RCRA. First, RCRA requires that effective with the date of approval, State Plans prohibit the establishment of open dumps in the State. Second, only States with approved State Plans can establish compliance schedules for purposes of RCRA for entities engaged in open dumping. Parties that receive compliance schedules satisfying Section 4005 from EPA approved States and that are in compliance with these schedules are not in violation of open dumping prohibition in Section 4005. Such compliance schedules cannot extend beyond September 13, 1984.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

(Sec. 4007 (a), Pub. L. 94-580, 90 Stat. 2817, (42 U.S.C. 6947))

Dated: January 25, 1982.

David Kee,

Regional Administrator.

Approval of Illinois, Michigan, and Minnesota Solid Waste Management Plans; Certification Under the Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the approval of the Illinois, Michigan, and Minnesota Solid Waste Management Plans will not have a significant economic impact on a substantial number of small entities. This approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

Dated: February 23, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-5706 Filed 3-3-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 256

[WMB-5-FRL 2034-3]

Partial Approval of Wisconsin Solid Waste Management Plan

AGENCY: Environmental Protection Agency, Region V.

ACTION: Final rule; partial approval.

SUMMARY: On February 2, 1981, the State of Wisconsin submitted to the Environmental Protection Agency (EPA) its adopted State Solid Waste Management Plan (State Plan), as required under 40 CFR Part 256. Section 4008(a)(1) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), authorized financial assistance for the development and implementation

of State Plans. Today, EPA is announcing its partial approval of the Wisconsin State Plan. Partial approval of the Wisconsin Plan indicates that the EPA is approving the portion of that plan that provides for State issuance of compliance schedules with regard to the open dumping prohibition. In obtaining partial approval of its plan, the State has committed to completing the plan in a timely and orderly manner.

EFFECTIVE DATE: March 3, 1982.

FOR FURTHER INFORMATION CONTACT:
Ms. Judy Stone, Regulatory Analysis and Information Section, Waste Management Branch, U.S. Environmental Protection Agency, Region V, 111 West Jackson Blvd., Chicago, Illinois 60604, (312) 886–4179.

SUPPLEMENTARY INFORMATION:

I. Background

On July 31, 1979, (44 FR 45066) EPA published Guidelines for the Development and Implementation of State Solid Waste Management Plans. These guidelines were required by section 4002(b) of RCRA. The guidelines establish the requirements for State Plans and recommend methods and procedures to meet those requirements. Under section 4007 of RCRA, EPA must approve State Plans which meet the requirements of paragraphs (1), (2), (3) and (5) of section 4003 and which contain provisions for revision. These requirements are summarized in the notice of availability and request for public comment published in the Federal Register on November 4, 1981 (46 FR 54772). On September 23, 1981, (46 FR 47048) EPA published amendments to the Guidelines for the Development and Implementation of State Solid Waste Management Plans and Criteria for the Classification of Solid Waste Disposal Facilities and Practices (40 CFR Parts 256 and 257). In part, these amendments allow EPA to give partial approval for that part of the adopted State plan that covers State issuance of compliance timetables while the State is developing the other parts of the plan. The completion of the remaining parts of the plan will be conducted in a timely and orderly manner as set forth in a schedule mutually agreed upon by the State and EPA. To grant a partial plan approval, EPA must determine that: (1) The portion submitted satisfies 40 CFR 256.20; (2) The State has authority to issue and enforce compliance schedules; and (3) The State will complete the remainder of the State Plan within a reasonable period of time.

II. Responses to Public Comments

On February 2, 1981, Wisconsin submitted to EPA its adopted State Plan. On November 4, 1981, EPA published a notice of availability and request for public comments on the Wisconsin State Plan (46 FR 54776). Comments were due by December 4, 1981. EPA received no comments during the public comment period.

III. Finding

Section 4005 of RCRA prohibits the open dumping of solid waste. However, the prohibition does not extend to any practice or disposal of solid waste under a compliance schedule which: (1) Includes an enforceable sequence of actions leading to compliance with the prohibition on open dumping; (2) does not extend beyond September 13, 1984; (3) is preceded by a determination that the recipient of the compliance schedule was unable to utilize other public or private alternatives for solid waste management to comply with the prohibition on open dumping; and (4) is issued by a State having an approved State Plan.

The State Plan as submitted satisfies 40 CFR 256.20. The State Plan prohibits the establishment of open dumps effective on March 1, 1980. The State has authority to issue and enforce compliance schedules to entities engaged in open dumping where those entities can demonstrate that they are unable to utilize other public or private alternatives for solid waste management to comply with the RCRA prohibition of open dumping. Entities engaged in open dumping may, pursuant to the State Plan, approach the State for further information on compliance schedules and neccessary demonstrations. Wisconsin has the authority to issue and enforce compliance schedules for all types of facilities and all waste types. Wisconsin can enforce compliance with all criteria established in 40 CFR Part 257, except for 40 CFR 257.3–7 (Air). Thus, the Wisconsin State Plan meets all requirements for full approval with the following exception. Chapter 144 of the Wisconsin Statutes allows open burning at certain licensed solid waste disposal sites if the operation meets the requirements listed in 144.436(2) (a) through (g), including the requirement for compliance with all Federal air pollution control rules and any State air pollution control rules required to be adopted under applicable laws or regulations.

In accordance with § 256.04(f), Wisconsin has submitted a schedule outlining the steps which will be taken in completing the plan to meet the remaining requirements of Section 4007(a) of RCRA for approval of the complete plan. Under this schedule, Wisconsin plans to complete the remainder of the Plan within 2 years.

IV. Decision

Section 4007 of RCRA contains the statutory policy for approval of State Plans. The authority to approve State Plans under Section 4007 of RCRA has been delegated to the Regional Administrator. I have reviewed the State Plan submitted by the State of Wisconsin, and have found that the Wisconsin State Plan meets the requirements of RCRA for partial approval. I am today approving that part of the State Plan that provides for the issuance of compliance schedules for the wastes, facilities and criteria described above. Therefore, under authority of Section 4007 of RCRA, the guidelines published in the July 31, 1979, Federal Register (44 FR 45066) and the September 23, 1981, Federal Register (46 FR 47048), I grant partial approval to the Wisconsin State Plan. As of this date, those entities engaged in open dumping in Wisconsin may receive compliance schedules from the State that will, to the extent of the State's legal authority described above, protect them from open dumping suits as long as they remain in compliance with such schedules.

Compliance With Executive Order 12291

Under Executive Order 12291 effective February 17, 1981, EPA must judge whether a rule is "Major" and, therefore, subject to the requirement for a Regulatory Impact Analysis. Partial approval of the Wisconsin Solid Waste Management Plan is not a "Major rule" because it does not result in an annual effect on the economy of $100 million or more; result in increases in costs or prices; or pose significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Any costs which the State or the regulated community must incur to satisfy the State Plan arise, not from EPA's partial approval, but because the plan complies with earlier requirements issued by EPA. (Guidelines, 40 CFR Part 256, and the "Criteria for Classification of Solid Waste Disposal Facilities and Practices," 40 CFR Part 257, as amended.) Today's action neither alters these earlier regulatory requirements nor imposes new or additional costs.

This notice of approval was submitted to the Office of Management and Budget (OMB) for review under Executive Order 12291.

(Sec. 4007(a), Pub. L. 94–580, 90 Stat. 2817 (42 U.S.C. 6947))

Valdas V. Adamkus,
Regional Administrator.

Subject: Partial Approval of Wisconsin Solid Waste Management Plan, Certification Under the Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the partial plan approval of the Wisconsin Solid Waste Management Plan will not have a significant economic impact on a substantial number of small entities. This approval reduces burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

Dated: February 23, 1982.

Anne M. Gorsuch,
Administrator.

[FR Doc. 82-5697 Filed 3-2-82; 8:45 am]
BILLING CODE 6560-38-M

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40 CFR Part 260

[SWH-FRL-2064-4]

Hazardous Waste Management System; Summary of Rulemaking Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Public notice of rulemaking petitions filed with EPA concerning the Resource Conservation and Recovery Act.

SUMMARY: This notice sets forth a list of petitions received in response to the regulations implementing the hazardous waste management system established by the Resource Conservation and Recovery Act (RCRA). Petitions cover both requests to make general changes to the regulations and specific requests to exclude, on a site-specific basis, wastes from regulation as hazardous. This notice updates the Federal Register of Monday, December 7, 1981 (46 FR 59537) and provides a list of all petitions received by the Agency subsequent to that publication as of January 31, 1982. This notice informs of the receipt and purpose of each petition and thereby allows interested parties to comment or respond on appropriate petitions.

FOR FURTHER INFORMATION CONTACT:
For information on any of these petitions, the reader should contact Matt Straus at (202) 755–9187.

SUPPLEMENTARY INFORMATION: On May 19, 1980, EPA promulgated the first phase of regulations implementing the hazardous waste management system established by Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended ("RCRA") by publishing 40 CFR Parts 260 to 265 and 122 to 124. Among other things, these regulations set forth informal rulemaking procedures whereby persons may (1) petition the Administrator to modify or revoke any provision in 40 CFR Parts 260 through 265 (see § 260.20); (2) petition the Administrator to add new testing or analytical methods to Parts 261, 264 or 265 if the person demonstrates that the proposed method is equal to or superior to the corresponding method prescribed in Parts 261, 264 or 265 (see § 260.21); or (3) petition the Administrator to obtain, on a site-specific basis, an exclusion of his listed waste from regulation as hazardous (see § 260.22).

Some commenters have indicated that they are prejudiced because the Agency does not publish any notice of receipt of a RCRA rulemaking petition (although the petitions are immediately available in the docket). EPA agrees that publication in the Federal Register noticing receipt of petitions could better serve the legitimate interests of potential commenters and of the Agency. Accordingly, the Agency began publishing in the Federal Register on December 7, 1981 a list of all petitions filed with the Agency under either § 260.20, 260.21 or 260.22. This notice is the second and updates that Federal Register notice by providing a list of all petitions received by the Agency subsequent to that publication as of January 31, 1982 and provides a brief summary of the substance of the petitions.

Dated: February 24, 1982.

Christopher J. Capper,
Acting Assistant Administrator, Solid Waste and Emergency Response.

I. Petitions Filed Under 40 CFR 260.20 and 40 CFR 260.21

[General Rulemaking and Petitions for Equivalent Testing or Analytical Methods]

Log No.	Company	Address	Brief summary of petition
R 022	Olin Water Services	51 Corporate Woods, 9393 W. 110th St., Overland Park, KN 66210.	Requests that § 265.176 be modified to allow containers holding ignitable or reactive waste within 50 ft. of the property line.
R 023	Engelhard, Engelhard Industries Division.	70 Wood Avenue, on 770, Iselin, NJ 08830	Requests that § 262.34 be amended that would allow generators to store hazardous waste on-site in emergency surface impoundments for 90 days or less on the same or similar conditions as now apply for on-site storage in tanks.
R 024	Stablex Corporation	2 Radnor Corporate Center, Radnor, PA 19087.	Requests EPA to exclude the residue generated from the Stablex treatment process from being considered a hazardous waste at each and every permanent facility to be constructed by Stablex.

II. Petitions Filed Under 40 CFR 260.22

[Petitions to Amend Part 261 to Exclude a Waste Produced at a Particular Facility]

Log No.	Company	Address	Waste listings to be excluded
0248 A	R.R. Donnelley & Sons Co., Mattoon Manufacturing Division.	U.S. Rt. 45 N., Box 169, Mattoon, IL 61938	Chromium bearing waste.
0248 B	Herocline	P.O. Box 327, Wilmington, NC 20402	F009.
0248 C	Olin Chemical Group	Doe Run Plant, P.O. Box 547, Brandenburg, KY 40108	F009.
0249	Monsanto Chemical Intermediate Co.	800 N. Lindbergh Blvd., St. Louis, MO 63166	K071.
0250	McLouth Steel Corp.	Trenton Plant, 1401 W. Jefferson, Trenton, MI 48183	K061.
0251	Western Processing Co.	7215 S. 196th St., Kent, WA 98031	F002 & other solvent bearing waste.
0252	Hercules, Inc.	P.O. Box 658, Franklin, VA 23851	F003.
0253	Brown Boveri Electric, Inc.	I-4 Industrial Park, 201 Hickman Dr., P.O. Box 1978, Sanford, FL 32771	F009.
0254	Celanese Fibers Co.	Box 1000, Narrows, VA 24124	F003, F005, F007 Lab waste U002, U019, U080, U112, U159.
0255	SK & F Lab. Co. Chemical Division	P.O. Box 2700, Guayama, PR 00654	Spent solvents.
0256	GMC Truck & Coach	660 S. Blvd. E., Pontiac, MI 48053	F005, F019.
0257	Hercules, Inc.	P.O. Box 249, Neck Road, Burlington, NJ 08016	F003.
0258	Teledyne Allvac	P.O. Box 769, 2020 Ashcraft Ave., Monroe, NC 28110	K088.

II. PETITIONS FILED UNDER 40 CFR 260.22—Continued

[Petitions to Amend Part 261 to Exclude a Waste Produced at a Particular Facility]

Log No.	Company	Address	Waste listings to be excluded
0256	General Electric Co.	P.O. Box 2188, Hickory, NC 28601	F006, F008, F017, F018.
0260	Hamlin Corr/Diamond International	5200 Broadwell Road, Cincinnati, OH 45244	chromium bearing waste.
0261	Texaco U.S.A.	P.O. Box 767, Port Neches, TX 77651	K051.
0262	Celanese Fibers Co.	Cherry Road Station, Rock Hill, SC 29730	F002, F005, F005.
0263	Cleveron Corp.	Box 410, Finance Drive, Danbury, CT 06810	F008.
0264	Diamond Shamrock Corp.	P.O. Box 631, Amarillo, TX 79173	K048, K049 F061.
0265	Uniroyal, Inc.	591 S. Water St., Stoughton, WI 53589	F002, F005.
0266	General Cable	P.O. Box 2547, 2300 E. Jackson St., Muncie, IN 47302	F012, F062.
0267	Welsh Co. of the South	Route 1, Box 1, Union Springs, AL 36089	F006.
0268	Tri-City Plating, Inc.	U.S. Highway 36, South, P.O. Box 36, Wallace, IN 46994	F006.
0269	General Motors Corp., Delco Moraine Div.	1420 Wisconsin Blvd., Dayton, Ohio 45401	F006.
0270	Quaker State Oil Refinery Co.	Congo Plant, P.O. Box 336, Newell, WV 26050	K048, K051.
0271	Union Carbide Corp.	Plant 925, P.O. Box 710, Ashtabula, OH 44004	F007, K062.
0272	Ramsey Corp.	300 Ramsey St., Sullivan, Mo 63080	F006.
0273	Bethlehem Steel Corp.	Sparrows Point Plant, Baltimore, MD 21219	F006, K062.
0274	Hytec, Inc.	Rt. 13, 711 Airdustrial Way, Tumwater, WA 98502	Acetone Still Bottoms (F003).
0275	Whirlpool, Corp.	119 Birdseye St., Clyde, OH 43410	F006.
0276	Texas Instrument, Inc.	P.O. Box 225621, Dallas, TX 75265	F006.
0277	National Lock Washer Co.	Industrial Parkway, P.O. Box 5116, North Branch, NJ 08876	F006.
0278	Texaco	P.O. Box 712, Port Arthur, TX 77640	F006, F020, U016, U084, U035, U147, U154, U362, U088, U188, U220, U239, D002.
0279	Republic Steel Corp., Enduro Division	410 Oberlin Avenue, S.W., Massillon, OH 44646	K062.
0280	Sell Metal Container Group	9300 W. 108th Circle, P.O. Box 386, Westminster, CO 80220	F019.
0281	Gould, Inc.	100 Relay Road, Plantsville, CT 06479	F006.
0282	Ireco Chemicals	Seventh Floor, Kennecott Building, Salt Lake City, UT 84133	K047.
0283	MP & P, Inc.	346 Huntingdon Ave., P.O. Box 1494, Waterbury, CT 06708	F006.
0284	Ashland Petroleum Co.	P.O. Box 391, Ashland, KY 41114	K051.
0286	Rockwell International	Fourth & Park, P.O. Box 188, Atchinson, KS 66002	K061.
0286	Bell Helicopter (Textron)	P.O. Box 482, Fort Worth, TX 76101	F006.
0287	Aluminum Company of America	Warrick County Plant, P.O. Box 10, Highway 66, Newburgh, IN 47630	F019.
0288	Aluminum Company of America	Tifton Plant, Southwest Blvd., P.O. Box EB, Tifton, GA 31793	F019.

[FR Doc. 82-5702 Filed 3-2-82; 8:45 am]

BILLING CODE 6560-30-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3420

[Circular No. 2498]

Amendments to Competitive Leasing Regulations of Coal Management Program

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking amends those provisions of the Federal Coal Management regulations that establish deadlines for the submission of surface owner consents or written evidence thereof prior to coal lease sales for lands to which the consents apply and that describe the availability of information concerning the purchase price, financial obligations and terms and conditions of such consents. These amendments will clarify the procedures on surface owner consents and written evidence thereof.

EFFECTIVE DATE: March 3, 1982.

ADDRESS: Any suggestions of inquiries should be sent to: Director (540), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Monte Jordan, (202) 343–4636 or Robert C. Bruce, (202) 343–8735.

SUPPLEMENTARY INFORMATION: On December 16, 1981, a proposed rulemaking making amendments to the Federal Coal Management program, 43 CFR Part 3400, was published in Federal Register (46 FR 61360). Contained in that proposed rulemaking was a proposal to change the deadline for filing qualified surface owner consents with the Bureau of Land Management prior to a coal lease sale for lands to which the consents apply. This final rulemaking clarifies the method of establishing the deadline for filing of qualified surface owner consents and eliminates inconsistencies within the proposed rulemaking regarding the availability to the public of the purchase price, financial obligations and terms and conditions of such consents.

The proposed rulemaking contained a revision to § 3427.1 that would require consents to be filed only prior to a lease sale for lands to which consents apply rather than prior to the issuance of a lease sale notice for the lands as specified in the existing regulations. This proposed change reflects the Department of the Interior's intention to provide industry with as much time as possible to obtain and file consents before a regional lease sale while retaining the existing policy of requiring consents to be obtained and filed before a lease sale is held for lands to which consents apply. By the term "lease sale", the Department means, and has always meant, the public opening of sealed bids and subsequent oral bidding, if any, on the lease tracts. This final rulemaking promulgates the proposed change and makes other minor revisions to the regulations that were overlooked in the proposed rulemaking but are necessary to maintain consistency with the change in § 3427.1.

More than 60 comments were received on the proposed rulemaking, but only a few of them addressed the method of establishing the deadline for filing qualified surface owner consents. Those specific comments are discussed below.

Section 3422.2(c)(10), renumbered § 3422.2(c)(6) in the proposed rulemaking, has been revised further to indicate that the detailed statement of the lease sale will contain the terms and conditions of consents that have been filed and verified prior to posting of the lease sale notice. Consents filed after the sale notice has been posted and the detailed statement made available to the public will become part of the official file for the lease tract and will be available for inspection by the public at the appropriate Bureau of Land Management State office. This change, even though not made in the proposed rulemaking, is consistent with other revisions made in the proposed rulemaking allowing consents to be filed after posting and publication of the lease sale notice. As a result of these revisions in the proposed rulemaking, it is evident that the detailed statement cannot contain the terms and conditions of consents that have yet to be filed. The consents filed after the posting of the lease sale notice will be available for public inspection upon receipt and verification to allow potential bidders to consider the purchase price, financial obligation and terms and conditions of the consents in formulating their bids.

No comments were received on § 3427.1 of the proposed rulemaking. This section requires consents to be filed before a lease sale is held for lands to which the consents apply. This will allow lands subject to consent to be listed in a lease sale notice even though consents have not been filed, providing more time for obtaining and filing consents before a lease sale. Lands for which consents are required but not received by the filing deadline will be withdrawn from the lease sale.

Several comments were received on § 3427.2(a)(1). All but one of the comments advocated establishment of a filing deadline for consents that is after, not before, the posting of the lease sale notice for lands to which consents apply. One comment advocated retention of the existing regulations establishing the filing deadline as 30 working days prior to publication of the lease sale notice. After consideration of these comments and the way current regulations would operate in the Powder River Region, § 3427.2(a)(1) of the proposed rulemaking has been further amended to specify that the deadline for filing consents for lands to be offered in regional lease sales will be established on a sale-by-sale basis. This will eliminate the uncertainty about the filing deadlines that can occur under the existing regulations, where the actual filing deadline has passed by the time the date of publication of the lease sale notice is definitely known. This provision in the existing regulations amounts to a retroactive deadline. Also, the establishment of a deadline for filing consents that predates the lease sale by two months or more serves no useful purpose and might have caused delays in lease sales if consents have not been filed before this early deadline passes.

Section 3427.2(a)(1) of this final rulemaking also requires consents for lands offered for lease sale pursuant to lease applications under Subpart 3425 to be filed prior to posting of the lease sale notice. This change puts the burden of obtaining and filing consents for these lands on the applicants requesting the lease sale before the lease sale is scheduled and the sale notice posted.

Section 3427.2(f), renumbered § 3427.2(e) in the proposed rulemaking, has been amended by deletion of the word "transferable" from the section. This deletion is being made to clarify that this section applies to nontransferable consents obtained prior to August 4, 1977, as set out in the discussion of § 3427.4, as well as consents obtained on or after August 4, 1977.

Section 3427.2(g), renumbered § 3427.2(f) in the proposed rulemaking, is being amended to state that the authorized officer must confirm that the consents or written evidence thereof comply with the applicable provisions of § 3427.2 (e) and (f) before the lease sale for the lands to which the consents apply is held. If consents filed prior to the filing deadline are subsequently found to not comply with the requirements for such consents, or if verification has not been made for any reason, the lands for which the consents are required will be withdrawn from the lease sale and bids will be returned unopened. This revision makes this rulemaking consistent with the other provisions contained in this final rulemaking by acknowledging that the deadline for filing consents may, or in some cases will, be after the posting of the sale notice, and that consents obtained prior to August 4, 1977, need not meet the provisions of § 3427.2(e)(1).

Section 3427.2(h), renumbered § 3427.2(g) in the proposed rulemaking, is being amended in this final rulemaking to state that the purchase price and the terms and conditions of consents will appear in the lease sale notice and detailed statement, respectively, only if the consents have been filed and verified prior to posting of the lease sale notice. All other comments will be available for inspection by the public in the official lease tract files in the appropriate Bureau of Land Management State office. This amendment will bring this section into conformance with other changes made in the proposed rulemaking.

Section 3427.4 will be amended to state that consents given prior to August 4, 1977, specifically do not have to meet the transferability provisions of § 3427.2(e)(1). This change, which was not a part of the proposed rulemaking, will clarify the purpose and intent of § 3427.4.

Section 714(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1304(c)), specifically validates consents granted prior to its enactment. The purpose of § 3427.4 is to acknowledge as valid pre-Surface Mining Control and Reclamation Act consents that are not now transferable within the meaning of § 3427.2(e)(1). Lease sales may be held for lands covered by such consents with no further obligation on the part of the grantor and grantee to amend the consent to meet the transferability requirement of § 3427.1(e)(1). However, § 3427.4 does not absolve persons filing pre-Surface Mining Control and Reclamation Act consents from meeting the other reporting and validation requirements of § 3427.2, especially the requirement to disclose the purchase price and terms and conditions of such pre-Surface Mining Control and Reclamation Act consents. Even though pre-Surface Mining Control and Reclamation Act consents need not be automatically transferable to the high bidder for a coal lease covering the lands to which the consents apply, it is in the public interest for potential bidders to be aware of the cost and terms and conditions of the consent to its present holders so that bids may be formulated with full knowledge of the existing conditions on the lease tract. Disclosure of the costs and the terms and conditions of pre-Surface Mining Control and Reclamation Act non-transferable consents does not constitute an obligation on the part of the consent holders to transfer the consents to the high bidder at the same or any price; disclosure is intended only to promote competition by allowing all potential bidders access to the same surface owner consent information. It will be the responsibility of the high bidder, if other than the consent holder, to negotiate with the consent holder for the acquisition of the consent.

The Department of the Interior recently adopted a new policy regarding lease sale methods for lands covered by pre-Surface Mining Control and Reclamation Act non-transferable consents. Under the previous policy, such lands could be offered only by intertract sale procedures. The new policy permits such lands to be sold by standard single-tract sale procedures described in § 3422.3–1, as well as by intertract sale procedures.

The changes made in this final rulemaking will be repeated in the finalization of the proposed rulemaking that was published on December 16, 1981, in order to conform them to the new section and paragraph numbers of that document.

This final rulemaking is being made effective upon publication because it relieves both the public and the Bureau of Land Management of self-imposed, non-statutory restrictions and thus meets the provision of 5 U.S.C. 553(d)(1) related to making final rulemakings effective less than 30 days after their publication date.

The provisions in this final rulemaking will have their most immediate effect on the first Powder River regional lease sale in April 1982. Under the existing regulations, the filing deadline for

consents would have been approximately February 25, 1982. In accordance with the provisions in this final rulemaking, the deadline for filing consents for tracts to be offered in this sale will be April 5, 1982. A separate notice will be published in the Federal Register announcing the new filing deadline. Any consents filed with the appropriate Bureau of Land Management State office on or before this new date will receive consideration. Consents filed after April 5, 1982, will be accepted but will not be acted upon before the lease sale, and tracts containing lands covered by consents filed after April 5, 1982, will be withdrawn from the lease sale. The Bureau retains the discretion to reoffer such tracts for lease sale or to reconsider the lands for coal leasing in the next round of activity planning in that region.

The principal author of this final rulemaking is Walter Rewinski, Division of Coal, Tar Sands and Oil Shale, Bureau of Land Management, assisted by Larry McBride, Office of the Solicitor, Department of the Interior.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The information collection requirements contained in this amendment to 43 CFR Part 3420 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0073.

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359), the Federal Land Policy and Management Act of 1976 (43 U.S.C 1701 et seq.), the Surface Mining Control and Reclamation Act (30 U.S.C. 1201 et seq.) and the Multiple Mineral Development Act (30 U.S.C. 521–531), Part 3420, Group 3400, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

David C. Russell,

Assistant Secretary of the Interior.

February 24, 1982.

PART 3420—COMPETITIVE LEASING

1. Section 3422.2(c)(10) is revised to read:

§ 3422.2 [Amended]

* * * * *

(c) * * *

(10) If appropriate, contain (i) a copy of any written qualified surface owner consent, including purchase price, financial obligations and terms and conditions, filed and verified prior to the posting of the notice of lease sale in the appropriate Bureau of Land Management State office; or (ii) a listing of lands for which qualified surface owner consent is required prior to lease sale but has not yet been filed, along with a statement that any consent for those lands filed prior to the deadline for such filings shall be made a part of the official file and shall be available for inspection by the public;

2. Section 3427.1 is revised to read:

§ 3427.1 Deposits subject to consent.

On split estate lands (43 CFR 3400.0–5) where the surface is owned by a qualified surface owner, coal deposits that will be mined by methods other than underground mining techniques shall not be included in a lease sale without evidence of written consent from the qualified surface owner (43 CFR 3400.0–5) allowing entry and commencement of surface mining operations.

3. Section 3427.2 is amended by:

a. Revising paragraph (a)(1) to read:

§ 3427.2 [Amended]

(a)(1) Each written consent or evidence of written consent shall be filed with the appropriate Bureau of Land Management State office (43 CFR Subpart 1821). For lands offered for lease sale pursuant to Subpart 3420 of this title, consents or written evidence thereof shall be filed on or before a date prior to the lease sale specified in a notice published in the Federal Register. For lands offered for lease sale pursuant to Subpart 3425 of this title, consents or written evidence thereof shall be filed prior to the posting of the lease sale notice.

* * * * *

(b) Amending paragraph (f) by removing the word "transferable";

(c) Revising paragraph (g) to read:

* * * * *

(g) The applicable conditions of paragraphs (e) and (f) of this section shall be met prior to the lease sale for the lands to which the consents apply.

* * * * *

(d) Revising paragraph (i) to read:

* * * * *

(i) The purchase price of any applicable written consent from a qualified surface owner submitted and verified prior to posting of the notice of lease sale shall be included with the description of the tract(s) in the notice of lease sale, and the other terms of the consent shall be included in the detailed statement of the tract sale. Any consent filed after posting of the notice of lease sale shall be placed in the official file for the lease tract(s) to which the consent applies and shall be available for inspection by the public in the appropriate Bureau of Land Management State office (43 CFR Subpart 1821).

* * * * *

4. Section 3427.4 is revised to read:

§ 3427.4 Pre-existing consents.

An otherwise valid written consent given by a qualified surface owner prior to August 4, 1977, shall not be required to meet the transferability provisions of § 3427.2(e)(1) of this part.

[FR Doc. 82-5870 Filed 3-4-82; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Amdt. No. 12 to Service Order No. 1493]

Escanaba and Lake Superior Railroad Company Authorized To Use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 12 to Service Order No. 1493.

SUMMARY: Amendment No. 12 extends the expiration date of Service Order No. 1493, which authorizes Escanaba and Lake Superior Railroad Company to use tracks and/or facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Richard B. Ogilvie, Trustee) (MILW). The MILW Trustee has indicated that sufficient progress has been made in negotiations on compensation and that he concurs with this extension.

EFFECTIVE: 11:59 p.m., February 28, 1982, and continuing in effect until 11:59 p.m., March 30, 1982, unless modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT:

M. F. Clemens, Jr. (202) 275–7840 or 275–1559.

SUPPLEMENTARY INFORMATION:

Decided: February 25, 1982.

Upon further consideration of Service Order No. 1493 (46 FR 10742, 14696, 19822, 25311, 34593, 39148, 44190, 49127, 54562, 58491; 47 FR 624 and 4690), and good cause appearing therefor:

§ 1033.1493 [Amended]

It is ordered, § 1033.1493 *Escanaba and Lake Superior Railroad Company Authorized to use Tracks and/or Facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Richard B. Ogilvie, Trustee).* Service Order No. 1493 is amended by substituting the following paragraph (n) for paragraph (n) thereof:

* * * * *

(n) *Expiration date.* The provisions of this order are extended to permit an additional (30) thirty days for the Escanaba and Lake Superior Railroad Company to complete compensation negotiations, and shall expire at 11:59 p.m., March 30, 1982, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., February 28, 1982.

(49 U.S.C. 10304–10305 and sec. 122, Pub. L. 96–254)

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5864 Filed 3-3-82; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1100

[Docket No. 37130 (Sub-No. 1)]

Special Docket Proceedings; Waiver of Insignificant Amounts and Simplification of Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting new rules which will (1) implement section 207(c) of the Staggers Rail Act of 1980 (Pub. L. 96–448) by expanding its Special Docket regulations to establish standards and procedures whereby rail carriers can waive collection of insignificant amounts due from shippers in connection with rate increases which are suspended and later found reasonable; and (2) simplify and streamline the Special Docket process itself to eliminate delay and paperwork and to open up the process to public scrutiny.

EFFECTIVE DATE: This notice will be effective on June 1, 1982.

FOR FURTHER INFORMATION CONTACT:

Martin E. Foley, (202) 275–7348, or Donald W. Simmons, (202) 275–6883.

SUPPLEMENTARY INFORMATION: In our notice in this rulemaking (46 FR 6601, January 27, 1981) we proposed to revise our entire Special Docket process and, in so doing, to implement the Congressional mandate contained in section 207(c) of the Staggers Act of 1980. This section requires carriers to collect from the shipper the difference between the original rate and the portion of the suspended rate found to be reasonable, plus interest, in those instances where a rail rate increase is suspended by the Commission but later is found to be reasonable in whole or in part. It also requires the Commission to establish standards and procedures permitting a rail carrier to waive the collection of those amounts which are not significant. These requirements are now codified at 49 U.S.C. 10707(d) (2) and (4).

We have considered all comments filed. We have analyzed the issues and arguments not discussed here and found them either unpersuasive or unnecessary. We have decided to adopt the proposed rules with minor modifications—some of which were suggested in the comments and others which are being made for clarification purposes only.

The adopted rules will eliminate the Special Docket application form (except for a brief transition period) in favor of a simple letter-petition system. Basically, it will consist of a three-letter process:

(1) A Letter of Registration (if necessary to toll the Statute of Limitations);

(2) A letter of Intent (to pay reparations, to waive the collection of undercharges, or to waive the collection of insignificant amounts); and

(3) A Letter of Disposition (advising the Commission of the action taken).

The registration process presently in use will be essentially unchanged. Carriers will still be able to toll the statute of limitations by filing a letter of registration setting forth the essential facts when they are unable to file a Letter of Intent within the statutory period and the claim is not already protected from the operation of the statute by informal complaint. The Commission will continue to assign a Special Docket number to the case at that time and acknowledge receipt of the letter. However, we will no longer continue the practice of tracing the carrier for submission of the application (Letter of Intent), but we will require that Letters of Registration be followed by a Letter of Intent within one year or they will be dismissed for lack of prosecution (subject, of course, to the Six-Months' rule described at 49 CFR 1100.23(f)).

Letters of Intent will no longer be checked automatically for technical accuracy or conformity to precedent established on the formal docket, as they are at present. They will be checked only for compliance with the statute of limitations. Instead, all Letters of Intent will be made available within five days of receipt for public inspection for 25 days in the Board of Suspension Public File, Room No. 4339, at our office at 12th and Constitution Avenue NW., Washington, DC 20423.

If no letters of objection are filed, carriers will be permitted, after the passage of 45 days (from the date of our receipt of the Letter of Intent), to take the intended action without further Commission order—subject only to the requirement that a Letter of Disposition (advising us of the action taken, the date of the action and the amount paid or waived) be filed with the Commission within 30 days after the expiration of the 45-day period.

If a Letter of Intent is contested, carriers will not be allowed to take any action until the case is reviewed by the Special Docket Board and an appropriate order either granting or denying the petition is issued. No letter of disposition to the Commission will be required in cases decided by an order of the Board, and all Board decisions will continue to be subject to appeal to a Division of the Commission.

In traditional Special Docket cases—i.e., those involving requests to pay reparations or to waive undercharges—a Letter of Intent must always be filed with the Commission, regardless of the amount of money involved. This will not be the case, however, in connection with waiving the collection of amounts due from shippers when a suspended rate increase is later found to be reasonable. In these cases, amounts due which total $2,000.00 or less may be waived on the carrier's own volition, subject only to the requirement that a Letter of Disposition be filed informing the Commission of the action taken. For all requests for waiver of amounts due that are above the threshold figure of $2,000.00, however, a Letter of Intent must always be filed.

Specific Issues

The level of this threshold figure emerged as the central issue in the comments. Although the $2,000.00 figure was proposed in our NPR as the most logical level, we specifically invited comments on its appropriateness. This figure was attacked by various commenters both as too high and too low, but the comments on balance supported our view that it was a practical reflection of the average costs of recovering additional freight charges when instituting and pursuing litigation. As we pointed out in our NPR, this does not mean that amounts *over* the threshold figure will necessarily be deemed "significant" and cannot be waived. This will depend, for example, on the relative size of the shipper and carrier, patterns of business, etc.—information which should be included as part of the justification statement in the Letter of Intent.

The threshold figure is to be applied per "person" as that term is defined at 49 U.S.C. 10102(16). That is, the $2,000.00 threshold may be invoked by a carrier only once for any person who uses the suspended rate during the suspension period. Thus, a carrier would measure the $2,000.00 figure against billing for the total number of separate shipments moving for the same "person" under the same rate during the period of suspension. This precludes for example, splitting a $10,000.00 claim into five $2,000.00 claims to avoid exceeding the threshold level. It does not, however, preclude more than one $2,000.00 waiver for the same person when there are different movements of traffic moving under different rates.

Two commenters asked that the threshold feature be extended to apply to *all* Special Docket cases—that is, to allow payment of reparations and waiver of undercharges to be handled between the parties (subject only to the Letter of Disposition requirements) when the amounts are $2,000.00 or less. Other individual carrier commenters oppose this proposal, expressing concern that the more prosperous carriers would use the covert return, or waiver, of sums up to $2,000.00 per shipment as a "marketing tool".

We believe there may merit in the proposition that the $2,000.00 threshold feature be extended to all Special Docket cases and therefore the matter will be furthered considered in a forthcoming rulemaking proceeding.

Two comments express concern over the requirement (§ 1100.23(e)(1)(viii)) that the Letter of Intent contain an admission that the assailed rate was "unreasonable". One party suggests an admission of "inapplicability" as an alternative to the admission of unreasonableness. A second party is apprehensive that an admission of unreasonableness "may well have adverse consequences for the carrier in other proceedings". These concerns are misplaced, and likely reflect some confusion on the part of the commenters.

It would be inappropriate to offer an admission of "inapplicability" in a Special Docket setting because the very purpose of Special Dockets is to allow non-collection or reparation of *applicable* tariff rates. Thus, the Special Docket is a mechanism whereby applicable rates are deemed to be unreasonable under the particular circumstances attendant to the establishment or maintenance of the assailed rate as applied against specific movements of traffic. An admission of unreasonableness in a Special Docket carries no implication or assumption that the assailed rate would be unreasonable as applied at any other time, or under any other circumstances.

Regarding the issue of equal treatment we have been implored by the Commission's Office of Special Counsel and others to require that carriers include a certification in their Letters of Intent that all shippers similarly affected will be treated in a like manner. We believe, however, that such a requirement would be meaningless and unnecessary. Unlike the former process, the rules adopted here permit full public awareness of situations where carriers voluntarily offer lessened freight charges. The enhanced public awareness, made possible by public access to Letters of Intent and likely publication in trade journals, offers the best deterrent to discriminatory treatment. While we do not anticipate that carriers would utilize the new process as a device for conferring unlawful discrimination or favoritism, we shall investigate any pattern of unlawful activity that may emerge. Thus, the inclusion of a *pro forma* statement in Letters of Intent would hold no protections not already available.

We have been persuaded, however, as a result of the comments, to modify the adopted rules in connection with the information proposed to be required in the Letter of Intent for reparation and waiver of undercharge cases. Proposed section 1100.23(e)(1)(v), for example, would have required carriers to show the dates when the shipments involved were delivered or tendered for delivery. Several comments pointed out that in many cases, where compliance with the statute of limitations is clearly not at issue, such information is superfluous. Moreover, this information is generally not available at carriers' general offices, where the petitions are prepared, and must be obtained—at no little time and expense—from destination terminal and demurrage records. We are therefore revising this requirement to read as follows:

(v) The dates on which, or within which, the shipments moved and, when necessary to show compliance with the statute of limitations, the dates when the shipments were delivered or tendered for delivery.

If delivery dates are not shown, and our review of the Letter of Intent indicates that compliance with the statute is questionable, the petition will be returned to the filing carrier for insertion of the delivery information before being made available for public inspection.

We have also been persuaded to delete proposed § 1100.23(e)(1)(viii), which would have required carriers to show the dates the charges were paid, by whom paid, and by whom borne. As several commenters pointed out, this information is rarely called into question on the informal docket. Carriers are already required to keep adequate records to satisfy any question regarding the payment of charges, however, and should be prepared to provide that information upon request in connection with any individual petition that is contested.

We are allowing 90 days from the date of publication of this decision in the **Federal Register** for compliance with the adopted regulations. All petitions filed with the Commission before the compliance date are to be submitted on the present Special Docket form and will be reviewed by the Special Docket Board in the traditional manner. The Board will also act upon all applications presently on hand.

All petitions filed with the Commission after June 1, 1982, however, shall be prepared and submitted in accordance with the adopted rules contained in the Appendix to this decision. This 90-day period is necessary to accommodate those petitions which have already been prepared and are now being circulated to concurring carriers for verification and signature. In the interests of simplicity and uniformity, petitions submitted on the old form that are received on or after June 1, 1982, will not be accepted.

In our NPR, we certified, as required by 5 U.S.C. 603, that we anticipated no adverse economic impact on small businesses or organizations as a result of the rules proposed in this proceeding. Although we specifically invited comments on this issue, none were received. We have concluded that the adopted rules, which are essentially a relaxation of present requirements, will have no adverse economic impact on small businesses or organizations.

This decision will not significantly affect the quality of the human environment or conservation of energy resources.

(Sec. 207, Staggers Rail Act of 1980, 49 U.S.C. 10321, 49 U.S.C. 10707, 5 U.S.C. 553)

Dated: February 22, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham and Clapp.

Agatha L. Mergenovich,
Secretary.

Appendix

PART 1100—GENERAL RULES OF PRACTICE

Chapter X of Title 49 of the Code of Federal Regulations is amended as follows:

1. By revising § 1100.23(e) as follows:

§ 1100.23 Informal complaints seeking damages (Rule 23).

* * * * *

(e) *Special-Docket Proceedings.*—(1) *Petitions based on damages.* Where the act provides for an award of damages for a violation, and a carrier is willing to pay them, or to waive collection of undercharges, petitions for appropriate authority should be filed by the carrier on the special docket by submitting either a Letter of Intent to Pay Reparations, a Letter of Intent to Pay Reparations and Waive Undercharges, or a Letter of Intent to Waive Undercharges. Such petitions, when not filed in connection with an Informal Complaint pending before the Commission, must be filed within the statutory period and will be deemed the equivalent of an informal complaint and an answer admitting the matters stated in the petition. These petitions shall contain, as a minimum, the following information:

(i) The names and addresses of the complainants seeking damages.

(ii) The names of the defendants against which the claim is filed.

(iii) The amount of the claim.

(iv) The tariff authority for both the assailed and the sought rate.

(v) The dates on which, or within which, the shipments moved and, when necessary to show compliance with the statute of limitations, the dates when the shipments were delivered or tendered for delivery.

(vi) The points of origin and destination of the shipments and the routes of movement.

(vii) The commodity.

(viii) An admission by the carrier that the assailed rate was unreasonable, and a showing, where appropriate, that it has been moved from the tariff.

(ix) A statement certifying that all defendants against which the claim is lodged concur in the intent to pay reparations or waive undercharges.

(x) Evidence to show compliance with the statute of limitations.

(xi) A brief explanation of the circumstances causing the claim for damages and the precedent relied upon by the carrier in agreeing to honor it.

If a carrier is unable to file such petition within the statutory period and the claim is not already protected from the operation of the statute by informal complaint, a Letter of Registration setting forth the facts may be submitted by the carrier within the statutory period. This letter will also be deemed the equivalent of an informal complaint filed on behalf of the shipper or consignee and sufficient to stay the operation of the statute. However, an appropriate Letter of Intent must be filed within one year following receipt by the Commission of the Letter of Registration.

(2) *Petitions to waive collection of insignificant amounts.* If a rail carrier wishes to waive the collection of amounts due under 49 U.S.C. 10707(d)(2), when such amounts are more than $2,000.00, a petition for appropriate authority should be filed by the carrier on the special docket by submitting a Letter of Intent to Waive Insignificant Amounts. These petitions should contain the following information:

(i) The name and address of the customer for whom the carrier wishes to waive collection.

(ii) The name and addresses of the carriers involved in the intended waiver and a statement certifying that all carriers concur in the action.

(iii) The amount intended to be waived.

(iv) The number of the investigation and suspension case involved, the beginning and ending dates of the suspension period, and any other pertinent tariff information.

(v) The points of origin and destination of the shipments and the routes of movement, if relevant.

(vi) A brief statement of justification for the intended waiver, including the anticipated costs of billing, collecting and/or litigating if the waiver is not permitted.

If the amount to be waived is $2,000.00 or less, no petition need be filed prior to waiver, provided that this exemption may be invoked by a carrier only once for any person (as defined at 49 U.S.C. 10102(16)) who uses the suspended rate during the suspension period. However, a Letter of Disposition informing the Commission of the action taken, the date of the action, and the amount waived shall be submitted to the Special Docket Board, Interstate Commerce Commission, Washington, D.C., 20423, within 30 days of the waiver.

(3) *Public Notice and Protest.* Petitions on the Special Docket to pay reparations, waive the collection of undercharges or waive the collection of insignificant amounts shall be made available by the Commission for public inspection five (5) days after receipt, in the Board of Suspension Public File Room, Room 4339, 12th & Constitution Avenue, NW., Washington, D.C., 20423 and remain available for 25 days. Any interested person may protest the granting of a petition by filing a Letter of Objection with the Special Docket Board within 30 days of Commission receipt of the petition. Letters of Objection shall identify the Special Docket number, shall clearly state the reasons for the objection, and shall certify that a copy of the Letter of Objection has been served on all parties named in the petition. A period of 15 days will be allowed for reply.

(4) *Uncontested petitions.* A petition which is not contested will be considered an order of the Commission authorizing the action contemplated in the petition 45 days after Commission receipt of the petition. Within 30 days after the expiration of the 45-day period, the carrier filing the petition shall file a Letter of Disposition informing the Special Docket Board of the action taken, the date of the action, and the amount paid or waived.

2. By adding the word "contested" between the words "a" and "Special" in the first sentence of § 1100.23(f).

3. By adding the word "Contested" before the word "Special" at the beginning of the second sentence of § 1100.23(f).

[FR Doc. 82-5870 Filed 3-2-82; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF ENERGY

10 CFR Part 440

[Docket Number CAS-RM-80-514]

Weatherization Assistance for Low-Income Persons; Administrative Requirement

AGENCY: Energy Department.

ACTION: Amendment to the interim rule.

SUMMARY: The Department of Energy issues an amendment to the interim rule for the program for Weatherization Assistance for Low-Income Persons in order to implement a change to the program mandated by the Energy Security Act. Section 573 of the Energy Security Act changes the criteria and procedures which States participating in the program must use to select local agencies which receive Federal funds to perform weatherization work.

The Department believes that this particular program is unnecessary. State and local governments should be responsible for decisions concerning public assistance, including weatherization assistance. There are, moreover, Federal funds available through other programs to assist States and localities in weatherization work.

Although the Administration requested no funds for the program in fiscal year 1982, Congress did appropriate $144 million for it. As a result, the Department intends to implement the program through the 1982 grant cycle to the best of its ability. Today's amendment will enable the Department to award 1982 grants without delay and in full accordance with the requirements of the Energy Security Act. (The Department has requested that the program not be funded for fiscal year 1983).

EFFECTIVE DATE: March 3, 1982.

ADDRESS: Send comments to Department of Energy, Hearings and Dockets, Mail Stop 6B-025, 1000 Independence Ave., SW., Washington, D.C. 20585. Attention: CAS-RM-80-514.

FOR FURTHER INFORMATION CONTACT:
Sandra S. Monje, Division of Weatherization Assistance Programs, Department of Energy, Mail Stop 6A-045, Room 5G-023, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2207

Catherine Edgerton, Ofice of General Counsel, Department of Energy, Mail Stop 6E-087, Room 6B-144, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9513

SUPPLEMENTARY INFORMATION:

I. Introduction and Background
II. Comments on Proposed Amendment and Content of Final Amendment
III. Regulatory Impact, Regulatory Flexibility Act, and Environmental Reviews; Effective Date

I. Introduction and Background

In order to comply with a statutory mandate, the Department of Energy (DOE or Department) today issues an amendment to the interim rule for the program for Weatherization Assistance for Low-Income Persons (program or Weatherization Assistance Program), 10 CFR Part 440, 45 FR 13028, February 27, 1980, under the Energy Conservation in Existing Buildings Act of 1976, as amended (Act), 42 U.S.C. 6851 *et seq.*

Today's issuance makes final and effective a proposed amendment to the interim rule published on January 12, 1982, 47 FR 1299. This amendment implements a change to the program mandated by section 573, 42 U.S.C. 6865, of the Energy Security Act (ESA), Pub. L. 96-294, 94 Stat. 611.

Section 573 of the ESA makes changes in the procedures and criteria which must be used to select local agencies which receive sub-grants from the States to conduct weatherization activities. Before amendment, paragraph 415(b)(2)(B) of the Act effectively operated to allocate virtually all funds for weatherization projects in the geographic area served by a community action agency (CAA) to the CAA. This advantage is referred to as the CAA "priority" in this notice. Section 573 of the ESA removes this priority and provides, in new paragraph 414(b)(4) of the Act, that in selecting a subgrantee, "preference" is to be given to any CAA, as well as any other public or nonprofit entity, which is carrying out or has conducted effective weatherization activities under the DOE or Community Services Administration (CSA) programs.

Section 573 reemphasizes that public comment is to be taken into account in the selection of sub-grantees which, as stated, may be CAA's or other public or nonprofit entities. Section 573 additionally specifies selection on the basis of each agency's experience and performance in weatherization or housing renovation activities, its experience in assisting low-income persons, and the agency's capacity to undertake a weatherization program in a timely and effective manner.

The Department believes that its Weatherization Assistance Program is unnecessary. State and local governments should be responsible for decisions concerning public assistance, including low-income weatherization assistance. State and local governments are much better able to assess individual needs and to provide an effective and efficient response.

There is no need for the program at DOE, moreover, because there are other Federal programs through which funds are available to assist States and localities with weatherization work. For fiscal year 1982, the Department of Health and Human Services (HHS) is allowing up to 15 percent of the Low-Income Home Energy Assistance Program funds to be allocated by the States for weatherization activities. This will provide up to $210 million from HHS (in addition to the $144 million Congress appropriated to DOE) in weatherization funds. The HHS program has the additional benefit of simple application and reporting processes and established channels to assist the needy. Weatherization funding can also be obtained through other Federal programs, such as the Community Development Block Grant Program administered by the Department of Housing and Urban Development.

Although the Administration requested zero funds for the DOE program in fiscal year 1982, Congress did appropriate $144 million for it. On December 23, 1981, the day the President signed legislation including this appropriation, DOE field staff was directed to notify all State grantees immediately of their tentative allocations and urge the preparation of State plans/applications. State grantees were advised to assume administration of the 1982 grant cycle in full accordance with the requirements of the ESA. Formal guidance on the 1982 grant cycle was issued on January 15, 1982.

Currently States are continuing to spend 1981 funds under a budget period extension through March 31, 1982. DOE field offices are now receiving and beginning to process 1982 grant applications from the States. The Department's plan is to award grants during the month of March. Final award, of course, has had to await the effectiveness of today's amendment in the program rule and at least brief final review of State applications against the final amendment.

II. Comments on Proposed Amendment and Content of Final Amendment

DOE received 25 written comments on the proposed amendment, and five speakers testified at the public hearing held on January 28, 1982. The majority of commenters expressed concern with the amendment in concept. They generally felt it would be a detriment to the program and should be abandoned.

The ESA imposes certain program changes which the Department does not have the discretion to reject. Moreover, the Department has no reason to believe that the minimum program changes mandated by the amendment need have any undue disruptive effect on the program. As the conference report to the ESA noted:

> It is not the intention of the Conferees to replace an agency currently operating a program under this title unless it can be shown that an alternative agency can provide superior program administration. Further, it is intended that changes in the administration of the program at the local level be undertaken as seldom as possible so that disruptions in service can be cut to an absolute minimum. S. REP. NO. 96-824, 96th Cong., 2d Sess. 306 (1980).

Other commenters suggested that the amendment should contain elements not specified in the language of the proposal, such as appeal rights for local agencies not selected, alternative or additional qualification tests, and credit for weatherization activities under programs other than DOE or CSA programs.

In proposing the amendment, the Department intended, and still intends, to provide States with as much flexibility in selecting sub-grantees as is permissible under the ESA. It would appear that neither the ESA nor the amendment, which closely tracks the statute, would preclude States, if they wished, from granting appeal rights. Moreover, credit for all weatherization work could be relevant in determining a local agency's weatherization experience and performance and its capacity to undertake a timely and effective weatherization program. The preference, however, is limited to weatherization work under the DOE and CSA programs. Any "qualification test" would be appropriate so long as it relates to the terms of the ESA, which are followed in the amendment.

The final amendment is the proposed amendment with only slight changes. The changes are not substantive, but are made either to track the ESA in certain respects even more closely than the proposal or as technical improvements. In accordance with the ESA provisions on sub-grantee selection, "CAA" is changed to "sub-grantee" in subparagraph (b)(2)(i) of section 440.14 of the program rule. Additionally, paragraphs (c), (d), (e), and (f) of this section are revised to delete the CAA priority, to incorporate the preference for certain weatherization work by CAA's and other public or nonprofit agencies, and to set forth three specific bases for local agency selection. Paragraphs (e) and (f) relate or conform provisions in the program rule on removal of unsatisfactory sub-grantees and addition of new sub-grantees to the ESA changes.

III. Regulatory Impact, Regulatory Flexibility Act, and Environmental Reviews; Effective Date

Today's issuance was reviewed under Executive Order 12291, 46 FR 13193, February 17, 1981. DOE has concluded that the rule is not a "major rule" under the Executive Order because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Pursuant to section 3(c)(3) of Executive Order 12291, this rule was submitted to the Director of OMB for a 10-day review.

The regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires, in part, an agency prepare a final regulatory flexibility analysis for any final rule unless it determines that the rule will not have a "significant economic impact on a substantial number of small entities." In the event that such an analysis is not required for a particular rule, the agency must publish a certification and explanation of that determination in the Federal Register. The discussion citing the conference report, above, is to the effect that the amendment should not be expected to have a significant impact on a substantial number of local agencies administering the program. Accordingly, pursuant to section 605(b) of the Regulatory Flexibility Act, DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, DOE published a Notice of Availability of an Environmental Assessment (EA) (DOE/EA-0085) of the Grants Program for Weatherization Assistance for Low-Income Persons on April 10, 1979, in the Federal Register, 44 FR 21323. At the same time, DOE published notice of its negative determination, based on the EA, that the proposed action would not constitute a major Federal action significantly affecting the quality of the human environment, and that therefore no Environmental Imact Statement (EIS) was required.

DOE has reviewed the environmental impacts of the program amendment issued today. It is DOE's judgment that no new or additional environmental impacts are associated with DOE's amendment. The program amendment required by ESA does not require the addition of any new measures beyond those already contained in the program. It is, accordingly, DOE's determination that the environmental impacts of today's amendment have been adequately analyzed in the April 1979 EA, and that these impacts are not significant. Hence, the previous negative determination is still applicable, and no additional EA or EIS is required.

Section 553(d) of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, provides that a substantive rule not become effective less than thirty days after its publication, unless the agency promulgating the rule finds goods cause to waive this delay and publishes this finding together with the rule. DOE finds good cause for immediate effectiveness of this amendment, in that this is the only way to award 1982 grants without delaying the program and in full accordance with the requirements of the ESA. As discussed above, DOE is prepared to award fiscal year 1982 funds during the month of March 1982.

(Energy Conservation in Existing Building Act of 1976, as amended, 42 U.S.C. 6851 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*)

In consideration of the foregoing and effective immediately, DOE amends Part 440 of Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., March 1, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

PART 440—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

10 CFR Part 440 is amended (1) by removing "CAA" in paragraph (b)(2)(i) of § 440.14 and inserting "sub-grantee" in its place and (2) by revising paragraphs (c), (d), (e), and (f) of § 440.14 to read as follows:

§ 440.14 Administrative requirements.

* * * * *

(c) The plan shall insure that—

(1) Each sub-grantee is a CAA or other public or nonprofit entity;

(2) Each sub-grantee is selected on the basis of public comment received during a public hearing conducted pursuant to paragraph (a) of this section and other appropriate findings regarding—

(i) The sub-grantee's experience and performance in weatherization or housing renovation activities;

(ii) The sub-grantee's experience in assisting low-income persons in the area to be served; and

(iii) The sub-grantee's capacity to undertake a timely and effective weatherization program; and

(3) In selecting a sub-grantee, preference is given to any CAA or other public or nonprofit entity which has, or is currently administering, an effective program under this part or under Title II of the Economic Opportunity Act of 1964, with program effectiveness evaluated by consideration of factors including, but not necessarily limited to, the following—

(i) The extent to which the past or current program achieved or is achieving weatherization goals in a timely fashion;

(ii) The quality of work performed by the sub-grantee;

(iii) The number, qualifications, and experience of the staff members of the sub-grantee; and

(iv) The ability of the sub-grantee to secure volunteers, training participants, and public service employment workers, pursuant to CETA.

(d) The plan shall insure that the funds received under this part will be allocated to the entities selected in accordance with paragraph (c) of this section such that funds will be allocated to areas on the basis of the relative need for a weatherization project by low-income persons, taking into account the factors referred to in paragraph (b)(1) of this section.

(e) If DOE finds that a sub-grantee selected to undertake weatherization activities under this part has failed to comply substantially with the provisions of the Act or this part and should be replaced, such finding shall be treated as a finding under § 440.30(d) for purposes of § 440.30.

(f) Any new or additional sub-grantee shall be selected at a hearing in accordance with paragraph (a) of this section and upon the basis of the criteria in paragraph (c) of this section.

[FR Doc. 82-6022 Filed 3-2-82; 11:21 am]

BILLING CODE 6450-01-M

Proposed Rules

Federal Register
Vol. 47, No. 42
Wednesday, March 3, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 794

[Docket No. CAS-RM-81-406]

Loans for Wind Energy Systems and Small Hydroelectric Power Projects; Cancellation of Public Hearing

AGENCY: Energy Department.

ACTION: Notice of proposed rulemaking; cancellation of public hearing.

SUMMARY: The Department of Energy hereby cancels the public hearing on Loans for Wind Energy Systems and Small Hydroelectric Power Projects scheduled for Tuesday, March 9, 1982, in Washington, D.C. The public hearing is cancelled due to lack of public interest in making oral presentations at the hearing.

DATES: As stated in the notice of proposed rulemaking issued on February 3, 1982 (47 FR 6776, February 16, 1982), written comments on Loans for Wind Energy Systems and Small Hydroelectric Power Projects must be received by the Department on or before 4:30 p.m., April 19, 1982.

ADDRESS: Send comments to Department of Energy, Hearings and Dockets Mail Stop 6B-025, 1000 Independence Ave., S.W., Washington, D.C. 20585, Attention: CA5-RM-81-406.

FOR FURTHER INFORMATION CONTACT:
Peter R. Goldman, Wind Energy Technology Division, U.S. Department of Energy, 1000 Independence Avenue, SW., Room 5F-081, Washington, D.C. 20585, (202) 252-1995.

Issued in Washington, D.C., March 1, 1982.

Joseph J. Tribble,
Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 82-5821 Filed 3-3-82; 10:35 am]

BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

12 CFR Ch. II

[Docket No. R-0386]

Statement of Policy on Bank Acquisitions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed policy statement.

SUMMARY: In the interest of simplifying and expediting the processing of applications for bank acquisitions requiring Board approval and in the interest of providing guidance to the public concerning the competitive analysis applied by the Board of Governors of the Federal Reserve System ("Board") in passing upon bank acquisitions, mergers or consolidations, the Board is issuing for public comment a policy statement setting forth proposed guidelines. The guidelines describe the circumstances under which market extension proposals may be subject to an in-depth inquiry by the Board or the relevant Federal Reserve Bank before a determination is made regarding the competitive effects, and should lead to a substantial reduction in the number of cases requiring such an inquiry.

The proposed guidelines do not deal with the issue of horizontal acquisitions, that is, acquisitions between direct competitors. The Board has incorporated the current Department of Justice Merger Guidelines into competitive analysis involving the elimination of existing competition; and the Board intends to issue guidelines in this area. Since the Department of Justice is revising its guidelines, however, the Board believes it more appropriate to defer issuing its own guidelines until the new Department of Justice guidelines are available.

DATE: Comments must be received on or before April 9, 1982.

ADDRESS: William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All materials submitted should include the Docket Number R-0386.

FOR FURTHER INFORMATION CONTACT:
Joe M. Cleaver, Assistant Director, Division of Research and Statistics (202/452-3906); or Anthony S. Winer, Attorney, Legal Division (202/452-2418), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

Policy Statement of the Board of Governors of the Federal Reserve System for Assessing Competitive Factors under the Bank Merger Act and Bank Holding Company Act

The Board is required under the Bank Merger Act (12 U.S.C. 1828(c)) and the Bank Holding Company Act (12 U.S.C. 1842(c)) to pass upon the competitive effects of: (1) A merger, consolidation, or acquisition of assets or assumption of liabilities, if the acquiring, assuming, or resulting bank is to be a State member bank; (2) a proposal to become a bank holding company, to acquire ownership or control of shares or assets of a bank, or to merge or consolidate with any other bank holding company. The Board believes it can most effectively meet its statutory responsibilities and simplify and expedite the applications process by establishing criteria that identify more serious competitive questions and thus warrant the type of intensive scrutiny that could produce more detailed factual findings. Accordingly, the Board proposes to promulgate guidelines for market extension applications.

The following criteria will apply generally to the consideration of applications coming before the Board of Governors. The criteria will not ordinarily apply to a proposal in which the applicant is not a probable future entrant, as defined in the guidelines. It is important, however, to note the status of these criteria as "guidelines." The Board may, when necessary, require a greater or lesser degree of analysis in a particular case than would otherwise be indicated by the guidelines.

The Board will make an intensive examination of those situations that meet all four of the following criteria:

A. *The Market of the Firm To Be Acquired [1] is Highly Concentrated.* The market will be considered highly concentrated if the three-firm deposit [2] concentration ratio is 75 per cent or greater.[3]

B. *There are Relatively Few Probable Future Entrants Into the Market.* For the purpose of determining whether there are "relatively few" probable future

[1] Hereafter referred to as "the market."

[2] The term "deposit" refers to domestic commercial bank deposits.

[3] The Board believes that the competitive impact of thrifts and other suppliers of banking type services should be taken into account, although the weight of this factor will vary according to the facts of the individual case.

entrants, this term is deemed to mean six or fewer, excluding the applicant.[4]

For the purpose of these guidelines, "probable future entrant" is defined as a commercial banking organization that is not already located in the market and is either:

(1) One of the State's four largest, or

(2) A lower ranking organization with:

(a) Assets of $1 billion or more, or

(b) Assets of $500 million or more in States where there are no lower ranking commercial banking organizations with assets of $1 billion or more.

C. *The Market of the Firm To Be Acquired Is in an SMSA and Is Attractive for Entry.* The market will be considered attractive for entry if:

(1) The market has total deposits greater than $250 million, and

(2) The average growth rate of deposits during the last two calendar years:[5]

(a) Is equal to or greater than the growth rate of deposits in the State during that period, or

(b) Is equal to or greater than the growth rate of deposits nationwide during that period.

D. *The Firm To Be Acquired Is Among the Market Leaders.* A firm is a market leader if it is among the three largest in a market and accounts for 10 per cent or more of deposits in the market.

Board of Governors of the Federal Reserve System, February 26, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-5667 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

[4] This number is intended to be used as a general guideline, since no single number can be used as a true indicator in all circumstances.

[5] For which data are available.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 51

Exempt Royalty Oil

AGENCY: Internal Revenue Service, Treasury.

ACTION: Proposed rulemaking by cross-reference.

SUMMARY: In the Rules and Regulations portion of this Federal Register, the Internal Revenue Service is issuing temporary excise tax regulations relating to exempt royalty oil. The Economic Recovery Tax Act of 1981 added exempt royalty oil to the class of oils which are exempt from the crude oil windfall profit tax. The exemption applies to oil removed after December 31, 1981. The text of those temporary regulations also serves as the comment document for this proposed rulemaking.

DATE: Written comments and requests for a public hearing must be delivered or mailed by May 3, 1982.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-313-81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: David R. Haglund of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3459).

SUPPLEMENTARY INFORMATION: The temporary regulations in the Rules and Regulations portion of this issue of the Federal Register amend 26 CFR Part 150. The final regulations, which are proposed to be based on the temporary regulations, would amend 26 CFR Part 51. For the text of the temporary regulations, see FR Doc. (T. D. 7811) published in the Rules and Regulations portion of this issue of the Federal Register. The preamble to the temporary regulations explains the addition to the regulations.

These regulations are proposed to be issued under the authority contained in sections 4995 and 7805 of the Internal Revenue Code (95 Stat. 337 and 68A Stat. 917; and 26 U.S.C. 4995 and 7805).

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b), the Secretary of the Treasury has certified that the requirements of the Regulatory Flexibility Act do not apply to this notice of proposed rulemaking as it will not have a significant economic impact on a substantial number of small entities. The regulations affect primarily individual royalty owners and do not significantly alter the recordkeeping duties of small entities. The exemption certificate procedure is beneficial to qualified royalty owners since they do not have to wait until the end of the year to receive a refund. Purchasers are relieved of withholding the Windfall Profit Tax where a certificate is furnished to them by a qualified royalty owner.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 82-5713 Filed 2-26-82; 2:41 pm]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[A-5-FRL-1936-6]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: This notice proposes rulemaking on a revision to the Indiana State Implementation Plan (SIP) for total suspended particulates (TSP) pursuant to Part D of the Clean Air Act (Act) as amended in 1977 and other general provisions. The purpose of this notice is to discuss EPA's evaluation of the revision and to solicit public comments on the revision and on EPA's proposed action.

DATE: Comments on this revision and on the proposed EPA action must be received by April 2, 1982.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review:

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206

Public Information Reference Unit, Environmental Protection Agency, 401 M. Street, SW., Washington, D.C. 20460

and by appointment at:

File Number: B160, Air Programs Branch, Docket Room, 11th Floor, Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, 312-353-2211

Comments on this proposed rule should be addressed to: (Please submit an original and five copies is possible) Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, EPA, Region V, 230 South Dearborn, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Susanne S. Karacki at 312-353-2211 or at the above EPA, Region V address.

SUPPLEMENTARY INFORMATION:

I. Introduction

On March 3, 1978 (43 FR 8962) and on October 5, 1978 (43 FR 45993), pursuant to the requirements of section 107 of the Act, EPA designated parts of eleven counties in Indiana as nonattainment of the National Ambient Air Quality Standards (NAAQS) for TSP. These designated nonattainment areas were in Clark, Dearborn, Dubois, Howard, Lake, LaPorte, Marion, St. Joseph, Vanderburgh, Vigo, and Wayne Counties. On May 21, 1980, the State of Indiana requested that LaPorte County be redesignated from primary nonattainment to attainment. EPA approved this request on September 25, 1981 (46 FR 47220).

Part D of the Act requires each state to revise its SIP to meet specific requirements for the areas designated at nonattainment. These SIP revisions must demnstrate attainment of the primary TSP NAAQS as expeditiously as practicable, but no later than December 31, 1982. If attainment of the NAAQS by December 31, 1982 cannot be demonstrated for an area designated as nonattainment for TSP, an acceptable alternative SIP for that area must include provisions for applying reasonably available control technology (RACT) to stationary sources of particulate emissions and studying the nature and extent of the nontraditional particulate sources in the area. The study would then be used in designing a control strategy for such sources. The requirements for an approvable SIP are further described in a Federal Register notice published April 4, 1979 (44 FR 20372). Supplements to the April 4, 1979 notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

On June 26, 1979, pursuant to Part D of the Act, the State of Indiana submitted to EPA a proposed control strategy and regulations for TSP. EPA reviewed Indiana's submittal and proposed rulemaking on March 27, 1980 (45 FR 20432). Since March 27, 1980 Indiana has submitted new control strategies and regulations for TSP that have substantially modified many of those acted upon at that time. Based on these new submittals, EPA is reproprosing rulemaking action on the Indiana Part D TSP SIP. Accordingly, today's proposal supersedes all actions proposed in the March 27, 1980 notice for TSP except for Knauf Fiberglass. On July 3, 1980 (45 FR 45314) EPA proposed rulemaking for that portion of the Indiana Part D SIP pertaining to particulate emissions from iron and steel process sources. The

action proposed by EPA on July 3, 1980 is still relevant and, accordingly, the adequacy of the Indiana Part D SIP as it applies to the iron and steel industry (coke batteries and processes at integrated iron and steel mills) will not be addressed in this notice except to the extent that disapproval of 325 IAC 5-1 affects these sources.

The table below summarizes the regulations considered in today's proposed rulemaking on the Indiana Part D TSP SIP [1] and other general provisions:

Regulation	Date of submittal	Proposed action
Codification of Air Pollution Control Board Regulations.	Oct. 6, 1980	Approval.
325 IAC 5-1 Opacity Limitations	Oct. 6, 1980	Disapproval.
325 IAC 6-1 Particulate Emission Limitations for Non-attainment Areas.	June 28, 1979	Approval.
Section 4 Compliance Time Schedules	Oct. 6, 1980	
Section 2(e) Foundry Melt Processes	Oct. 6, 1980	
325 IAC 6-1-17 Clark County	July 8, 1981	Approval.
325 IAC 6-1-8 Dearborn County	Oct. 6, 1980	Approval.
Amendments	Aug. 10, 1981	
325 IAC 6-1-9 Dubois County	Oct. 6, 1980	Approval.
325 IAC 6-1-15 Howard County	Jan. 29, 1981	Approval.
325 IAC 6-1-12 Marion County	Feb. 11, 1980	Approval.
Amendments	Oct. 28, 1981	
325 IAC 6-1-18 St. Joseph County	July 8, 1981	Approval.
325 IAC 6-1-16 Vanderburgh County	Jan. 29, 1981	Approval.
Amendments	Oct. 28, 1981	
325 IAC 6-1-13 Vigo County	Jan. 29, 1981	Approval.
Amendments	Oct. 28, 1981	
325 IAC 6-1-14 Wayne County	Oct. 6, 1980	Approval.
Amendments	Jan. 29, 1981	
325 IAC 1.1-3 Vigo County Redesignation:	May 26, 1981	Approval.
Schedule for development of Industrial Fugitive Dust Regulations (325 IAC 6-5).	Nov. 25, 1981	Conditional Approval. (Regulation is necessary for approvable Part D TSP SIP in Clark, Dearborn, Dubois, HOward, Marion, St. Joseph, Vanderburgh and Vigo Counties.)
Schedule for Nontraditional Dust Studies.	Jan. 29, 1981	Approval.
325 IAC 6-3 Particulate Emission Limitations for Process Operations.	Oct. 6, 1980	Approval.

In this notice EPA is specifying those portions of the proposed revisions to the Indiana SIP which it considers approvable, conditionally approvable, or disapprovable. For minor deficiencies, EPA proposes to approve the SIP on the condition that the State provides strong assurances that the deficiencies will be corrected by specified dates. The July 2, 1979 (44 FR 38583) and November 23, 1979 (44 FR 38583) **Federal Register** Notices discuss conditional approvals in more detail.

It should be noted that the measures proposed for promulgation today will be in addition to, and not in lieu of, existing SIP regulations. The present emission control regulations for any source will remain applicable and enforceable to prevent a source from operating without controls, or under less stringent controls, while it is moving toward compliance with the new regulations; or if it chooses, challenging the new regulations. In some instances, the present emission control regulations contained in the federally approved SIP are different from the regulations currently being enforced by the State. In these situations, the present federally approved SIP will remain applicable and enforceable until there is compliance with the newly promulgated and federally approved regulations. Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, including assessment of noncompliance penalties. Furthermore, if there is an instance of delay or lapse of the new regulations, because of a court order or for any other reason, the pre-existing regulations will be applicable and enforceable.

The only exception to this rule is in cases where there is a conflict between the requirements of the new regulations and the requirements of the existing regulation such that it would be impossible for a source to comply with the pre-existing SIP while moving toward compliance with the new regulation. In this situation, the State may exempt a source from compliance with pre-existing regulation. Any exemptions granted will be reviewed and acted on by EPA either as a part of these promulgated regulations or as a future SIP revision.

The following sections of the notice discuss EPA's evaluation of the Indiana Part D TSP SIP and other general provisions. EPA solicits comments on both the proposed SIP revision and the proposed EPA action on these revisions from all interested parties. EPA also encourages residents and industries in adjoining State to comment on any interstate air quality impacts of the proposed revision.

[1] The Part D SIP Strategy for Lake County will be addressed in a subsequent notice.

II. Control Strategy Evaluation of the Indiana Part D SIP for TSP

The Indiana Part D SIP for TSP contains monitored air quality data trend analyses, point and area source emission inventories, meteorological data summaries, summaries of annual and short-term dispersion modeling studies, air pollution control regulations, economic and energy impact analyses, and reasonable further progress schedules. Indiana used dispersion modeling to develop a TSP control strategy to attempt to demonstrate attainment in all nonattainment counties. On January 29, 1981 the State submitted an "Indiana State Implementation Plan TSP Control Strategy Summary" which identified the State rule promulgation date, technical support document title and date, date of formal submittal to EPA, future amendments, and the basis of the Part D TSP SIP strategy for each nonattainment county. The January 29, 1981 strategy summary stated that the strategies for Lake,[2] Marion, and Vigo Counties demonstrated primary attainment and that the strategies for Clark, Dearborn, Dubois, Howard, St. Joseph, Vanderburgh, and Wayne Counties applied RACT but do not show attainment.

Section 172(b)(2) of the Act requires the implementation of reasonably available control measures as expeditiously as practicable. EPA has defined RACT as the lowest emission limit that is reasonably available considering technical and economic feasibility. It may require technology that has been applied to similar, but not necessarily identical source categories. In the nonattainment area control strategies RACT may mean more restrictive limitations than that required by the existing SIP regulations (i.e. existing SIP is not stringent enough to attain the standards) and generally no less restrictive than status quo (no removal of existing particulate control equipment.) It is not intended that extensive research and development be conducted before a given control technology can be applied to a source, but it does mean that in the case where an emission limitation for a source is less stringent than a State-set generic RACT level, it should be documented on a case-by-case basis.

[2] As stated previously, the Lake County TSP strategy will not be addressed in this notice.

Indiana has defined generic RACT standards for power plants and industrial boilers, foundries, grain elevators and terminals, asphalt plants, incinerators and painting operations. These generic RACT levels, along with other information such as the existing degree of control were used to set source specific limitations for the sources in the Indiana nonattainment counties. In addition, the Indiana RACT strategy included visible emission regulations and a commitment by the State to develop industrial fugitive dust regulations.

A number of sources in the Indiana Part D SIP in counties where the strategy is based on RACT plus nontraditional particulate matter studies have emission limitations that are less stringent than RACT as defined by Indiana for that type of source. Given that these sources have annual emissions of less than 100 tons per year and/or are located in secondary nonattainment areas, EPA proposes to approve their emission limitations as RACT.

As a final part of the TSP strategy the State has submitted a schedule to complete and implement nontraditional particulate matter studies.

EPA has reviewed the TSP control strategies and regulations submitted by Indiana. A summary of EPA's findings is set forth below. A detailed discussion of EPA's evaluation can be found in the Indiana TSP SIP Rationale which is on file at the addresses above.

Nontraditional Particulate Matter Studies

Part D SIP control strategies that do not demonstate attainment despite the application of RACT for the emission sources must also contain a commitment to study the nature and extent of nontraditional particulate sources. On January 29, 1981 the State formally committed to perform a nontraditional particulate matter study and to develop a control strategy and regulations to control nontraditional sources for Marion, Dubois, Clark, Wayne, Dearborn, St. Joseph, Howard, and Vanderburgh Counties. The study will include the analysis of hi-vol filters, the identification of the sources which have contributed to the filter loading, a review of fugitive dust control demonstration projects, and the development of control strategies. EPA has reviewed the schedule of activities submitted by the State and found it to be approvable. However, the Indiana Part D TSP SIP remains deficient in this area because there is no commitment from the State to conduct nontraditional particulate matter studies in Vigo County. Accordingly, EPA proposes to approve the nontraditional fugitive dust studies portion of the Indiana Part D TSP SIP with the understanding that during the public comment period the State will commit to conduct nontraditional particulate matter studies in Vigo County and submit a schedule to do so.

325 IAC 5-1 Visible Emission Limitation

Visible emission regulations are an intergral portion of RACT for TSP sources and are a required component of a SIP for TSP pursuant to 40 CFR 51.19(c). The visible emission limitations submitted by the State on October 6, 1980 apply apply to all particulate sources in both attainment and nonattainment areas.

EPA has reviewed 325 IAC 5-1 and found it to be unapprovable for the following reasons.

1. The regulation allows greater than 60 percent opacity for a cumulative total of 15 minutes (60 readings) in a six-hour period. This limitation is a relaxation from the existing Indiana SIP opacity limitation which does not allow the exceedance of 40 percent opacity and would result in little, if any, control requirements for most sources.
2. It is unclear as to which provisions apply to stack sources and which provisions apply to non-stack sources.
3. It is internally inconsistent in that it refers to sections that do not exist.
4. The lack of a definition for "intermittent sources" make it impossible to determine which sources are subject to which provisions.
5. The lack of a definition or computation method for "continuous minutes" appears to allow almost unlimited temporary exemptions from the regulation.
6. It allows continuous emission monitoring to take precedence over opacity observations for determining compliance which precludes enforcement of opacity violations due to condensibles formed beyond the in-stack monitor and precludes an independent verification of compliance with the visible emission limitations by regulatory agencies.

Although not an approvability issue, the regulation does not contain specific procedures for correlating alternate opacity limits with stack test results. Failure to develop such a procedure will make it difficult to formulate valid alternate opacity limits for sources in compliance with mass limitations.

A detailed discussion of these deficiencies is set forth in the Rationale which is available at the addresses above.

In light of these deficiencies, EPA proposes to disapprove 325 IAC 5-1, Visible Emission Limitations for all sources in the State of Indiana. Indiana's regulation APC 3, as federally approved on October 28, 1975, will remain effective and enforceable statewide in attainment, nonattainment, and unclassified areas. EPA believes that the federally approved regulation APC 3 represents RACT for all sources including iron and steel sources and satisfies the requirement of the Act for an approvable Part D SIP for opacity.

Schedule for Development of Rule 325 IAC 6-5 Industrial Fugitive Dust Rule

An integral portion of RACT for TSP sources in nonattainment areas is industrial fugitive dust regulations. These regulations are necessary in all nonattainment areas where the Part D TSP control strategy is based on RACT and further studies of nontraditional sources and, in fact, are generally necessary in Indiana to demonstrate attainment in those nonattainment areas where the Part D TSP strategy is based on a modeled attainment demonstration.

On January 29, 1981 the State formally submitted a schedule for the development, adoption, promulgation, and submittal of its regulation to implement RACT on industrial fugitive emission sources (codified at 325 IAC 6-5) by November 15, 1981. On November 25, 1981 the State revised its projected submittal date to April 1982. EPA has reviewed this schedule and finds it approvable. However, the Indiana TSP SIP remains deficient in this area in that there are presently no approvable industrial fugitive dust RACT regulations in any of the nonattainment TSP counties covered by this notice. The proposed approval of the Indiana Part D SIP for TSP in Clark, Dearborn, Dubois, Howard, Marion, St. Joseph, Vanderburgh, and Vigo Counties is conditioned with the submittal of approvable industrial fugitive dust regulations by April 1982.

It should be noted that the present Indiana Part D SIP does not contain any short-term emission limits for some mineral aggregate operations and grain terminal operations that are specifically listed in 325 IAC 6-1-8 Dearborn County, 325 IAC 6-1-9 Dubois County and 325 IAC 6-1-15 Howard County. EPA proposes to approve the Indiana TSP regulations for the counties where these sources are located with the understanding that the State will include

regulations for the major sources without short term emission limits in its industrial fugitive dust regulations or that the State during the public comment period will submit or commit to a schedule to submit the missing short term emission limitations for the major sources in 325 IAC 6-1-8, 325 IAC 6-1-9, and 325 IAC 6-1-15.

325 IAC 6-1 Particulate Emissions for Nonattainment Areas

The TSP regulations in 325 IAC 6-1 submitted by the State on June 26, 1979, as amended on October 6, 1980, apply to particulate sources in nonattainment areas. The regulation contains general emission limitations (section 2), test methods (section 3), compliance timetables (section 4) and other general provisions (sections 5 and 6).

The general emission limitations in Section 2 are applicable to all sources with the potential to emit 100 tons or more of TSP per year or have actual emissions of 10 tons or more of TSP per year that are not specifically listed in the appendix to the rule. (The appendix to 325 IAC 6-1 (325 IAC 6-1-6 thru 325 IAC 6-1-16) contains source specific regulations for most sources in each nonattainment county. These regulations are discussed later in this notice.) Specific RACT based emission limitations are given for fuel combustion steam generators, asphalt concrete plants, grain elevators, foundries, glass container manufacturing, mineral aggregate operations and general sources.

EPA has evaluated the provisions of 325 IAC 6-1, Sections 1 through 6, and found them to be approvable. Accordingly, EPA proposes to approve 325 IAC 6-1, Sections 1 through 6, except as set forth below:

1. Section 2(d)(1)(A) which regulates grain elevators is expressed in terms of "0.03 grams per dry standard cubic foot." "0.03 grams" should be expressed in terms of "0.03 grains." This typographical error needs to be corrected. EPA proposes to approve section 2(d)(1)(A) with the understanding that the State will correct the typographical error.

2. Section 2(d)(2)(C) regulates the percent opacity from affected grain elevators as determined pursuant to 325 IAC 5-1. Since EPA is proposing to disapprove 325 IAC 5-1, EPA proposes to approve section 2(d)(2)(C) with the understanding that EPA will rely on the federally approved regulation APC 3 to determine percent opacity from affected grain elevators.

3. Section 3 specifies that the test methods to determine compliance with the regulation shall be conducted in accordance with the procedures set forth in Methods 1-5, Appendix A of 40 CFR Part 60 or other procedures approved by the Indiana Air Pollution Control Board (IAPCB). This section does not contain provisions to determine compliance with short term emission limits for process fugitive sources that do not vent through a stack such as grain elevators and mineral aggregate operations. The regulation also does not require other test procedures approved by the IAPCB to be submitted to EPA as a SIP revision. EPA proposes to approve section 3 with the understanding that alternative test methods approved by the IAPCB will be submitted to EPA as SIP revisions and during the public comment period the State will clarify the intent of this section for non-stack sources and submit the method that will be used to determine compliance for non-stack sources.

325 IAC 6-1-17 Clark County (Primary nonattainment), 325 IAC 6-1-18 St. Joseph County (Secondary nonattainment), 325 IAC 6-1-16 Vanderburgh County (Secondary nonattainment)

On the dates referenced in the summary table at the beginning of this notice the State submitted the control strategies and regulations for the nonattainment portions of Clark, St. Joseph, and Vanderburgh Counties. In the January 29, 1981 strategy summary Indiana stated that its Part D TSP SIP strategies for these counties do not show attainment, but do apply RACT and the commitment to perform the necessary nontraditional particulate matter studies. EPA has reviewed the technical support and regulations and agrees that the emission limitations for the Clark, St. Joseph, and Vanderburgh County sources represent RACT. Accordingly, EPA proposes to approve 325 IAC 6-1-17, 325 IAC 6-1-18, and 325 IAC 6-1-16 for Clark, St. Joseph, and Vanderburgh Counties. However, as discussed previously, approval of the Part D TSP SIP strategy for these three counties is conditioned on the submittal of approvable industrial fugitive dust regulations by April 1982.

325 IAC 6-1-8 Dearborn County (Primary nonattainment), 325 IAC 6-1-9 Dubois County (Primary nonattainment), 325 IAC 6-1-15 Howard County (Secondary nonattainment)

On the dates referenced in the table at the beginning of this notice the State submitted the control strategies and regulations for the nonattainment portions of Dearborn, Dubois, and Howard Counties. In the January 29, 1981 strategy summary Indiana stated that its Part D SIP strategies for these Counties do not show attainment, but do apply RACT and the commitment to perform the necessary nontraditional particulate matter studies.

EPA has reviewed the technical support and regulations and agrees that the emission limitations for the Dearborn, Dubois, and Howard County sources represent RACT with the exception of those sources with no short term emission limitations. EPA's proposed rulemaking action for these sources is discussed under industrial fugitive dust regulations. EPA proposes to approve the remainder of 325 IAC 6-1-8, 325 IAC 6-1-9, and 325 IAC 6-1-15 for Dearborn, Dubois, and Howard Counties. However, as discussed previously, approval of the Part D SIP strategy for these three counties is conditioned on the submittal of approvable industrial fugitive dust regulations by April 1982.

325 IAC 6-1-12 Marion County (Primary nonattainment)

On February 11, 1980 and October 28, 1981 the State submitted the control strategy and regulations for the nonattainment portions of Marion County. In the January 29, 1981 strategy summary Indiana stated that its Part D SIP strategy for Marion County demonstrated attainment of the primary TSP standards.

Indiana performed a dispersion modeling analysis which projects that a significant reduction in ambient TSP concentrations will occur by the application of at least RACT to major point sources. The remaining TSP reductions are projected to come from the control of area source emissions through a proposed residential open burning ban. The State utilized a modified version of the Climatological Dispersion Model (MCDM), the reference, multi-source long-term Gaussian dispersion model with five years (1960-64) of representative Indianapolis, Indiana meteorological data to predict the annual TSP air quality impacts. Larsen's transformation techniques were used to partially determine the 24-hour TSP impacts. EPA has reviewed the Marion County TSP analysis and found a number of technical deficiencies within the modeling methodology. They are as follows:

1. Inadequate receptor resolution. The State placed receptors 1.25 km apart where present guidance says that receptors should be placed 1.0 km apart with additional receptors placed approximately 0.5 km apart in maximum impact areas.

2. Although Indiana stated that five years of meteorological data were used results from only one critical year were submitted. The modeling results for the other four years should be submitted.

3. The State used Larsen's transformation model to predict the *maximum* 24-hour concentration at monitor sites based on the MCDM predictions. The State did not predict the *high, second high* 24-hour concentrations and thus did not specifically address the primary and secondary 24-hour TSP NAAQS. There are two primary TSP NAAQS, an annual geometric mean concentration of 75 $\mu g/m^3$ and a 24-hour average concentration of 260 $\mu g/m^3$ not to be exceeded more than once annually. The secondary NAAQS for TSP include an annual geometric mean concentration of 60 $\mu g/m^3$ (guideline only, not a standard) and a short term 24-hour average concentration of 150 $\mu g/m^3$ not to be exceeded more than once annually. The MCDM results for Marion County predicted a maximum annual concentration of 74.5 $\mu g/m^3$, which is just under the annual primary standard, and a maximum (not high, second high) 24-hour concentration of 328 $\mu g/m^3$, which does not address the 24-hour primary or secondary standard.

Although the State did not submit any data which specifically demonstrate that either the annual or 24-hour primary TSP NAAQS will be violated, additional receptors and the proper application of Larsen's transformation to estimate a high, second high are necessary before the primary or secondary standard attainment demonstration can be approved. It should be noted, however, that the predicted maximum 24-hour value far exceeds the 24-hour primary and secondary standards. In addition, since the Marion County residential open burning ban is an integral portion of the modeled control strategy, the ban must be adopted at the State level and submitted to EPA as part of the attainment demonstration.

However, since Indiana stated that the Marion County attainment strategy applied RACT on the point sources, since Indiana has commited to submit industrial fugitive dust regulations by April 1982, and since Indiana indicated on January 29, 1981 that Marion County was included in its nontraditional particulate matter studies, the alternate Part D TSP strategy of RACT (on both point sources and industrial fugitive dust sources) plus nontraditional fugitive dust studies rather than a rigorous attainment demonstration would apply in Marion County.

EPA has reviewed the regulations and technical support for Marion County and agrees that the emission limitations for the Marion County sources represent RACT. Therefore, EPA proposes to approve 325 IAC 6-1-12, except for those portions of the regulations which apply to RACT for the iron and steel process sources. As discussed previously, approval of the Part D SIP strategy for Marion County is conditioned on the submittal of approvable industrial fugitive dust regulations by April 1982. The approvability of the complete control strategy including the iron and steel process sources for Marion County will be addressed in a subsequent notice. It should be noted that EPA's proposed approval of the Marion County regulations does not preclude the State from resubmitting the Marion County modeled attainment demonstration with the necessary corrections and corresponding regulations.

325 IAC 6-1-13 Vigo County (Primary nonattainment)

On January 29, 1981 and October 28, 1981 the State submitted the control strategy and regulations for the nonattainment portions of Vigo County. In its submission Indiana stated that its Part D SIP strategy for Vigo County demonstated attainment of the primary particulate standard. On May 26, 1981, Indian requested that portions of Vigo County be redesignated attainment for TSP. This redesignation request is addressed later in this notice.

Indiana submitted a dispersion modeling analysis for Vigo County which was prepared by the Wabash Valley Environmental Association (WVEA) in cooperation with the Indiana Air Pollution Control Division and the Vigo County Air Pollution Control Division. WVEA utilized CDMQC, a reference, multi-source Gaussian dispersion model with five years (1974-1978) of Star J meteorological data from Terre Haute to predict a maximum annual geometric mean of 67.4 $\mu g/m3$. Although the model had the capability of predicting the high, second high 24-hour impacts through Larsen's transformations, this was not done by WVEA.

EPA has reviewed the Vigo County TSP analysis and found a number of technical deficiencies within the modeling methodology. They are as follows:

1. Inadequate receptor resolution. Receptors were placed 1.0 km apart in areas of high industrial activity and high population density and 2.0 km apart in more remote areas. Present EPA guidance says that additional receptors should be placed approximately 0.5 km apart in areas of high modeled concentrations.

2. Lack of a calibration analysis and inadequate support for background concentration. Because insufficient monitoring data were available for the base year, 1978, CDMQC was not calibrated. Nevertheless, WVEA still used the sparse 1978 monitoring data base to derive a background concentration.

To correct these deficiencies WVEA could use 1979 as the base year for calibrating the model. Sufficient 1979 data are available from 8 monitors in the county. The emission inventory could be updated to 1979 and 1979 meteorological data could be obtained. The intercept of the calibration curve can then be used as the background concentration.

3. Unacceptable 24-hour attainment demonstration. No support has been provided to support the State's claim that annual concentrations less than 69.5 $\mu g/m^3$ will protect the 24-hour standards. Larsen's transformations must be applied to the modeled annual concentrations to derive 24-hour concentrations. The conversion factor should include the appropriate standard geometric deviations based on the 1979 monitoring data.

Accordingly, although the modeling does not predict any violations of the NAAQS for TSP, deficiencies exist in the modeling which must be corrected before the attainment demonstration can be approvable.

As an alternative, the State can base its Part D TSP SIP strategy for Vigo County on RACT plus nontraditional particulate matter studies rather than a rigorous attainment demonstration. In this case, however, the State must commit to apply the industrial fugitive dust regulations and the nontraditional fugitive dust studies in Vigo County.

EPA has reviewed the technical support and regulations and agrees that the emission limitations for Vigo County represent RACT. Therefore, EPA proposes to approve 325 IAC 6-1-13, except for those portions of the regulations which apply to RACT for the iron and steel process sources. As discussed previously, approval of the Part D TSP SIP strategy for Vigo County is conditioned on the submittal of approval industrial fugitive dust regulations by April 1982. The approvability of the complete control strategy including iron and steel process sources for Vigo County will be addressed in a subsequent notice. It should be noted that EPA's proposed approval of the Vigo County regulations does not preclude the State from resubmitting the Vigo County modeled

attainment demonstration with the necessary correction and corresponding regulations.

325 IAC 6-1-14 Wayne County

On October 6, 1980 the State submitted the control strategy and regulations for the nonattainment portions of Wayne County. Amendments to the regulations and technical support document were submitted on January 29, 1981. On January 29, 1981 Indiana stated that its Part D SIP strategy for Wayne County does not show attainment, but does apply RACT and the commitment to perform the necessary nontraditional particulate matter studies. On November 20, 1980 Indiana requested that Wayne County be redesignated attainment for TSP based on the rural fugitive dust policy. EPA redesignated the nonattainment portions of Wayne County from nonattainment to unclassified on November 2, 1981 (46 FR 54340) based on uncertainties in the monitored data.

EPA has reviewed the technical support and regulations and agrees that the emission limitations for the Wayne County sources represent RACT.

Accordingly, EPA proposes to approve the control strategy and regulations for Wayne County. Since EPA has redesignated Wayne County from nonattainment to unclassified, the submittal of approval industrial fugitive dust regulations for Wayne County is not a condition of EPA's approval in this notice.

III. General Provisions

The State has submitted a number of other provisions to be included in the SIP that are not specifically required by Part D of the Act. These provisions are addressed below.

Codification of the Indiana Air Pollution Control Board Regulations

On October 6, 1980 the State submitted a codification of the IAPCB Rules and Regulations to replace Appendix 8.1 which sets forth the current IAPCB regulations. The codification places the regulations into an organized framework that is consistent with the Indiana Administrative Code. This action codifies the Air Pollution Control Regulations APC 1 through APC 23 into 325 IAC 1.1-18 as set forth below.

New codification	Name	Former No.
325 IAC 1.1-1	Definitions	APC 9.
325 IAC 1.1-2	Ambient Air Quality Standards	APC 14.
325 IAC 1.1-3	Nonattainment/Attainment/Unclassifiable Designations	APC 22.
325 IAC 1.1-4	Episode Levels and Actions	APC 18.
325 IAC 1.1-5	Malfunctions	APC 11.
325 IAC 1.1-6	Stack Height Provisions	Part of APC 19, APC 23.
325 IAC 1.1-7	Miscellaneous Provisions	Part of APC 19, APC 19, APC 23.
325 IAC 2-1	Permits, PSD, Emission Offset	APC 19.
325 IAC 3-1	Continuous Monitoring of Emissions	APC 6.
325 IAC 4-1	Open Burning Limitations	APC 2.
325 IAC 4-2	Incinerator Limitations	APC 7.
325 IAC 5-1	Visible Emission Limitations	APC 5.
325 IAC 6-1	Particulate Emissions for Nonattainment Areas	APC 23.
325 IAC 6-1-8[1]	Dearborn County	APC 23, Appendix A.
325 IAC 6-1-9[1]	Dubois County	Do.
325 IAC 6-1-10[1]	Lake County TSP Point Source Strategy	Do.
325 IAC 6-1-11[1]	Lake County Fugitive Emission Strategy	Do.
325 IAC 6-1-12[1]	Marion County	Appendix A.
325 IAC 6-1-13[1]	Vigo County	Do.
325 IAC 6-1-14[1]	Wayne County	Do.
325 IAC 6-1-15[1]	Howard County	Do.
325 IAC 6-1-16[1]	Vanderburgh County	Do.
325 IAC 6-1-17[1]	Clark County	Do.
325 IAC 6-1-18[1]	St. Joseph County	Do.
325 IAC 6-2	Particulate Emission Limitations for Indirect Heating Sources	APC 4/5.
325 IAC 6-3	Particulate Emission Limitations for Process Operations	APC 5.
325 IAC 6-4	Maximum Allowable Fugitive Dust	APC 20.
325 IAC 7-1	Sulfur Dioxide Emission Limitations	APC 13.
325 IAC 7-1-8	Sulfur Dioxide Emission Limitations for LaPorte, Lake, Marion, and Vigo Counties.	APC 13, Appendix A.
325 IAC 8-1	Volatile Organic Compound Emission Limitations	APC 15.
325 IAC 9-1	Carbon Monoxide Emission Limitations	APC 16.
325 IAC 10-1	Nitrogen Oxide Emission Limitations	APC 17.
325 IAC 11-1	Particulate Emission Limitations for Certain Foundries	APC 6.
325 IAC 11-2	Sulfuric Acid Plants	APC 10.
325 IAC 11-3	Coke Oven Batteries	APC 8.
325 IAC 11-4	Fiber Glass Insulation Manufacturing	Part of APC 23.
325 IAC 12-1 thru 18	New Source Performance Standards	Part of APC 23, APC 18, APC 3.

[1] October 6, 1980 Codification Numbers changed by letter dated January 29, 1981.
[2] Codification numbers assigned by letter dated March 19, 1981.

EPA proposes to approve the codification of the IAPCB Regulations from APC 1 through APC 23 to 325 IAC 1.1 through 325 IAC 12.18. It should be noted that this proposed approval is directed specifically to the codification numbering system change, not to the substance within each of the codified rules.

325 IAC 6-3 Particulate Emission Limitations for Process Operations (APC 5)

The October 6, 1980 submittal which codified APC 5 to 325 IAC 6-3 also included a substantive change to the process operation emission limitations. Section 2 of the rule has specific emission limitations for cement kilns and catalytic cracking units which commenced operation prior to December 6, 1968. Section 2(c) is a process weight table which has general applicability for all process sources. Although it is presumed that the applicable rule for catalytic cracking units or cement kilns which commenced operation after December 6, 1968 is the process weight table in section 2(c) this is not specifically stated and should be clarified. EPA proposes to approve this revision to 325 IAC 6-3 provided that the State during the public comment period confirms that catalytic cracking units or cement kilns which commenced operation after December 6, 1968 are subject to the process weight table in section 2(c).

325 IAC 1.1-3 Redesignation of Vigo County for TSP

On May 29, 1981 the State submitted Rule 325 IAC 1.1-3, Vigo County TSP Nonattainment Area Redesignation and the technical support documentation and requested that EPA redefine the primary TSP nonattainment designation boundaries in Vigo County. The State requested that Honey Creek, Fayette, Lost Creek, Otter Creek, and Sugar Creek Townships be redesignated from primary nonattainment to attainment, leaving only Harrison Township designated as primary nonattainment in Vigo County.

The State submitted eight quarters of representative quality assured monitoring data showing no violations of the NAAQS for TSP, in the areas requested to be redesignated, and a modeling analysis. Due to numerous deficiences, (See Vigo County Part D SIP discussion in this notice) the modeling data cannot be used to support the redesignation request.

However, the monitoring data submitted by the State indicates that Harrison Township is primary nonattainment and the remaining five townships can be properly reclassified as attainment. Therefore, EPA proposes to redesignate Honey Creek, Fayette, Lost Creek, Otter Creek, and Sugar Creek Townships as attainment of the primary and secondary NAAQS for TSP.

Harrison Township remains designated as primary nonattainment of the NAAQS for TSP.

Interested individuals are advised that a 30 day public comment period is being provided on this notice of proposed rulemaking. Public comments received on or before April 2, 1982 will be considered in EPA's final rulemaking.

A thirty day comment period is being provided to enable publication of final action on this submission as expeditiously as possible. Final action approving this revision would satisfy one of the requirements of a Part D SIP. Until the State has an approved Part D SIP, it is subject to the new source growth prohibitions of section 110(a)(2)(I) of the Clean Air Act. EPA believes that the thirty days will provide the public with ample time to review and comment on today's proposed rulemaking. All comments received will be available for inspection during normal business hours at the Region V Office listed at the front of this notice.

Final promulgation of this proposed action will follow analysis of the comments received and will depend on consistancy with Sections 107, 110, and 172 et seq. of the Act.

Under Executive Order 12291 (Order), EPA must judge whether a regulation is "Major" and, therefore, subject to the requirements of a Regulatory Impact Analysis. Today's action does not constitute a Major regulation because it primarily proposes to approve or conditionally approve provisions adopted by the State and submitted to EPA. Where EPA proposes to disapprove revised provisions, existing approved regulations will remain in effect and satisfy the requirements of Part D of the Act. This action, if promulgated, will remove the restrictions on industrial growth contained in Section 110(a)(2)(I) of the Act for TSP for the areas in Indiana covered by this action. This regulation was submitted to the Office of Management and Budget (OMB) for review as required by the Order.

(Secs. 107, 110, 172, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407, 7410, 7502, and 7601(a)))

Dated: August 17, 1981.

Valdas V. Adamkus,

Regional Administrator.

Pursuant to the provisions of 5 U.S.C. section 605(b) I hereby certify that the attached rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This action approves, conditionally approves and disapproves state actions. For approval and/or conditional approval it imposes no new requirements beyond those which the State has already imposed. For disapprovals the sources will remain subject to the applicable provisions of the Indiana TSP plan. Thus no additional requirements will be imposed on these sources.

Dated: February 27, 1982.

John E. Daniel,

Acting Administrator.

[FR Doc. 82-5777 Filed 3-2-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 180

[PP 9F2190/P217; PH-FRL-2060-8]

Norflurazon; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice of proposed rulemaking proposes that tolerances be established for pesticide residues in rotational and follow-up crops and for other indirect or inadvertent residues for the herbicide norflurazon and its metabolite in or on certain follow-up agricultural crops from direct application to cotton. This proposed regulation to establish the maximum permissible level for residues of the herbicide in or on the raw agricultural commodities was requested by Sandoz, Inc.

DATE: Written comments must be received on or before April 2, 1982.

ADDRESS: Written comments to: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the Federal Register of July 7, 1979 (44 FR 32737) which announced that Sandoz, Inc., 480 Camino del Rio South, Suite 204, San Diego, CA 92108, has submitted a pesticide petition (PP 9F2190) to the EPA. The petition proposed that 40 CFR 180.356 be amended by establishing tolerances for the combined residues of the herbicide norflurazon [4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3 (2*H*)-pyridazinone] and its desmethyl metabolite [4-chloro-5-amino-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3 (2*H*)-pyridazinone] in or on the raw agricultural commodities peanut plants at 0.6 part per million (ppm); soybean plants at 0.6 ppm; soybean seed, peanut seed, and peanut shells at 0.2 ppm.

These proposed tolerances would cover residues resulting in soybeans or peanuts as a follow-up crop when initial planting or cotton results in crop failure or a poor crop stand.

There were no comments received in response to this notice of filing.

On January 13, 1981, the Agency issued a final rule (46 FR 3018) with a general statement of policy, a statutory interpretation, and certain procedural rule changes, relating to the establishment of tolerances for pesticide residues under section 408(e) of the Federal Food, Drug, and Cosmetic Act in cases where residues do not result from use of the pesticide to produce, store, or transport the commodity in question.

Sandoz Inc. subsequently deleted the proposed tolerances for soybeans and reproposed tolerances for peanuts at 0.2 ppm and the hay, hulls, and vines of peanuts at 0.5 ppm.

The data submitted in the petition and other relevant material have been evaulated. The toxicology data considered in support of the proposed tolerances include: A rat acute oral LD_{50} study with an LD_{50} of 9,000 ± 1,271 milligrams (mg)/kilogram (kg); a 90-day rat feeding study with a no-observed-effect level (NOEL) of 500 ppm; a 90-day dog feeding study with a NOEL of 500 ppm; a 6-month dog feeding study with a NOEL of 150 ppm; a rat teratology study negative at 400 mg/kg/day (highest dose); a three-generation rat reproduction study with a NOEL of 375 ppm; a one-generation mouse reproduction study with a NOEL of 340 ppm; an AMES test and a reverse mutagenesis test including metabolic activation both negative for mutagenic activity; a 2-year rat chronic feeding/oncogenicity study with a NOEL of 375 ppm for chronic feeding and negative for oncogenic potential at 1,025 ppm (highest dose level); and a 2-year mouse chronic feeding/oncogenicity study discussed below. Data considered desirable, but lacking, are a teratology study in a second species and multitest mutagenicity studies.

Results of the 2-year mouse chronic feeding/oncogenicity study show a statistically significant increase in liver neoplasms in the male high dose group (1,360 ppm). The Agency has carefully evaluated the supporting data for these tolerances, and based on the following considerations, has determined that residues resulting from these tolerances will not result in a significant risk to humans.

Both rat and mouse chronic feeding/oncogenicity studies utilized *in utero* exposed or F1a generation animals. This is considered a very stringent test method for evaluating oncogenicity. Statistically significant oncogenic results did not occur in the rat oncogenic

study at any dose level tested with particular attention directed to evaluation of hepatocellular changes. There was no significant increase in carcinomas for any treatment group versus controls in the mouse test, or in the rat study.

The liver was demonstrated to be the target organ in both the rat and dog, as well as the mouse. The mouse, and particularly the male sex, is considered to be a very sensitive species to the development of proliferative and neoplastic liver lesions. However, statistically significant oncogenic effects did not occur in the mouse at comparable doses to those used in the rat study, but to a dose which was approximately four-fold greater (e.g. 50.75 mg/kg/day—rat; versus 204/mg/kg/day—mouse), than the highest doses tested in rats.

Statistically significant oncogenic effects occurred in high dose male mice surviving 18 months or longer, but particularly animals surviving to 24 months. These results may reflect geriatric effects rather than compound related responses at the high dose employed. The response was limited to effects on the liver, (e.g. hepatic proliferative changes).

The submitted mutagenicity studies showed no mutagenic activity.

The Agency has further determined that many of the toleranos requested (e.g. almonds, apples, pears) will result in no detectable residues at the level of method sensitivity of the test.

Tolerances have previously been established for apricots, cherries, cottonseed, cranberries, filberts, peaches, plums (fresh prunes), nectarines, and walnuts at 0.1 ppm. Based on a 6-month dog feeding study with a NOEL of 150 ppm and a safety factor of 1,000, the allowable daily intake (ADI) is 0.00375 mg/kg/day and the maximum permissible daily intake is 0.225 mg/day for a 60-kg human. Published tolerances utilize 1.01 percent of the ADI. The published tolerances and proposed additional tolerances utilize 38.58 percent of the ADI.

There are no regulatory actions pending against the chemical. The metabolism of norflurazon in plants and animals is adequately understood, and an analytical method (gas chromatography using an electron-capture detector) is available for enforcement purposes. The tolerances proposed under 40 CFR 180.356 by pesticide petition PP 9F2177 (Document No. [PP 9F2177/P213]), published in the **Federal Register** of February 17, 1982 (47 FR 6894), will be adequate to cover residues that would result in meat, milk, or poultry as delineated in 40 CFR 180.6(a)(2).

The pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the establishment of the tolerances will protect the public health. Therefore, it is proposed that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request, on or before April 2, 1982, that this proposed rulemaking be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this proposed regulation. Comments must bear a notation indicating the document control number "[PP 9F2190/P217]". All written comments filed in response to this petition will be available in the office of Richard F. Mountfort from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

Dated: February 18, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FOR TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.356 be amended by designating the existing text as paragraph (a) under the heading "Specific tolerances", and adding a new paragraph (b) under the heading "Indirect or inadvertent tolerances" to read as follows:

§ 180.356 Norflurazon; tolerances for residues.

(a) *Specific tolerances.* * * *

(b) *Indirect or inadvertent tolerances.* tolerances are established for indirect residues of norflurazon in or on the following raw agricultural commodities when present therein as a result of its application to the growing of cotton as follows:

Commodities	Parts per million
Peanuts	0.2
Peanut, hay	0.5
Peanut, hulls	0.5
Peanut, vines	0.5

[FR Doc. 82-5187 Filed 3-2-82; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3140

Combined Hydrocarbon Leasing; Conversion of Existing Oil and Gas Leases and Valid Mining Claims; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction of date and time of filing of comments.

SUMMARY: After the publication of the proposed rulemaking covering the Conversion of Existing Oil and Gas Leases and Mining Claims, 43 CFR Part 3140, in the **Federal Register** on March 1, 1982 (47 FR 8734), it was determined that the date and time for filing of comments on the proposed rulemaking should be clarified. This correction sets forth the more specific date and time for the filing of comments on the proposed rulemaking.

DATE: In order to be considered, all comments must be received and be on hand in room 5555 of the Main Building of the Department of the Interior, 1800 C Street, NW., Washington, D.C. 20240, no later than 4:15 p.m. on April 2, 1982.

ADDRESS: Room 5555, of the Main Building of the Department of the Interior, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Edward E. Coggs (202) 343-6821.

Dated: March 1, 1982.

David C. Russell,

Deputy Assistant Secretary of the Interior.

[FR Doc. 82-5694 Filed 3-2-82; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 228

Regulations Governing Small Takes of Marine Mammals Incidental to Specified Activities

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: Regulations are proposed to implement section 101(a)(5) of the Marine Mammal Protection Act of 1972, as amended, which provides a mechanism for allowing the incidental, but not intentional, taking of small numbers of non-depleted marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region. In addition, specific regulations to govern the taking of ringed seals incidental to on-ice seismic exploratory activities in the Beaufort Sea for the period 1982 to 1986 are proposed.

DATES: Comments on the proposed regulations must be received on or before April 2, 1982.

Address: Comments should be submitted to: Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Mr. R. B. Brumsted, Acting Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235, Telephone (202) 634-7529.

SUPPLEMENTARY INFORMATION:

Background

Public Law No. 97-58 amended the Marine Mammal Protection Act of 1972 (MMPA), by adding, among other things, a new section 101(a)(5), (16 U.S.C. 1371(a)(5)), as shown in the attached Appendix.

The National Marine Fisheries Service (NMFS) is responsible for implementing this new section with respect to all cetaceans and all pinnipeds, except walrus. On Nobember 30, 1981 (46 FR 57988), the NMFS published a Request for Information and Advanced Notice of Proposed Rulemaking, which solicited information and suggestions from interested persons on types of activities that may be authorized under section 101(a)(5) and on the structure and content of regulations relating to permissible methods of taking, monitoring and reporting.

Information Received

The U.S. Geological Survey, Department of the Interior furnished information concerning oil and gas activities on or over the Outer Continental Shelf (OCS) and potential impacts in the following four categories: (1) Over-ice or waterborne geophysical surveys; (2) logistical support for exploration, development, and production activities; (3) OCS drilling and exploration related activities; and (4) OCS development and production related activities.

The International Association of Geophysical Contractors and the National Ocean Industries Association jointly submitted information concerning on-ice marine geophysical exploration off the North Slope of Alaska. Information included a description of the activities, potential impacts on ringed seals and their habitat, and suggested means of monitoring and reporting. ARCO Exploration Company provided information on both onshore and offshore geophysical surveys in the Beaufort and Chukchi Seas, including a discussion of potential impacts to certain whale species during open water surveys and to ringed seals during on-ice surveys, to their habitats, and on their availability for subsistence purposes.

The California Indian Legal Services submitted information concerning non-commercial Indian gillnet fishing in the Klamath River. the Department of Natural Resources, Georgia, suggested that the regulations provide for a system of accountability designed to evaluate the effects of each activity, and that the permitted activity be reevaluated annually. They also suggested that the criteria used in defining non-depleted be identified. In addition, certain States expressed interest and requested to be kept informed of any activities being considered in their areas.

All information submitted is available on request from the Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235.

Summary of Proposed General Regulations

General regulations are proposed to 50 CFR Part 228, Subpart A to implement section 101(a)(5) of the Marine Mammal Protection Act of 1972, by providing a mechanism for allowing, upon request and appropriate findings, the incidental, but not intentional, taking of small numbers of non-depleted marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region.

In order for the NMPS to consider whether to allow the taking of small numbers of marine mammals under section 101(a)(5), a formal written request must be submitted in accordance with § 228.4 of these regulations. If the NMPS finds, after notice and opportunity for public comment and based on the best available information, that the total taking during the requested period will have a negligible impact on the species, their habitat, and on the availability of the species for subsistence uses, specific regulations for the specified activity and region will be prescribed setting forth permissible methods of taking, and requirements for reporting and monitoring.

Letters of Authorization will be required for any person (as defined in the MMPA) to conduct the activities pursuant to any specific regulations governing the taking, reporting, and monitoring established for a specified activity. The specific information to be submitted in requests for Letters of Authorization will be developed and made available upon the publication of regulations covering the specified activity. Issuance of a Letter of Authorization will be based on a determination that the level of taking will be consistent with the finding of the specific regulations that the total of such taking will have a negligible impact on the species or stocks and their habitat, and on the availability of the species for subsistence uses. To insure that the purposes of section 101(a)(5) are satisfied, Letters of Authorization will specify any terms and conditions that are appropriate. Letters of Authorization may be withdrawn or suspended if the NMFS determines that the prescribed regulations are not being substantially complied with, or the allowed taking is having, or may have, more than a negligible impact on the species or stocks concerned.

Summary of Request to Allow the Taking of Ringed Seals Incidental to On-Ice Seismic Activities

The only request the NMFS has received to date containing sufficient information on which to propose regulations was from the International Association of Geophysical Contractors (IAGC) to allow the taking of ringed seals incidental to hardwater (on-ice) marine geophysical activities in the Beaufort Sea. This request was submitted based on the information

IAGC provided in response to the Federal Register Request for Information and Advanced Notice of Proposed Rulemaking (46 FR 57098, November 20, 1981). The following is a summary of the information provided by the IAGC:

(1) *Description of Specific Activity.* Hardwater (on-ice) marine geophysical exploration involves seismic reflection data collection with various types of equipmet, transportation vehicles, and portable camp facilities. A vibrator-type energy source is primarily used, although air guns may be used to a limited extent. Energy sources are activated at various frequencies along a "shot" line, which varies depending on the type of survey and subsurface characteristics. Survey areas will vary in size but the IAGC anticipates the maximum area covered by all geophysical activity off the North Slope of Alaska in any given year will be 1,800 square miles. Four feet of ice is the minimum thickness required for the seismic vehicles and camp facilities, however lighter survey crew vehicles may travel over 2 to 3 feet of ice but cannot conduct survey operations.

(2) *Dates and Duration of Activity and Locale.* The dates of operation are dependent upon safe ice conditions, generally between January 1 and May 31. The primary area of interest is off the North Slope of Alaska between Point Barrow and Demarcation Point and extending from the shore outward 45 miles. Studies will be in support of the proposed sales in the Outer Continental Shelf area titled "Diapir Field."

(3) *Description of the Taking of Marine Mammals.* There is concern by biologists that female seals may react to the acoustic stimulus produced by seismic activities by abandoning their pups, which could result in pup mortality. It is anticipated that there could be a potential effect in those areas where lairs of pupping females are distributed in the same area as geophysical surveys. Because the depth of ice required for survey operations (greater than 3 feet) differs from the preferred habitat of the ringed seals (ice that is 2 feet thick or less), the IAGC believes the chances of these areas coinciding are remote. Based on the maximum area covered by seismic activity and the density of seals in these areas (Burns and Harbo, 1972 and Frost, 1979), the IAGC estimates that the maximum number of seals disturbed annually would be 1,440 and the maximum number of pup mortalities annually would be 130, but also stated that the last value is unrealistically high in view of the low probability of geophysical operations occurring in coincidence with the probable ringed seal habitat. The IAGC concludes that the added mortality, if it occurred, would involve small numbers of ringed seals and result in a negligible impact on the ringed seal stock.

(4) *Status of Ringed Seals Stocks and Distribution.* The IAGC quotes the world ringed seal population estimate to be between 6 and 7 million animals and an Alaskan population of between 1 and 1.5 million (*Alaska* magazine, April 1979, p. 31). Estimates of ringed seals inhabiting the Arctic off the North Slope of Alaska range from 13,713 to 9,511 as reported by Burns and Harbo (1972). Evidence examined during an administrative law judge proceeding in early 1979 resulted in the conclusion that an annual harvest of 20,000 ringed seals in Alaska could be permitted without impacting the health of the population.

(5) *Anticipated Impact Upon the Species, Stock and Subsistence Uses.* Based on the information provided under description of taking (see (3) above), the IAGC argues that this level of taking would have a negligible impact on the ringed seals and on their availability for subsistence uses.

(6) *Description of Effect on Habitat.* The IAGC estimates that the habitat of ringed seals is negligibly impacted by seismic survey operations because ice and snow removal is minimal. According to the IAGC, since the ice thickness required by survey crew operations is greater than the ice thickness on which the ringed seals can live, it appears that the two areas would rarely coincide.

(7) *Impact of Loss or Modification of Habitat.* Because of the minimal habitat effected and since the ice and snow annually dissolve and reappear, presenting new habitat for the seals, the IAGC expects the impact on the habitat to be nearly zero.

(8) *Action to Minimize Impacts.* The IAGC states that seismic survey crews do not place energy sources over observed ringed seal lairs nor do they usually operate along pressure ridges (pressure ridges appear to be locations where seals are clumped in their distribution, as described by Smith and Stirling, 1975). Surfaced seals are avoided and hunting is prohibited

(9) *Class of Activity and Geographic Region.* The IAGC suggests that the class be "On-Ice Marine Geophysical Exploration" covering Outer Continental Shelf seismic exploration activity involving the use of land type vehicles on the surface of fast ice during the winter months (January through May) in the Alaskan Arctic.

(10) *Monitoring and Reporting.* The IAGC suggests that monitoring be conducted by Federal or State biologists complemented by observations made by the geophysical survey advance party and/or survey crews (which would require some training). These personnel would record all the observations of seals and seal habitat, and at the end of the survey year, forward a compilation of all observations to the NMFS.

(11) *Research Opportunities.* The IAGC recommends that the geophysical industry be informed of plans to conduct research preceding, during, or after geophysical surveys. To assure that the data required to answer some of the questions related to the effect of geophysical activities on seals is available, the geophysical industry should have a representative who would work with the biological researchers and who could bring to the biological study an understanding of the relevant activities of a geophysical survey.

The Ringed Seal (Phoca hispida)

The ringed seal (*Phoca hispida*) is not listed as endangered or threatened under the Endangered Species Act of 1973. Estimates of abundance of ringed seals are generally derived from aerial surveys of selected areas. General abundance estimates are difficult to determine since the relationship between counts of animals on the ice to total population size is unknown. Also, variations in density are often great even in nearby areas due to strong habitat preference by breeding animals and a tendency for non-breeders to congregate near leads. Also, data presented by Stirling *et al.* (1977) provides evidence of year to year changes in abundance within the same geographical area. Stirling and Calvert (1979) estimate the world population of all subspecies of ringed seals to be 6 to 7 million. Bychkov (1971) gives a 2.5 million as the minimum worldwide population for *Phoca hispida hispida*, the subspecies common to the Beaufort Sea area. Based on a population estimate of between 1 and 1.5 million in the Bering, Beaufort, and Chukchi Seas, an annual harvest of 20,000 ringed seals would have been allowed if management had been returned to the state of Alaska (44 FR 2547, January 11, 1979). Further, Frost and Lowry (1981) estimated there were 80,000 ringed seals during the summer and 40,000 during the winter in the Beaufort Sea.

The ringed seal is the only seal that occupies the land-fast or shore ice of the Bering, Chukchi, and Beaufort Seas during the winter months. During the rest of the year, this species migrates with the annual advance and retreat of pack ice. Ringed seals live in and under the ice by constructing and maintaining breathing holes using their clawed flippers. They also excavate lairs in accumulated snow (subnivian lairs) in which to rest or give birth and nurse their pups. Pupping lairs must be continuously occupied for several weeks and are, therefore, most common in areas of thick, stable ice. In these lairs beneath the snow, female ringed seals give birth to a single pup between late March and mid-April and nurse them for 4 to 6 weeks. Mating occurs during late April and May. Fast ice is the optimum habitat for breeding ringed seals and the highest densities of this species occur in these areas.

Discussion of Potential Impacts of Seismic Activities on Ringed Seals, Their Habitat and on Their Availability for Subsistence

The potential impacts of on-ice seismic activities on ringed seals mainly entail harassment and displacement of the seals. However, destruction of birth lairs or disturbance of pregnant females during the pupping season could result in pregnant females abandoning the fast ice for the less suitable pack ice. If harassment and displacement of nursing females occur for as few as 24 hours, mortality of pups could occur.

Based on aerial survey data collected from 1970 through 1981, Burns *et al.* (1981) calculated ringed deal densities in the fast ice of the Beaufort Sea of 0.4 to 2.8 seals per nm^2. Burns *et al.* also found that highest densities of seals occurred in areas of low ice deformation. Seismic exploration is also conducted in areas of low ice deformation, and therefore in regions of highest ringed seal densities. Based on the IAGC's estimate of 1,800 square miles (1,357.4 nm^2) as the maximum area covered by seismic operations and the highest observed density cited by Burns *et al.* (2.8 seals per nm^2), we estimate that there could be up to about 3,800 seals in the area of seismic activity which could potentially be affected by the activities. However, we expect the number actually affected to be considerably less.

Burns *et al.* compared ringed seal densities between areas of seismic exploration and areas where no human activities occurred. Based on data collected from 1975 to 1977, these comparisons consistently showed a lower density of seals in areas where seismic exploratory activity had occurred. Estimates of comparative abundance of ringed seals in areas where seismic activity had occurred were also made based on surveys of June 3, 5, and 9, 1981. Analyses of data from seismic and control transects showed a statistically significant and lower ringed seal density along shot lines surveyed on June 3. However, no statistically signficant differences existed by June 9. Burns *et al.* stated that the ambiguity of results from surveys in June 1981 may indicate no impact of the seismic activities, or it may be due to early ice break-up which permitted transient seals to reoccupy shot lines.

Burns *et al.* concluded that if displacement is real, based on data from 1975–1977 and June 3, 1981, it accounts for approximately 0.6 ringed seals per nm^2 in the central Beaufort Sea subjected to seismic exploration, and that such an impact would probably not be significant to the ringed seal population as a whole. Based on this estimate of percentage displacement of ringed seals due to seismic activity (0.6 seals per nm^2), less than 1,000 seals may be displaced annually within the area covered by seismic activity (1,351.4 $nmmn^2$). If any of these animals are nursing females, pup mortality could also occur.

On-ice seismic activities may result in the taking of small numbers of ringed seals. Based on a review of the available data, the NMFS proposes that the taking would have a negligible impact on the subspecies which is estimated at 2.5 million animals, or on the Bering, Chukchi, and Beaufort Seas population which is estimated at 1 to 1.5 million animals.

Impact to the ringed seal habitat is localized and very limited. Seismic survey operations do involve the removal of snow and ice along survey lines, camps, and roadways. Since only a small proportion of the seal habitat is affected and since the habitat is restored annually, the NMFS proposes that the seismic activities will have a negligible impact on the ringed seal habitat.

Ringed seals are the most important of all seal species for subsistence uses by native Alaskans living in regions north of Kuskukwin Bay. The current annual harvest is estimated to be approximately 4 to 5 thousand, compared to 8 to 15 thousand during the 1960's (Burns, 1978). Although subsistence hunting of ringed seals has steadily declined in recent years, it could increase if other traditional native foods, such as moose, caribou, whales, and walrus, become less available. The small take of ringed seals due to seismic activities off the North Slope of Alaska is expected to have a negligible impact on the availability of this species for subsistence uses.

Proposed Regulations Governing the Taking of Ringed Seals Incidental to On-Ice Seismic Activities

Specific regulations are proposed to govern the incidental taking of ringed seals (*Phoca hispida*) during on-ice seismic exploratory activities in the Beaufort Sea for the period 1982–1986. These regulations would not regulate or restrict the seismic activities but rather the taking of ringed seals incidental to those activities. These regulations are proposed based on a proposed finding that on-ice seismic exploratory activities in the Beaufort Sea of Alaska over the next five years may involve the taking of small numbers of non-depleted marine mammals, specifically ringed seals, and further that the total of such taking will have a negligible impact on the species, on its habitat, and on the availability of such species for subsistance uses.

The proposed regulations in Subpart B apply only to on-ice seismic exploratory and associated activities over the Outer Continental Shelf of the Beaufort Sea of Alaska, from Point Barrow east to Demarcation Point which may involve the incidental taking of small numbers of ringed seals (*Phoca hispida*) for the period 1982 to 1986. It is required that all activities be conducted in a manner which minimizes adverse effects on ringed seals and their habitat. The proposed regulations require all activities to be conducted as far as practicable from any observed ringed seal or ringed seal lair and prohibits the placement of energy sources over any ringed seal lair. Holders of Letters of Authorization shall designate an individual or individuals to make observations and record the presence of ringed seals and ringed seal lairs. An annual report shall be submitted to the Assistant Administrator for Fisheries at the end of the survey year which includes information on locations of activities and numbers of ringed seals and ringed seal lairs observed.

Under the general regulations proposed (50 CFR Part 228, Subpart A), a Letter of Authorization will be required for each person to conduct activities pursuant to these regulations. At this time, persons who engage in on-ice seismic exploratory activities in the Beaufort Sea which may incidentally take ringed seals should submit a request for a Letter of Authorization. Requests should include the following information:

(1) Name, address and telephone number of requestor;

(2) A description of the activities, including methods, dates and duration,

and general locations of activities, including estimated area to be surveyed;

(3) Anticipated numbers of ringed seals which may be taken by age, sex and reproductive condition, and the type of taking (e.g., disturbance or harassment, displacement, or abandonment of pups);

(4) Anticipated impact of the activity upon the habitat and the likelihood of restoration; and

(5) Actions which will be taken to minimize potential adverse impacts on the ringed seals, their habitat, and on their availability for subsistance uses.

Applicability to Other Laws, Regulations, and Requirements

The proposed regulations implement section 101(a)(5) of the Marine Mammal Protection Act, by providing a mechanism for authorizing the incidental, but not intentional, taking of small numbers of non-depleted marine mammals by U.S. citizens engaged in a specified activity in a specified geographical region, for up to five years. Regulations are also proposed to authorize the taking of small numbers of ringed seals incidential to on-ice seismic operations in the Beaufort Sea for the period 1982 to 1986.

The NMFS has determined that the portion of the proposed regulations generally implementing section 101(a)(5) of the Marine Mammal Protection Act will have no impact on the human environment. The NMFS has prepared an Environmental Assessment reflecting the determination that the portion of the regulations proposing to allow the taking of ringed seals will have an insignificant impact on the human environment and, therefore, does not constitute a major action under the National Environmental Policy Act. The Environmental Assessment is available on request from the Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235.

The proposed rulemaking implementing section 101(a)(5) and allowing the taking of ringed seals is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs of prices for consumers, individual industries, or government agencies; or (3) significant adverse effect on competition, employment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The NMFS has determined, therefore, that the proposed regulations will not constitute a major rule and require no regulatory impact analysis under Executive Order 12291.

The General Counsel of the Department of Commerce has certified that the general implementation of section 101(a)(5) will not have a significant economic impact on a substantial number of small entities. In addition, that portion of the regulations proposing to allow the taking of ringed seals will not have a major significant impact on a substantial number of small entities in that the oil companies and their contractors identified as possible applicants under the proposed regulations to allow that taking cannot be identified as small businesses under the Small Business Act. Therefore, a regulatory flexibility analysis is not required. Since the number of requests expected under the proposed regulations generally implementing section 101(a)(5) is expected to be less than ten, and the number of applicants under that portion of the regulations proposing to allow the taking of ringed seals is expected to be less then ten, the requirements of the Paperwork Reduction Act are inapplicable.

Accordingly, it is proposed to amend 50 CFR by adding a new Part 228 as follows:

PART 228—REGULATIONS GOVERNING SMALL TAKES OF MARINE MAMMALS INCIDENTAL TO SPECIFIED ACTIVITIES

Subpart A—General

Sec.

228.1 Purpose.
228.2 Scope.
228.3 Definitions.
228.4 Submission of requests.
228.5 Specific regulations.
228.6 Letters of authorization.

Subpart B—Taking of Marine Mammals Incidental to On-Ice Seismic Activities

228.11 Specified activity and specified Geographical area.
228.12 Effective dates.
228.13 Permissible methods.
228.14 Requirements for monitoring and reporting.

Authority: Section 101(a)(5) of the Marine Mammal Protection Act of 1972, as amended, (16 U.S.C. 1371(a)(5)), Pub. L. No. 97–58, unless otherwise noted.

Subpart A—General

§ 228.1 Purpose.

The regulations in this part implement section 101(a)(5) of the Marine Mammal Protection Act of 1972, as amended, 16 U.S.C. 1371(a)(5), Pub. L. 97–58, which provides a mechanism for allowing, upon request, the incidental, but not intentional, taking of small numbers of non-depleted marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region.

§ 228.2 Scope.

The taking of small numbers of marine mammals under section 101(a)(5) of the Marine Mammal Protection Act may be allowed only if the species involved are not depleted and if the National Marine Fisheries Service (a) finds that the total taking will have a negligible impact on the species and their habitat, and on the availability of the species for subsistence uses; (b) prescribes regulations setting forth permissible methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat, paying particular attention to rookeries, mating grounds, and other areas of similar significance; and (c) prescribes regulations pertaining to the monitoring and reporting of such taking. The specific regulations governing specified activities are contained in subsequent subparts to this Part 228.

§ 228.3 Definitions.

In addition to definitions contained in the Act and in 50 CFR 216.3 and unless the context otherwise requires, in this Part 228:

"Incidental, but not intential taking" means accidental taking. It does not mean that the taking is unexpected, but rather it includes those takings which are infrequent, unavoidable or accidental. Taking, as defined in 50 CFR 216.3, includes harassing, capturing, and killing.

"Negligible impact" means an impact which can be disregarded or which is so small or unimportant, or of so little consequence as to warrant little or no attention. A finding of negligible impact cannot be made if a species or stock is depleted under 16 U.S.C. 1362(1).

"Small numbers" means a portion of a marine mammal species or stock whose removal has a negligible impact on the species or stock.

"Specified activity" means any activity, other than commercial fishing, which takes place in a specified geographical region and potentially involves the taking of small numbers of marine mammals. The specified activity and specified geographical region should be identified so that the anticipated effects on marine mammals will be substantially similar.

"Specified geographical region" means an area within which a specified activity is conducted and which has certain biogeographic characteristics.

§ 228.4 Submission of requests.

(a) In order for the National Marine Fisheries Service to consider allowing the taking of marine mammals incidental to a specified activity, a written request must be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235. Requests shall include the following information on the activity in general and cumulative impacts of the total potential taking:

(1) A description of specific activity or class of activities that can be expected to result in incidental taking of marine mammals;

(2) The dates and duration of such activity and the specific geographical region where it will occur;

(3) The species and numbers of marine mammals likely to be taken by age, sex and reproductive condition, and the type of taking (e.g., disturbance by sound, injury or death resulting from collision, etc.) and the number of times such taking is likely to occur;

(4) A description of the status and distribution of the affected species or stocks likely to be affected by such activities;

(5) The anticipated impact of the activity upon the species or stocks, and on the availability for taking for subsistence uses;

(6) The anticipated impact of the activity upon the habitat of the marine mammal populations, and the likelihood of restoration of the affected habitat;

(7) The anticipated impact of the loss or modification of the habitat on the marine mammal populations involved;

(8) The availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, their habitat, and on their availability for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance;

(9) Suggested means of accomplishing the necessary monitoring and reporting and of minimizing burdens by coordinating such reporting requirements with other schemes already applicable to persons conducting such activity; and

(10) Suggested means of learning of, encouraging, and coordinating research opportunities, plans, and activities relating to reducing such incidental taking and evaluating its effects.

(b) The Assistant Administrator shall determine the adequacy and completeness of a request, and if found to be adequate will invite information, suggestions, and comments through notice in the **Federal Register**, newspapers of general circulation, and appropriate electronic media in the coastal areas that may be affected by such activity. All information and suggestions will be considered by the NMFS in developing, if appropriate, the most effective regulations.

(c) The Assistant Administrator shall evaluate each request to determine, based on the best available scientific evidence, whether the taking constitutes a negligible impact on the species or stocks of marine mammals, their habitat, and on the availability of the species for subsistence uses. Any preliminary finding of negligible impact shall be proposed for public comment before specific regulations are promulgated.

§ 228.5 Specific regulations.

(a) Specific regulations will be established for each allowed activity which set forth permissible methods of taking and requirements for monitoring and reporting.

(b) Regulations are established based on the best available information. As new information is developed, through monitoring, reporting or research, any of the regulations may be modified, in whole or part, after notice and opportunity for public review.

§ 228.6 Letters of authorization.

(a) A Letter of Authorization is required for persons conducting activities pursuant to any regulations established. Requests for Letters of Authorization shall be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235. The information to be submitted in a request can be obtained by writing the Assistant Administrator.

(b) Issuance of a Letter of Authorization will be based on a determination that the level of taking will be consistent with the finding that the total of such taking will have a negligible impact on the marine mammal species or stocks and their habitat, and on the availability of the species for subsistence uses.

(c) Notice of issuance of all Letters of Authorization will be published in the **Federal Register** within 30 days of issuance.

(d) Letters of Authorization are valid for one year and must be renewed annually. Letters of Authorization will specify additional terms and conditions appropriate for the specific request.

(e) Letters of Authorization may be withdrawn or suspended if, after notice and opportunity for public comment, the National Marine Fisheries Service determines that: (1) The regulations prescribed are not being substantially complied with, or (2) the taking allowed is having, or may have, more than a negligible impact on the species or stocks concerned, their habitat, or on their availability for subsistence uses.

(f) The requirement for notice and opportunity for public review in § 228.6(e) shall not apply if the National Marine Fisheries Service determines that an emergency exists which poses a significant risk to the well being of the species or stocks of marine mammals concerned.

Subpart B—Taking of Marine Mammals Incidental to On-Ice Seismic Activities

§ 228.11 Specified activity and specified geographical area.

Regulations in this subpart apply only to on-ice seismic exploratory and associated activities over the Outer Continental Shelf of the Beaufort Sea of Alaska, from Point Barrow east to Demarcation Point, which may involve the incidental taking of small numbers of ringed seals (*Phoca hispida*).

§ 228.12 Effective dates.

Regulations in this subpart cover activities from January 1 through May 31 for the period 1982–1986.

§ 228.13 Permissible methods.

(a) The incidental, but not intentional, taking of ringed seals by U.S. citizens holding a Letter of Authorization is permitted during the course of the following activities:

(1) On-ice geophysical seismic activities involving vibrator-type or airgun energy sources; and

(2) Operation of transportation and camp facilities associated with seismic activities.

(b) All activities identified in § 228.13(a) shall be conducted in a manner which minimizes adverse effects on ringed seals and their habitat.

(c) All activities identified in § 228.13(a) shall be conducted as far as practicable from any observed ringed seal or ringed seal lair. No energy source shall be placed over a ringed seal lair, whether or not any seal is present.

§ 228.14 Requirements for monitoring and reporting.

(a) Holders of Letters of Authorization are required to cooperate with the National Marine Fisheries Service and any other Federal, State, or local agency designated to monitor the impacts on ringed seals.

(b) Holders of Letters of Authorization shall designate an individual or individuals to make observations and record the presence of ringed seals and

ringed seal lairs along shot lines and around camps, and the information required in § 228.14(c).

(c) An annual report shall be submitted to the Assistant Administrator for Fisheries at the end of the survey year which shall include the following information:

(1) Location(s) of survey activities, level of effect (e.g., total area surveyed, number of surveys), methods used, and a description of habitat (e.g., ice thickness, surface topography);

(2) Numbers of ringed seals observed and proximity to seismic or associated activities for each location;

(3) Numbers of ringed seal lairs observed and proximity to seismic or associated activities for each location.

APPENDIX [1]

Pub. L. 97-58 amended the Marine Mammal Protection Act of 1972 (MMPA), by adding, among other things, a new section 101(a)(5), (16 U.S.C. 1371(a)(5)), as follows:

"(5)(A) Upon request therefor by citizens of the United States who engage in a specified activity (other than commercial fishing) within a specified geographical region, the Secretary shall allow, during periods of not more than five consecutive years each, the incidental, but not intentional, taking by citizens while engaging in that activity within that region of small numbers of marine mammals of a species or population stock that is not depleted if the Secretary, after notice (in the Federal Register and in newspapers of general circulation, and through appropriate electronic media, in the coastal areas that may be affected by such activity) and opportunity for public comment--

(i) finds that the total of such taking during each 5-year (or less) period concerned will have a negligible impact on such species or stock and its habitat, and on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f); and

(ii) prescribes regulations setting forth--

(I) permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance; and

(II) requirements pertaining to the monitoring and reporting of such taking.

(B) The Secretary shall withdraw, or suspend for a time certain, (either on an individual or class basis, as appropriate) the permission to take marine mammals under subparagraph (A) pursuant to a specified activity within a specified geographical region if the Secretary finds, after notice and opportunity for public comment (as required under subparagraph (A) unless (C)(i) applies), that--

(i) the regulations prescribed under subparagraph (A) regarding methods of taking, monitoring, or reporting are not being substantially complied with by a person engaging in such activity; or

(ii) the taking allowed under subparagraph (A) pursuant to one or more activities within one or more regions is having, or may have, more than a negligible impact on the species or stock concerned.

(C)(i) The requirement for notice and opportunity for public comment in subparagraph (B) shall not apply in the case of a suspension of permission to take if the Secretary determines that an emergency exists which poses a significant risk to the well being of the species or stock concerned.

(ii) Sections 103 and 104 shall not apply to the taking of marine mammals under the authority of this paragraph."

1/ This appendix will not be shown in the Code of Federal Regulations.

Dated: February 16, 1982.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

(FR Doc. 82-5772 Filed 3-1-82; 9:28 am)

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Notices

Federal Register
Vol. 47, No. 42
Wednesday, March 3, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Rogue River National Forest Douglas, Jackson and Klamath Counties, Oregon Siskiyou County, California; Decision and Finding of No Significant Impact

An environmental assessment approved on February 16, 1982, that discusses planned control of undesirable vegetation for the purpose of site preparation and conifer release on the Rogue River National Forest is available for review in the Forest Supervisor's Office, 333 W. 8th Street, Medford, Oregon, and on the local Ranger Districts. Treatment is recommended in Douglas, Jackson and Klamath Counties, Oregon, and in Siskiyou County, California.

In the analysis, public issues, management concerns and opportunities were identified and evaluation criteria were developed. Criteria for evaluating alternatives on each site included commercial tree growth, health and safety, cost effectiveness, employment opportunities, site productivity, conflicts with range management, and effects on water, public use, and non-target plants and animals.

All feasible treatment were considered which include chemical, manual, mechanical, biological, thermal or a combination of treatments. No action was also evaluated as an alternative.

The proposed program received public review in November 1981. Some adjustments were then made to better address concerns raised by public response while still meeting basic vegetation management objectives.

Ninety-one units were evaluated in this environmental assessment. Each unit was assessed separately. Based on the analysis and evaluation described in the environmental assessment, the Forest Supervisor made a decision to adopt each particular alternative that was recommended by a Forest Interdisciplinary Team for each unit that was assessed. The evaluation and decision for each unit is contained in the environmental assessment document.

Each recommended alternative, with the specified management requirements, preventive or protective measures, and monitoring controls is considered to be environmentally preferable, as it provides the best combination of physical, biological, social and economic factors.

The decisions are summarized below:

TABLE 1.—SUMMARY OF DECISIONS—THIS ASSESSMENT

Treatment	Acres
No action	1,393
Chemical—Aerial	859
Chemical—Ground	701
Manual	34
Mechanical—Tracmac	34
Mechanical—Tractor pile & burn	120
Cutting/Chemical—ground	21
Grazing	39
Total	3,201

The acres of chemical applications are summarized below:

TABLE 2.—SUMMARY OF ACRES TREATED WITH CHEMICALS

Chemical	Acres	
	Aerial	Ground
2,4-D	585	86
Roundup	163	361
Atrazine/Dalapon	171	110
Garlon	96	
Tordon		144
2,4-D/Atrazine-Dalapon	51	19
Total	859	722

Prior to this assessment, non-chemical treatment decisions had been made for 7,600 acres. These treatments are also planned for implementation in 1982.

It was determined, based on the environmental analysis, that this was not a major Federal action that would significantly affect the quality of the human environment; therefore, an environmental impact statement is not needed. This determination was made considering the following factors: (a) The preferred alternatives, with included requirements, preventive or protective measures and monitoring controls, will protect public health and safety, and plants and animals, including Threatened and Endangered; (b) all included chemicals are approved by EPA for the proposed uses; (c) the application of these chemicals will comply with pertinent EPA labels, State and Federal law, and Forest Service policies; (d) treatment with the included chemical, manual, mechanical and thermal methods will have only a slight and temporary effect on the ecosystem of the specific project areas; (e) physical and biological effects are limited to the areas of planned treatment; (f) there is no irreversible or irretrievable resource commitments or losses; and (g) no wetlands or floodplains will be treated.

The decisions for these projects were approved on February 18, 1982. Treatment is not planned until after April 1.

The decision for each unit is subject to Administrative Review (appeal) pursuant to 36 CFR 211.19. A Notice of Appeal must be filed with the Forest Supervisor by April 1, 1982, which is 45 days from the signing of the decision.

The responsible official is Robert J. Devlin, Forest Supervisor, Rogue River National Forest, P.O. Box 520, Medford, Oregon 97501.

Dated: February 18, 1982.

Robert J. Devlin,
Forest Supervisor.

[FR Doc. 82-5686 Filed 3-2-82; 8:45 am]
BILLING CODE 3410-11-M

Siskiyou National Forest, Coos, Curry and Josephine Counties, Oregon, Del Norte County, California; Finding of No Significant Impact

An Environmental Assessment that discusses the vegetation management program for site preparation and conifer release on the Chetco, Galice, Gold Beach, Illinois Valley and Powers Ranger Districts of the Siskiyou National Forest has been prepared. The Environmental Assessment considered vegetation management on 15,826 acres, and involves the control of competing vegetation on 9,214 acres of National Forest lands within Coos, Curry and Josephine Counties, Oregon, and Del Norte County, California. The report is available for review at the Chetco Ranger Station in Brookings, Oregon, the Galice Ranger Station in Grants Pass, Oregon, the Gold Beach Ranger Station in Gold Beach, Oregon, the Illinois Valley Ranger Station in Cave Junction, Oregon, the Powers Ranger Station in Powers, Oregon, and the Siskiyou National Forest Office in Grants Pass, Oregon.

Based on the analysis and evaluation described in the Environmental Assessment it is my decision to adopt Alternative Five for the Siskiyou National Forest vegetation management program for site preparation and conifer release. The selected alternative provides for site specific treatments determined from prescriptions which considered silvicultural opportunities, cost efficiency, program objectives, and balance of all resources needs. The use of chemicals was critically examined for efffects on adjacent land, streams, water systems, and nearness to individual homes and communities. Alternative Five includes the following control measures: aerial application of 2,4-D on 6,098 acres, glyphosate on 831 acres, triclopyr on 1,238 acres, dicamba plus 2,4-D on 67 acres, atrazine plus dalapon on 10 acres and asulam on 16 acres; ground application of 2,4-D on 124 acres, glyphosate on 145 acres, picloram plus 2,4-D on 5 acres, triclopyr on 287 acres, and atrazine plus dalapon on 26 acres; manual cutting on 173 acres; broadcast burning on 136 acres; and mechanical mowing on 58 acres. No treatment was selected on 6,883 acres.

Under Alternative Five, 317 acres are scheduled for release by aerial application of triclopyr in the fall. Registration of triclopyr for this use is currently in process, but it has not been completed. District Rangers are directed to cancel aerial application of triclopyr on these 317 acres if the registration process for this use in Oregon has not been completed by June 8, 1982.

Five other alternatives were considered in the analysis. These alternatives are:

Alternative One. "No Action"—makes no provision for vegetation management for site preparation or conifer release.

Alternative Two. "Non-Herbicide"—no chemical methods will be used. Manual methods will be maximized. Other nonchemical methods may be used where feasible, or for study where manual methods are not feasible.

Alternative Three. "None-Aerial"—no aerial herbicide application will be used. Ground herbicide application as well as other methods will be used for all areas prescribed for chemical methods where feasible or for study purposes.

Alternative Four. "Limited Herbicide"—use of chemicals will be evaluated for effects on adjacent land, streams, water systems and nearness to communities. Alternatives to chemical methods will be given preference in these sensitive areas and will be used where feasible.

Alternative Six. "Maximization of Efficiency"—to meet silvicultural objectives in the least costly manner.

Alternative Five, with specified requirements, constraints, mitigation measures and monitoring controls is considered to be environmentally preferable as it provides the best combination of physical, biological, social and economic factors. The specifed requirements, constraints, mitigation measures and monitoring described as an integral part of Alternative Five are adopted as minimums.

The analysis considered public issues, management concerns and opportunities. Evaluation citeria were developed to incorporate this input, and key criteria identified. Effects of the program on the identified criteria were considered through a range of alternatives which included no action. The greatest weight in evaluations was given the key criteria, which included effects on: health and safety; plants and animals; economic efficiency and distribution; and wood products availability. The relationship between local short-term uses of the renewable resources and maintenance of long-term productivity was considered through effects on these criteria: cultural values; soil productivity; wood products availability; and, econmic efficiency and distribution. The evaluations also considered: fossil fuel energy requirements; direct and indirect benefits and costs; effects on minority groups and civil rights; and the relationship of expected outputs to the Forest's goals. Preservation of Threatened and Endangered plants and animals, cultural resource values, biological areas, wilderness, and other sensitive environmental factors were considered. Evaluations also included consideration of effects on wetlands and floodplains, adverse environmental effects which cannot be avoided, and irreversible and irretrievable resource commitments.

I have determined, based on the environmental analysis, that this is not a major Federal action that would significantly affect the quality of the human environment; therefore, an environmental impact statement is not needed. This determination was made considering the following factors: (a) Alternative Five, within included requirements, preventative or protective measures and monitoring controls, will protect public health and safety, and plants and animals, including Threatened and Endangered; (b) Alternative Five will meet treatment cost and efficiency criteria; (c) all included chemicals are approved by EPA for the proposed uses, and the application of these chemicals will comply with pertinent EPA labels, State and Federal law, and Forest Service policies; (d) treatment with the included chemical, manual, mechanical, and thermal methods will have only a slight and temporary effect on the ecosystems of the specific project areas; (e) physical and biological effects are limited to the areas of planned treatment; (f) there are no irreversible or irretrievable resource commitments or losses; (g) a balance is achieved between local short-term uses of the renewable resources and the maintenance and enhancement of long-term productivity; (h) the proposed program is in accord with the requirements and direction contained in Final Environmental Statements for the Rogue (1975), Mt. Butler-Dry Creek (1976), Rogue-Illinois (1979), and Chetco-Grayback (1979) Land Management Planning Units; (i) the proposed program is in accord with the requirements and direction contained in the R-6 Final Environmental Statement on Methods of Managing Competing Vegetation (1981); (j) no wetlands or floodplains will be treated.

Project implementation may take place immediately after the date of this decision. Field implementation is dependent on proper vegetative conditions, which are not expected to occur prior to March 15, 1982.

This decision is subject to administrative review (appeal) pursuant to 36 CFR 211.19.

Date: February 19, 1982.

William H. Covey,
Forest Supervisor.

[FR Doc. 82-5689 Filed 3-2-82; 8:45 am]
BILLING CODE 3410-11-M

Salmon National Forest Idaho, Lemhi, and Valley Counties, Idaho; Intent To Prepare an Environmental Impact

A Noitce of Intent to Prepare an Environmental Impact Statement for the Salmon National Forest Land and Resource Management Plan was published in the Federal Register, Volume 45, No. 198, Thursday, October 9, 1980, and was later amended as published in the Federal Register, Volume 45, No. 91, Tuesday, May 12, 1981.

The estimated dates for filing the Draft and Final Environmental Impact Statements with the Environmental Protection Agency and release to the public have been further postponed. The Draft Environmental Impact Statement

is now expected in May 1982, and the Final Environmental Impact Statement is proposed for release in December 1983.

All other conditions of the original Notice of Intent remain the same.

Date: February 22, 1982.

R. E. Greffenius

Acting Regional Forester.

[FR Doc. 82-5660 Filed 3-3-82; 8:45 am]

BILLING CODE 3410-11-M

Agricultural Stabilization and Conservation Service

Emergency Conservation Program (ECP) Payments; Determination of Primary Purpose for Amounts That May Be Excluded From Income

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of Determination.

SUMMARY: The purpose of this notice is to announce the determination by the Secretary of Agriculture that certain Federal payments made to farmers under the Emergency Conservation Program (ECP) are made primarily for purposes of conserving soil and water resources, protection or restoring the environment, improving forests, or providing a habitat for wildlife. This determination by the Secretary is made in accordance with section 126(b) of the Internal Revenue Code of 1954, as amended by section 543 of the Revenue Act of 1978 and the Technical Corrections Act of 1979. The effect of this determination is to make it possible for recipients of these payments to exclude some or all of them from gross income for Federal income tax purposes if certain other conditions are met.

FOR FURTHER INFORMATION CONTACT: Director, Conservation and Environmental Protection Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, (202) 447-6221.

SUPPLEMENTARY INFORMATION: This action has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified as "not major." It has been determined that these program provisions will not result in (1) an annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individuals, industries, Federal, State or local government agencies or geographic regions; (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this notice applies are: Title—Emergency Conservation Program; Number—10.054; as found in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local governments are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since the Agricultural Stabilization and Conservation Service (ASCS) is not required to publish a notice of proposed rulemaking pursuant to 5 U.S.C. 553 or any other provision of law with respect to the subject matter of this determination.

Section 126 of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1978 and the Technical Corrections Act of 1979, provides that certain payments which are made to persons under programs administered by the Department of Agriculture may be eligible for exclusion from gross income if certain determinations are made. One such determination involves the Secretary of Agriculture who must determine whether certain payments issued to persons under designated programs listed in section 126(a) are "made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife." In making any such determination the Secretary of Agriculture must evaluate each of those designated programs based upon criteria set forth at 7 CFR Part 14.

One of the conservation programs listed in the section 126(a) is the Emergency Conservation Program (ECP) authorized by Title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 note). This program is funded annually by the agriculture appropriations acts.

The objective of the ECP is to share with eligible persons the cost of rehabilitating farmlands damaged by wind and water erosion, floods, hurricanes, or other natural disasters and undertaking, water conservation or water enhancement measures during periods of severe drought.

Except for severe drought and wind erosion, cost-sharing payments are made to eligible producers under the program for replacing or restoring farmlands or structures to a condition similar to that existing prior to the natural disaster. Cost-sharing is not offered for the solution of conservation problems existing prior to the disaster.

Emergency Conservation Program practices for which cost-sharing may be authorized to rehabilitate farmlands to pre-disaster conditions, conserve soil and water resources, or protect or restore the environment are as follows:

(a) Removing debris from farmland.

(b) Grading, shaping, releveling or similar measures.

(c) Restoring permanent fences.

(d) Restoring structures and other installations.

(e) Emergency wind control measures.

(f) Drought emergency measures.

(g) Other emergency conservation measures.

The ECP authorizing legislation, regulations, and operating procedures have been carefully examined using the criteria established by the Department of Agriculture under 7 CFR Part 14 for making "primary purpose" determinations. Based upon this examination, it has been concluded that the payments under the ECP are made for the purpose of rehabilitating farmlands damaged by wind and water erosion, floods, hurricanes and other natural disasters and to provide water conservation or enhancement measures during periods of severe drought. An "Emergency Conservation Program (ECP) Decision: Primary Purpose Determination for Federal Tax Purpose" has been prepared and is available upon request from the Conservation and Environmental Protection Division, ASCS.

Determination

Therefore, I have determined, in accordance with section 126(b)(1) of the Internal Revenue Code of 1954, as amended, that all payments made for those emergency conservation practices approved under the ECP after September 30, 1979, are made primarily for the purpose of conserving soil and water resources, protecting or restoring the environement, improving forests, or providing a habitat for wildlife.

Signed at Washington, D.C. on February 23, 1982.

John R. Block,

Secretary U.S. Department of Agriculture.

[FR Doc. 82-5779 Filed 3-3-82; 8:45 am]

BILLING CODE 3410-05-M

Forestry Incentives Program (FIP) Payments; Determination of Primary Purpose for Amounts That May Be Excluded From Income

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of Determination.

SUMMARY: The purpose of this notice is to announce the determination by the Secretary of Agriculture that certain Federal payments made to private nonindustrial landowners under the Forestry Incentives Program (FIP) are made primarily for purposes of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife. This determination by the Secretary is made in accordance with section 126(b) of the Internal Revenue Code of 1954, as amended by section 543 of the Revenue Act of 1978 and the Technical Corrections Act of 1979. The effect of this determination is to make it possible for recipients of these payments to exclude some or all of them from gross income for Federal income tax purposes if certain other conditions are met.

FOR FURTHER INFORMATION CONTACT: Director, Conservation and Environmental Protection Division, Agricultural Stabilization and Conservation Service, U.S.D.A., P.O. Box 2415, Washington, D.C. 20013, (202) 447-6221.

SUPPLEMENTARY INFORMATION: This action has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified as "not major." It has been determined that these program provisions will not result in (1) an annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individuals, industries, Federal, State or local government agencies or geographic regons; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of Unted States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this notice applies are: Title—Forestry Incentives Program; Number—10.064; as found in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local governments are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since the Agricultural Stabilization and Conservation Service (ASCS) is not required to publish a notice of proposed rulemaking pursuant to 5 U.S.C. 553 or any other provision of law with respect to the subject matter of this determination.

Section 126 of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1978 and the Technical Corrections Act of 1979, provides that certain payments which are made to persons under designated programs administered by the Department of Agriculture may be eligible for exclusion from gross income if certain determinations are made. One such determination involves the Secretary of Agriculture who must determine whether certain payments issued to persons under designated programs listed in section 126(a) are "made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife." In making any such determination the Secretary of Agriculture must evaluate each of those designated programs based upon criteria set forth at 7 CFR Part 14.

One of the conservation programs listed in section 126(a) is the Forestry Incentives Program (FIP) authorized by section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103). This program is funded annually by agriculture appropriations acts.

FIP provides technical and financial assistance to private nonindustrial landowners through annual and long-term (3 to 10 years) agreements to increase the supply of timber from these private nonindustrial forest lands.

Cost-sharing payments are made to eligible applicants under the program for the satisfactory installation of forestry practices developed primarily to meet a definite need to accomplish one or more of the following:

(a) Increased afforestation of suitable open lands.

(b) Reforestation of cutover or other nonstocked or understocked forest lands.

(c) Timber stand improvement.

(d) Intensive multipurpose management.

(e) Protection of forest resources.

Eligible national cost-sharing practices are planting trees (FP1), improving a stand of trees (FP2), and a few special forestry practices approved at the natonal level for special situations not covered by practices FP1 and FP2.

The FIP authorizing legislation, regulations, and operating procedures have been carefully examined using the criteria established by the Department of Agriculture under 7 CFR Part 14 for making "primary purpose" determinations. Based upon this examination, it has been concluded that payments under the FIP are made for the purpose of providing financial assistance to private nonindustrial landowners for carrying out forest improvement practices. A "Forestry Incentives Program (FIP) Record Decision: Primary Purpose Determination for Federal Tax Purposes" has been prepared and is available upon request from the Conservation Environmental Protection Division, Agricultural Stabilization and Conservation Service.

Determination

Therefore, I have determined, in accordance with section 126(b)(1) of the Internal Revenue Code of 1954, as amended, that all payments made for those forestry practices under the FIP after September 30, 1979, are made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.

Signed at Washington, D.C. on February 23, 1982.

John R. Block,

Secretary, U.S. Department of Agriculture.

[FR Doc. 82-5778 Filed 3-3-82; 8:45 am]

BILLING CODE 3410-05-M

Office of the Secretary

Privacy Act of 1974; Systems of Records

AGENCY: Office of Personnel, USDA.

ACTION: Notice of amendment of Privacy Act systems of records.

SUMMARY: The Department of Agriculture hereby gives notice that it is reassigning and amending a previously published system of records from one agency within the Department of Agriculture to another. The Department also hereby gives notice that it is making minor amendments to another previously published system of records.

On November 2, 1978, the Department of Agriculture, at 43 FR 51288-51289 published a Privacy Act system of records entitled USDA/OBPE-1, Committee Management Records System. Due to internal reorganizations of the Department, this system has been placed under the control of the Office of Personnel, Department of Agriculture,

and is hereby designated as USDA/OP-3. In addition, the Department is amending this system notice to include new safeguards for the records maintained in the system.

The Department of Agriculture also amends previously published Privacy Act system of records USDA/OP-1, last published in its entirety at 43 FR 51361-51365 (November 2, 1978). This amendment is necessitated by a change in addresses where files are maintained by the Department of Agriculture since that last publication. In connection with this system of records, reference is made to the Government-wide system of records published by the Office of Personnel Management as OPM/GOVT-1, General Personnel Records, 45 FR 78415-78419, November 25, 1980.

EFFECTIVE DATE: March 3, 1982.

FOR FURTHER INFORMATION CONTACT: Carolyn Wright, Security and Employee Relations Staff, Office of Personnel, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7654.

The text of both systems will be as follows:

USDA/OP-1

SYSTEM NAME:

Personnel and Payroll System for USDA Employees, USDA/OP.

SYSTEM LOCATION:

Office of Personnel, USDA, Washington, D.C.; the National Finance Center, P.O. Box 60,000, New Orleans, Louisiana; and the personnel offices at the following locations:

ALABAMA—Soil Conservation Service State Office, Soil Conservation Building, P.O. Box 311, Auburn, Alabama 36830; Farmers Home Administration State Office, Aronov Building, Room 717, 474 S. Court Street, Montgomery, Alabama 36104; Forest Service National Forest, National Forests in Alabama, 1765 Highland Avenue, P.O. Box 40, Montgomery, Alabama 36101.

ALASKA—Forest Service Regional Office, Federal Office Building, P.O. Box 1628, Juneau, Alaska 99801; Farmers Home Administration State Office, P.O. Box 1289, Palmer, Alaska 99645; Soil Conservation Service State Office, 2221 E. Northern Lights Boulevard, Anchorage, Alaska 99502.

ARIZONA—Forest Service National Forest, Coconino National Forest, P.O. Box 1268, Flagstaff, Arizona 86002; Forest Service, RM Forest and Range Experiment Station, Forestry Sciences Laboratory, Northern Arizona University, Flagstaff, Arizona 86002; Agricultural Marketing Service Milk Market Office, 1121 E. Missouri Street, Phoenix, Arizona 85014; Farmers Home Administration State Office, Federal Building, Room 3433, 230 North First Avenue, Phoenix, Arizona 85025; Soil Conservation Service State Office, 230 North First Avenue, 6029 Federal Building, Phoenix, Arizona 85025; Forest Service National Forest, Tonto National Forest, 102 So. 28th Street, Phoenix, Arizona 85034; Forest Service National Forest, Prescott National Forest, 344 S. Cortez, Prescott, Arizona 86301; Forest Service National Forest, Apache-Sitgreaves National Forests, Federal Building, P.O. Box 640, Springerville, Arizona 85938; Forest Service, RM Forest and Range Experiment Station, Forest Hydrology Laboratory, Arizona State University, Tempe, Arizona 85281; Forest Service National Forest, Coronado National Forest, 301 W. Congress, Tucson, Arizona 85702; Forest Service, RM Forest and Range Experiment Station, Tumamoc Hill, University of Arizona, P.O. Box 4460, Tucson, Arizona 85717; Forest Service, National Forest, Kaibab National Forest, 800 S. 6th Street, Williams, Arizona 86046.

ARKANSAS—Forest Service National Forest, Ouachita National Forest, Reserve and Broadway Streets, Federal Building, P.O. Box 1270, Hot Springs, National Park, Arkansas 71901; Agricultural Marketing Service Milk Market Office, 3518 W. Roosevelt Rd., P.O. Box 4225, Little Rock, Arkansas 72204; Farmers Home Administration State Office, 3529 Federal Office Building, P.O. Box 2778, 700 W. Capitol, Little Rock, Arkansas 72203; Forest Service National Forest, Ozark-St. Francis National Forest, W. Main and Fargo, P.O. Box 1008, Russellville, Arkansas 72801; Soil Conservation Service State Office, Federal Office Building, 700 W. Capitol St., Little Rock, Arkansas 72203.

CALIFORNIA— Forest Service National Forest, Modoc National Forest, P.O. Box 611, Alturas, California 96101; Agricultural Research Service, Western Region, Regional Administrative Office 1333 Broadway, Suite 400, Oakland, California 94612; Forest Service Pacific Southwest Forest And Range Experiment Station, 1960 Addison Street, P.O. Box 245, Berkeley, California 94704; Forest Service National Forest, Inyo National Forest, 873 N. Main Street, Bishop, California 93514; Soil Conservation Service State Office, 2828 Chiles Rd., Davis, California 95616; Forest Service National Forest, Six Rivers National Forest, 307 F Street, Eureka, California 95501; Forest Service National Forest, Sierra National Forest, Federal Building, Room 3804, 1130 O Street, Fresno, California 93721; Forest Service National Forest, Los Padres National Forest, 42 Aero Camino, Goleta, California 93017; Forest Service National Forest, Tahoe National Forest, Highway 49 and Coyote Street, Nevada City, California 95959; Forest Service National Forest, Angeles National Forest, 150 South Robles, Pasadena, California 91101; Forest Service National Forest, Eldorado National Forest, 100 Forni Rd., Placerville, California 95667; Forest Service National Forest, Sequoia National Forest, 900 W. Grand Avenue, Porterville, California 93257; Forest Service National Forest, Plumas National Forest, 159 Lawrence Street, P.O. Box 1500, Quincy, California 95971; Forest Service National Forest, Shasta-Trinity National Forest, 2400 Washington Avenue, Redding California 96001; Forest Service National Forest, San Bernardino National Forest, 144 N. Mountain View Avenue, San Bernardino, California 92408; Forest Service National Forest, Cleveland National Forest, 880 Front Street, San Diego, California 92188; Food and Nutrition Service Western Regional Office, 550 Kearny Street, Room 400, San Francisco, California 94108; Forest Service National Forest, Stanislaus National Forest, 19777 Greenley Road, Sonora, California 95370; Forest Service National Forest, Lassen National Forest, 707 Nevada Street, Susanville, California 96130; Forest Service National Forest, Mendocino National Forest, 420 E. Laurel Street, Willows, California 95988; Farmers Home Administration State Office, 459 Cleveland Street, Woodlawn, California 95695; Forest Service National Forest, Klamath National Forest, 1215 S. Main, Yreka, California 96097.

COLORADO—Forest Service National Forest, Grand Mesa-Uncompahgre Gunnison National Forests, 11th and Main, P.O. Box 138, Delta, Colorado 81416; Agricultural Marketing Service Milk Market Office, 2600 S. Parker Road, P.O. Box 440860, Aurora, Colorado 80044; Farmers Home Administration State Office, 1 Diamond Plaza, Room 231, 2490 W. 26th Avenue, Denver, Colorado 80211; Forest Service Regional Office, Federal Center, Building 85, Denver, Colorado 80225; Soil Conservation Service State Office, 1 Diamond Plaza, Room 313, 2490 W. 26th Avenue, Denver, Colorado 80211; Forest Service National Forest, San Juan National Forest, Oliger Building, P.O. Box 841, Durango, Colorado 81301; Forest Service Rocky Mountain Forest and Range Experiment Station, 240 W. Prospect Street, Fort Collins, Colorado 80521; Forest Service National Forest, Arapaho-Roosevelt National Forest, Federal Building, 301 S. Howles, P.O. Box 1366, Ft. Collins, Colorado 80521; Forest Service National Forest, White River National Forest, P.O. Building, Box 948, Glenwood Springs, Colorado 81601; Forest Service National Forest, Rio Grande National Forest, 1803 W. Highway 10, Monte Vista, Colorado 81144; Forest Service National Forest, Pike San Isabel National Forests, 910 Highway 50 W., P.O. Box 5808, Pueblo, Colorado 81002; Forest Service National Forest, Routt National Forest, Hunt Building, P.O. Box 1198, Steamboat Springs, Colorado 80477; Food and Nutrition Service Mountain Plains Regional Office, 2420 W. 26th Avenue, Denver, Colorado 80211.

CONNECTICUT—Soil Conservation Service State Office, Mansfield Professional Park, Route 44A, Storrs, Connecticut 06268.

DELAWARE—Farmers Home Administration State Office, 151 E. Chestnut Hill Road, Suite 2, Newark, Delaware 19713.

FLORIDA—Agricultural Marketing Service Milk Market Office, 2826 E. Oakland Park Boulevard, P.O. Box 11368, Ft. Lauderdale, Florida 33339; Farmers Home Administration State Office, Federal Building, Room 214, 401 S.E. First Avenue, P.O. Box 1068, Gainesville Florida 32602; Soil Conservation Service State Office, Federal Building, P.O. Box 1208, Gainesville, Florida 32602; Forest Service National Forest, National Forests in Florida, 2856 SEA Gate, P.O. Box 32306, Tallahassee, Florida 32302.

GEORGIA—Agricultural Marketing Service Milk Market Office, 3610 Interstate 85, N.E., Suite 109, P.O. Box 49025, Atlanta, Georgia 30359; Forest Service Regional Office, Suite 806, 1720 Peachtree Road, N.W., Atlanta, Georgia 30309; Forest Service Southeastern Area, State and Private Forestry, Suite 700, 1720 Peachtree Road, N.W., Atlanta, Georgia 30309; Farmers Home Administration State Office, 355 E. Hancock, Stephens Federal Building, Athens, Georgia 30601; Soil Conservation Service State Office, Federal Building, 355 E. Hancock Avenue, P.O. Box 832, Athens, Georgia 30613; Forest Service National Forest, Chattahoochee-Oconee National Forest, 601 Broad Street, Gainesville, Georgia 30501; Food and Nutrition Service Southeast Regional Office, 1100 Spring Street, N.W., Atlanta, Georgia 30367.

HAWAII—Soil Conservation Service State Office, 300 Ala Moana Boulevard, Honolulu, Hawaii 96850; Farmers Home Administration State Office, 345 Kekaanaoa Street, Hilo, Hawaii 96720.

IDAHO—Farmers Home Administration State Office, Federal Building, Room 429, 304 N. 8th Street, Boise, Idaho 83702; Forest Service National Forest, Boise National Forest, 1075 Park Boulevard, Boise, Idaho 83706; Soil Conservation Service State Office, 304 N. 8th Street, Boise, Idaho 83702; Forest Service National Forest, Challis National Forest, Forest Service Building, P.O. Box 247, Challis, Idaho 83226; Forest Service National Forest, Idaho Panhandle National Forest, 1201 Ironwood Drive, P.O. Box 310, Coeur d' Alene, Idaho 83814; Forest Service National Forest, Nezperce National Forest, 319 E. Main Street, Grangeville, Idaho 83530; Forest Service National Forest, Payette National Forest, Forest Service Building, P.O. 1626, McCall, Idaho 83638; Forest Service National Forest, Clearwater National Forest, Rt. 4, Ahsahka Rd., Orofino, Idaho 83544; Forest Service National Forest, Caribou National Forest, 427 N. Sixth Ave., P.O. Box 4189, Pocatello, Idaho 83201; Forest Service National Forest, Targhee National Forest, 420 N. Bridge St., St. Anthony, Idaho 83445; Forest Service National Forest, Salmon National Forest, Forest Service Building, P.O. Box 729, Salmon, Idaho 83467; Forest Service National Forest, Sawtooth National Forest, 1525 Addison Avenue, E., Twin Falls, Idaho 83301.

ILLINOIS—Farmers Home Administration State Office, 2106 W. Springfield Avenue, Champaign, Illinois 61820; Soil Conservation Service State Office, Springer Federal Building, 301 N. Randolph Street, Champaign, Illinois 61820; Agricultural Marketing Service Milk Market Office, 600 Roosevelt Rd., Building A, Glen Ellyn, Illinois 60137; Food and Nutrition Service Midwest Regional Office, 536 S. Clark St., Chicago, Illinois 60605; Forest Service National Forest, Shawnee National Forest, 317 E. Poplar, Harrisburg, Illinois 62946; Agricultural Research Service Northcentral Regional Administrative Office, 200 W. Pioneer Parkway, Peoria, Illinois 61614.

INDIANA—Forest Service National Forest, Wayne-Hoosier National Forest, 1615 J Street, Bedford, Indiana 47421; Farmers Home Administration State Office, Suite 1700, 5610 Crawfordsville Road, Indianapolis, Indiana 46224; Soil Conservation Service State Office, Corporate Square-West, 5610 Crawfordsville Road, Indianapolis, Indiana 46224.

IOWA—Farmers Home Administration State Office, Federal Building, Room 873, 210 Walnut Street, Des Moines, Iowa 50309; Soil Conservation Service State Office, Federal Building, Room 693, 210 Walnut Street, Des Moines, Iowa 50309.

KANSAS—Agricultural Marketing Service Milk Market Office, 7819 Conser Pl., P.O. Box 4606, Overland Park, Kansas 66204; Soil Conservation Service State Office, 760 S. Broadway, P.O. 600, Salina, Kansas 67401; Farmers Home Administration State Office, 444 S.E. Quincy St., Topeka, Kansas 66683.

KENTUCKY—Farmers Home Administration State Office, 333 Waller Avenue, Lexington, Kentucky 40504; Soil Conservation Service State Office, 333 Waller Avenue, Lexington, Kentucky 40504; Agricultural Marketing Service Milk Market Office, 3920 Bardstown Rd., P.O. Box 18030, Louisville, Kentucky 40218; Forest Service National Forest, Daniel Boone National Forest, 100 Vaught Rd., Winchester, Kentucky 40391.

LOUISIANA—Farmers Home Administration State Office, 3727 Government Street, Alexandria, Louisiana 71301; Soil Conservation Service State Office, 3737 Government Street, P.O. Box 1630, Alexandria, Louisiana 71301; Agricultural Marketing Service Milk Market Office, 3001 Ridgelake Drive, P.O. Box 7250, Metairie, Louisiana 70010; Agricultural Research Service Southern Regional Administrative Office, 701 Loyola Ave., P.O. Box 53326, New Orleans, Louisiana 70153; Forest Service Southern Experiment Station, T-10110 Federal Building, 701 Loyola Avenue, New Orleans, Louisiana 70113; Forest Service National Forest, Kisatchie National Forest, 2500 Shreveport Highway, Pineville, Louisiana 71360; Forest Service, SA, State and Private Forestry, Alexandria Field Office, 2500 Shreveport Highway, Pineville, Louisiana 71360.

MAINE—Farmers Home Administration State Office, USDA Office Building, Orono, Maine 04473; Soil Conservation Service State Office, USDA Building, University of Maine, Orono, Maine 04473.

MARYLAND—Science and Education, Administrative Operations Division, Administration Building, Beltsville Agricultural Research Centerwest, Beltsville, Maryland 20705; Soil Conservation Service State Office, Hartwich Building, Room 522—4321 Hartwick Road, College Park, Maryland 20740;

MASSACHUSETTS—Soil Conservation Service State Office, 451 West Street, Amherst, Massachusetts 01002; Agricultural Marketing Service Milk Market Office, 230 Congress Street, Room 408, P.O. Box 1478, Boston, Massachusetts 02205; Farmers Home Administration State Office, 451 West Street, Amherst, Massachusetts 01002; Food and Nutrition Service, New

England Regional Office, 33 North Avenue, Burlington, Massachusetts 01803.

MICHIGAN—Agricultural Marketing Service Milk Market Office, 2064 W., 11 Mile Road, Berkley, Michigan 48072; Forest Service National Forest, Huron-Manistee National Forest, 421 S. Mitchell St., Cadillac, Michigan 49601; Farmers Home Administration State Office, 1405 S. Harrison Road, Room 209, E. Lansing, Michigan 48823; Soil Conservation Service State Office, 1405 S. Harrison Road, E. Lansing, Michigan 48823; Forest Service National Forest, Hiawatha National Forest, 2727 N. Lincoln Road, Escanaba, Michigan 49829; Forest Service National Forest, Ottawa National Forest, P.O. Box 468, Ironwood, Michigan 49938.

MINNESOTA—Forest Service National Forest, Chippewa National Forest, Cass Lake, Minnesota 56633; Forest Service National Forest, Superior National Forest, Duluth, Minnesota 55801; Agricultural Marketing Service Milk Market Office, 4570 W. 77th Street, Suite 210, Minneapolis, Minnesota 55435; Animal and Plant Health Inspection Service Field Servicing Office, Butler Sq., W., 5th Fl., 100 N. 6th Street, Minneapolis, Minnesota 55403; Farmers Home Administration State Office, 252 Federal Office Building and U.S. Court House, St. Paul, Minnesota 55101; Forest Service Northcentral Forest Experiment Station, Folwell Avenue, St. Paul, Minnesota 55101; Soil Conservation Service State Office, 200 Federal Building and U.S. Courthouse, 316 N. Roberts St., St. Paul, Minnesota 55101.

MISSISSIPPI—Farmers Home Administration State Office, Federal Building, Room 831, Jackson, Mississippi 39201; Soil Conservation Service State Office, Federal Building, 100 W. Capitol St., Jackson, Mississippi 39205; Forest Service National Forest, National Forest in Mississippi, 100 W. Capitol, Suite 1141, Jackson, Mississippi 39205; Forest Service, SA, State and Private Forestry, Project Manager, Y-LT, Adams Building, P.O. Box 68, Oxford, Mississippi 38655.

MISSOURI—Farmers Home Administration State Office, 555 Vandiver Dr., Columbia, Missouri 65201; Soil Conservation Service State Office, 555 Vandiver Dr., Columbia, Missouri 65201; Agricultural Stabilization and Conservation Service Management Field Office, 9240 Ward Pky., Kansas City, Missouri 64114; Forest Service National Forest, National Forests in Missouri, Rolla, Missouri 65401; Agricultural Marketing Service Milk Market Office, 2559 Schuetz Road, P.O. Box 1485, Maryland Heights, Missouri 63043; Farmers Home Administration Finance Office, 1520 Market St., St. Louis, Missouri 63103.

MONTANA—Forest Service National Forest, Custer National Forest, P.O. Box 2556, Billings, Montana 59103; Farmers Home Administration State Office, Federal Building, P.O. Box 850, Bozeman, Montana 59715; Forest Service National Forest, Gallatin National Forest, Federal Building, Bozeman, Montana 59715; Soil Conservation Service State Office, Federal Building, P.O. Box 970, Bozeman, Montana 59715; Forest Service National Forest, Deerlodge National Forest, 107 E. Granite, Butte, Montana 59701; Forest Service National Forest, Beaverhead National Forest, State Highway 41 and Skihi Street, Dillon, Montana 59725; Forest Service National Forest, Lewis and Clark National Forest, Federal Building, Great Falls, Montana 59403; Forest Service National Forest, Helena National Forest, Federal Building, Drawer 10014, Helena, Montana 59601; Forest Service National Forest, Flathead National Forest, 290 N. Main, Kalispell, Montana 59901; Forest Service National Forest, Kootenai National Forest, 418 Mineral Ave., Libby, Montana 59923; Forest Service Regional Office, Federal Building, Missoula, Montana 59801; Forest Service National Forest, Lolo National Forest, 2801 Russell, Missoula, Montana 59801; Forest Service, Intermountain Forest and Range Experiment Station, Forestry Sciences and Northern Forest Fire Laboratories, University of Montana, Drawer G, Missoula, Montana 59801.

NEBRASKA—Forest Service National Forest, Nebraska National Forest, P.O. Box 999, Chadron, Nebraska 69337; Farmers Home Administration State Office, Federal Building, Room 308, 100 Centennial Mall North, Lincoln, Nebraska 68508; Forest Service, RM Forest and Range Experiment Station, University of Nebraska, 205 Miller Hall, E. Campus, Lincoln, Nebraska 68503; Soil Conversation Service State Office, Federal Building, 100 Centennial Mall, N., Lincoln, Nebraska 68501.

NEVADA—Forest Service National Forest, Humboldt National Forest, 976 Mountain City Highway, Elko, Nevada 89801; Soil Conservation Service State Office, U.S. Post Office Building, Room 234, P.O. Box 4850, Reno, Nevada 89505; Forest Service National Forest, Toiyabe National Forest, 111 N. Virginia, Room 601, Reno, Nevada 89501.

NEW HAMPSHIRE—Soil Conservation Service State Office, Federal Building, Durham, New Hampshire 03824.

NEW JERSEY—Food and Nutrition Service Mid-Atlantic Regional Office, 1 Vahlsing Center, Robbinsville, New Jersey 08691; Soil Conservation Service State Office, 1370 Hamilton Street, P.O. Box 219, Somerset, New Jersey 08873; Farmers Home Administration State Office, 1 Vahlsing Center, Robbinsville, New Jersey 08691.

NEW MEXICO—Forest Service National Forest, Lincoln National Forest, Federal Building, 11th and New York, Alamagordo, New Mexico 88310; Farmers Home Administration State Office Federal Building, Room 3414, 517 Gold Avenue, SW, Albuquerque, New Mexico 87102; Forest Service Regional Office, 517 Gold Avenue, SW, Albuquerque, New Mexico 87102; Forest Service National Forest, Cibola National Forest, 10308 Candelaria, N.E., Albuquerque, New Mexico 87112; Forest Service Rocky Mountain Forest and Range Experiment Station, New Federal Building, Room 5423, 517 Gold Avenue, SW, Albuquerque, New Mexico 87101; Soil Conservation Service State Office, 517 Gold Avenue, S.W., P.O. Box 2007, Albuquerque, New Mexico 87103; Forest Service National Forest, Santa Fe National Forest, P.O. Box 1689, Santa Fe, New Mexico 87501; Forest Service National Forest, Gila National Forest, 2610 N. Silver St., Silver City, New Mexico 88061; Forest Service National Forest, Carson National Forest, Forest Service Building, P.O. Box 558, Taos, New Mexico 87571.

NEW YORK—Agricultural Research Service, Plum Island Animal Disease Center, P.O. Box 848, Greenport, Long Island, New York 11944; Agricultural Marketing Service, Milk Market Office, 205 E. 42nd Street, New York, New York 10017; Farmers Home Administration State Office, U.S. Courthouse and Federal Building, Room 871, 100 S. Clinton Street, Syracuse, New York 13260; Soil Conservation Service State Office, U.S. Courthouse and Federal Building, 100 S. Clinton Street, Syracuse, New York 13260.

NORTH CAROLINA—Forest Service Southeastern Experiment Station, P.O. Box 2570, Asheville, North Carolina 28802; Forest Service National Forest, National Forests in North Carolina, 50 S. French Broad Avenue, P.O. Box 2750, Asheville, North Carolina 28802; Farmers Home Administration State Office, Room 514, 310 New Bern Avenue, Raleigh, North Carolina 27601; Soil Conservation Service State Office, Federal Office Building, 310 New Bern Avenue, P.O. Box 27307, Raleight, North Carolina 27611.

NORTH DAKOTA—Farmers Home Administration State Office, Federal Building, Room 208, 3rd and Rosser Avenue, Bismarck, North Dakota 58501; Soil Conservation Service State Office, Federal Building, P.O. Box 1458, Bismarck, North Dakota 58502; Forest Service, RM Forest and Range Experiment Station, Shelterbelt Laboratory, P.O. Box 25, Bottineau, North Dakota 58318.

OHIO—Agricultural Marketing Service Milk Market Office, 7851 Freeway Circle, Middleburg Heights, P.O. Box 30128, Cleveland, Ohio 44130; Agricultural Marketing Service Milk Market Office, 5950 Sharon Woods Boulevard, P.O. Box 29228, Columbus, Ohio 43229; Farmers Home Administration State Office, Federal Building Room 507, 200 N. High Street, Columbus, Ohio 43215; Soil Conservation Service State Office, 200 N. High Street, Columbus, Ohio 43215.

OKLAHOMA—Farmers Home Administration State Office, Agricultural Center Office Building, Stillwater, Oklahoma 74074; Soil Conservation Service State Office, Agricultural Center Building, Farm Rd. and Brumley Street, Stillwater, Oklahoma 74074; Agricultural Market Service Milk Market Office, 4325 E. 51st Street, P.O. Box 45563, Tulsa, Oklahoma 74145.

OREGON—Forest Service National Forest, Wallowa-Whitman National Forest, Main and Auburn, Baker, Oregon 97814; Forest Service National Forest, Deschutes National Forest, 211 E. Revere Avenue, Bend, Oregon 97701; Forest Service National Forest, Siuslaw National Forest, 545 S. 2nd Street, Corvallis, Oregon 97330; Forest Service Pacific Northwest Forest and Range Experiment Station, Forestry Sciences Laboratory, 3200 Jefferson Way, Corvallis, Oregon 97331; Forest Service National Forest, Williamette National Forest, 211 E. 7th Avenue, Eugene, Oregon 97401; Forest Service National Forest, Siskiyou National Forest, 1504 N.W. 6th Street, Grants Pass, Oregon 97526, Forest Service National Forest, Malheur National Forest, 139 N.E. Dayton Street, John Day, Oregon 97845; Forest Service National Forest, Winema National Forest, P.O. Building, Klamath Falls, Oregon 97601; Forest Service National Forest, Fremont National Forest, 34 D Street, N., Lakeview, Oregon 97630; Forest Service National Forest, Rogue River National Forest, P.O. and Federal Building, Medford, Oregon 97501; Forest Service National Forest, Umatilla National Forest, 2517 S.W. Hailey Avenue, Pendleton, Oregon 97801; Farmers Home Administration State Office, Federal Building, Room 1590, 1220 S.W. 3rd Avenue, Portland, Oregon 97204; Forest Service Pacific Northwest Forest and Range Experiment Station, 809 N.E. 6th Avenue, Portland, Oregon 97232; Forest Service Regional Office, P.O. Box 3623, Portland, Oregon 97208; Forest Service National Forest, Mt. Hood National Forest, 19550 S.E. Division, Gresham, Oregon 97030; Soil Conservation Service State Office, Federal Building, 1220 S.W. Third Avenue, Portland, Oregon 97204; Soil Conservation Service Technical Center, 511 N.W. Broadway, Portland, Oregon 97209; Agricultural Marketing Service Milk Market Office, Tarbell Building; 9735 S.W. Shady Lane, Tigard, P.O. Box 23606, Portland, Oregon 97223; Forest Service National Forest, Ochoco National Forest, Federal Building, Prineville, Oregon 97754; Forest Service National Forest, Umpqua National Forest, Federal Office Building, Roseburg, Oregon 97470.

PENNSYLVANIA—Farmers Home Administration State Office, Federal Building, Room 728, 228 Walnut St., P.O. Box 905, Harrisburg, Pennsylvania 17108; Soil Conservation Service State Office, Federal Building and Court House, P.O. Box 985 (Federal Square Station), Harrisburg, Pennsylvania 17108; Agricultural Research Service Eastern Regional Research Center, 600 E. Mermaid Ln., Philadelphia, Pennsylvania 19118; Forest Service Northeastern Area, State and Private Forestry, 370 Reed Road, Broomall, Pennsylvania 19008; Forest Service Northeastern Experiment Station, 6816 Market Street, Upper Darby, Pennsylvania 19082; Soil Conservation Service Technical Service Center, 1974 Sproul Road, Broomall, Pennsylvania 19008; Forest Service National Forest, Allegheny National Forest, P.O. Building, Warren, Pennsylvania 16365.

SOUTH CAROLINA—Forest Service, Forest Manager, Savannah River Project, AEC, P.O. Box A, Aiken, South Carolina 29802; Farmers Home Administration State Office, Strom Thurmond Federal Building, Room 1007, 1835 Assembly Street, 2nd Floor, Columbia, South Carolina 29201; Forest Service National Forest, Francis Marion-Sumter National Forest, 1835 Assembly Street, 2nd Floor, Columbia, South Carolina 29201; Soil Conservation Service State Office, Strom Thurmond Federal Building, 1835 Assembly Street, Columbia, South Carolina 29201.

SOUTH DAKOTA—Forest Service National Forest, Black Hills National Forest, Forest Service Office Building, P.O. Box 792, Custer, South Dakota 57730; Farmers Home Administration State Office, Huron Federal Building, Room 208, 200 4th Street, S.W., Huron, South Dakota 57350; Soil Conservation Service State Office, Federal Building, 200 4th Street, S.W., Huron, South Dakota 57350; Forest Service, RM Forest and Range Experiment Station, Forest Research Laboratory, South Dakota School of Mines and Technology, Rapid City, South Dakota 57701.

TENNESSEE—Forest Service National Forest, Cherokee National Forest, 2321 Ocoee Street, N.W., P.O. Box 400, Cleveland, Tennessee 37311; Farmers Home Administration State Office, 536 U.S. Courthouse Building, 801 Broadway Street, Nashville, Tennessee 37203; Soil Conservation Service State Office, U.S. Courthouse, 801 Broadway Street, Nashville, Tennessee 37203.

TEXAS—Agricultural Marketing Service Milk Market Office, 11117 Shady Trail, P.O. Box 29628, Dallas, Texas 75229; Food and Nutrition Service Southwest Regional Office, 1100 Commerce Street, Room 5D 22, Dallas, Texas 75242; Forest Service National Forest, National Forest in Texas, 3rd and Lufkin Avenue, P.O. Box 969, Lufkin, Texas 75901; Farmers Home Administration State Office, W.R. Poage Building, 101 S. Main Street, Temple, Texas 76501; Soil Conservation Service State Office, W.R. Poage Building, 101 S. Main Street, P.O. Box 686, Temple, Texas 76501; Soil Conservation Service Technical Service Center, P.O. Box 6567 Ft. Worth Federal Center Building 23, Felix and Hemphill Streets, Ft. Worth, Texas 76115.

UTAH—Forest Service National Forest, Dixie National Forest, 500 S. Main Street, Cedar City, Utah 84720; Forest Service Intermountain Experiment Station, Federal Building, 507 25th Street, Ogden, Utah 84401; Forest Service Regional Office, Federal Office Building, 324 25th Street, Ogden, Utah 84401; Forest Service National Forest, Manti LaSal National Forest, 350 E. Main Street, Price, Utah 84501; Forest Service National Forest, Unita National Forest, Federal Building, P.O. Box 1428, Provo, Utah 84601; Forest Service National Forest, Fishlake National Forest, 170 N. Main Street, Richfield, Utah 84701; Farmers Home Administration State Office, Federal Building, Room 5311, 125 S. State Street, Salt Lake City, Utah 84138; Forest Service National Forest, Wasatch National Forest, 4311 Federal Building, 125 S. State Street, Salt Lake City, Utah 84138; Soil Conservation Service State Office, 4012 Federal Building, 125 S. State Street, Salt Lake City, Utah 84147; Forest Service National Forest, Ashley National Forest, 437 E. Main Street, Vernal, Utah 84078.

VERMONT—Soil Conservation Service State Office, 1 Burlington Square, Burlington Square, Burlington, Vermont 05401; Farmers Home

Administration State Office, 141 W. Main Street, P.O. Box 588, Montepelier, Vermont 05602; Forest Service National Forest, Green Mountain National Forest, Federal Building, Rutland, Vermont 05701.

VIRGINIA—Agricultural Marketing Service Milk Market Office, 300 N. Lee St., Room 320, P.O. Box 710, Alexandria, Virginia 22313; Forest Service National Forest, George Washington National Forest, 210 Federal Building, P.O. Box 233, Harrisonburg, Virginia 22801; Farmers Home Administration State Office, Federal Building, Room 8213, 400 N. Eighth Street, P.O. Box 10106, Richmond, Virginia 23240; Soil Conservation Service State Offices 400 N. Eighth Street, P.O. Box 10026, Richmond, Virginia, 23240; Forest Service National Forest, Jefferson National Forest, 210 Franklin Road, S.W., Roanoke, Virginia 24002.

WASHINGTON—Forest Service National Forest, Colville National Forest, Colville, Washington 99114; Forest Service National Forest, Okanogan National Forest, 219 2nd Avenue, S., Okanogan, Washington 98840; Forest Service National Forest, Olympic National Forest, Federal Building, Olympia, WA 99507; Forest Service National Forest, Mt. Baker-Snoqualmie National Forests, 1022 1st Avenue, Seattle, Washington 98104; Soil Conservation Service State Office, 360 U.S. Courthouse, W. 920 Riverside Avenue, Spokane, Washington 99201; Forest Service National Forest, Gifford Pinchot National Forest, 500 W. 12th St., Vancouver, Washington 98660; Farmers Home Administration State Office, Federal Office Building, Room 319, 301 Yakima St., Wenatchee, Washington 98801; Forest Service National Forest, Wenatchee National Forest, 301 Yakima Street, Wenatchee, Washington 98801.

WEST VIRGINIA—Forest Service National Forest, Monomgahela National Forest, USDA Building, Sycamore Street, Elkins, West Virginia 26241; Farmers Home Administration State Officer, Federal Building, Room 320, 75 High Street, Morgantown, West Virginia 26505; Soil Conservation Service State Office, 75 High St., Morgantown, West Virginia 26505.

WISCONSIN—Forest Service Forest Products Laboratory, N. Walnut Street, P.O. Box 5130, Madison, Wisconsin 53705; Soil Conservation Service State Office, 4601 Hammersley Road, Madison, Wisconsin 53711; Forest Service Regional Office, 633 W. Wisconsin Avenue, Milwaukee, Wisconsin 53203; Forest Service National Forest, Chequamegon National Forest, Federal Building, Park Falls, Wisconsin 54552; Forest Service National Forest, Nicolet National Forest, Federal Building, Rhinelander, Wisconsin 54501; Farmers Home Administration State Office, 1257 Main Street, Stevens Point, Wisconsin 54481.

WYOMING—Farmers Home Administration State Office, Federal Building, Room 1006, 100 E. B Street, Casper, Wyoming 82601; Soil Conservation Service State Office, Federal Office Building, P.O. Box 2440, Casper, Wyoming 82601; Forest Service National Forest, Shoshone-Bighorn National Forests, Blair Building, No. 1, Cody, Wyoming 82414; Forest Service National Forest, Bridger-Teton National Forest, Forest Service Building, P.O. Box 1888, Jackson, Wyoming 83001; Forest Service National Forest, Medicine Bow National Forest, Box 3355, University Station, Laramie, Wyoming 82070; Forest Service, RM Forest and Range Experiment Station, Forest Range and Watershed Laboratory, University of Wyoming, Laramié, Wyoming 82071.

PUERTO RICO—Farmers Home Administration State Office, Federal Building, Carlos Chardon Street, G.P.O. Box 6106G Hato Rey, San Juan, Puerto Rico 00918; Soil Conservation Service Caribbean Office, Federal Office Building, Chardon Avenue, Hato Rey, Puerto Rico 00918.

HEADQUARTERS—Science and Education Management Staff, Personnel Division, Federal Center Building, Room 557, Hyattsville, MD 20782; Agricultural Marketing Service, Personnel Division, Room 1709–S, Washington, D.C. 20250; Agricultural Stabilization and Conservation Service, Personnel Division, Room 4752–S, Washington, D.C. 20250; Animal and Plant Health Inspection Service, Human Resources Division, Room 213, Federal Building, Hyattsville, MD 20782; Economics Management Staff, Division of Personnel, Room 1442–S, Washington, D.C. 20250; Farmers Home Administration, Personnel Division, Room 6319–S, Washington, D.C. 20250; Federal Crop Insurance Corporation, Personnel, Management and Administrative Service Division, Room 4622–S, Washington, D.C. 20250; Foreign Agricultural Service, Personnel Division, Room 5627–S, Washington, D.C. 20250; Forest Service, Division of Personnel Management, Room 910, Rosslyn Plaza E, Arlington, VA 22209; Food and Nutrition Service, Personnel Division, Park Office Center, Room 813, 3101 Park Center Drive, Alexandria, VA 22302; Office of Inspector General, Personnel Management Staff, Room 16–E, Washington, D.C. 20250; Office of Personnel, Personnel Operations, Room 149–W, Washington, D.C. 20250; Soil Conservation Service, Personnel Staff, P.O. Box 2890, Washington, D.C. 20013; Soil Conservation Service National, Office Administrative Staff, P.O. Box 2890, Washington, D.C. 20013; Rural Electrification Administration, Personnel Management Division, Room 4070–S, Washington, D.C. 20250; Food Safety and Inspection Service, Personnel Division, Room 3911–S, Washington, D.C. 20250.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and prior employees of USDA and applicants who were not hired, as well as its permittees, cooperators and contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of personnel (Official Personnel Folders, Applicant Supply Files, performance files, retention lists, appeals, grievances, complaints, disciplinary, conflict of interest, health, suggestion and incentive awards, accident, training, time and attendance, travel voucher, and classification files) and payroll data needed to conform to all applicable laws, Government regulations and procedures, and the needs of the Department and agencies in carrying out their personnel management responsibilities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Referral to (1) Office of Personnel Management for required action, records and reports; (2) Department of Treasury for issuance of checks and bonds; (3) Department of Labor for Office of Workers Compensation Program and Office of Safety and Health Administration; (4) Department of Commerce for distribution of Federal payrolls; (5) Congress for special reports; (6) White House for special reports; (7) Office of Management and Budget for special reports; (8) General Accounting Office for special reports; (9) Department of Justice; (10) General Services Administration for records retirement and/or destruction; (11) State Department for passport and foreign assignments; (12) Department of Transportation, Environmental Protection Agency and Cooperating State and local agencies for accident and safety records; (13) Internal Revenue Service and State and local governments for matters in connection with payment of income taxes; (14) Social Security Administration for social security payment information; (15) United funds for reports and records; (16) Department of Health and Human Services for scheduling physical examinations; (17) all Government agencies and potential employers concerning employment inquiries; (18) Equal Employment Opportunity Commission for handling complaints; (19) appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecuting a violation of law, or of enforcing or implementing the statute, rule, regulation or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or order particular program statute, or by rule, regulation or order issued pursuant thereto; and (20) a court, magistrate or administrative tribunal, or to opposing counsel in a proceeding before any of the above, of any record within the system which constitutes evidence in that proceeding, or which is sought in the course of discovery.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders at the applicable address listed above, except for the National Finance Center where it is maintained on computer tape and disk storage.

RETRIEVABILITY:

Records are indexed by name of employee and/or identification number.

SAFEGUARDS:

Records are kept in locked files, locked offices and/or in secured computer tape storage rooms.

RETENTION AND DISPOSAL:

Records are maintained indefinitely until employees are separated from the Department and are then retired or transferred to a new employing agency or destroyed in conformance with appropriate General Services Administration retirement and/or destruction Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel, USDA, Washington, D.C. 20250.

NOTIFICATION PROCEDURE:

Employees may request information from this system from the appropriate personnel office having custody of his/her records. A request for information should be addressed to the Director, Personnel Division (name of appropriate Agency), USDA at the address shown under Location and should contain:

Name of requestor, employing agency in USDA or agency to which information was furnished, address of agency and particular information requested.

RECORD ACCESS PROCEDURES:

Any individual may obtain information as to the procedures for gaining access to and contesting a record in the system which pertains to him by submitting a written request to the appropriate offices referred to in the preceding paragraph.

CONTESTING RECORD PROCEDURES:

Same as RECORD ACCESS PROCEDURES.

RECORD SOURCE CATEGORIES:

Information in this system comes from the employee applicants, permittees, cooperators, contractors, employee's personnel offices, supervisors, references, investigative personnel, colleges and universities and former employers.

USDA/OP–3

SYSTEM NAME:

Committee Management Records System.

SYSTEM LOCATION:

Security and Employee Relations Staff, Office of Personnel, Room 16–W, Administration Building, 14th and Independence Avenue, S.W., Washington, D.C. 20250.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All public members of USDA Advisory Committees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of keypunched cards for each advisory committee member which reflects his/her name, business or home address, date of appointment expiration, sex, ethnic affiliation and occupational category.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 92–463 and Title XVIII of Pub. L. 95–113.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The system is used solely for administrative purposes and one report generated from the system is distributed to the Office of the Secretary and the Office of Minority Affairs on a quarterly basis.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in loose leaf binders and on computer keypunch cards.

RETRIEVABILITY:

Records are indexed into five separate reports—alphabetically by member's name, by name of committee, by State, by female members and by ethnic breakdown.

SAFEGUARDS:

Records are kept in locked rooms. All information generated, with the exception of ethnic breakdown of members is required as a part of two annual reports which is available to the public. The report by the ethnic grouping is used as an internal management tool.

RETENTION AND DISPOSAL:

Records are maintained as long as the individual serves as a member of an advisory committee. Source documents are periodically sent to the USDA historian.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel, USDA, Washington, D.C. 20250.

RECORD ACCESS PROCEDURES:

Any individual may obtain a listing of the membership of any advisory committee by submitting a written request o the address shown above.

RECORD SOURCE CATEGORIES:

Any individual may obtain a listing of the membership of any advisory committee by submitting a written request o the address shown above. None is collected by the Office of Personnel.

Dated: February 25, 1982.

John R. Block,

Secretary of Agriculture.

[FR Doc. 82-5886 Filed 3-1-82; 8:45 am]

BILLING CODE 3410-96-M

CIVIL AERONAUTICS BOARD

[Order 82–2–108; Docket No. 37642]

Ticketing Service Fees; Request for Comments

AGENCY: Civil Aeronautics Board.

ACTION: Order 82–2–108, Docket 37642, Served.

SUMMARY: The CAB is considering a request by United Air Lines to allow travel agents and carriers to charge fees

for ticketing services without disclosure in tariffs. The Board requests comments from interested persons.

DATES: Comments due March 29, 1982.

FOR FURTHER INFORMATION CONTACT: Barry L. Molar, Pricing and Entry Division, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, DC 20428; 202–673–5205.

SUPPLEMENTARY INFORMATION: United Air Lines has requested the authority to permit travel agents to charge their customers service fees without filing the fees in tariffs. The Board deferred action on United's request while completing a comprehensive review of tariff filing policy in another proceeding.

Having completed that review (See ER–1246, 46 FR 46787, September 22, 1981 and Order 81–12–112, 47 FR 315, January 12, 1982) the Board is now prepared to consider United's proposal, and requests interested parties to file comments by March 29, 1982. They should consider the merits of United's request in light of the Board's recent decision on tariff policies and the sunset of domestic tariffs at the end of the year.

Interested parties should comment on the desirability of an exemption which may open this avenue of competition and enable travel agents and carriers to charge for certain services, such as ticket reissuance, revalidation or cancellation, which are not now compensated. United's asserts that customers make different demands on travel agents for ticketing-related services and impose differing costs on travel agents. Will the freedom to assess service fees permit agents and carriers to better match revenues to costs? What effect will a permissive non-tariff service fee regime have on travel agent revenues, carriers costs and ticket prices to consumers?

The Board is interested in comments in other issues as well. For example, we have historically permitted agents to assess tariff fees for acting as an advisor or consultant. However, activities such as ticket cancellation, validation or reissuance were considered to be so intimately connected with air transportation as to require tariff filing. Moreover, these services have traditionally been included in the purchase price of airline tickets. We request parties' views on fare and tariff policy of permitting charges for ticketing services formerly subsumed within the basic ticket price. Should we impose any special requirements for consumer notice as a condition of relief? Although United requested relief only for travel agents, should relief be extended to carriers as well? Should relief if it is granted, include foreign as well as domestic air transportation? Should there be any limitation on the types of services for which charges may be levied?

By the Civil Aeronautics Board: September 23, 1982

Phyllis T. Kaylor,

Secretary

[FR Doc. 82-8780 Filed 3-3-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Piher Semiconductores, S.A.; Order Temporarily Denying Export Privileges

The Department of Commerce, pursuant to the provisions of § 388.19 of the Export Administration Regulations (15 CFR Part 368, *et seq.* (1981)) (the Regulations), has requested the Hearing Commissioner to issue an order temporarily denying all export privileges to Piher Semiconductores, S.A. (Piher), Avda San Julian, s/n, Apartado Correos 177, Granallers (Barcelona), Spain.

The Department states that Piher is under investigation by the Compliance Division of the Department's Office of Export Administration. The Department states further that its investigation gives it reason to believe: (i) That Piher has negotiated a contract with the Government of Cuba whereby Piher would install, in Cuba, a factory for the production of a wide range of semiconductors; (ii) that, in carrying out the contract, Piher has reexported U.S.-orgin commodities contrary to the Regulations; and (iii) that Piher may attempt future reexports contrary to the Regulations unless appropriate action is taken to preclude such attempts.

Based upon the showing made by the Department, I find that an order temporarily denying all export privileges to Piher is required in the public interest to facilitate enforcement of the Export Administration Act of 1979 (50 U.S.C. app. 2401, *et seq.* (Supp. III 1979)) and the Regulations and to permit completion of the Department's investigation.

Accordingly, it is hereby Ordered:

I. All outstanding validated export licenses in which respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondent, its successors or assigns, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or which are otherwise subject to the Export Administration Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity, (a) as a party or as a representative of a party to a validated export license application, (b) in the preparation of filing of any export license application or reexportation authorization, or of any document to be submitted therewith, (c) in the obtaining or using of any validated or general export license or other export control document, (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data in whole or in part, exported or to be exported from the United States, and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondent, but also to its agents and employees and to any successor and to any person, firm, corporation, or business organization with which it now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or services related thereto. Business organizations now known to be owned by or affiliated with the respondent specifically include:

Piher, S.A., Apartado 177, Granallers (Barcelona), Spain
Piher Servicos Centrales, S.A. Riera Canado s/n, Barcelona, Spain
Piher Electronic, S.A., Albala 12, Madrid 17, Spain
Piher Navarra, S.A., Tudela, Spain
Piher International Corp., 505 W. Golf Road, Arlington Heights, Illinois 60005
Piher International Corp., Post Office Box 91969, Chicago, Illinois 60680
Piher Electronic, S.A., Albala 11, Madrid 17, Spain
Fielsa Grupo-Piher, Apartado 53, Riera Canado, 1, Barcelona, Spain
Fielsa, Albala 12, Madrid 17, Spain
Fielsa, Albala 11, Madrid 17, Spain

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the named respondent or any named related business organization or other related party, or whereby the named respondent or any named related business organization or other related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for the named respondent or any named related business organization or other related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the Regulations, the respondent or any named business organization may move at any time to vacate or modify this temporary denial order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 3886D, 14th and Constitution Avenue, NW., Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which if requested, shall be held before the Hearing Commissioner at the earliest convenient date.

VI. This order is effective immediately. It remains in effect until the final disposition of any administrative or judicial proceeding or proceedings initiated against the named respondent as a result of the ongoing investigation. A copy of this order shall be served upon the respondent and upon each named related business organization.

Dated: February 25, 1982.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 82-5705 Filed 3-3-82; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Issuance of Permit

On June 23, and December 11, 1980, Notices were published in the Federal Register (45 FR 42003 and 81642), that applications had been filed with the National Marine Fisheries Service by Marine Animal Productions, Inc., 150 Debuys Road, Biloxi, Mississippi 39531 for permits to take a total of eight (8) California sea lions (*Zalophus californianus*) and six (6) Atlantic bottlenose dolphins (*Tursiops truncatus*) for the purpose of public display.

Notice is hereby given that on February 25, 1982, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Public Display Permit for the above taking to Marine Animal Productions, subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731;

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: February 25, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-5730 Filed 3-3-82; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council's Scientific and Statistical Committee; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice.

SUMMARY: The South Atlantic Fishery Management Council, established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), has established a Scientific and Statistical Committee which will meet to discuss Council and Scientific and Statistical Committee interaction on Council activities; review the Billfish, Snapper/Grouper, and Swordfish Fishery Management Plans; discuss Committee membership nominations, as well as other fishery management matters, as necessary.

DATES: These public meetings will convene on Wednesday, April 21, 1982, at approximately noon, and will adjourn on Thursday, April 22, 1982, at approximately 5 p.m.

ADDRESS: The meetings will take place at the Council's Headquarters Office, One Southpark Circle, Suite 306, Charleston, South Carolina.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571–4366.

Dated: February 25, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-5731 Filed 3-3-82; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council's Scientific and Statistical Committee and Advisory Panel; Meeting Amendment

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of Change in Dates for the Meeting of the Western Pacific Fishery Management Council's Advisory Panel.

SUMMARY: The scheduled public meeting of the Western Pacific Fishery Management Council's Advisory Panel as published in the Federal Register, February 22, 1982, (47 FR 7720), has been changed as follows:

From

Convening on Monday, March 15, 1982, at approximately 8:30 a.m., and adjourning on Tuesday, March 16, 1982, at approximately 3 p.m.

To

Convening on Monday, March 22, 1982, at approximately 8:30 a.m., and adjourning on Tuesday, March 23, 1982, at approximately 3 p.m.

All other information remains unchanged.

FOR FURTHER INFORMATION CONTACT: Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1608, Honolulu, Hawaii 96813, Telephone: (808) 523–1368.

Dated: February 25, 1982.
Jack L. Falls,
Chief, Administrative Support Staff, National Marine Fisheries Service.
[FR Doc. 82-5722 Filed 3-2-82; 8:45 am]
BILLING CODE 3510-22-M

COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts will next meet in open session on Tuesday, March 9, 1982 at 10:00 a.m. in the Commission's offices at 708 Jackson Place NW., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington, D.C.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

Dated in Washington, D.C. February 24, 1982.
Charles H. Atherton,
Secretary.
[FR Doc. 82-5718 Filed 3-2-82; 8:45 am]
BILLING CODE 6330-01-M

DEPARTMENT OF DEFENSE

Department of Army

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Thursday, March 25, 1982, Friday, March 26, 1982.

Times: 0830-1700 hours, March 25, 1982 (Closed), 0830-1600 hours, March 26, 1982 (Closed).

Place: Applied Physics Laboratory, The Johns Hopkins University, Laurel, Maryland.

Proposed Agenda: The Army Science Board Ad Hoc Subgroup on Air Defense will meet to present and receive classified briefings and to hold classified discussions of progress to date on this study effort. There will also be an executive writing session for the final report. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified an non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 697-9703 or 695-3039.

Helen M. Bowen,
Administrative Officer.
[FR Doc. 82-5695 Filed 3-2-82; 8:45 am]
BILLING CODE 3710-08-M

Office of the Secretary

Acquisition Improvement Program

AGENCY: Office of the Secretary, DoD.

ACTION: Notice.

SUMMARY: The Department of Defense Acquisition Improvement Program includes an initiative (16) to increase the use of contractor incentives to improve reliability and support of systems acquired by DoD. The Under Secretary of Defense under his memorandum of August 20, 1981, (see supplementary referencing) gave direction and guidance on this initiative to the Military Departments and affected Defense Agencies. These contractor incentives shall include a full range of approaches including appropriate source selection criteria, contract incentives on product performance, warranties and award fees, and will be tailored to the specific acquisition programs.

ADDRESS: Office of the Deputy Under Secretary of Defense (Acquisition Management), the Pentagon, Room 2A318, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Colonel Thomas A. Musson, USAF, 202-695-7915.

SUPPLEMENTARY INFORMATION: For information to those concerned, we are quoting the entire text of the August 20, 1981, memorandum:

Memorandum for the Secretaries of the Military Departments; the Director, Defense Communications Agency; the Director, National Security Agency
Subject: Contractor Incentives To Improve Reliability and Support

In his April 30, 1981 memorandum on "Improving the Acquisition Process," the Deputy Secretary of Defense approved a recommendation (Number 16) that there be increased use of incentives for contractors to attain reliability and maintainability (R&M) goals, improve support, and reduce the requirements for maintenance manpower and skill levels. This recommendation was made on the premise that attention to "cost and schedule" in DoD acquisitions has inhibited industry from placing sufficient emphasis on reliability and support. This memorandum establishes guidelines for the application and increased use of reliability and support incentives. An additional, longer term effort under Recommendation 16 will develop new approaches for projecting maintenance manpower performance criteria and its use in incentives, program management and system design.

As a normal course of action, appropriate source selection criteria and contract performance clauses should be used to incentivize contractors to deliver systems with the required R&M and support characteristics (including manpower). Program managers will use contract incentives consistent with the form of contract unless the program strategy clearly prohibits the structuring of a satisfactory incentive arrangement or the program phase makes it impractical. Each Military Department and affected defense agency will develop policies to implement this direction. The attached guidance will be used in developing these policies.

In his 30 April 1981 memorandum, the Deputy Secretary of Defense directed that the Under Secretary of Defense for Research and Engineering and the Services perform an evaluation of the application of incentives within one year. To prepare for this evaluation, each Component shall identify selected acquisitions using various types of incentive arrangements, gather factual material and evaluate the experience that has been gained using incentives, including contractor comments. The sample should include at least five procurements that followed the source selection guidelines, five procurements that applied the other guidelines for contractor incentives and other existing or completed contracts that have involved reliability incentives or warranties. A major objectives is to evaluate the adequacy of Component instructions and determine if changes are required in other documents such as the DAR or budget guidance.

R. D. DeLauer,
Under Secretary of Defense for Research and Engineering.

(Attachment: Guidance)

Incentives Program: The Military Department (or agency) will assist the individual program manager in evaluating and implementing incentives. Guides or lists of various incentive techniques (e.g., incentive clauses, award fees, reliability warranties), the criteria for use, the application method, procedures for assessing results, contraints, and limitations should be developed and provided to the program managers. Experience using incentives should be captured and evaluated. This experience information should be disseminated to affected personnel and used to revise policy and procedural documents. Adequate training and education should be developed or added to existing courses to assure that program management and contracting personnel have thorough knowledge of the incentive types and are capable of selecting and administering them.

Selection of Incentives: The application of specific incentive approaches to a particular program should be developed early in the program and documented as a portion of the program acquisition strategy. The support concept; the operating concept; and reliability, maintainability and manpower requirements should be analyzed and critical parameters identified. The list of incentive approaches should be examined and candidate approaches selected and evaluated for each of the critical parameters. Contractors should be encouraged to submit alternative incentive approaches, particularly during the concept development phase. The program manager should document his strategy for using contract incentives to motivate the contractor to improve the level of reliability, maintainability and support for his system. Funds required to implement the incentive approach should be clearly identified, programmed and budgeted. Contractors who deliver high performance and the results of sucessful incentive programs should receive appropriate recognition.

Source Selections: The approach to conducting source selections offers a significant potential for substantially motivating contractors to improve support and Reliability and Maintainability (R&M). Source selection evaluation criteria for appropriate competitive programs should include a separate evaluation factor (separate from schedule, performance, cost, etc.) for readiness and support. Specific criteria for this factor should include R&M, manpower requirements and support requirements including deployment. These criteria should focus on design and engineering aspects that are critical to the reliability, readiness and manpower objectives for the sybtem. The relative weighing of this readiness and support factor in the selection criteria should reflect the DoD emphasis on these subjects and the operational importance of the items being procured. The role of the criteria in the selection should be emphasized in the RFP and during debriefing of unsuccessful offerors.

Contract Clouses: The contract clauses that are selected as incentives may be based on measures of contractor performance (e.g., an award fee based upon contractor effort on a design/analysis task) or on measures of product performance (e.g., a contract incentive based upon demonstrated product reliability). When production contracts include product performance agreements for system R&M or support, these agreements should be based on system performance in the field.

M. S. Healy,
OSD Federal Register Liaison Officer, Department of Defense.
February 26, 1982.
[FR Doc. 82-5696 Filed 3-2-82; 8:45 am]
BILLING CODE 3810-01-M

Defense Systems Management College; Board of Visitors Meeting

A meeting of the Defense Systems Management College (DSMC) Board of Visitors will be held in Building 204, Fort Belvoir, VA, on Thursday, 25 March 1982, from 11:00 a.m. until 4:30 p.m. The agenda will include a review of accomplishments related to the system acquisition education, system acquisition research, and information collection and dissemination missions. It will also include a review of the DSMC plans, resources and operations. The meeting is open to the public; however, because of limitations on the space available, allocation of seating will be made on a first-come, first-served basis. Persons desiring to attend the meeting should call Lieutenant Commander Judy Ray (703-664-1175) to reserve a seat.

M. S. Healy,
OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.
February 26, 1982.
[FR Doc. 82-5696 Filed 3-2-82; 8:45 am]
BILLING CODE 3810-01-M

Department of the Army

Army Science Board; Meeting Cancellation

The meeting of the Army Science Board Ad Hoc Subgroup on Robotics/Artificial Intelligence which was originally announced in the issue of the Federal Register of February 8, 1982 (47 FR 5758) for March 4 & 5, 1982 at Carnegie-Mellon Institute of Research in Pittsburgh, Pennsylvania (Open Meeting) and changed to March 5, 1982 only in the Pentagon (Open Meeting), published as a Notice of Meeting Changes in the Federal Register on February 25, 1982 (47 FR 8239), has been totally cancelled. Questions may be addressed to the Army Science Board Administrative Officer, Helen M. Bowen, at (202) 697-0703 or 695-3039.

Helen M. Bowen,
Administrative Officer.
[FR Doc. 82-5696 Filed 3-3-82; 10:28 am]
BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 82-CERT-004]

Jones & Laughlin Steel Corp., Division of Jones & Laughlin Steel Inc.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Jones & Laughlin Steel Corporation, Division of Jones & Laughlin Steel Incorporated (J&L), 3 Gateway Center, 9N, Pittsburgh, Pennsylvania 15263, filed an application on February 11, 1982, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at its Aliquippa Worked located in Aliquippa, Pennsylvania, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6013, RG-631, 2000 M Street, NW., Washington, D.C. 20461, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, J&L states that the volume of natural gas for which it requests certification is approximately 185,000 Mcf per month. This volume is estimated to displace the use of approximately 1,280,450 gallons (30,701 barrels) of No. 6 fuel oil (1.2-1.9 percent sulfur) per month.

The eligible seller is American Energy Services, Inc., 6480 Busch Boulevard, Suite 321, Columbus, Ohio 43229. The gas will be transported by Columbia Gas Transmission Corporation, Box 1273, 1700 McCorkle Avenue, SE., Charleston, West Virginia 25325. Additionally, Columbia Gas of Pennsylvania, Inc., 99 North Front Street, Columbus, Ohio 43215, will be used as a local distribution company.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 6304, RG-631, 2000 M Street, NW., Washington, D.C. 20461, Attention: Paula A. Daigneault, on or before March 15, 1982.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing on or before March 15, 1982. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to J&L and any persons filing comments and will be published in the Federal Register.

Issued in Washington, D.C. on February 25, 1982.

James W. Workman,
Director, Office of Fuels Programs, Economic Regulatory Administration.
FR Doc. 82-5697 Filed 3-3-82; 8:45 am]
BILLING CODE 6450-01-M

[ERA Docket No. 82-CERT-005]

Long Island Lighting Co.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Long Island Lighting Company (LILCO), 250 Old Country Road, Mineola, New York 11501, filed an application on February 12, 1982, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at two of its electric generating facilities in New York: the E. F. Barrett Electric Plant in Island Park and the Glenwood Electric Plant in Glenwood Landing, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6013, 2000 M Street, NW., Washington, D.C. 20461, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, LILCO states that the volume of natural gas for which it requests certification is approximately 50,000 dekatherms (approximately 50,000 Mcf) per day. LILCO requests certification from the date of issuance through October 31, 1982.

The volume involved is estimated to displace the use of approximately 540,000 barrels or residual fuel oil (1.5 percent sulfur) and 40,000 barrels of No. 2 fuel oil (0.3 percent sulfur) at the E. F. Barrett Plant and 155,000 barrels of residual fuel oil (1.0 percent sulfur) at the Glenwood Plant. The eligible seller of the natural gas is Equitable Gas Company, 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, and the gas will be transported by Texas Eastern Transmission Corporation, P.O. Box 2521, Houston, Texas 77001.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 6304, RG–631, 2000 M Street, NW., Washington, D.C. 20461, Attention: Paula Daigneault, on or before March 15, 1982.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing on or before March 15, 1982. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to LILCO and any persons filing comments and will be published in the Federal Register.

Issued in Washington, D.C. on February 25, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-5660 Filed 3-2-82; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Request for Clearance of Financial Reporting System, Form EIA–28

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of a request for clearance to the Office of Management and Budget (OMB) for the Financial Reporting System, Form EIA–28.

SUMMARY: The Energy Information Administration (EIA) solicits comments concerning the collection of financial and statistical data from 26 major energy producing companies on Form EIA–28. All comments submitted directly to the EIA will be shared with the OMB.

DATES: Comments must be filed by March 26, 1982 with the EIA at the address noted below.

ADDRESS FOR FURTHER INFORMATION: Paul Bjarnason, Economics and Statistics Division, Energy Information Administration, NPO, Room 8443, 12th & Pennsylvania Ave., NW., Washington, D.C. 20461, (202) 633–8887.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the EIA has submitted a request for clearance to the OMB for the FRS Form EIA–28, under provisions of the Paperwork Reduction Act, Pub. L. No. 96–511. The approval request is made pursuant to Section 205(h) of the Department of Energy (DOE) Organization Act, which requires that data be collected to provide a "profile" of the energy industry in the United States.

Aggregate data from earlier collections of the 1977, 1978, 1979 and 1980 reporting years have been published in annual reports entitled "Performance Profiles of Major Energy Producers." These reports depict and compare the operations of 26 major energy producing companies against one another by size groups and against total industry data gathered from other data systems.

The revised Form EIA–28 has been considerably streamlined in comparison to the 1980-version. The EIA believes the new, reduced form continues to be responsive to the requirements of the DOE Act, while at the same time providing a considerable reduction in burden upon the reporting companies.

Copies of the latest available "Profiles Report" and the proposed 1981 Form are available by writing or calling the EIA as indicated above.

Dated: February 23, 1982.

J. Erich Evered,

Administrator, Energy Information Administration.

[FR Doc. 82-5660 Filed 3-2-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 3011-001]

Arctic Development Corp.; Application for License (5 MW or Less)

March 3, 1982.

Take notice that Arctic Development Corporation (Applicant) filed on January 11, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as the Arctic Project No. 3011. The project would be located on the South Branch of the Pawtuxet River at West Warwick in Kent County, Rhode Island. Correspondence with the Applicant should be directed to: Mr. Steven Krous, Holliwell Associates, Inc., 865 Waterman Avenue, East Providence, Rhode Island 02914. This application was filed pursuant to a preliminary permit issued to the Applicant for Project No. 3011–000.

Project Description—The proposed run-of-the-river project would consist of existing project facilities including: (1) A granite masonry dam, 110 feet long and 28 feet high, with 18 inch flashboards; (2) a reservoir of negligible storage at spillway crest elevation 108.4 feet m.s.l.; (3) a headrace (filled in but to be re-excavated), 115 feet long; (4) a powerhouse area in the mill building in which would be installed two turbine-generator units with a total capacity of 373 kW; (5) a tailrace, 260 feet long; and new project works to include (6) trashracks and headgates; (7) electrical facilities; and (8) other appurtenances. Average annual generation is estimated at 2,206,000 kWh.

Purpose of Project—Project energy will be sold to the Narragansett Electric Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archelogical Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before May 12, 1982, either the competing application itself [See 18 CFR 4.33 (a) and (d)] or a notice of intent [See 18 CFR 4.33 (b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et. seq. (1981).

Comments, Protests, or Petitions to Interven—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 12, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5740 Filed 3-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-330-000]

Arizona Public Service Co.; Filing

February 26, 1982.

The filing Company submits the following:

Take notice that Arizona Public Service Company (APS) on February 22, 1982, tendered for filing a proposed Letter Agreement to Amendment No. 1 to Supplement No. 9 in the Agreement between the Navajo Tribe of Indians (NTUA) and APS which Agreement has been designated FPC Rate Schedule No. 6. This Agreement for additional deliveries, near White Cone on the Indian Reservation, has no provision for a change in rate.

At the request of NTUA, APS requests an effective date of this Letter Agreement of February 12, 1982, and therefore requests waiver of the Commission's notice requirements.

A copy of this filing was served upon NTUA and the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 17, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5736 Filed 3-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-332-000]

Central Illinois Public Service Co.; Filing

February 26, 1982.

The filing Company submits the following:

Take notice that on February 22, 1982, Central Illinois Public Service Company (CIPS) tendered for filing a Letter Agreement dated February 6, 1982, canceling Appendix "L" to the Facility Use Agreement between CIPS and Illinois Power Company and Connection Point 20—Coffeen 138 to the Interconnection Agreement between CIPS, Illinois Public Service Company, Illinois Power Company and Union Electric Company.

CIPS states that Appendix "L" should be cancelled as of November 13, 1981, the date upon which the transmission line was disconnected from the switching station. CIPS further states that CIPS–IP Connection 20—Coffeen 138 should also be cancelled.

CIPS states that copies of this filing were sent to the Public Service Commission of Missouri, the Illinois Commerce Commission, Illinois Power Company and Union Electric Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 17, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5737 Filed 3-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP80-498-005]

Cities Service Gas Co.; Proposed Change in FERC Gas Tariff

February 26, 1982.

Take notice that on February 12, 1982, Cities Service Gas Company (Cities Service) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, First Revised Sheet Nos. 173, 175, 176,

180 and 181, proposed to have been made effective December 23, 1981.

Cities Service states that the revised sheet incorporates changes in Rate Schedule K–18, which is a limited term gas sale agreement between Cities Service and El Paso Natural Gas Company (El Paso).

Cities Service states that pursuant to the agreement, as amended on May 29, 1981, Cities Service may sell and deliver to El Paso an average of 200,000 MMBtu per day during the term of the agreement. In its order issued December 3, 1981, the Commission conditioned its acceptance of the amendment on Cities Service's changing the price, effective December 23, 1981, that it charged El Paso to a price equal to Cities Service's I–2 rate. Subsequently, Cities Service and El Paso executed a further amendment to the agreement dated December 23, 1981, incorporating the price change.

Copies of this filing were mailed to all interested parties and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5736 Filed 3-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-191-000]

Consolidated Gas Supply Corp.; Application

March 2, 1982.

Take notice that on February 4, 1982, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP82–191–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the contined sales of natural gas to Hanley and Bird, an existing jurisdictional customer of Applicant located in Bradford, Pennsylvania, under a revised service agreement, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the continued sale of natural gas to Hanley and Bird under a revised service agreement which implements the transfer of service from Rate Schedule SCQ to Rate Schedule RQ of Applicant's FERC Gas Tariff, Third Revised Volume No. 1.

It is submitted by Applicant that Hanley and Bird notified Applicant of its exercise of the election provided by Article I of the Rate Schedule RQ entitled "Availability" by letter dated November 13, 1981, whereby a Rate Schedule SCQ customer may elect to take service under Rate Schedule RQ by submitting written notice advising Applicant of the election and agreeing to take service under Rate Schedule RQ for a primary term of no less than 36 months.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in an subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5741 Filed 3-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP72-157-051, et al.]

Consolidated Gas Supply Corp., et al.; Filing of Pipeline Refund Reports and Refund Plans

February 26, 1982.

Take notice that the pipelines listed in the Appendix hereto have submitted to the commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 12, 1982. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
Jan. 4, 1982	Consolidated Gas Supply Corporation	RP72-157-051	Report.
Feb. 12, 1982	Southwest Gas Corporation	RP81-9-000	Report.
Feb. 16, 1982	Cities Service Gas Company	RP81-127-001	LFUT Report.
Feb. 16, 1982	Equitable Gas Company	RP80-40-001	LFUT Report.

APPENDIX—Continued

Filing date	Company	Docket No.	Type filing
Feb. 16, 1982	Columbia Gas Transmission Corporation	RP75-106-004	Report.
Feb. 19, 1982	Cities Service Gas Company	RP81-127-002	LFUT Report.
Feb. 18, 1982	Natural Gas Pipe Line Company of America	TA81-2-26-005	Report.

[FR Doc. 82-5739 Filed 3-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5922-000]

Cordua Irrigation District; Application for Preliminary Permit

March 3, 1982.

Take notice that Cordua Irrigation District (Applicant) filed on January 28, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5922 to be known as the DaGuerre Point Power Project located on Yuba River in Yuba County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Charles Mathews, Director, Cordua Irrigation District, Box 110, Marysville, California 95901.

Project Description—The proposed project would consist of: (1) A gated intake structure at the exiting Corps of Engineers' DaGuerre dam; (2) a 12–foot diameter, 150-foot long penstock; (3) a powerhouse containing two generating units with a total capacity of 5.5 MW and an estimated average annual energy production of 23.5 million kWh; and (4) a 1.5-mile long transmission line. The project would be located on lands administered by the U.S. Corps of Engineers.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a 24-month permit during which time technical, economic, environmental and financial feasibility studies will be undertaken, as well as preparation of an environmental impact statement; an application for license, and obtaining agreements with the U.S. Army Corps of Engineers and other Federal, State and local agencies. The estimated cost of these activities is $100,000.

Competing Applications—This application was filed as a competing application to H-O-H Power's application for Project No. 5592 filed on November 2, 1981, and Modesto Irrigation District's application for Project No. 5808 filed on December 23, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to interven must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5742 Filed 3-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-136-002]

Distrigas of Massachusetts Corp.; Petition To Amend

February 25, 1982.

Take notice that on February 18, 1982, Distrigas of Massachusetts Corporation (Petitioner), 125 High Street, Boston, Massachusetts 02110, filed in Docket No. CP82–136–000 a petition to amend the order issued February 1, 1982, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the sale of approximately 2,900 billion Btu equivalent of additional volumes of liquefied natural gas (LNG) to be available from a cargo expected to be received on or about March 5, 1982, at Petitioner's Everett, Massachusetts, LNG terminal, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that Petitioner owns and operates facilities at Everett, Massachusetts, providing for receipt, storage, and delivery of LNG imported by its corporate affiliate, Distrigas Corporation (Distrigas). Petitioner submits that by order issued February 1, 1982, in the instant docket, it was authorized to resell approximately 1,200 billion Btu equivalent of additional LNG to be sold to Petitioner by Distrigas in February 1982. Petitioner now proposes to sell approximately 2,900 billion Btu equivalent of additional LNG to be received from Distrigas in March 1982.

It is asserted that Petitioner and its customers have agreed upon the disposition of the entire March cargo as follows:

Customer	Nomination percent	Presently estimated quantity (billion Btu)
Bay State	10.4798	303,895
Berkshire	.3545	10,281
Boston Gas	34.0235	986,682
Brockton Union	30.7817	892,669
Connecticut	3.2723	94,899
Fall River	5.1916	33,645
Haverhill	.7746	22,463
Middleboro	.0999	1,740

Customer	Nomination percent	Presently estimated quantity (Million Btu)
New Jersey Natural	1.7241	50,000
Northern Utilities	1.7241	50,000
Providence	5.8906	170,828
South Jersey	4.6476	134,779
Southern Connecticut	6.8966	200,000
Valley	.9295	26,956
Total	100.0000	2,900,000

Petitioner avers that the March cargo would be billed under Rate Schedule TS–1 and TS–1A at rates currently effective subject to refund in Docket No. RP81–34–000. Petitioner explains that if settlement is reached in that proceeding the March cargo would be considered as being made at the last tier and treated as such in accordance with the settlement agreement. It is stated that if the rate case is litigated the revenues would be treated so as to be consistent with the Commission's final orders in that docket. In either case, Petitioner submits that the delivery of the LNG would be charged as if it were received at the end of the contract year. The March cargo would be billed for on April 2, 1982, unless earlier billing is desired by the customer, it is asserted.

Petitioner avers that the March cargo would be considered as part of deliveries applicable to the contract year commencing April 1, 1982, and would be attributed to the contract quantity in that contract year. Petitioner also states that it has granted its customers a one-time option on the anticipated August 1982 cargo.

Petitioner submits that with respect to its new customers, the Municipal Gas and Electric Department of Middleborough, Massachusetts, Southern Connecticut Gas Company, and Northern Utilities, Inc., GS–1A and TS–1A rates for sales and service associated with the additional volumes would apply to March deliveries. Petitioner explains that the contract year an option vessel provisions would not apply to these new customers for March deliveries. With respect to Petitioner's existing customers, it is stated that GS–1 and TS–1 rates for sales and service would apply to March deliveries.

To allow disposition of all the volumes in the March cargo, Petitioner requests that the Commission waive Petitioner's tariff provisions to the extent necessary to permit such disposition. Petitioner further requests that the Commission authorize it to operate its Everett, Massachusetts, LNG terminal as may be necessary to render the proposed service. Petitioner also requests that the Commission grant the authorization expressly for the term applicable only to sales of LNG and related service for the March cargo. It is explained that the sale of these additional volumes would help provide supplemental supplies to meet the requirements of Petitioner's existing and new customers.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 4, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5760 Filed 3-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-327-000]

Holyoke Power and Electric Co.; Filing

February 23, 1982.

The filing Company submits the following:

Take notice that Holyoke Power and Electric Company (Holyoke) on February 22, 1982, tendered for filing an Amendment No. 10 to its Electric Service Agreement with the Town of South Hadley, Massachusetts (the Company's FPC No. 4). Holyoke proposes that the amendment become effective on March 1, 1982.

Holyoke states that the rate schedule amendment provides for increased demand charges which would result in an increase of approximately $300,000 in test year revenues. Holyoke further states that South Hadley has agreed to the rate schedule amendment.

Holyoke states that it is in a weakened financial condition and the proposed rate increase is essential to maintain its ability to provide service.

Holyoke requests an effective date of March 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Holyoke states that copies of the filing were served upon South Hadley and the Department of Public Utilities of the Commonwealth of Massachusetts.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 17, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5761 Filed 3-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-328-000]

Holyoke Water Power Co.; Filing

February 26, 1982.

The filing Company submits the following:

Take notice that Holyoke Water Power Company (Holyoke) on February 22, 1982, tendered for filing an Agreement Amending its Resale Rate CD–1 with the City of Chicopee Municipal Lighting Plant. Holyoke proposes that the amendment become effective on March 1, 1982.

Holyoke states that the rate schedule amendment provides for increased demand charges which would result in an increase of approximately $999,000 in the test year revenues. Holyoke further states that Chicopee has agreed to the rate schedule amendment.

Holyoke states that it is in a financially weakened condition and the proposed rate increase is essential to maintain its ability to provide service.

Holyoke proposes an effective date of March 1, 1982, and therefore requests waiver of the Commission's notice requirements.

According to Holyoke copies of the filing were served upon Chicopee and the Department of Public Utilities of the Commonwealth of Massachusetts.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 17, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5762 Filed 3-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3163-001]

John M. Jordan; Notice of Application for License (5 MW or Less)

March 3, 1982.

Take notice that John M. Jordan (Applicant) filed on November 2, 1981, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as the Randolph Mills No. 2 Project No. 3163. The project would be located on the Deep River in Randolph County, North Carolina. Correspondence with the Applicant should be directed to: John M. Jordan, P.O. Box 128, Saxapahaw, North Carolina 27340.

Project Description—The proposed project would consist of: (1) An existing, stone masonry, overflow dam approximately 250 feet long and 10-foot high; (2) an existing canal approximately 300 feet long; (3) an existing powerhouse with a proposed installed generating capacity of 144 kW; (4) an existing reservoir having a gross storage capacity of 150 acre-feet with a maximum surface area of 15 acres; (5) an existing discharge canal approximately 130-foot long; (6) a proposed 500-foot long transmission line; and (7) appurtenant facilities. The Applicant estimates the average annual energy generation will be 1,560 MWh.

Purpose of Project—The Applicant proposes to sell the power output of the project to Carolina Power and Light Company or any other interested party.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before May 12, 1982, either the competing application itself [See 18 CFR 4.33 (a) and (d)] or a notice of intent [See 18 CFR 4.33 (b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protests, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 12, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5745 Filed 3-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3161-001]

John M. Jordan; Application for License (5 MW or Less)

March 3, 1982.

Take notice that John M. Jordan (Applicant) filed on November 2, 1981, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as the Randolph Mills No. 1 Project No. 3161. The project would be located on the Deep River in Randolph County, Franklinville Township, North Carolina. Correspondence with the Applicant should be directed to: John M. Jordan, P.O. Box 128, Saxapahaw, North Carolina, 27340.

Project Description—The proposed project would consist of: (1) An existing concrete dam approximately 400-feet long with a maximum height of 30 feet; (2) an existing canal, 300 feet long, leading to the powerhouse; (3) an existing powerhouse with a proposed installed generating capacity of 440 kW; (4) an existing reservoir with a gross storage capacity of 300 acre-feet and a maximum surface area of 30 acres; (5) an existing discharge canal approximately 270-foot long; (6) a proposed 1,500-foot long transmission line; (7) a proposed, 500-foot long access road from the site to Route 22; and (8) appurtenant facilities. The Applicant estimates the power output from the project to be 1.56 GWh.

Purpose of Project—The Applicant proposes to sell the power output of the project to Carolina Power and Light Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before May 11, 1982, either the

competing application itself [See 18 CFR 4.33 (a) and (d)] or a notice of intent [See 18 CFR 4.33 (b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 11, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5744 Filed 3-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5334-000]

Joint Ypsilanti Recreation Organization; Application for License (5 MW or Less)

March 3, 1982.

Take notice that Joint Ypsilanti Recreation Organization (Applicant) filed on September 4, 1981, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for continued operation of a water power project to be known as the Ford Lake Project No. 5334. The project would be located on the Huron River in Washtenaw County, Michigan. Correspondence with the Applicant should be directed to: Mr. James L. McCoy, 922 Sherman Court, Ypsilanti, Michigan 48197.

Project Description—The project would consist of: (1) An existing reservoir with a storage capacity of 17,766 acre-feet and a surface area of 987 acres at normal power pool elevation of 684.6. feet m.s.l.; (2) an existing powerhouse containing two generating units rated at 640 kW and 1280 kW, respectively; (3) an existing 45 foot-high north and south embankment; (4) an existing reinforced concrete spillway section approximately 47 feet high; (5) existing 4,600 volt transmission lines; and (6) appurtenant facilities. The estimated average annual energy output is 7,800,000 kWh.

Purpose of Project—Applicant utilizes 6,000 k/Wh of power per year for its recreational facilities. The excess power is sold to the Ford Motor Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before May 12, 1982, either the competing application itself [See 18 CFR 4.33(a) and (d)] or a notice of intent [See 18 CFR 4.33 (b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before, May 12, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5745 Filed 3-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-325-000]

Kansas Power and Light Co.; Filing

February 26, 1982.

The filing Company submits the following:

Take notice that on February 19, 1982, The Kansas Power and Light Company (KPL) tendered for filing a proposed cancellation of FPC Rate Schedule No. 190. Said rate schedule was dated October 7, 1976, between the City of Reserve and KPL.

KPL states that the termination of the contract was effective February 1, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 17, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5743 Filed 3-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP80-141-004, RP80-4-001, RP81-108-002 (TA82-1-60)]

Locust Ridge Gas Co.; Proposed Change in FERC Gas Tariff

February 26, 1982.

Take notice that on February 11, 1982, Locust Ridge Gas Company (Locust Ridge) tendered for filing the following substitute gas tariff sheets to its FERC Gas Tariff, Original Volume No. 3:

Substitute Eighth Revised Sheet No. 1–A, to be effective December 11, 1981;

Substitute Ninth Revised Sheet No. 1–A, to be effective March 1, 1982.

Locust Ridge states that Substitute Eight Revised Sheet No. 1–A was filed in compliance with the Commission's letter order of December 11, 1981, implementing settlement rates in Docket Nos. RP80–141–004, RP81–108–002 and RP80–4–001. Furthermore, Substitute Ninth Revised Sheet No. 1–A was issued to apply those cost of service changes effective in Substitute Eighth Revised Sheet No. 1–A to the perspective revisions in Locust Ridge's PGA component, as filed with the Commission in Docket No. TA82–1–60 on January 29, 1982.

Copies of this filing were mailed to Locust Ridge's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5744 Filed 3-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST82-147-000]

Louisiana State Gas Corp.; Application for Approval of Rates

March 2, 1982.

Take notice that on January 21, 1982, Louisiana State Gas Corporation (LSGC), 334 Carondelet Street, Suite 403, New Orleans, Louisiana 70130, filed in Docket No. ST82–147–000 an application pursuant to § 284.123(b)(2) of the Commission's Regulations for approval of rates charged for the transportation of natural gas for the account of United Gas Pipe Line Company (United), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that on December 21, 1981, LSGC and United entered into an agreement whereby LSGC transports up to 2,000 Mcf of gas per day owned by United. It is stated that under the transportation agreement LSGC would accept gas from United or for its account at certain points of interconnection and redeliver a volume of gas having an equal thermal content as that delivered at one or more of the points of redelivery as specified in the transportation agreement.

Applicant states that the transportation service is for a term of 2 years from initial deliveries. It is noted that the gas to be transported is owned by United and that United is receiving such natual gas into its own facilities for its system supply for resale.

Applicant states that it would charge United 26.10 cents per million Btu for proposed transportation service and that such rate is fair and equitable.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5746 Filed 3-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1994-000]

Darrow R. McLeod; Application

February 26, 1982.

The filing individual submits the following:

Take notice that on February 22, 1982, Darrow R. McLeod filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

General Manager—Engineering and Power Operations, Central Vermont Public Service Corporation

Vice President, Central Vermont Public Service Corporation-Bradford Hydroelectric, Inc.

Vice President, Central Vermont Public Service Corporation-East Barnet Hydroelectric, Inc.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before March 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5745 Filed 3-2-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-161-000]

Michigan Wisconsin Pipe Line Co.; Application

March 2, 1982.

Take notice that on January 27, 1982, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP82–161–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing

the sale of natural gas to Colorado Interstate Gas Company (CIG), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that in accordance with a proposed service agreement to be entered into by Applicant and CIG Applicant has agreed to make available to CIG up to 79,000 Mcf of natural gas per day on a firm basis through September 30, 1983. Applicant proposes to make deliveries of such gas at existing points of interconnection with CIG in Beaver County, Oklahoma, and Fremont County, Wyoming.

Applicant submits that as consideration for receiving the gas supplies it would charge CIG the price per dekatherm set forth in Applicant's Rate Schedule CD–1 at a 100 percent load factor. Applicant states that the service agreement mentioned provides that CIG would have the option of purchasing the gas outright or returning a like amount of gas after September 30, 1983. Applicant further states that it has informed CIG that it would be agreeable to increasing the daily quantity of natural gas delivered if CIG desires additional flexibility.

Applicant proposes that the treatment of revenues received from this sale be as determined in its pending rate case in Docket No. RP81–81.

Applicant submits that the proposed sale would obviate CIG's need for additional facilities to increase the capacity of its transmission system by 79,000 Mcf per day.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5747 Filed 3-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-325-000]

Montaup Electric Co.; Filing

February 26, 1982.

The filing Company submits the following:

Take notice that on February 19, 1982, Montaup Electric Company (Montaup) tendered for filing rate schedule supplements adding a surcharge to Montaup's M–7 rate in this docket. The surcharge reflects inclusion in rate base of $18.9 million of Construction Work in Progress (CWIP), or 16% of average CWIP in the 1982 test period. The surcharge is requested to avoid an immediate danger that the bonds of Montaup's parent Eastern Edison Company (Eastern Edison), which presently carry the lowest investment grade ratings, BBB– by Standard and Poor's and Baa by Moody's, will be downgraded below investment grade.

In lowering the bond rating from BBB ot BBB– last July, Standard and Poor's warned that maintenance of investment-grade ratings is "heavily dependent" on "timely" CWIP relief from this Commission, which has ratemaking jurisdiction over 100% of Montaup's service. Eastern Edison's ratings will be reevaluated in May of this year prior to the offering of $25 million of bonds in June. A downgrading below investment grade would virtually destroy Eastern Edison's ability to raise capital and would jeopardize completion of Montaup's construction program.

Montaup requests an effective date of April 20, 1982, and therefore requests waiver of the Commission's notice requirements.

Montaup states that this filing has been served on the affected wholesale customers, the State Commissions in Massachusetts and Rhode Island and on all parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 15, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5706 Filed 3-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5929-000]

Murray City, Utah; Application for Exemption From Licensing of a Small Hydroelectric Project of 5 Megawatts or Less

March 3, 1982.

Take notice that Murray City, Utah filed with the Federal Energy Regulatory Commission on January 20, 1982, an application for exemption for its Little Cottonwood Hydroelectric Project No. 5929 from all or part of Part I of the Federal Power Act pursuant to 18 CFR Part 4 subpart K (1980) implementing in part section 408 of the Energy Security Act of 1980.[1] The proposed project would be located on the Little Cottonwood Creek in Salt Lake County, Utah. Correspondence with the Applicant should be directed to: Richard M. Sharp, Esq., Shea and Gardner, 1800 Massachusetts Avenue, NW., Washington, D.C. 20036.

Project Description–Applicant owns and operates the existing Little Cottonwood Project which utilizes a 40-foot long, 15-foot high concrete diversion dam and generates 1,000 kW. It is proposed to increase the project capacity to 5,000 kW by: (1) Enlarging the existing intake structure; (2) replacing the existing penstock with a new 4-foot diameter, 17,760-foot long buried penstock; (3) constructing a new powerhouse with an installed capacity of 5,000 kW; (4) constructing a new 12.5-kV buried transmission line; and (5) other appurtenances. It is estimated that the project would produce an annual generation of 14,000,000 kWh. Project energy would be used for municipal purposes.

Purpose of Exemption–An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for exemption. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 21, 1982, either a competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than August 17, 1982. Applications for a preliminary permit will not be accepted. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure. 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests or petition to intervene must be received on or before April 21, 1982.

Filing and Service of Responsive Documents—any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5708 Filed 3-3-82; 8:45 am]

BILLING CODE 6717-01-M

[1] Pub. L. 96-294, 94 Stat. 611. Section 408 of the ESA amends *inter alia*, Sections 405 and 408 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2705 and 2708).

[Docket No. ER81-71-001]

New England Power Co.; Compliance Filing

February 26, 1982.

The filing Company submits the following:

Take notice that on February 16, 1982, New England Power Company filed a compliance report and revised tariff sheets in accordance with the Commission's direction.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 12, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5710 Filed 3-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-202-000]

State of Ohio; Petition for a Declaratory Order

March 2, 1982.

Take notice that on February 16, 1982, the State of Ohio (Petitioner), William J. Brown, Attorney General, State Office Tower, 17th Floor, 30 East Broad Street, Columbus, Ohio 43215, filed in Docket No. CP82–202–000 a petition pursuant to § 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)) for a declaratory order stating that the transportation of gas vas pipelines owned by Columbia Gas Transmission Coporation (Columbia Gas) wherein the production, gathering, and transmission all take place within the boundary of the State of Ohio is not subject to the Commission's jurisdiction under the Natural Gas Act, and that neither the Natural Gas Act nor the rules and regulations promulgated by the Commission prevent or prohibit the State of Ohio from establishing fair and equitable rates and access policies concerning transportation through pipelines and gathering lines wherein the entire flow from production to consumption of gas in said lines takes place within the State of Ohio, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that Columbia Gas owns and operates an extensive gathering and local pipeline system within the State of Ohio, wherein once gas has been introduced into certain portions of the pipeline network it is incapable of flowing over a state boundary. Petitioner submits that a major portion of this Ohio pipeline network came to Columbia Gas by virtue of the acquisition of The Ohio Fuel Gas Company (Ohio Fuel). Petitioner avers that Ohio Fuel was an integrated gas utility which produced, purchased, gathered, transported, and sold natural gas subject to Ohio public utility regulations.

Petitioner explains that in 1977 Columbia Gas began the transportation of industrial-owned and local utility-owned gas through its Ohio pipelines from Ohio wells to the end user. No certificates were sought or issued for this transportation from the Commission on the theory that such transportation contracts did not involve interstate transportation and thus were outside the jurisdiction of the Commission, it is asserted.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 23 1982, file with the Federal Energy

Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) or comments on the petition. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5749 Filed 3-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-716]

Oklahoma Gas & Electric Co.; Refund Report

February 26, 1982

The filing Company submits the following:

Take notice that on February 19, 1982, Oklahoma Gas and Electric Company filed a refund report in accordance with the Commission's direction.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 16, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5706 Filed 3-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. E-7278]

Otter Tail Power Co.; Payment

February 26, 1982.

Take notice that on February 19, 1982, the City of Elbow Lake, Minnesota (Elbow Lake) filed a notice of payment by Elbow Lake to Otter Tail Power Company pursuant to the order on remand issued by the Commission on November 20, 1981.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before March 15, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5708 Filed 3-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Projects Nos. 5944-000 and 3020-000]

Pocantico Development Associates, Inc., Richard J. J. Hungerford and Kris A. Dyrland, and Richard J. J. Hungerford; Application for License (5 MW or Less) and Surrender of Preliminary Permit

March 3, 1982.

Take notice that Pocantico Development Associates, Inc., Richard J. J. Hungerford and Kris A. Dyrland (Applicants) filed on February 2, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as the Moretown #8 Project No. 5944–000. The project would be located on the Mad River in the Town of Moretown, Washington County, Vermont. Correspondence with the Applicant should be directed to: Pocantico Development Associates, Inc., Suite 700, 1230 Avenue of the Americas, New York, New York 10020.

Project Description—The proposed project would consist of: (1) An existing 333-foot long, 34-foot high concrete gravity dam with a 164-foot long spillway section to be repaired and restored with 4-foot high flashboards; (2) a 35.5 acre reservoir with a usable storage capacity of 130 acre-feet at elevation 530.6 feet m.s.l.; (3) a new 980-foot long, 6-foot diameter penstock positioned at the same location as the original; (4) a new powerhouse containing a single 800 kW turbine-generator; (5) a 300-foot long transmission line; and (6) appurtenant facilities. The project is owned by the Applicants. The project would produce up to 3,700,000 kWh annually.

Purpose of Project—Energy produced at the project would be sold to a local utility.

Richard J. J. Hungerford, Permittee for the Moretown #8 Project, FERC No. 3020 has also filed a request on February 2, 1982, to surrender its preliminary permit issued May 23, 1980. The request to surrender the permit for Project No. 3020 was made in order to avoid a conflict with the above-mentioned license application whose applicants together have a proprietary interest in the project. The surrender of the preliminary permit is effective as of the date of this notice.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before May 12, 1982, either the competing application itself [See 18 CFR 4.33 (a) and (d) (1980)] or a notice of intent [See 18 CFR 4.33 (b) and (c) (1980)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 12, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5710 Filed 3-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-166-000]

Transcontinental Gas Pipe Line Corp.; Application

March 2, 1982.

Take notice that on January 20, 1982, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP82-166-000 an application pursuant to Section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction offshore Louisiana, and operation of certain pipeline and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to construct and operate in the Eugene Island area, offshore Louisiana, approximately 28.28 miles of 20-inch pipeline which would extend from the Transco Exploration Company (TXC) production platform in Block 10 to a tie-in with Applicant's Southeast Louisiana gathering system in Block 107, approximately 0.36 mile of 16-inch pipeline extending from the General American Oil Company of Texas production platform in Block 24 to a tie-in with the above 20-inch pipeline in that block, approximately 0.89 mile of 6-inch pipeline which would extend from the TXC production platform in Block 46 to a tie-in with the above 20-inch pipeline in Block 45 and metering, regulating and appurtenant facilities on the production platforms. It is stated that such facilities would have a maximum capability of 244,899 Mcf per day.

The proposed facilities are estimated to cost $25,485,000. Such cost, it is asserted, would be financed initially through short-term loans and available cash with permanent financing to be undertaken at a later date.

It is asserted that the facilities proposed herein are required to attach new gas supplies which would be available to Applicant commencing in the 1982-83 winter season.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5712 Filed 3-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-329-000]

Tucson Electric Power Co.; Filing

February 26, 1982.

The filing Company submits the following:

Take notice that Tucson Electric Power Company (Tucson) on February 22, 1982, tendered for filing an Economy Energy Interchange Agreement between Tucson and Texas-New Mexico Power Company (TNP). The primary purpose of this Agreement is to provide for economy energy interchange transactions between the power systems of the two companies.

Tucson proposes an effective date of January 26, 1982, and therefore requests waiver of the Commission's notice requirements.

Tucson states that copies of the filing were served upon TNP.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 17, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5770 Filed 3-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3010-001]

Valley Industries, Inc.; Application for License (5 MW or Less)

March 3, 1982.

Take notice that Valley Industries, Inc. (Applicant) filed on January 13, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as the Centerville Project No. 3010. The project would be located on the South Branch of the Pawtuxet River in Kent County, Rhode Island. Correspondence with the Applicant should be directed to: Mr. Steve Kraus, Halliwell Associates, Inc., 865 Waterman Avenue, East Providence, Rhode Island 02914. This Application was filed pursuant to a preliminary permit issued to the Applicant for Project No. 3010.

Project Description—The proposed project would consist of existing project facilities including: (1) A granite block step dam, 80 feet long and 14.5 feet high; (2) a reservoir of negligible storage capacity at spillway crest elevation 124.9 feet m.s.l.; (3) a headrace, 175 feet long; (4) a powerhouse area in the existing mill building in which would be installed two turbine-generator units with a total capacity of 155 kW; (5) a tailrace, 200 feet long; and new project

works to include; (6) trashracks and headgates; (7) electrical facilities; and (8) other appurtenances. Average annual generation is estimated at 835,000 kWh.

Purpose of Project—Project energy will be sold to the Narragansett Electric Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before May 13, 1982, either the competing application itself [See 18 CFR 4.33 (a) and (d)] or a notice of intent [See 18 CFR 4.33 (b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 13, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "*NOTICE OF INTENT TO FILE COMPETING APPLICATION*", "*COMPETING APPLICATION*", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy and any *notice of intent, competing application*, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5758 Filed 3-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-331-000]

Virginia Electric & Power Co.; Filing

February 26, 1982.

The filing Company submits the following:

Take notice that on February 22, 1982, Virginia Electric and Power Company (VEPCO) tendered for filing a Contract Supplement dated August 27, 1981 to the Rate Contract between VEPCO and the Prince George Electric Cooperative.

Said Supplement requests the Commission's authorization for connection of the new delivery point designated as Garysville Delivery Point, located in Prince George, Virginia.

VEPCO requests an effective date for the new delivery point of sometime in May of 1982, and therefore requests waiver of the notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 17, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5771 Filed 3-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5861-000]

West Slope Power Co.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

March 3, 1982.

Take notice that on January 8, 1982, West Slope Power Company (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5861) would be located on Sand and Browns Creeks, in Sierra National Forest, Madera County, California. Correspondence with the Applicant should be directed to: Mr. John S. Hansen, President, West Slope Power Company, 59880 Cascadel Drive North, North Fork, California 93643.

Project Description—The proposed project would consist of: (1) 5-foot high concrete diversion weirs at elevation 5,080 feet on Sand and Browns Creeks; (2) concrete intake structures 4 feet and 3 feet high; (3) penstocks 13,500 feet and 6,500 feet long; (4) a powerhouse containing two turbine generators with 4.95 MW total capacity and 17.0 GWh annual energy output; and (5) a transmission line 3 miles long. Project-generated energy would be distributed through interconnections with the Pacific Gas & Electric System.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of the agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 19, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirement of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before April 19, 1982.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5754 Filed 3-3-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5915-000]

White Chuck Water Co.; Application for Preliminary Permit

March 3, 1982.

Take notice that White Chuck Water Company (Applicant) filed on January 22, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for Project No. 5915 to be known as the Clear Creek Hydroelectric Power Project located on Clear Creek in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Keith B. Ronnholm, Project Manager, The White Chuck Water Company, 6233—39th Avenue NE, Seattle, Washington 98115.

Project Description—The proposed project would consist of: (1) A 80-foot long, 6-foot high diversion structure on Clear Creek; (2) a 1.5-mile long, 5.5-foot diameter diversion conduit; (3) a 1,100-foot long, 4-foot diameter penstock; (4) a powerhouse with an installed capacity of 3,090 kW; and (5) a 5-mile, 57-kV transmission line from the powerhouse to an existing Snohomish Public Utility District or Seattle City Light transmission line. The Applicant estimates that the average energy production would be 14.8 million kWh. The proposed project is entirely located on U.S. Federal lands owned by National Forest Service.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which it would conduct technical, environmental and economic studies, and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $125,000.

Competing Applications—This application was filed as a competing application to City of Darrington's application for Project No. 5421 filed on September 28, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 19, 1982.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5755 Filed 3-3-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PP 0G2403/T348; PH-FRL-2056-2]

Pesticides; Carbofuran; Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for the combined residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl-7-benzofuranyl-N-methylcarbamate), its carbamate metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl-N-methylcarbamate, and the phenolic metabolites 2,3-dihydro-2,2-dimethyl-7-benzofuranol, 2,3-dihydro-2,2-dimethyl-3-oxo-7-benzofuranol and 2,3-dihydro-2,2-dimethyl-3,7-benzofurandiol in or on the raw agricultural commodity sunflower seed. This temporary tolerance was requested by FMC Corporation.

DATE: This temporary tolerance expires January 11, 1983.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2386).

SUPPLEMENTARY INFORMATION: FMC Corporation, 2000 Market St., Philadelphia, PA 19103, has requested the establishment of a temporary tolerance for the combined residues of the insecticide carbofuran, its carbamate metabolite and the phenolic metabolites in or on the raw agricultural commodity sunflower seed at 0.4 part per million (ppm), of which no more than 0.2 ppm is carbamates. A temporary regulation under 21 CFR 561.67 permitting the combined residues of carbofuran at 1.0 ppm, of which no more than 0.5 ppm is carbamates, has been established on sunflower seed hulls and meal.

This temporary tolerance will permit the continued marketing of the above raw agricultural commodity when treated in accordance with the provisions of the experimental use permits 279-EUP-83 and 279-EUP-84 which are being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permits and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permits.

2. FMC Corporation must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires January 11, 1983. Residues in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permits and temporary tolerance. This tolerance may be revoked if the experimental use permits are revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j))).

Dated: February 17, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-5360 Filed 3-2-82; 8:45 am]

BILLING CODE 6560-38-M

[OPP-180601; PH-FRL-2058-8]

Crisis Exemptions for Use of Certain Chemicals To Control Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA gives notice that the following States and the U.S. Department of Agriculture initiated crisis exemptions for the use of various chemicals to control certain pests.

DATES: See each crisis exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each crisis exemption for the name and room number of the contact person. The following information applies to all contact people: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7123).

SUPPLEMENTARY INFORMATION: The following crisis exemptions have been initiated by the:

1. California Department of Food and Agriculture on September 22, 1981, for the use of paraquat on lettuce grown for seed, for preharvest desiccation. Since this program was not needed for more than 15 days, California did not request a specific exemption to continue it. The program ended October 6, 1981. (Jack E. Housenger, Rm. 502C, CM#2).

2. California Department of Food and Agriculture on September 4, 1981, for the use of propargite on nonbearing avocados to control six-spotted mites. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. The need for this program is expected to last until December 31, 1981. (Libby Welch, Rm. 502, CM#2).

3. California Department of Food and Agriculture on October 2, 1981, for the use of oxamyl on cucurbits to control the leafminer. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. The need for this program is expected to last until December 31, 1981. (Jack E. Housenger, Rm. 502C, CM#2).

4. Florida Department of Agriculture and Consumer Services on October 7, 1981, for the methamidophos on celery to control the leafminer. Since it was anticipated that this program would be needed for more than 15 days, Florida has requested a specific exemption to continue it. The need for this program is expected to last until June 30, 1982. (Jack E. Housenger, Rm. 502C, CM#2).

5. Hawaii Department of Agriculture on October 7, 1981, for the use of cyano(3-phenoxyphenyl)methyl 4-chloro-alpha-(1-methylethyl) benzeneacetate on head cabbage, mustard cabbage, Chinese cabbage, cauliflower, and broccoli to control the diamondback moth. Since it was anticipated that this program would be needed for more than 15 days, the Hawaii Department of Agriculture has requested a specific exemption to continue it. The need for this program is expected to last one year. (Libby Welch, Rm. 500, CM#2).

6. Kansas State Board of Agriculture on September 21, 1981, for the use of O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate on winter wheat to control white grubs. Since it was anticipated that this program would be needed for more than 15 days, Kansas has requested a specific exemption to continue it. The need for this program is expected to last until December 31, 1981. (Jack E. Housenger, Rm. 502C, CM#2).

7. Oklahoma Department of Agriculture on September 24, 1981, for the use of sodium chlorate with a fire retardant on mung beans, as a desiccant. Since this program was not needed for more than 15 days, Oklahoma did not request a specific exemption to continue it. The program ended October 9, 1981. (Libby Welch, Rm. 502, CM#2).

8. Governor of Oklahoma on September 14, 1981, for the use of O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate on wheat to control white grubs. Since this program was needed for more than 15 days, Oklahoma requested a specific exemption to continue it. The program ended on November 20, 1981. (Jack E. Housenger, Rm. 502C, CM#2).

9. Texas Department of Agriculture on October 16, 1981, for the use of permethrin on head lettuce to control loopers and budworms. Since it was anticipated that this program would be needed for more than 15 days, Texas has requested a specific exemption to continue it. The need for this program is expected to last until October 31, 1982. (Jack E. Housenger, Rm. 502C, CM#2).

10. Texas Department of Agriculture on October 16, 1981, for the use of cyano(3-phenoxyphenyl)methly 4-chloro-alpha-(1-methylethyl)benzene-acetate on head lettuce to control loopers and budworms. Since it was anticipated that this program would be needed for more than 15 days, Texas has requested a specific exemption to continue it. The need for this program is expected to last until October 31, 1982. (Jack E. Housenger, Rm. 502C, CM#2).

11. U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service, on October 30, 1981, for the use of O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate on fruit and nut trees to control the Mediterranean fruit fly. Since it was anticipated that this program would be needed for more than 15 days, the USDA has requested a specific exemption to continue it. The need for this program is expected to last approximately one year. (Libby Welch, Rm. 500, CM#2).

12. U.S. Department of Agriculture (USDA) on October 30, 1981, for the use of malathion on host plants to control the Mediterranean fruit fly. Since it was anticipated that this program would be needed for more than 15 days, the USDA has requested a specific exemption to continue it. The need for this program is expected to last one year. (Jack E. Housenger, Rm. 502C, CM#2).

(Sec. 18, as amended, 92 Stat. 819 (7 U.S.C. 136))

Dated: February 10, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82-5362 Filed 3-2-82; 8:45 am]

BILLING CODE 6560-32-M

[PP 1G2467/T349; PH-FRL-2059-3]

Pesticides; Cyano (3-Phenoxyphenyl) Methyl-4-Chloro-Alpha-(1-Methylethyl) Benzeneacetate; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the insecticide cyano (3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl) benzeneacetate, in or on the raw agricultural commodities melons, winter squash and pumpkins. These temporary tolerances were requested by Shell Oil Company.

DATE: These temporary tolerances expire January 4, 1983.

FOR FURTHER INFORMATION CONTACT: Franklin D. Gee, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2690).

SUPPLEMENTARY INFORMATION: Shell Oil Co., Suite 200, 1050 Connecticut Ave., NW., Washington, D.C. 20026, has requested the establishment of temporary tolerances for residues of the insecticide cyano (3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl) benezeneacetate, in or on the raw agricultural commodities melons, winter squash and pumpkins at 1.0 part per million (ppm).

These temporary tolerances will permit the continued marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 201-EUP-60 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Shell Oil Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire January 4, 1983. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: February 17, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-6288 Filed 3-2-82; 8:45 am]

BILLING CODE 6560-32-M

[OPP-180603; PH-FRL-2059-1]

Emergency Exemptions for Control of Pests

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific and quarantine exemptions for the control of various pests in the States listed below. Also listed below is a crisis exemption initiated by California.

DATES: See each exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each exemption for the name and room number of the contact person. The following information applies to all contact people: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7123).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. California Department of Food and Agriculture for the use of bromoxynil on dry bulb onions to control annual weeds in California, effective from November 27, 1981, to July 1, 1982. (Libby Welch, Rm. 508, CM#2).

2. California Department of Food and Agriculture for the use of Methyl bromide on prickly pear cactus to control the Mediterranean fruit fly in California, effective from November 27, 1981, to November 1, 1982. California had initiated a crisis exemption for this use. (Libby Welch, Rm. 508, CM#2).

3. Florida Department of Agriculture and Consumer Services for the use of permethrin on chickens to control the Northern fowl mite in Florida, effective from November 18, 1981, to April 30, 1982. (Jack E. Housenger, Rm. 502–C, CM#2).

4. Governor of Louisiana for the use of methiocarb as a commerical seed treatment on rice seed to repel birds in Louisiana, effective from November 27, 1981, to July 31, 1982. (Jack E. Housenger, Rm. 502–C, CM#2).

5. New Jersey Department of Environmental Protection for the use of aldicarb on potted eggplants to be transplanted, to control the Colorado potato beetle in New Jersey, effective from March 15, 1982, to June 15, 1982. (Jack E. Housenger, Rm. 502–C, CM#2).

6. Ohio Department of Agriculture for the use of pyroxyfur on soybean seed to control *Phytophthora* root rot and dumping-off in Ohio, effective from November 20, 1981, to July 31, 1982. (Jack E. Housenger, Rm. 502–C, CM#2).

7. West Virginia Department of Agriculture for the use of fenamiphos on peaches to control nematodes which cause peach stem pitting in West Virginia, effective from November 9, 1981, to April 30, 1982. (Libby Welch, Rm 500, CM#2).

EPA has granted quarantine exemptions to the:

1. California Department of Food and Agriculture for the use of malathion in the Mediterranean Fruit Fly Eradication Program in California, effective from November 27, 1981, to November 27, 1982. California had initiated a crisis exemption from this program. (Jack E. Hosenger, Rm. 502–C, CM#2).

2. California Department of Food and Agriculture for the use of diazinon on host plants and camery waste to control the Mediterrean fruit fly in California, effective from November 27, 1981, to November 1, 1982. California had initiated a crisis exemption for this program. (Libby Welch, Rm. 500, CM#2).

3. United States Department of Agriculture (USDA) for the use of malathion in the Mediterranean Fruit Fly Eradication Program in California, effective from November 27, 1981, to November 27, 1982. USDA had initiated a crisis exemption for this program. (Jack E. Housenger, Rm. 502–C, CM#2).

4. United States Department of Agriculture (USDA) for the use of diazinon on host plants to control the Mediterranean fruit fly in California, effective from November 27, 1981, to November 1, 1982. USDA had initiated a crisis exemption fos this program. (Libby Welch, Rm. 500, CM#2).

A crisis exemption was initiated by the California Department of Food and Agriculture for the use of permethrin in mushroom houses to control the adult sciarid fly. Since it was anticipated that this program would be needed for more than 15 days, California requested a specific exemption to continue it. The need for this program is expected to last until November 15, 1982. (Jack E. Housenger, Rm. 502–C, CM#2).

(Sec. 18 as amended, 92 Stat. 819 (7 U.S.C. 136))

Dated: February 16, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82-5591 Filed 3-2-82; 8:45 am]

BILLING CODE 6560-32-M

[OPP-31055; PH-FRL-2061-1]

Great Lakes Biochemical Co., Inc.; Application To Register a Pesticide Product Involving Changed Use Pattern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register, or amend registration of, pesticide products involving changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended.

DATE: Comments by April 2, 1982.

ADDRESS: Written comments, identified by the document control number [OPP–31055] and the file or registration number, should be submitted to: Arturo Castillo, Product Manager (PM–32), Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Arturo Castillo, (703–557–7170).

SUPPLEMENTARY INFORMATION: EPA received an application as follows to register, or amend registration of, pesticide products involving changed use pattern pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of application does not imply a decision by the Agency on the applications.

Application received

File Symbol: 7364–GN.

Applicant: Great Lakes Biochemical Co, Inc., 6120 West Douglas Avenue, Milwaukee, WI 53218.

Product name: Activate and Enhance.

Active ingredient: Sodium bromide 33%.

Proposed classification/Use: General. Presently registered for use as a disinfectant in swimming pools. New use will include use in spas, hot tubs; and therapeutic water.

Notice of approval or denial of an application to register, or amend registration of, a pesticide product will be announced in the Federal Register. except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the Federal Register if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the product manager's office between 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing such comments telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: February 18, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-5400 Filed 3-1-82; 8:45 am]

BILLING CODE 6560-32-M

[OPP-180604; PH-FRL-2060-2]

Issuance of Specific Exemptions for Control of Various Pests

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions to the U.S. Department of Agriculture and the States listed below for the control of various pests.

DATES: See each specific exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each specific exemption for the name and room number of the contact person. The following information applies to all contact people: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7123).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Arkansas State Plant Board for the use of diethatly-ethyl on spinach to control various weeds in Arkansas, effective from December 10, 1981, to June 30, 1982. (Libby Welch, Rm. 500, CM#2).

2. Kansas Department of Agriculture for the use of diazinon on winter wheat to control while grubs in Kansas, effective from December 2, 1981, to December 31, 1981. Kansas had initiated a crisis exemption for this use. (Jack E. Housenger, Rm. 502–C, CM#2).

3. Texas Department of Agriculture for the use of N-cyclopropyl-1,3,5-triazine-2,4,6-triamine in poultry houses near urban areas only, to control flies in Texas, effective from December 15, 1981, to December 11, 1982. (Libby Welch, Rm. 500, CM#2).

4. Texas Department of Agriculture for the use of oxyfluorfen on dry bulb onions to control various weeds in Texas, effective from December 15, 1981, to December 1, 1982. EPA is completing a rebuttable presumption against registration (RPAR) on this chemical. (Libby Welch, Rm. 500, CM#2).

5. Washington Department of Agriculture for the use of metalaxyl and captan on pea seed for export to the United Kingdom only, to control downy mildew in Washington, effective from December 22, 1981, to January 31, 1982. (Jack E. Housenger, Rm. 502–C, CM#2).

6. U.S. States Department of Agriculture for the use of naled on inanimate objects to control Oriental fruit flies in California, effective from December 2, 1981, to December 2, 1982. This chemical is undergoing a pre-rebuttable presumption against registration (pre-RPAR) review. (Libby Welch, Rm. 500, CM#2).

(Sec. 18, as amended, 92 Stat. 819 (7 U.S.C. 136))

Dated: February 16, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82-5595 Filed 3-2-82; 8:45 am]

BILLING CODE 6560-32-M

[OPP-180602; PH-FRL-2060-1]

Issuance of Specific Exemptions for Control of Various Pests

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests in the States listed below.

DATES: See each specific exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each specific exemption for the name and room number of the contact person. The following information applies to all contact people: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7123).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. California Department of Food and Agriculture for the use of 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)benzamide on artichokes to control weeds in Monterey, San Mateo, Santa Barbara, and Santa Cruz Counties, California, effective from October 29, 1981, to June 30, 1982. EPA completed a rebuttable presumption against registration (RPAR) on this chemical; the final determination was published in the Federal Register of October 26, 1979 (44 FR 61640). (Jack E. Housenger, Rm. 502C, CM#2).

2. California Department of Food and Agriculture for the use of paraquat on mung and other dry beans for desiccation, in California, effective from November 2, 1981, to December 31, 1981. California had initiated a crisis exemption for this use. (Jack E. Housenger, Rm. 502C, CM#2).

3. California Department of Food and Agriculture for the use of methyl bromide on raspberries grown in California to control all insects. These raspberries are grown for export to Japan. The specific exemption is effective from October 29, 1981, to October 5, 1982. California had initiated a crisis exemption for this use. (Libby Welch, Rm. 500, CM#2).

4. Florida Department of Agriculture and Consumer Services for the use of heptachlor on potting soil media to control sugarcane rootstalk borer weevil only in guarantined areas of Broward, Orange, and Seminole Counties, Florida, effective from November 1, 1981, to November 1, 1982. EPA completed a rebuttable presumption against registration (RPAR) on this pesticide. The final determination was published in the Federal Register of November 26, 1974 (39 FR 41298). (Libby Welch, Rm. 502, CM#2).

5. Florida Department of Agriculture and Consumer Services for the use of metolachlor on cabbage, collards, and broccoli to control weeds, in Florida, effective from November 10, 1981, to October 1, 1982. (Jack E. Housenger, Rm. 502C, CM#2).

6. Florida Department of Agriculture and Consumer Services for the use of methamidophos on bibb lettuce, Boston lettuce, Chinese cabbage, and romaine lettuce to control aphids, leafminers, and lepidopterous larvae in Orange County, Florida, effective from October 29, 1981, to June 30, 1982. (Jack E. Housenger, Rm 502C, CM#2).

7. Oregon Department of Agriculture for the use of paraquat on peppermint to control weeds, in Oregon, effective from October 31, 1981, to March 31, 1982. (Jack E. Housenger, Rm. 502C, CM#2).

8. Wisconsin Department of Agriculture for the use of paraquat on dry beans for desiccation, in Wisconsin, effective from November 2, 1981, to November 30, 1981. EPA had initiated a crisis exemption for this use. (Jack E. Housenger, Rm. 502C, CM#2).

(Sec. 16, as amended, 92 Stat. 819 (7 U.S.C. 136))

Dated: February 16, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82-5294 Filed 3-3-82; 8:45 am]

BILLING CODE 6560-32-M

[OPP-50569; PH-FRL-2063-5]

Pesticides; Issuance of Experimental Use Permits; Abbott Laboratories, et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each experimental use permit at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

275-EUP-27. Issuance. Abbott Laboratories, 14th St. and Sheridan Rd., North Chicago, IL 60064, this experimental use permit allows the use of 19 pounds of the plant growth regulator 6-benzyladine on apple trees and conifers to evaluate bud and branching effects. A total of 600 acres are involved. The program is authorized in the States of Arkansas, California, Colorado, Connecticut, Georgia, Idaho, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New York, New Jersey, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin. The experimental use permit is effective from February 1, 1982 to February 1, 1984. A permanent tolerance for residues of the active ingredient in or on apples has been established (40 CFR 180.376) (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800))

241-EUP-95. Extension. American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540. This experimental use permit allows the use of 3,520 pounds of the herbicide pendimethalin on wheat to evalute the control of weeds. A total of 2,800 acres are involved. The program is authorized only in the States of Arizona, California, Minnesota, Montana, North Dakota, and South Dakota. The experimental use permit is effective from December 22, 1981 to December 22, 1982. Temporary tolerances for residues of the active ingredient in or on wheat grain and wheat straw have been established. (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800))

7969-EUP-16. Issuance. BASF Wyandotte Corporation, 100 Cherry Hill Road, Parsippany, NJ 07054. This experimental use permit allows the use of 40 pounds of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydoxy-2-cyclohexen-1-one on cotton to evaluate the control of weeds. A total of 80 acres are involved. The program is authorized only in the States of Arizona, California, New Mexico, and Texas. The experimental use permit is effective from December 22, 1981 to December 22, 1982. This permit is being issued with the limitation that all treated crops are destroyed or used for research purposes only. (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800))

464-EUP-58. Extension. Dow Chemical Company, P.O. Box 1706, Midland, MI 48640. This experimental use permit allows the use of 3,000 pounds of the insecticide chlorpyrifos on field corn to evaluate the control of corn insects. A total of 1,320 acres are involved. (Jay Ellenberger, PM 12, Rm. 400, CM#2, (703-557-7024))

464-EUP-59. Extension. Dow Chemical Company, P.O. Box 1706, Midland, MI 48640. This experimental use permit allows the use of 1,170 pounds of the insecticide chlorpyrifos on field corn to evaluate the control of corn insects. A total of 1,200 acres are involved. This program and the one above are authorized only in the States of Kansas, Missouri, and Nebraska. The permits are effective from April 1, 1982 to April 1, 1983. Both permits are being issued with the limitation that all treated crops are destroyed or used for research purposes only. The permits will use the same active ingredient but different formulations. (Jay Ellenberger, PM 12, Rm. 202, CM#2, (703-557-2386))

43808-EUP-1. Extension. State of Florida, Department of Citrus, P.O. Box 148, Lakeland, FL 33802. This experimental use permit allows the use of the remaining supply of 939 pounds (3000 originally authorized) of the plant growth regulator 5-chloro-3-methyl-4-nitro-1H-pyrazole on oranges to evaluate the product as an abscission agent. A total of 500 acres are involved. The program is authorized only in the State of Florida. The experimental use permit is effective from December 15, 1981 to December 15, 1982. A temporary tolerance for residues of the active ingredient in or on oranges has been established. (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800))

2139-EUP-27. Issuance. NOR-AM Agricultural Products, Inc., 350 West Shuman Blvd., Naperville, IL 60566. This experimental use permit allows the use of 5,000 pounds of the herbicides phenmedipham and desmedipham (2,500 each) on sunflowers to evaluate the control of weeds. A total of 5,000 acres are involved. The program is authorized only in the States of California, Idaho, Minnesota, Montana, North Dakota, South Dakota, and Texas. The experimental use permit is effective from December 29, 1981 to December 29, 1983. Temporary tolerances for residues of the active ingredients in or on sunflower seeds have been established. (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800))

2139-EUP-28. Issuance. NOR-AM Agricultural Products, Inc., 350 West Shuman Blvd., Naperville, IL 60566. This experimental use permit allows the use of 5,000 pounds of the herbicide desmedipham on sunflowers to evaluate the control of weeds. A total of 5,000 acres are involved. The program is authorized only in the States of California, Idaho, Minnesota, Montana, North Dakota, South Dakota, and Texas. The experimental use permit is effective from December 29, 1981 to December 29, 1983. A temporary tolerance for residues of the active ingredient in or on sunflower seeds has been established. (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800))

876-EUP-37. Extension. Velsicol Chemical Corporation, 341 East Ohio St., Chicago, IL 60611. This experimental use permit allows the use of 427.5 pounds of the herbicide dicamba on corn to evaluate the control of weeds. A total of 550 acres are involved. The program is authorized only in the States of Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Missouri, Nebraska, New York, North Carolina, Ohio, South Dakota, Texas, and Wisconsin. The experimental use permit is effective from February 1, 1982 to February 1, 1983. Permanent tolerances for residues of the active ingredient in or on corn (grain, fodder and forage) have been established. (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended, (7 U.S.C. 136))

Dated: February 22, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-5295 Filed 3-3-82; 8:45 am]

BILLING CODE 6560-32-M

[OPP-180600; PH-FRL-2063-2]

Pesticides; Issuance of Specific Exemptions; California Department of Food and Agriculture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests in the States listed below.

DATES: See each specific exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each specific exemption for the name and room number of the contact person. The following information applies to all contact people: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7123).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. California Department of Food and Agriculture for the use of ethyl 4-(methylthio)-m-tolyl isopropyl phosphoramidate on grapes to control dagger and root-knot nematodes in California, effective from October 7, 1981 to June 30, 1982. (Libby Welch, Rm. 502, CM#2).

2. California Department of Food and Agriculture for the use of methiocarb on the crucifers, cabbage, cauliflower, broccoli, and Brussels sprouts, grown for seed, to repel birds in Monterey, Ventura, Santa Cruz, and Santa Barbara Counties, California, effective from October 5, 1981 to October 31, 1981. California had initiated a crisis exemption for this use. (Jack E. Housenger, Rm. 502C, CM#2).

3. California Department of Food and Agriculture for the use of carbofuran on grapes to control root-knot and dagger nematodes in California, effective from October 8, 1981 to June 30, 1982. (Libby Welch, Rm. 502, CM#2).

4. Florida Department of Agriculture and Consumer Services for the use of benomyl on carrots to control cottony rot in Florida, effective from October 1, 1981 to June 15, 1982. EPA has not yet made its final determination concluding the rebuttable presumption against registration (RPAR) of pesticide products containing benomyl. (Libby Welch, Rm. 502, CM#2).

5. Florida Department of Agriculture and Consumer Services for the use of 2,4-dichloro-6-(o-chloroanilino)-s-triazine on watercress to control leaf spot in Seminole County, Florida, effective from October 14, 1981 to June 30, 1982. (Jack E. Housenger, Rm. 502C, CM#2).

6. Maryland Department of Agiculture for the use of phenmedipham on spinach to control various weeds in Maryland, effective from October 1, 1981 to May 31, 1982. (Libby Welch, Rm. 502, CM#2).

7. Arizona Commission of Agriculture and Horticulture for the use of permethrin on lettuce to control *Heliothis* spp. in Arizona, effective from October 21, 1981 to March 31, 1982. (Libby Welch, Rm. 502, CM#2).

8. Arizona Commission of Agriculture and Horticulture for the use of 3-[3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione on lettuce to control *Sclerotinia* spp. in Arizona, effective from October 20, 1981 to May 1, 1982. (Libby Welch, Rm. 500, CM#2).

9. Hawaii Department of Agriculture for the use of thiabendazole on papaya to control post harvest disease in Hawaii, effective from October 20, 1981 to October 1, 1982. Hawaii had initiated a crisis exemption for this use. (Libby Welch, Rm. 500, CM#2).

10. Governor, State of Lousiana, for the use of 2,4-D on soybeans to control escaped sesbania in Louisiana, effective from October 22, 1981 to November 15, 1981. (Jack E. Housenger, Rm. 502-C, CM#2).

(Sec. 18, as amended, 92 Stat. 819 (7 U.S.C. 136))

Dated: February 16, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82-5296 Filed 3-3-82; 8:45 am]

BILLING CODE 6560-32-M

[PW-31; PH-FRL-2063-1]

Mobay Chemical Corp.; Withdrawal of Pesticide Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Chemagro Agricultural Div., has withdrawn a pesticide petition (PP 6F1688) for residues of the insecticide dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate in or on the raw agricultural commodity soybeans.

FOR FURTHER INFORMATION CONTACT: William Miller, Product Manager (PM) 16, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2600).

SUPPLEMENTARY INFORMATION: In the Federal Register of November 3, 1975, (40 FR 51062), Chemagro Agricultural Div., Mobay Chemical Corp., PO Box 4913, Kansas City, MO 64120, submitted a pesticide petition (PP 6F1688) proposing the establishment of a tolerance for residues of the insecticide dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate in or on the raw agricultural commodity soybeans at 0.04 part per million (ppm).

Chemagro Agricultural Div., has withdrawn this petition without prejudice to future filing in accordance with the regulations.

(Sec. 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)))

Dated: February 22, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-5297 Filed 3-3-82; 8:45 am]

BILLING CODE 6560-32-M

[PF-262; PH-FRL-2063-3]

Shell Oil Co.; Pesticide and Feed Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Shell Oil Company has submitted a pesticide and a feed additive petitions proposing to increase established tolerance levels for the combined residues of the pesticide chemical hexakis in or on certain agricultural commodities.

ADDRESS: Written comments to the product manager (PM) cited in each specific petition at the address below. Jay Ellenberger, Product Manager (PM-12), Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Written comments may be submitted while the petitions are pending before the agency. The comments are to be identified by the document control

number "[PF-262]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Shell Oil Company has submitted a feed additive and a pesticide petitions proposing to increase the established tolerance levels for the pesticide chemical hexakis in or on certain agricultural commodities in accordance with the Federal Food, Drug and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

PP 2F2031. Shell Oil Co., Suite 200, 1025 Connecticut Ave. NW., Washington, DC 20036. Proposes amending 40 CFR 180.362 by increasing the established tolerance levels for the combined residues of hexakis (2-methyl-2-phenylpropyl)distanoxane and its organotin metabolite calculated as hexakis (2-methyl-2-phenylpropyl)distannoxane in or on the raw agricultural commodities apples, pears, and citrus fruits from 4.0 to 15.0 parts per million (ppm). The proposed analytical method for determining residues is gas-liquid chromatography using a tin selective flame photometric detector. (PM-12, Jay Ellenberger, 557-2386).

FAP 2H5336. Shell Oil Co. Proposes amending 21 CFR 561.255 by increasing the established tolerance levels for the combined residues of hexakis its organotin metabolites in or on the commodities dried apple pomace from 20.0 to 75.0 and dried citrus pomace from 7.0 to 30.0 ppm. ((PM-12), Jay Ellenberger, 557-2386).

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136); 409(b)(5), 72 Stat. 1786, (21 U.S.C. 346))

Dated: February 22, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-5804 Filed 3-2-82; 8:45 am]

BILLING CODE 6560-32-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources Administration

Determination of Population of Health Service Areas

Section 1516 of the Public Health Service Act (added by the National Health Planning and Resources Development Act of 1974, Pub. L. 93-641 and the Health Planning and Resources Development Amendments of 1979, Pub. L. 96-79), authorizes the Secretary of Health and Human Services to make grants (hereinafter referred to as "planning grants") to health systems agencies to assist them in meeting their costs of operation. The amount of the planning grant to each health systems agency is determined in accordance with a formula set forth in amended section 1516, and is based in part upon a determination by the Secretary of the population of the health service area to be served by each agency. The governing regulations, at 42 CFR 122.205, provide that the Secretary will determine the population of the areas based upon the latest available estimate from the Department of Commerce, and will publish annually in the **Federal Register** a list of all health service areas and their populations. The populations of the health service areas are to be published prior to the final allocation of funds in each fiscal year.

In accordance with the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) the Governors of five States (Alabama, Louisiana, Missouri, Nebraska, and Ohio) have recently requested and received approval from the Secretary for their States to be designated under section 1536 of the Act. Therefore, the attached population figures exclude the HSAs in these States since they are being eliminated in accordance with section 1536. Additionally, pursuant to secton 1536 of the Act, certain States (Hawaii and Rhode Island), do not have health service areas established within them or health systems agencies designated for them but are nonetheless eligible to receive planning grants under section 1516 based in part upon their population. This Notice sets forth their populations as of April 1, 1980, on the same basis as for health service areas.

The Secretary of Health and Human Services has determined, for purposes of the determination of planning grants for health systems agencies for Fiscal Year 1982, that the population of the health service areas and the areas designated under section 1536, based on the latest available estimate from the Department of Commerce, are to be derived from the April 1, 1980 population counts, issued by the Bureau of the Census. These Series PHC80-V, population reports furnish the latest available census population counts for the population of States by counties, incorporated places, and selected minor jurisdictions which are on a comparable, uniform, and consistent basis as needed for the derivation of population totals for health service areas. Data from the Department of Treasury, Office of Revenue Sharing, "Census Tribal Population List", were used to make adjustments of the population of health service areas in Arizona and the health service area that includes portions of Arizona, New Mexico, and Utah.

Accordingly, the Secretary has made the following determination of the populations of the health service areas and areas designated under section 1536 as described above.

Dated: February 25, 1982.

Robert Graham,

Acting Administrator, Health Resources Administration.

HEALTH SERVICE AREA POPULATIONS FOR PURPOSES OF DETERMINATION OF PLANNING GRANTS IN FISCAL YEAR 1982[1]

Health service area	Population
Alaska:	
1	49,660
2	260,128
3	81,698
Arizona:	
1	1,638,421
2	571,089
3	191,262
4 Incl. Ut. #3—4,990 and N. Mex. #2—47,998	134,576
5	148,847
Arkansas:	
1	718,830
2	575,598
3	498,386
4	492,891
California:	
1	951,141
2	1,258,511
3	634,239
4	1,490,060
5	1,762,631
6	622,845
7	1,295,071
8	958,998
9	1,311,818
10	628,589
11	7,477,657
12	1,369,552
13	1,031,570
14	1,003,966
Colorado:	
1	1,966,228
2	512,200
3	290,411
Connecticut:	
1	638,443
2	897,180
3	467,669
4	895,169
5	460,894
Delaware: 1	595,388
Florida:	
1	962,237
2	995,798
3	748,432
4	1,717,594
5	1,232,430
6	954,610
7	804,461
8	1,014,043
9	1,988,077
Georgia:	
1 See Tenn. #3	
2	992,393
3	2,238,009
4 Incl. S.C. #5—109,885	658,204
5	622,867
6	998,877
7	603,573
Hawaii: Sec. 1536	965,000
Idaho: 1	943,935
Illinois:	
1	594,609
2	715,567
3	586,564
4	789,364
5	640,113
6	3,095,051
7	2,908,308
8	998,501
9	495,170
10 Incl. Ia. #3—200,498	443,680
Indiana:	
1	1,972,497
2	2,152,813
3	1,356,080
Iowa:	
1	2,542,244
2	
3 See Ill. #10	
Kansas:	
1	
2	598,423
3	850,793
Kentucky:	
1	1,620,564
2	1,571,532
Maine: 1	1,124,660
Maryland:	
1	334,395
2	579,053
3	892,355
4	2,174,023
5	296,620
Massachusetts:	
1	803,017
2	990,521
3	467,884
4	2,110,139
5	1,023,073
6	931,900
Michigan:	
1	4,662,131
2	700,181
3	783,578
4	1,057,076
5	941,827
6	769,929
7	994,066
8	819,757
Minnesota:	
1 See N. Dak. #2	
2 Incl. Wis. #7 135,901	479,182
3 See N. Dak. #3	
4	453,263
5	1,985,705
6	529,296
7	405,785
Mississippi: 1	2,520,638
Montana: 1	786,690
Nevada:	
1	337,966
2	481,816
New Hampshire: 1	920,610
New Jersey:	
1	1,292,970
2	1,962,723
3	506,972
4	2,043,457
5	1,509,056
New Mexico:	
1	1,252,160
2 See Ariz. #4	
New York:	
1	1,864,728
2	1,303,052
3	1,405,794
4 Incl. Pa. #9—107,144	419,948
5	1,262,774
6	1,831,253
7	7,071,030
8	2,605,813
North Carolina:	
1	1,017,110
2	1,114,700
3	985,726
4	817,509
5	897,806
6	1,031,669

HEALTH SERVICE AREA POPULATIONS FOR PURPOSES OF DETERMINATION OF PLANNING GRANTS IN FISCAL YEAR 1982[1]—Continued

Health service area	Population
North Dakota:	
1	299,309
2 Incl. Minn. #1—181,985	305,879
3 Incl. Minn. #3—202,513	410,298
Oklahoma: 1	3,025,266
Oregon:	
1	1,139,256
2	1,139,486
3	353,918
Pennsylvania:	
1	3,582,709
2	934,203
3	911,558
4	1,413,131
5	754,574
6	2,899,756
7	770,049
8 See N.Y. #4	
9	503,008
Rhode Island: Sec. 1536	947,154
South Carolina:	
1	822,336
2	963,394
3	934,879
4	703,172
South Dakota: 1	690,178
Tennessee:	
1 Incl. Va. #6—80,598	806,876
2	845,039
3 Incl. Ga. #1—105,779	884,498
4	1,516,632
5	452,581
6	859,720
Texas:	
1	370,174
2	395,963
3	800,380
4	858,715
5	3,257,962
6	1,353,640
7	808,529
8	1,287,986
9	1,348,415
10	654,874
11	3,276,238
12	345,900
Utah:	
1	1,456,477
2 See Ariz. #4	
Vermont: 1	511,456
Virginia:	
1	995,708
2	1,105,714
3	1,159,051
4	960,110
5	1,334,409
6 See Tenn. #1	
Washington:	
1	2,529,355
2	993,526
3	488,220
4	518,952
West Virginia: 1	1,949,644
Wisconsin:	
1	828,998
2	1,764,910
3	471,676
4	511,263
5	992,525
6	402,058
7 See Minn. #2	
Wyoming: 1	470,816
Total: 178	195,016,860

[1] Population based on Bureau of the Census population counts as of April 1, 1980 as noted in the accompanying text of this Notice.

[FR Doc. 82-5805 Filed 3-2-82; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

San Carlos Irrigation Project, Arizona; Fiscal Year Operation and Maintenance Charges

February 22, 1982.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Public notice.

SUMMARY: The purpose of the public notice is to change the per acre assessment rate for the operation and maintenance of the irrigation facilities of the Joint Works of the San Carlos Irrigation Project to properly reflect the cost of labor, materials, equipment and services. The change is from $11.79 to $15.53 per acre per year.

EFFECTIVE DATE: This public notice shall become effective March 3, 1982.

FOR FURTHER INFORMATION CONTACT: Ralph Esquerra, Project Engineer, San Carlos Irrigation Project, P.O. Box 456, Coolidge, Arizona 85228, telephone: (602) 723-5439.

SUPPLEMENTARY INFORMATION: An analysis of the costs of operation and maintenance of the Joint Works of the San Carlos Irrigation Project was made and on April 22, 1981, was presented to the fact finding Committee which is made up of representatives from the San Carlos Irrigation and Drainage District, San Carlos Irrigation Project, Gila River Indian Community, Pima Agency, and the Phoenix Area Office.

Objections to two elements of the budget used to compute the Operation and Maintenance rate were received. After careful consideration the two elements were left in the budget. If other funding is obtained or the elements are not needed, future rate increases will be postponed or the existing Irrigation Operation and Maintenance rate will be decreased accordingly.

Pursuant to § 191.1(e) of Part 191, Chapter 1, subchapter R of Title 25 of the Code of Federal Regulations, this public notice is issued by authority delegated to the Assistant Secretary for Indian Affairs by the Secretary of the Interior in 209 DM 8 and redelegated by the Assistant Secretary for Indian Affairs to the Area Director in 10 BIAM 3.

The principal author of this document is George Knoll, Bureau of Indian Affairs, Phoenix, Arizona 85011, telephone (602) 241-2285. The authority to issue this regulation is vested in the Secretary of the Interior by 5 U.S.C. 201 and 25 U.S.C. 385.

The Public Notice shall read as follows:

San Carlos Irrigation Project

Assessment, Joint Works

Pursuant to the Act of Congress approved June 7, 1924 (43 Stat. 476) and supplementary acts, the Repayment Contract of June 8, 1931, as amended, between the United States and the San Carlos Irrigation and Drainage district, and in accordance with applicable provisions of the order of the Secretary of the Interior of June 15, 1936, the cost of the operation and maintenance of the Joint Works of the San Carlos Irrigation Project for the Fiscal Year 1983, is estimated to be $1,552,580 and the rate of assessment for the said fiscal year and subsequent fiscal years until further order, is hereby fixed at $15.59 for each acre of land.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82-5713 Filed 3-2-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Closure of Access and Determination of Special Areas

February 1, 1982.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of closure of public access and determination of special areas.

DECISION: Notice is hereby given relating to the closure of public access to certain caves located on lands under administration of the Worland District Office, Bureau of Land Management. Public access and use of these caves will be limited to specifically authorized permits. This restriction has been made in the interest of public health and safety and for the preservation and protection of public lands and resources. This closure is made under the authority contained in 43 U.S.C. 1201 and regulations contained in 43 CFR 8364.1–1.

Notice is also given that these caves have been determined to be "special areas," in accordance with provisions contained in 43 CFR 8372.1–2, and require special management and control measures for their protection. Special recreation permits are required for the use of these areas, but permit fees are waived for noncommercial and noncompetitive recreational uses. The issuance to special recreation permits is authorized by the Land and Water Conservation Fund Act of 1965, as amended.

The areas affected by this closure consist of all subterranean passages at the following named caves:

Bad Medicine
Great Expectations
Horsethief
Natural Trap
Spirit Mountain
Tres Charros

These caves have been identified with signs which list the cave name, specify that entrance is allowed by permit only, and provide the address of the administering Bureau of Land Management office.

Several of these caves have been physically closed to public access for several years, with entrance allowed only under special permit. Restricted use of these caves was required because they contain fragile mineral formations or paleontological resources, and/or they present severe hazards to the public health and safety. Due to continued vandalism, unauthorized entry, and destruction of fragile resources in these caves, it has been found necessary to effect a legal closure to complement existing use restrictions and management efforts. Present administrative penalties have not been adequate. A legal closure and attendant criminal penalties will increase BLM's ability to protect these public resources.

This notice and land closure become effective upon publication in the **Federal Register** and will remain in effect until rescinded or modified by the State Director. Violations of this closure order are punishable upon conviction by a fine not to exceed $1,000 or imprisonment of not more than 12 months, or both.

ADDRESS: For further information about this closure, contact the following BLM office: Worland District Office, Bureau of Land Management, 1700 Robertson Avenue, P.O. Box 119, Worland, Wyoming 82401.

FOR FURTHER INFORMATION CONTACT: John Kwiatkowski, District Manager at the Worland, Wyoming address, or call (307) 347–0151.

F. William Eikenberry,

Associate State Director.

[FR Doc. 82-5698 Filed 3-2-82; 8:45 am]

BILLING CODE 4310-84-M

[INT DES 82-7]

Proposed Grazing Management for the Willow Creek Planning Unit, Eagle Lake Resource Area, Susanville District, Calif.; Availability of Draft Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a draft environmental impact statement concerning a proposed intensive grazing management program for the Willow Creek Planning Unit in Lassen County, California. Management proposals are presented and analyzed for each of twenty-six (26) grazing allotments. Intensive management will occur on eleven of the allotments and less intensive management will occur on fifteen allotments. The planning unit covers 575,910 acres, of which fifty-two percent is Federal land.

Comments on the draft environmental impact statement are being solicited from public agencies and interest individuals and entities. The Bureau of Land Management invites written comments on the statement to be submitted by April 19, 1982, to the District Manager, Susanville District, Bureau of Land Management, P.O. Box 1090, Susanville, California 96130.

A limited number of copies of the draft environmental impact statement are available upon request at the following offices:

California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825, Telephone (916) 484–4541

Susanville District Office, Bureau of Land Management, 705 Hall Street, Susanville, California 96130, Telephone (916) 257–5381

Copies of the draft environmental impact statement will be available for public reading and review at the following locations:

Division of Rangeland Management, Bureau of Land Management, Interior Building, 18th and C Streets, NW., Washington, D.C. 20240

California State Office (911), Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825, Telephone (916) 484–4541

Susanville District Office, Bureau of Land Management, 705 Hall Street, Susanville, California 96130, Telephone (916) 246–5325

Dated: February 22, 1982.

Ron Hofman,

Associate State Director.

[FR Doc. 82-5699 Filed 3-2-82; 8:45 am]

BILLING CODE 4310-84-M

Final Wilderness Inventory Decision for Michigan and Wisconsin

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of final wilderness inventory decision for Michigan and Wisconsin.

SUMMARY: This notice is to announce the final wilderness decision on public islands administered by the Bureau of Land Management in Michigan and Wisconsin, under the authority of Section 603 of the Federal Land Policy and Management Act, and in accordance with guidelines in the September 27, 1978 Bureau of Land Management *Wilderness Inventory Handbook*, Organic Act Directive No. 78–61, Change 3; and Bureau of Land Management Washington Office memorandum dated July 22, 1981.

DATE: The final wilderness inventory decision will be effective at 4:00 p.m. April 2, 1982.

Persons wishing to protest this decision must file a written protest with the Eastern States Director, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, on or before April 2, 1982 at 4:00 p.m. Eastern Time. Only those protests received by the Eastern States Office by the time and date specified will be accepted.

SUPPLEMENTAL INFORMATION: The August 28, 1981 Federal Register (46 FR 43509) announced a 90-day public comment period on 1,732 island inventory units in Michigan and Wisconsin, encompassing approximately 4,798 acres. The public comment period ended November 25, 1981. During the comment period, reports of proposed wilderness inventory decisions, along with maps and public comment worksheets, were published and widely distributed to state and local governments, interest groups and concerned individuals; and press releases were issued to encourage response.

Summary of Public Reponse

Fifteen written and oral comments were received. Six comments were submitted by individuals; four comments were submitted by organizations; three by local governments; one by a state council; and one by a Federal agency. Six comments agreed with the inventory proposals. Three comments disagreed with all or some of the proposals; one of these comments identified specific islands for wilderness designation. The remaining six comments and portions of other comments brought up issues that are not relevant to wilderness review.

After the close of the public comment period, announcement of a final decision was delayed in order to evaluate a request for a one-year extension of the formal comment period. The principle reason for the request was to allow field checking of certain islands. This request was accompanied by a comment stating disagreement with BLM's interpretation of the wilderness criteria. In addition, a list of islands was submitted. These islands were considered to qualify as wilderness because of the commenter's on-site experience and knowledge of the surrounding environment. There was no discussion as to whether the islands met the criteria for providing outstanding opportunities for solitude and/or primitive and unconfined recreation.

Comments were also received on non-wilderness concerns. These included proposals to retain the islands in Wisconsin and Michigan in public ownership, preserve them in a natural condition and make them available for public recreational use. Ten of the fifteen letters received on the wilderness proposals expressed a concern that the islands remain in public ownership. These issues are important, but they are not directly relevant to wilderness review. Rather, they are issues that will be addressed during the multiple use planning process, tentatively scheduled to commence in Wisconsin and Michigan during 1982. The forum for surfacing the non-wilderness related issues is discussed below.

The wilderness related issues raised during the public comment period and touched on above have been examined in an analysis report that is available upon request. The matters pertaining to non-wilderness considerations, also, are discussed in this analysis report, albeit briefly.

By way of background, the BLM Eastern States Policy and Program Study of 1980 determined the Bureau of Land Management's primary role in the east should be the management of federal minerals; and that the surface ownership and management responsibilities should be transferred on a planned basis to other state, federal, or local government agencies and qualified organizations; or disposed of through public sale where appropriate. For each state in which ESO has federal minerals and/or surface responsibility, including Michigan and Wisconsin, a two-phase multiple use plan will be completed. Appropriate consideration will be given to the islands and uplands in question. In Wisconsin and Michigan, multiple use planning is tentatively scheduled to start during 1982. During this time the public will be provided the opportunity to offer comments. More detailed announcements regarding the planning schedule and opportunities for public participation will be provided in the **Federal Register** at the initiation of planning activities.

The emphasis of the concerns expressed during the public comment period regard preservation, continued public ownership and availability for public recreational use of the islands in Wisconsin and Michigan. Since these are non-wilderness issues that will be fully considered in the multiple-use planning process, previously alluded to, the following units proposed to be dropped from further study in the August 28, 1981 **Federal Register**, are no longer subject to wilderness review because they were found to lack wilderness characteristics:

	No. of islands	Total acres
Michigan	849	985.88
Wisconsin	881	3,541.40
Waugoshance and Temperance Island (Lake Michigan)	2	290.00
Total	1,732	4,798.28

The final wilderness decision will become effective on April 2, 1982, unless timely protests are received.

Persons wishing to protest this decision must file a written protest with the Eastern States Director, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, on or before April 2, 1982 at 4:00 p.m. Eastern Time. Only those protests received by the Eastern States Office by the time and date specified will be accepted.

The protest must specify the inventory unit(s) to which it is directed. It must include a clear and concise statement of the reasons for the protest, as well as data to support the reasons stated.

At the conclusion of the protest period, the Eastern States Director will publish a notice in the **Federal Register** of those decisions (if any) which are under formal protest. The notice will identify those inventory units under protest and will announce that the decision on the units will not become final pending a decision on the protest and any resulting appeal.

The Eastern States Director will issue a written decision on any protest which is filed according to the above requirements and will public a notice in the **Federal Register** of the action taken in response to the protest.

Any person adversely affected by the Eastern States Director's decision on a written protest, may appeal such decision under the provisions of 43 CFR Part 4.

To obtain a copy of the analysis report of public comments or for additional information, contact: Eastern States Director, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, telephone (703) 235–2600; or Manager, Duluth Field Office, Bureau of Land Management, 125 Federal Building, Duluth, Minnesota

55802, telephone (218) 727-6692, Extension 378.

Pieter J. VanZandee,

Acting Eastern States Director.

[FR Doc. 82-5688 Filed 3-2-82; 8:45 am]

BILLING CODE 4310-84-M

Environmental Impact Statement; National Petroleum Reserve in Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: This notice announces that the Bureau of Land Management (BLM) will prepare an environmental impact statement (EIS) for competitive oil and gas leasing in a portion of the National Petroleum Reserve in Alaska (NPR-A).

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91-90), the BLM will prepare an EIS to analyze activities in NPR-A related to competitive oil and gas leasing, exploration, development, production and transportation as to environmental impacts, issues, alternatives within the proposed action, and mitigation measures. The proposed action will be carried out pursuant to the FY 1981 U.S. Department of the Interior Appropriations Act (Pub. L. 96-514). Public participation and comment are invited through the analysis process. A formal scoping document was made available from the address given below on February 1, 1982. Notification of scoping meetings to be held in North Slope communities and in Anchorage and Fairbanks will be sent to the news media, interest groups, and individuals. Further public review and comment will be sought regarding the preparation of the EIS. A preliminary outline for the EIS is available from the NPR-A Staff at the address given below.

DATES: Scoping meetings will be scheduled during February and March, 1982. The Draft Environmental Impact Statement (DEIS) is scheduled for completion by October 1, 1982, and the Final EIS (FEIS) is scheduled for completion February 1, 1983.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Jerry C. Wickstrom, Program Manager, Alaska State Office (916), Bureau of Land Management, 701 C Street, Box 13, Anchorage, AK 99513, Phone: (907) 271-3632.

SUPPLEMENTARY INFORMATION: The 1981 Appropriations Act mandates oil and gas leasing in the NPR-A which is located in north central Alaska on the North Slope. It provided that the detailed environmental sutdies and assessments already conducted under the government exploration program and that the comprehensive land use studies conducted in response to Section 105(b) and (c) of Pub. L. 94-258 fulfill the requirements of NEPA Section 102(C) for the first two NPR-A oil and gas lease sales if not more than 2,000,000 acres are leased. For these two sales, 4.56 million acres were cleared for leasing under the Final Environmental Assessment (FEA) published October 1, 1981. The FEA also outlines general land areas to be included in an EIS. Well sites, development of a field, major pipeline construction, or other activities may necessitate the completion of additional NEPA analysis review at a later date.

This EIS will discuss the impacts of the Congressionally mandated action for an expeditious competitive oil and gas leasing program within the Reserve on: (a) Caribou, with particular emphasis on the Utukok calving area and on caribou migration routes, (b) black brant, white-fronted geese, and other waterfowl, with particular empasis on molting, staging, and nesting habitat in the Teshekpuk Lake Area; (c) scenic, aesthetic, and recreational values of the rivers within NPR-A legislatively designated as study rivers in the Wild and Scenic River System, and (d) resources used for subsistence purposes by native Alaskans.

Other issues may surface during the scoping process as part of the preparation of the DEIS. Federal, State, and local agencies, public interest organizations, individuals and representatives of industry who are interested in or affected by the decision will be invited to participate in the scoping process. It will include (a) identification of issues; (b) elimination of insignificant issues or those covered by previous environmental reviews, and (c) identification of cooperating agencies and their assignment to analytical and management tasks.

The draft decision document to aid in scoping these issues was made available February 1, 1982 for public review. Scoping meetings will be scheduled in North Slope communities and in Anchorage and Fairbanks during February and March 1982. Notices of these meetings will be sent to news media, interested groups and individuals. A multi-disciplinary team of specialists from BLM will develop a range of management alternatives that address issues established in the scoping process and that will be included in the EIS. The final decision document outlining the EIS areas, issues, and alternatives will be available May 1, 1982.

The State Director, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513, is the responsible official.

Curtis V. McVee,

State Director.

February 19, 1982.

[FR Doc. 82-5687 Filed 3-2-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Availability of Report of the Research and Development Program, Minerals Management Service

The following report is available without charge: *Research and Development Program for Outer Continental Shelf Oil and Gas Operations, Technical Report 1981, Open File Report 81-704.* Interested persons should write or phone the Research and Development Program, Minerals Management Service, National Center, Mail Stop 620, Reston, Virginia 22092, telephone number (703) 860-7865.

This report of program progress is updated at 18-month intervals. It summarizes the research being pursed by the Minerals Management Service (formerly the Conservation Division, U.S. Geological Survey) in support of its offshore oil and gas operations. In addition, the report discusses the objectives of the Program and its method of operation. Research is carried out at universities, Government laboratories, and private companies. Programmatic content is divided into three categories: well-contrl or the prevention of blowouts and attendant fires, the verification of offshore structures and pipelines, and environmental concerns.

The following individual projects are summarized in the report which contains 87 pages and 76 figures:

- Dynamic Properties of Offshore Structures—Vandiver, Massachusetts Institute of Technology
- Damage Detection in Offshore Structures by Vibration Measurements—Rubin, The Aerospace Corporation
- Detection of Incipient Structural Failure by the Random Decrement Method—Yang, University of Maryland
- NDE Round Robin Experiment for Evaluating Structures Monitoring Techniques—Dame, Mega Engineering
- Fracture Toughness of Steel Weldments for Arctic Structures—McHenry, National Bureau of Standards
- Unmanned, Free-Swimming Undersea Inspection Technology—Heckman, Naval Ocean Systems Center, Corell, University of New Hampshire
- Acoustic Transmission of Digital Data From Undersea Sensors—Softley, Ocean Electronic Applications
- Self-Contained Cavitation Erosion Cleaning Technology for Use on an Unmanned, Untethered Vehicle—Bohli, Daedalean Associates; Barber, Naval Surface Weapons Center
- Development of Improved Blowout Prevention Procedures for Deepwater Drilling Operations—Bourgoyne, Louisiana State University
- Fluidic Mud Pulse Telemetry—Holmes, Harry Diamond Laboratories
- Suppression of Blowout Fires—O'Neill, National Bureau of Standards
- Overpressured Marine Sediments—Thompson, Texas A&M University
- Subsea Collection of Oil From a Blowing Well—Milgram, Massachusetts Institute of Technology
- Toxicity of Drilling Fluids on Corals—Shinn, U.S. Geological Survey
- Environmental Effects of Wellhead Removal by Explosives—Hays, Woods Hole Oceanographic Institution

Andrew V. Bailey,

Acting Chief, Minerals Management.

[FR Doc. 82-5701 Filed 3-2-82; 8:50 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-43]

Lease and Interchange of Vehicles by Motor Carriers

Decided: February 23, 1982.

Automobile Carriers Inc. (No. MC-113436), C&J Commercial Driveaway, Inc. (No. MC-10345) and Motorcar Transport Company (No. MC-60470) have filed a petition for waiver of Subpart B, § 1057.11 (except paragraph (b)) and § 1057.12 of the Lease and Interchange of Vehicles Regulations (49 CFR Part 1057), with respect to equipment augmented between them.

Findings

1. Petitioners are commonly controlled and administer a common safety program.

2. Petitioners have acceptable fitness records.

3. Greater economy and efficiency would result from partial waiver.

It is ordered:

1. The petition of Automobile Carriers, Inc., C&J Commercial Driveaway, Inc. and Motorcar Transport Co. for waiver of Subpart B (Sections 1057.11 and 1057.12), is granted, except for paragraph (b) of § 1057.11, with respect to equipment augmented between them, provided petitioners or their authorized representatives agree in writing that the lessee shall have control and responsibility for the operation of the equipment from the time possession is taken by the lessee and the receipt required under paragraph (b) of § 1057.11 is given to the lessor until possession of the equipment is returned to the lessor or given to another authorized carrier in an interchange of equipment. A copy of the agreement must be carried in the equipment while it is in the possession of the lessee.

2. The waiver granted in this decision does not affect the application of the leasing regulations to a lease between an owner-operator and the lessor carrier.

By the Motor Carrier Leasing Board, Board Members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5673 Filed 3-2-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Decision-Notice; Finance Applications

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR § 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality or the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: February 26, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

MC-F-14797, filed January 29, 1982. INTER-CITY TRUCK LINES (CANADA) INC. (INTER-CITY) (3033 Universal Drive, P.O. Box 900, Station "U", Toronto, Ontario, Canada)—Continuance in Control—TRANS CANADA TRUCK LINES, INC. (TRANS CANADA) 3033 Universal Drive, P.O.

Box 900, Station "U", Toronto, Ontario, Canada). Representative: Robert D. Gunderman; Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. Inter-City seeks authority to continue in control of Trans Canada, its wholly-owned subsidiary, upon Trans Canada's receipt of a certificate(s) to provide common carrier service and its institution of operations thereunder. By the same application, N. M. Davis Corporation Limited (Davis), a non-carrier holding company which controls Inter-City also seeks authority to acquire control of said rights and property through this transaction. Davis also controls Automobile Transport Limited, a common carrier holding authority in Certificate No. MC–127540 and subs thereunder to transport automobiles, trucks, buses and tractors between ports of entry on the International Boundary line between the U.S. and Canada in NY, VT, and MI, and Roadway Transport Ltd., a common carrier holding authority in Certificate No. MC–106037 and subs thereunder to transport automobiles, trucks, buses and tractors between ports of entry on the International Boundary line between the U.S. and Canada in NY and MI, and points in NY and MI. Common control has been approved in Docket No. MC–F–7987. Inter-City holds authority in MC–87689 and subs thereunder to transport general commodities, with exceptions, between ports of entry on the International Boundary line between the U.S. and Canada in MI, MT, and NY, on the one hand, and, on the other, Great Falls, MT, Detroit and Port Huron, MI, and specified New York points. Trans Canada is seeking authority to transport general commodities, with exceptions, between ports of entry on the International Boundary line between the U.S. and Canada in MI, on the one hand, and, on the other, points in MI, and additional authority to transport general commodities, with exceptions, (1) between points in Erie County, NY, and (2) between points in Erie County, NY, on the one hand, and, on the other, points in Allegheny, Cattaraugus, Chautauqua, Chemung, Genesee, Monroe, Niagara, Onondaga, Ontario, Orleans, Oswego, Seneca, Steuben, Wayne, and Wyoming Counties, NY. Conditions: N. M. Davis Corporation Limited, a non-carrier holding company, shall be considered a carrier within the meaning of 49 U.S.C. 11348 and is subject to the requirements of 49 U.S.C. 11302 for those issuance of securities and assumption of obligations which may relate to or affect the activities of its carrier subsidiaries. Regarding the reporting requirements of 49 U.S.C. 11145, N. M. Davis Corporation Limited need only file such special reports as the Commission may from time to time require. N. M. Davis Corporation Limited is not made subject to the accounting requirments of 49 U.S.C. 11142.

MC–F–14800, filed February 8, 1982. Applicant: WILLIAM M. HAYES, SR. and JUDY W. HAYES—continuance in control— ALL POINTS EXPRESS, INC., P.O. Box 610, Lebanon, TN 37087. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Authority sought by William M. Hayes, Sr. and Judy W. Hayes to continue in control of All Points Express, Inc. in a common interest with William Hayes Lines, Inc. (MC–121399). Application for initial authority has been filed by All Points Express, Inc. in MC–159140, published November 23, 1981.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5674 Filed 3-2-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

F.D. 29842. By decision of February 10, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1151, Review Board Number 3 approved the transfer to H–PA FORWARDING, of Los Angeles, CA, of Permit No. FF–277 issued January 14, 1964, to HAWAIIAN PACIFIC FREIGHT FORWARDING, of Los Angeles, Orange, CA, authorizing: General commodities, from points in Los Angeles, Orange, and Riverside Counties, CA, to points in Honolulu and Hawaii Counties, Hawaii. Representative: Fred H. Mackensen, 2029 Century Park East, Suite 4150, Los Angeles, CA 90067; phone (213) 879–5955. TA lease is not sought. Transferee is not a carrier.

MC–FC–79333. By decision of February 10, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to JOSEPH J. SARCONA TRUCKING CO., INC., of Brooklyn, NY, of Permit No. MC–127976 (Sub-No. 3) X, issued October 6, 1981, to J & J TRUCKING CO., INC., of Brooklyn, NY, authorizing the transportation of *transportation equipment*, between points in the U.S., under continuing contract(s) with Beck Distributing Corp., of Melville, NY. Representative: Piken & Piken, P.C., 95–25 Queens Blvd., Rego Park, NY 11374.

Note.—Transferee is not a carrier.

MC–FC–79371 (supplemental publication). By decision of 2/16/82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to CHAFEN BODY WORKS, INC. of Certificate No. MC–116174 (Sub-No. 1) issued to CHAFEN BODY WORKS, PATSY L. LAWSON, administratix, authorizing the transportation of *wrecked, damaged, disabled, repossessed or abandoned motor vehicles and trailers*, and *replacement motor vehicles and trailers* to points of wreck, damage or disablement by the use of tow or wrecking equipment only, between points in IL, IA, KS, MO, NE and OK. Representative: Tom B. Kretsinger, 20 East Franklin, P.O. Box 258, Liberty, MO 64068–0258.

Note.—The purpose of this supplemental publicatin is to transfer MC–116174 (Sub-No. 1) not authorized in the previous publication.

ELVIS A. LONG, d.b.a. MOTOR DELIVERY SERVICE—Leo Baldree, Carolyn Baldree and Jerry Sutton, a partnership doing business as LCBS TRUCKING ENTERPRISES. No. MC–FC–79807. By decision of February 10, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132. Review Board Number 3 approved the transfer to Elvis A. Long doing business as Motor Delivery Service of Irving, TX, of Permit No. MC–148447 (Sub-Nos. 3F, 4F and 5F) issued November 6, 1980 and July 8, 1981 to Leo Baldree, Carolyn Baldree once Jeffy Sutton, partnership doing business on LCBS Trucking Enterprises generally authorizing the transportation of paper (in rolls), plastic articles and rubber and plastic products from, to, and between points in the United States under authority contracts with Paper Tech, Inc., Dolco Packaging and Sewell Plastics Company (all of Dallas, TX) and Reper Plastics, Inc. and D&) Container Corporation (both of Grand Prairie, TX). Representative: Sam Hallmen, Esq., 4555 First National Bank Building, Dallas, TX 75202.

MC–FC–79620. By decision of 2/22/82 issued under 49 U.S.C. 10926 and the transfer rules at 4 CFR Part 1132, Review Board Number 3 approved the transfer to FERRY EXPRESS, INC. of Permit No. MC–150280F issued to BILL ED, INC., d.b.a. GLASSMAN TRUCKING CORPORATION authorizing the transporation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment and furniture), between the facilities of Liss Brothers, at Philadelphia, PA, and those points in the United States in and east of MN, IA, MO, AR, and TX, under continuing contract(s) with Liso Brothers of Philadelphia, PA. Representative: Andrew D. Lipman, 1777 F. St., NW., Washington, DC 20006.

Note.—Transferee is a non-carrier.

MC–FC–79624. By decision of February 18, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to O'BRIEN MOVERS, INC., of Watertown, MA, of Certificate No. MC–78177 (Sub 3), issued on October 13, 1981, to BROOKLINE MOVING CO., INC., of Brookline, MA, authorizing the transport of *household goods*, between Malden, MA and points in MA within 10 miles of Malden, on the one hand, and, on the other points in NY, CT, RI, and NH. Representatives: Transferee: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181. Transferor: George C. O'Brien, 342 Wild Harbor Road, North Falmouth, MA 02556. Transferee presently holds no authority. TA application has not been filed.

MC–FC–79638. By decision of February 24, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board No. 3, approved the transfer to CODY EXPRESS, INC., of Norwood, MA, of Certificates No. MC–22425 and Sub-Nos. 5, 7, and 8 and MC–152808 issued to MALFIN EXPRESS, INC., of Norwood, MA, authorizing the transportation to operate as a *common carrier*, by motor vehicle, in interstate commerce, over *regular* and *irregular routes, general commodities*, with exceptions, and other *specified commodities*, between points in numerous northeastern States. Representative: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5675 Filed 3-2-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the ground that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–33

Decided: February 19, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 99680 (Sub-16), filed February 5, 1982. Applicant: NORTH SHORE & CENTRAL ILLINOIS FREIGHT CO., 7701 W. 95th St., Hickory Hills, IL 60457. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602, (312) 236–5944. Transporting *general commodities* (except classes A and B explosives), between Wayland and Kahoka, MO, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 145351 (Sub-1), filed February 4, 1982. Applicant: SORRELS TRUCKING CO., INC., 160 N. Perkins St., Memphis, TN 38117. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004, (202) 347–8862. Transporting *general commodities*, between Malesus, Medon, Toone, Conger, Bolivar, Middleburg, Hickory Valley, and Grand Junction, TN, Michigan City, Lamar, Hudsonville, Holly Springs, Waterford, Spraggins, Abbeville, McClary, College Hill, Oxford, Taylor, and Water Valley, MS, and Deaneville, Whitesville, Philpot and Oak Ridge, KY, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail service.

MC 156050 (Sub-1), filed February 10, 1982. Applicant: QUALITY TRANSPORT SERVICES, INC., Suite 300, Landover Mall West, Landover, MD 20285. Representative: G. W. Taylor, 8411 Patterson Ave., Richmond, VA 23229, (804) 740–6061. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

MC 160421, filed February 4, 1982. Applicant: TIGER EXPRESS, INC., 1479 Ripley Street, Lake Station, IN 46405. Representative: James C. Hardman, 33 N. LaSalle Street, Chicago, IL 60602, (312) 236–5944. Transporting *general commodities*, between Mooseheart, IL, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail service.

MC 160551, filed February 12, 1982. Applicant: ALLSERVICES, INC., 343 Crosson, Elk Grove Village, IL 60007. Representative: Irwin D. Rozner, 134 North LaSalle St., Chicago, IL 60602, (312) 782–6937. As a *broker* of *general commodities* (except household goods), between points in the U.S.

Volume No. OP2–36

Decided: February 23, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 149253 (Sub-3), filed February 1, 1982. Applicant: THE HONEY CREEK EXPRESS CO., Blakesburg, IA 52536. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309, (515) 244–2329. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 159743, filed February 5, 1982. Applicant: VANGUARD MOVING & STORAGE CO., INC., 1901 Light St. Bldg. #7, Baltimore, MD 21230 Representative: Eugene W. Smoot (same as applicant) (301) 727–3171. Transporting *used household goods* for the account of the United States Government, incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

MC 160443, filed February 5, 1982. Applicant: LOWELL BOEKE d.b.a. BOEKE TRUCKING, Box 363, Hubbard, IA 50122. Representative: Larry D. Knox, 600 Hubbell Bldg. Des Moines, IA 50309, 515–244–2329. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160463, filed February 8, 1982. Applicant: McDANIEL WELDING, INC., P.O. Box 579, Vee-Jay St. Cameron, LA 70631. Representative: Charles McDaniel (same address as applicant) 318–775–5561. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP2–38

Decided: February 25, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 119774 (Sub-118), filed February 16, 1982. Applicant: EAGLE TRUCKING COMPANY, a Corporation, P.O. Box 471, Kilgore, TX 75662. Representative: Bernard H. English, 6270 Firth Rd., Fort Worth, TX 76116 (817) 731–8431 Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 160645, filed February 19, 1982. Applicant: DOLPHIN FORWARDING INC., 56 Oak Hill Way, Brockton, MA 02403. Representative: Margaret M. White (same address as applicant) (617) 588–1250. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP4–68

Decided: February 25, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 160586, filed February 16, 1982. Applicant: M. A. WORBEL BROKERS, INC., 7000 W. Southwest Hwy. #201, P.O. Box 207, Chicago, IL 60415–0206. Representative: Mark A. Worbel (same address as applicant) (312) 448–5951. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 160606, filed February 17, 1982. Applicant: JOSEPH F. SELF d.b.a. JOE F. SELF, 2705 Howard Ave., Medford, OR 97501. Representative: Joe F. Self (Same address as applicant) (503) 773–8551. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160646, filed February 19, 1982. Applicant: DENNIS SMITH & SAM McMURRAY d.b.a. S.A.M. TRUCKING, Star Route 2385, Silver Lakes, Helendale, CA 92342. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114 (402) 397–9900. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP4–71

Decided: February 22, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 297 (Sub-19), filed February 16, 1982. Applicant: WOODLAND TRUCK LINE, INC., P.O. Box 70, Woodland, WA 98674. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210 (503) 226–3755. Transporting *general commodities* (except classes A and B explosives), between Winlock, WA, on the one hand, and, on the other, points in the US.

MC 160677, filed February 16, 1982. Applicant: KEVIN A. SIMONSON d.b.a. K.A.S. TRUCKING, Rt. 2, Melrose, WI 54642. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703 (608) 256–7444. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S., and (2) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160697, filed February 17, 1982. Applicant: BILL & WAGS, INC., 609 E. Holt Blvd., Ontario, CA 91761. Representative: Garvin W. Robertson (Same address as applicant) (714) 986–4501. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S., (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S., (3) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other oil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S., (4) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense between points in the U.S., and (5) as a *broker of general commodities* (except household goods), between points in the U.S.

MC 160617, filed February 18, 1982. Applicant: JOHN MILLIGAN, 5732 Orval Ct., Ft. Worth, TX 76117. Representative: A. William Brackett, 632 South Henderson, 2nd Floor, Ft. Worth, TX 76104 (817) 332–4415. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP4–74

Decided: February 25, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 160627 (Sub-3), filed February 19, 1982. Applicant: DONOVAN L. SPRY, d.b.a. W. J. SPRY & SONS, P.O. Box 38, Chili, WI 54420. Representative: Richard A. Westely, 4506 Regent St., Suite 100, P.O. Box 5068, Madison, WI 53705–0068 (608) 238–3119. Transporting *general commodities* (except classes A and B explosives and household goods), between Edgar, Fenwood, Marathon and Stratford, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: Issuance of a Certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at specified points. The certification should be sent to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423.

MC 160837, filed February 19, 1982. Applicant: WILSON TRUCKING, d.b.a. ROWIL, INC., 118 E. Hudspith, Valley, NE 68064. Representative: Roger W. Wilson (same address as applicant) (402) 359–5628. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP5–42

Decided: February 18, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 134768 (Sub-4), filed February 4, 1982. Applicant: LEXINGTON–PARIS MOTOR FREIGHT, INC., P.O. Box 699, Milan, TN 38358. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., NW, Washington, DC 20004 (202) 347–8862. Transporting *general commodities* between Lexington, Luray, Beech Bluff, Ralston, Terrell, Malesus, Medon, Toone, Conger, Bolivar, Middleburg, Hickory Valley, and Grand Junction, TN, Michigan City, Lamar, Hudsonville, Holly Springs, Waterford, Spraggins, Abbeville, McClary, College Hill, Oxford, Taylor, and Water Valley, MS, Deanefield, Whitesville, Philpot, Oak Ridge, Masonville, Thompsonville, and Edgoten, KY, Kenwood, Hickory Point, Dodsville, Fox Bluff, Chapmansboro, Parkburg, Deanburg, Silerton, Hornsby, Serles, and Lacy, TN, on the one hand, and, on the other, points in the U.S. Condition: Approval of this authority is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service, at each point to be served, has actually terminated.

Note.—This application is filed as a direct substitute of motor carrier service for completely abandoned rail service, and applicant intends to tack this authority with its existing regular-route authority.

Volume No. OP5–45

Decided: February 23, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 142069 (Sub-186), filed February 11, 1982. Applicant: CARDINAL TRANSPORT, INC., 1230 Northern Illinois Drive, Channahon, IL 60410. Representative: Jack Riley (same address as applicant) (815) 729–5808. Transporting *general commodities*, between McNary and Snowflake, AZ, Parrott and Weston, GA, Broughton, Dales, Equality and Lexington, IL, Arbela, Downing, Granger, Kahoka, Lancaster, Medill, Memphis, and Wayland, MO, Boyd, Juliet, Red Lodge and Roberts, MT, Motiville, and Skaneateles Falls, NY, West Salem, OR, Bedford, Garrett Road, Grassland and Llanerch, PA, Edgefield, SC, and Big Sandy, Deanburg, Hornsby, Lacy, Serles and Sileston, TN, on the one hand, and, on the other, points in the U.S. Condition: Approval of this authority is conditioned upon applicant certifying to the Commission, prior to commencing operations that all rail service has actually terminated at all of the involved points.

Note.—The purpose of this application is to substitute motor carrier service for complete abandonment of rail carrier service.

Volume No. OP5–47

Decided: February 24, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 150528 (Sub-2), filed February 16, 1982. Applicant: SOON LEE, MILTON LEE AND DENNIS LEE d.b.a. LEE & LEE, 440 First St., Woodland, CA 95695. Representative: Dennis Lee (same address as applicant.) (916) 662–7305. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160608, filed February 17, 1982. Applicant: ABLE TRANSPORTATION, INC., 14854 E. Valley Blvd., City of Industry, CA 91746. Representative: Bill Arthur Birkett, P.O. Box 2447, La Puente,

CA 91746 (213) 961–7296. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5880 Filed 3-2-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absense of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extant that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7329.

Volume No. OP1–32

Decided: February 19, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 2900 (Sub-454), filed February 11, 1982. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant) (904) 353–3111. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with General Foods Corporation, of White Plains, NY, and its subsidiaries (a) General Foods Manufacturing Corporation, and Birds Eye, Inc., both of White Plains, NY, and (b) Oscar Mayer and Co., Inc., of Madison, WI. Condition: Issuance of a permit in this proceeding is subject to the coincidential cancellation, at applicant's written request, of Permit No. MC–2900 Sub 446.

MC 16121 (Sub-35), filed February 10, 1982. Applicant: ADVANCE TRANSPORTATION COMPANY, P.O. Box 719, Milwaukee, WI 53201. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703 (608) 256–7444. Transporting *general commodities* (except classes A and B explosives), between points in the U.S.

MC 107460 (Sub-85), filed February 8, 1982. Applicant: WILLIAM Z. GETZ, INC., 3055 Yellow Goose Rd., P.O. Box 4124, Lancaster, PA 17604. Representative: Christian V. Graf, 407 N Front St., Harrisburg, PA 17101 (717) 236–9316. Transporting *metal products*, between points in the U.S., under continuing contract(s) with U.S. Reduction Co., of Lansing, IL, and U.S. Aluminum Corp., of Marietta, PA.

MC 124170 (Sub-196), filed February 11, 1982. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521 (312) 629–2900. Transporting *food and related products*, between points in Solano and San Francisco Counties, CA, Dallas and Bexar Counties, TX, Beadle County, SD, Jefferson County, KY, Madison and Douglas Counties, NE, Canyon County, ID, Buchanan and Jackson Counties, MO, Nobles and Martin Counties, MN, Eau Claire and Green Counties, WI, Cerro Gordo, Hancock and Mills Counties, IA, Allegheny County, PA, Multnomah County, OR, Cook County, IL, and Daviess County, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 124170 (Sub-197), filed February 12, 1982. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521 (312) 629–2900. Transporting *food and related products*, between points in Peoria and Warren Counties, IL, Marion and Cass Counties, IN, Dubuque, Polk, Scott, Woodbury, Cherokee, Linn and Page Counties, IA, Wyandotte County, KS, Jefferson County, KY, Ramsey, Hennepin and Freeborn Counties, MN, St. Louis, MO and Jackson and Saline Counties, MO, Douglas County, NE and Oklahoma County, OK, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 134401 (Sub-16), filed February 11, 1982. Applicant: McGILLION TRANSPORT, INC., 141 Healey Road, Box 644, Bolton, Ontario, Canada LOP 1AO. Representative: Allan C. Zuckerman, 29 South LaSalle Street, Suite 905, Chicago, IL 60603 (312) 236–9375. Transporting *metal products*, between points in MI and NY, on the one hand, and, on the other, points in the U.S.

MC 146690 (Sub-43), filed February 12, 1982. Applicant: C & E TRANSPORT, INC., d.b.a. C & E ZUMSTEIN CO., P.O. Box 27, Lewisbury, OH 45338. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW, Washington, DC 20001 (202) 628–6242. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Dayton Superior Corporation, of Miamisburg, OH.

MC 146910 (Sub-7), filed February 10, 1982. Applicant: MOTOR CARGO TRANSPORT CORP., 21 D'Shibe Terrace, Vineland, NJ 08360. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666 (201) 836–1144. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Kerr Glass Mfg. Corp., of Sand Springs, OK.

MC 147500 (Sub-4), filed February 9, 1982. Applicant: ERNEST L. "BOB" CORNISH, 201 W. 6th St., PO Box 114, Shoshoni, WY 82649. Representative: Ernest L. "Bob" Cornish (same address as applicant) (307) 876–2524. Transporting *hyrochloric acid, soda ash, lime, bags, drums, and pallets*, between points in MT, WY, ND, and SD.

MC 147570 (Sub-9), filed February 8, 1982. Applicant: KABAT EXPRESS, INC., 1944 Scranton Rd., Cleveland, OH 44113. Representative: Arthur E. Gogol, 7723 Greenwich Rd., Lodi, OH 44254 (216) 948–2531. Transporting *machinery, transportation equipment, and pipe fittings*, between Cleveland and Akron, OH, and points in Portage County, OH, on the one hand, and, on the other, those points in the U.S. in and east of MN, NE, KS, OK, and TX.

MC 148560 (Sub-6), filed February 8, 1982. Applicant: GOLD STAR, INC., 130 Davidson Avenue, Somerset, NJ 08873. Representative: A. David Millner, 7 Becker Farm Road, PO Box Y, Roseland, NJ 07068 (201) 992–2200. Transporting *such commodities* as are dealt in or used by food business houses, between points in the U.S. (except AK and HI), under continuing contract(s) with The Kroger Co., of Cincinnati, OH. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's Office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the applications for common control to team 1, room 6354.

MC 149580 (Sub-3), filed February 8, 1982. Applicant: BOB STEWART TRUCKING, INC., 2609 Crosby Street, Klamath Falls, OR 97601. Representative: Jerry R. Woods, Suite 1600, One Main Place, 101 SW Main Street, Portland, OR 97204 (503) 224–5525. Transporting *compressed wood fuel pellets and such commodities as are used in the manufacture and distribution of compressed wood fuel pellets*, between points in Klamath, Jackson, Josephine, Deschutes, Crook, Jefferson and Curry Counties, OR, on the one hand, and, on the other, points in CA, ID, NV and WA.

MC 154210 (Sub-1), filed January 18, 1982, previously noticed in the Federal Register issue of February 5, 1982. Applicant: A & R TRANSPORTATION CO., INC., 21 Ridgecrest Drive, Hudson, NH 03051. Representative: Samuel L. Watts, 54 Middlesex Turnpike, Burlington, MA 01803 (617) 273–3530. Transporting *metal products*, and *commodities* used or useful in the manufacture of metal products, between points in the U.S., under continuing contract(s) with Hendrix Wire and Cable Co., of Milford, NH.

Note.—This republication clarifies the commodity description.

MC 154511, filed February 10, 1982. Applicant: N & M TRUCKING, INC., 105 Case Street, Morganton, NC 28655. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Bldg., Charlotte, NC 28204 (704) 372–6730. Transporting *furniture and fixtures*, between points in the U.S., under continuing contract(s) with Drexel Heritage Furnishings, Inc., of Drexel, NC.

MC 158681, filed February 11, 1982. Applicant: TAYLORVILLE TRUCKING SERVICE, INC., 1001 N. Cheney St., Taylorville, IL 62568. Representative: Edward D. McNamara, Jr., 907 South Fourth St., Springfield, IL 62703 (217) 528–8476. Transporting *cement*, between points in IN and MO, on the one hand, and, on the other, points in IL.

MC 159261, filed February 10, 1982. Applicant: PEAKE TRUCKLINE, INC., 10 Main, Hudson, IA 50643. Representative: Thomas S. Fryer (same address as applicant) (319) 988–3242. Transporting *petroleum products*, between Bettendorf and Linwood, IA, on the one hand, and, on the other, points in IL.

MC 159451 (Sub-1), filed February 9, 1982. Applicant: GOLDEN WEST EXPRESS, INC., 4802 So. 81st St., Omaha, NE 68117. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114 (402) 397–9900. Transporting *food and related products*, between points in IA and NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159711, filed February 8, 1982. Applicant: FISCHER TRUCK & BUS SERVICE, INC., P.O. Box 622, Fernwood, WI 54431. Representative: Nancy J. Johnson, 103 East Washington Street, Box 218, Crandon, WI 54520 (715) 478–3341. Transporting *pallets and pallet parts* between points in Marathon County, WI, on the one hand, and, on the other, points in IL, IN, IA, MI and MN.

MC 160281, filed January 27, 1982, previously noticed in the Federal Register issue of February 17, 1982. Applicant: KAREN BUS CO., INC., 132 Lake Avenue, Boonton, NJ 07005. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904 (201) 572–5551. Transporting *passengers and their baggage*, in the same vehicle with passengers in charter operations, beginning and ending at points in Kings, NY and points in Orange and Rockland Counties, NY, Bergen, Hudson, Morris and Passaic Counties, NJ, and extending to points in CT, DE, FL, GA, KY, ME, MA, MD, NH, NJ, NY, NC, PA, RI, SC, TN, VT, VA, WV and DC.

Note.—The purpose of this republication is to reflect the State of NH in the proposed territorial description which had been omitted.

MC 160340, filed February 16, 1982. Applicant: PITTMAN TRANSPORT, INC., Rt 2, Box 258, Durand, WI 54736. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting *such commodities* as are dealt in or used by distributors of petroleum and petroleum products, between points in the U.S., under continuing contract(s) with Pittman Oil Co., of Durand, WI.

MC 160491, filed February 8, 1982. Applicant: N.F.C., INC., d.b.a. NORTRAN, Route 2, P.O. Box 415A, Forest Grove, OR 97116. Representative: Jerry R. Woods, 1600 One Main Pl., 101 SW Main St., Portland, OR 97204 (503) 224–5525. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Nordstrom, Inc., of Seattle, WA.

MC 160501, filed February 9, 1982. Applicant: HOTCHKISS CONTRACT CARRIERS, 100 State Street Apt. 62, North Haven, CT 06473. Representative: Robert Graham Hotchkiss (same address as applicant) (203) 239–5700. Transporting (1) *ores and minerals, and clay, concrete, glass or stone products*, and (2) *metal products*, between points in the U.S., under continuing contract(s) with New England Silica, Inc., of South Windsor, CT, and Dura Flex, Inc., of Hartford, CT, in (1) above, and Peterson Steel, Cold Finishing Division, of Windsor, CT, in (2) above.

MC 160540, filed February 11, 1982. Applicant: FRED BURK, d.b.a. BURKS TRUCKING, 5408 Whispering Hills, Louisville, KY. Representative: Rudy Yessin, P.O. Drawer B, Frankfort, KY 40602 (502) 227–7320. Transporting *bananas*, between Louisville, KY, on the one hand, and, on the other, Tampa and Fort Lauderdale, FL, Gulfport, MS, Mobile, AL, and Charleston, SC.

MC 160550, filed February 12, 1982. Applicant: CHADDERTON AUTOMOTIVE MAINTENANCE, INC., d.b.a. C C C TRUCKING COMPANY, Budd Ave., Sharon, PA 16146. Representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15219-2383 (412) 471–1800. Transporting *metal products, refractories, refractory products, transportation equipment, and those commodities which because of size or weight require the use of special equipment*, between points in DE, MD, NJ, OH, PA, and WV.

MC 160560, filed February 12, 1982. Applicant: ASP, INC., DBA AACTION MOVERS, 2100 Vermont Avenue, Bismarck, ND 58502. Representative: Charles E. Johnson, P.O. Box 773, Bismarck, ND 58502, (701) 223–6300. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Zerox Corporation, of Des Plaines, IL.

MC 160561, filed February 10, 1982. Applicant: WDT, INC., 2125 Marsha Drive, Madison, TN 37115. Representative: J. Greg Hardeman, 618 United American Bank Bldg., Nashville, TN 37219, (615) 244–6100. Transporting *such commodities* as are dealt in or used by grocery stores and food business houses, between points in the U.S., under continuing contract(s) with Bi-Rite Foods, Inc., of Nashville, TN.

Volume No. OP4–72

Decided: February 23, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

FF–486 (Sub-1), filed February 10, 1982. Applicant: GULF FORWARDING, INC., P.O. Box 468, Biloxi, MS 39533. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Washington, D.C. 20036, (202) 785–0024. As a freight forwarder, in connection with the transportation of *Mercer commodities, iron and steel articles, and commodities which because of their size or weight require the use of special handling or equipment*, between points in the U.S.

MC 1936 (Sub-54), filed February 16, 1982. Applicant: B & P MOTOR EXPRESS CO., 825 W. Federal St., Youngstown, OH 44501. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except classes A and B explosives and household goods), between Youngstown, OH, on the one hand, and, on the other, points in the U.S.

MC 30446 (Sub-22), filed February 10, 1982. Applicant: BRUCE JOHNSON TRUCKING COMPANY, INC., 3408 N. Graham St., P.O. Box 5647, Charlotte, NC 28225–5647. Representative: Leon Thompson (same address as applicant) (704) 376–9101. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Distribution Technology, Inc., of Charlotte, NC.

MC 61396 (Sub-399), filed February 16, 1982. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Henry County, IL, on the one hand, and, on the other, points in IA.

MC 111656 (Sub-17), filed February 16, 1982. Applicant: FRANK LAMBIE, INC., Pier 79 N. River, New York, NY 10018. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528, (914) 835–4411. Transporting *printed matter and educational materials*, between points in the U.S., under continuing contract(s) with Educational Reading Service and Troll Book Clubs, Divisions of Educational Reading Service, Inc., of Mahwah, NJ.

MC 139276 (Sub-13), filed February 11, 1982. Applicant: ALOHA FREIGHTWAYS, INC., 1000 Bryn Mawr Ave., Bensenville, IL 60106. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *machinery and metal products*, between points in the U.S.

MC 147546 (Sub-4), filed February 9, 1982. Applicant: DEPENDON, INC., 675 East Rand Rd., Des Plaines, IL 60016. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *hardware items, electrical components, water pumps, power units and diesel electric generating sets* between points in the U.S., under continuing contract(s) with Western Engine Corporation, of Addison, IL.

MC 150086 (Sub-5), filed February 10, 1982. Applicant: MULTI-STATES TRANSPORT, INC., P.O. Box M244, Gary, IN 46401. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW., Washington, D.C. 20005. Transporting *metal products, refractories* and *transportation equipment*, between points in the U.S.

Note.—the purpose of this application is to convert applicant's contract carrier authority to common carrier authority.

MC 151998 (Sub-3), filed February 10, 1982. Applicant: M & S TRANSPORTATION, INC., P.O. Box 155, Lonke, AR 72086. Representative: James M. Duckett, Suite 411, 221 West 2nd, Little Rock, AR 72201, (501) 375–3022. Transporting *food and related products*, between points in Ramsey County, MN, on the one hand, and, on the other, points in Pulaski and Jefferson Counties, AR.

MC 159116 (Sub-1), filed February 19, 1982. Applicant: FRONTIER TRAILS, INC., 18701 S. Wolf Rd., Mokena, IL 60448. Representative: James R. Madler, 120 W. Madison Rd., Chicago, IL 60602, (312) 726–6525. Transporting *passengers and their baggage*, in special or charter operations beginning and ending at points in Volusia County, FL, and expanding to points in the U.S. (except AK and HI).

MC 160536, filed February 11, 1982. Applicant: BADDOUR TRANSPORTATION, INC., 4300 New Getwell Road, Memphis, TN 38118. Representative: Harold J. Holcomb (same address as applicant), (901) 365–8880 (ext. 3053). Transporting *ground clay* between points in the U.S., under continuing contract(s) with Oil-Dry Corporation of America, of Chicago, IL.

MC 160556, filed February 12, 1982. Applicant: MARCO TRANSPORTATION, 1492 Lealand Dr., Marion, OH 43302. Representative: Walter E. Collins (same address as applicant), (614) 389–3331. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. (except AK and HI).

MC 160636, filed February 19, 1982. Applicant: OWENS TRUCK SALES, INC., 7742 Lee Highway, Chattanooga, TN 37421. Representative: Sam Owens, 7742 Lee Highway, Chattanooga, TN 37421, (615) 894–3555. Transporting *transportation equipment*, in driveaway service, between points in the U.S. under continuing contract(s) with The Heil Co. of Milwaukee, WI.

Volume No. OP5–43

Decided: February 22, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FF–119 (Sub-1), filed September 23, 1981. Published initially in the Federal Register on October 29, 1981. Applicant: NIPPON EXPRESS U.S.A. (ILLINOIS), INC., 2050 Lively Blvd., Elk Grove Village, IL 60007. Representative: Abraham A. Diamond, 29 So. LaSalle St., Chicago, IL 60603, (312) 236–0548. To operate as a *freight forwarder*, in interstate commerce, transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., on the one hand, and, on the other, ports in the U.S.

Note.—This application is republished to show that (1) applicant seeks freight forwarder authority, and (2) household goods as defined by the Commission are *not* to be excluded. Certificate FF–119 Sub 1, issued to applicant on January 6, 1982, will be cancelled upon issuance of this permit.

MC 9286 (Sub-23), filed February 9, 1982. Applicant: PACE MOTOR LINES, INC., 1425 Honeyspot Rd., Ext., Stratford, CT 46497. Representative: Patrick R. Pacelli (same address as applicant), 203–366–3881. Transporting *general commodities* (except classes A and B explosives), between points in CT, NY, NJ, MA, RI, ME, NH, VT, DE, PA, MD and OH.

MC 123178 (Sub-9), filed January 12, 1982. Published in the Federal Register originally February 2, 1982. Applicant: COLUMBIA COACHWAYS, INC., 6112 Fruit Valley Rd., Vancouver, WA 98660. Representative: David C. White, 2400 SW Fourth Ave., Portland, OR 97201, 503–228–6491. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter and special operations, beginning and ending at points in Clackamas, Clatsop, Columbia, Multnomah, and Washington Counties, OR; and Clark, Cowlitz, Pacific and Wahkiakum Counties, WA, and extending to points in the U.S. (except HI).

Note.—The purpose of this application is to include "in special and charter operations".

MC 149378 (Sub-9), filed February 4, 1982. Applicant: KIRBY TRANSPORT, INC., 6023 East Slauson Ave., Montebello, CA 90640. Representative: A. Dayton Schell, 6 Eileen Way, Edison, NJ 08837, (201) 494–8765. Transporting *paint and paint products*, between points in the U.S., under continuing contract(s) with The Sherwin-Williams Co., of Cleveland, OH.

MC 159558 (Sub-1), filed February 8, 1982. Applicant: EIGHTEEN WHEEL TRANSPORTATION, INC., 355 South Santa Fe Ave., Los Angeles, CA 90013. Representative: Frederick J. Coffman, P.O. Box 1455, Upland, CA 91786, 714–981–9981. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in the U.S. under continuing contract(s) with Trade and Marketing International, Ltd., of Salt Lake City, UT.

MC 160309, filed January 29, 1982. Applicant: FLOIT SAND AND GRAVEL COMPANY, Route 1, Sycamore, IL 60178. Representative: Martin J. Kennedy, 120 W. Madison St., Chicago, IL 60602, (312) 726–0375. Transporting (1) *cement* between points in Cook, Will, and Winnebago Counties, IL, on the one hand, and, on the other, points in WI, and (2) *fertilizer, clay products, and foundry sand additives*, between points in Boone County, IL, on the one hand, and, on the other, points in IA, IN, MI, MO, and WI.

MC 160409, filed February 8, 1982. Applicant: SOUTHERN NEVADA MOVERS, INC., 1037 East Colton Ave., Las Vegas, NV 89030. Representative: Mike Pavlakis, P.O. Box 646, Carson City, NV 89702, 702–882–0202. Transporting *furniture and fixtures*, between points in Clark County, NV, on the one hand, and, on the other, points in the U.S. (except HI).

Volume No. OP5–44

Decided: February 23, 1982.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

FF–559 Sub-1), filed February 12, 1982. Applicant: WESTPAC MOVING SYSTEMS, INC., 105 Puuhale Rd., P.O. Box 17517, Honolulu, HI 96817. Representative: Alfred I. Castillo (same address as applicant), (808) 845–9595. To operate as a *freight forwarder* transporting *household goods as defined by the Commission, unaccompanied baggage, and used automobiles*, between points in the U.S. (except HI), on the one hand, and, on the other, points in HI.

MC 118449 (Sub-4), filed January 27, 1982. Applicant: TACHICK FREIGHT LINES, INC., Box 488, Soldotna, AK 99669. Representative: R. W. McKenzie (same address as applicant), (907) 262–9383. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in Second, Third, and Fourth Judicial Districts, AK.

MC 121649 (Sub-12), filed February 12, 1982. Applicant: MILAN EXPRESS, INC., P.O. Box 699, Milan, TN 38358. Representative: Warren A. Goff, 109 Madison Ave., Memphis, TN 38103, (901) 526–2900. Transporting *metal products*, between points in Cook County, IL, on the one hand, and, on the other, points in MO, MS, AR, GA, AL, TN, KY, and OK.

MC 145058 (Sub-6), filed February 11, 1982. Applicant: THOMAS PRODUCE COMPANY OF MOUNT AIRY, INC., P.O. Box 16707, Greensboro, NC 27406. Representative: Michael F. Morrone, 1150 17th St. NW., Suite 1000, Washington, D.C. 20036, (202) 457–1124. Transporting *wine and brandy* between points in CA, on the one hand, and, on the other, points in FL, GA, KY, MD, NJ, NC, SC, PA, TN, VA, WV, DE, IN, AL, IL, OH, AR, and DC.

MC 147259 (Sub-20), filed February 16, 1982. Applicant: CHURCHILL TRANSPORTATION, INC., 2455 24th St., Detroit, MI 48216. Representative: Richard E. Van Winkle, 16901 Van Dam Rd., South Holland, IL 60473, 312–596–9200. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in Mobile County, AL; Pulaski and Sabastian Counties, AR; Fairfield County, CT; New Castle County, DE; Dade, Duval, Hillsborough, and Orange Counties, FL; Clinton, Scott and Woodbury Counties, IA; Jefferson and Orleans Parishes, LA; Harrison and Jackson Counties, MS; Jefferson, St. Louis and St. Charles Counties, MO; Brunswick and Carteret Counties, NC; Clackamas, Columbia, Multnomah and Washington Counties, OR; Charleston County, SC; Shelby County, TN; and CA, GA, IL, IN, NY, MD, MA, MI, MN, NJ, KY, OH, PA, TX, VA, WA, and WI, on the one hand, and, on the other, points in the U.S.

MC 148518 (Sub-8), filed February 12, 1982. Applicant: JUR CORPORATION d.b.a. RAJOR, INC., 830 Columbia Pike, Box 756, Franklin, TN 37064. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, (213) 945–2745. Transporting *plastic products*, between points in Christian County, KY, on the one hand, and, on the other, points in AL, AR, AZ, CA, CO, CT, DE, FL, GA, IL, IA, KS, LA, MD, MS, MO, NE, NJ, NM, NY, NC, OH, OK, OR, PA, SC, TX, VA, WA, and WI.

MC 151679 (Sub-2), filed February 12, 1982. Applicant: L. G. KITCHENS TRANSPORTATION, INC., 31179 Clark Road, Lucerne Valley, CA 92356. Representative: John C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017, (213) 483–4700. Transporting *non-metallic minerals, and clay, concrete, glass and stone products*, between points in AZ, CA, NV, UT, WA, and OR.

MC 152109 (Sub-6), filed February 11, 1982. Applicant: KAIBAB TRANSPORTATION, INC., P.O. Box 20506, Phoenix, AZ 85036. Representative: Michael F. Marrone, 1150 17th St. NW., Suite 1000, Washington, DC 20036, (202) 457–1124.

Transporting *building materials*, between points in the U.S., under continuing contract(s) with Howrey Lumber Company, Inc., of El Paso, TX.

MC 154158 (Sub-2), filed February 8, 1982. Applicant: KINNEY TRUCK LINES, INC., 124 West Willis Ave., Perry, IA 50220. Representative: Steven C. Schoenebaum, 1200 Register & Tribune Bldg., Des Moines, IA 50309, (515) 283–2076. Transporting (1) *Agricultural machinery*, (2) *agricultural implements*, and (3) *agricultural machinery and implement parts*, between points in Outagamie County, WI and Mason County, IL, on the one hand, and, on the other, points in Stanislaus County, CA.

MC 160259, filed February 11, 1982. Applicant: ARBOR FREIGHT SERVICE, INC., P.O. Box 117, Altoona, WI 54720. Representative: Michael S. Varda, P.O. Box 2509, Madison, WI 53701, (608) 255–8891. Transporting *pulp, paper, and related products* (except in bulk) between points in Eau Claire and Rusk Counties, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160518, filed February 10, 1982. Applicant: JEFF'S FAST FREIGHT, INC., 4900 South Howell Ave., Milwaukee, WI 53207. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086, 608–238–3119. Transporting *general commodities* (except classes A and B explosives household goods as defined by the Commission, and commodities in bulk), between points in Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington and Waukesha Counties, WI; Cook, DuPage, Kane, Kanakakee, Kendall, Lake, McHenry and Will Counties, IL; and Lake, LaPorte, and Porter Counties, IN.

MC 160556, filed February 12, 1982. Applicant: B. TURNER BUS RENTAL, INC., 1437 Bangor St. SE., Washington, DC 20020. Representative: Bernard Turner (same address as applicant), (202) 889–0911. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, beginning and ending at Washington, DC, and extending to points in the U.S. (except AK and HI).

Volume No. OP5–46

Decided: February 24, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 13028 (Sub-20), filed February 16, 1982. Applicant: BONANZA BUS LINES, INC., 97 Sabin St., Providence, RI 02901. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St. NW., Washington, D.C. 20004, (202) 737–1030. Over regular routes, transporting *passengers and their baggage and express and newspapers* in the same vehicle with passengers, between Hartford, CT, and New York, NY, from Hartford over Interstate Hwy 84 to junction Interstate Hwy 184 and Interstate Hwy 684, at or near Brewster, NY, then over Interstate Hwy 684 to junction Interstate Hwy 684 and Interstate Hwy 287, at or near White Plains, NY, then over Interstate Hwy 287 and Interstate Hwy 87, at or near Elmsford, NY, then over Interstate Hwy 87 to New York, and return over the same route, serving all intermediate points.

MC 16738 (Sub-69), filed February 16, 1982. Applicant: SIMS MOTOR TRANSPORT LINES, INC., 610 West 138th St., Riverdale, IL 60627. Representative: Carl L. Steiner, 29 South LaSalle St., Chicago, IL 60603, 312–236–9375. Transporting *clay, concrete, glass or stone products*, between points in Lawrence and Parke Counties, IN, on the one hand, and, on the other, points in AL, AR, CO, CT, FL, GA, LA, MA, ME, MN, MS, NE, NC, ND, NH, NM, OK, RI, SC, SD, TX, and VT.

MC 40978 (Sub-89), filed February 8, 1982. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, 3321 South Business Drive, Sheboygan, WI 53081. Representative: Daniel R. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203, (414) 273–7410. Transporting (1) *furniture and fixtures*, between Polk County, GA, on the one hand, and, on the other, points in IA, IL, IN, MI, MN, MO, OH, and WI, and (2) *furniture and fixtures, computer equipment, computer parts* and *paper products*, between points in Dodge and Washington Counties, WI, on the one hand, and, on the other, points in GA, VA, and WV.

MC 96819 (Sub-2), filed February 4, 1982. Applicant: TOWNS TRANSPORTATION, INC., P.O. Box 2, Cordova, AL 35550. Representative: Dee Anne Dover, 510 Green Ave., Cordova, AL 35550, (205) 483–9551. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in LA, MS, AL, and GA.

Note.—Applicant intends to tack this authority with its existing authority in MC–96819 Sub 1.

MC 105269 (Sub-112), filed February 16, 1982. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake St.; P.O. Box 986, Kalamazoo, MI 49005. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *paper and paper products* between points in Allegan County, MI, on the one hand, and, on the other, points in the U.S.

MC 108859 (Sub-87), filed February 16, 1982. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Ave., North, Escanaba, MI 49829. Representative: John L. Bruemmer, P.O. Box 927, Madison, WI 53701, (608) 257–9521. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in Chicago, Isanti, Mille Lacs and Sherburne Counties, MN, on the one hand, and, on the other, St. Louis, MO, points in Clinton, Muscatine and Scott Counties, IA, Boone, Campbell, Daviess, Henderson, Jefferson and Kenton Counties, KY, Anoka, Carver, Dakota, Goodhue, Hennepin, LeSueur, Olmsted, Ramsey, Rice, Scott, Wabasha, Washington, Winona and Wright Counties, MN, Franklin, Jefferson, Lincoln, St. Charles, St. Louis and Warren Counties, MN, and points in IL, IN, MI, OH, and WI.

Note.—Applicant intends to interline.

MC 109448 (Sub-41), filed February 16, 1982. Applicant: PARKER TRANSFER COMPANY, P.O. Box 256, Elyria, OH 44036. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of heating and air conditioning units, between points in Hillsdale County, MI, on the one hand, and, on the other, points in the U.S.

MC 112989 (Sub-155), filed February 16, 1982. Applicant: WEST COAST TRUCK LINES, INC., 85647 Hwy 99 So., Eugene, OR 97405. Representative: John T. Morgans (same address as applicant), 503–747–1283. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. under continuing contract(s) with Edward Hines Lumber Co., of Chicago, IL.

MC 112989 (Sub-156), filed February 16, 1982. Applicant: WEST COAST TRUCK LINES, INC., 85647 Hwy. 99 So., Eugene, OR 97405. Representative: John T. Morgans, (same address as applicant), 503–747–1283. Transporting *those commodities which because of their size or weight require the use of special handling or equipment*, between points in AZ, CA, ID, NV, OR, UT, and WA.

MC 125799 (Sub-3), filed February 6, 1982. Applicant: BLAIRSVILLE TRANSPORT, INC., R.D. #3, Blairsville, PA 15717. Representative: Harry M. Neal, (same address as applicant), (412) 459–8900. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with American Hardware Supply Company of Butler, PA.

MC 126899 (Sub-151), filed February 16, 1982. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Rd., Paducah, KY 42001. Representative: George M. Catlett, McClure Bldg., Suite 700–702, Frankfort, KY 40601, (502) 227–7384. Transporting *malt beverages* between Chicago, IL, Cincinnati, OH, Atlanta, GA, and points in Seneca County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 133259 (Sub-10), filed February 16, 1982. Applicant: ALLIED FREIGHT SYSTEMS, INC., Griswold Industrial Park, Williston, VT 05459. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103, 413–732–1136. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Vermont Commercial Warehousing Inc., of Williston, VT.

MC 142508 (Sub-173), filed February 16, 1982. Applicant: NATIONAL TRANSPORTATION, INC., 10610 South 144th St., Omaha, NE 68137. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603, 312–263–2306. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which because of their size and weight require special handling or equipment), between points in the U.S. (except AK and HI). under continuing contract(s) with General Foods Corporation of White Plains, NY., and its subsidiaries Birds Eye, Inc. of White Plains, NY, and Oscar Mayer and Co., Inc. of Madison, WI.

MC 146106 (Sub-6), filed February 16, 1982. Applicant: BIG T TRANSFER, INC., P.O. Box 287, New Albany, IN 47150. Representative: Harold C. Jolliff, 3242 Beech Dr., Columbus, IN 47201, 812–379–2556. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in the U.S. under continuing contract(s) with Porter Paint Co. of Louisville, KY.

MC 146729 (Sub-13), filed February 16, 1982. Applicant: JAMES S. HELWIG & ALLEN L. GRIMLAND, d.b.a., H & G LEASING, 4525 Irving Blvd., Dallas, TX 75247. Representative: D. Paul Stafford, Suite 1125 Frito Lay Tower, P.O. Box 45538, Dallas, TX 75245, 214–358–3341. Transporting *chemicals and related products*, (except in bulk), between points in TX, on the one hand, and, on the other, points in UT, OR, CA, VA, MD and PA.

MC 148589 (Sub-1), filed February 16, 1982. Applicant: SIMONSEN TANK LINES, INC., P.O. Box 157, Quimby, IA 51049. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274–4865. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Simonsen Mill, Inc., and Simonsen Mfg., a division of Simonsen Mill, Inc., both at Quimby, IA.

MC 149608 (Sub-5), filed February 16, 1982. Applicant: REBEL EXPRESS COMPANY, 6241 No. Dixie Hwy., Ft. Lauderdale, FL 33334. Representative: James W. Muldon, 50 W. Broad, Columbus, OH 43215, (614) 464–4103. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S. (except AK and HI). Conditions: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 5, Room 6370.

MC 152609 (Sub-5), filed February 4, 1982. Applicant: SHIPPERS FREIGHT SERVICES, INC., P.O. Box 1248, Lake Oswego, OR 97034. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 662–1185. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with General Products Manufacturing, Inc., of Wilsonville, OR.

MC 152959 (Sub-1), filed February 16, 1982. Applicant: MOBILE EXPRESS, INC., P.O. Box 8167, Longview, TX 75607. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255–6279. Transporting *trailers, trailer chassis, converter dollies* and *recreational vehicles*, between points in the U.S.

MC 159849 (Sub-2), filed February 16, 1982. Applicant: DAYMARK FOODS, INC., d.b.a. ODISCO TRANSPORTATION, 500 W. Main St., Suite 206, Russellville, AR 72801. Representative: Jeff McEowen, (same address as applicant), (501) 968–4038. Transporting *wine and brandy*, between San Francisco, CA, and points in Santa Clara County, CA, on the one hand, and, on the other, points in AR, KS, MO, LA, and TX.

MC 159508, filed February 16, 1982. Applicant: MY LORD'S TRUCK LINE, INC., 1433 South Chestnut, Green Bay, WI 54304. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, 608–273–1003. Transporting *such commodities* as are dealt in or used by mechanical contractors, between points in the U.S. under continuing contract(s) with Asco, Inc. of Appleton, WI.

MC 150529, filed February 11, 1982. Applicant: CLIFFORD E. COSSEY, P.O. Box 28, Oakridge, MO 63769. Representative: Joseph E. Rebman, 314 N. Broadway, St. Louis, MO 63102, (314) 421–0485. Transporting (1) *paints, stains, lacquers, varnishes, liquid roof coatings, aluminum exterior wall coatings, solvents, adhesives, caulk and caulking compounds and brushes*, between St. Louis, MO, on the one hand, and, on the other points, in OK and TX, and (2) *aloe vera juice and aloe vera gel*, between points in Cameron County, TX, on the one hand, and, on the other, points in IL, OH, and WI.

MC 160569, filed February 16, 1982. Applicant: ROBERT H. BURN TRUCKING, 5359 Sodom-Hutchings Rd., Farmdale, OH 44417. Representative: Robert H. Burn (same address as applicant), 216–772–2760. Transporting *commodities in bulk*, between points in Vigo and Adams Counties, IN; Crawford, Mercer, Allegheny, Lawrence, and Butler Counties, PA; and points in OH.

MC 160578, filed February 16, 1982. Applicant: GIANT TRANSPORTATION, INC., 2231 E. 49th St., Vernon, CA 90058. Representative: David P. Christianson, 707 Wilshire Blvd., Suite 1000, Los Angeles, CA 90017, 213–627–8471. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in AZ, NV, and CA.

MC 160588, filed February 16, 1982. Applicant: M R TRANSPORT, INC., 3151 S.E. Evergreen Ave., Milwaukie, OR 97222. Representative: Marvin C. Schroedl (same address as applicant), (503) 653–5621. Transporting *diesel fuel and gasoline* between points in the U.S., under continuing contract(s) with M R Distributing, Inc., of Milwaukie, OR.

MC 160598, filed February 16, 1982. Applicant: C. R. SMITH TRUCKING, P.O. Box 516, Taylor, AZ 85939. Representative: Donald E. Fernaays,

4040 E. McDowell Rd. Suite 320, Phoenix, AZ 85008, 602–275–3124. Transporting (1) *lumber and wood products*, (2) *building materials*, (3) *metal products*, (4) *concrete*, (5) *scrap paper*, and (6) *ores and minerals*, between points in AZ, AR, CA, CO, ID, NM, NV, OK, OR, TX, UT, and WA.

MC 160599, filed February 16, 1982. Applicant: H. BETTENCOURT & SON TRUCKING, INC., 425 Coaledo Rd., Coos Bay, OR 97420. Representative: Harold R. Bettencourt, Jr., (same address as applicant), (503) 267–5630. Transporting *lumber, particle board, and wallboard*, between Tacoma and Seattle, WA, and points in Clark and Cowlitz Counties, WA, and points in OR.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5681 Filed 3-3-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-112)]

Burlington Northern Railroad Company—Abandonment—In Crawford and Cherokee Counties, Kans.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission has issued a certificate authorizing Burlington Northern Railroad Company to abandon its rail line known as the Highway 160 Crossing to Weir City, Kansas Line extending from railroad milepost 143.13 near Highway 160, to railroad milepost 145.88, at the end of the line, near Weir City, KS, a distance of 2.75 miles, in Crawford and Cherokee Counties, KS, subject to certain conditions. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that:

(1) A financially responsible person (or government entity) has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and

(2) It is likely that:

(a) If a subsidy, the assistance would cover the difference between the revenues attributable to the line and the avoidable cost of providing rail freight service on the line, together with a reasonable return on the value of the line, or

(b) If a purchase, the assistance would cover the acquistion cost of all or any portion of the line.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to the Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this notice.

If the Commission makes the findings described above, the effectiveness of the abandonment certificate will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made for the Commission to set conditions or amount of compensation, the abandonment certificate will become effective. Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96–448) and 49 CFR 1121.38.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5672 Filed 3-3-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte Nos. 417 and 417 (Sub-1)]

Costing Methodologies for the Northeast Corridor; Commuter Service and Conrail Freight Service

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time for filing comments on adoption of interim procedures and notice of proposed procedures.

SUMMARY: On January 22, 1982, the Interstate Commerce Commission issued an Adoption of Interim Procedures and a Notice of Proposed Procedures, 47 FR 3418, January 25, 1982 concerning the appropriate costing methodology for compensating Amtrak for the use of its trackage in the Northeast Corridor and other areas by commuter rail passenger and freight services. Interested parties were requested to file comments on the interim and proposed procedures on or before March 1, 1982. On February 12, 1982 Amtrak requested a thirty day extension of this filing deadline. The Commission believes that, given the complexity of the issues involved in this proceeding, all parties should be given ample opportunity for comment and therefore an extension in the comment period is warranted. Additionally, since interim procedures are in effect, no party will be disadvantaged by an extension of the comment filing deadline. Accordingly, the filing deadline is extended an additional thirty days.

COMMENT DATE: Comments are now due on or before March 31, 1982.

ADDRESS: An original and 15 copies of the comments should be submitted to: Section of Rail Services Planning, Room 5355, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:
Stephen Grimm, (202) 275–0839
or
Elaine Kaiser, (202) 275–0007.

By the Commission, Reese H. Taylor, Jr., Chairman.

Dated: February 23, 1982.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5673 Filed 3-3-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-57)]

Seaboard Coast Line Railroad Company—Abandonment—in Bamberg and Collection Counties, S.C.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission has issued a certificate authorizing Seaboard Coast Line Railroad Company to abandon its rail line between Lodge, SC (milepost AMF–461.62) and Ehrhardt, SC (milepost AMF–467.04) in Bamberg and Collection Counties, SC, a total distance of 5.42 miles, subject to certain conditions. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that:

(1) A financially responsible person (or government entity) has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that:

(a) If a subsidy, the assistance would cover the difference between the revenues attributable to the line and the avoidable cost of providing rail freight service on the line, together with a reasonable return on the value of the line, or

(b) If a purchase, the assistance would cover the acquisition cost of all or any portion of the line.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Richard Kelly, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice.

If the Commission makes the findings described above, the effectiveness of the abandonment certificate will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made for the Commission to set conditions or amount of compensation, the abandonment certificate will become effective. Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96–448) and 49 CFR 1121.38.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5679 Filed 3-3-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 2]

Motor Carriers; Applications, Alternate Routes Deviations, and Intrastate Applications

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this **Federal Register** notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Passengers

MC 63390 (Deviation No. 2), CARL R. BIEBER, INC., Vine and Baldy Streets, Kutztown, PA 19530, filed January 21, 1982. Carrier's representative: Jeffrey A. Vogelman, Suite 400, Overlook Office Bldg., 6121 Lincolnia Rd., P.O. Box 11278, Alexandria, VA 22312. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) from Reading, PA, over the Warren Street By-Pass to junction U.S. Hwy 222, (2) from Reading, PA, over U.S. Hwy 222 to junction PA Legislative Route (L.R. 39046), then over PA LR 39046 to junction PA Hwy 100, then over PA Hwy 100 to junction Interstate Hwy 78, and (3) from junction Interstate Hwy 78 and Interstate Hwy 287, over Interstate Hwy 287 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction Interstate Hwy 280, then over Interstate Hwy 280 to NJ Turnpike Interchange No. 15, and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over pertinent service routes as follows: (1) From Reading, PA over U.S. Hwy 222 to junction Warren Street By-Pass, (2) over U.S. Hwy 222 to junction PA Hwy 309, then over PA Hwy 309 to junction Interstate Hwy 78, and (3) from junction Interstate Hwys 78 and 287 over Interstate Hwy 287 to junction U.S. Hwy 22, then over U.S. Hwy 22 to junction U.S. Hwys 1–9, then over U.S. Hwys 1–9 to NJ Turnpike Interchange No. 14, and return over the same routes.

By the Commission.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5680 Filed 3-3-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–122

The following applications were filed in region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 115694 (Sub-II–3TA), filed February 17, 1982. Applicant: J. BALLEW & SONS, INC., Box 47, Stuarts Draft, VA 24477. Representative: James E. Ballew (same as applicant). Contract Irregular: *Metal products and machinery* between the facilities of Salem Tools, Inc., at Salem, VA, Bristol, TN, and Knoxville, TN, on the one hand, and, on the other, points in the U.S. under continuing contract(s) with Salem Tools, Inc., Salem, VA for 270 days. Supporting shipper(s): Salem Tools, Inc., PO Box 512, Salem, VA 24153.

MC 160618 (Sub-II–1TA), filed February 17, 1982. Applicant: CHAMPS DELIVERY & WAREHOUSING, INC., 8060 D Alban Road, Springfield, VA 22150. Representative: Elliott Bunce, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. *Printing ink*, in containers other than metal or plastic tubes, in trailers not exceeding 25 feet in length, from Springfield, VA to points in MD for 270 days. An underlying eta seeks 120 days authority. Supporting shipper(s): United States Printing Ink, 7942–0 Angus Court, Springfield, VA 22153.

MC 160568 (Sub-II–1TA), filed February 16, 1982. Applicant: COMMERCIAL STEEL ERECTION, INC., Route 7, Box 123, Ragland Road, Madison Heights, VA 24572. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. (1) *Machinery and equipment and accessories;* between Bedford and Lynchburg, VA, and points in Bedford and Amherst Counties, VA, on the one hand, and, on the other, points in the U.S., except AK and HI; (2) *Fabricated Iron and Steel Products*, (a) between Bedford, VA, on the one hand, and, on the other, points in MD, NC, WV, and DC, (b) between Lynchburg, VA, on the one hand, and, on the other, points in CT, DE, FL, GA, MD, NC, NJ, NY, PA, SC, TN, WV, and DC for 270 days. An underlying eta seeks 120 days authority. Supporting shipper(s): There are five supporting shippers. Their statements may be examined at the Regional office, ICC, Philadelphia, PA.

MC 156859 (Sub-II–2TA), filed February 17, 1982. Applicant: O. DEAN TRANSPORTATION INC., 406 W. Williamsburg Rd. Sandston, VA 23150. Representative: P. Owen Dean (same as applicant). *Internal combustion engines,*

parts, supplies and materials to manufacture same, Between Safeguard Engines, Inc. Facilities at Los Angeles, CA; Virginia Beach, VA; Milwaukee, WI; Marinette, WI; Nashville, TN; Jersey City, NJ; Luddington, MI; Hagerstown, IN; Richmond, IN; Sparta, MI; Elgin, IL; St. Louis, MO; Cincinnati, OH; Minneapolis, MN; Kansas City, KS; Seattle, WA; Midland, TX and points in the U.S. for 270 days. An underlying eta seeks 120 days authority. Supporting shipper(s): Safeguard Engines, Inc., 800 Space Park South, Nashville, TN.

MC 107012 (Sub-II–210TA), filed February 17, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). *General commodities* (except classes A & B explosives and household goods as defined by the Commission) between points in the U.S., under continuing contract(s) with Carson Pirie Scott and Co., Wholesale Floor Covering Div., Chicago, IL for 270 days. An underlying eta seeks 120 days authority. Supporting shipper: Carson Pirie Scott & Co., 13–127 Merchandise Mart, Chicago, IL 60654.

MC 107012 (Sub-II–211TA), filed February 17, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). *General commodities* (except classes A & B explosives and household goods as defined by the Commission) between points in the United States, under continuing contract(s) with Hart Stores, Inc., Div., Big Bear Foods, Inc., Columbus, OH for 270 days. Supporting shipper: Hart Stores, Inc., Div., Big Bear Stores, Inc., 770 W. Goodale, Columbus, OH 43212.

MC 107012 (Sub-II–212TA), filed February 17, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant) *Household goods* between points in the United States, under continuing contract(s) with Miller Brewing Company of Milwaukee, WI (including AK & HI) for 270 days. An underlying eta seeks 120 days authority. Supporting shipper: Miller Brewing Company, 3939 West Highland Ave., Milwaukee, WI 53201.

MC 160809 (Sub-II–1TA), filed February 17, 1982. Applicant: TOMAR, INC., Rt. 2, Box 274, Ridgeley, WV 26753. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. Irregular: Contract: *Ventilator equipment, including materials, equipment and supplies* used in the manufacture, sale and distribution thereof, between Keyser, WV, Junction City, KY and Tabor City, NC, including their respective commercial zones, on the one hand, and, on the other, points in and east of MN, IA, MO, AR, and LA, for 270 days under a continuing contract or contracts with Penn Ventilator Company, Inc. Supporting shipper: Penn Ventilator Company, Inc., Red Lion & Gantry Rds., Philadelphia, PA 19115.

The following applications were filed in region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 145154 (Sub-3–6TA), filed February 19, 1982. Applicant: YOUNG'S TRANSPORTATION CO., 3401 Norman Berry Drive, Suite 246, East Point, GA 30344. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue NW., Washington, DC 20005, (202) 347–0332. *Floor coverings, and materials and supplies used in the manufacture and installation of floor covering,* between North Plainfield and Salem, NJ, and points in their commercial zones, and New York, NY, and points in its commercial zone, on the one hand, and, on the other, points in TX, OK, NM, LA, and AR. Supporting shipper(s): Vickery & Company, Inc., 1445 West Belt Line Road, Carrollton, TX 75006.

MC 146226 (Sub-3–7TA), filed February 19, 1982. Applicant: J & P TRUCKING CO., INC., P.O. Box 457, Lincolnton, NC 28092. Representative: Dwight L. Koerber, Jr., 110 North Second Street, P.O. Box 1320, Clearfield, PA 16830. *Foodstuffs* between Stuttgart, AR on the one hand, and on the other, points in NC and SC. Supporting shipper: The Arkansas Rice Growers Cooperative Association, d/b/a, Riceland Foods, P.O. Box 927, 22nd and Park Avenue, Stuttgart, AR 72160.

MC 149135 (Sub-3–1TA), filed February 19, 1982. Applicant: HAILEY & SON TRUCKING AND LEASING, INC., 1100 East Green Drive, P.O. Box 1591, High Point, NC 27261. Representative: Hazel Hailey (same address as applicant). *Pre-cut log homes and materials and supplies used in the manufacture of pre-cut log homes* between Dallas, NC and points in AL, AR, FL, GA, IN, KY, MS, MO, NC, OH, OK, SC, TN, VA, and WV. Supporting shipper: Smoky Gap Log Homes, Box 562, Dallas, NC 28034.

MC 153679 (Sub-3–5TA), filed February 19, 1982. Applicant: CUMBERLAND FREIGHT LINE, INC., 13th Street, Smyrna, TN 37167. Representative: J. Greg Hardeman, 618 United American Bank Building, Nashville, TN 37219. *Contract* carrier: irregular: *Such commodities as are dealt in or used by wholesale grocery or grocery distribution warehouses* between points in Davidson Co., TN, on the one hand, and, points in NE, KS, OK, TX, MN, IA, MO, AR, LA, WI, IL, IN, OH, KY, AL, MS, MI, GA, FL, SC, NC, VA, WV, MD, DE, DC, PA, NY, NJ, and CT, on the other under a continuing contract with Bi-Rite Foods, Inc., Nashville, TN. Supporting shipper: Bi-Rite Foods, Inc., 601 Armory Dr., Nashville, TN 37202.

MC 136157 (Sub-3–56TA), filed February 22, 1982. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same as above). *General commodities (except Classes A and B explosives, commodities in bulk, and household goods),* between points in the U.S., (except AK and HI). Restricted to traffic moving for the account of Itofca, Inc. Supporting shipper: ITOFCA, Inc., 1001 West 31st St., Downers Gfove, IL 60515.

MC 151559 (Sub-3–2TA), filed February 22, 1982. Applicant: THE GRAY ROCK FARM, INC., Route 12, Box 143, Statesville, NC 28677. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. *Contract carrier; irregular: such commodities as are dealt in or used by food business establishments,* between Claremong, NC, on the one hand, and, on the other, points in AL, CO, FL, GA, KS, MD, MN, SC, TN, VA, and DC, under contract with Western Steer-Mom 'n' Pop's, Inc. of Claremont, NC. Supporting shipper: Western Steer-Mom 'n' Pop's, Inc., P.O. Box 399, Claremont, NC 28610.

MC 155004 (Sub-3–2TA), filed February 22, 1982. Applicant: JOSEPH LAND AND CO., INC., West Central Ave., P.O. Drawer 3310, Lake Wales, FL 33853. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Flooring and air conditioners,* from Red Lion, PA, and Baltimore, MD, to points in AL, AZ, CA, CO, FL, GA, LA, MO, NM, NV, OK, OR, SC, TX, UT, and WA. Supporting shippers: Liskey, Incorporated, P.O. Box 6748, Baltimore, MD 21240, and Donn Access Floors, Inc., P.O. Box 191, Red Lion, PA 17356.

MC 154103 (Sub-3–28TA), filed February 22, 1982. Applicant: MID SOUTH FREIGHT, INC., P.O. Box 446, Hendersonville, TN 37075. Representative: Joe F. Powell (same address as applicant). *Contract* carrier: irregular: *fused sodium carbonate in bags* from the facility of Burris Chemical located at East Point, GA to PA, VA, WV, KY, OH, and IN. Supporting shipper: Burris Chemical, P.O. Box 36, Springfield, TN 37172.

MC 155004 (Sub-3–3TA), filed February 22, 1982. Applicant: JOSEPH LAND AND CO., INC., West Central Ave., P.O. Drawer 3310, Lake Wales, FL 33853. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Foodstuffs,* from Rahway, NJ, to points in AL, AZ, AR, CA, CO, FL, GA, LA, MS, NM, NV, NC, OK, OR, SC, TN, TX, UT, VA, and WA. Supporting shipper: Hershey Imports Co., Inc., 700 E. Lincoln, Rahway, NJ 07065.

MC 159923 (Sub-3–1TA), filed February 22, 1982. Applicant: JAY T. AUBREY, d.b.a. JAY AUBREY TRUCKING, 5201 16 Mile Creek Road, Westport, KY 40077. Representative: H. E. Miller, Jr., 15 Main Street, Indianapolis, IN 46204. *Bottled wine (in cartons & cases), but not in bulk or tank and not passengers, newspapers or baggage.* Between the CA counties of Napa (Napa), Solano (Fairfield), Tuolumne (Sonora), Santa Clara (San Jose), Sonoma (Santa Rosa) and Stanislaus (Modesto), and the KY counties of Jefferon (Louisville), Fayette (Lexington), McCracken (Paducah), Campbell, (Alexandria), Kenton (Independence), Boone (Burlington). Supporting shipper: Kentucky Liquor & Wine Co., 3050 West Broadway, Louisville, KY.

MC 160395 (Sub-3–1TA), filed February 22, 1982. Applicant: JOHNSON TRUCKING COMPANY, INC., P.O. Box 751, Highway 23 South, Red Bay, AL 35582. Representative: John Paul Jones, P.O. Box 3140, Front Street Station, 189 Jefferson Avenue, Memphis, TN 38103. (1) *such commodities as are dealt in or used by manufacturers and distributors of pet food* between Lee County, MS and Franklin County, AL, on the one hand, and, on the other, all points in and east of ND, SD, NE, KS, OK, and TX, restricted to the facilities of Sunshine Mills, Inc.; (2) *textile mill products,* between CT, FL, GA, IL, KY, MA, MD, NC, NY, NJ, OH, PA, SC, and WV, on the one hand, and, on the other, points in Lee County, MS, restricted to the facilities of Hancock Textile Company, Inc. Supporting shippers: Sunshine Mills, Inc., P.O. Drawer S, Red Bay, AL 35582; Hancock Textile Company, Inc., P.O. Drawer 1627, Tupelo, MS 38801.

MC 121600 (Sub-3–6TA), filed February 19, 1982. Applicant: AVERITT EXPRESS, INC., P.O. Box 273, Livingston, TN 38570. Representative: Robert L. Baker, Sixth Floor, United Southern Bank Building, Nashville, TN 37219. *General Commodities (except household goods, commodities in bulk and Classes A & B explosives)* between points in TN, on the one hand, and on the other, points in the U.S. in and east of KS, NE, ND, OK, SD, and TX. Supporting shippers: There are 32 Certificates of Support submitted with this application that can be reviewed at the Atlanta, Georgia Regional Office.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5882 Filed 3-2-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 82–3221, published at page 5798, on Monday, February 8, 1982, on page 5799, in the third column, in the third paragraph "MC 93682 (Sub-24)", in the eighth line "OY" should be corrected to read "OH".

BILLING CODE 1505-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 82–3630, published on page 6387, on Thursday, February 11, 1982, in the third column, in the eighth paragraph, "MC 33513 (Sub-4)", in the ninth line, "NJ, OH," should be corrected to read "NJ, NY, OH,".

BILLING CODE 1505-01-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–86 Through 119, 701–TA–121, 701–TA–123 Through 144, 701–TA–146, 701–TA–147, 731–TA–53 Through 55, and 731–TA–57 Through 86 (Preliminary)]

Certain Steel Products From Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West Germany

Determinations

On the basis of the record [1] developed in its countervailing duty investigations involving certain steel products from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, the United Kingdom, and West Germany, the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the following products which are alleged to be subsidized by the Governments of the cited countries:

Hot-rolled carbon steel plate [2] from—

Belgium (investigation No. 701–TA–86 [3] [Preliminary]), Brazil (investigation No. 701–TA–87 (Preliminary]), the United Kingdom (investigation No. 701–TA–92 (Preliminary]), and West Germany (investigation No. 701–TA–93 [Preliminary]);

Hot-rolled carbon steel sheet and strip [3] from—

Belgium (investigation No. 701–TA–94 (Preliminary]), France (investigation No. 701–TA–95 (Preliminary]), Italy (investigation No. 701–TA–97 (Preliminary]), the Netherlands (investigation No. 701–TA–99 (Preliminary]), and West Germany (investigation No. 701–TA–101 (Preliminary]);

Cold-rolled carbon steel sheet and strip [4] from—

France (investigation No. 701–TA–104 (Preliminary]), Italy (investigation No. 701–TA–105 (Preliminary]),[5] the Netherlands (investigation No. 701–TA–107 (Preliminary]), and West Germany (investigation No. 701–TA–109 (Preliminary]);

Carbon steel structural shapes [6] from—

Belgium (investigation No. 701–TA–117 (Preliminary]), France (investigation No. 701–TA–119 (Preliminary]), Luxembourg (investigation No. 701–TA–121 (Preliminary]), the United Kingdom (investigation No. 701–TA–123 (Preliminary]), and West Germany (investigation No. 701–TA–124 (Preliminary]);

Hot-rolled carbon steel bar [7] from the United Kingdom (investigation No. 701–TA–126 (Preliminary]); and

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[1] The record is defined in § 207.2(j) of the Commission's rules of practice and procedure (19 CFR 207.2(j)).

[2] For purposes of these investigations, hot-rolled carbon steel plate is provided for in items 607.8615, 607.8620, 608.0710, and 608.1100 of the Tariff Schedules of the United States Annotated (TSUSA).

[3] For purposes of these investigations, hot-rolled carbon steel sheet is provided for in items 607.8610, 607.8705, 607.8720, 607.8742, and 607.8760 of the TSUSA. Hot-rolled carbon steel strip is provided for in items 608.1650, 608.2120, and 608.2520 of the TSUSA.

[4] For purposes of these investigations, cold-rolled carbon steel sheet is provided for in items 607.8720 and 607.8744 of the TSUSA. Cold-rolled carbon steel strip is provided for in items 608.1940, 608.2140, and 608.2540 of the TSUSA.

[5] Chairman Alberger and Commissioner Stern dissenting.

[6] For purposes of these investigations, carbon steel structural shapes are provided for in items 609.8005, 609.8015, 609.8025, 609.8041, and 609.8045 of the TSUSA.

[7] For purposes of these investigations, hot-rolled carbon steel bar is provided for in items 606.8310, 606.8330 and 606.8350 of the TSUSA.

Cold-formed carbon steel bar [9] from the United Kingdom (investigation No. 701–TA–138 (Preliminary)).

The Commission determines that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports of the following products which are alleged to be subsidized by the Governments of the cited countries:

Hot-rolled carbon steel plate from—

France (investigation No. 701–TA–88 (Preliminary)),[9] Italy (investigation No. 701–TA–89 (Preliminary)),[9] Luxembourg (investigation No. 701–TA–90 (Preliminary)),[9] and the Netherlands (investigation No. 701–TA–91 (Preliminary));[9]

Hot-rolled carbon steel sheet and strip from—

Brazil (investigation No. 701–TA–95 (Preliminary)),[10] Luxembourg (investigation No. 701–TA–98 (Preliminary)),[10] and the United Kingdom (investigation No. 701–TA–100 (Preliminary));[10]

Cold-rolled carbon steel sheet and strip from—

Belgium (investigation No. 701–TA–102 (Preliminary)),[11] Brazil (investigation No. 701–TA–103 (Preliminary)),[10] Luxembourg (investigation No. 701–TA–106 (Preliminary)),[10] and the United Kingdom (investigation No. 701–TA–108 (Preliminary));[10]

Galvanized carbon steel sheet [12] from—

Belgium (investigation No. 701–TA–110 (Preliminary)),[10] France (investigation No. 701–TA–111 (Preliminary)),[12] Italy (investigation No. 701–TA–112 (Preliminary)),[12] Luxemboug (investigation No. 701–TA–113 (Preliminary)),[10] the Netherlands (investigation No. 701–TA–114 (Preliminary)),[10] the United Kingdom (investigation No. 701–TA–115 (Preliminary)),[10] and West Germany (investigation No. 701–TA–116 (Preliminary)).[12]

Carbon steel structural shapes from Brazil (investigation No. 701–TA–118 (Preliminary)),[10]

Hot-rolled carbon steel bar from—

Belgium (investigation No. 701–TA–125 (Preliminary)),[11] Brazil (investigation No. 701–TA–126 (Preliminary)),[11] France (investigation No. 701–TA–127 (Preliminary)),[10] Italy (investigation No. 701–TA–146 (Preliminary)),[10] Luxembourg (investigation No. 701–TA–147 (Preliminary)),[11] and West Germany (investigation No. 701–TA–129 (Preliminary));[11]

Hot-rolled alloy steel bar [14] from—

France (investigation No. 701–TA–130 (Preliminary)),[10] Italy (investigation No. 701–TA–131 (Preliminary)),[10] the United Kingdom (investigation No. 701–TA–132 (Preliminary));[10] and West Germany (investigation No. 701–TA–133 (Preliminary)),[10]

Cold-formed carbon steel bar from—

Belgium (investigation No. 701–TA–134 (Preliminary)),[15] Brazil (investigation No. 701–TA–135 (Preliminary)),[15] France (investigation No. 701–TA–136 (Preliminary)),[16] Italy (investigation No. 701–TA–137 (Preliminary)),[15] and West Germany (investigation No. 701–TA–139 (Preliminary));[15]

Cold-formed alloy steel bar [17] from—

Belgium (investigation No. 701–TA–140 (Preliminary)),[15] France (investigation No. 701–TA–141 (Preliminary)),[15] Italy (investigation No. 701–TA–142 (Preliminary)),[15] the United Kingdom (investigation No. 701–TA–143 (Preliminary)),[15] and West Germany (investigation No. 701–TA–144 (Preliminary));[15]

On the basis of the record developed in its antidumping investigations involving certain steel products from Belgium, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West Germany, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the following products which are alleged to be sold in the United States at less than fair value:

Hot-rolled carbon steel plate from—

Belgium (investigation No. 731–TA–53 (Preliminary)), Romania (investigation No. 731–TA–58 (Preliminary)), the United Kingdom (investigation No. 731–TA–59 (Preliminary)), and West Germany (investigation No. 731–TA–60 (Preliminary));

Hot-rolled carbon steel sheet and strip from—

Belgium (investigation No. 731–TA–61 (Preliminary)), France (investigation No. 731–TA–62 (Preliminary)), Italy (investigation No. 731–TA–63 (Preliminary)), the Netherlands (investigation No. 731–TA–65 (Preliminary)), and West Germany (investigation No. 731–TA–67 (Preliminary));

Cold-rolled carbon steel sheet and strip from—

France (investigation No. 731–TA–69 (Preliminary)), Italy (investigation No. 731–TA–70 (Preliminary)),[19] the Netherlands (investigation No. 731–TA–72 (Preliminary)), and West Germany (investigation No. 731–TA–74 (Preliminary)); and

Carbon steel structural shapes from—

Belgium (investigation No. 731–TA–62 (Preliminary)), France (investigation No. 731–TA–83 (Preliminary)), Luxembourg (investigation No. 731–TA–84 (Preliminary)), the United Kingdom (investigation No. 731–TA–85 (Preliminary)), and West Germany (investigation No. 731–TA–86 (Preliminary)).

The Commission determines that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports of the following products which are alleged to be sold in the United States at less than fair value:

Hot-rolled carbon steel plate from—

France (investigation No. 731–TA–54 (Preliminary)),[20] Italy (investigation No. 731–TA–55 (Preliminary)),[20] Luxembourg (investigation No. 731–TA–56 (Preliminary)),[20] and the Netherlands (investigation No. 731–TA–57 (Preliminary));[20]

Hot-rolled carbon steel sheet and strip from Luxembourg (investigation No. 731–TA–64 (Preliminary)),[20]

Cold-rolled carbon steel sheet and strip from—

Belgium (investigation No. 731–TA–66 (Preliminary)),[21] Luxembourg (investigation No. 731–TA–71 (Preliminary)),[20] and the United Kingdom (investigation No. 731–TA–73 (Preliminary));[20] and

Galvanized carbon steel sheet from—

Belgium (investigation No. 731–TA–75 (Preliminary)),[20] France (investigation No. 731–TA–76 (Preliminary)),[22] Italy (investigation No. 731–TA–77 (Preliminary)),[22] Luxembourg (investigation No. 731–TA–78 (Preliminary)),[20] the Netherlands (investigation No. 731–TA–79 (Preliminary)),[20] the United Kingdom (investigation No. 731–TA–80 (Preliminary)),[20] and West Germany (investigation No. 731–TA–81 (Preliminary)).[20]

[9] For purposes of these investigations, cold-formed carbon steel bar is provided for in items 606.8905 and 606.8915 of the TSUSA.

[9] Commissioner Frank dissenting.

[10] Commissioner Frank dissenting.

[11] Vice Chairman Calhoun and Commissioner Frank dissenting.

[12] For purposes of these investigations, galvanized carbon steel sheet is provided for in items 606.0730 and 606.1309 of the TSUSA.

[13] Commissioners Eckes and Frank dissenting.

[14] For purposes of these investigations, hot-rolled alloy steel bar is provided for in item 606.9700 of the TSUSA.

[15] Commissioner Frank dissenting.

[16] Vice Chairman Calhoun and Commissioner Frank dissenting.

[17] For purposes of these investigations, cold-formed alloy steel bar is provided for in item 606.8905 of the TSUSA.

[18] Commissioners Eckes and Frank dissenting.

[19] Chairman Alberger and Commissioner Stern dissenting.

[20] Commissioner Frank dissenting.

[21] Vice Chairman Calhoun and Commissioner Frank dissenting.

[22] Commissioners Eckes and Frank dissenting.

Background

On January 11, 1982, petitions were filed by seven U.S. steel producers [23] with the U.S. International Trade Commission and the U.S. Department of Commerce alleging that imports of certain steel products from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West Germany are being subsidized by their respective Governments and/or sold in the United States at less than fair value. Accordingly, the Commission instituted preliminary countervailing duty and antidumping investigations under sections 701(a) and 733(a), respectively, of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise into the United States.

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was duly given by posting copies of the notices in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notices in the **Federal Register** on January 20, 1982 (47 FR 2950). The conference was held in Washington, D.C., on February 3 and 4, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of Chairman Alberger, Vice Chairman Calhoun, and Commissioners Stern and Eckes

I. Introduction

These views incorporate the reasons for our determinations in the 92 steel product investigations before us involving imports of nine steel products from nine foreign countries. There are 59 preliminary countervailing duty investigations and 33 preliminary antidumping investigations, most of which are overlapping in coverage of the subject countries and products. As more fully explained in our determinations, the Commission reached an affirmative determination in 38 cases and a negative determination in 54 cases.

A. Standards for Determinations

In preliminary countervailing duty and antidumping investigations the Commission is directed by Title VII of the Tariff Act of 1930 to determine, based upon the best information available to it at the time of the determination, whether there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of the merchandise that is the subject of the investigation.[24] "Material injury" is defined as "harm which is not inconsequential, immaterial, or unimportant."[25] In making its determinations the Commission is required to consider, among other factors, (1) the volume of imports of the merchandise which is the subject of the investigation, (2) the effect of imports of that merchandise on prices in the United States for like products, and (3) the impact of imports of such merchandise on domestic producers of like products.[26]

In making a determination as to whether there is a threat of material injury the Commission considers, among other factors, (1) the rate of increases of subsidized or dumped imports into the U.S. market, (2) the capacity in the exporting country to generate exports, and (3) the availability of other export markets.[27] Findings of a reasonable indication of threat of material injury must be based on a showing that the likelihood of harm is real and imminent, and not on mere supposition, speculation, or conjecture.[28]

Separate views of Chairman Alberger and Commissioner Stern on Threat

Chairman Alberger and Commissioner Stern note that Congress and the courts have made it clear that a finding of threat of material injury (or reasonable indication thereof in the case of a preliminary investigation) must be based on "information showing that the threat is real and injury is imminent, not mere supposition or conjecture." S. Rep. No. 96–249, 96th Cong., 1st Sess. 88–89 (1979). In a recent decision by the U.S. Court of International Trade in *Alberta Gas Chemicals, Inc.* v. *U.S.*, 515 F. Supp. 780, 791 (Ct. Int'l Trade 1981), the Commission's majority determination that a likelihood of injury [29] existed was reversed because it was "flawed with supposition and conjecture." Specifically, the court rejected the majority's finding that a *possible* expansion of foreign capacity, coupled with a negative Commission determination, would pose a threat of increased Canadian LTFV exports to the United States. It found instead that "the record before the Commission shows simply a mere possibility that injury might occur at some remote future time." Thus, the record did not adequately support the Commission's determination.

In the cases presently before us, it is apparent that the capacity utilization rate in many of the EC steel producers' facilities is below an optimum level. Our negative determinations with respect to certain products in these investigations will not, however, create any additional incentive or license to flood the U.S. market with those allegedly dumped or subsidized products. A finding of reasonable indication of threat of material injury which is premised solely upon the existence of excess capacity and the lack of an outstanding antidumping and/or countervailing duty order is nothing but the sheerest form of speculation and conjecture, condemned by both Congress and the courts. We have therefore limited our findings based on threat to those cases where the best information available gives a reasonable indication that the threat of material injury is both real and imminent.

B. Definition of the Domestic Industries [30]

Our first task in these investigations is to determine the scope of the domestic

[23] Bethlehem Steel Corp., Cyclops Corp., Inland Steel Co., Jones & Laughlin Steel, Inc., National Steel Corp., Republic Steel Corp., and United States Steel Corp.

[24] 19 U.S.C. 1671b, 1673b.

[25] 19 U.S.C. 1677(7)(A).

[26] 19 U.S.C. 1677(7)(B).

[27] 19 CFR 207.26(d). In countervailing duty investigations, the Commission also considers such information as may be presented to it by the Department of Commerce as to the nature of the subsidy provided by a foreign country and the effects likely to be caused by the subsidy. 19 U.S.C. 1677(7)(E)(i). Specifically, the Commission will consider whether the subsidy is an export subsidy within the meaning of the Agreement on Subsidies and Countervailing Measures (the Agreement is properly titled the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade). In these preliminary investigations the only information available to us from the Department of Commerce regarding subsidies is that supplied in Hot-Rolled Carbon Steel Sheet from France, Inv. No. 701–TA–85 (Preliminary), USITC Pub. 1205 (1982); and Hot-Rolled Carbon Steel Plate from Belgium, Brazil, and Romania, Inv. Nos. 701–TA–83 and 84 (Preliminary), USITC Pubs. 1207 and 1208 (1982).

[28] S. Rep. No. 96–249, 96th Cong., 1st Sess. 88–89 (1979); S. Rep. No. 1298, 93d Cong., 2d Sess. 180 (1974); Alberta Gas Chemicals, Inc. v. United States, 515 F. Supp. 780, 790 (Ct. Int'l Trade 1981).

[29] The Commission's determination in the underlying investigation, Methanol from Canada, Inv. No. AA1921–202, was based on the "likelihood of injury" standard contained in the Antidumping Act of 1921. Although that standard was subsequently replaced by the "threat of material injury" standard in the Trade Agreements Act of 1979, the court explicitly acknowledged that Congress did not intend to change its "real and imminent" test for future injury.

[30] No information has been gathered or presented in the Report on the question of whether separate

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industries against which the impact of the allegedly dumped or subsidized imports is to be assessed. The domestic industry is defined in section 771(4)(A) of the Tariff Act of 1930 as "the domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product."[31] "Like product" is defined in section 771(10) as a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation * * *.[32]

These investigations concern allegedly dumped or subsidized imports of nine different categories of steel products from Belgium, Brazil, the Federal Republic of Germany, France, Italy, Luxembourg, the Netherlands, Romania, and the United Kingdom. These nine categories are: (1) hot-rolled carbon steel plate; (2) hot-rolled carbon steel sheet and strip; (3) cold-rolled carbon steel sheet and strip; (4) galvanized carbon steel sheet; (5) carbon steel structural shapes; (6) hot-rolled carbon steel bar; (7) hot-rolled alloy steel bar; (8) cold-formed carbon steel bar; and (9) cold-formed alloy steel bar. For the purposes of these investigations we find each of the nine categories to constitute a separate "like product." Since the investigations are only preliminary, we have made our conclusions as to the like products and the definition of the industries on the basis of the best available information. These are not necessarily the conclusions we will reach in any final investigations that may be conducted, because our information base at that time will likely be much more detailed. In the discussion below we will describe each product and the reasons why each is distinguished from the others in terms of characteristics and uses.[33]

Hot-rolled carbon steel plate is a finished product. It is distinguished from other flat-rolled steel products, such as sheet, by its dimensions, defined as 0.1875 inch or more in thickness and over 8 inches in width.[34] The predominant uses for hot-rolled carbon steel plate are for the construction of bridges, storage tanks, pressure vessels, railroad cars, ships, line pipe, and industrial machinery.[35]

Carbon steel sheet and strip are also generally considered to be finished products distinguishable by their dimensions from other flat-rolled products. Sheet is defined as being over 12 inches in width and in coils, or if not in coils under 0.1875 inch in thickness.[36] Hot-rolled sheet is used in the manufacture of automotive products, construction products, pipes and tubes, appliances, and electrical equipment.[37] Cold-rolled sheet is made by processing hot-rolled steel sheet coils in cold-reduction mills, thereby achieving a smoother-finished product of reduced thickness.[38] It is used extensively in the manufacture of appliances, electrical equipment, and automotive products.[39] Carbon steel strip has the same properties as hot-rolled or cold-rolled sheet, depending upon which finishing process is used. It differs only in that it is not more than 12 inches in width.[40]

Hot-rolled strip is used principally for purposes similar to those of hot-rolled sheet, while cold-rolled strip is chiefly used in the making of containers, packaging and shipping materials and automotive uses.[41]

Galvanized carbon steel sheet is produced in the same dimensions as ordinary carbon steel sheet. It differs because it has been coated with zinc for protection against corrosion.[42] The prinicpal end users of galvanized sheet are the construction and automotive vehicle industries.[43]

Carbon steel structural shapes are rolled, flanged shapes having at least one dimension of their cross section 3 inches or more. Among the structural shapes involved in these investigations are wide flange beams, H-piles, I-beams, angles, channels, bull angles, T's and Z's.[44] The major uses of structural shapes are in construction and contractors' products; manufacture of machinery, industrial equipment, and tools; and shipbuilding and marine equipment.[45]

Bars are steel products not conforming to the specifications of other steel products and having cross sections in a variety of shapes, such as circles, segments of circles, ovals, triangles, rectangles, hexagons, or octagons. The shape of a bar depends upon the intended end use.[46]

Carbon steel bar, whether hot-rolled or cold-formed, is produced in two principal grades, merchant bar and special quality bar. Merchant bar is used in most noncritical applications, while special quality bar is used when the end use calls for certain quality characteristics.[47] Cold-formed carbon steel bar is produced by further subjecting hot-rolled bar to a cold-finishing process that imparts surface and mechanical properties that render it superior for certain uses to hot-rolled bar.[48] Hot-rolled carbon steel bar is used primarily in the manufacture of automotive vehicles, machinery, industrial equipment, and tools; in mining, quarrying, and lumbering applications; and in construction uses.[49] Cold-formed carbon steel bar is consumed chiefly by manufacturers of machinery, industrial equipment, tools, automotive products, and agricultural equipment.[50]

Alloy steel bars differ from their carbon steel counterparts because other elements besides carbon and iron have been introduced during the production process to give the products added properties. Hot-rolled alloy steel bar has uses in the automobile, machinery and industrial equipment, mining, quarrying, lumbering, and oil and gas industries.[51] Cold-formed alloy steel bar has its principal uses in the manufacture of machinery, industrial equipment, tools and automotive products.[52]

We find that each of the nine product categories should constitute a separate like product. Each has physical characteristics of size, shape, or composition that are unlike those of the others. Moreover, they have varying uses, and products of one type generally do not compete with products of another type. As noted in the Commission determination in the 1980 steel products antidumping investigations, "Although raw steel constitutes much of the value of each of the * * * product groups under investigation, competition in the U.S. market between domestically produced steel products and the alleged LTFV [and subsidized] imports occurs in each of the * * * separate and distinct product groups."[53] In these investigations the domestic producers have been able to identify production and profitability data in terms of each of the nine groups, allowing the Commission to examine the impact of imports on each group separately.

Within each of the product categories there may be distinct characteristics and uses for items with differing specifications, but we lack sufficient information in these preliminary investigations to make any meaningful distinctions among them.[54] There generally appear to be no clear dividing lines among the products in each group, and therefore each category will be treated as a like product.[55] Thus, we find that there are nine domestic industries involved in these investigations corresponding to each of the nine like product groupings.[56]

C. Cumulation

Chairman Alberger and Commissioners Stern and Eckes have made their determinations on a case-by-case basis.[57] Each of them maintains that the imports in those investigations they voted to terminate could not conceivably have contributed to material injury. Should any of the affirmative preliminary cases return for final determinations, they do not preclude cumulation when the record as developed shows it is appropriate.[58]

For cumulation to be appropriate, we believe that it must be demonstrated that "the factors and conditions of trade in the particular case show its relevance to the determination of injury."[59] Factors and conditions which could combine to create a collective "hammering effect on the domestic industry" would be of most concern. These might include:

Volume of subject imports.
Trend of import volume.
Fungibility of imports.
Competition in markets for the same end users.
Common channels of distribution.
Pricing similarity.
Simultaneous impact.
Any coordinated action by importers.

There have been preliminary indications that many of these factors may be present.[60] Should any of these cases return for final determinations, we invite further argument and hope for a more complete record on this issue.

II. Hot-Rolled Carbon Steel Plate

With respect to the investigations on hot-rolled carbon steel plate,[61] we conclude that there is reasonable indication of material injury or threat thereof by reason of allegedly dumped and subsidized imports from Belgium, Brazil, Romania, the United Kingdom and the Federal Republic of Germany.[62] [63] We find that there is no reasonable indication of material injury or threat thereof by reason of allegedly dumped and subsized imports from France, Italy, Luxembourg, and the Netherlands.

Condition of the domestic industry

The domestic hot-rolled carbon steel plate industry is experiencing severe difficulties. The industry's production, capacity utilization, and employment have declined since 1979. The

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regional industries exist within the meaning of section 771(4)(c). No such allegations were made in the petitions filed with the Commission in these investigations or otherwise raised in a timely manner. During the conference there was some discussion regarding possible regional industries, but there was no comprehensive development of views or argumentation on the various requirements set forth in the statute. Furthermore, such data has been gathered in past steel investigations for all the product lines considered in these investigations, except the four bar products. See Certain Carbon Steel Products from Belgium, the Federal Republic of Germany, France, Italy, Luxembourg, the Netherlands, and the United Kingdom, Inv. Nos. 731–TA–18–24 (Preliminary), USITC Pub. No. 1084 (1981); Hot-Rolled Carbon Steel Plate from Belgium, Brazil, and Rumania, Inv. Nos. 701–TA–83 and 84 (Preliminary), and 731–TA–51 (Preliminary), USITC Pubs. 1207 and 1208 (1982); and Hot-Rolled Carbon Steel Sheet from France, Inv. No. 701–TA–55, USITC Pub. 1206 (1982). In none of those cases could any geographical area, except possible the western United States, qualify for such treatment because such areas were insufficiently isolated from the national market. In the present cases, no allegations were made concerning injury to the western states geographical area. Thus, there is no reason to expect that regional treatment might be justified even were such data to be developed.

[31] 19 U.S.C. 1677(4)(A).

[32] 19 U.S.C. 1677(10).

[33] A more detailed description of each product, its uses, characteristics, and method of manufacture can be found in the "description and uses" section of the Report on each of the products. The Report also describes the sections of the Tariff Schedules of the United States covering each product.

[34] Report at II–2. Most distinctions between products employed by the Commission in these investigations are derived from the Tariff Schedules of the United States, but some adhere to industry usage rather than strict TSUS categories exclusively used in the 1980 cases.

[35] *Id.* at II–4.

[36] *Id.* At III–1; IV–2. The description of sheet used in these investigations includes some products described as plate in the TSUS but deemed by the U.S. industry to be sheet.

[37] *Id.* at III–2.

[38] *Id.* at IV–2.

[39] *Id.*

[40] *Id.* at III–2, IV–2.

[41] *Id.*

[42] *Id.* at V–1

[43] *Id.* at V–2.

[44] *Id.* at VI–2.

[45] *Id.* at VI–2.

[46] *Id.* at VII–2, VIII–1 and VIII–2, IX–2, X–2 and X–3.

[47] *Id.* at VII–2, IX–2.

[48] *Id.* at IX–2.

[49] *Id.* at VII–3 and VII–3.

[50] *Id.* at IX–3.

[51] *Id.* at VIII–2.

[52] *Id.* at X–3.

[53] Certain Carbon Steel Products from Belgium, the Federal Republic of Germany, France, Italy, Luxembourg, the Netherlands, and the United Kingdom, Inv. Nos. 731–TA–18 to 24, USITC Pub. 1084 (1980), at 4 (Views of Chairman Bedell and Commissioners Moore and Calhoun). The approach taken in these investigations is also consistent with the views of Chairman Alberger in the 1980 investigations. Commissioner Stern notes that the definition of the domestic industry followed here conforms to the approach she adopted in Certain Carbon Steel Products, Inv. Nos. 731–TA–18–24 (Preliminary), USITC Pub. 1084 (1980):

It is clear that Congress desired the Commission determination and any resulting relief to be applied on a like product basis. There is a semantic problem, of little practical consequence in these cases, as to whether "the industry" consists of all suitable product lines, or each product line should define a separate industry for the purposes of the Act. Because Section 731 and Section 701 require that the determination shall be made in terms of "an industry," I have decided to adopt the convention that product lines which are separately identifiable in terms suggested by Section 771(4)(D) constitute separate industries for the purposes of the Act. ("Statement of Reasons of Commissioner Paula Stern," at 43.)

For the present cases, the observation made in Hot-Rolled Carbon Steel Sheet from France, Inv. No. 701–TA–55 (Preliminary), USITC Pub. 1206 (1982), continues to apply:

The question of aggregation—which the Commission chose to approach on a product line basis—apparently has been settled for the steel industry. ("Views of Commissioner Paula Stern," at 13.)

[54] We have carefully considered the arguments of certain respondents that some of their products are produced in shapes or dimensions that do not compete with domestically produced products. French and Belgian producers have argued, for example, that their sheet and plate products in certain widths and thicknesses should be excluded from these investigations. A similar argument is made by British Steel Corporation regarding special sections, joist sections, and organic coated steel. As stated in the text, the Commission lacks adequate information to evaluate these allegations in the context of these preliminary investigations.

The French producer Compagnie Francaise des Aciers Speciaux, S.A. (CFAS) argues that the appropriate domestic like product in the investigation of cold-formed alloy bar from France is hot-rolled bar. This claim has not been substantiated within the constraints of these preliminary investigations. However, certain information, discussed in the Report at X–28 to X–32, tends to bolster the argument. Since we have found that our injury determination regarding French cold-formed alloy bar would be the same in any case, a definitive disposition of the issue raised by CFAS is unnecessary. *See* p. 88, *infra*.

[55] *See* Sheet Piling from Canada, Inv. No. 731–TA–52 (Preliminary), USITC Pub. 1212 (1982); Hot-Rolled Carbon Steel Sheet from France, Inv. No. 701–TA–55 (Preliminary), USITC Pub. 1206 (1982); Hot-Rolled Carbon Steel Plate from Belgium, Brazil, and Romania, Inv. Nos. 701–TA–83 and 84 (Preliminary), and 731–TA–51 (Preliminary), USITC Pubs. 1207 and 1208 (1982); Stainless Clad Steel Plate from Japan, Inv. No. 731–TA–80 (Preliminary), USITC Pub. 1196 (1981).

[56] *See* additional views of Vice Chairman Calhoun.

[57] *See* additional views of Vice Chairman Calhoun.

[58] Chairman Alberger and Commissioner Stern refer readers to their respective discussions of the practice of cumulation in Certain Carbon Steel Products from Belgium, the Federal Republic of Germany, France, Italy, Luxembourg, the Netherlands, and the United Kingdom, Inv. Nos. 731–TA–18–24 (Preliminary), USITC Pub. 1084 (1980), at 14–15 and 66–67, respectively.

[59] S. Rep. No. 93–1298, 93d Cong., 2d Sess. 180 (1974). There are no specific references to cumulation in the Trade Agreements Act of 1979 or its legislative history. A general reference to the "conditions of trade and competition" is found in S. Rep. 96–249, 96th Cong., 1st Sess. 74 (1979).

[60] Chairman Alberger and Commissioner Stern note that while there is not yet sufficient information available to them to determine whether cumulation is appropriate in any of these investigations, they have voted to continue certain cases which may merit cumulative treatment in a final investigation where an isolated analysis might otherwise call for a negative determination at the preliminary stage.

[61] Investigations Nos. 701–TA–88 to 93 (Preliminary); 731–TA–53 to 60 (Preliminary).

[62] Chairman Alberger finds reasonable indication of material injury for Belgium, Brazil, Romania and the Federal Republic of Germany and does not reach the issue of threat. Commissioners Alberger and Stern find a reasonable indication of threat of material injury due to imports from the United Kingdom.

[63] In reaching his conclusion, Vice Chairman Calhoun cumulated the data regarding imports. See his additional views at p. 98.

production of firms that submitted useable data [64] fell from 5,897,000 tons in 1979 to 5,564,000 tons in 1980 and to 5,161,000 tons in 1981.

Capacity declined from 9,713,000 tons in 1979 to 9,300,000 tons in 1980 and 9,051,000 tons in 1981. Capacity utilization has declined steadily from 62 percent in 1978 to 57 percent in 1981. Although there have been additions to the industry's practical capacity, there have also been closures of carbon steel plate facilities during the period of investigation. [65]

Employment of production and related workers engaged in producing hot-rolled carbon steel plate fell from 19,000 workers in 1979 to 18,500 workers in 1980 and 16,900 in 1981, 12 percent less than in 1979. [66]

Demand for carbon steel plate is shrinking. U.S. consumption of carbon steel plate declined from 8.4 million tons in 1978 to 7.6 million tons in 1980, or by 9 percent. Consumption during January–November 1981 amounted to about 7.0 million tons, the same as that during the same period in 1980. From 1979–1981 U.S. producers' shipments have shown a declining trend, [67] and the market share of the domestic industry has eroded. [68]

Profitability in the carbon steel plate industry was low throughout the period under investigation. Three firms sustained operating losses in 1978, four firms in 1979 and 1981, and six firms in 1980. The industry furnished profit-and-loss data which showed a ratio of operating profit to net sales of 4.0 percent in 1978, 3.9 percent in 1979, 1.4 percent in 1980 and 2.3 percent in 1981. These figures are well below the general manufacturing rate of return and are insufficent to provide the necessary reinvestment capital. [69]

Discussion of Affirmative Determinations

A. *Belgium.* .1 *Imports:* Belgian imports declined from their 1978 level to 214,000 tons in 1979, but increased to 286,000 tons in 1980. [70] The January–November 1981 data show an increase over the same period in 1980, from 252,000 tons to 285,000 tons. Belgium was the largest foreign supplier of carbon steel plate to the U.S. market during January 1978–1981, accounting for 17 percent of total U.S. imports during that period. [71] The ratio of imports from Belgium to apparent domestic consumption shows the same trend. The highest annual ratio, 4.6 percent, occurred in 1978, declining to 2.7 percent in 1979, increasing to 3.7 percent in 1980, and increasing again to 4.1 percent in January–November 1981. On a quarterly basis, imports from Belgium in July–September 1981 reached 5.4 percent of apparent U.S. consumption. [72]

Belgium's carbon steel plate industry has substantial plate-making capacity, over 2.6 million tons annually in 1981. [73] Nearly all of Belgium's production of carbon steel plate is exported. Exports to the United States account for an increasing amount of total exports, 16 percent in 1979, 20 percent in 1980, and 21 percent in January–September 1981. [74]

2. *Prices and lost sales.* The Commission requested data on actual transaction prices in 1981 from purchasers of carbon steel plate to determine whether the imported products undersold the domestic products. Eight purchases provided information regarding prices of Belgian imports. Varying results were reported. In some instances there was underselling of from 1 to 14 percent. In other cases, Belgian products were sold at higher prices than domestic products. [75]

Forty-seven lost sales allegations were made with respect to imports from Belgium. Seven were investigated, and price was cited as the major reason for the decsion to purchase the imports in each case.

3. *Determination.* We concluded that there is a reasonable indication of material injury or threat thereof by reason of imports of hot-rolled carbon steel plate from Belgium. [76] The volume of imports from Belgium is not insubstantial and increased in 1981. Moreover, underselling by Belgian imports and sales lost by underselling have been verified.

B. *Brazil.* 1. *Imports.* Brazilian imports increased dramatically from the 1978 level of 80,000 tons to 208,000 tons in 1979 and 323,000 tons in 1980. Data for the first eleven months of 1981 indicate that Brazilian imports had declined compared with those in the same period in 1980, from 312,000 tons to 288,000 tons. The ratio of imports from Brazil to apparent domestic consumption showed similar trends. The ratio increased from 0.9 percent in 1978 to 2.6 percent in 1979 and 4.2 percent in 1980. The ratio for the first eleven months of 1981 was 4.1 percent, a slight decrease from the 4.4 percent during the same period in 1980. [77]

Brazil was the third largest foreign supplier of imported carbon steel plate, providing 13 percent of total imports during January 1978 through November 1981. [78] About one-fifth of Brazil's production of carbon steel plate was exported in 1979. This increased to about one-third in 1980. Approximately 55 percent of Brazil's aggregate exports of carbon steel plate were shipped to the United States in 1979. This increased to 66 percent in 1980. [79] The Department of Commerce has characterized certain of the Brazilian subsidies under investigation as being specifically directed at exports. 46 FR 56636–37 (November 18, 1981).

2. *Prices and lost sales.* Information was obtained from eight purchasers regarding prices of hot-rolled carbon steelplate from Brazil. Margins of underselling from 7 to 21 percent were reported. During the same period, margins of overselling were also reported. [80]

Six of 34 allegations of lost sales were investigated. Of the six, price was cited as a major reason for the decision to purchase imports in four cases. [81]

3. *Determination.* We conclude that there is a reasonable indication of material injury or threat thereof by reason of imports of hot-rolled carbon steel plate from Brazil. [82] The volume of imports is increasing and several instances of underselling by Brazilian imports and sales lost by underselling have been verified.

C. *Federal Republic of Germany.* 1. *Imports.* Imports from the Federal Republic of Germany declined from 183,000 tons in 1978 to 75,000 tons in 1979, then increased to 102,000 tons in 1980. In the first eleven months of 1981 imports amounted to 86,000 tons compared with 94,000 tons during the same period in 1980. [83] The ratio of imports from the Federal Republic of Germany to apparent domestic consumption declined from 2.2 percent in 1978 to 1 percent in 1979, but increased to 1.3 percent in 1980. For the first eleven months of 1981 the imports held 1.2 percent of apparent consumption. [84] At this time, there is no reliable information available to the Commission regarding capacity to produce steel plate in the Federal Republic of Germany.

2. *Prices and lost sales.* Information was obtained regarding prices of hot-rolled carbon steel plate from the Federal Republic of Germany. Margins of underselling were reported. [85] Thirty-four specific allegations of lost sales were made with respect to imports from the Federal Republic of Germany. Two of these were investigated by the Commission and both disclosed that price was the major reason for the decision to purchase the imports. [86]

3. *Determination.* We conclude that there is a reasonable indication of material injury or threat thereof by reason of imports of hot-rolled carbon steel plate from the Federal Republic of Germany. [87] The volume of imports is not insubstantial and instances of underselling and sales lost by underselling have been verified.

D. *Romania.* 1. *Imports.* Imports from Romania dropped from 49,000 tons in 1978 to 15,000 tons in 1979, doubled to 32,000 tons in 1980 and increased to 229,000 tons during the first eleven months of 1981. The ratio of imports from Romania to apparent domestic consumption shows a decline from 0.6 percent in 1978 to 0.2 percent in 1979. The ratio then doubled to 0.4 percent percent in 1980. The January–November 1981 data show a ratio of 3.3 percent. Quarterly data show that imports from Romania reached of 4.6 percent of apparent consumption during July–September 1981. [88]

Romania's capacity for producing hot-rolled carbon steel plate is increasing. That capacity is expected to increase annually so that by 1985 Romanian capacity is projected to be substantially greater than capacity in 1979 and 1980. During January–October 1981, the United States was one of Romania's largest export markets for hot-rolled carbon steel plate. Romania is experiencing a shortage of hard currency. The rolling mill equipment for the new plant was purchased with a U.S. Export-Import Bank Loan which must be repaid in dollars. The financial needs of the Romanian steel sector present an incentive to export to obtain U.S. currency. [89]

2. *Prices and lost sales.* Twenty-one allegations of lost sales were made with respect to imports from Romania. Four of these were investigated, and price was cited as a major reason for the decision to purchase the Romanian product in three of them. [90]

3. *Determination.* We conclude that there is a reasonable indication of material injury or threat thereof by reason of imports of hot-rolled carbon steel plate from Romania. [91] The United States is one of Romania's largest markets for carbon steel plate. Romanian capacity and incentives to export are expected to increase. The ratio of Romanian imports to apparent U.S. consumption reached 3.3 percent in 1981 and sales lost to the imports because of underselling have been confirmed.

E. *The United Kingdom.* 1. *Imports.* Imports from the United Kingdom dropped from 34,000 tons in 1978 to 10,000 tons in 1979 and 6,000 tons in 1980. In the first eleven months of 1981, the imports from the United Kingdom increased to their peak during the period under investigation of 35,000 tons. [92] The ratio of imports from the United Kingdom to apparent domestic consumption demonstrated similar trends. From 0.4 percent in 1978, the ratio dropped to 0.1 percent in 1979 and 1980. In 1981, the ratio increased to 0.5 percent and showed quarterly increases throughout the year, reaching 1.0 percent of apparent consumption in the last quarter, [93] as the British steel industry recovered from a strike and increased production.

The United Kingdom's production of carbon steel plate decreased from 2.0 million tons in 1979 to 1.2 million tons in 1980. However, production in January–October 1981 exceeded that for all of 1980. There is no reliable information available to the Commission on the United Kingdom's capacity to export carbon steel plate. Total United Kingdom exports of carbon steel plate dropped from 1979 to 1980 and the bulk of United Kingdom exports are to the European Community.

2. *Underselling and lost sales.* Five sales were allegedly lost to imports from the United Kingdom. Two of these were investigated and price was cited as the major reason for the decision to purchase the product imported from the United Kingdom in each. [94]

3. *Determination.* We conclude that there is a reasonable indication of material injury or threat thereof by reason of imports of hot-rolled carbon steel plate from the United Kingdom. [95] The volume of imports from the United Kingdom was higher in 1981 than in any other year during the period under investigation. In addition, there are verified instances of sales lost by the domestic industry because of underselling.

Discussion of Negative Determinations

A. *France.* 1. *Imports.* French imports decreased dramatically from a 1978 peak of 61,000 tons to 16,000 tons in 1979, then increased to 28,000 tons in 1980. Imports subsequently dropped to 17,000 tons in January-November 1981. [96] The ratio of imports from France to apparent domestic consumption declined from 0.7 percent in 1978 to 0.2 percent in 1979, then increased to 0.4 percent in 1980. The percentage for the first eleven months of 1981 dropped back to the 0.2 percent level. [97]

Although exports of French carbon steel plate increased yearly from approximately 30 percent of production in 1979 to 50 percent during the first eleven months of 1981, the share of exports shipped to the U.S. dropped from 16 percent in 1979 to 13 percent in 1980 and January-November 1981. [98]

2. *Prices and lost sales.* Instances of sales lost by the domestic industry to imports were verified in two instances.

3. *Determination.* We conclude there is no reasonable indication of material injury or threat thereof by reason of imports of hot-rolled carbon steel plate from France. There is no pattern of underselling of the imports from France. These imports are a decreasing percentage of total French exports and

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[64] This response accounts for approximately 90 percent of the total shipments of carbon steel plate reported by the American Iron and Steel Institute in 1980. Report at II–11.

[65] Report at II–7.

[66] Id. at II–15.

[67] Id. at II–12.

[68] Id. at II–9.

[69] Ten firms furnished profit-and-loss data. These firms accounted for 60 percent of total U.S. producers' shipments of hot-rolled carbon steel plate in 1980.

[70] Official U.S. import statistics do not separate imports from Belgium and Luxembourg. Data submitted to the Commission by the U.S. affiliate of the sole producer of hot-rolled carbon steel plate in Luxembourg indicates that exports from Luxembourg were less than 0.2 percent of the total from the two countries in each of the years 1978–81. Thus, imports from Luxembourg never exceeded 600 tons per year.

[71] Report at II–29.

[72] Id. at II–29.

[73] Id. at II–22.

[74] Id.

[75] Id. at II–52.

[76] Chairman Alberger finds that there is a reasonable indication of present material injury by reason of these imports, and therefore does not reach the issue of threat.

[77] Id. at II–37.

[78] Id.

[79] Id. at II–32.

[80] Id. at II–52.

[81] Id. at II–53.

[82] Chairman Alberger finds that there is a reasonable indication of present material injury by reason of these imports, and therefore does not reach the issue of threat.

[83] Report at II–36.

[84] Id.

[85] Id. at II–52.

[86] Id. at II–53.

[87] Chairman Alberger finds that there is a reasonable indication of present material injury by reason of these imports, and therefore does not reach the issue of threat.

[88] Report at II–36.

[89] See, Hot-Rolled Carbon Steel Plate from Belgium, Brazil, and Romania, Inv. No. 701–TA–63 and 701–TA–64 (Preliminary) and 731–TA–61 (Preliminary) (USITC Pub. No. 1207, January 1982).

[90] Report at II–54.

[91] Chairman Alberger finds that there is a reasonable indication of present injury by reason of these imports, and therefore does not reach the issue of threat.

[92] Report at II–38

[93] Id.

[94] Id. at II–53.

[95] Chairman Alberger and Commissioner Stern limit their finding to threat of material injury. They find no reasonable indication of present material injury by reason of the subject imports.

[96] Report at II–37.

[97] Id.

[98] Id. at II–36.

an insignificant and declining percentage of domestic consumption.

B. *Italy.* 1. *Imports.* Imports from Italy dropped consistently from 82,000 tons in 1978 to 1,000 tons in 1980, all of which were imported during the first eleven months of that year. Imports for the first eleven months of 1981 increased to 14,000 tons, slightly less than the 1979 level, but well below 1978. The ratio of imports from Italy to apparent domestic consumption shows that they accounted for 1 percent in 1978 but have not accounted for more than 0.2 percent since.[99]

There is no reliable information available to the Commission on Italy's capacity to produce hot-rolled carbon steel plate, its utilization of that capacity, or on total Italian exports. Italian production of carbon steel plate during January-October 1981 amounted to 2 million tons, compared with 2.3 million tons in 1980 and 2.1 million tons in 1979.[100]

2. *Prices and lost sales.* Nine allegations of sales lost to Italian imports were made by domestic producers. One was investigated but it was not confirmed that the firm in question had purchased carbon steel plate imported from Italy.[101]

3. *Determination.* We conclude that there is no reasonable indication of material injury or threat thereof by reason of imports of hot-rolled carbon steel plate from Italy. There is no reliable information indicating underselling by Italian imports which are a very small factor in domestic consumption.

C. *Luxembourg.* 1. *Imports.* Although Luxembourg exports most of its relatively small carbon steel plate production, the bulk of the exports are to other members of the European Community. Exports to the United States have been only 1 percent or less of total exports each year.[102]

2. *Prices and lost sales.* There is no information indicating underselling by imports from Luxembourg and there were no allegations of lost sales by reason of the imports.

3. *Determination.* We conclude that there is no reasonable indication of material injury or threat thereof by reason of imports of hot-rolled carbon steel plate from Luxembourg. Our conclusion is based upon the negligible quantities of these imports during the period under investigation and the absence of any showing that they had any impact on the prices of U.S. products as well as the absence of any allegations of lost sales.

D. *The Netherlands.* 1. *Imports.* Imports from the Netherlands remained at 5,000 tons during 1978 and 1979, dropped to 4,000 tons in 1980 and rebounded to 5,000 tons during the first eleven months of 1981. As a percentage of apparent domestic consumption imports from the Netherlands have remained at 0.1 percent during the entire period under investigation.[103]

The Netherlands' production of carbon steel plate has decreased annually since 1979, from 368,000 tons to 277,000 tons in January–October 1981. There is no reliable information available to the Commission on the Netherlands' capacity to produce hot-rolled carbon steel plate or its utilization of that capacity. The bulk of the production of carbon steel plate is exported to other members of the European Community. Exports to the United States accounted for about 2 percent of aggregate exports of this product in 1979, declining to less than 1 percent in 1980.[104]

2. *Prices and lost sales.* There is no information indicating underselling by imports from the Netherlands and there were no allegations of lost sales by reason of the imports.

3. *Determination.* We conclude that there is no reasonable indication of material injury or threat thereof by reason of imports of hot-rolled carbon steel plate from the Netherlands. Our conclusion is based upon the insignificant market share of these imports, their stable volume, and the lack of any allegations or other information showing that their small presence in the market has had any effect on U.S. prices or resulted in lost sales. Moreover, we note that the Netherlands' production of the product has decreased annually since 1979.

III. Hot-Rolled Carbon Steel Sheet and Strip

With respect to the investigations on hot-rolled carbon steel sheet and strip,[105] we conclude that there is a reasonable indication that allegedly dumped and subsidized imports from Belgium, the Federal Republic of Germany, France, Italy, and the Netherlands are causing material injury or threatening material injury to the affected domestic industry, but that there is no reasonable indication that allegedly subsidized imports from Brazil and the United Kingdom and allegedly dumped and subsidized imports from Luxembourg are causing material injury or the threat of material injury.[106]

Condition of the Domestic Industry

The available data show that the health of the domestic industry producing hot-rolled carbon steel sheet and strip has declined compared to its condition in 1978 and 1979. Domestic production of hot-rolled carbon steel sheet and strip increased from 11.7 million tons in 1978 to 12.6 million tons in 1979 but declined by over 20 percent to 9.9 million tons in 1980. Production increased to 11.4 million tons in 1981, a level below that reached in 1978 or 1979. Shipments showed a trend similar to that of production. Utilization of capacity declined from 65.7 percent in 1978 to 65 percent in 1979 and to 52.5 percent in 1980. Capacity utilization then increased in 1981 to 59.0 percent.[107]

Employment of production and related workers engaged in producing hot-rolled carbon sheet and strip increased from 23,100 in 1978 to 25,400 in 1979 and then declined 20 percent to 20,400 in 1980. In 1981 the figure had increased to 22,400, still below the 1978 figure.[108]

Demand for hot-rolled carbon steel sheet and strip is shrinking. Apparent domestic consumption declined nearly 30 percent, from 18.3 million tons in 1978, to 13.3 million tons in 1980. During the first eleven months of 1981, apparent consumption amounted to 13.7 million tons, about 15 percent more than that during the corresponding period in 1980.

Profitability in the hot-rolled carbon steel sheet and strip industry was low during 1978 and 1979, never exceeding $162 million or 4.8 percent of net sales. The nine reporting U.S. producers showed operating losses of $232 million, or 7.5 percent of net sales, in 1980 and $139 million, or 3.5 percent of net sales, in 1981.[109] Five reported losses in 1978, four in 1979, eight in 1980, and six in 1981.[110]

Discussion of Affirmative Determinations

A. *Belgium.* 1. *Imports.* Imports from Belgium and Luxembourg declined from 77,000 tons in 1978 to 21,000 tons in 1979 and remained at that level through 1980.[111] During January–November 1981, however, these imports increased to 100,000 tons. The bulk of the rise in imports from these two countries came in the last two quarters of 1981. The dramatic increase in January–November 1981 brought the ratio of these imports to apparent domestic consumption to 0.7 percent. At all other times during the period under investigation these imports amounted to less than 0.5 percent of apparent domestic consumption.[112]

2. *Prices and Lost Sales.* The Commission requested data on actual transaction prices in 1981 from purchasers of steel sheet to determine whether the imported products undersold the domestic products. Three purchasers provided information regarding prices of Belgian imports. Varying results were reported. In some instances there was underselling of from 1 to 8 percent. In other cases, the Belgian products sold at prices higher than the domestic prices at margins from 1 to 16 percent.[113] The allegations of sales lost to Belgian imports by reason of underselling were also investigated and confirmed.[114]

3. *Determination.* We find a reasonable indication that imports from Belgium are a cause of material injury or threat of material injury to the U.S. industry.[115] The volume of imports from Belgium increased greatly in 1981, particularly in the latter half of the year. Moreover, several instances of underselling by Belgian imports and of sales lost by underselling have been verified.

B. *Federal Republic of Germany.* 1. *Imports.* The Federal Republic of Germany was a principal supplier of these products throughout the period 1978–81. Although West German imports declined from 1978 to 1981, they remained above 300,000 tons. Moreover, imports rapidly increased during the last two quarters of 1981. The share of the U.S. market held by these imports declined from 3.7 percent in 1978 to 2.3 percent in January–November 1981.[116] No reliable information is available on West German production, capacity to produce, or total exports of hot-rolled carbon steel sheet and strip.

2. *Prices and lost sales.* Information was obtained from three purchasers regarding prices of hot-rolled carbon steel sheet from the Federal Republic of Germany. Margins of underselling of from 1 to 4 percent in 1981 were reported in different markets. During the same time, West German imports were reported to have sold at prices 2 to 9 percent higher than domestic products in some instances.[117]

All five allegations of sales lost to West German imports were confirmed. Purchasers reported that their decisions to purchase the imports were based on lower price.[118]

3. *Determination.* We conclude that there is a reasonable indication of material injury or threat of material injury [119] by reason of imports of hot-rolled carbon steel sheet and strip from the Federal Republic of Germany. That country is a major foreign supplier of these products to the U.S. market and its imports have held a significant share of the market throughout the period investigated. Moreover, the Commission was able to confirm instances of underselling and lost sales indicating a possible adverse effect on the domestic industry by reason of the pricing of these imports.

C. *France.* 1. *Imports.* Imports of hot-rolled carbon steel sheet and strip from France declined from 694,000 tons in 1978 to 529,000 tons in 1979 and 395,000 tons in 1980. Imports in January-November 1981 increased to 413,000 tons, a 26 percent increase over imports in the corresponding period of 1980. The ratio of imports from France to apparent domestic consumption has remained at about 3 percent since 1979.[120]

France exports about 60 percent of the hot-rolled carbon steel sheet and strip it produces. Its primary export market is other EC countries, although exports to the United States accounted for 18 percent of aggregate exports in 1981.[121] There is no available information on French capacity to produce these products.

2. *Prices and lost sales.* Seven purchasers prices for French hot-rolled sheet. The data were mixed. French imports at times were sold at higher prices than U.S.-produced products, but underselling predominated. Margins of underselling ranged from 1 to 11 percent.[122]

Five allegations of sales lost to French imports were confirmed by the Commission, some of which were verified to have occurred on the basis of the lower price of the imports.[123]

3. *Determination.* We determine that there is a reasonable indication that imports of carbon steel sheet and strip from France are a cause of material injury or threat thereof [124] to the affected U.S. industry. Total imports from France have been significant over the entire period investigated, amounting to about 3 percent of domestic consumption, and French imports increased greatly in 1981 over 1980 levels. Moreover, the Commission has verified both significant levels of underselling by French imports and sales lost to imports because of underselling.

D. *Italy.* 1. *Imports.* Imports from Italy declined from 250,000 tons in 1978 to 85,000 in 1979 and 39,000 tons in 1980. They then increased in January-November 1981 to 62,000 tons, an increase of 23,000 tons over the corresponding period in 1980. The greatest bulk of 1981 imports were concentrated in the last half of the year. The ratio of imports from Italy to apparent domestic consumption was 0.5 percent in January–November 1981.[125] No reliable data is available regarding Italian capacity to produce, or total exports of these products.

2. *Prices and lost sales.* Two purchasers provided information regarding U.S. prices of Italian hot-rolled carbon steel sheet. No consistent pattern was evident, with Italian products selling from 1 percent under to 9 percent over domestic prices.[126]

The Commission was able to confirm allegations of sales lost by the domestic industry to Italian imports. Purchasers cited lower prices as the reason for their purchase of the imports.[127]

3. *Determination.* We conclude that there is a reasonable indication of material injury or threat thereof [128] by reason of Italian imports of hot-rolled carbon steel sheet and strip. There are verified indications of underselling by these imports and of sales lost by the domestic industry because of

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[99] Id. at II–37.
[100] Id. at II–38.
[101] Id. at II–53.
[102] Id. at II–38 and see footnote 10, p. 20.
[103] Id. at II–32 to II–37.
[104] Id. at II–38.
[105] Investigation Nos. 701–TA–94 to 101 (Preliminary); 731–TA–61 to 65, 67 (Preliminary).
[106] In reaching his conclusion, Vice Chairman Calhoun cumulated the data regarding imports. See his additional views at p. 96.
[107] Report at III–6 to III–10.
[108] *Id.* at III–13 to III–15.
[109] These producers accounted for 68 percent of U.S. producers' shipments in 1980.
[110] Report at III–16.
[111] Official U.S. import data combine imports from Belgium and Luxembourg, but information available to the Commission indicates that the overwhelming majority of aggregate imports are from Belgium.
[112] Report at III–39. There is no reliable information available to the Commission regarding Belgian production or capacity to produce these products. Exports to the U.S. accounted for about 2 percent of total Belgian exports.
[113] *Id.* at III–40.
[114] *Id.* at III–41.
[115] Chairman Alberger and Commissioner Stern limit their finding to a reasonable indication of threat of material injury. They find no reasonable indication of present material injury by reason of the subject imports.
[116] Report at III–35.
[117] *Id.* at III–41.
[118] *Id.*
[119] Chairman Alberger finds that there is a reasonable indication that the subject imports are a cause of present material injury, and therefore does not reach the issue of threat.
[120] *Id.* at III–25.
[121] *Id.* at III–19.
[122] *Id.* at III–40.
[123] *Id.* at III–41.
[124] Chairman Alberger finds that there is a reasonable indication that the subject imports are a cause of present material injury, and therefore does not reach the issue of a reasonable indication of threat.
[125] Report at III–38.
[126] *Id.* at III–40.
[127] *Id.* at III–41.
[128] Chairman Alberger and Commissioner Stern limit their finding to a reasonable indication of threat of material injury. They find no reasonable indication of present material injury by reason of the subject imports.

Continued

underselling. Significantly, Italian imports increased dramatically in the last two quarters of 1981.

E. *The Netherlands.* 1. *Imports.* Imports from the Netherlands decreased from 322,000 tons in 1978 to 269,000 tons in 1979 and 189,000 tons in 1980, when imports from the Netherlands accounted for approximately 10 percent of total imports. Imports rose to 230,000 tons in January–November 1981, a 22 percent increase over the corresponding period in 1980. During January–November 1981, imports from the Netherlands accounted for 1.7 percent of apparent domestic consumption.[130] No reliable information is available to show capacity in the Netherlands to produce hot-rolled carbon steel sheet and strip or total exports from that country.

2. *Price and lost sales.* Two purchasers provided information on transaction prices for imports from the Netherlands. Although imports were reported to have sold at prices substantially higher than domestic products, underselling was also reported to have occurred at margins up to 3 percent.[130] Allegations of lost sales as a result of lower import prices were confirmed by the Commission.[131]

3. *Determination.* Our conclusion that there is a reasonable indication that imports from the Netherlands have caused or are threatening material injury [132] is based on several factors. Imports were relatively steady over the whole period covered, accounting for 1.7 percent of U.S. consumption in 1981. Moreover, there is information showing underselling and sales lost because of underselling.

Discussion of Negative Determinations

A. *Brazil.* 1. *Imports.* Imports from Brazil increased from 9,000 tons in 1978 to a high of 28,000 tons in 1979, then dropped to 7,000 tons in 1980. During January–June 1981, imports from Brazil amounted to only 4,000 tons, compared with imports of 7,000 tons in the corresponding period in 1980. At all times during the period under investigation, these imports amounted to less than 0.5 percent of apparent domestic consumption.[133] No reliable information is available on Brazilian capacity, production or exports.

2. *Prices and lost sales.* No purchasers provided any information indicating underselling by Brazilian imports and no allegations of sales lost to the domestic industry on the basis of underselling.

3. *Determination.* We find no reasonable indication that allegedly subsidized imports of hot-rolled carbon steel sheet from Brazil are a cause of material injury or threat thereof to the subject U.S. industry. Brazilian imports have fallen consistently and drastically since 1979, never amounting to more than 0.5 percent of domestic consumption in any year. Moreover, unlike imports from those countries as to which we have reached affirmative determinations, Brazilian imports have not been shown to have resulted in underselling or lost sales.

B. *Luxembourg.* 1. *Imports.* Although import data for hot-rolled carbon steel sheet and strip from Luxembourg are not segregated from data for Belgium information available to the Commission indicates that nearly all these imports come from Belgium.[134] There is no reliable data on Luxembourg's capacity to produce these products. Its exports of these products to the United States were only 0.2 percent of its total exports in 1979 and 1980 and 0.1 percent in 1981.[135]

2. *Underselling and lost sales.* There is no information indicating underselling by imports from Luxembourg or lost sales by reason of imports.

3. *Determination.* We find that there is not a reasonable indication that imports of hot-rolled carbon steel sheet and strip from Luxembourg are causing material injury or treat thereof to the domestic industry. While its volume of imports is not precisely known, it is only a minute portion of total Belgium/Luxembourg imports. Moreover, it is clear that the United States is a very minor export market for Luxembourg in these products, and its exports to the United States have fallen. Finally, there is no information of underselling or lost sales.

C. *United Kingdom.* 1. *Imports.* Imports from the United Kingdom declined from 35,000 tons in 1978 to 11,000 tons in 1979 and to 1,000 tons in 1980. During January–November 1981, imports from the United Kingdom accounted for less than 500 tons.[136] These imports accounted for less than 0.5 percent of apparent domestic consumption at all times during the period under investigation.[137] No reliable data is available to show U.K. capacity to produce these products or its exports.

2. *Underselling and lost sales.* No purchasers reported underselling or lost sales with respect to imports from the United Kingdom.

3. *Determination.* We determine that there is no reasonable indication that imports of hot-rolled carbon steel sheet from the United Kingdom are causing or threatening material injury to the U.S. industry. Imports from the United Kingdom of the products have fallen drastically from 1978 to 1980, and there is no information that they have undersold U.S. products or caused lost sales.

IV. Cold-Rolled Carbon Steel Sheet and Strip

In the investigations on cold-rolled carbon steel sheet and strip, [138] we determine that there is a reasonable indication of material injury or threat of material injury by reason of allegedly dumped and subsidized imports from the Federal Republic of Germany, France, Italy, [139] and the Netherlands of cold-rolled carbon steel sheet and strip, but that there is no reasonable indication of material injury or threat thereof by reason of allegedly dumped and subsidized imports of those products from Belgium, [140] Luxembourg, and the United Kingdom and allegedly subsidized imports from Brazil.

Condition of the Domestic Industy

The condition of the domestic industry producing cold-rolled carbon steel sheet and strip weakened significantly from 1978 to 1981. Domestic production of cold-rolled carbon steel sheet and strip remained stable at 13.2 million tons in 1978 and 1979, then decreased in 1980 to 10.3 million tons. Although production increased to 11.2 million tons in 1981, it still remained below 1978 and 1979 levels. Over the 1978–81 period there was a 2 percent increase in the production capacity of the domestic industry to 15.9 million tons. Capacity utilization fluctuated during the period, however, falling from nearly 85 percent in 1978 to approximately 70 percent in 1981. [141]

During the period under investigation, employment of production and related workers engaged in producing cold-rolled carbon steel sheet and strip reached a peak of 39,200 in 1979, but declined to 35,300 by 1981. Productivity decreased each year during the period. [142]

Profitability in the cold-rolled carbon steel sheet and strip industry was low during 1978 and 1979, then declined further in 1980 and 1981. The reporting U.S. producers showed operating losses of $383 million in 1980 and $293 million in 1981, equivalent to 9.2 percent and 5.9 percent of net sales in 1980 and 1981, respectively. Of the 9 producers reporting profit and loss data for the period under investigation, three reported losses in 1978, four in 1979, eight in 1980, and seven in 1981. [143]

Discussion of Affirmative Determinations

A. *Federal Republic of Germany.* 1. *Imports.* The Federal Republic of Germany is the second largest exporter of cold-rolled sheet of strip to the United States. During the period from 1978 through the first eleven months of 1981, West Germany accounted for 2 to 3 percent of apparent domestic consumption. Imports from West Germany declined from 665,000 tons in 1978 to 602,000 tons in 1979, then plummeted to 273,000 tons in 1980. During 1981 these imports rebounded to about 400,000 tons. [144] Information is not available on West German capacity to produce those products. Exports to the United States constituted about 15 percent of all West German exports during the period studied. [145]

2. *Prices and lost sales.* Nine purchasers provided price information regarding West German imports. In some instances West German products sold at prices higher than domestic products and in other instances at lower prices. The margins of underselling, where found, ranged from 1 to 10 percent. [146]

Forty-nine allegations of lost sales were made with respect to West German cold-rolled carbon steel sheet and strip. Of these, a sample of eight was investigated. Five purchasers indicated that alternate sourcing was the chief reason for their purchasing decisions. Three of the five instances involved a purchaser affiliated with a foreign producer. Three other purchasers cite quality differentials. No purchasers listed price as the primary factor. [147]

3. *Determination.* We conclude that there is reasonable indication that imports of cold-rolled carbon steel sheet and strip from the Federal Republic of Germany have caused or threatened materials injury. [148] West German imports are substantial and have increased greatly from 1980 to 1981, accounting for 2 to 3 percent of U.S. consumption. Moreover, there are indications that West German imports have undersold U.S. products.

B. *France.* 1. *Imports.* Imports from France declined from 260,000 tons in 1978 to 118,000 tons in 1980. During this period France's share of the U.S. market for cold-rolled carbon steel sheet and strip decreased from 1 percent to 0.6 percent. During 1981, however, French imports increased to 154,000 tons.[149] French exports to the United States accounted for about 10 percent of its total exports during 1978–81.[150] No information is available on French production capacity.

2. *Prices and lost sales.* Five purchasers provided information on domestic prices of French hot-rolled carbon steel sheet and strip. Although imports sold at higher prices in some markets at some times, underselling of from 2 to 11 percent was reported to have occurred in 1981.[151]

Twenty-nine allegations of lost sales were made with respect to French sheet and strip. Of these, a sample of seven was investigated and two of the purchasers indicated that the lower price of the French steel was the principal factor in the decision to purchase French imports.[152]

3. *Determination.* We conclude on the basis of the best information available that there is a reasonable indication that imports of cold-rolled carbon steel sheet and strip from France have caused or threatened material injury [153] to the U.S. industry producing the like product. Our conclusion is based on the significant level of French imports, the substantial increase in such imports in 1981, and confirmation of underselling and of sales lost by reason of underselling.

C. *Italy.* 1. *Imports.* Imports from Italy declined from 213,000 tons in 1978, or 1 percent of apparent domestic consumption, to 9,000 tons in 1980, or 0.1 percent of domestic consumption. Thereafter, imports from Italy increased to about 55,000 tons in 1981.[154] Italian exports to the United States during the period were about 20 percent of total Italian exports.[155] No data are available on Italian production capacity for these products.

2. *Underselling and lost sales.* Only one purchaser gave prices for Italian imports. No underselling was reported.[156]

One allegation of a lost sale was made with respect to Italian sheet. The purchaser was affiliated with a foreign producer and stated that it made the purchase decision on this basis.[157]

3. *Determination.* Vice Chairman Calhoun and Commissioner Eckes conclude that there is a reasonable indication that imports from Italy have caused or threatened material injury to the domestic industry. The principal bases for this determination are that Italian imports have increased substantially in 1981 over 1980 levels. Substantially all of the 1981 imports entered during the last half of the year, resulting in an import penetration of 0.6 percent for the third quarter of 1981. The United States continues to be a principal market for Italian exports of cold-rolled carbon steel sheet and strip.

Commissioners Alberger and Stern have determined there is no reasonable indication that imports from Italy are causing and could contribute to any material injury, or threat thereof, that the domestic industry is experiencing. These imports have a very small market share. Since 1978 they declined from one percent of consumption to 0.1 percent in 1980. During the first eleven months of 1981, they grew to 0.3 percent compared to 0.1 for the same period of 1980. However, this level still represents an insignificant volume. Only one allegation of a lost sale was made. The purchaser was in fact affiliated with a foreign producer and made the purchase on that basis.

D. *The Netherlands.* 1. *Imports.* During 1978–80 imports from the Netherlands declined from 233,000 tons to 118,000 tons. In 1981, however, these imports increased to over 146,000 tons. The market penetration of imports from the Netherlands has remained stable at approximately 1 percent.[158] Exports from the Netherlands to the United States accounted for 14 percent of its total exports in the 1978–81 period.[159] There is no reliable information on capacity in

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[130] Report at III–28.
[131] *Id.* at III–40.
[132] *Id.* at III–41.
[133] Chairman Alberger finds a reasonable indication that the subject imports are a cause of present material injury, and therefore does not reach the issue of threat.
[134] Report at III–38 and III–39.
[135] Aggregate import data for Belgium and Luxembourg are set forth at p. 33.
[136] Report at III–20.
[137] Report at III–26.
[138] Report at III–38 and III–39.
[138] Investigations Nos. 701–TA–102 to 109 (Preliminary); 731–TA–66 to 74 (Preliminary).
[139] Chairman Alberger and Commissioner Stern determine that there is no reasonable indication of material injury or threat thereof by reason of allegedly dumped or subsidized imports from Italy.
[140] Vice-Chairman Calhoun finds a reasonable indication of material injury or threat thereof by reason of allegedly dumped and subsidized imports from Belgium. In reaching his conclusion, Vice Chairman Calhoun cumulated the data regarding imports. See his additional views at p. 68.
[141] Report at IV–10. Decreases in production corresponded to the decline in domestic consumption, primarily attributable to falling in the automotive industry.
[142] *Id.* at IV–14.
[143] 10.
[144] *Id.* at IV–34.
[145] *Id.* at IV–32.
[146] *Id.* at IV–42.
[147] *Id.* at IV–44.
[148] Chairman Alberger finds a reasonable indication that the subject imports are a cause of present material injury, and therefore does not reach the issue of threat.
[149] Report at IV–30.
[150] *Id.* at IV–20.
[151] *Id.* at IV–40.
[152] *Id.* at IV–44.
[153] Chairman Alberger finds a reasonable indication that the subject imports are a cause of present material injury, and therefore does not reach the issue of threat.
[154] Report at IV–24.
[155] *Id.* at IV–21.
[156] *Id.* at IV–42.
[157] *Id.* at IV–44.
[158] *Id.* at IV–24.
[159] *Id.* at IV–22.

the Netherlands to produce these products.

2. *Prices and lost sales.* One domestic purchaser contacted by the Commission reported prices for cold-rolled carbon steel sheet and strip from the Netherlands. It cited margins of underselling ranging from 3 to 12 percent.[160]

Twelve allegations of lost sales were made with respect to cold-rolled carbon steel sheet from the Netherlands. Of these, a sample of six was investigated, and one of the purchasers indicated that the price of the Dutch steel was the principal factor influencing the purchase decision.[161]

3. *Determination.* Our Determination as to imports of cold-rolled carbon steel sheet and strip from the Netherlands is that there is a reasonable indication that the imports have caused or threatened material injury [162] to the U.S. industry. Dutch imports account for about 1 percent of consumption and increased significantly in 1981 over 1980. Additionally, there are confirmed instances of underselling and lost sales attributable to these imports.

Discussion of Negative Determinations

A. *Belgium.* 1. *Imports.* Imports of cold-rolled carbon steel sheet and strip from Belgium and Luxembourg declined from 129,000 tons in 1978 to 98,000 tons in 1980. Imports for 1981 were more than 55 percent below the 1980 level.[163] Together, these countries have never accounted for more than 0.7 percent of apparent domestic consumption during 1978–80. For the first eleven months of 1981 the percentage was merely 0.3 percent.[164] The Commission has no reliable information on Belgian capacity to produce these products.

2. *Underselling and lost sales.* One domestic purchaser provided price information with respect to Belgian cold-rolled carbon steel sheet and strip. It noted margins of underselling ranging from 5 to 7 percent.[165] No specific allegations of sales lost to Belgian imports were made by the petitioners and non came to light in the course of the investigation.[166]

3. *Determination.* Chairman Alberger and Commissioners Stern and Eckes determine that there is no reasonable indication that Belgian imports of these products have caused or threatened material injury to the domestic industry involved.[167] Market penetration by Belgian imports has been small and is decreasing, and, while some underselling has been confirmed, there is no information of any sales lost because of underselling by Belgian imports.

B. *Brazil.* 1. *Imports.* Brazilian imports grew from 866 tons in 1978 to 8,765 tons in 1979, then fell to 1,491 tons in 1980. They then icreased to 18,667 tons in 1981. These figures represented 0.5 percent or less of total domestic consumption in 1978, 1979, and 1980. U.S. market penetration was 0.1 percent in 1981.[168] No reliable information is available on Brazil's capacity to produce cold-rolled carbon steel sheet and strip or total exports.

2. *Underselling and lost sales.* No instances involving underselling or lost sales on account of Brazilian imports were uncovered by the Commission's investigation.

3. *Determination.* It is our conclusion that there is no reasonable indication of material injury or threat thereof by reason of Brazilian imports of these products. Over the four-year period investigated, imports from Brazil remained a very small percentage of overall U.S. consumption. Moreover, no information of Brazilian underselling or sales lost to Brazilian imports was found.

C. *Luxembourg.* 1. *Imports.* Aggregate import figures for Belgium and Luxembourg are represented at p. 50. Extremely few of these already minimal imports originated in Luxembourg.

2. *Underselling and lost sales.* No information regarding underselling by imports from Luxembourg was received by the Commission, and no allegations were made or information received regarding lost sales.

3. *Determination.* Imports from Luxembourg of cold-rolled carbon steel sheet and strip from Luxembourg are practically nil, and have had no demonstrated impact on domestic prices. Thus, we find no reasonable indication that these imports have caused or threatened material injury to the U.S. industry.

D. *United Kingdom.* 1. *Imports.* Imports of cold-rolled carbon steel sheet [169] from the United Kingdom declined from 21,400 tons in 1978 to 5,800 tons in 1979 and 330 tons in 1980. They then increased in January-November 1981 to 8,400 tons. At no time in the four-year period did U.K. imports reach a greater percentage of apparent consumption than 0.1 percent, attained in 1978.[170]

2. *Underselling and lost sales.* One report of underselling by British imports was received by the Commission. The margin of underselling was 2 percent.[171] British imports were neither alleged nor found to have taken sales from domestic producers.

3. *Determination.* We conclude that there is no reasonable indication that imports of cold-rolled carbon steel sheet from the United Kingdom have caused or threatened material injury to the domestic industry producing this product. Imports remained at very small levels throughout the period investigated. Information regarding underselling was limited, and no information was provided regarding lost sales.

V. Galvanized Carbon Steel Sheet

Views of Chairman Bill Alberger, Vice Chairman Michael J. Calhoun, and Commissioner Paula Stern

Our determination with respect to all antidumping and countervailing duty investigations on galvanized carbon steel sheet [172] is that there is no reasonable indication that an industry in the United States is materially injured, or threatened with material injury, by reason of the imports subject to these investigations. While we recognize that the domestic industry producing galvanized carbon steel sheet has suffered a downturn in 1980 and 1981, there is no evidence to support a finding that the allegedly subsidized and/or dumped imports have caused any part of this decline.

In a previous series of determinations regarding imported galvanized sheet from certain EC countries (Investigations Nos. 731–TA–18–24 (Preliminary), May 1980), Chairman Alberger found that there was no reasonable indication of material injury to the domestic industry by reason of the alleged LTFV sales.[173] Among other factors which formed the basis for that opinion were rapidly rising profit levels along with increases in U.S. production, shipments, capacity utilization, exports and apparent consumption. Moreover, during the period under consideration in that investigation (1977–1979) the ratio of imports to apparent consumption from all sources and from the subject EC countries remained stable at about 25 percent and 5.8 percent respectively.

In the May 1980 cases, Commissioner Stern made affirmative determinations in the preliminary cases of galvanized sheet from the Federal Republic of Germany and France, the only EC suppliers of any significance. The factors just noted by Chairman Alberger made these marginal cases. However, in May 1980, Commissioner Stern believed that it was not possible at the preliminary stage to discount the possibility that the subject French and German imports had a cumulative material impact on domestic profits on galvanized sheet. Since the previous investigaitons, the imports of this product from France and Germany have declined by almost half. The present total of subject imports in this product line—coupled with all other factors cited below—has simply eliminated them as possible causes of material injury.

In the period immediately following our May 1980 determinations, the galvanized steel sheet industry suffered a sharp drop in production, shipments, employment, capacity utilization, net sales, and profitability. Based on returns from Commission questionnaires production declined from 4.7 million tons in 1979 to 3.7 million tons in 1980. U.S. producers' shipments followed this pattern, dropping from 6.3 million tons in 1979 to 5.2 million tons. Employment declined by 13 percent from 1979 to 1980, while capacity utilization fell from 70% to 59%. Net sales also declined from $2.3 billion in 1979 to $1.9 billion in 1980. After enjoying operating profits of $135 million in 1979, the industry experienced an aggregate operating loss of $91 million, or 4.8 percent of net sales, in 1980.

While we are instructed by the legislative history of the Trade Agreement Act not to weight the different causes of injury to the domestic industry, we are nevertheless required to ascertain whether imports are at least a material cause of any injury being suffered.[174] Based on our analysis of all the information available to the Commission, it is our judgment that factors other than these import are responsible for the present state of the industry. At the same time that production, employment, profits and other indicators were declining, imports from each of the countries under investigation also plunged.

From 1979 to 1980 imports from all countries subject to countervailing duty investigations (including Spain and South Africa) [175] fell from 7.2 percent of apparent U.S. consumption to 4.3 percent of U.S. consumption. Likewise, imports from all countries subject to antidumping investigations, fell from 5.5 percent to 2.9 percent of apparent U.S. consumption. Imports from all sources also declined from 28 percent in 1979 to 21 percent in 1980. The 1981 statistics reveal only slight increases in import levels while U.S. production, shipments, capacity utilization and employment data indicate a significant rebound for the industry. Profitability levels in 1981 were also improving, although still in the red.

It is clear from thee patterns that the cause of the industry's difficulty in 1980–81 must be factors other than the allegedly dumped or subsidized imports. A major source of trouble obviously has been the sharp drop in U.S. consumption of galvanized sheet, from 8.7 million tons in 1978 to 6.5 million tons in 1980—a 25 percent decline. Data for January-November 1981 show a small but accelerating growth in consumption.[176] It may also be significant that while labor productivity declined by 5 percent over the 1978–81 period, an hourly wage increase of 39 percent pushed the unit labor cost per ton of galvanized sheet from $86.56 per ton in 1978 to $127.28 per ton in 1981. This represents an increase of 47 percent.[177]

Moreover, there is no reasonable indication that the industry is threatened with material injury by reason of the subject imports. U.S. importers' inventories of galvanized sheet from the EC declined by 48 percent during the 1978–81 period. Notwithstanding preliminary data which indicate that there may exist excess capacity to generate exports in some of the countries concerned, there appears to be no significant increase in market penetration.

V. Galvanized Carbon Steel Sheet

Views of Commissioner Alfred Eckes

Unlike the Commission majority, I determine that there *is* a reasonable indication that the domestic producers of galvanized carbon steel sheet are being materially injured, or threatened with material injury by reason of imports from France, Italy, and West Germany.

Condition of the Domestic Industry

Since the last Commission investigation of galvanized carbon steel sheet concluded in May 1980 with an affirmative preliminary determination, the condition of the domestic industry has deteriorated sharply.

In fact, in describing the state of the domestic industry in his 1980 dissenting opinion, then Vice Chairman Alberger wrote: "For the period 1977 to 1979, U.S. production, shipments, capacity utilization, exports, apparent consumption and profitability have all increased." But, if those factors are considered in light of more recent evidence, a different picture emerges of the galvanized carbon steel sheet industry. It is one that justifies an affirmative determination more than ever.

Domestic production has declined from a peak of 4.7 million tons in 1979 to 3.7 million tons in 1980 and 4.4 million tons in 1981.[178] U.S. producers' shipments dropped 19 percent from 1978 to 1980, before increasing in 1981. However, in the last quarter of 1981 shipments were 28 percent below the final quarter of 1980, additional evidence of an industry in trouble.[179] Capacity to produce galvanized sheet fell from 6.7 million tons in 1979 to 6.2 million tons in 1981. And, capacity utilization declined sharply from 70 percent in 1979 to 59 percent in 1980 before returning to about the 70 percent level in 1981.[180]

Most of the other indicators mentioned in the 1980 opinion show evidence of injury. Apparent domestic consumption fell 25 percent between 1978 and 1980 before reviving in 1981. However, U.S. producer's share of consumption, which rose to 90 percent in the first quarter of 1981, slid to 78 percent in the third quarter.[181] Furthermore, the domestic industry is considerably less profitable than at the time of the earlier investigation. The ratio of operating profit to sales fell from 5.8 percent to a *negative* 4.8 percent in 1980 and a *negative* 1.2 percent in 1981. Six of the eight producers reported operating losses in 1980, and, although sales picked up in 1981, operating losses continued.[182]

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[160] *Id.* at IV–43.
[161] *Id.* at IV–44.
[162] Chairman Alberger finds a reasonable indication that the subject imports are a cause of present material injury, and therefore does not reach the issue of threat.
[163] Official import data do not segregate imports from Belgium and Luxembourg. A Department of commerce analysis of these imports indicated that Belgium accounts for virtually all of them.
[164] Report at IV–38.
[165] *Id.* at IV–43.
[166] *Id.* at IV–44.
[167] See additional views of Vice-Chairman Calhoun.
[168] Report at IV–31, IV–34.
[169] Imports of cold-rolled carbon steel strip from the United Kingdom are not subject to these investigations.
[170] Report at IV–34.
[171] *Id.* at IV–43.
[172] Investigation Nos. 701–TA–110–118 (Preliminary) and 731–TA–75–91 (Preliminary).
[173] See views of Vice Chairman Bill Alberger on Certain Steel Products From the European Community, Investigation Nos. 731–TA–18–24 (Preliminary), May 1980, at 20–21.
[174] Senate Finance Committee Report on the Trade Agreements Act of 1979, Sen. Rept. No. 96–249, 96th Cong., 1st Sess., at 74–75.
[175] With respect to Vice Chairman Calhoun's inclusion of Spain and South Africa, see his additional views.
[176] See TAble V–2 of Report at p. V–4.
[177] Vice Chairman Calhoun is of the view that the 21 percent import penetration level from all sources cannot be ignored. Of this amount 61 percent is from Japan whose products tend to concentrate in the Western United States.
[178] Report at V–7.
[179] Id. at V–8.
[180] Report at V–7.
[181] Id. at V–4.
[182] Id. at V–14.

inventories offered further evidence of material injury. Producers' year-end inventories were 30 percent higher for 1981 than for 1980. Indeed, the 1981 levels are the highest inventories reported for this industry since 1977.[183]

In 1980 a majority of the Commission determined there was reason to believe the domestic industry was being materially injured or threatened with material injury from imports even though the domestic industry was apparently in a healthier condition than at present. The subsequent decline in 1980 and late 1981 confirms the wisdom of that judgment and justifies my affirmative determination that there is a reasonable indication of material injury to the domestic producers of galvanized sheet.

Reasonable indication of material injury by reason of subject imports

In my view there is a reasonable indication that imports of galvanized sheet from West Germany, France, and Italy are causing or threatening material injury. West Germany is a major exporter of galvanized sheet to the United States, accounting for 2 to 3 percent of U.S. consumption through the period 1978–81. While the volume of overall German exports declined from 226,000 tons in 1978, the volume has begun to pick up again. Analyzed on a quarterly basis, more than 80 percent of the 1981 volume entered during the second half of the year. Third quarter 1981 imports were 2.3 percent of U.S. consumption, far above the 0.3 percent and 0.8 percent levels reached in the first and second quarters of 1981, respectively.[184] In addition, staff confirmed two instances where American producers lost sales to German suppliers,[185] reasonable evidence at the preliminary level of a connection between imports and material injury.

Imports from France declined from a peak in 1978, but have begun to rise again. The January–November 1981 figures show a 15 percent increase over the corresponding period for 1980. Viewed on a quarterly basis, imports increased each quarter during 1981, with the final three months representing 46 percent to total 1981 imports. Quarterly import penetration figures also show an increasing trend. Further, a larger share of French exports were directed to the United States during 1981, up from 7.3 percent of total French exports in 1980 to 10.5 percent for the first 11 months of 1981.[186] Finally, staff confirmed three allegations of lost sales.[187]

Imports from Italy dropped sharply from 1978 to 1980—from 64,000 tons to 4,000 tons. But, in 1981 the pattern reversed. Imports climbed to 31,000 tons, almost two-thirds of that volume arrived in the last three months of 1981. As a result, the import penetration ratio rose steadily from 0.1 in 1980 to 0.6 percent in the third quarter of 1981. Fourth quarter import penetration figures should be even higher.[188] In addition, staff confirmed an instance of American producers losing a sale because of lower prices for the imported product.[189] The import trends and penetration figures coupled with evidence of lost sales demonstrate a reasonable indication of material injury by reason of allegedly subsidized of LTFV imports from Italy.

Imports of galvanized steel sheet from Belgium, Luxembourg, the Netherlands, and the United Kingdom do not threaten or materially injure the domestic industry. Imports from Belgium/Luxembourg decreased in volume from 1978 through 1980, increasing slightly in 1981. Import penetration followed a similar trend, dropping to 0.1 percent in 1980 before rising to 0.2 percent in 1981. A review of quarterly data indicates no significant increasing trends in the levels of these imports.[190] Based on the above data, plus consistent production levels, rates of utilization, and export patterns from Belgium and Luxembourg, I determine that these cases can be terminated.

Similarly, imports of galvanized sheet from the Netherlands have declined steadily throughout 1978–81, from 40,000 tons in 1978 to 11,000 tons in 1980 and 1981. An analysis of import trends on a quarterly basis shown no significant change in patterns.[191] Imports from the United Kingdom were also inconsequential. They fell from 10,419 tons in 1979 to 374 tons in 1980.

Imports for the period January to November 1981 were 3,298 tons, almost all of which entered during the second half of 1981. Throughout the period, however, the import penetration level did not exceed the 0.2 percent level reached in 1979, and remained at less than 0.05 percent for the period January–November 1981.[192] Having considered these import levels and trends, as well as all other information presented in these proceedings, I have determined there is no reasonable indication of material injury of threat thereof by reason of allegedly subsidized or LTFV imports from the Netherlands or the United Kingdom.

VI. Carbon Steel Structural Shapes

In the investigations on carbon steel structural shapes [193] we conclude that there is a reasonable indication of material injury or threat thereof to the affected domestic industry by reason of allegedly dumped and subsidized imports from Belgium, the Federal Republic of Germany, France, Luxembourg and the United Kingdom.[194] [195] However, there is no reasonable indication that allegedly subsidized imports from Brazil are causing material injury or the threat of material injury to the domestic industry.

Condition of the Domestic Industry

Judged by all the available indicators, the condition of the U.S. industry producing carbon steel structural shapes has declined since 1979. Production increased somewhat from 1978 to 1979, but dropped from 4.1 million tons in 1979 to 3.7 million tons in 1981, a decline of about 10 percent.[196] Domestic shipments also increased slightly from 1978 to 1979, then declined annually from 4.5 million tons in 1979 to 4 million tons in 1981.[197]

Capacity for the production of structural shapes remained relatively constant, declining from 6.4 million tons to 6.3 million tons between 1979 and 1981. In contrast, utilization of available capacity dropped during that period, from 64.4 percent to 58.2 percent.[198] U.S. producers' yearend inventories remained relatively constant throughout the 1978–81 period at roughly 6 percent of total annual shipments.[199]

Employment of production and related workers in domestic establishments producing structural shapes rose with increased production in 1979, but fell significantly in 1980 and 1981 as production declined. The number of hours paid for production and related workers similarly declined.[200]

The lack of profitability of the structural shapes sector is striking. The domestic industry recorded a loss in every year from 1978 to 1981.[201] That loss declined from $25 million in 1978 to $4 million in 1979, then ballooned to $82 million in 1980 and $66 million in 1981. The ratio of operating loss to net sales increased irregularly from 2.2 percent in 1978 to 4.9 percent in 1981.[202]

Imports

Aggregate imports from the six countries subject to these dumping and countervailing duty investigations declined from about 670,000 tons in 1978 to approximately 540,000 tons in 1980. They then jumped to about 700,000 tons in 1981.[203] For three out of the four years examined,[204] imports from the six countries under investigation maintained an aggregate share of the U.S. market of approximately 11 percent.[205]

Imports of carbon steel structural shapes from Belgium and Luxembourg increased from 307,000 tons in 1978 to 379,000 tons in 1979, then declined to 293,000 tons in 1980.[206] They then increased in the first eleven months of 1981 to 367,000 tons, a substantial increase of 34 percent over the same period in 1980.[207] Imports from Belgium and Luxembourg represented 6 percent of apparent domestic consumption in 1979, 5.1 percent in 1980, and 6.7 percent in January–November 1981. In the third quarter of 1981 their share of apparent domestic consumption was an even greater 7.8 percent.[208] Belgian utilization of capacity for producing structural shapes was 48.6 percent in 1981, when exports to the United States accounted for 28.1 percent of total Belgian exports.[209] The EC was the principal market for Belgian exports from 1979–81.[210] Capacity utilization in Luxembourg fell from 97.2 percent in 1979 to 90 percent in 1981 as more capacity was added. Its principal export market was also EC countries.[211]

Imports from the Federal Republic of Germany declined from 167,000 tons in 1978 to 134,000 tons in 1979 and 136,000 tons in 1980. They further declined to 107,000 tons in the first eleven months in 1981. However, these volumes represented 2.4 percent of apparent U.S. consumption in 1980 and 1.9 percent in January–November 1981.[212] Data on West German capacity utilization is unknown. The United States accounted for 13.8 percent of German exports in 1979 and 10.9 percent in 1980.[213]

French imports declined steadily from 99,000 tons in 1978 to 46,000 tons in 1980, but increased in January–November 1981 to 49,000 tons, a 36 percent increase over those in the same period in 1980.[214] The ratio of French imports to total domestic consumption remained at about 1 percent in 1980 and 1981.[215] Between 1979 and 1981, French capacity for producing structural shapes was utilized at a relatively stable rate of approximately 60 percent. The EC was the major export market for the French products under this investigation. The United States accounted for slightly under 10 percent of these French exports in 1980 and 1981.[216]

The volume of structural shapes imported from the United Kingdom fell between 1978 and 1980 from 72,000 tons to 63,000 tons. It then increased dramatically in January–November 1981 to 133,000 tons, or almost 200 percent over that in the corresponding period in 1980.[217] This represented a climb from 1 percent of the U.S. market in 1980 to 2.4 percent in the first eleven months of the following year. The EC is the United Kingdom's principal export market. Exports to the United States were 11.4 percent of U.K. exports of carbon steel structural shapes in 1979 and 12.8 percent in 1980.[218]

Imports from Brazil declined from 24,000 tons in 1978 to less than 500 tons in 1980. Although Brazilian imports increased substantially in 1981, they still accounted for only 0.2 percent of apparent domestic consumption.[219] Further, quarterly data show decreasing imports during the second half of 1981. Principal Brazilian export markets in 1981 were the EC and the United States.[220]

Prices and Lost Sales

Evidence of underselling and of sales lost as a result of underselling was found with regard to imports from all the countries investigated except Brazil. Although there were instances in which imports sold at higher prices than domestic products, underselling by the imports predominated. Average margins of underselling ranged from lows of 2 to 5 percent to highs of 10 to 15 percent.[221]

Of the 21 confirmed allegations made by the petitioners of sales lost to imports, price was cited as the principal reason for the purchasing decision in every instance, although other factors were also given. Ten of the confirmed allegations involved imports from Luxembourg. Belgian, French and U.K. imports each accounted for from 1 to 3 confirmed lost sales due to price. Five sales lost to imports were not identifiable as to source.[222]

Determinations

For all the countries subject to these investigations except Brazil we find a reasonable indication of material injury or threat of material injury to the domestic industry by reason of imports of carbon steel structural shapes. The U.S. industry is caught between falling demand for its products, linked to a downturn in the construction industry, and an increased rate of penetration of the domestic market by the foreign-produced structural shapes under investigation. As domestic production and sales slumped during 1981, imports from Belgium, France, Luxembourg, and the United Kingdom increased greatly in 1981, driving the share of the market held by domestic producers even lower. Imports from the Federal Republic of Germany remained significant.

Moreover, as demand for the products fell, competition increased sharply. The increased share of the market garnered by imports has been achieved largely through price undercutting, leading to sales lost to the domestic industry. These preliminary cases are significant in the number of instances in which allegations of lost sales due to lower import prices were confirmed.

The record provides no reasonable indication of material injury or threat thereof to the domestic industry by reason of imports from Brazil. In no year investigated did Brazilian imports account for more than 0.4 percent of domestic consumption. Significantly, of all the imports subject to these investigations only those from Brazil were not confirmed to have either undersold domestic products or caused lost sales through underselling.

VII. Hot-Rolled Carbon Steel Bar

With regard to the countervailing duty investigations involving hot-rolled

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[183] Id. at V–10.
[184] Report at V–28.
[185] Id. at V–30.
[186] Id. at V–29.
[187] Id. at V–39.
[188] Report at V–30.
[189] Id. at V–38.
[190] Id. at V–28.
[191] Id. at V–29.
[192] Report at V–37.
[193] Investigations Nos. 701–TA–117 to 119, 121, 123, and 124 (Preliminary); 731–TA–82 to 86 (Preliminary).
[194] Chairman Alberger finds a reasonable indication that the subject imports are a cause of present material injury, and therefore does not reach the issue of threat.
[195] In reaching his conclusion Vice Chairman Calhoun cumulated the data regarding imports. See his additional views at p. 98.
[196] Report at VI–7.
[197] Id. at VI–8.
[198] Id. at VI–7.
[199] Id. at VI–10.
[200] Id. at VI–11 to VI–14.
[201] Profit-and-loss data were received from seven firms accounting for 78 percent of U.S. shipments in 1980. Id. at VI–15.
[202] Id.
[203] Id., Tables VI–18 and VI–19.
[204] 1978 through Jan.–Nov. 1981.
[205] Report, Table VI–20.
[206] Separate import data are not available for Belgium and Luxembourg, but information in Department of Commerce documents indicates Luxembourg accounts for over 50 percent of the combined imports.
[207] Report, Table VI–18.
[208] Id., Tables VI–20 and VI–21.
[209] Id. at VI–19.
[210] Id. at VI–20 and VI–21.
[211] Id.
[212] Id., Table VI–20.
[213] Id. at VI–22.
[214] Id., Table VI–18.
[215] Id., Table VI–20.
[216] Id. at VI–21.
[217] Id., Table VI–18.
[218] Id. at VI–21.
[219] Id., Table VI–20.
[220] Id. at VI–19.
[221] Id. at VI–48 and VI–49.
[222] Id. VI–50 and VI–51.

carbon steel bar,[220] we determine that, with the exception of imports from the United Kingdom, there is no reasonable indication of material injury or the threat thereof by rason of the allegedly subsidized imports.[221]

Condition of the Domestic Industry

The condition of the domestic industry producing hot-rolled carbon steel bars has been affected greatly by declining domcestic consumption of the product, which fell from 6.7 million tons in 1978 to 4.3 million tons in 1980, a 36 percent drop. Consumption increased in 1981, but only to a small degree.[225]

Following the tend in consumption, domestic production steadily declined from 5.5 million tons in 1978 to 3.9 million tons in 1980, but recovered to 4.1 million tons in 1981.[226] Shipments showed a like trend, falling from 6.1 million tons in 1978 to 4 million tons in 1980, a decline of roughly one-third. Shipments then increased to 4.2 million tons in 1981.[227]

Practical domestic capacity for the productaion of hot-rolled carbon steel bar declined from 8.1 million tons in 1978 and 1979 to less than 7.7 million tons in 1980, and then increased slightly in 1981. Capacity utilization fell annually from 68.1 percent in 1978 to 50.7 percent in 1980. It increased to 52.9 percent in 1981.[228] U.S. producers' inventories of the product remained relatively constant throughout the period as a precentage of shipments.[229]

The decline in production from 1978 to 1980 caused a drop in average employment as well. The average numer of workers engaged in producing hot-rolled carbon steel bar fell by 3 percent from 1978 to 1979, then dropped 27 percent in 1980. Average employment then picked up about 1 percent in 1981.[230]

Profitability in the industry matched the figures for production as well. Net sales rose from $2 billion in 1978 to $2.2 billion in 1979, then fell 26 percent in 1980 to $1.6 billion. They posted a 17 percent increase in 1981 to $1.9 billion. The firms responding to the Commission's questionnaires[231] reported in the aggregate small operating profits on their hot-rolled carbon steel bar operations in 1978 and 1979 and losses in 1980 and 1981. Losses were reported by six firms in 1978, four in 1979, seven in 1980, and six in 1981.[232]

Volume of Imports

Aggregate imports of hot-rolled carbon bar from the seven countries involved fell from 171,000 tons in 1978 to 148,000 tons in 1979 and 103,000 tons in 1980. Imports rebounded in 1981 to 159,000 tons.[233]

Imports from each of the subject countries show varying trends. Hot-rolled carbon steel bar imported from Belgium and Luxembourg declined drastaically from 27,000 tons in 1978 to only 9,000 tons in 1980. In the first eleven months of 1981 imports from Belgium and Luxembourg increased to 13,000 tons compared to 8,000 tons in the same period in 1980.[234] Belgian capacity and capacity utilization for producing both hot-rolled carbon steel bar and hot-rolled allowy steel bar fell significantly between 1979 and 1981. Information on capacity is unavailable for Luxembourg.[235]

Brazilian imports declined steadly between 1978 and 1980, falling from 26,000 to 14,000 tons. January–November 1981 data show a further decline to 7,000 tons, approximately half the amount for the corresponding period of 1980.[236] The ratio of Brazilian imports to apparent domestic consumption demonstrated the same downward trend, from 0.4 percent in 1978 to 0.2 percent in the first eleven months of 1981.[237] Information on Brazilian capacity for production of bar products in not available.

French imports of hot-rolled carabon steel bar declined from 10,000 tons in 1978 to 4,000 tons in 1980, then increased somewhat in 1981, reaching 5,000 tons in the first eleven months of that year. Throughout the 1978–81 period, penetration of the domestic market by French imports remained at about 0.1 percent.[238] Data are unavailable on French capacity and utilization. France's major export market is West Germany. The United States accounted for only 3 percent of Franch exports.[239]

Imports from Italy totalled only 5,000 tons in 1978, then fell to less than 500 tons in each of the succeeding three years. The ratio of Italian imports to apparent U.S. consumption was 0.1 percent in 1978 and less than 0.05 percent in the remainder of the period under investigation.[240] Data are unavailable on Italian capacity and capacity utilization for production of these products. West Germany and France are Italy's major export markets, with the United States accounting for only a small share.[241]

Imports from the Federal Republic of Germany fell from 15,000 tons in 1978 to 11,000 tons in 1979, then increased slightly to 12,000 tons in 1980. Imports in the first eleven months of 1981 were 12,500 tons, slightly higher than the 11,500 tons imported in the same period in 1980.[242] The ratio of imports to apparent domestic consumption rose slightly from 0.2 percent in 1978 and 1979 to 0.3 percent in 1980 and 1981.[243] Information regarding West German capacity to produce steel bar products is unavailable. Over the period 1978–80, West German exports to the United States accounted for about 2 percent of its total exports. Its major export market for the products is France.[244]

Of the countries subject to these investigations, the United Kingdom is by far the largest supplier of hot-rolled carbon steel bar to the U.S. market. Imports from the United Kingdom amounted to 88,000 tons in both 1978 and 1979. After falling to 64,000 tons in 1980, U.K. imports then increased significantly in 1981, reaching 102,000 tons in the first eleven months compared to only 53,000 tons in the same period in 1980.[245] Quarterly data for 1981 show a dramatic increase in imports from less than 9,000 tons in the first quarter to 38,000 tons in the final quarter.[246] As a percentage of total apparent domestic consumption, imports from the United Kingdom rose from 1.3 percent in 1978 to roughly 2.5 percent in 1981.[247] In the last quarter of 1981, U.K. penetration of the U.S. market for this product reached 4.2 percent, up substantially from the 2.9 percent registered in the same period in 1980.[248] The United States was the U.K.'s largest export market in 1980, accounting for 18 percent of exports.

[220] Investigations Nos. 701–TA–125 to 129, 146 and 147 (Preliminary).

[221] In reaching his conclusion, Vice Chairman Calhoun cumulated the data regaring imports. See his additional views at p. 96.

[225] Report at VII–6.

[226] *Id.*, Table VII–3.

[227] *Id.* at VII–7.

[228] *Id.*, Table VII–3.

[229] *Id.* at VII–10.

[230] *Id.* at VII–16.

[231] The firms providing profit-and-loss data accounted for 81 percent of U.S. production in 1980. *Id.* at VII–14.

[232] *Id.*

[233] *Id.*, Tables VII–3 and VII–28.

[234] *Id.* Official U.S. import statistics do not separate imports from Belgium and Luxembourg. Information made available by the U.S. affiliate of the sole producer of hot-rolled carbon steel bar in Luxembourg indicates that the greater share of imports from the two countries is attributable to Belgian products. *Id.* at VII–22 fn.1.

[235] *Id.* at VII–17.

[236] *Id.*, Table VII–18.

[237] *Id.*, Table VII–19.

[238] *Id.*, Tables VII–15 and VII–18.

[239] *Id.* at VII–17.

[240] *Id.*, Tables VII–18 and VII–28.

[241] *Id.* at VII–18.

[242] *Id.*, Table VII–16.

[243] *Id.* Table VII–19.

[244] *Id.* at VII–20.

[245] *Id.*, Table VII–18.

[246] *Id.*, Table VII–28.

[247] *Id.*, Table VII–19.

[248] *Id.*, Table VII–21.

Data on U.K. capacity and utilization rates are unavailable.[249]

Price

The Commission has sought to investigate allegations regarding underselling by imports and sales lost to imports on the basis of price. The results achieved within the constraints of these preliminary investigations are both limited and mixed. Only two purchaser's questionnaires reported pricing data for imports, and those data are limited to imports from Luxembourg. In both instances the import prices were higher than domestic prices. Of those purchasers named in the lost sales sections of domestic producers' questionnaires, most confirmed that they had made purchases of imports in lieu of domestically produced bars. Only one purchaser of Belgian imports and two purchasers of imports from the United Kingdom, however, reported that the price of the imported products they purchased was lower than prices for domestic products, and of these one of the purchasers of bars from the United Kingdom indicated that the lower price was not its principal reason for buying the imports. All other purchasers of foreign-produced bar indicated that other factors, such as superior quality, motivated their purchase decisions.

Determinations

We conclude on the basis of the information available that there is no reasonable indication of material injury or threat of material injury by reason of imports of hot-rolled carbon steel bar from Belgium, Brazil, the Federal Republic of Germany, France, Italy, and Luxembourg, but that there is a reasonable indication of material injury or threat thereof by reason of imports from the United Kingdom.[250]

The domestic industry manufacturing hot-rolled carbon steel bar is presently experiencing a period of greatly diminished demand for the product, which has resulted in a marked decline in the industry's fortunes. With regard to all but one of the countries subject to these investigations, imports appear not to have been a material cause of harm to the industry. Imports from Belgium, Brazil, the Federal Republic of Germany, France, Italy, and Luxembourg are very small compared to overall domestic consumption and have generally been falling in recent years. Moreover, the Commission has not been able to confirm any underselling by imports from those countries, with the exception of one transaction involving less than 100 tons of Belgian bar.

The data regarding imports from the United Kingdom show a trend that is wholly unlike that of the other imports under investigation. At a time of contracted domestic demand, when both domestic shipments and imports from other investigated sources have fallen, imports from the United Kingdom have reached their highest absolute level and degree of penetration of the U.S. market. The increase was particularly strong in the last three quarters of 1981. Additionally, there are two confirmed reports of underselling by U.K. hot-rolled carbon steel bar, one of which was confirmed to have resulted in a sale lost to the domestic industry.

VIII. Hot-Rolled Alloy Steel Bar

We determine that there is no reasonable indication that the domestic industry is being materially injured or threatened with material injury by reason of allegedly subsidized imports of hot-rolled alloy steel bar from France, Italy, the United Kingdom, or West Germany.[251, 252]

Condition of the Domestic Industry

Some 34 firms produce hot-rolled alloy steel bars in the United States. However, 54 percent of U.S. shipments are manufactured by five large steel producers.[253]

Although the market for steel has been poor in the most recent three year period, the performance of the domestic steel bar industry has been relatively strong. Nine firms, accounting for approximately 62 percent of total U.S. producers' shipments,[254] provided the Commission with profit-and-loss data. Net sales of hot-rolled alloy steel bar increased from $905 million in 1978 to slightly over $1 billion in 1981.[255] Although operating profits and operating margins for the 9 firms fell from 1978–81, the 9 firms' aggregate operations on hot-rolled alloy steel bar remained profitable throughout the entire period.[256] Operating profits for the nine firms fell from $105 million in 1978 to $37 million in 1980, before recovering to $87 million in 1981.[257] Operating margins 14.6 percent in 1978 to 8.3 percent in 1980 before recovering to 11.8 percent in 1981.[258]

U.S. production of hot-rolled alloy steel bar declined from 1.8 million tons in 1978 to 1.2 million tons in 1980, but recovered to 1.4 million tons in 1981. Capacity declined by 11 percent from 1978 to 1981, from 2.4 million tons in 1978 to 2.2 million tons in 1981. Capacity utilization decreased from 73.5 percent in 1978 to a low of 53.1 in 1980, but recovered to 65.1 percent in 1981.[259] In contrast, the value of U.S. producers' shipments rose yearly with the exception of 1981, showing an 11 percent increase in 1981 over the 1978 figure. The average unit value of shipments rose annually at a rate of 12 percent. U.S. producers' inventory levels remained relatively steady as a percentage of U.S. producers' shipments. Employment decreased at an annual rate of 6.6 percent during the period. However, total wages and compensation paid were greater in 1981 than in 1978. Labor productivity increased 3.1 percent from 1978 to 1981, despite an 8 percent decrease in 1980. Unit labor costs registered increases in both 1979 and 1980 before dropping slightly in 1981. Based on data supplied from 6 firms, aggregate capital expenditures rose substantially during the period.

Volume of Imports

Market penetration of imports of hot-rolled alloy steel bar from all countries fell from 6.5 percent in 1978 to 4.8 percent in 1979 before rising to 5.6 percent in 1980 and 6.2 percent in January–November 1981. Imports from countries not subject to these investigations accounted for the majority of the import penetration figures in each of the period under investigation.

The volume of imports from France, Italy, the United Kingdom, and West Germany increased substantially from 1980 to 1981. Imports from France rose from 5,954 tons to 40,668 tons; imports from Italy rose from 257 tons to 1,286 tons; imports from the United Kingdom rose from 395 tons to 5,197 tons; and imports from West Germany rose from 852 tons to 1,722 tons.[260] However, the increase in volume of imports in 1981 from the United Kingdom and West Germany represents only a partial recovery from the declines experienced in 1978 and 1979. The 1981 level of French imports, though higher than the three previous years, represents 1.7

[249] *Id.*, at VII–28.

[250] Chairman Alberger finds that the subject imports are a cause of present material injury, and therefore does not reach the issue of threat.

[251] Invs. Nos. 701–TA–130 to 133 (Preliminary).

[252] In reaching his conclusion, Vice Chairman Calhoun cumulated the data regarding imports. See his additional views at p. 96.

[253] The five largest U.S. producers of hot-rolled alloy steel bars are Armco, Inc., Bethlehem Steel Corp., Republic Steel Corp., Timken Co., and U.S. Steel Corp.

[254] Report at VIII–14.

[255] *Id.*

[256] Operating losses were reported by one firm in both 1979 and 1981 and four firms in 1980.

[257] Report, Table VIII–9.

[258] *Id.*, Table VIII–9.

[259] *Id.*, Table VIII–3.

[260] *Id.*, Table VIII–12.

percent of apparent U.S. consumption. Italian imports reached a period high in 1981 of one twenty-fifth of 1 percent of apparent U.S. consumption.[261] Imports from the United Kingdom accounted for one-fifth of 1 percent of apparent U.S. consumption for January–November 1981.[262] Imports from West Germany accounted for one-tenth of 1 percent of apparent U.S. consumption during the same time period.[263]

Effect of Imports on Prices

The record developed to date reveals no correlation between U.S. producers' prices and imports of hot-rolled alloy steel bar from France, Italy, the United Kingdom, or West Germany. The U.S. producers' price index (based on list prices) for hot-rolled alloy steel bar increased 27.6 percent from 1978 to 1981. The major steel producers have announced five base price increases for hot-rolled alloy steel bar since January 1, 1979. Although the decline in profit margin that the domestic industry experienced from 1978 to 1980 indicates that its price increases were not commensurate with its increased costs, there is nothing in the record that indicates that imports from the four countries under investigation had any impact on domestic prices. Moreover, the domestic industry's profit margin made a substantial recovery in 1981.

None of the countries under investigation for this product is a price leader. Indeed, the market share of each of the four countries makes it difficult for them individually or collectively to have a significant impact on domestic pricing.

The percentage price increases by the foreign producers are either commensurate with or significantly greater than the increases in U.S. producers' prices and are all greater than the percentage increase in the trigger price. Thus, there is no indication of destructive price-cutting or other price suppressing behavior by producers from the four countries under investigation.

Of 11 allegations of lost sales 5 were verified. Of the verified allegations, only one involved a purchase made principally because of lower price. The most important factor for the other four lost sales was the greater availability of the imported product. This information does not adequately support a finding that there is a reasonable indication that the imports under investigation have had a negative impact on domestic prices.

Impact of Imports on the Domestic Industry

The record fails to support a finding that there is a reasonable indication that imports from France, Italy, the United Kingdom and West Germany had any correlation to the trends in the domestic industry. As with pricing, the level of imports from the four countries, separately or combined, strongly indicates that they could not have had a significant impact on the domestic industry. Moreover, while it is true that imports from France, Italy, the United Kingdom, and West Germany increased substantially in 1981, this factor is not considered alone in assessing the existence of injury to the domestic industry. During the 1978–80 period, imports from France, the United Kingdom and West Germany were steadily declining as were overall imports. At that time, while U.S. production and capacity utilization were down, the domestic industry remained profitable, but profits did decline. Since imports were declining, the decline in profitability appears to have little or no relationship to imports. In 1981, the year of the largest volume of imports, the domestic industry improved. Production and capacity utilization increased, and shipments continued to rise at an annual rate of 12 percent. Profits reached a level of 8.6 percent of net sales, nearly doubling the figure reported for 1980. Therefore, although imports increased in the final period under investigation, the domestic industry remained healthy, in fact, reporting significant increases in key economic areas. Thus, there is no reasonable indication that the subject imports from France, Italy, the United Kingdom, and West Germany have had any discernible negative impact on the domestic industry.

The rate of increase of imports from France, Italy, the United Kingdom, and West Germany poses no real and imminent threat of harm in the near future. Imports from each of the four countries increased in 1981 over 1980. However, despite the increases, only one of the countries, France, reached an import penetration level of over 1 percent. Imports from the other three countries were all below 0.5 percent of apparent U.S. consumption in 1981.[264] Indeed, during the period under investigation, imports from Italy, the United Kingdom, and West Germany were for the most part one-tenth of 1 percent or less of apparent U.S. consumption. Although imports from France were somewhat larger, import penetration was extremely low. Except for 1981, imports from France were substantially below one percent of apparent domestic consumption.[265]

The increase in imports to the United States in 1981 from the United Kingdom and West Germany did not even bring them back to their 1978 level. For Italy, the increase in U.S. exports in 1981 represented a period high. However, that high represents only one twenty-fifth of 1 percent of apparent U.S. consumption. France's imports in 1981, also a period high, were 1.7 percent of apparent U.S. consumption.

There is no indication in the record that a significant shift in imports to the United States from the four countries under investigation is likely. The United States is the main export market for the United Kingdom; whereas France, Italy, and West Germany export mainly within the EC. The trend in the EC in recent years has been to pare down steel production capacity. Furthermore, there is no available information on capacity or capacity utilization for these four countries. Thus, based on the best available information at this time, we find no reasonable indication of threat of material injury.

IX. Cold-Formed Carbon Steel Bar

With regard to the six countervailing duty investigations involving cold-formed carbon steel bar,[266] we determine that, with the exception of imports from the United Kingdom, there is no reasonable indication of material injury or the threat of material injury by reason of the allegedly subsidized imports.[267]

Condition of the Domestic Industry

Like other segments of the overall domestic steel industry involved in our investigations, the facilities manufacturing cold-formed carbon steel bar have been faced in the years 1980 and 1981 with demand that was substantially lower than in the previous two years. U.S. production of the product fell sharply from 1 million tons in 1979 to 736,000 tons in 1980. While production was up in the 1981, the increase still left production levels far below the 1979 mark.[268] Shipment data are similar, showing a 7 percent rise from 1978 to 1979, then a precipitous drop of almost one-third in 1980. Total domestic shipments then rebounded somewhat in 1981.[269]

Capacity to produce cold-formed carbon steel bar fluctuated throughout the period, reaching its highest level, 1.4 million tons, in 1981. Because of flagging production levels in 1980 and 1981, capacity utilization dropped sharply after 1979, falling to 56 percent in 1981.[270] U.S. producers' inventories of the product remained fairly constant throughout the period at 10–12 percent of annual shipments.[271]

Employment trends followed the trends in production. The average number of workers engaged in producing the product increased 2 percent from 1978 to 1979, then fell 24 percent in 1980 and an additional 4 percent in 1981. Hours paid for workers engaged in producing cold-formed carbon steel bar declined 30 percent from 1979 to 1980 and a further 1 percent in 1981. Total wages and compensation in 1980 and 1981 were also well below 1979 levels.[272]

U.S. producers' profitability has suffered in the last two years as well.[273] Operating profits were $16 million in 1978 and $19 million in 1979, or 4.1 percent of net sales in both years. However, losses of $7 million and $5 million were sustained in 1980 and 1981, respectively. These losses amounted to 1.9 percent and 1.2 percent of net sales.

Volume of Imports

Total imports from the six countries involved in these investigations declined steadily from 38,500 tons in 1978 to 21,700 tons in 1979 and 17,900 tons in 1980. They then increased greatly in 1981 to 41,000 tons, more than double the 1980 total.[274] Data are unavailable regarding the productive capacity for those products of any of the countries under investigation.

Nearly all the total increase in 1981 over 1980 is accounted for by imports from the United Kingdom. Imports from the United Kingdom fell from 28,700 tons in 1978 to 11,400 tons in 1979, and 7,400 tons in 1980. They subsequently jumped to 28,300 tons in the first eleven months of 1981, with an increase in the ratio of U.K. imports to domestic consumption from 0.6 percent in 1980 to 2.1 percent in January–November 1981.[275] Imports from heavy in the latter part of 1981, reaching 10,400 tons in the third quarter, or 3 percent of U.S. consumption for the period.[276]

France provided the second highest volume of imports among the countries investigated. Imports of cold-formed carbon steel bar from France increased from 7,700 tons in 1978 to 8,700 tons in 1980. However, French imports then declined 12 percent to 7,000 tons in January–November 1981 compared to 8,000 tons in the corresponding period in 1980. Penetration of the U.S. market by French bar also fell during that period from 0.6 percent in January–November 1980 to 0.5 percent in January–November 1981.[277]

Belgian imports declined from 277 tons in 1978 to 120 tons in 1980. Belgian imports then increased to 352 tons in January–November 1981; however, during all periods investigated imports from Belgium accounted for less than .05 percent of apparent domestic consumption.[278]

Brazilian imports increased steadily from 328 tons in 1978 to 731 tons in the first eleven months of 1981. The ratio of imports from Brazil to total U.S. consumption was less than .05 percent in 1978 and 1979, and 0.1 percent in 1980 and 1981.[279]

Italian imports fell from 911 tons in 1978 to 477 tons in 1979, less than 0.5 ton in 1980, and 224 tons in the first eleven months of 1981. Market penetration levels were only 0.1 percent in 1978 and less than .05 percent in the later years.[280]

Imports from the Federal Republic of Germany declined from 579 tons in 1978 to 413 tons in 1979, then increased to 950 tons in 1980 and 1,280 tons in January–November 1981. The ratio of these imports to U.S. consumption was less than .05 percent in 1978 and 1979 and 0.1 percent in 1980 and 1981.[281]

Prices and Lost Sales

Purchasers' responses to the Commission's questionnaires yielded two instances of underselling by imported cold-formed carbon steel bar, both involving bar produced in the United Kingdom. The quarterly margins of underselling ranged from 3 to 9 percent.[282]

Of the seventeen allegations of sales lost to imports by reason of underselling, only three were confirmed, two involving bar from the United Kingdom and one from Italy. In the case of the Italian imports the purchaser reported that both the lower price and a desire to maintain an alternate source for its materials motivated the purchase.[283]

Determinations

We find there is no reasonable indication that imports of cold-formed carbon steel bar from Belgium, Brazil, the Federal Republic of Germany, France, and Italy are contributing to material injury or threat of material injury to the affected U.S. industry. Import penetration by products from each of these countries has remained at minimal levels throughout the period covered by these investigations, and has been so small as to have little or no effect on the fortunes of the domestic industry. Moreover, only one instance was confirmed of a sale lost to imports from one of these countries, that being Italy, one of the least important of the source countries for imports of the product.

Imports from the United Kingdom, on the other hand, increased drastically in 1981 and achieved a level of penetration of the U.S. market that cannot be characterized as insignificant. In addition, there are indications that U.K. products substantially undersold U.S. products in 1981, and U.K. imports were found in two confirmed instances to have taken sales away from the domestic industry on the basis of price. Thus, we find it appropriate to continue the investigation of cold-formed carbon steel bar from the United Kingdom.[284]

X. Cold-Formed Alloy Steel Bar

In the countervailing duty investigations on cold-formed alloy steel bar [285] we determine that there is no reasonable indication of material injury or threat of material injury by reason of imports from Belgium, the Federal Republic of Germany, France, Italy, and the United Kingdom.[286] [287]

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[261] These calculations were taken from the data presented in the Report at Tables VIII–2 and VIII–12. According to Table VIII–2, apparent domestic consumption for January–September 1982 was 1,977,000 tons.

[262] Report, Table VIII–13.

[263] *Id.*, Table VIII–63.

[264] Report, Table VIII–13.

[265] In 1979, imports from France accounted for 0.6 percent of apparent U.S. consumption; in 1979, 0.3 percent; and in 1980, 0.3 percent. *Id.*

[266] Investigations Nos. 701–TA–134 to 139 (Preliminary).

[267] In reaching his conclusion, Vice Chairman Calhoun cumulated the data regarding imports. See his additional views at p. 00.

[268] Report, Table IX–4.

[269] *Id.* at IX–9 and IX–10.

[270] *Id.* Table IX–4.

[271] *Id.* at IX–12.

[272] *Id.* at IX–12 to IX–14.

[273] Profit-and-loss figures were submitted by four firms accounting for about 43 percent of U.S. shipments in 1980.

[274] *Id.*, Tables IX–14 and IX–15.

[275] *Id.*, Tables IX–14 and IX–15.

[276] *Id.*, Tables IX–16 and IX–17.

[277] *Id.*, Tables IX–14 and IX–15.

[278] *Id.*, Tables IX–14 and IX–15. Although U.S. import statistics aggregate imports from Belgium and Luxembourg, a representative of the U.S. Department of Commerce has indicated that ll imports of cold-formed carbon steel bar from the two countries in 1981 originated in Belgium. *Id.* at IX–22.

[279] *Id.*, Tables IX–14 and IX–15.

[280] *Id.*

[281] *Id.*

[282] *Id. at IX–34.*

[283] *Id.*

[284] Chairman Alberger makes his findings on the basis of a reasonable indication of threat of material injury. He finds no reasonable indication of present material injury by reason of the subject imports.

[285] Investigations Nos. 701–TA140 to 144 (Preliminary).

[286] Commissioner Eckes found reasonable indication that imports from France and Italy are resulting in material injury or threat of such injury to the domestic industry. His views concerning those two cases begin on page 00.

Continued

Condition of the Domestic Industry

Despite decreases in production over the period investigated, the U.S. industry producing cold-formed alloy steel bar has performed well. Production declined irregularly from 1978 to 1981 from 147,000 tons to 122,000 tons, or by 17 percent.[288] Data on domestic shipments show a trend comparable to production, with shipments increasing in 1981 over 1980 levels.[289]

Total domestic capacity for the production of cold-formed alloy steel bar rose slightly from 1978 to 1981, from 207,000 tons to 213,000 tons. Capacity utilization, however, fell from a high of 75.9 percent in 1979 to 55.5 percent and 57.3 percent in 1980 and 1981, respectively, as domestic production decreased.[290] Yearend inventories held by the domestic industry remained relatively constant throughout the 1978–81 period.[291]

Total employment and employment of production and related workers in establishments producing cold-formed alloy steel bar increased from 1978 to 1979, then declined in 1980 and 1981. The number of hours worked by production and related workers engaged in making this product fell 27.1 percent between 1978 and 1981. Wages paid to these workers fell from 1979 to 1980 and increased in 1981 almost to the 1979 level.[292]

Even with declines in production and net sales, the industry remained profitable throughout the period studied.[293] Net sales rose from $105 million in 1978 to $124 million in 1979, fell to $106 million in 1980, and then rose to $111 million in 1981. Total profits were $17 million in 1978, $15 million in 1979, and $11 million in 1980 and 1981. These figures yielded returns of 16.2 percent of net sales in 1978, 12.1 percent in 1979, 10.4 percent in 1980, and 9.9 percent in 1981.[294]

Volume of Imports

Determination of the precise levels of total imports of cold-formed alloy steel bar and imports from France depends upon resolution of the question, discussed at pp. X–26 through X–32 of the report, whether imports from France are misclassified for tariff purposes, thereby skewing the statistics. There is information tending to show that the French imports are not competitive with domestically produced cold-formed alloy bar, but the information is not sufficient in this preliminary investigation to permit reaching a conclusion. However, resolution of the issue is not critical to our determination that there is not a reasonable indication that French imports are causing material injury to the domestic industry, because our finding would be the same regardless of which set of figures is used.[295] For purposes of the present discussion, the import data used in this section do not exclude the 80 percent of French imports claimed not to be competitive with domestic products.[296]

The aggregate number of imports from all the countries subject to these investigations has fluctuated yearly, with 24,800 tons in 1978, 30,300 tons in 1979, 14,000 tons in 1980, and 42,000 tons in 1981. Market penetration by imports from these countries grew from about 8 percent of apparent consumption in 1978 to about 16 percent of apparent consumption in 1981.[297] Data are not available to show the capacity of any of the countries investigated to produce these products.

France is the principal foreign supplier of cold-formed alloy steel bar to the U.S. market. French imports increased from 18,400 tons in 1978 to 26,900 tons in 1979, then declined to 12,000 tons in 1980. They thereafter grew to 36,100 tons in 1981, accounting for almost all of the aggregate increase in imports recorded for that year. French imports reached 4.9 percent of domestic consumption in 1980 and 13.8 percent in the first eleven months of 1981.[298]

Belgian imports fell from 735 tons in 1978 to 419 tons in 1979 and 6 tons in 1980.[299] They subsequently increased to 1,032 tons in 1981. Even with the 1981 increase Belgian imports did not exceed 0.4 percent of apparent domestic consumption at any time during the four-year period investigated.[300]

Imports from the Federal Republic of Germany declined from 1,909 tons in 1978 to 285 tons in 1979 and 105 tons in 1980, then increased to 1,417 tons in the first eleven months of 1981. In no year did these imports account for more than 0.5 percent of total U.S. consumption.[301]

Imports from Italy increased from 787 tons in 1978 to 1,488 tons in 1979, 1,079 tons in 1980, and 2,723 tons in January-November 1981. This represents an increase from 0.2 percent of total domestic consumption in 1978 to 1 percent in the first 11 months of 1981.[302]

Imports from the United Kingdom declined from 3,245 tons in 1978 to 1,241 tons in 1979 and 310 tons in 1980, then rose to 628 tons in January-November 1981. Import penetration levels were 1 percent in 1978, 0.4 percent in 1979, 0.1 percent in 1980, and 0.2 percent in 1981.[303]

Prices and Lost Sales

No purchasers to whom the Commission sent questionnaires regarding cold-formed alloy steel bars provided information regarding prices of imported bars. Of the six allegations made by the petitioners of sales lost to imports because of underselling, two involving Italian imports were confirmed.

Determinations

On the basis of the information available in these preliminary investigations we determine that there is no reasonable indication that the domestic industry producing cold-formed alloy steel bars is suffering injury or is threatened with material injury by reason of imports. Although production, shipments and net sales are all down significantly from the peak years of 1978 and 1979, the industry has maintained a healthy profit picture throughout the four-year span investigated. In 1981 it posted operating profits of 9.9 percent measured against net sales. Although this is down from the 16.2 percent level reached in 1978, the major profit declines occurred from 1978 to 1980, the period when imports from Belgium, France, the United Kingdom and West Germany were also declining. Throughout the period of investigation, the domestic industry remained healthy, especially in face of the general economic situation. In every year between 1978 and 1981, the profit ratio in this product line significantly exceeded that for all manufacturing firms and manufacturers of durable goods.[304] This information indicates no possibility of material injury to the domestic industry by reason of these imports.

[287] In reaching his conclusion, Vice Chairman Calhoun cumulated the data regarding imports. See his additional views at p. 98.
[288] Report, Table X–3.
[289] *Id.*, Tables X–3 and X–4.
[290] *Id.*, Table X–3.
[291] *Id.* at X–12 and X–13.
[292] *Id.* at X–13 to X–15.
[293] Profit-and-loss data were received from three firms accounting for about 47 percent of total domestic shipments in 1980.
[294] *Id.* at X–17.
[295] Commissioners Stern and Alberger note that CFAS presents a strong case that the impact of French cold-formed alloy bar should be measured against domestic hot-rolled alloy bar. Further work by Commission staff seems to support this claim. See Report at X–29 thru X–31. However, the issue has been mooted because we have found an reasonable indication of injury to either of these product lines.
[296] Separate import volume data, based on differing assumptions regarding the nature of the French imports, are shown at pp. X–31 and X–32 of the Report.
[297] *Id.*, Tables X–11, X–12, X–13, and X–14.
[298] *Id.*, Tables X–13 and X–14.
[299] *Id.*, Import figures for Belgium include imports from Luxembourg. There were no imports from Luxembourg for this product line.
[300] *Id.*, Tables X–13 and X–14.
[301] *Id.*
[302] *Id.*
[303] *Id.*

X. Cold-Formed Alloy Steel Bar

Views of Commissioner Alfred Eckes

I disagree with the Commission majority on this important product line. In my view there is a reasonable indication that imports from France and Italy are causing material injury and threatening the domestic industry.

The majority underestimates present injury to the domestic industry and assigns disproportionate attention to the seemingly favorable 9.9 percent ratio of operating profit to net sales in 1981. From my vantage point a firm may be technically profitable but still be suffering injury. A broader focus on profit trends and other indicators suggests the cold-formed alloy steel bar industry is experiencing serious problems. For one thing, there has been a steady down trend in profits from 16.2 percent in 1978 to 9.9 percent in 1981—a 6.3 percentage point decline.[305] Also, in 1981 U.S. production was nearly 17 percent below 1978 levels. Capacity utilization was almost 14 percentage points below 1978.[306] Employment in the industry had fallen 24 percent in three years.[307]

Coincident with these indications of injury were increases in the import volume and market penetration ratio from all countries cited in the petition. However, because imports from Belgium, the United Kingdom, and West Germany entered at a very low volume level and, reportedly, did not account for lost sales, there is no reason to think they are injuring or threatening the domestic industry in a material way.

The opposite is true for both France and Italy. Imports from France more than doubled in the January–November 1981 period as compared to the same period in 1980. The import penetration level rose dramatically from 5 to 13.8 percent in a single year. While the volume of imports from Italy was comparatively low, it increased 67 percent in January–November 1981 compared to the same period of 1980. In addition, the Commission staff confirmed two instances of sales lost to American producers because of lower-priced imports from Italy. These sales accounted for a substantial portion of Italy's export sales to this national market.[308] In the cases involving Italian and French producers, the evidence warrants further investigation and provides ample justification for an affirmative vote at the preliminary stage.

One other matter warrants brief comment here. The major French producer of imports classified as cold-formed alloy bar claims that the appropriate like domestic product for the principal product it is exporting (rough-turned bar) is hot-rolled alloy bar. The company alleges that classification confusion has distorted the import data and resulted in an overly high import penetration ratio.[309] However, in the 45 days allowed for a preliminary investigation, this claim could not be tested adequately. For this reason, the classification problem was not a factor in my decision on French imports.

Additional Views of Vice Chairman Michael J. Calhoun

These additional views are intended as a supplement to the majority opinion which I have joined. While I am in agreement with much of what that opinion expresses, there are some areas in which I do not share, exactly, the views of my colleagues or in which I have additional thoughts. There are several matters encompassed in this supplement: First, I do not view our investigations to include imports from Spain and South Africa. Second, to the extent my votes in these investigations do not appear to be consistent with those in the 1980 steel investigations,[310] there is a good basis for the changes. Finally, in reaching any decisions in these investigations, I have cumulated the impact of the imports under our review and I feel some need to explain my conceptual framework and methodology to augment the majority views by explaining how this methodology led to my specific industry determinations.

I. In General

A. Imports from Spain and South Africa. I understand that some of my colleagues included imports from Spain and South Africa in their assessment of the impact of the imports on the domestic industry. I do not consider the steel imports from these countries to be before us in this investigation. It seems to me that the inclusion of material injury investigations of imports for which no injury test is required is troublesome as a matter of law and policy for two reasons: First, by the plain terms of Title VII of the Trade Agreements Act of 1979, our assessment of the impact of imports is to be made only with regard to those imports entitled to an injury test. For this reason, imports from countries not entitled to an injury test, though properly in the Commerce Department's investigation simply, as a matter of law, cannot be before us for purposes of determining a causal nexus to material injury. Second, to include non-injury test imports with injury test imports in our assessment of the impact of imports skews the data base on which we rely to reach a conclusion as to the critical causal nexus between the imports and material injury. In some cases, for instance, where the presence of non-injury test imports in the marketplace is strong and injury test imports is weak, their inclusion can operate to dilute the rightful protection afforded by the injury test to which beneficiary countries are entitled. Such a result is bad policy if not unlawful.

B. Departure from my position in the 1980 steel investigations. My determinations in these investigations relied, in many instances, on rather close examination of preliminary data and, based on this preliminary data, on equally fine differentiation by product and by country. In contrast, my determination in the 1980 steel investigation resisted such refined analysis based upon information collected during a 45-day investigation and relied, instead, upon uniform aggregation of all imports from all of the countries before us.

While the difference between these two approaches to complex preliminary investigations may seem without great significance, for me the difference is rather important. The latter approach implies that in 45-days, collected data cannot be sufficiently detailed or reliable to support fine distinctions on such question as like product, product line assessment, and material injury the resolution of which can result in the early foreclosure of remedy to a domestic industry. The implication in this approach is strong that, in the absence of compelling information to the contrary, preliminary cases ought not to be resolved based on an especially detailed analysis. Rather, they should be decided broadly and in favor of the petitioner when available information supports its allegations in the petition. The former approach, however, implies that such detailed analysis is not precluded even in a close case simply because the case is preliminary. Under

[304] Report at I–69.
[305] Report at p. X–17.
[306] Id. at p. X–10.
[307] Id. at p. X–14.
[308] Report at pp. X–23 through X–28 and X–98.
[309] Id. at pp. X–26 through X–31.
[310] *Certain Carbon Steel Products from Belgium, the Federal Republic of Germany, France, Italy, Luxembourg, the Netherlands, and the United Kingdom*, Investigation No. 731–TA–12/24 (Preliminary), USITC Pub. 1094, May 1980.

this approach, preliminary cases impose an equal obligation on us to be as analytical and discerning as the best information available permits.

The reason for my shift from the one approach to the other in this investigation is rather simple. The Court of International Trade seems to have endorsed the stricter approach to analysis in preliminary cases. In our preliminary investigation in Steel Pipes and Tubes,[311] I employed the same approach I used in the 1980 steel cases, relying heavily on the fact that the shortness of the period for data collecting in a complex preliminary case limited the data available for assessing import impact and for making reliable product line differentiations. As a result, I employed a more general analysis to reach an affirmative result. The Court of International Trade, however, in reviewing the Commission's decision in that investigation went to some length in discussing the scope of data we should have considered and in applying the details of product line differentiation provided for under section 771(4)(D).[312] With some reluctance, I have taken the Court's discussion to suggest strongly that it expects the provisions of Title VII to be applied as thoroughly in preliminary cases as in final cases. Furthermore, in its views the Commission has an obligation not only to solicit a full range of information in preliminary cases but, also, to fully apply facts to law in order to reach a determination. Based on such a view of my responsibility, I have, in these investigations of steel products, departed from some aspects of the methodology I employed in our prior steel investigation and have adopted the thrust of the Court's view of proper preliminary case analysis.

II. Cumulation

Although I concur with many of the conclusions and much of the reasoning of Chairman Alberger, Commissioner Stern and Commissioner Eckes, I differ with them in one important respect of how I arrived at my conclusions. To the extent consistent with the best information available in each of the nine industries, my analytical methodology relied upon the aggregation of the impact of imports from the various importing countries under investigation. It is my impression that my colleagues have not necessarily used this approach.[313] I believe, therefore, each instance in which we have varied is largely the result of this difference.

My aggregation of the imports in each industry is based upon my view that the plain thrust of our responsibility under title VII of the Trade Agreements Act of 1979 is to determine the nature of the impact on the domestic industry of the imports under investigation. Thus, for the most part, the nationality of the imports under investigation is a matter of relative insignificance in measuring impact. The gist of our concern is to make the most realistic and accurate evaluation of the influence in the market of all of the imports under investigation. In this regard, section 771(7) enumerates the factors which we are to consider in reaching our conclusion and makes no suggestion that our analysis should be on a basis of national origin. The factors enumerated by this section are volume of imports, effect of imports on prices, and the impact of these imports on the affected industry. In assessing the overall impact on the affected industry we are to "evaluate all relevant economic factors which have a bearing on the state of the industry. . . ."

Commission practice under Title VII and, indeed, my voting record have not often relied on the aggregation of import data in making our statutory determination. In my view, there has been a rather simple reason for this. Under section 771(7)(C)(iii) the statute leaves for our judgment what the significant factors are which have a bearing on the state of the industry, thus affording us the discretion, *inter alia*, to find aggregated behavior or individual behavior as the more relevant to a particular factual situation. But, the statute requires us to establish, as well, a direct causal nexus between the imported merchandise under investigation and material injury to the domestic industry. The problem posed by aggregation is that there is the inherent risk that imports from a particular country (or company as the case may be) which have no causal nexus to material injury may be inadvertently included in the aggregate. Such a result would seem to me to be a misapplication of our authority. Thus, in most prior cases whenever possible I have assessed import impact on a country by country basis to assure that each such category of imports has plainly met the causality requirements expressed and implied under Title VII.

In these investigations, however, I have departed from my usual practice because of what strikes me to be rather unusual circumstances. In evaluating all the relevant economic factors before us thus far, my view is that it is through their aggregated rather than individualized presence in the U.S. marketplace that the imports before us have their significant impact. This is true since the market for each of the nine product categories before us is characterized by relatively low levels of penetration by the allegedly offending imports. For example, the highest market penetration level by any single country is 13.6 percent of domestic consumption held by France in cold allow bar, followed by 6.7 percent for Belgium in structural shapes. The highest aggregate market penetration is 16 percent by five countries importing cold rolled alloy bar. This was followed by 14 percent by eight countries importing plate. More typical of the penetration levels in these investigations, however, is the 1.9 percent held by West German imports of structural shapes and the 6.1 percent aggregate held by the seven importers of hot-rolled carbon steel sheet and strip. Such uniformly low individual penetration levels strongly suggest that collective impact is being felt by the domestic producers.

Second, in most instances, the domestic industry enjoys a rather significant dominance over the marketplace. In hot alloy bar, for example domestic producers have their highest market share of all nine industries at 98.8 percent. In carbon steel structural shapes domestic producers have 68.2 percent of the domestic market which is their lowest penetration. In the remaining seven industries domestic producers tend to have about 90 percent of the market. Where a domestic industry characteristically holds high levels of market share absent special market circumstances, the likelihood of imports causing material injury is certainly less than where domestic market share is low. Thus, the combination of low individual market shares coupled with high levels of domestic producer shares strongly demonstrates to me that whatever impact is taking place in the market must be the result of the cumulative presence of the allegedly offending imports.

But, I wish to make clear that, in general, market share analysis is not the sole basis for my aggregating in these investigations. Historically, the Commission has looked to a number of factors in deciding if it were appropriate to aggregate the impact of imports from various sources. These factors include whether the imports are comparable to the domestic like product and compete in the same marets, as well as whether the factors and conditions of trade show the relevance of such cumulative consideration to the determination of injury.[314] Related to this latter factor is the fungibility of the subject imports with the domestic products, the extent of competition in the marketplace between imports and the domestic product for the same end users, common channels of distribution, pricing similarity and simultaneous impact.

From this array of factors, what seems to underly the Commission's exercise of its discretion to aggregate is the essential concern that the imports under investigation operate in the marketplace to create a collective "hammering" effect on the domestic industry. Examination of these factors in the context of these preliminary investigations well satisfies this concern. In each of the industries we have found the imported article is readily commercially interchangeable with the domestic produce.[315] Evidence of lost sales gives sufficient indication that there is keen competition between imports and domestic products on a product specific basis. Pricing data thus far collected make it clear that imports and corresponding domestic products interact very closely. Furthermore, while imports tend to be distributed through steel service centers and domestic products largely, but by no means exclusively, rely upon direct sales, corresponding imports and domestic products are directed at the same class of users and are marketed for the same end uses. As well, my analysis is largely based on behavior in 1980–1981 and, so far as our information indicates, all of the imports in question have had consistent presence and impact during this period.

For me, at this point in our investigation, the various factors underlying a sound decision to aggregate firmly encourages aggregation. In addition, the limited market penetration of the imports before us coupled with the strong market share held by domestic producers indicates to me that it is the collective impact of the imports that is the basis of a reasonable indication of material injury rather than the limited individual presence of imports on a national basis.

Deciding these investigations by aggregation has resulted in six instances in which I have varied from the majority. In each of these instances I have found in the affirmative where the majority found in the negative with regard to a particular country's imports. But it is worth noting that in each of these instances there was a majority affirmative finding regarding material injury to the domestic industry. Although each of these instances is addressed separately below, the same basic rationale applies to each of them: Where the market penetration of the imports under investigation is low and the distribution of the individual national shares of that penetration is narrow, absent information regarding specific behavior of the imports in the market, it is difficult for me to find in the negative with respect to the imports of a particular country. To find in the negative simply because the penetration level of its exports to the United States is below an arbitrary level is mechanistic, if not arbitrary.

For me an essential test in deciding which countries to aggregate has to be whether imports from a particular country can be found to be contributing to the collective adverse impact.[316] The nature of the factors relevant to such a judgement vary with each product so that a penetration level considered too low to be contributory regarding one product may be sufficient to be contributory regarding another. For these reasons, comparing the market penetration levels of the individual imports I have included in my aggregation with those I have not will not reveal a common trigger point.

As a final matter, I would like to make clear that the discussion below of individual industries is supplemental to the majority opinion of which I am a part. Thus, such matters as pricing, lost sales, etc. are not addressed here because they are adequately addressed in the majority opinion. These matters were an important part of my aggregation decision.

Hot Carbon Steel Plate

In agreeing with the majority that imports from France, Italy, Luxembourg and the Netherlands provide no basis for concluding reasonable indication of material injury or threat, I would add the following: The aggregate market share of all nine importers under our scrutiny for the period January to November of 1981 was 14 percent, an increase from 10.3 percent in 1980. The distribution of the individual market shares by nationality ranged from about 4.1 percent for Belgium and Brazil to a negligible amount from Luxembourg. Thus, in my view, in the absence of information on some special market behavior, the .2 percent market share held by France, the .05 percent share by Italy, the .1 percent by the Netherlands and the negligible share held by Luxembourg cannot be seen individually or cumulatively as contributing to the aggregate adverse impact on the domestic producers. Of the total 14 percent, these imports amounted to less than .4 percent.

While the UK's imports were only at .5 percent market share, this did represent a jump from this .1 percent share for 1980. On final it will be a matter of interest to met to discover whether this increase portends a trend of increasing imports or is simply a function of modest increases from a small base resulting in a large percentage change.

Hot-Rolled Carbon Steel Sheet and Strip

In addition to the views expressed by the majority, for purposes of my aggregation the cumulative adverse impact of the imports of the five countries receiving an affirmative vote is not advanced by the imports from Brazil, Luxembourg and the United Kingdom. In total, the imports under investigation accounted for about 8.1 percent of domestic consumption in the first 11 months of 1981. This was a slight increase over the 7.5 percent for the same period in 1980. Of this rather small collective market share, Brazil's imports accounted for only 0.3 percent in the 1981 period which represents a decline over the level of the past two years. Luxembourg's presence is again miniscule and the United Kingdom's share is, likewise, negligible down from a negligible level in 1980. In all, the imports from these countries displayed no behavior which reasonably could be construed as contributing to the indication of material injury or threat posed by the imports of the remaining five countries.

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[311] Pipes and Tubes of Iron and Steel from Japan, Inv. No. 731–TA–15 (Preliminary), USITC Pub. 1052, April 1980.

[312] See, *Steel Wire Nails from Korea, Japan and Yugoslavia*, Inv. No. 731–TA–45 (Preliminary), USITC Pub. No. 1175, Aug. 1981.

[313] I say this is my impression because while my colleagues maintain they have made their decision on a "case-by-case" basis they, nevertheless, observe that "the imports in those investigations (they) voted to terminate could not conceivably have contributed to material injury." If they are deciding case-by-case as they claim, then the appropriate test is whether information reasonably indicates that imports are a direct cause of material injury. On the other hand, contributing to material injury is a consideration only where cumulation is the methodology employed to assess the impact of imports.

[314] See, *Steel Wire Nails from Korea, Japan and Yugoslavia*, Inv. No. 731–TA–45 (Preliminary), USITC Pub. No. 1175, Aug. 1981, p. 8, fn. 21.

[315] As noted in the majority opinion, some importers have alleged that their products were qualitatively distinguishable from domestic products or were highly specialized and, thus, not actually competitive with domestic products. While these allegations may well prove to be true in a final investigation, there simply was insufficient data available in our 45 day investigation for me to issue a concurring decision.

[316] See, *Steel Wire Nails from Korea, Japan and Yugoslavia*, Inv. No. 731–TA–45.

Cold-Rolled Carbon Steel Sheet and Strip

Again, I embrace the views of the majority with one exception and with additional views regarding aggregation. In finding in the negative with respect to Brazil, Luxembourg and the United Kingdom, I find that the market share held by these countries is so low as to be without contributory impact. Even though the whole of the imports of the eight importing countries amounted to 5 percent in January-November 1981, imports from Brazil, Luxembourg and the United Kingdom only accounted for less than .2 percent. We have no information on market factors which demonstrates how such a small presence could contribute to material injury. Even though the industry is operating in the red, its circumstance has been improving during a period of rather flat import levels.

I do feel, however, that the .3 percent market share held by Belgium, in light of the very low aggregate share, had a reasonable indication of contributory harm to the adverse impact (or threat thereof) of the aggregate. It is worth noting that while imports from belgium for the first 11 months of 1980 accounted for less than .4 percent of the domestic market, their whole share for 1980 was .7 percent, exceeding that for 1979. Thus, in the one month period of December of 1980 Belgian imports were substantial. We have not yet received complete consumption data for December of 1981. In view of the fact that the total of import penetration before us is less than five percent, a large December surge similar to the one last December would be significant.

Galvanized Carbon Steel Sheet

I have nothing to add to the joint opinion of the Chairman, Commissioner Stern and mine, except that even considering the aggregate penetration of 3.7 percent, I cannot find the requisite relationship between imports from these seven countries and material injury to the domestic producers.

Carbon Structural Shapes

In addition to the views expressed in the majority opinion, in my analysis the .2 percent market share by Brazil, absent information of special behavior by these imports, does not seem capable of contributing to the aggregate impact of imports holding over 12 percent of the market. Indeed, the distribution of the individual market shares well supports this view. Of the remaining five importing countries, Belgium/Luxembourg have the highest share at 0.7 percent and France the lowest at .9 percent.

Hot Rolled Carbon Bar

I have included West Germany, Belgium, Brazil, and Luxembourg in my aggregate affirmative determination because of what strikes me as the peculiar circumstances of this particular industry. First, the imports from the seven countries before us have only a 3.3 percent share of the domestic market, a share I find to be very low. What is more, the distribution of individual market share is greatly fragmented. After the United Kingdom's 2.4 percent share, the next largest share is held by West Germany at .3 percent. Thus, Germany's share, together with Belgium's .1 percent share, Brazil's .2 percent share and Luxembourg's .2 percent share, while ridiculously low, is, in the context of an already very small aggregate market share, a relatively significant amount of imports for which to say there is no contribution to the overall indication of adverse impact.

Plainly, the coincidence of the industry's move from operating in the black to operating in the red in the same period that the United Kingdom's market share went from 1.5 percent to 2.4 percent cannot be ignored especially when domestic consumption dropped by 33 percent. Indeed, it strongly suggests a direct causal relationship. But this significant change in profitability also demonstrates the considerable importance to this industry of incremental market share. If a .9 percent shift in market penetration in a time of low consumption can have this impact on profitability then, to me, a .7 percent market share (the share held by W. Germany, France, Brazil and Belgium) cannot be found to be completely without contributory importance.

I have found in the negative with regard to France because its market share is without significance even among these very low import levels.

Hot Rolled Alloy Bar

The aggregation of imports in this industry is even more acute than that in the hot carbon bar industry. There are imports from four countries, but these imports account for total of only 2 percent of the domestic market. The distribution of the individual shares is, therefore, limited. The largest single share of 1.7 percent is held by France. The United Kingdom and West Germany hold .02 percent and .1 percent, respectively. Thus, absent particular data on market behavior, to me any potential for import impact must be on a collective basis. But even on an aggregated basis, I concur with the majority's assessment that the requisite impact simply cannot be established.

Cold Formed Rolled Carbon Bar

Again, the aggregation of imports from the countries before us, in principle, seems to me to be compelled here. In total, the four countries only account for 2.6 percent of the market. The largest share of 2.1 percent is held by the United Kingdom and the reasonable indication of injury I have found is related to the relatively large increase in the UK's imports over the period 1980 to 1981, from .6 percent to 2.1 percent. While domestic sales, consumption, and prices increased net operating profit which has been in the red did not seem to improve propostionately. This coincidence of import rise with uncharacteristically sluggish improvement by the domestic industry provides an important basis for a preliminary affirmative.

My inclusion of imports from France with those from the UK is admittedly tenuous. However, as in hot rolled carbon bar, it is my view that a reasonable argument can be made that given the poor state of the industry with its weak recovery in the face of encouraging improvement in leading indicators, incremental market share may be rather significant. Thus, I have aggregated France's .5 percent market share so that my finding of reasonable indication is with regard to 2.6 percent of the 2.8 percent market share under our consideration.

The remaining .2 percent market share I find too small to be contributory to the impact of the aggregate. While in hot rolled carbon bar I did include market shares that were smaller than .2 percent there are several differences between this industry and the hot rolled carbon bar industry. In hot rolled carbon bar, the industry's profit picture was in significant decline in paralled to proportionately significant increases in import penetration, the great bulk of which were increases in the imports under investigation. In this industry, the rate of improvement in the industry's health seems to be retarded by an increase in imports only a small part of which is attributable to the imports under review. The indication of some improvement by a troubled industry is more illusive than the plain decline experienced by the hot rolled carbon industry and makes me question the level of the impact on imports from two countries which amount to a total of only .2 percent of domestic consumption.

Cold Formed Rolled Alloy Bar

Joining the views of the majority, I note that in aggregating the whole of imports under review here the increase in market share from 5.7 percent to 16.0 percent over the 1980-1981 period seems little related to the industry's stable profit experience over that period. Indeed, in 1979 when profits were higher than 1980, aggregate import penetration was also higher than in 1980. I found no information regarding market behavior, i.e., pricing, lost sales, nor the argument regarding French alloy bar imports to present a sufficiently strong basis to offset the evidence of their being no significant relationship between imports and profits.

Additional Views of Commissioner Paula Stern

Introduction

If we are to avoid becoming lost in the intricate maze of these 92 cases, an overview is both necessary and desirable. My remarks cover three areas: (1) the relation between the performance of the industry and that of each product category we considered; (2) a highlight of the problems the steel industry is facing; and (3) a discussion of the additional information that at this time appears to be needed if any of the 38 affirmative preliminary cases returns for a final determination.

The general perception of the U.S. steel industry is that it is suffering—suffering from years of neglect, suffering from the current recession, suffering from the successful inroads of imports into once secure markets.

All these factors have had bearing on the cases before the Commission today. But, unlike the automobile import relief case of December 1980,[217] the issue before the Commission here is not whether imports as a whole are a substantial cause of the industry's problems. Rather, we must decide whether there is a preliminary indication that specific imports have caused material injury while allegedly benefitting from foreign subsidies and/or dumping in their competition with like domestic products. These more narrow findings are best made with the larger picture in mind.

Overall Industry Performance

Certain overall industry data serve as vital background. As noted in my "Statement of Reasons" in *Certain Carbon Steel Products* (May 1980):

> * * * aggregate capacity utilization and profit data for the raw steel melting facilities common to all lines are crucial to understanding industry performance in the individual product lines and thus, to determinations made on the best information available.

Capacity utilization in raw steel is particularly significant since it measures the common constraint on full simultaneous utilization of all milling operations. There is usually planned excess capacity in the milling operations of the individual product categories to allow continuous adjustment of the product mix to maximize aggregate profits on all lines.

Capacity utilization in U.S. raw steel production fell from 87 percent in 1978 to 73 percent in 1980.[218] For all of 1981, this figure was 76 percent; however, it rapidly declined during the last half of 1981. The May 1980 investigations were conducted when raw steel capacity utilization had just peaked at 88 percent (1979). At that time I concluded that:

> * * * with raw steel operating at what amounts to almost full capacity, it does not appear that the solution to these problems can be found in selling more steel. Rather, the problems of all product lines and the larger industry appear to lie in the price at which the steel is sold and the costs at which it is made, not the quantity produced.[219]

Clearly, the situation has changed: the U.S. industry now has a significant overall volume problem.

In an industry with high fixed costs, one should expect reduced levels of production to have a rather dramatic impact on profits. For 17 steel producers accounting for 82 percent of U.S. production in 1980, overall operating profits on steel operations as a ratio of net sales fell from 5.0 percent in 1978 to 2.0 percent in 1980.[220] Clearly, the overall data neither suggest that the industry as a whole is healthy, nor that it is any longer operating at full capacity.

Because the determinations are made on a product category basis,[221] the health of each category must also be assessed. This has been done in the preceding views where I joined the majority of the Commission. There are no reliable indications of bottlenecks in any of the nine categories. Raw steel and the nine product categories are all operating well below full capacity. Thus, there remains room for expanded production in each of the nine. Nonetheless, in both hot-rolled and cold-formed alloy steel bars, the healthy profits noted in the majority views eliminate any possibility of injury by reason of allegedly subsidized imports to those two categories.

Problems of the U.S. Steel Industry

The legislative history of the Act specifically instructs the Commission to take into account causes of injury, other than the subject imports,[222] without weighing those other causes against those of the allegedly subsidized or LTFV imports. These factors include wages, investment, trigger price mechanism, other foreign competitors, not the subject of these investigations, and the effects of the recent general economic situation in the United States. Many of these factors have helped keep the costs of the steel industry from falling to a point at which adequate profits might be earned even at the prices prevailing in the subject product categories.

Wages—Partly as a result of a very effective cost-of-living adjustment negotiated by the United Steel Workers of America and the unexpected increase in the rate of inflation during the last decade, there has been an accelerating growth of wages at a rate far higher than in general manufacturing. In 1977 steel wages stood at 153 percent of those in

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[217] "Certain Motor Vehicles * * *, Inv. No. TA-201-44, USITC Pub. No. 1110, December 1980.

[218] Report at I-21.

[219] See Certain Carbon Steel Products * * * (May 1980), "Statement of Reasons of Commissioner Paula Stern," at 39-71.

[220] Report at I-35.

[221] It is important to note that although the condition of the individual industries cannot be fully understood without reference to data for the overall steel industry, each of the nine product categories is in itself a relatively large aggregate. The Commission is charged with the responsibility to assess the impact of subject imports on the domestic production of a like product, available data permitting. Combining all nine categories—plus perhaps others not included in these investigations—into a single industry producing all steel would violate the clear meaning of the statutory language of section 771(4) (A) and (D). To do so would fly in the face of consistent Commission practice in all previous steel cases and blunt beyond recognition the meaning of "like product."

There is no substitute for a careful, discriminating approach which makes use of the best available information on the individual product lines as well as the overall industry of which they are components.

[222] Comments on Ways and Means, U.S. House of Representatives, Trade Agreements Act of 1979, H.R. 96-317, 96th Cong., 1st Sess. (1979) at 47:

> Of course, in examining the overall injury being experienced by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the subsidized or dumped imports is attributable to such other factors.

However, the petitioner will not be required to bear the burden of proving the negative, that is, that material injury is not caused by such other factors, nor will the ITC be required to make any precise, mathematical calculations as to the harm associated with respect to such factors. In short, the Committee does not view overall injury caused by unfair competition, such as dumping, to require as strong a causation link to unfairly competitive imports as would be required for determining the existence of injury under fair trade conditions.

general manufacturing. By 1980 this number had grown to 175 percent. The wages of foreign steel workers seem to have remained considerably below those of their U.S. counterparts. For example, in 1980 the French average hourly compensation in steel was less than 60 percent of that in the United States.

Investment—There has been much discussion about the level of investment undertaken by this industry. There are indications that for at least a decade investment levels have been inadequate to keep the U.S. industrial plant modern. Testimony in the January 1982 cases pointed to a capital replacement cycle moving toward fifty years compared to a desirable one of fourteen years.[230] The industry's gains from its most recent upswing—which is now ended—will not be sufficient to sustain a rate of investment adequate to improve significantly this situation.

Furthermore, large portions of the total investment that had been undertaken have gone to satisfying stricter mandatory standards for environmental and safety protection.[231] Further investment funds have gone into diversification beyond the traditional bounds of the steel industry.[232] While these investments may be socially desirable or economically sound, they have not added in the short run to productivity in the steel industry. All these investment factors may also help explain in part why productivity gains of U.S. steel workers have not kept pace with the growth of their wages.

The TPM and International Competition—Further compounding these considerations is the role that the trigger-price-mechanism (TPM) has played. Implemented in June 1978, the TPM was intended to substitute for individual antidumping or countervailing duty petitions by the domestic steel industry. The TPM base price for a steel product was calculated each quarter based on constructed costs in Japan, a producer generally regarded as one of the world's most efficient. Any repeated or substantial imports below applicable trigger prices could "trigger" an expedited investigation. Clearly trigger price were not identical to a price floor for imports, but they do seem to have had similar effects. The entire TPM program was suspended in March 1980 when United States Steel Corporation filed antidumping petitions which were preliminarily decided in May 1980 at the Commission. The TPM program was reinstated in October 1980 when negotiations resulted in withdrawal of those cases which might have otherwise returned for final determinations. However, the entire system was scrapped in January 1982 when the petitions were filed which resulted in the present cases. Thus, the TPM was in effect for much of the period of these investigations and was a definite factor in the marketing decisions of all participants, domestic and foreign. It is unclear at this point how this factor affected competition in the U.S. market.

Since the TPM represents the production plus transportation costs of the world's supposedly most efficient producer (on average) producing at 85 percent capacity utilization, it may have been an invitation for less efficient producers to market at prices at or around the minimum established by the TPM. The publishing and disseminating of TPM prices may have brought an orderliness to the import share of the U.S. market which continues to make that market attractive for foreign producers.

The general appreciation of the U.S. dollar brought on by high interest rates has had a perverse effect on attempts through the TPM to regulate imports of steel products. From January–March 1980 to October–December 1981 the dollar rose, in most cases substantially, against almost all of the currencies of the countries whose steel exports are the subject of these investigations. (The exception is Romania, whose currency is not convertible.)[233] However, in the same time period, the U.S. dollar actually depreciated against the Japanese yen by 8.5 percent. Since the TPM was based on estimates of Japanese costs of production, the mechanism may have had the contrary effect of attracting European and Brazilian exports to the U.S. market, because these foreign producers can sell at or near the TPM and realize higher prices in their home currencies for their goods than they might have attained in an unregulated market. Therefore, the TPM may have had the effect of making the U.S. market an attractive option for sales from even the more inefficient foreign producers.

All the above considerations do not settle the causality issue because without adequate comparable data for all significant foreign suppliers, I have been unable to dismiss the possibility that some other foreign producer stands to gain if the subject imports are reduced. The allegedly subsidized and LTFV imports may be hurting foreign suppliers rather than domestic producers.

General Economic Conditions—Perhaps the most important short-range, but hopefully short-lived, problem facing the U.S. steel industry is the sharp drop in demand for its products caused by the continued slump in two major steel end-markets, the automobile and construction industries. These declines in demand are compounded by structural changes within these end-markets, such as the downsizing of automobiles and the use of lighter weight materials in their construction.

Structural changes are also occurring in the U.S. economy which have brought the U.S. steel industry problems in the short run. Chief among these is the shift in economic activity from the Northeast and Midwest sections of the country to the Gulf Coast and West. Because the U.S. steel industry is primarily located in the "steel belt" of the Northeast, it faces disproportionately high transport costs to the West and Gulf Coasts, where the growth in steel consumption is taking place. These costs diminish the relative competitiveness of U.S. steel.

Finally, the continuing high interest rates which have been prevalent in the U.S. economy for the last several years have discouraged debt financing of investment projects, made U.S. exports less cometitive (through the appreciation of the dollar), and depressed end-markets for steel. They are an undeniable part of this industry's problems.

Data Problems

All my determinations have been made on the best available information. In general, quarterly data are more volatile than yearly data; they have only been consulted in margial cases when some additional guidance on the question of threat was desirable. The data gathered on lost sales, pricing and the capacity and plans of foreign producers are incomplete. In general, the subject imports seem to undersell their domestic counterparts, though by margins that have probably narrowed during the last three years. To establish firmly any causal links between material injury or threatened material injury to the domestic industries, significantly more information on all these factors will be necessary.

Issued: February 26, 1982.

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[230] Hot-Rolled Carbon Steel Sheet from France (January 1982), "Views of Commissioner Paula Stern," at 21.

[231] Mandated costs for pollution control and worker safety have been estimated at about $3B6 million per year during the 1970s, or about 17 percent of the total annual capital available for investment generated by the U.S. steel industry.

[232] An important question lies beneath diversification of investments: why has investment in traditional steel making activities been so relatively undesirable for U.S. firms?

[233] Report at I–66.

By Order of the Commission:
Kenneth R. Mason,
Secretary.

[FR Doc. 8788 Filed 3-2-82; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 603–TA–8]

Certain Stainless Steel Shears; Preliminary Investigation

AGENCY: International Trade Commission.

ACTION: Institution of preliminary investigation.

SUMMARY: Notice is hereby given that on February 11, 1982, the U.S. International Trade Commission voted to institute a preliminary investigation under section 603(a) of the Trade Act of 1974 to investigate the alleged existence of unfair methods of competition and unfair acts in the importation into the United States or in the sale of certain stainless steel shears by K. R. Witte Co., Kurt-Reiner Witte P.O. B 10086 Felderstrasse, 41 5650 Solingen 1, West Germany, and K. R. Witte Solingen-U.S.A., 70 Northfield Avenue, Edison, New Jersey 08817. The Commission will also investigate the effects, if any, that the said methods and acts have upon the domestic stainless steel shear industry.

AUTHORITY: This preliminary investigation is being instituted pursuant to section 603(a) of the Trade Act of 1974 (19 U.S.C. 2482(a)) and § 201.7 of the Commission's rules of practice and procedure (19 CFR 201.7).

SCOPE OF THE INVESTIGATION: The alleged unfair methods of competition and unfair acts to be investigated are—

1. False and deceptive advertising for the purpose of furthering the belief on the part of the consumers that the stainless steel shears manufactured by K. R. Witte Co. and imported by K. R. Witte Solingen-U.S.A. are forged and ice-tempered shears, the effect or tendency of which may be to destroy or substantially injure the efficiently and economically operated stainless steel shear industry in the United States.

2. Trade libel, product disparagement, and tortious interference with contractual relations by K. R. Witte Co. or K. R. Witte Solingen-U.S.A., the effect or tendency of which may be to destroy or substantially injure the efficiently and economically operated stainless steel shear industry in the United States.

DEADLINE: The Commission's Unfair Import Investigations Divison has been directed to submit its report and recommendation to the Commission no later than May 3, 1982.

FOR FURTHER INFORMATION CONTACT: Juan S. Cockburn, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 128, Washington, D.C. 20436, telephone 202–523–1272.

By order of the Commission.
Issued: February 22, 1982.
Kenneth R. Mason,
Secretary.

[FR Doc. 82-5773 Filed 3-2-82; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337–TA–116]

Certain Drill Point Screws for Drywall Construction; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 20, 1982, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Illinois Tool Works, Inc., 8501 West Higgins Road, Chicago, Illinois 60631. The complaint alleges unfair methods of competition and unfair acts in the importation of certain drill point screws for drywall construction into the United States, or in their sale, by reason of the alleged direct infringement by said screws of claims 1–6 of U.S. Letters Patent 3,463,045. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests the Commisson to institute an investigation, and, after a full investigation, to issue either an order excluding from entry into the United States drill point screws for drywall construction that infringe claims 1–6 of U.S. Letters Patent 3,463,045 or an order directing the proposed respondents to cease and desist from engaging in the alleged unfair methods of competition and unfair acts.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of the Investigation: Having considered the complaint, the U.S. International Trade Commission, on February 18, 1982, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, and investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unauthorized importation of certain drill point screws for drywall construction into the United States, or in their sale, by reason of alleged direct infringement by said screws of claims 1–6 of U.S. Letters Patent 3,463,045, the effect or tendency of which is to destroy or substanially injure an industry, efficiently and economically operated, in the United States:

(2) For the purpose of this investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is Illinois Tool Works, Inc., 8501 West Higgins Road, Chicago, Illinois 60631.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served: Gyplok, 403–873 Beatty Street, Vancouver, British Columbia, Canada
Kabushi Kaisha Yamashina Seikosho, No. 16, Higashinokisuneyabu-cho Yamashina-Ku Kyoto-Shi, Kyoto-Fu, Japan

(c) John Milo Bryant, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 124, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to § 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

FOR FURTHER INFORMATION CONTACT: John Milo Bryant, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202–523–0419.

By order of the Commission.

Issued: February 26, 1982.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-5774 Filed 3-2-82; 8:45 am]
BILLING CODE 7020-02-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities; Arts and Artifacts Indemnity Panel; Advisory Committee Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463) and Office of Management and Budget Circular A–63 of March 1974, and after consultation with the Committee Management Secretariat, notice is hereby given that renewal of the Arts and Artifacts Indemnity Panel (Advisory Committee) has been approved by the Chairman of the Federal Council on the Arts and the Humanities.

The Arts and Artifacts Indemnity Panel (Advisory Committee's) activities include: (1) Advising the Federal Council on policy options related to the administration of the Arts and Artifacts Indemnity Act (Pub. L. 94–158); (2) reviewing and making recommendations on applications for Federal indemnity; (3) providing expert judgement with respect to the dollar valuation, the adequacy for packing, shipping, and security arrangements, and the cultural, historical, educational, and scientific significance of the objects to be indemnified; and (4) reviewing claims submitted for payment under the Indemnity Act.

The charter for the Arts and Artifacts Indemnity Panel has been filed with the standing committees of the Senate and the House of Representatives having jurisdiction over the Federal Council and with the Library of Congress.

Stephen J. McCleary,
Advisory Committee Management Officer.

[FR Doc. 82-5716 Filed 3-2-82; 8:45 am]
BILLING CODE 7536-01-M

National Council on the Humanities; Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463); section 8 of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 957), notice is hereby given that renewal of the National Council for the Humanities has been approved by the Chairman of the National Endowment for the Humanities.

The National Council on the Humanities advises the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions and it reviews applications for financial support and makes recommendations thereon to the Chairman.

The charter for the National Council for the Humanities has been filed with standing committees of the Senate and the House of Representatives having jurisdiction over the Endowment and with the Library of Congress.

Stephen J. McCleary,
Advisory Committee Management Officer.

[FR Doc. 82-5715 Filed 3-2-82; 8:45 am]
BILLING CODE 7536-01-M

Humanities Panel (Advisory Committee); Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463) and Office of management and Budget Circular A–63 of March 1974, and after consultation with the Committee Management Secretariat, notice is hereby given that renewal of the Humanities Panel (Advisory Committee) has been approved by the Chairman of the National Endowment for the Humanities.

The Humanities Panel (Advisory Committee) advises the National Council on the Humanities with respect to recommendations it would make to the Chairman concerning policies, programs and procedures for carrying out his functions and concerning recommendations it should make on applications for financial support presented to the National Endowment for the Humanities, and it advises the Chairman of the National Endowment for the Humanities concerning policies, programs and procedures for carrying out his functions and concerning action he should take on applications for financial support.

The charter of the Humanities Panel has been filed with the standing committees of the Senate and the House of Representatives having jurisdiction over the National Endowment for the Humanities and with the Library of Congress.

Stephen J. McCleary,
Advisory Committee Management Officer.

[FR Doc. 82-5717 Filed 3-2-82; 8:45 am]
BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40-8102]

Exxon Minerals Co.; Negative Declaration Regarding Issuance of a Renewal for License SUA–1139 for Operation of the Highland Uranium Mill in Converse County, Wyo.

The Nuclear Regulatory Commission (the Commission) is renewing Source Material License SUA–1139 authorizing the operation of the Exxon Minerals Company's Highland Uranium Mill and future solution mine in Converse County, Wyoming. By original application dated June 1978 and updated application dated June 1981, Exxon Minerals Company requested a renewal of the Source Material License issued July 12, 1973. A Final Environmental Statement (FES) for the mill was issued March 1973 with an FES (NUREG–0489) on the solution mining project published in November 1978.

The Commission's Division of Waste Management has prepared an environmental impact appraisal for the proposed renewal action. On the basis of this appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted for there will be no significant environmental impact attributable to the action not addressed in the 1973 and 1978 environmental statements. The environmental impact appraisal and license will be available for public inspection and copying at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

Dated at Silver Spring, Maryland, this 10th day of February, 1982.

For the Nuclear Regulatory Commission.

Rose A. Boccone,
Chief, Uranium Recovery Licensing Branch, Division of Waste Management.

[FR Doc. 82-5704 Filed 3-2-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., et al.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 52 to Facility Operating License No. DPR–72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the Technical Specifications (TSs) for operation of the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. The amendment is effective as of the date of issuance.

This amendment revises (1) the Auxiliary Building Ventilation Exhaust System Limiting Condition for Operation (LCO) and (2) the flow rate at which the containment purge filters are tested.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated October 8, 1981, and December 11, 1981, (2) Amendment No. 52 to License No. DPR–72, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 18th day of February 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,
Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-5725 Filed 3-2-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-458-OL and 50-459-OL]

Gulf States Utilities Co. and Cajun Electric Power Cooperative (River Bend Station, Units 1 and 2); Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for *Gulf States Utilities Company and Cajun Electric Power Cooperative* (River Bend Station, Units 1 and 2), Docket Nos. 50–458–OL and 50–459–OL, is hereby reconstituted by appointing the following Administrative Judge to the Board: Forrest J. Remick. J. Venn Leeds was a member of this Board, but, because of a conflict, is unable to continue to serve.

As reconstituted, the Board is comprised of the following Administrative Judges:

B. Paul Cotter, Jr., Chairman
Dr. Richard F. Cole
Dr. Forrest J. Remick

All correspondence, documents and other materials shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is: Administrative Judge Forrest J. Remick, The Carriage House, Apt. 205, 2201 L Street, NW., Washington, DC 20037.

Issued at Bethesda, Maryland, this 26th day of February 1982.

B. Paul Cotter, Jr.,
Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 82-5726 Filed 3-2-82; 8:45 am]
BILLING CODE 7590-01-M

[Byproduct Material License No. 48-17466-01 MD]

Nuclear Pharmacy, Inc.; Order Imposing a Civil Monetary Penalty

I

Nuclear Pharmacy, Incorporated, 1024 North 6th Street, Milwaukee, Wisconsin 53203 (the "licensee") is the holder of Byproduct Material License No. 48–17466–01 MD (the "license") issued by the Nuclear Regulatory Commission. License Condition 9D authorizes the processing, mixing or compounding and distribution of prepared xenon-133 as a radiopharmaceutical to authorized recipients. License Condition 15 requires the licensee to procure xenon-133 from a supplier who distributes the product indicated for human use in accordance with the Federal Food, Drug, and Cosmetic Act. The license was issued originally on May 25, 1977. This license was amended on June 17, 1977, to increase the maximum possession limit of xenon-133 from 500 millicuries to 2 curies.

II

An inspection conducted on January 16–17, 1979, at the licensee's facility in Milwaukee, Wisconsin, showed that, contrary to regulatory requirements and license conditions, the licensee had procured xenon-133 gas (which was not approved for human use in accordance with the Federal Food, Drug, and Cosmetic Act) routinely from Union Carbide Corporation, had repackaged and relabeled the product showing it to be for human use, and subsequently had distributed the material for that purpose. Bulk quantities of xenon-133 labeled "not for human use in present form" were also transferred to licensed medical institutions.

The specific items of noncompliance associated with the findings of the Commission inspection were described in accordance with 10 CFR 2.201 in a Notice of Violation which was served upon the licensee by letter dated August 17, 1979. A Notice of Proposed Imposition of Civil Penalties dated August 17, 1979, was served concurrently upon the licensee in accordance with section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282), and 10 CFR 2.205. A letter dated October 22, 1979, with attachments, in response to the Notice of Violation and Notice of Proposed Imposition of Civil Penalties was received from the licensee. Further action on this matter was suspended by the NRC at the request of the U.S. Department of Justice until November 1981.

III

Upon consideration of the licensee's response and the statements of fact, explanation and argument in denial or mitigation contained therein, the Director of the Office of Inspection and Enforcement has determined that the penalties designated in Item 1 of the Notice of Violation should be mitigated to Two Thousand Dollars and that Item 2 of the Notice of Violation should be withdrawn.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96–295), and 10 CFR 2.205.

It is hereby ordered that: The licensee pay civil penalties in the total amount of Two Thousand Dollars within thirty (30) days of the date of receipt of this Order, by check, draft, or money order payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement.

V

The licensee may request a hearing within thirty (30) days of the receipt of this Order. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement, U.S.N.R.C., Washington, D.C. 20555. A copy of the hearing request shall also be sent to the Executive Legal Director, U.S.N.R.C., Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

VI

In the event the licensee requests a hearing as provided above, the issues to be considered at such a hearing shall be:

(a) Whether the licensee was in compliance with the conditions of the license as set forth in Item 1 of the Notice of Violation issued on August 17, 1979, and

(b) Whether, on basis of the Item of noncompliance, this Order imposing a Civil Monetary Penalty should be sustained.

Dated at Bethesda, Maryland this 24th day of February 1982.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 82-5727 Filed 3-2-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-272, 50-311; License Nos. DPR-70 DPR-75; EA 81-71]

Public Service Electric & Gas Co. Salem Nuclear Generating Station (Units 1 and 2); Order Imposing Civil Monetary Penalties

I

Public Service Electric and Gas Company, 80 Park Plaza, Newark, New Jersey 07101 (the "licensee") is the holder of License Nos. DPR–70 and DPR–75 (the "licenses") issued by the Nuclear Regulatory Commission (the "Commission") which authorizes the licensee to operate the Salem Nuclear Generating Station, Unit Nos. 1 and 2, at Hancocks Bridge, New Jersey, in accordance with the conditions specified therein. License No. DPR–70 was issued on August 13, 1976 and has an expiration date of September 25, 2008. License No. DPR–75 was issued on May 20, 1981 and also has an expiration date of September 25, 2008.

II

An investigation of the licensee's activities under the licenses was conducted between January 29 and July 6, 1981 at the Salem Nuclear Generating Station, Unit Nos. 1 and 2, at Hancocks Bridge, New Jersey. As a result of this investigation, it appeared that the licensee had not conducted its activities in full compliance with the conditions of its licenses and with the requirements of NRC regulations. A written Notice of Violation and Proposed Imposition of Civil Penalties was served upon the licensee by letter dated September 24, 1981. The Notice stated the nature of the violations, the provisions of the Nuclear Regulatory Commission regulations and license conditions which the licensee had violated, and the amount of civil penalty proposed for each violation. An answer dated October 22, 1981 to the Notice of Violation and Proposed Imposition of Civil Penalties was received from the licensee.

III

Upon consideration of the answer received and the statements of fact, explanation, and argument for remission or mitigation of the proposed civil penalties contained therein, as set forth in the Appendix to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalties proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalties should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96–295), and 10 CFR 2.205.

It is hereby ordered that: the licensee pay civil penalties in the amount of Forty Thousand Dollars ($40,000) within thirty days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement.

V

The licensee may, within thirty days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement, U.S.N.R.C., Washington, DC 20555. A copy of the hearing request shall also be sent to the Executive Legal Director, U.S.N.R.C., Washington, DC 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

VI

In the event the licensee requests a hearing as provided above, the issues to be considered at such a hearing shall be:

(a) Whether the licensee violated NRC regulations and license conditions as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties; and

(b) Whether, on the bases of such violations, this Order should be sustained.

Dated at Bethesda, Maryland this 23rd day of February 1982.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 82-5726 Filed 3-2-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-261; License No. DPR-23; EA 82-07]

H. B. Robinson Nuclear Facility (Unit 2); Order Imposing Civil Monetary Penalties

I

Carolina Power and Light Company, 411 Fayetteville Street, Raleigh, NC 27602 (the "licensee") is the holder of License No. DPR–23 (the "license") issued by the Nuclear Regulatory Commission (the "Commission"). The license authorizes operation of the H.B. Robinson Unit 2 facility in Darlington County, South Carolina under certain specified conditions and is due to expire on April 13, 2007.

II

An inspection of the licensee's activities under the license was conducted on August 25–28, 1981 at the H. B. Robinson Unit 2 facility in Darlington County, South Carolina. As a result of this inspection, it appears that the licensee has not conducted its activities in full compliance with the conditions of its license and with the requirements of NRC regulations. A written Notice of Violation and Proposed Imposition of Civil Penalties was served upon the licensee by letter dated December 1, 1981. The Notice stated the nature of the violations, the provisions of the Nuclear Regulatory Commission regulations and license conditions which the licensee had violated, and the amount of civil penalty proposed for each violation. Answers dated January 5, 1982 to the Notice of Violation and Proposed Imposition of Civil Penalties were received from the licensee.

III

Upon consideration of the answers received and the statements of fact and explanation as set forth in the enclosure to this Order, the Director of the Office of Inspection and Enforcement determined that the penalties proposed for the violations designated as Items A and C in the Notice of Violation and Proposed Imposition of Civil Penalties, as amended in the Appendix to this Order, should be imposed. The Director agrees in part with the licensee's denial of the violation designated as Item B in the Notice of Violation and Proposed Imposition of Civil Penalties and withdraws the survey portion of the violation, and mitigates the civil penalty for Item B to Five Thousand Dollars.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96–295), and 10 CFR 2.205.

It is hereby ordered that: The licensee pay a civil penalty in the amount of Forty Thousand Dollars within thirty days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement.

V

The licensee may, within thirty days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement, U.S.N.R.C., Washington, DC 20555. A copy of the hearing request shall also be sent to the Executive Legal Director, U.S.N.R.C., Washington, DC 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

VI

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee violated NRC regulations and license conditions as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties as amended by the Appendix to this Order; and

(b) Whether, on the basis of such violation, this Order should be sustained.

Dated at Bethesda, Maryland this 23d day of February 1982.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

Appendix—Evaluations and Conclusions

For each violation and associated civil penalty identified in the Notice of Violation and Proposed Imposition of Civil Penalties (dated December 1, 1981) the original violation is restated and the Office of Inspection and Enforcement's evaluation and conclusion regarding the licensee's response (dated January 5, 1982) to each item is presented.

Item A

Statement of Noncompliance. Technical Specification 6.8.1 states, in part, that written procedures shall be established, implemented and maintained that meet or exceed the requirements and recommendations of Appendix A of U.S. NRC Regulatory Guide 1.33 dated November 3, 1972. Sections G and I of Appendix A to Regulatory Guide 1.33 list procedures for repair of PWR steam generator tubes and for special radiation work permits.

Contrary to the above, on August 15, 1981, between 3:00 a.m. and 6:35 a.m., the licensee failed in conjunction with marking steam generator tubes to comply with required plant procedures for steam generator repairs and radiation permits. The failure, which resulted in an overexposure (Item B below) is exemplified by the four departures from the procedures described below, any or all of which constitute a violation of TS 6.8.1.:

1. Section 3.5.2 of HP–12, Revision 8, requires that the health physics technician ensure that high and low range dosimeters are worn by persons engaged in primary side steam generator work. The dosimeters shall be worn on the body at or near the field of the highest dose rates. Section 3.5.2 indicates that the highest dose rates occur in the region of the head, and self-reading dosimeters may be worn on the shoulders. However, the health physics technician on duty specified that high and low range self-reading dosimeters be worn on the chest and not on the shoulders or head of the person engaged in primary side steam generator work.

2. Special Plant Procedure SP–319 incorporates Westinghouse procedure No. MRS 2.2.2 Gen–12 which in Section 7.2 requires that a minimum of two health physics technicians provide continuous health physics coverage. However, during the time referenced above, only one health physics technician at a time provided coverage.

3. Special Radiation Work Permit SRWP 815–8 and Section 7.2 of MRS 2.2.2 Gen–12 require continuous health physics coverage of steam generator marking operations. Section 5.0 of MRS 2.2.2 states that steam generator tube marking is a "high exposure task and requires vigilance on the part of the health physics technicians to carefully monitor the marking team and to keep track of the exposure dose rate and total dose." However, the tube marking operation was neither continuously nor vigilantly monitored by the assigned health physics technician since he did not maintain continuous visual contact with workers performing tube marking operations. Additionally, he did not control and record entries into the steam generator.

4. Section 3.2 of plant Procedures HP–12, Revision 8, requires the "Steam Generator Entry Log" to be filled in and completed whenever a steam generator entry is performed. However, the health physics technician on duty did not record the four entries into the steam generator made by one worker.

This is a Severity III Violation (Supplement IV). (Civil Penalty—$25,000.)

NRC Evaluation and Conclusion. The licensee admitted the violations identified in Items A.2 and A.4. With respect to Item A.1, the licensee admitted failure to follow the procedure, but stated that although the Radiation Control Technician on duty had countenanced the improper placement of the worker's pocket dosimeters, he had not specified their placement. We accept the licensee's factual correction. The correction does not alter the basic fact that the licensee did not follow the required procedures. Accordingly, the last sentence of paragraph A.1 is amended as follows: "However, the health physics technician on duty did not ensure that high and low range self-reading dosimeters were worn on the shoulders or head of the person engaged in primary side steam generator work."

With respect to Item A.3, the licensee presented the following statements: "The RC Technicians' vigilance in their coverage was evidenced by an RC Technician's continuous presence on the S/G platform and frequent monitoring of the tube marker's pocket chamber throughout the tube marking operation to ensure the tube marker did not exceed his allowed dose of 500 mrem for that particular containment entry. To ensure that the tube marker did not approach his allowed dose, the RC Technician directed the tube marker out of containment when the tube marker's pocket chamber reading approached 470 mrem. After exiting the containment, the tube markers pocket chamber read 470 mrem. CP&L believes that the job coverage rendered was both continuous and vigilant and does

not interpret "continuous" in this context to require direct line of sight coverage at all times. Such an interpretation would require one TC Technician for *each* contract worker. By procedure, the contract worker had the responsibility of informing the RC Technician of each entry. The exposure occurred due to the improper placement of pocket chamber dosimetry and not to the lack of vigilance on the part of the RC Technician."

Inasmuch as the licensee had determined that marking steam generator tubes was a high risk task that warranted assignment of not less than two health physics technicians to assure continuous monitoring of the job, it would be reasonable to assume that continuous monitoring requires the HP technician to be in a position to monitor each worker while he is performing activities and does not necessarily require line of sight contact at all times. However, the HP coverage must be capable of watching the total activity. The HP technician may be looking at one worker, then another, but should at a minimum be able to monitor the workers.

In this case, on August 15, the health physics technician was also monitoring a two-man activity being conducted on a scaffold above the channel head manway through which the tube marking operations were being conducted. While monitoring the scaffold workers' pocket dosimeters, the health physics technician could not observe the activities of the steam generator tube markers.

While improper placement of personnel dosimetry was a principal cause of this event, the technician's lack of vigilance was a contributing cause. If the technician's vigilance had extended to the control of steam generator entries, the worker's exposure might have been decreased.

Item A remains a violation. While additional input was presented by the licensee, it is clear that procedures were not followed as required. Therefore, the civil penalty is not being mitigated or remitted.

Item B

Statement of Noncompliance. 10 CFR 20.201(b) requires licensees to make or cause to be made such surveys as may be necessary to comply with the regulations in 10 CFR 20. A survey as defined in 20.201(a) is an evaluation of the radiation hazards under a specific set of conditions. 10 CFR 20.101(a) requires licensees to restrict the total occupational dose to the head of each individual in a restricted area to 1.25 rems during any calendar quarter except as provided in paragraph (b) of 10 CFR 20.101.

Contrary to the above, between August 11 and 16, 1981, surveys of the radiation hazards associated with marking steam generator tubes were not conducted adequately to assure compliance with the head dose limit specified in 10 CFR 20.101(a) in that radiation exposure to individuals marking steam generator tubes was controlled based on readings from self-reading pocket dosimeters worn on the chest instead of the head where the exposure to radiation levels was higher. One individual received a radiation dose to the head of 1.5 rems during the third calendar quarter of 1981, specifically, on August 15, 1981, which was in excess of the applicable limit.

This is a Severity Level III Violation (Supplement IV). (Civil Penalty—$15,000).

NRC Evaluation and Conclusion. The licensee admitted that one individual had received a radiation dose to the head of 1.3 rems during the third calendar quarter of 1981, but denied the inadequacy of the survey of the associated radiation hazards. The statement continued as follows: "The surveillance data for S/G tube marking was in sufficient quantity to accurately evaluate the hazard. HP-12, which required the pocket chambers be placed on the head or shoulders, was in complete concert with the survey which indicated that the highest dose was to be in the region of the head. Had this procedure been followed, the overexposure would not have occurred. CP&L has previously in this response admitted to the failure to follow procedure."

The NRC agrees with this partial denial. Accordingly, the survey portion of the violation will be deleted from Item B in our records, the severity level for Item B has been reduced to a severity level IV, and the civil penalty for Item B is mitigated to $5,000.

Item C

Statement of Noncompliance. Technical Specification 6.3.1 requires that each member of the facility staff shall meet or exceed ANSI N18.1–1971 with regard to the minimum qualifications for comparable positions. Paragraph 4.5.2 of ANSI N18.1–1971 states, in part, that technicians in responsible positions shall have a minimum of two years working experience in their specialty.

Contrary to the above, between approximately 4:30 a.m. and 6:35 a.m. on August 15, 1981, a radiation control technician was serving in a responsible position who had approximately 11 months experience, most of which consisted of observing personnel monitoring themselves for contamination as they left the controlled area. This technician was solely responsible for monitoring and controlling doses to four individuals on the "B" steam generator platform. Two of these individuals were marking steam generator tubes, a task that was identified by the licensee as a high exposure task requiring vigilance on the part of the health physics technician to carefully monitor and control radiation dose rates and total worker doses.

This is a Severity Level IV Violation (Supplement IV). (Civil Penalty—$10,000).

NRC Evaluation and Conclusion. The licensee admitted the violation and stated as follows: "A contract RC Technician who had 11 months of experience and had received on-the-job training concerning S/G Health Physics (HP) coverage on more than six occasions was assigned to the S/G platform to cover a tube marking operation that was not to include a S/G entry. Existing plant procedures provide adequate instructions for a more experienced RC Technician to provide the proper HP coverage of the S/G tube marking operation. However, an RC Technician with less than the ANSI N18.1–1971 level of experience should have been given detailed written instructions so that no discretion in the establishment of specific work requirements could be required or implied in the performance of his duties. This was not done in this case."

The item as stated is a Severity Level IV Violation. The information presented by the licensee does not provide a basis for remission or migitation of the proposed penalty.

Cause of Failure of Radiation Control Program

NRC Request. The NRC letter, dated December 1, 1981, contained the following request: "* * * please inform us of the underlying causes of the failure of your radiation control program to prevent this type of occurrence and how you plan to correct this failure."

NRC Evaluation and Conclusion. The licensee responded as follows: "In your letter of December 1, 1981 you requested that CP&L address the underlying causes of the failure of our radiation control program and how we plan to correct this failure. CP&L disagrees with your charge that it has a programmatic problem in the area of radiation control. As discussed in our response to the specific violations, we have demonstrated that this occurrence was an isolated failure to follow procedures. In the following paragraphs we have provided additional information relating to your inspection activities and the measures we have and/or will take to refine our radiation Control Program."

The licensee's response continued with a comprehensive review of NRC and licensee actions relating to external radiation exposures at the H. B. Robinson Plant since January 1961. In his description of the May 30, 1981 overexposure incident the licensee stated as follows: "The root cause of this occurrence was clearly the contractor's failure to follow written (i.e., RWP) and posted instructions provided to him by Radiation Control personnel, * * *"

In a summary paragraph the licensee stated as follows: "The occurrence on August 15, 1981, was due to a failure to follow procedures in that the Tube Marker, although wearing multiple whole body TLDs, did not wear his pocket chamber on his head or shoulder as required in HP-12, Revision 8. The previous violation and civil penalty regarding calculated doses to the head was a result of S/G entries being made prior to 1981 without TLDs on the head. Therefore, CP&L does not believe this occurrence was a repeat event. Furthermore, the overexposure and its causes were identified by CP&L, the causes were corrected by CP&L, and the violation (overexposure) was promptly reported to the Resident Inspector. Unlike the earlier incidents, this incident was the direct result of an isolated failure to follow a procedure which was adequate in itself."

Although the licensee denied that this event should be attributed to a programmatic problem in the area of radiation control, the circumstances surrounding the event indicate program involvement rather than an isolated failure to follow a procedure. The following observations support this position:

- Neither the worker nor the assigned health physics technician were instructed in the provisions of HP-12 (Rev. 8).
- The health physics technician who prepared the radiation work permit, failing to specify proper location of personnel dosimetry and failing to prohibit steam generator entry, had not been adequately instructed.
- The individual who assigned one health physics technician (rather than two) to monitor the tube marking activity was apparently not cognizant of the provisions of SP-319.
- The individual who assigned the inadequately trained health physics technician to this job was apparently not aware of the requirements of Technical Specification 6.8.1.

The licensee's denial that the August 15 event is repetitive is contradicted by his statements of the respective causes of the May 30 and August 15 events. The root cause of each was identified as a failure to adequately follow procedures. In fact, failure to follow a procedure in both events should be more accurately categorized as proximate and contributing causes. A more basic common cause can be found in program management that allowed an uninstructed worker to be supervised by an unqualified and uninstructed health physics technician.

The statements presented by the licensee in this portion of the letter do not provide a basis for remission or mitigation of the proposed penalty.

Information Provided in Licensee Letter Dated January 5, 1982 (Serial No. 82-018)

Licensee Statement. "CP&L denies that the identified infractions reflect a failure to institute appropriate corrective measures in response to prior incidents or that the infractions are indicative of a programmatic defect, as implied in the transmittal letter accompanying the Notice, for the reasons set forth in the Company's Response to the Notice."

NRC Evaluation and Conclusion. In the last sentence on page 8 of the licensee's response (Serial No. 82-017), the root cause of the May 30, 1981 incident is attributed to "the contractor's failure to follow written (i.e., RWP) and posted instructions * * *". Had appropriate corrective measures been instituted in response to this prior incident, the August 15, 1981 incident, which is also attributed by the licensee to a failure to follow a procedure, may not have occurred. The licensee's denial of programmatic involvement has been evaluated above.

Licensee Statement. "CP&L acknowledges that Infraction B as set forth in the Notice constitutes a Severity Level III infraction pursuant to the guidelines contained in the proposed General Statement of Policy and Procedure for Enforcement Actions published at 45 FR 66754 ("Proposed Enforcement Policy"), but submits that Infraction A was improperly classified as a Severity Level III event since it involved only an isolated failure to follow a recently promulgated (June 22, 1981) procedure (Infractions A–1 and A–4) and an isolated failure to follow special Plant procedure SP–319 (Infraction A–2). CP&L has denied the alleged failure to follow Special Radiation Work Permit SRWP 810–6 and Section 7.2 of MRS 2.2.2 Gen-12 (Infraction A–3). Although this failure to follow procedures was the direct cause of Infraction B, which was categorized as a Severity Level III occurrence, it is improper to also categorize Infraction A as a Severity Level III event. Supplement IV of the Proposed Enforcement Policy clearly classifies a "failure to follow procedures that has other than minor safety or environmental significance" as a Category V violation. The maximum penalty for a Severity Level V infraction is $5,000. Accordingly, the $15,000 penalty proposed for Infraction A violates the Proposed Enforcement Policy which was followed in assessing penalties in this case."

NRC Evaluation and Conclusion. In assigning a Severity Level to a violation of a procedure, the NRC considers the consequences of the violation. If, as in this incident, a failure to follow a procedure is a principal or contributing cause of a Severity Level III violation, the NRC emphasizes its concern for correction of the cause by assigning the severity level of the cause on a parity with its effect.

Licensee Statement. "As demonstrated in the Response, the event which gave rise to Infractions A, B, and C was not a repetition of a previous violation nor did it stem from the failure to adopt proper procedures. It arose out of an isolated failure to follow a new procedure which in itself is adequate to prevent overexposures of the type experienced in this and prior incidents. Accordingly, CP&L submits that it is improper to increase the total penalty 25% in this case."

NRC Evaluation and Conclusion. The cause of the overexposures disclosed in the NRC inspection on March 2–4, 1981 was a failure to evaluate nonuniform radiation fields and failure to provide procedures that would preclude excessive exposure in these fields. The licensee took adequate action to correct this situation by issuance of procedures. Had these procedures been followed it is unlikely that the August 15, 1981 event would have occurred. The NRC based the 25% increase of the proposed penalty on the similarity between the May 30 and August 15 overexposures and the fact that adequate steps were not taken to assure the procedures were implemented. Both were related to steam generator tube marking and both resulted from failure to follow a procedure. The NRC also considered that the EA 81–48 civil penalty should have focused management attention on this potentially hazardous operation and should have prevented the several program failures which contributed to this incident.

Licensee Statement. "CP&L respectfully requests that the penalty in this case be reduced to a maximum of $5,000 ($6,250 less 20%) for Infraction A, $20,000 ($25,000 less 20%) for Infraction B, and $8,000 ($10,000 less 20%) for Infraction C. In requesting this reduction, CP&L further asks that recognition be given to the fact that the Company promptly reported the over-exposure; promptly retrained all HP and other necessary personnel in the proper application of HP-12 (Rev. 8); and has implemented extensive measures to assure that all steam generator work is performed in strict compliance with all applicable procedures."

NRC Evaluation and Conclusion. For the reasons presented previously, the NRC has mitigated the proposed penalty of $15,000 for Item B to $5,000, but finds no substantial basis for remission or mitigation of those penalties proposed for Items A or C.

The NRC acknowledges the licensee's prompt reporting of the overexposure, but finds no basis for mitigation in a licensee's reporting of a self-disclosing incident. The NRC also expects licensees to take prompt and effective action to correct each violation identified by the NRC or the licensee.

[FR Doc. 82-5728 Filed 3-2-82; 8:45 am]
BILLING CODE 7590-01-M

Screening Committee for Lawyer Vacancies on the Licensing Board Panel and its Screening Committee for Technical Vacancies on the Licensing Board Panel; Renewal

Notice is hereby given by the Nuclear Regulatory Commission that the Charters for its Screening Committee for Lawyer Vacancies on the Licensing Board Panel and its Screening Committee for Technical Vacancies on the Licensing Board Panel have been renewed for an additional two year period beginning February 22, 1982. These Committees provide advice to the Commission regarding the selection of candidates for positions on NRC's Atomic Safety and Licensing Board Panel.

Dated at Washington, DC this 25th day of February 1982.

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc. 82-5729 Filed 3-2-82; 8:45 am]
BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22405; 70-6638]

Alabama Power Co.; Formation and Acquisition of Stock of New Subsidiary; Entry Into Credit Agreement by New Subsidiary; Nuclear Fuel Lease by New Subsidiary to Parent; Granting of Security Interest to Creditor; Exception From Competitive Bidding

February 26, 1982.

Alabama Power Company ("Alabama"), 600 North 18th Street, Birmingham, Alabama 35291, an electric utility subsidiary of The Southern Company, a registered holding company, has filed an application-declaration and an amendment thereto with this Commission pursuant to sections 6(a) and 7, 9(a), 10, 12(f) and 13(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45, 50(a)(2),

50(a)(5), 86, 90 and 91 and any other relevant rules promulgated thereunder.

Alabama proposes to form and acquire the capital stock of a new wholly-owned special purpose subsidiary, Columbia Fuels, Inc. ("Subsidiary"), which will finance a portion of the nuclear fuel requirement for the Joseph M. Farley Nuclear Plant. Upon receiving Commission approval, Alabama will cause Subsidiary to be incorporated and will initially subscribe for and purchase $1,000 of Subsidiary's capital stock. Subsidiary will purchase and hold the legal title to nuclear fuel and enter into agreements with leaders from time to time to provide financing for such purchases. Subsidiary will lease all nuclear fuel purchased by it to Alabama for use in Alabama's Joseph M. Farley Nuclear Plant. The creation of Subsidiary enables creditors to acquire a first priority security interest in the nuclear fuel being financed, and permits Alabama, through Subsidiary, to administer nuclear fuel financing arrangements with a minimum of additional burden and expense. Alabama propose to finance a portion of its nuclear fuel requirements in this manner, which is similar to two other nuclear fuel arrangements to which Alabama is currently a party, and which were authorized by Commission orders dated June 3, 1976 and October 10, 1979 (HCAR Nos. 19555 and 21243) in order to obtain alternative sources of capital. This form of debt financing provides a cost effective means of financing nuclear fuel and gives additional flexibility to Alabama's overall financing program.

Initially, Subsidiary proposes to enter into a credit agreement (the "Credit Agreement") for up to $100,000,000 with Credit Suisse ("Creditor"). The Credit Agreement will have a term of four years and will be extended automatically on each anniversary of its execution for an additional twelve-month period, unless Creditor notifies Subsidiary to the contrary. Subsidiary will grant a security interest in the nuclear fuel to Creditor.

Under the Credit Agreement, Creditor will provide credit to Subsidiary through (i) the issuance of an irrevocable letter of credit (the "Letter of Credit") in support of the contemplated issuance by Subsidiary of its commercial paper and (ii) direct loans to Subsidiary against the issuance and delivery by Subsidiary of its promissory notes having maturities of up to nine months. The maximum aggregate principal amount of commercial paper supported by the Letter of Credit Agreement will be $100,000,000. Such amount may consist of either commercial paper supported by the Letter of Credit or direct loans or any borrowing combination thereof as Subsidiary may from time to time determine.

The commercial paper of Subsidiary will be offered by a dealer, which will be selected by Subsidiary. The commercial paper will be in the form of promissory notes of Subsidiary with varying maturities not to exceed 270 days. Actual maturities will be determined by market conditions and the effective interest costs to Subsidiary at the time of issuance. The basic cost to Subsidiary under the commercial paper option will be the market rate at the time of issuance for its commercial paper plus a dealer fee expected to ⅛ of 1% per annum to place the commercial paper for Subsidiary. It is anticipated that the commercial paper of Subsidiary will be rated A–1/Prime-1 by nationally recognized rating agencies. Costs to be paid to creditor under this option will be (a) ⅛ of 1% per annum on the quarterly average amount of commercial paper outstanding, (b) ⅛ of 1% per annum on the face amount of the Letter of Credit ($100,000,000), and (c) ⅜ of 1% on the total credit commitment ($100,000,000) less the amount of unreimbursed drawings under the Letter of Credit and less the amount of outstanding direct borrowings. No drawings will be made under the Letter of Credit unless and until there has been a failure by Subsidiary to pay the commercial paper obligation when due. Any drawings under the Letter of Credit will bear interest at the rate of 120% of Creditor's prime interest rate in effect during the period of such drawings being unreimbursed by Subsidiary. Assuming a discount rate of 12⅝% on a 30-day commercial paper note, a dealer fee of ⅛ of 1% and full utilization of the credit facility, the effective annual cost of borrowing [360-day basis] would be 13.32%.

The commercial paper of Subsidiary will be offered by a dealer to not more than 200 customers of the dealer identified and designated in a nonpublic list prepared in advance by the dealer. Such list will include commercial banks, insurance companies, corporate pension funds, investment trusts, foundations, colleges and universities, municipal and state benefit funds, and eleemosynary and non-financial corporations which invest surplus funds in commercial paper. No sale will be made to any such customer unless and until it has received from the dealer a current report as to the financial position of the issuer. No additions will be made to such list of customers. It is expected that the commercial paper of Subsidiary will be held by customers to maturity, but, if they wish to resell prior thereto, the dealer, pursuant to a verbal repurchase agreement, will repurchase the commercial paper and reoffer the same to others on the customer list.

Costs to be paid to Creditor under the direct borrowing option will be (a) ⅛ of 1% per annum on the face amount of the Letter of Credit, (b) ⅜ of 1% on the total credit commitment ($100,000,000) less the amount of unreimbursed drawings under the Letter of Credit and less the amount of outstanding direct borrowings and (c) the interest rate chosen by Subsidiary at the time of each direct borrowing from the following alternatives:

	Year 1 and 2 (percent)	Year 3 and thereafter (percent)
Creditor's prime rate plus	0	⅛
Average weekly Federal funds rate plus	⅛	⅜
Term Federal funds rate plus	⅛	⅜
London Inter-Bank offering rate ("LIBOR") plus	⅛	⅜
Creditor's certificate of deposit rate (adjustment to reflect reserve requirements) plus	⅛	⅜

Assuming all borrowings were made by means of the direct borrowing option, full utilization of the credit facility, a tenor of 30-days for each of the borrowing alternatives and using the rates shown above, the table below reflects the effective annual borrowing cost:

	Assumed base rate (percent)	Effective annual cost (360-day basis) (percent)
Creditor's prime rate	15.75	15.91 (year 1 and 2). 16.06 (year 3 and thereafter).
Average weekly Federal funds rate.	12.26	13.91.
Term Federal funds rate	16.00	13.81.
LIBOR	13.375	14.18.
Creditor's certificate of deposit rate (adjusted to reflect reserve requirements).	12.88	13.99

The borrowings under the Credit Agreement may be prepaid in whole or in part without premium or penalty on any interest payment date upon two business days notice, and at any other time upon ten business days notice. However, if applicable, Subsidiary will pay amounts necessary to compensate Creditor for losses for reinvestment of funds to the end of the current interest period.

Subsidiary will use the funds acquired under the Credit Agreement to pay the cost of acquiring, processing and fabricating the nuclear fuel, including reimbursement to Alabama of incurred

reimbursement to Alabama of incurred nuclear fuel costs. Such costs will include, but not be limited to, the cost of purchasing U_3O_8 ("yellow cake"), the cost of conversion of U_3O_8 into UF_6, the cost of enrichment of uranium by the U.S. Department of Energy, the cost of fabrication of nuclear fuel rods and fuel assemblies and the cost of delivery of fabricated fuel assemblies to the Farley Plant.

Alabama will transfer to Subsidiary its interest in the nuclear fuel proposed to be financed and in procurement contracts in respect thereof. Subsidiary, as owner of the nuclear fuel, will lease fabricated fuel to Alabama pursuant to a nuclear fuel lease which will require payments by Alabama, including rent, sufficient to amortize fully all costs and expenses of Subsidiary under the Credit Agreement over the useful life of the nuclear fuel as it is consumed.

An exception is sought from the competitive bidding requirements of Rule 50 pursuant to paragraph (a)(2) thereof for the issuance of commercial paper. All of the commercial paper which Subsidiary proposes to issue and sell will have maturities not in excess of 270 days, current rates for commercial paper for prime borrowers are published daily in financial publications and the invitation of competitive bids is not practical for commercial paper.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 22, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant–declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delgated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-5738 Filed 3-2-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22463; 70-6907]

American Electric Power Co., Inc.; Proposed Creation of Consulting Subsidiary To Render Services to Non-Affiliates

February 26, 1982.

The American Electric Power Company, Inc. ("AEP"), 180 East Broad Street, Columbus, Ohio 43215, a registered holding company, has filed an application-declaration with this Commission, pursuant to sections 9(a), 10, 12(b) and other applicable sections of the Public Utility Holding Company Act of 1935 ("Act") and rules promulgated thereunder, including Rules 45, 87, 90 and 91.

AEP proposes to organize and acquire the Capital Stock of a new, wholly-owned subsidiary, AEP Energy Services, Inc. ("Energy Services"). AEP will make an initial investment of up to $1,000,000 for stock purchases in, and capital contributions to, Energy Services. Energy Services intends to sell management, technical, and training expertise in the open, competitive market to as yet unspecified, non-affiliated entities.

Initially, Energy Services will rely on AEP's management personnel but as significant business is developed, the new subsidiary will employ limited, but permanent, management, marketing and administrative staff. Utilizing a work order system in accordance with the Uniform System of Accounts For Mutual and Subsidiary Service Companies, the American Electric Power Service Corporation ("AEP Service") and the system operating companies will provide personnel and resources, on a full-cost reimbursement basis, to Energy Services for use in individual consulting projects with its clients. It is contemplated that this provision of personnel and resources will be accomplished on a contractual basis. These contracts will define the terms and conditions governing the transactions between Energy Services and the AEP system companies, as well as the conditions for resale, licensing and profit-sharing of intellectual property developed or provided in the course of Energy Services' business with AEP system companies. AEP Service will also perform all necessary financial, accounting and internal auditing functions for Energy Services.

Services provided by Energy Services to non-affiliates will be calculated to recover costs, including overheads, and to produce a profit. All profits or losses will accrue to AEP and no non-contractual obligations or unreimbursed costs are to be incurred by any associate company. AEP asserts that the formation of this new subsidiary creates an excellent profit opportunity at minimal risk. It also states that the new business generated by Energy Services will facilitate the retention of skilled employees in the system's operating companies. Such personnel will be more fully utilized by assignment to off-system consulting projects during periods of light internal workload.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 23, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-5737 Filed 3-2-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12251; 812-5039]

American Money Market Fund; Filing of Application

February 25, 1982.

Notice is hereby given that American Money Market Fund ("Applicant"), 82 Devonshire Street, Boston, Massachusetts 02109, an investment company registered under the Investment Company Act of 1940 (the "Act"), filed an application on December 7, 1981, requesting an order of the Commission, pursuant to section 6(c) of the Act, exempting Applicant from the provisions of section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to calculate its net asset value per share based on the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission

for a statement of the representations contained therein, which are summarized below.

Applicant represents that its investment objective is to seek to obtain as high a level of current income as is consistent with the preservation of capital and liquidity. Applicant will seek to achieve this objective by investing exclusively in high grade, money market instruments maturing in less than one year, including:

(1) Obligations issued or guaranteed as to interest and principal by the government of the United States or any agency or instrumentality thereof ("Government Securities");

(2) Obligations, including time deposits, certificates of deposit and bankers' acceptances, of U.S. banks, provided that the bank has capital, surplus and undivided profits of $100,000,000 or more at the date of investment ("Major Bank Instruments");

(3) Commercial paper of domestic issuers, including bank holding companies, which at the date of investment is rated A–1 by Standard & Poor's Corporation or Prime–1 by Moody's Investors Service, Inc. ("Commercial Paper");

(4) Certificates of deposit issued by commercial banks of less than the size set forth above, provided that the principal amount of the instrument is insured in full by the FDIC or FSLIC ("Insured Bank Instruments"); and

(5) Repurchase agreements with member banks of the Federal Reserve System and recognized dealers with respect to Government Securities, even though the security matures in more than one year.

Applicant states that, as set forth more fully in its Prospectus, its shares will be purchased automatically not less frequently than weekly with "excess" cash balances in demand deposit accounts maintained by Applicant's shareholders with banks participating in the Financial Management Account Program ("Participating Banks"). Applicant further states that excess cash balances will be the amount by which the bank account balance of the shareholder exceeds and amount established by the Participating Bank. Applicant represents that where Major Bank Instruments, Commercial Paper of bank holding companies and Insured Bank Instruments (collectively, "Bank Instruments") are, in the judgment of Applicant's Board of Trustees, comparable to other obligations in terms of quality, yield and maturity, it is anticipated that Applicant would purchase Bank Instruments being offered by Participating Banks and their holding companies.

Applicant seeks an order of the Commission, pursuant to section 6(c) of the Act to permit is assets to be valued according to the amortized cost method. Applicant states that under the amortized cost method, portfolio securities are valued at cost on the date of the acquisition, and the difference between cost and the face amount of the instrument is amortized over the maturity of the instrument. Applicant represents that by valuing its portfolio securities at amortized cost and declaring dividends daily, its net asset value per share will remain constant in the absence of unusual market conditions.

As here pertinent, section 2(a)(41) of the Act defines value to mean: (1) With respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 states further that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. The Commission has expressed its view, that, among other things, (1) Rule 2a–4 under the Act requires portfolio instruments of "money market" funds which have more than 60 days remaining to maturity be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments with over sixty-day maturities on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the relief requested, Applicant expresses its belief that its shareholders would be unfairly treated if Applicant were forced to price its portfolio instruments in a manner which would produce artificial price or yield volatility for instruments which it expects to hold to maturity. Applicant submits that potential investors in its shares are not concerned with the theoretical differences which might occur between the yield achieved through market pricing and the yield computed on the basis of amortized cost as described in the application. On the other hand, Applicant believes that such potential investors are vitally concerned that (1) the net asset value of their shares remain stable; and (2) that the daily net income declared on their investment be steady and not exhibit the volatility which can occur when changes in market prices cause changes in yield on a daily or weekly basis. Applicant believes that by maintaining a portfolio of high quality money market instruments of short maturities, it will be possible to provide the required stability to individual and institutional investors. Applicant states that it has determined, with the advice of its adviser and based on the adviser's experience, that maintaining an average portfolio maturity of 120 days or less will accomplish the aims of Applicant's investors by reducing the risk of significant volatility in the value of portfolio instruments and at the same time producing a yield commensurate with those available in the short-term money market. Applicant states that its request for exemption is based on its proposed policies described in the application. Applicant agrees that the following conditions may be imposed in any order of the Commission granting such relief:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Trustees undertakes—as a particular responsibility within its overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the Board of Trustees shall be the following:

(a) Review by the Board of Trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review. To fulfill this obligation, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board of Trustees in the exercise of its discretion to be appropriate indicators of value, which may include among others, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1%, a requirement that the Board of Trustees will promptly consider what action, if any, should be initiated.

(c) Where the Board of Trustees believes that the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; reducing or withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share; *provided*, however, that Applicant will neither (a) purchase any instrument with a remaining maturity of greater than one year, nor (b) maintain a dollar-weighted average portfolio maturity that exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition (1) above, and Applicant will include in the minutes of Board of Trustees' meetings and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its Board's considerations and actions taken in connection with the discharge of its responsibilities, as set forth above. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the Board of Trustees determines present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement indicating whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any such action was taken, Applicant will describe the nature and circumstances of such action.

Applicant states that prior to adopting the amortized cost method of valuation, its Board of Trustees will determine in good faith that in light of characteristics described above, including the conditions to which it must adhere as set forth in any order of the Commission, absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities will reflect the fair value of such securities.

Notice is further given that any interested person may, not later than March 19, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-5728 Filed 3-2-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18512; File No. SR-MSRB-82-2]

Self-Regulatory Organizations; Proposed Rule Change; Municipal Securities Rulemaking Board

February 25, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 17, 1982, the Municipal Securities Rulemaking Board ("MSRB"), 1150 Connecticut Avenue, NW., Suite 507, Washington, D.C. 20036, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed amendment to Rule A–11 provides for the indemnification of arbitrators against all liabilities and expenses incurred in connection with the performance of their official duties. The MSRB has adopted the proposed rule amendment pursuant to Section 15B(b)(2)(D) which authorizes the MSRB to set up an arbitration program to resolve claims, disputes, and controversies relating to transactions in municipal securities, and Section

15B(b)(2)(I) which authorizes the MSRB generally to adopt rules providing for the operation and administration of the Board as may be necessary to carry out the Board's functions under Section 15B. The amendment is proposed in order to protect those individuals who voluntarily participate as arbitrators in the MSRB's arbitration program, provided they acted in good faith and within the scope of their authority, and to encourage their continued participation in the program.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 under the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission on or before March 24, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-MSRB-82-2.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-5692 Filed 3-2-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19513; (SR-Phlx-81-23)]

Self-Regulatory Organizations; Order Approving Proposed Rule Change; Philadelphia Stock Exchange, Inc.

February 25, 1982.

The Philadelphia Stock Exchange, Inc. ("Phlx"), 1900 Market Street, Philadelphia, PA 19103, submitted on January 5, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to increase from 399 to 599 the number of shares eligible for the Philadelphia Stock Exchange Automated Communication and Execution System ("PACE"), and to amend certain standards contained in Phlx Rule 229 for execution of orders under the PACE system.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18340, January 19, 1982) and by publication in the Federal Register (47 FR 3667, January 26, 1982). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-5693 Filed 3-2-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12246; 812-5021]

Sutro Money Market Fund; Filing of Application

February 24, 1982.

Notice is hereby given that Sutro Money Market Fund ("Applicant"), 421 Seventh Avenue, Pittsburgh, Pennsylvania 15219, registered under the Investment Company Act of 1940 ("Act") as an open end, diversified, management investment company, filed an application on November 20, 1981, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicant's assets to be valued at amortized cost. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund organized as a Massachusetts Business Trust and designed as an investment vehicle for investors with temporary cash balances or cash reserves seeking current income consistent with stability of principal. It is stated that in accordance with this investment objective, Applicant's portfolio may be invested in a variety of money market instruments, including obligations issued or guaranteed by the U.S. Government, its agencies, or instrumentalities (including those purchased on a "when-issued" or "delayed-delivery" basis); instruments of banks and savings and loan associations which are members of the Federal Deposit Insurance Corporation ("FDIC") or the Federal Savings and Loan Insurance Corporation ("FSLIC") (including obligations of foreign branches of such members), if either (i) the principal amount of the obligation is insured in full by the FDIC or the FSLIC, or (ii) the issuer of the obligation has capital, surplus, and undivided profits in excess of $100,000,000 (as of the date of its most recently published financial statements); commercial paper rated A-1 by Standard & Poor's Corporation, P-1 by Moody's Investors Service, Inc., or F-1 by Fitch's Investors Service; and repurchase and reverse repurchase agreements.

Applicant represents that when entering into reverse repurchase agreements, or purchasing securities on a when-issued or delayed-delivery basis, assets of a dollar amount sufficient to make payment for the obligations to be purchased will be placed in segregated accounts at the trade date.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) With respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company issuing any redeemable security shall sell, redeem or repurchase any such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rule 2a-4 provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution and redemption shall be an amount which reflects calculations make substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further provides that portfolio securities for which market quotations are readily available shall be valued at current market value, and other securities shall be valued a fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed the view that, among other things, (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977). In view of the foregoing, Applicant requests exemptions from Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to value its portfolio by means of the amortized cost method of valuation.

In support of the relief requested, Applicant asserts that experience indicates that two features are critical to attracting investment in a money market fund: (1) Stability of principal, and (2) a steady flow of predictable and competitive investment income. It is further stated that by utilizing high quality money market instruments of short maturities valued at amortized cost, it has been possible to provide these features to investors. Applicant also asserts that investors are not concerned with the theoretical differences which may exist between yield achieved through "marking-to-market" calculations and yield computed through the use of the amortized cost method of valuation. However, investors are concerned, it is stated, that the income which a money market fund declares daily reflects income as earned using the amortized cost method and that it not exhibit the volatility which may occur when changes in so-called "market" prices cause unreal and artificial changes in yield on a daily or weekly basis. Thus, Applicant states that its Board of Trustees ("Board") has determined in good faith that, in light of the characteristics of the Applicant as described above, that the amortized cost method of valuing portfolio securities is appropriate and preferable to the use of a market-based valuation method.

Section 6(c) of the Act, provides, in part, that the Commission upon application may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of the rules thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

Applicant has agreed that the following conditions may be imposed in any order of the Commission granting the exemptions it has requested:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the Board undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purposes of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the Board shall be the following:

(a) Review by the Board, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any of Applicant's $1.00 amortized cost price per share from the net asset value per share as determined by using available market quotations, and the maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds 1/2 of 1 percent, Applicant's Board will promptly consider what action, if any, should be initiated.

(c) Where the Board believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; the sale of portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board's considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board's meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the Board determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition 2(c)

[1] Applicant states that to fulfill this condition, it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the Board in the exercise of its discretion to be appropriate indicators of value, which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained form yield data relating to classes of money market instruments published by reputable sources.

[2] Applicant states that in fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than March 22, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date or the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-5870 Filed 3-3-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12249; 812-4829; 812-4853]

Narragansett Capital Corp.; Filing of Application

February 25, 1982.

In the matter of Narragansett Capital Corp., Arthur D. Little, Robert D. Manchester, William P. Lane, Gregory P. Barber, and Roger A. Vandenberg, 40 Westminster Street, Providence, RI 02903.

Notice of filing of an application for an order pursuant to sections 6(c), 17(b) and 57(c) of the act exempting that applicant from the provisions of sections 12(d)(1) (A) and (C), 18(a), 19(b), 17(a) and 57(a) and permitting pursuant to section 17(d) and rule 17d–1 thereunder the proposed reorganization, and notice of filing of an application for an order pursuant to sections 6(c), 17(b) and 57(c) of the act exempting applicants from the provisions of sections 2(a)(3), 12(d)(1)(A), 18(a), 17(a) and 57(a) and permitting pursuant to section 17(d) and rule 17d–1 thereunder the proposed transactions.

Notice is hereby given that Narragansett Capital Corporation ("Narragansett"), registered under the Investment Company Act of 1940 ("Act") as a closed-end, non-diversified, management investment company and licensed by the Small Business Administration ("SBA") as a small business investment company ("SBIC"), filed an application on February 23, 1981, and amendments thereto on March 16, 1981, May 1, 1981, July 15, 1981, and November 4, 1981, seeking an order of the Commission pursuant to Sections 6(c), 17(b) and 57(c) of the Act, exempting Narragansett from the provisions of Sections 12(d)(1) (A) and (C), 18(a), 19(b), 17(a) and 57(a), to the extent necessary, and permitting pursuant to Section 17(d) and Rule 17d–1 thereunder, the establishment and operation of a wholly-owned subsidiary of Narragansett pursuant to the terms of the proposed reorganization. Notice is further given that Narragansett, along with Arthur D. Little, Robert D. Manchester, William P. Lane, Gregory P. Barber and Roger A. Vandenberg, all officers or directors of Narragansett ("Applicants"), filed a second application on April 23, 1981, and amendments thereto on July 20, 1981, and November 23, 1981, seeking an order of the Commission pursuant to Sections 6(c), 17(b), and 57(c) of the Act exempting Applicants, to the extent necessary, from the provisions of Sections 2(a)(3), 12(d)(1)(A), 18(a), 17(a) and 57(a) and permitting Applicants pursuant to Section 17(d) and Rule 17d–1 thereunder to establish and participate in a limited partnership under the terms proposed. All interested persons are referred to the applications on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, Narragansett, which has operated as an SBIC since 1960, seeks to change its structure and operations to enable it to 1) make investments that would not be permitted under the Small Business Investment Act ("SBA Act"); 2) increase its ability to obtain funds for use in its business ventures and; 3) provide additional financial incentives for Narragansett management employees to continue to work for Narragansett. The board of directors of Narragansett ("Board") has approved a plan of reorganization ("Proposed Reorganization") designed to accomplish these goals. Basically, under the Proposed Reorganization Narragansett would: (a) spin-off its SBIC activities to a wholly-owned subsidiary, Narragansett Venture Corporation ("Venture Corporation"); and (b) enter into limited partnership arrangements with some of its executive personnel and outside investors for the purpose of conducting venture capital business activities. The first such limited partnership arrangement into which Narragansett proposes to enter would be known as Narragansett First Fund ("First Fund"). During the interim period before first Fund is established and operational, Narragansett proposes to engage in venture capital and other investments directly.

In order to implement this Proposed Reorganization, Narragansett needs the approval of its own shareholders and the SBA, as well as exemptive relisve from the Commission. Narragansett represents that shareholder approval of its latest proposal was obtained on September 23, 1981. The highlights of the Proposed Reorganization and the exemptive relief sought are discussed below.

Under the Proposed Reorganization, Narragansett will cause the organization of Venture Corporation, a registered closed-end investment company, under Rhode Island laws. Subject to favorable action by the Commission and the SBA, Narragansett states it will transfer certain of its assets including its license to operate as a SBIC, to Venture Corporation. In return, Venture Corporation will assume substantially all of Narragansett's liabilities, releasing Narragansett from liability on its SBA-guaranteed debentures, and will issue to Narragansett all its outstanding capital stock. After the transfer of assets and liabilities, Venture Corporation, as a wholly-owned subsidiary, will carry on the SBIC activities previously conducted by Narragansett while Narragansett, also a registered investment company, will engage in a broader range of investment activities.

According to the application both Narragansett and Venture Corporation will elect to be regulated as business development companies under the Act as soon as they may do so without losing their status as regulated investment companies. Moreover, until that time, they will maintain portfolios of investments consistent with Section 55 of the Act. Because Narragansett and Venture Corporation will both continue to be operated as regulated investment companies, the majority of Venture Corporation's earnings will be distributed to Narragansett and Narragansett's earnings to shareholders. Narragansett represents that it may make additional investments in Venture Corporation (in the form of capital stock purchases or loans) after the initial contribution, and Venture Corporation may make loans to Narragansett. However Venture Corporation will not purchase stock of Narragansett. Furthermore, Narragansett represents that: (1) Venture Corporation will always continue to be a wholly-owned subsidiary of Narragansett; (2) Venture Corporation will not change any of its fundamental investment policies or engage in any of the activities described in Section 13(a) of the Act, unless so authorized by a vote of a majority of the outstanding voting securities of Narragansett; (3) no person will serve or act as an investment adviser to Venture Corporation subject to Section 15 of the Act, unless the shareholders and directors of both Narragansett and Venture Corporation have given the necessary approval; (4) only directors of Narragansett are eligible to be directors of Venture Corporation; (5) Narragansett will not issue and it will not permit Venture Corporation to issue, any senior security unless it and Venture Corporation, on an unconsolidated basis, and it on a consolidated basis, meet the 200 percent asset coverage test under the conditions described in the application; and (6) Narragansett will file with the Commission and provide its shareholders the financial statements required by the Act.

Section 12(d)(1)(A) of the Act makes it unlawful for any registered investment company to purchase or otherwise acquire the securities of any other investment company, except to the limited extent permitted by the section. Section 12(d)(1)(C) makes it unlawful for any investment company to purchase or otherwise acquire any security issued by a registered closed-end investment company if the acquiring company would then own more than 10 percent of the voting stock of the closed-end company. Pursuant to the Proposed Reorganization, Narragansett, an investment company, will acquire all of the capital stock of Venture Corporation, a registered closed-end investment company, thereby violating both Sections 12(d)(1) (A) and (C). In addition, in the future Narragansett may make loans or advances to Venture Corporation, and Venture Corporation may make loans or advances to Narragansett. Those transactions also might be considered acquisitions of securities under the section.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Accordingly, Narragansett has requested an order pursuant to Section 6(c) permitting it to acquire any securities of Venture Corporation and permitting Venture Corporation to acquire any securities of Narragansett representing indebtedness.

Section 17(a) of the Act, in general, makes it unlawful for any affiliated person of a registered investment company, or any affiliates of such person (i) to sell any security or other property to such registered investment company (except securities of which the buyer is the issuer, the seller is the issuer and which are part of a general offering to a class, or securities deposited with a trustee of a unit investment trust), (ii) to purchase from any investment company or any controlled company any security (except securities of which the seller is the issuer), or (iii) to borrow money or other property from such registered investment company (unless the borrower is controlled by the lender). Section 2(a)(3) of the Act defines affiliated person to include: (i) Any person directly or indirectly owning, controlling, or holding with power to vote 5 per centum or more of the outstanding voting securities of such other person; (ii) any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person; (iii) any person directly or indirectly controlling, controlled by, or under common control with, such other person and (iv) any officer, director, partner, copartner or employee of such other person. Narragansett is an affiliated person of Venture Corporation and Venture Corporation of Narragansett by reason of Narragansett's ownership of all of Venture Corporation's common stock and its control of Venture Corporation. Accordingly, any exchange of securities between Narragansett and Venture Corporation would constitute an affiliated transaction prohibited by Section 17(a). Similarly, loan transactions between Narragansett (as the borrower) and Venture Corporation (as the lender) also would be prohibited by Section 17(a). Section 17(b) of the Act provides that notwithstanding the prohibitions contained in subsection (a), any person may file with the Commission an application for an order exempting a proposed transaction from one or more provisions of that subsection. Therefore, Narragansett has requested exemptive relief pursuant to Section 17(b) of the Act permitting any transaction solely between Narragansett and Venture Corporation with respect to the purchase or sale of securities or other property or the borrowing of any money or other property.

Section 17(d) of the Act and Rule 17d–1 thereunder, in brief, makes it unlawful for any affiliated person of any registered investment company to effect any transaction in connection with any joint enterprise or joint arrangement in which the registered investment company is a participant, except pursuant to an order of the Commission. As noted above, Narragansett and Venture Corporation are each registered investment companies, and each is an affiliate of the other. Accordingly, the application seeks approval pursuant to Section 17(d) and Rule 17d–1 thereunder for any joint transactions solely between Narragansett and Venture Corporation arising from the Proposed Reorganization or operations thereafter.

Narragansett has also requested relief from those provisions of the Act governing capital structure. Section 18(a) makes it unlawful for any registered closed-end investment company to issue or sell any class of senior security of which it is the issuer, unless the company complies with the asset coverage requirements set forth in the section. Under the provisions of Section 18 applicable to closed-end investment companies, senior securities representing indebtedness must have an asset coverage of 300 percent immediately after their issuance or sale. Senior securities representing stock must have an asset coverage of 200 percent. However, Section 18(k) provides special exemptions from these provisions for SBIC's. In addition, for companies which have elected to be regulated as business development companies, the asset coverage requirement is reduced to 200 percent for all senior securities.

As it currently is organized, Narragansett is entitled to the 18(k) exclusion for its SBA-guaranteed debentures, resulting in all of its almost $35 million SBA-guaranteed debt being excluded from asset coverage requirements. However, after the

Proposed Reorganization, Narragansett represents that its current structure would not comply with the asset coverage requirements of Section 18(a). Following the Proposed Reorganization, Venture Corporation, as an SBIC, would be entitled to the Section 18(k) exclusion and thus would not need any asset coverage for its SBA-guaranteed debentures. However, Narragansett, since it would no longer be an SBIC, would be subject to the asset coverage requirements of Section 18(a), without the benefit of the 18(k) exclusion, with respect to senior securities it directly issued, as well as the senior securities issued by Venture Corporation, its wholly-owned subsidiary, of which Narragansett would be deemed to be the indirect issuer. As a result, Narragansett would be required to have greater assets to cover the existing $35 million indebtedness than is currently required. Therefore, Narragansett is seeding an exemption pursuant to Section 6(c) from the provisions of Section 18(a) for both itself and Venture Corporation to permit the issuance of senior securities only to the following extent: (1) Narragansett and Venture Corporation could issue and sell to banks, insurance companies and other financial institutions their secured or unsecured notes, provided that: a) Such notes were not intended to be publicly distributed, b) such notes could not be converted into any equity security, and c) immediately after the sale or issuance of such notes, Narragansett and Venture Corporation on a consolidated basis and individually would have 200 percent asset coverage, but any SBA-guaranteed debenture would not be considered senior securities requiring asset coverage; and (2) Venture Corporation could obtain financing through the issuance of SBA debentures on such basis and in such amount as the SBA might from time to time permit for SBIC's; Venture Corporation could borrow from Narragansett and vice-versa, and such borrowings would not be considered senior securities requiring asset coverage; and so long as 90 percent of Narragansett's assets were represented by its investments in Venture Corporation, Narragansett could guarantee any borrowing of Venture Corporation without the guarantee being considered a senior security requiring asset coverage.

Section 19(b) of the Act and Rule 19b–1 thereunder make it unlawful for any regulated investment company to distribute more than one long-term capital gain dividend in any taxable year. Narragansett has represented that it is contemplated that Venture Corporation will pay dividends and other distributions to it on a regular basis, which may include dividends constituting distributions of long-term capital gains. Accordingly, Narragansett has requested, pursuant to Section 6(c), an order exempting from the provisions of Section 19(b) and Rule 19b–1 distributions and dividends from Venture Corporation to Narragansett.

Once Narragansett and Venture Corporation elect to become regulated as business development companies, pursuant to Section 6(f) of the Act, they will no longer be subject to the provisions of Sections 1 through 53, except to the extent made applicable in Sections 54 through 64. Therefore, Narragansett will no longer need exemptive relief from Section 19(b) of the Act. However, pursuant to Section 60 of the Act Narragansett will continue to be subject to the provisions of Section 12, restricting the ownership of Narragansett of Venture Corporation. Therefore, Narragansett has requested that this exemptive relief continue following any election to be regulated as a business development company. Pursuant to Section 61 of the Act, business development companies are also subject to the provisions of Section 18, with certain modifications. Therefore, Narragansett has requested that such examptive relief continue after an election by it and Venture Corporation to be regulated as business development companies. Section 17 would not be applicable to Narragansett and Venture Corporation upon election as business development companies. However, Section 57 provides a similar regulatory framework. As pertinent here, Section 57 (a) (1) through (3) prohibits any person controlling a business development company froom engaging in any of the transactions that are proibited under Section 17(a) (1) through (3), except to the extent permitted by rules under Section 17(a). In addition, Section 57(a)(4) prohibits any person controlling a business development company from engaging in any joint transaction with the business development company in contravention of rules under Section 17(d). Therefore, once Narragansett and Venture Corporation elect to become business development companies, they will need, and have so requested, exemptive relief pursuant to Section 57(c) to the same extent as that granted under Sections 17(b) and 17(d) and Rule 17d–1, thereunder. Section 57(c) provides that the Commission shall grant an exemption from that section if evidence establishes that: (1) The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (2) the transaction is consistent with the company's policies; and (3) the proposed transaction is consistent with the general purposes of the Act.

Narragansett submits that under the terms and conditions proposed it is appropriate to grant the requested relief to permit the creation and operation of Venture Corporation as described in the application. Narragansett further submits that the granting of the requested exemptions permitting the proposed reorganization will benefit shareholders by permitting it to utilize the expertise and experience of its officers and directors and retain talented executives as well as enabling Narragansett to invest in an increased range of investment opportunities and to issue funds from a wider source.

Following the spin-off of SBIC activities to Venture Corporation described above, Narragansett states it will continue to be registered and operated as a regulated investment company (until election is made to be regulated as a business development company); however, it will no longer be an SBIC. Narragansett currently intends to retain approximately 40 to 60 percent of its assets (primarily in the form of marketable securities and other liquid assets) for the primary purpose of allowing Narragansett to make direct investments in businesses which are not eligible for investment by an SBIC. In addition, Narragansett has stated an intention to make venture capital investments through First Fund, the limited partnership described below.

Narragansett proposes to invest $225,000 in First Fund (which would have a minimum capitalization of $25.3 million) in exchange for the general partnership interest, which would entitle it to receive 15 percent of the cumulative profits and one percent of the cumulative losses. As the general partner Narragansett would be the sole manager of the partnership and, except for a decision regarding a change in the general partner, will make all decisions for the partnership.

As proposed, each of the Class B Limited Partners would invest $15,000 in First Fund in exchange for a one percent interest in the cumulative profits of the partnership with a liability equal to his pro rata share, based upon his capital contribution, of the cumulative losses not allocated to Narragansett. The five individuals who would be Class B Partners are the five individual applicants, each of whom is an officer or director of Narragansett. The Class B Partners will provide the actual management services to the partnership, but will not receive any compensation for such services beyond their equity interest in the partnership and the remuneration that they receive directly from Narragansett or Venture Corporation.

The Class A Limited Partners will contribute an aggregate of at least $25 million in exchange for an 80 percent interest in the cumulative profits of the partnership and a liability for cumulative losses equal to their pro rata share based upon capital contributions of the losses not allocated to Narragansett. Narragansett represents that the Class A partnership interests will be offered to less than fifty sophisticated institutions and wealthy individuals in a manner that will not involve a public offering, and therefore, will be exempt from registration under the Securities Act of 1933. Neither the Class A nor Class B Partners will have any voting rights, with the exception that Narragansett may not assign its general partnership interest without the approval of the Class A Partners.

Under the proposed partnership arrangement, Applicants represent that First Fund will not be subject to regulation as an investment company nor will Narragansett be required to register as an investment adviser, but that First Fund will be operated so as to meet the definition of a business development company under the Investment Advisers Act of 1940. In addition, Narragansett has undertaken to file with the Commission and provide to shareholders in the appropriate format all information regarding First Fund required by the Act and the federal securities laws. Under the terms of the Partnership Agreement, Narragansett will not be liable to the partnership or any limited partner for any act or omission performed or omitted in good faith pursuant to its authority under the partnership agreement, but only for willful malfeasance or fraud. Therefore, under the terms of the partnership agreement, First Fund would indemnify Narragansett for any loss or damage incurred while furthering the interests of the partnership, except for liability arising from willful malfeasance or fraud. However, this right of indemnification is modified by a representation made by Applicants to limit indemnification to those situations that would be permitted if First Fund were registered under the Act.

According to the application, the investment activities of First Fund will be determined solely by Narragansett. The selection of investments for First Fund will be made by a majority of the directors of Narragansett who have no financial interest in Narragansett or First Fund (other than normal fees paid to directors or less than a 5 percent ownership interest) and by a majority of the disinterested directors of the board ("required disinterested majority"). The board will allocate investment opportunities among Narragansett, Venture Corporation and First Fund subject to the policy that any investment in an enterprise which qualifies as a "small business concern" will be limited to Narragansett and Venture Corporation, and will not be offered to First Fund regardless of whether Narragansett or Venture Corporaton elect to invest. In order to avoid conflicts of interest, Narragansett has represented that there will be no overlap of investments, whether contemporaneous or separated by time, between Narragansett and Venture Corporation on the one hand (including any company controlled by Narragansett) and First Fund on the other. In addition, neither Narragansett nor Venture Capital (nor any other company controlled by Narragansett) will purchase from, or sell to, First Fund any security of any other business concern.

Applicants contemplate that the source of funds for First Fund's investment would be the capital contributions of its partners, most of which will be contributed by the Class A Partners. However, if additional financing were needed, Applicants represent that First Fund might obtain funds through short-term loans from non-affiliated banks or advances from Narragansett, or other debt financing as to which there would be no recourse to Narragansett and which would not otherwise be an obligation of Narragansett.

Narragansett represents that it, First Fund and Venture Corporation will each bear the expenses directly attributable to its own operations. Expenses which cannot fairly be attributed directly to any particular entity will be allocated *pro rata* among the three entities based upon the total assets of each entity. (Narragansett will exclude its investments in Venture Corporation and First Fund for purposes of this computation). All determinations regarding the allocation of expenses shall be approved by a required disinterested majority of the board.

As proposed, the partnership interests have limited rights of transferability. Narragansett, as the general partner, may not transfer its interest without the consent of the Class A Partners. Class A Partners are entitled to transfer their interests, but only after (1) the interest is offered to the other Class A Partners and then Narragansett and (2) the transferee is approved by Narragansett. Class B Partners, in general, may not transfer their partnership interest without the consent of Narragansett. However, when an employee leaves Narragansett or is terminated, Narragansett has an option to repurchase the "unvested portion" of the partnership interest. In addition, if the employee leaves with the consent of Narragansett, he has the option of selling back his partnership interest.

Narragansett states that its officers and directors will continue to receive their normal compensation, which is determined at the discretion of the board of directors. Narragansett represents, in addition, that should First Fund be successfully organized, the compensation of Class B Partners who are employees of it or Venture Corporation will be determined by a required disinterested majority of Narragansett's board of directors who will take into account the understanding that the Class B Partner's participation in First Fund is a part of their overall compensation arrangement. No Class B Partner will receive any compensation directly from First Fund for services performed for First Fund.

Applicants state that additional compensation may be provided to Class B Partners through stock options. Subject to shareholder approval and receipt of an order of the Commission permitting such a plan, Narragansett's board of directors adopted the 1981 Incentive Stock Option Plan under which each of the Class B Partners would be granted an option to purchase 4,651 shares of Narragansett's common stock at a price of $21.50. Under the Plan, none of the stock options may be exercised until the earlier of September 23, 1982, or the date that Narragansett's board of directors shall have withdrawn the offering of limited partnership interests in First Fund. Upon Narragansett's and Venture Corporation's election to be regulated as business development companies, Sections 57(n) and 61(a)(3)(B) of the Act would permit the implementation of stock option and profit sharing plans. Narragansett represents that in the event that it or Venture Corporation should adopt any such plan, no Class B Partner who then holds any partnership interest in First Fund will be permitted to participate in that plan, except as specifically permitted by further order of the Commission.

Pursuant to Section 2(a)(3) of the Act each partner is an affiliated person of his fellow partners and the partnership. Therefore, each class of partners of First Fund may be deemed to be an affiliated person of First Fund and of the other partners of First Fund. As a result, the Class A Partners would be subject to the provisions of Section 17(a) and 17(d) of the Act prohibiting certain affiliated and joint transactions, solely on the basis of their investment in First Fund. Accordingly, absent exemptive relief, Class A Partners could not sell their partnership interests to Narragansett or an affiliate of Narragansett, nor could they make investments in an enterprise in which First Fund were investing or otherwise take action that could be deemed to be a joint transaction with Narragansett. Thus, Applicants have requested an order of the Commission, pursuant to Section 6(c), exempting each Class A Partner from being deemed an affiliated person of First Fund or any other partner of First Fund by reason of his ownership of a partnership interest, provided that each Class A Partner contributes less than 10 percent of the total capital contributions to the partnership.

Applicants have also sought exemptive relief from the provisions of Section 12(d)(1)(A) of the Act which makes it unlawful for any registered investment company, such as Narragansett, to purchase any security issued by any other investment company if immediately after such purchase the registered company would, *inter alia*, own more than three percent of the total outstanding voting stock of the acquired company. Since Narragansett will be the sole general partner of First Fund, entitling it to 15 percent of the partnership's profits, it appears that Narragansett's ownership of the general partner's interest would violate the provisions of Section 12(d)(1)(A). Although First Fund may be excluded by Section 3(c)(1) from being regulated as an investment company under the Act, that section provides specifically that such a company is deemed to be an investment company for purposes of Section 12(d)(1). Therefore, Narragansett is subject to the limitations of Section 12(d)(1)(A) when it purchases securities of First Fund. Thus, the application includes a request for exemptive relief, pursuant to Section 6(c), to permit Narragansett to acquire a general partnership interest in First Fund.

On the basis of its general partnership interest in First Fund, Narragansett also may be deemed to violate the provisions of Section 18(a) of the Act. As applicable to this situation, Section 18(a) prohibits Narragansett from issuing a senior security representing indebtedness unless immediately after issuance it would have an asset coverage of at least 300 percent. Section 48(a) of the Act prohibits a person from doing through or by means of another person what he cannot do directly. Thus, since Narragansett generally would, as the general partner, be liable for any debt of First Fund not satisfied out of the assets of First Fund, it may be deemed to be the issuer of First Fund's securities. Accordingly, the issuance of any senior debt security of First Fund would be prohibited unless Narragansett has sufficient assets to meet the 300 percent test. Applicants have requested an order of the Commission pursuant to Section 6(c) exempting Narragansett from the provisions of Section 18(a) regarding the issuance of debt securities by First Fund.

Applicants have also requested relief pursuant to Section 17(b) of the Act from the provisions of Section 17(a) to permit certain transactions contemplated under the Partnership Agreement. Under some circumstances, as prescribed by the terms of the Partnership Agreement, Narragansett may purchase some or all of the Class B Limited Partnership interests in First Fund held by the Class B Partners and First Fund may make loans or advances to Narragansett. Each type of transaction involves an affiliate of an investment company engaging in a prohibited transaction with an investment company. Moreover, Applicants have sought approval under Section 17(d) of the Act and Rule 17d–1 thereunder to permit certain joint transactions, including the joint investments of Narragansett and the Class B Partners in First Fund and the joint arrangements among Narragansett, First Fund and Venture Corporation and any other investment entity controlled by Narragansett with respect to the allocation of expenses under the method described in the application.

As noted above, following an election to be regulated as business development companies Narragansett and Venture Corporation would still be subject to the limitations placed by Section 12 on the acquisition of an interest in another investment company; the asset coverage requirements of Section 18(a), with certain modifications, would also apply and in general, the types of transactions that are prohibited by Sections 17(a) and 17(d) and Rule 17d–1 are treated similarly under Section 57. In addition, pursuant to Section 59 of the Act, the definitional provisions of Section 2(a)(3) from which Applicants seek exemption apply to business development companies.

Therefore, Applicants request an order of the Commission providing that upon electing to be regulated as business development companies they will be exempted from the provisions of Sections 2(a)(3), 12(d)(1)(A), 18(a) and 57(a), to the extent necessary to permit the proposed activities and that any joint transactions described in the application that fall within the purview of Section 57(a) are approved thereunder.

If the requested exemptive order is granted, Applicants submit that they will be able to achieve several goals. First, it will permit Narragansett to raise funds for investment in non-SBIC situations on a relatively low-cost basis and provide Narragansett a vehicle for investing in such activities. In addition, First Fund is designed to provide executive personnel of Narragansett with an additional source of compensation and thereby increase Narragansett's ability to retain an experienced management group. Further, Applicants submit that the requested order is appropriate in the public interest and consistent with the protection of investors and that the relative rights and obligations of Narragansett and the Limited Partners set forth in the partnership agreement are an equitable allocation of the benefits and risks between the partners in light of the economic contributions, efforts and intended objectives of the parties.

Notice is further given that any interested person may, not later than March 22, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on either or both of the applications accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the applications herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

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[Release No. 22402; 70–6690]

Eastern Utilities Associates, et. al; Proposal To Issue and Sell Common Stock and Make Capital Contribution to Subsidiary; Exception From Competitive Bidding

February 25, 1982.

In the matter of Eastern Utilities Associates, P.O. Box 2333, Boston, Massachusetts 02107; Eastern Edison Co., 110 Mulberry Street, Brockton, Massachusetts 02403; Montaup Electric Co., P.O. Box 391, Fall River, Massachusetts 02722.

Eastern Utilities Associates ("EUA"), a registered holding company, and Eastern Edison Company ("Eastern Edison"), a public utility subsidiary of EUA, and Montaup Electric Company, a generating subsidiary of Eastern Edison, have filed an application-declaration, and amendments thereto, with this Commission under Sections 6, 7, 9(a), 10, 12(b), 12(c), and 12(f) of the Public Utility Holding Company Act of 1935 ("Act"), and Rules 43, 45, 50(a)(3) and 50(a)(5) thereunder.

EUA proposes to issue and sell, on or before December 31, 1982, in two underwritten public offerings, at prices and on other terms to be determined, not in excess of 1,600,000 of its Common Shares, par value of $5 per share, to be newly issued ("Additional Shares"). The first of such offerings is planned for early April 1982 and will be for up to 900,000 shares. An offering of 900,000 shares would amount to about $10 million if sold at approximately the present market price. The timing and the exact number of shares to be sold in the second proposed offering will be fixed in the light of market conditions and other relevant factors.

The net proceeds of the sale of the additional shares will be utilized to make capital contributions to Eastern Edison. Eastern Edison, in turn, will apply the proceeds of such capital contributions either to make further capital contributions to or to purchase additional common stock of Montaup, which will use the proceeds to reduce short-term bank borrowings.

EUA requests an exception from the competitive bidding requirements of Rule 50 pursuant to Rule 50(a)(5) in connection with the proposed issuance and sale of stock to underwriters for sale to the public. EUA proposes, and is hereby authorized, forthwith, to select one or more investment banking firms which will act (or form a group of firms to act) as underwriters for the first of the two offerings, and to negotiate the price and other terms on which the shares to be sold in that offering will be issued to such underwriters for public sale. EUA reserves the right to make a similar request at an appropriate time with respect to the second of the two offerings. EUA states that the exception is justified because the company has had unsatisfactory experiences with common stock offerings at competitive bidding, substantial sales effort by underwriters is necessary to successfully market EUA's stock, and the small size of the offering deters competitive bids.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Any interested persons wishing to comment or request a hearing should submit their views in writing by March 22, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–5680 Filed 3–3–82; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 05/05–0159]

Miami Capital Corp.; Issuance of a Small Business Investment Company License

On July 27, 1981, a notice was published in the **Federal Register** (46 FR 38444) stating that an application has been filed by Miami Capital Corporation, 106 West Ash Street, P.O. Box 106, Piqua, Ohio 45356, with the Small Business Administration (SBA)) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981) for a license as a small business investment company.

Interested parties were given until close of business August 5, 1981, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05–0159 on February 8, 1982, to Miami Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 25, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82–5781 Filed 3–3–82; 8:45 am]

BILLING CODE 8025–01–M

National Advisory Council Meeting

The U.S. Small Business Administration National Advisory Council will hold a public meeting at 8:30 a.m., on April 29 and 30, 1982, at the Wellington Hotel—2505 Wisconsin Avenue, NW., Washington, D.C., to discuss such business as may be presented by members, the staff of the Small Business Administration, or others attending.

For further information, write or call Edna E. Powers, Director, Office of Advisory Councils, U.S. Small Business Administration, 1441 L Street, NW., Room 920–D, Washington, D.C. (202) 653–6892.

Dated: February 25, 1982.

Edna E. Powers,

Director, Office of Advisory Councils.

[FR Doc. 82–5782 Filed 3–3–82; 8:45 am]

BILLING CODE 8025–01–M

[Application No. 10/10-0178]

Seattle Trust Capital Corp.; Application for a License

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981)), under the name of Seattle Trust Capital Corporation, 604 Second Avenue, Seattle, Washington 98104, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and sole shareholder of the Applicant are as follows:

William P. Riley, 9015 S.E. 44th, Mercer Island, WA 98040, Chairman of the Board, Director

Alan Bradley, 3930 Crystal Springs Drive, Bainbridge Island, WA 98110, President, Manager, Director

William J. Roller, 4715 S.E. 139th, Bellevue, WA 98006, Secretary, Director

Joseph C. Baillargeon, 179 Lake Washington, Blvd. East, Seattle, Washington 98112, Director

Leroy L. Lewis, Jr., 4554 East Mercer Way, Mercer Island, WA 98040, Director

Seattle Trust & Savings Bank, 604 Second Avenue, Seattle, Washington 98104, Sole Shareholder

The bank has approximately 1,000 beneficial owners of its equity securities, none of whom owns as much as 10 percent of such securities.

There will be one class of stock authorized: 2,000 shares of common stock. Initially only 1,000 shares will be issued with a resultant private capital of $1,005,000. Applicant proposes to conduct its operations principally in the State of Washington.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than March 18, 1982, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Seattle, Washington.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 25, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-5762 Filed 3-2-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/485]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting on March 18, 1982, of the Working Group on Treatment of Investment and Special Investment Problems of the Advisory Committee on International Investment, Technology, and Development. The Working Group will meet from 10:00 a.m. to 12:00 noon. The meeting will be held in Room 1105 of the State Department, 2201 C Street, NW., Washington, D.C. 20520. The meeting will be open to the public.

The purpose of the meeting will be to review and discuss the status of U.S. investment initiatives in the OECD and GATT including performance requirements and other issues, problems relating to U.S. investment in Canada and France and reciprocity in investment.

Requests for further information on the meeting should be directed to Philip T. Lincoln, Jr., Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632-2728.

Members of the public wishing to attend the meeting must contact Mr. Lincoln's office in order to arrange entrance to the State Department building.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: February 16, 1982.

Philip T. Lincoln, Jr.,

Executive Secretary.

[FR Doc. 82-5761 Filed 3-2-82; 8:45 am]

BILLING CODE 4710-07-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 42
Wednesday, March 3, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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National Museum Services Board	6
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1

FEDERAL COMMUNICATIONS COMMISSION

FCC to Hold Open Commission Meeting, Thursday, March 4, 1982

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, March 4, 1982, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., Subject

Common Carrier—1—*Title:* World Press Freedom Committee's petition for notice of inquiry. *Summary:* The Commission examines the need for a notice of inquiry to determine whether the rates charged by the international record carriers to press entities curtail the free flow of news.

Cable Television—1—Petitions for Reconsideration of *Teleprompter Corporation, et al.*, FCC 81-351, 87 FCC 2d 531 (1981). On November 7, 1980, Teleprompter Corporation filed applications for consent to the transfer of control from its existing stockholders to Westinghouse Broadcasting Company, Inc., or to a subsidiary thereof (CAR-15535-09, CAR-15634-09, CAR-15637-09). In the above-captioned case, the Commission granted its consent to the applications. Petitions for reconsideration have been filed by several groups, which are opposed by Westinghouse.

Assignment and Transfer—1—*Title:* (1) Application to assign the license for station KLBS-FM, Los Banos, California from KLBS-FM, Inc. to Sunshine Valley Broadcasting Company, Inc. (2) Petition to Deny the application filed by Cal Central Broadcasting, Inc. *Summary:* The Commission will consider the petitioner's allegations concerning activities undertaken by Sunshine Valley prior to Commission action on its application and the alleged *de facto* reallocation of KLBS-FM by Sunshine Valley to a nearby larger community.

Broadcast—1—*Title:* Amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Montgomery, Selma and Tuscaloosa, Alabama, and Columbus, Georgia). *Subject:* Application for Review filed by WCOV Inc. seeking Commission review of the Broadcast Bureau's denial of a WCOV request for the institution of a rule making proceeding to reassign VHF television Channel 8 from Selma, Alabama, to Tuscaloosa, Alabama, and to reserve it for noncommercial educational use.

Broadcast—2—*Title: Memorandum and Opinion and Order* in the Matter of amendment of Sections 73.35 and 73.240 of the Commission's Rules relating to Multiple Ownership of AM and FM stations. *Subject:* The Commission will consider a petition for rule making filed by the National Association for the Advancement of Colored People and others seeking to amend the above noted Multiple Ownership Rules.

Broadcast—3—*Title:* Report and Order in the Matter of Amendment of Sections 73.35, 73.240, and 73.636 of the Commission's Rules Relating to Multiple Ownership of AM, FM, and TV Stations. *Subject:* Report and Order considers and resolves issues raised in the Notice of Proposed Rule Making in this proceeding (BC Docket 79-233) and addresses a petition for termination of interim policy.

Broadcast—4—*Title:* In the matter of AM Stereophonic Broadcasting. *Subject:* Report and Order authorizes stereophonic broadcasting for AM broadcast licensees terminating BC Docket 21213.

Broadcast—5—*Title:* Report and Order in the Matter of an Inquiry into the Future Role of Television Translators and Low Power Television Broadcasting in the National Telecommunications System (BC Docket No. 78-253). *Summary:* On September 9, 1980, the Commission adopted a Notice of Proposed Rulemaking proposing to permit program origination and subscription service via TV translators. Stations operating pursuant to these rule changes, and related regulations would comprise the low power television service. This Report and Order discusses and resolves the issues in the proceeding.

Complaints and Compliance—1—*Title:* Application for Review of the Broadcast Bureau's ruling of May 28, 1981, filed by Ms. Phylis Cowan, Mr. William DiBari and Mr. William C. Still on June 23, 1981. *Summary:* The Commission will consider whether to affirm the Bureau's May 28, 1981, ruling. The Bureau denied a candidate discrimination allegation but admonished the licensee for allowing its station manager to conduct interviews and municipal candidates without disclosing his involvement as campaign treasurer for one of the candidates.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: February 26, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-322-82 Filed 3-1-82; 3:10 pm]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION

FCC to Hold A Closed Commission Meeting, Thursday, March 4, 1982

The Federal Communications Commission will hold a Closed Meeting on the subject listed below on Thursday, March 4, 1982, following the Open Meeting which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda Item No., and Subject

Hearing—1—Exceptions to the Initial Decision in the Simon Geller, WVCA-FM Comparative renewal proceeding, Gloucester, Massachusetts (Docket Nos. 21104 and 21105).

This item is closed to the public because it concerns adjudicatory matters (See 47 CFR 0.603 (j)).

The following persons are expected to attend:

Commissioners and their Assistants
General Counsel and members of his staff
Managing Director and members of his staff
Chief, Office of Public Affairs and members of his staff

Action by the Commission December 30, 1981. Commissioners Fowler, Chairman; Quello, Washburn, Fogarty, Jones, Dawson and Rivera voting to consider this item in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: February 26, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-323-82 Filed 3-1-82; 3:18 pm]

BILLING CODE 6712-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, March 8, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,095-NR—San Francisco National Bank, San Francisco, California
Case No. 45,111-L—Franklin National Bank, New York, New York
Memorandum and Resolution re: Bank of Lake Helen, Lake Helen, Florida

Recommendation with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Powell, Goldstein, Frazer & Murphy, Atlanta, Georgia, in connection with the liquidation of The Hamilton Bank and Trust Company, Atlanta, Georgia.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.
Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director, Division of Liquidation:

Memorandum re: Sale of Residential Mortgage Loans to Federal National Mortgage Association (FNMA).

Report of the Director, Office of Corporate Audits:

Audit Report re: Travel Voucher Claims, dated September 10, 1981.
Audit Report re: Investigation Involving a Liquidation Site, dated November 17, 1981.
Audit Report re: Park Hill Estates, dated December 4, 1981.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: March 1, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-317-82 Filed 3-1-82; 12:46 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, March 8, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Requests for relief from adjustment for violations of Regulation Z:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6) and (c)(9)(A)(ii).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: March 1, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-318 Filed 3-1-82; 12:46 pm]

BILLING CODE 6714-01-M

5

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10 a.m., Tuesday, March 9, 1982.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: March 1, 1982.

William W. Wiles,

Secretary of the Board.

[S-327 Filed 3-1-82; 3:05 pm]

BILLING CODE 6210-01-M

6

NATIONAL MUSEUM SERVICES BOARD (NMSB)

DATE AND TIME: March 5, 1982, 9 a.m. to 2:45 p.m.

PLACE: Fourth Level Seminar Room, East Building, National Gallery of Art, 4th Street at Constitution Avenue, NW., Washington, D.C. 20001.

STATUS: The entire meeting will be open to the public.

MATTERS TO BE CONSIDERED:

1. Introduction: George Seybolt, Chairman 9:00 to 9:20 a.m.
2. Minutes 9:20 to 9:30 a.m.
3. Director's Report: Mrs. Lilla Tower 9:30 to 11:30 a.m.
—Budget
—Administration
—Transfer of IMS to National Foundation on the Arts and Humanities
—Grants
—Congressional Hearings schedule
4. Public Information Report: Roberta Faul 11:30 to 11:45 a.m.
5. Lunch 11:45 to 1:00 p.m.
6. Program Report: Mary Kahn 1:00 to 1:30 p.m.
7. National Museum Services Board Business: George Seybolt 1:30 to 2:45 p.m.
—Reprogramming of Special Project funds
—Future Board meeting dates
8. Adjournment 2:45 p.m.

CONTACT PERSON FOR MORE INFORMATION: Kate Merlino, Executive Assistant to the National Museum Services Board Telephone: 202/426-6577.

Dated: February 24, 1982.

Kate Merlino,

Executive Assistant to the National Museum Services Board.

[S-319 Filed 3-1-82; 12:56 pm]

BILLING CODE 4000-01-M

7

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

TIME AND DATE: 10 a.m., Monday, April 5, 1982.

PLACE: Board Room, 712 Jackson Place N.W., Washington, D.C. 20006.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Call meeting to order. Check quorum.
2. Adoption of proposed agenda.
3. Approval of minutes of September 14, 1981 meeting.
4. Report of Chairman.
5. Report of the President.
6. Report of Executive Secretary.
7. Discussion of Awards Ceremony.
8. New Business.
9. Set date for next meeting in September, 1982.

Portions closed to the public:

1. Selection of Truman Scholars for 1982-83.

CONTACT PERSON FOR MORE INFORMATION: Malcolm C. McCormack, Executive Secretary; telephone, 202-395-4831.

Malcolm C. McCormack,

Executive Secretary.

[S-320-82 Filed 3-1-82; 2:45 pm]

BILLING CODE 6115-02-M

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federal register

Wednesday
March 3, 1982

Part II

Department of Education

Special Services for Disadvantaged Students Program; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 646

Special Services for Disadvantaged Students Program

AGENCY: Education Department.

ACTION: Final Regulations.

SUMMARY: The Secretary of Education is issuing final regulations for the Special Services Programs. These regulations reflect the statutory changes contained in the Education Amendments of 1980. They also clarify and simplify requirements governing the program.

EFFECTIVE DATE: Unless Congress takes certain adjournments, these regulations will take effect 45 days after publication in the Federal Register. If you want to know the effective date of these regulations, call or write the Department of Education contact person. At a future date the Secretary will publish a notice in the Federal Register stating the effective date of these regulations.

FOR FURTHER INFORMATION CONTACT: Mary Kathleen Smith, Office of Postsecondary Education, Department of Education, (Room 3514, ROB–3), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–2511.

SUPPLEMENTARY INFORMATION: On May 24, 1977, the Commissioner of Education published in the Federal Register the final regulations for the Special Services Program. Those regulations governed the grant awards made during fiscal year 1981. The Education Amendments of 1980 changed the Special Services Program in several respects, and proposed regulations that reflected these changes were published as a notice of proposed rulemaking in the Federal Register on December 31, 1980 (45 FR 86900–86905). These final regulations will govern grant awards made in fiscal year 1982 and thereafter.

These regulations incorporate by reference 34 CFR Parts 75 and 77 of the Education Department General Administrative Regulations (EDGAR); therefore, the regulations do not repeat certain types of information and requirements found in EDGAR. However, the general selection criteria found in EDGAR (34 CFR 75.202 through 75.208) have been repeated in these regulations for the convenience of the applicant (§ 646.31 (a) through (e)).

To avoid any implication of overregulation, the Secretary has deleted from these final regulations all of the nonrequired project activities that had been included in §§ 646.10 and 646.11 of the notice of proposed rulemaking.

However, as an aid to potential applicants, the following is a list of *examples* of activities the Secretary may consider for funding for this program in addition to the optional statutory activities listed in § 646.10(a). Projects may—

(1) Develop and use procedures to identify individuals who are eligible to participate;

(2) Develop and use procedures to select participants from among eligible individuals;

(3) Determine for each participant academic and other educational deficiencies that must be corrected to enable that individual to graduate;

(4) Develop for each participant an individualized plan of program support to improve the participant's skills;

(5) Document the effects of project activities on a student's performance and progress while he or she is participating in the project; and

(6) Refer participants, on an individual basis, to health, employment, housing and legal agencies and other resources to resolve noneducational problems related to academic success.

In the notice of proposed rulemaking, the Secretary invited comments on the proposed regulations. A summary of the substantive comments received and the Secretary's responses to those comments is contained in the appendix to these regulations.

The Secretary has made a number of other changes in these regulations in an effort to deregulate and to reduce burdens on applicants, participants, and grantees. Each of these changes is also described in the appendix together with an explanation for the change.

In addition, some technical and editorial revisions have been made in the language of the regulations.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is already being gathered by or is available from any other agency or authority of the United States.

Based on the absence of any comments on this matter and the Department's own review, it has been determined that the regulations in this document do not require information that is already being gathered by or is available from any other agency or authority of the United States.

Invitation to Comment

To assist the Department in complying with the specific requirements of Executive Order 12291 and its overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these regulations.

Citation of Legal Authority

A citation of statutory or other authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance No. 84.042, Special Services for Disadvantaged Students Program)

Dated: February 25, 1982.

T. H. Bell,

Secretary of Education.

The Secretary revises Part 646 of Title 34 of the Code of Federal Regulations to read as follows:

PART 646—SPECIAL SERVICES FOR DISADVANTAGED STUDENTS PROGRAM

Subpart A—General

Sec.

646.1 Special services for disadvantaged students program.
646.2 Eligible applicants.
646.3 Eligible project participants: General.
646.4 Eligible project participants: Selection requirements.
646.5 Regulations that apply to the Special Services Program.
646.6 Definitions that apply to the Special Services Program.

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

646.10 Kinds of projects the Secretary assists under the Special Services Program.

Subpart C—How Does One Apply for a Grant?

646.20 Assurances.

Subpart D—How Does the Secretary Make a Grant?

646.30 How the secretary evaluates an application for a new award.
646.31 Selection criteria the Secretary uses.
646.32 Past performance [Reserved]

Subpart E—What Conditions Must Be Met by a Grantee?

646.40 Allowable costs.
646.41 Nonallowable costs.
646.42 Other requirements of a grantee.

Authority: Secs. 417A and 417D of the Higher Education Act of 1965, as amended (20 U.S.C. 1070d; 1070d–1b), unless otherwise noted.

Subpart A—General

§ 646.1 Special services for disadvantaged students program.

The special services for disadvantaged students program—referred to in these regulations as the Special Services program—provides

Federal financial assistance to projects designed to assist qualified postsecondary students through services such as those described in § 646.10.

(20 U.S.C. 1070d, 1070d–1b)

§ 646.2 Eligible applicants.

Institutions of higher education are eligible to apply for grants to carry out Special Services projects.

(20 U.S.C. 1070d, 1070d–1b)

§ 646.3 Eligible project participants: General.

An individual is eligible to participate in a Special Services project if the individual—

(a)(1) Is a citizen or national of the United States;

(2) Is a permanent resident of the United States;

(3) Provides evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident; or

(4) Is a permanent resident of the Trust Territory of the Pacific Islands;

(b) Is enrolled or accepted for enrollment in the next enrollment period at the grantee institution;

(c) Has a need for academic support in order to successfully pursue a postsecondary educational program; and

(d) Is, at the time of initial selection—

(1) A low-income individual;

(2) A first-generation college student; or

(3) Physically handicapped.

(20 U.S.C. 1070d, 1070d–1b)

§ 646.4 Eligible project participants: Selection requirements.

(a) At least two-thirds of the eligible individuals an applicant proposes to serve under a Special Services project must be—

(1) Physically handicapped; or

(2) Low-income individuals who are first-generation college students.

(b) The remaining individuals the applicant proposes to serve under the Special Services project must be—

(1) Physically handicapped;

(2) Low-income individuals; or

(3) First-generation college students.

(c) A "low-income individual" means an individual whose family's taxable income did not exceed 150 percent of the poverty level in the calendar year preceding the year in which the individual participates in the project. Poverty level income is determined by using criteria of poverty established by the Bureau of the Census, U.S. Department of Commerce.

(d)(1) A "first-generation college student" means a person neither of whose parents received a bachelor's degree.

(2) With respect to individuals 18 years of age and under, only the natural or adoptive parents who are currently residing with the individual are considered the individual's parents in determining whether the individual meets the criterion of being a first-generation college student.

(3) With respect to individuals over 18, only the natural or adoptive parents who were residing with the individual before the individual's eighteenth birthday are considered the individual's parents in determining whether the individual meets the criterion of being a first-generation college student.

(e) "Physically handicapped," with reference to an individual, means a person who, because of a physical disability, needs specifically designed instructional materials or programs, modified physical facilities, or related services in order to participate fully in the experience and opportunities offered by postsecondary educational institutions.

(20 U.S.C. 1070d, 1070d–1b; House Report 96–520, 96 Cong. 1st Sess. p. 28 (1979) and Senate Report 96–733, 96 Cong. 2nd Sess. p. 28 (1980))

§ 646.5 Regulations that apply to the Special Services program.

The following requirements apply to the Special Services program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 75 (Direct Grant Programs) and 34 CFR Part 77 (Definitions).

(b) The regulations in this Part 646.

(20 U.S.C. 1070d, 1070d–1b and 3474)

§ 646.6 Definitions that apply to the special services program.

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Part 77:

Applicant	Grantee
Application	Nonprofit
Award	Private
Budget	Project
EDGAR	Public
Equipment	Secretary
Facilities	State
Fiscal year	Supplies
Grant	

(20 U.S.C. 1070d, 1070d–1b, 1221e–3)

(b) *Definitions that apply to this part.* The following definitions apply to this part:

"Act" means the Higher Education Act of 1965, as amended. (20 U.S.C. 1001 et seq.)

"Institution of higher education" means an educational institution as defined in sections 1201(a) and 481 of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1141(a), 1088)

"Limited proficiency in English," with reference to an individual, means an individual—

(1)(i) Who was not born in the United States;

(ii) Whose native language is other than English;

(iii) Who comes from an environment in which a language other than English is most relied upon for communication; or

(iv) Who is an American Indian or Alaskan Native student and comes from an environment in which a language other than English has had a significant impact on his or her level of proficiency in the English language; and

(2) Who, as a result of the circumstances described in paragraph (1) of this definition, is unable to learn successfully in classrooms in which the language of instruction is English because he or she cannot adequately understand, speak, read or write the English language.

(20 U.S.C. 3223(a)(1))

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

§ 646.10 Kinds of projects the Secretary assists under the special services program.

(a) The Secretary gives consideration to an application for a Special Services project that proposes to provide services such as—

(1) Instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

(2) Personal counseling;

(3) Academic advice and assistance in course selection;

(4) Tutorial services;

(5) Exposure to cultural events and academic programs not usually available to disadvantaged students;

(6) Activities designed to acquaint students participating in the project with the range of career options available to them;

(7) Activities designed to assist students participating in the project in securing admission and financial assistance for enrollment in graduate and professional programs; and

(8) Programs and activities as described in paragraphs (a) (1) through (7) of this section which are specially designed for students of limited proficiency in English.

(b) The Secretary will consider an application that proposes to carry out activities in addition to the ones listed in paragraph (a) of this section if the

activities support the purposes of the Special Services program.

(20 U.S.C. 1070d, 1070d–1b)

Subpart C—How Does One Apply for a Grant?

§ 646.20 Assurances.

An applicant shall submit as part of its application an assurance that each participant enrolled in the project will receive sufficient financial assistance to meet the student's full financial need.

(20 U.S.C. 1070d, 1070d–1b)

Subpart D—How Does the Secretary Make a Grant?

§ 646.30 How the Secretary evaluates an application for a new award.

(a) The Secretary evaluates an application on the basis of the criteria in § 646.31.

(1) The Secretary awards up to 100 points for these criteria.

(2) The maximum possible score for each complete criterion is indicated in parentheses next to the heading of that criterion.

(b) For applicants that have conducted a Special Services project within the three fiscal years prior to the fiscal year for which the applicant is applying, the Secretary considers the experience of the applicant on the basis of § 646.32.

(c) In the final selection of similarly rated applications, the Secretary considers the relative need for a project in the applicant institution as compared to the need in other applicant institutions.

(20 U.S.C. 1070d, 1070d–1b)

§ 646.31 Selection criteria the Secretary uses.

The Secretary uses the criteria in paragraphs (a) through (h) of this section to evaluate applications for new awards:

(a) *Plan of operation.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that ensures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups; and

(B) Women.

(b) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the qualifications of key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2) (i) and (ii) of this section plans to commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (5 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(f) *Need for the project at the applicant institution.* (25 points)

(1) The Secretary reviews each application for information that shows that a need for a Special Services project exists at the institution applying for a grant.

(2) The Secretary looks for information that shows—

(i) (9 points) The number and percentage of students enrolled or accepted for enrollment at the institution who meet the eligibility requirements of § 646.3;

(ii) (8 points) The academic and other problems that eligible students encounter at the institution; and

(iii) (8 points) A comparison between students who would be eligible for Special Services and the total enrollment at the institution on the following factors:

(A) Attrition rates.

(B) Grade point averages.

(C) Graduate and professional school enrollment rates.

(g) *Likelihood of success.* (20 points)

(1) The Secretary reviews each application for information that shows the likelihood of success of the proposed project.

(2) To determine the likelihood of success, the Secretary looks for information that shows the comprehensiveness of the applicant's plan for—

(i) (4 points) Identifying students eligible to be served by the project and selecting participants from those eligible;

(ii) (4 points) Conducting an individual needs assessment of supportive services for each participant selected;

(iii) (10 points) Providing—through the project, the institution, or other sources—those activities listed in § 646.10(a) that the applicant chooses to propose, and any other activities that the applicant proposes that relate to the goal of the program; and

(iv) (2 points) Locating the project in an area that is accessible to participants, especially handicapped participants.

(h) *Institutional commitment.* (15 points)

(1) The Secretary reviews each application for information that shows the commitment of the applicant to the Special Services project.

(2) The Secretary looks for information that shows—

(i) (3 points) The degree to which the administrative and academic policies, grading systems, retention policies, and probation procedures indicate institutional commitment to the participants' chances for graduating from the institution;

(ii) (5 points) (A) The extent to which the institution has made available, in the previous three years, educational opportunities for low-income students, first-generation college students, and physically handicapped students; and

(B) The efforts of the institution to retain these students and to improve their chances of graduating from the institution;

(iii) (3 points) The extent to which the project director will contribute to administrative and academic policies that affect participants' chances of completing an educational program at the institution;

(iv) (2 points) The extent to which the applicant proposes to inform the institutional community of the goals and objectives of the Special Services project; and

(v) (2 points) The extent to which the applicant will make available to the project institutional resources, including the commitment of time from institutional faculty and staff.

(20 U.S.C. 1070d, 1070d–1b and 3474)

§ 646.32 Past performance. [Reserved]

Subpart E—What Conditions Must Be Met by a Grantee?

§ 646.40 Allowable costs.

Allowable project costs, not specifically covered by 34 CFR Part 74, may include the following costs reasonably related to carrying out a Special Services project:

(a) Cost of remedial and special classes if—

(1) These classes are limited to project participants; and

(2) The institution does not provide identical instruction—

(i) As part of its program of instruction; or

(ii) Through another Federal program or a State, local, or privately funded program.

(b) Courses in English language instruction for students of limited proficiency in English if these classes are—

(1) Limited to project participants; and

(2) Not otherwise available.

(c) In-service training of project staff.

(d) Activities of an academic or cultural nature, such as field trips, special lectures, and symposiums, that have as their purpose the improvement of the participants' academic progress and personal development at the institution.

(e) Transportation of participants to and from approved educational and cultural activities sponsored by the project.

(20 U.S.C. 1070d, 1070d–1b)

§ 646.41 Nonallowable costs.

Costs that may not be charged against a grant under this program include the following:

(a) Costs involved in the recruiting of students for enrollment at the institution.

(b) Purchase of major equipment, unless the grantee demonstrates to the Secretary's satisfaction that purchase is required to meet the purposes of the project and is less expensive than renting.

(c) Payment of tuition, stipends, or any other form of student financial support to staff or participants.

(d) Research not directly related to the evaluation or improvement of the project.

(e) Construction, renovation, or remodeling of any facilities.

(20 U.S.C. 1070d, 1070d–1b)

§ 646.42 Other requirements of a grantee.

Each grantee shall—

(a) Engage a full-time project director. However, the Secretary may waive the full-time requirement as specified in EDGAR, 34 CFR 75.511; and

(b) Determine the eligibility of each participant at the time that the individual is selected to participate in the project. The grantee does not have to revalidate a participant's eligibility after this time.

(20 U.S.C. 1070d, 1070d–1b)

Note.—This appendix is included for information purposes only. It is not to be published in the Code of Federal Regulations.

Appendix—Summary of Comments and Responses

In the notice of proposed rulemaking published in the Federal Register on December 31, 1980 (45 FR 86900–86905), the Secretary invited comments on the proposed regulations.

The following includes a summary of the substantive public comments received and the Secretary's responses to those comments including any changes. The comments and responses and any changes are organized in the same order as the referenced sections are organized in these final regulations.

Section numbers and section headings in parentheses are the numbers and headings that appeared in the notice of proposed rulemaking but that have been renumbered, retitled, or deleted in these final regulations.

Section 646.1 The Special Services for Disadvantaged Students Program.

Comment. One commenter noted that "supportive services" was omitted from the program purpose in § 646.1.

Response. A change has been made. Section 646.1 has been revised to read—provides Federal financial assistance to projects designed to assist qualified postsecondary students through services such as those described in § 646.10.

Section 646.2 Eligible applicants.

Comment. One commenter questioned the statutory authority for the inclusion of "combinations of institutions of higher education" as an eligible applicant in § 646.2(b) of the proposed regulations.

Response. Section 646.2(b) of the NPRM has been deleted from these final regulations.

Section 646.3 Eligible project participants: General.

Comment. Two commenter suggested that the phrase "excluding the summer session" in § 646.3(b) be deleted because the wording is vague.

Response. A change has been made. The Secretary has deleted the phrase. The section now reads: "Is enrolled or accepted for enrollment for the next enrollment period at the grantee institution."

Comment. Two commenters suggested "cultural deprivation" and "educationally disadvantaged" should be retained—from the previous regulations—as eligibility criteria under § 646.3(d) for participation in Special Services projects.

Response. No change has been made. The Education Amendments of 1980 changed participant eligibility requirements to low-income individuals, first-generation college students, and the physically handicapped.

Comment. Eight Commenters suggested that in § 646.3(d)(3) the word "physically" should be deleted and projects allowed to serve handicapped students as defined in section 504 of the Vocational Rehabilitation Act of 1973. Three commenters also suggested that "learning disabilities" be added to the definition of physically handicapped.

Response. A change has been made. However, the suggestions of the commenters have not been taken. The law requires Special Services projects to

provide services to the "physically handicapped" as defined in § 646.4(e). The Secretary has deleted the list of physical disabilities.

Section 646.4 Eligible project participants: Selection requirements.

Comment. Ten commenters suggested that the participant selection criteria in § 646.4 (a) and (b) were too restrictive. Three commenters suggested that participants be selected as follows: Two-thirds low-income individuals; one-third low-income or first-generation or physically handicapped. Several commenters said that participant selection should be based on the five current selection criteria: deprived educational, cultural, or economic background; physical handicap, and limited English-speaking ability.

Response. The law (Section 417D(c)(1) of the Higher Education Act of 1965 (HEA)) requires that two-thirds of the participants be physically handicapped persons or be low-income individuals who are first-generation college students. The remaining one-third may be low-income individuals, first-generation college students, or physically handicapped persons. There is no statutory authority to permit continued use of the current selection criteria.

Comment. Two commenters questioned how a project is to prove and document the educational status of the participant's parents (§ 646.4(d)).

Response. A grantee may satisfy this requirement if it obtains a written statement from the applicant or the applicant's parents attesting to that fact. This can be done on a participant eligibility form.

Comment. Six commenters suggested that § 646.4(b) of the proposed regulations should be dropped because that provision imposes a limitation on projects and contradicts the intent of the Congress. Many commenters suggested that executive orders on affirmative action already exist to help attain the goals suggested in that paragraph of the regulations.

Response. The Secretary has adopted the suggestion, and the paragraph has been deleted.

Other changes. Paragraph (a)(5)(ii) of the proposed regulations has been deleted. Although the list of physical disabilities was not all inclusive, it gave the appearance of being restrictive.

Section 646.6 Definitions that apply to the Special Services Program.

Comment. Two commenters noted that in § 646.6(b) the definition for "limited proficiency in English" used the term "* * * from a home * * *" rather than "* * * from an environment * * *" as stated in the law. The commenters suggested that this change of wording made the regulations more restrictive.

Response. A change has been made. The Secretary has revised the definition.

Section 646.10 Kinds of projects the Secretary assists under the Special Services Program.

Comment. A number of commenters suggested that in § 646.10(a) "shall" should be dropped and replaced with "may" as is used in the statute.

Response. A change has been made. The Secretary has made the services and activities in this section allowable, rather than required. The Secretary has reorganized this section. It now includes only those activities specified by the legislation, but notes that the Secretary does not preclude additional activities from consideration for funding. Examples of those types of activities appear in the preamble to these regulations.

Comment. One commenter stated that in § 646.10(f)(2) (of the proposed regulations) the language "* * * for a period of time sufficient for them to adjust" is vague. The commenter recommended retaining the current language, which states that students in Special Services projects should be retained two years at a four-year institution and one year at a two-year institution.

Response. A change has been made. The Secretary has deleted § 646.10(f)(2) from these final regulations to decrease the burden on the grantees.

Other changes. The requirement listed in the proposed regulations as § 646.10(f)(1) has been moved to a new § 646.20 (Assurances).

Requirements listed in the proposed regulations as § 646.10(f) (3), (6), and (8) relating to facilities, resources, and duplication of services have been deleted from these regulations by the Secretary to decrease the burden on the grantees. In addition, the requirement for a full-time project director listed in the proposed regulations as § 646.10(f)(5) has been moved to a new § 646.42 (Other requirements of a grantee) and is listed as paragraph (a).

Paragraph (d) of § 646.10 of the proposed regulations has been deleted because the requirement duplicated that of § 646.31(a)(2)(iii).

The requirement listed in the proposed regulations as § 646.10(f)(4) relating to the location of the project has been moved to § 646.31 (Selection criteria) and is listed as paragraph (g)(2)(iv).

Requirements listed in the proposed regulations as § 646.10(f) (6) and (7) relating to institutional commitment have been deleted from these final regulations because they were duplicative of the requirements in § 646.31(h)(2).

Requirements listed in the proposed regulations as § 646.10(c), (d), and (e) relating to prescribed project activities and project coordination have been deleted from these regulations to decrease the burden on grantees.

Section 646.11 (Educational component for students with limited proficiency in English.)

Comment. Two commenters suggested that § 641.11(b) of the proposed regulations be reworded to include a bilingual component in personal, career, and academic counseling; bilingual remedial instruction in reading, writing, and mathematics; and other bilingual supportive services necessary to meet the educational needs of participating students.

Response. A change has been made. The Secretary has deleted this section because the requirement is now covered in § 646.10(a)(6). It should be noted, however, that the Special Services Program is not a bilingual program. Rather, the provision of programs and activities "specially designed for students of limited English proficiency" is permitted under the statute. Thus, the Secretary recommends that each project take into account—if applicable—all the needs of eligible students with limited proficiency in English and provide a support program that meets those needs.

Comment. One commenter questioned the statutory authority for the provision in § 646.11(b)(3) of the proposed regulations which read: "If the project cannot serve all students eligible for the component, it should select for participation students who have the greatest difficulty understanding, speaking, reading, and writing English."

Response. A change has been made. The Secretary has deleted the paragraph in order to give institutions greater discretion in selecting participants.

Section 646.20 Assurances. (How to apply for funds.)

Comment. A number of commenters suggested that § 646.20 (§ 646.10(f)(1) of the proposed regulations) should be revised to read "assure that each participant enrolled in the project will receive help in applying for sufficient financial assistance to meet the student's full financial need". Several commenters stated that financial aid directors may not offer special consideration to students in a Special Services project because their institutions' own regulations will not allow them to do so.

Response. No change has been made. Section 646.20 is a statutory requirement (417D(d) of the Higher Education Act, 20 U.S.C. 1070d–1b(d)).

Changes. Section 641.20 of the NPRM (How to apply for funds) has been omitted from these regulations because it duplicates § 646.5(a) regarding the applicability of EDGAR. A new § 646.20 (Assurances) has been added to the final regulations. Paragraph 464.10(f)(1) in the proposed regulations has been moved to this section.

Section 646.30 How the Secretary evaluates an application.

Comment. Two commenters questioned why consideration for experience was limited to the previous three years in § 646.30(b).

Response. The Secretary has determined that a three-year period is most feasible administratively: Project records are available on location and grant records are readily available in the Department. In addition, applicants that have had poor prior experience will not be penalized indefinitely.

Comment. Several commenters questioned why, in § 646.30(b), consideration was given only to adding points for experience. The commenters suggested that poor experience should receive a negative rating.

Response. Paragraph (b) has been revised. The sentence concerning the awarding of up to 30 points for experience has been deleted. Poifit assignment for past performance appeared in a separate notice of proposed rulemaking for § 646.32.

Section 646.31 Selection criteria the Secretary uses.

Comment. Several commenters suggested that clarification was needed in § 646.31(a)(2)(v) as to how an applicant will provide equal access to and treatment of eligible participants who are members of groups that have been traditionally underrepresented.

Response. No change has been made. It is the responsibility of the applicant to describe how it plans to provide equal access and treatment through its practices and policies.

Other changes. The Secretary has assigned points to each separate criterion in paragraphs (f), (g), and (h).

Paragraph (g) of this section has been retitled "Likelihood of success" to reflect more accurately the criteria being evaluated. The Secretary has deleted paragraphs (a)(2)(iii)(b) and (9)(2)(iv) of the proposed regulations from these final regulations because they duplicate the criteria in paragraph (h). The Secretary has transferred the criterion in paragraph (g)(2)(iv) from § 646.10(f)(4) of the proposed regulations.

Section 646.32 Past performance. (Prior experience.)

Changes. The Secretary has deleted the provisions of this section as it appeared in the NPRM. Instead the Secretary is publishing the section as a separate notice of proposed rulemaking in the **Federal Register**. The reference to § 646.32 of the NPRM has also been deleted because the Secretary has decided not to develop performance standards.

Section 646.40 Allowable costs.

Comment. A number of commenters expressed opposition to § 646.40(a) and suggested that this provision be revised. The commenters argued that if institutions have to share in the cost of remedial classes, the institutions will charge tuition for these classes; and if tuition is charged, the students will not elect to take the special classes.

Response. A change has been made. Section 646.40(a) has been revised to read: "(a) The cost of remedial and special classes if— (1) These classes are limited to project participants; and (2) The institution does not provide identical instruction— (i) As part of its program of instruction; or (ii) Through another Federal program or a State, local, or privately funded program."

Comment. Several commenters expressed concern over the requirement in § 646.40(c) that all in-service training needed prior approval by the Secretary. The commenters stated that once a project has an approved grant, there should be no need for further approval. In addition, they contended, it is impractical to expect the Secretary to be able to respond in a timely manner to requests made by project directors during the project year.

Response. A change has been made. The phrase "if approved by the Secretary" has been deleted. As long as in-service training activities conform to approved budgetary and programmatic guidelines, there will be no need for additional approval.

Section 646.42 Other requirements of a grantee. (Performance standards.)

Changes. Section 646.42 of the NPRM was titled "performance standards." As noted in the explanation for the change in § 646.32, the Secretary has dropped plans to develop performance standards. This section is now titled "Other requirements of a grantee." The requirement previously listed in the proposed regulations as § 646.10(f)(5) has been moved to this section as paragraph (a). The Secretary has added a new paragraph (b). The Secretary has determined that these requirements are more logically post-award requirements of a grantee and, therefore, belong in this subpart. (Formerly § 646.50) (*Recordkeeping.*)

Changes. To decrease the burden on grantees and to avoid the appearance of prescribing specific recordkeeping items through regulations, the Secretary has deleted this section. Grantees need only to conform to the EDGAR requirements. (See 34 CFR 75.730–75.734.)

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Part III

Department of Education

Upward Bound Program

DEPARTMENT OF EDUCATION

34 CFR Part 645

Upward Bound Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education is issuing final regulations for the Upward Bound Program. These regulations reflect the statutory changes contained in the Education Amendments of 1980. They also clarify and simplify requirements governing the program.

EFFECTIVE DATE: Unless Congress takes certain adjournments, these regulations will take effect 45 days after publication in the **Federal Register**. If you want to know the effective date of these regulations, call or write the Department of Education contact person. At a future date the Secretary will publish a notice in the **Federal Register** stating the effective date of these regulations.

FOR FURTHER INFORMATION CONTACT: Mary Kathleen Smith, Office of Postsecondary Education, Department of Education, (Room 3514, ROB–3), 400 Maryland Avenue SW., Washington, D.C. 20202. Telephone: (202) 245–2511.

SUPPLEMENTARY INFORMATION: On May 24, 1977, the Commissioner of Education published in the **Federal Register** the final regulations for the Upward Bound Program. Those regulations governed the grant awards made during fiscal year 1981. The Education Amendments of 1980 changed the Upward Bound Program in several respects, and proposed regulations that reflected these changes were published as a notice of proposed rulemaking in the **Federal Register** on December 31, 1980 (45 FR 86914–86920). These final regulations will govern grant awards made in fiscal year 1982 and thereafter.

These regulations incorporate by reference 34 CFR Parts 75 and 77 of the Education Department General Administrative Regulations (EDGAR); therefore, the regulations do not repeat certain types of information and requirements found in EDGAR. However, the general selection criteria found in EDGAR (34 CFR 75.202 through 75.206) have been repeated in these regulations for the convenience of the applicant (§ 645.31 (a) through (e)).

To avoid any implication of overregulation, the Secretary has deleted from these final regulations all of the non-required project activities that had been included in §§ 645.10 through 645.14 of the notice of proposed rulemaking.

However, as an aid to potential applicants, the following is a list of *examples* of activities the Secretary may consider for funding under this program—in addition to the required and statutorily stated optional activities in §§ 645.10 through 645.13. Projects may—

(1) Publicize in the target area, particularly in the target schools, the opportunity to participate in the project, informing interested students, parents, and veterans of the criteria for eligibility and selection;

(2) Develop and use procedures to identify, through a variety of sources, individuals who are eligible to participate;

(3) Develop and use procedures to select participants from among eligible individuals;

(4) Diagnose specific areas of academic strengths and weaknesses in each participant through the use of standardized tests or other recognized procedures;

(5) Develop an individualized plan of program support to improve each participant's skills;

(6) Identify and use institutional and community resources to diagnose in participants health problems that are impeding learning and, to the extent possible, use these resources to alleviate those problems;

(7)(i) Establish a relationship with service agencies in the target area so that the grantee is aware of the various services available; and

(ii) Refer participants to these service agencies as appropriate;

(8) Provide instruction in the use of the English language, either through the project or through other programs available in the area;

(9) Assist in preparing admission, financial aid, and other forms necessary to attend a postsecondary institution;

(10) Assist in preparing for national standardized tests required for postsecondary admission; and

(11) Provide a continuing evaluation of each participant's progress toward achieving adequate academic skills and motivation necessary for success in postsecondary education, including an assessment of each participant's realistic postsecondary educational opportunities and potential.

In addition, an applicant submitting an application for an Upward Bound project that would offer a bridge summer component may propose to carry out under its grant appropriate related activities. For example, projects may offer—

(1) Postsecondary educational courses that participants may take for credit;

(2) Postsecondary courses that participants may audit;

(3) Preview courses that anticipate postsecondary courses because they are taught by the lecture method, require notetaking, or have other characteristics of postsecondary courses; and

(4) Study skills seminars.

In the notice of proposed rulemaking, the Secretary invited comments on the proposed regulations. A summary of the substantive comments received and the Secretary's responses to these comments is contained in the appendix to these regulations.

The Secretary has made a number of other changes in these regulations in an effort to deregulate and to reduce burdens on applicants, participants, and grantees. Each of these changes is also described in the appendix, together with an explanation for the change.

In addition, some technical and editorial revisions have been made in the language of the regulations.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is already being gathered by or is available from any other agency or authority of the United States.

Based on the absence of any comments on this matter and the Department's own review, it has been determined that the regulations in this document do not require information that is already being gathered by or is available from any other agency or authority of the United States.

Invitation to Comment

To assist the Department in complying with the specific requirements of Executive Order 12291 and its overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these regulations.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance No. 84.047, Upward Bound Program)

Dated: February 25, 1982.

T. H. Bell,

Secretary of Education.

The Secretary revises Part 645 of Title 34 of the Code of Federal Regulations, to read as follows:

PART 645—UPWARD BOUND PROGRAM

Subpart A—General

Sec.

645.1 Upward Bound Program.
645.2 Eligible applicants.
645.3 Eligible project participants: general.
645.4 Eligible project participants: selection requirements.
645.5 Regulations that apply to the Upward Bound Program.
645.6 Definitions that apply to the Upward Bound Program.

Subpart B—What Kinds of Projects Does the Secretary Assist under This Program?

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645.43 Other requirements of a grantee.

Authority: Secs. 417A and 417C of Title IV of the Higher Education Act of 1965, as amended (20 U.S.C. 1070d, 1070d–1a), unless otherwise noted.

Subpart A—General

§ 645.1 Upward Bound Program.

The Upward Bound Program provides Federal financial assistance to projects designed to generate in participants skills and motivation necessary for success in education beyond high school.

(20 U.S.C. 1070d, 1070d–1a)

§ 645.2 Eligible applicants.

The following are eligible to apply for a grant to carry out an Upward Bound project:

(a) Institutions of higher education.

(b) Public and private agencies and organizations.

(c) Secondary schools, in exceptional cases, if there are no other applicants capable of providing this program in the target areas to be served by the proposed projects.

(20 U.S.C. 1070d, 1070d–1a)

§ 645.3 Eligible project participants: general.

(a) An individual is eligible to participate in an Upward Bound project if the individual—

(1) (i) Is a citizen or national of the United States;

(ii) Is a permanent resident of the United States;

(iii) Provides evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident; or

(iv) Is a permanent resident of the Trust Territory of the Pacific Islands;

(2) Is, at the time of initial selection, a potential first-generation college student or a low-income individual;

(3) Has a need for academic support in order to successfully pursue a program of education beyond high school; and

(4) At the time of initial selection, has completed the eighth grade but has not entered the twelfth grade and is at least 13 years old but not older than 19. However, the project may serve individuals who are less than 13 or have not completed the eighth grade if the secondary schools in the project's target area have an unusually high dropout rate. In addition, the project may serve individuals who have entered the twelfth grade if there are no eligible unserved individuals in the project's target area who are in the eighth to the eleventh grades.

(b) *Veterans.* A veteran, regardless of age, is eligible to participate in an Upward Bound project if he or she satisfies the eligibility requirements in paragraph (a) of this section other than the requirements of paragraph (a)(4) of this section.

(20 U.S.C. 1070d, 1070d–1a)

§ 645.4 Eligible project participants: selection requirements.

(a) At least two-thirds of the eligible individuals the applicant proposed to serve under an Upward Bound project must, at the time of initial selection, be low-income individuals who are also potential first-generation college students.

(b) The remaining individuals the applicant proposes to serve must, at the time of initial selection, qualify as either low-income individuals or potential first-generation college students.

(c) A "low-income individual" means an individual who family's taxable income did not exceed 150 percent of the poverty level in the calendar year preceding the year in which the individual participates in the project. Poverty level income is determined by using criteria of poverty established by the Bureau of the Census, U.S. Department of Commerce.

(d)(1) A "potential, first-generation college student" means a person neither of whose parents received a bachelor's degree.

(2) With respect to an individual 18 years of age and under, only the natural or adoptive parents who are currently residing with the individual are considered the individual's parents in determining whether the individual meets the criterion of being a potential, first-generation college student.

(3) With respect to an individual over 18, only the natural or adoptive parents who were residing with the individual before the individual's eighteenth birthday are considered the individual's parents in determining whether the individual meets the criterion of being a potential, first-generation college student.

(20 U.S.C. 1070d, 1070d–1a; House Report 96–520, 96th Congress 1st. Sess. p. 28 (1979) and Senate Report 96–733, 96th Cong. 2nd Sess. p. 26 (1980))

§ 645.5 Regulations that apply to the Upward Bound Program.

The following regulations apply to the Upward Bound Program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 75 (Direct Grant Programs) and in 34 CFR Part 77 (Definitions).

(b) The regulations in this Part 645.

(20 U.S.C. 3474, 1070d and 1070d–1a)

§ 645.6 Definitions that apply to the Upward Bound Program.

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Part 77:

Applicant	Grantee
Application	Nonprofit
Award	Private
Budget	Project
EDGAR	Public
Equipment	Secondary school
Facilities	Secretary
Fiscal year	State
Grant	Supplies

(b) *Definitions that apply to this part.* The following definitions apply to this part:

"Act" means the Higher Education Act of 1965, as amended.

(20 U.S.C. 1001 *et seq.*)

"Institution of higher education" means an educational institution as defined in Section 1201(a) and 481 of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1141(a); 1088)

"Limited proficiency in English," with reference to an individual, means an individual—

(1)(i) who was not born in the United States;

(ii) Whose native language is other than English;

(iii) Who comes from an environment in which a language other than English is most relied upon for communication; or

(iv) Who is an American Indian or Alaskan Native student and comes from an environment in which a language other than English has had a significant impact on his or her level of proficiency in the English language; and

(2) Who, as a result of the circumstances described in paragraph (1) of this definition, is unable to learn successfully in classrooms in which the language of instruction is English because he or she cannot adequately understand, speak, read, or write the English language.

(20 U.S.C. 3223(a)(1))

"Postsecondary education" means a program of education beyond the secondary school level.

(20 U.S.C. 1070d, 1070d–1a)

"Target area" means a discrete geographic area—as determined by the applicant—that is or would be served by an Upward Bound project.

(20 U.S.C. 1070d, 1070d–1a)

"Target school" means a secondary school that serves students residing in a target area and that is or would be served by an Upward Bound project.

(20 U.S.C. 1070d, 1070d–1a)

"Veteran" means a person as defined in 38 U.S.C. 1652(a).

(38 U.S.C. 1652(a))

Subpart B—What Kinds of Projects Does the Secretary Assist under This Program?

§ 645.10 Kinds of projects the Secretary assists under the Upward Bound Program.

(a) The Secretary assists two kinds of projects under the Upward Bound Program:

(1) Regular Upward Bound projects that provide services to qualified secondary school students.

(2) Veterans Upward Bound projects that provide services to veterans.

(b) Regular Upward Bound projects must have both an academic year component, as described in § 645.11, and a summer component, as described in § 645.12.

(c) An Upward Bound project, including a Veterans Upward Bound Project, may provide services such as—

(1) Instruction in reading, writing, study skills, mathematics, and other subjects necessary for success in education beyond high school;

(2) Personal counseling;

(3) Academic advice and assistance in high school course selection;

(4) Tutorial services;

(5) Exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

(6) Activities designed to acquaint youths participating in the project with the range of career options available to them;

(7) Instruction designed to prepare youths participating in the project for careers in which persons from disadvantaged backgrounds are particularly underrepresented;

(8) On-campus residential programs; and

(9) Programs and activities as described in paragraphs (c) (1) through (8) of this section that are specially designed for individuals with limited proficiency in English.

(d) The Secretary does not restrict activities under this program to the optional activities specified in paragraph (c) of this section if the activities support the purpose of the Upward Bound Program.

(20 U.S.C. 1070d, 1070d–1a)

§ 645.11 Academic year component.

(a) During the academic year, regular Upward Bound projects shall provide to participants on a weekly basis services such as those described in § 645.10(c)

(b) To the extent possible, an Upward Bound project shall schedule services so that the project's activities do not interfere with a participant's full participation in the academic and nonacademic activities at the participant's secondary school.

(c) If the project location or the project staff are not readily accessible to participants because of distance or lack of transportation, the grantee may, with the Secretary's permission, provide services to participants every two weeks.

(20 U.S.C. 1070d, 1070d–1a)

§ 645.12 Summer component.

(a)(1) Regular Upward Bound projects shall provide a summer component of six weeks duration.

(2) The Secretary may approve a shorter or longer summer component if the applicant can demonstrate that a shorter or longer session will not hinder the effectiveness of the project nor prevent the project from achieving its stated goals and objectives.

(b) The summer component may be either a residential program or a nonresidential program.

(c) The summer component shall be designed to simulate a college-going experience for the participants.

(d) During the summer component, a project shall provide to participants on a daily basis services such as those described in § 645.10(c).

(e) The project may offer a bridge summer component for those Upward Bound participants who have graduated from secondary school and intend to enroll at a postsecondary institution in the upcoming fall semester. The bridge summer component provides participants with services and activities that aid in the transition from high school to postsecondary education.

(20 U.S.C. 1070d, 1070d–1a)

§ 645.13 Veterans projects.

(a) The Secretary may fund Upward Bound projects for veterans.

(b) In addition to the activities described in § 645.10(c), a Veterans Upward Bound project may—

(1) Provide intensive basic skills development in those academic subjects required for the successful completion of a high school equivalency program, if necessary, and for admission to postsecondary institutions;

(2) Provide short-term remedial-refresher courses for those veterans who are high school graduates but who have delayed pursuing postsecondary education. If the grantee is an institution of higher education, these courses may not duplicate courses otherwise available to veterans at the institution; and

(3) Assist veterans in securing services from other locally available resources such as the Veterans Administration, State veterans agencies, veterans associations, and other State and local agencies that serve veterans.

(20 U.S.C. 1070d, 1070d–1a)

§ 645.14 Project size.

(a) Each regular Upward Bound project shall serve between 50 and 150 participants.

(b) Each Veterans Upward Bound project shall serve a minimum of 120 veterans during a project year.

(c) The Secretary may waive the requirements of paragraphs (a) and (b) of this section if the applicant can demonstrate that the project will be effective and consistent with the goals of the program.

(20 U.S.C. 1070d, 1070d–1a)

Subpart C—[Reserved]

Subpart D—How Does the Secretary Make a Grant?

§ 645.30 How the Secretary evaluates an application for a new award.

(a) The Secretary evaluates an application on the basis of the criteria in § 645.31.

(1) The Secretary awards up to 100 points for these criteria.

(2) The maximum possible score for each complete criterion is indicated in parentheses next to the heading of that criterion.

(b) For applicants that have conducted an Upward Bound project within the three fiscal years prior to the fiscal year for which the applicant is applying, the Secretary considers the experience of the applicant on the basis of § 645.32.

(c) In the final selection of similarly rated applications, the Secretary considers the relative need for a project in the area the applicant proposes to serve as compared to the need in areas other applicants propose to serve.

(20 U.S.C. 1070d, 1070d–1a)

§ 645.31 Selection criteria the Secretary uses.

The Secretary uses the following criteria—in paragraphs (a) through (h)—to evaluate applications:

(a) *Plan of operation.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that ensures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women; and

(C) Handicapped persons.

(b) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2)(i) and (ii) of this section plans to commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (5 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(f) *Need for the project.* (25 points)

(1) The Secretary reviews each application for information that shows a need for an Upward Bound project in the area the applicant plans to serve.

(2) (9 points) The Secretary looks for information that shows the extent to which the target area lacks the services and activities provided by a regular Upward Bound or a Veterans Upward Bound project.

(3) (16 points) To determine the extent of the need for a regular Upward Bound project, the Secretary also considers—

(i) The estimated number of students enrolled in target schools who are from low-income families;

(ii) The estimated number and percentage of those types of students who subsequently enroll in postsecondary education;

(iii) The ratio of secondary school counselors to students in the target schools; and

(iv) The dropout rate of students from the target schools.

(4) (16 points) To determine the extent of the need for a Veterans Upward Bound project, the Secretary also considers the number of veterans in the target area who are eligible for and need Upward Bound services.

(g) *Likelihood of success.* (20 points)

(1) The Secretary reviews each application for information that shows the likelihood of success of the proposed project.

(2) (8 points) The Secretary looks for information that shows the extent to which the project is likely to—

(i) Generate academic skills and motivation that will enable the participants to complete a secondary educational program and to subsequently gain admission to postsecondary institutions; and

(ii) Enable the participants to attain those academic skills such as reading, writing, mathematics, and study skills, that are essential for postsecondary education and in which participants are deficient.

(3) (12 points) To determine the likelihood of success, the Secretary looks for information that shows the comprehensiveness of the applicant's plan for—

(i) Identifying and selecting eligible participants;

(ii) Diagnosing each participant's need for academic support in order to successfully pursue a program of postsecondary education;

(iii) Developing a plan of program support to improve each participant's skills; and

(iv) Providing activities and services, such as those listed in §645.10(c) that

relate to the goals of the Upward Bound Program.

(h) *Institutional and community support.* (15 points)

(1) The Secretary reviews each application for information that shows how the applicant plans to increase the awareness of, and gain the support of, the institution and the local community in fulfilling project goals.

(2) The Secretary looks for information that shows—

(i) (10 points) The extent to which the applicant has identified institutional, community, and other resources to supplement authorized activities; and

(ii) (5 points) The existence of a plan to inform the residents of the target area, target schools, and the institutional community of—

(A) The goals and objectives of the Upward Bound project; and

(B) The selection criteria for acceptance into the project.

(20 U.S.C. 3474; 1070d, 1070d–1a)

§ 645.32 Past performance. [Reserved]

Subpart E—What Conditions Must Be Met by a Grantee?

§ 645.40 Allowable costs.

Allowable project costs not specifically covered by 34 CFR Part 74 may include the following costs reasonably related to carrying out an Upward Bound Project:

(a) In-service training of project staff.

(b) Rental of space if space is not available at the host institution and the space rented is not owned by the host institution.

(c) For participants in an Upward Bound residential summer component, room and board—computed on a weekly basis—not to exceed the weekly rate the host institution charges regularly enrolled students at the institution.

(d) Room and board for those persons responsible for dormitory supervision of participants during a residential summer component.

(e) Other means for Upward Bound participants while participating in project activities.

(f) Student activities fees for Upward Bound participants.

(g) Admission fees, transportation, and other costs necessary to participate in field trips, attend educational activities, visit museums, and attend other events that have as their purpose the intellectual, social, and cultural development of participants.

(h) Costs for one project-sponsored banquet or ceremony.

(i) Tuition costs for postsecondary credit courses at the host institution for participants in the bridge summer component.

(j)(1) Accident insurance to cover any injuries to a project participant while participating in a project activity; and

(2) Medical insurance and health service fees for the project participants while participating full-time in the summer component.

(k) Courses in English language instruction for participants with limited proficiency in English if these classes are limited to project participants and if these classes are not otherwise available at a target school.

(l) Transportation costs of participants for regularly scheduled project activities.

(m) Transportation, meals, and overnight accommodations for staff members when they are required to accompany participants in project activities, such as field trips.

(20 U.S.C. 1070d, 1070d–1a)

§ 645.41 Nonallowable costs.

Costs that may not be charged against a grant under this program include the following:

(a) Duplication of services that are available to participants through—

(1) State, local, or private sources;

(2) The institution or agency sponsoring the project; or

(3) Other Federal programs.

(b) Research not directly related to the evaluation or improvement of the project.

(c) Purchase of any equipment, unless the grantee demonstrates to the Secretary's satisfaction that purchase is less expensive than renting.

(d) Meals for staff except as provided in § 645.40(d) and (m) and in paragraph (f) of this section.

(e) Clothing.

(f) Room and board for administrative and instructional staff personnel who do not have responsibility for dormitory supervision of project participants during a residential summer component unless these costs are approved by the Secretary.

(g) Room and board for participants in Veterans Upward Bound projects.

(h) Construction, renovation, or remodeling of any facilities.

(i) Tuition, stipends, or any other form of student financial support for project staff.

(20 U.S.C. 1070d, 1070d–1a)

§ 645.42 Stipends.

(a) An Upward Bound project may provide stipends for all participants who participate on an essentially full-time basis.

(b) In order to receive the stipend, the participant must show evidence of satisfactory participation in activities of the project including—

(1) Regular attendance; and

(2) Performance in accordance with standards established by the grantee and described in the application.

(c) The grantee may prorate the amount of the stipend according to the number of scheduled sessions in which the student participated.

(d) The following rules govern the amounts of stipends a grantee is permitted to provide:

(1) *For regular Upward Bound projects*—

(i) For the academic year component, the stipend may not exceed $40 per month; and

(ii) For the summer component the stipend may not exceed $60 per month.

(2) *For veterans Upward Bound projects,* the stipend may not exceed $40 per month.

(20 U.S.C. 1070d, 1070d–1a)

§ 645.43 Other requirements of a grantee.

Each grantee shall—

(a) Engage a full-time project director. However, the Secretary may waive the full-time requirement as specified in EDGAR, 34 CFR 75–511; and

(b)(1) Determine the eligibility of each participant at the time that individual is selected to participate in the project.

(2) The grantee does not have to revalidate a participant's eligibility after this time.

(20 U.S.C. 1070d, 1070d–1a)

Note.—This Appendix is included for information only. It is not to be codified in the Code of Federal Regulations.

Appendix—Summary of Comments and Responses

In the notice of proposed rulemaking published in the **Federal Register** on December 31, 1980 (45 FR 86914–86920) the Secretary invited comments on the proposed regulations.

The following includes a summary of the substantive public comments received and the Secretary's responses to those comments, including any changes. The comments and responses and any changes are organized in the same order as the referenced sections are organized in these final regulations.

Section numbers and section headings in parentheses are the numbers and headings that appeared in the notice of proposed rulemaking but that have been renumbered, retitled, or deleted in these final regulations.

Section 645.1 Upward Bound Program.

Comment. One commenter expressed concern that this section did not adequately reflect the language of the legislation.

Response. A change has been made. The Secretary has revised § 645.1 to repeat the phrasing of the authorizing legislation.

Section 645.2 Eligible applicants. (Eligible grantees.)

Comment. One commenter noted that combinations of institutions of higher education (§645.2(b) of the proposed regulations) are not eligible to apply for an Upward Bound grant because the statute does not authorize them as eligible.

Response. A change has been made. The Secretary has deleted combinations of institutions of higher education from the list of eligible applicants.

Section 645.3 Eligible project participants: general.

Comment. Two commenters questioned the requirement that participants reside in a target area (§ 645.3(a)(2)(i) of the proposed regulations). The commenters noted that this requirement may restrict projects from serving needy students from areas that do not meet the definition of "target area" (§ 645.7(b)).

Response. A change has been made. The Secretary has deleted the requirement of residence in a target area or attendance at a target school as a requirement for participation in an Upward Bound project.

Comment. One commenter expressed concern over § 645.3(a)(2)(ii) of the proposed regulations, which qualifies dropouts committed to returning to secondary school. The commenter stated that unless the student is committed to or expressed an interest in pursuing education beyond secondary school, there is no authority for this regulation.

Response. A change has been made. The Secretary has deleted this requirement.

Comment. Two commenters expressed concern that § 645.3(a)(4) would preclude a project from serving a substantial number of Southeast Asian immigrants since it is not unusual to find a 20-year-old Asian student who is a high school junior. The commenters recommended raising the age requirement to 22 or making special provision for Asian students.

Response. No change has been made. As the paragraph now reads, an individual *at the time of initial selection* must not be older than 19. Therefore, students who are 19 and are in the 10th grade may be chosen for the project and may be served until they are graduated from high school.

Comment. One commenter noted an apparent discrepancy: The law states that, in order to participate, an individual must have completed eight years of elementary education. However, § 645.3(a)(4) of the regulations states that the individual must have completed the eighth grade. The commenter questioned why the change had been made.

Response. No change has been made. It was the interpretation of the Secretary that the authorizing statute intended for Upward Bound projects to serve high school students, except in unusual circumstances. The House and Senate Committee Reports state that this exception was included to allow projects to serve younger students if there is an unusually high secondary school attrition rate. In most instances, however, projects are intended to serve high schools and high school students only. If the regulations were changed to read "eight years of elementary education," it would be possible to have students who are still in the fourth or fifth grade eligible for a project.

Changes. The Secretary has revised the language of paragraph § 645.3 (a)(2) and (a)(4) so that the phrase "at the time of initial selection" is applicable to both potential first-generation college students and low-income individuals. This change was made to reduce the burden on the grantee to revalidate the eligibility of each participant every year. The grantee is required to make the verification only at the time an individual is selected for particpation in the Upward Bound project.

The Secretary has revised paragraph § 645.3(a)(4) so that projects may choose individuals who, at the time of selection, have entered the twelfth grade. This is permitted only when there are no eligible unserved individuals in the target area who are in grades eight to eleven.

Section 645.4 Eligible project participants: selection requirements.

Comments. Several commenters expressed concerns about the first-generation college student requirement (§ 645.4 (a) and (b)). Four commenters opposed a project's being able to enroll up to one-third of its participants solely on the basis of their being potential first-generation college students. The commenters were concerned that this would permit the project to serve middle- and upper-income individuals. One commenter asked how a project is to prove and document the educational status of the parents of participants.

Response. No change has been made. The legislation and, therefore, these regulations permit projects to serve up to one-third of the participants on the basis of their being potential first-generation college students.

A grantee may satisfy the potential first-generation college student requirement if it obtains a written statement from the applicant or the applicant's parents attesting to that fact. This can be done on a participant eligibility form.

Comment. Three commenters opposed using criteria of poverty established by the Bureau of the Census, U.S. Department of Commerce (§ 645.4(c) of these final regulations; § 645.4(a)(3) of the NPRM). They recommended that the Department of Education determine participant eligibility on the basis of data produced by the U.S. Department of Labor showing significant regional differences in the cost of living.

Response. No change has been made. The authorizing legislation states that the poverty level is determined by using criteria of poverty established by the Bureau of the Census.

Comment. One commenter suggested that the definition for low-income individual (§ 645.4(c) of these final regulations; § 645.4(a)(3) of the NPRM) be revised so that a ward of the State would be included in the definition.

Response. No change has been made. Wards of the State are not precluded from being served under the definition and would automatically meet the low-income criterion.

Comment. One commenter recommended that the definition of "potential first-generation college student" eligibility criteria (§ 645.4(d) of these final regulations) provide for situations involving children of single-parent families.

Response. No change has been made. The definition includes single-parent families since only the natural or adoptive parents who currently reside with the individual are considered the individual's parents in determining whether the individual meets the criterion of being a potential first-generation college student.

Comment. Numerous commenters recommended that § 645.4(b) of the proposed regulations be deleted since it contradicts the intent of the legislation to provide project administrators at the local level the discretion to choose from among the eligible population those students who are most in need of services.

Response. A change has been made. The Secretary has deleted the paragraph from these final regulations and has renumbered or relettered the other paragraphs in this section.

Other changes. The Secretary has revised paragraphs (a) and (b) of this section to include the phrase: "at the time of initial selection." This change was made to reduce the burden on a grantee to revalidate the eligibility of each participant every year. The grantee is required to verify eligibility only at the time of a participant's initial selection.

(Section 645.5) (Target Area)

Comment. Two commenters questioned the requirement (§ 645.5(b)(1)) that no part of the target area may be more than fifty miles from the applicant as too restrictive of rural programs and likely to hinder all projects from reaching eligible students. One commenter questioned the statutory basis for the 50-mile requirement.

Response. A change has been made. The Secretary has deleted this section from the final regulations.

Section 645.6 (§ 645.7) Definitions

Comment. One commenter noted that in the definition of "limited proficiency in English," the term "who was not born in the United States" appears irrelevant and may cause some misinterpretation at the project level. The commenter recommended that the phrase be dropped.

Response. No change has been made. The statutory provision from which the definition is taken includes the term "who was not born in the United States."

Comment. Five commenters expressed concern over the definition of "target area." One commenter noted that the definition requires information that is not readily available because census tracts do not conform to school districts. In addition, pockets of poverty may be hidden in large census tracts. Other commenters stated that since projects will be serving participants who meet the low-income criteria, it should not be necessary that the geographic area have a minimum level of low-income families.

Another commenter noted that rural, sparsely populated areas would be hurt by the 20 percent low-income requirement. One commenter stated that the 20 percent requirement may limit the recruitment for Upward Bound projects for veterans.

Response. A change has been made. The Secretary has revised the definition of "target area" and has dropped the requirement that 20 percent of the resident families be low-income. However, the regulations retain the concept of a target area being a project's service area. The Secretary believes it is essential—for responsible program and project management—that each applicant define its proposed service area.

Comment. Two commenters disagreed with the definition of "veteran." They pointed out that the law defined a veteran according to Section 1052(a) of Title 38 U.S.C.

Response. A change has been made. The definition referred to by the commenters has been substituted for the definition that appeared in the NPRM.

Comment. One commenter requested that the regulations include a definition of "postsecondary education" since the regulations refer to postsecondary education and postsecondary educational programs.

Response. A change has been made. The Secretary has included in § 645.6(b) of these regulations a definition of "postsecondary education."

Section 645.10 Kinds of projects the Secretary assists under the Upward Bound Program

Comment. One commenter questioned the specific statutory authority for requiring Upward Bound projects to develop an individualized plan of program support to improve each participant's skills (§ 645.10(c)(7) of the proposed regulations).

Response. A change has been made. The Secretary has deleted this activity as a required activity. The activity appears in the preamble as an example of an activity the Secretary may consider for funding.

Comment. One commenter recommended that the regulations require each project to test each participant's vision and hearing to determine if there are any problems that impede learning (§ 645.10(c)(11) of the NPRM).

Response. A change has been made. The Secretary has deleted this requirement to avoid the appearance of prescribing non-required project activities. The Secretary regards as overregulation any provision that would require each project to conduct vision and hearing tests.

Comment. One commenter questioned the authority for requiring Upward Bound projects to make every effort to secure for each participant admission to an institution of postsecondary education (§ 645.10(c)(15) of the NPRM). The commenter noted that the authorizing legislation did not require this service.

Response. A change has been made. The Secretary has deleted this requirement from these final regulations to decrease the burden on grantees.

Comment. One commenter questioned the authority for requiring Upward Bound projects to assure that all the facilities of the grantee, both academic and non-academic, are made available to the project participants (§ 645.10(c)(10) of the NPRM).

Response. A change has been made. The Secretary has deleted this requirement from the final regulations.

Comment. Two commenters expressed concern over the requirement that the Upward Bound project implement a plan to follow participants through their postsecondary educational programs (§ 645.10(c)(13) of the proposed regulations). They noted that this kind of follow-up is very expensive, especially for Upward Bound projects for veterans. In addition, the commenters argued, retention in postsecondary education should not be a factor that determines a project's effectiveness because the project has no control over circumstances once a former participant enters a postsecondary educational program. The commenters also contended that this kind of follow-up is time-consuming.

Response. A change has been made. The Secretary has deleted this follow-up requirement from these final regulations.

Other changes. Paragraph (a)(2) of the proposed regulations has been deleted. This requirement is duplicative of paragraph (c)(9) of these final regulations that permits Upward Bound projects to provide activities and services that are specially designed for individuals with limited proficiency in English.

Paragraph (a)(1) has been revised to stress the distinction between a regular Upward Bound project and a Veterans Upward Bound project.

Paragraph (c)(6) of the proposed regulations has been deleted from these regulations. This requirement was duplicative of § 645.31(a)(2)(iii) of the regulations.

Paragraph (c)(8) of the proposed regulations has been moved to a new section, § 645.43: Other requirements of a grantee. The Secretary has determined that the requirement in this paragraph is more logically a post-award function.

Paragraphs (c) (1) through (5), (c) (9), (12) and (14) have been deleted. The Secretary has deleted these requirements to avoid the appearance of prescribing non-required activities and to permit applicants flexibility. Some of these activities appear in the preamble as examples of activities the Secretary may consider for funding.

A new paragraph (c) has been added that lists those activities in the authorizing legislation that the Secretary may consider for funding.

A new paragraph (d) has been added that informs applicants that the Secretary does not restrict activities under this program to only those listed as optional activities.

Section 645.11 Academic year component

Comment. Four commenters expressed concern over the requirement that all the activities listed under § 645.11 had to be provided by all Upward Bound projects. They pointed out that the legislation stated that the activities were permitted, not required. In addition, the commenters said, the "shall" imposes an expectation that projects have not been funded to meet.

Two commenters noted that § 645.11(a)(1)(iii) of the NPRM may be interpreted as restricting the types of activities projects may provide. They recommended that the section be revised to read: "* * * These programs and activities may include, but are not limited to,* * *". Another commenter noted that although the Education Amendments of 1980 included cultural events in the listing of allowable activities, this was omitted from the regulations and should be added. The commenter also questioned the addition of the words "that have as their purpose the intellectual, social and cultural development of the particpants."

One commenter questioned the authority for permitting Upward Bound projects to assist participants in preparing admission, financial aid, and other forms necessary for enrollment in postsecondary education and to assist them in preparing for national standardized tests required for postsecondary education (§ 645.11(a)(2)(iii) and (iv) of the NPRM).

Two commenters questioned the wording of § 645.11(a)(4) of the NPRM. It appeared to the commenters that this paragraph, as worded in the NPRM, requires specific approval of any action taken by the project and, thus, was redundant with respect to the other requirements of § 645.11(a) of the NPRM. The commenters suggested that the paragraph be reworded to read: "Provide—with the specific approval of the Secretary—*such other* activities that have* * *."

Response. A change has been made. Section 645.11 has been revised and reorganized to more accurately reflect the legislation authorizing the program. Paragraphs (a)(1) (i) through (iii), and (a)(2) through (4) have been deleted from the regulations to avoid the appearance of prescribing non-required activities and to permit applicants flexibility. Some of these activities appear in the preamble as examples of activities the Secretary may consider for funding.

Other changes. Paragraph (a) of this section has been rewritten to reference the activities permitted by the authorizing legislation.

A new paragraph (b) has been added to this section. This paragraph requires a project to schedule services so that they do not interfere with the and nonacademic activities at the participant's secondary school.

The Secretary has relettered paragraph (b) of the NPRM. This paragraph is (c) in these regulations.

Section 645.12 Summer Component

Comment. Two commenters stated that the requirement that the summer component be at least six weeks in duration went beyond the law (§ 645.12(a)(i)). The commenters suggested that the paragraph be revised to read: "* * * an Upward Bound project may be at least six weeks."

Response. A change has been made. Although the suggestion of the commenters was not taken, the Secretary has included a waiver to the six-weeks requirement (§ 645.12(a)(ii)).

Comment. Two commenters noted that the requirement that an Upward Bound project maintain a waiting list for the summer component (§ 645.12(b) (1) and (2) of the proposed regulations) was overly prescriptive and specific.

Response. A change has been made. The Secretary has deleted this paragraph from these final regulations.

Comment. Four commenters requested that the regulations require the summer component to be residential. Four other commenters favored the flexibility and choice permitted by § 645.12(b) (paragraph (f)(1) of the NPRM); that is, that a project may be either a residential program or a nonresidential program.

Response. No change has been made. The authorizing legislation stated that the summer component may be residential. Therefore, to require the summer component to be residential would be overregulating.

Comment. Two commenters expressed concern about the requirement that a project provide meals to participants during the summer component (§ 645.12(e)(7) of the NPRM). One of the commenters stated that the regulations should not require three meals a day. The other commenter asked for clarification on how many meals per day a grantee would be required to provide.

Response. A change has been made. The Secretary has deleted the requirement that every project must provide meals to participants. However, the costs for meals for participants while engaged in project activities is an allowable cost and appears in § 645.40(e).

Comment. One commenter expressed concern about the requirement that teachers from target schools must be part of the summer staff (§ 645.12(e)(4)(i) of the NPRM). The commenters stated that teachers from target schools might not be the most appropriate teachers to meet the needs of participants.

Two commenters suggested that tutors and peer counselors (paragraph (e)(5) of the NPRM) should be from backgrounds similar to those of the project participants.

Three commenters suggested adding "emotional and psychological" to the list that appears in § 645.12(e)(3)(ii) of the NPRM so that the section reads "* * * that have as their purpose the intellectual, social, cultural, emotional, psychological, and career development of the participants." One commenter suggested adding Outward Bound-type activities to the list of activities named.

One commenter asked why § 645.12(e)(3)(ii) of the NPRM did not track the statutory language of "exposure to cultural events, academic programs and other activities * * * not usually available to disadvantaged youth."

Response. A change has been made. The Secretary has deleted paragraphs (d), (e) (1) through (6), and (f) (2) and (3) from these regulations to avoid the appearance of prescribing non-required activities and to permit applicants flexibility. Some of these activities appear in the preamble as examples of activities the Secretary may consider for funding.

Comment. Four commenters suggested that requiring a grantee to establish a bridge summer component went beyond the law. They suggested that § 645.12(e) (paragraph (c)(1) of the NPRM) be revised to read "may" since this component should be offered only for those for whom it would be appropriate. Other participants, the commenters said, might better benefit from internships and work study programs, for example.

Response. A change has been made. The Secretary has accepted the recommendation of the commenters and the paragraph has been revised to read: "The project *may* make special provisions * * *" The Secretary has deleted the list of examples of activities the project could provide to participants in the bridge summer component (paragraphs (c)(2) (i) through (iv) of the NPRM). These activities are listed in the preamble as examples of activities the Secretary may consider for funding.

Other changes. The Secretary has added two new paragraphs (c) and (d) to

the final regulations. Paragraph (c) requires projects to design a summer component that simulates a college-going experience. Paragraph (d) requires projects to provide services to participants on a daily basis.

Section 645.13 Veterans projects

Comment. One commenter questioned the authority for the regulations to permit a project to provide courses needed by participants for the completion of high school and for admission to postsecondary programs (§ 645.13(b)(1)). The commenter noted that unless a participant intends to proceed with postsecondary schooling, there is no authority for this activity.

Response. No change has been made. The purpose of Veterans Upward Bound projects is to prepare participating veterans to pursue postsecondary education successfully. Therefore, veterans accepted into the project must express the intent of pursuing postsecondary education.

Comment. Two commenters assumed that the intent of § 645.13(b)(2)(ii) would not restrict an institution of higher education from providing classes or instruction similar in content to other instruction offered at the institution but with techniques, intensity, or duration designed to better meet the needs of the target population.

Response. No change has been made. The commenters have accurately interpreted this paragraph.

Comment. One commenter pointed out the ambiguity of § 645.13(b)(6) of the proposed regulations. The commenter questioned what "certification for payment" meant, since two interpretations could be made: (1) certification by a school prior to a veteran's claim being sent to the Veterans Administration; or (2) adjudication of a claim by the Veterans Administration. Another commenter questioned the authority for a grantee to provide this service before a veteran begins educational activities.

Response. A change has been made. The Secretary has determined that the paragraph was ambiguous and that the requirement was overregulating. Therefore, the Secretary has deleted the paragraph from these final regulations.

Other changes. Paragraphs (b) (3), (5), and (7) have been deleted from these regulations. The Secretary wishes to avoid the appearance of prescribing non-required activities.

(Formerly § 645.14) (Educational component for participants with limited proficiency in English)

Changes. The Secretary has deleted this section from these regulations because it duplicates § 645.10(c)(9) regarding allowable services for participants of limited proficiency in English.

Section 645.14 (§ 645.15) Project size

Comment. Two commenters stated that the requirements of paragraph (a) and (b) of this section were too restrictive and requested a reduction in the minimum number of participants a project must serve in order to be eligible for a grant. Another commenter noted that the statute authorizing the Upward Bound Program makes no mention of size.

Response. A change has been made. The Secretary has revised § 645.14(a) so that the minimum number to be served in a regular Upward Bound project is 50 participants. However, no change has been made in § 645.14(b). It has been the experience of the Department that these numbers represent the optimum size for an efficient and effective Upward Bound project. The Secretary does permit a waiver to these requirements (§ 645.14(c)).

(Section 645.20) (How to apply for funds)

Changes. Section 645.20 of the NPRM (How to apply for funds) has been omitted from these regulations because it duplicates § 645.5(a) regarding the applicability of EDGAR.

Section 645.30 How the Secretary evaluates an application for a new award

Comment. One commenter asked why consideration for experience was limited to the previous three years (§ 645.30(b)). The commenter noted that no time limit was specified in the authorizing legislation.

Response. No change has been made. The Secretary has determined that a three-year period is most feasible administratively: project records are available on location and grant records are readily available in the Department. In addition, applicants that have had poor past performance will not be penalized indefinitely.

Comment. Two commenters expressed concern about § 645.30(c). One of the commenters stated that applicants should establish need in their area, not that it is more or less critical than need in other areas. To other commenters it appeared that heavily populated areas would receive an increased number of projects since no special consideration is given to rural communities and culturally isolated areas. The commenter recommended that the rurality and the cultural deprivation of an area be taken into consideration along with low-income data.

Response. No change is made. It is not the responsibility of an applicant to establish whether its need is more or less critical than the need in other areas. Only after all the applications have been evaluated and ranked does the Secretary consider the relative need for a project.

The need for a project in a particular area may change as funding decisions are made. For instance, an Upward Bound application is submitted to serve a particular target area; part of the need for the project is based on the lack of any similar services for disadvantaged youth. However, by the time the funding recommendation is made, the need for the project might change if an Educational Opportunity Center or a Talent Search project has been funded in the interim to serve parts of the same target area. The Secretary would take this into consideration when selecting applications for funding under the Upward Bound Program.

With regard to the commenters concern about rural and cultural isolation, these are not eligibility criteria for the Upward Bound Program. The law defines eligibility for project services on the basis of income level and parental educational attainment. These, therefore, are the principal factors in determining need for a project.

Changes. Paragraph (b) has been revised. The sentence concerning the awarding of up to 30 additional points for experience has been deleted. Point assignments for past performance appeared in a separate notice of proposed rulemaking for § 645.32.

Section 645.31 Selection criteria the Secretary uses

Comment. Three commenters suggested that §645.31(d)(2) be revised so that the evaluation plan would include data on such matters as high school retention, project retention, and postsecondary placement rate.

Response. No change has been made. Within the overall goals and objectives of the program (§ 645.1) each project may develop its unique goals and, therefore, develop additional data. To prescribe specific data that each project must collect would be overregulating.

Comment. Two commenters expressed concern over § 645.31(f)(2)(ii) (of the proposed regulations), (f)(3)(i), and (f)(3)(ii). They stated that the information requested was extremely difficult to obtain and document. They recommended that the regulations eliminate these requirements or require information that is uniformly available in all States.

Response. A change has been made. The Secretary has deleted paragraph (f)(2)(ii) of the proposed regulations because it in part duplicates paragraph (f)(3)(i) of this section and because information on potential first-generation college students is difficult to obtain. Paragraphs (f)(3) (i) and (ii) have been revised. The information provided by the applicant may be estimates based on the best available data. The paragraphs have been reworded to include the word "estimated." However, the Secretary has not deleted the requirements because the information is essential for determining the need for an Upward Bound project in the area proposed by the applicant.

Comment. One commenter suggested revising § 645.31(g)(2)(i) (§ 645.31(g)(2)(i)(A) of the proposed regulations) so as to stress the importance of completing secondary school. The commenter recommended rewording the paragraph to read: "* * * that will enable the participants to complete a secondary education and subsequently to gain admission to postsecondary institutions."

Response. A change has been made. The Secretary has revised the paragraph in light of the commenter's suggestion.

Other changes. Paragraph (g) of this section has been revised to more specifically detail the information the Secretary looks for to determine the likelihood of success of a proposed project.

Paragraph (h) of this section has been retitled to reflect more adequately the criteria being evaluated. The paragraph is now titled "Institutional and community support" instead of "Resources and organization."

The Secretary has also revised § 645.31(h) (1) and (2) to increase the emphasis on instututional support in addition to community support.

The Secretary has assigned points to each separate criterion in paragraphs (f), (g) and (h).

Section 645.32 Past performance. (Prior experience)

Changes. The Secretary has deleted the provisions of this section as it appeared in the NPRM. Instead, the Secretary is publishing the section as a separate notice of proposed rulemaking. The reference to § 645.43 of the NPRM has also been deleted because the Secretary has decided not to develop performance standards.

Section 645.40 Allowable costs

Comment. Three commenters expressed concern over the requirement (§ 645.40(a)) that all in-service training required prior approval by the Secretary. They felt that once a project has an approved grant there should be no need for further approval. In addition, the commenters said, it is impracticable to expect the Secretary to be able to respond in a timely manner to requests made by project directors during the project year.

Response. A change has been made. The phrase, "if approved by the Secretary", is deleted. As long as in-service training activities conform to approved budgetary and programmatic guidelines, there is no need for additional approval.

Comment. Two commenters questioned the requirements of § 645.40(b) (paragraph (i) of the NPRM) that limits the grantee to one project-sponsored banquet or ceremony. The commenters recommended that the cost of two project-sponsored activities be permitted.

Response. No change has been made. The Secretary believes that the grant money would be better spent in providing direct services to students, rather than on entertainment costs.

Comment. One commenter suggested that a maximum number of credits be stated so that the limits will be known (§ 645.40(i); paragraph (j) in the NPRM). Another commenter questioned the authority to permit the payment of tuition for postsecondary courses for Upward Bound participants.

Response. No change has been made. The intent is to permit a project sufficient flexibility to meet each participant's needs. The authority for the payment of tuition is inferred from the authority to expose participants to academic programs not usually available to disadvantaged youth.

Comment. Two commenters asked whether § 645.40(j)(2) (paragraph (k)(2) in the NPRM) permitted visits to health services as an allowable expense. If this is the intent, the commenters said the paragraph should state clearly that the payment of a health service fee is an allowable expense for a summer component.

Response. A change has been made. Section 645.40(j)(2) has been revised to include, as an allowable expense, health service fees for full-time participants in a summer component.

Section 645.41 Nonallowable costs

Comment. One commenter suggested that veterans participating in a Veterans Upward Bound project should be entitled to stipends since they have the same needs as high school students participating in Upward Bound (§ 645.41(j) in the NPRM).

Response. A change has been made. The Secretary has deleted paragraph (j) from these final regulations and has revised § 645.42 to permit stipends for veterans.

Section 645.42 Stipends

Comment. One commenter suggested raising the stipend amount given to Upward Bound participants during the summer component to $40 a week so as to compete with summer jobs.

Response. No change has been made. The legislation authorizing the Upward Bound Program limits amounts of stipends to be paid a participant in the summer component to $60 a month.

Comment. One commenter noted that the legislation contained no language restricting stipends only to those participating on an essentially full-time basis (§ 645.42(a)).

Response. No change has been made. The legislation states that those participating in an Upward Bound project may be paid stipends. It is the judgment of the Secretary that, for proper stewardship and program management, stipends should be paid only to those who participate essentially full-time in the project including its various activities.

Comment. Three commenters recommended that the criteria for receipt of a stipend by a participant in a summer component also be included for a participant in an academic year component.

Response. A change has been made. The Secretary has revised and reorganized § 645.42. The criteria of eligibility for a stipend and the authority to prorate the amount of the stipend are now applicable to both the summer component and the academic year component. In addition, a paragraph has been added to permit stipends for participants in Veterans Upward Bound projects.

Comment. One commenter noted that the statute authorized the payment of up to $60 per month during the months of June, July, and August. However, the regulations (§ 645.42(d)(1)(ii); § 645.42(b)(1) in the NPRM) do not specify that June, July, and August constitute a summer session. In addition, the commenter questioned the change from $60 per month which is in the legislation, to $15 per week which appears in the regulations.

Response. A change has been made. The Secretary has revised § 645.42(d)(1)(ii) to require that stipends not exceed $60 per month during the summer component. However, it is generally understood that the summer session occurs during the months of June, July, and August and, therefore, this is not repeated in the regulations.

Section 645.43 Other requirements of a grantee. (Performance standards)

Changes. Section 645.43 of the NPRM was titled "Performance standards." As noted in the explanation for the changes in § 645.32, the Secretary has dropped plans to develop performance standards. This section is now titled "Other requirements of a grantee." The requirement previously listed in the proposed regulations as § 645.10(c)(8) has been moved to this section as paragraph (a). The Secretary has determined that this requirement is more logically a post-award requirement of a grantee and, therefore, belongs in this subpart.

The Secretary has added a new paragraph (b) which states that projects need to determine the eligibility of each participant only at the time of initial selection of that participant. The Secretary has made this change to reduce the burden on a grantee by not requiring revalidation of the eligibility of each participant every year.

Section 645.50 Recordkeeping

Comment. One commenter expressed concern over the requirement of § 645.50(b)(3)(iii) in the NPRM that all Upward Bound projects must have on file copies of participants' high school transcripts. The commenter noted that transcripts are often difficult to obtain and that they rarely reflect the current educational needs of a veteran for example.

One commenter questioned the authority to require projects to develop and maintain an individualized plan of program support for each participant (§ 645.50(b)(4) in the NPRM).

Response. A change has been made. To decrease the burden on grantees and to avoid the appearance of prescribing specific recordkeeping items through regulations, the Secretary has deleted this section. Grantees need only conform to the EDGAR requirements (see 34 CFR Part 75.730–75.734).

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Part IV

Federal Communications Commission

Jurisdictional Separations; Amendment To Reflect Adoption of the Federal State Joint Board's Recommended Decisions

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

[CC Docket No. 80-286; FCC 82-98]

Jurisdictional Separations; Amendment To Reflect Adoption of the Federal State Joint Board's Recommended Decisions

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting the Joint Board's recommended decision that the subscriber plant factor (SPF) used to allocate costs of non-traffic sensitive plant between the interstate and intrastate jurisdictions be frozen at its January 1, 1982 level as an interim measure pending adoption of future rule changes to the Separations Manual. It also adopts the Joint Board recommended decision to phase out customer-premises equipment from the jurisdictional separations process over a five-year period.

EFFECTIVE DATE: April 2, 1982.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: James W. McConnaughey, Policy and Program Planning Division, Common Carrier Bureau, at (202) 632-9342.

SUPPLEMENTARY INFORMATION:

Decision and Order

Adopted: February 24, 1982.

Released: February 26, 1982.

I. Introduction

1. The Commission convened a Federal-State Joint Board in this proceeding on June 11, 1980, pursuant to Section 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. 410(c), to recommend amendments to the jurisdictional cost Separations Manual. *Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, 78 FCC 2d 837 (1980). The Joint Board was directed to propose changes to our Rules regarding the allocation of exchange plant investment between interstate and intrastate services in light of the increasing levels of such allocations and the Commission's decisions to prescribe access charges, *Second Supplemental Notice* (CC Docket No. 78-72), 77 FCC 2d 224 (1980); and detariff most customer premises equipment (CPE), *Memorandum Opinion and Order on Further Reconsideration* (CC Docket No. 20828), 88 FCC 2d 512 (1981).

2. On June 19, 1981, the Joint Board adopted an *Order Inviting Comments and Suggested Information Requests*, FCC 81-284 (released June 12, 1981), in which it solicited responses to a list of questions concerning the proper separations treatment of non-traffic sensitive (NTS) exchange plant (Appendix A to that Order), and a specific proposal to remove CPE from the separations process (Appendix B). On November 18, 1981, after analyzing the large number of comments and replies that had been filed, the Joint Board adopted, with minor modifications, the previously proposed plan to phase CPE out of separations over five years. *Recommended Decision and Order*, FCC 81-566 (released December 14, 1981). At the same meeting, the Joint Board also adopted a recommendation to freeze the subscriber plant factor (SPF) [1] at the average 1981 annual level effective January 1, 1982, as an interim measure pending the development of final, more comprehensive changes to separations procedures. *Recommended Interim Order*, FCC 81-565 (released December 14, 1981).

3. We considered the Joint Board's recommendations at our December 17, 1981 meeting. While we agreed that interim action on SPF was a pressing concern, we believed that further comments would be beneficial. Therefore, we adopted a *Further Notice of Proposed Rulemaking*, FCC 81-560 (released December 21, 1981), which established an expedited schedule for comments and replies on both the Joint Board's *Recommended Decision and Order on CPE* and its *Recommended Interim Order* on SPF. Comments were filed on January 18, 1982, and replies were filed on February 2, 1982 by a total of twenty-four parties.[2] We have given careful consideration to these comments, as well as those filed previously in this proceeding, and now adopt both of the Joint Board's recommended orders, subject to certain minor modifications set forth below.

II. Recommended Interim Order to Freeze SPF

A. Joint Board Recommendation

4. The Joint Board has, to date, received numerous filings from the parties regarding the complex issues involved in revising separations procedures applicable to the allocation of non-traffic sensitive exchange plant. The Joint Board has also either completed or is in the process of arranging and conducting several related research efforts intended to identify all viable proposals for changes which may reasonably be entertained, and to gather the data required to make a well-informed final recommendation on amendments to the Separations Manual.[3] However, the Joint Board is aware that, before a comprehensive plan is adopted, the magnifying effect of the SPF formula on interstate subscriber line usage will have caused further increases in interstate allocations beyond a level which, for most exchanges, may ultimately be determined to be reasonable.[4]

[1] The subscriber plant factor is used to allocate investment in station equipment, subscriber lines and the non-traffic sensitive portion of central office equipment. It is derived through a formula set forth in Section 23.444 of the Separations Manual which is generally rendered as SPF = .85 SLU + [2 SLU × CSR). SLU is a measure of subscriber line usage, and CSR is the composite station rate, a ratio that combines measurements of average initial three-minute station charges and average lengths of haul for interstate toll calls.

[2] Ad Hoc Telecommunications Users Committee (the Ad Hoc Committee); Aeronautical Radio, Inc. (ARINC); American Telephone and Telegraph Co. and The Associated Bell System Companies (Bell System); People of the State of California and the Public Utilities Commission of the State of California (California); Computer and Business Equipment Manufacturers Association (CBEMA); Central Telephone and Utilities Corporation (Centel); Confinental Telephone Corporation (Continental); State of Florida (Florida); Golden West Telephone Cooperative, Inc. (Golden West), GTE Telephone Companies (GTE); Granite State Telephone Company (Granite State); Roseville Telephone Company, Anchorage Telephone Utility, and Northern States Power Company (Independent Alliance); Kansas Corporation Commission (Kansas); MCI Telecommunications Corporation (MCI); Midway Telephone Company (Midway); North American Telephone Association (NATA); Pigeon Telephone Company (Pigeon); Rochester Telephone Corporation (Rochester); Rural Telephone Coalition (RTC); Southern Pacific Communications Company (SPCC); Satellite Business Systems (SBS); Texas Statewide Telephone Cooperative, Inc. (TSTCI); United States Independent Telephone Association (USITA); United Telephone System, Inc. (UTS).

[3] On January 5, 1982, the Joint Board Staff issued several information requests and is currently analyzing data on the relationship between exchange costs and subscriber density received from independent telephone companies. On February 2, 1982, meetings were held by the Joint Board Staff with various industry representatives to address major issues in this proceeding, including alternative mechanisms for the allocation of non-traffic sensitive plant between jurisdictions. The Joint Board is also considering a plan to hold regional hearings throughout the country to provide an additional opportunity for interested persons to present comments on the various allocative schemes under consideration.

[4] *See Recommended Interim Order*, para. 4. SPF generally results in a threefold increase over SLU, thereby magnifying the allocative impact of increases in interstate usage. AT&T estimates that by 1983 its company-wide SPF will have grown to 27% from the 1972 level of 18%. We do not interpret the Joint Board order as implying that the Joint Board has made a final decision to recommend interstate allocations that are no higher than 1981 allocations for any or all study areas. This Commission and the Joint Board will, of course,

Continued

5. In order to minimize the rate adjustments that local companies may have to make as a result of final separations changes and to preserve the *status quo* of percentage allocations of jointly used subscriber plant pending the development of a comprehensive separations plan, the Joint Board recommended the imposition, on January 1, 1982, of a percentage freeze of SPF. The freeze, as proposed by the Joint Board, would be effected through an amendment to the Separations Manual specifying that the annual average interstate subscriber line use ratio for the study area for the calendar year 1981 would be used in the SPF formula.[5] This percentage freeze was determined to be more equitable and administratively practical than other proposals for interim action, including a cap on the dollar level of interstate allocations, or a SPF cap for all companies whose interstate allocations of non-traffic sensitive plant exceed 125% of the national average SPF factor.[6]

B. Comments and Discussion

6. Thirteen of the twenty-four parties voice general agreement with the need for an interim SPF freeze,[7] and several specifically endorse the Joint Board's recommendation. The Bell System and USITA view a freeze as an essential first step toward the ultimate determination of the appropriate level of NTS costs to be allocated to interstate services. GTE and Rochester Telephone Corporation agree that there is an urgent need to halt the growth of SPF and the resultant increases in interstate allocations in order to minimize the difficulty of making the transition to a more competitive environment in interexchange services and to allow the development of access charges that are related to a realistic level of costs. The Ad Hoc Telecommunications Users Committee recognizes the need to maintain the *status quo* while a comprehensive plan is being devised, and believes that an interim SPF freeze, by itself, will not cause large local rate increases. SPCC and SBS emphasize that they are still of the view that SPF is neither lawful nor economically supportable, but find an interim freeze to be a reasonable measure which permits the continued examination of SPF without further exacerbating the cost burden placed on interstate services.

7. We agree that the continued growth and multiplicative effect of the SPF factor on interstate allocations has become a serious problem in the industry. The problem arises from the fact that SPF has apparently not performed in the way that was anticipated or intended when it was adopted in 1970.[8] A primary reason for this is the assumption, built into the formula, that interstate rate schedules have a deterrent effect on toll calling.[9] We are not yet prepared to say that any such deterrent effect should or should not be a prime factor in separations apportionment.[10] However, twelve years of experience have shown that the adjustment made in the present allocation formula for whatever deterrence that may exist is excessive. Interstate calling, as a percentage of total usage, has increased steadily since 1970 despite some movement toward measured local service. Although it may have increased even more, absent any deterrence caused by usage sensitive toll rate schedules, interstate usage has risen substantially enough to significantly inflate the non-traffic sensitive costs allocated to interstate above the level considered acceptable in 1970. Therefore, not only is the assumption regarding deterrence now subject to question, but it is also apparent that the proportion of subscriber plant costs assigned to interstate, which for the Bell System alone has grown by approximately 50% since 1970, far exceed the level originally envisioned. In combination with the growth in subscriber plant investment, rising SPF factors have resulted in a pronounced and continuing shift of revenue requirements from intrastate to the interstate jurisdiction. We note that, because the SPF formula is based upon a theory of toll deterrence, there is no logical or economic basis for increasing its departure from relative usage (i.e., SLU) solely because the ratio of interstate use to total use increases. Indeed, it would seem much more reasonable to freeze (or perhaps decrease) the incremental "toll deterrence" adjustment as relative interstate use increases. Had SPF been promulgated as an additive rather than a multiplicative factor, accepting the adjustment over SLU when the Ozark Plan was adopted and adjusting for the increased relative use since that time, the 1981 Bell System SPF would be approximately 18.56%.[11] On this basis, the Bell System SLU would have had to rise to approximately 14.46% to reach the frozen SPF level of approximately 28.09% adopted today, a circumstance that is most unlikely to occur before the Ozark Plan is revised.[12]

8. We were well aware of this phenomenon when we instituted this Joint Board. At that time, we noted both the undisputed increase in the allocation of NTS plant to interstate and the wide diversity of views among the parties as to the proper role of SPF in the separations process. 78 FCC 2d at 840-44. We instructed the Joint Board to consider all legal, economic or equitable arguments that may be advanced for the retention of the existing formula or the adoption of a new one. We suggested that the Joint Board examine the applicability of different cost allocation mechanisms such as relative use and cost causation, and to investigate the necessity and feasibility of incorporating various cost differentials and non-cost factors in its ultimate separations plan. As we have stated, the Joint Board is proceeding with its work as swiftly as possible, given the need to exercise due caution in such an important matter and to accommodate the diverse interests of affected persons. At this stage, it is clear that, even after a year and a half of activity, there is a substantial amount of work yet to be done before a satisfactory comprehensive plan can be finalized. It is therefore appropriate to at least halt

carefully weigh and consider arguments and evidence supporting higher as well as lower interstate allocations that may be presented during further proceedings in this docket.

[5] The amendment further specifies that the 1981 level may be calculated as the average interstate SLU for the customarily used twelve-month study period ending in 1981, or, for companies for which no such 1981 annual average SLU exists, as the annual average interstate SLU for the initial study period.

[6] *See Recommended Interim Order*, paras. 8-9.

[7] These parties include ARINC, the Bell System, CBEMA, Centel, the Ad Hoc Committee, Continental, Granite State, GTE, Rochester, SBS, SPCC, USITA, and UTS.

[8] *Separations Procedures* (Docket No. 18260), 26 FCC 2d 247 (1970).

[9] In its *Recommended Report and Order* proposing adoption of the current Separations Manual (the "Ozark Plan"), the 1970 Joint Board described the second part of the SPF formula (2 SLU × CSR) as a factor "to recognize the deterrent effect of the interstate toll rate schedule specifically related to interstate calls originating in each study area." *Separations Procedures* (Docket No. 18260), 26 FCC 2d 247, 251 (1970).

[10] We will address that question when the Joint Board submits a final plan. That question must, of course, be addressed by the Joint Board in the first instance.

[11] In 1970, the Bell System interstate SLU was 5.08% and the interstate SPF was 15.71%. As an additive, then, SPF originally would have represented a 11.63% increase over interstate usage. The significance of the growth of SPF beyond levels approved in 1970 is illustrated by the fact that, based on 1981 investment, the difference between NTS allocations based on an additive SPF of 13.52% and a multiplicative SPF of 28.09% is approximately $5 billion.

[12] The actual Bell System 1981 interstate SLU is approximately 7.93%. Although the exact percentages would differ, this analysis pertains equally to Independents.

the growth of SPF as an interim measure.

9. We emphasize that the imposition of a SPF freeze is a temporary and non-prejudicial action. It is important to maintain the allocative factors for NTS plant at current levels until we can implement a final plan. Any other course would benefit some users and prejudice others as a result of usage fluctuations during the course of Joint Board and Commission deliberations. Although our decision to adopt the Joint Board recommendation is motivated primarily by a desire to preserve the *status quo*, we also recognize that any final plan is more likely to reduce than increase the total interstate allocation. If we allowed SPF to grow, inequities may result for users of interstate services who may be required to bear a greater proportion of costs before the implementation of a final plan than will ultimately be determined to be reasonable. Failure to freeze SPF could also result in more difficult adjustments for exchange carriers and regulators when a final plan is adopted. Thus, a uniform freeze will best preserve the equities between exchange and interexchange carriers as well as among all local exchange companies. This plan does not prejudice the positions that any of the parties have presented to the Joint Board. The Joint Board is to remain committed to a full and fair examination of all points of view and to earnestly seek a solution that will most accurately reflect those interstate NTS costs that can be determined and achieve a proper distribution of NTS costs where no causation is readily apparent.

10. Centel and Continental have endorsed the concept of an interim freeze, but specify that such a freeze should be consistent with a previous proposal made jointly by the Bell System and USITA.[13] Under this proposal, SPF would be frozen for a minimum period of three years.[14] This frozen SPF would be applied to actual book amounts of CPF investment and expense, however the result produced would be reduced at the rate of one-sixtieth per month. Although the Bell System has incorporated this proposal by reference in its most recent comments, neither the Bell System nor USITA vigorously promote its adoption as the proper formulation of a SPF freeze. The original Bell/USITA proposal is an inappropriate solution to the problem that the Joint Board has addressed in its recommendation. We agree with the Joint Board's judgment that the need to curb the continuing increase of interstate allocations due to the SPF formula, and the necessity of implementing a reasonable plan for the removal of CPE from separations are, at least in the interim, somewhat separate considerations. It would be unwise to entangle any interim SPF freeze with a longer-term solution to the CPE issue. This would require a prejudgment of the Joint Board's final decision on SPF, and would frustrate the sort of open-minded pursuit of a proper allocation mechanism that we intend the adoption of an interim SPF freeze to facilitate. Furthermore, we cannot guarantee or require that SPF continue to be used for any specific period of time. Rather, we merely order it to be frozen until the Joint Board recommends that it be retained or replaced.

11. Some parties do not think that the Joint Board's proposal goes far enough. In particular, MCI argues that SPF is illegal since it is comprised of certain subsidy elements that are not related to cost and that contravene principles of actual use enunciated in *Smith* v. *Illinois Bell Telephone*, 282 U.S. 133 (1930). MCI also asserts that there is no evidence to support the presumption of toll calling deterrence which provided the original basis for certain aspects of the SPF formula, and that the formula is actually the end product of a "result-oriented compromise." MCI maintains that, even at a frozen level, SPF cannot legally be made applicable to the operations of other common carriers (OCCs) since they were not participants in the development of the formula. MCI argues that OCCs would be placed at a competitive disadvantage due to the control over the separations and settlements processes exercised by the Bell System,[15] and that the imposition by the FCC of surcharges on a competitor to Bell would "tend to make its business commercially impracticable," resulting in an unconstitutional "confiscation" of private property by the United States Government. SPCC and SBS share these views on the legality of SPF and its applicability to the OCCs. However, as noted by USITA, these remarks are misplaced in the narrow context of the question before us. All that is being considered here is an interim measure that will freeze an important allocative factor at a given level for a temporary period of time while the Joint Board conducts a thorough investigation of the very issues that the OCCs raise. We are simply being asked to take an action toward preserving the *status quo* until these questions can be answered. Absent further action by the Joint Board, we can neither entertain these basic issues nor predict their resolution.

12. For this same reason, we must decline to consider many of the other recommendations made by the parties. ARINC would have us mandate a transition from SPF to SLU over a period of five years, and institute a proceeding to develop a cost allocation system that would replace relative use with cost causation principles. SBS and MCI promote the concept of "actual use" as a basis for allocations, and Rochester urges us to proceed to develop a cost-based access charge plan. UTS reiterates its support for a seven-year transition to a total call minutes (TCM) usage measurement. USITA and Continental suggest that SPF ultimately be replaced by a revised relative use measure with an additive for low density/high cost exchanges.[16] Most of these recommendations have already been presented to the Joint Board and are being evaluated in the context of the design of a comprehensive, more permanent separations plan. The Joint Board should consider the comments filed here in addition to those it has already received and will solicit in the future concerning these issues. However, it would be impradent and premature for us to comment on or endorse any of these proposals now. These are complicated matters of great significance to both exchange and interexchange carriers. They should not be approached in haste, but we urge the Joint Board to make all possible diligent efforts to complete its study and draft a final recommendation as soon as possible.[17]

13. Several parties resist the imposition of a SPF freeze and offer a variety of reasons why the Commission should reject the Joint Board's recommendation. As an initial matter, some parties advocate that the Commission remand consideration of a SPF freeze to the Joint Board in light of the recent proposed modification of the 1956 Consent Decree.[18] Bolden West comments that the Modified Decree "greatly impacts" this docket. Midway, California, and Florida argue that a final decision on a SPF freeze should not be reached until there has been a thorough examination of the potential impact of the Modified Decree on the revenues of the BOC's and the rates to their customers. The Rural Telephone Coalition (RTC), and the Independent Alliance agree that the Modified Decree may lead to increased local revenue requirements, and urge us to reaffirm a commitment to the maintenance of "universal service" at reasonable rates. They suggest that we refer the question of a SPF freeze back to the Joint Board and request them to address access charges on a priority basis. Granite State also urges that a specific policy be adopted regarding "positive goals" for small telephone companies.

14. Other parties, including the Bell System, CBEMA and the Ad Hoc Committee maintain that the access charge provisions of the Modified Decree increase the urgency of reducing the allocation of NTS costs to interstate and render an interim SPF freeze even more important. The proposed Modified Decree would have little or no effect upon the desirability of an interim SPF freeze. The proposed Decree does not purport to affect jurisdictional separations rules that have been or will be prescribed by this Commission.[19] The Joint Board will undoubtedly examine any collateral effects of the proposed divestiture in formulating a final plan, but we see no reason to expect any collateral effects that would make an interim freeze undesirable. In any event, the interim freeze will probably be replaced by a permanent plan before divestiture occurs.[20]

15. As USITA has stated, many of the comments regarding access charges are misplaced in this proceeding, and reveal a misunderstanding as to the Joint Board's responsibilities in that matter. If the Modified Decree is eventually approved, access charges will, as many of the parties have pointed out, become an area of critical focus. However, the Joint Board has not been charged with the development of an access charge plan, and will not be responsible for the approval of access charge tariffs. The Joint Board has been instructed only to make any changes to the Separations Manual necessary to assure complete and proper allocation of costs between jurisdictions and consistency with the Commission's access charge plan.[21] There is no need for the Joint Board to delay the development of such changes, as CBEMA and the Ad Hoc Committee have suggested, until the divested property of the BOCs has been valued and transferred. The Joint Board has already received proposals on the separations treatment of exchange plant costs,[22] and is studying this issue concurrently with the other proposed separations changes in the context of the design of a comprehensive allocation plan. Thus, it is not necessary to delay consideration of separations issues until the access charge issue is fully resolved. In any case, those matters are independent of a SPF freeze and provide no reason for postponing its implementation.

16. In addition to raising concerns related to the proposed Modified Decree, some of the parties contend that procedural defects require that the Joint Board's recommendation be remanded. In particular, Kansas, the Independent Alliance, RTC, Golden West, and Midway argue that the Joint Board did not provide adequate notice and opportunity for comment on the substantive proposal to freeze SPF. These parties find support in Commissioner Gravelle's dissenting statement in which it is argued that the Joint Board failed to comply with its own established procedures and the Commission's Rules which generally require prior notice of a proposed rulemaking. 47 CFR 1.412(a).[23] Midway and RTC claim that most parties were unaware of the Joint Board's intent to consider the issue until the November 18, 1981 meeting, when the recommended order freezing SPF was adopted. RTC further argues that, in its *Order Inviting Comments and Suggested Information Requests*, FCC 81-286 (released June 12, 1981), the Joint Board merely solicited preliminary views on questions that it had tentatively decided to address, that it had never requested comment on a specific proposal to freeze SPF, and that the opportunity promised by the Joint Board "to present more comprehensive substantive comments with respect to particular possible changes in the Separations Manual" never materialized.

17. These comments mischaracterize the procedural context in which the SPF freeze is to be adopted, and, in light of the notice and comment period established by the Commission, are irrelevant. As Bell, USITA, ARINC and SBS have commented, since the Joint Board's June, 1981 order and the filing of comments in response to that order, all parties have been plainly aware that an interim SPF freeze may be considered in this proceeding. Five parties, including USITA, UTS, GTE, Kansas and Northeast Nebraska Telephone Company specifically remarked on or submitted proposals for such a freeze in pleadings filed in August and September of 1981. At its October 13, 1981 open meeting, the Joint Board explicitly requested that the Joint Board Staff

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[13] This proposal was originally presented by letter, dated November 9, 1981, to the Chairman of the Commission. Since it had been received only nine days before the Joint Board was to meet to consider an order on the CPE issue, and was filed outside of the prescribed pleading cycle, it was not considered by the Joint Board in its *Recommended Decision and Order*.

[14] Bell did not actually concur in the recommendation that reductions of SPF be delayed for three years.

[15] The process for separation of jurisdictional costs is separate and distinct from the processes used to divide interstate revenues among carriers. Both operations are administered by AT&T. AT&T provides detailed instructions for the performance of cost studies, and works out many details, such as the choice of a study period, on a contractual basis with local carriers that perform such studies. While not all exchange companies conduct cost studies, all share in interstate revenues. The Bell Operating Companies and Long Lines participate in the "Division of Revenues" process. "Settlements" are arranged, contractually, between Long Lines and Independents. The largest Independents receive settlements on the basis of cost studies, but nearly two-thirds of all Independents settle, at least partially, on the basis of "average schedules." *See* Bell System response to Joint Board Information Request in Docket No. 20981, November 21, 1977.

[16] This proposal was originally made by the Wyoming Telephone Company in comments filed in an earlier phase of this proceeding. The proposal is currently the subject of an extensive empirical study that has been undertaken by the Joint Board Staff.

[17] We note that the Joint Board's most recent timetable projects completion by early 1983. We are confident the Joint Board can adhere to this schedule.

[18] Modification of Final Judgment, Civil Action No. 17-49 (D.D.C.). The proposed Modified Decree was transferred from the United States District Court for the Northern District of New Jersey to the District Court for the District of Columbia, where it is currently under review. The Modified Decree would require AT&T to divest all assets related to exchange telephone operations. The divested Bell Operating Companies would be required to provide all interexchange carriers and service providers exchange access, information access, and exchange services for such access on a tariffed basis equal to that provided AT&T. The BOCs would be prohibited from providing customer premises equipment or any interexchange or information services. AT&T would retain all of its other existing assets, including Western Electric and the Bell Telephone Laboratories, and would no longer be restricted as to the services, equipment or products that it could offer. Under the terms of the Modified Decree, AT&T must submit a detailed divestiture plan to the Justice Department for approval. The plan is to be effective within 18 months of the entry of the Modified Decree.

[19] Both parties to the Decree have acknowledged that this is the case. The AT&T comments in this proceeding state that the Decree will not affect separations and the Competitive Impact Statement that the Department of Justice filed with the United States District Court for the District of Columbia contains a similar statement.

[20] In this connection, we also note that it would be premature, at this time, to mandate the separate and independent participation of the BOCs in the Joint Board proceeding as has been recommended by Kansas and the Pigeon Telephone Company. We recognize that as divestiture plans proceed, the interests of AT&T and the BOCs may diverge. However, especially since the Decree has not been entered it would be inappropriate to address that potential problem in this particular order.

[21] *See Second Supplemental Notice* (CC Docket No. 78-72), 77 FCC 2d 224 (1980).

[22] Several parties made presentations on this issue at the February 2, 1982 meetings between the Joint Board Staff and industry representatives in Arlington, Texas.

[23] In an order adopted on November 12, 1980, the Joint Board said that it would "in general attempt to follow the Commission's Rules and Regulations pertaining to rulemaking." *See* 47 CFR 1.1-1.230 and 1.256-1.430. FCC 80-682 (released December 5, 1980). This order was subsequently approved by the Commission. *Southern Pacific Communications Company*, 88 FCC 2d 198 (1981).

prepare a recommendation for a SPF freeze that could be voted on at the November 16, 1981 meeting. All parties certainly knew at that time that the action was under consideration. Moreover as emphasized by ARINC, the parties were given official notice of the exact wording of the proposed rule change and an opportunity to comment in the Commission's *Further Notice of Proposed Rulemaking*, FCC 81-580 (released December 21, 1981). Therefore, all parties have had both effective and actual notice of the proposed SPF freeze, and have had several opportunities to make their views known over the past six months.

18. Moreover in this instance, even assuming, *arguendo*, that the Joint Board did circumvent its own established procedures in adopting a recommended SPF freeze, the order itself is not invalidated. This is true for several reasons. First, the SPF freeze is an interim measure that is not intended to prejudice the final resolution of the substantive issues being addressed. It is an action that the Joint Board, in its own best judgment based on the record before it, considered to be a matter of some urgency and necessity. By all indications, the Joint Board remains committed to the thorough examination of all positions and proposals related to changes in NTS allocations. The Joint Board, desiring to avoid undue pressures on both the substance and timing of its final recommendation due to the continued growth of SPF as well as to minimize inequities while its investigation proceeds, views an interim SPF freeze as a reasonable and warranted step. We are satisfied that it is. Second, we need not reach the question of whether we would have found it appropriate to remand this matter back to the Joint Board if the comments had presented substantial new issues, proposals, or data, that would most properly be analyzed by the Joint Board. In this case, the parties have not presented any additional information not already considered by the Joint Board which would require a reexamination of the essence of the proposal. Finally, the Administrative Procedure Act, 5 U.S.C. 553, does not require more than one notice and comment period for a particular rulemaking. Since a substantive recommendation by the Joint Board is not effective unless and until it is adopted by this Commission, [24] and since we believe there are no material issues that necessitate a remand of the proposal, the comment period provided by our *Further Notice* clearly satisfies the requirements of the Administrative Procedure Act.

19. Many of the same parties that would have us remand the Joint Board's recommendation for lack of proper notice and comment also argue that there is an insufficient record upon which a SPF freeze can be based. Bell, the Ad Hoc Committee, USITA, ARINC and SBS dispute this contention and point out that since its inception the Joint Board has had before it empirical evidence of the steady growth in SPF for the Bell System since 1972 and has received broad support in comments from both the Bell System and many Independents, for the proposition that SPF generally continues to grow throughout the industry. We recognized that there might be additional information that various parties might want to present to shed more light on the issue. It is for this reason that we issued our *Further Notice*. However, as SBS has noted, none of the parties has challenged the accuracy of the figures provided by the Bell System and GTE that were relied upon by the Joint Board. Moreover, ARINC correctly observes that the same parties that criticized the adequacy of the record failed to use the opportunity provided by the Commission to add to that record with substantiated arguments.

20. For example, RTC complains that the effect of the freeze is not known, and that local rates will increase as a result of the freeze, discouraging the improvement of service in rural areas. This claim is echoed by Kansas, Midway and TSTCI. The Independent Alliance submitted a chart prepared by the Bell System as an exhibit in its defense against the Government's antitrust suit, [25] that indicates, by demographic groups, the reduction in households with basic telephone service that will result from increased local rates. In referring to this chart, Kansas charges that the Joint Board's action "will spell the beginning of the end of universal service." Notwithstanding this statement we find nothing in the comments of these parties to support the contention that Independents in general or small, rural telephone companies or their customers in particular will be severely impacted or that rates will be forced to such a high level that local service actually will be imperiled. [26] In order for us to be convinced of such a result, it would have to be demonstrated that interstate SPFs in rural areas are expected to grow so rapidly over the next year that the implementation of a SPF freeze would impose an inordinate burden on the companies that serve them. Without such evidence, the conclusions offered by these parties are merely presumed by the assumptions that underlie them and therefore cannot be accepted here. Thus, we have received no useful information from these parties to counterbalance the weight of the existing factual record that indicates that SPF must at least be frozen, as an interim measure, nor are we provided any verifiable basis for concluding that standards for exemption from the general rules must be formulated.

21. In a corresponding vein, some of the parties argue that the actual form of the proposed SPF freeze will not maintain the *status quo* and that the Joint Board failed to evaluate the relative merits of different approaches. Specifically, Golden West, Florida, RTC, the Independent Alliance and TSTCI maintain that the Joint Board's recommendation inappropriately freezes subscriber line use (SLU), instead of the "additives" in the SPF formula that actually create the magnifying effect. They contend that such a plan would violate relative use principles and would fail to reflect actual increases in interstate toll calling. RTC and the Independent Alliance propose that the actual increases in SLU be added back into a formula to freeze SPF. [27] In response, Bell and USITA point out that SLU is an integral part of the SPF formula, and that if SLU is not held constant, the intent to freeze SPF would be completely frustrated. Bell further maintains that the other factors in the SPF formula, the .85 constant in the first part of the formula and the CSR ratio in the second half of the formula, have been virtually frozen since Ozark was first applied. [28] Thus, without a freeze of

[24] Section 410(c) of the Communications Act, 47 U.S.C. 410(c) specifies that a Joint Board "shall prepare a recommended decision for prompt review and action by the Commission."

[25] Defendant's Exhibit No. D-6-1316.

[26] In fact, many small companies currently receive settlements which are already effectively "frozen" by virtue of the Bell/USITA agreement regarding maximum allocations. *See* Letter No. 1137, April 9, 1971. This agreement serves to limit toll settlements to 75-85% of joint costs. In the absence of this agreement, the multiplicative nature of the Ozark Plan would produce the absurd result of assigning more than 100% of joint and common costs to toll services. Small companies with high interstate usage are the ones most frequently subject to the maximum allocation limits. Thus, these companies, which are currently the most dependent upon toll settlements, will be the least affected by the freeze adopted here.

[27] The Independent Alliance offers the following algorithm: SPF = (1981 SLU × .85 + (1981 SLU × 2 × CSR) + (Current Year SLU − 1981 SLU)

RTC's algorithm reaches the same result.

[28] The .85 factor has been held constant for both the Bell System and Independents. The CSRs, while

Continued

SLU, virtually nothing would be accomplished.

22. The arguments that a freeze of SLU would not maintain the *status quo* because actual relative use would not be recognized reveal a misunderstanding regarding the Joint Board's use of that term. There are several aspects of current NTS allocations, each of which conceivably could be viewed as the essential characteristics of the *status quo*: The reliance on a relative use measure, the percentage allocation currently generated by the SPF formula, the actual dollar level of NTS costs allocated or settlements received, or the percentage of the total revenue requirement met by interstate revenues. The Joint Board has explained that it defines the *status quo* as the percentage allocation generated by the 1981 annual average SPF. This approach allows the actual costs allocated and settlement dollars received to continue to grow with increased investment in subscriber plant. We agree with the Joint Board that this approach is superior to a freeze of actual dollar amounts since such an approach would not permit adjustments for increased costs and inflation. [29] We also believe that the percentage of total revenue requirements met by interstate revenues is an inappropriate basis for a freeze since this would represent a completely arbitrary choice of an allocative methodology that is nowhere supported by judicial or regulatory precedent or sound economic theory. Finally, we are not prepared, at this point, to base allocations on the relative increases in local loop costs and interexchange line costs. [30] This matter, along with the proper application of actual relative usage measures is under study by the Joint Board. Therefore, a percentage freeze of the nature recommended by the Joint Board appears to be the most reasonable and equitable interim action, and will be least likely to prejudice the eventual outcome of this proceeding.

23. The only other alternatives that the Joint Board is argued to have overlooked are the proposals by Kansas and RTC to provide exemptions from the freeze for certain companies that have above average costs or that cannot yet offer single party service to 100% of their customers. As previously discussed, we do not have evidence before us that would permit the conclusion that customers of such companies will experience significant hardship as a result of a SPF freeze. We also do not have the information necessary to construct reasonable standards for making such exemptions, and, as the Joint Board has noted, the administrative costs of presiding over request for exemptions may far outweigh any benefits such a plan might have. [31] We have not rejected the pleas of rural companies that cost differences be taken into account in any final separations plan. We simply find that there is no evidence presently available to support special considerations for such companies or to assist us in designing appropriate relief during the interim period. These issues are being diligently scrutinized by the Joint Board, and if it becomes clear that special adjustments in cost allocations are in fact warranted, they will be incorporated in the general plan for separations changes. However, we must point out that customers of the smallest local carriers that are most dependent on interstate settlements are the least likely to be affected by a SPF freeze. The freeze affects only the *separations* formula that is used by exchange companies that perform cost studies to be used as a basis for division of revenues or interstate settlements. We do not assert any direct control over the division of revenues or settlements processes themselves. We fully expect that actual transfers of interstate revenues will continue to be conducted under contractual arrangements between local carriers and Long Lines. Furthermore, not all local companies "settle" with Long Lines on a cost basis. A clear majority of the approximately 1500 Independents currently receive settlements at least partially, on the basis of "average schedules." [32] Average schedules are generally used by the smaller Independents, which usually do not have the resources with which to perform the extremely complex and expensive cost studies. The decision to freeze SPF on an interim basis does not presume that average schedules cannot continue to be used.

C. Technical Modifications to the Joint Board's Recommendation

24. Several of the parties have suggested minor changes in the wording of the amendments to Section 23.444 of the Separations Manual proposed by the Joint Board. Bell, Centel, and USITA all remarked that SPF would not be entirely frozen unless all parts of the formula reflect 1981 annual average levels. As we have already noted, a factor of .85 has been used in the first half of the formula for all companies since 1978, when present separations procedures were originally adopted. [33] However, it seems appropriate to reflect this convention in the wording of Separations Manual amendments freezing SPF, so that there will be no misunderstanding as to the intent and effect of the action. Similarly, the CSR ratios in the second half of the formula should be frozen explicitly. CSRs have not actually been held constant for the entire industry, and if they were allowed to continue to fluctuate, percentage allocations, for some companies, could deviate from the prescribed 1981 annual average level. This would be contrary to the result desired by the Joint Board and this Commission, which is to hold, as much as possible, the percentage allocation of all NTS plant that is achieved according to the Separations Manual to the 1981 level. Therefore, we have incorporated the words "annual average composite station rate ratio used for the calendar year 1981," as well as the specific .85 constant, within the amendments to be made to Section 23.444 of the Manual.

25. We have also been asked to clarify the time period for which the frozen SPF must be calculated. TSTCI indicates that most of its members use study years that terminate at the end of either the first, second, or third quarter of the calendar year. They recommend that individual companies be allowed to recast their traffic data to develop SPF on a 1981 calendar year basis. We believe that it was the intent of the Joint Board to hold SPF at 1981 annual average levels industry-wide, as much as possible. Therefore, each company should endeavor to calculate its frozen SPF through the use of annual average SLUs and CSRs that are derived for the calendar year 1981. However, we realize that there are many companies that have non-calendar year study periods that may not be able to convert their studies to a 1981 annual average. The Joint Board, in a footnote to revised Section 23.444, has provided an option for these companies to use "the average interstate SLU for the customarily used twelve month period ending in 1981." We have altered the footnote slightly in order to more clearly indicate that the

constant for the Bell System have been updated for the Independents.

[29] *See Recommended Interim Order*, para. 9.

[30] California maintains that failure to accommodate this phenomenon is a major infirmity of the Joint Board's plan.

[31] *See Recommended Interim Order*, para. 8.

[32] *See* note 15, *supra*.

[33] This part of the formula (.85 SLU), has been described as a means to develop the "basic subscriber plant costs of an exchange call and (assign) to each interstate holding time minute of use the same cost as assigned by the formula to an exchange minute of use." On the basis of industry studies, it was determined that the ratio used to achieve this result would be .85. *Separations Procedures*, 28 FCC 2d at 291 (1970).

use of a non-calendar year study period ending in 1981 is merely an option provided to certain companies for separations purposes. The modifications regarding the elements of the formula to be frozen and the optional periods for calculation of the 1981 SPF are set forth in Appendix A to this order.

26. As a final matter, we must consider the effective date of the Joint Board's order. Several of the parties, including Bell, Rochester, and UTS have urged that the implementation of the SPF freeze be made retroactive to January 1, 1982, the effective date recommended by the Joint Board. These parties do not specify the advantages that they believe would result from a retroactive effective date. Moreover, settlements under these contracts are regularly adjusted retroactively. Since they are not prescribed by rule and are not subject to the Administrative Procedure Act requirements for rulemakings, 5 U.S.C. 553, no inequities will result from allowing the rule to be effective prospectively.

27. A few of the parties, such as GTE, RTC and TSTCI have requested that the Joint Board's recommendation, if adopted, be made effective only prospectively. GTE suggests that the Commission allow the most recent available data to be used in calculating a frozen SPF. RTC and TSTCI indicate that a retroactive date would preclude them from securing the necessary rate relief to compensate for increased intrastate revenue requirements. We will not allow the use of cost data more recent than 1981 unless a particular company has begun its first cost study sometime after January 1, 1981. The Joint Board has chosen the 1981 annual average SPF as the appropriate allocative level to be maintained pending the completion of its work. We have no reason to alter that judgment, and have been presented no evidence that particular inequities or hardship would result if that level were required to be used for separations purposes thirty days after publication of this order. However, it is possible that, due to the close relationship between the separations and settlements processes, some economic dislocation may result for certain companies that settle on the basis of a new SPF each month. If such companies experience dramatic seasonal fluctuations in interstate calling, for the few months between January 1, 1982 and the effective date of this order, companies with markedly higher winter interstate SPFs may be unjustly enriched compared to companies with low winter interstate SPFs. We expect that this will be a problem, if at all, only for the Bell Operating Companies since Independents generally do not calculate SPF on a monthly basis. Since this is a problem of revenue distribution rather than cost allocation, we believe it is a situation that can properly be handled internally, through the division of revenues or settlements processes. GTE, USITA, and Continental have suggested that the Commission allow departures from 1981 SPF levels, for settlements purposes, when an Independent and Bell agree on a representative traffic study period. Inasmuch as we have never prescribed settlements or revenue division, our decision will not preclude the carriers from making any adjustments to these processes they deem appropriate. Because we believe that no substantial problems will result from a failure to make the rule retroactive, the rule providing for a SPF freeze at the 1981 annual average level will be effective thirty (30) days after publication in the **Federal Register**.

III. Recommended Decision and Order To Remove CPE From Separations

A. Joint Board Recommendation

28. The Joint Board has proposed a plan for the gradual removal of CPE from the separations process. The intent of the plan is to facilitate the implementation of the Commission's policies regarding detariffing of customer premises equipment,[24] as directed in our order establishing this Joint Board, 78 FCC 2d at 846, and to ensure that the detariffing does not result in abrupt rate increases. Under this plan, which is coordinated with the Commission's implementation date for the bifurcated detariffing of CPE, no investment or expenses associated with CPE incurred after January 1, 1983 would be allocated to interstate operations. The amounts in the CPE plant accounts on the books as of that date, and the average amounts in related expense accounts for the previous year, would constitute a "base amount" for separations purposes. The base amount would be reduced at the rate of one-sixtieth per month for a maximum of five years.

29. The Joint Board considered this plan in the context of a phased approach to the many separations issues before it. The Joint Board determined that the development of a plan for removal of CPE from separations was a matter of high priority, due to the fact that arrangements must be in place by January 1, 1983 when the Commission's detariffing plan takes effect. Since the CPE issue could be resolved with currently available information and only minor changes to the Separations Manual, the Joint Board viewed it as a discrete problem that should be addressed separately from the other more complex separations questions such as the proper allocative basis for non-traffic sensitive plant and any warranted adjustments to a general allocative scheme for certain local carriers with unique cost characteristics. Therefore, by presenting the CPE plan, the Joint Board recommends a preliminary solution to a distinct problem, which it believes can and should be examined apart from the other complex and time consuming issues involved in this proceeding. The Joint Board has specified that "adoption of a CPE plan which is interim in nature and narrow in scope will neither delay nor prejudice the resolution of other separation issues."[25] It is expected that the other necessary modifications to separations procedures will be devised as expeditiously as "diligent study" will permit, and that their implementation will be properly coordinated with the CPE plan already in place so that, overall, the most equitable result for all parties will be achieved.

B. Comments of the Parties and Discussion

30. The parties that favor adoption of the Joint Board's CPE plan include ARINC, the Ad Hoc Committee, and Rochester. The Bell System incorporates, by reference, its comments on this subject made previously to the Joint Board, as well as its November 9, 1981 joint proposal with USITA.[26] However, in its most recent pleadings, Bell generally requests that a CPE phase out plan be approved. Several other parties have voiced their support for the plan in previous comments to the Joint Board.[27] These parties view this approach as a reasonable and readily implementable means to effectuate detariffing policies while minimizing the financial impact of those policies. We agree. CPE represents a large portion of the non-traffic sensitive costs that are currently allocated to the interstate jurisdiction. Thus, the settlements received on the basis of these cost allocations represent, generally, a significant portion of overall revenues for local companies.[28] The reliance of most exchange carriers on these revenues is an effective impediment to the immediate implementation of our CPE detariffing requirements and the achievement of a fully competitive marketplace in terminal equipment. The public interest will not be served by inordinate delays in the development of a vigorously competitive environment for new CPE or in the availability of used CPE for purchase. Therefore, we must weigh our concerns regarding the possibility of placing undue pressure on local rates against our commitment to bringing the advantages of CPE competition to the public as soon as it is feasible. The Joint Board's plan provides a way of balancing these concerns and objectives. The CPE proposal is intended to serve as a reasonable transition mechanism that will allow regulators and the industry to adjust to new conditions without imposing hardship on consumers, either in the form of sudden and burdensome rate increases or the perpetuation of conditions under which the purchase of terminal equipment is either unattractive or impractical.

31. The Joint Board's plan alleviates these conditions in two ways. First, it establishes a schedule for the measured reduction of settlements payments based on CPE costs. The CPE base, to be used for separations purposes, will be reduced at the same rate for all local carriers. While this plan is in effect, no local company will face the sudden necessity of securing drastic rate increases as the result of lost settlements revenues due to the removal of large amounts of CPE from the rate base. This will protect customers of those carriers who experience swift reductions in CPE costs, through either transfer, retirement, or sale of equipment, from being unfairly disadvantaged under the Commission's detariffing policies. Second, the plan will eliminate disincentives toward timely removal of CPE from the rate base by guaranteeing a reduction in CPE related settlements at a particular measured rate. This will protect consumer interests by eliminating resistance to the transition to fully competitive CPE markets. Therefore, the Joint Board's plan appears to be the most reasonable way of achieving two seemingly conflicting objectives regarding the public interest, the maintenance of reasonable rates and the relatively swift implementation of new public policies regarding terminal equipment. The need to accommodate these conflicting objectives is a temporary phenomenon created by the confrontation between the long established industry practice of allocating CPE costs to the interstate jurisdiction, and the recent adoption of detariffing policies. An interim transition scheme is clearly required to allow us simultaneously to guide the industry through a difficult adjustment and continue to meet our statutory obligations to the public interest. For this reason, we find that a temporary departure from more familiar separations practices is necessary.

32. Some parties, such as Rochester, may feel that a reduction rate based on an estimate of a five year transition is too long. Others, such as the Independent Alliance believe that a ten year transition period is more appropriate. Many parties, such as the Bell System, USITA, Continental and Centel have endorsed a five year period as a reasonable estimate for the length of time that it should take to achieve our goals. The Ad Hoc Committee and CBEMA have suggested that we reserve judgment as to the proper phase out period. However, we believe that the rate of reduction chosen by the Joint Board is entirely appropriate. Furthermore, delay in establishing the phase out period would defeat the essential purpose of the plan. That purpose, as we perceive it, is to choose a rate at which CPE costs will be removed from separations, rather than a definite period of time over which the interstate allocation of some level of CPE costs will continue to be guaranteed. One-sixtieth per month is a realistic estimate of the average rate at which all local carriers will experience the removal of tariffed CPE from their rate bases.

33. Several of the parties believe that the divestiture plan in the proposed Modified Decree, which would require the transfer of CPE from the Bell Operating Companies (BOCs) to AT&T, so dramatically changes the industry conditions upon which the CPE plan has been based that the entire matter should be remanded to the Joint Board for further analysis. The Modified Decree would mandate the transfer of CPE to AT&T within eighteen months after the Decree is entered. Kansas, RTC, Midway, Pigeon, and SBS believe that the transfer timetable under the Decree conflicts with the bifurcation plan adopted by this Commission in the *Second Computer Inquiry*. They argue that this conflict may require a reexamination of the CPE plan should the Decree require flash-cut removal of terminal equipment from the Bell Operating Companies' rate bases, thereby removing any opportunity to utilize toll settlements on CPE as a buffer to mitigate local rate increases. NATA further argues that, since the terms of the Modified Decree will eradicate the "conceptual" foundation of the Joint Board's proposal, specifically the continuation of CPE regulation and settlements arrangements, it makes no sense to approve a phased removal of CPE from rate base regulation. GTE expresses concern that the Joint Board plan would permit the BOCs to earn revenues on a CPE base that, after transfer of the equipment to AT&T, would no longer actually exist. Kansas questions the impact of the Modified Decree on the present scheme of state and federal regulation of terminal equipment and the implications of access charge arrangements involving the BOCs for the industrywide applicability of the separations and settlements processes.

34. Other parties believe that, although the proposed Modified Decree raises substantial questions, Commission approval of the Joint Board's recommendations need not be delayed. UTS, while proposing certain modifications to the CPE plan and urging careful consideration of the impacts of the Modified Decree, cautions that the progress made so far must not be lost. USITA is concerned that the provisions of the Modified Decree and the Commission's detariffing policies must be reconciled into a plan that is fairly applicable to the entire industry but sees no need to delay this proceeding. The Ad Hoc Committee and CBEMA believe that the possibility of a flash-cut of terminal equipment from BOC rate bases make it even more critical to cap CPE accounts for separations purposes as soon as possible, and suggest that January 1, 1982 be adopted as the effective date. ARINC points out that a flash-cut for the Bell System should not require fundamental changes in the Joint Board's recommendation since the Independents would remain subject to a phase out plan. ARINC also disagrees that the plan should be remanded to the

[24] *See Amendment of § 64.702 of the Commission's Rules and Regulations* (The Second Computer Inquiry), 77 FCC 2d 384 (1980) *(Final Decision), modified on reconsideration*, 84 FCC 2d 50, (1980) *further reconsideration*, 88 FCC 2d 512 (1981), *appeal pending sub. nom CCIA v. FCC*, Case No. 80-1471 (D.C. Cir. 1980).

[25] *See Recommended Decision and Order*, para. 13.

[26] *See* note 13, *supra*.

[27] *See Recommended Decision and Order* para. 27. The other parties supporting the Joint Board proposal include the California, Pennsylvania and Colorado Public Utilities Commissions, and the New York State Department of Public Service. The Joint Board reported that UTS, Continental and USITA also supported the plan, but in their most recent pleadings, these parties advocate removal of CPE from separations on the basis of book costs.

[28] Apparently this is not the case for all local companies. Rochester reports that its CPE investment in Accounts 231 (Station Apparatus) and 234 (Large PBXs) represents less than 20% of its NTS allocations, and that CPE has already been excluded from intrastate toll allocations in New York State, on a flash-cut basis, without a major impact on local rates.

Joint Board pending clarification of the Decree since that would bring the proceeding to a "grinding halt" for nearly a year while the District Court reviews the provisions of the agreement and Bell develops its reorganization plan. ARNIC views the plan as an interim measure that must be ready to be put in place on the Commission's detariffing date while the more comprehensive revisions to separations procedures for non-traffic sensitive costs are being finalized. Finally, the Bell System observes that the effective date of divestiture is not yet known, and argues that, even if there is a conflict between the eighteen month transfer deadline and the Commission's bifurcation plan, actions to begin the removal of CPE from separations should not be postponed. Bell maintains that both the divestiture plan and the Joint Board's five year schedule require movement toward the removal of CPE from interstate allocations, and that delay in the initiation of the process would not be in the public interest. Bell recommends that we proceed with the plan and deal, as necessary, with further changes that may be occasioned by such presently unforeseeable factors as the final divestiture plan, legislative action, or the decision of the Court of Appeals on review of our final action in the *Second Computer Inquiry*.

35. We find that there are no compelling reasons to modify the Joint Board's CPE plan at this time, or to delay its adoption due to any uncertainties created by the proposed Decree. As an initial matter, the Modified Decree is, as yet, merely a proposed settlement, and has not been officially entered by the United States District Court for the District of Columbia, which now has jurisdiction. Even if the Decree is not modified before it is finally approved, the Court's reviewing process is projected to take at least three months, and Bell's reorganization plan will not be unveiled for an additional six months. Therefore, the exact contours of divestiture will not be revealed until late 1982. If we were to delay the development of a plan to remove CPE from separations until all of the details of divestiture are known, there would be insufficient time to design and implement such CPE plan on a schedule properly coordinated with our CPE detariffing date. This type of delay would impair the proper and timely achievement of regulatory objectives, and would not be in the public interest.

36. This is all the more true because, at this time, we find no reason to undertake revision of our bifurcated detariffing plan, or our schedule for its implementation in light of the proposed Modified Decree. We have established a bifurcated approach to detariffing CPE because there are complex and time consuming issues regarding the proper valuation of CPE currently "embedded" in the rate base that we believe should not delay the reasonably swift transition to a competitive market for new CPE. These problems remain under the terms of the Modified Decree, since the CPE belonging to Bell must be valued before it is transferred to AT&T's subsidiary. The schedule for this transfer may be accelerated under the Decree, but it does not impact the essential integrity of our approach. Furthermore, the bifurcation plan will continue to be applicable to independent telephone companies. Delay in the adoption of a CPE separations plan for these companies is clearly not required. Therefore, the Modified Decree does not demand substantial changes in our program for CPE detariffing, and since it is crucial to have a separations plan in place on January 1, 1983, it is unnecessary, and would be unwise, to remand this matter to the Joint Board. We also desire that the Joint Board move forward to attend to other equally pressing separations issues including the appropriate measurement of private line, FX and CCSA minutes of use, the replacement of five business day with seven calendar day usage studies, and the proper assignment of NTS costs to interstate services for exchange access. The Joint Board and its staff have limited resources to apply to these efforts, and should not be burdened with the necessity of reconsidering issues that have already been thoroughly examined. A remand of the CPE plan would only result in the delayed development of an urgently needed comprehensive separations plan.

37. There is also no reason to delay this proceeding or modify the Joint Board's objectives out of some apprehension that the Modified Decree will invalidate the entire separations and settlements process. Whether or not a system of access charges will replace settlements for the entire industry, the problem of the appropriate jurisdictional allocation of costs will remain. Interstate cost allocation is the only matter before the Joint Board, and it is essential that it complete its work expeditiously so that other necessary changes in carrier relationships can be made as circumstances require.

38. Although the Modified Decree does not require postponement of either of the actions that have been recommended by the Joint Board so far, we recognize that some uncertainty has been created, and that, at this stage, it is impractical to adopt the CPE plan as a final solution to the problem it is intended to address. Therefore, we approve it as an interim plan, to be in place on January 1, 1983. This is necessary to assure the prompt implementation of our detariffing policies and to protect both exchange and interexchange carriers as well as the public. However, the Joint Board should take into consideration the likely effects of the Modified Decree, especially the possibility of the sudden removal of CPE from the rate bases of the BOCs, in its final design of comprehensive revisions to the Separations Manual. The CPE plan, as here adopted, will probably have to be modified, with respect to the BOCs, or superseded by the comprehensive exchange plant revisions, to accommodate a restructuring of the industry which may take place a year or so after the CPE plan has begun to take effect. We believe that it would be most appropriate to make these changes, if any, in the context of the overall separations plan which is still being formulated for the allocation of non-traffic sensitive costs. What we adopt here is a rate at which CPE related costs should begin to be removed from the interstate jurisdiction, and charge the Joint Board with presenting a recommendation as to how this rate should finally be integrated with other changes to the separations process.

39. RTC claims that the Joint Board has "explicitly refused" to consider the relationship between jurisdictional cost allocations and the maintenance of reasonable local rates. This is a mischaracterization of the Joint Board's approach. The Joint Board has decided that a plan for CPE should be adopted on an expedited basis, so that it can be in place when it is needed, whether or not all separations issues have been completely resolved by the time that bifurcation takes effect. The proper timing of a CPE separations plan is critical to the effective implementation of our detariffing policies. However, this by no means indicates that the Joint Board has abandoned its responsibility to consider the overall impact of separations changes on local rates. In fact, the Joint Board has specifically stated that:

> The mere fact that a plan for removal of CPE from separations procedures is subject to the Joint Board's decision-making process on a priority basis in no way precludes the coordinated implementation of that plan with other separations changes. We fully intend to address all necessary modifications to the Separations Manual as expeditiously as possible. The choice of a CPE separations plan provides a foundation upon which these other modifications can be built in a sequence that achieves the most equitable results for all parties concerned.[39]

40. Some parties still find fault with the Joint Board's plan on the basis that it does not allow the proper reflection of actual book costs of CPE. Continental and Centel say specifically that they support the adoption of the CPE plan to the extent that it is consistent with the original proposal made jointly by Bell and USITA.[40] Under this proposal, book costs of CPE and related expenses would be identified for separations purposes. However, the actual amount allocated to the interstate jurisdiction would be determined by the application of SPF or a substitute factor to the identified costs and the reduction of the resulting product by an additional one-sixtieth each month. Thus, after the first month, the proportion of CPE costs allocated to interstate would be based on an amount that is less than the CPE costs actually remaining in the rate base. Therefore, local carriers that experienced retirements, sales, or transfers more swiftly than other carriers would experience a double penalty. The proportion of book costs allocated would decline at a steady rate each month, and the actual cost base would also decline. This would clearly create great incentives for local carriers to maintain embedded CPE in the rate base for as long as possible. This result is contrary to our intentions, which are to reduce the penalties for the detariffing of CPE and promote favorable conditions for full competition in all CPE markets. Therefore, we find, as did the Joint Board, that this proposal is unacceptable.

41. GTE argues that essentially no changes need be made to allocation procedures to accommodate the detariffing of CPE. GTE maintains that the Joint Board's plan violates separations principles and that the allocation of CPE to interstate services must continue to be based on book costs. GTE also argues that separations changes prior to the resolution of the issues being addressed in the Implementation Proceeding are unnecessary, and that a CPE plan based on amounts fixed at a certain period of time would ignore the particular requirements of individual companies. Other parties, including the Independent Alliance, Golden West, USITA, UTS, Pigeon and Midway concur that book costs should be used to determine the interstate allocation of CPE. These parties are generally concerned that CPE separations revisions be complemented with adequate capital recovery, an equitable access charge plan, and reasonable implementation procedures for CPE deregulation. The Joint Board has already addressed these issues, and we concur with their analysis.[41]

42. The parties who advocate the use of book costs in the name of capital recovery do not actually claim that CPE is generally underpriced at the local level, and that interstate settlements are needed to recoup the full costs of CPE. Aside from the fact that interstate settlements are not tagged for CPE and that it would be impossible to determine that settlements are or will be used for such a purpose, none of the local carriers have disputed the Joint Board's assumption that terminal equipment rates are now generally set at or near full costs. It appears that these carriers promote the continued use of CPE book costs on the basis that such a practice is a fundamental "principle" of separations procedures. They believe that the Joint Board's plan, which relies on an approximation of average book costs over a five year period represents a contravention of this long-standing principle. We do not dispute the fact that the book costs of those portions of the telecommunications network subject to our jurisdiction under Title II of the Communications Act has been, and continues to be the appropriate basis for allocations among interstate services. However, the detariffing of CPE presents a unique situation and requires adjustments to separations procedures that have never before had to be made. In our decision in the *Second Computer Inquiry*, we determined that terminal equipment is no longer a proper subject of federal regulation under Title II of the Communications Act. Theoretically, under this determination, it would actually be most proper to eliminate CPE allocations entirely, regardless of the CPE book costs that remain in the rate bases of local carriers. However, we are constrained by our statutory mandate under Section 1 of the Communications Act to consider the impact of the full implementation of detariffing policies on the reasonableness of rates. Therefore, due to the contribution phenomenon that has developed as a result of CPE allocations to interstate, it is appropriate to coordinate the removal of CPE from separations with our bifurcation plan, and to introduce the necessary changes gradually. In order to guide the industry through a temporary transition period in an orderly and equitable manner, the adoption of the Joint Board proposal is warranted for two reasons. First, it will prevent sudden and uneven rate increases due to CPE detariffing policies, and will provide, as nearly as possible, equal conditions under which all local carriers will make the transition to an environment of detariffed CPE. Second, it will protect the public interest by promoting rather than impeding the achievement of our detariffing objectives. Since this is a temporary and interim plan, necessary for the achievement of an equitable and swift transition, it does not impair the general integrity of separations procedures.

43. The Independent Alliance has also argued that the elimination of settlements under the Joint Board's plan would constitute a form of confiscation of utility property and would violate certain bond covenants that require local carriers to use both local and toll revenues to meet their obligations. The Independent Alliance claims that interference with these contractual arrangements would impede their ability to recover invested capital fully. They suggest that a ten year rather than a five year time frame for the phase out of CPE allocations is required to provide sufficient time for present obligations to be met under the terms of these contracts. We find that this argument for the extension of the phase out period is completely without merit. Aside from the irrelevance of the capital recovery argument, which we have already addressed, we note that there is nothing about the Joint Board's plan that would violate bond covenants that require repayment of borrowed funds with both local and toll revenues. It is absurd to believe that these covenants require the identification of settlement revenues according to the particular types of equipment upon which the related cost allocations are based. As we have stated, this would be an unreasonably burdensome, if not impossible task. The Joint Board's plan certainly does not prevent the application of the toll settlements that will continue to be received toward repayment of debt financing. Therefore, there is no reason to believe that bond covenants will be violated. However, even if they were, this would not be a sufficient reason for the abandonment or inordinate postponement of important regulatory policies. It is well settled that governmental regulation is not invalidated simply because an entity

[39] *See Recommended Decision and Order*, para. 13.

[40] *See* note 13, *supra*.

[41] *See Recommended Decision and Order*, paras. 24–26.

subject to the regulation is a party to some contracts.[42]

44. Some parties are concerned that the Joint Board's plan may have antitrust implications or may actually promote anticompetitive behavior on the part of local carriers. NATA, a representative of competitive manufacturers, suppliers and distributors of CPE argues that, contrary to the assumptions made by the Joint Board, CPE is currently underpriced and that no contribution phenomenon is created by the combination of full cost pricing at the local level and the allocation of a portion of CPE costs to interstate. NATA submits a functional cost study of the Bell System to show that, at rates current in 1980, CPE operations lost $3.9 billion. NATA further contends that recent cost studies submitted by the Bell System in several states have indicated either negative or only marginally positive returns for CPE. NATA claims that these results demonstrate that there is no need for a phase out of separations support provided to local exchange operations via CPE allocations, and that the Joint Board's plan would only perpetuate opportunities for Bell companies to engage in predatory pricing of terminal equipment. NATA maintains that adequate depreciation, capital recovery, valuation and transfer prices will more than offset settlement revenue losses associated with the exclusion of CPE from separations.

45. Bell responds with the observation that NATA's cost study does not include an analysis of the combined effects on intrastate revenue requirements of separations allocations of CPE costs and pricing of CPE at the intrastate level; thus, it does not support NATA's conclusion that detariffing of CPE and the reduction of interstate allocations will not place upward pressure on local rates. We agree that NATA's study does not demonstrate that CPE is currently underpriced because of interstate settlement revenues. NATA has certainly not established a nexus between settlements and CPE pricing that compels us to believe that a phase out of CPE allocations to interstate will perpetuate any predatory pricing practices. There are other serious flaws in NATA's study. It is not at all clear how the study was constructed, since the assumptions on which it is based are not revealed. We have never prescribed a fully distributed cost study for CPE allocated to interstate services, and NATA does not identify any particular state requirements as the source of its methodology for the attribution of intrastate costs and revenues to CPE. The source of NATA's data is also unknown, although NATA rather vaguely implies that it used 1980 statistical information. In addition, the study allocates a variety of costs to CPE, such as outside plant, furniture and office equipment, and all categories of operating expenses, which are clearly unrelated to the cost of the equipment itself, and thus permits grossly distorted conclusions to be drawn regarding the adequacy of the returns currently earned by CPE. Finally, the study does not reach the relationship between costs and revenues for CPE owned by Independents. Although the Bell System does own the vast preponderance of CPE, the plan for removal of CPE from separations is based on industry-wide conditions. For all of these reasons, we find the NATA study to be misleading and unreliable, and of little help to us. We also note that, in contrast to NATA's position, CBEMA, which also represents competitive interests in terminal equipment, comments that the Joint Board's recommendation will facilitate our goals of enhancing the competitiveness of the CPE market. Inasmuch as we are adopting a phase out of CPE investment from interstate allocations rather than an offset that would maintain an existing interstate allocation on a perpetual basis, no purpose would be served by conducting elaborate studies to determine whether state commissions have succeeded in pricing all CPE at full cost. We are satisfied that the Joint Board phase out proposal is reasonable and equitable and that no useful purpose would be served by attempting to measure with greater precision the rate consequences of an abrupt removal of CPE from separations.

46. A few other parties have raised antitrust concerns from the viewpoint of local carriers. Kansas states that, although it does not agree that terminal equipment is generally tariffed below cost, the potential for anticompetitive practices is a serious question that the Joint Board has not adequately addressed and should consider on remand. The Independent Alliance argues that telephone companies which sell embedded CPE could become subject to complaints from customers who object to the telephone utility's power over pricing and provision of service as well as from interconnect companies that may view prices at or below market value as monopolization or unfair competition. We do not dispute the fact that compliance with antitrust laws is a factor which must be taken into account by local carriers and state regulatory commissions that wish to establish programs for the sale of used CPE to customers. However, the CPE plan we adopt here does not directly impact these concerns. The Joint Board's recommended plan accomplishes nothing more than the smooth and certain removal of CPE from separations at a measured rate. It does not require the sale of terminal equipment to the public, nor does it establish any particular prices for sale or transfer of CPE or specific standards by which those prices must be set. These are problems that must be resolved at the local level. The possible emergence of antitrust complaints or the creation of opportunities for non-compensatory pricing are neither necessary nor inevitable results of a transition mechanism that phases out jurisdictional CPE allocations over a limited period of time. If anything, the CPE plan will hasten the elimination of any opportunities for predatory pricing that may currently exist by removing CPE from separations as swiftly as we believe that public interest will allow.

C. Technical Modifications to the Joint Board's Recommendation

47. Bell, GTE, Centel and USITA have suggested a number of technical changes in the Separations Manual language recommended by the Joint Board. A number of these changes are desirable and will be incorporated in the revised Separations Manual as discussed below. Bell points out that the language proposed by the Joint Board appears to include federally tariffed CPE with other embedded CPE to be phased out of the separations process. As less of the CPE costs are allocated to the interstate jurisdiction more of them remain to be borne by the intrastate jurisdiction. Bell contends that this would create a cost-revenue mismatch in the case of federally tariffed CPE since the revenues involved will remain in the interstate jurisdiction. Centel and USITA also raise this point. We believe that they are correct in the contention that the recommended language could result in an improper allocation of federally tariffed CPE costs to the intrastate jurisdiction. Accordingly, we have modified § 25.32 to provide that federally tariffed CPE will be apportioned as provided in paragraph 25.22 of the Separations Manual.

48. Bell also points out that the definition of customer premises equipment to be added to the Separations Manual under the Joint Board's recommendation is not fully consistent with the definition of CPE contained in the *Second Computer Inquiry*. Centel also raises this point, recommending a definition somewhat different from that of Bell. Since the changes in the separations treatment of CPE are being recommended by the Joint Board in large measure because of the Commission's decision in that proceeding, we believe that the definition of CPE contained in the revised Separations Manual should be as consistent as possible with that set out in our decision in the *Second Computer Inquiry*. Accordingly, the definition of CPE to be included in the Separations Manual has been modified to track our *Second Computer Inquiry* decision.

49. Bell suggests that the recommended language of Section 42.551 which caps the interstate allocation of CPE maintenance expenses be modified, as recommended by the Joint Board, to track that of Section 25.31 which caps the interstate allocation of CPE investment. We believe that this change in the language recommended by the Joint Board is desirable and will incorporate Bell's suggested language. Bell also proposes that Section 42.552 be modified by substituting existing Separations Manual terminology for similar language in the Joint Board's recommended changes. In addition, Bell suggests adding language to cover installations, disconnections and removals which have been added to Account 605. We believe that changing this language to be more consistent with existing Separations Manual terminology and adding the suggested additional terms is desirable and we have modified § 42.552 accordingly.[43]

50. We also believe that the language of § 51.22 proposed by the Joint Board should be modified as recommended by Centel, with certain changes, to specify that the depreciation reserve is to be apportioned between the interstate and intrastate jurisdictions in accordance with the procedures used for the separation of the related CPE plant. This change is desirable to ensure that the depreciation reserves properly track the CPE equipment to which they relate in light of the fact that different items of CPE are depreciated at different rates. We have also made one minor clarifying change in the introduction to the addendum suggested by Centel.

51. There were also a number of other suggested changes that we are not adopting. GTE advocates a number of technical changes in the Separations Manual language recommended by the Joint Board. GTE's first concern involves the apportionment of maintenance and depreciation expenses between the interstate and intrastate jurisdictions. GTE states that under §§ 42.552, 43.112 and 51.22 the amounts for maintenance expense, depreciation expense and depreciation reserves respectively are to be reduced by one-sixtieth per month and then apportioned to interstate on the basis of the related CPE plant. The related CPE plant amounts will also be reduced by one-sixtieth per month and GTE contends that the recommended separations language must be clarified to prevent it from being interpreted in a manner which would result in compounding the rate at which these expenses and reserves are removed from the separations process. We do not believe that the separations language recommended by the Joint Board is susceptible to the interpretation posited by GTE. It is amply clear that maintenance expense, depreciation expense and depreciation reserves are to be apportioned according to the methods used for apportioning the amount of the related investment, not according to the overall ratio of interstate to intrastate investment.

52. GTE also contends that the revised separations language should specifically address the treatment of CPE plant held in Account 100.2, Plant Under Construction. GTE argues that while CPE plant remains in Account 100.2 a portion of its costs will continue to be allocated to interstate, but that when construction is complete and the amounts are transferred to the appropriate CPE account, all of the related costs will be assigned to the intrastate jurisdiction because of the cap on CPE investment. Under our decision in the *Second Computer Inquiry* new CPE will be deregulated as of January 1, 1983 while embedded CPE will continue to be subject to regulation pending further proceedings. The definition of embedded CPE includes equipment which is already in place on the customer's premises as well as inventory. Since embedded CPE does not include units under production, CPE plant in Account 100.2 will be fully deregulated on January 1, 1983 and should not be included in the CPE investment to be phased out of the separations process over a five year period.

53. In addition, GTE contends that the definition of CPE recommended by the Joint Board should be clarified to exclude equipment designed as a functional part of network services and performing functions such as supervision, signalling and transmission enhancement, but currently included in the CPE accounts. USITA argues that Category 3 Station Identification Equipment costs should continue to be allocated in accordance with § 25.23 of the current Manual. Centel also raises this point. We believe that the recommended definition of CPE, as revised in response to Bell's comments, adequately deals with this question. If equipment is contained in items of CPE as defined in the *Second Computer Inquiry*, it will be phased out of separations. If it is not contained in the CPE, it will not be included in the phase out.

54. Centel also proposes a number of technical changes in the Separations Manual language recommended by the Joint Board. Centel observes that, pursuant to the Commission's Supplemental Opinion and Order in Docket No. 20188, AT&T has disaggregated Account 171 and now maintains depreciation reserves for each category of property for which the Commission prescribes depreciation rates. Centel contends that this process must continue to be used by all telephone companies for establishing the base amounts for CPE, and recommends elimination of the language which allows use of theoretical reserves for each account when figures based on an actual allocation are not available. While we agree that the use of depreciation figures allocated to each plant account on the basis of the company's books is preferable, some provision must be made for situations in which such amounts are not available. Therefore, we have retained the language allowing the use of theoretical reserves for each account when actual figures are not available.

55. Centel also suggests a number of changes in the Joint Board's recommended language to deal explicitly with the allocation of depreciation, amortization reserves, accumulated deferred income taxes and accelerated tax depreciation. We believe that the language recommended by the Joint Board adequately deals with these matters since these amounts will continue to follow the allocation of the related plant. Therefore, we do not believe that there is any reason to adopt

[42] *See, e.g., Southern Terminal Corporation v. Environmental Protection Agency*, 504 F.2d 646, 670-680 (1st Cir. 1974). Moreover, it has long been held that the obligation of contracts clause of the United States Constitution, U.S.C.A. Const. Art. 1, § 10, cl. 1, does not apply to the federal government. *Stinking Fund Cases*, 99 U.S. 700, 718 (1878). This is true even though the freedom to contract is often diminished when an industry is under federal regulation. *Amoco v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 667 F.2d 1278, 1278 (5th Cir. 1977).

[43] In addition, Bell points out that Section 2, Part 5 of the recommended Addendum contains an erroneous reference to § 25.31 when § 25.111 is clearly intended. This was a typographical error and has been corrected.

the changes in this area recommended by Centel.

IV. Conclusion and Ordering Clauses

56. The two recommendations presented by the Joint Board represent significant steps toward the accomplishment of its designated tasks. The imposition of a SPF freeze will prevent the further aggravation of a long recognized problem regarding the interstate allocation of non-traffic sensitive costs. This action will not prejudice the Joint Board's final determination of the appropriate separations treatment of these costs. It will maintain current allocative proportions until more comprehensive Manual changes are finalized and will provide, for all carriers, the most equitable basis for adjustment to new separations procedures. The CPE plan will permit the prompt implementation of our detariffing policies. However, it will not prevent the development of an overall separations plan that accommodates any special cost conditions that may be found to exist in particular sectors of the industry. Now that the preliminary separations matters concerning the growth of SPF and the removal of CPE have been addressed, we expect the Joint Board to devote its full resources to the design of this overall plan. Although we have made minor technical adjustments in the wording of the actual amendments to be made to the Separations Manual, we see no reasons why the Joint Board's recommendations should not be adopted as originally proposed.

57. Accordingly, pursuant to Sections 4(i), 205(a), 221(c), 403 and 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 205(a), 221(c), 403 and 410(c), as amended, it is ordered, That the recommendations of the Federal-State Joint Board, as modified herein, are hereby adopted.

58. It is further ordered, That the Amendments to the Separations Manual which is Incorporated by Reference in Part 67 of the Commission's Rules set forth in Appendix A of this *Decision and Order* are adopted, effective April 2, 1982.

59. It is further ordered, That the amendments to the Separations Manual, which is Incorporated by Reference in Part 67 of the Commission's rules set forth in Appendix B, of this *Decision and Order*, are adopted, effective April 2, 1982.

60. It is further ordered, that the Secretary shall cause this *Decision and Order* to be published in the **Federal Register**, and that this proceeding remains subject to further order by the Commission.

(Secs. 2, 3, 4, 5, 205, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1080, 1081, 1082, 1083, 1084, 1085, 1088, 1089; 47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Note.—Incorporation by Reference provisions were approved by the Director of the Federal Register on October 1, 1981.

Note.—The changes in appendices A and B will not be shown in the 1982 edition of 47 CFR.

Appendix A—Addendum to the Separations Manual

Section 2, Part 3

Revised paragraph 23.444 to read as follows:

23.444 The cost of subscriber line outside plant in Category 1.3 assigned to message telephone services in the study area, as determined in paragraph 23.444, is apportioned between state and interstate operations by the application, to the cost of such plant, of a subscriber plant factor, which is the sum of the following:

(a) *Annual average* interstate subscriber line use (SLU), *for the calendar year 1981,** representing the interstate use of the subscriber plant as measured by the ratio of interstate holding time minutes of use to total holding time minutes of use applicable to traffic originating and terminating in the study area, multiplied by .55, the nationwide ratio of (1) subscriber plant costs assignable to the exchange operation per minute of exchange use to (2) total subscriber plant cost per total minute of use of subscriber plant, plus

(b) Twice the *annual average* interstate subscriber line use ratio for the study area *for the calendar year 1981,** multiplied by the *annual average composite station rate ratio used for the calendar year 1981* (ratio of (1) the nationwide, industry-wide average interstate initial 3-minute station charge at the study area average interstate length of haul to (2) the nationwide, industry-wide average total toll initial 3-minute station charge at the nationwide average length of haul for all toll traffic for the total telephone industry).

Appendix B—Addendum to the Separations Manual

General

This addendum to the February, 1971 edition of the Separations Manual provides for the phase out and termination of the allocation to interstate of customer premises equipment in Accounts 231 and 234. No customer premises equipment investment, as defined in the Glossary of this Manual, which may be added to those accounts after December 31, 1982 shall be allocated to the interstate operation. The plant balances attributable to customer premises equipment on the books as of December 31, 1982 shall constitute a base amount for allocation between state and interstate operations during a phase out period of 60 months. Starting with January, 1983 the base amount shall be reduced by one-sixtieth each month, and all customer premises equipment subject to allocation between state and interstate operations shall terminate after 60 months. None of the reduction so occasioned shall be assigned to interstate operations or included in interstate revenue requirements. A consistent treatment is required for the expenses and reserves associated with customer premises equipment. The following revisions to the Manual are made:

Section 1, Part 1

A new paragraph 11.25 shall be added as follows:

11.25 The procedures set forth herein provide for the exclusion from the interstate allocation of all investments and associated reserves and expenses incurred in connection with customer premises equipment after December 31, 1982. Investments in customer premises equipment on the books as of December 31, 1982 will be phased out over a 60 month period for allocation to interstate operations. Consistent treatment is required for the reserves and expenses associated with the phase out of the investment in customer premises equipment.

Section 2, Part 5

A new Section 25.111 shall be added as follows:

25.111 The investments in Accounts 231 and 234 shall be segregated between customer premises equipment and other station equipment. Customer premises equipment shall be apportioned among the operations as set forth in Sections 25.31 and 25.32. (Other station equipment shall be apportioned *in accordance with section 25.2*)

A new section 25.3 shall be added as follows:

25.3 Phase out and termination of interstate apportionment of customer premises equipment in accounts 231 and 234.

25.31 New Customer Premises Equipment—No portion of any investment in customer premises equipment in Accounts 231 and 234 which may be entered on the books of the company after December 31, 1982 shall be apportioned to interstate operations.

25.32 Phase Out of Customer Premises Equipment Recorded as of December 31, 1982—The recorded investments of customer premises equipment in Accounts 231 and 234 which are on the books as of December 31, 1982 shall be assigned to the five categories set forth under § 25.2. Equipment assigned to category 2 shall be apportioned as provided in paragraph 25.22. The amount of plant investment so determined in all other categories, reduced by one-sixtieth, shall be apportioned between state and interstate operations in accordance with the procedures prescribed for each category under § 25.2 for the month of January, 1983. Each month thereafter, the base December 31, 1982

*In the case of a company that cannot calculate an average interstate subscriber line used (SLU) ratio for the calendar year 1981, the average interstate SLU for the customarily use twelve month study period ending in 1981 may be utilized. In the case of a company for which no such 1981 annual average SLU exists, the annual average interstate SLU for the initial study period will be utilized.

amount shall be reduced by one-sixtieth of the base amount in each category, and the apportionment between state and interstate operations shall be made in a similar manner. After 60 months the amounts in each category will be reduced to zero, and no apportionment of any such customer premises equipment to interstate operations shall thereafter be made. Companies that have a separations study period different than monthly may establish equal periods for reducing the base amounts consistent with such study periods to write off the base amount in 5 years.

Section 2, Part 9

The following sentence shall be added to Paragraph 29.11:

Starting with January 1, 1983 any amounts included in Account 122 associated with customer premises equipment shall be excluded from the amounts which are allocated to the interstate operation.

Section 4, Part 2

A new section 42.55 shall be added as follows:

42.55 Phase Out and Termination Provision.

42.551 No portion of any maintenance expense in Account 605 associated with new customer premises equipment in Accounts 231 and 234 except Category 2 equipment which may be entered on the books of the company after December 31, 1982 shall be apportioned to interstate operations.

42.552 The average monthly recorded maintenance expense in Account 605 associated with Ordinary Repairs plus Shop Repairs and Salvage Adjustments of customer premises equipment in Accounts 231 and 234 (excluding amounts for rearrangements and changes, installations, disconnections and removals) for the 12 months preceding the cut-off date shall be used as a base in connection with the phase out of interstate allocation of customer premises equipment. For the month of January, 1983 such base amount shall be reduced by one-sixtieth and apportioned among the operations in accordance with the procedures set forth above in paragraphs 42.521 through 42.542, as applicable.

42.553 Each month thereafter, the base amount shall be reduced by one-sixtieth of the original base amount, and the apportionment of such reduced amount among the operations shall be made in a similar manner. After 60 months the base amount will be reduced to zero, and no apportionment of customer premises equipment maintenance expense to interstate operations shall thereafter be made.

Section 4, Part 3

A new Section 43.112 shall be added as follows:

43.112 Depreciation expense associated with customer premises equipment in Accounts 231 and 234 except Category 2 equipment for the month of December, 1982 shall be expressed as a ratio to the plant in these accounts as recorded for December 31, 1982, and such ratio shall be applied to the phase out of plant in these accounts as described in Paragraph 25.32 in accordance with the procedure in paragraph 43.12.

Section 4, Part 7

The following sentence shall be added to Paragraph 47.211:

The wage portion of maintenance expense related to maintenance of customer premises equipment shall be determined in a manner consistent with the phase out of maintenance expense provided in § 42.55.

Section 5, Part 1

A new paragraph 51.22 shall be added as follows:

51.22 The depreciation reserve associated with customer premises equipment in Accounts 231 and 234 except Category 2 equipment shall be determned as of December 31, 1982 as a base for the phase out of customer premises equipment in those accounts. Starting with January, 1983 such base amount shall be reduced by one-sixtieth each month. Each amount so determined is then apportioned among the operations in accordance with the procedures used for the separation of the related CPE investment.

Glossary

The following definition shall be added:

Customer Premises Equipment—Items of telecommunications terminal equipment in Accounts 231 and 234 referred to as CPE in § 64.702 of the Federal Communications Commission's rules adopted in the *Second Computer Inquiry* such as telephone instruments, data sets, dialers and other supplemental equipment, and PBXs which are provided by common carriers and located on customer premises and inventory included in these accounts to be used for such purposes. Excluded from this classification are similar items of equipment located on telephone company premises and used by the company in the normal course of business as well as over voltage protection equipment, inside wiring, coin operated, public or pay telephones, multiplexing equipment to deliver multiple channels to the customer, mobile radio equipment and transmit earth stations.

[FR Doc. 82-5849 Filed 3-1-82; 3:30 pm]

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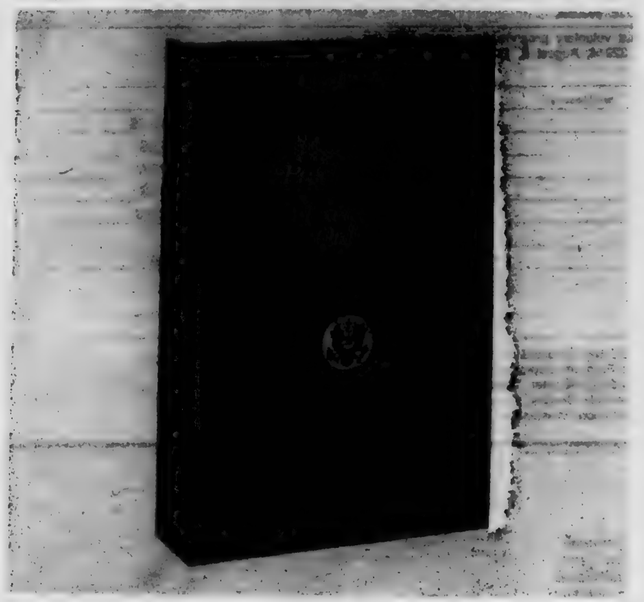

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March 4, 1982

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Federal Register
Vol. 47, No. 43
Thursday, March 4, 1982

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Ch. XIV

Relocation of Headquarters Offices

Correction

In FR Doc. 81–33528 appearing on page 57263 in the issue of Monday, November 23, 1981, make the following correction:

In the middle column of page 57263, paragraph (c) of Appendix A to 5 CFR Ch. XIV, in the first and second lines, "The Office address of the Chief Administrator is:" should have read "The Office address of the Chief Administrative Law Judge is:".

BILLING CODE 1505-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

United States Standards for Grades of Gladiolus Corms (Bulbs) [1]

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes voluntary U.S. Standards for Grades of Gladiolus Corms (Bulbs). This action has been taken at the request of the North American Gladiolus Council (NAGC). These standards will provide industry with a uniform basis for trading. They reflect current industry quality and size specifications and will assist in the promotion of efficient and orderly marketing.

EFFECTIVE DATE: April 5, 1982.

FOR FURTHER INFORMATION CONTACT: Francis J. O'Sullivan, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–2186.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This action has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as a non-major rule.

Effect on Small Entities

William T. Manley, Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, has determined this rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601) because it reflects current marketing practices.

Background

In July 1974 the North American Gladiolus Council (NAGC) formally requested the development of U.S. Standards for Grades of Gladiolus Corms (Bulbs). The Council had been informed by the Federal Trade Commission (FTC) that voluntary trade practices which had been established by FTC in 1952, would be withdrawn. NAGC requested that this action be delayed until a satisfactory substitute could be found. The delay was granted and lasted until August 5, 1977, when FTC officially rescinded the rules.

Soon after NAGC's request, a staff member of USDA's Fruit and Vegetable Division of the Agricultural Marketing Service met with the NAGC's Standards Committee. A study draft was developed which included quality and size requirements recommended by the Committee. This draft, with a comment period ending December 31, 1975, was widely distributed to interested persons. Three letters of comment were received supporting the development of the standards with recommendations for a few minor changes in the proposed standards.

In January 1976 at the request of NAGC, a representative of the Department met with the Standards Committee, Board of Directors, and the general membership of NAGC for a discussion of the study draft. At that time the general membership voted to request the Department to delay development of the standards until such time as they conducted further studies.

After conducting further studies of the proposed standards, the Standards Committee requested the Department to develop a revised study draft incorporating changes for certain requirements as outlined in the original study draft. On May 9, 1978, an Advanced Notice of Proposed Rulemaking was published in the Federal Register (43 FR 19857) noting the availability of the revised study draft with a comment period ending November 30, 1978. This draft was widely distributed to gladiolus industry members world-wide. Five letters of comment received generally supported the proposed standards. A few minor changes based on these comments were incorporated in the proposed rule.

The proposed rule for establishing voluntary grade standards for gladiolus corms (bulbs) was published in the Federal Register on April 28, 1981 (46 FR 23751). At that time the responsibility for U.S. grade standards was assigned to the Food Safety and Quality Service. The Agricultural Marketing Service now has this responsibility.

Comments

Twelve written responses were received during the period for comment which ended June 29, 1981. All commenters generally approved the proposed requirements of the standards. Five of these, in their opinion, were concerned that including both diameter and circumference measurements would be confusing to the trade and requested that the standards not contain circumference measurements. The majority, however, commented that as measurement by circumference is frequently used in international trade, it is essential that the standards include both means of measurement. Table I, at the request of some commenters, has been simplified to include diameter measurements in inches and metric circumference measurements. As

[1] Compliance with the provisions of these standards shall not excuse failure to comply with provisions of applicable Federal or State laws.

circumference measurements are used in both domestic and international trade, they have been retained in this rule.

This rule establishes quality and size requirements consistent with current industry marketing practices and will encourage uniformity in commercial trading practices.

Accordingly, United States Standards for Grades of Gladiolus Corms (Bulbs) are established and codified as 7 CFR 51.4240 through 51.4247, and are added to read as follows:

[1] Compliance with the provisions of these standards shall not excuse failure to comply with provisions of applicable Federal or State laws.

PART 51—FRESH FRUITS, VEGETABLES, AND OTHER PRODUCTS (INSPECTION, CERTIFICATION AND STANDARDS).

Subpart—United States Standards for Grades of Gladiolus Corms (Bulbs)

Sec.

51.4240 General.
51.4241 Grades.
51.4242 Size.
51.4243 Tolerances.
51.4244 Application of Tolerances.
51.4245 Sample for Grade and Size Determination.
51.4246 Definitions.
51.4247 Classification of Defects.

Subpart—United States Standards for Grades of Gladiolus Corms (Bulbs)[1]

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624.

§ 51.4240 General.

These standards apply to corms (bulbs) of the genus Gladiolus characteristically flattened in shape, consisting of solid corms (bulbs) propagated by a new corm which grows on top of the old corm (bulb) or by cormels (bulblets) which form between the old and new corms. (See Figure I)

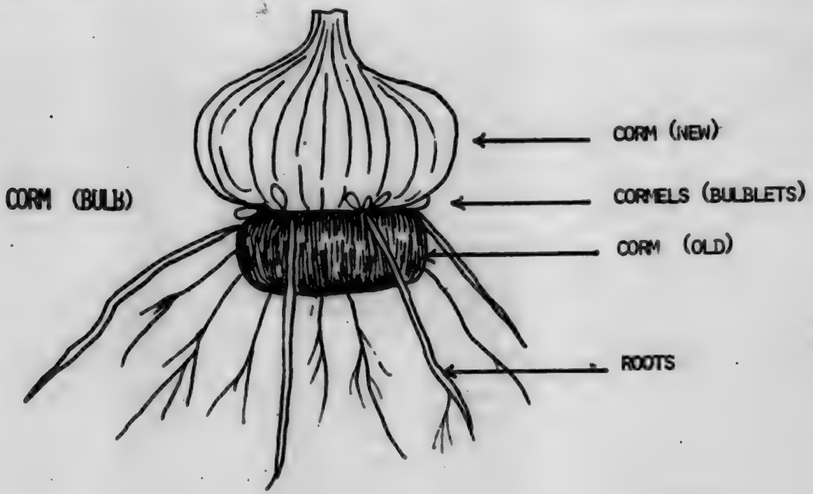

FIGURE I

§ 51.4241 Grades.

(a) "U.S. Fancy" consists of gladiolus corms which meet the following requirements:

(1) Basic Requirements:
(i) Mature and well cured;
(ii) Well filled;
(iii) Clean; and,
(iv) Well trimmed.
(2) Free From:
(i) Mold;
(ii) Shattered corms;
(iii) Thrips;
(iv) Freezing;
(v) Nut sedge;
(vi) Grass roots;
(vii) Rogues; and,
(viii) Decay.
(3) Free from damage by any means.
(4) Size. See § 51.4242
(5) Tolerances. See § 51.4243

(b) "U.S. No. 1" consists of gladiolus corms which meet the requirements of U.S. Fancy, except for increased tolerances specified in § 51.4243.

(c) "U.S. Fancy Mixture" consists of gladiolus corms which meet the requirements of U.S. Fancy, except for rogues.

(d) "U.S. No. 1 Mixture" consists of gladiolus corms which meet the requirements of U.S. No. 1, except for rogues.

§ 51.4242 Size.

(a) The size of corms may be specified in connection with the grade in terms of minimum circumference, maximum circumference, minimum diameter, maximum diameter, or in accordance with one of the size designations given in Table I.

(b) Circumference or diameter means the greatest dimension of the corm at right angles to a line running from the stem to the center of the basal portion.

TABLE I

Size designation	Diameter		Circumference	
	Minimum inches	Maximum inches	Minimum centimeters	Maximum centimeters
Jumbo	Over 1¾		Over 14	
1	1½	1¾	12	14.
2	1⅜	1½	10	12.
3	1	1⅜	8	10.
4	⅞	1	6	8.
5	⅝	⅞	4	6.
6	⅜	⅝	2	4.
7		Under ⅜		Under 2.
Large	1½	1¾	10	14.
Medium	⅝	1½	6	10.
Small	⅜	⅝	2	6.

§ 51.4243 Tolerances.

In order to allow for variations incident to proper grading and handling, the tolerances, by count, given in Table II shall be permitted in any lot.

TABLE II

	U.S. fancy (percent)	U.S. No. 1 (percent)
Total defects	6	10
Included in total defects:		
Internal defects	2	3
Rogues	2	4
Thrips	1	1
Nut sedge, grass roots, freezing, and decay.	½ of 1	½ of 1

Not more than 10 percent of the corms in any lot may fail to meet a specified size, including therein not more than 5 percent for corms which fail to meet the specified minimum circumference or diameter.

§ 51.4244 Application of tolerances.

The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations: Provided, That the averages for the entire lot are within the tolerances specified for the grade:

(a) Individual samples may contain not more than double the tolerance specified.

(b) One defective and one off-size specimen may be permitted in any package.

(c) Packages containing 10 specimens or less are not restricted as to the percentage of defects, except not more than one specimen which is affected by decay or otherwise seriously damaged and one off-size specimen may be permitted in any package.

§ 51.4245 Sample for grade and size determination.

Each sample shall consist of 50 corms, except when individual packages contain less than 50 corms the sample shall be the individual package.

§ 51.4246 Definitions.

"Mature and well cured" means corm is firm with a well-healed base scar and dry neck.

"Well filled" means compact and plump.

"Clean" means practically free from dirt and other foreign material.

"Fairly clean" means not materially caked with dirt or materially stained.

"Well trimmed" means tops are not more than 1 inch (2.5 cm) in length. New stem growth is not considered when determining trim.

"Fairly well trimmed" means tops are not more than 2 inches (5.1 cm) in length. New stem growth is not considered when determining trim.

"Rogues" means a distinctly different cultivar from that labeled for the entire lot. Corms of different cultivars usually vary in conformation and color.

"Shriveled" means a marked change in form, such as being shrunken, drawn or wrinkled.

"Soft" means gives readily to moderate pressure.

"Damage" means any specific defect described in § 51.4247—Table III; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects which materially detracts from the marketing quality of the corm.

"Serious damage" means any specific defect described in § 51.4247—Table III; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects which seriously detracts from the marketing quality of the corm.

"Permanent defects" means defects which are not subject to change during shipment or storage, such as: cleanness, shape, trim.

"Condition defects" means defects which are subject to change during shipment or storage, such as: shriveling, softness, decay.

§ 51.4247 Classification of defects.

TABLE III

Defects	Damage	Serious damage
Bacterial spot	Aggregating more than ¾ inch (.9 cm) in diameter on a corm 1 inch (2.5 cm), in diameter and correspondingly lesser or greater areas on smaller or larger corms.	
Discoloration	Aggregating more than ¾ inch (.9 cm) in diameter on a corm 1 inch (2.5 cm), in diameter and correspondingly lesser or greater areas on smaller or larger corms.	
Cuts	Aggregating more than ½ inch (1.3 cm) in length and ⅛ inch (.3 cm), in depth on a corm 1 inch (2.5 cm) in diameter, and correspondingly lesser or greater areas on smaller or larger corms.	
Bruises	Aggregating more than ¾ inch (1.9 cm) in diameter and the area being soft or indented on a corm 1 inch (2.5 cm), in diameter and correspondingly lesser or greater areas on smaller or larger corms.	
Thrips		When any feeding on the corm is evident or when thrips are present.
Nut sedge		When present or penetrates the corm surface.

TABLE III—Continued

Defects	Damage	Serious damage
Grass roots		When penetrating the corn surface.
Mold		When affecting the incipient root system (living tissue) or which penetrates below the epidermis.
Shattered		When corns are cracked, crushed or split.
Freezing		When corn is frozen or shows any amount of brown discoloration or is soft following freezing.
Decay		Soft, mushy or mummified condition or disintegration or breakdown of the tissue of the corn.

Done at Washington, D.C., on February 20, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-5884 Filed 3-3-82; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 907

[Navel Orange Reg. 543; Navel Orange Reg. 542, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period March 5–March 11, 1982, and increases the quantity of such oranges that may be so shipped during the period February 26–March 4, 1982. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective March 5, 1982, and the amendment is effective for the period February 26–March 4, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under Secretary's Memorandum 1512–1, and Executive Order 12291 and has been designated a "non-major" rule. This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on October 6, 1981. The committee met again publicly on March 2, 1982 at Visalia, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and effective time.

PART 907—NAVAL ORANGES GROWN IN ARIZONA AND DESIGNATED AS PART OF CALIFORNIA

1. § 907.843 is added as follows:

§ 907.843 Navel Orange Regulation 543.

The quantities of navel oranges grown in Arizona and California which may be handled during the period March 5, 1982, through March 11, 1982, are established as follows:

(a) District 1: 1,450,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

2. § 907.842 Navel Orange Regulation 542 (47 FR 8151), is hereby amended to read:

§ 907.842 Navel Orange Regulation 542.

* * * * *

(a) District 1: 1,600,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: March 3, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-5100 Filed 3-3-82; 11:20 am]

BILLING CODE 3410-02-M

7 CFR Part 910

[Lemon Reg. 348; Lemon Reg. 347, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

Correction

In FR Doc. 82–5469, appearing on page 8319, in the issue of Friday, February 26, 1982, make the following change:

On page 8319, in the second column, change the part heading to read as follows: "PART 910–LEMONS GROWN IN CALIFORNIA AND ARIZONA."

BILLING CODE 1505-01-M

Commodity Credit Corporation

7 CFR Part 1421

CCC Grain Price Support Regulations Governing the Feed Grain Reserve Program for 1981 and Subsequent Crops and Alternative Program for 1980 and Prior Crops

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule with comments requested.

SUMMARY: The purpose of this interim rule is to announce changes in the regulations which govern the farmer-owned Grain Reserve Program. These changes are necessary to simplify the terms and conditions of the program.

Changes in the Feed Grain Reserve Program include revision of: (1) Program availability provisions; (2) producer eligibility requirements; (3) interest rate provisions; (4) trigger release and call levels and procedures for determining such levels; (5) liquidated damages and the time period for which liquidated damages shall be assessed; and (6) reserve contract agreements.

DATES: This interim rule shall be effective as of October 6, 1981. Comments must be received by May 3, 1982.

ADDRESSES: Interested persons may send comments to the Director, Cotton, Grain, and Rice Price Support Division, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Steve P. Gill, Program Specialist, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 382–9688. A final Regulatory Impact Analysis has been prepared and is available from Steve P. Gill.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under U.S. Department of Agriculture (USDA) procedures established in accordance with provisions of Secretary's Memorandum 1512–1 and Executive Order 12291 and has been classified "major" since the rule will result in an annual effect on the economy of $100 million or more. However, this interim rule will not result in: (1) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (2) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Need for Immediate Action

Producers have completed harvest of their 1981-crop feed grains. Early in the harvest season it was evident that the current feed grain crop would achieve levels exceeding demand and, in addition, a large number of 1980-crop barley, corn, and sorghum regular price support loans were maturing as corn and sorghum harvest began. Thus, in the absence of prompt action to stabilize markets, it was anticipated that feed grain prices could become unreasonably depressed. Permitting producers of 1980-crop barley, corn, and sorghum currently under regular price support loan and 1981-crop barley, corn, and sorghum to place such feed grains into the farmer-owned Grain Reserve Program immediately lessened the impact of these crops on the market price.

Accordingly, due to the need for prompt action, it has been determined that it is not practical and is contrary to the public interest for the Commodity Credit Corporation (CCC) to comply with any further rulemaking requirements with respect to this rule. Therefore, these regulations shall become effective as of October 6, 1981, the date on which the Secretary of Agriculture announced the implementation of this reserve. However, comments with respect to this regulation are requested and should be submitted on or before May 3, 1982, in order to be assured of consideration. This interim rule will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the Federal Register as soon as possible.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this interim rule.

This action is not expected to have any significant impact on the quality of human environment, health, and safety.

The title and number of the Federal Assistance Program to which this interim rule applies are: Grain Reserve Program, Number 10.067 as filed in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

Summary of Interim Rule

Section 110 of the Agricultural Act of 1949, as amended (7 U.S.C. 1445e), authorizes the Secretary of Agriculture to formulate and administer a producer storage program for feed grains in order to stabilize prices and to provide for the orderly marketing of the commodities. In carrying out the producer storage program, the Secretary is authorized to provide original or extended loans (extensions of regular price support loans) to feed grain producers. Among other terms and conditions, the producer storage program must provide for the following: (1) Repayment of extended price support loans by producers in not less than three nor more than five years, (2) payment to producers of storage costs, and (3) a rate of interest based on the rate charged CCC by the U.S. Treasury, except that the Secretary may waive or adjust such interest. Also, the Secretary is authorized to establish appropriate price levels at which: (1) Producers may, without penalty, redeem their commodity from the feed grain reserve and repay their extended price support loans, plus interest (i.e., trigger release level); and (2) producers are required to redeem their commodity from the reserve and repay their extended price support loans, plus interest, or forfeit the commodity serving as collateral for such loan to CCC (i.e., call level). This interim rule sets forth terms and conditions of the producer storage program for the 1981 and subsequent crops of barley, corn, oats, and sorghum, as well as crops of such commodities for prior crop years if entry into the program for such commodity is authorized by the Secretary.

Section 1421.723 of this interim rule permits producers to participate in the Feed Grain Reserve Program whenever the reserve program for a specified commodity is available. Producers will be permitted to place a commodity into the reserve only when the national average market price for such commodity is below the trigger release level for the commodity. Entry of an eligible commodity into the reserve will not be permitted when the national average market price for that commodity has reached or exceeds the trigger release level for the commodity. The Feed Grain Reserve Program for a commodity is terminated when the reserve for such commodity is called by the Secretary.

Section 1421.724(a) of this interim rule provides that in order to encourage the orderly marketing of feed grains, the Secretary may authorize producers to participate in a Feed Grain Reserve Program for a specified commodity prior to maturity of their regular price support loans.

Section 1421.731(a) of this interim rule provides that each feed grain reserve loan shall bear interest during the first year at the rate applicable to the Note and Security Agreement signed by the producer and at such subsequent interest rates as may be determined and announced by the Secretary. Normally, feed grain reserve loans will not bear interest after the first year (see § 1421.731(b)). However, notwithstanding any period during which interest on feed grain reserve loans would otherwise be waived as provided by § 1421.731(b), interest will accrue at the applicable rate between the day following the second consecutive CCC announcement that the national average market price for a commodity is equal to or exceeds the

trigger release level and the date of any subsequent announcement by CCC that the national average market price for such commodity is again below the trigger release level.

Section 1421.733(a) provides that the trigger release level for barley shall be $2.55 per bushel; corn, $3.15 per bushel; oats, $1.60 per bushel; and sorghum, $5.36 per hundredweight. Section 1421.733(b) also provides that the national average market price shall be determined to be at the call level when the national average market price is equal to or above the trigger release price prescribed in § 1421.733(a). The Secretary may, at his discretion, call feed grain reserve loans when the national average market price for a specified commodity is at or above the trigger release level for such commodity. If the commodity serving as collateral for a called loan is not redeemed within the time period prescribed by the Secretary, CCC may take title to the grain. If grain serving as collateral for a feed grain reserve loan is redeemed by a producer prior to an announcement by CCC that the trigger release level for the commodity has been reached (unless emergency release has been authorized), the producer is required by § 1421.733(a) of this interim rule to repay the loan principal and interest. Such producer is further required to repay to CCC with interest all previously received storage payments for the period during which liquidated damages are assessed as set forth below. In addition to the above, the producer is required to pay to CCC liquidated damages at a rate equal to 50 percent of the interest rate applicable to CCC price support loans at the time of redemption. Liquidated damages will be assessed for the period beginning on the later of: (i) The date following the last date the producer had an opportunity to repay the loan during a period when the reserve was in release; or (ii) the date the reserve agreement was approved (in the case of converted reserve agreements, the date the original reserve agreement was approved). The period during which such liquidated damages will be assessed will end on the date of repayment. If a producer voluntarily forfeits the commodity prior to the time CCC announces that the trigger release level for such commodity has been reached, such producer shall be required to repay to CCC all storage payments received by the producer with respect to such commodity for the period beginning on the date for which liquidated damages begin to accrue, with interest. In addition, the producer is required to pay liquidated damages at a rate equal to 50 percent of the interest rate applicable to CCC price support loans at the time of forfeiture. Liquidated damages will be assessed for the time period prescribed above.

All grain reserve agreements for a specific crop of a commodity approved prior to the effective date of this new Feed Grain Reserve Program will remain subject to the program regulations governing those agreements. However, producers with such prior grain reserve agreements for which the reserve has not been called may be authorized, in the discretion of the Secretary, to convert such prior grain reserve agreements to the new Feed Grain Reserve Program established by this interim rule by executing new agreements. This reserve differs from previous grain reserve programs in the following respects: (1) Only feed grains are eligible for entry into this reserve; (2) the trigger release and call levels are not based upon the price support loan rate in effect for the commodities but are expressed in specific amounts; (3) the trigger release level and call level are established at the same level; (4) the reserve will not be called when the national average market price reaches the call level, except in the case of an extreme emergency; (5) interest will be charged during the first year of the grain reserve agreement; and (6) computation of liquidated damages for repayment of a reserve loan when release is not in effect has been changed to more accurately reflect a producer's contribution to the success of the reserve.

Producers of corn and sorghum serving as collateral for previously called reserve loans under previous farmer-owned Grain Reserve Programs which were terminated as the result of a call will not be eligible for entry into the Grain Reserve Program. Because the national average market price as determined and announced by CCC is currently above the trigger release level of $1.80 per bushel, 1980 and 1981-crop oats will not be eligible for entry into the reserve at this time.

Several alternative actions were considered in developing this rule. Consideration was given to: (1) Increasing or decreasing the annual storage payment of 26.5 cents per bushel, (2) charging interest during the entire release period, (3) establishing different trigger release levels, and (4) extending the initial release period. These alternative actions are discussed more fully in the Impact Analysis.

The major alternative action considered was immediate entry versus delayed entry of 1981 corn into the feed grain reserve with a $3.15 per bushel trigger level. Corn prices have dropped $0.55 to $0.60 per bushel since July, mainly reflecting improved U.S. crop prospects and lagging export demand. As corn harvest approaches, prices could drop an additional $0.05 to $0.10 per bushel. Current farm prices average around $2.40 to $2.45 per bushel nationally, with some areas in the western Corn Belt experiencing prices $0.20 to $0.30 per bushel below the national average. These price levels are below release and call levels for previous reserve programs and below the loan redemption value in some areas.

Immediate entry will strengthen feed grain prices and help reduce budget exposure to fiscal year (FY) 1982 deficiency payments. Deficiency payments in FY 1982 are estimated to range from $143 million to $322 million, depending on reserve placements. Total nonrecoverable costs are estimated to range from $612 million to $706 million. Net loan and inventory outlays for FY 1982 are expected to range from $726 million to $1,223 million, most of which is expected to be repaid in FY 1983. Combining nonrecoverable and recoverable outlay estimates results in total FY 1982 outlays under immediate entry to range from $1,387 million (assuming a 300 million bushel corn reserve carryover) to $1,790 million (assuming a 600 million bushel corn carryover).

Because feed grain prices under delayed entry would be lower than under immediate entry, FY 1982 deficiency payments would be significantly higher. Deficiency payments under delayed entry are estimated to range from $362 million to $439 million, depending on reserve placements. Total nonrecoverable costs would range from $722 million to $750 million. Loan activity would be lower under delayed entry, resulting in net loan and inventory outlays for FY 1982 ranging from $135 million to $322 million. However, CCC loan forfeitures would be greater during FY's 1982 and 1983, resulting in increased government ownership and storage expenses. Total FY 1982 outlays under delayed entry would range from $840 million (assuming a 50 million bushel corn carryover) to $990 million (assuming a 150 million bushel corn carryover).

Taking into consideration the above factors, it has been determined that immediate entry of 1981-crop feed grains into the reserve should be permitted.

Interim Rule

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Accordingly, the regulations at 7 CFR Part 1421 are amended by adding a new "Subpart—Regulations Governing the Feed Grain Reserve Program for 1981 and Subsequent Crops and Alternative Program for 1980 and Prior Crops" to read as follows:

Subpart—Regulations Governing the Feed Grain Reserve Program for 1981 and Subsequent Crops and Alternative Program for 1980 and Prior Crops

Sec.

1421.720 General statement.
1421.721 Length of reserve agreements.
1421.722 Limit on reserve quantity.
1421.723 Program availability.
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1421.734 Maturity.

Subpart—Regulations Governing the Feed Grain Reserve Program for 1981 and Subsequent Crops and Alternative Program for 1980 and Prior Crops

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714(b) and (c); sec. 110, 91 Stat. 951, as amended (7 U.S.C. 1445e).

§ 1421.720 General statement.

(a) The regulations in this subpart set forth the terms and conditions for the Feed Grain Reserve Program which provides for extended farm storage and warehouse storage loans (hereinafter called "feed grain reserve loan(s)") with respect to eligible commodities as provided by § 1421.724. Farm storage feed grain reserve loans will be evidenced by notes, security agreements, grain reserve agreements, and in certain cases chattel mortgages or financing statements. Warehouse storage feed grain reserve loans will be evidenced by notes, security agreements, and grain reserve agreements and will be secured by the pledge of warehouse receipts representing eligible commodities in approved warehouse storage. As used in the regulations in this subpart, "CCC" means the Commodity Credit Corporation and "ASCS" means the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture.

(b) To participate in the Feed Grain Reserve Program, a producer must request and enter into a grain reserve agreement with CCC at the local county ASCS office. Such agreement shall be for a period of time as specified in § 1421.721. Storage payments will be paid to the producer annually during the period of the grain reserve agreement for the time such commodity is eligible to earn such storage payments. Producers may redeem commodities under the Feed Grain Reserve Program without repaying earned storage payments when the national average market price reaches the trigger release level determined in accordance with § 1421.733. At the discretion of the Secretary of Agriculture (hereinafter the "Secretary") all loans on a commodity in the feed grain reserve may be called when the national average market price for such commodity reaches the call level determined in accordance with § 1421.733.

§ 1421.721 Length of reserve agreements.

Reserve agreements shall be for a period of not less than three years nor more than five years.

§ 1421.722 Limit on reserve quantity.

There is no specific limitation on the quantity of feed grains that may be stored under this program. However, the Secretary may limit the quantity of feed grains which may be stored under this program to that amount which he determines to be necessary in order to stabilize prices and to provide for the orderly marketing of such feed grains.

§ 1421.723 Program availability.

Producers with farm or warehouse-stored feed grain under CCC price support loan (hereinafter called "regular loan(s)") may participate in the Feed Grain Reserve Program any time a reserve is in effect and is available for their commodity. The program will be available when announced by the Secretary for a specified crop of feed grains for such period of time and under such terms and conditions as may be deemed to be appropriate by the Secretary. However, entry of eligible commodities into the reserve will not be permitted when the national average market price for such commodity has reached the trigger release level and the reserve is in release as provided for by § 1421.733(a). Producers will be permitted to place an eligible commodity into the reserve when the national average market price for such commodity is again below such release level and the reserve is no longer in release. In addition, entry of eligible commodities into the Feed Grain Reserve Program will not be permitted and such reserve will be terminated whenever the national average market price for such commodity is at or above the call level and the reserve has been called by the Secretary in accordance with the provisions of § 1421.733(b). A producer desiring to participate in the Feed Grain Reserve Program shall file a request to participate in the program at the county ASCS office which disbursed the regular loan. An approved cooperative marketing association shall request a feed grain reserve loan at the county ASCS office which disbursed the regular loan or at its servicing agent bank which disbursed the regular loan.

§ 1421.724 Eligibility requirements.

(a) *Producer.* Whenever the Secretary has announced pursuant to § 1421.723 that the reserve is available for a specified crop of feed grain, a producer may, upon maturity of a regular loan, place the eligible commodity serving as collateral for such loan into the Feed Grain Reserve Program by making application for and completing a grain reserve agreement. In order to encourage the orderly marketing of feed grains, the secretary may authorize producers with eligible commodities to participate in an announced Feed Grain Reserve Program prior to maturity of their regular loans with respect to a specified crop of feed grains. In such event, producers with eligible feed grains under purchase agreements may also be eligible to participate in such feed grain reserve upon conversion of their purchase agreements into regular loan agreements. Eligibility of producers to place eligible feed grains into the reserve will be on a first-come-first-served basis.

(b) *Feed grain.* Feed grains serving as collateral for feed grain reserve loans must meet the quantity and quality requirements set forth in § 1421.727 and § 1421.728 of this subpart. The total quantity of feed grains entering the reserve may not exceed the quantity specified by the Secretary when the Secretary announces the availability of the reserve.

§ 1421.725 Applicability of the general regulations governing price support for the 1978 and subsequent crops.

The provisions of the General Regulations Governing Price Support for the 1978 and Subsequent Crops, published at 44 FR 2353, corrected at 44 FR 6351, and any amendment thereto

(hereinafter referred to as "General Regulations"), which are not inconsistent with provisions of this subpart, shall apply to feed grain reserve loans.

§ 1421.726 Warehouse receipts.

(a) *General.* Warehouse receipts tendered to CCC under this program must meet all of the requirements of this section and any other requirements contained in the regulations in this subpart, the general regulations, and the regulations governing the loan and purchase program for the applicable commodity.

(b) *Manner of issuance and endorsement.* Warehouse receipts must be issued in the name of the eligible producer or CCC. If issued in the name of the eligible producer, the receipts must be properly endorsed in blank so as to vest title in the holder of such receipts.

(c) *Requirements.* Warehouse receipts must: (1) Be issued by an approved warehouse; (2) represent a commodity which is deemed to be stored commingled; (3) be negotiable; (4) cover the eligible commodity actually in storage in the warehouse of original deposit, except that warehouse receipts may be issued by another warehouse if the eligible commodity was reconcentrated under a "Reconcentration Agreement and Trust Receipt" approved by CCC; (5) be registered or recorded with appropriate State or local officials when required by State law; and (6) show that storage charges have been paid through the end of the first year of the grain reserve agreement. In lieu of the latter requirement, the producer may provide evidence satisfactory to CCC that storage charges have been paid or otherwise provided for through the end of the first year of the grain reserve agreement.

(d) *Where a warehouseman is also owner.* If the warehouse receipt is issued for a commodity which is owned by the warehouseman, either solely, jointly, or in common with others, the fact of such ownership shall be stated on the receipt. In States where the pledge of warehouse receipts issued by a warehouseman on their own commodity is invalid, the warehouseman may offer such commodity to CCC for loan only if such warehouse is licensed and operating under the U.S. Warehouse Act.

§ 1421.727 Quantity eligible for feed grain reserve loans.

(a) *Farm-stored.* The quantity eligible for a feed grain reserve loan is the measured quantity covered by the regular loan, as determined by the county committee.

(b) *Warehouse-stored.* The quantity eligible for a feed grain reserve loan is the quantity shown on the warehouse receipt or the supplemental certificate, if applicable, which secured the regular loan.

§ 1421.728 Quality eligibility requirements of feed grain reserve loans.

(a) *General.* Quality will be determined according to the Official United States Standards for Grain, Federal Grain Inspection Service (FGIS), USDA.

(b) *Feed grains.* Feed grains which enter the reserve must meet the quality eligibility requirements for securing a regular CCC price support loan. However, feed grains which grade "Sample Grade" will not be eligible to enter the reserve.

(c) *Farm-stored feed grain.* (1) Prior to approval of a feed grain reserve farm-stored loan, the commodity will be inspected by a representative of the county committee and the agreement will not be approved unless it is determined on the basis of such inspection that the commodity is such that it can reasonably be expected to be stored with safety until maturity of the loan.

(2) The producer is responsible for maintaining the quality and quantity of the farm-stored feed grain.

§ 1421.729 Storage rates.

(a) Producers will be paid per annum storage payments at the initial rate of 26.5 cents per bushel for barley and corn, 20 cents per bushel for oats, and 47.32 cents per hundredweight for sorghum. Such rates may be changed from time to time by announcement in a separate notice published in the Federal Register but will not be less than: (1) 26.5 cents per bushel for barley and corn; (2) 47.32 cents per hundredweight for sorghum; and (3) 20 cents per bushel for oats.

(b) When storage is computed for less than one year, appropriate daily rates announced in the Federal Register will be used, which will not be less than: (1) .0726 cents per bushel for barley and corn; (2) .1296 cents per hundredweight for sorghum; and (3) .0548 cents per bushel for oats. Annual storage payments shall be adjusted and paid in accordance with provisions outlined in § 1421.730.

§ 1421.730 Storage payments.

(a) *Time.* Advance storage payments shall be paid annually on the date the grain reserve agreement is approved and each anniversary date thereafter, except that storage payments will not be made when storage credit is not being earned as provided for in § 1421.730(d) due to the fact that the national average market price is at or above the trigger release level. If CCC subsequently determines that the price has fallen below the trigger release level, storage payments will be made for the remainder of the year. Storage payments for the second year and any subsequent year will not be made to a producer having a feed grain reserve warehouse loan until the producer furnishes written evidence to CCC that at least the next year's storage payment has been paid to the warehouseman or provided for with the warehouseman. If the producer fails to provide such written evidence within a reasonable period of time, the county ASCS office shall call such loans. If the loan is not repaid or evidence that storage has been paid or provided for is not furnished to CCC within 10 days after such call, title to the commodity shall vest in CCC on the eleventh day and the producer shall be considered to have voluntarily forfeited his commodity to CCC and shall be subject to the voluntary forfeiture provisions of § 1421.733(c).

(b) *Storage payments for farm-stored feed grain.* Storage payments for farm-stored feed grain reserve loans shall generally be based upon the quantity of such commodity serving as collateral for a regular loan which is converted to the reserve. However, such payments can be based on the quantity of such commodity measured for a feed grain reserve loan when such measured quantity is greater than the quantity of such commodity serving as collateral for a regular loan.

(c) *Storage credit.* Storage credit for less than one year will be computed on a daily basis.

(d) *Eligible storage credit.* Storage credit shall be allowed for the duration of the loan, except that no storage credit shall be earned between the day following the second consecutive CCC announcement that the national average market price for the commodity is equal to or exceeds the trigger release level and the date of any subsequent announcement by CCC that the market price is again below the trigger release level for such commodity. Any unearned advance storage payments will be subtracted from any future storage payments or will be collected when the loan is redeemed or the collateral is forfeited to CCC.

(e) *Unearned storage credit.* No storage payment shall be earned if the producer: (1) Has made any false representation in the loan documents in obtaining the loan or in settlement of the loan; (2) makes an unauthorized disposition of the commodity with intent to defraud CCC; (3) abandons the commodity; or (4) negligently or otherwise impairs the commodity.

§ 1421.731 Interest rates.

(a) As provided in the Note and Security Agreement signed by the producer, each feed grain reserve loan shall bear interest during the first year at the rate applicable to such Note and Security Agreement as well as any subsequent increased or decreased interest rates which may be determined and announced by the Secretary.

(b) Except as provided in this subsection, feed grain reserve loans shall not bear interest after the first year. However, notwithstanding any period during which interest may otherwise be waived, interest will accrue at the rate specified in § 1421.731(a) for any period beginning the day following the second consecutive CCC announcement that the national average market price for the commodity is equal to or exceeds the trigger release level for such commodity and ending the date of any subsequent announcement by CCC that the market price for the commodity is again below the trigger release level for such commodity.

§ 1421.732 Commingling and replacement of feed grains.

(a) *Commingling.* In the case of farm storage, feed grains in the feed grain reserve may be commingled with other eligible or ineligible feed grains which are from the same or any other crop year and which are of the same class of feed grains if: (1) The county Agricultural Stabilization and Conservation (ASC) committee gives prior written approval of such commingling, and (2) the county ASCS office inspects and measures the feed grain at the producer's expense prior to commingling.

(b) *Replacement.* Farm-stored feed grain placed in the reserve may be replaced with other feed grain of the same kind which is of equal or better quality and which is produced by the borrower if: (1) The county ASC committee gives prior written approval of such replacement; (2) the quantity of feed grain to be used for replacement is in storage on the farm or the county ASC committee has authorized removal of the reserve feed grain to licensed storage before replacement in accordance with § 1421.732(c); (3) the county ASC committee inspects and measures, at the producer's expense, the quantity of feed grain which is to replace the reserve feed grain before removal of the reserve feed grain; and (4) the county ASC committee determines that the quality of feed grain which is to replace the reserve feed grain is equal to or better than the quality of feed grain serving as collateral for a feed grain reserve loan. Removal of farm-stored feed grain in the Feed Grain Reserve Program without prior written approval from the county ASC committee will be considered unauthorized removal.

(c) *Licensed storage.* The producer may be authorized to move farm-stored feed grain in the Feed Grain Reserve Program to licensed warehouse storage before replacement if, prior to the movement of such commodity: (1) A written request to do so is filed in the county ASCS office; (2) approval of the county ASC committee is granted in writing; (3) the county ASCS office inspects and measures the grain, at the producer's expense, prior to removal; (4) the grain is moved to licensed storage within 30 days after approval is granted; and (5) and endorsed negotiable warehouse receipt for such grain is deposited with the ASCS County Executive Director (CED). The producer shall agree to remain liable for all charges incident to the storage of the grain in the warehouse and CCC in no way shall be liable for any such charges. When the feed grain which is used to replace the feed grain covered by the warehouse receipt is placed in farm storage and the county ASCS office has determined by inspection and measurement that: (i) There is a sufficient quantity of feed grain of the same kind in storage; and (ii) the quality is equal to or better than the feed grain represented on the warehouse receipt, the warehouse receipt shall be returned to the person who deposited it. Whenever a producer does not place feed grain in acceptable farm storage as provided in 7 CFR § 1421.7 prior to maturity of the feed grain reserve agreement, the producer's interest in the feed grain, represented by the warehouse receipt and held by the ASCS CED, shall transfer to CCC.

(d) *Release for sale or livestock feed.* The producer may be authorized to move farm-stored grain in the Feed Grain Reserve Program for delivery to a buyer for sale or for livestock feed thirty days before the producer intends to have replacement stocks in place if prior to the movement of the grain: (1) A written request to do so is filed in the county ASCS office; (2) approval of the county ASC committee is granted in writing; (3) the county ASCS office inspects and measures the grain, at the producer's expense, prior to removal; (4) the grain released for livestock feed will be fed to the producer's own livestock; and (5) an inspection, at the producer's expense, of the unharvested feed grain indicates there will be sufficient eligible unencumbered production of equal or better quality to replace the reserve commodity.

§ 1421.733 Trigger release level, call level, redemption requirements, and early redemption charges.

(a) *Trigger release level.* Commodities serving as collateral for feed grain reserve loans shall not be eligible for redemption without the producer incurring liability for liquidated damages unless the national average market price of the commodity as determined and announced by CCC is equal to or above the trigger release level established for such commodity. The trigger release level will be established and announced by the Secretary. The trigger release level for barley shall be $2.55 per bushel; corn, $3.15 per bushel; oats, $1.60 per bushel; and sorghum, $5.36 per hundredweight. The national average market price for each commodity, except barley, will be considered by CCC to have reached the trigger release level when the five-day national average price for the respective commodity at selected major markets published by the Agricultural Marketing Service (AMS), adjusted downward to reflect prices received by farmers by the difference between: (1) The midmonth prices published by the Statistical Reporting Service (SRS) for the respective commodity for the previous month, and (2) the average mid-month price for the same month at selected major markets published by AMS, equals or exceeds the trigger release level for the respective commodity. The national average market price for barley will be considered by CCC to have reached the trigger release level when the five-day average price for barley published by AMS for the major market which serves the area where the majority of the barley in the reserve is stored, adjusted downward to reflect prices received by farmers by the difference between (i) the midmonth price published by SRS for feed barley for the previous month in the area where the majority of the barley in the reserve is stored and (ii) the average midmonth price for barley published by AMS for the same month at the major market which serves the area where the majority of the barley in the reserve is stored, equals or exceeds the trigger

release level for barley.
Producers will be advised when the market reaches the trigger release level and that their loans are eligible for redemption without liability for liquidated damages and other applicable charges. Such determinations shall be made and announced by CCC and shall be applicable until a subsequent announcement is made. When the trigger release level is reached for a commodity, the initial release period shall be for the remainder of the month in which release is announced plus the next month. Subsequent announcements to continue or discontinue release will be made at the end of the initial or subsequent release period. Any subsequent announcement to continue release will be for the month following the preceding release period. If a subsequent announcement indicates that the national average market price for the commodity is below the applicable trigger release level, the terms of the reserve agreement and the regulations which are applicable prior to release shall again apply and the commodity will not be eligible for redemption without liability for liquidated damages and other applicable charges.

(b) *Call level.* CCC will determine that the national average market price is at call level and the Secretary may, in his discretion, call the loans when the national average market price for a commodity published by AMS is at or above the applicable trigger release level as determined in the manner prescribed in § 1421.733(a) of these regulations. If the called loan is not redeemed within the time prescribed by the Secretary, CCC may take title to the commodity.

(c) *Redemption or voluntary forfeiture.* (1) Except in case of emergency release as provided in paragraph (c)(2), if a producer redeems the commodity when the national average market price for such commodity is below the applicable trigger release level, such producer will be required to repay the feed grain reserve loan principal with interest. In addition, such producer will be required to repay with interest storage payments previously received by the producer with respect to such commodity for the period during which liquidated damages apply, as specified below. The producer is further liable for liquidated damages at the rate of 50 percent of the interest rate applicable to CCC regular loans at the time of redemption. Liquidated damages will be assessed for the period beginning on the later of: (i) The date following the last date the producer had an opportunity to repay the loan during a release period; or (ii) the date the reserve agreement was approved (in the case of converted reserve agreements, the date the original reserve agreement was approved). The period during which such liquidated damages will be assessed will end on the date of repayment. If a producer voluntarily forfeits the commodity to CCC prior to the time of any announcement that the applicable trigger release level has been reached, such producer shall be required to repay with interest all storage payments previously received by the producer with respect to such commodity for the period during which liquidated damages apply. In addition, the producer will be liable for liquidated damages at a rate equal to 50 percent of the interest rate applicable to CCC price support loans at the time of forfeiture. Liquidated damages will be assessed for the time period prescribed above.

(2) In the case of warehouse-stored loans, if it is determined by CCC that the storage space is no longer available, the producer may repay the loan or forfeit the commodity to CCC without incurring liability for liquidated damages and may retain earned storage payments. In the case of farm-stored loans, if it is determined by CCC that there is insect infestation which cannot be controlled, the commodity is subject to damage by flood or fire, there is damage to the storage structure, the producer has lost control of the storage structure, or the commodity is going out of condition, the producer may repay the loan or forfeit the commodity to CCC without incurring liability for liquidated damages and may retain earned storage payments.

§ 1421.734 Maturity.

Feed grain reserve loans mature and are due and payable on the last day of the 36th calendar month after the later of: (a) The date the regular loan matured, or (b) the month following the month in which the grain reserve agreement is approved. However, notwithstanding the foregoing, when the feed grain reserve loan is an extension of an unmatured regular loan, the feed grain reserve loan matures and is due and payable on the last day of the 36th month following the month in which the grain reserve agreement is approved.

Signed at Washington, D.C. on February 24, 1982.

John R. Block,

Secretary.

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7 CFR Part 1435

Price Support Purchase Program for 1982 Crop Sugar Beets and Sugarcane

Correction

In FR Doc. 82-4898, appearing at page 8000, in the issue of Wednesday, February 24, 1982, make the following change: On page 8003, in the first column, in § 1435.80, the date in the ninth line now reading "March 31, 1981" should read "March 31, 1982".

BILLING CODE 1505-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 25 and 95

Requirements for Access to and Protection of National Security Information and Restricted Data; Minor Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to make needed clarifications and minor revisions in previously published requirements governing access to and control over National Security Information and/or Restricted Data. The amendments clarify the requirement that each NRC employee must have an access authorization before being allowed access to classified information, clarify certain requirements related to completing NRC forms and permit NRC to grant security facility approval prior to an initial security survey. The fee for licensee and license related "Q" access authorizations is also being updated due to increases in the Office of Personnel Management charges to NRC for full field security background investigations necessary for "Q" access authorization processing.

EFFECTIVE DATE: These amendments will be effective on April 5, 1982.

FOR FURTHER INFORMATION CONTACT: Duane G. Kidd, Chief, Security Policy Branch, Division of Security, Office of Administration, United States Nuclear Regulatory Commission, Washington, DC 20555 (301) 427-4415.

SUPPLEMENTARY INFORMATION: 10 CFR Parts 25 and 95 were originally published as final rules in the **Federal Register** on March 5, 1980 (45 FR 14476) and became effective October 1, 1980. The Commission now recognizes that the following changes and amendments as well as the annual revision to the access authorization fee schedule are needed for the reasons set out below.

The existing § 25.15 indicates that all NRC employees possess either an NRC "Q" or "L" access authorization and coupled with the "need-to-know" permits them access to National Security Information and/or Restricted Data. This change to § 25.15(c) notifies those affected by the rule that some individuals do, in fact, begin their NRC employment without an access authorization. These employees should not be permitted access to any classified information until their access authorization processing has been successfully completed.

Section 25.17(b) specifically identifies certain information which is required on NRC Form 237, "Request for Access Authorization." Reference to this specific data is being deleted since the necessary information is already requested on the form and in the instructions for completing the form. The reference to NRC Form 254A in § 25.17(c)(6) is being deleted since the form is no longer applicable to licensees and others affected by this rule. In order to conform to the style and format of other parts, the position and numbers of §§ 25.35 and 25.37 are being reversed.

Section 25.17 currently indicates that access authorization fees will be published in December of each year and will be applicable to each access authorization request received during the following calendar year. The initial fee schedule for this Part was published in the **Federal Register** on July 3, 1980 (45 FR 45256) and was updated by a **Federal Register** Notice dated January 27, 1981 (45 FR 8436). These fees are charged for access authorizations processed and services rendered by the NRC at the request of an identifiable recipient of the service, and are authorized under Title V of the Independent Offices Appropriation Act of 1952 (65 Stat. 290; 31 U.S.C. 483a). The only revision to the fee schedule is the increased cost for the processing of an NRC "Q" access authorization which involves a full field background investigation conducted by the Office of Personnel Management (OPM). The charge to NRC by OPM for this investigation was raised July 1, 1981 from $1200.00 to $1350.00. The new fee, applicable immediately, recovers this cost plus a part of the NRC's overhead associated with the processing of these access authorizations. The fees for an NRC "L" access authorization have not been changed.

Section 95.17 currently permits NRC to grant security facility approval to licensees or others covered by this Part following receipt of an acceptable security facility request, but only after NRC has conducted an on-site initial security survey. Some licensees initially covered by this part have already been approved as a security facility by other Federal departments or agencies whose facility security programs contain similar, and in some cases nearly identical, security requirements to those of NRC. NRC may determine that granting an interim security facility approval prior to an initial NRC security survey would be consistent with the national security. This change to § 95.17 permits such a determination with a security survey to be performed as soon thereafter as practical. The security survey may result in the granting of a security facility approval or a continuation or withdrawal of the interim security facility approval.

Section 95.25(g)(1) currently specifies that the names, addresses and telephone numbers of the security container custodian and all alternates having knowledge of the container's combination be posted on the outside of the container. This revision to § 95.25 will permit this information, in accordance with NRC security procedures, to be posted inside the container.

None of the changes, except for the update in the fee schedule, will increase public burden in meeting the requirements of these regulations. The changes are of a clarifying and updating nature. When the original Part 25 fee schedule was developed, it was recognized that the actual amount charged to NRC by OPM for conducting investigations would be the decisive factor governing future fees charged by NRC. This relationship between the amounts charged by OPM and the resulting fees charged by NRC still exists and was affected by the increase by OPM. Since the public had the opportunity to comment on this aspect of Part 25 as a proposed rule, it is not felt that any further benefits would be accrued by additional public comment at this time. Under these circumstances, NRC, for good cause, finds that notice of proposed rulemaking and public procedure thereon are unnecessary.

For good cause, the Commission has decided to make Appendix A to Part 25, "Fees for NRC Access Authorization," effective immediately. Appendix A sets forth the revised fee schedule for calendar year 1982. Section 25.17(e) states that access authorization fees will be published in December of each year and are applicable during the following calendar year. An immediate effective date will fulfill this requirement and avoid any delay in implementing the revised fee schedule.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, the Independent Offices Appropriation Act of 1952 and Section 553 of Title 5 of the United States Code, the following amendments to Parts 25 and 95 of Title 10, Chapter 1, Code of Federal Regulations are published as a document subject to codification.

PART 25—ACCESS AUTHORIZATION FOR LICENSEE PERSONNEL

1. The authority citation for Part 25 is revised to read as follows:

Authority: Secs. 145, 161, 68 Stat. 942, 948, as amended (42 U.S.C. 2165, 2201); sec. 201, 88 Stat. 1243, as amended (42 U.S.C. 5841); E.O. 10865 and E.O. 12065.

Appendix A issued under Title V, Pub. L. 82-137, 65 Stat. 290 (31 U.S.C. 483a).

§ 25.17 and Appendix A [Amended]

2. The authority citations following § 25.17 and Appendix A to Part 25 are removed.

3. In § 25.15, paragraph (c) is revised to read as follows:

§ 25.15 Access permitted under "Q" or "L" access authorization.

* * * * *

(c) Each employee of the Commission is processed for one of the two levels of access authorization. Licensees and other persons will furnish National Security Information and/or Restricted Data to a Commission employee on official business when the employee has the appropriate level of NRC access authorization and need-to-know. Some individuals are permitted to begin NRC employment without an access authorization. However, no NRC employee shall be permitted access to any classified information until the appropriate level of access authorization has been granted to that employee by NRC.

4. In § 25.17, paragraph (b) is revised to read as follows:

§ 25.17 Approval for processing applicants for access authorization.

* * * * *

(b) The request must include a completed personnel security packet (see § 25.17(c)) and request form (NRC-237) signed by a licensee or licensee contractor official.

* * * * *

§ 25.35 [Redesignated as § 25.37]

5. Section 25.35 is redesignated as § 25.37.

§ 25.37 [Redesignated as § 25.35]

6. Section 25.37 is redesignated as § 25.35.

7. The Center headings which precede present §§ 25.35 and 25.37 are changed to read "Classified Visits" and "Violations", respectively.

8. Appendix A to 10 CFR Part 25 is revised to read as follows:

APPENDIX A—FEES FOR NRC ACCESS AUTHORIZATION

Category	Fee
Initial "L" Access Authorization	$15
Reinstatement of "L" Access Authorization	[1] 15
Extension or Transfer of "L" Access Authorization	[1] 15
Initial "Q" Access Authorization	1550
Reinstatement of "Q" Access Authorization	[1] 1550
Extension or Transfer of "Q"	[1] 1550

[1] Full fee will only be charged if investigation is required.

PART 95—SECURITY FACILITY APPROVAL AND SAFEGUARDING OF NATIONAL SECURITY INFORMATION AND RESTRICTED DATA

9. The authority citation for Part 95 is revised to read as follows:

Authority: Secs. 145, 161, 68 Stat. 942, 948, as amended (42 U.S.C. 2165, 2201); sec. 201, 88 Stat. 1243, as amended (42 U.S.C. 5841); E.O. 10865 and E.O. 12065.

10. Section 95.17 is revised to read as follows:

§ 95.17 Processing security facility approval.

Following receipt of an acceptable request for security facility approval, NRC will perform an initial security survey of the licensee or other facility to determine that granting a security facility approval would be consistent with the national security. If NRC makes such a determination, security facility approval will be granted. However, NRC may determine that granting an interim security facility approval prior to an initial security survey would be consistent with the national security. If NRC makes such a determination, interim security facility approval will be granted and a security survey performed as soon thereafter as practical. As a result of the security survey, NRC may grant a security facility approval or may continue or terminate interim security facility approval pending compliance with survey recommendations or until an exemption is granted pursuant to § 95.11.

11. Section 95.25 paragraph (g)(1) is revised to read as follows:

§ 95.25 Protection of national security information and restricted data in storage.

* * * * *

(g) Posted information. (1) The names, addresses, and telephone numbers of the custodian and all alternates having knowledge of the combination shall be posted on the outside or inside of each security container.

* * * * *

Dated at Bethesda, MD, this 16th day of February, 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-5278 Filed 3-3-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-CE-4-AD; Amendment 39-4319]

Airworthiness Directives; Helio H-250, H-295, HT-295, H-391, H-391B, H-395, and H-395A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) 81-26-07, applicable to Helio H-250, H-295, HT-295, H-391, H-391B, H-395, and H-395A airplanes and codifies the corresponding emergency AD letter dated December 21, 1981, into the Federal Register. This AD supersedes AD 81-24-05 which was transmitted by letter dated November 13, 1981. This superseding action is necessary because Helio H-295 airplanes S/N 1475 through 1479 were omitted from the earlier AD. This AD requires an initial and repetitive inspection of the P/N 295-030-401 carry-through assembly for cracks and replacement of those assemblies in which cracks are found. This action is necessary to preclude fatigue failure in certain components of the P/N 295-030-401 carry-through assembly and resulting in-flight separation of a wing.

DATES: Effective date: February 25, 1982, to all persons except those to whom it has already been made effective by priority letters from the FAA dated December 21, 1981.

Compliance: As described in the body of the AD.

ADDRESSES: Helio Service Bulletin No. 37 dated November 5, 1971, pertaining to this AD may be obtained from Helio Aircraft, Ltd., P.O. Box 604, Pittsburg, Kansas 66762; Telephone (316) 231-0200. Copies of this service letter are contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106, and at Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Douglas W. Haig, Aerospace Engineer, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269-7005.

SUPPLEMENTARY INFORMATION: A recent in-flight wing separation on a Helio H-295 airplane was caused by fatigue in the lower, outer tube of the 295-030-401 carry-through assembly. The fatigue started at the intersection of a weld bead and the outer tube. In 1971, there was an in-flight wing separation caused by a fatigue failure of the 391-030-4072 end fitting. The fatigue in these fittings emanated from the bore of the fitting which had a conical shape with sharp corners. AD 71-21-11, and the related Helio Service Bulletin Nos. 36 and 37, were issued to correct this problem and called for inspections and modifications to certain areas of the carry-through assembly. The fatigue failure in the recent accident was inboard from that of the 1971 accident and is not directly related as to cause, and will not be precluded by the action required by AD 71-21-11.

Accordingly, the FAA determined that the fatigue problem described above was likely to exist on other airplanes of the same type design and that inspection and replacement of cracked P/N 295-030-401 carry-through assemblies in the Helio H-250, H-295, HT-295, H-391, H-391B, H-395 and H-395A airplanes were necessary in the interest of safety. Therefore, emergency AD 81-24-05 was issued and mailed to all known owners of the affected airplanes on November 13, 1981. Subsequent information disclosed that Helio Model H-295 airplanes (Serial Numbers 1475 through 1479) were omitted from this AD and the FAA issued and mailed to these owners superseding AD 81-26-07 dated December 21, 1981, to correct this omission.

Since the unsafe condition described herein may still exist on other Helio model airplanes described herein, AD 81-26-07 is being published in the Federal Register as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the letter notification.

Since the FAA has determined that there is an immediate need for this regulation to correct an unsafe condition and assure safe operation of the affected airplanes, the regulation is within the exemption provisions of Section 8(a)(1) of Executive Order 12291. In addition, notice and public procedure under 5 U.S.C. 553(b) were considered impractical and contrary to the public interest, and good cause exists for making the amendment effective in less than thirty (30) days after the publication in the Federal Register.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Helio: Applies to all Models HT-295 airplanes, Model H-295 airplanes (Serial Numbers 1436, 1443 through 1479), and those Model H-250, H-295, H-391, H-391B, H-395 and H-395A airplanes on which the P/N 391-030-401 wing spar carry-through assembly was replaced with the P/N 295-030-401 assembly.

Compliance: Required as indicated unless already accomplished.

To ensure the integrity of the wing spar carry-through assembly, accomplish the following:

(A) Within the next 10 hours time-in-service after the effective date of this AD, and at intervals not to exceed 100 hours time-in-service thereafter, perform a dye penetrant inspection on each end of the lower horizontal tube around the welds and the adjacent area on the inboard end of the four 1.25 x 4.50 x .188 pads (2 each side) as follows:

1. Visually inspect each side of the wing spar carry-through assembly using Figures 1 and 2 to identify the areas to be inspected. On the side being inspected, jack up the wing at the wing tie-down ring. The wheel must clear the ground. Gain access to the wing spar carry-through assembly by opening the head liner and removing the P/N 295-030-3047 guard assembly (if installed). Conduct the inspection in accordance with the instructions accompanying the dye penetrant inspection equipment.

2. Throughly clean inspected surfaces both before and after the required inspections.

3. Remove all evidence of corrosion and renew the protective coatings. Corrosion may be removed from the horizontal tube to a maximum depth of .005 inches. If indications of cracks or evidence of corrosion beyond the .005 inch maximum depth are found during the inspections required herein, prior to further flight, replace the carry-through assembly with an airworthy part.

4. Apply zinc chromate primer to all surfaces which were cleaned for the required inspections.

Note.—Jacking of the wing so that the wheel clears the ground is necessary to put a tension load on the lower horizontal tube of the wing spar carry-through assembly to assist in exposing fatigue-type cracks that could exist in this component.

(B) The inspections required herein must be performed at an appropriately rated FAA certificated repair station using qualified technicians who must have recency of experience in performing dye penetrant inspections.

(C) Record compliance with this AD by an appropriate entry in the airplane maintenance records. This entry should include those airplanes where the provisions of this AD have previously been accomplished.

(D) Within 48 hours, report the results of the inspections required by this AD by submitting a written report to the FAA via an FAA Malfunction or Defect (M or D) Report (FAA Form 8330-2) or a letter to Wichita Aircraft Certification Office (formerly Aircraft Certification Program), Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209. This report must include the registration and serial number for the airplane, the time-in-service on the wing spar carry-through assembly and the location and description of the cracks and/or corrosion. (Reporting approved by Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB No. 04-R0174.)

Note.—The actions required in this AD are considered interim as there is a possibility that additional inspections and modifications to the wing spar carry-through assembly may be required at a later date.

This AD, 81-26-07, supersedes emergency AD 81-24-05 on the same subject transmitted by letter from the FAA dated November 13, 1981.

This amendment becomes effective on February 25, 1982, to all persons except those to whom it has already been made effective by priority letters from the FAA dated December 21, 1981.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket; otherwise an evaluation is not required. A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the Courts of Appeals of the United States, or the United States Court of Appeals of the District of Columbia.

Issued in Kansas City, Missouri on February 8, 1982.

Murray E. Smith,

Director, Central Region.

BILLING CODE 4910-13-M

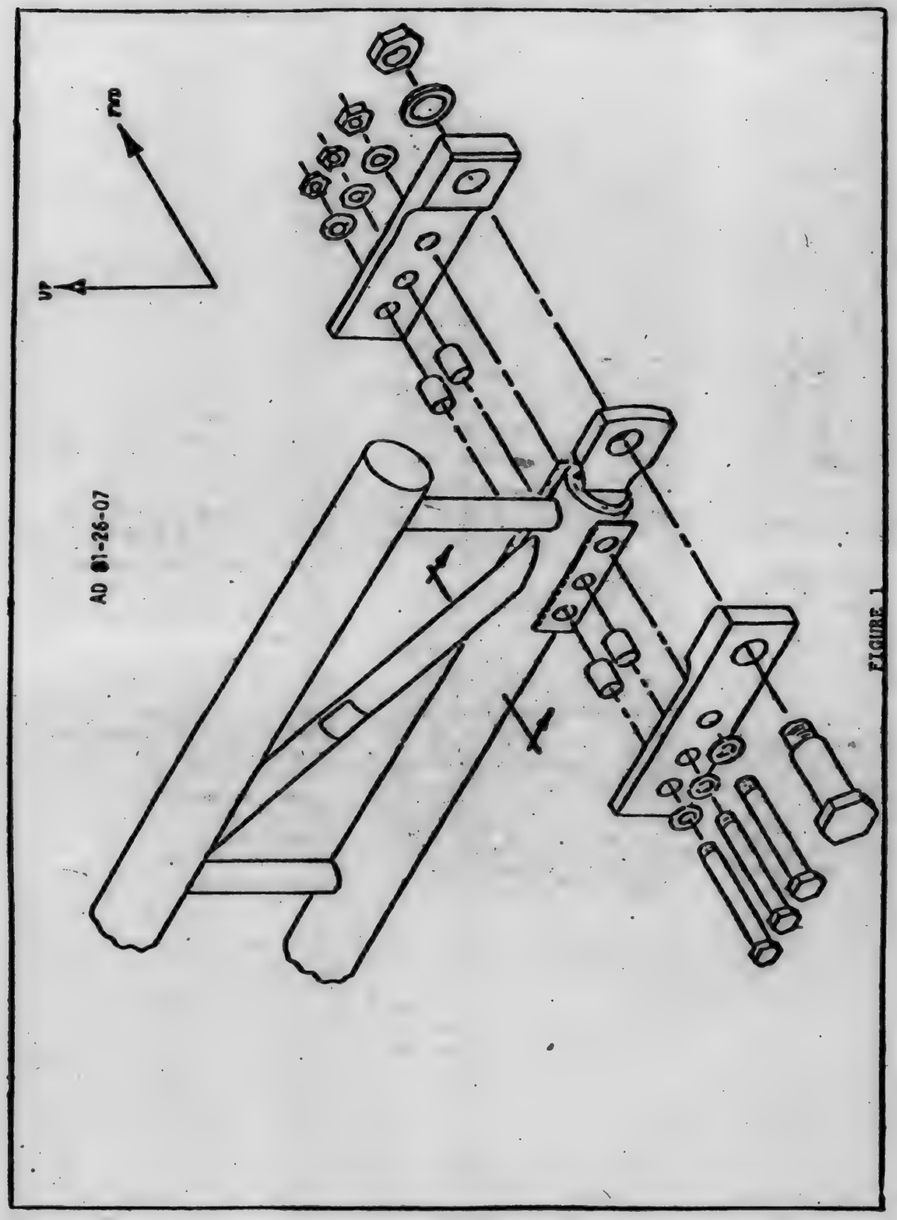

FIGURE 1

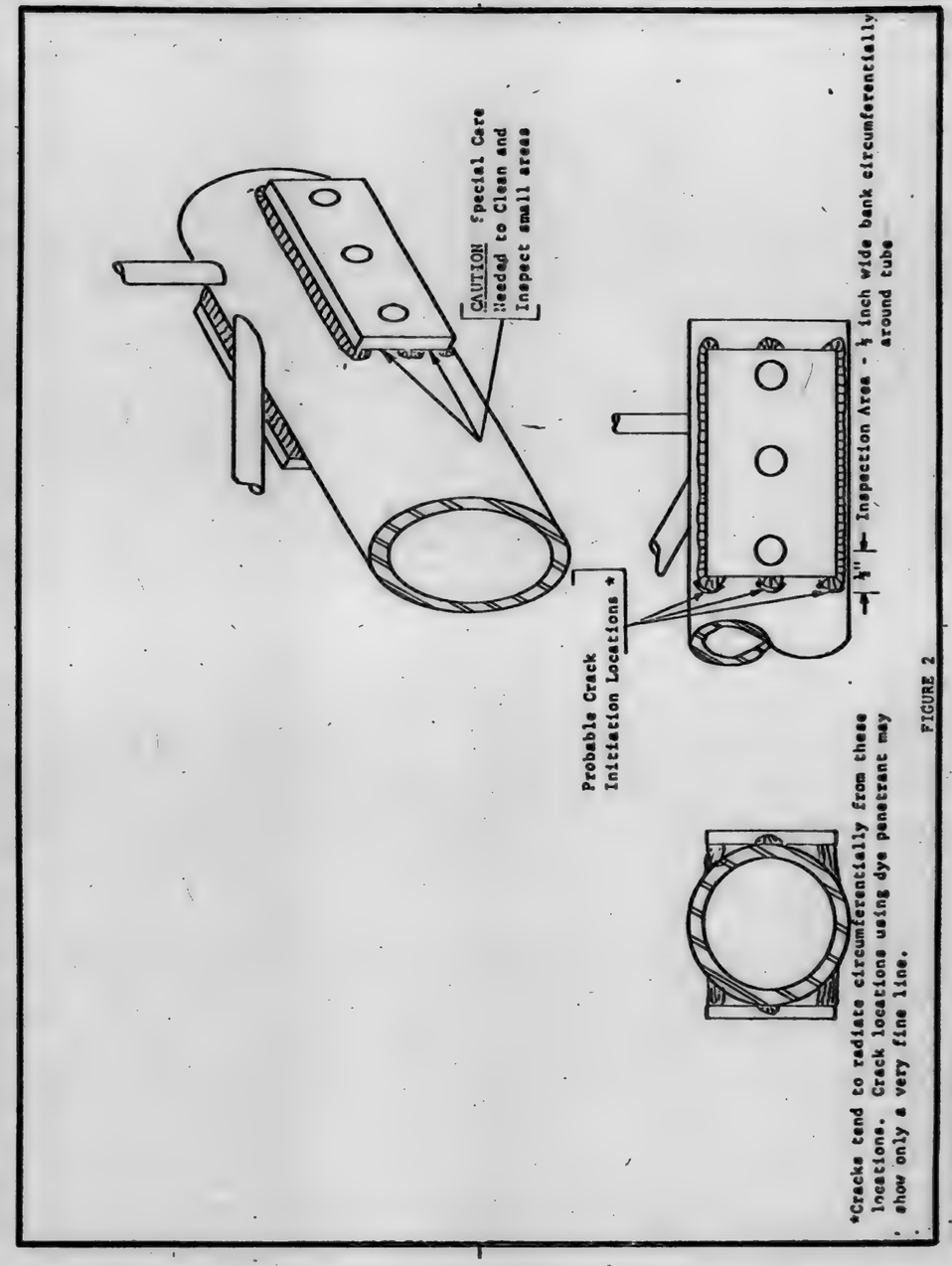

*Cracks tend to radiate circumferentially from these locations. Crack locations using dye penetrant may show only a very fine line.

FIGURE 2

[FR Doc. 82-5063 Filed 3-3-82; 8:45 am]
BILLING CODE 4910-13-C

14 CFR Part 75

[Airspace Docket No. 81-ANW-15]

Alteration of Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment realigns J-136 between Mullan Pass, ID, and Billings, MT, via Helena, MT. Frequency interference from Boysen Reservoir, WY, VOR, which has the same frequency as Mullan Pass VOR, causes navigational signal confusion for aircraft proceeding from Mullan Pass to Billings. This action eliminates that problem.

DATES: Effective Date—May 13, 1982. Comments must be received on or before April 5, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA Northwest Region, Attention: Chief, Air Traffic Division, Docket No. 81-ANW-15, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, WA 98105.

The offical docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:
Lewis Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves the realignment of Jet Route J-136 between Mullan Pass, ID, and Billings, MT, via Helena, MT, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic and energy aspects of the rule that might suggest the need to modify the rule.

Send comments on environmental and land use aspects to: Director, FAA Northwest Region, Attention: Chief, Air Traffic Division, Docket No. 81-ANW-15, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, WA 98105.

The Rule

The purpose of this amendment to § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is to realign J-136 from Mullan Pass, ID, via Helena, MT, to Billings, MT. This action eliminates the navigational problem caused by frequency duplication at Mullan Pass and Boysen Reservoir, WY. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in the Federal Register on January 2, 1981 (46 FR 834). Under the circumstances presented, the FAA concludes that there is an immediate need to realign Jet Route J-136 in order to eliminate a navigational problem due to a duplication of frequency. Therefore, I find that notice or public procedure under 5 U.S.C. 533(b) is contrary to the public interest.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (46 FR 834) and amended (46 FR 27633), is further amended, effective 0901 GMT, May 13, 1982, as follows:

Jet Route No. 136 [Amended]

By deleting the words "Mullan Pass, ID; INT Mullan Pass 101° and Billings, MT, 301° radials" and substituting the words "Mullan Pass, ID; Helena, MT."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 23, 1982.

John W. Baier,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-5868 Filed 3-3-82; 8:45 am]
BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 385

[Reg. OR-191; Org. Regs. Amdt. No. 120 to Part 385]

Delegations and Review of Action Under Delegation; Nonhearing Matters; Delegations to the Deputy General Counsel and the Director, Office of Congressional, Community, and Consumer Affairs

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB clarifies the delegated authority of the Deputy General Counsel and removes a time limitation from the authority delegated to the Director of the Office of Congressional, Community, and Consumer Affairs.

DATES: Adopted: February 26, 1982. Effective: February 26, 1982.

FOR FURTHER INFORMATION CONTACT:
Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: In OR-190, 47 FR 5204, February 4, 1982, the Board amended its delegations of authority to reflect a recent staff reorganization. One of the changes was the transfer, from the Director of the Bureau of Compliance and Consumer Protection to the Deputy General Counsel, of the authority delegated in 14 CFR 385.22(a) to compromise civil penalties in enforcement cases. That section refers to "economic" violations. The term was originally used to exclude violations of the Safety Investigation Regulations under Title VII of the Federal Aviation Act, which was then administered by the Civil Aeronautics Board but is now administered by the National Transportation Safety Board. The term is therefore obsolete, and the Board is now eliminating it to clarify that this delegation of authority extends to all enforcement cases within the Board's jurisdiction.

In OR-190 the Board also adopted a new § 385.30(c), delegating to the Director of the Office of Congressional, Community, and Consumer Affairs the authority to compromise civil penalties in the resolution of informal consumer complaints. As a transition measure, the delegation in § 385.30(c) was set to expire on March 1, 1982, unless the Board took further action. The Board has now decided that this delegation should continue indefinitely, and is amending the rule accordingly.

Since these amendments are administrative in nature, affecting agency practice and procedure, the Board finds for good cause that notice and public procedure are unnecessary and that the amendments may become effective less than 30 days after publication in the Federal Register.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 385, *Delegations and Review of Action Under Delegation; Nonhearing Matters*, as follows:

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION: NONHEARING MATTERS

1. The authority for Part 385 is:

Authority: Secs. 102, 204, 401, 402, 403, 407, 416, Pub. L. 85-726, as amended, 72 Stat. 740, 743, 754, 757, 758, 766, 771, 49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1377, 1386; Reorganization Plan No. 3 of 1961, 26 FR 5989.

2. In § 385.22, paragraph (a) is revised to read:

§ 385.22 Delegation to the Deputy General Counsel.

The Board hereby delegates to the Deputy General Counsel the authority to:

(a) Compromise any civil penalties being imposed in enforcement cases.

* * * * *

3. In § 385.30, paragraph (c) is amended by removing the expiration date, so that it reads:

§ 385.30 Delegation to the Director, Office of Congressional, Community, and Consumer Affairs.

The Board hereby delegates to the Director, Office of Congressional, Community, and Consumer Affairs, the authority to:

* * * * *

(c) Compromise civil penalties in the resolution of informal consumer complaints.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-5869 Filed 3-3-82; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 376, 379, 385 and 399

Extension of Foreign Policy Export Controls

AGENCY: International Trade Administration, Commerce.

ACTION: Interim rule.

SUMMARY: As required by section 6 of the Export Administration Act of 1979, the Secretaries of Commerce and State have reviewed foreign policy export controls and have determined that they should be continued, with some modification, through January 20, 1983. This issuance provides formal notice of this extension and revises the Export Administration Regulations to conform with the modifications in policy.

DATES: These rules are effective March 1, 1982. Comments must be received by the Department by April 30, 1982.

ADDRESS: Written comments (six copies when possible) should be sent to: Richard J. Isadore, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT:
Mr. Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377-5247 or 377-4811).

SUPPLEMENTARY INFORMATION:

Regulatory Changes

Pursuant to the authority granted by section 6 of the Export Administration Act of 1979, the Secretary of Commerce, in consultation with the Secretary of State, has determined that foreign policy controls will be extended until January 20, 1983. This announces the extension of controls and amends the Export Administration Regulations to reflect those areas where modifications have been made.

The foreign policy controls for regional stability purposes (15 CFR 376.16) and the controls on North Korea, Vietnam, Kampuchea and Cuba (15 CFR 385.1) remain unchanged. Exporters are advised that nuclear non-proliferation controls also remain unchanged (15 CFR Part 378).

Human rights controls (15 CFR 376.14), while essentially unchanged, have been modified to remove certain dual-use items from coverage. This will now permit U.S. exporters to sell to countries subject to these controls several general purpose items readily available elsewhere but previously often denied. Extension of these controls signifies the continued U.S. commitment in support of internationally recognized human rights.

Anti-terrorism controls (15 CFR 385.4(d)) have been changed to delete Iraq and permit aircraft to scheduled carriers in Syria and South Yemen. The Secretary of State has determined that Iraq's improved record warrants removal from the list of countries covered by anti-terrorism controls. Permitting aircraft to scheduled carriers in Syria and South Yemen significantly lessens the earlier restrictions on U.S. aircraft exports to these countries and makes U.S. aircraft producers much more competitive with other suppliers, without materially enhancing the ability of those countries to support international terrorism.

U.S.S.R. controls (15 CFR 385.2) have been expanded to cover a broader range of equipment and technical data for truck manufacture, for both the Kama River and ZIL truck plants. This will make yet clearer to the U.S.S.R. United States displeasure with Soviet actions in Poland and Afghanistan. Controls on equipment and technical data for exploration, production, transmission, or refining of oil and gas and controls on exports and related payments supporting the Moscow Summer Olympics remain in effect.

Controls on South Africa and Namibia have been modified to remove controls that were detrimental to U.S. business while having little, if any, impact on South African adherence to apartheid. A validated license is no longer required for: (1) Food, nonmilitary clothing and items used for personal hygiene; (2) chemicals and general industrial equipment described in Interpretations 24 and 29 of Supplement No. 1 to § 399.2; (3) certain home electronics, personal communications, and computer equipment; and (4) commodities that may be shipped to Country Group Z under certain general licenses. Licensing policy has been modified to permit certain sales to the military and police and to specify government agencies to be affected by foreign policy controls on computers.

Pursuant to section 6 of the Export Administration Act of 1979 and following consultation with the Department of State, it has been determined that this rule is necessary to

further significantly the foreign policy of the United States. Appropriate persons in industry and the Congress have been consulted, and criteria set forth in section 6(b) of the Act have been considered.

Pursuant to section 4(c), it has been determined that, notwithstanding foreign availability, failure to take this action would be detrimental to the foreign policy of the United States.

Pursuant to section 6(d), it has been determined that there are no feasible alternative means of achieving the purpose of this action. As provided in section 6(g), efforts are being made to obtain cooperation of countries that produce comparable items.

Rulemaking Requirements

The Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (50 U.S.C. app. 2401 *et seq.* (Supp. III 1979) ("the Act")), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act.

However, because of the importance of the issues raised by these regulations and the intent of Congress set forth in section 13(b) of the Act, these regulations are issued in interim form and comments will be considered in developing any final regulations. These regulations may be revised before the end of the comment period. Accordingly, interested persons who desire to comment are encouraged to do so at the earliest possible time to permit the fullest consideration of their views.

2. This rule does not alter any existing reporting and recordkeeping requirements under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 3501 *et seq.*

4. This rule is exempt from the requirements of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation," because it relates to a foreign affairs function of the United States.

The period for submission of comments will close on April 30, 1982. Comments received after the close of the comment period cannot be assured consideration in the development of the final regulations. Public comments that are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature, or for any other reason, will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of the final regulations. All public comments to be considered in any revision to these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda that will also be a matter of public record and will be available for public review.

Accordingly, the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

§ 376.14 [Amended]

1. Paragraph 376.14(a) is amended by removing from the second sentence thereof "1505A," "1585A(f)(3), 4585B(e)," and "1746A(d) (protective garments and devices only)," and by inserting after "1502A" the words "(police-model infrared viewers only)."

PART 379—TECHNICAL DATA

§ 379.4 [Amended]

2. Section 379.4 is amended by:

a. Amending § 379.4(e) by removing "any products" in the first sentence and inserting, in its place, "the direct product" and removing the second sentence.

b. Revising the introductory text of § 379.4(f)(1) and adding paragraph (f)(1)(i)(*r*) to read as follows:

§ 379.4 General license GTDR: Technical data under restriction.

* * * * *

(f) *Written Assurance Requirements.* (1) Requirement of written assurance for certain data, services, and materials. No export of technical data of the kind described in § 379.4(f)(1)(i)(*a*) through (*o*) and (*q*) (not (*p*) or (*r*)) of this section may be made under the provisions of this General License *GTDR* until the exporter has received written assurance from the importer that neither the technical data nor the direct product [1] thereof is intended to be shipped, either directly or indirectly, to Country Group P, Q, W,[2] Y, or Z or Afghanistan, except as provided in § 379.4(f)(1)(ii) below. No export of technical data of the kind described in § 379.4(f)(1)(i)(*p*) below may be made under the provisions of this General License *GTDR* until the exporter has received written assurance from the importer that neither the technical data nor the direct product [1] thereof is intended to be shipped, directly or indirectly, to the U.S.S.R., Estonia, Latvia or Lithuania, except as provided in § 379.4(f)(1)(ii) below. No export of technical data of the kind described in § 379.4(f)(1)(i)(*r*) below may be made under the provisions of this General License *GTDR* until the exporter has received written assurance from the importer that neither the technical data nor the direct product [1] thereof is intended to be shipped, directly or indirectly, to the Kama River (Kam AZ) or ZIL truck plants in the U.S.S.R., except as provided in § 379.4(f)(1)(ii) below. The required assurance may be in the form of a letter or other written communication from the importer evidencing such intention, or a licensing agreement that restricts disclosure of the technical data to use only in a country other than Country Group P, Q, W, Y, or Z or Afghanistan, and prohibits shipments of the direct product [1] thereof by the licensee to Country Group P, Q, W, Y, or Z or Afghanistan or, for data of the kind described in § 379.4(f)(1)(i)(*p*), to the U.S.S.R., Estonia, Latvia or Lithuania, or, for data of the kind described in § 379.4(f)(1)(i)(*r*), to the Kama River (Kam AZ) or ZIL truck plants in the U.S.S.R. An assurance included in a licensing agreement will be acceptable for all exports made during the life of the agreement. If such assurance is not received, this general license is not applicable and a validated export license is required. An application for such validated license shall include an explanatory statement setting forth the reasons why such assurance cannot be

[1] The term "direct product," as used in this sentence and in this context only, is defined to mean the immediate product (including processes and services) produced directly by use of the technical data, except that petroleum or chemical products other than molecular sieves or catalysts are not included in this definition. The coverage of the term does not extend to the results of the use of such "direct product." An example of the direct product of technical data is reforming process equipment designed and constructed by use of the technical data exported, but the aromatics produced by the reforming process equipment are not immediate or direct products of these technical data. However, if the technical data are a formula for producing aromatics, although they are immediate products of the data, are not included in this definition of direct product, since they are petroleum products. Conversely, if the technical data are a formula for producing either molecular sieves or catalysts, the foreign-produced molecular sieves and catalysts are included in the definition of direct product.

[2] Effective April 28, 1971, Country Group W no longer included Romania. Assurances executed prior to April 28, 1971, and referring to Country Group W continue to apply to Romania as well as Poland. Effective June 2, 1980, Hungary was added to Country Group W, which at that time included only Poland. Assurances executed prior to June 2, 1980 and referring to Country Group Y continue to apply to Hungary. Assurances executed on or after June 2, 1980 and referring to Country Group W apply to Hungary as well as Poland.

obtained. In addition, this general license is not applicable to any export of technical data of the kind described in § 379.4(f)(1)(i)(*e*) through (*o*) and (*q*) (not (*p*) or (*r*)) of this section if, at the time of export of the technical data from the United States, the exporter knows or has reason to believe that the direct product to be manufactured abroad by use of the technical data is intended to be exported or reexported, directly or indirectly, to Country Group P, Q, W, Y, or Z or Afghanistan, or for data of the kind described in § 379.4(f)(1)(i)(*p*), to the U.S.S.R., Estonia, Latvia or Lithuania, or, for data of the kind described in § 379.4(f)(1)(i)(*r*), to the Kama River (Kam AZ) or ZIL truck plants in the U.S.S.R.

(i) * * *

(*r*) Commodities used directly in production, assembly, or testing of trucks, truck components, or accessories at the Kama River (Kam AZ) or ZIL truck plants in the U.S.S.R.

* * * * *

PART 385—SPECIAL COUNTRY POLICIES AND PROVISIONS

3. Section 385.2(e) is revised to read as follows:

§ 385.2 Country Groups Q, W, and Y;[1] U.S.S.R., other Warsaw Pact Countries, Albania, Mongolian People's Republic, and Laos.

* * * * *

(e) As authorized by section 6 of the Export Administration Act of 1979, a validated license is required for export to the U.S.S.R. of technical data and equipment for the manufacture of trucks, as defined in CCL entry 6398G, at the Kama River (Kam AZ) and ZIL truck plants. Licenses for such exports will generally be denied.

* * * * *

4. Section 385.4(a) is revised to read as follows:

§ 385.4 Country Group V.

(a) *Republic of South Africa and Namibia.* In conformity with the United Nations Security Council Resolutions of 1963 and 1977 relating to exports of arms and munitions to the Republic of South Africa, and consistent with U.S. foreign policy toward the Republic of South Africa and Namibia, the Department of Commerce has established, as authorized by section 6 of the Export Administration Act of 1979, the following special policies for commodities and technical data under its licensing jurisdiction.

[1] See Supplement No. 1 to Part 370 for listing of Country Groups.

(1) An embargo is in effect on the export or reexport to the Republic of South Africa and Namibia of arms, munitions, military equipment and materials, and materials and machinery for use in the manufacture and maintenance of such equipment. Commodities to which this embargo applies are listed in Supplement No. 2 to Part 379.

(2) A validated export license is required for export or reexport to the Republic of South Africa or Namibia of any commodity, including commodities that may be exported to any destination in Country Group V under a general license, where the exporter or reexporter knows or has reason to know that the commodity will be sold to or used by or for military or police entities in these destinations or used to service equipment owned, controlled or used by or for such military or police entities, *except:*

(i) Food, nonmilitary clothing, and personal hygiene items;

(ii) Chemicals and general industrial equipment described in Interpretations 24 and 29, Supplement No. 1 to section 399.2;

(iii) Home electronics and personal communications as defined in CCL entry 1564A II(c)(ii)(22) (b) and (c); word processors; hand-held stand-alone calculators; electronic copy machines; personal computers (microprocessor based, single user, portable computer with limited memory size and performance (floppy disc drives)); of types *not* identified by a "1" in the "Reason for Control" column of the Commodity Control List;

(iv) Commodities that may be shipped to Country Group Z under General License *G-DEST, BAGGAGE, SHIP STORES, PLANE STORES, CREW,* or *GIFT.*

See § 385.4(a)(5) below for licensing policy.

(3) A validated license is required for the export or reexport to the Republic of South Africa or Namibia of technical data, except technical data generally available to the public that meets the conditions of General License *GTDA,* where (i) the technical data relate to the commodities listed in Supplement No. 2 to Part 379, or (ii) the exporter or reexporter knows or has reason to know that the technical data or the direct product of the data are for delivery to or for use by or for military or police entities of these destinations or for use in servicing equipment owned, controlled, or used by or for these entities. In addition, users in the Republic of South Africa or Namibia of technical data that do qualify for export or reexport under the provisions of General License *GTDR* must be informed in writing at the time of the export or reexport of the data that the direct product of that data may not be sold or otherwise made available, directly or indirectly, to military or police entities in these destinations. (See § 379.4(e) for regulations on exports of technical data to South Africa and Namibia.) See § 385.4(a)(5) below for licensing policy.

(4) Parts, components, materials and other commodities originating in the United States, whether exported under a general or validated export license, may not be used abroad to manufacture or produce foreign-made end products, other than those excepted under (2) above, where it is known or there is reason to know the end products will be sold to or used by or for military or police entities in the Republic of South Africa and Namibia, without prior authorization from OEA. See § 385.4(a)(5) below for licensing policy.

(5) Authorizations for exports, reexports, or sales to or for use by or for military or police entities in the Republic of South Africa or Namibia will be denied for exports or reexports of U.S.-origin commodities or technical data, the South African direct product of U.S.-origin technical data, or foreign-origin goods incorporating U.S.-origin parts, components, or materials, except, on a case-by-case basis, for:

(i) Items *not* identified by a "1" in the "Reason for Control" column of the Commodity Control List, if the export would not contribute significantly to military or police functions;

(ii) Medicines, medical supplies, and medical equipment;

(iii) Commodities and technical data to be used in prevention of unlawful interference with international civil aviation;

(iv) Word processors, personal computers, electronic cash registers, hand-held stand-alone calculators, electronic copy machines, and personal communications of types identified by a "1" in the "Reason for Control" column of the Commodity Control List, if the export would not contribute significantly to military or police functions;

(v) Foreign-origin equipment incorporating 20 percent or less by value of U.S.-origin components;

(vi) Reexports or resales of insubstantial portions of commodities or technical data exported originally to parties other than the military or police, and sales of insubstantial portions of the South African-produced direct product of U.S.-origin technical data, if the

commodities, data, or product of the data would not contribute significantly to military or police functions.

(6) A validated export license is required for the export to the Republic of South Africa and Namibia of any instrument and equipment particularly useful in crime control and detection, as defined in § 376.14.

(7) General License *GIT* may not be used for any commodity destined for the Republic of South Africa or Namibia (See § 371.4(b)).

(8) A validated license is required for the export to all consignees of aircraft and helicopters. Applications for civil uses will generally be considered favorably on a case-by-case basis, subject to a license condition that the aircraft or helicopter will not be put to military, paramilitary, or police use.

(9) A validated license is required for the export to the Ministry of Cooperation and Development, the Department of the Interior, the Department of Community Development, the Department of Justice, and the Department of Manpower of computers as defined in CCL entry 1565A. Applications for validated licenses will generally be considered favorably on a case-by-case basis for the export of computers that would not be used to enforce the South African policy of apartheid.

* * * * *

5. Paragraph § 385.4(d) is amended as follows:

a. By removing "Iraq," in the title and first sentence (two removals);

b. By adding to the first sentence, immediately following "5460F" and before "and of good* * *" the phrase "except aircraft and helicopters for use by regularly scheduled airlines based in Syria or the People's Democratic Republic of Yemen for which assurances against military use have been submitted to OEA."

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

§ 399.1 [Amended]

6. The Commodity Control List (Supplement No. 1 to § 399.1) is amended as follows:

a. ECCN 6398G is revised to read as follows:

Export control commodity number and commodity description	Unit	Validated license required	GLV $ value limits T&V	Processing code	Reason for control
6398G Machinery and equipment (including tools, fixtures, and jigs) specially designed or modified for the manufacture of automotive trucks and truck engines; and specially designed parts, components, and accessories therefor. (See Supplement No. 1 to § 399.2, Interpretation 32, for illustrative list of commodities included in this entry.)		SZ [2,4,5]		MG	3

[2] A validated license also is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities. See § 371.2(c)(11) and § 385.4(a).
[4] A validated license is also required for export or reexport to the U.S.S.R. if the exporter knows or has reason to know the commodity is for any use directly in preparation for, in conduct of, in support of, or visually identified with the 1980 Summer Olympic Games which began in Moscow on July 19, 1980. These commodities are subject to controls under the authority of the foreign policy provisions contained in section 6 of the Export Administration Act of 1979. This commodity control list entry as well as the other entries in this Group are subject to controls on the basis of the above criteria.
[5] Under the foreign policy authority contained in section 6 of the Export Administration Act of 1979, a validated license is also required for export to the U.S.S.R. of such commodities for the Kama River (Kem AZ) or ZIL truck plants. See § 385.2(e).

b. In ECCN 6399G, footnote 2, referenced after the entry number and in the "Validated License Required" column, is deleted.

c. ECCN 1460A is amended by removing "Iraq," from the footnotes each time it appears (two deletions).

d. ECCN 5460F is amended by removing "Iraq," from the "Validated License Required" column.

e. ECCN 1502A is amended by adding a new footnote "4" to the "Reason for Control" column, as follows:

Export control commodity number and commodity description	Unit	Validated license required	GLV $ value limits T&V	Processing code	Reason for control
1502A Communication, detection or tracking equipment of a kind using ultra-violet radiation, * * *.	[1]	PQSTVWYZ [2]	[3]	EE	[4] 1,4,5

[1] Report equipment in "number."
[2] Airborne detection and tracking equipment using infrared radiation and other infrared imaging equipment have significant military as well as commercial uses. Prior to submitting applications, exporters should determine whether the item is under the licensing jurisdiction of the Office of Munitions Control (Department of State) or the Department of Commerce.
[3] The GLV $ value limit for the following countries is $500: Australia, Belgium, Denmark, France, the Federal Republic of Germany (including West Berlin), Greece, Iceland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Turkey and the United Kingdom.
[4] Foreign policy controls apply only to police-model infrared viewers.

f. ECCNs 1505A, 1510A, 1585A(f)(3) and 4585B(e) are amended by removing "5" in the "Reason for Control" column.

g. ECCNs 5597B and 5680B are revised to read as follows:

Export control commodity number and commodity description	Unit	Validated license required	GLV $ value limits T&V	Processing code	Reason for control
5597B [1] Polygraphs (except biomedical recorders designed for use in medical facilities for monitoring biological and neurophysical responses); fingerprint equipment and analyzers; fingerprint cameras and equipment; automated fingerprint and identification retrieval systems (whether or not computerized); psychological testing machines; and specially designed parts and accessories, n.e.s.	[1]	PQSTVWYZ [2]	0	EE	5
5680B [1] Police helmets, leg irons, shackles, handcuffs, thumbcuffs, thumbscrews, and sape.		PQSTVWYZ [2]	0	MG	5

[1] Bullet and blast resistant garments and devices included in this sub-entry are controlled for crime control reasons.
[2] A validated license is *not* required for export of these commodities to Australia, Belgium, Denmark, France, the Federal Republic of Germany (including West Berlin), Greece, Iceland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Turkey and the United Kingdom.

* * * * * * *

h. Footnote "4" to ECCN 6599G is revised to read as follows:

Export control commodity number and commodity description	Unit	Validated license required	GLV $ value limits T&V	Processing code	Reason for control
6599G [4,5] Other electronic and precision instruments, including photographic equipment and film, n.e.s.; and parts and accessories, n.e.s.		SZ [4,5]		EE	3

[4] A validated license also is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities, except word processors, personal computers, hand-held stand-alone calculators, electronic copy machines, home electronics, and personal communications. See § 371.2(c)(11) and § 385.4(a).
[5] A validated license is also required for export or reexport to the U.S.S.R. if the exporter knows or has reason to know the commodity is for any use directly in preparation for, in conduct of, in support of, or visually identified with the 1980 Summer Olympic Games which began in Moscow on July 19, 1980. These commodities are subject to controls under the authority of the foreign policy provisions contained in section 6 of the Export Administration Act of 1979. This commodity control list entry as well as the other entries in the Group are subject to controls on the basis of the above criteria.

i. ECCN 1746A(d) is amended by removing the footnote reading: [1] Bullet and blast resistant garments and devices included in this sub-entry are controlled for crime control reasons.

j. ECCN 4799B is revised to read as follows:

Export control commodity number and commodity description	Unit	Validated license required	GLV $ value limits T&V	Processing code	Reason for control
4799B Chemical agents, including tear gas formulations containing 1 percent or less of orthochlorobenzalmalononitrile (CS), or 1 percent or less of chloracetophenone (CN), *except in individual containers with a net weight of 20 grams or less;* smoke bombs; and fingerprint powders, dyes and inks. (Specify by name.) (See § 378.14.).		PQSTVWYZ [4,5]	0	MG	5

[4] A validated license is *not* required for export of these commodities to Australia, Belgium, Denmark, France, the Federal Republic of Germany (including West Berlin), Greece, Iceland, Italy, Japan, Luxembourg, The Netherlands, New Zealand, Norway, Portugal, Turkey, and the United Kingdom.
[5] All other forms of tear gas are controlled by the U.S.

k. In ECCN 6799G footnote "7" in the "Validated License Required" column is deleted.

l. ECCN 5999B is revised to read as follows:

Export control commodity number and commodity description	Unit	Validated license required	GLV $ value limits T&V	Processing code	Reason for control
5999B [4,5] Saps, straight jackets, police helmets and shields, and parts and accessories, n.e.s.		PQSTVWYZ [4]	0	MG	5

[4] A validated license is *not* required for export of these commodities to Australia, Belgium, Denmark, France, the Federal Republic of Germany (including West Berlin), Greece, Iceland, Italy, Japan, Luxembourg, The Netherlands, New Zealand, Norway, Portugal, Turkey, and the United Kingdom.
[5] Gas masks designed for protection against tear gas and other chemical agents are controlled by the Office of Munitions Control. See § 370.10.

m. Footnote "1" to ECCN 6999G is revised to read as follows:

[1] A validated license is also required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities, except food, nonmilitary clothing, and personal hygiene items. See § 371.2(c)(11) and § 385.4(a).

§ 399.2 [Amended]

7. A new Interpretation 32 is added to Supplement No. 1 to § 399.2, to read as follows: *Interpretation 32: Automotive Truck and Truck Engine Manufacturing Equipment.*

The following is an illustrative list of automotive, truck, and truck engine manufacturing machinery and equipment subject to validated license control for export to the U.S.S.R. for either the Kama River or ZIL truck complexes. This list is illustrative only. It does not include all commodities that are covered by CCL entry No. 6998G.

(1) All truck chassis and truck engine manufacturing process lines, including conveying and assembly equipment.

(2) Truck engine and truck power train transfer lines.

(3) Automatic control systems for the supervision and monitoring of truck manufacturing processes.

(4) Specialized vehicle and vehicle component test and checking equipment including but not limited to:

a. Vehicle and component shock and vibration test equipment;

b. Vehicle dynamometric test systems; and

c. Specially designed truck suspension component test machinery.

(5) Truck tire manufacturing equipment and machinery.

(Secs. 4, 6, 13, 15, and 21, Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*; Executive Order No. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10-3 (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Orders 41-1 (45 FR 11862, February 22, 1980) and 41-4 (45 FR 65003, October 1, 1980))

Bohdan Denysyk,

Deputy Assistant Secretary for Export Administration.

February 26, 1982.

[FR Doc. 82-5648 Filed 3-1-82; 3:12 pm]

BILLING CODE 3510-25-M

DELAWARE RIVER BASIN COMMISSION

18 CFR Part 410

Basin Regulations—Water Quality; Technical Amendment

Correction

In FR Doc. 82-5148, appearing at page 8343, in the issue of Friday, February 26, 1982, make the following change:

On page 8343, in the second column, change the heading now reading "§ 401.1 Basin regulations-Water quality." to read "§ 410.1 Basin regulations—Water quality."

BILLING CODE 1905-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R-82-635]

Revision of Use of Materials Bulletin No. 79—Acrylonitrile—Butadiene-Styrene (ABS) and Poly (Vinyl Chloride) (PVC) Plastic Drain, Waste and Vent Pipe and Fittings; Correction

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Correction to final rule; effective date.

SUMMARY: This notice will correct the effective date of the HUD Use of Materials Bulletin No. 79a (UM 79a) published November 17, 1981 at 46 FR 56413. Section 7(o)(3) of the Department of Housing and Community Development Act, as amended, requires that "no rule or regulation may become effective until after the first period of 30 calendar days of continuous session of Congress which occurs after the day on which a rule or regulation is published as final" in the Federal Register. Congressional adjournment and recesses will now preclude the passage of 30 continuous session days until March 7, 1982. Therefore, the effective date of this rule is being changed from January 26, 1982 to March 7, 1982.

FOR FURTHER INFORMATION CONTACT: Richard H. Kolodin, Materials Acceptance Division, Office of Architecture and Engineering Standards, Room 6178, Department of Housing and Urban Development, Washington, D.C. 20410. Telephone: (202) 755-5929. (This is not a toll-free number.)

(Sec. 7(d), Department of Housing and Urban Development Act of 1965, 42 U.S.C. 3535(d); sec. 211 of the National Housing Act, 12 U.S.C. 1715b)

Dated: February 26, 1982.

Richard Lasner,

Assistant General Counsel for Regulations.

[FR Doc. 82-5650 Filed 3-3-82; 8:45 am]

BILLING CODE 4210-01-M

24 CFR Part 885

[Docket No. R-82-667]

Loans for Housing for the Elderly or Handicapped; Fiscal Year 1982 Interest Rate

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule amends 24 CFR Part 885 to establish the interest rate for direct loans for housing for the elderly or handicapped made during Fiscal Year 1982 at the same rate as was applicable to loans made during Fiscal Year 1981. The Secretary has determined to maintain the Fiscal Year 1981 interest rate of 9¼ percent per annum in order to assure that previously approved projects can proceed to construction during Fiscal Year 1982.

EFFECTIVE DATE: March 4, 1982.

FOR FURTHER INFORMATION CONTACT: Robert W. Wilden, Director, Elderly, Cooperative, Congregate and Health Facilities Division, 451 7th Street SW., Room 6136, Washington D.C. 20410, Telephone (202) 755-6528. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 202(a)(3) of the Housing Act of 1959, as amended, provides that a loan for housing for the elderly or handicapped shall bear interest at a rate which is not more than a rate determined by the Secretary of the Treasury, taking into consideration the average interest rate on all interest bearing obligations of the United States then forming a part of the public debt computed at the end of the fiscal year next preceding the date on which the loan is made, adjusted to the nearest one-eighth of one percent, plus an allowance adequate in the judgment of the Secretary of HUD to cover administrative costs and probable losses under the program. The existing regulation provision (24 CFR 885.410(g)) incorporates a determination by the Secretary that the allowance for administrative costs and probable losses should be one-fourth of one percent (.25%) per annum for both the construction and permanent loan periods, which for Fiscal Year 1981 resulted in an interest rate of 9¼ percent per annum.

Application of this formula to loans made during Fiscal Year 1982 would yield an interest rate of 11¾ percent per annum. In order to avoid the adverse effect on the feasibility of previously approved projects that would result from application of that higher interest rate, the Secretary has decided to use his statutory authority to establish an interest rate lower than the statutory maximum interest rate and to maintain the Fiscal Year 1981 interest rate of 9¼ perent per annum for projects reserved prior to Fiscal Year 1982 and initially closed during Fiscal Year 1982. The Secretary's decision was made in response to numerous requests for such regulatory relief from organizations presently developing section 202 projects. Additionally, a number of Members of Congress have indicated that they endorse the provision of this relief.

Since this amendment would provide regulatory relief without imposing any new regulatory burden, the Secretary has determined that it is in the public interest to implement his decision as soon as possible, so that projects previously approved as feasible under the Fiscal Year 1981 interest rate can proceed to construction without delay. Providing an opportunity for notice and public procedure on this amendment and delaying its effective date for a period of at least 30 days would delay the implementation of the Secretary's decision for a substantial period of time. The Secretary has determined that such delay would be contrary to the public interest, for the reasons stated above, and that notice and public procedure on this amendment would therefore be impracticable. Accordingly, good cause exists for publishing this amendment as a final rule, without providing a prior comment period, and for making it effective less than 30 days after such publication.

Section 7(o)(3) of the Department of HUD Act (42 U.S.C. 3535(o)(3)) provides for a delay in the effectiveness of HUD regulations for a period of 30 calendar days of continuous session of Congress after publication, unless waived by the Chairmen and Ranking Minority Members of the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs. The Secretary has requested such waivers and they have been granted. Accordingly, this amendment shall become effective on the effective date set forth above.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection and copying during regular business hours at the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

This rule was not listed in the Department's Semiannual Agenda of Regulations published pursuant to Executive Order 12291 and the Regulatory Flexibility Act of August 17, 1981 (45 FR 41708).

The Catalog of Federal Domestic Assistance Program title and number is Housing for the Elderly or Handicapped, 14.157.

Pursuant to Section 605(b) of the Regulatory Flexibility Act, the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

PART 885—LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

Accordingly, 24 CFR 885.410(g) is revised to read as follows:

§ 885.410 Amount and terms of financing.

* * * * *

(g) Except for loans made during Fiscal Year 1982, which shall bear an interest rate of nine and one-fourth percent (9¼) per annum, loans shall bear interest at a rate established by the Secretary by adding:

(1) A rate determined by the Secretary of the Treasury to be the average interest rate on all interest-bearing obligations of the United States then forming a part of the public debt computed at the end of the fiscal year immediately prior to the date on which the loan is made; plus (2) an allowance to cover administrative costs and probable losses under the program, which allowance has been determined by the Secretary of HUD to be one-fourth of one percent (.25%) per annum for both the contruction and permanent loan periods.

* * * * *

(Sec. 202, Housing Act of 1959 (12 U.S.C. 1701q); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Dated: February 10, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 82-5651 Filed 3-3-82; 8:45 am]

BILLING CODE 4210-01-M

PANAMA CANAL COMMISSION

35 CFR Part 10

Access to Information Concerning Individuals; Exemption From Access of a System of Records Under the Privacy Act

AGENCY: Panama Canal Commission.

ACTION: Final rule.

SUMMARY: On December 9, 1981, the Panama Canal Commission published in the Federal Register (46 FR 60216) a proposed rule to exempt a system of records called "Ombudsman Investigation Files, PCC/OM-1" from certain provisions of the Privacy Act of 1974. No comments were received in connection with this proposed rule; therefore, the rule is now adopted without change. The rule exempts material contained in this system from disclosure to the subjects of the records, if such disclosure could render the efforts of the Office of Ombudsman ineffective.

EFFECTIVE DATE: March 4, 1982.

ADDRESSES: Secretary, Panama Canal Commission, Room 312, Pennsylvania Building, 425 13th Street NW., Washington, D.C. 20004; or Chief, Administrative Services Division, Panama Canal Commission, APO Miami 34011.

FOR FURTHER INFORMATION CONTACT: Assistant to the Secretary, Panama Canal Commission, 425 13th Street NW., Washington, D.C. 20004 (Telephone 202-724-0104).

Dated: February 22, 1982.

D. P. McAuliffe,

Administrator, Panama Canal Commission.

PART 10—ACCESS TO INFORMATION ABOUT INDIVIDUALS

Under the Privacy Act of 1974, 5 U.S.C. 552a, the Panama Canal Commission amends Part 10 of 35 CFR by adding a new paragraph (xxviii) to 35 CFR 10.22(a)(2), as follows:

§ 10.22 Specific exemptions.

(a) * * *

(2) * * *

(xxviii) Ombudsman Investigation Files, PCC/OM-1.

[FR Doc. 82-5671 Filed 3-3-82; 8:45 am]

BILLING CODE 3640-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 46

Waiver of Requirements as Applied to Medicaid Demonstration Projects Involving Cost-Sharing (Copayments, Deductibles, Coinsurance)

AGENCY: Office of the Secretary, HHS.

ACTION: Notice of waiver.

SUMMARY: The Department of Health and Human Services hereby gives notice that, pursuant to 45 CFR 46.101(e), the Secretary has decided to waive the requirements set forth in Part 46, relating to protection of human subjects, as they pertain to demonstration projects, approved under section 1115 of the Social Security Act, which test the use of cost-sharing, such as deductibles, copayment and coinsurance, in the Medicaid program (Title XIX of the Social Security Act). The Secretary believes that waiver of Part 46 requirements is appropriate since it will facilitate the timely efficient operation of demonstration projects which are likely to assist in promoting the objectives of the Medicaid program.

DATE: Effective: March 4, 1982.

FOR FURTHER INFORMATION CONTACT: Steven Pelovitz, (301) 597–3195.

SUPPLEMENTARY INFORMATION:

The rapid escalation of Medicaid costs in recent years makes it imperative for the Department and the States to conduct research which would explore ways to provide optimum medical care while controlling costs that would otherwise make the program unaffordable. Provisions of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) which, beginning in Fiscal Year 1982, imposes certain new restrictions on the amount of Federal reimbursement which will be available to States for the Medicaid program, make it critical that this research proceed expeditiously. Cost-sharing demonstration projects are likely to be an important part of this research and, without a waiver of the Part 46 requirements, each otherwise approved project would have to go through the process of review by an Institutional Review Board (IRB) before it could be implemented.

Under Part 46, the primary functions of IRB review are to assure that the human subjects of research are not exposed to risk which is unreasonable in light of the benefit to be gained, and that their appropriate informed consent has been obtained (§ 46.111). However, in the case of research conducted to study Federal or State benefit programs, such as a copayment or other cost-sharing demonstration projects, where participation of a large number of individuals would make it impractical to proceed if informed consent had to be obtained from each one, the provisions of Part 46 contemplate IRB waiver of the informed consent requirements. Further, in research such as a Medicaid cost-sharing demonstration project, the possibility of any risk arises solely from the modification of benefits or the means of obtaining benefits available through the governmental assistance program. Modifications of this nature are clearly authorized by, and inherent in the concept of demonstration projects conducted under section 1115. Therefore, the Secretary has concluded that the only appropriate standard by which to assess a cost-sharing demonstration project, including its potential effect on Medicaid beneficiaries, is the standard established by section 1115 itself—whether the project is "likely to assist in promoting the objectives" of the Medicaid program. On the basis of that standard, and pursuant to the waiver authority contained in 45 CFR 46.101(e), the Secretary believes that a waiver is appropriate since IRB review would constitute an inappropriate and unnecessary step in the evaluation and approval of section 1115 Medicaid cost-sharing demonstration projects.

Since there are important reasons for expediting the conduct of research on the use of Medicaid cost-sharing, and it is this Department's policy generally to eliminate unnecessary procedures in the administration of its programs, the waiver announced in this notice is effective immediately (March 4, 1982).

Dated: February 25, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-5728 Filed 3-3-82; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

Completion of the Move From Washington, D.C., to Gettysburg, Pa., by the Private Radio Bureau's Applications Processing Section

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The FCC modifies its rules to specify that applications for stations authorized by the Private Radio Bureau shall be filed with the Commission's office in Gettysburg, Pennsylvania, since this is where these applications are now processed.

EFFECTIVE DATE: March 9, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Eugene C. Bowler, Private Radio Bureau, (202) 632–6497.

SUPPLEMENTARY INFORMATION:

Adopted: February 19, 1982.

Released: February 23, 1982.

In the matter of amendment of § 1.912 of the Commission's rules and regulations.

1. The Private Radio Bureau has completed moving all of its application processing functions from Washington, D.C. to Gettysburg, Pennsylvania. Section 1.912 of the rules is, therefore, amended to reflect this fact.

2. Since this amendment of the rules relates solely to a rule of Agency procedure and practice, notice and public procedure thereon are not required. See 5 U.S.C. 553(b).

3. Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended and § 0.231 of the Commission's rules and regulations. See 47 CFR 0.231.

4. Accordingly, it is ordered, that § 1.912 of the rules is amended as set out in the attached Appendix.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

PART 1—PRACTICE AND PROCEDURE

Part 1 Section 1.912(e) is revised to read as follows:

§ 1.912 Where applications are to be filed.

* * * * *

(e) All other applications shall be filed with the Commission's offices in Gettysburg, Pennsylvania and shall be addressed to: Federal Communications Commission, Gettysburg, Pennsylvania 17325.

[FR Doc. 82-5665 Filed 3-3-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-397; RM-3506]

FM Broadcast Station in Uvalde, Crystal City, and Pearsall, Texas; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein reassigns FM Channel 272A from Crystal City, Texas, to Uvalde, Texas, as that community's second FM assignment, and substitutes Channel 232A at Crystal City, in response to a request by Sharon Hess.

DATE: Effective April 26, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steven A. Bookshester, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(B), Table of Assignments, FM Broadcast Stations. (Uvalde, Crystal City, and Pearsall, Texas), BC Docket No. 80–397, RM–3506. Report and order (Proceeding terminated).

Adopted: February 16, 1982.

Released: February 25, 1982.

1. Before the Commission is a Notice of Proposed Rule Making, 45 FR 50373, published July 29, 1980, proposing the reassignment of FM Channel 272A from Crystal City, Texas (where it is presently unoccupied and unapplied for) to Uvalde, Texas, at the request of Sharon Hess. On its own motion, the Commission proposed, in the alternative, that FM Channel 237A, unoccupied and unapplied for (at that time) be reassigned back from Pearsall to Uvalde, where it was previously allocated in 1976 in Docket No. 20230.[1] Comments were submitted by Jose Angel Gutierrez, County Judge of Zavala County ("Gutierrez"); Roberto M. Garcia, City Manager of Crystal City ("Garcia"); E. J. Harpole, President of Uvalde Broadcasters, licensee of KVOU(AM) and KYUF(FM), Uvalde ("Harpole"); Walter H. and Noelia S. Herbort, ("the Herborts"); Pearsall Broadcasters, Inc., ("Pearsall B/C"); and by Hess, who also filed brief reply comments.

2. Uvalde (population 14,178),[2] the county seat of Uvalde County, (population 22,441), is located approximately 128 kilometers (80 miles) west of San Antonio, near the Mexican border. Crystal City (population 8,334), the county seat of Zavala County (population 11,666), is located 58 kilometers (36 miles) south of Uvalde. Pearsall (population 7,383), the county seat of Frio County (population 13,785), is located 88 kilometers (55 miles) southwest of San Antonio and 77 kilometers (48 miles) southeast of Uvalde. Uvalde presently receives local aural service from co-owned KVOU(AM) (full-time) and KYUF(FM), and also has an unoccupied Channel 216A noncommercial educational assignment. Crystal City has no present local aural service while Pearsall receives local service from daytime-only AM Station KVWG.

3. In the *Notice*, the Commission requested comment on the need to retain the listed FM assignments at Crystal City and Pearsall. Additionally, we asked whether alternative channels were available for assignment as possible substitutes at either community. We also noted that the assignment of Channel 272A to Uvalde, as requested by Hess, would cause new preclusion only on the co-channel, and asked for a demonstration of the availability of alternative channels for Rocksprings and Laughlin, precluded communities of more than 1,000 with no local AM stations or FM commercial assignments.

4. In his comments, Judge Gutierrez notes that Zavala County has no local aural service at present, and argues that it would be unfair to preclude development of such service by deleting Channel 272A from Crystal City. Garcia, commenting on behalf of the Mayor and City Council of Crystal City, states that availability of Channel 272A at Crystal City is important to the community's chances for attracting new industry, and urges that the channel not be deleted. Harpole states that Crystal City has been growing due to recent oil and coal discoveries in Zavala County, and that there is interest in the community's use of the frequency. The Herborts comment that they intend to apply for Channel 272A at Crystal City, and, if a permit is granted, to construct an FM facility there. They argue that the residents of Crystal City deserve local service, and that it would be inappropriate to reassign the channel to Uvalde, which has two operating full-time local stations, from a community which has no local service.

5. Pearsall Broadcasters, the licensee of daytime-only AM Station KVWG, states that it has been interested in development of an FM station at Pearsall since June 1977, but has been hampered in its efforts by delays in obtaining a contract for engineering study, repeated weather damage to its transmitter towers, and Commission delays in application processing related to its newest replacement tower. Pearsall states that is is unable to fully serve the needs of the predominantly Mexican American population in its community, and the needs of the community in general, due to the daytime-only status of its AM station. Pearsall comments that it fully intends to apply for the present Channel 237A FM assignment, and therefore opposes deletion of Channel 237A from its community. Harpole also opposes the deletion of the only Pearsall FM channel for reassignment to Uvalde.

6. Acknowledging the stated interest in Crystal City and Pearsall assignments, Hess advocates having Channel 272A reassigned from Crystal City to Uvalde as proposed, and assigning Channel 232A to Crystal City as a substitute, with no changes at Pearsall. Hess also responds to our request for alternate assignments for precluded communities by showing that Channel 249A is available for assignment at Laughlin and Channel 252A can be assigned to Rocksprings. Hess reaffirms her intention to apply for the requested new FM assignment at Uvalde.

7. The Commission is of the view that the modified proposal set forth in Hess' comments is meritorious. Desired and justified FM assignments will be available at Crystal City and Pearsall, while the additional Uvalde assignment for which interest and justification has been shown can also be added. This assignment conforms with the mandates of section 307(b) of the Communications Act regarding the equitable assignment of frequencies to various communities.

8. Mexican concurrence in the assignments has been obtained after an unfortunately long delay for which we have no explanation.

9. In view of the foregoing, and pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, That effective April 26, 1982, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended, with regard to Crystal City and Uvalde, Texas, as follows:

City	Channel No.
Crystal City, Texas	232A.
Uvalde, Texas	272A and 285A.

10. It is further ordered, That this proceeding is terminated.

11. For further information concerning this proceeding, contact Steven A. Bookshester, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

[1] When Channel 237A was reassigned from Uvalde to Pearsall, it was replaced at Uvalde with Channel 285A. However, since no application for the use of Channel 237A at Pearsall had been received, Uvalde FM Station KYUF has continued to occupy Channel 237A, rather than convert its construction permit to Channel 285A. On September 11, 1981, Pearsall Broadcasters, Inc. filed an application for Channel 237A at Pearsall.

[2] Population figures are taken from the 1980 U.S. Census.

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-5879 Filed 3-3-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-595; RM-3828]

FM Broadcast Station in Agana, Guam Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns a third Class C FM channel to Agana, Guam, in response to a petition filed by Guam Radio Service, Inc.

DATES: Effective April 27, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Agana, Guam). BC Docket No. 81-595, RM-3828. *Report and order* (Proceeding terminated).

Adopted: February 18, 1982.
Released: February 25, 1982.

1. The Commission has under consideration a Notice of Proposed Rule Making, 46 FR 44012, published September 2, 1981, proposing the assignment of Class C FM Channel 262 to Agana, Guam, in response to a petition filed by Guam Radio Services, Inc. ("petitioner"). The petitioner filed supporting comments reaffirming its intent to apply for the channel, if assigned. Opposing comments were filed by Inter-Island Communications, Inc., licensee of Station KSTO, Agana, Guam, to which petitioner responded.

2. Agana (population 2,119),[1] capital of Guam (population 84,990), is located 3,700 miles west of Honolulu, Hawaii. It is served locally by three fulltime AM stations and two FM stations (Channel 230 and Channel 238).

3. In its comments, the petitioner incorporated by reference the demographic, economic, regulatory and policy considerations in the *Notice* which favors a grant of the requested assignment. Petitioner also notes that the proposed assignment exceeds the Commission's current population guidelines. However, in view of the geographic isolation of the Island, the cultural and ethnic diversity of its inhabitants, and the numbers of channels presently available, it urges the Commission to adopt the proposal.

4. Inter-Island argues that the economic situation in Guam is frail, and the proposed assignment would have a severe impact on the value and operation of the stations operating in the area, thereby affecting the level of public service. Guam's economy, which has suffered from recent U.S. budget cuts, is heavily dependent on tourism. The data provided by the petitioner, as to the number of tourists, is misleading because the tourists usually use Guam as a stopover on the route to Japan, where money is spent, according to Inter-Island. Additionally, the export trade business which supplements the economy has severely declined. Inter-Island also claims that there has been no indication that the Agana, Guam, market is underserved. In this regard, it urges the Commission to deny the request for an additional FM assignment to Agana.

5. In reply comments, the petitioner argues that the opposition's contention that Guam's economy cannot support another radio station (based on declining tourism and recent budget cuts) are those of a licensee who does not wish to be subject to additional competition. While this motivation is understandable, the appropriate yardstick, according to petitioner, is not the potential adverse impact caused to a single provider of communications service in the marketplace, but the overall service to the public which is of paramount concern, citing *Democrat Printing Company* v. *FCC*, 220 F. 2d 298 (1962), and *NBC* v. *U.S.*, 319 U.S. 239 (1943). Petitioner also argues that contrary to the opposition's allegation that tourism provides little benefit to the Island, tourism provides jobs which benefits the economy. Petitioner states that it is willing to risk operating the proposed station, since as the newest entry it would suffer the greatest risk of failure.

6. The main issue here appears to be the need for an additional assignment at Agana, in view of the Commission's policy limiting communities with a population under 50,000 to two stations. The Commission has employed this criteria as a guideline, not a rigid formula, and has not limited itself to numerical distribution. Rather this criteria prompts us to take a closer look at the preclusive impact of the assignment. As stated in the *Notice*, due to the geographic isolation of the Island there is a large number of channels available. Thus, we believe that there is no need to restrict the number of assignments to Agana. The issues raised by the opposition are of a competitive nature, which are more appropriately considered at the application stage, see *Rome, New York*, 42 RR 2d 618 (1978). In view of petitioner's willingness to operate a third FM service at Agana with what we perceive the greater risk of failure, not having established itself as the existing stations have, we believe the public interest would be served by assigning Channel 262 to that community.

7. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, it is ordered, that effective April 27, 1982, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended with regard to the following community:

City	Channel No.
Agana, Guam	230, 238 and 262

8. It is further ordered, That this proceeding is terminated.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-5878 Filed 3-3-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-577; RM-3811]

TV Broadcast Station in Virginia Beach, Virginia; Changes in Table of Assignments.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 43 to Virginia Beach, Virginia, in response to a petition filed by Edward S. Garcia, Jr. The assignment could provide a first commercial television broadcast service to Virginia Beach.

DATE: Effective February 25, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Virginia Beach, Virginia), BC Docket No. 81-577; RM-3811. Report and order (Proceeding Terminated).

Adopted: February 16, 1982.
Released: February 25, 1982.

1. The Commission herein considers the Notice of Proposed Rule Making, 46 FR 43217, published August 27, 1981, proposing the assignment of UHF television Channel 43 to Virginia Beach, Virginia, as its first commercial television assignment. Supporting comments were filed by the petitioner, reaffirming his intent to apply for the channel, if assigned. An opposition to the proposal was filed by Tidewater Community Broadcasting, Inc.,[1] to which petitioner responded.

2. Virginia Beach (population 262,199)[2] is located in the southeast corner of Virginia, adjacent to Norfolk. It is currently without a local television channel assignment.

3. Petitioner incorporated by reference the information contained in the Notice which demonstrated the need for a first assignment to Virginia Beach. The Notice indicated that the proposed assignment would meet the Commission's minimum mileage separation requirements. However, petitioner was requested to indicate the extent to which he had investigated site availability in the area. Petitioner submitted a determination by the Federal Aviation Administration of approval for a site 14.5 miles northwest of Hampton Roads Airport, Portsmouth, Virginia.

4. In opposition to the proposal, Tidewater argues that Virginia Beach presently receives service from six television stations. It adds that the applications pending for Channel 49 at Norfolk could provide an additional service to Virginia Beach. It is their opinion, therefore, that there is no need for another station in this area.

5. Petitioner in reply contends that the opponent (as an applicant for Channel 49 at Norfolk) has failed to demonstrate a legitimate interest in the rule making proceeding for Virginia Beach, and is therefore considered to be an uninterested party under § 1.415(a) of the Rules. Its comments are said to be conclusory and totally lacking in factual support. Petitioner noted that an allegation of adequate service to the community was made earlier (in the Notice) and the response favored first television service to the community, although service was provided by neighboring stations. Thus, petitioner urges the Commission to expedite its request which would provide a first local television service to Virginia Beach.

6. After careful consideration of the proposal and comments filed in response to the Notice, we believe that the public interest would be served by assigning UHF television Channel 43 to Virginia Beach. The petitioner has adequately demonstrated the need for a first television allocation to that community. The fact that Virginia Beach receives service from nearby stations should not foreclose a needed first local television service to this sizable community. It appears that the oppositions' comments are really concerned with the competitive impact of another station in the market, but that is an issue we need not consider here, as it can more adequately be resolved at the application stage. The assignment can be made in compliance with the minimum distance separation requirements and other technical criteria.

7. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, that effective April 27, 1982, the Television Table of Assignments, § 73.606(b) of the rules, is amended with respect to the community listed below:

City	Channel No.
Virginia Beach, Virginia	43+

8. It is further ordered, That this proceeding is terminated.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-5880 Filed 3-3-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Tidewater is one of three applicants for UHF Channel 49 at Norfolk, Virginia.

[2] Population figures are taken from the 1980 U.S. Census.

[1] Population figures are taken from the 1970 U.S. Census.

47 CFR Part 73

[BC Docket No. 80-774; RM-3513, RM-3627, RM-3671]

TV Broadcast Station in New Smyrna Beach, Orlando, and Winter Park, Florida; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns television Channel 65 to Orlando, Florida, as that community's fourth commercial television assignment, at the request of Astro Enterprises, Inc.

DATE: Effective April 27, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael A. McGregor, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (New Smyrna Beach, Orlando, and Winter Park, Florida), BC Docket No. 80-774, RM-3513, RM-3627, RM-3671. Report and order (Proceeding Terminated).

Adopted: February 16, 1982.
Released: February 26, 1982.

1. Before the Commission is a Notice of Proposed Rule Making, 46 FR 9145, published January 28, 1981, proposing three alternative television assignment plans for the above-captioned communities. Briefly, the three assignment plans may be summarized as follows: Option I proposes to remove reserved Channel *15 from New Smyrna Beach and place Channel 15 in Orlando for commercial purposes. Channels 46 and 68 would be assigned to New Smyrna Beach, one on a reserved basis, and Channel 65 would be assigned to Winter Park. Option II likewise removes Channel *15 from New Smyrna Beach and adds Channels 46 and 68 to New Smyrna Beach. Channel *15 would then be reassigned to Orlando for noncommerical educational use. Channel 65 would also be assigned to Orlando for commercial use. Option III leaves Channel 15 in New Smyrna Beach but removes the noncommercial reservation. Reserved Channel *46 would then be assigned to New Smyrna Beach for noncommercial use. Channel 65 would be assigned to Orlando for commercial use.

2. The assignments were proposed in response to petitions for rule making filed by Astro Enterprises, Inc.

("Astro"), which seeks the assignment of Channel 65 to Winter Park, and by Palmer Communications, Inc. ("Palmer"), which requests the substitution of Channel *46 for Channel *15 in New Smyrna Beach and the reassignment of Channel 15, without the noncommercial reservation, to Orlando. A counterproposal was filed by WTWV, Inc. ("WTWV"), which asks that Channel *15 be dereserved in New Smyrna Beach so that it can be used by commercial interests. WTWV suggests that Channel *46 can be assigned to New Smyrna Beach in order to accommodate any future noncommercial interests. A second counterproposal, filed by the Board of Regents of the University of Central Florida ("Board of Regents"; "Board"), seeks the reassignment of noncommercial Channel *15 from New Smyrna Beach to Orlando. The Board of Regents filed comments and reply comments and stated that if *15 were reassigned to Orlando, it would apply for authority to operate a noncommercial station there. Subsequently, the Board informed the Commission that, due to funding cutbacks, it would not be able to apply for the channel at Orlando. Because the Board of Regents was the only party to express an interest in Channel *15 at Orlando, and because the Board has now disavowed its interest, we need no longer consider Option II. Thus, the Board's comments and other parties' comments as they relate to Option II will not be addressed in this Report and Order.

3. Orlando, located in central Florida, has grown in population from a 1970 figure of 99,006 to 128,394 in 1980.[1] Orlando is presently served by four television stations, WDBO–TV (Channel 6), WFTV (Channel 9), noncommercial educational Station WMFE–TV (Channel *24), and WOFL (Channel 35). New Smyrna Beach, with a 1980 population of 13,557, is located in east central Florida, approximately 65 kilometers (45 miles) northeast of Orlando and 25 kilometers (15 miles) south of Daytona Beach. Unoccupied Channel *15 is presently New Smyrna Beach's sole assignment. WTWV, one of six applicants for Channel 26 at Daytona Beach, is proposing in its application to serve New Smyrna Beach under the 15-mile rule (§ 73.203(b)). Winter Park is adjacent to the northern city limits of Orlando and currently has no television assignments. Winter Park's 1980 population is 22,314.

4. Comments in response to the *Notice* were filed by Astro, Palmer WTWV, Omega Communications, Inc. ("Omega"), and the Association of Maximum Service Telecasters, Inc. ("MST"). Reply comments were filed by WTWV, Omega, and Community Communications, Inc. ("CCI"). Nearly nine months following the close of the pleading cycle, an informal comment was received from the Daytona Beach Community College, to which Palmer responded.

5. Astro, the proponent of the Winter Park assignment, reiterates its desire to initiate television service to that community. Astro states that it supports any of the assignment plans because they all would make available a channel for use at Winter Park.[2] Because Option I proposes the addition of two new commercial channels to the Orlando area, Astro states that it prefers that option.

6. Palmer, the proponent of reassigning Channel *15 from New Smyrna Beach to Orlando and dereserving the channel for commercial use, notes that only Channel 15 and one channel in the 60's are available for assignment to Orlando. Palmer claims that a channel in the 60's would have to compete against three VHF network stations plus the independent station operating on Channel 35. Operating on Channel 65 would impose a "significant technical handicap;" consequently, Palmer urges the Commission to assign nonreserved Channel 15 to Orlando. Palmer argues against dereserving Channel *15 and leaving the channel at New Smyrna Beach because the channel will ultimately become a *de facto* Daytona Beach channel. Palmer suggests that the need for a commercial station at New Smyrna Beach is better tested in the context of the Channel 26 proceeding at Daytona Beach, where WTWV has applied to use the channel at New Smyrna Beach under the 15 mile rule. Palmer pledges to apply for Channel 15 at Orlando, if assigned.

7. WTWV, an applicant for Channel 26 at Daytona Beach for use at New Smyrna Beach, supports the dereservation of Channel *15 at New Smyrna Beach and the addition of Channel *46 as the new noncommercial channel at that community. WTWV opines that New Smyrna Beach needs a viable commercial assignment and presents demographic information which establishes New Smyrna Beach's status as an independent community. WTWV asserts that neither Channel 46 nor Channel 66 as proposed in Option I, can be commercially viable in New Smyrna Beach. According to WTWV, site restrictions make Channel 46 undesirable and the competition for viewers in the Daytona Beach-Orlando area makes use of Channel 66 untenable. WTWV avers that due to the competition in the area, a commercial New Smyrna Beach station is likely to survive only if operating on Channel 15. WTWV concludes that reassigning Channel 15 to Orlando or leaving the noncommercial reservation on the channel at New Smyrna Beach will effectively deprive New Smyrna Beach from ever having a local commercial television service.

8. Omega, licensee of Station WOFL, Channel 35, Orlando, questions whether any of the proposed assignment plans furthers the public interest. Omega states that the Commission's proposal to drop in two additional VHF channels in Orlando [3] makes this rule making irrelevant. Omega also notes that several new low power stations may soon become operational in the Orlando market. Omega lists three UHF assignments for which applications are pending, one unapplied for commercial assignment, and three unapplied for noncommercial assignments as further evidence that the Orlando-Daytona Beach television market does not need additional television outlets. According to Omega, the Orlando-Daytona Beach market cannot support another television channel.

9. The Association of Maximum Service Telecasters notes that whether Channel 65 is assigned to Winter Park or Orlando, the reference point for either location would not meet the minimum mileage separation requirements with respect to an application for Channel 51 at Ocala, Florida.[4] MST has no objection to the assignment of Channel 65, so long as any applicant for the channel locates its transmitter at a site which complies with all the Commission's mileage requirements. MST's engineering statement points out that all mileage requirements would be met if the Channel 65 transmitter is located near the site used by the existing Orlando television stations.

10. In reply comments, WTWV reiterates its position that only Channel 15 would provide New Smyrna Beach with a viable commercial television outlet. WTWV argues that if Orlando receives an additional assignment, it should be Channel 65. Because of Orlando's greater market size, WTWV argues that a high UHF channel would have a better chance of surviving in Orlando than in a small community such as New Smyrna Beach. Omega states in its reply comments that the Commission should first settle its VHF drop-in proceeding and the low power docket before deciding whether to add any UHF channels to the Orlando market.

11. Approximately nine months following the close of the pleading cycle, the Daytona Beach Community College filed an informal comment in which it expressed an interest in applying for a noncommercial Channel *15 at New Smyrna Beach. The College therefore urges the Commission to leave the New Smyrna Beach assignment undisturbed. In response to the College's comments, Palmer submits that the college may use another channel for noncommercial use in New Smyrna Beach if Channel *15 is dereserved and reassigned to Orlando. Palmer also suggests that, given the location of the College, the College actually intends to apply for a Daytona Beach facility. This, Palmer contends, would be a *de facto* re-allocation of Channel *15 which should have been advanced as a counterproposal in the rule making proceeding. Finally, Palmer avers that the College's comments are "fatally untimely" and should not be considered.

12. The first issue which we address is the question of whether Channel *15 at New Smyrna Beach should be dereserved for commercial use. Absent special circumstances, the Commission does not generally dereserve noncommercial educational channels, especially where there is another channel available in the community for commercial use. *Vancouver, Washington*, 44 R.R. 2d 1498 (1980). After carefully reviewing the comments submitted on this issue, we have determined that no such special circumstances exist in this case. The proponents of using Channel *15 for commercial purposes have generally argued that the higher available UHF channels are technically inferior to Channel *15 and that this inferiority would make commercial operation on the higher channel infeasible. However, in cases such as this, the Commission does not acknowledge any significant difference between lower and higher UHF channels. Thus, a mere preference for a lower UHF channel has not been sufficient justification for dereserving a noncommercial assignment. Houston, Texas, Mimeo No. 30818, released February 9, 1982. Accordingly, we shall retain the noncommercial reservation of Channel *15 in New Smyrna Beach.[5] Having made this decision to retain Channel *15 at New Smyrna Beach, the question of whether to reassign Channel *15 to Orlando, as urged by Palmer, becomes moot.

13. With respect to WTWV's expressed desire to provide commercial television service to New Smyrna Beach, we note that it may continue to prosecute its application for Channel 26 in Daytona Beach for use in New Smyrna Beach. Alternatively, as stated in the *Notice*, there are other channels available for assignment to New Smyrna Beach for commercial use. Because no present interest has been expressed in one of the alternative channels for that community, we shall not make any additional assignments to New Smyrna Beach at this time.

14. We now turn to the issue of whether to assign an additional commercial channel to either Winter Park or Orlando. Initially we find that the Orlando area is rapidly growing and appears to be deserving of an additional television assignment. The suggestions of Omega, that we first consider the potential effects of our VHF drop-in docket and our low power proceeding on the need for service in Orlando, is completely misplaced. Contrary to the contention of Omega, our VHF drop-in proceeding did not specifically propose to assign two new VHF stations to the Orlando market. That proceeding merely solicits comments on the procedures we might use in making future television assignments.[6] With respect to the low power argument, those proposed services are clearly secondary to the establishment of a full service broadcasting station, and we do not consider the need for an additional television assignment based on the potential availability of low power services. *Cf. Houston, Texas, supra.* To the extent that Omega alleges that the area cannot support an additional television channel, such arguments are better addressed in the context of a specific application to provide a new service to the Orlando area. *Hay Springs, Neb.*, 42 R.R. 2d 1673 (1978).

15. Having determined that the Orlando area deserves an additional assignment, we must now decide whether to make that assignment to Winter Park, as Astro suggests, or to the larger and more important city of Orlando. We stated in the Notice our reluctance to assign a television channel to Winter Park and suggested that Astro submit further community information on Winter Park so that we could make a more informed decision. Astro did not make any such further showings in its comments. In this situation, the Commission's policy is to assign the television channel to the larger community and allow interested parties to apply for the channel at suburban communities under the "15 mile" rule. *See, e.g., Fresno, California, et al.*, 49 R.R. 2d 579 (Broadcast Bureau 1981). Astro states in its comments that it will apply for Channel 65 whether the channel is assigned to Winter Park or Orlando. Therefore, we shall follow our normal policy in cases such as this and assign the new channel to the larger city, Orlando.

16. Accordingly, it is ordered, that effective April 27, 1982, the Television Table of Assignments, § 73.606(b) of the Commission's rules, is amended to read as follows:

City	Channel No.
Orlando, Florida	6–, 9, *24–, 35+, and 65.

17. Authority for the action taken herein is contained in Secs. 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

18. It is further ordered, That this proceeding is terminated.

19. For further information concerning this proceeding, contact Michael A. McGregor, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-5681 Filed 3-3-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1970 and 1980 U.S. Censuses.

[2] A channel assigned to Orlando could be used at Winter Park under § 73.807(b) of the Commission's rules, the "15-mile" rule.

[3] *Table of Television Channel Allotments*, 88 F.C.C. 2d 51 (*NPRM*, 1980).

[4] File No. BPCT–801114KE.

[5] The Daytona Beach Community College's expression of interest in Channel *15 at New Smyrna Beach has not colored our decision. However, the College's expression of interest, fully nine months following our pleading cycle in this case, clearly illustrates the desirability and necessity of retaining reserved channels for future use. The ability of any noncommercial entity to initiate a broadcasting operation unfortunately does not exactly coincide with the timetables set in administrative proceedings.

[6] Omega's confusion may stem from an Appendix to the news release announcing the VHF drop-in *Notice*. The Appendix listed possible VHF assignments if the proposed procedures are adopted. *See* F.C.C. Report No. 15930, released September 18, 1980.

47 CFR Parts 73 and 74

[BC Docket No. 81-497; RM 3762; FCC 82-87]

Experimental, Auxiliary, and Special Broadcast and Other Program Distributional Services

Short-Term Operation Without Prior Approval and Creation of a New Auxiliary Broadcast Service License Class

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, in this *Report and Order* in BC Docket 81-497, denies RM-3762 (Creation of a new auxiliary broadcast service license class to permit non-broadcast station license holders to be licensed and operate radio relay stations for direct rebroadcast of program material) filed by Henry B. Ruh; and adopts its proposed alternative which consists of eliminating the present "120 day equipment installation requirement" in Subparts D and H of Part 74, and by providing for short-term operation on certain Part 74 frequencies by Part 73 licensees. This action is necessary for the Commission to be responsive to the essential problem identified in the Ruh petition, namely, the need to provide smaller broadcasters with more ready access to access to broadcast auxiliary service frequencies. In the Commission's view, its alternative achieves this goal more effectively and encourages more intensive use of the available broadcast auxiliary spectrum to the public benefit.

DATES: The effective date of the new rules is April 1, 1982.

FOR FURTHER INFORMATION CONTACT: James E. McNally, Jr., Federal Communications Commission, Broadcast Bureau, Policy and Rules Division, Technical and International Branch, Washington, D.C. 20554 (202) 632-9660; Room 8112-C.

Adopted: February 11, 1982.

Released: February 23, 1982.

In the matter of amendment of Part 74, Subparts D, E, F and H of the Commission's Rules to provide for short-term operation without prior approval; BC Docket No. 81-497. Creation of a new auxiliary broadcast service license class to permit non-broadcast station license holders to be licensed and operate radio relay stations for direct rebroadcast of program material; RM-3762.

1. On July 30, 1981, the Commission adopted a *Notice of Proposed Rule Making ("Notice")* in the above-entitled matter which was released on August 12, 1981, and published in the **Federal Register** (46 FR 41820) on August 18, 1981. The *Notice* sought comment on a petition (RM-3762) filed by Henry B. Ruh on May 19, 1980, which sought amendment of Part 74 (Auxiliary Broadcast Services) of the Commission's Rules to provide for the authorization of non-broadcast entities who would render auxiliary broadcast communications service to broadcasters on a "for hire" basis.

2. At the same time, however, the Commission expressed its opinion that its authorization of such "specialized communications carriers" would not be in the best interest of broadcasters but that the essential problem identified by Ruh, namely, the need for more ready access to auxiliary broadcast spectrum by smaller broadcasters, merited some relief. Accordingly, the Commission proposed an alternative which would amend the rules in Subparts D and H to eliminate the requirement that broadcasters install the minimum number of transmitters authorized within 120 days of the grant date of their auxiliary station license; and, amend the rules in Subparts D, E, F and H to provide for short-term (up to 30 days) operation on auxiliary broadcast frequencies under operating authority conveyed by a Part 73 license.

3. Comments favorable to the Commission's proposal were filed by American Broadcasting Companies, Inc. (ABC), CBS, Inc. (CBS), National Association of Broadcasters (NAB), National Broadcasting Company (NBC), National Radio Broadcasters Association (NRBA), Washington Executive Broadcast Engineers (WEBE), "Joint Parties" [1] and "Broadcast Licensees." [2] Opposition comments were filed by WCMP Broadcasting Co. (WCMP). Comments involving special interests were filed by the National Radio Astronomy Observatory/Naval Research Laboratory (NRAO/NRL) and by the firm of Pellegrin and Levine on behalf of various Cable Antenna Relay Service (CARS) licensees. Reply comments favorable to the Commission's proposal were filed by ABC, the General Electric Broadcasting Co., Inc. (GEBCO) and NAB. Opposition reply comments were filed by WCMP and News-Press Publishing Co., Inc. (KTMS).

[1] "Joint Parties" is the name given to the collective comments of Channel 2 Television Co., Cosmos Broadcasting Corp., Cox Broadcasting Corp., Mid-America Television Co. and Multimedia, Inc. by their counsel, Dow, Lohnes and Albertson.

[2] "Broadcast Licensees" is the name used by the firm of McKenna, Wilkenson and Kittner to refer to its client broadcasters.

RM-3762

4. The comments addressing petition RM-3762 were unanimous in their opinion that it should be denied since it might result (as a result of the authorization of non-broadcast "specialized communications carriers") in loss of broadcaster control over the available auxiliary broadcast services spectrum and because the alternative proposed by the Commission was seen, either as a whole or in part,[3] as more desirable. We agree. Accordingly, petition RM-3762 will be denied.

Comments on the Commission's Counterproposal

5. The comments addressing the Commission's counterproposal to RM-3762 were generally favorable. NRBA expressed its belief that the proposal represented a clear attempt to conform the Commission's regulatory processes to the realities of today's broadcast industry; that the present system (of requiring broadcasters to obtain a special temporary authorization (STA) for short-term operation) imposes an unnecessary burden on the Commission and on broadcasters; and that the Commission's proposal represented a recognition of the fact that broadcasters are able to cooperate with each other for their ultimate good. Joint Parties felt that the present STA clearance procedure complicates licensee efforts to deliver programming, and that the proposal for responsible cooperation among broadcasters on the use of auxiliary service frequencies would be a logical extension of ongoing practice. They urged its implementation as soon as possible. ABC expressed the view that the Commission was pursuing sensible deregulatory objectives and made a number of recommendations for additional changes. These recommendations, as well as those of other parties filing comments, will be discussed, *infra*.

6. However, favorable views on the Commission's proposal were not held by all of those filing comments. KTMS noted that because of different operational practices, broadcasters often could not directly communicate with each other on Part 74 frequencies and it viewed the existence of a license and call sign as being necessary for a victim of interference to be able to contact an interfering party in a timely manner. KTMS also expressed the belief that the elimination of the 120 day equipment installation requirement [4] alone would serve the purpose of RM-3762. Broadcasters would then be free to rent equipment as needed. For these reasons, KTMS opposed adoption of the short-term operating provisions of the Commission's proposal.

[3] KTMS, in its reply comments, indicated its belief that the elimination of the 120 day equipment installation requirement alone would serve the purpose of petition RM-3762.

7. WCMP professed total opposition to the Commission's proposal, although it directed no comments toward the proposal to eliminate the 120 day equipment installation requirement. WCMP was of the opinion that while the Commission's proposal appeared attractive in view of the paperwork it would save, such paperwork would be a small price to pay if the other aspects of the proposal were investigated. WCMP felt that the short-term operating provisions would undo all carefully planned (and licensed) operations; that inadequate consideration had been given to the chain reaction of the interference which could result from short-term operation; and that even if a source of interference was identified, the short-term operator could deny responsibility and argue the matter, in the meantime causing irreparable damage to the operation of the regularly authorized station. Particularly adverse effects of interference on studio-transmitter links were seen as possible in view of the fact that publications listing frequencies in use in a given area are not readily available. Thus, WCMP concluded that only by coordination at the FCC could interference-free operation be achieved,[5] and that such determinations should not be placed in the hands of licensees or their engineers, regardless of how well-intentioned they may be.

8. In its reply comments, WCMP noted that while many of the other parties to this proceeding were evidently of the opinion that the Commission's proposal constituted additional, acceptable deregulation which would benefit the broadcast industry, it still did not share this opinion and continued to believe that adoption of the proposal would have the opposite effect. The occasionally troublesome interference between presently licensed stations is at the basis of WCMP's belief and it feels that without prior approval from the FCC, hundreds of new temporary operations would commence which would probably interfere not only with existing stations, but also each other. On balance, WCMP feels that the present rules, which require regular licensing or prior Commission authority (in the form of an STA), have served everyone well and that the associated paperwork is a small price to pay for a system of proven reliability. Nevertheless, WCMP suggested some rule changes it felt were necessary if the Commission decided to go ahead with its proposal.[6]

9. We must confess some confusion over the concern of KTMS about the need for a license and call sign. While not explicitly saying so in their comments, it appears that KTMS must refer to a Part 74 license and call sign since a Part 73 license and call sign would already exist. Further, we believe that use of the Part 73 call sign, which tends to be widely known, will be much more conducive to short-term operator identification than the comparatively obscure Part 74 call sign. The Commission agrees with KTMS that the elimination of the 120 day equipment installation requirement alone would serve the purpose of petition RM-3762, since smaller or more economically disadvantaged broadcasters would be able to obtain regular Part 74 authorizations on the same basis as larger stations. However, there is nothing that requires our response to a rule making petition to be merely sufficient when we are able to do more. It was our opinion that the additional proposal relating to short-term operation would go even further in achieving the goal of providing smaller broadcasters with more ready access to broadcast auxiliary frequencies and the majority of those filing comments agrees with us.

10. In fact (and in reply to the concerns expressed by WCMP), a review of the comments indicates a strong belief that the Commission should adopt the rule amendments relating to short-term operation essentially as proposed in view of the more ready access to part 74 frequencies which would be provided, the convenience of not having to apply for an STA in cases where operation outside the normal parameters specified in a Part 74 authorization is required, because of the greater flexibility in operation which would result and consequent improvement in the ability to provide better service to the public. However, we would emphasize that the accessibility and convenience factors associated with this action are in a sense secondary considerations, and would not be possible without the reliability of existing informal broadcast licensee coordination efforts and our belief that under the new rules, nothing would really change. The Commission already depends entirely on the informal coordination procedures carried out in advance of its issuance of permanent authorizations. However, the Commission does not participate in these efforts, it merely ratifies them on the assumption that they will continue to work because they have worked well in the past. Generally, the Commission does not have the resources to perform frequency coordination itself; and contrary to the opinion expressed by WEBE in its comments, such a service by the Commission is not required by the Communications Act of 1934, as amended.[7]

[4] See § 74.432(d) and § 74.832(g).

[5] This conclusion was reached even though WCMP states that it is receiving interference as a result of a permanent authorization issued to another station 60 miles away. Nevetheless, WCMP believes that the existing licensing procedures are usually reliable, particularly in view of the potential for interference possible under the Commission's proposed short-term operating provisions.

[6] WCMP asked that short-term operators be required to notify the FCC in advance concerning their operation and that the effective radiated power (ERP) of such stations be limited to 25 watts. These recommendations will be discussed along with related suggestions of other parties to this proceeding.

[7] WEBE, in its comments, supported the Commission's proposal, but charged us with admitting to *de facto* abdication of responsibility for broadcast auxiliary service frequency coordination despite alleged requirements of the Communications Act of 1934, as amended (hereinafter referred to as "Act") and rules providing for exclusive frequency assignments. This, according to WEBE, has resulted in a void in the coordination process and has created a need, especially acute if the Commission's proposal is adopted, for the establishment of new guidelines to facilitate industry coordination efforts. WEBE's recommended guidelines, as well as those of others participating in this proceeding, will be discussed subsequently in this document. However, we cannot let WEBE's charge of neglect of duty pass without comment. Neither 303(c) of the Act, which conveys the power of assigning the frequency of each station, or 307(b), which concerns the equitable distribution of frequencies, requires frequency coordination by the FCC. Rather, 301 states that the purpose of the Act is to, *inter alia*, "maintain the control of the United States over the channels of interstate and foreign radio transmission." In order that this control be exerted effectively, 303(f) states that the Commission shall "Make such regulations not inconsistent with law as it may deem necessary to prevent interference between stations and to carry out the (other) provisions of this Act." These are broad provisions which give the Commission considerable latitude in regulating use of the airwaves. However, domestic frequency coordination by the FCC is neither explicitly stated or implied by these or any other provisions of the Act; and while the FCC may in fact perform frequency coordination in certain cases as its resources permit, it is not obliged to do so. Rather, it may pass rules requiring licensees to develop and participate in their own coordination process, or use any of a number of other methods which result in equitable use of the spectrum. The Commission has general responsibility for regulation of the radio spectrum in the public interest. However, it is generally not required to use any specific procedure or perform any specific task if its responsibility can be discharged through other means. It should be understood that this simple explanation of the Commission's regulatory responsibility in regard to frequency coordination is intended only as a brief reply to the charges made by WEBE and does not portray our complete philosophy on this matter, much less serve as a basis for our regulatory philosophy generally. As to the rules relating to

Continued

11. In general, the Commission regulates the use of the spectrum through its frequency allocation proceedings. Other regulations are adopted as needed to give more specific guidance in the use of the spectrum. At various times in the past, for reasons deemed valid at the time, rules were adopted which have subsequently become obsolete due to technical advances or changing circumstances. Ideally, regulations should exist only to the degree necessary to insure orderly and effective use of the spectrum. Conforming our regulations to this general principle is the object of our entire deregulation and reregulation effort. The amendments adopted in this proceeding are intended to have the same effect and the majority of those filing comments believes that they will.

12. For the foregoing reasons, the Commission has decided to adopt rules relating to short-term Part 74 operation essentially as proposed in the *Notice*. However, several modifications to our proposal have been suggested by those filing comments, and we wish to discuss these individually.

The 30 Day Limit on Short-Term Operation

13. ABC and NBC expressed their belief that the 30 day limit [9] on short-term operation proposed in the *Notice* was arbitrary, unnecessary and ambiguous. NBC cited the case of covering the quadrennial presidential primary campaigns as being an example of when broadcasters would need to be able to operate their equipment beyond the 30 day limit, with little or no need to operate the equipment during the remaining 3 years of the cycle. Both networks asked for an interpretation of the applicability of the 30 day limit to certain situations.[9] CBS mentioned the reference in the *Notice* to the Broadcast Bureau Reregulation Task Force study of the feasibility of allowing Part 73 licensees automatic access to Part 74 frequencies, thereby making the issuance of individual remote pick-up station licenses unnecessary.[10] CBS expressed its belief that such an action might be practical and urged the Commission to complete the study. Lastly, NBC pointed out a conflict between the proposed rules and § 74.832(h), which states that low power auxiliary stations may not be operated outside the area of operation specified in the authorization. NBC suggested that this rule be amended to allow very low power (50 milliwatt) operation anywhere in the country.

14. The 30 day limit on short-term use of the auxiliary spectrum was selected by the Commission as being sufficiently reasonable in length to accommodate most operation for which an STA is traditionally sought.[11] In selecting this limit, we envisioned that most short-term operation would last on the order of several days and that 30 days would provide for the coverage of a number of individual events or emergencies. We believe the number of instances where continuous operation on the order of 30 days is required will be rare and we think that this assumption is supported by the example of campaign coverage cited by NBC. In developing the proposals set forth in the *Notice*, we gave thought to allowing unlimited operation on Part 74 frequencies by Part 73 licensees, but we concluded that such an action might be unwise prior to a determination that broadcasters' ability to successfully coordinate use of the available frequencies under short-term provisions would not be impaired. We believe that the 30 day limit represents a significant degree of deregulation and that it should be retained for the present. There is nothing in the comments which persuades us that we should abandon the more cautious approach of setting a limit on short-term operation or which convinces us that the 30 day period initially proposed is, in fact, arbitrary and unreasonable. We can revisit this matter at some time in the future if experience demonstrates the probable practicality of removing the limit.

15. The interpretation of the limit of "(up to) 30 days, continuous or aggregate on an annual basis" is that broadcasters may operate auxiliary stations under the short-term provisions for up to 720 hours (30 days @ 24 hours/day) per frequency per year. The 720 hours may be expended in any way desired and no log relating to such operation need be kept. The short-term operating provisions apply only to previously unauthorized operation (i.e., operation not authorized pursuant to an auxiliary station license).[12] The short-term use provisions are intended to authorize limited operation on Part 74 frequencies through operating authority conveyed by the Part 73 (broadcast) license. The operation of equipment authorized pursuant to a regular auxiliary station license is unaffected by the new rules and retains its priority.

16. The conflict between the new rules and § 74.832(h) noted by NBC was an oversight. However, experience has shown that the provisions of § 74.832(h) are unnecessary, needlessly burdensome and restrictive. They are, accordingly, being eliminated.

Notification Requirements

17. Several of those filing comments requested that the Commission impose a notification requirement applicable to short-term operation. Such a notice would be sent to the Commission prior to operation and would include information on the frequencies to be used, dates of operation, location or area of operation, broadcaster's name and call sign, and the name and telephone number of a person to contact in the event of interference. CBS felt that such information would be useful in coordinating the use of the frequencies, as well as serving as a means of resolving interference problems. The comments of WCMP and Pellegrin and Levine emphasized the latter use. The potential utility of such a notification procedure has been raised by the Commission in the *Notice*.[13] Lastly, Pellegrine and Levine, commenting on behalf of CARS licensees, asked that short-term users proposing to operate on frequencies shared with CARS stations be required to maintain up-to-date copies of all CARS authorizations in the proposed area of operation and that broadcasters be required to get CARS operator clearance prior to operating on frequencies cochannel or adjacent channel to CARS stations.

18. Most of the other parties filing comments, however, were opposed to the use of a notification process. NAB felt that a requirement for new users to consult with local broadcasters before beginning operation would be sufficient. ABC, NBC and WEBE also felt that notifying the FCC was unnecessary, but recommended that the Commission keep a list of frequency coordinators to make available for the use of short-term operators.[14] NRBA argued that notification should only be used as a last resort (i.e., if coordination and cooperation among users did not prove successful).

19. After giving additional consideration to this question, the Commission believes that notifying it of short-term operation would serve little useful purpose. This is a burden we wish to avoid having to place on broadcasters and its effect in terms of encouraging local frequency coordination is uncertain. Further, additional review of the duties assigned to the FCC watch officer (we mentioned the possibility of such notifications being directed to the FCC watch officer in the *Notice*) leads us to conclude that the additional burden of maintaining a short-term broadcast auxiliary operation file could not be assumed without potentially adversely affecting the quality of work in this and other important areas. Thus, such notification would have to be directed to another member of the staff during regular business hours. For these reasons, and because the file would probably have to be maintained on a manual basis, use of the notification as a tool in frequency coordination would be both time-limited and cumbersome.[15]

20. Further, the Commission believes that the majority of broadcasters having a need to use the auxiliary spectrum would participate in local or regional coordination efforts. The comments seemed generally in agreement with the Commission's statement in the *Notice* that "informal frequency coordination procedures in use among eligible entities have worked well up to the present and are likely to continue to do so provided use of the spectrum increases on a gradual basis."[16] We anticipate only a slight to moderate increase in the use of the auxiliary spectrum as a result of our action in this proceeding, so we have little reason to doubt the continuing efficacy of the existing frequency coordination structure, as informal and amorphous as it may be.[17] Nevertheless, there is nothing which prevents broadcasters from further synthesizing, on a regional or national basis, their frequency coordination efforts or from developing whatever procedures or structures are desirable in order to enhance frequency coordination be it for short-term or permanent use.[18] In fact, the Commission wishes to encourage such a development.

21. We do see merit, however, in the suggestions of NAB, WEBE and Pellegrin and Levine that a requirement to coordinate the use of frequencies with local broadcasters, local or regional coordination committees, and other licensees with whom the spectrum may be shared, should be placed in the rules to emphasize (particularly to new users of the spectrum) the need for frequency coordination and cooperation in the use of the available spectrum. We believe that, as a minimum, short-term operators should contact in advance the local frequency coordination committee or a licensee assigned any frequency on which they propose to operate in order to verify that the frequency will be, in fact, available for use. This is a common sense procedure already practiced by the networks, so we do not feel that we are imposing any new burden. Moreover, such a requirement should substitute for the notification procedure discussed previously. Of course, as pointed out by several of those filing comments, there are occasions (such as fast-breaking news stories or unanticipated emergencies) where such advance notification would be impractical. Accordingly, while we do not believe that it would be necessary for a short-term user to notify every broadcaster within a 35 mile radius of the proposed operating location as suggested by WCMP in its comments, very basic, common sense provisions concerning advance notification and coordination have been included in the rules herein adopted.

Interference to Radio Astronomy, Research and Receiving Installations

22. NRAO/NRL has requested that provisions relating to short-term auxiliary station operation be modified to protect their activities. They reference § 73.1030 as being applicable to permanent auxiliary station facilities and ask that short-term operation be placed under similar constraints. Only ABC addressed this issue in its reply comments, and it indicated that coordination with NRAO/NRL prior to operation in the National Radio Quiet Zone (NRQZ) would be "reasonable and appropriate." Our failure to propose appropriate amendment of the rules to reflect these concerns and to protect the FCC's monitoring stations pursuant to § 74.12(d) was an oversight which has been corrected in the new rules contained in the Appendix.

Border-Area Operation

23. NAB argues that the "75 mile restriction" [19] on short-term operation near the United States-Canada border is excessive in view of the low powers and directional antennas employed by many Part 74 operations and asks the Commission to develop more reasonable technical limitations applicable to border area operation. NAB points out that operators of fixed auxiliary stations can calculate their ERP at any desired azimuth and adjust power or antenna gain to achieve a desired reduction in ERP toward the nearest border point. NAB feels that a limit on permissible ERP toward the border would allow for considerable more flexibility in Part 74 operation. NAB concedes that since mobile radiation toward a specific border point is inherently variable, some geographical limit on operation is appropriate, but that 75 miles is excessive. ABC expressed its belief that short-term operation along the United States-Mexico border should be subject to similar restraints in effect along the United States-Canada border, but that

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exclusive frequency assignments, the inference in the *Notice* (see Paragraph 6) may have been misleading. While we no longer grant exclusive assignments in a given market, it is our policy to protect the use of a frequency over a specified path. This policy is presently under review in BC Docket No. 81-794.

[8] See the Appendix to the *Notice*, §§ 74.433(a), 74.537(a), 74.833(a) and 74.833(a).

[9] ABC asked whether a single, brief transmission on a frequency daily for 30 consecutive days constituted 30 day operation. NBC asked whether the limit was intended to apply to operation on each individual channel, or on all of the available channels, and questioned its applicability to licensed equipment and licensed frequencies.

[10] See the *Notice*, Paragraph 4.

[11] See the *Notice*, Footnote 11. However, the limit was also suggested by the provisions of § 74.431(d) which are applicable to out-of-area use of remote pick-up broadcast mobile stations.

[12] Expressed another way, the short-term provision can be said to apply to the use of all "unlicensed" equipment. By "unlicensed", we mean equipment for which there is no authorization (license) or equipment which is operated outside the terms of the authorization. This includes (but is not restricted to) operation on frequencies other than those authorized or operation in areas outside any area of operation which may be indicated on the authorization.

[13] See the *Notice*, Footnote 11.

[14] At the present time, the Commission does not possess this information. However, if auxiliary broadcast service coordination committees advise us as to the markets or areas they serve and provide us with information concerning their name, address, telephone number, principal staff members, participating broadcast stations and spectrum coordinated, we will make this information available to any broadcaster inquiring about the practicality of short-term operation in a specific area.

[15] Even if such a file was created in the Commission's computer and designed so that it could be supplemented and interrogated by broadcasters through the use of dial-access terminals, it would only be capable of use by a very small number of broadcasters having the necessary equipment.

[16] See the *Notice*, Paragraph 6.

[17] As we also mentioned in the *Notice* (in Footnote 7), the broadcast auxiliary services, unlike many other radio services, have no designated frequency coordinator. Frequencies are coordinated through agreements made by broadcasters (and, in the case of frequencies shared with other services, other licensees) in any given area. A coordination committee may consist of several proximately located broadcasters, or it could consist of the highly integrated structure described by WEBE in its comments. Whatever the case, we note that as instances of interference are few, the coordination processes are usually successful.

[18] We would mention that NAB, in its comments, suggested that the Commission amend Part 74 to provide for expanded, locally oriented spectrum management. However, NAB did not suggest any particular means by which rule amendments might help achieve this result. We feel that such rule amendments are unnecessary as there is nothing preventing broadcasters from modifying or further developing their frequency coordination and spectrum management procedures to the extent needed on either a local, regional or national basis. Broadcasters are free to pursue such objectives without Commission limitation.

[19] See proposed § 74.433(a) which limits the operation of remote pickup stations to areas south of Line A and west of Line C. As we indicated in the *Notice*, Line A and Line C are imaginary lines approximately 75 miles south and west, respectively, of the United States-Canada border. This accounts for the use of the expressions "75 mile restriction" or "75 mile rule."

no limitation with respect to location should apply if the ERP of the auxiliary station is 5 watts or less.

24. The Commission believes that the limitations on border area operation which were proposed in the *Notice* are not as restrictive as the comments would imply. Only § 74.433(a), which is applicable to short-term remote pickup stations, would restrict operation to areas more than 75 miles from the United States-Canada border. Further, the restriction does not apply if the ERP of the station (regardless of its class) is 5 watts or less. Proposed § 74.537(g), which would apply to short-term STL and intercity relay stations, allows stations to be located as little as 5 miles away from the border if the antenna is oriented within a 160° sector away from the border. Proposed § 74.633(e), which would apply to short-term operation of TV auxiliary stations, is even more liberal and would allow the operation of these stations wherever interference to a Canadian receiving earth station would not occur.[20] These restrictions are taken almost verbatim from the United States-Canada Agreement.[21] With the exception of the remote pickup station provisions already mentioned, we believe that a careful reading of the rules would indicate that they satisfy many of the concerns raised, and none of the parties filing comments made specific suggestions as to how mobile operation of remote pickup stations might be regulated to allow operation closer to the border with no increase in the likelihood of interference to Canadian operation. In view of this, and because we cannot adopt rules which would be in derogation of our international agreements, the proposed limitations on operation along the United States-Canada border are being retained.

25. With respect to coordination with Mexico, no particular requirements exist at this time. The Commission, in the *Notice*, simply asked for information as to the feasibility of precluding short-term operation within 75 miles of the United States-Mexico border in anticipation of a forthcoming agreement. We appreciate the comments filed by ABC on this matter, but we have decided not to adopt any new limitations at this time. However, any limitations made necessary by a new United States-Mexico Agreement will be adopted by *Order* at some time in the future.

Other Comments

26. In other comments, ABC asked the Commission to expand the extent of the deregulation proposed in the *Notice* by amending the rules to provide for the issuance of a single, blanket authorization for mobile stations in the broadcast auxiliary services. This, it is said, would allow the use of equipment on any frequency. A similar but less comprehensive suggestion was made by NBC, which recommended that the Commission consider licensing TV pickup stations in any band, on a system basis, in order to eliminate the need for holding an individual license for each piece of equipment. Neither ABC nor NBC requested that the ability to operate in any part of the country be considered as part of their proposal, but this would appear to be necessary if the desired flexibility in operation is to be achieved.

27. We believe that both the ABC and NBC proposals would have merit in terms of effort saved in applying for broadcast auxiliary station licenses. Otherwise, the only discernible effect of each is to provide for mobile broadcast auxiliary station operation anywhere in the country, at any time. By requesting this capability, the two parties are essentially repeating their request for elimination of the 30 day limit on short-term auxiliary station operation, with the additional benefit (since a permanent authorization for such operation would exist) of not being required to operate on a secondary basis to local users. However, we believe that the 720 hours per frequency operation already provided by the new rules is sufficient to accommodate almost every conceivable need for out-of-authorized area operation and that the secondary status of such operation is desirable in order to adequately protect local broadcast use of the spectrum. Also, since no reply comments were directed to these proposals, we feel that the other parties to this proceeding may not have adequately considered the potential impact. Accordingly, we feel that it is both unnecessary and inappropriate to take affirmative action on these proposals at this time.

28. ABC also requested that the Commission eliminate §§ 74.432(d) and 74.832(g) in entirety. These sections require applicants for remote pickup broadcast stations and low power auxiliary stations to specify the minimum and maximum number of mobile units that will be placed into service.

29. The Commission disagrees. The burden imposed by these regulations is insignificant, and while the number of mobile units cannot precisely be related to the use of the spectrum, it at least conveys an idea of the potential use possible. Also, it is unlikely that Canada would agree to such a deletion of information on licenses of stations near the border. To amend the rules as suggested while providing for the exception necessary along the border would make the rules more complicated without any real attendant benefit. Accordingly, this request of ABC is denied.

30. WCMP, in reply comments, urged the Commission to limit the ERP of stations operated under short-term provisions to 25 watts. It was argued that this power is more than adequate for short-term operation and that it may help to prevent interference when high-gain antennas are mounted on tall structures, since such facilities can cause interference far beyond the needed communications path.

31. We believe that such a limitation is potentially burdensome and unnecessary. It is potentially burdensome because of the potentially wide variation in transmitter output power and antenna gain. We would not want to preclude a large amount of equipment from use because of the difficulty involved in meeting what may be an excessively low ERP limitation. This proposal of WCMP was not addressed by the other participants in this proceeding and because of its arguable value and the potential for controversy, we feel that it would be inappropriate to adopt such a limitation in the face of inadequate evaluation and comment. It is our belief that such a provision is unnecessary since all short-term operation is on a secondary, non-interference basis to regularly authorized operations and there will be incentive to use only the effective radiated power and antenna height necessary for reliable service. However, a reminder to use good engineering judgment during short-term operation may be appropriate and we have included such a provision in the final rules.

32. Lastly, WEBE suggested that the Commission, in each television market, should allocate the majority of frequencies in each broadcast auxiliary frequency band exclusively for shared use by those licensees with permanent ongoing operations in that market.

[20] Proposed §§ 74.537(g) and 74.633(e) appear in the final Appendix as a note to § 74.24(h)(1).

[21] See the Department of State pamphlet, Treaties and Other International Acts Series 6655, entitled "Telecommunication Coordination and Use of Radio Frequencies Above 30 Megacycles per Second, Agreement of the United States of America and Canada," revising the Technical Annex to the Agreement of October 24, 1952, effected by exchange of notes signed at Ottawa on June 16 and 24, 1964.

33. While the Commission agrees that such an action could eliminate much confusion about the frequencies available for short-term operation, the difficulty in actual implementation would be considerable. First, a single set of frequencies available for short-term operation could not be made available for use on a nationwide basis without significant adverse impact on existing Part 74 licensees. A table of available frequencies could be developed for each market, but it would be in continual need of revision as local needs and circumstances change. Such a revision would be burdensome to both broadcasters and the Commission. It is our belief that broadcasters, through appropriate frequency coordination committees, could develop regional tables for short-term and permanent auxiliary station use. Such tables would be amendable at will, and although existing only on an informal, advisory basis, they would nevertheless serve as the only realistic way of insuring interference-free operation, particularly in the more congested markets. Such tables can be developed by broadcasters without the Commission's involvement and as a practical matter they will be just as binding as any Commission regulation. Accordingly, we do not feel that a formal table of broadcast auxiliary station frequency assignments is necessary.

34. Regulatory Flexibility Act Final Analysis.

I. *Need for Rules.* The Commission believes that the present rules requiring licensees to install the minimum number of transmitters authorized within 120 days of the grant date of the license (see §§ 74.432(d) and 74.832(g)) impose an unnecessary burden on smaller broadcasters and tends to discourage their use of the broadcast auxiliary spectrum. We are adopting rules herein which eliminate this requirement and enable all broadcasters to have equal access to the spectrum. Additionally, the Commission, in accordance with the desire expressed by the majority of those filing comments in this proceeding, is further amending the rules to eliminate the need for permanent broadcast auxiliary station licensing for events of a short-term nature. The new rules benefit all broadcasters generally, but smaller broadcasters in particular.

II. *Purpose of Rules.* The purpose of the rules is to provide small broadcasters greater access to broadcast auxiliary spectrum, and to enable this spectrum to be used more intensively by all broadcasters.

III. *Flexibility Issues Raised in the Comments.* None.

IV. *Significant Alternatives Not Adopted.* In the *Notice of Proposed Rule Making*, the Commission suggested the possible creation of a new class of eligible entity in the broadcast auxiliary services which we referred to as a "specialized communications carrier", which would provide broadcast auxiliary communications service (principally to smaller broadcasters) on a for-hire, profit-making basis. We also mentioned the possibility of amending the rules to provide for non-profit, cooperative-use agreements among broadcasters in which broadcasters having licensed broadcast auxiliary equipment could loan it to other (principally smaller) broadcasters at cost. There was universal agreement among those participating in this proceeding that neither of these options was desirable in view of the alternative proposed by the Commission being herein adopted.

Further, ABC and NBC suggested that the Commission go even further in its deregulation and provide for blanket or system licensing of certain types of broadcast auxiliary mobile stations. These recommendations, were they to be adopted, would benefit principally networks and larger stations by reducing the paperwork involved in applying for multiple auxiliary station authorizations. There is a potentially adverse impact suggested by the assumed status of such stations. Otherwise, in terms of access to and use of broadcast auxiliary service spectrum, these proposals would appear to offer little more benefit than that afforded by the rule amendments herein adopted. Lastly, the amendments proposed by ABC and NBC received inadequate comment, and since they are technically beyond the scope of this proceeding, their adoption at this time would be inappropriate.

35. Accordingly, it is ordered, pursuant to the authority contained in Secs. 4(i) and 303 of the Communications Act of 1934, as amended, that Part 74 of the Commission's rules is amended effective April 1, 1982, as set forth in the attached Appendix. It is further ordered, that petition RM-3762 is denied and that this proceeding is terminated.

36. Further information on this matter may be obtained by contacting James R. McNally, Jr., Broadcast Bureau, (202) 632-9660. Information on broadcast auxiliary frequency coordination committees (see Footnote 14, *supra*) may be provided to Steven D. Linn, Broadcast Bureau, (202) 632-7698.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1063, 47 U.S.C. 134, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

Appendix

I. Title 47 CFR Part 74 of the Federal Communications Commission's rules and regulations is amended as follows:

1. A new § 74.24 entitled "Short-term operation" is added to read as follows:

§ 74.24 Short-term operation.

The classes of broadcast auxiliary stations provided for in Subparts D, E, F and H of this Part may be operated on a short-term basis under the authority conveyed by a Part 73 license without prior authorization from the FCC, subject to the following conditions:

(a) The Part 73 licensee of this chapter must be eligible to operate the particular class of broadcast auxiliary station.

(b) The short-term broadcast auxiliary station shall be operated in conformance with all normally applicable regulations to the extent they are not superceded by specific provisions of this section.

(c) Short-term operation is on a secondary, non-interference basis to regularly authorized stations and shall be discontinued immediately upon notification that perceptible interference is being caused to the operation of a regularly authorized station. Short-term station operators shall, to the extent practicable, use only the effective radiated power and antenna height necessary for satisfactory system performance.

(d) Short-term operation by a Part 73 licensee shall not exceed 720 hours annually per frequency.

Note.—Certain frequencies shared with other services which are normally available for permanent broadcast auxiliary station assignment may not be available for short-term operation. Refer to any note(s) which may be applicable to the use of a specific frequency prior to initiating operation.

(e) The antenna height of a station operated pursuant to this section shall not increase the height of any man-made antenna supporting structure, or increase by more than 20 feet the height of any other type of man-made structure or natural formation. However, the facilities of an authorized broadcast auxiliary station belonging to another licensee may be operated in accordance with the terms of its outstanding authorization.

(f) Stations operated pursuant to this section shall be identified by the transmission of the call sign of the associated broadcast station.

(g) The Part 73 licensee of this chapter, prior to operating pursuant to the provisions of this section shall, for the intended location or area-of-operation, notify the appropriate frequency coordination committee or any licensee(s) assigned the use of the proposed operating frequency, concerning the particulars of the intended operation and shall provide the name and telephone number of a person who may be contacted in the event of interference. Information on active frequency coordination committees may be obtained by contacting the FCC's Auxiliary Services Branch at (202) 632-7698 between 8:00 am and 4:30 pm Eastern Time. Except as provided below, this notification provision shall not apply where an unanticipated need for immediate short-term mobile station operation would render compliance with the provisions of this paragraph impractical.

(1) A CARS licensee shall always be given advance notification prior to the commencement of short-term operation on or adjacent to an assigned frequency.

(h) Short-term operation is limited to areas south or west of the United States-Canada border as follows:

(1) Use of broadcast auxiliary service frequencies below 470 MHz is limited to areas of the United States south of Line A or west of Line C unless the effective radiated power of the station is 5 watts or less.

Note.—Line A is a line above which frequency assignments made by the Federal Communications Commission are coordinated with the Canadian Department of Communications and which begins at Aberdeen, Washington, running by great circle arc to the intersection of 48° N., 120° W., then along parallel 48° N., to the intersection of 95° W., then by great circle arc through the southernmost point of Duluth, Minnesota, then by great circle arc to 45° N., 85° W., then southward along meridian 85° W., to its intersection with parallel 41° N., then along parallel 41° N., to its intersection with meridian 82° W., then by great circle arc through the southernmost point of Bangor, Maine, then by great circle arc through the southernmost point of Searsport, Maine, at which point it terminates. Line C is a line east of which frequency assignments are similarly coordinated and which begins at the intersection of 70° N., 144° W., then by great circle arc to the intersection of 60° N., 143° W., then by great circle arc so as to include all of the Alaskan Panhandle.

(2) A broadcast auxiliary service station operating on frequencies between 470 MHz and 1 GHz must be at least 35 miles south (or west, as appropriate) of the United States-Canada border if the antenna looks within a 200° sector *toward* the border; or, the station must be at least 5 miles south (or west, as appropriate) if the antenna looks within a 160° sector *away* from the border. However, operation is not permitted in either of these two situations if the station would be within the coordination distance of a receiving earth station in Canada which uses the same frequency band. (The coordination distance is the distance, calculated for any station, according to Appendix 28 of the International Radio Regulations.)

(3) A broadcast auxiliary service station operating on frequencies above 1 GHz shall not be located within the coordination distance of a receiving earth station in Canada which uses the same frequency band. (The coordination distance is the distance, calculated for any station, according to Appendix 28 of the International Radio Regulations.)

(i) Short-term operation of a remote pickup broadcast base station, a remote pickup automatic relay station, an aural broadcast STL station, an aural broadcast intercity relay station, a TV STL station, a TV intercity relay station or a TV translator relay station in the National Radio Quiet Zone, the Table Mountain Radio Receiving Zone, or near FCC monitoring stations is subject to the same advance notification procedures applicable to regular applications as provided for in § 73.1030 and § 74.12, except that inasmuch as short-term operation does not involve an application process, the provisions relating to agency objection procedures shall not apply. It shall simply be necessary for the Part 73 licensee of this chapter to contact the potentially affected agency and obtain advance approval for the proposed short-term operation. Where protection to FCC monitoring stations is concerned, approval for short-term operation may be given by the local Engineer-in-Charge.

2. In § 74.432, paragraph (d) is revised to remove the 120 day equipment installation requirement:

§ 74.432 Licensing requirements and procedures.

* * * * *

(d) Remote pickup system licensees will specify the minimum and maximum number of mobile units that may be operated within their system as follows:

from 1 to 5 stations
from 4 to 12 stations
from 10 to 24 stations.
from 20 to 50 stations
45 or more stations (maximum to be specified on the license application).

* * * * *

3. In § 74.433, paragraphs (a) and (e) are revised as follows:

§ 74.433 Temporary authorizations.

(a) Special temporary authority may be granted for remote pickup station operation which cannot be conducted in accordance with § 74.24. Such authority will normally be granted only for operations of a temporary nature. Where operation is seen as likely on a continuing annual basis, an application for a regular authorization should be submitted.

* * * * *

(e) The user shall have full control over the transmitting equipment during the period it is operated.

* * * * *

4. In § 74.482, paragraph (a) is revised as follows:

§ 74.482 Station identification.

(a) Each remote pickup broadcast station shall be identified by the transmission of the assigned station or system call sign, or by the call sign of the associated broadcast station. For systems, the licensee (including a Part 73-only licensee where operation takes place pursuant to § 74.24) shall assign a unit designator to each station in the system. The call sign (and unit designator, where appropriate) shall be transmitted at the beginning and end of each period of operation. A period of operation may consist of a single continuous transmission, or a series of intermittent transmissions pertaining to a single event.

* * * * *

5. A new § 74.537 is added to read as follows:

§ 74.537 Temporary authorizations.

(a) Special temporary authority may be granted for aural broadcast STL or intercity relay station operation which cannot be conducted in accordance with § 74.24. Such authority will normally be granted only for operations of a temporary nature. Where operation is seen as likely on a continuing annual basis, an application for a regular authorization should be submitted.

(b) A request for special temporary authorization for the operation of an aural broadcast STL or intercity relay station may be made by informal application which shall be filed with the FCC at least 10 days prior to the date of the proposed operation. However, an application filed within less than 10 days of the proposed operation may be accepted upon a satisfactory showing of the reasons for the delay in submitting the request.

(c) An informal request for special temporary authorization shall be addressed to the FCC, Washington, D.C. 20554 and shall set forth full particulars including: licensee's name, call letters of the associated broadcast station(s), name and address of individual designated to receive the return authorization, call letters of the aural broadcast STL or intercity relay station, if assigned, type and manufacturer of equipment, power output, emission, frequency or frequencies proposed for use, commencement and termination date and location of the proposed operation, and purpose for which request is made including any particular justification. In the event that the proposed antenna installation will increase the height of any man-made antenna supporting structure, or increase by more than 20 feet the height of any other type of man-made structure or natural formation, a vertical plan sketch showing the height above ground of any existing structure, the elevation of the site above mean sea level, and the geographic coordinates of the proposed site, shall be submitted with the application.

(d) A request for special temporary authorization shall specify a frequency or frequencies consistent with the provisions of § 74.502. However, in the case of events of widespread interest and importance which cannot be transmitted successfully on these frequencies, frequencies assigned to other services may be requested upon a showing that operation thereon will not cause interference to established stations. In no case will operation of an aural broadcast STL or intercity relay station be authorized on frequencies employed for the safety of life or property.

(e) When the transmitting equipment utilized is not licensed to the user, the user shall nevertheless have full control over the use of the equipment during the period it is operated.

(f) Special temporary authorization to permit operation of aural broadcast STL or intercity relay stations or systems pending FCC action on an application for regular authority will normally not be granted.

6. In § 74.602, Note 3 to certain Band B frequencies listed in paragraph (a) is revised as follows:

§ 74.602 Frequency assignment.

(a) * * *

Note 3.—This frequency may be assigned to TV pickup stations only on a secondary basis to the Local Television Transmission Service licensed under Part 21 of the FCC's rules and is not available for use pursuant to the short-term operating provisions set forth in § 74.24.

* * * * *

7. In § 74.633, paragraph (a) is revised and a new paragraph (e) is added to read as follows:

§ 74.633 Temporary authorizations.

(a) Special temporary authority may be granted for TV broadcast auxiliary station operation which cannot be conducted in accordance with § 74.24. Such authority will normally be granted only for operations of a temporary nature. Where operation is seen as likely on a continuing annual basis, an application for a regular authorization should be submitted.

* * * * *

(e) When the transmitting equipment utilized is not licensed to the user, the user shall nevertheless have full control over the use of the equipment during the period it is operated.

8. In § 74.832, paragraph (g) is revised to remove the 120 day equipment installation requirement:

§ 74.832 Licensing requirements and procedures.

* * * * *

(g) Low power auxiliary licenses will specify the minimum and maximum number of units that may be operated as follows: from 1 to 5 stations; from 4 to 12 stations; from 10 to 24 stations; from 20 to 50 stations; 45 or more stations.

* * * * *

9. In § 74.832, paragraph (h) is revised as follows:

§ 74.832 Licensing requirements and procedures.

* * * * *

(h) For broadcast licensees, low power auxiliary stations will be licensed for use with a specific broadcasting station or combination of broadcasting stations licensed to the same licensee and to the same community. Licensing of low power auxiliary stations for use with a specific broadcasting station or combination of such stations does not preclude their use with other broadcasting stations of the same or a different licensee at any location: *Provided, however,* Operation of low power auxiliary stations shall, at all times, be in accordance with the requirements of § 74.882 of this Subpart; *And Provided Further,* A low power auxiliary station that is being used with a broadcasting station or network other than the one with which it is licensed, shall, in addition to meeting the requirements of § 74.861 of this Subpart, not cause harmful interference to another low power auxiliary station which is being used with the broadcast station(s) or network with which it is licensed.

* * * * *

10. In § 74.833, paragraphs (a) and (e) are revised to read as follows:

§ 74.833 Temporary authorizations.

(a) Special temporary authority may be granted for low power auxiliary station operation which cannot be conducted in accordance with § 74.24. Such authority will normally be granted only for operations of a temporary nature. Where operation is seen as likely on a continuing annual basis, an application for a regular authorization should be submitted.

* * * * *

(e) The user shall have full control over the transmitting equipment during the period it is operated.

* * * * *

PART 73—RADIO BROADCAST SERVICES

II. Title 47 CFR Part 73 of the Federal Communications Commission's Rules and Regulations is amended as follows:

1. In § 73.1030, paragraph (a) is revised to show an office and telephone number which may be used to coordinate radio operation in the National Radio Quiet Zone and to show an amended Zip Code:

§ 73.1030 Notifications concerning interference to Radio Astronomy, Research and Receiving Installations.

(a) *Radio Astronomy and Radio Research Installations.* In order to minimize harmful interference at the National Radio Astronomy Observatory site located at Green, Pocahontas County, West Virginia, and at the Naval Radio Research Observatory at Sugar Grove, Pendleton County, West Virginia, a licensee proposing to operate a short-term broadcast auxiliary station pursuant to § 74.24, or an applicant for authority to construct a new broadcast station or for authority to make changes in the frequency, power, antenna height, or antenna directivity of an existing station within the area bounded by 39°15′ N on the north, 78°30′ W on the east, 37°30′ N on the south, and 80°30′ W on the west shall, at the time of filing such application with the FCC, simultaneously notify the following: Interference Office, National Radio Astronomy Observatory, P.O. Box 2, Green Bank, West Virginia 24944, Telephone: 304-456-2011.

* * * * *

[FR Doc. 82-5866 Filed 3-3-82; 8:45 am]
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Proposed Rules

Federal Register
Vol. 47, No. 43
Thursday, March 4, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 82-NE-01]

Description of the Bennington, Vermont, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to amend the Bennington, Vermont Transition Area over Bennington State Airport, Bennington, Vermont. The VOR-A instrument procedure has been revised to full-time operations, and will require protection for aircraft executing this revised approach. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before April 1, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Operations, Procedures and Airspace Branch, ANE-530, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. The docket may be examined at the following location: Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: David Hurley, Operations, Procedures and Airspace Branch, ANE-530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7285.

Comments Invited

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the New England Region, Attention: Chief, Operations, Procedures and Airspace Branch, ANE-530, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before April 1, 1982, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426-8065. Communications must identify the number of this NPRM.

Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of Federal Aviation Regulations (14 CFR Part 71) to amend the Bennington, Vermont Transition Area to full-time, to coincide with the VOR-A, Amendment 5, Standard Instrument Approach Procedure (SAIP) for Bennington State Airport, Bennington, Vermont.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71, Federal Aviation Regulations, by revising the Bennington, Vermont 700-foot floor transition area as follows:

Delete:

"This transition area is effective from sunrise to sunset, daily."

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 USC 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 USC 1655(c) and 14 CFR 11.69))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, is certified not to have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Massachusetts, on February 23, 1982.

Robert E. Whittington,
Director, New England Region.

[FR Doc. 82-5844 Filed 3-3-82; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Parts 71 and 75

[Airspace Docket No. 82-AAL-1]

Establishment of Alaskan High Altitude Routes and Reporting Point

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to (1) amend the description of several Alaskan High Altitude Routes, (2) establish three Alaskan area high route segments, and (3) establish an Alaskan high altitude reporting point. These actions would improve air traffic control efficiency by providing for an orderly transition to and from newly established ICAO North Pacific (NOPAC) composite routes.

DATES: Comments must be received on or before April 5, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attention: Chief, Air Traffic Division, Docket No. 82-AAL-1, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: John Watterson, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commuters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-AAL-1." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering amendments to §§ 71.213, 75.100, and 75.400 of Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to amend two high altitude jet routes, establish three area high routes, and a high altitude reporting point. These actions would provide for an orderly transition to ICAO NOPAC composite routes R-91, A-90, R-80, and R-20, effective March 18, 1982. Sections 71.213, 75.100, and 75.400 of Parts 71 and 75 were republished January 2, 1981 (46 FR 760, 834, and 848).

ICAO Considerations

As part of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend §§ 71.213, 75.100, and 75.400 of Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (46 FR 760, 834, and 848) as follows:

§ 71.213 [Amended]

By adding a new reporting point, as follows:

Augin: lat. 57°45'00"N., long. 160°00'00"W. (King Salmon 241°T(220.6°M) radial 118.6 DME)

§ 75.100 [Amended]

1. Jet Route No. 120 [Amended]. By deleting the words "From the INT of the Anchorage Oceanic CTA/FIR boundary and the Bethel, AK, 234° radial via Bethel;" and substituting for them the words "From Saint Paul Island, AK, NDB via Bethel, AK;"

2. Jet Route No. 127 [Amended]. By deleting the words "From Cape Newenham, AK, NDB" and substituting for them the words "From AUGIN, AK, DME INT (King Salmon, AK, 241°T(220.6°M) radial 118.6 DME)"

§ 75.400 [Amended]

1. J668R AMOTT-RHODE [Amended]. By deleting the word "RHODE" from the title and substituting for it the word "OZZIE" and by deleting "KULIK" and "RHODE" waypoint names, location, and reference facility and substituting for them the following name, location, and reference facility: "OZZIE 59°27'00"N. 163°00'00"W. Bethel, AK"

2. J607R [New]

By adding a new area high route as follows:

Waypoint name	Location	Reference facility
J607R OZZIE to FREEE		
OZZIE	59°27'00"N. 163°00'00"W.	Bethel, AK.
OCSEN	58°34'02"N. 157°18'30"W.	King Salmon, AK.
FREEE	57°13'00"N. 156°56'00"W.	Kodiak, AK.

3. J606R [New]

By adding a new area high route as follows:

Waypoint name	Location	Reference facility
J606R PARRT to PUFIN		
PARRT	57°13'00"N. 166°00'00"W.	Cold Bay, AK.
PORT HEIDEN	56°57'17"N. 158°36'48"W.	King Salmon, AK.
PUFIN	56°30'00"N. 153°00'00"W.	Kodiak, AK.

4. J809R [New]
By adding a new area high route as follows:

Waypoint name	Location	Reference facility
J809R BRONE to BLAHK		
BRONE	66°25'00"N. 165°41'00"W.	Cold Bay, AK.
BLAHK	64°56'30"N. 159°00'00"W.	Cold Bay, AK.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves and established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 25, 1982.

S. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-6049 Filed 3-3-82; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ACE-01]

Transition Area; Vinton, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to designate a 700-foot transition area at Vinton, Iowa, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Vinton Veterans Memorial Airpark, Vinton, Iowa, utilizing the Vinton Non-Directional Radio Beacon (NDB) as a navigational aid. This proposed action will change the airport status from VFR to IFR.

DATES: Comments must be received on or before April 8, 1982.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Producedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at Vinton, Iowa. To enhance airport usage, a new instrument approach procedure is being developed for the Vinton Veterans Memorial Airpark, Vinton, Iowa, utilizing the Vinton NDB as a navigational aid. This radio facility will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transition area at Vinton, Iowa, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and en route environment.

The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

The Proposed Amendment

Accordingly, Federal Aviation Administration proposes to amend Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1981 (46 FR 540), by adding the following new transition area:

Vinton, Iowa

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Vinton Veterans Memorial Airpark (Latitude 42°13'00"N, Longitude 92°01'00"W) within 2½ miles each side of the Vinton NDB 319° bearing extending from the 5-mile radius area to 7 miles northwest of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) is certified that at promulgation, it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on February 22, 1982.

Murray E. Smith,

Director, Central.

[FR Doc. 82-5948 Filed 3-3-82; 8:45 am]
BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 12 and 180

Regulations Pertaining to Reparations and Arbitration Extension of Comment Period

AGENCY: Commodity Futures Trading Commission.

ACTION: Extension of comment period.

SUMMARY: On December 14, 1981, the Commission published in the Federal Register proposed amendments relating to arbitration proceedings which must be conducted by contract markets, the availability of reparations procedures and the content and effect of the cautionary language which must be included in pre-dispute arbitration agreements between futures commission merchants, floor brokers, or associated persons and their customers. (46 FR 60834). The comment period on the amendments and new rules expired on February 12, 1982. The Commission has received several requests for an extension of the comment period on the proposed amendments. Because it wishes to ensure that all interested parties have an adequate opportunity to submit informed comments, the Commission has determined to re-open the comment period on these amendments.

DATE: The comment period has been extended through March 15, 1982.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to 12 CFR Parts 12 and 180, Regulations Pertaining to Reparations and Arbitration.

FOR FURTHER INFORMATION CONTACT: Wendy E. Robinson, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254-8955.

Issued in Washington, D.C. on February 26, 1982, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-5795 Filed 3-3-82; 8:45 am]
BILLING CODE 6351-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 18, 19, 24, 113, 125, 132, 142, and 144

Proposed Customs Regulations Amendments Relating to Customs Bonded Warehouses

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: The document proposes an extensive revision of the Customs Regulations relating to the control of merchandise in Customs bonded warehouses in order to reduce costs to the public and reduce Customs staffing at bonded warehouses. The document proposes to (1) authorize Customs to accept a joint determination by the warehouse proprietor and the carrier, cartman or lighterman, or weigher, gauger or measurer regarding the quantity of goods entered or withdrawn from a warehouse; (2) provide for release of merchandise directly to the proprietor by Customs officers at the customhouse rather than at the warehouse; (3) provide district directors with the authority to allow warehouse proprietors to affix and break Customs seals; (4) establish a fee for both the application to establish a bonded warehouse and the annual renewal of the right to operate a bonded warehouse; (5) establish procedures for the granting of the right to operate a bonded warehouse based on the qualifications, character, and experience of the applicant; and (6) establish procedures for the suspension or revocation of the right to operate a warehouse or to receive or release goods from a warehouse.

DATES: Comments must be received on or before May 3, 1982.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Regulations Control and Disclosure Law Division, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:
Audit aspects: Joseph Palmer, Regulatory Audit Division (202-566-2812).
Operational aspects: John Holl, Office of Inspection (202-566-5354).
Bonding aspects: William Rosoff, Carriers, Drawback, and Bonds Division (202-566-5856).
Legal aspects of entry: Benjamin Mahoney, Entry Procedures and Penalties Division (202-566-5765).
Economic aspects: George Deyman, Economic Analysis Office (202-566-8933).
U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

When the U.S. Customs Service was established in 1789, sailing ships were the instruments of all international traffic. Through the years procedures adopted by Customs have changed dramatically in an attempt to keep pace with cargo carrying jets, millions of entering passengers, and a workload of 4.5 million commerical transactions per year. Clearly Customs has adjusted, in many ways, to challenges posed by increases in population, commerce, and the breakthroughs in modern technology relating to the processing of cargo.

Although many changes have taken place, one segment of Customs operations has not changed since the time of sailing ships. This segment is the Customs bonded warehouse operation.

A Customs bonded warehouse is a building or other secured area in which dutiable goods may be stored, manipulated, or undergo manufacturing operations without payment of duty. Authority for establishing bonded warehouses is set forth in sections 311, 312, and 555, Tariff Act of 1930, as amended (19 U.S.C. 1311, 1312, 1555). Part 19, Customs Regulations (19 CFR Part 19), sets forth the provisions relating to Customs warehouses and the control of merchandise in these warehouses.

Upon the entry of goods into a bonded warehouse, the importer and warehouse proprietor are subject to liability under their Customs bond. This liability is cancelled when the goods are:

1. Exported;
2. Withdrawn as supplies for a vessels or aircraft in international traffic;
3. Destroyed under Customs supervision; or
4. Withdrawn for consumption in the United States after the payment of duty.

Eight different types of classes of Customs bonded warehouses, discussed below, are authorized under 19.1, Customs Regulations (19 CFR 19.1).

Class 1. Premises owned or leased by the Government and used for the storage of merchandise undergoing Customs examination, under seizure, or pending final release from Customs custody. Unclaimed merchandise stored in such premises is held under "general order." When these premises are not sufficient or available for the storage of seized or unclaimed goods, the goods

may be stored in a warehouse of Class 3, 4, or 5.

Class 2. Importer's private bonded warehouses used exclusively for the storage of merchandise belonging or consigned to the proprietor thereof. A warehouse of Class 4 or 5 may be bonded exclusively for the storage of goods imported by the proprietor thereof, in which case it is also known as a private bonded warehouse.

Class 3. Public bonded warehouses used exclusively for the storage of imported merchandise.

Class 4. Bonded yards or sheds for the storage of heavy and bulky imported merchandise; stables, feeding pens, corrals, or other similar buildings or limited enclosures for the storage of imported animals; and tanks for the storage of imported liquid merchandise in bulk.

Class 5. Bonded bins or parts of buildings or elevators to be used for the storage of grain.

Class 6. Warehouses for the manufacture in bond, solely for exportation, of articles made in whole or in part of imported materials or of materials subject to internal revenue tax; and for the manufacture for home consumption or exportation of cigars in whole of tobacco imported from one country.

Class 7. Warehouses bonded for smelting and refining imported metal-bearing materials for exportation or domestic consumption.

Class 8. Bonded warehouses established for the purpose of cleaning, sorting, repacking, or otherwise changing in condition, but not manufacturing, imported merchandise, under Customs supervision, and at the expense of the proprietor.

All imported merchandise may be entered for warehousing except perishables and explosive substances other than firecrackers.

Full accountability for all merchandise entered into a Customs bonded warehouse must be maintained and merchandise must be inventoried on a regular basis.

Merchandise in a Customs bonded warehouse may, with certain exceptions, be transferred from one bonded warehouse to another in accordance with the provisions of Customs Regulations (19 CFR 19.15, 19.20, 19.24, 144.34).

Basically, merchandise placed in a Customs bonded warehouse, other than Class 6 or 7, may be stored, cleaned, sorted, repacked, or otherwise changed in condition but not manufactured (19 U.S.C. 1562).

Articles manufactured in a Class 6 warehouse must be exported under Customs supervision. Waste or by-products from a Class 6 warehouse may be withdrawn for consumption upon payment of applicable duties.

Imported merchandise may be stored in a Customs bonded warehouse for a period of 5 years (19 U.S.C. 1557(a)).

Customs present operations for controlling warehouses, which are identical to those which existed in the past, are based on the premise that effective control of a bonded warehouse requires the physical presence of a Customs officer.

According to an October 1980 Customs Headquarters study, this present method of operation is costing the economy of the United States $10 million in annual recurring costs. This annual recurring cost is comprised of the following:

a. Approximately $8.4 million in reimbursable charges assessed against the warehouse owners, operators, and proprietors by Customs;

b. Approximately $1.6 million in non-reimbursable Customs appropriation funding.

Additionally, this method of operation currently requires 509 authorized positions (390 reimbursable, 119 non-reimbursable) which represent 3.5% of the Customs employment ceiling. These 390 reimbursable positions cannot be converted to non-reimbursable positions to fulfill Customs responsibilities in other higher priority areas.

The development of an alternative approach for controlling warehouse operations is not new to Customs. In December 1964, a report titled *An Evaluation of: Mission Organization Management*, more commonly known as the "Stover Report," was prepared. The report commented on the organization and management of the Bureau of Customs and recommended some actions which impacted on warehouse operations. These recommendations were extensively reviewed within Customs following the issuance of the Report. However, no action was taken at that time to implement the recommendations.

In a report dated December 16, 1974, issued to the Commissioner of Customs, the General Accounting Office stated:

> The U.S. Customs Service employs warehouse officers to maintain physical custody of goods in bonded warehouses. We reviewed the necessity of having warehouse officers in view of the inventory document controls maintained at the customhouse and the periodic physical inventories performed by Customs on goods in bonded warehouses. The existing procedures for centrally controlling bonded goods at the customhouse, together with the bond protection of the Customs duties and the periodic physical inventory checks, are adequate for protecting Government revenues without having a warehouse officer present.

After an extensive review of the control of merchandise in warehouses, Customs is of the opinion that the present system for controlling bonded warehouses should be changed to one adopting an annual reporting system with periodic inventory, spot checks and audits. This document proposes such a system. A system of this type has proven to be feasible and effective when tested in Philadelphia, Pennsylvania and Baltimore, Maryland (Customs Region III). It is Customs belief that the system will be cost efficient in that it will allow the redirection of $1.6 million in annual position costs to support Customs positions.

Further, it is Customs opinion that the proposed reporting system will provide relief to the private warehouse community by alleviating an extensive cost burden ($8.4 million). Such relief will also allow improved flexibility of operations for warehouse proprietors since they need not await arrival of Customs officers to conduct supervision. This is a particularly important consideration to the warehouse proprietors if withdrawals must be made on a weekend, holiday or after normal business hours.

The proposed regulation applies only to control of merchandise within warehouses. It does not apply to warehouse related transactions outside warehouses, such as supervision of exportations. Those transactions will be supervised under current Customs procedures, such as those pertaining to duty-free stores.

The authority to change from the current warehouse officer system to the proposed reporting and audit system is contained in section 646, Tariff Act of 1930, as amended (19 U.S.C. 1646a).

The proposed action would require numerous amendments to Parts 10, 18, 19, 24, 113, 125, 132, 142, and 144, Customs Regulations (19 CFR Parts 10, 18, 19, 24, 113, 125, 132, 142, 144), to:

1. Authorize Customs to accept a joint determination by the warehouse proprietor and the carrier, cartman or lighterman, or weigher, gauger or measurer regarding the quantity of goods entered or withdrawn from the warehouse;

2. Provide for release of merchandise directly to the proprietor of the warehouse by Customs officers at the customhouse rather than at the warehouse, as presently required;

3. Provide district directors with the authority to allow warehouse proprietors to affix and break Customs seals;

4. Establish a fee both for the application to establish a bonded warehouse and the annual renewal of the right to operate a warehouse under the authority of 19 U.S.C. 1555 and 31 U.S.C. 483a;

5. Establish procedures for the granting of the right to operate a warehouse based on the qualifications, character, and experience of the applicant; and

6. Establish procedures for suspension or revocation of the right to operate a warehouse or to receive or release goods from a warehouse.

A detailed discussion of the proposed amendments follows:

Discussion of Proposed Amendments

Part 10—Articles Conditionally Free, Subject to a Reduced Rate, Etc.

1. Section 10.62 sets forth the procedure for duty free withdrawals of bunker fuel oil under the provisions of section 309, Tariff Act of 1930, as amended (19 U.S.C. 1309). It is proposed to amend paragraphs (a) and (c)(2) of § 10.62 by eliminating the requirement for use of Customs Form 7505–B, Order to Release Merchandise on Order of the Warehouse Proprietor, and substituting the Customs Form 7506, Warehouse Withdrawal Conditionally Free of Duty and Permit. It is also proposed to revise paragraph (a) by adding a new sentence which indicates that when a blanket withdrawal is filed and a partial release takes place, the partial release procedure set forth in proposed § 19.6(d) will be followed for each partial release.

Paragraph (e) of § 10.62 would be modified by eliminating the last sentence which states that immediate supervision over the removal of oil under the paragraph is not required.

2. Section 10.62a sets forth the procedures for blanket withdrawals for certain merchandise. It is proposed to modify paragraph (a) by simplifying the language and inserting a reference to proposed § 19.6(d) relating to partial release. It is proposed to remove paragraph (b) and mark it reserved. The material in paragraph (b) will be set forth in proposed § 19.6(d). It is also proposed to modify paragraph (c) by substituting the warehouse proprietor for the Customs warehouse officer as the individual to receive the Customs Form 7506 when a partial release is filed. A cross reference is also included in paragraph (c) to the partial release procedures set forth in proposed § 19.6.

3. Section 10.65 relates to cigars and cigarettes in Customs bonded warehouses. It is proposed to amend the second sentence of paragraph (c)(3) by substituting the words "warehouse proprietor" for "Customs warehouse officer." It is further proposed to modify the paragraph by increasing the total period of time during which merchandise may remain in a warehouse from 3 to 5 years. Pub. L. 95–410 amended section 557, Tariff Act of 1930, as amended (19 U.S.C. 1557), to increase the period of time during which merchandise could remain in a Customs bonded warehouse from 3 to 5 years.

It is further proposed to amend paragraph (c)(4) of the section by placing responsibility on the warehouse proprietor for conducting an inventory at least once each month of merchandise for which blanket withdrawals are filed.

Part 18—Transportation in Bond and Merchandise in Transit

1. It is proposed to amend § 18.2(a), relating to the carriers receipts on in bond transportation and merchandise in transit, by setting forth the existing procedure on such merchandise in a new paragraph (a)(1) for all merchandise except merchandise delivered to the bonded carrier from a warehouse. A new paragraph (a)(2) would contain a reference to proposed § 19.6(b) which will set forth the procedure for merchandise delivered from a warehouse.

Also, it is proposed to modify § 18.2(b) by inserting a sentence between the third and fourth sentences to state that quantities of goods transported in bond from a Customs bonded warehouse shall be accounted for under the procedures set forth in proposed § 19.6.

2. It is proposed to correct a clerical error in § 18.3(e) by substituting a reference to Part 125, Customs Regulations, for a reference to Part 21. There is no Part 21 in the Customs Regulations.

3. It is proposed to add a new paragraph (i) to § 18.4 to indicate that except as provided in § 18.3(d), Customs Regulations, seals affixed under § 18.4 will be removed only under Customs supervision.

Part 19—Customs Warehouses, Containers Stations and Control of Merchandise Therein

1. Section 19.1 sets forth the various classes of Customs bonded warehouses and the construction requirements. It is proposed to delete the last two sentences from paragraph (a)(4) which relate to security measures at a Class 4 warehouse. Security requirements for all classes of warehouses will be set forth in proposed § 19.12.

Paragraph (c) relates to construction of a warehouse and indicates that the bonded and nonbonded portions of a warehouse shall be effectively separated by partitions of substantial materials and construction and erected in such a manner as to render it impossible to enter the premises in the absence of the warehouse officer without such violence as to make entry easy to detect. Because the warehouse officers position would be eliminated under the proposal, the reference to the warehouse officer must be eliminated.

Paragraph (c)(3) discusses the manner of construction of wood partitions and gates and indicates that the gates shall be equipped with a positive-type latching device with provision for accepting a Customs-approved padlock. Under the proposed revision padlocks will no longer be approved by Customs. Accordingly, this reference would be deleted from paragraph (c)(3). No changes have been proposed to the existing construction requirements for warehouse partitions and gates.

2. Section 19.2 relates to the application procedures required to establish a Customs bonded warehouse.

It is proposed to modify paragraph (a) to set forth certain conditions for approval on an application.

Under proposed paragraph (a), applications for renewals of a warehouse facility must be filed annually with the district director. A fee as prescribed by proposed § 19.5 must accompany the request.

Further, under the proposal, a warehouse facility would be determined by street address, location, or both except for smelting warehouses. For example, if a proprietor had two warehouses located at one street address and three warehouses located at three different street addresses, the two located at one address would be considered as one warehouse facility and the three located at three different addresses would each be considered as separate warehouse facilities.

In approving an application to establish a warehouse facility under proposed paragraph (a) Customs would determine whether the facility meets the following conditions: (i) the entry transaction level or dollar value or merchandise, or both, is of sufficient volume to warrant establishment of the facility; (ii) the warehouse facility is located 35 miles or less from the port of entry; and (iii) Customs has personnel resources available to adequately control all warehouse operations including the operation of the applicant warehouse facility within the district. If the above conditions are not met

Customs would not approve the application. However, the latter condition would not apply if a warehouse proprietor is merely relocating his operation within the same district. If the relocation is from one district to another and Customs personnel in the new district are not available to handle the increase in workload, an application for the new warehouse facility would not be approved.

Under proposed paragraph (c), on approval of the application to bond a warehouse of class 2, 3, 4, 5, or 6, a Proprietor's Warehouse Bond must be executed in the form proposed in Appendix B to this document. The Customs Form 3581, Proprietor's Warehouse Bond, would be discontinued.

Under proposed paragraph (d), on approval of the application to bond a proprietor's manufacturing warehouse, class 6, a Proprietor's Manufacturing Warehouse Bond must be executed in the form proposed in Appendix C to this document. The Customs Form 3583, Proprietor's Manufacturing Warehouse Bond, Class 6, would be discontinued. In the case of a bonded smelting and refining warehouse, class 7, the bond must be executed with the required number of copies and in the form proposed in Appendix D to this document.

A new proposed paragraph (f) would indicate that as a condition of approval of the application, the district director may order an inquiry by a Customs officer into the qualifications, character, and experience of the applicant, and into the security, suitability, and fitness of the facility.

A new proposed paragraph (g) would state that the district director must promptly notify the applicant in writing of his decision to approve or deny the application to bond the warehouse. If the application is denied the notification must state the grounds for denial. Further, under the provisions of proposed § 19.3(f), the applicant may seek review of the decision to deny within 10 days after notification.

3. Section 19.3 relates to alterations, suspensions, and discontinuance of bonded warehouses.

It is proposed to modify paragraph (a) to authorize the district director to approve all alterations to a warehouse. Presently, material changes to a class 6 or 7 warehouse must be approved by Customs Headquarters.

Under proposed paragraph (b), the use of all or part of a bonded warehouse or bonded floor space could be temporarily suspended by the district director for a period not to exceed one year on written application of the proprietor if there are no bonded goods in the area. Presently, there is no time limit on the temporary suspension period.

If a proprietor wishes to discontinue the bonded status of the warehouse, under proposed paragraph (c) he must make written application to the district director. The district director may not approve the application until all goods in the warehouse are transferred to another bonded warehouse without expense to the Government. In order to reestablish the bonded warehouse, application must be made and approved under the provisions of proposed § 19.2.

Proposed § 19.3(d), relating to employee lists, is substantially the same as present § 19.3(d) except it has been simplified and shortened. The district director may make a written demand upon the proprietor to submit, within 30 days after the date of demand, a written list of the names, addresses, social security numbers, and dates and places of birth of all persons employed by the proprietor in the carriage, receiving, storage, or delivery of any bonded merchandise. If a list has been previously furnished, the proprietor must advise the district director in writing, of the names, addresses, social security numbers, and dates and places of birth of any new personnel employed by him in the carriage, receiving, storage, or delivery of bonded merchandise within 10 days after such employment. For the purpose of Part 19 a person is not deemed to be employed by a warehouse proprietor if he is an officer or employee of an independent contractor engaged by the warehouse proprietor to load, unload, transport, or otherwise handle bonded merchandise.

Proposed paragraph (e) provides that the district director may revoke or suspend for cause the right of a proprietor to continue the bonded status of a warehouse for any ground specified in the paragraph. An action to suspend or revoke the right to operate a bonded warehouse must be taken in accordance with the procedures set forth in proposed § 19.3(f). If the bonded status is revoked or suspended for cause, the district director must require all goods in the warehouse to be transferred to a bonded warehouse without expense to the Government. The bonded status of a warehouse may be revoked or suspended for cause if:

(1) The approval of the application to bond the warehouse was obtained through fraud or the misstatement of a material fact;

(2) The warehouse proprietor refuses or neglects to obey any proper order of a Customs officer or any Customs order, rule, or regulation relative to the operation or administration of a bonded warehouse;

(3) The warehouse proprietor or an officer of a corporation which has been granted the right to operate a bonded warehouse is convicted of or has committed acts which would constitute a felony, or a misdemeanor involving theft, smuggling, or a theft-connected crime;

(4) The warehouse proprietor does not provide secured facilities or properly safeguard merchandise within the bonded warehouse;

(5) The warehouse proprietor fails to furnish a current list of names, addresses, and other information required by proposed § 19.3(d);

(6) The bond required by proposed § 19.2 (c) or (d) is determined to be insufficient in amount or lacking sufficient sureties, and a satisfactory new bond with good and sufficient sureties is not furnished within a reasonable time; or

(7) Bonded merchandise has not been stored in the warehouse for a period of 2 years.

The foregoing proposed grounds for suspension or revocation are substantially the same as the grounds set forth in present § 19.48, Customs Regulations (19 CFR 19.48), relating to container station operators, and § 112.30, Customs Regulations (19 CFR 112.30), relating to cartman or lighterman.

Proposed § 19.3(f), relating to a procedure for revocation or suspension for cause, is substantially the same as present § 19.3(e), except that final decision making authority is vested in the regional Commissioner instead of the Commissioner of Customs. The district director may at any time serve notice in writing upon any proprietor of a bonded warehouse to "show cause" why his right to continue the bonded status of the warehouse should not be revoked or suspended for cause.

Such notice must advise the proprietor of the grounds for the proposed action and must afford the proprietor an opportunity to respond in writing within 30 days. Thereafter, the district director must consider the allegations and response made by the proprietor unless the proprietor in his response requests a hearing. If a hearing is requested, it must be held before a hearing officer designated by the Commissioner of Customs or his designee within 30 days following the proprietor's request. The proprietor may be represented by counsel at such hearing, and all evidence and testimony of witnesses in such proceedings, including substantiation of the allegations and the responses thereto shall be presented, with the right of cross-examination to both parties. A stenographic record of any such proceeding must be made and a copy thereof must be delivered to the proprietor of the warehouse. At the conclusion of the hearing, the hearing officer must transmit all papers and the stenographic record of the hearing to the Regional Commissioner together with his recommendation for final action. The proprietor may submit written additional views or arguments to the Regional Commissioner following a hearing on the basis of the stenographic record, within 10 days after delivery to him of a copy of such record. The Regional Commissioner must render his decision in writing, stating his reasons therefor. Such decision must be served on the proprietor of the warehouse, and will be considered the final administrative action.

4. Under the proposal, § 19.4 has been revised to indicate that the character and extent of Customs supervision to be exercised in connection with any warehouse facility or transaction provided for in Part 19 must be in accordance with § 161.1, Customs Regulations. The proposed section indicates that independent of any need to appraise or classify merchandise, the district director may authorize a Customs officer to supervise any transaction or procedure at the bonded warehouse facility. Such supervision may be performed through periodic audits of the warehouse proprietor's records, quantity counts of goods in warehouse inventories, spot checks of selected warehouse transactions or procedures or reviews of conditions of recordkeeping, security, or storage in a warehouse facility. The warehouse proprietor must permit access to the warehouse by any Customs officer.

5. Under revised § 19.5, it is proposed that each warehouse proprietor will be charged a fee to establish or relocate a warehouse facility and an annual fee thereafter which will be determined under the provisions of 19 U.S.C. 1555 and 31 U.S.C. 483a. This proposal envisions aggregating substantially all costs associated with Customs supervision including audit, inspection, investigative and administrative costs. These costs will then be divided among the total warehouse locations at the beginning of the year and the pro rata share will constitute the annual fee. The fees will be revised annually to reflect current costs and the fee will be published in the Federal Register for the next calendar year. Another alternative is to consider billing warehouse proprietors individually for the costs of services incurred by Customs at each individual warehouse and not including this cost in the annual fee. Comments will be entertained on this alternative.

6. The revised proposed § 19.6 establishes procedures for deposit of merchandise in warehouse, withdrawals, partial releases, and sealing requirements.

The district director may authorize the deposit of merchandise in designated bonded warehouses without physical supervision by a Customs officer. Goods for which a warehouse or rewarehouse entry has been accepted, according to the procedures in Part 144, Subpart B, Customs Regulations, must be examined or inspected at the place of unlading, bonded warehouse, or other location as ordered by the district director. When merchandise is deposited in a proprietor's warehouse the proprietor will be held liable under his Proprietor's Warehouse Bond for the quantity and condition of merchandise reflected on the entry documentation adjusted by (1) any discrepancy noted under Part 158, Subparts A and B, Customs Regulations, and (2) any discrepancy report made jointly on the warehouse entry permit (Customs Form 7502–A), i.e., an agreement reached by the warehouse proprietor and the bonded carrier or licensed cartman or lighterman delivering the goods to the warehouse, or an independent weigher, gauger, or measurer, and signed by an authorized representative of the above. A copy of any joint report of discrepancy must be promptly provided to the district director.

Under the proposal, the district director may authorize the withdrawal and removal of merchandise from warehouse without physical supervision or examination by a Customs officer under a permit issued under the procedure set forth in proposed new § 144.39, Customs Regulations. As revised, § 19.6 provides that when a withdrawal or removal is not physically supervised by a Customs officer, the warehouse proprietor will be relieved of liability under the proprietor's bond only for the merchandise in its warehouse in the condition and quantity as shown on the application for withdrawal or removal, adjusted by any discrepancy report made jointly by the warehouse proprietor and the licensed cartman or lighterman, bonded carrier, or weigher, gauger, or measurer and signed by the authorized representatives of the above. The adjustments will be noted on the permit copy. Under the proposal, a copy of any joint report of discrepancy must be promptly provided to the district director. Under the proposal, no merchandise may be removed until agreement on the quantity and condition of the shipment has been reached.

Further, under the proposed partial release procedure, goods in Customs custody withdrawn without payment of duty from a bonded warehouse may be removed from the warehouse in partial releases by the warehouse proprietor. Each removal must be documented by the proprietor through a copy of the original withdrawal document. The removal documents must be consecutively numbered and the number must appear immediately after the serial number of the original withdrawal. Each copy must bear the summary statement described in § 144.32, Customs Regulations. Any joint discrepancy report of the proprietor and the bonded carrier, licensed cartman or lighterman, or weigher, gauger, or measurer for a partial release must be made on the copy.

As proposed, partial releases may not be removed in a quantity of less than an entire package or, if in bulk, less than one ton in weight. Goods which have been withdrawn for partial release but not removed from a warehouse are still in Customs custody.

Under the revised provisions, the district director may authorize a warehouse proprietor to (1) break Customs in bond seals affixed under § 18.4, Customs Regulations, or under any Customs order or directive, on any vehicle or container of goods entered for warehouse upon arrival of the vehicle or container at the warehouse; or (2) affix Customs in bond seals to any vehicle or container of goods for which a withdrawal document has been approved for movement in bond. The affixing or breaking of seals so authorized, will be deemed to have been done under Customs supervision since the proprietor's records will be subject to audits and actual spot checks by Customs. Further, the proprietor must report to the district director any seal found, upon arrival of the vehicle or container at the warehouse, to be broken, missing, or improperly affixed, and hold the vehicle or container and its contents intact pending instructions from the district director.

7. It is proposed to amend § 19.8 by removing the words "and under the supervision of the Customs warehouse officer" from the first sentence because physical Customs supervision is being eliminated.

8. It is proposed to add a new § 19.9 relating to general order, abandoned, and seized merchandise.

Under the new section, it is proposed that a proprietor of a general order

warehouse can accept general order, abandoned, or seized goods and articles into the warehouse only upon order of the district director on Customs Form 6043 (Delivery Ticket) as presented by the cartman or lighterman. As proposed, a joint determination must be made by the warehouse proprietor and the cartman or lighterman as to the quantity and condition of the goods or articles delivered to the warehouse. Any discrepancy between the quantity and condition of the goods delivered and that reported on Customs Form 6043 must be reported to the district director.

Further, general order, abandoned, and seized goods and articles must be recorded and stored in the warehouse as prescribed by proposed § 19.12.

Under proposed § 19.9, merchandise in general order may be released by the warehouse proprietor, after Customs inspection or examination as ordered by the district director, to the consignee or person named in a release order. The release must be made under the provisions of § 141.11, Customs Regulations. General order goods which have been unclaimed under § 127.11, Customs Regulations, voluntarily abandoned, or seized and forfeited, may be released for transfer to the place of sale upon presentation to the warehouse proprietor of an approved copy of Customs Form 5251 (Order to Transfer Merchandise for Public Auction (Sale)), and an approved copy of Customs Form 6043 (Delivery Ticket). The quantity and condition of the goods so transferred must be determined jointly by the proprietor and the cartmen or lighterman picking up the goods for delivery to the place of sale. Any discrepancies must be noted on the delivery ticket and a copy must be sent to the district director. Seized goods that are released for a purpose other than sale may be released from warehouse only upon such written terms and conditions as directed by the district director on Customs Form 6043.

9. It is proposed to amend § 19.10 by substituting "warehouse proprietor" for "warehouseman" since, under the proposal, the Customs warehouse officer position will be abolished.

10. It is proposed to amend § 19.11(d), relating to manipulation in bonded warehouses, and elsewhere by adding certain additional requirements and fixing certain additional responsibilities on the warehouse proprietor.

As proposed, the district director may approve a blanket application to manipulate on Customs Form 3499, for a period of up to one year, for a continuous or a repetitive manupulation. The warehouse proprietor would be required to maintain a running record of manipulations performed under a blanket application, indicating the quantities before and after each manipulation. The record must show what took place at each manipulation describing marks and numbers of packages, location within the facility, quantities, and description of goods before and after manipulation. The district director would be authorized to revoke a blanket approval to manipulate and require the proprietor to file individual applications if necessary to protect the revenue, administer any law or regulation, or both.

11. It is proposed to amend § 19.12, relating to warehouse recordkeeping, storage, and security, to require the warehouse proprietor to comply with the following recordkeeping requirements:

(1) All merchandise entered, manipulated, manufactured or removed from the bonded warehouse must be recorded in the warehouse proprietor's accounting and inventory records by bond lot number. The records to be maintained are those which a prudent businessman in the same type of business can be expected to maintain. The records are to be kept in sufficient detail to permit effective and efficient determination by Customs of the proprietor's compliance with these regulations and the correctness of his annual submission;

(2) Entry folders must be maintained and kept up to date by filing all receipts, damage or shortage reports, manipulation requests, specific removals and blanket removals, and the partial release/permit copy for each removal within two business days after the event occurs;

(3) Extraordinary shortage or damage must be immediately brought to the attention of the district director;

(4) When the final withdrawal of merchandise relating to a specific general order or seizure occurs, the warehouse proprietor must (a) review the entry folder to insure that all necessary documentation is in the folder accounting for the merchandise covered by the entry and (b) file the entry folder with Customs within two business days after final withdrawal.

(5) Except as provided in proposed § 19.19(b), relating to the manufacturer engaged in smelting or refining, or both, the warehouse proprietor must file with the Regional Director, Regulatory Audit, within 45 days from the end of his business year, a Warehouse Proprietor's Submission in accordance with the instructions and in the format set forth in Appendix E to this document for each warehouse facility owned.

(6) The entry folder for merchandise not withdrawn during the general order period must be submitted to the district director upon receipt from Customs of the Customs Form 6043.

In addition to the above recordkeeping requirements, it is proposed that the warehouse proprietor comply with the following security and storage requirements:

(1) The warehouse proprietor must supervise all receipts, deliveries, sampling, recordkeeping, repacking, or manipulating of merchandise in a bonded warehouse;

(2) The entry folders maintained by the warehoue proprietor must be kept in a secure area and must be made available for inspection by Customs at any time;

(3) The warehouse proprietor must maintain its warehouse facility and establish procedures adequate to insure the security of merchandise located in the bonded area. This will be accomplished by meeting the standards and recommended specifications contained in T.D. 72-56 to the extent those standards and recommendations do not conflict with any local, state, or Federal standard for the safe and sanitary storage of merchandise;

(4) All inlets and outlets to bonded tanks must be secured with locks or Customs in bond seals.

(5) Merchandise in the bonded area must be stored in a safe and sanitary manner to minimize damage to the merchandise, avoid hazards to persons, and meet local, state, and Federal requirements applicable to specific kinds of goods. All trash and waste must be promptly removed from the bonded area. No fires will be permitted in the warehouse except where necessary in connection with manipulating or processing in warehouses of the class 6, 7, or 8 type. Aisles must be established and maintained, and doors and entrances left unblocked for access by Customs officers and warehouse proprietor personnel.

(6) Packages must be received in the warehouse according to their marks and numbers. Packages containing weighable or gaugeable merchandise not bearing shipping marks or numbers must be received under the weighers or gaugers numbers. Packages with exceptions due to damage or loss of contents, or not identical as to quantity or quality or contents must be stored separately. The warehouse proprietor must mark all shipments for identification, showing the general order or warehouse entry number or seizure number and the date of the general order, entry, or delivery ticket in the case of seizures. All containers covered by a given warehouse entry, general

order, or seizure, must be stored in the same location and not mixed with goods covered by any other entry, general order, or seizure, unless written approval has been given by the district director for an exception from the requirement. The proprietor must provide, upon request by a Customs officer, a record balance of goods covered by any warehouse entry, general order, or seizure, so a physical count can be made to verify the accuracy of the record balance.

12. It is proposed to amend § 19.13(a) by substituting "the district director" for "Headquarters, U.S. Customs Service" since it is Customs opinion that the various district directors should have the authority to approve Customs bonded manufacturing warehouses. Appropriate proposed changes to Part 113, Customs Regulations, are also made.

13. It is proposed to amend § 19.13(d) by removing the words "in duplicate", and by substituting a period for the comma after the words "district director" and removing the remainder of the sentence. Customs Headquarters no longer will have a need for a copy of the document listing all articles intended to be manufactured in the warehoue.

14. It is proposed to amend § 19.13(g), relating to requirements for establishment of warehouses, to delete the references to the Customs warehouse officer and to Customs locks.

15. It is proposed to revise § 19.14 (b) and (c), relating to materials for use in a manufacturing warehouse, to eliminate the reference to Customs Form 3583 and substitute a reference to the required bond. In paragraph (c), the reference to the Customs warehouse officer and the duplicate copy of the "Application to Receive Free Materials" which he presently receives, would be eliminated. It is also proposed to revise the "Application to Receive Free Materials" to eliminate the reference to the Customs warehouse officer and substitute a reference to the warehouse proprietor.

16. It is proposed to amend § 19.15(a) by substituting the word "Customs" for "a Customs officer" in the last sentence since physical supervision will be eliminated.

17. It is proposed to amend the first sentence of § 19.15(j) by substituting the words "certified by the warehouse proprietor" for "verified by the Customs warehouse officer in charge of the warehouse" for the same reasons as the previous change.

18. It is proposed to amend the first and last sentences of paragraph (a), paragraphs (b) and (c), the last sentence of paragraph (g)(1) and the "Application and Permit for Transfer of Scraps, Cuttings, and Clippings" in paragraph (h) of § 19.16, relating to cigar manufacturing warehouses.

The proposed amendment to paragraph (a) would eliminate the reference to storage under Customs locks and subetitute a reference to the warehouse proprietor's locks. The last sentence of paragraph (a) would be modified to require verification of returns by the warehouse proprietor rather than the Customs warehouse officer.

Under proposed paragraph (b), the warehouse proprietor would make appropriate entry in his records of the quantity and class of cigar removed rather than the Customs warehouse officer. Further, the requirement for affixing Customs stamps to cigars has been eliminated. It appears that this is an archaic requirement which is no longer followed.

The proposed amendment to paragraph (c) would eliminate the requirement that the record required be kept on the Customs Form 5215, Record of Bonded Merchandise Received, Permitted and Delivered from Warehouse.

The proposed amendment to paragraph (g)(1) substitutes a reference to the required bond form set forth in Appendix C to this document.

Finally, it is proposed to modify the "Application and Permit for Transfer of Scraps, Cuttings, and Clippings" by substituting a reference to the warehouse proprietor for the Customs warehouse officer.

19. It is proposed to amend § 19.17(a), (c), (e), and (g), relating to the application to establish a bonded smelting and refining warehouse.

Paragraph (a) would be modified to authorize the district director to approve an application for such a warehouse.

Paragraph (c) would be modified by eliminating the reference to Customs Headquarters and substituting the district director as the individual responsible for approving discontinuance of a warehouse.

Paragraph (e) would be amended by substituting a reference to the proposed bond form set forth in Appendix D to this document for the reference to the bond prescribed by T.D. 72-244.

Paragraph (g) would be modified to remove the reference to Headquarters, U.S. Customs Service.

20. It is proposed to amend § 19.19 relating to records to except smelting or refining warehouses from the requirements of proposed § 19.12(a)(5) relating to the Warehouse Proprietors Submission.

21. It is proposed to modify § 19.21(b) by adding "§ 19.4 and" before the words "the commercial practice."

22. It is proposed to amend § 19.29, relating to sealing of bins or other bonded space, to eliminate the references to Customs officers, Customs locks, and Customs strap seals, and substitute a reference to §§ 19.4 and 161.1 in lieu of the reference to Customs supervision.

23. It is proposed to amend the third sentence of § 19.34 by substituting a reference to an "appropriate Customs officer" for the reference to "supervising Customs agent".

Part 22—Drawback

It is proposed to amend § 22.28(d), relating to continuous Customs custody, to indicate that for purpose of Part 22, in the case of merchandise entered for warehouse, Customs custody will be deemed to cease when duty has been paid and the district director authorizes the withdrawal of the merchandise.

Part 24—Customs Financial and Accounting Procedure

1. It is proposed to amend § 24.12 by removing paragraph (a) relating to Customs fees, and mark the paragraph "Reserved". Proposed § 19.5 contains the fee requirements for establishing a Customs bonded warehouse.

2. It is proposed to amend the first and fourth sentences of paragraph (c) and the first sentence of paragraph (f) of § 24.13 by revising them to authorize bonded warehouse proprietors to purchase in-bond and in-transit seals.

3. It is proposed to amend § 24.17(d) to set forth the charges for reimbursable services. The substance of this section is presently contained in § 19.5, Customs Regulations. It is believed that it would be more appropriate in Part 24, Customs Regulations.

Part 113—Customs Bonds

1. It is proposed to remove § 113.13(a), relating to bonds approved by the Commissioner of Customs, and mark it "Reserved". It is Customs opinion that there is no reason why the Proprietor's Manufacturing Warehouse Bond and the Blanket Smelting and Refining Bond currently approved by the Commissioner should not be approved by the district directors. Accordingly, authority to approve these bonds is vested in the district directors by proposed paragraphs (hh) and (ii) of § 113.14.

2. It is proposed to amend § 113.14(a), relating to the Proprietor's Warehouse Bond, and add to § 113.14 new paragraphs (hh) and (ii) relating to the

Proprietor's Manufacturing Warehouse Bond and the Blanket Smelting and Refining Bond, respectively.

It is proposed to amend paragraph (a) by eliminating the reference to the Customs Form 3581, Proprietor's Warehouse Bond. The text of a revised proposed Proprietor's Warehouse Bond is set forth in Appendix B to this document.

It is proposed to add a new paragraph (hh) which vests authority in the district director to approve the proposed new Proprietor's Manufacturing Warehouse Bond which is set forth in Appendix C to this document. The Customs Form 3583, Proprietor's Manufacturing Warehouse Bond, would be discontinued.

It is proposed to add a new paragraph (ii) which grants to the district director the authority to approve the Blanket Smelting and Refining Bond, the proposed text of which appears in Appendix D to this document.

3. It is proposed to amend § 113.39(b), Customs Regulations, relating to the authority to sell United States obligations on default when such obligations are accepted in lieu of sureties on a bond. Section 113.39(b) contains two references to Treasury Department Circular No. 154, dated October 31, 1969, as amended. One reference appears in the text and the other appears in the "Power of Attorney and Agreement" format. The Treasury Department Circular has been superseded by Treasury Department Circular No. 154, Revised, dated July 1, 1978. Accordingly, it is proposed to amend the Customs Regulations to reflect this change.

Part 125—Cartage and Lighterage of Merchandise

1. It is proposed to remove paragraph (d), relating to Customs Form 7505–B, Order to Release Merchandise on Order of the Warehouse Proprietor, from § 125.31 concerning documents used when merchandise is carted or lightered to or from bonded warehouses, and mark the paragraph "Reserved".

It is further proposed to amend § 125.31 by adding a new paragraph (g) relating to Customs Form 7519, Combined Rewarehouse Entry and Withdrawal for Consumption and Permit.

2. It is also proposed to amend § 125.33(b), relating to procedures on receiving merchandise from a bonded warehouse, to indicate that the merchandise shall be released only to the warehouse proprietor, who must acknowledge such release on the appropriate withdrawal or removal document.

Part 132—Quotas

It is proposed to amend § 132.15, relating to withdrawal from warehouse prior to opening of quota to indicate that merchandise subject to a tariff rate quota entered for warehouse for which a withdrawal for consumption has been made in the manner prescribed in § 141.68(d) of this chapter prior to the opening of the quota period, may not be accorded any quota benefit which may become effective after the time of presentation of such withdrawal, even though the merchandise was not physically removed from the warehouse until after the start of the tariff rate period. For the purposes of applying tariff rate quotas, the date that the warehouse withdrawal is presented shall be treated as the date the merchandise is withdrawn for consumption.

Part 144—Warehouse and Rewarehouse Entries and Withdrawals

1. It is proposed to remove paragraph (b), relating to conditionally free merchandise, from § 144.1 concerning merchandise eligible for warehousing and mark the paragraph "Reserved". Customs has ruled that dutiable and nondutiable merchandise may be entered for warehouse.

2. It is proposed to amend § 144.22, relating to endorsement of transfer on the withdrawal form, by revising it to indicate that transfer of the right to withdraw merchandise entered for warehouse must be established by an appropriate endorsement on the withdrawal form by the person primarily liable for payment of duties before the transfer is completed, i.e., the person who made the warehouse or rewarehouse entry or a transferee of the withdrawal right of such person. The endorsement must be made on the appropriate withdrawal forms listed in the proposed section.

3. It is proposed to add a new paragraph (c), in lieu of existing §§ 19.6 (b) and (c) relating to charges and liens, to § 144.32 to indicate that upon receipt of an application to withdraw merchandise the appropriate Customs officer must determine whether there are any cartage, storage, labor or any other charges due the Government, in connection with the goods remaining unpaid or whether there is on file any notice of lien filed by a carrier. If there are no charges or liens or all charges and liens have been satisfied, and all other requirements of law or regulations have been met the proprietor's application to withdraw must be approved.

Part 142—Entry Process

It is proposed to conform Bond Rider "R" set forth in § 142.5 to the same condition which appears in condition (2)(a) of both the Immediate Delivery and Consumption Entry Bond (Single Entry), Customs Form 7551, and Immediate Delivery and Consumption Entry Bond (Term), Customs Form 7553, and condition (1)(a) of the General Term Bond for Entry of Merchandise, Customs Form 7595, by deleting the comma which appears between the words "default" and "plus" in the third paragraph of the rider.

The section heading also would be revised to indicate that it relates to "Statement of quantity; charges and liens."

4. It is proposed to amend § 144.34(a), relating to transfers to another warehouse, by adding a sentence at the end of the paragraph to indicate that the quantities of goods so transferred will be subject to the joint determination of the warehouse proprietor and the cartman, lighterman, or private bonded carrier, as provided in proposed section 19.6.

5. It is proposed to amend § 144.38(e), relating to the permit for release of merchandise, to indicate that when the duties and other charges have been paid, a permit on Customs Form 7505–A must be issued and delivered to the person making the warehouse withdrawal.

6. It is proposed to add a new § 144.39, relating to the permit to transfer and withdraw merchandise, to indicate that if all legal and regulatory requirements are met, the appropriate Customs officer must approve the application to transfer or withdraw merchandise from a bonded warehouse by endorsing the permit copy and returning it to the applicant. The approved permit must be presented by the withdrawer to the warehouse proprietor as evidence of Customs authorization of the transfer or withdrawal. The approved permit copy must be retained in the warehouse entry file of the proprietor. Goods covered by permit may be retained in the bonded warehouse at the option of the proprietor.

7. It is proposed to amend § 144.41(g), relating to failure to enter merchandise, by adding a phrase to indicate that the five day period for entry of merchandise after its arrival may be extended.

Authority

These amendments are proposed under the authority of R.S. 251, as amended, secs. 311, 312, 555, 556, 557, 623, 624, 646a, 46 Stat. 691, as amended, 692, as amended, 743, as amended, 744, as amended, 759, as amended, 67 Stat. 520 (19 U.S.C. 66, 1311, 1312, 1555, 1556, 1557, 1623, 1624, 1646a).

Comments

Before adopting this proposal, consideration will be given to any written comments, preferably in triplicate, that are submitted timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.8(b), Customs Regulations (19 CFR 103.8(b)), on regular business days between the hours of 9:00 a.m. to 4:30 p.m. at the Regulations Control Branch, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

Drafting Information

The principal author of this document was John E. Elkins, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Executive Order 12291

The proposed regulation is not a major regulation as defined in section 1(b) or E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C 603, 604), are applicable to this proposal. Accordingly, an initial regulatory flexibility analysis prepared by Customs Office of Economic Analysis is attached to this document as Appendix A. Comments on the analysis are also solicited and should accompany comments submitted on the proposal.

Paperwork Reduction Act

The proposed regulation is subject to the Paperwork Reduction Act of 1980, Pub. L. 96–511. Accordingly, applicable proposed sections of this document are subject to clearance by the Office of Management and Budget.

Proposed Amendments to the Regulations

It is proposed to amend Parts 10, 18, 19, 24, 113, 125, 132, 142, and 144, Customs Regulations (19 CFR Parts 10, 18, 19, 24, 113, 125, 132, 142, 144), as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. It is proposed to amend that part of paragraph (a) before the colon and paragraph (c)(2) of § 10.62 by revising them to read as follows:

§ 10.62 Bunker fuel oil.

(a) *Withdrawal under section 309, Tariff Act of 1930, as amended.* When all the bunker fuel oil in a Customs bonded tank is intended only for lading duty free as supplies on vessels under section 309 of the Tariff Act of 1930, as amended, delivery of the oil, by Customs bonded carrier, cartman, or lighterman (including bonded pipelines), under withdrawals on Customs Form 7506, either single or monthly (blanket), may be made without the presence of a Customs officer. When a blanket withdrawal is filed and a partial release takes place, the partial release procedure set forth in § 19.6(d) of this chapter shall be followed for each partial release. However, each abstract copy of Customs Form 7506 shall include the following additional information:

* * * * *

(c) * * *

(1) * * *

(2) *Delivering carrier receipt.* The receipt of the delivering carrier on a copy of Customs Form 7506 for fuel oil which has been blended under subparagraph (1) of this paragraph with components classifiable at different rates of duty shall show, for each warehouse entry number and withdrawal number involved, the types and quantity of oil received.

* * * * *

§ 10.62 [Amended]

2. It is proposed to amend paragraph (e) of § 10.62 by removing the last sentence.

3. It is proposed to amend § 10.62a by revising it to read as follows:

§ 10.62a Blanket withdrawals for certain merchandise.

(a) *Generally.* Under this section, a blanket withdrawal on Customs Form 7506 may be filed for all or part of any merchandise, except fuel oil covered under § 10.62, for use on qualified vessels. The procedure for the blanket withdrawal and partial releases after the initial release are the same as those provided in § 19.6(d) of this chapter, except as noted in paragraph (c).

(b) [Reserved]

(c) *Partial release.* A partial release on Customs Form 7506, in duplicate, or in triplicate if an extra copy is required by the district director, shall be presented to the warehouse proprietor or placed in the proprietor's entry file under the partial release procedure set forth in § 19.6(d) of this chapter, as merchandise is needed for delivery to a using vessel. The original of the partial release document shall accompany the merchandise for delivery to the Customs officer who will supervise lading, or if a Customs officer does not physically supervise lading, to the master of the vessel. The original shall be returned to the proprietor for record purposes after the Customs officer or master of the vessel, as appropriate, has certified lading of the goods described in the document.

§ 10.65 [Amended]

4. It is proposed to amend the second sentence of paragraph (c)(3) of § 10.65 by substituting "warehouse proprietor" for "Customs warehouse officer" and "5 years" for "3 years".

5. It is proposed to modify the first sentence of paragraph (c)(4) of § 10.65 by adding the words "by the warehouse proprietor" after "and shall be inventoried".

* * * * *

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

1. It is proposed to amend paragraph (a) of § 18.2 by revising it to read as follows:

§ 18.2 Receipt by carrier; manifest.

(a)(1) *Merchandise other than from warehouse delivered to bonded carrier.* Except as set forth in subparagraph (2) of this section, when merchandise is delivered to a bonded carrier for transportation in bond, the merchandise shall be laden on the conveyance under the supervision of Customs unless the transporting conveyance is not to be sealed with Customs approved seals or the lading inspector accepts the check of the carrier as to the merchandise laden thereon. The carrier's receipt shall be given immediately to the lading inspector on the Customs in bond document covering the merchandise. In the case of a TIR carnet, the receipt shall be given on the appropriate vouchers in the following form:

Received the cargo listed herein for delivery to Customs at the indicated port of destination or exportation, or for direct exportation. ——— Name of Carrier (or Exporter) ——— Attorney or Agent of Carrier (or Exporter)

——— (Date) ———

(2) *Merchandise delivered from warehouse.* When merchandise is delivered from the warehouse to a bonded carrier for transportation in bond, supervision of lading shall be accomplished in accordance with the

procedure set forth in § 19.6(b) of this chapter.

* * * * *

2. It is proposed to amend paragraph (b) of § 18.2 by inserting a sentence between the third and fourth sentences to read as follows:

§ 18.2 Receipt by carrier; manifest.

* * * * *

(b) * * * Quantities of goods transported in bond from a Customs bonded warehouse shall be accounted for under the procedures set forth in § 19.6 of this chapter. * * *

§ 18.3 [Amended]

3. It is proposed to amend paragraph (e) of § 18.3 by substituting "Part 125" for "Part 21".

4. It is proposed to add a new paragraph (i) to § 18.4 to read as follows:

§ 18.4 Sealing conveyances and compartments; labeling packages; warning cards.

* * * * *

(i) *Removal of seals.* Except as provided in § 18.3(d) of this chapter, seals affixed under this section shall be removed only under Customs supervision.

* * * * *

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

1. It is proposed to amend paragraph (a)(4), that portion of paragraph (c) before the colon and subparagraph (c)(3) of § 19.1 by revising them to read as follows:

§ 19.1 Classes of Customs warehouses.

(a) * * *

(4) *Class 4.* Bonded yards or sheds for the storage of heavy and bulky imported merchandise; stables, feeding pens, corrals, or other similar buildings or limited enclosures for the storage of imported animals; and tanks for the storage of imported liquid merchandise in bulk.

* * * * *

(c) *Construction.* When parts of buildings are used as Customs bonded warehouses, the bonded and nonbonded portions thereof shall be effectively separated by partitions of substantial materials and construction erected in such a manner as to render it impossible for unauthorized personnel to enter the premises without such violence as to make the entry easy to detect. The partitions may be constructed of raised expanded metal (steel), steel chain-link fence fabric, or wood materials and shall comply with the following specifications:

* * * * *

(3) *Wood.* Wood partitions shall be constructed of not less than 1 inch boards (dressed if desired) of uniform length between supports, nailed with not less than ten penny nails to not less than 2 x 4 inch stud framing and held in place by ⅛ x 2 inch metal cover-strips secured over the nailed ends, with carriage bolts through the boards and partition framing. Plywood of not less than ¾ inch thickness may be substituted for the 1 inch thick wood boards providing it is erected in the same manner prescribed for the boards. Gates may be constructed of any of the materials specified for partitions. Depending on their size and swing, the gates shall be constructed in such a manner, and of materials of sufficient strength, to preclude any possible sagging condition. The specifications set forth in this paragraph shall be applicable to all partitions (including gates) constructed, reconstructed, renovated, or otherwise installed or altered on or after October 28, 1978.

2. It is proposed to revise paragraphs (a), (c), and (d) and to add new paragraphs (f) and (g) in § 19.2 to read as follows:

§ 19.2 Applications to bond; bond; renewal of.

(a) *Application.* An owner or lessee desiring to establish a bonded warehouse facility shall make written application to the district director wherein the warehouse is located, describing the premises, giving its location, and stating the class of warehouse desired. The application shall be accomplished by the fee required by § 19.5 of this chapter to establish a warehouse. Applications for renewals of a warehouse facility shall be filed annually with the district director. A fee as prescribed by § 19.5 of this chapter shall accompany the request. Except in the case of a class 2 or class 7 warehouse, the application shall state whether the warehouse facility is to be operated only for the storage or treatment of merchandise belonging to the applicant or whether it is to be operated as a public bonded warehouse. If the warehouse facility is to be operated as a private bonded warehouse, the application also shall state the general character of the merchandise to be stored therein, and provide an estimate of the maximum duties and taxes which will be due on all merchandise in the bonded warehouse at any one time. A warehouse facility will be determined by street address, location, or both. For example, if a proprietor has two warehouses located at one street address and three warehouses located at three different street addresses the two located at one address would be considered as one warehouse facility and the three located at three different addresses would each be considered as separate warehouses facilities.

* * * * *

(c) *Bond, generally.* On approval of the application to bond a warehouse of class 2, 3, 4, 5, or 8, a bond shall be executed in the form prescribed by T.D. – .

(d) *Bond for proprietor's manufacturing warehouse, class 6, and bonded smelting and refining warehouse, class 7.*

On approval of the application to bond a proprietor's manufacturing warehouse, class 6, a bond shall be executed in the form prescribed by T.D. – . In the case of a bonded smelting and refining warehouse, class 7, the bond shall be executed with the required number of copies and in the form prescribed by T.D. – .

* * * * *

(f) As a condition of approval of the application, the district director may order an inquiry by a Customs officer into the qualifications, character, and experience of the applicant, and into the security, suitability, and fitness of the facility.

(g) The district director shall promptly notify the applicant in writing of his decision to approve or deny the application to bond the warehouse. If the application is denied the notification shall state the grounds for denial which need not be limited to those set forth in § 19.3(e). The applicant may seek review of the decision to deny under the provisions of § 19.3(f) of this chapter within 10 days after notification.

3. It is proposed to amend § 19.3 by revising it to read as follows:

19.3 Bonded warehouses; alterations; suspensions; discontinuance.

(a) *Alterations.* Alterations to a warehouse may be made with the permission of the district director of the district in which the facility is located.

(b) *Suspensions.* The use of all or part of a bonded warehouse or bonded floor space may be temporarily suspended by the district director for a period not to exceed one year on written application of the proprietor if there are no bonded goods in the area. Upon written application of the proprietor and upon the removal of all nonbonded goods, if any, the premises may again be used for the storage of bonded goods. If the application is approved, the district director shall indicate the approval by endorsement on the application. Rebonding will not be necessary.

(c) *Discontinuance.* If a proprietor wishes to discontinue the bonded status of the warehouse, he shall make written application to the district director. The district director shall not approve the application until all goods in the warehouse are transferred to another bonded warehouse without expense to the Government. To reestablish the bonded warehouse, application shall be made and approved under the provision of § 19.2 of this chapter.

(d) *Employee lists.* The district director may make a written demand upon the proprietor to submit, within 30 days after the date of demand, a written list of the names, addresses, social security numbers, and dates and places of birth of all persons employed by the proprietor in the carriage, receiving, storage, or delivery of any bonded merchandise. If a list has been previously furnished the proprietor shall advise the district director in writing of the names, addresses, social security numbers, and dates and places of birth of any new personnel employed by him in the carriage, receiving, storage, or delivery of bonded merchandise within 10 days after such employment. For the purpose of this part a person shall not be deemed to be employed by a warehouse proprietor if he is an officer or employee of an independent contractor engaged by the warehouse proprietor to load, unload, transport, or otherwise handle bonded merchandise.

(e) *Revocation or suspension for cause.* The district director may revoke or suspend for cause the right of a proprietor to continue the bonded status of the warehouse for any ground specified in this paragraph. An action to suspend or revoke the right to operate a bonded warehouse shall be taken in accordance with the procedures set forth in paragraph (f) of this section. If the bonded status is revoked or suspended for cause, the district director shall require all goods in the warehouse to be transferred to a bonded warehouse without expense to the Government. The bonded status of a warehouse may be revoked or suspended for cause if:

(1) The approval of the application to bond the warehouse was obtained through fraud of the misstatement of a material fact;

(2) The warehouse proprietor refuses or neglects to obey any proper order of a Customs officer or any Customs order, rule, or regulation relative to the operation or administration of a bonded warehouse;

(3) The warehouse proprietor or an officer of a corporation which has been granted the right to operate a bonded warehouse is convicted of or has committed acts which would constitute a felony, or a misdemeanor involving theft, smuggling, or a theft-connected crime;

(4) The warehouse proprietor does not provide secured facilities or properly safeguard merchandise within the bonded warehouse;

(5) The warehouse proprietor fails to furnish a current list of names, addresses, and other information required by § 19.3(d);

(6) The bond required by § 19.2(c) or (d) of this chapter is determined to be insufficient in amount or lacking sufficient sureties, and a satisfactory new bond with goods and sufficient sureties is not furnished within a reasonable time; or

(7) Bonded merchandise has not been stored in the warehouse for a period of 2 years.

(f) *Procedure for revocation or suspension for cause.* The district director may at any time serve notice in writing upon any proprietor of a bonded warehouse to show cause why his right to continue the bonded status of his warehouse should not be revoked or suspended for cause.

Such notice shall advise the proprietor of the grounds for the proposed action and shall afford the proprietor an opportunity to respond in writing within 30 days. Thereafter, the district director shall consider the allegations and responses made by the proprietor unless the proprietor in his response requests a hearing. If a hearing is requested, it shall be held before a hearing officer designated by the Commissioner of Customs or his designee within 30 days following the proprietor's request. The proprietor may be represented by counsel at such hearing, and all evidence and testimony of witnesses in such proceedings, including substantiation of the allegations and the responses thereto shall be presented, with the right of cross-examination to both parties. A stenographic record of any such proceeding shall be made and a copy thereof shall be delivered to the proprietor of the warehouse. At the conclusion of the hearing, the hearing officer shall promptly transmit all papers and the stenographic record of the hearing to the Regional Commissioner together with his recommendation for final action. The proprietor may submit in writing additional views or arguments to the Regional Commissioner following a hearing on the basis of the stenographic record, within 10 days after delivery to him of a copy of such record. The Regional Commissioner shall thereafter render his decision in writing, stating his reasons therefor. Such decision shall be served on the proprietor of the warehouse, and shall be considered the final administrative action.

4. It is proposed to amend § 19.4 by revising it to read as follows:

§ 19.4 Customs supervision.

The character and extent of Customs supervision to be exercised in connection with any warehouse facility or transaction provided for in this part shall be in accordance with § 161.1 of this chapter. Independent of any need to appraise or classify merchandise, the district director may authorize a Customs officer to supervise any transaction or procedure at the bonded warehouse facility. Such supervision may be performed through periodic audits of the warehouse proprietor's records, quantity counts of goods in warehouse inventories, spot checks of selected warehouse transactions or procedures or reviews of conditions of recordkeeping, security, or storage in a warehouse facility. The warehouse proprietor shall permit access to the warehouse by any Customs officer.

5. It is proposed to amend § 19.5 by revising it to read as follows:

§ 19.5 Fees.

Each warehouse proprietor will be charged a fee to establish, alter, or relocate a warehouse facility and an annual fee thereafter which shall be determined under the provisions of 19 U.S.C. 1555 and 31 U.C.S. 483a. The fees will be revised annually and published in the **Federal Register.**

6. It is proposed to amend § 19.6 by revising it to read as follows:

§ 19.6 Deposits, withdrawals, partial releases and sealing requirements.

(a) *Deposit in warehouse.* The district director may authorize the deposit of merchandise in designated bonded warehouses, without physical supervision by a Customs officer. Goods for which a warehouse or rewarehouse entry has been accepted, according to the procedures in Part 144, Subpart B, of this chapter, shall be examined or inspected at the place of unlading, bonded warehouse, or other location as ordered by the district director. When merchandise is deposited in a proprietor's warehouse the proprietor will be held liable under his bond for the quantity and condition of merchandise reflected on entry documentation adjusted by (1) any discrepancy noted under Part 158, Subparts A and B, of this chapter, and (2) any discrepancy report made jointly on the warehouse entry

permit copy (Customs Form 7502–A), i.e., an agreement reached by the warehouse proprietor and the bonded carrier or licensed cartman or lighterman delivering the goods to the warehouse, or an independent weigher, gauger, measurer, and signed by an authorized representative of the above. A copy of any joint report of discrepancy shall be promptly provided to the district director.

(b) *Withdrawal and removal from warehouse.* The district director may authorize the withdrawal and removal of merchandise, without physical supervison or examination by a Customs officer under permit issued under the procedure set forth in § 144.39 of this chapter. When a withdrawal or removal is not physically supervised by a Customs officer, the warehouse proprietor will be relieved of liability under its bond only for the merchandise in its warehouse in the condition and quantity as shown on the application for withdrawal or removal, adjusted by any discrepancy report made jointly by the warehouse proprietor, and the licensed cartman or lighterman, bonded carrier, weigher, gauger, or measurer and signed by the authorized representative of the above. The adjustments will be noted on the permit copy. A copy of any joint report of discrepancy shall be promptly provided to the district director.

(c) *Agreement on quantity and condition required.* When the warehouse proprietor and the bonded carrier, cartman or lighterman, or weigher, gauger, or measurer cannot make a joint determination under subparagraph (a) or (b) of this section, the merchandise may not be removed until they have come to agreement on the quantity and condition of the shipment.

(d) *Partial releases.*—(1) *Generally.* Goods in Customs custody may be withdrawn without payment of duty when permitted by law, by blanket withdrawal and thereafter removed from the warehouse in partial releases by the warehouse proprietor. When a withdrawer desires to use the partial release procedure for all or part of the merchandise covered by a warehouse entry, he shall submit to the district director a blanket withdrawal on the appropriate withdrawal form. The form shall bear the words "BLANKET WITHDRAWAL" in capital letters conspicuously printed or stamped in the top margin. The summary statement described in § 144.32 of this chapter shall not be included. Merchandise for which a duty-paid withdrawal is required is not eligible for the partial release procedure under this section, except as provided in § 10.62(e) of this chapter.

(2) *Form Distribution.* The blanket withdrawal shall be executed in triplicate, or in quadruplicate if an additional copy is required for control purposes in local administration. Upon approval of the blanket withdrawal by the district director, the original shall be returned to the withdrawer for forwarding to the warehouse proprietor to serve as a permit to withdraw the merchandise covered therein upon the filing of requests for partial release under subparagraph (e) of this section. The original shall be retained in the warehouse proprietor's records, as provided in § 19.12(a)(2). One copy shall be returned to the withdrawer for use in preparing requests for partial release. One copy (statistical) shall be forwarded to the Bureau of the Census, where applicable. Merchandise for which a blanket withdrawal has been approved may thereafter be released by the warehouse proprietor in the individual partial releases, but the goods are still in Customs custody while physically located in the warehouse.

(3) *Numbering of forms, discrepancy report.* Each partial release shall be documented by the withdrawer through presentation of a copy of the blanket withdrawal document to the warehouse proprietor, or by placing a copy in the proprietor's entry file. Each such release shall be consecutively numbered, and the number shall appear immediately after the serial number of the blanket withdrawal. Each copy shall bear the summary statement described in § 144.32 of this chapter. Any joint discrepancy report of the proprietor and the bonded carrier, licensed cartman or lighterman, or weigher, gauger, or measurer for a partial release shall be made on the copy. A copy of any joint report of discrepancy shall be promptly provided to the district director. A copy of the partial release document shall be retained in the records of the warehouse proprietor, as provided in §19.12(a)(2). The warehouse proprietor shall account for all goods covered by a blanket withdrawal through individual partial release documents before the entry folder is transmitted to Customs under § 19.12(a)(4).

(4) *Quantity of release.* Partial releases may not be removed in a quantity of less than an entire package or, if in bulk, less than one ton in weight.

(e) *Affixing or breaking of seals.* The district director may authorize a warehouse proprietor to: (1) break Customs in bond seals affixed under § 18.4 of this chapter, or under any Customs order or directive, on any vehicle or container of goods entered for warehouse upon arrival of the vehicle or container at the warehouse; or (2) affix Customs in bond seals to any vehicle or container of goods for which a withdrawal document has been approval for movement in bond. The affixing or breaking of seals so authorized, shall be deemed to have been done under Customs supervision. The proprietor shall report to the district director any seal found, upon arrival of the vehicle or container at the warehouse, to be broken, missing, or improperly affixed, and hold the vehicle or container and its contents intact pending instructions from the district director.

§ 19.8 [Amended]

7. It is proposed to amend § 19.8 by removing the words "and under the supervision of the Custom warehouse office" from the first sentence.

8. It is proposed to amend Part 19 by adding a new § 19.9 to read as follows:

§ 19.9 General order, abandoned, and seized merchandise.

(a) *Acceptance of merchandise.* A proprietor of a general order warehouse shall accept general order, abandoned, or seized goods and articles into the warehouse only upon order of the district director on customs Form 6043 (Delivery Ticket), as presented by the cartman or lighterman. A joint determination shall be made by the warehouse proprietor and the cartman or lighterman of the quantity and condition of the goods or articles so delivered to the warehouse. Any discrepancy between the quantity and condition of the goods and that reported on Customs Form 6043 shall be reported to the district director.

(b) *Recording and storing.* General order, abandoned, and seized goods and articles shall be recorded and stored in the warehouse as prescribed by § 19.12.

(c) *Release of merchandise.* Merchandise in general order may be released by the warehouse proprietor, after Customs inspection or examination as ordered by the district director, to the consignee or person named in a release order. The release shall be made under the provisions of § 141.11 of this chapter. General order goods which have been unclaimed under § 127.11 of this chapter, voluntarily abandoned, or seized and forfeited may be released for transfer to the place of sale upon presentation to the warehouse proprietor of an approved copy of customs Form 5251 (Order to Transfer Merchandise for Public Auction (Sale)), and an approved copy of Customs Form 6043 (Delivery Ticket). The quantity and condition of the goods so transferred shall be determined jointly by the proprietor and the cartmen or lighterman picking up the goods for delivery to the place of sale. Any discrepancies shall be noted on the delivery ticket, a copy of which shall be sent to the district director. Seized goods that are released for a purpose other than sale may be released from warehouse only upon such written terms and conditions as directed by the district director on Customs Form 6043.

§ 19.10 [Amended]

9. It is proposed to amend § 19.10 by substituting "warehouse proprietor" for "warehouseman".

10. It is proposed to amend paragraph (d) of § 19.11 by adding the following between the second and third sentences:

§ 19.11 Manipulation in bonded warehouses and elsewhere.

* * * * * *

(d) * * * The district director may approve a blanket application to manipulate on Customs Form 3499, for a period of up to one year, for a continuous or a repetitive manipulation. The warehouse proprietor must maintain a running record of manipulations performed under a blanket application, indicating the quantities before and after each manipulation. The record must show what took place at each manipulation describing marks and numbers of packages, location within the facility, quantities, and description of goods before and after manipulation. The district director is authorized to revoke a blanket approval to manipulate and require the proprietor to file individual applications if necessary to protect the revenue, administer any law or regulation, or both. * * *

11. It is proposed to amend § 19.12 by revising it to read as follows:

§ 19.12 Warehouse recordkeeping, storage and security requirements.

(a) *Recordkeeping.* The warehouse proprietor shall comply with the following recordkeeping requirements:

(1) *Record transactions.* All merchandise entered, manipulated, manufactured or removed from the bonded warehouse shall be recorded in the warehouse proprietor's accounting and inventory records by bond lot number. The records to be maintained are those which a prudent businessman in the same type of business can be expected to maintain. The records are to be kept in sufficient detail to permit effective and efficient determination by Customs of the proprietor's compliance with these regulations and the correctness of his annual submission;

(2) *Maintain entry folders.* Entry folders shall be maintained and kept up to date by filing all receipts, damage or shortage reports, manipulation requests, specific removals and blanket removals and the partial release/permit copy for each removal within two business days after the event occurs;

(3) *Extraordinary shortage or damage.* Extraordinary (1% or more of the value of merchandise in an entry) shortage or damage shall be immediately brought to the attention of the district director;

(4) *Review of entry folder.* When the final withdrawal of merchandise relating to a specific general order or seizure occurs, the warehouse proprietor shall (i) review the entry folder to insure that all necessary documentation is in the folder accounting for the merchandise covered by the entry and (ii) file the entry folder with Customs within two business days after final withdrawal.

(5) *Warehouse proprietor submission.* Except as provided in § 19.19(b), relating to the manufacturer engaged in smelting or refining, or both, the warehouse proprietor shall file with the Regional Director, Regulatory Audit, within 45 days from the end of his business year, a Warehouse Proprietor's Submission in the form prescribed by T.D.————.

(6) *Merchandise not withdrawn.* The entry folder for merchandise not withdrawn during the general order period shall be submitted to the district director upon receipt from Customs of the Customs Form 6043.

(b) *Security and storage.* The warehouse proprietor shall comply with the following security and storage requirements:

(1) *Supervision by warehouse proprietor.* The warehouse proprietor shall supervise all receipts, deliveries, sampling, recordkeeping, repacking, or manipulating of merchandise in a bonded warehouse;

(2) *Inspection and security of entry folders.* The entry folders maintained by the warehouse proprietor shall be kept in a secure area and shall be made available for inspection by Customs at any time;

(3) *Security of warehouse.* The warehouse proprietor shall maintain its warehouse facility and establish procedures adequate to insure the security of merchandise located in the bonded area. This shall be accomplished by meeting the standards and recommended specifications contained in T.D. 72–56 to the extent those standards and recommendations do not conflict with any local, state or Federal standard for the safe and sanitary storage of merchandise. In the event of a conflict any local, state, or Federal standard shall control;

(4) *Bonded tanks.* All inlets and outlets to bonded tanks shall be secured with locks or in-bond seals.

(5) *Safe and sanitary storage.* Merchandise in the bonded area shall be stored in a safe and sanitary manner to minimize damage to the merchandise, avoid hazards to persons, and meet local, state and Federal requirements applicable to specific kinds of goods. All trash and waste shall be promptly removed from the bonded area. No fires shall be permitted in the warehouse except where necessary in connection with manipulating or processing in warehouses of the class 6, 7, or 8 type. Aisles shall be established and maintained, and doors and entrances left unblocked for access by Customs officers and warehouse proprietor personnel.

(6) *Manner of storage.* Packages shall be received in the warehouse according to their marks and numbers. Packages containing weighable or gaugable merchandise not bearing shipping marks and numbers shall be received under the weighers or gaugers numbers. Packages with exceptions due to damage or loss of contents, or not identical as to quantity or quality of contents shall be stored separately. The warehouse proprietor shall mark all shipments for identification, showing the general order or warehouse entry number or seizure number and the date of the general order, entry, or delivery ticket in the case of seizures. All containers covered by a given warehouse entry, general order or seizure shall be stored in the same location and not mixed with goods covered by any other entry, general order or seizure unless approval has been given in writing by the district director for an exception from this requirement. The proprietor must provide, upon request by a Customs officer, a record balance of goods covered by any warehouse entry, general order, or seizure so a physical count can be made to verify the accuracy of the record balance.

12. It is proposed to amend paragraph (a) of § 19.13 by substituting "the district director" for "Headquarters, U.S. Customs Service".

13. It is proposed to amend paragraph (d) of § 19.13 by removing the words "in duplicate", and by substituting a period for the comma after the words "district director" and removing the remainder of the sentence.

14. It is proposed to amend paragraph (g) of § 19.13 to read as follows:

§ 19.13 Requirements for establishment of warehouse.

* * * * *

(g) *Secure storage.* Each bonded manufacturing warehouse shall have a secured area separated from the remainder of the premises to be used exclusively for the storage of imported merchandise, domestic spirits, and merchandise subject to internal-revenue tax transferred into warehouse for manufacture. A like area shall be provided to be used exclusively for the storage of products manufactured in the warehouse. The area shall be secured to prevent any unauthorized person from having access thereto and the goods therein shall be arranged in a manner to assist a Customs officer in making the required examination or taking samples for analysis.

15. It is proposed to amend paragraphs (b), (c), and (d) of § 19.14 to read as follows:

§ 19.14 Materials for use in manufacturing warehouse.

* * * * *

(b) *Bond required.* Before the transfer of the merchandise to the manufacturing warehouse is permitted, a bond on Customs Form 7571 in an amount equal to double the estimated duties shall be required unless a bond in the form prescribed by T.D. – has been given.

(c) *Domestic merchandise.* When the proprietor of any bonded manufacturing warehouse desires to receive therein any domestic merchandise, except merchandise subject to internal-revenue tax, to be used in connection with the manufacturer of articles permitted to be manufactured in such warehouse, including packages, coverings, vessels, and labels used in putting up in such articles, an application in the following form shall be sent to the district director for approval and after approval retained by the warehouse proprietor:

Application To Receive Free Materials

Port of _____
_____, 19——.

To the District Director:

Application is hereby made to receive into the bonded manufacturing warehouse known as _____, situated at _____ the following described articles and materials:

Marks	Nos.	Description	Quantity	Value

(Signature) _____
Port _____
_____, 19——.

To the warehouse proprietor in charge of the bonded manufacturing warehouse specified above:

The above described articles and materials are hereby permitted to be received into the warehouse in your charge, to be used therein in connection with the manufacture of articles as authorized by law.

District Director _____

(d) *Domestic spirits and wines.* For the transfer of domestic spirits from the bonded premises of a distilled spirits plant to a bonded manufacturing warehouse, or for the transfer of domestic wines from a bonded wine cellar to a bonded manufacturing warehouse, a bond on Customs Form 7571 shall be required unless the warehouse is covered by a bond in the form prescribed by T.D. – .

* * * * *

§ 19.15 [Amended]

16. It is proposed to amend paragraph (a) of § 19.15 by substituting the word "Customs" for "a Customs officer" in the last sentence.

17. It is proposed to amend paragraph (j) of § 19.15 by substituting the words "certified by the warehouse proprietor" for "verified by the Customs warehouse officer in charge of the warehouse" in the first sentence.

18. It is proposed to amend the first and last sentences of paragraph (a), paragraphs (b) and (c), the last sentence of paragraph (g)(1), and the "Application and Permit for Transfer of Scraps, Cuttings, and Clippings" in paragraph (h) of § 19.16 to read as follows:

§ 19.16 Cigar-manufacturing warehouses.

(a) *Manufacture of cigars under section 311, Tariff Act of 1930, as amended.* Tobacco to be used in the manufacture of cigars in bond under the provisions of section 311, Tariff Act of 1930, as amended, shall be entered for warehouse but may be transferred directly from the importing vessel or from a bonded warehouse of class 2 or 3 into a bonded manufacturing warehouse of class 6 and stored in separate compartments therein under the warehouse proprietor's locks pending its withdrawal for use in the manufacture of cigars. * * * The cigars so returned shall be verified by the warehouse proprietor against the schedule which shall be certified by him as to the cigars returned, and the original and one copy returned to the taxpayer who returned the cigars.

(b) *Entry of Cigars.* Upon the removal of cigars from the warehouse the proprietor shall make appropriate entry in his records of the quantity and class of the cigars.

(c) *Record.* A record of all tobacco received in a bonded manufacturing warehouse and delivered from storage compartments to the manufacturing department shall be kept by the warehouse proprietor.

* * * * *

(g) * * *

(1) * * * The taxes covered by the return shall be secured by the Proprietor's Manufacturing Warehouse Bond in the form prescribed by T.D. – .

* * * * *

(h) * * *

Application and Permit for Transfer of Scraps, Cuttings, and Clippings

Port of _____
_____, 19——.

The District Director:

Sir: Application is hereby made to transfer ——— pounds of scraps, cuttings, and clippings of tobacco upon which duty has been paid from our bonded manufacturing warehouse, class 6, to ———, factory No. ———, district ———, state of ———.

_____
Proprietor of Bonded Manufacturing Warehouse, Class 6

Port of _____
_____, 19——.

The above application is hereby granted.

_____
District Director

Port of _____
_____, 19——.

I hereby certify that ——— pounds of scraps, cuttings, and clippings of tobacco, upon which duty has been paid have been delivered from the bonded manufacturing warehouse, class 6, of ——— for transfer to ———.

_____
Warehouse Proprietor

19. It is proposed to amend paragraphs (a), (c), (e) and the first sentence of paragraph (g) of § 19.17 to read as follows:

§ 19.17 Application to establish warehouse; bond.

(a) *Application.* Application for the bonding of a plant of a manufacturer engaged in the smelting or refining, or both, of metal-bearing materials as provided for in section 312, Tariff Act of 1930, as amended,[23] to reduce the metal content thereof to an unwrought metal, or metal in the form of oxides or other compounds which are obtained directly from the treatment of the dutiable materials provided for in Schedule 6, Part 1 or 2, Tariff Schedules of the United States (19 U.S.C. 1202), shall be made by the manufacturer, to the district director of the district in which such plant is situated, giving the location of the premises and setting forth the work proposed to be carried on therein, accompanied by the fee to establish a warehouse as prescribed by section 19.5.

* * * * *

(c) *Discontinuance.* At the request of the proprietor the bonded status of the warehouse may be discontinued at any time provided the district director approves such discontinuance and the proprietor complies with directions of the district director with respect to the disposition of merchandise which may remain in the warehouse.

* * * * *

(e) *Bond.* Upon the arrival of imported metal-bearing material in any form for the purpose of being smelted or refined, or both, in bond at a port where a bonded smelting or refining warehouse is established, it shall be entered for warehouse. A bond on Customs Form 7555 shall be filed with each warehouse entry unless a blanket smelting and refining bond in the form prescribed by T.D.———has been filed. The district director shall thereafter issue a permit to the inspector to send such metal bearing materials from the importing vessel or vehicle by designated bonded vessels or vehicles to the smelting and refining warehouse named in the entry.

* * * * *

(g) *Statement of inventory and bond charges.* Where two or more smelting and refining warehouses are included under one blanket smelting and refining bond, an overall statement shall be filed by the principal named in the bond with each district director involved by the 28th of each month, showing the inventory as of the close of the preceding month, of all metals on hand at each plant covered by the blanket bond and the total of bonded charges for all plants * * *.

20. It is proposed to modify the third sentence of paragraph (a) and the first sentence of paragraph (b) of § 19.19 to read as follows:

§ 19.19 Manufacturer's records; annual statement.

(a) * * * If losses are to be claimed under paragraph (c) of said headnote, a record shall be kept which will become a part of the annual statement described in paragraph (b) of this section * * *

(b) Every manufacturer engaged in smelting or refining, or both, shall file with the district director of Customs for the district in which the plant is located an annual statement for the fiscal year, in lieu of the warehouse proprietors submission required by § 19.12, for the plant involved not later than 60 days after the termination of that fiscal year * * *

* * * * *

§ 19.4 [Amended]

21. It is proposed to modify § 19.21(b) by adding "§ 19.4 and" before the words "the commercial practice".

22. It is proposed to revise § 19.29 to read as follows:

§ 19.29 Sealing of bins or other bonded space.

The outlets to all bins or other space bonded for the storage of imported wheat shall be sealed by affixing locks or in bond seals to the rope or chain which controls the gear mechanism for opening the outlets, or such other method which will effectively prevent the removal of, or access to the wheat in the bonded space except under such supervision as required by §§ 19.4 and 161.1 of this chapter.

§ 19.34 [Amended]

23. It is proposed to amend the third sentence of § 19.34 by substituting "appropriate Customs officer" for "supervising Customs agent".

* * * * *

PART 22—DRAWBACK

It is proposed to amend paragraph (d) of § 22.28 to read as follows:

§ 22.28 Continuous custody.

* * * * *

(d) *Merchandise entered for warehouse.* For purpose of this part, in the case of merchandise entered for warehouse, Customs custody shall be deemed to cease when duty has been paid and the district director has authorized the withdrawal of the merchandise.

* * * * *

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

§ 24.12 [Amended]

1. It is proposed to remove paragraph (a) from § 24.12 and mark the paragraph "Reserved".

2. It is proposed to amend the first and fourth sentences of paragraph (c) and the first sentence of paragraph (f) of § 24.13 by revising them to read as follows:

§ 24.13 Car, compartment, and package seals; kind, procurement.

* * * * *

(c) *Purchase of seals.* Bonded carriers of merchandise, commercial associations representing the foregoing or comparable organizations approved by the district director under paragraph (f) of this section, and bonded warehouse proprietors may purchase quantity supplies of in-bond and in-transit seals from manufacturers approved under the provisions of § 24.13a. * * * Carriers and bonded warehouse proprietors may purchase small emergency supplies of in-bond and in-transit seals from district directors, who will keep a supply of such seals for this purpose. * * *

(f) *District director approval required.* In-bond seals may be purchased only by a Customs bonded warehouse proprietor, a customs bonded carrier, a nonbonded carrier permitted to transport articles in accordance with section 553, Tariff Act of 1930, as amended (19 U.S.C. 1553) or in the case of red in-bond and high security red in-bond seals, the carrier's commercial association or comparable representative approved by the district director. * * *

3. It is proposed to amend paragraph (d) of § 24.17 by revising it to read as follows:

§ 24.17 Other services of officers; reimbursable.

* * * * *

(d) *Computation charge for reimbursable services.* The charge to be made for the services of a Customs officer on a regular workday during his basic 40-hour workweek shall be computed at a rate per hour equal to 137 percent of the hourly rate of regular pay of the particular employee with an addition equal to any night pay differential actually payable under 5 U.S.C. 5545. The rate per hour equal to 137 percent of the hourly rate of regular pay is computed as follows:

	Hours	Hours
Gross number of working hours in 52 40-hour weeks		2,080
Less:		
9 Legal public holidays—New Years Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day	72	
Annual Leave—26 days	208	
Sick Leave—13 days	104	384
Net number of working hours		1,696
Gross number of working hours in 52 40-hour weeks		2,080
Working hour equivalent of Government contributions for employee uniform allowance, retirement, life insurance and health benefits computed at 11½ percent of annual rate of pay of employee		239
Equivalent annual working hour charge to Customs appropriation		2,319

Ratio of annual number of working hours charged to Customs appropriation to net number of annual working hours 2,319/1,696=137 percent.

(1) The charge to be made for the reimbursable services of a Customs officer to perform on a holiday or

outside the established basic workweek shall be the amount actually payable to the employee for such services under the Federal Employees Pay Act of 1945, as amended (5 U.S.C. 5542(a), 5546), or the Customs overtime laws (19 U.S.C. 267, 1451), or both, as the case may be. When services of a customs employee temporarily assigned to act as a Customs officer are performed by an intermittent when-actually-employed employee, the charge for such services shall be computed at a rate per hour equal to 108 percent of the hourly rate of the regular pay of such employee to provide for reimbursement of the Government's contribution under the Federal Insurance Contributions Act, as amended (25 U.S.C. 3101, *et seq.*) and employee uniform allowance. The time charged shall include any time within the regular working hours of the employee required for travel between the duty assignment and the place where the employee is regularly employed excluding lunch periods, charged in multiples of 1 hour, any fractional part of an hour to be charged as 1 hour when the services are performed during the regularly scheduled tour of duty of the officer or between the hours of 8 a.m. and 5 p.m. on weekdays when the officer has no regularly scheduled tour of duty. In no case shall the charge be less than $1.

(2) The necessary transportation expenses and any authorized per diem expenses of a Customs employee assigned to perform reimbursable services at a location at which he is not regularly assigned shall be reimbursed by the responsible party.

(3) When a Customs officer is regularly assigned to duty at more than one location, the charge for his compensation and transportation expenses in going from one location to another shall be equitably apportioned among the parties concerned. However, no charge shall be made for transportation expenses when a Customs employee is reporting to as a first assignment, or leaving from as a last assignment, a place where he is regularly assigned to duty.

(4) Upon a failure to pay such charges when due, or to comply with the applicable laws and regulations, the district director shall report the facts to the Regional Commissioner who shall take appropriate action to collect the charges.

* * * * *

PART 113—CUSTOMS BONDS

§ 113.13 [Amended]

1. It is proposed to amend § 113.13 by removing paragraph (a) and marking it "Reserved" and by substituting *"Public gauger bond."* for the paragraph heading in paragraph (b).

2. It is proposed to amend paragraph (a) of § 113.14 by revising it and by adding new paragraphs (hh) and (ii) to § 113.14 to read as follows:

§ 113.14 Bonds approved by the district director.

* * *

(a) *Proprietor's Warehouse Bond.* Proprietor's Warehouse Bond, in the form set forth in T.D. – in the amount of $5,000 on each building or area covered, but not to exceed $50,000 on all buildings or areas, unless the district director believes additional security is necessary. Buildings connected by loading platforms or sheds shall be considered as separate buildings. All reports, documents, and drawings submitted in connection with the bonding of the warehouse shall be filed with the bond.

* * * * *

(hh) *Proprietors manufacturing warehouse bond, class 6.* Proprietors manufacturing warehouse bond, class 6, in the form prescribed by T.D. – in such amounts as the district director deems necessary, but not less than $5,000 on each building or area and not more than $50,000 on all buildings or areas.

Buildings connected by loading platforms or sheds shall be considered as separate buildings.

(ii) *Blanket smelting and refining bond.* Blanket smelting and refining bond in the form prescribed by T.D. – in such amount as the district director deems necessary.

Sufficient copies of the bond shall be submitted to enable the district director to transmit one to each port at which the principal seeks to conduct business.

§ 113.27 [Reserved]

3. It is proposed to remove § 113.27 and mark the section "Reserved".

§ 113.39 [Amended]

4. It is proposed to revise § 113.39(b) and the "Power of Attorney and Agreement" which appears after the colon in § 113.39(b) by substituting a reference to "Treasury Department Circular No. 154, Revised, dated July 1, 1978" for the reference to "Treasury Department Circular 154 dated October 31, 1969, as amended" in § 113.39(b) and the reference to "Treasury Circular No. 154, dated October 31, 1969, as amended" in the "Power of Attorney and Agreement".

* * * * *

PART 125—CARTAGE AND LIGHTERAGE OF MERCHANDISE

1. It is proposed to remove paragraph (d) of § 125.31 and mark the paragraph "Reserved".

2. It is proposed to further amend § 125.31 by adding a new paragraph (g) to read as follows:

§ 125.31 Documents used.

* * * * *

(g) Customs Form 7519—Combined Rewarehouse Entry and Withdrawal for Consumption and Permit.

3. It is proposed to amend paragraph (b) of § 125.33 to read as follows:

§ 125.33 Procedure on receiving merchandise.

* * * * *

(b) *From bonded warehouse.* In case of withdrawals from bonded warehouse, the merchandise shall be released only to the proprietor of the warehouse, who shall acknowledge such release on the appropriate withdrawal or removal document.

* * * * *

PART 132—QUOTAS

It is proposed to amend § 132.15 by revising it to read as follows:

§ 132.15 Withdrawal from warehouse prior to opening of quota.

Merchandise subject to a tariff rate quota entered for warehouse for which a withdrawal for consumption has been made in the manner prescribed in § 141.68(d) of this chapter prior to the opening of the quota period, may not be accorded any quota benefit which may become effective after the time of presentation of such withdrawal, even though the merchandise was not physically removed from the warehouse until after the start of the tariff rate period. For the purposes of applying tariff rate quotas, the date that the warehouse withdrawal is presented shall be treated as the date the merchandise is withdrawn for consumption.

* * * * *

PART 142—ENTRY PROCESS

§ 142.5 [Amended]

It is proposed to revise Bond Rider "R" which is set forth in § 142.5 by removing the comma from between the words "default" and "plus" in the third paragraph of the rider.

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

§ 144.1 [Amended]

1. It is proposed to remove paragraph (b) of § 144.1 and mark the paragraph "Reserved".

2. It is proposed to amend § 144.22 by revising it to read as follows:

§ 144.22 Endorsement of transfer on withdrawal form.

Transfer of the right to withdraw merchandise entered for warehouse shall be established by an appropriate endorsement on the withdrawal form by the person primarily liable for payment of duties before the transfer is completed, i.e., the person who made the warehouse or rewarehouse entry or a transferee of the withdrawal right of such person. Endorsement shall be made on whichever of the following withdrawal forms is applicable:

(a) Customs Form 7506 for merchandise to be withdrawn as vessel or aircraft supplies and equipment under § 10.60(b) of this chapter, or other conditionally free merchandise;

(b) Customs Form 7512 for merchandise to be withdrawn for transportation, exportation, or transportation and exportation;

(c) Customs Form 7519 for merchandise for which a combined entry for rewarehouse and withdrawal for consumption is filed; or

(d) Customs Form 7505 for (i) a duty paid warehouse withdrawal for consumption or (ii) withdrawal with no duty payment (diplomatic use).

3. It is proposed to add a new paragraph (c) to § 144.32 and revise the section heading to read as follows:

§ 144.32 Statement of quantity; charges and liens.

* * * * *

(c) *Charges and liens.* Upon receipt for an application to withdraw merchandise the appropriate Customs officer shall terminate whether there are any cartage, storage, labor, or any other charges due the Government in connection with the goods remaining unpaid or whether there is on file any notice of lien filed by a carrier. If there are no charges or liens or all charges and liens have been satisfied, and all other requirements of law or regulations have been met, the proprietors application to withdraw shall be approved.

4. It is proposed to amend paragraph (a) of § 144.34 by adding a sentence at the end of the paragraph to read as follows:

§ 144.34 Transfer to another warehouse.

(a) *At the same port.* * * * The quantities of goods so transferred shall be subject to the joint determination of the warehouse proprietor and the cartman, lighterman, or private bonded carrier, as provided in § 19.6 of this chapter.

* * * * *

5. It is proposed to amend paragraph (e) of § 144.38 to read as follows:

§ 144.38 Withdrawal for consumption.

* * * * *

(e) *Permit for release of merchandise.* When the duties and other charges have been paid, a permit on Customs Form 7505–A shall be issued and delivered to the person making the warehouse withdrawal.

(6) It is proposed to amend Part 144 by adding a new § 144.39 to read as follows:

§ 144.39 Permit to transfer and withdraw merchandise.

If all legal and regulatory requirements are met the appropriate Customs officer shall approve the application to transfer or withdraw merchandise from a bonded warehouse by endorsing the permit copy and returning it to the applicant. The approved permit shall be presented by the withdrawer to the warehouse proprietor as evidence of Customs authorization of the transfer or withdrawal. The approved permit copy shall thereafter be retained in the warehouse entry file of the proprietor. Goods covered by permit may be retained in the bonded warehouse at the option of the proprietor.

7. It is proposed to amend paragraph (g) of § 144.41 by revising it to read as follows:

§ 144.41 Entry for rewarehouse.

* * * * *

(g) *Failure to enter.* If the rewarehouse entry is not file before the expiration of 5 days after its arrival or any authorized extension, it shall be sent to the general order warehouse but shall not be sold or otherwise disposed of as unclaimed until the expiration of the original warehouse entry bond period.

* * * * *

A. E. De Angelus,
Acting Commissioner of Customs.

Approved: February 27, 1982.

John P. Simpson,
Acting Assistant Secretary of the Treasury.

Appendix A.—Initial Regulatory Flexibility Analysis on Proposed Customs Regulations Amendments Relating to Bonded Warehouses

Introduction

The U.S. Customs Service is proposing to amend Parts 10, 18, 19, 24, 113, 125, 132, and 144 of the Customs Regulations, relating to the control of merchandise in Customs bonded warehouses. The proposed amendments, if implemented, would entail a major change in the method of control of merchandise in such warehouse. The principal change would be the elimination of Customs warehouse officer (CWO) positions and warehouse support positions, to be replaced by periodic audits and spot checks of warehouse inventories. Bonded warehouse proprietors would incur certain additional responsibilities in the proper management of their operations.

The proposed amendments could have a number of economic effects on Customs bonded warehouses as well as on the U.S. Treasury and the general public. The Regulatory Flexibility Act requires that a "regulatory flexibility" analysis be prepared on proposed regulations which will have, or are likely to have, a "significant economic impact on a substantial number of small entities." Since many Customs bonded warehouses can be considered to be "small entities," an initial regulatory flexibility analysis has been prepared on the proposed amendments. This analysis, which appears below, will be modified into a "final" regulatory flexibility analysis subsequent to the receipt of public comments which will follow the publication of the proposed amendments in the Federal Register.

Statment of the Problem and Rationale for Customs' Actions

The present bonded warehouse control system utilized by the Customs Service, which generally requires the physical presence of a Customs warehouse officer, has been deemed to be an outdated system which is excessively costly. Indeed, a 1974 report of the General Accounting Office stated that: "the U.S. Customs Service employs warehouse offices to maintain physical custody of goods in bonded warehouses. We reviewed the necessity of having warehouse officers in view of the inventory document controls maintained at the customhouse and the periodic physical inventories performed by Customs on goods in bonded warehouses. *The existing procedures for centrally controlling bonded goods at the customhouse, together with the bond protection of the Customs duties and the periodic physical inventory checks, are adequate for protecting Government revenues without having a warehouse officer present." (emphasis added)*

In order to help establish a viable alternative to the present Customs bonded

warehouse control system, the Customs Service carried out a successful pilot test at two selected bonded warehouses between October 1979 and April 1980; the test utilized a reporting system with post audit application, i.e. recordkeeping and other functions were carried out by warehouse proprietors without the presence of a CWO, but with follow-up audit by the Customs Service. This new control method was deemed to be both cost-efficient and mission-effective. Accordingly, the Customs Service initiated a study of alternative control methods to determine whether the present system should indeed be substantially modified. The outcome of the study was a decision by Customs management to pursue the complete modification of the present system into a system that uses post audit techniques rather than the physical presence of Customs warehouse officers. Accordingly, the Customs Service is currently proposing amendments to relevant sections of the Customs Regulations in order to implement the new system.

Objective and Legal Basis of the Proposed Rules

The objective of the proposed modification of the Customs bonded warehouse system is to improve the system's cost-effectiveness, thereby saving money for the U.S consumer and taxpayer, as well as for owners and proprietors of Customs bonded warehouses.

The regulatory project is initiated under the authority of R.S. 251, as amended , secs. 311, 312, 555, 556, 623, 624, 46 Stat. 691, as amended, 692, as amended, 743, as amended, 759, as amended (19 U.S.C. 66, 1311, 1312, 1555, 1556, 1623, 1624).

The Number and Type of Small Entities Affected

A Customs bonded warehouse is a building or other secured area in which dutiable goods may be stored, manipulated, or undergo manufacturing operations without payment of duty. On July 1, 1980, there were 1,414 bonded warehouses in the United States; owing to the perceived slow turnover in the number of bonded warehouses, the Customs Service assumes that the current number of such warehouses continues to be approximately 1,414. The warehouse are divided into eight "classes," according to the various kinds of storage, manipulation, manufacturing, and smelting that take place; the two principal classes of warehouses are (1) the 395 warehouses that are used exclusively for the storage of merchandise belonging or consigned to the proprietor thereof, and (2) the 307 public bonded warehouse used exclusively for the storage of imported merchandise.

In fiscal year 1980, $418.9 million in duties were collected from bonded warehouse withdrawals, representing six percent of total Customs duties collected. It is believed that most of the withdrawals take place in a relatively small number of warehouses.

The proposed amendments to the Customs Regulations affect all Customs bonded warehouses, regardless of size. It is believed that many, if not most, of them warehouses can be considered to be "small entities" under the Regulatory Flexibility Act.

Analysis of the Current Bonded Warehouse Control System, of the Proposed System, and of Alternative Systems Considered by the Customs Service

A number of alternatives are available to the Customs Service to assure the proper control of merchandise in Customs bonded warehouses. Major such alternatives are discussed below. The first alternative to be discussed is the *current* system, followed by a discussion of a possible step-by-step *modification* of the current system. The system which would be implemented by the *proposed amendments* is then discussed and analyzed, followed by a discussion of two other systems considered by the Customs Service. For each applicable alternative, efforts were made to analyze the economic effects on the following parties: proprietors of bonded warehouses; the U.S. Treasury (U.S. taxpayer); the importing community; and the general U.S. economy.

The Current System.—The Customs Service is required by law to supervise bonded warehouses. At present, Customs' supervision is generally carried out via Customs warehouses officers (CWOs) who are physically present at the warehouses. The CWOs supervise the entry or withdrawal of goods from the warehouse and oversee the manipulation, manufacture, or destruction of such goods. Warehouse proprietors are required by law to reimburse the Customs Service 137 percent of the salary and administrative costs of full-time CWOs and 108 percent of the salary and administrative costs of temporarily detailed officers.

In most warehouses, activity is sporadic and CWOs are called upon to perform their tasks on an as-needed basis. The Customs Service must not only provide CWOs and other officials to control the warehouses, but must allocate the time of various Customs personnel (clerks, aides, etc.) to maintain, file, and process the entry documentation at the customhouse.

The present system has undergone some modification in recent years. In 1977, authority was given to Customs' District Directors to not require on-site supervision of withdrawals in certain instances where non-reimbursable Customs inspectors were utilized. In 1979, this authority was extended to instances where full-time CWOs were present. By the end of fiscal year 1980, seven percent of all Servicewide warehouse withdrawals used such a modified system, in which the prior collection of duties and the existence of two bonds are deemed to provide sufficient protection against loss of revenue.

The annual direct cost of the present Customs warehouse system is $10 million, which is divided as follows:

(1) A $8.1 million cost to warehouse proprietors to reimburse Customs for the 390 full-time officers, including CWOs.

(2) A $1.2 million cost to warehouse proprietors to reimburse Customs for part-time officers assigned;

(3) A $1.1. million cost to warehouse proprietors to reimburse Customs for "1911" and "F.E.P.A." (provisions for the payment of overtime);

(4) A $1.6 million cost to the Customs Service to pay for 119 nonreimbursable Customs officers who are engaged in warehouse-related tasks.

It is believed by the Customs Service that the $10 million direct cost is far outweighed by the economic benefits to the U.S. economy of the bonded warehouse program. These benefits accrue to U.S. importers and possibly (via "pass-through" effects) to the U.S. consumer.

The economic effect of the current system on *warehouse proprietors* is believed to be somewhat adverse. Proprietors currently outlay approximately $8.4 million per year for the services provided by full-time CWOs and by other officers of the Customs Service, and indeed receive certain services. However, the Customs Service believes that the cost currently incurred by proprietors can be substantially diminished, and accordingly has proposed an alternative system.

The economic effect of the current system on the *U.S. Treasury*, i.e. the U.S. taxpayer, consists principally of the annual $1.6 million cost to the Customs Service of paying for nonreimbursable Customs officers engaged in warehouse-related tasks.

The economic effect of the current system on the importing community is generally positive. The importing community certainly benefits from the bonded warehouse program by the ability to defer or reduce duties; however, the importing community also has an indirect cost under the present system: the delays, lost sales, and other costs incurred when Customs is unable to provide prompt and around-the-clock supervision of warehouse transactions. With regard to the general U.S. economy, the bonded warehouse program is of significant benefit to the importing community and to U.S. industry; however, the Customs Service believes that equivalent benefits could be realized at a lower cost to the economy if the current bonded warehouse program is comprehensively changed.

A "Modified" Current System.—The current bonded warehouse control system discussed above could be modified in a step-by-step manner which could ultimately lead to the resolution of many of the problems deemed inherent in the current system. The steps that could be taken would be:

(1) An already-proposed modification which would amend the regulations to make modified supervision mandatory on warehouse proprietors whenever Customs deems it necessary;

(2) Modification of the supervision of entry of goods into warehouses;

(3) Allowing proprietors to perform inventory recordkeeping in lieu of recordkeeping by Customs officers (most proprietors perform this task anyway, thus duplicating what Customs does in the current system);

(4) To modify the supervision of transportation from one warehouse to another to do away with on-site supervision at the warehouse of origin;

(5) Modification of supervision of withdrawals for vessel/aircraft supply; and

(6) Modification of the supervision of withdrawals for exportation.

The above steps would build upon the present system, using call-in permits and physical inventories as an alternate means of supervision (until modification #5). Each step would require a bond change, and all would probably require the payment of liquidated damages of at least twice the duties and taxes on goods that are missing.

The costs involved in this "modified" approach are difficult to determine owing to the unknown scheduling period for the various steps (the modifications could take five years to be fully implemented). However, after the various modifications are all implemented, about 75 percent of the need and cost of Customs personnel at bonded warehouses will have been eliminated; this would be a significant savings for warehouse proprietors over the current system. Nevertheless, the Customs Service believes that proprietors, the importing community, the U.S. taxpayer, and the general economy would incur even *lower* costs and greater efficiency if the current system is modified not in stages but in one fell swoop which would eliminate the need for CWOs and inspector details; the proposed amendments which would implement such an immediate and comprehensive change are discussed and analyzed below.

The Proposed Amendments' System for Controlling Merchandise in Bonded Warehouses.—The proposed amendments would implement a new system of controlling merchandise in bonded warehouses. This new system, hereinafter referred to as the Regulatory Audit/Inspection approach, would entail a complete revision in the type and scope of Customs' supervision of bonded warehouse operations. Among the proposed changes are:

(1) The elimination of the need for reimbursable warehouse officer positions;

(2) The transfer to bonded warehouse proprietors of certain responsibilities for the proper management of warehouse operations; these responsibilities would include certain recordkeeping requirements, including the preparation of an annual Proprietor's Submission statement to the Customs Service, and the acceptance and agreement of descriptions and quantities of merchandise leaving the warehouse;

(3) Securing of additional bond coverage; and

(4) Imposition of fees to establish or relocate a warehouse facility and an annual fee thereafter.

Under the Proposed Regulatory Audit/Inspection Approach, proprietors would be responsible for all recordkeeping functions currently being performed by CWOs. However, except for the annual Proprietor's Submission which will be required, recordkeeping requirements are not expected to impose additional burdens upon proprietors since proprietors currently keep substantive records of transactions, and would merely continue to do so.

The annual direct cost of the proposed Regulatory Audit/Inspection system is estimated to be $3 million, i.e. significantly less than the cost of the current system. The estimated cost of the proposed system is based upon the following components:

(1) A $1.0 million cost to warehouse proprietors to reimburse the Customs Service for the regulatory audit/inspection services which will be provided;

(2) A $1.8 million cost to warehouse proprietors for the preparation of the required annual Proprietor's Submission,[1] (there may be additional costs of a complete inventory/reconciliation which will be taken when the proposed system is implemented and perhaps for the maintenance of entry (bond) jackets); and

(3) Increased costs of bonding coverage and certain fees for the establishment or relocation of warehouse facilities—these costs and fees are believed to be far less significant than the amounts specified in (1) and (2) above.

The economic effect of the proposed system on *warehouse proprietors* is believed by the Customs Service to be significantly preferable to the current system or a step-by-step modification of the current system. Under the proposed system, the total cost to proprietors will be under $3 million per year, compared to $8.4 million per year under the current system. The diminished cost of approximately $5.4 million per year, when averaged among the 1,414 bonded warehouses, results in savings of nearly $4,000 per warhouse. These savings can be realized without any significant enforcement or safety effects on the warehouses.

The economic effect of the proposed system on the *U.S. Treasury* (Customs Service), i.e., the U.S. taxpayer, is also beneficial: the Customs Service would save the $1.6 million in warehouse control costs which are being incurred to support 119 non-reimbursable warehouse positions, although there would be an annual $50,000 cost for the two man-years which will be involved in collecting, processing, and analyzing information on the Proprietor's Submission.

The economic effect of the proposed system on the *importing community* and the general U.S. economy is also positive. The proposed system would result in lower cost and greater efficiency, thus realizing savings for the importing community and hopefully (via "pass-through" effects) for the U.S. consumer. There may also be some undetermined effects on surety companies.

The Roving Team Approach.—Another alternative system considered by the Customs Service for the control of merchandise in bonded warehouses is the "roving team" system. Under this system, the position and functions of CWOs would be eliminated, to be replaced by the establishment of roving teams which would make unannounced monthly inspections and carry out inventories of bonded warehouse merchandise. The "services" provided by the roving teams would reimbursable to the Customs Service.

The roving team approach will not result in significant savings for warehouse proprietors on the importing community, since the costs of the roving teams would be borne by the proprietors. Moreover, the $1.6 million cost to the Customs Service for nonreimbursable positions would remain. Accordingly, the roving team approach is not believed to be a viable, cost-effective approach by the Customs Service.

Contracting Out to a Third Party—An opinion by the Customs Service's Office of the Chief Counsel indicates that this alternative (i.e., to contract with an independent third party to provide physical security thus replacing CWOs) may be illegal. Accordingly, the Customs Service has not estimated the costs and benefits of this alternative.

Conclusion

The proposed Regulatory Audit/Inspection Approach is believed to be the most cost-efficient and mission-effective of the alternatives which have been examined. For this reason, the Customs Service has prepared proposed amendments which would implement this new approach. Public comments and suggestions are welcome in order to best formulate the new approach; especially welcome are suggestions from operators, owners, and proprietors of small bonded warehouses, in order that (if necessary) the proposed amendments can be modified or "tiered" to best fit the circumstances surrounding smaller bonded warehouses.

[1] The Proprietor's Submission will be prepared by warehouse proprietors and submitted to the Customs Service after the end of each fiscal year. Each submission will reflect all bonded merchandise entering, released, and manipulated in the bonded warehouse, i.e. a complete reconciliation of beginning and ending inventory as well as all receipts/withdrawals and documentation of breakage by entry number. The Customs Service has estimated that preparation of the Proprietor's Submissions will require a total of 528,696 working hours by the bonded warehouse community.

Appendix B.—Proprietor's Warehouse Bond for Storage and Manipulation of Merchandise, Classes 2, 3, 4, 5, and 8

No. ————

Know all men by these presents that*————

————————————————————————

of ————, as principal, and *————, of ————, and ————, of ————, as sureties, are held and firmly bound into the United States of America in the sum of ———— dollars ($————), for the payment of which we bind ourselves, our heirs, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this ——— day of ————, 19——.

Whereas, under the warehouse laws of the United States and the regulations of the U.S. Customs Service made in pursuance thereof, the above-bounden principal has made application to bond the warehouse, or premises located in Customs District ————, at the place and for the purposes specifed below, namely:

Location (number, street, city, and State)	Class (specify whether class 2, 3, 4, 5, or 8)	Purpose

Now, therefore, the condition of this obligation is such that—

1. *Agreement to secure against loss.* If the principal is authorized to operate a bonded warehouse under 19 U.S.C. 1555, obligors

agree to reimburse the United States for any loss or expense connected with or arising from the deposit, storage, manipulation, or removal of merchandise in the facility, including an expense caused by discontinuance or suspension of the bonded status of the facility.

2. *Agreement with respect to the deposit of merchandise.* If authorized to operate a bonded warehouse under 19 U.S.C. 1555, principal acknowledges that Customs may conduct unannounced inventory checks of the facility and agrees to:

(a) Receive only merchandise covered by an appropriate Customs permit;

(b) Mark each package with the correct general order number, warehouse entry number, or seizure number and the corresponding date of the order, entry, or seizure delivery ticket;

(c) Store separately any package that has an exception for loss or damage or that has a discrepancy between its contents, its marks and numbers or the marks and numbers on the permit; and

(d) Store together in one place within the facility all merchandise in a general order shipment, in a warehouse entry, or in a seizure unless Customs permits commingled storage, or the merchandise is covered by paragraph (c).

If principal defaults, obligors agree to pay liquidated damages of $100 for each default.

3. *Agreement to keep records.* If authorized to operate a warehouse under 19 U.S.C. 1555, principal agrees to:

(a) Record the shipping marks and numbers of all packages, (or the weigher's or gauger's numbers of weighable or gaugeable packages that lack shipping marks and numbers) in accordance with Customs Regulations and file a copy of the record pertaining to a specific warehouse entry, general order shipment, or a seizure in a separate entry folder;

(b) File in that same folder, and record in accordance with Customs Regulations, within 2 business days after the event occurs, all receipts, damages/shortage reports, manipulation requests, specific removals, and blanket removals and the partial release permit copy for each removal made under the blanket authority, referred to in 19 CFR 19.8;

(c) Maintain that folder in the facility and allow inspection of it by Customs.

If principal defaults, obligors agree to pay liquidated damages of $100 for each item that is incorrectly recorded or filed, or not recorded or filed, or each instance of a refusal to allow Customs inspection of a folder covering a warehouse entry, general order shipment, or seizure.

4. *Agreement to secure facility.* If principal is authorized to operate a bonded warehouse under 19 U.S.C. 1555, principal agrees to:

(a) Secure the facility by meeting each of the general standards and recommended specifications that are listed in T.D. 72–56; so long as they do not conflict with the provisions of paragraph (b);

(b) Meet every applicable Federal, state, and local requirement (such as fire codes) for the safe and sanitary storage of merchandise in the facility and remove all trash and waste from the bonded area;

(c) Place merchandise in the facility so that no door, entrance, or exit is blocked;

(d) Establish and maintain aisles in the facility so that Customs has ready access to all merchandise at all reasonable hours;

(e) Hold the facility open for Customs inspection at all reasonable hours; and

(f) Secure inlets and outlets of bonded tanks with locks or Customs approved in-bond seals.

If principal defaults, obligors agree to pay liquidated damages of $100 for each failure to comply.

5. *Agreement to notify and file documents with Customs.* If principal is authorized to operate a bonded warehouse under 19 U.S.C. 1555, principal agrees to:

(a) Before any removal, insure that Customs has given either specific or blanket permission for the removal;

(b) Within 2 business days after a final removal of merchandise covered by a warehouse entry, general order shipment, or seizure, file with Customs the complete folder on that merchandise, together with a complete accounting of all merchandise in the entry, shipment, or seizure;

(c) Before any manipulation, notify Customs of the intended manipulation and obtain Customs specific or blanket approval;

(d) Within 45 days from the end of the principal's business year (fiscal or calendar), file the Warehouse Proprietor's Submission in the form prescribed by T.D. — which includes a complete accounting of the beginning and ending inventories of merchandise in each facility during the year and of all receipts, manipulations, and removals during the year;

(e) Notify Customs if any merchandise in an entry or in a general order shipment is not withdrawn during the applicable 5-year warehousing period or the applicable 1-year general order period, on expiration of that period, and file with Customs the folder on that entry or shipment when requested by Customs;

(f) Notify Customs in writing by close of business of the next business day on discovery of any extraordinary (one percent or more of the value of merchandise in an entry) overage, or shortage of, or damage to any merchandise in the facility; and

(g) Notify Customs in writing by close of business of the next business day on discovery of any discrepancy (i.e. overage, shortage, damage, etc.) in merchandise in a general order shipment or seizure.

If principal defaults, obligors agree to pay liquidated damages of $100 for each failure to comply. In addition, if any merchandise is removed without Customs approval, obligors agree to pay liquidated damages equal to five times the duty and tax due, as calculated by Customs, on any dutiable or taxable merchandise and liquidated damages equal to the value of any nondutiable merchandise.

6. *Agreement on sealing conveyances.* If principal is authorized to operate a bonded warehouse under 19 U.S.C. 1555, principal agrees to:

(1) Affix and break Customs seals in accordance with the Customs Regulations or an order or directive from Customs;

(2) Report to Customs any seal that is found to be broken, missing, or improperly affixed; and

(3) Hold the vehicle, container, and contents intact for Customs.

If principal defaults, obligors agree to pay liquidated damages of $100 for each failure to comply with any of the above requirements.

Then this obligation to be void; otherwise to remain in full force and effect.

Signed, sealed, and delivered in the presence of—

(Name) _____
(Address) _____
(Name) _____
(Address) _____
(Principal) _____
[Seal]
(Name) _____
(Address) _____
(Address) _____
(Surety) _____
[Seal]
(Name) _____
(Address) _____
(Name) _____
(Address) _____
(Surety) _____
[Seal]

*If the principal or surety is a corporation, the name of the State in which incorporated also shall be shown.

Certificate as to Corporate Principal

I, _____, certify that I am the _____ secretary of the corporation named as principal in the within bond; that _____, who signed the said bond on behalf of the principal, was then _____ of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed, and attested for in behalf of said corporation by authority of its governing body.

_____ [corporate seal]

Note.—To be used when no power of attorney has been filed with the district director of Customs.

Appendix C.—Proprietor's Manufacturing Warehouse Bond, Class 6

No. _____

Know all men by these presents that*

_____

_____

of _____, as principal, and* _____, of _____, and _____, of _____, as sureties, are held and firmly bound into the United States of America in the sum of _____ dollars ($_____), for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this _____ day of _____, 19 —.

Whereas, under the warehouse laws of the United States and the regulations of the U.S. Customs Service made in pursuance thereof, the above-boundan principal has made application to bond the warehouse, or premises located in Customs District No. _____, at the place and for the purpose of manufacturing certain articles specified below, namely:

Location (number, street, city, and State)	For the manufacture of (specify articles in detail)

Now therefore, the condition of this obligation is such that—

1. *Agreement to comply with statute and regulations.* If principal is authorized to operate a bonded manufacturing warehouse, principal agrees to:

(a) Use the warehouse exclusively for the purpose for which it is bonded;

(b) Properly enter and pay duty on any imported implement, machinery, or apparatus that is for the construction of the warehouse or for the prosecution of its business;

(c) Insure that all operations conform strictly to any manufacturing formula filed with Customs;

(d) Maintain within the warehouse a separate storage area, secured in accordance with the standards and specifications in T.D. 72–56, for storage and all imported merchandise, domestic spirits, and other merchandise subject to an Internal Revenue tax transferred to the warehouse for manufacturing; and

(e) Maintain within the warehouse a separate area, secured in accordance with the standards and specifications in T.D. 72–56, for the storage of products manufactured in the warehouse.

If principal defaults, obligors agree to pay liquidated damages of $1,000 for each default.

2. *Agreement to secure against loss.* If principal is authorized to operate a bonded manufacturing warehouse, obligors agree to reimburse the United States for any loss or expense connected with the deposit, storage, manufacturing or removal of merchandise in the warehouse, including duty and tax due and an expense due to discontinuance or suspension of the bonded status of the facility.

3. *Agreement with respect to deposit of merchandise.* If principal is authorized to operate a bonded manufacturing warehouse, principal agrees to:

(a) Receive only merchandise covered by an appropriate Customs permit;

(b) Store merchandise received in the manner required by statute or regulation;

(c) Transfer merchandise from a storage area in the warehouse to a manufacturing area in the warehouse in the manner required by regulation;

(d) Mark each package with the correct warehouse entry number and date until manufacturing takes place; and after manufacture, mark each package of the finished product with the correct warehouse entry and date.

If principal defaults, obligors agree to pay liquidated damages which equal $100 and the amount of duty on any merchandise involved in the default.

4. *Agreement to keep records.* If principal is authorized to operate a bonded manufacturing warehouse, principal agrees to:

(a) Record all deposits of merchandise, for manufacturing or prosecution of warehouse business in accordance with Customs Regulations;

(b) Record all transfers from any storage area to a manufacturing area in the facility in accordance with Customs Regulations;

(c) Record all transfers from any manufacturing area to finished product storage area within the facility in accordance with Customs Regulations;

(d) Record all manufacturing operations performed within the warehouse with sufficient detail to enable a Customs officer to determine whether there has been compliance with any manufacturing formula filed with Customs and to enable a Customs officer to audit use and disposition of the merchandise;

(e) Record all withdrawals and removals from the facility in accordance with Customs Regulations;

(f) File in a separate folder pertaining to each entry into the facility each document (receipt, permit, transfer permit, manufacturing abstract, and removal permit) on that entry within 2 business days after the event covered by the document occurs;

(g) Maintain each entry folder in the facility and allow inspection of it by Customs at all reasonable hours; and

(h) Take an annual physical inventory as well as file a warehouse proprietors submission.

If principal defaults, obligors agree to pay liquidated damages of $100 for each item that is incorrectly recorded, incorrectly filed, or not recorded or filed, or for each failure to inventory, or each instance of a refusal to allow Customs inspection of a folder covering a warehouse entry.

5. *Agreement on removals.* If principal is authorized to operate a bonded manufacturing warehouse, principal agrees to:

(a) Not remove or suffer the removal of any merchandise except under a Customs permit;

(b) Within 2 business days after final removal of any merchandise in a warehouse entry, file the complete folder on that entry with Customs;

(c) At the end of each month, file a detailed statement of all imported merchandise and merchandise on which Internal Revenue tax has not been paid used by the proprietor in the manufacture of articles;

(d) If any imported merchandise in an entry is not withdrawn within 5 years from the date of importation notify Customs of that fact on expiration of that period and simultaneously file with Customs the folder on that entry;

(e) Notify Customs in writing by close of business of the next business day on discovery of any extraordinary (one percent or more of the value of merchandise in an entry) overage or shortage of or damage to any merchandise in the facility; and

(f) Properly mark each package of cigars that is to be withdrawn for consumption.

If principal defaults, obligors agree to pay liquidated damges of $100 for each failure to comply. In addition, if any merchandise is removed without Customs approval, or if it consists of improperly marked packages of cigars, obligors agree to pay liquidated damages equal to five times the duty and tax due on any dutiable and/or taxable merchandise involved in the default and liquidated damages equal to the value of any nondutiable merchandise involved in the default.

6. *Agreement to furnish proof of exportation.* If principal is authorized to operate a bonded manufacturing warehouse, principal agrees to furnish any consular invoices, declarations of owners or consignees, certificates of origin, certificates of exportation or other document that may be demanded by Customs to show compliance with the law and regulations within 6 months from the date of demand.

If principal defaults, obligors agree to pay liquidated damages equal to the duty or tax on any merchandise involved in the default.

Then this obligation to be void, otherwise to remain in full force and effect.

Signed, sealed, and delivered in the presence of—

(Name) _____
(Address) _____
(Name) _____
(Address) _____
(Principal) _____
[SEAL]
(Name) _____
(Address) _____
(Name) _____
(Address) _____
(Surety) _____
[SEAL]
(Name) _____
(Address) _____
(Name) _____
(Address) _____
(Surety) _____
[SEAL]

*If the principal or surety is a corporation, the name of the State in which incorporated also shall be shown.

Certificate as to Corporate Principal

I, _____, certify that I am the _____ secretary of the corporation named as principal in the within bond; that _____, who signed the said bond on behalf of the principal, was then _____ of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed, and attested for in behalf of said corporation by authority of its governing body.

_____[corporate seal]

Note.—To be used when no power of attorney has been filed with the district director of Customs.

Appendix D.—General Bond for Smelting and Refining Warehouses

No. _____

Know all men by these presents, that* _____, of _____, as principal, and _____ of _____, and _____, of _____ as sureties, are held and firmly bound unto the United States of America in the sum of _____ dollars ($_____), for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this _____ day of _____, 19—.

Whereas, the said _____ have (has) been authorized to smelt or refine, or both, imported metal-bearing materials in bond _____

*May be executed by the secretary, assistant secretary, or other officer of the corporation.

*May be executed by the secretary, assistant secretary, or other officer of the corporation.

without the payment of duty thereon, as provided in section 312, Tariff Act of 1930, as amended, in the premises situated at ————, and more particularly described by metes and bounds in exhibits ————, attached hereto and made a part hereof, which premises are owned, controlled, and operated by ————; and

Whereas, metal-bearing materials will be entered for warehouse to be smelted or refined, or both; and

Whereas, metal-bearing materials (as well as merchandise generally) will be entered for consumption or for warehouse, and in warehouses of classes 2, 3, or 4 at any of the following ports of entry ————

—; and

Whereas, certain merchandise, in whole or in part, may be entered under the provisions of section 484, Tariff Act of 1930, as amended, and duties deposited under the provisions of section 505(a), Tariff Act of 1930, as amended; and

Whereas, Pursuant to the regulations promulgated under section 448(b), Tariff Act of 1930, the said principal may find that immediate delivery of the merchandise will be necessary and desires the release of such merchandise prior to the making of formal entry therefor and payment of duties thereon; and

Whereas, imported merchandise generally, and dutiable metal-bearing materials (including products partly smelted or refined) will, to the extent permitted by law and regulations and in accordance therewith, be transferred from one warehouse to another, or be withdrawn for consumption, for transportation and rewarehousing, for exportation, for transportation and exportation, or for any other purpose provided for by law and regulations, as shown in the required documents.

Whereas, the above-bounden principal may request that the merchandise be examined elsewhere than at the public store, wharf, or other place in charge of a Customs officer;

Now, therefore, the condition of this obligation is such, that—

1. *Agreement to pay costs and expenses.* If principal is allowed to operate a bonded smelting and refining warehouse and enters any metal-bearing material without payment of duty, obligors agree to pay any costs or expense associated with Customs supervision of the warehouse and indemnify Customs for any loss associated with the entry, deposit, storage, smelting, refining, withdrawal, transfer, or removal of any metal-bearing material or any product of a metal-bearing material in or from the warehouse.

2. *Agreement on recordkeeping.* If principal operates a bonded smelting and refining warehouse, principal agrees to:

(a) Maintain complete smelting and refining records in accordance with Customs Regulations showing the receipt and disposition of each shipment of materials (hereinafter includes metal-bearing materials, products of metal-bearing materials, and dutiable metal) received (actual and theoretical), into the warehouse;

(b) File with Customs, at end of the principal's business year, a complete statement of the annual smelting and refining operations done which shows:

(i) The quantity of metal-bearing materials in the warehouse and their dutiable metal content at the beginning of the year;

(ii) The quantity of metal-bearing materials received during the year and their dutiable metal content;

(iii) The quantity of metal-bearing materials in the warehouse at the end of the year and their dutiable metal content;

(iv) The quantity of metal-bearing materials worked during the year which shall include the quantity of foreign material and the quantity of domestic material put in process;

(v) The quantity and kind of metal and intermediate products produced;

(vi) Disposition of all materials transferred, withdrawn, or removed (actually or theoretically) from the warehouse during the year;

(c) Maintain the report of sampling, weighing, and assaying on each shipment of metal-bearing materials received into the warehouse for five years from the date of liquidation;

(d) Maintain for five years from date of liquidation any report of sampling, weighing, and assaying on any smelting and unrefined product or bullion obtained from the smelting of imported material that is to be transferred to another warehouse;

(e) Maintain all Customs permits (blanket or specific) to enter, transfer, withdraw, or remove (actual or theoretical) any materials into or from the warehouse;

(f) Complete and file with Customs within 30 days after exportation of metal under the memorandum withdrawal procedure set forth in 19 U.S.C. 1312(b)(1) and the Customs Regulations all records on the exportation; and

(g) File with Customs a complete inventory of all metals in the warehouse as required by the Customs Regulations.

If principal defaults, obligors agree to pay liquidated damages of $100 for each default.

3. *Agreement on entry and withdrawals.* If principal operates a bonded smelting and refining warehouse, principal agrees to:

(a) Receive actual or theoretical deposit of any metal-bearing material, a product of a metal-bearing material, or any metal, which may be subject to duty, only after receipt of a Customs permit;

(b) Keep separate any metal-bearing material which may be subject to duty from all other materials until that material has been sampled, weighed, and assayed; and

(c) Obtain Customs permit to transfer, withdraw, or remove (physically or theoretically) any material before transfer, withdrawal, or removal is begun.

If principal defaults, obligors agree to pay liquidated damages equal to the amount of duty on all materials involved in the default.

4. *Agreement to pay duty.* If principal operates a bonded smelting and refining warehouse, obligors agree to pay on demand all duty determined to be due on liquidation or by regulation with respect to any material withdrawn for consumption and any dutiable metal found to be missing from the warehouse without a proper withdrawal or removal.

5. *Agreement to secure facility.* If principal operates a bonded smelting and refining warehouse, principal agrees to:

(a) Secure the warehouse by meeting each of the general standards and recommended specifications that are listed in T.D. 72–56; so long as they do not conflict with those provisions of 4(b);

(b) Meet every applicable Federal, State, and local requirement (such as fire codes) for the safe, sanitary, and secure storage of materials in the warehouse;

(c) Place materials in the warehouse so that no door, entrance, or exit is blocked;

(d) Establish and maintain the warehouse so that Customs has ready access to all materials at all reasonable hours; and

(e) Hold the warehouse and all records open for Customs inspection at all reasonable hours.

If principal defaults, obligors agree to pay liquidated damages or $100 for each failure to comply.

Then this obligation to be void; otherwise to remain in full force and effect.

Signed, sealed, and delivered in the presence of—

(Name) ————
(Address) ————
(Name) ————
(Address) ————
(Principal) ————
[Seal]
(Name) ————
(Address) ————
(Name) ————
(Address) ————
(Surety) ————
[Seal]
(Name) ————
(Address) ————
(Name) ————
(Address) ————
(Surety) ————
[Seal]

*If the principal or surety is a corporation, the name of the State in which incorporated also shall be shown.

Certificate as to Corporate Principal

I, ————, certify that I am the ———— secretary of the corporation named as principal in the within bond; that ————, who signed the said bond on behalf of the principal, was then ———— of said corporation; that I know his signature, and his signature thereto is genuine; and that said bond was duly signed, sealed, and attested for in behalf of said corporation by authority of its governing body.

———— [corporate seal]

Note.—To be used when no power of attorney has been filed with the district director of Customs.

Appendix E

U.S. Customs Service, Bonded Warehouse Proprietor, Submission Instructions

The preparation and filing of this submission, with the Regional Director, Regulatory Audit Division, U.S. Customs Service, is to occur within 45 days ———— subsequent to the company's year end. Should you have questions regarding this submission, contact the Regional Director, Regulatory Audit Division, at————.

A warehouse proprietory is required to file a submission for each warehouse facility. The definition of a warehouse facility is as follows: A warehouse facility will be determined by street address, location, or both. For example, if a proprietor has two warehouses located at one street address and three warehouses located at three different street addresses, the two would be considered as one warehouse facility and the thru warehouses would each be considered as separate facilities.

The following instructions are to assist you in preparing the "Bonded Warehouse Proprietors Submission."

On the front page of each warehouse submission record the information requested as shown below.

Name of warehouse facility
Address
Telephone number
IRS number
Contact person

The Warehouse Proprietor Submission form follows on page three. The form is divided into eight sections labeled A through H.

In:

Column (A). Record the number and date of all entries which were included in:

1. The beginning inventory of the year just ended.
2. The ending inventory, based on the physical inventory just taken.
3. Also, include all entries which were opened and closed during the year which do not appear in either the beginning or ending inventory listings.

Column (B). Provide an adequate description of all merchandise covered by those entries listed in column (A). The description should be concise but specific enough to identify the commodity, i.e., "scotch" rather then "liquor." For entries listing multuple commodities, the term "various" may be used, however this will not be acceptable for all situations.

Column (C). Record in Column (C) the quantity stated on the entry for each commodity described in column (B).

Column (D). Record any quantity actually received that is over/short that recorded in column (C).

Column (E) and (F). Record the quantities relating to all breakage occurring upon arrival and/or in the warehouse pertaining to each commodity listed in Column (B).

Column (G). Record the quantity of merchandise that is on hand at the end of the business year.

Column (H). Record the date on which the entry was closed and forwarded to Customs.

An authorized representative of the company must sign the document where indicated prior to issuing it to Customs.

APPENDIX E.—WAREHOUSE PROPRIETOR SUBMISSION

Entry and date	Description of merchandise	Quality		Breakage		Ending inventory quantity	Date entry closed and forwarded to customs
		Per entry	Over/short on receipt	Upon receipt quantity	In warehouse quantity		
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)

Certification: I hereby certify that the information contained in this submission completely and accurately represents all entry transactions as well as beginning and ending inventories of (Name) warehouse facility for the year ending ————.

[Signed]
[Title]
(Company)
(Date)

[FR Doc. 82-5855 Filed 3-3-82; 8:45 am]
BILLING CODE 4910-62-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 626

[FHWA Docket No. 77–16, Notice 3]

Skid Resistant Pavement Surface Design

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The FHWA is withdrawing the proposed rulemaking on skid resistant pavement surface design, issued on April 2, 1980, and is closing Docket No. 77–16. Based on the negative comments received and upon a review of current procedures and research findings, it has been determined that this proposal is unnecessary.

EFFECTIVE DATE: March 4, 1982.

FOR FURTHER INFORMATION CONTACT: Leon M. Noel, Highway Design Division, Office of Engineering, (202) 426–0327; or Lee J. Buratyn, Office of the Chief Counsel, (202) 426–0754, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: On November 10, 1977, the FHWA published an advanced notice of proposed rulemaking (42 FR 58542) to solicit comments on the effectiveness of its current policy relating to skid accident reduction on Federal-aid highways. Comments were received and reviewed. Based on these comments and FHWA policy, a notice of proposed rulemaking was issued on April 2, 1980 and published on April 10, 1980 (45 FR 24505).

The proposed rule was intended to provide for a wide application of the relevant portion of Highway Safety Program Standard Number 12, which was issued by FHWA and set out in 23 CFR 1204. Standard 12 and other traffic safety standards, which are to be followed by the States, were issued by FHWA and the National Highway Traffic Safety Administration, pursuant to the implementation of section 402 of Title 23, United States Code. Standard 12 provides that each State shall develop and implement, as a continuing basis, a highway safety improvement program which reduces the number and severity of highway accidents.

Standard 12 includes the use of standards for pavement design and construction with specific provisions for high skid resistant qualities. The standard prescribes that there be a program for resurfacing to correct locations on streets or highways with low skid resistance and high or potentially high accident rates susceptible to reduction by providing improved surfaces.

In addition, 23 CFR Part 626 sets forth a pavement design policy for Federal-aid projects. Section 626.5(c) specifically provides: "Each Federal-aid project involving construction of the pavement surface, * * * shall have a skid resistant surface.

The FHWA encourages the implementation of Standard 12 and adherence to Part 626 by the State highway agencies. However, the proposed pavement design rule would have required not only the use of skid resistant surfaces, but would have established a policy and guidelines for the design of surfaces. Various procedures and factors would have been established for a State highway agency to consider in the design of its skid resistant pavement surfaces.

A review of the proposed rule and the comments received indicates that the existing provisions of Standard 12 and Part 626 are adequate, and, that each State can determine what factors should be considered in providing for skid resistant surfaces in that State. Therefore, the FHWA has determined that this proposed rule is not warranted.

Thirty-nine replies were received in response to the proposed rule; 16 from

State highway agencies, 8 from aggregate and paving associations, 5 from aggregate producers and paving contractors, 3 from cities, 2 from the Insurance Institute for Highway Safety, 2 from private citizens, and 1 each from the National Transportation Safety Board, the National Association of Counties Research, Inc., and a consulting engineering company.

Nine of the fifteen States which responded (two received from one State) were opposed to the proposed rule. These States indicated that the rule was not necessary and was inappropriate since the States already had adequate programs to insure that skid resistance is maintained. These States felt that existing FHWA policy was adequate. The other six States offered comments on the proposed rule, but did not specifically comment on its necessity.

The aggregate and paving associations suggested that the use of skid resistant pavements should not be based solely on skid numbers; but should also be based on running speed and traffic and accident data. They were also concerned that the proposed rule would result in specific criteria, other than cost factors.

The aggregate producers and paving contractors were opposed to the proposed rule because it would eliminate the use of locally available aggregate in some areas. It was their contention that if a required aggregate could not be reasonably obtained in an area it would dramatically increase the cost of pavements.

The three cities suggested that local agencies should be allowed to use their own criteria instead of a Federal standard, unless it is shown that their criteria are inadequate.

Two other responders suggested that FHWA establish standards of skid numbers for minimum performance. One also suggested that FHWA establish a skid resistance program based on wet-pavement accident histories as well as minimum skid numbers. Three States were concerned that the proposed rule might result in the establishment of minimum skid numbers. These States did not favor minimum skid numbers because of the variability in measuring skid resistance and the lack of correlation between skid resistance of road pavements and automobile accidents. The States commented that the use of skid resistant surfaces should be based on such factors as accidents, traffic volumes, availability of materials and attributable costs in relation to expected benefits.

Thus, the majority of the comments demonstrate that the existing policy on the use of skid resistant surfaces is adequate and should continue. The FHWA believes that State and local officials have the expertise and information to best determine what type of skid resistant surfaces should be used. The FHWA has aproved for use the "Guidelines For Skid Resistant Pavement Design," AASHTO, 1976. This publication can be used for evaluating the skid resistance of pavement surfaces and it has been incorporated by reference at 23 CFR 625.3(a).

Therefore, the FHWA is hereby withdrawing its proposed rule on skid resistant pavement surface design and closing Docket No. 77-16. Existing Federal-aid highway procedures contained in Title 23, United States Code, and Title 23, Code of Federal Regulations, will apply to the use of skid resistant pavement surfaces on Federal-aid highway projects. These Federal-aid procedures include applicable items, such as the aforementioned design standards and pavement design, in addition to construction, maintenance, and contract requirements, and requirements applicable to each Federal-aid system including Federal share payable.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. Withdrawal of this notice of proposed rulemaking will not have a significant economic effect inasmuch as no costs will be associated with this action. Accordingly, a full regulatory evaluation is not required. Under the criteria of the Regulatory Flexibility Act, it is certified that his action will not have a significant economic impact on a substantial number of small entities.

In consideration of the foregoing, the notice of proposed rulemaking published in the **Federal Register** on April 10, 1980 (45 FR 24505), and circulated as notice 77-16, notice 2, is hereby withdrawn.

This withdrawal is issued under the authority of 23 U.S.C. 109, 315, and 402, and the delegation of authority in 49 CFR 1.48(b).

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: February 19, 1982.

R. D. Morgan,

Associate Administrator for Engineering and Traffic Operations, Federal Highway Administration.

[FR Doc. 82-5675 Filed 3-3-82; 8:45 am]

BILLING CODE 4910-22-M

Coast Guard

33 CFR Part 159

[CGD 81-097]

Marine Sanitation Devices

AGENCY: Coast Guard, DOT.

ACTION: Extension of comment period for program review.

SUMMARY: In the **Federal Register** of December 24, 1981 (46 FR 62479) the Coast Guard and the Environmental Protection Agency (EPA) jointly invited public comment on a regulatory program review currently being conducted by both agencies. A review of the costs and benefits of the current Marine Sanitation Device (MSD) program and possible alternative programs was initiated by both agencies because of the many complaints by the public regarding the costs and impracticability of the existing program. The original closing date for public comments was February 22, 1982. The public comment period is being unilaterally extended by the Coast Guard to April 19, 1982 in response to requests from several organizations and individuals who feel that the original period of time for public comment was not adequate. Also, the extension is considered necessary in light of an inadvertent failure to mail out, as intended, copies of the original notice from an extensive public mailing list. The EPA is not extending this period because it is conducting a legislative review and preparing proposed amendments for the Clean Water Act due to the imminent expiration of that Act. The unilateral extension will allow the Coast Guard to complete its regulatory review of the MSD regulations as tasked by the Department of Transportation under the requirements of E.O. 12291.

DATES: As discussed above, the public comment period has been extended to April 19, 1982.

ADDRESS: Written comments may be mailed or delivered to and will be available for inspection and copying at the Marine Safety Council (G-CMC), Room 4402, U.S. Coast Guard Headquarters, 2100 Second St. S.W., Washington, DC 20593, between the hours of 7:00 a.m. and 5:00 p.m., Monday through Thursday, except holidays. An EPA report on the existing MSD program recently prepared for the Senate Appropriations Committee may be inspected and copied at this address during the same working hours. Requests for copies of this report should be directed to the above address. The cost for each copy is $4.30.

FOR FURTHER INFORMATION CONTACT: Ensign J. E. Arner, U.S. Coast Guard (202) 755-7917. Normal working hours are 6:00 a.m. to 4:30 p.m., Monday through Thursday, except holidays.

Dated: February 25, 1982.

Signed:

W. E. Caldwell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 82-5638 Filed 3-3-82; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 15, 81 and 83

[Docket No. 20074; FCC 82-71]

Establish Minimum Performance Requirements for Radio Receivers Employed at Coast Stations or Used Aboard Ships

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of proposed rule.

SUMMARY: This action will terminate the proceeding initiated in 1974 to include in Parts 81 and 83 minimum performance requirements for very high frequency (VHF) receivers employed at coast stations or used aboard ships and operating on frequencies in a certain MHz band in the maritime services. This action is part of the Commission's deregulation effort. The intended effect is to minimize the regulatory burden placed on the public.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Walter E. Weaver, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

Proceeding Terminated

Adopted: February 11, 1982.

Released: February 23, 1982.

In the matter of amendment of Parts 2, 15, 81 and 83 of the Commission's rules to establish minimum performance requirements for radio receivers employed at coast stations or used aboard ships and operating on frequencies in the band 156-162 MHz in the maritime services.

1. A Notice of Proposed Rulemaking in the above-captioned matter was released on June 13, 1974, and was published in the **Federal Register** on June 19, 1974 (39 FR 21166).

2. The Notice of Proposed Rulemaking would have established minimum performance standards for marine VHF receivers. Proposing rules to regulate receiver standards was a departure from Commission and International Telecommunication Union policies of generally regulating only transmitters. Marine VHF receivers were considered for regulation because of the international use of the service for all types of vessels in close proximity to one another. The majority of the commenters supported the proposed rules.

3. However, we see a number of adverse affects from receiver regulation. First, it would likely increase the cost of the equipment, and that could result in fewer receivers being purchased and used. Safety is enhanced by more, not less, receivers in use. Second, receiver type acceptance would require Commission staff and expenditures when both are being reduced. We conclude that our existing regulatory efforts, which are being constricted by budget reductions, merit a higher priority than receiver regulations at this time. Finally, we note that we are attempting to reduce regulation wherever possible in accord with the public interest. The record in this proceeding does not persuade us that receiver regulation is required, and we decline to expand our regulatory activities significantly by regulating these receivers. The absence of mandatory receiver standards would not preclude adoption of voluntary standards by the manufacturers, which would benefit users without the detriments specified above.

4. The Commission concludes, therefore, that adoption of the proposed receiver regulations is not in the public interest at this time and that this proceeding should be terminated.

5. Accordingly, it is ordered, That the proceeding in Docket No. 20074 is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-5640 Filed 3-3-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-8; RM-3950]

TV Broadcast Station in Seattle and Tacoma, Washington; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to reassign UHF-TV Channels °28 and °62 between Seattle and Tacoma, Washington, at the request of the Tacoma School District No. 10, licensee of Station KTPS (Channel °62), Tacoma, Washington. The proposal will help effectuate a settlement agreement between previously competing applicants for Channel 20 in Tacoma.

DATE: Comments must be filed on or before April 15, 1982, and reply comments must be filed on or before April 30, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 11, 1982.

Released: January 20, 1982.

In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations. (Seattle and Tacoma, Washington), BC Docket No. 82-8, RM-3950.

1. The Commission has before it the Petition for Rule Making filed by the Tacoma School District No. 10, seeking the exchange of UHF TV Channels °28 and °62 now allocated to Seattle, Washington, and Tacoma, Washington, respectively.[1] Comments were filed by the Association of Maximum Service Telecasters, Inc.

2. Seattle (population 493,846),[2] the seat of King County (population 1,269,749) is located in northwest Washington. Tacoma (population 158,501), the seat of Pierce County (population 485,643) is located approximately 40 kilometers (25 miles) south of Seattle.

3. Seattle is served by three commercial TV stations KOMO-TV (Channel 4); KING-TV (Channel 5); KIRO-TV (Channel 7) and one noncommercial educational station, KCTS-TV (Channel °9). One additional commercial channel (Channel 22) has

[1] Public Notice of the petition was given on August 5, 1981, Report No. 1301.

[2] Population data are taken from the 1980 U.S. Census.

three applications pending. One other noncommercial educational channel (Channel *28) is unoccupied and unapplied for.

4. Tacoma is served by two commercial TV stations (KSTW (Channel 11) and KCPQ–TV (Channel 13)). A third commercial TV station was recently approved for Channel 20. Also, Tacoma has two noncommercial channels (Channel *56 unoccupied and unapplied for and Channel *62 Station KTPS, licensed to Tacoma School District No. 10, the petitioner herein).

5. Petitioner relates that it was one of three applicants for Channel 20 in Tacoma. It proposed to convert its noncommercial educational operation from Channel *62 to Channel 20. Two other applicants had proposed commercial use of the station. When it became clear to petitioner that the three-way contest for Channel 20 would become costly and time consuming, a settlement agreement was reached whereby petitioner would instead seek the reassignment of Channel *28 from Seattle to Tacoma so it could modify its operation on Channel *62 to Channel *28 and allow Channel *62 to be moved to Seattle. A three-way settlement was reached in which Family Broadcasting, the successful applicant for Channel 20 at Tacoma, agreed to specify a site for Channel 20 which would meet the mileage separation requirements to petitioner's present site on Channel *62. The other commercial applicant, Tacoma Community TV, Inc., agreed to a dismissal of its application. As a result, both Seattle and Tacoma would retain two noncommercial educational assignments and a first commercial UHF station could be authorized for Tacoma.

6. Petitioner offers several public interest reasons for having a lower UHF noncommercial educational TV station in Tacoma. Petitioner argues that by making the lower UHF channel available to Tacoma, the Commission would thereby effectuate the settlement agreement reached between the applicant for Channel 20 so as to avoid a lengthy and costly hearing. In turn, service to the public from a station on Channel 20 could commence much earlier. Petitioner notes that in most communities with only two VHF channels (commercial) and two UHF channels (noncommercial), at least one of the UHF channels is in the lower portion of the band. This appears to have been done, according to petitioner, as a matter of policy in the original Table (1952) and later in the Fourth and Fifth Reports (1965–1966). Also, petitioner asserts that, in the southwestern portion of Washington, the terrain and the lack of large communities combine to make the area dependent on translators which are authorized on Channel 55–69 (§ 74.702(c)(7) and (d). Thus operation on Channel *28 instead of *62 at Tacoma would avoid potential interference problems to reception in that area. Finally, petitioner argues that Seattle will not be left without noncommercial educational service since it already has a VHF station (Channel *9) and will get Channel *62 while Tacoma would retain two reserved UHF channels.

7. Regarding its request for modification of license should Channel *28 be substituted for Channel *62, petitioner alleges that the principles set forth in *Cheyenne, Wyo.*, 62 FCC 2d 62 (1976) (regarding modification from a Class A channel to a Class C channel in the absence of an expressway of interest), do not preclude modification here even if another interest is forthcoming. Petitioner analogizes the circumstances here (one UHF for another UHF channel) as the same as the substitution of one equivalent channel for another (Class A for Class A). Furthermore, if another interest exists in a noncommercial educational station in Tacoma, Channel *56, presently unoccupied and unapplied for, would be available. In addition, two other UHF channels could be assigned (Channels 23 and 33) according to petitioner.

8. It has been our policy to refuse to assign lower UHF TV channels solely because the interested party desires the lower portion of the UHF band.[3] However, where a public interest reason for doing so is found, we generally have no objection to the substitution of a lower UHF channel. Here, several valid reasons exist for further considering the request. We found merit in eliminating a contested hearing and thereby bringing service to the public more expeditiously. Further, while we need not consider the impact that a proposal may have on translators, § 74.702(d) and (c)(3) of the Commission's rules, we also have no desire to disturb the current service provided by the translators in southwestern Washington. In particular here, the translators are limiting the signal of Station KTPS in this area. The use of Channel *28 could provide better service by covering more area since the translators are primarily confined to the upper portion of the UHF band. We note that neither Seattle nor Tacoma would suffer a net reduction in reserved assignments by this proposal.

9. We do wish to call attention to one other matter. When a new channel is assigned to a community, all interested parties should be permitted to apply for the channel. See, *Cheyenne, Wyo.*, 62 F.C.C. 2d 63 (1976).[4] Thus if some other party expressed a desire to apply for Channel *28, if assigned to Tacoma, the requested modification of Station KTPS may not be possible.[5]

10. Petitioner's consent to the modification of its channel of license from Channel *62 to Channel *28 avoids the necessity to issue an *Order to Show Cause*.

11. Accordingly, the Commission proposes to amend the Television Table of Assignments (See § 73.606(b) of the Commission's rules), as follows:

City	Channel No.	
	Present	Proposed
Seattle, Washington	4, 5+, 7, *9, 22+, and *28+.	4, 5+, 7, *9, 22+, and *62.
Tacoma, Washington	11+, 13—, 20, *56, and *62.	11+, 13—, 20, *28, and *56.

12. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

13. Interested parties may file comments on or before April 15, 1982, and reply comments on or before April 30, 1982.

14. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, Section 73.606(b) of the Commission's rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

15. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[3] See, High Point, N.C., 44 FR 67865 (1979); Kalamazoo, Mich., 44 FR 67867 (1979); Vancouver, Wash., 46 R.R. 2d 1498 (1980) and Mansfield and Marion, Ohio, 45 FR 81203 (1980).

[4] See also San Francisco-San Mateo, CA. 68 F.C.C. 2d 860 (1978), recons. den. 70 F.C.C. 2d 2013 (1979); El Paso, Texas, 45 FR 13152 (1980).

[5] See Tulsa, Okla., (Notice), 46 FR 40770 (1981) (BC Dkt. 81–491).

Appendix

[BC Docket No. RM 82–8 3050]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

Showings Required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-5872 Filed 3-3-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 74

[BC Docket No. 82-20; RM-2500; FCC 82-29]

Operation of Microwave Boosters

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This Commission has proposed amending its rules to permit microwave boosters to be used to relay the signals of microwave stations in the broadcast services. The action was taken in response to a petition from Marti Electronics, Inc. The proposed rules would permit more efficient use of the spectrum allocated for broadcast microwave stations since microwave boosters use only one radio frequency to traverse a path which requires two frequencies using a standard repeater.

DATES: Comments must be filed on or before April 7, 1982, and reply comments on or before April 22, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Ralph H. Smith, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

Adopted: January 13, 1982.

Released: March 1, 1982.

In the matter of amendment of Subparts E and F of Part 74 to provide for the operation of microwave boosters; BC Docket No. 82–20 RM–2500.

Introduction

1. The Commission has before it a petition for rule making filed by Marti Electronics, Inc. ("Marti"), requesting amendment of the rules to permit the operation of microwave boosters under subpart E of Part 74. Subpart E governs the operation of aural broadcast studio-transmitter link ("STL") and intercity relay ("ICR") stations.

2. A microwave booster is a radio relay device that receives a transmission on a particular frequency and retransmits it on the same frequency. Most radio relay devices receive a signal on one frequency and "translate" it to another for rebroadcast. A microwave booster uses the same frequency for both reception and retransmission.

3. Marti's petition argues that the ten 500 kHz channels now allocated for aural STL and ICR operations cannot meet the demand for service in the large metropolitan areas. The use of microwave boosters will provide a measure of relief for broadcasters located in these areas, according to Marti, as it will permit more intensive use of the present spectrum allocation.

Background

4. Two types of facilities are normally available to a broadcast licensee to relay program material from the studio to a remotely-located transmitter site. These are either wire circuits operated by communications common carriers or station-owned STL microwave facilities. In the case of FM broadcasting where high quality aural circuits are required, and in the case of television, where special video as well as high-quality aural circuits are required, the common carrier in a certain area may be unable to supply the desired service because it lacks adequate facilities. Apart from the better performance and higher reliability provided by a microwave STL, there are other reasons that a broadcaster may select a radio STL over a wire circuit provided by a common carrier. These include having all operations under station control, giving greater flexibility and versatility, and saving on operating expenses. Because microwave frequencies are used in the STL service, an adequate line-of-sight must be maintained between antennas at the transmitter and receiver sites.

5. However, as Marti points out, many broadcasters have been unable to use this mode of interconnecting studio and transmitter sites because of physical obstructions that prevent establishing a clear line-of-sight transmission path between the two points (due to intervening hills, tall buildings or other obstacles). One way to achieve path clearance is simply to increase the height of the antenna systems at the

ends of the path. This can be done in several ways but the cost is generally prohibitive according to Marti.

6. Where physical obstructions or the ruggedness of intervening terrain either makes a direct transmission path impossible or requires that the antenna towers be extremely high, Marti indicates that under the present rules a signal may be redirected by means of either a passive or an active repeater, which is effect "bends" the radio beam to provide the necessary path clearance. The principal advantages of the passive repeater are that it requires no power, provides a fixed amount of signal loss[1] and requires little or no maintenance. The most commonly used passive repeater is the "billboard" type—a large flat radio-reflective surface—which redirects microwave signals in much the same way light is reflected by a mirror. Another type of passive repeater uses two parabolic antennas connected "back-to-back" by a short length of waveguide or coaxial cable. Whereas passive elements are satisfactory for short microwave hops over and around obstructions (where signal amplification is not needed), Marti claims that because of low gain [1] large physical size, and the requirement for critical positioning, there is no economic advantage in using passive instead of active repeaters for redirecting aural STL signals.

7. Under the present STL rules, active repeaters of either the baseband or heterodyne type be used to amplify and redirect the signal. In a baseband repeater, the microwave signal is translated to an intermediate frequency, amplified, then demodulated and amplified again at the baseband frequency. Finally the signal is remodulated for transmission on another microwave frequency. In the heterodyne repeater, amplification of the incoming signal is provided at an intermediate frequency and then the signal is translated back up to a different microwave frequency for transmission without going through the demodulation and remodulation processes.

8. Marti notes that both of these translating repeaters involve the use of a second STL channel. This requires more frequency spectrum than a microwave booster which can accomplish the same purpose. On a cost-versus-performance comparison, Marti contends, the microwave booster can provide a simple, economical solution to STL path redirection problems. Furthermore, since it uses the original incoming signal and does not involve the use of a second STL frequency, more intensive use of the spectrum space allocated to this service can be achieved. Moreover, according to Marti, the risk of interference from such devices is minimal by virtue of the relatively low gain, limited power output capability, and the directivity of the booster's input and output antennas.

9. It appears that microwave boosters would offer an innovative solution to broadcasters in such metropolitan areas as Los Angeles, New York, Chicago and Dallas where, because the STL bands are extremely congested, it is not possible to grant requests for additional STL frequencies needed for intermediate relay stations over a path which cannot be covered with a single transmitter. However, our rules do not contain specific provision for such repeaters. At present, if a clear line-of-sight transmission path cannot be established between the studio and transmitter, the broadcaster must use more than one STL channel with "translating" active repeaters to provide intermediate relay stations in order to redirect his signal around an obstruction. The rules proposed in this *Notice* are designed to accommodate Marti's request to provide for the operation of microwave boosters with aural STL and ICR stations. At the same time, the Commission recognizes that the transmission path problems encountered by aural broadcast stations are also encountered by television auxiliary broadcast stations in Subpart F of Part 74. It would appear that in the TV broadcast auxiliary service there are numerous situations where, because of tall buildings, terrain or other obstructions, it is impractical or impossible to provide clear line-of-sight microwave transmission paths. In such cases, the broadcaster may use active translating or passive repealers to redirect signals around obstructions; however these solutions are not always desirable. Therefore, consolidated for consideration in this proceeding are rules that would provide for the use of microwave boosters with the various TV broadcast auxiliary stations that are regulated under Subpart F of Part 74.

10. Because the input and output frequencies of a microwave booster are the same, we are concerned about the possibility of interference between the input and output signals at the repeater location. There is the possibility that the booster may go into an oscillating condition because of side-to-side coupling or signal "overshoot." For stable operation, isolation between the input and output circuits must exceed the maximum overall gain of the repeater. Marti indicates that proper spacing of input and output antennas in combination with cross polarization yields a minimum isolation of 60 dB between the input and output permitting an amplifier gain of 55 dB to be routinely used without danger of instability.

11. The Commission is not convinced that practical operation can be achieved in all situations if the isolation between the input and output circuits is only 5 dB greater than the gain of the booster. The margin of difference is quite narrow. Nonetheless, we recognize that individual circumstances vary widely. An insufficient margin in one situation may be adequate in another. Recognizing this, we shall not propose a minimum margin requirement. We believe licensees should be able to judge their particular needs and choose appropriate boosters and antennas to satisfy them. With no requirement for a minimum margin, licensees will be able to specifically tailor their equipment choices to yield only the margin necessary for their circumstances. As the cost and performance of the equipment is related to the margin requirements, licensees will be able to exercise their judgment in balancing these factors. We do believe that when unstable conditions arise, the booster should terminate operation immediately. To do so, they should be equipped with suitable automatic circuits to cease radiation in the event of amplifier oscillation. Comments are requested on the feasibility of providing this protection.

12. We are also concerned about the interference potential of co-channel and adjacent channel signals, since the boosters being proposed provide a high degree of amplification. This is of particular concern in cities where, because of frequency sharing, special attention must be given to directivity characteristics and polarization discrimination properties in the selection of antennas. Potential problems arise when operation is in the presence of strong radio frequency fields from other aural broadcast STL or TV broadcast auxiliary stations in the vicinity of a booster and there is the possibility that such fields may result in the retransmission of signals on frequencies other than that of the signal intended for relaying. Further, we are concerned about interference which may be caused by spurious emissions and other out-of-band signals. Therefore, the proposed rules would require that the booster apparatus be operated so as to limit spurious emissions to the lowest practical value, and it would be the responsibility of the licensee to correct any condition of interference which would result from the radiation of radio frequency energy by its equipment on any frequency outside of the assigned channel. In addition, the proposed rules would require that the booster apparatus incorporate automatic circuits which will not permit power output to exceed the maximum rated output under any condition and in no case to be greater than 1 watt. The apparatus would also be required to contain automatic controls which would place it in a nonradiating condition except when the desired signal is being received. To further safeguard against interference, a licensee should take full advantage of the focusing properties of directive antennas to provide the needed service. The transmitting antenna should concentrate the power as much as possible toward the receiver point. The receiving antenna should be designed to pick up as much of the incoming signal as possible and to reject unwanted signals. With regard to concern about safeguards against improper operation of microwave boosters, the Commission is expecting actual tests to be performed by manufacturers and broadcasters to demonstrate the risk of interference from such devices. To facilitate the production of test data, the Commission encourages requests for experimental authorization to conduct developmental tests.

13. To insure that microwave boosters comply with our proposed standards, the proposed rules would require type acceptance by the FCC for such equipment. The proposed rules set out the conditions under which type acceptance will be granted.

14. Regulatory Flexibility Act Initial Analysis:

I. *Reason for action:* It appears that use of microwave boosters at aural broadcast STL and intercity relay stations and at television auxiliary broadcast stations could improve utilization of spectrum allocated for these stations, but the Commission's Rules at present do not provide for such use.

II. *The objective:* The Commission proposal is to provide for the use of microwave boosters with aural broadcast STL and intercity relay stations and with television auxiliary broadcast stations in order to make this equipment available to licensees when it is necessary to redirect microwave signals over a path that cannot be covered with a single station.

III. *Legal basis:* Action is proposed in accordance with Sections 303(g) and (r) of the Communications Act of 1934, as amended, which charges the Commission to encourage the more effective use of radio in the public interest.

IV. *Description, potential impact and number of small entities affected:* The proposed rule change would affect aural broadcast STL and intercity relay station licensees and TV broadcast auxiliary station licensees. Provision for microwave boosters could be expected to have a beneficial effect on parties desiring to use, or now using, aural and video relay equipment under Part 74.

V. *Recording, recordkeeping and other compliance requirements:* None.

VI. *Federal rules which overlap, duplicate or conflict with this rule:* None.

VII. *Any significant alternative minimizing impact on small entities and consistent with stated objective:* The Commission's alternative is to maintain the status quo and not to propose rules for the operation of microwave boosters. This alternative would not accomplish the beneficial objective sought in this rule making.

15. For further information concerning this proceeding, contact Ralph H. Smith, Broadcast Bureau, (202) 632-9660. However, for purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final Order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments or pleadings and formal arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments in this proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's rules, 47 CFR 1.1231.

16. This action is taken pursuant to authority found in Sections 4(i), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended.

17. Pursuant to applicable procedures set forth in Section 1.415 of the Commission's rules, interested parties may file comments on or before April 7, 1982, and reply comments on or before April 22, 1982. All relevant and timely comments will be considered by the Commission before further action is taken in this proceeding.

18. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and five copies of all comments, replies, or other documents filed in this proceeding shall be furnished to the Commission. Participants filing the required copies who also wish each Commissioner to have a personal copy of the comment may file an additional six copies. Members of the general public who wish to express their interest by participating informally in this proceeding may do so by submitting one copy of their comments, without regard to form, provided that the docket number is specified. Such informal participants who wish members of the staff to have a personal copy and to have an extra copy available to the Commissioners may file an additional five copies. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a written summary indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room (Room 239) at its headquarters in Washington, D.C. (1919 M Street, NW).

(Secs. 4, 303, 307, 48 Stat., as amended, 1000, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

[1] The gain of a passive repeater is proportional to its size and operating frequency. For large gains the beamwidth is quite narrow, making the positioning of the reflector rather critical.

William J. Tricarico,
Secretary.

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

Appendix

1. Section 74.501 in Subpart E, Part 74, would be amended to add a new paragraph (c) defining aural broadcast microwave booster stations, to read as follows:

§ 74.501 Classes of stations.

* * * * *

(c) *Aural broadcast microwave booster station.* A fixed station in the broadcast auxiliary service operated for the purpose of retransmitting signals of an aural broadcast STL of intercity relay station by amplifying and reradiating signals received directly through space, without significantly altering any characteristic of the incoming signal other than its amplitude.

2. Section 74.531 would be amended by the addition of a new paragraph (c), and the redesignation of existing paragraphs (c), (d), and (e) as (d), (e), and (f) respectively, to read as follows:

§ 74.531 Permissible service.

* * * * *

(c) An aural broadcast microwave booster station is authorized to retransmit the signals of an aural broadcast STL or intercity relay station.

* * * * *

3. Section 74.532 would be amended by the addition of a new paragraph (d), the modification of existing paragraph (d) to include the term "aural broadcast microwave booster," and the redesignation of this paragraph as paragraph (e), to read as follows:

§ 74.532 Licensing requirements.

* * * * *

(d) Licensees of aural broadcast STL and intercity relay stations may be authorized to operate one or more aural broadcast microwave booster stations for the purpose of relaying signals over a path which cannot be covered with a single station.

(e) Each aural broadcast STL, intercity relay, and microwave booster station will be licensed at a specified transmitter location to communicate with a specified receiving location, and the direction of the main radiation lobe of the transmitting antenna will be one of the terms of the license.

4. Section 74.533 would be amended by the modification of paragraphs (a) and (b), and subparagraph (b)(4), to include the term "aural broadcast microwave booster," to read as follows:

§ 74.533 Remote control and unattended operation.

(a) Aural broadcast STL, intercity relay, and microwave booster stations may be operated by remote control, provided that such operation is conducted in accordance with the conditions listed in this section, and provided the FCC is notified at least 10 days prior to such operation. Such notification must be accompanied by a detailed description of the proposed remote control installation showing the manner of compliance with the following conditions:

* * * * *

(b) Aural Broadcast STL, intercity relay, and microwave booster stations may be operated unattended, provided that such operation is conducted in accordance with the conditions listed below, and provided the FCC in Washington, D.C., is notified at least 10 days prior to the beginning of such operation. Such notification must be accompanied by a detailed description showing the manner of compliance with the following conditions:

* * * * *

(4) Whenever an unattended aural broadcast STL, intercity relay, or microwave booster station is in operation, appropriate observations must be made at the receiving end of the circuit once each calendar day at intervals not exceeding 30 hours by an operator designated by the licensee. However, for an aural broadcast STL (and any aural broadcast microwave booster station) associated with a radio or TV broadcast station operated by remote control, observations may be made by monitoring the broadcast station's transmitted signal at the remote control point.

* * * * *

5. Section 74.534 would be amended by the designation of the existing text as paragraph (a), and the addition of a new paragraph (b), to read as follows:

§ 74.534 Power Limitations.

(a) * * *

(b) The output power of an aural broadcast microwave booster station must be limited to that required to perform the proposed service and must not exceed 1 watt. The apparatus must contain automatic circuits which will not permit power output to exceed the maximum rated output under any condition.

6. Section 74.535 would be amended by modifying paragraph (c) and adding a new paragraph (d) to read as follows:

§ 74.535 Emission and bandwidth.

* * * * *

(c) The channels assigned to aural broadcast STL, intercity relay, and microwave booster stations are 500 kHz in width, the assigned frequency being at the center of the channel. Emissions appearing outside the assigned channel shall be attenuated as follows:

* * * * *

(d) The following limitations apply to the operation of aural broadcast microwave booster stations:

(1) The booster apparatus must be capable of receiving, amplifying, and retransmitting the signals of the originating station without significantly altering any electrical characteristic of the received signal other than its amplitude.

(2) It shall be the responsibility of the licensee to correct any condition of interference which results from the radiation of radio frequency energy outside the assigned channel. Upon notice by the FCC to the station licensee that interference is being caused, operation of the apparatus must be immediately suspended and may not be resumed until the interference has been eliminated or it can be demonstrated that the interference is not due to spurious emissions. However, short term test transmissions may be made during the period of suspended operation to check the efficacy of remedial measures.

(3) In each instance where suspension of operation is required, the licensee must submit a full report to the FCC after operation is resumed. The report must contain details of the nature of the interference, the source of interfering signals, and the remedial steps taken to eliminate the interference.

7. Section 74.536 would be amended by the designation of the existing text as paragraph (a), and the addition of a new paragraph (b), to read as follows:

§ 74.536 Directional antenna required.

(a) * * *

(b) Each aural broadcast microwave booster station must employ a directional transmitting antenna. The horizontal beamwidth between half-power points must not exceed 11°, and radiation in any minor lobe of the antenna radio pattern 20° or more removed from the main lobe of radiation shall be attenuated at least 20 dB.

8. Subpart E of Part 74 would be amended by adding new § 74.537 to read as follows:

§ 74.537 Isolation of aural broadcast microwave booster stations.

The isolation between the input and output circuits of an aural broadcast microwave booster station, including the receiving and transmitting antenna systems, should be sufficiently greater than the gain of the booster apparatus to permit satisfactory operation. In addition, automatic circuits must be incorporated into the apparatus to place it in a non-radiating condition in the event of unstable operation.

9. Part 74 would be revised by adding new § 74.552 to read as follows:

§ 74.552 Type acceptance.

Applications for aural broadcast microwave booster stations will not be accepted unless the equipment specified therein has been type accepted for use pursuant to the provisions of this Subpart and Part 2, Subpart J of the FCC Rules.

10. Section 74.562 would be amended by adding the term "aural broadcast microwave booster station" to the present text, to read as follows:

§ 74.562 Frequency monitors and measurements.

The licensee of each aural broadcast STL, intercity relay, and microwave booster station shall provide the necessary means for determining that the frequency of the station is within the allowed tolerance. The date and time of each frequency check, the frequency as measured, and a description or identification of the method employed shall be entered in the station log. Sufficient observations shall be made to insure that the assigned carrier frequency is maintained within the prescribed tolerance.

11. Section 74.563 would be amended by the addition of the term "aural microwave booster station" to the present text to read as follows:

§ 74.563 Station inspection.

The licensee of each aural broadcast STL, intercity relay, and microwave booster station shall make the station available for inspection by representatives of the Commission at any reasonable hour.

12. Section 74.582 would be amended by the addition of the term "aural broadcast microwave booster station" to paragraph (a), subparagraph (a)(2), and paragraph (c), to read as follows:

§ 74.582 Station identification.

(a) Each aural broadcast STL, intercity relay, and microwave booster station shall transmit station identification at the beginning and end of each period of operation, and hourly, as close to the hour as feasible, at a natural break in program offerings by one of the following means:

* * * * *

(2) Aural transmission of the call sign of the radio broadcast station with which it is licensed as an aural broadcast STL, intercity relay, or microwave booster station.

* * * * *

(c) Where one or more aural broadcast STL, intercity relay, or microwave booster stations are employed in an integrated relay system, the station at the point of origination may originate the transmission of the call signs of all of the stations in the relay system.

* * * * *

13. Section 74.601 in Subpart F, Part 74, would be amended by the modification of the headnote, and the addition of a new paragraph (e) defining TV microwave booster stations, to read as follows:

§ 74.601 Classes of TV broadcast auxiliary stations.

* * * * *

(e) *TV microwave booster station.* A fixed station in the TV broadcast auxiliary service operated for the purpose of retransmitting the signals of a TV pickup, TV STL, TV intercity relay, or TV translator relay station by amplifying and reradiating signals received directly through space, without significantly altering any characteristic of the incoming signal other than its amplitude.

14. Section 74.631 would be amended by the addition of a new paragraph (h) and the redesignation of existing paragraph (h) as paragraph (i), to read as follows:

§ 74.631 Permissible service.

* * * * *

(h) A TV microwave booster station is authorized to retransmit the signals of a TV pickup, TV STL, TV intercity relay, or TV translator relay station.

* * * * *

15. Section 74.632 would be amended by the addition of a new paragraph (f) to read as follows:

§ 74.632 Licensing requirements.

* * * * *

(f) Licensees of TV pickup, TV STL, TV intercity relay, and TV translator relay stations may be authorized to operate one or more TV microwave booster stations for the purpose of relaying signals over a path which cannot be covered with a single station.

16. Section 74.635 would be amended by the addition of the term "TV microwave booster stations" to paragraph (a), and by the modification of subparagraphs (a)(2) and (a)(4), to read as follows:

§ 74.635 Unattended operation.

(a) TV intercity relay stations, TV translator relay stations, TV STL stations, and TV microwave booster stations may be operated unattended, provided that such operation is conducted in accordance with the conditions listed below and provided the FCC, in Washington, D.C., is notified at least 10 days prior to the beginning of such operation. Such notification must be accompanied by a detailed description showing the manner of compliance with the following conditions:

(1) * * *

(2) The transmitters shall be provided with adequate safeguards to prevent improper operation of the equipment. TV microwave booster stations must be equipped with automatic circuits which will permit it to radiate only when a signal which it is intended to retransmit is present at the input terminals of the apparatus;

(3) * * *

(4) In the case of TV intercity relay stations, TV STL stations, TV translator relay stations, and TV microwave booster stations used with these stations, observations shall be made once each calendar day at intervals not exceeding 30 hours, at the receiving end of the microwave circuit, by a person designated by the licensee, who shall institute measures sufficient to ensure prompt correction of any condition of improper operation that is observed. However, for an STL station (and any TV microwave booster station) associated with a television station operated by remote control, the observations may be made by monitoring the television station's transmitted signal at the remote control point. In addition, for a TV translator relay station, (and any associated TV microwave booster station) the observations may be made by monitoring the associated television translator station's transmitted signal.

* * * * *

17. Section 74.636 would be amended by the designation of the existing text as paragraph (a), and the addition of a new paragraph (b), to read as follows:

§ 74.636 Power limitations.

(a) * * *

(b) The output power of a TV microwave booster station must be limited to that required to perform the proposed service and must not exceed 1 watt. The apparatus must contain automatic circuits which will not permit power output to exceed the maximum rated output under any condition.

18. Section 74.637 would be amended by the addition of a new paragraph (d), to read as follows:

§ 74.637 Emissions and emission limitations.

* * * * *

(d) The following limitations also apply to the operation of TV microwave booster stations:

(1) The booster apparatus must be cable of receiving, amplifying, and retransmitting the signals of the originating station without significantly altering any electrical characteristic of the received signal other than its amplitude.

(2) It shall be the responsibility of the licensee to correct any condition of interference which results from the radiation of radio frequency energy outside the assigned channel. Upon notice by the FCC to the station licensee that interference is being caused, operation of the apparatus must be immediately suspended and may not be resumed until the interference has been eliminated or it can be demonstrated that the interference is not due to spurious emissions. However, short term test transmissions may be made during the period of suspended operation to check the efficacy of remedial measures.

(3) In each instance where suspension of operation is required, the licensee must submit a full report to the FCC after operation is resumed. the report must contain details of the nature of the interference, the source of interfering signals, and the remedials steps taken to eliminate the interference.

19. Subpart F of Part 74 would be revised by the addition of a new § 74.638, to read as follows:

§ 74.638 Isolation of TV microwave booster stations.

The isolation between the input and output circuits of a TV microwave booster station, including the receiving and transmitting antenna systems, should be sufficiently greater than the gain of the booster apparatus to permit satisfactory operation. In addition, automatic circuits must be incorporated into the apparatus to place it in a non-radiating condition in the event of unstable operation.

20. Section 74.641 would be amended by the addition of a new paragraph (e) to read as follows:

§ 74.641 Antenna systems.

* * * * *

(e) Each TV microwave booster station must employ a directional transmitting antenna. The horizontal beamwidth between half-power points for boosters not operating in the 12,700 to 13,200 MHz band must not exceed 15°, and radiation in any minor lobe of the antenna radio pattern 20° or more removed from the main lobe of radiation shall be attenuated at least 20 dB. Boosters operating in the 12,700 to 13,200 MHz band must comply with the other provisions of this Section.

21. Section 74.655 would be amended by revising paragraph (e) to read as follows:

§ 74.655 Type acceptance.

* * * * *

(e) Type acceptance by the FCC is required for all TV broadcast auxiliary station transmitters or TV microwave boosters first licensed, or marketed as specified in Section 2.803 of the FCC Rules, except as provided for in paragraph (a) of this Section.

* * * * *

[FR Doc. 82-5667 Filed 3-3-82; 8:45 am]
BILLING CODE 4712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 391

[BMCS Docket No. 100; Notice No. 82-3]

Written Examination of Drivers

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The FHWA is considering possible options to the written examination requirement for commercial motor vehicle drivers operating in interstate or foreign commerce under the Federal Motor Carrier Safety Regulations (FMCSR). The options under consideration include (1) a pass/fail test requirement, or (2) rescinding the requirment for the written test, or (3) retaining the requirement as it stands and updating the questions. This document sets forth a number of questions for the purpose of gathering information which will assist the FHWA in determining which course of action would be most cost beneficial while causing no degradation of highway safety. Public comment is being sought on the options being considered.

DATE: Comments must be received on or before May 3, 1982.

ADDRESS: All comments should refer to the docket number that appears at the top of this document and must be submitted (preferably in triplicate) to Room 3404, Bureau of Motor Carrier Safety, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 426-0767; or Mr. Gerald M. Tierney, Office of the Chief Counsel, (202) 426-0346, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 391.35 of the FMCSR (49 CFR 391.35) requires every commercial motor vehicle driver operating in interstate or foreign commerce to take a written examination and be issued a certification of that examination by the administering motor carrier prior to driving a motor vehicle. The written examination and the certification of that examination is valid for the duration of the driver's employment with the administering motor carrier. Exceptions are provided for drivers who were employed before Janaury 1, 1971 (49 CFR 391.61), drivers of lightweight vehicles (49 CFR 391.62), and drivers of certain farm vehicles (49 CFR 391.67). In addition, a written examination is not required in the case of a driver who has a valid certification of examination issued by another motor carrier within the preceding 3 years (49 CFR 391.37).

Background

The original intent of the current requirement, which became effective in January 1971, was to require each driver to pass a knowledge test of the FMCSR to qualify to operate a commercial motor vehicle in interstate or foreign commerce. This was a true/false examination with a pass/fail score of 70 percent.

Use of written examinations as a condition of employment must be "validated," in accordance with Title VII of Civil Rights Act of 1964, to assure that its use does not produce unlawful discrimination against members of minority groups seeking employment, retention, or promotion. The Equal Employment Opportunity Commission (EEOC) judged this true/false examination discriminatory on the grounds that the written examination requirement did not meet the EEOC guidelines on Employee Selection Procedures.

Subsequent to the EEOC's action, a contract for the development of a new, validated examination was awarded in 1971. As a result of that effort, the contractor, in July 1972, supplied the Bureau of Motor Carrier Safety (BMCS) with its final report [1] which contained a multiple choice examination with a pass/fail score of 70 percent.

This report was then submitted to the EEOC for approval. The EEOC refused to concur in its use as proposed but was willing to accept it as a learning tool with no pass/fail requirements. Thus, since its inception, the written examination has been used strictly to familiarize drivers with the FMCSR.

It is estimated that motor carriers and commercial vehicle drivers expend over 236,000 hours annually complying with the written examination requirement. The resulting safety effects from this educational type of testing have not been measured. Therefore, the FHWA cannot say with certainty that it serves its intended purpose.

The BMCS invites comments from interested persons on the options under consideration. Comments are especially invited on the questions set forth below.

1. Should the written examination requirement remain as it is, become a pass/fail examination, or should the requirement be rescinded? (Please explain your answer.)
2. What validity, if any, does the present written examination requirement have as an indication of a driver's ability to safely operate a motor vehicle?
3. Using the presently prescribed examination in the screening process of new employees, do the benefits justify the paperwork/cost burden imposed on the industry? If yes, what are the benefits?
4. If in favor of a pass/fail examination requirement, what should the cut-off score be? (Please explain.)
5. Based on your past experience, what is the average time taken by an applicant to complete the current examination? How much time is required to process and file the examination? What is the total cost of processing the examination?
6. If the examination is made pass/fail, what would be the additional cost burden to a motor carrier?
7. If the examination was a pass/fail situation and used in the screening process of new employees, would the benefits justify the paperwork/cost burden imposed on the industry? If yes, what are the benefits?
8. If a pass/fail examination is adopted, should it be an open or closed book examination?

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. A draft regulatory evaluation has been prepared and is available in the public docket for review.

Based on the information available to the FHWA at this time, it is not believed that action taken in this rulemaking would have a significant economic impact on a substantial number of small entities.

(49 U.S.C. 304, 1655; 49 CFR 1.48 and 301.60)

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: February 22, 1982.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 82-5576 Filed 3-3-82; 8:45 am]
BILLING CODE 4910-22-M

[1] A copy of the report, "Development of Written Examination of the Motor Carrier Safety Regulations," PB-213402, is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, telephone (703) 487-4650, at a cost of $12.50.

Notices

Federal Register
Vol. 47, No. 43
Thursday, March 4, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Grants, Benefits and Contracts; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Grants, Benefits and Contracts of the Administrative Conference of the United States, to be held at 10:30 a.m., Thursday, March 11, 1982, at 400 Maryland Avenue, SW., Room 7096, Washington, D.C. 20548.

The Committee will meet primarily to discuss draft recommendations on procedures for resolution of disputes relating to federal grant programs.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information contact Charles Pou, Jr., Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. (Telephone: 202–254–7065). Minutes of the meeting will be available on request.

Richard K. Berg,
General Counsel.

March 1, 1982.

[FR Doc. 82-5651 Filed 3-3-82; 8:45 am]

BILLING CODE 6110-01-M

CIVIL AERONAUTICS BOARD

[Order 82-2-127; Docket No. 40488]

Airlift International, Inc.; Revocation of Certificate Authority To Provide Scheduled All-Cargo Service Between United States, Brazil, and Argentina

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause: Order 82–2–127, Docket 40488.

SUMMARY: The Board is proposing to revoke the certificate authority of Airlift International, Inc. to provide scheduled all-cargo service between the United States, Brazil and Argentina. The complete text of Order 82–2–127 is available as noted below.

DATES: All interested persons having objections to the Board's tentative findings and conclusions in Order 82–2–127 shall file by March 16, 1982, a statement of objections together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Such filings shall be served upon all persons listed below.

ADDRESSES: Objections to the tentative findings and conclusions in Order 82–2–127 should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428 in Docket 40488.

In addition copies of such filings should be served on: Airlift International, Inc., the Ambassadors of Brazil and Argentina in Washington, D.C., and the United States Departments of State and Transportation.

FOR FURTHER INFORMATION CONTACT: Ronald A. Brown, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5203.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–2–127 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82–2–127 the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: February 26, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-5652 Filed 3-3-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82-2-111]

Application of Delta Development Corporation, d.b.a. Western Yukon Air for Certificate

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (82–2–111).

SUMMARY: The Board is proposing to authorize Delta Development Corporation d.b.a. Western Yukon Air to provide all-cargo air transportation in Alaska between and among the 66 points listed in its application.

DATE: Objections: All interested persons having objections to the Board issuing the proposed certificate amendment shall file, and serve upon all persons listed below no later than March 16, 1982, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 40365, and should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on Delta Development Corporation d.b.a. Western Yukon Air; the mayor and airport manager of each city to which the pleading refers; the Governor of Alaska; the Alaska Transportation Commission; and the American Association of Airport Executives.

FOR FURTHER INFORMATION CONTACT: Mary Catherine Terry, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673–5384.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–2–111 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82–2–111 to that address.

By the Bureau of Domestic Aviation: February 24, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-5650 Filed 3-3-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 3-82]

Foreign-Trade Zone 49; Newark/Elizabeth, New Jersey; Extension of Comments Period

The period for comments on the above case involving the proposed expansion of Foreign-Trade Zone 49 to include the entire Port Newark/Elizabeth Port Authority Marine Terminal (47 FR 2898, 1–20–82), is extended for 60 days to May 5, 1982.

During the first 30 days interested parties may submit comments on the proposal, including additional information and arguments on issues raised during the initial open record period that ended February 22. Submissions postmarked after April 5 are limited to rebuttal comments on the record as of that date.

Submissions shall include 6 copies. The material submitted for the record will be available at the places where the application has been available to the public:

U.S. Department of Commerce District Office, Gateway Building, 4th Floor, Market Street and Penn Plaza, Newark, New Jersey 07102

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3721, 14th and Constitution NW., Washington, D.C. 20230

Dated: March 1, 1982.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 82-5656 Filed 3-3-82; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Applications; for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, on or before March 24, 1982.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 82–00085. Applicant: Geophysical Institute, University of Alaska, Fairbanks, AK 99701. Article: EM 38 Shallow Sounding Magnetic Induction Tool. Manufacturer: Geonics Ltd., Canada. Intended use of article: The article is intended to be used for studies of conductivity in ground ice and permafrost. Application received by Commissioner of Customs: January 6, 1982.

Docket No.: 82–00083. Applicant: Duke University, Department of Zoology, Durham, NC 27706. Article: 340789 Goniometer for Electron Microscope. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is an accessory to an existing electron microscope which will be used to tilt thin slices of material during chromosome distribution studies. The article will also be used to train eight to ten graduate or post-doctoral students in instrument maintenance and its use in biological research. Application received by Commissioner of Customs: December 11, 1981.

Docket No.: 82–00069. Applicant: SUNY College of Environmental Science and Forestry, Business Affairs, Syracuse N.Y. 13210. Article: Modelscope w/ Mount and Brace. Manufacturer: Weinberger AG, Switzerland. Intended use of article: The article is intended to be used to study visual perception of urban spaces by viewing scale models via 35mm photography and video simulation of pedestrian movement. In addition, the article will be used for educational purposes in the courses LSA522 Urban Design and LSA621 Community Design. Application received by Commissioner of Customs: January 7, 1982.

Docket No.: 82–00093. Applicant: The Pennsylvania State University, Department of Biology, 208 Mueller Laboratory, University Park, PA 16802. Article: Scanning-integrating Microdensitometer, M85a. Manufacturer: Vickers Instruments, United Kingdom. Intended use of article: The article is intended to be used for analysis at the subcellular and cellular level. The experiments to be conducted will include the following:

(1) Use of cytochemical probes to investigate specific types of pathogenic changes in central nervous system and other tissue compartments associated with exposure to sublethal levels of herbicides, insecticides and different types of nerve toxins.

(2) Development of improved cytodiagnostic procedures for detection of early stages of carcinogenesis.

(3) Evaluation of the metabolic events associated with the onset and progression of vascular disease processes.

(4) Development of cytochemical indicators which are useful in the evaluation of antidotal therapeutic regimens used in treatment of subjects exposed to toxic drugs or environmental pollutants.

Application received by Commissioner of Customs: January 19, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creal,
Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-5655 Filed 3-3-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Antidumping Investigation; Carbon Steel Wire Rod From Venezuela

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating an antidumping investigation to determine whether carbon steel wire rod from Venezuela is being, or is likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission ("ITC") of this action so that it may determine whether imports of carbon steel wire rod are materially injuring, or threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before March 25, 1982, and we will make ours on or before July 19, 1982.

EFFECTIVE DATE: March 4, 1982.

FOR FURTHER INFORMATION CONTACT:
Paul McGarr, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, (202) 377–1167.

SUPPLEMENTARY INFORMATION:

Petitions

On February 8, 1982, we received a petition from counsel for Atlantic Steel Corporation, Georgetown Steel Corporation, Georgetown Texas Steel Corporation, Keystone Consolidated, Incorporated, Korf Industries, Incorporated, Penn-Dixie Steel Corporation, and Raritan River Steel Corporation, on behalf of the U.S. industry producing carbon steel wire rod. In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of carbon steel wire rod from Venezuela are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the "Act") and that these imports are materially injuring, or threatening to materially injure, a U.S. industry. Critical circumstances have been alleged under section 733(e) of the Act. We will make a determination regarding this issue on or before the date of our preliminary determination, July 19, 1982.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on carbon steel wire rod, and we have found that it meets these requirements.

Therefore, in accordance with section 732 of the Act, we are initiating an antidumping investigation to determine whether carbon steel wire rod from Venezuela is being, or is likely to be, sold at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by July 19, 1982.

Scope of the Investigation

For the purpose of this investigation, the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, not partly manufactured; and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States*.

Notification to ITC

Section 732(d) of the Act requires us to notify the U.S. ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by March 25, 1982, whether there is a reasonable indication that imports of carbon steel wire rod from Venezuela are materially injuring, or threatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed to conclusion.

Gary N. Horlick,
Deputy Assistant Secretary for Import Administration.
March 1, 1982.
[FR Doc. 82-5882 Filed 3-3-82; 8:45 am]
BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Carbon Steel Wire Rod From Argentina

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Argentina of carbon steel wire rod receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigation proceeds normally, we will make our preliminary determination on or before May 4, 1982.

EFFECTIVE DATE: March 4, 1982.

FOR FURTHER INFORMATION CONTACT:
Paul J. McGarr, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, (202) 377–1167.

SUPPLEMENTARY INFORMATION:

Petition

On February 8, 1982, we received a petition from counsel for Atlantic Steel Corporation, Georgetown Steel Corporation, Georgetown Texas Steel Corporation, Keystone Consolidated Incorporated, Korf Industries Incorporated, Penn-Dixie Steel Corporation and Raritan River Steel Corporation, on behalf of the U.S. industry producing carbon steel wire rod. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26) the petition alleges that producers, manufacturers, or exporters in Argentina of carbon steel wire rod receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the "Act"). Critical circumstances also have been alleged.

Since Argentina is not a "country under the Agreement", section 303 of the Act applies to this investigation. In addition, the merchandise is dutiable; therefore, an injury determination is not required.

Initiation of Investigtion

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on carbon steel wire rod, and we have found that the petition meets these requirements.

Therefore, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Argentina of carbon steel wire rod receive bounties or grants. If our investigation proceeds normally, we will make our preliminary determination by May 4, 1982.

Since Argentina is not a "country under the Agreement" and this investigation is under section 303 of the Act, the critical circumstances provision is not applicable (see section 303(b)(3)). Accordingly, we will take no further action on the critical circumstances allegation.

Scope of the Investigation

For the purpose of this investigation, the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.02 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured, and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States*.

Allegations of Bounties or Grants

The petition alleges that manufacturers, producers, or exporters of carbon steel wire rod in Argentina receive the following benefits that constitute bounties or grants: overrebates of indirect taxes, preferential export financing, regional development assistance, long-term financing at preferential rates, income tax exemptions, and direct investment subsidies.

Gary N. Horlick,
Deputy Assistant Secretary for Import Administration.
March 1, 1982.
[FR Doc. 82-5883 Filed 3-3-82; 8:45 am]
BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Carbon Steel Wire Rod From Belgium

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Belgium of carbon steel wire rod receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission ("ITC") of this action so that it may determine whether imports of carbon steel wire rod are materially injuring, or treatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will make its preliminary determinations on or before March 25, 1982, and we will make ours on or before May 4, 1982.

EFFECTIVE DATE: March 4, 1982.

FOR FURTHER INFORMATION CONTACT:
Michael J. Altier, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, (202) 377–1785.

SUPPLEMENTARY INFORMATION:

Petition

On February 8, 1982, we received a petition from counsel for Atlantic Steel Corporation, Georgetown Steel Corporation, Georgetown Texas Steel Corporation, Keystone Consolidated, Incorporated, Korf Industries, Incorporated, Penn-Dixie Steel Corporation and Raritan River Steel Company, on behalf of the U.S. industry producing carbon steel wire rod. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers, manufacturers, or exporters in Belgium of carbon steel wire rod receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1677(5)) (the "Act") and that imports of carbon steel wire rod are materially injuring, or threatening to materially injure, a U.S. industry. Critical circumstances have been alleged under section 703(e) of the Act. We will make a decision regarding this issue on or before the date of our preliminary determination, May 4, 1982.

Belgium is a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, title VII of the Act applies to this investigation.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petition on carbon steel wire rod, and we have found that it meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Belgium of carbon steel wire rod receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigation proceeds normally, we will make our preliminary determination by May 4, 1982.

Scope of the Investigation

For the purpose of this investigation, the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, not partly manufactured; and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States*.

Allegations of Subsidies

The petition alleges that producers, manufacturers, or exporters in Belgium of carbon steel wire rod receive the following benefits from the Belgian government that constitute subsidies: capital grants; interest rebates; preferential loans and loan guarantees; special government purchases of convertible debentures; debt consolidation, extension, and conversion; tax incentives; labor-related aid; and research and development advances and loans.

The petition also alleges that producers, manufacturers, or exporters in Belgium of carbon steel wire rod benefit from the following European Communities subsidies: preferential loans and loan guarantees, research and development incentives, coal and coke input subsidies, and labor-related aid.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by March 25, 1982, whether there is a reasonable indication that imports of carbon steel wire rod from Belgium are materially injuring, or threatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed to conclusion.

Gary N. Horlick,
Deputy Assistant Secretary for Import Administration.
March 1, 1982.
[FR Doc. 82-5884 Filed 3-3-82; 8:45 am]
BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Carbon Steel Wire Rod From Brazil

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether

producers, manufacturers, or exporters in Brazil of carbon steel wire rod receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission ("ITC") of this action so that it may determine whether imports of carbon steel wire rod are materially injuring, or threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before March 25, 1982, and we will make ours on or before May 4, 1982.

EFFECTIVE DATE: March 4, 1982.

FOR FURTHER INFORMATION CONTACT: Paul J. McGarr, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, (202) 377–1167.

SUPPLEMENTARY INFORMATION:

Petitions

On February 8, 1982, we received a petition from counsel for Atlantic Steel Corporation, Georgetown Steel Corporation, Georgetown Texas Steel Corporation, Keystone Consolidated, Incorporated, Korf Industries, Incorporated, Penn-Dixie Steel Corporation and Raritan River Steel Company, on behalf of the U.S. industry producing carbon steel wire rod. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers, manufacturers, or exporters in Brazil of carbon steel wire rod receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1677(5)) (the "Act") and that imports of carbon steel wire rod are materially injuring, or threatening to materially injure, a U.S. industry. Critical circumstances have been alleged under section 703(e) of the Act. We will make a decision regarding this issue on or before the date of our preliminary determination.

Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, title VII of the Act applies to this investigation.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petition on carbon steel wire rod, and we have found that it meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Brazil of carbon steel wire rod receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigation proceeds normally, we will make our preliminary determination by May 4, 1982.

Scope of the Investigation

For the purposes of this investigation, the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, not partly manufacturered; and valued over 4 cents per pound, as currently provided for in items 607.17 of the *Tariff Schedules of the United States.*

Allegations of Subsidies

The petition alleges that producers, manufacturers, or exporters in Brazil of carbon steel wire rod benefit from the following subsidies: preferential capital loans, preferential working-capital and export financing loans, tax exemptions, investment subsidies from tax rebates, overrebate of indirect taxes, special depreciation privileges for export-oriented projects, preferential factor pricing and transportation subsidies.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by March 25, 1982, whether there is a reasonable indication that imports of carbon steel wire rod from Brazil are materially injuring, or threatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

March 1, 1982.

[FR Doc. 82-5880 Filed 3-3-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Carbon Steel Wire Rod From France

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in France of carbon steel wire rod receive benefits that constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission ("ITC") of this action so that it may determine whether imports of carbon steel wire rod are materially injuring, or threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will make is preliminary determination on or before March 25, 1982, and we will make ours on or before May 4, 1982.

EFFECTIVE DATE: March 4, 1982.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Tolerico, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, (202) 377–4036.

SUPPLEMENTARY INFORMATION:

Petition

On February 8, 1982, we received a petition from counsel for Atlantic Steel Corporation, Georgetown Steel Corporation, Georgetown Texas Steel Corporation, Keystone Consolidated Incorporated, Korf Industries Incorporated, Penn-Dixie Steel Corporation, and Raritan River Steel Company, on behalf of the U.S. industry producing carbon steel wire rod. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers, manufacturers, or exporters in France of carbon steel wire rod receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1677(5)) (the "Act") and that imports of carbon steel wire rod are materially injuring, or threatening to materially injure, a U.S. industry. Critical circumstances have been alleged under section 703(e) of the Act. We will make a decision regarding this issue on or before the date of our preliminary determination, May 4, 1982.

France is a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, title VII of the Act applies to this investigation.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petition on carbon steel wire rod, and we have found that it meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in France of carbon steel wire rod receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investingation proceeds normally, we will make our preliminary determination by May 4, 1982.

Scope of the Investigation

For the purpose of this investigation, the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch or over 0.74 inch in diameter, not tempered, not treated, not partly manufactured, and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States.*

Allegations of Subsidies

The petition alleges that producers, manufacturers, or exporters in France of carbon steel wire rod receive the following benefits that constitute subsidies: preferential loans and loan guarantees, the recapitalization of the French carbon steel industry under the 1978 Rescue Plan, research and development funding, incentives to supplier industries, preferential export credits, and export insurance.

The petition also alleges that producers, manufacturers, or exporters in France of carbon steel wire rod benefit from the following European Communites subsidies: preferential loans and loan guarantees, research and development incentives, assistance to coal/coke suppliers, and assistance to labor.

Notification of ITC

Section 702(d) of the Act requires us to notify the U.S. International Trade Commission of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided that it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by March 25, 1982 whether there is a reasonable indication that imports of carbon steel wire rod from France are materially injuring, or threatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

March 1, 1982.

[FR Doc. 82-5881 Filed 3-3-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Carbon Steel Wire Rod From South Africa

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in South Africa of carbon steel wire rod receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigation proceeds normally, we will make our preliminary determination on or before May 4, 1982.

EFFECTIVE DATE: March 4, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Black, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, (202) 377–1774.

SUPPLEMENTARY INFORMATION:

Petition

On February 8, 1982, we received a petition from counsel for Atlantic Steel Corporation, Georgetown Steel Corporation, Georgetown-Texas Steel Corporation, Keystone Consolidated Incorporated, Korf Industries Incorporated, Penn-Dixie Steel Corporation and Raritan River Steel Corporation, on behalf of the U.S. industry producing carbon steel wire rod. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26) the petition alleges that producers, manufacturers, or exporters in South Africa of carbon steel wire rod receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the "Act"). Critical circumstances also have been alleged.

Since South Africa is not a "country under the Agreement", section 303 of the Act applies to this investigation. In addition, the merchandise is dutiable; therefore, an injury determination is not required.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on carbon steel wire rod, and we have found that the petition meets these requirements.

Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in South Africa of carbon steel wire rod, as listed in the "Scope of the Investigation" section of this notico, receive bounties or grants. If our investigation proceeds normally, we will make our preliminary determination by May 4, 1982.

Since South Africa is not a "country under the Agreement" and this investigation is under section 303 of the Act, the critical circumstances provision is not applicable (see section 303(b)(3)). Accordingly, we will take no further action on the critical circumstances allegation.

Scope of the Investigation

For the purpose of this investigation, the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled

carbon steel product of approximately round solid cross section, not under 0.02 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured, and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States.*

Allegations of Bounties or Grants

The petition alleges that manufacturers, producers, or exporters of carbon steel wire rod in South Africa receive the following benefits that constitute bounties or grants: reduced transportation rates; refunds of shipping costs; export credit insurance; preferential pre-shipment and post-shipment financing for exports; preferential development loans, direct grants, and preferential loans given to a government-owned steel producer; tax deductions and investment allowances for certain export development expenses, employee training programs, doing business in certain development areas, and beneficiation of base minerals; the steel export incentive scheme; and other export incentives.

Gary N. Horlick,
Deputy Assistant Secretary for Import Administration.
March 1, 1982.

[FR Doc. 82-5682 Filed 3-3-82; 8:45 am]
BILLING CODE 3510-25-M

Motorcycle Batteries From Taiwan; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at less than fair value.

SUMMARY: We have determined that motorcycle batteries from Taiwan are being, or are likely to be, sold in the United States at less than fair value. The U.S. International Trade Commission will determine on or before April 19, 1982, whether these imports are materially injuring, or threatening to materially injure, a U.S. industry.

EFFECTIVE DATE: March 4, 1982.

FOR FURTHER INFORMATION CONTACT: Michael Ready, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, (202) 377–2613.

SUPPLEMENTARY INFORMATION:

Case History

On May 1, 1981, we received a petition from Yuasa-General Battery Corporation of Reading, Pennsylvania. The petition, which was filed on behalf of the U.S. industry producing motorcycle batteries, alleged that various producers in Taiwan are selling this merchandise in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the "Act"). The petition also alleged that these imports are materially injuring a U.S. industry.

After reviewing the petition, we determined it contained sufficient grounds upon which to initiate an antidumping investigation. Therefore, we initiated the investigation on May 27, 1981 (46 FR 28465–66), and we notified the U.S. International Trade Commission (the "ITC") of our action.

On June 9, 1981, the ITC found that there is a reasonable indication that imports of motorcycle batteries from Taiwan are threatening to materially injure a U.S. industry. The ITC published its determination in the Federal Register on June 24, 1981 (46 FR 32696–8).

On October 14, 1981, we preliminarily determined that motorcycle batteries from Taiwan are being, or are likely to be, sold in the United States at less than fair value (46 FR 50577).

On December 15, 1981, we extended the period for making a final determination (46 FR 61160) from December 22, 1981 to February 26, 1982.

Scope of Investigation

For purposes of this investigation, the term "motorcycle batteries" means lead-acid storage batteries, principally dedicated for use in motorcycles, having a nominal output of either 6 or 12 volts, and rated between 2 and 25 ampere-hours (10 hour discharge rate). Motorcycle batteries are currently classified under item 683.10 of the *Tariff Schedules of the United States.*

This investigation covers sales made between December 1, 1980 and May 31, 1981. Our investigation covered six Taiwanese manufacturers:

1. Cheng Kwang Storage Battery Co., Ltd. ("Cheng Kwang"),
2. China Storage Battery Co., Ltd. ("CSB"),
3. Great King Electricity Co., Ltd. ("Great King"),
4. Tahming Battery Co., Ltd. ("Tahming"),
5. Yuasa Battery Taiwan Co., Ltd. ("Yuasa"),
6. Ztong Yee Industrial Co., Ltd. ("Ztong Yee").

These six manufacturers account for about 90 percent of the exports of this merchandise to the United States.

Methodology of Fair Value Comparisons

Comparisons were made between United States price and the price of such or similar merchandise sold for consumption in either the home market of Taiwan or in third country markets.

Purchase price was used to represent United States price in cases where the price of batteries to unrelated purchasers in the United States was agreed to before the batteries were imported into the United States.

Exporters' sales price was used in cases where the price of batteries to unrelated purchasers in the United States was not agreed to before the batteries were imported into the United States.

In the case of four manufacturers (CSB, Tahming, Yuasa, and Ztong Yee), we compared either purchase price or exporter's sales price, as applicable, with the price of such or similar merchandise sold for consumption in the home market of Taiwan.

In the case of Cheng Kwang, all home market sales were of a single battery model, whereas sales to the United States were of seventeen battery models which varied widely in specifications. We therefore compared purchase price with the price of such or similar merchandise sold for consumption in the home market of Taiwan in the case of one battery model, and with the price of such or similar merchandise sold for consumption to a third country (Sweden) in the case of ten other battery models. Using this methodology, we were able to make comparisons on 62 percent of Cheng Kwang's sales to the United States.

In the case of Great King, the quantity sold for home consumption was so small in relation to the quantity sold for exportation to countries other than the United States as to form an inadequate basis for comparison. Therefore, in the case of Great King, we compared purchase price with the price of such or similar merchandise sold to a third country (Greece), pursuant to § 353.4(a) of the Commerce Department's regulations ("Regulations").

For both Cheng Kwang and Great King, the third country selected was chosen because the batteries exported to that third country had a greater degree of similarity to the batteries exported to the United States than those exported to other countries and the volume of sales to that country was deemed adequate.

Purchase Price

We calculated purchase price on the basis of the FOB or CIF prices to unrelated U.S. importers or Taiwanese exporters. We made deductions, where applicable, for royalty, fees, shipping and FOB charges and commissions. In the case of "third country" comparisons, we also made a deduction for the stamp tax (a charge incurred for affixing required stamps to certain documents). We made additions (except in the case of third country comparisons), as applicable, for both import duties which were rebated and taxes which were rebated, or not collected, by reason of the exportation of the merchandise to the United States, pursuant to sections 772(d)(1) (B) and (C) of the Act.

Exporter's Sales Price

Exporter's sales price was calculated in the same manner as purchase price, except that further deductions were made for inland freight in the United States, indirect selling expenses in the United States and, where applicable, the amount of increased value added in the United States.

Foreign Market Value

Foreign market value based on home market sales was calculated by deducting, where applicable, inland freight, royalty fees, sales bonus, and insurance. Adjustments were made, where applicable, for differences in circumstances of sale (differences in credit costs, and technical services, advertising directed at consumers, warranty, and sales promotion expense, differences in the merchandise and differences in packing costs).

Foreign market value based on sales to third countries was calculated by deducting shipping and FOB charges, stamp tax and, where applicable, sales commission.

Verification

In accordance with section 776(a) of the Act, we verified all information used in making this determination. We were granted access to the books and records of the six foreign manufacturers and of a related importer. We used standard verification procedures, including on-site inspection of the manufacturers' operations and examination of accounting records and randomly selected documents containing relevant information.

Submitted Views

In response to our preliminary determination of sales at less than fair value, counsel for various interested parties submitted written views which were also discussed in a public hearing held on November 25, 1981. The written views and the Department of Commerce's ("DOC") position on them are summarized below.

A. Issues Raised by Counsel for the Petitioner

1. Counsel has argued that in calculating United States price we should make deductions for containerization fees, customs declaration charges, and bank negotiation charges incurred on shipments of motorcycle batteries to the United States by all six manufacturers.

DOC Position: At the time we made our preliminary determination, we did not have complete information on these charges for all six companies. Subsequently, we have gathered complete information and we have deducted these charges for all six manufacturers for all shipments on which such charges were incurred.

2. Counsel has argued that in calculating United States price we should have deducted the amount of the stamp tax (0.1 percent) incurred by all companies on their shipments to the United States.

DOC Position: During the course of this investigation, we have verified that the "stamp tax" (a charge incurred for affixing required stamps to certain documents) is assessed in the amount of 0.4 percent in the case of home market sales and 0.1 percent in the case of export sales (including sales to the United States). In other words, 0.3 percent of this tax is *not collected* in the case of exports. We have therefore determined that in this instance it is appropriate to *add* the difference (0.3 percent) in calculating United States price pursuant to section 772(d)(1)(C) of the Act which states that the United States price shall be "increased by . . . the amount of any taxes imposed in the country of exportation directly upon the exported merchandise or components thereof, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States, but only to the extent that such taxes are added to or included in the price of such or similar merchandise when sold in the country of exportation . . . ." In the case of comparisons between sales to the United States and sales to third countries, we did deduct the 0.1 percent stamp tax from the sales price in both markets.

3. Counsel has argued that in calculating United States price we should not have made an addition for import duties rebated.

DOC Position: We have verified that upon export the manufacturers investigated earn a rebate totaling 7.22 percent for various taxes paid on imported raw materials. The total rebate consists of 5.72 percent for import duties, 0.63 percent for harbor tax (sometimes referred to as harbor dues) and 0.87 percent for cargo (or commodity) tax. We have determined that it is appropriate, in calculating United States price, to make an addition for the import duty component (5.72 percent) of this rebate pursuant to section 772(d)(1)(B) of the Act, which requires that the United States price be "increased by . . . the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States." The balance of this rebate (0.63 percent for harbor tax and 0.87 percent for cargo tax) we added in calculating United States price pursuant to the aforementioned section 772(d)(1)(C) of the Act.

4. Counsel has argued that in calculating United States price we should have made no additions for the non-collection or reduced collection of gross receipts tax, education surtax and stamp tax, because these taxes are not levied directly upon motorcycle batteries and therefore are not included within the ambit of section 772(d)(1)(C) of the Act.

DOC Position: Our treatment of the stamp tax is discussed above at point A.2. We have verified that the gross receipts tax (0.6 percent) and the education surtax (0.15 percent) are not collected in the case of exports but are collected in the case of home market sales. It has been the consistent policy of DOC (and the Treasury Department before it) that the gross receipts tax (sometimes referred to as business or sales tax) and the education surtax are both indirect taxes imposed directly on the merchandise and are properly added in calculating United States price pursuant to Section 772(d)(1)(C) of the Act. (This policy was most recently restated in "Carbon Steel Plate from Taiwan; Final Results of Administrative Review of Antidumping Finding" (46 FR 48280).

5. Counsel has argued that in making an adjustment for differences in credit terms, the DOC should have used the interest rate applicable to savings deposits. (This adjustment, permissible under § 353.15 of the Commerce Regulations as a "circumstance of sale," was a part of all of the fair value comparisons except those involving third countries).

DOC Position: An adjustment for difference in credit terms is warranted because each of the manufacturers investigated receives payment earlier in the case of sales to the United States

than in the case of home market sales. However, it is our position that the adjustment should be based on each respondent's actual annual *loan* rate of interest, rather than the rate applicable to savings deposits.

6. Counsel has argued that we should have made no adjustment in the case of the manufacturer Tahming for promotional expense.

DOC Position: This adjustment is proper because it was found to meet the criteria of § 353.15(b) of the Regulations, which requires that such expenses must "be attributable to a later sale of the merchandise by a purchaser."

7. Counsel has argued that in the case of the manufacturer Cheng Kwang, no adjustments should have been made for repair cost, after service cost, and advertising costs.

DOC Position: These adjustments were proper because they were for expenses which meet the criteria of § 353.15(b) of the Regulations. The repair and after service costs bear a "direct relationship to the sales which are under consideration" and the advertising costs are "attributable to a later sale of the merchandise by a purchaser". It should be notedn however, that these adjustments were improperly calculated by Cheng Kwang. When recalculated by the DOC, the resulting adjustments were much smaller than originally claimed.

8. Counsel has argued that no adjustment should be made for advertising expense in the case of the manufacturer Yuasa-Taiwan, because the claimed expense was not incurred solely for the sale of motorcycle batteries.

DOC Position: Our investigation showed that this expense did meet the aforementioned criteria and was properly allocated over Yuasa-Taiwan's home market sales of motorcycle batteries.

9. Counsel has argued that in the case of Yuasa-Taiwan, adjustments for advertising, bad debts and interest on inventory goods should be made in the case of comparisons between foreign market value and exporter's sales price, pursuant to § 353.15(c) of the Regulations which provides in part that: "In making comparisons using exporter's sales price, reasonable allowance will be made for all actual selling expenses incurred in the home market up to the amount of the selling expenses incurred in the United States market." (This section is referred to as the ESP offset provision.)

DOC Position: As noted above, we have adjusted for the advertising expense pursuant to § 353.15(b) of the Regulations. With regard to the bad debts and interest on inventory goods, these items do not meet the criteria of the ESP offset provision because they are not *actual* selling expenses. Yuasa-Taiwan was unable to offer any evidence of actual bad debt losses on sales of motorcycle batteries in the home market. Nor did Yuasa-Taiwan offer evidence of any other *actual* selling expenses.

10. Counsel has argued that in the case of the manufacturer Great King, we should not have selected sales to Greece to represent fair value because: (1) Great King did not provide full information on all its sales to third countries; (2) the sale to Greece was made outside the period of investigation; (3) only nine models of batteries were sold to Greece, whereas 31 models were sold to the United States; and (4) the sales to Greece are too small a percentage of non-US sales.

DOC position: (1) The total third country sales of Great King were provided and verified. (Counsel had not yet seen the verification report at the time he filed his brief); (2) the sale to Greece was made on November 27, 1980, whereas the period of investigation was from December 1980, to May 1981. However, § 353.38(a) of the Regulations authorizes the DOC to amend the period of investigation where necessary; (3) actually, the sale to Greece included 15 of 29 models of batteries sold to the United States. More importantly, the sale to Greece included models comprising 63 percent by value of Great King's sales to the United States. The corresponding percentages for the third countries of Malaysia, Iran, and Italy are 17, 13, and zero respectively; and (4) sales to Greece comprised 4.9 percent of Great King's third country sales. Moreover, as noted above, the product mix sold to Greece more closely approximated the product mix sold to the United States than any other third country. Also, the single sale to Greece was comparable to each of the four sales to the United States in terms of total value and in quantity sold per battery model.

B. Issues raised by counsel for Exide Corporation (a domestic manufacturer of motorcycle batteries who is a party to the proceeding). Counsel for Exide Corporation raised a number of issues most of which were also raised by the petitioner. Listed below are the issues raised solely by counsel for Exide.

1. Counsel has argued that Cheng Kwang did not provide information concerning all its home market sales.

DOC position: We have verified that the home market sales information submitted by Cheng Kwang is complete and accurate.

2. Counsel has argued that we should expand the investigation to include another manufacturer. This point was not raised until mid-November 1981.

DOC position: The six manufacturers we investigated accounted for about 90 percent of the exports of motorcycle batteries from Taiwan during the period of investigation, an adequate percentage based on previous determinations. In any event, manufacturers not investigated will be subject to this determination and will be required to post security in the amount of 8 percent of the f.o.b. value.

C. Issues raised by counsel for the Taiwan Electric Applicance Manufacturers Association ("TEAMA").

1. Counsel argues that in the case of all six manufacturers, in calculating United States price, we should have made no deductions for bank service charges, customs declaring fees, freight forwarding charges, and containerization fees.

DOC position: The above charges were all properly deducted under the provisions of section 772(d)(2)(A) of the Act which provides that the United States price shall be reduced by ". . . the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States. . .".

2. Counsel has argued that based on the results of our investigation we should exclude Great King from any final affirmative determination of sales at less than fair value under the *de minimis* principle.

DOC position: The weighted average margin of dumping for Great King was found to be 1.0 percent. Margins of this magnitude may not be ignored under the *de minimis* principle.

3. Counsel has argued that in the case of Ztong Yee, Tahming, and CSB, pursuant to § 353.19 of the Regulations, we should have made comparisons at the same level of trade or at different levels of trade with adjustments for differences affecting price comparability.

DOC position: We have, wherever possible, made comparisons at the same level of trade. However, not every model battery for every manufacturer was sold at the same level of trade in both markets. Furthermore, there was no consistent pattern of price variation in the home market according to the level of trade which would form a reasonable basis upon which to make an adjustment.

4. Counsel has argued that in the case of Ztong Yee, Tahming, and CSB, pursuant to § 353.14 of the Regulations, we should have made comparisons on sales of comparable quantities or with adjustments for differences in quantities.

DOC position: We have, wherever possible, made comparisons at comparable quantities. However, not every model, for every manufacturer, was sold in comparable quantities in both markets considered. Furthermore, there was no consistent pattern of price variation according to quantity per sale. None of the manufacturers provided information that would satisfy either of the criteria necessary for making allowances for quantity stated in § 353.14(b) of the Regulations.

5. Counsel has argued that in the case of Ztong Yee and Tahming, in the calculation of foreign market value, we should have made an adjustment for "interest on inventory" as a difference in circumstances of sale pursuant to § 353.15 of the Regulations.

DOC Position: This claimed adjustment, based on the cost of financing borne by the manufacturers for carrying a large number of batteries of various models for prospective sale in the home market, does not meet the criteria of § 353.15 of the Regulations which states that "allowances generally will not be made for advertising and other selling costs of a seller *unless such costs are attributable to a later sale of the merchandise by a purchaser.*"

6. Counsel has argued that in the case of Ztong Yee, in calculating foreign market value, we should have made an adjustment for salesmens' salary expense as a difference in circumstances of sale pursuant to 353.15 of the Regulations.

DOC Position: This claimed adjustment was also not appropriate because the expense was not attributable to a later sale of the merchandise by a purchaser. Salaries can not generally be taken as an adjustment except as an offset to United States selling expenses in cases involving exporter's sales price comparisons. There are no such comparisons for this manufacturer.

7. Counsel has argued that in the case of Ztong Yee, in calculating foreign market value, an adjustment should have been made for warranties, guarantees and servicing expenses as a difference in circumstances of sale pursuant to § 353.15 of the Regulations.

DOC Position: Adjustments such as these are specifically allowed under § 353.15(b) of the Regulations. However, in support of the claimed amount for this adjustment, Ztong Yee offered only the *total* corporate travel expenses for the period of investigation. In the absence of any evidence concerning expenses incurred for warranty, guarantee, or service related travel, no adjustment can be made.

8. Counsel has argued that in the case of Ztong Yee, in calculating foreign market value, an adjustment should have been made for advertising expense as a difference in circumstances of sale pursuant to § 353.15 of the Regulations.

DOC Position: Sufficient evidence concerning this claim had not been provided at the time of our preliminary determination. Subsequently, Ztong Yee has provided adequate evidence that it did incur home market advertising expense attributable to later sales of motorcyle batteries for which an adjustment is proper. However, we found that Ztong Yee improperly allocated the portion of this expense for FM radio advertising. Therefore, the adjustment we made is lower than that claimed.

9. Counsel has argued that in calculating foreign market value for Tahming, we should have made an adjustment for obsolescense loss as a difference in circumstances of sale pursuant to § 353.15 of the Regulations.

DOC Position: This claim is based upon the cost of inventory financing incurred by Tahming for battery models that prove unsaleable and are eventually scrapped. The claim was rejected because the expense did not meet the criteria of § 353.15 of the Regulations. The expense bore no direct relationship to the sales which are under consideration.

10. Counsel has argued that in the case of Tahming, in calculating foreign market value, an adjustment should have been made for bad debt reserve as a difference in circumstances of sale pursuant to § 353.15 of the Regulations.

DOC Position: This claim was rejected because the expense bore no direct relationship to the sales under consideration. No evidence was presented that Tahming suffered any losses because of bad debts on its home market sales of motorcycle batteries during the period of investigation.

11. Counsel has argued that in the case of Cheng Kwang, we should have calculated foreign market value based on sales to a third country, Sweden, with adjustments made for differences in level of trade and quantities.

DOC Position: Cheng Kwang's sales of motorcycle batteries in its home market were valued at about 10 percent of its sales to third countries. Under normal circumstances, pursuant to § 353.4(a) of the Regulations, home market sales of such magnitude would be considered to be an adequate basis to represent foreign market value. However, as noted above under "Methodology of Fair Value Comparison", all home market sales were of a single battery model, whereas sales to the United States were of seventeen battery models, with a wide variance in specifications. The single model sold in the home market accounted for less than 3 percent of the sales to the United States. We therefore based foreign market value on home market sales for one model and on third country (Sweden) sales for 10 other models. Using this methodology, we were able to make comparisons on 62 percent of Cheng Kwang's sales to the United States. No adjustments were made for differences in level of trade or quantities because there was no consistent pattern of price variation in concert with differences in either level of trade or quantity pursuant to § 353.19 of the Commerce Regulations.

12. Counsel has argued that in the calculation of foreign market value for Cheng Kwang we should have adjusted for the full amount claimed by Cheng Kwang for warranties, guarantees, and servicing expenses as a difference in circumstances of sale pursuant to § 353.15 of the Regulations.

DOC Position: Cheng Kwang was unable to identify which of its warranty, guarantee, and servicing expenses were devoted to motorcycle batteries. It therefore allocated its entire amount of such expenses between motorcycle and automobile battery sales based upon the *number* of units sold of each type (motorcycle or automobile) battery. It is our position that since the unit value of automobile batteries is much greater than the unit value of motorcycle batteries, Cheng Kwang's method of allocation loads a disproportionate amount of the expense on motorcycle batteries. We therefore recalculated this adjustment by allocating this expense by the value of motorcycle battery sales over the total value of sales of both motorcycle and automobile batteries.

13. Counsel has argued that CSB should be excluded from any final affirmative determination because there were no sales at less than fair value for that manufacturer.

DOC Position: On October 14, 1981, we preliminarily determined, based on the best information available, that CSB had no sales at less than fair value. However, since that time, we have gathered, verified, and analyzed more data, and have calculated a weighted-average margin for CSB of sales at less than fair value of 1.7 percent. Therefore, an exclusion from the final determination for CSB is not warranted.

D. Issues raised by Counsel for Dorsey International, Incorporated ("Dorsey") (an American importer of motorcycle batteries from Taiwan who is a party to the proceeding).

The issues listed below raised by counsel for Dorsey are issues which differ from those raised by counsel for TEAMA which are discussed above.

1. Counsel has argued that in the case of Tahming, we should have compared sales to the United States of battery model 6N6–1D–2 to sales in the home market of model 6N6–1B(K) rather than model 6N6–1D because "the sale of the former was to the buyer occupying a market position comparable to that of the U.S. importer and the quantities sold in both cases were equal."

DOC Position: All three models are quite similar in terms of specifications and configuration. Model 6N6–1D was not sold in the home market in quantities comparable to the quantities at which model 6N6–1D–2 was sold to the United States. For the final determination, we have compared sales to the United States of model 6N6–1D–2 with home market sales of model 6N6–1B(K) which was sold in comparable quantities. In making this comparison we have also made an adjustment for the difference in production cost between the two models pursuant to section 353.16 of the Regulations. A further discussion of the methodology we employed for Tahming appears below under "D2".

2. Counsel has argued that in the case of Tahming, (1) sales of "similar" merchandise to Taiwanese original equipment manufacturers ("OEM's") should be used rather than sales of "such" merchandise to Taiwanese dealers to form a basis for calculating foreign market value, or, alternatively, (2) if sales of such merchandise to dealers are used for comparison purposes, then a level of trade adjustment on the basis of the weighted-average price differential between sales to OEM's and dealers should be made.

DOC Position: There is no consistent pattern of price varying according to level of trade for this manufacturer. For the purposes of this final determination, for Tahming, we have compared sales to the United States with the weighted-average sales price of identical battery models sold in comparable quantities in the home market to either OEM's or dealers. In instances where identical models were not sold in comparable quantities in the home market, we based our comparison on sales of the most similar battery model sold in the home market in comparable quantities, with an adjustment for the difference in cost of production between the battery model sold to the United States and the similar home market model with which it is compared.

3. Counsel has argued that in the case of Tahming, in calculating foreign market value, we should have made an adjustment for "small quantity orders" versus large quantity orders.

DOC Position: During the course of the on-site verification of information submitted by Tahming, the company was unable to substantiate this claimed adjustment.

4. Counsel has argued that we should expand the period of investigation to include purchases by Dorsey from Tahming which were made prior to December 1980 (the beginning of the investigation period) but not shipped until later.

DOC Position: The criterion for inclusion of a transaction within our investigation is the date of sale, not shipment. To expand the period of investigation to include the Dorsey sales would skew the results of our investigation unless we required additional sales data from the other five manufacturers covering the period of the Dorsey sales.

Final Determination

Based on the preceding criteria and in accordance with § 353.44 of the Regulations, we have determined that exports of motorcycle batteries from Taiwan are being sold at less than fair value within the meaning of section 731 of the Act. Margins were found on 59 percent of the sales compared, and the margins ranged from 0.02 to 47.4 percent. The weighted-average margin on all sales compared was 8.0 percent. The weighted-average margin found for each manufacturer is listed in the table in the next section of this notice. We have provided interested parties with an opportunity to present oral views in accordance with 19 CFR 353.47 and written views in accordance with 19 CFR 353.46(a). All views presented have been considered in making this determination.

Continuation of Suspension of Liquidation

The liquidation of all entries, or withdrawals from warehouse, for consumption of this merchandise will continue to be suspended. The U.S. Customs Service will continue to require posting of a cash deposit, bond, or other security in the amounts listed below, expressed as a percentage of the F.O.B. value of the motorcycle batteries.

Manufacturer	Weighted-average margins (percent of f.o.b. value)
Ziong Yee Industrial Co., Ltd	18.8
Tahming Battery Co., Ltd	11.1
Yuasa Battery Taiwan Co., Ltd	7.4
Cheng Kwang Storage Battery Co., Ltd	7.2
China Storage Battery Co., Ltd	1.7
Great King Electricity Co., Ltd	1.0
All Others	8.0

ITC Notification

We have referred this case to the ITC so that so that it may determine whether these imports are materially injuring a U.S. industry. That determination is due within 45 days of the publication of this notice.

As section 735(c)(1)(A) of the Act requires, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order, without written consent of the Deputy Assistant Secretary for Import Administration.

If the ITC determines that material injury does not exist, this proceeding will be terminated, and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, within 7 days we will issue an antidumping order, directing customs officers to assess an antidunmping duty on all motorcycle batteries from Taiwan entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the United States price.

Gary N. Horlick,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 82-5882 Filed 3-3-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council's Scientific and Statistical Committee; Public Meetings

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), has established a Scientific and Statistical Committee, which will meet to discuss research requirements for all of the Council's fishery management plans.

DATES: The public meetings will convene on Tuesday, March 23, 1982, at approximately 1 p.m., and adjourn at approximately 5 p.m.; reconvene on Wednesday, March 24, 1982, at approximately 8 a.m., and adjourn at approximately 12 noon.

ADDRESS: The public meetings will take place at the Landmark Motor Hotel, 2601 Severn Avenue, Metairie, Louisiana.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228–2815.

Dated: March 1, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-5899 Filed 3-3-82; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Auto-Syringe, Inc.; Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Auto-Syringe, Incorporated, having a place of business at Hooksett, New Hampshire 03104 an exclusive right in the United States to manufacture, use and sell products embodied in the invention, "Infusion Apparatus," U.S. Patent Application 6,271,271 (dated June 8, 1981). The availability of this invention for licensing was announced in the Federal Register (46 FR 56002, November 13, 1981). Copies of the Patent Application may be obtained from the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials, relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, at the address above. NTIS will maintain and make available for public inspection a file containing all inquiries, comments and other written materials received in response to this Notice and a record of all decisions made in this matter.

Dated: February 26, 1982.

Douglas J. Campion,

Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

[FR Doc. 82-5884 Filed 3-3-82; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Level for Certain Man-Made Fiber Textile Products From the Republic of Korea

March 1, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Reducing from 3,248,346 to 3,215,922 dozen the level of restraint established for man-Made fiber sweaters in Category 645/646, produced or manufactured in Korea and exported during the agreement year that began on January 1, 1982, to account for exports in the category which exceeded the 1980 limit.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53508), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48863), October 27, 1981 (46 FR 52409), and February 9, 1982 (47 FR 5926)).

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea, notes were exchanged on August 13 and September 9, 1981 which provided for an adjustment in the 1982 level for man-made fiber textile products in Category 645/646 to account for overshipments in the category which occurred during the 1980 agreement year.

EFFECTIVE DATE: March 8, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Boyd, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On December 18, 1981, there was published in the Federal Register (46 FR 61692) a letter dated December 14, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, including Category 645/646, produced or manufactured in Korea and exported to the United States during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982. In the letter published below the Chairman of the Committee for Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with agreement reached pursuant to the terms of the bilateral agreement, to reduce the level of restraint established for Category 645/646 to 3,215,922 dozen.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you December 14, 1981 by the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Korea.

Effective on March 8, 1982, you are directed to amend paragraph 1 of the directive of December 14, 1981 to include a reduced level of restraint for man-made fiber textile products in Category 645/646 of 3,215,922 dozen.[1]

The action taken with respect to the Government of the Republic of Korea and with respect to imports of man-made fiber textile products from Korea has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-5901 Filed 3-3-82; 8:45 am]

BILLING CODE 3510-25-M

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1981.

COUNCIL ON ENVIRONMENTAL QUALITY

Letter of Approval of HUD's NEPA Procedures

February 25, 1982.

AGENCY: Council on Environmental Quality.

ACTION: Information only: Publication of Council's Letter Containing Approval of HUD's NEPA Procedures.

SUMMARY: Section 1507.3(a) of the "Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act," 40 CFR Part 1500, *et seq.* provides that each agency shall as necessary adopt procedures to supplement the regulations, in consultation with the Council on Environmental Quality. It further provides that agencies shall continue to review their policies and procedures, and, in consultation with the Council, revise them as necessary to ensure full compliance with the purposes and provisions of NEPA.

On May 5, 1981, the Council published a letter from the General Counsel of CEQ to the Assistant Secretary Designate for Community Planning and Development, Department of Housing and Urban Development. 46 Federal Register 25121–22. That letter stated that the Council disapproved the Part 58 procedures for the Urban Development Grant Program (UDAG).

The Council has recently received HUD's amended interim Environmental Review Procedures for Title I, Community Development Block Grant Programs (24 CFR 58). The Council approves of the interim HUD procedures, as applicable to all Title I programs including UDAG.

FOR FURTHER INFORMATION CONTACT:
Nancy Nord, General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, D.C. 20006; Telephone: (202) 395–5754.

Nancy Nord,
General Counsel.

February 24, 1982.

Mr. Stuart Sloame,
General Deputy Assistant, Secretary for Field Operations and Environment/ Energy Programs, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C.

Dear Mr. Sloame: Section 1507.3(a) of the "Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act," 40 CFR Part 1500 *et seq.* provides that each agency shall as necessary adopt procedures to supplement the regulations, in consultation with the Council on Environmental Quality. It further provides that agencies shall continue to review their policies and procedures, and, in consultation with the Council, revise them as necessary to ensure full compliance with the purposes and provisions of NEPA.

On December 14, 1981, your staff transmitted interim Environmental Review Procedures for Title I, Community Development Block Grant Programs, as authorized and amended under the Housing and Community Development Acts of 1979 and 1981. The new interim rules implement procedures under which block grant recipients and States may assume the environmental responsibilities of the Secretary of Housing. 24 CFR 58.

In reviewing your interim rules the Council has given close examination to the question of delegating responsibilities under NEPA. Several courts have also had occasion to examine the relationship between the Housing and Community Development Act and the National Environmental Policy Act. These cases have held that the provisions of the Housing and Community Development Act delegating environmental review responsibilities to the applicant apply to the UDAG program, as well as all other programs under Title I of the Act. The responsibility to ensure that HUD procedures are complied with by the applicant remains with HUD, but, "neither the Secretary nor HUD has an independent duty to evaluate the conclusions of an environmental review record where such a record is in accord with HUD regulations." *Coloay Federal Savings and Loan Association v. Harris,* 482 F.Supp 298, 303 (W.D. Penn. 1980). *See also, National Center for Preservation Law v. Landrieu,* 496 F.Supp. 716 (D. South Carolina) (1980), aff'd., 635 F.2d 324 (4th Cir. 1980); cf. *Monarch Chemical Works v. Exxon,* 466 F.Supp. 630 (D. Neb. 1979), aff'd., 604 F.2d 1063 (8th Cir. 1979).

The Council has completed its review of the interim rules. Based upon that review, the Council has determined that the procedures adequately address all the sections of the regulations required to be addressed by § 1507.3.

Sincerely,

Nacy Nord,
General Counsel.

[FR Doc. 82–5711 Filed 3–3–82; 8:45 am]
BILLING CODE 3125–01–M

Basin Electric Power Co.; Availability of Report

February 24, 1982.

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Information only: Notice of Availability of Report.

SUMMARY: This notice announces the availability of the Annual Report submitted by Basin Electric Power Cooperative, as Project Manager for the Missouri Basin Power Project in the matter of an exemption granted from the requirements of the Endangered Species Act to Grayrocks Dam. The lead Federal agency in the Project is the Rural Electrification Administration.

DATE: The Report was submitted to the Council on February 2, 1982.

SUPPLEMENTARY INFORMATION: Subsection (L)(2) of the Endangered Species Act Amendments of 1978 (16 U.S.C. 1536) requires that any agency granted an exemption under subsection (h) of the Endangered Species Act must submit to the Council on Environmental Quality an annual report describing its compliance methods with the mitigation and enhancement measures prescribed by the law. Subsection (L)(2) further requires that the Council publish availability of the report in the Federal Register.

On February 7, 1979 the Endangered Species Committee granted an exemption from the requirements of the Endangered Species Act to Grayrocks Dam. In granting the Exemption Order, the Committee, as required by the Act, established requirements for reasonable mitigation and enhancement measures. These requirements are set out in an "Agreement of Settlement and Compromise" and is part of the Annual Report announced herein.

ADDRESS: The Annual Report is available from Basin Electric Power Cooperative, 1717 East Interstate Avenue, Bismarck, ND 58501; Telephone: 701/223–0441.

FOR FURTHER INFORMATION CONTACT:
Nancy Nord, General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, D.C. 20006. 202/395–5754.

Nancy Nord,
General Counsel.

[FR Doc. 82–5714 Filed 3–3–82; 8:45 am]
BILLING CODE 3125–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB)
Dates of Meeting: Tuesday, March 23, 1982; Wednesday, March 24, 1982
Times: 0830–1700 hours, March 23, 1982 (Closed); 0830–1200 hours, March 24, 1982 (Closed)
Place: Fort Monroe, Virginia
Agenda: The Army Science Board Summer Study Group on Chemical Warfare will meet to receive classified briefings on Nuclear, Biological, and Chemical defenses and an operational overview. There will also be classified discussions of same. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 697–9703 or 695–3039.

Helen M. Bowen,
Administrative Officer.

[FR Doc. 82–5665 Filed 3–3–82; 8:45 am]
BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

National Commission on Excellence in Education; Hearings

AGENCY: National Commission on Excellence in Education.

ACTION: Notice of hearings.

SUMMARY: This notice sets forth the schedule of hearings of the National Commission on Excellence in Education. Notice of these hearings is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES: March 11, 1982 (8:30 a.m.—5:30 p.m.); April 16, 1982 (8:30 a.m.—5:30 p.m.); May 12, 1982 (8:30 a.m.—5:30 p.m.); June 23, 1982 (8:30 a.m.—5:30 p.m.); September 16, 1982 (8:30 a.m.—5:30 p.m.); October 7, 1982 (8:30 a.m.—5:30 p.m.)

LOCATIONS:
March 11, 1982, *Science, Mathematics and Technology,* Tresidder Student Union, Room 281, Stanford University, Stanford, California
April 16, 1982, *Language and Literacy,* Houston, Texas
May 12, 1982, *Teaching and Teacher Education,* Atlanta, Georgia
June 23, 1982, *Admission Standards,* Chicago, Illinois
September 16, 1982, *Education and the Student's Life Work,* Denver, Colorado
October 7, 1982, *Gifted and Talented Students,* Boston, Massachusetts.

FOR FURTHER INFORMATION CONTACT:
Milton Goldberg, Executive Director, 1200 19th Street, N.W., Washington, D.C. 20208 (202) 254–7920 or Susan Traiman, Research Associate, (202) 254–7920

The National Commission on Excellence in Education is governed by the provisions of Part D of the General Education Provisions Act (Pub. L. 90–247 as amended; 20 U.S.C. 1233 et seq.) and the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix I) which set forth standards for the formation and use of advisory committees. The Commission is established to advise and make recommendations to the nation and to the Secretary of Education.

Each hearing will follow the same three-part format. In the morning, the Commission members will hear invited testimony from key national experts on the topic under consideration. Following the presentation of testimony, the invited experts will discuss relevant issues among themselves and respond to questions from Commission members. After the luncheon recess, local and regional experts will present invited testimony about their experiences and perspectives on the topic. Again, the Commission members will pose questions to those witnesses. At the end of the day, there will be an opportunity for members of the audience to submit testimony on specific examples of educational excellence. These testimonials may address either the day's topic or other topics related to the pursuit of educational quality.

In addition to the testimony the Commission receives the day of the hearing, individuals and organizations across the country are invited to submit 2–5 pages of written testimony that will assist the Commission in developing recommendations on this topic. The record will remain open for one month following the hearing.

Testimony should be submitted to: Commission Hearings, National Commission on Excellence in Education, Washington, D.C. 20208, (202) 254–7920.

The hearings of the Commission are open to the public. The public is being given less than fifteen days notice of these hearings because of the delay in receiving confirmation on all 6-hearing dates.

Records are kept of all Commission proceedings, and are available for public inspection at the office of the National Commission on Excellence in Education, 1200 19th Street, N.W., from the hours of 8:00 a.m. to 5:00 p.m.

Dated: February 23, 1982.

Fred W. Decker,
Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 82–5666 Filed 3–3–82; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Magnetic Fusion Program; Intent To Prepare a Generic Environmental Impact Statement and To Conduct a Public Scoping Meeting

AGENCY: Department of Energy.

ACTION: Notice is hereby given that the Department of Energy (DOE) intends to prepare a generic environmental impact statement (GEIS) to assess the DOE magnetic fusion program.

SUMMARY: The Department of Energy announces its intent to prepare a GEIS in accordance with section 102(2)(C) of the National Environmental Policy Act (NEPA), as amended, to assess the environmental implications of the DOE Magnetic Fusion Program. In order to comply with the mandate of the Magnetic Fusion Engineering Act of 1980 (Pub. L. 96–386), a DOE decision is expected within the next several years on proceeding with the demonstration of engineering feasibility which will include design and construction of a major fusion engineering device (FED). The GEIS is intended to assure that potential environmental impacts associated with the engineering feasibility demonstration including FED, as well as those associated with ultimate commercial deployment, are properly addressed.

The DOE invites interested agencies, organizations, and members of the general public to submit comments or suggestions for consideration in connection with the identification of the scope of this draft GEIS. Additionally, interested agencies, organizations, and the general public are also invited to attend a public scoping meeting to be held in Washington, D.C. on April 22, 1982, to assist DOE in identifying significant environmental issues associated with the development and implementation of this program. Upon completion of the draft GEIS, notice of its availability will be announced in the Federal Register, and comments will be solicited. Comments received on the draft GEIS will be considered in preparing the final EIS.

ADDRESS: Written comments or suggestions on the scope of the draft GEIS and requests to speak at the scoping meeting may be submitted to: Mr. John E. Baublitz, Division of Development and Technology, Office of Fusion Energy, U.S. Department of Energy, ER–532, GTN, Washington, D.C. 20545, (301) 353–4952.

General information on the process followed by DOE in preparing EIS's may be obtained from: NEPA Affairs Division, U.S. Department of Energy, Ms. Carol M. Borgstrom, EP–33, Room 4G–064, Forrestal Bldg., 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–4600.

DATES: Written comments postmarked by April 30, 1982, will be considered in the preparation of the draft GEIS.

Comments postmarked after that date will be considered to the maximum extent practicable. A scoping meeting will be held at the U.S. Department of Energy, Room GE–086, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. on April 22, 1982. Requests to speak at this meeting should be received by Mr. John E. Baublitz at the address above by April 7, 1982.

SUPPLEMENTARY INFORMATION:

Background Information

Fusion potentially represents a major inexhaustible and flexible power source which could complement existing energy options that may be limited by resources, safety, environmental, or other considerations. Presently, no single energy option appears to be an adequate national power resource; thus, a complementary development program of multiple energy options is desirable. The objective of the magnetic fusion program is to develop fusion's highest potential; i.e., to realize the most promising uses for fusion energy. The Magnetic Fusion Engineering Act of 1980 (Pub. L. 96–386) calls for an accelerated program of research and development of magnetic fusion energy technologies leading to the construction and successful operation of a magnetic fusion demonstration plant in the United States before the end of the twentieth century. In order to achieve a successful demonstration, the Act mandates that the DOE achieve at the earliest practicable time, but not later than the year 1990, the operation of a magnetic fusion engineering device (FED) based on the best available confinement concept; and demonstration of the engineering feasibility of magnetic fusion by the early 1990's. The DOE has determined that in order to further the purposes of the NEPA and facilitate the timely achievement of the objectives of the magnetic fusion program, environmental information regarding the program options should be available for consideration prior to a major commitment of resources based on any particular program option.

The goals of the engineering development activities of the program will be guided primarily by the long term objective of providing central station electric power generation and this will provide the basis for the projections of environmental impacts of commercial fusion to be analyzed in the GEIS.

Depending on the future funding levels which are actually applied to fusion development, the program may proceed at various paces. Although these variations in pace clearly would affect the timing of achievement of program goals, they would not, in themselves, produce differential environmental effects and are, therefore, not considered as alternatives for the purposes of this GEIS.

The GEIS will address the potential environmental and socioeconomic impacts of future commercial applications of magnetic fusion energy, should the magnetic fusion program succeed, as well as those associated with the research and technology development program itself. The GEIS will focus on central station electric power generation, the principal goal of the current program. Construction and operation of central-station fusion power plants are expected to result in many environmental interactions that also occur from the construction and operation of conventional steam-electric power plants. However, the GEIS will focus on those environmental and socio-economic effects uniquely associated with magnetic fusion plants and on other elements of the fuel cycle for a magnetic fusion economy (e.g., presence of magnetic fields, tritium management). The likelihood of programmatic changes or new information as the program evolves which may be significant environmentally is recognized, and further NEPA reviews will be conducted as appropriate if such changes occur.

The purpose of this Notice is to present pertinent background information regarding the proposed scope and content of the statement and to solicit comments and suggestions for consideration in its preparation.

Preliminary Identification of Environmental Issues and Alternatives

To assess the environmental implications of developing a magnetic fusion economy, an array of magnetic fusion plants with supporting facilities will be hypothesized. The designs of the magnetic fusion power plants will be based on conceptual reactor designs which represent the best information available at this stage of development. The current program is based on the deuterium-tritium-lithium (D–T–Li) fuel cycle. Because of the relatively low temperature required and the high reaction energy, a favorable energy gain is far easier to achieve with D–T–Li fuel cycle than with any other; however, alternate fuel cycles will be treated appropriately. The following issues have been identified for analysis in the GEIS. This list is presented to facilitate public comments on the scope of the GEIS and is not intended to be all inclusive, nor is it intended to be a predetermination of impacts.

1. The effects resulting from procurement of the fuels—lithium (mining, chemical preparation, and transportation); tritium (chemical preparation and transportation of initial shipment); and deuterium (extraction from water and transportation)—and other materials needed for power plant construction and operation. Consideration also will be given to the extent various industries (for fuels and raw materials) would have to expand to support a magnetic fusion economy;

2. The potential for exposure of the public and occupational work force to radiation during all phases of the fuel cycle;

3. The effects of a reasonable range of expected accidents and radioactive releases;

4. The nature and effects of thermal and chemical plant effluents;

5. The effects of various radioactive waster management schemes, including power plant decommissioning and recycling of radioactive structural materials; and

6. The potential for and effects of exposure of the public and occupational work force to magnetic fields.

The DOE will consider all reasonable alternatives with respect to the development of a magnetic fusion program, including alternatives to the program as well as alternative approaches within the program.

Alternatives to the program may include alternative inexhaustible sources of energy, i.e., solar, geothermal, fission breeder reactors and inertial confinement fusion, as well as "no action," i.e., terminate the magnetic fusion energy program. Alternatives within the program may include:

(1) Alternative technological approaches to magnetic confinement, e.g., tokamaks and mirrors;

(2) Alternative fuel cycles, i.e., deuterium-tritium-lithium, deuterium-deuterium; and

(3) Alternative reactor systems and material choices currently under consideration.

In addition, decisions on several options which could influence the direction of the fusion program would need to be made during the demonstration of engineering feasibility and prior to the construction and operation of a fusion engineering device. Examples of these options which also would be assessed in the GEIS include:

(1) Selection of the magnetic system, e.g., superconducting or conventional magnets, and magnet field configuration;

(2) Selection of the plasma heating system, e.g., neutral beams, radiofrequency; and

(3) Selection of the blanket cooling concept, e.g., lithium, helium, pressurized water.

Comments and Scoping Meeting

All interested parties are invited to submit written comments or suggestions concerning the scope of issues that should be addressed in the GEIS and to attend a scoping meeting in which oral comments and suggestions will be received. Those desiring to submit written comments or suggestions should submit them to Mr. John E. Baublitz at the address listed above no later than April 30, 1982.

Those wishing to participate in the scoping process may also attend a public scoping meeting to be held at the U.S. Department of Energy, Room GE–086, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. on April 22, 1982, beginning at 10:00 a.m. Written and oral comments will be given equal consideration.

The DOE will establish procedures governing the conduct of the meeting. The meeting will not be conducted as an evidentiary hearing and those who choose to make statements may not be cross-examined by other speakers. To provide the Department of Energy with as much pertinent information as possible and as many views as can be reasonably obtained, and to provide interested persons with equitable opportunities to express their views, the following procedures will be used:

1. Those individuals desiring to make oral comments should mail their requests to Mr. John E. Baublitz at the address listed above.

The DOE reserves the right to arrange the time and schedule of presentations to be heard and to establish procedures governing the conduct of the meeting. Interested individuals and organizations should notify DOE of their desire to speak before April 7, 1982, DOE will in turn notify prospective speakers before the meeting of the time and schedule for presentation. Requests should include a telephone number for such notification. Those persons wishing to speak on behalf of an organization should identify their affiliation in their request. Persons who have not submitted a request to speak in advance may register to speak at the scoping meeting and will be called on to present their comments, if time permits. Depending on the number of speakers, DOE reserves the right to place time limits on the speakers.

2. If any speaker desires to provide further informatin for the record subsequent to the meeting, it must be submitted in writing by April 30, 1982, to Mr. John E. Baublitz at the address listed above.

Those not desiring to submit comments or suggestions at this time but who would like to receive a copy of the draft GEIS for review and comment when it is issued, should notify J. E. Baublitz at the address listed above.

When the draft GEIS is complete, its availability will be announced in the Federal Register, and public comments again will be solicited.

A transcript of the meeting will be retained by DOE and made available for inspection at the Freedom of Information Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue NW., Washington, D.C. 20585 between 8:00 and 4:00 p.m., Monday through Friday. Other locations where transcripts will be available are:

Albuquerque Operations Office, National Atomic Museum, Albuquerque, New Mexico 87115

Chicago Operations Office, Room A1136, 175 West Jackson Boulevard, Chicago, Illinois 60604

Idaho Operations Office, Public Reading Room, 550 Second Street, Idaho Falls, Idaho 83401

Nevada Operations Office, Public Reading Room, 2753 South Highland Drive, Las Vegas, Nevada 89114

Oak Ridge Operations Office, Public Document Room, Oak Ridge, Tennessee 37830

Denver Public Library, Government Publications Department, 1357 Broadway, Denver, Colorado 80210

Richland Operations Office, Document Room, Hanford Science Center, Federal Building, Richland, Washington, D.C. 99352

San Francisco Operations Office, Energy Resources Center, 2nd Floor, 1333 Broadway, Oakland, California 94612

Savannah River Operations Office, Public Reading Room, Federal Building, Savannah River Plant, Aiken, South Carolina 29801.

In addition, members of the public also may inspect at the above addresses, a copy of a document which provides information on environmental aspects of the Magnetic Fusion Program. This document is: U.S. Department of Energy, *Environmental Development Plan (EDP): Magnetic Fusion Program, 1979*, DOE/EDP–0052, Washington, D.C., September 1979.

Dated at Washington, D.C. this February 20, 1982.

For the Department of Energy.

Barton R. House,

Deputy Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

[FR Doc. 82-5867 Filed 3-3-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Proposed Decision and Order by the Office of Hearings and Appeals; Period of January 25 Through February 5, 1982

During the period of January 25 through February 5, 1982, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

February 26, 1982.

Diamond Shamrock Corp., Amarillo, Texas, BEE–1660, crude oil

Diamond Shamrock Corp. filed an

Application for Exception from the provisions of 10 CFR 211.67. The exception request, if granted, would permit Diamond Shamrock Corp. to submit an amended entitlements report to the Economic Regulatory Administration for the month of June 1980 to correct a recently discovered reporting error. On February 5, 1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 82-5859 Filed 3-3-82; 8:45 am]
BILLING CODE 6455-01-M

Objection to Proposed Remedial Orders Filed With the Office of Hearings and Appeals; Period of January 4 Through January 29, 1982

During the period of January 4 through January 29, 1982 the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 on or before March 24, 1982. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

February 26, 1982.

The Standard Oil Company, Cleveland, Ohio, HRO-0028, petroleum products

On January 29, 1982, The Standard Oil Company (Sohio) Midland Building, Cleveland, Ohio 44115 filed a Notice of Objection to a Proposed Remedial Order which the DOE Office of Special Counsel issued to the firm on December 29, 1981.

In the PRO the OSC found that during the period December 1, 1974 to January 28, 1981, Sohio improperly calculated its increased refinery fuel costs and other nonproduct costs.

According to the PRO the Sohio violation resulted in a total estimated violation of $166,369,970.

The Standard Oil Company, Cleveland, Ohio, HRO-0029, refined petroleum products

On January 29, 1982, The Standard Oil Company (Sohio) Midland Building, Cleveland, Ohio 44115 filed a Notice of Objection to (a Proposed Remedial Order) which the DOE Office of Special Counsel issued to the firm on December 29, 1981.

In the PRO the Office of Special Counsel found that during August 1973 to May 1974, Sohio charged Tenneco Oil Company prices for refined petroleum products which included a cost increment that exceeded the maximum permissible "dl".

According to the PRO the Sohio violation resulted in $3,700,000 of overcharges.

[FR Doc. 82-5858 Filed 3-3-82; 8:45 am]
BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures to be followed in refunding to members of the public $160,000 in consent order funds. The funds are maintained in an escrow account that was established in settlement of enforcement proceedings brought by the Office of Enforcement in the matter of Anderson Butane Service, Inc.

DATE AND ADDRESS: Applications for Refund must be postmarked on or before June 2, 1982 and should be addressed to: Anderson Consent Order Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 12th Street and Pennsylvania Avenue, NW. Washington, D.C. 20461. All applications should display conspicuously a reference to case number BEF-0066.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, Department of Energy, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. 20461 (202) 633-8377.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the final decision and order set out below. The final decision and order relates to a consent order entered into by the Office of Enforcement of the DOE's Economic Regulatory Administration and Anderson Butane Service, Inc., *see* 44 FR 33925 (1979). Pursuant to the consent order, Anderson, a producer of natural gas liquids (NGLs), has agreed to make refunds totaling $160,000 with respect to violations of DOE price regulations alleged to have occurred between August 1, 1973 and November 30, 1974.

The Office of Hearings and Appeals has previously issued a proposed decision and order which tentatively established a two-stage refund procedure and solicited comments from interested parties concerning the proper disposition of the consent order funds. The proposed decision and order discussing the distribution of funds obtained through the Anderson consent order was issued on September 28, 1981, 46 FR 48747 (1981).

The final decision and order reflects our analysis of comments received from interested parties. As we indicate in the final decision, applications for refund from the consent order funds may now be filed. Applications will be accepted provided they are postmarked no later than ninety days from the date of publication of this notice. *See* 10 CFR 205.283. We will accept applications from all claimants that can affirmatively demonstrate that they have been directly injured by the violations alleged in the consent order. A detailed discussion of what information a party must provide in order to assert a successful claim is set forth in the final decision and order appended to this Notice.

With respect to the portion of the proposed decision and order concerning the funds, if any, which may remain after all meritorious claims have been paid, the final decision reaches no determination with regard to the disposition of any funds in the second stage of the proceeding, because the most appropriate disposition of these funds may be determined, to a great extent, by the amount of money that remains after the first stage of the proceeding.

Issued in Washington, D.C. on February 25, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

February 25, 1982.

Decision and Order of the Department of Energy

Special Refund Procedures

Name of Petitioner: Office of Enforcement, Economic Regulatory Administration: In the Matter of Anderson Butane Service, Inc.

Date of Filing: June 25, 1981.

Case Number: BEF-0066.

Under the procedural regulations of the Department of Energy, the Economic Regulatory Administration's Office of Enforcement (OE) (now the Office of Special Counsel) may request the Office of Hearings and Appeals (OHA) to formulate and implement special procedures to make refunds to injured persons in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with these regulatory provisions, the OE filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Anderson Butane Service, Inc. Under the terms of the consent order, the firm agreed to make refunds for its alleged violations of the DOE price regulations in sales of butane and propane in the amount of $160,000. (*1*) The funds have been paid to the DOE and are now being held in an escrow account under the jurisdiction of the DOE pending receipt of instructions from the Office of Hearings and Appeals regarding their distribution.

Background

A proposed decision and order which tentatively established special refund procedures to be used in adjudicating claims to the settlement funds involved in this proceeding has been previously issued, and comments have been received from interested parties concerning the proper disposition of the consent order funds. (*2*) In the proposed decision we tentatively established a two-stage refund procedure for the consent order funds. In the first stage, we determined that those firms which purchased NGLs during the relevant period from Anderson and which believe they are eligible for a portion of the consent order funds should file Applications for Refund pursuant to 10 CFR 205.283. Downstream purchasers could also file Applications for Refund during the first stage of the refund process. Each application would be analyzed, determinations on the merits of each application would be rendered, and all meritorious claims would then be paid. Finally, we suggested as the second stage of the refund process that first purchasers submit proposals which set forth appropriate mechanisms for returning moneys to the parties who likely paid increased prices as a result of the alleged overcharges. Alternatively, we proposed that if such plans proved infeasible, the portion of the settlement fund which, because of prohibitive administrative costs, might otherwise go undistributed be deposited into the Treasury of the United States. *See* 10 CFR 205.287(c).

The proposed decision and order was published in the **Federal Register**, and copies were sent to interested parties. 46 FR 48747 (1981). The comment period specified in the **Federal Register** has passed. This decision establishes the mechanism by which firms that purchased propane or butane from Anderson may file Applications for Refund. We shall first discuss the comments which we received concerning the first-stage refund procedures which we tentatively adopted in the proposed decision and order in this case. Next we shall discuss in detail the Application for Refund procedures that we have decided to adopt. We shall not, however, discuss the second-stage refund process in this decision since the first purchasers identified in this proceeding may file claims which, if meritorious, would thoroughly deplete the consent order funds. In that event no second stage would be necessary. Moreover, our determination concerning the final disposition of any residual funds will necessarily depend on the amount of the funds remaining after all meritorious claims are paid. *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*). It is therefore unnecessary at this time for us to reach the issues raised by the commenters concerning the proposed second stage distribution of funds.

Jurisdiction

In our September 28 proposed decision we determined that we should assert jurisdiction in this case. Specifically, we stated that:

> After reviewing the record developed in this proceeding, we have concluded that the implementation of Subpart V proceedings is appropriate. In the instant case, there is a significant degree of difficulty inherent in identifying the persons who were injured by the alleged overcharges. Moreover, even in cases where an injured person can be identified, it is difficult to ascertain the amounts that such persons should receive. Until recently, propane and butane were subject to a comprehensive price regulation scheme which could be used to channel refunds to ultimate consumers. However, on January 28, 1981, President Reagan exempted crude oil and all refined products from the DOE regulatory program. Exec. Order No. 12287, 46 FR 9909 (1981). As a result, price rollbacks are now an ineffective means of making restitution to purchasers who have been injured since there are currently no price ceilings against which price rollbacks can be measured. Moreover, to make refunds to the parties affected by the alleged overcharges, a determination must be made regarding the extent to which the higher costs were passed through to downstream customers. As a result, the persons entitled to refunds are not readily identifiable, and the amounts of the refunds that such persons should receive are not readily ascertainable. Under these circumstances, we believe that subpart V provides the most useful mechanism to effect restitution to persons actually injured by alleged pricing violations. We have therefore decided to exercise jurisdiction over the funds received by the DOE in settlement of the enforcement proceeding underlying the Petition for Implementation of Special Refund Procedures filed by the OE in this matter.
>
> 46 FR 48748. None of the parties filing comments in this proceeding objects to OHA's jurisdiction over this case or challenges our authority to fashion special refund procedures. Consequently, we have determined that we should accept jurisdiction over this matter.

Comments on the Proposed First Stage

In the proposed decision which we issued on September 28, 1981, we tentatively concluded that as the first stage of the refund process we would accept Applications for Refund from parties that had purchased propane or butane produced by Anderson. We will also accept an Application for Refund from an applicant who can demonstrate that it purchased during the relevant time period a specific quantity of products which was produced with or from the butane or propane sold by Anderson. In addition, unless an applicant was an ultimate consumer, a party claiming that it was injured would also have to demonstrate that it absorbed any cost increase resulting from the alleged overcharges. We also stated that we would accept and evaluate on a case-by-case basis applications filed on behalf of groups of claimants identifying themselves as adversely affected purchasers. Finally, we solicited comments from all interested parties concerning our proposals.

Some of the commenters complained that the proposed decision appeared to give priority to first purchasers and thereby prejudice the claims of downstream purchasers. In addition, those commenters objected to the proposed procedures because they believed the proposals would permit first purchasers to automatically recover refunds to the extent that their "banked" (unrecovered increased product) costs for the relevant period equalled or exceeded the amount claimed.

We believe that these commenters have taken an unnecessarily narrow view of the proceedings envisioned by the proposed decision and the Subpart V regulations. As an initial matter, our proposed decision clearly stated that Applications for Refunds would be accepted from *all* claimants, including consumers and representatives of groups of consumers. *See Office of Enforcement*, 46 FR 48749. In addition, the required showing of sufficient banks is only a threshold showing to be applied in making a determination as to whether a claimant actually suffered an injury. If a claimant meets this test, it will still be necessary for the firm to proffer some type of additional evidence to demonstrate that it indeed was injured by the alleged overcharges. To the extent that a first purchaser can establish that it did not pass on overcharges to its downstream customers, those customers were not injured and would have no claim. We therefore disagree with commenters who believe that first purchasers are being accorded an unwarranted priority status in this proceeding.

Several commenters also claim that the OHA cannot as a matter of law require a claimant to prove that it did not pass on the alleged overcharges to its customers. In support of that position, the commenters cite the antitrust case of *Illinois Brick Co.* v. *Illinois*, 431 U.S. 720 (1977). In Illinois Brick, the Court held that the "pass-on" theory could not be used offensively by a plaintiff who was not a direct purchaser from the defendant but claimed that the effects of an antitrust violation had been passed on to it by an intermediate party. The Court had previously held, in *Hanover Shoe* v. *United Shoe Machine Corp.*, 392 U.S. 481 (1968), that "passing on" could not be used as a defense in a private antitrust action by a defendant alleging that the plaintiff had passed on the resulting overcharges to its customers and therefore suffered no injury.

In our recent decision in *Office of Enforcement*, 9 DOE ¶ 82,508 (1981) (hereinafter cited as *Coline*), we discussed at great length the factors distinguishing private

antitrust actions brought under section 4 of the Sherman Act from government actions brought under section 209 of the Economic Stabilization Act (ESA), such as the instant case. In *Coline*, we held that the considerations underlying the exclusion of pass-on evidence in private antitrust actions, as well as private actions brought under section 210 of the ESA, were inapplicable to section 209 actions. Consequently we reaffirmed our authority to require proof by a claimant that it absorbed overcharges in order to establish entitlement to a portion of the settlement fund. This position was also adopted by the court in *Citronelle-Mobile Gathering, Inc.* v. *O'Leary*, 499 F. Supp. 671 (S.D. Ala. 1980), *modified on other grounds*, No. 77-101-P (Temp. Emer. Ct. App. January 21, 1982). No new arguments have been presented in this proceeding which would lead us to alter our position on this matter.

Application for Refund Procedures

After having considered all the comments received concerning the first-stage proceedings tentatively adopted in our Proposed Decision and Order, we have concluded that: (i) the OHA has properly asserted jurisdiction over this case pursuant to 10 CFR Part 205, Subpart V; (ii) the OHA has authority to implement all of the procedures which were tentatively adopted in the Proposed Decision for this case; and (iii) Applications for Refund should now be accepted from parties who purchased propane or butane from Anderson or who purchased products made from propane or butane supplied by Anderson. We shall now discuss the specific requirements for Applications for Refunds that we have decided to adopt.

Applications for Refund of a portion of the Anderson consent order funds will be accepted if they are filed on or before. *See* 10 CFR 205.283. We will consider all applications, although we may later impose a lower dollar limit on claims. *See* 10 CFR 205.286(b). Applications made on behalf of a class of claimants will be considered on a case-by-case basis. An application must be in writing, signed by the applicant, and specify that it pertains to the Anderson refund proceeding, Case No. BEF-0066. If the applicant is not a direct purchaser from Anderson, if should submit evidence indicating from whom the butane or propane was purchased and what basis the applicant has for its belief that the products which it purchased originated from Anderson.

Any application for a refund in excess of $100 must be filed in duplicate, and a copy of that application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, 12th Street & Pennsylvania Avenue NW., Washington, D.C. Any applicant who believes that his application contains confidential information must so indicate on the first page of his application and submit two additional copies of his application from which the information that the applicant claims is confidential has been deleted, together with a statement specifying why any such information is privileged or confidential. Each application shall indicate whether the applicant or any person acting on his instructions has filed or intends to file any other application or claim of whatever nature regarding the matters at issue in the underlying enforcement proceeding. Each application shall also include the following statement: I swear (or affirm) that the information submitted is true and accurate to my knowledge and belief. *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish the name, position title, and telephone number of a person who may be contacted by the OHA for additional information concerning the application. All applications should be sent to: Anderson Consent Order Refund Proceeding, Case No. BEF-0066, Office of Hearings and Appeals, Department of Energy, 12th Street & Pennsylvania Avenue NW., Washington, D.C. 20461. All Applications for Refund received within the time limit specified will be processed pursuant to 10 CFR 205.284.

In order to assist applicants in establishing eligibility for a portion of the consent order funds, the following section discusses the showings that should be made by refiners, resellers, retailers and end-users of the propane or butane covered by the consent order:

A. Each applicant should report its volume of purchases of propane or butane by calendar quarter for the period of time for which it is claiming it was injured by the alleged overcharges;

B. Each applicant should specify how it used the propane or butane products, *e.g.*, as a petrochemical producer, refiner, reseller or ultimate consumer;

C. If the applicant is a refiner or reseller, it should state whether it maintained banks of unrecouped product cost increses from the date of the violation through January 27, 1981, and where those records are located. It should also furnish the OHA with quarterly bank calculations for the entire period;

D. The applicant must submit evidence to establish that it did not pass on the overcharges to its customers. For example, a firm may submit market surveys to show that price increases to recover overcharges were infeasible; and

E. The applicant should report whether it is or has been involved as a party in other DOE enforcement proceedings or section 210 actions. If the action is ongoing, the applicant should briefly describe the action and its current status. Of course, the applicant is under a continuing obligation to keep the OHA informed of any change in status during the pendency of its Application for Refund. *See* 10 CFR 205.9(d).

Distribution of the Remainder of the Consent Order Funds

Several comments addressed our proposed distribution of the remainder, if any, of the consent order funds after all meritorious claims have been paid. Those comments can be divided into two groups. First, some comments contend that the Office of Hearings and Appeals lacks the statutory or regulatory authority to implement the proposed distribution. Secondly, some comments acknowledge that this Office possesses the authority to fashion such a restitutionary mechanism, but suggest alternatives to or modifications of our original proposal. In this Decision, we are not implementing the second-stage refund procedure. Such a step would be difficult to take before the analysis and processing of Applications for Refund filed in the first stage of the distribution mechanism, since the amount remaining after all meritorious claims have been paid directly affects the appropriateness of the second-stage distribution. Moreover, in the present case claimants may assert claims which, if meritorious, would completely exhaust the consent order funds. We will therefore consider this issue at a later date through the issuance of a supplemental order in this proceeding.

It is therefore ordered that:

The refund amounts provided by Anderson Butane Service, Inc. will be distributed in the manner set forth in the foregoing Decision.

Dated: February 25, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Footnotes

(1) As a part of its enforcement activities the OE conducted an audit of Anderson in order to determine whether the firm had complied with the DOE pricing regulations applicable to NGLs. *See* 0 CFR Part 150, Subpart L and 10 CFR Part 212, Subparts E and K. In its audit the OE found possible violations with respect to first sales of butane and propane during the period from August 1, 1973 through November 30, 1974. During that period Anderson sold its output of propane and butane to four firms: Scott Petroleum Corporation; Consolidated Aluminum Company; Sewanee Petroleum Company; and Myers Propane Company. In order to settle all claims and disputes between the parties, Anderson agreed to remit $160,000 to the DOE. The parties further agreed that this amount would be distributed by the DOE pursuant to 10 CFR Part 205, Subpart V. On June 13, 1979, the DOE published notice of the Anderson consent order in the **Federal Register** and requested that persons believing that they had a claim to all or a portion of the settlement fund file written notification of such claim with ERA within 30 days. 44 FR 33925 (1979). Buckeye Gas Production Company, the successor to Myers Propane Company, has indicated that it intends to file an Application for Refund.

(2) We issued a proposed decision and order discussing the distribution of the funds obtained through the consent order with Anderson on September 28, 1981. *See* 46 FR 48747 (October 2, 1981).

[FR Doc. 82-6781 Filed 3-3-82; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders, Week of February 8 Through February 12, 1982

During the week of February 8 through February 12, 1982, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, 12th and Pennsylvania Ave. NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

February 25, 1982.

Proposed Decisions and Orders

Champlin Petroleum Co., Forth Worth, Texas; BEX-1467 crude oil

Champlin Petroleum Company filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would permit Champlin to continue to sell certain quantities of crude oil which it produces from the Wilmington Field at upper tier ceiling prices. On February 8, 1982, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be granted.

UCO Oil Company, Whittier, California; DEE-2487 motor gasoline

On March 15, 1979, UCO Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit UCO to purchase motor gasoline from suppliers with lower prices than its base period suppliers beginning in March 1979. The relief requested would ratify and augment emergency relief granted to the firm in Temporary Stay and Stay Decisions and Orders issued in March and April, 1979. On February 12, 1982, the Department of Energy issued a Proposed Decision and Order in which it tentatively determined that the exception request should be denied.

[FR Doc. 82-6790 Filed 3-3-82; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59082; TSH-FRL-2064-5]

Modified Polyester Polyurethane From Substituted Alkanediols, Alkanedioic Acid and a Diisocyanate Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for an exemption, provides a summary, and requests comments on the appropriateness of granting the exemption.

DATE: Written comments by March 19, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-59082]" and the specific TME number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E-401, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following is a summary of information provided by the manufacturer on the TME received by the EPA:

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency Rm. E-216, 401 M Street, SW, Washington, DC 20460.

TME 82-5

Close of Review Period. April 9, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Manufacturing site—Middle Atlantic region.

Standard Industrial Classification Code—285;e.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Modified polyester polyurethane from substituted alkanediols, alkanedioic acid and a diisocyanate.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in an open use that will release more than 50 but less than 5,000 kg/yr into the environment.

Production Estimates

2,000 kg/yr—Maximum.

Physical/Chemical Properties

Appearance—Translucent to opaque.
Flash point—>190°F.
Viscosity—1.6 sec (Gardner Holdt).

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that a maximum of 27 workers may have skin and eye exposure during manufacture for up to 6 hrs/day, 1 day/yr and during processing, a maximum of 8 workers may have skin and eye exposure 6 hrs/day, 5 days/yr at 3 sites. Consumer use will involve an infrequent potential for skin contact with an article containing the new substance in a solid state.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to the air, land and water.

Dated: February 24, 1982.

Woodson W. Barcaw,

Acting Director, Management Support Division.

[FR Doc. 82-6680 Filed 3-3-82; 8:45 am]
BILLING CODE 6560-01-M

[WEN-FRL-2064-7]

National Pollution Discharge Elimination System (NPDES); Availability of Treatability Manual; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction.

In FR Doc. 82-2347, appearing on apge 4330, in the issue for Friday, January 29, 1982, in the "ADDRESSES" paragraph, the date after which interested persons may purchase the second edition of the Treatability Manual from the U.S. Government Printing Office should read "March 1, 1982."

Dated: February 25, 1982.

Bruce R. Barrett,

Acting Assistant Administrator for Water.

[FR Doc. 82-5860 Filed 3-3-82; 8:45 am]

BILLING CODE 6560-25-M

FEDERAL COMMUNICATIONS COMMISSION

Canadian Standard Broadcast Stations; Notification List

List of new stations, proposed changes in existing stations, deletions and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

CANADIAN LIST NO. 410, JANUARY 29, 1982

Call letters	Location	Power (kilowatt)	Antenna	Schedule	Class	Antenna height (feet)	Ground system: No. of radials	Ground system: Length (feet)	Proposed date of commencement of operation
		910 kHz							
CKDO	Drumheller, Alberta, N 51 24 50 W 112 44 10 (Change of call letters from CJDV) (In operation at 10 kW).	10	DA-2	U	III				
		1220 kHz							
CHSC	St. Catharines, Ontario, N 43 09 23 W 79 13 22 (Day Pattern augmentation) (In operation at 10kW).	10	DA-2	U	III				
		1230 kHz							
New	Canmore, Alberta, N 51 04 42 W 115 20 58	1D/0.25N	ND-191	U	IV	250 (90')	120	320	1-25-83
		1340 kHz							
CISO	Brooks, Alberta, N 50 29 35 W 111 53 05 (Change of call letters from CKBR).	1D/0.25N	ND-190	U	IV	185	120	294	
		1400 kHz							
CKSO	Stettler, Alberta, N 52 18 48 W 112 37 19 (Change of call letters from CHOA.	1D/0.25N	ND-190	U	IV	175	120	280	
		1490 kHz							
CKBM	Montmagnyu, Quebec, N 46 58 29 W 70 36 09 (P.O. N 46 59 05 W 70 31 01, ND-229).	1D/0.25N	ND-167.5	U	IV	148.9	120	264	1-25-83
		1570kHz							
CHLO	St. Thomas, Ontario, N 42 42 22 W 81 06 20 (Change of call letters from CKIS).	10	DA-2	U	II				

Lawrence E. Harris,

Chief, Broadcast Bureau, Federal Communications Commission.

[FR Doc. 82-5861 Filed 3-3-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 82-117-82-120; File Nos. BPH-801203AE, etc.]

HGB Corp. et al.; Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: February 23, 1982.

Released: March 1, 1982.

In re aplications of HGB Corporation, Manhattan, Kansas, Req: 103.9 MHz, Channel No. 280A, 2.3 kW (H&V), 342.1 feet, BC Docket No. 82-117, File No. BPH-801203AE; Kaldor Communications, Inc., Manhattan, Kansas, Req: 103.9 MHz, Channel No. 280A, 3.0 kW (H&V), 275 feet, BC Docket No. 82-116, File No. BPH-810420AC; Robert L. Hinze, Marion Latimore & Dean Kokanson, Jr., a partnership, d/b/a Wildcat Broadcasting Co., Manhattan, Kansas, Req: 103.9 MHz, Channel No. 280A 1.1 kW (H&V), 490 feet, BC Docket No. 82-119, File No. BPH-810427AI; Ogden Broadcasting Service, Inc., Ogden, Kansas, Req: 103.9 MHz, Channel No. 280A, 3.0 kW (H&V), 255 feet, BC Docket No. 82-120, File No. BPH-810427AK, for construction permit for a new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by HGB Corporation (HGB), Kaldor Communications, Inc. (Kaldor), Robert L. Hinze, Marion Latimore and Dean Hokanson, Jr., a partnership d/b/a Wildcat Broadcasting Co. (WBC), and Ogden Broadcasting Service, Inc. (OBS).

2. *Kaldor.* Applicants for new broadcast stations are required by Section 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in Section 73.3580(h) of the Rules. We have no evidence that Kaldor published the required notice. To remedy this deficiency, Kaldor will be required to publish local notice of its application and to file a statement of publication with the presiding Administrative Law Judge.

3. Section 73.1125 of the Commission's Rules requires that the main studio of an FM station be located within the city of license, but that on a showing of good cause the main studio may be located outside the community. Kaldor proposes to locate its main studio near Manhattan at the east side of Staff Hill Road which is 1.02 miles south southwest of the intersection of State Route 16 and State Route 113. The applicant requests a waiver pursuant to Section 73.1125, however its waiver request fails to demonstrate that good cause exists for locating the main studio outside of Manhattan, the principal community to be served. Accordingly, an issue will be specified.

4. *WBC.* WBC petitions for leave to amend its application to report the assignment of an option to lease the proposed WBC transmitter site from Michael J. Tracy to Robert L. Hinze by agreement of September 16, 1981.[1] The petition was filed September 30, 1981, and is a post cut-off date amendment. The petition is unopposed and WBC has complied with Section 1.65 of the Rules by the filing of the amendment. Accordingly, the petition will be granted and the amendment will be accepted for filing.

5. *OBS.* Analysis of the financial data submitted by OBS reveals that $72,861 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment down payment	$1,000
Equipment lease payments (5 months less down payment)	6,636
Buildings	7,500
Miscellaneous	26,000
Operating costs (3 months)	30,725
Total	72,861

OBS plans to finance construction and operation with only $65,100, comprised of the following funds: $50,000 bank loan, $15,000 loan from stockholder J. Robert Bond and his wife Constance Bond, and $100 cash in the corporate account. A financial issue will therefore be specified.

6. Although the respective proposals are for different communities, they would serve substantial areas in common. Consequently, in addition to determining, pursuant to Section 307(b) of the Communication Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

7. The proposals are mutually exclusive and must be designated for hearing in a consolidated proceeding. The applicants are qualified to construct and operate as proposed, except as specified by the issues below.

8. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine the areas which would receive primary aural service of 1 mV/m or greater from the proposed operations of HGB, Kaldor, WBC, and OBS and the availability of other primary service to such areas and populations.

(2) To determine whether the proposal of Kaldor to locate the main studio outside its community of license is in compliance with Section 73.1125 of the Commission's Rules with respect to location of the main studio and, if not, whether circumstances warrant a waiver of that section.

(3) To determine with respect to OBS:

(a) the source and availability of additional funds over and above the $65,100 indicated, and

(b) whether in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

(4) To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

(5) To determine, in the event it is concluded that a choice between the applicatins should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis best serve the public interest.

(6) To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if any, of the applications should be granted.

9. It is further ordered, That WBC's Petition for Leave to Amend its application is granted, and the accompanying amendment is accepted for filing.

10. It is further ordered, That Kaldor shall publish local notice of its application and shall file a statement of publication with the presiding Administrative Law Judge.

11. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

12. It is further ordered, That the applicants herein shall pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such rule, shall advise the Commission of the publication of such notice required by § 73.3594(g) of the Commission's Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-5861 Filed 3-3-82; 8:45 am]

BILLING CODE 6712-01-M

[FCC 82-63; BC Docket Nos. 82-86, 82-87; File Nos. BRCT-801201KI, BPCT-810302KE]

International Television Corp. and Lake Champlain Television Corp.; Designating Applications for Consolidated Hearing on Stated Issues

Memorandum Opinion and Order

Adopted: February 11, 1982.

Released: February 23, 1982.

In re applications of International Television Corporation, BC Docket No. 82-86, File No. BRCT-801201KI, for renewal of license of Station WEZF-TV, Burlington, Vermont and Lake Champlain Television Corporation, BC Docket No. 82-87, File No. BPCT-810302KE, Burlington, Vermont, for construction permit.

1. The Commission has before it for consideration the above-captioned application of International Television Corporation (ITC) for renewal of its license for Station WEZF-TV, Burlington, Vermont; the above-captioned application of Lake Champlain Television Corporation (LCTC) for a construction permit for the facilities of WEZF-TV; a petition to deny the construction permit application filed by ITC on July 20, 1981; an opposition thereto filed by LCTC on August 3, 1981; a reply filed by ITC on August 7, 1981; and supplemental pleadings filed by both sides.[1]

2. *ITC's Petition to Deny.* ITC asserts that the LCTC application should be dismissed for failure to specify an available site. Although LCTC specified the site and facilities of WEZF-TV, ITC states that it is unwilling to permit LCTC to use the WEZF-TV site. ITC argues that since it has outstanding contracts with communications companies to lease out tower and adjacent space and also will continue to operate WEZP(FM), the intrusion of LCTC will adversely affect those interests. LCTC answers that it is no longer specifying the WEZF-TV site, but has reasonable assurance of the availability of an

[1] By amendment of August 12, 1981 (pre cut-off amendment) WBC reported assignment of Michael Tracy's partnership interest to Dean Hakanson, Jr.

[1] The supplemental pleadings include a supplement to the petition to deny and a supplement to the opposition to petition to deny. In the interest of resolving the public interest issues presented, we will exercise our discretion and accept these pleadings, notwithstanding the parties' noncompliance with § 1.65(c) of the Commission's Rules.

alternate site for its proposed station. LCTC subsequently filed a supplement to its opposition which contains letters from the owner of the newly proposed transmitter site and from the owner of a tower on the land which demonstrate that LCTC will have a transmitter site and tower available to it if its construction permit is granted. In light of the representations made by LCTC of site availability, LCTC has shown that it has reasonable assurance of a transmitter site should a construction permit be issued to it. Therefore, the petition to deny filed by ITC will be denied.

3. However, though the supplemental pleading filed on August 26, 1981, established the availability of a new site for LCTC's transmitter, the construction permit application was not amended to reflect the change. There is, therefore, a variance between the exact coordinates proposed for the new site and the site given in the application, although the new and old tower sites are located on the same mountain summit. LCTC is hereby given thirty (30) days in which to conform its engineering representations in its application to the new proposed site. There will be no issue specified because even if a new site had not been obtained, the Commission's policy is to "hold in abeyance all considerations relating to a challenger's transmitter site until a final determination can be made as to which applicant would best serve the public interest." *Belo Broadcasting Corp.*, FCC 81–561, 50 RR 2d 600, 610 n. 19 (1981).

4. *LCTC's Construction Permit Application.* LCTC indicates that $1,661,140 would be required to construct and operate its proposed station for three months:

Equipment	$1,212,500
Buildings	25,000
Legal fees	40,000
Engineering, installation and miscellaneous costs	59,000
Operating costs (3 months)	323,640
Total	1,661,140

Examination of LCTC's application indicates that it has failed to provide a complete itemization of operating costs, as required by Section III, paragraph 1(b) of Form 301. The application contains only a general statement that operating costs will be $323,640 for three months. Further, although an equipment credit letter is included which offers to lease equipment to applicant up to a cost of $1,800,000, the letter is deficient since it does not specify any monthly costs for rental of the equipment.[3] Accordingly, we are unable to determine the total amount of applicant's costs.

5. To meet its expenses, LCTC relies on $100 in cash, intangible assets totalling $1,000 and three months' estimated revenues from operation of the proposed station amounting $450,000. However, LCTC has not described its "intangible assets" and, accordingly, cannot be given credit for that amount. In addition, estimated revenues may not be used to establish financial qualifications absent a showing of reasonable availability of such projected funds. No such showing has been submitted and reliance upon $450,000 in station revenues is not warranted. *Ultravision*, 1 FCC 2d 544 (1965).

6. In light of the above, the total costs necessary to construct and operate the proposed station are unclear. Moreover, the ability of LCTC to cover its construction and operating costs through its present method of funding is also questionable. Aside from $100 in cash, LCTC has not shown that it has any funds at all that may be applied toward its anticipated expenses. Because of the substantial questions presented concerning applicant's cost estimates and sources of financing, a general financial issue will be specified.

7. Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in § 73.3580(h) of the rules. The affidavit filed by LCTC does not set forth the text of the public notice, but merely states that a legal notice was published. To remedy this deficiency, LCTC will be required to file a proper statement of publication according to § 73.3580(h) with the presiding Administrative Law Judge.

8. Examination of ITC's renewal application indicates that it is legally, financially and technically qualified to operate as proposed. However, since the ITC and LCTC applications are mutually exclusive, they must be designated for a comparative hearing.

9. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether LCTC is financially qualified to construct and operate as proposed.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

10. It is further ordered, That LCTC shall submit an amendment to its application updating its engineering information, as detailed in paragraph 3 of this Order, within thirty (30) days after this Order is published in the **Federal Register.**

11. It is further ordered, That LCTC shall file a statement with the presiding Administrative Law Judge demonstrating compliance with the public notice requirement of § 73.3580(h) of the Commission's Rules within forty (40) days after this Order is published in the **Federal Register.**

12. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within twenty (20) days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

13. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing, (either individually or, if feasible and consistent with the rules, jointly) within the time and manner prescribed in that rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

14. It is further ordered, That the Petition to Deny filed by ITC is denied.

15. It is further ordered, That the Broadcast Bureau shall send by Certified Mail—Return Receipt Requested a copy of this Memorandum Opinion and Order to each of the parties named herein.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82–5809 Filed 3–3–82; 8:45 am]

BILLING CODE 6712–01–M

[3] LCTC lists $1,800,000 in the column "Loans from Banks or Others" and identifies that sum as a loan guaranteed by Howard Green. However, it appears actually to be an equipment credit proposal from SGS equipment leasing company, of which Howard Green is a partner.

National Industry Advisory Committee, Maritime Communications Services Subcommittee; Meeting

Pursuant to the provisions of Pub. L. 92–463, announcement is made of a public meeting of the Maritime Communications Services Subcommittee of the National Industry Advisory Committee (NIAC) to be held on Wednesday, March 24, 1982. The Subcommittee will meet at the RCA Corporation, located at 1600 K Street, NW., Washington, D.C., in Room 610 at 1:30 P.M.

Purpose: To consider emergency communications matters.

The meeting agenda is as follows:

1. Chairman's opening remarks.
2. Requirements for emergency communications.
   a. Navy.
   b. Maritime Administration.
3. Determination of action to be taken by the Subcommittee to meet emergency requirements.
4. Other business.

Adjournment.

Any member of the general public may attend or file a written statement with the Committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the meeting. Those desiring more specific information about the meeting may telephone the Emergency Communications Division, FCC, (202) 632–7232.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–5801 Filed 3–3–82; 8:45 am]

BILLING CODE 6712–01–M

Radio Technical Commission for Marine Services; Meetings

In accordance with Pub. L. 92–463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 79, "Universal Marine Radiotelephone Compatibility," Notice of 5th Meeting, Wednesday, March 24, 1982—9:30 a.m., Conference Room A–100, FCC Annex, 1229 20th Street NW., Washington, D.C.

Agenda

1. Administrative Matters.
2. Consideration of Working Papers.

T. B. Miller, Chairman SC–79, WJG Telephone Company, P.O. Box 9363, Memphis, TN 38109, Phone: (901) 789–5500

Special Committee No. 81, "Review of FCC Rules Applicable to VHF–FM Maritime Frequencies," Notice of 5th Meeting, Wednesday, March 24, 1982—1:30 p.m., Room A–213, FCC Annex, 1229 20th Street NW., Washington, D.C.

Agenda

1. Administrative Matters.
2. Review of FCC Rules, Parts 81 and 83.

Carl Gray, Chairman SC–81, Consultant, American Waterways Operators, Inc., 1055 Dalebrook Drive, Alexandria, VA 22308, Phone: (703) 360–4625

Executive Committee Meeting, Notice of March Meeting, Thursday, March 25, 1982—9:30 a.m., Conference Room 9230, Nassif Building, 400 Seventh Street SW., Washington, D.C.

Agenda

1. Administrative Matters.
2. U.S. Coast Guard report concerning the status/prospectus of radar standards to be used when requiements are established for a second radar on board U.S. vessels of 1600 tons gross tonnage and upwards.

The RCTM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632–6490).

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–5802 Filed 3–3–82; 8:45 am]

BILLING CODE 6712–01–M

Advisory Committee on Alternative Financing for Minority Opportunities in Telecommunications

March 2, 1982.

The Federal Communications Commission has established the Advisory Committee on Alternative Financing for Minority Opportunities in Telecommunications. The Committee will provide advice and recommendations on means to encourage increased private capital assistance for minorities entering the telecommunications industry. Commissioner Henry Rivera will serve as Chairman of this group.

The Committee will develop methods of alternative financing for minority participation in telecommunications. The final report will recommend possible sources for financing, methods of encouraging the development of additional sources, and means of encouraging minority groups to enter the field. The report will also discuss the effects of these actions on the economy in general and on the industry.

The second meeting of the Committee will be held on 16 March 1982 at the FCC's headquarters, 1919 M Street NW., Washington, D.C., Room 856. The meeting will begin at 9:30 a.m. and may be resumed on the next day if business requires. Anyone wishing to make an oral presentation should contact the Committee at least five days prior to the meeting date. Written presentations should be presented three business days prior to the meeting to allow for duplication and distribution to the Committee members.

Due to the extremely short deadline imposed on the Committee's final report by the FCC, this meeting is being held with less than the normal 15 days notice. The Commission's Advisory Committee Management Officer has reviewed this item and concurs in the necessity for the short notice.

For further information, contact Edmund Cardona (202) 632–6998.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–5795 Filed 3–3–82; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

Ameribanc, Inc.; Aquisition of Bank

Ameribanc, Inc., St. Joseph, Missouri, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Laurel Bancshares, Inc., Raytown, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 25, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing

the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5808 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than March 26, 1982, except as noted.

A. **FEDERAL RESERVE BANK OF NEW YORK** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

Citicorp, New York, New York (financing activities; Kansas): to expand the activities of an existing office of its subsidiary, Citicorp Acceptance Company, Inc., to include the proposed *de novo* activity of: the making of loans to individuals and businesses to finance the purchase of mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for the loans. Such activity would be conducted from an office in Overland Park, Kansas, serving the entire state of Kansas.

B. **FEDERAL RESERVE BANK OF CLEVELAND** (Harry W. Huning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

National City Corporation, Cleveland, Ohio (community revitalization activities; Cuyahoga County): to engage *de novo* through its subsidiary, National City Community Development Corporation, in promoting the revitalization of targeted low-to-moderate income neighborhoods in its banking subsididaries' local communities throughout Ohio, while concentrating on the interests of present neighborhood residents; by acquiring, developing, renovating, leasing, managing or selling residential or small business commercial real estate, or providing the financing for such activity in pre-determined target areas; or by acting as research counselors, consultants, and promotion counselors, particularly to those engaged in redevelopment projects. These activities would be conducted from offices at 1900 East Ninth Street, Cleveland, Ohio 44114, serving the State of Ohio. Comments on this application must be received not later than March 17, 1982.

C. **FEDERAL RESERVE BANK OF CHICAGO** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

P.N.B. Financial Corp., Chicago, Illinois (leasing activities; Illinois and Colorado): to engage in the leasing of personal property in accordance with provisions of the Board's Regulation Y. These activities would be conducted from an office in Chicago, Illinois, serving the states of Illinois and Colorado.

D. **OTHER FEDERAL RESERVE BANKS.** None.

Board of Governors of the Federal Reserve System, February 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5814 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

Bay Bankshares, Inc.; Formation of Bank Holding Company

Bay Bankshares, Inc., Oldsmar, Florida, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Oldsmar, Oldsmar, Florida, and Clearwater Oaks Bank, Clearwater, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 26, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5807 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

Central Bancorporation, Inc.; Central Colorado Company, C.C.B., Inc.; Acquisition of Banks

Central Bancorporation, Inc., its parent company, Central Colorado Company, and C.C.B., Inc., the general partner of Central Colorado Company, all having their principal place of business in Denver, Colorado, have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire, directly or indirectly, 100 percent of the voting shares of Central Bank at Highlands Ranch, Highlands Ranch, Colorado, and Central Bank of Inverness, Inverness, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 29, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 26, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5815 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

Crowley Holding Company; Formation of Bank Holding Company

Crowley Holding Company, Crowley, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The Bank of Crowley, Crowley, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 26, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5809 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

Cullen Frost Bankers, Inc.; Acquisition of Bank

Cullen/Frost Bankers, Inc., San Antonio, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(3)) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of Sugar Land State Bank, Sugar Land, Texas, and United States National Bank, Galveston, Texas (through the acquisition of Galbank, Inc., San Antonio, Texas, and United States National Bancshares, Inc., San Antonio, Texas, both registered bank holding companies). The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 23, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board

[FR Doc. 82-5806 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

Exchange State Corp.; Formation of Bank Holding Company

Exchange State Corp., Knoxville, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Exchange State Bank, Collins, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 24, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 20, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5810 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

First National Bancorp, Inc.; Proposed Acquisition of First Mortgage Corporation of Shreveport

First National Bancorp, Inc., Shreveport, Louisiana, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of First Mortgage Corporation of Shreveport, Shreveport, Louisiana.

Applicant states that the proposed subsidiary would engage in the activities of making and servicing mortgage loans and other extensions of credit. These activities would be performed from offices of Applicant's subsidiary in Shreveport, Louisiana, and the geographic area to be served is the Shreveport-Bossier area in Louisiana. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than March 26, 1982.

Board of Governors of the Federal Reserve System, February 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5810 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

F.L. & T. Financial Corporation; Formation of Bank Holding Company

F.L. & T. Financial Corporation, Columbia City, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares (less directors' qualifying shares) of the Farmers Loan and Trust Company, Columbia City, Indiana. The factors that are considered in acting on the

application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 20, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 26, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5817 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

Graceville Bancorporation, Inc.; Formation of Bank Holding Company

Graceville Bancorporation, Inc., Graceville, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of The First State Bank of Graceville, Graceville, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 31, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 26, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5818 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

New Galveston Company, Inc.; Formation of Bank Holding Company

New Galveston Company, Inc., San Antonio, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares (less directors' qualifying shares) of Sugar Land State Bank, Sugar Land, Texas, and United States National Bank, Galveston, Texas (through the acquisition of Galbank, Inc., San Antonio, Texas, and United National Bancshares, Inc., San Antonio, Texas, both registered bank holding companies). The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 23, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5811 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

Northwest Bancshares, Inc.; Formation of Bank Holding Company

Northwest Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Northwest Bank and Trust, Houston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 26, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5813 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

Southern Bancorp; Formation of Bank Holding Company

Southern Bancorp, South Daytona, Florida, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Central Bank of Volusia County, South Daytona, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 23, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 25, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5812 Filed 3-3-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Health Maintenance Organizations

AGENCY: Public Health Service, HHS.

ACTION: Notice, continued regulation of Health Maintenance Organizations: Reestablishment of compliance.

SUMMARY: On January 13, 1982, the Office of Health Maintenance Organizations (OHMO) notified Health Care Plan of New Jersey, Inc. (HCP), 1101 Kings Highway North, Suite 405, Cherry Hill, New Jersey 08034 a federally qualified health maintenance organization (HMO), that HCP had successfully reestablished compliance with its assurance to the Secretary that it would maintain a fiscally sound operation. This determination took effect on October 1, 1981.

FOR FURTHER INFORMATION CONTACT: Frank H. Seubold, Ph.D., Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Under section 1312(b)(1) of the Public Health Service Act (42 U.S.C. 300e-11(b)(1)), if the Secretary makes a determination under section 1312(a) that a qualified HMO is not organized or operated in the manner prescribed by section 1301(c), then the HMO shall be (1) notified in writing of the determination, and (2) directed to initiate corrective action to bring it into compliance with the assurances it provided to the Secretary under section 1310(d)(1). Section 1312(b)(1) also provides that the Secretary shall publish in the **Federal Register** notices of determinations made under that section.

On April 9, 1980, HCP was officially notified that it was not in compliance with the assurances it had given the Secretary that it would maintain a fiscally sound operation as required by section 1301(c)(1)(A) of the Act. This determination of noncompliance, published in the **Federal Register** at 45 FR 50658 on July 30, 1980, did not affect HCP's status as a federally qualified HMO. Subsequently, HCP successfully implemented corrective action to return to compliance with its assurances. On January 13, 1982, HCP was notified by OHMO that it had reestablished compliance with its assurance to the Secretary that it would maintain a fiscally sound operation. This determination took effect on October 1, 1981.

Dated: February 24, 1982.

Frank H. Seubold, Ph. D.,

Director, Office of Health Maintenance Organizations.

[FR Doc. 82-5816 Filed 3-3-82; 8:45 am]

BILLING CODE 4110-17-M

Health Maintenance Organizations

AGENCY: Public Health Service, HHS.

ACTION: Notice, continued regulation of Health Maintenance Organizations: Reestablishment of compliance.

SUMMARY: On January 20, 1982, the Office of Health Maintenance Organizations (OHMO) notified Anchor Organization for Health Maintenance (Anchor), 1725 West Harrison Street, Chicago, Illinois 60612, a federally qualified health maintenance organization (HMO), that Anchor had successfully reestablished compliance with certain of the assurances it had provided the Secretary as described below under "Supplementary Information." This determination took effect on January 1, 1982.

FOR FURTHER INFORMATION CONTACT: Frank H. Seubold, Ph.D., Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Under section 1312(b)(1) of the Public Health Service Act (42 U.S.C. 300e-11(b)(1)), if the Secretary makes a determination under section 1312(a) that a qualified HMO is not organized or operated in the manner prescribed by section 1301(c), then the HMO shall be (1) notified in writing of the determination, and (2) directed to initiate corrective action to bring it into compliance with the assurances it provided to the Secretary under section 1310(d)(1). Section 1312(b)(1) also provides that the Secretary shall publish in the **Federal Register** notices of determinations made under that section.

On September 29, 1980, Anchor was officially notified that it was not in compliance with the assurances it had given the Secretary that it would (1) maintain satisfactory administrative and managerial arrangements, (2) maintain organizational arrangements for an ongoing quality assurance program for its health services, and (3) include certain specified provisions in its contracts with health professionals. This determination on noncompliance, published in the **Federal Register** at 46 FR 46002, did not affect Anchor's status as a federally qualified HMO. Subsequently, Anchor successfully implemented corrective action to return to compliance with its assurances. On January 20, 1982, Anchor was notified by OHMO that it had reestablished compliance with its assurances to the Secretary as listed above. This determination took effect on January 1, 1982.

Dated: February 24, 1982.

Frank H. Seubold, Ph. D.,

Director, Office of Health Maintenance Organizations.

[FR Doc. 82-5820 Filed 3-3-82; 8:45 am]

BILLING CODE 4110-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe; Schaghticoke Indian Tribe

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affair by 209 DM 8.

Pursuant to 25 CFR 54.8(a) notice is hereby given that the Schaghticoke Indian Tribe c/o Maurice T. Lydem, P.O. Box 67, Kent, Connecticut 06757 has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on December 14, 1981. The petition was forwarded and signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20242.

Kenneth Smith,

Assistant Secretary, Indian Affairs.

February 22, 1982.

[FR Doc. 82-5821 Filed 3-3-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management; Alaska

[F-14873-A]

Alaska Native Claims Selection

On November 18, 1974, Kasigluk, Inc., for the Native village of Kasigluk, filed selection application F-14873-A, under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)), as amended, for the surface estate of certain lands in the vicinity of Kasigluk.

Kasigluk, Inc., in its November 18, 1974, application excluded several

bodies of water. Because certain of those water bodies have been determined to be nonnavigable, they are considered to be public lands withdrawn under section 11(a)(1) and available for selection by the village pursuant to section 12(a) of ANCSA. Section 12(a) and 43 CFR 2651.4 (b) and (c) provides that a village corporation must, to the extent necessary to obtain its entitlement, select all available lands within the township or townships within which the village is located, and that additional lands selected shall be compact and in whole sections. For these reasons, the water bodies which were improperly excluded in the November 19, 1974 application are considered selected by Kasigluk, Inc.

As to the lands described below, the application, as amended, submitted by Kasigluk, Inc., is properly filed and meets the requirements of ANCSA and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a) of ANCSA, aggregating approximately 103,523 acres, is considered proper for acquistion by Kasigluk, Inc. and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Seward Meridian, Alaska (Unsurveyed)

T. 9 N., R. 75 W.,
- Sec. 2, excluding Native allotment F–18253;
- Sec. 3, excluding Native allotment F–17357;
- Sec. 4, excluding Native allotments F–17352, F–17297, F–17355, F–17356, and F–17357;
- Sec. 5, excluding Native allotment F–17355;
- Secs. 6 and 7;
- Sec. 8, excluding Native allotments F–17336 and F–17355;
- Sec. 9, excluding Native allotments F–17355, F–17357, and F–17358;
- Sec. 10, excluding Native allotments F–17247, F–17357, and F–18214;
- Sec. 11, excluding Native allotments F–18252, F–17290, F–14563, F–18214, F–17353, and F–14562;
- Sec. 12;
- Sec. 14, excluding Native allotments F–17246, F–18681, F–14562, F–17294, and F–17298;
- Secs. 15 to 22, inclusive;
- Sec. 23, excluding Native allotment F–18680;
- Sec. 24, excluding Native allotments F–17359, F–17223, and F–18679;
- Sec. 25, excluding Native allotments F–17292 and F–17293;
- Secs. 26 to 30, inclusive;
- Secs. 33 to 36, inclusive.

Containing approximately 14,666 acres.

T. 10 N., R. 75 W.,
- Sec. 6;
- Secs. 7 and 8, excluding Native allotments F–14560 Parcel B and F–18103;
- Secs. 9 and 13;
- Sec. 14, excluding Native allotment F–18256;
- Sec. 16;
- Secs. 17 and 18, excluding Native allotments F–18686 and F–18103;
- Sec. 19, excluding Native allotment F–18216;
- Sec. 20, excluding Native allotments F–14174 and F–17494;
- Secs. 21, 22, and 23;
- Secs. 24 and 25, excluding Native allotments F–18213 and F–18215;
- Secs. 26 and 27;
- Sec. 28, excluding Native allotments F–17435, F–17351, and F–14960 Parcel C;
- Sec. 29, excluding Native allotments F–17435 and F–17351;
- Secs. 30 and 31;
- Sec. 32, excluding Native allotments F–17349, F–17493, and F–18677;
- Sec. 33, excluding Native allotments F–17350 and F–18217;
- Secs. 34 and 35;
- Sec. 36, excluding Native allotment F–14516.

Containing approximately 9,907 acres.

T. 9 N., R. 76 W.,
- Sec. 1, excluding Native allotments F–18260 and F–17354;
- Sec. 2, excluding Native allotment F–18259;
- Secs. 3 to 12, inclusive;
- Sec. 13, excluding Native allotment F–17295;
- Secs. 14 and 15;
- Sec. 16, excluding Native allotment F–18255;
- Secs. 17, 18, and 19;
- Sec. 20, excluding Native allotment F–14561;
- Sec. 21, excluding Native allotments F–18255 and F–14561;
- Sec. 22, excluding Native allotment F–17534;
- Secs. 23 to 27, inclusive;
- Sec. 28, excluding Native allotments F–14560 Parcel A, F–14561, and F–18256;
- Sec. 29, excluding Native allotment F–14561;
- Secs. 30 to 33, inclusive.

Containing approximately 17,869 acres.

T. 10 N., R. 76 W.,
- Sec. 1, excluding Native allotment F–14961 Parcel A;
- Sec. 2;
- Secs. 3 and 4, excluding Native allotment F–18257;
- Secs. 5 to 23, inclusive;
- Sec. 24, excluding Native allotment F–18216;
- Sec. 25, excluding Native allotment F–18627 Parcel A;
- Secs. 26 to 36, inclusive.

Containing approximately 22,577 acres.

T. 9 N., R. 77 W.,
- Secs. 3 to 7, inclusive;
- Sec. 8, excluding Native allotment F–14564 Parcel A;
- Secs. 9, 10, 11, and 12;
- Sec. 14, excluding Native allotment F–14961 Parcel B;
- Secs. 15 and 16;
- Sec. 17, excluding Native allotments F–14961 Parcel C and F–14564 Parcel A;
- Secs. 18 to 22, inclusive;
- Sec. 23, excluding Native allotment F–14961 Parcel B;
- Secs. 24 to 34, inclusive.

Containing approximately 17,150 acres.

T. 9 N., R. 77 W.,
- Secs. 1, 2, and 3;
- Secs. 10 to 15, inclusive;
- Secs. 22 to 27, inclusive;
- Secs. 34, 35, and 36.

Containing approximately 11,820 acres.

T. 10 N., R. 77 W.,
- Secs. 1 and 2;
- Secs. 11 and 15, inclusive;
- Sec. 22;
- Sec. 23, excluding Native allotment F–15070;
- Secs. 24 and 25;
- Secs. 26 and 27, excluding Native allotment F–15070;
- Secs. 34, 35, and 36.

Containing approximately 10,150 acres.

Aggregating approximately 103,523 acres.

Excluded from the above-described lands herein conveyed are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–14873–EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded as lands are under applications pending further adjudication. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14873–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobile, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

a. (EIN 1 C3, D1, D9) An easement for an existing access trail, twenty-five (25) feet in width, from the left bank of the Johnson River in Sec. 2, T. 9 N., R. 75 W., Seward Meridian, through the village of Kasigluk easterly to Bethel. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

b. (EIN 3 C3, E) An easement for a proposed access trail, twenty-five (25) feet in width, from the south end of the Kasigluk Airport, in Sec. 14, T. 9 N., R. 75 W., Seward Meridian, southwesterly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

c. (EIN 6a C4) An easement, twenty-six (26) feet in width, for an existing road from the Kasigluk airstrip in Secs. 13 and 14, T. 9 N., R. 75 W., Seward Meridian, northeasterly to the Johnson River. The uses allowed are those listed above for a sixty (60) foot wide road easement.

d. (EIN 17 C5) An easement, twenty (20) feet in width, for the existing powerline from the village of Kasigluk in Sec. 1, T. 9 N., R. 75 W., Seward Meridian, easterly to the power plant at the village of Nunapitchuk. The uses are those associated with the construction, operation and maintenance of the powerline.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Airport lease, F–15928, located in Secs. 11, 12, and 14, T. 9 N., R. 75 W., Seward Meridian, issued to the State of Alaska, Department of Transportation and Public Facilities, under the provisions of the act of May 24, 1928 (49 U.S.C. 211–214); and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Kasigluk, Inc. is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 103,523 acres. The remaining entitlement of approximately 11,677 acres will be conveyed at later date.

Pursuant to Sec. 14 (f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Calista Corporation when the surface estate is conveyed to Kasigluk, Inc., and shall be subject to the same conditions as the surface conveyance.

In accordance with the Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Drums.

Any party claiming property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, provided, however, pursuant to Public Law 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

Appeals should be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until April 5, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeals Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Kasigluk, Inc., Kasigluk, Alaska 99609
Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

Sandra C. Thomas,

Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-5886 Filed 3-3-82; 8:45 am]

BILLING CODE 4310-84-M

[F–14949–A]

Alaska Native Claims Selection

On November 20, 1974, Tulkisarmute Incorporated, for the Native village of Tuluksak, filed selection application F–14949–A under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)), as amended, for the surface estate of certain lands in the vicinity of Tuluksak.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a) of ANCSA, aggregating approximately 79,388 acres, is considered proper for

acquisition by Tulkisarmute Incorporated, and is hereby approved for conveyance pursuant to section 14(a) of ANCSA:

Seward Meridian, Alaska (Unsurveyed)

T. 13 N., R. 64 W.
Secs. 2 and 3;
Sec. 4, excluding Native allotment F-13075;
Sec. 5;
Sec. 6;
Sec. 9, excluding Native allotment F-13075;
Secs. 10 and 11;
Sec. 14;
Sec. 15, excluding Native allotment F-18420 Parcel B;
Secs. 16 and 17;
Secs. 18 and 19, excluding Native allotment F-17036;
Sec. 20;
Secs. 21 and 22, excluding Native allotment F-031214;
Sec. 23;
Sec. 27, excluding Native allotment F-031214;
Sec. 28, excluding Native allotments F-031214 and F-033646;
Sec. 29 to 33, inclusive.
Containing approximately 11,943 acres.

T. 14 N., R. 64 W.,
Secs. 20 to 24, inclusive;
Secs. 26, 27, and 28;
Sec. 29, excluding Native allotments F-17371 and F-17365;
Sec. 32, excluding Native allotments F-17365, F-17545, and F-17371;
Secs. 33, 34, and 35.
Containing approximately 5,660 acres.

T. 11 N., R. 65 W.,
Sec. 2, excluding Native allotment F-17037;
Secs. 3 to 8, inclusive.
Containing approximately 3,796 acres.

T. 12 N., R. 65 W.,
Secs. 4 to 9, inclusive;
Secs. 15 to 19, inclusive;
Sec. 20, excluding Native allotments F-033629 and F-15041;
Sec. 21, excluding Native allotment F-15041;
Sec. 22;
Sec. 27;
Sec. 28, excluding Native allotment F-15041;
Sec. 29, excluding Native allotments F-15041 and F-17042;
Secs. 30 and 31;
Sec. 32, excluding Native allotment F-17042;
Secs. 33 and 34.
Containing approximately 11,966 acres.

T. 13 N., R. 65 W.,
Sec. 13, excluding Native allotment F-17036;
Sec. 19;
Sec. 24, excluding Native allotment F-17036;
Secs. 25 to 36, inclusive.
Containing approximately 6,277 acres.

T. 11 N., R. 66 W.,
Secs. 1 and 2;
Sec. 3, excluding Native allotments F-17373, F-17034, and F-17370;
Sec. 4, excluding Native allotments F-17034, F-17370, F-033643, F-17368, and F-025285;
Sec. 5, excluding Native allotments F-033643, F-17368, and F-025285;
Secs. 6 and 7, excluding Native allotment F-17035;
Sec. 8, excluding Native allotments F-17368 and F-033642;
Sec. 9, excluding Native allotment F-17366;
Secs. 10 to 14, inclusive;
Sec. 15, excluding Native allotments F-033630 and F-033631;
Sec. 16 to 19, inclusive;
Sec. 20, excluding Native allotment F-033634;
Sec. 21;
Sec. 22, excluding Native allotments F-033630, F-033631, and F-17367;
Secs. 23 and 26, excluding Native allotment F-17369;
Secs. 27 to 34, inclusive.
Containing approximately 14,918 acres.

T. 12 N., R. 66 W.,
Secs. 1, 2, and 3;
Sec. 4, excluding Native allotment F-17363 Parcel A;
Sec. 5;
Sec. 6, excluding Native allotment F-17362;
Sec. 7;
Sec. 8, excluding Native allotment F-17364 Parcel B;
Sec. 9, excluding Native allotment F-17363 Parcel A;
Secs. 10 to 25, inclusive;
Sec. 26, excluding Native allotments F-11961 Parcel A, F-17039, Alaska Native Claims Settlement Act Sec. 3(e) application AA-40710 (F-033652—PLO 4091);
Sec. 27, excluding U.S. Survey No. 875, lots 1 and 4 of U.S. Survey No. 3797, PLO 2020, Alaska Native Claims Settlement Act Sec. 3(e) application AA-40710 (F-033652—PLO 4091), and Native allotment F-17039;
Sec. 28, excluding Native allotment F-17386;
Secs. 29 and 30;
Sec. 31, excluding Native allotment F-033625;
Sec. 32, excluding U.S. Survey No. 4205 and Native allotment F-025285;
Sec. 33, excluding lots 1 and 2 of U.S. Survey No. 3797, Native allotments F-17363 Parcel B, F-17373, F-17034, F-17370, F-033643, F-11961 Parcel B, and F-025285;
Sec. 34, excluding lots 1 and 3 of U.S. Survey No. 3797, Native allotments F-17363 Parcel B, F-17373, and F-17034;
Sec. 35, excluding Native allotment F-11961 Parcel A;
Sec. 36.
Containing approximately 16,106 acres.

T. 11 N., R. 67 W.,
Sec. 1, excluding Native allotments F-17040 and F-17038;
Sec. 12, excluding Native allotment F-17035;
Sec. 13;
Secs. 24 and 25;
Sec. 36.
Containing approximately 2,660 acres.

T. 12 N., R. 67 W.,
Sec. 1, excluding Native allotment F-17362;
Secs. 12 and 13;
Secs. 24 and 25;
Sec. 36.
Containing approximately 3,800 acres.
Aggregating approximately 79,388 acres.

Excluded from the above-described lands herein conveyed are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F-14949-EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be non-navigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; lands are pending a determination under section 3(e) of ANCSA, or lands were previously rejected by decision. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1001, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-14949-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

26 Foot Road—The uses allowed on a twenty-six (26) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

One Acre Site—The uses allowed on a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 4 C4, D9) A one (1) site easement upland of the ordinary high water mark in Sec. 2, T. 12 N., R. 66 W., Seward Meridian, on the right bank of the Kuskokwim River. The uses allowed are those listed above for a one (1) acre site easement.

b. (EIN 5 C4, D1) An easement for a proposed access trail twenty-five (25) feet in width from the Tuluksak Airport in Sec. 27, T. 12 N., R. 66 W., Seward Meridian easterly to the Tuluksak River barge landing, and public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

c. (EIN 13 C4) An easement for an existing access road twenty-six (26) feet in width in Sec. 27, T. 12 N., R. 66 W., Seward Meridian from the easterly boundary of U.S. Survey No. 875 south-easterly to the westerly boundary of lot 2 of proposed U.S. Survey No. 4435, a distance of approximately three hundred (300) feet. The uses allowed are those listed above for a twenty-six (26) foot road.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Tulkisarmute Incorporated is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 79,388 acres. The remaining entitlement of approximately 12,772 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Calista Corporation when the surface estate is conveyed to Tulkisarmute Incorporated, and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four(4) consecutive weeks, in The Tundra Drums.

Any party claiming property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, provided, however, pursuant to Pub. L. 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

Appeals should be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until April 5, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7-005, Anchorage, Alaska 99510
Tulkisarmute Incorporated, Tuluksak, Alaska 99679
Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

Sandra C. Thomas,
Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-5967 Filed 3-3-82; 8:45 am]
BILLING CODE 4310-84-M

[AA-39335]

Alaska Native Claims Selection

The document entitled Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area was ratified by Public Law (Pub. L.) 94-204 (89 Stat. 1145, 1151) on January 2, 1976, and clarified on August 31, 1976. Section II of the Terms and Conditions authorized reconveyance by the United States to Cook Inlet Region, Inc., of lands conveyed by the State of Alaska to the United States. On November 15, 1977, Sec. 3(a) of Pub. L. 95-178 (91 Stat. 1369), authorized the Secretary of the Interior to identify and reserve within 2 years after initial conveyance of such lands to Cook Inlet Region, Inc., any easement he could have lawfully reserved prior to conveyance and to issue immediately thereafter a revised conveyance reflecting such reservation.

On March 4, 1980, Interim Conveyance No. 296 was issued to Cook Inlet Region, Inc., for approximately 10.92 acres of the surface and subsurface estates of lands conveyed to the United States by the State of Alaska. The land was conveyed pursuant to Secs. 14(e) and 22(j) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(e), 1621(j)) (ANCSA), and Sec. 12(c) of Pub. L. 94-204 (89 Stat. 1145, 1152), as amended by Sec. 3(a) of Pub. L. 95-178

(91 Stat. 1369), and are described as follows:

INTERIM CONVEYANCE NO. 295 OF MARCH 4, 1982

Seward Meridian, Alaska (Surveyed)

T. 5 N., R. 8 W.
Sec. 36, lots 2, 3 and 4 and Tract A of Block 1 of ASLS 73–140.

Containing approximately 10.92 acres.

There are no easements to be reserved pursuant to Sec. 17(b) of ANCSA. When this decision becomes final, a revised conveyance document will be issued to Cook Inlet Region, Inc., for the above-described lands with no Sec. 17(b) easements reserved. The revised conveyance document will remain subject to all other rights, terms, conditions, and covenants contained in Interim Conveyance No. 295.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Times.

Any party claiming property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until April 5, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509.

Sandra C. Thomas,
Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-5280 Filed 3-3-82; 8:45 am]
BILLING CODE 4310-84-M

Realty Action; Life Occupancy Lease of Public Lands; Shoshone County, Idaho; Cancellation and Correction

This notice cancels the notice on this subject which was published on pages 2514–15 of the Monday, January 18, 1982, issue of the **Federal Register**.

Through the land use planning process and subsequent considerations the following described lands have been examined and determined to be available for a life occupancy lease under section 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732):

In section 15, T.48N., R.3E., B.M., Shoshone County, Idaho adjacent to Mineral Survey 2274: Beginning at Corner No. 1 of the Monmouth Lode, M.S. 2274; Thence S.0°32'W. 170 feet along line 1–2 of the Monmouth Lode; thence East 160 feet; Thence North 170 feet more or less to the South line of Section 10; Thence S.89°12'W. 160 feet more or less to the point of beginning and containing 0.75 acre more or less.

The purpose of issuing the proposed life occupancy lease is to legalize the use of the lands by Pete and Enes Abruzzini. The Abruzzinis thought they had a legal right to use the lands and have built improvements on and used these lands as their principal residence for about 60 years. When they recently found that their occupancy of the lands is technically in trespass, they quickly asked what they could do to legalize their occupancy. A lifetime occupancy lease would be appropriate.

The terms and conditions of the proposed lease are:

1. The lease would be nontransferable.

2. The lease would be terminated when both Pete and Enes Abruzzini are no longer physically able to occupy their home.

3. The lease would not prohibit development of the minerals by the mining claimants of record or their agents.

4. The lease rental would be based upon a combination of fair market rental and the Abruzzini's ability to pay such rental.

5. More specific lease terms would be negotiated so the public would not have to bear unnecessary expenses while helping the Abruzzinis.

6. The proposed lease would be subject to valid existing rights, including any mining claims affecting the lands involved.

The issuance of this proposed lease has been categorically excluded from the environmental assessment process. More detailed information on the proposal is available for review at the Coeur d'Alene District Office, Bureau of Land Management, 1808 N. Third St., Coeur d'Alene, ID 83814.

The Bureau will now accept an application from the Abruzzinis for a lifetime occupancy lease of the subject lands. The application should be submitted to the District Manager, Coeur d'Alene District Office at the above address.

Dated: February 18, 1982.
Wayne Ziane,
District Manager.

[FR Doc. 82-5811 Filed 3-3-82; 8:45 am]
BILLING CODE 4310-84-M

New Mexico; Proposed Withdrawal

The Bureau of Land Management, Department of the Interior, proposes the following described lands be withdrawn, subject to valid existing rights, from appropriation under the public land laws, including the mining laws:

New Mexico Principal Meridian

T. 24 N., R. 11 W.,
Sec. 21, S½;
Sec. 22, S½;
Sec. 27;
Sec. 28;
Sec. 33, N½;
Sec. 34, N½.
T. 23 N., R. 12 W.,
Sec. 19, Lots 5 to 20, inclusive;
Sec. 30, Lots 1 to 4, inclusive, E½W½, E½;
Sec. 31, Lots 1 to 4, inclusive, E½W½, E½.
T. 23 N., R. 13 W.,
Sec. 13, W½, SE¼;
Sec. 14;
Sec. 15, NW¼;
Sec. 20, SE¼SE¼;
Sec. 22, S½SW¼;
Secs. 23, 24, 26 and 28.

The area described contains 8,445.31 acres in San Juan County.

The purpose of the proposed withdrawal is to protect the lands in aid of a proposed exchange with the Public Service Company of New Mexico.

The lands will be segregated from the operation of the public land laws, including the mining laws for a period of two years from the date of publication of this notice in the **Federal Register**, or until the withdrawal action is completed, whichever is the shortest period of time.

The temporary segregation of the lands in connection with a withdrawal proposal shall not affect grazing, recreation or other surface uses. Neither will the segregation have the effect of authorizing any use of the lands by the Public Service Company of New Mexico.

All communications in connection with the proposed withdrawal should be addressed to the State Director, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

Dated: March 2, 1982.
Leroy C. Montoya,
Chief, Division of Operations.

[FR Doc. 82-5866 Filed 3-3-82; 8:45 am]
BILLING CODE 4310-84-M

Arizona; Conveyance of Public Land

Notice is hereby given that pursuant to section 206 of the Act of October 21, 1976 (90 Stat. 2743; 43 U.S.C. 1713), Ruth McCormick Tankersley, has purchased by noncompetitive sale public land in Cochise County, Arizona, described as:

Gila and Salt River Meridian, Arizona,

T. 14 S., R 31 E.,
Sec. 9, E½E½E½SW¼NW¼, NE¼NE¼NE¼NW¼SW¼, N½N½N½NE¼SW¼,
containing 10.625 acres.

The purpose of this notice is to inform the public and interested State and local government officials of the issuance of the patent to the above-named individual.

Mario L. Lopez,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-5825 Filed 3-3-82; 8:45 am]
BILLING CODE 4310-84-

Arizona; Phoenix District Phoenix/Lower Gila Resource Areas Grazing Advisory Board Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Phoenix/Lower Gila Resource Areas (Phoenix District) Grazing Advisory Board will be held on Wednesday, April 7, 1982.

The meeting will begin at 9:00 a.m. in the Conference Room of the Bureau of Land Management Office, 2929 West Clarendon Avenue, Phoenix, Arizona 85017.

The agenda for the meeting will include:

1. Review of the Lower Gila North Grazing EIS.
2. Review of the Rangeland Monitoring Plan.
3. Status of Range Improvements—F.Y. 1982.
4. Proposed Range Improvements—F.Y. 1983.
5. Revenue of Maintenance policy on Rangeland Improvements.
6. Review Policy on the distribution of 8100 funds.
7. Report on vandalism of range improvements.
8. Arrangements for future meetings.

The meetings is open to the public. Anyone wishing to make oral or written statements to the Board is requested to do so through the office of the District Manager, 2929 West Clarendon Avenue, Phoenix, Arizona 85017 at least seven days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: February 26, 1982.
William K. Barker,
District Manager.

[FR Doc. 82-5822 Filed 3-3-82; 8:45 am]
BILLING CODE 4310-84-M

[PHX 075478, etc.]

Arizona; Order Providing for Opening of Public Lands

February 24, 1982.

1. In exchanges of lands made under the provisions of Section 8 of the Act of June 28, 1934 (48 Stat. 1272, amended, 43 U.S.C. 315g) the following lands have been reconveyed to the United States under the serial numbers listed below:

Gila and Salt River Meridian, Arizona

PHX 075478
T. 20 N., R. 17 W.,
Sec. 36,
T. 20 N., R. 19 W.,
Secs. 18, 32 and 36,
T. 20 N., R. 20 W.,
Sec. 36, N½, N½SW¼, NW¼SE¼, S½SE¼.

PHX 080982
T. 23 N., R. 19 W.,
Sec. 5, S½N½, N½S½.

PHX 080871
That portion of the NW¼SW¼ of sec. 1, T. 23 N., R. 19 W., except 1.89 acres deeded the Citizens Utilities Company May 14, 1938, described as follows: Beginning at the quarter corner between sections 1 and 2 the boundary line of said tract of lands runs east along the north line of the NW¼SW¼ of said Section 1, for a distance of 351.55 feet, more or less, to the westerly right-of-way line of U.S. Highway No. 93; thence south 30°41' east, along said right of way line for a distance of 232.56 feet; thence west for a distance of 470.23 feet, more or less, to the line between said sections 1 and 2; thence north for a distance of 200 feet along said section line to the point of beginning; and except 2.4 acres deeded Citizens Utilities Company March 20, 1953, described as follows: Beginning at a point on the boundary line between sections 1 and 2,200 feet south of the quarter corner between said sections 1 and 2; thence east for a distance of 454.3 feet, more or less, to the westerly boundary line of the right-of-way of U.S. Highway No. 93; thence south 30°41' east, for a distance of 232.5 feet along the westerly boundary line of the right-of-way of said U.S. Highway No. 93; thence west for a distance of 572.7 feet, more or less, to said boundary line between said sections 1 and 2; thence north along said last mentioned boundary line for a distance of 200 feet to the place of beginning,
T. 23 N., R. 19 W.,
Sec. 13, Lots 1, 2, 3 and 4,
Sec. 15, NW¼,
T. 24 N., R. 21 W.,
Sec. 5, SE¼,
PHX 080916
T. 23 N., R. 19 W.,
Sec. 15, SE¼NW¼, SW¼ S½SE¼,
T. 24 N., R. 21 W.,
Sec. 1, Lots 1, 2, 3 and 4, S½N½, S½
Sec. 3, Lots 1, 2, 3 and 4, S½N½, S½
Sec. 11, N½N½, SW¼NW¼, NW¼SW¼, SE¼SW¼, SE¼, S½NE¼,
Sec. 13,
Sec. 15, NW¼,
T. 10 N., R. 18 W.,
Sec. 21, S½NE¼, NE¼NE¼, S½
Sec. 23, N½, N½SW¼, NW¼SE¼.

The areas described aggregate approximately 7491.80 acres in Maricopa, Mohave and Yuma Counties.

2. The United States did not acquire the mineral rights on any of the lands described in paragraph 1.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 hereof are hereby open to operation of the public land laws, generally. All valid applications received at or prior to 10:00 a.m. April 1, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department, 2400 Valley Bank Center, Phoenix, Arizona 85073 (620–201–3706).

Mario L. Lopez,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-5823 Filed 3-3-82; 8:45 am]
BILLING CODE 4310-84-M

California Desert District Multiple Use Advisory Council; Meeting

Notice is hereby given in accordance with Pub Laws 92–463 and 94–579 that the California Desert District Multiple Use Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet March 25 and 26, 1982, in the Imperial County Airport Terminal, Conference Room, Imperial, California. The meetings will be from

8:30 a.m. to 5 p.m. on the 25th and from 8 a.m. to 5 p.m. on the 26th. A field trip will follow the formal session on March 27. The purpose of the meeting is to review amendments to the Desert Plan, programs related to McCain Valley and other issues. The meeting is open to the public and interested persons may attend and file statements with the Advisory Council.

For further information and meeting confirmation contact the California Desert District, 1695 Spruce Street, Riverside, California (714) 351–6383.

Dated: February 23, 1982.

Gerald E. Hiller,

District Manager.

[FR Doc. 82-5930 Filed 3-3-82; 8:45 am]

BILLING CODE 4310-84-M

[C-16101]

Colorado; Partial Termination of Forest Service Withdrawal Application and Opening of Land

February 24, 1982.

The U.S. Department of Agriculture filed withdrawal application C–16101 on April 24, 1972, which was published in the **Federal Register** on June 8, 1972, as FR Doc. 72–8661 and September 20, 1979, as FR Doc. 79–29116. The applicant agency has cancelled its application insofar as it pertains to the following described sites:

Sixth Principal Meridian

San Isabel National Forest

Muddy Creek Campground

T. 25 S., R. 72 W.,

Sec. 14: NE¼NE¼SW¼SE¼, S½N½SW¼SE¼, S½SW¼SE¼, NW¼NW¼SE¼SE¼

Sec. 23: S½SW¼NW¼NE¼, NW¼SW¼NE¼, N½SW¼SW¼NE¼, S½SE¼NE¼NW¼, N½NE¼SE¼NW¼, SE¼NE¼SE¼NW¼

67.5 acres in Huerfano County.

Lower Dry Creek Campground

T. 23 S., R. 73 W.,

Sec. 15: SE¼NW¼, N½N½NE¼SW¼

50 acres in Custer County.

North Colony Lakes Recreation Area

T. 24 S., R. 73 W., (Protraction #21, dated April 28, 1965)

Sec. 4: S½SE¼, S½S½SW¼

Sec. 8: NE¼NE¼, N½SE¼NE¼, NE¼SW¼NE¼, W½SW¼NE¼, E½SE¼NW¼

Sec. 9: N½NE¼NE¼, NW¼NW¼, NW¼NE¼NW¼

300 acres in Custer County.

New Mexico Principal Meridian

Banjo Lake Recreation Area

T. 45 N., R. 11 E.,

Sec. 1: W½NE¼SE¼, NW¼SE¼

60 Acres in Custer County.

South Branch Lake

T. 46 N., R. 11 E.,

Sec. 36: W½NW¼NE¼, NW¼SW¼NE¼, NE¼NW¼, N½SE¼NW¼

90 acres in Custer County.

Gibson Creek Campground

T. 45 N., R. 12 E.,

Sec. 24: N½NW¼, N½S½NW¼

120 acres in Custer Conty.

The areas described aggregate approximately 667.5 acres.

Therefore, in accordance with the regulations contained in 43 CFR 2091.2–4(b)(1), at 7:45 a.m. on April 5, 1982, the lands described shall be relieved of the segregative effect of the application and open to such forms of appropriation as may by law be made of National Forest land, subject to any valid existing rights.

Any questions concerning these lands should be addressed to the undersigned at the Bureau of Land Management, Colorado State Office, 1037–20th Street, Denver, Colorado 80202.

Robert D. Dinsmore,

Chief, Branch of Adjudication.

[FR Doc. 82-5934 Filed 3-3-82; 8:45 am]

BILLING CODE 4310-84-M

Colorado; Amendment to Williams Fork Management Framework Plan for Coal

Notice is hereby given in accordance with Pub. L. 94–579, section 603 and 43 CFR Parts 3400 and 1601, that the Bureau of Land Management, Craig District, Colorado, has applied the coal unsuitability criteria through the land use planning process. Public comments have been received and considered. The Management Framework Plan (MFP) for the Williams Fork Planning Unit is amended using the preferred alternative.

In order to alleviate emergency leasing and promote an orderly and desirable pattern of coal development, the Williams Fork Planning Unit should be included in the area of availability for future competitive coal leasing in the Green River/Hams Fork Coal Production Region. The 1976 land use plan for the Williams Fork Planning Unit did not address suitability for possible coal development, therefore, before competitive leasing of Federal coal can occur, the existing land use plan had to be amended. The information provided in this land use plan amendment has determined where coal production could occur without irreversibly damaging the environment.

An Environmental Impact Statement is not required for the preferred alternative because the area will be included in the next Green River/Hams Fork Regional Coal E.I.S. before a decision is made on coal leasing.

Any person who participated in the planning process and has an interest which is or may be adversely affected by the approval or amendment of a resource management plan may protest such approval or amendment.

A protest may raise only those issues which were submitted for the record to the District Manager during the planning process.

The protest shall be in writing and shall be filed with the State Director of Colorado. The protest shall be filed on or before April 5, 1982.

The protest shall contain:

1. The name, mailing address, telephone number and interest of the person filing the protest;

2. A statement of the issue or issues being protested;

3. A statement of the part or parts of the plan or amendment being protested;

4. A copy of all documents addressing the issue or issues that were submitted during the planning process by the protesting party or an indication of the date the issue or issues were discussed for the record; and

5. A short, concise statement explaining why the District Manager's decision is wrong.

Corrections have been made to the Draft Williams Fork MFP Coal Amendment/Environmental Assessment and it has been accepted as the Final Williams Fork MFP Coal Amendment/Environmental Assessment.

Copies of the corrected pages and the Decision Record/Rationale are available from the Bureau of Land Management

Contact listed below. Copies of the Final Williams Fork MFP Coal Amendment/Environmental Assessment will be printed and available for distribution after the protest period has ended and any protest has been resolved.

Official BLM Contact: Duane Johnson, Team Leader, Bureau of Land Management, P.O. Box 1136, Craig, CO 81626, or telephone (303) 824–4441.

Lee Carle,

District Manager.

[FR Doc. 82-5929 Filed 3-3-82; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. M 51798]

Montana; Conveyance of Public Land

February 23, 1982.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713 (1976)), the following public land was sold by modified competitive bidding to John G. Michunovich, Billings, Montana:

Principal Meridian

T. 5 N., R. 34 E.,

Sec. 2, Lot 8.

Containing 13.16 acres.

The land was conveyed by Fee Simple Interest Decision on February 12, 1982. A patent will issue after the official cadastral resurvey has been approved. The sale of the land was consistent with the Bureau's planning system since the tract was isolated with no convenient access, was unuseable by the general public, and was difficult and uneconomic to manage as part of the public lands system. The appraised fair market value of $1,000 has been paid to the United States.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-5928 Filed 3-3-82; 8:45 am]

BILLING CODE 4310-84-M

[OR 6920]

Oregon; Termination of Classification for Multiple Use Management

1. By order of the Oregon State Director, Bureau of Land Management, which was published in the **Federal Register** on December 15, 1970 (35 FR 242), as corrected in the **Federal Register** of January 13, 1971, (36 FR 447), 9,841.50 acres of public lands under the jurisdiction of the Bureau of Land Management were classified for multiple use management pursuant to the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1411–18) and the regulations in 43 CFR Part 2460. The lands are located in Linn, Lane, and Douglas Counties, Oregon.

2. Pursuant to 43 CFR 2461.5(c)(2), the classification is terminated in its entirety March 4, 1982.

3. The public lands involved remain withdrawn for multiple use management purposes by Public Land Order No. 5490 of February 12, 1975, and will therefore not be open to appropriation under the agricultural land laws (43 U.S.C. Ch. 9, 25 U.S.C. 334). Subject to the provisions of other existing withdrawals and classifications, the lands have been and continue to be open to all other forms of appropriation, including the United States mining laws and mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: February 25, 1982.

Paul M. Vetterick,

Associate State Director.

[FR Doc. 82-5822 Filed 3-3-82; 8:45 am]

BILLING CODE 4310-84-M

[OR 6918]

Oregon; Termination of Classification for Multiple Use Management

1. By order of the Oregon State Director, Bureau of Land Management, which was published in the **Federal Register** on December 7, 1967 (32 FR 17548), 62,500.00 acres of public lands under the jurisdiction of the Bureau of Land Management were classified for multiple use management pursuant to the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1411–18) and the regulations in 43 CFR Part 2460. The lands are located in Benton, Clackamas, Clatsop, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington and Yamhill Counties, Oregon.

2. Pursuant to 43 CFR 2461.5(c)(2), the classification is terminated in its entirety March 4, 1982.

3. The public lands involved remain withdrawn for multiple use management purposes by Public Land Order No. 5490 of February 12, 1975, and will therefore not be open to appropriation under the agricultural land laws (43 U.S.C. Ch. 9, 25 U.S.C. 334). Subject to the provisions of other existing withdrawals and classifications, the lands have been and continue to be open to all other forms of appropriation, including the United States mining laws and mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: February 25, 1982.

Paul M. Vetterick,

Associate State Director.

[FR Doc. 82-5824 Filed 3-3-82; 8:45 am]

BILLING CODE 4310-84-M

[ORE 018617]

Oregon; Termination of Classification for Multiple Use Management

1. By order of the Oregon State Director, Bureau of Land Management, which was published in the **Federal Register** on June 3, 1967 (32 FR 8042), 15,000 acres of public lands under the jurisdiction of the Bureau of Land Managment were classified for multiple use management pursuant to the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1411–18) and the regulations in 43 CFR Part 2460. the lands are located in Douglas and Coos Counties, Oregon.

2. Pursuant to 43 CFR 2461.5(c)(2), the classification is terminated in its entirety March 4, 1982.

3. The public lands involved remain withdrawn for multiple use management purposes by Public Land Order No. 5490 of February 12, 1975, and will therefore not be open to appropriation under the agricultural land laws (43 U.S.C. Ch. 9, 25 U.S.C. 334). Subject to the provisions of other existing withdrawals and classifications, the lands have been and continue to be open to all other forms of appropriation, including the United States mining laws and mineral leasing laws.

Inquires concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: February 25, 1982.

Paul M. Vetterick,

Associate State Director.

[FR Doc. 82-5824 Filed 3-3-82; 8:45 am]

BILLING CODE 4310-84-M

West-Central North Dakota Management Framework Plan (MFP); Public Comments Sought on Reapplication of Certain Unsuitability Criteria

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Dickinson District Office of the Bureau of Land Management (BLM) is inviting public review of reapplication of certain unsuitability criteria for the West-Central North

Dakota Management Framework Plan. All of the criteria that have been reapplied relate to federal coal leasing and are contained in 43 CFR Part 3461. By number, they are 9, 11, 12, 13, 14, and 15 (concerning wildlife habitat); and criterion 7 (concerning archaeological values).

The Dickinson District has prepared an MFP addendum showing the recommended areas to be excluded from further consideration for coal leasing, based on the analysis of new wildlife and cultural resources data. The document will be mailed to all persons on the West-Central MFP mailing list, including surface owners over federal coal, interest groups, energy companies, and various government agencies. Persons not on the mailing list can contact the Dickinson District Office to obtain the document, which will be available by March 12. After the public comment period the District Manager will assess the comments received and then make his final decisions.

DATE: Comments on the reapplication of unsuitability criteria will be taken through April 15, 1982.

ADDRESS: The MFP addendum can be obtained from the Bureau of Land Management, Dickinson District Office, P.O. Box 1229, Dickinson, North Dakota 58601, Telephone: (701) 225-9148.

FOR MORE INFORMATION CONTACT: Chuck Steele, Dickinson District Manager, at the above address.

SUPPLEMENTARY INFORMATION: In September 1980, the West-Central ND Management Framwork Plan was completed by the Dickinson District. A major part of the planning process involved applying unsuitability criteria to determine if federal coal lands should or should not be excluded from further leasing consideration.

All pertinent criteria were applied during the initial planning process; however, certain resource information was not adequate to fully apply all criteria. Wildlife habitat inventories were needed throughout the planning area to apply criteria 9, 11, 12, 13, 14, and 15. More cultural resource information was needed in the Dunn Center Deposit to more fully assess the significance of the Knife River Flint Quarries and associated archaeological sites. Cultural resource information was also needed to apply criterion 7 in the Dickinson, Garrison, and North Garrison deposits.

Charles E. Steele,
District Manager.

[FR Doc. 82-5830 Filed 3-3-82; 8:45 am]
BILLING CODE 4310-84-M

[Wyoming 78712]

Sheridan County, Wyoming; Exchange Proposal

Notice is hereby given that on January 28, 1982, Whitney Benefits, Inc. and its lessee, Peter Kiewit Sons' Company, filed a proposal to exchange lands and/or interests in lands with the Wyoming State Office, Bureau of Land Management. The proponent owns and leases to Peter Kiewit Sons' Company a coal interest in lands in Sheridan County described as:

Sixth Principal Meridian, Wyoming

T. 57 N., R. 83 W.,
Sec. 6, lots 2, 3, 4, 5, SE¼NW¼, and E½SW¼.
T. 58 N., R. 83 W.,
Sec. 31, lots 3, 4, E½NE¼, SW¼NE¼, E½SW¼, and W½SE¼.
T. 57 N., R. 84W.,
Sec. 1, NE¼NE¼, and S½SW½;
Sec. 12, W½NE¼, NW¼, NE¼SW¼, and NW¼SE¼;
Sec. 11, E½NE¼, SW¼NE¼, and NW¼SE¼.
Containing 1236.51 acres.

The State of Wyoming has determined that this tract is unsuitable for mining and has designated it as a alluvial valley floor. The Surface Mining and Reclamation Act provides that the Bureau may exchange coal where an alluvial valley floor determination precludes mining. The exchange would be made pursuant to the authority of SMCRA and the Federal Land Policy and Management Act of 1976.

In exchange, the proponent has expressed an interest in acquiring title to the coal and surface, where it is owned by the United States, in the following described lands:

Sixth Principal Meridian, Wyoming

T. 58 N., R. 84 W.,
Sec. 21, All (excluding lot 1);
Sec. 22, W½ and SE¼;
Sec. 23, SW¼, NW¼SE¼, and S½SE¼;
Sec. 24, SW¼SW¼SE¼;
Sec. 25, S½NW¼, SW¼NE¼, and E½NW¼NE¼;
Sec. 26, All;
Sec. 27, All;
Sec. 28, All;
Sec. 33, N½NE¼NW¼, N½NE¼, and N½SE¼NE¼;
Sec. 34, N½NW¼, N½SW¼NW¼, SE¼NW¼, NE¼, and N½N½SE¼;
Sec. 35, N½, N½N½SW¼, and N½SE¼.
Containing approximately 4,370.00 acres.

The proposal will be analyzed by this Bureau. The purpose of this notice is to inform the public that we have such a proposal pending. Any interested persons desiring to express their views or furnish any information about this proposal should do so in writing. Comments may be sent to the District Manager, Bureau of Land Management, 951 Rancho Road, Casper, Wyoming 82601.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-5827 Filed 3-3-82; 8:45 am]
BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; McMoran Offshore Exploration Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that McMoran Offshore Exploration Co. has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS-G 2887, 2888, and 2889, Blocks 173, 174, and 175, South Marsh Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office oif the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 24, 1982.

Lowell G. Hammons,
Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-5834 Filed 3-3-82; 8:45 am]
BILLING CODE 4310-21-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; ODECO Oil Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that ODECO Oil & Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0005, Block 86, South Timbalier Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 26, 1982.

Lowell G. Hammons,
Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-5830 Filed 3-3-82; 8:45 am]
BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Superior Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that The Superior Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0248, Block 71, Vermilion Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: February 26, 1982.

Lowell G. Hammons,
Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-5829 Filed 3-3-82; 8:45 am]
BILLING CODE 4310-31-M

INTERSTATE COMMERCE COMMISSION

[No. 38704]

Motor Carriers; Gray Moving & Storage Inc., Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Gray Moving & Storage, Inc., a motor contract carrier, has requested exemption from the requirements in 49 U.S.C. 10702, 10761, and 10762 so that, in lieu of filing rate schedules, it could simply provide a copy of its contract (with rates attached) to interested parties, upon request. The sought relief is provisionally granted.

DATES: Comments are due within 15 days of publication in the Federal Register. The sought relief will become effective on April 5, 1982, unless, in response to comments filed, the Commission issues a further decision withdrawing this relief.

ADDRESSES: An original and six copies of comments should be sent to: Interstate Commerce Commission, Room 5356, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw or Jane F. Mackall (202) 275-7656.

SUPPLEMENTARY INFORMATION: The exemption is sought with regard to the nationwide transportation of food and related products under contract(s) with Distressed Merchandise Assoc., Inc., of Arvada, CO. Petitioner's permit for this transportation, No. MC-112070 (Sub-No. 26), was served September 25, 1981.

Section 10702(b) of the Interstate Commerce Act requires contract carriers to file actual and minimum rates for the transportation they provide. Section 10761 prohibits transportation without a tariff. Section 10762 sets forth general tariff requirements, including contract carrier authority to file only minimum rates. Each of these sections authorizes the Commission to grant relief to contract carriers when in the public interest and consistent with the transportation policy of section 10101.

Petitioner states that the administrative and financial burden of complying with the rate filing requirements would necessitate higher rate levels than if it were allowed instead simply to incorporate rules and rates into its contract as an appendix. Petitioner offers to provide a copy of the complete contract with Distressed Merchandise Assoc., Inc. to interested parties upon request.

Petitioner's request appears reasonable. The rate information will remain available to the limited number of persons who might be interested, and there seemingly is no reason to deny the carrier and the shipper the potential savings involved. See, No. 38649, 46 FR 36763, July 15, 1981.

Our approval of this arrangement, however, will be withdrawn if we receive timely filed comments convincing us the relief is inappropriate.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10702(b), 10761(b) and 10762(f))

Decided: February 23, 1982.

By the Commission, Division 2, Commissioners Gresham, Gilliam, and Taylor.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5813 Filed 3-3-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-52 (Sub-No. 15)]

Rail Carriers; The Atchison, Topeka and Santa Fe Railway Co.; Abandonment Between Clonmel and Anness, KS; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Atchison, Topeka and Santa Fe Railway Company to abandon its rail line between milepost 223 plus 4,124.3 feet near Clonmel to milepost 26 plus 5,067.3 feet near Anness, a distance of 11.68 miles, all in Sedgwick County, KS, subject to certain conditions. Since no investigation was instituted, the requirement of § 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the Federal Register be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I § 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to the Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5913 Filed 3-3-82; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29646]

Rail Carriers; Burlington Northern Railroad Co.; Abandonment Between Key West and East Grand Forks, MN; Petition for Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the requirements of prior approval under 49 U.S.C. § 10903 the abandonment by the Burlington Northern Railroad Company of 9.49 miles of track in Polk County, MN, from Milepost 92.69 near Key West to Milepost 92.69 near East Grand Forks.

DATES: This exemption will be effective on April 5, 1982. Petitions to stay the effectiveness of this decision must be filed no later than March 15, 1982. Petitions for reopening and reconsideration must be filed no later than March 24, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5414, Interstate Commerce Commission, Washington, D.C. 20423.

(2) Petitioner's representative: Thomas A. Ehlinger, 176 East Fifth Street, St. Paul, MN 55101.

Pleadings should refer to Finance Docket No. 29646.

FOR FURTHER INFORMATION CONTACT: Richard A. Kelly, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. For a copy of the full decision, write to Interstate Commerce Commission, Room 2227, Washington, D.C. 20423, or call toll free 800-424-5403.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5914 Filed 3-3-82; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-117]

Certain Automotive Visors; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 29, 1981, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Prince Corporation, Windcrest Drive, Holland, Michigan 49423. An amended complaint was filed on February 16, 1982. The amended complaint (hereinafter the complaint) alleges unfair methods of competition and unfair acts in the importation of certain automotive visors into the United States, or in their sale, by reason of alleged direct infringement of (1) claims 1, 2, 4, 5, 6, 8, 10, 11 and 13 of U.S. Letters Patent 4,227,241, and (2) claims 1, 2, 3, 5 and 6 of U.S. Letters Patent 3,926,470. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests the Commission to institute an investigation and, after a full investigation, to issue (1) an order excluding said visors, or automobiles equipped with said visors until the visors are removed, from entry into the United States for the life of each patent in issue and (2) a cease and desist order restraining Toyota and Daimler-Benz and those in privity with them from the sale and installation of imported visors which infringe U.S. Letters Patent Nos. 3,926,470 and 4,227,241.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's rules of practice and procedure (19 CFR 210.12).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on February 23, 1982, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain automotive visors into the United States, or in their sale, by reason of alleged direct infringement of (1) claims 1, 2, 4, 5, 6, 8, 10, 11 and 13 of U.S. Letters Patent 4,227,241 and (2) claims 1, 2, 3, 5 and 6 of U.S. Letters Patent 3,926,470, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Prince Corporation, Windcrest Drive, Holland, Michigan 49423.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Toyota Motor Sales Co., Ltd., 1 Toyota-cho, Toyota City, Nagoya, Aichi, 471 Japan

Toyota Motor Sales, 2055 West 190th Street, Torrance, California 90504

Daimler-Benz, A.G., Mercedesstr. 136, D-7000 Stuttgart 60, Bad-Wuertt, Federal Republic of Germany

Mercedes-Benz, North America, 1 Mercedes Drive, Montvale, New Jersey 07645

Gebr Happich Gmbh, Clauserbruke 1, West Germany

Voplex Corporation, 1100 Pittsford Victor Road, Pittsford, New York 14538

(c) Oreste Russ Pirfo, Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 124, Washington, D.C. 20436, shall be the Commission Investigative Attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours 8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202-523-0471.

FOR FURTHER INFORMATION CONTACT: Oreste Russ Pirfo, Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202-523-4693.

By order of the Commission.

Issued: March 1, 1982.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-5891 Filed 3-3-82; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 701-TA-151 (Preliminary)]

Certain Nuts, Bolts, and Screws From Japan; Preliminary Countervailing Duty Investigation

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary countervailing duty investigation and the scheduling of a conference to be held in connection with the investigation.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of investigation No. 701-TA-151 (preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of certain screws, bolts, nuts, and other screws having shanks or threads over 0.24 inch in diameter of iron or steel, provided for in items 646.4920, 646.5400, 646.5600, 646.6320, and 646.6340 of the Tariff Schedules of the United States Annotated (1982), upon which bounties or grants are alleged to be paid.

EFFECTIVE DATE: February 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Cates, Office of Investigations, U.S. International Trade Commission; telephone 202-523-0369.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed February 22, 1982, on behalf of The United States Fastener Manufacturing Group. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition or by April 8, 1982 (19 CFR 207.17). The investigation will be subject to the provisions of part 207 of the Commission's Rules of Practice and Procedure (19 CFR 207, 44 FR 76457 and 47 FR 6190), and particularly subpart B thereof.

Written Submissions.—Any person may submit to the Commission on or before March 23, 1982, a written statement of information pertinent to the subject matter of the investigation. A signed original and nineteen copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m., e.s.t., on March 18, 1982, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the supervisory investigator for the investigation, Mr. John MacHatton, telephone 202-523-0439, not later than March 11, 1982, to arrange for their appearance.

For further information concerning the conduct of the investigation and rules of general application consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR 207), and part 201, subparts A through E (19 CFR 201). Further information concerning the conduct of the conference will be provided by Mr. MacHatton.

This notice is published pursuant to § 207.12 of the Commission's Rules of Practice and Procedure (19 CFR 207.12).

By order of the Commission.

Issued: March 1, 1982.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-5907 Filed 3-3-82; 8:45 am]
BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Proposed Consent Decree In Action To Enjoin Discharge of Air Pollutants; Alcoa Generating Corp.

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on February 12, 1982, a proposed consent decree in *United States of America* v. *Alcoa Generating Corporation and Southern Indiana Gas and Electric Company*, Civil No. EV-82-35-C, was lodged with the United States District Court for the Southern District of Indiana. The proposed decree requires additional pollution control equipment and other measures to assure compliance with the particulate and opacity provisions of the Indiana Implementation Plan at the defendants' Warrick Generating Station in Newburgh, Indiana, and payment of a civil penalty.

The proposed consent decree may be examined at the office of the United

States Attorney, Room 274, U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204; at the Region V office of the Environmental Protection Agency, Air Enforcement Branch, 230 South Dearborn Street, Chicago, Illinois 60604; and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1254, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.10 (10 cents per page reproduction charge) payable to the Treasurer of the United States. The Department of Justice will receive comments relating to the proposed consent decree until April 5, 1982. Comments should be directed to the Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530 and should refer to *United States of America* v. *Alcoa Generating Corporation and Southern Indiana Gas and Electric Company*, DOJ Reference #90–5–2–1–398.

Carol E. Dinkins,

Assistant Attorney General, Land & Natural Resources Division.

[FR Doc. 82-5826 Filed 3-3-82; 8:45 am]

BILLING CODE 4410-01-M

Proposed Consent Decree In Action To Enjoin Air Pollutant Emissions; Georgia Pacific Corp.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on February 16, 1982, a proposed consent decree in *Gorsuch* v. *Georgia-Pacific Corporation*, No. 80–09–CIV–6, was lodged with the United States District Court for the Eastern District of North Carolina. The proposed decree provides for settlement of a suit under the Clean Air Act concerning the company's coreboard and plywood plant at Dudley, North Carolina. The proposed decree requires that company pay a civil penalty for alleged violations of prevention-of-significant-deterioration requirements of the Clean Air Act and the North Carolina State Implementation Plan.

The Department of Justice will receive, until April 5, 1982, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *Gorsuch* v. *Georgia-Pacific Corporation*, D.J. Ref. No. 90–5–2–1–322.

A proposed consent decree may be examined at the office of the United States Attorney, Eastern District of North Carolina (Attn: Rhetta Lee), 874 Federal Building, 310 New Bern Avenue, Raleigh, N.C. 27611; at the Region IV Office of the United States Environmental Protection Agency, Enforcement Division, Second Floor, 345 Courtland Street NE., Atlanta, Georgia 30365; and the Environmental Enforcement Section, Land and Land and Natural Resources Division, United States Department of Justice, Room 1254, Ninth Street and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-5829 Filed 3-3-82; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL ENDOWMENT FOR THE ARTS AND HUMANITIES

Arts Design Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Design Arts Panel (Fellowships) to the National Council on the Arts to be held on March 29–31, 1982, from 9:00 a.m.–5:30 p.m. in room 1426 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 82-5860 Filed 3-3-82; 8:45 am]

BILLING CODE 7537-01-M

Music Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Panel (Solo Recitalists—Individuals) to the National Council on the Arts to be held on March 25–26, 1982 from 9:00 a.m.–6:00 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 82-5861 Filed 3-3-82; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Committee Management; Determination of Renewal

The Foundation conducted an extensive study of its Advisory Committee structure. During the course of review by the Committee Management Secretariat of the General Services Administration, the advisory groups listed below were extended from February 15 to March 1, 1982 and are now being renewed for an additional two years.

Therefore, pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, I have hereby determined that the sixteen advisory groups listed below are necessary and in the public interest in connection with the performance of duties imposed upon the National Science Foundation by the National Science Foundation Act of 1950, as amended, and other applicable law.

Advisory Committee for Astronomical Sciences
Advisory Committee for Atmospheric Sciences
Advisory Panel for Behavioral and Neural Science [1]
Advisory Committee for Chemistry
Advisory Committee for Earth Sciences
Advisory Committee for Engineering
Advisory Panel for Environmental Biology [1]
Advisory Committee for International Programs
Advisory Committee for Materials Research
Advisory Committee for Mathematical and Computer Sciences
Advisory Committee for Ocean Sciences
Advisory Committee for Physics
Advisory Panel for Physiology, Cellular, and Molecular Biology [1]
Advisory Committee for Polar Programs
Advisory Committee for Policy Research and Analysis and Science Resources Studies
Advisory Panel for Social and Economic Sciences [1]

Authority for these advisory committees shall expire on March 1, 1984, unless the Director of the National Science Foundation formally determines that continuance is in the public interest.

John B. Slaughter,

Director.

March 1, 1982.

[FR Doc. 82-5799 Filed 3-3-82; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–443 and 50–444]

Public Service Co. of New Hampshire (Seabrook Station, Units 1 & 2); Receipt of Petition Under 10 CFR 2.206

Notice is hereby given that by petition dated February 5, 1982, the Seacoast Anti-Pollution League filed a request for an order to show cause why Construction Permit Nos. CPPR–135 and CPPR–136 should not be suspended or revoked because of an alleged lack of financial qualification of the lead applicant, Public Service Company of New Hampshire. In accordance with the procedures specified in 10 CFR 2.206, appropriate action will be taken on this request within a reasonable time.

[1] As a result of our review, the names of these groups were changed from Advisory Committees to Advisory Panels to more accurately reflect their proposal review role.

A copy of the request is available for inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the local public document room for the Seabrook Station at the Exeter Public Library, Front Street, Exeter, New Hampshire 03883.

Dated at Bethesda, Maryland this 25th day of February, 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-5800 Filed 3-3-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338 and 50-339]

Virginia Electric and Power Co.; Granting of Relief From ASME Code Section XI; Inservice Inspection Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to Virginia Electric and Power Company (the licensee), which revised the inservice inspection program for the North Anna Power Station, Unit Nos. 1 and 2 located in Louisa County, Virginia. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance, and expires August 20, 1982.

The action provides relief from performing hydrostatic testing requirements for North Anna Power Station, Units No. 1 and 2 weld repairs. In lieu of this, the licensee has proposed in the case of North Anna Unit 1 to use an augmented liquid penetrant examination supplemented by a leakage test at operating pressure. For North Anna Unit 2, the licensee has proposed an examination consisting of a radiographic and ultrasonic test supplemented by a leakage test at operating pressure. The licensee has received Commission approval in both cases as proposed by the licensee.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the request for relief dated January 20, 1982 and (2) the letter to the licensee dated February 24, 1982. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 24th day of February 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-5806 Filed 3-3-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

February 24, 1982.

When executive departments and agencies proposed public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the

nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected;

Whether small businesses or organizations are affected;

A description of the Federal budget functional category that covers the information collection;

An estimate of the number of responses;

An estimate of the total number of hours needed to fill out the form;

An estimate of the cost to the Federal Government;

An estimate of the cost to the public.

The number of forms in the request for approval;

An indication of whether section 3504(h) of Pub. L. 96-511 applies;

The name and telephone number of the person or office responsible for OMB review; and

An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the Federal Register but occasionally the public, interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer of office listed at the end of face entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

(Agency Clearance Office—Richard J. Schrimper—202-447-6201)

New

• Forest Service
Application for Transportation and Utility Systems and Facilities on Federal Lands
SF-299
On occasion
Individuals or households/State or local governments/farms/businesses or other institutions
Applies to any indiv., bus., entity, & gov't entity, etc.
SIC: All
Small businesses or organizations
Conservation and land management: 50 responses; 150 hours; $78,000 Federal cost; 1 form; $900 public cost; not applicable under 3504(h)
Charles A. Ellett, 202-395-7340
Use of SF-299, Application for Transportation and Utility Systems and Facilities on Federal Lands, is mandated by Title XI of Pub. L. 96-487. Section 1104(a) of the law states that unless the approval or of a transporation system is based on the consolidated form the approval or disapproval will have no force or effect, thus the critical need.
• Food and Nutrition Service
WIC Program—Regulations Application Burden
FNS-285
Other-see SF83
Individuals or households/State or local governments/businesses or other institutions
Low income hsehlds, state & local health agencies, food stc.
SIC: 881, 943, 540
Food and nutrition assistance: 4,100,808 responses; 355,090 hours; $289,000 Federal cost; 1 form; $1,642,330 public cost; not applicable under 3504(h)
Neil Minow 202-395-7340

Participants, local and State agencies must apply to obtain program benefits. Application from participants are used to verify eligibility. Applications from local and State agents are to check ability to administer the program effectively.
• Food and Nutrition Service
WIC Program—Regulations Recordkeeping Burden
Other-see SF83
Individuals or households/State or local governments/businesses or other institutions
Low income hsehlds, State & local health agen., food stores
SIC: 881, 943, 540
Food and nutrition assistance: 3,036,325 responses; 66,048 hours; $33,600 Federal cost; 1 form; $880,480 public cost; not applicable under 3504(h)
Neil Minow 202-395-7340

WIC regulations require State and local agencies to retain certain records in order to document actions and to evaluate compliance with program requirements and with OMB circulars.
• Agricultural Stabilization and Conservation Service (AFIDA)
1
On occasion
Businesses or other institutions
Foreign persons having invest. in U.S. ag. land
SIC: Multiple
Small businesses or organizations
Farm income stabilization: 3,400 responses; 1,700 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Charles A. Ellett 202-395-7340

This form is used for foreign investors whereby they make timely reports of all agricultural land held, acquired, or transferred as required under penalty of law (Pub. L. 95-460).
• Agricultural Stabilization and Conservation Service
Handler contract with producers for purchase of additional peanuts for crushing or export
CCC-1005
Annually
Farms/businesses or other institutions
The peanut prod. & handlers entering into contracts, etc.
SIC: 013
Small businesses or organizations
Farm income stabilization: 30,000 responses; 3,000 hours; $94,000 federal cost; 1 form; $10,050 public cost; not applicable under 3504(h)
Charles A. Ellett 202-395-7340

Form CCC-1005 is used for contracting additional peanuts for crushing or export. Information from these contracts will be used to verify compliance to Pub. L. 97-98 as to production and disposition of all additional peanuts.
• Federal Crop Insurance Corporation
Cancellation Anaylsis
Semiannually
Individuals or households/farms
Crop insur. policyholders who cancelled their policy
SIC: 019
Small businesses or organizations
Farm income stabilization: 450 responses; 90 hours; $6,680 Federal cost; 1 form; $900 public cost; not applicable under 3504(h)
Charles A. Ellett 202-395-7340

To determine growers' reasons for cancelling their all-risk crop insurance, in order to develop promotional and advertising material which will most effectively encourage growers to reinstate their insurance, to determine the severity of cancellation, to ascertain program provisions which growers are dissatisfied with, and to provide information useful in the development of methods to reduce future cancellations. Starting date ASAP.

Revisions

• Agricultural Marketing Service
Grapes Grown in a Designated Area of Southeastern California—Marketing Order No. 925
On occasion, weekly
Farms/businesses or other institutions
Cal. Desert Grape Producers and Handlers under Mktg. Ord. 925
SIC: 017 515
Small businesses or organizations
Agricultural research and services: 570 responses; 37 hours; $500 Federal cost; 4 forms; $343 public cost; not applicable under 3504(h)
Charles A. Ellett, 202-395-7340

California Desert Grape Administrative Committee forms are used to obtain information from desert grape producers and handlers relating to the grapes shipped by them, as well as make application to ship organically grown grapes exempt from certain size requirements, and to use experimental containers.
• Agricultural Marketing Service
California-Arizona Lemons—Marketing Order No. 910
On occasion, weekly
Farms/businesses or other institutions
Cal.-Ariz. Lemon Growers and Handlers under Mktg. Od. 910
SIC: 017 515
Small businesses or organizations
Agricultural research and services: 4,586 Responses; 249 hours; $618 Federal cost; 10 forms; $1,520 public cost; not applicable under 3504(h)
Charles A. Ellett, 202-395-7340

The Lemon Administrative Committee forms are used to obtain information from growers and handlers relating to the quantities of lemons shipped and utilized in various outlets during specified time periods, and by growers and handlers to apply for permission to ship lemons to certain non-regulated outlets.
• Agricultural Marketing Service
Florida Limes—Marketing Order No. 911
Annually
Businesses or other institutions
FIA. Lime Producers and Handlers under Marketing Order 911
SIC: 017 515 203
Small businesses or organizations
Agricultural research and services: 98 Responses; 3 hours; $500 Federal cost; 4 forms; $19 public cost; not applicable under 3504(h)
Charles A. Ellett, 202-395-7340

The Florida Lime Administrative Committee forms are used to obtain information from producers relating to their lime growing business and from handlers relating to their lime business as packers and shippers and their intent to apply for a prorate ease and allotment under the marketing order.
• Agricultural Marketing Service
Washington Peaches—Marketing Order No. 921
On occasion
Businesses or other institutions
Washington Peach handlers under marketing order 911
SIC: 515
Small businesses or organizations
Agricultural research and services: 288 Responses; 10 hours; $500 Federal cost; 2 forms; $73 public cost; not applicable under 3504(h)
Charles A. Ellett, 202-395-7340

The Washington Fresh Peach Marketing Committee forms are used by the committee to ascertain if a handler's peach shipments should be exempted from inspection requirements, and if such shipments meet other requirements specified under the marketing order.

Reinstatements

• Agricultural Stabilization and Conservation Service
Application for ASCS County Employment
ASCS-675
Other-see SF83
Individuals or households
Individual applicant
Farm income stabilization: 14,000 Responses; 14,000 hours; $31,315 Federal cost; 1 form; $46,900 public cost; not applicable under 3504(h)
Charles A. Ellett, 202-395-7340

Applicants that seen ASCS county office employment must fill-out this form. Its scope and impact is identical to that of SF-171 used in Fed. service (Pub. L. 96-563)

DEPARTMENT OF ENERGY

(Agency Clearance Officer—John Gross—202-633-8778)

New

• Energy Information Administration
Petroleum Sales Identification Survey
FIA-764A 764B
Nonrecurring
Businesses or other institutions
Petroleum product wholesalers and retailers
SIC: Multiple
Small businesses or organizations
Energy information, policy, and regulation: 60,000 responses; 120,000 hours; $655,000 Federal cost; 2 forms; not applicable under 3504(e)
Jefferson B. Hill, 202-395-7340

The EIA-764A&B represents a one time survey to collect limited sales volume information in order to update the listing of petroleum product wholesalers and retailers. These data will enable the selection of valid samples to conduct more efficient surveys in the future.

Reinstatements

• Federal Energy Regulatory Commission
Gas Pipeline Certificate Initial Service
FERC-538
Other—see SF83
Businesses or other institutions
Natural gas pipeline companies and local distribution co.
SIC: 492
Energy information, policy, and regulation: 10 responses; 3,200 hours; $50,000 Federal cost; 1 form; Not applicable under 3504(h)
Anita T. Ducca, 202-395-7340

Pursuant to section 7(a) of the NGA, the Commission requires these data to determine if an interstate pipelines existing facilities and service should be extended to meet initial service requirements of a local distribution company.

• Federal Energy Regulatory Commission
FERC-537, Gas Pipeline Certificate—Construction and Operation/Transportation/Exchange and Storage and Abandonment
FERC-537
Other—see SF83
Businesses or other institutions
Natural gas pipelines
SIC: 492
Energy information, policy, and regulation: 583 responses; 148,320 hours; $2,226,800 Federal cost; 1 form; not applicable under 3504(h)
Anita T. Ducca, 202-395-7340

Information collection is required to obtain commission certification of interstate pipelines engaged in the transportation and sale of natural gas, and the construction, acquisition and operation of facilities to be used in these activities, as well as authorization for abandonment of facilities and service.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488

New

• Department Management of the Equal Access to Justice Act in Agency Proceedings—Subpart B
OS–18–81
Nonrecurring
Individuals or households/businesses or other institutions
Medicare and medicaid providers, drug cos., med. device, etc.
SIC: 801, 806
Small businesses or organizations
Public assistance and other income supplements: 202 responses; 404 hours; $48,087 Federal cost; 1 form; $4,040 public cost; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

An applicant must submit the required information to apply for an award of attorneys fees and other expenses under the equal access to justice Act, in a proceeding where the applicant has prevailed and believes the Government's position was not substantially justified.

• Social Security Administration
Vocational Rehabilitation "301" Program Development
SSA–4290
On occasion
State or local governments
State vocational rehabilitation agencies
SIC: 941
General retirement and disability insurance: 6,000 responses; 2,000 hours; $6,126 Federal cost; 1 form; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

The vocational rehabilitation "301" program development form will collect data from the State vocational rehabilitation agencies to determine an individual's possible entitlement to continued payments. The forms will be reviewed by SSA disability examiners in making these determinations.

Revision

• Social Security Administration
Request for Correction of Earnings Record
SSA–7008
On occasion
Individuals or households
Per. who disagree with the SSA record of their earnings
General retirement and disability insurance: 100,000 responses; 16,666 hours; $51,501 Federal cost; 1 form; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

Information is needed when a person questions the correctness of his/her earnings record. The information is used to check the Social Security Administration's records and develop for evidence.

• Office of Assistant Secretary for Health
1982 National Health Interview Survey (NHIS)
Nonrecurring
Individuals or households
Sample hsehlds repre. civil., non-instit. popu. of the U.S. health: 42,700 responses; 32,160 hours; $6,328,000 Federal cost; 1 form; $321,600 public cost; not applicable under 3504(h)
Fay S. Iudicello, 202–395–3000

Modification of item 11 in the present 1982 NHIS will provide more precise data for classification of households as telephone or nontelephone in terms of likely occurrence in a random digit dialing (RDD) sample proposed for future utilization in NHIS.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

(Agency Clearance Officer—Robert G. Masarsky—202–755–5124)

New

• Housing Programs
Public Housing—Energy Audit
Nonrecurring on occasion
Businesses or other institutions
Public housing agencies
SIC: 953
Public assistance and other income supplements: 1,600 responses; 64,000 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Richard Sheppard, 202–395–6880

Attached explanation.

• Policy Development and Research
Elderly Home Maintenance Demonstration Program Participant Survey
Nonrecurring
Individuals or households
Elderly homeowner program participants
Community development: 700 responses; 175 hours; $140,719 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

The attached instrument will be administered to client participants of the HUD-sponsored elderly home maintenance demonstration. The survey is needed to determine participant satisfaction and to assess the demonstration's impact on the elderly homeowners.

Reinstatements

• Management and Administration
Uniform Settlement Statement Certification Page for Settlement Statement
HUD–1 and HUD–0506
On occasion
Businesses or other institutions
Persons who conduct real estate settlements
SIC: 601, 653, 654, 655, 677, 661
Small Businesses or organizations
Multiple functions: 2,018,750 responses; 2,018,750 hours; $5,000 Federal cost; 2 forms; not applicable under 3504(h)
Robert Neal, 202–395–6880

Section 4 of the Real Estate Settlement Procedures Act directs HUD to prescribe a standard form for the statement of settlement costs in federally-related mortgage transactions. The form is used to inform homebuyers and sellers of their settlement costs.

• Housing Programs
Development Program of Indian Housing Authority and Indian Low-Income Housing Program Development Cost Budget
HUD–53045, 53045A
On occasion
State or local governments
Indian Housing Authority (IHA's) auth. to develop and oper., etc.
SIC: 953
Public assistance and other income supplements: 135 responses; 1,620 hours; $115,750 Federal cost; 2 forms; not applicable under 3504(h)
Robert Neal, 202–395–6880

The information contained in the development program and its insert, the development cost budget, are required prior to the approval of the formal legal commitment by HUD to assist in the development and management of an Indian housing project. Also see supporting statement and justification.

DEPARTMENT OF THE INTERIOR

(Agency Clearance Officer—Vivian A. Keado—202–343–6191)

New

• Geological Survey
Report of Expenditures for Diligent Exploration Operations (30 CFR 270.77)
Other–see SF83
Businesses or other institutions
Resources
SIC: 131, 132, 138
Other natural resources: 1,630 responses; 52 hours; $28,333 Federal cost; 1 form; not applicable under 3504(h)
William T. Adams, 202–395–4814

The information to be collected under 30 CFR 270.77 is needed to determine whether a Federal geothermal lessee has committed expenditures on exploration activities as required under 43 CFR 3203.5.

Revisions

• United States Fish and Wildlife Service
Sandhill Crane Harvest Questionnaire
3–530
Annually
Individuals or households
Recreational resources: 7,350 responses; 1,225 hours; $29,675 Federal cost; 1 form; not applicable under 3504(h)
William T. Adams, 202–395–4814

Hunting of lesser sandhill cranes is authorized in eight Mid-Western States. For effective management of the affected sandhill crane population, and to preclude over-harvest, annual information is required on the magnitude and distribution of the crane harvest. The subject questionnaire provides the needed information.

Extensions (No Change)

• Bureau of Land Management
43 CFR Part 2200 Exchanges—General
Nonrecurring
Individuals or households/State or local governments/farms/businesses or other institutions
Any citiz. of the U.S., Corp. subj. to the laws, etc.
SIC: Multiple
Conservation and land management: 115 responses; 345 hours; $2,000 Federal cost; 1 form; $57,500 public cost; not applicable under 3504(h)
William T. Adams, 202–395–4814

The following information collections are necessary to complete an exchange: (1) a letter proposal containing legal descriptions identifying the lands proposd for exchange ($50-est.), (2) title evidence for the non-Federal lands to assure the proponent is the legal owner and that title is acceptable ($300-est.), (3) a deed to the U.S., submitted at the end of the transaction, transferring the non-Federal land ($150-est.)/

Reinstatements

• Bureau of Land Management
Exchange-of-Use Grazing Agreement
4130–4
On occasion, Other—see SF83
Farms
Ranchers permitted to graze livestock on the public lands
SIC: 021
Conservation and land management: 600 responses; 300 hours; $9,000 Federal cost; 1 form; not applicable under 3504(h)
William T. Adams, 202–395–4814

This form is needed to provide for management of livestock grazing on public lands and intermingled private lands. It is used to show specific land involved, livestock to be grazed, and terms and conditions of the agreement.

DEPARTMENT OF JUSTICE

(Agency Clearance Officer—Larry E. Miesse—202–633–4312)

Extensions (Burden Change)

• Immigration and Naturalization Service
Application for a Search of the Records of the Immigration and Naturalization Service Under the Freedom of Information Act
G–639
On occasion
Individuals or households
Indiv. desiring a search of I&NS records
Federal law enforcement activities: 12,000 responses; 3,000 hours; $304,120 Federal cost; 1 form; $30,000 public cost; not applicable under 3504(h)
Andy Uscher, 202–395–4814

Used by persons desiring a search of INS records under the Freedom of Information Act. Data used to identify and release records.

Extensions (No Change)

• Immigration and Naturalization Service
Nonimmigrant Checkout Letter
G–146
Nonrecurring
Individuals or households
Nonimmigrants
Federal law enforcement activities: 26,000 responses; 4,333 hours; $12,600 Federal cost; 1 form; $43,330 public cost; not applicable under 3504(h)
Andy Uscher, 202–395–4814.

This form is used in making inquiry of persons in the U.S. or abroad regarding the whereabouts of aliens wanted by INS when initial investigation to locate them has been unsuccessful.

• Immigration and Naturalization Service
Application for Vertification of Information From Immigration and Naturalization Records
G–641
On occasion
Individuals or households
Indiv. seeking information from I&NS records
Federal law enforcement activities: 60,000 responses; 15,000 hours; $327,500 Federal cost; 1 form; $150,000 public cost; not applicable under 3504(h)
Andy Uscher, 202–395–4814.

This form is provided for use by persons desiring information from INS records regarding verification of age, date of birth, naturalization/citizenship and genealogical data. Data used to identify record and release data requested.

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—202–523–6331

Extensions (Burden Change)

• Mine Safety and Health Administration
Records of Training
MSHA 5000–1
Other—see SF83
Businesses or other institutions
Mine operators and personnel
SIC: Multiple
Small businesses or organizations
Consumer and occupational health and safety: 23,000 responses; 500 hours; $24,000 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880.

Title 30 CFR, section 57.18–28, 75.153, and 77.103 require that certain training be recorded and compiled. Form 5000–1 allows this mandatory reporting to be done in an expeditious and thorough manner.

• Mine Safety and Health Administration
Physical Qualification for Mine Rescue Work
MSHA–5000–3
Annually
Businesses or other institutions
Underground mine
SIC: Multiple
Small businesses or organizations
Consumer and occupational health and safety: 7,000 responses; 350 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880.

Requires that each rescue team member and alternate be certified by a physician to be fit to perform strenuous rescue and recovery work. The certification must be submitted on approved MSHA forms. Authority established by the Federal Mine Safety Act of 1977, P.L. 95–164.

• Mine Safety and Health Administration
New and Experienced Miner Training
MSHA 5000–23
Other—see SF83
Businesses or other institutions

Mine operators and personnel
SIC: Multiple
Small businesses or organizations
Consumer and occupational health and safety: 1,000,000 responses; 80,000 hours; $168,200 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880.

Title 30 CFR, sections 48.5, 48.6, 48.7, 48.8 and 48.11 detail the various training requirements applicable to coal miners at the Nation's mines. Form 5000–23 provides the mining industry with an expeditious and nationally uniform method for the compilation of this safety training information.

• Mine Safety and Health Administration
Respirator Program Records
MSHA–404R
Nonrecurring
Businesses or other institutions
Metal/nonmetal mining industry
SIC: Multiple
Small businesses or organizations
Consumer and occupational health and safety: 2,800 responses; 5,600 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880.

Requires an operator to establish a respirator program consistent with the requirements of ANSI–788.2 1969. The program is to consist of written standard operating procedures governing the selection, use, and care of respirators. The standard is intended to provide guidance that will assist respirator users in safeguarding health and life through proper selection and use of respirators.

Extensions (No change)

• Mine Safety and Health Administration
Notification of Legal Identity
2000–7
On occasion
Businesses or other institutions
Each mine oper. must file init. and if and when a change is made
SIC: 999
Small businesses or organizations
Consumer and occupational health and safety: 10,400 responses; 10,400 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880

Requires each operator of a coal mine to file with the Secretary the name and address of such mine and any revisions in such name and address. The information collection is used to monitor compliance.

DEPARTMENT OF TRANSPORTATION

(Agency Clearance Officer—John Windsor—202–426–1887)

New

• Federal Highway Administration
Traffic Control Signalization Demonstration Program
Annually
State or local governments
State/local traffic engineering agencies
SIC: 902
Ground transportation: 98 responses; 8,084 hours; $635,100 Federal costs; 1 form; not applicable under 3504 (h)
Donald Arbuckle, 202–395–7340

Traffic performance data is being collected in the field by the State and local traffic engineering agencies that received funding under the traffic control signalization demonstration program in order to evaluate the effectiveness of the program.

DEPARTMENT OF THE TREASURY

(Agency Clearance Officer—Ms. Joy Tucker—202–634–5384)

New

• Internal Revenue Service
Sales tax
6420, 6421
Annually
State or local governments
State governments
SIC: 999
Central fiscal operations: 92 responses; 92 hours; $10,000 Federal cost; 2 forms; not applicable under 3504(h)
Karen P. Sagett, 202–395–6880

The IRS uses the information on forms 6420 and 6421 to prepare the optional State sales tax tables. These tables are needed by taxpayers who do not keep detailed sales tax records to claim the sales tax deduction. IRS needs the tables to answer taxpayer inquiries about the sales tax deduction and to examine tax returns.

CONSUMER PRODUCT SAFETY COMMISSION

(Agency Clearance Officer—Charles Casper—301–634–7770)

New

• Follow-ups on Product-Related Injuries
Form No. 182
Other—see SF83
Individuals or households
Individuals injured while using consumer products
Consumer and occupational health and safety: 1,800 responses; 1,800 hours; $285,000 Federal cost; 1 form; not applicable under 3504(h)
Mahesh Podar, 202–395–7340

Information collection involves investigating specific reports of product-related injures to determine relevant details of injury scenario (role of product, victim and environment). Data from these investigations are used to support Commission activities including voluntary standards development, information and education programs, section 15 actions and possible rulemaking.

• Survey to Determine Consumer Exposure to Chain Saw Hazard [1]
Non-Recurring
Individuals or households
Non-inner city households
Consumer and occupational health and safety: 500 responses; 250 hours; $85,756 Federal cost; 2 forms; not applicable under 3504(h)
Mahesh Podar, 202–395–7340

The Commission is preparing to evaluate a voluntary standard for chain saws. Responses to the telephone inquiries and the follow-up mail-out questionnaire will provide information on the prevalence and usage of chain saws, their safety features and their accessories.

ENVIRONMENTAL PROTECTION AGENCY

(Agency Clearance Officer—Christine Socey—202–382–2743)

New

• Survey data for revision of national emission standards for Hazardous Air Pollutants for vinyl chloride (0769)
FSED 80/06 ICB ID 0769
Nonrecurring
Businesses or other institutions
Producers of vinyl chloride and polyvinyl chloride
SIC: 282, 286
Pollution control and abatement: 45 responses; 396 hours; $9,040 Federal cost; 2 forms; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

This ICB is for data regarding vinyl chloride emissions systems of emission reduction from vinyl chloride and polyvinyl producers necessary to identify the best available technology for emission control, analyze impacts, revise the current national emission standards for vinyl chloride as required by the Clean Air Act.

• Implementation of the Equal Access to Justice Act in Environmental Protection Agency Administrative Proceedings
Nonrecurring
Individuals or households/businesses or other institutions
Litigants satisfying statutory size criteria
SIC: Multiple
Pollution control and abatement: 20 responses; 80 hours; $100,000 Federal costs; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Under these rules, certain individuals, small businesses and other small entities may apply for award or attoneys fees and expenses when they prevail over EPA in certain EPA proceedngs. The applicaiton must document fees and expenses claimed and show that the applicant falls within statutory size limitations.

FEDERAL COMMUNICATIONS COMMISSION

Agency Clearance Officer—Richard D. Goodfriend—202–632–7513

New

• Temporary Permit to Operate a CB Radio Station
FCC 555–B
Nonrecurring
Individuals or households
Applicants for a CB radio station permit
Other advancement and regulation of commerce: 12,000 responses; 1,008 hours; $12,000 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Form is completed and retained by the applicant as a temporary permit. Applicants for a Class D Station License will be permitted to operate under these temporary permits for 60 days from the date of their permanent station license application (FCC Form 505) was mailed to the FCC.

Extensions (Burden Change)

• Application for Extension of Construction Permit or to Replace Expired Construction Permit
701
On occasion
Businesses or other institutions
Licensees or broadcast stations
SIC: 481, 482, 489
Small businesses or organizations
Other advancement and regulation of commerce: 775 responses; 1,550 hours; $20,375 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

Required of common carrier radio station construction permit holders to request and explain the need for additional time to complete construction of radio station facilities.

FOUNDATION FOR EDUCATION ASSISTANCE

Agency Clearance Officer—Wallace McPherson—202–426–7304

New

• Almost Even "A Teenagers and Parents Radio Series
Evaluation
FD 848
Nonrecurring
Individuals or households
Teenagers & their parents, teachers, care givers
Research and general education aids: 500 responses; 625 hours; $26,238 Federal cost; 1 form; $1,250 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

The "Almost Even" radio series for teenagers and parents is a continuation of the Education Department's support of parenting programs. Evaluation of the programs determine if goals have been met.

• Report of the Treasurer—Land-Grant and Supplementary Morrill Funds
1275
Annually
State or local governments
Land grant colleges and universities
SIC: 822
Higher education: 73 responses; 146 hours; $3,000 Federal cost; 1 form; $1,460 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

Funds distributed under the Morrill Act are to be used for support of instruction in certain curriculum areas. This report is necessary to identify the curriculum fields for which the funds are used and to determine compliance with the statute.

• Annual Data Report—Part B of FHA and State Agency Programs for Handicapped Children, Title I, ESEA, as Amended
FD 869
Annually
State or local governments
State education agencies
SIC: 941
Elementary, secondary, and vocational education: 58 responses; 2,446 hours; $8,000 Federal cost; 1 form; $24,460 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

This data form is used to collect, annually, count data for determining grant allotments under Part B, FHA, as amended and Pub. L. 89–313, Title I of ESEA, as amended by Pub. L. 95–561. Evaluation data required under Pub. L. 94–142, section 618 also is collected on this form.

• Elementary-Secondary Network Survey System
ED 2437
On occasion
State or local governments
State education agencies
SIC: 941
Research and general education aids: 456 responses; 456 hours; $12,000 Federal cost; 1 form; $6,840 public cost; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

The Elementary-Secondary Network Surveys System is part of NCES' program for technical assistance to the States at the elementary-secondary level. It will be used by NCES to acquire information on policy matters related to NCES' data collection activities, especially as they relate to reduction of data burden.

INTERSTATE COMMERCE COMMISSION

Agency Clearance Officer—Carroll Stearns—202–633–6284

New

• Request for Extension of Emergency Temporary Authority
OP–TA–19 OP–TA–19A
On occasion
Businesses or other institutions
Motor carriers seeking temporary authority to operate
SIC: 401
Ground transportation: 350 responses; 175 hours; $20,235 Federal cost; 1 form; $10 public cost; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

This form is filed with the Commission by applicants which previously were granted emergency temporary authority under the temporary authority provisions of 49 U.S.C. 10928. The Commission's prescribed implementing guidelines are set forth in 49 CFR 1131. To meet the statutory criteria an applicant must establish there is a continuing need for its service.

• Application for Authority Under 49 U.S.C. 11343, 11344 to acquire Control of a Motor Carrier or Motor Carriers Through Ownership of Stock or Otherwise
OP–F–45
Nonrecurring
Businesses or other institutions
Privately owner motor common carriers
SIC: 421

[1] This docket was inadvertently omitted from our list of paperwork submissions received for review and published on January 4, 1982. This amendment informs the public of the availability of the docket and requests comments as soon as possible.

Ground transportation: 83 responses; 9,960 hours; $133,962 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Motor carriers proposing to acquire control of a motor carrier(s) under 49 U.S.C. 11343 or 11344 submit information about their business structure, financial status, affiliates, transportation operations under the proposal, and terms of the transaction to the ICC. The information provides the minimum factual basis to determine whether the transaction may be authorized.

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—Pauline Lohens—312–751–4692

Revisions

- Application and Claim for Unemployment Benefits and Employment Service

UI (ES–1) & UI–3
On occasion other—see SF83
Individuals or households
Claimants for unemployment benefits and empl. svc.
General retirement and disability insurance: 696,250 responses; 58,188 hours; $5,984,000 Federal cost; 2 forms; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

The Railroad Unemployment Insuracne Act provided for the payment of unemployment benefits to qualified railroad employees. The claim for such benefits will obtain information on claimed days of unemployment in a two-week registration period. The information will be used to pay unemployment benefits for the claimed days.

Nathaniel Scurry,
Chief, Reports Management.

[FR Doc. 82-5446 Filed 3-3-82; 8:45 am]
BILLING CODE 3110-01-M

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Administrative Changes and the Proposed Addition of Four New Routine Uses to an Existing System of Records

AGENCY: Office of Personnel Management.

ACTION: Notice; proposed new routine use for an existing system of records.

SUMMARY: The purpose of this notice is to make several administrative changes to the notice, necessary to identify that new data elements are being added to the system and that the records location for some of the records is changing for the Office's Civil Service Retirement and Insurance Records System (OPM/CENTRAL-1). Additionally, we are adding four new routine uses. These routine uses, once in effect, will permit the disclosure of data from the Office's Civil Service Retirement and Insurance Records to (1) organizations receiving voluntary allotments from civil service annuities for purposes of crediting annuitants with the amounts paid through the allotment, (2) State tax agencies for purposes of implementing a program of voluntary State income tax withholding from civil service annuities, (3) the Social Security Administration for purposes of a matching program, (4) any requester for purposes of protection of the health and safety of a former employee who may have been exposed to, or suffered from, a health hazard while employed in the Federal work force.

COMMENT DATE: Any interested party may submit written comments regarding this proposal. To be considered, comments must be received on or before April 5, 1982.

ADDRESS: Send or deliver comments to: Craig B. Pettibone, Assistant Director for Pay and Benefits Policy, Office of Personnel Management, P.O. Box 57, Room 4351, Washington, D.C. 20044. Comments received will be available for public inspection at Rm. 4351, 1900 E Street N.W., Washington, D.C. from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Glass, (202) 632–9677.

SUPPLEMENTARY INFORMATION: Section 1705 of Pub. L. 97–35 requires OPM to establish a program of voluntary State income tax withholding from Civil Service annuities. Implementation of a program of State income tax withholding requires OPM to be able to have ready access, for audit and control purposes, to records maintained by States. Further, in order to afford the greatest protection to the personal privacy of annuitants and in keeping with the letter and spirit of the Privacy Act, the Office has determined that these records are to part of its OPM/CENTRAL–1, Civil Service Retirement and Insurance Records, Privacy Act system of records.

These records ultimately are retired to OPM by the States, under the terms of the agreement each State signs with OPM, when they are no longer needed by the State, so it is reasonable and proper to say that they are part of this system while in the possession of the State as well. Therefore, certain administrative changes, identified by the italicized section in the notice below, are needed to identify that the records are located in State taxing offices, what the records are, the authority for collecting them, and the purposes they are to be used for. These changes do not constitute of substantial change to this system nor do they require a Report on New Systems to Congress and OMB, as only a few new data elements, on a limited number of individuals, are being added to the over 19 million individual records currently maintained in the system.

Pursuant to section 8345(h) of title 5, United States Code, the Office of Personnel Management (OPM) has authorized, in Supart O of Part 831 of Title 5, Code of Federal Regulations, voluntary allotments from civil service annuities. Routine use bb will permit OPM to disclose to the recipients of an allotment the name, address, and the amount an annuitant has allotted to that organization. The disclosure of this information is necessary for the annuitant to receive proper credit for the payment he/she made using the allotment mechanism.

Implementation of a program of State income tax withholding requires OPM to be able to report to State tax authorities on the amounts withheld along with enough information to identify the taxpayer. Routine use cc will authorize the release of information necessary for the following reports:

(1) A monthly report which will include all State tax withholdings, cancellations and adjustments for the month, and also each request OPM was not able to process, with an explanation, in coded format, of the reason for rejection.

(2) A quarterly report which will include State, State address, quarterly withholdings, quarterly cancellations and adjustments, the total amount offset due to payments which were cancelled in the previous quarter, quarterly net withholdings and year-to-date amounts. Where cancelled or adjusted payments were made in a previous quarter, OPM shall append a listing of the cancelled or adjusted tax withholding, and the name and Social Security identification number of the annuitant from whom it was withheld. If either party terminates the agreement and the amount of cancelled or adjusted deductions exceeds the amount withheld for the final quarter, the quarterly report shall show the amount to be refunded and the address to which payment should be made.

(3) An annual summary report which contains the name, Social Security identification number and total amount withheld from noncancelled payments during the previous calendar year for each annuitant who requested tax withholding payable to that State. In the event the annuitant had State withholding in effect for more than one State in that calendar year, the report will show only the amount withheld for the State receiving the report.

(4) An annual report for each annuitant for whom State income taxes were withheld giving the amount of withholding paid to the State during the calendar year.

Routine use dd will permit cooperation between OPM and the Social Security Administration (SSA) in reducing fraud and abuse in the two systems. It will allow a comparison of social security and civil service annuity rolls to determine which persons are in the file of both systems. The persons in both systems can be checked to:

(1) Terminate payment to persons whose death has been reported to SSA but not to OPM,

(2) Determine whether persons being paid the minimum annuity are receiving payment in excess of their legal entitlement because they are also receiving minimum SSA benefits, and

(3) Determine whether annuitants with post-1956 military service are receiving SSA benefits which would require recomputation of the civil service annuity.

Routine use ee will provide a direct benefit to the persons on whom the records are maintained. It will permit the release of information to anyone when that release is necessary to protect the health and safety of a former employee who might have contracted an illness, been exposed to, or suffered from, a health hazard while employed in the Federal work force. Such a routine use for OPM's central personnel records is already in force for OPM/GOVT–1.

Office of Personnel Management.
Donald J. Devine.
Director.

The Office is making certain administrative changes, shown below in italics, to its OPM/CENTRAL–1, Civil Service Retirement and Insurance Records system which is printed in its entirety. Further, the Office is proposing four new routine uses for this system, also printed in italics in the notice, to become effective on April 19, 1982, without further notice, unless comments received necessitate otherwise.

OPM/CENTRAL—1

SYSTEM NAME:

Civil Service Retirement and Insurance Records.

SYSTEM LOCATION:

Associate Director for Compensation, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415. Certain records pertaining to State income tax withholdings from annuitant payments, are located with State Taxing Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. former Federal employees and Members of Congress who performed service subject to the Civil Service Retirement (CSR) system.

b. Current Federal employees who have:

(1) Performed Federal service subject to the CSR system other than that with their present agency; or

(2) Filed a designation of beneficiary for benefits payable under the CSR system; or

(3) Requested the Office to review claims for health benefits made under the Federal Employees Benefits Program; or

(4) Filed a service credit application in connection with former Federal service; or

(5) Filed an application for disability retirement with the Office and are awaiting final decision, or whose disability retirement application has been disapproved by the Office.

c. Former Federal employees who died subject to or who retired under the CSR system, or their surviving spouses and/or children, who have received or are receiving CSR benefits, Federal Employees Group Life Insurance benefits,.or Federal Employees Health Benefits.

d. Former Federal employees who died subject to or who retired under a Federal Government Retirement system other than the CSR system, or their surviving spouses and/or children, who have received or are receiving Federal Employees Group Life Insurance benefits and/or Federal Employees Health Benefits.

e. Applicants for Federal employment found unsuitable for employment on medical grounds.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system is comprised of those retirement service history records of employees' service in the Federal government other than that for the agency in which they may presently be employed. It also contains information devoloped in support of claims for benefits made under the retirement, health benefits, and life insurance programs for Federal employees which the Office of Personnel Management administers. Also included are medical records and supporting evidence on those individuals found medically unsuitable for Federal employment. *Consent forms and other records related to the withholding of State income tax from annuitant payments, whether physically maintained by the State or the Office, are also included in this system.* These records contain the following information:

a. Documentation of Federal service subject to the CSR system.

b. Documentation of service credit and refund claims made under the CSR system

c. Documentation of voluntary contributions made by eligible individuals.

d. Retirement and death claims files, including documents suporting the retirement application, health benefits and life insurance eligibility, medical records supporting disability claims (after receipt by the Office of Personnel Management), and designations of beneficiary.

e. Claim review files pertaining to requests that claims made under the Federal Employees Health Benefits Program be reviewed by the Office.

f. Suitability determination files on applicants for Federal employment found unsuitable for employment on medical grounds.

g. Documentation of continuing coverage for life insurance and health benefits for annuitants and their survivors under a Federal Government retirement system other than the CSR system, or for compensationers and their survivors under the Office of Workers' Compensation Programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 3301, and chapters 83, 87, and 89 of title 5, United States Code; Pub. L. 83–598, 84–356, 86–724, *and 94–455*, and Executive Order 9397.

PURPOSE:

These records provide information and verification on which to base entitlement and computation of Civil Service Retirement and survivors benefits, federal employees Health Benefits and enrollments, and Federal Employees Group Life Insurance benefits, *and to withhold State income taxes from annuitant payments.* These records also serve to review rejection of applicants for Federal employment on medical suitability grounds. These records also may be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose, to the following recipients, information needed to adjudicate a claim for benefits under the Office's or the recipient's benefits program(s), or information needed to conduct an analytical study of benefits being paid under such programs: Office of Workers' Compensation Programs; Veterans Administration Pension Benefits Program; HHS's Social Security Old Age, Survivor and Disability Insurance and Medical Programs, Health Care Financing Administration, and Supplemental Security Income Program; military retired pay programs; Federal civilian employee retirement programs (other than the Civil Service Retirement system); or other national, State, county, municipal, or other publicly recognized charitable or social security administrative agency.

b. To dislose to the Federal Employees Group Life Insurance Office information necessary to verify election, declination, or waiver of regular and or optional life insurance coverage or eligibility for payment of a claim for life insurance.

c. To disclose to health insurance carriers contracting with the Office to provide a health benefits plan under the Federal Employees Health Benefits Program, information necessary to identify the enrollment in a plan, to verify eligibility for payment of a claim for health benefits, or to carry out the coordination for benefits provisions of such contracts.

d. To disclose to any inquirer, if sufficient information is provided to assure postive identification of an individual on whom a department or agency maintains retirement or insurance records, the fact that an individual is or is not on the retirement rolls, and, if so, the type of annuity (employee or survivor, but not retirement of disability) being paid, or if not, whether a refund has been paid.

e. When an individual to whom a record pertains dies, to disclose to any person possibly entitled in the order of precedence for lump sum benefits, information in the individual's record which might properly be disclosed to the individual, and the name and relationship of any other person whose claim to benefits takes precedence or who is entitled to share the benefits payable. When a representative of the estate has not been appointed, the individual's next of kin may be recognized as the representative of the estate.

f. To disclose to the Internal Revenue Service, Department of the Treasury, information as required by the Internal Revenue Code of 1954 as amended.

g. To disclose to the Department of the Treasury information necessary to issue benefit checks.

h. To disclose information to any person who is responsible for the care of the individual to whom a record pertains, and who is found by a court or an Office of Personnel Management Medical Officer to be incompetent or under other legal disability, information necessary to assure payment of benefits to which the individual is entitled.

i. to disclose to the Parent Locator Service of the Department of Health and Human Services, upon its request, the present address of an annuitant, survivor annuitant, or former employee, for the purpose of enforcing child support obligations against such individual.

j. In connection with an examination ordered by the agency under:

(1) Fitness for duty examination procedures; or

(2) Agency-filed disability retirement procedures.

To disclose to the agency-appointed representative of an employee all notices, decisions, other written communications, or any pertinent medical evidence other than medical evidence that a prudent physician would hesitate to inform the individual of; such medical evidence will be disloced only to a licensed physician, designated in writing for that purpose by the individual or his or her representative.

k. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Office of Personnel Management becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

l. To disclose information to any source from which additional information is requested relevant to an Office determination concerning an individual's eligibility for or entitlement to coverage under the retirement, life insurance, and health benefit program, to the extent necessary to identify the individual and to identify the type of information requested.

m. To disclose information to the Office of Management and Budget at any stage of the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

n. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

o. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

p. To disclose to a Federal agency, in response to its request, information in connection with (1) the hiring, retention, separation, or retirement of an employee, (2) the issuance of a security clearance, (3) the reporting of an investigation of an employee, (4) the letting of a contract, (5) the classification of a job, or (6) the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the Office determines that the information is relevant and necessary to the requesting agency's decision on the matter.

q. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

r. To provide an official of another Federal agency information needed in the performance of official duties related to reconciling or reconstructing data files, compiling descriptive statistics, and making analytical studies in support of the function for which the records were collected and maintained.

s. By the Office of Personnel Management, in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

t. To disclose, in response to a request for discovery or for appearance of a fitness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

u. To disclose to another agency, or to an instrumentality of any governmental jurisdiction within or under the control of the United States, for a civil or criminal law enforcement activity, if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the Office of Personnel Management specifying the particular portion(s) of the record desired (including an address) and the law enforcement activity for which the record is sought.

v. To disclose to a Federal agency, in response to its request, the address of any annuitant of applicant for refund of retirement deductions, if the agency requires that information in order to provide consideration in connection with the collection of a debt due the United States.

w. To disclose information, in valid emergency situations when consent cannot readily be obtained and instant action is required, to persons who have a need to know, if the particulars of the disclosure then are transmitted to the data subject's last known address.

x. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

y. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978.

z. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

aa. To disclose to a Federal agency, in response to its request, the present address of a former employee and any other information the agency needs in order to contact the former employee concerning a possible threat to his or her health or safety.

bb. *To disclose to an allottee, as defined in 5 CFR 831.1501, the name, address and the amount withheld from an annuitant's benefits, pursuant to 5 CFR 831.1501 et seq. as an allotment to that allottee to implement the program of voluntary allotments authorized by 5 U.S.C. 8345(h).*

cc. *To disclose to a State agency responsible for the collection of State income taxes the information required by an Agreement to Implement State Income Tax Withholding from Civil Service Annuities entered pursuant to § 1705 of Pub. L. 97–35 to implement the program of voluntary State income tax withholding required by 5 U.S.C. 8345(k).*

dd. *To disclose to the Social Security Administration the social security numbers of civil service annuitants to determine (1) their vital status as shown in the Social Security Administration Master Records, (2) whether recipients of the minimum annuity are receiving at least the SPIA benefit from the Social Security Administration, and (3) whether civil service retirees with post-1956 military service credit are receiving benefits from the Social Security Administration.*

ee. *To disclose to a requesting agency, organization, or individual the home address and other relevant information concerning those individuals who, it is reasonably believed, might have contracted an illness, been exposed to, or suffered from, a health hazard while employed in the Federal work force to protect the health and safety of the affected employees.*

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained on magnetic tapes, discs, and in folders.

RETRIEVABILITY:

These records are retrieved by the name, Social Security Number, date of birth and/or claim number of the individual to whom they pertain.

SAFEGUARDS:

Records are kept in lockable metal file cabinets or in a secured facility with access limited to those whose official duties require access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

All records relating to a claim for retirement, life insurance, health benefits, *and tax withholding* are maintained permanently. Medical suitability records are maintained for 18 months. Requests for review of health benefits claims are maintained up to 3 years. Disposal of manual records is by shredding or burning, magnetic tapes and discs are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Compensation, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire if this system contains information about them should contact the system manager.

Individuals must furnish the following information for their records to be located and identified:

a. Name, including all former names.

b. Date of birth.

c. Social Security Number.

d. Name and address of office in which currently and/or formerly employed in the Federal service.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to their records in this system should contact the system manager.

Individuals must furnish the following information for their records to be located and identified:

a. Name, including all former names.

b. Date of birth.

c. Social Security Number.

d. Name and address of office in which currently and/or formerly employed in the Federal service.

e. Annuity, service credit, or voluntary contributions account number, if assigned.

Individuals requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of their records in this system should contact the system manager.

Individuals must furnish the following information for their records to be located and identified:

a. Name, including all former names.

b. Date of birth.

c. Social Security Number.

d. Name and address of office in which currently and/or formerly employed in the Federal service.

e. Annuity, service credit, or voluntary contributions account number, if assigned.

Individuals requesting amendment of their records must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

The information in this system is obtained from the following sources:

a. The individual to whom the information pertains.

b. Agency pay, leave, and allowance records.

c. GSA National Personnel Records Center.

d. Federal civilian retirement systems other than the Civil Service Retirement System.

e. Military retired pay system records.

f. Office of Workers' Compensation Benefits Programs.

g. Veterans Administration Pension Benefits Program.

h. Social Security Old Age, Survivor and Disability Insurance and Medicare Programs.

i. Health insurance carriers and plans participating in the Federal Employee Health Benefits Programs.

j. The office of Federal Employees Group Life Insurance.

k. Office of Personnel Management Government-wide system (OPM/GOVT–1) Covering Official Personnel Folders.

l. The individual's co-workers and supervisors.

m. Physicians who have examined or treated the individual.

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BILLING CODE 6325-01-M

PENSION BENEFIT GUARANTY CORPORATION

Pendency of Request for Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from Almac Plastics, Inc. for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years beginning after the sale. The PBGC is authorized to grant exemptions from this requirement. Prior to granting an exemption, the PBGC is required to give interested persons an opportunity to comment on the exemption request. The effect of this notice is to advise interested persons of this exemption request and to solicit their views on it.

DATES: Comments must be submitted on or before April 19, 1982.

ADDRESSES: All written comments (at least three copies) should be addressed to: Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. The request for exemption and the comments received will be available for public inspection at the PBGC Public Affairs Office, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; (202) 254–4862. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

Background

The Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96–364, 94 Stat. 1208 (the "Multiemployer Act") became law on September 26, 1980 and amended the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. 1001 *et seq.* As a result of the Multiemployer Act, an employer that withdraws, or partially withdraws, from a multiemployer pension plan covered under Title IV of ERISA may be liable to the plan for a portion of the plan's unfunded vested benefits. The withdrawal liability rules generally apply to withdrawals occurring after April 28, 1980.

Section 4204 of ERISA, 29 U.S.C. 1384, provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)–(C), are that—

(A) the purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) the purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred; an

(C) the contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) and the contract-provision requirement of section 4204(a)(1)(C). The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. The granting of an exemption or variance from the requirements of section 4204(a)(1) (B) or (C) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1).

Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets, (46 FR 46127, September 17, 1981), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

The PBGC has received a request from Almac Plastics, Inc. ("New Almac") to waive the bond/escrow requirement of section 4204(a)(1)(B) of ERISA. In the request, New Almac represents among other things, that:

1. On August 13, 1981, New Almac purchased the operating assets of Camla, Inc. ("Camla"). Prior to that date, Camla and one of its wholly-owned subsidiaries, Almac Plastics of New Jersey ("Almac–N.J."), were for purposes of Title IV of ERISA a single participating employer in a multiemployer plan. On August 12, 1981, all of the subsidiaries of Camla, including Almac–N.J., were merged into Camla, the assets of which were thereafter sold to New Almac for $25.5 million.

2. New Almac has assumed Camla's responsibilities under a collective bargaining agreement with the International Brotherhood of Teamsters Local #815, which obligated Camla and Almac–N.J. to contribute to the Union Mutual Fund Pension Plan (the "Plan"). Prior to the sale, Camla and Almac–N.J.'s potential withdrawal liability to the Plan had been calculated to be $131,000.

3. The amount of the bond or escrow required under section 4204(a)(1)(B) is $115,957 (the contributions required to be made by Camla and Almac–N.J. for the plan year ending December 31, 1980). The sale contract between New Almac and Camla obligates New Almac to either obtain such a bond, or to obtain an exemption from PBGC from the bond requirement.

4. New Almac is a wholly owned subsidiary of Laird, Inc., which is, in turn, a wholly owned subsidiary of Laird Group, Ltd., a foreign corporation. Prior to the sale, Laird, Inc. had two subsidiaries located within the United States. The net income, book value of net current assets and dates of those figures for each of the subsidiaries is as follows:

	Net current assets (book value)	Net income
N.Y. Twist Drill Corp., Amesbury Inc.	12,175,000 (6/80) 2,050,000 (3/81)	[1]3,700,000 [1]410,845 [2]270,540

[1] Fiscal year 1980.
[2] Fiscal year 1981.

Thus, prior to the sale, the U.S. subsidiaries had total combined net current assets of approximately $14 million. In addition, New Almac (the new subsidiary of Laird, Inc.) purchased the operating assets of Camla, which prior to the sale had net current assets (book value) of approximately $10.9 million and average net income for fiscal years 1978–1980 of $1,992,333.

5. New Almac has sent a complete copy of this request to the Plan and the collective bargaining representative of the seller's employees by certified mail, return receipt requested.

Comments

All interested persons are invited to submit written comments on the pending exemption to the above address, on or before April 19, 1982. All comments will be made a part of the record. Comments received, as well as the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D.C. on this 1st day of March, 1982.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-5688 Filed 3-3-82; 8:45 am]
BILLING CODE 7708-01-M

POSTAL SERVICE

Temporary Change in Mail Classification Schedule: Express Mail Next Day Service Acceptance Times

On November 10, 1981, the United States Postal Service filed a request with the Postal Rate Commission to submit to the Governors of the Postal Service a recommended decision on a change in the Domestic Mail Classification Schedule so that Express Mail Next Day Service can be accepted at the time or times prescribed by the Postal Service, pursuant to Chapter 36, Title 39, United States Code. An explanation of the Postal Service proposal was published in the **Federal Register** by the Postal Rate Commission on November 23, 1981 (46 FR 57403).

In its filing with the Postal Rate Commission, the Postal Service proposed the revision of § 500.022 of the Domestic Mail Classification schedule to read as follows:

500.022 Regular[1]

Regular service is available at designated retail postal facilities for overnight service to designated destination facilities or locations for items tendered by the time or times prescribed by the Postal Service.

Since the Postal Rate Commission has not transmitted a recommended decision to the Governors of the Postal Service within 90 days after submission of the Postal Service's request, the Board of Governors has determined, by resolution issued pursuant to 39 U.S.C. 3641(e) and dated March 2, 1982, that the change in the Domestic Mail Classification Schedule reproduced and described above should be implemented on a temporary basis. The Postal Service hereby gives notice that the Board of Governors has ordered that this change be temporarily placed in effect at 12:01 a.m. on March 14, 1982.

W. Allen Sanders,

Association General Counsel, Office of General Law and Administration.

[FR Doc. 82-5617 Filed 3-3-82; 8:45 am]
BILLING CODE 7710-12-M

[1] Express Mail Next Day Service was formerly called Regular Service. The Domestic Mail Classification Schedule retains the former name.

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

Public Meetings

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committees Act, that the eighteenth meeting of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research will be held in the Auditorium of the Medical Society of the District of Columbia, 2007 I Street, N.W., Washington, D.C., from 9:00 a.m. to 5:00 p.m. on Friday, March 12, 1982 and from 9:00 a.m. to 2:00 p.m. on Saturday, March 13, 1982.

The meeting will be open to the public, subject to limitations of available space. The agenda for Friday, March 12 will include, among other things, a discussion of Commission projects on the protection of human subjects of research, as part of the Commission's *Second Biennial Report*, and discussion of a draft section of the Commission's report on the ethical and legal implications of genetic screening and counseling. The agenda for Saturday, March 13 will include, among other things, a discussion of the ethical and legal implications of privacy and confidentiality in health care, including the question of patient's and third parties' access to medical records.

During Friday morning, at approximately 11 a.m., and Saturday morning, at approximately 10:45 a.m., fifteen minutes will be devoted to comments from the floor on the subject of any of the agenda items, limited to three minutes per comment. Written suggestions and comments will be accepted for the record from those who are unable to speak because of the constraints of time and from those unable to attend the meeting.

Records shall be kept on all Commission proceedings and will be available for public inspection at the Commission office, located in Suite 555, 2000 K Street, N.W., Washington, D.C. 20006.

For further information, contact Andrew Burness, Public Information Officer, at (202) 653–8051.

Alexander M. Capron,

Executive Director.

[FR Doc. 82-5716 Filed 3-3-82; 8:45 am]
BILLING CODE 6820-AS-M

SMALL BUSINESS ADMINISTRATION

[Application No. 02/02-5437]

Fair Capital Corp.; Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended, (15 U.S.C. 661 *et seq.*) has been filed by Fair Capital Corporation (Fair Capital), 225 West 34th Street, Suite 1106A, New York, New York, with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1981).

The officers, directors and stockholders are as follows:

Robert Yet Sen Chen, 136 Hollywood Ave., Englewood Cliffs, N.J. 07632, President & Director—95% Stockholder

Rose Chao, 45–51 168th Street, Flushing, N.Y. 11358, Secretary & Director—1% Stockholder

Nathan Chao, 45–51 166th Street, Flushing, N.Y. 11358, Treasurer & Director—4% Stockholder

The Applicant, a New York corporation, will begin operations with $500,000 paid-in capital and paid-in surplus. Initially, Fair Capital will conduct its activities principally in the State of New York.

The Applicant intends to provide assistance to qualified socially or economically disadvantaged small business concerns with a particular interest in those concerns which are owned by persons of Asian descent including Chinese Americans.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is hereby given that any person may not later than 15 days from the date of publication of this notice submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 26, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-5691 Filed 3-3-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Public Use Airport, Bates City, Missouri; Informal Airspace Meeting No. 1

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Informal Airspace Meeting.

SUMMARY: The purpose of this meeting is to hear comments concerning the proposed construction of a public use airport by White Industries, Inc. The proposed location of the airport is one mile west of Bates City, Missouri and two miles northeast of Oak Grove, Missouri.

The proposal has been circularized to aviation and other interests for comment (Airspace Case No. 81–ACE–125–NRA). Before issuing a determination on this case, the FAA wishes to afford all interested parties the opportunity to comment on the proposal at the meeting. Attendance is open to the interested public, but is limited to the space available.

Written statements in addition to, or in lieu of, oral presentations will be accepted. These should be submitted to the chairman or as directed at the meeting.

DATE AND LOCATION: 7:00 PM, Wednesday, April 7, 1982, Oak Grove Middle School, 501 East 12th Street, Oak Grove, Missouri.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–532a, Federal Aviation Administration, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone 816 374–3408.

Issued in Kansas City, Missouri, on February 22, 1982.

William H. Pollard,

Chief, Air Traffic Division.

[FR Doc. 82-5690 Filed 3-3-82; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-82-5]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I). The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before April 2, 1982.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Petition Docket No. ——, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on February 25, 1982.

John H. Cassedy,

Deputy Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
22584	Hawkins & Powers Aviation, Inc	14 CFR § 36.201(c)(3)	Relief from the "Stage III" requirements for a new Type Certificate for the Boeing KC 97G aircraft, and instead be allowed to show that the aircraft are no noisier than their civil counterpart, the Boeing 377 Stratocruiser ("Stage 1" Compliance).

[FR Doc. 82-5689 Filed 3-3-82; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

Research and Enforcement Programs; Public Meetings

The National Highway Traffic Safety Administration (NHTSA) will hold a meeting on April 7, 1982, to answer questions from the public and industry regarding the Agency's rulemaking, research and enforcement programs. The meeting will begin at 10:30 a.m., and continue as long as may be required. It will be held in Conference Room 2230 of the Department of Transportation Headquarters Building, 400 Seventh Street, SW., Washington, D.C.

At the April meeting, representatives of DOT will answer questions received from the industry and the public relating to NHTSA's rulemaking, research and enforcement programs (including defects). The purpose of this is to focus on those phases of these NHTSA activities which are technical, interpretative or procedural in nature. (Questions regarding the Agency's fuel economy program will continue to be addressed at the EPA's meetings on vehicle emissions).

Questions for the April 7 meeting should be submitted in writing by March 24 to Courtney M. Price, Associate Administrator for Rulemaking, Room 5401, 400 Seventh Street, SW., Washington, D.C. 20590. Every effort will be made to answer appropriate questions received. Questions received after the March 24 date may be answered at the meeting, if sufficient time is available. The individual, group, or company submitting a question does not have to be present for the question to be answered. A consolidated list of the questions submitted by March 24 and the issues to be discussed will be mailed to interested persons on or before March 31, 1982, and will be available at the meeting. This list will serve as the agenda.

A transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, D.C., within four weeks after the meeting. Copies of the transcript will then be available at twenty-five cents for the first page and five cents for each additional page (length has varied from 100 to 150 pages) upon receipt to NHTSA, Technical Reference Section, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590.

Issued in Washington, D.C., on February 24, 1982.

Carl E. Nash,

Acting Associate Administrator for Rulemaking.

[FR Doc. 82-5647 Filed 3-3-82; 8:45 am]

BILLING CODE 4910-59-M

Highway Safety Program; Amendment of Qualified Products List of Evidential Breath Measurement Devices

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice.

SUMMARY: This notice amends the Qualified Products List for devices which have been found to qualify under the Standard for Devices to Measure Breath Alcohol (38 FR 30459).

EFFECTIVE DATE: March 4, 1982.

ADDRESSES: Administrator, NHTSA, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Ronald Engle, Office of Driver and Pedestrian Programs, Traffic Safety Programs, NHTSA, Washington, D.C. 20590, 202–472–4913.

SUPPLEMENTARY INFORMATION: The Qualified Products List of Evidential Breath Measurement Devices was initially issued November 21, 1974 (39 FR 41399), and was most recently amended September 11, 1980 (45 FR 60103). Devices on the list may be purchased with Federal funds under the Highway Safety Act, Pub. L. 89–594, 80 Stat. 731, 23 U.S.C. 402, 403.

In accordance with the Breath Measurement Standard, semi-annual testing of devices was conducted during 1981. During these tests one device, not previously on the Qualified Products List, the Intoximeter 3000, met all performance requirements for mobile and non-mobile evidential breath testers. Three devices, not previously on the Qualified Products List, the Alco-Analyzer 2000, the Breathalyzer 2000, and the Breath Analysis Computer System, met all performance requirements for non-mobile evidential breath testers.

The Qualified Products List is therefore amended as follows:

Qualified Products List

The qualified products meeting all performance requirements, including those for Mobile Evidential Breath Testers, are as follows, listed alphabetically by manufacturer:

Device and Manufacturer

1. Alert J3AD Breath Tester (battery powered), Alcohol Countermeasure Systems, Port Huron, Michigan (formerly Borg-Warner Corp., Des Plaines, Illinois).
2. Alert J3AC, Alcohol Countermeasures Systems, Port Huron, Michigan (formerly Borg-Warner Corp., Des Plaines, Illinois).
3. S–11 Breath Tester, Alcohol Countermeasure Systems, Port Huron, Michigan (formerly Borg-Warner Corp., Des Plaines, Illinois).
4. Intoxilyzer Model 4011, CMI, Inc., Minturn Colorado.
5. Intoxilyzer 4011A, CMI, Inc. Minturn, Colorado.
6. Intoxilyzer 4011A 27–10100, CMI Inc., Minturn, Colorado.
7. Intoxilyzer 4011A 27–10100 with fixed filter calibration option, CMI, Inc., Minturn, Colorado.
8. Intoxilyzer 4011AS, CMI, Inc., Minturn Colorado.
9. Alco-limiter, Energetics Science, Inc., Elmsford, New York.
10. Auto-Intoximeter AI–1000, Intoximeters, Inc. St. Louis, Missouri.
11. Gas Chromatograph Intoximeter Mark IV, Intoximeters, Inc., St. Louis, Missouri.
12. Gas Chromatograph Mark IV A, Intoximeters, Inc., St. Louis, Missouri.
13. Intoximeter 3000, Intoximeters, Inc., St. Louis, Missouri.

14. Mark II Gas Chromatograph, Intoximeters, Inc., St. Louis, Missouri.

15. Alcolmeter AE–D1, Lion Laboratories, Ltd., Cardiff, Wales, United Kingdom.

16. Intoxilyzer Model 4011, Omicron Systems Corp., Palo Alto, California.

17. Breathalyzer Models 900A, 1000, Smith & Wesson Electronics Co., Springfield, Massachusetts.

18. Roadside Breath Tester, U.S. Department of Transportation, Washington, D.C.

The qualified products meeting all performance requirements, excluding those for Mobile Evidential Breath Testers are as follows, listed alphabetically by manufacturer:

1. Atalmeter, BDT, c/o Federal American Research Corp., Portsmouth, New Hampshire.

2. Breath Analysis Computer System, BAC Systems, Inc., Guelph, Ontario, Canada.

3. Intoxilyzer Model 4011 AS–A, CMI, Inc., Minturn, Colorado.

4. Alco-Tector Model 500, Decatur Electronics, Decatur, Illinois.

5. Auto-Intoximeter AI 1, Intoximeters, Inc., St. Louis, Missouri.

6. Intoximeter Model 3000, Intoximeters, Inc., St. Louis, Missouri.

7. Photo-Electronics Intoximeter, Intoximeters, Inc. St. Louis, Missouri.

8. Auto-Alcometer, Lion Laboratories, Cardiff, Wales, United Kingdom.

9. Alco-Analyzer Models 1000, 2000 Luckey Laboratories, Inc., San Bernardino, California.

10. Brethalyzer 2000, Smith & Wesson Electronics Co., Springfield, Massachusetts.

Issued on February 24, 1982.

Charles F. Livingston,

Associate Administrator for Traffic Safety Programs.

[FR Doc. 82-5795 Filed 3-3-82; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, R.S.P.A., D.O.T.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in December 1981. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
2326-X	DOT-E 2326	E. I. du Pont Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.77	To authorize shipment of 25 lbs. or less of pyrocore powders (class A explosive) to be packaged in DOT specification 12H fiberboard box. (Mode 1.)
2582-X	DOT-E 2582	Matheson Gas Products, Secaucus, NJ	49 CFR 173.304(a)(2), 175.3	To authorize shipment of a nonflammable gas in a non-DOT specification cylinder. (Modes 1, 2, 3, 4.)
2582-X	DOT-E 2582	Union Carbide Corporation, Tarrytown, NY.	49 CFR 173.304(a)(2), 175.3	To authorize shipment of a nonflammable gas in a non-DOT specification cylinder. (Modes 1, 2, 3, 4.)
3109-P	DOT-E 3109	Mitsubishi International Corporation, New York, NY.	49 CFR 173.301(a), 173.302(a)(1), 175.3	To become a party to exemption 3109. (Modes 1, 2, 3, 4, 5.)
3109-P	DOT-E 3109	Hydraulic Research Textron, Pacoima, CA.	49 CFR 173.301(a), 173.302(a)(1), 175.3	To become a party to exemption 3109. (Modes 1, 2, 3, 4, 5.)
3415-X	DOT-E 3415	U.S. Department of Defense, Washington, DC.	49 CFR 173.79, 179.82	To authorize shipment of rocket motors, containing certain class A or class B explosives, without overpacking. (Mode 1.)
4458-P	DOT-E 4458	Mine Equipment & Mill Supply Company, Dawson Springs, KY.	49 CFR 173.114a(h)(3)	To become a party to exemption 4458. (Mode 1.)
4463-P	DOT-E 4463	Kentucky AMFD, Inc., Madisonville, KY	49 CFR 173.114a(b)(8)	To become a party to exemption 4463. (Mode 1.)
5038-X	DOT-E 5038	Synthetron Corporation, Parsippany, NJ	49 CFR 173.119, 173.135(a)(8), 173.136(a)(5), 173.247(a)(1), 175.3.	To authorize the shipment of dimethyldichlorosilane, trichlorosilane, and silicon tetrachloride in non-DOT specification stainless steel cylinders. (Modes 1, 2.)
5322-X	DOT-E 5322	LNG Services, Inc., Pittsburgh, PA	49 CFR 172.101, 173.315(a).	To authorize use of a non-DOT specification cargo tank for transportation of certain flammable gases. (Mode 1.)
5454-X	DOT-E 5454	Union Carbide Corporation, Tarrytown, NY.	49 CFR 173.301(d), 173. 304(a)(2)	To authorize shipment of sulfur hexafluoride in DOT specification 3A1800, 3AA1800, 3AAX2400, and 3T1800 cylinders. (Modes 1, 3.)
5454-X	DOT-E 5454	Allied Corporation Morristown, NJ	49 CFR 173.301(d), 173.304(a)(2)	To authorize shipment of sulfur hexafluoride in DOT specification 3A1800, 3AA1800, 3AAX2400, and 3T1800 cylinders. (Modes 1, 3.)
5778-X	DOT-E 5778	Lil-O-Gen American Life Suppor Corp., Cambridge, MD.	49 CFR 173.302(b)(4), 173.304(a)(1)(i)	To authorize use of a DOT specification 3B steel cylinder for shipment of certain flammable gases. (Modes 1, 2.)
5972-X	DOT-E 5972	E. I. du Pont de Nemours & Company, Inc. Wilmington, DE.	49 CFR 173.119(b), 173.125, 173.126, 46 CFR 98.26.	To authorize the use of non-DOT specification stainless steel portable tanks for the shipment of certain flammable and combustible liquids. (Modes, 1, 3.)
6218-P	DOT-E 6218	Welding & Therapy Service, Inc., Louisville, KY.	49 CFR 173.315(a)	To become a party to exemption 6218. (Mode 1.)
6250-X	DOT-E 6250	U.S. Department of Defense, Washington, DC.	49 CFR 173.101, 173.102, 173.60, 173.79, 173.87, 173.92, 173.94, 175.53, 177.848.	To authorize shipment of explosives in non-DOT packages of partially dis-assembled aircraft with explosive components, ejection seats and canopy related devices. (Modes 1, 3.)
6423-X	DOT-E 6423	FMC Corporation, Philadelphia, PA	49 CFR 173.164	To authorize the transport of certain oxidizers, n.o.s., in packagings not authorized in 49 CFR 173.154. (Modes 1, 2, 3.)
6536-X	DOT-E 6536	New Jersey Natural Gas Company, Asbury Park, NJ	49 CFR 172.101, 173.315(a).	To authorize the shipment of certain flammable and nonflammable gases in non-DOT specification cargo tanks. (Mode 1.)
6536-X	DOT-E 6536	L. P. Transportation, Inc., Chester, NY	49 CFR 172.101, 173.315(a).	To authorize the shipment of certain flammable and nonflammable gases in non-DOT specification cargo tanks. (Mode 1.)
6536-X	DOT-E 6536	Philadelphia Gas Works, Philadelphia, PA	49 CFR 172.101, 173.315(a).	To authorize the shipment of certain flammable and nonflammable gases in non-DOT specification cargo tanks. (Mode 1.)
6536-X	DOT-E 6536	Public Service Electric and Gas Company, Newark, NJ.	49 CFR 172.101, 173.315(a).	To authorize the shipment of certain flammable and nonflammable gases in non-DOT specification cargo tanks. (Mode 1.)
6536-X	DOT-E 6536	Southern Connecticut Gas Company, Bridgeport, CT.	49 CFR 172.101, 173.315(a).	To authorize the shipment of certain flammable and nonflammable gases in non-DOT specification cargo tanks. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6580-X	DOT-E 6580	Robertshaw Controls Company, Anaheim, CA.	49 CFR 173.302(a)(1), 175.3	To manufacture, mark and sell non-DOT specification stainless steel cylinders for shipment of nonflammable compressed gases. (Modes 1, 2, 4, 5.)
6814-X	DOT-E 6814	All Pure Chemical Company, Incorporated, Tracy, CA.	49 CFR 173.263(a)(29), 173.277(a)(6)	To authorize the shipment of certain corrosive liquids in non-DOT specification polyethylene bottles. (Mode 1.)
6814-X	DOT-E 6814	FMC Corporation, Philadelphia, PA	49 CFR 173.263(a)(29), 173.277(a)(6)	To authorize the shipment of certain corrosive liquids in non-DOT specification polyethylene bottles. (Mode 1.)
6759-P	DOT-E 6759	Atlas Powder Company, Dallas, TX	49 CFR 173.67, 177.835(g)(2)	To become a party to exemption 6759. (Mode 1.)
6762-X	DOT-E 6762	Teco Corporation, Cincinnati, OH	49 CFR 173.266(b)(2), 175.3	To authorize the transportation of certain corrosive and flammable liquids in plastic inside packaging and fiberboard outside packaging. (Modes 1, 2, 3, 4.)
6762-P	DOT-E 6762	Anderson Chemical Company, Macon, GA.	49 CFR 173.266(b)(2), 175.3	To become a party to Exemption 6762. (Modes 1, 2, 3, 4.)
6800-X	DOT-E 6800	Plast-Drum Corporation Lockport, IL	49 CFR 173.119(a), 173.245(a)(29), 173.245b(a)(6), 173.249(a)(1), 173.250a(a)(1), 173.257(a)(1), 173.263(a)(29), 173.265(d)(6), 173.266(b)(6), 173.271, 173.272(i)(9), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 173.357(b) 178.19.	To manufacture, mark and sell non-DOT specification 50- and 55-gallon polyethylene container similar to DOT specification 34 for shipment of certain flammable, corrosive, poison B liquids and hydrogen peroxide classed as an oxidizer. (Modes 1, 2, 3.)
6806-P	DOT-E 6806	St. Regis Paper Company, West Kyack, NY.	49 CFR 173.302(a), 175.3	To become a party to exemption 6806. (Mode 5.)
6826-X	DOT-E 6826	Atlantic Research Corporation, Gainesville, VA.	49 CFR 173.92(b), 175.3	To authorize use of DOT specification 15A wooden boxes for shipment of a class B explosive. (Modes 1, 4.)
6898-X	DOT-E 6898	Mallinckrodt, Incorporated, St. Louis, MO	49 CFR 178.150–4(a)(1)	To authorize shipment of certain corrosive and an oxidizer in DOT specification 33A polystyrene cases closed with ½ inch polypropylene tape instead of 1¼ inch tape. (Modes 1, 2, 3.)
6898-X	DOT-E 6898	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 178.150–4(a)(1)	To authorize shipment of certain corrosive and an oxidizer in DOT specification 33A polystyrene cases closed with ½ inch polypropylene tape instead of 1¼ inch tape. (Modes 1, 2, 3.)
6898-X	DOT-E 6898	MCB Manmufacturing Chemists, Incorporated, Cincinnati, OH.	49 CFR 178.150–4(a)(1)	To authorize shipment of certain corrosive and an oxidizer in DOT specification 33A polystyrene cases closed with ½ inch polypropylene tape instead of 1¼ inch tape. (Modes 1, 2, 3.)
6898-X	DOT-E 6898	Allied Chemical Corporation, Morristown, NJ.	49 CFR 178.150–4(a)(1)	To authorize shipment of certain corrosive and an oxidizer in DOT specification 33A ploystyrene cases closed with ½ inch polypropylene tape instead of 1¼ inch tape. (Modes 1, 2, 3.)
6974-P	DOT-E 6974	Department of Defense, Washington, DC	49 CFR 173.308(a)(1), 175.3, 178.42	To become a party to exemption 6974. (Modes 1, 2, 4.)
6976-X	DOT-E 6976	Liquid Energy Corporation, The Woodlands, TX.	49 CFR 173.315(a)(1), 173.315(c)(1)	To authorize the use of an insulated DOT specification MC-331 cargo tank for the transportation of a flammable compressed gas. (Mode 1.)
6984-P	DOT-E 6984	Gulf Oil Chemicals Company, Overland Park, KS.	49 CFR 173.103(a), 173.60(g), 177.835(g)(2)(i).	To become a party to exemption 6984. (Mode 1.)
7023-X	DOT-E 7023	Texas Instruments, Incorporated, Dallas, TX.	49 CFR 173.245(a), 173.263(a), 173.264(a), 173.266, 173.269(f)(5), 173.272(g), 173.272b(g)(4).	To authorize the shipment of an oxidizer or corrosive material in non-DOT specification steel portable tanks. (Mode 1.)
7023-X	DOT-E 7023	Ashland Oil, Inc., Dublin, OH	49 CFR 173.245(a), 173.263(a), 173.264(a), 173.266, 173.269(f)(5), 173.272(g), 173.272b(g)(4).	To authorize shipment of an oxidizer or corrosive material in non-DOT specification steel portable tanks. (Mode 1.)
7023-X	DOT-E 7023	Western Electric Company, Greensboro, NC.	49 CFR 173.245(a), 173.263(a), 173.264(a), 173.266, 173.269(f)(5), 173.272(g), 173.272b(g)(4).	To authorize the shipment of an oxidizer or corrosive material in non-DOT specification steel portable tanks. (Mode 1.)
7071-X	DOT-E 7071	Philip A. Hunt Chemical Corporation, Palisades Park, NJ.	49 CFR 172.101, 173.245, 175.3	To authorize packagings in a quantity not provided for in the regulation for shipment of a corrosive liquid. (Modes 1, 2, 3.)
7227-X	DOT-E 7227	Richmond Lox Equipment Company, Livermore, CA.	49 CFR 172.101, 173.315	To authorize the use of a vacuum insulated, non-DOT specification portable tank for the shipment of a certain nonflammable gas. (Mode 3.)
7502-X	DOT-E 7502	Snyder Industries, Incorporated, Lincoln, NE.	49 CFR 178.19, Part 173, Subpart F	To authorize the manufacture, marking, and sale of non-DOT specification polyethylene containers for shipment of certain corrosive liquids and oxidizers. (Modes 1, 2, 3.)
7503-P	DOT-E 7503	Compagnie des Containers Reservoirs, Paris, France.	49 CFR 172.101, 173.119, 173.141, 173.245(a), 173.295(a), 173.346(a), 46 CFR 90.05–35.	To become a party to exemption 7503. (Modes 1, 3.)
7584-P	DOT-E 7584	Compagnie des Containers Reservoirs, Maulty-sur-Seine, France.	49 CFR 173.299	To become a party to exemption 7584. (Modes 1, 2, 3.)
7605-X	DOT-E 7605	Department of Defense, Washington, DC	49 CFR 173.101, 173.102, 173.113, 173.87, 173.92, 175.3, 176.83, 177.848.	To authorize the transportation of certain explosives contained in a partially disassembled aircraft or canopy assembly. (Modes 1, 3, 4.)
7605-X	DOT-E 7605	General Dynamics, Fort Worth, TX	49 CFR 173.101, 173.102, 173.113, 173.87, 173.92, 175.3, 176.83, 177.848.	To authorize the transportation of certain explosives contained in a partially disassembled aircraft or canopy assembly. (Modes 1, 3, 4.)
7605-X	DOT-E 7605	General Dynamics, Fort Worth, TX	49 CFR 173.101, 173.102, 173.113, 173.87, 173.92, 175.3, 176.83, 177.848.	To authorize the transportation of certain explosives contained in a partially disassembled aircraft or canopy assembly. (Modes 1, 3, 4.)
7607-X	DOT-E 7607	Dow Chemical Company, Freeport, TX	49 CFR 172.101, 175.3	To authorize shipment of hydrogen in non-DOT specification seamless steel cylinders. (Mode 5.)
7695-P	DOT-E 7695	Compagnie des Containers Reservoirs, Paris, France.	49 CFR 173.119, 173.245(a), 173.249, 173.295(a), 173.346(a), 173.620, 46 CFR 90.05–35.	To become a party to exemption 7695. (Modes 1, 3.)
7701-P	DOT-E 7701	Compagnie des Containers Reservoirs, Paris, France.	49 CFR 173.119(b), 173.125	To become a party to exemption 7701. (Modes 1, 2, 3.)
7731-X	DOT-E 7731	Minnesota Valley Engineering, New Prague, MN.	49 CFR 172.101, 173.315(a)(1)	To authorize the manufacture, marking, and sale of a non-DOT specification super-insulated portable tank for shipment of pressurized liquid helium. (Modes 1, 3.)
7835-P	DOT-E 7835	AGA Burdox, Inc., Cleveland, OH	49 CFR 177.848, Part 107 Appen. B(1)	To become a party to exemption 7835. (Mode 1).
7867-X	DOT-E 7867	Estes Industries, Inc., Penrose, CO	49 CFR 107, Appen. B, 172.101, 173.111, 173.3.	To authorize the shipment of certain toy propellant devices and igniters in DOT specification 15A, 15B, 16A, or 19A wooden boxes or DOT specification 12B fiberboard boxes. (Modes 1, 2, 3, 4, 5.)
7867-X	DOT-E 7867	Flight Systems, Inc., Buns Flat, OK	49 CFR 107, Appen. B, 172.101, 173.111, 173.3.	To authorize the shipment of certain toy propellant devices and igniters in DOT specification 15A, 15B, 16A, or 19A wooden boxes or DOT specification 12B fiberboard boxes. (Modes 1, 2, 3, 4, 5.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7867-X	DOT-E 7867	Composite Dynamics, Torrance, CA	49 CFR 107, Appen. B, 172.101, 173.111, 175.3.	To authorize the shipment of certain toy propellant devices and igniters in DOT specification 16A, 16B, 16A, or 19A wooden boxes or DOT specification 12B fiberboard boxes. (Modes 1, 2, 3, 4, 5.)
7867-X	DOT-E 7867	Crown Rocket Technology Mountlake Terrace, WA	49 CFR 107, Appen. B, 172.101, 173.111, 175.3.	To authorize the shipment of certain toy propellant devices and igniters in DOT specification 15A, 15B, 16A, or 19A wooden boxes or DOT specification 12B fiberboard boxes. (Modes 1, 2, 3, 4, 5.)
7867-X	DOT-E 7867	Canarce Space Models, Irwin Group, Toronto ONT, Canada.	49 CFR 107, Appen. B, 172.101, 173.111, 175.3.	To authorize the shipment of certain toy propellant devices and igniters in DOT specification 15A, 15B, 16A or 19A wooden boxes or DOT specification 12B fiberboard boxes. (Modes 1, 2, 3, 4, 5.)
7867-X	DOT-E 7867	Flight Systems, Inc., Raytown, MO	49 CFR 107, Appen. B, 172.101, 173.111, 175.3.	To authorize the shipment of certain toy propellant devices and igniters in DOT specification 15A, 15B, 16A or 19A wooden boxes or DOT specification 12B fiberboard boxes. (Modes 1, 2, 3, 4, 5.)
7867-X	DOT-E 7867	Centuri Engineering Co., Inc., Phoenix, AZ.	49 CFR 107, Appen. B, 172.101, 173.111, 175.3.	To authorize the shipment of certain toy propellant devices and igniters in DOT specification 15A, 15B, 16A or 19A wooden boxes or DOT specification 12B fiberboard boxes. (Modes 1, 2, 3, 4, 5.)
7893-P	DOT-E 7893	Compagnie des Containers Reservoirs, Paris, France.	49 CFR 173.226.	To become a party to exemption 7893. (Modes 1, 2, 3.)
7897-X	DOT-E 7897	Compagnie des Containers Reservoirs, Neuilly-sur-Seine, France.	49 CFR 173.119, 173.125, 173.126(a), 173.131(a)(1), 173.132(a)(1), 173.245(a), 173.33(a)(2), 173.346, 49 CFR 90.05-35.	To authorize the use of non-DOT specification IMCO type II insulated portable tanks for the shipment of certain flammable, corrosive, poison B, combustible liquids and ORM-A materials. (Modes 1, 2, 3.)
7897-X	DOT-E 7897	CATU Containers, S.A., Geneva, Switzerland.	49 CFR 173.119, 173.125, 173.126(a), 173.131(a)(1), 173.132(a)(1), 173.246(a), 173.324(a)(2), 173.346, 49 CFR 90.05-35.	To authorize the use of non-DOT specification IMCO type II insulated portable tanks for the shipment of certain flammable, corrosive, poison B, combustible liquids and ORM-A materials. (Modes 1, 2, 3.)
7907-X	DOT-E 7907	Hercules, Incorporated, Wilmington, DE	49 CFR 173.127, 173.184, 176.224	To authorize shipment of wet nitrocellulose, a flammable liquid or flammable solid, in non-DOT specification fiberboard drums. (Modes 1, 2.)
7908-X	DOT-E 7908	Hugomet, S.A., Paris, France	49 CFR 173.119	To authorize the shipment of certain flammable liquids in non-DOT specification IMCO type I portable tanks. (Modes 1, 2, 3.)
8000-P	DOT-E 8000	Compagnie des Containers Reservoirs, Paris, France.	49 CFR Part 173, Subpart D, F & H	To become a party to exemption 8000. (Modes 1, 2, 3.)
8062-X	DOT-E 8062	Arctic Foundations, Inc., Anchorage, AK	49 CFR 172.101, 173.315, 175.3, 175.30	To authorize the shipment of carbon dioxide exceeding the weight limitations for cargo aircraft transportation in non-DOT specification insulated portable tanks. (Mode 4.)
8108-P	DOT-E 8108	Compagnie des Containers Reservoirs, Paris, France.	49 CFR 173.119, 173.125, 173.126, 173.135, 173.141, 173.146, 173.147, 173.224, 173.245, 173.276, 173.280, 173.346, 173.347, 173.349, 49 CFR 90.05-35.	To become a party to exemption 8108. (Modes 1, 2, 3.)
8110-P	DOT-E 8110	Compagnie des Containers Reservoirs, Paris, France.	49 CFR 173.119, 173.125, 173.126, 173.128, 173.131, 173.132, 173.245, 49 CFR 90.05-35.	To become a party to exemption 8110. (Modes 1, 2, 3.)
8195-X	DOT-E 8195	McDonnell Douglas Corporation, St. Louis, MO.	49 CFR 173.6(b)(3), 175.3, Part 173, Subpart D, F, H..	To authorize use of non-DOT specification metal drums as outside containers in lieu of prescribed DOT specification fiberboard or wood containers for shipment of flammable liquids, corrosive material and class B poisons. (Modes 1, 2, 4, 5.)
8196-P	DOT-E 8196	Freon Products Middle East, Beirut, Lebanon.	49 CFR 173.119, 173.315(a)	To become a party to exemption 8196. (Modes 1, 2, 3.)
8196-X	DOT-E 8196	Eurotainer, Paris, France	49 CFR 173.119, 173.315(a)	To authorize the use of a non-DOT specification portable tank for the transportation of certain compressed gasses. (Modes 1, 2, 3.)
8196-X	DOT-E 8196	G.C.S. Container Service, Chiasso, Switzerland.	49 CFR 173.119,173.315(a)	To authorize the use of a non-DOT specification portable tank for the transportation of certain compressed gases. (Modes 1, 2, 3.)
8232-X	DOT-E 8232	G.C.S. Container Service, Chiasso, Switzerland.	49 CFR 173.123(a), 173.315(a)	To authorize use of a non-DOT specification portable tank for the shipment of certain compressed gases. (Modes 1, 2, 3.)
8233-X	DOT-E 8232	Eurotainer, Paris, France	49 CFR 173.123(a), 173.315(a)	To authorize use of a non-DOT specification portable tank for the shipment of certain compressed gases. (Modes 1, 2, 3.)
8257-X	DOT-E 8257	Rohm & Haas Company, Philadelphia, PA	49 CFR 173.245(a)(16), 173.245(a)(29), 178.19-4(c), 178.35a-2(b).	To authorize shipment of a corrosive liquid in a DOT specification 6D/2SL composite container or a DOT specification 34 drum equipped with a bung vent. (Modes 1, 2, 3.)
8346-X	DOT-E 8346	Frell, Incorporated, Corpus Christi, TX	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.348-5.	To manufacture, mark, and sell non-DOT specification cargo tanks complying with DOT specification MC-312 except for bottom outlet valve for transportation of flammable or corrosive liquids. (Mode 1.)
8348-X	DOT-E 8348	Ray-O-Vac Corporation, Madison, WI	49 CFR 173.206, 175.3	To authorize shipment of limited quantities of lithium cells as a consumer commodity. (Modes 1, 2, 3, 4, 5.)
8354-X	DOT-E 8346	Feuvet-Girel, Paris, France	49 CFR 173.123, 173.315	To authorize the use of a non-DOT specification portable tank for the transportation of certain flammable liquids and flammable gases. (Modes 1, 2, 3.)
8354-X	DOT-E 8354	Compagnie des Containers Reservoirs, Paris, France.	49 CFR 173.123, 173.315	To authorize the use of a non-DOT specification portable tank for the transportation of certain flammable liquids and flammable gases. (Modes 1, 2, 3.)
8441-P	DOT-E 8441	Bunker Ramo Corporation, Westlake Village, CA.	49 CFR 172.101	To become a party to exemption 8441. (Mode 1.)
8441-P	DOT-E 8441	General Motors Corporation, Detroit, MI	49 CFR 172.101	To become a party to exemption 8441. (Mode 1.)
8511-P	DOT-E 8511	FMC Corporation, Philadelphia, PA	49 CFR 173.250(f)	To become a party to exemption 8511. (Modes 1, 2.)
8525-P	DOT-E 8525	ASC Containerlines, N.V., Antwerp, Belgium.	49 CFR 173.309(a)(1), 173.302(c), 178.700(f)(1), 178.700(f)(2).	To become a party to exemption 8525. (Modes 1, 2, 3.)
8525-X	DOT-E 8525	Associated Container Transportation (USA), New York, NY.	49 CFR 173.309(a)(1), 173.302(c), 178.700(f)(1), 178.700(f)(2).	To authorize shipment of mineral monazite sand, classed as radioactive material, low specific activity, n.o.s. under modified exclusive use provisions. (Modes 1, 2, 3.)
8572-X	DOT-E 8572	AMEX, Inc., Hayden Lake, ID	49 CFR 172.101, 172.406, 172.504, 173.114a.	To authorize shipment of packages marked "nitro carbo nitrate" and labelled "oxidizer" in lieu of "Blasting Agent". (Mode 1.)
8572-X	DOT-E 8572	Western States Energy, Inc., Salt Lake City, UT.	49 CFR 172.101, 172.406, 172.504, 173.114a.	To authorize shipment of packages marked "nitro carbo nitrate" and labelled "oxidizer" in lieu of "Blasting Agent". (Mode 1.)
8587-P	DOT-E 8587	Economics Laboratory, Inc., St. Paul, MN	49 CFR 173.206	To become a party to exemption 8587. (Mode 1.)
8588-P	DOT-E 8588	L'Air Liquide Corporation, Paris, France	49 CFR 173.316, 173.316	To become a party to exemption 8588. (Modes 1, 3.)
8602-X	DOT-E 8602	Minnesota Valley Engineering, New Prague, MN.	49 CFR 172.101, 173.315	To authorize the manufacture, marking and sale of non-DOT specification vacuum insulated portable tanks for shipment of liquified argon, nitrogen, and oxygen. (Mode 3.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8654-X	DOT-E 8654	Isomedix, Inc., Whippany, NJ	49 CFR 173.394(b)(1), 173.394(b)(5), 173.394(b)(6).	To authorize shipment of special form radioactive materials in DOT specification 55 containers built after March 1975. (Modes 1, 2.)
8655-P	DOT-E 8655	Sperry Univac Defense Systems, St. Paul, MN.	49 CFR 173.352(a)(1)	To become a party to exemption 8655. (Mode 1.)
8655-P	DOT-E 8655	Digital Equipment Corporation, Northborough, MA.	49 CFR 173.352(a)(1)	To become a party to exemption 8655. (Mode 1.)
8679-X	DOT-E 8679	MicroD International, Corona, CA	49 CFR 172.101, 172.400, 173.266, 175.3, 175.30.	To authorize the shipment of a water reactive material via air when packaged in the same outside packaging with separately packaged small quantities of a flammable liquid, a corrosive liquid, a corrosive solid and non-hazardous materials. (Modes 1, 4, 5.)
8732-P	DOT-E 8732	Chemcentral Inc., Santa Fe, CA	49 CFR 173.245	To become a party to exemption 8732. (Mode 1.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of Exemption Thereof
8039-N	DOT-E 8730	Pressure Transport, Inc., Austin, TX	49 CFR 172.101, 173.301(f)(2), 173.302(a)(3).	To authorize the transportation of natural gas in DOT specification 3AAX2400 cylinders made of 4130X steel. (Mode 1.)
8542-N	DOT-E 8542	EVA, Eisenbahn-Verkehrsmittel AG, Duesseldorf, West Germany.	49 CFR 173.119a, 173.119, 173.125, 173.126, 173.131, 173.132, 173.144, 173.245(a)(30), 173.248, 173.850.	To authorize shipment of certain hazardous materials in non-DOT specification IMCO Type 1 portable tanks. (Modes 1, 2, 3.)
8612-N	DOT-E 8612	FIBA Leasing Company, Inc., Westboro, MA.	49 CFR 172.101, 173.314(c)	To authorize the use of a DOT specification 107A4300 tank car tanks for shipment of a flammable compressed gas. (Modes 1, 2.)
8636-N	DOT-E 8636	Ethyl Corporation, Baton Rouge, LA	49 CFR 172.101, Table Column 7(a)	To authorize stowage of drums, containing motor fuel antiknock compound, underdeck, instead of on deck. (Mode 3.)
8642-N	DOT-E 8642	Gard, Inc., Niles, IL	49 CFR 173.119(a)(6), 178.340, 178.253	To manufacture, mark and sell non-DOT specification steel portable tanks for shipment of gasoline and combustible liquids. (Modes 1, 2, 3, 4.)
8665-N	DOT-E 8665	Hach Company, Ames, IA	49 CFR 172.400, 172.402(a)(2), 172.402(a)(3), 173.135, 173.136, 173.237, 173.248.	To authorize the shipment of hazardous materials, which are required to bear the poison label, to be shipped without the label when packaged, in a specially designed composite type packaging. (Mode 1.)
8689-N	DOT-E 8689	Schlumberger Technology Corporation, Houston, TX.	49 CFR 173.302, 173.304, 175.3	To manufacture, mark and sell a non-DOT specification oil well sampling device for the shipment of various compressed gases, n.o.s. (Modes 1, 2, 3, 4.)
8701-N	DOT-E 8701	Capps Industries Inc., Menomonee Falls, WI.	49 CFR 173.245, 173.249, 175.3	To authorize shipment of certain alkaline corrosive, n.o.s., in a one quart vented tin can, placed in a six-mil polyethylene bag, overpacked in a non-DOT specification removable head molded polyethylene pail of two gallon capacity, also containing a non-hazardous resin mix. (Modes 1, 2, 3, 4.)
8708-N	DOT-E 8708	Delta Drum, Inc., Indianapolis, IN	49 CFR 173 Subpart F, 178.19	To manufacture, mark and sell non-DOT specification 55-gallon reusable, blowmolded, polyethylene drums for shipment of certain corrosives liquids and oxidizers. (Modes 1, 2, 3.)
8712-N	DOT-E 8712	Allied Corporation, Morristown, NJ	49 CFR 178.17-4(c)	To authorize an alternate method of closure (i.e., application of four strips of pressure-sensitive tape in a vertical manner) for specification DOT-1M expanded polystyrene packaging. (Modes 1, 2, 3.)
8726-N	DOT-E 8726	Whitehall Laboratories, Inc., New York, NY.	49 CFR Parts 100-199	To authorize the shipment of safety book matches packed with a non-hazardous material in a rigid five-sided fiber tray and paper overwrapped. (Modes 1, 2.)
8730-N	DOT-E 8730	Allied Chemical, Morristown, NJ	49 CFR 173.154(a)(4)	To authorize shipment of an aqueous solution of potassium nitrite in DOT specification MC-311 or MC-312 cargo tanks. (Mode 1.)
8731-N	DOT-E 8731	Atlas Powder Company, Tamaqua, PA	49 CFR 173.114a	To authorize the shipment of a blasting agent in a non-DOT specification stainless steel tank. (Mode 1.)
8732-N	DOT-E 8732	Delta Solvents & Chemicals Company, Dallas, TX.	49 CFR 173.245	To authorize shipment of monoethanolamine in DOT specification MC-306 cargo tanks made of aluminum or steel. (Mode 1.)
8737-N	DOT-E 8737	Webb Transportation, Santa Maria, CA	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To manufacture, mark, and sell non-DOT specification cargo tanks complying generally with DOT specification MC-307/312 except for bottom outlet valve variations for transportation of flammable or corrosive waste liquids or semi-solids. (Mode 1.)
8742-N	DOT-E 8742	Cusco Fabricators Ltd., Richmond Hill, Ontario, Canada.	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To manufacture, mark, and sell non-DOT specification cargo tanks complying generally with DOT specification MC-307/312 except for bottom outlet valve variations for transportation of flammable or corrosive waster liquids or semi-solids. (Mode 1.)
8743-N	DOT-E 8743	Dow Corning Corporation, Elizabethtown, KY	49 CFR 173.119(b)	To authorize a one-time shipment of a non-DOT specification steel portable tank for shipment of waste petroleum distillate. (Mode 1.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 8206-X	DOT-E 8206	Rexnord, Incorporated, Brookfield, WI	49 CFR 173.245(a)(17), 175.3, 176.131	To authorize shipment of certain corrosive liquids, n.o.s. in two 1-quart tin cans, overpacked in a modified 29-gauge, unlined DOT specification 17A 5-gallon drum. (Modes 1, 2, 3, 4.)
EE 8207-X	DOT-E 8207	Rexnord Inc., Commerce City, CO	49 CFR 173.245(a)(17), 175.3, 176.131	To authorize shipment of certain corrosive liquids, n.o.s., in a 1-quart tin can, placed in a molded polyethylene liner, overpacked in a modified 28-gauge DOT specification 37A 2-gallon drum. (Modes 1, 2, 3, 4.)
EE 8760-N	DOT-E 8760	Barton Solvents, Incorporated, Des Moines, IA	49 CFR 172.328, 172.334(b)	To authorize the display of the identification number (1993) on Barton Solvents, Inc. cargo tanks specified for certain materials and having six or more compartments when transporting specific flammable or combustible liquids. (Mode 1.)

WITHDRAWALS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6073-P	FIBA Leasing Company, Inc., Westboro, MA	49 CFR 172.101, 173.301(d)(2), 173.302(a)(3).	To become a party to exemption 6073. (Mode 1.)

Denials

8401-N Request by Union Carbide Corporation, New York, NY to authorize shipment of batteries comprised of multiple cells not to contain more than 35 grams of lithium metal per outside container denied December 4, 1981.

8706-X Request by Great Lakes Chemical Corporation, West Lafayette, IN to authorize the use of a foreign-manufactured zinc-plated steel drum (of approximately six-gallon capacity and without DOT markings) for import into the United States of a Class B poisonous liquid (chloropicrin) denied December 7, 1981.

Issued in Washington, DC, on February 19, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

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BILLING CODE 4910-60-M

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, R.S.P.A., D.O.T.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the applications for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in November 1981. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
4453-P	DOT-E 4453	IRECO Chemicals, Salt Lake City, UT	49 CFR 173.114a(h)(3)	To become a party to exemption 4453. (Mode 1.)
4453-P	DOT-E 4453	Alamo Explosives Company, Inc., Houston, TX.	49 CFR 173.114a(h)(3)	To become a party to exemption 4453. (Mode 1.)
4453-P	DOT-E 4453	Seco, Inc., Greenwood, AR	49 CFR 173.114a(h)(3)	To become a party to exemption 4453. (Mode 1.)
5662-X	DOT-E 5662	Air Products and Chemicals, Incorporated, Allentown, PA.	49 CFR 173.245(a), 173.247(a)(11), 173.315(a)(1).	To authorize the shipment of a flammable liquid, a nonflammable gas and a corrosive material in non-DOT specification portable tanks. (Mode 1.)
6126-P	DOT-E 6126	Rhone-Poulenc Inc., Monmouth Junction, NJ.	49 CFR 173.253(a)	To become a party to exemption 6126. (Mode 1, 2.)
6228-P	DOT-E 6228	Airco Welding Products, Murray Hill, NJ	49 CFR 173.301(d)(4)	To become a party to exemption 6228. (Mode 1.)
6397-X	DOT-E 6397	Foote Mineral Company, Exton, PA	49 CFR 173.346(a)	To authorize the shipment of certain class B poisonous liquids in DOT specification 54 containers. (Modes 1, 2.)
6614-X	DOT-E 6614	Continental Chemical Company, Sacramento, CA.	49 CFR 173.263(a)(26), 173.277(a)(6)	To authorize the transportation of certain corrosive liquids in non-DOT specification polythylene bottles, packed inside a high density polyethylene box. (Mode 1.)
6618-X	DOT-E 6618	Monsanto Company, St. Louis, MO	49 CFR 173.365(a), 173.374(a)	To authorize shipment of certain class B poison in an insulated, MC-307 of MC-312 cargo tank. (Mode 1.)
6657-P	DOT-E 6657	Velveld Inc., Appleton, WI	49 CFR 173.34(e)(15)(i), 178.9	To become a party to exemption 6657. (Modes 1, 2, 3, 4, 5.)
6724-X	DOT-E 6724	GPS Industries, City of Industry, CA	49 CFR 173.217(a)	To authorize shipment of certain oxidizing materials in non-DOT specification polyethylene bottles, overpacked in a fiberboard box. (Modes 1, 2, 3.)
6762-P	DOT-E 6762	Green Chemical Company, Inc., Winchester, VA.	49 CFR 173.266(b)(2), 178.9	To become a party to exemption 6762. (Modes 1, 2, 3, 4.)
6766-X	DOT-E 6766	Air Products and Chemicals, Incorporated, Allentown, PA.	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification portable tanks for the transportation of a flammable and a nonflammable gas. (Modes 1, 3.)
6802-P	DOT-E 6802	Monroe Welding Supply Co., Sioux City, IA.	49 CFR 173.315(a)	To become a party to exemption 6802. (Mode 1.)
6802-P	DOT-E 6802	Welders Gas & Supply, Sioux Falls, SD	49 CFR 173.315(a)	To become a party to exemption 6802. (Mode 1.)
6866-P	DOT-E 6866	GTE Service Corporation, Washington, DC.	49 CFR 173.140(a)(1), 178.9	To become a party to exemption 6866. (Modes 1, 2, 3, 4.)
6902-X	DOT-E 6902	Synthetron Corporation, Parsippany, NJ	49 CFR 173.314(c), 179.300-15	To authorize shipment of anhydrous hydrogen bromide in a modified DOT specification 110A800W multi-unit tank car tank. (Modes 1, 2.)
6902-X	DOT-E 6902	Great Lakes Chemical Corporation, El Dorado, AR.	49 CFR 173.314(c), 179.300-15	To authorize shipment of anhydrous hydrogen bromide in a modified DOT specification 110A800W multi-unit tank car tank. (Modes 1, 2.)
7716-X	DOT-E 7716	Kinepak, Inc., Lewisville, TX	49 CFR 173.163(b)(1)	To authorize the shipment of ammonium nitrate in inside polyethylene bottles or foil pouches, each containing less than 3 pounds or less, overpacked in DOT specification 12H-65 fiberboard boxes with a plastic liner bag containing not more than 36 pounds net weight. (Modes 1, 2.)
7765-X	DOT-E 7765	Carleton Controls Corporation, East Aurora, NY.	49 CFR 173.302(a)(4), 178.9	To authorize the use of nonrefillable, non-DOT specification cylinders for shipment of a nonflammable gas. (Modes 1, 2, 4.)
7835-X	DOT-E 7835	Air Products and Chemicals, Incorporated, Allentown, PA.	49 CFR 177.848, Part 107 Appen. B(1)	To authorize the transport of compressed gas cylinders bearing the flammable gas label, the oxidizer label, or the poison gas label and tank car tanks bearing the poison gas label on the same motor vehicle. (Mode 1.)
7965-X	DOT-E 7965	Process Engineering, Incorporated, Plaistow, NH.	49 CFR 173.315(a)	To manufacture, mark and sale of non-DOT specification portable tanks for shipment of nonflammable gases. (Mode 1, 2.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8188-X	DOT-E 8188	Owens-Illinois (Plastic Products Division), Toledo, OH.	49 CFR 173.128(a), 173.256	To authorize the use of a DOT specification 34 reusable polyethylene container of 30-gallon capacity for the shipment of a liquid paint or a cleaning compound. (Mode 1.)
8255-X	DOT-E 8255	Applied Environments Corporation, Van Nuys, CA.	49 CFR 173.302, 175.3	To authorize the use of a non-DOT specification cylinder for shipment of certain nonflammable gases. (Modes 1, 2, 4.)
8274-X	DOT-E 8274	ANF Industrie, Paris, France	49 CFR 173.119, 173.135, 173.141, 173.145, 173.147, 173.245, 173.247, 173.346a, 173.347, 173.349, 173.361, 173.362.	To authorize the use of non-DOT specification intermodal portable tanks for the transportation of various flammable, corrosive, poison B, and combustible liquids. (Modes 1, 2, 3.)
8274-X	DOT-E 8274	Compagnie des Containers Reservoirs, Rouilly-sur-Seine, France.	49 CFR 173.119, 173.135, 173.141, 173.145, 173.147, 173.245, 173.247, 173.346a, 173.347, 173.349, 173.361, 173.362.	To authorize the use of non-DOT specification intermodal portable tanks for the transportation of various flammable, corrosive, poison B, and combustible liquids. (Modes 1, 2, 3.)
8275-X	DOT-E 8275	Compagnie des Containers Reservoirs, Rouilly-sur-Seine, France.	49 CFR 173.119, 173.119, 173.125, 173.128, 173.131, 173.132, 173.135, 173.144, 173.145, 173.147, 173.245, 173.346.	To authorize shipment of various flammable, corrosive, poison B and combustible liquids, in non-DOT specification intermodal portable tanks. (Modes 1, 2, 3.)
8275-X	DOT-E 8275	ANF Industrie, Paris, France	49 CFR 173.119, 173.119, 173.125, 173.128, 173.131, 173.132, 173.135, 173.144, 173.145, 173.147, 173.245, 173.346.	To authorize shipment of various hazardous materials in non-DOT specification intermodal portable tanks. (Modes 1, 2, 3.)
8642-X	DOT-E 8642	Evans Tank Company, Lubbock, TX	49 CFR 172.101, 173.315(a), 173.315(c)(1).	To manufacture, mark and sell non-vacuum insulated DOT specification MC-331 cargo tank for shipment of flammable and nonflammable gases. (Mode 1.)
8687-P	DOT-E 8687	Purex Corporation, Carson, CA	49 CFR 173.245	To become a party to exemption 8687. (Mode 1.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7275-N	DOT-E 8734	Basler Flight Service, Inc, Oshkosh, WI	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize the carriage of certain class A, B, and C explosives that are not permitted for shipment by air or in quantities greater than allowable by air. (Mode 4.)
8607-N	DOT-E 8607	Eurotainer S.A., Paris, France	49 CFR 173.245	To authorize the use of a DOT specification 51 portable tank for shipment of corrosive liquids. (Modes 1, 2, 3.)
8609-N	DOT-E 8609	Nalloo, Inc., Chicago, IL	49 CFR 177.841(e), 178.118	To manufacture, mark and sell non-DOT specification reusable, 16-gauge steel drums with removable heads, of 65-gallon capacity to be used as overpacks for properly packaged class B poisons for shipment in the same transport vehicle with foodstuff, feeds, etc. (Mode 1.)
8631-N	DOT-E 8631	Fabricated Metals, Inc., San Leandro, CA	49 CFR 173.154	To manufacture, mark and sell DOT specification 56 portable tanks for shipment of a flammable solid, n.o.s. (Modes 1, 2.)
8633-N	DOT-E 8633	Alfuti Corporation, San Jose, CA	49 CFR 172.101, 173.206, 173.247	To authorize shipment of large batteries containing lithium metal and thionyl chloride enclosed in a fiberglass/polyester housing reinforced with an aluminum supporting structure overpacked in specially designed boxes. (Mode 1.)
8680-N	DOT-E 8680	Walter Kidde, Belleville, NJ	49 CFR 173.302(a), 173.304(a), 173.304(d)(3), 178.61-6.	To manufacture, mark and sell non-DOT specification cylinders similar to DOT specification 4BW except circumferential welds will be full butt joints for shipment of those commodities presently authorized in DOT specification 4BW. (Modes 1, 2, 3, 4, 5.)
8685-N	DOT-E 8685	Hercules Incorporated, Wilmington, DE	49 CFR 173.182(b)(6)(ii)	To authorize the shipment of ammonium nitrate fertilizer (prills) in collapsible polyethylene-lined, woven polypropylene bags having a capacity of approximately 2,240 pounds each. (Modes 1, 2, 3.)
8688-N	DOT-E 8688	Union Carbide Corporation, Tarrytown, NY.	49 CFR 172.101	To manufacture, mark and sell non-DOT specification portable tanks for shipment of non-pressurized liquid nitrogen. (Mode 3.)
8690-N	DOT-E 8690	Copps Industries, Inc., Menomonee Falls, WI.	49 CFR 173.245, 173.248, 175.3	To authorize shipment of certain alkaline corrosive liquid, n.o.s., in a 1-gallon unlined tin can, placed in a six mil polyethylene bag overpacked in a DOT Specification 37C30 steel drum 5-gallon capacity, also containing a non-hazardous resin mix. (Modes 1, 2, 3, 4.)
8711-N	DOT-E 8711	Goodrich Company, Cleveland, OH	49 CFR 173.245(a)	To authorize a one time shipment of 64 non-DOT specification 55-gallon fiber drums with a polyethylene liner containing a waste corrosive liquid, n.o.s. (Mode 1.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 8673-X	DOT-E 8673	Alaska International Airline, Anchorage, AK.	49 CFR 172.101(f)(h), 175.30	To authorize two shipments of inhibited hydrochloric acid solution in a DOT specification 60 rubber lined portable tank. (Mode 4).
EE 8736-N	DOT-E 8736	Flying Tiger Line, Los Angeles, CA	49 CFR 175.320(a)	To authorize the transportation of class A explosive loaded on the same aircraft with class C explosives and other cargo not presently permitted. (Mode 4.)
EE 8745-N	DOT-E 8745	Goex, Inc., Mosaic, PA	49 CFR 173.60(a)	To authorize the shipment of black powder in DOT specification 13 metal bags. (Modes 1, 2.)
EE 8746-N	DOT-E 8746	Challenge Air Transport, Miami, FL	49 CFR 172.101, 175.320	To authorize the transportation of class A explosives loaded on the same aircraft with class C explosives. (Mode 4.)
EE 8752-N	DOT-E 8752	Thiokol Corporation, Elkton, MD	49 CFR 173.92	To authorize the shipment of three rocket motors in a specially designed packaging configuration. (Mode 1.)

Withdrawals

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7705-X	Plant-Drum Corporation, Lockport, IL	49 CFR 173.217, 173.245b, 178.19	To authorize shipment of oxidizers and corrosive materials in non-DOT specification blow-molded, high molecular weight polyethylene drum. (Modes 1, 2, 3.)

Denials

8546–N Request by Global International Airways Corporation, Kansas City, MO to authorize carriage of class A, B, and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment denied November 23, 1981.

8683–N Request by Dr. Pepper Company, Dallas, TX to authorize the shipment of phosphoric acid solution, classed as a corrosive material packed in four 16 oz. plastic bottles comingled in the same outside DOT Specification 12B fiberboard boxes with flavoring compound, as esentially non-regulated denied November 13, 1981.

8804–N Request by Fruehauf Corporation, Omaha, NE to manufacture, mark and sell one cargo tank similar to DOT specification MC–312 except for the material of construction which is Inconel 600, for shipment of waste corrosive material (liquid) denied November 23, 1981.

8720–N Request by Applied Environments Corporation, Van Nuys, CA to manufacture, mark and sell non-DOT specification non-reusable welded steel cylinders similar to DOT Specification 39 for shipment of certain nonliquefied gases denied November 9, 1981.

8743–N Request by Dow Corning Corporation, Elizabethtown, KY to authorize a one-time shipment of a non-DOT specification steel portable tank for shipment of waste petroleum distillate denied November 9, 1981.

Issued in Washington, DC, on January 25, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

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BILLING CODE 4910-60-M

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in January 1982. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

Renewal and Party to Exemptions

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
3121–X	DOT–E 3121	U.S. Department of Defense, Kelly Air Force Base, TX.	49 CFR 173.336(a), 177.841(b)	To authorize the use of non-DOT specification cargo tanks for shipment of a certain Class A poisonous liquid. (Mode 1.)
4399–X	DOT–E 4399	Union Carbide Corp., Danbury, CT	49 CFR 172.101, 173.315(a)(1)	To authorize the use of non-DOT specification cargo tanks for shipment of a certain flammable gas. (Mode 1.)
6322–X	DOT–E 6322	San Diego Gas & Electric, San Diego, CA	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification cargo tank for transportation of certain flammable gases. (Mode 1.)
6119–X	DOT–E 6119	Utility Propane Co., Elizabeth, NJ	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification cargo tank for certain flammable gases. (Mode 1.)
6325–P	DOT–E 6325	Mining Services International, Salt Lake City, UT.	49 CFR 173.154(a)	To become a party to Exemption 6325. (Mode 1.)
6325–P	DOT–E 6325	Austin Powder Co., Cleveland, OH	49 CFR 173.154(a)	To become a party to Exemption 6325. (Mode 1.)
6536–X	DOT–E 6536	Utility Propane Co., Elizabeth, NJ	49 CFR 172.101, 173.315(a)	To authorize the shipment of certain flammable and nonflammable gases in cargo tanks. (Mode 1.)
6543–X	DOT–E 6543	Synthetron Corp., Parsippany, NJ	49 CFR 173.119, 173.133(a)(6), 173.136(a)(5), 173.247, 175.3.	To authorize this shipment of certain corrosive and flammable liquids in non-DOT specification 16 gauge, 304 stainless steel cylinders and/or non-DOT Specification 14 gauge, 316 stainless steel containers. (Modes 1, 2, 4.)
6563–X	DOT–E 6563	Medi Medical Products, Inc., Carlstadt, NJ.	49 CFR 173.303(a)(1), 175.3	To authorize shipment of certain nonflammable gases in non-DOT specification cylinders. (Modes 1, 2, 3, 4, 5.)
6614–X	DOT–E 6614	Chem Lab Products, Inc., Ontario, CA	49 CFR 173.202(a)(20), 173.277(a)(6)	To authorize the transportation of certain corrosive liquids in non-DOT specification polyethylene bottles. (Mode 1.)
6700–X	DOT–E 6700	Container Corp. of America, Wilmington, DE.	49 CFR 173.245(a)(29), 173.247, 173.249a(a)(1), 173.250a(a)(1), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.266(b)(6), 173.272(a)(6), 173.277(a)(6), 173.287(c)(1), 173.288(a)(1), 173.293(a)(1), 175.19.	To manufacture, mark, and sell non-DOT specification polyethylene drums for the transportation of corrosive liquids and an oxidizer. (Modes 1, 2, 3.)
6765–X	DOT–E 6765	Union Carbide Corp., Tarrytown, NJ	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification portable tanks for the transportation of a flammable and a nonflammable gas. (Modes 1, 3.)
6765–R	DOT–E 6765	Cities Service Co., Tulsa, OK	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification portable tanks for the transportation of a flammable and a nonflammable gas. (Modes 1, 3.)
6902–X	DOT–E 6902	Halocarbon Products Corp., Hackensack, NJ.	49 CFR 173.314(c), 179.300–15	To authorize shipment of anhydrous hydrogen bromide in a modified DOT specification 110A500W multi-unit tank car tank. (Modes 1, 2.)
6915–X	DOT–E 6915	Conoco, Inc., Houston, TX	49 CFR 173.315(a)(1)	To authorize the transportation of vinyl chloride in a non-DOT specification cargo tank. (Mode 1.)
7052–P	DOT–E 7052	Litton Systems Inc., Van Nuys, CA	49 CFR 172.101, 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7052–X	DOT–E 7052	Electrochem Industries, Inc., Clarence, NY.	49 CFR 172.101, 175.3	To authorize the shipment of batteries containing lithium and other materials, classed as flammable solids. (Modes 1, 2, 3, 4.)
7052–P	DOT–E 7052	Battery Safety Society, Inc., Fairfax, VA	49 CFR 172.101, 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)

Renewal and Party to Exemptions—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7908–X	DOT–E 7908	Plastican, Inc., Leominster, MA	49 CFR 173, Subpart F, 173, part D, 178.19.	To manufacture, mark and sell non-DOT specification removable head polyethylene drums, for shipment of liquid hazardous materials. (Modes 1, 2, 3.)
7890–X	DOT–E 7890	Union Carbide Corp., New York, NY	49 CFR 172.101, 173.119(m)	To authorize the shipment of methyl isocyanate in DOT Specification 51 portable tanks. (Modes 1, 2, 3.)
8060–P	DOT–E 8060	Allied Corp., Morristown, NJ	49 CFR 173.164	To become a party to Exemption 8060. (Mode 2.)
8141–X	DOT–E 8141	GTE Products Corp., Needham, MA	49 CFR 172.101, 173.206, 173.247	To authorize the transport of individual cells and modules consisting of three cells containing lithium metal and thionyl chloride. (Mode 1.)
8307–X	DOT–E 8307	U.S. Department of Energy, Washington, DC.	49 CFR 173.21, 173.247, 178.25(b), 173.305(a), 176.3.	To authorize use of non-DOT specification containers for shipment of a nonpyrotechnic mixture of certain corrosive materials, gas and an explosive charge. (Modes 1, 2, 3, 4.)
8366–X	DOT–E 8366	J. J. Mauget Co., Burbank, CA	49 CFR 172.101, 172.400	To authorize the transportation of a Class B poison in special pressure sealed polyethylene capsules without the POISON label. (Mode 1.)
8511–P	DOT–E 8511	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.200(f)	To become a party to Exemption 8511. (Modes 1, 2.)
8556–X	DOT–E 8556	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification portable tanks for shipment of liquefied hydrogen. (Modes 1, 3.)
8569–P	DOT–E 8569	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.315, 173.316	To become a party to Exemption 8569. (Mode 1, 3.)
8578–P	DOT–E 8578	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.245(a)	To become a party to Exemption 8578. (Modes 1, 2, 3.)
8578–P	DOT–E 8578	Eurotainer, Paris, France	49 CFR 173.315(a)	To become a party to Exemption 8578. (Modes 1, 2, 3.)
8578–P	DOT–E 8578	Fiese Products Middle East, Beirut, Lebanon.	49 CFR 173.315(a)	To become a party to Exemption 8578. (Modes 1, 2, 3.)
8601–X	DOT–E 8601	Aluminum Co. of America, Palestine, TX	49 CFR 173.233	To authorize the shipment of aluminum chloride contaminated with phosgene, in packages presently authorized under Section 173.245b(a) (1), (4), (5), (8), (10). (Modes 1, 2.)
8705–X	DOT–E 8705	Great Lakes Chemical Corp., West Lafayette, IN.	49 CFR 173.257(b)(2)	To authorize the use of non-DOT specification steel drums (overpacked, palletized and containerized), for shipment of a poison B. (Mode 1.)

New Exemptions

Applicant No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8462–N	DOT–E 8462	M.A.N. Maschinenfabrik Augsburg-Nurnberg, Hamburg, West Germany.	49 CFR 178.118, 173.125, 173.128, 173.128, 173.132, 173.144, 173.245.	To authorize the use of non-DOT specification IMCO 6 portable tanks for shipment of those hazardous materials listed in the IM Tank Table for IM 102 portable tanks. (Modes 1, 2, 3.)
8676–N	DOT–E 8676	Compagnie Francaise De Material Ferroviaire, Paris, France.	49 CFR 173.315(a)	To authorize the use of a non-DOT specification IMCO Type 6 portable tank for shipment of flammable and nonflammable gases. (Modes 1, 2, 3.)
8715–N	DOT–E 8715	W. L. Gore & Associates, Inc., Newark, DE.	49 CFR 173.119(m), 175.3	To authorize the shipment of an etchant, classed as a flammable liquid with a subsidiary hazard of corrosive, packed in non-DOT specification sealed metal cans of up to one pint capacity, overpacked in a DOT Specification 12B fiberboard box. (Modes 1, 2, 4.)
8716–N	DOT–E 8716	Foote Mineral Co., Exton, PA	49 CFR 173.29(m)	To authorize multiple use of DOT Specification 17C steel drums for shipment of lithium metal, ingots, immersed in oil. (Mode 1.)
8717–N	DOT–E 8717	Goodloe E. Moore, Inc., Danville, IL	49 CFR 173.29(m)	To authorize reuse of DOT Specification 17H, 55-gallon steel drums with a polyethylene liner of 0.010 inch minimum thickness, for shipment of certain adhesives, classed as a flammable liquid. (Modes 1.)
8758–N	DOT–E 8758	Union Carbide Corp., Tarrytown, NY	49 CFR 173.315	To manufacture, mark and sell non-DOT specification portable tanks for shipment of certain nonflammable gases. (Mode 1.)
8763–N	DOT–E 8763	Union Carbide Corp., Tarrytown, NY	49 CFR 173.315	To manufacture, mark and sell non-DOT specification cargo tanks for shipment of nonflammable gases. (Modes 1.)
8764–N	DOT–E 8764	Columbia Nitrogen Corp., Augusta, GA	49 CFR 173.315	To authorize shipment of ammonium hydroxide (containing not less than 12 percent nor more than 44 percent ammonia) in DOT Specification 105A500ALW and 106A500ALW tank cars. (Mode 2.)
8756–N	DOT–E 8756	Trailmobile Inc., North Kansas City, MO	49 CFR 173.119(m), 173.245(a), 173.346(a), 176.342–5, 176.343–5.	To manufacture, mark and sell non-DOT specification cargo tanks complying generally with DOT Specification MC-307/312 except for bottom outlet valve variations for transportation of flammable, corrosive or poisonous waste liquid or semi-solids. (Modes 1.)
8757–N	DOT–E 8757	Y–Z Industries, Inc., Snyder, TX	49 CFR 173.302(a)(1), 173.304(a)(1), 173.304(b)(1), 175.3.	To manufacture, mark and sell non-DOT specification stainless steel cylinders for shipment of compressed gases. (Modes 1, 4.)

Emergency Exemptions

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 8616–P	DOT–E 8616	South Central Ak, Kenai, AK	49 CFR 172.101 column (6)(ix), 173.119(b)(3), 173.119(b), 175.30(a).	To become a party to Exemption 8616 (Mode 4.)
EE 8774–N	DOT–E 8774	Eastman Kodak Co., Rochester, NY	49 CFR 172.101(7)(c), 176.83(b) Table E.	To authorize exception to the segregation requirement for glacial acetic acid in DOT–12B fiberboard boxes with an inside 84 oz. plastic bottle of glacial acid packed with an 84 oz. plastic bottle of aluminum sulfate solution, and a noncombustible dry chemical stowed aboard cargo vessel. (Mode 3.)
EE 8775–N	DOT–E8775	Osmose Wood Preserving Co., Buffalo, NY.	49 CFR 173.355(b)(6)	To authorize import shipments of arsenic trioxide in metal drums with a maximum capacity and gross weight which exceeds that presently authorized. (Modes 1, 2.)

EMERGENCY EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 8776-N	DOT-E 8776	Arrow Airways, Inc., Miami, FL	49 CFR 172.101(8)(b), 175.30	To authorize the transportation of military ammunition, Class A, B and C explosives, not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)

Denials

7060-P Request by Econo-Flight, Incorporated, Hillsboro, OR to authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met denied January 28, 1982.

8341-X Request by Pacific Coast Drum Company, South El Monte, CA to authorize the conversion of a non-DOT specification 55-gallon steel drum to an open-head, DOT Specification 17H drum for the transportation of certain hazardous materials denied January 4, 1982.

8342-X Request by Great Lakes Container Corporation, Southfield, MI to authorize the conversion of a non-DOT specification 55-gallon steel drum to an open-head DOT specification 17H drum for transportation of certain hazardous materials denied January 4, 1982.

8456-N Request by Orval Tank Containers, Paris, France to authorize shipment of various nonflammable and flammable compressed gases in a non-DOT specification IMCO type V portable tank denied January 25, 1982.

8724-N Request by Stauffer Chemical Company, Westport, CT to authorize four shipments of non-DOT specification pressure vessels lined with refractory bricks contaminated with a minute quantity of carbon disulfide, classed as a flammable solid, n.o.s., to a disposal sight denied January 18, 1982.

Issued in Washington, DC, on February 25, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-5677 Filed 3-3-82; 8:45 am]

BILLING CODE 4910-60-M

Urban Mass Transportation Administration

[Docket No. 82-A]

Rolling Stock Procurement: Additional Statutory Requirements and Program Guidelines: Correction

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice and request for comments; Correction.

SUMMARY: This document corrects errors in the Notice entitled Rolling Stock Procurement: Additional Statutory Requirements and Program Guidelines, which was published February 18, 1982 [47 FR 7361].

Corrections: The following corrections are made in FR Doc. 82-4423 appearing on page 7361 in the issue of February 18, 1982:

1. On page 7362, column one, second to last paragraph, fifth line, "shall only by awarded after an evaluation of" is corrected to read "shall only be awarded after an evaluation of".

2. On page 7362, column one, last sentence, "Whenever requested by a grantee, UMTA will assist the grantee in developing the procedure during the process once it is in place, but not conducting an evaluation consistent with both the Act and OMB requirements" is corrected to read "Whenever requested by a grantee, UMTA will assist the grantee in developing a procedure to evaluate performance, standardization and life-cycle costs. However, once the procedure is in place, UMTA will not be involved in the actual evaluation process."

3. On page 7362, column three, beginning with the second full paragraph, fifth line through twentieth line, "three areas: (a) Suggestions regarding improvement of existing methods of implementing this statutory requirement; (b) suggested alternative methods of implementing the requirement which are discussed in this Notice; (c) identification of major or significant operating cost; (d) identification of major or significant standardization; (e) identification of major or significant life-cycle cost factors; and (f) identification of other potentially significant factors to be considered in the procurement decision process. With respect to the latter area, please note Exhibit 1, which is a sample list of operative cost factors" is corrected to read "the following areas: (a) Suggestions regarding improvement of existing methods of implementing this statutory requirement; (b) suggested alternative methods of implementing the requirement which are discussed in this Notice; (c) identification of major or significant operating cost factors that affect the life-cycle cost of the rolling stock; (d) identification of major or significant standardization factors; (e) identification of major or significant performance factors; and (f) identification of other potentially significant factors to be considered in the procurement decision process. With respect to item (c) above, please note Exhibit 1, which is a sample list of operating cost factors".

Issued on March 1, 1982.

Arthur E. Teele, Jr.,

Administrator.

[FR Doc. 82-5676 Filed 3-3-82; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Print Advisory Panel; Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of closed meeting of Art Print Advisory Panel.

SUMMARY: A closed meeting of the Art Print Advisory Panel will be held in Washington, D.C.

DATE: The meeting will be held April 15, 1982.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, T:C:E:V, 1111 Constitution Avenue, N.W., Room 5545, Washington, D.C. 20224, Telephone No. (202) 566-4196, (not a toll free number).

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. (1976), that a closed meeting of the Art Print Advisory Panel will be held on April 15, 1982 beginning at 9:30 a.m. in Room 3313, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals and allocations of value of the assets in art print publishing ventures involved in federal income tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of section 6103 of Title 26 of the United States Code.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that these meetings are concerned with matters listed in section 552b(c)(3), (4), (6), and (7) of Title 5 of the United States Code, and that the meetings will not be open to the public.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978. (43 FR 52122.)

Roscoe L. Egger,

Commissioner.

[FR Doc. 82-5680 Filed 3-3-82; 8:45 am]

BILLING CODE 4830-01-M

Office of the Secretary

National Productivity Advisory Committee; Meeting

February 25, 1982.

The Subcommittee on Capital Investment of the National Productivity Advisory Committee will hold a breakfast meeting at 8:00 a.m. on March 29 in the Conference Room on the 45th floor of the W. R. Grace Building, 43 West 42nd Street, New York, New York.

The purpose of the meeting will be to discuss ways of increasing productivity growth through capital investment.

Roger B. Porter,

Executive Secretary, National Productivity Advisory Committee.

[FR Doc. 82-5681 Filed 3-3-82; 8:45 am]

BILLING CODE 4810-25-M

National Productivity Advisory Committee; Meeting

February 25, 1982.

The Subcommittee on Human Resources of the National Productivity Advisory Committee will meet at 2:00 p.m. on March 15, 1982, in Room 3424, Main Treasury Building, 15th and Pennsylvania Avenue, NW, Washington, D.C.

The purpose of the meeting will be to discuss ways of increasing productivity growth through better use of human resources.

Roger B. Porter,

Executive Secretary, National Productivity Advisory Committee.

[FR Doc. 82-5682 Filed 3-3-82; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF THE TREASURY, OFFICE OF THE SECRETARY

[Public Debt Series—No. 6-82]

Supplement to Department Circular; Public Debt Series

February 25, 1982.

The Secretary announced on February 25, 1982, that the interest rate on the notes designated Series E-1987, described in Department Circular—Public Debt Series—No. 6-82 dated February 17, 1982, will be 14 percent. Interest on the notes will be payable at the rate of 14 percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the departmental procedures applicable to such regulations.

[FR Doc. 82-5678 Filed 3-3-82; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 47 No. 43
Thursday, March 4, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, March 9, 1982.

PLACE: Commission Conference Room 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: Open to the public:

1. Ratification of Notation Vote: Approval of 16th Annual Report.
2. Freedom of Information Act Appeal No. 81–12–FOIA–39–SL, concerning internal memoranda, personnel files and financial information from closed ADEA charge files.
3. Freedom of Information Act Appeal No. 81–12–FOIA–074–MK, concerning access to withheld portions of an investigative file.
4. Freedom of Information Act Appeal No. 81–12–FOIA–58 through 67–NO, concerning several documents from 10 charge files.
5. Proposed Section 612 of the Compliance Manual: Discharge and Discipline.
6. Proposed Adoption of Privacy Act Systems of records, EEOC–1.
7. Report on Commission Operations by the Executive Director.

Closed:

Litigation Authorization: General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Officer, Executive Secretariat, at (202) 634–6748.

This Notice Issued March 2, 1982.

[S 331-82 Filed 3-2-82; 1:59 pm]

BILLING CODE 6570-06-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, March 1, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Eldorado Bank, Tustin, California, for consent to merge, under its charter and title, with Bank of Indio, Indio, California, and to establish the two offices of Bank of Indio as branches of the resultant bank.

Application of State Bank of Slinger, Slinger, Wisconsin, for consent to consolidate, under its charter and title, with Bank of Jackson, Jackson, Wisconsin, and to establish the sole office of Bank of Jackson as a branch of the resultant bank.

Memorandum and Resolution re: Amendment to Part 303 of the Corporation's rules and regulations, entitled "Applications, Requests, Submittals, and Notices of Acquisition of Control," which would delegate authority to the Board of Review to act on requests for relief from reimbursement for certain violations of the Truth in Lending Act.

Memorandum and Resolution re: Proposed amendment to Part 337 of the Corporation's rules and regulations, entitled "Unsafe or Unsound Banking Practices," which would require insured State nonmember banks to maintain their books and records of account on the accrual basis of accounting.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: March 1, 1982.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[S-329-82 Filed 3-3-82; 11:38 am]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, March 1, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of South Chicago Savings Bank, Chicago, Illinois, for consent to establish a remote service facility in the lobby of the South Chicago Community Hospital at 2320 East 93rd Street, Chicago, Illinois.

Applications of The Howard Savings Bank, Newark, New Jersey, for consent to establish two branches at the following locations: the northwest corner of Bay Avenue and Hooper Avenue, Dover Township, New Jersey; and at 78 Allendale Avenue, Borough of Allendale, New Jersey.

Recommendation regarding the Corporation's assistance agreements with an insured bank pursuant to section 13(c) of the Federal Deposit Insurance Act.

Resolution making funds available for the payment of insured deposits in The Bank of Woodson, Woodson, Texas, which was closed by the Banking Commissioner of the State of Texas at 9:00 a.m. (CST) on Monday, March 1, 1982.

Memorandum re: Estimated Remodeling Costs (two memorandums).

Memorandum re: Deferral of losses on asset sales.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: March 1, 1982.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[S-330-82 Filed 3-3-82; 11:38 am]

BILLING CODE 6714-01-M

4

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, March 9, 1982 at 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Wednesday, March 10, 1982 at 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C..

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Continuation of executive session of March 9, 1982, if necessary.

* * * * *

DATE AND TIME: THURSDAY, MARCH 11, 1982 AT 10 A.M.

PLACE: 1325 K Street, NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Advisory opinions
Draft AO 1981–56: John J. Duffy, Satellite Business Systems (Continued from February 25, 1982 meeting)
Draft AO 1982–3: Allyn O. Kreps, Chairperson, Cranston Advisory Committee
Proposed revision of 11 CFR 114.3 and 114.4
Appropriations and budget
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; Telephone: 202–523–4065.

Marjorie W. Emmons,
Secretary of the Commission.

[S-333-82 Filed 3-3-82; 3:24 pm]

BILLING CODE 6715-01-M

5

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 8725, Monday, March 1, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Thursday, March 4, 1982.

PLACE: Board Room, sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6679).

CHANGES IN THE MEETING: The following item has been added to the open portion of the Bank Board Meeting.

Amendment of Regulations regarding Charter Conversion for Supervisory Purposes.

No. 15, March 2, 1982.

[S 333-82 Filed 3-3-82; 9:21 pm]

BILLING CODE 6720-01-M

6

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., March 10, 1982.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agreement No. 10128–4: Modification of the Florida-Curacao, Aruba & Bonaire Rate Agreement to extend its coverage to all member lines' services and to effect various administrative changes.
2. Notice of proposed rulemaking: Discontinuance of Commission General Order 29—Regulations Governing the Level of Military Rates.

Portion closed to the public:

1. Docket No. 71–23: Baton Rouge Marine Contractors, Inc. v. Cargill, Inc.—Proceedings on Remand.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S-327-82 Filed 3-3-82; 11:27 am]

BILLING CODE 6730-01-M

7

FEDERAL RESERVE SYSTEM

Board of Governors

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 8448, Friday, February 26, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, March 3, 1982.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting:

Proposal by a bank holding company to issue notes.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: March 2, 1982.

James McAfee,
Assistant Secretary of the Board.

[S 334-82 Filed 3-3-82; 3:01 pm]

BILLING CODE 6210-01-M

8

NUCLEAR REGULATORY COMMISSION

DATE: Week of March 1, 1982 (revised) and week of March 8, 1982.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

Monday, March 1:

2:00 p.m.:
Discussion of Clinch River Breeder Reactor (Open/Portions may be closed) (as announced)

Thursday, March 4:

10:00 a.m.:
Briefing and Possible Vote on Staff Recommendations on Diablo Canyon Program Plan and Independence of Audit (public meeting) (as announced)
2:00 p.m.:
Briefing on Draft Final Rule Requiring Documentation of Deviations from the Revised Standard Review Plan (public meeting) (approximately 2 hours) (as announced)
4:00 p.m.:
Affirmation/Discussion Session (public meeting) (items revised) Items to be affirmed and/or discussed:
a. Export and Import of Nuclear Equipment and Materials: Proposed Amendments to NRC's Regulations (postponed from February 25)
b. Proposed Rule Change on Technical Specifications
c. Final Rule for Eliminating Need for Power and Alternative Energy Sources as Issues in OL Proceedings (postponed from February 25)
d. Request for Directed Certification of ASLB Order in Diablo Canyon Proceeding

Monday, March 8:

2:00 p.m.:
Briefing by DOE on Proposals for Nuclear Regulatory Reform (closed meeting)

Tuesday, March 9:

10:00 a.m.:
Briefing on Status of Pressurized Thermal Shock Issue (public meeting)
2:30 p.m.:
Briefing by AIF and EPRI on Pressurized Thermal Shock (public meeting)

Wednesday, March 10:

10:00 a.m.:
Discussion of TMI–1 Restart Proceeding (closed meeting)
3:00 p.m.:
Discussion of Waste Confidence Proceeding (closed meeting)

Thursday, March 11:

3:00 p.m.:
Affirmation/Discussion Session (public meeting) Items to be affirmed and/or discussed:
a. Final Rule (1) to Eliminate Requirements with Respect to Financial Qualifications for Power Reactor Applicants, and (2) to Require Power Reactor Licensees to Maintain Property Damage Insurance (postponed from March 4)
b. Pacific Gas & Electric Co.'s Notice of Prematurity and Advice of Withdrawal in Stanislaus (Antitrust)
c. Review of ALAB–663—In the Matter of Pacific Gas and Electric Co.

ADDITIONAL INFORMATION: By a vote of 4–0, Commissioner Ahearne not present, on February 25, 1982, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules, that Commission business required that affirmation of Petition for Reconsideration and Request for Immediate Suspension of New Safeguards Information Regulations Implementing Section 147, held that day, be held on less than one week's notice to the public.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634–1410.

Walter Magee,
Office of the Secretary.

[S-324-82 Filed 3-1-82; 4:45 pm]
BILLING CODE 7590-01-M

9

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of March 8, 1982, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, March 9, 1982, at 9:30 a.m. An open meeting will be held on Wednesday, March 10, 1982, at 9:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402(a) (4), (8), (9)(i), and (10).

Chairman Shad and Commissioners Loomis, Evans, Thomas and Longstreth voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, March 9, 1982, at 9:30 a.m., will be:

Settlement of administrative proceedings of an enforcement nature.
Formal orders of investigation.
Access to investigate files by Federal, State, or Self-Regulatory authorities.
Litigation matters.
Institution of injunctive action.
Freedom of information appeal
Institution of administrative proceedings of an enforcement nature.

The subject matter of the open meeting scheduled for Wednesday, March 10, 1982, at 9:00 a.m., will be:

1. Consideration of whether to adopt rule 15b2–2, under the Securities Exchange Act of 1934, which would authorize and direct self-regulatory organizations to conduct an inspection of every new broker-dealer member within six months of the member's registration with the Commission. For further information, please contact Robert A. Love at (202) 272–2781.

2. Consideration of a draft release announcing the withdrawal from public comment of proposed Rule 238 under the Securities Act and proposed Rules 9b–2, 9b–3 and 9b–4 (A) and (B) under the Exchange Act. For further information, please contact Eugene B. Livaudais at (202) 272–2411.

3. Consideration of Freedom of Information Act appeal of Timonthy Dawson. Mr. Dawson requested access to information from a closed investigation file regarding Independence Drilling Corporation. For further information, please contact Alex White at (202) 272–2444.

4. Consideration of whether to grant the General Counsel, pursuant to 15 U.S.C. 78d–1, certain authority with respect to *amicus curiae* participation in cases involving issues designated by the Commission as appropriate for the exercise of delegated authority. For further information, please contact David A. Sirignano at (202) 272–2493.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jerry Marlatt at (202) 272–2092.

March 1, 1982.

[S-325-82 Filed 3-2-82; 10:59 am]
BILLING CODE 8010-01-M

10

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

STATUS: Open/closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, February 22, 1982.

CHANGES IN THE MEETING: Deletion/additional items. The following items will not be considered at an open meeting scheduled for Wednesday, March 3, 1982, at 10:00 a.m.

1. Consideration of an application of Marvin S. Bernstein for relief from disqualification imposed in connection with administrative proceeding. For further information, please contact Robert Anderson at (202) 272–2916.

2. Considerations of whether to amend 17 CFR 201.22(e), 230.403(a), 240.12b–12(a) and (b), 250.22(d), 260.7a–12, 270.8b–12(a) and (b), and 275.04(b), to require the use of 8½ x 11 inch paper for all statements, applications, reports, documents and amendments thereto filed with the Commission. For further information, please contact Douglas J. Schedit at (202) 272–2434.

The following additional item will be considered at a closed meeting scheduled for Thursday, March 4, 1982, at 10:00 a.m.

Regulatory matter regarding financial institution.

Chairman Shad and Commissioners Loomis, Evans, Thomas and Longstreth determined by vote that Commission business required consideration of these matters and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Diane Klinke at (202) 272–2178.

March 1, 1982.

[S 326-82 Filed 3-2-82; 10:00 am]
BILLING CODE 8010-01-M

11

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

TIME AND DATE: 8 a.m., March 12, 1982.

PLACE: Uniformed Services University of the Health Sciences, Room D3–001, 4301 Jones Bridge Road, Bethesda, Maryland 20014.

STATUS: Part of the meeting will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: 8:00 a.m., Meeting, Board of Regents. Open to the Public:

(1) Approval of Minutes, 11 December 1981; (2) Faculty Appointments; (3) Report—Admissions; (4) Report—Associate Dean for Operations; (5) Report—Chairman, Board of Regents; (6) Report—President, USUHS—(a) Change in Procedures and Delegations, (b) Sabbatical Policy, (c) Liaison Committee on Medical Education (LCME) Report, (d) Special Student, (e) Associate Dean, Academic Affairs, (f) Graduation Plans, (g) Recommendation for Awards.

Closed to the Public:

(6) Report—President, USUHS—(h) Consideration of Personnel Matters.
New Business.
Scheduled meetings: May 22, 1982.

CONTACT PERSON FOR MORE INFORMATION: Frank Reynolds, Executive Secretary of the Board; 202/295–3025.

GENERAL COUNSEL CERTIFICATION: I certify that the portion of this meeting for discussion of personnel matters be closed to the public under 5 U.S.C. 552b(c)(6) and 32 CFR 242a.4(f), and that the meeting may be closed to public observation.

Dated: March 1, 1982.

M. S. Healy,
OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[S-328-82 Filed 3-3-82; 11:30 am]
BILLING CODE 3810-01-M

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federal register

Thursday
March 4, 1982

Part II

Environmental Protection Agency

Hazardous Waste Management System: General, Standards for Generators of Hazardous Waste, State Hazardous Waste Program Requirement.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 123, 260 and 262

[SWH—FRL 1967–4]

Hazardous Waste Management System: General, Standards for Generators of Hazardous Waste, State Hazardous Waste Program Requirements.

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Today, in a joint rulemaking effort, the Environmental Protection Agency (EPA) and the Department of Transportation (DOT) are publishing a draft Uniform Hazardous Waste Manifest form and proposing its required use by generators for the interstate and intrastate transportation of hazardous waste. A manifest form is a control and transport document that travels with the waste from its point of generation to its point of disposal. EPA's Resource Conservation and Recovery Act (RCRA) regulations presently require generators who transport, or offer for transportation, hazardous waste for offsite treatment, storage or disposal to prepare a manifest which must accompany the waste. Although the regulations specify certain required information that must appear on the manifest, there are no requirements for a standard form to be used.

Since the RCRA regulations became effective, numerous States have developed their own manifest forms which meet Federal requirements but require additional State information. These differing manifest requirements among States have resulted in confusion and compliance difficulties for the transport of hazardous waste. EPA and DOT are proposing to resolve these difficulties through a joint rulemaking effort. EPA, in this rulemaking action, is proposing to amend its regulations to require the use of a specific manifest form. DOT, in a companion action, is proposing to amend its Hazardous Materials Regulations to require that shippers and carriers of hazardous waste comply with EPA proposed amendments pertaining to the proposed manifest and to clarify that, whether a State has interim or final authorization by EPA, any requirement of a State or polititcal subdivision of a State specifying a different or additional manifest is inconsistent with the Hazardous Materials Regulations. DOT's proposal appears in a separate section of today's Federal Register.

DATES: EPA will accept comments on the proposed rule on or before May 3, 1982.

ADDRESS: Comments should be sent to the Docket Clerk (Docket 3002—Uniform Manifest), Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

The official docket for this proposed rule is located in Room 2836 U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., and is available for viewing from 9:00 am to 4:00 pm, Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Rolf P. Hill or Mary McCaffery, (202)–755–9150, Office of Solid Waste (WH–563), U.S. Environmental Protection Agency, Washington, D.C. 20460 or the RCRA Hotline at (800)–424–9346 (in Washington, D.C. call 544–1404).

SUPPLEMENTARY INFORMATION:

I. Authority

This proposed rule is issued under the authority of sections 2002, 3001 through 3007, and 3010 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6912, 6921 through 6927, 6930.

II. Background Information

A. History of the Manifest. On February 26, 1980, EPA established a manifest system to assure that hazardous waste designated for delivery to an offsite treatment, storage or disposal facility actually reached its destination. The central element of that system is the "manifest", a control and transport document that accompanies the waste from its point of generation to its point of destination.

Although EPA considered requiring a uniform manifest form when it developed its regulations, the Agency decided to require that specific information accompany the waste. (45 FR 12728–9, February 26, 1980) At that time, the regulated community was already required by the Department of Transportation to use a shipping paper for the transportation of hazardous materials. DOT's regulations allow industry to use a shipping paper format of their choosing for the required information.

The information requirements for the DOT shipping paper and the manifest were similar; thus, EPA concluded that a shipping paper could be used to satisfy RCRA manifest requirements if additional information required by EPA was included. By not requiring a specific form, EPA's intent was to provide the regulated community with the option of adapting their existing DOT shipping papers to function as manifests or designing their own forms to fulfill specific needs.

B. Manifest Implementation Problems. Since the introduction of the Federal manifest system, there has been a proliferation of manifests as various States decided to develop and print their own forms. At least 21 States require generators to use specific manifest forms, often with varying additional information requirements. The current system has caused two major problems.

First, the lack of uniformity in the manifests required by States has created a burden for both generators and transporters. Currently, a transporter carrying hazardous waste may be required to carry the manifest of each State in which he travels in order to comply with its manifest requirements. Failure to carry a particular State's manifest may delay or prevent shipments from reaching their destination or subject the transporter to a State enforcement action. Under these conditions, a generator may be required to go through the costly and inefficient procedure of filling out several manifest forms with duplicative information in order to ensure that the waste shipment reaches the designated facility.

Second, the lack of uniform requirements prevents generators with plants in more than one state from standardizing their manifesting procedures. This prevents multistate corporations from achieving efficiency in their information collection activities.

C. State and Industry Involvement. In order to examine the feasibility of developing a uniform manifest document to solve these problems, EPA and DOT asked two organizations representing the States and the regulated community to submit comments to EPA. The State group, the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) and the industry group, the Hazardous Materials Advisory Council (HMAC), each developed recommendations concerning the content and use of a uniform manifest and submitted them to EPA and DOT in March of 1981. EPA and DOT reviewed the recommendations, prepared a draft manifest form and met with the ASTSWMO and HMAC committees in July of 1981. During ASTSWMO's September, 1981 national meeting, its members reviewed the Uniform Hazardous Waste Manifest form and subsequently submitted further comments to EPA. A discussion of ASTSWMO's latest recommendations is included in Part IV.

D. EPA and DOT Joint Rulemaking. Since the current problems associated with the manifest involve both DOT and EPA, the Agencies have worked together to devise a regulatory solution. Therefore, several amendments are being proposed in this area.

EPA is proposing to amend 40 CFR Part 262 to require generators to use the Uniform Hazardous Waste Manifest form in order to meet manifest requirements. Amendments to 40 CFR Part 123 would make use of the form a requirement for State interim and final authorization. DOT is proposing to amend its regulations to require that transporters of hazardous waste comply with EPA's proposed amendments and to clarify that any State law or regulation requiring a different or additional manifest is inconsistent with DOT's Hazardous Materials Regulations.

The effect of these amendments is twofold. First, the use of a nationally uniform manifest would be required for all offsite transport of hazardous waste. Secondly, no State could require a transporter to carry additional information on or with the manifest. Thus a transporter could not be held legally liable for failure to carry a State's particular manifest form.

Neither the EPA nor DOT proposed amendments would prohibit a State from requiring additional information concerning each shipment of hazardous waste from the generator or treatment, storage or disposal facility. For example, a State may require that certain disposal related data be present at the facility before the facility accepts the waste. The proposed amendments do not preclude the transporter from voluntarily carrying such information but do prohibit any State from requiring him to do so.

This regulatory approach is authorized by the Hazadous Materials Transportation Act (HMTA), 49 USC 1801 *et. seq.*, and RCRA. HMTA expressly preempts any State or local requirement that is inconsistent with HMTA or the regulations issued thereunder. As stated in its preamble, DOT believes that national uniformity is necessary in this area to avoid a patchwork of differing State requirements inconsistent with the HMTA regulations. In addition, section 3006(b) of RCRA authorizes EPA to disapprove any State application for final authorization to administer and enforce the Federal hazardous waste program if a State program is inconsistent with the Federal or other State programs. As explained in the next section, EPA proposes to exercise the section 3006(b) authority in this area to require national consistency.

E. State Authorization under RCRA. EPA is proposing to charge the Part 123 State program requirements to require any State applying for Phase I or Phase II of interim authorization or final authorization to require the use of the Uniform Hazardous Waste Manifest form. The revised manifest requirement in § 123.34 will be applicable to all States applying for final authorization. The revised manifest requirements in § 123.128 will be applicable to any State which applies for any component of Phase II of interim authorization which is announced after the effective date of today's amendments (see 40 CFR 123.122(d)(2)). These changes will assure that a uniform format is used for manifest information, that State programs will be in compliance with DOT regulations and that, in the case of final authorization, the consistency requirements in 3006(b) of RCRA are met.

The DOT preemption regulations operate independently of RCRA and apply to all States, whether or not they have received interim or final authorization. Thus, DOT's broader preemptive authority will extend to all authorized States and will ensure a comprehensive solution to the manifest problem.

F. Implementation Dates. EPA and DOT are proposing common effective dates for the proposed amendments. Since DOT regulations apply independently of RCRA regulation, coordination is necessary for consistent implementation of the uniform national manifest.

After considering the alternative of phasing in the use of the uniform manifest form, EPA and DOT have chosen to require a uniform effective date. This approach was selected in order to avoid confusion concerning the compliance date. Use of the form will be required for all transportation of hazardous waste 180 days after the publication of the final rule. This effective date was chosen in order to provide quick relief from the current situation and also to provide States and industry with time to implement the use of the new form.

EPA has received comments requesting that the effective date allow the States time to update their data management systems with a minimum of disruption to their current operating procedures. The Agency solicits comments from both States and industry on whether the proposed effective date allows sufficient time to implement the form.

As stated in a previous section, DOT requirements would apply to all hazardous wastes transportation in States with and without interim authorization. Accordingly, all State manifests will be subject to Federal preemption at the time DOT's amendments become effective.

III. The Uniform Hazardous Waste Manifest

EPA, with DOT's agreement, proposes the Uniform Hazardous Waste manifest with the following features:

Form Design. EPA incorporated ideas from several existing State and industry manifest forms in order to design a uniform manifest that would satisfy the majority of users. The form itself is the standard paper size of 8½" by 11" to allow for easy filing. The form was also designed to facilitate the processing of data from it into automated data processing systems. Therefore, all the information which would be entered by a data machine operator was placed on the right hand side of the form. The left hand margin indicates what information is filled in by the generator, transporter, and the designated facility. The form also contains three inches of horizontal space for listing the proper DOT shipping name.

The manifest document is designed to contain an optional continuation sheet (EPA form 8700–22A) on which the generator may list both additional hazardous wastes and transporters. This eliminates the need for industries, notably laboratories with many different waste streams, to fill out multiple separate manifests for one shipment.

Instructions for filling out the Uniform Hazardous Waste Manifest are included in today's Federal Register. While the instructions are required to be followed, EPA is not mandating that they be included with the form. Additional special instructions or emergency information may be printed outside the margin or on the back of the form at the user's discretion.

Information Requirments. In developing the Uniform Hazardous Waste Manifest, EPA has transferred its existing information requirements onto a standard form. EPA has not increased its requirements except for one minor item: the inclusion of the treatment, storage and disposal facility's telephone number. The Agency believes that the inclusion of the phone number will aid the transporter in contacting the facility in the event of an emergency or delay.

Two existing information requirements, the manifest document number and the EPA assigned generator identification number have been

combined to form a unique manifest document number. This manifest document number will allow each generator to manifest up to 100,000 shipments before repeating a number. Because every generator has a separate EPA ID number, each document number will be unique and therefore easily identifiable within the hazardous waste management system. Further, the newly defined manifest document number reemphasizes the Agency's belief that the generator should assign the number for each shipment of waste.

The proposed form contains two optional spaces. The first is the hazardous waste number space in which the EPA or State hazardous waste identification number can be filled in. This is not an information requirement. Rather, it is a convenient feature of the form to aid the States and industry in their recordkeeping tasks. The second optional space is entitled "Special Handling Instructions." The generator may use this space to record extra instructions, comments, or an alternate designated facility's address in the event an emergency prevents delivery to the primary designated facility.

A third optional space for the vehicle identification number is being considered. During the drafting of the uniform manifest, EPA and DOT debated whether or not to include the vehicle identification number as a Federal information requirement. It was decided not to include that requirement in this proposal for practical reasons. During the transport of one hazardous waste load, several vehicles may be used if shipments are consolidated or the equipment fails. The generator, who is responsible for filling out the manifest, may be unaware of these possible changes and therefore could not be reasonably expected to provide such information on the manifest. For this reason the vehicle identification number is not being proposed as a Federal information requirement. DOT and EPA would appreciate comments on whether or not to include an optional space for the vehicle ID number on the form.

The Agency has also included a manifest discrepancy indication space on the form. EPA regulations require owners or operators of facilities to note on each copy of the manifest any significant discrepancies between the quantity or type of hazardous waste designated on the manifest and the quantity or type of hazardous waste a facility actually receive (40 CFR 264.72, 265.72). When recording significant discrepancies on the Uniform Hazardous Waste Manifest, the TSDF owner or operator will be required to use the discrepancy indication space.

Form printing and number of copies. The Federal government will not print or distribute uniform manifest forms. Generators may print their own forms or obtain them from commercial form design companies and, in this way, retain the flexibility of selecting manifest package that fit their needs.

For example, a generator may decide to vary the number of copies in a manifest package depending upon where he ships his waste. EPA requires that the manifest consist of two copies for the generator, one for each transporter and one for the designated facility. In addition to the EPA requirement, some States mandate that a manifest copy be sent to them at the initiation and completion of each shipment. In order to easily comply with the State requirement, the generator can obtain a manifest package that includes the number of copies to fulfill the Federal requirement plus additional copies for the State. Or the generator may decide to photocopy legible copies to satisfy tracking requirements.

IV. Request for Additional Modifications by States

As explained in section II C, the draft uniform manifest was reviewed by ASTSWMO's Hazardous Waste Task Group during its September 1981 national meeting. The Task Group supported the form's information requirements and format but recommended that it be modified to suit the broader needs of the various State manifest systems.

ASTSWMO requested that EPA include these latest recommendations of its Task Group in this preamble. EPA is aware of the concerns of the States and is taking this opportunity to obtain comments on the various State recommendations in the hope of designing a manifest form that fits the needs of all its users.

The recommendations advocate that EPA allow the inclusion of additional State information on the form, modify its design to allow for a larger special handling instruction box, and eliminate the continuation sheet. In addition, the issue of State printing and distribution of the uniform manifest form was raised.

Additional State Information. The States have the authority to request information from treatment, storage or disposal facilities and generators. Some States, through ASTSWMO, have indicated that they desire information concerning each hazardous waste shipment beyond that required on the manifest. The amendments proposed by EPA and DOT would prohibit States from requiring additional information to be carried with the waste. However, it is within a State's authority to require that such information be present at the designated facility as a condition of acceptance of the waste. Some States have indicated that they will require such a condition in order to obtain this information.

Therefore, rather than require the generator to fill out both a manifest and a State form, the States are proposing that the uniform manifest be redesigned to contain optional spaces for the inclusion of State information. ASTSWMO's recommendations include the following:

- Add spaces for State identification numbers under the designated EPA identification number spaces for generators, transporter and treatment, storage and disposal facilities.
- Add a space within the Descrepancy Indication box for the recording of codes which indicate the treatment, storage or disposal processes utilized in handling the hazardous waste.
- Modify the design of the form to allow both the weight *and* volume of the waste to be easily recorded. Current Federal regulations only require the weight or volume to be listed.

The Agency recognizes the need on the part of the States to obtain certain information for the efficient management of their hazardous waste programs. The adoption of ASTSWMO's suggestion could benefit industry by providing the opportunity of meeting all Federal and State requirements on one form. However, EPA believes that the addition of State information spaces would complicate the form making it more difficult for the generator to comply with Federal manifest requirements. Generators would once again be subject to dealing with varying information requirements since individual States would require different information be filled in as a condition of acceptance of the waste at the facility.

The purpose of the Uniform Hazardous Waste Manifest form is to ease the regulatory burden on generators and transporters by providing a uniform format for information necessary for the transportation of hazardous waste. In designing the form, the Agency has striven for uniformity but is well aware of the advantages of a more flexible form which contains optional spaces. In order to design a form that best suits the needs of its users, the Agency invites comments on the preferability of a strictly uniform manifest form (i.e., no optional spaces included) or form that could contain additional State information.

Special Handling Instructions box. In order to provide room for State information, ASTSWMO suggested reducing the number of waste listing spaces on the manifest from six to four. This additional space could then be used to maximize the area of the Special Handling Instructions box. The Agency solicits comments on whether four spaces are sufficient to list the majority of hazardous waste shipments on one manifest and if the need exists to maximize the area on the Special Handling Instructions box.

Elimination of the Continuation Sheet. The States also indicated that the addition of a continuation sheet to the manifest will significantly complicate their data management systems. As noted above, the primary reason for the inclusion of a continuation sheet was to eliminate the need for generators, notably laboratories with many different waste streams, to fill out multiple manifests for one shipment. In its latest series of recommendations, ASTSWMO has advocated that the Department of Transportation create classification codes for various groups of laboratory waste streams, thereby eliminating the need for a continuation sheet. Creation of such codes would require rulemaking action on the part of DOT. EPA believes that the continuation sheet is a necessary component of the uniform manifest form in the absence of such rulemaking. Comments concerning classification codes for laboratory waste should be addressed to DOT.

State Printing and Distribution of Manifest Forms. A final ASTSWMO recommendation advocates the expansion of the top margin of the uniform manifest form to provide room for States to print their names and State assigned document number. Further, some States have indicated a preference to print and distribute the manifest forms because it allows them to print their own emergency instructions. In addition, ASTSWMO assets that State document numbers are necessary for the effective use of any automated State manifest tracking system.

EPA and DOT are concerned that the implementation of this recommendation could result in situations in which the generator may be required to fill out multiple manifests for one shipment. A generator shipping his waste interstate could be required by his State to use its printed manifest form and also be required to use the destination State's form as a condition of acceptance of the waste by the TSD facility. This type of interference with the transport of hazardous waste is what the uniform manifest form was designated to prevent. Comments on the desirability of State printing and distribution of forms are requested.

V. Classification

EPA has determined that today's proposed rule will not result in: an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States based enterprises to compete in domestic or export markets. Today's action is expected to reduce the current burden on the regulated community. Therefore, today's proposed rule is not subject to the major rule provision of the Executive Order 12291 and a regulatory impact analysis is not required.

The Uniform Hazardous Waste Manifest is subject to the OMB clearance requirements of the Paperwork Reduction Act of 1980. The Agency has already received clearance for the information requirements of the manifest system. If, on the basis of comment, the Agency revises the form to include additional information requirements that would increase the information burden of the regulatory community, the form will be resubmitted to OMB for clearance.

Furthermore, this proposed rule, if adopted, would not have a significant impact on a substantial number of small entities, thereby triggering the requirements of the Regulatory Flexibility Act. The required use of a Uniform Hazardous Waste Manifest will reduce the burden faced by regulated hazardous waste generators and transporters, including small businesses as defined by that Act. Since the cost to industry due to the manifest form is realized largely in terms of labor costs and labor is a large percentage of small business's cost, the uniform manifest should provide small businesses with significant relief. Accordingly, I certify pursuant to 5 U.S.C. § 601 *et seq.* that the proposal, if promulgated, will not have a significant economic impact on small entities.

This proposal regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any written comments from OMB to EPA and any EPA response to those comments are available for public inspection at the Office of Solid Waste Docket, Room 2636, U.S. EPA, M St. SW, Washington, D.C. 20460.

VI. Request for Comment

EPA invites comments on all aspects of the proposed rule and all the issues discussed in the preamble. All comments should be addressed to the Docket Clerk (see Addresses above) and should contain specific documentation in their support.

Dated: February 23, 1982.

Anne M. Gorsuch,

Administrator.

Title 40 of the Code of Federal Regulations is amended as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM; GENERAL

1. The authority citation for Part 260 reads as follows:

Authority: Secs. 1006, 2002(a), 3001 through 3007, 3010, and 7004, of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921 through 6927, 6930, 6974].

§ 260.10 [Amended]

2. Section CFR 260.10 is amended by revising the following definitions to read as follows:

§ 260.10 Definitions.

* * * * *

"Manifest"—means the shipping document EPA form 8700–22, and, if necessary, EPA form 8700–22A, originated and signed by the generator in accordance with the instructions included in Part 262, Subpart B, Appendix II of this Chapter.

"Manifest document number"—means the EPA identification number assigned to the generator plus a 5 digit sequentially increasing number assigned to the manifest by the generator for recording and reporting purposes.

* * * * *

PART 262—STANDARDS FOR GENERATORS OF HAZARDOUS WASTE

3. The authority citation for Part 262 reads as follows:

Authority: Secs. 2002(a), 3001, 3002, 3003, 3004 and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6912(a), 6921, 6922, 6923, 6924, 6925).

4. Section 262.20 is amended by revising paragraph (a) to read as follows:

§ 262.20 General requirements.

(a) A generator who transports or offers for transportation, hazardous waste for offsite treatment, storage or disposal must prepare a manifest on

EPA form 8700-22 and, if necessary, EPA form 8700-22A according to the instructions included in the Part 262, Subpart B, Appendix II of this Chapter.

• • • • •

§ 262.21 [Reserved]

5. 40 CFR 262 is amended by removing and reserving § 262.21.

6. Section 262.50 is amended by revising the introductory text of paragraph (b)(3) and the introductory text of paragraph (d) to read as follows:

§ 262.50 International shipments.

• • • • •

(b) • • •

(3) Meet the requirements under 262.20(a) for the manifest except that:

• • • • •

(d) When importing hazardous waste a person must meet all the requirements specified in 262.20(a) for the manifest except that:

7. Part 262 is amended by adding a new Appendix to read as follows:

Appendix—Uniform Hazardous Waste Manifest (EPA Forms 8700-22 and 8700-22A)

BILLING CODE 6560-50-M

UNIFORM HAZARDOUS WASTE MANIFEST

(Please print or type with ELITE type (12 characters per inch).

GSA NO. XXX
FORM APPROVED OMB NO. XXX

TO BE FILLED IN BY THE GENERATOR

GENERATOR NAME AND MAILING ADDRESS

AREA CODE/PHONE NUMBER

MANIFEST DOCUMENT NUMBER
EPA I.D. NUMBER

TRANSPORTER #1 — EPA I.D. NUMBER

TRANSPORTER #2 — EPA I.D. NUMBER

TREATMENT, STORAGE, OR DISPOSAL (TSD) FACILITY — EPA I.D. NUMBER

AREA CODE/PHONE NUMBER

PROPER U.S. D.O.T. SHIPPING NAME AND HAZARD CLASS	UN/NA NUMBER	TOTAL QUANTITY	UNIT WT/VOL	CONTAINER NO	CONTAINER TYPE	WASTE NO. (OPTIONAL)
DRAFT						

SPECIAL HANDLING INSTRUCTIONS . . .

This is to certify that the above-named materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation according to the applicable regulations of the Department of Transportation and the EPA.

PRINTED OR TYPED FULL NAME AND SIGNATURE — MO DAY YR

☐ CHECK IF CONTINUATION SHEET IS USED. NUMBER OF CONTINUATION SHEETS _____

TO BE FILLED IN BY TRANSPORTER

TRANSPORTER 1 ACKNOWLEDGEMENT OF RECEIPT OF ABOVE MATERIALS — DATE REC'D & ACCEPTED MO DAY YR

PRINTED OR TYPED FULL NAME AND SIGNATURE

TRANSPORTER 2 ACKNOWLEDGEMENT OF RECEIPT OF ABOVE MATERIALS — DATE REC'D & ACCEPTED MO DAY YR

PRINTED OR TYPED FULL NAME AND SIGNATURE

TO BE FILLED IN BY TSDF

DISCREPANCY INDICATION SPACE

Facility owner or operator: Certification of receipt of hazardous material covered by this manifest except as noted in the discrepancy indication space above — DATE REC'D & ACCEPTED MO DAY YR

PRINTED OR TYPED FULL NAME AND SIGNATURE

EPA FORM 8700-22 (8-81)

BILLING CODE 6560-50-C

Instructions for Generators (EPA Form: 8700–22)

Generator Name and Mailing Address

Enter your company's name and mailing address. Enter a telephone number where a knowledgeable person may be reached who can give information in response to an emergency.

Manifest Document Number

EPA ID Number

Enter your EPA ID number in the 12 spaces to the left of the vertical line. In the space to the right of this line, enter a five-digit sequentially increasing number of your choice.

Transporter #1

Enter the name and EPA ID Number of the company you will use to be the first transporter.

Transporter #2

If there is a second transporter enter the name and EPA ID Number of the company. Space for additional transporters is provided on the Continuation Sheet (EPA form 8700–22A)

Treatment, Storage or Disposal Facility

Enter the name, address, telephone number and EPA ID Number of the treatment, storage or disposal facility to which you are sending the waste.

Proper U.S. DOT Shipping Name and Hazard Class

Enter the proper DOT shipping name for the material. The U.S. DOT (Department of Transportation) regulations will help in completing this part. You can find these regulations in Title 49 of the *Code of Federal Regulations* (49 CFR Part 172).

UN/NA Number

Enter the *UN* (United Nations) or *NA* (North American) number for each waste according to Title 49 CFR Part 172.101.

Total Quantity and Unit

Enter the amount of each waste you are shipping, and the appropriate abbreviation from Table I below for either the weight *or* the volume of each waste you are shipping.

Table I

G=gallon
P=pound
T=ton
Y=cubic yard
L=liter
K=kilogram
N=metric ton
M=cubic meter

Container Number and Type

Enter the number of containers for each entry, and the appropriate abbreviation for the type of each container you are using from Table II below.

Table II

DM=Metal drums, barrels, kegs.
DW=Wooden drums, barrels, kegs.
DF=Fiberboard or plastic drums, barrels, kegs.
PT=Portable tanks.
CT=Cargo tanks (tank cars).
TC=Tank car.
CY=Cylinders.
CM=Metal boxes, cartons, cases.
CW=Wooden boxes, cartons, cases.
CF=Fiber or plastic boxes, cartons, cases.
BA=Bags made of burlap, cloth, paper, or plastic.

Waste No. (Optional)

For your own record keeping purposes, you may enter the Federal or State Hazardous Waste Number for each waste you are shipping. Additional space for Proper U.S. DOT Shipping Descriptions are available on the Continuation Sheet (EPA Form 8700–22A).

Special Handling Instructions

Enter any special handling instructions here. You may use this space to enter the name, address and telephone number of any alternate treatment, storage or disposal facility.

Certification Statement

Sign and type or print your full name. Enter the date you ship the waste (in the boxes to the right). If continuation sheets are required, indicate this by placing an "X" in the box. Then indicate the number of additional continuation sheets in the space provided.

Instructions for Transporters: (EPA Form 8700–22)

Transporter 1 Certification Statement

Sign and print or type your full name acknowledging that you received the materials described by the generator on the manifest. Enter the date of receipt in the boxes to the right.

Transporter 2 Certification Statement

Sign and print or type your full name acknowledging that you received the materials described on the manifest. Enter the date of receipt in the boxes to the right.

[Note.—Additional transporters are required to sign on the Continuation Sheet. (EPA Form 8700–22A). See Instructions for Continuation Sheet".]

Instructions for Owners or Operators of Treatment, Storage of Disposal Facilities: (EPA Form 8700–22)

Discrepancy Indication Space

Refer to 40 CFR 264.72 and 265.72 for help in completing this part. In this space you must note any significant discrepancy between the waste described on the manifest and the waste you actually received. If you cannot resolve significant discrepancy within 15 days of receiving the waste you must submit a letter to your EPA Regional Administrator describing the discrepancy and your attempts to reconcile it. A copy of the manifest at issue must be enclosed with the letter.

Certification Statement

Sign and type or print your full name next to your signature. Enter the date you accept the waste in the boxes to the right.

BILLING CODE 6560-50-M

UNIFORM HAZARDOUS WASTE MANIFEST

GSA NO. XXX
FORM APPROVED OMB NO. XXX

Please print or type with ELITE type (12 characters per inch).

CONTINUATION SHEET

THIS IS CONTINUATION SHEET____OF____.

MANIFEST DOCUMENT NUMBER
EPA I.D. NUMBER

TRANSPORTER #

EPA I.D. NUMBER

TRANSPORTER #

EPA I.D. NUMBER

TO BE FILLED IN BY THE GENERATOR

PROPER U.S. D.O.T. SHIPPING NAME AND HAZARD CLASS	UN/NA NUMBER	TOTAL QUANTITY	UNIT WT/VOL	CONTAINER NO	CONTAINER TYPE	WASTE NO. (OPTIONAL)
DRAFT						

TO BE FILLED IN BY TRANSPORTER

TRANSPORTER ACKNOWLEDGEMENT OF RECEIPT OF ABOVE MATERIALS

DATE REC'D & ACCEPTED
MO DAY YR

PRINTED OR TYPED FULL NAME AND SIGNATURE

TRANSPORTER ACKNOWLEDGEMENT OF RECEIPT OF ABOVE MATERIALS

DATE REC'D & ACCEPTED
MO DAY YR

PRINTED OR TYPED FULL NAME AND SIGNATURE

EPA FORM 8700-22A (3-81)
BILLING CODE 6560-50-C

Instructions for Continuation Sheet (EPA Form 8700-22A)

Instructions for Generator (EPA Form 8700-22A)

This is Continuation Sheet of .

Fill-in the spaces with the appropriate numbers.

Manifest Document Number

EPA ID Number

Enter the same number here that appears on the first page of the manifest (EPA Form 8700-22).

Transporter———

If, you require more than two transporters to complete the shipment of the hazardous waste described on this manifest, enter the name and EPA I.D. Number of each in the order in which they will transport the waste. Be sure to indicate in the space following the word "Transporter" their order of carriage of the waste. (e.g. 3rd 4th etc.)

Proper U.S. DOT Shipping Name and Hazard Class

If you require additional space to list the hazardous wastes described by this manifest, enter the appropriate information here. [See Instructions for Generators (EPA Form 8700-22).]

Instructions for Transporters (EPA Form 8700-22A)

Sign and print or type your full name in the appropriate space. For example, if your are the third transporter, put a "3" in the space following the word "transporter". With your signature you acknowledge that you received the materials described by the generator on the manifest. Enter the date of receipt in the boxes to the right.

PART 123—STATE HAZARDOUS WASTE PROGRAM REQUIREMENTS

8. The authority citation for Part 123 reads as follows:

Authority: Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.; Safe Drinking Water Act, 42 U.S.C. 300(f) et seq.; and Clean Water Act, 33 U.S.C. 1251 et seq.

9. Section 123.4 is amended by revising the text preceeding the note in paragraph (d) to read as follows:

§ 123.4 Program description.

* * * * *

(d) Copies of the permit form(s), application form(s) and reporting form(s) the State intends to employ in its program. Forms used by the States need not be identical to the forms used by EPA but should require the same basic information, except in two cases. State NPDES programs are required to use standard Discharge Monitoring Reports (DMR) and State RCRA programs must require the use of EPA manifest forms 8700-22 and 8700-22A. The State need not provide copies of uniform national forms it intends to use but should note its intention to use such forms. State section 404 application forms must include the information required by § 123.94 and State section 404 permit forms must include the information and conditions required by § 123.97.

* * * * *

10. Section 123.34 is amended by revising paragraph (f)(1) and removing paragraph (h) to read as follows:

§ 123.34 Requirements for generators of hazardous waste.

* * * * *

(f) * * *

(1) Use a manifest system that ensures that interstate and intrastate shipments of hazardous waste are designated for delivery, and, in the case of intrastate shipments, are delivered to facilities that are authorized to operate under an approved State program or the Federal program. The manifest system must include the required use of EPA manifest forms 8700-22 and 8700-22A. No other manifest form, shipping document, or additional information may be required by the State to travel with the shipment.

* * * * *

11. Section 123.124 is amended by revising paragraph (d) to read as follows:

§ 123.124 Program description.

* * * * *

(d) Copies of the forms that the State intends to use in its program. Except for the required use of EPA manifest forms 8700-22 and 8700-22A, forms used by the State need not be identical to the forms used by EPA but should require the same basic information. If the State chooses to use uniform national forms it should so note.

* * * * *

12. Section 123.128 is amended by revising paragraphs (b)(7)(i) and (c)(5) to read as follows:

§ 123.128 Program requirements for interim authorization for Phase 1.

* * * * *

(b) * * *

(7) * * *

(i) A generator who transports or offers for transportation, hazardous waste for offsite treatment or storage or disposal must prepare a manifest on EPA form 8700-22, and if necessary EPA form 8700-22A, in accordance with the instructions included in Part 262, Subpart B Appendix II of this chapter

* * * * *

(c) * * *

(5) The State program must require that transporters carry the manifest (prepared on EPA form 8700-22 and if necessary EPA form 8700-22A) with all shipments, except in the case of shipments by rail or water specified in 40 CFR § 263.20(e) and (f).

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federal register

Thursday
March 4, 1982

Part III

Department of Transportation

Research and Special Programs Administration

Hazardous Waste Manifest; Shipping Papers

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171 and 172

[Docket HM-145D; Notice No. 82-2]

Hazardous Waste Manifest; Shipping Papers

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Transportation (DOT) and the Environmental Protection Agency (EPA) are proposing in this issue of the Federal Register requirements for a Uniform Hazardous Waste Manifest to resolve difficulties being encountered by shippers and carriers involved in the transportation of hazardous waste of different State manifest requirements. EPA is proposing a standard format for the manifest and the Materials Transportation Bureau (MTB) is proposing to amend the Hazardous Materials Regulations to recognize their standardized hazardous waste manifest for all hazardous waste transportation in commerce within the United States.

MTB proposes to amend § 171.1 of the Hazardous Materials Regulations to delete the reference to EPA interim authorizations and to amend § 171.3 by deleting the Note to paragraph (c)(3). MTB also proposes two amendments pertaining to shipping papers; one is a revision to § 172.201 to recognize that a shipping paper, including a hazardous waste manifest, may consist of more than one page; the other is a revision to § 172.205 to include the EPA form number for the hazardous waste manifest.

DATE: Comments must be received no later than April 28, 1982.

ADDRESS: Address comments to: The Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. It is requested that the docket number be identified and that five copies be submitted. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 7th Street SW., Washington, D.C. Public Dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Lee E. Metcalfe, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Washington, D.C. 20590, (202) 426-2075.

SUPPLEMENTARY INFORMATION: On February 26, 1980, the Environmental Protection Agency (EPA) established a manifest system to assure that hazardous waste designated for delivery to an offsite treatment, storage or disposal facility actually reached its destination. The central element of that system is the "manifest", a control and transport document that accompanies the waste from its point of generation to its point of destination. On May 22, 1980 MTB issued final regulations, under Docket HM-145A (45 FR 34560), relative to the use and disposition of manifests.

Although EPA considered requiring a uniform manifest form when it developed its regulations, the Agency chose instead to require that specific information accompany the waste and did not require the use of a specified format for a manifest. EPA recognized that DOT's regulations already required shipping papers for the transportation of hazardous materials without a requirement for use of a specific form; therefore, EPA concluded that a shipping paper could be used satisfactorily as a manifest if additional information required by EPA was included. By not requiring a specific form, EPA's intent was to provide the regulated community with the option of adapting their existing DOT shipping papers to function as manifests as was requested by several commenters in response to the proposed rule.

Since the introduction of the Federal manifest system, there has been a proliferation of manifests as various States decided to develop and print their own forms. At least 21 States presently require generators to use specific manifest forms, often with varying additional information requirements. This has caused two major problems. First, the lack of uniformity in the manifests required by States has created a burden for both generators and transporters. Currently, a transporter carrying hazardous waste may be required to carry the manifest of each State in which he travels in order to comply with each State's manifest requirements. Failure to carry a particular State's manifest may delay or prevent shipments from reaching their destination, or subject the transporter to legal action. Under these conditions, a generator may be required to go through the costly and inefficient procedure of filling out several manifest forms with duplicative information in order to ensure that the waste shipment reaches the designated facility. Second, a generator with plants in more than one State cannot standardize its manifesting procedures company-wide because of a lack of uniform requirements. This prevents multistate corporations from achieving efficiency in their information collection activities in a uniform manner.

In an effort to solve these problems, EPA and MTB asked two organizations representing the States and the regulated community to submit suggestions for a uniform manifest. The State group, the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) and the industry group, the Hazardous Materials Advisory Council (HMAC), each developed a set of recommendations concerning the content and use of a uniform manifest which were submitted to EPA and MTB in March of 1981. EPA and MTB reviewed the recommendations prepared a draft manifest form and met with the ASTSWMO and HMAC committees in July of 1981. Since the current problems associated with the manifest involve both DOT and EPA, the Agencies have worked together to devise a regulatory solution. Therefore, several amendments are being proposed in this area. EPA is proposing to amend 40 CFR Parts 262 and 123 to introduce the Uniform Hazardous Waste Manifest form and to make the use of the form a requirement for State interim and final authorization. MTB is proposing to amend the Hazardous Materials Regulations to require that shippers and carriers of hazardous waste comply with EPA proposed amendments pertaining to the use of the proposed manifest, and to clarify that any State (or political subdivision of a State) law or regulation requiring a different, or additional manifest, is inconsistent with the Hazardous Materials Regulations.

The effect of such amendments would be twofold. First, the use of a nationally uniform manifest would be required for all off-site transport of hazardous waste. Second, no State could require a carrier to provide additional information on or with the manifest. Thus, a carrier could not be held legally liable for failure to carry a State's particular manifest form.

Neither the EPA nor DOT proposed amendments would prohibit a State from requiring additional information from the generator or the treatment, storage or disposal facility concerning a hazardous waste shipment. For example, a State may require that certain disposal related data be present at the facility before the facility accepts the waste. The proposed amendments do not preclude the transporter from voluntarily carrying such information but do prohibit any State from requiring him to do so.

Certain areas of transportation demand a strong predominant Federal role. In the Senate Committee language reporting on what became Section 112 of the Hazardous Materials Transportation Act (HMTA), 49 U.S.C. 1801 et seq., the need for uniform national standards in the field of hazardous materials was strongly indicated. Section 112 of the HMTA expressly preempts any State or local requirement that is inconsistent with the HMTA or the regulations issued thereunder. MTB believes that national uniformity is necessary in this area and that an evolving patchwork of differing State requirements for manifests is clearly inconsistent with the Congressional purposes underlying the HMTA. Rather than addressing the differing requirements of the States through proceedings initiated pursuant to 49 CFR, Part 107, MTB believes it should modify its regulations to require use of the Uniform Hazardous Waste Manifest. To ensure there is no misunderstanding of the present statement of inconsistency, this proposal would delete the note following § 171.3(c)(3).

After considering alternatives for phasing in the Uniform Hazardous Waste Manifest, MTB and EPA have agreed to a proposed effective date. This approach was selected in order to avoid confusion concerning the compliance date; therefore, it is proposed that the uniform form would be required for all transportation of hazardous waste 180 days after the publication of the final rule. This time period was chosen to provide States and industry sufficient time to implement the new hazardous waste manifest.

MTB is proposing in this Notice to: (1) remove the qualifying language in § 171.1(a)(3)(i) pertaining to transportation of hazardous waste by motor vehicle in intrastate commerce, thereby making the Department's Hazardous Materials Regulations applicable to all hazardous wastes transported off-site by motor vehicle; (2) cancel the Note following § 171.3(c)(3); (3) amend § 172.201 to recognize the use of continuation pages for shipping papers, with a showing of the number of pages constituting a shipping paper; and (4) to amend § 172.205(a) to require that proposed EPA Form 8700-22 (and 22A when appropriate) be used for display of mandatory hazardous waste information for all such transportation in commerce.

In consideration of the foregoing, it is proposed to amend Parts 171 and 172 of Title 49 Code of Federal Regulations as follows:

PART 171—GENERAL INFORMATION REGULATIONS, AND DEFINITIONS

1. Section 171.1 would be amended by the revision of paragraph (a)(3)(i) to read as follows:

§ 171.1 Purpose and scope.

* * * * * * *

(a) * * *

(3) * * *

(i) Hazardous waste.

* * * * * * *

§ 171.3 [Amended]

2. Section 171.3 would be amended by removing the Note following paragraph (c)(3); and by removing the reference in Note 1 to paragraph (e) of "40 CFR 262.21 and 263.11" and inserting in its place "40 CFR 262.20(a) and 263.11".

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

3. Section 172.201 would be amended by adding paragraph (c) to read as follows:

§ 172.201 General entries.

* * * * * * *

(c) *Continuation page.* A shipping paper may consist of more than one page, if each page is numbered and the first page bears a notation specifying the total number of pages included in the shipping paper. For example, "Page 1 of 4 pages."

4. Section 172.205 would be amended by the revision of paragraph (a) to read as follows:

§ 172.205 Hazardous waste manifest.

(a) No person may offer, transport, transfer, or deliver a hazardous waste (waste) unless an EPA Form 8700-22 and 22A (when necessary) hazardous waste manifest (manifest) is prepared in accordance with 40 CFR 262.20 and is signed, carried, and given as required of that person by this section.

* * * * * * *

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1 and paragraph (a)(3) of App. A to Part 106)

Note.—The Materials Transportation Bureau has determined that this document will not result in a "major rule" under terms of Executive Order 12291 and DOT implementing procedures (44 FR 11034) nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.) A regulatory evaluation is available for review in the docket. I certify that this proposed regulation, if published as a final rule, will not have a significant economic on a substantial number of small entities because small entities involved in the transportation of hazardous waste are already subject to DOT requirements for waste shipments implemented in November 1980. The hazardous waste manifest system was implemented by EPA in August 1980. This proposed rulemaking, if adopted, would merely require a standard format and content of that manifest.

Issued in Washington, D.C. on February 22, 1982.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-5099 Filed 3-3-82; 8:45 am]

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federal register

Thursday
March 4, 1982

Part IV

Environmental Protection Agency

National Revised Primary Drinking Water Regulations, Volatile Synthetic Organic Chemicals in Drinking Water; Advanced Notice of Proposed Rulemaking

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[WH-FRL-2018-7]

National Revised Primary Drinking Water Regulations, Volatile Synthetic Organic Chemicals in Drinking Water

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: EPA is considering proposal of regulations as well as non-federal regulatory approaches to limit human exposure to high levels of certain volatile synthetic organic chemicals (VOCs) that have been detected in drinking water. EPA is issuing this Advance Notice of Proposed Rulemaking (ANPRM) as an invitation to the public to comment on the following broad issues:

- What is the significance of contamination of drinking water by VOCs?
- Should national standards be set for VOCs?
- If standards are appropriate, how should levels be established?

EPA requests public analyses, comments and information on all aspects of this most important issue involving the appropriate balance of public health protection against practical implementation of the drinking water program under the requirements of the Safe Drinking Water Act (SDWA).

DATES: Please submit written public comments to the address listed below on or before June 2, 1982.

A public meeting will be held on April 28, 1982, beginning at 9 a.m. Persons planning to make statements at this meeting are encouraged to submit a written copy of their remarks at the time of the meeting.

ADDRESSES: Send written comments to Comment Clerk, Criteria and Standards Division, Office of Drinking Water (WH-550), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. A copy of all comments will be available for review during normal business hours at the EPA, Criteria and Standards Division, Room 1109 ET, 401 M Street, SW., Washington, D.C. 20460.

A public meeting will be held at EPA, Room 3906, 401 M Street, SW., Washington, D.C. It is requested that anyone planning to attend (especially those who plan to make statements) register in advance by calling or writing Ms. Arnetta Davis at 202/472-5030, EPA, WH-550, 401 M St., SW., Washington, D.C. 20460.

Technical workshops will be held at several locations for a full discussion of issues and a complete exchange of technical information and data. Dates, locations and other information on the technical workshops can be obtained from the American Water Works Association Research Foundation, 6666 Quincy Avenue, Denver, Colorado 80235, which is the grantee conducting the workshops for EPA.

FOR FURTHER INFORMATION CONTACT: Joseph A. Cotruvo, Ph. D., Director, Criteria and Standards Division, Office of Drinking Water (WH-550), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Telephone 202/472-5016.

SUPPLEMENTARY INFORMATION:

I. Regulatory Framework
II. Background on VOCs in Drinking Water
III. Alternatives under Consideration
IV. References
V. Request for Comments

I. Regulatory Framework

Today's ANPRM initiates a dialogue with interested parties on how best to deal with the contamination of drinking water by VOCs under the provisions of the SDWA. EPA is considering a wide variety of alternatives, ranging from non-federal regulatory approaches, such as the provisions of information and guidance to the establishment of formal, enforceable standards. The Agency's actions must be based on its statutory duties and authorities, and described below is the legal framework within which the alternatives will be considered.

Section 1412 of the SDWA provides for two sets of primary regulations—interim and revised. EPA promulgated interim regulations setting maximum contaminant levels (MCLs) for microbiological contaminants, turbidity, trihalomethanes, radionuclides and selected organic and inorganic chemicals (*see* 40 CFR Part 141, Subpart B). The interim regulations also include requirements for periodic monitoring, analytical methods, reporting, public notification and recordkeeping, (*see* 40 CFR Part 141, Subparts C and D).

EPA promulgated the interim regulations as the first phase of a three-phase statutory process for identifying and regulating harmful contaminants in the nation's drinking water. Section 1412(a)(1) required EPA to promulgate interim regulations that "shall protect health to the extent feasible," using generally available technology and taking cost and other factors into consideration. Phase two provides that EPA shall enter into a contract with the National Academy of Sciencies (NAS) to conduct a study to assess the potential health effects of contaminants in drinking water which might be harmful to health and to provide EPA with proposed Recommended MCLs (RMCLs) (see section 1412(e)(1)). Completion of the NAS report was to trigger Phase three, EPA's statutory obligation to issue recommended MCLs and revised primary regulations.

Section 1412(b)(1)(B) requires EPA to establish recommended MCLs at a level where "no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safey". Recommended MCLs are health goals, not enforceable standards. On the date EPA establishes RMCLs, section 1412(b)(2) requires EPA to propose a revised primary drinking water regulation for each contaminant for which there is a RMCL (section 1412(b) (2) and (3)). The revised MCL should be "as close to" the recommended MCL "as is feasible" (section 1412(b)(3)), and this would reflect allowances for the cost and feasibility of treatment.

While the NAS issued its report, "Drinking Water and Health," in June 1977, 42 FR 35768 (July 11, 1977), the report contained no specific recommended MCLs. In the absence of specific NAS proposals, EPA delayed promulgation of any recommended MCLs at that time. This ANPRM is intended to initiate discussions that will enable the Agency to determine whether RMCLs and revised regulations should be established for VOCs and if so at what levels.

In addition, to the regulatory requirements of section 1412 of the SDWA, the Act also provides EPA with additional authorities for ensuring the safety of the nation's drinking water. Section 1442(a)(2)(B) authorizes EPA to provide technical assistance to States and publicly owned water systems to assist in responding to and alleviating any emergency situation which the Administrator determines presents a substantial danger to the public health. Section 1445(a) authorizes EPA to require by regulation any public water supplier to keep records, make reports, conduct monitoring and provide such other information to assist EPA in establishing regulations, determining compliance with SDWA, evaluating health risks of unregulated contaminents, or advising the public of such risks. Finally, section 1431 authorizes EPA to take such actions as the Administrator deems necessary to protect the public health from a contaminant that may present an imminent and substantial endangerment.

Executive Order 12291

Following Executive Order 12291 (46 FR 13193, Feb. 19, 1981), EPA will prepare a regulatory impact analysis prior to proposal of any regulations if it is determined that the regulations are considered to be "major rules". A "major rule" is defined as any regulation that is likely to result in:

(1) An annual effect on the economy of $100 million or more;
(2) A major increase in costs or prices for consumers, individual industries, federal, State, or local government agencies, or geographic regions; or
(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

EPA has not yet determined whether any regulations that would follow this ANPRM would be "major rules;" information upon which to make this determination is not yet available and is one of the objectives of this ANPRM.

The regulatory impact analysis would contain a description of the potential net benefits and costs and a determination of the potential net benefits of any rule. Further, a description would be included of alternative approaches.

Regulatory Flexibility Analysis

Following the requirements of 5 U.S.C. 603, known as the Regulatory Flexibility Act, an analysis of the impacts on small entities of any regulations must be carried out if there is likely to be a significant economic impact on a substantial number of small entities. Therefore, whether or not the possible regulation for volatile organic contaminants is found to be a "major" regulation, it would have an accompanying analysis of possible economic impacts upon small entities, either to assess the effects of any significant impacts, or to document that no such impacts exist.

Other Pertinent Agency Actions

Several other actions by EPA are pertinent to incidences of contamination by VOCs. There are three new federal programs with state participants designed to protect ground water from contamination resulting from waste disposal on or into the ground. These programs include: Regulation of hazardous waste transporters and hazardous waste treatment, storage and disposal sites under the Resource, Conservation and Recovery Act (40 CFR Parts 122–124, 260–265); regulations for control of underground injection of wastes (40 CFR Part 146, June 20, 1980, August 27, 1981, October 1, 1981) under the Safe Drinking Water Act, section 1421; and the "Superfund" Program under the Comprehensive Environmental Response, Compensation, and Liability Act which provides for remedial measures to clean-up incidences of contamination. In addition, other pertinent programs include: Under the Clean Water Act, section 304, water quality criteria (45 FR 79318, November 28, 1980) for 64 toxic pollutants or pollutant categories which provide guidance for ambient water quality; the EPA Office of Drinking Water program under the SDWA, section 1442, which provides advice on the potential health effects of exposure to non-regulated contaminants; and the efforts under the Agency's Toxic Substances Priority Committee to integrate and coordinate Agency efforts on regulating toxic compounds.

II. Background on VOCs in Drinking Water

Occurrence of Volatile Organic Chemicals in Drinking Water

The application of sophisticated analytical measurement techniques has detected the presence of a broad range of synthetic organic chemicals in many drinking water supplies. Because of their frequency of occurrence, occasional presence in high concentrations, and potential health risks, the class of compounds termed volatile synthetic organic chemicals are of particular concern. Available data show that these compounds occur in both surface waters and ground waters; this finding contradicts previous perceptions of ground water quality.

Historically, ground water has been viewed as a relatively pristine resource, and it is generally used as a drinking water source without major treatment other than disinfection. However, recent data from EPA and State monitoring surveys, as shown in Table 1, indicate that a significant number of drinking water supplies derived from ground waters, as well as surface waters, contain some volatile organic chemicals. While surface waters subject to industrial contamination can contain a broad spectrum of synthetic organic chemicals, typically their concentrations would be in the low microgram per liter levels (e.g., less than 5 μg/l). Although only a small percentage of ground water supplies have been found to be contaminated by one, two or several discrete compounds, their concentrations can be much higher (e.g., 100 to 1000 μg/l). While Table 1 shows a level as high as 35,000 μg/l of trichloroethylene, this is not to imply that most contamination incidents reflect concentrations of that magnitude. More commonly, contamination is found at less than 10 μg/l with smaller percentages in the 10–100 μg/l and in the 100–1000 μg/l range, respectively. The State data in particular reflect noticeably higher levels of contamination than the EPA surveys. This would be expected since State sampling is generally in response to a specific problem such as a spill, or investigations around hazardous waste sites, or citizen complaints of taste and odor problems.

TABLE 1.—OCCURRENCE OF VOLATILE ORGANIC CHEMICALS IN DRINKING WATER

Survey	No. sampled	No. positive	Range of positives
Trichloroethylene:			
State data [1]	2,884	810	Tr–35,000 μg/l.
NOMS [2]	113	28	0.2–49.0 μg/l.
NSP [2*]	142	36	Tr–53 μg/l.
CWSS [2]	452	15	0.5–210 μg/l.
Tetrachloroethylene:			
State data [1]	1,852	231	Tr–3,800 μg/l.
NOMS [2]	113	48	0.2–3.1 μg/l.
NSP [2*]	142	24	Tr–3.2 μg/l.
CWSS [2]	452	22	0.5–99 μg/l.
Carbon Tetrachloride:			
State data [1]	1,859	186	Tr–170 μg/l.
NOMS [2]	113	14	0.2–29 μg/l.
NSP [2*]	142	27	Tr–30 μg/l.
CWSS [2]	452	9	0.5–2.8 μg/l.
1,1,1-Trichloroethane:			
State data [1]	1,811	370	Tr–400,380 μg/l.
NOMS [2]	113	19	0.2–1.3 μg/l.
NSP [2*]	142	32	Tr–21 μg/l.
CWSS [2]	452	19	0.5–820 μg/l.
1,2-Dichloroethane:			
State data [1]	1,212	85	Tr–420 μg/l.
NOMS [2]	113	2	0.1–1.8 μg/l.
NSP [2*]	142	2	Tr–4.8 μg/l.
CWSS [2]	451	4	0.5–1.8 μg/l.
Vinyl Chloride:			
State data [1]	1,888	73	Tr–880 μg/l.
NOMS [2]	113	2	0.1–0.16 μg/l.
NSP [2*]	142	7	Tr–76 μg/l.
CWSS	Did not look for this compound		

[*] Analysis based on GC single column tentative identification.
Tr=Trace.
[1] All ground water sources aggregated from various state reports on local contamination problems. Includes drinking water and other uses. As noted in text, the State data is normally in response to contamination incidents and is not considered to be statistically representative of national occurrence.
[2] Surface and ground water sources. NOMS—National Organics Monitoring Survey, NSP—National Screening Program, CWSS—Community Water Supply Supply Survey.

Currently over 100 million people are served drinking water from 45,000 public water systems and over 11 million private wells draw upon ground water resources. Results of EPA's Community Water Supply Survey showed that volatile organic chemicals were detected in approximately 45 percent of public water systems using ground water serving over 10,000 people and in approximately 12 percent serving less

than 10,000 people. Most of these systems had one or more VOCs at very low levels but a few systems had high levels of contamination. Contamination is most common in urban or industrial areas, and is generally believed to be the result of improper disposal of hazardous wastes, industrial activities and/or sub-surface disposal system discharges. The presence of one of these compounds, at even a low level, is a concern since these compounds are man-made chemicals not naturally present in the environment, and their presence indicates the potential for further contamination of that source water. Unlike surface waters, ground waters move very slowly and do not have a rapid natural cleansing mechanism. The chemicals being considered in this ANPRM are listed in Table 2. These compounds generally are chemically stable, not rapidly biodegradable (with exceptions) and not strongly adsorbed by soil particles. Thus, once ground waters are contaminated, they will generally remain so for years or decades.

Table 2.—Synthetic Organic Chemicals Most Commonly Detected in Ground Waters

*Trichloroethylene
*Tetrachloroethylene
*Carbon tetrachloride
*1,1,1-Trichloroethane
*1,2-Dichloroethane
*Vinyl chloride
*Methylene chloride
Benzene
Chlorobenzene
Dichlorobenzene(s)
Trichlorobenzene(s)
1,1-dichloroethylene
cris-1,2-dichloroethylene
tans-1,2-dichloroethylene

EPA has initiated a 1,000 sample national monitoring survey (i.e., the Ground Water Supply Survey) in cooperation with the States and public water systems to further assess the national extent of contamination of drinking water supplies with these man-made volatile organic compounds. The survey includes only systems using ground water sources and will permit projection of the national frequency of ground water contamination by these volatile organic chemicals. In addition, this survey will help to identify circumstances that can be associated with the presence of those chemicals in water. Results of the survey should be available in early 1982.

Additional data on the occurrence of VOCs can be found in the document entitled "Occurrence of VOCs in Drinking Water," December 1981, U.S. EPA.

Finally, EPA would like public comment and information on the following:

- What is the significance of contamination by VOCs? Does the available occurrence data justify national regulations for these contaminants?
- What is the significance of exposure to these contaminants from drinking water relative to other routes of exposure?
- If regulations are determined to be an appropriate approach, for which of the contaminants should regulations be developed?
- What additional data are available on the occurrence of volatile organic chemicals in drinking water, either surface or ground water sources?

Monitoring for VOCs

Analytical techniques for measuring VOCs are available but the techniques are relatively sophisticated involving gas chromatography and/or gas chromatography/mass spectrometry. For most of these chemicals, the method employed is very similar to that used for trihalomethane measurements. The specific techniques are found in "The Determination of Halogenated Chemical Indicators of Industrial Contamination in Water by the Purge and Trap Method: Method 502.1," U.S. EPA, EMSL, and "The Analysis of Aromatic Chemicals in Water by the Purge and Trap Method: Method 503.1," U.S. EPA, EMSL. Laboratory costs have been estimated to range from $100 to $200 per sample.

Total halogenated organic chemicals (TOX) can be measured using a different analytical method which employs a specific instrument for TOX analyses. TOX includes most of the VOCs (those that are halogenated) in a single analytical test and could be employed as an initial screening test: If TOX was measurable above background levels, tests for the individual VOCs could be conducted as follow-up. The TOX analytical method is described in "EPA Method EMSL #450.1," 1980. Estimates of laboratory cost are about $75 to $100 per sample. It is expected that these costs for both types of analyses would be reduced as more laboratories gain experience with them and demand for sample analysis increases.

EPA requests comments and additional information on monitoring and analytical techniques including the following:

- Are the analytical methods suitably accurate for measurements of these contaminants? How can the methods be improved?
- Are other suitable less sophisticated and/or less expensive methods available?
- Are a sufficient number of qualified laboratories available?
- What level of precision and accuracy performance can be expected from these laboratories?
- What are the commercial laboratory costs of analyses for volatile organics? For total halogenated organics (TOX)?

Human Health Considerations

The EPA has assessed the potential adverse health risks due to the exposure of selected organic chemicals via drinking water. Both animal and human data, when available, were evaluated. Since toxicology data are not available for exposures at the usual environmental levels, acute and chronic toxicological effects for high exposure were noted for various organ systems, such as the central nervous system, kidney, liver and heart. Other bioeffects such as mutagenicity, teratogenicity and potential carcinogenicity were evaluated. Each chemical was evaluated systematically whereby several parameters were addressed, namely: pharmacokinetics, mechanisms of toxicity, animal bioeffects, and human health effects including both non-carcinogenicity and carcinogenicity. The basic requirement in these evaluations was the experimental tests were properly conducted and that the resulting data are scientifically valid; information on mechanisms of generating the toxic effect in the animals can be an important factor in extrapolating the results to potential human risks.

In the evaluation of the potential risks of exposure to these substances, the Office of Drinking Water followed the generic principles specified in *Drinking Water and Health* (1977) by the Safe Drinking Water Committee, National Academy of Sciences (NAS), in assessing health risks of carcinogenic and non-carcinogenic chemicals. The principles include:

- Effects in animals are applicable to man, properly qualified.
- Methods do not now exist to establish a threshold for long-term effects of toxic agents.
- Exposure of experimental animals to toxic agents in high doses is a necessary and valid method of discovering possible carcinogenic hazards in man.

*Data currently available for six volatile organic chemicals are included in this ANPRM. Data collection and evaluation efforts are continuing for these compounds as well as for the eight additional contaminants listed. If proposed regulations are developed following this ANPRM, the proposal would include up to the 14 contaminants listed above if found to be appropriate for regulations (i.e., widespread occurrence, toxicological significance, economically feasible technologies).

- Material should be assessed in terms of human risk, rather than as "safe" or "unsafe".

Cancer risk models specified by the NAS and the EPA's Cancer Assessment Group (CAG) were used to calculate concentrations which, if consumed over a lifetime at two liters per day, might result in excess lifetime cancer risks of 10^{-5} (1:10,000), 10^{-6} (1:100,000) and 10^{-7} (1:1,000,000) (Table 3). The range of projected upper limit risks for cancer can be used as a guide to understanding the potential for excess cancer risks that will result from consumption of drinking water that contains VOCs at various concentrations. Care should be taken not to overemphasize their accuracy or precision, however, and in some cases non-carcinogenic health risks may be equally significant. Potential additive or synergistic effects resulting from simultaneous exposures to more than one chemical are not addressed but it would be prudent to assume that these may exist since often the same organ systems are involved when some of these chemicals are metabolized.

TABLE 3.—PROJECTED UPPER LIMIT LIFETIME CANCER RISKS FOR INDICATED DRINKING WATER CONCENTRATIONS BY TWO CONCENTRATIONS BY TWO CANCER RISK CALCULATIONS

Compound	Projected upper limit excess lifetime cancer risk	Concentrations in drinking water (µg/l)	
		CAG	NAS
Trichloroethylene	10^{-4}	280	450
	10^{-5}	28	45
	10^{-6}	2.8	4.5
Tetrachloroethylene	10^{-4}	80	350
	10^{-5}	8	35
	10^{-6}	0.8	3.5
Carbon Tetrachloride	10^{-4}	40	450
	10^{-5}	4	45
	10^{-6}	0.4	4.5
1,2-Dichloroethane	10^{-4}	95	70
	10^{-5}	9.5	7.0
	10^{-6}	0.95	0.7
Vinyl Chloride	10^{-4}	210	100
	10^{-5}	20	10
	10^{-6}	2	1

Assumes: Lifetime exposure (70 years) by 70 kg adult. Consumption of 2 liters of water per day. Non-threshold toxicity mechanism is operative at low doses in humans. Assimilation in humans at low doses is the same as animals at experimental doses. Inter-species (animal/human) dose scaling is proportional to body surface area.

NOTE.—CAG—EPA Carcinogen Assessment Group. NAS—National Academy of Sciences Safe Drinking Water Committee.

There are differences between the risk estimates derived by NAS and CAG for the five volatile organic chemicals suspected of being carcinogenic. Two factors contribute to these differences. The first factor is that somewhat different assumptions are made for use of experimental data in the mathematical models. Also the toxicological data selected for the derivation was different. For example, the differences in the NAS and CAG estimate for carbon tetrachloride are because of the following: The NAS chose to use the NCI gavage data in male rats even though the tumor response was less than statistically significant, because of the perceived mathematical difficulty in using the NCI male mice study, which showed 100 percent incidence of liver tumors. The CAG decided to base the risk estimate on the positive response in mice and made a mathematical approximation to 100 percent incidence in order to estimate the risk. Differences in the risk estimates for the other chemicals are a result of similar interpretations by NAS and CAG and use of the available data.

The actual risks for exposure to a fixed concentration are probably somewhere between zero (if indeed the nonthreshold model is not valid) up to the computed value since a linear, no threshold model was used in the estimates. This model is generally regarded as giving an upper bound of risk.

As noted above, quantitative risk extrapolation procedures can provide only a rough estimate of carcinogenic hazard because of the many unknown factors which enter into these estimates. Models using different assumptions may produce estimates ranging over several orders of magnitude. Since there is presently no way to demonstrate the accuracy of any model at low doses, this process is a subject of debate in the scientific community. However, in spite of these difficulties, quantitative risk estimation does provide the decisionmaker one means of setting priorities among pollutants and some gauge of the potential seriousness of environmental hazards.

An assessment of the risk of a suspected carcinogen consists of two parts: A judgment of the weight of evidence that the compound is a carcinogen, and, if it is concluded to be carcinogenic, an estimate of the size of the risk considering exposure to the population. The types of evidence of carcinogenicity might include human epidemiological studies, tests in laboratory animals, and short-term tests in bacteria or cell cultures which are thought to be suggestive of carcinogenicity. There may be evidence on the mechanisms involved which suggests the degree of confidence with which the data can be extrapolated from animals to humans and from high to low doses. Any of these studies may, of course, have individual strengths and weaknesses which increase or decrease confidence in relying on it for decisionmaking. These strengths and weaknesses can only be evaluated by scientists who are expert in the disciplines involved.

Risk extrapolation is generally recognized as the only tool available at this time for estimating the magnitude of potential health risks associated with non-threshold toxicants and has been endorsed by numerous federal agencies and scientific organizations, including EPA's Carcinogen Assessment Group, and the National Academy of Sciences Safe Drinking Water Committee.

The observed toxicological effects of these VOCs, in virtually all cases, occurred in tests at exposure levels 100 to 1,000 or more times higher than would be expected in drinking water, except in the very worst contamination cases. Risks in human populations at usual environmental exposure levels are generally unmeasurable by epidemiology studies. Animal testing with high dosages is considered to be a valid means of projecting potential health risks. Since, at environmental concentrations, the projected cancer risks are relatively small (e.g., less than one in 10,000) compared to the spontaneous rate of occurrence of tumors in experimental animals (on the order of several percentage points), a very large sample size (i.e., on the order of millions of animals) would be needed to reliably distinguish between treated and control groups if environmental levels were tested. Of course, it is not practical to actually carry out such an experiment. Therefore, in order to produce quantitative estimates, the assumption is made that health effects at low dose levels can be extrapolated from results observed in animals at high dose levels.

Summaries of the toxicology of each of the six volatile organic contaminants are given below. These are discussed in detail in the draft criteria documents that are available from EPA on request. These documents will be updated and their conclusions reexamined as additional studies are reported on the toxicology of these substances.

Trichloroethylene (TCE) is readily absorbed into the blood stream when ingested. Its metabolites appear to have some moderate bioaccumulative properties. An epoxide intermediate, 2,2,3-trichlorooxirane, is thought to be responsible for its mutagenic and carcinogenic potential. Acute and chronic exposure at very high doses has resulted in liver toxicity and possible kidney damage. The National Cancer Institute (NCI) concluded that TCE is a liver carcinogen in mice but not in rats.

Tetrachloroethylene (PCE) metabolites also bioaccumulate to some degree during continued exposure. High

acute exposures result in depression of the central nervous system (CNS) and transient dysfunction of the liver and kidney. Unstabilized PCE apparently is not mutagenic in bacterial systems. The NCI concluded that PCE is a liver carcinogen in mice but not rats.

Carbon tetrachloride concentrates in the body fat, liver and bone marrow. Principal toxic effects include CNS depression and cellular necrosis of the liver and kidneys. Carbon tetrachloride is probably not teratogenic but may be mutagenic. It has produced hepatomas in mice. NCI concluded that it is a liver carcinogen in mice and rats; it has also shown to cause statistically significant increases in cancer in hamsters.

1,1,1-Trichloroethane (methyl chloroform) Exposure at very high concentrations could lead to an increased risk of cardiotoxicity. Since insufficient data are available to determine its carcinogenic potential, it would be premature to specify a cancer risk estimate. The Office of Drinking Water has calculated a long-term SNARL (Suggested No Adverse Response Level) of 1 mg/1 to protect the 10 kg child. Using the same data, the NAS has calculated a chronic SNARL value of 3.8 mg/1 to protect the 70 kg adult.

Animal exposure to 1,2-dichloroethane at high doses by inhalation causes immediate central nervous system effects leading to unconsciousness, coma, circulatory collapse and death. A lower single dose or chronic exposure can result in abnormalities of the liver, kidneys, lungs, heart, adrenals and gastrointestinal tract. The NCI found a positive correlation between oral exposure and cancer incidence in animal tests and concluded that 1,2-dichloroethane is a carcinogen in rats.

Vinyl chloride is readily absorbed via the gastrointestinal tract, accumulates in the liver and is known to be a human and animal carcinogen. Animal studies showed that vinyl chloride produces tumors of different types at various sites, while human epidemiologic studies have linked vinyl chloride with angiosarcoma to the liver and other forms of neoplasm.

EPA requests comments and additional information on all aspects of the potential health effects of the VOCs including:

- Are the conclusions reached in the Draft Health Criteria Documents scientifically and technically valid?
- Do the available health effects data justify controls on human exposure to these chemicals in drinking water?
- How should the health basis of any MCLs take into account the carcinogenic risk as determined by various models and the non-carcinogenic effects? How should pharmacokinetics, health effects in animals, health effects in humans and mechanism of toxicity be evaluated against each other?
- Should different models or approaches be used to estimate risk for carcinogens which are not genotoxic? What should be the criteria for determining whether an agent is genotoxic?
- For chemicals such as 1,1,1-trichloroethane which have not been shown to be carcinogenic in laboratory animals, what type of non-carcinogenic risk data should be used as the health basis of any MCLs? For example: should the health basis of VOCs be evaluated for the 70 kg adult or the 10 kg child? How should the contribution of drinking water to total exposure be treated?
- How should differences in the strength of evidence leading to consideration of carcinogenic risk be factored into the regulatory decision? (E.g., positive findings in two or more test species override positive finding in testing of a single species?)
- Which of the available risk models is most appropriate to use as a means of attempting to quantify the significance of human exposures to these substances? What are the different technical factors used in each of the models and their significance?
- What additional data are available on the carcinogenic and non-carcinogenic risks of each of the contaminants?
- Since some of these chemicals exert their toxicity on the same organ system, would the risk from exposure from two or more of the chemicals be considered additive in proportion to the chemicals' relative and absolute levels of occurrence? Should an added margin of safety be included in the health basis of each MCL to account for potential synergistic effects? How? What is the scientific basis for such an approach?

Treatment Alternatives and Costs for Control of Volatile Organic Chemicals

Once a contaminated water supply has been identified, a range of options is open to the effected system as described in "Treatment for the Control of Trichloroethylene and Other Related Industrial Solvents in Drinking Water," U.S. EPA, Office of Research and Development, February 1981. Since in many cases it may be impossible to develop a new, uncontaminated source of supply, EPA has investigated the performance and costs of certain treatment methods to apply where source control is infeasible. Methods for removal of these volatile organic chemicals include aeration and granular activated carbon (GAC). The available data do not show powdered activated carbon treatment or conventional drinking water treatment (i.e., coagulation, sedimentation, and filtration) to be sufficiently effective. Methods such as reverse osmosis and macroreticular resins may eventually prove to have value for removing VOCs. However, at this time, substantial operational experience and/or experimental data are available only for aeration and GAC.

Preliminary designs and cost estimates have been developed for a hypothetical ground water contamination situation involving trichloroethylene (TCE). Tables 4 and 5 provide relevant estimated cost information for treatment of TCE at the 90% and 99% removal levels, respectively. However, these figures should be interpreted cautiously, as the designs were developed based *primarily* on *theoretical* design procedures using available data from chemical engineering handbooks and mass transfer literature with some actual performance data. They are thus only a first approximation of the actual designs required and expected costs. The design criteria certainly requires verification by pilot scale testing on site. For example, mass transfer coefficients appear to be a site-specific parameter depending upon the overall characteristics of the aeration facilities. In addition, several field reports indicate that smaller than theoretical designs may be practical for aeration systems (Water Factory 21; Montgomery County, PA; Oscoda, Mich.). Supporting information for the costs in Tables 4 and 5 can be found in, "Preliminary Treatment Designs and Costs for Control of Volatile Organic Compounds."

Accordingly, the estimated costs for aeration presented may be overly conservative (i.e., too high). For example, compare the costs involved in treating TCE by "standard" packed tower aeration versus aeration employing simple fiber-glass towers filled with plastic packing. This alternative was evaluated because it might represent a more realistic "real-world" design approach; identical removal levels of TCE can be achieved at approximately half the cost.

Amortization rates are estimated to take different values for small versus large systems, public versus private ownership, and short versus long equipment lifetimes. As a point of reference, however, the overall amortization rate, averaging over size and ownership, is 12 percent.

TABLE 4.—SUMMARY OF PRELIMINARY COSTS FOR CONTROLLING TCE IN DRINKING WATER

[1981 dollars]

90% Removal: Before Treatment 500 µg/l; After Treatment 50 µg/l

	Population served		
	100–499	1,000–2,499	10,000–24,999
Aeration—Packed Tower:			
Capital expenditures [1, 2]	27–40.5	103.5–134	357.5–524
Revenue requirements/year [1, 2]	6–7	17–21.5	75.5–96
Cost per 1,000 gallons [2]	0.53–0.74	0.21–0.27	0.08–0.10
Increase in monthly residential costs [2]	4.66–6.49	2.04–2.58	0.72–0.92
Aeration—Diffused Air:			
Capital expenditures [1]	55.0	197.5	962.0
Revenue requirements/year [1]	10.5	42.0	252.0
Cost per 1,000 gallons [1]	1.11	0.53	0.29
Increase in monthly residential costs [2]	9.76	5.04	2.41
Adsorption—GAC:			
Capital expenditures [1]	82.0	344.0	741.0
Revenue requirements/year [1]	14.5	63.5	212.5
Cost per 1,000 gallons	1.53	0.79	0.22
Increase in monthly residential costs [2]	13.46	7.62	2.00

NOTES:
[1] Costs are presented in thousands of dollars.
[2] The low end of the range represents costs for fiberglass reinforced plastic towers with plastic media, and no housing requirements, while the high end of the range represents costs for carbon steel towers with ceramic media, with housing of the towers included.
[3] Residential costs for average family of three were projected by Temple, Barker, and Sloane, Inc. These calculations assume that costs are divided among residents, commercial and industrial users based on a survey of historically billing allocations.

TABLE 5.—SUMMARY OF PRELIMINARY COSTS FOR CONTROLLING TCE IN DRINKING WATER

[1981 dollars]

99% Removal: Before Treatment 500 µg/1; After Treatment 5 µg/1

	Population served		
	100–499	1,000–2,499	10,000–24,999
Aeration-Packed Tower:			
Capital expenditures [1, 2]	26.0–42.5	155–153	416–649
Revenue requirements/year [1, 2]	5.5–8	19.5–25	88.5–117.5
Cost per 1,000 gallons [2]	0.58–0.84	0.25–0.33	0.09–0.12
Increase in monthly residential costs [2]	5.11–7.43	2.34–12	0.85–1.13
Aeration-Diffused Air:			
Capital expenditures [1]	67	276.5	1,382
Revenue requirements/year [1]	14.5	69.5	399
Cost per 1,000 gallons	1.53	0.86	0.41
Increase in monthly residential cost [2]	13.46	8.23	3.81

TABLE 5.—SUMMARY OF PRELIMINARY COSTS FOR CONTROLLING TCE IN DRINKING WATER—Continued

[1981 dollars]

99% Removal: Before Treatment 500 µg/1; After Treatment 5 µg/1

	Population served		
	100–499	1,000–2,499	10,000–24,999
Adsorption-GAC:			
Capital expenditures [1]	82	344	741
Revenue requirements/year	15	65.5	242.5
Cost per 1,000 gallons	1.58	0.82	0.25
Increase in monthly residential cost [3]	13.95	7.87	2.32

NOTES:
[1] Cost are presented in thousands of dollars.
[2] The low end of the range represents costs for fiberglass reinforced plastic towers with plastic media, and no housing requirements, while the high end of the range represents costs for carbon steel towers with ceramic media, with housing of the towers included.
[3] Residential costs for an average family of three were projected by Temple, Barker, and Sloane, Inc. These calculations assume that costs are divided among residents, commercial and industrial users based on a survey of historical billing allocations.

Increases in monthly residential costs are estimated using an economic model which takes into account system size, ownership and mix of customers. The model is based on a 1976 survey of operating and financial characteristics, and results in estimates only. The actual increase in monthly water bills will vary from the estimate depending on local conditions.

As was true concerning the cost estimates for use of aeration, the cost estimates for GAC must be cautiously applied. The designs in question obviously are heavily dependent upon the design assumptions used. Varying one or more of the design parameters would be expected to change the aplicable cost estimate. For example, these designs were based upon empty bed contact time (EBCT) of 10 minutes; researchers have reported typical EBCTs of between 5 and 20 minutes. As previously discussed, operating data that were available to EPA are not extensive, particularly in the area of carbon life. For example, EPA data from New England suggest that the capacity of GAC for both cis-1,2-dichloroethylene and 1,1,1-trichloroethane is relatively low.

On the other hand, in the past few years, several communities have responded to discovery of contaminated wells by installing GAC units to treat their drinking water. Design, operating and cost information concerning these facilities would be a major aid to EPA in its computation of potential economic impacts due to installation of GAC treatment. EPA encourages those communities to include such information in their official comments on this ANPRM.

Finally, macroreticular resins have potential for use as a treatment method for VOCs; however, questions still exist concerning their use; data describing actual exhaustive capacity of the resins are not available. Neither are data available to define the regeneration frequencies to be expected with the resins. Thus, costs have not yet been estimated for application of resin technology.

It appears that the most cost-efficient method of treating a VOC-contaminated water may often be achieved through some combination of aeration and GAC. Data to support this contention are limited but encouraging.

One consideration in application of these technologies is generation of any secondary impacts, such as air pollution caused by application of aeration technologies. Limited available data do not seem to indicate that a significant air pollution problem would be generated. For example, a one million gallons per day facility treating raw water with a concentration of 125 µg/1 of TCE by packed column aeration with an air to water ratio of 10:1 at 90 percent removal efficiency would yield an air effluent concentration in the stack of 11.25 µg/1 of 11.25 mg/m^3 or approximately one pound per day (the NIOSH recommended standard for work place exposure in 100 ppm of TCE). Additional information and data are being collected to further assess the potential secondary impacts.

In summary, aeration and GAC appear to be effective methods of removing VOCs from water—especially ground water. On-going and future EPA studies will attempt to provide more definitive information on the actual performance and costs of these processes for various contaminants. Additional information on costs of aeration and GAC can be found in "Preliminary Designs and Costs for Control of Volatile Organic Chemicals," Malcolm Pirnie, Inc. April 10, 1981.

Comments and additional data are requested on available treatment technologies and specific responses to the following would be helpful:

- What are the most cost-effective treatment alternatives (or combination of treatment alternatives) for removing these chemicals from drinking water to appropriate levels? GAC? Aeration? Resins? Others? are the design parameters used as the basis of the cost estimates reasonable? What other factors should be considered or how might the designs be improved? What are the capital and operating costs of such systems?
- Will small systems be able to install and effectively operate the available treatment

technologies? What factors, if any, will inordinately affect smaller systems (e.g., the need for trained personnel, cost and availability of personnel provided by contract organizations)?

• Will any of the treatment technologies discussed generate any adverse secondary effects, such as unacceptable air pollution or leaching of contaminants from the GAC? Are any pollutant concentrations diluted significantly enough by air dispersion to eliminate the need for air pollution control measures?

• What additional data are available relative to the performance or cost of treatment systems: aeration systems (either diffused or packed columns)? GAC? Synthetic resins?

• Will the performance of aeration, GAC, or resin technologies be affected by treating water having multiple contaminants or what other background parameters would influence the performance of a given treatment system? For example, how will high concentrations of natural products affect the performance of activated carbon or to what degree will colder temperatures affect the efficiency of aerators? Which design criteria should be revised and/or adopted? Which compounds will be more or less effectively reduced?

III. Alternatives Under Consideration

Several options are currently under consideration to deal with the contamination of drinking water by VOCs. These options are briefly discussed below; comments and suggestions regarding these approaches or any others that should be considered would be appreciated.

Non-Federal Regulatory Approach: Provision of Health and Treatment Guidance by EPA

This alternative would be a non-Federal regulatory action and would involve providing advisory opinions to States to assist them in responding to and alleviating emergency situations which the Administrator determines present substantial danger to public health. This guidance could include information on the potential health effects of exposure to VOCs and on available treatment technologies and associated costs that could be used to reduce VOCs in contaminated drinking water supplies. These advisories would only be guidance and could be used as appropriate by States. States could use this information to assist the public water systems as needed or States could set their own regulations based upon the provided information. This alternative essentially incorporates the EPA Office of Drinking Water's on-going program which provides advice to States on potential health effects of exposure to non-regulated chemicals and advice on available treatment. EPA requests comments on this approach.

National Monitoring Regulations With State Response Based Upon Guidance on Health Effects and Treatment

This alternative would require public water systems to monitor for VOCs, and if found at levels that the State determined to pose danger to the public health, the State would take appropriate action using among other sources health and treatment guidance provided by EPA as in the above alternative. Flexible monitoring requirements could be established with specific requirements for frequency of sampling and number of samples depending upon such factors as size of system or proximity to potential sources of contamination (e.g., industries or hazardous waste sites). One possible approach is shown in Table 6.

Table 6.—A Potential Monitoring Requirement

• Require all public water systems to initially analyze one round of samples for these contaminants within 1 to 3 years (due to limited analytical facilities).

• For systems not finding contamination (above analytical detection limits), require continued monitoring at a frequency of one sample per plant or source per three (to five or longer) years or at a frequency determined by the State reflecting local conditions.

• For systems finding contamination but significantly less than levels of health concern, continue monitoring at one sample per plant or source per year.

• For systems finding contamination near or above the levels of health concern, continue monitoring at one sample per plant or source per quarter or more frequently if determined by the State to be needed to assure protection of public health.

Sampling requirements could be per plant per source. Identification of the source may be difficult in ground waters since some systems use many wells apparently drawing from the same aquifer, with certain wells contaminated but other nearby wells uncontaminated. Specific requirements for the precision of sample analyses would be included in the regulations such that only laboratories that could achieve the specified limits could conduct the analyses. Reporting of monitoring data would be to States and possibly consumers.

One alternate approach for monitoring would involve the screening for contamination by organohalogen compounds through monitoring requirements for total organic halogens (TOX). This would provide a single analytical technique to detect the presence of many synthetic organic halogenated compounds in drinking water sources. Monitoring for this parameter could be applied as a screening mechanism to establish the presence or absence and the level of synthetic organohalogenated chemicals as a group. Implementing monitoring requirements for the VOCs would follow only in those cases where potentially significant levels of TOX were detected.

Comments and suggestions are requested on this alternative, especially upon the following current thoughts on monitoring or any other approaches to monitoring:

• What monitoring requirements should be imposed for determining exposure to VOCs? Should all public water systems conduct one round of monitoring to assess the presence or absence of these contaminants? How should distinctions be made between systems served by surface as opposed to ground water? How much time should be allowed to public water systems to complete the first set of monitoring?

• Is a reliable, inexpensive analytical technique available to measure total organic halogen (TOX)? Should monitoring requirements be established using TOX as an initial screening mechanism before more detailed monitoring for each of the VOCs is conducted?

• What should be the specific monitoring requirements:
—Number of samples?
—What frequency?
—What locations for sampling?
—Sample each well or distribution system?

• How should reduced monitoring requirements be determined? What factors should be used by States to determine the basis and frequency for monitoring?
—Size of system?
—Proximity to hazardous wastes sites or industries?

National Standards: Monitoring and Maximum Contaminant Levels

This alternative would set Revised Primary Regulation under the SDWA for monitoring and establish RMCLs (health goals) and MCLs (standards) for the VOCs.

As shown in Table 7, alternatives being considered for RMCLs (health goals) include, setting the recommended level at zero for carcinogens of concern to humans or at some finite relative risk level. RMCLs for non-carcinogens could be set at a specific level based upon chronic toxicity data and employing appropriate uncertainty (safety) factors. EPA requests comments on the following:

• What are the levels for these contaminants at which "no known or anticipated adverse effects" will result?

• Should the RMCL for carcinogens of concern to humans be zero or some finite relative risk level? On what basis would that risk level be determined?

Table 8 presents the options being evaluated by EPA concerning the appropriate level for each MCL. These approximate levels fall roughly within an upper limit lifetime exposure risk range of 1 in 10,000 (i.e., one excess cancer death per 10,000 population) to 1 in 1,000,000 as estimated by conservative relative risk computation models using data from animal tests. They also fall in the area of probable technical and economic feasibility for removal of these chemicals from water. However, these questions are receiving further evaluation.

Table 7.—Potential Recommended MCLs (RMCLs)

• RMCLs are health goals and not enforceable standards.

• RMCLs would be set at levels sufficient to prevent the occurrence of any known or anticipated adverse health effects with an adequate margin of safety. (Section 1412(b)(1)(B))

• Alternatives under consideration:
—Set the RMCLs for carcinogens at zero.
—Set the RMCLs for carcinogens at some low finite nominal upper limit risk level. The selected level would represent a virtually non-existent risk.
—For non-carcinogens, base the RMCLs upon chronic toxicity data with safety factors.

• • • The Administrator must consider the possible impact of synergistic effects, long-term and multimedia exposures, and the existence of more susceptible groups in the population. Finally, the recommended maximum level must be set to prevent the occurrence of any known or anticipated adverse effects. It must include an adequate margin of safety, unless there is no safe threshold for a contaminant. In such a case, the recommended maximum contaminant level should be set at the zero level. (House Report No. 93–1185 at 20.)

TABLE 8.—Potential MCLs* (μg/l)

Trichloroethylene	5 to 500.
Tetrachoroethylene	5 to 500.
Carbon tetrachloride	5 to 500.
1,1,1-Trichloroethane	1,000.
1,2-Dichloroethane	1 to 100.
Vinyl chloride	1 to 100.

*NOTE:
In addition, the feasibility of establishing an MCL for total volatile organic chemicals (TVOC) is being examined to address the concern over the potential risks from multiple contaminants. This would include those VOCs for which MCLs had been set (not including the MCL for total trihalomethanes in the National Interim Primary Drinking Water Regulations) but excluding 1,1,1-trichloroethane.
Another approach would be to set an MCL for total volatile halogenated chemicals (TOX) which would reflect the halogenated VOCs as measured by a single analytical test. While TOX is specific only for halogenated compounds as a group, the above six and seven of the additional eight in Table 2 as well as other organohalogen compounds would be included in the TOX test.
Potential MCLs also include those compounds listed in Table 2; data were not yet available to include in this table.

Determining an appropriate MCL for each chemical involves consideration of complex and competing factors. One aspect of the Agency's decisionmaking process in accordance with Executive Order 12291 is to analyze the benefits to be gained from the reduction of risk accompanying removal of contaminants from drinking water. These benefits are to be balanced against the feasibility and/or cost of removing such chemicals to the levels necessary to meet the standard.

A brief description of the methodology for comparing costs and benefits may be helpful. It should be kept in mind that all of these calculations are estimates subject to many uncertainties.

The analysis begins with estimates of national exposure to a given contaminant, both before regulation and after the imposition of a number of alternative levels. Since some compliance methods may lead to levels below the standard, estimates are developed of the number of systems, by size category, that would be likely to choose various treatment or non-treatment methods of compliance. These form the basis of both the total cost estimates and the total reduction in exposure, as a function of the level of the standard and other relevant variables.

Estimates of the benefits resulting from such a reduction in exposure are even less precise. For carcinogens, the reduction in aggregate exposure can be converted to projected numbers of cancer cases avoided, using the risk extrapolation models discussed earlier in this notice, with all their limitations. For non-carcinogens, estimates of benefits are much harder to develop: traditionally, standards for such chemicals are derived by applying a safety factor to a "no observed effect level," and no basis is available for quantifying the impact of a different safety factor.

Nevertheless, despite their uncertainties, these types of analyses are useful in explicitly displaying the impact of alternative regulatory and non-regulatory schemes.

Comments on this approach are requested and specific questions for which responses would be helpful are listed below.

• How should risk computations be used in establishing acceptable exposure levels in drinking water?

• Should relative source contribution, (i.e., from air, water, food) be a major factor in determination of the acceptable risk from water or should the incremental risk from water and/or quality demands stand alone?

• Should risk models be used to define a target or range of risks with the actual MCL determined by economic and feasibility factors? How should the factors of human exposure, potential human health risk, treatment technology feasibility/performance and costs of treatment be balanced in determining the level of MCL?

• Is setting an MCL for total VOCs or TOX an appropriate method for reducing risks from exposure to multiple carcinogens? If not, what better approach should be taken and on what basis? How should the MCL for total VOCs or TOX be determined: on a weight basis or a milliequivalent basis?

• Is the proposed methodology for looking at cost and risk reduction in arriving at a proposed standard level appropriate? Should other approaches be considered?

IV. References

The following supporting documentation for this ANPRM is available on request from the address listed at the beginning of this notice:

Bellar, T. A., Lichtenberg, J. J. "The Determination of Halogenated Chemical Indicators of Industrial Contamination in Water by the Purge and Trap Method: Method 502.1," U.S. EPA, EMSL, EPA 4-600/4-81-059

Bellar, T. A., Lichtenberg, J. J. "The Analysis of Aromatic Chemicals in Water by the Purge and Trap Method: Method 503.1," U.S. EPA, EMSL, EPA 600/4-81-057

Love, O. Thomas, Jr. and Richard G. Eilers, "Treatment for the Control of Trichloroethylene and Related Industrial Solvents in Drinking Water," U.S. EPA, Office of Research and Development, February 1981

Malcolm Pirnie, Inc., "Preliminary Treatment Designs and Cost for Control of Volatile Organic Compounds," April 10, 1981

EPA, Criteria and Standards Division, Draft Criteria Document for Trichloroethylene, EPA, Office of Drinking Water, November 1981

EPA, Criteria and Standards Division, Draft Criteria Document for Tetrachloroethylene, EPA, Office of Drinking Water, November 1981

EPA, Criteria and Standards Division, Draft Criteria Document for Carbon Tetrachloride, EPA, Office of Drinking Water, November 1981

EPA, Criteria and Standards Division, Draft Criteria Document for 1,1,1-Trichloroethane, EPA, Office of Drinking Water, November 1981

EPA, Criteria and Standards Division, Draft Criteria Document for 1,2-Dichloroethane, EPA, Office of Drinking Water, November 1981

EPA, Criteria and Standards Division, Draft Criteria Document for Vinyl Chloride, EPA, Office of Drinking Water, November 1981

EPA, Criteria and Standards Division, Occurrence of Volatile Organic Chemicals in Drinking Water, December 1981

EPA, EMSL, "Total Organic Halide, Method 450.1-Interim," EPA 600/4-81-056

Other published materials which are generally available and may be of some interest include the following:

National Academy of Sciences, "Drinking Water and Health," Volume I (1977), II (1980), III (1980), IV (1981)

Council on Environmental Quality, "Contamination of Ground Water by Toxic Organic Chemicals," January 1981
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Fleisher, M. B. and MacKay, S. L., "Assessment of the Impact of Organic Solvent Cesspool Cleaners and Drain Openers on Nassau County Drinking Water Supplies," Nassau County Department of Health, Mineola, NY, December 1977
Dunlap, W., "Preliminary Laboratory Study of Transport and Fate of Selected Organics in a Soil Profile". U.S. Environmental Protection Agency, Groundwater Research Center, Ada, OK (1980)
Weber, W. W., "Effectiveness of Activated Carbon for Removal of Toxic and/or Carcinogenic Compounds from Drinking Water". Final Report EPA R8044367-30-01, Office of Research and Development, MERL, Drinking Water Research Division, Cincinnati, OH, March 1980
Singley, J. E., A. L. Ervin, M. A. Mangone, J. M. Allen, and H. H. Land, "Trace Organics Removal by Air Stripping," prepared for: American Water Works Association Research Foundation, Denver, CO, May 1980
Gumerman, R. C., R. L. Culp, S. P. Hansen, "Estimating Water Treatment Costs," EPA-600/2-79-162, Research Reporting Series, USEPA, Cincinnati, OH, August 1979
Marsh, Langdon, "Report on Hearings on Organic Chemicals in Drinking Water," New York State Department of Health, January 1981
Dressman, Ronald, "The Analyses of Organohalides (OX) in Water as a Group Parameter," Proceedings 7th Annual AWWA Water Quality Technology Conference, 28-5, page 60, December 1979

V. Request for Comments

EPA requests public analyses, comments and information on all aspects of this most important issue involving the appropriate balance of public health protection against practical implementation of the drinking water program under the requirements of the SDWA. The general questions for which comment is being specifically solicited are listed below. Comment on any or all of them will be of great assistance to EPA in formulating a protective and practical approach to reducing human exposure to VOCs in drinking water where it occurs.

- What is the significance of contamination of drinking water by VOCs?
- What approach should EPA take to deal with VOCs in drinking water?
- What monitoring requirements should be established?
- Are analytical techniques available which can reliably and practically be used in monitoring for VOCs?
- What level should be set for RMCLs such that "no known or anticipated adverse effect" will result?
- What criteria should be used in determining the health basis for any MCLs in taking into account pharmacokinetics, health effects in animals, health effects in humans, and mechanisms for toxicity?
- How should the factors of human exposure, potential human health risk, treatment technology feasibility/performance and costs of treatment be balanced in determining the level of any MCLs?
- What treatment techniques are available to reliably remove VOCs at reasonable cost to appropriate levels? What is a reasonable acceptable cost? Particularly in relation to small communities which are most likely to be affected by such a structure?
- What strategy should be adopted for national implementation of any monitoring and MCL requirements?

Formal public hearings will not be held at this time but a public meeting will be held in Washington, D.C., on April 28, 1982, for the interested public to comment and provide information and data on the regulatory approach and available documentation. Technical workshops for technical staffs of State agencies, public water systems, and public interest groups will also be held to provide an opportunity for EPA to present the regulatory approaches being considered as well as present the technical aspects dealing with occurrence, analytical methods, health effects, and treatment technologies. These workshops will be held at several locations throughout the country at times to be determined.

EPA recognizes that many significant questions surround the presence of volatile organic chemicals in drinking water. The Agency has attempted in this ANPRM to portray its current level of knowledge on the subject in a measured and objective manner. In this way, any data gaps or errors in logic which may exist can be identified and corrected. For that reason, careful review of and thoughtful comment on the information in this ANPRM is encouraged.

Dated: February 18, 1982.

Anne Gorsuch,

Administrator.

[FR Doc. 82-5703 Filed 3-3-82; 8:45 am]
BILLING CODE 6560-26-M

federal register

Thursday
March 4, 1982

Part V

Department of Transportation

Federal Aviation Administration

SFAR 41; Airworthiness Standards: Reciprocating and Turbopropeller Powered Small Multiengine Airplanes

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21, 23, 36, 91, 121, 135, and 139

[Docket No. 21716, Notice No. 82-3]

Airworthiness Standards: Reciprocating and Turbopropeller-Powered Small Multiengine Airplanes SFAR 41 Interim Standards

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to reinstate Special Federal Aviation Regulation (SFAR) 41 which expired October 17, 1981, and amend that SFAR to: (1) eliminate the 12,500-pound maximum zero fuel weight (MZFW) restriction; (2) limit the number of passengers to 19 for those small propeller-driven multiengine airplanes that operate at a certificated takeoff gross weight in excess of 12,500 pounds; and (3) relax the landing distance determination requirment, making it consistent with Parts 23 and 25. These proposals are the result of a number of petitions for exemption and rulemaking intended to provide economic benefits to the commuter airlines by increasing passenger payloads and improving operating efficiency without reducing the level of safety. In addition, the FAA is inviting comments on the advisability of codifying the substance of SFAR-41B and proposed SFAR-41C into Part 23 and extending its applicability to new multiengine airplanes having a maximum passenger seating configuration of 19 seats or less and having a maximum takeoff gross weight greater than 12,500 lbs.

DATE: Comments must be received on or before April 20, 1982.

ADDRESS: Comments on the proposal may be mailed in duplicte to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 21716, 800 Independence Avenue, SW., Washington, D.C. 20591; or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591, and marked "Docket No. 21716." Comments may be inspected at Room 916 between 8:30 a.m. and 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Joseph Snitkoff, Airframe Branch (AWS-120), Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8362.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to environmental, energy, or economic impact that might result from adoption of the proposals contained in this notice are invited. Communications should identify the regulatory document or notice number and be submitted in duplicate to the address above. All communications received on or before the closing date for comments will be considered by the Administrator before taking final action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. Commenters wishng the FAA to acknowledge receipt of thier comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 21716." The postcard will be dated an time stamped and returned to the commenter.

Availability of NPRM

Any peson may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice nubmer of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

In 1968, the FAA established an air taxi airworthiness program with the objective of providing a transition for air taxi airplanes from small airplane requirements of Part 23 to the transport category airplane requirements of Part 25 of the Federal Aviation Regulaitons. This program resulted in the issuance of SFAR 23 (34 FR 180; January 7, 1969).

A long-standing 12,500-pound limitation, which distinguishes between large and small airplanes, both under U.S. and International Civil Aviation Organizaiton (ICAO) standards, requires all new type certificated airplanes with a maximum takeoff gross weight of more than 12,500 pounds to meet transport category airworthiness standards of Part 25, regardless of the type of operation or number of passenger seats. At the time this limitation was established in the regulations, there were few small airplanes with maximum gross weights near 12,500 pounds.

In 1977, the FAA/Industry Commuter Aircraft Weight Review Committee submitted a petition to amend the regulations to permit certain small airplanes to be type certificated at maximum gross weights greater than the 12,500-pound limitation without complying with Part 25. Responding to this and other needs for improved standards resulting from the Airline Deregulation Act, the FAA initiated a three-phase program for certification and operation of commuter airplanes. The first phase was the issuance of a revised Part 135, Air Taxi Operators and Commerical Operators (43 FR 46742; October 10, 1978), which aligned the rules for those operations more closely with Part 121. The second phase was initiated by issuance of Notice 78-14, (SFAR 41) (43 FR 46734; October 10, 1978), which proposed to provide for increased takeoff gross weight and passenger seating capacity of certain existing small, propeller-driven multiengine airplanes. The third phase was the establishment of the Light Transport Airplane Airworthiness Review to develop a separate set of airworthiness standards, proposed Part 24, for multiengine airplanes with a maximum gross weight up to 35,000 pounds and a seating capacity up to 30 passengers. The Part 24 project was terminated because the economic analysis did not support its adoption.

Many close working discussions with industry were held concerning the formulation of SFAR 41. At the time Notice 78-14 was issued, the maximum zero fuel weight of 12,500 pounds was proposed to increase the utilization of then current Part 23 airplanes that had been certificated with a maximum takeoff weight of 12,500 pounds. No objections to this restriction were received during the comment period of Notice 78-14.

The new SFAR 41 was proposed as an interim standard to permit limited growth and utilization of existing small propeller-driven multiengine airplanes

that had demonstrated, through service experience, a satisfactory level of safety. These airplanes would be made available to the commuter airline industry consistent with the Airline Deregulation Act of 1978 without compromising the high safety standards in air transportation.

SFAR 41 was designed to fill the gap betwean Part 23 and Part 25 certification standards until commuter airplanes could be developed and certificated under the proposed Part 24 rule which was later withdrawn. The interim nature of the SFAR was reflected in the time limits imposed. It required that an application for an aircraft supplemental or amended type certificate under SFAR 41 be filed within 2 years after the effective date of the SFAR, and limited production of airplanes certificated with maximum takeoff gross weights in excess of 12,500 pounds to 10 years. The 10-year period was specified to permit development of new standards for that type of airplane and to allow sufficient time for airplane manufacturers to amortize the cost of modifications required to comply with the rule, and thus make production of these airplanes economically viable. No limitation was established for the operational life of airplanes certificated under SFAR 41.

SFAR 41 was published in the Federal Register on September 17, 1979 (44 FR 53729), and became effective October 17, 1979. It prescribed additional airworthiness standards applicable to existing reciprocating and turbopropeller-powered small multiengine airplanes. SFAR 41 permitted type and airworthiness recertification of these airplanes at weights in excess of 12,500 pounds maximum certificated takeoff weight or with an increase in the number of passenger seats. SFAR 41 also imposed a design restriction which limited the maximum zero fuel weight to 12,500 pounds. This regulation was amended April 14, 1980, SFAR 41A (45 FR 25049), for clarification and to make editorial corrections, and further amended on December 8, 1980, SFAR 41B (45 FR 80972), to specify additional requirements in order to comply with ICAO Annex 8 airworthiness standards. The expiration date of SFAR 41B was October 17, 1981.

Petitions for Exemption and Rulemaking

Landing Distance. One airplane manufacturer requested an exemption from, and another manufacturer submitted a petition to amend, paragraph (c) under section 5(c) of SFAR 41 relative to landing distance determination. This paragraph, by incorporating the standard that was effective in Part 23 on March 30, 1997, specifies a landing approach technique which results in a greater landing distance than would result from either the current Part 23 or 25. Paragraph 5(c)(a) allows an alternate technique, but this also results in a greater landing distance than the resulting from current Part 23 or 25. The landing distances established during SFAR 41 certification are specified in the Airplane Flight Manual which the operators are required to follow. The effect of the landing distance determination embodied in SFAR 41 has been to restrict these airplanes from serving destinations with shorter runways which would otherwise be available if the landing approach techniques specified in current Parts 23 and 25 were permitted. The manufacturer's request for exemption from SFAR 41, paragraph 5(c)(a), was published in the Federal Register on March 16, 1981 (46 FR 17002). No comments were received. The FAA concurred in the petitioner's request and the exemption was granted (Exemption No. 3250, issued June 17, 1981). The second manufacturer's petition to amend paragraph 5(c)(a) to relax the landing distance determination requirement is being considered in this notice by proposing a change to paragraph (a) under section 5(c).

Zero Fuel Weight. Two airplanes manufacturers petitioned the FAA for exemption from the 12,500-pound maximum zero fuel weight (MZFW) restriction of SFAR 41B and a notice of petition was published for comment in the Federal Register on May 21, 1981 (46 FR 27825). During this approximate time frame, a petition for rulemaking was submitted by one of these airplane manufacturers to amend SFAR 41 to delete the 12,500 pound MZFW restriction in order to allow operation at an increased revenue payload. This petition was published for comment in the Federal Register on July 23, 1981 (46 FR 37985). Subsequently, a petition for rulemaking was received and published by the FAA from another airplane manufacturer who suggested limiting the passenger seating capacity to 19 seats for those airplanes exempted from the 12,500-pound MZFW. Due to the similarity of these exemptions and rulemaking petitions, they were combined into one docket, No. 21716, and published in the Federal Register on August 27, 1981 (46 FR 43176), with the comment period extended to October 26, 1981, to allow for further comments.

One petitioner requested a meeting with the FAA to present oral arguments in support of a petition to be exempted from the zero fuel weight restriction of SFAR 41. Other petitioners, representatives of industry, airlines, and manufacturers' associations, invited by the petitioner requesting the meeting, were in attendance. The meeting was held on October 1, 1981, at FAA headquarters and a transcript of that meeting is included in Docket No. 21716. The views expressed at the meeting were considered in the development of this notice.

Comments on Published Petitions

Nine (9) commenters responded to the notices concerning zero fuel weight and passengers. Manufacturers and operators favoring exemption or rule change contend that the MZFW restriction is an economic burden on commuter airlines and other small operators because they are unable to fully utilize the design potential of these airplanes. To place some restraint on the use of Part 23 airplanes in commuter service while airplanes meeting revised Part 25 rules are being designed and certificated, one manufacturer suggests a limit of 19 passengers. Since a flight attendant is now required under Part 135 for airplanes carrying 20 passengers or more, an airline would have to develop a recruiting and training program for these flight attendants, in addition to providing space within the airplane. Furthermore, 19 passengers is a natural cut-off inasmuch as § 135.177 requires additional emergency equipment such as improved interior and exterior exit markings, emergency lighting, and simplified exit handle design, for airplanes having a passenger seating capacity in excess of 19.

Two commenters support the petitioner's request for exemption from the 12,500-pound MZFW limit of SFAR 41B, while a third not only supports it, but requests the same exemption for its operation.

Three commenters recommend approval of the petition for a rule change to SFAR 41B to delete the 12,500-pound MZFW limit.

One commenter supports, in principle, the combined exemption and rulemaking petitions to eliminate the 12,500-pound MZFW limit and the restriction of the number of passenger seats to 19.

Two commentes express opposition to a grant of exemption or rule change. One commenter objects to a redefinition of the applicability of SFAR 41 in terms of weight or passenger capacity on the ground that it would suggest an undesirable permanence to the provisions of SFAR 41. However, as discussed in this notice, the extension of the application date for 1 year and the

production date for 2 years does not imply permanence for this rule.

Another commenter opposes an increase in the MZFW beyond the 12,500-pound limit of SFAR 41 since the intent of this restriction was to provide for larger fuel reserves. The current SFAR permitted an increase in maximum certificated takeoff gross weight above 12,500 pounds which could be applied to increased payloads or fuel reserves, or both. The FAA has found no reason to prohibit extension of these options provided the high level of safety is maintained.

The FAA recognizes that the MZFW restriction imposes an economic burden on the commuter airline industry, and that its deletion from SFAR 41 will not compromise safety in and of itself. Also, to limit the size and number of airplanes that can operate under SFAR 41 rules in lieu of the more stringent Part 25 rules, the FAA proposes a 19-passenger limit for these airplanes. This restriction would not be a burden to the airlines since many commuter airlines are now providing for a maximum of 19 passengers. This notice is based on the consideration that the benefits and limitations counterbalance the objections raised by the two opposing commenters. In connection with the proposed passenger limitation, the selection of the 19-passenger configuration is a logical and economic choice because of the burden that would be imposed by flight attendant requirements, increased aisle widths, and additional crashworthiness provisions required for additional passengers.

Reinstatement of the SFAR

SFAR 41 as amended through SFAR 41B terminated October 17, 1981. The effect of that termination has been to preclude the acceptance of new SFAR 41 amended or supplemental type certificate applications and to preclude amendments to accommodate different certification criteria. Nevertheless, these standards continue to remain effective for airplanes previously certificated with SFAR 41 as part of the amended or supplemental type certificate basis.

For current SFAR 41 airplanes, the termination does not prevent exemption action for modifiers who wish to increase the zero fuel weight or shorten the landing distance criteria specified in SFAR 41. However, exemption actions would have to be taken on a case-by-case basis. Because of considerable industry interest in revised criteria, it would not be feasible to process individual exemption requests. As the more practical alternative, and to make any revised criteria available on an equal basis to all interested persons, it is proposed to reinstate the effectivity of SFAR 41 and, as reinstated, incorporate the revised zero fuel weight, 19-passenger limit, and landing distance criteria as amendments.

Discussion of Proposals

Proposal 1 would delete the 12,500-pound MZFW restriction to enable manufacturers to tailor the MZFW to the desired capabilities of the airplane. Also, it would provide for economic benefits to the commuter airlines because with this restriction removed, existing commuter airplane types, when recertified under the amended SFAR, would be able to operate at increased passenger payloads, thus reducing operating costs without reducing safety.

Although not a part of the airworthiness certification of SFAR 41 airplanes, to ensure that adequacy of training is maintained, the FAA would, through the establishment of Flight Standardization Boards for these aircraft, and the assigned principal inspector's review of an operator's training program, make those changes necessary to ensure that the proficiency and competency of each crewmember, flight instructor, and check airman is maintained with the zero fuel weight restriction removed. The Flight Standardization Board would make training recommendations on specific differences between similar models and identify special operational characteristics of the aircraft requiring additional training and checking as they pertain to air carrier operations.

Operators would be required to update training programs to ensure the crews' knowledge and understanding of operating limitations, including the effects of eliminating the zero fuel weight restriction and possible increased gross weight on weight and balance and performance. Where appropriate, operators would be required to demonstrate competency through oral and flight checks administered by the FAA or its representative.

This proposal would also limit the number of passengers to 19 as suggested by one manufacturer as a limitation in conjunction with the elimination of the MZFW restriction. The 19-passenger limit appears to provide for the most efficient utilization of existing SFAR 41 airplanes operating in commuter service. It would not be appropriate to allow the number of passengers to escalate beyond this point unless the airplane meets the more stringent Part 25 standards. This limit does not appear to place an economic burden on industry, since it avoids the additional crashworthiness and flight attendant requirements of Part 135 associated with 20 or more passengers. The FAA requests that comments responding to this notice cover specific, detailed, economic cost data on the imposition of this limit rather than mere statements of impact without detailed breakdown of costs.

Proposal 2 extends the pre-existing production cutoff date 2 years. This is consistent with the original intent of SFAR 41 to permit production of these airplanes for a 10-year period of time to allow airplane manufacturers to amortize the cost of modifications required to comply with this rule and make production of these airplanes more economically viable. Applications may be submitted for amended or supplemental type certificates with the MZFW restriction removed, and a 10-year production period should be afforded these applicants.

The changes in proposals 3, 4, 6, and 7 would be necessary for consistency if proposals 1 and 2 above are implemented.

Current SFAR 41 requires that the landing distance be determined in accordance with § 23.75(a) in effect on March 30, 1967, or by a steady approach down to the 50-foot height at a gradient of descent not greater than 5.2 percent (3°) at a calibrated airspeed (CAS) not less than 1.3 V_{s1}. Thus, the landing approach may either be a 1.5 V_{s1} glide (§ 23.75(a); March 30, 1967), or a 1.3 V_{s1} descent with power for a 3° gradient. Both of these techniques produce landing distances greater than the 1.3 V_{s1} glide that is allowed in current §§ 23.75 and 25.125. Proposal 5 would amend SFAR 41 paragraph (*a*) under Section 5(c), *Landing*, to allow the 1.3 V_{s1} gliding approach in determining landing distance.

In support of a request for rulemaking as to determination of landing distance, the petitioner states that: (1) The requested landing distance determination technique is the current technique required in Parts 23 and 25; (2) It will provide a level of safety equal to Part 25; (3) It will make air transportation available to small cities that might otherwise be denied service because of short runways. As an example, in the case of the airplane for which the exemption was granted, the destination field length will be reduced from 5,171 feet to 4,100 feet at a landing weight of 13,000 pounds for an airport at sea level. For an airport at 2,000 feet above mean sea level (MSL), the destination landing distance will be reduced from 5,433 feet to 4,321 feet at the same landing weight. Many of the airports served by this class of airplanes have runways of 5,000 feet or less. Finally, (4) it will serve the intent of SFAR 41 to more fully utilize the design capability of certain small airplanes.

The FAA concurs with the petitioner's recommendations and, in view of the advantages to be gained while maintaining a level of safety consistent with current rules, proposes to adopt the 1.3 V_{s1} gliding approach of the current § 23.75(a) in paragraph (*a*) under 5.(c); *Landing* of SFAR 41.

It is emphasized that under the provisions of this proposal, existing SFAR 41 airplanes would require recertification with new amended or supplemental type certificates in order to take advantage of operating limitations reflecting zero fuel weights in excess of 12,500 pounds. These recertified airplanes would be subject to the 19-passenger limitation. The landing distance may be reestablished using the 1.3 V_{s1} gliding approach in accordance with current Part 23.

Proposal 8 would establish a new SFAR 41 expiration date, 1 year after the effective date of the amendment, which should allow airplane manufacturers ample opportunity to apply for amended or supplemental type certification under the revised rule.

Part 23 and Part 25 Considerations

The FAA is considering related further actions to ensure the availability of safe airplanes of the 19-passenger class for use in commuter service without imposing an unreasonable economic burden on the design. Therefore, the FAA is also inviting comments on the advisability of codifying the substance of SFAR–41B and proposed SFAR–41C into Part 23 to extend its applicability to new multi-engine airplanes having a maximum passenger seating configuration of 19 seats or less and having a maximum takeoff weight greater than 12,500 pounds. This in effect would revise the existing applicability limitation of section 23.1. The FAA decision to proceed with this amendment would be based on the safety performance of existing aircraft designed to SFAR–41C standards taken together with a positive benefits vs. cost analysis.

It should be noted that the FAA is continuing to study the advisability of amending Part 25 to include smaller transport category airplanes typical of those presently being developed for commuter service. The FAA recognizes that it may not be practicable to cover new airplanes of the class presently addressed by SFAR–41B and proposed SFAR–41C within the scope of aircraft type certificated under Part 25.

Economic Impact and Benefits

The elimination of the MZFW restriction would have no adverse safety impact and may, in fact, improve safety because operators would be able to add additional or improved avionics, and increase fuel reserves. The increased takeoff gross weight would allow the aircraft operator the options to add more passengers, up to 19, increase baggage allowances, and increase cargo or flight distances. The load increase could be significant. In one aircraft, the manufacturer estimates the payload could be increased up to 43 percent or 1,500 pounds of additional payload. Because the marginal cost of carrying the additional payload would be relatively low compared to the additional revenue for such carriage, the added utility of this payload increase could be significant. The airplane manufacturers will have some moderate costs in recertifying the airplane to the proposed new weight and landing distance criteria. An airplane manufacturer who does not wish to establish revised weight or landing distance limitations would not incur these costs.

The proposal to allow the use of shorter runways does not appear to have an adverse impact upon safety. The economic benefits of this proposal include the increased availability of air transportation to small cities that might otherwise be denied service because of short runways. Specific reductions in destination field length were noted in the discussion of Proposal 5. While it would be a difficult task to measure the benefits in dollar terms, the benefits would be substantial and because there would be no adverse impact on safety, the proposed regulatory change would be in the interest of the aviation community.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to reinstate and amend SFAR 41 of the Federal Aviation Regulations (14 CFR SFAR 41) as follows:

SFAR No. 41 [Amendment No. C]

Paragraph 1. *Applicability.* (Amended)

1. By deleting the phrase "a maximum zero fuel weight not in excess of 12,500 pounds" from paragraph 1.(b) and inserting in its place the phrase "a specified zero fuel weight to be established by the applicant", and by inserting after the word "configuration" the parenthetical phrase "(but not more than 19 seats)".

Paragraph 3. *Production limitation.* (Amended)

2. By deleting the year "1980" and inserting in its place the year "1991".

Paragraph 4. *Restriction.* (Amended)

3. By deleting the phrase "and may not exceed 12,500 pounds" from paragraph 4.(a).

Paragraph 5. *Exceptions.* (Amended)

4. By inserting after the phrase "of 10 seats or more" in paragraphs 5.(b)(2) and 5.(b)(3), the parenthetical phrase "(but not to exceed 19 seats)".

5. By inserting a period after the word "chapter" in the first sentence of paragraph 5.(c)(*a*) under *Landing*, and deleting the remainder of the sentence.

6. By inserting the number "23" from paragraph 5.(e)(*g*)(2) under, *Doors and Exits*, and inserting in its place the number "19".

7. By deleting paragraph 5.(e)(*g*)(3) under, *Doors and Exits*.

Paragraph 15. *Expiration.* (Amended)

8. By deleting the date "October 17, 1981" and inserting in its place the date (1 year after the effective date of this amendment).

* * * * *

(Secs. 313(a), 601, 603, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, 1424); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.45))

Note.—This proposal will allow manufacturers and operators of certain existing airplanes the option of complying with relaxed requirements that will increase payloads and improve air carrier services to the public. For this reason and as discussed in the preamble: the FAA has determined that it (1) involves a regulation which is not a major rule under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that the proposed amendment will not have a significant economic impact on a substantial numbr of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Washington, D.C., on February 9, 1982.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 82-5847 Filed 3-3-82; 8:45 am]

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federal register

Thursday
March 4, 1982

Part VI

Department of Transportation

Coast Guard

Outer Continental Shelf Activities; Final Rules

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 140, 141, 142, 143, 144, 145, 146, and 147

[CGD 78-160]

Outer Continental Shelf Activities

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends Coast Guard requirements for facilities, vessels, and other units, domestic and foreign, engaged in mineral exploration, production, or development activities on the Outer Continental Shelf. The changes implement provisions of the Outer Continental Shelf Lands Act Amendments of 1978 and conform the scope of the existing regulations to the broader scope of the amended Act and to Coast Guard regulations for mobile offshore drilling units and life preservers. The amendments affect requirements for design, equipment, operations, manning, inspections and investigations. The regulations are intended to ensure that foreign mobile offshore drilling units operating on the Outer Continental Shelf meet standards comparable to standards met by U.S. units, to implement statutory provisions for manning by U.S. citizens, and to improve the safety of activities on the Outer Continental Shelf.

EFFECTIVE DATE: April 5, 1982, except § 146.130 (Station Bill) which contains information collection requirements not yet approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35.

FOR FURTHER INFORMATION CONTACT: Lieutenant Dennis J. Cashman, Office of Merchant Marine Safety, Room 2505, U.S. Coast Guard Headquarters, 2100 2nd St. SW., Washington, D.C. 20593 (202-472-5160).

SUPPLEMENTARY INFORMATION: The Coast Guard published a Notice of Proposed Rulemaking (NPRM) concerning these amendments on May 1, 1980 at 45 FR 29072. Twenty-seven written comments were received in response to the NPRM and are discussed in this document. Comments were received from private individuals, commercial enterprises, industry associations, federal agencies, and a foreign government. None of the comments requested a public hearing. Because the Coast Guard did not believe a public hearing would provide additional beneficial information, no public hearing was scheduled.

Drafting Information

The principal persons involved in drafting this rule are Lieutenant Commander Thomas J. Barrett, Outer Continental Shelf Safety Project Staff, Office of Merchant Marine Safety and Mr. Stephen H. Barber, Project Attorney, Office of the Chief Counsel.

Discussion of Major Comments

General Comments

1. Several comments emphasized the need to avoid conflicting or duplicative Coast Guard and U.S. Geological Survey requirements for units engaged in Outer Continental Shelf (OCS) activities. The Coast Guard is conscious of the need to avoid conflicting requirements and on December 18, 1980 the Commandant of the Coast Guard and the Director of the U.S. Geological Survey signed a Memorandum of Understanding concerning agency responsibilities for OCS activities. The agreement was reprinted in the January 8, 1981 Federal Register (46 FR 2199). Part IX of the Memorandum provides that both agencies will review reporting requirements, data collection requirements, and current standards, regulations and orders and propose revisions where necessary to eliminate duplicative requirements. The relationship between the requirements of Subchapter N and requirements administered by the U.S. Geological Survey is stated in § 140.4 of the regulations.

2. Another comment welcomed the added safety precautions in these rules, but emphasized the need for further assessment of the adequacy of existing drill vessels to operate in deeper waters on tracts susceptible to slumping, subsidence, shallow gas, and other geo-hazards. In this regard, the comment referred to the joint Geological Survey/Coast Guard study under section 21(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1347(a)) on technology, equipment, and techniques available for exploration, development, and production of the minerals of the OCS. Results of the study are expected to be available in the summer of 1982.

3. Another comment noted that the proposed rule contained new reporting and recordkeeping requirements and questioned whether enforcement of these requirements could be stayed pending receipt of approval by the Office of Management and Budget (OMB). New provisions requiring OMB approval have been approved as indicated under the section entitled "Paperwork Reduction Act" in this preamble.

4. Another comment, noting that Part 145 on firefighting equipment was not revised, suggested that the Coast Guard consider requiring a fixed water firemain system on manned platforms and additional firefighting equipment for helicopter facilities on platforms. The Coast Guard is reviewing requirements for firefighting equipment on OCS facilities and any changes to the existing rules which appear necessary will be addressed in a subsequent rulemaking project (Coast Guard Docket 80-160).

5. Another comment expressed concern that the offshore portion of the petroleum industry might in required to change its industrial practices to conform to Coast Guard marine standards, even though the petroleum industry uses common equipment and techniques offshore, onshore, and in state waters. Coast Guard requirements for mobile offshore drilling units take industry standards into account. This rule does not contain new standards for offshore production systems.

6. The same comment also urged the Coast Guard to avoid the certification of indivfdual employees as qualified for a particular job. Such certification, the comment asserts, would not improve safety performance and could have a negative impact. This rule does not require certification of employee qualifications.

7. One comment suggested that "unit" and "unit engaged in OCS activities" meant the same and that the former should be used throughout. By definition under § 140.10, "unit" refers to a vehicle or structure, not to its use. This definition is used in other Coast Guard regulations which may or may not relate to OCS activities. The use of the phrase "engaged in OCS activities" limits the units being regulated only to those engaged in OCS activities.

Specific Comments: Part 140

1. Section 140.3—One comment suggested that this section be expanded to identify the role of the U.S. Geological Survey concerning facility design and construction. The relationship between the requirements of this subchapter and Geological Survey requirements is explained in § 140.4, which has been renumbered from proposed § 143.3. The roles of the Coast Guard and Geological Survey are more fully explained in the December 18, 1980 Memorandum of Understanding (46 FR 2199; January 8, 1981).

2. Section 140.5—One comment suggested limiting the power of the Officer in Charge, Marine Inspection, to grant exemptions. As this could restrict the flexibility needed to accommodate

the many different construction and erection methods used offshore, the suggestion was not adopted.

3. Section 140.7—(a) Several comments were received on the incorporation by reference section. The information provided by this section is required by 1 CFR Part 51 for the benefit of those affected by the rulemaking; however, the format used to convey this information has changed since the date the proposed regulations were published for comment. This section has been changed to conform to the new format. Under the new procedure, the addresses where the material is maintained on file for inspection and copying by the public are now listed in paragraph (a) and the information listing the source of the material incorporated, the date of the edition incorporated, and the address where the material is available for purchase is now set out in the Finding Aids section at the end of Volume (Title) 33, Parts 1 to 199, of the Code of Federal Regulations.

(b) Several comments questioned whether the material incorporated was to apply to domestic as well as foreign flag MODUs. The two sections in the regulations which refer to the material incorporated (§§ 143.207 and 146.205, both entitled "Requirements for foreign MODUs") clearly apply only to foreign MODUs. Therefore, no change to the regulations in response to these comments was considered necessary.

(c) Four comments pointed out the confusion that can result from the provision in § 140.7(a) as to the publication of future revisions to the Code by IMCO. The new wording of this section clarifies this point. Under 1 CFR Part 51, no change to the IMCO Code after the effective date of this rulemaking can "automatically" be incorporated by reference, as the incorporation is limited to the material as it exists on the effective date of the rulemaking. Should the Coast Guard consider incroporating a subsequent change to the IMCO Code, it must publish an amendatory document in the Federal Register for public comment.

(d) Several comments suggested that proposed § 140.7(c) on approval of the incorporation by the Director of the Federal Register was administrative and, therefore, unnecessary. The information on approval must be noted in the regulatory document to comply with the requirements of 1 CFR Part 51.

4. Section 140.10—(a) One comment suggested that the definitions be conformed to those used in the Memorandum of Understanding for the OCS between the Coast Guard and the U.S. Geological Survey. The definitions used in § 140.10 are consistent with those in the memorandum; however, because the regulations and the memorandum serve different purposes, identical wording could not always be used.

(b) Three comments recommended that the proposed definition of "attending vessel" be revised to clarify that the moored vessel is present for the purpose of providing services to the facility. The definition has been revised to do this.

(c) Two comments suggested that the proposed definition of "floating installation" be modified to include vessels, on the grounds that shipshape hulls are "utilized for and have the same potential for facility installations as semisubmersibles." Because permanently moored shipshape hulls may fall within this category, the definition has been modified to include them. Also, the term "floating installation" has been changed to "floating OCS Facility" because "installation" is not a defined term.

(d) Two comments suggested the proposed definition of "manned facility" was indefinite. The definition has been modified to provide a clearer standard. If personnel are routinely aboard a facility for more than 12 hours in successive 24 hour periods the facility will be considered "manned."

(e) Another comment stated that the definitions of "manned facility" and "manned platform" were inappropriate for their actual application and the safety requirements of Subpart B of Part 146 would not apply to many platforms that were, in fact, manned. The changes noted above to the definitions of "manned platform" and "manned facility" eliminate this problem.

(f) Another comment noted that the definition of "Officer in Charge, Marine Inspection" refers to marine inspection zones described in Part 3 of this Chapter, but Part 3 does not indicate the seaward boundaries of the various zones. The comment suggested that this was important because various reports must be directed to the officer in the zone where the unit is located. The Coast Guard, however, has not found this to be a problem. The appropriate marine inspection offices for various offshore areas are publicized locally by the Coast Guard and reports submitted to an incorrect office are rerouted by the Coast Guard to the correct office.

(g) One comment interpreted "operator" in the case of a unit other than a vessel to be the lease record owner or designated operator. The definition has been revised to make this clearer.

(h) Another comment suggested a similar interpretation and asked that a review be undertaken to ensure that the person responsible for seeing that a regulation is obeyed actually has the power to do so. Review of these regulations with particular reference to owner and operator responsibility for compliance with various sections has been performed and changes made where necessary to avoid confusion.

(i) One comment suggested that the definition of "OCS facility" be revised to refer to a leasehold issued or maintained under the OCS Lands Act, including "all land covered by such lease and any associated structure or group of structures, including a mobile offshore drilling rig, when in the drilling mode, attached thereto by the leaseholder, or by anyone acting for or on behalf of the leaseholder, for use in connection with any activity directly relating to exploration, development, or production." The comment suggested that if this change was made the term "unit" could be dispensed with. The suggestion was not adopted. The definition of "OCS facility" is based on Section 4(d) of the Act. The term "unit" includes certain vessels and vehicles which would not fall within the definition of an OCS facility.

(j) One comment suggested the definition of "owner" be rewritten to refer to the revised definition of "facility" proposed above instead of "unit." As the definition of "facility" was not revised for the reason noted, the Coast Guard did not adopt this suggestion. The same comment suggested that the definition of "owner" be modified to exclude a person who, without participating in the management or operation of a vessel or offshore facility, holds indicia of ownership primarily to protect a security interest. The suggestion was adopted. The definition has been revised using language similar to that of Title III of the Act.

(k) Three comments suggested the term "pipeline" in the definition of OCS facility be further defined to clarify its meaning. All three suggested including references to pipelines as defined in 49 CFR Parts 192 and 195 and those under the jurisdiction of the U.S. Geological Survey under OCS Order No. 8. Because the Coast Guard does not regulate pipelines under the Act, there is no need to further define the particular types of pipeline which are excluded from these regulations.

(l) One comment suggested that the definition of "person in charge" be revised to address persons in charge of vessels differently from persons in charge of other units because of differences in unit organization. The

suggestion was not adopted. The person in charge is the individual with primary accountability for the safety of a unit and the personnel on it, whatever its type, even though the individual's position, title or general authority may vary in different organizational structures.

(m) One comment suggested that the definition of "production" refer to workover rather than workover drilling. The definition has been so revised.

(n) One comment suggested that the proposed definition of "rebuilt" would allow an older unit to remain in service indefinitely if it was reconstructed to original plans without "alteration." To avoid misinterpretation, the term "reconstruction" has been added to the definition.

(o) One comment suggested that an unmanned facility serviced by an attending vessel should be considered a manned facility, with the manned facility regulations applying to both the vessel and the facility. The suggestion was not adopted. Certain requirements applicable to manned facilities are unnecessary for either the unmanned facility or the attending vessel.

5. Section 140.15—(a) One comment suggested that, in determination of equivalents, the Officer in Charge, Marine Inspection, should consider a comparable degree of environmental protection as well as safety. Because safety is the primary consideration, the change was not considered necessary.

(b) Four comments suggested that the words lifesaving and firefighting be inserted in paragraph (b) to restrict the types of equipment which might be subject to approval on OCS facilities. Because the types of equipment that might require approval in the future cannot be predicted, the suggestion was not adopted. However, the Coast Guard does not at present intend to expand the types of equipment requiring approval under the subchapter.

(c) Another comment urged the fullest use of performance practices and standards in new or revised requirements for equipment. The Coast Guard will take this into consideration if new equipment requirements are developed.

6. Section 140.25—One comment suggested that the language of paragraphs (a) and (b) be revised to clarify that the 30 day limit on appeals follows reconsideration. The language has been so revised.

7. Section 140.30—(a) One comment suggested that § 140.30 was extraneous and that the actions referred to in the section were patently obvious. Section 23 of the Act (43 U.S.C. 1349) imposes procedural constraints which must be met to bring certain judicial actions involving the Act, review of the regulations in this subchapter, and final agency decisions involving these regulations. The Coast Guard believes it is in the public interest to draw attention to these requirements.

(b) The comment also suggested that, if this section remained, it be moved to Part 143. As these requirements apply to the entire subchapter, location in Part 140 is appropriate and the suggestion was not adopted.

8. Section 140.35—(a) Two comments suggested deletion of references to violations relating to conservation of natural resources in paragraph (b) as a matter of U.S. Geological Survey rather than Coast Guard responsibility. The reference has been deleted.

(b) One comment suggested that fines should not be effective until the appeals provided for in § 140.25 have been exhausted. Civil penalties for violations of the regulations in this subchapter can be assessed only by the Secretary of Interior and become due in accordance with the regulations issued by the U.S. Geological Survey under 30 CFR 250.80–1.

9. Section 140.40—(a) Four comments objected to referral of civil penalty cases to the Secretary of Interior and suggested that the Coast Guard was the proper agency to assess penalties for violations of Coast Guard regulations. The Conference Committee Report which accompanied the OCS Lands Act (HR–Rep. 95–1474, 95th Cong. 2nd sess p. 115) makes it clear that only the Secretary of Interior may assess, collect, and compromise civil penalties under the Act.

10. Section 140.101—(a) Several comments objected to unannounced Coast Guard inspections, as authorized by § 140.101(b), and one comment questioned their constitutionality. Though the Coast Guard gives advance notice of most inspections, periodic inspections without notice are required by section 22(c) of the Act (43 U.S.C. 1348(c)). Additionally, OCS facilities are located upon federal leases and the Conference Report (H.R. Rep. No. 95–1474) which accompanied the Act notes at p. 111 that lease and permit holders "should expect that inspectors will visit the site of any operation with or without advance notice." Section 140.101 is based directly upon 43 U.S.C. 1348, which the Coast Guard presumes to be constitutional until held otherwise by a court of competent jurisdiction.

(b) One comment suggested that all onsite inspections be announced to ensure platform safety. Although notice of most Coast Guard inspections is provided in advance, periodic inspections without advance notice are required by the Act. The inspections are conducted without creating safety hazards.

(c) One comment suggested that the records required under paragraph (c) for reviews be better defined and that Coast Guard inspections be limited to specific items. As an example, the comment stated that the Coast Guard should not conduct pit drills to evaluate the competency of drilling crews. Though the Coast Guard does not conduct pit drills, paragraph (c) has been modified to clearly indicate that the records reviewed, and drills and tests observed, are related only to applicable Coast Guard requirements.

(d) Four comments noted that the person in charge and not the inspector should have final authority to determine the specific time for drills because a drill held at a critical time may needlessly endanger the safety of the unit and its personnel or disrupt critical operations. An additional sentence has been added to proposed § 140.101(c) to require that the marine inspector consult with the person in charge before conducting the drill.

(e) Another comment questions why this subpart requires a letter of compliance or other certification for foreign mobile offshore drilling units (§ 140.102) but not for platforms. Section 143.120(c) requires a Certificate of Inspection for all floating OCS facilities and § 143.210 requires a letter of compliance for all MODU's not certified by the Coast Guard. However, certification for fixed OCS facilities is not considered necessary because they are bottom founded and not subject to being moved from one Coast Guard marine inspection zone to another.

11. Section 140.103—(a) Five comments suggested that setting a time period for correction of deficiencies in every case without considering factors such as the availability of materials and personnel and the degree of hazard was undesirable. Flexibility to consider these and other factors was intended and changes have been made to make this clearer.

(b) Another comment objected to the provision that provides for mutilation of defective lifesaving or firefighting equipment which cannot be satisfactorily repaired. The comment stated that this provision fostered animosity and disregarded safety because defective equipment, if not mutilated, could be used to save a life. The comment also stated that mutilation prevented return of equipment to suppliers. It is the obligation of the owner or operator to maintain the lifesaving and firefighting equipment in good condition. The purpose for mutilating defective equipment that is beyond repair is to preclude the equipment from being relied upon as lifesaving equipment by persons unaware of the defect. This provision has been in effect since 1957 and has not presented serious problems in administration. The suggestion was not adopted.

12. Section 140.105—(a) Three comments suggested deletion of the word "comprehensive" in § 140.103(b) to avoid the implication that the annual inspection had to be comprehensive in every case, even though a facility may have been thoroughly inspected on a recent date. As deletion of this term does not limit the flexibility of the Officer-in-Charge, Marine Inspection, to conduct as thorough an inspection as necessary, the suggestion was adopted.

(b) Another comment suggested that the inspection items in paragraph (c) appeared to exceed agreed to limits of responsibility with the U.S. Geological Survey. The section clearly applies only to Coast Guard approved or required equipment and procedures and not to those of any other federal agency.

(c) One comment suggested that paragraph (d) was superfluous. However, this section makes it clear that an inspection may be required before drilling or production commences.

(d) Another comment suggested that paragraph (d) be reworded to provide for the conduct of the inspection "after construction but prior to drilling and production operation." Although the inspection is normally not conducted during construction, there may be circumstances when it may be desirable to do so to avoid delaying drilling or production operations. The suggestion was not adopted.

13. Section 140.201—(a) Three comments suggested that § 140.201 be modified to exclude incidents investigated by the U.S. Geological Survey. Another comment suggested that dual investigations were unnecessary and likely to result in confusion and delay. Two other comments suggested that dual investigations were prohibited by the language of section 22(d)(1) of the Act. In many instances joint investigations are the most efficient and least costly means of reviewing casualties. The Report by the Ad Hoc Select Committee on the Outer Continental Shelf to accompany H.R. 1614 (H.R. Report 95–590, p. 160) states: "As it is possible, even probable, that a major fire or major oil spill might also involve serious bodily injury or deaths, it is the intention of the committee that the responsible agencies will act in a cooperative and joint fashion." The suggestions were not adopted.

(b) Three comments stated that other agencies should not proceed with investigations under Coast Guard authority. These regulations do not provide for such an arrangement. When another agency, in particular the U.S. Geological Survey, participates in an investigation with the Coast Guard, the agency is acting under its own authority.

(c) One comment suggested a change in the language of paragraph (e) to make it clear that not every incident need be investigated, only those deemed necessary to promote the safety of life or property or protect the marine environment. The language has been modified to make this clearer.

(d) Another comment suggested deleting the language of paragraph (d) referring to one occurrence during a thirty-day period because it was unclear. This language is taken directly from the Act and refers to a single source which discharges 200 or more barrels within 30 days.

(e) Another comment suggested that the Coast Guard was exceeding its authority by referring to protecting the marine environment. The Coast Guard exercises significant environmental protection responsibilities under the Clean Water Act, other domestic laws, and international conventions.

(f) Another comment suggested that the term "major fire" be defined. A definition has been added providing that a major fire is one that results either in death, serious injury, or property damage exceeding $25,000.

14. Section 140.203—(a) Three comments again questioned the provision for joint investigations by the Coast Guard and the U.S. Geological Survey. When more than one agency has an interest in a casualty, joint investigations and hearings reduce costs to participants and provide a more thorough and effective investigation. The provision for joint actions was retained.

(b) Four comments suggested adding a provision requiring that employers or other parties investigated be furnished a copy of the investigation when it is completed. This is the existing Coast Guard practice and the regulations have been modified to make this clearer.

(c) One comment asked how to obtain a copy of a report. The reports are on file at Coast Guard Headquarters and Coast Guard District Offices in accordance with 49 CFR Part 7, Appendix B. A copy of a particular report is made available upon request.

Specific Comments: Part 141

1. Section 141.5—(a) One comment maintained that paragraph (b)(3) was unclear in its purpose and did not meet the intent of reciprocity stated in Congressional discussions of the amendments. The language of paragraph (b)(3) follows closely the language of Section 30(c)(2) of the Act. Foreign units are exempt unless the President determines that a foreign nation has implemented a national manning requirement. This is a direct reciprocity provision.

(b) The same comment suggested that paragraphs (c) and (d) be combined and shortened to improve clarity. Because the objectives of the paragraphs are different, though related, their separation should enhance clarity and the suggestion was not adopted.

(c) Another comment objected to leaving the exemption decision to the discretion of the President. Presidential responsibility is required by the Act.

(d) The same comment suggested implementing this provision 30 days after rules are finalized. This would be contrary to the requirement of the Act that the rules become enforceable one year after the effective date of final regulations.

(e) Another comment sought further clarification of the phrase "right effectively to control," particularly whether operational and managerial control would be considered more important than financial control in determining whether the right to control existed. The Coast Guard intends to look primarily at operational matters. Financial interests would be examined when it appears financially interested parties are using those interests to control management or operation of the unit.

(f) Another comment endorsed the approach taken by the proposed regulations and noted it would prevent "paper subsidiaries" from circumventing the provisions of section 30(a)(3) of the Act.

(g) One comment suggested that the provision of § 141.5(c) authorizing the District Commander "upon request," to make determinations of foreign ownership be changed to require the District Commander to make such determinations whenever requested to do so. As this could limit the District Commander's discretion in a particular case, the suggestion was not adopted. The term "District Commander" in § 141.5 (c), (d) and (e) has been changed to "Commandant" to centralize the process of making such determinations.

2. Section 141.10—One comment maintained that § 141.10(c)(3) in effect established four criteria for judging whether a unit was exempt from U.S. manning requirements whereas Section 30(c)(2) of the Act only provides two, i.e. (1) where 50% of the ownership is by citizens of a foreign nation or (2) where citizens of a foreign nation have a right effectively to control a unit. The comment suggested that § 141.10(c)(3) be amended to read "in the case a corporation, one which is incorporated under the laws of a nation other than the United States so long as (i) over 50% of the ownership of such corporation is held by persons not citizens of the U.S. and (ii) the right to effectively control is in persons other than citizens of the United States." The criteria set forth for this exception in Section 30(c)(2) of the Act (43 U.S.C. 1356(c)(2)) are twofold. To qualify for the exception, a party must first show that it is a "citizen of a foreign nation" and then either that it has the "right effectively to control" the unit in question or that it owns over 50 percent of the unit. The first element is addressed in § 141.10(c) which defines who a citizen of a foreign nation is. This definition is based, in part, on terms used by Congress in the Shipping Act (46 U.S.C. 802(b)) for that Act's definition of a citizen of the United States. The second element, the right effectively to control or the over 50 percent ownership, is determined under the procedures in §§ 141.5 (c), (d), and (e).

3. Section 141.15—(a) Several comments, mostly concerning workers engaged in building platforms on the OCS, indicated that the criteria for determining when a position is not part of the regular complement of the unit is unclear. The second sentence in § 141.15(b), listing personnel who are not included in the regular complement, has been revised to track precisely the language used in the Conference Report (H.R. Report No. 95–1474, page 125). The key word in the report is "temporary" operation. Those who are on board the unit to perform a temporary function, such as those responding to an emergency, trainees, and consultative personnel providing non-routine, specialized advice or assistance, would be excluded. In determining if a position is excluded, it is important to note that a position may be part of the regular complement on one unit, but not on another. For example, a geologist may be a member of the regular complement on a seismic survey vessel; but that same geologist, if temporarily called on board a production platform to offer advice, does not necessarily become a member of the complement of the platform as well.

(b) One comment suggested that construction workers building a platform be considered part of the regular complement of the construction barge from which they work, if that vessel's primary purpose is construction, fabrication, or alteration of structures attached to the Outer Continental Shelf. The language of § 141.15 already permits such a conclusion and no change has been made.

(c) One comment suggested that only the person in charge of a unit and not the Coast Guard was qualified to determine who makes up the regular complement. Another comment suggested that only the Coast Guard should make this determination. The language of the section contemplates that the owner or the person in charge would normally establish the regular complement; however, the Coast Guard reserves the right to do so when necessary.

(d) Another comment suggested that the wording of § 141.15 would result in harassment by allowing any member of the public to request a determination. Although any member of the public may request a determination, it is the Officer in Charge, Marine Inspection, who decides whether a determination is warranted. The section has been revised to make this clearer.

(e) Five comments suggested changing the term "owner or operator" in paragraph (a) to "employer" to place responsibility for ensuring compliance on the person with access to employee records and in control of employee hiring. The paragraph has been revised to refer to "employer." To be consistent throughout this subpart, "owner or operator" as used in §§ 141.20, 141.25(a), 141.30, 141.35 (a) and (b) has been replaced by "employer."

(f) Another comment suggested that paragraph (b) be revised to delete the reference to support personnel who are directly employed by the owner or operator of the unit. The suggestion was not adopted because support personnel, such as kitchen workers, are necessary for the routine functioning of the unit and are considered part of the regular crew.

(g) Four comments suggested changing the term "including" in paragraph (b) to "may include" to make it clear that crew make-up varies considerably with the type, size, and configuration of unit and that all units do not include personnel in all of these categories. Crew make-up does vary and not all units include all of these categories of personnel; however, personnel falling within the listed categories are considered part of the regular complement. Because the suggested change could be confusing, it was not adopted.

(h) Another comment suggested that requiring only citizens of the United States to be employed as members of the regular complement of a unit could be a violation of the Civil Rights Act; no additional explanation was provided. Manning by U.S. citizens or lawfully admitted aliens is required by section 30 of the Act. Although the particular provision of law to which the comment refers was not provided, the Coast Guard is not aware of any provision of Federal law in conflict with section 30 of the Act.

(i) Another comment noted that the definition of "regular complement" in § 141.15(b) extends to personnel on virtually all devices used offshore, including vessels, MODUs, lay barges, service lift barges, pipelay barges, and production platforms. This is a correct construction of this provision which is based on the language of section 30 of the Act referring to "vessels, rigs, platforms, vehicles, or other structures."

(j) One comment questioned whether divers would be considered part of the "regular complement" because divers are employed under different circumstances. As divers could function either as regular crew members or as specialized workers for a temporary job, application to divers would depend on the particular circumstances. As the rule allows for this situation, no change was necessary.

(k) Another comment suggested that paragraphs (a) (1) and (2) of section 30 of the Act express a legislative desire to subject those who engage in construction and alteration activities to citizenship manning requirements and that the exclusion of construction personnel from the regular complement was contrary to that intent. However, neither paragraph (a)(1), which deals with safety standards, nor paragraph (a)(2), which deals with vessel documentation, refers to manning requirements.

4. Section 141.20—(a) One comment noted that for an alien employee to work on a geophysical crew, including on the OCS, he must have an H–2 visa issued by the U.S. Immigration and Naturalization Service, which uses procedures for eligibility determinations similar to those in this part. The comment suggested that the Coast Guard accept such visas as evidence of compliance with the citizenship requirements in these rules. In the opinion of the Immigration and Naturalization Service, the Immigration and Naturalization Act does not apply on the OCS. Thus a worker on a geophysical crew operating only on the OCS is not required to have an H–2 visa. However, because in many cases these vessels operate both on and off the OCS and H–2 visas are needed by workers on these vessels, the Coast Guard will accept an H–2 visa as evidence that an individual is filling a position for which there are not a sufficient number of citizens of the United States or resident aliens qualified and available for work. The regulations have been modified to provide for this.

(b) Another comment suggested that the Coast Guard be required to publish notice when it seeks an opinion from the Department of Labor to determine the availability of U.S. workers. Requests for opinions are available to the public upon request. However, publication in every case would unnecessarily delay the review process. Therefore, this suggestion was not adopted.

(c) One comment suggested that public notice be required when an owner or operator seeks an exemption under proposed § 141.20(c). The time delay and additional cost associated with publication in every instance are not, in the Coast Guard's judgment, warranted under these circumstances.

(d) Another comment suggested that requests for an exemption under proposed paragraph (c) should not have to await the formulation of an advisory opinion by the Department of Labor and that the Coast Guard should be limited to a 10 day processing time. The same comment suggested establishing an emergency request procedure to provide for temporary exemption of an individual or position subject to later confirmation by the Coast Guard. Because consultation with other federal agencies is necessary, a 10 day time frame could not always be met. However, the section has been revised to provide an automatic temporary exemption if the Coast Guard does not respond to a request within 30 days.

(e) Another comment requested that applications from United Kingdom operators might be considered favorably under the national interest provision on the grounds that reciprocal arrangements exist for United States operators on the United Kingdom continental shelf. This determination, however, is reserved by the Act to the President. The procedure for seeking such a determination is contained in new paragraph (e).

(f) Because of the many changes made to this section as a result of the comments, this section has been reorganized for clarity.

5. Section 141.25—One comment observed that § 141.25(a)(2) fails to recognize other political subdivisions which carry the privilege of U.S. citizenship. Although the comment did not specify what subdivisions were being addressed, presumably political subdivisions such as the Commonwealth of Puerto Rico were intended. These entities commonly provide for U.S. citizenship only to persons born after a certain date; thus, a birth certificate prior to that date would not necessarily establish U.S. citizenship. Therefore, § 141.25(b) has been revised to provide that birth certificates from political subdivisions outside the United States may be considered as evidence of citizenship, though additional evidence may be necessary.

6. Section 141.35(a)—Two comments suggested deleting the requirement in proposed paragraph (b)(3) that a record of positions that make up the regular complement be maintained and, instead, inserting a requirement that a record of employees who are not U.S. citizens or lawfully admitted aliens be maintained. This change would complicate enforcement as an inspector would have no way of identifying the entire rig crew and verifying the status of employees not listed. The suggestion was not adopted.

(b) Another comment suggested adding a statement to the effect that a station bill indicating each individual's nationality would suffice for this purpose. Because a station bill indicating each individual's nationality meets the requirements of proposed paragraph (b)(3), no change to the language is necessary to permit this.

(c) Another comment suggested deleting the requirement in proposed § 141.35(b)(3) that a description of the positions that make up the regular complement be maintained and argued that the wide variation of job duties will make classification of positions impractical. However, each job position on a unit need not be described in detail and a listing of individuals with their job title would suffice. The term "description" has been replaced by the term "list" to make it clearer that each job need not be described in detail.

(d) Two comments suggested that it be permissible to maintain the citizenship records at field offices when it is impracticable to maintain them on board a unit. This section has been changed to permit this option.

(e) Another comment suggested that proposed § 141.35(b)(1) is unnecessary. Proposed paragraph (b)(1) would require that a copy of each determination made by the Coast Guard under § 141.15(c) concerning whether a position is part of the regular complement be maintained on the unit. As these determinations are already maintained by the Coast Guard, this provision has been deleted. For similar reasons, proposed paragraph (b)(2) referring to the maintenance of Coast Guard certificates issued under § 141.20 has been deleted.

(f) Another comment suggested deleting references to "position," as the responsibility for determining positions belongs to the employer. As the Officer in Charge, Marine Inspection, may make determinations concerning position in disputed cases, the suggestion was not adopted.

Specific Comments: Part 142

1. Section 142.1—(a) Three comments suggested that the lessee's responsibility for maintaining all places of employment within the lease areas free from occupational hazards be revised to refer only to places of employment owned and operated by the lessee. The comments maintained that the operators of major equipment including MODUs, barges, and other vessels were separately and independently responsible for safety and health on those units. Although operators of major equipment are separately and primarily responsible for safety and health on their units, section 22(b) of the Act, on which § 142.1(a) is based, specifically extends the duties of lessees or permittees to all places of employment within the area covered by the lease or permit.

(b) One comment suggested that the occupational safety and health regulations referenced in paragraphs (a) and (b) be limited to those "in this part." Although all safety and health requirements applicable to the lease or permit area or to the operations within that area may not appear in this part, it is correct that these paragraphs require compliance only with the regulations in this part. The section has been changed by adding the words "of this part" and by changing "occupational" to "workplace" to conform with the title of the part.

(c) Another comment suggested changing the language of paragraphs (a) and (b) to refer to "applicable occupational safety and health regulations." The change noted above makes this unnecessary.

(d) Another comment suggested that § 142.1(b) would relieve lease and permit holders of their statutory obligation to comply with OCS safety and environmental regulations. However, this obligation is clearly stated in § 142.1(a) and in 43 U.S.C. 1348(b).

(e) Another comment suggested revising paragraph (c) by redefining "recognized hazards" to refer to hazards which are causing or likely to cause death or serious physical harm and which are detectable (1) by means of the (unaided) human senses or (2) by means of testing devices recognized by the affected industry as a means for making its presence known. The definition in proposed paragraph (c) contained two elements: First, the hazard must be one generally recognized in the affected industry; and second, the hazard must be routinely controlled in the industry concerned. The second provision implicitly recognizes that not all hazards which can be identified can be controlled. The suggested change does not take this problem into account and, therefore, was not adopted. However, some of the clarifying language suggested has been incorporated.

(f) Another comment asked what OSHA-type regulations must be complied with under paragraphs (a) and (b). Two other comments suggested there was no need to apply OSHA regulations, because they might conflict with Coast Guard regulations or be inappropriate for offshore operations. This section does not apply regulations of the Occupational Safety and Health Administration (OSHA).

(g) Two comments suggested deleting the term "free from recognized hazards" from paragraphs (a) and (b) as being unreasonably absolute, arguing that most work places have recognized hazards, the effects of which are minimized by protective equipment and safe work practices. The standard, "free from recognized hazards," is imposed by the Act. Paragraph (c) was included in the regulations to avoid any unreasonably absolute interpretation of this standard.

(h) Another comment suggested deletion of paragraph (c). As this could allow unreasonable application of the standard imposed by the Act, the suggestion was not adopted.

(i) Another comment stated that the wording of paragraph (c) had no basis in the Act or its legislative history. The requirement to keep workplaces "free from recognized hazards" appears in section 22(b) of the Act and is identical to language used in the Occupational Safety and Health Act of 1970 (29 U.S.C. 654). Paragraph (c) simply makes it clear that this requirement does not apply unless the hazard is capable of control and is routinely controlled in the affected industry.

(j) One comment noted that there is no mention in the Act of any duty being placed on a category of person other than lessees and permittees and suggested that, if others were to be included, a provision making each employee responsible for compliance with all occupational safety and health standards should be added. The comment noted that such a duty is placed on employees under the Occupational Safety and Health Act. The legislative history of section 22(b) of the Act makes it clear that section 22(b) does not relieve any contractor, subcontractor, or other person responsible for actual operations from the obligation to comply with occupational safety regulations. Section 142.1(b) applies to "persons." Under the definition in § 140.10, "person" includes individuals and, therefore, does not exclude employees. Therefore, the suggested change was considered unnecessary.

(k) Another comment questioned whether the occupational safety and health regulations referred to were Coast Guard, Corps of Engineers, OSHA, or USGS. The addition of the words "of this part," as noted above, eliminates this problem.

(l) One comment noted that use of the term "controlled" in the definition of "recognized hazards" did not mean that a hazard did not exist, it simply recognized the hazard and the fact that appropriate controls over activities were necessary. The Coast Guard agrees as explained in paragraph (e) above.

(m) The same comment suggested that paragraphs (a) and (b) be redrafted to exclude the requirement that a workplace be free from recognized hazards. This requirement is imposed by section 22 of the Act. The suggestion, therefore, was not adopted.

2. Section 142.5—(a) One comment suggested that, prior to any enforcement measures, the Officer in Charge, Marine Inspection, should be required to conduct an investigation. Although this is the normal Coast Guard practice, prior investigation may not be possible or desirable in every instance and the suggestion was not adopted.

(b) Two comments suggested that paragraph (c) should be revised to require persons reporting under paragraph (a) to do so in writing or by a sworn statement based on first hand knowledge. However, permitting only written or sworn reports may discourage persons with legitimate complaints from reporting. Therefore, this suggestion was not adopted.

(c) Two comments suggested that reporting be limited to employees, crew, and others directly affected by the unsafe conditions. The legislative history of section 21(e) makes it clear that any interested person, not merely employees, crew, or those directly affected, can report violations.

(d) Another comment suggested that the name, address, and telephone number of the proper Coast Guard official should be required to be displayed on all OCS facilities. Such a requirement is presently being considered under Coast Guard rulemaking docket #79–877, primarily for the purpose of informing the worker of his right to notify the Coast Guard of unsafe working conditions.

(e) Another comment suggested that Department of Transportation employees be included in § 142.5 as a function of investigative necessity. The investigative function is delegated to the Coast Guard and other Department of Transportation employees do not participate in these investigations. Therefore, the suggestion was not adopted.

Specific Comments: Part 143

1. Section 143.3—(a) This section has been transferred to § 140.4 without change, other than as noted in paragraph (b) below.

(b) One comment suggested adding the term "attending vessel" to § 143.3(c) because, for the purposes of this section, industrial equipment on an attending vessel should be treated in the same manner as that on a fixed structure. "Attending vessel" has been added.

2. Section 143.15—One comment on paragraph (a) suggested that mobile offshore drilling units in contact with the seabed not be required to display the lights and warning devices required for facilities but, instead, be allowed to display those required for vessels. The comment suggested that the lighting required for facilities under Part 67 of this chapter would not convey as much information to other vessels as would COLREG lighting and could be dangerously misleading. However, COLREG lighting requirements (33 CFR Chapter I, Subchapter DD) do not provide as much light display as do the requirements for artificial islands and fixed structures. Various means to differentiate MODUs from other structures is currently being reviewed by the Coast Guard's Office of Naviation as part of its review of Part 67. Any changes proposed will be published in the Federal Register for comment.

3. Sections 143.101, .105, and .110—Several comments suggested substantive changes to §§ 143.101, 143.105, and 143.110. As the preamble to the proposed rule noted, proposed §§ 143.101, 143.105, and 143.110 simply restate the existing regulations without

substantial change. The Coast Guard is aware that these sections need revising and will consider such revisions in a subsequent rulemaking notice. These comments, however, will be considered in developing the subsequent notice.

4. Section 143.120—(a) "Installation," as used throughout proposed §143.120, has been replaced by "facility." "Floating OCS facility" is the defined term (§140.10) which describes this type of unit.

(b) Two comments suggested that stability plans be submitted for Coast Guard approval, in addition to the arrangement and construction plans called for in §143.120(a). Because it is the intention of the Coast Guard that all plans applicable to the facility that are listed in Subpart C of Part 107 be submitted and because Subpart C already lists stability plans, it is not necessary to refer to stability plans in this paragraph. Paragraph (a) has been revised to make it clear that all plans listed in Subpart C that relate to the facility to be constructed are to be submitted for Coast Guard approval.

(c) Several comments suggested that paragraph (b) be deleted. Paragraph (b) requires floating OCS facilities to meet the same electrical engineering, marine, design, and equipment requirements as are required for vessels and MODUs. The comments argue that because the facilities serve an industrial function, rather than a marine transportation function, the facilities should not be required to comply with the same equipment regulations. Floating OCS facilities, MODUs, and vessels are all used in the open ocean and are subject to many of the same risks. However, it is correct to state that §143.120 does not apply to production systems on board floating facilities and a statement to that effect has been added to paragraph (b).

(d) In response to the comments considered in paragraph 10(e) of the preamble's discussion of Part 140, a new paragraph (c) is added to §143.120 to require a certificate of inspection for floating OCS facilities. The new paragraph (c) tracks the language of §143.210 requiring letters of compliance for uncertified MODUs.

5. Section 143.201—(a) One comment suggested that further explanation of the meaning of "design requirements" was needed to explain the application of 46 CFR Part 108, Design and Equipment, to existing units. The comment assumed that existing units must contain the necessary systems and equipment as stated in 46 CFR Part 108, (e.g. hull structure, fire protection, ventilation, rails, firemain systems) but that the design of the equipment need not be upgraded to meet the requirements of 46 CFR Part 108. The extent to which existing units must upgrade equipment to meet the requirements of 46 CFR Part 108 is evaluated on a unit by unit basis as explained in Navigation and Vessel Inspection Circular 4–78, which accompanied publication of 46 CFR Parts 107, 108, and 109. Revision of proposed §143.201 is not needed to make this clear.

(b) Another comment suggested rewording this paragraph to identify existing units more clearly. Specifically, the comment wanted to clarify that foreign documented units were included and that U.S. operators could continue to operate those units under the same grandfathering provisions extended to U.S. units by Subchapter IA of 46 CFR Chapter I. Section 143.201 does not distinguish between U.S. and foreign units and both units are to be treated the same for grandfathering purposes. Therefore, §143.201 has not been changed.

(c) Three comments raised the question of whether U.S.-owned/foreign-documented MODUs would be treated the same as U.S.-owned/U.S.-documented MODUs for purposes of the exemption provided for existing units under §143.201. The section does not distinguish between U.S. and foreign units and all are treated in the same manner under this exemption.

(d) Another comment questioned whether the provision was limited to design features and not equipment, noting that certain safety and equipment features need to be kept abreast of current teachnology. The Coast Guard believes it is clear that the exemption applies to features that affect the design of the unit.

6. Section 143.207—(a) Three comments suggested changes to §143.201 to make it clear that existing foreign units can continue to operate as long as they comply with the same grandfathering provisions extended to U.S. vessels. No change to this section is required to provide for this.

(b) For the response to comments concerning the incorporation by reference of the IMCO Code referred to in §143.207(c), see the discussion under §140.7 in this preamble.

Specific Comments: Part 144

1. The proposed revisions to Part 144 did not contain a provision updating the authority citation for this part. Because it was the intention, as expressed in the notice of proposed rulemaking, "to conform the scope of the existing regulations to the broader scope of the amended Act," the authority cited for this part is updated to refer to the delegation of authority under 49 CFR 1.46(z) and to delete the outmoded reference to 49 U.S.C. 1655(b)(1), relating to the transfer of the Coast Guard from the Department of the Treasury to the Department of Transportation.

2. Section 144.01–20—(a) Two comments suggested that the requirement for life preserver lights be deleted because lights are costly and retroreflective material, as required in paragraph (b), is sufficient. This requirement is equivalent to 46 CFR Part 108.514(e) requiring lights on life preservers on mobile offshore drilling units. The Coast Guard published a final rule on July 2,1981 (46 FR 38778) concerning lights and retroreflective material for life preservers and other lifesaving equipment on ocean and coastwise vessels. The regulations are based upon recommendations resulting from investigations of vessel casualties and upon a Coast Guard study entitled "Comparative Evaluation of Visual Distress Signals." Use of lights and retroreflective material should significantly increase the probability of detecting personnel who fall overboard or who are forced to abandon a facility in darkness.

(b) One comment suggested that lights on life preservers should not be required for five years because of a short supply. Life preserver lights, however, are becoming readily available and will be capable of attachment to existing preservers.

(c) Another comment found the requirements for retroreflective material too specific and preferred a performance oriented requirement. The material requirements in Subchapter Q are performance oriented. The requirements specify how much light is to be reflected under various conditions. They do not specify how the results are to be achieved. In conjunction with these minimum requirements, specifying the location and size of the retroreflecting patches is necessary in order to assume adequate visibility.

Specific comments: Part 146

1. Section 146.5—(a) One comment suggested that the requirement to designate a person in charge be limited to manned facilities. However, there are many instances when facilities that do not meet the criteria for manned facilities have numerous personnel working on board and a responsible person in charge is required under these circumstances.

(b) The comment also suggested the person in charge be confined to field supervisors who are on scene. The Coast Guard believes the owner and operator are generally in the best

position to select the individual designated as the person in charge and their ability to designate an appropriate individual should not be restricted.

2. Section 146.10—(a) One comment noted that this section appeared directed at fixed or floating installations and suggested that § 146.10(a) be amended to exclude mobile offshore drilling units. The Coast Guard agrees that the section does not apply to mobile offshore drilling units but a language change is not necessary. Section 146.1 notes that Subpart A of Part 146 applies to OCS facilities except mobile offshore drilling units.

(b) Another comment noted that the regulation should require advance notice of the date when construction will begin in order to allow the District Commander to determine the need for, and to establish, safety zones. The section has been modified to provide for notice prior to construction.

(c) Three other comments stated that notice is often difficult to give because the movement of a rig is not always known many days in advance. As noted above, this section does not apply to mobile rigs, which are covered under § 146.202.

(d) Another comment suggested that the Officer in Charge, Marine Inspection, be provided with a copy of the facility's plan of development. As these plans are available from the Department of the Interior, there is no need to provide for them here.

3. Section 146.15—Four comments suggested deleting or revising the reference to replacement of charges in fire extinguishers because not all fire extinguisher charges have a fixed life. The reference has been deleted.

4. Section 146.20—(a) Three comments suggested deleting the reference in paragraph (b) to "favorable work conditions" because the term is subject to wide interpretation. As the use of these vests is under the supervision of the person in charge, the reference has been deleted.

(b) Another comment objected to the requirement in paragraph (d) that a work vest that is beyond repair be destroyed or mutilated to prevent continued use as a work vest. If a work vest is beyond repair, the Coast Guard intends to preclude its subsequent use by persons who might innocently rely on it. No change to paragraph (d) was made.

5. Section 146.30—(a) One comment objected to the requirement that deaths, or injuries to five or more persons in a single incident, be reported immediately. The comment noted that other duties of the responsible person might take precedence over "immediate" reporting. The section has been revised to make it clearer that reports need to be made rapidly but recognize that reports cannot be made "immediately" under all circumstances.

(b) Another comment stated that this section requires three notices on the same incident—one by the owner, one by the operator, and one by the person in charge. Only one notice to the Coast Guard is required. The owner, the operator, and the person in charge are responsible for agreeing among themselves how the notice is given. The language also recognizes that they do not need to make the report personally but may allow agents to make it for them.

(c) Another comment suggested raising the dollar damage reporting requirements to $50,000. The Coast Guard has reevaluated the proposed monetary damage criterion and has increased the dollar amount to $25,000 for all categories.

(d) Another comment noted that the U.S. Geological Survey is responsible for verifying the structural adequacy of fixed facilities and suggested that reports to the Coast Guard of damage involving collisions be limited to damage to vessels and floating facilities. However, because the Coast Guard is interested in the fact that a collision took place, regardless of which "unit" was damaged, the suggestion was not adopted.

(e) One comment suggested that the operator should be prohibited from willfully disposing of any equipment directly related to a serious accident. The Coast Guard does not consider such a requirement necessary. Preservation of damaged equipment is a common practice and there are circumstances under which a requirement not to dispose of equipment would be unreasonable. If a problem develops in this regard, the Coast Guard will reconsider the need for such a requirement.

(f) Another comment suggested that, because the U.S. Geological Survey requires certain injury and damage reports, the Coast Guard should obtain copies of these reports from the Geological Survey. The Coast Guard and U.S. Geological Survey agreed in the Memorandum of Understanding dated December 18, 1980 to review reporting requirements and eliminate duplicative ones whenever possible. Under the agreement, the Coast Guard is generally responsible for the investigation of deaths and injuries. Additionally, the U.S. Geological Survey regulations (30 CFR 250.45) do not require reports of multiple injuries, damage to lifesaving or firefighting equipment, damage to a facility resulting from a collision, or damage to a floating installation. The suggestion was not adopted.

(g) One comment suggested that the Coast Guard and the U.S. Geological Survey use the same reporting form. U.S. Geological Survey regulations do not specify a reporting form or format, and the use of Coast Guard forms is optional. Both the Coast Guard and U.S. Geological Survey will accept a report in any format so long as it contains the required information.

(h) One comment suggested deleting the dollar damage criteria in § 146.30(b) except when the seaworthiness or the ability of a facility to perform its function is affected. The Coast Guard considers simple monetary damage criteria to be a more definite and workable standard than the one suggested.

(i) One comment suggested that the term "incapacitated" was uncertain and should be changed to "hospitalized." As commonly defined, "incapacitated" means incapable of normal activity, which does not necessarily involve hospitalization. The suggestion was not adopted.

(j) One comment suggested that the term "facility" should be changed to "OCS facility" if that was intended. It was, and the term has been changed.

6. Section 146.35—(a) Three comments suggested changes to § 146.35 to eliminate what they perceived as requirements for multiple reports. Multiple reports are not required but the section has been revised to make this clearer.

(b) One comment suggested that the requirement to report the apparent cause of a casualty could create problems because of the legal actions often associated with a casualty. The Coast Guard believes causal information is necessary to identify problems which need correction to prevent similar casualties from recurring in the future. However, rather than require identification of a single cause, the language has been changed to allow reporting of multiple factors which may have contributed to causing a casualty. This is more accurate and avoids the need to assign all responsibility for an accident to a single factor in cases where this may be difficult.

(c) One comment suggested beginning the ten day time period for submitting a report when the responsible person learned a casualty required reporting because it could take more than 10 days to determine the cost of damage to property. Approximate estimates of damage can be made quickly and

provide sufficent guidance to determine whether a report need be submitted. If a responsible individual is in doubt, a report should be submitted.

(d) One comment maintained that requiring identification of witnesses in § 146.30(a)(2) was excessive except when the Coast Guard decides to investigate a particular casualty. It is essential to promptly identify persons who are witnesses to casualties; if this is not done until a determination to investigate is made, the information may be lost. The suggestion was not adopted.

(e) One comment suggested that the term "filed" should be changed to "postmarked or mailed" because of the limited time available to prepare this information. The Coast Guard agrees that mailing satisfies the requirement and the language has been revised.

7. Sections 146.105, .110, .115, .120, .125, .130, and .135—Several comments suggest substantive changes to these sections in Subpart B. As the preamble to the proposed rule noted, Subpart B restates the existing regulations without substantial change, other than to exclude mobile offshore drilling units from coverage under this subpart. As the preamble also stated, the Coast Guard is reviewing the substantive provisions of this subpart and will consider changes to these provisions in a subsequent rulemaking notice. Comments on this subpart submitted in response to the notice of May 1, 1980 will be considered in developing the subsequent notice.

8. Section 146.202—(a) One comment suggested that the information required for notice of arrival or relocation of units on the OCS could be obtained through the U.S. Geological Survey and thus avoid additional paperwork. No paperwork is required; oral notice is sufficient. Additionally, information on aids to navigation, inspection certificates, and construction data is not always available through the Geological Survey.

(b) The same comment suggested that the data should not be required for relocation in the same area. Precise location information is needed for search and rescue, notices to mariners, and navigation and inspection functions. Therefore, the suggestion was not adopted.

(c) Another comment suggested that some of this information is already provided in an application for certificate of financial responsibilities under 33 CFR Parts 135. Section 146.202(c) has been revised to take this into account.

(d) The comment also suggested that the information required by paragraph (a) would have to be provided by the owner. The section has been revised to reflect this.

(e) The same comment maintained that this provision duplicated § 146.10. However, § 146.10 applies only to fixed units.

(f) Another comment suggested a more flexible notice provision of 14 days or as soon as practicable because of the occasional necessity to move units on short notice. The section has been revised to reflect this.

(g) Several comments noted that the reference to Corps of Engineers permits would not be helpful as they are often of a general nature. Reference to Corps of Engineers permits in paragraph (a) has been deleted.

(h) Another comment suggested that the Coast Guard probably has no use for most classification or inspection certificates held by the unit. However, the certificates aid the Coast Guard in determining the condition of the unit and the amount of inspection likely to be required.

9. Section 146.205—(a) One comment suggested including mobile well servicing units in this section. Because the requirements for mobile offshore drilling units would not be appropriate for many mobile well servicing units, these requirements were not extended to these units.

(b) Another comment suggested deleting the term "operating" as the IMCO standards are not "operating" standards. Chapter XII of the IMCO Code is titled "Operating Requirements" and contains a number of provisions covering MODU operation.

(c) For the response to comments concerning the incorporation by reference of the IMCO Code referred to in § 146.205(c), see the discussion under § 140.7 in this preamble.

10. Section 146.303—One comment suggested changing this section to eliminate what the comment believed to be duplicate reports. Another suggested that paragraph (c) was duplicative of Geological Survey requirements. The Geological Survey requirements, however, apply only to lessees and many vessels engaged in OCS activities are not within the scope of the Geological Survey reporting requirements. The suggestions were not adopted.

Specific Comments: Part 147

1. One comment suggested addition of a new subpart to automatically establish a 500 meter safety zone around all manned facilities quartering personnel on the OCS to reduce the risk of accidents involving large numbers of personnel. The Coast Guard believes the need for safety zones varies with the location of the facility and Part 147 provides ample authority for local District Commanders to establish such zones whenever necessary.

2. Section 147.1—One comment suggested that the Coast Guard was exceeding its authority by referring to protection of the living resources of the sea from harmful agents and that only oil spill cleanup should be referred to. Under the Clean Water Act (33 U.S.C. 1321) and the 1958 Geneva Convention on the Continental Shelf (TIAS 5200), the Coast Guard has authority to protect marine resources from hazardous polluting substances in addition to oil.

Incorporation by Reference

If subsequent changes to the material incorporated are considered, the changes will be published in the Federal Register for comment before final action by the Coast Guard.

The material incorporated by reference is maintained on file at the Library of the Office of the Federal Register, Room 8301, 1100 T Street, NW., Washington, D.C. 20408 and is available for inspection and copying at Coast Guard Headquarters, Room 4407, 2100 2d Street, SW., Washington, D.C. 20593. A copy of the material may be purchased from the Inter-Governmental Maritime Consultative Organization, IMCO Sales, New York Nautical Instrument and Service Corp., 140 West Broadway, New York, NY 10013.

Regulatory Evaluation

This regulatory action is considered to be "non-major" under Executive Order 12291 (46 FR 13193; February 19, 1981) and classified as "non-significant" under the Department of Transportation Order 2100.5, "Policies and Procedures for Simplification, Analysis, and Review of Regulations," dated May 22, 1980. Though exempt from the requirement for Regulatory Impact Analysis under E.O. 12291, a final regulatory evaluation has been prepared, copies of which are available for inspection or copying at the Office of the Marine Safety Council, Room 4402, U.S. Coast Guard Headquarters, 2100 2d Street SW., Washington, D.C. 20593, (202) 426-1477. This rulemaking is also exempt from the requirements of the Regulatory Flexibility Act (Pub. L. 96-354) as provided for under the Effective Date section (Section 4) of that Act; however, the impact of these regulations on small entities was considered during the preparation of the evaluation.

As explained more fully in the evaluation, many of the amendments to Subchapter N do not impose an economic burden. Several of the requirements which do impose economic burdens, such as the requirements for

manning by U.S. citizens, are required by the Act. The estimated total cost to comply with the other proposed changes to Subchapter N is estimated at $9.1 million. Annual costs are estimated at $1.8 million. The principal benefit of these amendments is expected to be the improved safety of operations on the Outer Continental Shelf.

The following comments were received on the draft regulatory evaluation:

1. Two comments stated that the total compliance cost estimated in the draft evaluation for the rules ($8.2 million) was too low. One estimated that the average unit on the OCS will require $25,000 to achieve compliance and that drilling units will require even more. The comment suggested that the total compliance cost would exceed $45 million. As indicated in the evaluation, the project compliance cost for a unit substantially affected by these regulations will exceed $25,000 and is estimated at $337,000 for new construction and $116,000 for existing units. However, these costs directly affect only a limited number of units, primarily foreign flag mobile offshore drilling units. The $45 million estimate in the comment assumed 1,900 units would be directly affected by most of the new requirements. However, as of October 1981, there were 163 mobile rigs working on the OCS. Less than 60 of these rigs should incur significant costs because of these requirements. Total compliance cost for these units is estimated at approximately $7 million.

2. Another comment estimated that it would cost an additional $30 million to bring foreign documented MODUs into compliance with § 143.207. Section 143.207 allows foreign units to comply with one of three sets of design and equipment requirements: the IMCO Code for Mobile Offshore Drilling Units, 46 CFR Part 108, or the standards of the documenting nation which provide a level of safety equivalent to Part 108. In addition, §143.201 exempts existing MODUs, including foreign units, from any new design requirements. As a result, these regulations will substantially affect only a limited number of foreign MODUs. In October 1981, there were 19 foreign units operating on the OCS; less than 10 of these should incur significant costs because of these requirements. These costs are included in the total compliance estimate.

Paperwork Reduction Act

Information collection requirements contained in this regulation (§§ 141.5(c), 141.15(c), 141.20, 141.25, 141.35, 146.30, 146.35, 146.40, 146.125, and 146.303) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned one or more of the following OMB control numbers: 2115–0003, 2115–0004, 2115–0071, and 2130–0182. The control numbers have been inserted in the regulatory text at the end of the paragraphs or sections to which the numbers apply. No number is inserted at the end of § 146.40 because that section merely cross references existing reporting requirements which have been approved under OMB control number 2115–0004.

The requirement in § 146.130 (old § 146.05–30) calling for the preparation of a station bill (muster list) has not yet been approved by OMB and will not become effective until so approved.

Environmental Assessment

The Coast Guard has considered the environmental impact of the regulations and concluded that preparation of an environmental impact statement is not necessary. An environmental assessment with a finding of no significant impact has been prepared and is on file in the rulemaking docket.

In consideration of the foregoing, Parts 140, 141, 142, 143, 144, 146, and 147 of Subchapter N, Chapter I, Title 33, Code of Federal Regulations, are amended as follows.

1. By revising the title of Subchapter N to read as follows:

Subchapter N—Outer Continental Shelf Activities

2. By revising Part 140 to read as follows:

PART 140—GENERAL

Subpart A—General

Sec.

140.1 Purpose.
140.3 Applicability.
140.4 Relationship to other law.
140.5 Exemptions during construction.
140.7 Incorporation by reference.
140.10 Definitions.
140.15 Equivalents and approved equipment.
140.20 Delegations.
140.25 Intra-agency appeals.
140.30 Judicial review.
140.35 Sanctions.
140.40 Processing penalty cases.

Subpart B—Inspections

140.101 General inspection requirements.
140.102 Foreign units.
140.103 Deficiencies discovered during inspections.
140.105 OCS facility inspections.

Subpart C—Investigations

140.201 General.
140.203 Procedures.
140.205 Subpoenas.
140.210 Access.

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 22 of sec. 206, Pub. L. 95–372, 92 Stat. 655 (43 U.S.C. 1348); sec. 30 of sec. 208, Pub. L. 95–372, 92 Stat. 699 (43 U.S.C. 1356); 49 CFR 1.46(z).

Subpart A—General

§ 140.1 Purpose.

This subchapter is intended to promote safety of life and property on Outer Continental Shelf (OCS) facilities, vessels, and other units engaged in OCS activities, protect the marine environment, and implement the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), as amended by the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95–372, 92 Stat. 629).

§ 140.3 Applicability.

Unless otherwise stated, this subchapter applies to OCS facilities, vessels, and other units engaged in OCS activities as the term "OCS activities" is defined in § 140.10. This subchapter does not apply to pipelines and deepwater ports (as the term "deepwater port" is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502)).

§ 140.4 Relationship to other law.

(a) Design and equipment requirements of this subchapter for OCS facilities, including mobile offshore drilling units in contact with the seabed of the OCS for exploration or exploitation of subsea resources, are in addition to the regulations and orders of the U.S. Geological Survey applicable to those facilities.

(b) Any apparent conflict between the application of any requirement of this subchapter and any regulation or order of the U.S. Geological Survey should immediately be brought to the attention of the Officer in Charge, Marine Inspection.

(c) This subchapter does not establish design requirements for fixed OCS facilities or regulate drilling or production equipment on any OCS facility or attending vessel, except for matters affecting navigation or workplace safety or health.

§ 140.5 Exemptions during construction.

The Officer in Charge, Marine Inspection, may exempt any unit under construction from any requirements of this subchapter that would be impracticable or unreasonable to apply during construction or erection of the unit.

§ 140.7 Incorporation by reference.

(a) Certain materials are incorporated by reference into this subchapter with the approval of the Director of the Federal Register. The Office of the Federal Register publishes a table, "Material Approved for Incorporation by Reference," which appears in the Finding Aids section of this volume. In that table is found the date of the edition approved, citations to the particular sections of this subchapter where the material is incorporated, addresses where the material is available, and the date of the approval by the Director of the Federal Register. To enforce any edition other than the one listed in the table, notice of the change must be published in the Federal Register and the material made available. All approved material is on file at the Office of the Federal Register, Washington, DC 20408 and is available for inspection or copying at U.S. Coast Guard Headquarters, Room 2418, Transpoint Building, 2100 Second Street, SW., Washington, DC 20593, (202) 426–1477.

(b) The materials approved for incorporation by reference in this subchapter are:

Inter-Governmental Maritime Consultative Organization (IMCO) Resolution A.414(XI), Code for the Construction and Equipment of Mobile Offshore Drilling Units.

§ 140.10 Definitions.

As used in this subchapter: "Act" means the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331 et seq.), as amended by the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95–372).

"Approved" means approved by the Commandant, unless otherwise indicated.

"Attending vessel" means a vessel which is moored close to and readily accessible from an OCS facility for the purpose of providing power, fuel, or other services to the operation being conducted on the facility.

"Commandant" means Commandant of the Coast Guard or that person's authorized representative.

"Development" means those activities which take place following discovery of minerals in paying quantities, including, but not limited to, geophysical activity, drilling, and platform construction, and which are for the purpose of ultimately producing the minerals discovered.

"District Commander" means an officer who commands a Coast Guard District described in Part 3 of this chapter or that person's authorized representative.

"Exploration" means the process of searching for minerals, including, but not limited to, (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such minerals, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made and the drilling of any additional delineation well after the discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production.

"Fixed OCS facility" means a bottom founded OCS facility permanently attached to the seabed or subsoil of the OCS, including platforms, guyed towers, articulated gravity platforms, and other structures.

"Floating OCS facility" means a buoyant OCS facility securely and substantially moored so that it cannot be moved without a special effort. This term includes tension leg platforms and permanently moored semisubmersibles or shipshape hulls but does not include mobile offshore drilling units and other vessels.

"Investigating officer" means a person assigned by the Commandant, a District Commander, or an Officer in Charge, Marine Inspection, to conduct an investigation of an accident, casualty, or other incident.

"Manned facility" means an OCS facility on which people are routinely accommodated for more than 12 hours in successive 24 hour periods.

"Manned platform" means a fixed OCS facility on which people are routinely accommodated for more than 12 hours in successive 24 hour periods.

"Marine inspector" means a person designated as such by an Officer in Charge, Marine Inspection, to perform inspections of units to determine whether or not the requirements of laws administered by the Coast Guard and of Coast Guard regulations are met.

"Minerals" includes oil, gas, sulphur, geopressured-geothermal and associated resources, and all other minerals which are authorized by an Act of Congress to be produced from "public lands" as defined in section 103 of the Federal Lands Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

"Mobile offshore drilling unit" or "MODU" means a vessel, other than a public vessel of the United States, capable of engaging in drilling operations for exploration or exploitation of subsea resources.

"Officer in Charge, Marine Inspection" means a person who commands a Marine Inspection Zone described in Part 3 of this chapter and who is immediately responsible for the performance of duties with respect to inspections, enforcement, and administration of regulations governing units.

"Operator" means—(1) In the case of a vessel, a charterer by demise or any other person who is responsible for the operation, manning, victualing, and supplying of the vessel; or

(2) In the case of an OCS facility, the operator as defined in 30 CFR 250.2(gg).

"Outer Continental Shelf" or "OCS" means all submerged lands lying seaward and outside of the area of "lands beneath navigable waters" as defined in section 2[a] of the Submerged Lands Act (43 U.S.C. 1301(a)) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

"OCS activity" means any offshore activity associated with exploration for, or development or production of, the minerals of the Outer Continental Shelf.

"OCS facility" means any artificial island, installation, or other device permanently or temporarily attached to the subsoil or seabed of the Outer Continental Shelf, erected for the purpose of exploring for, developing, or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources. The term includes mobile offshore drilling units when in contact with the seabed of the OCS for exploration or exploitation of subsea resources. The term does not include any pipeline or deepwater port (as the term "deepwater port" is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502)).

"Owner" means a person holding title to or, in the absence of title, other indicia of ownership of a unit; however, this does not include a person who holds indicia of ownership primarily to protect a security interest in the unit and does not participate in the management or operation of the unit.

"Person" means an individual, association, partnership, consortium, joint venture, private, public, or municipal firm or corporation, or a government entity.

"Person in charge" means the master or other individual designated as such by the owner or operator under § 146.5 of this subchapter or 46 CFR 109.107.

"Production" means those activities which take place after the successful completion of any means for the removal of minerals, including, but not limited to, such removal, field operations, transfer of minerals to shore, operation monitoring, maintenance, and workover.

"Rebuilt" means having had substantial alteration or reconstruction

of the hull or principal structural component.

"Unit" means any OCS facility, vessel, rig, platform, or other vehicle or structure, domestic or foreign.

"Unmanned facility" means an OCS facility, other than a floating facility or mobile offshore drilling unit, which is not a manned facility even though it may be continuously serviced by an attending vessel.

"Unmanned platform" means a fixed, bottom-founded OCS facility which is not a manned facility even though it may be continuously serviced by an attending vessel.

"Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

§ 140.15 Equivalents and approved equipment.

(a) The use of alternate equipment or procedures for those specified in this subchapter may be permitted by an Officer in Charge, Marine Inspection, to the extent and upon conditions as will insure a degree of safety comparable to or greater than that provided by the minimum standards in this subchapter.

(b) Where equipment in this subchapter is required to be of an approved type, the equipment requires the specific approval of the Commandant. Approvals are published in the Federal Register and Coast Guard Publication CG-190, "Equipment Lists", available from Commandant (G-MMT-2), U.S. Coast Guard, Washington, D.C. 20593.

(c) Specifications for certain items required to be of an approved type are contained in 46 CFR Parts 160 through 164.

§ 140.20 Delegations.

(a) Each District Commander is responsible for the administration and enforcement of the regulations in this subchapter within that person's assigned district.

(b) Under the general superintendence of the District Commander, the Officer in Charge, Marine Inspection, is delegated authority to administer and enforce the regulations in this subchapter.

(c) Authority delegated under this section may be redelegated as necessary by the delegate.

§ 140.25 Appeals.

(a) Any person directly affected by an action or decision of an Officer in Charge, Marine Inspection, under the Act or the regulations in this subchapter may request reconsideration of that action or decision. If still dissatisfied, that person may appeal the action or decision of the Officer in Charge, Marine Inspection, within 30 days to the District Commander of the District in which the action was taken or the decision made. The District Commander issues a decision after reviewing the appeal submitted under this paragraph.

(b) Any person not satisfied with the decision of a District Commander may appeal that decision within 30 days to the Commandant, who issues a ruling after reviewing the appeal submitted under this paragraph. Rulings of the Commandant constitute final agency action.

(c) An appeal to the District Commander or Commandant—

(1) Must be made in writing, except in an emergency when an oral appeal may be accepted;

(2) Must be submitted to the District Commander of the District in which the action was taken or the decision made;

(3) Must describe the decision or action being appealed;

(4) Must state the reasons why the action or decision should be set aside or modified; and

(5) May contain any supporting documents and evidence that the appellant wishes to have considered.

(d) Pending determination of any appeal, the action or decision appealed remains in effect, unless suspended by the District Commander to whom the appeal was made or by the Commandant.

§ 140.30 Judicial review.

(a) Nothing in this subchapter shall be construed to prevent any interested party from seeking judicial review as authorized by law.

(b) Judicial review of the regulations in this subchapter, or any final ruling or order of the Commandant or that person's delegate pursuant to the Act or the regulations in this subchapter, is governed by the judical review provisions of section 23 of the Act (43 U.S.C. 1349).

§ 140.35 Sanctions.

(a) Any person who fails to comply with—

(1) Any provision of the Act;

(2) Any regulation in this subchapter; or

(3) Any order issued under the Act or the regulations in this subchapter by the Commandant, a District Commander, or an Officer in Charge, Marine Inspection, after notice of the failure and after expiration of any reasonable period allowed for corrective action, shall be liable for a civil penalty of not more than $10,000 for each day of the continuance of the failure.

(b) Any person who knowingly and willfully—

(1) Violates any provision of the Act;

(2) Violates any regulation in this subchapter designed to protect health, safety, or the environment;

(3) Violates any order of the Commandant, District Commander, or Officer in Charge, Marine Inspection, issued under the Act or the regulations in this subchapter that is designed to protect health, safety, or the environment;

(4) Makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under the Act or the regulations in this subchapter;

(5) Falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act or the regulations in this subchapter; or

(6) Reveals any data or information required to be kept confidential by the Act shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under paragraph (b)(1), (b)(2), or (b)(3) of this section continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in paragraph (b)(5) of this section, constitutes a separate violation.

(c) Whenever a corporation or other entity is subject to prosecution under paragraph (b) of this section, any officer or agent of the corporation or entity who knowingly and willfully authorized, ordered, or carried out the prescribed activity shall be subject to the same fines or imprisonment, or both, as provided for under paragraph (b) of this section.

(d) The penalties prescribed in this section are concurrent and cumulative and the exercise of one does not preclude the exercise of the others. Further, the penalties prescribed in this section are in addition to any other penalties afforded by any other law or regulation.

§ 140.40 Processing penalty cases.

Apparent violations of the regulations in this subchapter are processed in accordance with Subpart 1.07 of 33 CFR Part 1 on civil and criminal penalty proceedings, except as follows:

(a) The District Commander refers civil penalty cases to the Secretary of the Interior, or that person's delegate, who, under the Act, assesses, collects, and compromises civil penalties.

(b) If a possible violation investigated by the Coast Guard carries both a civil and a criminal penalty, the District Commander determines whether to refer the case to the U.S. Attorney for criminal prosecution or to the Secretary of the Interior, or that person's delegate, for civil penalty proceedings.

(c) When the U.S. Attorney declines to institute criminal proceedings, the District Commander decides whether to refer the case to the Secretary of the Interior, or that person's delegate, for civil penalty proceedings or to close the case.

Subpart B—Inspections

§ 140.101 General inspection requirements.

(a) Each unit engaged in OCS activities is subject to inspection by the Coast Guard.

(b) Under the direction of the Officer in Charge, Marine Inspection, marine inspectors inspect units engaged in OCS activities to determine whether the requirements of this subchapter are met. These inspections may be conducted with or without advance notice at any time deemed necessary by the Officer in Charge, Marine Inspection.

(c) As part of an inspection, a marine inspector may review records and require and observe the conduct of emergency drills and other tests and procedures as may be necessary to demonstrate to that person's satisfaction that the unit and its equipment are in full compliance with applicable Coast Guard regulations. The marine inspector consults with the person in charge of the unit before requiring a drill or other test or procedure to be conducted to minimize disruption of unit activities and risk to life or property.

§ 140.102 Foreign units.

(a) Coast Guard inspections of foreign units recognize valid international certificates accepted by the United States, including Safety of Life at Sea (SOLAS), Loadline, and Mobile Offshore Drilling Unit (MODU) Code certificates for matters covered by the certificates, unless there are clear grounds for believing that the condition of the unit or its equipment does not correspond substantially with the particulars of the certificate.

(b) The owner or operator of a foreign mobile offshore drilling unit which must comply with requirements of this subchapter is issued a letter of compliance by the Officer in Charge, Marine Inspection, when that person determines the requirements of this subchapter are met.

(c) A letter of compliance issued under this section is valid for one year or until a unit departs the OCS for foreign operations, whichever comes first.

§ 140.103 Deficiencies discovered during inspections.

(a) Any deficiency or hazard discovered during an inspection is reported to the unit's owner or operator, who shall have the deficiency or hazard eliminated or corrected as soon as practicable and within any period of time that may be specified for elimination or correction by the Coast Guard marine inspector.

(b) Whenever a deficiency or hazard remains uneliminated or uncorrected after notice and after the expriation of any period specified for elimination or correction by the marine inspector, the Officer in Charge, Marine Inspection, initiates appropriate enforcement measures.

(c) Lifesaving or firefighting equipment which is found defective by a marine inspector and which cannot be satisfactorily repaired shall be so mutilated that it cannot be used for the purpose for which it was originally intended.

§ 140.105 OCS facility inspections.

(a) This section applies to OCS facilities other than mobile offshore drilling units required to be inspected under 46 CFR Part 107.

(b) Each OCS facility is subject to an annual on-site inspection by the Coast Guard.

(c) An annual inspection includes inspection of all Coast Guard approved or required equipment and procedures designed to prevent or mitigate fires, spillages, and other major accidents on OCS facilities.

(d) The Coast Guard may conduct the first annual inspection of any OCS facility prior to commencement of drilling or production operations.

Subpart C—Investigations

§ 140.201 General.

Under the direction of the Officer in Charge, Marine Inspection, investigating officers investigate the following incidents occurring as a result of OCS activities:

(a) Death.

(b) Injury resulting in substantial impairment of any bodily unit or function.

(c) Fire which causes death, serious injury or property damage exceeding $25,000.

(d) Oil spillage exceeding two hundred barrels of oil in one occurrence during a thirty-day period.

(e) Other injuries, casualties, accidents, complaints of unsafe working conditions, fires, pollution, and incidents occurring as a result of OCS activities as the Officer in Charge, Marine Inspection, deems necessary to promote the safety of life or property or protect the marine environment.

§ 140.203 Investigation procedures.

(a) Insofar as practicable, investigations conducted pursuant to this subchapter shall follow the procedures of 46 CFR Part 4.

(b) Representatives of the U.S. Geological Survey may participate in these investigations. This participation may include, but is not limited to—

(1) Participating in a joint on-scene investigation;

(2) Making recommendations concerning the scope of the investigation;

(3) Calling and examing witnesses; and

(4) Submitting or requesting additional evidence.

(c) Reports of investigations conducted under this subchapter shall be made available to parties to the investigation and the public upon completion of agency action.

§ 140.205 Subpoenas.

(a) In any investigation conducted pursuant to this subchapter, the investigating officer shall have the power to administer necessary oaths, subpoena witnesses, and require the production of books, papers, documents, and any other evidence.

(b) Attendance of witnesses or the production of books, papers, documents, or any other evidence shall be compelled by a process similar to that used in the District Courts of the United States.

3. By adding a new Part 141 to read as follows:

PART 141—PERSONNEL

Subpart A—Restrictions on Employment

Sec.

141.1 Purpose.
141.5 Applicability.
141.10 Definitions.
141.15 Restrictions on employment.
141.20 Exemptions from restrictions on employment.
141.25 Evidence of U.S. citizenship.
141.30 Evidence of status as a resident alien.
141.35 Records to be kept by the employer.

Authority: Sec. 30 of sec. 208, Pub. L. 95-372, 92 Stat. 669 (43 U.S.C. 1356); 49 CFR 1.46(z).

Subpart A—Restrictions on Employment

§ 141.1 Purpose.

This subpart prescribes rules governing restrictions on the employment of personnel on units engaged in OCS activities.

§ 141.5 Applicability.

(a) This subpart applies to employment of personnel on units engaged in OCS activities, except as provided in paragraph (b) of this section.

(b) This subpart does not apply to employment of personnel on any—

(1) Vessel subject to the citizenship requirements of 46 U.S.C. 672a for pilots, licensed officers, and unlicensed crew when the vessel is transiting to or from an OCS facility or a United States port;

(2) Vessel subject to the citizenship requirements of 46 U.S.C. 1132 for officers and crew on federally subsidized or documented vessels; or

(3) Unit over 50 percent of which is owned by one or more citizens of a foreign nation or with respect to which one or more citizens of a foreign nation have the right effectively to control, except to the extent and to the degree that the President determines that the government of such foreign nation or any of its political subdivisions has implemented, by statute, regulation, policy, or practice, a national manning requirement for equipment engaged in the exploration, development, or production of oil or gas in its offshore areas.

(c) The Commandant may, upon request or upon that person's own initiative, determine whether over 50 percent of a particular unit is owned by citizens of a foreign nation or whether citizens of a foreign nation have the right effectively to control the unit.

(Approved by the Office of Management and Budget under OMB control number 2130-0152)

(d) In determining whether ownership or a right effectively to control exists, the Commandant may consider operational control of a unit, management responsibility, title, lease and charter arrangements, and financial interests.

(e) The owner or operator of any unit affected is notified of the Commandant's determination.

§ 141.10 Definitions.

As used in this subpart:

"Citizens of the United States" means—

(1) In the case of an individual, one who is a native born, derivative, or fully naturalized citizen of the United States;

(2) In the case of a partnership, unincorporated company, or association, one in which 50% or more of the controlling interest is vested in citizens of the United States; or

(3) In the case of a corporation, one which is incorporated under the laws of the United States or of any State thereof.

"Citizen of a foreign nation" means—

(1) In the case of an individual, one who is not a citizen of the United States;

(2) In the case of a partnership, unincorporated company, or association, one in which more than 50% of the controlling interest is vested in citizens of a nation other than the United States; or

(3) In the case of a corporation, one which is incorporated under the laws of a nation other than the United States so long as (i) the title to a majority of the stock thereof is free from any trust or fiduciary obligation in favor of any citizen of the United States; (ii) the majority of the voting power in the corporation is not vested in any citizen of the United States; (iii) through any contract or understanding, the majority of the voting power may not be exercised directly or indirectly on behalf of any citizen of the United States; or (iv) by no other means, control of the corporation is conferred upon or permitted to be exercised by any citizen of the United States.

"Resident alien" means an alien lawfully admitted to the United States for permanent residence in accordance with section 101(a)(20) of the Immigration and Nationality Act of 1952, as amended, 8 U.S.C. 1101(a)(20).

§ 141.15 Restrictions on employment.

(a) On or after April 5, 1983, each employer of personnel on any unit engaged in OCS activities that is subject to this part must employ, as members of the regular complement of the unit, only citizens of the United States or resident aliens except as provided by § 141.20.

(b) As used in paragraph (a) of this section, "regular complement of a unit" means those personnel necessary for the routine functioning of the unit, including marine officers and crew; industrial personnel on the unit, such as toolpushers, drillers, roustabouts, floor hands, crane operators, derrickmen, mechanics, motormen, and general maintenance personnel; and support personnel on the unit, such as cooks, stewards and radio operators. The term does not include specialists, professionals, or other technically trained personnel called in to handle emergencies or other temporary operations; extra personnel on a unit for training; and other personnel temporarily on a unit for specialized operations, such as construction, alteration, well logging, or unusual repairs or emergencies.

(c) The Officer in Charge, Marine Inspection, may determine whether a particular individual or position is part of the regular complement of a unit. A copy of the determination is provided to the owner or operator of the unit affected.

(Approved by the Office of Management and Budget under OMB control number 2130-0152)

§ 141.20 Exemptions from restrictions on employment.

(a) An employer may request an exemption from the restrictions on employment in § 141.15 in order to employ persons other than citizens of the United States or resident aliens as part of the regular complement of the unit under the following circumstances:

(1) When specific contractual provisions or national registry manning requirements in effect on September 18, 1978 provide that a person other than a citizen of the United States or a resident alien is to be employed on a particular unit.

(2) When there is not a sufficient number of citizens of the United States or resident aliens qualified and available for the work.

(3) When the President determines with respect to a particular unit that the employment of only citizens of the United States or resident aliens is not consistent with the national interest.

(b) The request must be in writing, identify the provision of paragraph (a) of this section relied upon, and—

(1) If involving specific contractual provisions under paragraph (a)(1) of this section, list the persons claimed exempt and contain a copy of the contract;

(2) If involving persons without an H-2 Visa under paragraph (a)(2) of this section, list the persons or positions sought to be exempted; or

(3) If under paragraph (a)(3) of this section, identify the unit involved and contain any information in support of the claim.

(c) Requests must be submitted to the Commandant (G-MVP), U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Washington, D.C. 20593.

(d) Upon receipt of a request under paragraph (a)(2) of this section, the Coast Guard seeks information from the Department of Labor concerning whether there are citizens of the United States or resident aliens qualified and available for work. If information is provided that citizens of the United States or resident aliens are qualified and available, the employer may be required to seek their employment before the request is approved.

(e) Upon receipt of a request under paragraph (a)(3) of this section and after consulting with other Federal agencies as appropriate, the Commandant forwards the request and the comments of the Coast Guard and other interested agencies to the President for determination.

(f) Upon approval by the President for request under paragraph (a)(3) of this section or by the Coast Guard for all other requests, the Coast Guard issues a certification of the exemption. A certification issued under paragraph (a)(2) of this section is valid for one year from the date of issuance.

(g) If, within 30 days of receipt by the Coast Guard of a request under paragraph (a)(2) of this section, the Coast Guard does not make a determination or advise the employer that additional time for consideration is necessary, the request is considered approved for a period of 90 days from the end of the 30 day period.

(h) A request need not be submitted for persons who are not citizens of the United States or resident aliens and who—

(1) Are employed under the national registry manning requirements exception in paragraph (a)(1) of this section; or

(2) Have been classified and admitted to the United States as temporary workers under 8 U.S.C. 1101(a)(15)(H)(ii) for work in a position for which admitted.

(Approved by the Office of Management and Budget under OMB control number 2130-0152)

§ 141.25 Evidence of citizenship.

(a) The employer may accept as sufficient evidence that a person is a citizen of the United States any one of the following documents and no others:

(1) A merchant mariner's document issued by the Coast Guard under 46 CFR Part 12 which shows the holder to be citizen of the United States.

(2) An original or certified copy of a birth certificate or birth registration issued by a state or the District of Columbia.

(3) A United States passport.

(4) A Certificate of Citizenship issued by the Immigration and Naturalization Service.

(5) A Certificate of Naturalization issued by a Naturalization Court.

(6) A letter from the Coast Guard issued under paragraph (d) of this section.

(b) If a person does not have one of the documents listed in paragraphs (a)(1) through (a)(6) of this section, that person may appear in person before an Officer in Charge, Marine Inspection, and submit one or more of the following documents which may be considered as evidence that the applicant is a citizen of the United States:

(1) A Certificate of Derivative Citizenship or a Certificate of Naturalization of either parent and a birth certificate of the applicant or other evidence satisfactorily establishing that the applicant was under 21 years of age at the time of the parent's naturalization.

(2) An original or certified copy of a birth certificate from a political jurisdiction outside the United States which demonstrates citizenship status.

(3) A Baptismal certificate or parish record recorded within one year after birth.

(4) A statement of a practicing physician certifying that the physician attended the birth and has a record showing the date on which the birth occurred.

(5) A commission, or evidence of commission, in the Armed Forces of the United States which shows the holder to be a citizen of the United States.

(6) A continuous discharge book or certificate of identification issued by the Coast Guard or the former Bureau of Marine Inspection, provided the document shows that the applicant produced satisfactory evidence of citizenship at the time the document was issued.

(7) A delayed certificate of birth issued under a state seal, provided there are no collateral facts indicating fraud in its procurement.

(8) A report of the Census Bureau showing the earliest available record of the applicant's age or birth.

(9) Affidavits of parents, relatives, or two or more responsible citizens of the United States, school records; immigration records; insurance policies; or other records which support the citizenship claim.

(c) In any case where doubt exists concerning evidence of citizenship submitted under paragraph (b) of this section, the Officer in Charge, Marine Inspection, may refer the matter to the United States Immigration and Naturalization Service for an advisory opinion.

(d) If the documents submitted under paragraph (b) of this section are determined by the Officer in Charge, Marine Inspection, to be sufficient evidence that the applicant is a citizen of the United States, the Coast Guard issues the applicant a letter acknowledging this determination.

(Approved by the Office of Management and Budget under OMB control number 2130-0152)

§ 141.30 Evidence of status as a resident alien.

The employer may accept as sufficient evidence that a person is a resident alien any one of the following documents and no others:

(a) A merchant mariner's document issued by the Coast Guard under 46 CFR Part 12.

(b) An alien registration receipt card issued by the Immigration and Naturalization Service certifying that the card holder has been admitted to the United States as an immigrant.

(c) A declaration of intention to become a citizen of the United States issued by the a Naturalization Court.

§ 141.35 Records to be kept by the employer.

(a) The employer of personnel subject to this subpart shall maintain, and make available to the Coast Guard upon request, a record identifying which of the documents listed in §§ 141.25 and 141.30 were relied upon for each employee. The record must consist of either a copy of the document or the following information on the document:

(1) For a merchant mariner's document or a United States passport, the document's title and identification number.

(2) For a birth certificate or birth registration, the document's title and the employee's date and place of birth.

(3) For all other documents listed in §§ 141.25 and 141.30, the document's title and date and place of issuance.

(b) The employer of personnel subject to this subpart shall maintain a written list of the positions that make up the regular complement of the unit and the name and nationality of the individual filling each employee position. This list may be in summary form and any simple format.

(Approved by the Office of Management and Budget under OMB control number 2130-0152)

4. By revising Part 142 to read as follows:

PART 142—WORKPLACE SAFETY AND HEALTH

Sec.

142.1 Duties of lessees, permittees, and persons responsible for actual operations.

142.5 Reports of unsafe working conditions.

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 22 of sec. 208, Pub. L. 95-372, 92 Stat. 655 (43 U.S.C. 1348); 49 CFR 1.46(z).

§ 142.1 Duties of lessees, permittees, and persons responsible for actual operations.

(a) Each holder of a lease or permit under the Act shall ensure that all places of employment within the lease area or within the area covered by the permit on the OCS are maintained in compliance with workplace safety and health regulations of this part and, in addition, free from recognized hazards.

(b) Persons responsible for actual operations, including owners, operators, contractors, and subcontractors, shall ensure that those operations subject to their control are conducted in compliance with workplace safety and health regulations of this part and, in addition, free from recognized hazards.

(c) "Recognized hazards", in paragraphs (a) and (b) of this section, means conditions which are—

(1) Generally known among persons in the affected industry as causing or likely to cause death or serious physical harm to persons exposed to those conditions; and

(2) Routinely controlled in the affected industry.

§ 142.5 Reports of unsafe working conditions.

(a) Any person may report a possible violation of any regulation in this subchapter or any other hazardous or unsafe working condition on any unit engaged in OCS activities to an Officer in Charge, Marine Inspection.

(b) After reviewing the report and conducting any necessary investigation, the Officer in Charge, Marine Inspection, notifies the owner or operator of any deficiency or hazard and initiates enforcement measures as the circumstances warrant.

(c) The identity of any person making a report under paragraph (a) of this section is not made available, without the permission of the reporting person, to anyone other than those officers and employees of the Department of Transportation who have a need for the record in the performance of their official duties.

5. By revising Part 143 to read as follows:

PART 143—DESIGN AND EQUIPMENT

Subpart A—General

Sec.
143.1 Purpose.
143.15 Lights and warning devices.

Subpart B—OCS Facilities
143.100 Applicability.
143.101 Means of escape.
143.105 Personnel landings.
143.110 Guards and rails.
143.120 Floating OCS facilities.

Subpart C—Mobile Offshore Drilling Units (MODUs)
143.200 Applicability.
143.201 Existing MODUs exempted from new design requirements.
143.205 Requirements for U.S. and undocumented MODUs.
143.207 Requirements for foreign MODUs.
143.210 Letter of compliance.

Subpart D—Vessels
143.300 Applicability.
143.301 Load line requirements.

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 20 of sec. 208, Pub. L. 95–372, 92 Stat. 669 (43 U.S.C. 1356); 49 CFR 1.46(z).

Subpart A—General

§ 143.1 Purpose.

This part prescribes design and equipment requirements for units engaged in OCS activities.

§ 143.15 Lights and warning devices.

(a) OCS facilities must meet the lights and warning devices requirements under Part 67 of this chapter concerning aids to navigation on artificial islands and fixed structures.

(b) Vessels, including attending vessels but excluding MODUs under paragraph (a) of this section, must meet the lights and warning devices requirements under the International Regulations for Preventing Collisions at Sea 1972 (33 CFR Part 87, Appendix A) or under local rules provided for in Rule 1 of those Regulations.

Subpart B—OCS Facilities

§ 143.100 Applicability.

This subpart applies to OCS facilities except mobile offshore drilling units.

§ 143.101 Means of escape.

(a) "Primary means of escape" shall be fixed stairways or fixed ladders of metal construction.

(b) "Secondary means of escape" shall be types approved for "primary means of escape" or portable, flexible ladders, knotted man ropes, and other devices satisfactory to the Officer in Charge, Marine Inspection.

(c) Manned OCS facilities shall be provided with at least two "primary means of escape" extending from the uppermost platform level that contains living quarters or that personnel occupy continuously, to each successively lower working level and to the water surface. Working levels without living quarters, shops, or offices in manned facility structural appendages, extensions, and installations that personnel occupy only occasionally shall be provided with one "primary means of escape" and, when necessary in the opinion of the Officer in Charge, Marine Inspection, one or more "secondary means of escape."

(d) Unmanned OCS facilities shall be provided with at least one "primary means of escape" extending from the uppermost platform working level to each successively lower working level and to the water surface. When personnel are on board, unmanned facilities shall also be provided with one or more "secondary means of escape," but not more than one will be required for every 10 persons extending from the uppermost working level of the facility to each successively lower working level and to the water surface, excluding facility appendages and installations, unless "secondary means of escape" from such appendages and installations are necessary in the opinion of the Officer in Charge, Marine Inspection.

(e) "Means of escape" shall be suitably accessible to personnel for rapid facility evacuation.

(f) When two or more "means of escape" are installed, at least two shall be located as nearly diagonally opposite each other as practicable unless such requirement is unreasonable or impracticable in the opinion of the Officer in Charge, Marine Inspection.

§ 143.105 Personnel landings.

(a) Sufficient personnel landings shall be provided on each manned OCS facility to assure safe access and egress. When due to special construction personnel landings are not feasible, then suitable transfer facilities to provide safe access and egress shall be installed.

(b) The personnel landings shall be provided with satisfactory illumination. The minimum shall be one-foot candle of artificial illumination as measured at the landing floor and guards and rails.

§ 143.110 Guards and rails.

(a) Except for helicopter landing decks which are provided for in paragraph (b) of this section, and areas not normally occupied, the unprotected perimeter of all floor or deck areas and openings shall be rimmed with guards and rails or wire mesh fence. The guard rail or fence shall be at least 42 inches high. The two intermediate rails shall be so placed that the rails are approximately evenly spaced between the guard rail and the floor or deck area: *Provided*, That if a toe board is installed then one of the intermediate rails may be omitted and the other rail placed approximately half way between the top of the toe board and the top guard rail.

(b) The unprotected perimeter of the helicopter landing deck shall be protected with a device of sufficient strength and size as to prevent any person from falling from such deck.

(c) Each catwalk and each stairway shall be provided with a suitable guard rail or rails, as necessary.

§ 143.120 Floating OCS facilities.

(a) Before construction is started on a proposed floating OCS facility, the owner or operator of the facility must submit to the Coast Guard for approval all plans and information listed in Subpart C of 46 CFR Part 107 which relate to the facility. All plans and information must be submitted according to the procedures in that subpart.

(b) The facility must comply with the requirements of Subchapters F (Marine Engineering) and J (Electrical Engineering) of 46 CFR Chapter I and 46 CFR Part 108 (Design and Equipment). Where unusual design or equipment needs make compliance impracticable, alternative proposals that provide an equivalent level of safety may be accepted. These requirements do not apply to production systems on the facility.

(c) The Officer in Charge, Marine Inspection, determines whether a floating OCS facility meets the requirements of paragraph (b) of this section and issues a certificate of inspection for each facility which meets these requirements. Inspection of the facility may be required as part of this determination.

Subpart C—Mobile Offshore Drilling Units

§ 143.200 Applicability.

This subpart applies to mobile offshore drilling units when engaged in OCS activities.

§ 143.201 Existing MODUs exempted from new design requirements.

Any mobile offshore drilling unit built before, under construction on, or contracted for prior to April 5, 1982 is not required to meet the design requirements of this subpart until the unit is rebuilt. Until rebuilt, the unit must continue to comply with the design requirements applicable to the unit on April 5, 1983.

§ 143.205 Requirements for U.S. and undocumented MODUs.

Each mobile offshore drilling unit that is documented under the laws of the United States or not documented under the laws of any nation must comply with the design, equipment, and inspection requirements of 46 CFR Parts 107 and 108 in order to engage in OCS activities.

§ 143.207 Requirements for foreign MODUs.

Each mobile offshore drilling unit that is documented under the laws of a foreign nation must, when engaged in OCS activities, comply with one of the following:

(a) The design and equipment standards of 46 CFR Part 108.

(b) The design and equipment standards of the documenting nation if the standards provide a level of safety generally equivalent to or greater than that provided under 46 CFR Part 108.

(c) The design and equipment standards for mobile offshore drilling units contained in the Inter-Governmental Maritime Consultative Organization (IMCO) Code for Construction and Equipment of Mobile Offshore Drilling Units (IMCO Assembly Resolution A.414(XI)) which has been incorporated by reference.

§ 143.210 Letter of compliance.

The Officer in Charge, Marine Inspection, determines whether a mobile offshore drilling unit which does not hold a valid Coast Guard Certificate of Inspection meets the requirements of § 143.205 or § 143.207 relating to design and equipment standards and issues a letter of compliance for each unit which meets the requirements. Inspection of the unit may be required as part of this determination.

Subpart D—Vessels

§ 143.300 Applicability.

This subpart applies to all vessels engaged in OCS activities except mobile offshore drilling units.

§ 143.301 Load line requirements.

(a) Vessels, including foreign vessels, which would be subject to the requirements of Subchapter E of 46 CFR Chapter I concerning load lines when arriving at or proceeding to sea from any port or place within the United States must comply with those requirements when engaged in activities on the OCS.

(b) Load line certificates and load line exemption certificates issued or accepted under Subchapter E of 46 CFR Chapter I are acepted as evidence of compliance with paragraph (a) of this section.

PART 144—LIFESAVING APPLIANCES

6. The authority citation for Part 144 is revised to read as follows:

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; 49 CFR 1.46(z).

7. By adding new paragraphs (c) and (d) to § 144.01–20 as follows:

§ 144.01–20 Life preservers.

* * * * *

(c) Each life preserver carried on a manned platform after October 5, 1982, must have a personal flotation device light that is approved under Subpart 161.012 of 46 CFR Part 161. Each light must be securely attached to the front shoulder area of the life preserver.

(d) Each life preserver carried on a manned platform after October 5, 1982, must have at least 200 sq. cm (31 sq. in.) of retroreflective material attached on its front side, at least 200 sq. cm on its back side, and at least 200 sq. cm of material on each of its reversible sides. The material must be Type I material that is approved under 46 CFR 164.018. The material attached on each side of a life preserver must be divided equally between the upper quadrants of the side, and the material in each quadrant must be attached as closely as possible to the shoulder area of the life preserver.

8. By revising Part 146 to read as follows:

PART 146—OPERATIONS

Subpart A—OCS Facilities

Sec.
146.1 Applicability.
146.5 Person in charge.
146.10 Notice of new facilities.
146.15 Maintenance of emergency equipment.
146.20 Work vests.
146.30 Notice of casualty or accident.
146.35 Written report of casualty.
146.40 Diving casualties.
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Subpart B—Manned OCS Facilities
146.101 Applicability.
146.105 General alarm system.
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146.115 Duties of personnel during an emergency.
146.120 Manning of survival craft.
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146.130 Station bill.
146.135 Markings for emergency equipment.

Subpart C—Mobile Offshore Drilling Units (MODUs)
146.201 Applicability.
146.202 Notice of arrival or relocation of MODUs on the OCS.
146.203 Requirements for U.S. and undocumented MODUs.
146.205 Requirements for foreign MODUs.

Subpart D—Vessels
146.301 Applicability.
146.305 Notice of casualty or accident.

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 22 of sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1348); 49 CFR 1.46(z).

Subpart A—OCS Facilities

§ 146.1 Application.

The provisions of this subpart apply to OCS facilities except mobile offshore drilling units.

§ 146.5 Person in charge.

(a) The owner or operator, or the agent of either of them, shall designate by title and in order of succession the persons on each OCS facility who shall be the "person in charge."

(b) In case an emergency arises, nothing in the regulations in this subchapter shall be so construed as preventing the person in charge from pursuing the most effective action in that person's judgement for rectifying the conditions causing the emergency.

§ 146.10 Notice of new facilities.

(a) The owner or operator of each OCS facility not in operation before April 5, 1982 shall, at least 30 days before the date on-site construction of the facility is expected to commence, notify the District Commander for the area in which the facility will be located of—

(1) The position in which the facility will be operated;

(2) The designation assigned to the facility for identification under 30 CFR 250.37;

(3) The date when operation of the facility is expected to commence; and

(4) The date when the facility is expected to be available for inspection by the Coast Guard.

(b) The information required in paragraph (a) of this section may be submitted together with an need not repeat information submitted in connection with the application and notice requirements in 33 CFR Part 67 for aids to navigation on the Outer Continental Shelf.

§ 146.15 Maintenance of emergency equipment.

(a) The emergency equipment provided, regardless of whether or not required by this subchapter, shall be maintained in good condition at all times. Good operating practices require replacement of expended equipment, as well as periodic renewal of those items which have a limited period of effectiveness.

(b) Each personal flotation device light that has a non-replaceable power source must be replaced on or before the expiration date of the power source.

(c) Each replaceable power source for a personal flotation device light must be replaced on or before its expiration date and the light must be replaced when it is no longer serviceable.

§ 146.20 Work vests.

(a) *Approved unicellular plastic foam.* Buoyant work vests carried under the permissive authority of this section shall conform to the specifications for Type V work vests in 46 CFR Subpart 160.053.

(b) *Use.* Approved buoyant work vests are considered to be items of safety apparel and may be carried aboard OCS facilities to be worn by persons employed thereon when working near or over the water. The use and control of such vests shall be under the supervision of the person in charge of the facility. When carried, such vests shall not be accepted in lieu of any portion of the required number of approved life preservers and shall not be substituted for the approved life preservers required to be worn during drills and emergencies.

(c) *Stowage.* The work vests shall be stowed separately from the regular stowage of approved life preservers. The location for the stowage of work vests shall be such as not to be easily confused with that for approved life preservers.

(d) *Inspections.* Each work vest shall be subject to examination by a marine inspector to determine its serviceability. If found to be satisfactory, it may be continued in service, but shall not be stamped by a marine inspector with a Coast Guard stamp. If a work vest is found not to be in a serviceable condition, then such work vest shall be removed from the OCS facility. If a work vest is beyond repair, it shall be destroyed or mutilated in the presence of a marine inspector so as to prevent its continued use as a work vest.

§ 146.30 Notice of casualties.

(a) The owner, operator, and person in charge of an OCS facility shall ensure that the Coast Guard is notified as soon as possible after a casualty occurs, and by the most rapid means available, of each casualty involving the facility which results in—

(1) Death; or

(2) Injury to 5 or more persons in a single incident.

(b) The owner, operator, and person in charge shall ensure that the Coast Guard is notified promptly of each casualty involving the facility which results in—

(1) Damage affecting the usefulness of primary lifesaving or firefighting equipment;

(2) Injury causing any person to be incapacitated for more than 72 hours;

(3) Damage to the facility exceeding $25,000 resulting from a collision by a vessel with the facility; or

(4) Damage to a floating OCS facility exceeding $25,000.

(c) The notice required by paragraphs (a) and (b) of this section must identify the person giving the notice and the facility involved and describe, insofar as practicable, the nature of the casualty and the extent of injury to personnel and damage to property.

(d) The damage amounts set forth in paragraphs (b)(3) and (b)(4) of this section are based on the costs necessary to restore the facility to the same condition of serviceability that the facility was in before the casualty, including the cost of salvage, gas freeing, and drydockage. It does not include demurrage or similar items.

(Approved by the Office of Management and Budget under OMB control numbers 2115-0003 and 2115-0004)

§ 146.35 Written report of casualty.

(a) In addition to the notice of a casualty required by § 146.30, the owner, operator, or person in charge shall, within 10 days of the casualty, submit to the Officer in Charge, Marine Inspection, a written report which—

(1) Identifies the facility involved, its owner, operator, and person in charge;

(2) Describes the casualty, including the date and time;

(3) Describes the nature and extent of injury to personnel and damage to property;

(4) Describes the factors which may have contributed to causing the casualty;

(5) Gives the name, address, and phone number of persons involved in or witnessing the casualty; and

(6) Gives any desired comments, especially with respect to use of or need for emergency equipment.

(b) The written report required by paragraph (a) of this section may be—

(1) In narrative form;

(2) On Form CG 2692 for casualties resulting in only property damage; or

(3) On Form CG 924E for casualties resulting only in injury to personnel.

(c) If filed or postmarked within 5 days of the casualty, the written report required by paragraph (a) of this section serves as the notice required by § 146.30(b).

(Approved by the Office of Management and Budget under OMB control numbers 2115-0003 and 2115-0004)

§ 146.40 Diving casualties.

Diving related casualties are reported in accordance with 46 CFR 197.484 and 197.486.

§ 146.45 Pollution incidents.

Oil pollution incidents involving an OCS facility are reported in accordance with §§ 136.305 and 136.307 of this chapter. Additional provisions concerning liability and compensation because of oil pollution are contained in Subchapter M of this chapter.

Subpart B—Manned OCS Facilities

§ 146.101 Application.

The provisions of this subpart apply only to manned OCS facilities except mobile offshore drilling units.

§ 146.105 General alarm system.

Each manned facility must have a general alarm system. When operated, this system shall be audible in all parts of the structure on which provided.

§ 146.110 Emergency signals.

(a) The owner, the owner's agent, or the person in charge shall establish emergency signals to be used for calling the personnel to their emergency stations.

(b) The signal to man emergency stations shall be an intermittent signal on the general alarm system for not less than 10 seconds. The abandon facility signal shall be a continuous signal on the general alarm system.

§ 146.115 Duties of personnel during an emergency.

(a) The owner, the owner's agent, or the person in charge shall assign to each person on a manned facility special duties and duty stations so that in event an emergency arises confusion will be minimized and no delay will occur with respect to the use or application of equipment required by this subchapter. The duties shall, as far as possible, be comparable with the regular work of the individual.

(b) The duties shall be assigned as necessary for the proper handing of any emergency, and shall include the following:

(1) The closing of air ports, watertight doors, scuppers, and sanitary and other discharges which lead through the facility's hull.

(2) The stopping of fans and ventilation systems.

(3) The donning of life preserves.

(4) The preparation and launching of life floats, lifeboats, or life rafts.

§ 146.120 Manning of survival craft.

The owner, the owner's agent, or the person in charge shall assign a person to each life float, lifeboat, life raft, or survival capsule who shall be responsible for launching it in event of an emergency.

§ 146.125 Emergency drills.

(a) Emergency drills shall be conducted at least once each month by the person in charge of the manned facility. The drill shall be conducted as if an actual emergency existed. All personnel should report to their respective stations and be prepared to perform the duties assigned to them.

(b) The person in charge and conducting the emergency drill shall instruct the personnel as necessary to insure that all persons are familiar with their duties and stations.

(c) The date and time of such drills shall be reported in writing by the person in charge at the time of the drill to the owner who shall maintain this report record for a year and furnish it upon request to the Coast Guard. After one year, such records may be destroyed. When it is impossible to conduct emergency drills as required by this section during a particular calendar month, during the following month, a written report by the owner shall be submitted to the Officer in Charge, Marine Inspection, stating why the drills could not be conducted.

(Approved by the Office of Management and Budget under OMB control number 2115-0071)

§ 146.130 Station bill.

(a) The person in charge of each manned platform shall be responsible for and have prepared a station bill (muster list). This station bill must be signed by the person in charge. Copies shall be duly posted in conspicuous locations on the manned platform.

(b) The station bill shall set forth the special duties and duty stations of each member of the personnel for any emergency which involves the use or application of equipment required by this subchapter. In addition, it shall contain all other duties assigned and considered as necessary for the proper handling of other emergencies.

(c) The station bill shall contain the various signals to be used for calling the personnel to their emergency stations, and to abandon the facility.

§ 146.135 Markings for emergency equipment.

(a) Markings shall be provided as considered necessary for the guidance of persons on manned facilities.

(b) The general alarm bell switches shall be identified by red letters at least one inch high with a contrasting background: "General Alarm."

(c) All general alarm bells shall be identified by a sign at each bell in red letters at least one inch high with a sharp contrasting background: "General Alarm—When Bell Rings Go to Your Station.

(d) All life floats, lifeboats, life rafts, and survival capsules, together with paddles or oars, shall be conspicuously marked with a name or number of, or other inscription identifying, the facility on which placed. The number of persons allowed on each life float, lifeboat, or life raft shall be conspicuously marked thereon in letters and numbers 1½ inches high. These numbers shall be placed on both sides of the life float, lifeboat, or life raft. Inflatable life rafts shall be marked in accordance with Subpart 160.051 of 46 CFR Part 160 and no additional markings are required.

(e) All life preservers and ring life buoys shall be marked with the name or number of, or other inscription identifying, the facility on which placed except those which accompany mobile crews to unmanned platforms may be marked with the operator's name and field designation.

Subpart C—Mobile Offshore Drilling Units

§ 146.201 Application.

This subpart applies to mobile offshore drilling units engaged in OCS activities.

§ 146.202 Notice of arrival or relocation of MODUs on the OCS.

(a) The owner of any mobile offshore drilling unit engaged in OCS activities shall, 14 days before arrival of the unit on the OCS or as soon thereafter as practicable, notify the District Commander for the area in which the unit will operate of—

(1) The unit's name, nationality, and designation assigned for identification under 30 CFR 250.37;

(2) The location and year that the unit was built;

(3) The name and address of the owner, and the owner's local representative, if any;

(4) Classification or inspection certificates currently held by the unit;

(5) The location and date that operations are expected to commence and their anticipated duration; and

(6) The location and date that the unit will be available and ready for inspection by the Coast Guard.

(b) Once a unit is located on the OCS, the owner of the unit shall notify the District Commander before relocating the unit.

(c) The information required in paragraphs (a) and (b) of this section may be provided by telephone or may be submitted together with, and need not repeat information contained in, applications and notices under 33 CFR Part 67 for aids to navigation on the Outer Continental Shelf or 33 CFR Part 135 for applications for certificate of financial responsibility.

§ 146.203 Requirements for U.S. and undocumented MODUs.

Each mobile offshore drilling unit documented under the laws of the United States and each mobile offshore drilling unit that is not documented under the laws of any nation must comply with the operating standards of 46 CFR Part 109 when engaged in OCS activities.

§ 146.205 Requirements for foreign MODUs.

Each mobile offshore drilling unit that is documented under the laws of a foreign nation must, when engaged in OCS activities, comply with one of the following:

(a) The operating standards of 46 CFR Part 109.

(b) The operating standards of the documenting nation if the standards provide a level of safety generally equivalent to or greater than that provided under 46 CFR Part 109.

(c) The operating standards for mobile offshore drilling units contained in the Inter-Governmental Maritime Consultative Organization (IMCO) Code for the Construction and Equipment of Mobile Offshore Drilling Units (IMCO Assembly Resolution A. 414(XI)) which has been incorporated by reference and the requirements of 46 CFR Part 109 for matters not addressed by the Code.

Subpart D—Vessels

§ 146.301 Applicability.

This subpart applies to vessels engaged in OCS activities other than United States vessels already required to report marine casualties under Subpart 4.05 of 46 CFR Part 4 or Subpart D of 46 CFR Part 109.

§ 146.303 Notice and written report of casualties.

The owner, operator, or person in charge of a vessel engaged in OCS activities shall ensure that the notice of casualty requirements of §146.30 and the written report requirements of §146.35 are complied with whenever a casualty involving the vessel occurs which results in—

(a) Death;

(b) Injury to 5 or more persons in a single incident; or

(c) Injury causing any person to be incapacitated for more than 72 hours.

(Approved by the Office of Management and Budget under OMB control numbers 2115-0003 and 2115-0004)

9. By revising Part 147 to read as follows:

PART 147—SAFETY ZONES

Sec.

147.1 Purpose of safety zones.
147.5 Delegation of authority.
147.10 Establishment of safety zones.
147.15 Extent of safety zones.

Authority: Sec 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; 49 CFR 1.46(z).

§ 147.1 Purpose of safety zones.

Safety zones may be established around OCS facilities being constructed, maintained, or operated on the Outer Continental Shelf to promote the safety of life and property on the facilities, their appurtenances and attending vessels, and on the adjacent waters within the safety zones. Regulations adopted for safety zones may extend to the prevention or control of specific activities and access by vessels or persons, and include measures to protect the living resources of the sea from harmful agents. The regulations do not encompass the operating equipment or procedures used in the drilling for and production of oil, gas, or other minerals, or the transportation of oil, gas, or other minerals by pipeline except as they relate to the safety of life and property on OCS facilities and on the waters adjacent to OCS facilities or to the protection of the living resources of the sea within a safety zone from harmful agents.

§ 147.5 Delegation of authority.

The authority to establish safety zones and to issue and enforce safety zone regulations in accordance with the provisions of this part is delegated to District Commanders.

§ 147.10 Establishment of safety zones.

(a) Whenever it comes to the attention of the District Commander that a safety zone and regulations may be required concerning any OCS facility being constructed, maintained, or operated on the Outer Continental Shelf or its appurtenances and attending vessels, or the adjacent waters, the District Commander may initiate appropriate inquiry to determine whether a safety zone and regulations should be established. In making this determination, the District Commander considers all relevant safety factors, including existing or reasonably foreseeable congestion of vessels, the presence of unusually harmful or hazardous substances, and any obstructions within 500 meters of the OCS facility. If the District Commander determines that the circumstances warrant the establishment of a safety zone and regulations the District Commander takes action as necessary consistent with the provisions of this part.

(b) Except as provided in paragraph (c) of this section, a safety zone and necessary regulations may be established concerning any OCS facility being constructed, maintained or operated on the Outer Continental Shelf, following publication of a notice of proposed rule making in the Federal Register and after interested parties have been given the opportunity to submit comments. A zone and necessary regulations may be in effect during any period when construction equipment and materials are within 500 meters of the construction site until the removal of all portions of the facility.

(c) A safety zone and necessary regulations may be established without public rule making procedures when the District Commander determined that imminent danger exists with respect to the safety of life and property on an OCS facility constructed, maintained, or operated on the Outer Continental Shelf, its appurtenances and attending vessels or adjacent waters. A safety zone and regulations may be made effective on the date the rule is published in the Federal Register. However, if circumstances require, they may be placed into effect immediately, followed promptly by publication in the Federal Register. The District Commander may utilize, in addition to broadcast Notices to Mariners, Local Notices to Mariners, and Notices to Mariners, newspapers, and broadcasting stations to disseminate information concerning a safety zone and regulations pertaining thereto. The public may comment concerning the establishment of a safety zone or regulations under this paragraph. A safety zone or regulations may be modified or withdrawn, as appropriate, based on the comments received.

§ 147.15 Extent of safety zones.

A safety zone establishment under this part may extend to a maximum distance of 500 meters around the OCS facility measured from each point on its outer edge or from its construction site, but may not interfere with the use of recognized sea lanes essential to navigation.

(43 U.S.C. 1331 et seq.; 49 CFR 1.46(z))

Dated: March 1, 1982.

Clyde T. Lusk, Jr.,

Rear Admiral, Coast Guard, Chief, Office of Merchant Marine Safety.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Last Listing March 3, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S.J. Res. 122 / Pub. L. 97–150 To authorize and request the President to designate the week of February 28, 1982, through March 6, 1982, as "National Construction Industry Week". (Mar. 1, 1982; 96 Stat. 8) Price: $1.50.

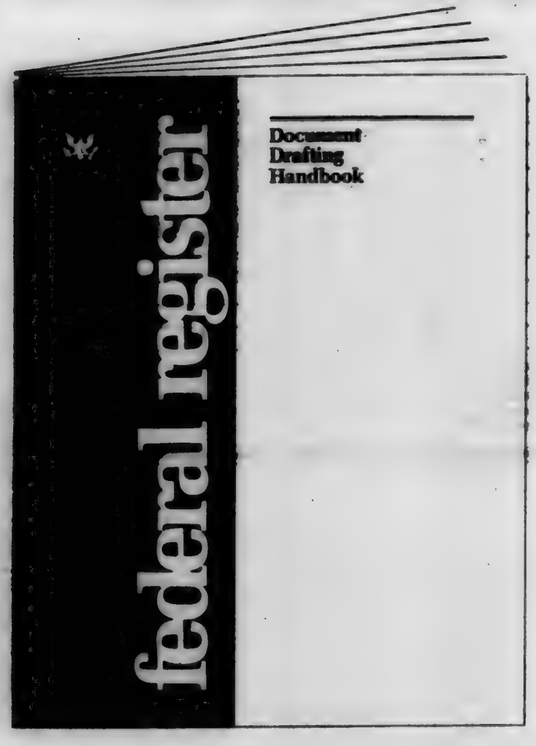

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3-5-82
Vol. 47 No. 44
Pages 9387-9604

federal register

Friday
March 5, 1982

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 340; Lemon Reg. 348, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period March 7–13, 1982, and increases the quantity of lemons that may be shipped during the period February 28–March 6, 1982. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

EFFECTIVE DATES: The regulation becomes effective March 7, 1982, and the amendment is effective for the period February 28–March 6, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation and amendment are issued under the marketing agreement, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. The committee met again publicly on March 2, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is active.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. Section 910.649 is added as follows:

§ 910.649 Lemon Regulation 349.

The quantity of lemons grown in California and Arizona which may be handled during the period March 7, 1982, through March 13, 1982, is established at 245,000 cartons.

2. Section 910.648 Lemon Regulation 348 (47 FR 8319) is revised to read as follows:

§ 910.648 Lemon Regulation 348.

The quantity of lemons grown in California and Arizona which may be handled during the period February 28, 1982 through March 6, 1982, is established at 265,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Dated: March 3, 1982.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-6258 Filed 3-4-82; 12:30 pm]
BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Specification for Self-Supporting Cable, PE-38, Bulletin 345-20

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: REA hereby revises Bulletin 345–20, Specification for Self-Supporting Cable, PE–38. With increased labor rates for cable installations, self-supporting cable has become more cost-effective than lashed cable. The revision of this specification reflects this increased interest and advances in technology since the last revision in 1971.

EFFECTIVE DATE: February 24, 1982.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, Chief, Outside Plant Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382–8907. The Final Regulatory Impact Analysis describing the options considered in developing this rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et. seq.), REA hereby amends Appendix A by issuing a revised Bulletin 345–20, Specification for Self-Supporting Cable, PE–38. This action has been issued in conformance with Executive Order 12291, Federal Regulation, and has been determined to be "not major." A Regulatory Flexibility Analysis is not required, nor is an OMB A–95 review applicable.

This specification was last revised in July 1971 to reflect the product available at that time. Due to the relatively high first cost of self-supporting cable, compared to lashed cable, and to the relatively small savings in installation

costs, due to low labor rates, this product was not used extensively.

With recent drastic increases in labor rates, the product is now cost-effective for many installations. As techology has advanced in the decade since the last issuance of PE-38, this revision reflects these changes and provides a cost-effective tool for rural telephony.

Retaining the document in its 1971 form was considered inadvisable as this would have forced the use of obsolescent materials. Changing only sections of the document via addenda was considered and rejected as this would have forced the user to refer between several documents, thus increasing the likelihood of confusion and errors in applying the specification. The comprehensive revision, as undertaken, was considered to be the best available option.

This program is listed in the Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees.

A notice of proposed rulemaking was published in the Federal Register on September 15, 1981. No public comments were received in response to the notice.

Dated: February 24, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-5800 Filed 3-4-82; 8:45 am]

BILLING CODE 3410-15-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-3085]

Gifford-Hill-American, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement requires a Grand Prairie, Texas producer and seller of concrete pressure pipe and fittings, among other things, to timely divest the entire "Kansas City Plant" to a Commission-approved buyer, capable of maintaining the plant as a competitive entity. Additionally, for a five year period, the company is required to offer the acquirer of the divested plant the opportunity to purchase essential products and services which are not generally available. The order also prohibits the company from acquiring any concern engaged in the production of concrete pressure pipe without prior Commission approval for a period of ten years.

DATE: Complaint and order issued February 23, 1982.[1]

FOR FURTHER INFORMATION CONTACT: FTC/CS-7, Jerry A. Philpott, Washington, D.C. 20580. (202) 724-1118.

SUPPLEMENTARY INFORMATION: On Wednesday, November 4, 1981, there was published in the Federal Register, 46 FR 54756, a proposed consent agreement with analysis in the Matter of Gifford-Hill-American, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Acquiring Corporate Stock or Assets: § 13.5 Acquiring corporate stock or assets; 13.5-20 Federal Trade Commission Act. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-51 making supply of product(s) available to competitors.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Carol M. Thomas,

Secretary.

[FR Doc. 82-6104 Filed 3-4-82; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-18514; File No. S7-787]

Designation of National Market System Securities; Deferral of Effective Dates and Granting of Temporary Exemption

AGENCY: Securities and Exchange Commission.

ACTION: Deferral of effective dates and granting of a temporary exemption.

SUMMARY: The Commission is adopting amendments which will defer the effective date of Tier 1 under its rule governing the designation of national market system securities until April 1, 1982, and defer the effective date of Tier 2 under that rule until October 1, 1982. (See Footnote No. 2). The deferral of Tier 1 is necessitated by technical difficulties being experienced by the National Association of Securities Dealers, Inc. ("NASD") in testing the required enhancements to its NASDAQ system; the deferral of Tier 2 is necessary to preserve a six-month period between the start-up of Tier 1 and Tier 2 so that Tier 2 issuers can evaluate fully the effects of designation prior to determining whether to elect such designation for their securities. In addition, the Commission is issuing an order granting the National Association of Securities Dealers, Inc. a temporary exemption until May 15, 1982 from the Commission's transaction reporting rule, for NASDAQ Level I service for national market system securities.

EFFECTIVE DATE: February 25, 1982.

FOR FURTHER INFORMATION CONTACT: William W. Uchimoto (202) 272-2900, staff attorney, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Amendments to Rule 11Aa2-1

Pursuant to Rule 11Aa2-1 [1] ("Rule") under the Securities Exchange Act of 1934 ("Act"), as amended, the designation of certain over-the-counter ("OTC") securities as Tier 1 national market system ("NMS") securities will become effective on March 1, 1982.[2] Upon designation, NMS securities will be "reported" securities as the term is defined in Rule 11Ac1-1(a)(6) and subject to, among other things, the Commission's last sale reporting rule, Rule 11Aa3-1.

The NASD recently has indicated to the Commission that, due to technical difficulties being experienced in testing the required enhancements to its NASDAQ system, it will be unable to provide last sale reporting for Tier 1 securities on March 1, 1982. As a result, the NASD has requested that the effective date of Tier 1 designation be deferred for one month until April 1, 1982.[3] Because the Commission believes that the NASD has been making good faith efforts and overall progress in effecting the technical enhancements to its NASDAQ system necessary to accommodate transaction reporting for Tier 1 securities, the Commission is amending the Rule so as to defer the effective date for Tier 1 reporting for one month, or until April 1, 1982.

As a result of this deferral, the initial six-month period scheduled between the commencement of Tier 1 transaction reporting and the August 1, 1982 date set for the beginning of voluntary designation of Tier 2 securities has now been reduced to four months. The Commission believes that it is important to preserve a six-month period between the respective effective dates of Tier 1 and Tier 2 in order to permit Tier 2 issuers to evaluate fully the effects of NMS designation prior to determining whether to elect such designation for their securities. Accordingly, the Commission is also adopting an amendment to the Rule deferring the effective date of Tier 2 until October 1, 1982.

II. NASD Exemption From Rule 11Aa3-1

The NASD also stated that, while last sale information will be available on NASDAQ Level II/III terminals on April 1, 1982, vendors of securities transaction information will be unable to disseminate last sale information as part of NASDAQ Level I service until they acquire the requisite communications facilities and make the necessary software modifications. In order to allow time for that to occur, and to permit market makers to gain operational experience with transaction reporting, the NASD, pursuant to Rule 11Aa3-1(h) under the Act, has applied to the Commission for a temporary exemption until May 15, 1982 from the requirement in Rule 11Aa3-1 that it provide transaction reports for NMS securities to vendors. While the Commission believes that it is important for investors to receive access to the last sale information available from Level I NASDAQ service as soon as possible, the Commission believes that the NASD has presented a reasonable method to phase-in last sale reporting as soon as the necessary technical enhancements are in place. The Commission therefore determines that granting the NASD its requested exemption from the requirements of Rule 11Aa3-1 is consistent with the public interest, the protection of investors and the removal of impediments to, and perfection of the mechanisms of, a national market system.

Accordingly, the NASD is granted a temporary exemption until May 15, 1982 from providing last sale data with respect to its NASDAQ Level I service for NMS securities. This exemption is subject to modification or revocation at any time if the Commission judges that such action is necessary or appropriate in light of progress made toward a national market system or otherwise in furtherance of the purposes of the Act.

Effects On Competition

Section 23(a)(2) of the Act [4] requires the Commission, in adopting rules under the Act, to consider the anticompetitive effects of such rules, if any, and to balance any anticompetitive impact against the regulatory benefits gained in terms of furthering the purposes of the Act. Since the amendments merely postpone the effective dates of various provisions of Rule 11Aa2-1, the Commission does not believe that these amendments to Rule 11Aa2-1 will have any effect on competition.

Text of the Rule Amendments

The Securities and Exchange Commission hereby amends Rule 11Aa2-1 pursuant to its authority under the Securities Exchange Act of 1934, and particularly Sections 2, 3, 6, 9, 10, 11, 11A, 15, 17, and 23 thereof.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Title 17, Chapter II, Part 240, of the Code of Federal Regulations is amended as follows:

By revising paragraphs (b)(1) and (g) of § 240.11Aa2-1 to read as follows:

§ 240.11Aa2-1 Designation of national market system securities.

* * * * *

(b) *Designation criteria.* (1) Any NASDAQ security which on the most recent qualification date meets each of the criteria set forth in paragraph (b)(4)(i) of this section ("Tier 1 Criteria") is hereby designated as a national market system security, such designation to be effective, pursuant to the terms of an effective designation plan, not later than the thirty-fifth business day following such qualification date, but in any event not earlier than April 1, 1982.

* * * * *

(g) *Effective dates.* The effective date of this section shall be April 1, 1981, except for paragraph (b)(1) which shall become effective on January 22, 1982, and paragraph (b)(2) which shall become effective on October 1, 1982.

Effective Date of the Amendments

The Commission, in accordance with 5 U.S.C. 553(b)(3)(B) and 553(d)(3) of the Administrative Procedure Act finds that there is good cause that the rule amendments take effect immediately without notice and public procedure. First, it would be impossible to adhere to these requirements and still to allow for the timely postponement of the effective date of the Rule. Second, these are technical amendments that will have no significant effect on the substantive portions of the rule.

By the Commission.

George A. Fitzsimmons,

Secretary.

February 25, 1982.

[FR Doc. 82-6011 Filed 3-4-82; 8:45 am]

BILLING CODE 8010-01-M

INTERNATIONAL TRADE COMMISSION

19 CFR Part 212

Implementation of the Equal Access to Justice Act

AGENCY: United States International Trade Commission.

ACTION: Final rules.

SUMMARY: These rules add a new Part 212 to the Commission's rules of practice and procedure to implement the requirements of the Equal Access to Justice Act, Title II of Pub. L. 96-481, 94 Stat. 2325 (the Act), in unfair import trade practice investigations under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). The Act authorizes in certain circumstances an award of attorney fees and other expenses to certain parties who prevail against the United States in adversary adjudications, defined as proceedings under 5 U.S.C. 554 in which the position of the United States is represented by counsel or otherwise. These final rules reflect public comment on interim rules published on November 19, 1981 (46 FR 56780).

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: Michael P. Mabile, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. telephone 202-523-1626.

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[1] Copies of the Complaint and the Decision and Order filed with the original document.

[1] 17 CFR 240.11Aa3-1.

[2] The Rule employs a two-tiered approach to designating NMS securities. In this respect, approximately 45 of the most actively-traded OTC securities satisfy the stringent Tier 1 criteria and, as mentioned above, are currently scheduled to be designated as NMS securities effective March 1, 1982. In addition, the Rule permits those securities meeting less stringent Tier 2 criteria to be currently designated as NMS securities on or after August 1, 1982, if the issuers of such securities so elect. For futher information concerning the designation of NMS securities see Securities Exchange Act Release No. 18397 (January 7, 1982) [47 FR 2079].

[3] Letter to George A. Fitzsimmons, Secretary, SEC, from S. William Broka, Secretary, NASD, dated February 23, 1982.

[4] 15 U.S.C. 78w(a)(2).

SUPPLEMENTARY INFORMATION:

Authority for adoption of these rules is found in 5 U.S.C. 504(c)(1), which provides that, after consultation with the Chairman of the Administrative Conference of the United States, each agency shall by rule establish uniform procedures for the submission and consideration of applications for awards of fees and other expenses under the Equal Access to Justice Act. The rules are patterned largely after the model rules for implementation of the Act promulgated by the Administrative Conference of the United States, 46 FR 32900 (June 25, 1981), with alterations to reflect or conform to statutory requirements and Commission practice in proceedings under section 337 of the Tariff Act of 1930.

Analysis of Public Comments on Interim Rules

Comments on the Commission's interim rules as published on November 19, 1981 (46 FR 56780), were received from the Administrative Conference of the United States, the United States Department of Justice, and one firm that represents parties before the Commission in investigations under section 337 of the Tariff Act of 1930. The following is a summary and analysis of the comments, with an explanation of why comments were accepted or rejected.

The Administrative Conference suggested with regard to § 212.06(b) that the Commission should either state the highest amount it pays expert witnesses or identify a source from which this information can be obtained. The Commission deleted this information when drafting the interim rules because there is no common Commission practice of hiring expert witnesses and therefore the amount paid to expert witnesses is not known. Should this information become available in the future it can be made known to any applicant seeking an award under the Act.

The Administrative Conference also questioned whether section 212.03(b), which limits applicability of the Act to proceedings initiated by the Commission, is consistent with the provisions of the Act. It was noted that, while coverage of court actions under the Act is expressly restricted to actions brought "by or against" the United States, the provisions of the Act applicable to administrative proceedings contain no such restriction. The Administrative Conference suggested that determination of whether an award may be made in a proceeding initiated by a private party in which the Commission participates should be based on the nature and extent of the Commission's participation in the particular case and on whether the applicant can be said to have prevailed over the agency. The Administrative Conference concluded by pointing out that, as a general matter, it has deferred to individual agencies on questions of applicability of the Act to particular agency proceedings, but that it did not necessarily agree with the Commission's resolution of this issue.

The question of whether the Act covers section 337 proceedings initiated upon the complaint of a private party in which a Commission investigative attorney appears as a third party received considerable attention during the drafting of the interim rules. Neither the Act nor its legislative history provides any definitive solution to the question. The Commission believes, however, that the Act should not apply to situations in which the position of the Commission and the respondent in the adjudication are not truly adverse. When the complaint is filed by a private party and not by the Commission investigative attorney, the role of the investigative attorney is to represent the public interest and to seek to insure that the record upon which the Commission bases its determination is as complete as possible. Thus, the investigative attorney maintains a stance of neutrality regarding the positions of the parties, at least until the record is sufficiently developed to permit an objective evaluation of the parties' positions, and a prevailing respondent cannot in any meaningful sense be said to have "prevailed" over the Commission.

The purposes of the Act, as stated in the legislative history, appear to support limiting applicability of the Act to Commission-initiated investigations. The Act is designed to reduce the economic deterrents to challenging or defending against unreasonable governmental action. A party who chooses to contest an issue is considered not only to be representing a private interest, but also to be helping to refine public policy. The administrative adjudication provides a concrete, adversarial test of government regulation and insures the fairness of the law. S. Rep. No. 96–253, 96th Cong., 1st Sess., 1, 5–6 (1979); H.R. Rep. No. 96–1418, 96th Cong., 1st Sess., 1, 5–6, 9–10 (1979).

These policies appear to have no application to a section 337 investigation initiated by a private party. The potentially greater resources of the Government present no significant deterrent to contesting the action, since the respondent's opponent in the proceeding is the private complainant, not the Commission investigative attorney. Moreover, a privately initiated investigation provides no test of Commission policies or practices, since the issues to be determined are framed by the complainant.

Accordingly, the Commission is of the opinion that the approach taken in § 212.03(b) is appropriate under the Act. Moreover, the Commission cannot agree that a case-by-case determination of whether an award may be made in an investigation initiated by a private party, as advocated by the Administrative Conference, is either consistent with the Act or administratively workable.

The firm that submitted a comment on the proposed rules suggested that § 212.03(b) be amended to provide that an award may be made against the Commission not only in connection with a proceeding brought by the Commission upon its own complaint, but also in any proceeding to the extent that private parties would be liable under the Federal Rules of Civil Procedure. The rationale for the suggested change rests on the language of the Act requiring an agency to show that its position was "substantially justified or that special circumstances make an award unjust." The wording is similar to language in Rule 37 of the Federal Rules of Civil Procedure, which provides for an award of fees and expenses to a party prevailing on a motion to compel discovery. The firm further notes that the Act is intended to allow an award of fees against the United States to the same extent that an award may be made against other parties. H.R. Rep. No. 96–1418, 96th Cong., 2d Sess. 6 (1980).

This suggested change is based on a misreading of the Act and its legislative history. While the "substantially justified" language of the Act was borrowed from Rule 37, the Act does not incorporate the provisions of Rule 37 in those portions of the Act applicable to agency proceedings. The passage from the legislative history cited by the firm refers solely to court actions, and section 4(a) of the Act, which amends 28 U.S.C. 2412 to provide that a court may award fees and expenses to parties who prevail against the United States in civil litigation to the same extent that it may award fees in cases involving other parties, has no counterpart in the provisions relating to agency proceedings.

The Department of Justice recommends that § 212.08 of the interim rules be deleted. That section is substantially the same as § 0.108 of the model rules promulgated by the Administrative Conference of the United States, 46 FR 32900 (June 24, 1981). It provides that, if an applicant is entitled to an award because it prevails over another agency of the United States that participates in an adversary adjudication before the Commission and takes a position that is not substantially justified, the Commission's award shall be made against that agency.

The Department of Justice argues that this provision is contrary to the express language of the Act, which provides for liability of "[a]n agency that conducts an adversary proceeding," unless "the position of the agency as a party" is found by "the adjudicative officer of the agency" to be substantially justified. The language appears to limit the liability for awards to the agency conducting the proceeding. The Department further contends that this reading of the statute is consistent with the policies stated in the legislative history. Congress expressed the purpose of alleviating situations in which small businesses may be deterred from defending themselves against agency excesses by the costs that would be incurred. According to the Department, Congress did not undertake to reimburse all prevailing small businesses, but struck a balance between awarding costs in all cases and allowing unreasonable governmental actions to go unchallenged. Expansion of the authorization for awards beyond that specifically contemplated by Congress, it is argued, would upset the balance struck and would be inconsistent with the Congressional intent. The Department further points out that allocation between the expenses attributable to the participation of an outside agency in the proceeding and those attributable to the participation of the Commission would necessitate an unduly time-consuming and expensive proceeding. Finally, the Department notes that it is inconsistent for the Commission to exempt itself from the provisions of the Act in proceedings initiated by other parties, and at the same time to subject other agencies to potential liability in similar situations.

The Commission finds these arguments persuasive. Proposed section 212.08 appears to be contrary to the language and intent of the Act. Moreover, the Commission agrees that it would be unfair and inconsistent to treat other, similarly situated agencies in a manner that varies from the treatment given the Commission under the rules. Accordingly, § 212.08 is deleted from the final rules, and §§ 212.03(a); 212.05(b); 212.10(a); 212.21 (a), (b), and (c); 212.23; 212.24; 212.25; 212.26; and 212.29 are amended to remove any reference to awards against other agencies.

An additional change has been made in section 212.05(c) to specify that the burden of proving that an award should be denied or reduced because the applicant has unduly or unreasonably protracted the adversary adjudication or special circumstances make an award unjust is on the Commission investigative attorney.

Part 212 is adopted in final form and is added to 19 CFR Chapter II, Subchapter C to read as follows:

PART 212—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT

Subpart A—General Provisions

Sec.

212.01 Purpose.
212.02 When the Act applies.
212.03 Proceedings covered.
212.04 Eligibility of applicants.
212.05 Standards for awards.
212.06 Allowable fees and expenses.
212.07 Rulemaking on maximum rates for attorney fees.

Subpart B—Information Required From Applicants

212.10 Contents of application.
212.11 Net worth exhibit.
212.12 Documentation of fees and expenses.
212.13 When an application may be filed.

Subpart C—Procedures for Considering Applications

212.20 Filing and service of documents.
212.21 Answer to application.
212.22 Reply.
212.23 Comments by other parties.
212.24 Settlement.
212.25 Further proceedings.
212.26 Determination.
212.27 Agency review.
212.28 Judicial review.
212.29 Payment of award.

Authority: Sec. 203(a)(1), Pub. L. 96–481, 94 Stat. 2325 (5 U.S.C. 504(c)(1)).

Subpart A—General Provision

§ 212.01 Purpose.

(a) The Equal Access to Justice Act, 5 U.S.C. 504 (called "the Act" in this part), provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (called "adversary adjudications") before an agency. Under the Act an eligible party may receive an award when it prevails over an agency, unless the agency's position in the proceeding was substantially justified or special circumstances make an award unjust. The rules in this part describe the parties eligible for awards and the Commission proceedings that are covered. They also explain how to apply for awards, and the procedures and standards that the Commission will use to make them.

§ 212.02 When the Act applies.

The Act applies to any adversary adjudication pending before the Commission at any time between October 1, 1981 and September 30, 1984. This includes proceedings begun before October 1, 1981 if final Commission action has not been taken before that date, and proceedings pending on September 30, 1984, regardless of when they were initiated or when final Commission action occurs.

§ 212.03 Proceedings covered.

(a) The Act applies to adversary adjudications conducted by the Commission. These are adjudications under 5 U.S.C. 554 in which the position of the Commission is presented by an attorney or other representative who enters an appearance and participates in the proceeding. The Commission proceedings covered are those conducted under section 337 of the Tariff Act of 1930, 19 U.S.C. 1337. No award shall be made, however, for fees and expenses related to those portions of the proceedings conducted for the consideration of relief, the public interest, and bonding pursuant to subsections 337 (d), (e), and (f) of the Tariff Act of 1930 and 19 CFR 210.14.

(b) An award may be made against the Commission only in connection with a proceeding brought by the Commission upon its own complaint.

(c) If a proceeding includes both matters covered by the Act and matters specifically excluded from coverage, any award made will include only fees and expenses related to covered issues.

§ 212.04 Eligibility of applicants.

(a) To be eligible for an award of attorney fees and other expenses under the Act, the applicant must be a party to the adversary adjudication for which it seeks an award. The term "party" is defined in 5 U.S.C. 551(3) and 19 CFR 210.04. The applicant must show that it meets all conditions of eligibility set out in this subpart and in subpart B.

(b) The types of eligible applicants are as follows:

(1) An individual with a net worth of not more than $1 million;

(2) The sole owner of an unincorporated business who has a net worth of not more than $5 million, including both personal and business interests, and not more than 500 employees;

(3) A charitable or other tax-exempt organization described in section

501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with not more than 500 employees;

(4) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1144j(a)) with not more than 500 employees; and

(5) Any other partnership, corporation, association, or public or private organization with a net worth of not more than $5 million and not more than 500 employees.

(c) For the purpose of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the adversary adjudication was initiated.

(d) An applicant who owns an unincorporated business will be considered to be an "individual" rather than a "sole owner of an unincorporated business" if the issues on which the applicant prevails are related primarily to personal interests rather than to business interests.

(e) The employees of an applicant include all persons who regularly perform services for remuneration for the applicant under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this part, unless the presiding officer determines that such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, the presiding officer may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(g) An applicant that participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

§ 212.05 Standards for awards.

(a) The determination whether an applicant is a prevailing party shall be made on a case-by-case basis.

(b) A prevailing applicant may receive an award for fees and expenses incurred in connection with an adversary adjudication, or in a significant and discrete substantive portion of the adversary adjudication, unless the position of the Commission investigative attorney was substantially justified. The burden of proof that an award should not be made to an eligible prevailing applicant is on the Commission investigative attorney. An award may be avoided by showing that the position of the Commission was reasonable in law and fact.

(c) An award will be reduced or denied if the applicant has unduly or unreasonably protracted the adversary adjudication or if special circumstances make the award sought unjust. The burden of proof that an award should be reduced or denied for either of these reasons is on the Commission investigative attorney.

§ 212.06 Allowable fees and expenses.

(a) Awards will be based on rates customarily charged by persons engaged in the business of acting as attorneys, agents and expert witnesses, even if the services were made available without charge or at a reduced rate to the applicant.

(b) No award for the fee of an attorney or agent under these rules may exceed $75.00 per hour. No award to compensate an expert witness may exceed the highest rate at which the Commission pays expert witnesses. However, an award may include the reasonable expenses of the attorney, agent, or expert witness as a separate item if the attorney, agent or expert witness ordinarily charges clients separately for such expenses.

(c) In determining the reasonableness of the fee sought for an attorney, agent or expert witness, the presiding officer shall consider the following:

(1) If the attorney, agent or expert witness is in private practice, his or her customary fee for similar services, or, if an employee of the applicant, the fully allocated cost of the service;

(2) The prevailing rate for similar services in the community in which the attorney, agent or expert witness ordinarily performs services;

(3) The time actually spent in the representation of the applicant;

(4) The time reasonably spent in light of the difficulty or complexity of the issues in the adversary adjudication; and

(5) Such other factors as may bear on the value of the services provided.

(d) The reasonable cost of any study, analysis, engineering report, test, project or similar matter prepared on behalf of a party may be awarded to the extent that the charge for the service does not exceed the prevailing rate for similar services and the study or other matter was necessary for preparation of the applicant's case.

§ 212.07 Rulemaking on maximum rates for attorney fees.

(a) If warranted by an increase in the cost of living or by special circumstances (such as limited availability of attorneys qualified to handle certain types of proceedings), the Commission may adopt regulations providing that attorney fees may be awarded at a rate higher than $75 per hour in the proceedings covered by this part. The Commission will conduct any rulemaking proceedings for this purpose under the informal rulemaking procedures of the Administrative Procedure Act.

(b) Any person may file with the Commission a petition for rulemaking to increase the maximum rate for attorney fees. The petition should identify the rate the petitioner believes the Commission should establish. It should also explain fully the reasons why the higher rate is warranted. The Commission will respond to the petition within 60 days after it is filed by initiating a rulemaking proceeding, denying the petition, or taking other appropriate action.

Subpart B—Information Required From Applicants

§ 212.10 Contents of application.

(a) An application for an award of fees and expenses under the Act shall identify the applicant and the adversary adjudication for which an award is sought. The application shall show that the applicant has prevailed and identify the position of the Commission investigative attorney that the applicant alleges was not substantially justified. Unless the applicant is an individual, the application shall also state the number of employees of the applicant and describe briefly the type and purpose of its organization or business.

(b) The application shall also include a statement that the applicant's net worth does not exceed $1 million (if an individual) or $5 million (for all other applicants, including their affiliates). However, an applicant may omit this statement if:

(1) It attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) or, in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualifies under such section; or

(2) It states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)).

(c) The application shall state the amount of fees and expenses for which an award is sought.

(d) The application may also include any other matters that the applicant wishes the Commission to consider in determining whether and in what amount an award should be made.

(e) The application shall be signed by the applicant or an authorized officer or attorney of the applicant. It shall also contain or be accompanied by a written verification under oath or under penalty of perjury that the information provided in the application is true and correct.

§ 212.11 Net worth exhibit.

(a) Each applicant except a qualified tax-exempt organization or cooperative association must provide with its application a detailed exhibit showing the net worth of the applicant and any affiliates (as defined in § 212.04(f) of this part) when the proceeding was initiated. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this part. The presiding officer may require an applicant to file additional information to determine its eligibility for an award.

(b) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure may submit that portion of the exhibit directly to the presiding officer in a sealed envelope labeled "Confidential Financial Information," accompanied by a motion to withhold the information from public disclosure. The motion shall describe the information sought to be withheld and explain in detail why it falls within one or more of the specific exemptions from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(1)–(9), why public disclosure of the information would adversely affect the applicant, and why disclosure is not required in the public interest. The material in question shall be served on the Commission investigative attorney or counsel representing another agency against which the applicant seeks an award, but need not be served on any other party to the proceeding. If the presiding officer finds that the information should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, any request to inspect or copy the exhibit shall be disposed of in accordance with the Commission's established procedures under the Freedom of Information Act, 19 CFR 201.17–.21.

§ 212.12 Documentation of fees and expenses.

The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project or similar matter, for which an award is sought. A separate itemized statement shall be submitted for each professional firm or individual whose services are covered by the application, showing the hours spent in connection with the proceeding by each individual, a description of the specific services performed, the rate at which each fee has been computed, any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided. The presiding officer may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

§ 212.13 When an application may be filed.

(a) An application may be filed whenever the applicant has prevailed in the adversary adjudication or in a significant and discrete substantive portion of the adversary adjudication, but in no case later than 30 days after the Commission's final disposition of the adversary adjudication.

(b) If review or reconsideration is sought or taken of a determination as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy.

Subpart C—Procedures for Considering Applications

§ 212.20 Filing and service of documents.

Any application for an award or other pleading or document related to an application shall be filed and served on all parties to the adversary adjudication in the same manner as other pleadings in the adversary adjudication, except as provided in § 212.11(b) for confidential financial information.

§ 212.21 Answer to application.

(a) Within 30 days after service of an application, the Commission investigative attorney shall file an answer to the application.

(b) If the applicant and the Commission investigative attorney believe that the issues in the fee application can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 30 days, and further extensions may be granted by the presiding officer upon request by the applicant and the Commission investigative attorney.

(c) The answer shall explain in detail any objections to the award requested and identify the facts relied on in support of the position of the Commission. If the answer is based on any alleged facts not already in the record of the adversary adjudication, the Commission investigative attorney shall include with the answer supporting affidavits or a request for further proceedings under § 212.25.

§ 212.22 Reply.

Within 15 days after service of an answer, the applicant may file a reply. If the reply is based on any alleged facts not already in the record of the adversary adjudication, the applicant shall include with the reply either supporting affidavits or a request for further proceedings under § 212.25.

§ 212.23 Comments by other parties.

Any party to the adversary adjudication other than the applicant and the Commission investigative attorney may file comments on an application within 30 days after it is served or on an answer within 15 days after it is served. A commenting party may not participate further in proceedings on the application unless the presiding officer determines that the public interest requires such participation in order to permit full exploration of matters raised in the comments.

§ 212.24 Settlement.

The applicant and the Commission may agree on a proposed settlement of the award before final action on the application, either in connection with a settlement of the underlying adversary adjudication, or after the underlying adversary adjudication has been concluded. If a prevailing party and the Commission investigative attorney agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement.

§ 212.25 Further proceedings.

(a) Ordinarily, the determination of an award will be made on the basis of the written record. However, on request of either the applicant or the Commission investigative attorney, or on his or her own initiative, the presiding officer may in his or her discretion order further proceedings, such as an informal conference, oral argument, additional written submissions or an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application, and shall be conducted as promptly as possible.

(b) A request that the presiding officer order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

§ 212.26 Determination.

The presiding officer shall issue a recommended determination on the application within 90 days after completion of proceedings on the application. The determination shall include written findings and conclusions on the applicant's eligibility and status as prevailing party, and an explanation of the reasons for any difference between the amount requested and the amount awarded. The determination shall also include, if at issue, findings on whether the position of the Commission investigative attorney was substantially justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust.

§ 212.27 Agency review.

Except as otherwise authorized by the presiding officer, the parties shall be allowed ten (10) days from the date of service of the recommended determination to file exceptions to the recommended determination and alternative findings of fact and conclusions of law with the Commission. Upon receipt of the recommended determination, the Commission shall review the same and issue a final determination on the application or remand the application to the presiding officer for further proceedings.

§ 212.28 Judicial review.

Judicial review of final Commission determinations on awards may be sought as provided in 5 U.S.C. 504(c)(2).

§ 212.29 Payment of award.

An applicant seeking payment of an award shall submit to the Finance and Budget Division of the Commission a copy of the Commission's final determination granting the award, accompanied by a statement that the applicant will not seek review of the decision in the United States courts. The address for submission to the Commission is: United States International Trade Commission, Finance and Budget Division, 701 E Street, NW., Washington, D.C. 20436. The Commission will pay the amount to the applicant within 60 days, unless judicial review of the award or of the underlying determination of the adversary adjudication has been sought by the applicant or any other party to the proceeding.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: February 23, 1982.

[FR Doc. 82-5794 Filed 3-4-82; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Quali-Tech Products, Inc., providing for safe and effective use of 1, 2, 4, 8, and 10-gram-per-pound tylosin premixes for making complete swine, beef cattle, and chicken feeds.

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Quali-Tech Products, Inc., 318 Lake Hazeltine Dr., Chaska, MN 55318, is sponsor of supplemental NADA 97-060 submitted on its behalf by Elanco Products Co. The supplement provides for use of premixes containing 1, 2, 4, 8, and 10 grams of tylosin (as tylosin phosphate) per pound for making complete feeds for swine, beef cattle, and layer chickens. The swine feed is used for prevention, treatment, and control of swine dysentery, and for maintenance of weight gain and promotion of feed efficiency in the presense of atrophic rhinitis; the beef cattle feed for reduction of incidence of certain liver abscesses; the chicken feed for increased rate of weight gain and improved feed efficiency; the layer feed for improved feed efficiency.

Approval of this supplemental NADA relies upon safety and effectiveness data contained in Elanco Products Co.'s approved NADA 12-491. Use of the data in NADA 12-491 to support this supplement has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of this supplement poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this is a Category II supplemental approval which does not require reevaluation of the safety and effectiveness data in NADA 12-491 or NADA 97-060.

The supplement is approved, and the regulations are amended accordingly. This approval adds to the firm's existing approval for use of 4- and 10-gram-per-pound tylosin premixes for making complete swine feeds for increased rate of weight gain and improved feed efficiency.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)), under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1, see 46 FR 26052, May 11, 1981)), and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.625 is amended by revising paragraph (b)(14) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(14) To 010968: 1, 2, 4, 8, and 10 grams per pound, paragraph (f)(1) (i), (iii), (iv), and (vi) of this section.

* * * * *

Effective date. March 5, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 24, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-5669 Filed 3-4-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 175

[Docket No. 81F-0113]

Indirect Food Additives: Adhesive Coatings and Components; Hydrocarbon Resins

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of certain hydrocarbon resins as a component of adhesives intended for food contact. This action is based on a food additive petition filed by Hercules, Inc.

DATES: Effective March 5, 1982; objections by April 5, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the Federal Register of April 28, 1981 (46 FR 23810) announced that a food additive petition (FAP 0B3501) had been filed by Hercules, Inc., 910 Market St., Wilmington, DE 19899, proposing that § 175.105 (21 CFR 175.105) be amended to provide for the safe use of hydrocarbon resins formed by polymerization of mixtures of mono- and di-unsaturated hydrocarbons of the aliphatic, alicyclic, and monobenzenoid type derived both from cracked petroleum and terpene stocks as a component of adhesives intended for food contact.

FDA has evaluated data in the petition and other relevant material, and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below. In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The agency's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f)(1)(v)) may be seen in the Dockets Management Branch (HFA-305) (address above) between 9 a.m. and 4 p.m., Monday through Friday.

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVE COATINGS AND COMPONENTS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 175 is amended in § 175.105(c)(5) by alphabetically inserting a new item in the list of substances to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

Substances	Limitations
* * * * *	
Hydrocarbon resins (produced by polymerization of mixtures of mono- and di-unsaturated hydrocarbons of the aliphatic, alicyclic, and monobenzenoid type derived both from cracked petroleum and terpene stocks) (CAS Reg. No. 68236-99-4)	
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before April 5, 1982 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective March 5, 1982.

(Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348))

Dated: February 23, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-5661 Filed 3-4-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 211, 331, 436, 450, 520, 556, 573, 610, 630, 701, and 801

[Docket No. 81N-0266]

Incorporation by Reference Regulatory Text

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the incorporating regulatory text in Title 21 of the Code of Federal Regulations to make clear when an incorporation by reference is intended. This action is being taken to meet the drafting requirements for incorporation by reference as set forth in Title 1 of the Code of Federal Regulations (1 CFR Part 51).

DATES: Effective March 5, 1982; written comments by April 5, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Theodore E. Herman, Regulations Policy Staff (HFC–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION: Title 1 of the Code of Federal Regulations (1 CFR 51.6, 51.7, and 51.8) requires, in addition to other information, specific language in a regulation that makes clear that an incorporation by reference is intended.

FDA has reviewed all of its regulations that include materials incorporated by reference. The agency has concluded that it is necessary to amend a number of these regulations to bring them into compliance with the drafting requirements prescribed in 1 CFR 51.6, 51.7, and 51.8.

The agency is amending Parts 211, 331, 436, 450, 520, 556, 573, 610, 630, 701, and 801 to include language that clearly indicates that an incorporation by reference is intended; contains a complete citation of the material incorporated; and contains a statement about the availability of the incorporated material. These amendments ensure compliance with the essential requirements specified in 1 CFR 51.6, 51.7, and 51.8.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Title 21 of the Code of Federal Regulations is amended as follows:

PART 211—CURRENT GOOD MANUFACTURING PRACTICE FOR FINISHED PHARMACEUTICALS

§ 211.176 [Amended]

1. Section 211.176 is amended by revising the last sentence and adding a new sentence to read "Such drug product shall not be marketed if detectable levels are found when tested according to procedures specified in 'Procedures for Detecting and Measuring Penicillin Contamination in Drugs,' which is incorporated by reference. Copies are available from the Bureau of Drugs (HFD–430), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408."

PART 331—ANTACID PRODUCTS FOR OVER-THE-COUNTER (OTC) HUMAN USE

§ 331.22 [Amended]

2. Section 331.22 is amended at the end of the paragraph by removing footnote "1" and by replacing the period with a comma and adding "which is incorporated by reference. Copies are available from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408."

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

§ 436.101 [Amended]

3. Section 436.101(a) is amended at the end of the introductory text by removing footnote "2" and by replacing the colon with a comma and adding "which is incorporated by reference. Copies are available from the Medical Encyclopedia Inc., 30 East 60th St., New York, NY 11220, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408."

§ 436.102 [Amended]

4. Section 436.102(b) is amended in the introductory text (1) in the first sentence by removing footnote "2" and by replacing the period with a comma and adding "which is incorporated by reference. Copies are available from Medical Encyclopedia Inc., 30 East 60th St., New York, NY, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408" and (2) in the last sentence by removing footnote "3" and by replacing the period with a comma and adding "which is incorporated by reference. Copies are available from the American Pharmaceutical Association, 2215 Constitution Ave. NW., Washington, D.C. 20037, or available for inspection at the Office of the Federal Register (see address in this paragraph)."

PART 450—ANTITUMOR ANTIBIOTIC DRUGS

§ 450.20a [Amended]

5a. Section 450.20a(b)(4)(ii) is amended at the end of the last sentence by removing footnote "2" and by replacing the period with a comma and adding "which is incorporated by reference. Copies are available from Managing Editor, 'Biometrics,' P.O. Box 5457, Raleigh, NC 27607, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408."

§ 450.24 [Amended]

b. Section 450.24(b)(5)(ii) is amended at the end of the last sentence by removing footnote "4" and by replacing the period with a comma and adding "which is incorporated by reference. Copies are available from Managing Editor, 'Biometrics,' P.O. Box 5457, Raleigh, NC 27607, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408."

§ 450.240 [Amended]

c. Section 450.240(b)(4)(ii) is amended at the end of the last sentence by removing footnote "2" and by replacing the period with a comma and adding "which is incorporated by reference. Copies are available from the American Statistical Association, 806 15th St. NW., Washington, D.C. 20005, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408."

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

6. Section 520.2320 is amended by revising paragraph (b)(1)(iii) to read as follows:

§ 520.2320 Sulfanitran and aklomide in combination.

* * * * *

(b) * * *

(1) * * *

(iii) Moisture (Method No. 6.123, "Toluene Distillation Method—Official Final Action" in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed., 1980, p. 83. Copies are available from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408): Not more than 2.0 percent.

* * * * *

PART 556—TOLERANCES FOR RESIDUE OF NEW ANIMAL DRUGS IN FOOD

§ 556.240 [Amended]

7a. Section 556.240(b) is amended by revising that portion of the paragraph beginning with "method of E. J. Umberger" to read "method of E. J. Umberger, G. H. Gass, and J. M. Curtis, 'Design of A Biological Assay Method for the Detection and Estimation of Estrogenic Residues in the Edible Tissues of Domestic Animals Treated with Estrogens' published in *Endocrinology*, 63:808–814, 1958, which is incorporated by reference. Copies are available from the Bureau of Foods, Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408."

§ 556.250 [Amended]

b. Section 556.250(b) is amended by revising that portion of the paragraph beginning with "method of E. J. Umberger" to read "method of E. J. Umberger, G. H. Gass, and J. M. Curtis, 'Design of A Biological Assay Method for the Detection and Estimation of Estrogenic Residues in the Edible Tissues of Domestic Animals Treated with Estrogens,' published in *Endocrinology*, 63:808–814, 1958, which is incorporated by reference. Copies are available from the Bureau of Foods, Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408."

§ 556.540 [Amended]

c. Section 556.540(b) is amended in the introductory text by revising that portion of the paragraph beginning with "method of Hooker and Forbes" to read "method of Hooker and Forbes, 'A Bio-Assay for Minute Amounts of Progesterone,' published in *Endocrinology*, 41:158–168, 1947. Copies are available from Yale University, Department of Anatomy, New Haven, CT 06520, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408."

§ 556.710 [Amended]

d. Section 556.710(b) is amended at the end of the paragraph by removing footnote "1" and replacing the period with a comma and adding "which is incorporated by reference. Copies are available from Academic Press Inc., 111 Fifth Ave., New York, NY 10003, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408."

PART 573—FOOD ADDITIVES PERMITTED IN FEED AND DRINKING WATER OF ANIMALS

8. Section 573.640 is amended by revising paragraph (b)(4)(i) and the first sentence of (b)(4)(ii) and adding after it a new sentence to read as follows:

§ 573.640 Methyl esters of higher fatty acids.

* * * * *

(b) * * *

(4) * * *

(i) Unsaponifiable matter shall be determined by the method described in Section 28.061, "Unsaponifiable Residue (20)—Official Final Action" of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed., 1980, p. 451, which is incorporated by reference. Copies are available from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(ii) The chick-edema factor bioassay method described under "28. Oils, Fats, and Waxes" in the *Journal of the Association of Official Agricultural Chemists*, Vol. 44, Page 148 (1961), or the method described under "Chick-Edema Factor—Bioassay Method (34)—Official Final Action" in §§ 28.113–28.117, "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975, pp. 509–511, which is incorporated by reference, shall be employed. (Copies of the methods are available from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.) * * *

* * * * *

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

§ 610.12 [Amended]

9. Section 610.12(f) is amended in the first sentence by revising that portion of the sentence that reads "United States Pharmacopeia[1] (19th Revision, 1975), section entitled 'Membrane Filtration,' pp. 594–595, except that" to read "United States Pharmacopeia (19th revision, 1975, section entitled 'Membrane Filtration,' pp. 594–595, which is incorporated by reference (Copies are available from the United States Pharmacopeial Convention, Inc., 12601 Twinbrook Parkway, Rockville, MD 20852, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408), except that * * *" and by removing footnote "1".

PART 630—ADDITIONAL STANDARDS FOR VIRAL VACCINES

§ 630.74 [Amended]

10. Section 630.74(c) is amended in the first sentence by removing footnote "1" and at the end of the third sentence by replacing the period with a comma and adding "or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408."

PART 701—COSMETIC LABELING

§ 701.3 [Amended]

11a. Section 701.3(c)(2)(i) is amended by revising the introductory text to read "(i) CTFA (Cosmetic, Toiletry, and Fragrance Association, Inc.) Cosmetic Ingredient Dictionary, Second Ed., 1977 (available from The Cosmetic, Toiletry, and Fragrance Association, Inc., 1110 Vermont Ave. NW., Suite 800, Washington, DC 20005, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408), which is incorporated by reference, except for the following deletions and revisions:"

b. Section 701.3(c)(2)(ii), (iii), and (v) is amended by removing footnote "2" and adding at the end of the last sentence of each subparagraph "(Copies are available from the U.S. Pharmacopeial Convention, Inc., 12601 Twinbrook Parkway, Rockville, MD 20852, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408)."

c. Section 701.3(c)(2)(iv) is amended at the end of the paragraph by removing footnote "3" and by adding "Copies are available from the Bureau of Foods, Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408."

PART 801—LABELING

§ 801.410 [Amended]

12a. Section 801.410(d)(2) is amended near the end of the paragraph by removing footnote "1" and by changing "ASTM Method D 1415" to read "ASTM Method D 1415–66 'Test for International Hardness of Vulcanized Rubber,'"; by changing "ASTM Method D 412 to read "ASTM Method D 412–68 'Tension Test of Vulcanized Rubber,' the first time it appears; and by revising the phrase "as determined by ASTM Method D 412 (ASTM Methods D 412 and D 1415 are incorporated by reference)" to read "as determined by ASTM Method D 412–68 (Both methods are incorporated by reference and are available from the American Society for Testing Materials,

1916 Race St., Philadelphia, PA 19103, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408)."

§ 801.420 [Amended]

b. Section 801.420(c)(4) is amended at the end of the second sentence by removing footnote "1", replacing the period with a comma, and adding "which is incorporated by reference. Copies are available from the Acoustical Society of America, 335 E. 45th St., New York, NY 10017, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408."

The agency has determined that because these amendments do not make any substantive changes in the regulations but merely are editorial, bringing the incorporation by reference text into compliance with the drafting requirements of 1 CFR 51.6, 51.7, and 51.8, notice public procedure, and delayed effective date are unnecessary. However, interested persons may, on or before April 5, 1982 submit to the Dockets Management Branch (HFA-305), address above, written comments regarding these amendments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments shall be identified with the docket number found in brackets in the heading of this document. If the agency determines by the comments received that the amended text should be modified, a notice containing those modifications will be published in the **Federal Register**. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 1, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-5459 Filed 3-4-82; 8:45 am]

BILLING CODE 4196-01-M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification: Tylosin Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the new animal drug regulation for tylosin injection at the request of Elanco Products Co., the sponsor. The labeling revisions clarify directions for use in cattle and swine.

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: Richard A. Carnevale, Bureau of Veterinary Medicine (HFV-125), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1788.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 2, 1981 (46 FR 48642), FDA approved a supplemental new animal drug application (NADA 12-965) providing for increasing the withdrawal period and dosage for use of tylosin injection in cattle and swine. The regulation stated that the drug was approved for "nonlactating cattle." Elanco has requested that the regulation be clarified by changing it to read "beef cattle and nonlactating dairy cattle." The regulation also directed use of the 50-milligram-per-milliliter preparation to "nonlactating cattle weighing less than 200 pounds." Elanco requested that this description be changed to "calves." Also, the regulation provided the same limitation for swine weighing less than 200 pounds. Elanco requested that this limitation be removed. The changes are approved.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(ii) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.2640a by revising the introductory text of paragraph (e)(1) and the fourth sentence of (e)(1)(iii) to read as follows, and by removing the fourth sentence of (e)(2)(iii) which reads "Use a 50-milligram-per-milliliter solution for treating swine weighing less than 200 pounds."

§ 522.2640a Tylosin injection.

* * * * *

(e) *Conditions of use*—(1) *Beef cattle and nonlactating dairy cattle*—* * *

(iii) * * * Use a 50-milligram-per-milliliter solution for calves weighing less than 200 pounds. * * *

* * * * *

Effective date: This regulation is effective March 5, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 26, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-5601 Filed 3-4-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Chlortetracycline, Monensin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by American Cyanamid Co. providing for safe and effective use of chlortetracycline hydrochloride in combination with monensin in broiler feeds as an aid in reduction of mortality due to *Escherichia coli* and prevention of coccidiosis.

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV-149), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: American Cyanamid Co., Berdan Ave., Wayne, NJ 07470, filed an NADA (121-553) providing for use of a combination finished broiler feed containing 500 grams of chlortetracycline hydrochloride per ton with 90 to 110 grams of monensin (as monensin sodium) per ton. The feeds are used as an aid in the reduction of mortality due to *Escherichia coli* infections susceptible to such treatment and as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.* The application is approved and the regulations are amended to reflect the approval.

The approval of this combination is subject to the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977).

This approval poses no increased human risk from exposure to residues of the new animal drugs chlortetracycline hydrochloride and monensin because the number of food-producing animals receiving medication will not significantly increase, and because the combination consists of drugs of which have previously been approved for use separately at the indicated dosage levels, for the same duration, and for the same indications. Accordingly, under the Bureau's supplemental approval policy, this approval did not require reevaluation of the safety and efficacy data supporting the parent applications.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(ii) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

Therefore, under the Federal Food, Drug, and Cosmetic Act (Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. In § 558.128 by redesignating the present items in paragraphs (e)(4)(viii) through (e)(4)(x) as items (e)(4)(ix) through (e)(4)(xi) and by adding new item (viii) to read as follows:

§ 558.128 Chlortetracycline.

* * * * *

(e) * * *

(4) * * *

(viii) Monensin in accordance with § 558.355.

* * * * *

2. In § 558.355 by adding new paragraphs (b)(8) and (f)(1)(xiv) to read as follows:

§ 558.355 Monensin.

* * * * *

(b) * * *

(8) To 010042: 45 grams per pound, as monensin sodium provided by No. 000986, paragraph (f)(1)(xiv) of this section.

* * * * *

(f) * * *

(1) * * *

(xiv) *Amount per ton.* Monensin, 90 to 110 grams, plus 500 grams chlortetracycline.

(*a*) *Indications for use.* As an aid in the reduction of mortality due to *Escherichia coli* infections susceptible to such treatment. As an aid in the prevention of coccidiosis caused by *Eimeria necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*

(*b*) *Limitations.* Do not feed to laying chickens; feed for 5 days as the sole ration; withdraw 72 hours before slaughter; not to be fed continuously for more than 5 days; as monensin sodium; as chlortetracycline hydrochloride provided by No. 010042 in § 510.600(c) of this chapter.

* * * * *

Effective date. This amendment is effective March 5, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 26, 1982.

Terence Harvey,

Deputy Director, Bureau of Veterinary Medicine.

[FR Doc. 82-5602 Filed 3-4-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF DEFENSE

32 CFR Parts 1-39

[DAC 76-31]

Defense Acquisition Regulation

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document publishes changes to the Defense Acquisition Regulation contained in the Code of Federal Regulations. The changes are the same as those in Defense Acquisition Circular 76-31. Some of the changes include: Flexible progress payments; prohibition on recovery of lobbying costs; cost index; blanket purchase agreements; hospital laundry; performance and payment bonds; insurance; contract pricing proposal forms; bid bonds, and performance and payment bonds; architect-engineer selection process; use of source load container costs in contract bid evaluations; performance of contract administration services for non-DoD organizations; assignment of criticality designator by purchasing office; material inspection and receiving report, close-out of Category C Contracts; and editorial changes. In addition to these changes, there is published information material concerning logistic support and privileges for DoD contractor personnel and dependents.

EFFECTIVE DATE: October 30, 1981.

FOR FURTHER INFORMATION CONTACT: J. Brannan, Director, Defense Acquisition Regulatory Council, Room 3D1028, Pentagon, Washington, D.C. 20301, Telephone 202-697-7266.

SUPPLEMENTARY INFORMATION:

Background

The Defense Acquisition Regulation (DAR) is codified in Title 32, Parts 1-39, Volumes I, II, and III, of the Code of Federal Regulations (CFR). The July 1, 1979 revision of the CFR, as supplemented on July 1, 1980, is the most recent edition of that title. It reflects amendments to the 1976 edition of the DAR made by Defense Acquisition Circulars 76-1 through 76-23.

The Department of Defense announced the promulgation of the 1979 CFR edition in the **Federal Register** of December 31, 1979 (44 FR 77156), and also announced at that time that subsequent amendments to the DAR would be published in the **Federal Register.**

Defense Acquisition Circular 76-31.

This document contains amendments to the Defense Acquisition Regulation in the form of replacement pages which were included in DAC 76-31, issued October 30, 1981. The following is a summary of the amendments:

Flexible Progress Payments. Appendix E and Sections VII and XXIII of the DAR are revised to include provisions for flexible progress payments. Uniform standard progress payment rates are increased to 90% for other than small business concerns and 95% for small business concerns. The frequency of progress payments is changed from bi-weekly to monthly. The flexible progress payment procedure represents a new approach toward contract financing. The progress payment rate is derived by use of a specially developed computer program. A user's guide, which is available from the Defense Technical Information Center, Cameron Station, Alexandria,

Virginia 22314, contains detailed instructions and examples of the operation of the flexible progress payment procedure. These changes are effective on receipt of DAC 76–31 (see DAR 1–106.2(d)), or of Departmental guidance previously distributed, whichever is earlier. These changes are also effective for undefinitized letter contracts if there has been no agreement on contract price prior to receipt of this direction. Contracting Officers are not to consider these changes in the development of prenegotiation profit objectives.

Prohibition of Recovery of Lobbying Costs. Secretary of Defense Caspar W. Weinberger has directed that contractors be prohibited from charging lobbying costs to Defense contracts. To implement this decision, a new cost principle, 15–205–51, has been established, and a new paragraph has been added as 3–709.

Economic Price Adjustment Clause Based on Labor or Material Cost (Cost Index Method). Paragraph 3–404.3(c)(3)c.4 has been revised to require that any contract containing any Economic Price Adjustment (EPA) clause where the index is subject to revision, e.g., a Bureau of Labor Statistics Producer Price Index, must state if any later contract price revision is to be based on the initial publication or the final revised version of the index.

Blanket Purchase Agreements (BPAs). DAR 3–605.2 and 3–605.3(f)(iv) are revised to increase the BPA call ceiling for Non-Inventory Control Points from $5,000 to $10,000.

Hospital Laundry. DAR Sections VII and XXII are revised to provide coverage for contracting for laundry services on the basis of bulk weight, to reflect when bulk weight and count of articles bases are to be used, which clauses are to be used with respective bases, and to provide instructions concerning the use of the clauses.

Performance and Payment Bonds. DAR 10–202 is revised to add "for Performance and Payment Bonds" to the title, "Options in Lieu of Sureties."

Insurance. DAR 15–205.16(a)(2)(iii) is revised to substitute the word "property" for "casualty." This change will clarify the intent to refer to insurance which the contractor has against damage to its own property, and not insurance against liability for damage to property of third parties.

Contract Pricing Proposal Forms. DAR 16–206.1 is revised to add the requirement for inclusion of summary totals by cost element, when submitting DD Form 633 cost data.

Bid Bonds, and Performance and Payment Bonds. DAR 16–401.2 has been changed to conform with Pub. L. 95–585, which raised the construction contract amount for application of the Miller Act bonding requirements from $2,000 to $25,000.

Architect-Engineer Selection Process. DAR 18–402.1(v) is revised to include "small disadvantaged" business firms in considerations for selection of architect-engineer firms for professional services contracts.

Use of Source Load Container Costs in Contract Bid Evaluations. DAR 19–208.2(c), 19–213.1(a), 19–301.2(a) and 19–403.1 have been modified to assure that source load container (seavan) transport costs are considered in the bid evaluation process.

Performance of Contract Administration Services for Non-DoD Organizations. DAR 20–503 is revised to permit flexibility in providing contract administration services to other U.S. Government Departments and Agencies, based on availability of resources.

Assignment of Criticality Designator by Purchasing Office. The definitions applicable to each of the Criticality Designators used by the Contract Administration Office (CAO) to allocate its resources, have been changed at DAR 25–103 to draw more accurate distinctions between the various prime contracts being assigned for administration.

Material Inspection and Receiving Report. Coverage in Appendix I, Parts 1 and 4, is revised to permit consolidation on one DD Form 250, of coal shipments made on the same day to the same destination, against the same contract line item. In addition, coverage in Appendix I, Parts 5, 6 and 7 is revised to clarify preparation instructions and to update Tables 3 and 4 for distribution of the DD Form 250–1, Tanker/Barge Material Inspection and Receiving Report, for bulk tanker and barge movements. Table 5, no longer required, is deleted.

Close-Out of Category C Contracts, S2–305(a). Revisions have been made to the standard times contained in Supplement No. 2 to the DAR, Contract File Maintenance, Close-Out and Disposition, to recognize the longer periods to "close-out" those contracts which require settlement of overhead rates.

Note: DAR Supplements are not included as part of the CFR.

Editorial Changes. Editorial changes are included in this DAC to correct typographical errors or administrative oversight, and to provide other editorial corrections. Page 3:70 is reprinted to include notation at bottom of the page, omitted in DAC #76–30. Page 7:526–I is reprinted to include the notation "DAC #76–30" at top of the page, omitted in DAC #76–30.

Because the Defense Acquisition Regulation concerns agency management, public property, and contracts, it is not necessary to issue proposed rules for public comment. Neither is it necessary to delay the effective date until 30 days after the date of publication of these rules, 5 U.S.C. 533 (a) and (d). The amendments became effective on October 30, 1981.

How to Use Replacement Pages

Reproduced at the end of this document are replacement pages from DAC 76–31. The number at the top of each page (for example, 3:31) identifies the page from the Regulation which is being replaced. The number at the bottom of the page is a reference to the last appearing numbered paragraph on that page, or if none shows, on a preceding page. The vertical line in the right margin indicates where the amendment is located.

Adoption of Amendments

Therefore, the Defense Acquisition Regulation contained in the July 1, 1979 edition of 32 CFR Parts 1–39, Volumes I, II, and III, as supplemented on July 1, 1980, is amended in DAR paragraphs indicated by substitution of the replacement pages listed in the table:

DAR paragraph	Replacement pages
Volume I	
3–404.3	3:32
3–605.2	3:76–A
3–605.3	3:81
3–709	3:105
Volume II	
7–104.35	7:82, 7:83, 7:84, 7:84–B through 7:84–D, 7:86, 7:88 through 7:88–D, 7:87
7–1400	7:420
7–1401	7:420
7–1401.3 (deleted) Reserved	7:425
7–1401.4	7:420
7–1401.5	7:420, 7:421, 7:421–A
7–1401.6	7:421–A, 7:421–B
7–1401.8	7:421–B
7–1401.9 (deleted) Reserved	7:421–B
7–1401.10 (deleted) Reserved	7:421–B
7–1401.14 (add)	7:428
7–2003.80	7:520, 7:520–A
10–202	10:18
15–205.16	15:28
15–205.51 (add)	15:52, 15:52–A
Volume III	
16–206.1	16:14, 16:15
16–401.2	16:18, 16:19
18–402.1	18:16
19–206.2	19:10
19–213.1	19:12
19–301.2	19:16
19–403.1	19:18
20–503	20:27
22–702 (add)	22:28

DAR paragraph	Replacement pages
22–703 (formerly 22–702)	22:28
22–704 (formerly 22–703)	22:28
22–704 (b) and (c) (add)	22:28–A, 22:28–B
23–103 (add (a)(xii))	23:5
23–106	23:8–A
25–103	25:2, 25:2–A
E–503	E:42–A
E–503.1	E:42–B
E–503.2	E:42–B, E:43
E–511.2	E:49
E–511.3	E:49, E:53, E:54, E:55
E–517	E:57
E–530 (add)	E:65–B
E–530.1 (add)	E:65–B, E:65–C
E–530.2 (add)	E:65–C
E–530.3 (add)	E:65–C
E–530.4 (add)	E:65–C, E:65–D
E–530.5 (add)	E:65–D
E–530.6 (add)	E:65–D
E–530.7 (add)	E:65–D
E–530.8 (add)	E:65–D
I–104 (add (a)(6))	I:3
I–401	I:19
I–501	I:23
I–901	I:26
I–702 (Tables 3 and 4)	I:29, I:30, I:31
I–702 (Table 5 deleted)	I:32 removed

(Change to DAR Supplement No. 2—not in CFR: S2–305(a) Page S2–17)

M. S. Healy,
OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

February 25, 1982.

BILLING CODE 3810–01–M

DEFENSE ACQUISITION CIRCULAR

30 OCTOBER 1981 NUMBER 76-31

This Defense Acquisition Circular is issued by direction of the Secretary of Defense pursuant to the authority contained in 5 U.S. Code 301, 10 U.S. Code 2202, DoD Directive 5000.35, and DAR (ASPR) 1-106.

Unless otherwise specified, all DAR and other directive material contained in this Defense Acquisition Circular is effective upon receipt in accordance with DAR 1-106.2(d).

Reproduction authorized.

SPECIAL NOTE: All replacement pages furnished with Defense Acquisition Circulars (whether or not identified by specific items) are replacement pages for the 1976 edition of DAR (ASPR).

DAC #76-31 30 OCTOBER 1981

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ITEM I LOGISTIC SUPPORT AND PRIVILEGES FOR DOD CONTRACTOR PERSONNEL AND DEPENDENTS

The following information is provided for the benefit of those involved in the execution of contracts requiring performance in Europe. This item cancels and supersedes Item II of DAC #76-26, dated 15 December 1980.

SPECIAL NOTICE TO CONTRACTING OFFICES EXECUTING CONTRACTS FOR PERFORMANCE IN EUROPE INVOLVING INDIVIDUAL LOGISTIC SUPPORT AND PRIVILEGES TO BE GRANTED BY UNITED STATES ARMY, EUROPE, AND SEVENTH ARMY (USAREUR) TO CONTRACTOR PERSONNEL AND THEIR DEPENDENTS

The attention of all contracting offices writing contracts for performance in Europe is directed to DAR 1-321(c) and 6-903. The procedures and criteria for authorizing or obtaining individual logistic support and privileges for DoD contractor personnel and their dependents from USAREUR is set forth below. These procedures do not apply to those nonpersonal service contracts awarded locally on an individual basis in support of the Army Continuing Education Services (ACES) program. Contracts negotiated with US and 3d Country national physicians for services to be rendered in support of US medical activities may include military exchange (AAFES-EUR) privileges without reference to specific financial consideration due to US Government. Eligibility criteria remains unchanged.

a. To be eligible for logistic support from USAREUR, contractor personnel who will be working in the Federal Republic of Germany must--

(1) be technical experts who will serve the US Forces exclusively;

(2) not be stateless persons;

(3) be nationals of a NATO state, excluding the Federal Republic of Germany; and

(4) not be ordinarily resident in the Federal Republic of Germany.

b. To be eligible for logistic support from USAREUR, contractor personnel who will be working in Italy must--

(1) be technical experts who exclusively serve the US Forces; and

(2) be citizens of a NATO state other than Italy.

c. In accordance with DAR 6-903, the items of logistic support listed below may be included in contracts awarded on or before 1 October 1983 and USAREUR may be contractually bound to provide such support, provided that (i) the contract exclusively serves a US Forces mission; (ii) contractor personnel meet eligibility criteria outlined above; and (iii) the contract contains specific financial or other consideration which the US Government will receive in return for providing individual logistic support.

SUPPORT PRIVILEGES AUTHORIZED FOR INCLUSION IN ELIGIBLE DOD CONTRACTS AWARDED ON OR BEFORE 1 OCTOBER 1983 (SUBJECT TO GOVERNING DIRECTIVES AND REGULATIONS)	ESTIMATED ANNUAL DOLLAR VALUE (UNLESS OTHERWISE NOTED, THIS VALUE IS DEFINED AS DIFFERENCE BETWEEN COSTS IN OBTAINING GOODS AND SERVICES FROM USAREUR SOURCES VERSUS COSTS IN OBTAINING COMPARABLE SERVICES ON THE ECONOMY)		
	Per Individual Contractor Personnel	Per Spouse	Per Dependent
Officer, NCO, EM clubs	$ 240	$ 160	$ 80
Commissary (includes rationed items)	956	702	468
Military Exchange (AAFES-EUR) (includes rationed items)	720	720	720
Local recreation services, space-available	400	300	300
Armed Forces Recreation Center, space-available	125	75	50
Class VI (alcoholic beverages, includes rationed items)	Up to $150	Up to $150	Up to $100 (over age 18)
Military banking facilities	746	221	85
Legal assistance, space-available	50	50	50

USAREUR ESTIMATED ANNUAL DOLLAR VALUE OF INDIVIDUAL LOGISTIC SUPPORT (continued)

USAREUR privately-owned vehicle (POV) operator's license	$ 32	$ 32	$ 32
Customs exemption (personal property import only)	Up to $2000 per contractor (depending on quantity and value of goods imported)		
Transient billets, when on official TDY*	Up to $1000 per contractor		
Bachelor housing (if available)*	Up to $5000 LQA, based on LQA for civilians in grade GS 11/12, at the "without dependents" rate		
Military postal services for US-citizen contractors and dependents, for personal mail only. Official indicia is not authorized.	$400 per contractor		
Registration of privately-owned vehicle (POV)	$460 per vehicle, initial registration		
Purchase of petroleum and oil products	(Dollar value included in military exchange (AAFES-EUR) figures above)		
Pet and firearms registration	$20 per weapon; $35 per pet (required for dogs only)		
Dependent schools, on a space-available, tuition-paying basis	$3896 per dependent		
Local government transportation for official Government business (admin-use vehicle)	$12 per day, 21¢ per mile, when utilized		
Messing facilities at remote sites only (reimbursable)	$10 per day, when utilized		
Mortuary service (reimbursable)	$745 per contractor		
Army Continuing Education Services (ACES)	Cost differential not applicable		
Credit union facilities	Cost differential not applicable		

*See end of table, page 6.

USAREUR ESTIMATED ANNUAL DOLLAR VALUE OF INDIVIDUAL LOGISTIC SUPPORT (continued)

Medical care, on a reimbursable basis; dental care, available only for emergency conditions, on a reimbursable basis	Cost differential not applicable
Relief of German value-added tax (MEHRWERTSTEUER)	Cost differential not applicable
Government furnishings*	Cost differential not applicable

*New contracts will not include family-type Government-controlled quarters, bachelor quarters, or Government-furnishings support, unless prior written approval of the Commander in Chief, USAREUR (Attn: AEAEN-EH), is obtained. Transient billets may be authorized on a space-available basis after all other eligible personnel have been billeted. Government furnishings may be made available to contractor personnel if in excess to the requirement of eligible personnel. New contracts will not include office space logistical support unless prior written approval of the Commander in Chief, USAREUR (Attn: AEAEN-IF), is obtained.

d. If all of the logistic support privileges above were included in a contract, the estimated annual value of the support would range as follows:

(1) Per individual contractor personnel, $4,929 to $13,089

(2) Per spouse, $2,260 to $2,410

(3) Per dependent, $5,185 to $5,285

(4) Per family of three, $12,374 to $20,784

e. Logistic support for dependents will be authorized only if specifically stated in the contract.

f. After the contracting officer has determined that the eligibility criteria in a above have been met and the items of logistic support and privileges have been included in the contract, the contracting officer must request an Accreditation Letter from HQ USAREUR (Attn: AEUPE-AMD-AP, APO NY 09403), submitting the following:

(1) Statement that the provisions of this special notice have been complied with;

(2) Name of contract company/corporation;

(3) The contract number and expiration date;

(4) The full names of contract personnel, their citizenship and social security or passport numbers, the number of dependents, and planned arrival date (if already in country, state present employment and geographic area);

(5) Period of accreditation;

(6) The specific items of logistic support and privileges included in the contract, or a copy of that portion of the contract which lists the items of logistic support and privileges; and

(7) APO address of the USAREUR office/element to which the accreditation letter should be forwarded. This should be the office/element to which the contractor is assigned for administrative and operational control.

g. For contractors who will be working in other than Germany or Italy but in areas where USAREUR is to be requested to provide individual logistic support and privileges, the following information must be forwarded to CINCUSAREUR, Attn: AEUPE-AMD-AP, APO NY 09403, for review and determination before any individual logistic support and privileges may be included in the contract:

(1) The country in which the contract is to be performed;

(2) The duration of the contract;

(3) The number and nationality of contractor personnel, to include dependents;

(4) Specific individual logistic support and privileges requested;

(5) A statement of whether the contract will exclusively support the US Forces; and

(6) A statement that the contract will contain specific financial or other consideration which the US Government is to receive in return for extending the support.

ITEM II FLEXIBLE PROGRESS PAYMENTS

Appendix E and Sections VII and XXIII of the DAR are revised to include provisions for flexible progress payments. Uniform standard progress payment rates are increased to 90% for other than small business concerns and 95% for small business concerns. The frequency of progress payments is changed from bi-weekly to monthly. The flexible progress payment procedure represents a new approach toward contract financing. The progress payment rate is derived by use of a specially developed computer program. A user's guide, which is available from the Defense Technical Information Center, Cameron Station, Alexandria, Virginia 22314, contains detailed instructions and examples of the operation of the flexible progress payment procedure.

These policy changes are effective on receipt of this DAC (see DAR 1-106.2(d)), or of Departmental guidance previously distributed, whichever is earlier. These changes are also effective for undefinitized letter contracts if there has been no agreement on contract price prior to receipt of this direction. Contracting Officers are not to consider these changes in the development of prenegotiation profit objectives.

This information was provided to DoD personnel through Departmental channels in September 1981.

Replacement pages: 7:82, 7:84, 7:84-B through 7:84-D, 7:85, 7:86 through 7:86-D, 7:87, 23:5, 23:8-A, E:42-A, E:42-B, E:43, E:49, E:53 through E:55, E:57, E:65-B through E:65-D.

ITEM III PROHIBITION ON RECOVERY OF LOBBYING COSTS

Secretary of Defense Caspar W. Weinberger has directed that contractors be prohibited from charging lobbying costs to Defense contracts. To implement this decision, a new cost principle, 15-205.51, has been established, and a new paragraph has been added as 3-709.

Replacement pages: 3:109, 15:52 through 15:52-B.

ITEM IV ECONOMIC PRICE ADJUSTMENT CLAUSE BASED ON LABOR OR MATERIAL COST (COST INDEX METHOD)

Paragraph 3-404.3(c)(3)(c.4 has been revised to require that any contract containing any Economic Price Adjustment (EPA) clause where the index is subject to revision; e.g., a Bureau of Labor Statistics Producer Price Index, must state if any later contract price revision is to be based on the initial publication or the final revised version of the index.

Replacement page: 3:32.

ITEM V BLANKET PURCHASE AGREEMENTS (BPAs)

DAR 3-605.2 and 3-605.3(f)(iv) are revised to increase the BPA call ceiling for Non-Inventory Control Points from $5,000 to $10,000.

Replacement pages: 3:79-A and 3:81.

ITEM VI HOSPITAL LAUNDRY

DAR Sections VII and XXII are revised to provide coverage for contracting for laundry services on the basis of bulk weight, to reflect when bulk weight and count of articles bases are to be used, which clauses are to be used with respective bases, and to provide instructions concerning the use of the clauses.

Replacement pages: 7:420 through 7:421-B, 7:422, 7:520, 7:520-A, 22:28, 22:28-A, 22:28-B.

ITEM VII PERFORMANCE AND PAYMENT BONDS

DAR 10-202 is revised to add "for Performance and Payment Bonds" to the title, "Options in Lieu of Sureties."

Replacement page: 10:15.

ITEM VIII INSURANCE

DAR 15-205.16(a)(2)(iii) is revised to substitute the word "property" for "casualty." This change will clarify the intent to refer to insurance which the contractor has against damage to its own property, and not insurance against liability for damage to property of third parties.

Replacement page: 15:26.

ITEM IX CONTRACT PRICING PROPOSAL FORMS

DAR 16-206.1 is revised to add the requirement for inclusion of summary totals by cost element, when submitting DD Form 633 cost data.

Replacement pages: 16:14 and 16:15.

ITEM X BID BONDS, AND PERFORMANCE AND PAYMENT BONDS

DAR 16-401.2 has been changed to conform with Public Law 95-585, which raised the construction contract amount for application of the Miller Act bonding requirements from $2,000 to $25,000.

Replacement pages: 16:18 and 16:19.

ITEM XI ARCHITECT-ENGINEER SELECTION PROCESS

DAR 18-402.1(v) is revised to include "small disadvantaged" business firms in considerations for selection of architect-engineer firms for professional services contracts.

Replacement page: 18:16.

ITEM XII USE OF SOURCE LOAD CONTAINER COSTS IN CONTRACT BID EVALUATIONS

DAR 19-208.2(c), 19-213.1(a), 19-301.2(a) and 19-403.1 have been modified to assure that source load container (seavan) transport costs are considered in the bid evaluation process.

Replacement pages: 19:10, 19:12, 19:15 and 19:18.

ITEM XIII PERFORMANCE OF CONTRACT ADMINISTRATION SERVICES FOR NON-DOD ORGANIZATIONS

DAR 20-503 is revised to permit flexibility in providing contract administration services to other U.S. Government Departments and Agencies, based on availability of resources.

Replacement page: 20:27.

ITEM XIV ASSIGNMENT OF CRITICALITY DESIGNATOR BY PURCHASING OFFICE

The definitions applicable to each of the Criticality Designators used by the Contract Administration Office (CAO) to allocate its resources, have been changed at DAR 25-103 to draw more accurate distinctions between the various prime contracts being assigned for administration.

Replacement pages: 25:2 and 25:2-A.

ITEM XV MATERIAL INSPECTION AND RECEIVING REPORT

Coverage in Appendix I, Parts 1 and 4, is revised to permit consolidation on one DD Form 250 of coal shipments made on the same day to the same destination, against the same contract line item. In addition, coverage in Appendix I, Parts 5, 6 and 7 is revised to clarify preparation instructions and to update Tables 3 and 4 for distribution of the DD Form 250-1, Tanker/Barge Material Inspection and Receiving Report, for bulk tanker and barge movements. Table 5, no longer required, is deleted.

Replacement pages: I:3, I:19, I:23, I:24, I:26, I:27, I:29 through I:31 (I:32 removed).

ITEM XVI CLOSE-OUT OF CATEGORY C CONTRACTS, S2-305(a)

Revisions have been made to the standard times contained in Supplement No. 2 to the DAR, Contract File Maintenance, Close-Out and Disposition, to recognize the longer periods to "close-out" those contracts which require settlement of overhead rates.

Replacement page: S2-17.

ITEM XVII EDITORIAL CHANGES

The following listed pages include corrections to typographical errors, administrative oversight, or other editorial changes.

Note: Page 3:70 is reprinted to include notation at bottom of page, omitted in DAC #76-30. Page 7:526-I is reprinted to include "DAC #76-30" notation at top of page, omitted in DAC #76-30.

Replacement pages: 3:32, 3:70, 7:83, 7:84-C, 7:86-A, 7:87 and 7:526-I.

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PROCUREMENT BY NEGOTIATION

(2) *Adjustment Based on Labor or Material Costs (Actual Costs Method).*

a. The price adjustment clause in 7-107 is authorized for use in negotiated fixed price supply and service contracts when there is no major element of design engineering or developmental work involved in producing the items being procured and one or more identifiable labor or material cost factors are subject to change. The clause shall be limited to contracts in which the price exceeds $50,000 and the period of performance exceeds six months unless its use otherwise is approved by the Chief of the Purchasing Office. An appropriate modification of the clause may be used in advertised procurements, in accordance with 2-104.

b. The Schedule shall describe in detail the types of labor and materials subject to adjustment, the labor rates (including fringe benefits, if any), and unit prices of materials, which may be increased or decreased, and the quantities of labor and specified materials allocable to each unit of supplies to be delivered under the contract. The following sample format illustrates a type of schedule description that may be used:

The following types of labor and material are subject to price adjustment pursuant to the "*Economic Price Adjustment—Labor and Material*" clause of this contract.

Contract Item No. 1

Types of labor and materials	Rates of pay and material prices	Quantities and direct costs per unit of procurement
Drill Press Operator	$3.00/hour no fringe benefits included $3.00	20 min.—$1.00
Welder	$2.75/hour .05/hour—vacation pay .20/hour—pension plan $3.00	10 min.—$.50
Copper Sheet	$.40/lb.	2 lb.—$.80
Purchased parts:		
(1) ABC tube X5721	$1.00 each	8 ea.—$8.00
(2) XYZ part No. 9045	$.50 each	10 ea.—$5.00

c. The 10 percent figure in subparagraph (c)(vi) of the clause shall not be exceeded unless approved by the Chief of the Purchasing Office. There shall be no percentage limitation on the amount of decrease. Decreases shall be the full amount of decrease in the labor rates and fringe benefits or unit prices for materials.

d. In negotiating adjustments under the clause, the contracting officer shall consider work in process and materials on hand at the time of changes in labor rates (including fringe benefits, if applicable) or material prices since these elements may have a significant impact on price adjustments. The price adjustment shall not include general and administrative expenses, profit, or overhead (except for fringe benefits as defined in 15-205.6(g)). Fringe benefits must be set forth in the schedule in order to be considered in any economic price adjustment.

e. If the specific terms and conditions of the clause authorized in *a* above are not applicable, a modified economic price adjustment clause to cover increases or decreases in the actual costs incurred by the contractor for labor or materials may be included if it is consistent with the guidelines contained in *a* through *d* above and is approved by the Department concerned.

PROCUREMENT BY NEGOTIATION

(3) *Adjustments Based on Labor or Material Costs (Cost Index Method).*

a. As an alternative to the provisions authorized by (1) and (2) above, consideration should be given to inclusion of a special economic price adjustment clause designed to minimize contingency pricing and prepared under the guidelines listed in *c* below, when (i) there will be an extended period of performance with significant costs to be incurred beyond one year after commencement of contract performance, (ii) the contract amount subject to adjustment is substantial and (iii) the economic variables for labor and material are determined to be too unstable to reflect a reasonable division of risk between the parties absent economic price adjustment provisions.

b. All economic price adjustment clauses utilizing indices will be approved in accordance with Departmental procedures.

c. The following factors may be considered in preparing a price adjustment clause meeting the criteria of *a* above including construction of appropriate indices:

1. The clause should not be overly complex;

2. Normally, the clause should not provide either a ceiling or a floor for adjustment unless adjustment is based on indices below the four digit level of the Bureau of Labor Statistics Producer Price Index or the Wage and Income Series by Standard Industrial Classification (Labor).

3. Normally, the clause should cover all potential economic fluctuations within the original contract period of performance.

4. The clause must have a positive and accurate identification of the applicable index(es) upon which adjustments will be based and provide appropriate economic fluctuation in the event of the discontinuance of the publication of the movement of the designated index. This might include the substitution of another index if the time remaining would so justify and an appropriate index is reasonably available, or some other method for repricing of the remaining portion of the work to be performed. There should not normally be any need to make an adjustment in the event computation of the identified index is altered; however, provision may be made to adjust the economic fluctuation computations in the event there is such a substantial alteration to the method of computing the index as to negate the original intent of the parties. When an index to be used is subject to revision (e.g., the Bureau of Labor Statistics Producer Price Indexes), the economic price adjustment clause shall further specify that any economic price adjustment shall be based upon the applicable revised index.

5. An index should be structured to encompass a large sample of relevant items yet bear a logical relationship to the type of contract costs being measured. The basis of the index should not be so large and diverse that it is significantly affected by fluctuations not relevant to the contract performance, yet must be significantly broad so as to assure the minimal effect of any single company, including the anticipated contractors.

6. Construction of an index is largely dependent upon two general series published by the U.S. Department of Labor, Bureau of Labor Statistics (BLS). These are the Industrial Commodities portion of the Producer Price Index and the Wage and Income Series by Standard Industrial Classification for labor. Since there are no BLS published series currently available that relate

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(xii) if pursuant to 1-1504, options are to be evaluated for award, the applicable *Evaluation of Options* provision shall be inserted;

(xiii) if 1-1503(d) applies, a conspicuous notice cautioning offerors that an offer containing an option price higher than the base price may be accepted only if such acceptance does not prejudice any other offeror; (This may be placed elsewhere so long as the notice is adjacent to the limitation as to option price.)

(xiiii) any requirement for royalty information to be furnished with the offer, proposal or quotation (see 9-110(a));

(xiv) when the contract is for the purchase of a patented item for which the Government is a licensee (1-304.3), include the provision in 7-2003.15;

(xiv) a statement on the first sheet or on a cover sheet of the Request for Proposals that:

PROPOSALS MUST SET FORTH FULL, ACCURATE, AND COMPLETE INFORMATION AS REQUIRED BY THIS REQUEST FOR PROPOSAL (INCLUDING ATTACHMENTS). THE PENALTY FOR MAKING FALSE STATEMENTS IN PROPOSALS IS PRESCRIBED IN 18 U.S.C. 1001.

(xlvi) a statement of arrangements to be made for inspecting the site, including designation of the person or persons, if any, with whom such arrangements may be made and who will answer questions or furnish information;

(xlvii) information which may affect performance of the work such as boring samples, original boring logs, etc.;

(xlviii) information as to what utilities the Government will furnish during construction, when the contracting officer determines that any new utilities are adequate for the needs of both the Government and the contractor (see 7-603.30);

(xlix) Reserved;

(l) Reserved;

(li) (A) in accordance with 3-1203(a), insert the provision in 7-2003.67(a);

(B) in accordance with 3-1204, insert the provision in 7-2003.67(b);

(C) in accordance with 3-1213(a), insert the provision in 7-2003.67(c);

(lii) the *Last Technical Proposals* provision in 7-2002.3, or the Late Proposals provision in 7-2002.4, (these replace paragraphs 7 and 8 of SF 22);

(liii) if international air transportation of personnel and cargo is possible during performance of the contract, the clause in 7-104.95;

(liv) the *Contingent Fee* provision in 7-2002.1 shall be substituted for paragraph 3 of SF 19-B;

(lv) the *Clean Air and Water Certification* in 7-2003.71;

(lvi) Reserved;

(lvii) when the statement of work requires the design, development or operation of a system of records on individuals for an agency function, insert the provision in 7-2003.72;

(lviii) if the contract is for the acquisition of goods or services for MAP, IMET, or FMS, include the clause in 7-104.97;

(lix) if the contract includes FMS requirements, identify the contract by clearly stamping or otherwise indicating "*FMS Requirement*" on the cover sheet of the contract;

(lx) reserved;

(lxi) when Government specifications are incorporated requiring utilization of recovered materials, insert the certification in 7-2003.82.

(lxii) when the provisions of the Buy American Act or the Balance of Payments Program apply, include the clauses in 7-104.3, 7-104.32, 7-2003.47, and 7-104.106 as prescribed in 6-104.5, 6-803.1(e).

(lxiii) for solicitations involving FMS requirements, insert the clause in 7-104.107 concerning special limitations with respect to sales commissions and fees, when required by 6-1305.6.

(lxiv) when the solicitation is subject to an in-house versus contract cost comparison (Section IV, Part 12), include the clause in 7-2003.89(b).

(lxv) insert the solicitation provision at 7-2003.90 requesting the offeror to supply his Data Universal Numbering System (DUNS) Number with his offer.

(lxvi) when the solicitation imposes partial or total small business set-aside procedures pursuant to 1-706.5 and 1-706.6, or is for a combined small business-labor surplus area set-aside procurement pursuant to 1-706.7 and is expected to result in award of a contract during fiscal year 1981, 1982, or 1983, insert the Certification of Handicapped Organizations representation in 7-2003.91. The contracting officer may rely on an offeror's self-certification that it qualifies as an eligible organization as defined in 7-2003.91. Questions concerning the eligibility of offerors shall be processed in accordance with procedures in 1-703.

(d) *Oral Solicitations.*

(1) Oral solicitations are authorized for small purchases (see Section III, Part 6) and for the acquisition of perishable subsistence.

(2) Oral solicitations, other than those described in (1) above, are authorized in cases where the processing of a written solicitation would delay the furnishing of the supplies or services to the detriment of the Government. Examples of such circumstances may include those listed in 3-202.2. However, oral solicitation is not to be considered justified solely because a high issue Priority Designator has been assigned to the requirement. In addition to other applicable

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tracting officer should gain as much knowledge as practicable of the physical and material characteristics and intended use of the item to be purchased. When only one source is solicited, an additional notation must be made to explain the absence of competition, except for procurement of utility services available only from one source or of educational services from nonprofit institutions. Notification to unsuccessful suppliers shall be given only if requested.

(c) Occasionally an item can be obtained only from a supplier who quotes a minimum order price or quantity, which either unreasonably exceeds stated quantity requirements, or results in an unreasonable price for the quantities required. If practicable before placing the order the requiring activity should be informed in such cases of all facts regarding the quotation and requested to confirm or alter its requirement for the item or items under consideration. The file shall be documented to support the final action taken.

3-605 Blanket Purchase Agreement (BPA).

3-605.1 *General.* A blanket purchase agreement is a simplified method of filling anticipated repetitive needs for small quantities of supplies or services by establishing "charge accounts" with qualified sources of supply (see 12-302, 12-602.1 and 12-1001). Blanket purchase agreements are designed to reduce administrative costs in accomplishing small purchases by eliminating the need for issuing individual purchase documents.

3-605.2 *Limitation on Use.* A blanket purchase agreement may not be used when a call exceeds $10,000 except that BPA calls for subsistence are unlimited as to dollar value. The *Examination of Records by Comptroller General* clause in 7-104.15 and the *Listing of Employment Openings* clause in 7-103.27 shall be included in agreements for subsistence items which do not limit the dollar value of individual calls to less than $10,000.

3-605.3 *Establishment of Blanket Purchase Agreements.*

(a) *Alternate Sources.* To the extent practicable, blanket purchase agreements for items of the same type should be placed concurrently with more than one supplier. All competitive sources should be given an equal opportunity to furnish supplies or services under such agreements.

(b) *Form.*

(1) Except as provided in (2) below, blanket purchase agreements shall be prepared and issued on DD Form 1155 (Order for Supplies or Services/Request for Quotations). Either the "General Provisions," DD Form 1155r, or the "Reverse of Order for Supplies or Services/Request for Quotations—Foreign," DD Form 1155r-1, as applicable, shall be used. Other applicable provisions of the blanket purchase agreement shall be set forth on the Standard Form 36 (Continuation Sheet) or on a blank sheet of paper, including the following:

(i) the Contract Work Hours and Safety Standards Act—Overtime Compensation clause in 7-103.16(a) shall be added unless it is reasonably anticipated that the aggregate of the total dollar amounts of orders to be placed thereunder will be $2,500 or less;

(ii) where the agreement is for the intended purchase of services covered by the Service Contract Act of 1965, as amended, the clause in 7-1903.41(a) or (b) shall be substituted for Clause 16 of the General Provisions and the procedures in 12-1005 complied with, unless it is reasonably anticipated that the aggregate of the total dollar amounts of orders to be placed thereunder will be $2,500 or less;

(iii) where the agreement is for the intended purchase of supplies, the Walsh-Healey Public Contracts Act clause in 7-103.17 shall be added, unless the agreement limits the aggregate total of orders to be placed thereunder to $10,000; and

(iv) where the agreement is for the intended purchase of supplies, the applicable equal opportunity clause in 7-103.18 shall be added.

(2) Blanket purchase agreements issued by the Defense Personnel Support Center may be prepared on its form "Order for Subsistence."

(c) *Numbering.* Enter the Procurement Instrument Identification (PII) number as prescribed in Section XX, Part 2.

(d) *Accounting Data.* Blanket purchase agreements need not cite any accounting data so that purchases utilizing different appropriation data may be made under the same agreement.

(e) *Negotiation Authority.* The Schedule of each agreement shall be annotated as follows:

The issuance of individual calls under this blanket purchase agreement will be made under the authority of 10 U.S.C 2304(a)(1), 10 U.S.C. 2304(a)(3), 10 U.S.C. 2304(a)(6), or 10 U.S.C. 2304(a)(17).

If for the purchase of subsistence:

The issuance of individual calls under this blanket purchase agreement will be made under the authority of 10 U.S.C. 2304(a)(1), 10 U.S.C. 2304(a)(3), 10 U.S.C. 2304(a)(6), 10 U.S.C. 2304(a)(9), or 10 U.S.C. 2304(a)(17).

This annotation shall not be duplicated on forms used to document individual calls, although the specific authority for the call may be cited therein.

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(f) *Terms and Conditions.* Blanket purchase agreements shall contain the following provisions:

(i) *Description of agreement*—a statement that the supplier shall furnish supplies or services, described therein in general terms, if and when requested by the contracting officer or his authorized representative during a specified period and within a stipulated aggregate amount, if any. Blanket purchase agreements may be limited to specific items or commodity groups or the scope of the agreement may encompass all items that the supplier is in a position to furnish.

(ii) *Extent of obligation*—a statement that the Government is obligated only to the extent of authorized calls actually placed against the blanket purchase agreement.

(iii) *Pricing*—a statement that the prices to the Government shall be as low as, or lower than those charged the supplier's most favored customer, in addition to any discounts for prompt payment.

(iv) *Call limitation*—a statement that no individual call under the agreement shall exceed $10,000 or such higher limitation set forth in 3-605.2.

(v) *Notice of individuals authorized to place calls and dollar limitations*—a provision that a list of names of individuals authorized to place calls under the agreement, identified by organizational component, and the dollar limitation per call for each individual shall be furnished the supplier by the contracting officer.

(vi) *Delivery tickets*—a requirement that all shipments under the agreement, except subscriptions and other charges for newspapers, magazines, or other periodicals shall be accompanied by delivery tickets or sales slips which shall contain the following minimum information—

(A) name of supplier;

(B) blanket purchase agreement number;

(C) date of call;

(D) call number;

(E) itemized list of supplies or services furnished;

(F) quantity, unit price, and extension of each item less applicable discounts (unit prices and extensions need not be shown when incompatible with the use of automated systems, *provided* that the invoice is itemized to show this information); and

(G) date of delivery or shipment.

(vii) *Invoices*—one of the following statements:

(A) A summary invoice shall be submitted at least monthly or upon expiration of the blanket purchase agreement, whichever occurs first, for all deliveries made during a billing period, identifying the delivery tickets covered therein, stating their total dollar value, and supported by receipted copies of the delivery tickets; or

(B) An itemized invoice shall be submitted at least monthly or upon expiration of the blanket purchase agreement, whichever first occurs, for all deliveries made during a billing period and for which payment has not been received. Such invoices need not be supported by copies of delivery tickets; or

(C) When billing procedures provide for an individual invoice for each delivery, these invoices shall be accumulated *provided* that:

(i) a consolidated payment will be made for each specified period; and

(ii) the period of any discounts will commence on final date of billing period or on the date of receipt of invoices for all deliveries accepted during the billing period, whichever is later.

The provision in (C) above should not be used if the accumulation of the individual invoices by the Government materially increases the administrative costs of this purchase method.

(D) An invoice for subscriptions or other charges for newspapers, magazines, or other periodicals shall show the starting and ending dates and shall state either that orders have been placed in effect or will be placed in effect upon receipt of payment.

(viii) The special data required by 3-606.3(b) when it is desired to use the fast payment procedure. Also see Block 16 of DD Form 1155.

3-605.4 *Competition Under Blanket Purchase Agreements.* Calls against blanket purchase agreements shall be placed only after compliance with 3-604. When concurrent agreements for similar items are in effect, calls not in excess of $500 shall be equitably distributed. In those instances where there are an insufficient number of BPAs for any given class of supplies or services to assure adequate competition, the individual placing the order shall solicit quotations from other sources.

3-605.5 *Calls Against Blanket Purchase Agreements.* Calls against blanket purchase agreements generally will be made orally, except that informal correspondence may be used when ordering against agreements outside the local trade area. Written calls may be executed on DD Form 1155. Documentation of calls shall be limited to essential information. Forms may be developed for this purpose locally.

3-605.6 *Receipt and Acceptance of Supplies or Services.* Acceptance of supplies or services shall be indicated by signature and date on the appropriate form by the authorized government representative after verification and notation of any exceptions. Use of the DD Form 250 Series, Material Inspection and Receiving Report (MIRR), shall be required by purchasing offices to document receipt and acceptance of supplies or services when the purchase is to be assigned to another activity for administration. A sales slip, delivery ticket, DD Form 1155 or DD Form 250 Series may be used for receipt and acceptance when purchases are retained for administration.

3-605.7 *Review Procedures.* The contracting officer or his designated representative shall review the blanket purchase agreement files at least semi-annually to assure that authorized procedures are being followed. When an activity ordering against a blanket purchase agreement does not come under the jurisdiction of the command of the contracting officer issuing the agreement, the com-

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sidered final for the affected contract closed prior to the final overhead settlement. No adjustment shall be made against, or the affect of any quick closeout allowed to impact, other contracts for any over or under recovery disclosed at the time of final overhead rate determination.

3-709 Lobbying Costs. The costs of lobbying for the procurement of specific supplies or services by the Federal Government are unallowable under 15-205.51, Lobbying Costs. Legislative liaison costs, as defined in the cost principle, are allowable costs. Where the contractor's accounting systems are not capable of differentiating unallowable lobbying costs from otherwise allowable costs, the contractor may be required to certify in writing that its overhead rate proposal does not include any unallowable lobbying costs. The certification shall be executed by the contractor, if an individual. When the contractor is not an individual, the certification shall be executed by a senior company official in charge at the contractor's plant or location involved, or by an officer or general partner of the contractor having overall responsibility for the conduct of the contractor's affairs.

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Part 8—Price Negotiation Policies and Techniques

3-800 Scope of Part. This Part sets forth the price negotiation policies and techniques applicable to negotiated prime contracts and those subcontracts which are subject to consent by the Government. The principles in this Part apply to negotiation of prices on all types of contracts and to revised prices as well as initial prices.

3-801 Basic Policy.

3-801.1 *General.* It is the policy of the Department of Defense to procure supplies and services from responsible sources at fair and reasonable prices calculated to result in the lowest ultimate overall cost to the Government. Good pricing depends primarily upon the exercise of sound judgment by all personnel concerned with the procurement.

3-801.2 *Responsibility of Contracting Officers.*

(a) Contracting officers, or their authorized representatives acting within the scope of their authority, are the exclusive agents of their respective Departments to enter into and administer contracts on behalf of the Government in accordance with ASPR and Departmental procedures. Each contracting officer is responsible for performing or having performed all administrative actions necessary for effective contracting. The contracting officer shall avail himself of all appropriate organizational tools such as the advice of specialists in the fields of contracting, finance, law, contract audit, packaging, engineering, traffic management, and price analysis.

(b) To the extent services of specialists are utilized in the negotiation of contracts, the contracting officer must coordinate a team of experts, requesting advice from them, evaluating their counsel, and availing himself of their skills. He shall not, however, transfer his own responsibilities to them. Thus, determination of the suitability of the contract price to the Government always remains the responsibility of the contracting officer. For certain acquisitions, it may be necessary to convene a formal "Should Cost" (see 1-337) team of specialists to evaluate the contractor's cost projections, supporting standards, and other in-plant management, operational, and performance practices, on which cost projections are based.

(c) When the contractor insists on a price or demands a profit or fee which the contracting officer considers unreasonable, the contracting officer shall (i) determine the feasibility of developing an alternate source of supply, or (ii) take any other action within his authority. If, after exhausting the above course of action, a satisfactory solution has not been obtained, the contracting officer shall refer the prospective procurement to higher authority. Such referral shall include a complete statement of the attempt made to resolve the matter. With regard to a contractor's refusal to provide cost or pricing data, see 3-807.5.

(d) Pricing based on cost analysis involves, among other things, an appraisal of estimates of costs expected to be incurred in the future. The accounting projection of trends based on cost or pricing data, together with any known changes therein, is only one method of conducting this appraisal, others being:

(i) an engineering appraisal of the need for the estimated labor and material costs and of tooling and facilities, and the reasonableness of scrap and spoilage factors, and

(d) None of the provisions herein contravenes or is in conflict with the authority under which the Contractor is doing business or with the provision of any existing indenture or agreement of the Contractor.

(e) The Contractor has the power to enter into this contract and accept advance payments hereunder, and has taken all necessary action to authorize such acceptance under the terms and conditions of this contract.

(f) None of the assets of the Contractor is subject to any lien or encumbrance of any character except for current taxes not delinquent, and except as shown in the financial statements furnished by the Contractor to the Administering Office. There has been no assignment of claims under any contract affected by these advance payment provisions, or if there has been any assignment, such assignments have been terminated.

(g) All information furnished by the Contractor to the Administering Office in connection with each request for advance payments is true and correct.

(h) These representations and warranties shall be continuing, and shall be deemed to have been repeated by the submission of each invoice for advance payments. (MAY 1959)

(17) *Subadvances.* Substantially the following provision should be included in the contract when subadvances are contemplated:

Subject to the prior written approval of the Administering Office, funds from the Special Bank Account may be used by the Contractor to make advance payments or down payments to subcontractors and materialmen in advance of performance by the subcontractor or materialman. Such subadvances shall not exceed ..... percent of the subcontract price or estimated cost as the case may be, and the subcontractors or materialmen to whom such advances are made shall furnish adequate security therefor. Unless other security is required by the Administering Office, covenants in subcontracts, expressly made for the benefit of the Government providing for a Special Bank Account for the subadvance, with Government lien thereon, and providing for a Government lien, paramount to all other liens, on all property under such subcontract, and imposing upon the subcontractor and the depository bank substantially the same duties and giving the Government substantially the same rights as are provided herein (and in the Agreement for Special Bank Account supplementary hereto) between the Government, the Contractor and the Bank, may be considered as adequate security for such subadvance.

[In case the alternate procedure for advance payments without a bank account is to be used in accordance with E-413.1, omit paragraph (17) above.]

(18) *Covenants.* The following are examples of some special provisions (subject to modifications to adapt to the circumstances of individual cases) that may be utilized when and to the extent deemed appropriate in particular cases.

During the period of time that advance payments may be made hereunder and so long as any such advance payments remain unliquidated, the Contractor shall not, without the prior written consent of the Administering Office:

(a) Mortgage, pledge, or otherwise encumber, or suffer to be encumbered, any of the assets of the contractor now owned or hereafter acquired by him, or permit any preexisting mortgages, liens, or other encumbrances to remain on or attach to any assets of the Contractor which are allocated to the performance of this contract and with respect to which the Government has a lien hereunder;

(b) Sell, assign, transfer, or otherwise dispose of accounts receivable, notes or claims for money due or to become due;

(c) Declare or pay any dividends, except dividends payable in stock of the corporation, or make any other distribution on account of any shares of his capital stock, or purchase, redeem, or otherwise acquire for value any such stock, except as required by sinking fund or redemption arrangements reported to the Administering Office incident to the establishment of these advance payment provisions;

(d) Sell, convey, or lease all or a substantial part of his assets;

(e) Acquire for value the stock or other securities of any corporation, municipality, or governmental authority, except direct obligations of the United States;

(f) Make any advance or loan to or incur any liability as guarantor, surety, or accommodation endorser for any other firm, person, or corporation;

(g) Permit a writ of attachment or any similar process to be issued against his property without procuring release thereof or bonding the same within 30 days after the entry of the writ of attachment or any similar process;

(b) Pay any salaries, commissions, bonuses, or other remuneration in any form or manner to his directors, officers, or key employees in excess of existing rates of payments or of rates provided in existing agreements, in connection with which notice has been given to the Administering Office, or accrue such excess remuneration without first obtaining an agreement subordinating the same to all claims of the Government hereunder, or employ any person at a rate of compensation in excess of $..... per annum.

(i) Make any substantial change in management, ownership, or control of the corporation;

(j) Merge or consolidate with any other firm or corporation, change the type of his business or engage in any transaction outside the ordinary course of his business as presently conducted;

(k) Deposit any of his funds except in a bank or trust company insured by the Federal Deposit Insurance Corporation;

(l) Create or incur indebtedness for borrowed money or advances other than advances to be made hereunder, except as specified herein;

(m) Make or covenant himself to make capital expenditures exceeding in the aggregate $.....;

(n) Permit his net current assets, calculated in accordance with generally accepted accounting principles, to become less than $.....; or

(o) Make any payments on account of the obligations listed below, except in the manner and to the extent herein provided.

(End of clause)

7-104.35 *Progress Payments.* In accordance with E-510, insert one of the following clauses:

(a) Progress Payment Clause for Other Than Small Business Concerns.

Any change, addition, or deletion to this clause is subject to the prior approval requirements outlined in Appendix E, Part 3.

PROGRESS PAYMENT FOR OTHER THAN SMALL BUSINESS CONCERNS (1981 OCT)

Progress payments shall be made to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contracting Officer upon the following terms and conditions:

(a) *Computation of Amounts.*

(1) Unless a smaller amount is requested, each progress payment shall be (i) ninety percent (90%)** (See footnote at end of clause) of the amount of the Contractor's total costs which, except as provided in (a)(2) below, shall include only those recorded costs which result, at the time of the request, from payment made by cash, check, or other form of actual payment for items or services purchased directly for the contract, together with (when the Contractor is not delinquent in payment of costs of contract performance in the ordinary course of business) costs incurred, but not necessarily paid, for materials which have been issued from the Contractor's stores inventory and placed in the production process for use on the contract, for direct labor, for direct travel, for other direct in-house costs, and for properly allocable and allowable indirect costs, all as shown by records maintained by the Contractor for purposes of obtaining payment under Government contracts plus (ii) the amount of progress payments which have been paid to Contractor's subcontractors and other divisions as provided in (j) below; all less the sum of previous progress payments.

reduced prices and adjusting the unliquidated progress payments accordingly. The Government reserves the right to unilaterally change from the ordinary liquidation rate to the alternate rate when deemed appropriate for proper contract financing.

(c) Reduction or Suspension. The Contracting Officer may reduce or suspend progress payments, or liquidate them at a rate higher than the percentage stated in (b) above, or both whenever he finds upon substantial evidence that the Contractor (i) has failed to comply with any material requirement of this contract, (ii) has so failed to make progress, or is in such unsatisfactory financial condition, as to endanger performance of this contract, (iii) has allocated inventory to this contract substantially exceeding reasonable requirements, (iv) is delinquent in payment of the costs of performance of this contract in the ordinary course of business, (v) has so failed to make progress that the unliquidated progress payments exceed the fair value of the work accomplished on the undelivered portion of this contract, or (vi) is realizing less profit than the estimated profit used for establishing a liquidation percentage in paragraph (b), if that liquidation percentage is less than the percentage stated in paragraph (a)(1).

(d) Title. Immediately, upon the date of this contract, title to all parts; materials; inventories; work in process; special tooling as defined in the clause of this contract entitled "Special Tooling"; special test equipment and other special tooling to which the Government is to acquire title pursuant to any other provision of this contract; nondurable (i.e., noncapital) tools, jigs, dies, fixtures, molds, patterns, tape, gauges, test equipment, and other similar manufacturing aids title to which is not obtained as special tooling pursuant to this paragraph; and drawings and technical data (to the extent delivery thereof to the Government is required by other provisions of this contract); theretofore acquired or produced by the Contractor and allocable or properly chargeable to this contract under sound and generally accepted accounting principles and practices shall forthwith vest in the Government; and title to all like property thereafter acquired or produced by the Contractor and allocable or properly chargeable to this contract as aforesaid shall forthwith vest in the Government upon said acquisition, production or allocation. Notwithstanding that title to property is in the Government through the operation of this clause, the handling and disposition of such property shall be determined by the applicable provisions of this contract such as: the Default clause and paragraph (h) of this clause; Termination for Convenience of the Government clause; and the Special Tooling clause. Current production scrap may be sold by the Contractor without approval

of the Contracting Officer and the proceeds shall be credited against the costs of contract performance. With the consent of the Contracting Officer and on terms approved by him, the Contractor may acquire or dispose of property to which title is vested in the Government pursuant to this clause, and in that event, the costs allocable to the property so transferred from this contract shall be eliminated from the costs of contract performance and the Contractor shall repay to the Government (by cash or credit memorandum) an amount equal to the unliquidated progress payments allocable to the property so transferred. Upon completion of performance of all the obligations of the Contractor under this contract, including liquidation of all progress payments hereunder, title to all property (or the proceeds thereof) which had not been delivered to, and accepted by the Government under this contract or which had not been incorporated in supplies delivered to and accepted by the Government under this contract and to which title has vested in the Government under this clause shall vest in the Contractor. The provisions of this contract referring to or defining liability for Government-furnished property shall not apply to property to which the Government shall have acquired title solely by virtue of the provisions of this clause.

(e) Risk of Loss. Except to the extent that the Government shall have otherwise expressly assumed the risk of loss of property, title to which vests in the Government pursuant to this clause, in the event of the loss, theft or destruction of or damage to any such property before its delivery to and acceptance by the Government, the Contractor shall bear the risk of loss and shall repay the Government an amount equal to the unliquidated progress payments based on costs allocable to such lost, stolen, destroyed or damaged property.

(f) Control of Costs and Property. The Contractor shall maintain an accounting system and controls adequate for the proper administration of this clause.

(g) Reports and Information--Access to Records. Insofar as pertinent to the administration of this clause, the Contractor will (i) furnish promptly such relevant reports, certificates, financial statements, and other information as may be reasonably requested by the Contracting Officer, and (ii) give the Government reasonable opportunity to examine and verify his books, records and accounts.

(2)(i) With respect to costs of pension, profit sharing, and employee stock ownership plan contributions, when these contributions are paid by the Contractor to the pension, profit sharing, or employee stock ownership plan funds less frequently than quarterly, accruals of the costs of these contributions shall be excluded from the Contractor's total costs for progress payment purposes until such costs are paid. If pension, profit sharing, and employee stock ownership plan contributions are paid on a quarterly or more frequent basis, accruals of cost of these contributions may be included in the Contractor's total costs for progress payment purposes provided these contributions are paid to the pension, profit sharing, and employee stock ownership plan funds within thirty (30) days after the close of the period covered by the payment. If payments are not made to the pension, profit sharing, and employee stock ownership plan funds within such thirty (30) day period, these costs shall be excluded from the Contractor's total costs for progress payment purposes until payment therefor has been made.

(ii) For those Contractors who elected to use the special transition method provided in Cost Accounting Standard (CAS) 410, "Allocation of Business Unit General and Administrative Expense to Final Cost Objective", General and Administrative Expenses (G&A) shall not be included in incurred costs eligible for progress payments until the work-in-process inventories of those contracts entered into after the applicability date of CAS 410, exceed the amounts contained in the CAS 410 suspense account and then limited to this contract's pro rata share of the G&A allocable to such excess. This limitation shall not apply where the CAS 410 suspense account is less than 5 million dollars.

(3) The Contractor's total costs ((a)(1)(i)) shall be reasonable, allocable to this contract, and consistent with sound and generally accepted accounting principles and practices. However, such costs shall not include (i) any costs incurred by subcontractors or suppliers, or (ii) any payments or amounts payable to subcontractors or suppliers, except for completed work (including partial deliveries) to which the Contractor has acquired title and except for amounts paid or payable under cost-reimbursement or time and material subcontracts for work to which the Contractor has acquired title, or (iii) costs ordinarily capitalized and subject to depreciation or amortization except for the properly depreciated or amortized portion of such costs.

(4) The amount of unliquidated progress payments shall not exceed the lesser of (i) ninety percent (90%)**(See footnote at end of clause) of the costs mentioned in (a)(1)(i) above, plus any unliquidated progress payments mentioned in item (a)(1)(ii) above, both of which are applicable only to the supplies and services not yet delivered and invoiced to and accepted by the Government, or (ii) ninety percent (90%)**(See footnote at end of clause) of the total contract price of supplies and services not yet delivered and invoiced to and accepted by the Government, less unliquidated advance payments.

(5) The aggregate amount of progress payments made shall not exceed ninety percent (90%)**(See footnote at end of clause) of the total contract price.

(6) If at any time a progress payment or the unliquidated progress payments exceed the amount permitted by this paragraph (a), the Contractor shall pay the amount of such excess to the Government upon demand.

(7) If this contract includes FMS requirements, the contractor shall submit his requests for progress payments in accordance with the procedures below.

(i) If more than one customer country is covered by a contract, the Contractor shall submit one DD Form 1195 with a supporting schedule showing the portions of the total requested payment to be attributed to each country's requirement.

(ii) For the purpose of submitting DD Form 1195, the Contractor shall allocate costs among customer countries in a manner acceptable to the Administrative Contracting Officer.

(b) Liquidation. Except as provided in the clause entitled "Termination for Convenience of the Government" all progress payments shall be liquidated by deducting from any payment under this contract, other than advance or progress, the amount of unliquidated progress payments; or ninety percent (90%)**(See footnote at end of clause) or the applicable percentage (calculated in accordance with references in the *footnote at the end of the clause) of the gross amount invoiced, whichever is less. Repayment to the Government required by a retroactive price reduction will be made after calculating liquidations and payments on past invoices at the

(h) Special Provisions Regarding Default. If this contract is terminated pursuant to the clause entitled "Default," (i) the Contractor shall, upon demand, pay to the Government the amount of unliquidated progress payments and (ii) with respect to all property as to which the Government elects not to require delivery under the clause entitled "Default," title shall vest in the Contractor upon full liquidation of progress payments, and the Government shall be liable for no payment except as provided by the "Default" clause.

(i) Reservations of Rights. The rights and remedies of the Government provided in this clause shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this contract. No payment, or vesting of title pursuant to this clause, shall excuse the Contractor from performance of his obligations under this contract, nor constitute a waiver of any of the rights and remedies of the parties under this contract. No delay or failure of the Government in exercising any right, power or privilege under this clause shall affect any such right, power or privilege, nor shall any single or partial exercise thereof preclude or impair any further exercise thereof or the exercise of any other right, power or privilege of the Government.

(j) Progress Payments to Subcontractors.

(1) The amounts mentioned in item (a)(1)(ii) above shall be all progress payments paid by the Contractor to his subcontractors or other divisions and remaining unliquidated when under subcontracts or interdivisional orders which conform to (2) below.

(2) Subcontracts or interdivisional orders on which progress payments to subcontractors or other divisions may be included in the base for progress payments pursuant to paragraph (a) of this clause are limited to those subcontracts in which there is expected to be a long "lead time," between the beginning of work and the first delivery, approximating four months or more for small business concerns and six months or more for firms which are not small business concerns, and in which the provisions regarding progress payments are substantially similar to and as favorable to the Government as this "Progress Payment" clause (except that in the case of those subcontractors which are small business concerns a "Progress Payment" clause substantially similar to 7-104.35(b) may be used). Progress payment rates for subcontractors shall be

either the uniform, standard progress payment rate under DAR Appendix E-503 or (if the subcontractor qualifies under Appendix E-530.3) the flexible progress payment rate under Appendix E-530, at the election of the subcontractor. All rights of the subcontractor with respect to all property to which the Government has title under the subcontract will be made subordinate to the rights of the Government to require delivery of such property to it in the event of default by the Contractor under this contract or in the event of the bankruptcy or insolvency of the subcontractor.

(3) The Government agrees that any proceeds received by it from property to which it has acquired title by virtue of such provisions in any subcontract shall be applied to reduce the amount of unliquidated progress payments made by the Government to the Contractor under this contract. In the event the Contractor fully liquidates such progress payments made by the Government to him hereunder and there are progress payments to any subcontractors which are unliquidated, the Contractor shall be subrogated to all the Government's rights by virtue of such provisions in the subcontract or subcontracts involved as if all such rights had been thereupon assigned and transferred to the Contractor.

(4) To facilitate small business participation in subcontracting under this contract, the Contractor agrees to offer and provide progress payments to those subcontractors which are small business concerns, in conformity with the standards for customary progress payments stated in Appendix E of the Defense Acquisition Regulation, as in effect on the date of this contract. The Contractor further agrees that the need for such progress payments will not be considered as a handicap or adverse factor in the award of subcontracts.

(End of clause)

*See E-512.2 and E-512.3 for calculation of alternate liquidation percentages. For contractors who elected to use the transition method in Appendix A of CAS 410, see E-512.1 and E-512.3(f) for calculation of adjusted ordinary and alternate liquidation percentages.

**If the contract is subject to flexible progress payment procedures under Appendix E-530, the progress payment rate will be determined by using the DoD Cash Flow Computer Model. The progress payment rate thus determined will be set forth in the Schedule.

(b) *Progress Payment Clause for Small Business Concerns.*

Any change, addition, or deletion to this clause is subject to the prior approval requirements outlined in Appendix E, Part 2.

PROGRESS PAYMENT FOR SMALL BUSINESS CONCERNS (1981 OCT)

Progress payments shall be made to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contracting Officer under the following terms and conditions.

(a) *Computation of Amounts.*

(1) Unless a smaller amount is requested, each progress payment shall be (i) ninety-five percent (95%)** (See footnote at end of clause) of the amount of the Contractor's total costs incurred under this contract, except as provided herein with respect to costs of pension contributions, plus (ii) the amount of progress payments to subcontractors as provided in (j) below; all less the sum of previous progress payments. With respect to costs of pension contributions, when pension contributions are paid by the Contractor to the retirement fund less frequently than quarterly, accruals of the costs of these pension contributions shall be excluded from Contractor's total costs for progress payment purposes until such costs are paid. If pension contributions are paid on a quarterly or more frequent basis, accruals of the costs of these pension contributions may be included in Contractor's total costs for progress payment purposes provided that the pension contributions are paid to the retirement fund within thirty (30) days after the close of the period covered by the payment. If payments are not made to the fund within such thirty-day period, pension contribution costs shall be excluded from Contractor's total costs for progress payment purposes until payment therefor has been made.

(2) The Contractor's total costs ((a)(1)(i)) shall be reasonable, allocable to this contract, and consistent with sound and generally accepted accounting principles and practices. However, such costs shall not include (i) any costs incurred by subcontractors or suppliers, or (ii) any payments or amounts payable to subcontractors or suppliers, except for completed work (including partial deliveries) to which the Contractor has acquired title and except for amounts paid or payable under cost-reimbursement or time and material subcontracts for work to which the Contractor has acquired title, or (iii) costs ordinarily capitalized and subject to depreciation or amortization except for the properly depreciated or amortized portion of such costs.

(3) The amount of unliquidated progress payments shall not exceed the lesser of (i) ninety-five percent (95%)**(See footnote at end of clause) of the costs mentioned in (a)(1)(i) above, plus any unliquidated progress payments mentioned in item (a)(1)(ii) above, both of which are applicable only to the supplies and services not yet delivered and invoiced to and accepted by the Government, or (ii) ninety-five percent (95%)** (See footnote at end of clause) of the total contract price of supplies and services not yet delivered and invoiced to and accepted by the Government, less unliquidated advance payments.

(4) The aggregate amount of progress payments made shall not exceed ninety-five percent (95%)**(See footnote at end of clause) of the total contract price.

(5) If at any time a progress payment or the unliquidated progress payments exceed the amount permitted by this paragraph (a), the Contractor shall pay the amount of such excess to the Government upon demand.

(6) If this contract includes FMS requirements, the Contractor shall submit his requests for progress payments in accordance with the procedures below.

(i) If more than one customer country is covered by a contract, the Contractor shall submit one DD Form 1195 with a supporting schedule showing the portions of the total requested payment to be attributed to each country's requirement.

(ii) For the purpose of submitting DD Form 1195, the Contractor shall allocate costs among customer countries in a manner acceptable to the Administrative Contracting Officer.

(b) Liquidation. Except as provided in the clause entitled "Termination for Convenience of the Government," all progress payments shall be liquidated by deducting from any payment under this contract, other than advance or progress, the amount of unliquidated progress payments, or ninety-five percent (95%) **(See footnote at end of clause), or the applicable percentage (calculated in accordance with references in the * footnote at the end of the clause) of the gross amount invoiced, whichever is less. Repayment to the Government required by a retroactive price reduction will be made after calculating liquidations and payments on past invoices at the reduced prices and adjusting the unliquidated progress payments accordingly.

(c) Reduction or Suspension. The Contracting Officer may reduce or suspend progress payments, or liquidate them at a rate higher than the percentage stated in (b) above, or both, whenever he finds upon substantial evidence that the Contractor (i) has failed to comply with any material requirement of this contract, (ii) has so failed to make progress, or is in such unsatisfactory financial condition, as to endanger performance of this contract, (iii) has allocated inventory to this contract substantially exceeding reasonable requirements, (iv) is delinquent in payment of the costs of performance of this contract in the ordinary course of business, (v) has so failed to make progress that the unliquidated progress payments exceed the fair value of the work accomplished on the undelivered portion of this contract, or (vi) is realizing less profit than the estimated profit used for establishing a liquidation percentage in paragraph (b), if that liquidation percentage is less than the percentage stated in paragraph (a)(1).

(d) Title. Immediately, upon the date of this contract, title to all parts; materials; inventories; work in process; special tooling as defined in the clause of this contract entitled "Special Tooling"; special test equipment and other special tooling to which the Government is to acquire title pursuant to any other provision of this contract; nondurable (i.e. noncapital) tools, jigs, dies, fixtures, molds, patterns, taps, gauges, test equipment, and other similar manufacturing aids title to which is not obtained as special tooling pursuant to this paragraph; and drawings and technical data (to the extent delivery thereof to the Government is required by other provisions of this contract); theretofore acquired or produced by the Contractor and allocable or properly chargeable to this contract under sound and generally accepted accounting principles and practices shall forthwith vest in the Government; and title to all like property thereafter acquired or produced by the Contractor and allocable or properly chargeable to this contract as aforesaid shall forthwith vest in the Government

upon said acquisition, production or allocation. Notwithstanding that title to property is in the Government through the operation of this clause, the handling and dispositon of such property shall be determined by the applicable provisions of this contract such as: the Default clause and paragraph (h) of this clause; Termination for Convenience of the Government clause; and the Special Tooling clause. Current production scrap may be sold by the Contractor without approval of the Contracting Officer and the proceeds shall be credited against the costs of contract performance. With the consent of the Contracting Officer and on terms approved by him, the Contractor may acquire or dispose of property to which title is vested in the Government pursuant to this clause, and in that event, the costs allocable to the property so transferred from this contract shall be eliminated from the costs of contract performance and the Contractor shall repay to the Government (by cash or credit memorandum) an amount equal to the unliquidated progress payments allocable to the property so transferred. Upon completion of performance of all the obligations of the Contractor under this contract, including liquidation of all progress payments hereunder, title to all property (or the proceeds thereof) which had not been delivered to, and accepted by the Government under this contract or which had not been incorporated in supplies delivered to and accepted by the Government under this contract and to which title has vested in the Government under this clause shall vest in the Contractor. The provisions of this contract referring to or defining liability for Government-furnished property shall not apply to property to which the Government shall have acquired title solely by virtue of the provisions of this clause.

(e) Risk of Loss. Except to the extent that the Government shall have otherwise expressly assumed the risk of loss of property, title to which vests in the Government pursuant to this clause, in the event of the loss, theft or destruction of or damage to any such property before its delivery to and acceptance by the Government, the Contractor shall bear the risk of loss and shall repay the Government an amount equal to the unliquidated progress payments based on costs allocable to such lost, stolen, destroyed or damaged property.

(f) Control of Costs and Property. The Contractor shall maintain an accounting system and controls adequate for the proper administration of this clause.

(g) Reports and Information--Access to Records. Insofar as pertinent to the administration of this clause, the Contractor will (i) furnish promptly such relevant reports, certificates, financial statements, and other information as may be reasonably requested by the Contracting Officer, and (ii) give the Government reasonable opportunity to examine and verify his books, records and accounts.

(h) Special Provisions Regarding Default. If this contract is terminated pursuant to the clause entitled "Default," (i) the Contractor shall, upon demand, pay to the Government the amount of unliquidated progress payments and (ii) with respect to all property as to which the Government elects not to require delivery under the clause entitled "Default," title shall vest in the Contractor upon full liquidation of progress payments, and the Government shall be liable for no payment except as provided by the "Default" clause.

(i) Reservations of Rights. The rights and remedies of the Government provided in this clause shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this contract. No payment, or vesting of title pursuant to this clause, shall excuse the Contractor from performance of his obligations under this contract, nor constitute a waiver of any of the rights and remedies of the parties under this contract. No delay or failure of the Government in exercising any right, power or privilege under this clause shall affect any such right, power or privilege, nor shall any single or partial exercise thereof preclude or impair any further exercise thereof or the exercise of any other right, power or privilege of the Government.

(j) Progress Payments to Subcontractors.

(1) The amount mentioned in item (a)(1)(ii) above shall be the sum of (i) all the progress payments made by the Contractor to his subcontractors and remaining unliquidated, and (ii) unpaid billings for progress payments to subcontractors which have been approved for current payment in the ordinary course of business, when under subcontracts which conform to (2) below.

(2) Subcontracts on which progress payments to subcontractors may be included in the base for progress payments pursuant to paragraph (a) of this clause are limited to those subcontracts in which there is expected to be a long "lead time," between the beginning of work and the first delivery, approximating four months or more for small business concerns and six months or more for firms which are not small business concerns, and in which the provisions regarding progress payments are substantially similar to and as favorable to the Government as this "Progress Payments" clause (except that in the case of those subcontractors which are small business concerns a "Progress Payment" clause substantially similar to 7-104.35(b) may be used). Progress payment rates for subcontractors shall be either the uniform, standard progress payment rate under Appendix E-503 or (if the subcontractor qualifies under Appendix E-530.3) the flexible progress payment rate under Appendix E-530, at the election of the subcontractor.

All rights of the subcontractor with respect to all property to which the Government has title under the subcontract will be made subordinate to the rights of the Government to require delivery of such property to it in the event of default by the Contractor under this contract or in the event of the bankruptcy or insolvency of the subcontractor.

(3) The Government agrees that any proceeds received by it from property to which it has acquired title by virtue of such provisions in any subcontract shall be applied to reduce the amount of unliquidated progress payments made by the Government to the Contractor under this contract. In the event the Contractor fully liquidates such progress payments made by the Government to him hereunder and there are progress payments to any subcontractors which are unliquidated, the Contractor shall be subrogated to all the Government's rights by virtue of such provisions in the subcontract or subcontracts involved as if all such rights had been thereupon assigned and transferred to the Contractor.

(4) The billings described in (j)(1)(ii) above shall be paid promptly by the Contractor in the ordinary course of business, not later than a reasonable time after payment of equivalent amounts by the Government to the Contractor.

(5) To facilitate small business participation in subcontracting under this contract, the Contractor agrees to offer and provide progress payments to those subcontractors which are small business concerns, in conformity with the standards for customary progress payments stated in Appendix E of the Defense Acquisition Regulation, as in effect on the date of this contract. The Contractor further agrees that the need for such progress payments will not be considered as a handicap or adverse factor in the award of subcontracts.

(End of clause)

*For lower percentages for this paragraph (b) and for (a)(3)(ii) and (a)(4), see E-512.1.

**If the contract is subject to flexible progress payment procedures under Appendix E-530, the progress payment rate will be determined by using the DoD Cash Flow Computer Model. The progress payment rate thus determined will be set forth in the Schedule.

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(c) Flexible Progress Payments. In addition to the clauses in (a) or (b) above, when flexible progress payment procedures are used in accordance with E-530, insert the following clause. Any change, addition, or deletion to this clause is subject to the prior approval requirements outlined in Appendix E, Part 2.

FLEXIBLE PROGRESS PAYMENTS (1981 OCT)

This contract is subject to flexible progress payment procedures. The progress payment rate of this contract is _____%, and this percentage applies in lieu of the uniform, standard progress payment rate and liquidation rate at each "**" of the "Progress Payments" clause, DAR 7-104.35(a) (or 7-104.35(b), as appropriate). The progress payment rate of this contract was determined by the DoD Cash Flow Computer Model, (dated _____), using five percent (5%) as the targeted rate for the Contractor's investment (as a weighted average of costs) in its work in process inventory over the life of the contract. If actual and projected cash flow data generated during performance of this contract reveal that the progress payment rate will result in an investment in work in process inventory by the Contractor in excess of seven percent (7%), or less than three percent (3%), the progress payment rate shall be redetermined by using the DoD Cash Flow Computer Model. Unless it contained an error, the version of the DoD Cash Flow Computer Model that was used initially in this contract will be used for any redetermination permitted by this clause. In no event will the progress payment rate be less than the uniform, standard progress payment rate that would have applied to this contract absent flexible progress payment procedures, and in no event will the progress payment rate be greater than one hundred percent (100%).

(End of clause)

7-104.36 *Consideration for Affected Employees in the Redwood National Park Area.* In accordance with 1-332, contracts awarded prior to 30 September 1984 shall contain the following clause.

CONSIDERATION FOR AFFECTED EMPLOYEES IN THE REDWOOD NATIONAL PARK AREA (1980 AUG)

(a) The Contractor agrees, consistent with the requirements of Public Law 95-250, The Redwood National Park Expansion Act, that until September 30, 1984, all suitable employment openings of the Contractor which occur pursuant to the execution of the performance of this contract, and which are located primarily in the northern California counties of Humbolt, Del Norte, Trinity, Siskiyou and Mendocino, shall be listed at the nearest California Office of the State Employment Development Department (EDD).

(b) Listing of employment openings with the EDD pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the obligation to accept referrals of affected Redwood employees. The listing of employment openings does not require the hiring of any particular job applicant, but does require hiring from that group of affected employee job applicants who already possess the skills and training necessary to perform the job or who could reasonably be expected to gain such skills after appropriate training of reasonable duration. Nothing herein is intended to relieve the Contractor from any requirements in executive orders or regulations regarding nondiscrimination in employment.

(c) The provisions of paragraph (b) apply to a particular opening once an employer decides to consider applicants outside of its own organization or employer-union agreement for that opening.

(d) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(e) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(f) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract arrangement

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CONTRACT CLAUSES AND SOLICITATION PROVISIONS

7-1303.6 *Containers and Equipment.* If the contractor is to furnish cabinets for dispensing milk from bulk containers, a notice so stating shall be included in the Schedule of solicitations and resultant contracts. The notice shall state (i) the number of dispenser cabinets required, or a reasonably accurate estimate thereof, (ii) whether metal stands for the cabinets are required, (iii) the number of cabinets required with a capacity of two containers each, and (iv) the number required with a capacity of three containers each. In addition, the following clause shall be included in the contract.

CONTAINERS AND EQUIPMENT (1967 APR)

(a) Dispenser containers and filling equipment used by the Contractor in the performance of this contract, and any refrigerated bulk milk dispenser cabinets furnished by the Contractor, shall comply with MIL-STD-175, "Minimum Sanitary Standards for the Equipment and Methods for the Handling of Milk and Milk Products in Bulk Milk Dispensing Operations," as amended.

(b) Any bulk milk dispenser cabinets required by the Schedule to be furnished by the Contractor shall be installed, serviced, and maintained to the satisfaction of the Contracting Officer. All responsibility for the supply, installation, maintenance, and removal thereof, including labor and material costs, and for any damage thereto or loss or destruction, shall remain with the Contractor.

(c) When, and for as long as, the Contractor fails to furnish bulk milk dispenser cabinets or milk dispenser containers as required in the Schedule, or does not properly service, maintain, and repair said dispenser cabinets, so that milk cannot be dispensed as needed by the Government, the Contractor shall deliver a sufficient quantity of milk in half-pint containers to satisfy orders for milk dispenser containers, at the price per gallon for milk dispenser containers.

(d) Any contamination, spoilage, leakage, or other loss of any contents of a dispenser container due to functional failure of the dispenser cabinets or dispenser containers, except for a general power failure at the Government installation, shall be replaced immediately by the Contractor without cost to the Government.

(e) The tare weight of dispenser containers required to be certified in accordance with paragraph (b) of the clause entitled "Examination and Testing" shall include all parts of the container delivered as a complete unit, including lids, tubes, and seals.

(End of clause)

CONTRACT CLAUSES AND SOLICITATION PROVISIONS

Part 14—Laundry and Dry Cleaning Contracts

7-1400 Scope of Part. This Part sets forth special uniform contract clauses for laundry and dry cleaning contracts (see Section XXII, Part 7). These clauses are to be used when applicable in addition to other required or applicable clauses prescribed by Section VII, Part 19.

7-1401 Clauses to be Used When Applicable. The clauses of this paragraph may be modified to meet local conditions.

7-1401.1 *Activities.*

ACTIVITIES (1967 APR)

Activities to be covered by this contract are:

.....

.....

(End of clause)

7-1401.2 *Contract Period.*

CONTRACT PERIOD (1967 APR)

Any contract awarded as a result of bids submitted under this Invitation for Bids shall extend from ..... or date of contract award, whichever is later, through ....., both dates inclusive, unless sooner terminated under the terms of the contract.

(End of clause)

7-1401.3 *Reserved.*

7-1401.4 *Pickup and Delivery Points and Times.*

PICKUP AND DELIVERY POINTS AND TIMES (1981 OCT)

The locations for pickup and delivery and the times therefor are set forth below.

Location .....

Pickup Time .....

Delivery Time .....

The unit prices include all pickup and delivery charges.

(End of clause)

7-1401.5 *Count or Weight of Articles.* In accordance with 22-702, include the following, as applicable.

(a) *Count of Articles.* The following clause is for inclusion in contracts for laundry and dry cleaning services on a count of articles basis.

COUNT OF ARTICLES (1967 APR)

(a) The Contractor shall be liable for return of the number and kind of articles furnished for service under this contract, in accordance with the count of the Contracting Officer, or the number and kind of articles agreed upon as a result of a joint count by the Contractor and the Contracting Officer at the time of delivery to the Contractor.

(b) Delivery tickets in the number of copies required, and in the form approved by the Contracting Officer shall be completed by the Contractor at the time of his receipt of the articles to be serviced. One copy of each delivery ticket shall accompany the Contractor's invoice.

(End of clause)

CONTRACT CLAUSES AND SOLICITATION PROVISIONS

In contracts that provide for laundry or dry cleaning service to individual personnel (see 7-1401.12), add the following paragraph (c) to the above clause.

(c) Individual laundry bundle delivery tickets shall be provided by the Contractor as specified in the clause entitled "Individual Laundry" of the General Provisions of this contract.

(b) *Weight of Articles (Bag Type).* The following clause is for inclusion in contracts which require laundry services by bulk weight of bag type.

WEIGHT OF ARTICLES (BAG TYPE) (1981 OCT)

(a) The Contractor shall be liable for the return of the articles furnished for service under this contract.

(b) Delivery tickets in the number of copies required, and in the form approved by the Contracting Officer, shall be completed by the Contractor at the time of his receipt of the articles to be serviced. One copy of each delivery ticket shall accompany the Contractor's invoice.

(c) Prior to Contractor pickup of articles for service under this contract, the Contracting Officer shall ensure that each bag contains only articles within a single bag type as specified in the Schedule. The Contracting Officer shall ensure each bag is weighed and that this weight and bag type are identified on the bag. The bag shall always be included in this weight. This weight and the bag type shall be verified by the Contractor who shall record the verified weight and bag type on the delivery ticket. One copy of the delivery ticket shall be retained by the Government.

(d) At the time of delivery, the Contractor shall record the weight and bag type of serviced laundry on the delivery ticket. The Contracting Officer will ensure that this weight and bag type are verified at time of delivery.

(End of clause)

(c) *Weight of Articles (Unsorted).* The following clause shall be included in all contracts which require laundry services by unsorted bulk weight.

WEIGHT OF ARTICLES (UNSORTED) (1981 OCT)

(a) The Contractor shall be liable for the return of the articles furnished for service under this contract.

(b) Delivery tickets in the number of copies required, and in the form approved by the Contracting Officer, shall be completed by the Contractor at the time of his receipt of the articles to be serviced. One copy of each delivery ticket shall accompany the Contractor's invoice.

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(c) Prior to Contractor pickup of articles for service under this contract, the Contracting Officer shall ensure each bag is weighed and that this weight is identified on the bag. The bag shall always be included in this weight. This weight shall be verified by the Contractor who shall record the verified weight on the delivery ticket. One copy of the delivery ticket shall be retained by the Government.

(d) At the time of delivery, the Contractor shall record the weight of serviced laundry on the delivery ticket. The Contracting Officer shall ensure that this weight is verified at time of delivery.

(End of clause)

7-1401.6 *Loss or Damage.*

(a) A clause substantially as follows shall be included in all contracts for laundry and dry cleaning services on a count of article basis.

LOSS OR DAMAGE (COUNT OF ARTICLES) (1981 OCT)

(a) The Contractor shall indemnify the Government for any property delivered to the Contractor for servicing under this contract which is lost, or which is damaged and, in the opinion of the Contracting Officer, cannot be repaired satisfactorily. In either of these events, the Contractor shall pay to the Government the value thereof in accordance with Federal Supply Schedule price lists. If the property is not on these price lists, the Contracting Officer shall determine a fair and just price. Credit shall be allowed for any depreciation in the value of the property at the time of loss or damage, and the parties hereto shall determine the amount of the allowable credit. If the parties fail to agree upon the value of the property, or fail to agree on the amount of credit due, the dispute shall be determined as provided in the clause hereof entitled "Disputes."

(b) In case of damage to any property which the Contracting Officer and the Contractor agree can be satisfactorily repaired, the Contractor shall repair the property at his expense in a manner satisfactory to the Contracting Officer.

(End of clause)

(b) A clause substantially as follows shall be included in all contracts for laundry services on a bulk weight basis.

LOSS OR DAMAGE (WEIGHT OF ARTICLES) (1981 OCT)

(a) The Contractor shall indemnify the Government for any property delivered to the Contractor for servicing under this contract which is lost, or which is damaged, and, in the opinion of the Contracting Officer, cannot be repaired satisfactorily. In either of these events, the Contractor shall pay to the Government the value thereof in accordance with the price of * per pound. The Contractor shall only be required to pay the Government for any losses which exceed the maximum weight loss allowable by the clause hereof entitled "Maximum Weight Loss." If the parties fail to agree on the amount of credit due, the dispute shall be determined as provided in the clause hereof entitled "Disputes."

(b) In case of damage to any property which the Contracting Officer and the Contractor agree can be satisfactorily repaired, the Contractor shall repair the property at his expense in a manner satisfactory to the Contracting Officer.

*Insert reasonable per pound price based on the average per pound value of the property to be serviced. When the contract requires laundry services on a bag type basis, reasonable per pound prices shall be identified by bag type.

(End of clause)

7-1401.7 *Storage and Handling.*

STORAGE AND HANDLING (1967 APR)

During the time Government-owned property is in the possession of the Contractor, it shall be adequately stored and protected. When contaminated hospital linen is furnished for service under this contract, it shall be handled separately from other articles.

(End of clause)

7-1401.8 *Vehicles.*

VEHICLES (1981 OCT)

Vehicles used in the transportation of items called for in this contract shall be clean, conform to commercial standards, and equipped to protect against contamination of the items. Such vehicles shall be subject to examination at all times by the Contracting Officer.

(End of clause)

7-1401.9 *Reserved.*

7-1401.10 *Reserved.*

7-1401.11 *Special Definitions of Government Property.*

SPECIAL DEFINITIONS OF GOVERNMENT PROPERTY (1967 APR)

(a) The term "Government-furnished property," as used in this contract, means any supplies or facilities furnished to the Contractor by the Government for use in connection with the performance of this contract, but does not include the articles delivered to the Contractor to be laundered or dry cleaned.

(b) The term "Government-owned property," as used in this contract, means all of the articles delivered to the Contractor to be laundered or dry cleaned, expressly including any articles which may actually be owned by individual Government personnel.

(End of clause)

7-1401.12 *Individual Laundry.* The following clause shall be inserted in any contracts which, pursuant to Departmental authority, provide for laundry service to individual personnel.

INDIVIDUAL LAUNDRY (1967 APR)

(a) The Contractor shall provide laundry service on both a unit bundle and on a piece-rate bundle basis for individual personnel when required by this contract. The total number of pieces listed in the column "Estimated Quantity" in the Schedule is the estimated amount of individual laundry for this contract, but does not constitute any representation as to the amount of individual laundry to be required. Individuals may elect whether they shall patronize the laundry services. Services covered by this provision shall be on a weekly basis and the schedule for pickup and delivery shall be as specified elsewhere in this contract. Charges for individual laundry shall be on a per unit bundle or a piece-rate basis as indicated on the form, to be furnished by the Contractor, accompanying the bundle at time of pickup.

(b) The maximum number of pieces to be allowed per bundle is as specified in the Schedule and as follows:*

(i) Bundle consisting of twenty-six (26) pieces including laundry bag. This bundle shall contain approximately ..... pieces of outer garments which are to be starched and pressed. Outer garments shall include but not be limited to cotton shirts, trousers, jackets, dresses, coats.

(ii) Bundle consisting of thirteen (13) pieces including laundry bag. This bundle shall contain approximately ..... pieces of outer garments which are to be starched and pressed. Outer garments shall include but not be limited to cotton shirts, trousers, jackets, dresses, coats.

(c) Individual laundry bundles shall be accompanied by forms listing the items contained therein, prepared by the patrons concerned. Forms on individual laundry bundles shall clearly identify unit bundle or piece-rate bundle as applicable when both services are provided by this contract.

(End of clause)

*The number of pieces and the composition of a bundle may be revised by the contracting officer prior to advertising to meet local conditions.

7-1401.13 *Right of First Refusal for Employment Openings.* In accordance with 4-1202, insert the clause in 7-104.104.

7-1401.14 *Maximum Weight Loss.* The following clause shall be included in all contracts for laundry services on a bulk weight basis.

MAXIMUM WEIGHT LOSS (1981 OCT)

The maximum weight loss allowable in servicing the laundry is _* percent of the weight recorded on delivery tickets, as set forth in the clause entitled "Weight of Articles," when the laundry is picked up. Any weight loss in excess of this amount shall be subject to the clause hereof entitled "Loss or Damage."

*Insert applicable percentage not to exceed eight percent (8%).

(End of clause)

that the work called for by this solicitation will require the use of such other classes, the wage rates applicable to them have not been reprinted herein. However, if any such classes of laborers or mechanics actually are employed to perform work under the contract resulting from this solicitation, payment will be required as specified in this clause entitled "*Davis-Bacon Act*" at wage rates contained in the complete decision of the Secretary of Labor. Offerors desiring the complete decision may request it from the Contracting Officer.

(End of clause)

7-2003.58 *Advertised Solicitations for Mortuary Services.* In accordance with 22-502, insert the following clause (appropriately modified for negotiated procurements) in solicitations for mortuary services.

AWARD TO SINGLE BIDDER (1965 OCT)

Subject to the provisions contained herein, award shall be made to a single bidder. Bids must include unit prices for each item listed in order that bids may be properly evaluated. Failure to do this shall be cause for rejection of the entire bid. Bids shall be evaluated on the basis of the estimated quantities shown and award shall be made to that responsible bidder whose total aggregate price is low.

(End of clause)

7-2003.59 *Provisions for Shipment or Storage of Personal Property* (see 22-600.3).

(a) The following provision for evaluation of bids shall be included in all solicitations.

EVALUATION OF BIDS (1977 APR)

(a) Bids will be evaluated on the basis of total aggregate price of all items within an area of performance under a given schedule. A bidder must bid on all items within a specified area of performance for a given schedule. Failure to do so shall be cause for rejection of the bid for that area of performance of that schedule. Any bid which stipulates minimum charges or graduated prices for any or all items shall be rejected for that area of performance within the schedule.

(b) In addition to other factors, bids will be evaluated on the basis of advantages or disadvantages to the Government that might result from making more than one award (multiple awards). For the purpose of making this evaluation, it will be assumed that the sum of $100 would be the administrative cost to the Government for issuing and administering each contract awarded under this invitation, and individual awards will be for the items and combinations of items which result in the lowest aggregate price to the Government, including such administrative costs.

(End of provision)

(b) When "additional services" items are added to any schedule, the following provision shall be included in the solicitation, (see 22-601.2(b)(ii)).

EVALUATION OF BIDS (1977 APR)

(a) Bids will be evaluated on the basis of total aggregate price of all items within an area of performance under a given schedule. A bidder must bid on all items within a specified area of performance for a given schedule. Failure to do so shall be cause for rejection of the bid for that area of performance of that schedule. Any bid which stipulates minimum charges or graduated prices for any or all items shall be rejected for that area of performance within the schedule.

(b) In addition to other factors, bids will be evaluated on the basis of advantages or disadvantages to the Government that might result from making more than one award (multiple awards). For the purpose of making this evaluation, it will be assumed that the sum of $100

would be the administrative cost to the Government for issuing and administering each contract awarded under this invitation, and individual awards will be for the items and combinations of items which result in the lowest aggregate price to the Government, including such administrative costs.

(c) Notwithstanding (a) above, when "additional services" are added to any schedule, such "additional services" items will not be considered in the evaluation of bids.

(End of clause)

(c) The following provision governing award shall be included in all solicitations.

AWARD (1977 APR)

Award shall be made to the qualified low bidder by area under each of the specified schedules to the extent of his stated guaranteed daily capability as provided herein and the clause entitled "*Estimated Quantities.*" The Government reserves the right to make an award of two or more areas to a single bidder if such award will result in an overall lower estimated cost to the Government. The Government also reserves the right to award additional contracts, as a result of this solicitation, to the extent necessary to meet its estimated maximum daily requirements.

(End of provision)

7-2003.60 *Solicitation Provisions for Laundry and Dry Cleaning Services.* See 22-703.

(a) When bids for laundry and dry cleaning services are solicited on a count of articles basis, include the following provision (appropriately modified to meet local conditions) in the solicitation.

INSTRUCTIONS TO BIDDERS (COUNT OF ARTICLES) (1981 OCT)

(a) Bids must include unit prices for each item in a lot. Unit prices must include all costs to the Government of providing the services, including pickup and delivery charges. Failure to bid on any item in a lot shall be cause for rejection of the bid on that lot. Bids shall be evaluated on the basis of the estimated quantities stated in the invitation. Subject to the provision contained herein, award generally shall be made to a single bidder for all lots. The Government reserves the right, however, to award by individual lot when the Contracting Officer determines that this is more advantageous to the Government.

(b) Upon application to the Contracting Officer, types of articles to be serviced may be inspected prior to bidding.

(End of provision)

(b) When bids for laundry and dry cleaning services are solicited on a bulk weight basis, include the following provision (appropriately modified to meet local conditions) in the solicitation.

INSTRUCTIONS TO BIDDERS (BULK WEIGHT) (1981 OCT)

(a) Bids must be submitted on a unit price per pound of serviced laundry. Unit prices must include all costs to the Government of providing the service, including pickup and delivery charges. Bids shall be evaluated on the basis of the estimated pounds of serviced laundry stated in the invitation. Subject to the provision contained herein, award generally shall be made to a single bidder

for all lots. The Government reserves the right, however, to award by individual lot when the Contracting Officer determines that this is more advantageous to the Government.

(b) Upon application to the Contracting Officer, types of articles to be serviced may be inspected prior to bidding.

(End of provision)

7-2003.61 *Predetermination of Rights in Technical Data.* In accordance with 9-202.2(d)(3), insert the following provision.

PREDETERMINATION OF RIGHTS IN TECHNICAL DATA (1976 JUL)

(a) The offeror is requested to identify in his proposal which of the below listed data (including data to be furnished in whole or in part by a subcontractor) when delivered, he intends to identify as limited rights data in accordance with paragraph (b) of the "Rights in Technical Data and Computer Software" clause of this Solicitation. This identification need not be made as to data which relate to standard commercial items which are manufactured by more than one source of supply.

(The Solicitation should list here that technical data or portions thereof with respect to which the Government proposes use of the predetermination procedure. Data which clearly comes within paragraph (b)(1) of the "Rights in Technical Data and Computer Software" clause and would therefore be acquired with unlimited rights should not be listed.)

(b) Limited rights data may be identified as such, pursuant to (a) above only if it pertains to items, components or processes developed at private expense. Nevertheless, it cannot be so identified if it comes within paragraph (b)(1) of the "Rights in Technical Data and Computer Software" clause. At the request of the Contracting Officer or his representative, the offeror

7-2003.91 *Certification of Handicapped Organizations.* In accordance with 2-201(a)Sec.K(xxi), 2-201(b)(lxiv), 3-501(b)Sec.K(xxiii), and 3-501(c)(lxvi), insert the following provision.

HANDICAPPED ORGANIZATIONS (1981 SEP)

The Offeror certifies that it is [ ] is not [ ] an organization eligible for assistance under section 7(h) of the Small Business Act (15 USC 636). An Offeror certifying in the affirmative is eligible to participate in any resultant contracts hereunder or any part thereof as if he were a small business concern as elsewhere defined in the solicitation. An organization to be eligible under section 7(h) of the Small Business Act must be one (i) organized under the laws of the United States or any state; (ii) operated in the interest of handicapped individuals; (iii) the net income of which does not inure in whole or part to the benefit of any shareholder or other individual; (iv) that complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; (v) that, during the fiscal year in which it bids upon a set-aside, employs handicapped individuals for not less than 75 per cent of the man-hours required for the production or provision of commodities or services; and (vi) that can qualify under the additional criteria prescribed in Section 118.11, SBA Rules and Regulations, 13 CFR 118.11. For purposes of this clause, the term "handicapped individual" means a person who has a physical, mental, or emotional impairment, defect, ailment, disease, or disability of a permanent nature which in any way limits the selection of any type of employment for which the person would otherwise be qualified or qualifiable.

(End of provision)

on Standard Form 28 as the amount of outstanding bond obligation of an individual surety may have a substantial bearing on the financial position of such individual surety. The contracting officer may determine that the total amount entered in block 10 should be deducted from the net worth figure entered on line g, block 7, to arrive at a more realistic net worth or he may determine to deduct nothing, or only a portion of the amount entered in block 10 if upon inquiry he discovers that the contracts on which the bonds were written are completed in part and suppliers and materialmen paid in part. Affidavits should be scrutinized closely by a contracting officer in any case where an individual surety is underwriting a bond for a principal for whom that surety has underwritten other outstanding bonds. If the contracting officer cannot make a determination of net worth on the basis of information furnished on Standard Form 28, he should require the individual surety to furnish additional information. As a general rule, the contracting officer should not require extrinsic evidence of an individual surety's net worth (other than Standard Form 28) unless Standard Form 28 is not filled out completely or properly, or unless the contracting officer has reason to believe that the individual surety's statements on Standard Form 28 do not reflect his true net worth.

(e) *Stockholders as Sureties.* On any bond of which a corporation is the principal obligor, a stockholder of that corporation is acceptable as cosurety on the bond; *provided*, that his net worth exclusive of his stock holdings or other interests, such as loans, in the corporation is equal to the amount for which he justified and *provided further*, that such fact is expressly stated in his affidavit of justification.

10-201.3 *Partnerships as Sureties.* A partnership or other unincorporated association, as such, shall not be accepted as surety. The individual members of the partnership or association may, if they meet the requirements of paragraph 10-201.2 above, qualify as sureties. Individual members of a partnership or association shall not be acceptable as sureties on bonds under which the partnership or association, or any copartner or member thereof, is the principal obligor.

10-201.4 *Substitution or Replacement of Surety.* In case of financial embarrassment, failure, or other disqualifying cause on the part of a surety, substitution of a new surety is required. In other cases, substitute sureties may be accepted, when consistent with the Government's interest (see 10-110).

10-202 Options in Lieu of Sureties for Performance and Payment Bonds. Any one or more of the types of security listed below may be deposited by the contractor in lieu of furnishing corporate or individual sureties on bonds. Any such security accepted by the contracting officer shall be promptly turned over to the disbursing officer concerned for other than Air Force contracts, and to the accounting and finance officer concerned for Air Force contracts, except that when United States bonds or notes are involved, they shall be deposited as provided in 10-202.1. Any such security or its equivalent shall be returned to the contractor when the obligation of the bond has by its terms ceased.

10-202.1 *United States Bonds or Notes.* In accordance with the provisions of the Act of 24 February 1919, as amended (6 U.S.C. 15) and Treasury Department Circular No. 154 (Revised, 31 October 1969), any person required to furnish a bond has the option, in lieu of furnishing surety or sureties thereon, of

depositing United States bonds or notes in an amount equal at their par value to the penal sum of the bond, together with an agreement authorizing the collection or sale of such United States bonds or notes in the event of default on the penal bond. The contracting officer may turn these securities over to the disbursing officer or accounting and finance officer as provided in 10-202, or deposit them with a Federal Reserve Bank, or Branch, having the requisite facilities, or other depository duly designated for that purpose by the Secretary of the Treasury.

10-202.2 *Certified or Cashier's Checks, Bank Drafts, Money Orders, or Currency.* Any person required to furnish a bond has the option, in lieu of furnishing surety or sureties thereon, of furnishing a certified or cashier's check, a bank draft, a Post Office money order, or currency, in an amount equal to the penal sum of the bond, which the contracting officer will immediately deposit with the appropriate activity named in 10-202. Certified or cashier's checks, bank drafts, or Post Office money orders shall be drawn to the order of the office designated for contract administration.

rentals, transportation, and gratuities, are unallowable. (But see 15-205.10 and 15-205.43).

15-205.12 *Cost of Idle Facilities and Idle Capacity.* (CWAS)

(a) As used in this paragraph, the words and phrases defined in this subparagraph (a) shall have the meanings set forth below.

(1) *Facilities* means plant or any portion thereof (inclusive of land integral to the operation); equipment individually or collectively; or any other tangible capital asset, wherever located, and whether owned or leased by the contractor.

(2) *Idle Facilities* means completely unused facilities that are excess to the contractor's current needs.

(3) *Idle Capacity* means the unused capacity of partially used facilities. It is the difference between that which a facility could achieve under 100 percent operating time on a one shift basis* less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays, and the extent to which the facility was actually used to meet demands during the accounting period.

*A multiple shift basis may be used if it can be shown that this amount of usage could normally be expected for the type of facility involved.

(4) *Costs of Idle Facilities or Idle Capacity* are costs such as maintenance, repair, housing, rent, and other related costs, *e.g.*, property taxes, insurance, and depreciation.

(b) The costs of idle facilities are unallowable except to the extent that:

(i) they are necessary to meet fluctuations in workload; or

(ii) although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, contractor efforts to produce more economically, reorganization, termination, or other causes which could not have been reasonably foreseen.

Under the exception stated in (ii) of this subparagraph (b), costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed one year, depending upon the initiative taken to use, lease, or dispose of such facilities (but see 15-205.42(b) and (e)).

(c) The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or overhead rates from period to period. Such costs are allowable, *provided* the capacity is reasonably anticipated to be necessary or was originally reasonable and is not subject to reduction or elimination by subletting, renting, or sale, in accordance with sound business, economics, or security practices. Widespread idle capacity throughout an entire plant or among a group of assets having substantially the same function may be idle facilities.

(d) Any costs to be paid directly by the Government for idle facilities or idle capacity reserved for defense mobilization production shall be the subject of a separate agreement.

15-205.13 *Fines and Penalties.* (CWAS-NA) Costs of fines and penalties resulting from violations of, or failure of the contractor to comply with, Federal, State, and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the contract, or instructions in writing from the contracting officer.

15-205.14 *Reserved.*

15-205.15 *Fringe Benefits.* See 15-205.6(g).

15-205.16 *Insurance and Indemnification (Purchased Insurance CWAS) (Self-Insurance CWAS-NA)*

(a) Insurance by purchase or by self-insuring includes (i) coverage which the contractor is required to carry, or which is approved, under the terms of the contract, and (ii) any other coverage which the contractor maintains in connection with the general conduct of his business. Any contractor desiring to establish a program of self-insurance applicable to contracts not subject to Cost Accounting Standard (CAS) 416 must comply with the self-insurance provisions of the Standard as well as Section X of this Regulation. Approval of a contractor's insurance program in accordance with Section X does not constitute a determination as to the allowability of the program's cost. The amount of insurance costs which may be allowed is subject to the cost limitations and exclusions set forth in the following subparagraphs.

(1) Costs of insurance required or approved, and maintained, pursuant to the contract, are allowable.

(2) Costs of other insurance maintained by the contractor in connection with the general conduct of his business are allowable subject to the following limitations:

(i) types and extent of coverage shall be in accordance with sound business practice and the rates and premiums shall be reasonable under the circumstances;

(ii) costs allowed for business interruption or other similar insurance shall be limited to exclude coverage of profit;

(iii) the cost of property insurance premiums for insurance coverage in excess of acquisition cost of the insured assets is allowable *provided* the contractor has a formal written policy assuring that in the event the insured property is involuntarily converted, the new asset shall be valued at the book value of the replaced asset plus or minus adjustments for differences between insurance proceeds and actual replacement cost. If the contractor does not have such a formal written policy, the cost of premiums for insurance coverage in excess of the acquisition cost of the insured asset is unallowable.

(iv) costs of insurance for the risk of loss of or damage to Government property are allowable only to the extent that the contractor is liable for such loss or damage and such insurance does not cover loss or

the duration of the function can be determined. Technological life may be used by the contractor if he can demonstrate that existing facilities must be replaced because of:

(i) specific program objectives or contract requirements which cannot be accomplished with the existing facilities;

(ii) cost reductions which will produce identifiable savings in production or overhead costs;

(iii) increase in workload volume which cannot be accomplished efficiently by modifying or augmenting existing facilities; or

(iv) consistent pattern of capacity operation (2 1/2-3 shifts) on existing facilities.

Technological advances per se will not justify replacement of existing facilities before the end of their physical life if such existing facilities will be able to satisfy future requirements or demands.

(2) In estimating the least cost to the Government for such useful life, the cumulative costs that would be allowed if the contractor owned the property should be compared with cumulative costs that would be allowed under any of the various types of leasing arrangements available. For the purposes of this comparison, the costs of ADPE exclude interest or other unallowable costs pursuant to Section XV, Part 2; they include but are not limited to the costs of operation, maintenance, insurance, depreciation, facilities capital cost of money, rental, and the cost of machine services, as applicable.

(d)(1) Except as provided in (3) below, the contractor's justification, under (b)(1) above, of his leasing decisions shall consist of but is not limited to the following supporting data, prepared prior to acquisition:

(i) analysis of utilization of existing ADPE;

(ii) application of the criteria in (b) above;

(iii) specific objectives or requirements, generally in the form of a data system study and data system specification;

(iv) solicitation of proposals from qualified sources based on the data system specification; and

(v) proposals received in response to the solicitation, and reasons for selection of the equipment chosen and for the decision to lease.

(2) Except as provided in (3) below, the contractor's annual justification, under (b)(2) above, of his decision to retain or change his existing ADPE capability and the need to continue leasing that capability shall consist of but is not limited to current data as specified in (i) through (iii) above.

(3) When a contractor's prospective ADPE lease cost equals or exceeds the thresholds specified in 15-205.48(b)(2)(iii), data in support of the initial decision to lease, under (b)(1) above, shall be furnished in accordance with 3-1100.3. If the total cost of leasing ADPE in a single plant, division, or cost center exceeds $500,000 per year, and 50% or more of the total leasing cost is allocated to Government contracts requiring the negotiation or determination of costs, data in support of the annual justification, under (b)(2) above, for retention or change of existing ADPE capability and the need to continue leasing that capability shall also be furnished in accordance with 3-1100.3.

15-205.49 *Deferred Research and Development Costs* (CWAS-NA). As used herein, research and development refers to the type of technical effort which is described in 15-205.35(a) but which is sponsored by, or required in performance of, a contract or grant. Research and development costs (including amounts capitalized) which were incurred prior to the award of a particular contract are unallowable except when allowable as precontract costs (see 15-205.30). In addition, when costs are incurred in excess of either the price of a contract or amount of a grant for research and development effort, such excess may not be allocated as a cost to any other Government contract (see 15-205.19).

15-205.50 *Facilities Capital Cost of Money* (CWAS-NA).

(a) Facilities capital cost of money (Cost of Capital Committed to Facilities) is an imputed cost determined by applying a cost of money rate to facilities capital employed in support of Defense contracts. A cost of money rate is derived from a common source and uniformly imputed to all contractors. Capital employed is determined without regard to its source as between equity or borrowed capital. The resulting cost of money is an imputed cost and is not a form of interest on borrowings as discussed in 15-205.17.

(b) Facilities capital cost of money is allowable cost *provided* (i) the contractor's capital investment is measured, allocated to contracts, and costed in accordance with 3-1300, and (ii) the contractor maintains adequate records to demonstrate compliance with item (i).

(c) Cost of money for facilities capital need not be entered on the company's books of account. However, a memorandum entry of the cost shall be made. All relevant schedules, cost data and other data necessary to fully support the entry shall be maintained in a manner to permit audit and verification.

(d) Cost of money which is calculated, allocated and documented in accordance with these regulations shall be deemed an "incurred cost" for cost reimbursement purposes pursuant to the payment provisions of applicable cost type contracts. See E-509.5 re: applicability of cost of money for progress payment purposes under fixed-price contracts.

15-205.51 *Lobbying Costs.*

(a) For the purpose of this section, lobbying is defined as any activity or communication which is intended or designed to directly influence or to engage in any campaign to encourage others to influence members of the Congress, their staffs, or the staffs of committees of the Congress to favor or oppose legislation, appropriations or other actions of the Congress, its members, or its committees, for the procurement of specific supplies or services by the federal government. Except as provided in (c) below, lobbying activity includes, but is not limited to, all forms of communications by the contractor, its employees, or its agents with the Congress, its members, and staffs of members and committees for the above-mentioned purpose.

(b) The costs of lobbying as defined herein, including the applicable portion of the salaries of the contractor's employees and the fees of individuals or firms engaged in lobbying, on behalf of the contractor (whether or not the

individuals or firms are registered as lobbyists under any applicable law) are unallowable. In addition, the directly associated costs (see 15-201.6) of lobbying are unallowable.

(c) Legislative liaison activities, such as attendance at committee hearings, gathering information regarding pending legislation, analysis of the effect of pending legislation, and the like are not lobbying and are allowable. In addition, communications that would be considered lobbying in accordance with (a) above shall be allowable if they are performed after receipt of an invitation or request from a congressional or executive branch source.

15-206 Notice of Intent to Disallow or Not Recognize Costs.

(a) *Purpose.* The clause entitled "*Notice of Intent to Disallow or Not Recognize Costs*" is a required clause for all cost-type contracts and fixed-price incentive contracts and contracts providing for price redetermination (*see 7-203.35*). A Notice of Intent to Disallow or Not Recognize Costs provides the basis under a contract for the contractor to appeal, prior to final settlement of costs of the contract, a determination of exception to costs either incurred or to be incurred. It thereby provides a vehicle for disputes to be settled in a more timely fashion.

(b) At any time during the performance of the contract, the cognizant contracting officer may issue a Notice of Intent to Disallow or Not Recognize Costs stating his intent to take exception to specific costs or portions thereof, under the contract. Usually, the decision to issue a Notice of Intent to Disallow or Not Recognize Costs results from activities performed through monitorship of contractors' cost (*see Section XX, Part 10*), or on advice of auditors or technical personnel. Also, the decision to issue a Notice of Intent to Disallow or Not Recognize Costs shall only be made after discussion between the contracting officer and the contractor. The notice should be specific as to the type of cost to which exception is taken, the amount of such exception (if applicable), reasons for exception, applicable time period of the exception, and should reference the Notice of Intent to Disallow or Not Recognize Costs clause of the contract. When such notification involves elements of indirect costs, the approval of the contracting officer haveing authority for final settlement of overhead shall be obtained prior to issuance of of the notice except that a Corporate Administrative Contracting Officer (CACO) need not obtain the approval of local cognizant ACOs for items of corporate exepnse. When the Notice of Intent to Disallow Not Recognize Costs is issued, the originating contracting officer (CACO or ACO) will distribute information copies to all administrative contracting officers cognizant of that corporation. The notice will allow the contractor sixty days in which to contest the exception in writing and provide justification why the proposed expediture is justifiable and reasonable. The ACO will then consider the contractor's position and shall within sixty days either modify his original position or issue a decision in writing under the Disputes clause of the contract. When elements of indirect cost are involved, such decision will be rendered by the contacting officer with authority for final overhead settlement (*see 3-700*).

(c) As a minimum the Notice of Intent to Disallow or Not Recognize Costs should contain the following information:

(i) contractor identification;
(ii) contract(s) affected;
(iii) description of cost exception(s);
(iv) estimated dollar value by item;
(v) reason(s) for the exception;
(vi) applicable time period(s) involved;
(vii) potential impact on billing rates and FPRAs;
(viii) effective date of notice;
(ix) provision for acknowledgment of receipt;
(x) date when formal reply must be received; and
(xi) recipients of copies of notice.

Block No.	*Title and/or Instructions*
10	For those awards utilizing an Accounting Classification Reference Number (ACRN) pursuant to ASPR 20-308.1, indicate the impact of the modification on each affected accounting classification by inserting one of the following entries: *ACRN: accounting classification* *Net increase $* ..... *ACRN: accounting classification* *Net decrease $* ..... **NOTE:** Should changes to multiple ACRN's occur on a modification which cannot be placed in Block 10, an asterisk and the words "*See Continuation Sheet*" should be inserted.
12	Amendments or modifications shall be set forth under appropriate UCF section headings from the applicable solicitation or contract document. A UCF table of contents shall not be set forth. Indicate the impact of the modification on the overall total contract price by inserting one of the following entries: *Total contract price increased by $*..... *Total contract price decreased by $*..... *Total contract price unchanged.*
13	If the modification is a Change Order (11(a)) or Administrative Change (11(b)), the first box in this block shall be checked, and the contractor's signature will not be required. If the modification is a Supplemental Agreement (11(c)), contractor's signature will be required, the second box shall be checked and the number of copies to be returned to issuing office shall be inserted, but see 1-706.6(d)(3), 1-706.7(e)(3), and 1-804.2(c)(3) when the form is being used for acceptance of an offer for a set-aside portion of a procurement.
17	Contracting Officer's signature is not required when amending a solicitation.

16-104.5 *Request for Quotations* (*Standard Form 18*). Instructions for block entries are as follows (applicable only when UCF is used):

Block No.	*Title and/or Instructions*
11-16	The UCF table of contents set forth in 2-201(a) and 3-501(b) with the applicable sections checked, shall be set forth immediately below Block 10 so as to replace the word "Schedule" and replace Blocks 11 through 16, including the headings. Section entries may commence immediately below the Table of Contents or they may commence on the first Continuation Sheet (Standard Form 36). In either event, all provisions shall be located under applicable UCF section headings.

Part 2—Additional Forms for Negotiated Contracts

16-200 Scope of Part. This Part describes additional forms for use where appropriate in conjunction with negotiated contracts for supplies or services.

16-201 Reserved.
16-202 Reserved.
16-203 Reserved.
16-204 Reserved.

16-205 General Provisions—Fixed-Price Supply Contracts (Standard Form 32).* Any negotiated contract to which Section VII, Part 1, is applicable will include Standard Form 32. The addition of other clauses set forth in Section VII, Part 1, or of other clauses not inconsistent with DAR, shall be accomplished by including such clauses as "Additional General Provisions" numbered consecutively. The deletion or modification of clauses contained in the "Additional General Provisions" shall be accomplished by appropriate reference or provision in an Alterations in Contract clause. These instructions must be read in conjunction with Section VII, Part 1, to make certain that current clauses are in use at all times.

*For DAR clause substitutions on Standard Form 32, Apr. 1975 edition, and Standard Form 32a, Jan. 1978 edition, see 16-101.

16-206 Contract Pricing Proposal Forms.

16-206.1 General.

(a) The DD Form 633 shall be used, except for negotiated final overhead rates and termination settlements, whenever cost or pricing data (see 3-807.7) is required. The data requirement, in 3-807 and 7-104.42, is in connection with the pricing of contracts, subcontracts (including prospective subcontracts), and changes or modifications to contracts or subcontracts. In accordance with the provisions of 3-807.7(b), the DD Form 633-7 shall be submitted whenever exemption from such cost or pricing data requirements is claimed for contracts or subcontracts by reason of established catalog or market prices (see 3-807.7(b)) or prices set by law or regulation.

(b) The purpose of DD Form 633 is to provide a vehicle whereby the offeror submits to the Government a pricing proposal of estimates and/or incurred costs by contract line item with supporting information, adequately cross-referenced, suitable for detailed analysis. Supporting cost element breakdowns must be obtained for each proposed line item. When more than one contract line item is proposed, summary total amounts, by cost element, covering all proposed line items, should also be obtained.

(c) When Contract Cost Data Reports are required by the purchase request, the contractor shall be required to submit DD Forms 1921 and/or 1921-1 to support the DD Form 633. The DD Forms 1921 shall be prepared in accordance with the Contractor Cost Data Reporting (CCDR) System (Army - AMCP 715-8, Navy - NAVMAT P5241, and Air Force - AFLCP/AFSCP 800-15). The contractor supporting data shall be prepared in such a manner as to support each cost element on the DD Form 1921-1.

(d) DD Form 783 (Royalty Report (Foreign and Domestic)) is approved for use as the separate schedule required by DD Form 633.

16-206.2 *Contract Pricing Proposal Supporting Schedules* may be devised by contracting offices to require such supporting data to the foregoing forms as is considered necessary and reasonable through knowledge of industry, company or commodity practices.

16-207 Reserved.

16-208 Weighted Guidelines Profit/Fee Objective (DD Form 1547).

16-208.1 *General.* Weighted Guidelines Profit/Fee Objective (DD Form 1547) is to be used, as appropriate, to facilitate calculation of the Weighted Guidelines Profit/Fee Objective (see 3-808.2).

16-208.2 *Conditions for Use.* DD Form 1547 may be used in conjunction with the Record of Price Negotiation required by 3-811(b), *provided* that the rationale used in assigning the various rates is fully documented.

Part 3—Purchase and Delivery Order Forms

16-300 Scope of Part. This Part prescribes forms for use (i) when purchases are authorized or required to be made by the purchase order or imprest fund method, (ii) as delivery orders, and (iii) as order against basic ordering agreements.

16-301 Receipt for Cash—Subvoucher (Standard Form 1165). Standard Form 1165 may be used in connection with procurements by the imprest fund (petty cash) method in accordance with 3-607.

16-302 Purchase Order — Invoice — Voucher (Standard Form 44). Standard Form 44 is authorized for use to accomplish small purchases in accordance with 3-608.9.

16-303 Order for Supplies or Services/Request for Quotations, (DD Forms 1155, 1155r, 1155r-1, and 1155c-1). Order for Supplies or Services/Request for Quotations, DD Form 1155 series, shall be used to accomplish small purchases in accordance with 3-608 and 16-402 and Blanket Purchase Agreements in accordance with 3-605, and may be used to place calls against Blanket Purchase Agreements in accordance with 3-605.5 and orders against basic ordering agreements in accordance with 3-410.2(a). Pending revision of the 1 MAR 1978 edition of DD Form 1155r, the *Fast Payment Procedure* clause in 7-104.84 shall be substituted for paragraph 15 of the form.

Part 4—Construction and Architect-Engineer Forms and Formats

16-400 Scope of Part. This Part prescribes forms and formats for use in construction and architect-engineer contracts and for dismantling, demolition and removal contracts.

16-401 Advertised Construction Contract Forms.

16-401.1 *General.* The following forms are prescribed for use in formally advertised construction contracts where the work is to be performed in the United States, its possessions, or Puerto Rico:

(i) Standard Form 19—Invitation, Bid and Award (Construction, Alteration or Repair). Pending revision of the July 1973 edition, the following provision shall be substituted for paragraph 6 of Standard Form 19:

> PAYMENTS TO CONTRACTOR (1976 OCT)
> Progress payments equal to the value of the work performed may be made monthly or at more frequent intervals as determined by the Contracting Officer on estimates approved by him. Upon payment therefor, title to the property shall vest in the Government, but this provision shall not be construed as relieving the Contractor from the sole responsibility for all material and work upon which payments have been made. The Contractor will notify the Government when all work is complete. Final payment will be made after final acceptance.
> (End of provision)

The Convict Labor clause in 7-104.17 shall be substituted for paragraph 10, and the following paragraphs shall be deleted:
13 Examination of Records by Comptroller General,
14 Utilization of Small Business Concerns, and
15 Utilization of Minority Business Enterprises.

(ii) Standard Form 19-A—Labor Standards Provisions—Applicable to Contracts in excess of $2,000. (For construction contracts in excess of $2,000 for work in U.S. possessions and Puerto Rico, see 18-703.2.) The following revisions shall be made in the November 1972 edition on the form:
the Davis-Bacon Act clause in 7-602.23(a)(i) shall be substituted for paragraph 1;
the Apprentices and Trainees clause in 7-602.23(a)(iii) shall be substituted for paragraph 3;
the Payrolls and Basic Records clause in 7-602.23(a)(iv) shall be substituted for paragraph 4; and
the Withholding of Funds clause in 7-602.23(a)(vi) shall be substituted for paragraph 6.

(iii) Standard Form 19-B—Representations and Certifications (Construction and Architect-Engineer Contract).

(iv) Standard Form 20—Invitation for Bids (Construction Contract).

(v) Standard Form 21—Bid Form (Construction Contract).

(vi) Standard Form 22—Instructions to Bidders (Construction Contract). The Late Bids provision in 7-2002.2 shall be substituted for paragraphs 7 and 8 of Standard Form 22.

(vii) Standard Form 23—Construction Contract.

(viii) Standard Form 23-A—General Provisions (Construction Contract). The following revisions shall be made in the April 1975 edition of the form:
the Payments to Contractor clause in 7-602.7 shall be substituted for paragraph 7;
the Shop Drawings clause in 7-602.54 shall be substituted for paragraph 15;
the Convict Labor clause in 7-104.17 shall be substituted for paragraph 28;
the Buy American Act clause in 7-602.20 shall be substituted for paragraph 24; and
the appropriate Federal, State and Local Taxes clause in 7-103.10 shall be substituted for paragraph 31.

(ix) Standard Form 30—Amendment of Solicitation / Modification of Contract. (The use of this form is optional for amendment of a solicitation.)

(x) *Continuation Sheet.* There is no prescribed form of Continuation Sheet for construction contracts. A blank sheet, incorporating (A) the contract or invitation number, as appropriate; (B) page number and number of pages; and (C) name of bidder or contractor may be used for this purpose. Standard Form 36, Continuation Sheet (Supply Contract), shall not be used for construction contracts.

16-401.2 *Conditions for Use.*

(a) *Contracts Estimated Not To Exceed $2,000.* Standard Forms 19 (see 16-401.3(c), (d) and (f)), and 19-B shall be used for those contracts executed as a result of formal advertising. Standard Form 22 also may be used. Where it is indicated that the low bid may exceed $2,000, Standard Form 19-A, as modified in 16-401.1(ii), should be attached, the specifications should include the appropriate wage rate determination.

When Standard Form 19 is used, progress payments may be made if the period of performance is greater than one month. However, if the period of performance is less than one month or the total contract amount does not warrant progress payments, a single payment may be made, in which case the contracting officer may indicate completion and final acceptance of the contract work by a stamped and signed statement to that effect on the face of the standard form and forwarding it to the disbursing officer for payment. The following statement may be used for this purpose:

> I certify that the work and services furnished hereunder have been completed, inspected, accepted as conforming to the contract requirements, and the amount is correct and proper for payment.
>
> .....
> *Signature and Title of Certifying Officer*

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(b) *Contracts Estimated To Exceed $2,000 But Not To Exceed $10,000.* Standard Forms 19 (see 16-401.3(c), (d) and (f)), 19-A, as modified in 16-401.1(ii), and 19-B may be used for these construction contracts executed as a result of formal advertising. Standard Form 22 also may be used. In the alternative, the forms prescribed in (c) below may be used. The additional language set forth in (a) above shall be inserted in the bid portion of Standard Form 19 prior to issuance of the invitation. If the successful bid exceeds $10,000, the contract may be executed on the Standard Form 19 but it will be necessary to add the clauses in:

7-103.10(a) (*Federal, State, and Local Taxes*),
7-103.18(a) (*Equal Opportunity*) unless exempted by 12-805,
7-104.14(a) (*Utilization of Small Business Concerns*),
7-104.15 (*Examination of Records by Comptroller General*), and
7-104.36(a) (*Utilization of Minority Business Enterprises*).

A statement to this effect should be included in the invitation; see 2-201(b)(xlvi). If there are factors which create a good possibility that the successful bid will exceed $10,000, a contracting officer should use the forms prescribed in (c) below for contracts estimated to exceed $10,000.

(c) *Contracts Estimated To Exceed $10,000.* Standard Forms 19-A, 19-B, 20, 21, 22, 23, and 23-A shall be used for these construction contracts executed as a result of formal advertising. Strict compliance with the following instructions is required.

(i) *Standard Form 19-A.* This form, as modified in 16-401.1(ii), shall be attached to the contract file. Caution This form consists of labor standards provisions and shall not be incorporated by reference.

(ii) *Standard Form 19-B.* This form shall be completed by the bidder and shall be attached to the contract file.

(iii) *Standard Form 20 (Invitation for Bids).* Bidders shall be requested to return not more than two signed copies of their bids. This form shall be completed by inserting the appropriate data on the face of the form. See 18-202 and the following:

(1) *Information Regarding Bidding Material, Bid Guarantee and Bonds.* Insert the following paragraphs on the face of the form for contracts expected to exceed $25,000:

(A) *Bid Bonds.* Each bidder shall submit with his bid a Bid Bond (Standard Form 24) with good and sufficient surety or sureties acceptable to the Government, or other security as provided in paragraph 4 of Instructions to Bidders (Standard Form 22) in the form of twenty per cent (20%) of the bid price or $3,000,000 whichever is lesser. The bid bond penalty may be expressed in terms of a percentage of the bid price or may be expressed in dollars and cents.

(B) *Performance and Payment Bonds.* Within ..... days after the prescribed forms are presented to the bidder to whom award is made for signature, a written contract on the form prescribed by the specifications shall be executed and two bonds, each with good and sufficient surety or sureties acceptable to the Government, furnished; namely a Performance Bond (Standard Form 25) and a Payment Bond (Standard Form 25-A). The penal sums of such bonds will be as follows:

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I. *Performance Bond.* The penal sum of the performance bond shall equal ..... per cent (.....%) of the contract price. (Insert the appropriate per cent determined in accordance with the provisions of 10-103.1(a)).

II. *Payment Bond.*

a When the contract price is $1,000,000 or less, the penal sum will be fifty per cent (50%) of the contract price.

b When the contract price is in excess of $1,000,000 but not more than $5,000,000, the penal sum shall be forty per cent (40%) of the contract price.

c When the contract price is more than $5,000,000, the penal sum shall be $2,500,000.

Any bonds furnished will be furnished by the contractor to the Government prior to commencement of contract performance.

(2) *Additional Information for Bidders.*

(A) Additional information and instructions may be given to bidders by using the reverse side of Standard Form 20 or continuation sheets. If used, the reverse side of Standard Form 20, and each continuation sheet used, shall be headed:
READ THE FOLLOWING IN CONJUNCTION WITH THE INSTRUCTIONS TO BIDDERS, STANDARD FORM 22.

(B) When required by the instructions pertaining to the various paragraphs or by the procuring activity, a paragraph shall be inserted advising prospective bidders where complete drawings and specifications may be examined or copies obtained, information as to the charge, if any, to be made for the drawings and specifications, and the conditions under which they may be obtained. If a charge is made for the drawings and specifications, the following sentences shall be included: "Payment will be made by cash or check, or money order and delivered to the Finance and Accounting Officer, ... Checks and money orders should be made payable to the office designated for contract administration."

(C) Paragraph 10 of Standard Form 22, Instructions to Bidders reserves in the Government the right to accept any item or combination of items of a bid, unless precluded by the invitation for bids or the bidder includes in his bid a restrictive limitation. However, in unit price contracts, although the work is set out in "items" for pay purposes, the nature of the work is not normally such that multiple awards can be made on the basis of such items. Accordingly, for purposes of award, the work should be set up on a basis of schedules, each schedule comprised of a group of items

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18-308 Audit as a Pricing Aid. See 3-809.
18-309 Record of Price Negotiations. See 3-811.

CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Part 4—Architect-Engineer Selection Procedures

18-401 Scope of Part. This Part contains the general principles and procedures for the selection of architect-engineer firms for contracts for professional services, except for such services performed in connection with Army Civil Works projects. Discussion of specific areas affecting such services will be found under the paragraphs of this Section dealing with those areas.

18-402 Selection.

18-402.1 *Selection Policy.* As provided by Section 902 of Public Law 92-582, approved October 27, 1972, it is the policy of the Federal Government to publicly announce all requirements for architect-engineer services, and to negotiate contracts for such services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices. The selection of architect-engineer firms for professional services contracts shall be accomplished in accordance with the procedures set forth in this part. Such selection shall not be based upon competitive bidding procedures, but rather upon the professional qualifications necessary for the satisfactory performance of the services required, subject to the following additional considerations:

(i) specialized experience of the firm in the type of work required;
(ii) capacity of the firm to accomplish the work in the required time;
(iii) past experience, if any, of the firm with respect to performance on Department of Defense contracts;
(iv) location of the firm in the general geographical area of the project, provided that there is an appropriate number of qualified firms therein for consideration; and
(v) volume of work previously awarded to the firm by the Department of Defense, with the object of effecting an equitable distribution of Department of Defense architect-engineer contracts among qualified architect-engineer firms including small and small disadvantaged business firms and firms that have not had prior Department of Defense contracts.

18-402.2 *Selection Procedures.* The procedures listed below shall be used in the selection of architect-engineer firms for all architect-engineer contracts to be awarded in the United States and, to the extent practicable, in the rest of the world.

(a) All selection actions, including preselection, shall be under the cognizance of the construction activity responsible for the work.

(b) For contracts estimated to cost more than $2,500, criteria which will be used to evaluate the qualifications of the architect-engineer firms to be considered should be established in advance. In addition to the general considerations listed in 18-402.1, the criteria should be specific as to desired qualifications, size and expertise of staff, required past experience, and, as appropriate, esthetic considerations, special conceptual or design elements, and related factors. The information contained in the DD Form 1391 for the construction project, if applicable, should be used in preparing the criteria.

(c) Prior to any preselection or selection action, the cognizant construction activity shall assure that public announcement has been made in accordance with 1-1003.4(b)(2). The criteria established in accordance with (b) above shall be set forth in such announcement, in accordance with 1-1003.9(h).

period. A transit credit represents the transportation cost for a recorded tonnage from an initial shipping point to an intermediate destination (*e.g.*, bidder's plant or shipping point) for storage, processing or other purpose. Upon reshipment to the Government destination, the remaining freight cost between the contractor's initial point and the destination points in the schedule may be lower than the cost of treating the tonnage as a new shipment. Actual lower costs which can be realized by the Government through utilization of such transit credits shall be used in bid evaluation. Even though there may be Government acceptance at origin, shipments to which transit credits apply will be required to be made on prepaid commercial bills of lading, *provided* that this does not preclude a proper change in delivery terms pursuant to the Changes clause. Normally, when transit credits apply, the contract, although f.o.b. origin, will require the contractor to pay the transportation charges on shipments to which the transit credits apply subject to reimbursement by the Government (total freight costs from bidder's original source for the supplies, via his plant to the Government destination, less the amount previously paid for transportation to his plant, plus the usual transit privilege charge). Such shipments move for the account of and at the risk of the Government, and become Government property upon Government acceptance at origin. The contractor shall show the transportation and transit charges as a separate amount on the invoice for each individual transited shipment. The amount reimbursed by the Government shall not exceed the amount quoted in the bid (offer and used for evaluation). Each such invoice shall be supported by the carrier's receipt indicating that total freight charges have been or will be paid by the contractor. When supplies are of such nature, or it is the custom of the trade that bidders may have potential transit credits available, the "*Transportation Transit Privilege Credits*" provision in 7-2003.18 shall be included in the solicitation.

19-207 Mode of Transportation. Generally, solicitations shall not specify a particular method or mode of transportation or a particular carrier for delivery of supplies. When special types of transportation equipment or limited facilities for delivery and receipt of supplies at destination permit the use of only one mode of transportation, such special delivery requirements may, after referral to the appropriate transportation office, be the basis for:

(i) controlling the method or mode of transportation by specifying only f.o.b. origin as the place of delivery, or

(ii) specifying the special delivery requirements in f.o.b. destination procurements (see 19-211).

19-208 Solicitation Provisions Covering FOB Point.

19-208.1 *General.*

(a) Solicitations in which bids or offers may be submitted both f.o.b. origin or f.o.b. destination in accordance with 19-104.2(b), shall include so much of the information required by 19-208.2, 19-208.3 and 19-211 as is pertinent to the particular procurement. They shall provide that bids or proposals may be submitted on either or both bases and they will be evaluated on the basis of the lowest overall cost to the Government.

(b) The "*Evaluation of Export Bids (or Proposals)*" provision in 7-2003.20 shall be included in the solicitation when the supplies are to be purchased in accordance with 19-213.1 for ultimate delivery to known destinations outside the United States, and it has been determined that other ports, in addition to a primary port, can be used.

19-208.2 *FOB Origin.*

(a) Whenever the supplies will or may be delivered f.o.b. origin, the clauses in 7-104.70 and 7-104.85 shall be included in the contract. Generally, solicitations for supplies which will or may be purchased f.o.b. origin shall provide for delivery in carload or truckload lots (see 19-209) f.o.b. carrier's equipment, wharf, or freight station (as specified by the Government), at a city or shipping point to be specified by the bidder or offeror. This will enable the military traffic management offices, when issuing routing instructions, to select the mode of transportation which will provide the required service at the lowest overall cost. When f.o.b. origin bids (offers) only are desired, the solicitation shall specify that any bids (offers) submitted on any other basis shall be rejected as nonresponsive.

(b) Solicitations which include the clause in 7-104.70 may include the "*F.O.B. Origin (With Differentials)*" provision in 7-2003.19 when it is believed that a prospective contractor is likely to include in his f.o.b. origin price a contingency to compensate for what may be for him an unfavorable routing condition which the Government has the option to specify at the time of shipment. Such routing condition (*e.g.*, delivery to rail car, wharf, etc.) due to the location of the prospective contractor's plant, lack of rail siding, etc., impose on him a substantial expense above his "at plant" or "commercial shipping point" price. Accordingly, the provision in 7-2003.19 is intended to permit prospective contractors to state in bids or offers a reimbursable differential which represents their cost of bringing the supplies to any f.o.b. origin place of delivery specified at the time of shipment by the Government. The provision is appropriate if:

(i) the loading nature of the supplies, such as wheeled vehicles, and/or the different methods of shipment specified by the Government; *i.e.*, towaway, driveaway, tri-level vehicle, rail car, etc., may increase the contractor's cost in varying amounts for bringing the supplies to, or loading and bracing the supplies at, the specified place of delivery;

(ii) the contractor's f.o.b. origin shipping point is a purt city served by United States inland, coastwise or intercoastal water transportation, and additional costs would be incurred by the contractor to make delivery f.o.b. a wharf in such city to accommodate water routing specified by the Government; or

(iii) the contractor's plant does not have a private rail siding and to ship by Government specified rail routing, the contractor would be required to deliver the supplies to a public siding or freight terminal, and to load, brace, and install dunnage in rail cars.

(c) Land methods of transportation by regulated common carrier are the normal means of transportation used by the Government between points in the continental United States. Accordingly, the "*Evaluation—F.O.B. Origin*" provision in 7-2003.23 shall be included in f.o.b. origin solicitation to establish the means the Government will use in applying transportation costs for evaluation. However, when it is appropriate to use other methods of transportation in evaluating bids or proposals, *e.g.*, air, pipeline, seavan container, or barge and ocean tanker for bulk commodities, the provision may be modified accordingly.

19-208.3 *FOB Destination.*

(a) When the supplies will or may be purchased f.o.b. destination (see 19-104.2(d)), the clause in 7-104.71 shall be included in the contract. When only f.o.b. destination bids or proposals are desired, the solicitation shall specify that bids or offers submitted on a basis other than f.o.b. destination will be rejected as nonresponsive. When the supplies will or may be purchased f.o.b. destination and inspection and acceptance will be at origin, the contract shall also include the clause in 7-104.76.

(b) When procurement is on an f.o.b. destination basis, special care shall be taken to observe the requirements of 14-305.3 as to place of inspection; also see 14-306 and 14-307 as to place of acceptance.

19-208.4 *Destination Unknown.*

(a) When the exact destination of the supplies to be purchased is not known, but the general location of the expected users can be reasonably established, the purchase request shall designate a place or places as the tentative point(s) to which transportation costs will be computed, stating estimated quantities for each tentative destination. The solicitation shall provide that bids or proposals shall be submitted f.o.b. origin only (see 19-104.2(c)(1)(ii)) and that shipment shall be made on Government bills of lading. The clause contained in 7-104.70 and the "*Destination Unknown*" and the "*F.O.B. Origin — Carload and Truckload Shipments*" provisions in 7-2003.24(a) and (b) shall be included to:

(i) establish that destinations are tentative and only for the purpose of evaluating bids or proposals;

(ii) establish that bids (offers) will be solicited on basis of f.o.b. origin only; and

(iii) control subsequent shipping weights.

(b) When the purchasing office and the requesting activity determine that it is impracticable to estimate any tentative or general delivery points for the purpose of evaluating transportation costs, proposals shall be solicited f.o.b. origin only (see 19-104.2(c)(1)(ii)) and evaluation will be made without regard for transportation costs. In such cases, insert the provision in 7-2003.70 in the solicitation.

The contract file shall be documented with justification for such solicitation provision and this paragraph shall be cited. The clauses in 7-104.70 and 7-104.72 shall be included in the contract.

19-209 Required Shipping Weights. Solicitations which may result in f.o.b. origin contracts shall include the "*F.O.B. Origin — Carload and truckload Shipments*" provision in 7-2003.24(b). This will provide agreement as to appropriate freight costs for evaluation of bids or proposals, and assure that contractors produce economical shipments of agreed size (see 19-208.2(a)).

19-210 Guaranteed Shipping Weights and Dimensions. When shipping weights and dimensions are required to evaluate offers as to transportation costs, the "*Guaranteed Maximum Shipping Weights and Dimensions*" provision in 7-2003.16 shall be included in the solicitation.

19-211 Transportation Responsibilities of Contractors.

(a) The clause in 7-104.73 shall be included in contracts for supplies which may be shipped in carload lots by rail. The clause specifies that carload shipments shall be loaded, blocked and braced by the contractor in accordance with standards published by the Association of American Railroads.

(b) If the nature of the supplies or safety, environmental, or transportability factors require special methods for securing the supplies on the carrier's equipment, or only a special mode of transportation or type vehicle is appropriate (see 19-103), the solicitation shall set forth such detailed methods.

19-212 Shipping Point(s) Used in Evaluation of FOB Origin Bids. The "*Shipping Point(s) Used in Evaluation of F.O.B. Origin Bids (Or Proposals)*" provision in 7-2003.24(c) shall be included in solicitations which may result in f.o.b. origin contracts to assure application of appropriate freight costs in evaluating bids or proposals. This provision should be supported by an additional provision as part of the solicitation, to require prospective contractors to specify the location of their actual shipping point(s) (street address, city, state, and zip code) from which supplies will be delivered to the Government in accordance with the contract's f.o.b. origin terms. To assure appropriate rail routing for shipments from or to the contractor's shipping point, each prospective contractor shall also be required to specify whether his shipping point has a private railroad siding and the name of the rail carrier serving it. When the shipping point does not have a private siding, the name and address of the nearest public rail siding and carrier serving it shall be specified.

19-213 Shipments to Ports.

19-213.1 *Solicitation/Contract Provisions.*

(a) When supplies are for known destinations outside the continental United States, the CONUS port of loading or point of exit (aerial or water) and the Water Port of Debarkation which serves the overseas destination shall be listed in the solicitation for transportation evaluation purposes.

(b) When a contract will not generate any shipment for which an Export Release is required (less than 10,000 lbs., etc.; see paragraph 202024 of the Military Traffic Management Regulation (AR 55-355, NAVSUP Pub 444, MCO 4600.14, DSAR 4500.3), hereafter referred to as MTMR), only the CONUS ports which serve the overseas destination shall be listed in the solicitation (see DoD Regulation 4500.32-R, Appendix G).

(c) Except for contracts to which (b) above applies, other CONUS ports which meet the eligibility criteria compatible with the nature and quantity of the supplies, their destination, type of carrier required, and specified overseas delivery dates also may be listed in the solicitation for evaluation purposes. This will permit bidders or offerors, who are geographically remote from the port which normally serves the overseas destination, to be competitive as far as transportation costs are concerned. Ports of loading to be included in the solicitation may be determined through coordination with the headquarters of the Military Traffic Management Command serving the area in which the purchasing office is located.

(d) Unless logistics requirements limit the ports of loading to those ports listed in the solicitation, the solicitation shall provide that the bidder or offeror may nominate additional ports (including ports in Alaska and Hawaii) more favorably located to his shipping point, and that these ports shall be considered in the evaluation of bids or proposals; *provided*, however, that these ports must possess all requisite capabilities of the listed ports in relation to the supplies being procured. Under these circumstances, the "*Evaluation of Export Bids (Or*

Part 3—Evaluation of Bids and Proposals

19-301 Transportation Rates and Related Costs To Be Used.

19-301.1 *General.*

(a) To afford proper analysis and consideration of transportation factors, the contracting officer shall consider transportation rates and related costs in the evaluation of f.o.b. origin bids and proposals. The best available transportation rates and related costs in effect or to become effective prior to the expected date of initial shipment and on file or published at the date of the bid opening, shall be used in the evaluation. However, when transportation rates and related costs which cover the traffic are filed or published after the bid opening or proposal due date and there were no applicable rates or costs in existence on that date, these rates and costs shall be so identified by the area headquarters of Military Traffic Management Command (MTMC) or the Military Sealift Command (see 19-301.2) and shall be used in the evaluation (see 16-822).

(b) When Government property is to be furnished and shipped by the Government under a contract to a point specified by the prospective supplier in his bid or proposal, transportation costs shall be a cost factor in the evaluation of bids, or proposals.

19-301.2 *Sources of Transportation Rates and Related Costs.*

(a) Land and air rates; inland, coastwise, and intercoastal water rates; ocean rates and costs, including seavan container rates and costs; port handling charges; and related information pertaining to supplies moving to or from either overseas points or points within the continental United States shall be obtained from the appropriate area headquarters of MTMC by the transportation or traffic management office which supports the contracting officer. However, rates and costs applicable to shipments of bulk petroleum via ocean tanker transportation should be obtained from the Military Sealift Command.

(b) Rates and related costs for all supplies to be shipped between points outside of the continental United States, including Alaska and Hawaii, shall be obtained from the Headquarters of the Military Service which sponsors the cargo. Requests should be directed as follows:

Army	Deputy Chief of Staff for Logistics, Department of the Army, ATTN: LOG/MM-SSD, Washington, D. C. 20310.
Navy	Naval Supply Systems Command, Code 05, Washington, D. C. 20390.
Air Force	Applicable overseas Air Force Command.
Marine Corps	Director, Transportation Division, HQ, U.S. Marine Corps, COS, Washington, D. C. 20380.

(c) Requests for rates and related costs for the evaluation of bids or proposals shall include the bid opening or proposal due date and the expected date of initial shipment, if established.

(d) The locations and geographical areas of jurisdiction of each area headquarters of the MTMC are listed in Chapter 108 of the MTMR.

Part 4—Contract Administration

19-401 Traffic Management for Contract Administration. The transportation office of the contract administration office shall have access to or be furnished a copy of the contract, including modifications thereto. When the transportation data regarding f.o.b. origin contracts are insufficient for Government transportation purposes (see 19-202), the contract administration office shall obtain the data used in the evaluation of the bid or proposal from the purchasing office. This will assure that instructions to contractors result in the most efficient and economical use of carrier services and equipment. Transportation personnel are responsible for:

(i) furnishing timely routings and releases for port shipments;
(ii) monitoring shipments to provide for carload or truckload quantities when practicable;
(iii) controlling and issuing Government bills of lading and determining proper freight classification descriptions;
(iv) reviewing documentation to assure the proper distribution and validation of shipping documents;
(v) advising as to the effect proposed changes will have on transportation costs;
(vi) determining, for the contract requirements, the size and capabilities of carrier's equipment to be ordered, based on the need for special shipping arrangements for oversize and overweight or dangerous supplies;
(vii) developing information and reporting movements that may be the basis for negotiating special rates for volume movements or for rate adjustments (see 19-402);
(viii) exercising control of irregularities in packing, loading, loss and damage causes, sealing of vehicles, and documentation of weights;
(ix) providing information on use of transit arrangements;
(x) recommending prepayment, when appropriate, by contractor for f.o.b. origin shipments or parcel post (see 19-403.2 and 19-403.3);
(xi) diverting, reconsigning, tracing, and expediting shipments;
(xii) functioning to control new shipping situations or meet emergency requirements which arise during contract administration; and
(xiii) considering the capabilities of the contractors for performing the foregoing and utilizing these capabilities when appropriate; and
(xiv) utilizing routings through established consolidation stations when it is in the best interest of the Government.

19-402 Volume Movements Within the Continental United States.

(a) Volume movement means the aggregate of one or more freight shipments to move during the contract period, amounting to or exceeding 25 carloads, 25 truckloads, or 500,000 pounds, from one point of origin for delivery to one destination point or area. On FMS shipments, the aggregate will be 200,000 pounds or more.

(b) As soon as production schedules and planned destinations have been established after award, the transportation office serving the purchasing office shall review contracts and report planned volume movement in accordance with

the Military Traffic Management Regulation (AR 55-355, NAVSUP Pub 444, AFM 75-2, MCO 4600.14, DSAR 4500.3). A copy of the volume movement report shall be forwarded to the contract administration office. On FMS shipments, include destination country, foreign freight forwarder and port of embarkation (if known).

(c) The transportation office serving the contract administration office will submit required volume movement reports (see 19-401 (vii)) when:

(i) upon review of contract it is determined that no volume movement report has been submitted by the purchasing office; or
(ii) movement requirements are refined or changed to such a degree that a revised volume movement report should be submitted.

(d) Reporting of volume movements will permit a determination of the reasonableness of applicable current rates, and when appropriate, negotiation of adjusted or modified rates, in accordance with the above regulation.

19-403 Shipping Documents Covering FOB Origin Shipments.

19-403.1 *Government Bills of Lading.* Except as provided in 19-403.2, when a contract provides that supplies be delivered f.o.b. origin, with transportation costs to be paid by the Government, shipments shall be made on Government bills of lading, or on other shipping documents prescribed by MTMC in the case of seavan containers, furnished to the contractor by the contract administration office. The contracting officer shall not authorize the contractor to ship on a commercial bill of lading for conversion to a Government bill of lading unless delivery is extremely urgent and Government bills of lading are not readily available (see 16-822 and 16-823).

19-403.2 *Use of Prepaid Commercial Bills of Lading.*

(a) When economical or otherwise justified, the contracting officer or his representative may authorize the contractor to make the following f.o.b. origin freight or express shipments (if they have no security classification) at Government expense on prepaid commercial bills of lading to domestic destinations, including United States military air terminals and water terminals:

(i) shipments not exceeding 150 pounds by any form of commercial air transportation (because of restrictions imposed by air carriers, a package weighing more than 100 pounds or measuring more than 44 x 24 x 30 inches should not be tendered to a commercial air carrier unless it is known that it will be accepted;
(ii) shipments not exceeding 250 pounds by railway express or bus express (because of restrictions imposed by bus express carriers, a package weighing more than 100 pounds or measuring more than 45 x 24 x 24 inches should not be tendered to the bus express carrier unless it is known that it will be accepted;
(iii) shipments not exceeding 1,000 pounds by other common carriers; or
(iv) shipments by common carriers, other than specified in (i) and (ii) above, which can be consolidated with the contractor's own prepaid shipments for delivery to one or more destinations; *provided* that, all appropriate f.o.b. origin shipments, under one or more Government

Part 5—Contract Administration Services for non-DoD Organizations

20-501 General. Contract administration services similar in nature to those being performed for Department of Defense organizations may be performed also for other organizations pursuant to the procedures in this part. These services include quality assurance, engineering support, production progressing, pre-award surveys, price/cost analysis, termination, property administration, plant clearance, industrial security, small business industrial labor relations, transportation, contractor payment, and equal employment opportunity contract compliance review. A more detailed listing of tasks involving most of the above services is contained in 1-406.

20-502 Procedures for Performance. Department of Defense procedures will be utilized in performing contract administration services for other than Department of Defense organizations except when otherwise agreed between such organizations and the Department of Defense. To keep the number of such agreements to a minimum, nondefense organizations should be encouraged to accept Department of Defense contract administration procedures.

20-503 United States Government Departments, Agencies and Corporations. Department of Defense contract administration services components shall, upon direct request, provide contract administration services to:

(i) the National Aeronautics and Space Administration in accordance with the DoD-NASA Agreement (DoDI 5030.42); and

(ii) other United States Government Departments and Agencies to the maximum extent permitted by available resources. Requests for services from U.S. Government agencies other than NASA may be declined on a case-by-case basis if resources are inadequate to accomplish delegated tasks, provided the decision is made by an official above the level of the contract administration office.

20-504 Department of National Defence Production (Canada). In accordance with Section VI, Part 5, Department of Defense components shall upon direct request, provide contract administration services to the Department of National Defence Production (Canada). Performance for other Canadian Government organizations shall be in accordance with 20-505.

20-505 Foreign Governments and International Agencies.

20-505.1 *Performance of Services in the United States.* Department of Defense contract administration services components shall, on receipt of requests from the DoD Central Control Point, provide contract administration services to foreign governments and international organizations who are making direct purchases from United States producers. "Direct purchase" is the purchase of defense supplies in the United States by a foreign government or contractor or international organization in which the supplies are purchased through commercial channels for use by the foreign government or international organization.

20-505.2 *Operations of DoD Central Control Point (CCP).* Requests from foreign governments and international organizations shall be forwarded to the Defense Control Administration Services Region (DCASR), New York, N.Y., which is the designated CCP. The CCP will:

(i) determine that the request is from a friendly foreign government or from an international agency in which the United States is a participant;

(ii) determine that the services requested are consistent with Department of Defense mutual security program policies (Questions as to eligibility of foreign governments or international organizations to receive services from DoD contract administration services components will be referred to the Assistant Secretary of Defense (International Security Affairs));

(iii) assure that the reimbursement arrangements are consistent with 20-506;

(iv) determine that the requested services can be provided, and acknowledge receipt of the request;

(v) distribute the procurement documents and related material to the cognizant contract administration services component, receive statements of costs from performing contract administration services components, bill the foreign governments or international organizations for services rendered, and distribute the remittance when received.

20-505.3 *Performance of Services Outside the United States.* When services are performed by Department of Defense contract administration services personnel outside the United States, the levels of technical capability and the administrative procedures, not already prescribed in existing laws or Department of Defense policies shall be in accordance with arrangements suitable and acceptable to the United States country teams or commanders of unified and specified commands, as appropriate.

20-506 Reimbursement. Reimbursement for services shall be required from non-DoD organizations covered by this part at the current standard rate determined by the Assistant Secretary of Defense (Comptroller). Although services will be performed for the Department of National Defence Production (Canada) on a non-reimbursable basis, normal charges shall be required for work performed for all other agencies of the Canadian Government. Services performed for contracts awarded by the Small Business Administration in accordance with 1-705.5 will be on a non-reimbursable basis. Requests for other exceptions to the above reimbursement policy shall be submitted to the ASD (Comptroller) for resolution or approval when it can be shown that such exceptions are in the best interests of the U.S. Government.

meet cost as necessary when ordered by the Contracting Officer. Minor repair such as replacement of bolts, reseiling and rebonding shall be accomplished at no expense to the Government.
Area .....

Est Annual Qty	Unit	Unit Price	Total
_____	on place	_____	_____

(Repeat for additional areas as needed.)

Items 25-28 Reserved (See 22-402(b).)

RECAPITULATION SCHEDULE II

Schedule Total—Area ..... $.....
(Repeat for each area listed.)

SCHEDULE III INTRA-CITY AND INTRA-AREA MOVERS

Item 29. *Complete Service for Intra-City and Intra-Area Moves.* Service shall include a promove survey, servicing of appliances, packing at owner's residence to protect household goods properly during transit, tagging of items, inventorying, loading, weighing, drayage, unloading, unpacking, and placing of each article in owner's residence (new) as directed by owner or his designated representative and removal of all empty containers and materials from residence. Service shall be in conformance with provisions of MIL-P-22064 (SEA), except that all service shall be performed within times stipulated in clause entitled "Time Requirements."
Area .....

Est Annual Qty	Unit	Unit Price	Total
_____	NCWT	_____	_____

(Repeat for additional areas as needed.)

Item 30. *Storage.* Storage of articles shall be furnished incident to services performed under *Item 29* when ordered by the Contracting Officer. Storage charges apply for each 30-day period or fraction thereof. Date of release from storage shall not be considered in computation of storage charges.
Area .....

Est Annual Qty	Unit	Unit Price	Total
_____	NCWT	_____	_____

(Repeat for additional areas as needed.)
(Insert when required)

RECAPITULATION SCHEDULE III

Schedule Total—Area ..... $.....
(Repeat for each area listed.)

Part 7—Contracts for Laundry and Dry Cleaning Services

22-700 Scope of Part. This Part contains instructions for the preparation and use of contracts for laundry and dry cleaning services within the United States. It may be used as guidance in all other locations. Clauses for laundry and dry cleaning service contracts are set forth or referenced in Section VII, Part 14.

22-701 General Policy. Except for laundry and dry cleaning services acquired under small purchase procedures, the normal method of contracting for laundry and dry cleaning services shall be by formal advertising.

22-702 Selection of Count of Articles or Weight (unsorted or pre-sorted) Basis. Laundry services in support of hospitals may be acquired on the basis of (i) a count of articles or (ii) by bulk weight. Acquisitions by weight may be on either a pre-sorted (bag type) or unsorted (simple bulk weight) basis. The basis of acquisition shall be at the discretion of the requiring activity in conjunction with advice of the contracting officer based on consideration of such factors as price, administrative costs, aseptic requirements, risk of contamination/cross-contamination, volume and nature of articles to be serviced. All other laundry and dry cleaning services shall be acquired on a count of articles basis. Contracts on a count of articles basis shall include provisions substantially as set forth in 7-1401.5(a) and 7-1401.6(a). Contracts on a bulk weight basis shall include provisions substantially as set forth in 7-1401.5(b) (for bag type laundry), 7-1401.5(c) (for unsorted laundry), 7-1401.6(b), and 7-1401.7.

22-703 Solicitation Provisions. Solicitations for laundry and dry cleaning services shall include a provision similar to those set forth in 7-2003.60(a) for services to be provided on a count of articles basis and 7-2003.60(b) for services to be provided on a bulk weight basis.

22-704 *Schedule Format.* Set forth below are examples of schedule formats suitable for use in solicitations. The estimated quantities are only illustrative.

(a) Count of Articles.

Item No.	Item	Estimated Quantity for Contract Period	Unit	Unit Price	Estimated Amount
	LOT I *Laundering*				
0001	Pillowcase (P)	100,000	each		
0002	Nurse Uniform, with belt (S) (P) (OH)*	25,000	each		
0003	Slippers	50,000	pair		
	LOT II *Dry Cleaning*				
0004	Curtains	250	each		
0005	Drapes (P)	5,000	each		
	LOT III** *Individual Laundry*				
0006	Individual bundle (20 piece)	1,000	each		
0007	Individual bundle (10 piece)	1,000	each		
***					

* (S)—Starched, (P)—Pressed, (OH)—Item delivered on hanger (hanger included in Unit Price), and ( ) Other instructions as required.
** Include in contracts containing the Individual Laundry clause in 7-1401.12.
*** See Section XX, Part 3, for Line Item Numbering Procedures.

(b) Bulk Weight (Unsorted).

Item No.	Item	Estimated Quantity of Serviced Laundry for Contract Period	Unit	Unit Price	Estimated Amount
0001	Laundry Services for the items listed below.*	100,000	lb.		
	*The following articles are to be serviced. Separate prices are not to be submitted for these articles.				
	Towels, hand	40,000	lb.	NSP	
	Sheets	40,000	lb.	NSP	
	Wash Cloths	20,000	lb.	NSP	

(c) Bulk Weight (Bag Type).

Item No.	Item	Estimated Quantity of Serviced Laundry for Contract Period	Unit	Unit Price	Estimated Amount
0001	BAG TYPE I (Patient items: sheets, pillow cases.)	200,000	lb.		
0002	BAG TYPE II (Terry Type: Towels, wash cloths.)	100,000	lb.		
0003	BAG TYPE III (Surgical items: masks, caps, shirts.)	50,000	lb.		
0004	BAG TYPE IV CONTAMINATED (May include any or all items in above listed bag types.)	75,000	lb.		

(vi) the appropriateness of the type of subcontract used (see Section III, Part 4);
(vii) practices pertaining to small business, labor surplus area programs, and socio-economic programs (Section I, Parts 7 and 8);
(viii) the management of major subcontract programs;
(ix) compliance with the Cost Accounting Standards in awarding subcontracts (see Section III, Part 12);
(x) the evaluation of make-or-buy program (see Section III, Part 9); and
(xi) practices pertaining to subcontractor progress payments (Appendix E, Part 500).

(b) In reviewing the contractor's purchasing system, a determination shall be made as to whether subcontracting is done competitively to the maximum practicable extent. This requires ascertaining whether—
(i) a sufficient number of sources are solicited; and
(ii) subcontracting procedures provide other elements of adequate and effective price competition, including adequate descriptions of any factors to be evaluated and evaluation of all offers on a common basis.

(c) Decisions as to whether commercial items conform to the purpose and intent of the exemption from the requirement for a certificate of current cost and pricing data shall be analyzed.

23-104 Contractor Purchasing System Review Boards.

(a) When deemed necessary, Contractor Purchasing System Review Boards may be established in accordance with departmental procedures.

(b) If no board is to be convened, the report shall be forwarded directly to the ACO by the CPSR team captain.

(c) If it is determined that a review board is necessary, the report of the CPSR team shall be reviewed and evaluated by the board, which shall make appropriate recommendations to the ACO.

23-105 Granting, Continuing, Withholding, and Withdrawing Approval.

(a) The ACO is responsible for granting, continuing, withholding, or withdrawing approval of a contractor's purchasing system. The ACO shall approve a purchasing system only after a CPSR discloses that the contractor's purchasing policies and practices are efficient and provide adequate protection of the Government's interests. Approval of a system shall be withheld when there are major weaknesses or when the contractor is unable to provide sufficient information upon which an affirmative determination can be based. Conversely, approval shall not be withheld because of minor weaknesses. An approval may

be withdrawn at any time on the basis of a determination that there has been a deterioration of the contractor's purchasing system, or otherwise to protect the interests of the Government.

(b) The ACO should make an annual determination as to the approval status of a contractor's purchasing system except CWAS-qualified contractors, based on either a subsequent or surveillance review. However, it is not the intent of the Government, through no fault of the contractor, to unnecessarily interrupt continuance of a purchasing system approval. Therefore, the ACO may extend the approval of a contractor's purchasing system for an additional 90 days. Further extensions by the ACO will require written approval by the ACO's CPSR program management organization.

(c) The ACO shall give the contractor written notice granting, continuing, withholding, or withdrawing approval of his purchasing system. If the contractor's system is approved, the notification of approval shall be in substantially the following form:

TO: ..... (*Contractor*)

As a result of the ..... (*recent review or surveillance*) of your purchasing system at ..... (*identify the plant or plants involved*, you are advised of ..... (*insert "my approval" or "the continuation of the prior approval"*) of your purchasing system. This approval, effective ..... (*date*) is for a period of 1 year and applies to all of your contracts at the above plant or plants with the Department of Defense. This approval waives, to the extent provided in your contracts, the contractual requirements for prior consent by the Contracting Officer to the placement of certain subcontracts. In addition, it waives, to the extent provided in fixed-price contracts, the requirement for advance notification to the Contracting Officer of your intent to place certain subcontracts.

This approval does not eliminate the requirement under cost-reimbursement contracts for advance notification to the Contracting Officer of your intent to place proposed subcontracts where such notification is required, nor does it affect any contractual provisions that require prior consent to the placement of subcontracts, notwithstanding this approval of your purchasing system. (*If special*

and related recommendations; for followup, as necessary, to effect recommended improvements; and, when warranted by the findings, for rescinding approval of the contractor's purchasing system. The contractor must make available the necessary procedures and data to permit adequate surveillance.

(b) The surveillance plan shall encompass pertinent phases of the contractor's purchasing system *(Preaward/Postaward/Performance/Contract Completion)* and pertinent operations which impact the contractor's purchasing and subcontracting. As considered necessary, surveillance shall include:

(i) determination and limitation of requirements;
(ii) advance planning (market testing, source development, performance evaluations, program objectives, make-or-buy);
(iii) solicitation of proposals (development of solicitations, statement of work, specifications/drawings, facility surveys, financial analysis, preaward audits, terms and conditions, selection of contract type, establishing a competitive base, socio-economic consideration, bidders lists, presolicitation and indoctrination of potential bidders);
(iv) proposal evaluations (cost, technical, and management considerations);
(v) source selection (restrictive clauses, flowdown of prime contract provisions, compliance with Public Law 87-653 "Truth in Negotiations Act," compliance with Public Law 91-379 "Cost Accounting Standards," cost/price analysis/assist audits and cost studies, progress payments to subcontractors, changes in technical content of statement of work, fact finding and bidders conference);
(vi) provisioning, management influence and overriding consideration, documentation, compliance with 1-906 "Subcontractor Responsibility";
(vii) management approvals;
(viii) advance notification and consent requirements;
(ix) early definition (TWX and letter contracts);
(x) change control (timely and effective action);
(xi) engineering;
(xii) schedules;
(xiii) production;
(xiv) material control;
(xv) quality control and quality assurance;
(xvi) management reporting (advance payments, progress payments, cost performance, funding requirements, discounts, milestone and progress reports;

(xvii) management support (residencies, secondary administration, buyer control of commitments, buyer's role, subcontract management, subcontract modification, expediting, transportation, subcontractor system surveillance);
(xviii) contract completion (termination partial or complete, stopwork orders, default actions, excusable delays);
(xix) closeout actions;
(xx) postaward audits; and
(xxi) performance evaluation and reports (thorough review of all areas, including documentation for future business).

(c) The plan shall give appropriate consideration to the data furnished by the contractor when providing the required advance notification of intent to place certain subcontracts.

(d) Surveillance tests that require audit effort should be accomplished for the ACO by the contract auditor in conjunction with other audit duties.

(e) Certain subcontractors may require additional surveillance because of the emphasis in the flowdown of system acquisition policies in subcontracts, with particular concern for subcontractor cost, schedule, and technical performance. The contracting officer, the PSA, the review team, and/or subcontract management personnel may request assistance of the contract administration office having cognizance over the subcontractor to provide supplementary information as a means of verifying the information obtained from the contractor's records and, if needed, the request will call for a complete report on the subcontractor's purchasing system.

(f) Compatibility surveillance reviews shall be performed biennially at a CWAS-qualified contractor location to determine whether the purchasing techniques used for commercial and/or fixed-price competitive business are in compliance with statutory and contractual provisions. Major discrepancies should be brought to the attention of the contractor for corrective action. Failure to implement the ACO's recommendation applicable to major deficiencies should be considered as grounds for withdrawing approval of the contractor's purchasing system.

SECTION XXV

PRODUCTION SURVEILLANCE AND REPORTING

25-000 Scope of Section. This Section establishes the policies and procedures for production surveillance and production progress reporting.

25-001 Applicability. This Section applies to contracts for supplies and services, including research and development and overhaul and repair contracts. When a contract is retained for administration by the purchasing office (see 20-703), the contracting officer will determine the extent to which the Section applies. Facilities contracts (see Section XIII, Part 3) and construction contracts (see Section XVIII) are excluded from this Section.

25-002 General policies. It is the policy of the Department of Defense that the Government perform those production management functions necessary to provide the production or performance progress information required to protect the interests of the Government and fulfill the Government's contract obligations.

Part 1—Production Surveillance

25-101 Definitions.

25-101.1 *Production Surveillance* refers to that part of Government contract administration directed toward (i) determining the degree of progress made by a contractor in meeting his contract delivery or performance schedule and (ii) identifying factors which may delay delivery or performance. It includes, among other things, the review and analysis by the Government of a contractor's performance plans, schedules, controls and industrial processes.

25-101.2 *Criticality* refers to the degree of importance to the Government of supplies or services under contract.

25-101.3 *Delinquency* includes (i) actual failure by the contractor—that is, his failure, regardless of reason, to meet the contract delivery or performance schedule; and (ii) potential failure by the contractor—that is, his failure, regardless of reason, to maintain such progress in contract performance as is required to meet his contract delivery or performance schedule.

25-102 General. Timely delivery or performance ordinarily requires realistic and adequate planning and action on the part of the purchasing office, the contractor and the contract administration office. The purchasing office must determine the criticality of the supplies or services under contract. The contractor must translate contract requirements into orderly performance steps (*e.g.*, purchase of materials, fabrication of components, manufacture and assembly of end items, packaging and shipping). The contract administration office, on the other hand, must analyze and evaluate the contractor's plans and, in accordance with the designated criticality of the contract, determine the nature and extent of production surveillance required to provide performance progress information and assure timely progress or prevent or overcome any delinquency.

25-103 Assignment of Criticality Designator by Purchasing Office. Purchasing offices shall assign Criticality Designator A, B or C to each contract in accordance with the criteria given below and, if Designator A or B is assigned, shall include such designator on each contract in the space for designating the contract administration office. The assigned designator may be changed only by the purchasing office. The lowest designator consistent with the Government requirements shall be assigned. Ordinarily, unilateral purchase orders shall be assigned Criticality Designator C. This will permit the contract administration office to apply its resources most effectively toward meeting the Government's priorities.

Criticality Designator	*Criteria*
A	Contracts in one of the categories below: (i) for system and major systems acquisition programs as defined by DoDD 5000.1, Major System Acquisitions; (ii) which are DX rated; (iii) which are negotiated under Public Exigency (3-202);

Criticality Designator	*Criteria*
A (cont.)	(iv) for items on which a priority designator 01, 02, 03 or 06 has been assigned based on DoDD 4410.5, Uniform Materiel Movement and Issue Priority System; or (v) for nonstocked items which otherwise meet the criteria for Force Activity Designator I and Urgency of Need Designator A as defined in DoDD 4410.6.
B	Contracts not assigned Criticality Designator A, wherein time of delivery is essential: (i) to meet user needs for nonstock items; (ii) to preclude out-of-stock situations; or (iii) to preclude interruption to ongoing Government or contractor production or repair lines.
C	All other contracts which do not qualify under Criticality Designators A or B.

E-502.1 *Requests for Proposals.* Requests for proposals shall state that contract provision for progress payments will be made in conformity with regulations, and that the need for progress payments conforming to regulations will not be considered as a handicap or adverse factor in the award of contracts. Requests for proposals shall not state a liquidation rate for progress payments. See E-512.

E-503 Customary Progress Payments. Certain contracts may require contractor's predelivery or unbillable partial performance expenditures that will have a material impact on the contractor's working funds. These include production contracts which involve a long "lead time" or preparatory period between the beginning of work and the first production delivery, normally involving four months or more for small business concerns and six months or more for firms which are not small business concerns. They also include some contracts for research and development and some contracts for services which have a long time period, of approximately four months or more for small business concerns and six months or more for firms which are not small business concerns, between the beginning of work and the first opportunity to bill and receive payment for a significant element of contract performance. Progress payments are customary at (i) the uniform standard percentages of total costs (E-503.1, E-503.2) or flexible progress payment rates determined in accordance with E-530; (ii) the uniform cost base (E-509.5); (iii) the frequency of payment established in the progress payment clause (7-104.35); and (iv) the ordinary liquidation method (E-512.1) unless changed to the alternate method as provided in E-512.2 on this category of contracts and letter contracts contemplating a definitive fixed price type of contract. Length of lead time, or length of the time period within which billings for deliveries or for significant partial performance cannot be accomplished, are not a factor in qualifying letter contracts and their superseding definitive contracts for customary progress payments. Contract financing arrangements other than those set forth in this paragraph are regarded as unusual, and not within the category of customary progress payments (E-505).

The long lead time or preparatory period in these cases, and the accompanying predelivery or pre-partial performance billing expenditures that may have a material impact on the contractor's working funds, and the equivalent circumstances of letter contracts and their superseding definitive contracts, are regarded as making these customary progress payments reasonably necessary. The general preference for private financing is not applicable to this class of cases. Provision for customary progress payments will be made as a matter of course when requested by contractors who are known (from experience or adequate preaward investigation) to be reliable, competent, capable of satisfactory performance, in satisfactory financial condition, and to have an adequate accounting system and controls. In such cases, it is not necessary to require projections of cash receipts and expenditures or other demonstration of actual reasonable need for progress payments. However, in order to minimize administrative effort and expense, progress payments will be discouraged on relatively small contracts of the stronger and larger contractors who are not small business concerns, *e.g.*, contracts for less than $1,000,000, unless the circumstances of a group of such contracts, for contemporaneous performance, make such contracts the approximate

equivalent of a larger contract that would have a material impact on the contractor's working funds. If a small business concern, and the contract involved, meet the above standards for customary progress payments, the smallness of the contract shall not deter the making of provision for customary progress payments to such small business concerns.

E-503.1 *Uniform Standard Percentages.* The uniform standard progress payment rate is 90% of total costs for firms which are not small business concerns, and 95% for small business concerns, whether or not awarded by formal advertising. If flexible progress payment rates are not used, higher percentages will be regarded as unusual (E-505) and not within the category of customary progress payments. No percentage higher than the uniform standard progress payment may be offered in any solicitation unless approved in advance in accordance with E-505, or unless developed in accordance with flexible progress payment procedures (E-530).

E-503.2 *Uniform Standard Percentages — Foreign Military Sales (FMS) Contracts.*

(a) Progress payments made on FMS contracts are subject to the same policies as normal DoD contracts.

(b) On FMS requirements, the Arms Export Control Act requires the deposit of FMS customer cash in advance of related payments to contractors. In order to comply with this requirement, all FMS contracts with progress payments must contain the billing procedures described below. For these purposes, the contractor shall allocate costs between customer countries in a manner acceptable to the Administrative Contracting Officer that does not incur undue administrative expense. If more than one customer country is covered by a contract, the contractor shall submit one DD Form 1195 with a supporting schedule showing the portions of the total requested payment to be attributed to each country's requirement.

(c) When submitting requests, the contractor shall annotate the DD Form 1195 as follows:

(i) the line item numbers to which the request applies;
(ii) Item 5 shall refer to the total price of the items to which the request applies;
(iii) references to "total costs" shall be interpreted to mean the total costs associated with the items to which the request applies; and
(iv) in Item 14a, contractors shall include only those subcontractor costs which are applicable to the items for which the contractor is requiring payment.

E-503.3 *Indefinite Quantity Contracts—Basic Ordering Agreements.*

(a) For indefinite quantity contracts (3-409.3) and basic ordering agreements (3-410.2) contemplating requisitions, delivery orders, work orders, task orders, job orders or their equivalent, if the contractor meets all other requirements for customary progress payments, the decision as to whether progress payments come within the customary category will depend upon estimates of the amount of work expected to be done, and the production lead time expected to be necessary for the major part of the work anticipated. In these cases, provision for progress payments in the indefinite quantity contract or basic ordering agreement may be deemed customary if the amounts involved, and the production lead time, will result in the substantial equivalent of the customary progress payments. Insofar as practicable, the progress payment provision of an indefinite quantity contract or basic ordering agreement shall fix a single liquidation rate to be applicable to all procurement actions under that agreement. The standards for unusual progress payments govern when progress payments are not of the customary type.

(b) Progress payments made under indefinite quantity contracts and basic ordering agreements shall normally be processed on the basis of individual orders or calls. Alternatively, at the contractor's request, but with the specific approval of the ACO, provision may be made to process progress payments against the basic contract/agreement. Whenever the contract/agreement method is used, the contractor shall be required to submit a supporting schedule for each DD Form 1195, identifying the costs applicable to each call or order. Subject to the above restrictions, for progress payment purposes, all procurement actions under the basic contract, (1) involving progress payments on a procurement action, and (2) having a single uniform liquidation rate, and (3) for payment by a single paying office (1-201.30), may be grouped and aggregated so that the contract price, costs, payments and liquidations will be handled in the same way as if all such procurement actions constituted work under a single fixed-price type contract.

Except as provided above, for progress payment purposes, each order, call or equivalent procurement action, with progress payments, will be treated as a separate contract.

E-504 Formal Advertising and Small Business Restricted Advertising. Incident to formal advertising, invitations for bids shall provide for progress payments in the manner and under the circumstances stated below.

E-504.1 *Progress Payment Provision in Invitations for Bids.* When progress payments are contemplated, the invitation for bids shall include a notice of availa-

E-510 Contract Clause. Subject to the instructions in E-511 and E-512, the Progress Payment clauses in 7-104.35 shall be used when payments are to be made to a contractor based upon a percentage of costs. The clause contained in 7-104.35(a) shall be used in contracts with other than small business concerns. The clause contained in 7-104.35(b) shall be used in contracts with small business concerns.

E-510.1 *Progress Payment Clause for Other Than Small Business Concerns.* See 7-104.35(a).

E-510.2 *Progress Payment Clause for Small Business Concerns.* See 7-104.35(b).

E-511 Instructions for Progress Payment Clause. The instructions below apply to the clauses in 7-104.35.

E-511.1 *Contracting Officer.* The term *"contracting officer"* as used in this Part 5 means the contracting officer as defined in 1-201.3.

E-511.2 *Uniform Standard Percentages — Firms Not Small Business Concerns—Paragraphs (a) and (b) of Clause.* For contracts with contractors that are not small business concerns, except as provided in E-511.4, the figure of 90 percent stated in paragraphs (a)(1)(i), (a)(4)(i), (a)(4)(ii), (a)(5) and (b) of the clause in 7-104.35(a) is the uniform standard percentage for use in those paragraphs for all contracts, whether awarded on the basis of formal advertising or negotiation.

E-511.3 *Uniform Standard Percentages — Small Business Concerns—Paragraphs (a) and (b) of Clause.* For contracts with small business concerns, except as provided in E-511.4, a figure of 95 percent shall be specified in paragraphs (a)(1)(i), (a)(3)(i), (a)(3)(ii), (a)(4) and (b) of the clause in 7-104.35(b). This is the standard percentage for all contracts awarded to small businesses, whether on the basis of formal advertising (E-504.1, E-504.2, or E-504.3) or negotiation.

E-511.4 *Unusual Percentages.* For unusual progress payments (E-505), the percentage used for paragraph (a)(1)(i) of the clauses in 7-104.35 will also be specified in (a)(3)(i). For these contracts, if a percentage lower than the percentage used for (a)(1)(i) is stated in paragraph (b) of the clause pursuant to E-512.2, the exact percentage stated in (b) shall also be specified in paragraph (a)(3)(ii) and (a)(4) of the clause.

E-511.5 *Other Protective Provisions.* When deemed reasonably necessary for the protection of the Government, the clauses in 7-104.35 may be supplemented by additional protective provisions, such as personal or corporate guarantees, subordinations or standbys of indebtedness, special bank accounts, and other protective covenants of the kinds outlined in paragraph (18) of the clause in 7-104.34. When first article approval is required (Section I, Part 19), additional

protective provisions shall be used reciting that, until first article approval (1-1901), there shall be no progress payments, or that the aggregate of progress payments for first article costs shall be limited to a stated amount, or percentage (less than the percentage used in paragraph (a)(4) of the clause in 7-104.35(a) and paragraph (a)(3) of the clause in 7-104.35(b)) of the contract price.

E-511.6 *Provisional Increases in Contract Price.* Ordinarily, the definitized price shall be the basis for limiting the aggregate amount of progress payments within the meaning of "total contract price" as used in paragraph (a)(5) of the clause in 7-104.35(a) and paragraph (a)(4) of the clause in 7-104.35(b). An exception exists if the application of this limitation would result in an inability to pay progress payments for costs properly incurred for authorized but unpriced contractual actions pertaining to the definitized contract or in the case of incentive-type contracts, if the contractor's costs exceed the target price. When this exception exists, the contracting officer may make a provisional increase in the contract price for the purpose of paragraph (a)(5) of the clause in 7-104.35(a) and paragraph (a)(4) of the clause in 7-104.35(b). The provisional increase to the contract price shall not exceed the amount recorded as an obligation based upon the Government's estimate of its liability for those unpriced contractual actions.

E-512 Progress Payment Liquidation. Controlling principles for liquidation of progress payments based on costs, and for specification of a percentage in paragraph (b) of the clauses (7-104.35(a) & (b)) are set out below.

E-512.1 *Ordinary Method.* See E-511.2 and E-511.3. The percentages specified in E-511.2 and E-511.3 for paragraph (b) of the Progress Payment clauses (7-104.35) represent the ordinary method for liquidation of progress payments, i.e., the percentage for progress payments stated in (a)(1)(i) of each clause will also be the percentage for liquidation stated in (b) of such clause. However, when a contract is subject to a limitation on General and Administrative (G&A) expenses eligible for progress payments because a contractor elected to use the special transition method provided in Cost Accounting Standard 410, Allocation of Business Unit General and Administrative Expense to Final Cost Objectives, an adjusted ordinary liquidation rate will be used. The adjusted liquidation rate will be established by subtracting from the progress payment percentage stated in the contract, the percentage computed by multiplying the progress payment percentage

ILLUSTRATIVE MINIMUM PROGRESS PAYMENT LIQUIDATION RATES

Profit Rate	*Minimum Liquidation Rate, with Progress Payment Rate:* 80%	85%	90%	91%	92%	93%	94%	95%	96%	97%	98%	99%	100%
2.0	78.5	83.4	88.3	89.3	90.2	91.2	92.2	93.2	94.2	95.1	96.1	97.1	98.1
3.0	77.7	82.6	87.4	88.4	89.4	90.3	91.3	92.3	93.2	94.2	95.2	96.2	97.1
4.0	77.0	81.8	86.6	87.5	88.5	89.5	90.4	91.4	92.3	93.3	94.3	95.2	96.2
4.1	76.9	81.7	86.5	87.5	88.4	89.4	90.3	91.3	92.3	93.2	94.2	95.1	96.1
5.0	76.2	81.0	85.8	86.7	87.7	88.6	89.6	90.5	91.5	92.4	93.4	94.3	95.3
6.0	75.5	80.2	84.9	85.9	86.8	87.8	88.7	89.7	90.6	91.5	92.5	93.4	94.4
7.0	74.8	79.5	84.2	85.1	86.0	87.0	87.9	88.8	89.8	90.7	91.6	92.6	93.5
7.1	74.7	79.4	84.1	85.0	85.9	86.9	87.8	88.7	89.7	90.6	91.5	92.5	93.4
7.2	74.7	79.3	84.0	84.9	85.9	86.8	87.7	88.7	89.6	90.5	91.5	92.4	93.3
7.3	74.6	79.3	83.9	84.8	85.8	86.7	87.6	88.6	89.5	90.4	91.4	92.3	93.2
7.4	74.5	79.2	83.8	84.8	85.7	86.6	87.6	88.5	89.4	90.4	91.3	92.2	93.1
7.5	74.5	79.1	83.8	84.7	85.6	86.6	87.5	88.4	89.3	90.3	91.2	92.1	93.1
7.6	74.4	79.0	83.7	84.6	85.5	86.5	87.4	88.3	89.3	90.2	91.1	92.0	93.0
7.7	74.3	79.0	83.6	84.5	85.5	86.4	87.3	88.2	89.2	90.1	91.0	92.0	92.9
7.8	74.3	78.9	83.5	84.5	85.4	86.3	87.2	88.2	89.1	90.0	90.9	91.9	92.8
7.9	74.2	78.8	83.5	84.4	85.3	86.2	87.2	88.1	89.0	89.9	90.9	91.8	92.7
8.0	74.1	78.7	83.4	84.3	85.2	86.2	87.1	88.0	88.9	89.9	90.8	91.7	92.6
8.1	74.0	78.7	83.3	84.2	85.1	86.1	87.0	87.9	88.8	89.8	90.7	91.6	92.5
8.2	74.0	78.6	83.2	84.1	85.1	86.0	86.9	87.8	88.8	89.7	90.6	91.5	92.5
8.3	73.9	78.5	83.1	84.1	85.0	85.9	86.8	87.8	88.7	89.6	90.5	91.5	92.4
8.4	73.8	78.5	83.1	84.0	84.9	85.8	86.8	87.7	88.6	89.5	90.4	91.4	92.3
8.5	73.8	78.4	83.0	83.9	84.8	85.8	86.7	87.6	88.5	89.4	90.4	91.3	92.2
8.6	73.7	78.3	82.9	83.8	84.8	85.7	86.6	87.5	88.4	89.4	90.3	91.2	92.1
8.7	73.6	78.2	82.8	83.8	84.7	85.6	86.5	87.4	88.4	89.3	90.2	91.1	92.0
8.8	73.6	78.2	82.8	83.7	84.6	85.5	86.4	87.4	88.3	89.2	90.1	91.0	92.0
8.9	73.5	78.1	82.7	83.6	84.5	85.4	86.4	87.3	88.2	89.1	90.0	90.9	91.9
9.0	73.4	78.0	82.6	83.5	84.4	85.4	86.3	87.2	88.1	89.0	89.9	90.9	91.8
9.1	73.4	78.0	82.5	83.4	84.4	85.3	86.2	87.1	88.0	88.9	89.9	90.8	91.7
9.2	73.3	77.9	82.5	83.4	84.3	85.2	86.1	87.0	88.0	88.9	89.8	90.7	91.6
9.3	73.2	77.8	82.4	83.3	84.2	85.1	86.0	87.0	87.9	88.8	89.7	90.6	91.5
9.4	73.2	77.7	82.3	83.2	84.1	85.0	86.0	86.9	87.8	88.7	89.6	90.5	91.4
9.5	73.1	77.7	82.2	83.1	84.1	85.0	85.9	86.8	87.7	88.6	89.5	90.5	91.4
9.6	73.0	77.6	82.2	83.1	84.0	84.9	85.8	86.7	87.6	88.5	89.5	90.4	91.3
9.7	73.0	77.5	82.1	83.0	83.9	84.8	85.7	86.6	87.6	88.5	89.4	90.3	91.2
9.8	72.9	77.5	82.0	82.9	83.8	84.7	85.7	86.6	87.5	88.4	89.3	90.2	91.1
9.9	72.8	77.4	81.9	82.8	83.8	84.7	85.6	86.5	87.4	88.3	89.2	90.1	91.0
10.0	72.8	77.3	81.9	82.8	83.7	84.6	85.5	86.4	87.3	88.2	89.1	90.0	90.9
10.1	72.7	77.2	81.8	82.7	83.6	84.5	85.4	86.3	87.2	88.1	89.0	90.0	90.9
10.2	72.6	77.2	81.7	82.6	83.5	84.4	85.3	86.2	87.2	88.1	89.0	89.9	90.8
10.3	72.6	77.1	81.6	82.5	83.4	84.4	85.3	86.2	87.1	88.0	88.9	89.8	90.7
10.4	72.5	77.0	81.6	82.5	83.4	84.3	85.2	86.1	87.0	87.9	88.8	89.7	90.6
10.5	72.4	77.0	81.5	82.4	83.3	84.2	85.1	86.0	86.9	87.8	88.7	89.6	90.5
10.6	72.4	76.9	81.4	82.3	83.2	84.1	85.0	85.9	86.8	87.7	88.6	89.6	90.5
10.7	72.3	76.8	81.3	82.2	83.1	84.1	85.0	85.9	86.8	87.7	88.6	89.5	90.4

ILLUSTRATIVE MINIMUM PROGRESS PAYMENT LIQUIDATION RATES—*Continued*

Profit Rate	*Minimum Liquidation Rate, with Progress Payment Rate:* 80%	85%	90%	91%	92%	93%	94%	95%	96%	97%	98%	99%	100%
10.8	72.2	76.8	81.3	82.2	83.1	84.0	84.9	85.8	86.7	87.6	88.5	89.4	90.3
10.9	72.2	76.7	81.2	82.1	83.0	83.9	84.8	85.7	86.6	87.5	88.4	89.3	90.2
11.0	72.1	76.6	81.1	82.0	82.9	83.8	84.7	85.6	86.5	87.4	88.3	89.2	90.1
11.1	72.0	76.5	81.0	81.9	82.8	83.7	84.6	85.5	86.4	87.3	88.2	89.1	90.0
11.2	72.0	76.5	81.0	81.9	82.8	83.7	84.6	85.5	86.4	87.3	88.2	89.1	90.0
11.3	71.9	76.4	80.9	81.8	82.7	83.6	84.5	85.4	86.3	87.2	88.1	89.0	89.9
11.4	71.9	76.3	80.8	81.7	82.6	83.5	84.4	85.3	86.2	87.1	88.0	88.9	89.8
11.5	71.8	76.3	80.8	81.7	82.6	83.4	84.3	85.2	86.1	87.0	87.9	88.8	89.7
11.6	71.7	76.2	80.7	81.6	82.5	83.4	84.3	85.2	86.1	87.0	87.9	88.7	89.6
11.7	71.7	76.1	80.6	81.5	82.4	83.3	84.2	85.1	86.0	86.9	87.8	88.7	89.6
11.8	71.6	76.1	80.5	81.4	82.3	83.2	84.1	85.0	85.9	86.8	87.7	88.6	89.5
11.9	71.5	76.0	80.5	81.4	82.3	83.1	84.0	84.9	85.8	86.7	87.6	88.5	89.4
12.0	71.5	75.9	80.4	81.3	82.2	83.1	84.0	84.9	85.8	86.6	87.5	88.4	89.3
12.1	71.4	75.9	80.3	81.2	82.1	83.0	83.9	84.8	85.7	86.6	87.5	88.4	89.2
12.2	71.3	75.8	80.3	81.1	82.0	82.9	83.8	84.7	85.6	86.5	87.4	88.3	89.2
12.3	71.3	75.7	80.2	81.1	82.0	82.9	83.7	84.6	85.5	86.4	87.3	88.2	89.1
12.4	71.2	75.7	80.1	81.0	81.9	82.8	83.7	84.6	85.4	86.3	87.2	88.1	89.0
12.5	71.2	75.6	80.0	80.9	81.8	82.7	83.6	84.5	85.4	86.3	87.2	88.0	88.9
12.6	71.1	75.5	80.0	80.9	81.7	82.6	83.5	84.4	85.3	86.2	87.1	88.0	88.8
12.7	71.0	75.5	79.9	80.8	81.7	82.6	83.4	84.3	85.2	86.1	87.0	87.9	88.8
12.8	71.0	75.4	79.8	80.7	81.6	82.5	83.4	84.3	85.1	86.0	86.9	87.8	88.7
12.9	70.9	75.3	79.8	80.6	81.5	82.4	83.3	84.2	85.1	86.0	86.8	87.7	88.6
13.0	70.8	75.3	79.7	80.6	81.5	82.3	83.2	84.1	85.0	85.9	86.8	87.7	88.5
13.1	70.8	75.2	79.6	80.5	81.4	82.3	83.2	84.0	84.9	85.8	86.7	87.6	88.5
13.2	70.7	75.1	79.5	80.4	81.3	82.2	83.1	84.0	84.8	85.7	86.6	87.5	88.4
13.3	70.6	75.1	79.5	80.4	81.2	82.1	83.0	83.9	84.8	85.7	86.5	87.4	88.3
13.4	70.6	75.0	79.4	80.3	81.2	82.1	82.9	83.8	84.7	85.6	86.5	87.3	88.2
13.5	70.5	74.9	79.3	80.2	81.1	82.0	82.9	83.7	84.6	85.5	86.4	87.3	88.1
13.6	70.5	74.9	79.3	80.1	81.0	81.9	82.8	83.7	84.5	85.4	86.3	87.2	88.1
13.7	70.4	74.8	79.2	80.1	81.0	81.8	82.7	83.6	84.5	85.4	86.2	87.1	88.0
13.8	70.3	74.7	79.1	80.0	80.9	81.8	82.6	83.5	84.4	85.3	86.2	87.0	87.9
13.9	70.3	74.7	79.1	79.9	80.8	81.7	82.6	83.4	84.3	85.2	86.1	87.0	87.8
14.0	70.2	74.6	79.0	79.9	80.7	81.6	82.5	83.4	84.3	85.1	86.0	86.9	87.8
14.7	69.8	74.1	78.5	79.4	80.2	81.1	82.0	82.9	83.7	84.6	85.5	86.4	87.2
15.0	69.6	74.0	78.3	79.2	80.0	80.9	81.8	82.6	83.5	84.4	85.3	86.1	87.0
16.0	69.0	73.3	77.6	78.5	79.4	80.2	81.1	81.9	82.8	83.7	84.5	85.4	86.2
16.8	68.5	72.8	77.1	78.0	78.8	79.7	80.5	81.4	82.2	83.1	83.9	84.8	85.7
17.0	68.4	72.7	77.0	77.8	78.7	79.5	80.4	81.2	82.1	82.9	83.8	84.7	85.5
18.0	67.8	72.1	76.3	77.2	78.0	78.9	79.7	80.5	81.4	82.2	83.1	83.9	84.8
18.9	67.3	71.5	75.7	76.6	77.4	78.3	79.1	79.9	80.8	81.6	82.5	83.3	84.1
19.0	67.3	71.5	75.7	76.5	77.4	78.2	79.0	79.9	80.7	81.6	82.4	83.2	84.1
20.0	66.7	70.9	75.0	75.9	76.7	77.5	78.4	79.2	80.0	80.9	81.7	82.5	83.4

(d) Minimum liquidation rates will of course have to vary up or down from those shown in the above illustrative tables, for differing rates of projected profit and for the different percentages for progress payments.

(e) It must be recognized that, on FMS contracts that include requirements for more than one country, it will be necessary to apply a different liquidation rate on delivery billings for each country's requirements for which a different profit percentage is expected. The different liquidation rates will be calculated in accordance with guidance contained in the preceding paragraphs.

(f) When a contract is subject to a limitation on General and Administrative (G&A) expenses eligible for progress payments because a contractor elected to use the special transition method provided in Cost Accounting Standard 410, an adjusted alternate liquidation rate will be used. The adjusted alternate liquidation rate will be established by subtracting the estimated G&A costs not eligible for progress payments from total estimated contract costs. For example, if the price is $1,100,000, cost is $1,000,000 and unbilled G&A $47,600, the liquidation rate would be calculated as follows:

$$\frac{(1{,}000{,}000 - 47{,}600)}{1{,}100{,}000} \times 80\% = 69.26\%$$

Use 69.3%

E-516 Provisional Delivery Payments. Provision may be made for provisional billings and payments for items delivered to and accepted by the Government (i) on letter contracts contemplating a definitive fixed-price type of contract, (ii) on orders under basic ordering agreements, (iii) on spares provisioning documents annexed to contracts, and (iv) on fixed-price contracts for increases in contract price for unpriced equitable adjustments. These provisional delivery billing prices should of course be without prejudice to definitive or final contract pricing. They should be set conservatively so as to cover no more than the costs fairly attributable to items to be delivered and accepted, taking into account prospective total costs and quantities contemplated for (i) the letter contract and the definitive contract, or (ii) for all orders reasonably expected to be placed under the basic ordering agreement, or (iii) pursuant to the spares provisioning document and the contract of which it has become a part, or (iv) increase in price for unpriced equitable adjustments. These total provisional payments of course cannot exceed the amount obligated on the letter contract or on each order under a basic ordering agreement, incident to execution of a spares provisioning document, or the obligation based upon the Government's estimate of its liability for the equitable adjustment and compliance with the conditions of E-511.6. Provisional billings for deliveries are of course subject to deductions for liquidation of progress payments, (paragraph (b) of the clause in 7-104.35(a)).

E-517 Contract Financing Office Clearance. The following types of provisions for progress payments require submission through channels and prior approval by the contract financing office (E-212):

(i) Those involving progress payments at rates exceeding the uniform standard rates authorized by E-503 and E-504, unless developed in accordance with E-530;

(ii) Those involving deviations, as defined in E-509.9;

(iii) Those exceptional cases involving unusual risks, described in E-212;

(iv) Those involving contractors as to whom it is known that within the preceding 12 months (1) request for advance payments has been denied for financial reasons by the contract financing office, or (2) application for guarantee of a loan to the contractor or for increase or extension of maturity of a guaranteed loan, has been disapproved for financial reasons, or (3) an approved application for guarantee of a loan or for advance payment to the contractor has lapsed or has been withdrawn;

(v) Those involving contractors named on the consolidated list of contractors indebted to the United States, commonly known as the "Hold-Up List"; and

(vi) Those involving contracts in which progress payments were not specifically provided for at the time such contract was initially entered into, and which payments will exceed $25,000,000 (*see E-500.3 and E-505*).

E-518 Coordination. The coordination described in the third subparagraph of E-505 is required for all cases mentioned in items (i), (ii), and (vi) of E-517.

E-518.1 *Control Lists.* To give effect to E-517(iv), pertinent information will be exchanged between the several contract financing offices and distributed through normal channels to contracting officers.

E-518.2 *Hold-Up List.* To give effect to E-517(v), and for other proper purposes, the "Hold-Up List" there mentioned will be distributed through normal channels to contracting officers.

E-519 Contractor's Request. The Contractor's Request for Progress Payment (DD Form 1195) set forth in F-200.1195, with any supporting information that may be reasonably required will be used in lieu of an invoice when requesting progress payments on contracts containing the Progress Payments clause (7-104.35) and on contracts containing any deviation from that clause approved pursuant to E-517 and E-518. The use of this form is subject to the instructions set forth on the reverse thereof.

E-520 Audit. For the making of progress payments, principal reliance will be placed on the adequacy of the contractor's accounting system and controls (E-506) and on the reliability of the contractor's certificates. To conserve administrative effort, hold down expense, and promote prompt payment of proper progress billings, audit before the making of progress payments will be kept to the minimum necessary for the protection of the interest of the Government. Preaudit, that is, audit before the making of a progress payment, will be limited to those situations in which there is reason to question the reliability or accuracy of the contractor's certificate, or reason to believe that the contract will involve a loss. Where the adequacy and reliability of the contractor's accounting system and controls have been established in accordance with E-506, there shall be no requirement for preaudit of the first progress billing under new contracts. Postreview or postaudit will be made when considered desirable by the contracting officer to determine the validity of any progress payment made on the contractor's certifications.

E-521 Administration—General. Progress Payment clauses cannot be self-executing, and require careful administration to insure against overpayments and losses. In all cases the physical progress of the work should be evaluated periodically to assure that the progress payments are fairly supported by the value of the work actually accomplished on the undelivered portion of the contract in conformity with the contract requirements. Also, the unliquidated progress payments should not be permitted to exceed the percentage specified in the contract, of the costs forming the base for progress payments, applicable only to the partially finished undelivered portion of the contract. It is necessary for adequate supervision of progress payments that the administering office keep itself informed concerning the contractor's overall operations and financial condition, since difficulties encountered and losses suffered in operations outside the particular progress payment contract may affect adversely the performance of that contract and the liquidation of the progress payments. For contracts with those contractors whose financial condition is doubtful or not strong in relation to progress payments outstanding or to be outstanding, or whose management is of doubtful capacity or whose accounting controls are found by experience to be weak, or who are encountering substantial difficulties in performance, full information concerning both the progress under the contracts involved (including the status of subcontracts), and concerning the contractor's other operations and financial condition, should be obtained and analyzed at frequent intervals, with a view to the better protection of the interest of the Government and the taking of such action as may be proper to make contract performance more certain. If there is reason to doubt only minor elements of the costs involved in a progress billing, only the doubtful amounts should be withheld, subject to later adjustment, and the amount clearly

E-529.6 *Approval.* Because milestone billing arrangements are measures to accommodate particular situations, special review and approval of such arrangements are considered necessary. Responsibility and authority for approving milestone billing arrangement terms and conditions shall be the Assistant Secretary responsible for the Comptroller function in each Military Department; such authority may be delegated to a level no lower than the contract financing office at Departmental Headquarters.

E-530 Flexible Progress Payments.

E-530.1 *Background and Policy.* Paying progress payments assists in financing a contractor's performance and reduces the contractor's investment in its work in process inventory. The actual investment held by a contractor in work in process inventory is influenced by a number of factors in addition to progress payments, such as delivery schedules, cash management practices, and Government payment practices. Progress payment amounts that are determined by using uniform, standard progress payment rates (i.e., 90% or 95% under E-503) are insensitive to these other factors influencing investment and, as a consequence, result in investments by contractors in work in process inventory that vary among contractors and across contracts; on the other hand, flexible progress payment rates (expressed as a percentage that will be applied to costs to determine the amount payable as a progress payment in the same manner as uniform, standard progress payment rates) are designed to tailor more closely the progress payment rate to the cash needs for financing performance of a particular contractor for a given contract.

For flexible progress payments, cash needs are measured and projected in relation to investment underlying the work in process inventory over the life of the contract. Total investment is measured by a weighted average of total costs paid by the contractor to complete performance of the contract, and the contractor's investment is the weighted average of the amount not paid by the Government. The Department of Defense (DoD), as a matter of policy, has concluded that a contractor should retain at least a 5% investment in work in process inventory over the life of the contract. Accordingly, the DoD will make progress payments at a rate (expressed as a whole number) that is the highest rate which yields a corresponding investment by the contractor in work in process inventory of not less than 5%. This progress payment rate is to be determined by the DoD Cash Flow Computer Model. In no event will the progress payment rate be greater than 100%, or less than the uniform, standard progress payment rate that would have been applied to the contract absent flexible progress payments.

Contracting officers shall use a flexible progress payment rate in lieu of uniform, standard progress payment rates for the purpose of computing monthly progress payments if requested by the contractor, if the criteria in E-530.3 are met, and if the contractor agrees to the requirements of this section. No more than one progress payment rate may be applied to the contract at any given time. Flexible progress payments shall be regarded as customary progress payments, as defined in E-503.

E-530.2 *DoD Cash Flow Computer Model.* The flexible progress payment rate shall be determined through application of the DoD Cash Flow Computer Model, available to contracting officers on the COPPER IMPACT computer time sharing network under the computer file name "CASH." The executing command is "RUN CASH." The model takes into account key cash flow factors, such as contract cost profile, delivery schedules, subcontractor progress payments, liquidation rates, and payment/reimbursement cycles. Operating instructions and cash flow data requirements are retrievable within the model in a conversational mode. Contractors may obtain copies of the DoD Cash Flow Computer Model User's Guide (including the related computer program) from the Defense Technical Information Center, Building 5, Cameron Station, Alexandria, VA 22314. Contracting officers may not grant contractor access to Government leased COPPER IMPACT time sharing computer network.

E-530.3 *Criteria for Use.* Contractors who submit certified cost or pricing data, as defined in 3-807.3, for negotiated fixed-price contracts in excess of $1 million may request flexible progress payments. Formally advertised contracts are not eligible for flexible progress payments. Flexible progress payments are not available for contracts awarded and performed entirely outside of the United States, its possessions and territories.

E-530.4 *Procedures.* Contractors will furnish to the contracting officer cash flow data in the form and context specified by the DoD Cash Flow Computer Model. These data include: actual and projected incurred cost broken down by element of cost and by month for the duration of the contract, float times for each element of cost, progress payment receipts and delivery payment receipts and associated contract prices and profit percentage. Contracting officers will verify the cash flow data in accordance with normal procedures used to verify contractor cost and pricing data.

Administrative contracting officers are encouraged to establish advance agreements at contractor locations for float and payment lag which are common to several contracts. Such agreements should be established when administratively practical.

E-530.5 *Progress Payment Rate Redetermination.* A redetermination of the flexible progress payment rate shall be made upon the request of the Government or the contractor if measurement of the contractor's cumulative investment in work in process inventory using actual and projected cash flow data indicates an investment level above 7% or below 3%. The cash flow computer model is designed to generate a progress payment rate that yields a target investment of 5%, based on a weighted average. Accordingly, there should normally be no need to request actual and projected contract cash flow data unless delivery schedules are revised, Government progress payment lag times are substantially changed from those used in the establishment of the progress payment rate, or substantial new work (e.g., option) is added to the contract.

E-530.6 *Administration.* Flexible progress payments will be administered in accordance with the provisions of E-521 through E-528.

E-530.7 *Subcontractor Progress Payments.* As noted in E-513, the standards for progress payments to subcontractors ought to be the same as those applicable to prime contractors. Accordingly, subcontractors who request a flexible progress payment rate, meet the criteria in E-530.3 and agree to the requirements of this section are to receive a flexible progress payment rate. The subcontract flexible progress payment rate will be determined by the prime contractor without regard to the progress payment rate in the prime contract. The DoD Cash Flow Computer Model and associated procedures will be used by the prime contractor and a reasonable review of the cash flow data provided by the subcontractor will be made. Procurement System Reviews conducted in accordance with 23-100 will include a review of a prime contractor's practices in this area.

E-530.8 *Contractual Implementation.* When a flexible progress payment rate is used in the contract, contracting officers will include in the schedule the clause at 7-104.35(c).

Part 6—Contract Debts—Interest—Deferred Payments

E-600 Scope. This Part provides uniform policies and procedure for the ascertainment and collection of contract debts, for the charging of interest thereon, for deferral of payments, for compromise and termination of certain claims, and for reporting of contractor bankruptcies. Except as specified herein, it applies to all indebtedness arising in connection with contracts for procurement of property or services, contracts for sale or use of Government property, and from charges for Government services.

E-600.1 Exclusion and Limitation. This Part does not apply to claims of the Government against military or civilian employees or their dependents, arising in connection with current or past employment by the Government. Its provisions concerning interest and deferral of payments and compromise or termination of certain claims do not apply to indebtedness resulting from statutory renegotiation, nor to claim against common carriers for transportation overcharges or freight or cargo loss or damage.

E-600.2 *Subcontractors.* Insofar as possible, this Part 6 shall be applied to subcontractors who are indebted to the Government, the same as to prime contractors. Accordingly, for the purpose of this Part 6 (except E-620 and E-604.1) the terms "contract" and "contractor" include subcontracts and subcontractors, and the terms "debt" and "indebtedness" include the debts of subcontractors to the Government.

E-600.3 *Purchasers, Lessees, Bailees and Others.* For the purpose of this Part 6, the term "contract" includes agreements or arrangements for the sale or use of Government property of any kind, or for the receipt of Government services, and the term "contractor" includes the parties to such arrangements or agreements relating to Government property or services.

E-601 Examples. Indebtedness to the Government occurs in various ways. Examples include:

(i) Damages or excess costs incident to defaults in performance;
(ii) Breach of contract obligations concerning progress payments, advance payments, or Government-furnished property or material;
(iii) Delinquency in rentals;
(iv) Delinquency in payment of price of property purchased from the Government;
(v) Expense of correction of defects;
(vi) Overpayments incident to errors in quantity, deficiencies in quality, or errors in billing;
(vii) Retroactive price reductions resulting from contract provisions for price redetermination or for determination of prices under incentive type contracts;
(viii) Delinquency in payment of charges for Government services;
(ix) Delinquency in payment called for by agreement or arrangement for deferral or postponement of payments;
(x) Statutory renegotiation. See E-600.1.

E-602 Contracting Officer and Disbursing Officer. Primary responsibility for determination and collection of a contract debt is on the contracting officer (see

(ii) *Overseas:* The same criteria as for continental United States applies except the consolidation period may be extended to a time frame acceptable to the receiving activity, shipping activity, Government finance office and the authorized Government Representative having cognizance at the contractor's facility. In addition, more than one contract line item may be included provided the "Shipped To," "Marked For," "Shipped From," "Mode of Shipment," "PQA" and "Acceptance" data are the same for all.

(6) Consolidation of Coal Shipments on a single MIRR—Multiple railcar or truck shipments of coal made on the same day, to the same destination, against the same contract line item, may be consolidated on one MIRR. To permit verification of truck deliveries, each load shall be assigned a load number which can be identified to the shipment number in block 2 of the DD Form 250 and the attached analytical test report. Individual truck loads shall be accompanied by a commercial shipping document showing as a minimum the shipper, the name or names, location and shipping point of the mine or mines from which the coal originates, the contract number, the exact size of the coal shipped, and a certified weighmaster's certificate of weight for the truckload. Rail shipments will be accompanied by a waybill showing the identical information. To permit verification of rail deliveries, each railcar number comprising the shipment shall be identified to the shipment number in block 2 of the DD Form 250 and the attached analytical test report. When acceptance is at destination, the receiving activity shall retain the shipping document(s) to verify the entries on the consignee copy of the DD Form 21B.

(b) *DD Form 250–1:*

(1) A separate form shall be used for each tanker or barge cargo loaded. More than one barge in the same tow may be reported on a single form if on the same contract and consigned to the same destination. When liftings involve more than one contract, separate forms shall be prepared to cover the portion of cargo loaded on each contract. A separate form shall be prepared for each product or grade of product loaded.

(2) A separate document shall be used for each tanker or barge cargo and each grade of product discharged. More than one barge in the same tow may be reported on a single form if from the same loading source.

I–105 Forms.

(a) Contractors may obtain from the Contract Administration Office, upon request, and at no cost, MIRR forms required for use in connection with Government contracts.

(b) Contractors may print forms provided that the format and dimensions (*DD Forms 250 and 250c: 8 - 1 / 2 inches x 11 inches, DD Form 250–1: 8 - 1 / 2 inches x 14 inches*) are identical to the MIRR forms printed by the Government and that the forms are cast to provide for 78 characters per printed image horizontally and 62 lines vertically border to border for the DD Form 250, and 61 lines vertically border to border for the DD Form 250c.

I–106 Reproduction. This appendix may be reproduced in whole or in part.

Part 2—PQA on Shipments Between Contractors.

I–201 Instructions. The suppliers' commercial shipping document / packing list shall be used to indicate performance of required PQA actions at subcontract level. The following entries shall be made on the supplier's commercial shipping document / packing list.

Required PQA of listed items has been performed.
.....(Signature of Authorized Govt. Rep. or DoD Stamp)
.....(Date)
.....(Typed Name and Office)

Distribution for Government purposes shall be one copy:

(i) with shipment;
(ii) for the Government representative at consignee (via mail); and
(iii) for the Government representative at consignor.

TABLE 1

STANDARD DISTRIBUTION

With Shipment *	4
Consignee (*via mail*)	2
(For Navy procurement, copies will be priced) (For Grant Aid/Foreign Military Sales, consignee copies are not required).	
Contract Administration Office	1
(Forward direct to address in Block 10 except when addressee is a DCASR, DCASD, or DCASO, and a Certificate of Conformance (see I–301, Block 21(c)A(4)) or the Alternate Release Procedures (see I–301, Block 21(c)A(2)) is involved, and acceptance is at origin; then, forward through the Authorized Government Representative.)	
Purchasing Office	1
Payment Office **	4
(Forward direct to addressee in Block 12 except (i) when addressee in Block 10 is a DCASR, DCASD, or DCASO and Payment Office in Block 12 is a DCASR do not make distribution; (ii) when addressee in Block 12 is HQ AFCMD attach only one copy to the required number of copies of the contractor's invoice; (iii) when acceptance is at destination and a Navy Finance Office will make payment, forward to destination; and (iv) when a Certificate of Conformance (see I–301, Block 21(c)A(4)) or the Alternative Release Procedures (see I–301, Block 21(c)A(2)) is involved and acceptance is at origin, forward the copies through the Authorized Government Representative.)	
ADP Point for CAO (*Applicable to Air Force only*)	1
(When an AFPRO is specified as the administering activity in Block 10, or HQ AFCMD is cited as Payment Office in Block 12, send *one* copy to HQ AFCMD immediately upon signature. If submission of delivery data is being made by mechanical means, distribution of this hard copy need not be made to HQ AFCMD.)	

*Attach as follows:

Type of Shipment	*Location*
Carload or truckload:	Affix to the shipment where it will be readily visible and available upon receipt.
Less-than-carload or truckload:	Affix to container number one, or container bearing lowest number.
Mail, including parcel post.	Attach to outside or include in the package. Include a copy in each additional package of multipackage shipments.
Pipeline or tank car:	Forward with consignee copies.

Railroad cars for coal movements

**Payment by DCASRs will be based on the source acceptance copies of DD Forms 250 forwarded to the Contract Administration Office except in those rare instances where distribution will be made to DCASR Payment Offices in accordance with the above distribution schedule.

TABLE 2

SPECIAL DISTRIBUTION

As Required	*Address*	*Number of Copies*
Each: Navy Status Control Activity, Army, Air Force, DSA Inventory Control Manager.	Address specified in the contract.	1 Each addressee
Quality Assurance Representative	Address specified by the assigned Quality Assurance Representative.	1
Transportation Office issuing GBL (attach to GBL memorandum copy).	CAO address unless otherwise specified in the contract.	1
Purchasing Office other than office issuing contract.	Address specified in the contract.	1
Foreign Military Sales Representative.	Address specified in the contract.	8
Military Assistance Advisory Group (Grant Aid Shipments).	U.S. Military Advisory Group, Military Attache, Mission, or other designated agency address as specified in the contract.	1
Army Foreign Military Sales/ Military Assistance Program (Grant Aid)	Commander US Army Security Assistance Center ATTN: DRSAC-OP 3rd Street and "M" Avenue, Bldg 54 New Cumberland Army Depot New Cumberland, PA 17070	1
Air Force On shipments of new production of aircraft and missiles, class 1410 missiles, 1510 aircraft (fixed wing, all types), 1520 aircraft (rotary wing), 1540 gliders, 1550 target drones.	Air Force Logistics Command Aerospace Vehicle Distribution Office (MCNAPV) Wright-Patterson AFB, Ohio 45433	1
When above items are delivered to aircraft modification centers.	A. F. Plant Representative Office	1
Foreign Military Sales/ Military Assistance Program (Grant Aid) shipments to Canada.	National Defence Headquarters Ottawa, Ontario Canada K1A OK4 Attn: DPSUPSJ	1
Other Than Canada	Address specified in the contract.	1

Block 19—PRIOR INSPECTION. Leave blank.

Block 20—CONDITION OF SHORE PIPELINE. Indicate condition of line (full or empty) before and after loading.

Block 21—APPROPRIATION (Loading). Indicate the appropriation number shown on the contract, purchase order or distribution plan. If the shipment is made from departmentally owned stock, show "Army, Navy or Air Force (as appropriate) owned Stock."

Block 22—CONTRACT ITEM NO. Enter the contract item number applicable to the shipment.

Block 23—PRODUCT. Enter the product nomenclature and grade as shown in the contract or specification, the stock or class number, and the NATO symbol.

Block 24—SPECIFICATIONS. Enter the specification and amendment number shown in the contract.

Block 25—STATEMENT OF QUANTITY. Enter in the "LOADED" column, the net barrels, net gallons and long tons for the cargo loaded. NOTE: If more than 1 / 2 of 1% difference exists between the ship and shore quantity figures an investigation shall be made immediately to determine the cause of such difference. If necessary, corrected documents shall be prepared; otherwise, a statement shall be placed in Block 28 as to the probable or actual cause of the difference.

Block 26—STATEMENT OF QUALITY.

(a) Under the heading "TESTS" list all inspection acceptance tests of the specification and any other quality requirements of the contract.

(b) Under the heading "SPECIFICATION LIMITS" list the limits or requirements as stated in the specification or contract directly opposite each entry in the "TESTS" column. Applicable waivers to technical requirements shall be listed.

(c) Under the heading "TEST RESULTS" list the test results applicable to the storage tank or tanks from which the cargo was lifted. If more than one storage tank is involved, list the tests applicable to each tank in separate columns headed by the tank number, the date the product in the tank was approved, and the quantity loaded from the tank. Each column shall also list such product characteristics as amount and type of corrosion inhibitor, etc.

Block 27—TIME STATEMENT. Line out "DISCHARGE" and "DISCHARGING." Complete all applicable entries of the time statement using local time. These dates and times shall be taken from either the vessel or shore facility log. The Government representative shall assure that the logs are in agreement on those entries used. If the vessel and shore facility logs are not in agreement, the Government representative will explain the reasons in Block 28—REMARKS. Date and time vessel left berth shall not be entered on documents placed aboard the vessel but shall appear on all other copies. All dates shall be expressed in sequence of day, month, and year with the month spelled out or abbreviated (*e.g.*, 10 Sept. 67). The term FINISHED BALLAST DISCHARGE is meant to include all times needed to complete deballasting and mopping/drying of ship's tanks. The inspection of ship's tanks for loading is normally performed immediately upon completion of drying tanks.

Block 28—REMARKS. Use this space for reporting:

(a) All delays, their cause and responsible party (vessel, shore facility, Government representative, or other).

(b) Details of loading abnormalities such as product losses due to overflow, leaks, delivery of product from low level in shore tanks, etc.

(c) In the case of multiple consignees, enter each consignee, the amount consigned to each, and if applicable, the storage contract numbers appearing on the delivery order.

(d) When product title is vested in the U. S. Government, insert in capital letters "U. S. GOVERNMENT OWNED CARGO." If title to the product remains with the contractor and inspection is performed at source with acceptance at destination, insert in capital letters "CONTRACTOR OWNED CARGO."

(e) If the form covers shipments for Military Assistance Program support, enter in this space "FY-(the year)—MAP" in half-inch letters. Also indicate the MAP reference number—*i.e.*, program directive number or MAP case number if known.

(f) Seal numbers and location of seals. If space is not adequate, place this information on the ullage report or an attached supplemental sheet.

Block 29—COMPANY OR RECEIVING TERMINAL. Line out "OR RECEIVING TERMINAL" and secure the signature of the supplier's representative. The signature shall be applied to the master ditto or all copies of the form.

Block 30—CERTIFICATION BY GOVERNMENT REPRESENTATIVE. Line out "DISCHARGED." The Government representative shall date and sign the completed master ditto or all copies of the form to certify inspection and acceptance, as applicable, by the Government. The name of the individual signing this certification, as well as the names applied in Blocks 29 and 31 shall be typed or hand lettered on the master or all copies of the document. The signature in Block 30 must agree with the typed or lettered name to be acceptable to the paying office.

Block 31—CERTIFICATION BY MASTER OR AGENT. Obtain the signature of the master of the vessel or its agent. The signature shall be applied to the master ditto or all copies of the form.

Part 6—Preparation of the DD Form 250-1 (DISCHARGE REPORT)

I-601 Instructions. The DD Form 250-1 shall be prepared in accordance with the following instructions when applied to a tanker or barge discharge. Abbreviations may be used where space is limited. The block numbers correspond to those on the form.

Block 1—TANKER/BARGE. Line out "TANKER" or "BARGE" as applicable and place "X" to indicate discharge report.

Block 2—INSPECTION OFFICE. Indicate Government activity performing inspection on the cargo received.

Block 3—REPORT NO. Leave blank.

Block 4—AGENCY PLACING ORDER ON SHIPPER, CITY, STATE AND/OR LOCAL ADDRESS (loading). Indicate Government agency shown on loading report.

Block 5—DEPARTMENT. Indicate Department owning product being received.

Block 6—PRIME CONTRACT OR P.O. NO. Indicate the contract or purchase order number shown on the loading report.

Block 7—NAME OF PRIME CONTRACTOR, CITY, STATE AND/OR LOCAL ADDRESS (Loading). Indicate name and location of contractor who loaded the cargo.

Block 8—STORAGE CONTRACT. Enter the number of the contract under which material is placed in commercial storage where applicable.

Block 9—TERMINAL OR REFINERY SHIPPED FROM, CITY, STATE AND/OR LOCAL ADDRESS. Indicate source of cargo.

Block 10—ORDER NO. ON SUPPLIER. Make same entry appearing on loading report.

Block 11—SHIPPED TO: (Receiving Activity, City, State and/or Local Address). Enter receiving activity's name and location.

Block 12—B/L NUMBER. Enter as appears on loading report.

Block 13—REQN. OR REQUEST NO. Leave blank.

Block 14—CARGO NO. Enter cargo number shown on loading report.

Block 15—VESSEL. Enter name of tanker or barge discharging cargo.

Block 16—DRAFT ARRIVAL. Enter draft of vessel upon arrival at dock.

Block 17—DRAFT SAILING. Enter draft of vessel after discharging.

Block 18—PREVIOUS TWO CARGOES. Leave blank.

Block 19—PRIOR INSPECTION. Enter the name and location of the Government office which inspected the cargo loading.

Block 20—CONDITION OF SHORE PIPELINE. Indicate condition of line (full or empty) before and after discharging.

Block 21—APPROPRIATION (Loading). Leave blank.

Block 22—CONTRACT ITEM NO. Enter the item number shown on the loading report.

Block 23—PRODUCT. Enter information appearing in Block 23 of the loading report.

Block 24—SPECIFICATIONS. Enter information appearing in Block 24 of the loading report.

Block 25—STATEMENT OF QUANTITY. Enter applicable data in proper columns.

(a) "LOADED" figures shall be taken from the loading report.

(b) Quantities discharged shall be determined from shore tank gauges at destination.

(c) If a grade of product is discharged at more than one point, the loss or gain for that product shall be calculated by the final discharge point. Amounts previously discharged shall be as reported on discharge reports prepared by the previous discharge points. Volume figures shall be transmitted by routine message to the final discharge point in advance of mailed documents to expedite the loss or gain calculation and provide proration data when more than one department is involved.

(d) The loss or gain percentage shall be entered in the "PERCENT" column followed by "LOSS" or "GAIN" as applicable.

(e) On destination acceptance shipments, accomplish the "DISCHARGED" column only, unless instructed to the contrary.

Block 26—STATEMENT OF QUALITY.

(a) Under the heading "TESTS" enter the verification tests performed on the cargo preparatory to discharge.

(b) Under "SPECIFICATION LIMITS" enter the limits, including authorized departures (if any) appearing on the loading report, for the tests performed.

(c) Enter the results of tests performed under the heading "TEST RESULTS."

Block 27—TIME STATEMENT. Line out "LOAD" and "LOADING." Complete all applicable entries of the time statement using local time. The dates and times shall be taken from either the vessel or shore facility log. The Government representative shall assure that these logs are in agreement with entries used. If the vessel and shore facility logs are not in agreement, the Government representative will explain the reason(s) in Block 28—REMARKS. Date and time vessel left berth shall not be entered on documents placed aboard the vessel but shall appear on all other copies. All dates shall be expressed in the sequence of day, month and year with the month spelled out or abbreviated (e.g., 10 Sept 67).

Block 28—REMARKS. Use this space for reporting important facts such as:

(a) Delays, their cause and responsible party (vessel, shore facility, Government representative, or other).

(b) Abnormal individual losses contributing to the total loss. The cause of such losses shall be indicated as well as actual or estimated volumes involved. Such losses shall include, but not be restricted to, product remaining aboard (indicate tanks in which contained), spillages, line breaks etc. Where gravity group change of receiving tank contents results in a fictitious loss or gain, such fact shall be noted. Irregularities observed on comparing vessel ullages obtained at loading point with those at the discharge point shall be noted if indicative of an abnormal transportation loss or contamination.

Block 29—COMPANY OR RECEIVING TERMINAL. Line out "COMPANY OR." Secure the signature of a representative of the receiving terminal. The signature shall be applied to the master ditto or all copies of the form.

MATERIAL INSPECTION AND RECEIVING REPORT

Block 30—Certification by Government Representative. Line out "LOADED." The Government representative shall date and sign the completed master ditto or all copies of the form to certify inspection and acceptance, as applicable, by the Government. The name of the individual signing the certification as well as the names applied in Blocks 29 and 31 shall be typed or hand lettered on the master or all copies of the form. The signature in Block 30 must agree with the typed or lettered name to be acceptable to the paying office.

Block 31—Certification by Master or Agent. Obtain the signature of the master of the vessel or the vessel's agent. The signature shall be applied to the master ditto or all copies of the form.

MATERIAL INSPECTION AND RECEIVING REPORT

Part 7—Distribution of the DD Form 250-1

I-701 Distribution.

(a) The completed DD Form 250-1 shall be distributed by the Government representative in accordance with Table 3 of this Appendix as may be amended by the provisions of the contract or shipping order.

(b) The contractor shall furnish the Government representative sufficient copies of the completed form to permit the required distribution.

(c) Distribution of the form shall be made as soon as possible but not later than 24 hours following completion of the form.

[See Table 3 on following pages]

I-702 Corrected DD Form 250-1. When errors are made in entries on the form which would affect payment or accountability, corrected copies shall be made. Entries corrected shall be encircled on all copies, the form plainly identified as "CORRECTED COPY" and distribution made to all recipients of the original distribution.

TABLE 3 DD FORM 250-1 DISTRIBUTION

Type of Shipment	Recipient of DD Form 250-1	Number of Copies: Loading — Tanker (Prepared by Shipper/Govt. Representative)	Loading — Barge (Prepared by Shipper/Govt. Representative)	Discharge — Tanker (Prepared by Receiving Activity)	Discharge — Barge (Prepared by Receiving Activity)
On all overseas shipments provide for a minimum of 4 consignees. Place 1 copy (attached to ullage report) in each of 4 envelopes & mark envelopes "Consignee-First Destination," "Consignee-Second Destination," etc., for delivery via the tanker.	Each Consignee By mail (CONUS shipments only) With Shipment	2 1	1 1	(as required)	(as required)
	Master of Vessel	1	1	1	1
	Tanker or Barge Agent	2	2	2	2
	Contractor	(as required)	(as required)	(as required)	(as required)
	Cognizant Inspection Office	1	1	1	1
	Government Representative at each Destination Responsible for Quality	1	1	1	1
	Government Representative at Cargo Loading Point	1	1	1*	1*
On all USNS tankers and all MSC chartered tankers and MSC chartered barges.	Military Sealift Command Code 331 Washington, DC 20390	2	2	2	2
See contract or shipping order for finance documentation and any supplemental requirements for Government-owned product shipments and receipts.	Payment Office: If this is DASC-F, send copies to Defense Fuel Supply Center ATTN: DFSC-CDS, Cameron Station Bldg 5, Alexandria, VA 22314 (Do not send copies to DASC-F)	2	2	2	2

*With copy of ullage report.

TABLE 3—Continued

Type of Shipment	Recipient of DD Form 250-1	Number of Copies: Loading — Tanker (Prepared by Shipper/Govt. Representative)	Loading — Barge (Prepared by Shipper/Govt. Representative)	Discharge — Tanker (Prepared by Receiving Activity)	Discharge — Barge (Prepared by Receiving Activity)
For shipments and receipts of DFSC financed cargoes for which DASC-F is not the Paying Office.	Accounting Office, DFSC, ATTN: DFSC-CD, Cameron Station, Alexandria, VA 22314	1	1	1	1
For shipments on all USNS tankers, MSC chartered tankers & barges, & POR destination tankers with copy of ullage report.	DFSC-OC, Cameron Station Alexandria, VA 22314	1	1	1**	1
		**Dry Tank certificate to accompany DD Form 250-1 and ullage report.			
On Army ILP shipments.	US Army International Logistics Center New Cumberland Army Depot New Cumberland, PA 17070	2	2	2	2
NAVY On all shipments to Navy-Operated Terminals	Navy Fuel Petroleum Office Cameron Station Alexandria, VA 22314	2	1	2	1
On all shipments to AF bases	Directorate of Energy Mgmt SA ALC (EPO) Kelly AFB, TX 78241	1	1	1	1
On all CONUS loadings.	DFSC Fuel Region(s) cognizant of Shipping Point	1	1	1	1
On all shipments to CONUS Destinations.	DFSC Fuel Region(s) cognizant of Shipping and Receiving Point	1	1	0	0
For all discharges of cargoes originating at DFSPs & discharging at activities not a Defense Fuel Support Point	Accounting Office, DFSC ATTN: DFSC-CD Cameron Station Alexandria, VA 22314			1***	1***

*** The copies of DD Form 250-1, forwarded by bases, will include the following in Block 11: Shipped to: Supplementary Address, if applicable; Signal Code; and Fund Code.

TABLE 4 JOINT PETROLEUM OFFICES
(Areas and Addresses)

Command	*Area*
LANTCOM	Antilles, Bahamas, Bermuda, Cuba, Azores, Iceland, Ascension Island for Navy terminals in United Kingdom, Norway, and Portugal
USEUCOM	Western Europe, United Kingdom, Mediterranean, Turkey, Africa, Madagascar, and Middle East West of Pakistan
PACOM	Taiwan, Hawaii, Marianas, Philippines, Japan, Korea, Ryukyus, Australia, New Zealand, Burma, Thailand, Malaya, East Indies, South Pacific Islands, Ceylon, Southern Asia East of Iran, and Diego Garcia
SOCOM	Central and South America

Commands	*Correspondence Addresses*	*Message Addresses*
CINCLANT	Commander-in-Chief Atlantic Command ATTN: JPO Norfolk, Va. 23511	JPO CINCLANT
USCINCEUR	Headquarters United States Command ECJ4/7-LOJPO APO New York 09128	JPO USCINCEUR
CINCPAC	Joint Petroleum Office (JPO) Staff CINCPAC Box 20 Camp H. M. Smith, HI 96861	JPO CINCPAC
USCINCSO	Commander-in-Chief U.S. Southern Command ATTN: JPO APO New York 09896	JPO USCINCSO

[The next page is I:33.]

(v) make the form a part of the official contract file and close out the file as provided in S2-401(ii).

(b) When the contract administration office is advised by the purchasing office of a revision in the closeout date (see S2-302.2(b)), and the revised closeout date falls within another file cut-off period, the contract administration office shall transfer its file to the appropriate completed series.

S2-304 Closeout of Contract Files by Paying Office. The paying office shall close out each contract file upon issuance of the final payment voucher.

S2-305 Standard Times for Contract Closing.

(a) Standard times for closing physically completed contracts are set forth below.

CATEGORY	*CONTRACT*	*CALENDAR MONTHS AFTER THE MONTH IN WHICH PHYSICALLY COMPLETED*
A	Fixed Price Unilateral Purchase Orders	3
B	Firm Fixed Price (Exclude "A" above)	6
C	Contracts Requiring Settlement of Overhead Rates	36
D	All other (Excluding "A" through "C" above)	20

(b) Time standards established in this Part are based upon the time required for closing the majority of contracts. It is recognized that delays beyond the above standards may occur (such as in the case of terminations). Where delays occur, contracts shall be reported in accordance with S2-306.

S2-306 Status of Physically Completed Unclosed Contracts. Contract Administration Offices shall advise the appropriate procuring contracting officers within 15 days after the end of the month following the month in which a physically completed contract has not been closed within the time periods specified in S2-305(a). This advise shall include the reasons for the delay, and the target date which has been set for closing. If the contract is not closed by the target date specified, the contract administration office shall, unless information is requested earlier by the PCO, advise the PCO of the reasons for the further delay and the new target date. MILSCAP Format Identifier PKX, Unclosed Contract Status, shall be used to provide this advice to the PCO when MILSCAP procedures apply.

[The next page is S2-19]

Part 4—Review, Separation, and Retirement of Completed Contract Files

S2-401 Review of Contract Case and Cross Reference/Locator Files. Upon determination of contract completion under the procedures outlined in Part 3 of this Supplement, each office shall review all files pertaining to the individual contract as follows:

(i) *duplicate or working contract case file*—remove any original or official file copies of documents and place them in the appropriate "official" file; destroy immediately any remaining material, or segregate and mark it for early disposal (see S2-504);

(ii) *official contract case file*—remove folder for completed contract from the active file series, mark each folder or folder tab "Completed (Date)" and place folder in completed (inactive) contract file series; separate series should be established for contracts of $10,000 or less and for contracts of more than $10,000, to facilitate later disposal (see S2-501); and

(iii) *cross reference/locator files*—remove any contract cross-reference data forms relating to the completed contract, mark each "Completed (Date)", and place them in completed (inactive) cross-reference/locator file series for later disposal (see S2-503).

S2-402 Review of Contractor General Files. Each office shall review contractor general files at least once annually and:

(i) remove obsolete and superseded documents relating generally to the contractor (*e.g.*, documents no longer pertinent to any aspect of contractor's current or future capability, performance, or programs, and documents relating to a contractor who is no longer a possible source of supplies, services, or technical assistance) and dispose as authorized in S2-502(a); and

(ii) remove any documents pertaining only to completed contracts, place those not routine in nature in inactive contractor file for later disposal (see S2-502(b)), and immediately dispose of routine documents as authorized in S2-502(b).

S2-403 Retirement of Completed Files. Completed files series shall be cut off at least annually, and new series begun to facilitate destruction in blocks—normally annual blocks. The cut-off series shall be held in the office maintaining the records for an additional period not to exceed one year and then stored locally in record-holding or staging areas, if available, until they are eligible for destruction (see Part 5); when such space is not available, the files shall then be transferred to the General Services Administration Federal Records Center servicing the area. Completed cross reference/locator files shall be held locally until eligible for destruction.

[The next page is S2-21]

*U.S. GOVERNMENT PRINTING OFFICE : 1981 0-361-235/W-104

[FR Doc. 82-5671 Filed 3-4-82; 8:45 am]
BILLING CODE 3810-01-C

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-7-FRL-2057-7]

Approval and Promulgation of Implementation Plans; Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This document approves as part of the Iowa State Implementation Plan (SIP), the state's schedule for conducting studies of sources of particulate matter that have not traditionally been controlled and for implementing the results of those studies as control strategies. The schedule is required by a conditional approval of the Iowa SIP.

EFFECTIVE DATE: April 5, 1982.

ADDRESSES: The state submission is available at the Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri; the Iowa Department of Environmental Quality, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa; the Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C.; and the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Daniel J. Wheeler at (816) 374-3791, FTS (758-3791).

SUPPLEMENTARY INFORMATION: On November 6, 1981 (46 FR 55123), EPA proposed to approve a state submission intended to satisfy a condition of approval of the Iowa SIP.

The condition, applicable to areas in Iowa designated nonattainment for the primary and secondary total suspended particulate (TSP) ambient air quality standards (see 46 FR 22369, April 17, 1981), required the state to submit a commitment and schedule for completing studies and expeditiously implementing the results of the studies in the form of control strategies.

A schedule was submitted on June 26, 1981, which provided for studies of nontraditional source of particulate matter and for implementation by December 1983 of any control strategies found to be effective. A more detailed discussion of the state submission is in the November 6 proposal. No comments were received during the public comment period.

This schedule constitutes a proposed nonregulatory revision to the Iowa SIP. The Administrator's decision to approve the proposed revision is based on a determination that the revision meets the requirements of Sections 110 and 172 of the Clean Air Act and of 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of State Implementation Plans. This revision is hereby approved as part of the Iowa SIP.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. The reason for this determination is that this revision only approves actions of the state and does not impose any requirements on any businesses.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

This rulemaking is issued under the authority of sections 110, 172, and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7502 and 7601).

Dated: February 26, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Iowa was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart Q—Iowa

1. Section 52.820 is amended by adding paragraph (c)(39) as follows:

§ 52.820 Identification plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified:

* * * * *

(39) A schedule for studying nontraditional sources of particulate matter and for implementing the results of the studies in the form of control strategies was submitted on June 26, 1981 by the Department of Environmental Quality. (Non-Regulatory)

§ 52.826 [Amended]

2. Section 52.826 is amended by removing paragraph (e).

[FR Doc. 82-6084 Filed 3-4-82; 8:45 am]

BILLING CODE 4510-35-M

40 CFR Part 52

[A-1-FRL-2049-2]

Approval and Promulgation of Implementation Plans; Maine Revision to Department Regulation on Petroleum Liquid Transfer Vapor Recovery

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: The purpose of this Notice is to approve the State Implementation Plan (SIP) revision to exempt Irving Oil Corporation from Maine's Department Regulation 112, Petroleum Liquid Transfer Vapor Recovery, submitted on October 23, 1981 by the Maine Department of Environmental Protection (DEP). This action will be effective 60 days from the date of this Final Rulemaking Notice unless notice is received within 30 days that adverse or critical comments will be submitted.

EFFECTIVE DATE: May 4, 1982.

ADDRESSES: Copies of the Maine submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M St. SW. Washington, D.C. 20460; the Office of the Federal Register, 1100 L Street, NW, Washington, DC; and the Department of Environmental Protection (DEP), Bureau of Air Quality Control, Ray Building, Hospital Street, Augusta, Maine 04330.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Greene, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5630.

SUPPLEMENTARY INFORMATION: In a Final Rulemaking Notice, published February 19, 1980 (45 FR 10767), EPA approved Maine Department Regulation Chapter 112, Petroleum Liquid Transfer Vapor Recovery. The regulation requires bulk gasoline terminals that load tank trucks or trailers, and that pump more than 20,000 gallons of gasoline per day to install a vapor control system. It went into effect on May 7, 1979 and became part of the 1979 State Implementation Plan (SIP). On November 17, 1981, EPA received the Maine Department of Environmental Protection's (DEP) October 23, 1981 submittal of a revision to Department Regulation Chapter 112 to exempt the town of Searsport, Maine. Since Irving Oil Corporation (Irving) is the only petroleum liquid transfer facility in Searsport it is the only source exempted from the regulation.

Under existing Maine SIP requirements, Irving is required to recover the volatile organic compound (VOC) emissions that escape during the loading of gasoline into tank trucks at its facility. The two forms of VOC control for petroleum liquid transfer are bottom loading and top loading. Bottom loading is the state-of-the-art control method, and it is the method of control preferred by the industry and EPA. However, bottom loading requires that each tank truck be retrofitted at a cost estimated to be between $3,200 and $5,600 per truck. The independent dealers that presently buy gasoline from the Irving facility have indicated that they will not retrofit their trucks for bottom loading if the facility is required to comply with Department Regulation 112. Rather, they will buy their gasoline from facilities 11 miles away in the Downeast Air Quality Control Region (AQCR) where vapor recovery is not required.

Vapor recovery through top loading only requires that the facility retrofit and not the tank trucks. However, top loading is more expensive to install than bottom loading, and because it is administered by an operator on top of the truck, it is dangerous in winter icy conditions. Therefore, if Irving was to retrofit, it would opt to control by using bottom loading. Although Irving has calculated that for new equipment, electricity, labor, maintenance and debt service, $250 would be spent for bottom loading per day only $50 worth of gasoline would be recovered per day. The net loss of $200 per day would be passed on to the company's customers. The state has thus determined that neither of the vapor recovery systems is reasonably available control technology (RACT) for this facility.

The state has therefore modified Department Regulation Chapter 112 to exempt Irving. In the October 23, 1981 submittal letter, the DEP Commissioner, Henry E. Warren, committed the state to reevaluate this RACT determination for Irving if gasoline terminals in the Downeast AQCR are equipped with VOC controls or if the Downeast AQCR is designated nonattainment. EPA concurs with this approach and agrees that vapor recovery is not RACT for Irving at this time.

EPA is approving this amendment to Department Regulation Chapter 112 without prior proposal because the agency views this as a noncontroversial amendment and anticipates no comments. This action will be effective 60 days from the date of this Federal Register unless, within 30 days from the date of this Federal Register, notice is received that adverse or critical comments will be submitted. If such notice is received, the Region will publish a subsequent notice to withdraw this Direct-to-Final action before the effective date, announce a proposal action, and establish a comment period.

Action: EPA is approving this SIP revision.

Pursuant to the provisions of U.S.C. Section 605(b) I hereby certify that the present rule will not have a significant economic impact on a substantial number of small entities, and it imposes no new requirements. In addition, this action applies to only one facility.

The office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(Sec. 301(a), Clean Air Act, is amended (42 U.S.C. 7410(a) and 7601(a)))

Dated: February 26, 1982.

Anne M. Gorsuch,

Administrator.

Note:—Incorporation by reference of the State Implementation Plan for the State of Maine was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Section 52.1020 paragraph (c) is amended by adding subparagraph (16) as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) * * *

(16) Department Regulation Chapter 112, Petroleum Liquid Transfer Vapor Recovery, is amended to exempt the town of Searsport, Maine from this regulation. This amendment was submitted by Henry E. Warren, Commissioner of the Department of Environmental Protection on October 23, 1981, in order to meet Part D requirements for ozone.

[FR Doc. 82-5691 Filed 3-4-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A-2-FRL-2047-7]

Approval and Promulgation of Implementation Plans; Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces approval by the Environmental Protection Agency (EPA) of a revision to the New York State Implementation Plan (SIP). This action has the effect of allowing the General Electric Company to burn fuel oil with a maximum sulfur content of 2.8 percent, by weight, at its Rotterdam Steam Generating Facility located in Schenectady, New York, for up to three years from March 5, 1982. Receipt of this implementation plan revision request from the State was announced in the Federal Register on December 8, 1981 at 46 FR 60016, where its provisions are fully described.

EFFECTIVE DATE: March 5, 1982.

ADDRESSES: Copies of the SIP revision submitted by New York State and the public comment received on EPA's proposal are available for inspection during normal business hours at the following addresses:

Environmental Protection Agency, Air Programs Branch—Room 1005, Region II Office, 26 Federal Plaza, New York, New York 10278.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460.

Copies of the State's submission are also available for inspection during normal business hours at the following location: The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, (212) 264-2517.

SUPPLEMENTARY INFORMATION: On October 15, 1981 New York State informed the Environmental Protection Agency (EPA) of its intention to revise its State Implementation Plan (SIP). The State requested EPA approval of a "special limitation," issued under the provisions of Part 225.2 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York. The effect of this "special limitation" is to allow the General Electric Company to burn fuel oil with a maximum sulfur content of 2.8 percent, by weight, at its Rotterdam Steam Generating Facility located in Schenectady, New York. This "special limitation" will remain in effect for up to three years from March 5, 1982. The current, normal applicable sulfur content limitation is 2.0 percent, by weight.

A notice of proposed rulemaking on this action was published in the **Federal Register** on December 8, 1981 (46 FR 60016). The reader is referred to this December 8 notice for a detailed description of the State's revision request. In its December 8 notice EPA advised the public that comments would be accepted as to whether the proposed revisions to the New York SIP should be approved or disapproved. During the comment period, which ended on January 7, 1982, EPA received one comment.

The one comment, from a private citizen, urged EPA to disapprove the New York SIP revision. The commentator noted that the General Electric "special limitation" would contribute to the acid rain problem due to the increase in sulfur dioxide emissions resulting from the use of higher sulfur content fuel oil.

EPA acknowledges that the approval of the New York SIP revision will increase sulfur dioxide emissions by approximately 2,000 tons per year. However, at this time, there is no technically reliable way of quantifying the effect of this increase, if any, on acid deposition. Furthermore, EPA does not have authority to disapprove emission increases based on acid deposition impacts.

In an effort to expedite the processing of this SIP revision, EPA used a review procedure known as "parallel processing." Under this procedure EPA proposed its action essentially at the same time as the State action was proposed. As described in EPA's notice of proposed rulemaking, approval of New York's request was contingent upon the State finally adopting its proposal in a substantially unchanged form. On January 8, 1982 the State submitted to EPA for final approval its "special limitation" affecting the General Electric Company in a form identical to that originally submitted to EPA on October 15, 1981.

Based on EPA's review of the New York submittal and the one comment received, EPA has concluded that no violations of national ambient air quality standards or any applicable Prevention of Significant Deterioration increment will occur as a result of the use of higher sulfur content fuel oil by General Electric. Therefore, the revision meets the requirements of section 110 of the Clean Air Act, including section 110(a)(2)(E), and is approved.

This action is being made immediately effective because it imposes no hardship on the affected sources, and no purpose would be served by delaying its effective date.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within sixty days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under Section 110 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities (46 FR 8709; January 27, 1981). The attached rule constitutes a SIP approval under Section 110 within the terms of the January 27 certification. This action only approves a state action. It imposes no new requirements. In addition, this action applies to only one source.

The Office of Management and Budget (OMB) has exempted this regulation from the OMB review requirements of Executive Order 12291.

(Secs. 110 and 301 Clean Air Act, as amended (42 U.S.C. 7410 and 7601))

Dated: February 26, 1982.

Anne M. Gorsuch,

Administrator, Environmental Protection Agency.

Note.—Incorporation by reference of the State Implementation Plan for the State of New York was approved by the Director of the **Federal Register** on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Chapter 1, Subchapter C, Part 52, Code of Federal Regulations is amended as follows:

Subpart HH—New York

1. Section 52.1670, paragraph (c) is amended by adding new subparagraph (c)(65) as follows:

§ 52.1670 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(65) Revision submitted on January 8, 1982 by the New York State Department of Environmental Conservation which grants a "special limitation" to relax to 2.8 percent, by weight, for up to three years from [insert publication date], the sulfur-in-fuel oil limitation applicable to the General Electric Company's Rotterdam Steam Generating Facility located in Schenectady, New York.

[FR Doc. 82-6046 Filed 3-4-82; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[FCC 82-70]

Frequency Allocation and Radio Treaty Matters; General Rules and Regulations; Addition of Footnote Regarding Government Usage in the Fixed and Mobile Services at a Certain GHz Band.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has modified the rules by adding a footnote to the Table of Frequency Allocations. This footnote reduces the status of the allocation to the Government fixed and mobile services at 14.4–14.5 GHz to a secondary basis; it provides temporary conditions for several important existing Government operations. This action is taken to provide priority stations to the non-Government fixed-satellite service.

DATE: Effective March 9, 1982.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Lawrence Petak, (202) 653–8162, Room 7310.

SUPPLEMENTARY INFORMATION:

Adopted: February 11, 1982.

Released: February 23, 1982.

In the matter of an amendment of part 2 of the Commission's rules to add a footnote regarding Government usage in the fixed and mobile services at 14.4–14.5 GHz.

1. The current Table of Frequency Allocations, § 2.106 of the Commission's Rules and Regulations, provides a primary allocation to the fixed-satellite service at 14.0–14.5 GHz. This allocation supports Earth-to-space transmissions which complement space-to-Earth transmissions within the fixed-satellite service at 11.7–12.2 GHz. These bands (12/14 GHz) are being utilized by domestic satellites which operate with small antenna earth stations to provide communications services directly to customer premises. The 14.0–14.5 GHz band is also being used for uplinks to INTELSAT satellites with corresponding downlinks in the 10.95–11.2 and 11.45–11.7 GHz bands for international services. Although the fixed satellite service at 12/14 GHz is only beginning to develop, we expect small antenna earth stations to be used at many locations throughout the United States for domestic satellite services.

2. Prior to the Space World Administrative Conference (Space WARC), which was convened in Geneva in June, 1971, the band 14.4–14.5 GHZ was allocated exclusively for Government use in the fixed and mobile services within the United States. At that Conference, the band was re-allocated internationally by adding the fixed-satellite service. Later, during the domestic implementation of the results of the Space WARC, § 2.106 of the Commission's Rules was modified to include an allocation to the fixed satellite service at 14.4–14.5 GHz for the non-Government sector. The allocation to the fixed and mobile services for the Government sector was continued. This Government allocation has supported several microwave communication requirements of the Federal agencies.

3. In accordance with normal practices where space and terrestrial services share the spectrum on a co-equal basis, the fixed-satellite service users are required to coordinate each new earth station with fixed and mobile service users and vice versa. To date, the Commission has been performing such coordination for its licensees with the National Telecommunication and Information Administration. This arrangement will become impractical as the earth stations grow in number, and it could eliminate advantages associated with the customer-premise applications envisioned at 12/14 GHz.

4. The Commission has recommended to the NTIA that the Government allocation to the fixed and mobile services at 14.4–14.5 GHz be reduced to secondary status. By virtue of this status, the coordination requirement would be eliminated. Furthermore, the fixed and mobile services would be required to protect satellites on the geostationary orbit from harmful interference. They also would be required to accept an interference caused by earth station operations.

5. NTIA has agreed to adopt the Commission's recommendation and will reduce the Government allocation to the fixed and mobile services to secondary status. However, it has requested that several important existing operations retain a primary status for a period of five years, after which they will either be reaccommodated or continue to operate on a secondary basis. During the interim five year period, commencing January 1, 1982, new fixed-satellite earth stations in the vicinity of the terrestrial stations would be coordinated between the FCC and NTIA. Particulars of these Government operations are described in Appendix A.

6. This change of Government allocation at 14.4–14.5 GHz and the provision of temporary conditions for the Government operations is reflected by the addition of a new footnote to the Table of Frequency Allocations in § 2.106. The text of the new footnote, US234, is given at Appendix B.

7. Because this amendment will not affect existing FCC licensees and reflects an NTIA action regarding the Government allocation which will result in an increase in spectrum availability to the non-Government users of this band, compliance with the prior provision of the Administrative Procedure Act (5 U.S.C. 553) is unnecessary.

8. Accordingly, it is ordered That, effective March 9, 1982, § 2.106 of the rules is amended as set forth in Appendix B. Authority for this action is contained in section 4(i) and 303 of the Communications Act of 1934, as amended.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Note.— Appendix A will not appear in the CFR.

APPENDIX A

Operation	Points of communication	Frequency (MHz)	Emission	Power (W)
Point Mugu, CA	From 34° 07' N. 119° 07' W. to 34° 00' N. 119° 36' W.	14420	40000F9	1
Fort Bragg, NC	From 35° 08' N. 79° 05' W. to 35° 10' N. 79° 01' W.	14421.25	40000F9	.6
Vandenberg, CA	Transportable terminals within 25 km radius of 34° 44' N. 120° 35' W.	14415	30000F9	.2

Appendix B

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

Part 2 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 2.106 is revised by adding footnote US234 at Column 6 for the band 14.4–14.5 GHz and by including its text at the list of footnotes following the Table of Frequency Allocations.

§ 2.106 Table of frequency allocations.

United States		Federal Communications Commission		
Band (gigahertz)	Allocation	Band (gigahertz)	Service	Class of station
5	6	7	8	9
*	*	*	*	*
14.4–14.5	G. NG. (US203) (US207) (US234)	14.4–14.5	Fixed-Satellite Space Research.	Earth Space.

US234 In the band 14.4–14.5 GHz, all Government fixed and mobile stations, effective December 31, 1981, shall be on a secondary basis to stations in the non-Government fixed-satellite service. Exceptionally, the Government operations listed below, which were in existence on December 31, 1981, may continue to operate on a coequal primary basis with stations in the non-Government fixed-satellite service until December 31, 1986.

Operation	Points of communication
Point Mugu, CA	From 34° 07' N. 119° 07' W. to 34° 00' N. 119° 36' W.
Fort Bragg, NC	From 35° 08' N. 79° 05' W. to 35° 10' N. 79° 01' W.
Vandenberg, CA	Transportable terminals within 25 km radius of 34° 44' N. 120° 35' W.

[FR Doc. 82-5888 Filed 3-4-82; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1011

Delegations To Individual Commissioners; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Reinstatement of final rules; corrections.

SUMMARY: In Ex Parte No. 55 (Sub-No. 39) *Suspension Board Matters* (45 FR 5739, January 24, 1980), the Commission revised certain references to Suspension Board Matters and procedure relating to that board. Those revisions inadvertently removed 49 CFR 1011.5(b)(2), Delegation to Individual Commissioners, which contained the delegation to the Commission's Vice Chairman to handle matters involving admission, disbarment or discipline of practitioners before the Commission. The rule is reinstated.

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: Kathleen King, 202–275–0956.

SUPPLEMENTARY INFORMATION:

PART 1011—COMMISSION ORGANIZATION; DELEGATIONS OF AUTHORITY

This notice corrects an inadvertent error. 49 CFR 1011.5(b)(2) relating to delegation of matters regarding practitioners before the Commission to the Vice Chairman was removed erroneously. That rule is hereby reinstated. The rule is as follows:

§ 1011.5 Delegations to individual Commissioners.

* * * * *

(b) * * *

(2) Matters involving the admission, disbarment or discipline of practitioners before the Commission under rules 7 through 11 of the General Rules of Practice (49 CFR 1100.7–1100.11).

* * * * *

This action will not significantly affect either the quality of the human environment or conservation of energy resources and will not affect small businesses.

Authority: 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: August 20, 1981.

By the Commission, Chairman Taylor, Commissioners Gresham, Clapp, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6043 Filed 3-4-82; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Parts 1201, 1206 and 1207

[Docket No. 37465]

Business Entertainment Expenses

AGENCY: Interstate Commerce Commission.

ACTION: Final rule; adoption of guidelines.

SUMMARY: The Motor Carrier Act of 1980, Pub. L. 96–296 (MC Act) and the Staggers Rail Act of 1980, Pub. L. 96–454 (Staggers Act) legalized previously illegal business entertainment expenses. This legislation also required the Commission to establish guidelines for carriers to follow when accounting for these expenditures. This rule establishes those guidelines. Depending upon the nature of the expenditure these items will be accounted for as either an operating or a nonoperating expense.

DATE: This is to be effective on April 5, 1982.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., (202) 275–7448.

SUPPLEMENTARY INFORMATION: On July 1, 1980, the MC Act became law and on October 14, 1980, the Staggers Act became law. This legislation now allows regulated carriers to engage in previously prohibited entertainment of customers or potential customers to the extent that such practices are lawful in unregulated industries. Prior to the enactment of this legislation certain business entertainment expenses would have constituted violations of the anti-rebating and antidiscrimination provisions of chapters 107 and 119 of Title 49 of the United States Code. Both of these Acts require the Commission to establish guidelines to attempt to distinguish between (1) sales related expenses that have always been permissible and (2) those expenses that previously would have constituted illegal rebates or discrimination but which are now permitted. The importance of this distinction is that only the first category of expenses can be included in the carriers' cost of service or the rate base. All other entertainment expenditures now permitted by this legislation are to be accounted for as non-operating expenses.

On January 6, 1981, at 46 FR 1323, we published a Notice of Proposed Rulemaking (NPR) requesting comments on accounting for business entertainment expenses. We discussed various approaches to handling business entertainment expenses and asked all interested parties to comment on the following issues: (1) What guidelines should the Commission use on determining whether a business entertainment expense should be accounted for as an operating or non-operating expense, and (2) Should the Commission attempt to develop standards to identify still remaining unlawful practices.

Review of Responses

Ten respondents (listed in Appendix B) submitted comments, summarized below, on the NPR.

The Association of American Railroads, the American Trucking Associations, Inc., Yellow Freight System, Inc. (Yellow Freight), Pilot Freight Carriers, Inc., and the Norfolk & Western Railway Co., submitted very similar comments. All of the above respondents, except for Yellow Freight, favor adopting a brief policy statement formulating the guidelines for carriers to follow. Yellow Freight favors adopting the NPR's guidelines. In addition, all of the above respondents believe that the Commission should not attempt to prescribe specific regulations for determining what expenses still constitute unlawful rebates or discrimination.

Lee Way Motor Freight, Inc. (Lee Way), Matlack, Inc. (Matlack), and Central Transport favor adopting Internal Revenue Service guidelines for business entertainment expenses. Lee Way also argues that the Commission should not attempt to formulate guidelines to determine unlawful expenses.

The Department of Defense, Regulatory Law Office (DOD) does not object to any proposed guidelines. DOD did not comment on establishing guidelines to determine unlawful expenditures. However, DOD suggested that the rulemaking mention that Federal Government employees, under the terms of 18 USC 201 and Executive Order 11222 of May 8, 1965, may not accept any form of business entertainment now lawful for carriers to offer present or potential customers.

ATO, Inc. does not believe that there should be any drastic change in the existing guidelines. It recommends that the practice of business entertainment be abolished.

Conclusions

Both the MC Act and the Staggers Act make it lawful for regulated carriers to engage in entertainment practices that are legal for non-regulated industries. We must issue guidelines advising carriers how to account for entertainment expenditures. See 49 U.S.C. 10751(C).

Any newly authorized business entertainment expense shall not be taken into account in determining the cost of service or the rate base. See 49 U.S.C. 10751(b). Thus, all newly authorized business entertainment expenses will be accounted for as non-operating expenses.

With this in mind it is now possible to break business entertainment expenses into two categories:

(1) Business entertainment expenses that were legal prior to this legislation. These expenses will continue to be included in the cost of service or the rate base, and

(2) Business entertainment expenses that are legal because of this legislation. These expenses will not be included in the cost of service or the rate base.

In attempting to establish guidelines for carriers to follow the above categories become very helpful. We will not use Internal Revenue Service regulations to determine whether an item is an operating or non-operating expense. Prior to the MC Act and Staggers Act many expenditures deductible for tax purposes were considered illegal rebates or discrimination for Commission purposes. Allowing these items to be included in the cost of service or the rate base because they are deductible for tax purposes violates this legislation. The MC Act and the Staggers Act specifically require the newly permitted business entertainment expenditures to be accounted for as non-operating expenses. It is also clear that adoption of Federal Trade Commission commercial bribery regulations would do little to clarify whether an item is an operating or non-operating expense. Likewise, state commercial bribery statutes are so diverse as to make this standard impossible to apply.

After reviewing the legislation and the comments from interested parties we will not develop detailed regulations but rather issue a new instruction giving the carriers the guidelines to follow. The new instruction recognizes that lawful business entertainment expenses shall not constitute an illegal rebate or discrimination. In choosing not to adopt detailed regulations to determine which expenditures may or may not be included in the carriers' rate base we recognize that the actual expenditures incurred will rarely duplicate or be similar to the examples given.

Business entertainment will be accounted for as an operating expense when the entertainment can be shown to be related to the sales or marketing activity and reasonable in relation to the business conducted, and the business purpose for the entertainment can be adequately supported. Business entertainment will be accounted for as a non-operating expense when it is primarily related to recreation, or when it is more directly related to the convenience or comfort of the individuals than to the transaction of business. In all instances the burden of proof will fall on the carrier involved. In order to assist the Commission in regulating these expenditures, the Annual Report will be revised to include a footnote to the Results of Operations requiring disclosure of total business entertainment expenditures charged to the non-operating expense accounts.

We do not believe that Congress intended us to identify remaining unlawful practices. Additionally, DOD's suggestion relating to business entertainment expenditures and government employees is beyond the scope of this rulemaking.

This action will not significantly affect either the quality of the human environment, the conservation of energy resources or small entities.

Accordingly, we are amending 49 CFR Parts 1201, 1206 and 1207 by adding to each part the instruction set forth in Appendix A.

(49 U.S.C. 10321 and 10751 and 5 U.S.C. 553)

Decided: February 22, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, and Clapp.

Agatha L. Mergenovich,

Secretary.

Appendix A

Amend Parts 1201, 1206, and 1207 of Title 49 of the Code of Federal Regulations as follows:

PART 1201—RAILROAD COMPANIES

Add the following section as General Instructions 1–16 Business Entertainment Expenses.

PART 1206—COMMON AND CONTRACT MOTOR CARRIERS OF PASSENGERS

Add the following section as Instruction 2–37 Business Entertainment Expenses.

PART 1207—COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY

Add the following section as Instruction 36 Business Entertainment Expenses.

(a) Business entertainment expenses are to be accounted for as operating expenses when incurred in conjunction with sales or marketing related activities. Sales or marketing related activities are those that emphasize a carrier's ability to provide efficient, timely and competitive service. These activities include outlays designed to promote new business as well as outlays incurred in maintaining existing business. The entertainment expenditures must be reasonable in relation to the business conducted and the business purpose for the entertainment must be adequately supported. Examples of this type of activity include the following:

(1) Salespersons' salaries and travel expenses, advertising, promotional and educational material;

(2) The conduct of shipper symposiums, conferences, meetings and traffic related functions;

(3) The use of direct mail solicitations and the publication and distribution of routing guides and service directories;

(4) Incidental promotional materials such as road atlases, calendars, pens, scratchpads, and other materials of nominal value;

(5) The conduct of business oriented lunches and dinners, public affairs programming, conferences and customer service calls;

(6) Sponsoring sales promotion functions, involving a number of customers or potential customers.

It must be noted that an activity listed above is not to be automatically accounted for as an operating expense. A carrier must be able to justify that an activity was primarily sales or marketing related.

(b) Business entertainment expenses are to be accounted for as non-operating expenses when they cannot be shown to be related to the sales or marketing activity. These are expenses that are primarily related to recreation or to the convenience and comfort of the individuals rather than to the transaction of business. Examples of this type of activity include the following:

(1) Recreational or resort entertainment, including but not limited to, fishing, hunting, tennis, golfing, skiing or other sporting or recreational trips or outings;

(2) Expense paid transportation in any carrier owned, leased or furnished vehicles, planes, helicopters, boats, yachts, or other methods;

(3) Expense paid lodging in any carrier owned, leased or furnished motels, hotels, apartments, condominiums, lodges, rooms and other places of overnight accommodation;

(4) Paid admission to any sporting, cultural, educational, recreational, or entertaining occurrence or event;

(5) Gifts such as athletic equipment, food or liquor, beverages of all types, smoking materials, clothing and personal accessories;

(6) The furnishing of lunches, dinners, appetizers or beverages where there is no true business purpose;

(7) Social occasions such as holiday parties.

It must be noted that an activity listed above is not to be automatically accounted for as a non-operating expense. If a carrier can justify that the activity was primarily sales or marketing related, it may be accounted for as an operating expense.

Note.—The examples listed above are not inclusive, but are intended as a guide to give carriers an indication of what will or will not be permitted to be recovered through the rate structure. In all instances the burden of proof will fall on the carrier involved.

Appendix B—Respondents to Notice of Proposed Rulemaking, Docket No. 37455 Business Entertainment Expenses

American Trucking Association, Inc.
Association of American Railroads
A–T–O Inc.
Central Transport
Department of Defense
Lee Way Motor Freight, Inc.
Matlack, Inc.
Norfolk and Western Railway Company
Pilot Freight Carriers, Inc.
Yellow Freight System, Inc.

[FR Doc. 82-6044 Filed 3-4-82; 8:45 am]
BILLING CODE 7035-01-M

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49 CFR Part 1249

[No. 38568]

Revisions to Annual Motor Carrier Reporting Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission is eliminating a number of supporting schedules contained in the Form M (Annual Report for Motor Carriers of Property) that it no longer uses on a regular basis. The Commission is also eliminating the Annual Report Supplement on Corporate Disclosure. Elimination of these annual reporting requirements will result in a reduced reporting burden for the carriers involved.

DATE: This action is to be effective for the reporting year beginning January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Wayne D. Howard, (202) 275–7448.

SUPPLEMENTARY INFORMATION: The Interstate Commerce Act authorizes the Commission to require and prescribe the form of annual, periodic, and special reports filed by carriers subject to its regulation. The information reported by these carriers helps to fulfill the regulatory responsibilities of the Commission in the areas of rate regulation, valuation of transportation property, operating rights, mergers, acquisitions, abandonments and discontinued service.

On September 16, 1981, at 46 FR 45967, the Commission published a Notice of Proposed Rulemaking (NPR) requesting comments on the proposed elimination of certain annual reporting requirements. In that NPR the Commission proposed to: (1) Eliminate certain supporting schedules contained in the Form M that the Commission no longer uses regularly (see Appendix), (2) eliminate the Annual Report Supplement on Corporate Disclosure (this report was required from carriers having gross operating revenues of $20 million or more), and (3) require only the highest ranking carrier within a consolidated group to file the consolidated financial information.

Review of Responses

A total of twenty-nine respondents submitted comments. The following respondents supported the NPR: American Trucking Associations, Inc., Riss International, M&G Convoy, Inc., Complete Auto Transit, Inc., DSI Transports, Inc., T.H. Compton, Inc., United Van Lines, CRST, Inc., Carolina Freight Carriers Corporation, The 7 Santini Brothers, CODE Express, Inc., Overnite Transportation Company, Consolidated Freightways, Hall's Motor Transit, Chemical Leaman Tank Lines, Inc., Clairmont Transfer Co., Georgia Highway Express, Inc., Holmes Transportation, Inc., McLean Trucking Company, Meridian Express Company, ARA Services, Inc., Campbell "66" Express, Inc., Arkansas Best Corporation, St. Johnsbury Trucking Company, Inc., Herman Bros., Inc. and National Bus Traffic Association, Inc.

Clark Tank Lines wants the Commission to eliminate additional annual reporting requirements.

The International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America generally supports the reduction of reporting requirements which can be demonstrated to be non-essential. However, they are concerned that any reduction in reporting requirements not deprive the Commission or the public of vital information. In their view, filing of information concerning transactions with officers, shareholders and employees (Schedule 320), investments and advances—affiliated companies (Schedule 520), payables to affiliated companies—current and long-term (Schedule 540), and compensation of officers and directors (Schedule 800–B) should be retained.

Rate Comparison Services, Inc. believes that while it may be true that a number of schedules proposed for elimination are of little use to the Commission, several of the schedules may be of interest and value to parties outside of the Commission. They believe that Schedule 800–B should be retained.

Conclusions

The Commission recognizes that a number of supporting schedules contained in the Form M are used by parties outside of the Commission. However, the Commission also has the responsibility to require only information necessary to regulate properly the motor carrier industry. To recognize publicly this responsibility, the Commission on May 7, 1979, served a notice instituting a policy to require only information necessary to meet the Commission's needs in performing its regulatory function. In addition, because of recent budget cuts, the Commission can no longer afford to act as a data collection agent for all of the various private interests. In conclusion, we believe that elimination of the aforementioned annual reporting requirements is in the best interest of all parties involved. However, the Commission reserves the right to request specific information when needed for a particular regulatory function.

Regulatory Flexibility Act: Pursuant to 5 U.S.C. 605(b), the Secretary of the Commission has certified that the requirements of the Regulatory Flexibility Act do not apply to this final rule since it will not have a significant impact on a substantial number of small businesses. The Commission is eliminating certain annual reporting requirements: no new accounting or reporting requirements for regulated carriers are introduced in this proceeding.

This action does not significantly affect the quality of the human environment, the conservation of energy resources or small entities.

Accordingly, we adopt in Appendix A for the reporting year ending December 31, 1981, the changes to the annual report which are described in 49 CFR Part 1249.

This rule is issued under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: February 26, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Clapp, and Sterrett.

Agatha L. Mergenovich,
Secretary.

Appendix

The Commission is eliminating the following items from the annual reporting requirements for motor carriers of property, under 49 CFR Part 1249—Reports of Motor Carriers.

Carriers should note that the 1981 Form M was scheduled for printing before this proceeding was approved. Thus, the schedules to be eliminated will still appear in the 1981 Form M. Carriers should not complete the schedules eliminated by this proceeding.

(1) The following schedules are eliminated from the Form M:

Schedule 300—Compensating Balances And Short-Term Borrowing Arrangements
Schedule 310—Receivables From Affiliates
Schedule 320—Transactions With Officers, Stockholders, And Employees
Schedule 400—Leases
(A)—Rental Expense Of Lessee
(B)—Minimum Rental Commitments
(C)—Lessee Disclosure
(D)—Lease Commitments—Present Value
Schedule 500—Other Intangible Property And Accumulated Amortization
Schedule 510—Investments And Advances—Affiliated Companies
Schedule 520—Undistributed Earnings From Certain Investments In Affiliated Companies
Schedule 530—Other Investments And Advances
Schedule 540—Payables To Affiliated Companies—Current And Long Term
Schedule 610 C—Transactions Between Noncarrier Subsidiaries Of Respondent And Other Affiliated Companies Or Persons For Services Received Or Provided
Schedule 610 D—Other Transactions Between Noncarrier Subsidiaries Of Respondent And Other Affiliated Companies Or Persons
Schedule 710—Commodities Transported In Intercity Service By Tank Or Hopper Type Vehicles
Schedule 800 B—Compensation Of Officers, Directors, Etc.
Schedule 900—Competitive Bidding—Clayton Antitrust Act.

(2) The Annual Report Supplement on Corporate Disclosure is eliminated. This Report was only required from carriers having gross operating revenues of $20 million or more.

(3) The instruction requiring consolidated financial information from each carrier in a consolidated group is amended so that only the highest ranking carrier in the consolidated group will file the consolidated financial information.

[FR Doc. 82-6000 Filed 3-4-82; 8:45 am]
BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 44
Friday, March 5, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 831

Retirement; Voluntary State Tax Withholding

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management is proposing regulations to implement the State tax withholding program under the provisions of Section 1705 of Public Law 97–35, The Omnibus Budget Reconciliation Act of 1981, which requires the Office of Personnel Management to enter into agreements with the various States to permit voluntary State income tax withholding from civil service annuities.

DATE: Comments must be received on or before May 3, 1982.

ADDRESS: Send or deliver written comments to Craig B. Pettibone, Assistant Director for Pay and Benefits Policy, Compensation Group, Office of Personnel Management, P.O. Box 57, Room 4351, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Eugene Littleford, (202) 632–4634.

SUPPLEMENTARY INFORMATION: Section 1705 of Public Law 97–35, The Omnibus Budget Reconciliation Act of 1981, requires the Office of Personnel Management (OPM) to enter into agreements at the request of a State to permit voluntary State income tax withholding from civil service annuities. The purpose of these regulations is to provide a regulatory basis for the collection of any amounts erroneously transferred to a State by OPM in the performance of an agreement, and otherwise modify the regulations of OPM to make them consistent with the State tax withholding program.

Prior to progam implementation, OPM will offer States an opportunity to enter into a standard agreement for withholding. OPM has given notice of its standard agreement in the notice section of today's **Federal Register**. By entering this agreement, a State will be able to provide annuitants with information about the program and collect annuitants' requests for participation. Qualified requests can then be sent to OPM, which, in turn, will process the requests received from the States, and make periodic payments and reports to the States.

State income tax deductions made from annuity payments which, due to death, non-receipt, or other deficiency in the payment process, are returned to the Treasury will be considered erroneous payments and OPM will collect these by offset from future payments due the State. Other tax deductions paid to the State will be deemed properly paid, and an annuitant seeking adjustment of amounts already withheld will contact the State which received payment. OPM has found this appropriate, in that the amounts withheld are not erroneous on their face in view of the annuitant's tax liability to the State, and in that each State presents taxpayers with an opportunity to effect a settlement of accounts on a periodic basis.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulation, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small governmental jurisdictions.

Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, OPM proposes to amend 5 CFR Part 831 as follows:

PART 831—RETIREMENT

1. In § 831.1705, paragraph (a)(6) is revised to read as follows:

§ 831.1705 Retirement benefits—amount, when payable.

(a) * * *

(6) Property withheld for Federal and State income tax purposes, if amounts withheld are not greater than they would be if the individual claimed all dependents to which he or she was entitled.

* * * * *

2. Subpart S is added to read as follows:

Subpart S—State Income Tax Withholding

Sec.
831.1901 Federal-State agreements.
831.1902 Collection of overpayments.

Authority: 5 U.S.C. 8345(k).

* * * * *

Subpart S—State Income Tax Withholding

§ 831.1901 Federal-State agreements.

OPM will enter into an agreement with any State within 120 days of an application for agreement from the appropriate State official. The agreement will be the standard agreement offered by OPM to each State. The agreement will provide that OPM shall withhold State income tax [in the case of] the monthly annuity of any annuitant who properly submits a request.

§ 831.1902 Collection of overpayments.

If a State receives an overpayment because a payment made by OPM included deductions from a cancelled annuity check, OPM will offset the overpayment from the next recurring payment due the State. If there are no further payments due the State, OPM will inform the State in writing of the amount due. Within 60 days of the date of receipt of that communication the State will make payment of the amount due.

[FR Doc. 82–5875 Filed 3–4–82; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317 and 381

[Docket No. 81–053P]

Reporting of Obsolete Labels

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) proposes to amend the Federal meat and poultry products inspection regulations to remove the requirement that official establishments provide the Agency a report on obsolete labels. Since the meat and poultry inspection manual provides that the inspector in each official establishment also reports obsolete labels, there currently existing a dual reporting procedure, which has caused confusion and inefficiency. By adopting this proposal the Agency would be eliminating a reporting and recordkeeping requirement for industry while improving the efficiency of FSIS labeling files.

DATE: Comments must be received on or before May 4, 1982.

ADDRESS: Written comments to: Regulations Office, Attn: Annie Johnson, FSIS Hearing Clerk, Room 2637, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments concerning the proposed amendments to the poultry products inspection regulations may be made to Mr. Robert G. Hibbert, (202) 447–6042. (See also "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Hibbert, Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6042.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has made a initial determination that this proposed rule is not a "major rule" under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The only alternative to the proposal considered was maintaining the status quo. Current policy allows inconsistencies between the meat and poultry inspection regulations and the meat and poultry inspection manual, resulting in unnecessary costs for industry and the Federal government through duplicative reporting.

Effect on Small Entities

The Administrator has determined that this action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601). If promulgated, it would essentially eliminate the paperwork required of industry for reporting to the Department those labels that are no longer in use.

Comments

Interested persons are invited to submit comments concerning this proposal. Written comments must be sent in duplicate to the Regulations Office. Comments should reference the docket number located in the heading of this document. Any person desiring an opportunity for oral presentation of views concerning the proposed amendments to the poultry products inspection regulations must make such request to Mr. Hibbert so that arrangements may be made for the presentation. A transcript shall be made of all comments presented orally. All comments submitted pursuant to this proposal will be made available for public inspection in the Regulations Office between 8:00 a.m. and 4:30 p.m., Monday through Friday.

Background

Section 317.14 of the Federal meat inspection regulations (9 CFR 317.14) and § 381.141 of the Federal poultry products inspection regulations (9 CFR 381.141) provide procedures for the reporting of obsolete labels to the Administrator. Section 17.22(j) of the meat and poultry inspection manual also provides a separate set of procedures for the reporting of obsolete labels by inspectors.

The Federal meat and poultry products inspection regulations (9 CFR 317.14 and 9 CFR 381.141) require the official establishment to report to the Administrator those approved labels that are no longer in use. These regulations prescribe that information concerning obsolete labels must be submitted once a year in quadruplicate, unless the Administrator determines a need for reporting the information more frequently. The regulations also specify that the reports be submitted in list form.

The meat and poultry inspection manual (§ 17.22(j)) requires the inspector at each official establishment to report labels that are no longer in use. It prescribes that upon notification by the plant management or by the Standards and Labeling Division (SLD) that a label is obsolete, the inspector is responsible for removing the label and the attached transmittal form from the official file. The manual requires that the inspector then return the label to the plant management and return the transmittal form to SLD for data recording, indicating the date and the word "rescinded" on the form.

The inconsistencies between the two reporting procedures have created confusion over who has the responsibility for reporting obsolete labels. This confusion has caused duplication in reporting for some establishments and a complete failure of reporting in others. This has resulted in unnecessary expense and inefficiency.

Proposal

Therefore, the Administrator is proposing to revise § 317.14 of the Federal meat inspection regulations (9 CFR 317.14) and § 381.141 of the poultry products inspection regulations (9 CFR 381.141) to establish reporting procedures for obsolete labels similar to those provided for in §17.22(j) of the meat and poultry inspection manual. The proposal, if adopted, would provide for the following revisions to the meat and poultry products inspection regulations: (1) the responsibility for reporting obsolete labels would lie with the inspector at each official establishment; (2) each label that is no longer in use would be removed from the official file by the inspector and returned to plant officials; and, (3) the transmittal form, which accompanies the label and bears the official approval number, would be dated, marked with the word "rescinded", and forwarded to the SLD by the inspector for data recording.

PART 317—LABELING, MARKING DEVICES AND CONTAINERS

Accordingly, the Administrator proposes to amend Part 317 of the Federal meat inspection regulations and Part 381 of the poultry products inspection regulations as follows:

1. The authority citation for Part 317 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21

U.S.C. 71 *et seq.*, 601 *et seq.* (33 U.S.C. 466–466k).

2. Section 317.14 would be revised to read as follows:

§ 317.14 Reporting of obsolete labels.

Upon notification from the plant management of an official establishment that a label is no longer in use, or upon notification from the Standards and Labeling Division that a label is no longer approved, the inspector at the official establishment shall remove the label and accompanying transmittal sheet from the official file. The inspector shall return the label to the plant management. Additionally, the inspector shall forward the transmittal sheet, which bears the official approval number, to the Standards and Labeling Division for data recording. Prior to forwarding the transmittal sheet, the inspector shall identify the sheet with the date and the word "rescinded".

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for Part 381 reads as follows:

Authority: Sec. 14, Poultry Products Inspection Act, as amended by the Wholesome Poultry Products Act (21 U.S.C. 451 *et. seq.*); the Talmadge-Aiken Act of September 28, 1962, (7 U.S.C. 450); and subsection 21(b) of the Federal Water Pollution Control Act, as amended by Pub. L. 91–224 and by other laws (33 U.S.C 1171(b)).

4. Section 381.141 would be revised to read as follows:

§ 381.141 Reporting of obsolete labels.

Upon notification from the plant management of an official establishment that a label is no longer in use, or upon notification from the Standards and Labeling Division that a label is no longer approved, the inspector at the official establishment shall remove the label and accompanying transmittal sheet from the official file. The inspector shall return the label to the plant management. Additionally, the inspector shall forward the transmittal sheet, which bears the official approval number, to the Standards and Labeling Division for data recording. Prior to forwarding the transmittal sheet, the inspector shall identify the sheet with the date and the word "rescinded".

Done at Washington, D.C. on: February 23, 1982.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 82-6046 Filed 3-4-82; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 545 and 563

[No. 82-135]

Amendments on Forward Commitments, Financial Options Trading, and Financial Futures Trading

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Board proposes to amend its regulations to permit institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation ("FSLIC" or the "Corporation") to trade financial options on organized exchanges and to make conforming amendments in the regulations governing the extent to which insured institutions may engage in forward commitment activities. The proposal would permit institutions to buy options and to write call options without position limit and to write put options subject to limitations on outstanding positions. The proposal would require authorization by the institution's board of directors, notification of Board supervisory personnel, and recordkeeping similar to existing requirements for financial futures contracts and forward commitments. The proposal also specifies the regulatory accounting treatment for options trading. The position limit for forward commitments also would be restructured. The proposal also solicits comments on whether current limits on long financial futures positions should be modified and whether market-to-market accounting for forward commitment activities should be required in some circumstances.

The proposed regulation would provide insured institutions with a means to reduce their exposure to interest-rate movements.

COMMENTS MUST BE RECEIVED BY: May 3, 1982.

ADDRESS: Send comments to Director, Information Services, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: John P. Soukenik ((202) 377–6427), Office of General Counsel, Peter M. Barnett ((202) 377–6445), Office of General Counsel, Michael S. Joseph ((202) 377–6994), Office of Examinations and Supervision, or Jerry Hartzog ((202) 377–6782), Office of Policy and Economic Research, at the above address.

SUPPLEMENTARY INFORMATION:

Background

In February of 1981, the Securities and Exchange Commission ("SEC") authorized the Chicago Board Options Exchange ("CBOE") to establish a market in options on Government National Mortgage Association ("GNMA") securities. In April of last year, the Chicago Board of Trade ("CBOT") filed a petition in the United States Court of Appeals for the Seventh Circuit challenging the authority of the SEC to authorize the CBOE to establish a GNMA options market. The Commodity Futures Trading Commission ("CFTC") joined the lawsuit disputing the jurisdiction of the SEC and, in August of 1981, adopted final regulations that would authorize the trading of options on futures contracts on domestic commodity exchanges, including options on GNMA and other financial futures contracts. No decision on the merits of the case has been rendered by the court, but a stay against the opening of trading in GNMA options was ordered. However, on December 2, 1981, a joint CBOT/CBOE special committee announced a joint trading proposal covering options on financial instruments and submitted the proposal to their respective boards of directors and memberships, and on December 7, 1981, the SEC and CFTC announced that they have resolved a range of issues regarding the jurisdictional bounds of each agency. It is believed that these actions signal resolution of the issues that have blocked opening of the GNMA options market.

On July 2, 1981, the Board adopted final amendments to its regulations governing use of financial futures markets by institutions the accounts of which are insured by the FSLIC. *See*, Board Resolution No. 81–380 (July 2, 1981); 46 FR 36829 (July 16, 1981). At that time the Board stated that it was studying a proposal to trade options on GNMA securities on the CBOE and would address options trading in a separate regulation. While trading GNMA options on the CBOE has not yet commenced, the Board believes that the structure for trading is sufficiently established to propose regulations to authorize insured institutions to participate in that market when it opens.

The GNMA Options Market

An option is an agreement giving the holder the right to buy or sell specified securities at a fixed price and for a fixed period of time. In the case of the options market proposed by the CBOE, the security is a GNMA security representing an interest in a pool of mortgage loans insured by the Federal Housing Administration or guaranteed by the Veterans Administration. The stated rate of interest, or face coupon rate, for a GNMA security is at least 50 basis points less than the interest rate borne by the underlying pool or mortgages in which the GNMA represents an interest. For the purpose of pricing option contracts, GNMA prices and yields are quoted on the assumption that the mortgages underlying the security all having a 30-year term, will have level payments for twelve years but will be repaid in full at the end of the twelfth year. While actual experience for a particular pool of mortgages may differ, these assumptions provide a basis for assessment and comparison of the current market value of different coupon GNMAs that are traded in options contracts.

The GNMA options market proposed by the CBOE is an organized exchange dealing in option contracts on GNMA pass-through securities. The structure and operation of the market is similar to the futures market in GNMA securities except the contract is "standby" rather than "firm." This means that an option contract makes delivery of the security optional for a fixed period of time while a futures contract makes delivery mandatory at the expiration of the contract. The holder (or buyer) of an option may either have an option to sell a security (a "long put") or to purchase a security (a "long call") at a fixed price prior to the expiration date. Depending on the circumstances, the holder may elect to make (in the case of a put) or to take (in the case of a call) delivery of the security, to offset the position by taking the opposite position at the current market price, or to allow the option to expire. The writer (or seller) of the option incurs the obligation to sell (a "short call") or to purchase (a "short put") the security at the discretion of the option holder. Provided that the option has not been exercised by the holder, the writer can offset the position by taking the opposite position at the current market price, or hold it until the expiration date. If the holder exercises the option, the writer must make or take delivery.

Potential Benefits to Institutions From Options Trading

As discussed by the Board in adopting its final rules on financial futures trading, savings and loans face interest-rate risk exposure from two sources. The primary interest-rate risk arises from the mismatched maturity structure of assets and liabilities. By borrowing short and lending long, institutions are subject to earnings erosion in periods of rising interest rates. The second type of interest-rate risk exposure for institutions arises from their activities as mortgage originators and sellers and mortgage-related securities issuers. For instance, institutions may commit in advance to make, sell, or issue mortgage-related securities, based on, mortgages not yet originated. If the price of those mortgages is determined in advance, the institution is subject to unexpected interest-rate movements.

An institution may use option positions matched against appropriate cash or forward market transactions to reduce its exposure to interest-rate movements. An institution may use long puts to reduce interest-rate exposure from its mortgage origination activities. For instance, an institution may issue a stand-by or optional commitment to a builder to provide permanent financing at a predetermined rate. If interest rates rise after the commitment is made, the institution will realize losses in the form of the opportunity cost of making below-market-rate mortgages. An option to sell GNMA securities (a long put) could be used to reduce interest-rate risk during the period the commitment is outstanding. If interest rates rise, the value of the put will rise to offset the opportunity cost associated with taking below-market-rate mortgages into portfolio.

Short calls can be used to offset the risk associated with existing asset positions. For instance, if short GNMA calls are matched against a pool of mortgages, the savings and loan receives current income in the form of option commitment fees in return for foregoing the possibility of gains in the value of the assets if interest rates decline. When the call is written, a portion of the amount received represents an option commitment fee and should be recognized as income over the term of the option. If interest rates remain constant or rise the institution incurs no gain or loss on the option if it were written at an exercise price that created no immediate exercise value. If interest rates fall, the institution incurs a loss on the option that offsets the rise in the value of the mortgage loans. Thus a steady fee income is substituted for potential gains in the market value of assets, reducing the variability of the institution's profitability.

Short calls and long puts are extensions of each other. The combination of a short call and a long put can be equivalent to a short futures position. Given the asset and liability maturity imbalance of savings and loans and the nature of commitments typically made by them, most interest-rate risk reduction by institutions is likely to involve short futures, long puts, and short calls.

An institution may use a long call option to purchase GNMA securities to reduce the risk associated with firm forward commitments to sell mortgages not yet originated, but subject to origination under a stand-by commitment to originate. If interest rates fall unexpectedly, the institution would incur losses in discounting the mortgages to bring their yield to that required by the commitment. An option to buy GNMA securities matched against the forward commitment would increase in value as interest rates fall to offset the loss incurred on the firm forward commitment. The long call in conjunction with the stand-by commitment to originate would function in much the same manner as the long futures market position permitted in section 563.17–4 of the Insurance Regulations (12 CFR 563.17–4 (1981)). A long call also could be used to lock-in current market rates for future investments in GNMA securities and mortgages.

Proposed Rule

In order to establish permissible uses of options on financial instruments, the Board is proposing to adopt a new regulation as follows:

Authorized contracts. The markets for exchange-traded options have not yet opened, and only one contract—the GNMA option on the CBOE—has been approved by the regulatory authorities for those markets. However, applications have been filed for the approval of several additional contracts and for trading on exchanges other than the CBOE. The Board believes that its rules should be flexible enough to avoid the need for amendment as new types of option contracts are approved for trading by the appropriate regulatory authorities and to allow insured institutions to participate in the development of these markets. Therefore, the Board is proposing to permit institutions to trade any options approved by the SEC or designated by the CFTC and based upon a security in which the institution is authorized to invest. This would include the GNMA options contract as well as options on futures contracts that institutions are permitted to trade pursuant to § 563.17–4.

Authorized transactions and position limits. As discussed above, insured institutions may benefit from the use of

options positions—both puts and calls—to reduce the interest-rate risk exposure of their cash and forward market positions. Savings and loans often grant discretionary contract terms to customers as part of their ordinary business practices and would be able to reduce the risk inherent in those discretionary contracts by holding option contracts of an offsetting nature. The Board is proposing to permit options transactions without numerical limit for long puts and long calls. The Board believes that the costs of purchasing options will discourage superfluous use of long options.

Since short call options reduce the profit volatility of the "borrow short and lend long" maturity structure of savings and loans, the Board is proposing to permit institutions to enter into short call positions without limit. This parallels the treatment of forward commitments to sell securities, which are not limited by Board regulations. The Board believes that the margin requirements of the CBOE would discourage excessive call writing. However, the public is invited to comment on whether the Board should establish a regulatory limit on the extent to which institutions may take short call positions.

Short puts, on the other hand, tend to have adverse effects on savings and loan profit volatility in most circumstances. Since losses from short put options occur when interest rates rise and savings and loan profitability tends to decrease, the Board proposes a strict numerical limit on such contracts. Moreover, because short put options and forward commitments to purchase securities have similar effects on savings and loan profitability, the Board proposes to impose a numerical limit on the aggregate amount of these positions. The proposal would permit institutions to write put options and issue forward commitments to purchase securities up to a limit of 5 percent of assets if its net worth is less than 3 percent of assets, up to 10 percent of assets if its net worth is 3 percent to less than 5 percent of assets, and up to 15 percent of assets if its net worth is 5 percent or more of assets.

Board of directors' authorization. The Board believes that it is essential for an institution to formulate a strategy that relates the trading of options contracts to the legitimate business of the institution and for the board of directors to indorse the strategy. Therefore, the proposal would require specific authorization from its board of directors before an institution could engage in options trading, the adoption of written policies and internal control procedures with respect to such trading. Internal control procedures would include specification of the personnel authorized to engage in options trading, along with their duties, responsibilities and position limits. The board of directors also would be required to establish an institutional position limit and review all outstanding contract positions and unrealized gains and losses on outstanding contracts at each regular meeting.

Notification. The proposal would require that an institution engaging in financial options transactions notify the District Directors—Examinations of the Federal Home Loan Bank District in which it is located of such activity. An institution would be required to report the sum of its long put and short call positions, the sum of its long call and short put positions and its unrealized gains and losses on these positions on the Board's monthly report.

Recordkeeping requirements. In order to provide examiners with a basis for evaluating options transactions, the proposal would specify recordkeeping requirements for an insured institution engaging in options trading. These include: (1) A register of all outstanding options contracts; (2) a record of each options contract outstanding, the purpose for which the contract was entered into, and any cash market transaction(s) or position(s) against which it is matched; and (3) retention of the records specified in (1) and (2) for all closed-out options transactions for a period of three years.

Accounting. There is currently no single recognized accounting treatment for debt options transactions. While accounting guidelines for debt options transactions likely will be considered by the Financial Accounting Standards Board ("FASB"), it is unlikely that a definitive statement will be forthcoming in the near future. In light of the options trading proposed to be authorized and the importance of the manner in which options transactions are accounted for in terms of their impact on institution profitability, the Board believes that it is necessary to establish its own accounting rules to be used by insured institutions engaging in options transactions. Accordingly, certain basic principles are included in the proposed regulation. These principles will be revaluated at the time accounting guidelines for options are issued by the FASB.

The accounting treatment proposed would be a combination of mark-to-market and hedge accounting techniques. Hedge accounting could be used for recognizing gains and losses on long and short call, and long put, option positions which are properly matched against cash or forward market positions. Hedge accounting treats the gain or loss from an option position as an adjustment to the carrying amount of the cash or forward market position against which the option is properly matched. Unmatched long and short call positions, unmatched long put positions and any short put positions would be accounted for on a marked-to-market basis.

For all options transactions subject to hedge accounting, the Board would require that the transactions be matched properly against cash or forward market positions and that the options transactions reduce the interest-rate risk of those corresponding transactions. Proper matching necessitates the pairing of an option and an existing asset, liability, or written commitment, whether firm or standby. Matching options against anticipated cash flow would *not* be an acceptable matching. Cross hedging and direct hedging of options and cash or forward market positions would be permitted. Matching need not be on a dollar-per-dollar basis; however, an institution would be required to set forth the rationale for its hedge ratios in its written options strategy.

The proposal would require the total option premium to be divided into two components: the option commitment fee and the immediate exercise value of the option. The commitment fee would be recognized as an expense or revenue item over the term of the option. Changes in the immediate exercise value of the option would be treated as gains and losses and would be subject to hedge accounting treatment.

The immediate exercise value would be computed by comparing the adjusted or effective exercise price of the highest coupon GNMA that is currently deliverable with the cash market price of that same coupon GNMA. In general, the highest coupon GNMA that is deliverable is determined by the FHA–VA mortgage rate ceiling. However, when that ceiling is decreased, there is a grace period (the greater of 45 days or the expiration date of the nearby contract) during which the former (higher) coupon GNMA can be delivered. The highest coupon deliverable GNMA is usually the cheapest deliverable GNMA and thus option prices tend to reflect prices of that particular GNMA. Thus, the immediate exercise value is usually best estimated by reference to that cheapest deliverable GNMA.

Application to all insured institutions. Because the trading of options on organized exchanges will affect the interest-rate risk exposure of all insured institutions, the Board proposes to apply the regulation governing exchange-traded options to all insured institutions to ensure that options are used in a manner consistent with safe financial policies and management and to provide uniformity in examination and enforcement. State-chartered institutions should note, however, that their legal authority to trade option contracts derives from state law.

Financial Futures Transactions

The regulations governing financial futures trading by insured institutions permit the use of long futures positions only in connection with forward commitments to sell mortgages not yet originated or the issuance of mortgage-related securities to be based upon mortgages not yet originated. Long futures positions are permitted only to the extent that an institution's forward commitments to sell exceed 10 percent of long-term assets. The Board limited the use of long positions because the asset and liability structure of savings and loan associations generally exposes institutions to losses when interest rates rise unexpectedly, similar to the risk inherent in long futures positions. Thus, an institution's interest-rate risk exposure typically is increased, rather than lessened, by long futures positions.

In adopting the futures regulation, the Board recognized that as institutions changed their operating methods and restructured their balance sheets, broader authority to trade futures contracts would be appropriate. The Board stated its intention to monitor changes in the industry and to review the futures regulation as appropriate. Since it now is proposing regulations permitting the use of options contracts, the Board believes that review of the futures regulation is appropriate at this time. Therefore, the Board is soliciting comments on whether and to what extent existing limits on long futures positions may be modified. Suggestions for modification should discuss how expanded use of long futures positions would reduce the net interest-rate risk exposure of an insured institution and present specific examples of techniques for using long positions.

Forward Commitment Limitations

The proposed amendment to § 563.17–3 of the Insurance Regulations (12 CFR 563.17–3 (1981)) would refine further the current limitations on forward commitment activities. Under the proposal, newly-authorized transactions in short put options and currently-authorized forward commitments to purchase securities would be subject, in the aggregate, to the limitations set forth in § 563.17–3. The proposal would limit the combined activities of an institution in forward commitments and short put options based on its net-worth-to-assets ratio. The proposal would establish a three-tiered structure to allow an institution with a relatively low net worth to engage in the newly-authorized transactions subject to a lower percentage-of-assets limitation.

The Board also is soliciting comments on the proper accounting treatment for forward commitments of insured institutions. In particular, the Board is interested in comments on whether and under what circumstances mark-to-market accounting may be required for forward commitments and whether the accounting for forward commitments should parallel the proposed accounting for options transactions.

Initial Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (September 19, 1980), the Board is providing the following regulatory flexibility analysis.

1. *Reasons, objective, and legal basis underlying the proposed rule.* These elements have been incorporated elsewhere into the supplementary information regarding the proposal.

2. *Small entities to which the proposed rule will apply.* The proposed rule would apply only to institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

3. *Impact of the proposed rules on small institutions.* The proposal would permit institutions to engage in options-trading activities regardless of size and would impose reporting, recordkeeping and other regulatory requirements uniformly based upon the extent of trading activity. To the extent that small institutions effectively reduce interest-rate risk by using options market transactions, the proposal would benefit their operations. These benefits and attendant risks have been discussed elsewhere in the supplementary information regarding the proposal. There is no disproportionate effect of small institutions.

4. *Overlapping or conflicting Federal rules.* There are no known Federal rules that may duplicate, overlap or conflict with the proposal.

5. *Alternatives to the proposed rules.* The basic regulatory requirements included in the proposal are of limitations on the types of options transactions permitted, a written policy endorsed by the institution's board of directors, maintenance of a register documenting options transactions and their purpose, establishment of internal control mechanisms, and providing quarterly notice to the District Director-Examinations. A limitation on transactions, internal control procedures and monitoring by the supervisory staff are minimally necessary requirements to ensure that options trading is undertaken in a safe and sound manner and that losses which an institution might incur are limited. It would not be possible to eliminate or modify these requirements for smaller entities and still expect them to engage in options trading in a reasonable manner.

Regulatory Analysis

The elements of regulatory analysis for major proposed regulations required by Board Resolution No. 80–584 (September 11, 1980) have been incorporated into the supplementary information regarding the proposal.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Parts 545 and 563, Subchapters C and D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

1. Add a new § 545.30, to read as follows:

§ 545.30 Financial options transactions.

A Federal association may engage in financial options transactions in compliance with § 563.17–5 of this chapter.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

2. Amend § 563.17–3 by revising paragraph (c)(2) to read as follows:

§ 563.17–3 Forward commitments.

* * * * *

(c) *Limitations.* * * *

(2) *Percent of assets.* An insured institution's outstanding forward commitments to purchase securities plus short put options authorized by § 563.17–5 of this Part may not exceed an amount equal to 5 percent of its assets if net worth is 3 percent or less of assets, 10 percent of its assets if net worth is over 3 percent but less than 5 percent of assets, or 15 percent of its assets if net worth is 5 percent or more of assets.

* * * * *

3. Add a new § 563.17–5, to read as follows:

§ 563.17–5 Financial options transactions.

(a) *Definitions.* As used in this section, the following definitions apply unless the context otherwise requires:

(1) *Call.* An option which gives the holder the right to purchase qualifying securities at a price on or before the expiration date specified in the financial options contract.

(2) *Deliverable security.* A security whose terms satisfy the requirements for fulfilling delivery obligations of an option.

(3) *Effective exercise price.* The yield equivalent price of a security whose coupon rate differs from the standard instrument specified in the option.

(4) *Financial options contract.* An agreement to make or take delivery of a standardized security upon demand by the holder of an options contract at any time prior to the expiration date specified in the agreement, under terms and conditions established by an exchange designated or regulated by the Commodity Futures Trading Commission or the Securities Exchange Commission.

(5) *Immediate exercise value.* The market value gained by exercising an option with the highest-coupon deliverable GNMA at its effective exercise price compared to purchasing (or selling) an identical security with the same coupon rate in the cash market.

(6) *Long position.* The holding of a financial options contract with the option to make or take delivery of securities.

(7) *Option commitment fee.* The option premium minus the immediate exercise value of the option.

(8) *Put.* An option which gives the holder the right to sell qualifying securities at a price on or before the expiration date specified in the financial options contract.

(9) *Qualifying securities.* Securities issued by an insured institution or in which the institution is authorized to invest.

(10) *Short position.* A commitment through a financial options contract to stand ready during the term of the contract to make or take delivery of securities.

(b) *Permitted transactions.* To the extent that it has legal power to do so, an insured institution may engage in financial options transactions provided in this paragraph (b) of this section.

(1) *Long positions.* An insured institution may enter into long positions without numerical limit.

(2) *Short positions.* An insured institution may enter into short call positions without numerical limit. An institution may enter into short put options in an amount that together with the amount of its forward commitments to purchase securities does not exceed the limitations set forth in § 563.17–3(c)(2) of this part.

(c) *Authorized contracts.* An insured institution may engage in financial options transactions using any financial options contracts designated by the Commodity Futures Trading Commission or approved by the Securities and Exchange Commission, and based upon a security in which the institution has authority to invest.

(d) *Board of directors' authorization.* Prior to engaging in financial options transactions, an institution's board of directors must authorize such activity. In authorizing options, the board of directors shall consider any plan to engage in writing or purchasing financial options contracts, shall endorse specific written policies, and shall require the establishment of internal control procedures. For options positions that will be matched with cash or forward market positions, policy objectives must be specific enough to outline permissible options contract strategies, taking into account price and yield correlations between assets or liabilities and the financial options contracts; the relationship of the strategies to the institution's operations; the rationale for the ratio of the value of options positions to the value of the matched cash market positions; and how the options strategy reduces the institution's interest-rate risk exposure. For unmatched option positions, policy objectives must specify the relationship of the strategy to the institution's operations. Prudent business judgment shall be exercised by participating institutions engaging in financial options transactions in order to maintain a safe and sound financial position. Internal control procedures shall include, at a minimum, periodic reports to management, segregation of duties and internal review procedures. In addition, the minutes of the meeting of the board of directors shall set forth limits applicable to financial options transactions, identify personnel authorized to engage in financial options transactions, and set forth the duties, responsibilities and limits of authority of such personnel. The board of directors shall review the position limit, all outstanding options contract positions, and the unrealized gains or losses on those positions at each regular meeting of the board.

(e) *Notification.* An institution shall notify the District Director-Examinations of the Federal Home Loan Bank District in which it is located before it engages in financial options transactions. The institution shall report the sum of its long put and short call positions and the sum of its long call and short put positions together with the total unrealized gain or loss from such positions on the Federal Home Loan Bank Board Monthly Report.

(f) *Recordkeeping requirements.* An institution engaging in financial options transactions shall maintain records of such transactions in accordance with the following requirements:

(1) *Contract register.* The institution shall maintain a contract register adequate to identify and control all financial options contracts and sufficient to indicate at any time the amounts of financial options contracts required to be reported on its monthly report. At a minimum, the register shall list the type, amount, expiration date and the cost of or income from each contract.

(2) *Other documentation.* The institution shall maintain as part of the documentation of its financial options strategy a schedule of any cash market or forward commitment position with which the option is matched and the purpose of each contract.

(3) *Maintenance of records.* The records designated in this paragraph (f) shall be maintained for all financial options closed-out during the preceding three years.

(g) *Accounting.* (1) *Purchase or sale.* Upon initial purchase or sale of a financial options contract, a memorandum entry of the information specified in paragraph (f)(1) of this section shall be made and appropriate margin accounts shall be established.

(2) *Option commitment fee.* The option commitment fee paid or received shall be amortized to income or expense over the term of the option, except as provided in paragraph (g)(3)(ii) of this section.

(3) *Options contracts.* (i) Gains or losses on options contracts that are matched with assets or liabilities carried at the lower of cost or market value or carried at market value shall be considered in determining the market value of the asset or liability.

(ii) Options positions that are matched with assets or liabilities carried at cost or to be carried at cost shall be accounted for as follows:

(*a*) if a commitment fee will be or has been received with respect to the matched asset, the option commitment fee shall be treated as an adjustment of such fee. The adjusted commitment fee shall then be treated as a fee paid or received in connection with the matched asset;

(*b*) if a commitment fee has not been received with respect to a matched asset, the option commitment fee shall be amortized to income or expense over the commitment period by the straightline method.

(*c*) Any resulting gain or loss from an option position shall be treated as a discount or premium on the matched asset or liability;

(*d*) In the event that the cash market or forward commitment position with which an option is matched is sold or will not occur, the option shall be marked-to-market.

(iii) The immediate exercise value of short puts and other unmatched option positions shall be carried at their current market value.

(Sec. 409, 94 Stat. 160, secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730). Sec. 5A, 47 Stat. 727, as amended by sec. 1, 64 Stat. 256, as amended, sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 12 FR 4891, 3 CFR, 1943–48 Comp., p. 1071)

Dated: February 25, 1982.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-5992 Filed 3-4-82; 8:45 am]

BILLING CODE 6720-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[ARC-3-FRL-2065-7]

Federal Assistance Limitations and Construction Moratorium; State of Pennsylvania

AGENCY: Environmental Protection Agency.

ACTION: Proposed action.

SUMMARY: Section 176(b) of the Clean Air Act requires EPA to withhold Clean Air Act funds from any area where a state or local government has failed to implement an approved or promulgated State Implementation Plan ("SIP"). Section 173(4) and 40 CFR 52.24 impose a moratorium on the construction of major new stationary sources and major modifications of existing stationary sources in any area where EPA finds that a State is not carrying out an approved Part D SIP.

On October 5, 1981 the Pennsylvania legislature passed a bill over the Governor's veto which prohibits the expenditure of any public funds to implement a vehicle inspection program. Pennsylvania's ozone and carbon monoxide SIPs require implementation of an inspection/maintenance program in the Pittsburgh, Philadelphia, and Allentown-Bethlehem-Easton areas. As a result of this action, EPA is today proposing to find that the Commonwealth of Pennsylvania is no longer implementing its ozone and carbon monoxide SIPs in these three areas. If EPA takes final action affirming these findings, funding limitations and a construction moratorium will apply in these three areas.

DATES: Written comments or requests for a hearing must be submitted by March 25, 1982.

ADDRESSES: Comments and requests for a hearing should be sent to Sheldon M. Novick, Regional Counsel, Environmental Protection Agency, Region III, Sixth and Walnut Street, Philadelphia, Pennsylvania 19106.

FOR FURTHER INFORMATION CONTACT: Sheldon M. Novick, Regional Counsel, Environmental Protection Agency, Region III, Sixth and Walnut Streets, Philadelphia, PA 19106, (215) 597–9821.

SUPPLEMENTARY INFORMATION:

A. Background

The Clean Air Act Amendments of 1970 required each state to submit a State Implementation Plan ("SIP") to provide for attainment and maintenance of each of the national ambient air quality standards.

The Clean Air Act Amendments of 1977 added a new Part D to the Act which requires states to revise SIPs for any area which has not yet attained a national ambient air quality standard. The revised plan must meet specific requirements outlined in sections 172 and 173 of the Act, and generally must provide for attainment of the national ambient air quality standard by December 31, 1982.

For areas where a state demonstrates that it cannot attain the ozone (O_3) or carbon monoxide (CO) standards by 1982, section 172(a)(2) allows EPA to extend the attainment deadline to 1987. If an extension is granted, the state must also meet the additional requirements of section 172(b)(11). One of these requirements is submittal, by July 1, 1979, of a schedule for implementation of a vehicle inspection/maintenance ("I/M") program in the area with the extended attainment deadline.

Pursuant to section 172(a)(2) of the Act, the Commonwealth of Pennsylvania submitted a Part D SIP which demonstrated that the O_3 and CO standards could not be attained by 1982 in the Philadelphia and Pittsburgh areas, and that the O_3 standard could not be attained by 1982 in the Allentown-Bethlehem-Easton area. Consequently, Pennsylvania requested an extension for attainment of the O_3 and CO standards in these areas. As required by section 172(b)(11)(B), Pennsylvania also submitted schedules for the implementation of I/M in these areas. These schedules incorporated the terms of a 1978 Consent Decree requiring the Commonwealth to implement I/M.[1]

On May 20, 1980 (45 FR 33604), EPA approved the Commonwealth's revised SIPs for O_3 and CO, including the extension requests and the I/M schedules.

B. Pennsylvania's Failure To Implement I/M

On October 5, 1981 the Pennsylvania General Assembly enacted House Bill 456. Section 2, which was effective immediately upon enactment, provides that the executive branch of the State government may not "expend any public funds for the establishment and administration of any system for the periodic inspection of emissions of motor vehicles."

As required by the Consent Decree Schedule (modified by a Court order of June 16, 1981), on October 10, 1981 the Pennsylvania Department of Transportation published in the *Pennsylvania Register* final regulations for the use of emission analyzers in the Commonwealth's I/M program. The Consent Decree schedule next required the Commonwealth to develop an I/M data collection system by December 6, 1981. Apparently, the Commonwealth has not fulfilled this requirement. Nor has the Commonwealth taken any other action to implement I/M.

Moreover, on October 16, 1981 counsel for the Commonwealth filed in the United States District Court for the Eastern District of Pennsylvania a Motion to Stay and Modify the Consent Decree and Order which require the Commonwealth to implement I/M. In its supporting memorandum, the Commonwealth admitted that the enactment of House Bill 456 prevents it from taking further action to implement I/M.

C. Consequences of a Failure To Implement a Part D SIP

Section 176(b) prohibits EPA from making grants under the Clean Air Act in an area where a state or local government fails to implement an approved or promulgated SIP. EPA

[1] In 1976 and 1977, a citizen's group and EPA sued the Commonwealth to compel it to fulfill an earlier commitment to implement I/M which was approved by EPA as a SIP revision in 1973. *Delaware Valley Citizen's Council for Clean Air v. Commonwealth of Pennsylvania* and *United States v. Commonwealth of Pennsylvania* (E.D. Pa. Civ. Nos. 76–2088 and 77–619). The Consent Decree applies only in the Philadelphia and Pittsburgh areas; in its Part D SIP, the state committed to apply the provisions of the decree in the Allentown-Bethlehem-Easton area.

interprets section 176(b) to require a cut-off of funds only for the specific government which actually fails to carry out a SIP. Under this interpretation, if state and county agencies share responsibility for SIP implementation in a particular area, and only the state stops implementing the SIP, EPA can continue to fund the county while cutting off funds for the state.

Section 173(4) provides that a moratorium on the construction of new major stationary sources and the modification of existing major stationary sources applies in any area where a state is not implementing an approved plan. EPA has incorporated this construction moratorium into each state's SIP. See 40 CFR 52.24 (1981). Both the statute and the regulation make the ban pollutant-specific. For example, if a state fails to carry out its ozone SIP, only the construction of ozone sources is prohibited.

The Clean Air Act does not establish procedures for implementing either section 176(b) or section 173(4). EPA is using the notice and comment procedure required for informal rulemakings under the Administrative Procedure Act, 5 U.S.C. 551 *et seq.* Consequently, EPA is providing an opportunity to comment on its finding that a state or local government has failed to implement a plan before imposing either the funding cut-off under section 176(b) or the construction moratorium under section 173(4).

In addition, section 105(e) requires EPA to provide an opportunity for a hearing before disapproving any application for section 105 funds. EPA will provide a public hearing if it receives a request within 20 days of the publication of this notice (March 25, 1982).

D. Proposed Findings and Action

Based on the Commonwealth's representation that it cannot proceed with I/M implementation, and the Commonwealth's apparent failure to meet its I/M schedule, EPA is proposing to find that the Commonwealth is no longer implementing its O_3 and CO plans in the Philadelphia, Pittsburgh, and Allentown-Bethlehem Easton areas.

1. Cut-off of Clean Air Act Funds

EPA is proposing to withhold Clean Air Act funds from the Pennsylvania Department of Transportation and the Pennsylvania Department of Environmental Resources, the two state agencies which have SIP responsibilities in the Pittsburgh, Philadelphia and Allentown-Bethlehem-Easton areas.

More specifically, EPA is proposing to withhold funds from the Pennsylvania Department of Transportation for the development of I/M. When EPA entered into the Consent Decree in 1978, it agreed to provide $400,000 for I/M implementation. EPA has not yet awarded $172,000 of this amount. EPA is proposing to withhold this $172,000 until the Commonwealth restores its I/M funding.

EPA is also proposing to withhold all funds for the regional offices of the Pennsylvania Department of Environmental Resources with jurisdiction in the I/M areas. For those regional offices which have jurisdiction over an area larger than an I/M area, EPA has estimated the percentage of the regional population in the I/M area. EPA is proposing to withhold the same percentage of federal funds from these regional offices. The total amount to be withheld is $563,352.

EPA is not proposing to withhold any funds to be used in areas of the state which do not need I/M.

In the Pittsburgh and Philadelphia areas, state agencies share SIP implementation responsibilities with two local agencies. EPA is not proposing to withhold funds from these local agencies, which have no responsibility to implement I/M. No local agencies receive Clean Air Act funds in the Allentown-Bethlehem-Easton area.

2. Construction Moratorium

EPA is also proposing to ban construction of major new stationary sources and major modifications of existing stationary sources of O_3 and CO in the Philadelphia, Pittsburgh and Allentown-Bethlehem-Easton areas. This ban will apply to all major sources and modifications which have not yet received preconstruction permits required under the State's new source review program for nonattainment areas.

EPA will consider any future actions or commitments by the Commonwealth before making a final determination on this proposal. If the Commonwealth resumes I/M implementation prior to EPA's final action on this matter, EPA will withdraw this proposal.

E. Request for Comment

EPA is soliciting comment on its proposed finding that Pennsylvania is no longer implementing its O_3 and CO plans. EPA will consider all comments received within 20 days of the publication of this notice (March 25, 1982).

EPA is providing only 20 days for the submittal of comment on this proposal because the public has previously been notified of EPA's intent to make this finding. EPA provided notice of its intent in the Notice of Deficiency published on December 3, 1981 (46 FR 58593).

F. Miscellaneous

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b) I certify that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This proposed action will not affect any small business, governmental jurisdiction, or organization as defined in the Regulatory Flexibility Act.

(Sec. 110, 172, 173(4), 176(b); sec. 301, the Clean Air Act, 42 U.S.C. 7410, 7502, 7503(4), 7508(b) and 7601)

Dated: February 24, 1982.

Ann M. Gorsuch,

Administrator.

[FR Doc. 82-5888 Filed 3-4-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-5-FRL-2054-6]

Approval and Promulgation of Revisions to the State Implementation Plan; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: This notice proposes rulemaking on a revision to the Ohio State Implementation Plan (SIP) pursuant to Part D of the Clean Air Act (Act). The revision pertains to Chapter 3745–35 of the Ohio Administrative Code. The purpose of this notice is to discuss EPA's evaluation of the revision and to solicit public comments on the revision and on EPA's proposed approval.

DATE: Comments on this revision and on EPA's proposed approval must be received by April 5, 1982.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review. (It is recommended that you telephone Richard Clarizio at (312) 886–6029 before visiting the Region V office).

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604;

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216.

Comments on this proposed rule should be addressed to: (Please submit an original and three copies if possible.) Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, USEPA, Region V, 230 South Dearborn, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Richard Clarizio, Air Programs Branch, USEPA, Region V, 230 South Dearborn, Chicago, Illinois 60604 (312) 886–6029.

SUPPLEMENTARY INFORMATION: EPA is today proposing to approve rules 01 through 04 of Chapter 3745–35 of the Ohio Administrative Code (rules 3745–35–01 through 04). The State of Ohio submitted these rules to EPA on February 25, 1980. Presented below is a synopsis of rules 3745–35–01 through 04.

Rule 3745–35–01 sets forth the definitions to be used in rules 3745–35–02 through 04. Generally, this rule incorporates by reference the definitions contained in rule 3745–15–01. The rule does, however, supply specific definitions for the terms "air contaminant source" and "applicable air pollution control law."

Rule 3745–35–02 establishes the procedures and requirements which a source must comply with prior to operation. This rule applies to all new and existing sources, including those sources which are subject to EPA's new source performance standards (NSPS) and national emission standards for hazardous air pollutants (NESHAPS). Generally this rule requires an owner of an air contaminant source to apply for and obtain a permit to operate from the Ohio Environmental Protection Agency (OEPA).

A permit applicant must demonstrate that its sources will be operated in compliance with all applicable air pollution control rules and that they will comply with any other requirements which the Director of OEPA may determine are necessary. Finally, the rule states that the signed permit application represents an agreement by the applicant that he shall operate and maintain the source and the control equipment in a manner designed to assure compliance with applicable air pollution control law.

Rule 3745–35–03 establishes the procedures and requirements which an existing source must comply with in order to obtain a variance. The variance if granted, may, under certain prescribed conditions, allow a source either: (1) to emit an air pollutant at a specified level which exceeds the amount allowed by applicable law or (2) to achieve compliance with an applicable law by a date later than provided for in the law. According to paragraph (E)(2)(f) of the rule, the variance is not effective until after EPA approves it.

Paragraph (E)(2)(d) of this rule incorporates within the rule the concept of a "bubble". With a "bubble" the owner of a pollutant source reduces emissions from one or more emission points at a plant by more than is required by law. In exchange for this reduction the owner is allowed to increase emissions by a similar amount at other specified emission points within the same plant. EPA notes that although it is proposing to approve paragraph (E)(2)(d) as part of rule 3745–35–03 the State must continue to submit individual "bubbles" to EPA for review and approval to ensure that they comply with EPA's Bubble Policy (See 44 FR 71780). If the State adopts and submits to EPA for approval as part of the SIP a rule which sufficiently incorporates the Bubble Policy requirements, then individual "bubbles" will not need to be submitted for review and approval.

Rule 3745–35–04 states the general policy for reviewing permits to operate and variances for the OEPA. It basically states that where more than one alternative would satisfy any applicable requirement of the law then OEPA should "encourage the implementation of the least costly alternative." Further, it directs the Director of OEPA to consider economics whenever he acts pursuant to the requirements of applicable air pollution control law. However, it specifically states that economic hardship shall be no excuse for a source's violating any requirement of applicable air pollution control law. Finally, this rule states that the Director shall act upon the permit and variance applications according to the chronological order of submission.

EPA notes that the authority given the Director of OEPA in rules 3745–35–02 (C)(4)(b) can be exercised only to the extent that it does not violate Part 60 of Title 40 of the Code of Federal Regulations (40 CFR 60). Rule 3745–35–02 (C)(4)(b) allows the Director to "exempt classes of sources * * * from the requirements of performance testing where economic and technical considerations justify such an exemption". 40 CFR 60.8(b) only allows site specific exemptions. It does not allow for class-wide exemptions from the performance test requirements.

Pursuant to the provisions of 5 U.S.C. 605(b), the administrator certified on January 27, 1981 (46 FR 8709), that approvals or conditional approvals of SIPs under sections 110 and 172 of the Clean Air Act and revisions of attainment status designations under section 107(d) would not, if promulgated, have a significant economic impact on a substantial number of small entities. Today's action approves an action submitted by the State pursuant to the provisions of Section 110 of the Act and imposes no new requirements beyond those which the State has already imposed.

This regulation was exempted from review by the Office of Management and Budget (OMB) under Section 3 of Executive Order 12291.

(Sec. 110, Clean Air Act (42 U.S.C. Section 7410))

Dated: February 2, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 82-6082 Filed 3-4-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-5-FRL-2060-8]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: On August 31, 1981, the Illinois Environmental Protection Agency (IEPA) submitted a proposed revision to the Illinois State Implementation Plan (SIP) to the EPA in the form of a July 9, 1981, Order of the Illinois Pollution Control Board (IPCB) R–77–15 amending Chapter 2 of the IPCB rules and regulations by establishing Rule 204(c)(1)(E). Rule 204(c)(1)(E) relaxes the existing sulfur doxide (SO_2) emission limitations for solid fuel combustion sources having actual heat imput not greater than 250 million BTUs per hour owned or operated by Bemis Company, Inc.; Celotex Corporation or Sherex Corporation from 1.8 lbs. SO_2/MMBTU (under Rule 204(c)(1)(A)) to 5.5 lbs. SO_2/MMBTU. On November 17, 1981, IEPA submitted additional information in support of the proposed SIP revision. This rulemaking solicits public comments on the submittals and on EPA's proposed rulemaking action to approve these submittals.

DATE: Comments must be received on or before April 5, 1982.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review:

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604;

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460;

Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.

Comments on this proposed rule should be addressed to: Mr. Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Anne Ernstein, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886–6036.

SUPPLEMENTARY INFORMATION: On August 31, 1981, the IEPA submitted to EPA a July 9, 1981 IPCB Order (R–77–15) as a proposed SIP revision. The Order amends Rule 204(c)(1) of Chapter 2 of the IPCB rules and regulations by establishing Rule 204(c)(1)(E) which reads as follows:

Rule 204(c) Sulfur Dioxide Emission for Existing Fuel Combustion Sources

(1) Solid Fuel Burned Exclusively

* * * * *

(E) Notwithstanding any other provision of this rule, no person shall cause or allow the emission of sulfur dioxide into the atmosphere in any 1-hour period from any existing solid fuel combustion source located in the Peoria major metropolitan area and having an actual heat input not greater than 250 million BTU per hour, ownd or operated by Bemis Company, Inc., Celotex Corporation or Sherex Corporation to exceed 5.5 pounds per million BTU of actual heat input on or after July 20, 1981.

The Order revises the existing SO_2 emission limits for the small coal-fired boilers owned by Bemis Company Inc., Celotex Corporation or Sherex Corporation from 1.8 lbs. SO_2 MMBTU (per Rule 204(c)(1)(A)) to 5.5 lbs SO_2/MMBTU. IEPA submitted copies of several modeling analyses, a State operating permit, transcripts of State hearings and other documents on August 31, 1981 and on November 17, 1981, to support this SIP revision.

The Bemis, Celotex and Sherex facilities are located in Peoria County within an area which has been designated as nonattainment for the SO_2 National Ambient Air Quality Standards (NAAQS) see (CFR 81.314). The coal-fired boilers at Bemis, Celotex and Sherex are all rated at less than 250 MMBTU/hr and have historically burned coal with an average sulfur content between 2.4 and 2.8 percent with corresponding emission rates approximating 4.6–5.0 lbs SO_2/MMBTU. Consequently, Rule 204(c)(1)(E) essentially permits status quo emissions at these facilities. Since actual emissions will not be increased, the new emission limits for these sources will not consume any PSD increment.

Illinois submitted several modeling analyses which were performed in order to show that the proposed emission limits for Bemis, Celotex and Sherex will protect the SO_2 NAAQS. The modeling analyses used the EPA reference models RAM, MPTER and CRSTER and include emissions from all major SO_2 sources in the Peoria area. Five years of Peoria National Weather Service surface and upper air meteorological data were employed with an adequate model receptor grid network. Background concentrations from non-inventoried SO_2 sources were determined from available SO_2 monitoring data in Peoria. More detailed information on the modeling analyses is contained in the Technical Support Document in Docket No. 153, located at the Region V office listed above.

The modeling analyses show that a stack height increase at Sherex is necessary to assure attainment and maintenance of the SO_2 NAAQS with the proposed emission limit of 5.5 lbs/MBTU. Consequently, Illinois EPA has conditioned Sherex's operating permit to require that the company increase the height of their stack which serves coal-fired boilers numbered 1 and 2 from 42.7m to at least 58.2m. The new stack at Sherex conforms with the Good Engineering Practice (GEP) stack height regulations (February 8, 1982). The GEP regulations allow a de minimus stack height of 65 m for all sources. After completion of this taller stack at Sherex, the results of the modeling analyses demonstrate that the SO_2 NAAQS will be attained and maintained in the Peoria area.

Insofar as interstate intransport of SO_2 emissions is concerned, the Agency's air quality models are not considered accurate beyond 50 km from the source(s) and thus it is not possible to quantify the SO_2 impact of the Peoria sources on distant states. However, the increase in allowed SO_2 emissions from Bemis, Celotex and Sherex should not have an adverse impact on SO_2 air quality in any other state. The total maximum allowable SO_2 emissions from these industrial boilers are relatively small (less than 10,000 tons per year) and the emissions are dispersed from relatively short stacks (less than 65 m). Consequently, long range transport of SO_2 from these sources should not be significant and should not have an adverse impact on the SO_2 air quality in any other State (Iowa, 120, km away, is the closest state to the Peoria area.)

IEPA has provided adequate technical support to demonstrate that the SIP relaxation to 5.5 lbs/MMBTU for the coal-fired boilers with actual heat input less than 250 MMBTU/hr at Bemix, Celotex and Sherex will not cause or contribute to violations of the SO_2 NAAQS or applicable PSD increments. Therefore, EPA proposes to approve Illinois Rule 204(c)(1)(E) as contained in IPCB Order R–77–15 as a SIP revision.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified on January 27, 1981 (46 FR 8709) that the attached rule will not, if promulgated, have a significant economic impact on a substantial number of small entites. This action, if promulgated, only approves a State action and, therefore, imposes no new requirements.

This regulation was exempted from review by the Office of Management and Budget (OMB) under section 3 of Executive Order 12291. Any regulatory requirements which may occur as a result of this action will be dealt with in a separate notice.

This notice of Proposed Rulemaking is issued under the authority of sections 110 and 172 of the Act as amended (42 U.S.C. 7410 and 7502).

Dated: Feburary 19, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 82-6080 Filed 3-4-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-5-FRL-2035-7]

Satisfaction of State Implementation Plan Approval Conditions for Particulate and Ozone Control Strategies—Illinois

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: In its February 21, 1980, final rulemaking (45 FR 11472), the Environmental Protection Agency (EPA) conditionally approved the Illinois control strategies for Total Suspended Particulates (TSP) and for ozone (O_3). On October 1, 1981, the State of Illinois submitted information in satisfaction of the TSP strategy approval condition which required the State to study the potential air quality impact from storage piles with uncontrolled emission of less than 50 tons per year. On February 11, 1981, the State submitted information in satisfaction of the O_3 control strategy approval condition which required the State to conduct a study to demonstrate that the three pound per hour, 15 pound per day exemption for solvent metal cleaners contained in Rule 205(k) represents Reasonably Available Control Technology (RACT). This rulemaking solicits public comments on the submittals and on EPA's proposed rulemaking action to approve these submittals.

DATE: Comments must be received on or before April 5, 1982.

ADDRESSES: Written comments should be sent to the following address: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

Please submit an original and three copies if possible. Copies of the materials submitted by the State and by the public during the comment period announced in this notice of proposed rulemaking may be examined during normal business hours at the following EPA offices:

U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604;

Public Information Reference Unit, Library Systems Branch, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20480.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6035.

SUPPLEMENTARY INFORMATION: In its February 21, 1980, Final Rulemaking (45 FR 11472), EPA conditionally approved the Illinois control strategies for TSP and for O_3. This notice proposes to approve the satisfaction of one approval condition for each of these strategies.

TSP Control Strategy

The TSP control strategy approval condition required the State to conduct an analysis of the potential air quality impact from storage piles with uncontrolled emissions of less than 50 tons per year, to submit the results of any analysis to EPA, to submit any necessary regulations to the Illinois Pollution Control Board (IPCB), and promulgate and submit any necessary regulations to EPA.

The State submitted the required report to EPA on October 1, 1981. The report concluded that TSP emissions from small industrial storage piles represent less than one percent of the industrial TSP emissions in Illinois non-attainment counties and only about five percent of the storage pile emissions. According to the report, the spatial distribution of these small storage pile sources is such that their impacts do not have a substantial additive effect on air quality. Based on these findings, the State concluded that there was no need for further regulations. The State considers their October 1, 1981, submittal sufficient for satisfaction of the conditional SIP approval relating to control of industrial related storage pile emissions.

EPA has reviewed the State's submittal including the required report and agrees that no further regulations are necessary. EPA, therefore, proposes to find that the State's submittal satisfies the plan approval condition.

O_3 Control Strategy

The O_3 control strategy approval condition proposed for satisfaction today required the State to conduct a study to demonstrate that the three pound per hour, 15 pound per day exemption for solvent metal cleaners contained in Rule 205(k) represents RACT, to submit the results of the study to EPA, to submit any necessary regulations to the IPCB and promulgate and submit any necessary regulations to EPA.

EPA study (EPA 905/4–80–008) *Volatile Organic Compound Emissions from Solvent Cleaning Operations in the State of Illinois* was prepared to satisfy the report requirement. It reached two conclusions: (1) The Illinois rule is more stringent than the EPA "presumptive norm" contained in the Control Techniques Guidelines (CTG) and (2) the allowable emissions from the Illinois rule are within five percent of those resulting from a rule consistent with the CTG.

The State reviewed this report and in a February 11, 1981, letter to EPA noted their agreement with these findings and indicated that because there was no need for further regulations, this condition is satisfied.

EPA has reviewed this study and the State's February 11, 1981, letter. EPA agrees with the report's findings and the State's assertion regarding this plan. EPA, therefore, proposes to find that the State's action satisfies this plan approval condition.

All interested parties are invited to comment on the State's submissions and on EPA's rulemaking proposing satisfaction of these SIP plan approval conditions. All comments received will be available for inspection at Region V, Air Programs Branch, 230 South Dearborn, Chicago, Illinois 60604.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified on January 27, 1981, that the attached rule will not, if promulgated, have a significant impact on a substantial number of small entities. This action only proposes that two SIP approval conditions have been satisfied. It imposes no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This proposed regulation is not major because it only indicates that two SIP approval conditions have been satisfied and imposes no new requirements. These actions were exempted from review by the Office of Management and Budget under section 3 of Executive Order 12291.

This proposed rulemaking is issued under the authority of sections 110 and 172 of the Clean Air Act.

Dated: January 11, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 82-6079 Filed 3-4-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-7-FRL-2056-1]

Revision to State Implementation Plan; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: In order to satisfy the requirements of Part D of the Clean Air Act, as amended, the State of Kansas submitted revisions to its State Implementation Plan (SIP) in 1979 and 1980. On April 3, 1981, EPA took final action to approve certain elements of the Kansas plan while certain other portions of the plan were conditionally approved (46 FR 20164). On September 15, 1981, the Kansas Department of Health and Environment made a submission for the purpose of fulfilling one of these conditions. The condition required the state to submit additional information to substantiate its determination that those sources of particulate listed in Appendix DK of the state particulate plan which are not equipped with control equipment meet the requirements of reasonably available control technology (RACT).

The purpose of today's notice is to advise the public of EPA's proposed action on the September 15, 1981 submission and to invite public comment.

DATE: Comments must be received on or before May 4, 1982.

ADDRESSES: Comments should be addressed to Mary C. Carter, Environmental Protection Agency, Region VII, Air Branch, 324 East 11th Street, Kansas City, Missouri 64106.

Copies of the state submission are available for inspection during normal business hours at the above address and at the following locations: Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460; and Kansas Department of Health and Environment, Bureau of Air Quality and Occupational Health, Forbes Field, Topeka, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Mary C. Carter at (816) 374–3791 (FTS 758–3791).

SUPPLEMENTARY INFORMATION: On April 3, 1981, EPA conditionally approved certain portions of the Kansas SIP with regard to the requirements of Part D of the Clean Air Act, as amended. A detailed discussion of that action can be found in the **Federal Register** notice published on that date (46 FR 20164).

In its original SIP submittal in 1979, the state certified that all major point sources in the Kansas City, Kansas, nonattainment area were required to meet regulations representing RACT. However, the submittal indicated that some of the sources had no control equipment. Therefore, one of the conditions promulgated by EPA required the state to submit additional information to substantiate its determination of RACT for those point sources of particulate listed in Appendix DK of the State particulate plan which are not equipped with control equipment. In addition, the state was required to implement any recommended control measures which might be identified and to submit acceptable compliance schedules for completing the actions which may be necessary to control these sources at the RACT level, so that Kansas City attains the particulate standard by the December 31, 1982 deadline. EPA stated in the April 3 notice that it believed further engineering evaluation of possible control equipment for those uncontrolled sources may be appropriate. The state agreed to accept the findings of a RACT determination study being conducted by the local agency, the Kansas City-Wyandotte County Department of Health (KCWCDH). The state further agreed to take the appropriate follow-up actions that the study found to be necessary to implement RACT controls on these sources.

The RACT determination study conducted by the KCWCDH was completed and submitted to EPA in August 1981. The report does not address all of the sources in Appendix DK which are not equipped with control equipment, as specified in the April 3 condition. However, EPA has learned, through further communication with the local agency, that some of the sources in Appendix DK which are shown as having no control equipment either no longer exist, have not been operating for the last year, or have undergone process modifications to reduce particulate emissions. The remaining point sources which do not have control equipment represent only two percent of the Wyandotte County particulate emission inventory. In addition, for at least one of these uncontrolled sources there is no reasonably available control equipment.

On September 15, 1981, the Kansas Department of Health and Environment (KDHE) submitted a letter which acknowledged receipt of the KCWCDH RACT determination study report, affirmed acceptance of the findings of the report, and concluded that no new actions needed to be taken by that agency. The letter affirmed that enforcement actions will continue to be taken to assure that point sources of particulate comply with current Kansas regulations. The letter requested that the applicable condition on the SIP be removed.

The EPA has reviewed the September 15, 1981, submission from the KDHE and has determined that it does not meet the requirements of the April 3, 1981 condition on approval of the Kansas SIP because the submission only addresses some of those uncontrolled sources listed in Appendix DK. However, recent information indicates that some of the uncontrolled sources listed in Appendix DK either no longer exist, have not been operated for the last year, or have undergone process modifications to reduce particulate emissions. Additionally, EPA feels that reasonably available control measures generally do not exist for the remaining uncontrolled point sources listed in Appendix DK. Therefore, EPA is proposing to remove the April 3, 1981 condition on the Kansas SIP identified earlier in this notice.

Proposed Action

EPA proposes to remove the applicable condition on the Kansas SIP.

Pursuant to the provision of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities (46 FR 8709, January 27, 1981). The attached rule, if promulgated, constitutes a SIP approval under Sections 110 and 172 within the terms of the January 27 certification. This action only approves state actions. It imposes no new requirements.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

This notice of proposed rulemaking is issued under the authority of section 110 of the Clean Air Act, as amended.

Dated: February 4, 1982.

John Franke, Jr.,

Regional Administrator.

[FR Doc. 82–6018 Filed 3–4–82; 8:45 am]

BILLING CODE 6560–38–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81–503; RM–3823]

Radio Broadcast Services; FM Broadcast Station in Greenfield and Springfield, Missouri; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: This action denies a request by John A. Watkins to have FM Channel 228A in Greenfield, Missouri, reassigned to Springfield, Missouri. Petitioner requested that his original petition be withdrawn, thus terminating the proceeding.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: February 16, 1982.

Released: February 25, 1982.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Greenfield and Springfield, Missouri), BC Docket No. 81–503, RM–3823.

1. The Commission has before it for consideration a Notice of Proposed Rule Making, 46 FR 42703, published August 24, 1981, in response to a petition filed by John A. Watkins ("petitioner"), President of the Watkins Investment Company, licensee of FM Station KRFG (Channel 228A) in Greenfield, Missouri. Petitioner seeks to have Channel 228A deleted from Greenfield, Missouri, and reassigned to Springfield, Missouri, as that community's fifth FM assignment. The request is conditioned upon "the approval of a new and modified license for KRFG at the new location * * *," Springfield, Missouri.

2. Greenfield (population 1,394),[1] seat of Dade County (population 7,883), is located approximately 192 kilometers (120 miles) southeast of Kansas City, Missouri, and approximately 51 kilometers (32 miles) northwest of Springfield, Missouri. Station KRFG, licensed to petitioner, is presently the only local aural service in Greenfield. Springfield (population 133,116), seat of Green County (population 185,302), is located approximately 224 kilometers (140 miles) southeast of Kansas City, Missouri. Springfield is currently served locally by two daytime-only AM stations, four full-time AM stations, four FM stations, and one noncommercial FM station.

3. In our Notice of Proposed Rule Making, we stated that, although we had several misgivings about the proposal, we had decided to seek comments on petitioner's request to reassign Channel 228A to Springfield. We pointed out, however, that should the Commission ultimately decide to reassign Channel 228A to Springfield, Commission policy requires that the channel be opened to competing applications. Permitting all interested parties to apply for the channel at Springfield would allow the Commission to select the applicant which would best serve the public interest. Thus, if it were decided to reassign Channel 228A, the license of Station KRFG would not be modified to specify Springfield as its city of license. We further stated that if the petitioner does not wish to risk a comparative application proceeding for Channel 228A at Springfield, we would be inclined to act favorably toward a request from petitioner to withdraw his petition.

4. Petitioner filed "Comments, Motion to Modify, or In Alternative, Motion to Withdraw Petition for Rule Making." Petitioner again urged the Commission to modify the proposed rule making so that the change would be effective only upon KRFG presenting a suitable application for a construction permit to begin operation in Springfield upon termination of operation at Greenfield. If such modification cannot be made, petitioner requests that his original petition be withdrawn so that other possible solutions can be explored.

[1] Population figures are derived from the 1980 U.S. Census, Advance Reports.

5. Comments opposing the reassignment of Channel 228A to Springfield were filed by Salina Broadcasting, Inc. ("Salina"), licensee of Stations KWTO(AM) and KWTO–FM, Springfield; and by Springfield Great Empire Broadcasting, Inc., licensee of Station KTTS–FM, Springfield. Each has stated that Greenfield should not lose its only FM station in favor of a twelfth radio station at Springfield. Further, Watkins has not submitted sufficient economic data providing a basis for finding that Greenfield cannot support an FM station. As for the modification of license to specify a new city, Commission policy founded upon the *Ashbacker*[2] case, requires the channel to be opened to competing applicants. Accordingly, petitioner's request for modificaton of the rule making should be denied, the request to withdraw the petition should be granted, and the proceeding terminated.

6. In its reply, Watkins offers his station's confidential financial reports into evidence to demonstrate the losses it has sustained and its need to terminate its Greenfield operation. Watkins pledges that it would aid the establishment of a noncommercial educational facility for Greenfield with its equipment.

7. Petitioner's request for modification of the rule making will be denied. When a channel is reassigned to a new community, the channel must be opened to competing applications. *Riverside and Santa Ana, California,* 65 F.C.C. 2d 920, 924 (1977), *reconsideration denied,* 66 F.C.C. 2d 557 (1978). That policy is well established and we know of no basis upon which to base a different conclusion. Without such modification Watkins is unwilling to pursue the channel reassignment. Thus the issues relevant to the reassignment are rendered moot.

8. In view of the foregoing, it is ordered, That petitioner's Motion to Modify the rule making is denied, and that the request to withdraw the original petition is granted.

9. Authority for the action taken herein is contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

10. It is further ordered, That this proceeding is terminated.

11. For further information concerning the above, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303))

[2] *Ashbacker Radio Corp* v. *FCC,* 326 U.S. 327 (1945).

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 82–6083 Filed 3–4–82; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Review of Status—Tar River Spiny Mussel (Canthyria sp.)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Review.

SUMMARY: The Service is reviewing the status of the Tar River spiny mussel (*Canthyria* sp.) to determine if this species and its habitat should be provided protection under the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), as amended. This species, believed to exist only within the Tar River, North Carolina, has been identified by the North Carolina Wildlife Resources Commission as a species whose numbers appear to have been significantly reduced. The Service has also received two unsolicited research proposals on this species which include information on the status of this mussel. Based on information provided through the Notice of Review process and other data, the Service will determine if the Tar River spiny mussel should be proposed for inclusion on the Federal List of Endangered and Threatened Species. The Service also is requesting information on environmental and economic impacts and effects on small entities that would result from listing the Tar River spiny mussel as an Endangered or Threatened species, and information on possible alternatives to the listing.

DATE: Information regarding the status of this species should be submitted on or before June 3, 1982.

ADDRESSES: Interested persons, organizations, agencies, and governments are requested to submit comments to Area Manager, U.S. Fish and Wildlife Service, 50 South French Broad Avenue, Plateau Building, Room A–5, Asheville, NC 28801. Comments and material relating to this notice are available for public inspection by appointment during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard G. Biggins or Ms. Nora Murdock, U.S. Fish and Wildlife Service, 50 South French Broad Avenue, Plateau Building, Room A–5, Asheville, NC 28801 (Telephone 704/258–2850 ext. 321 commercial; or 672–0321, FTS).

SUPPLEMENTARY INFORMATION:

Background

The Tar River spiny mussel (*Canthyria* sp.), believed to exist only within North Carolina's Tar River Drainage, was first discovered in the Tar River at Tarboro, Edgecombe County, North Carolina, in 1968. Although other malacologists have repeatedly surveyed the Tar River for this mussel since 1968, fewer than 20 live specimens have been observed. All known live specimens have been taken from the stretch of river between Sparta and Tarboro, Edgecombe County, North Carolina. A relict shell was taken near Spring Hope, Nash County, North Carolina. Clark (1980) reports that in 1977 he visited the site of the 1968 discovery and found no living mussels.

The North Carolina Wildlife Resources Commission (Hazel, 1979) identified the Tar River spiny mussel as State "Endangered species" whose numbers appear to have been significantly reduced. Fuller (1971) lists the species as being in danger of extinction. In a report to the North Carolina Wildlife Resources Commission, Porter (1979) describes the Tar River spiny mussel as follows: "May be extinct. Known only from Tar River, North Carolina. . . . This species most certainly should be listed as endangered." Two research proposals, Clark (1980) and Porter (1980), submitted to the Service indicate that this mussel may qualify for Federal protection.

Little is known of the Tar River spiny mussel's life history. It has been found in sand and mud substrate, and may inhabitat shallow to deep water habitat. The species appears most threatened by siltation resulting primarily from agricultural runoff. However, water projects such as reservoirs, sewage treatment facilities and channel clearance projects may have had a negative impact on the species in the past.

Factors Affecting Listing a Species and Critical Habitat

The Service's listing regulations (50 CFR 424.11(b)) state:

> (b) A species shall be listed if the Director determines on the basis of the best scientific and commercial data available to him after conducting a review of the species' status that the species is Endangered or Threatened because of any one or a combination of the following factors:
>
> (1) The present or threatened destruction, modification, or curtailment of its habitat or range;
>
> (2) Utilization for commercial, sporting, scientific, or educational purposes at levels that detrimentally affect it;
>
> (3) Disease or predation;
>
> (4) Absence of regulatory mechanisms adequate to prevent the decline of a species or degradation of its habitat; and
>
> (5) Other natural or manmade factors affecting its continued existence.

Section 3 of the Endangered Secies Act defines "Critical Habitat" as follows:

> . . . include (a) areas within the geographical area occupied by the species at the time that species is listed which are essential to the conservation of the species and (b) which may require special management considerations or protection; and specific areas outside the geographic area occupied by the species at the time, upon a determination by the Secretary that such areas are essential for the conservation of the species.

The Service's listing regulations (§ 424.12) further state in part:

> (a) Critical Habitat shall be specified to the maximum extent prudent at the time a species is proposed for addition to the list * * *
>
> (b) The Director shall considerations in determining what areas are Critical Habitat those physiological, behavioral, ecological, and evolutionary requirements essential to the conservation of the species and which may require special management considers or protection. These requirements include, but are not limited to:
>
> (1) Space for individual and population growth and for normal behavior;
>
> (2) Food, water, air, light, minerals, or other nutritional or physiological requirements;
>
> (3) Cover or shelter;
>
> (4) Sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; and generally,
>
> (5) Habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of listed species. . .
>
> (c) The Director shall identify the significant activities which would either affect an area considered for designation as Critical Habitat or be likely to be affected by the designation, and shall consider the reasonably probable economic and other impacts of the designation upon such activities * * *.

Effects of This Notice of Review

This notice is a public announcement of the Service's intent to collect data on the status of the Tar River spiny mussel and its habitat, and to solicit information on likely economic and other impacts which would result were the species and its Critical Habitat proposed and listed.

This notice does not formally bring the Tar River spiny mussel under the protection of the Endangered Species Act (ESA) nor does it commit the Service to subsequently propose it for listing. Consequently, there will be no effect on Federal activity through Section 7 of the Act. This notice also does not imply any prohibition on taking of the species as stated in Section 9. The Service does believe, however, that the Tar River spiny mussel is a species of concern which may warrant such protection.

Public Comments Solicited

The Service is seeking comments from the Governor of North Carolina on this species and its potential Critical Habitat. With this Notjce of Review, the Service is also inviting and requesting anyone who may have information on this species to contact the Area Manager, U.S. Fish and Wildlife Service, at the above address. Although all comments are welcome, the Service has particular interest in receiving comments on the following:

1. Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to the Tar River spiny mussel.
2. The location of Critical Habitat and the reasons why any habitat occupied by this mussel should or should not be determined to be Critical Habitat as provided for by Section 4 of the Act.
3. Additional information concerning the range and distribution of the Tar River spiny mussel.
4. Current or planned activities which may adversely affect the Tar River or the mussel.
5. Information on environmental and economic impacts and effects on small entities (including small businesses, small organizations, and small governmental jurisdictions) and on federally funded or authorized projects that would result from listing the Tar River spiny mussel as an Endangered or Threatened species and designating Tar River spiny mussel Critical Habitat, and information on possible alternatives to a listing. This information will aid the Service in complying with the requirements of the National Environmental Policy Act, Executive Order 12291 on Federal regulation and the Regulatory Flexibility Act, and in preparing any required analyses of effect.

The Service will analyze all extant data, as well as data resulting from this review, and from any future research. If the analysis indicates that the Tar River spiny mussel merits Endangered or Threatened status, the Service will propose the species for listing. Such a proposal would afford additional opportunity for interested parties to comment prior to any decision by the Service to formally list the Tar River spiny mussel.

The following documents were consulted in preparing this notice:

Clark, Arthur H. 1980. Research proposal: A status Survey Report on the Tar River Spiny Mussel. Submitted to U.S. Fish and Wildlife Service, September 17, 1980, 10 pp.

Fuller, S.L.H. 1977. Freshwater and Terrestrial Mollusks, p. 143–194. *In:* Cooper, J.E., Sarah S. Robinson, and J.B. Funderberg (eds). Endangered and Threatened Plants and Animals of North Carolina. N.C. Museum of Natural History, Raleigh, N.C. 444 pp.

Hazel, Robert. 1979. Letter to Harold Benson, U.S. Fish and Wildlife Service. Subject: Species Recommended for Study to Determine Eligibility for Designation as Threatened or Endangered by N.C. Wildlife Resources Commission Endangered Species Advisory Committee. October 25, 1979. 6 pp.

Porter, Hugh J. 1979. Letter to Frank B. Barick, North Carolina Wildlife Resources Commission; Subject: Mollusk Report—Prioritization of Potentially Endangered Species for Pre-designation Study. September 24, 1979. 7 pp.

Porter, Hugh J. 1980. Research Proposal: Rarity of the Tar River Spiny Mussel, *Canthyria* sp., Within North Carolina Freshwater Drainages. Submitted to U.S. Fish and Wildlife Service. December 18, 1980, 11 pp.

This Notice of Review was prepared by Richard Biggins, U.S. Fish and Wildlife Service, Asheville Area Office, 50 South French Broad Avenue, Plateau Building, Room A–5 Asheville, North Carolina 28801 (Telephone 704/258–2850, ext. 321).

Dated: February 25, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-6089 Filed 3-4-82; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 47, No. 44
Friday, March 5, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Emergency Conservation Program (ECP) Payments; Determination of Primary Purpose for Amounts That May Be Excluded From Income

Note.—This document originally appeared in the Federal Register for Wednesday, March 3, 1981. It is reprinted in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Agricultural Stabilization and Conservation Service.

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of Determination.

SUMMARY: The purpose of this notice is to announce the determination by the Secretary of Agriculture that certain Federal payments made to farmers under the Emergency Conservation Program (ECP) are made primarily for purposes of conserving soil and water resources, protection or restoring the environment, improving forests, or providing a habitat for wildlife. This determination by the Secretary is made in accordance with section 126(b) of the Internal Revenue Code of 1954, as amended by section 543 of the Revenue Act of 1978 and the Technical Corrections Act of 1979. The effect of this determination is to make it possible for recipients of these payments to exclude some or all of them from gross income for Federal income tax purposes if certain other conditions are met.

FOR FURTHER INFORMATION CONTACT: Director, Conservation and Environmental Protection Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, (202) 447–6221.

SUPPLEMENTARY INFORMATION: This action has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified as "not major." It has been determined that these program provisions will not result in (1) an annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individuals, industries, Federal, State or local government agencies or geographic regions; (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this notice applies are: Title—Emergency Conservation Program; Number—10.054; as found in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local governments are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since the Agricultural Stabilization and Conservation Service (ASCS) is not required to publish a notice of proposed rulemaking pursuant to 5 U.S.C. 553 or any other provision of law with respect to the subject matter of this determination.

Section 126 of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1978 and the Technical Corrections Act of 1979, provides that certain payments which are made to persons under programs administered by the Department of Agriculture may be eligible for exclusion from gross income if certain determinations are made. One such determination involves the Secretary of Agriculture who must determine whether certain payments issued to persons under designated programs listed in section 126(a) are "made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife." In making any such determination the Secretary of Agriculture must evaluate each of those designated programs based upon criteria set forth at 7 CFR Part 14.

One of the conservation programs listed in the section 126(a) is the Emergency Conservation Program (ECP) authorized by Title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 note). This program is funded annually by the agriculture appropriations acts.

The objective of the ECP is to share with eligible persons the cost of rehabilitating farmlands damaged by wind and water erosion, floods, hurricanes, or other natural disasters and undertaking, water conservation or water enhancement measures during periods of severe drought.

Except for severe drought and wind erosion, cost-sharing payments are made to eligible producers under the program for replacing or restoring farmlands or structures to a condition similar to that existing prior to the natural disaster. Cost-sharing is not offered for the solution of conservation problems existing prior to the disaster.

Emergency Conservation Program practices for which cost-sharing may be authorized to rehabilitate farmlands to pre-disaster conditions, conserves soil and water resources, or protect or restore the environment are as follows:

(a) Removing debris from farmland.
(b) Grading, shaping, releveling or similar measures.
(c) Restoring permanent fences.
(d) Restoring structures and other installations.
(e) Emergency wind control measures.
(f) Drought emergency measures.
(g) Other emergency conservation measures.

The ECP authorizing legislation, regulations, and operating procedures have been carefully examined using the criteria established by the Department of Agriculture under 7 CFR Part 14 for making "primary purpose" determinations. Based upon this examination, it has been concluded that the payments under the ECP are made for the purpose of rehabilitating farmlands damaged by wind and water erosion, floods, hurricanes and other natural disasters and to provide water conservation or enhancement measures during periods of severe drought. An "Emergency Consevation Program (ECP) Decision: Primary Purpose Determinations for Federal Tax Purpose" has been prepared and is available upon request from the Conservation and Environmental Protection Division, ASCS.

Determination

Therefore, I have determined, in accordance with section 126(b)(1) of the Internal Revenue Code of 1954, as amended, that all payments made for those emergency conservation practices approved under the ECP after September 30, 1979, are made primarily for the purpose of conserving soil and water resources, protecting or restoring the environement, improving forests, or providing a habitat for wildlife.

Signed at Washington, D.C. on February 23, 1982.

John R. Block,
Secretary U.S. Department of Agriculture.

[FR Doc. 82-5770 Filed 3-3-82; 8:45 am]
BILLING CODE 3195-01-M

Forestry Incentives Program (FIP) Payments; Determination of Primary Purpose for Amounts That May Be Excluded From Income

Note.—This document originally appeared in the Federal Register for Wednesday, March 3, 1981. It is reprinted in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Agricultural Stabilization and Conservation Service.

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of Determination.

SUMMARY: The purpose of this notice is to announce the determination by the Secretary of Agriculture that certain Federal payments made to private nonindustrial landowners under the Forestry Incentives program (FIP) are made primarily for purposes of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife. This determination by the Secretary is made in accordance with section 126(b) of the Internal Revenue Code of 1954, as amended by section 543 of the Revenue Act of 1978 and the Technical Corrections Act of 1979. The effect of this determination is to make it possible for recipients of these payments to exclude some or all of them from gross income for Federal income tax purposes if certain other conditions are met.

FOR FURTHER INFORMATION CONTACT: Director, Conservation and Environmental Protection Division, Agricultural Stabilization and Conservation Service, U.S.D.A., P.O. Box 2415, Washington, D.C. 20013, (202) 447–6221.

SUPPLEMENTARY INFORMATION: This action has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum NO. 1512–1 and has been classified as "not major." It has been determined that these program provisions will not result in (1) an annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individuals, industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this notice applies are: Title—Forestry Incentives Program; Number—10.064; as found in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local governments are informed of this action.

It had been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since the Agricultural Stabilization and Conservation Service (ASCS) is not required to publish a notice of proposed rulemaking pursuant to 5 U.S.C. 553 or any other provision of law with respect to the subject matter of this determination.

Section 126 of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1978 and the Technical Corrections Act of 1979, provides that certain payments which are made to persons under designated programs administered by the Department of Agriculture may be eligible for exclusion from gross income if certain determinations are made. One such determination involves the Secretary of Agriculture who must determine whether certain payments issued to persons under designated programs listed in section 126(a) are "made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife." In making any such determination the Secretary of Agriculture must evaluate each of those designated programs based upon criteria set forth at 7 CFR Part 14.

One of the conservation programs listed in section 126(a) is the Forestry Incentives Program (FIP) authorized by section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103). This program is funded annually by agriculture appropriations acts.

FIP provides technical and financial assistance to private nonindustrial landowners through annual and longterm (3 to 10 years) agreements to increase the supply of timber from these private nonindustrial forest lands.

Cost-sharing payments are made to eligible applicants under the program for the satisfactory installation of forestry practices developed primarily to meet a definite need to accomplish one or more of the following:

(a) Increased afforestation of suitable open lands.
(b) Reforestation of cutover or other nonstocked or understocked forest lands.
(c) Timber stands improvement.
(d) Intensive multipurpose management.
(e) Protection of forest resources.

Eligible national cost-sharing practices are planting trees (FP1), improving a stand of trees (FP2), and a few special forestry practices approved at the national level for special situations not covered by practices FP1 and FP2.

The FIP authorizing legislation, regulations, and operating procedures have been carefully examined using the criteria established by the Department of Agriculture under 7 CFR Part 14 for making "primary purpose" determinations. Based upon this examination, it has been concluded that payments under the FIP are made for the purpose of providing financial assistance to private nonindustrial landowners for carrying out forest improvement practices. A "Forestry Incentives Program (FIP) Record Decision: Primary Purpose Determination for Federal Tax Purposes" has been prepared and is available upon request from the Conservation Environmental Protection Division, Agricultural Stabilization and Conservation Service.

Determination

Therefore, I have determined, in accordance with section 126(b)(1) of the Internal Revenue Code of 1954, as amended, that all payments made for those forestry practices under the FIP after September 30, 1979, are made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.

Signed at Washington, D.C., on February 23, 1982.

John R. Block,

Secretary, U.S. Department of Agriculture.

[FR Doc. 82-6278 Filed 3-7-82; 8:45 am]

BILLING CODE 1505-01-M

Food and Nutrition Service

Level of Donated-Food Assistance or Cash in Lieu Thereof for Nutrition Programs for the Elderly; Fiscal Year 1982

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the value of donated foods or cash in lieu thereof to be provided by the Secretary during the period October 1, 1981 through September 30, 1982, for nutrition services under the Older Americans Act of 1965, as amended.

FOR FURTHER INFORMATION CONTACT: Gwena Kay Tibbits, Chief, Program Monitoring and Policy Development Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22303, (703) 756-3660.

EFFECTIVE DATE: October 1, 1981. In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), any reporting or recordkeeping provisions that are included in this final rule will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

SUPPLEMENTARY INFORMATION: *Classification:* This action which implements a mandatory provision of Section 311 of the Older Americans Act of 1965, has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified as "nonmajor" because it does not meet any of three criteria in the definition of "major rule" in the Executive Order. It will not have an annual effect on the economy of $100 million or more, will not cause a major increase in costs or prices, and will not have a significant impact on competition, employment, productivity, innovation, or the ability of U.S. enterprises to compete.

The action has also been reviewed with regard to the requirements of Pub. L. 96-354, the Regulatory Flexibility Act of 1980. Gene P. Dickey, Acting Administrator of the Food and Nutrition Service has certified that it will not have a significant economic impact on a substantial number of small entities.

Notice is hereby given that pursuant to section 311(a)(4) of the Older Americans Act of 1965, as amended (42 U.S.C. 3045f), the level of assistance in food commodities or, where applicable, cash in lieu thereof, to be provided by the Secretary of Agriculture to recipients of grants or contracts for the operation of nutrition services under Titles III and VI of the Act for the period October 1, 1981 through September 30, 1982 will be 51.50 cents per meal. Title III provides for congregate and home-delivered nutrition services to persons aged 60 and older and their spouses; Title VI provides for nutrition services that are comparable to those provided under Title III for older Indians represented by tribal organizations of Indian Tribes. The legislation requires the Secretary, in donating foods or providing cash in lieu thereof to nutrition programs for the elderly funded under the Act, to maintain a minimum level of assistance during each fiscal year after Fiscal Year 1978 of not less than 30 cents per meal. That amount shall be adjusted on an annual basis for each fiscal year to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics (BLS) of the Department of Labor. The minimum level of assistance at 51.50 cents per meal includes such an adjustment and reflects an increase in that series of 8.65 percent as reported by BLS for the period September 1980 through August 1981.

Section 9 of Pub. L. 97-115, approved December 29, 1981, amended section 311 of the Act by adding a new subsection (d) to (1) authorize appropriations of $93,200,000 for Fiscal Year 1982, $100,000,000 for Fiscal Year 1983, and $105,000,000 for Fiscal Year 1984 to carry out the provisions of section 311(a)(4) and (2) authorize the Secretary to reduce the level of assistance per meal to be provided in commodities or, where applicable, cash in lieu thereof, in any fiscal year in which compliance with section 311(a)(4) costs more than the amount appropriated. Funds for commodity assistance under section 311 were appropriated by Pub. L. 97-51, Continuing Appropriations for Fiscal Year 1982, approved October 1, 1981. The Department anticipates that the appropriation of $93,200,000 for Fiscal Year 1982 will be sufficient to provide the minimum level of assistance of 51.50 cents per meal without reduction.

(Catalog of Federal Domestic Assistance No. 10.550)

Dated: March 1, 1982.

Gene P. Dickey,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 82-6082 Filed 3-4-82; 8:45 am]

BILLING CODE 3410-30-M

Packers and Stockyards Administration

Depositing of Stockyards; Johnson City Livestock Market, Inc., Johnson City, Tennessee, et al.

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921 as amended (7 U.S.C. 181 *et seq.*), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility number, name, and location of stockyard	Date of posting
TN-129 Johnson City Livestock Market, Inc, Johson City, Tennessee.	June 10, 1959.
TN-148 Newbern Sales Barn, Inc., Newbern, Tennessee.	May 25, 1959.

Notice or other public procedure has not proceeded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a change relieving a restriction and may be made effective in less than 30 days after publication in the **Federal Register**. This notice shall become effective March 5, 1982.

(42 Stat. 159, as amended and supplemented (7 U.S.C. 181 *et seq.*))

Done at Washington, D.C. this 1st day of March 1982.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 82-6089 Filed 3-4-82; 8:45 am]

BILLING CODE 3410-02-M

Posted Stockyards; Dundee Community Auction, Dundee, Michigan, et al.

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on the respective dates specified below.

Facility number, name, and location of stockyard	Date of posting
MI-145 Dundee Community Auction, Dundee, Michigan.	Jan. 23, 1982.
MI-166 Faulkton Livestock Exchange, Inc., Faulkton, South Dakota.	Jan. 2, 1982.

Done at Washington, D.C., this 1st day of March 1982.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 82-6094 Filed 3-4-82; 8:45 am]

BILLING CODE 3410-02-M

Soil Conservation Service

North Hocking Watershed, Ohio; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Robert R. Shaw, State Conservationist, Soil Conservation Service, 200 North High Street, Room 522, Columbus, Ohio 43215, telephone 614-469-6962.

Notice

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500), and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the North Hocking Watershed, Fairfield County, Ohio.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Robert R. Shaw, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for flood prevention and watershed protection. The planned works of improvement includes one mile of leeves, one dry floodwater retarding structure, a flood warning system, and the planting of field border strips in upland areas of the watershed.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency, various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Robert R. Shaw.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register** (April 5, 1982).

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: February 23, 1982.

Robert R. Shaw,

State Conservationist.

[FR Doc. 82-6092 Filed 3-4-82; 8:45 am]

BILLING CODE 3410-16-M

Village of South Range, Michigan

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517-337-6702.

Notice

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines, (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Village of South Range, RC&D Measure, Houghton County, Michigan.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for the installation of measures for flood prevention. These measures will include: installing a 2,000 foot diversion, 660 lineal feet of 54-inch reinforced concrete culvert, 520 lineal feet of 60-inch reinforced concrete culvert, 7 drop inlet structures, headwall for a 60-inch outlet, a 2,700 foot outlet, 14-inch water line relocation, 4 culvert crossings, a 54-inch reinforced concrete flared inlet, a riprap ditch bottom and seed and mulch as required. Total construction cost is estimated to be $314,800, with RC&D funds paying 100% of this cost.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FNSI has been sent to various federal, state, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implemetation of the proposal will not be initiated until April 5, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding state and local clearinghouse review of federal and federally assisted programs and projects is applicable)

Dated: February 22, 1982.

Homer R. Hilner,

State Conservationist.

[FR Doc. 82-5710 Filed 3-4-82; 8:45 am]

BILLING CODE 3410-16-M

Juniper Canyon Watershed, Oregon; Intent To Prepare an Environmental Impact Statement

AGENCY: Soil Conservation Service, U.S.D.A.

ACTION: Notice of intent to prepare an environmental impact statement.

FOR FURTHER INFORMATION CONTACT: Stanley N. Hobson, Acting State Conservationist, Soil Conservation Service, 1220 S. W. Third Avenue, Portland, Oregon 97204, telephone (503) 221-2751 or FTS 423-2751.

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Juniper Canyon Watershed, Crook County, Oregon.

The environmental evaluation of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the

environment. As a result of these findings, Stanley N. Hobson, Acting State conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The project concerns a plan for flood prevention and watershed protection. Alternatives under consideration to reach these objectives include systems for conservation land treatment, nonstructural flood prevention measures, floodways, and channels.

A draft environmental impact statement will be prepared and circulated for review by agenices and the public. The Soil Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement. Meetings will be held in Prineville to determine the scope of the evaluation of the proposed action. The place, time and date of meetings will be announced in the local newspapers. Further information on the proposed action, or the scoping meeting may be obtained from Stanley N. Hobson, Acting State Conservationist, at the above address or telephone (503)221–2751 or FTS 423–2751.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghoue review of Federal and federally assisted programs and projects is applicable)

Stanley N. Hobson,

Acting State Conservationist.

February 25, 1982.

[FR Doc. 82–5642 Filed 3–4–82; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

Electronic Instrumentation Technical Advisory Committee; Change in Meeting Date

The meeting of the Electronic Instrumentation Technical Advisory Committee scheduled for March 11, 1982, has been rescheduled for March 18, 1982, at 9:30 a.m. in Room 5611 Main Commerce Building, 14th Street and Constitution Avenue, NW, Washington, D.C. The agenda and other information relating to the Committee meeting, as published in the **Federal Register** (47 FR 8036) on Wednesday, February 24, 1982, remain unchanged.

Dated: March 2, 1982.

Richard Isadore,

Acting Director, Office of Export Administration.

[FR Doc. 82–6090 Filed 3–4–82; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

Availability of the Program Development Plan for the National Marine Sanctuary Program

AGENCY: Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Office of Coastal Zone Management announces the availability of the Program Development Plan for the National Marine Sanctuary Program. This Plan was prepared to describe the Program's mission, goals, and operational policy and guide its continued implementation accordingly. The plan anticipates revised procedures and criteria for identifying and selecting sites for consideration as potential marine sanctuaries. Copies are available by written request from the Sanctuary Programs Office at the address listed below.

FOR FURTHER INFORMATION CONTACT: John Epting, (202) 634–4236.

ADDRESS: Sanctuary Programs Office, Office of Coastal Zone Management, NOAA, 3300 Whitehaven St., NW., Washington, D.C. 20235.

SUPPLEMENTARY INFORMATION: Since its establishment in 1972, pursuant to Title III of the Marine Protection, Research and Sanctuaries Act (16 U.S.C. 1431–1434), the National Marine Sanctuary Program has had a number of years of operating experience. Through this experience and as a result of considerable commentary on the Program, a number of refinements in operational policy and procedure have been designed and are described in the Program Development Plan.

The purpose of the Plan is to describe a policy and administrative framework for the future implementation of the Program. It provides a detailed description of the Program's mission, goals, and operational policy; the revised site identification and selection criteria; the nomination and designation process; and the elements and purposes of the site-specific management plans that will be developed for each sanctuary prior to designation.

The draft Program Development Plan was released in March 1981. Federal agency and public workshops were held on the Plan in April 1981. The final Plan has been developed consistent with comments received.

Some measure of new rulemaking will be necessary to adopt the changes described in the Plan. Proposed rules amending the National Marine Sanctuary Program Regulations (15 CFR Part 922) are being prepared at this time. NOAA will follow established rulemaking procedures, including publishing draft and final rules in the **Federal Register**, in the course of amending these regulations.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: February 22, 1982.

William Matuszeski,

Acting Assistant Administrator for Coastal Zone Management.

[FR Doc. 82–5830 Filed 3–4–82; 8:45 am]

BILLING CODE 3510–08–M

Caribbean Fishery Management Council and Administrative Subcommittee; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Caribbean Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Public Law 94–265), has established an Administrative Subcommittee. The Council and its Administrative Subcommittee will hold separate meetings. The Council will hold its 40th regular meeting to consider status reports on fishery management plans (FMPs) under development; draft FMP framework for the shallow-water reef fish fishery; draft FMP for coastal pelagics resources; draft Caribbean section of the Atlantic Billfish FMP; draft FMP for the fishery resources of the Puerto Rican and St. Croix geological platforms; draft FMP for Atlantic Swordfish, and discuss other administrative and Council matters. The Administrative Subcommittee will meet to consider matters related to the Council's budget and regular administrative operations.

DATES: The Council's public meeting will convene on Wednesday, April 21, 1982, at approximately 1:30 p.m., and will adjourn on Thursday, April 22, 1982, at approximately 3 p.m. The Council's public Administrative Subcommittee meeting will also convene on Wednesday, April 21, 1982, at approximately 9:30 a.m., and will adjourn at approximately noon.

ADDRESS: The public meetings will take place at the Conference Room of the Hotel Pierre, 104 de Diego Avenue, Santurce, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918, Telephone: (809) 753–4926.

Dated: March 2, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82–6065 Filed 3–4–82; 8:45 am]

BILLING CODE 3510–22–M

Fishermen's Contingency Fund

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notification of claims pursuant to title IV of the Outer Continental Shelf Lands Act Amendments of 1978 (title IV). Notification 04–82.

SUMMARY: 50 CFR 296.6 requires that the Chief, Financial Services Division (FSD), publish in the **Federal Register** a notice of claims received under the title IV Program. Any interested person may, on or before April 5, 1982, submit to the Chief, FSD, National Marine Fisheries Service (NMFS), evidence concerning the claim or a request to be admitted as a party to any hearing concerning the claim.

IMPORTANT DATE: Any evidence concerning any claim described in this Notice, and any request to be admitted as a party to any hearing concerning any such claim, must be submitted, in writing, to the Chief, FSD, on or before April 5, 1982.

ADDRESS: Send evidence and any request to be admitted as a party to any hearing to: Mr. Michael L. Grable, Chief, Financial Services Division, Attention: Charles L. Cooper, National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Washington, D.C. 20235 (telephone 202–634–4668).

SUPPLEMENTARY INFORMATION: Title IV establishes a Fishermen's Contingency Fund (FCF) to compensate fishermen for eligible claims for actual and consequential damages, including lost profits, due to damages to, or loss of, fishing vessels or fishing gear by items associated with oil and gas exploration, development, or production on the Outer Continental Shelf (OCS). Title IV regulations require that upon receipt of a timely-filed claim which is not clearly ineligible because of statutory exemptions from eligibility, the Chief, FSD publish a 30-day notice of the claim in the **Federal Register**. Upon expiration of the 30-day period following publication of the **Federal Register** notice, the claim will be referred to the Administrative Law Judge (ALJ) (50 CFR 296.6(a)(1)(iii).

Dated: March 1, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

The following claims have been received:

Claim No.	Nature of loss and location	Amount	
FCF–18–82	On 1–21–82 claimant lost a 60 ft. net and a poly "p" rope while trawling for shrimp at the following coordinates: 29°26'13.72" N., 92°58'29.28" W.	$1,135.00	Gear loss.
		0	Economic loss.
		0	Consequential loss.
		1,135.00	Total.
FCF–19–82	On 12–19–81 claimant lost a tail bag, net, leadline, corkline, and netting while trawling for shrimp at the following coordinates: 29°06'39.45" N., 86°43'22.80" W.	785.00	Gear loss.
		0	Economic loss.
		0	Consequential loss.
		785.00	Total.
FCF–20–82	On 11–25–81 claimant lost a 60 ft. net, shackles, and poly "p" line while trawling for shrimp at the following coordinates: 29°13'32.97"N., 92°31'05.30" W.	1,178.50	Gear loss.
		0	Economic loss.
		9.79	Consequential loss.
		1,188.29	Total.
FCF–21–82	On 1–18–82 claimant lost a net while trawling for shrimp at the following coordinates: 28°34'27.98" N., 90°58'29.98" W	Unknown*	Gear loss.
		Unknown	Economic loss.
		Unknown	Consequential loss.
		Unknown	Total.
FCF–22–82	On 1–19–82 claimant lost 2 nets while trawling for shrimp at the following coordinates: 29°13'17.83" N., 90°59'41.97" W	Unknown*	Gear loss.
		Unknown	Economic loss.
		Unknown	Consequential loss.
		Unknown	Total.
FCF–23–82	On 1–19–82 claimant lost a net while trawling for shrimp at the following coordinates: 28°45'30.18" N., 90°51'01.18" N	Unknown*	Gear loss.
		Unknown	Economic loss.
		Unknown	Consequential loss.
		Unknown	Total.
FCF–24–82	On 1–23–82 claimant lost a complete side of his rig while trawling for shrimp at the following coordinates: 28°47'41.87" N., 91°15'55.70" W.	Unknown*	Gear loss.
		Unknown	Economic loss.
		Unknown	Consequential loss.
		Unknown	Total.
FCF–25–82	On 1–20–82 claimant lost 2 40 ft. nets, cables, bridle, wooden doors, and dummy door while trawling for shrimp at the following coordinates: 28°54'34.31" N., 91°30'44.31" W.	3,000.00*	Gear loss.
		0	Economic loss.
		0	Consequential loss.
		3,000.00	Total.
FCF–26–82	On 1–25–82 claimant lost a pair of 11×14 wood doors and nylon netting while trawling for shrimp at the following coordinates: 28°41'44.96" N., 91°22'07.40" W.	5,845.76	Gear loss.
		0	Economic loss.
		0	Consequential loss.
		5,845.76	Total.

Claim No.	Nature of loss and location	Amount	
FCF-27-82	On 2-5-82 claimant lost a net and accessories, trawl doors, and dummy door while trawling for shrimp at the following coordinates: 28°46'57.52" N., 91°22'39.28" W.	Unknown*	Gear loss.
		Unknown	Economic loss.
		Unknown	Consequential loss.
		Unknown	Total.
FCF-28-82	On 2-10-82 claimant lost 2-60 ft. nets and tickler chain while trawling for shrimp at the following coordinates: 28°53'35.70" N., 91°21'20.03" W.	Unknown*	Gear loss.
		Unknown	Economic loss.
		Unknown	Consequential loss.
		Unknown	Total.
FCF-29-82	On 1-25-82 claimant lost a 60 ft. net, bag, and poly "p" line while trawling for shrimp at the following coordinates: 7980X11100.5, 7980Y2859.9.	1,335.00	Gear loss.
		0	Economic loss.
		400.00	Consequential loss.
		1,735.00	Total.
FCF-30-82	On 2-13-82 claimant lost equipment for one complete side while trawling for shrimp at the following coordinates: 7980X28531.8, 7980Y4609.8.	5,227.20	Gear loss.
		0	Economic loss.
			Consequential loss.
		5,227.20	Total.

*Amounts not yet reported at this publishing.

[FR Doc. 82-6106 Filed 3-4-82; 8:45 am]
BILLING CODE 3510-22-M

Office of the Secretary

National Voluntary Laboratory Accreditation Program; Accreditation Process for Insulation, Concrete, and Carpet Programs

AGENCY: Assistant Secretary for Productivity, Technology and Innovation, Commerce.

ACTION: Notice updating announcement of availabilty of the laboratory accreditation programs for thermal insulation materials, freshly mixed field concrete, and carpet.

SUMMARY: Under the National Voluntary Laboratory Accreditation Program (NVLAP), the Department of Commerce (DOC) updates its announcement of January 23, 1980, on the availability of the laboratory accreditation programs (LAPs) for thermal insulation materials (the "Insulation LAP"), freshly mixed field concrete (the "Concrete LAP"), and carpet (the "Carpet LAP"). A separate notice following this notice includes revised fees for these three LAPs. Laboratories that are interested in becoming accredited under any of these LAPs may request an application package by contacting the NVLAP Manager.

EFFECTIVE DATE: April 5, 1982.

FOR FURTHER INFORMATION CONTACT: John W. Locke, NVLAP Manager, National Bureau of Standards, Technology Building, Room B06, Washington D.C. 20234; (301) 921-2368.

SUPPLEMENTARY INFORMATION:

Background

Availability of the laboratory accreditation programs (LAPs) for thermal insulation materials (the "Insulation LAP"), for freshly mixed field concrete (the "Concrete LAP"), and for carpet (the "Carpet LAP") was announced in a **Federal Register** notice of January 23, 1980 (45 FR 5572–5598). That notice described the accreditation process and the general and specific criteria to be used in accrediting laboratories. As announced in a July 17, 1981 **Federal Register** notice (46 FR 37029–37040), these criteria for accrediting laboratories were made part of the text of the NVLAP Procedures by adding additional sections to Part 7a of Title 15 of the Code of Federal Regulations. After two years of experience accrediting laboratories under the process described in the January 23, 1980 notice, DOC has identified a few changes to the process that it is now implementing as described below.

Additional Test Method

In a letter dated October 30, 1981, Mr. Edwin J. Mears of Apache Building Products Company requested that DOC add test method ASTM D2126, Procedure C (NVLAP Code 01/D27) to the Insulation LAP. DOC has deemed such an addition suitable and is including this test method as part of the LAP. Application requests for this test method should be addressed to the NVLAP Manager.

Unannounced Visits

In announcing the availability of these LAPs, it was stated: "In addition to regularly scheduled laboratory visits, unannounced visits * * * may be initiated * * *" (45 FR 5572–5598). Experience has shown that in order to insure the availability of management and staff to demonstrate equipment and perform tests, a call to the laboratory from one day to one week before the visit may be necessary. Therefore, in the future these unannounced visits will be known as "monitoring visits" which may or may not be announced in advance of the visit. Monitoring visits may occur at any time. These visits may be initiated based on random selection or in response to a specific need because, in the opinion of DOC, the laboratory appears to have a testing problem. In general, a complete review of the laboratory is not contemplated for the monitoring visit. In the case of randomly selected visits, key aspects of the laboratory will be checked. In the case of visits due to an apparent problem, aspects relating to the problem, and possibly other selected key aspects as well, will be checked. Failure of the laboratory to cooperate with NVLAP assessors will be grounds for adverse accreditation action.

Accreditation Process

The updated accreditation process for these three LAPs is described below. The description is followed by appendices summarizing operational information for each LAP, including the frequency and nature of on-site visits, the available test methods, and the proficiency testing requirements. This updated description of the accreditation process, its appendices, and the criteria appearing in 15 CFR Part 7a supersede the **Federal Register** notice of January 23, 1980 referenced above.

Dated: March 2, 1982.

Robert B. Ellert,
Acting Assistant Secretary for Productivity, Technology and Innovation.

Accreditation Process for Insulation, Concrete, and Carpet Laboratory Accreditation Programs

Requesting an Application. Any testing laboratory interested in becoming accredited for these LAPs should contact the NVLAP Manager, National Bureau of Standards, Technology Building, Room B06, Washington, D.C. 20234, (301) 921-2368. The NVLAP Manager will send an application package tailored to the specific test methods in which the laboratory is interested. An application request letter should identify the specific test methods under each LAP in which the laboratory is interested (see the Appendices for the test method lists). No commitment by the laboratory will be implied by such a request. Likewise, the NVLAP Manager will only send an application package, and will take no further action unless and until a formal application for accreditation contained in the application package is properly completed and returned.

Application Package. The application package includes an application form with a test method selection list and fee schedule, and a guide to the requirements for accreditation.

Fees. In a separate notice appearing in this issue of the **Federal Register**, DOC announces the fees for these LAPs. The fees notice provides interested laboratories with the information needed to calculate the fees associated with the scope of accreditation desired. All fees must be paid before any initial decision of accreditation is made. Failure to pay renewal fees on a timely basis will lead to automatic expiration of accreditation at the end of the laboratory's current accreditation period.

Enrollment. After payment of the required fees, the laboratory is scheduled for an on-site laboratory visit and is notified of any additional written information which must be supplied, and of any applicable proficiency testing requirements which must be completed, for the evaluation.

Basic Conditions for Accreditation. In order for a laboratory to be accredited under the NVLAP procedures, it shall agree in writing to the following basic conditions:

(1) Be examined and audited, initially and on a continuing basis;

(2) Pay accreditation fees and charges;

(3) Avoid reference by itself and forbid others utilizing its services from referencing its NVLAP accredited status in consumer media and in product advertising or on product labels, containers and packaging or the contents therein, or in any other way which might convey the concept of product certificaion by DOC (Note: a NVLAP accredited laboratory may advertise its accredited status on its letterhead, brochures, and test reports as well as in trade publications and other laboratory services advertising media.);

(4) Maintain compliance with applicable general and specific criteria and with applicable requirements of the NVLAP Procedures (15 CFR Parts 7a, 7b, and 7c);

(5) Participate in proficiency testing that may be required for attaining or maintaining accreditation.

Criteria. The NVLAP criteria for evaluating laboratories, which are described in §§ 7a.19–7a.30 of the NVLAP Procedures (15 CFR Part 7a), address a laboratory's organizational structure, technical management, professional and ethical business practices, and system for assuring the quality of test results. The criteria also address aspects of a laboratory directly related to the reliable performance of each test method for which the laboratory desires accreditation, including staff competence and training, facilities and equipment, test plans, calibration procedures, record keeping, data handling procedures, and quality control checks and audits.

On-site Visits. Regularly scheduled on-site visits are conducted to assess a laboratory's compliance with the NVLAP criteria. In addition, monitoring visits of limited scope are used to assure that accredited laboratories continue to comply with the criteria or to resolve any testing problems that an accredited laboratory may appear to have. The on-site assessor will conduct an exit interview with the laboratory's management at the conclusion of an on-site visit to summarize his or her findings. A written report is prepared by the NVLAP assessor after each on-site visit. Each laboratory is notified when deficiencies are identified and is given an opportunity to correct them before formal accreditation recommendations are prepared or any action to revoke accreditation is commenced. The laboratory shall permit the on-site assessor to review and examine any records or other documents required by the criteria. Also, if a hearing under 5 U.S.C. 556 has been instituted under the NVLAP Procedures, the laoratory shall permit DOC personnel to review and copy any records or other documents required by the criteria. Failure of the laboratory to cooperate with the on-site assessor will be grounds for adverse accreditation action.

Proficiency Testing. Proficiency testing is an integral part of the NVLAP accreditation process. Of utmost importance to the user of laboratory services is information as to whether or not a laboratory consistently obtains reliable results. While the existence of facilities, equipment, and personnel which meet the criteria establish a laboratory's overall capability to obtain good results, for certain methods an analysis of actual test results is also necessary to determine if the overall capability does in fact product the desired results. A laboratory's failure to participate fully in the conduct of required proficiency testing may also be grounds for adverse accreditation action.

Evaluation and Recommendations. A team of evaluators composed primarily of peers in the applicable testing areas uses the following inputs to review each laboratory:

(1) Written information supplied by the laboratory;

(2) Results of proficiency testing; and

(3) Written reports of on-site visits to the laboratory.

If deficiencies are identified the laboratory is given written notification of them, and a reasonable period (ordinarily 30 days) in which to correct or resolve them. After further review of the above inputs and the laboratory's response to any notification of deficiencies, the team will make an accreditation recommendation for the laboratory.

Accreditation Decision. Based on these recommendations, a decision is made whether to grant or deny initial accreditation for new laboratories or renewal for previously accredited laboratories. When decided, the laboratory is notified by letter of its accreditation status. If accreditation denial is proposed, the notification states the reason.

Appeals. A laboratory for which denial of accreditation is proposed has 30 days from the date of receipt of the notification to request a hearing. The notification will identify to whom a request for a hearing should be sent. If a hearing is not requested, the denial becomes final. If a hearing is requested, it is held pursuant to 5 U.S.C. 556.

Accreditation Period. Laboratories are granted accreditation for one year with individual laboratory anniversary dates occurring on the first of January, April, July, or October. A laboratory will be assigned only one anniversary date which will be closet to the time that its evaluation is completed and which assures that the accreditation period is a minimum of one year.

Accreditation Renewal. Each accredited laboratory is sent a renewal application form before its current accreditation expires (anniversary date). The lead time will be sufficient to complete the evaluation for renewal for the following year. The laboratory may use the renewal application form to add or drop test methods from its current accreditation.

Termination. Any accredited laboratory may voluntarily terminate its accreditation at any time. This option

may be used by a laboratory for any reason.

Revocation. If the Secretary of Commerce or his designee finds that an accredited laboratory has violated the terms of its accreditation, he may, after consultation with the laboratory, notify the laboratory that he proposes to revoke its accreditation. As in the case of a denial, the laboratory has 30 days in which to appeal a proposed revocation by requesting a hearing. A proposed revocation will identify to whom a request for a hearing should be sent. If the hearing is not requested, the revocation becomes final. If a hearing is requested, it is held pursuant to 5 U.S.C. 556.

Public Notification. Accreditation actions are published in the Federal Register within 30 days of such action and in NVLAP quarterly and annual reports.

Compliance with Existing Laws. NVLAP accreditation does not relieve the laboratories from the necessity of observing and complying with existing Federal, State, and local statutes, ordinances, or regulations that may be applicable to its operations, including consumer protection and antitrust laws.

Appendix 1

Operational Information for the Insulation LAP

On-site Visits. Regularly scheduled on-site visits will occur once a year for the first two years that a laboratory is enrolled in the LAP and every two years thereafter. In addition, up to one-tenth of the laboratories will be subject to monitoring visits each year.

List of Methods and Proficiency Testing Requirements. The test methods for the Insulation LAP are shown in Table 1. The test methods are the latest versions applicable and are identified by a NVLAP Code, a recognized test method designation, and a short title. Test methods which require proficiency testing are identified by an asterisk(*) following the applicable NVLAP Code. The adequacy of a laboratory's performance will be based on a statistical analysis of returned proficiency test data. Laboratories exhibiting extreme test results will be subject to closer assessment during the on-site visits.

TABLE 1

NVLAP code	Test method designation	Short title
01/C01	ASTM C739 (para. 7.7 in 77 version)	Corrosiveness; Cellulosic fiber (loose-fill).
01/C02	HH-I-515 (para. 4.8.5 in D version Amendment 1)	Corrosiveness; Cellulosic fiber (loose-fill).
01/D01	ASTM C136	Sieve or screen analysis.
01/D02	ASTM C167	Thickness and density; Blanket and batt.
01/D03	ASTM C209 (para. 6 in 72 version)	Thickness; Board (cellulosic fiber).
01/D04	ASTM C209 (para. 13 in 72 version)	Water absorption, 2 hour; Board (cellulosic fiber).
01/D05	ASTM C209 (para. 13 in 72 version), by D1037 (para. 100–106 in 72 version).	Water absorption, 24 hour; Board (cellulosic fiber).
01/D06	ASTM C209 (para. 13 in 72 version), by D1037 (para. 107–110 in 72 version).	Linear expansion; Board (cellulosic fiber).
01/D07	ASTM C272	Water absorption; Core materials.
01/D08	ASTM C302	Density; Preformed pipe insulation.
01/D09	ASTM C303	Density; Preformed block insulation.
01/D10	ASTM C355	Water vapor transmission; Thick materials; Desiccant method.
01/D11	ASTM C356	Linear shrinkage; Soaking heat; Preformed high temperature insulation.
01/D12	ASTM C411	Hot-surface performance; High temperature insulation.
01/D13	ASTM C519	Density; Loose-fill (fibrous).
01/D14	ASTM C520	Density; Granular loose-fill.
01/D15	ASTM D756	Weight and shape changes; Accelerated service (proc. A); Plastics.
01/D16	ASTM D756	Weight and shape changes; Accelerated service (proc. B); Plastics.
01/D17	ASTM D756	Weight and shape changes; Accelerated service (proc. E); Plastics.
01/D18	ASTM D1622	Apparent density; Rigid cellular plastics.
01/D19	ASTM D2126	Response to thermal and humid aging (proc. B); Rigid cellular plastics.
01/D20	ASTM D2126	Response to thermal and humid aging (proc. D); Rigid cellular plastics.
01/D21	ASTM D2126	Response to thermal and humid aging (proc. E); Rigid cellular plastics.
01/D22	ASTM D2126	Response to thermal and humid aging (proc. F); Rigid cellular plastics.
01/D23	ASTM D2842	Water absorption; Rigid cellular plastics.
01/D24	ASTM C739 (para. 7.5 in 77 version)	Moisture absorption; Cellulosic fiber (loose-fill).
01/D25	HH-I-515 (para. 4.8.3 in D version, Amendment 1)	Moisture absorption; Cellulosic fiber (loose-fill).
01/D26*	HH-I-515 (para. 4.8.1 in D version, Amendment 1)	Settled density; Cellulosic fiber (loose-fill).
01/D27	ASTM D2126	Response to thermal and humid aging (proc. C); Rigid cellular plastics.
01/F01	ASTM D777 (as modified by HH-B-100B)	Flammability; Paper and paperboard.
01/F02*	ASTM E84	Surface burning characteristics; Building materials.
01/F05	ASTM E136	Behavior of Materials in a Vertical Tube Furnace.
01/F06	ASTM C739 (para. 10.4 in 77 version)	Flame resistance permanency; Cellulosic fiber (loose-fill).
01/F07*	HH-I-515 (para. 4.8.7 in D version, Amendment 1)	Critical radiant flux; Radiant Panel (cellulosic fiber loose-fill).
01/F08*	HH-I-515 (para. 4.8.8 in D version, Amendment 1)	Smoldering combustion; Cellulosic fiber (loose-fill).
01/S01	ASTM C165	Compressive properties; Thermal insulation (proc. A).
01/S02	ASTM C203	Breaking load/flexural strength; Preformed block insulation.
01/S03	ASTM C209 (para. 9 in 72 version)	Transverse strength; Board (cellulosic fiber).
01/S04	ASTM C209 (para. 10 in 72 version)	Deflection at specified load; Board (cellulosic fiber).
01/S05	ASTM C209 (para. 11 in 72 version)	Tensile strength; Parallel to surface; Board (cellulosic fiber).
01/S06	ASTM C209 (para. 12 in 72 version)	Tensile strength; Perpendicular to surface.
01/S07	ASTM C273	Shear test; Sandwich construction.
01/S08	ASTM C446	Breaking load/modulus of rupture; Preformed pipe insulation.
01/S09	ASTM D781	Puncture test; Paperboard and fiberboard.
01/S10	ASTM D828	Tensile breaking strength; Paper and paperboard.
01/S11	ASTM D1621	Compressive properties; Rigid cellular plastics (proc. A-Crosshead).
01/T01*	ASTM C177	Thermal transmission properties; Low-temperature guarded hot plate.
01/T04*	ASTM C236	Thermal conductance; Guarded hot box.
01/T05	ASTM C335	Thermal conductivity; Pipe insulation.
01/T06*	ASTM C518	Thermal transmission properties; Heat flow meter.
01/T09	ASTM C653	Thermal resistance (Rec. Practice); Blanket (mineral fiber).
01/T10	ASTM C687	Thermal resistance (Rec. Practice); Loose-fill (fibrous).
01/V02	ASTM D661	Starch in paper; Qualitative test.
01/V03	ASTM D2020	Mildew (fungus) resistance; Paper and paperboard.
01/V04	ASTM E96	Water vapor transmission; Thin sheets (proc. A).
01/V05	HH-I-515 (para. 4.8.6 in D version, Amendment 1)	Fungus; Cellulosic fiber (loose-fill).
01/V06	HH-I-515 (para. 4.8.9 in D version, Amendment 1)	Starch; Cellulosic fiber (loose-fill).

*Proficiency testing required.

Appendix 2

Operational Information for the Concrete LAP

On-Site Visits. The on-site visit for the Concrete LAP is performed by the Cement and Concrete Reference Laboratory (CCRL) which is an inspection service for cement and concrete laboratories sponsored by the American Society for Testing and Materials (ASTM). Generally, as scheduling permits, the CCRL will conduct an initial visit to an applicant laboratory within six months of application for NVLAP accreditation and thereafter on approximately a 2½ year cycle. In addition to the regularly scheduled CCRL visits, up to one-tenth of the laboratories will be subject to monitoring visits each year. In cases where a laboratory wishes to expedite an accreditation request, it may be possible to arrange a special on-site visit for an additional fee to CCRL.

Arrangements for the on-site visit are made directly by CCRL with laboratories applying for NVLAP accreditation. A date will be selected for the visit and a written confirmation will be sent by the CCRL to the laboratory.

In cases where a laboratory has subscribed to the CCRL inspection service prior to seeking NVLAP accreditation, an on-site visit may not be required for initial accreditation. When a laboratory has undergone a regular CCRL inspection within two years prior to applying for accreditation, the results of that inspection will be accepted in lieu of an additional on-site visit provided that the laboratory:

(1) Authorizes NVLAP staff and technical experts to review that CCRL report;

(2) Provides evidence that all deficiencies noted in the CCRL report have been corrected;

(3) Agrees to undergo a CCRL/NVLAP on-site visit on its next regularly scheduled on-site date;

(4) Completes a questionnaire which elicits information on NVLAP requirements which were not addressed by the CCRL inspection; and

(5) Pays the NVLAP administrative fee.

Those applicants not having a CCRL inspection within two years prior to submittal of its application will be contacted by CCRL concerning the scheduling of an on-site visit. All fees associated with the inspection will be collected for the CCRL by ASTM. The CCRL inspection report will be made available for review by NVLAP personnel. The NVLAP administrative fee will be collected separately. Failure of an applicant or accredited laboratory to pay either a CCRL inspection fee or NVLAP administrative fee on a timely basis will be grounds for adverse accreditation action.

Proficiency Testing Requirements. The proficiency testing requirements for the Concrete LAP consist of two programs: (1) A "within-laboratory program" and (2) a "between-laboratory program." The within-laboratory program provides a method to monitor the average variation in sets of companion cylinders made by laboratory personnel. The between-laboratory program provides a method by which a NVLAP participating laboratory can compare the results of compression tests it performs with those of another laboratory. To carry out this program a participating laboratory must locate at least one other laboratory which is willing to cooperate in the program. Both programs must be implemented by a laboratory within 90 days after application for accreditation. The programs are intended to provide a laboratory a means of checking the reliability of its test results.

Both proficiency programs provide statistical methods for a laboratory to monitor the results of compression tests of cylindrical concrete specimens (cylinders). Both proficiency programs require a laboratory to submit periodic reports to NVLAP. Failure to submit the required reports may result in adverse accreditation action.

List of Test Methods and Test Method Grouping. The test methods included in the Concrete LAP are arranged into two groups as shown in Table 2. These are: (1) Field Group (NVLAP Code 02/G01) which contains ASTM C31, C172, C143, C138, and C231, and (2) Field and Laboratory Group (NVLAP Code 02/G02) which contains the same five test methods plus ASTM C39. Laboratories may seek accreditation for either group by demonstrating competency for all of the test methods in the chosen group. Laboratories will not be accredited for individual test methods except that optional method ASTM C173 (NVLAP Code 02/A02) may be selected at no extra charge with either group. Accreditation will not be granted for ASTM C173 alone.

TABLE 2

NVLAP code/test method designation**	Short title	Field group (02/G01)	Field and laboratory group (02/G02)
02/M01 ASTM C31	Making and Curing Concrete Test Specimens in the Field.	X	X.
02/M03 ASTM C172	Sampling Fresh Concrete	X	X.
02/P01 ASTM C143	Slump of Portland Cement Concrete	X	X.
02/W01 ASTM C138	Unit Weight, Yield, and Air Content (Gravimetric) of Concrete.	X	X.
02/A01 ASTM C231	Air Content of Freshly Mixed Concrete by the Pressure Method.	X	X.
02/S01 ASTM C39	Compressive Strength of Cylindrical Concrete Specimens.		X.
02/A02 ASTM C173	Air Content of Freshly Mixed Concrete Concrete by the Volumetric Method.	Optional	Optional.

**Most recent edition published.

Appendix 3

Operational Information for the Carpet LAP

On-site Visits. Regularly scheduled on-site visits will occur every two years. In addition, up to one-tenth of the laboratories will be subject to monitoring visits each year.

List of Test Methods and Proficiency Testing Requirements. The test methods for the Carpet LAP are shown in Table 3. The test methods are the latest versions applicable and are identified by a NVLAP Code, a recognized test method designation, and a short title. Test methods which require proficiency testing are identified by an asterisk (*) following the applicable NVLAP Code. The adequacy of a laboratory's performance will be based on a statistical analysis of returned proficiency test data. Laboratories exhibiting extreme test results will be subject to closer assessment during the on-site visits.

TABLE 3

NVLAP code	Test method designation	Short title
03/C01*	AATCC 16E	Colorfastness to Light (Xenon Arc).
03/C02	AATCC 8	Colorfastness to Crocking.
03/D01*	ASTM D418	Methods of Testing Woven and Tufted Pile Floor Coverings.
		Pile Weight—Uncoated (Para. 10–19).
		Pile Weight—Coated (Para. 20–29) as modified by UM 44C.
		Pile Thickness—(Para. 30–36).
		Tuft Height—(Para. 37–45) as modified by UM 44C.
03/D02	DOD-C-95A	Shrinkage.
03/S01*	ASTM D1335	
	Federal Test Method Standard 191–5100.	
	Federal Test Method Standard 191–5850.	Tuft Bind of Floor Coverings.
		Textile Test Method—Breaking Strength.
		Textile Test Method—Delamination.
03/E01	AATCC 134/CRI 102	Electrostatic Propensity of Carpets.
03/F01	ASTM E84	Surface Flammability (Carpet).
03/F02	UL 992	Surface Flammability.
03/F03	DOC FF1–70	Methenamine Pill Test.
03/F04*	ASTM E648	Radiant Panel (Carpet).
03/B01	UM 44C, Addendum 3	Attached Cushion Tests.
03/B02	UM 44C, Addenda 2 and 3	Attached Cushion Tests.

*Proficiency testing required.

[FR Doc. 82-6097 Filed 3-4-82; 8:45 am]
BILLING CODE 3410-18-M

National Voluntary Laboratory Accreditation Program; Fees for Insulation, Concrete, and Carpet Programs

AGENCY: Assistant Secretary for Productivity, Technology and Innovation, Commerce.

ACTION: Notice of fee revisions for the laboratory accreditation programs for thermal insulation materials, freshly mixed field concrete, and carpet.

SUMMARY: Under the National Voluntary Laboratory Accreditation Program (NVLAP), the Department of Commerce (DOC) hereby announces the revisions to the fees for the laboratory accreditation programs (LAPs) for thermal insulation materials (the "Insulation LAP"), freshly mixed field concrete (the "Concrete LAP"), and carpet (the "Carpet LAP"). A separate notice appearing in this issue of the **Federal Register** describes the accreditation process for these three LAPs. Laboratories that are interested in becoming accredited under any of these LAPs may request an application package by contacting the NVLAP Manager.

EFFECTIVE DATE: April 5, 1982.

FOR FURTHER INFORMATION CONTACT: John W. Locke, NVLAP Manager, National Bureau of Standards, Technology Building, Room B06, Washington, DC 20234, (301) 921-2368.

SUPPLEMENTARY INFORMATION:

Background

The fees of the Insulation, Concrete, and Carpet LAPs were anounced in a **Federal Register** notice of January 23, 1980 (45 FR 5599–5600) for laboratories interested in applying for NVLAP accreditation under any of the three LAPs. In accordance with paragraph (c) of §§ 7a.10 and 7b.10 of the NVLAP Procedures (15 CFR Parts 7a and 7b), notice is hereby given of revisions to those fees as set out below. After two years of experience evaluating laboratories under the fees published in the January 23, 1980 notice, DOC has found it necessary to revise the fees to offset increased evaluation costs and to identify additional charges for foreign laboratories and for special evaluations.

Basis of Fees

NVLAP evaluation fees are based on the premise that all the operational cost incurred by DOC in evaluating laboratories seeking accreditation are recovered from fees charged to the applicant laboratories. This includes processing applications, preparing evaluation reports and certificates, as well as the work-hours, travel, and per diem costs of assessors used in the evaluation process. The fees will vary depending on assessor time requirements caused by the complexity of the test methods and the frequency with which the assessors must visit the laboratories in each of the LAPs. Administrative costs associated with the development of these LAPs are not recovered by these fees but are paid from NVLAP's budget of appropriated funds.

Anniversary Dates

Up to now, anniversary dates for yearly renewal of NVLAP accreditations have depended upon the dates of the accreditation certificates. The resulting numerous anniversary dates throughout the year cause a number of problems:

(1) Planning and implementing the evaluation cycle becomes more difficult and expensive;

(2) Paperwork costs increase (e.g., recommendations for renewal have to be prepared and new certificates have to be sent out before each anniversary date);

(3) Printing costs increase (e.g., if anniversary dates occurred throughout the year, as many as 12 monthly reports would be required since the NVLAP procedures state that accreditation actions will be reported in the **Federal Register** the following month).

Henceforth, in the interest of reducing the costs of administering NVLAP, DOC will ordinarily confer and announce initial and renewal accreditations four times per year. All laboratories will have one of four anniversary dates (i.e., January 1, April 1, July 1, or October 1). All accreditation actions will ordinarily be made during one of the months preceding these anniversary dates (i.e., during December, March, June, or September). Quarterly reports of accreditation actions will continue to be published in the **Federal Register** with monthly reports published, as needed, to announce revocations and terminations of accreditation or special accreditations which occur more than one month before the end of any quarter.

New accreditations will be conferred for a period of one year which will begin on the first day of the quarter after all requirements have been completed successfully. That date becomes a laboratory's anniversary date. Accreditation for additional LAPs or test methods will be conferred effective the first day of the first quarter which begins after completion of all requirements for those LAPs or methods, and would run to a laboratory's anniversary date. Accordingly, accreditations for additional LAPs or test methods may initially be for less than one year.

An accredited laboratory requesting additional test methods before its anniversary date will be granted accreditation for those methods at the next quarterly date, provided enough information was gained during the previous on-site visit to justify accreditation for those test methods. If additional information is required, an accreditation decision will be postponed until it has been obtained. A laboratory requesting faster service will be required to pay a special evaluation charge (in addition to the regular fixed and variable charges) to cover actual travel, per diem, and labor costs incurred to carry out the special evaluation.

Starting with this year's accreditations, laboratories whose accreditations are being renewed will be sent new certificates with expiration dates (December 31, March 31, June 30, and September 30) in phase with the new anniversary dates (January 1, April 1, July 1, and October 1). July anniversary dates will shift to October 1, October and December anniversary dates will shift to January 1, and March anniversary dates will shift to April 1, thus giving all accredited laboratories now enrolled in the program an extension of their current accreditation beyond the regular one year period.

Fees for Foreign Laboratories

Foreign laboratories are offered NVLAP accreditation on the same basis and meeting the same criteria as is required of domestic laboratories, except that the costs for travel of assessors and for mail of proficiency testing materials outside of the continental United States will be added to the normal charges for the LAPs requested. Upon application, a foreign laboratory must make arrangement for paying the standard evaluation fee in U.S. currency. As soon as an assessor has been scheduled to visit the foreign laboratory, the laboratory will be notified of the additional cost of travel due DOC. Arrangements for paying this cost in U.S. currency must be completed before the assessor leaves the United States. If travel time from port of embarkation to the foreign destination takes more than 4 hours but less than 20 hours, the foreign laboratory will also be required to pay for the wage of the assessor for one day. Travel time for the return trip will also be billed to the laboratory. For travel times greater than 20 hours, the assessor's wage equivalent of 2 days wages for each trip will be charged. As soon as an assessor has been scheduled to visit the foreign laboratory, the laboratory will also be notified of the additional cost for assessor's wages due DOC before an assessor leaves the United States. More than one assessor may be required to assess the laboratory if it requests accreditation in more than one LAP, just as is required for accrediting domestic laboratories.

Processing Applications

Some applicant laboratories have difficulty in correcting identified deficiences promptly. DOC incurs administrative costs to maintain such applicants on the "active" list. Until now, there has not been any provision to charge additional fees for these costs. Henceforth, if a laboratory has not completed all requirements for accreditation within one year from the first day of the next quarter following receipt of its application, it will be billed an administrative fee equivalent to the annual evaluation fee in order to continue its application in an active status. As an alternative, it may request that its application be suspended until such time that it is ready to be accredited. The full annual evaluation fee will be required when it is ready to be accredited.

Performing On-Site Visits and Evaluating Laboratories

Because of cost-of-living increases of about 8 percent per year over the last two years, fixed and variable charges have been raised on the average about 16 percent to offset these increased costs. DOC is closely analyzing the costs of each LAP with hopes of reducing them without compromising the technical integrity of the accreditation process.

Proficiency Testing Costs

To simplify the NVLAP fee calculation for applicant laboratories, the charges for proficiency testing have been included in the variable (or per test method) charges, rather than being charged separately as in previous years.

Monitoring Visits

The charges also include a contingency factor to cover the costs associated with conducting monitoring visits to accredited laboratories. The purpose of these monitoring visits is to review the performance of the laboratories between regularly scheduled visits. Laboratories will be selected for these monitoring visits either randomly or in response to testing problems perceived by the evaluation staff. The laboratories may or may not be contacted in advance of such monitoring visits. Based on the experience of the past two years, DOC has concluded that the number of monitoring visits can be reduced from the goal of up to one-third of the laboratories originally stated in the January 23, 1980 notice announcing the fees. The new goal, monitoring visits of up to one-tenth of the laboratories, will provide effective surveillance of the accredited laboratories.

Dated: March 2, 1982.

Robert B. Ellert,

Acting Assistant Secretary for Productivity, Technology and Innovation.

Fees for Evaluating a Laboratory

NVLAP Fee Model. The general NVLAP fee model is expressed by the following equation: F=A+B+C+D+E; where:

F is the total fee for evaluation.

Component A is a fixed administrative charge associated with a given LAP.

Component B is a variable charge depending on the test methods for which the laboratory requests accreditation.

Component C is a charge associated with on-site visits for certain LAPs.

Component D is a charge associated with the extra costs of evaluating foreign laboratories, including costs for travel of assessors and for mail of proficiency testing materials outside the continental United States.

Component E is a one-time charge that covers extra costs for actual travel, per diem, and labor costs incurred to carry out a special evaluation for those applicants requiring faster service than the normal evaluation schedule for the given LAP allows.

Some components of the fee model are not applicable for certain LAPs.

Multiple LAP Enrollment. If a laboratory is participating in more than one LAP, the fixed administrative charge A will be prorated since many of the administrative costs for each LAP cover the same operations as in other LAPs. The total fixed charge for multiple LAP enrollment is determined by selecting the largest Component A value and adding 20 percent of the remaining Component A values for the LAPs in which a laboratory is enrolled.

Appendix 1.—Fee Model for the Insulation LAP

Generally, the Insulation LAP fee model for domestic laboratories is: F=A+B;

where:

Component A is an annual fixed charge of $670 that covers administrative costs associated with the operation of the LAP.

Component B is an annual variable charge that covers part of the costs of the regularly scheduled on-site visits and the costs of proficiency testing. Component B is the sum of the variable charges for each of the test methods in this LAP for which the laboratory requests accreditation. The variable charge for each test method is listed by NVLAP Code below. An asterisk (*) on variable charges for these test methods indicates that the proficiency testing charges have been included. For complete designations of the test methods, refer to the list in Appendix 1 of FR Doc. 82–6087 appearing elsewhere in this issue.

Test method	Annual fee (dollars)	Test method	Annual fee (dollars)
01/C01	120	01/F01	60
01/C02	120	01/F02	*310
01/D01	60	01/F05	60
01/D02	60	01/F06	170
01/D03	60	01/F07	*310
01/D04	60	01/F08	*280
01/D05	120	01/S01	120
01/D06	120	01/S02	120
01/D07	60	01/S03	120
01/D08	60	01/S04	120
01/D09	60	01/S05	120
01/D10	120	01/S06	120
01/D11	60	01/S07	120
01/D12	60	01/S08	120
01/D13	120	01/S09	120
01/D14	120	01/S10	120
01/D15	120	01/S11	120
01/D16	120	01/T01	*310
01/D17	120	01/T04	*290
01/D18	120	01/T05	170
01/D19	120	01/T06	*310
01/D20	120	01/T09	120
01/D21	120	01/T10	120
01/D22	120	01/V02	60
01/D23	120	01/V03	60
01/D24	120	01/V04	120
01/D25	120	01/V05	60
01/D26	*280	01/V06	60
01/D27	120		

Appendix 2.—Fee Model for the Concrete LAP

Generally, the Concrete LAP fee model for domestic laboratories is: F=A+C;

where:

Component A is an annual fixed charge of $600 that covers administrative costs associated with the operation of the LAP.

Note.If also participating in the Insulation LAP, this charge is only 20% of $600.00, or $120.00.

Component C is the charge for the on-site visits by the inspection organization, ASTM's Cement and Concrete Reference Laboratory (CCRL), authorized by DOC to conduct NVLP on-site visits. The CCRL charge per visit for the Field Group of test methods is $975 and for the Field and Laboratory Group of test methods is $1150.00. For complete designations of the test methods, refer to the list in Appendix 2 of FR Doc. 82–6087 appearing elsewhere in this issue. Any laboratory that has been inspected by CCRL within two years prior to its application does *not* pay the fee for Component C until the time of their next CCRL inspection. Any laboratory that has not been inspected by CCRL within two years prior to its application must be inspected and pay the

required fee for Component C. The fee associated with this inspection is not an annual fee. Either $975 or $1150.00 will be invoiced and collected by ASTM for CCRL with each inspection. Regularly scheduled inspections will occur on the average of once every 2½ years.

Appendix 3.—Fee Model for Carpet LAP

Generally, the Carpet LAP fee model for domestic laboratories is: F=A+B;

where:

Component A is an annual fixed charge of $400 that covers administrative costs associated with the operation of the LAP.

Note.—If also participating in either the Insulation or Concrete LAPs, this charge is only 20% of $400.00, or $80.00.

Component B is an annual variable charge that covers part of the costs of the regularly scheduled on-site visits and the costs of proficiency testing. Component B is the sum of the variable charges for each of the test methods in this LAP for which the laboratory requests accreditation. The variable charge for each test method is listed by NVLAP Code below. An asterisk (*) on variable charges for these test methods indicates that the proficiency testing charges have been included. For complete designations of the test methods, refer to the list in Appendix 3 of (FR Doc. 82-6097 appearing elsewhere in this issue.)

Test method	Annual fee (dollars)	Test method	Annual fee (dollars)
03/C01	*180	03/F01	170
03/C02	80	03/F02	170
03/D01	*200	03/F03	80
03/D02	80	03/F04	*240
03/E01	*130	03/B01	170
03/E01	80	03/B02	230

[FR Doc. 82-6098 Filed 3-4-82; 8:45 am]
BILLING CODE 3510-13-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 82-11]

Roper Corporation and Sears, Roebuck and Co.; Publication of Complaint

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of a Complaint under the Consumer Product Safety Act.

SUMMARY: Under Provisions of its rules of practice for adjudicative proceedings (16 CFR 1025, 45 FR 29206), the Consumer Product Safety Commission must publish in the **Federal Register** Complaints which it issues under the Consumer Product Safety Act. Printed below is a Complaint in the matter of Roper Corporation, a Corporation, and Sears, Roebuck and Company, a Corporation.

Dated: March 2, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

SUPPLEMENTARY INFORMATION:

In the Matter of Roper Corporation, a corporation and Sears, Roebuck & Company, a corporation.

Complaint

Nature of the Proceedings

1. This is an adjudicative proceeding for notice and remedial action for a substantial product hazard or hazards and for a civil penalty pursuant to sections 15, 19 and 20 of the Consumer Product Safety Act (CPSA), as amended, 15 U.S.C. 2064, 2068 and 2069. This proceeding is governed by the rules of practice for adjudicative proceedings before the Consumer Product Safety Commission, 16 CFR 1025.

Jurisdiction

2. This proceeding is instituted pursuant to sections 15, 19 and 20 of the CPSA, 15 U.S.C. 2064, 2068, and 2069.

Parties

3. Respondent Roper Corporation (Roper or Respondent) is a corporation organized and existing under the laws of the State of Delaware with its principal corporate offices at 1905 West Court Street, Kankakee, Illinois 60901.

4. Respondent Sears, Roebuck & Company (Sears or Respondent) is a corporation organized and existing under the laws of the State of New York with its principal corporate offices at Sears Tower, Chicago, Illinois 60684.

5. Respondent Roper manufactured earth-tilling machinery known as roto-tillers or roto-spaders with the brand names "Roto-Tiller" and "Giant Tiller,"(hereafter, collectively, the "Roto-Tiller") from 1963 through 1979 for use by consumers in tilling gardens or other land around permanent or temporary households or residences and schools. The Roto-Tiller is, therefore, a "consumer product" within the meaning of section 3(a)(1) of the CPSA, 15 U.S.C. 2052(a)(1).

6. Respondent Roper manufactured and sold the Roto-Tiller nationwide for use by consumers. Respondent Roper, therefore, is a "manufacturer" of a "consumer product" which it "distributed in commerce," as these terms are defined in section 3(a) (1), (4), (8), (11) and (12) of the CPSA, 15 U.S.C. 2051(a) (1), (4), (8), (11) and (12).

7. Respondent Sears purchased the "Roto-Spaders," from Roper and sold them under private label, nationwide, for use by consumers as stated in paragraph 6 of the Complaint from 1964 through 1980. Respondent Sears is, therefore, a "retailer" and a "private labeler" of a "consumer product" which it "distributed in commerce," as these terms are defined in sections 3(a) (1), (8), (7), (11) and (12) of the CPSA, 15 U.S.C. 2052(a) (1), (8), (7), (11) and (12).

The Consumer Product

8. The "Roto-Spader" and the "Giant Tiller" are gasoline-powered machines for tilling the earth. The machines were made in several models, including those listed on Attachment A apprehended hereto, with engines of different horsepower. The Sears and Roper models were identical in their essential design characteristics.

9. The tines of the Roto-Tiller are at the front of the machine, with two wheels directly behind them. The tines drive the machine in both its forward and reverse gears.

10. The Roto-Tiller has a friction clutch and two or three gears, depending on the model, one or two forward and one reverse. The gear shift is located between the handlebars. The clutch is engaged by means of a handle or lever (clutch control handle lever) on the handlebar of the Roto-Tiller. The clutch control handle must be squeezed or pressed upward to engage the clutch.

11. The clutch control handle can be locked by means of a latch pin or button which fits through a hole in the clutch control handle and keeps it up. (This latch pin or button and the clutch control handle with the hole is hereafter referred to as the "clutch locking mechanism.")

12. While the clutch control handle is locked, the clutch remains engaged, the machine continues to operate if the engine is running, and the tines continue to turn.

Count I

Substantial Product Hazard

13. The clutch control handle on the Roto-Tiller can be locked, keeping the clutch engaged while the machine is operating in its reverse gear.

14. The Roto-Tiller can be shifted from a forward gear through neutral to a reverse gear or from neutral to reverse with the clutch lever locked.

15. When placed in reverse, the Roto-Tiller backs up and out of the trench which it has dug and moves back toward the operator at a rate of 2 to 3 feet per second. Once the machine is placed in reverse, its tines may contact the feet of a stationary operator in one second or less.

16. When it is placed in reverse, the Roto-Tiller tines "walk back" under the machine and the handlebars of the machine rotate forward and away from the operator unless the operator retains his grip, keeps backing away from the machine and applies a large downward force on the handlebars.

17. If the operator remains stationary (even momentarily) or does not move fast enough when the machine is locked in reverse, he loses control of the Roto-Tiller; and it continues to quickly move backward toward him.

18. If the operator is close to a wall or other obstruction, loses his footing, moves forward or remains stationary to shift gears or for any other reason and the machine becomes locked in reverse, he will be unable to hold it away from him due to the power of the machine's engine.

19. Between 1963 and 1981, there have been at least nine serious injuries involving seven lacerations of the scrotum and lacerations and fractures of the legs and feet, and amputation of a leg, resulting in permanent disabilities to the victims. Other similar grievous bodily injuries have occurred and are likely to continue to occur as a result of defects in the design of the Roto-Tillers.

20. Respondent Roper manufactured and distributed in commerce approximately 220,000 Roto-Spaders and 2,685 Giant Tillers from 1963 through 1980.

21. Respondent Sears sold at retail and distributed in commerce approximately 220,000 Roto-Spaders from on or about 1963 through 1980.

22. The clutch locking mechanism can be locked intentionally, or without the conscious intent of the operator with the machine in reverse due to reasonably foreseeable fatigue and other foreseeable operating factors. This constitutes a defect in the Roto-Tiller within the meaning of section 15(a)(2) of the CPSA, 15 U.S.C. 2064(a)(2).

23. The Roto-Tiller can be shifted from a forward gear through neutral to reverse or from neutral to the reverse gear while the clutch lever remains locked. This constitutes a defect in the Roto-Tiller within the meaning of section 15(a)(2) of the CPSA, 15 U.S.C. 2064(a)(2).

24. Because of the traumatic lacerations, and the loss of limbs and flesh caused by the Roto-Tiller, the number of accidents that have already occurred and the potential for future tragic accidents, the hundreds of thousands of products distributed, the presence of the defects in all of the Roto-Tillers, and the occurrences of injury during normal and reasonably foreseeable use of the Roto-Tiller, the defect or defects in the machine create a substantial risk of injury within the meaning of section 15(a)(2), (c) and (d), CPSA, 15 U.S.C. 2064(a)(2), (c) and (d).

25. The Roto-Tiller presents a substantial product hazard or hazards to the public within the meaning of sections 15(a)(2), (c) and (d), 15 U.S.C. 2064(a)(2), (c), and (d).

Count II

Failure To Inform the Commission

26. The allegations of paragraphs 1–25 are hereby realleged.

27. As early as 1975, and no later than 1979, Respondents had obtained information which reasonably supported the conclusion that the Roto-Tiller contained a defect which could create a substantial product hazard.

28. Respondents failed to inform the Commission pursuant to section 15(b) of the CPSA, 15 U.S.C. 2064(b).

29. A failure to furnish information pursuant to section 15(b) is a prohibited act under section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), and subjects Responents to civil penalties under Section 20 of the CPSA, 15 U.S.C. 2069.

Relief Sought

Wherefore: Complaint Counsel asks that the Commission:

A. Determine that the Roto-Spader and Giant Tiller present a substantial product hazard or hazards within the meaning of section 15(a)(2), 15 U.S.C. 2064(a)(2), and that notification under section 15(c) of the CPSA, 15 U.S.C. 2064(c), is required to adequately protect the public, and

1. Order Respondent Sears to give public notice of the defects in the Roto-Spaders by

a. Placing posters 18" by 36" in conspicuous locations in each of their retail outlets for three months, preferably March, April and May;

b. Placing a full page advertisement in its next Spring/Summer general merchandise catalogue at the front and in any special catalogues advertising power equipment or garden equipment;

c. Placing paid television and radio advertisements nationwide;

d. Placing half page advertisements in all its advertising supplements in local newspapers nationwide from March through Memorial Day; and

e. Mailing notice in the form of a bill-stuffer to all of its charge customers, and all customers known to have purchased a Roto-Spader.

2. Order Respondent Roper to give public notice of the defects by placing newspaper ads and radio ads in areas where the giant Tiller was sold, and in garden and other specialty publications and by providing posters 18" by 36" to its customers other than Sears with a letter asking that they be posted for three months.

3. The form and content of each notice shall be provided to the Commission staff for its approval.

B. Determine that the Roto-Spader and Giant Tiller present a substantial product hazard or hazards within the meaning of section 15(a)(2), 15 U.S.C. 2064(a)(2), and that action under section 15(d) of the CPSA, 15 U.S.C. 2064(d), is in the public interest and order Respondents either to refund the purchase price of the Roto-Spader and Giant Tiller, to replace the machines with like or equivalent products which do not contain the defects described here, or to repair the machines so that they do not present substantial product hazards to the public.

C. Order Respondents to reimburse any consumer who avails himself of any remedy provided as a result of this proceeding for any reasonable and foreseeable expenses incurred in availing himself of that remedy in accordance with section 15(e), of the CPSA, 15 U.S.C. 2064(e).

D. Order Respondents to keep records:

1. Of the notice required to be given in paragraph A;

2. Of the number of refunds and of the amount of each refund made; of the number replacements and kind of each replacement made; and of the number of repairs and the kind of each repair made under paragraph B;

3. Of the number of reimbursements and the amount of each reimbursement made for reasonable and necessary expenses of consumers under paragraph C.

E. Order Respondents to provide copies of all of the records specified in paragraph D above and/or extracts of information from them, and copies of posters, catalogues, and advertising used to give notice to the Commission staff at their request.

F. Order Respondents to file reports with the Commission staff containing information specified in paragraph D above and other information that may be requested to determine compliance with any order issued in this proceeding at 30-day intervals until the actions required in paragraphs A through E above are completed. The format of such reports shall be submitted and be acceptable to the Commission staff.

G. Order Respondents to permit inspections at their places of business to verify data in reports and records submitted and ascertain compliance with the order or orders issued in this proceeding.

H. Order Respondents to notify the Commission at least 30 days prior to any change in their business (such as incorporation, dissolution, assignment, sale, or declaration of bankruptcy) that results in the emergence of a successor corporation, the creation or dissolution of subsidiaries, the dissolution of the corporation, or any other change that might affect compliance obligations under any Commission order for a period of two years after issuance of the order or orders in this proceeding.

I. Order Respondents Sears and Roper to each pay a civil penalty of $500,000 pursuant to section 20 of the CPSA, 15 U.S.C. 2069, for their violations of section 19(a)(4) of the CPSA.

J. Grant such other and further relief as the Commission deems necessary to protect the public health and safety and to implement the CPSA.

Issued by order of the Consumer Product Safety Commission.

Dated: February 24, 1982.

Carlos L. Perez,

Acting Associate Executive Director, Directorate of Compliance and Administrative Litigation.

[FR Doc. 82-6016 Filed 3-4-82; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; Altered Systems of Records; Correction

AGENCY: Department of the Air Force, DOD.

ACTION: Notice of altered systems or records/correction.

SUMMARY: This document corrects the entry under the *Retention and disposal* captions of four Air Force system notices that were published in the **Federal Register** on February 4, 1982 (FR Doc. 82-2888; 47 FR 4285).

FOR FURTHER INFORMATION CONTACT:

Mr. Jon E. Updike, HQ USAF/DAAD(8), Room 4A-10881, the Pentagon, Washington, D.C. 20330. Telephone (202) 694-3431.

Accordingly, under the "*Retention and disposal*" caption for the following four system notices appearing at 47 FR 4285, February 4, 1982, add:

"Computer files are destroyed by overwriting or degaussing":

F12501 SPO E

System name: Registration Records (Excluding Private Vehicle).

F12501 SPO G

System name: Complaint/Incident Reports.

F12501 SPO J

System name: Traffic Accident and Violation Reports.

F12501 SPO A

System name: Vehicle Administration Records.

M. S. Healy

OSD Federal Register Liaison Officer, Department of Defense.

February 26, 1982.

[FR Doc. 82-5639 Filed 3-4-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Rocky Flats Plant Site; *Record of Decision*

This Record of Decision has been prepared pursuant to Regulations of the Council on Environmental Quality (40 CFR Part 1505) and Implementing Procedures of the Department of Energy (45 FR 20694).

Decision:

The Department of Energy (DOE) has decided to continue operating the Rocky Flats Plant with modifications to the existing facilities, including improved environmental controls on planned facilities and operational changes to better control plant effluents and further reduce the levels of radiation exposure.

Project Description:

The Rocky Flats Plant is a government-owned, contractor-operated facility. The plant is located in northern Jefferson County, Colorado, 7 to 10 miles from the communities of Arvada, Boulder, Broomfield, Golden, and Westminister. It is bounded on the west by State Highway 93, on the south by State Highway 72, on the east by Jefferson County Highway 17, and on the north by State Highway 128. The site consists of approximately 6,500 acres (about 10 square miles) of Federally owned land, with roughly 100 plant structures centrally located on 385 acres. Primary operations at the plant involve processing of plutonium, beryllium, uranium, and other metals; fabrication and assembly of weapon-related components; separation and recovery of materials including americium; and related research and development work.

A detailed analysis of environmental impacts associated with current, planned, and alternative plant operations is presented in the Final Environmental Impact Statement (EIS) Rocky Flats Plant Site (DOE/EIS-0064).

Description of Alternatives:

The following alternatives were considered by DOE in reaching its decision.

1. *No change (no action) in current activities:* no change in the present facilities and operations; termination of several safety and environmental protection projects currently underway.

2. *Continued operations with completion of modifications to the existing facility and operational changes currently underway (proposed action):* completion of several changes to existing plant systems, i.e., a new facility for plutonium recovery, a new facility for treating liquid process waste, a system for total plant water recycle and removal of certain onsite plutonium contaminated soils.

3. *Relocation:* complete transfer of operations from the existing location to a new site or sites followed by demolition, decontamination and restoration of the existing site; or a partial transfer of operations that involves processing and handling of radioactive materials and the decontamination of the plant and site, with only those processes for nonradioactive material remaining at Rocky Flats.

4. *Terminate operations:* cease operations without provisions for production capabilities at another location(s). Subalternatives include: (1) halting all operations and placing the facilities in ready-standby; (2) complete shutdown, total decommissioning and partial decontamination; or (3) complete shutdown, total decommissioning, complete decontamination, and site restoration.

5. *Continued operations and completion of changes currently underway, together with additional mitigation measures:* undertake possible actions which would influence plant operations and reduce plant impact on the environment, real or potential, consisting of more extensive actions regarding plutonium-contaminated soils, and improvements to the structural integrity of plant buildings.

Basis for Decision

Requirements for nuclear weapons production are mandated by Congress and the President as a part of the overall national defense ploicy. The Department's discretion is limited to the manner in which it meets the prescribed level of nuclear weapons needs (e.g., the location of production facilities). Since the types of activities undertaken at Rocky Flats are essential to the production of nuclear weapons, the alternative of terminating these activities would be contrary to DOE's mandate from Congress and the President and is, therefore, unacceptable.

A decisions to relocate the Rocky Flats Plant operations to another location would result in a substantial economic commitment of $2.2 billion (in 1976 dollars). The socioeconomic and environmental benefits resulting from a relocation to a more remote site do not outweigh an investment of this magnitude. A partial relocation of the operations at an estimated cost of $2.0 billion (in 1976 dollars) is also considered imprudent.

The remaining alternatives involve continued operation of the Rocky Flats Plant with varying levels of improvements to either plant operations or environmental controls. The social, economic, and environmental consequences of the no-action (no-change) alternative are described in detail in DOE/EIS-0064. This analysis supports the conclusion that the current operations at Rocky flats are conducted in an environmentally acceptable manner.

The department has decided to adopt the alternative of continued operations of the plant with completion of changes currently underway. The modifications to the current operations will increase protection of employees, the environment, the effectiveness of plutonium recovery, and reduce energy consumption. Since construction of these projects has begun, it would be imprudent not to complete the projects and fully realize their benefits.

Additional measures to minimize harm were considered but not adopted. The basis for this decision is that the projects either would not provide significant improvements in environmental protection or the projects are being studied for future consideration. Detailed information is provided in DOE/EIS-0064, section 5.5.

Further description of the alternatives and the pertinent factors leading to the decision to adopt Alternative 2 is provided below. A complete analysis of the social, economic, and environmental impacts of each alternative is provided in DOE/EIS-0064.

Discussion of Alternatives:

(1) No change (No Action) in Current Activities

If the no-action alternative were to be chosen and the plant continued to operate, the radiological impacts on persons living within 50 miles of the plant would be negligible, both in terms of dose received as compared to natural background radiation and in terms of health (cancer mortality or genetic) risks. The maximum health risk to an individual for the worst credible accident would be less than the risk of death from a common accident. Accident risks are described in greater detail in DOE/EIS-0064, section 3.2.

(2) Completion of Changes Currently Underway

This alternative involves continued operation of the Rocky Flats Plant with modifications to the existing facility and operational changes in order to increase protection of employees, the environment, and reduce energy consumption. The projects include: replacement of the Plutonium Recovery Facility and process waste-treatment facilities; a waste-treatment facility to further control the release of toxic and radioactive effluents; the total recyclying of all plant aqueous wastes; and the partial removal of contaiminated soil that is located within the boundaries of the plant. Since construction of these projects has begun, any disruption of the onsite ecology has alredy occurred. completion of these projects would further reduce radiological impact of normal plant operations (see Table 5-1, DOE/EIS-0064 for specific amounts) in the vicinity of the plant.

(3) Relocation

Moving the Rocky Flats Plant operations to another location would reduce the environmental impacts at Rocky Flats by transferring similar impacts to the relocation site. In order to achieve a net reduction in the environmental effects by relocating the Rocky Flats Plant to another site, the new site would have to be more remote. The acceptability of another location would depend on a number of factors, such as the availablity of a skilled or trainable work force at the new site; the potential impact of having to attract a work force to an existing small community or establishing a community to support the plant; and the availability of electric power, water, gas, and transportation at the new site. A conservative estimate of cost associated with relocating the current Rocky Flats Plant operations elsewhere and leaving the current site in a condition suitable for unrestricted use is approximately $2.2 billion (in 1976 dollars). This cost estimate includes removal of all buildings and assumes that conversion begins almost immediately. The time required for relocation is estimated at about 10 years. Relocation would result in a reduction of 5 percent or less or radiological dose from normal operations to persons currently living within 50 miles of the Rocky Flats Plant. Risks in the area from accidental releases would be eliminated.

If only the radioactive materials processing functions were to be moved to another site, leaving at Rocky Flats all functions involving nonradioactive materials, the estimated cost would still be about $2 billion (in 1976 dollars). This would require facilities at a new site and partial decontamination at the Rocky Flats site. Such a partial relocation would result in about a 63 percent reduction in personnel at Rocky Flats and a 50 percent reduction in the plant's local purchases. The net result of such partial relocation would be the reduction of doses from normal operations and any future accidents at Rocky Flats, with concomitant increases at the new location. Although relocation might lead to some reduced impacts at the new site in comparison with present operations, improvements to the existing site and facilities would be more cost-effective.

Terminate Operations

Terminations of plant operations, although eliminating impacts of future plant operations on the natural environment, is not consistent with the current national defense policy and, therefore, is rejected as unacceptable. Placing the plant on standby (one of the termination considerations) would cost an estimated $17.8 million (in 1976 dollars); the annual revenue loss therefrom to the region would be about $61 million (1976 dollars). Complete shutdown, decontamination, and partial demolition of the plant would cost $322 million (in 1976 dollars) and would reduce area revenues by about $200 million per year. Complete demolition and total restoration of the site are estimated (in 1976 dollars) at $526 million, with local revenue losses of $111.8 million a year.

(5) Continued Operations With Additional Mitigation Measures

The list of possible projects considered includes further removal of plutonium-contaminated soil and improving the structural integrity of existing buildings at the plant. None of the projects provide sufficient benefits, at this time, to warrant the additional cost (see section 5.5 of DOE/EIS-0064).

Discussion of Environmentally Preferred Alternative(s):

Based solely on environmental considerations, the alternative of

terminating plants operations was considered. Although this alternative would result in short-term adverse environmental impacts, principally of a socioeconomic nature, the long-term effects would be less than the impacts resulting from adoption of other alternatives. However, this alternative is not considered acceptable because of the need for operations similar to those performed at Rocky Flats to meet nuclear weapons production requirements that are beyond the scope of DOE's decisionmaking authority. Of the alternatives available to DOE to meet its defense production responsibilities, the continued operation of Rocky Flats with completion of projects currently underway and additional mitigation measures (Alternative 5) is considered the environmentally preferred alternative.

Considerations in Implementation of the Decision:

The new plutonium recovery facility will result in plutonium recovery operations being performed in greater safety, with greater operating economy, and an increase in plutonium recovered with a concomitant reduction in the amount of plutonium waste. The probability of spreading contaminants by fire or other accidents will be decreased. This new facility is being built more rigid earthquake, tornado, fire, and other specifications required by the DOE's criteria for new plutonium facilities.

The new waste treatment plant has been designed to handle the present workload at Rocky Flats, the maximum possible output from the new recovery plant, and any increase in plant process liquid waste through 1985. It is an important element of the overall DOE program for achieving as low as practicable releases of effluents. Low-level waste solutions will be dried which will result in reduced dusting, volume, shipping, and storage cost. The primary benefit from the waste treatment facility will be the elimination of further need for low-level process waste storage in the solar evaporation ponds. This removes the possibility of seepage from the ponds or carryover from high winds. The risk of an impoundment failure becomes zero, and the associated potential risk to Great Western Reservoir is eliminated.

The process waste system and the sanitary waste systems are completely separate. Work is progressing toward the elimination of all routine liquid discharges from the plant. A water control and recycle project will provide facilities for the purification and recycling of all sanitary effluent and cooling tower blowdown water. The water will be purified by using the reverse osmosis process. It will be reused in the existing raw-water system that supplies makeup water to the cooling towers. Upon completion of: (1) The new plutonium recovery and process waste treatment facilities, and (2) the sanitary water recycle system, the capability to control the discharge of pollutants in any liquid effluent from the plant will have been completely upgraded. Treated sanitary effluent water no longer flows into Great Western Reservoir, which stores raw water for the city of Broomfield.

Ongoing environmental air, water, soil, stack effluent, and liquid discharge monitoring programs will be continued. The plant will proceed toward its goal of zero discharge of pollutants to the waters of the United States and will continue to limit all environmental impacts to levels as low as practicable in accordance with DOE policy. Although Alternative 5 is considered an environmentally preferred alternative, the additional measures to mitigate adverse effects do not provide sufficient benefits, at this time, to warrant additional cost and, therefore, are not adopted.

Conclusion:

The work performed at Rocky Flats is essential to comply with our national defense weapons requirements. The proposed course of action is the continued operation of the Rocky Flats Plant with completion of modifications to the existing facility and operational changes currently underway. Effluent improvement technologies continue to be developed, and installation of improved effluent mitigating measures, as they become available, should further reduce pollutant discharges to even lower levels than are experienced at the present time.

Dated: February 17, 1982.

Herman E. Roser,

Assistant Secretary for Defense Programs.

[FR Doc. 82-5842 Filed 3-4-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ST81-314]

Channel Industries Gas Co.; Application for Extension and Approval of Rates

March 2, 1982.

Take notice that on December 30, 1981, Channel Industries Gas Company (Applicant), 720 Two Allen Center, 1200 Smith Street, Houston, Texas 77002, filed in Docket No. ST81-314 an application pursuant to Subpart C of Part 284 of the Commission's Regulations for the extension of transportation of natural gas for Energy Gathering, Inc. (E. G.) for a term ending on July 23, 1982, and for approval of the note for such service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it currently transports up to 100,000 Mcf of gas per day on an interruptible basis for E. G., a local distributing company, which purchases said gas from Natural Gas Pipeline Company of America (Natural). It is stated that Applicant transports said gas from the existing interconnection point between Applicant's and Natural's pipelines near Devers in Liberty County, Texas, to the existing interconnection point between Applicant's pipeline and that of United Texas Transmission Company at Cedar Bayou in Chambers County, Texas. It is asserted initial deliveries commenced on July 23, 1981.

Applicant proposes to extend the subject transportation service through July 23, 1982, under the existing terms and conditions. In addition, Applicant proposes to establish an alternative redelivery point to be constructed by E. G. at a point on Applicant's existing 30-inch A-S pipeline at Cedar Bayou in Chambers County, Texas. It is noted that said meter station would be operated by Applicant.

It is stated that pursuant to its transportation agreement with E. G., Applicant proposes to charge E. G. a fee of 9.0 cents per Mcf redelivered. Applicant submits that the transportation rate proposed is fair and equitable and not in excess of the rates and charges which interstate pipelines would be permitted to charge for providing similar transportation service.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5870 Filed 3-4-82; 8:45am]

BILLING CODE 6717-01-M

[Project No. 5596-000]

The City of Bedford, Virginia; Application for a Major License

March 2, 1982.

Take notice that the City of Bedford, Virginia (Applicant) filed on November 2, 1981, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for construction and continued operation of a water power project to be known as the Bedford Hydroelectric Project No. 5596. The project would be located on the James River in Bedford and Amherst Counties, Virginia. Correspondence with the Applicant should be directed to: City of Bedford, Attn: Mr. D. K. Cook, City Manager, P.O. Drawer 807, Bedford, Virginia 24523.

Project Description—The proposed project would consist of: (1) An existing dam with a maximum height of 17 feet and an approximate overall length of 1,660 feet; (2) an existing, 57-acre reservoir, at a normal pool elevation of 628 feet m.s.l.; (3) an existing 1,200-foot long canal with an average water surface width of 70 feet, which will be enlarged up to a total width of 180 feet; (4) a proposed powerhouse with an installed capacity of 4,600 kW; (5) an existing powerhouse with an installed generating capacity of 1,090 kW; (6) an approximately 1,640-foot long service road to be relocated to provide room for the widening of the canal; and (7) appurtenant facilities. The Applicant estimates that the average energy output would be 26.2 GWh.

Purpose of Project—The City of Bedford will use all of the power output of the project to supply its municipal electrical distribution system.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before May 7, 1982, either the competing application itself [See 18 CFR 4.33 (a) and (d)] or a notice of intent [See 18 CFR 4.33 (b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 7, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5877 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5928-000]

Cornell University; Application for License (5 MW or Less)

March 2, 1982.

Take notice that Cornell University (Applicant) filed on January 29, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for construction and operation of a water power project to be known as the Ithaca Falls Project No. 5928. The project would be located on Fall Creek at Ithaca, in Tompkins County, New York. Correspondence with the Applicant should be directed to: Mr. Henry Doney, Director of Utilities and Facilities Engineering, Cornell University, Ithaca, New York 14853.

Project Description—The proposed run-of-the-river project would consist of: (1) An existing concrete dam, 142 feet long and approximately 5 feet high; (2) a reservoir of negligible storage capacity with the surface at spillway crest elevation of 541.6 feet m.s.l.; (3) an existing intake structure (to be replaced) at the left (south) abutment of the dam; (4) an existing water conveyance structure acting as a forebay, consisting of a 200-foot long tunnel and a 105-foot long channel; (5) a new headgate structure, 14 feet high and 35 feet wide; (6) a new 4.75-foot diameter penstock, 670 feet long; (7) a new powerhouse with an installed capacity of 3,000 kW; (8) a tailrace about 100 feet long; (9) an 8.3-kV transmission line, 170 feet long; and (10) other appurtenances. Applicant estimates annual generation would be 8,600,000 kWh.

Purpose of Project—Project energy would be marketed to the local utility company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Ithaca Falls Development Association's application for Project No. 5878 filed on January 15, 1982. Anyone desiring to file a competing application must submit to the Commission, on or before May 6, 1982, either the competing application itself [See 18 CFR 4.33(a) and (d)] or a notice of intent [See 18 CFR 4.33(b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 6, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5979 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4509]

Deep River Hydro; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

March 2, 1982.

Take notice that on December 30, 1981, Deep River Hydro (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 4509) would be located on the Haw River, in Alamance County, North Carolina. Correspondence with the Applicant should be directed to: William H. Lee, Deep River Hydro, 1212 Kensington Blvd; Fort Wayne, Indiana 46805.

Project Description—The Applicant's proposed project would consist of: (1) An existing dam consisting of a concrete gravity section with a maximum height of 29 feet and approximately 700 feet long, and an earth embankment section approximately 315 feet long with a ten foot wide crest; (2) an existing 325-acre reservoir with a storage capacity of 5,600 acre-feet at normal pool elevation 446.0 m.s.l.; (3) an existing powerhouse containing hydroelectric generating equipment with a rated capacity of 1,500 kW; and (4) appurtenant facilities. The annual generation is estimated to be 8 GWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the North Carolina Wildlife Resources Commission are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 19 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 19, 1982.

Filing and Service of Responsive Documents—Any filings, must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, 825 North Capitol Street, NE., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5979 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP82-22-000]

Geological Survey and Getty Oil Co.; Request for Withdrawal of Final Well Category Determination

March 1, 1982.

In the matter of: United States Geological Survey, Section 108 Determinations; and Getty Oil Company, A. B. Coates "C" Well No. 19, Lea County, New Mexico, MMS Docket No. NM-0630-80, FERC No. JD81-00956, A. B. Coates "C" Well No. 23, Lea County, New Mexico, MMS Docket No. NM-0628-80, FERC No. JD80-58397.

On February 11, 1982, Getty Oil Company, P.O. Box 1404, Houston, Texas 77001 (Getty) submitted to the Federal Energy Regulatory Commission (Commission) a request to withdraw its application for stripper well determinations under section 108 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3318 (Supp. II 1978) respecting its A. B. Coates "C" Well Numbers 19 and 23 located in Lea County, New Mexico. Getty states that on June 24, 1980, Getty submitted to the United States Geological Survey (USGS) an application for a natural gas stripper well category determination on the subject wells. The USGS issued favorable determinations on September 15, 1980. The Commission received notice of the determinations on September 18, 1980, and after lapse of the 45-day review period, the determinations became final on November 2, 1980, pursuant to § 275.202(a) of the Commission's regulations.

In its request for withdrawal, Getty states that a review of its records indicates that these wells had completions in more than one formation upon which the application was based and that the production data qualifying the well was not total well production. Section 271.804(a)(1) of the Commission's regulations states that for purposes of determining the rate of production from a well for which a stripper well determination is sought: The total volume of natural gas produced from the well shall constitute its daily production regardless of whether the well is completed in more than one interval or the production is separately metered from separate intervals. Getty states that according to its records, and in checking with the purchaser, Getty has never paid nor collected the stripper well price for these wells and that, accordingly, there is no refund due as a result of the withdrawal of these applications.

Because the well category determinations have become final, the Commission may reopen each determination, pursuant to § 275.205(a) of the regulations, if "(1) in making the determination the Commission or the jurisdictional agency relied on any untrue statement of material fact; or (2) there was omitted a statement of material fact necessary in order to make the statements made not misleading in light of the circumstances under which they were made. . . ."

With respect to the question of refunds arising out of this request for withdrawal of the subject well category determinations, notice is hereby given that the question of whether refunds, plus interest as computed under § 154.102(d) of the Commission's regulations, will be required is a matter subject to review and final determination of the Commission.

Any person desiring to be heard or to make any protest with reference to the requested withdrawal should, on or before April 5, 1982, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of § 1.8 or § 1.10 of the Rules of Practice and Procedure. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5980 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5901-000]

Mason County Public Utility District No. 1; Application for Preliminary Permit

March 2, 1982.

Take notice that Mason County Public Utility District No. 1 (Applicant) filed on January 19, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No 5901 to be known as the Jefferson Creek Hyroelectric Project located on Jefferson Creek, a tributary of Hamma Hamma River in Mason County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. John P. Robertson, Manager, Public Utility District No. 1 of Mason County, Rt. 5, Box 555, Shelton, Washington 98584.

Project Description—The proposed project would consist of: (1) A 60-foot long, 15- to 20- foot high diversion structure; (2) a 8,000-foot long, 5-foot diameter penstock; (3) a powerhouse with an installed capacity of 6,300 kW; and (4) a 5.6-mile long, 12-kV transmission line from the powerhouse to an existing transmission line owned by the Mason County Public Utility District No. 1. The Applicant estimates that the average annual energy production would be 25 million kWh. The project is located on U.S. Federal lands owned by Olympic National Forest.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which it would conduct the technical, environmental and economic studies, and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $165,000.

Competing Applications—This application was filed as a competing application to Hydro Resource Company's application for Project No. 5531 filed on October 16, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordanec with the Commission's regulations [see: 18 C.F.R. 4.30 et sec. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO

INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph; of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5889 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5646-001]

Kenneth T. Meredith; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

March 2, 1982.

Take notice that on January 15, 1982, Kenneth T. Meredith (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5646), known as Crooke's Falls, would be located on Lake Fork of the Gunnison River near Lake City in Hinsdale County, Colorado. Correspondence with the Applicant should be directed to: Stephen K. Meredith, P.O. Box 571, Lake City, Colorado 81235.

Project Description—The existing Applicant owned facilities consist of: (1) A dam having two concrete abutments each about 14-foot long and having a breached 20-foot long center section; (2) 19-inch diameter and 45-inch diameter intakes through the left (west) abutment; (3) 19-inch diameter and 45-inch diameter steel penstocks; (4) a powerhouse foundation; (5) a 150-yard long 14.4-kV transmission line; and (6) appurtenant facilities.

Applicant proposes to: (1) Reconstruct the dam to be a 62-foot long and about 13-foot high structure; (2) install new trashracks; (3) create a reservoir with a surface area of about 2 acres and a storage capacity of about 7.5 acre-feet at normal surface elevation 8,750 feet msl; (4) install a new penstock; and (5) construct a powerhouse containing a generating unit rated at 500-kW and a generating unit rated at 1000-kW each operated run-of-river under a 65-foot head. Applicant estimates that the average annual energy output would be 3,252,729 kWh.

Purpose of Project—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State of Colorado Department of Natural Resources are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confirmed to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 19, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 19, 1982.

Filing and Service of Responsive Documents—Any filings, must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, 825 North Capitol Street, N.E., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5891 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-189-000]

Panhandle Eastern Pipe Line Co.; Notice of Application

March 2, 1982.

Take notice that on February 2, 1982, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP82-189-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain compressor and related facilities on Applicant's existing gas supply system in Oklahoma and Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate compressor and related facilities appurtenant to its existing Anadarko Basin West End pipeline systems connecting the Texas, Kansas and Oklahoma gas supply areas to its mainline at its Haven, Kansas, compressor station. Specifically, Applicant proposes to construct and operate a 400 horsepower compressor at its proposed Oakdale compressor station in Woods County, Oklahoma. Applicant further proposes to replace a 575 horsepower compressor at the Matkin Station, Seward County, Kansas, with a new 300 horsepower compressor.

Applicant explains that the proposed compressor horsepower would assist Applicant in recovering contractual volumes of natural gas from reservoirs which have suffered declines in pressure and would enable Applicant to meet contractual obligations to its producers with respect to reducing the line pressures.

Applicant estimates the total cost of the proposed facilities to be $1,555,000 which costs would be financed from internally generated funds and short-term bank borrowing as necessary.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5892 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2062-000]

Public Utility District No. 1 of Okanogan County; Application for License (5 MW or Less)

March 2, 1982.

Take notice that Public Utility District No. 1 of Okanogan County (Applicant) filed on October 23, 1981, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as the Enloe Project No. 2062. The project would be located on the Similkameen River, near Oroville, in Okanogan County, Washington. Correspondence with the Applicant should be directed to: Harold T. Brazil, Manager, Okanogan County PUD No. 1, P.O. Box 912, Okanogan, Washington 98840.

Project Description—The proposed project would consist of: (1) The existing 54-foot high concrete arch-gravity Enloe Dam with flashboards; (2) a 90-acre reservoir; (3) two intake structures; (4) two 800-foot long, 88-inch diameter steel penstocks; (5) two steel surge tanks; (6) a powerhouse containing two restored generating units, each rerated at 1,800 kW; (7) a tailrace; (8) a 0.25-mile long transmission line; and (9) appurtenant facilities. The project would be operated on a run-of-the-river basis.

Purpose of Project—The energy generated by the project would be utilized by the Applicant or be banked with the Bonneville Power Administration.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before May 7, 1982, either the competing application itself [See 18 CFR 4.33(a) and (d)] or a notice of intent [See 18 CFR 4.33(b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 *et seq.* (1981).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before May 7, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5893 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5948-000]

Public Utility District No. 1 of Lewis County, Washington; Application for Preliminary Permit

March 2, 1982.

Take notice that Public Utility District No. 1 of Lewis County, Washington (Applicant) filed on February 5, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5948 to be known as the Smith Creek Project located on Smith Creek, within the Gifford Pinchot National Forest in Lewis County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Gary H. Kalich, Manager, Public Utility District No. 1 of Lewis County, P.O. Box 330, Chehalis, Washington 98532.

Project Description—The proposed project would consist of: (1) an 8-foot high concrete-gravity diversion structure with crest at elevation 2,840; (2) a diversion pipeline 12,700 feet long and penstock 3,700 feet long; (3) a powerhouse at elevation 1,080 containing a turbine generator with 8.3 MW capacity and 30.0 GWh annual energy output; and (4) transmission line 1.1 miles long. The potential market for power output includes customers within the Applicant's distribution system and the Bonneville Power Administration.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a term of 36 months, during which engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estimated cost of the permit activities is $200,000.

Competing Applications—This application was filed as a competing application to Hydro Resource Company's application for Project No. 5293 filed on October 26, 1981, and Capital Development Company's application for Project No. 5324, filed on September 4, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permnit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6064 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5951-000]

Mr. Gordon Ravenscroft; Application for Preliminary Permit

March 2, 1982.

Take notice that Mr. Gordon Ravenscroft (Applicant) filed on February 8, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5951 to be known as the Johnson Grade Water Power Project located on Billingsley Creek in Gooding, Idaho. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Vernon F. Ravenscroft, President, Consulting Associates, Inc., P.O. Box 893, Boise, Idaho 83701.

Project Description—The proposed project would consist of: (1) A 5-foot high by 8-foot long splash board to act as a diversion structure; (2) a 6-foot high by 10-foot wide by 950-foot long rectangular concrete ditch to be used as a conduit to the penstocks; (3) two 48-inch diameter, 55-foot long penstocks; (4) two turbine-generating units with a rated capacity of 350 kW each; and (5) a 1-mile long 34.5-kV transmission line connecting to an existing Idaho Power Company Line. The Applicant estimates a 3 million kWh annual energy production.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 30-month permit to prepare a definitive project report including preliminary designs, and geological, environmental, and economic feasibility studies. The cost of the forementioned activities along with preparation of an environmental impact report, obtaining agreements with Federal, State, and local agencies, and preparing a license application is estimated by the Applicant to be $9,300. Power would be sold to Idaho Power Company.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 7, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et. seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 7, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et. seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than May 5, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 7, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6065 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-163-000]

Texas Eastern Transmission Corp.; Notice of Application

March 2, 1982.

Take notice that on January 18, 1982, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP82-163-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Consolidated Edison of New York, Inc. (Con Ed), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that Con Ed has purchased a supply of natural gas from Equitable Gas Company (Equitable). Applicant proposes to transport for a term ending October 31, 1982, up to 103,000 dekatherms (dt) equivalent of natural gas per day for Con Ed pursuant to a transportation agreement dated January 12, 1982. It is asserted that Applicant would receive the subject gas at the existing point of interconnection between Applicant and Equitable located at Applicant's meter station 355 in Westmoreland County, Pennsylvania, or at other mutually agreeable existing delivery points in Applicant's Zone C, and would transport and redeliver equal quantities, less quantities retained for applicable shrinkage, to Con Ed at the existing point of interconnection between Applicant and Con Ed located at Applicant's meter station 058 in Richmond County, New York, or at other mutually agreeable existing points of delivery.

Applicant further requests that in the alternative Applicant be authorized to transport and deliver the stated quantities of natural gas to Transcontinental Gas Pipe Line Corporation (Transco) for the account of Con Ed at the existing point of interconnection between Applicant and Transco at Transco's meter station 240 in Montgomery County, Pennsylvania, or at other mutually agreeable existing points of delivery pursuant to an agreement between Con Ed and Transco.

It is asserted that Con Ed would pay Applicant under Applicant's presently applicable effective TS–1 basic rate schedule a rate of 13.98 cents per dt equivalent delivered by Applicant to Con Ed. In addition, Con Ed would pay Applicant under Applicant's presently applicable effective TS–1 excess rate 16.02 cents per dt equivalent for gas delivered which when added to quantities delivered by Applicant to Con Ed under its Rate Schedules TS–1 and SS–II and other transportation agreements exceed the combined total curtailment of natural gas sales to Con Ed under Applicant's firm sales rate schedules. Applicant would retain for applicable shrinkage an amount of gas equal to 3.0 percent of the quantities transported for the period from April 16 through November 15 of each year and 6.0 percent of the quantities transported for the period from November 16 through April 15 of each year.

Applicant proposes to retain all revenues resulting from transportation of gas for Con Ed.

It is asserted that the proposed transportation for Con Ed would enable Con Ed to implement its agreement to purchase gas from Equitable and would help fulfill its need for a greater natural gas supply.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 23, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission or its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6066 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-158-000]

Transcontinental Gas Pipe Line Corp. et. al.; Notice of Application

March 3, 1982.

Take notice that on January 18, 1982, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, Columbia Gulf Transmission Company (Columbia Gulf) P.O. Box 683, Houston, Texas 77001, Michigan Wisconsin Pipe Line Company (Mich Wis), One Woodward Avenue, Detroit, Michigan 48226, and Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP82-158-000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and appurtenant facilities in the offshore Texas area, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is submitted that Applicants have gas dedicated to them in the Brazos Area Blocks A-1, A-17, A-19, A-20, A-22, A-23, A-28, A-30, A-33, A-34, A-40, A-47, A-70, A-76, A-105, A-133, 437, 501, 504 and 578, Mustang Island Area Blocks A-65, A-85, and A-124, Galveston Area Blocks A-113, 391, 392, and 393, and Matagorda Island Area Blocks A-7 and 620, all offshore Texas. It is further submitted that gas has been discovered in Brazos Block A-106 but is currently uncommitted. Applicants state that 11 such blocks are in the vicinity of Transco's Central Texas Gathering System (CTGS) which extends in a southeasterly direction from Transco's Compressor Station No. 30, Wharton County, Texas, to a Transco junction platform in Brazos Block 536 and then splits into two legs—one extending in a southwesterly direction from Block 536 to Brazos Block A -133 and the other extending east from Block 536 to Brazos Block A-1.

Applicants explain that part of the CTGS is the North Markham Separation and Dehydration Plant in Matagorda County, Texas (Markham plant), and the separation and dehydration facilities at the Markham plant are owned by Transco while processing facilities near the Markham plant are owned and operated by Marathon Oil Company (Marathon). It is further explained that the Markham plant is currently undergoing a Phase I expansion to add separation and dehydration facilities and that after such expansion the separation facilities would be capable of handling 550,000 Mcf of natural gas per day. Applicants also state that a Phase II expansion involving additional separation and dehydration facilities is planned and after such expansion the separation facilities would be capable of handling 1,200,000 Mcf of natural gas per day.

It is asserted that the current capacity of the CTGS is 369,000 Mcf of gas per day and therefore, A pplicants propose to expand the CTGS to a total capacity of 1,119,000 Mcf per day to handle gas expected to be available to the CTGS.

Applicants specifically propose to construct jointly, as coowners, the Project Central Texas Loop (PCTL) consisting of approximately 23.51 miles of 36-inch pipeline loop from Transco's Compressor Station No. 30 to the Markham plant, approximately 32.53 miles of 36-inch loop from the Intracoastal Canal to Transco's junction platform in Brazos Block 538, approximately 30.12 miles of 30-inch loop from such junction platform to Cities Service Gas Company's "A" production platform in Brazos Block A-76 and measuring and regulating facilities at the Markham plant. Applicants state that the PCTL would be operated by Transco on behalf of itself and the other Applicants.

It is asserted that the PCTL would add 750,000 Mcf of gas per day to the capacity of the CTGS and based upon the above ownership interests in the PCTL the entitlements to capacity in the PCTL would be as follows: Transco—361,000 Mcf per day, Tennessee—203,000 Mcf per day, Columbia Gulf—120,000 Mcf per day, Mich Wis—50,000 Mcf per day, and Northern—160,000 Mcf per day.

Applicants estimate the cost of the proposed facilities to be $142,150,000 which cost would be shared as follows: Transco—46.1333 percent, Tennessee—27.0667 percent, Columbia Gulf—16 percent, Mich Wis—6.6667 percent, and Northern—2.1333 percent. Applicants state that the proposed facilities would be financed initially through revolving credit arrangements, short-term loans or funds on hand, and that permanent financing would be undertaken as part of Applicants' respective overall long-term financing programs at later dates.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 25 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed with the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unles otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5990 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2970-002]

The Village of Argyle, Wisconsin; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

March 2, 1982.

Take notice that on May 26, 1981, The Village of Argyle, Wisconsin (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project, Project No. 2970 would be located on the Pecatonica River near Argyle, in Lafayette County, Wisconsin. Correspondence with the Applicant should be directed to: Ms. Marjorie Trouthardt, P.O. Box 248, Argyle, Wisconsin 53504.

Project Description—The Argyle Hydroelectic Project would consist of: (1) An existing concrete dam that is 40 feet long and 6 feet high; (2) an existing powerhouse located on the east bank of the river; and (3) appurtenant facilities. Applicant estimates the capacity of the project would be 50 kW, and the annual energy output would be 71 MWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Wisconsin Department of Natural Resources are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 19, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5987 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-168-000]

Wisconsin Power & Light Co.; Order Accepting for Filing and Suspending Revised Rates, Granting Summary Disposition in Part, Granting Intervention, Denying Request for Rejection, and Establishing Hearing and Price Squeeze Procedures

Issued February 25, 1982.

On December 29, 1981, Wisconsin Power and Light Company (WPL), tendered for filing a two-step rate increase to 33 municipal and two investor-owned utilities served under WPL's rate schedule W-3, and to five rural electric cooperatives served under WPL's rate schedule W-2.[1] WPL requests that the first step increase be made effective on an interim basis as of March 1, 1982, and that the second step become effective prospectively upon the ultimate Commission determination in this proceeding of the just and reasonable rate level. Based on the calendar 1982 test period, the first step rates would result in an increase of approximately $4,008,000 (10.62%), and the second step would produce an increase of approximately $6,339,000 (14.89%).

Notice of the filing was issued on January 5, 1982, with responses due on or before January 22, 1982. The Public Service Commission of Wisconsin filed a timely notice of intervention. On January 22, 1982, WPL's five rural electric cooperative customers (Cooperatives) filed a protest and petition to intervene. The Cooperatives request that the proposed rates be suspended for five months on the basis of their claims that WPL has used an excessive rate of return, overstated O&M and depreciation expenses, and allocated excessive regulatory and customer service expenses to the wholesale customers.

Also on January 22, 1982, the Municipal Wholesale Power Group (MWPG) filed a petition to intervene on behalf of 28 municipal customers served under WPL's W-3 rate schedule. MWPG requests that the Commission reject WPL's filing on the grounds that it is incomplete and poses unduly discriminatory consequences. According to MWPG, the rates discriminate against the municipal customer class when compared to rates for similar wholesale service to the cooperative customers and a wholly-owned WPL subsidiary. Additionally, MWPG alleges that WPL's proposed fuel adjustment clause improperly contains estimated future nuclear fuel costs which are not identifiable or actual. Alternatively, MWPG requests a five month suspension, identifying 21 questionable cost of service items. MWPG also alleges that the filed rates may result in a price squeeze.

On February 1, 1982, Madison Gas and Electric Company (MGE), a customer under the W-3 rate schedule, petitioned for leave to intervene out of time. MGE states that it did not have sufficient notice of the filing to intervene in a timely manner.

WPL filed a response to the Cooperatives' pleading on February 8, 1982. WPL challenges the contention that its proposed first step rates merit a five month suspension.

[1] See Attachment A for customers and rate schedule designations.

Discussion

Initially, we find that participation in this proceeding by the Cooperatives, MWPG, and MGE is in the public interest; we further find that good cause exists to permit MGE to intervene out of time. Consequently, we shall grant the petitions to intervene. The Commission notes that the timely-filed notice of intervention is sufficient to initiate participation in this proceeding by the Public Service Commission of Wisconsin.

As a threshold matter, we have reviewed WPL's filing and find that it substantially complies with the Commission's filing requirements.[2] We cannot conclude on the basis of the pleadings alone that the rate proposal is unduly discriminatory as suggested by MWPG. As a result, we shall deny the motion to reject WPL's filing.

Our review, however, indicates that treatment by WPL of two cost of service items requires summary disposition. As to both its first and second step increases, WPL has allocated EPRI expenses to its wholesale customers in contravention of clear Commission precedent.[3] Also, the cost support for WPL's second step rates includes accumulated deferred investment tax credits (ADITC) as a separate component of the capital structure. This treatment also is contrary to well-established precedent.[4] Accordingly, summary disposition will be ordered as to these two issues. However, because the revenue impact of the associated revisions would be relatively small, we shall not require the company to refile its rates at this time. The remaining matters raised by the intervenors present questions of law or fact best resolved on the basis of an evidentiary hearing.

Having considered the issues addressed by the intervenors, we find that WPL's first step interim rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept these rates for filing and suspend them as ordered below.

In a number of suspension orders,[5] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it might run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results.

Such circumstances have been presented here. While the issues identified by the intervenors warrant further inquiry at hearing, our preliminary review suggests that the proposed first step rates may not produce excessive revenues. Under these circumstances, we believe that a nominal suspension and a refund obligation will adequately protect the affected customers pending a hearing. Accordingly, we shall suspend these rates for one day to become effective, subject to refund, on March 2, 1982.

Concerning WPL's second step rates, consistent with the company's proposal, they shall become effective, if at all, prospectively following the Commission's final determination as to just and reasonable rates.

In accordance with the Commission's policy established in Arkansas Power and Light Company, Docket No. ER79-339 (August 6, 1979), we shall phase the price squeeze issue raised by the intervenors.

The Commission orders:

(A) MWPG's request to reject WPL's filing is hereby denied.

(B) WPL's proposed first step interim rates are hereby accepted for filing and suspended for one day, to become effective on March 2, 1982, subject to refund.

(C) WPL's proposed second step rates are hereby accepted for filing, as modified by summary disposition; these rates may become effective, if at all, prospectively following the Commission's final determination as to just and reasonable rates in this proceeding.

(D) Summary disposition is hereby ordered, as noted in the body of this order, with respect to WPL's treatment of EPRI expenses and ADITC. WPL shall reflect these determinations in any compliance cost of service and rates at the conclusion of this proceeding.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of WPL's rates.

(F) The petitions to intervene in this proceeding are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; Provided, however, that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and provided, further, that the admission of such intervanors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(G) The Commission staff shall serve top sheets in this proceeding on or before March 1, 1982.

(H) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 824 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(I) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures being after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(J) The Secretary shall promptly publish this order in the Federal Register.

[2] See Municipal Light Boards of Reading and Wakefield, Massachusetts v. FPC, 450 F.2d 1341 (D.C. Cir. 1971).

[3] E.g., Public Service Company of New Mexico, Opinion No. 123 (November 8, 1981); Northern States Power Company, Docket No. ER81-622-000 (October 2, 1981); and Illinois Power Company, Docket No. ER77-421 (April 10, 1980).

[4] E.g., Virginia Electric and Power Co., Opinion No. 116 (April 10, 1981); Carolina Power and Light Co., Opinion No. 78 (August 2, 1979); Public Service Company of New Mexico, Docket No. ER80-487-000 (February 27, 1981); Public Service Company of Oklahoma, Docket No. ER79-241 (October 12, 1979); Virginia Electric and Power Co., Docket No. ER78-532 (August 30, 1978).

[5] E.g., Boston Edison Co., Docket No. ER80-556 (August 29, 1980) (five month suspension); Alabama Power Co., Docket Nos. ER80-508, et al. (August 29, 1980) (one day suspension); Cleveland Electric Illuminating Co., Docket No. ER80-556 (August 22, 1980) (one day suspension).

By the Commission.

Kenneth F. Plumb,

Secretary.

ATTACHMENT A.—WISCONSIN POWER & LIGHT CO., DOCKET NO. ER82-188-000

[Item—General Rate Increase; dated—Undated; filed—Dec. 29, 1981]

Rate W-3 (municipal and investor owned utilities)	Rate schedule [1]	Supplement No.	Supersedes supp. No.
City of Evansville	29	18	14
Village of Gresham	31	17	15
Village of New Glarus	39	16	14
Village of Hustisford	71	18	13
City of Sun Prairie	73	16	13
City of Plymouth	75	14	12
Village of Muscoda	76	16	14
City of Boscobel	77	14	12
City of Cuba City	78	15	13
City of Waupun	82	14	13
City of Brodhead	83	16	15
Village of Sauk City	84	13	11
City of Juneau	86	13	11
City of Benton	88	13	11
City of Reedsburg	89	13	11
Village of Hazel Green	91	12	10
Village of Mt. Horeb	92	13	11
Village of Prairie du Sac	96	13	11
City of Shelmygan Falls	98	12	10
City of Lodi	101	12	10
Village of Pardeeville	102	11	9
Village of Wonewac	107	9	7
Village of Mezomenie	108	9	7
Village of Waunakee	109	9	7
Village of Belmont	110	9	7
Village of Footville	111	9	7
City of Stoughton	115	7	5
Village of Black Earth	116	7	5
Cross Plains Electric Company	117	6	4
Pioneer Power & Light Company	118	7	5
City of Schulteburg	120	5	3
City of Princeton	121	6	4
City of Wisconsin Rapids	122	5	3
City of Wisconsin Dells	125	5	3
City of Columbus	126	5	3
Columbus Rural Electric Cooperative	128	4	3
Waushara County Electric Coop., Inc	129	4	3
Adams Marquette Electric Coop	112	11	10
Central Wisconsin Electric Cooperative	113	9	6
Rock County Electric Coop. Assoc	119	7	6

[1] FERC after R.S. 116; otherwise designated FPC.

[FR Doc. 82-5966 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-1-20-005]

Algonquin Gas Transmission Co.; Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

March 1, 1982.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on February 19, 1982, tendered for filing Substitute 58th Revised Sheet No. 10 to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that Substitute 58th Revised Sheet No. 10 is being filed in substitution of 58th Revised Sheet No. 10 filed by Algonquin Gas in Docket No. TA82-1-20-003 on January 28, 1982, as its semi-annual PGA filing pursuant to Section 17 of the General Terms and Conditions of Algonquin Gas' FERC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that Substitute 58th Revised Sheet No. 10 reflects a revision in the underlying rates of its pipeline supplier, Texas Eastern Transmission Corporation ("Texas Eastern") that were placed into effect by a motion filed February 12, 1982, effective February 14, 1982 under its major rate increase filing in Docket No. RP81-109. Such Motion rates filed by Texas Eastern also included revised purchased gas costs under substitute February 1, 1982 rates filed by Texas Eastern on February 8, 1982 pursuant to Ordering Paragraph C of the Commission's Order issued January 29, 1982, in Docket No. TA82-1-17-002 (PGA82-1).

Algonquin Gas proposes the effective date of Substitute 58th Revised Sheet No. 10 to be March 1, 1982, the same date as proposed effective for 58th Revised Sheet No. 10.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb

Secretary.

[FR Doc. 82-5944 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-1-20-004]

Algonquin Gas Transmission Company; Rate Filing Under Rate Schedule STB

March 1, 1982.

Take notice that Algonquin Gas Transmission Company (Algonquin) of February 19, 1982, tendered for filing Sixth Revised Sheet No. 10-C to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin states that Sheet No. 10-C is being filed to reflect in Algonquin's Rate Schedule STB, an increase in Texas Eastern Transmission Corporation's (Texas Eastern) Rate Schedule SS-II. Texas Eastern's increase in its Rate Schedule SS-II was effectuated by Texas Eastern's Motion to place its Docket No. RP81-109 rates into effect on February 14, 1982.

Algonquin requests that the proposed effective date of the filing be February 14, 1982.

Algonquin requests permission to add a surcharge, if necessary, to the next succeeding month's billing to recover such rates effective February 14, 1982.

Algonquin notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10) All such petitions or protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Protests or petitions shall be filed on or before March 19, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5945 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP82-23-000; Docket No. 80252; FERC No. JD81-8426]

Colorado Oil and Gas Conservation Commission, Section 108 NGPA Determination, Northwest Pipeline Corp.; Request for Withdrawal of Final Well Category Determination

March 1, 1982.

On May 28, 1981, Northwest Pipeline Corporation (Northwest) submitted a letter to the Colorado Oil and Gas Conservation Commission (Colorado) requesting that its application for a stripper well determination for its Bondad 33-10 #18 Well (subject well) under section 108 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3318 (Supp. II 1978), be withdrawn. By letter filed January 13, 1982, Northwest informed the Federal Energy Regulatory Commission (Commission) of its earlier

withdrawal request and explained the basis for its request.

On December 8, 1980, Colorado notified the Commission of its deferred determination that the subject well qualified as a stripper well under section 108 of the NGPA based in part on a 90-day production period ending April 30, 1980. That determination became final on January 22, 1981 by operation of § 275.202(a) of the Commission's regulations. However, on October 23, 1980, in the period between Northwest's application for stripper well determination and Colorado's determination, both Colorado and the Commission received notice from Northwest of disqualification of the subject well due to increased production during the 90-day production period ending July 31, 1980 during which the subject well produced at a daily average of 61 Mcf at 14.73 psia. Finally, as a result of a Commission Staff audit, it became apparent that daily production from the subject well may have exceeded 60 Mcf at 14.73 psia for the period March through May, 1980. On December 14, 1981, the Director of the Commission's Division of NGPA Compliance sent Northwest a letter requesting an explanation of the foregoing discrepancy.

In Northwest's letter response filed January 13, 1982, Northwest explained that, prior to April, 1981, it used a pressure base of 15.025 psia in reporting production volumes. When corrected to 14.73 psia at 60 degrees Farenheit as required by section 2(29) of the NGPA the average daily production from the subject well for the period May, 1979 through July, 1980 exceeded 60 Mcf at 14.73 psia. Northwest states that it inadvertently failed to forward to the Commission a copy of its withdrawal request filed May 28, 1981, with Colorado. Northwest also states that it has a 100 percent working interest in the subject well, which is a cost-of-service well, and that the only refunds due invoice royalty owners.

Because the well category determination has become final, the Commission must reopen the determination, pursuant to § 275.205(a) of the regulations, if "(1) in making the determination the Commission or the jurisdictional agency relied on any untrue statement of material fact; or (2) there was omitted a statement of material fact necessary in order to make the statements made not misleading in light of the circumstances under which they were made. * * *"

With respect to the question of refunds arising out of this request for withdrawal of the subject well category determination, notice is hereby given that the question of whether refunds, plus interest as computed under § 154.102(d) of the Commission's regulations, will be required is a matter subject to review and final determination of the Commission.

Any person desiring to be heard or to make any protest with reference to the requested withdrawal should, on or before April 5, 1982, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of §§ 1.8 or 1.10 of the Rules of Practice and Procedure. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-5966 Filed 3-4-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-59-000]

Community Linen Rental Services; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

March 1, 1982.

On January 25, 1982, Community Linen Rental Services of Los Angeles, California, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The proposed facility will be a topping-cycle cogeneration facility which uses natural gas as its primary energy source and No. 2 fuel oil as a standby backup fuel. It will be located at Community Health Care Services, 711 S. San Joaquin St., Stockton, California 95203. The power production capacity of the facility will be 500 kilowatts. Installation of the facility will begin in April 1982. No electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 or 1.10 of the Commission's rules of practice and procedure. All such petitions or protests must be filed on or before April 5, 1982, and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-5967 Filed 3-4-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-197-000]

Florida Gas Transmission Co.; Application

March 3, 1982.

Take notice that on February 8, 1982, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP82-197-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Transcontinental Gas Pipe Line Corporation (Transco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Transco has contracted to purchase certain quantities of natural gas to be produced from the Black Creek Field area, Stone County, Mississippi. Applicant asserts that pursuant to a transportation agreement dated July 13, 1981, and amended January 5, 1982, it has agreed to transport for Transco up to 3.5 billion Btu per day of natural gas from the Black Creek Field area to either of two existing points of interconnection between the parties' facilities near Vermilion and St. Helena Parishes, Louisiana. Applicant submits that the transportation agreement is for a primary term of fifteen years from the date of initial delivery.

Applicant proposes to charge Transco a facility charge of 11.4 cents for each million Btu delivered at the points of delivery plus a transportation rate of .08 cent per million Btu delivered at the points of delivery or a minimum charge of $500 per month.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 25, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-5968 Filed 3-4-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP82-39-001]

Lawrenceburg Gas Transmission Corp.; Amendment to Proposed Changes in FERC Gas Tariff

March 1, 1982.

Take notice that Lawrenceburg Gas Transmission Corporation (Lawrenceburg), on February 17, 1982 tendered for filing two (2) substitute gas tariff sheets in order to amend its previously proposed general increase in its jurisdictional wholesale gas rates as contained in its FERC Gas Tariff, First Revised Volume No. 1, proposed to become effective February 28, 1982.

The amended filing reduces Lawrenceburg's requested increase from $48,895 to $41,484 and reflects the cost of service effect of a reduction in the requested rate of return from 15.22% to 13.30%.

Copies of this amended filing were served upon Lawrenceburg's two jurisdictional wholesale customers and to the interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before March 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-5969 Filed 3-4-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA82-1-14-002 (PGA 82-1(a))]

Lawrenceburg Gas Transmission Corp.; Proposed Change in FERC Gas Tariff

March 1, 1982.

Take notice that on February 17, 1982 Lawrenceburg Gas Transmission Corporation (Lawrenceburg) tendered for filing two (2) substitute gas tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, all of which are dated as issued on February 12, 1982 proposed to become effective February 1, 1982, and identified as follows:

Substitute Twenty-Sixth Revised Sheet No. 4
Substitute Twenty-Four Revised Sheet No. 18.

Lawrenceburg states that its substitute tariff sheets were filed to reflect a reduction in its cost of gas purchased from Texas Gas Transmission Corporation which occurred subsequent to its PGA filing made on December 23, 1981. The Commission by letter order issued January 26, 1982 had accepted Lawrenceburg's PGA filing subject to revision to reflect any decreases in its cost of gas purchased from Texas Gas.

Copies of this filing were served upon Lawrenceburg's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-5970 Filed 3-4-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. QF82-74-000]

Massachusetts Hydro Association; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

March 1, 1982.

On February 9, 1982, Massachusetts Hydro Association of Boston, Massachusetts filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility is a hydroelectric small power production facility located on the Lawrence canal off the Merrimack River in Lowell, Massachusetts. The capacity of the facility is 500 kilowatts. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility. The facility uses water from the same impoundment as Lowell Hydroelectric Project (Boott Mills; Proprietors of the Locks and Canals on Merrimack River—QF80-16-000) but combined capacity of all facilities dependent upon the impoundment is less than 80 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before April 5, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5861 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-335-000]

The Montana Power Co.; Filing

March 1, 1982

The filing Company submits the following:

Take notice that The Montana Power Company ("Montana") on February 22, 1982, tendered for filing in accordance with section 35 of the Commission's regulations, a Letter Agreement with Washington Water Power Company ("Washington"). Montana states that this Letter Agreement provides for the sale of firm energy between Montana and Edison.

Montana indicates that the proposed Letter Agreements increased revenues from jurisdictional sales by $2,659,580.00, based upon energy delivered from April 1, 1981 through October 31, 1981. Montana states that the rate for firm energy under this Letter Agreement was negotiated.

Montana requests waiver of notice requirements and that the Agreement be made retroactively effective to September 16, 1981, the date service commenced. It is also requested that this Agreement be cancelled retroactively effective to October 31, 1981, the date that the Agreement expired of its own terms and has not been renewed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Northeast, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 17, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5862 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-334-000]

Montana Power Co.; Notice of Filing

March 1, 1982.

Take notice that the Montana Power Company (Montana) on February 22, 1982, tendered for filing in accordance with Section 35 of the Commission's Regulations, a Letter Agreement with the City of Burbank (Burbank). Montana states that this Letter Agreement provides for the sale of firm energy between Montana and Burbank.

Montana indicates that the proposed Letter Agreement increased revenues from jurisdictional sales by $1,215,272.58 based upon energy delivered from September 21, 1981 through the term of the Letter Agreement, as amended. Montana states that the rate for firm energy under this Letter Agreement was negotiated.

An effective date of September 21, 1981, is proposed and waiver of the Commission's requirements is therefore requested.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 17, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5863 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-1-16-002]

National Fuel Gas Supply Corp.; Proposed Tariff Change

March 1, 1982.

Take notice that on February 17, 1982, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Revised Substitute Thirty-Seventh Revised Sheet No. 4, proposed to be effective February 1, 1982.

National states that the purpose of this revised tariff sheet is to comply with Commission Order dated February 1, 1982, requiring that National reflect the proper rate of Texas Eastern Transmission Corporation. National further states that Revised Substitute Thirty-Seventh Revised Sheet No. 4 reflects a decrease in National's rates of 2.08¢.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5864 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM79-3]

Natural Gas Policy Act of 1978; Receipt of Report of Determination Process

Issued: March 3, 1982

Pursuant to section 18 CFR 274.105 of the Federal Energy Regulatory Commission's Regulations, a jurisdictional agency may file a report with the Commission describing the method by which such agency will make certain determinations in accordance with sections 102, 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Reports in conformance with 18 CFR 274.105 have been received by the Commission from the following jurisdictional agencies:

Agency	Date
Alabama State Oil and Gas Board	Nov. 30, 1978.
State of Alaska Oil and Gas Conservation Commission.	Dec. 11, 1978.
State of Arizona Oil and Gas Conservation Commission.	Dec. 14, 1978.
Arkansas Oil and Gas Commission	Feb. 12, 1979.
State of California Department of Conservation Division of Oil and Gas.	Dec. 4, 1978.
State of Colorado Department of Natural Resources.	Dec. 5, 1978.
(Supplemental Report)	Apr. 4, 1979.
(Revised Supplemental Report)	Apr. 18, 1979.
State of Florida Department of Natural Resources.	Jan. 3, 1979.
State of Illinois, Department of Mines & Minerals, Oil and Gas Division.	Jan. 5, 1979.

Agency	Date
State of Indiana Department of Natural Resources.	Dec. 28, 1978.
(Supplemental Report)	Mar. 28, 1979.
Kansas State Corporation Commission Conservation Division.	Nov. 30, 1978.
Commonwealth of Kentucky Department of Mines and Minerals, Division of Oil & Gas Conservation.	Feb. 8, 1979.
State of Louisiana Department of Conservation.	Nov. 29, 1978.
State of Michigan, Department of Natural Resources Geological Survey Division.	Dec. 1, 1978.
(Supplemental Report)	Mar. 7, 1979.
State Oil and Gas Board of Mississippi	Nov. 30, 1978.
Missouri Department of Natural Resources	Jan. 26, 1982.
State of Montana Department of Natural Resources and Conservation.	Jan. 29, 1979.
State of Nebraska Oil and Gas Conservation Commission.	Dec. 15, 1978.
State of New Mexico Energy and Minerals Department, Oil Conservation Division.	Nov. 29, 1978.
New York State Department of Environmental Conservation.	Feb. 23, 1979.
(Supplemental Report)	May 2, 1979.
State of North Dakota Geological Survey	Jan. 4, 1979.
State of Ohio Department of Natural Resources Division of Oil and Gas.	Dec. 6, 1978.
State of Oklahoma Corporation Commission.	Mar. 29, 1979.
State of Oregon, Department of Geology and Mineral Industries.	Oct. 23, 1978.
Osage Agency Osage County, Oklahoma Bureau of Indian Affairs.	Apr. 2, 1979.
State of Pennsylvania Department of Environmental Resources, Division of Oil and Gas.	Dec. 26, 1978.
State of Tennessee Oil and Gas Board	Dec. 19, 1978.
Railroad Commission of Texas	Nov. 30, 1978.
(Supplemental Report)	May 22, 1979.
United States Department of Energy	Mar. 28, 1980.
United States Department of Interior, Geological Survey.	Jan. 19, 1979.
(Supplemental Report)	July 16, 1979.
(Supplemental Report)	Feb. 25, 1980.
State of Utah, Department of Natural Resources, Division of Oil, Gas, and Mining.	Jan. 30, 1979.
Commonwealth of Virginia, Department of Labor and Industry, Division of Mines and Quarries.	Dec. 4, 1978.
West Virginia Department of Mines, Oil and Gas Division.	Nov. 30, 1978.
State of Wyoming Office of Oil and Gas Conservation Commission.	Dec. 4, 1978.

The latest plan filed was submitted by the Missouri Department of Natural Resources, on January 28, 1982.

Copies of these reports are available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5865 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-152-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Application

March 3, 1982.

Take notice that on January 13, 1982, Northern Natural Gas company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP82-152-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain compressor facilities in Stevens County, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate two 1,000 horsepower compressor units at Applicant's existing Stevens County No. 6 gathering station, Stevens County, Kansas. Applicant states that both units would operate in parallel with the existing units No. 1 and No. 2.

Applicant submits that the proposed compressor units are required to assist Applicant in meeting the required volume capacity for the 1982-83 heating season and thereafter from the Hugoton System and to operate at or below the 75 psig contractual line pressure. Applicant states that the suction pressure of the No. 6 gathering station is averaging approximately 74 psig with a heating season capacity of 35,000 Mcf per day. It is explained that Applicant's desired unit suction pressure would be 57 psig with a heating season capacity of 41,300 Mcf per day. Applicant asserts that without the installation of the proposed facilities it could incur a potential deficiency payment of $1,539,000 for three years.

Applicant estimates the cost of the proposed facilities to be $1,747,450 which costs would be financed from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 25, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5866 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-193-000]

Northern States Power Co. (Wisconsin); Order Accepting for Filing and Suspending Proposed Service Agreement, Granting Intervention and Consolidating Proceedings

Issued: February 26, 1982.

On December 29, 1981, Northern States Power Company (Wisconsin) (NSP-W) tendered for filing an unexecuted service agreement between NSP-W and the City of Black River Falls, Wisconsin (Black River).[1] According to NSP-W, Black River has elected to receive partial requirements service under rate schedule LP-1, which was submited by NSP-W in Docket No. ER81-653-000, and accepted for filing and suspended for one day by Commission order issued October 2, 1981.[2] NSP-W requests that the proposed service agreement become effective on February 28, 1982, so that it may replace Black River's present contract which expires on February 27, 1982.[3]

Notice of the filing was issued on January 8, 1982, with responses due on or before January 29, 1982. A timely petition to intervene was jointly filed by Black River, and the Wisconsin Public Power Incorporated System (System)

[1] Designated: Northern States Power Company (Wisconsin) Service Agreement under FERC Electric Tariff Original Volume No. 1 Undated (Supersedes Rate Schedule FPC No. 84, as supplemented).

[2] NSP-W's filing in Docket No. ER81-653-000 was submitted on August 3, 1981.

[3] Black River owns and operates diesel generating units and purchases its additional requirements from NSP-W. Black River's present contract with NSP-W provides for capacity credits in recognition of the fact that NSP-W may request that the City operate its diesel units. NSP-W, however, is phasing out its own diesel generation, and had notified Black River that it will not renew the present contract.

(collectively referred to as Petitioners).[4] Petitioners request: (1) That they be granted intervenor status; (2) that the proposed service agreement be suspended for one day and set for hearing; (3) that the instant docket be consolidated with the proceeding in Docket No. ER81-653-000; and (4) that the issues in this proceeding concerning the terms and conditions and design of partial requirements service under rate schedule LP-1 be made subject to the Commission's decision in an earlier NSP-W rate proceeding pending in Docket No. ER80-181-000.[5]

On February 1, 1982, NSP-W filed a response to Petitioners' pleading which concurs with Petitioners' first three requests, but objects to the fourth request. NSP-W states that while it is possible that certain issues which will be decided in Docket No. ER80-181-000 should control in the instant proceeding, a ruling to that effect at the present time would be premature and would deprive NSP-W of an opportunity to demonstrate either that the issues in the two proceedings are, in fact, different, or that circumstances have changed.

On February 5, 1981, Petitioners filed a reply to NSP-W's response which states that Black River should not be required to relitigate issues which are before the Commission in Docket No. ER80-181-000, and that the parties to this proceeding should be bound by the Commission's decision in Docket No. ER80-181-000 unless it can be shown that circumstances have substantially changed.

Discussion

Initially, the Commission finds that participation by Petitioners is in the public interest. Accordingly, we shall grant the petition to intervene.

Our review of NSP-W's filing indicates that the proposed service agreement has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or other unlawful. Accordingly, we shall accept the proposed agreement for filing and suspend its operation as directed below.

In a number of suspension orders,[6] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it might run afoul or other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. Such circumstances have been presented here. Although Petitioners have expressed concerns relating to the terms and conditions of the service being offered, the rate schedule which NSP-W seeks to apply to Black River (LP-1) was previously suspended for one day and set for hearing in Docket No. ER81-653-000. Furthermore, Petitioners have sought only a one day suspension, and such suspension will afford Black River access to the desired service immediately upon expiration of its existing contract. Pending the outcome of hearings, a nominal suspension and a refund obligation should adequately protect Black River. Therefore, we shall accept the proposed service schedule for filing and suspend it for one day to become effective, subject to refund, on March 1, 1982

We find that common questions of law and fact are presented in Docket No. ER82-193-000 and Docket No. ER81-653-000. Accordingly, we shall consolidate those dockets for the purposes of hearing and decision.

With regard to Petitioners' request that issues in this proceeding concerning the terms, conditions, and design of partial requirements service under rate schedule LP-1 be made subject to the Commission's decision as to identical issues in Docket No. ER80-181-000, we note that such course of action was adopted by the Commission when considering the LP-1 rate schedule in Docket No. ER81-653-000.[7] Moreover, we agree with Petitioners that the same issues decided in Docket No. ER80-181-000 should not be litigated anew in this proceeding. The partial requirements service being offered in Docket No. ER81-653-000 represents a generally available tariff rate which was presumably developed by NSP-W to accommodate any potential municipally-owned partial requirements customer. We would be extremely hesitant to entertain arguments by the company as to the inappropriateness of components of the tariff each time a new customer is included under the LP-1 schedule. Nonetheless, we do not believe that NSP-W should be denied an opportunity to demonstrate that the issues in the two proceedings are materially different, or that circumstances have substantially changed. Accordingly, we shall order that the issues raised in this proceeding regarding the terms, conditions, and design of partial requirements service under the LP-1 rate schedule be made subject to the final resolution of those issues in Docket No. ER80-181-000 in the absence of a showing that the issues are materially different, or that circumstances have substantially changed since NSP-W's submittal in Docket No. ER81-653-000.

The Commission Orders

(A) NSP-W's proposed service agreement is hereby accepted for filing and suspended for one day, to become effective on March 1, 1982, subject to refund.

(B) Petitioners are hereby permitted to intervene in this proceeding subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* that participation by such intervenors shall be limited to the matters set forth in the petitions to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders entered by the Commission in this proceeding.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of NSP-W's proposed service agreement for Black River. Issues concerning the terms, conditions, and design of partial requirements service under the LP-1 rate schedule shall be subject to a final determination of those issues in Docket No. ER80-181-000 in the absence of a showing that the issues are materially different, or that circumstances have substantially changed since NSP-W's submittal in Docket No. ER81-653-000.

(D) Docket Nos. ER82-193-000 and ER81-653-000 are hereby consolidated for purposes of hearing and decision.

(E) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5937 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[4] The petition states that System is a municipal electric company formed by approximately 30 Wisconsin Municipalities (including Black River) to plan for and provide bulk power to its members.

[5] An initial decision in Docket No. ER80-181-000 was issued by the presiding judge on February 1, 1982. The partial requirements rate schedule which is referred to as Schedule B in Docket No. ER80-181-000 was redesignated as Schedule LP-1 in Docket No. ER81-653-000.

[6] *E.g., Boston Edison Co.*, Docket No. ER80-566 (August 29, 1980) (five month suspension); *Alabama Power Co.*, Docket Nos. ER80-500, *et al.* (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating Co.*, Docket No. ER80-488 (August 22, 1980) (one day suspension).

[7] *See* the Commission's order issued on October 1, 1981, in that docket at pages 7 and 8.

[Docket No. ER82-333-000]

Oklahoma Gas and Electric Co.; Filing

March 1, 1982.

Take notice that on February 22, 1982, Oklahoma Gas and Electric Company (Oklahoma) tendered for filing Notice of Cancellation of Rate Schedule FERC No. 111, between Oklahoma and Arkansas Power & Light Company. The Agreement expired under its own terms September 30, 1981.

Oklahoma requests an effective date of September 30, 1981, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 17, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5938 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-215-001]

Southern Natural Gas Co., et al.; Petition To Amend

March 3, 1982.

Take notice that on February 3, 1982, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, and Florida Gas Transmission Company (Florida Gas), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP81-215-001 a joint petition pursuant to sections 7(c) of the Natural Gas Act to amend the order issued September 30, 1981, in the instant docket so as to authorize Florida Gas to participate in the construction and operation of facilities certificated by such order, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is submitted that by order issued September 30, 1981, in the instant docket Southern, Transco, Natural and Northern were authorized to construct and operate a pipeline, receiving station and appurtenant facilities in order to transport to a point of interconnection with the existing Matagorda Offshore Pipeline System (MOPS) the natural gas reserves that Southern, Transco, Natural and Northern have acquired in Mustang Island Area Blocks 741, 755, 757, 758, 762, and 763 and in Matagorda Island Area Blocks 700 and 713, offshore Texas.

Petitioners state that by assignment of gas purchase contract, Southern has assigned to Florida Gas fifty percent of Southern's ownership interest in the natural gas reserves produced in Mustang Island Block 758 by Union Texas Petroleum Corporation, Mobil Producing Texas & New Mexico Inc., and Unidel Oil Corporation. In order to transport to the MOPS system such natural gas reserves, Petitioners propose that the order issued September 30, 1981, in the instant docket, be amended so as to allow Florida Gas to participate in the construction and operation of the certificated facilities described above.

Petitioners propose to reallocate the cost and ownership of the facilities certificated in the following manner:

Petitioner	Percentage
(a) Pipeline:	
Southern	31.8182
Florida	5.0636
Transco	27.6767
Natural	10.6061
Northern	13.6364
(b) Receiving station:	
Southern	45.0000
Natural	35.0000
Florida	20.0000

It is submitted that these ownership percentages are based on each Petitioner's proportional interest in the gas reserves to be transported by the certificated facilities; the percentages of ownership in the facilities corresponding to any uncommitted reserves have been allocated proportionately to Petitioners; and upon commitment of any presently uncommitted gas reserves, ownership percentages may be redetermined retroactively.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 25, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-5939 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Volume 605]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: March 2, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
CALIFORNIA DEPARTMENT OF CONSERVATION									
-TEXALTA OIL & GAS INC				RECEIVED:	02/16/82	JA: CA			
8218723	82-5-0001	0403920026	103			T & G #3	MOFFAT RANCH	480.0	PACIFIC GAS & ELE
8218724	82-5-0002	0403920028	103			T & G #4	MOFFAT RANCH	80.0	PACIFIC GAS & ELE
KANSAS CORPORATION COMMISSION									
-COMANCHE PRODUCTION, INC.				RECEIVED:	02/11/82	JA: KS			
8218732	K81-1229	1509320579	102-4			COMANCHE #1	ELLSWORTH	73.0	NORTHERN NATURAL
-HAWKINS OIL & GAS INC				RECEIVED:	02/11/82	JA: KS			
8218731	K81-1190	1502520489	103			WELLS #1-28	MCKINNEY	182.5	KANSAS POWER & LI
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	02/10/82	JA: MI			
8218740		2114334308	103			M-M-L-G-C-U S A "B" #3	ST HELEN	7.6	DOW CHEMICAL CO
8218741		2111334452	103			NORWICH UNIT #4-106	NORWICH	18.0	DOW CHEMICAL CO
8218742		2111334453	103			NORWICH UNIT #4-107	NORWICH	11.0	DOW CHEMICAL CO
8218735		2111333699	103			NORWICH UNIT #4-91	NORWICH	1.0	DOW CHEMICAL CO
8218734		2114333683	103			NORWICH UNIT #6-16	NORWICH	21.0	DOW CHEMICAL CO
8218733		2111333106	103			NORWICH UNIT #9-15	NORWICH	3.0	DOW CHEMICAL CO
8218739		2114334113	103			ROSCOMMON STATE BANK UNIT #1	ST HELEN	89.0	DOW CHEMICAL CO
8218736		2114333920	103			STATE AUSABLE "N" #1	ST HELEN	90.2	DOW CHEMICAL CO
8218737		2114334291	103			STATE AUSABLE "O" #1	ST HELEN	34.0	DOW CHEMICAL CO
8218738		2114334252	103			STATE AUSABLE "P" #2	ST HELEN	136.0	DOW CHEMICAL CO
NORTH DAKOTA INDUSTRIAL COMMISSION									
-AL-AQUITAINE EXPLORATION LTD				RECEIVED:	02/08/82	JA: ND			
8218704	459	3300700735	102-2			BB 8-27	WHISKEY JOE	588.0	WESTERN GAS PROCE
-BURNETT OIL CO INC				RECEIVED:	02/16/82	JA: ND			
*8218730	460	3310500882	103			EDITH BLIKRE #1	LINDAHL-MADISON	2.0	AMINOIL USA INC
*8218727	463	3310500915	103			FEDERAL LAND BANK #1	LINDAHL-MADISON	2.0	AMINOIL USA
*8218726	464	3310500883	103			GERMUNDSON #1	LINDAHL-MADISON	8.0	AMINOIL INC
*8218728	462	3310500958	103			JEROL GOHRICK #1	LINDAHL-MADISON	2.0	AMINOIL USA INC
*8218729	461	3310500960	103			MERLIN R JOHNSON #1	LINDAHL-MADISON	58.0	AMINOIL USA INC
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	02/08/82	JA: ND			
8218698	453	3305301213	102-2			MCGREGOR 12B-23 #2	ELLSWORTH	292.0	MONTANA-DAKOTA UT
-PATRICK PETROLEUM CORP OF MICHIGAN				RECEIVED:	02/08/82	JA: ND			
8218701	456	3310500888	102-2			FEDJE #1	BONE TRAIL	38.0	PHILLIPS PETROLEU
8218699	454	3300700651	102-2			HAMILL #1-27	TR	27.0	WESTERN GAS PROCE
8218700	455	3300700653	102-2			HAMILL #3-27	TR	131.0	WESTERN GAS PROCE

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8218702	457	3300700602	102-2			MOSSER #1-25	TR	41.2	WESTERN GAS PROCE
8218703	458	3302300192	102-2			STATE #1-36	DANEVILLE	48.5	PHILLIPS PETROLEU
-RANGER OIL CO				RECEIVED:	02/16/82	JA: ND			
8218725	465	3305301210	102-3			STATE #13-36	BLUE BUTTES SILURIAN	5.0	AMINOIL USA INC
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-ARCO OIL AND GAS COMPANY				RECEIVED:	02/10/82	JA: NM			
8218713		3002527541	103			M S RECORD #6	EUNICE TR GN SO	9.4	PHILLIPS PETROLEU
8218708		3002527540	103			LEA 407 STATE #6	SAN SIMON YATES NORTH	11.5	PHILLIPS PETROLEU
-ARBEE OIL COMPANY				RECEIVED:	02/10/82	JA: NM			
8218707		3002527499	103			DIANE STATE #1	CAUDILL PERMO PENN	320.6	WARREN PETROLEUM
-DOYLE HARTMAN OIL OPERATOR				RECEIVED:	02/10/82	JA: NM			
8218712		3002527335	103			M M KING #3	JALMAT (GAS)	37.0	EL PASO NATURAL G
-GULF OIL CORPORATION				RECEIVED:	02/10/82	JA: NM			
8218719		3002527407	103			EAST MAT MESA STATE UNIT #1	UNDES MAT MESA MORROW	0.0	EL PASO NATURAL G
-INTERNORTH INC				RECEIVED:	02/10/82	JA: NM			
8218706		3002526982	103			TONTO STATE COM #1	GEM	280.0	INTERNORTH INC
-KENAI OIL AND GAS INC				RECEIVED:	02/10/82	JA: NM			
8218715		3004523524	102-2			NEW MEXICO STATE #1	NAGEEZI	0.0	GAS CO OF NEW MEX
-SOUTHLAND ROYALTY CO				RECEIVED:	02/10/82	JA: NM			
8218717		3004524085	103			MANGUM "B" COM #1-E	BASIN	350.0	SOUTHERN UNION GA
8218718		3003922834	103			SIMMS FEDERAL #2	BLANCO	600.0	NORTHWEST PIPELIN
8218716		3003527238	103			STATE "E" COM #2	EUMONT	12.8	WARREN PETROLEUM
8216714		3004500000	108-PB			YOUNG #1	BASIN DAKOTA	0.0	SOUTHERN UNION GA
-YATES PETROLEUM CORPORATION				RECEIVED:	02/10/82	JA: NM			
8218726		3001523665	103			HOFFMAN PL #2	ATOKA YESO	0.0	TRANSWESTERN PIPE
8218711		3000520829	103			LOVELESS "LQ" STATE #6	TOMAHAWK SA	0.0	CITIES SERVICE CO
8218709		3036523832	103			LOVELESS "LQ" STATE #7	TOMAHAWK SA	0.0	CITIES SERVICE CO
8218710		3000520833	103			LOVELESS "LQ" STATE #8	TOMAHAWK SA	0.0	CITIES SERVICE CO
8218721		3001523906	103			PLATT "PA" #5	ATOKA-YESO	0.0	TRANSWESTERN PIPE
8218722		3001523948	103			PLATT "PA" #6	ATOKA-YESO	0.0	TRANSWESTERN PIPE
SOUTH DAKOTA DEPARTMENT OF NATURAL RESOURCE DEVELOPMENT									
-SAM G HARRISON				RECEIVED:	02/08/82	JA: SD			
8218705		4006320258	102-4			HOMER TRUMAN 1-8	CADY CREEK	18.0	JERRY A MCCUTCHIN
TEXAS RAILROAD COMMISSION									
-ALCORN PRODUCTION CO				RECEIVED:	02/11/82	JA: TX			
8218659	F-21-046111	4217730985	102-2	103		J B PATTESON #1	SMILEY (BUDA)	135.7	VALERO TRANSMISSI
-ALPAR RESOURCES INC				RECEIVED:	02/11/82	JA: TX			
8218587	F-13-042786	4239338857	103			CAMPBELL RANCH #2-63	MENDOTA NW (GRANITE W	365.0	PIONEER NATURAL G
-AMERADA HESS CORPORATION				RECEIVED:	02/11/82	JA: TX			
8218616	F-8A-045169	4216531893	103			SEMINOLE SAN ANDRES UNIT #4009	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8218617	F-8A-045172	4216503000	103			SEMINOLE SAN ANDRES UNIT #4012	SEMINOLE SAN ANDRES	0.0	PHILLIPS PETROLEU
8218618	F-8A-045205	4216532106	103			SEMINOLE SAN ANDRES UNIT #4130	SEMINOLE SAN ANDRES	0.1	PHILLIPS PETROLEU
-ARCO OIL AND GAS COMPANY				RECEIVED:	02/11/82	JA: TX			
8216570	F-10-039474	4229530959	102-2			CHARLINE PAINE #2	LEAR (MORROW LOWER)	36.5	TRANSWESTERN PIPE
-ARK-LA-TEX PETROLEUM INC				RECEIVED:	02/11/82	JA: TX			
8218613	F-09-044899	4207732271	102-4			J V LYLES #1	ARK-LA-TEX (CONGLOMER	14.6	FAGADAU ENERGY CO
-ARKANSAS LOUISIANA GAS CO				RECEIVED:	02/11/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8218521	F-06-045289	4220330734		107-TF		ABNEY "D" #8	WASKOM (LOWER COTTON	5.8	ARKANSAS LOUISIAN
8218619	F-06-045287	4220330740		107-TF		HOWELL #3	WASKOM (LOWER COTTON	300.3	ARKANSAS LOUISIAN
8218620	F-06-045288	4201530549		107-TF		WALKER #3	RODESSA (COTTON VALLE	650.8	ARKANSAS LOUISIAN
-BEN J TAYLOR				RECEIVED:	02/11/82	JA: TX			
8218615	F-78-049168	4836731963		103		LOCKHART #1	CAL-TEX (CADDO)	10.8	LONE STAR GAS CO
-BORDER EXPLORATION CO				RECEIVED:	02/11/82	JA: TX			
8218562	F-78-037917	4214330705		103		A M BLACKWELL G U #2	X-RAY (MARBLE FALLS)	36.0	VALERO TRANSMISSI
-CHAMPLIN EXPLORATION INC				RECEIVED:	02/11/82	JA: TX			
8218603	F-03-044855	4209331303		102-2		A M BARNETT #2 (RRC ID #14183)	GIDDINGS (AUSTIN CHAL	24.0	CLAJON GAS CO
8218602	F-03-044354	4209131304		102-2		AM BARNETT #1 (RRC ID #14183)	GIDDINGS (AUSTIN CHAL	120.0	CLAJON GAS CO
8218607	F-03-044427	4228730517		102-2		GARWOOD GERDES "B" #2 (RRC #12519)	GIDDINGS (AUSTIN CHAL	180.0	PGP GAS PRODUCTS
8218610	F-03-044456	4228730688		102-2		GARWOOD GERDES "C" #1 (RRC #12519)	GIDDINGS (AUSTIN CHAL	85.8	CLAJON GAS CO
8218605	F-03-044423	4228730693		102-2		GARWOOD GERDES "F" #1 (RRC #12519)	GIDDINGS (AUSTIN CHAL	365.8	CLAJON GAS CO
8218622	F-03-045318	4228730548		102-2		GARWOOD GERDES D #1 (RRC ID #12519)	GIDDINGS (AUSTIN CHAL	20.0	CLAJON GAS CO
8218639	F-03-046044	4214930916		102-2		HENRY BOEHNKE "B" #1 (RRC #14368)	GIDDINGS (AUSTIN CHAL	2.4	PHILLIPS PETROLEU
8218629	F-03-045871	4214930909		102-2		HENRY E BOEHNKE #1 (RRC ID #14292)	GIDDINGS (AUSTIN CHAL	24.0	PHILLIPS PETROLEU
8218950	F-03-046183	4214930977		102-2		MILTON MUTSCHINK #2 (RRC ID #14654)	GIDDINGS (AUSTIN CHAL	24.0	PHILLIPS PETROLEU
8218597	F-03-043407	4214930676		102-2		VICTOR ELIAS #1 (RRC ID #14103)	GIDDINGS (AUSTIN CHAL	6.0	PHILLIPS PETROLEU
8218558	F-03-038177	4238738611		102-2		WOOD #1 (RRC ID #13373)	GIDDINGS (AUSTIN CHAL	18.0	CLAJON GAS CO
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	02/11/82	JA: TX			
8218568	F-03-036779	4205100009		102-2	103	A BERAN #2	GIDDINGS	0.0	FERGUSON CROSSING
-CHEVRON U S A INC				RECEIVED:	02/11/82	JA: TX			
8218646	F-8A-046058	4241532034		103		SACROC UNIT #35-6	KELLY - SNYDER	90.0	EL PASO NATURAL G
8218645	F-8A-046057	4241532035		103		SACROC UNIT #37-9	KELLY - SNYDER	120.0	EL PASO NATURAL G
8218647	F-8A-046459	4241532036		103		SACROC UNIT #38-5	KELLY - SNYDER	88.0	EL PASO NATURAL G
8218644	F-8A-046056	4241531981		103		SACROC UNIT 865-14	KELLY - SNYDER	85.0	EL PASO NATURAL G
-CLAYTON W WILLIAMS JR				RECEIVED:	02/11/82	JA: TX			
8218869	F-03-035971	4214900080		102-2		BILLY T HINZE #1	GIDDINGS	0.0	VALERO TRANSMISSI
8218868	F-03-039270	4205100000		102-2		CHMELAR-RUBECKA UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8218377	F-03-041592	4205100000		102-2		KAZMIR-MATCEK UNIT A #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
-CONOCO INC				RECEIVED:	02/11/82	JA: TX			
8218679	F-8A-046158	4211531577		103		E ACKERLY DEAN UNIT #67 RRC #60687	ACKERLY (DEAN SAND)	17.2	TEXACO
8218575	F-04-041296	4242731592		103		T B SLICK EST H-936 #165	RINDON (VICKSBURG 706	306.0	TENNESSEE GAS PIP
8218637	F-08-046026	4200332868		103		UNIVERSITY-5-69 ID #01652	FUHRMAN-MASCHO	49.6	PHILLIPS PETROLEU
-CORDOVA RESOURCES INC				RECEIVED:	02/11/82	JA: TX			
8218598	F-78-042954	4213300000		108		ANDERSON #2	EASTLAND COUNTY REGUL	0.4	ODESSA NATURAL CO
8218591	F-78-042957	4213300000		108		HARRIS FISHER #1	EASTLAND COUNTY REGUL	0.4	ODESSA NATURAL CO
8218589	F-78-042932	4213300000		108		MCDONALD #1	EASTLAND COUNTY REGUL	0.4	ODESSA NATURAL CO
-CORPUS CHRISTI OIL AND GAS CO				RECEIVED:	02/11/82	JA: TX			
8218651	F-03-046080	4270330233		102-4		STATE TRACT 520-L NE/4 #9A	EL GORDO (12670)	0.0	HOUSTON PIPELINE
-COTTON PETROLEUM CORPORATION				RECEIVED:	02/11/82	JA: TX			
8218655	F-7C-046091	4240131702		103		UNIVERSITY 3-6 #1	SPRAYBERRY (TREND ARE	85.0	PHILLIPS PETROLEU
-CRB OIL & GAS INC				RECEIVED:	02/11/82	JA: TX			
8218634	F-11-045681	4250731508		102-4		LEE RANCH #9	LEE RANCH (SAN MIGUEL	126.0	NORTHERN NATURAL
-D & D GAS & OIL CO				RECEIVED:	02/11/82	JA: TX			
8218631	F-11-045593	4228330832		103		SOUTH TEXAS SYNDICATE #113-2	WASHBURN RANCH WEST (	229.6	TRANSCO COMPANIES
-DAVID FASKEN				RECEIVED:	02/11/82	JA: TX			
8218838	F-8A-046029	4216530277		108		W E COOK "11" #1	BRUNLEY (LOWER CLEARF	5.8	EL PASO NATURAL G
-DAWSON EXPLORATION INC				RECEIVED:	02/11/82	JA: TX			
8218638	F-02-045992	4125500000		102-4	103	DAWSON EXP INC #1 VALERO RRC#96096	COY CITY (7100)	0.0	VALERO TRANSMISSI
-DELTA DRILLING CO				RECEIVED:	02/11/82	JA: TX			
8218558	F-7C-035557	4243500088		103	107-TF	SHURLEY "A" #4	SAWYER (CANYON)	0.0	NORTHERN NATURAL
-EL PASO NATURAL GAS COMPANY				RECEIVED:	02/11/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8218547	F-13-003124	4208726152		108-ER		LUTES A	PANHANDLE EAST	29.2	EL PASO NATURAL G
-ESENJAY PETROLEUM CORP				RECEIVED:	02/11/82	JA: TX			
8218612	F-02-044729	4202531432		102-4	103	EDWIN JALLEK #1		150.0	UNITED GAS PIPELI
-EXPANDO OIL CO				RECEIVED:	02/11/82	JA: TX			
8218580	F-03-042314	4214931091		102-2		CARLSON-JACOBS UNIT #1 NO ID #	GIDDINGS AUSTIN CHALK	73.7	PHILLIPS PETROLEU
-EXXON CORPORATION				RECEIVED:	02/11/82	JA: TX			
8218697	F-04-046100	4237100000		108		ELSINORE CATTLE CO #1	PIKES PEAK (DEVONIAN-	10.6	NORTHERN NATURAL
8218572	F-08-040325	4200332790		103		FULLERTON CLEARFORK UNIT #2341	FULLERTON	15.0	PHILLIPS PETROLEU
8218608	F-08-044444	4210332674		103		J B TURB A/C 1 #248U	SAND HILLS (MC KNIGHT	7.0	EL PASO NATURAL G
-HILLIARD OIL & GAS INC				RECEIVED:	02/11/82	JA: TX			
8218867	F-08-039174	4206730335		103	107-TF	HASKELL YOUNG #1	KILGARE (COTTON VALLE	360.0	TEXAS EASTERN TRA
-HOWELL DRILLING INC				RECEIVED:	02/11/82	JA: TX			
8218598	F-02-043977	4225500000		103	107-TF	ADOLPH MAREK GAS UNIT #1	WORD N	0.0	VALERO TRANSMISSI
-J CLEO THOMPSON & JAMES CLEO THOMPS				RECEIVED:	02/11/82	JA: TX			
8218614	F-7C-045013	4218533342		103	107-TF	THOMPSON #15	OZONA (CANYON SAND)	145.0	SHELL OIL CO
-KAISER OIL (USA) LTD				RECEIVED:	02/11/82	JA: TX			
8218569	F-05-039310	4229330531		103	107-TF	LEO STUART #1	PRAIRIE GROVE (COTTON	26.0	CAMPEON PIPELINE
-KEITH D GRAHAM				RECEIVED:	02/11/82	JA: TX			
8218687	F-03-045496	4204130652		102-2		GOEN "B" #1-Y	GIDDINGS (AUSTIN CHAL	183.2	CLAJON GAS CO
-KAYNARD OIL COMPANY				RECEIVED:	02/11/82	JA: TX			
8218632	F-03-045621	4205131893		102-4		TATUM #4	CALDWELL (AUSTIN CHAL	17.5	FERGUSON CROSSING
-MCBRAYER OIL CORP				RECEIVED:	02/11/82	JA: TX			
8218589	F-06-042595	4218330490		103	107-TF	JOHN L M THOMAS G U #1	WILDCAT	36.0	DELHI GAS PIPELIN
-MITCHELL ENERGY CORPORATION				RECEIVED:	02/11/82	JA: TX			
8218553	F-09-032986	4249700000		108		CLARENCE J HARRISON #1			
8218549	F-09-032577	4249731397		108-ER		EMMA J MONTFORD #2 RRC#69	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
8218548	F-09-034118	4249700002		108-ER		G T LEMAY #3	BOONSVILLE (BEND CONG	110.4	NATURAL GAS PIPEL
8218554	F-78-032998	4236700000		108		G W DALLAS #1	LEFTWICK (CONGL 8220)	4.4	NATURAL GAS PIPEL
8218600	F-09-044381	4223700000		102-4		J W LOVING EST #7-L	MEEKER (CONGLOMERATE	0.0	SOUTHWESTERN GAS
8218556	F-09-034226	4249700000		108		S L KUTCH #2	JERNYN WEST (CADDO LO	18.5	SOUTHWESTERN GAS
8218552	F-09-032977	4249700000		108-ER		W O NIBLETT #1	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
-MOBIL PROD TEXAS & NEW MEXICO INC				RECEIVED:	02/11/82	JA: TX	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
8218624	F-08-045458	4233330849		103		W W WATSON #36			
8218625	F-08-045462	4233330856		103		W W WATSON #33	IATAN EAST (HOWARD)	0.9	GETTY OIL CO
-MONSANTO COMPANY				RECEIVED:	02/11/82	JA: TX	IATAN EAST (HOWARD)	0.0	GETTY OIL CO
8218633	F-08-045638	4247531728		107-DP		JUAREZ #1			
8218663	F-7C-046120	4210533365		103		UNIVERSITY WEGER 51-3 #1	RODGERS (DEVONIAN)	100.0	
8218667	F-7C-046124	4210533375		103		UNIVERSITY WEGER 51-3 #10	WEGER (SAN ANDRES)	6.8	
8218666	F-7C-046123	4210533376		103		UNIVERSITY WEGER 51-3 #11	WEGER (SAN ANDRES)	9.0	
8218665	F-7C-046122	4210533614		103		UNIVERSITY WEGER 51-3 #17	WEGER (SAN ANDRES)	5.8	
8218664	F-7C-046121	4210533653		103		UNIVERSITY WEGER 51-3 #18	WEGER (SAN ANDRES)	6.8	
8218662	F-7C-046119	4210533285		103		UNIVERSITY WEGER 51-3 #2	WEGER (SAN ANDRES)	6.8	
8218670	F-7C-046128	4210533627		103		UNIVERSITY WEGER 51-3 #25	WEGER (SAN ANDRES)	5.8	
8218660	F-7C-046117	4210533377		103		UNIVERSITY WEGER 51-3 #4	WEGER (SAN ANDRES)	3.8	
8218669	F-7C-046127	4210533503		103		UNIVERSITY 47-4 #3	WEGER (SAN ANDRES)	14.0	
8218668	F-7C-046126	4210533505		103		UNIVERSITY 47-4 #4	FARMER (SAN ANDRES)	6.8	
8218661	F-7C-046118	4210533378		103		UNIVERSITY 51-3 #3	FARMER (SAN ANDRES)	5.0	
-MOORE MCCORMACK OIL & GAS CORP				RECEIVED:	02/11/82	JA: TX	WEGER (SAN ANDRES)	6.0	
8218604	F-06-044382	4200131246		102-4		REACH #1			
-MR OIL CO				RECEIVED:	02/11/82	JA: TX	NOT ASSIGNED	69.0	MOORE MCCORMICK G
8218584	F-08-042973	4247900000		108		RICHTER LOUIS #14			
-NORTH RIDGE CORP				RECEIVED:	02/11/82	JA: TX	WARD-ESTES NORTH	0.4	CABOT CORP
8218583	F-78-042987	4213300000		102-4		J W BARNES #1			
							RANGER N W (MARBLE FA	32.4	PRISM ENTERPRISES

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8218582	F-73-043485	4213300800		102-4		J W BARNES #3	RANGER N W (MARBLE FA	12.6	PRISM ENTERPRISES
8218581	F-73-042483	4213300000		102-4		J W BARNES #5	RANGER N W (MARBLE FA	12.6	PRISM ENTERPRISES
-PAR PRODUCING CO				RECEIVED:	02/11/82	JA: TX			
8218643	F-8A-046054	4241532065		103		BECK UNIT #1	TOWLE (CANYON)	4.1	SUN OIL CO
-PETROLERO EXPLORATIONS INC				RECEIVED:	02/11/82	JA: TX			
8218648	F-78-046076	4208332566		103		CLAYTON #1 ID 17549	COLEMAN COUNTY REGULA	17.2	LONE STAR GAS CO
8218649	F-78-046076	4208332647		103		HALLMARK-KEEL "A" #1 ID 17743	COLEMAN COUNTY REGULA	30.7	LONE STAR GAS CO
-PETRUS OPERATING CO INC				RECEIVED:	02/11/82	JA: TX			
8218596	F-06-043358	4240131157		102-4	103	C M LANGFORD #1	EZIM (PETTIT)	5.0	VALERO TRANSMISSI
-PHILLIPS EXPLORATION INC				RECEIVED:	02/11/82	JA: TX			
8218606	F-03-044424	4228730711		102-2		GARWOOD GERDES G #1 (RRC ID #89602)	GIDDINGS (AUSTIN CHAL	365.8	CLAJON GAS CO
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	02/11/82	JA: TX			
8218555	F-08-033119	4213533416		108		EMBAR #53	GOLDSMITH NORTH (SAN	6.0	EL PASO NATURAL G
8218601	F-10-044303	4217900000		103		HUSTED #3	PANHANDLE GRAY	6.0	
9218564	F-10-038624	4223331109		103		INDERTON C #4	PANHANDLE HUTCHINSON	8.0	EL PASO NATURAL G
8218574	F-10-040587	4217900000		103		LEHMAN #8	PANHANDLE GRAY	0.0	
8218551	F-10-030506	4242100000		108		MARGA #1	TEXAS HUGOTON	21.0	PANHANDLE EASTERN
8218561	F-10-037431	4234130684		103		RUTH BUSH #3	WEST PANHANDLE	8.0	EL PASO NATURAL G
9218599	F-09-044037	4248731172		108		WAGGONER ESTATE A #2	ROCK CROSSING (CANYON	3.0	PHILLIPS PETROLEU
8218573	F-10-040408	4223331137		103		YANC G #12	PANHANDLE HUTCHINSON	8.0	PANHANDLE EASTERN
-PLACID OIL COMPANY				RECEIVED:	02/11/82	JA: TX			
8218571	F-03-039942	4247330328		107-DP		ELIZABETH SORSBY #1	PANG LLAN	1925.0	LONE STAR GAS CO
-RAY MERRING				RECEIVED:	02/11/82	JA: TX			
8218600	F-03-046161	4250300000		103		ATWOOD #2	HEATHER CONGLOMERATE	108.0	SUN GAS TRANSMISS
8218609	F-73-044053	4242932641		103		KEITH #1	JOHNNY (CONGL UPPER)	110.0	WARREN PETROLEUM
-RETANCO INC				RECEIVED:	02/11/82	JA: TX			
8218635	F-03-045765	4214931027		103		COLLINS #1	GIDDINGS (BUDA)	34.7	PHILLIPS PETROLEU
-SAGE ENERGY CO				RECEIVED:	02/11/82	JA: TX			
8218626	F-7C-045484	4238331632		103		UNIVERSITY 10 #5 RRC #07742	FARMER (SAN ANDRES)	16.4	NORTHERN NATURAL
-SEARCH DRILLING CO				RECEIVED:	02/11/82	JA: TX			
8218602	F-10-046166	4229531084		103		DANIELS #3-554	BRADFORD (TONKAWA)	91.0	PHILLIPS PETROLEU
-SEATEX ENERGY CORP				RECEIVED:	02/11/82	JA: TX			
8218654	F-7B-046087	4236332528		108		D L HART #1	PALO PINTO CO REG GAS	9.1	SOUTHWESTERN GAS
-SHELL OIL CO				RECEIVED:	02/11/82	JA: TX			
8218676	F-08-046134	4213500000		108		EAST HARPER UNIT NO 230	HARPER	8.9	PHILLIPS PETROLEU
8218653	F-32-046084	4246930533		108		G A MUSSELMAN "A" #3	HELEN GOHLKE (WILCOX	14.0	TEXAS EASTERN TRA
8218674	F-8A-046132	4216500000		108		LOWE H L #11-U	WASSON 72	8.7	SHELL OIL CO
8218675	F-8A-046133	4216500000		108		LOWE H L #9	WASSON 72	1.2	SHELL OIL CO
8218652	F-02-046083	4212330386		108		MATTHEW-KUESTER #20	HELEN GOHLKE (1400)	12.0	HOUSTON PIPE LINE
8218673	F-C8-046131	4247500000		108		SEALY SMITH FDN #159	MONAHANS (CLEAR FORK)	3.3	EL PASO NATURAL G
8218671	F-08-046129	4213500000		108		TXL -L- A/C 1 #8	GOLDSMITH W (SAN ANDR	0.7	SHELL OIL
8218677	F-08-046135	4213500000		108		TXL NORTH UNIT #750-L	TXL (TUBB)	18.7	SHELL OIL CT AL
8218672	F-8A-046130	4216500000		108		WILLARD NW #20-U	WASSON 72	6.6	SHELL OIL CO
-SOHIO PETROLEUM CO				RECEIVED:	02/11/82	JA: TX			
8218636	F-7C-045822	4217331166		103		M V BRYANS C #5	CALVIN (DEAN)	34.0	EL PASO NATURAL G
-SOUTHERN ROYALTY INC				RECEIVED:	02/11/82	JA: TX			
8218611	F-03-044576	4202531606		103		LINNEY #1	TYNAN EAST (1400)	73.0	DELHI GAS PIPELIN
-SPARKMAN PRODUCING CO				RECEIVED:	02/11/82	JA: TX			
8218592	F-04-042976	4224900000		103		GOODE #3	ALMOND (5260)	16.0	NUE-WELLS PIPELIN
-SUPERIOR OIL CO				RECEIVED:	02/11/82	JA: TX			
8218588	F-03-042785	4205131790		102-2	103	F MATCEK #3	GIDDINGS (AUSTIN CHAL	0.0	
-SUPRON ENERGY CORPORATION				RECEIVED:	02/11/82	JA: TX			
8218623	F-7C-045553	4245304740		103		TURNER #4	PERCY TJRNER (WOLFCAM	8.0	ESPERANZA PIPELIN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-TAUBERT & STEED				RECEIVED:	02/11/82	JA: TX			
8218681	F-06-046165	4249931012		102-4		THELMA CLEMENTS UNIT #1	NEUHOFF (WOODBINE)	62.8	UNITED GAS PIPELI
-TAYLOR OPERATING COMPANY				RECEIVED:	02/11/82	JA: TX			
8218650	F-09-046078	4223700600		103		W M BYARS #1 (85473)	BOONSVILLE (REND CONG	146.0	NATURAL GAS PIPEL
-TDC ENGINEERING INC				RECEIVED:	02/11/82	JA: TX			
8218641	F-73-046047	4215131335		102-4		BILLY C BOWDEN #3	SYLVESTER (FLIPPEN)	9.0	PALO DURO PIPELIN
8218640	F-78-046046	4215131246		102-4		M W WILLIAMSON #1 (17163)	SYLVESTER (FLIPPEN)	9.0	PALO DURO PIPELIN
-TEC OPERATING CO				RECEIVED:	02/11/82	JA: TX			
8218563	F-03-038620	4214930859		102-2	103	CHARLOTTE #1	GIDDINGS (AUSTIN CHAL	0.0	
-TENNECO OIL COMPANY				RECEIVED:	02/11/82	JA: TX			
8218642	F-10-046052	4242100000		108		J W STERL #1	TEXAS - HUGOTON	10.0	PHILLIPS PETROLEU
-TENROC CORP				RECEIVED:	02/11/82	JA: TX			
8218566	F-03-03963	4205131324		102-2		LAUDERDALE #2	GIDDINGS (AUSTIN CHAL	525.0	PHILLIPS PETROLEU
8218565	F-03-038962	4205131575		102-2		LAUDERDALE #3	GIDDINGS (AUSTIN CHAL	525.0	PHILLIPS PETROLEU
-TEXACO INC				RECEIVED:	02/11/82	JA: TX			
8218678	F-7C-046155	4246100000		108		UPTON K FEE #2	TEXEL (PENN)	7.2	PHILLIPS PETROLEU
-TEXAS OIL & GAS CORP				RECEIVED:	02/11/82	JA: TX			
8218578	F-06-041974	4240131212		102-4		GANDY #1	MINDEN (TRAVIS PEAK 8	0.0	
-THOMAS D COFFMAN INC				RECEIVED:	02/11/82	JA: TX			
8218576	F-03-041444	4214931160		102-2		MARSHALL UNIT #1 128331	GIDDINGS (AUSTIN CHAL	280.8	SOUTH CEN-TEX GAS
-TXO PRODUCTION CORP				RECEIVED:	02/11/82	JA: TX			
8218594	F-10-042996	4221131177		103		LOCKHART #1	FELDMAN (TONKAWA)	0.0	PHILLIPS PETROLEU
8218593	F-10-042995	4221131365		103		LOCKHART "B" #1	FELDMAN (TONKAWA)	250.0	PHILLIPS PETROLEU
-U S OPERATING INC				RECEIVED:	02/11/82	JA: TX			
8218595	F-03-043354	4228730821		102-2		MABEL #1 RRC ID N/A	GIDDINGS (AUSTIN CHAL	0.0	PGP GAS PRODUCTS
8218579	F-03-042033	4228730988		102-2		MELISSA #1 RRC ID N/A	GIDDINGS (AUSTIN CHAL	0.0	PGP GAS PRODUCTS
-WAGNER & BROWN				RECEIVED:	02/11/82	JA: TX			
8218628	F-08-045528	4243130683		103		GLASS "K" #2-4	CONGER (PENN)	204.0	VALERO TRANSMISSI
-WALSH AND WATTS INC				RECEIVED:	02/11/82	JA: TX			
8218656	F-78-046009	4215131329		103		ROBERTSON #2 (LEASE NO 11149)	JUDY GAIL (CANYON SAN	19.0	LONE STAR GAS CO
-WES-TEX DRILLING COMPANY				RECEIVED:	02/11/82	JA: TX			
8218683	F-73-046167	4215100000		102-4		PAUL MATCHETT "B" - #1 (95132)	LOTT-ALEXANDER (SWAST	75.0	PALO DURO PIPELIN
-WESSELY ENERGY CORPORATION				RECEIVED:	02/11/82	JA: TX			
8218586	F-05-042633	4239530237		103	107-TF	J M MITCHELL #1	BALD PRAIRIE (COTTON	450.0	TEXAS UTILITIES F
-ZONERGY INC				RECEIVED:	02/11/82	JA: TX			
8218557	F-03-035175	4205100000		102-2		ZONERGY-CARLOMAGNO #1	GIDDINGS	0.0	

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VIRGINIA DEPARTMENT OF LABOR & INDUSTRY

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-PHILADELPHIA OIL COMPANY				RECEIVED:	02/08/82	JA: VA			
8218686		4505120377		103		ASA B BISE - #P-112	NORA	19.4	KENTUCKY WEST VIR
8218693		4505120377		107-TF		ASA BISE #P-112	NORA	31.4	KENTUCKY WEST VIR
8218688		4505120301		107-TF		EARL MILTON - #P-84	NORA	39.0	KENTUCKY WEST VIR
8218691		4519920356		107-TF		J A ODLE - #P-104	NORA	43.5	KENTUCKY WEST VIR
8218692		4519920357		107-TF		JAMES H DUNN - #P-105	NORA	15.0	KENTUCKY WEST VIR
8218689		4519920346		107-TF		M E & W R HENRY #P-102	NORA	58.7	KENTUCKY WEST VIR
8218684		4505120421		107-DV		P R SMITH - #P-130	NORA	15.0	KENTUCKY WEST VIR
8218697		4505120421		107-TF		P R SMITH #P-130	NORA	32.6	KENTUCKY WEST VIR
8218690		4519920355		107-TF		SAMUEL HENSLEY - #P-103	NORA	21.3	KENTUCKY WEST VIR
8218687		4505120403		103		WILSON ROSE - #P-126	NORA	12.3	KENTUCKY WEST VIR
8218694		4505120403		107-TF		WILSON ROSE - #P-126	NORA	58.4	KENTUCKY WEST VIR
8218685		4505120404		103		WILSON ROSE - #P-127	NORA	34.6	KENTUCKY WEST VIR
8218695		4505120404		107-TF		WILSON ROSE - #P-127	NORA	45.4	KENTUCKY WEST VIR

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JD NO	JA UKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FILD NAME	PROD	PURCHASER
0218696		4505120417		107-TF		WILSON ROSE - #P-129	NORA		101.6 KENTUCKY WEST VIR

OTHER PURCHASERS VOLUME NO 2605

0218726	AMERADA HESS CORP
0218727	AMERADA HESS CORP
0218728	AMERADA HESS CORP
0218729	AMERADA HESS CORP
0218730	AMERADA HESS CORP

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before March 22, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
- 102–2: New well (2.5 mile rule)
- 102–3: New well (1000 ft rule)
- 102–4: New onshore reservior
- 102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
- 107–GB: Geopressured brine
- 107–CS: Coal seams
- 107–DV: Devonian shale
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6081 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

JD NO	JA JKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OHIO DEPARTMENT OF NATURAL RESOURCES									
-ALL STATES OIL & PRODUCING CO INC		RECEIVED: 02/09/82 JA: OH							
8218254		3410322554		107-TF		HERRMANN #2	GRANGER	5.5	COLUMBIA GAS TRAN
-AMERICAN EXPLORATION CO		RECEIVED: 02/09/82 JA: OH							
8218258		3411923804		108		C HANES #1		10.0	LIBBEY OWENS FORD
8218261		3415722619		108		G GUILLIN #1		10.0	LIBBEY OWENS FORD
8218260		3415722618		108		G GUILLIN #2		10.0	LIBBEY OWENS FORD
8218255		3411923232		108		G PROUTY #1		10.0	EAST OHIO GAS
8218256		3411923275		108		G PROUTY #2		10.0	EAST OHIO GAS
8218262		3415723294		108		S IMMEL #1		10.0	COLUMBIA GAS TRAN
8218259		3412723697		108		V GROVES #1		10.0	ELJER PLUMBINGWAR
8218257		3411923447		108		W ROBISON #1		10.0	NATIONAL GAS & OI
-AMERICAN PETROEL INC		RECEIVED: 02/09/82 JA: OH							
8218269		3416726462		107-DV		BINEGAR #1	LAWRENCE	12.0	
8218265		3416723592		108		FARMERS LIVESTOCK AUCTION CO #1		0.2	COLUMBIA GAS TRAN
8218263		3416723578		108		FARMERS LIVESTOCK AUCTION CO #2		4.0	COLUMBIA GAS TRAN
8218267		3416723664		108		FARMERS LIVESTOCK AUCTION CO #3		5.0	COLUMBIA GAS TRAN
8218268		3416723740		108		FRANCIS/LINCICOME #1		2.0	COLUMBIA GAS TRAN
8218264		3416723589		108		ROY E WETZ #1		4.0	COLUMBIA GAS TRAN
8218266		3416723601		108		ROY E WETZ #2		2.0	COLUMBIA GAS TRAN
8218270		3416726873		107-DV		VALENTINE #1	NEW MATAMORAS	109.0	
-AMERICAN WELL MANAGEMENT COMPANY		RECEIVED: 02/09/82 JA: OH							
8218272		3408322936		103		GAYLORD RINE #3	MARTINSBURG	18.0	
8218271		3408322901		103		RALPH COLOPY #1	BRINKHAVEN	18.0	
-APPALACHIAN EXPLORATION INC		RECEIVED: 02/09/82 JA: OH							
8218274		3410322375		103	107-TF	V T SCANLAN #1	GRANGER	18.0	COLUMBIA GAS TRAN
8218275		3410322376		103	107-TF	V T SCANLAN #2	GRANGER	18.0	COLUMBIA GAS TRAN
8218276		3410322377		103	107-TF	V T SCANLAN #4	GRANGER	18.0	COLUMBIA GAS TRAN
-APPALACHIAN PETROLEUM CORP		RECEIVED: 02/09/82 JA: OH							
8218277		3416726572		107-DV		COUNTYHOUSE #1	MARIETTA	3.5	COLUMBIA GAS TRAN
-ARAPAHO VENTURES OF NEW YORK INC		RECEIVED: 02/09/82 JA: OH							
8218280		3416725241		103	107-TF	DAVID REYNOLDS #1	MUSKINGUM	0.0	
8218278		3412122245		103	107-TF	RAYLE COAL #1	JACKSON	23.8	
8218279		3412122401		107-DV		RAYLE KEITH #1	JACKSON	8.0	
-ARS JOINT VENTURE		RECEIVED: 02/09/82 JA: OH							
8218253		3411522525		103	107-TF	APPERSON #1	BRISTOL	16.0	COLUMBIA GAS TRAN
-ASHLAND EXPLORATION INC		RECEIVED: 02/09/82 JA: OH							
8218281		3415102644		108		ASHLAND-CANTON UNIT #1	CANTON	13.0	ASHLAND PETROLEUM
-ATLAS ENERGY GROUP INC		RECEIVED: 02/09/82 JA: OH							
8218288		3415521802		102-2	107-TF	BIRO #1	KINSMAN	15.0	COLUMBIA GAS TRAN
8218289		3415521833		102-2	107-TF	CARR #2	VERNON	26.0	COLUMBIA GAS TRAN
8218282		3415521686		102-2	107-TF	G DRAA #1	VERNON	18.0	COLUMBIA GAS TRAN

JD NO	JA JKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8218285		3415521750		102-2	107-TF	MUNKUS #2	VERNON	27.0	COLUMBIA GAS TRAN
8218291		3415521872		102-2	107-TF	LIEBERT UNIT #1	KINSMAN	26.0	COLUMBIA GAS TRAN
8218287		3415521789		102-2	107-TF	M CEBULA UNIT #1	VERNON	18.0	COLUMBIA GAS TRAN
8218286		3415521754		102-2	107-TF	MACK #1	VERNON	23.0	COLUMBIA GAS TRAN
8218292		3415521945		102-2	107-TF	QUEALE #2	VERNON	20.0	COLUMBIA GAS TRAN
8218283		3415521735		102-2	107-TF	SWARTZ THURDER UNIT #1	VERNON	27.0	COLUMBIA GAS TRAN
8218290		3415521862		102-2	107-TF	TRIBBY UNIT #1	KINSMAN	22.0	COLUMBIA GAS TRAN
8218284		3415521737		102-2	107-TF	ZIMMET EVANS UNIT #1	VERNON	22.0	COLUMBIA GAS TRAN
-BANDS COMPANY INC		RECEIVED: 02/09/82 JA: OH							
8218293		3411121987		107-DV		WORKMAN #1	WASHINGTON	5.0	COLUMBIA GAS TRAN
-BELDEN & BLAKE & CO #79		RECEIVED: 02/09/82 JA: OH							
8218297		3415123648		103		D & C BOLTON 1-341157	MARLBORO	36.5	
8218296		3415123645		103		K & M ZELLERS 6-341528	MARLBORO	36.5	
8218295A		3415123642		103		L & W HAMMOND 2-341149	MARLBORO	36.5	
8218295B		3415123642	D	107-TF		L & W HAMMOND 2-341149	MARLBORO	36.5	
8218294A		3401921411		103		WHITACRE-GREER 34-341056	BROWN	36.5	
8218294B		3401921411	D	107-TF		WHITACRE-GREER 34-341056	BROWN	36.5	
-BEREA OIL AND GAS CORPORATION		RECEIVED: 02/09/82 JA: OH							
8218299		3411925883		103	107-TF	L FRICK #6	RICH HILL	0.0	COLUMBIA GAS TRAN
8218298		3411925882		103	107-TF	W BARNA #3	RICH HILL	0.0	COLUMBIA GAS TRAN
-BILL BLAIR INCORPORATED		RECEIVED: 02/09/82 JA: OH							
8218300		3402920803		103	107-TF	GROVE #2	HOMEWORTH	14.0	EAST OHIO GAS CO
8218303		3402920850		103	107-TF	MCCOY #1	HOMEWORTH	16.0	EAST OHIO GAS CO
8218304		3402920863		103	107-TF	SMITH #2	HOMEWORTH	22.0	EAST OHIO GAS CO
8218305		3402920865		103	107-TF	SMITH #4	HOMEWORTH	18.0	EAST OHIO GAS CO
8218301		3402920843		103	107-TF	STOFFER #4	HOMEWORTH	12.0	EAST OHIO GAS CO
8218302		3402920844		103	107-TF	STOFFER #5	HOMEWORTH	14.0	EAST OHIO GAS CO
-BLAUSER WELL SERVICE INC		RECEIVED: 02/09/82 JA: OH							
8218324		3410522238		103		ROY E FICK #2	CHESTER	8.9	COLUMBIA GAS TRAN
-BROWN PETROLEUM CORP		RECEIVED: 02/09/82 JA: OH							
8218327		3407523285		103		MOORE #3	KILLBUCK	1.0	COLUMBIA GAS TRAN
-BUCKEYE OIL PRODUCING CO		RECEIVED: 02/09/82 JA: OH							
8218328		3416923036		103	107-TF	ZOLLINGER #1	WAYNE	9.0	
-CARL E SMITH PETROLEUM INC		RECEIVED: 02/09/82 JA: OH							
8218519		3416522144	D	107-TF		ROBERT ELBERFELD #251	ORANGE	24.0	COLUMBIA GAS TRAN
-CARLTON OIL CORP		RECEIVED: 02/09/82 JA: OH							
8218332		3416725222		107-DV		EDGAR #2	NEWPORT	56.0	
8218329		3411122051		107-DV		HOWARD CLINE #1	WASHINGTON	50.0	
8218331		3412122527		107-DV		WAGNER #1	JACKSON	0.0	
8218330		3412122476		107-DV		WICKENS #1	JACKSON	56.0	
-CLARENCE K TUSSEL JR		RECEIVED: 02/09/82 JA: OH							
8218530		3400721769		103	107-TF	J KENNEDY #1	MONROE	30.0	
8218528		3400721625		103	107-TF	J SIMAK #1	MONROE	30.0	
8218529		3400721768		103	107-TF	P NOVAK #2	KINGSVILLE	30.0	
-CUYAHOGA EXPLORATION & DEVELOPMENT		RECEIVED: 02/09/82 JA: OH							
8218335		3411122589		103		DECKER #1	GRAYSVILLE	18.3	
8218336		3411122599		103		DECKER #4	GRAYSVILLE	18.2	
-DOLPHA ANDERSON		RECEIVED: 02/09/82 JA: OH							
8218273		3416726826		107-TF		W C HANGER (UNIT) #1	WATERTOWN	7.3	COLUMBIA TRANSMIS
-DOMESTIC OIL & GAS CO		RECEIVED: 02/09/82 JA: OH							
8218337		3403124424		103		CROWTHERS #3-4424	NEWCASTLE	8.0	
8218338		3407523194		103		J MORRIS #1	RICHLAND	8.0	
-DUSTY DRILLING COMPANY INC		RECEIVED: 02/09/82 JA: OH							

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8218340		3411522308		103		C HILL #1	DEERFIELD	6.0	COLUMBIA GAS TRAN
8218342		3411522336		103		C HILL #3	DEERFIELD	6.0	COLUMBIA GAS TRAN
8218343		3411522337		103		C HILL #4	DEERFIELD	6.0	COLUMBIA GAS TRAN
8218344		3411522338		103		C HILL #5	DEERFIELD	0.0	COLUMBIA GAS TRAN
8218346		3411522346		103		C HILL #6	DEERFIELD	16.0	COLUMBIA GAS TRAN
8218345		3411522339		103		C HILL #7	DEERFIELD	0.0	COLUMBIA GAS TRAN
8218341		3411522310		103		HILL #2	DEERFIELD	8.0	COLUMBIA GAS TRAN
8218339		3411522277		103		R PATTERSON #1	DEERFIELD	6.0	COLUMBIA GAS TRAN
-EAGLE MOUNTAIN ENERGY CORP				RECEIVED:	02/09/82	JA: OH			
8218349		3416726975		103		BAKER-LAMB #1	WATERTOWN	8.5	COLUMBIA GAS TRAN
8218347		3416726973		103		EDDY #2	LITTLE MOCKING	2.5	COLUMBIA GAS TRAN
8218348		3416726974		103		LAMB #1	LITTLE MOCKING	2.0	COLUMBIA GAS TRAN
-ELKHEAD GAS & OIL COMPANY				RECEIVED:	02/09/82	JA: OH			
8218351		3408322881		108		MC MILLAN #4		1.0	COLUMBIA GAS TRAN
8218350		3408321943		108		MCMILLAN #3		1.0	COLUMBIA GAS TRAN
-EVERFLOW EASTERN INC				RECEIVED:	02/09/82	JA: OH			
8218352		3409930702		108		MARY BERARDI #1	ELLSWORTH	8.0	AMERICAN ENERGY S
-FRANK A CSAPO JR				RECEIVED:	02/09/82	JA: OH			
8218334		3416922836		107-TF		MARTHA CONRAD #1	MILTON	12.0	COLUMBIA GAS TRAN
8218333		3416922136		107-TF		RICHARD & MELBA MILLER #1	MILTON	16.0	COLUMBIA GAS TRAN
-GASEARCH INC				RECEIVED:	02/09/82	JA: OH			
8218353		3415521927		103	107-TF	WILLIAMS #2	VIENNA	30.0	
-GLACIER ENERGY CORP				RECEIVED:	02/09/82	JA: OH			
8218354		3416922475		133		FRANK NADROSKI #2	AMESVILLE	12.0	COLUMBIA GAS TRAN
-GUERNSEY PETROLEUM CORPORATION				RECEIVED:	02/09/82	JA: OH			
8218356		3411922587		108		OHIO POWER-FRAZIER #1		11.0	COLUMBIA GAS TRAN
-H S D OIL & GAS COMPANY				RECEIVED:	02/09/82	JA: OH			
8218359		3410521779		108		KLIMKIEWICZ-MARDIN #1		8.0	COLUMBIA GAS TRAN
8218357		3410521762		108		PRIDDY #1		6.0	COLUMBIA GAS TRAN
8218358		3410521778		108		SWADLEY #1		8.0	COLUMBIA GAS TRAN
-HADDAD & BROOKS INC				RECEIVED:	02/09/82	JA: OH			
8218360		3416725617		107-DV		CLYDE R GUTBERLET #1	LAWRENCE	30.0	
-HERALD OIL & GAS CO				RECEIVED:	02/09/82	JA: OH			
8218361		3405320418		108		CROW & MORGAN #1		0.0	COLUMBIA GAS TRAN
8218365		3405320522		108		CROW & MORGAN #4		0.0	COLUMBIA GAS TRAN
8218369		3410521834		108		DENNIS PALMER #1		0.0	COLUMBIA GAS TRAN
8218373		3410521940		108		HERALD & DOLAN #3		0.0	COLUMBIA GAS TRAN
8218372		3410521895		108		JAMES DREHEL #8		0.0	COLUMBIA GAS TRAN
8218362		3405320493		108		JAY HALL JR #1		0.0	COLUMBIA GAS TRAN
8218363		3405320520		108		MARY DARNELL #1		0.0	COLUMBIA GAS TRAN
8218374		3410521941		108		NANCY REED #2		0.0	COLUMBIA GAS TRAN
8218366		3405320533		108		P C WILLIAMS #1		0.0	COLUMBIA GAS TRAN
8218371		3410521873		108		RICHARD REUTER #1		0.0	COLUMBIA GAS TRAN
8218368		3410521813		108		TIM WOODYARD #1		0.0	COLUMBIA GAS TRAN
8218370		3410521843		108		TIM WOODYARD #2		0.0	COLUMBIA GAS TRAN
8218364		3405320521		108		VERA THOMAS #1		0.0	COLUMBIA GAS TRAN
8218367		3410521812		108		WILLIAM GIBBS #1		5.4	COLUMBIA GAS TRAN
-HOOVER PRODUCING & OPERATING				RECEIVED:	02/09/82	JA: OH			
8218377		3412722907		108		M CARPENTER #1	HOPEWELL-PERRY	2.2	NAT'L GAS & OIL C
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED:	02/09/82	JA: OH			
8218379		3412725115		103	107-TF	FOREST BURLEY #1	HARRISON	12.0	NATIONAL GAS & OI
8218378		3412725052		103	107-TF	WILLIAM JENKINS #1	HARRISON	10.0	NATIONAL GAS & OI
-J P WHITE				RECEIVED:	02/09/82	JA: OH			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8218537		3400720335		108		KANANEN-SUPPLEE UNIT #1		0.0	EAST OHIO GAS CO
8218538		3400721525		103	107-TF	ROBERTS #1	DENMARK	0.0	COLUMBIA GAS TRAN
-JOHN C MASON				RECEIVED:	02/09/82	JA: OH			
8218420		3403123017		108		CONKLE ESTATE #1		5.0	COLUMBIA GAS TRAN
8218421		3407521755		128		RAYMOND BIRD #1		4.0	COLUMBIA GAS TRAN
-K S T OIL & GAS CO INC				RECEIVED:	02/09/82	JA: OH			
8218388		3415320839		103	107-TF	BLOSSOM MUSIC CENTER #3	NORTHAMPTON	4.0	REPUBLIC STEEL CO
8218383		3413322222		103	107-TF	LANGE-STONESTREET #1	FREEDOM	8.0	REPUBLIC STEEL CO
8218384		3413322223		103	107-TF	LANGE-STONESTREET #2	FREEDOM	6.0	REPUBLIC STEEL CO
8218385		3413322224		103	107-TF	LANGE-STONESTREET #3	FREEDOM	4.0	REPUBLIC STEEL CO
8218386		3413322225		103	107-TF	LANGE-STONESTREET #4	FREEDOM	6.0	REPUBLIC STEEL CO
8218380		3413320736		103	107-TF	LANGE-STONESTREET #5	FREEDOM	8.0	REPUBLIC STEEL CO
8218389		3415320841		103	107-TF	PARRY #1	NORTHAMPTON	8.0	REPUBLIC STEEL CO
8218390		3415320842		103	107-TF	PARRY #2	NORTHAMPTON	0.0	REPUBLIC STEEL CO
8218387		3413322300		103	107-TF	PITTMAN #1	FREEDOM	8.0	REPUBLIC STEEL CO
8218382		3413321936		103	107-TF	MASON INDUSTRIAL CENTRE SECOND #2	AURORA	4.0	EAST OHIO GAS CO
8218381		3413321934		103	107-TF	MASON INDUSTRIAL CENTRE SECOND #3	AURORA	8.0	EAST OHIO GAS CO
-L & M OPERATING INC				RECEIVED:	02/09/82	JA: OH			
8218393		3416724854		108		ALBERT BOSNER #2-A		12.8	GAS TRANSPORT INC
8218391		3407523270		103		PAHOUNDIS #5	SPRING MOUNTAIN	10.0	COLUMBIA GAS TRAN
8218392		3407523529		103		PAHOUNDIS #6	SPRING MOUNTAIN	10.0	COLUMBIA GAS TRAN
-L & M PETROLEUM INC				RECEIVED:	02/09/82	JA: OH			
8218398		3416724783		108		FRANK BALL #2-A		12.8	COLUMBIA GAS TRAN
8218394		3416724728		108		FRANK BALL #3		12.8	COLUMBIA GAS TRAN
8218397		3416724946		108		FRANK BALL #4		12.8	COLUMBIA GAS TRAN
8218395		3416725021		108		FRANK BALL #5		12.8	COLUMBIA GAS TRAN
8218396		3416724820		108		HARRY LAFABER #1		12.8	COLUMBIA GAS TRAN
-LANDPROVEST INC				RECEIVED:	02/09/82	JA: OH			
8218399		3405923005		107-TF		BAY #1	BUCKEYEVILLE	25.0	
-LEADER EQUITIES INC				RECEIVED:	02/09/82	JA: OH			
8218400		3411925234		103		HUBER #3	MONROE	12.0	
-LUC SUPPLY CO				RECEIVED:	02/09/82	JA: OH			
8218401		3408322130		108		CHAPIN #1		1.0	COLUMBIA GAS TRAN
-M B OPERATING CO INC				RECEIVED:	02/09/82	JA: OH			
8218425		3415123475		103	107-TF	BOETTLER #1	PLAIN	21.9	REPUBLIC STEEL CO
8218428		3415123487		103	107-TF	CUNNINGHAM UNIT #1	BETHLEHEM	21.9	REPUBLIC STEEL CO
8218423		3415123470		103	107-TF	DAWSON #1	NIMISHILLEN	32.9	REPUBLIC STEEL CO
8218424		3415123473		103	107-TF	FLINTKOTE CO UNIT #22	MARLBORO	14.6	REPUBLIC STEEL CO
8218427		3415123481		103	107-TF	P & I MILLER UNIT #2	LAKE	7.3	REPUBLIC STEEL CO
8218422		3415123466		103	107-TF	STERNER UNIT #1	BETHLEHEM	36.0	REPUBLIC STEEL CO
8218426		3415123480		103	107-TF	WITTE UNIT #1	MARLBORO	9.8	REPUBLIC STEEL CO
-MAJ				RECEIVED:	02/09/82	JA: OH			
8218410		3413120056		107-DV		AARON & KATHY ADAMS #1	MARION	3.3	
8218411		3413120051		107-DV		ALBERT C BRUNNER #1	MARION	4.5	
8218416		3414520260		107-DV		ALTON & MARIE DEEMER #1	MADISON	2.8	
8218404		3413120049		107-DV		DAVID ARNDT #1	UNION	7.7	
8218414		3414520258		107-DV		DONALD & DONNA JONES #1	MADISON	8.3	
8218402		3413120042		107-DV		DONNA & KAREN RAPP #1	MARION	8.7	
8218415		3414520259		107-DV		ELBIE & BROOKIE COLLINS #1		8.4	
8218408		3413120048		107-DV		GARY & TRUDIE DAVIS #1	UNION	3.1	
8218409		3413120049		107-DV		GEORGE E KEIST JR #1	UNION	3.5	
8218418		3414520262		107-DV		H L & MABEL BARKER #1	MADISON	8.4	
8218419		3414520264		107-DV		HOMER JENKINS #1	JEFFERSON	8.7	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8218413		3413120053		107-DV		JAKE & OSCAR AMLIN #1	SEAL	12.5	
8218403		3413120043		107-DV		JAMES & DONNA HATTLE #1	UNION	2.9	
8218405		3413120045		107-DV		JOHN & JULIA DAVIS #1	BEAVER	1.5	
8218406		3413120046		107-DV		R D & P S SOUTHWORTH #1	SCIOTO	12.2	
8218417		3414520261		107-DV		W C & BESSIE FANNIN #1	MADISON	17.2	
8218412		3413120052		107-DV		WILLIAM & GLADYS CORNETT #1	UNION	1.8	
8218407		3413120047		107-DV		WILMER & WANDA ROE #1	SCIOTO	0.3	
-MILLER DAY ISELI ENERGY CO.				RECEIVED:	02/09/82	JA: OH			
8218430		3411122432		107-DV		BLANEY #1-28	BETHEL	275.0	COLUMBIA GAS TRAN
8218429		3411122423		107-DV		BLANEY #2-20	WASHINGTON	475.0	COLUMBIA GAS TRAN
8218431		3411122433		107-DV		BLANEY #2-28	BETHEL	250.0	COLUMBIA GAS TRAN
8218432		3411122445		107-DV		CLINE #1-25	CENTER	0.0	COLUMBIA GAS TRAN
-NATIONAL PRODUCTION CORPORATION				RECEIVED:	02/09/82	JA: OH			
8218435		3408924124		103		COULTER #2	HOPEWELL	6.0	NEW ZANE GAS CO
8218436		3408924170		103		COULTER #3	HOPEWELL	6.9	NEW ZANE GAS CO
8218437		3408924247		103		WALTER MORRISON #1	FRANKLIN	10.0	NATIONAL GAS & OI
-NEIL R. WYNN				RECEIVED:	02/09/82	JA: OH			
8218541		3416724592		103		CARVER #1	WARREN	2.0	GAS TRANSPORT, INC
8218544		3416725422		103		FIELDS #1	WARREN	2.0	GAS TRANSPORT INC
8218546		3416726618		103		LE MASTERS #3	WARREN	2.5	GAS TRANSPORT INC
8218545		3416726594		103		LE MASTERS #4	WARREN	2.0	GAS TRANSPORT INC
8218543		3416724942		103		N WYNN #2	WARREN	1.5	GAS TRANSPORT INC
8218540		3416724120		103		WENTZ #1	WARREN	3.0	GAS TRANSPORT INC
8218542		3416724812		103		WENTZ #2	WARREN	3.0	GAS TRANSPORT INC
-NEW FRONTIER EXPLORATION INC				RECEIVED:	02/09/82	JA: OH			
8218440		3416923047		103	107-TF	FLOYD MILLER #3	CHIPPEWA	18.0	
8218439		3415723649		103	107-TF	ROBERT CARLISLE #4	MILLER	24.0	
8218438		3415123573		103	107-TF	WAYNE MILLER #1	NIMISHILLEN	22.0	AMERICAN ENERGY S
-NOBLE OIL CORP				RECEIVED:	02/09/82	JA: OH			
8218444		3413322267		107-TF		AEMMER #4	PALMYRA	20.0	GENERAL ELECTRIC
8218442		3413320957		108		COOLEY #3		12.0	AMERICAN ENERGY S
8218443		3413321254		108		COOLEY #5		8.0	AMERICAN ENERGY S
8218441		3413320938		108		COOLEY-KROPP #2		15.0	AMERICAN ENERGY S
-NORTH SHORE INDUSTRIES & WINDSOR AS				RECEIVED:	02/09/82	JA: OH			
8218445		3416725823		107-DV		DEAN ALGEO & EDNA COX #1	GRANDVIEW	18.3	COLUMBIA GAS TRAN
-OHIO OIL & GAS CO				RECEIVED:	02/09/82	JA: OH			
8218450		3415522013		107-TF		ADDICOTT #1	CORTLAND	20.0	COLUMBIA GAS TRAN
8218446		3415521936		107-TF		GRIFFIN #5	VIENNA	0.0	COLUMBIA GAS TRAN
8218448		3415521998		107-TF		MOLLOHAN #1	CORTLAND	20.0	COLUMBIA GAS TRAN
8218449		3415522001		107-TF		OHIO REALTY #1	CORTLAND	20.0	COLUMBIA GAS TRAN
8218447		3415521980		107-TF		RICE #2	JOHNSTON	20.0	COLUMBIA GAS TRAN
-OILTECH INC				RECEIVED:	02/09/82	JA: OH			
8218453		3407522808		107-TF		BRUMME #4	MECHANIC	0.0	COLUMBIA GAS TRAN
8218451		3407522389		107-TF		CARLOS SMITH #2	MECHANIC	0.0	COLUMBIA GAS TRAN
8218454		3407522959		107-TF		CARLOS SMITH #3	MECHANIC	0.0	COLUMBIA GAS TRAN
8218452		3407522395		107-TF		JACK & LEONA MOYMAN #1	MECHANIC	0.0	COLUMBIA GAS TRAN
-OXFORD OIL CO				RECEIVED:	02/09/82	JA: OH			
8218456		3403122788		108		ERNEST FRY #1	N-R	4.0	NATIONAL GAS & OI
8218457		3403122825		108		ERNEST FRY #2		4.0	NATIONAL GAS & OI
8218472		3416726791		107-DV		IVAN GROVES #1	SALEM	11.0	
8218466		3411924752		108		JOHN GRAHAM #1		7.0	NATIONAL GAS & OI
8218467		3411924784		108		JOHN GRAHAM #3		7.0	NATIONAL GAS & OI
8218463		3411923597		108		JOHN GRAHAM #4	N-R	7.0	NATIONAL GAS & OI

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8218462		3411921232		108		L M LUMAN #2		2.5	NATIONAL OIL & GA
8218469		3412723392		108		LOIS WEISENSTINE #1		4.0	NATIONAL OIL & GA
8218458		3411122203		107-DV		ORVILLE BURKHART #1	WASHINGTON	12.0	
8218471		3412724203		108		PERRY CO CHEESE CO #1		2.5	NATIONAL OIL & GA
8218465		3411924354		108		PUTNAM UNIT #1		16.0	NATIONAL OIL & GA
8218459		3411521525		108		RUSSELL MCNEAL #1		11.0	NATIONAL OIL & GA
8218460		3411522062		108		TEMPLE-ROY J MILLER #1		1.0	NATIONAL OIL & GA
8218461		3411522208		108		TEMPLE-ROY J MILLER #2		1.0	NATIONAL OIL & GA
8218468		3412723014		108		TEMPLE-SWARD #1		4.5	NATIONAL OIL & GA
8218470		3412723995		108		THEODORE WILLIAMS #1		8.0	NATIONAL OIL & GA
8218464		3411923741		108		WILLIAM TERRY #1		17.0	NATIONAL OIL & GA
-PAGE P BLAKEMORE				RECEIVED:	02/09/82	JA: OH			
8218386		3416720841		107-DV		ALLOWAY #1	GRANDVIEW	3.0	COLUMBIA GAS TRAN
8218318		3416724859		107-DV		B & E BOOTH #2	GRANDVIEW	0.4	COLUMBIA GAS TRAN
8218323		3416725765		107-DV		CISLER-FOX #1-A	GRANDVIEW	2.5	COLUMBIA GAS TRAN
8218316		3416724472		107-DV		CONRAD MACE #1	GRANDVIEW	0.8	COLUMBIA GAS TRAN
8218313		3416724625		107-DV		CORBETT #2	GRANDVIEW	0.2	COLUMBIA GAS TRAN
8218312		3416724624		107-DV		CORBETT #4	GRANDVIEW	0.3	COLUMBIA GAS TRAN
8218320		3416725839		107-DV		ELVA MARSHALL #2	GRANDVIEW	0.0	COLUMBIA GAS TRAN
8218321		3416725846		107-DV		FREDERICK MILLER 1-C	GRANDVIEW	4.5	COLUMBIA GAS TRAN
8218308		3416724372		107-DV		KNOWLTON HEIRS 1	GRANDVIEW	12.0	COLUMBIA GAS TRAN
8218319		3416724860		107-DV		LINDAMOOD #1	GRANDVIEW	6.2	COLUMBIA GAS TRAN
8218316		3416724710		107-DV		LLOYD ROMICK / USA 2	GRANDVIEW	6.8	COLUMBIA GAS TRAN
8218315		3416724693		107-DV		LLOYD ROMICK 1	GRANDVIEW	2.9	COLUMBIA GAS TRAN
8218311		3416724559		107-DV		LUCILLE TETZEL 2	GRANDVIEW	0.3	COLUMBIA GAS TRAN
8218314		3416724691		107-DV		MILLER HEIRS #1-A	GRANDVIEW-LUDLOW	8.0	COLUMBIA GAS TRAN
8218317		3416724843		107-DV		SCHWARTZ #2	GRANDVIEW	1.5	COLUMBIA GAS TRAN
8218322		3416725575		107-DV		T A RACER #2	GRANDVIEW	3.0	COLUMBIA GAS TRAN
8218309		3416724388		107-DV		VIRGIL AMOS 1	GRANDVIEW	1.8	COLUMBIA GAS TRAN
8218307		3416724322		107-DV		WOODROW & RUBY KNOWLTON 1	GRANDVIEW	5.9	COLUMBIA GAS TRAN
-PENN-OHIO ENERGY CORP				RECEIVED:	02/09/82	JA: OH			
8218476		3407522723		107-TF		DAN & ERVIN RABER #1	MECHANIC TOWNSHIP	28.0	COLUMBIA GAS TRAN
8218475		3407522696		107-TF		OLLIE LOWE #6	MECHANIC	27.0	COLUMBIA GAS TRAN
8218474		3405520328		107-TF		RAYMOND & HELEN KELLOGG #1	CLARIDON TOWNSHIP	35.0	EAST OHIO GAS CO
8218473		3405520324		107-TF		ROBERT & ANNE FENWICK #1	CLARIDON TOWNSHIP	35.0	EAST OHIO GAS CO
-PETROLEUM SECURITIES FUND - 80				RECEIVED:	02/09/82	JA: OH			
8218477		3407322431		103		EMANS MARY #2	WASHINGTON	30.0	
8218478		3407322433		103		EMENS MARY #4	WASHINGTON	29.0	
8218479		3407322445		103		EMENS MARY #5	WASHINGTON	29.0	
-POI ENERGY INC				RECEIVED:	02/09/82	JA: OH			
8218480		3400721833		107-TF		LAKE CARDINAL #1	ROME	45.0	
8218481		3400721855		107-TF		SIGAL #1	ROME	15.0	
8218482		3415520669		107-TF		THOMAS-DREW #3	HUDSON	25.0	
-PREMIUM ENERGY INC				RECEIVED:	02/09/82	JA: OH			
8218483		3407523833		103		S MCNABB #1	MONROE	9.0	COLUMBIA GAS TRAN
-R GENE BRASEL DBA BRASEL & BRASEL				RECEIVED:	02/09/82	JA: OH			
8218325		3405320712		103		R O J 1-C	ADDISON	2.0	COLUMBIA GAS TRAN
8218326		3405320713		103		R O J 2-C	ADDISON	2.0	COLUMBIA GAS TRAN
-RELIABLE EXPLORATION & DRILLING CO				RECEIVED:	02/09/82	JA: OH			
8218489		3412122670		107-DV		BIG "C" RANCH #1	ENOCH TOWNSHIP	50.0	COLUMBIA GAS TRAN
8218486		3411122525		107-DV		CLYDE YOCKEY #1	FRANKLIN TOWNSHIP	0.0	
8218488		3412122659		107-DV		HEISLER #1	ELK TOWNSHIP	50.0	COLUMBIA GAS TRAN
8218490		3412122672		107-DV		ORANGE COAL #1	ENOCH TOWNSHIP	50.0	COLUMBIA GAS TRAN

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ID NO	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8218487	3412122658		107-DV		PABST #1	ELK TOWNSHIP	6.0	
8218485	3411122360		107-DV		VERNON REICH #1	SUMMIT TOWNSHIP	100.0	
-RESOURCE EXPLORATION INC			RECEIVED: 02/09/82		JA: OH			
8218492	3407521881		107-RT		JOHN KNAPP #1	HARDY TOWNSHIP	20.0	COLUMBIA GAS TRAN
8218493	3407521882		107-RT		THOMAS P BERNARD #1	HARDY TOWNSHIP	20.0	COLUMBIA GAS TRAN
8218491	3406720186		108		WILLIAM KIMBERLIN #2	WASHINGTON TOWNSHIP	40.0	COLUMBIA GAS TRAN
-RINCO OPERATING INC			RECEIVED: 02/09/82		JA: OH			
8218503A	3416922877		103		BRICKER #7	FRANKLIN	12.0	COLUMBIA GAS TRAN
8218503B	3416922877	D	107-TF		BRICKER #7	FRANKLIN	12.0	COLUMBIA GAS TRAN
8218501	3416922653		103	107-TF	CORBETT #4	CHESTER	12.0	COLUMBIA GAS TRAN
8218505	3416922883		103	107-TF	D BECKER #2	CHESTER	12.0	COLUMBIA GAS TRAN
8218494	3416922355		103	107-TF	IRVIN #1	CANOAN	12.0	COLUMBIA GAS TRAN
8218504	3416922879		103	107-TF	J WIRT #2	FRANKLIN	12.0	COLUMBIA GAS TRAN
8218495	3416922498		103	107-TF	K HARTMAN #1	PLAIN	12.0	COLUMBIA GAS TRAN
8218506	3416922892		103	107-TF	K HARTMAN #4	PLAIN	12.0	COLUMBIA GAS TRAN
8218500	3416922612		103	107-TF	L SIGLER #4	CHESTER	12.0	COLUMBIA GAS TRAN
8218509	3416922933		103	107-TF	R BECHTEL #7	CONGRESS	12.0	COLUMBIA GAS TRAN
8218497	3416922599		103	107-TF	R MARTIN #2	CHESTER	12.0	COLUMBIA GAS TRAN
8218498	3416922600		103	107-TF	R MARTIN #3	CHESTER	12.0	COLUMBIA GAS TRAN
8218499	3416922604		103	107-TF	RICHARDS #6	CHESTER	12.0	COLUMBIA GAS TRAN
8218507	3416922912		103	107-TF	SHAUN #1	CONGRESS	12.0	COLUMBIA GAS TRAN
8218508	3416922914		103	107-TF	SHAUN #3	CONGRESS	12.0	COLUMBIA GAS TRAN
8218502	3416922674		103	107-TF	TEGTMEIER #3	CONGRESS	12.0	COLUMBIA GAS TRAN
8218496	3416922561		103	107-TF	W HARTMAN #1	CHESTER	12.0	COLUMBIA GAS TRAN
-ROBERT W ORR JR			RECEIVED: 02/09/82		JA: OH			
8218455	3411925867		107-TF		ELMER & BERTHA HARDING #1	MUSKINGUM TOWNSHIP	26.0	COLUMBIA GAS TRAN
-RPJ ENERGY FUND MANAGEMENT INC			RECEIVED: 02/09/82		JA: OH			
8218484	3408322990		103		BUNNELL #1	MOUNT VERNON	50.0	
-S & R OIL CO			RECEIVED: 02/09/82		JA: OH			
8218511	3416922588		107-TF		AMSTUTZ #1	WOOSTER	300.0	NOT YET DETERMINE
8218510	3416922499		107-TF		AMSTUTZ #2	WOOSTER	300.0	
-SANDHILL ENERGY INC (OH)			RECEIVED: 02/09/82		JA: OH			
8218513	3416726870		103		HORACE & PATSY DANNER #3	NEW MATAMORAS	15.0	NOT YET DETERMINE
8218512	3416726874		103		HORACE & PATSY DANNER #4	NEW MATAMORAS	12.5	
-SCHRIMSHER OIL & GAS EXPLORATION			RECEIVED: 02/09/82		JA: OH			
8218518A	3416922775		103		BECKLER UNIT #2	WOOSTER	20.0	EAST OHIO GAS CO
8218518B	3416922775	D	107-TF		BECKLER UNIT #2	WOOSTER	20.0	EAST OHIO GAS CO
8218515	3415320981		103	107-TF	HUDSON ESTATES #3	HUDSON	20.0	
8218516	3415320984		103	107-TF	JONES UNIT #1	HUDSON	20.0	
8218514	3415320922		103	107-TF	LACO ASSOCIATES #1	HUDSON	20.0	
8218517A	3416922744		103		WILLOUR-RULE #1	WOOSTER	20.0	
8218517B	3416922744	D	107-TF		WILLOUR-RULE #1	WOOSTER	20.0	
-SUPERIOR PETROLEUM INC			RECEIVED: 02/09/82		JA: OH			
8218520	3411120352		107-DV		STIRES #1	WAYNE	25.0	TEXAS EASTERN TRA
-SUSAN C GORMLEY			RECEIVED: 02/09/82		JA: OH		1.0	NATIONAL GAS & OI
8218355	3411920763		108		ROY A MCCONAHA #2	ELK	50.0	
-THE MUTUAL OIL & GAS COMPANY			RECEIVED: 02/09/82		JA: OH	ELK	50.0	
8218433	3412122625		107-DV		ORANGE COAL #1-A			
8218434	3412122627		107-DV		ORANGE COAL 4-A	READING	0.0	COLUMBIA GAS TRAN
-TIGER OIL INC			RECEIVED: 02/09/82		JA: OH	JAMES W PRICE #1	0.0	COLUMBIA GAS TRAN
8218525	3412725325	D	107-DV		FRANCES NOLL #1	GALLIPOLIS	0.0	COLUMBIA GAS TRAN
8218521	3405320694	D	107-DV		JAMES W PRICE #1			
8218523	3405320783	D	107-DV		JAMES W PRICE #2			

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ID NO	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8218522	3405320695	D	107-DV		JAMES W PRICE #3	GALLIPOLIS	0.0	COLUMBIA GAS TRAN
8218524	3412122693		107-DV		MANCEL FORSHEE #2	ELK	5.0	COLUMBIA GAS TRAN
-TRIPLE GAS CO			RECEIVED: 02/09/82		JA: OH			
8218526	3400922402		103		DEPUE #5	AMES	0.0	COLUMBIA GAS TRAN
8218527	3400922403		103		DEPUE #6	AMES	0.0	COLUMBIA GAS TRAN
-VESCORP INDUSTRIES INC			RECEIVED: 02/09/82		JA: OH			
8218533	3415122954		108		JOHNSON #1		10.0	TIMKEN CO
8218532	3413321744		108		PARKER #1		0.0	TIMKEN CO
8218535	3415122958		108		PUCCI #1		10.0	TIMKEN CO
8218531	3413321585		108		SARRIS #1		10.0	TIMKEN CO
8218536	3415122959		108		STARK COUNTY COMMISSIONERS #1		10.0	TIMKEN CO
8218534	3415122956		108		STEEPLETON #1		10.0	TIMKEN CO
-WILLIAM F HILL			RECEIVED: 02/09/82		JA: OH			
8218375	3407523452		103		JOHN LATECKI #1	GLENMONT	8.0	
8218376	3407523504		103		M LYNN WELKER #1	MONROE	5.0	
-WORTHINGTON OIL COMPANY INC			RECEIVED: 02/09/82		JA: OH			
8218539	3408924301		107-DV		FARMCO #1	NEWARK NORTH	10.0	COLUMBIA GAS TRAN

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before March 22, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–BG: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kennedy F. Plumb,
Secretary.

[FR Doc. 82-6060 Filed 3-4-82; 8:45 am]
BILLING CODE 6717-01-M

[Volume 603]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: March 2, 1982.

JD	VQ	JA	DAT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
ALABAMA OIL & GAS BOARD											
-ENHANCED ENERGY RESOURCES								RECEIVED:	02/05/82		JAI AL
0216150		1-29-	8213PD	0112520035			107-TF		U S PIPE & FOUNDRY 10-6 #4	BROOKWOOD COAL DEGASI	4.6 SOUTHERN NATURAL
0216149		1-29-	828PD	0112523030			107-TF		U S PIPE & FOUNDRY 11-10 #6	BROOKWOOD COAL DEGASI	4.6 SOUTHERN NATURAL
0216151		1-29-	8216PD	0112520042			107-TF		U S PIPE & FOUNDRY 11-5 #13	BROOKWOOD COAL DEGASI	4.6 SOUTHERN NATURAL
							RECEIVED:				
-ENRON CORPORATION							107-DP		L E N RAILROAD #36-4B	JAY/LEC	900.0 ST REGIS PAPER CO
0216106		1-29-	825PD	0133520156			RECEIVED:				
-GRACE PETROLEUM CORPORATION							102-4		SIZEMORE 3-3	NORTH BLOWHORN CREEK	0.0 SOUTHERN NATURAL
0216148		1-29-	827PD	0107520361			102-4		SIZEMORE 3-4	NORTH BLOWHORN CREEK	0.0 SOUTHERN NATURAL
0216147		1-29-	826PD	0107520371			103		TUCKER 35-11	NORTHEAST DAVIS CHAPE	0.0 TENNESSEE GAS PIP
0216141		11-13-	8112PD	0105720247			108		W A DELANEY 15-12	EAST DETROIT	0.0 NORTHWEST ALABAMA
0216142		1-29-	821PD	0107520026							
-RICHARDSON OIL COMPANY								RECEIVED:	02/05/82		JAI AL
0216145		1-29-	824PD	0107520379			102-2		DELLA PERKINS 19-9 #1	BLOOMING GROVE	146.0 WARRIOR DRILLING
-PETROLEUM CORPORATION OF TEXAS							RECEIVED:		02/05/82		JAI AL
0216139		10-9-	819PD	0107520312			102-4		FRANK BURNETTE 11-2 #2	NORTH BLOWHORN CREEK	46.2 SOUTHERN NATURAL
0216140		11-13-	811PD	0107520313			102-4		FRANK BURNETTE 11-7 #3	NORTH BLOWHORN CREEK	28.1 SOUTHERN NATURAL
-TERRA RESOURCES INC							RECEIVED:		02/05/82		JAI AL
0216144		1-29-	823PD	0107520299			102-4		GILMER #25-15	BLOWHORN CREEK	300.0 WARRIOR DRLG & EN
0216143		1-29-	822PD	0105720176			102-4		LAWRENCE #27-4	MCCRACKEN MOUNTAIN	275.0 WARRIOR DRLG & EN
-WARRIOR DRILLING & ENG CO INC							RECEIVED:		02/05/82		JAI AL
0216132		1-29-	8219PD	0105720191			102-4		HODGES - SOUTH 28-5	MCCRACKEN MOUNTAIN	72.0 SOUTHERN NATURAL
0216135		1-29-	8222PD	0105720191			102-4		HODGES - SOUTH 28-5	MCCRACKEN MOUNTAIN	396.0 SOUTHERN NATURAL
0216133		1-29-	8220PD	0105720164			102-4		L MCCONNELL 20-9	MUSGROVE CREEK	10.0 SOUTHERN NATURAL
0216134		1-29-	8221PD	0105720151			102-4		WATT 9-1	MCCRACKEN MOUNTAIN	250.0 SOUTHERN NATURAL
KANSAS CORPORATION COMMISSION											
-ANADARKO PRODUCTION COMPANY								RECEIVED:	02/05/82		JAI KS
0218161		KBI-	0823	1512920501			103		MOEME "A" #2	PANOMA	37.0 PANHANDLE EASTERN
-CONTINENTAL ENERGY								RECEIVED:	02/05/82		JAI KS
0218156		KBI-	0621	1505520446			103		IRRIGATED LAND DEVELOPM	HUGOTON	8.7 NORTHERN NATURAL
-EXXISTON OIL CO INC								RECEIVED:	02/05/82		JAI KS
0218156		KBI-	0440	1505520981			103		WHITMER #1	SPIVEY-GRABS	50.0
-MCCOY PETROLEUM CORP								RECEIVED:	02/05/82		JAI KS
0218160		KBI-	0792	1507720692			103		CALVERT GAS UNIT #1	SULLIVAN	300.0 PEOPLES NATURAL G
-THE MAURICE L BROWN COMPANY							RECEIVED:		02/05/82		JAI KS
0218159		KBI-	0370	1509320567			103		HARSHBARGER #1	HUGOTON	360.0 PANHANDLE EASTERN
-VEGA OIL AND GAS MANAGEMENT INC							RECEIVED:		02/05/82		JAI KS
0218162		KBI-	0516	1512920505			103		O L KREY #1	PANOMA FIELD	38.0 PANHANDLE EASTERN
-WALLACE OIL & GAS INC				1512920490			103		R W MCDONALD UNIT #1-31	HUGOTON	35.0 PANHANDLE EASTERN
							RECEIVED:		02/05/82		JAI KS

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8218163	K81-0559	1507529358		103		USA #1	PANOMA	109.0	PEOPLES NATURAL G
	MONTANA BOARD OF OIL & GAS CONSERVATION								
-ENERGY RESERVES GROUP INC				RECEIVED:	02/08/82	JA: MT			
8218244	11-01-223	2510121706		108		STATE TOWER #2	WILDCAT	13.2	MONTANA POWER CO
-MIDLANDS GAS CORPORATION				RECEIVED:	02/08/82	JA: MT			
8218245	6-81-109	2510521110		108		#1 STATE 3606	WILDCAT	2.0	KANSAS-NEBRASKA N
8218242	6-81-106	2510521157		108		KUKI 1 2306	UNNAMED	8.0	KANSAS-NEBRASKA N
8218243	6-81-110	2507121630		108		OLSEN 1 2371	UNNAMED	7.0	KANSAS-NEBRASKA N
8218246	6-81-108	2510521144		108		PORTEEN 1 3406	UNNAMED	11.0	KANSAS-NEBRASKA N
	NORTH DAKOTA INDUSTRIAL COMMISSION								
-MNG OIL COMPANY				RECEIVED:	02/04/82	JA: ND			
8218241	452	3305301258		102-2		LINK "34" #1	UNDESIGNATED	29.0	
-JERRY CHAMBERS EXPLORATION CO				RECEIVED:	02/04/82	JA: ND			
8218239	450	3300700649		102-4		GOLDEN MOSSER 04-22	T R	8.0	WESTERN GAS PROCE
-KERR-MCGEE CORPORATION				RECEIVED:	02/04/82	JA: ND			
8218238	449	3305301291		102-2		ANDERSON 04-6	MONDAK	1.1	KOCH HYDROCARBON
-MTS LTD PARTNERSHIP				RECEIVED:	02/04/82	JA: ND			
8218240	451	3302500178		102-2		PELTON 10 #1	WILDCAT	487.8	AMOCO PRODUCTION
-TEXACO INC				RECEIVED:	02/04/82	JA: ND			
8218237	448	3305301135		102-2		SILURIAN UNIT 17 #1	CHARLSON	5.0	MONTANA DAKOTA UT
-TEXAS INTERNATIONAL PET CORP				RECEIVED:	02/04/82	JA: ND			
8218236	447	3302300088		102-2		BAKKE #1	WILDCAT (AMBROSE PROS	21.9	PHILLIPS PETROLEU
	OKLAHOMA CORPORATION COMMISSION								
-ANADARKO PRODUCTION COMPANY				RECEIVED:	02/04/82	JA: OK			
8218168	03039	3504320073		108-ER		ZEIBER #1		0.0	PANHANDLE EASTERN
-APACHE CORPORATION				RECEIVED:	08/06/81	JA: OK			
8150925	11845	3500920382		102-2		AKRIDGE #1-3		1278.0	EL PASO NATURAL G
-APOLLO PRODUCTION LTD				RECEIVED:	02/08/82	JA: OK			
8218227	12655	3507322746		103		SENN #14-6	SOONER TREND	36.0	SID RICHARDSON GA
-BERNARD BARNHART				RECEIVED:	02/04/82	JA: OK			
8218169	10698	3503722083		103		INMAN #1	UNKNOWN	40.0	PHILLIPS PETROLEU
-BERRY PETROLEUM CORP				RECEIVED:	02/04/82	JA: OK			
8218180	11958	3507322819		103		EMMERICH #1-12	SOONER TREND	36.0	CONOCO INC
-BOBERT OIL CO				RECEIVED:	02/04/82	JA: OK			
8218173	12608	3507323099		103		FAYE 1-14	SOONER TREND	232.0	PHILLIPS PETROLEU
-CHASE EXPLORATION CORP				RECEIVED:	02/08/82	JA: OK			
8218215	12419	3507121597		108		BRAZELTON #2-29	UNNAMED	2.2	CITIES SERVICE GA
8218216	12415	3507121982		108		BRAZELTON #3-27	UNNAMED	10.3	CITIES SERVICE GA
8218218	12417	3507120969		108		BROWN #1-21	UNNAMED	1.3	CITIES SERVICE GA
8218217	12416	3507121232		108		BROWN #2-7	UNNAMED	0.7	CITIES SERVICE GA
8218202	12420	3507121277		108		BUESING 3-9	UNNAMED	2.0	CITIES SERVICE GA
8218201	12419	3507121278		108		BUESING 4-9	UNNAMED	8.4	CITIES SERVICE GA
8218204	12493	3507121027		108		CRAWFORD #1-26	UNNAMED	2.1	CITIES SERVICE GA
8218203	12422	3507121032		108		CUMMINGS #1-1	UNNAMED	5.7	CITIES SERVICE GA
8218214	12413	3507120819		108		HAHN #1-31	UNNAMED	12.0	CITIES SERVICE GA
8218205	12495	3507121028		108		HAHN #2-31	UNNAMED	13.6	CITIES SERVICE GA
8218199	12485	3507121603		108		HAHN 2-14	UNNAMED	9.3	CITIES SERVICE GA

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8218198	12484	3507121118		108		HARKINS 2-19	UNNAMED	1.9	CITIES SERVICE GA
8218197	12482	3507120978		108		HONICK 1-23	UNNAMED	1.1	CITIES SERVICE GA
8218196	12480	3507120896		108		HONICK 3-23	UNNAMED	1.1	CITIES SERVICE GA
8218206	12496	3507120987		108		HORINEK #1-4	UNNAMED	2.5	CITIES SERVICE GA
8218194	12471	3507121606		108		JOHNS 2-24	UNNAMED	4.3	CITIES SERVICE GA
8218200	12506	3507121197		108		KUCERA #1-8	UNNAMED	1.1	CITIES SERVICE GA
8218195	12473	3507121168		108		MILLER #1-28	UNNAMED	3.8	CITIES SERVICE GA
8218224	12503	3507120810		108		SEABOCH 1-26	UNNAMED	8.4	CITIES SERVICE GA
8218225	12509	3507121024		108		SEABOCH 2-26	UNNAMED	6.2	CITIES SERVICE GA
-COTTON PETROLEUM CORPORATION				RECEIVED:	02/08/82	JA: OK			
8218219	16465	3501521079		107-DP		MCVEY #1	N W VERDEN	208.0	UNITED GAS PIPELI
-DORE PETROLEUM CORP				RECEIVED:	02/08/82	JA: OK			
8218228	12223	3504921119		102-4		HENDERSON #1	FOSTER S E	91.2	SOHIO PETROLEUM C
8218227	12222	3504920523		102-4		PAN AM COOK #1-6	S E FOSTER	182.5	SOHIO PETROLEUM C
-DOUBLE EAGLE EXPLORATION				RECEIVED:	02/04/82	JA: OK			
8218178	10699	3510321148		103		CARLILE 1	S W GANSELL	10.0	AMINOIL USA INC
-ECC OIL CO				RECEIVED:	02/04/82	JA: OK			
8218170	11935	3514721838		108		C SUMPTER #1 C NE/4 NW/4 29-25N-14E	OGLESBY GAS FIELD	23.5	OKAN GAS CO
-FUNK EXPLORATION INC				RECEIVED:	02/08/82	JA: OK			
8218236	11137	3500721835		102-4		AMEN #1	N W GREENOUGH	8.8	WESTERN GAS INTER
-GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED:	02/04/82	JA: OK			
8218187	12203	3513722670		103		SPEARS #21	SHO-VEL-TUM	5.0	GETTY OIL CO
-HADSON PETROLEUM CORP				RECEIVED:	02/08/82	JA: OK			
8218233	16352	3505121148		107-DP		SMELLEY #1-16	NORTH RUSH SPRINGS	738.0	EL PASO NATURAL G
-HAROLD D COURSON				RECEIVED:	02/04/82	JA: OK			
8218183	12166	3500700000		108		C T STAPLES #1	COMD (MORROW)	18.0	PHILLIPS PETROLEU
8218186	12169	3500700000		108		C T STAPLES A #1	COMD (MORROW)	18.0	PHILLIPS PETROLEU
8218184	12167	3500700000		108		L E ARNHOLT #1	BALKO SOUTH	9.0	PHILLIPS PETROLEU
8218185	12168	3500700000		108		L E ARNHOLT #2	BALKO SOUTH	9.0	PHILLIPS PETROLEU
-J R HUBER CORPORATION				RECEIVED:	02/08/82	JA: OK			
8218213	12704	3500700010		108		LIGHT "B" #1	LIGHT FIELD	16.0	PANHANDLE EASTERN
-KEITH F WALKER				RECEIVED:	02/04/82	JA: OK			
8218165	12612	3501968010		103		CHAN RIX VICTORY	OIL CITY	2.9	MOBIL OIL CORP
-L B WARD				RECEIVED:	02/04/82	JA: OK			
8218171	12308	3512120710		103		JANEWAY 1-26	PATRICK	138.0	ARKLA OIL CO
-LONG ROYALTY CO				RECEIVED:	08/06/81	JA: OK			
8158924	8136	3511708060		103		BROGDEN #1	NORTH MUSTANG	0.0	MOBIL OIL CO
-MACK OIL CO				RECEIVED:	02/04/82	JA: OK			
8218174	12667	3500320879		103		BERNARD #2		200.0	
-MACK OIL CO				RECEIVED:	02/08/82	JA: OK			
8218191	12665	3502700000		103		BOSWELL #2		60.0	SUN GAS CO
8218189	12663	3501900000		103		JOINER #2		75.0	AMINOIL USA INC
8218188	12662	3501700000		103		KROUTIL #1		25.0	PHILLIPS PETROLEU
8218190	12664	3501721970		103		MASON #2		165.0	PHILLIPS PETROLEU
8218192	12666	3502700000		103		PREBLE #3		10.0	SUN GAS CO
8218212	12668	3500320872		103		WOODARD #2		200.0	
-MUSTANG PRODUCTION CO.				RECEIVED:	02/08/82	JA: OK			
8218193	15380	3501521063		102-3		REACHAM #1-7	EAST HYDRO	350.0	EL PASO NATURAL G
-NFC PETROLEUM CORP				RECEIVED:	02/08/82	JA: OK			
8218211	12652	3505120795		103		WOODS #3	SHALLOW CHICKASHA	181.0	
-NORTHWEST OIL CO				RECEIVED:	02/08/82	JA: OK			
8218210	12237	3502720476		103		STATE "D" #4	WEST NORMAN	0.0	SUN GAS CO
-NORVAL L COVINGTON				RECEIVED:	02/04/82	JA: OK			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8218177	11372	3513900000		108		REISS #1A-15	CARTHAGE TOPEKA	18.0	PANHANDLE EASTERN
-OKLAND OIL CO				RECEIVED:	02/08/82	JA: OK			
8218223	15808	3501722047		102-2		ERBAR #1-34	NE EL RENO PROSPECT-E	0.0	PHILLIPS PETROLEU
-P-T LTD #1				RECEIVED:	02/04/82	JA: OK			
8218167	12617	3504722669		103		FUKSA 31-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
8218166	12616	3509322181		103		RATZLAFF 7-2	SOONER TREND	35.0	WELLHEAD ENTERPRI
-P-T LTD #1				RECEIVED:	02/08/82	JA: OK			
8218209	12614	3504722517		103		FUKSA STUTZ # 2-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
-PORTS OF CALL OIL CO				RECEIVED:	02/04/82	JA: OK			
8218176	12678	3501700000		103		KROUTIL #12-1	NORTH MUSTANG	12.0	PHILLIPS PETROLEU
8218175	12677	3501722022		103		SOPHIE #12-1	NORTH MUSTANG	15.0	PHILLIPS PETROLEU
-QUINTIN LITTLE CO				RECEIVED:	02/04/82	JA: OK			
8218179	11939	3509500000		103		CARRIE LOU LITTLE #2-13	CUMBERLAND	365.0	LONE STAR GAS CO
-RAMBLER OIL CO				RECEIVED:	02/04/82	JA: OK			
8218172	12348	3509302150		103		WINTERS #1-8	SE ORION	0.0	DELMI GAS PIPELIN
-READING & BATES PETROLEUM CO				RECEIVED:	02/08/82	JA: OK			
8218222	15763	3503900000		102-2		KLEIN #1-12	BUTLER	256.0	
8218221	15762	3512900003		102-2		WISTLER #2-17	EAST CHEYENNE	799.0	
-RICKS EXPLORATION CO				RECEIVED:	02/08/82	JA: OK			
8218208	12660	3502720428		103		WARD 31A	N NEWCASTLE	54.0	SUN GAS CO
-SHELL OIL CO				RECEIVED:	02/08/82	JA: OK		671.6	
8218235	16382	3501521076		107-DP		MCCOMAS #1-21			
-SPELLER OIL CORP				RECEIVED:	02/08/82	JA: OK			
8218230	12575	3507321967		103		BETTE-L #1	SOONER TREND	0.0	CONOCO INC
-TEXAS OIL & GAS CORP				RECEIVED:	02/04/82	JA: OK			
8218164	12577	3501721945		103		SCHWEITZER #1	S W OKARCHE	512.0	
-TEXONA RESOURCES INC				RECEIVED:	02/04/82	JA: OK			
8218182	11953	3504722601		103		MERRIAN #1	SOONER TREND	188.0	PANHANDLE EASTERN
8218181	11954	3507323129		103		STALDER "A" #1	SOONER TREND	70.0	PANHANDLE EASTERN
-THE GHK COMPANY				RECEIVED:	02/08/82	JA: OK			
8218220	16541	3500920421		107-DP		GREGORY 1-12	EAST BERLIN	613.2	EL PASO NATURAL G
-TRIGG DRILLING COMPANY INC				RECEIVED:	02/08/82	JA: OK		0.0	EL PASO NATURAL G
8218234	16367	3500920414		107-DP		RICHMOND 1-2			
-UNIT DRILLING & EXPLORATION CO				RECEIVED:	02/08/82	JA: OK			
8218207	12658	3506120381		103		PANTHER HOLLOW #1	KINTA	1150.0	ARKANSAS LOUISIAN
-WESSELY ENERGY CORPORATION				RECEIVED:	02/08/82	JA: OK			
8218232	12680	3504921111		103		GRIMES UNIT #1	GOLDEN TREND	26.0	WARREN PETROLEUM
8218231	12679	3504921638		103		SHEEGOG #1	NORTH ANTIOCH	270.0	BUCKEYE NATURAL G
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PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
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-ADOBE OIL & GAS CORPORATION				RECEIVED:	02/04/82	JA: PA			
8217993	6905	3700522232		103		S BOHAN #2	RURAL VALLEY	150.0	APOLLO GAS CO
-DORAN & ASSOCIATES INC				RECEIVED:	02/04/82	JA: PA			
8217994	7547	3703320749		108		EARL HAAG #1 K-A-1	UPPER DEVONIAN SANDS	20.0	CONSOLIDATED GAS
-ENVIROGAS INC				RECEIVED:	02/04/82	JA: PA			
8217995	5803	3704921193		107-TF		G KRESS #1	NORTH EAST DEEP	18.0	NATIONAL FUEL GAS
-MERIDIAN EXPLORATION CORP				RECEIVED:	02/04/82	JA: PA			
8218022	10198	3704921208		107-TF		A STAFFORD #538-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8218023	10199	3704921209		107-TF		A STAFFORD #539-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8218012	10188	3704921061		107-TF		BILLINGS & KOVEL #526-1	EDINBORO NORTH	0.0	COLUMBIA GAS TRAN
8218013	10189	3704921062		107-TF		BILLINGS #529-1	EDINBORO NORTH	0.0	COLUMBIA GAS TRAN
8218008	10184	3703928751		107-TF		BLAKESLEE #524-1	ROCKDALE	30.0	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8218031	10221	3704921318		107-TF		CHASE #579-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8218018	10194	3704921067		107-TF		D GOSS #534-1	EDINBORO NORTH	0.0	NATIONAL FUEL GAS
8218004	10180	3703920747		107-TF		D MARZKE #1-514	ROCKDALE	30.0	COLUMBIA GAS TRAN
8218020	10196	3704921069		107-TF		E STAFFORD #536-1	EDINBORO NORTH	0.0	NATIONAL FUEL GAS
8218021	10197	3704921070		107-TF		E STAFFORD #537-1	EDINBORO NORTH	0.0	NATIONAL FUEL GAS
8218032	10222	3704921347		107-TF		F WINDSOR #580-1	EDINBORO NORTH	30.0	NATIONAL FUEL GAS
8218025	10201	3704921211		107-TF		FOX #541-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8218006	10182	3703928749		107-TF		G MARZKA #516-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8218007	10183	3703920750		107-TF		G MARZKA #523-2	ROCKDALE	30.0	COLUMBIA GAS TRAN
8218024	10200	3704921210		107-TF		GARDNER #540-1	NORTH EDINBORO	30.0	COLUMBIA GAS TRAN
8217997	10175	3704920885		107-TF		H STAFFORD #501-1	N EDINBORO	30.0	COLUMBIA GAS TRAN
8217996	10172	3704920884		107-TF		HAZEL C KLINE #500-1	N EDINBORO	30.0	COLUMBIA GAS TRAN
8218016	10192	3704921065		107-TF		J DAVIS #532-1	EDINBORO NORTH	0.0	NATIONAL FUEL GAS
8218001	10177	3703920632		107-TF		J DOCTOR #505-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8218014	10190	3704921063		107-TF		J MCCREARY #530-1	EDINBORO NORTH	0.0	COLUMBIA GAS TRAN
8218017	10193	3704921066		107-TF		J SHOWMAN #533-1	EDINBORO NORTH	0.0	NATIONAL FUEL GAS
8218028	10205	3704921215		107-TF		L MCLALLEN #546-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8218019	10195	3704921068		107-TF		O'CONNOR #535-1	EDINBORO NORTH	0.0	NATIONAL FUEL GAS
8218009	10185	3703920752		107-TF		ORR #525-2	ROCKDALE	30.0	COLUMBIA GAS TRAN
8218000	10176	3703920633		107-TF		PETERS #504-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8218005	10181	3703920748		107-TF		PORTER #515-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8218029	10206	3704921216		107-TF		R LEWIS #547-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8218015	10191	3704921064		107-TF		R ROBERTSON #531-1	EDINBORO NORTH	0.0	COLUMBIA GAS TRAN
8218027	10204	3704921214		107-TF		R SANDERS #544-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8218026	10203	3704921213		107-TF		R SHOWMAN #543-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8218038	10209	3704921247		107-TF		REEMSNYDER #550-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8218002	10178	3703920745		107-TF		S ORR #512-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8217998	10174	3704920886		107-TF		T WILLRICH #502-1	N EDINBORO	30.0	COLUMBIA GAS TRAN
8218003	10179	3703920746		107-TF		WATSON #513-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8218010	10186	3703920753		107-TF		WATSON #526-2	ROCKDALE	30.0	COLUMBIA GAS TRAN
8218011	10187	3703920754		107-TF		WATSON #527-3	ROCKDALE	30.0	COLUMBIA GAS TRAN
8217999	10175	3703920634		107-TF		ZLHAVER #503-1	ZILMA ROCKDALE	30.0	COLUMBIA GAS TRAN
-NEA CROSS CO				RECEIVED:	02/04/82	JA: PA			
8218038	10158	3704921353		102-2		D & M RUPP #2	UNNAMED	25.0	NATIONAL FUEL GAS
8218046	10159	3704921353		107-TF		D & M RUPP #2	UNNAMED	25.0	NATIONAL FUEL GAS
8218040	10162	3704921397		102-2		D RUPP & L BANTA #1	EDINBORO	10.0	NATIONAL FUEL GAS
8218048	10163	3704921357		107-TF		D RUPP & L BANTA #1	EDINBORO	10.0	NATIONAL FUEL GAS
8218037	10156	3704921345		102-2		GHERE #1	UN-NAMED	36.0	NATIONAL FUEL GAS
8218045	10157	3704921345		107-TF		GHERE #1	UNNAMED	36.0	NATIONAL FUEL GAS
8218036	10154	3704921542		102-2		K & B FICHTHORN #1	EDINBORO	40.0	NATIONAL FUEL GAS
8218044	10155	3704921542		107-TF		K & B FICHTHORN #1	EDINBORO	40.0	NATIONAL FUEL GAS
8218039	10160	3704921305		102-2		L & M BANTA #1	EDINBORO	24.0	NATIONAL FUEL GAS
8218047	10161	3704921305		107-TF		L & M BANTA #1	EDINBORO	24.0	NATIONAL FUEL GAS
8218033	10149	3704921312		102-2		NORMAN PORTER #1	UNNAMED	36.0	NATIONAL FUEL GAS
8218041	10148	3704921312		107-TF		NORMAN PORTER #1	UNNAMED	36.0	NATIONAL FUEL GAS
8218035	10153	3704921346		102-2		R GHERE & J LANIEWICZ #2	EDINBORO	40.0	NATIONAL FUEL GAS
8218043	10152	3704921346		107-TF		R GHERE & J LANIEWICZ #2	EDINBORO	40.0	NATIONAL FUEL GAS
8218034	10150	3704921307		102-2		S & E COON #1	UNNAMED	25.0	NATIONAL FUEL GAS
8218042	10151	3704921307		107-TF		S & E COON #1	UNNAMED	25.0	NATIONAL FUEL GAS
-PHILLIPS PRODUCTION CO				RECEIVED:	02/04/82	JA: PA			
8218049	9941	3706326453		103		WILLIAM C CESSNA ESTATE #1		40.0	
-UNION DRILLING INC				RECEIVED:	02/04/82	JA: PA			
8218067	10041	3704921226		107-TF		ANNA BARTYZEL #1 0687	UNION TOWNSHIP	11.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8218055	10024	3704920903		107-TF		CARLTON & PHYLLISS PATTISON #I 0666	UNION TOWNSHIP	30.0	COLUMBIA GAS TRAN
8218059	10035	3704921181		107-TF		DANNY THOMAS #1 0725	UNION TOWNSHIP	9.0	COLUMBIA GAS TRAN
8218065	10039	3704921330		107-TF		DAVID COOPER #1 0689	UNION TOWNSHIP	20.0	COLUMBIA GAS TRAN
8218058	10019	3704920624		107-TF		DONALD GEERTSON #1 0673	UNION TOWNSHIP	7.0	COLUMBIA GAS TRAN
8218064	10038	3704921227		107-TF		FRANK DOWNOR #1 0693	UNION TOWNSHIP	5.0	COLUMBIA GAS TRAN
8218054	10023	3704920902		107-TF		FRANK POLLOCK #1 0668	UNION TOWNSHIP	10.0	COLUMBIA GAS TRAN
8218060	10034	3704921233		107-TF		GEORGE & WANDA BALLOG #1 0697	UNION TOWNSHIP	9.0	COLUMBIA GAS TRAN
8218053	[illegible]	3704920625		107-TF		GORDON WARD #1 0669	LEBOEUF TOWNSHIP	4.0	COLUMBIA GAS TRAN
8218069	[illegible]43	3704921224		107-TF		HAROLD & BARBARA GOODWILL #I 0685	UNION TOWNSHIP	5.0	COLUMBIA GAS TRAN
8218068	10042	3704921225		107-TF		JIMMY DOWNOR #1 0686	UNION TOWNSHIP	15.0	COLUMBIA GAS TRAN
8218051	10020	3704920892		107-TF		JOE & CHESTER ZOMBEC #1 0671	UNION TOWNSHIP	4.0	COLUMBIA GAS TRAN
8218066	10040	3704921221		107-TF		JOHN B ALLEN EST #1 0688	UNION TOWNSHIP	12.0	COLUMBIA GAS TRAN
8218058	10032	3704921180		107-TF		LYNFORD E PROPER #1 0726	LEBOEUF TOWNSHIP	16.0	COLUMBIA GAS TRAN
8218056	10025	3704920835		107-TF		MARIAN LOPUS #1 0651	WATERFORD TOWNSHIP	30.0	COLUMBIA GAS TRAN
8218061	10035	3704921232		107-TF		MICHAEL & ROSE POPOVICH #1 0696	LEBOEUF TOWNSHIP	30.0	COLUMBIA GAS TRAN
8218062	10036	3704921231		107-TF		RICHARD & MARY SMITH #1 0695	LEBOEUF TOWNSHIP	11.0	COLUMBIA GAS TRAN
8218052	10021	3704920893		107-TF		ROBERT & BETTY SHREVE #1 0678	UNION TOWNSHIP	15.0	COLUMBIA GAS TRAN
8218063	10037	3704921229		107-TF		ROGER WETMORE #1 0694	UNION TOWNSHIP	2.0	COLUMBIA GAS TRAN
8218057	10026	3704920850		107-TF		THOMAS G MCGUIRE #1 0650	WATERFORD TOWNSHIP	30.0	COLUMBIA GAS TRAN

WEST VIRGINIA DEPARTMENT OF MINES

-ALLEGHENY LAND & MINERAL COMPANY		RECEIVED:	02/05/82	JA: WV					
8218109		4708505189	103			A-1042	MURPHY DISTRICT	0.0	CONSOLIDATED GAS
8218130		4701702792	103			A-889	MCCLELLAN DISTRICT	0.0	CONSOLIDATED GAS
8218129		4708505140	103			A-979	MURPHY DISTRICT	0.0	CONSOLIDATED GAS
-ARLIE G DOTSON		RECEIVED:	02/05/82	JA: WV					
8218124		4701702299	108			ARLIE G DOTSON #1	GRANT DISTRICT	13.0	CONSOLIDATED GAS
-ASHLAND EXPLORATION INC		RECEIVED:	02/05/82	JA: WV					
8218121		4710900852	103			W M KITTER #221 - 091671	LOGAN-WYOMING	0.0	CONSOLIDATED GAS
-BARRON KIDD		RECEIVED:	02/05/82	JA: WV					
8218123		4710301174	103			BARRON KIDD SANTEE #19	SANTEE FIELD (BIG INJ	55.0	COLUMBIA GAS TRAN
-BEREA OIL AND GAS CORPORATION		RECEIVED:	02/05/82	JA: WV					
8218127		4710720996	107-DV			WM DAWSON #2	UNION	18.3	CONSOLIDATED GAS
-BO-BO GAS CO		RECEIVED:	02/05/82	JA: WV					
8218125		4709901809	108			BO-BO #1	CEREDO	0.0	GAS SUPPLY CORP
-COLLINS-MCGREGOR OPERATING COMPANY		RECEIVED:	02/05/82	JA: WV					
8218086		4707300817	107-DV			PHYLLIS ADAMS #1	LAFAYETTE	4.0	CONSOLIDATED NATU
-CONSOLIDATED GAS SUPPLY CORPORATION		RECEIVED:	02/05/82	JA: WV					
8218079		4703301708	108			ANITA B GOFF 12500	COAL	15.4	GENERAL SYSTEM PU
8218080		4703301134	108			B F COFFMAN 12438	EAGLE DISTRICT	12.7	GENERAL SYSTEM PU
8218077		4704700735	108			CONSOLIDATION COAL CO 12415	ELKHORN	20.2	GENERAL SYSTEM PU
8218071		4708100708	108			DAISY HEATHERLY 11947	PLEASANT DISTRICT	12.6	GENERAL SYSTEM PU
8218118		4703301116	108			DENNIS C BATES 12397	EAGLE DISTRICT	10.5	GENERAL SYSTEM PU
8218075		4703301124	108			F W CUNNINGHAM 12298	EAGLE	21.5	GENERAL SYSTEM PU
8218093		4709701491	108			L F BOND 11657	WARREN DISTRICT	1.4	GENERAL SYSTEM PU
8218074		4703301040	108			L M COFFMAN 12281	EAGLE	13.7	GENERAL SYSTEM PU
8218081		4703301931	108			LANDERS MARBERT 12567	EAGLE DISTRICT	13.4	GENERAL SYSTEM PU
8218083		4703302569	103			M R LODGE 12708	SIMPSON DISTRICT	1.2	GENERAL SYSTEM PU
8218078		4707700200	108			PAULINE F SMITH 12689	LYON DISTRICT	1.3	GENERAL SYSTEM PU
8218073		4708100945	108			RUBY A GALL 12360	PHILIPPI	10.6	GENERAL SYSTEM PU
8218076		4703301938	108			RUTH SMITH MILEY 12553	ELK DISTRICT	13.0	GENERAL SYSTEM PU
8218082		4702103453	108			W G BENNETT 12574	DEKALB DISTRICT	11.2	GENERAL SYSTEM PU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8218072		4700100745		108		WILLA STALNAKER 12103	PHILIPPI	11.5	GENERAL SYSTEM PU
-D C MALCOLM INC		RECEIVED:		02/05/82	JA: WV				
8218128		4703903723		107-DV		ALDERSON #2	GLUE CREEK	36.0	COLUMBIA GAS TRAN
-EASTERN AMERICAN ENERGY CORPORATION		RECEIVED:		02/05/82	JA: WV				
8218101		4702103748		103		HARDMAN #1	GLENVILLE NORTH	75.0	CONSOLIDATED GAS
8218107		4702103748		107-DV		HARDMAN #1	GLENVILLE NORTH	70.0	CONSOLIDATED GAS
8218094		4702103768		107-DV		HARDMAN #3	GLENVILLE NORTH	55.0	CONSOLIDATED GAS
8218180		4702103768		103		HARDMAN #3	GLENVILLE NORTH	55.0	CONSOLIDATED GAS
-GLENN L HAUGHT & SONS		RECEIVED:		02/05/82	JA: WV				
8218126		4708504218		108		A J LAYFIELD H-686	GRANT DISTRICT	12.0	CONSOLIDATED GAS
8218112		4708504419		108		A J LAYFIELD H-687	GRANT DISTRICT	12.0	CONSOLIDATED GAS
8218113		4708504420		108		A J LAYFIELD H-688	GRANT DISTRICT	12.0	CONSOLIDATED GAS
8218114		4708504422		108		CHARLES SWADLEY H-701	MURPHY DISTRICT	11.3	CONSOLIDATED GAS
8218102		4708504423		108		CHARLES SWADLEY H-702	MURPHY DISTRICT	11.3	CONSOLIDATED GAS
8218105		4708504428		108		CHARLES SWADLEY H-707	MURPHY DISTRICT	11.3	CONSOLIDATED GAS
8218106		4708504429		108		CHARLES SWADLEY H-708	MURPHY DISTRICT	11.3	CONSOLIDATED GAS
8218103		4708504427		108		M MOATS H-706	GRANT DISTRICT	16.5	CONSOLIDATED GAS
8218104		4708504430		108		M MOATS H-759	GRANT DISTRICT	16.5	CONSOLIDATED GAS
-HAUGHT INC		RECEIVED:		02/05/82	JA: WV				
8218131		4707301058		107-DV		CROSSER HEIRS H-1224	UNION DISTRICT	15.0	COLUMBIA GAS TRAN
-J & J ENTERPRISES INC		RECEIVED:		02/05/82	JA: WV				
8218092		4704122570		108		B-251	HACKER'S CREEK	9.7	CONSOLIDATED GAS
8218091		4703322023		108		B-265	EAGLE	180.0	CONSOLIDATED GAS
8218116		4700101305		103		B-310	VALLEY	0.0	PETRO-LEWIS CORP
8218117		4700101271		103		B-311	VALLEY	0.0	PETRO-LEWIS CORP
8218133		4700101454		103		B-381	ELK	0.0	CONSOLIDATED GAS
8218137		4703302477		103		B-395	TENMILE	0.0	CONSOLIDATED GAS
8218134		4700101456		103		B-402	UNION	0.0	CONSOLIDATED GAS
8218138		4703302451		103		B-405	CLARK	0.0	CONSOLIDATED GAS
8218115		4703302549		103		B-421	SANDIS	0.0	CONSOLIDATED GAS
8218135		4708300380		103		J-403	ROARING CREEK	0.0	PETRO-LEWIS CORP
8218136		4708300421		103		J-405	ROARING CREEK	0.0	PETRO-LEWIS CORP
-JAMES F SCOTT		RECEIVED:		02/05/82	JA: WV				
8218111		4703302459		103		GOLDEN DAVIS 5-317	UNION	0.4	CONSOLIDATED GAS
8218108		4701702979		103		STANLEY RICHARDS #2 5 343	GREENBRIER	30.0	CONSOLIDATED GAS
-MICHAEL J MILLER		RECEIVED:		02/05/82	JA: WV				
8218070		4702101749		108		RADER #2		3.7	CONSOLIDATED GAS
-NRM PETROLEUM CORPORATION		RECEIVED:		02/05/82	JA: WV				
8218099		4700101462		103		BILLER #1	BARKER	0.0	COLUMBIA GAS TRAN
8218098		4700101367		103		BILLER #3	BARKER	0.0	COLUMBIA GAS TRAN
8218096		4709702049		103		PREISSE-DENNISON #1	UNION	0.0	COLUMBIA GAS TRAN
8218095		4709702208		103		STRADER-ZIRKLE #1	WASHINGTON	0.0	COLUMBIA GAS TRAN
8218097		4709702120		103		ZICKEFOOSE "B" #1	WASHINGTON	0.0	COLUMBIA GAS TRAN
-PETRO-LEWIS CORPORATION		RECEIVED:		02/05/82	JA: WV				
8218088		4700125865		108		MARTIN #1	VALLEY	5.1	PARTNERSHIP PROPE
8218089		4700125880		108		TKE DUCKWORTH	VALLEY	2.6	PARTNERSHIP PROPE
8218090		4700150614		108		TKE SUDER B#1	VALLEY DISTRICT	4.0	PARTNERSHIP PROPE
8218087		4700120505		108		WILSON A-2	VALLEY	6.4	PARTNERSHIP PROPE
-SENECA-UPSHUR PETROLEUM CO		RECEIVED:		02/05/82	JA: WV				
8218132		4705900957		107-DV		C-6	HARDEE	30.0	COLUMBIA GAS TRAN
-SWIFT ENERGY CO		RECEIVED:		02/05/82	JA: WV				
8218119		4702103771		103		ALLEN NO 1-A	GLENVILLE NORTH	50.0	
8218120		4702103786		103		WELCH #4	GLENVILLE NORTH	50.0	

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JD NO JA ST	API NO	D SEC(1) SEC(2) WELL NAME	FIELD NAME	PROD	PURCHASER
-THOMAS D COFFMAN INC					
8218122	4703803405	RECEIVED: 02/05/82	WALTON DISTRICT	26.0	COLUMBIA GAS TRAN
		107-DV C F MARKS #1 RDA-3405			
-UNITED OPERATING COMPANY		RECEIVED: 02/05/82	CABIN RUN	9.0	CONSOLIDATED GAS
8218084	4701702532	108 GOLDIE WILSON 1-A	CABIN RUN	3.0	CONSOLIDATED GAS
8218085	4701702544	108 GOLDIE WILSON 1-B			
-UNITED PETRO LTD	47013803202	RECEIVED: 02/05/82	RUSSETT	6.0	CONSOLIDATED GAS
8218118		103 U VA PULP & PAPER #1			

** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO **

-BEREN CORPORATION		RECEIVED: 02/08/82	JA: CO 1		
8218250 CO 3515-81	0512309901	103 DUNCAN-FEDERAL #1		118.0	KANSAS-NEBRASKA N
-PIUTE ENERGY CO		RECEIVED: 02/08/82	JA: CO 1	146.0	NORTHWEST PIPELIN
8218251 CO 3529-81	0504506290	107-TF RIFLE WALTON 25-2 SEC 25 T7S R91W		146.0	NORTHWEST PIPELIN
8218252 CO 3530-81	0504506290	102-2 RIFLE WALTON 25-2 SEC 25 T7S R91W			
-J C THOMPSON		RECEIVED: 02/08/82	JA: UT 1	5.0	NORTHWEST PIPELIN
8218247 UD 2526-81	4301915673	108 SEGUNDO 23-4	SEGUNDO CANYON	2.0	NORTHWEST PIPELIN
8218248 UD 2513-81	4301915656	108 WESTWATER E-5	WESTWATER		
-TENNECO OIL COMPANY		RECEIVED: 02/08/82	JA: UT 1	136.0	SOUTHWEST GAS COR
8218249 UD 3301-81	4301930703	107-TF WILSON USA #33-2	BRYSON CANYON		

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before March 22, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-6079 Filed 3-4-82; 8:45 am]
BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOJISIANA OFFICE OF CONSERVATION									
-MIDWAY PRODUCTION CO				RECEIVED:	02/03/82	JA: LA			
8217836	81-2239	1707320941		108		NORTH MONROE LAND CORP #1	MONROE	7.4	IMC PIPELINE CO I
8217803	81-2240	1707320931		108		NORTH MONROE LAND CORP #2	MONROE	7.8	IMC PIPELINE CO I
8217802	81-2241	1707320925		108		NORTH MONROE LAND CORP #3	MONROE	4.8	IMC PIPELINE CO I
8217801	81-2242	1707320938		108		NORTH MONROE LAND CORP #4	MONROE	4.4	IMC PIPELINE CO I
-MIDWAY TESTING CO INC				RECEIVED:	02/03/82	JA: LA			
8217800	81-2243	1707320612		108		LEDOUX-BROCKMAN #1	MONROE	6.5	IMC PIPELINE CO I
-TANGE CORP				RECEIVED:	02/03/82	JA: LA			
8217799	81-2244	1711120655		108		MEDLIN #2	MONROE	4.8	CENTRAL TRANSMISS
OHIO DEPARTMENT OF NATURAL RESOURCES									
-ALL STATES OIL & PRODUCING CO INC				RECEIVED:	02/04/82	JA: OH			
8217845		3416322555		107-TF		HERRMANN #4	GRANGER	5.5	COLUMBIA GAS TRAN
8217846		3410322749		107-TF		KRUEGER #2	GRANGER	5.5	COLUMBIA GAS TRAN
-ALTHEIMS OIL INC				RECEIVED:	02/04/82	JA: OH			
8217847		3412723298		107-TF		COCKE #1-A	MONROE TWP	6.0	COLUMBIA GAS TRAN
8217848		3412725361		103	107-TF	CROTHERS #1-A	MONROE TWP	6.0	COLUMBIA GAS TRAN
-AMERICAN PETROEL INC				RECEIVED:	02/04/82	JA: OH			
8217849		3416726504		103		FLEMING #1	ADAMS	12.0	
-ARAPAHO VENTURES OF NEW YORK INC				RECEIVED:	02/04/82	JA: OH			
8217850		3412122400		103	107-TF	RAYLE KEITH #2	JACKSON	0.0	
-ATLAS ENERGY GROUP INC				RECEIVED:	02/04/82	JA: OH			
8217851		3415520023		107-TF		CLISBY #1	GUSTAVUS	0.0	COLUMBIA GAS TRAN
8217852		3415520025		107-TF		POWELL RICHARDSON #1	GUSTAVUS	0.0	COLUMBIA GAS TRAN
-ATWOOD RESOURCES INC				RECEIVED:	02/04/82	JA: OH			
8217853A		3407523445		103		SMITH #1	NASHVILLE	16.0	
8217853B		3407523445	D	107-TF		SMITH #1	NASHVILLE	16.0	
-BARTLO OIL AND GAS COMPANY				RECEIVED:	02/04/82	JA: OH			
8217854		3410322812		103	107-TF	V EVERHARD #2	SHARON	12.0	
-BELDEN & BLAKE & CO #79				RECEIVED:	02/04/82	JA: OH			
8217856		3415123621		103		J BURTON 1-341123	MARLBORO	36.5	
8217855		3401921414		103		MARY SAVAGE 2-341058	ROSE	36.5	
-BEREA OIL AND GAS CORPORATION				RECEIVED:	02/04/82	JA: OH			
8217857		3411925850		103	107-TF	G M MILLER #5	RICH HILL	6.0	COLUMBIA GAS TRAN
8217858		3411925907		103	107-TF	R MCKEE #1	RICH HILL	0.0	COLUMBIA GAS TRAN
-BUCKEYE OIL PRODUCING CO				RECEIVED:	02/04/82	JA: OH			
8217860		3411122175		107-DV		ARTHUR DALE MELLINGER #1	MALAGA	8.0	TEXAS EASTERN TRA
-CLOVER OIL CO				RECEIVED:	02/04/82	JA: OH			
8217862		3410322337		107-TF		BOSWELL #1	SPENCER	10.0	COLUMBIA GAS TRAN
8217867		3410322679		107-TF		F & M KOSTECKI #2	SPENCER	10.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8217866		3410322504		107-TF		F SCHRITZ #1	SPENCER	7.0	COLUMBIA GAS TRAN
8217865		3410322367		107-TF		MANTZ #1	SPENCER	8.5	COLUMBIA GAS TRAN
8217861		3410322274		107-TF		ROBERT & GOLDIE MACE #1	WESTFIELD	6.0	COLUMBIA GAS TRAN
8217864		3410322361		107-TF		SHAWNEE LAKE PARK #1	SPENCER	12.0	COLUMBIA GAS TRAN
8217863		3410322338		107-TF		SUPER #1	SPENCER	7.5	COLUMBIA GAS TRAN
-DORAN & ASSOCIATES INC				RECEIVED:	02/04/82	JA: OH			
8217872A		3412725348		103		SHERMAN E BROWN #1	JACKSON	12.0	COLUMBIA GAS TRAN
8217872B		3412725348	D	107-TF		SHERMAN E BROWN #1	JACKSON	12.0	COLUMBIA GAS TRAN
-FRANK A CSAPO JR				RECEIVED:	02/04/82	JA: OH			
8217870		3410322700		107-TF		A L KEIPER #1	WESTFIELD	24.0	COLUMBIA GAS TRAN
8217869		3410322493		107-TF		CHARLOTTE & JOHN AMHEISER #1	GUILFORD	12.0	COLUMBIA GAS TRAN
8217871		3410322787		107-TF		E SCHORLE #1	MILTON	20.0	COLUMBIA GAS TRAN
8217868		3410322023		107-TF		LAWRENCE WILKENS #1	GUILFORD	24.0	COLUMBIA GAS TRAN
-GED ENERGY INC				RECEIVED:	02/04/82	JA: OH			
8217873		3412725363		103	107-TF	MCGOVERN E #5-1	NEW LEXINGTON	10.0	
-HADCO INC				RECEIVED:	02/04/82	JA: OH			
8217874		3410322621		103	107-TF	HARRIS #1	GRANGER	28.0	
-HENRY PETROLEUM CORP				RECEIVED:	02/04/82	JA: OH			
8217876		3416726713		107-DV		GRIFFIN #1	DEVONIAN SHALE	0.0	COLUMBIA GAS TRAN
8217875		3416726701		107-DV		L M BARTLETT #1	DEVONIAN SHALE	0.0	COLUMBIA GAS TRAN
-HILLTOP DEVELOPMENT CORP				RECEIVED:	02/04/82	JA: OH			
8217877		3411925908		103		GEORGE SHAW #1	CASS	2.0	NATIONAL GAS & OI
8217878		3411925923		103		LEONARD & DOROTHY SMITH #1	JACKSON	3.0	COLUMBIA GAS TRAN
-HOOVER PRODUCING & OPERATING				RECEIVED:	02/04/82	JA: OH			
8217879		3412725337		103		L WALTERS #2-B	HOPEWELL-PERRY	18.0	NAT'L GAS & OIL C
-HOPCO RESOURCES INC				RECEIVED:	02/04/82	JA: OH			
8217880A		3412725202		103		COBLE #2	HOPEWELL	12.0	COLUMBIA GAS TRAN
8217880B		3412725202	D	107-TF		COBLE #2	HOPEWELL	12.0	COLUMBIA GAS TRAN
-HORTIN & HUFFMAN				RECEIVED:	02/04/82	JA: OH			
8217881		3403124521		103		TWILA BURCH #1	NEW CASTLE	1.5	COLUMBIA GAS TRAN
-JAMES R BERNHARDT				RECEIVED:	02/04/82	JA: OH			
8217859		3410322523		103	107-TF	ALVIN & MARJORIE STAUFER #1	GRANGER	7.0	COLUMBIA GAS TRAN
-K B T OIL & GAS CO INC				RECEIVED:	02/04/82	JA: OH			
8217882		3413321935		103	107-TF	WASON INDUSTRIAL CENTRE SECOND #1	AURORA	8.0	EAST OHIO GAS CO
-KING DRILLING CO				RECEIVED:	02/04/82	JA: OH			
8217883		3410322769		107-TF		RICHARD DETWILER #1	SEVILLE	10.0	COLUMBIA GAS TRAN
-L & M PETROLEUM INC				RECEIVED:	02/04/82	JA: OH			
8217886		3412725162		107-TF		DOBBINS/SIMMONS #1	CLAYTON	10.0	COLUMBIA GAS TRAN
8217887		3412725264		107-TF		FORAKER/KEINER #2	CLAYTON	10.0	COLUMBIA GAS TRAN
8217888		3412725266		107-TF		FORAKER/KEINER #3	CLAYTON	10.0	COLUMBIA GAS TRAN
8217889		3412725313		107-TF		MILDRED HAMMOND #1	CLAYTON	10.0	COLUMBIA GAS TRAN
8217885		3412725158		107-TF		TAYLOR/DOBBINS #1	CLAYTON	12.0	COLUMBIA GAS TRAN
-L & S OIL & GAS				RECEIVED:	02/04/82	JA: OH			
8217884		3411923875		107-TF		ROARK #1	ROARK	0.0	
-LEADER EQUITIES INC				RECEIVED:	02/04/82	JA: OH			
8217890		3411925948		103	107-TF	KLINE #5	MONROE	13.0	
-LORAK PETROLEUM INC				RECEIVED:	02/04/82	JA: OH			
8217891		3411924615		107-TF		M MOORE #1	BLUE ROCK	16.0	WILLISTON OIL COR
8217892		3411924621		107-TF		RIBBLE #1	HARRISON	24.0	COLUMBIA GAS TRAN
8217893		3413322679		107-TF		SEMAN #1	SHALERSVILLE	24.0	PERKINS DRILLING
8217894		3413322688		107-TF		SEMAN #2	SHALERSVILLE	24.0	PERKINS DRILLING
-M B OPERATING CO INC				RECEIVED:	02/04/82	JA: OH			
8217895		3415123354		103	107-TF	KAMERER UNIT #1	LAKE	5.5	REPUBLIC STEEL CO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-MAJ				RECEIVED: 02/04/82 JA: OH					
8217896		3413120054		107-DV		PAUL & AMY BAPST #1	BEAVER	10.7	
-MID-ATLANTIC OIL CO				RECEIVED: 02/04/82 JA: OH					
8217899		3411522166		103	107-TF	DANA MORRIS #2	CENTER	20.0	EAST OHIO GAS CO
-MILLER DAY ISELI ENERGY CO.				RECEIVED: 02/04/82 JA: OH					
8217900		3411122450		103		JACKSON #4-20	CENTER	145.0	RIVER GAS CO
-NATIONAL PETROLEUM CORP				RECEIVED: 02/04/82 JA: OH					
8217920		3400720834		103		DEBOW #1	LENOX	15.0	OHIO GAS CO
8217921		3400720835		103		DEBOW #2	LENOX	15.0	OHIO GAS CO
8217919		3400720833		103		DEBOW #3	LENOX	15.0	OHIO GAS CO
8217918		3400720832		103		DEBOW #4	LENOX	15.0	OHIO GAS CO
8217915		3400720813		103		EWING #6	LENOX	15.0	OHIO GAS CO
8217916		3400720814		103		EWING #7	LENOX	15.0	OHIO GAS CO
8217922		3400720861		103		EWING TANSEY #1	NEW LYME	15.0	OHIO GAS CO
8217936		3400722824		103		HUSTON #1	WASHINGTON	15.0	OHIO GAS CO
8217937		3411122454		103		J PABST & M ADAMS #1	MONROE	15.0	TEXAS EASTERN TRA
8217934		3400721445		103		KENYON NELSON #3	JEFFERSON	15.0	OHIO GAS CO
8217928		3400721146		103		KENYON NELSON #4	JEFFERSON	15.0	OHIO GAS CO
8217917		3400720815		103		LENGYEL #1	LENOX	15.0	OHIO GAS CO
8217909		3400720764		103		LENGYEL #2	LENOX	15.0	OHIO GAS CO
8217914		3400720808		103		LENGYEL #3	LENOX	15.0	OHIO GAS CO
8217910		3400720767		103		LENGYEL #4	LENOX	15.0	OHIO GAS CO
8217911		3400720803		103		MARCH #1	JEFFERSON	15.0	OHIO GAS CO
8217912		3400720805		103		MARCH #2	JEFFERSON	15.0	OHIO GAS CO
8217913		3400720806		103		MARCH #3	JEFFERSON	15.0	OHIO GAS CO
8217924		3400720891		103		NELSON #2	JEFFERSON	15.0	OHIO GAS CO
8217926		3400720960		103		OHIO LAND & TIMBER #1	LENOX	15.0	OHIO GAS CO
8217925		3400720959		103		OHIO LAND & TIMBER #3	LENOX	15.0	OHIO GAS CO
8217927		3400720997		103		RAMEY #1	LENOX	15.0	OHIO GAS CO
8217930		3400721394		103		REINKE #2	JEFFERSON	15.0	OHIO GAS CO
8217935		3400722676		103		ROBINSON #4	SALEM	15.0	OHIO GAS CO
8217923		3400720890		103		SMITH #3	LENOX	15.0	OHIO GAS CO
8217929		3400721254		103		ZORMAN #1	LENOX	15.0	OHIO GAS CO
8217933		3400721410		103		ZORMAN MEMERY PORT #1	LENOX	15.0	OHIO GAS CO
8217932		3400721409		103		ZORMAN MEMERY PORT #2	LENOX	15.0	OHIO GAS CO
8217931		3400721408		103		ZORMAN MEMERY PORT #3	LENOX	15.0	OHIO GAS CO
-NEW FRONTIER EXPLORATION INC				RECEIVED: 02/04/82 JA: OH					
8217941		3412122655		103	107-TF	DONALD SLATER #1	NOBLE	19.0	
8217940		3412122553		103	107-TF	EDWARD CONVERSE #1	MARION	20.0	COLUMBIA GAS TRAN
8217938		3410322581		103	107-TF	LANDTREK PARTNERSHIP #1	WADSWORTH	18.0	
8217939		3410322582		103	107-TF	LANDTREK PARTNERSHIP #2	WADSWORTH	18.0	
-NOBLE OIL CORP				RECEIVED: 02/04/82 JA: OH					
8217943		3413322676		107-TF		AEMMER #3	PALMYRA	20.0	GENERAL ELECTRIC
8217942		3413322561		107-TF		MANIK #2	PALMYRE	20.0	GENERAL ELECTRIC
-NORTHEASTERN ENERGY				RECEIVED: 02/04/82 JA: OH					
8217945		3410322685		103	107-TF	BALDWIN WELL #1	WADSWORTH	21.0	EAST OHIO GAS CO
8217944		3410321039		103	107-TF	KAUFMAN WELL #1	GUILFORD	21.0	EAST OHIO GAS CO
-OAK DALE DRILLING CO				RECEIVED: 02/04/82 JA: OH					
8217906		3412725240		103		DELAMATRE #1	READING	5.0	NATIONAL GAS & OI
-OILTECH INC				RECEIVED: 02/04/82 JA: OH					
8217907		3407522390		107-TF		HORACE A DUTTON #4	MECHANICS	0.0	COLUMBIA GAS TRAN
8217908		3407522524		107-TF		RAYMOND J MILLER #1	MECHANICS	0.0	COLOMBIA GAS TRAN
-OXFORD OIL CO				RECEIVED: 02/04/82 JA: OH					

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8217948		3412122643		107-TF		FRANK TILTON #1	OLIVE	12.0	
8217946		3411925639		107-TF		GREG GARRETT #1	CLAY	11.0	
8217947		3411925765		107-TF		LLOYD RUCKER #1	NEWTON	12.0	
-PENN-OHIO ENERGY CORP				RECEIVED: 02/04/82 JA: OH					
8217949		3407522823		103		ANTHONY & ANNE CELEBREZZE #2	KILLBUCK TOWNSHIP	25.0	COLUMBIA GAS TRAN
-REPUBLIC STEEL CORP				RECEIVED: 02/04/82 JA: OH					
8217952		3411925918		103	107-TF	CONSOLIDATION COAL-CR #19	MADISON	15.0	COLUMBIA GAS TRAN
-RMR PETROLEUM CORP				RECEIVED: 02/04/82 JA: OH					
8217950		3412122457		107-DV		JAMES BETTINGER #5	ELK	100.0	
-RPJ ENERGY FUND MANAGEMENT INC				RECEIVED: 02/04/82 JA: OH					
8217951		3411925913		107-TF		WILSON UNIT #1	NEW CONCORD	100.0	
-S & S OIL CO				RECEIVED: 02/04/82 JA: OH					
8217953		3400922323		103		OTTO & M DAMBE AL & B CHRISTMAN	BERN	12.0	
-SANDHILL ENERGY INC (OH)				RECEIVED: 02/04/82 JA: OH					
8217954		3411121890		103		DALLAS RANDOLPH #1	WASHINGTON	7.5	
8217956		3411126520		103		K R & DONNA TAYLOR #2	NEW MATAMORAS	18.0	
8217955		3411122392		103		KENNETH TAYLOR #1	BENTON	10.0	
8217958		3416726610		103		LEWIS HACKATHORN #2	NEW MATAMORAS	18.0	
8217957		3416726536		103		ROAM ADKINS #2	RINARD MILLS	12.5	
-SANTA FE DRILLING CO INC				RECEIVED: 02/04/82 JA: OH					
8217959		3412122044		103		RAYMOND & FREDA BAKER "HEIRS" #3	ELK	50.0	
-SCHRINSHER OIL & GAS EXPLORATION				RECEIVED: 02/04/82 JA: OH					
8217960		3410322703		103	107-TF	WAGAR #1	GRANGER	20.0	COLUMBIA GAS TRAN
-SHELDON L TURRILL				RECEIVED: 02/04/82 JA: OH					
8217978		3412725291		103		F E CRANDALL #1	THORN	10.0	NATIONAL GAS & OI
-SHELLY & SANDS OIL CO				RECEIVED: 02/04/82 JA: OH					
8217962		3400922366		103		CLINTON E BROWN #2	AMES	12.0	
8217963		3411522524		107-TF		GLEN & MARIE PLETCHER #1	YORK	13.0	
8217964		3411522549		107-TF		JAMES F SHAW #1	YORK	12.0	
8217961		3400922365		103		JOSEPH & BEVERLY LUCAS #1	CANAAN	12.0	
-SHIELD DRILLING CO				RECEIVED: 02/04/82 JA: OH					
8217965		3416726670		103		CAROL S LOVE #4	LIBERTY	20.0	
-SKY PETROLEUM CORP				RECEIVED: 02/04/82 JA: OH					
8217967		3411925665		103		GENTRY OIL CO #1	LICKING TWP	0.0	
8217968		3411925666		103		GENTRY OIL CO #2	LICKING TWP	0.0	
-SMITH SHAFER SMITH (A PARTNERSHIP)				RECEIVED: 02/04/82 JA: OH					
8217969		3416922971		103		JOHN & MARIAN WISE #3	CONGRESS	5.0	COLUMBIA GAS TRAN
-STONE OIL & GAS CO				RECEIVED: 02/04/82 JA: OH					
8217970		3410322673		103		SARAH STONE #1	GUILFORD	12.0	EAST OHIO GAS CO
-SUPERIOR PETROLEUM INC				RECEIVED: 02/04/82 JA: OH					
8217971		3405922715		103		FAUSNIGHT #1	WHEELING	0.0	COLUMBIA GAS TRAN
-TEMPLE OIL & GAS CO INC				RECEIVED: 02/04/82 JA: OH					
8217972		3411522627		103		JAMES JOSEPH #1	ROCKEBY LOCK	10.0	
-THE MUTUAL OIL & GAS COMPANY				RECEIVED: 02/04/82 JA: OH					
8217981		3412122628		103		ORANGE COAL #3-A	ELK	50.0	
8217903		3412122707		103		ORANGE COAL #6-A	ELK	45.0	
8217904		3412122710		103		ORANGE COAL #7-A	ELK	50.0	
8217902		3412122629		103		ORANGE COAL 5-A	ELK	50.0	
8217905		3413322558		103	107-TF	STEFANEK #1	NELSON	0.0	EAST OHIO GAS CO
-TIGER OIL INC				RECEIVED: 02/04/82 JA: OH					
8217973		3416726799		107-DV		DICKSON HEIRS #1	GRANDVIEW	0.0	RIVER GAS CO
-TITAN ENERGY CORP				RECEIVED: 02/04/82 JA: OH					
8217976		3411522522		103	107-TF	FOREST WATSON #2	WINDSOR	20.0	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8217975		3411522521		103	107-TF	FORREST MATSON #1	WINDSOR	20.0	COLUMBIA GAS TRAN
8217974		3411522498		103	107-TF	RICHARD & VIRGINIA ASH #1	MEIGSVILLE	20.0	COLUMBIA GAS TRAN
-TRUMBULL RESOURCES				RECEIVED: 02/04/82 JA: OH					
8217977		3415522020		103		SIMON #2	GIRARD	25.0	
-TWINOAKS OIL & GAS				RECEIVED: 02/04/82 JA: OH					
8217988		3410322737		103	107-TF	HENRY G SCHULTE #1	MINCKLEY	8.0	COLUMBIA GAS TRAN
8217979		3410322736		103	107-TF	PHYLLIS J KLEIN #1	MINCKLEY	12.0	COLUMBIA GAS TRAN
-UNIVERSAL EXPLORATION				RECEIVED: 02/04/82 JA: OH					
8217982		3410322719		103	107-TF	KOLLERT #1	WADSWORTH	100.0	
8217983		3410322720		103	107-TF	KOLLERT #2	WADSWORTH	100.0	
8217984		3410322792		103	107-TF	VENEY #1	SEVILLE	100.0	
8217981		3410322665		103	107-TF	WELTZIEN #1	WADSWORTH	500.0	
-VICTOR MCKENZIE				RECEIVED: 02/04/82 JA: OH					
8217898		3412725279		103		GILLENWATER UNIT #1	READING	3.5	NATIONAL GAS & OI
8217897		3411925915		103	107-TF	JOSEPHINE HELRIGGLE #1	NEWTON	6.0	COLUMBIA GAS TRAN
-VICTOR PETROLEUM CORP				RECEIVED: 02/04/82 JA: OH					
8217985		3407523424		103		KEMPEL #2	KILLBUCK FIELD	18.0	COLUMBIA GAS TRAN
-VIKING RESOURCES CORP				RECEIVED: 02/04/82 JA: OH					
8217986		3410322772		103	107-TF	SWITTER UNIT #1	SHARON	30.0	
8217989		3410322776		103	107-TF	SWITTER UNIT #2	SHARON	30.0	
8217987		3410322773		103	107-TF	SWITTER UNIT #3	SHARON	30.0	
8217988		3410322775		103	107-TF	SWITTER UNIT #4	SHARON	30.0	
8217991		3413322694		103	107-TF	THOMAS #11	PALMYRA	30.0	
8217990		3413322667		103	107-TF	THOMAS #9	PALMYRA	30.0	
-W E SNRIDER CO				RECEIVED: 02/04/82 JA: OH					
8217966		3408924285		103		CLAREN JOHNSON #1	HANOVER	3.0	NATIONAL GAS & OI
-WEB OIL INC				RECEIVED: 02/04/82 JA: OH					
8217992		3407523383		103		JOSEPH & NANCY HOSFELD #1	PRAIRIE	7.5	COLUMBIA GAS TRAN

OKLAHOMA CORPORATION COMMISSION

-AMSTAR OIL INC				RECEIVED: 02/02/82 JA: OK					
8217834 12549		3506321542		103		SHONS #1		170.0	SUN GAS CO
-ANDOVER OIL COMPANY				RECEIVED: 02/02/82 JA: OK					
8217819 12561		3507322089		103		POPE #18-2		80.0	CITIES SERVICE GA
-B & N EXPLORATION CO				RECEIVED: 02/02/82 JA: OK					
8217887 12592		3510523333		103		SCOTT #1		8.0	A-G SYSTEMS INC
-CANADIAN EXPLORATION CORP				RECEIVED: 02/02/82 JA: OK					
8217838 12559		3501721918		103		BALL #7-1	NORTHWEST MUSTANG	18.0	DELMI GAS PIPELIN
8217835 12551		3501721921		103		BRINDLEY #19-1	NORTHWEST MUSTANG	15.0	DELMI GAS PIPELIN
-DON-LARR EXPLORATION INC				RECEIVED: 02/02/82 JA: OK					
8217837 12556		3507323077		103		BROWN 10-1	SOONER TREND	400.0	PHILLIPS PETROLEU
-ECC OIL CO				RECEIVED: 02/02/82 JA: OK					
8217825 12011		3514721268		108		FOREST PIERCE #1 NW/4 NE/4 17-25N	OGLESBY GAS	12.3	OKAN GAS CO
8217844 12010		3514721558		108		REYNOLDS #5 CW/2 NW/4 SE/4 20-25N	OGLESBY GAS	22.3	OKAN GAS CO
-ESTORIL PRODUCING CORP				RECEIVED: 02/02/82 JA: OK					
8217827 12304		3512500000		103		GUNTER #1	NE TECUMSEH	14.9	TRANSOK PIPELINE
-F C D OIL CORP				RECEIVED: 02/02/82 JA: OK					
8217832 12405		3509322237		103		EDSEL 1-6	N W CLEO SPRINGS	153.3	PIONEER GAS PRODU
-HELMERICH & PAYNE INC				RECEIVED: 02/02/82 JA: OK					
8217822 16211		3514920187		107-DP		VOGT #1-10	N W COLONY	1460.0	MICHIGAN WISCONSI
-J M NUBER CORPORATION				RECEIVED: 02/02/82 JA: OK					
8217828 12563		3504722494		103		LOVELL #5	WAUKOMIS	308.0	UNION TEXAS PETRO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-JAY PETROLEUM INC				RECEIVED: 02/02/82 JA: OK					
8217815 16179		3506300003		108		MILLER #1	EAST LAMAR	8.0	JAY PETROLEUM INC
8217816 16180		3506300000		108		RUTH BROWN #1	GREASY CREEK	3.0	JAY PETROLEUM INC
8217818 16181		3506300000		108		SANDERS #1	EAST LAMAR	12.0	JAY PETROLEUM INC
8217817 16182		3506300000		108		SARKEYS B-1	EAST LAMAR	10.0	JAY PETROLEUM INC
8217811 16175		3506300000		108		SARKEYSC-1	EAST LAMAR	7.0	JAY PETROLEUM INC
8217814 16178		3506300000		108		SUNRAY ECKLES #1	EAST LAMAR	5.0	JAY PETROLEUM INC
8217813 16177		3506300000		108		SUNRAY ECKLES #2	EAST LAMAR	4.0	JAY PETROLEUM INC
8217812 16176		3506300000		108		THOMPSON #1	GREASY CREEK	3.0	JAY PETROLEUM INC
-LONG ROYALTY CO				RECEIVED: 02/02/82 JA: OK					
8217841 11335		3501700000		103		PHILLIPS #1-15	NORTH MUSTANG	8.0	MOBIL OIL CORP
-MAPCO PRODUCTION COMPANY				RECEIVED: 02/02/82 JA: OK					
8217829 12101		3504520874		102-A		MCCONNELL #1-5		23.2	DELMI GAS PIPELIN
-MARVIN THOMASON				RECEIVED: 02/02/82 JA: OK					
8217835 12594		3510721033		103		CRAWFORD #1	BRYANT	60.0	PHILLIPS PETROLEU
-NOBLE OPERATING INC				RECEIVED: 02/02/82 JA: OK					
8217839 10102		3509322644		103		SHOLTESS #2	NW OKEENE	8.0	DELMI GAS PIPELIN
-PETRO-LEWIS CORPORATION				RECEIVED: 02/02/82 JA: OK					
8217831 12474		3505121026		103		FRITTS #5	WEST MARLOW	58.4	ARKANSAS LOUISIAN
-PHILLIPS PETROLEUM COMPANY				RECEIVED: 02/02/82 JA: OK					
8217830 12187		3501720672		108		LUNNON A #1	N W RICHLAND	4.8	OKLAHOMA GAS & EL
8217820 12578		3505120875		108		MCCONNELL "A" #1		8.8	TRANSOK PIPELINE
-POST PETROLEUM COMPANY INC				RECEIVED: 02/02/82 JA: OK					
8217842 11608		3515121144		102-A		WOOLLEY-POST #1	NE WAYNOKA	8.0	PANHANDLE EASTERN
-R & N ASSOCIATES - B M NEUBERT AGT				RECEIVED: 02/02/82 JA: OK					
8217826 12277		3508300000		108		BRIDAL "A" #1	CASHION	20.8	CHAMPLIN PETROLEU
-ROYALTY PETROLEUM CO				RECEIVED: 02/02/82 JA: OK					
8217843 11920		3510320695		108		KEHRES NO 1	NORTHWEST PERRY	10.3	ARCO OIL & GAS CO
-SHELLY ENERGY INC				RECEIVED: 02/02/82 JA: OK					
8217840 10181		3508100000		103		ANDERSON #1	SOUTH CARNEY	17.2	SUN GAS CO
-SOUTHLAND ROYALTY CO				RECEIVED: 02/02/82 JA: OK					
8217809 12601		3509322145		103		GILCHRIST 1-36	S E CHESTER	255.0	PHILLIPS PETROLEU
8217808 12603		3515121091		103		WILSON 4-14	N E LOVEDALE	75.0	EL BRANDE PIPELIN
-TEXACO INC				RECEIVED: 02/02/82 JA: OK					
8217833 12544		3507323090		103		RALPH WITTROCK #1	OKARCHE N E	73.0	CONOCO INC
-THE WIL-MC OIL CORP				RECEIVED: 02/02/82 JA: OK					
8217823 10693		3511921393		103		MCQUAIN #1	UNKNOWN	1.0	
-UNIVERSAL RESOURCES CORPORATION				RECEIVED: 02/02/82 JA: OK					
8217824 11970		3507323052		103		WILBUR 1-27		182.5	PHILLIPS PETROLEU
-WIERSEN & COCHRAN				RECEIVED: 02/02/82 JA: OK					
8217810 12603		3507323100		103		VRSKA #2	SOONER TREND	7.0	EASON OIL CO
-WALKER & WITHROW INC				RECEIVED: 02/02/82 JA: OK					
8217821 12624		3501721915		103		SUMNER 4-1	YUKON	321.0	CONOCO INC
-WHITHAR EXPLORATION CO				RECEIVED: 02/02/82 JA: OK					
8217806 12585		3515121162		103		BIB UNIT #1-13	NORTH GREENSBURG	365.0	DELMI GAS PIPELIN

** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, METAIRIE,LA

-AMINOIL USA INC				RECEIVED: 02/02/82 JA: LA 3					
8217788 61-2428		1770840500		102-1		SOUTH MARSH ISLAND BLK 75 #B-12 S/T	SOUTH MARSH ISLAND	2196.8	TRANSCONTINENTAL
-ARCO OIL AND GAS COMPANY				RECEIVED: 02/02/82 JA: LA 3					
8217781 61-2461		1770940441		102-1		OCSG-3818 EUGENE ISL BLK 197 #A-1	EUGENE ISLAND	688.0	SOUTHERN NATURAL
8217779 61-2462		1770940441		102-1		OCSG-3818 EUGENE ISL BLK 197 #A-10	EUGENE ISLAND	284.0	SOUTHERN NATURAL

JD NO	JA DKT	API NO	D SECTN SECTN2 WELL NAME	VOLUME 662	FIELD NAME	PROD	PURCHASER	PAGE 007
-EXXON CORPORATION				RECEIVED: 02/02/82				JA: LA 3
0217775	G1-2210	1781700121		102-5	MISSISSIPPI CANYON	440.0	SOUTHERN NATURAL	
0217782	G1-2447	1771500418		102-1	SOUTH TIMBALIER	3000.0	TRUNKLINE GAS CO	
-GULF OIL CORPORATION				RECEIVED: 02/02/82				JA: LA 3
0217785	G1-2357	1770940447	EUGENE ISLAND	102-5	EUGENE ISL BLK 252 OCS-G 0983 #616	4400.0	SEA ROBIN PIPELIN	
0217792	G1-2276	1770940451	EUGENE ISLAND	102-5	EUGENE ISL BLK 252 OCS-G 0983 #617	3400.0	SEA ROBIN PIPELIN	
-KERR-MCGEE CORPORATION				RECEIVED: 02/02/82				JA: LA 3
0217783	G1-2441	1771540343	SOUTH TIMBALIER	102-1		0.0	TENNESSEE GAS PIP	
-OXCO OIL & GAS CO				RECEIVED: 02/02/82				JA: LA 3
0217791	G1-2255	1771300058	SOUTH PELTO 20 FIELD	102-5	OCS-072 #338	365.0	TRANSCONTINENTAL	
0217798	G1-2256	1771300059	SOUTH PELTO 20 FIELD	102-5	OCS-072 #33F	1095.0	TRANSCONTINENTAL	
-SHELL OIL CO				RECEIVED: 02/02/82				JA: LA 3
0217777	G1-2395	1781700142		102-5	MC 311 OCS-G 2968 #A-11	0.0	SOUTHERN NATURAL	
0217778	G1-2396	1781700109	MISSISSIPPI CANYON	102-5	MC 311 OCS-G 2968 #A-6	0.0	SOUTHERN NATURAL	
0217776	G1-2247	1770500319	VERMILION	102-5	OCS-G 1133 A-8A	0.0	SEA ROBIN PIPELIN	
0217790	G1-2436	1770400472	EAST CAMERON	102-1	OCS-G 4101 JA-1	5508.0	SOUTHERN NATURAL	
0217789	G1-2433	1770400517	EAST CAMERON	102-1	OCS-G 4101 JA-5	28.0	SOUTHERN NATURAL	
-UNION OIL COMPANY OF CALIF				RECEIVED: 02/02/82				JA: LA 3
0217786	G1-2449	1771500435	SOUTH TIMBALIER	102-1	OCS-G 4000 #A-13	91.0	TENNESSEE GAS PIP	
-ARNOIL USA INC				RECEIVED: 02/02/82				JA: TX 3
0217794	G1-2390	4271900418	HIGH ISLAND BLK A-561	102-5	OCS-G-2712 #A-30	1074.0	COLUMBIA GAS TRAN	
0217795	G1-2091	4271900417	HIGH ISLAND BLK A-561	102-5	OCS-G-2712 #A-40	183.0	COLUMBIA GAS TRAN	
0217797	G1-2092	4271900463	HIGH ISLAND BLK A-561	102-5	OCS-G-2712 #A-7	41.0	COLUMBIA GAS TRAN	
0217796	G1-2093	4271900463	HIGH ISLAND BLK A-561	102-5	OCS-G-2712 #A-7D	155.0	COLUMBIA GAS TRAN	
0217787	G1-2094	4271900479	HIGH ISLAND BLK A-561	102-5	OCS-G-2712 #A-8	926.0	COLUMBIA GAS TRAN	
-NEWMARK OFFSHORE EXPLORATION CO				RECEIVED: 02/02/82				JA: TX 3
0217780	G1-2259	4271100506	HIGH ISLAND	102-5	OCS-G 2728 #A-4 (ST-1)	1460.0		
0217786	G1-2282	4271100508	HIGH ISLAND	102-5	OCS-G 2726 #A-6	1940.0		
0217793	G1-2281	4271100507	HIGH ISLAND	102-5	OCS-G 2729 #A-5	1240.0		

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before March 22, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
- 102–2: New well (2.5 mile rule)
- 102–3: New well (1000 ft rule)
- 102–4: New onshore reservoir
- 102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
- 107–GB: Geopressured brine
- 107–CS: Coal seams
- 107–DV: Devonian shale
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6078 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP82-2-001 and RP81-72]

El Paso Natural Gas Co.; Notice of Tariff Filing

March 2, 1982.

Take notice that on February 23, 1982, El Paso Natural Gas Company ("El Paso") filed, pursuant to Part 154 of the Federal Energy Regulatory Commission ("Commission") Regulations Under the Natural Gas Act, the following revised tariff sheets to its FERC Gas Tariff:

Tariff Volume and Tariff Sheet

Original Volume No. 1—Substitute Twenty-ninth Revised Sheet No. 3–B; Substitute Thirtieth Revised Sheet No. 3–B

Third Revised Volume No. 2—Substitute Twentieth Revised Sheet No. 1–D; Substitute Twenty-first Revised Sheet No. 1–D

Original Volume No. 2A—Substitute Twenty-second Revised Sheet No. 1–C

El Paso states that the revised tariff sheets, when accepted for filing and permitted to become effective, will (i) set forth the Statement of Rates contained in El Paso's FERC Gas Tariff, Original Volume No. 1, in a format which reflects the establishment of its ABD Rate Schedules effective December 1, 1981, as approved by the Commission at Docket No. RP82–2–000, and (ii) reflect a 0.65¢ reduction in El Paso's rates for gas service rendered to customers under rate schedules subject to Section 19 (Purchased Gas Cost Adjustment Provision) of the General Terms and Conditions contained in El Paso's FERC Gas Tariff, Original Volume No. 1, effective January 1, 1982.

El Paso states that tendered Substitute Twenty-ninth Revised Sheet No. 3–B to its Original Volume No. 1 Tariff and Substitute Twentieth Revised Sheet No. 1–D to its Third Revised Volume No. 2 Tariff serve to set forth its rates in effect on December 1, 1981 on its Statement of Rates in a format reflecting establishment of the ABD Rate Schedules. El Paso requests that said tariff sheets be permitted to become effective December 1, 1981, the date El Paso was authorized to place the ABD Rate Schedules in effect.

By order issued December 28, 1981 at Docket No. RP81–72, the Commission made effective as of January 1, 1982 certain revised tariff sheets reflecting an increase in the Gas Research Institute ("GRI") Funding Unit Adjustment component of EL Paso's rates for certain sales and transportation services. El Paso states that the rates set forth on said tariff sheets were the rates reflected on the revised tariff sheets then pending as part of its notice of change in rates [1] plus the increase in the GRI Funding Unit Adjustment. EL Paso further states that tendered Substitute Thirtieth Revised Sheet No. 3–B to its Original Volume No. 1 Tariff, Substitute Twenty-first Revised Sheet No. 1–D to its Third Revised Volume No. 2 Tariff and Substitute Twenty-second Revised Sheet No. 1–C to its Original Volume No. 2A Tariff serve to reduce its rates under rate schedules subject to the Purchased Gas Cost Adjustment Provision contained in its Original Volume No. 1 Tariff, which reduced rates are the rates in effect on January 1, 1982 plus the authorized increase in the GRI Funding Unit Adjustment. El Paso requests that said tariff sheets be permitted to become effective January 1, 1982, the date El Paso was authorized to increase the GRI Funding Unit Adjustment component of its rates.

El Paso states that copies of the filing have been served upon all of its interstate transmission system customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before March 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). Protests filed with the Commission will be conidered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6075 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[1] On October 30, 1981, El Paso filed revised and alternative revised tariff sheets as part of its notice of change in rates filed August 31, 1981 at Docket No. TA82-1-33-000. The revised tariff sheets reflected a net adjustment of 60.43¢ per Mcf in El Paso's rates while the alternative revised tariff sheets provided for a net adjustment of 50.78¢ per Mcf. By order issued February 9, 1982, the Commission rejected the revised tariff sheets and accepted the alternative revised tariff sheets effective October 1, 1981, subject to refund.

[Docket No. CP76-492-021]

National Fuel Gas Supply Corp. and Penn-York Energy Corp.; Notice of Petition To Amend

March 2, 1982.

Take notice that on February 1, 1982, National Fuel Gas Supply Corporation (National), 308 Seneca Street, Oil City, Pennsylvania 16301, and Penn-York Energy Corporation (Penn-York), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP76–492–021 a petition to amend the order issued June 21, 1979, by Opinion No. 42 in the instant docket pursuant to Section 7 of the Natural Gas Act so as to modify the storage service provided by Applicants, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is submitted that in August 1976 [1] Applicants filed their original application for long-term authorization to construct and develop two depleted gas reservoirs in Allegany County, New York, (the West Independence and Beech Hill fields) and to operate these in conjunction with the already-certificated East Independence field as gas storage fields.

Specifically, Applicants now request authorization for (a) the injection of up to 37,100,000 Mcf of gas into the East Independence, West Independence and Beech Hill fields including 1,100,000 Mcf of base gas at East Independence over and above the quantity specified in the original application and to inject and withdraw up 23,500,000 Mcf of top gas annually; (b) Penn-York to construct the last eight injection-withdrawal wells and associated gathering lines proposed in this docket; (c) Penn-York to acquire and National to transport 1,100,000 Mcf of additional base gas for injection at East Independence; (d) Penn-York to provide long-term storage service to existing customers, long-term storage service at increased levels to five customers and storage service to a new customer, and (e) National to render storage service to Penn-York through existing facilities for a three-year period.

Penn-York proposes to operate its three storage fields with up to a maximum 23,500,000 Mcf of top gas injection and withdrawal on a long-term basis and to render long-term storage service to the following nineteen customers during the 1982–83 storage year in an amount aggregating 19,397,877 Mcf of gas and aggregating 19,561,620 Mcf of gas thereafter:

Customer	Existing service level [1]	Authorization requested [2]
Berkshire	250,000	400,000
Boston	878,620	878,620
Central Hudson	800,000	800,000
Connecticut	1,500,000	1,500,000
Conn. Natural	1,500,000	1,500,000
Delmarva	750,000	750,000
Elizabethtown	1,500,000	1,500,000
Fitchburg	90,000	136,257
Granite	——	2,400,000
Gas Service	100,000	300,000
Haverhill	350,000	350,000
Lowell	2,000,000	2,000,000
Manchester	135,000	135,000
O&R	1,000,000	1,300,000
Penn Fuel	800,000	800,000
Penn & Southern	200,000	200,000
Southern Conn.	150,000	150,000
UGI	4,000,000	4,000,000
Valley	450,000	450,000
Total	15,871,620	19,397,877

[1] As authorized for storage year beginning April 1, 1981 in Mcf.
[2] Year beginning April 1, 1982 and thereafter in Mcf.

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Applicants further propose that National render 5,400,000 Mcf of storage service to Penn-York in the 1982–83, 1983–84 and 1984–85 storage years subject to Penn-York's option to take less than 5,400,000 Mcf upon proper annual notice to National. It is stated that this service would enable Penn-York to meet its commitments to customers during the remaining three years while Penn-York's storage fields are developed to their operational maximum.

Penn-York also proposes to drill eight wells and lay the gathering lines associated with these wells, and to purchase 1.1 Bcf of base gas from National for injection into the East Independence field.

Penn-York submits in Exhibit P a revised rate to be effective during the 1982–83 storage year. The revised rate is $1.0705 per Mcf and constitutes a reduction from the $1.2867 per Mcf rate effective during the 1981–82 storage year. The revised rate is submitted in compliance with the Basic Settlement Agreement dated March 20, 1981, as modified.

In accordance with the Basic Settlement Agreement, as modified, the $1.0705 per Mcf rate is calculated to recover the unrecovered portion of the three-year cost of service during the period April 1, 1980, through March 31, 1983, computed in a manner consistent with rates previously filed in this proceeding. By this means, "all revenue collected or to be collected over the three-year development period (will be) compared with the costs incurred or to be incurred over the same period." (Opinion No. 122 at p. 10.)

Penn-York requests that a similar approach be implemented for rates to be in effect during the 1983–1984 and 1984–1985 storage years. This procedure will complement the additional two-year period after April 1, 1983, now estimated to be necessary for achieving full development. To effectuate this result, any overrecovery or underrecovery found to result from rates to be in effect during 1982–1983 (based upon the unrecovered cost of service in the April 1, 1980—March 31, 1983, period) would be carried forward as an adjustment to cost of service in determining the new rate to be filed on or before March 1, 1983, which would be effective during the year beginning April 1, 1983. Similarly, any overrecovery or underrecovery during 1983–1984 (based upon unrecovered cost of service in the April 1, 1980—March 31, 1984, period) would be carried forward as an adjustment to cost of service in determining the new rate to be filed on or before March 1, 1984, which would be effective during the year beginning April 21, 1984. Accordingly, the rates to be in effect during the year beginning April 1, 1982, would not be subject to refund as contemplated in the Basic Settlement Agreement, but the rate to be in effect during the year beginning April 1, 1984 (which is the year when full development is anticipated), would be subject to refund. Consistent with this approach, a long-term rate would be filed no later than March 1, 1985, to become effective April 1, 1985, it is asserted.

In calculating the rate to be applicable during 1983–1984 and during 1984–1985, all available actual data for the period April 1, 1980, of the date of preparation of rates would be used in conjunction with forecasted average rate base and forecasted total cost of service for the storage year in question. The calculated cost of service would then be adjusted for over/under recovery as indicated. The amount of over/under recovery from prior years would be determined by using a thirteen month average rate base and calculated return and income taxes consistent with procedures used in preparing Exhibit P. The over/under-recovery adjustment would, among other things, reflect any reduction in estimated storage charge operating expense incurred by Penn-York's election prior to October 1 of a particular year to reduce supplemental storage service, Applicants state.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 12, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6076 Filed 3-4-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. RP80-107-008 and TA80-2-26 (AP80-2)]

Natural Gas Pipeline Co. of America; Proposed Changes in FERC Gas Tariff

March 2, 1982.

Take notice that on February 23, 1982, Natural Gas Pipeline Company of America (Natural) submitted revised tariff sheets to be a part of its FERC Gas Tariff, Volume Nos. 1 and 2.

Natural stated that the revised sheets reflect the Base Rate levels that became effective December 1, 1980 through September 30, 1981 pursuant to the provisions of its approved settlement agreement in Docket Nos. RP80-107 and TA80-2-26 (AP80-2).

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6077 Filed 3-4-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 3255-001]

Burrows Paper Co.; Application for License (5 MW or Less)

March 4, 1982.

Take notice that Burrows Paper Company (Applicant) filed on January 12, 1982, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for construction and operation of a water power project to be known as the Lyonsdale Project No. 3255. The project would be located on the Moose River in Lewis County, New York. Correspondence with the Applicant should be directed to: Mr. John L. Sterzinar, Manager of Production, P.O. Box 248, Little Falls, New York 13365.

Project Description—The proposed run-of-the-river project would consist of: (1) Three existing concrete overflow dam sections with a total crest length of 182 feet varying in height from 3 to 19 feet, and equipped with 3-foot flashboards; (2) an existing reservoir covering 9 acres with a gross storage capacity of 50 acre-feet; (3) an existing 35 by 100-foot lined canal; (4) a new concrete intake structure; (5) two new penstocks, 6 and 7 feet in diameter, 52 and 28 feet long respectively, replacing existing penstocks; (6) a new powerhouse, 65 by 32 feet, containing one 1.4 and one 1.0-MW turbine/generator unit, operating under an average head of 33 feet; (7) a re-excavated tailrace; (8) two 4.16-kV transmission lines approximately 100 feet long; and (9) appurtenant facilities. The entire average annual generation of 12.7 million kWh would be used to offset the Applicant's power costs by sale to Niagara Mohawk Power Corporation.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before May 13, 1982, either the competing application itself [See 18 CFR 4.33 (a) and (d)) or a notice of intent (See 18 CFR 4.33 (b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 13, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6080 Filed 3-4-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 3051-001]

Central Vermont Public Service Corp.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

March 5, 1982.

Take notice that on November 14, 1981, Central Vermont Public Service Corporation (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 3051) would be located on the Passumpsic River at East Barnet, Caledonia County, Vermont. Correspondence with the Applicant should be directed to: Mr. Darrow R. McLeod, 77 Grove Street, Rutland, Vermont 05701.

Project Description—The proposed project would consist of: (1) A rehabilitated concrete dam, 290 feet long and varying in height from 3 to 12 feet; (2) a new concrete intake flume 50 feet long and 40 feet wide, (3) a new two-part headworks; (4) a new powerhouse measuring 50 by 40 feet; (5) two new vertical generators with a total capacity of 2,200 kW producing an annual average generation of 9 GWh under a head of 29 feet; (6) a new 130-foot tailrace; and (7) appurtenant facilities.

The Applicant was issued a preliminary permit for a period of 24 months for this site on July 25, 1980.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Vermont Fish and Game Department are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 23, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petition to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 23, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6061 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-152-000]

El Paso Electric Co.; Order on Appeal From Staff Action, Granting Intervention, and Denying Consolidation of Dockets

Issued: March 1, 1982.

On January 29, 1982, Rio Grande Electric Cooperative (Rio Grande) filed an appeal of an action taken by the Director of the Office of Electric Power Regulation (OEPR)[1] accepting for filing an agreement between El Paso Electric Company (El Paso) and Texas-New Mexico Power Company (TNP), making the proposed rates subject to refund and subject to the outcome of Docket No. ER81-426-000, and terminating Docket No. ER82-152-000. Rio Grande further seeks to consolidate Docket No. ER82-152-000 with Docket No. ER81-426-000.

[1] By letter order issued on December 30, 1981.

On April 24, 1981, in Docket No. ER81-426-000, El Paso filed increased rates for firm service to Rio Grande and TNP.[2] By order of June 30, 1981, the Commission granted intervention to Rio Grande and TNP, suspended the proposed rates for five months to become effective on December 1, 1981, and established hearing procedures.

On December 11, 1981, in Docket No. ER82-152-000, El Paso filed an agreement between itself and TNP which provides for firm service at an additional TNP delivery point. Notice of that filing was issued on December 24, 1981, with petitions to intervene due on December 28, 1981.[3] On December 30, 1981, the Director of OEPR accepted the agreement for filing to become effective, subject to refund, on January 1, 1982. Noting that the proposed rates in both dockets are based on the same cost of service, the Director made the rates and refund provision in Docket No. ER82-152-000 subject to the outcome of the proceeding in Docket No. ER81-426-000, as adjusted for TNP's coincidence at the additional delivery point. The order also stated that Docket No. ER82-152-000 would be deemed terminated unless an appeal was filed within 30 days. On January 29, 1982, Rio Grande filed the instant appeal.

Rio Grande contends that the additional service to be provided to TNP at the new delivery point in Docket No. ER82-152-000 will result in a reduction of El Paso's cost of service with respect to Rio Grande in Docket No. ER81-426-000. According to Rio Grande, these reduced allocated costs should be reflected in reduced rates for firm service provided to Rio Grande and also to TNP at the original delivery point. Rio Grande requests that Docket No. ER82-152-000 not be terminated, but, instead, be consolidated with Docket No. ER81-426-000 where the cost of service issues arising from both dockets can be determined on a combined basis.

Discussion

Upon review of the contentions raised, we believe that it would be inappropriate to adjust the cost of service in Docket No. ER81-426-000 to include the additional service to TNP under Docket No. ER82-152-000. The cost of service in Docket No. ER81-426-000 is based on an adjusted 1980 Period I test year. Rio Grande seeks to further adjust the 1980 test period to include a sale beginning in 1982 without any corresponding adjustments for other 1982 costs. Under the Commission's regulations, El Paso, in Docket No. ER81-426-000, was permitted to adjust its 1980 Period I data only to reflect known and measurable changes affecting revenues and costs prior to its proposed July 1, 1981 effective date [18 CFR 35.13(d)(1)(ii)]. Because the sale at issue in Docket No. ER82-152-000 was to commence on January 1, 1982, *i.e.*, after the proposed effective date in Docket No. ER81-426-000, we consider it inappropriate to adjust the Period I data in Docket No. ER81-426-000 to include the sale.

Rio Grande supports its request, in part, by reference to the Director's acknowledgement that the rates in Docket Nos. ER81-426-000 and ER82-152-000 have been derived from the same cost of service data. This fact alone, however, does not present an adequate basis for impugning the integrity of the 1980 test period. At most, it appears to constitute a challenge to the freshness of the data supporting the rate for the new TNP delivery point in a period of significant inflation. Because we find no merit to Rio Grande's position, we shall deny the appeal.

Furthermore, based on the foregoing facts, we find that consolidation of Docket Nos. ER82-152-000 and ER81-426-000 would serve no useful purpose. We note that TNP and El Paso have neither sought consolidation nor supported Rio Grande's request for consolidation. In addition, we support the reasoning behind the Director's letter and we perceive no reason to consolidate the proceedings. Furthermore, the trial schedule in Docket No. ER81-426-000 is in its advanced stages, and to consolidate might have an adverse effect on the expeditious conclusion of that proceeding.

The Commission finds that intervention in this proceeding by Rio Grande is in the public interest and that good cause exists to permit Rio Grande to intervene out of time. Intervention by Rio Grande is appropriate to insure that its interests in the proceeding will be fully preserved. Therefore, the petition to intervene will be granted.

In its pleading, Rio Grande contends that the Director's letter order did not address procedures for the establishment of rates for the extra 15 MW at TNP's new delivery point. However, we note that this matter was addressed in the letter order which indicated that the proposed rates were to be revised based upon the approved cost of service in Docket No. ER81-426-000, as adjusted for the coincidence of the 15 MW sale at the additional delivery point.

The Commission orders:

(A) Rio Grande's appeal in Docket No. ER82-152-000 is hereby denied.

(B) The petition to intervene in this proceeding is hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *provided, however,* that participation by such intervenor shall be limited to the issues presented in its petition to intervene; and *provided, further,* that the admission of such intervenor shall not be construed as recognition that it might be aggrieved by any order of the Commission in this proceeding.

(C) Rio Grande's request to consolidate Docket No. ER82-152-000 with Docket No. ER81-426-000 is hereby denied.

(D) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6062 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[2] The proposed effective date was July 1, 1981.

[3] By letter order issued on December 31, 1981, TNP was granted intervenor status. Rio Grande filed a petition to intervene out of time on January 8, 1982, stating that it had a vital interest in the instant docket.

[Project No. 5710-001]

Empire State Hydro Corp.; Application for Preliminary Permit

March 4, 1982.

Take notice that Empire State Hydro Corporation (Applicant) filed on January 18, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 5710 to be known as the Woodstock Dam Project located on Catskill Creek near the Town of Cairo in Greene County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Michael Tucker, 11 North Pearl Street—Suite 502, Albany, New York 12207.

Project Description—The proposed project would utilize existing facilities consisting of: (1) A 240-foot long and 32-foot high concrete Ambursen-type dam having a 150-foot long spillway section; (2) a sluiceway, a trash rack, a headgate, and an intake channel located at the dam's right (south) side; (3) two short 60-inch diameter penstocks; (4) a reservoir having a surface area of 15 acres and a storage capacity of 200 acre-feet at spillway crest elevation 320 feet MSL; and (5) appurtenant facilities.

Applicant proposes to redevelop the existing facilities and would: (1) Repair the dam and appurtenances; (2) construct two 400-foot long 60-inch diameter penstocks or one 400-foot long 84-inch diameter penstock; (3) construct a powerhouse containing two generating units having a total rated capacity of 1,500 kW at a head of 60 feet and a flow of 400 cfs or a capacity of 1,200 kW at a head of 40 feet and a flow of 400 cfs; (4) install flashboards; and (5) create a reservoir having a surface area of 22 acres and a storage capacity of 370 acre-feet at normal water surface elevation 328 feet MSL. Applicant estimates that the average annual energy output would be between 3.2 GWh and 4.8 GWh. Project energy would be sold to Central Hudson Gas and Electric Corporation.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18-months, during which time it would perform a technical feasibility study, investigate environmental, recreational, and historic aspects, consult with Federal, State, and local agencies, and would prepare an application for an FERC license. Applicant estimates the cost of the work under the permit would be $75,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 14, 1982, the competing application itself (see: 18 CFR 4.30 et. seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 13, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice

and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before May 13, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6063 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-586-000]

Florida Power & Light Co.; Order Granting Motion for Imposition of Revised Interim Rates Pending Commission Action on Settlement Proposal

Issued: March 1, 1982.

On February 5, 1982, Florida Power & Light Company (FP&L) filed a motion seeking Commission authorization to impose revised interim rates in lieu of the rates originally filed in this docket and in lieu of the original interim rates submitted by FP&L on January 18, 1982, and approved by the Commission on February 5, 1982. FP&L seeks permission to collect the reduced rates, subject to refund, as of February 3, 1982. The motion states that the remaining parties do not oppose the motion. For the reasons stated below, we shall grant the motion.

FP&L tendered its originally proposed rates for filing on July 1, 1981. These rates applied to firm power service to six municipal and eight cooperative customers and to transmission service to eleven municipal customers and two public utilities.[1] By order issued September 2, 1981, the Commission, *inter alia*, accepted the proposed rates for filing, suspended their effectiveness until February 3, 1982, and ordered a hearing as to their justness and reasonableness. Subsequently, the parties engaged in settlement negotiations which has resulted in their reaching an agreement in principle; the settlement agreement has not yet been executed by the parties and submitted to the Commission for its approval, however.

The original settlement reduced the amount of the proposed increase of approximately $39.2 million by about $12.8 million. Since the motion initially requesting the imposition of interim rates was filed on January 18, 1982, FP&L has reach a further settlement with its partial requirements customers concerning rate design. This agreement, however, does not alter the revenue level reflected in the original settlement reached between FP&L and its wholesale customers. FP&L's motion is designed to make the lower settlement rates immediately available. In addition, the motion states that the revised interim rates would remain in effect subject to refund pending Commission disposition on the settlement. Under the circumstances, we believe that the public interest will be served by granting the motion.

Pursuant to §§ 35.1(e), 35.11 and 35.17(b) of the Commission's regulations, we find that good cause exists to permit the collection of the revised interim rates, subject to refund, as of February 3, 1982, until such time as the Commission acts upon a settlement agreement filed by FP&L. This order shall be without prejudice to our subsequent determination on the merits of the proposed settlement.

The Commission orders:

(A) The motion filed by FP&L on February 5, 1982, requesting permission to collect revised interim rates in lieu of the rates originally filed in the docket and in lieu of the interim rates filed January 18, 1982 and approved by the Commission on February 5, 1982 is hereby granted.

(B) Good cause having been shown, FP&L is hereby authorized, pursuant to §§ 35.1(e), 35.11 and 35.17(b) of the Commission's regulations, to collect, subject to refund, the proposed revised rates reflect in its motions from February 3, 1982, until final Commission action on the settlement.

(C) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6064 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[1] FP&L's filing also included amendments to its transmission service agreements with two municipal customers.

[Project No. 4636-001]

Hydro Development Group Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

March 4, 1982.

Take notice that on January 4, 1982, Hydro Development Group Inc. (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 4636) would be located on the Black River in the Village of West Carthage, Town of Champion, Jefferson County, New York. Correspondence with the Applicant should be directed to: Mark E. Quallen, Box 58, Dexter, New York 13634.

Project Description—The existing facilities consist of: (1) A diversion structure having an 850-foot long and 3-foot high concrete section and a 550-foot long and 12-foot high timber section; (2) a small reservoir along the left (west) bank having negligible storage capacity at normal water surface elevation 709.0 m.s.l.; (3) a gated intake structure having trashracks; (4) a 130-foot long 33-foot wide flume; (5) a powerhouse; (6) a 1,200-foot long tailrace; and (7) appurtenant facilities.

Applicant proposes to redevelop the existing facilities and would: (1) Repair the diversion structure; (2) install three refurbished generating units having a total rated capacity of 3,330-kW at a head of 28 feet and a flow of 1,610 cfs; (3) deepen the tailrace; and (4) construct a 2.4/23-kV substation. Applicant estimates that the average annual energy output would be between 14.1 and 16.1 GWh. Project energy would be sold to Niagara Mohawk Power Corporation.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the New York State Department of Environmental Conservation are requested, for the purposes set forth in section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act.

General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within the time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications.—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 19, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 19, 1982.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6065 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5749-000]

Hydroelectric Development, Inc.; Application for Preliminary Permit

March 5, 1982.

Take notice that Hydroelectric Development, Inc. (Applicant) filed on December 14, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 5749 to be known as the Crawford Dam Project located on Iron Creek in Delta County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Allen Mauzey, CH2M Hill, P.O. Box 22508, Denver, Colorado 80222.

Project Description—The proposed project would utilize the existing Bureau of Reclamation's Crawford Dam and would consist of: (1) A new powerhouse containing one generating unit with a total rated capacity of 1.2 MW; (2) a new 1-mile, 115-kV transmission line; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 3,000,000 kWh. The most likely market for the derived energy would be a local or public utility.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $35,000 to $40,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 14, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 14, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 14, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS",

"NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6068 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5966-000]

Jackman Lakes Restoration Corp.; Application for Preliminary Permit

March 5, 1982.

Take notice that Jackman Lakes Restoration Corporation (Applicant) filed on February 10, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5966 to be known as the Moose River Project located on the Moose River and Long Pond, Attean Pond and Wood Pond near the towns of Rockwood and Jackman, Somerset County, Maine. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Anthony W. Buxton, Preti, Flaherty and Beliveau, one Memorial Circle, Augusta, Maine 04330.

Project Description—The proposed project would consist of: (1) A new 1,000-foot long, 50-foot high dam (material to be determined) and spillway and a 15-foot high, 1,400-foot long earth-fill dike beginning 750 feet north of the dam, both located 1 mile downstream of the washed out Long Pond Dam; (2) a 11.9 square mile reservoir formed by restoring Long Pond, Attean Pond and Wood Pond to water surface elevation 1,157 feet M.S.L.; (3) a powerhouse containing turbine-generators with a total rated capacity of 3.9 MW; (4) a 1,600-foot long tailrace channel; (5) a transmission line and (6) appurtenant facilities. Energy produced at the project would be sold to Central Maine Power Company. The project would produce up to 23,800,000 kWh annually. Land in the project area is owned by Scott Paper Company. Applicant has requested a preliminary permit term of 36 months.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plan, and a study of environmental impacts. Geotechnical investigations including borings and test pits would be accomplished in the vicinity of the proposed dam axis. Any disturbed areas would be restored. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. The cost of the studies under the preliminary permit has been estimated by the Applicant to be $160,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 14, 1982, the competing application itself or a notice of intent to file such an application (see: 18 CFR 4.33 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intant to file an application for license or exemption must be submitted to the Commission on or before May 14, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than July 12, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 14, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6067 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4639-001]

Long Lake Energy Corp.; Application for License (5 MW or Less)

March 5, 1982.

Take notice that Long Lake Energy Corporation (Applicant) filed on December 31, 1981, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for construction and operation of a water power project to be known as the Christine Falls Project No. 4639. The project would be located on the Sacandaga River in Hamilton County, New York. Correspondence with the Applicant should be directed to: Mr. Paul J. Elston and Mr. Christopher J. Elliman, 330 Madison Avenue, 7th Floor, New York, New York 10017.

Project Description—The proposed run-of-river project would consist of: (1) The existing concrete gravity dam 12 feet high and 165 feet long; (2) the existing reservoir with surface area of 0.3-acre which would be increased to 1.1 acres, by the installation of 3-foot flashboards raising the normal water surface elevation to 1699.6 feet msl; (3) a new intake structure; (4) a new steel penstock 650 feet long and 66 inches in diameter; (5) a renovation of the existing powerhouse which will contain 2 new generating units with a total installed capacity of 725 kW; (6) a new 4.8-kV transmission line 9,500 feet long; and (7) appurtenant facilities. The Applicant estimates the annual energy production to be 2,860,000 kW-Hrs. International Paper Company owns the existing project facilities except for the South abutment of the dam which is owned by the New York State Department of Transportation. The Applicant estimates the cost of this project would be $1,500,000.

Purpose of Project—Project power would be sold to the Niagara Mohawk Power Corporation.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before May 13, 1982, either the competing application itself (See 18 CFR 4.33 (a) and (d)) or a notice of intent (See 18 CFR 4.33 (b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 13, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6069 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-200-000]

Maine Public Service Co.; Order Accepting for Filing and Suspending Revised Rates, Denying Waiver, Granting Summary Disposition in Part, Granting Interventions, and Establishing Price Squeeze, Cwip, and Hearing Procedures

Issued: March 1, 1982.

On December 31, 1981, Maine Public Service Company (MPSC) tendered for filing revised rates for service to its three wholesale customers.[1] MPSC has applied for permission to include 58% of its construction work in progress (CWIP) in rate base on the grounds that it is experiencing severe financial difficulty within the meaning of § 2.16 of the Commission's regulations. The CWIP-based rates would increase test period (calendar 1982) revenues by approximately $1,146,000 (30%). MPSC requests waiver of the notice requirements and of section 2.16(b) of the Commission's regulations, to permit the CWIP-based rates to become effective on February 1, 1982.

Alternatively, MPSC requests an effective date of February 1, 1982, for an interim increase of approximately $335,000 (8.3%), which represents the non-CWIP-related portion of the proposed increase, and an effective date not later than July 1, 1982, for the CWIP-related balance of the increase.

Notice of the filing was issued on January 8, 1982, with responses due on or before January 29, 1982. A timely notice of intervention was filed by the Marine Public Utilities Commission.

The Houlton Water Company and the Eastern Maine Electric Cooperative, Inc. (Customers) filed a timely protest, petition to intervene, motion for partial summary judgment, and request for five month suspension and a hearing. The Customers contend: (1) That MPSC's request for inclusion in rate base of 58% of its CWIP is unauthorized and is oppressive to its wholesale customers, (2) that MPSC's Period II estimates are suspect, (3) that MPSC has overstated its capital structure, (4) that MPSC would deprive customers of the incremental interest deductions which necessarily accrue if CWIP is permitted in rate base, (5) that MPSC's treatment of investment in subsidiary and affiliated companies may not comport with Commission precedent, (6) that MPSC's cash working capital is overstated, (7) that MPSC has included in rate base property as to which it provides no plan for future use, (8) that MPSC has included in its rates a sum of money to be accrued for the ultimate decommissioning of the Maine Yankee Nuclear Power Plant, (9) that MPSC has failed to amortize regulatory expense, (10) that MPSC improperly seeks to charge customers with EPRI costs, and (11) that the rates of return alternatively requested by MPSC are excessive. The Customers also object to the request for waiver of notice, seek summary rejection of the CWIP-based rates, and allege price squeeze.

On February 5, 1982, MPSC filed a response to the Customers' pleading. MPSC opposes the request for denial of waiver and the request for summary disposition as to the company's inclusion of CWIP in rate base. In addition MPSC reiterates its request for an effective date of February 1, 1982, at least for the interim non-CWIP increase and an effective date no later than July 1, 1982, for the full increase requested.

On February 9, 1982, the Van Buren Light and Water District (Van Buren) filed a motion to allow a protest and petition to intervene to be filed out of time together with its protest and

[1] *See* Attachment A for rate schedule designations and affected customers.

petition. Van Buren requests intervention and joins the Customers in their protest, motion for partial summary judgment, and request for a five month suspension.

On February 19, 1982, MPSC filed a supplement to its response to the Customers' pleading. MPSC states, in support of its request for waiver of the notice requirements, that the Customers and Van Buren have already obtained the approval necessary to promptly pass through to their retail customers increased purchased power costs from MPSC.

Discussion

Initially, we find that participation in this proceeding by the petitioners is in the public interest and that good cause exists to permit Van Buren to intervene out of time. Accordingly, we shall grant the petitions to intervene. The timely notice filed by the Maine Public Utilities Commission is sufficient to initiate its participation as an intervenor.

Under the Commission's present standards, a utility requesting the inclusion of CWIP in rate base [2] must show clearly and convincingly that it is experiencing severe financial difficulty which cannot be alleviated by traditional forms of rate relief without materially increasing the cost of electricity.[3] However, in an effort to reexamine these standards, the Commission has initiated a rulemaking proceeding on the CWIP issue.[4] In order to maintain the *status quo ante* pending further Commission action and to avoid any prejudice to rate case participants, the Commission has since set for hearing several CWIP applications but has phased that issue to follow the rulemaking proceeding.[5] We conclude that this approach is appropriate in the instant case as well. Accordingly, the Commission will phase consideration of MPSC's CWIP application. In so doing, we shall deny the intervenors' request for summary rejection of the company's CWIP filing as well as MPSC's request for waiver of § 2.16(b) of the Commission's regulations.

With regard to the non-CWIP portion of the proposed increase, our review indicates that EPRI contributions have been allocated to the wholesale customers. We have consistently viewed these expenses as being inappropriate for recovery through a wholesale cost of service.[6] Accordingly, we shall summarily reject MPSC's inclusion of EPRI contributions in its cost of service. However, inasmuch as the revenue impact of this summary disposition is relatively small in relation to the proposed rate increase, we shall not require MPSC to refile its cost of service and rates at this time. Nonetheless, summary disposition of the EPRI issue shall be reflected in any rates finally approved by the Commission.

We further note that MPSC's proposed rates reflect, in large part, the cost of power purchased from Maine Yankee Atomic Power Company. Since the rate for that power is being collected subject to refund in Docket No. ER82-15-000, the outcome of the proceedings in that docket shall also be reflected in any rates finally approved by the Commission in the instant docket.

Having considered the matters addressed by the intervenors, our analysis indicates that MPSC's non-CWIP rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Therefore, we shall accept these rates for filing and suspend them as directed below.

In a number of suspension orders,[7] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it might run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. Such circumstances have been presented here. While the intervenors have raised a variety of issues warranting further inquiry at hearing, our preliminary analysis suggests that the proposed non-CWIP rates may not result in substantially excess revenues. Thus, a one day suspension and a refund obligation should adequately protect the affected customers pending hearing. Furthermore, we note that the affected customers have already obtained the approval necessary to promptly pass through to their retail customers, purchased power costs from MPSC. Accordingly, we find that good cause has been shown to waive the notice requirements as to the non-CWIP rates, and to suspend those rates for one day from January 31, 1982, permitting them to take effect, subject to refund, on February 1, 1982.

In light of the price squeeze allegations raised by the intervenors, we shall institute price squeeze procedures and phase those proceedings in accordance with Commission policy established in *Arkansas Power and Light Company*, Docket No. ER79-339 (August 6, 1979).

The Commission orders:

(A) The motion of the Customers to reject MPSC's application for authorization to include CWIP in rate base is hereby denied.

(B) MPSC's inclusion of EPRI contributions in the wholesale cost of service is summarily rejected. This determination shall be reflected in any final cost of service and rates at the conclusion of this proceeding.

(C) The rates proposed in the instant docket shall be subject to the outcome of the proceeding in Docket No. ER82-15-000.

(D) MPSC's request for waiver of the notice requirements is hereby granted.

(E) MPSC's request for waiver of the prospective provisions of § 2.16(b) of the Commission's regulations is hereby denied.

(F) MPSC's non-CWIP rates are hereby accepted for filing and suspended for one day from January 31, 1982 to become effective, subject to refund, on February 1, 1982.

(G) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of MPSC's rates.

(H) The petitioners are hereby permitted to intervene in this proceeding subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* that participation by such intervenors shall be limited to the matters set forth in the petitions to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders entered by the Commission in this proceeding.

(I) We hereby order initiation of price squeeze procedures and further order that the proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may order a change in this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(J) MPSC's application for authorization to include CWIP in rate base is hereby phased so that the application will be heard subsequent to Commission action in Docket No. RM81-38.

(K) The Commission staff shall serve top sheets in this proceeding on or before March 16, 1982.

(L) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(M) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,
Secretary.

Attachment A—Maine Public Service Company, Rate Schedule Designations, Docket No. ER82-200-000 (Non-CWIP Rates)

Filed: December 31, 1981.

Designation and Other Party

Supplement No. 5 to Rate Schedule FPC No. 10 (Supersedes Supplement No. 3), Houlton Water Company
Supplement No. 5 to Rate Schedule FPC No. 11 (Supersedes Supplement No. 3), Van Buren Light and Power District
Supplement No. 5 to Rate Schedule FPC No. 12 (Supersedes Supplement No. 3), Eastern Maine Electric Cooperative, Inc.

[FR Doc. 82-6060 Filed 3-4-82; 8:45 am]
BILLING CODE 6717-01-M

[2] Other than pollution control and fuel conversion CWIP.

[3] 18 CFR 2.16(b)(3).

[4] *Construction Work in Progress for Public Utilities*, Docket No. RM81-38, *Notice of Proposed Rulemaking* (July 27, 1981).

[5] *See, e.g., El Paso Electric Company*, Docket No. ER81-426-000 (June 30, 1981); *Central Power and Light Company*, Docket No. ER81-567-000 (July 27, 1981).

[6] *Carolina Power and Light Company*, Docket No. ER76-496 (Phase II), initial decision (September 7, 1977), *aff'd in relevant part*, Opinion No. 19 (August 2, 1978); *Connecticut Light and Power Company*, Docket No. ER78-517, order on rehearing (November 23, 1978); *Public Service Company of New Mexico*, Docket No. ER79-478, initial decision (August 18, 1981), 19 FERC ¶ 63,062; *Illinois Power Company*, Docket No. ER77-421 (April 10, 1981).

[7] *E.g., Boston Edison Co.*, Docket No. ER80-508 (August 29, 1980) (five month suspension); *Alabama Power Co.*, Docket Nos. ER80-508, *et al.* (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating Co.*, Docket No. ER80-486 (August 22, 1980) (one day suspension).

[Project No. 5938-000]

The Metropolitan Water District of Southern California; Application for Exemption of Small Conduit Hydroelectric Facility

March 5, 1982.

Take notice that on February 1, 1982, The Metropolitan Water District of Southern California (Applicant) filed an application under section 30 of the Federal Power Act (Act) (16 U.S.C. 823(a)), for exemption of a proposed hydroelectric project from requirements of Part I of the Act. The proposed Temescal Small Hydroelectric Project (FERC Project No. 5938) would be located on the Applicant's Lower Feeder Pipeline, in Riverside County, near El Cerrito, California. Correspondence with the Applicant should be directed to: Mr. Evan L. Griffin, General Manager, The Metropolitan Water District of Southern California, P.O. Box 54153, Terminal Annex, Los Angeles, California 90054.

Purpose of Project—The power generated by the project would be sold to a public or private utility.

Project Description—The proposed project would consist of a powerhouse with an installed capacity of 2.6 MW. The powerhouse would operate under a head of 135 feet and would generate approximately 18 million kWhs annually.

Agency Comments—The U.S. Fish and Wildlife Service and the California Department of Fish and Game are requested, pursuant to section 30 of the Federal Power Act, to submit within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. If no comments are filed within this time period, an agency will be presumed to have determined that no terms or conditions to the exemption are necessary. Other Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide any comments they may have in accordance with their duties and responsibilities. Comments are due within 45 days from the date of issuance of this notice. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. One copy of an agency's comments must also be sent to the Applicant's representatives.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.18 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petitions to intervene must be received on or before April 23, 1982. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-6070 Filed 3-4-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 619-005]

Pacific Gas and Electric Co.; Application for Amendment of License

March 4, 1982.

Take notice that on December 29, 1981, Pacific Gas and Electric Company (Applicant) filed (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for an amendment to its license for the Bucks Creek Project No. 619-005. Applicant proposes to construct the Maidu and Grizzly Powerhouses on Bucks and Grizzly Creeks in the Plumas National Forest in Plumas County, California. Correspondence with the Applicant should be directed to: Mr. W. M. Gallavan, Vice President, Rates and Valuation, Pacific Gas and Electric Company, 77 Beale Street, Room 1067A, San Francisco, California 94106.

Project Description—The proposed Maidu Powerhouse Development would consist of: (1) A penstock consisting of the first 19 feet of the two existing 30-inch diameter outlet pipes at the Bucks Lake Dam and 313 feet of new 5-foot diameter steel pipe; (2) a powerhouse at the toe of the dam containing a single 1-

MV generating unit; (3) a switchyard near the powerhouse; and (4) a short segment of 12-kV transmission line located in an underground conduit.

The proposed Grizzly Powerhouse Development would consist of: (1) A tunnel intake structure in the existing Lower Bucks Lake; (2) a 12,260-foot long, 10.5-foot diameter tunnel; (3) a surge tank; (4) a 5,080-foot long, 7-foot diameter steel penstock; (5) a powerhouse containing a single 18.5 MW generating unit discharging into Grizzly Forebay; (6) a switchyard near the powerhouse; and (7) a 3.4-mile long, 115-kV transmission line.

The two powerhouses would have a combined average annual generation of 47,900 MWh. The estimated 1986 cost of the Maidu Powerhouse is $3,068,000 and the estimated 1987 cost of the Grizzly Powerhouse is $56,825,000.

Project power would be sold to Applicant's customers.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 19, 1982, either the competing application itself (See 18 CFR 4.33 (a) and (d) (1980)) or a notice of intent (See 18 CFR 4.33 (b) and (c) (1980)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant). If an agency does not file comments with the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protests, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6072 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2105-009]

Pacific Gas and Electric Co.; Application for Amendment of License

March 5, 1982

Take notice that Pacific Gas and Electric Company (Applicant) filed on December 14, 1981, an application (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) to amend its license for the North Fork Feather River Project No. 2105 to permit the construction and operation of the Oak Flat Powerhouse on the North Fork Feather River in the Plumas National Forest in Plumas County, California. Correspondence with the Applicant should be directed to: Mr. W. M. Gallavan, Vice President, Rates and Valuation, Pacific Gas and Electric Company, 77 Beal Street, Rm. 1087A, San Francisco, California 94106.

Project Description—The proposed development would consist of: (1) Approximately 700 feet of 54-inch diameter steel pipe installed inside the existing outlet tunnel beneath Applicant's Belden Forebay Dam; (2) the Oak Flat Powerhouse containing a single 1.3-MW generating unit located at the toe of the dam; (3) a switchyard approximately 100 feet north of the powerhouse; and (4) approximately 600 feet of 21-kV transmission line.

The Oak Flat Powerhouse would make use of fishwater releases to generate an average of 6,600 MWh annually. Construction costs are estimated at $4,443,000 in June 1984 dollars.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before April 26, 1982, either the competing application itself (See 18 CFR 4.33 (a) and (d)) or a notice of intent (See 18 CFR 4.33 (b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6071 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 1962-002]

Pacific Gas and Electric Co.; Application for Amendment of License

March 4, 1982.

Take notice that on December 29, 1981, Pacific Gas and Electric Company (Licensee) filed an application for amendment of its license for the existing Rock Creek-Cresta Project No. 1962, located on the North Fork Feather River in the Counties of Plumas, Butte, Yuba and Sutter, California. Correspondence concerning the application should be sent to: Mr. W. M. Gallavan, Vice President, Rates and Valuation, 77 Beale Street, Room 1087 A, San Francisco, California 94106.

Licensing proposes to divert water from Chambers and Jackass Creeks by diversion dams through vertical shafts into its existing Rock Creek Tunnel of Project No. 1962. The proposed facilities at Chambers Creek comprise: (1) A 10-foot high, 36-foot long concrete diversion structure; (2) a 2- to 3-foot diameter, 300-foot long steel pipe, extending from the diversion structure to; (3) a 3-foot diameter, 85-foot long drop shaft into Rock Creek Tunnel. The proposed facilities at Jackass Creek consist of: (1) A 6-foot high 19-foot long concrete diversion structure; (2) a 2-foot diameter, 140-foot long steel pipe, extending from the diversion structure to; (3) a 3-foot diameter, 105-foot long drop shaft into Rock Creek Tunnel.

The proposed modifications would not result in any increase in the installed capacity for Project No. 1962 (existing installed capacity: 180,800 KW), but would increase the average annual generation of the project by approximately 2.0 million kWh.

Licensee estimates the costs of the proposed modifications at $1.05 million.

Licensee would utilize the increased output of the project to meet the load demands of its service area.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 22, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6073 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2803-001]

Pennsylvania Hydroelectric Development Corp.; Application for License (5 MW or Less)

March 4, 1982.

Take notice that Pennsylvania Hydroelectric Development Corporation (Applicant) filed on December 22, 1981, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for construction and operation of a water power project to be known as Flat Rock Water Power Project No. 2803. This application for license was filed during the term of the Applicant's preliminary permit for Project No. 2803. The project would be located on the Schuylkill River in Philadelphia County, Pennsylvania. Correspondence with the Applicant should be directed to: Mr. Lawrence Gleeson, President, Pennsylvania Hydroelectric Corporation, DeKalb Pike, Box 814, King of Prussia, Pennsylvania 19406.

Project Description—The proposed project would be run-of-the-river and would consist of: (1) An existing dam, 525 feet long and 12 feet high, constructed of concrete with an ogee spillway along the entire crest; (2) a reservoir having minimal pondage; (3) an existing canal, at the left river bank, lined with concrete and masonry; (4) a new intake structure with trashracks, gates and stoplogs located approximately 650 feet downstream of the dam and in the canal wall; (5) two new penstocks leading to (6) a new powerhouse containing two new propeller turbine-generator units having a total rated capacity of 3,500 kW (1,750 kW per unit); (7) an additional low flow release facility located in the canal wall near the dam and containing three small bulb turbine-generator units having a total rated capacity of 375 kW; (8) tailraces; (9) a new 13.2-kV transmission line, approximately 3,000 feet long, connecting to existing transmission lines; and (10) appurtenant facilities. The total rated capacity of the entire project would be 3,800 kW. The Applicant estimates that the average annual energy output would be 18,000,000 kWh. Project energy would be sold to the Philadelphia Electric Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before May 12, 1982, either the competing application itself (see 18 CFR 4.33(a) and (d)) or a notice of intent (See 18 CFR 4.33(b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et. seq. (1981).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 12, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission,

Room 206 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6074 Filed 3-4-82; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Determination of Refund Applications

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of determination of refund applications filed in connection with special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy has reached a determination on certain of the applications for refund from a $2,850,000 fund established by Vickers Energy Corporation, in settlement of enforcement proceedings brought by the DOE Office of Enforcement.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, Department of Energy, 12th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-8377.

SUPPLEMENTARY INFORMATION: In accordance with procedures announced in the final Decision and Order specifying the implementation of special refund procedures in this matter, *Office of Enforcement*, 8 DOE ¶ 82,597, 46 FR 38132 (July 24, 1981), notice is hereby given of the issuance of the Supplemental Order set forth below. The Supplemental Order relates to a consent order between Vickers Energy Corporation and the Office of Enforcement of the DOE's Economic Regulatory Administration. *See* 44 FR 29703 (May 22, 1979); 44 FR 48751 (August 20, 1979).

The consent order is intended to settle all disputes between the DOE and Vickers with regard to prices charged by the firm in sales of covered products other than crude oil during the period August 19, 1973 through March 1979. Under the terms of the consent order, Vickers has deposited $2,850,000 into an escrow account for distribution to firms and individuals who purchased Vickers motor gasoline from other than company-operated outlets.

On July 17, 1981, the Office of Hearings and Appeals issued a Decision and Order which established a two-stage refund procedure for the Vickers settlement amount and solicited comments from interested parties concerning the proper disposition of the Vickers consent order funds. 46 FR 38132 (July 24, 1981). In the Decision and Order, we indicated that Applications for Refund from the Vickers escrow funds would be accepted from all persons who purchased Vickers motor gasoline from other than company-operated outlets during the period August 19, 1973 through March 1979. The final Decision further stated that in order to establish entitlement to a portion of the consent order funds, a purchaser that brought an average monthly volume of 50,000 gallons or less of Vickers motor gasoline during the period for which a refund is claimed must submit proof of purchase of the volume claimed.

The Supplemental Order which appears below reaches determinations concerning certain of the Applications for Refund from persons who claim a refund based on an average purchase volume of 50,000 gallons of Vickers motor gasoline per month or less. Pursuant to 10 CFR 205.284, we have determined that the applications identified in Appendices A, B, C, and D to the Supplemental Order should be granted, and that the applications identified in Appendix E should be denied. Determinations concerning the remaining Applications for Refund in the Vickers proceeding will be made at a later date.

Dated: February 25, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Supplemental Order

February 25, 1982.

Name of Petitioner: Uban Oil Company *et al.*
Date of Filing: July 30, 1981 *et al.*
Case Number: HEX-0009.

On July 17, 1981, the Office of Hearings and Appeals of the Department of Energy issued a Decision and Order instituting special refund procedures for distribution of a fund obtained by the DOE through a consent order entered into by the agency and Vickers Energy Corporation. *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*). Under the terms of the consent order, Vickers placed $2,850,000 into an escrow account in order to settle DOE allegations that the firm had overcharged purchasers in sales of motor gasoline from other than company-operated outlets. This determination resolves questions that have arisen in connection with many of the claims that have been filed.

I. Background

Pursuant to the DOE regulations governing special refund procedures, 10 CFR Part 205, Subpart V, the July 17 Decision established procedures for the distribution of the consent order fund to qualified claimants who purchased Vickers motor gasoline during the period covered by the consent order, August 19, 1973 through March 1979. *Id.* at 85,393-97. Clear requirements for filing applications were established, consistent with the goals of Subpart V and the provisions of the consent order. In establishing those requirements, we were particularly concerned that the cost to the applicant in preparing and submitting the application and the cost to the agency in processing that application not be out of proportion to the benefit obtained by applicants who receive refunds. Thus, the requirements set forth in the July 17 Decision represent a balancing of the need for detailed information supporting refund applications, so as to distribute money only to qualified applicants, and the interest in a straightforward application process that would result in the payment of refunds in a timely and efficient manner.

In the July 17 Decision, we stated that each qualified applicant must show that it purchased Vickers motor gasoline from other than a company-operated retail outlet, and further that the applicant did not pass through Vickers' price increases to the applicant's own customers. *Id.* at 85,396. In order to establish that it did not pass through alleged overcharges, an applicant that had been a reseller subject to the DOE regulations was generally required to submit its actual quarterly "banks" of unrecouped increased product costs for the period covered by the consent order. *See* 10 CFR 212.93(e) (treatment of unrecouped increased product costs by resellers and retailers). However, we noted that smaller retailers and resellers probably lacked sufficient recordkeeping and accounting facilities to comply readily with that requirement. Accordingly, we determined that applicants claiming purchases from Vickers no greater than an average of 50,000 gallons of motor gasoline per month during the period for which a refund is claimed would be excepted from the requirement of having to submit cost bank information. *Vickers* at 85,396. Those smaller applicants were required to establish only the amount of their purchases of Vickers motor gasoline during the consent order period.

This Decision addresses these smaller applications for refund—*i.e.* those based upon an average purchase volume of 50,000 gallons per month or less. Since they raise similar issues, those applications have been consolidated for treatment in this Decision. Five groups of applications will be discussed:

(1) Applications filed by direct purchasers of Vickers motor gasoline who did not dispute the purchase volume figures that Vickers supplied to the DOE. (These Applications are listed in Appendix A.)

(2) The applications listed in Appendix B were filed by firms that either were not direct purchasers from Vickers during the consent order period or were direct purchasers who disagreed with Vickers' purchase volume figures. (At the time of the issuance of the July 17 Decision, the Office of Hearings and Appeals notified all known direct purchasers of motor gasoline from Vickers of the amount of gasoline which Vickers' records indicated they purchased. These firms were instructed to provide proof of purchase if they disagreed with Vickers' figures. *See id.* at 85,400-01.)

(3) The applications set forth in Appendix C were filed by a group of Vickers purchasers whose identity was not reported by Vickers to the DOE until late November 1981, well after the October 24 filing deadline which was established in the July 17 Decision. *See id.* at 85,400. Pursuant to 10 CFR 205.285, the Office of Hearings and Appeals extended the filing period for those applicants and accepted applications by those firms provided they were postmarked not later than December 12, 1981. *(1)*

(4) The applications listed in Appendix D were filed by firms that actually purchased a volume exceeding 50,000 gallons per month, but elected to claim a refund based on a purchase volume of 50,000 gallons per month in the period for which a refund is claimed. Those firms were therefore not required to submit information concerning their unrecouped increased product costs for that period.

(5) The applications set forth in Appendix E request refunds of less than $15. As we stated in the July 17 Decision, these applications raise concerns about the administrative efficiency of paying very small claims.

In determinations to be issued later in the Vickers refund proceeding, we will address the remaining applications for refund, including those filed by larger firms, *i.e.* those claiming a refund amount based on purchases exceeding an average of 50,000 gallons per month.

II. Discussion of Comments

Prior to addressing the merits of the applications for refund listed in the appendices, we will address two threshold issues concerning the propriety of the proof requirements which we adopted in the July 17 Decision. Several parties, including the State of Wisconsin, the Controller of the State of California, and the National Consumer Law Center, a group representing low-income energy consumers, *(2)* challenge the determination reached in the July 17 Decision not to require proof that an applicant did not pass through price increases if it purchased an average of 50,000 gallons per month or less of Vickers motor gasoline during the period for which it claims a refund. Those parties claim that by not requiring such a showing for this class of firms, we authorize refunds to some purchasers of Vickers gasoline who were able to pass through price increases to their purchasers, and who were, therefore, to the extent of the passthrough, not injured by the alleged overcharges. *See* Comment filed by the Controller of the State of California at 2 (August 25, 1981); Comment filed by the National Consumer Law Center *et al.* at 3-4 (Sept. 25, 1981); Application for Refund filed by the State of Wisconsin at 2 (App. No. RF1-350, filed October 28, 1981).

While we have carefully considered these comments, on balance, we are not convinced by the arguments. The class of small, independent retailers and resellers of Vickers motor gasoline which is the intended beneficiary of this determination poses special problems and warrants special consideration in these refund proceedings. As we stated above, to require a small retailer or reseller to show it was unable to pass through Vickers' price increases during the consent order period would place an inordinate burden upon the limited accounting and recordkeeping facilities of those smaller firms. In practice, the requirement would effectively preclude many of these firms from obtaining a refund, since some would be unable to produce the necessary supporting evidence and others would incur disproportionately large expenses in doing so. For example, 105 (or 63%) of the 167 applications contained in Appendix A request refunds for purchase volumes less than 1,000,000 gallons in the aggregate for the entire period covered by the consent order. This represents an average purchase by each of those applicants of less than 15,000 gallons per month and would entitle the applicant to a refund of less than $2,200. Furthermore, 66 of the 167 applications (or 40%) request refunds for purchase volumes less than 500,000 gallons, which would result in a refund of less than $1,100 over the entire period. Finally, the total amount that will be paid to the small applications found to the meritorious in this Decision is $582,267 or only 16.5 percent of the Vickers fund, including interest, as of February 28, 1982.

Many of the firms listed in Appendix D who elected to limit their claims to purchases of less than 50,000 gallons per month have specifically addressed the difficulty of providing detailed material to demonstrate that they qualify for a refund. Those firms indicate that in order to present evidence concerning their purchase volumes, selling prices, and banked costs for the entire consent order period, they would be forced to hire an accountant to review and organize incomplete or inadequate records. Thus, they would have to choose at the outset whether to secure professional assistance, at a cost possibly exceeding the amount of the refund, or to forego filing an application even though the firm may be eligible for a refund. This choice is in our view unfair given the relatively small size of the firms and would be contrary to the goals of Subpart V and of the Vickers consent order.

There is another factor which has affected our judgment with respect to these smaller firms. We are convinced that, in general, firms selling Vickers motor gasoline during the period were unable to pass through the full amounts of the Vickers' price increases. A comparison between Vickers' wholesale prices and data concerning wholesale prices in Vickers' marketing area during the consent order period indicates that Vickers' wholesale prices were generally higher than the average wholesale price in its marketing area during that period. *(3)* The above-average price position of Vickers motor gasoline in its market area is especially significant in view of the type of firms that purchased Vickers products for resale. The Vickers distribution network consists entirely of branded and unbranded independent marketers. It is well known that this class of firms historically based its marketing strategy on its ability to offer gasoline to the motoring public at lower prices than those charged by competing major branded retailers. The majors have generally been able to sell their branded products at higher price levels because their outlets, whether company-operated or independent, have the benefits of national advertizing and greater brand recognition, nationwide credit card programs, and their own national brands of tires, batteries and accessories. *See, e.g., The Oil Shale Corp.*, 2 FED ¶ 80,673 at 81,070-71 (1975); *Jones & Murtha Distributing Co., Inc.*, 4 FEA ¶ 83,076 at 83,301-02, 83,305 (1976). Because they lack these extra customer attractions, the independents who marketed Vickers motor gasoline generally had a limited degree of flexibility in setting their prices at the pump. Thus, it is unlikely that firms selling Vickers gasoline would have been able to pass through the Vickers' price increases and remain competitive with firms selling less expensive gasoline. In fact, many of the applicants in this proceeding have confirmed in their applications that they were unable to sell Vickers motor gasoline at their ceiling price during the relevant period due to competitive forces. As a result, the available evidence tends to support the proposition that purchasers of Vickers motor gasoline were injured by the Vickers' price increases during the consent order period. For those reasons, we continue to believe that the provisions set forth in the July 17 Decision for smaller firms are appropriate. They constitute a balancing of the competing interests of efficiency in preparing and processing refund applications with equity in paying refunds to injured parties.

In the July 17 Decision, we also stated that "those purchasers whose average monthly purchase during the period for which a refund is claimed exceeds 50,000 gallons but who cannot establish that they did not pass through the price increases are nevertheless eligible for a refund for purchases not exceeding 50,000 gallons per month." *Vickers* at 85,396. The California, Wisconsin, and low-income energy consumer comments challenge this procedure on the grounds that it provides unwarranted refunds to large purchasers who are likely to have passed through the alleged overcharges. *See* California Comment at 2, National Consumer Law Center Comment at 3-4, Wisconsin Applicantion for Refund at 2. Again, we are not convinced by these comments. Many of the firms listed in Appendix D are relatively small resellers who purchased volumes only slightly greater than 50,000 gallons per month. As noted above, a number of those firms have indicated that the incremental benefit of receiving a refund based on any volume of purchases in excess of 50,000 gallons per month is simply outweighed by the expense and burden of presenting detailed information concerning their unrecouped increased product costs during the entire consent order period, and we believe that all firms in this category have been influenced to some extent by this factor. Moreover, with respect to the applications set forth in Appendix D, only relatively small refunds are involved, *viz.*, less than $110 per month for the consent order period. It should be remembered that the May 11 Consent Order in all likelihood provides to injured purchasers a recovery that is significantly

less than the total amount of their injuries as a result of Vickers' pricing practices. Thus, the amount of injury actually suffered by many of these firms is probably greater than the refund which would be provided from the available funds even if they established a purchase of more than 50,000 gallons per month. The decision by the firms to claim a lesser purchase volume apparently represents a balancing by those firms of the cost of providing detailed data concerning their banked costs against the additional refund they would receive if they provided the additional information. These firms have clearly established that they purchased Vickers gasoline during the relevant period, and thus that they were a part of the chain of distribution of Vickers motor gasoline through which the alleged overcharges were passed. Accordingly, they have established that they meet the requirements set forth in the July 17 Decision. In view of these considerations, we cannot conclude that the approval of these claims will result in an unwarranted recovery.

III. Disposition of Applications

Turning to the merits of each of the groups of applications listed in the appendices, we have determined that the applications set forth in Appendices A, B, C, and D should be granted in the amounts specified therein. In analyzing these applications, we have reviewed and verified the volume figures submitted; obtained additional information, where appropriate, from the applicant or from Total Petroleum, Inc., Vickers' successor firm; and have required each applicant to swear to the accuracy of the information set forth in its application. With respect to those applications in Appendices B and C that have contested Vickers' purchase volume figures, when a purchase volume has been used which is different from that claimed by the applicant, our determination was based on our independent review of the applicant's proof of purchases. Each of the applications set forth in Appendices A, B, C, and D has complied with the requirements of 10 CFR 205.283 and those set forth in the July 17 Decision. Pursuant to 10 CFR 205.284(d), those applications should therefore be granted. Although we have carefully scrutinized each applicant's claims, and supporting data, the determinations reached in this Decision are based on the presumed validity of the representations made in the applications. If the factual basis underlying any of our determinations in this Decision is later shown to be inaccurate, this Office has the authority to order appropriate remedial action, including rescission or reduction of the refund ordered.

The refund paid to eligible claimants in this proceeding is based on the applicant's pro rata share of the total escrow fund, including interest. As we stated in the July 17 Decision, "refunds will be made on a volumetric basis according to the amount of Vickers motor gasoline covered by the Consent Order and the amount of the Consent Order fund." *Vickers* at 85,397 (footnote omitted). The amount of each refund was computed by multiplying the amount of gasoline purchased by the individual application by $.002184 per gallon. The $.002184 figure represents a pro rata share of the consent order funds, plus interest, and was computed in the following way: First, an exact refund share per gallon was determined by dividing the amount of money received from Vickers pursuant to the consent order by the total number of gallons of motor gasoline sold by Vickers during the period August 19, 1973 through March 31, 1979 at other than company-operated outlets. This figure is $.001783. To this amount was added $.000401 per gallon, which represents a pro rata distribution of interest accrued to February 28, 1982 on the funds held in escrow.

The applications listed in Appendix E should be denied. We have reviewed those applications in light of the administrative costs involved in processing those claims and refunding amounts to those purchasers, and we have determined that the cost of processing these claims, in which refunds are sought for amounts less than $15, outweighs the modest benefits of restitution in those cases. *See* 10 CFR 205.286(b). Each of those applications requests a refund for purchases of less than 6,000 gallons of motor gasoline in total. Some involve quantities as small as approximately 900 gallons. (4) While claims of this size may be appropriate in other Subpart V proceedings, especially if they can be aggregated in some manner in order to reduce administrative costs, in this case they are simply too small to merit individual consideration.

It Is Therefore Ordered That:

(1) The Applications for Refund specified in Appendices A, B, C and D requesting a portion of the fund provided by Vickers Energy Corporation to the DOE pursuant to the May 11, 1979 Consent Order are hereby granted as set forth in paragraph (2) below.

(2) The Director of the Office of Finance and Accounting, Washington Financial Services Division, of the DOE's Office of the Controller shall take appropriate action to disburse from the deposit fund escrow account established at the Department of the Treasury for this purpose the specified amounts of money to the named firms indicated in Appendices A, B, C and D of this Decision and Order.

(3) The Applications for Refund specified in Appendix E for a portion of the fund provided by Vickers Energy Corporation to the DOE pursuant to the May 11, 1979 Consent Order are hereby denied.

(4) The determinations made in this Decision and Order are based upon the presumed validity of statements and documentary material submitted by the applicants. Any of these determinations may be revoked or modified at any time upon a determination that the factual basis underlying an individual Application for Refund is incorrect.

(5) This is a final order of the Department of Energy of which any aggrieved party may seek judicial review.

Dated: February 25, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Footnotes

(1) These firms were tire, battery and accessories (TBA) accounts which were segregated for accounting purposes. We have also incorporated into this group certain TBA applicants that submitted applications prior to the October 24 filing deadline.

(2) The Comment was filed by the National Consumer Law Center on behalf of itself and its clients, members of the Greater Cleveland Welfare Rights Organization, the Massachusetts Union of Public Housing Tenants, New York State-Wide Senior Action Council, and Pennsylvania Acorn, who are described as "low income energy consumers." Comment filed by National Consumer Law Center at 1 (September 25, 1981).

(3) The fact that Vickers' prices were generally higher than the average prices charged by other supplies in its market area is illustrated by the data summarized in the following table. We have compared a weighted average wholesale price (F.O.B. refinery end terminal) for all sellers of motor gasoline in the State of Oklahoma, the center of Vickers' operation, with Vickers' weighted average wholesale prices for motor gasoline for the month of October in each year during the period 1974–78. (In 1979, March is used because it is the last month of the consent order period.) The weighted average wholesale price presented for sellers in Oklahoma represents the price of a blend using the same percentage of premium, unleaded and regular gasoline actually sold by Vickers in each year. The prices employed in computing the weighted average prices for Oklahoma were taken from *Platt's Oil Price Handbook* and *Platt's Oilgram Price Service*. The Vickers' price data were provided at our request by Total Petroleum, Inc., Vickers' successor. All price information is in cents per gallon. Two additional factors should be noted: (i) Although the Vickers' price data pertains to its entire market area, not just to Oklahoma, its refinery and principal terminal were located in Oklahoma, and thus the comparisons drawn in the table are instructive, see also Best-Way Marketing, 5 DOE ¶ 81,097 (1980) (in October 1979, Vickers was the ninth most expensive supplier of motor gasoline among twelve suppliers in the Oklahoma market area); and (ii) the Platt's data comprise an average based on a range of all prices, while the Vickers' price is an average of two prices, the weighted average wholesale price for unbranded customers and the weighted average wholesale price for branded dealers.

TABLE—COMPARISON OF WEIGHTED AVERAGE OKLAHOMA WHOLESALE PRICES WITH VICKERS' WEIGHTED AVERAGE WHOLESALE PRICES

[Cents per gallon]

Year and month	Platt's prices	Vickers' prices
Oct. 1974	28.61	29.3
Oct. 1975	34.93	35.06
Oct. 1976	35.97	36.52
Oct. 1977	38.63	39.57
Oct. 1978	42.23	43.8
Mar. 1979	47.43	47.98

(4) The largest of these applications claims a refund based on a purchase volume of 5,983 gallons. See Application for the Refund filed by Ron's Deep Rock (App. No. RF1–04, filed Aug. 3, 1981). The smallest claim is based on a purchase volume of approximately 901 gallons. See Application for Refund filed by Earl F. Carlow (App. No. RF1–193, filed Sept. 28, 1981). The refunds associated with these claims would amount to $13.02 and $1.97, respectively.

OFFICE OF HEARINGS AND APPEALS REFUND APPLICANT SYSTEM (RAS)

APPENDIX A.—SMALL APPLICATIONS AGREEING WITH VICKER'S FIGURES

Case No.	Name and address of applicant	Approved volume	Dollar amount approved
RF1-0001	Urban Oil Co., 1849 Washington, Box 332, Waterloo, IA 50704.	70,393	$153.74
RF1-0002	Haney Oil Co., P.O. Box 126, Shawnee, OK 74801.	94,747	206.93
RF1-0006	Service Oil Co., P.O. Box 733, Ardmore, OK 73401.	1,581,820	3,454.69
RF1-0008	Johnson's Elevators, Inc., Box 57, Mentor, KS 67465.	369,025	805.95
RF1-0009	Davidson Grain Co., Box 1644, Hutchinson, KS 67501.	860,396	1,896.70
RF1-0010	Modern Oil Co., Inc., P.O. Box 218, Shawnee, OK 74801.	1,205,389	2,632.57
RF1-0011	J&H Auto Service, Box 306, Walnut, IA 51577.	918,726	2,006.50
RF1-0012	Hunt Service, Unionville, MO 63565.	617,092	1,347.73
RF1-0013	New Ulm Quartzite Quarries Inc., RR. #5, Box #21, New Ulm, MN 56073.	25,179	54.99
RF1-0014	Elmer Wood Co., Inc., Moulton, IA 52572.	565,326	1,234.67
RF1-0015	Peer Oil Co., Inc., 420 North Sixth, Hannibal, MO 63401.	356,195	777.93
RF1-0016	Lee's Service, P.O. Box 254, Benton, KS 67017.	1,507,356	3,292.07
RF1-0017	Sanford Oil Co., P.O. Box 725, Ada, OK 74820.	2,135,107	4,663.20
RF1-0018	Harry W. Cherry, Box 169, Butler, MO 64730.	3,118,445	6,810.69
RF1-0019	Owens Service Station, Ava, MO 65608.	1,720,565	3,757.71
RF1-0022	Ted's Hiway Service, Inc., Box 371, Sutton, NE 68979.	188,001	410.59
RF1-0024	Central Kansas Mill Elevator, P.O. Box 247, Ellsworth, KS 67439.	53,215	116.22
RF1-0025	Jim Dorton Service Station, 806 E. Third St., Burkburnett, TX 76354.	1,025,871	2,240.50
RF1-0026	Hillman's Service, 4935 S. Seneca, Wichita, KS 67217.	834,812	1,823.23
RF1-0027	Matson Service, Inc., 1221 1st Ave. N., Moorhead, MN 56560.	39,502	86.27
RF1-0031	Ball Oil Co., 800 N. Elm, Jefferson, IA 50129.	2,341,155	5,113.06
RF1-0035	Roger K. Parker, Box 95, Dwight, KS 66849.	328,304	717.02
RF1-0036	Sid's Service, 105 West 4th St., Florence, KS 66851.	543,609	1,187.24
RF1-0040	L. L. Boehmen Oil Co., P.O. Box 66, Mitchell, SD 57301.	23,306	50.90
RF1-0041	William C. Levingston, Box 126, Paxmax Rock, KS 67667.	1,172,743	2,561.27

OFFICE OF HEARINGS AND APPEALS REFUND APPLICANT SYSTEM (RAS)—Continued

Case No.	Name and address of applicant	Approved volume	Dollar amount approved
RF1-0043	Bill's Park City Service, 1600 East 61st St. North, Wichita, KS 67219.	1,806,581	3,945.51
RF1-0044	Farley Oil Co., Box 129, Farley, IA 52046.	285,459	623.84
RF1-0045	Randel Oil Co., 1530 First Ave. E., Horton, KS 66439.	1,606,820	3,509.29
RF1-0046	George Oil Co., 635 W. Crawford, Clay Center, KS 67432.	572,113	1,249.49
RF1-0047	Byers Oil Co., Box 256, Osceola, IA 50213.	7,943	17.35
RF1-0048	Frazee Grain Co., RFD 2, Lenexa, KS 67550.	1,675,776	3,659.89
RF1-0049	Darrell R. Kinsey, Rt.4, Box 240A, Reeds Spring, MO 65737.	1,625,458	3,550.00
RF1-0050	Crockett Oil Co., 1011 Empire Av, PO Box 729, Joplin, MO 64802.	55,061	120.25
RF1-0051	Hovey Oil Co., Inc., 413 N. Main St., Charles City, IA 50616.	595,033	1,299.55
RF1-0053	Greens Short Stop, P.O. Box 1, Bourbon, MO 65441.	1,051,020	2,295.43
RF1-0054	Cliff's Service, 4th and Apache, Ramona, OK 74061.	1,852,273	4,045.36
RF1-0055	Downs Oil Co., Downs, KS 67437.	544,243	1,188.63
RF1-0056	Lee B. Shrad, RR #1 Royal Roost R.R., Cheney, KS 67027.	73,991	161.60
RF1-0057	Hook's Vickers Service, Auburn, KS 66402.	1,030,385	3,097.58
RF1-0058	Pronto Systems Inc., 4003 Speaker Rd., Kansas City, KS 66106.	820,087	1,791.07
RF1-0060	Melton's Service Station, P.O. Box 13, Stratford, MO 65757.	1,075,827	2,349.81
RF1-0061	John W. Penick, Box 72, Randlett, OK 73562.	463,503	1,005.97
RF1-0063	Soden Oil Co., Box 415, St. John, KS 67576.	1,618,691	3,971.89
RF1-0064	Wellsburg Oil Co., Wellsburg, IA 50680.	203,286	443.98
RF1-0066	West Side Service, 925 West Sycamore, Ness City, KS 67560.	2,534,642	5,535.66
RF1-0068	Lennie's Service, Rural Route, Albert, KS 67511.	678,230	1,481.25
RF1-0081	McCubbin Service Station, Pretty Prairie, KS 67570.	726,039	1,585.67
RF1-0083	S & H Investment, Inc., RR #1 Box 239, Lawrence, KS 66044.	276,884	604.29
RF1-0085	Bob Burch, RR #2, Sharon Springs, KS 67758.	699,295	1,527.08
RF1-0087	Joe's Sealcover & Car Wash Can, 205 N. Seneca, Wichita, KS 67203.	1,236,973	2,701.55
RF1-0088	Karsten Oil Co., Wall Lake, IA 51466.	63,909	139.56
RF1-0089	Lockhart Oil Co., Inc., Star Route, Ellsworth, KS 67439.	343,349	749.87
RF1-0090	Highway Service Station, 120 West 11th, Hoisington, KS 67544.	2,981,932	6,512.54
RF1-0094	West Side Bait and Grocery, Rt. #1 Box 168, Cheney, KS 67025.	79,478	173.58
RF1-0095	West Side Bait, Rt. #1, Box 168, Cheny, KS 67025.	151,774	331.47

OFFICE OF HEARINGS AND APPEALS REFUND APPLICANT SYSTEM (RAS)—Continued

Case No.	Name and address of applicant	Approved volume	Dollar amount approved
RF1-0096	Roediger Oil Company, P.O. Box 138, Mayetta, KS 66509.	1,987,911	4,341.60
RF1-0097	Glenwood Auto Sales, Inc., 205 Sherd, Glenwood, IA 51534.	1,544,076	3,372.26
RF1-0101	Williams Oil Co. of McCurtain, 201 N.W. Texas, Idabel, OK 74745.	662,466	1,446.87
RF1-0107	Bro Oil Company, Inc., 8555 Harbach Suite 201, Des Moines, IA 50311.	632,850	1,382.14
RF1-0108	Sharon Springs Auto Parts, Sharon Springs, KS 67758.	98,148	216.54
RF1-0109	Don's Electronic Service, Rt. 4, P.O. Box 130, Clay Center, KS 67432.	30,099	65.68
RF1-0110	Independent Oil Company, Salsin, MN 56580.	87,360	190.79
RF1-0111	Rainbow Carwash, 1700 N. Nevada, Wichita, KS 67212.	1,401,194	3,060.20
RF1-0112	Cop, Inc., 704 Main, Towanda, KS 67144.	2,434,929	5,317.66
RF1-0113	Fore, Inc., P.O. Box #07, Durant, OK 74701.	1,932,252	2,009.73
RF1-0114	Zenger's Service Station, 442 Avenue D. East, Kingman, KS 67068.	803,441	1,754.71
RF1-0116	Studer Service, RR Box 15, Waverly, KS 66871.	224,807	489.54
RF1-0118	T.G. & Y. Stores Co., P.O. Box 25967, Oklahoma City, OK 73125.	1,001,815	4,152.13
RF1-0119	Stevens Oil Company, 707 W. Creek, Marietta, OK 73448.	1,059,586	2,311.85
RF1-0121	Scott Oil Company, 1431 N. 2d St., Arkansas City, KS 67005.	2,247,525	4,908.59
RF1-0125	Steinert Oil Company, P.O. Box 853, Great Bend, KS 67530.	305,099	666.20
RF1-0127	Patricia L. Coots, 2314 W. MacArthur, Shawnee, OK 74801.	556,008	1,214.31
RF1-0131	Matheny Oil Company, Brownton, MN 55312.	1,323,505	2,890.53
RF1-0133	Smith Oil Company, P.O. Box 293, Medicine Lodge, KS 67104.	313,752	685.29
RF1-0134	Hoyle Oil Company, Box 54, Churdan, IA 50050.	473,674	1,034.50
RF1-0135	Frank Dicker, 8500 SW 27th Ct., Topeka, KS 66614.	1,771,837	3,869.89
RF1-0136	Couch Oil Company, P.O. Box 615, Ardmore, OK 73401.	352,884	770.28
RF1-0137	Little Joe's Minimash, 2102 E. Central, Wichita, KS 67214.	2,187,507	4,777.51
RF1-0138	Scott Service, Route 2, Clinton, KS 66067.	2,216,888	4,841.90
RF1-0139	Suter & Chaffin Oil, Inc., 1910 Armour Road, N. Kansas City, MO 64116.	798,425	1,743.76
RF1-0145	Raymond Tolbert, Rt. 1, Box 807, Wilson, OK 73463.	1,123,904	2,454.60
RF1-0148	Midtown Service, 127 W. Berry, P.O. Box 23, Ross Hill, KS 67133.	1,267,837	2,768.51

OFFICE OF HEARINGS AND APPEALS REFUND APPLICANT SYSTEM (RAS)—Continued

Case No.	Name and address of applicant	Approved volume	Dollar amount approved
RF1-0151	Cardinal Oil Co., (Robinson), P.O. Box 103, Sedgwick, KS 67135.	909,989	670.42
RF1-0152	French Distributing Co., Inc., P.O. Box 99025, Oklahoma City, OK 73109.	1,936,598	4,227.28
RF1-0153	Jensen Oil & Gas Co., Inc., 184 W. Jefferson, Manhato, KS 66956.	722,859	1,678.26
RF1-0157	Midway Oil Company, P.O. Box 715, Rock Island, IL 61201.	30,324	66.22
RF1-0158	Wilmoth Enterprises, Inc., Rt. #1 P.O. Box 6, Mt. Vernon, MO 65712.	1,544,419	3,373.01
RF1-0160	City Oil Company, 232 E. Street, P.O. Box 30, Snyder, OK 73566.	942,003	2,057.33
RF1-0161	Worman Oil Company, 524 S. Main, Ellinwood, KS 67526.	837,111	1,391.65
RF1-0162	Cook Sovereign Service, Box 104, Pleasanton, KS 66075.	1,087,285	2,308.47
RF1-0163	Bob's Service, 6th and E. St., Wymore, NE 68466.	462,710	1,076.07
RF1-0164	Old Colony Gas & Oil, 1628 N. 2d St., Minneapolis, MN 55411.	859,750	1,877.69
RF1-0165	Gene's Service, 102 South 11th Street, Wymore, NE 68466.	450,336	983.58
RF1-0167	Berge Corporation, P.O. Box 799, Hutchinson, KS 67501.	2,014,676	4,400.06
RF1-0170	Ozment's Gas & Oil, 7148 E. Latimer Place, Tulsa, OK 74118.	569,300	1,243.35
RF1-0177	Soldier Oil Company, 416 Leonard, Onaga, KS 66521.	1,168,999	2,552.94
RF1-0179	Cumiford Oil Company, P.O. Box 490, Lamed, KS 67553.	42,161	93.00
RF1-0180	Reid's Service, Hwy 77 & 56, Florence, KS 66851.	386,872	844.92
RF1-0181	Fewrose Oil Co., 1001 N.W. 71st Place, Oklahoma City, OK 73116.	2,454,198	5,358.98
RF1-0184	Elliott Wholesale & Oil Co., P.O. Box 442, Ottumwa, IA 52501.	3,199,069	6,986.78
RF1-0185	Jan's Service, 3321 W. 6th St., Coffeyville, KS 67337.	85,123	84.89
RF1-0187	L.D. Rhodes Oil Co., P.O. Box 25218, Oklahoma City, OK 73125.	1,710,236	3,795.15
RF1-0188	Tri-County Oil & Gas, Highway 59, Schleswig, IA 51461.	8,112	17.71
RF1-0189	Cardo Oil, Inc., Tampa, KS 67483.	1,189,476	2,453.87
RF1-0190	D&J Oil Company, 1145 W. Donald, P.O. Box 82, Waterloo, IA 50704.	55,962	122.09
RF1-0194	Smithorn Oil & Gas Service, R.R. 1, Claflin, KS 67525.	990,777	1,456.24
RF1-0201	Robert Steven Koop, 1401 South Santa Fe, Salina, KS 67401.	2,429,767	5,306.61
RF1-0202	East Side Vickers Service, 800 E. Kansas Ave., McPherson, KS 67460.	2,798,304	6,041.60

OFFICE OF HEARINGS AND APPEALS REFUND APPLICANT SYSTEM (RAS)—Continued

Case No.	Name and address of applicant	Approved volume	Dollar amount approved
RF1-0204	Pease Petroleum Products, Inc., 1801 N.W. 581 St., Oklahoma City, OK 73104.	2,218,195	4,844.59
RF1-0205	Berryhill Oil Co., R #2, Box 16, Lamar, MO 64759.	957,835	1,458.11
RF1-0212	Harris Hess, 111 6th Avenue, Coon Rapids, IA 50058.	1,532,951	3,347.96
RF1-0214	North Side Services, P.O. Box 438, Hutchinson, KS 67501.	2,914,370	5,064.36
RF1-0215	Colley County Oil & Supply, P.O. Box 281, Burlington, KS 66839.	280,169	611.84
RF1-0216	Hughes Oil Company, R.R. 5, Box 178, Huron, SD 57350.	42,537	93.55
RF1-0219	King Oil Company, Soldier, KS 66540.	129,874	281.02
RF1-0220	Bill Cowen Garage, Reading, KS 66868.	326,607	713.30
RF1-0222	Endfield, Inc., 800 Rogers Lane, Lawton, OK 73501.	1,287,284	2,811.42
RF1-0226	St. Clair Vickers, 1116 Prospect, Ellsworth, KS 67439.	387,207	821.96
RF1-0233	Ray Fairbanks, Reese #2, Pleasanton, KS 66075.	134,143	292.96
RF1-0234	Robison Oil Co., P.O. Box 4934, Ashland, KS 67410.	580,308	1,267.26
RF1-0240	Forrest Collins, 1679 Walnut Dr., McPherson, KS 67460.	1,906,067	4,341.98
RF1-0241	Fetter Oil Company, RR #1 Box 109, Louisburg, KS 66053.	1,795,014	3,789.27
RF1-0246	Bobby Ray Atkins, 6315 Woodway Dr. #238, Ft. Worth, TX 76133.	1,136,434	2,479.79
RF1-0250	Coopers Corner, 1404 N. Washington, Ardmore, OK 73401.	849,884	1,180.87
RF1-0253	Reitzes Oil Co., Inc., 166 W. Sycamore St., St. Paul, MN 55117.	969,388	1,274.04
RF1-0258	Shriver's Store, R.R. #1, Lawton, OK 73501.	468,881	1,078.18
RF1-0260	Fish Service, Box 66, Raymond, KS 67573.	1,089,141	2,321.66
RF1-0261	Peterson Oil Company, 300 Cole, Lindsborg, KS 67456.	1,509,423	3,294.38
RF1-0262	Taylors Falls Creamery, Taylors Falls, MN 55084.	614,111	1,341.21
RF1-0263	Pease Derby Oil Co., P.O. Box 10006, Des Moines, IA 50306.	74,814	162.73
RF1-0265	Hansen's Service, 117 W. North Street, Richmond, KS 66080.	916,576	991.40
RF1-0266	Oklahoma Gas & Electric Co., P.O. Box 321, Oklahoma City, OK 73101.	75,236	164.31
RF1-0267	Campbell Oil Company, 306 W. Walnut, Ozark, MO 65721.	730,485	1,595.33
RF1-0269	Vickers Service Ellsworth, P.O. Box 359, Ellsworth, KS 67671.	1,742,393	3,805.36
RF1-0271	Fred Miller Tire Service, P.O. Box 151, Council Grove, KS 66846.	566,821	1,096.03
RF1-0274	Kuntz Brothers, P.O. Box 145, Calvilla, IA 52646.	662,481	1,946.17
RF1-0276	Edward R. Hulett, 9009 E. 63rd Street, Derby, KS 67037.	324,041	488.30

OFFICE OF HEARINGS AND APPEALS REFUND APPLICANT SYSTEM (RAS)—Continued

Case No.	Name and address of applicant	Approved volume	Dollar amount approved
RF1-0291	Dirles Oil Company, P.O. Box 426, Ardmore, OK 73401.	325,285	712.50
RF1-0295	Marshall Oil Company, P.O. Box 249, Harrisonville, MO 64701.	3,217,782	7,027.85
RF1-0296	Ellis, Ltd., P.O. Box 110, Coon Rapids, IA 50058.	448,669	970.29
RF1-0298	Gene's Service 117 W. North Street, Richmond, KS 66080.	17,525	38.28
RF1-0301	M.P.G. Petroleum, 2532 Washington Ave. No., Minneapolis, MN 55411.	15,953	34.84
RF1-0303	East Crawford Vickers, 1014 East Crawford, Salina, KS 67401.	2,817,818	6,154.11
RF1-0306	Aurora Coop Assn., Inc., Main St. & ATSF Railway, Aurora, KS 67417.	132,124	288.55
RF1-0308	Bud's Vickers Service, Box 708, Scott City, KS 67871.	2,421,826	5,288.83
RF1-0309	Dell Oil company, 950 Dillon Park Rd., W. Des Moines, IA 50265.	1,848,974	4,040.34
RF1-0300	Rayburn Oil Company, Gibbon, NE 68840.	491,857	1,073.80
RF1-0301	Evart Oil Co., Inc., Box #7, Concordia, KS 66901.	210,999	679.22
RF1-0304	Mangum Oil & Gas Co., P.O. Box 439, Mangum, OK 73554.	122,951	268.52
RF1-0307	Oklahoma tank Lines, Inc., 4312 S. Georgia Place, Oklahoma City, OK 73129.	208,311	454.95
RF1-0311	McPherson Oil Company, Inc., 1800 E. 1st St., Box 482, McPherson, KS 67460.	895,108	1,953.84
RF1-0313	Mid South Oil Company, 800 W. 4th St. Box 2100, Little Rock, AR 72203.	536,727	1,176.57
RF1-0314	Boyd Oil Company, Box 348, Concordia, KS 66901.	324,302	706.27
RF1-0316	Rapid Service of Iowa, Box 595, Salinas, KS 67401.	918,557	2,001.38
RF1-0317	Rapid Transit Co., Box 666, Salinas, KS 67401.	620,636	1,355.48
RF1-0318	Rapid Service of Nebraska, Box 666, Salinas, KS 67401.	1,430,456	3,124.20
RF1-0319	Dell Oil Company, 950 Office Park Rd., W. Des Moines, IA 50265.	815,007	1,779.07
RF1-0323	Baldwin Services, RT 2, Box 32, Marshfield, MO 65706.	1,987,034	4,230.48
RF1-0328	Floyd & Bob's Motors, 1350 W. 24th, Hutchinson, KS 67501.	139,044	278.64
RF1-0329	Flower Petroleum, 1500 Main, Winfield, KS 67156.	566,340	1,21.69
RF1-0345	Jones Oil Co. (Harold F. Jones), 704 N. East St., Leon, KS 67074.	571,932	1,248.81
RF1-0347	Jones Oil Co. (Larry H. Jones), 712 N. Main, Leon, Ks 67074.	229,592	460.24
RF1-0348	Anderson Independent Oil, 2216 N.E. Crosstown Blvd., Anoka, MN 55303.	189,289	413.32
RF1-0351	Conway Oil Company, P.O. Box 807, Bellevue, NE 68005.	41,150	89.87

OFFICE OF HEARINGS AND APPEALS REFUND APPLICANT SYSTEM (RAS)—Continued

Case No.	Name and address of applicant	Approved volume	Dollar amount approved
RF1-0352	L & S Vickers, Hwy 40 & Grand, Ellsworth, KS 67439.	167,818	366.51

OFFICE OF HEARINGS AND APPEALS REFUND APPLICANT SYSTEM (RAS)—Continued

Case No.	Name and address of applicant	Approved volume	Dollar amount approved
RF1-0355	Dick's Happy Service, 601 W. Kansas Ave., McPherson, KS 67460.	424,414	926.92

OFFICE OF HEARINGS AND APPEALS REFUND APPLICANT SYSTEM (RAS)—Continued

Case No.	Name and address of applicant	Approved volume	Dollar amount approved
RF1-0363	Joyce Link, P.O. Box 215, Pawnee Rock, KS 67557.	177,827	388.62

APPENDIX B—APPLICATIONS SUBMITTING PROOF OF PURCHASE

Case No.	Name and address of applicant	Vickers volume	Applicant volume	Approved volume	Dollar amount approved
RF1-0007	GLenn Oil Co., P.O. Box 361, Lawton, OK 73502	128,057	178,714	178,307	$391.61
RF1-0023	Seger Oil Co., Box 512, O'Neill, NE 68763	165,909	329,954	330,289	721.25
RF1-0056	Crown Sales Inc., 905 Wisconsin, Cawker City, KS 67430	117,529	137,438	134,148	292.97
RF1-0067	Mulgrew Oil Co., 85 Terminal St., Dubuque, IA 52001	78,697	102,361	78,897	171.67
RF1-0091	Independent Oil Co., Lebenon, KS 66952	163,092	247,847	247,847	541.30
RF1-0100	Richard Oil Co., Humeston, IA 50123	22,466	34,000	22,466	49.07
RF1-0122	4th Street Service, 1004 E. 4th, Tulsa, OK 74101	631,585	655,275	655,275	1,431.12
RF1-0147	Wineinger Oil Co., Box 278, Luray, KS 67649	157,987	166,142	166,872	362.26
RF1-0165	Bill's Auto Accessories & Oil, 203 Allidre, Topeka, KS 66607	466,359	477,322	478,322	1,044.68
RF1-0191	Heitman Oil Co., Linn, KS 66953	344,226	257,853	257,853	563.15
RF1-0192	Hamilton Oil Co., R.R. 1, Silver Lake, KS 66539	113,448	256,543	300,998	657.39
RF1-0225	Nordstrom Oil Co., 1400 6th St., S.W., Box 66, Cedar Rapids, IA 52406.	65,837	428,974	428,974	939.66
RF1-0232	Home Oil Stations, Inc., 555 Gateway Drive, Ottumwa, IA 52501	53,144	1,068,622	1,068,522	2,333.65
RF1-0236	Crawford Oil Co., P.O. Box 246, Hermansville, MO 40246	726,330	895,783	881,985	1,926.26
RF1-0272	Searcy's Station, Montier, MO 65546	2,118,498	2,202,234	2,202,529	4,810.32
RF1-0289	Carey Johnson Oil Co., P.O. Box 291, Lawton, OK 73502	11,458	170,139	170,139	371.56
RF1-0292	Texoma Oil Co., Box 716, Tishomingo, OK 73460	1,096,272	2,819,724	2,783,934	6,035.56
RF1-0331	Leist Oil Co., 706 High St., Rockwell City, IA 50579	459,820	810,185	632,125	1,368.74
RF1-0332	Galyen Petroleum Co., P.O. Box 307, Atkinson, NE 68713	961,196	1,295,205	1,277,305	2,789.63
RF1-0334	Jameson Oil Co., P.O. Box 111, Eudora, KS 66025	948,798	1,256,129	1,258,092	2,749.84
RF1-0335	M & M Oil Co., P.O. Box 1300, Osage Hous Seminole, OK 74868	218,316	942,983	942,891	2,059.49
RF1-0341	O & B Oil Company, Inc., P.O. Box 98, Elk Falls, KS 67345	1,096,234	2,356,405	2,375,877	5,188.48

APPENDIX C—TBA ACCOUNTS

Case No.	Name and address of applicant	Vickers volume	Applicant volume	Approved volume	Dollar amount approved
RF1-0172	Gilliland Oil & Tire Supply, Rt. 4 at Centropolis, Ottawa, KS 66067.	153,894	153,040	153,040	$334.24
RF1-0229	John Anderson TBA, Inc., 809 Locust St., Chillicothe, MO 64601	576,266	714,093	721,916	1,576.66
RF1-0235	Bantz-Hawkins, Inc., 224 N. West Street, Wichita, KS 67203	967,753	1,296,406	1,172,323	2,560.35
RF1-0251	Dividend Tire & Service Center, 5405 E. Colfax Ave., Denver, CO 80220.	574,109	586,677	576,799	1,259.66
RF1-0273	L & L Service, P.O. Box 246, Sargent, NE 68874	2,106,651	2,106,651	2,156,651	4,666.93
RF1-0302	Bud's Midwestern Tire, 720 State, Concordia, KS 66901	469,355	450,000	450,000	982.80
RF1-0303	Bud's Tire Service, 803 5th, Clay Center, KS 67432	1,402,873	1,402,873	1,402,873	3,063.67
RF1-0337	Bud's Tire & Supply, Inc., 3211 Broadway, Great Bend, KS 67530	759,086	759,086	759,086	1,657.84
RF1-0339	Bud's Abilene Tire, Inc., 4th and Buckeye, Abilene, KS 67410	2,836,077	2,836,077	2,836,077	6,196.36
RF1-0340	Great Western Tire, Inc., 1402 Main St., Goodland, KS 67735	614,649	614,649	614,649	1,342.36
RF1-0345	Great Western Tire Co., 319 E. Front St., Oakley, KS 67748	662,232	667,905	662,232	1,429.39
RF1-0350	Springdale Tire & Service, Inc., P.O. Box 1138, Springdale, AK 72764.	466,128	466,128	466,125	1,067.91
RF1-0358	McGraw Tire & Supply, 916 North Washington, Junction City, KS 66441.	166,269	166,269	166,269	363.13
RF1-0359	Nielsen Oil & Propane, 650 South Main Street, West Point, NE 68788.	1,041,014	1,041,014	1,041,014	2,273.57
RF1-0360	Stuart Tire Co., 13735 W. 71st Place, Arvada, CO 08004	396,622	498,837	498,772	1,089.32
RF1-0361	Richards Tire & Service Center, P.O. Box 678, Siloam Springs, AR 72761.	147,704	57,330	57,330	125.21
RF1-0368	Wichita Tire, Inc., 145 North Hillside, Wichita, KS 67214	750,382	750,382	750,362	1,638.63

APPENDIX I.—LARGE APPLICATIONS REQUESTING REFUNDS ON 50,000 GALLON BASIS

Case No.	Name and address of applicant	Approved volume	Dollar amount approved
RF 1-0005	Mohawk Petroleum Co., 2401 Fourth National Bank, Tulsa, OK 74119.	725,000	$1,583.40
RF 1-0042	Big-S-Oil Co., Box 304, Mt. Hope, KS 67108.	3,375,000	7,371.00
RF 1-0059	Potein Service Station, Potein, KS 67123.	3,375,000	7,371.00

APPENDIX I.—LARGE APPLICATIONS REQUESTING REFUNDS ON 50,000 GALLON BASIS—Continued

Case No.	Name and address of applicant	Approved volume	Dollar amount approved
RF 1-0096	Rolland K. Grover, 620 North Baltimore, Derby, KS 67037.	3,375,000	7,371.00
RF 1-0140	Galva Cash Service, U.S. Highway 56, Galva, KS 67443.	3,375,000	7,371.00

APPENDIX I.—LARGE APPLICATIONS REQUESTING REFUNDS ON 50,000 GALLON BASIS—Continued

Case No.	Name and address of applicant	Approved volume	Dollar amount approved
RF 1-0159	Floyd Hinds Oil Company, Rt. 6 Box 149A, Muskogee, OK 74401.	3,375,000	7,371.00
RF 1-0169	Morris Oil Company, P.O. Box 465, Morris, MN 56267.	3,000,000	6,552.00

APPENDIX I.—LARGE APPLICATIONS REQUESTING REFUNDS ON 50,000 GALLON BASIS—Continued

Case No.	Name and address of applicant	Approved volume	Dollar amount approved
RF 1-0171	Ronco Oil Corporation, P.O. Box 108, Chanute, KS 66720.	3,375,000	7,371.00
RF 1-0173	Collingwood Grain, Inc., P.O. Box 2150, Hutchinson, KS 67501.	3,375,000	7,371.00
RF 1-0175	Tonga Vickers, P.O. Box 349, Smyrna, DE 19977.	3,375,000	7,371.00
RF 1-0178	G & T Service, Pleasanton, KS 66075.	3,375,000	7,371.00
RF 1-0210	Casey's General Stores, Inc., Box 3256, Des Moines, IA 50316.	3,250,000	7,098.00
RF 1-0213	Donald Lee Gibson, 412 North 4th Street, Lamesa, TX 79331.	3,375,000	7,371.00
RF 1-0223	South Oil Company, P.O. Box 399, Ardmore, OK 73401.	3,350,000	7,316.40
RF 1-0224	Shaw Oil, 100 W. Main, Valley Center, KS 67147.	3,375,000	7,371.00
RF 1-0228	National Marketing, Inc., P.O. Box 8157, Topeka, KS 66608.	1,750,000	3,822.00
RF 1-0230	Musket Corporation, P.O. Box 20365, Oklahoma City, OK 73156.	3,375,000	7,371.00
RF 1-0231	B.A.R., Inc., 1726 N. Topeka Blvd., Topeka, KS 66608.	3,375,000	7,371.00
RF 1-0243	Robert Ross, Inc., 827 E. 2nd, Wichita, KS 67202.	3,375,000	7,371.00
RF 1-0247	M & M Service, 2434 Fairway Dr., Fremont, NE 68025.	3,375,000	7,371.00
RF 1-0248	Del's Oil Company, 913 N. Scott, Bellon, MO 64012.	3,375,000	7,371.00
RF 1-0259	Rite Way Oil & Gas Co., Inc., 8400 I. Street, Omaha, NE 68127.	700,000	1,529.60
RF 1-0282	Cligatow-Elwell Oil Co., 8400 I. Street, Omaha, NE 68127.	3,375,000	7,371.00
RF 1-0286	LPG, Inc., P.O. Box 5195, Abilene, TX 79608.	650,000	1,419.60
RF 1-0306	Lambert Oil Co., 2 N. Main, P.O. Box 1364, Sapulpa, OK 74066.	3,365,000	7,349.16
RF 1-0308	Ripley Oil Company, RR No. 2, Luverne, MN 56156.	3,375,000	7,371.00
RF 1-0349	Bluemont Vickers, No. 8 Crestview, Salina, KS 67401.	3,375,000	7,371.00
RF 1-0357	Patlyn Oil Co., Inc., 1300 West 24th, Hutchinson, KS 67501.	1,200,000	2,620.80

Appendix E.—Applications Requesting Refunds of Less Than $15

Case No.	Name and address of applicant	Determination
RF1-0004	Ron's Deep Rock, Hwy 10, Orange City, IA 51041.	Denied.
RF1-0124	Robert P. Cleverly, 7731 East Rose Lane, Scottsdale, AZ 85253.	Denied.
RF1-0185	Marvin L. Price, 502 East South, Lincoln, KS 67456.	Denied.
RF1-0193	Earl F. Carlow—Crestwood Dist., 6707 E. Kern Dr., Scottsdale, AZ 85253.	Denied.

Appendix E.—Applications Requesting Refunds of Less Than $15—Continued

Case No.	Name and address of applicant	Determination
RF1-0338	John R. Lutz, 4915 W. Echo Lane, Glendale, AZ 85302.	Denied.
RF1-0367	George H. Shaffer, 3722 Red Hawk Ct., Bridgeton, MO 63044.	Denied.

[FR Doc. 82-5702 Filed 3-4-82; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[A-5-FRL-2049-5]

Ohio; Extension of the Interim Enforcement Policy for Sulfur Dioxide Emission Limitations

AGENCY: Environmental Protection Agency.

ACTION: Notice extending the interim enforcement policy for sulfur dioxide emission limitations in Ohio.

SUMMARY: By this notice, the U.S. Environmental Protection Agency is extending the policy concerning the enforcement of the sulfur dioxide emission limitations in Ohio until the review of the sulfur variability issue and any necessary rulemaking procedures are completed. This policy was originally published in the Federal Register on February 11, 1980 (45 FR 9101), clarified on September 8, 1980 (45 FR 59199), and extended to March 1, 1982 on October 28, 1980 (45 FR 71422).

This policy was intended to focus the Agency's enforcement resources on those sources of SO_2 which present the greatest environmental threat while the issue of sulfur variability is under review. Although it was previously anticipated that EPA would complete its review and rulemaking procedures by March 1, 1982, the sulfur variability issue is still under review by the Agency. Therefore, EPA is at this time extending the policy until the Agency's policy is revised.

FOR FURTHER INFORMATION CONTACT:
Debra Marcantonio, Air Programs Branch, Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6088.

Dated: February 3, 1982.

Valdas V. Adamkus,
Regional Administrator.

[FR Doc. 82-5661 Filed 3-4-82; 8:45 am]
BILLING CODE 6560-38-M

[OPTS 140008; TSH-FRL-2065-2]

General Software Corp.; Transfer of Data to Contractor

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: EPA will transfer information contained in Premanufacture Notices (PMNs) submitted by manufacturers and importers under section 5 of the Toxic Substances Control Act (TSCA) to General Software Corporation of Landover, Md. Some of this information may be claimed to be confidential. General Software Corporation will review and analyze the PMN information for purposes of predicting the potential exposures to the PMN substances.

DATE: The transfer of data submitted in PMNs and claimed to be confidential will occur no sooner than 10 working days after publication of this notice in the Federal Register (March 15, 1982).

FOR FURTHER INFORMATION CONTACT:
Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-779), Office of Toxic Substances, Environmental Protection Agency, Rm. E-509, 401 M St., SW., Washington, D.C. 20460, Toll-free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, manufacturers and importers of chemical substances are required to submit PMNs for new chemical substances that they intend to manufacture or import and that are not included in EPA's Inventory of Chemical Substances. EPA will be evaluating the potential and magnitude of possible exposures to the substances. To accomplish this, EPA will require the assistance of outside experts. It has selected General Software Corporation of Landover, Md. to perform analyses of PMN information which may be helpful to EPA in this evaluation. (Contract No. 68-01-6271, Task 17).

General Software Corporation will examine the information contained in PMNs including test data, production volumes, chemical types, and use information, to identify possible exposure situations and to estimate the magnitude of such exposures.

Pursuant to 40 CFR 2.306(j), EPA has determined that it will need to disclose confidential business information to General Software Corporation. If any PMN information is claimed to be confidential, reports prepared by General Software Corporation dealing with this confidential business information will be treated as confidential. After evaluating the informaion in a PMN, General Software Corporation will return the PMN and any reports it prepares to EPA.

Since General Software Corporation will review information claimed to be confidential, EPA is publishing this notice to inform all submitters of PMNs that General Software Corporation will have access to confidential business information from EPA. General Software Corporation will have access to confidential business information only while at EPA and will not remove such data from EPA's facility.

General Software Corporation's contract specifically prohibits disclosure of any of this information to any third party without written authorization from EPA. General Software Corporation is required to treat all confidential business information in accordance with the requirements of the TSCA Confidential Business Information Security Manual and the Contractor Requirements for the Control and Security of TSCA Confidential Business Information Manual. The General Software Corporation personnel will be required to sign a nondisclosure agreement before they are permitted access to such information.

Dated: February 24, 1982.

Don R. Clay,
Director, Office of Toxic Substances.

[FR Doc. 82-6042 Filed 3-4-82; 8:45 am]
BILLING CODE 6560-31-M

[ER-FRL-2065-1]

Superfund Contracting Symposium

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting on superfund contracting.

SUMMARY: The Office of Emergency and Remedial Response of the EPA announces a Superfund Contracting Symposium. The symposium will provide EPA and the U.S. Army Corps of Engineers the opportunity to communicate the scope and nature of the Superfund Program to potential contractors.

DATE: The symposium is scheduled as follows: March 29, 1982, 8:30 a.m. to 4:00 p.m., Washington, D.C.

ADDRESS: The symposium will be held at the following location: March 29, 1982—The Shoreham Hotel, 2500 Calvert Street, NW., Washington, D.C. 20009.

FOR FURTHER INFORMATION CONTACT:
Mr. William M. Kaschak, Office of Emergency and Remedial Response (WH-548E), 401 M Street, SW., Washington, D.C. 20460, (202) 382-2339.

SUPPLEMENTARY INFORMATION: The Comprehensive Environmental Response, Compensation and Liability Act of 1980, provides for the cleanup of inactive hazardous waste disposal sites. Two symposia addressing Superfund contracts were conducted May 27, 1981 (Atlanta, Georgia) and May 29, 1981 (Denver, Colorado) to describe the Remedial Response Program to prospective contractors. At that time, the design and construction services were to be subcontracted by the EPA Remedial Response Management Contractor. These services are now to be managed by the U.S. Army Corps of Engineers. Other new aspects of the Remedial Program involve the combination of the Field Investigation Team and the Remedial Planning activities within the same contract. EPA has scheduled a one day symposium to describe this new approach. The U.S. Army Corps of Engineers will also participate in the symposium to describe their contracting procedures. The request for proposals for the Hazardous Site Response and Remedial Management Contract will be discussed during the meeting. Contractors will provide EPA with preliminary assessments, site inspections, remedial investigations, feasibility studies, post-closure assistance, and project management support at hundreds of waste sites around the nation. Contracts for engineering design and remedial action implementation activities will be managed by the U.S. Army Corps of Engineers. The symposium will consist of formal presentations followed by a question and answer session. There is no registration fee. Affiliate organizations include American Institute of Chemical Engineers, American Consulting Engineers Council, American Society of Civil Engineers, National Solid Waste Management Association and Associated General Contractors of America. Registration will be at the door from 8:30 a.m. to 9:00 a.m.

William N. Hedeman, Jr.,
Director, Office of Emergency and Remedial Response.

[FR Doc. 82-6040 Filed 3-4-82; 8:45 am]
BILLING CODE 6560-30-M

[ER-FRL-2067-2]

Availability of Environmental Impact Statements Filed February 22 Through 26, 1982 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, Ms. Kathi Wilson (202) 245-3006.

Corps of Engineers:
- EIS No. 820085, Final, COE, MN, Snake River Snagging and Clearing, Flood Control, Due: Apr. 5, 1982
- EIS No. 820102, Report, COE SEV, MD, VA, Report—Baltimore Harbor and Channels, Due: Apr. 5, 1982

Department of Interior:
- EIS No. 820099, Draft, BLM, CA, Willow Creek Unit Livestock Grazing Management Plan, Lassen County, Due: Apr. 19, 1982

Department of Transportation:
- EIS No. 820100, Draft, FHW, FL, Acosta Bridge Replacement, St. Johns River, Duval County, Due: Apr. 26, 1982
- EIS No. 820103, Final, CGD, SEV, REG WA, Puget Sound Vessel Traffic, Regulations, Due: Apr. 5, 1982

Environmental Protection Agency:
- EIS No. 820093, Draft, EPA, IA, Des Moines Sludge Disposal Management Facilities, Grant, Due: Apr. 19, 1982

Federal Energy Regulatory Commission:
- EIS No. 820101, Draft, FRC, ID, AJ Wiley Hydroelectric Project, Snake River, License, Due: Apr. 19, 1982

Department of Housing and Urban Development:
- EIS No. 820094, Draft, HUD, MN, Morning View Development, Mortgage Insurance, Dakota County, Due: Apr. 19, 1982
- EIS No. 820097, Final, HUD, WY, Meadowbrooke Park Development, Mortgage Insurance, Laramie County, Due: Apr. 5, 1982
- EIS No. 820104, FSuppl, HUD, NC, Soul City, Title VII Termination, Warren County, Due: Apr. 5, 1982

Department of Agriculture:
- EIS No. 820096, Final, SCS, IN, Upper Big Blue River Watershed Protection, Henry and Rush Counties, Due: Apr. 5, 1982

Department of the Navy:
- EIS No. 820098, Final, USN, WA, Puget Sound Naval Shipyard Steam Plant, Bremerton, Due: Apr. 5, 1982

Amended Notices:
- EIS No. 810879, Draft, DOC, ME, Maine Coast/Machias Bay Estuarine Sanctuary, Grant Published FR 10-30-81—Officially Withdrawn, Due:
- EIS No. 820024, Final, COE, HI, Waimea River Flood Control Study, Hawaii County, Published FR 1-16-82—retracted due to nondistribution, Due:
- EIS No. 800961, DSuppl, *AFS, IL, Lusk Creek Area Fluorspar Prospecting, Shawnee NF, Pope County *Published withdrawal FR 2-19-82 with incorrect bureau, Due:

Dated: March 2, 1982.

Paul C. Cahill,
Director, Office of Federal Activities.

[FR Doc. 82-6106 Filed 3-4-82; 8:45 am]
BILLING CODE 6560-37-M

[ER-FRL-2057-2]

Intent To Prepare an Environmental Impact Statement (EIS) and Notice of Withdrawal

CONTACT: Clinton B. Spotts, Regional EIS Coordinator, U.S. Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270, Telephone: 214/767–2716 or FTS 729–2716.

SUMMARY: *Notice of Intent:* Pursuant to EPA regulations for preparation of EISs (40 CFR Part 6), EPA is preparing a draft EIS for the proposed issuance of new source NPDES permits to Houston Lighting and Power Company and a subsidiary of North American Coal Corporation for discharges from the Malakoff Electric Generating Station and the Trinity Mine, respectively. The proposed Generating Station is located 3 miles southwest of Malakoff, Texas in Navarro County and the proposed Trinity Mine is in Navarro and Freestone Counties. EPA intends to prepare tiered EISs on the two interrelated projects and the first EIS will focus on the generating station. EPA will hold a meeting to determine the scope of the EIS on March 18, 1982 at 7:30 pm at the Malakoff Elementary School Cafeteria on North Terry Street in Malakoff, Texas. A detailed Notice of Intent which describes the proposals was distributed on February 10, 1982 and is available from the above contact.

Withdrawal of Previous Notice of Intent: On November 19, 1979 EPA published a Notice of Intent to prepare an EIS on the Wastewater Treatment Facility, Fayetteville, Arkansas in the **Federal Register** (44 FR 66246). However, at this time EPA Region 6 hereby terminates the Memorandum of Understanding between EPA and the City of Fayetteville for the joint piggyback EIS preparation on awarding grants for construction of wastewater treatment facilities. This action has been taken after expiration of the official 30 days notice which began on January 19, 1982. It is incumbent upon the City to resubmit to the State an adequate facility plan and accompanying Environmental Information Document. Upon State approval of the facility plan, EPA and the State will then proceed with the decision making process regarding the project and NEPA.

Dated: March 2, 1982.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 82-6107 Filed 3-4-82; 8:45 am]

BILLING CODE 6560-37-M

FEDERAL LABOR RELATIONS AUTHORITY

Availability of Quarterly Indexes Pursuant to the Freedom of Information Act, as Amended

AGENCY: Federal Labor Relations Authority, Office of the General Counsel.

ACTION: Notice of Availability of Quarterly Indexes Pursuant to the Freedom of Information Act, as amended.

SUMMARY: This notice sets forth the availability of indexes to decisions of the General Counsel of the Federal Labor Relations Authority (Authority) in unfair labor practice cases as required by 5 U.S.C. 552(a)(2).

DATE: March 2, 1982.

FOR FURTHER INFORMATION CONTACT: David L. Feder, Freedom of Information Officer, Office of the General Counsel (202) 382–0834.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Office of the General Counsel of the Authority, in accordance with the requirements of the Freedom of Information Act, as amended (5 U.S.C. 552(a) *et seq.)* prepares and maintains on a quarterly basis a *Classified Index of Disposition of ULP Charges by the General Counsel of the Federal Labor Relations Authority.* The classified index is a subject matter index to advice memoranda and appeals letters in unfair labor practices cases under the Federal Service Labor-Management Relations Statute (5 U.S.C. 7101 *et seq.)* in which the Office of the General Counsel either authorized, or declined to authorize, issuance of complaint. Although advice memoranda authorizing issuance of complaint are not "final opinions" within the purview of 5 U.S.C. 552(a)(2)(A) under the Supreme Court's decision in *NLRB* v. *Sears Roebuck Company,* 421 U.S. 132 (1975), it is the Office of the General Counsel's policy to make such memoranda authorizing issuance of complaint available to the public with appropriate deletions to protect rights of privacy or confidential sources of information after an Authority decision and order has issued, after there has been full compliance with a settlement of the case, or after the case is otherwise closed under the Authority's procedures. To facilitate access to such memoranda after the case is closed, they are included in the indexes but such advice memoranda authorizing issuance of complaint will not be made available until the respective case is closed.

Due to severe budgetary constraints, the Office of the General Counsel is unable to have these indexes published and made available for sale by the Government Printing Office. However, in accordance with the requirements in 5 U.S.C. 552(a)(2), these indexes are available for public inspection at all of the Authority's Regional Offices and at the National Office of the Office of the General Counsel. Further, these indexes will be provided, upon request, pursuant to 5 CFR 2411.4(a) and are subject to the payment of fees in accordance with the fee schedule set forth in 5 CFR 2411.10 to cover the direct cost of duplication.

Dated: March 2, 1982.

For the General Counsel.

Office of the General Counsel, Federal Labor Relations Authority.

S. Jesse Reuben,

Deputy General Counsel.

[FR Doc. 82-6066 Filed 3-4-82; 8:45 am]

BILLING CODE 6727-01-M

FEDERAL RESERVE SYSTEM

Baldy Bancshares, Inc.; Formation of Bank Holding Company

Baldy Bancshares, Inc., Lyle, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 93 percent or more of the voting shares of Farmer's State Bank of Lyle, Lyle, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 1, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 1, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5929 Filed 3-4-82; 8:45 am]

BILLING CODE 6210-01-M

Coleman Bancshares, Inc.; Formation of Bank Holding Company

Coleman Bancshares, Inc., Coleman, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Coleman Bank, Coleman, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 2, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 1, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5923 Filed 3-4-82; 8:45 am]

BILLING CODE 6210-01-M

Coulee Bancshares, Inc.; Formation of Bank Holding Company

Coulee Bancshares, Inc., LaCrosse, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Coulee State Bank, LaCrosse, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 25, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 1, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5930 Filed 3-4-82; 8:45 am]

BILLING CODE 6210-01-M

First Alabama Bancshares, Inc.; Acquisition of Bank

First Alabama Bancshares, Inc., Montgomery, Alabama, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C.1842(a)(3)) to acquire 78 percent or more of the voting shares of First Farmers and Merchants National Bank of Troy, Troy, Alabama. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 31, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 1, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5931 Filed 3-4-82; 8:45 am]

BILLING CODE 6210-01-M

First Eastern Corp.; Formation of Bank Holding Company

First Eastern Corporation, Kingsport, Tennessee, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per-cent of the voting shares of First Eastern National Bank, Kingsport, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 2, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 1, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5926 Filed 3-4-82; 8:45 am]

BILLING CODE 6210-01-M

First Midwest Bancorp, Inc.; Formation of Bank Holding Company

First Midwest Bancorp, Inc., Midwest City, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares (less director's qualifying shares) of The First National Bank of Midwest City, Midwest City, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 23, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 1, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5931 Filed 3-4-82; 8:45 am]

BILLING CODE 6210-01-M

First National Bancshares, Inc.; Formation of Bank Holding Company

First National Bancshares, Inc., Camdenton, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 72.6 percent or more of the voting shares of First National Bank of Linn Creek/ Camdenton, Camdenton, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 2, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 1, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5832 Filed 3-4-82; 8:45 am]

BILLING CODE 6210-01-M

Frontier Bancshares, Inc.; Formation of Bank Holding Company

Frontier Bancshares, Inc., Eagle Pass, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Frontier State Bank, Eagle Pass, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 2, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 1, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5833 Filed 3-4-82; 8:45 am]

BILLING CODE 6210-01-M

Garrison Bancshares, Inc.; Formation of Bank Holding Company

Garrison Bancshares, Inc., Garrison, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Commercial State Bank, Garrison, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 2, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 1, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5834 Filed 3-4-82; 8:45 am]

BILLING CODE 6210-01-M

Independence BanCorp; Formation of Bank Holding Company

Independence Bancorp, Independence, Ohio, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Independence Bank, Independence, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 31, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 1, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5835 Filed 3-4-82; 8:45 am]

BILLING CODE 6210-01-M

Loup Valley Bancshares, Inc.; Formation of Bank Holding Company

Loup Valley Bancshares, Inc., North Loup, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of North Loup Valley Bank, North Loup, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Loup Valley Bancshares, Inc., North Loup, Nebraska, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of North Loup Insurance Agency, Inc., North Loup, Nebraska.

Applicant states that the proposed subsidiary would engage in the activities of a general insurance agent in a community that has a population not exceeding 5,000. These activities would be performed from offices of Applicant's subsidiary in North Loup, Nebraska, and the geographic area to be served is North Loup, Valley County, Nebraska. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than March 31, 1982.

Board of Governors of the Federal Reserve System, March 1, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5825 Filed 3-4-82; 8:45 am]

BILLING CODE 6210-01-M

Manufactures Hanover Corp.; Proposed Acquisition of Certain Assets of Indiana Financial Inc., Merrillville, Indiana

Manufactures Hanover Corporation, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2), for permission to acquire certain assets of Indiana Financial Inc., through its subsidiary Manufactures Hanover Consumer Services, Ind.

Applicant states that the proposed subsidiary would engage in the activities of making or acquiring loans and other extensions of credit, and acting as agent or broker with respect to credit related live, accident and health insurance. These activities would be performed from offices of Applicant's subsidiary in Indianapolis, Fort Wayne, Greenwood, Logansport, Lafayette, Marrion, Muncie, Portage and Anderson, Indiana, and the geographic area to be served is the northern half of Indiana. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decrease or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than April 2, 1982.

Board of Governors of the Federal Reserve System, March 1, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5826 Filed 3-4-82; 8:45 am]

BILLING CODE 6210-01-M

Ohnward Bancshares, Inc.; Acquisition of Bank

Ohnward Bancshares, Inc., Maquoketa, Iowa, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire an additional 120 voting shares of Maquoketa State Bank, Maquoketa, Iowa. Such an acquisition would increase Applicant's percentage of Bank's outstanding shares to at least 50 percent. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 24, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 1, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-5827 Filed 3-4-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than March 26, 1982.

A. Federal Reserve Bank of New York (*A. Marshall Puckett, Vice President*) *33 Liberty Street, New York, New York 10045:*

1. *Citicorp*, New York, New York (finance company and insurance activities; Illinois, Iowa, Minnesota and Wisconsin): to expand the activities and service area of an office of its subsidiary, Citicorp Acceptance Company, Inc. (Delaware), engaged in the following previously approved activities: the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of credit related property and casualty insurance protecting real and personal property subject to a security agreement with Citicorp Acceptance Company, Inc., to the extent permissible under applicable state insurance laws and regulations; and the servicing, for any person, of loans, and other extension of credit. The new activity in which the office proposes to engage *de novo* is: the making of loans to individuals and businesses to finance the purchase of mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for the loans. The proposed service area for all

previously approved and proposed activities, with the exception of the sale of credit related property and casualty insurance, shall be comprised of the states identified in the caption above. The proposed activities would be conducted from an office in Schaunberg, Illinois.

2. *Citicorp*, New York, New York (industrial loan, loan servicing, consumer finance and insurance activities; California): to engage *de novo* through a subsidiary to be known as Citicorp Person-to-Person Thrift, Inc., in operating as a thrift and loan association in the manner authorized by California law, including the following activities: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management course, the servicing for any person, of loans and other extensions of credit; the issuing of thrift certificates and thrift passbook certificates. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Thrift Center, Inc. These activities would be conducted from an office of the subsidiary located in Glendale, California, serving the State of California.

3. *The Chase Manhattan Corporation*, New York, New York (finance servicing, and leasing activities; Midwestern U.S.): to engage through its indirect subsidiary, Chase Commercial Corporation, in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a commerical finance, equipment finance or factoring company, including factoring accounts receivable, making advances and over-advances on receivable and inventory and business installment lending as well as unsecured commercial loans; servicing loans and other extensions of credit; leasing personal property on a full payout basis and in accordance with the Board's Regulation Y or acting as agent, broker or advisor in so leasing such property, including the leasing of motor vehicles. These activities would be conducted from an office in Kansas City, Missouri, serving the states of Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri and Wisconsin.

B. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *American Bancorp. Inc.*, Reading, Pennsylvania, (reinsurance activities): to engage, through its wholly owned subsidiary, Amerisure Life Insurance Company, Phoenix, Arizona, in underwriting, as reinsurer, credit life and credit accident and health insurance directly related to extensions of credit by Applicant's subsidiary bank, American Bank and Trust Co. of Pa. These activities would be performed from offices of Applicant's subsidiary in Phoenix, Arizona.

2. *Philadelphia National Corporation*, Philadelphia, Pennsylvania (mortgage lending activities; Missouri): to engage, through its subsidiary, Colonial Mortgage Service Company Associates, Inc. (doing business as CMSC Mortgage Company), in the origination of FHA, VA, and conventional residential mortgage loans and second mortgage loans. These activities will be conducted from an office in Clayton, Missouri, serving the State of Missouri.

3. *Philadelphia National Corporation*, Philadelphia, Pennsylvania (mortgage banking activities; Illinois): to engage, through its subsidiary, Colonial Mortgage Service Company Associates, Inc., in making, acquiring, and servicing loans and other extensions of credit secured by real estate mortgages. These activities would be conducted from offices in Madison County, Illinois, servicing the counties of Madison, St. Clair, Clinton, and Monroe in Illinois.

4. *Philadelphia National Corporation*, Philadelphia, Pennsylvania (mortgage lending activities; Delaware): to engage through its subsidiary, Colonial Mortgage Service Company Associates, Inc., in the origination of FHA, VA and conventional residential mortgage loans. These activities would be conducted from offices located at 3600 Silverside Road, Wilmington, Delaware, serving the State of Delaware and the counties of Delaware and Chester, Pennsylvania.

C. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

F & M Holding Company, Summerville, West Virginia (insurance activities; West Virginia): to engage in the sale as agent of credit life and credit accident and health insurance that is directly related to extensions of credit made by Applicant's only banking subsidiary, Farmers & Merchants Bank of Summerville, Summerville, West Virginia. The proposed activity would be conducted from offices of Applicant's bank subsidiary in Summerville, West Virginia, and would service all of Nicholas County, West Virginia.

D. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

Plateau Bancshares, Incorporated, Crossville, Tennessee (appraisals; Tennessee): to perform the activity of appraising real property. This activity will be conducted from an office in Crossville, Tennessee, serving the county in which the holding company is located and those counties within a 75 mile radius of the office. These services will be specifically provided at this time to Peoples Bank & Trust Company, Wartburg, Tennessee; Peoples Bank of Crossville, Crossville, Tennessee; Bledsoe County Bank, Pikeville, Tennessee.

E. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

BankAmerica Corporation, San Francisco, California (financing, servicing, and insurance activities; expansion of geographic scope; Georgia and South Carolina): to continue to engage, through its indirect subsidiary, FinanceAmerica Industrial Plan, Inc., a Florida corporation, in the activities of making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company, servicing loans and other extensions of credit, and offering credit-related life insurance and credit-related accident and health insurance. Credit-related property insurance will not be offered in either the state of Georgia or the state of South Carolina.

Such activities will include, but not be limited to, making consumer installment loans; purchasing installment sales finance contracts; making loans and other extensions of credit to small businesses; making loans and other extensions of credit secured by real and personal property; and offering credit-related life and credit-related accident and health insurance directly related to extensions of credit made or acquired by FinanceAmerica Industrial Plan, Inc.

These activities will be conducted from an existing office located in Altamonte Springs, Florida, serving the additional states of Georgia and South Carolina.

G. Other Federal Reserve Banks: None.

Board of Governors of the Federal Reserve System, March 1, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6022 Filed 3-4-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 81F-0052]

Coconut Products Corp.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal without prejudice of the petition (FAP 0A3532) proposing the safe use of sorbitan monostearate and polysorbate 60 as emulsifiers to be used in preparation of coconut milk drink.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is issued:

In accordance with § 171.7 *Withdrawal of petition without prejudice* of the procedural food additive regulations (21 CFR 171.7), the Coconut Products Corp., 779 Kii St., Honolulu, HI 96825, has withdrawn its petition (FAP 0A3532), notice of which was published in the **Federal Register** of March 20, 1981 (46 FR 17685) proposing that § 172.842 *Sorbitan monostearate* (21 CFR 172.842) and § 172.836 *Polysorbate 60* (21 CFR 172.836) be amended to provide for the safe use of sorbitan monostearate and polysorbate 60 as emulsifiers in preparation of coconut milk drink.

Dated: February 23, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-5601 Filed 3-4-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to conduct certain activities with endangered species:

Applicant: Dr. Patrick Redig, Raptor Research and Rehabilitation Program, Department of Veterinary Medicine, University of Minnesota, St. Paul, MN, PRT 2-8865

The applicant requests a permit to import captive-bred Peregrine falcons (*Falco peregrinus anatum*) from the University of Saskatchewan, Saskatchewan, for hacking and release to the wild in Minnesota for enhancement and survival.

Applicant: Raul Perez-Rivera, Department of Biology, Humacao University College, Humacao, PR, PRT 2-8868

The applicant requests a permit to take Puerto Rico Plain pigeons (*Columba inornata wetmorei*) and their eggs from the wild during an extended study to establish a breeding colony of this species for enhancement of propagation and survival, and scientific research.

Applicant: Abbey Garden, Carpinteria, CA, PRT 2-3995

The applicant requests a permit to export artificially propagated specimens of the following endangered and threatened species of Cactaceae:

Ancistrocactus tobuschii
Coryphantha minima
C. sneedii var. *leei.*
C. sneedii var. *sneedii*
Echinocereus triglochidiatus var. *inermis*
E. viridiflorus var. *davisii*
Pediocactus bradyi
P. knowltonii
P. peeblesianus var. *peeblesianus*
Sclerocactus mesae-verdae

Applicant: Yale University School of Medicine, New Haven, CT, PRT 2-8857

Applicant: New York Zoological Society, Bronx, NY, PRT 2-8859

The applicant requests a permit to import in foreign commerce 12 captive-born Darwin's rhea (*Pterocnemia pennata pennata*) from Centro de Aclimatacion Zoologica, Santiago, Chile, to Bronx, NY, for enhancement of propagation.

Applicant: David L. Brown, Kent, WA, PRT 2-8870

The applicant requests a permit to purchase in interstate commerce one pair of captive-bred scarlet-chested parakeets (*Neophema splendida*) and one pair of captive-bred turquosine parakeets (*Neophema pulchella*) from Birds Unlimited, Inc., N. Hollywood, CA, for enhancement of propagation.

Applicant: Al Harmata, Department of Biology, Montana State University, Bozeman, MT, PRT 2-4164

The applicant requests a permit to capture and band bald eagles (*Haliaeetus leucocephalus*) in Montana, Wyoming, and Idaho for enhancement of survival and scientific research.

Applicant: Rare Feline Breeding Compound, Center Hill, FL, PRT 2-8861

The applicant requests a permit to export in foreign commerce one pair of captive-born black jaguar (*Panthera onca*) from Center Hill, FL, to Zooteiza Breeding Compound, Matamoros, Mexico, for enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish and Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications on or before April 5, 1982, by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: March 1, 1982.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-6085 Filed 3-4-82; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

[PHX-077478]

Arizona; Order Providing for Opening of Public Lands

Correction

In FR Doc. 82-3448, published on page 6098, in the issue of Wednesday, February 10, 1982, in the third column, in paragraph "3.", in the fifth and sixth lines, "February 10, 1922," should be corrected to read "February 10, 1982,".

BILLING CODE 1505-01-M

[Serial Numbers A 17000-I (Partial)]

Arizona; Classification of Public Lands for State Indemnity Selection; Correction

In Federal Register Document 82-2559 appearing on pages 4745 and 4746 of the issue for February 2, 1982, the following changes should be made for application A 17000-I (Partial):

Under T. 1 N., R. 23 W., Section 1: should be Lots 1, 2, 3, 4, S½N½, S½. T. 15, R. 23 W., should be T. 1 S., R. 23 W.

William K. Barker,

District Manager.

February 22, 1982.

[FR Doc. 82-5634 Filed 3-4-82; 8:45 am]

BILLING CODE 4310-84-M

Realty Action—Non-Competitive Agricultural Lease; Public Land in Clackamas County, Oregon

The following described public land (Revested Oregon and California Railroad Grant Land) has been examined and identified as suitable for lease under Section 302 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2762, 43 U.S.C. 1732):

Willamette Meridian, Oregon

T. 2 S., R. 4 E.
Section 35, metes and bounds within the SW¼NE¼, SE¼NW¼
Containing 15.74 acres

The purpose of the lease is to allow the development of the public land for agricultural production. Country Squire Airpark (CSA) has been issued an airport lease (OR 23999) on the above-described land for an approach slope and clear zone. Under the terms of the airport lease, CSA will be required to clear and maintain the lease area. The production of low-growing crops represents the most productive use of the land. Because of the investment to be made by Country Squire Airpark to clear the lease area and to maintain it, the land will not be offered for lease through competitive bidding. It will be offered for lease directly to CSA at the appraised fair market rental value.

The lease will be consistent with the Bureau of Land Management's land use plan and will not conflict with any State or local government programs or regulations. The lease will have a term of 20 years with the right of renewal. This term coincides with the airport lease.

Detailed information concerning the lease, including the planning documents, environmental documents, and the record of public comments, is available for review at the Salem District Office, 1717 Fabry Road S.E., P.O. Box 3227, Salem, Oregon 97302.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Salem District Manager, P.O. Box 3227, Salem, Oregon 97302. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

John D. Evans,

Acting District Manager.

[FR Doc. 82-5911 Filed 3-4-82; 8:45 am]

BILLING CODE 4310-84-M

Preparation of Clear Lake Resource Area Management Framework Plan and Subsequent Range and Wilderness Environmental Impact Statements; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent; correction.

SUMMARY: This document corrects the Notice of Intent published January 14, 1982 (47 FR 2209). The completion date for development of the Clear Lake Resource Area land and resource management alternatives is changed to May 1982, and the completion date for the preliminary final environmental impact statement for the Rocky Creek-Cache Creek and Cedar Roughs Wilderness Study areas is changed to September 1982.

FOR FURTHER INFORMATION CONTACT: William L. Larramendy, Clear Lake Resource Area Manager, Bureau of Land Management, Ukiah District Office, P.O. Box 940, 555 Leslie Street, Ukiah, California 95482, Telephone (707) 462-3873.

SUPPLEMENTARY INFORMATION: In order to complete the preliminary final environmental impact statement for the Rocky Creek-Cache Creek Wilderness Study Area (WSA) and the Cedar Roughs WSA by September 1982, the Ukiah District Office is accelerating the identification of land and resource management alternatives for the Clear Lake Resource Area. Planning criteria for the Clear Lake Management Framework Plan, including wilderness, are available for comment.

Dated: February 24, 1982.

Van W. Manning,

District Manager.

[FR Doc. 82-5910 Filed 3-4-82; 8:45 am]

BILLING CODE 4310-84-M

Review of California Desert Conservation Area Plan and Management Framework Plan for Eastern San Diego County Planning Unit

The Federal Register notice of February 25, 1982 is amended to include review and amendment proposals to the Eastern San Diego County Management Framework Plan. This area lies contiguous to the eastern boundary of the California Desert Conservation Area, and its multiple use plan and environmental impact statement were completed in April 1981. Amendments will be considered under the same criteria stated for the California Desert Plan.

Please send any proposals by May 17, 1982, to the following address: 1982 Amendments, Bureau of Land Management, California Desert District, 1695 Spruce Street, Riverside, California 92507, (714) 351-6304.

Anyone desiring copies of either plan may receive them by writing to the above address.

Dated: February 25, 1982.

Gerald E. Hillier,

District Manager.

[FR Doc. 82-5908 Filed 3-4-82; 8:45 am]

BILLING CODE 4310-84-M

[NM 52039]

New Mexico; Application

February 23, 1982.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for a 4½-inch natural gas pipeline right-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

Description of Land

T. 10 S., R. 30 E., N.M.P.M.
Section 12: E½SE¼;
Section 13: N½NE¼, SW¼NE¼, E½SW¼, NW¼SE¼.
T. 9 S., R. 31 E., N.M.P.M.
Section 3: SE¼SW¼;
Section 9: E½SE¼;
Section 20: E½SE¼;
Section 21: E½SE¼;
Section 29: NE¼NE¼, W½E½, SE¼SW¼;
Section 31: SE¼SE¼.
T. 10 S., R. 31 E., N.M.P.M.
Section 6: Lot 1, S½NE¼, SE¼SW¼, W½SE¼;
Section 7: Lot 2, 3, E½N°ERR17°W¼.

This pipeline will convey natural gas across 6.344 miles of public land in Chaves County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

John Gregg,

District Manager, Roswell District Office.

[FR Doc. 82-6038 Filed 3-4-82; 8:45 am]

BILLING CODE 4310-84-M

[M 54286(ND)]

North Dakota; Invitation; Coal Exploration License Application

February 24, 1982.

Members of the public are hereby invited to participate with Basin Cooperative Services in a program for the exploration of coal deposits owned by the United States of America in the following described lands located in Oliver County, North Dakota:

T. 143 N., R. 84 W., 5th P.M.
Sec. 22: S½SW¼
Sec. 28: NE¼, N½NW¼, SE¼NW¼
380.00 acres.

Any party electing to participate in this exploration program shall notify, *in writing*, both the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, and Basin Cooperative Services through their operator, Consolidation Coal Company, Glenharold Mine, P.O. Box 129, Stanton, North Dakota 58571. Such written notice must refer to serial number M 54286(ND) and be received no later than 30 calendar days after publication of this Notice in the **Federal Register** or 10 calendar days after the last publication of this Notice in the Center Republican, whichever is later. This Notice will be published for two consecutive weeks.

This proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the U.S. Minerals Management Service, 2525 4th Avenue North, Billings, Montana, and the Bureau of Land Management, Montana State Office, Granite Tower Building, 222 North 32nd Street, Billings, Montana. The exploration plan is available for public inspection at either of these offices at the addresses given.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-6034 Filed 3-4-82; 8:45 am]

BILLING CODE 4310-84-M

[W-78664]

Wyoming; Land Exchange Proposal, Teton and Carbon Counties, Wyoming

Notice is hereby given that the Wyoming State Office of the Bureau of Land Management has before it a land exchange proposal between Rocky Mountain Energy, Inc. (RME) and the United States. The exchange of land would benefit the National Park Service, inasmuch as the land to be acquired by the United States is situated within the Grand Teton National Park. The land offered by RME is described by metes and bounds and while there is an amended proposal expected, it can be said that the land is within Sections 4, 6, 7, 8, 9 and 17 of T. 42 N., R. 116 W., 6th p.m., Teton County, Wyoming and is comprised of 755 acres more or less.

Rocky Mountain Energy, Inc. has expressed an interest in acquiring title to the surface and mineral estate of the following described lands in Carbon County:

T. 24 N., R. 86 W., 6th p.m.,
Sec. 14: E½, E½W½;
Sec. 22: SE¼;
Sec. 28: W½W½;
Sec. 34: W½E½, W½.
Containing 1280.00 acres.

The purpose of this notice is to inform the public that we have such a proposal pending. Any interested persons desiring to express their views or furnish any information about this proposal should do so in writing. Comments may be sent to the Chief, Division of Land and Water Resources, National Park Service, Rocky Mountain Regional Office, 655 Parfet Street, P.O. Box 25287, Denver, Colorado 80225, and the District Manager, Bureau of Land Management, P.O. Box 670, 1300 Third Street, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-6023 Filed 3-4-82; 8:45 am]

BILLING CODE 4310-84-M

Proposed Amendment to the Utility Corridor Land Use Plan

In accordance with 43 CFR Part 1601, notice is hereby given that the Fairbanks District Office of the Bureau of Land Management will consider an amendment to the Utility Corridor Land Use Plan of September 1979 based on an analysis of several new land use issues affecting the planning area.

The geographic area to be considered is the land withdrawn under Public Land Order 5150 as amended with the exclusion of those lands north of latitude 68°N containing approximately 1.5 million acres. The lands under consideration extend in a strip 12 to 24 miles in width and from Washington Creek 30 miles north of Fairbanks to latitude 68°N in the Brooks Mountain Range, containing approximately 2,500,000 acres.

The issues to be considered are: the feasibility of opening lands within the Utility Corridor to mineral leasing under the 1920 Mineral Leasing Act, as amended; full operation of the 1872 Mining Law in the "outer corridor;" State selections; corridor boundary adjustments; analysis of development node boundaries; and recreation use of retained Utility Corridor lands.

Disciplines to be represented in the assessment include lands, minerals, wildlife, recreation, cultural resources, fisheries, forest products, range, watershed, visual resources, soils sociology and economics.

The public is invited to participate in the assessment of these issues. Several points in the planning and assessment process have been identified for public involvement including the scoping and identification of issues, data gathering, development of criteria for decision-making, review of conflict resolution and final review of recommendations.

Opportunity for comment will be provided to the public during the amendment process. Notices to the general public will be published in local papers. Small group presentations and personal interviews will be conducted throughout the review process.

A copy of the Utility Corridor Land Use Plan is available for public inspection at the Bureau of Land Management, Fairbanks District Office, Gaffney and Marks Road (North Post, Fort Wainwright), Fairbanks, Alaska.

For further information, contact Phil Garrett, Team Leader or Dave Wickstrom, Yukon Resource Area Manager, Fairbanks District Office, P.O. Box 1150, Fairbanks, Alaska 99707, (907) 356-2025.

Carl D. Johnson,

District Manager.

[FR Doc. 82-6027 Filed 3-4-82; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Delaware Water Gap National Recreation Area; Intent To Prepare an Environmental Impact Statement

AGENCY: National Park Service, Mid-Atlantic Regional Office, Interior.

ACTION: Notice of intent to prepare environmental impact statement; amendment.

SUMMARY: The original Notice of Intent to Prpare an Environmental Impact Statement was published in Federal Register Vol. 46, No. 240, pages 61166-61167 (December 15, 1981). Among the alternatives listed for consideration, was "(1) Not accepting the transfer and allowing interstate trucking to continue.

the Commonwealth would continue to maintain the roads within its resources, possibly with some modification in approaches of access roads for improved safety standards." This no-action alternative is being amended to one of no-action under Federal ownership. It is amended to read "(1) Allow interstate trucking to continue; the National Park Service maintaining the roads in their present condition with some modifications in approaches of access roads for improved safety standards." All other information contained in this announcement remain the same.

FOR FURTHER INFORMATION CONTACT: Joseph W. Karban, Chief, Environmental Quality Division, Mid-Atlantic Region, National Park Service, 143 South Third Street, Philadelphia, Pennsylvania 19106, telephone 215/597–2785.

Dated: February 22, 1982.

John W. Bond,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 82-6014 Filed 3-4-82; 8:45 am]
BILLING CODE 4310-70-M

Golden Gate National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area Advisory Commission will be held at 7:00 p.m. (PST) on Wednesday, March 17, 1982, at Golden Gate National Recreation Area Headquarters, Building 201, Fort Mason, San Francisco, California.

The Advisory Commission was established by Public Law 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin and San Francisco counties.

Members of the Commission are as follows:

Mr. Frank Boerger, Chairman
Ms. Amy Meyer, Secretary
Mr. Ernest Ayala
Mr. Richard Bartke
Mr. Fred Blumberg
Ms. Margot Patterson Doss
Mr. Jerry Friedman
Ms. Daphne Greene
Mr. Peter Haas, Sr.
Mr. Burr Heneman
Mr. John Jacobs
Ms. Gimmy Park Li
Mr. Duane "Doc" Mattison
Mr. John Mitchell
Mr. Merritt Robinson
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams

The major agenda items for this meeting will be staff briefings, committee reports, public testimony on the proposed DELTA KING project and the Natural Resource Management Plan, and a commendation for William J. Whalen.

The meetings are open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact John H. Davis, General Superintendent of the Golden Gate National Recreation Area, Fort Mason, San Francisco, CA 94123; telephone (415) 556–2920.

Minutes of the meeting will be available for public inspection by April 16, 1982, in the Office of the General Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, CA 94123.

Dated: Feburary 22, 1982.

W. Lowell White,

Acting Regional Director, Western Region.

[FR Doc. 82-6015 Filed 3-4-82; 8:45 am]
BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Abandoned Mine Land Reclamation Program; Receipt of Grant Application From State of Alabama

AGENCY: Office of Surface Mining Reclamation and Enforcement (SMREO), Interior.

ACTION: Receipt of the abandoned mine land reclamation (AML) grant application from the State of Alabama.

SUMMARY: On January 6, 1982, the State of Alabama submitted to OSM its proposed abandoned mine land reclamation grant application under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). SMREO is seeking public comment on the adequacy of the State grant application. The grant will not be approved until the Secretary has approved the Title V Regulatory Program and the Title IV Reclamation Program.

DATES: Written comments on the application must be received on or before 5:00 p.m. April 5, 1982. Copies of the full text of the proposed Alabama grant application are available for review during regular business hours at the following locations: Office of Surface Mining Reclamation and Enforcement, Region II, 530 Gay Street, Suite 500, Knoxville, Tennessee.

Written comments should be sent to: W. Hord Tipton, Acting Regional Director, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, Suite 500, Knoxville, Tennessee 37902.

FOR FURTHER INFORMATION CONTACT: Bob Penn, Chief, AML, Office of Surface Mining Reclamation and Enforcement, (615) 971–5251.

SUPPLEMENTARY INFORMATION: On June 1, 1981, a State reclamation plan was submitted to the Secretary. Action by the Secretary on the Reclamation Plan has been delayed because Alabama does not have an approved State regulatory program under Title V of SMCRA and was enjoined from submitting its program. Under section 405(c) of the SMCRA, the Secretary cannot approve a State abandoned mine land reclamation program unless that State has an approved State regulatory program pursuant to section 503 of the SMCRA.

On January 6, 1982, OSM received an AML reclamation grant application from the State of Alabama.

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, establishes an Abandoned Mine Land Reclamation Program for the purpose of reclaiming and restoring land and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation under the program are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State and Federal law.

Each State having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA may submit to the Secretary a State reclamation grant application to implement the provisions of the approved State Reclamation Plan.

Grants may be issued only to States with an approved Title V Regulatory Program for active mine reclamation and an approved Title IV Reclamation Program. The grant application received from the State of Alabama will be reviewed and held pending a final approval by the Secretary on the State of Alabama, Title V and Title IV programs in accordance with SMCRA.

This notice describes the nature of the proposed projects and sets forth information concerning public participation in the development of the projects. This publication does not represent any decision by the Secretary on the Title V Regulatory Program or the Title IV Reclamation Program but is published solely for the purpose of expediting the review process and the implementation of the reclamation program if the State of Alabama Title V and Title IV programs are approved.

All written comments must be mailed or hand carried to the Regional Director's Office above.

The Regional Director has found that the State has given the public adequate notice and opportunity to comment in public hearings, and the record of such hearings does not reflect major unresolved controversies.

The comment period will close at 5:00 p.m. on April 5, 1982. Comments received after that time will not be considered. During the comment period representatives of the Regional Director's office will be available to meet between 8:00 a.m. and 4:00 p.m. at the request of members of the public to receive their advice and recommendations concerning the proposed State AML reclamation grant application.

Persons wishing to meet with representatives of the Regional Director's Office during this time period may place such requests with William Bradford, Public Information Officer, telephone 615/971–5237, at the Regional Director's office above.

Meetings may be scheduled between 9 a.m. and noon and 1 p.m. and 4 p.m. Monday through Friday excluding holidays at the Regional Director's office.

The Director intends to continue to discuss the State's application with representatives of the State throughout the review process.

In order to comply with the requirements of the National Environmental Policy Act, SMREO will assess the environmental effects of all State reclamation projects. The primary basis for this assessment will be the environmental information provided in the project grant application.

The Director has determined that this is not a significant issue within the meaning of 43 CFR Part 14 and no regulatory analysis is being prepared on the Director's decision relating to the AML grant application.

The Alabama AML Reclamation Grant Applicatin can be approved if:

1. The Director finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.

2. Views of other Federal agencies have been solicited and considered.

3. The application meets all the requirements of the SMREO, AML reclamation program provisions and the required Federal circulars.

4. The State has an approved regulatory program and an approved State reclamation plan.

The following constitutes a summary of the contents of the submission:

1. Designation of the authorized State Agency to administer the program,

2. Objectives and need for the assistance,

3. Project ranking and selection,

4. Coordination with other reclamation programs,

5. Results and benefits expected,

6. Plan of action pertaining to the scope,

7. Monthly or quarterly projections of accomplishments to be achieved,

8. Kinds of data to be collected and maintained,

9. Criteria used to evaluate the results and success of the projects,

10. Key individuals to be employed,

11. Precise location of the project and area to be served,

12. Budgetary calculations for each project,

13. Description of the public's participation in planning and preparation of the grant application,

14. A complete environmental assessment for each project.

Dated: February 26, 1982.

J. S. Gilles,

Director, Office of Surface Mining.

[FR Doc. 82-6164 Filed 3-4-82; 8:45 am]
BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: March 1, 1982.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

Ag. Carriers, Inc., P.O. Box 2460, Leesburg, FL 32748, 5501 South Highway 441, Leesburg, FL 32748, Michael Pregmon, Jr., P.O. Box 2460, Leesburg, FL 32748.

Clearwater Farms Inc., Rt. 3, Box 383–B, York, SC 29745, Rt. 3, Box 383–B, York, SC 29745, Gene A. Daves, Rt. 3, Box 383–B, York, SC.

Farmers Union Central Exchange, Incorporated (CENEX), P.O. Box 43089, St. Paul, MN 55164, 5500 CENEX Dr., Inver Grove Heights, MN 55075, Clarence N. Anderson, P.O. Box 43089, St. Paul, MN 55164.

Green Vally Transport Systems, Inc., P.O. Box 639, Norco, CA 91760, Calle 1 ~~NO~~ 703 PUE 7–8 Aqua Prieta, Mexico, DeWayne Flynn, P.O. Box 286, Benson, AZ 85632.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5917 Filed 3-4-82; 8:45 am]
BILLING CODE 7035-01-M

Intent To Engage In Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office.

Borden, Inc., 180 E. Broad Street, Columbus, Ohio 43215

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Borden Industrial Food Products, Inc., 39485 Dillon Road, P.O. Box 65, Indio, Calif. 92202
(b) Superior Dairies, Inc., 600 E. First Street, Austin, Texas 78701
(c) Buckeye Potato Chip Co., Inc., 3750 E. Fifth Avenue, Columbus, Ohio 43219
(d) The Creamette Company, 428 No. First Street, Minneapolis, MN 55401
(e) Cheese-Tek Corporation, U.S. Highway 45–52, Route #1, Chebanse, Illinois 60922
(f) Orange Products, Inc., 1000 E. Snively Avenue, Winter Haven, Florida 33880

(g) Guy's Foods, Inc., 405 So. Leonard Street, Liberty, Missouri 64068
(h) Jean Patou, Inc., 660 Fifth Avenue, New York, New York 10019
(i) National Food Products, Inc., 1201 Edwards Avenue, Harahan, Louisiana 70123
(j) Fabric Leather, 40 Garvies Point Road, Glen Cove, New York 11524

1. The parent corporation is Dorothy Coal Sales, Inc., whose principal office is 3880 West Montgomery Road, Loveland, Ohio 45140.

2. The wholly-owned subsidiary which will participate in the operation is Dorothy Shamrock Coal Company, Inc., an Indiana corporation.

1. Parent corporation and address of principal office:

Hinkle Contracting Corporation, North Middletown Road, Paris, Kentucky 40361

2. Wholly-owned subsidiary which will participate in the operation and the address of its principal office:

Spencer Trucking Company, North Middletown Road, Paris, Kentucky 40361

1. Parent corporation and address of principal office:

Nicholas J. Bouras, Inc., 475 Springfield Avenue, P.O. Box 662, Summit, New Jersey 07901 (Incorporated in the state of New Jersey)

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

Prior Coated Metals, Inc., 2233 26th Street, SW., P.O. Box 4117, Allentown, Pennsylvania 18105 (Incorporated in the state of New Jersey)

1. Parent corporation and address of principal office:

PepsiCo, Inc., Purchase, NY 10577

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(1) Beverages, Foods & Service Industries, Inc., c/o PepsiCo, Purchase, NY 10577
(2) Conroe Packaging, Inc., 222 Loop 336 East, P.O. Box Y, Conroe, TX 77301
(3) Frito-Lay, Inc., P.O. Box 35034, Dallas, TX 75235
(4) National Beverages, Inc., 1700 Directors Row, Orlando, FL 32809
(5) PBG Beverage Distributors, Inc., c/o PepsiCo, Purchase, NY 10577
(6) Pepsi-Cola Bottling Co. of Los Angeles, Inc., P.O. Box 3336, Torrance, CA 90510
(7) Pepsi-Cola Bottling Company of Puerto Rico, Inc., P.O. Box 1709, Hato Rey, Puerto Rico 00919
(8) Pepsi-Cola Interamericana, S.A., c/o PepsiCo, Purchase, NY 10577
(9) Pepsi-Cola Metropolitan Bottling Company, Inc., c/o PepsiCo, Purchase, NY 10577
(10) Pepsi-Cola Panamericana, S.A., c/o PepsiCo, Purchase, NY 10577
(11) PepsiCo World Trading Company, Inc., c/o PepsiCo, Purchase, NY 10577
(12) Advance Moving & Storage, Inc., 650 North Second Ave., Phoenix, AZ 85003
(13) Agency Media Services, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801
(14) Fleet Insurance Management, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801
(15) Great Falls North American, Inc., P.O. Box 1414, Great Falls, MT 59401
(16) Lee Way Motor Freight, Inc., P.O. Box 12750, Oklahoma City, OK 73157
(17) Mariew of El Paso, Inc., 8201 Lockheed Drive, El Paso, TX 79925
(18) Moving Credit, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801
(19) NACAL, Inc., 12842 Valley View, Garden Grove, CA 92645
(20) North American Distribution Systems, Inc., P.O. Box 411, New Haven, IN 46774
(21) North American Forwarding, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801
(22) North American Moving & Storage, Inc., 2122 Bremer Road, Fort Wayne, IN 46803
(23) North American Properties, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801
(24) North American Van Lines, Inc., P.O. Box 988, Fort Wayne, IN 46801
(25) North American Van Lines of Texas, Inc., 811 Central Expressway, Richardson, TX 75080
(26) Tractor Power, Inc., d.b.a. Fleet Service, c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801
(27) Transportation Collections, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801
(28) Triangle Fleet Service, Inc., 801 W. California Road, Fort Wayne, IN 46808
(29) PepsiCo Building Systems, Inc., 3031 LaJolla St., Anaheim, CA 92806
(30) Pizza Hut, Inc., P.O. Box 428, Wichita, KS 67201
(31) Aurora Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(32) Bender Pizza, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(33) Buckeye PH, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(34) Blues Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(35) Chesapeake Bay Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(36) Denver Pizza, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(37) East Moline Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(38) Fiesta Cantina of Ohio, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(39) Franchise Services, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(40) Franchise Services of Kansas, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(41) Indianapolis Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(42) J & G Products, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(43) Lake Michigan Management Co., Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(44) Long's Appleton, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(45) Long's Green Bay No 2, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(46) Long's Marshfield, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(47) Long's Neenah, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(48) Long's Wausau No. 2, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(49) Mountaineer Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(50) Oriole Pizza Hut, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(51) Pizza Hut, Inc. of LaCrosse, c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(52) Pizza Hut of America, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(53) Pizza Hut of Boston, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(54) Pizza Hut of Columbia, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(55) Pizza Hut of Gainesville, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(56) Pizza Hut of Georgia, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(57) Pizza Hut of Jeffersonville, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(58) Pizza Hut of Kalamazoo, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(59) Pizza Hut of Knoxville Corporation, c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(60) Pizza Hut of Las Vegas, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(61) Pizza Hut of Louisiana, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(62) Pizza Hut of Louisville, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(63) Pizza Hut of Massachusetts, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(64) Pizza Hut of North Carolina, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(65) Pizza Hut of North Haven, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(66) Pizza Hut of Oklahoma, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(67) Pizza Hut of Oregon, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(68) Pizza Hut of Racine, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(69) Pizza Hut of Rochester, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(70) Pizza Hut of San Diego, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(71) Pizza Hut of Santa Fe, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(72) Pizza Hut of Spokane, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(73) Pizza Hut of Utah, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(74) Pizza Hut of Virginia, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(75) Pizza Hut of West Allis, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(76) Pizza Hut of Wichita, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(77) Pizza Hut of Wisconsin, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(78) Pizza Hut of Zion, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(79) Ross Pizza, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(80) Second Concept, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(81) Sioux Falls Pizza Hut c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(82) Sun Devil Pizza Hut, Inc.,c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(83) Taco Kid of Wichita #2, Inc., c/o Pizza Hut, P.O. Box 428, Wichita, KS 67201
(84) Taco Bell, 17361 Red Hill Ave., Irvine, CA 92714
(85) Bell Food Services, Inc., c/o Taco Bell, 17361 Red Hill Ave., Irvine, CA 92714
(86) Taco Bell of Ohio, Inc., c/o Taco Bell, 17361 Red Hill Ave., Irvine, CA 92714
(87) Southwest Snack Equipment, Inc., 900 North Loop 12, Irving, TX 75061
(88) Mariew of Lubbock, Inc., 23rd St. at Ave. E, Box 816, Lubbock, TX 79408
(89) Tri-City Moving & Storage, Inc., c/o NAVL, P.O. Box 988, Fort Wayne, IN 46801
(90) Franchise Services, Inc., P.O. Box 3037, Wichita, KS 67201
(91) Wilson Sporting Goods Co., 2233 West St., River Grove, IL 60171

1. Parent corporation and address of principal office:

RTE Corporation, 1900 East North Street, Waukesha, WI 53186

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Aerovox Incorporated, a Massachusetts Corporation.

1. Parent Corporation and address of principal office:

Schreiber Foods, Inc., 425 Pine Street, Green Bay, WI 54305

2. Wholly-owned subsidiaries which will participate in the operations and State of incorporation.

A. Schreiber Transit Inc.—Wisconsin Corporation
B. Green Bay Machinery Inc.—Wisconsin Corporation

1. Parent Corporation:

SWW Co., 2425 Irving Blvd., Dallas, Texas 75207

2. Wholly-owned subsidiaries which will participate in the operations, and State of incorporation:

(i) Southwest Wheel, Inc., Nevada corporation
(ii) Prior Rebuilders, Inc., Nevada corporation
(iii) Prior Gaskets, Inc., Nevada corporation
(iv) Lec Electric Company, Inc., Nevada corporation
(v) Lillibridge Corporation, Nevada corporation
(vi) Texoma Axle, Texas corporation

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5871 Filed 3-4-82; 8:45 am]
BILLING CODE 7035-01-M

Long and Short-Haul Application for Relief (Formerly Fourth Section Application)

March 2, 1982.

This application for long-and-short-haul relief has been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of the notice.

MC 43980, H. J. Positano, Agent No. 3080, relief is sought from the aggregate-of-intermediate provisions of Section 10726(a)(1)(B) of the Interstate Commerce Act on certain shipments of set-up motor vehicles shipped on multi-level cars. The application for relief is designed to protect applicant's revenues under joint, through, single—factor rates from Westmoreland, PA to the destinations of Alameda and Manuel, CA; Auburn and Vancouver, WA; Laurel, MT; Salt Lake City, UT; Big Lift, CO; Phoenix, AZ; and Amarillo and Irving, TX. The rates are currently published in tariffs ICC TEA 4927; ICC TCFB 3001–D; and ICC TCFB 3014–Q. Grounds for relief—to restrict depressed combination rates in order to prevent revenues loss which would be experienced were the lower combinations to be applied.

By the Commission.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-5869 Filed 3-4-82; 8:45am]
BILLING CODE 7035-01-M

[Ex Parte No. 346 (Sub-9)]

Petition of Consolidated Rail Corp. To Exempt a Particular Service Under 49 U.S.C. 10505

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Exemption.

SUMMARY: In response to a petition filed by Consolidated Rail Corp. (Conrail), the Commission is proposing to exercise its authority under 49 U.S.C. 10505 to exempt from regulation the transportation of liquid iron chloride, moving from Edge Moor, DE to Baltimore, MD.

DATES: Comments are due April 5, 1982.

ADDRESS: An original and 10 copies of comments should be sent to: Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall, (202) 275–7656.

SUPPLEMENTARY INFORMATION: Conrail filed a petition on September 25, 1981, seeking an exemption under 49 U.S.C. 10505 to transport liquid iron chloride in tank cars from Edge Moor, DE to Baltimore, MD where the product is transferred to motor carriers for subsequent distribution to numerous points in Maryland, Virginia and the District of Columbia. E.I. Dupont is the manufacturer of this commodity and supports the petition.[1] The evidence shows that the service is now exclusively provided by motor carriers and involves movement of 60,000 to 80,000 tons of iron chloride a distance of 70 miles (106 tariff miles). Dupont anticipates that the greatest volume of its traffic handled over Baltimore will move to the District of Columbia and also expects to make shipments to at least 9 Virginia points and 5 points in Maryland.

Conrail asserts that the sought exemption involves a service " of limited scope" that will further the rail transportation policy without causing any abuse of market power. Specifically, Conrail views the transaction as a means of enabling Conrail to compete for traffic not now moving by rail and thereby gain additional revenue, provide a more economical and efficient service for the shipper, and promote energy conservation.

49 U.S.C. 10505, as amended by the Staggers Rail Act of 1980 (Pub. L. 96–448) authorizes the Commission to exempt certain traffic from regulation when it determines that regulation is: (1) not necessary to carry out the transportation policy enumerated in 49 U.S.C. 10101a; and (2) either the service is of limited scope, or abuses of market power are unlikely to occur. It does not appear that our regulation of this service is necessary to carry out the rail transportation policy of section 10101a. In fact, the exemption may aid in providing intermodal competition where none previously existed. The exemption also appears limited in scope, involving a single line movement of one commodity a short distance.

We request comments on these tentative conclusions.

This action does not significantly affect the quality of the human environment or conservation of energy resources. We also certify that the proposed exemption will not significantly affect a substantial number of small entities.

Authority: 49 U.S.C. 10505, 5 U.S.C. 553.

Decided: February 25, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham and Clapp. Commissioner Gresham dissented in part with a separate expression.

Agatha L. Mergenovich,
Secretary.

Commissioner Gresham, dissenting in part, would grant a "provisional exemption" using the more streamlined procedures adopted by the Commission in Ex Parte No. 346 (Sub-No. 6), *Rail General Exemption Authority*, 365 I.C.C. 40 (1981).

[FR Doc. 82-5870 Filed 3-4-82; 8:45 am]
BILLING CODE 7035-01-M

[1] Dupont's Edge Moor plant is the largest producer of this commodity, and has an annual production capacity of about 150,000 tons.

[Finance Docket No. 29858]

Railcarriers; Natchez Trace Railroad and Kyle Railways, Inc.—Temporary Exemption

AGENCY: Interstate Commerce Commission.

SUMMARY: The Interstate Commerce Commission temporarily exempts the operation by Natchez Trace Railroad of certain track in Mississippi, under lease from its parent company Kyle Railways, Inc. and the Lafayette, Marshall and Benton Regional Railroad Authority, from prior approval under 49 U.S.C. 10901, 11343, and 11301.

DATES: Exemption effective on cessation of operations by the Illinois Central Gulf Railroad Company. Petitions to reopen for reconsideration must be filed within 20 days.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5414, Interstate Commerce Commission, 12th and Constitution Ave., NW., Washington, D.C. 20423

(2) Petitioner's representative: L. John Osborn, Verner, Liipfert, Bernhard and McPherson, Suite 1100, 1660 L Street, NW., Washington, D.C. 20036

FOR FURTHER INFORMATION CONTACT: Elaine Sehrt, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. For a copy of the full decision, write to the Interstate Commerce Commission, Room 2227, Washington, D.C. 20423 or call toll free 800-424-5403.

Dated: February 25, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Clapp, and Sterrett.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5818 Filed 3-4-82; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Volume No. OP2-38]

Motor Carriers; Republications of Grants of Operating Rights Authority Prior to Certification.

The following grant of operating right authorities is republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of an appropriate petition for leave to intervene, setting forth in detail the precise manner in which petitioner has been prejudiced, must be filed with the Commission within 30 days after the date of this Federal Register notice.

By the Commission.

Agatha L. Mergenovich,

Secretary.

MC 150053 (Sub-3) (republication), filed October 19, 1981, published in the Federal Register of November 4, 1981, and republished this issue. Applicant: JERRY BELL, R.R. #2, P.O. Box 6, Columbus Junction, IA 52738. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. A decision of the Commission, *Review Board 2*, decided February 18, 1982, and served February 24, 1982, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregular routes, as a *common carrier*, by motor vehicle, transporting *meat, meat products, meat byproducts, and packinghouse products* as defined by the Commisson, between points in Black Hawk, Des Moines, and Louisa Counties, IA, and Marion and Hamilton Counties, IN, on the one hand, and, on the other, points in the United States; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and Commisson's regulations. The purpose of this republication is to broaden the scope of authority.

[FR Doc. 82-5819 Filed 3-4-82; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 338]

Motor Carrier Permanent Authority applications, Restriction Removals; Decision—Notice

Decided: March 1, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the Federal Registerof December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Alspaugh, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 15643 (Sub-12)X, filed February 19, 1982. Applicant: FOUR WINDS VAN LINES, INC., 7035 Convoy Court, P.O.Box 81985, San Diego, CA 92138. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036. Subs 8 (portion) and 28 (acquired in MC-F-13953F); broaden household goods to "household goods and furniture and fixtures."

MC 60012 (Sub-107)X, filed February 17, 1982. Applicant: RIO GRANDE MOTOR WAY, INC., P.O. Box 5628, Denver, CO 80217. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, Ill. 60601. Sub 100, broaden general commodities, with exceptions, to "general commodities (except classes A and B explosives, household goods and commodities in bulk);" and broaden to authorize service at all intermediate points on its regular-route operations between Farmington, NM, and Dallas, TX.

MC 64501 (Sub-8)X, Filed February 11, 1982. Applicant: UNITED TRANSPORTATION COMPANY OF RHODE ISLAND, INC., 34 Mohawk Drive, Leominster, MA 01453. Representative: Mary E. Kelley, 22 Stearns Avenue, Medford, MA 02155. Lead and Subs 6 and 7 certificates, (1) delete all restrictions in the general commodities authority "except classes A and B explosives, household goods, and commodities in bulk"; (2) authorize service to all intermediate points in connection with regular-route operations; (3) broaden off-route points to countywide: lead certificate, Providence County, RI (Pawtucket): Union, Essex and Hudson Countries, NJ (Elizabeth, Newark, and Jersey City), and Sullivan County, NY and Wayne, Susquehanna, Lackawanna and Pike Counties, PA (points in NY and PA within 20 miles of Monesdale, PA): Suffolk, Essex, Middlesex, Norfolk, Plymouth, Worcester and Franklin Counties, MA (Concord, West Concord, Maynard, Clinton, Shirley, Groton, Leominster, Gardner, Winchendon, Baldwinsville, Turner Falls, Montague City, and points within 15 miles of Boston): Rockingham County, NH (Plaistow), and Essex County, MA (West Newbury): and Providence, Bristol and Kent Counties, RI (points in RI within 5 miles of Providence); (4) broaden irregular-route points to countywide: Sub 7, Worcester County, MA (Fitchburg), and Middlesex, Franklin and Worcester Counties, MA (points in MA within 25 miles of Fitchburg): and Sullivan, Merrimack, Hillsborough and Rockingham Counties, NH (West Claremont, Claremont, Sunapee, Andover, Manchester, Derry, and Salem); and (5) remove restrictions: (a) against service to "Scranton, Dunmore, and Dickson City, PA" (lead certificate); and (b) limiting service to a specified point for the purpose of joinder only (Sub 6).

MC 127602 (Sub-30)X, filed August 24, 1981, previously published in the Federal Register of September 14, 1981, republished as follows: Applicant: DENVER-MIDWEST MOTOR FREIGHT, INC., P.O. Box 1774, Litchfield Park, AZ 85340. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. This Board previously broadened applicant's lead and 11 certificates. Applicant sought to expand off-route points within 25 miles of Foster, NE to the counties which are wholly or partially within the 25 mile radius. This was denied and applicant appealed. Division 2 found applicant's request proper and ordered republication. Notice is hereby given that applicant seeks to expand off-route points within 25 miles of Foster, NE to "off-route points in Pierce, Wayne, Madison, Knox, Cedar, and Antelope Counties, NE."

MC 129789 (Sub-2)X, filed February 19, 1982. Applicant: ALASKA TEXAS FREIGHT, INC., 1721 Thorne Road, Tacoma, WA 98421. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Sub 1 certificate, remove restrictions (a) in the Mercer commodities authority, against the stringing or picking up of commodities in connection with main or trunk pipelines, and (b) in the other pipeline commodities authority, against service to pipelines used for the transportation of natural gas, petroleum, their products and by-products, water, or sewerage; and limiting service to shipments moving to or from pipeline rights-of-way.

MC 135041 (Sub-8)X, filed February 18, 1982. Applicant: CUTHBERTSON TRANSPORT, INC., R.R. #2 Box 37, Toledo, IA 52342. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Subs 2 and 7: (1) broaden to "machinery and metal products" in Sub 2 from steel bin grain storage systems; "buildings and such commodities as are used in the installation of buildings" in Sub 2 from prefabricated houses, component parts for houses, and materials, equipment and supplies used in the manufacture, processing, sale and distribution of prefabricated houses, and in Sub 7 from prefabricated houses, and materials, equipment and supplies used in the manufacture, assembly and distribution of prefabricated houses, (2) broaden Tama County, IA in Subs 2 and 7 from Toledo, IA; Christian, Macon and McHenry Counties, IL in Sub 2 from Assumption, Decatur and Marengo, IL; Peoria, IL, commercial zone in Sub 2 from Peoria, IL; Polk County, IA in Sub 2 from Des Moines, IA; (3) remove, in all subs, restrictions against materials and supplies in bulk; (4) to radial authority in all subs.

MC 136602 (Sub-9)X, filed February 23, 1982. Applicant: ARIZONA WESTERN TRANSPORT, INC., P.O. Box 7, Chandler, AZ 85224. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. Sub-7 certificate, (1) remove liquid commodities, in bulk, in tank vehicle exception, (2) change Chandler, to Maricopa County, AZ, (3) one-way to radial authority, (4) remove restriction against service at named facilities.

MC 138493 (Sub-13)X, filed February 17, 1982. Applicant: JAKUM TRUCKING, INC., Rural Route 2, Miley Road, Sheboygan Falls, WI 53085. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Subs 2F and 3F permits, broaden (1) to "food and related products," from foodstuffs; and (2) to "between points in the U.S.," under continuing contract(s) with the named shippers.

MC 139439 (Sub-3)X, filed February 17, 1982. Applicant: WILLIAM EDWARDS, INC., P.O. Box 938, Verona, VA 24482. Representative: Larry R. McDowell, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. Sub 2F permit: broaden (1) from yarn, fabrics, materials, equipment, and supplies used or useful in the manufacture, sale, and distribution of yarn and fabrics (except commodities in bulk), to "textile mill products and materials, equipment and supplies used or useful in the manufacture, sale, and distribution of textile mill products"; and (2) to "between points in the U.S.," under continuing contract(s) with named shippers.

MC 139629 (Sub-6)X, filed February 17, 1982. Applicant: BOOTH REFRIGERATED LINES, INC., 1306 10th Avenue, Central City, NE 68826. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite #210B, Omaha, NE 68114. Subs 1, 2, 5F, broaden to "food and related products" from frozen foods (except meats and meat products) in Sub 1; from fresh meat in Sub 2; and from frozen foods in Sub 5F; broaden: all authorities to radial; Grand Island facilities to Hall and Hamilton Counties, NE in Subs 1, 2 and 5; York to York County, NE in Sub 1; Council Bluffs to Pottawattamie County, IA and Douglas and Sarpy Counties, NE in Sub 2; remove facilities restrictions in Subs 2 and 5.

MC 140029 (Sub-10)X, filed February 16, 1982. Applicant: T. J. MARQUART & SONS, INC., Main St., Bliss, NY 14024. Representative: William J. Hirsch P.C., 1125 Convention Tower, 43 Court St., Buffalo, NY 14202. Lead certificate, (1) broaden liquid corn silage additives and molasses to "food and related products"; and feed and feed ingredients to "food and related products and farm products"; (2) change Arcade to Wyoming County, NY; (3) remove in bulk, in tank vehicle restriction; (4) change one-way to radial authority.

MC 144227 (Sub-9)X, filed February 12, 1982. Applicant: CARMIL, INC., Box 225, Hershey, NE 69143. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. Subs 1F, 2F, 3, 6F, 7F, and 8F certificates: broaden (1) to (a) "farm products, and food and related products," from feed and feed ingredients (except liquid commodities in bulk), in Subs 1, 2, 3, and 6, and from animal feed and animal feed ingredients, in bulk, in Sub 8; and (b) "food and related products," from meat byproducts and meat and bone meal, in bulk, in grain or hopper trailers, in Sub 7; (2) to countrywide authority: Subs 1, 2, and 6, Woodbury County, IA (Sergeant Bluff); Subs 3 and 8, Lancaster and Dodge Counties, NE (Lincoln and Fremont); Sub 6, Polk, Webster and Woodbury Counties, IA (Des Moines, Ft. Dodge, and Sioux City); and (3) remove "originating at and destined to" restrictions in Subs 1, 2, 3, 6, and 7.

MC 149008 (Sub-6)X, filed February 22, 1982. Applicant: REBEL EXPRESS COMPANY, 6241 North Dixie Highway, Ft. Lauderdale, FL 33334. Representative: James W. Muldoon, 50 W. Broad Street, Columbus, OH 43215. Sub 1, broaden from (1) metals, metal products (except metal containers used in the food and beverage industry), machinery and machinery parts, except

commodities in bulk; (2) materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) above, except commodities in bulk; and (3) contractors and builders materials, equipment and supplies, except commodities in bulk to "metal and metal products, machinery and machinery parts, and contractors and building materials, and materials, equipment, and supplies used in the manufacture and distribution of the above commodities."

[FR Doc. 82-5973 Filed 3-4-82; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No: OP5-035

Decided: February 25, 1982.

By the Commission, Review Board No. 2. Members Carleton, Fisher, and Williams.

MC 1335 (Sub-8), filed February 18, 1982. Applicant: MOTEK TRANSPORT, INC., Box 123, Harleysville, PA 19438. Representative: Robert D. Gunderman, Can-Am Bldg., 101 Niagara St., Buffalo, NY 14202, (716) 854-5870. Transporting *pulp, paper and related products*, between points in the U.S., under continuing contract(s) with Nitec Paper Corp., of Niagara Falls, NY.

MC 16334 (Sub-14), filed February 17, 1982. Applicant: DEBRICK TRUCK LINE COMPANY, P.O. Box 421, Paola, KS 66071. Representative: John T. Pruitt, 9832 Connell, Overland Park, KS 66212, (913) 888-3386. Transporting *abrasive grain*, between Oklahoma City, OK and points in Herkimer County, NY and Los Angeles County, CA, on the one hand, and, on the other, points in the U.S.

MC 67234 (Sub-48), filed February 16, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727-0777. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Eastman Kodak Company, of Rochester, NY.

MC 73444 (Sub-4), filed February 4, 1982. Applicant: F. L. CASTINE, INC. d/b/a CASTINE MOTOR SERVICE, 1235 Chestnut St., Athol, MA 01331. Representative: Donald R. Castine (same address as applicant), (617) 249-9105. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with L. S. Starrett Company, of Athol, MA.

MC 117954 (Sub-31), filed February 16, 1982. Applicant: H. L. HERRIN, JR., P.O. Box 1106, Metairie, LA 70004. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202, (316) 265-2635. Transporting *meats, meat products, meat byproducts, dairy products* and *articles* distributed by meat packing houses, between points in Brown County, WI, on the one hand, and, on the other, points in AL, AR, LA, MS, and TX.

MC 129515 (Sub-2), filed February 16, 1982. Applicant: TORRANCE VAN & STORAGE COMPANY, d.b.a. S & M MOVING SYSTEMS, 1916 Border Avenue, Torrance, CA 90501. Representative: John C Russell, 1545 Wilshire Boulevard, Los Angeles, CA 90017, (213) 483-4700. Transporting *general commodities* (except classes A and B explosives), between points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY.

MC 140484 (Sub-106), filed February 18, 1982. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Chester A. Zyblut, 366 Executive Building, 1030 15th St., N.W., Washington, DC 20005, (202) 296-3555. Transporting *such commodities* as are dealt in and distributed by chain grocery and food business houses, between points in the U.S. (except AK and HI), under continuing contract(s) with Giant Eagle Markets, Inc., of Pittsburgh, PA, and its subsidiaries.

MC 141324 (Sub-2), filed February 8, 1982. Applicant: CHENANGO VALLEY BUS LINES, INC., 123 Eldredge St., Binghamton, NY 13901. Representative: Michael J. Marzano, 99 Kinderkamack Rd., Westwood, NJ 07675, (201) 666-5111. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter operations, beginning and ending at Binghamton, NY and points in NY within 50 miles of Binghamton, and extending to points in the U.S., including AK (except to points in HI, Susquehanna and Lackawanna Counties, PA, and DC).

MC 149235 (Sub-9), filed February 16, 1982. Applicant: C. MAZWELL TRUCKING CO., INC., 9108 Reeds Drive, Overland Park, KS 66207. Representative: Alex M. Lewandowski, 1221 Baltimore Ave., Ste 600, Kansas City, MO 64105, (816) 221-1464. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Sunshine Biscuit, Inc., of Sayreville, NJ.

MC 149334 (Sub-4), filed February 16, 1982. Applicant: PIONEER ACQUISITION CORP., 2500 28th St., SW, Wyoming, MI 49509. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106, (402) 392-1220. Transporting *general commodities* (except household goods), between points in the U.S., under continuing contract(s) with United Forwarding, Inc., of Omaha, NE.

Note.—The permit granted in this proceeding shall expire 5 years from the date of issuance.

MC 150464 (Sub-6), filed February 18, 1982. Applicant: C. E. MELTON TRANSPORT CO., Route 4, Highway 280 East, Americus, GA 31709. Representative: Clayton R. Byrd, 2870 Briaglen Drive, Doraville, GA 30340, (404) 491-1696. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MS, MO, NC, OH, OK, SC, TN, TX, and VA.

MC 156224 (Sub-1), filed February 17, 1982. Applicant: CARGO FORWARDING INC., 168-01 Rockaway Blvd., Jamaica, NY 11434. Representative: Grace S. Onaga, 375 Park Ave., New York, NY 10152, (212) 759-5400. Transporting *general commodities* (except classes A and B explosives and household goods), between points in NY, NJ, PA and CT.

MC 160605, filed February 16, 1982. Applicant: MORRIS LIVESTOCK EXPRESS, INC., Box 105, Morris, MN 56267. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402, (612) 340-0606. Transporting *general commodities*, between points in the U.S., under continuing contract(s) with HFE, Inc., of Ft. Collins, CO.

MC 160624, filed February 18, 1982. Applicant: WHITE PLAINS BUS CO., INC., 91 Fulton St., White Plains, NY 10601. Representative: Garrison R. Corwin, Jr., 100 Mamaroneck Ave., P.O. Box 370, Mamaroneck, NY 10543, (914) 698-2746. Transporting *passengers*, in charter operations, beginning and ending at points in Westchester and Bronx Counties, NY, and extending to points in MA, RI, CT, VT, NH, ME, PA, NJ, DE, VA, and DC, under continuing contract(s) with Yonkers Pinsly Day Camp & Teen Travel, Inc., of Yonkers, NY, Tremont Youth Employment Program, of Bronx, NY, and Tent "N" Toe, of White Plains, NY.

MC 160625, filed February 18, 1982. Applicant: THE W. H. FAY COMPANY, 3020 Quigley Ave., Cleveland, OH 44113. Representative: Frank Sgro (same address as applicant), (216) 861-4232. Transporting *general commodities* (except classes A and B explosives and household goods), between points in OH, on the one hand, and, on the other, points in IL, IN, KY, MI, NY, OH, PA, and WV.

MC 160634, filed February 19, 1982. Applicant: DALLAS G & G EXPRESS, INC., 14001 Goldmark, Suite 242, Dallas, TX 75240. Representative: Sam Hallman, 4555 First National Bank Bldg., Dallas, TX 75202, (214) 741-6263. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Dermatological Products of Texas, Inc., of San Antonio, TX.

MC 160635, filed February 19, 1982. Applicant: WILLIAM E. LORENCE, INC., d.b.a. BILL'S TRUCKING, INC., 4520 Everett St., Los Angeles, CA 90058. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211, (213) 655-3573. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA.

MC 160644, filed February 19, 1982. Applicant: SHOPPER'S SHUTTLE INC., 6 Waumbec Rd., Cape Elizabeth, ME 04107. Representative: Sandra A. Cameron (same address as applicant), (207) 799-8055. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, limited to transportation of not more than 15 passengers, beginning and ending at points in ME, and extending to points in NH and MA.

Volume No. OP3-036

Decided: February 25, 1982.

By the Commission, Review Board No. 2. Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 44914 (Sub-4), filed February 23, 1982. Applicant: WILLIAMETTE VALLEY TRANSFER CO., INC., 1995 Commercial Street NE., Salem, OR 97303. Representative: Lyle E. Neschke (same address as applicant), (503) 362-3624. Transporting *general commodities* (except those of unusual value, classes A and B explosives, houshold goods, and commodities in bulk), between points in OR.

MC 159694 (Sub-1), filed February 8, 1982. Applicant: THOMAS F. FOLDY, d.b.a. COLONIAL LIMOUSINE, 260 B Edgemoor Road, Bridgeport, CT 06606. Representative: Howard T. Owens, jr., 10 Middle Street, Bridgeport, CT 06601, (203) 334-4153. Transporting *passengers and their baggage*, limited to the transportation of not more than 15 passengers (excluding the driver) in one vehicle at one time, beginning and ending at points in CT, and ME and extending to points in ME, NH, VT, MA, CT, RI, NY, PA, NJ, DE, VA, NC, SC, GA, FL, and DC.

Volume No. OP4-73

Decided: February 25, 1982.

By the Commission, Review Board No. 2. Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 32967 (Sub-7), filed February 11, 1982. Applicant: ATLANTIC COAST EXPRESS, INC., 2170 N. Fleet St., Elizabeth, NJ 07201. Representative: Edward D. Greenberg, 1054 31st St. NW., Washington, DC 20007, (202) 342-5277. Transporting *general commodities* (except classes A and B explosives), (1) between Baltimore, MD, Boston, MA, Chicago, IL, Cleveland, OH, Detroit, MI, New York, NY, Norfolk, VA, Philadelphia, PA, and Providence, RI, on the one hand, and, on the other, points in OH, IN, IL, MN, MI, WI, IA, MO and KS, and (2) between Chicago, IL, Cleveland, OH and Detroit, MI, on the one hand, and, on the other, points in NY, PA, MD and WV.

MC 63417 (Sub-313), filed February 11, 1982. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant), (800) 336-9729. Transporting *plastic or rubber products*, between points in Essex County, MA, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 147007 (Sub-9), filed February 18, 1982. Applicant: EVERFRESH TRANSPORTATION COMPANY, 6431 E. Palmer, Detroit, MI 48211. Representative: John S. Barbour, 2711 E. Jefferson, Suite 202, Detroit, MI 48207, (313) 259-6555. Transporting *glass containers and closures, and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Chattanooga Glass Company, of Chattanooga, TN.

MC 156127 (Sub-2), filed February 11, 1982. Applicant: PAGE

TRANSPORTATION, INC., P.O. Box 2086D, Oswego, NY 13126. Representative: Herbert M. Canter, 305 Montgomery St., Syracuse, NY 13202, (315) 472–8845. Transporting *metal products* between points in Gloucester County, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160607, filed February 17, 1982. Applicant: MERCURY TOURS, 2864 Deloak Dr., Apt. B, St. Louis, MO 63129. Representative: Michael Maris (same address as applicant), 1–314–846–0843. To operate as a broker at St. Louis, MO, in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of *passengers and their baggage*, between points in MO, on the one hand, and, on the other, points in the U.S.

MC 160647, filed February 19, 1982. Applicant: ROBERT J. O'NEILL, 170 Madison Court, Holland, PA 18966. Representative: Raymond A. Thistle, Jr., Five Cottman Ct., Homestead Rd. and Cottman St., Jankintown, PA 19046, (215) 576–0131. Transporting *school supplies and educational materials*, between points in the U.S., under continuing contract(s) with Charles J. Becker & Bro., Inc., of Philadelphia, PA.

Volume No. OP5–48

Decided: February 25, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 40978 (Sub-80), filed February 19, 1982. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, 3321 So. Business Drive, Sheboygan, WI 53081. Representative: Richard C. Alexander, 710 No. Plankinton Ave., Milwaukee, WI 53203, (414) 273–7410.. Transporting *plastic products* between points in Erie County, PA, on the one hand, and, on the other, points in IL, IN, MI, MN, and WI.

MC 59409 (Sub-18), filed February 19, 1982. Applicant: MAJOR TRANSPORT, INC., Box 204, Hwy 135 and Airport Rd., Palmyra, WI 53156. Representative: Jack Meyer and David V. Purcell, 111 East Wisconsin Ave., Suite 1330, Milwaukee, WI 53202, (414) 272–8550. Transporting *general commodities* (except classes A and B explosives), between points in IL, IA, and WI, on the one hand, and, on the other, points in the U.S.

MC 61799 (Sub-4), filed February 19, 1982. Applicant: CONESTOGA TRANSPORTATION COMPANY, 825 East Chestnut St., Lancaster, PA 17602. Representative: Jeremy Kahn, 1511 K St., NW., Suite 733, Investment Bldg., Washington, DC 20005, (202) 783–3525. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, beginning and ending at points in Lanscaster and York Counties, PA, and extending to points in the U.S., including AK but excluding HI.

MC 136306 (Sub-17), filed February 18, 1982. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, P.O. Box 22828, Jackson, MS 39205, 601–948–8820. Transporting (1) *chemicals and related products*, (except classes A and B explosives, and commodities in bulk), and (2) *petroleum products*, (except in bulk), between points in the U.S. (except AK and HI).

MC 142879 (Sub-2), filed February 18, 1982. Applicant: C & B CONTRACT CARRIER, INC., 1435 Mayson Turner Rd., N.W., Atlanta, GA 30314. Representative: Guy H. Postell, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326, 404–237–6472. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with R Max, Inc. of Greer, SC.

MC 147039 (Sub-8), filed February 18, 1982. Applicant: TRANSPORTATION SERVICES, INC., 21055 West Rd., Trenton, MI 48183. Representative: H. Neil Garson, 3251 Old Lee Hwy., Fairfax, VA 22030, (703) 691–0900. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S.

MC 149159, filed February 18, 1982. Applicant: CHEMICAL POLLUTION CONTROL, INC., 120 So. 4th St., Bay Shore, NY 11706. Representative: John Sabatino, (same address as applicant), (516) 586–0333. Transporting *hazardous waste materials* between those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada.

MC 152218 (Sub-4), filed February 18, 1982. Applicant: OHIO PIGGYBACK TRANSPORTATION, INC., 2880–A Fisher Road, Columbus, OH 43204. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with PFV Marketing, Inc., of Columbus, OH.

MC 153679 (Sub-5), filed February 19, 1982. Applicant: CUMBERLAND FREIGHT LINE, INC., 13th St., Smyrna, TN 37167. Representative: J. Greg Hardeman, 618 United American Bank Bldg., Nashville, TN 37219, (615) 244–6100. Transporting *such commodities* as are dealt in or used by grocery houses or grocery distribution warehouses, between points in the U.S., under continuing contract(s) with Bi-Rite Foods, Inc., of Nashville, TN.

MC 155928 (Sub-1), filed February 16, 1982. Applicant: WAYNE GLEGHORN TRUCKING, INC., 3236 Slaton Hwy., P.O. Box 47, Lubbock, TX 79404.Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408, (806) 763–9555. Transporting (1) *such commodities* as are dealt in or used by grocery or food business houses, (2) *iron and steel articles*, and (3) *automotive parts and accesories*, between points in Lubbock, El Paso, Potter and Tom Green Counties, TX, on the one hand, and, on the other, points in CA, AZ, IL, NE, NM, TX, MO, OK, OR, CO, AR, WA, ID, MI, LA, IA, and FL.

MC 156399 (Sub-3), filed February 19, 1982. Applicant: CASTLE CONTRACT CARRIERS, INC., 2337 Summer St., Lauderdale, MN 55113. Representative: Jerry E. Hess, P.O. Box 43640, St. Paul, MN 55164, (612) 633–7911. Transporting *paint and paint products*, between points in the U.S. (except AK and HI), under continuing contract(s) with The Sherwin-Williams Company of Cleveland, OH. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit, indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 5, Room 6370.

MC 156298, filed February 18, 1982. Applicant: SOUTHERN SERVICES, INC., 9610 South Orange Ave., Orlando, FL 32859. Representative: Fritz R. Kahn, 1660 L St., NW., Suite 1100, Washington, DC 20036, (202) 452–1731. Transporting *general commodities* (except classes A and B explosives), between points in FL.

MC 160619, filed February 18, 1982. Applicant: CEDARBURG DAIRY, INC., W55 N155 McKinley Blvd., Cedarburg, WI 53012. Representative: William C. Dineen, 710 No. Plankinton Ave., Milwaukee, WI 53203, (414) 273–7410. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Home Juice Company of Melrose Park, IL.

MC 160256, filed February 9, 1982. Applicant: TECOPA HOT SPRINGS TRANSPORTATION, P.O. Box 393, Tecopa, CA 92389. Representative: Carroll Wallace (same address as applicant), (714) 852–4347. Transporting *passengers and their baggage and express*, in the same vehicle with passengers, (1) between Tecopa Hot Springs, CA, and Las Vegas, NV: from Tecopa Hot Springs over the Old Spanish Trail to junction NV Hwy 160, then over NV Hwy 160 to junction U.S. Hwy 15, then over U.S. Hwy 15 to Las Vegas, and return over the same route, serving all intermediate points, and (2) between Tecopa Hot Springs, CA and Pahrump, NV: from Tecopa Hot Springs over CA Hwy 127 to Shoshone, CA, then over CA Hwy 178 and NV Hwy 372 to Pahrump, and return over the same route, serving all intermediate points.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-5973 Filed 3-4-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

[Civil No. C-1-82-179]

Baldwin-United Corp. and MGIC Investment Corp.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b) through (h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement have been filed with the United States District Court for the Southern District of Ohio, Western Division, in *United States* v. *Baldwin-United Corporation and MGIC Investment Corporation.* This case alleged that the acquisition of MGIC by Baldwin would result in a violation of Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment would require Baldwin to divest all of its interest in the control over AMIC Corporation by February 8, 1983. Under certain limited circumstances the divestiture time period may be extended for a maximum of six months. AMIC and MGIC compete directly in the sale of private mortgage guarantee insurance.

Public comment is invited within the statutory sixty (60) day comment period. Written comments, and responses thereto, will be published in the Federal

Register and filed with the Court. Comments should be directed to Stanley M. Gorinson, Chief, Special Regulated Industries Section, Antitrust Division (SAFE–504B), Department of Justice, Washington, D.C. 20530.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

U.S. District Court, Southern District of Ohio, Western Division

United States of America, Plaintiff, v. *Baldwin-United Corporation and MGIC Investment Corporation*, Defendants.

Civil Action No. C–1–82–179.

Filed: February 22, 1982.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: February ———, 1982.

For the Plaintiff: William F. Baxter, *Assistant Attorney General;* Mark Leddy, Stanley M. Gorinson, Robert E. Hauberg, *Attorneys, Antitrust Division, U.S. Department of Justice.*

John V. Thomas, Gordon G. Stoner, Julie L. Akins, *Trial Attorneys, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530, Telephone: (202) 724–6721.*

For the Defendant, Baldwin-United Corporation: Counsel for Defendant, Kaye, Scholer, Fierman, Hays & Handler, (by) Joshua F. Greenberg, a Member of the Firm.

For the Defendant, MGIC Investment Corporation: Counsel for Defendant, Foley, Lardner, Hollabaugh & Jacobs, (by) Ephraim Jacobs, a member of the Firm.

Stipulation approved for filing,

Dated:———

U.S. District Judge ———

Of Counsel: J. Leland Brewster III, Esq., Neil Ganulin, Esq., Frost & Jacobs

Alan F. Goott, Esq., Kaye, Scholer, Fierman, Hays & Handler, for Defendant Baldwin-United Corporation

U.S. District Court Southern District of Ohio, Western Division

United States of America, Plaintiff, v. *Baldwin-United Corporation and MGIC Investment Corporation*, Defendants.

Civil Action No. C–1–82–178.

Final Judgment. Filed: February 22, 1982.

Plaintiff, United States of America, having filed its Complaint herein on February 22, 1982, and plaintiff and defendant, by their respective attorneys, having consented to the entry of this Final Judgment, and without this Final Judgment constituting evidence or admission by any party with respect to any issue of fact or law herein;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, adjudged and decreed, as follows:

I

This Court has jurisdiction of the subject matter herein and of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II

As used in this Final Judgment:

A. "AMIC" shall mean AMIC Corporation and each of AMIC's directly and indirectly owned subsidiaries.

B. "Baldwin-United" shall mean defendant, Baldwin-United Corporation, and each of Baldwin-United's directly and indirectly owned subsidiaries including without limitation AMIC and MGIC Investment Corporation and Mortgage Guaranty Insurance Corporation. Provided, however, that for the purposes of paragraphs IV, V, VI and VII, the term Baldwin-United does not include AMIC.

C. "Private mortgage guaranty insurance" shall mean all forms of mortgage guaranty insurance on 1–4 family residential homes (including individual condominium policies) by licensed insurers that are not government or quasi-government organizations.

D. "Person" shall mean any individual, partnership, firm, corporation, association, or any other business or legal entity.

III

The provisions of this Final Judgment shall apply to Baldwin-United and its officers, directors, agents, employees, affiliates, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

A. Baldwin-United is ordered and directed to divest all direct or indirect ownership interest in and control over AMIC by February 8, 1983. If such divestiture is not effected by means of a sale to a third party or otherwise by February 8, 1983, Baldwin-United shall effect such divestiture on February 8, 1983 by means of a spin-off of all of its interest in AMIC to the shareholders of Baldwin-United. Such a spin-off shall be accomplished by a divestiture agent, who shall be proposed by Baldwin-United subject to the approval of plaintiff, which shall have all authority and power necessary to effect the spin-off on February 8, 1983. Said divestiture agent may be a commercial bank or trust company, or other appropriate entity; the divestiture agent shall have no present or past fiduciary relationship with Baldwin-United, and shall be paid by Baldwin-United. Baldwin-United shall engage the services of a divestiture agent sufficiently in advance of February 8, 1983 to ensure that the spin-off shall be accomplished on that date.

B. The period within which divestiture must be effected may be extended, for a maximum of six months, by the plaintiff, which shall not unreasonably withhold its consent, if Baldwin-United demonstrates that such an extension is necessary to enable Baldwin-United or any acquiring party to obtain necessary approvals from state insurance departments or other state or federal agencies having jurisdiction; provided, however, that all applications or notices required to be filed in connection with obtaining such approvals shall have been filed not later than January 9, 1982. If such an extension is granted by plaintiff, the date for the spin-off of AMIC by the divestiture agent specified above shall be the last day of the extended period. There shall be no other extensions granted.

C. The divestiture required by this Section IV shall be to a purchaser (or to the shareholders of Baldwin-United) and upon terms and conditions approved by the plaintiff or, failing such approval by the plaintiff, by the Court. Within 15 days after Baldwin-United presents to the plaintiff notice of any proposed divestiture, and full details of same, the plaintiff shall indicate its approval or disapproval in writing or shall request additional information concerning the proposed divestiture.

D. If plaintiff requests additional information concerning the proposed divestiture, it must indicate its approval or disapproval in writing within 15 days after receipt of the additional information. Failure to respond within the required time under either circumstances shall be deemed to be approval by the plaintiff. If plaintiff objects to the proposed divestiture, then such divestiture shall not be consummated unless approved by the Court or unless plaintiff notifies Baldwin-United in writing that its objection has been withdrawn.

V

Sixty (60) days after the date of entry of this Final Judgment and every sixty (60) days thereafter until Baldwin-United has complied with Section IV hereof, Baldwin-United and the divestiture agent shall submit written reports to the plaintiff, describing the steps which have been taken to comply with this Final Judgment. Each report from Baldwin-United shall include the name and address of each person, if any, who, since the last such report, made an offer, expressed a desire in writing, or entered into negotiations to acquire the property to be divested together with full details of same. Each report from the divestiture agent shall describe the state of preparation for the spin-off. All reports required by this subparagraph shall, to the extent permitted by law, be kept confidential within the meaning of 15 U.S.C. 18a(h).

VI

Baldwin-United shall, until the divestiture required by this Final Judgment is accomplished:

A. Maintain persons on the AMIC Board of Directors who are all demonstrably independent of Baldwin-United's control; the directors will not be stockholders, officers, directors or employees of Baldwin-United, nor will they be relatives of any officers or directors of Baldwin-United, nor will they have any other substantial business relationship with Baldwin-United; such directors will be chosen on the basis of their business reputation and judgment; the Board of Directors will have the same authority and responsibilities as the board of directors of any independent corporation. Provided, however, that Baldwin-United may cause AMIC's directors to prevent AMIC from entering businesses other than the business of insurance.

B. Exercise no control over the conduct of AMIC's business. No competitive information shall be communicated by AMIC to Baldwin-United or MGIC. Each member of AMIC's Board of Directors and each officer of AMIC shall be given copies of this Final Judgment and shall submit to plaintiff, prior to entry of this Final Judgment, affidavits that they will comply with its terms.

In furtherance of these commitments, Baldwin-United will not (i) use any advertising agency or public relations counsel now being used in any material respect by AMIC; (ii) use the same principal bank now used by AMIC; (iii) share personnel with AMIC; or (iv) engage in financial of other transactions with AMIC except treaty reinsurance in the ordinary course of AMIC's business.

C. Baldwin-United and its independent auditors, where appropriate, will be entitled to receive from AMIC such information, reports and documents as are reasonably required to enable Baldwin-United to (i) prepare its regular financial reports and any filings made with the SEC or other regulatory agencies which require data or information concerning AMIC, (ii) to monitor and comply with the requirements of the Amended Stock Purchase Agreement and the officers' Stock Purchase Agreement among Baldwin-United and the five members of AMIC's management, and (iii) to prepare its federal income tax returns and other tax returns or reports which may require AMIC figures; in addition, Baldwin-United will be entitled and expectes to receive monthly, quarterly and annually, as applicable, financial statements and notes thereto in reasonable detail and in form similar to financial statements and notes thereto sent to the shareholders of publicly-held companies on a quarterly and annual basis; such statements shall include the following:

(i) AMIC's consolidated and consolidating balance sheets together with notes thereto.

(ii) AMIC's consolidated and consolidating statements of income together with notes thereto.

(iii) AMIC's analysis of risks to capital ratios for companies involved.

(iv) AMIC's consolidated statement of changes in financial position together with notes thereto.

(v) AMIC's annual statement filed with state insurance commissioners.

(vi) AMIC's detailed analysis by company of investment portfolios.

Baldwin-United reserves the right to inquire in writing about and to receive such further information related to such reports and analyses as may be reasonably required to comply with the provisions of this paragraph; any information required to be supplied to regulatory agencies which may be of a confidential nature will, to the extent possible within the rules of the agency involved, be supplied by AMIC directly to the agency and not to Baldwin-United.

D. Not request or otherwise seek to obtain, any information of a confidential nature concerning AMIC's present lines of business (except for the financial information described above), its short and long-term plans, its customers or customer prospects, or any trade secrets.

E. Not cause the destruction of AMIC or cause the viability of AMIC to be impaired.

VII

At any time during the period of ten (10) years from the date of entry of this Final Judgment, without prior written approval of the plaintiff, Baldwin-United is enjoined and restrained from acquiring:

A. Any capital stock of any person engaged in the sale of private mortgage guaranty insurance in the United States (excluding, however, Baldwin-United's planned acquisition of MGIC Investment Corporation and its subsidiary corporations engaged in such business); and

B. Any assets employed in the sale of private mortgage guaranty insurance in the United States by any other person, but this shall not prohibit Baldwin-United from acquiring assets inthe ordinary course of the mortgage guaranty insurance business.

VIII

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Baldwin-United made to its principal offices, be permitted:

(i) Access during regular office hours of Baldwin-United to inspect and copy all relevant books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of Baldwin-United and without restraint or interference from Baldwin-United, which may have counsel present; and

(ii) Subject to the reasonable convenience of Baldwin-United and without restraint or interference from Baldwin-United, to interview officers, employees, and agents of Baldwin-United, who may have counsel present.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to Baldwin-United's principal offices, Baldwin-United shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested;

C. No information or documents obtained by the means provided in this Section shall be divulged by a representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with the Final Judgment, or as otherwise required by law; and

D. If at the time information or documents are furnished by Baldwin-United to plaintiff in accordance with this Section, Baldwin-United represents and identifies in writing the material in any such information on documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure and Baldwin-United marks each pertinent page of such material "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then unless a court of competent jurisdiction orders otherwise, ten (10) days' notice shall be given by plaintiff to Baldwin-United prior to divulging such material in any legal proceedings (other than a grand jury proceeding) to which Baldwin-United is not a party.

IX

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance therewith and for the punishment of any violation hereof.

X

Entry of this Final Judgment is in the public interest.

Entered:

———

United States District Judge

Dated:———

U.S. District Court, Southern District of Ohio, Western Division

United States of America, Plaintiff, v. *Baldwin-United Corporation and MGIC Investment Corporation*, Defendants.

Civil Action No. C–1–82–178.

Filed: February 22, 1982.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States of America files this Competitive Impact Statement relating to the proposed Final Judgment against defendants in this civil antitrust proceeding.

I. Nature and Purpose of The Proceeding

On February 22, 1982, the United States filed a civil antitrust complaint under Section 15 of the Clayton Act, 15 U.S.C. 25, challenging the acquisition of MGIC

Investment Corporation ("MGIC") by Baldwin-United Corporation ("Baldwin") as a violation of Section 7 of the Clayton Act, 15 U.S.C. 18. The complaint alleges that the effect of the acquisition may be substantially to lessen competition in the provision of private mortgage guarantee insurance ("PMI") throughout the United States.

Plaintiff and defendants have stipulated that the proposed Final Judgment may be entered after compliance with the Antitrust Procedures and Penalties Act. Entry of the proposed Judgment will terminate the action, except that the Court will retain jurisdiction to construe, modify, or enforce the provisions of the proposed Judgment, and to punish violations of the proposed Judgment.

II. Events Giving Rise to The Alleged Violation

Private mortgage guarantee insurance reduces a lender's risk of loss in the event of the borrower's default on a residential mortgage loan. When a borrower defaults on a mortgage that is covered by a PMI policy, the PMI insurer generally pays the lender a predetermined percentage (usually 20 or 25%) of the outstanding mortgage balance plus certain other expenses. Typically, PMI coverage involves "low equity" mortgages (*i.e.*, mortgages with less than a 20% down payment). Lenders frequently require PMI insurance as a condition of granting a conventional low equity mortgage to a borrower. The borrower pays the insurance premium for the benefit of the lender. In 1980, PMI firms received over $300 million in premiums for providing PMI coverage.

MGIC is an insurance holding company whose principal line of business is writing PMI policies. MGIC is the oldest and largest PMI company. In 1980 MGIC received approximately $129 million in premiums from the PMI business. In 1980, MGIC's share of the PMI market was approximately 41% of all PMI premiums earned and 39.7% of earned premiums on newly written PMI policies.

Baldwin is a holding company that owns a number of businesses, including a variety of insurance businesses. Baldwin owns a 92% interest in AMIC Corporation ("AMIC"), which it acquired from Merrill Lynch & Co. on December 1, 1981. AMIC is the sixth largest PMI company. It is licensed to write PMI policies in 47 states and it actually does such business in 43 states. In 1980 AMIC received approximately $17 million in earned PMI premiums. AMIC's share of the PMI market is approximately 7% of all premiums earned and 4% of earned premiums on newly written PMI policies. On December 13, 1981, Baldwin agreed to acquire MGIC for approximately $1.2 billion in cash.

In addition to MGIC and AMIC there are approximately thirteen other firms that write PMI. In 1980 the four largest PMI companies accounted for approximately 73% of all earned PMI premiums, and the eight largest accounted for approximately 98% of all earned PMI premiums.

MGIC and AMIC are direct competitors in the sale of PMI in the United States. That competition takes several forms, including (a) providing faster and otherwise better service on policy approvals and claims, and providing such additional services to mortgage lenders as conducting educational programs for those lenders and aiding those lenders in reselling mortgages in the secondary markets; (b) developing new PMI policies principally for use in covering "creative financing" packages (*e.g.*, coverage of adjustable rate, graduated payment and "wrap-around" mortgages); and (c) some price competition covering at least certain types of PMI policies.

Based upon the foregoing facts, the complaint alleges that the effect of the acquisition may be substantially to lessen competition in the sale of PMI in violation of Section 7 of the Clayton Act.

III. Explanation of the Proposed Final Judgment

The United States and the defendants have stipulated that the proposed Final Judgment may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The proposed Judgment constitutes no admission by either party as to any issue of fact or law. Under the provisions of the Antitrust Procedures and Penalties Act, entry of the proposed Judgment is conditioned upon a determination by the Court that the proposed Final Judgment is in the public interest.

The proposed Final Judgment orders Baldwin to divest all direct or indirect ownership interest in AMIC by February 8, 1983. If Baldwin does not during this time period effect divestiture by means of a sale to a third party or otherwise (including any possible spin-off that Baldwin might elect to pursue), then Baldwin must spin-off all of its interest in AMIC to Baldwin's shareholders on February 8, 1983. This spin-off is to be accomplished through the services of a divestiture agent who shall be proposed by Baldwin subject to the approval of the United States. The divestiture agent shall have the power and authority to effect a spin-off on February 8, 1983, should this become necessary. The proposed Judgment also provides for an extension of time, for a period not to exceed six months from February 8, 1983, if Baldwin has been unable to obtain necessary approvals from state insurance commissioners or other state and federal agencies having jurisdiction. No other extentions may be granted.

Until divestiture of AMIC is accomplished, the hold-separate provisions of the proposed Final Judgment preclude Baldwin from exercising control over the conduct of AMIC's business. Baldwin must maintain persons on the AMIC Board of Directors who are demonstrably independent of Baldwin's control. AMIC's directors must not be officers, directors or employees of Baldwin, nor may they have any other substantial business relationship with Baldwin. AMIC's directors are to have the same responsibilities as directors of any independent corporation. In addition, the proposed Final Judgment forbids any communication of competitive information by AMIC to Baldwin or MGIC. In furtherance of these obligations, Baldwin shall not share personnel with AMIC, engage in financial or other transactions with AMIC, nor use any advertising or public relations agency that is now being used by AMIC. AMIC's directors and officers are to submit affidavits stating that they will comply with terms of the proposed Judgment.

The proposed Final Judgment requires Baldwin to submit periodic reports to the plaintiff describing the steps that it has taken to comply with the Judgment. Baldwin must also give plaintiff notice of any proposed divestiture prior to closing so as to allow the United States time to object to the proposal. Upon timely objection by the plaintiff, the proposed divestiture shall not be consummated unless approved by the Court.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorney fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. 16(a)), the proposed Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against the defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and defendant have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the Antitrust Procedures and Penalties Act, provided that the United States has not withdrawn its consent. The Act conditions entry upon the Court's determination that the proposed Judgment is in the public interest.

The Act provides a period of at least sixty (60) days preceding the effective date of the proposed Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wants to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the Federal Register. The United States will evaluate the comments, determine whether it should withdraw its consent, and respond to the comments. The comments and the response of the United States will be filed with the court and published in the Federal Register.

Written comments should be submitted to: Stanley M. Gorinson, Chief, Special Regulated Industries Section, Antitrust Division (SAFE–504 B), U.S. Department of Justice, Washington, D.C. 20530.

VI. Alternatives to the Proposed Final Judgment

As an alternative to a consent decree, the United States had considered seeking a preliminary injunction to block Baldwin's acquisition of MGIC. After informing defendants of this alternative, plaintiff chose to negotiate the proposed Final Judgment since the Baldwin/MGIC transaction appeared to be a situation that warranted departure by the United States from its usual policy of insisting upon the elimination of competitive overlaps before consummation of an acquisition or merger. Until 1979, AMIC had a long history of being a successful free-standing PMI firm and even after it affiliated with Merrill Lynch AMIC continued to be operated as a separate business. AMIC's management currently has a significant equity ownership interest in that firm. AMIC has proven itself capable of operating, both in the interim and in the future, as an independent and effective competitor. Thus, if Baldwin does not divest AMIC by February 8, 1983, the divestiture agent's immediate spin off of AMIC to Baldwin's shareholders is a rapid mechanism for reestablishing AMIC as a wholly independent competitor.

Moreover, AMIC would continue to operate as an independent company under the hold-separate provisions of the proposed Final Judgment. Besides having to maintain a completely independent AMIC Board of Directors, Baldwin also would be precluded from exercising control over the conduct of AMIC's business. No competitive information could be communicated by AMIC to Baldwin or MGIC. Thus, these provisions would guard against potential anticompetitive effects until such time as divestiture is accomplished.

Since the relief obtained in the proposed Final Judgment eliminates the anticompetitive effects of the acquisition, it is substantially similar to the relief the United States would expect to obtain after a trial on the merits, assuming that no preliminary injunction had been initially obtained.

Although most provisions of the proposed Judgment were revised and refined in the course of negotiations, no other relief substantially different in kind was considered by the United States.

VII. Determinative Documents

There are no materials or documents which the United States considered determinative in formulating this proposed Final Judgment. Therefore, none are being filed along with this Competitive Impact Statement.

Respectfully submitted,

John V. Thomas,
Gordon G. Stoner,
Julie L. Akins,
Attorneys, Antitrust Division, Department of Justice, Washington, D.C. 20530, (202) 724–6721.

Dated: February 22, 1982.

[FR Doc. 82-6023 Filed 3-4-82; 8:45 am]
BILLING CODE 4410-01-M

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated December 28, 1981, and published in the Federal Register on January 5, 1982, (47 FR 362), Sigma Chemical Company, 3500 Dekalb Street, St. Louis, Missouri 63118, made application to the Drug Enforcement Administration to be registered as an importer of marihuana (7360), a basic class of controlled substance listed in Schedule I. The marihuana imported under this registration will be distributed only to those registered researchers who have unique requirements which cannot be otherwise fulfilled.

No comments or objections have been received. Therefore pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with 21 CFR 1311.42, the above firm is granted registration as an importer of the basic class of controlled substance listed above.

Dated: February 26, 1982.

Frank M. Monastero,
Assistant Administrator for Operations, Drug Enforcement Administration.

[FR Doc. 82-6008 Filed 3-4-82; 8:45 am]
BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program; New Extended Benefit Period in the State of Maine

This notice announces the beginning of a new Extended Benefit Period in the State of Maine, effective on February 21, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, the Maine unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of the State of Maine has determined that the rate of insured unemployment in the State, for the period consisting of the week ending on February 6, 1982, and the immediately proceding 12 weeks, rose to a point that equals or exceeds the State trigger rate, so that for that week there was an "on" indicator in that State.

Therefore, a new Extended Benefit Period commenced in that State with the week beginning on February 21, 1982.

Information for Claimants

The duration of extended benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d) (1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the State of Maine or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment office of the Maine Depatment of Manpower Affairs in their locality.

Signed at Washington, D.C., on March 1, 1982.

Albert Angrisani,
Assistant Secretary of Labor for Employment and Training.

[FR Doc. 82-6006 Filed 3-4-82; 8:45 am]
BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Bethlehem Steel Corp. et. al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 15, 1982.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 15, 1982.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 22d day of February 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Bethlehem Steel Corp., Bethlehem Plant (USWA)	Bethlehem, PA	2/11/82	2/5/82	TA-W-13,269	Steel & steel products.
Bethlehem Steel Corp., Sparrows Point Shipyard (USWA)	Sparrows Point, MD	2/9/82	2/8/82	TA-W-13,270	Ocean-going ships, tankers, bulk cargo vessels, ore carriers, oil rigs, etc.
Delaware Alloy Forge Company (IAMAW)	Philadelphia, PA	2/8/82	2/3/82	TA-W-13,271	Alloyed and unalloyed steel forgings.
Dentsply International Inc. (workers)	Caguas, PR	2/10/82	2/3/82	TA-W-13,272	Artificial teeth.
Dentsply, Inc. (workers)	Caguas, PR	2/10/82	2/3/82	TA-W-13,273	Artificial teeth.
Dietz & Company, Inc. (ACTWU)	E. Norwalk, CT	2/11/82	2/3/82	TA-W-13,274	Jackets, slacks—boys.
J.F. McElwain Co. (N.H. Shoe Wrks Union)	Nashua, NH	2/10/82	1/29/82	TA-W-13,275	Shoes—men's, casual.
Rancher's Exploration Corp., Blue Bird Mine (workers)	Miami, AZ	2/9/82	2/1/82	TA-W-13,276	Copper—mine, leech.
Servell Mfg. Corp. (workers)	Fall River, MA	2/9/82	2/5/82	TA-W-13,277	Blazers, skirts—ladies' contractor.
U.S. Steel Corp., Fairfield Works (USWA)	Fairfield, AL	2/9/82	2/4/82	TA-W-13,278	Plates, structural, wire plates—tin.
Waterous Co., Waterous Traverse City Division (workers)	Traverse City, MI	2/10/82	2/15/82	TA-W-13,279	Hydrants—fire and valves.

[FR Doc. 82-6090 Filed 3-4-82; 8:45 am]
BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Bobbie Brooks, Inc.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivion.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 15, 1982.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 15, 1982.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 26th day of February 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers of former workers of—	Location	Date received	Date of petition	Petition no.	Articles produced
Bobbie Brooks, Inc. D.B.A. Perception (workers)	Hialeah, Fla.	2/8/82	2/5/82	TA-W-13,242	Sportswear—ladies'

[FR Doc. 82-6089 Filed 3-4-82; 8:45 am]
BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; General Motors Corp. et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 15, 1982.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 15, 1982.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 26th day of February 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
General Motors Corp., Chevrolet Motor Div., Central Office (company).	Warren, Mich	2/16/82	2/16/82	TA-W-13,280	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Engineering Center (company).	Warren, Mich	2/16/82	2/16/82	TA-W-13,281	Sales and administrative support.
General Motors Corp., Chevrolet Motor Div., Central Office (company).	Hackensack, N.J.	2/16/82	2/16/82	TA-W-13,282	Sales and administrative support.
General Motors Corp., Central Office (company)	Atlanta, Ga.	2/16/82	2/16/82	TA-W-13,283	Sales and administrative support.
General Motors Corp., Central Office (company)	Pontiac, Mich.	2/16/82	2/16/82	TA-W-13,284	Sales and administrative support.
General Motors Corp., Central Office, Proving Grounds (company).	Mesa, Ariz.	2/16/82	2/16/82	TA-W-13,285	Sales and administrative support.
General Motors Corp., Buick Motor Div., Zone Sales Office (company).	Denver, Colo.	2/16/82	2/16/82	TA-W-13,286	Sales and administrative support.
General Motors Corp., Buick Motor Div., Zone Sales Office (company).	Overland Park, Kans.	2/16/82	2/16/82	TA-W-13,287	Sales and administrative support.
General Motors Corp., Buick Motor Div., Zone Sales Office (company).	No. Quincy, Mass.	2/16/82	2/16/82	TA-W-13, 288	Sales and administrative support.
General Motors Corp., Buick Motor Div., Zone Sales Office (company).	Farmington Hills, Mich.	2/16/82	2/16/82	TA-W-13, 289	Sales and administrative support.
General Motors Corp., Buick Motor Div., Zone Sales Office (company).	White Plains, N.Y.	2/16/82	2/16/82	TA-W-13, 290	Sales and administrative support.
General Motors Corp., Buick Motor Div., Zone Sales Office (company).	Williamsville, N.Y.	2/16/82	2/16/82	TA-W-13, 291	Sales and administrative support.
General Motors Corp., Buick Motor Div. (company)	Rocky River, Ohio	2/16/82	2/16/82	TA-W-13, 292	Sales and administrative support.
General Motors Corp., Buick Motor Div., Zone Sales Office (company).	Memphis, Tenn.	2/16/82	2/16/82	TA-W-13, 293	Sales and administrative support.
General Motors Corp., Buick Motor Div., Zone Sales Office (company).	Rockville, Md.	2/16/82	2/16/82	TA-W-13, 294	Sales and administrative support.
General Motors Corp., Buick Motor Div., Zone Sales Office (company).	Wauwatosa, Wis.	2/16/82	2/16/82	TA-W-13, 295	Sales and administrative support.
General Motors Corp., Cadillac Motor Div., Zone Sales Office (company).	Westlake Village, Calif.	2/16/82	2/16/82	TA-W-13,296	Sales and administrative support.
General Motors Corp., Cadillac Motor Div., Zone Sales Office (company).	Fremont, Calif.	2/16/82	2/16/82	TA-W-13,297	Sales and administrative support.
General Motors Corp., Cadillac Motor Div., Zone Sales Office (company).	Jacksonville, Fla.	2/16/82	2/16/82	TA-W-13,298	Sales and administrative support.
General Motors Corp., Cadillac Motor Div., Zone Sales Office (company).	Oak Brook, Ill.	2/16/82	2/16/82	TA-W-13,299	Sales and administrative support.
General Motors Corp., Cadillac Motor Div., Zone Sales Office (company).	Overland Park, Kans.	2/16/82	2/16/82	TA-W-13,300	Sales and administrative support.
General Motors Corp., Cadillac Motor Div., Zone Sales Office (company).	Rockville, Md.	2/16/82	2/16/82	TA-W-13,301	Sales and administrative support.
General Motors Corp., Cadillac Motor Div., Zone Sales Office (company).	Wellesley, Mass.	2/16/82	2/16/82	TA-W-13,302	Sales and administrative support.
General Motors Corp., Cadillac Motor Div., Zone Sales Office (company).	Edina, Minn.	2/16/82	2/16/82	TA-W-13,303	Sales and administrative support.
General Motors Corp., Cadillac Motor Div., Zone Sales Office (company).	Paramus, N.J.	2/16/82	2/16/82	TA-W-13,304	Sales and administrative support.
General Motors Corp., Cadillac Motor Div., Zone Sales Office (company).	Wayne, Pa.	2/16/82	2/16/82	TA-W-13,305	Sales and administrative support.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
General Motors Corp., Cadillac Motor Div., Zone Sales Office (company).	Beachwood, Ohio	2/16/82	2/16/82	TA-W-13,306	Sales and administrative support.
General Motors Corp., Cadillac Motor Div., Zone Sales Office (company).	Beaverton, Oreg.	2/16/82	2/16/82	TA-W-13,307	Sales and administrative support.
General Motors Corp., Oldsmobile Motor Div., Zone Sales Office (company).	Fremont, Calif.	2/16/82	2/16/82	TA-W-13,308	Sales and administrative support.
General Motors Corp., Oldsmobile Motor Div., Zone Sales Office (company).	Oakbrook, Ill	2/16/82	2/16/82	TA-W-13,309	Sales and administrative support.
General Motors Corp., Oldsmobile Motor Div., Zone Sales Office (company).	Overland Park, Kans	2/16/82	2/16/82	TA-W-13,310	Sales and administrative support.
General Motors Corp., Oldsmobile Motor Div., Reg. & Zone Sales Office (company).	Southfield, Mich	2/16/82	2/16/82	TA-W-13,311	Sales and administrative support.
General Motors Corp., Oldsmobile Motor Div., Reg. & Zone Sales Office (company).	Tarrytown, N.Y.	2/16/82	2/16/82	TA-W-13,312	Sales and administrative support.
General Motors Corp., Oldsmobile Motor Div. Zone Sales Office (company).	Williamsville, N.Y.	2/16/82	2/16/82	TA-W-13,313	Sales and administrative support.
General Motors Corp., Oldsmobile Motor Div., Zone Sales Office (company).	Charlotte, N.C.	2/16/82	2/16/82	TA-W-13,314	Sales and administrative support.
General Motors Corp., Oldsmobile Motor Div., Zone Sales Office (company).	Irving, Tex	2/16/82	2/16/82	TA-W-13,315	Sales and administrative support.
General Motors Corp., Pontiac Motor Div., Zone Sales Office (company).	Westlake Village, Calif	2/16/82	2/16/82	TA-W-13,316	Sales and administrative support.
General Motors Corp., Pontiac Motor Div., Zone Sales Office (company).	Atlanta, Ga	2/16/82	2/16/82	TA-W-13,317	Sales and administrative support.
General Motors Corp., Pontiac Motor Div., Zone Sales Office (company).	Overland Park, Kans	2/16/82	2/16/82	TA-W-13,318	Sales and administrative support.
General Motors Corp., Pontiac Motor Div., Zone Sales Office (company).	Rockville, Md	2/16/82	2/16/82	TA-W-13,319	Sales and administrative support.
General Motors Corp., Pontiac Motor Div., Zone Sales Office (company).	Wellesley, Mass	2/16/82	2/16/82	TA-W-13,320	Sales and administrative support.
General Motors Corp., Pontiac Motor Div., Zone Sales Office (company).	St. Louis, Mo	2/16/82	2/16/82	TA-W-13,321	Sales and administrative support.
General Motors Corp., Pontiac Motor Div., Zone Sales Office (company).	Charlotte, N.C.	2/16/82	2/16/82	TA-W-13,322	Sales and administrative support.
General Motors Corp., Pontiac Motor Div., Zone Sales Office (company).	Cleveland, Ohio	2/16/82	2/16/82	TA-W-13,323	Sales and administrative support.
General Motors Corp., Pontiac Motor Div., Zone Sales Office (company).	Oklahoma City, Okla	2/16/82	2/16/82	TA-W-13,324	Sales and administrative support.
General Motors Corp., Pontiac Motor Div., Zone Sales Office (company).	Memphis, Tenn	2/16/82	2/16/82	TA-W-13,325	Sales and administrative support.
General Motors Corp., Pontiac Motor Div., Zone Sales Office (company).	Brookfield, Wis	2/16/82	2/16/82	TA-W-13,326	Sales and administrative support.
Arvin Industries, Inc., Consumer Div. (wrks.)	Princeton, Ky	2/24/82	2/22/82	TA-W-13, 327	Stereo—systems, compact.
Bethlehem Mines Corp., Hanover Quarry (USWA)	Hanover, Pa	2/18/82	2/11/82	TA-W-13, 328	Limestone—processing.
Bendix Corp., Heavy Vehicle System (UAW)	Elyria, Ohio	2/16/82	2/11/82	TA-W-13, 329	Devices—braking, air for trucks.
Brigham Apparel Corp. (company)	Brigham City, Utah	2/23/82	2/11/82	TA-W-13, 330	Jackets—outwear.
Brigham Sportswear (company)	Brigham City, Utah	2/23/82	2/11/82	TA-W-13, 331	Distribute jackets—outerwear.
Crown Zellerbach (LPW)	Lincoln, Wash	2/22/82	2/16/82	TA-W-13, 332	Lumber—cuts, finishes.
G & R Knitting Mills, Inc. (workers)	Brooklyn, NY	2/8/82	2/4/82	TA-W-13,333	Fabrics—for sweaters.
Gem Products, Inc. (workers)	Rib Lake, Wis	2/17/82	2/11/82	TA-W-13, 334	Shoes and boots—women's.
Hoover Universal, Metal Seating Div. (workers)	Vincennes, Ind	2/1/82	1/26/82	TA-W-13, 335	Frames—seat, metal for auto and trucks.
Missouri Resource Services (workers)	Mineral Point, Mo	2/23/82	2/19/82	TA-W-13, 336	Barite—mining and hauling.
Star Watch Case Co. (AIW)	Ludington, Mich	2/16/82	2/10/82	TA-W-13,337	Cases—Watch.
Shure Electronics of America	Phoenix, Ariz	2/24/82	2/17/82	TA-W-13,338	Cartridges—Hi-Fi, phono microphones and cables for microphones.
Webster Manufacturing Co., Div. of Webster Industries (workers).	Tiffin, Ohio	2/10/82	2/5/82	TA-W-13,339	Steel, industrial iron—malleable, chain conveyor equipment.
Weston Instrument, Div of Sangamo-Weston (Weston Employees Union).	Newark, N.J	2/23/82	2/15/82	TA-W-13,340	Thermometers, analog, tachometers—digital.
Graystake Gelatin Co. (workers)	Graystake, Ill	2/23/82	2/16/82	TA-W-13,341	Edible gelatin.

[FR Doc. 82-6086 Filed 3-4-82; 8:45 am]
BILLING CODE 4510-30

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Walworth Co. et al.

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period February 22, 1982–February 26, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–13,065; Walworth Co., Aloyco Foundry, Elizabeth, NJ

TA–W–11,652; FMC Corp., Airlines Equipment Div., San Jose, CA

TA–W–11,075; Reidbord Brothers Co., Buchanan, West VA

TA–W–11,242; Reidbord Brothers Co., Elkins, West VA

TA–W–12,370; K.T. Plas, Inc., Leominster, MA

TA–W–12,069; Greentree Fashions, Camptown, PA

TA–W–12,132; Movie Star, Inc., Barbara Quilting Div., Port Jervis, NY

TA–W–12,046; Rochelle Apparel Co., Fall River, MA

TA–W–12,155; Niagara Plastics Co., Erie, PA

TA–W–12,512; Powder River, Inc., Sumner, WA

TA–W–12,067; Northwestern Steel & Wire Co., Sterling, IL

TA–W–12,068; Northwestern Steel & Wire Co., Rock Falls, IL

TA–W–12,145; Sanitary Scale Co., Belvidere, IL

TA–W–11,230; Shez Manufacturing Co., New York, NY

TA–W–11,150; Portera Garments, Inc., Brooklyn, NY

TA–W–11,542; East Side Lighting, Linden, NJ

In each of the following cases the investigation revealed that criterion (3) has not been met for the reason(s) specified;

TA–W–11,412; Monsanto Plastics & Resins Co., Springfield, MA

Aggregate U.S. imports of phenolic resins, polystryene plastics and formaldehyde are negligible.

TA–W–12,439; Classic World, Hoboken, NJ

Sales and production increased except for normal seasonal declines common to the ladies' coat industry.

Affirmative Determinations

TA–W–11,680; Marine Optical, Inc., Brockton, MA

The investigation revealed that all criteria have been met. All workers separated on or after April 1, 1980 are certified eligible to apply for adjustment assistance.

TA–W–11,701; Reid-Meredith, Inc., Lawrence, MA

A certification was issued in response to a petition received on November 10, 1980 covering all workers separated on or after December 14, 1980.

TA–W–11,945; Barker Engineering Corp., Kenilworth, NJ.

A certification was issued in response to a petition received on December 12, 1980 covering all workers separated on or after January 20, 1980.

TA–W–11,616; Schwartz Manufacturing Co., Inc., Howell, NJ

A certification was issued in response to a petition received on October 31, 1980 covering all workers separated on or after October 23, 1979.

I hereby certify that the aforementioned determinations were issued during the period February 22–26, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: March 2, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-6087 Filed 3-4-82; 8:45 am]
BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-81-272-C]

Clarence Maggard Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Clarence Maggard Coal Co., Inc., 300 Kentucky Boulevard, Hazard, Kentucky 41701 has filed a petition to modify the application of 30 CFR 75.805 (couplers) to its No. 10 and Kescoal Mines, located in Perry County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petitioner is seeking a modification of the standard to allow the use of junction boxes manufactured by Pemco Corporation and equipped with a Micro switch wired in series with the ground check circuit to cause the power circuit to be deenergized in the event the cover is removed. The boxes are constructed of ⅛ inch steel and equipped with insulated strain clamps.

2. In support of this request, petitioner states that all junction boxes shall be identical to Pemco Corporation part number J–133527.

3. Petitioner states that the proposed alternate method will at all times guarantee no less protection to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 5, 1982. Copies of the petition are available for inspection at that address.

Dated: February 22, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-6091 Filed 3-4-82; 8:45 am]
BILLING CODE 4510-43-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 82-47]

Exemption From the Prohibitions for Certain Transactions Involving the Clementson Engineers, Inc. Profit Sharing Plan, San Antonio, Texas; Exemption Application No. D–2654

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits: (1) The proposed purchase of certain real property (the Property) by the Clementson Engineers, Inc. Profit Sharing Plan (the Plan) from Mr. Rex Clementson (Clementson), a party in interest with respect to the Plan; and (2) the subsequent proposed leasing (the Lease) of the Property by the Plan to Clementson Engineers, Inc. (the Employer), the sponsor of the Plan.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 11, 1981, notice was published in the **Federal Register** (46 FR 60676) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any

interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has satisfied the notification requirements as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act, nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(4) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) The proposed purchase of the Property by the Plan from Clementson for cash of $39,100 provided that this price is no more than the fair market value of the Property at the time of sale; and (2) the Lease of the Property by the Plan to the Employer provided that the terms and conditions of the Lease are at least as favorable to the Plan as those which the Plan could receive from an unrelated party in a similar transaction.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 1st day of March, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-6066 Filed 3-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82–46]

Exemption From the Prohibitions for Certain Transactions Involving the Chemical Distributors, Inc. Employee Stock Bonus Plan; Phoenix, Arizona (Exemption Application No. D–2748)

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits, effective April 20, 1981, the sale of assets of Chemical Distributors, Inc. (the Employer) to Early California Industries, Inc. (ECI) through the assumption of all of the liabilities of the Employer and additional consideration of $7,420,000. The additional consideration consists of cash and installment obligations and includes an extension of credit by the Chemical Distributors, Inc. Employee Stock Bonus Plan (the Plan) to ECI, a party in interest with respect to the Plan.

EFFECTIVE DATE: This exemption is effective April 20, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216. (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 15, 1981, notice was published in the **Federal Register** (46 FR 61183) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reasons of section 4975(c)(1)(A) through (E) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested person to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been provided to all interested persons in compliance with the requirements set forth in the notice of proposed exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or

disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited tranaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiairies.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaires; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective April 20, 1981, to the sale of the assets of the Employer to ECI through the assumption of all of the liabilities of the Employer and additional consideration of $7,420,000, including the extension of credit by the Plan to ECI, provided that the terms of the transaction were at least as favorable to the Plan as those the Plan would have received in a transaction with an unrelated party at the time of the sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 1st day of March, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-6066 Filed 3-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82–45]

Exemption from the Prohibitions for Certain Transactions Involving the Supplementary Unemployment Benefit Fund, of the International Ladies' Garment Workers' Union (the ILGWU) Located in New York, New York (Exemption Application No. D–2900)

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the transfer of residual assets from the Supplementary Unemployment Benefit Fund, ILGWU (the SUB Fund) to the ILGWU National Retirement Fund (the National Retirement Fund) and the Retirement Fund, Local 102 ILGWU (the Local 102 Retirement Fund). (These plans are collectively referred to as the Funds.)

FOR FURTHER INFORMATION CONTACT: Ms. Jan Broady of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216 (202) 523–7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 11, 1982, notice was published in the **Federal Register** (46 FR 60673) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act), for a transaction described in an application filed by Mr. Theodore Bernstein, Director of the SUB Fund. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been provided to interested persons in compliance with the requirements set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Internal Revenue Code of 1954 that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(a), 406 (b)(1) and (b)(3) of the Act.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Funds and their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Funds.

Accordingly, the restrictions of section 406(b)(2) of the Act shall not apply to the transfer by the SUB Fund of approximately $2.7 million in residual assets to the National Retirement Fund and the Local 102 Retirement Fund.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 1st day of March 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-6097 Filed 3-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-44]

Exemption From the Prohibitions for a Certain Transaction Involving the Hanes Corporation Retirement Plan Located in Chicago, Illinois (Exemption Application No. D-2569)

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the sale of a parcel of undeveloped real estate located in Winston-Salem, North Carolina (the Property) by the Hanes Corporation Retirement Plan (the Plan) to Consolidated Foods Corporation (Consolidated), a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 18, 1981, notice was published in the **Federal Register** (46 FR 61754) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed on behalf of the Plan's trustee. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of the notice to interested persons as set forth in the notice of pendency. Two comments were received by the Department, but neither addressed the transaction which is the subject of the exemption. No requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975 (c)(1) (A) through (E) of the Code, shall not apply to the sale of the Property by the Plan to Consolidated for $38,956.90, provided such amount is not less than the fair market value of the Property at the time of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 25th day of February, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-5900 Filed 3-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-43]

Exemption From the Prohibitions for Certain Transactions Involving TP Laboratories, Inc., Revised Profit-Sharing Trust Plan Located in La Porte, Indiana (Exemption Application No. D-2570)

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the proposed purchase by TP Laboratories, Inc., Revised Profit-Sharing Trust Plan (the Plan) from the Estate of the late Harold D. Kesling (the Estate), a party in interest with respect to the Plan, of 390 shares of common stock of The State Exchange Bank (SEB) and 390 shares of common stock of State Exchange Finance Company (SEFC).

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8671. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 11, 1981, notice was published in the **Federal Register** (46 FR 60682) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the transaction mentioned above. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been furnished to interested persons in compliance with the provisions of the notice of proposed exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extent to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedures 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the purchase by the Plan from the Estate of 390 shares of SEB common stock and 390 shares of SEFC common stock for $150,150 provided that this amount is not higher than the fair market value of such shares as of the date of purchase.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 1st day of March, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-6099 Filed 3-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-45]

Exemption From the Prohibitions for Certain Transactions Involving Carroll Company Employees' Thrift and Retirement Trust; Located in Garland, Texas (Exemption Application No. D-2474)

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the proposed sale by the Carroll Company Employees' Thrift and Retirement Trust (the Plan) to the Carroll Company (the Employer) of a plot of land (the Property) for $36,000 in cash.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8671. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 4, 1981, notice was published in the **Federal Register** (46 FR 58328) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions

of section 406(a) and 406 (b)(1) and and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-mentioned transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The application has represented that a copy of the notice has been furnished to interested persons in compliance with the provisions of the notice of proposed exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 406(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with sectio 406(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale by the Plan to the Employer of the Property for $36,000 in cash, provided that this amount is not less than the fair market value of the Property on the date of the sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 1st day of March, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-6000 Filed 3-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-41]

Exemption From the Prohibitions for Certain Transactions Involving Carpenters Retirement Trust of Western Washington; Located in Seattle, Washington (Exemption Application No. D-2300)

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption would retroactively exempt commitments for and purchases by the Carpenters Retirement Trust of Western Washington (the Plan) of first mortgage loans from banks, savings and loan associations and mortgage bankers (Financial Institutions) which were parties in interest and disqualified persons with respect to the Plan solely by reason of servicing mortgages which they had sold to the Plan. Such loans were secured by mortgages on multiple unit residential, industrial and commercial buildings constructed by persons who are contributing employers with respect to the Plan.

EFFECTIVE DATE: This exemption is effective from August 6, 1975 until April 4, 1980.

FOR FURTHER INFORMATION CONTACT: Paul R. Antsen of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523–8915. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 20, 1981, notice was published in the **Federal Register** (46 FR 57175) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (D) of the Code, for the transactions described in the application for exemptive relief. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. The applicant has represented that it has complied with the requirements of notification to interested parties as set forth in the notice of pendency. No public comments were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 406(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, from August 6, 1975 until April 4, 1980, to commitments for and purchase by the Plan of mortgages in accordance with guidelines and procedures set forth in the application from certain Financial Institutions which are parties in interest and disqualified persons with respect to the Plan solely by reason of servicing mortgages which had been previously sold to the Plan. The foregoing exemption will be applicable only if the following conditions are met:

(a) At the time the transactions were entered into, the terms of the transactions were not less favorable to the Plan than the terms generally available in arm's-length transactions between unrelated parties;

(b) The Plan maintained for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the fiduciaries of the Plan, records are lost or destroyed prior to the end of the 6 year period, and (2) no party in interest shall be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code if the records are not maintained, or not available for examination as required by paragraph (c) below;

(c) Notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) are unconditionally available at their customary location for examination during normal business hours by:

(1) Any duly authorized employee or representative of the Department or the Internal Revenue Service;

(2) Any Trustee of the Plan or any duly authorized employee or representative of such Trustee;

(3) The Plan's investment manager(s) or any duly authorized employee or representative of such investment manager(s);

(4) Any employer or Plan participants;

(5) Any employee organization or duly authorized representative of such organization, whose members are covered by the Plan; and

(6) Any participant or beneficiary.

The availability of this exemption is subject ot the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions which are the subject of this exemption.

Signed at Washington, D.C., this 1st day of March 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-6001 Filed 3-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-42]

Exemption for Certain Transactions Involving Alliance Capital Management Corporation (Application No. D-1370)

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the Pershing Division of Donaldson, Lufkin & Jenrette Securities Corporation (DLJ Securities) to clear and settle securities brokerage transactions that are initiated on behalf of employee benefit plans and directed to independent broker-dealers by Alliance Capital Management Corporation (Alliance), an affiliate of DLJ Securities, acting as investment manager for the plans, provided that the conditions set forth in the exemption are met.

FOR FURTHER INFORMATION CONTACT: Doris F. Jacobs, Esq., Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, D.C. 20210, telephone (202) 523–6844. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On November 20, 1981, notice was published in the **Federal Register** (46 FR 57150) of the pendency before the Department of Labor (the Department) of an application for exemption from the restrictions of section 406 of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) of

the Code for the transactions described above. The notice set forth a summary of the facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C.

All interested persons were invited by the notice to submit written comments on the proposed exemption and to submit a written request that a hearing be held relating to the exemption. The applicant has represented that it has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No comments or requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact that the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is the subject of an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the plans involved and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of those plans.

Accordingly, effective March 5, 1982, the restrictions of section 406 of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) of the Code, shall not apply to the direction of securities transactions, initiated by Alliance Capital Management Corporation (Alliance), an affiliate of Donaldson, Lufkin and Jenrette, Inc. (DLJ), on behalf of an employee benefit plan in Alliance's capacity as a fiduciary for such plan, to a securities broker or dealer (Pershing Correspondent) who is not an affiliate of DLJ and who has a correspondent relationship with the Pershing Division (Pershing) of Donaldson, Lufkin & Jenrette Securities Corporation on an omnibus account basis, and where such securities transactions are cleared and/or settled by Pershing, provided that the conditions set forth below are met:

(a) There is no arrangement or understanding between Alliance and the Pershing Correspondent that part or all of such clearing and settlement functions will be directed to Pershing;

(b) Neither Alliance nor any affiliate of Alliance is a trustee or administrator of the plan or an employer of any employee covered by the plan;

(c) The direction of brokerage to the Pershing Correspondent is made by Alliance pursuant to a written authorization executed by a fiduciary of the plan who is independent of Alliance;

(d) Such written authorization is terminable by the plan, without penalty to the plan, on not more than 60 days' notice, and shall continue in effect for more than one year only is such continuance is authorized in writing, at least annually, by a plan fiduciary who is independent of Alliance;

(e) No such authorization is made or renewed unless Alliance furnishes the authorizing plan fiduciary with any reasonable available information that Alliance reasonably believes to be necessary to determine whether such authorization should be made or renewed and any other reasonably available information regarding the matter that the authorizing fiduciary may reasonably request;

(f) Alliance shall furnish the authorizing fiduciary with a report containing the information described in this paragraph (f), not less frequently than at the times specified in paragraph (g) of this exemption. Such report shall disclose:

(i) the total of all transaction-related charges incurred by the plan during the period covered by the report in connection with transactions to which this exemption applies;

(ii) the amount of the transaction-related charges retained by Pershing and the amount of such charges paid to other persons for execution or other services; and

(iii) rates for transaction-related charges anticipated to be charged in the coming three months for transactions of the type normally entered into by the plan;

(g) The report required by paragraph (f) of this exemption shall cover the periods described in, and shall be furnished at the times specified in, this paragraph (g);

Except as provided in paragraph (g)(4), such report shall be furnished:

(1) Not later than 45 days following the end of any consecutive three (3) month period during which 25% or more of the total dollar amount of brokerage incurred by the plan in connection with transactions initiated by Alliance is directed to Pershing Correspondents;

(2) Not later than 45 days following the end of any consecutive six (6) month period in which 20% or more of the total dollar amount of brokerage incurred by the plan in connection with transactions initiated by Alliance is directed to Pershing Correspondents; and

(3) Within 45 days following the end of each calendar year, notwithstanding the foregoing.

(4) No report otherwise required to be furnished pursuant to paragraph (g)(1), (g)(2) or (g)(3) of this section shall be required to be furnished for any period during which Pershing receives no compensation in connection with transactions to which this exemption applies; and

(h) The report described in paragraph (f) of this exemption contains a statement to the effect that brokerage commissions in the United States are not fixed by any stock exchange or other authority and are subject to negotiation.

For purposes of this exemption, the term "affiliate" of another person shall include:

(a) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(b) Any officer, director, partner, or employee of such other person; and

(c) Any partnership of which such other person is a partner.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 1st day of March, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-6006 Filed 3-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2853]

Proposed Exemption for Certain Transactions Involving the Alaska Teamster-Employer Pension Trust; Located in Anchorage, Alaska

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt: (1) The proposed sales of certain real property by the Alaska Teamster-Employer Pension Trust (the Plan) to non-fiduciary parties in interest (Parties in Interest) with respect to the Plan; and (2) the proposed extension of credit in such transactions by the Plan to the Parties in Interest. The proposed exemption, if granted, would affect the Parties in Interest, the participants and beneficiaries of the Plan and other persons participating in the proposed transactions.

DATES: Written comments and requests for a public hearing must be received by the Department on or before April 19, 1981.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D–2853. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code. The proposed exemption was requested in an application filed by the trustees (the Trustees) of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined benefit multi-employer pension plan. As of August 23, 1981, the Plan had approximately 15,600 participants and total assets of $239,000,000. Current monthly contributions exceed $3,100,000.

2. In 1977, the Plan purchased 100% of the stock of Desert Horizons, Inc. (Desert Horizons). Desert Horizons was and is a development and construction company which is engaged in the construction of 500 residential units (the Units) with an accompanying golf course and club house located on 275 acres of land located near Palm Springs, California. To date, 135 of the Units have been completed. Of the 135 Units that have been completed, 34 Units have been sold. For each unit that remains unsold, the cost to the Plan is over $4,000 per month in interest and carrying charges. All prospective purchasers of the Units are offered, but are not required to accept, a 12% mortgage loan (the Loan) made available through Fidelity Federal Savings and Loan Association (Fidelity). The applicants represent that Fidelity's only relationship to the Plan is that of being a service provider and that when the Plan entered into the service arrangement Fidelity was not a party in interest with respect to the Plan. Fidelity receives a ¼% service fee for the life of each Loan. Fidelity utilizes funds committed by the Plan to Fidelity for such Loans. The terms of the Loans provide for monthly loan payments based on a 30-year amortization schedule with principal and interest payable monthly, with all payments due in five years. The amount of a Loan is limited to 80% of the purchase price of the Unit. Such commitment of funds made to Fidelity by the Plan will be in effect until April 10, 1983. The cost factor to the Plan of financing the Loans is included in the price of the Units. In addition, Fidelity receives Loan closing costs from the buyer which cover the appraisal fee, the processing fee and the credit analysis fee. A two percent Loan origination fee paid by the borrower inures to the benefit of the Plan.

3. The applicants are requesting an exemption that will permit the Plan to sell the Units to certain Parties in interest and to provide Loans to such Parties in Interest to facilitate such sale. The exemption will not apply to Parties in Interest who are fiduciaries with respect to the Plan. The applicants represent that the exemption will allow the Plan to offer the Units to the largest possible market and that in many cases Parties in Interest represent the best potential purchasers of the Units since they are familiar with the properties and individuals involved. The applicants represent that all Party in Interest transactions will be arm's length with terms identical to those offered to non-Parties in Interest. The price for each unit has or will be determined by Walker and Lee which is a residential real estate company located in Santa Ana, California. After Walker and Lee sets the prices for each Unit, Desert Horizons will publish in local newspapers a list of each Unit available for sale and the price at which it is offered for sale. For thirty days from the date of such publication, no sale of any such advertised Unit shall be made to a Party in Interest. If, after thirty days from the date of the publication, no non-Party in Interest has purchased the Unit, a Party in Interest will become eligible to purchase the advertised Unit, but only at the advertised price or a higher price. All prospective purchasers of the

Units will be required to fill out a questionnaire that will indicate whether they are a Party in Interest.

4. Mr. Jay D. Wahlen (Wahlen), who the applicants represent is independent of the Plan and Desert Horizons, has been appointed by the Plan to examine the proposed transactions. Wahlen is a CPA who heads his own accounting firm in Palm Desert, California. Wahlen will have the responsibility for determining whether the potential buyer is a Party in Interest and prior to the Plan selling any Unit to a Party in Interest, Wahlen must certify that the terms and conditions of such sale are at least equal to those which the Plan would receive in a similar transaction with an unrelated party.

5. In summary, the applicants represent that the proposed transactions will satisfy the criteria of section 408(a) of the Act as follows: (1) Desert Horizons will have a larger group of potential buyers for the Units; (2) each transaction will be an arms-length transaction as certified by an independent party; and (3) the exemption will facilitate sale of the Units at fair market value which will have a beneficial economic impact on the Plan.

Notice to Interested Persons

Within fifteen days of its publication in the Federal Register, a copy of the notice of pendency and a statement advising participants and beneficiaries of the Plan of their right to comment will be posted at all offices of the Plan, all hiring halls and dispatch halls of employee organizations whose members are participants in the Plan and all places where membership meetings of the employee organization are customarily held.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to: the proposed sale of the Units by the Plan to Parties in Interest and the extension of credit by the Plan in such sales provided that the terms and conditions of the transactions are at least as favorable to the Plan as those which the Plan could receive in similar transactions with an unrelated party.

In proposing this exemption, the Department expresses no opinion as to the appropriateness or prudence of the Trustees' decision to invest assets of the Plan in Desert Horizons. This exemption is directed solely to certain transactions which will enable the Plan to sell Units which the Trustees represent the Plan has been unable to sell.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 2d day of March 1982.

Jeffrey N. Clayton,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-6010 Filed 3-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2954]

Proposed Exemption for Certain Transactions Involving the Edwin J. Lojeski, D.D.S., P.C. Deferred Benefit Pension Trust; Located in Manchester, CT

AGENCY: Pension and Welfare Benefit Programs, Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed borrowing (the Loan) by the Edwin J. Lojeski, D.D.S., P.C. Deferred Benefit Pension Trust (the Plan) of the cash value of the Plan's life insurance policy (the Policy) on the life of Edwin J. Lojeski, D.D.S., a Plan participant and the Plan's trustee (Trustee). National Life Insurance Company (National Life) issued the policy and is the Plan administrator. The proposed exemption, if granted, would affect Dr. Lojeski, the Plan and National Life..

DATES: Written comments and requests for a public hearing must be received by the Department on or before April 20, 1982.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Application No. D-2954. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Department, telephone (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code. The proposed exemption was requested in an application filed by Dr. Lojeski, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined benefit plan with two participants and current assets of approximately $105,000. Dr. Lojeski, as Trustee, is responsible for all Plan investment decisions. National Life's duties as Plan Administrator are limited to the provision of administrative services. It is represented that National Life possesses no authority which would make it a fiduciary with respect to the Plan.

2. The face amount of the Policy, which represents Dr. Lojeski's death benefit, is $90,000. The Plan proposes to borrow, on a one-time basis, the cash value of the Policy which is $21,000. There would be no fixed term to the Loan and National Life could not call the Loan. The interest rate on the Loan would be 6%, which would be paid annually on the Policy anniversary date. If the Loan is not repaid prior to Dr. Lojeski's death, the amount of the Loan would be subtracted from the face amount of the Policy. It is represented that the terms and conditions of the Loan are standard terms and conditions that National Life utilizes in similar policy loan transactions with unrelated parties.

3. The Loan proceeds would be invested solely in investments producing a guaranteed rate of return higher than the 6% interest the Plan would pay on the Loan. The applicant states that the income to the Plan in excess of 6% could not be realized if the Loan were not made. The Trustee therefore asserts that the proposed Loan would be in the best interests of the Plan and of the Plan participants and beneficiaries.

4. In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 408(a) due to the following:

(a) The trustee states that the Loan would be in the interests of the Plan and the Plan participants and beneficiaries;

(b) The interest rate on the Loan would be 6%;

(c) It is represented that the Plan will reinvest the Loan proceeds soley in investments earning a guaranteed return greater than the 6% Loan interest rate;

(d) The proposed transaction would involve only the Policy of Dr. Lojeski and not the other Plan participant; and

(e) The Loan provisions are comparable to those that National Life utilizes in similar policy loan transactions with unrelated parties.

Notice to Interested Persons

Notice of the proposed exemption will be mailed by certified mail to National Life within 15 days of its publication in the Federal Register. The notice will include a copy of the Federal Register Notice and will inform the recipient of their right to comment on the proposed exemption.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(B) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) the proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemptions. Comments received will be availiable for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the Loan, provided that the terms and conditions of the Loan are at least as favorable to the Plan as those it could obtain from an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 1st day of March, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-6008 Filed 3-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2843]

Proposed Exemption for a Certain Transaction Involving the Kinco, Inc. Profit Sharing Plan and Trust, Located in Jacksonville, Florida

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the contribution of a mortgage note receivable by Kinco, Inc. (the Employer) to the Kinco, Inc. Profit Sharing Plan and Trust (the Plan), and the guaranty of the mortgage note by the principal shareholders of the Employer. The proposed exemption, if granted, would affect the Employer, the Plan, and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before April 22, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Application No. D-2843. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton of the Department of Labor, telephone (202) 523-7462. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), and 406 (b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined contribution profit sharing plan with 150 participants and total assets of $541,755 as of August 31, 1980. The trustees of the Plan are Arthur L. Lenahan, Robert F. King, and Dan Earl Duett. These individuals are also the principal shareholders of the Employer.

2. The Employer is a Florida corporation with its principal place of business in Jacksonville, Florida.

3. The Employer by action of its Board of Directors resolved to make a discretionary contribution of $300,000 to the Plan for the plan year which ended August 31, 1981. The Employer had contributed $50,000 in cash to the Plan prior to July 31, 1981. The Employer has a remaining accrued obligation of $250,000 to the Plan.

4. The Employer proposes to contribute a purchase money note (the Note) which bears interest at 11% and had, as of October 15, 1981, an unpaid principal balance of $267,352, in partial satisfaction of its contribution obligation to the Plan. The Note was valued at $188,435 by the Jacksonville National Bank as of January 1, 1982. The Bank states that this is a yield to maturity of 18.18% per annum.

5. The Note was received by the Employer from Jack H. King on February 15, 1981 in the amount of $272,300 payable in equal consecutive monthly payments, including principal and interest in the amount of $3,094.95 over a 15 year period. Jack H. King is the brother of Robert F. King, a principal shareholder of the Employer. The Note is secured by a first mortgage on certain real property (the Property) located in Jacksonville, Florida. The Note provides that the Property will be kept fully insured against fire, theft or other casualty, such insurance to inure to the benefit of the Plan. An independent appraisal of the Property performed by H. A. Yeargin, SRPA, determined that its market value as of August 23, 1981 was from $280,000 to $300,000. The Plan's interest in the Property will be duly recorded.

6. The Jacksonville National Bank (the Bank) will serve as special fiduciary for the contribution of the Note to the Plan. The Bank, which is independent of any relationship with the Employer and its principal shareholders, has determined that the contribution of the Note is in the best interest of and protective of the Plan and its participants and beneficiaries. At the time of the contribution of the Note the Bank will determine its fair market value for purposes of its contribution to the Plan. Further, the Bank will monitor the payments under the Note and have full authority and responsibility to take all necessary actions to protect the interests of the Plan with regard to the Note and the Property.

7. The Note will be endorsed by the principal shareholders of the Employer.

8. In summary, the applicant represents that the proposed transaction meets the criteria of section 408(a) of the Act because:

(1) It would result in the Plan obtaining a long term investment at an attractive yield;

(2) The Note will be adequately secured by sufficient collateral and the guarantees of the principal shareholders of the Employer; and

(3) An independent fiduciary has determined that it is in the best interests and protective of the Plan and its participants and beneficiaries.

Notice to Interested Persons

Copies of the notice of pendency as published in the Federal Register will be provided to all Plan participants and beneficiaries by first class mail within 15 days after its publication in the Federal Register. Interested persons will also be notified of their right to comment and or request a hearing within the time specified in the Federal Register.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(A)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to (1) the contribution of the Note by the Employer to the Plan provided that the Note is valued at its fair market value when contributed, and (2) the guaranty of the Note by the principal shareholders of the Employer.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 1st day of March 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-6005 Filed 3-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2841 and D-2842]

Proposed Exemption for Certain Transactions Involving the Jeff Dell Pension and Employee Benefit Plans and Trust; Located in New York, New York

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) oif a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the cash sale of certain improved real property by the Jeff Dell Employee Benefit Plan and Trust (the Money Purchase Pension Plan) and the Jeff Dell Pension Plan and Trust (the Defined Benefit Pension Plan) (collectively, the Plans) to Jeff Dell Film Services, Inc. (the Employer). The proposed exemption, if granted, would affect the participants and beneficiaries of the Plans and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before April 14, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, RoomC-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application Nos. D-2841 and D-2842. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Jan Broady of the Department of Labor, telephone (202) 523-7222. (This is not a toll-free number.).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 408(a), 406 (b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plans, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Employer, a corporation organized under the laws of New York State, is engaged in the film editorial business. On June 2, 1970, the Employer, along with a sister corporation, Jeff Dell Enterprises, Inc.,[1] adopted a profit sharing plan (the Profit Sharing Plan) and on September 30, 1973, the Money Purchase Pension Plan. To comply with relevant provisions of the Act, the Profit Sharing Plan and Money Purchase Pension Plan were restated and consolidated into one document covering both Plans. On October 1, 1979, the Employer and its sister corporation terminated their Profit Sharing Plan and adopted the Defined Benefit Pension Plan. At present, there are eleven participants in the existing Plans.

2. The assets of the Plans, including the terminated Profit Sharing Plan, are commingled for investment purposes. As of August 31, 1981, the Plans held $2,212,895 in total assets. Of these assets, the distributive shares maintained by the individual Plans were $1,068,998 for the Money Purchase Pension Plan, $902,411 for the Profit Sharing Plan and $241,486 for the Defined Benefit Pension Plan. The trustees of the Plans (the Trustees) are Mr. Jeff Dell and his spouse, Mrs. Bunny Dell. The Trustees make investment decisions for the Plans.

3. In January 1981, the Plans purchased land and a building located at 68 East 56th Street, New York, New York (the East 56th Street Property) from Mr. Norman Fuerth (Mr. Fuerth), an unrelated party, for a purchase price of $1,200,000. The Plans paid $400,000 in cash and obtained a first mortgage on the property in the amount of $800,000 from the Chemical Bank of New York. The Plans also obtained a second mortgage on the East 56th Street Property from Mr. Fuerth for the $200,000 remaining balance. The balance was to be repaid in monthly installments over a one year period commencing on the date of closing.

In May 1981, the Plans sold the East 56th Street Property to an unrelated party for $2,375,000 and thereby realized a gain of $1,175,000. The Trustees then decided to purchase additional real property to hold for investment purposes for the Plans. In June 1981, the Plans acquired for the cash price of $1,050,000 another parcel of land and a vacant two story building located at 241 East 51st Street, New York, New York (the East 51st Street Property). The East 51st Street Property was purchased pursuant to the terms of a contract of sale entered into between the Trustees and unrelated parties, Mr. and Mrs. Arthur Janov of Beverly Hills, California. At the time of acquisition, the East 51st Street Property represented over 61 percent of the combined total assets of the Plans. The Trustees represent that the acquisition of the East 51st Street Property was a prudent investment for the Plans because of its prime commercial location and its potential for resale and profit.[2]

4. The application documents numerous but futile efforts made by the Trustees to sell the East 51st Street Property to unrelated parties primarily through advertisements appearing in the *New York Times*. In addition, the application states that the Trustees have listed the property with the real estate agent who originally effected the sale to the Plans. However, despite all endeavors no firm offers have been made to the Trustees. The difficulty in selling the real property is attributed to high interest rates and a tight financial market.

5. At present, the Employer leases offices at 10 East 53rd Street, New York, New York from an unrelated party. Since the lease at the current location expires in April 1982 and cannot be renewed, the Employer is looking for new premises in which to relocate its business. Originally, the Employer requested an exemption to lease from the Plans (the Lease) the vacant building (the Building) situated on the East 51st Street Property. The Lease would have been a "net net" lease whereby the Employer would have assuemd all expenses involved in occupying the space, including the payment of real estate taxes, insurance premiums and renovations costs required to make the property habitable for commercial use. The Lease would have been for a ten year term, subject to the right of an independent fiduciary to evict the Employer after five years. The Lease would also have been based on rental amounts and increments as determined by an independent appraisal. Initially, the annual rental was established at $120,402 to reflect the unimproved condition of the Building. Once renovations were made to the Building, the annual rental would have been increased to $148,500. In addition, Mr. Dell would have guaranteed the Lease in the event of a rental delinquency by the Employer.

6. Because of the high percentage of the Plans' assets that were invested in the East 51st Street Property (hereinafter, the Property) the Department could not make a favorable determination with regard to the proposed leasing arrangement. The exemption application was then amended to provide for a sale of the Property by the Plans to the Employer. The proposed sale was to be a cash sale whereby the sales price of $1,250,000 would be due and payable at the time of closing. In addition, no real estate commissions or fees were to be incurred by the Plans.

7. The sales price of the East 51st Street Property has been derived from the findings of independent appraisals made by Mr. Barry Becker (Mr. Becker) and Mr. Jack Chudnoff (Mr. Chudnoff). Both men are New York City-based real estate brokers with over twenty years' experience in the sale and evaluation of residential and commercial properties. In September 1981, Mr. Becker initially appraised the Property for Lease purposes and determined it had an annual fair rental value of $120,402 and a fair market value of $1,600,000 based on the existing state of the premises. To reflect the Employer's intention of purchasing the Property from the Plans, Mr. Becker appraised the Property in January 1982 and found the fair market value to be $1,250,000. Mr. Chudnoff appraised the Property on January 5, 1982 and placed its fair market value at $1,200,000. With respect to the decline in the fair market value of the Property between September 1981 and January 1982, Mr. Becker states that the Manhattan real estate market has quieted down and there is a lessening of interest in small properties in the midtown-Manhattan area. He further states that investor-users are interested in four to five story building (the Property has two stories). Mr. Becker attributes the current market to the lack of firm direction as to where interest rates are going, declining corporate profits and increasing unemployment. He states that buyers with cash have new leverage in making offers to property-owners, and for the time being, and perhaps through the second quarter of 1982, there will be a levelling off of prices.

8. In summary, it is represented that the proposed transaction satisfies the statutory criteria for an exemption under section 408(a) of the Act because: (a) The sale is a one-time transaction for cash; (b) the sales price of the Property was determined by independent appraisals; (c) the Plan will incur no real estate commissions or fees in connection with the sale; and (d) the Trustees have determined that the sale is in the best interests of and protective of the Plans and their participants and beneficiaries.

[1] Jeff Dell Enterprises, Inc. is currently an inactive corporation.

[2] In this proposed exemption the Department expresses no opinion as to whether the acquisitions of the East 56th Street Property and the East 51st Street Property violated any requirement of Part 4 of Title I of the Act.

Notice to Interested Persons

Notice of the pending exemption will be given to the participants and beneficiaries of the Plans within five (5) days of the publication of the notice of pendency in the Federal Register. The notice will include a copy of the pending exemption as published in the Federal Register and will inform interested persons of their right to comment and/or request a hearing within the time frame set forth in the notice of pendency. Notice will be given to participants and beneficiaries by certified mail.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404 (a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the cash sale, for $1,250,000, of real property located at 241 East 51st Street, New York, N.Y., by the Plans to the Employer, provided this amount is not less than the fair market value on the day of the sale.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 1st day of March 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-5907 Filed 3-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3125]

Proposed Exemption for Certain Transactions Involving Seafirst Corporation Retirement Plan Located in Seattle, Washington

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed lease (the Lease) of real property by the Seafirst Corporation Retirement Plan (the Plan) to Seattle-First National Bank (the Employer), the Plan sponsor. The proposed exemption, if granted, would affect the Employer and the participants and beneficiaries of the Plan.

DATES: Written comments and requests for a public hearing must be received by the Department on or before May 5, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-3125. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Department, telephone (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b) (1) and (2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined benefit plan with approximately 8,815 participants. The Employer is the Plan trustee and is responsible for the Plan's investment decisions.

2. In 1971, the Employer converted its office building at 1001 Fourth Avenue, Seattle, Washington to a 40-unit condominium with each unit (Unit) comprising an entire floor of the building. On December 31, 1971, the Employer contributed Unit–38 to the Plan and leased back the dining room, which represented 22% of Unit–38.

3. The dining room lease remains in effect and the applicant believes that the lease is covered by the transitional rules of section 414 of the Act. However, the applicant wishes to enter into the Lease, which would be effective on the date of the exemption grant but would continue beyond the expiration of the transitional rules on June 30, 1984. The Lease would have a term of no more than 12 years and would be limited to the dining room area which is 3,261 square feet. The current value of the dining room represents less than 1% of Plan assets. The other 78% of Unit–38 is leased as office space to tenants who are not parties in interest with respect to the Plan.

4. An independent fiduciary experienced in real property investment and management will determine on behalf of the Plan whether to enter into the Lease and will have the sole authority to negotiate all terms and conditions of the Lease on behalf of the Plan. The independent fiduciary will also monitor the Lease on the Plan's behalf to ensure compliance with all the terms and conditions contained therein. The independent fidiciary who will perform the above-described functions upon the grant of the exemption will be TRF Management Corporation (TRF), which is independent of the Employer and the Plan. TRF has developed and operated commercial property throughout the Pacific Northwest and Alaska and also manages and leases property for institutional and other investors.

5. The minimum rental under the Lease will be the greater of the fair market rental value of the premises leased as a dining room or the fair market rental value of the premises remodelled and leased as office space. It is represented that the rental value of the premises as office space would be significantly higher than as a dining room.

6. In summary, the applicant represents that the proposed Lease satisfies the statutory criteria of section 408(a) due to the following:

(a) TRF, an independent fiduciary, would decide on the Plan's behalf whether to enter into the Lease;

(b) TRF would negotiate the terms and conditions of the Lease and would monitor the Lease on the Plan's behalf;

(c) The Lease would involve less than 1% of Plan assets; and

(d) The minimum rental under the Lease would be the greater of the value of the leased premises as a dining room or as office space.

Notice to Interested Persons

Notice of the proposed exemption will be given to all interested persons including all Plan participants and beneficiaries, within 30 days of the date the proposed exemption is published in the Federal Register. The notice will be provided to current employees and retirees by publication in First Bank News, the Employer's bi-monthly publication which is transmitted to employees retirees. All others will be notified by mail. The notice will inform each recipient of his right to comment on or request a hearing regarding the proposed exemption.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 406(a) of the Act and Section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the Lease, provided that the terms and conditions of the Lease are and remain at least as favorable to the Plan as those it could obtain from an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 1st day of March 1972.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-6006 Filed 3-4-82; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D-2800]

Proposed Exemption for a Certain Transaction Involving the Allied International-American Eagle Trading Corporation Employees Profit Sharing Plan; Rye, New York

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the loan of $200,000 by the Allied International-American Eagle Trading Corporation Employees Profit Sharing Plan (the Plan) to the Allied International-American Eagle Trading Corporation (the Employer). The proposed exemption, if granted, would affect the Plan, the Employer and other persons participating in the proposed transaction.

DATE: Written comments and requests for a public hearing must be received by the Department of Labor on or before April 16, 1982.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Application No. D–2800. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton of the Department of Labor, telephone (202) 523–7462. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedure set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan with approximately 80 participants. The Plan had total assets of $1,306,785 as of December 31, 1980. The trustee of the Plan is the Fiduciary Trust Company of New York.

2. The Employer is a corporation engaged in the importation and distribution of industrial fasteners, steel wire and wire rods, with its principal place of business in Rye, New York.

3. The applicant requests and exemption to permit the loan of $200,000 by the Plan to the Employer to finance the purchase of its corporate office building. The Employer had been leasing the building and pursuant to the lease had the option to purchase the building for $200,000 at the expiration of the lease, provided notice to exercise the option was given to the owner 12 to 24 months prior to the expiration of the lease. The Employer took title to the building on September 30, 1981.

4. The Loan will be made for a period of 10 years. It will have equal quarterly amortization of principal and bear interest at 1½% over the 90 day London Interbank offering Rate (LIBOR rate), such rate to be set at the beginning of each quarter. The LIBOR rate is readily ascertainable from money center banks and is also published daily in the *Wall Street Journal*.

5. The collateral for the Loan will be 1st mortgage on the real property purchased by the Employer located at 77 Purchase Street, Rye, New York (the Property). An independent appraisal of the Property performed by D. Kevin Dempsey, M.A.I., S.R.P.A., establishes its fair market value at $500,000 as of October 13, 1981. The Plan will file with the appropriate authorities to perfect its lien on the Property which shall constitute collateral for the Loan.

6. In a letter dated October 28, 1981, the National Bank of North America indicated its willingness to make a loan of $200,000 to the Employer on the same terms as those described above.

7. Irving H. Issac, an experienced investment manager, has been appointed to serve as an independent trustee (the Trustee) for the Loan transaction. The Trustee has determined that the Loan is in the interests of and protective of the Plan. The Trustee is independent of the Employer. He is not an employee nor a director and he does not own any stock in the Employer. In addition, the Trustee is not related to any party that is an employee, director or shareholder of the Employer. The Trustee will monitor the repayment of the Loan and have sole authority to take whatever action is necessary on behalf of the Plan.

8. In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 408(a) of the Act because:

(1) the Plan will be able to invest a portion of its assets in a well collateralized loan;

(2) the proposed transaction would represent only about 15% of the total assets of the Plan;

(3) the collateral to be used as security for the Loan exceeds the amount of the Loan by over 200%; and

(4) the independent trustee has determined that the proposed transaction is in the interests of and protective of the Plan and its participants and beneficiaries.

Notice to Interested Persons

Each Plan participant and beneficiary shall be notified of the publication of the Notice of Pendency in the Federal Register by certified mail. Notice will be mailed within 10 days after the Notice of Pendency is published in the Federal Register. The notice will include a copy of this notice as published in the Federal Register and a statement informing interested persons of their right to comment and/or request a hearing with regard to the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2)

of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the loan of $300,000 by the Plan to the Employer for a ten-year period, provided the terms of the loan are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and rrpresentations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 1st day of March 1982.

Alan B. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-6000 Filed 3-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3113]

Proposed Exemption for Certain Transactions Involving the Hoyle E. Setzer P.C. Pension Plan and Trust; Billings, Montana

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale of certain real property (the Property) by the Hoyle E. Setzer P.C. Pension Plan and Trust (the Plan) to Hoyle E. Setzer (Setzer), a disqualified person with respect to the Plan. The proposed exemption, if granted, would affect Setzer and other persons participating in the proposed transaction.

DATE: Written comments and requests for a public hearing must be received by the Department on or before March 5, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Application No. D-3113. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by Setzer, pursuant to section 4975(c)(2) of the Code, and in accordance with procedures set forth in Rev. Proc. 75-26, 1975-1 C.B., 722. Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a money purchase pension plan which as of January 21, 1982 had assets of $256,000. The sole participant and trustee of the Plan is Setzer. The Plan owns the Property which consists of 40.83 acres of unimproved real estate located near Billings, Montana. The Property was purchased by the Plan in April, 1978 for $45,900 from an unrelated party. The Property produces no income for the Plan.

2. The applicant is requesting an exemption that will permit the Plan to sell the Property to Setzer for a cash price of $71,452.50. The Plan will not pay any costs of sale or realtors' fees in such sale. On November 18, 1981, the Property was appraised by an independent real estate appraiser R. D. Cantrell (Cantrell) whose office is in Billings, Montana. Cantrell represents that as of November 18, 1981 the fair market value of the Property was $57,000. On October 28, 1981, the Property was appraised by an independent real estate agent, Marvin Adami, whose office is in Billings, Montana. Adami represents that as of October 28, 1981 the Property had a fair market value of $71,452.50.

3. The applicant represents that it would be in the best interests of the Plan to sell the Property because the Property produces no income to the Plan while the Plan must pay real estate taxes on the Property. The applicant also represents that by selling the Property to Setzer, the Plan will be able to sell the Property at a price equal to the higher of two prices which were established by two independent appraisers. In addition, by selling the Property to Setzer the Plan will not pay any costs of sale or realtors' fees.

4. The applicant represents that the proposed sale meets the standards of section 4975(c)(2) of the Code because: (1) the trustee of the Plan, who is also the sole participant of the Plan, represents that it is in his best interests; (2) it will be a one time transaction for cash; (3) the price of the sale will be the higher of two prices which were established by two independent appraisers; (4) the Plan will pay no costs of sale or realtors' fees; and (5) the Plan will be able to eliminate an asset which produces no income.

Notice to Interested Persons

This notice of pendency will constitute the only notice to interested persons.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 4975(c)(2) of the Code does not relieve a fiduciary or disqualified person from certain other provisions of the Code, including any prohibited transaction provisions to which the exemption does not apply; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B., 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the cash sale of the Property for $71,452.50 by the Plan to Setzer provided that such price is at least the fair market value of the Property at the time of sale.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 1st day of March, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-6004 Filed 3-4-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2717]

Proposed Exemption for Certain Transactions Involving the Adler, Pollock & Sheehan, Inc. Money Purchase Pension Plan; Providence, Rhode Island

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed loan (the Loan) of money by the Adler, Pollock & Sheehan, Inc. Money Purchase Pension Plan (the Plan) to Adler, Pollock & Sheehan, Inc. (the Employer), the sponsor of the Plan. The proposed exemption, if granted, would affect the Employer, the participants and beneficiaries of the Plan and other persons participating in the transaction.

DATE: Written comments and requests for a public hearing must be received by the Department on or before April 20, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Application No. D-2717. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b) (1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in

accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a money purchase pension plan with approximately 50 participants and total assets, as of May 29, 1981, of $1,395,771. New England Trust Company is the trustee of the Plan. The Employer is engaged in the practice of law.

2. The Employer is requesting an exemption to permit the Loan of $110,000 by the Plan to the Employer. The Loan would be used to finance the acquisition and installation of a Wang Virtual Storage Computer System and related computer software (the Wang Computer) to be used by the Employer in its business. The Loan would be for a period of five years with sixty equal monthly installments of principal and interest. The interest rate for the Loan will be a floating rate computed monthly equal to 1 percent above the prime interest rate charged by the Citizens Bank of Providence, Rhode Island (Citizens Bank), but in no event less than 10 percent. Citizens Bank has offered to loan the Employer $110,000 on an unsecured basis for five years, with equal installments of principal and interest and a floating interest rate computed monthly of ¼ percent above the prime rate charged by Citizens Bank.

3. The Loan will be secured by: (1) The Wang Computer purchased with the proceeds of the Loan; (2) a Wang System 30 Word Processor (the Word Processor) owned by the Employer; and (3) the furniture (the Furniture) located in the Employer's office in Providence, Rhode Island (collectively, the Collateral). The Wang Computer and the Word Processor had fair market values of $81,000 and $32,772, as of June 10, 1981 as determined by John Early of Wang Laboratories, Inc., a representative of the manufacturer of the Wang Computer and the Word Processor. The Furniture had a fair market value, as of September 2, 1981, of approximately $105,000 as determined by Jordan Agronick, vice president of National Office Supply Company, an independent office supply company in Providence, Rhode Island. The assets thus pledged as Collateral for the Loan will have a combined value of $218,772. All items of Collateral will be kept fully insured by the Employer with all insurance proceeds payable to the Plan. No other lender has a secured interest in any items of Collateral. UCC financing statements will be executed and filed in all appropriate officers by the Employer recording the Plan's security interest in the Collateral.

4. Mr. Richard Furia (Furia), an independent certified public accountant, has accepted appointment as special trustee of the Plan with respect to this transaction. Furia has reviewed the terms and conditions of the Loan and represents that the Loan is in the best interests of the Plan. Furia will also monitor the terms and conditions of the Loan, enforce the rights of the Plan under the Loan and will be responsible for monitoring the receipt by the Plan of payments made under the Loan. Furia will also monitor the value of the Collateral to assure that all times during the duration of the Loan the Collateral will be maintained at a value of at least 175 percent of the outstanding balance of the Loan.

5. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria of section 408(a) of the Act because: (1) Furia, an independent party, represents that the Loan is in the best interests of the Plan; (2) Furia will monitor the terms and conditions of the Loan; (3) the Loan will have a high rate of interest with a floor of 10 percent per annum; (4) the Plan will have a perfected security interest in the Collateral; (5) the Collateral will at all times during the term of the Loan have a value of at least 175 percent of the outstanding balance of the Loan; (6) the Loan will be for a relatively short period of time and will represent a relatively small percentage of the assets of the Plan; and (7) Citizens Bank has offered to make a similar loan to the Employer but on an unsecured basis.

Notice to Interested Persons

Notice will be given to all participants of the Plan within 15 days of the publication of the notice of pendency in the Federal Register. Such notice will contain a copy of the notice of pendency as published in the Federal Register as well as a statement informing all interested persons of their right to comment or request a hearing in regard to the proposed exemption. Notice will be provided by posting on all bulletin boards and other appropriate places which are customarily used for the posting of such notices.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the Loan by the Plan to the Employer of $110,000, provided the terms and conditions of the Loan are at least as favorable to the Plan as those obtainable in a similar transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 1st day of March, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-6005 Filed 3-4-82; 8:45 am]

BILLING CODE 4510-29-M

MOTOR CARRIER RATEMAKING STUDY COMMISSION

Notice of Public Hearing

DATES: Thursday and Friday, March 18 and 19, 1982.

PLACE: Cambridge-Hyatt Regency, JFK Room, 575 Memorial Drive, Cambridge, Massachusetts.

TIME: 9:00 a.m.

PURPOSE: To receive testimony from various parties on collective ratemaking.

The Motor Carrier Act of 1980, Public Law 96-296, directs the Motor Carrier Ratemaking Study Commission (Commission) to make a full and complete investigation and study of the collective ratemaking process for all rates of motor common carriers and of the need or lack of need for continued antitrust immunity thereof. The Commission is specifically directed to estimate the impact of the elimination of such immunity upon the rate levels and rate structures and to describe the impact of such on the Interstate Commerce Commission and its staff. Also, the Commission has been directed to give special consideration to the impact of the elimination of such immunity upon rural areas and small communities.

The Commission, through its Hearings Committee, calls this regional hearing for the purpose of exploring the collective ratemaking process in special commodity sectors, the impact of collective ratemaking on the rate level/rate structure, the impact on the capital and labor inputs, shipper views regarding the need for collective ratemaking, and the permissible scope of various collective activities in the absence of antitrust immunity.

Anyone who is interested in submitting written testimony for the record of the Commission may do so by sending same to: Larry F. Darby, Executive Director, Motor Carrier Ratemaking Study Commission, 214 Massachusetts Avenue, NE., Washington, D.C. 20002.

FOR FURTHER INFORMATION, CONTACT: Name: J. Kent Jarrell, Title: General Counsel, Phone No.: (202) 724-9600.

Submitted this the 2nd day of March 1982.

Larry F. Darby,

Executive Director.

[FR Doc. 82-6019 Filed 3-4-82; 8:45 am]

BILLING CODE 6820-BD-M

NATIONAL SCIENCE FOUNDATION

Committee Management; Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), it is hereby determined that the establishment of the Advisory Committee for Industrial Science and Technological Innovation is necessary, appropriate, and in the public interest in connection witht the performance of duties imposed upon the Director, National Science Foundation (NSF), and other applicable law. This determination follows consultation with the Committee Management Secretariat Staff, General Services Administration, pursuant to section 9(a) of the Federal Advisory Committee Act and the other applicable issuances.

Name of committee: Advisory Committee for Industrial Science and Technological Innovation.

Purpose: To provide advice, recommendations, and counsel on major goals and policies pertaining to the activities and programs of the Division of Industrial Science and Technological Innovation, and to exercise oversight concerning the research programs of the component sections of the Division.

Effective date of establishment and duration: This establishment is effective upon filing the charter with the Director, NSF, and with the standing committees of Congress having legislative jurisdiction of the Foundation. The Committee will operate on a continuing basis subject to its renewal every two years.

Membership: The membership of this Committee shall be fairly balanced in terms of the points of view represented and the Committee's function. Members will be individuals eminent in their respective fields of endeavor. Due consideration will be given to achieving membership that reasonably represents: (a) The academic research community, including both the fields involved in innovation processes research and the fields involved in industry-university cooperative activities; (b) industrial researchers and research managers; (c) the small business community; (d) women and minority scientists; and (e) all geographic regions of the country.

Operation: The Committee will operate in accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92-463), Foundation policy and procedures, OMB Circular No. A-63, Revised, and other directives and instructions, issued in implementation of the Act.

John B. Slaughter,

Director, National Science Foundation.

March 2, 1982.

[FR Doc. 82-6020 Filed 3-4-82; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Application for License To Import Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public Notice of Receipt of an Application", please take notice that the Nuclear Regulatory Commission has received the following application for an import license. A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H St. NW., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed on or before April 5, 1982. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for license to import production or

utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facilities or material to be exported. The table below lists a new import application.

Dated this 1st day of March at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Marvin R. Peterson,

Acting Assistant Director Export/Import and International Safeguards Office of International Programs.

FEDERAL REGISTER (IMPORT)

Name of applicant, date of application, date received, application No.	Material type	Material in kilograms		End-Use	Country of destination
		Total element	Total isotope		
Transnuclear, Inc., Feb. 26, 1982, Feb. 26, 1982, ISNM62003.	2.65 percent enriched uranium	10,000	255	LEU used as feed material under an enrichment contract for KWL.	From France.

[FR Doc. 82-6054 Filed 3-4-82; 8:45 am]
BILLING CODE 7590-01-M

[Dockets Nos. 50-313 and 50-368]

Arkansas Power & Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 63 to Facility Operating License No. DPR-51, and Amendment No. 28 to Facility Operating License No. NPF-6, issued to Arkansas Power & Light Company, which revised the licenses for operation of the Arkansas Nuclear One, Units Nos. 1 and 2, located in Pope County, Arkansas. The amendments are effective within 14 days of the date of issuance.

The amendments revise the license conditions pertaining to the ANO Industrial Security Plan and add license conditions to include the Commission-approved Guard Training and Qualification Plan as part of the licenses. The Guard Training and Qualification Plan is to be fully implemented within 60 days of this Commission approval in accordance with the provisions of 10 CFR 73.55(b)(4).

The licensee's filings, which are being handled by the Commission as applications, comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

The licensee's filings dated (1) September 9, 1980, as revised by letters dated February 5, 1981, and April 27, 1981, and (2) January 2, 1981, as revised by letters dated April 30, 1981, and May 18, 1981, are being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR 9.12.

For further details with respect to this action, see (1) Amendment No. 63 to License No. DPR-51, and Amendment No. 28 to License No. NPF-6, and (2) the Commission's related letter to the licensee dated November, 1981. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Arkansas Tech University, Russellville, Arkansas. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 23rd day of February 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch #4, Division of Licensing.

[FR Doc. 82-6051 Filed 3-4-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. STN 50-498 OL; STN 50-499 OL]

Houston Lighting & Power Co.; et al. (South Texas Project Units 1 and 2)

March 1, 1982.

Order

Confirming telephone conversations with each of the parties to this proceeding, and reflecting the unavailability of hotel accomodations in the Houston, Texas area during the period May 4–7, 1982, and a scheduling conflict which has arisen for the period June 8–11, 1982, it is, this 1st day of March, 1982.

Ordered

That the schedule for further hearings in Phase I of this proceeding established at the hearing on February 10, 1982 (Tr. 10378) is hereby modified as follows:

Dates and Place

April 20–23, Houston, Texas
May 4–7, Austin, Texas
(if necessary):
June 2–4, Houston, Texas
June 15–18, Houston, Texas

Hearings in Houston will be held at the Joe M. Green, Jr. Auditorium, South Texas College of Law, 1303 San Jacinto Street (4th floor), Houston, Texas 77002. Hearings scheduled for Austin will be held at the La Espada Room, Ramada Inn Capitol, 300 East 11th Street, Austin, Texas 78767. The hearing on April 20 will begin at 9:00 a.m. Starting times of other hearing sessions will be established at a later time.

Prepared testimony for the session commencing on April 20, 1982 is to be filed no later than April 5, 1982. (As described at Tr. 10378–79, the Applicants are to attempt to file certain portions of their prepared testimony at an earlier date.)

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman Administrative Judge.

[FR Doc. 82-6054 Filed 3-4-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-336]

Northeast Nuclear Energy Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 72 to Facility Operating License No. DPR-65 issued to the Northeast Nuclear Energy Company, the Connecticut Light and Power Company, the Hartford Electric Light Company, and the Western Massachusetts Electric Company (the licensee), which revised Technical Specifications for operation of the Millstone Nuclear Power Station, Unit No. 2 (the facility) located in the Town of Waterford, Connecticut. The amendment is effective as of its date of issuance.

The amendment consists of changes to the Technical Specifications related to:

- Mode 6 reactivity control,
- Boration requirements,
- Special test peak linear heat rate,
- RTD response time testing,
- Containment purge valves actuation,
- ESFAS trip setpoints,
- Core barrel monitoring,
- Ventilation system HEPA filters, and
- Editorial revisions.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 17, 1981, (2) Amendment No. 72 to License No. DPR-65, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and at the Waterford Public Library, Rope Ferry Road, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 22d day of February 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 82-6052 Filed 3-4-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 67 to Operating License No. DPR-59 issued to the Power Authority of the State of New York (the licensee), which revises the Technical Specifications for operation of the James A. FitzPatrick Nuclear Power Plant (the facility), located in Oswego County, New York. The amendment is effective as of the date of issuance.

The amendment establishes new vessel level setpoints that are consistent with the installation of a common reference level required by TMI Action Item II.K.3.27 in NUREG-0737.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated February 8, 1982, (2) Amendment No. 67 to License No. DPR-59, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Penfield Library, State University College of Oswego, Oswego, New York. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 26th day of February 1982.

For the Nuclear Regulatory Commission.

Vernon L. Rooney,

Acting Chief, Operating Reactors Branch #2, Division of Licensing.

[FR Doc. 82-6053 Filed 3-4-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-275 OL and 50-323 OL (Security)]

Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2); Order

Pursuant to 10 CFR 2.772, the time for the Commission to determine whether to review ALAB-653 is extended to March 30, 1982.

It is so ordered.

Dated at Washington, D.C. this 2d day of March 1982.

For the Commission:

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-6150 Filed 3-4-82; 8:45 am]
BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Retirement; Voluntary State Tax Withholding

AGENCY: Office of Personnel Management.

ACTION: Notice of standard tax withholding agreement.

SUMMARY: This notice sets forth a Standard Agreement between the Office of Personnel Management and a State which wishes to participate in a State income tax withholding program under the provisions of Section 1705 of Pub. L. 97-35, The Omnibus Budget Reconciliation Act of 1981. The Act requires the Office of Personnel Management to enter into agreements with the various States to permit voluntary State income tax withholding from civil service annuities.

DATE: March 5, 1982.

ADDRESS: Requests for agreements should be directed to Craig B. Pettibone, Assistant Director for Pay and Benefits Policy, Compensation Group, Office of Personnel Management, P.O. Box 57, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Eugene Littleford, (202) 632-4634.

SUPPLEMENTARY INFORMATION: Section 1705 of Pub. L. 97-35, The Omnibus Budget Reconciliation Act of 1981, requires the Office of Personnel Management to enter into agreements

with the various States to permit voluntary State income tax withholding from civil service annuities. The purpose of this notice is to set forth the standard agreement for use by a State requesting to participate. This agreement will allow a State to provide annuitants with information about the program, collect annuitants' requests for participation, put qualified requests in a machine-readable format, and maintain records of withholding for fiscal and informational purposes. The agreement will require OPM to process the requests received from the States, and make periodic payments and reports to the States.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, OPM gives notice of the following standard agreement:

Agreement to Withhold State Income Tax from Civil Service Annuities

I. Introduction

The United States Office of Personnel Management (hereinafter referred to as "OPM" is authorized, under Section 1705 of Pub. L. 97–35, to enter into this agreement with ————) (hereinafter referred to as the "State") to implement a State income tax withholding program. Within the terms and conditions of this agreement OPM will administer the program so as to provide the State with the required service (i.e., advance tax withholding from Federal civil service annuities) while preserving State sovereignty and flexibility in operating its own tax collection efforts.

II. Definitions

For the purose of this agreement:

1. "Agreement" means the Federal-State agreement contained in this document.

2. "Annuitant" means an employee retired, or a widow or widower receiving survivor benefits, under the provisions of subchapter III, chapter 83 of title 5, United States Code.

3. "Effective date" means, with respect to a request or revocation, that the request or revocation will be reflected in payments authorized after that date, and before the next request or revocation is implemented.

4. "Fund" means the Civil Service Retirement and Disability Fund as established and described in section 8348 of title 5, United States Code.

5. "Income tax" and "State income tax" mean any form of tax for which, under a State statute, (a) collection is provided, either by imposing on employers generally the duty of withholding sums from the compensation of employees and making returns of such sums to the State or by granting to employers generally the authority to withhold sums from the compensation of employees, if any employee voluntarily elects to make such sums withheld; and (b) the duty to withhold generally is imposed, or the authority to withhold generally is granted, with respect to the compensation of employees who are residents of the State.

6. "Net recurring payment" means the amount of annuity or survivor benefits (not recurring interim payments made while a claim is pending adjudication) payable to the annuitant on a monthly basis less the amounts currently being deducted for health benefits, Medicare, life insurance, Federal income tax, overpayment of annuity, indebtedness to the Government, voluntary allotments, waivers, or being paid to a third party or a court officer is compliance with a court order or decree.

7. "Net withholding" means the amount of State income tax deductions withheld during the previous calendar quarter as a result of requests which designated the State as payee, less similar deductions taken from prior payments which were cancelled in the previous calendar quarter.

8. "Proper State official" means a State officer authorized to bind the State contractually in matters relating to tax administration.

9. "Received" means, in respect to the magnetic tape containing requests and revocations, received at the special mailing address established by OPM for income tax requests, or, for those items not so received, received at the OPM data processing center charged with processing requests.

10. "Request" means, in regard to a request for tax withholding, a change in the amount withheld, or revocation of a prior request, a written submission from an annuitant in a format acceptable to the State which provides the annuitant's name, Civil Service Retirement Claim number, Social Security identification number, address, the amount to be withheld and the State to which payment is to be made, which is signed by the annuitant or, in the case of incompetence, his or her representative payee.

11. "State" means a State, the District of Columbia, or any territory or possession of the United States.

III. OPM Responsibilities

OPM will, in performance of this agreement:

1. Process the magnetic tape containing State tax transactions against the annuity roll once a month at the time monthly recurring payments are prepared for the United States Treasury Department. Errors that are identified will not be processed into the file, and will be identified and returned to the State for resolution via the monthly error report. Collections of State income tax will continue in effect until the State requesting the initial action supplies either a valid revocation or change. The magnetic tape must be received 35 days prior to the date of the check in which the transactions are to be effective. For example, withholding transactions for the July 1 check must be received 5 days prior to June 1. If the magnetic tape submitted by the State cannot be read, OPM will notify the State of this fact, and if a satisfactory replacement can be supplied in time for monthly processing, it will be processed.

2. Deduct from the regular, recurring annuity payments of an annuitant the amount he or she has so requested to be withheld, provided that:

(a) The amount of the request is an even dollar amount, not less than Five Dollars nor more than the net recurring amount. The State may set any even dollar amount above Five Dollars as a minimum withholding amount.

(b) The annuitant does not, at the time, have a tax withholding request from another State in effect.

(c) The annuitant has not designated more than one other State for withholding purposes within the calendar year. The State can set any limit on the number of changes an annuitant may make in the amount to be withheld.

3. Retain the amounts withheld in the Fund until payment is due.

4. Pay the net withholding to the State on the last day of the first month following each calendar quarter.

5. Make the following reports:

(a) A monthly report which will include all the States tax withholdings, cancellations and adjustments for the month, and also each request OPM was not able to process, with an explanation, in coded format, of the reason for rejection.

(b) a quarterly report which will include State, State address, quarterly withholdings, quarterly cancellations and adjustments, quarterly net withholdings and year-to-date amounts. Where cancelled or adjusted payments were made in a previous year, OPM shall append a listing of the cancelled or adjusted payments which shows the date and amount of each cancelled or adjusted tax withholding, and the name and Social Security identification number of the annuitant from whom it was withheld. If either party terminates the agreement and the amount of cancelled or adjusted deductions exceeds the amount withheld for the final quarter, then the quarterly report shall show the amount to be refunded to OPM and the address to which payment should be made.

(c) An annual summary report which contains the name, Social Security identification number, and total amount withheld from non-cancelled payments during the previous calendar year, for each annuitant who requested tax withholding payable to the State. In the event the annuitant had State income tax withholding in effect for more than one State in that calendar year, the report will show only the amount withheld for the State receiving the report.

(d) An annual report to each annuitant for whom State income taxes were withheld giving the amount of withholding paid to the State during the calendar year.

IV. State Responsibilities

The State will, in performance of this agreement:

1. Accept requests and revocations from annuitants who have designated that State income tax deductions will go to the State.

2. Convert these requests on a monthly basis to a machine-readable magnetic tape using specifications received from OPM, and forward that tape to OPM for processing.

3. Inform annuitants whose tax requests are rejected by OPM that the request was so rejected and of the reason why it was so rejected.

4. Recognizes that, to the extent not prohibited by State laws, records maintained by the State relating to this program are considered jointly maintained by OPM and are subject to the Privacy Act of 1974, 5 U.S.C. 552a. Accordingly, the States will maintain such records in accordance with the statute and OPM's implementing regulations at 5 CFR Part 297.

5. Respond to requests of annuitants for information and advice in regard to State income tax withholding.

6. Credit the amounts withheld from civil service annuities to the State tax liability of the respective annuitants, and refund any balance over and above that liability to the annuitant, unless he or she should request otherwise.

7. Surrender all tax withholding requests to OPM when this agreement is terminated or when the documents are not otherwise needed for this State tax withholding program.

8. Allow OPM, the Comptroller General or any of their duly authorized representatives access to, and the right to examine, all records, books, papers or documents related to the State income tax withholding program.

V. Additional Provisions

These additional provisions are also binding on the State and OPM:

1. A request or revocation is effective when processed by OPM. OPM will process each request by the first day of the second month following the month in which it is received, but incurs no liability of indebtedness by its failure to do so.

2. Any amount deducted from an annuity payment and paid to the State as a result of a request is deemed properly paid, unless the annuity payment itself is cancelled.

3. OPM will provide the State with the information necessary to properly process a request for State income tax withholding.

4. If the State processes a request or revocation which is not proper, the State is liable to the annuitant for the amount improperly withheld, and agrees to pay that amount to the annuitant on demand.

5. In the case of a disputed amount in any of the reports described and authorized by this agreement, the Associate Director for Compensation of OPM will issue an accounting within 60 calendar days of the State's request for an accounting. If the State finds this accounting unacceptable, it may then and only then pursue such remedies as are otherwise available.

V. Agreement Modification and Termination

This agreement may be modified or terminated in the following manner:

1. Either party may suggest a modification of the agreement in writing to the other party. The other party must accept or reject the modification within 60 calendar days of the date of the suggestion.

2. The agreement may be terminated by either party on 60 calendar days written notice.

3. OPM may modify this agreement unilaterally through the rule making process described in section 553 of title 5, United States Code.

VI. Signatures and Certification

OPM and the State hereby assure and certify that they will comply with the terms and conditions of this agreement. The State official whose signature appears below further certifies that he/she is authorized to bind the State contractually in matters relating to tax administration and that he/she is the official representative of the State with power to act in connection with the agreement.

[FR Doc. 82-6006 Filed 3-4-82; 8:45 am]

BILLING CODE 6325-01-M

Privacy Act of 1974; Administrative Changes and the Proposed Addition of Four New Routine Uses to an Existing System of Records

Note.—The text of this document originally appeared in the **Federal Register** for Thursday, March 4, 1982 (47 FR 9308–9310). It should have been published in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Office of Personnel Management.

BILLING CODE 1505-02-M

PRESIDENT'S ECONOMIC POLICY ADVISORY BOARD

Meeting

March 3, 1982.

The President's Economic Policy Advisory Board will meet on March 18, 1982, at the White House, Washington, D.C. from 10:00 a.m. to 3:30 p.m. The purpose of the meeting is to review and discuss:

(a) Economic Outlook and Financial Market Developments;

(b) Status of Troubled Industries; and

(c) International Economic Intelligence Outlook.

All agenda items concern matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraphs (1), (4), (8) and (9) thereof, and will be closed to the public.

For further information, please contact the Office of Policy Development, the White House, at (202) 456–0515.

Edwin L. Harper,

Assistant to the President for Policy Development.

[FR Doc. 82-6172 Filed 3-3-82; 2:41 pm]

BILLING CODE 3195-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 18515; File No. SR–Amex–82–3]

American Stock Exchange, Inc.; Filing of Proposed Rule Change

March 1, 1982.

The American Stock Exchange, Inc. ("Amex") submitted on February 10, 1982, a proposed rule change under Rule 19b–4 to modify Amex rules to provide for exchange trading of standardized options trading on stock groups composed either of stocks of issuers primarily in the same industry or of stocks of a diversified group of issuers.

Publication of the submission is expected to be made in the **Federal Register** during the week of March 1, 1982. In order to assist the Commission to determine whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested parsons are invited to submit written data, views and arguments concerning the submission on or before April 19, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–Amex–82–3.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of the filing and of any subsequent amendments will also be available at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6020 Filed 3-4-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18515; File No. SR-Amex-82-3]

American Stock Exchange, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Proposed Rule Change by American Stock Exchange, Inc. relating to options on stock groups. Comments requested on or before April 19, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 10, 1982, the American Stock Exchange, Inc., filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Item 1. Text of Proposed Rule Change.

Section 10. *Options on Stock Groups.*

Applicability and Definitions

Rule 900B. (a) Applicability—The rules in this Section are applicable only to options on stock groups (as defined below). In addition, except to the extent that specific rules in this Section govern, or unless the context otherwise requires, the provisions of the Constitution and of all other rules and policies of the Board of Governors shall be applicable to the trading on the Exchange of option contracts on stock groups. Pursuant to the provisions of Article 1, Section 3(i) of the Constitution, option contracts on stock groups are included within the definition of "security" or "securities" as such terms are used in the Constitution and the Rules of the Exchange.

(b) *Definitions*—The following terms as used in the Rules in this Section shall, unless the context otherwise indicates, have the meanings herein specified:

(1) Stock Group—The term "stock group" means those stocks which have been designated by the Exchange as collectively underlying an options contract.

(2) Class of Options—The term "class of options" means all option contracts of the same type of option covering the same group of underlying stocks.

(3) Aggregate Exercise Price—The term "aggregate exercise price" means the price at which all of the underlying stocks in the stock group may be purchased or sold upon exercise of the option contract.

(4) Exercise Price—The term "exercise price" means the aggregate exercise price of an option on a stock group divided by the product of 100 times the number of underlying stocks in the group.

(5) Stock Group Market Price—The term "stock group market price" means the sum of the products derived from multiplying the current market price of each underlying stock in the stock group by the number of shares of such stock subject to the contract, divided by the product of 100 times the number of underlying stocks in the group.

(6) Underlying Stocks—The term "underlying stocks" in respect of an option on a stock group means those stocks which the Options Clearing Corporation shall be obligated to sell (in the case of a call option contract) or purchase (in the case of a put option contract) upon the valid exercise of the option contract, and the term "underlying stock" means any of the underlying stocks in the stock group.

(7) Covered—The term "covered" has the meaning set forth in Rule 900, definition (23); the writer of a call option on a stock group may be covered with respect to a short position in the stock group if he is covered within the meaning of Rule 900, definition (23) on a share-for-share basis with respect to each underlying stock in the group.

(8) Limited Exercise Option—The term "limited exercise option" means an option contract which may not be exercised until the fifth business day prior to the expiration date.

(9) Normal Exercise Option—The term "normal exercise option" means an option contract which may be exercised at any time until the expiration date.

(10) Call—The term "call", when used with respect to options on stock groups, means an option contract under which the holder of the option has the right, in accordance with the terms of the option, to purchase from the Options Clearing Corporation the number of shares of each of the underlying stocks included in the designated stock group covered by the option contract.

(11) Put—The term "put", when used with respect to options on stock groups, means an option contract under which the holder of the option has the right, in accordance with the terms of the option, to sell to the Options Clearing Corporation the number of shares of each of the underlying stocks included in the designated stock group covered by the option contract.

Rule 901B. *Designation of Stock Groups.*

(a) The Exchange may constitute for options trading stock groups consisting generally of five or more approved underlying stocks. Such underlying stocks must be approved pursuant to Rule 915, but need not be limited to those underlying stocks which are the subject of individual stock options pursuant to the rules of the Exchange. Stock groups shall be comprised of stocks of issuers primarily in the same industry or shall reflect diverse cross-industry composites.

(b) The Exchange may list for trading on any stock group limited exercise options, normal exercise options, or both.

(c) If, pursuant to Rule 916, the Exchange determines to withdraw approval as an underlying security from any stock which is a component of a stock group, no option contract with a new expiration month shall be opened for trading on that group.

Rule 902B. *Terms of Options on Stock Groups.*

Terms of options contracts on stock groups shall be established as provided in Rule 902, except that the exercise price of each series of options shall be fixed at a price which is reasonably close to the stock group market price.

Rule 903B. *Adjustments.*

Options on a stock group shall be subject to adjustment in accordance with the Rules of the Options Clearing Corporation as applied to each underlying stock comprising the group.

Rule 904B. *Meaning of Premium Bids and Offers.*

Bids and offers for options on stock groups shall be expressed in terms of hundreds of dollars multiplied by the number of underlying stocks in the stock group. (*E.g.*, a bid of "7⅛" for an option on a five-stock group shall represent a bid of $3,750—7.5×100×5.)

Rule 905B. *Trading Rotations.*

Except with the prior approval of a Senior Floor Official, options on a stock group shall not be opened for trading until an opening transaction in each of its component underlying stocks has been reported in the primary market for such stock. If trading in a component underlying stock of a stock group is halted or suspended in the primary market, trading on the Exchange in the options on such stock group shall be halted until the Exchange determines that the conditions which led to the halt or suspension are no longer present or until a Senior Floor Official determines that the interests of a fair and orderly market are best served by a resumption of trading in the options even though the trading halt or suspension is continued in the primary market for the component underlying stock.

Rule 906B. *Position and Exercise Limits.*

In determining compliance with position and exercise limits under Rules 904 and 905, option contracts on a stock group shall not be aggregated with option contracts on an underlying stock included in the group.

Rule 907B. *Reports Related to Position Limits.*

In computing reportable options positions under Rule 906, option contracts on a stock group shall not be aggregated with option contracts on an underlying stock included in the group.

Rule 908B. *Other Restrictions on Options Transactions.*

Restrictions pursuant to Rule 909 on the writing of uncovered calls at a "discount" on an underlying security subject to a stabilizing bid by underwriters shall normally not be imposed on options on a stock group.

Rule 909B. *Filing of Trade Information.*

Trade information with respect to transactions in options on a stock group shall be filed with the Exchange as required by Rule 962 except that the trade information shall identify the stock group rather than the component underlying stock.

Rule 910B. *Margin.*

The minimum margin required pursuant to Rule 462(d)2 for each short option contract on a stock group shall be not less than $125 multiplied by the number of underlying stocks in the group.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Item 3. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change.

The rules proposed in this filing are designed to accommodate trading on the Amex of options covering specific groups of underlying stocks. One objective of the Amex will be to list options on groups of stocks the issuers of which are all engaged primarily in the same industry. For example, it may select five or more leading drug companies or office equipment manufacturers as the underlying stocks for particular industry group options. An option contract on such group would call for delivery of the requisite number, of shares (normally 100 shares) of each of the underlying stocks in the group.

The Amex is also proposing to list one or more options on groups of stocks representing a number of different industries. Such an option might, for example, include stocks of ten separate companies each of which is a leading factor in a different industry. In the case of both the industry group options and the broader based interindustry options each issuer whose stock is included would have to meet Amex's requirements for approval as an underlying stock, but the Amex would expect to include within various stock groups underlying stocks which are not the subject of individual stock option trading on the Amex.

The Amex believes that options on stock groups will substantially enhance the ability of investors to hedge against specific risks and will add another valuable tool to assist in portfolio management. A principal function of listed options is to provide investors with an efficient means of hedging against the risks of short-term price fluctuations in individual securities positions. However, the utilization of options on individual securities alone does not provide an effective way of protecting against risk factors partially or perhaps wholly unrelated to the particular security in which an investor may be interested. For example, an investor may believe strongly in the potential of a particular company whose stock he is holding but have misgivings regarding the short-term outlook for the industry in which that company is engaged, fearing a price decline in his holdings because of an overall lack of support for the stocks in that industry. In such a situation, the investor could spread his risk by writing call options on that industry group. If he is correct in his estimation, the proceeds from the sale of the call options may in part offset any short-term decline in the price of his stock holdings and yet permit him to continue holding the stock for future appreciation.

Similarly, an investor holding a diversified portfolio of stocks which he does not wish to sell but fearing a near-term general market decline could buy put options on a broad-based inter-industry group of stocks to protect in part against a decline in the market value of his portfolio.

Moreover, stock group options will provide investors with a more effective means of achieving diversification when investing in accordance with their expectations regarding the outlook for a particular industry or for the stock market as a whole. An investor may, for example, believe that economic conditions favor an upswing in a particular industry, but be unsure as to which companies in that industry are likely to benefit most from such a trend. By purchasing a call option covering a group of stocks in that industry the investor can obtain diversification without the necessity of making an initial substantial commitment in each of a number of different stocks. The same sort of diversification could be obtained with a broader based inter-industry option when an investor is optimistic about a general price increase in the stock market as a whole.

The purposes of the specific rules designed to permit the listing and trading of options on industry and composite market groups are set forth below.

Rule 900B. This rule sets forth the definitions necessary to supplement existing Amex rules so as to provide for the establishment, pricing, trading and settlement of options on stock groups.

"Stock group" is defined to include those stocks which have been designated by the Amex as collectively underlying an options contract. Such a group may consist solely of stocks from a particular industry or in the alternative a number of stocks each from a different industry.

"Class" is defined as options of the same type on the same group of underlying securities. Thus, deletion or addition of a single underlying security from a stock group will result in a new group and a new class of option contracts. Further, this definition makes clear that options on a stock group are not to be confused with options on any one of the underlying securities comprising the group.

It is anticipated that the "stock group market price" for each stock group designated for trading will be computed and disseminated on a current basis. This will be essential to enable investors to make informed decisions in pricing and trading options on stock groups and to determine the exercise prices of such options.

Pursuant to the definition of the terms "class of options" and "covered" in Rule 900B, only a long position in all of the underlying securities included in a stock group or a long position in an option on the stock group can provide cover for a short position in an option on that group.

The "limited exercise option" defined in Rule 900B, in conjunction with Rule

901B, would give the Exchange the authority to list an option contract on a stock group which will only be exercisable during the week of its expiration. The terms of a limited exercise option contract would preclude the assignment of exercise notices to writers of such options except during the final week prior to the exercise date. This would avoid uncovered writers being faced with the substantial expense (transaction costs, interest expense, etc.) involved in purchasing for delivery each of the underlying stocks if assigned an exercise notice. The rules proposal provides, however, that the Amex may also list conventional options on the same stock group.

Rule 901B. The Amex plans to include at least five underlying stocks within each industry group to assure that the group is truly representative of the particular industry. In the case of broader based inter-industry groups the Amex may include ten or more stocks to provide diversification and to minimize the impact which price fluctuations in representative stocks from any single industry might have on the option. While all underlying stocks must meet the listing and maintenance requirements of Amex Rules 915 and 916, the Amex does not intend to confine its selection of underlying securities for stock groups to those which are the subject of individual stock options traded on the Amex.

Rule 902B. It is anticipated that exercise prices for options on industry groups and options on one or more inter-industry groups would be established at 5 point intervals in relation to the stock group market price.

Rule 903B. Options on stock groups will be subject to adjustment in accordance with the rules of the Options Clearing Corporation as applied to each underlying stock included in the group. Thus, if stock-splits, dividends, rights offerings, etc. would require adjustments of options contracts on any of the underlying securities in a stock group, a parallel adjustment will be made in the number of shares of that underlying security which are subject to options on a stock group.

Rule 904B. Bid and ask premiums for options on stock groups, like the stock group market price, must be multiplied by 100 times the number of securities in the stock group in order to obtain the total premium payable for each option on the group.

Rule 905B. Because the stock group market price will be based on current market prices for all stocks in the group, it would in most cases be inappropriate for trading in an option on a stock group to proceed until an opening price is available for each underlying security in the group. Therefore, if all of the underlying stocks have not opened on the primary exchange where they are listed, such trading will be allowed only if a Senior Floor Official having reviewed all of the circumstances determines that trading in the option should proceed. Similar restrictions will apply where trading in one or more underlying stocks included in a stock group is halted or suspended in the primary market.

Rules 906B and 907B. These rules preclude aggregation, for purposes of applying restrictions contained in other Amex rules, of positions or exercises involving options on a stock group with those involving options on component securities of such group or of any other group. Because stock groups will be comprised at a minimum of five underlying securities, positions or exercises involving options on a stock group would not appear susceptible to manipulative activity. Moreover, premiums for the stock group options and transaction costs in the underlying security would be proportionately higher. Therefore, it is much less likely that the establishing of positions or the exercise of group options will exert undue pressure or cause disruption in the market for the underlying stocks. The same rationale has been applied in determining not to aggregate such options positions for purposes of reporting requirements.

Rule 908B. This rule makes clear that Rule 909 restrictions on the writing of uncovered calls at a discount on an underlying stock subject to a stabilizing bid by underwriters shall normally not be applied to stock group options.

Rule 909B. This rule is a technical amendment to the trade reporting requirements to account for the multiplicity of securities included in a stock group.

Rule 910B. This rule provides for the application of minimum marginal requirements with respect to short positions in options on stock groups. It is proposed that the minimum margin applicable to an individual stock option be halved and the resulting amount be multiplied by the number of underlying stocks included in the group. Thus, the minimum margin for a short position of one option on a stock group consisting of five underlying stocks would be $625 ($125 x 5). The rationale for halving the $250 minimum margin requirement applicable to an individual stock option is that the price volatility of an option on a five-stock group is likely to be significantly lower than that of an individual stock option.

It should be noted that there is no provision in these rules for margin credit on partially covered short positions in options on stock groups, i.e., positions where the writer of a call on a stock group is long one or more but not all of the underlying stocks or where the writer of a call or a put on a stock group is long a call or a put, respectively, on one or more of the component underlying stocks. A supplemental rules filing will be necessary to address these matters.

The basis under the Act for the proposed rules change is Section 6(b)(5) in that the proposed changes are designed to facilitate transactions in options on stock groups and to bring such transactions within the regulatory framework of the Act and of the Amex's own rules.

(B) Self-Regulatory Organization's Statement on Burden on Competition

Item 4. Self-Regulatory Organization's Statement on Burden on Competition.

The Amex does not believe the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Item 5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before April 9, 1982, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before April 19, 1982.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 1, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6019 Filed 3-4-82; 8:45 am]

BILLING CODE 8010-01-M

Cincinnati Stock Exchange; Application for Unlisted Trading Privileges and of Opportunity for Hearing

March 1, 1982.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

British Petroleum Co., Ltd., American Depositary Receipts for Ordinary Shares (25 Pence Par)

This security is listed and registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 19, 1982 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6021 Filed 3-4-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18519; File No. SR-PSE-82-3]

Pacific Stock Exchange, Inc.; Filing of Proposed Rule Change

March 1, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") 15 U.S.C. 78s(b)(1), notice is hereby given that on February 26, 1982, the Pacific Stock Exchange, Inc. ("PSE") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend Rule II, Section 3(f) of the PSE rules to provide that, as a condition of an exchange member's being registered as a specialist, a specialist is to engage in a course of dealings for his own account to assist in the maintenance, insofar as reasonably practicable, of a fair and orderly market. In addition, the proposed rule change provides that, if the PSE finds any substantial or continued failure by a specialist to engage in such a course of dealings, the registration of such specialist shall be subject to suspension or revocation by the PSE in one or more of the securities in which he is registered.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission on or before March 26, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-PSE-82-3.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6018 Filed 3-4-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 05/05-5153]

Center City Minority Enterprise Investment Company, Inc.; Filing of an Application for an Exemption Under the Conflict of Interest Regulation

Notice is hereby given that Center City Minority Enterprise Investment Company, Inc. (CCME), Suite 702, 40 South Main Street, DAayton, Ohio 45402, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application with the Small Business Administration (SBA) pursuant to § 107.1004(b) of the Regulations governing small business investment companies (13 CFR 107.1004(b)(1982)) for an exemption from the provisions of the cited Regulation.

This exemption, if granted, will permit CCME to provide financing in the amount of $50,000 to Fort Dearborn Paper Company (FDPC), 2901 West 36th Place, Chicago, Illinois 60632.

CCME is one of several participants in the financing of FDPC which was formed for the purpose of acquiring the assets and business operations of Fort Dearborn Paper, a division of Mead Corporation. The Mead Corporation owns 10 percent of the stock of CCME.

Pursuant to Paragraph (b) of the definition of "Associate of a Licensee" in § 107.3 of the SBA Regulations, Mead Corporation is considered to be an Associate of CCME. As such, the transaction will require an exemption from the provisions of § 107.1004(b)(5) of the Regulations.

Notice is hereby given that any interested person may, on or before March 22, 1982 submit written comments on the proposed transaction to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Dayton, Ohio.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 1, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-6037 Filed 3-4-82; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 06/06-5249]

Fluid Financial Corp.; Notice of Application for a License To Operate as a Section 301(d) Licensee

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing Section 301(d) Licensee (13 CFR 107.102 (1981)), under the name of Fluid Financial Corporation, Suite 527, 200 Lomas Blvd., N.W., Albuquerque, New Mexico 87102, for a License to operate as a Section 301(d) Licensee under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholder of the Applicant are:

George T. Slaughter, Route 3, Box 50A, Arkadelphia, Arkansas 71923—President, Director

Deborah A. Kennedy, P.O. Box 511, Edgewood, New Mexico 87015, Vice President, Secretary/Treasurer

Carl D. Patterson, 6642 Forrest Grove Drive, Memphis, Tennessee 38138—Director

William B. Fowler, 6313 Loftus, N.E., Albuquerque, New Mexico 87109—Director

Fluid Corporation, Suite 1027, 200 Lomas Blvd., N.W., Albuquerque, New Mexico 87102—100 percent ownership

There are two classes of stock authorized: 60,000 shares of common stock and 10,000 shares of preferred stock. Initially, only 50,100 shares of common stock will be issued with a resultant private capital of $501,000. Applicant proposes to conduct its operations principally in the State of New Mexico.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, on or before March 22, 1982, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Albuquerque, New Mexico.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 1, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-6038 Filed 3-4-82; 8:45 am]

BILLING CODE 8025-01-M

Sunshine Act Meetings

Federal Register

Vol. 47, No. 44

Friday, March 5, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M-344, Amdt. 1, March 1, 1982]

Notice of addition to the March 4, 1982 meeting

TIME AND DATE: 10 a.m., March 4, 1982.

PLACE: Room 1027 (open), room 1012 (closed); 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: 30c. Petition for FAA Rulemaking of United Air Lines, Inc. to rescind the High Density Rule, 14 CFR section 93.121 *et seq.* as it applies to O'Hare International Airport. (Memo 1118, BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary; (202) 673-5068.

[S-341-82 Filed 3-3-82; 3:48 pm]

BILLING CODE 6320-01-M

2

CIVIL AERONAUTICS BOARD

[M-344, Amdt. 2, March 2, 1982]

Notice of addition to the March 4, 1982 meeting.

TIME AND DATE: 10 a.m., March 4, 1982.

PLACE: Room 1027 (open), room 1012 (closed); 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: 2a. Docket EAS-352, Review of Essential Air Service Determination for Merced, California. (Memo 133-C, BDA, OGC, OCCCA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary; (202) 673-5068.

[S-342-82 Filed 3-3-82; 3:48 pm]

BILLING CODE 6320-01-M

3

CIVIL AERONAUTICS BOARD

[M-344, Amdt. 3, March 2, 1982]

Notice of additions to the March 4, 1982 meeting.

TIME AND DATE: 10 a.m., March 4, 1982.

PLACE: Room 1027 (open), room 1012 (closed); 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

39. Upcoming negotiations with Portugal to begin March 8, 1982. (BIA)

40. Review of Antigua and Barbuda-United States Aviation Regulations; (undocketed) Applications of Seagreen Air Transort for Fifth Freedom Charter Authority. (BIA)

41. Report on the Recent Negotiations with ECAC. (BIA)

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary; (202) 673-5068.

[S-343-82 Filed 3-3-82; 3:48 pm]

BILLING CODE 6320-01-M

4

CIVIL AERONAUTICS BOARD

[M-344, Amdt. 4, March 2, 1982]

Notice of addition to the March 4, 1982 meeting.

TIME AND DATE: 10 a.m., March 4, 1982.

PLACE: Room 1027 (open), room 1012 (closed); 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: 42. Developments at the U.S.-U.K. talks held in London March 1, 1982. (BIA)

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary; (202) 673-5068.

[S-344-82 Filed 3-3-82; 3:48 pm]

BILLING CODE 6320-01-M

5

COMMISSION ON CIVIL RIGHTS

March 3, 1982.

DATE AND TIME: Monday, March 8, 1982, 9 a.m.-4 p.m.; Tuesday, March 9, 1982, 1:30-4 p.m.

PLACE: Room 512, 1121 Vermont Avenue, NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: March 8:

I. Agenda
II. Minutes of Last Meeting
III. Review of Statement on the Civil Rights Consequences of the Administration's Proposed Budget Cuts on Educational Programs
IV. Review of Miami Report
V. Review of Health Insurance Study
VI. Viewing of Hispanic Film

March 9:

VII. Policy Statement re: Removal of State Advisory Committee Members
VIII. Maine Advisory Committee Interim Appointment
IX. Report of the Office of Regional Programs' National Affirmative Action Report Entitled *Promises and Perceptions: Federal Efforts to Eliminate Employment Discrimination Through Affirmative Action*
X. Texas Advisory Committee Report Entitled *Reapportionment in Texas*
XI. Missouri Advisory Committee Report Entitled *Fair Housing Enforcement in St. Louis*
XII. Action re: New Mexico Advisory Committee Report Entitled *Energy Development in Northwestern New Mexico: A Civil Rights Perspective*
XIII. Civil Rights Developments in the Southwestern Region
XIV. Staff Director's Report:
A. Status of Funds
B. Personnel Report
C. Office Directors' Reports

PERSONS TO CONTACT FOR FURTHER INFORMATION: Charles Rivera or Barbara Brooks, Press and Communications Division; (202) 254-6697.

[S-335-82 Filed 3-3-82; 11:16 am]

BILLING CODE 6335-01-M

6

COMMODITY CREDIT CORPORATION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 8448, February 26, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., March 5, 1982.

STATUS: Open and closed.

CHANGES IN THE MEETING:

Additional agenda items (numbers 4, 7, 12, and 15).

Closure of a portion of the meeting.

Revision of the presentation order previously announced as follows:

1. Special Meeting of December 21, 1981.

2. Closed Meeting of December 21, 1981.
3. Docket WCX-312 re: Food Security Wheat Reserve.
4. Docket WCP-319, Rev. 1 re: Extended Storage Use Guarantees to Assure Commodity Credit Corporation (CCC) Long-Term Storage for CCC-Owned Commodities.
5. Memorandum re: Status Report on the Extended Grain Storage Program.
6. Memorandum re: Progress Report on Process Cheese Distribution to States.
7. Memorandum re: Update of CCC-Owned Inventories.
8. Docket WCO-309b re: Flue-Cured Tobacco Testing Levels of Maleic Hydrazide (MH) Residue in Cured Leaves.
9. Docket SCP-101a & XCP-176a re: Wool and Mohair Payment Programs for the 1982-1985 Marketing Years.
10. Docket FCZ-247, Rev. 2 re: Policy on CCC Interest Rates on Commodity Loans, Grain Reserve Loans, Farm Storage and Drying Equipment and Certain Price Support Purchase Transactions.
11. Memorandum re: Interest Rates Charged by the Commodity Credit Corporation (50612-1-Hq).
12. Memorandum re: Information Memorandum Concerning Pub. L. 480 for Fiscal Year 1982 (Res. 19, CZ-266).
13. Resolution re: Ratification on Barter of Dairy Products for Jamaican Barter.
14. Resolution re: Ratification on Repurchase Offer on Credit Guarantees for Poland.

Closed portion of meeting:

15. Discussion—Corporation's Direct and Credit Guarantee Programs.

CONTACT PERSON FOR MORE INFORMATION: Edward D. Hews, Secretary, Commodity Credit Corporation, Room 3090, South Building, U.S. Department of Agriculture, Washington, D.C. 20013; telephone (202) 447-7583.

[S-338-82 Filed 3-3-82; 11:18 am]
BILLING CODE 3410-05-M

7

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., March 10, 1982.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, DC.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Chain Saws: Preliminary Evaluation of Voluntary Standard*
The Commission will consider alternative courses of action related to the voluntary standard developed by the Chain Saw Manufacturers Association to reduce chain saw kick back inquiries.
2. *Power Mower Petitions: CP 81-6, 81-7, 81-8*
The staff will brief the Commission on issues related to the following petitions: CP 81-6 from Mr. A. J. Wildy, CP 81-7 from Polynous Industries, Inc., and CP 81-8 from Mr. Lewis C. Ely. The petitions request exemptions from the safety standard for walk-behind power lawn mowers.
3. *Indoor Air Quality: NAS Report*
The staff will brief the Commission on the Report of the National Academy of Sciences on Indoor Pollutants.
4. *Formaldehyde From Preserved Biological Specimens: Status Report*
The staff will brief the Commission on the Status Report on exposure to formaldehyde from preserved biological specimens.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretry, Suite 342, 5401 Westbard Ave., Bethesda, MD 20207; telephone (301) 492-6800.

[S-340-82 Filed 3-3-82; 4:00 pm]
BILLING CODE 6355-01-M

8

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10 a.m., Wednesday, March 10, 1982.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed amendment to Regulation K (International Banking Operations) to add certain investment advisory activities to the list of activities that Edge Corporations may conduct. (Proposed earlier for public comment; Docket No. 0366)
Proposed amendment to Regulation Y (Bank Holding Companies and Change in Bank Control) in connection with an application for BankAmerica Financial Services Corporation, San Francisco, California, to provide management consulting services to nonbank depository institutions. (Proposed earlier for public comment; Docket No. 0369)
3. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: March 3, 1982.

James McAfee,
Assistant Secretary of the Board.

[S-337-82 Filed 3-3-82; 11:24 am]
BILLING CODE 6210-01-M

9

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: Approximately 11:30 a.m., Wednesday, March 10, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: March 3, 1982

James McAfee,
Assistant Secretary of the Board.

[S-339-82 Filed 3-3-82; 11:39 am]
BILLING CODE 6210-01-M

10

PAROLE COMMISSION

[2P0401]

National Commissioners (the Commissioners presently maintaining offices at Bethesda, Maryland, Headquarters).

TIME AND DATE: 9:30 a.m., Thursday, March 4, 1982.

PLACE: Room 420-F, One North Park Building, 5550 Friendship Boulevard, Bethesda, Maryland 20015.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 4 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission; (301) 492-5987.

[S-336-82 Filed 3-3-82; 11:32 am]
BILLING CODE 4410-01-M

11

RAILROAD RETIREMENT BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 8905, Tuesday, March 2.

TIME AND DATE: 10:00 a.m., March 8, 1982.

PLACE: Board's meeting room, eighth floor, headquarters building, 844 Rush Street, Chicago, Illinois, 60611.

CHANGE IN THE MEETING: Additional item to be considered at the portion of the meeting which will be open to the public:

11. Recommendation for special achievement awards—Omaha District Office and North Platte Base Point.

CONTACT PERSON FOR MORE INFORMATION: Beatrice Ezerski, COM No. 312-751-4920; FTS No. 367-4920.

[S-340-82 Filed 3-3-82; 2:45 pm]
BILLING CODE 7905-01-M

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federal register

Friday
March 5, 1982

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the Federal Register are listed with each State.

California:	
CA81-5143	Aug. 21, 1981.
District of Columbia: DC81-3040	June 5, 1981.
Georgia:	
GA80-1062	Mar. 21, 1980.
GA81-1194	Mar. 6, 1981.
GA81-1233	May 22, 1981.
Louisiana:	
LA81-4084	Nov. 6, 1981.
LA81-4086	Nov. 6, 1981.
Maryland:	
DC81-3040	June 5, 1981.
Texas:	
TX80-4087	Nov. 7, 1980.
TX80-4088	Nov. 7, 1980.
TX81-4009	Jan. 6, 1981.
TX81-4035	June 5, 1981.
TX81-4074	Oct. 2, 1981.
TX81-4075	Oct. 2, 1981.
TX81-4076	Oct. 2, 1981.
Oregon: OR81-5127	July 6, 1981.
Virginia:	
VA81-3064	Nov. 27, 1981.
DC81-3040	June 5, 1981.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the Federal Register are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Florida:	
FL80-1066 (FL82-1015)	Aug. 1, 1980.
Florida:	
FL81-1280 (FL82-1018)	July 6, 1981.
Georgia:	
GA81-1102 (GA82-1016)	Mar. 6, 1981.
GA81-1193 (GA82-1017)	Mar. 6, 1981.
Illinois:	
IL79-2067 (IL82-2005)	Aug. 24, 1979.
IL81-2006 (IL82-2003)	Apr. 3, 1981.
IL81-2050 (IL82-2002)	Aug. 7, 1981.
IL81-2052 (IL82-2001)	Aug. 14, 1981.
Michigan:	
MI81-3033 (MI82-3013)	July 6, 1981.
Pennsylvania:	
PA80-3032 (PA82-3012)	May 30, 1980.
PA80-3074 (PA82-3010)	Dec. 12, 1980.
Wisconsin:	
WI80-2029 (WI82-2006)	Apr. 25, 1980.
WI80-2038 (WI82-2008)	May 16, 1980.
WI80-2058 (WI82-2009)	May 23, 1980.

Signed at Washington, D.C., this 26th day of February 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

Modification Page 2

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #GA80-1062 - Mod. #1 (46 FR 18652 - March 21, 1980) Bibb County, Georgia					
CHANGE:					
Boilermakers	$14.50	1.375	1.50		.04
Electricians	12.13	.60	3% + .60		½ of 1%
DECISION #GA81-1194 - Mod. #1 (46 FR 15650 - March 6, 1981) Bourbon County, Georgia					.04
CHANGE:					½ of 1%
Boilermakers	$14.50	1.375	1.50		.06
Electricians	12.13	.60	3% + .60		
Plumbers & Pipefitters	12.75	.87	.63		
DECISION #GA81-1233 - Mod. #3 (46 FR 28101 - May 22, 1981) Chattahoochee & Muscogee Counties, Georgia					.035
CHANGE:					.035
Elevator Constructors:	$12.51	1.345	1.085	a + b	
Mechanics	8.76	1.345	1.085	a + b	
Helpers	6.255				
Probationary helpers					

Modification Page 1

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. CA81-5143 - Mod. #3 (46 FR 42391 - August 21, 1981) San Diego County, California					
Change:					
Asbestos Workers	$19.25	1.30	1.49		.07
Boilermakers	19.61	1.30	1.25	1.00	.04
Drywall Finishers	17.74	1.23	1.78	.75	.07
Ironworkers:					
Fence Erectors	14.86	1.44	3.81	2.50	.12
Structural, Ornamental, Reinforcing	15.75	1.44	3.81	2.50	.12
Plasterers' Tenders	15.99	.87	2.57	1.00	
Plumbers; Pipefitters; Steamfitters; Air Condition; Refrigeration	16.85	104	164	134	3/4%
DECISION NO. DC81-3040 - Mod. #3 (46 FR 30290 - June 5, 1981) DISTRICT OF COLUMBIA; MARYLAND-MONTGOMERY AND PRINCE GEORGES; AND D.C., TRAINING SCHOOL; VIRGINIA-INDEPENDENT CITY OF ALEXANDRIA; ARLINGTON AND FAIRFAX COUNTIES					
ADD:					
FROM DESCRIPTION OF WORK, WATER AND SEWER LINE CONSTRUCTION					
FROM DECISION, ALL CRAFTS AND WAGE RATES FOR WATER AND SEWER LINE CONSTRUCTION					

Modification Page 3

DECISION NO. LA81-4084 - MOD. #7 (46 FR 55203 - November 6, 1981) Bossier, Caddo & Calcasieu Parishes, Louisiana	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Painters:					
Bossier & Caddo Pars.:					
Painters, tape & float, vinyl & paperhangers	$11.40	.75	.30		.05

DECISION NO. LA81-4086 - MOD. #7 (46 FR 55189 - November 6, 1981) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Carpenters:					
Zone 3 - Carpenters	$13.15	.90	.90		
Millwrights	13.84	.90	.90		
Piledrivermen	13.55	.90	.90		
Electricians:					
Zone 1 - Electricians	16.64	5%	8%		3/10%
Cable splicers	16.89	5%	8%		3/10%
Zone 4 - Electricians	16.35	.70	3%		2/10%
Cable splicers	16.60	.70	3%		2/10%
Zone 6 - Electricians	14.15	1.15	3%		1/2%
Cable splicers	14.65	1.15	3%		1/2%
Zone 8 - Electricians	14.74	.60	3%		1/2%
Cable splicers	14.99	.60	3%		1/2%
Line construction:					
Zone 2:					
Linemen	16.64	5%	8%		3/10%
Cable splicers	16.89	5%	8%		3/10%
Equipment operators	12.48	5%	8%		3/10%
Truck drivers & groundmen	7.49	5%	8%		3/10%
Zone 5:					
Linemen, equipment ops.	15.36		3%		1/2%
Cable splicers	15.61		3%		1/2%
Groundmen	40%JR		3%		1/2%
Zone 6:					
Linemen, equipment ops.	14.15	1.15	3%		1/2%
Cable splicers	14.65	1.15	3%		1/2%
Groundmen	4.19	1.15	3%		1/2%
Painters:					
Zone 6 - Painters, tape & float, vinyl & paperhangers	11.40	.75	.30		.05

Modification Page 4

DECISION NO. TX80-4087 - MOD. #6 (45 FR 74365 - November 7, 1980) Gregg County, Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians:					
Electricians	$13.90	.60	3%		1/4%
Cable splicers	14.25	.60	3%		1/4%

DECISION NO. TX80-4088 - MOD. #6 (45 FR 74364 - November 7, 1980) Harrison County, Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers	13.25		.50		
Stonemasons	12.00		.50		

DECISION NO. TX81-4009 - MOD. #6 (46 FR 1549 - January 6, 1981) Taylor County, Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians:					
Electricians	12.70	.60	3%+.50		1/4%
Cable splicers	12.95	.60	3%+.50		1/4%
Line construction:					
Lineman	12.70	.60	3%+.50		1/4%
Cable splicers	12.95	.60	3%+.50		1/4%
Groundman	9.53	.60	3%+.50		1/4%
Equipment operator	10.41	.60	3%+.50		1/4%
Flat bed truck driver	7.87	.60	3%+.50		1/4%

DECISION NO. TX81-4036 - MOD. #5 (46 FR 30286 - June 5,1981) Lubbock County, Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers & stonemasons	12.02		.30		.03

Modification Page 5

DECISION NO. TX81-4074 - MOD. #7 (46 FR 48861 - October 2, 1981) Travis County, Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Marble, tile & terrazzo workers	$11.90	.70			.05

DECISION NO. TX81-4075 - MOD. #6 (46 FR 48863 - October 2, 1981) Galveston & Harris Cos., Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians:					
Galveston County	16.47	1.00	10%+.31		.08
Harris County	16.35	1.00	12%		.08
Line construction:					
Zone 1:					
Lineman & cable splicer	16.85	.60	3%		1/2%
Groundman	9.77	.60	3%		1/2%
Zone 2:					
Lineman & cable splicer	16.45	.60	3%		1/2%
Groundman	9.54	.60	3%		1/2%

DECISION NO. TX81-4076 - MOD. #6 (46 FR 48857 - October 2, 1981) Brazos County, Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians	14.715	1.00	12%		.08
Line construction:					
Linemen & cable splicers	15.09	.60	3%		1/2%
Groundmen	8.75	.60	3%		1/2%

Modification Page 6

DECISION NO. OR81-5127 - Mod #10 (46 FR 35019 - July 6, 1981) Statewide Oregon	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELECTRICIANS:					
Area 3:					
Electricians	$19.05	1.25	3% + 3.00		.10
Cable Splicers	20.95	1.25	3% + 3.00		.10
ELEVATOR CONSTRUCTORS:	19.82	1.345	1.085	a	.033
ELEVATOR CONSTRUCTORS HELPERS	70%JR	1.345	1.085	a	.035
ELEVATOR CONSTRUCTORS HELPERS (Probationary)	50%JR				

Decision No. VA81-3084 Mod. #2 (46 FR 58031-Nov. 27,1981) Henrico County & the Independent City of Richmond, Va.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT:					
LATHERS:					
Plasterer & Drywall Finish	10.89	.65	.55		.01
ADD:					
LATHERS:					
Lathers installing lathe	10.89	.65	.55		.01
CHANGE:					
BRICKLAYERS & STONEMASONS	13.00	.90	.45		.02
CEMENT MASONS	10.75				
CEMENT MASONS MACHINE MAN	10.85				
ELECTRICIANS:					
ZONE 1-within a 12 air mile radius of Staples Mills Road and Broad Street in the City of Richmond	13.85	7%	3%		4%
Zone 11-remainder of City of Richmond and Henrico County	14.60	7%	3%		4%

SUPERSEDEAS DECISION

STATE: FLORIDA COUNTY: ORANGE
DECISION NUMBER: FL82-1015 DATE: Date of Publication
Supersedes Decision No.: FL80-1088 dated August 1, 1980 in 45 FR 51400.
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes or apartments of 4 stories or less).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.25	.65	.65		.06
BOILERMAKERS	12.90	1.375	1.20		.04
BRICKLAYERS, STONEMASONS, MARBLE MASONS, PLASTERERS & CEMENT MASONS	10.95	.50	.40		.10
CARPENTERS	6.94				
ELECTRICIANS	12.76	.55	3% + .61		1%
ELEVATOR CONSTRUCTORS:					
Mechanics	11.56	1.345	1.085	a+b	.035
Helpers	8.09	1.345	1.085	a+b	.035
GLAZIERS	6.14				
IRONWORKERS	11.88	.80	.90	.65	.05
LABORERS:					
Unskilled	4.21				
Pipelayers	5.00				
LATHERS	8.88	.35	.25		.15
LINEMEN:					
Linemen and Heavy Equipment Operators	9.61	.40	3%		4%
Cable Splicers	10.31	.40	3%		4%
Winch Truck Operator	7.68	.40	3%		4%
Pick-up or Flatbed Truck	6.28	.40	3%		4%
Groundman	5.55	.40	3%		4%
MILLWRIGHTS	12.67	.70	.70		.10
PAINTERS:					
Brush	9.65	.50	.50		.06
Paperhangers, Spray, & Sandblasters	10.15	.50	.50		.06
PLUMBERS	13.33	.75	.62	.50	.12
ROOFERS:					
Roofers	10.00	.40	.25		.05
Kettlemen	8.55	.40	.25		.05
SHEET METAL WORKERS	10.96	.55+3%	.44		.08
SOFT FLOOR LAYERS	6.00				
SPRINKLER FITTERS	5.41				
TILE & TERRAZZO WORKERS	10.25	.50	.40		.10
TRUCK DRIVERS	4.21				
WELDERS - Receive rate for craft					

DECISION NO.: FL82-1015 PAGE 2

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Backhoes & Cranes	$10.13	.55	.40		.05
Bulldozers & Loaders	8.95	.55	.40		.05
Graders	6.65				
Paving Machine	5.00				
Tractor	4.50				
Oilers & Rollers	6.86	.55	.40		.05

FOOTNOTES:

a. Six Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.
b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in the business for more than 5 years, 6% of regular hourly rate for employee who has worked in the business less than 5 years.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: FLORIDA COUNTIES: *See Below
DECISION NUMBER: FL82-1018 DATE: Date of Publication
Supersedes Decision No.: FL81-1260 dated July 6, 1981 in 46 FR 34968.
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes or apartments of 4 stories or less); Heavy Construction and Highway Construction.

*Cape Canaveral Air Force Station, Patrick Air Force Base, Kennedy Space Flight Center, and Melabar Radar Sites in Brevard and Volusia Counties, Florida

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$14.45	.80	.80		.06
BOILERMAKERS	14.50	1.375	1.50		.04
BRICKLAYERS, BLOCKLAYERS, PLASTERERS, TERRAZZO WORKERS, TILE SETTERS, & CEMENT MASONS	10.95	.50	.40		.10
CARPENTERS:					
Carpenters	9.25	.55	.80		.12
Piledrivermen	9.75	.55	.80		.12
ELECTRICIANS:					
Wiremen	12.47	.50	3% + .98		.05
Cable Splicers	13.72	.50	3% + .98		.05
ELEVATOR CONSTRUCTORS:					
Mechanic	11.56	1.345	1.08	a + b	.035
Helper	8.09	1.345	1.08	a + b	.035
IRONWORKERS	12.58	.90	.90	.65	.05
LABORERS:					
1.Air Tool Operators, Concrete Laborers, Hod Carriers, Mason Tenders, Mortar Mixers, Kettlemen (excluding roofing & waterproofing), Pipelayers, Powdermen, Form Setters (paving curbing & gutter), Well Point	7.65	.60	.40		.01
2.Gunnite Laborer	7.92	.60	.40		.01
3.Gunnite Nozzlemen	8.32	.60	.40		.01
4.Unskilled Laborer	7.50	.60	.40		.01
LINE CONSTRUCTION:					
1.Linemen & Class A Operators (hole boring machines, cranes, tracked equipment, fifth wheel tractors, tension, and wire pulling machines, mobile cranes & backhoes)	13.27	.45	3%		1%
2.Cable Splicers	13.42	.45	3%		1%
3.Class B Operators (flatbed material trucks, line trucks when either is mounted with winch and/or 'A' frame, trucks mounted with digging units, power wagons, driving of mobile cranes, and bucket trucks)	9.44	.45	3%		1%
4.Groundmen	6.96	.45	3%		1%

DECISION NO.: FL82-1018 PAGE 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MILLWRIGHTS	$13.17	.70	.70		.10
PAINTERS:					
Brush	9.65	.50	.50		.06
Spray, Paperhanging, & Sandblasting	10.15	.50	.50		.06
PLUMBERS, PIPEFITTERS, & STEAMFITTERS:					
Commercial	12.22	.70	.70		.10
Industrial	13.45	.98	.99		.10
ROOFERS:					
Roofers	10.50	.45	.25		.10
Kettlemen	9.05	.45	.25		.10
SHEET METAL WORKERS	13.45	.80	.84		.04
SPRINKLER FITTERS	14.15	.85	1.20		.13
WELDERS - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
Group I	12.30	.55	.50		.06
Group II	11.70	.55	.50		.06
Group III	11.20	.55	.50		.06
Group IV	10.80	.55	.50		.06
Group V	10.00	.55	.50		.06

Group I - Cranes, Hydraulic or derrick on structural or reinforcing iron, cranes or derrick, clam shell, dragline, piledriver operator (including auger & boring machine operator for drilling in piling), backhoe (including hydraulic), hydraulic crane, gradall, shovel, motor patrol, mechanic (heavy equipment), side boom cat & multi-drum hoist.

Group II - Bulldozer & Trenching machine, bridge crane, highlift, straddle buggy, hoist, earth hauling scraper (regardless how powered), pump crete & front end loader.

Group III - Winch truck, concrete/asphalt paver, forklift engineer, boring machine; well drilling machine and mobile cleaning plant.

Group IV - Tractor, well point pump & installation man, lubrication engineer, equipment greaser, air compressor, and fireman.

Group V - Motor boat, oiler, mechanic helper, pumpman (other than wellpoint), roller (steel and rubber tires), self-propelled, conveyor, welding machine, three or more combustion engines & Pulver Mixer.

FOOTNOTES:

a. Six Paid Holidays - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day.
b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years; 6% for employee who has worked in business less than 5 years.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: GEORGIA COUNTY: RICHMOND
DECISION NUMBER: GA82-1016 DATE: DATE OF PUBLICATION
Supersedes Decision Number GA81-1192, dated March 6, 1981, in 46 FR 15647.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including four (4) stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.85	.45	.45		.02
BOILERMAKERS	14.50	1.375	1.50		.04
BRICKLAYERS, STONE MASONS, MARBLE MASONS, PLASTERERS, TERRAZZO WORKERS, & TILE SETTERS	11.05				
CARPENTERS	11.71				.02
CEMENT MASONS	10.65				
ELECTRICIANS:					
Wiremen	12.35	.75	3% + .40		1/2 of 1%
Cable splicers	12.60	.75	3% + .40		1/2 of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	11.36	1.345	1.085	a + b	.035
Helpers	7.95	1.345	1.085	a + b	.035
Probationary helpers	5.68				
IRONWORKERS	12.30	.80	1.00		.03
LABORERS:					
CLASS I - Building & Construction laborers;	6.83	.20	.13		.10
CLASS II - Power & air tool operators, concrete & clay pipe layers & wipers, mortar mixers, & power buggy operators;	6.98	.20	.13		.10
CLASS III - Powderman, wagon drill operator, tunnel laborers, shaft laborers, burners, acetylene (demolition work), slip form workers (steel or wood, screw or jack type), potman, creosote materials handler, steel form setter (on grade), chimney or stack worker.	7.03	.20	.13		.10

DECISION NO. GA82-1016

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen & Heavy equipment operators (cranes, draglines, & 5th wheel tractors)	$12.35	.75	3% + .40		1/2 of 1%
Cable splicers	12.60	.75	3% + .40		1/2 of 1%
Equipment operators (hole digging equipment, tractor with winch & derrick, anchor machine, backhoe, & ground rod drivers)	10.13	.75	3% + .40		1/2 of 1%
Truck operators	7.66	.75	3% + .40		1/2 of 1%
Groundmen	6.92	.75	3% + .40		1/2 of 1%
MILLWRIGHTS	12.71				.02
PAINTERS:					
Brush & 9" roller	8.85	.65	.45		.05
Power tools, sign painting, glazing, structural steel (painting & Cleaning, excluding metal doors & frames)	9.35	.65	.45		.05
Paperhanging	9.60	.65	.45		.05
Drywall finishers	10.10	.65	.45		.05
All types of epoxy & chemical materials, such as bitumastic, conaps, & clornate, all stage work, window jacks, betsun chair, ladder jacks & built-up scaffold, extension ladder over 36'	10.50	.65	.45		.05
Regular spray & gloves, & blasting	10.75	.65	.45		.05
PILEDRIVERMEN	12.21				.02
PLUMBERS & PIPEFITTERS	12.98	.95	.70		.08
ROOFERS	3.60				
SHEET METAL WORKERS	11.05				.04
SPRINKLER FITTERS	13.69	.95	1.40		.08
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. GA82-1016

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP I - Cranes, derricks, draglines, side booms, cherry pickers, mechanics, piledrivers, crawlers, backhoes (3/4 cy. & up), concrete pumps, clam shells, drill operators, concrete mixer plants, locomotives, two-drum hoists, shovels, generators (250KW & up), hydraulic cranes over 10 tons, and finish motor graders;	$12.53	.85	.70		.02
GROUP II - Bulldozers, hydraulic boom trucks (10 tons & under), scrapers, end loaders, fork tractors, one-drum hoists, air compressors (600 CFM & over), tuggers, rollers, plain tractors, firemen, rubber tired backhoes (less than 3/4 cy.), push dozers, and trenching machines;	11.10	.85	.70		.02
GROUP III - Oilers, pump operators (over 4" diameter), air compressors under 600 CFM;	9.36	.85	.70		.02
GROUP IV - Mechanics' tenders, servicing welding machines, and pumps (up to 4" diameter).	7.29	.85	.70		.02

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Vacation Pay Credit: Employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% of the basic hourly rate for employees with 6 months to 5 years of service.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clause (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: GEORGIA COUNTY: CHATHAM
DECISION NUMBER: GA82-1017 DATE: DATE OF PUBLICATION
Supersedes Decision Number GA81-1193, dated March 6, 1981, in 46 FR 15648.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including four (4) stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.24	.75	1.35		.06
BOILERMAKERS	14.50	1.375	1.50		.04
BRICKLAYERS, STONE MASONS, MARBLE MASONS, TERRAZZO WORKERS, & TILE SETTERS	10.45		.45		
CARPENTERS & SOFT FLOOR LAYERS	12.00	.55			.05
CEMENT MASONS	9.50				
ELECTRICIANS	12.35	.70	3% + 1.00		3/10 of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	11.36	1.345	1.085	a + b	.035
Helpers	7.95	1.345	1.085	a + b	.035
Probationary helpers	5.68				
IRONWORKERS	12.30	.80	1.00		.03
MILLWRIGHTS	12.60	.55			.05
PAINTERS:					
Brush & Roller	10.60	.60	.13		.02
Rubberhanging (installation only) & Paint burners	10.85	.60	.13		.02
Paperhanging, steel brush, & steel roller	11.10	.60	.13		.02
Sandblasting, paint spraying, paint mitts & gloves, & power tools (no rollers larger than 9")	11.35	.60	.13		.02
Drywall finishers	11.50	.60	.13		.02
PILEDRIVERMEN	12.25	.55			.05
PLASTERERS	9.50				
PLUMBERS & PIPEFITTERS:					
Contracts $20,000.00 or less	12.55	.70	.90		.05
Contracts over $20,000.00	13.20	.70	.90		.05
ROOFERS	5.50				
SHEET METAL WORKERS	12.53	.50			.07
SPRINKLER FITTERS	13.69	.95	1.40		.08
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. GA82-1017

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I - General laborers, traffic flagmen, & traffic spotters;	$ 6.82	.15	.13		.10
CLASS II - Operators of jack hammer, tamp, paving breaker, chipping hammer, spade, chain saw, vibrator, motorized buggy, mason tender, terraseo helper, railroad or track laborers, walk behind compactor or roller, plasterer & carpenter tenders;	6.97	.15	.13		.10
CLASS III - Mortar mixers (hand or machine), pipe layers (harner, potman, etc.), flagmen (cranes, derricks, etc.);	7.07	.15	.13		.10
CLASS IV - Burner (torch) on demolition work, track or wagon drills used in blasting;	7.32	.15	.13		.10
CLASS V - Powderman or blaster.	7.82	.15	.13		.10

DECISION NO. GA82-1017

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I - Cranes, derricks, draglines, side booms, cherry pickers, mechanics, piledrivers, crawlers, backhoes (3/4 cy. & up), concrete pumps, clam shells, drill operators, concrete mixer plants, locomotives, two-drum hoists, shovels, generators (250KW & up), hydraulic cranes over 10 tons, and finish motor graders;	$12.53	.85	.70		.02
GROUP II - Bulldozers, hydraulic boom trucks (10 tons & under), scrapers, end loaders, fork tractors, one-drum hoists, air compressors (600 CFM & over), tuggers, rollers, plain tractors, firemen, rubber tired backhoes (less than 3/4 cy.), push dozers, and trenching machines;	11.10	.85	.70		.02
GROUP III - Oilers, pump operators (over 4" diameter), air compressors under 600 CFM;	9.36	.85	.70		.02
GROUP IV - Mechanics' tenders, servicing welding machines, and pumps (up to 4" diameter).	7.29	.85	.70		.02

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day;, Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Vacation Pay Credit: Employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% of the basic hourly rate for employees with 6 months to 5 years of service.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clause (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: ILLINOIS
DECISION NO.: IL82-2003
COUNTIES: *SEE BELOW
DATE: Date of Publication

Supersedes Decision Nos. IL79-2067, dated August 24, 1979 in 44 FR 49837; IL81-2006, dated April 3, 1981 in 46 FR 20426; IL81-2050, dated August 7, 1981 in 46 FR 40419; & IL81-2052, dated August 14, 1981 in 46 FR 41318

DESCRIPTION OF WORK: Building Construction Projects (Not including Single Family Homes and Apartments up to and including 4 stories)

*Adams, Bond, Boone, Brown, Bureau, Calhoun, Carroll, Cass, Clinton, DeKalb, Fulton, Greene, Hancock, Henderson, Henry, Jersey, JoDaviess, Knox, LaSalle, Lee, Livingston, Logan, McDonough, McLean, Macoupin, Marshall, Mason, Menard, Mercer, Monroe, Montgomery, Morgan, Ogle, Pike, Putnam, Randolph, Rock Island, Schuyler, Scott, Stark, Stephenson, Warren, Washington, Whiteside, Winnebago, & Woodford

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
AREA 1	$17.23	1.15	1.36		.01
AREA 2	15.88	1.20	1.83		.12
AREA 3	17.00	1.145	1.645		.06
AREA 4	16.21	.60	1.33		.20
BOILERMAKERS:					
AREA 1	17.05	1.275	1.60		.03
AREA 2	16.80	1.675	1.75	5%	.18
AREA 3	16.80	1.275	1.10		.03
BRICKLAYERS; CAULKERS; CLEANERS; POINTERS; & STONEMASONS:					
AREA 1	14.45		.40		
AREA 2	15.40	.80	.75		.10
AREA 3	14.43	.90	1.30		.01
AREA 4	15.60	.85	.75		
AREA 5	13.73	.85	.36		.03
AREA 6	15.40	.80	.75		.10
AREA 7	13.61	1.25	1.10		.11
AREA 8	14.84	.80	1.65		.02
AREA 9	15.33				
AREA 10	15.33		1.35		
AREA 11	14.60	1.10	1.48		
AREA 12	14.75	1.10	1.50		
AREA 13	14.90	1.10	.75		
AREA 14	14.85	1.10	.75		
AREA 15	15.30				
AREA 16	14.71	.80	1.30		.01
AREA 17	13.85	.95	1.15		.02
AREA 18	15.06	.70	1.30		.07
AREA 19	13.30	1.00	.65		

SEE PAGE 26 FOR GEOGRAPHICAL JURISDICTIONS

DECISION NO. IL82-2003

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS; LATHERS; MILLWRIGHTS; PILEDRIVERMEN; & SOFT FLOOR LAYERS:					
AREA 1:					
Carpenters; Lathers; & Soft Floor Layers	$13.255	1.05	.40		.08
Millwrights & Piledrivermen	13.755	1.05	.40		.08
AREA 2:					
Carpenters; Lathers; Millwrights & Soft Floor Layers	14.585	1.05	1.25		
AREA 3:					
Piledrivermen	14.585	1.05	1.25		
AREA 4:					
Carpenters; Lathers; Piledrivermen; & Soft Floor Layers	13.26	.90	1.47	.76	.10
AREA 5:					
Carpenters; Lathers; & Soft Floor Layers	13.475	1.05	.25		.08
Millwrights	13.875	1.05	.25		.08
AREA 6:					
Piledrivermen	13.875	1.05	.25		.08
AREA 7:					
Carpenters & Soft Floor Layers	15.05	.90	.50		
Millwrights & Piledrivermen	15.55	.90	.50		
AREA 8:					
Carpenters; Piledrivermen; & Soft Floor Layers	14.78	1.00	1.15		.03
Millwrights	15.03	1.00	1.15		.03
AREA 9:					
Carpenters & Soft Floor Layers	14.91	.75	1.30		.08
Piledrivermen	15.41	.75	1.30		.08
AREA 10:					
Carpenters & Soft Floor Layers	13.33	1.05	.75		.05
Millwrights	14.63	.75	.75		
AREA 11:					
Carpenters; Millwrights; Piledrivermen; & Soft Floor Layers	14.933	1.05	1.00		

SEE PAGE 26 & 27 FOR GEOGRAPHICAL JURISDICTIONS

PAGE 3

DECISION NO. IL82-2003

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS; LATHERS; MILLWRIGHTS; PILEDRIVERMEN; & SOFT FLOOR LAYERS (CONT'D):					
AREA 12:					
Carpenters; Hardwood Floor Layers; & Soft Floor Layers	$15.60	1.00	1.50		.03
Millwrights & Piledrivermen	16.35	1.00	1.50		.03
AREA 13:					
Carpenters & Soft Floor Layers	14.36	.75	1.30		.07
Millwrights & Piledrivermen	15.06	.75	1.30		.07
AREA 14:					
Carpenters & Soft Floor Layers	14.30	1.05	1.00		.08
Millwrights	15.00	1.05	1.00		.08
Piledriverman	15.00	1.05	1.00		.08
AREA 15:					
Lathers	12.68		.70		.01
AREA 16:					
Lathers	12.50				.01
AREA 17:					
Carpenters; Lathers; & Soft Floor Layers	14.85	.75	.55		.08
Millwrights & Piledriverman	15.35	.75	.55		.08
AREA 18:					
Carpenters; Piledrivermen; & Soft Floor Layers	15.53	1.05	.75		.05
Millwrights	16.45	.75	.75		
AREA 19:					
Carpenters	13.69	.90	.75		
Millwrights	16.50	.90	.75		
CEMENT MASONS & PLASTERERS:					
AREA 1:					
Cement Masons	13.35		1.50		
Plasterers	13.80		1.50		.01
AREA 2:					
Cement Masons	14.755	1.25	1.02		
Plasterers	16.275				
AREA 3:					
Cement Masons	11.78	.55	1.00		
Plasterers	11.23	.55	1.00		
AREA 4	15.60		1.00		

SEE PAGE 27 FOR GEOGRAPHICAL JURISDICTIONS

PAGE 4

DECISION NO. IL82-2003

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS & PLASTERERS (CONT'D):					
AREA 5:					
Cement Masons	$14.11	.90	1.25		
Plasterers	14.05	.90	1.25		
AREA 6:					
Cement Masons	14.58		1.20		.05
Plasterers	16.26	1.00	1.00		.01
AREA 7	13.35				.01
AREA 8	15.75	1.15	1.41		
AREA 9	14.67	1.13	.63		.05
AREA 10:					
Cement Masons	14.31	1.20	1.20		.05
AREA 11:					
Plasterers	14.46	1.20	1.30		
AREA 12:					
Cement Masons	15.05	.85			
Plasterers	14.80	.85			
AREA 13:					
Cement Masons	14.37	.85	.95		
AREA 14:					
Plasterers	16.94				
AREA 15:					
Cement Masons	16.13				
Plasterers	15.78				
AREA 16:					
Cement Masons	14.90		1.35		
AREA 17:					
Cement Masons	15.49	.75			
Plasterers	16.86				
AREA 18:					
Cement Masons	14.60				
Plasterers	15.30				
AREA 19:					
Cement Masons	13.65	.85	.56		.05
Plasterers	13.73	.85	.56		.05
AREA 20	13.10				

SEE PAGES 27 & 28 FOR GEOGRAPHICAL JURISDICTIONS

PAGE 5

DECISION NO. IL82-2003

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
AREA 1	$16.00	.55	3%+1.00		3/4%
AREA 2	16.21	.65	13%		1%
AREA 3	14.80	.59	3%+1.04	.89	1%
AREA 4	15.63	.75	3%+.80		1%
AREA 5	17.68	.88	3%+1.20		.6%
AREA 6:					
Twps. in Henry & Stark Counties (Contracts not exceeding $4,000.00)	15.30	.55	3%+.70		1%
All Other Contracts	15.80	.55	3%+.70		1%
AREA 7	16.81	.65	3%+1.50		.3%
AREA 8:					
Electricians	16.34	.70	7.5%		.06
Cable Splicers	17.34	.70	7.5%		.06
AREA 9:					
Electricians & Cable Splicers	16.02	.65	3%+.80		.1%
AREA 10	17.95	6%	13%		1%
AREA 11	16.00	.55	3%+1.00		3/4%
AREA 12	16.00	.55	3%+1.00		1%
AREA 13	14.85	.75	3%+.50		3/4%
AREA 14	16.05	.80	3%+.75		.3%
AREA 15	15.65	.65	3%+.65		1%
AREA 16	16.43	.65	3%+.65		.35%
ELEVATOR CONSTRUCTORS:					
AREA 1	15.42	1.345	.95	a&b	.035
AREA 2	15.265	1.345	.95	a&b	.035
AREA 3	15.00	1.345	1.085	a&b	.035
AREA 4	17.36	1.345	.95	a&b	.035
AREA 5	14.19	1.345	1.085	3%+a&b	.035

FOOTNOTES:
a. 7 Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day After Thanksgiving Day; & Christmas Day
b. Employer contributes 8% of regular hourly rate to vacation pay credit for employees who have worked in the business more than 5 years; 6% for employees who have worked in the business less than 5 years.

SEE PAGES 28 & 29 FOR GEOGRAPHICAL JURISDICTIONS

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS:					
AREA 1	$13.49	.45	.50		.02
AREA 2	14.79	1.43	2.65	13.2%	.05
AREA 3	10.93	.47	.50	.50	.02
AREA 4	14.31	.75	1.00		.02
AREA 5	15.00	.60	.30	c	
AREA 6	14.89	.70	.60		.01

FOOTNOTE:
c. 7 Paid Holidays: New Year's Day; Memorial Day; July 4th; Labor Day; Thanksgiving Day; Day After Thanksgiving Day; & Christmas Day

IRONWORKERS:					
AREA 1	14.85	.80	1.05		.08
AREA 2	15.05	.80	1.05		.06
AREA 3	15.85	.80	1.05		.05
AREA 4	15.85	1.30	2.375		.10
AREA 5	16.58	.915	1.355		.02
AREA 6	16.40	.95	1.125		.11
AREA 7	18.40	1.10	.525		.08
AREA 8	15.23	1.065	1.175		.025
AREA 9	14.10	.95	1.30		.08
MARBLE SETTERS; TERRAZZO WORKERS; & TILE SETTERS:					
AREA 1	14.43		.40		
AREA 2:					
Terrazzo Workers	16.05				
AREA 3:					
Tile Setters	12.73	1.60	1.305		
AREA 4	13.60	.90	1.25		
AREA 5	13.73	.85	.56		.05
AREA 6	14.52	.80	1.65		.02
AREA 7:					
Terrazzo Workers	15.55				
AREA 8	15.30				
AREA 9	14.71	.80	1.30		.01
AREA 10	13.85	.95	1.15		.02
AREA 11	14.20	.55	1.30		
AREA 12:					
Marble Setters & Tile Setters	13.30	1.00	.65		

SEE PAGES 29 & 30 FOR GEOGRAPHICAL JURISDICTIONS

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS' FINISHERS; TERRAZZO WORKERS' FINISHERS; & TILE SETTERS' FINISHERS:					
AREA 1:					
Marble & Tile Finishers	$14.50				
Terrazzo Finishers; Terrazzo Floor Machine Operators	14.65				
Terrazzo Base Machine Operators	15.05				
AREA 2:					
Tile Finishers	11.70	.85	.753		
AREA 3	11.60	.65	.30		
AREA 4:					
Marble & Tile Finishers	13.60	.80	1.00		
Terrazzo Finishers	13.73	.80	1.00		
Base Machine Operators	13.98	.80	1.00		
PAINTERS:					
AREA 1:					
Brush	11.00				
Sand & Water Blasting; Spray; & Steam Cleaning	13.00				
AREA 2:					
Brush	13.64	.60	.35		
Blast; Spray	14.64	.60	.35		
AREA 3:					
Brush; Roller	13.95	.90	1.00		.02
Structural Steel	14.20	.90	1.00		.02
Spray	14.50	.90	1.00		.02
Sandblasting	14.95	.90	1.00		.02
AREA 4:					
Brush	13.65	.70	.70		25.00p/yr
Sandblasting	14.15	.70	.70		25.00p/yr
Spray	14.40	.70	.70		25.00p/yr
Rollers; Taping	14.65	.70	.70		25.00p/yr
AREA 5:					
Brush; Roller	10.00	.55	.45		
Spray; Taping	11.00	.60	.45		
AREA 6:					
Brush; Roller; & Sign	13.77	.70	1.50		.22
Drywall Tapers; Sandblasting; Spray; & Structural Steel	14.27	.70	1.50		.22

SEE PAGES 30 & 31 FOR GEOGRAPHICAL JURISDICTIONS

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D):					
AREA 7:					
Brush; Drywall Finishers; Sandblasting; & Spray	$13.35	.90	.95		.06
AREA 8:					
Brush	14.37	.70	.70		.03
Pressure Roller; Sandblasting; Spray; & Structural Steel	15.22	.70	.70		.03
Paperhangers	14.97	.70	.70		.03
AREA 9:					
Brush; Drywall Taping & Finishing; & Wall Covering	13.23				
Pressure Roller; Sandblasting; Spray; & Structural Steel	13.73				
AREA 10:					
Brush; Paperhanging; Rollers; & Tapers	11.65	1.00	.60		
Spray	12.20	1.00	.60		
AREA 11:					
Brush; & Paperhangers	11.70	.60	.20		
Structural Steel	11.95	.60	.20		
Spray	12.20	.60	.20		
AREA 12:					
Brush; Roller	11.00	.75	.60		
Sandblasting; Spray	12.00	.75	.60		
AREA 13:					
Brush	10.53				
Sandblasting; Spray; Steam Cleaning; & Structural Steel	10.88				
AREA 14:					
Brush	12.00				
Structural Steel	12.50				
AREA 15:					
Brush	14.03	.70	.50		
Machine Tapers; Papersteaming; Spray; & Structural Steel	14.33				
AREA 16:					
Brush	11.70		.30		
Structural Steel	12.20		.30		
Sandblasting; & Spray	12.70		.30		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PIPEFITTERS; PLUMBERS; & STEAMFITTERS:					
AREA 1	$15.50	.70	1.20		.05
AREA 2	18.90	.48	.96	d	.05
AREA 3	16.66	.75	1.10		.10
AREA 4	16.72	.64	.73		.09
AREA 5	15.65	.64	1.76		.20
AREA 6	16.13	.70	1.43		.07
AREA 7	15.40	.80	1.00		
AREA 8	18.25	1.20	1.40		.13
AREA 9	16.60	1.00	1.00		.20
AREA 10	15.54	.70	.65	.65	
AREA 11	16.16	.80	1.23		.15
AREA 12	16.23	.80	1.30		.15
AREA 13	14.20	1.00	1.42	1.00	.03
AREA 14	18.00	1.40	.65		.08

FOOTNOTE:
d. Paid Holiday: 4 Hours for Christmas Eve if Holiday falls on Monday through Friday

ROOFERS:					
AREA 1	14.90	.85		2.25	
AREA 2	13.85	.92	.85		.03
AREA 3	16.17	.90			.03
AREA 4	15.13	1.00	.75		
AREA 5	13.48	1.00	.40		
AREA 6	16.03	1.25	1.06		.04
AREA 7	12.85	.70	.40		.025
AREA 8	13.20		.40		
AREA 9	15.30	1.05	1.20		.06
AREA 10	12.00		.50		
AREA 11:					
Composition	11.85		.45		
Slate & Tile	11.90		.45		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS:					
AREA 1	$14.30	.75	1.72		.14
AREA 2	14.78	.80	1.00	6%	.06
AREA 3	15.20	.90	1.72		.09
AREA 4	15.84	.75+e	1.28		.04
AREA 5	14.93	.80+e	1.26		.07
AREA 6	14.45	.75	1.72		.14
AREA 7	15.29	.80+e	1.26		.17
AREA 8	16.43	1.32	1.30		.14
FOOTNOTE: e. 3% of gross earnings to SASMI					
SPRINKLER FITTERS	15.31	.95	1.40		.08
LABORERS:					
AREA 1:					
Unskilled	12.69	.55	.60		.05
Semi-Skilled	12.89	.55	.60		.05
Skilled	13.04	.55	.60		.05
AREA 2:					
Unskilled	12.74	.65	.65		.05
Semi-Skilled	12.94	.65	.65		.05
Skilled	13.09	.65	.65		.05
AREA 3:					
Unskilled	13.30	.65	.40		.03
Semi-Skilled	13.50	.65	.40		.03
Skilled	13.65	.65	.40		.05
AREA 4:					
Unskilled	13.30	.65	.90		.03
Semi-Skilled	13.50	.65	.90		.05
Skilled	13.65	.65	.90		.03

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LABORERS CLASSIFICATIONS FOR AREAS 1, 2, 3, & 4

UNSKILLED All Sewer Workers plus Depth Pay; Asphalt Plant Laborers; Bankman on Floating Plant; Batch Dumpers; Carpenter Tenders; Cleaning Lumber; Cofferdam Workers plus depth pay; Deck Hand, Dredge Hand & Shore Laborer; Dispatchers; Driving of Stakes; Stringlines for all machinery; Fencing Laborers; Firemen or Salamander Tenders; Fireproofing Fire Shop Laborers; Flagmen; Form Handlers; Gravel Box Men, Dumpmen & Spotters; Janitors; Laborers w/de-watering systems; Landscapers; Laying of Sod; Material Checkers; Material Handlers; Pit Men; Plastic Installers; Planting of Trees; Removal of Trees; Rip-Rap Men; Rod & Chainmen; Scaffold Workers; Tool Cribmen; Track Laborers; Unloading Explosives; Unloading & Carrying Lath; Unloading & Carrying of Re-Bars; Wrecking, Dismantling Buildings; Wallmen & Housemovers; Wrecking Laborers

SEMI-SKILLED Asphalt Workers with Machine; Asphalt Raker & Layers; Cement Handlers; Cement Silica; Fly Ash; Line & Plasters, Handlers (Bulk or Bag); Chain Saw; Chloride Handlers; Concrete Workers (Wet); Grade Checker; Handling of materials treated with oil, creosote, asphalt and/or any foreign material harmful to skin or clothing; Kettle Tar Men; on Concrete Paving, Placing, Cutting & Typing of Reinforcing; Signal Man on Crane; Tank Cleaners; Tunnel Tenders in Free Air

SKILLED Air Tamping Hammerman; Caisson Workers plus depth pay; Concrete Burning Machine Operator; Concrete Saw Operator; Coring Machine Operator; Curb Asphalt Machine Operator; Gunnite Nozzle Men; Jackhammer & Drill Operators; Laborers handling Masterplate or similar materials; Laborers tending Masons with hot material or where foreign materials are used for wet concrete or handling of Building Materials; Multiple Concrete Duct - Leadman; Plasterer Tenders; Ready Mix Scaleman, Portable or Temporary Plant; Screedman on Asphalt Pavers; Steel Form Setters (Street & Highway); Vibrator Operators; Cutters, Burners & Torchmen.

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LABORERS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 5:					
Class 1	16.45		.30		.05
Class 2	14.70		.30		.05
Class 3	14.95		.30		.05
Class 4	16.05		.30		.05
AREA 6:					
Class 1	14.35		.40		.05
Class 2	14.60		.40		.05
Class 3	14.85		.40		.05
Class 4	15.95		.40		.05
AREA 7:					
Class 1	14.50		.25		.05
Class 2	14.75		.25		.05
Class 3	15.00		.25		.05
Class 4	16.10		.25		.05
AREA 8:					
Class 1	14.35		.20		.05
Class 2	14.80		.20		.05
Class 3	15.05		.20		.05
Class 4	16.15		.20		.05
AREA 9:					
Class 1	13.50	.65	.60		.05
Class 2	13.75	.65	.60		.05
Class 3	14.00	.65	.60		.05
Class 4	15.10	.65	.60		.05
AREA 10:					
Class 1	13.75		1.00		.05
Class 2	14.00		1.00		.05
Class 3	14.25		1.00		.05
Class 4	15.35		1.00		.05
AREA 11:					
Class 1	14.30		.45		.05
Class 2	14.55		.45		.05
Class 3	14.80		.45		.05
Class 4	15.90		.45		.05
AREA 12:					
Class 1	14.15		.60		.05
Class 2	14.40		.60		.05
Class 3	14.65		.60		.05
Class 4	15.75		.60		.05

SEE PAGE 32 FOR GEOGRAPHICAL JURISDICTIONS

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DECISION NO. IL82-2003

LABORERS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 13:					
Class 1	$14.55		.20		.05
Class 2	14.80		.20		.05
Class 3	15.05		.20		.05
Class 4	16.15		.20		.05
AREA 14:					
Class 1	13.10	.65	1.00		.05
Class 2	13.35	.65	1.00		.05
Class 3	13.60	.65	1.00		.05
Class 4	14.60	.65	1.00		.05
AREA 15:					
Class 1	13.60	.55	.60		.05
Class 2	13.85	.55	.60		.05
Class 3	14.10	.55	.60		.05
Class 4	15.20	.55	.60		.05
AREA 16:					
Class 1	13.95		.80		.05
Class 2	14.20		.80		.05
Class 3	14.45		.80		.05
Class 4	15.50		.80		.05

LABORERS CLASSIFICATIONS FOR AREAS 5 THROUGH 16

CLASS 1: Unskilled
CLASS 2: Workmen While Cutting & Burning with a Torch; Men Working on the Bottom of Sewer Trenches on the Final Grading, Laying or Caulking of Preformed Sectional Sanitary or Storm Sewer Pipe, Including Reinforced Concrete Tile, But not Including Box Culverts, Tin Whistles or Multiple Culverts
CLASS 3: Tenders to All Brick & Plaster Masons
CLASS 4: Dynamite Men

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LABORERS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 17:					
Class 1	12.23	.62	1.30		
Class 2	12.35	.62	1.30		
Class 3	12.40	.62	1.30		
Class 4	12.45	.62	1.30		
Class 5	12.50	.62	1.30		
Class 6	12.60	.62	1.30		
Class 7	12.75	.62	1.30		

LABORERS CLASSIFICATIONS FOR AREA 17

CLASS 1: Common Laborer
CLASS 2: Power Vibrator
CLASS 3: Mortar Men; & Torchmen on Demolition only
CLASS 4: Power Tampers
CLASS 5: Airspade & Jackhammer; Boatswain Chairs & Swinging Stage; Cement Gun Nozzlemen; Chain Saw Man; Hod Carriers; Plasterers' Tenders; Tree Surgeons (Toppers); & Tunnelmen
CLASS 6: Bottom Man & Tile Layers
CLASS 7: Caisson Laborers & Dynamiters

AREA 18:					
Unskilled	12.67	.65	1.20		.04
Semi-Skilled	12.87	.65	1.20		.04
Skilled	13.07	.65	1.20		.04
AREA 19:					
Unskilled	13.77	.55	1.20		.04
Semi-Skilled	12.97	.55	1.20		.04
Skilled	13.17	.55	1.20		.04
AREA 20:					
Unskilled	13.17	.55	.80		.04
Semi-Skilled	13.37	.55	.80		.04
Skilled	13.57	.55	.80		.04
AREA 21:					
Unskilled	12.72	.55	1.25		.04
Semi-Skilled	12.92	.55	1.25		.04
Skilled	13.12	.55	1.25		.04
AREA 22:					
Unskilled	12.17	.65	1.70		.04
Semi-Skilled	12.37	.65	1.70		.04
Skilled	12.57	.65	1.70		.04

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LABORERS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 23:					
Unskilled	$12.42	.65	1.45		.04
Semi-Skilled	12.62	.65	1.45		.04
Skilled	12.82	.65	1.45		.04

LABORERS CLASSIFICATIONS FOR AREAS 18 THROUGH 23

Unskilled: Asphalt Plant Laborers; Carpenter Tenders; Cleaning Lumber; Common Laborers; Driving of Stakes; Dumpmen & Spotters; Fencing Laborers; Firemen or Salamander Tenders; Fireproofing Laborers; Form Handlers; Gravel Box Men; Landscapers; Laying of Sod; Pitmen; Planting of Trees; Removal of Trees; Stringlines for all Machinery; Tool Cribmen; Unloading Explosives; Wallmen & Housemovers; Wrecking, Dismantling Buildings; & Wrecking Laborers

Semi-Skilled: Asphalt Rakers; Batch Dumpers; Bankmen on Floating Plant; Cement Handlers; Cement Silica, Clay, Fly Ash, Lime & Plasters; Chloride Handlers; Cofferdam Workers plus depth on Concrete Paving; Concrete Workers (Wet); Deck Hand; Dredge Hand; Grade Checker; Handlers (Bulk or Bag); Handling of Materials Treated with Oil, Creosote, Asphalt or any Foreign Material; Kettle & Tarmen; Laborers with De-Watering Systems; Mason & Plasterer Tenders & Material Wheelers; Mortar Mixers; Motorized Buggies or Motorized Unit for Wet Concrete or Handling of Building Materials; Placing, Cutting & Tying or Reinforcing; Plastic Installers; Scaffold Workers; Sewer Workers plus depth; Shore Laborers; Tank Cleaners; Track Laborers; Tunnel Tenders in Free Air; Unloading & Laborers with Steel Workers & Rebars; & Vibrator Operators

Skilled: Air Tamping Hammermen; Caisson Workers plus depth; Chain Saw Operators; Concrete Burning Machine Operators; Concrete Saw Operators; Coring Machine Operators; Curb Asphalt Machine Operators; Cutters, Burners & Torchmen; Dynamite Man or Blasters; Gunnite Nozzle Men; Jackhammer & Drill Operators; Laborers Handling Masterplate or Similar Materials; Laborers Tending Masons with Hot Material or Where Foreign Materials are Used; Laser Beam Operators; Layout Man; Lead Man on Sewer Work; Lutemen; Multiple Concrete Duct-Leadmen; Portable or Temporary Plant; Ready-Mix Scalemen; Screedman on Asphalt Pavers; Signalmen on Crane; Steel Form Setters (Street & Hwy); & Welders

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LABORERS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 24:					
Class 1	12.45	.65	1.15		.05
Class 2	12.65	.65	1.15		.05
Class 3	12.75	.65	1.15		.05
AREA 25:					
Class 1	12.30	.65	1.30		.05
Class 2	12.50	.65	1.30		.05
Class 3	12.60	.65	1.30		.05
AREA 26:					
Class 1	12.80	.65	.80		.05
Class 2	13.00	.65	.80		.05
Class 3	13.10	.65	.80		.05

LABORERS CLASSIFICATIONS FOR AREAS 24, 25, & 26

CLASS 1: Asphalt Plant Laborers; Asphalt Workers with Machines & Layers; Carpenter Tenders; Cleaning Lumber; Common Laborers; Concrete Workers (wet), on Concrete Paving; Coring Machine Operators; Driving of Stakes; Dumpmen & Spotters; Fencing Laborers; Fireproofing Laborers; Flagmen; Form Handlers; Grade Checker; Gravel Box Men; Landscapers; Laying of Sod; Pit Men; Placing, Cutting & Tying of Reinforcing Steel Form Setters (Street & Hwy); Planting of Trees; Removal of Trees; Signal Man on Crane; Stringlines for All Machinery; Tool, Cribmen, Firemen, or Salamander Tenders; Unloading Explosives; & Wrecking Laborers

CLASS 2: Air Tamping Hammerman; Asphalt Raker; Bankmen on Floating Plant; Batch Dumpers; Bulk Cement Handlers; Cement Silica, Clay, Fly Ash, Lime & Plasters; Chain Saw Operators; Concrete Saw Operator; Deck Hand; Dredge Hand & Shore Laborers; Front End Man on Chip Spreader; Handlers (Bulk or Bag); Handling of Materials Treated with any Foreign Matter Harmful to Skin or Clothing; Kettle & Tar Men; Lutemen; Mason Tenders; Material Selector (Firebrick or Castable Material); Mortar Mixer Operators; Motorized Buggies or Motorized Unit Used for Wet Concrete or Handling of Building Materials; Plastic Installers; Power Tools; Scaffold Workers; Tank Cleaners; Tunnel Tenders in Free Air; Unloading of Re-Bars; & Vibrator Operators

CLASS 3: Bottom Sewer Workers plus depth; Caisson Workers plus depth; Cofferdam Workers plus depth; Concrete Burning Machine Operators; Curb Asphalt Machine Operator; Gunnite Nozzle Man; Jackhammer & Drill Operators; Laborers Tending Masons with Hot Material; Laborers with De-Watering Systems; Laser Beam Operator; Layout Man and/or Tile Layers; Leadman on Sewer Work; Multiple Concrete Duct-Leadman; Permanent, Portable or Temporary Plant; Pump Man; Ready-Mix Scalemen; Screedman on Asphalt Pavers; Underpinning and Shoring of Building; & Welders, Cutters, Burners, & Torchmen

SEE PAGE 32 FOR GEOGRAPHICAL JURISDICTIONS

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LABORERS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 27:					
Class 1	$13.60	.65	.60		.03
Class 2	13.83	.65	.60		.05
Class 3	14.45	.65	.60		.05

LABORERS CLASSIFICATIONS FOR AREA 27

CLASS 1: Common

CLASS 2: Cooking & Handling of Hot Mastic Material; Cutting & Burning with A Torch; Chain Saws; Men Working on Bottom Doing Caulking, Laying, or Final Grading for Sectional Sewer Pipe; & Men Handling Creosote or other Material Harmful to Skin

CLASS 3: Dynamite Men

AREA 28:					
Projects $375,000.00 or Over:					
Unskilled	13.96	.75	.60		.05
Semi-Skilled	14.16	.75	.60		.05
Skilled	14.36	.75	.60		.05
Projects under $375,000.00:					
Unskilled	13.54	.75	.60		.05
Semi-Skilled	13.74	.75	.60		.05
Skilled	13.94	.75	.60		.05
AREA 29:					
Unskilled	13.46	.65	.85		.03
Semi-Skilled	13.66	.65	.85		.05
Skilled	13.86	.65	.85		.05
AREA 30:					
Unskilled	13.26	.65	1.05		.05
Semi-Skilled	13.46	.65	1.05		.05
Skilled	13.66	.65	1.05		.05
AREA 31:					
Unskilled	12.83	.65	1.25		.05
Semi-Skilled	13.03	.65	1.25		.05
Skilled	13.23	.65	1.25		.05
AREA 32:					
Unskilled	13.01	.65	1.05		.05
Semi-Skilled	13.21	.65	1.05		.05
Skilled	13.41	.65	1.05		.05

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LABORERS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 33:					
Unskilled	$13.01	.75	.95		.05
Semi-Skilled	13.21	.75	.95		.05
Skilled	13.41	.75	.95		.05
AREA 34:					
Unskilled	13.31	.55	.85		.05
Semi-Skilled	13.51	.55	.85		.05
Skilled	13.71	.55	.85		.05
AREA 35:					
Unskilled	12.53	.50	1.65		.05
Semi-Skilled	12.78	.50	1.65		.05
Skilled	13.03	.50	1.65		.05
AREA 36:					
Class 1	13.20	.65	1.00		
Class 2	13.45	.65	1.00		
Class 3	13.50	.65	1.00		
Class 4	13.70	.65	1.00		

LABORERS CLASSIFICATIONS FOR AREA 36

CLASS 1: Common

CLASS 2: Air Tools, Cutting Torch & Welding (Not inclu. Jackhammers); Bottom of Sewer Trenches on the Final Grading, Laying or Caulking of Preformed Sectional Sewer Pipe; & High Work - 50 ft. or more

CLASS 3: Cooking of Mastic, Coal Tar Derivatives, or Handling of Creosoted Materials

CLASS 4: Dynamite & Blasting (4hr. min.); Mason Tenders; & Plasterers' Tenders

SEE PAGE 33 FOR GEOGRAPHICAL JURISDICTIONS

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POWER EQUIPMENT OPERATORS: Adams, Brown, Cass, Logan, Menard, Morgan, Piatt, Pike, Schuyler, & Scott Counties	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$14.75	.85	.95		.05
CLASS II	13.10	.85	.95		.05
CLASS III	11.50	.85	.95		.05

CLASS I: Asphalt Plant Engineer; Asphalt Screed Man; Apsco Concrete Spreaders; Asphalt Pavers; Asphalt Rollers on Bituminous Concrete; Athey Loaders; Backfillers; Crane Type Backhoes; Cableways; Cherry Pickers; Clam Shell; C.M.I. & Similar Type Autograde Formless Paver, Autograde Placer & Finisher; Concrete Breakers; Concrete Plant Operators; Concrete Pumps; Cranes; Derricks; Derrick Boats; Draglines; Earth Auger Boring Machines; Elevating Graders; Engineers on Dredge; Gravel Processing Machines; Head Equipment Greasers; High Lift or Fork Lifts; Hoist w/two Drums or Two or more Loadlines; Locomotives; Mechanics; Motor Graders or Auto Patrols; Operators or Lewelman on Dredges; Operators Power Boat; Operators Pug Mill (Asphalt Plants); Orange Peels; Overhead Cranes; Paving Mixers; Piledrivers; Pipe Wrapping & Painting Machines; Push Dozers, or Push Cats; Rock Crushers; Ross Carriers or Similar Machines; Scoops; Skimmers 2 cu. yds., cap. & under; Sheep Foot Roller (Self-propelled); Shovels; Skimmer Scoops; Test Hole Drilling Machines; Tower Cranes; Tower Machines; Tower Mixers; Track Type & Loaders; Track Type Fork Lifts or High Lifts; Track Jacks & Tampers; Tractors; Sidboom; Trenching Machines; Ditching Machine; Tunnel Luggers; Wheel Type End Loaders; Winch Cat; Scoops (All or Tournapull)

CLASS II: Asphalt Boosters & Heaters; Asphalt Distributors; Asphalt Plant Firemen; Building Elevator; Bull Floats or Flexplanes; Concrete Finishing Machines; Concrete Saws, Self-propelled; Concrete Spreader Machines; Gravel or Stone Spreaders, Power Operated; Hoist Automatic; Hoist w/1 Drum & 1 Load Line; Oiler on 2 Paving Mixers when used in Tandem Boom or Winch Truck; Post Hole Diggers, Mechanical; Road or Street Sweeper-Self-propelled; Scissors Hoist; Seaman Tiller; Straw Machine; Vibratory Compactor; Well Drill Machines; & Mud Jacks (Hwy & Hwy only)

CLASS III: Air Compressor*; Air Compressors, Track or Self-propelled; Bulk Cement Batching Plants; Conveyors*; Concrete Mixers (except plant, paver, tower); Firemen; Generators*; Greasers; Light Plants*; Mechanical Heaters*; Oilers; Power Form Graders; Power Sub-Graders; Pug Mills, when used for other than Asphalt Operation; Rollers (except Bituminous Concrete); Tractors w/o Power Attachments Regardless of size or type; Truck Crane Oiler & Driver 1 (man); Vibratory Hammer; Water Pumps*; Welding Machines (one 300 amp. or over*); Welding Machines*

*COMBINATIONS OF ONE TO FIVE OF ANY AIR COMPRESSORS, CONVEYORS, WELDING MACHINES, WATER PUMPS, LIGHT PLANTS OR GENERATORS SHALL BE IN BATTERIES OR WITHIN 300 FT.

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POWER EQUIPMENT OPERATORS Bond, Calhoun, Clinton, Greene, Jersey, Macoupin, Monroe, Montgomery, Randolph, & Washington Counties	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
MASTER MECHANICS	$15.42	.87	1.51		.10
GROUP I	14.92	.87	1.51		.10
GROUP II	12.39	.87	1.51		.10
GROUP III	11.74	.87	1.51		.10
GROUP IV	11.64	.87	1.51		.10
GROUP V	11.39	.87	1.51		.10
GROUP VI:					
a	17.07	.87	1.51		.10
b	17.37	.87	1.51		.10
c	17.49	.87	1.51		.10
d	13.99	.87	1.51		.10

GROUP I: Cranes; Draglines; Shovels; Skimmer Scoops; Clamshells or Derrick Boats; Piledrivers; Crane-type Backhoes; Asphalt Plant Operators; Plant Operators; Ditching Machines or Backfillers (requiring oilers); Dredges; Asphalt Spreading Machines; Heavy Duty Mechanic; Assistant Master Mechanic; Locomotives; Cableways or Tower Machines; Hoists 2 drum or more; Hydraulic Backhoes; Ditching Machines or Backfiller (not required oilers); Cherry Pickers; Overhead Cranes; Roller (Steam or Gas); Concrete Pavers, Breakers, & Pumps; Bulk Cement Plants; Cement Pumps; Derrick-type Drills; Mixers (over 3 bags) & Boat Operators (25' & over); Motor Graders or Pushcats; Scoops or Tournapulls; Bulldozers; Endloaders or Fork-Lifts; Power Blade or Elevating Graders; Winch Cats; Boom Tractors, & Pipewrapping or Painting Machines; Drills (other than derrick type); 1-Drum Hoists; Mud Jacks; Mixers (2 or 3 bags); Conveyors (2); Air Compressors (2); Water Pumps regardless of size (2); Welding Machines (2); Siphons or Jets (2); Winch Heads or Apparatus (2) & Light Plants (2); Tractors regardless of size (Straight Tractor only); Firemen on Stationary Boilers; Automatic Elevators; Form Grading Machines; Finishing Machines; Power-Sub-Grader or Ribbon Machine; Longitudinal Floats; Boat Operators (under 25'); Distribution Operators on Trucks; Winch Heads or Apparatuses (1); Excavators

GROUP II: Air Compressor (1); Water Pumps regardless of size (1); Welding Machines (1); Mixers (1 bag); Conveyor (1); Siphon or Jet (1); Light Plant (1); Heater (1) & Immobile Track Air (1)

GROUP III: Firemen on Whirlies and Asphalt Spreader Oilers

GROUP IV: Heavy Equipment Oilers (Truck Cranes, Dredges, Monigans, Large Cranes) over 65 Ton rated capacity

GROUP V: Oilers

GROUP VI:

a. Engineers Operating under air pressure
b. Engineers Operating in air over 10 lbs. pressure
c. Oilers Operating under air pressure
d. Oilers Operating in air over 10 lbs. pressure

Hard Rock Mining - $.25 per hour premium pay above existing rate

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POWER EQUIPMENT OPERATORS: Boone, Bureau (E. of Rte. #26), Carroll, DeKalb, JoDaviess, LaSalle, Lee, Livingston, Ogle, Putnam (E. of Illinois River), Stephenson, Whiteside (E ½), & Winnebago Counties	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$15.80	1.50	1.35	.80	.05
CLASS II	14.50	1.50	1.35	.80	.05
CLASS III	13.05	1.50	1.35	.80	.05
CLASS IV	11.60	1.50	1.35	.80	.05

CLASS I: Asphalt Plant; Asphalt Spreader; Autograde; Batch Plant; Benoto (requires two engineers); Boiler and Throttle Valve; Caisson Rigs; Central Redi-mix Plant; Combination Back Hoe Front Endloader Machine; Compressor and Throttle Valve; Concrete Breaker (truck mounted); Concrete Conveyor; Concrete Paver; Concrete Placer; Concrete Pump (truck mounted); Concrete Tower; Cranes; Creter Crane; Crusher, stone; Derricks; Derricks, traveling; Formless Curb and Gutter Machine; Crader, elevating; Grouting Machines; Highlift Shovels or Front Endloader, 2¼ yards and over; Hoists, elevators (outside type rack and pinion and similar machines); Hoists, one, two, and three drum; Hoists, two tugger one floor; Hydraulic Backhoes; Hydraulic Boom Trucks; Locomotives; Mechanic; Motor Patrol; Pile Drivers and Skid Rig; Post Hole Digger; Pre-stress Machine; Pump Cretes Dual Ram; Pump Cretes; Squeeze Cretes - screw type pumps, Gypsum Bulker and Pump; Raised and Blind Hole Drill; Rock Drill (self-propelled); Rock Drill (truck mounted); Roto Mill Grinder; Scoops, tractor drawn; Slip Form Paver; Straddle Buggies; Tournapull; Tractor with boom, and side boom; Trenching Machines

CLASS II: Bobcat (over 3/4 cu. yd.); Boilers; Brick Forklift; Broom, all power propelled; Bulldozers; Concrete Mixer (two bag and over); Conveyor, portable; Forklift Trucks; Greaser Engineer; Highlift Shovels or Front Endloaders, under 2¼ yds.; Hoists, automatic; Hoists, inside freight elevators; Hoists, sewer dragging machine; Hoists, tugger single drum; Rollers; Steam Generators; Tractors; Tractor drawn Vibratory Roller (receives an additional $0.50 per hour); Winch Trucks with "A" Frame

CLASS III: Air Compressor; Combination, small equipment Operator; Generators; Heaters, mechanical; Hoists, inside elevators (Rheostat manual controlled and push button with automatic doors); Hydraulic Power Units (Pile Driving and extracting); Pumps, over 3" (1 to 3 not to exceed a total to 300 ft.); Pumps, Well Points; Welding Machines (2 through 5); Winches, 4 small electric Drill Winches; Bobcat (up to and including 3/4 cu. yd.); Brick Forklift

CLASS IV: Oilers

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POWER EQUIPMENT OPERATORS: Bureau (W. of Rte. #26), Fulton, Hancock, Henderson, Henry (E ½), Knox, McDonough, McLean, Marshall, Mason, Putnam (W. of Illinois River), Stark, Warren, & Woodford Counties	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$15.82	.75	.80		.05
Group 2	15.62	.75	.80		.05
Group 3	15.245	.75	.80		.05
Group 4	14.97	.75	.80		.05
Group 5	14.36	.75	.80		.05

Group 1: Cranes, Escalated rate on Crane, Derricks, Booms, $.01 per hour per foot, After 80 feet or Boom including Jib, Overhead Cranes, Gradall, Cherry Pickers (and similar types, over 15 ton lifting capacity (require oiler), Mechanics, Central Concrete Mixing Plant Operator, Road Pavers (27E-dual drum-tri batchers), Blacktop Plant Operators and Plant Engineers, 3 Drum Hoist, Derricks, Hydro Cranes, Shovels Skimmer Scoops, Koehring Scoopers, Draglines, Backhoe, Hoptoes-Crane-Type that require Oilers, Derrick Boats, Pile Drivers and Skid Rigs, Clamshells, Locomotive Cranes, Dredge (all types), Motor Patrol, Power Blades Dumore-Elevating and similar types Tower Cranes (crawler mobile) and Stationary, Crane-Type Backfiller, Drott Yumbo and similar types Considered as Cranes, Caisson Rigs (require oilers) Dozer, Tournadozer, Work Boats, Ross Carrier and Helicopter

Group 2: Trench Machine, Pumpcrete-Belt Crete-Squeeze Cretes-Screw-Type Pumps and Gypsum Bulker and Pump, Dinkeys, Power Launches, Tournapulls (all), Multiple Unit, Earth Movers, $.25 per hour for each Scoop over one, Scoops (all sizes), Push Cats, Endloaders (all types), Side Boom, P-H one pass Soil-Cement Machine (all similar types), Wheel Tractors (industrial) or Farm type w/dozer-Hoe-End-Loader or other attachments), Pugmill with Pump Backfillers, Asphalt Surfacing Machine, Euclid Loader, Forklifts, Formless Finishing Machine, Jeeps w/Ditching Machine, or other attachments, Tune-Luger, Rock Crushers, Automatic Cement and Gravel Batching Plants, Mobile Drills (soil testing and similar types), (require oiler), Flaherty Spreader or similar types (require oiler), Heavy Equipment Greaser (top greaser on spread), Gurries and similar type), 1 and 2 Drum Hoists (buck Hoists and similar types Freight and Passenger Elevators Chicago Boom, Boring Machine and Pipe Jacking, Machine, Hydro Boom, Starting Engineer on Pipeline, C.M.I. and similar types (require oiler) Straw Blower, Hydro Seeder and F.W.D. and similar types

POWER EQUIPMENT OPERATORS (CONT'D)

Group 3: Tractor (track type) without power unit pulling rollers, Rollers on Asphalt , Brick or Macadam, Concrete Breakers, Concrete Spreaders, Mule Pulling Rollers, Center Stripper, Cement Finishing Machines, Barger Greene or similar Loaders, Vibro Tamper (all similar types), Self-Propelled, Winch or Boom Truck, Mechanical Bull Floats, Mixer over 3 bags to 27E, Tractor Pulling Power Blade or Elevating Grader, Porter Rex Rail, Clary Screed, Pugmill (without pump) Screed Man on Laydown Machine, Fireman and Spray Machine on Paving

Group 4: Air Compressor, All Air and Steam Valves, Power Subgrader, Oil Distributor, Straight Tractor, Trac-Are without attachments, Curb Machine, Truck Cranes Oiler, and Truck type Hoptoe Oilers

Group 5: Herman Nelson Heater, Drovo, Warner, Silent Glo, & similar types, One Engineer will operate 1-5 and after 5, Two Operators will be required, Self-Propelled Concrete Saws, Assistant Heavy Equipment Greaser on Spreed, Roller, 5 tons and under on Earth or Gravel, Form Grader, Pump 1 or 2, Generator (1) or (2), Welding Machine (1) or (2) - 300 amp. or over, Mixer (3) bag and under (standard capacity) Bulk Cement Plant, Crawler Crane and Skid Rig Oilers

POWER EQUIPMENT OPERATORS: Henry (W ½), Mercer, Rock Island, & Whiteside (W. part from the 5th Sectional line E. of Morrison running directly N. & S.) Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$14.80	1.00	.90		.08
CLASS 2	14.80	1.00	.90		.08
CLASS 3	13.40	1.00	.90		.08
CLASS 4	13.40	1.00	.90		.08
CLASS 5	12.35	1.00	.90		.06

Class 1: Cranes; Shovels; Clamshells; Draglines; Backhoes; Derricks; Cableways; Dual Drum Pavers; Concrete Spreaders (behind 2 pavers); Asphalt Spreaders; Asphalt Mixer Plant Engineers; Dipper Dredge Operator; Dipper Dredge Cranemen; Dual Purpose Trucks (Boom or Winch); Leverman or Engine Men (Hydraulic Dredge); Mechanics; Paving Mixers (16-E to 34-E); Paving Mixers with Tower attached (2 operators required); Pile Drivers; Boom Tractors; Stationary, Portable, or Floating Mixing Plants; Trenching Machines; Building Hoists (2-drums); Hot Paint Wrapping Machines; Cleaning and Priming Machines, on basement excavating work; Backfillers (throw bucket); Locomotive Engineers

Class 2: Athey, Barber Greene, Euclid or Haiss Loaders; Asphalt Pug Mills; Fireman and Driers; Concrete Pumps; Concrete Spreaders (behind 1 paver); Bulldozers; End Loaders (other than mentioned above); Fork-lifts; Elevating Graders; Group Equipment Greasers; LeTourneaupull and similar machines; Power Blades; Power Subgraders (on Forms and similar machines); Push Cats; Tractors pulling Elevating Graders or Power Blades; Tractors with power attachments; Rollers on Asphalt or Blacktop; Single drum Hoists; Jaeger Mix and Place Machines; Pipe Bending Machines; Welding Machines (3 to 4); Fuller Kenyon Cement Pumps or similar machines; Automatic cement and gravel Batch Plants (1 stop set-up)

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POWER EQUIPMENT OPERATORS (CONT'D):

Class 3: Asphalt Boosters; Firemen and Pump Operators at Asphalt Plants; Compressors (500 cu. ft. and over); Concrete Finishing Machines; Form Graders with Rollers on earth; Mixers (3 bag to 16-E); Power operating Bull Floats; Tractors without power attachment; Dope Pots (agitating motor); Dope Chop Machines; Distributors (Backend); Flex-planes; Boat Operator; Hydrohammers; Power Winch on paving work; Self-propelled earth Rollers or Compactors (other than paving work); Pump Operator (more than 1 well point pump); Portable Crusher Operator

Class 4: Air Compressors (375 C.F.M. or over); Drivers on Truck Cranes; Conveyors; Light Plants; Mixers (1 or 2 bag); Power Batching Machines (Cement Auger or Conveyor); Boiler Engineer or Firemen; Water Pumps; Welding Machines; Mechanical Brooms; Automatic cement and gravel Batch Plants (2 or 3 stop set-up); Small Rubber-tired Tractors

Class 5: Oilers; Mechanic Helpers; Water Pumps (pumping water to Paver); Mechanical Heaters (other than Steam Boiler)

TRUCK DRIVERS:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 1:					
GROUP I	13.30	1.00	46.00a		
GROUP II	13.70	1.00	46.00a		
GROUP III	13.90	1.00	46.00a		
GROUP IV	14.15	1.00	46.00a		
AREA 2:					
GROUP I	13.65	1.00	46.00a		
GROUP II	14.05	1.00	46.00a		
GROUP III	14.25	1.00	46.00a		
GROUP IV	14.50	1.00	46.00a		

GROUP I: Drivers on 2 Axles hauling less than 9 tons; Air Compressor & Welding Machine incl. those pulled by separate units; Fork Lifts up to 6,000 lbs. cap.; Mechanic Tenders; Pick-ups when hauling materials, tools, or men to and from and on the job site; & Truck Driver Tenders

GROUP II: 2 or 3 Axles hauling more than 9 tons, but hauling less than 16 tons; A-Frame Winches; Fork Lifts over 6,000 lbs. cap.; 4-Axle Combination units; Hydrolifts or similar equipment when used for transportation purposes; & Winches

GROUP III: 2, 3 or 4 Axles hauling 16 tons or more; Dispatcher; 5-Axles or more combination units; Mechanics & Working Foreman; & Water Pulls

GROUP IV: Drivers on Oil Distributors; & Drivers on Semi-Lowboys when moving equipment

FOOTNOTE:
a. Per Week Per Employee

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TRUCK DRIVERS (CONT'D):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 3:					
2-3 Axles	$12.00	.55	1.00		
4 Axles	12.15	.55	1.00		
5 Axles	12.35	.55	1.00		
6 Axles	12.55	.55	1.00		
AREA 4:					
2-3 Axles	12.25	29.00a	33.00a		
4 Axles	12.40	29.00a	33.00a		
5 Axles	12.60	29.00a	33.00a		
6 Axles	12.80	29.00a	33.00a		

FOOTNOTE:
a. Per Week Per Employee

TRUCK DRIVERS GEOGRAPHICAL JURISDICTIONS

AREA 1: Adams, Bond, Brown, Bureau, Calhoun, Carroll (Excluding portion N. of Rte. #72 & E. of Rte. #78), Cass, Clinton, Fulton, Greene, Hancock, Henderson, Henry, Jersey, JoDaviess (W. of Rte. #78 including Stockton), Knox, LaSalle, Lee (Excluding portion E. of Rte. #51), Livingston (Reading, New Town, Sunbury, Nevada, Long Point & Amity), Logan, McDonough, McLean, Macoupin, Menard, Mercer, Monroe, Montgomery, Morgan, Ogle (excluding portion E. of Rte. #51), Pike, Putnam, Randolph, Rock Island, Schuyler, Scott, Warren, Washington, & Whiteside Counties
AREA 2: Marshall, Mason, Stark, & Woodford (NW Corner) Counties
AREA 3: Boone, Carroll (N. of Rte. #72 & E. of Rte. 78), JoDaviess (E. of Rte. #78, excluding city of Stockton), Stephenson, & Winnebago Counties
AREA 4: DeKalb, Lee (E. of Rte. #51), Livingston (excluding Reading, New Town, Sunbury, Nevada, Long Point & Amity), Ogle (E. of Rte. #51), & Woodford (excluding NW Corner) Counties

GEOGRAPHICAL JURISDICTIONS FOR CLASSIFICATIONS

ASBESTOS WORKERS:

AREA 1: Adams, Bond, Brown, Calhoun, Cass, Clinton, Fulton, Greene, Jersey, Logan, Macoupin, Mason, Menard, Monroe, Montgomery, Morgan, Pike, Randolph, Schuyler, Scott, & Washington Counties
AREA 2: Boone, Ogle, Stephenson, & Winnebago Counties
AREA 3: Bureau, DeKalb, LaSalle, Lee, Livingston, McLean, Marshall, Putnam, Stark, & Woodford Counties
AREA 4: Carroll, Hancock, Henderson, Henry, JoDaviess, Knox, McDonough, Mercer, Rock Island, Warren, & Whiteside Counties

BOILERMAKERS:

AREA 1: Adams, Bond, Brown, Calhoun, Cass, Clinton, Greene, Jersey, Macoupin, Menard, Monroe, Montgomery, Morgan, Pike, Randolph, Scott, & Washington Counties
AREA 2: Boone, DeKalb, & Winnebago Counties
AREA 3: Bureau, Carroll, Fulton, Hancock, Henderson, Henry, JoDaviess, Knox, LaSalle, Lee, Livingston, Logan, McDonough, McLean, Marshall, Mason, Mercer, Ogle, Putnam, Rock Island, Schuyler, Stark, Stephenson, Warren, Whiteside, & Woodford Counties

BRICKLAYERS; CAULKERS; CLEANERS; POINTERS; & STONEMASONS:

AREA 1: Adams, Brown, & Pike Counties
AREA 2: Bond, Calhoun, Jersey, Macoupin (Staunton & Mt. Olive), & Montgomery Counties
AREA 3: Boone, Carroll, JoDaviess, Lee, Ogle, Stephenson, Whiteside, & Winnebago Counties
AREA 4: Bureau & Putnam Counties
AREA 5: Cass, Greene, Macoupin (Exclu. Staunton & Mt. Olive), Morgan, Schuyler, & Scott Counties
AREA 6: Clinton, Monroe, & Washington Counties
AREA 7: DeKalb County
AREA 8: Fulton, Henderson, Knox, Marshall, Warren, & Woodford Counties
AREA 9: Hancock & McDonough Counties
AREA 10: Henry & Stark Counties
AREA 11: LaSalle (LaSalle, Peru & Vic.) County
AREA 12: LaSalle (Seneca, Marseilles, Mendota, Ottawa, & Oglesby) County
AREA 13: LaSalle (Streator & Vic.) County
AREA 14: Livingston County
AREA 15: Logan & Mason Counties
AREA 16: McLean County
AREA 17: Menard County
AREA 18: Mercer & Rock Island Counties
AREA 19: Randolph County

CARPENTERS; LATHERS; MILLWRIGHTS; PILEDRIVERMEN; & SOFT FLOOR LAYERS:

AREA 1: Adams County
AREA 2: Bond, Calhoun, Greene (S. of Apple Creek), Jersey, Macoupin (S 2/3), & Montgomery (S 2/3) Counties

CARPENTERS; LATHERS; MILLWRIGHTS; PILEDRIVERMEN; & SOFT FLOOR LAYERS (CONT'D):

AREA 3: Bond, Calhoun, Greene (S. of Apple Creek), Jersey, Macoupin (S 2/3), Montgomery (S 2/3), Pike (S. of Rte. #54), & Scott (S. of Rte. #54) Counties
AREA 4: Boone, Ogle (N ½), & Winnebago Counties
AREA 5: Brown, Cass, Greene (Whitehall & N. thereof), Morgan, Pike, Schuyler (Except part lying W. of Illinois State Hwy. #101 to Federal Hwy. #67, S. of Federal Hwy. #67 1¼ mi., from this point to SW Corner of Fulton Co.), & Scott Counties
AREA 6: Brown, Cass, Greene (Whitehall & N. thereof), Morgan, Pike (N. of Rte. #54), Schuyler (Except part lying W. of Illinois State Hwy. #101 to Federal Hwy. #67, S. of Federal Hwy. #67 1¼ mi., from this point to SW Corner of Fulton Co.), & Scott (N. of Rte. #54) Counties
AREA 7: Bureau (Ohio), Lee (Ashton, Franklin Grove, Amboy, Lee Center, Compton, W. Brooklyn, Shaw Station, Sublette, Eldena, Harmon, Nelson & Prairieville), Ogle (Polo, Haldene, Mt. Morris, Oregon, Chana, Woosung, Brookville & Grand Detour), & Whiteside (Penrose Corner) Counties
AREA 8: Bureau (Exclu. Ohio & Area W. of Hwy. #88), LaSalle, Lee (Exclu. E ½ of Co. & Ashton, Franklin Grove, Amboy, Lee Center, Compton, W. Brooklyn, Shaw Station, Sublette, Eldena, Harmon, Nelson & Prairieville), Livingston (NW Corner, inclu. Blackstone & Cornell), Marshall, & Putnam Counties
AREA 9: Bureau (W. of Hwy. #88), Henry, Mercer, Rock Island, & Whiteside (W. of Hwy. #78) Counties
AREA 10: Carroll & JoDaviess Counties
AREA 11: Clinton, Monroe, Randolph, St. Clair, & Washington (Except Territory E. of a line due S. of the Montgomery-Fayette Co. line to Rte. #177, then N. 1½ mi., then S. 2 mi. to a road running E. & W. to the Jefferson Co. line) Counties
AREA 12: DeKalb, Lee (E ½ of Co.), & Ogle (Rochelle & Vic.) Counties
AREA 13: Fulton, Hancock (E 1/3), Henderson, Knox, Livingston (Exclu. NW Corner), Logan (Lincoln & Vic.), McDonough, McLean, Mason, Schuyler (N. of Illinois State Hwy. #101 to Federal Hwy. #67, S. of Federal Hwy. #67 1¼ mi., from this point to SW Corner of Fulton Co.), Stark, Warren, & Woodford Counties
AREA 14: Hancock (W 2/3) County
AREA 15: Henry, Mercer, Rock Island, & Whiteside (W ½) Counties
AREA 16: Knox County
AREA 17: Macoupin (Girard & N. thereof), Menard, & Montgomery (Waggoner, Standard City & N. thereof) Counties
AREA 18: Ogle (Maryland, Forreston, Harper, Buffalo, Adeline, Lightsville, & Baileyville), & Whiteside (E. of Hwy. #78, exclu. Penrose Corner) Counties
AREA 19: Stephenson County

CEMENT MASONS & PLASTERERS:

AREA 1: Adams, Brown, & Pike Counties
AREA 2: Bond, Calhoun, Clinton (W ½ inclu. Beckemeyer), Greene, Jersey, Macoupin, Monroe, & Montgomery Counties
AREA 3: Boone & Winnebago Counties
AREA 4: Bureau, LaSalle, Livingston (N. part inclu. Pontiac), Marshall (E. part inclu. Toluca), Putnam, & Woodford (NW part inclu. Minonk) Counties
AREA 5: Carroll, JoDaviess, Lee, Ogle, Stephenson, & Whiteside (Except Erie Area & SW thereof) Counties
AREA 6: Cass & Menard Counties

CEMENT MASONS & PLASTERERS (CONT'D):

AREA 7: Clinton (Carlyle & E. thereof) County
AREA 8: DeKalb County
AREA 9: Fulton (NW Portion), Knox, Mercer (SE Corner) & Warren Counties
AREA 10: Fulton (Exclu. NW Portion), Marshall (W. part, exclu. Toluca), Mason, & Woodford (Exclu. NW Part & Minonk) Counties
AREA 11: Fulton (Exclu. NW Portion), Marshall (W. part, exclu. Toluca), Mason, Stark, & Woodford (Exclu. NW Part & Minonk) Counties
AREA 12: Hancock, Lee (Part S. of a line drawn 3 mi. from the city limits of Ft. Madison in Iowa), McDonough, & Schuyler Counties
AREA 13: Henderson (N ½), Henry (W ½), Mercer (Exclu. SE Portion), Rock Island, & Whiteside (Erie & Area SW thereof) Counties
AREA 14: Henderson (N ½), Henry, Mercer (Exclu. SE Portion), Rock Island, & Whiteside (Erie & Area SW thereof) Counties
AREA 15: Henderson (S ½) County
AREA 16: Henry (E ½), & Stark Counties
AREA 17: Livingston (S. part, exclu. Pontiac), McLean, & Woodford (E. part, exclu. Roanoke) Counties
AREA 18: Logan County
AREA 19: Morgan & Scott Counties
AREA 20: Randolph County

ELECTRICIANS:

AREA 1: Adams, Brown, Hancock, McDonough (Lenzine, Bethel, Industry, & Eldorado), Pike, & Schuyler Counties
AREA 2: Bond (E ½), Clinton (Huey, Hoffman, & Vic.), Randolph (Exclu. Red Bud Twp.), & Washington (Exclu. Venedy Twp.) Counties
AREA 3: Bond (W ½), Clinton (Exclu. Huey, Hoffman, & Vic.), Macoupin (Exclu. Brighton Twp., Athenville, Scottville, Girard & Area N. thereof), Monroe, Montgomery, Randolph (Red Bud Twp.), & Washington (Venedy Twp.) Counties
AREA 4: Boone, Carroll (Cherry Grove, Shannon, Rock Creek, Lima, Wysox, & Elkhorn Grove Twps.), DeKalb (Franklin, Kingston, Genoa, S. Grove, Mansfield, Sycamore, Malta, DeKalb, Cortland, Milan, Alton, Pierce, Shabbona, Clinton, Square Grove, Pow Wow, Victor & Somonauk Twps.), JoDaviess (Warren, Rush, Nora, Stockton, Wards Grove, Pleasant Valley, & Berrenman Twps.), Lee, Ogle, Stephenson, Whiteside (Genesee, Jordan, Hopkins, Sterling, Hume, Montgomery, Tampico, & Hahneman Twps.) & Winnebago Counties
AREA 5: Bureau (Arlington, Cherry, LaMoille, Malden, Ohio, Walnut, Clarston, Bureau, Dover, Berlin, & Westfield), & LaSalle (S. part, inclu. Ottawa & Seneca) Counties
AREA 6: Bureau (Arispe, Concord, Fairfield, Wyanet, Gold, Greenville, Hall, Indiantown, Leepertown, Macon, Manlius, Milo, Mineral, Neponset, Selby, Wheatland, & Princeton), Henry (Annawan, Burns, Cambridge, Galva, Kewanee, Weller, & Wethersfield Twps.), LaSalle (Deer Park, Eden, LaSalle, Peru, Utica, & Vermilion Twps.), Putnam (Granville, Hennepin & Senachwine Twps.), & Stark (Elmira, Goshen, Osceola, Penn, & Toulon Twps.) Counties
AREA 7: Calhoun, Greene, Jersey, & Macoupin (Brighton Twp.) Counties
AREA 8: Carroll (W. part, inclu. cities of Chadwick, Mt. Carroll, Savanna & Thompson), Henry (Exclu. Annawan, Burns, Cambridge, Galva, Kewanee, Weller, & Westerfield), JoDaviess (Savanna Ordnance Depot), Mercer (Exclu. Ohio Grove, N. Henderson, & Sues Twps.), Rock Island, & Whiteside (W. of Genessee, Hume, Mt. Pleasant, Tampico, & Sues Twps.) Counties

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ELECTRICIANS (CONT'D):

AREA 9: Cass, Logan, Macoupin (Athenville, Scottville, Girard, & Area N. thereof), Mason (Lynchburg, Bath, Kilbourne, Crane Creek, Salt Creek & Mason Twps.), Menard, Montgomery (Bois D'Arc, Pitman & Harvel Twps.), Morgan, & Scott Counties
AREA 10: DeKalb (Sandwich Twp.) County
AREA 11: Fulton (Cass, Deerfield, Ellisville, Harris, Lee, Union, Young, & Hickory Twps.), Henderson, Knox, McDonough (Blandinsville, Prairie City, Emmet, Tennessee, Scotland, Sciota, Bushnell, Macomb, Colechester, New Salem, Walnut Grove, Hire, Mound, & Chalmers Twps.), Mercer (Ohio Grove, Sues & N. Henderson Twps.), & Warren Counties
AREA 12: Fulton (Rem. of Co.), Marshall (W. of Bell Plain & Roberts Twps.), Mason (Exclu. Bath, Crane Creek, Kilbourne, Lynchburg, Mason City, & Salt Creek Twps.), Stark (Essex, Valley, & W. Jersey Twps.), & Woodford (W. of Kansas, Linn, Palestine, & Roenoke Twps.) Counties
AREA 13: JoDaviess (Exclu. Savanna Ordnance Depot & area E. of Apple River, Thompson & Woodbine Twps.) County
AREA 14: LaSalle (Rem. of Co.), Livingston, McLean (Cropsey, Anchor, Cheney Grove, & Belleflower Twps.), Marshall (Roberts, Evans, Bell, Plaine, & Bennington), Putnam (Magnolia Twp.), & Woodford (Linn, Clayton, Minonk, Roanoke, Green, & Panola Twps.) Counties
AREA 15: McLean (Exclu. Anchor, Belleflower, Cropsey, Cheney Grove Twps.), & Woodford (Palestine, El Paso & Kansas Twps.) Counties
AREA 16: Montgomery (E. of Butler Grove, Grisham, & Raymond Twps.) County

ELEVATOR CONSTRUCTORS:

AREA 1: Adams, Brown, McLean, Macoupin, Menard, Morgan, Pike, & Scott Counties
AREA 2: Boone, Lee, Ogle, Stephenson, & Winnebago Counties
AREA 3: Carroll, Henry, Mercer, Rock Island, & Whiteside Counties
AREA 4: DeKalb County
AREA 5: Greene & Jersey Counties

GLAZIERS:

AREA 1: Adams, Brown, Cass, Logan, Macoupin (N. part), Mason, Menard, Montgomery, Morgan, Pike, Schuyler, & Scott Counties
AREA 2: Bond, Calhoun, Clinton, Greene, Jersey, Macoupin (S. part), Monroe, Randolph, & Washington Counties
AREA 3: Boone, DeKalb (N 2/3), Lee (NE part), & Winnebago Counties
AREA 4: Bureau (New Bedford, Thomas, & Neponset), Carroll, Hancock, Henderson, Henry, JoDaviess, Knox, Lee (NW, inclu. Dixon), McDonough (N ½), Mercer, Rock Island, Stephenson, Warren, & Whiteside Counties
AREA 5: Bureau (Exclu. New Bedford, Thomas, & Neponset), DeKalb (S 1/3), LaSalle, Lee (S 1/3), Livingston (N 4/5), McLean, Marshall (E 1/3), Putnam, Stark, & Woodford (E. Corner) Counties
AREA 6: Fulton County

IRONWORKERS:

AREA 1: Adams (SE Corner), Brown, Cass, Fulton (S. Tip, inclu. Marbletown, Astoria, & Summum Twps.), Greene (N ½), Logan, Macoupin (N. part), Mason (E. of Rte. #136), Menard, Montgomery (Exclu. Litchfield, Hillsboro & S. thereof), Morgan, Pike, Schuyler (E ½), & Scott Counties

IRONWORKERS (CONT'D):

AREA 2: Adams (Exclu. SE Corner), Hancock, Henderson, Knox (W. of Hwy #41), Mercer, Schuyler (W ½), & Warren Counties
AREA 3: Bond, Calhoun, Clinton, Greene (S ½), Jersey, Macoupin (S. part), Monroe, Montgomery (Litchfield, Hillsboro & S. thereof), Randolph, & Washington Counties
AREA 4: Boone, Carroll (Exclu. Thompson, Savanna & Vic.), DeKalb (Exclu. SE 2/3), JoDaviess (Exclu. E. Dubuque, Galena, Hanover & Vic.), Lee, Ogle, Stephenson, Whiteside (Cities of Rock Falls, Sterling, & W. Sterling), & Winnebago Counties
AREA 5: Bureau, LaSalle, Marshall (Exclu. SW Corner), & Putnam Counties
AREA 6: Carroll (Thompson, Savanna, & Vic.), Henry, JoDaviess (E. Dubuque, Galena, Hanover, & Vic.), Knox (Galesburg & Areas W. of the City), Rock Island, & Whiteside (Exclu. Sterling, Rock Falls & W. Sterling) Counties
AREA 7: DeKalb (SE 2/3 of Co., inclu. Sycamore & DeKalb) County
AREA 8: Fulton (Exclu. Marbletown, Astoria & Summum Twps.), Knox (Area S. & E. of Galesburg), Livingston, McDonough, McLean (W ½), Marshall (SW Corner), Mason (W. of Rte. #136), Stark, & Woodford Counties
AREA 9: McLean (E ½) County

MARBLE SETTERS; TERRAZZO WORKERS; & TILE SETTERS:

AREA 1: Adams, Brown, & Pike Counties
AREA 2: Bond, Clinton, Monroe, Randolph, & Washington Counties
AREA 3: Bond, Monroe, & Washington Counties
AREA 4: Boone, Carroll, DeKalb, Ogle, Stephenson, & Winnebago Counties
AREA 5: Cass, Greene, Macoupin, Morgan, Schuyler, & Scott Counties
AREA 6: Fulton, Henderson, Knox, Marshall, Warren, & Woodford Counties
AREA 7: Hancock & McDonough Counties
AREA 8: Logan & Mason Counties
AREA 9: McLean County
AREA 10: Menard County
AREA 11: Mercer & Rock Island Counties
AREA 12: Randolph County

MARBLE SETTERS' FINISHERS; TERRAZZO WORKERS' FINISHERS; & TILE SETTERS' FINISHERS:

AREA 1: Adams, Brown, Cass, Greene, Logan, Macoupin, Mason, Menard, Morgan, Pike, Schuyler, & Scott Counties
AREA 2: Bond, Clinton, Monroe, Randolph, & Washington Counties
AREA 3: Boone, Carroll, DeKalb, Ogle, Stephenson, & Winnebago Counties
AREA 4: Fulton, Hancock, Henderson, Knox, McDonough, McLean, Marshall, Warren, & Woodford Counties

PAINTERS:

AREA 1: Adams County
AREA 2: Bond, Calhoun, Clinton, Greene, Jersey, Macoupin, Monroe, Montgomery, Pike, & Washington Counties
AREA 3: Boone, Ogle, Stephenson, & Winnebago Counties
AREA 4: Brown, Cass, Logan, Menard, Morgan (Meridosia & Waverly), & Scott Counties
AREA 5: Bureau, LaSalle (LaSalle, Mendota, Oglesby, Utica, Peru, & Vic.), & Putnam Counties

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PAINTERS (CONT'D):

AREA 6: Carroll, Henderson, Henry, Mercer, Rock Island, Warren, & Whiteside (W. of State Rte. #78) Counties
AREA 7: DeKalb County
AREA 8: Fulton, Marshall, Mason, Schuyler, & Woodford Counties
AREA 9: Hancock & McDonough Counties
AREA 10: JoDaviess County
AREA 11: Knox & Stark Counties
AREA 12: LaSalle (Ottawa, Streator, Marseilles, & Vic.) County
AREA 13: Lee & Whiteside (E. of State Rte. #78) Counties
AREA 14: Livingston County
AREA 15: McLean County
AREA 16: Randolph County

PIPEFITTERS; PLUMBERS; & STEAMFITTERS:

AREA 1: Adams, Brown, Hancock (Exclu. E ½), & Schuyler Counties
AREA 2: Bond, Calhoun, Greene, Jersey, Macoupin (S. of Rte. #108), & Montgomery (S. & W. of Rte. #127) Counties
AREA 3: Boone, Carroll (To Rte. #78, inclu. Mt. Carroll), JoDaviess, Ogle, Stephenson, & Winnebago Counties
AREA 4: Bureau, LaSalle, Livingston (N. of Pontiac), & Putnam Counties
AREA 5: Carroll (W. of Rte. #78, exclu. Mt. Carroll), Henderson, Henry, Knox, Lee, Mercer, Rock Island, Warren, & Whiteside Counties
AREA 6: Cass, Logan, Macoupin (N. of State Rte. #108, inclu. Carlinville), Mason, Menard, Montgomery (N. of State Rte. #127, inclu. Town of Hillsboro & Auburn City), Morgan, Pike, Sangamon, & Scott Counties
AREA 7: Clinton (W 1/3, inclu. Albers, Aviston, Bartelgo, Beckamayer, Breese, Carlyle, Germantown, New Baden, New Memphis, Posey, & Trenton), McDonough (Prairie), Monroe (Becker), Randolph (Baldwin, Red Bud, Rums, & Tilden), & Washington (Addieville, Covington, Lively Grove, Nashville, New Minden, Oakdale, Okawville, & Venedy) Counties
AREA 8: Clinton (E 1/3), & Washington (E ½) Counties
AREA 9: DeKalb County
AREA 10: Fulton, Hancock (E ½), & McDonough (Exclu. Prairie) Counties
AREA 11: Livingston (Pontiac & S. of Rte. #116, extending E. to Ford Co.), McLean, & Woodford (S. of Rte. #116 to Rte. #116A & All territory E. of Rte. #116A to & Inclu. Goodfield) Counties
AREA 12: Marshall, Stark & Woodford (Exclu. S. of Rte. #116 to Rte. #116A & All territory E. of Rte. #116A to & Inclu. Goodfield) Counties
AREA 13: Monroe (Valmeyer & Vic.) County
AREA 14: Randolph (Exclu. Baldwin, Red Bud, Rums, & Tilden) County

ROOFERS:

AREA 1: Adams County
AREA 2: Bond, Calhoun, Clinton, Greene, Jersey, Macoupin (S ½), Monroe, Randolph, & Washington Counties
AREA 3: Boone, Carroll, DeKalb (W ½), Lee, Ogle, Stephenson, Whiteside (Rock Falls, Sterling & W. Sterling), & Winnebago Counties
AREA 4: Brown, Cass, Logan, Macoupin (N ½), Mason, Menard, Montgomery, Morgan, Pike, Schuyler, & Scott Counties
AREA 5: Bureau, LaSalle, Livingston, Marshall (NE ¼), & Putnam Counties
AREA 6: DeKalb (E ½, inclu. Sycamore, DeKalb, & Waterman) County

ROOFERS (CONT'D):

AREA 7: Fulton, McDonough (E ½, exclu. Macomb), Marshall (SW ¼), Stark, & Woodford Counties
AREA 8: Hancock, Henderson, Knox, McDonough (W ½, inclu. Macomb), & Warren Counties
AREA 9: Henry, Mercer, Rock Island, & Whiteside (Exclu. Rock Falls, Sterling, & W. Sterling) Counties
AREA 10: JoDaviess County
AREA 11: McLean County

SHEET METAL WORKERS:

AREA 1: Adams, Calhoun, Hancock, & Pike Counties
AREA 2: Bond, Clinton, Greene, Jersey, Macoupin, Monroe, Montgomery, Randolph, & Washington Counties
AREA 3: Boone, Carroll (E ½), DeKalb, JoDaviess, Lee, Ogle, Stephenson, Whiteside, & Winnebago Counties
AREA 4: Brown, Cass, Logan, Mason, Menard, Morgan, Schuyler, & Scott Counties
AREA 5: Bureau, LaSalle, Livingston (S. Part), Marshall, Putnam, & Stark Counties
AREA 6: Carroll (W. of Hwy #78), Henderson, Henry, Knox, McDonough, Mercer, Rock Island, Warren, & Whiteside (W. of Hwy #78) Counties
AREA 7: Fulton, McLean, & Woodford Counties
AREA 8: Livingston (N. Part) County

LABORERS:

AREA 1: Adams County
AREA 2: Brown, Cass, Mason Morgan, Pike, Schuyler, & Scott Counties
AREA 3: Logan & Menard (N ½) Counties
AREA 4: Menard (S ½, inclu. City of Petersburg) County
AREA 5: Bond (Greenville) & Macoupin (Mt. Olive & Vic.) Counties
AREA 6: Bond (Pocahontas), Macoupin (Gillespie & Vic.), & Washington (Ashley & Vic.) Counties
AREA 7: Bond (Sorento) & Jersey Counties
AREA 8: Calhoun County
AREA 9: Clinton (Carlyle, Trenton & Vic.) County
AREA 10: Greene & Montgomery (Litchfield & Vic.) Counties
AREA 11: Macoupin (Shipman) County
AREA 12: Macoupin (Staunton & Vic.) & Washington (Okawville & Vic.) Counties
AREA 13: Macoupin (Carlinville & Vic.) County
AREA 14: Montgomery (Hillsboro & Vic.) & Randolph (Chester & Vic.) Counties
AREA 15: Randolph (Sparta & Vic.) County
AREA 16: Washington (Nashville & Vic.) County
AREA 17: Boone County
AREA 18: Bureau County
AREA 19: LaSalle (Streator & Vic.) County
AREA 20: LaSalle (Marseilles & Vic.) County
AREA 21: LaSalle (Ottawa & Vic.) County
AREA 22: LaSalle (LaSalle & Vic.) County
AREA 23: Putnam County
AREA 24: Winnebago County
AREA 25: DeKalb & Ogle (City of Rochelle) Counties
AREA 26: Carroll, JoDaviess, Lee, Ogle (Except City of Rochelle), Stephenson, & Whiteside Counties

LABORERS (CONT'D):

AREA 27: Clinton (New Baden & Vic.) County
AREA 28: Fulton County
AREA 29: Hancock & McDonough Counties
AREA 30: Henderson, Knox, & Warren Counties
AREA 31: Henry & Stark (W ½) Counties
AREA 32: Livingston & Woodford Counties
AREA 33: McLean County
AREA 34: Marshall & Stark (E ½) Counties
AREA 35: Mercer & Rock Island Counties
AREA 36: Monroe County

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: MICHIGAN
COUNTIES: ALCONA, ALPENA, ANTRIM, ARENAC, BENZIE, CHARLEVOIX, CHEBOYGAN, CLARE, CRAWFORD, EMMET, GLADWIN, GRAND TRAVERSE, KALKASKA, LAKE, LEELANAU, MANISTEE, MASON, MECOSTA, MIDLAND, MISSAUKEE, MONTCALM, MUSKEGON, NEWAYGO, OCEANA, OGEMAW, OSCEOLA, OSCODA, OTSEGO, PRESQUE ISLE, ROSCOMMON, & WEXFORD.
DECISION NUMBER: MI82-2013 DATE: DATE OF PUBLICATION
Supersedes Decision Number MI81-2033, dated July 6, 1981, 46 FR 34979.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including 4 stories) and HEAVY CONSTRUCTION PROJECTS (excluding Bridge, Airport, & Sewer Projects).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$15.33	1.35	2.25		
BOILERMAKERS	18.315	1.375	1.75		.05
BRICKLAYERS, STONE MASONS, MARBLE SETTERS, TILE SETTERS, & TERRAZZO WORKERS:					
Arenac, Gladwin, Midland, & Ogemaw Counties:					
Bricklayers & Stone masons	14.02	1.05	1.15		
Marble setters, Tile setters, & Terrazzo workers	14.36		.40		
Lake, Mason, Muskegon, Newaygo, & Oceana Counties:					
Bricklayers & Stone masons	13.395	.90	.75		
Marble setters	12.21	.90	.75		
Tile setters & Terrazzo Wkrs.	11.96	.90	.75		
Mecosta & Montcalm Counties:					
Bricklayers & Stone masons	13.40	.75	.35		.04
Marble setters, Tile setters, & Terrazzo workers	12.51	.75	.35		
Remainder of Counties:					
Bricklayers, Stone masons, & Marble setters	12.25	1.10	1.00		.03
Tile setters & Terrazzo wkrs.	11.69	1.10	1.00		.03
CARPENTERS, MILLWRIGHTS, PILE-DRIVERMEN, & SOFT FLOOR LAYERS:					
Benzie (Southern portion, south of Frankfort & Beulah), Lake, Manistee, Mason, Mecosta, Montcalm, Muskegon, Newaygo, & Oceana Counties:					
Carpenters	13.79	.85	1.00		.10
Millwrights	13.30	.60	.80		.05
Piledrivermen	14.19	.85	1.00		.10
Soft floor layers	11.69	.85	1.00		.10
Arenac, Clare, Gladwin, Midland, & Ogemaw Counties:					
Carpenters & Piledrivermen	14.60	.85	1.00		.02
Millwrights	15.19	1.22	.99		.10
Soft floor layers	13.07	.85	1.00	.62	.01
Remainder of Counties:					
Carpenters & Soft floor layers	12.01	.85	1.00		.03
Millwrights:					
Missaukee, Osceola, Wexford	13.30	.60	.80		.05
Remainder of Counties	13.01	.85	1.00		.03
Piledrivermen	12.46	.85	1.00		.03

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DECISION NO. MI82-2013

CEMENT MASONS & PLASTERERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Arenac, Gladwin, Midland, & Ogemaw Counties:					
Cement masons	$13.32	1.05	1.15		
Plasterers	14.32	1.05	.40		
Lake & Mason Counties	13.395	.90	.75		
Muskegon, Newaygo, & Oceana Cos.:					
Cement masons	11.55	.90	1.00		.02
Plasterers	13.54	.90	1.00		.03
Montcalm County:					
Cement masons	12.07	.90	1.00		.02
Plasterers	13.54	.90	1.00		.03
Mecosta & Osceola (Southern Portion, including Reed City & Evart) Counties:					
Cement masons	13.87	.75	.25		
Plasterers	13.54	.90	1.00		.03
Remainder of Counties:					
Cement masons	11.80	1.10	1.00		.03
Plasterers	12.25	1.10	1.00		.03
ELECTRICIANS:					
Arenac, Clare (E. ½), Gladwin, Midland (E. 2/3, including Midland), Ogemaw (Except Northern tier Twps.), & Roscommon (Southern tier Twps.) Counties	15.82	.85	3% + 1.10		½ of 1%
Midland (Remainder of Co.) Co.	15.05	1.05	3% + 1.50		½ of 1%
Alcona, Alpena, Cheboygan (Except Mentor Twp.), Crawford, (NE. Corner), Ogemaw (Remainder of Co.), Oscoda, Otsego (Dover, Chester, & Charlton Twps.), & Presque Isle Counties:					
Contracts over $50,000.00	14.19	.85	3% + 1.10		1/10 of 1%
Contracts $50,000.00 or less	11.35	.85	3% + 1.10		1/10 of 1%
Mecosta, Montcalm, & Osceola (Evart, Hersey, Orient, & Richmond Twps.) Counties	11.00	.85	3% + .35		.01
Lake (Except north of Cherry Valley, Pinora, Sweetwater, & Webber Twps.), Mason (Except Freesoil, Grant, & Meade Twps.), Muskegon, Newaygo, & Oceana Counties	14.36	.85	5%		½ of 1%
Remainder of Counties	14.21	.85	10%		.35%

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DECISION NO. MI82-2013

ELEVATOR CONSTRUCTORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Alcona, Alpena, Arenac, Cheboygan, Crawford, Gladwin, Midland, Ogemaw, Oscoda, Otsego, Presque Isle, & Roscommon Cos.:					
Mechanics	$15.53	1.345	1.085	a	.035
Helpers	10.87	1.345	1.085	a	.035
Probationary helpers	7.765				
Remainder of Counties:					
Mechanics	13.99	1.345	1.085	a	.035
Helpers	9.79	1.345	1.085	a	.035
Probationary helpers	6.995				
GLAZIERS:					
Alcona, Alpena, Arenac, Cheboygan, Clare, Crawford, Gladwin, Midland, Ogemaw, Oscoda, Otsego, Presque Isle, & Roscommon Counties	9.15		.50	.25	.01
Remainder of Counties	11.00	.75	.40		
IRONWORKERS:					
Alcona, Alpena, Arenac, Cheboygan, Clare, Crawford, Gladwin, Midland, Ogemaw, Oscoda, Otsego, Presque Isle, & Roscommon Counties:					
Ornamental & Structural	14.98	11%	18%	18%	.09
Reinforcing	13.08	1.98	15%	12%	.6406
Remainder of Counties	14.97	1.06	1.40		.20
LATHERS:					
Arenac, Clare, Gladwin, Midland & Ogemaw Counties	13.91	1.06	1.00		.01
Benzie (Southern tier twps.), Lake, Manistee, Mason, Mecosta, Montcalm, Muskegon, Newaygo, & Oceana Counties	13.03	1.06	1.00		.01
Remainder of Counties	12.54	1.06	1.00		.01
PAINTERS:					
Alcona, Alpena, Charlevoix (Except the SW. Part, drawing a straight line from Elmira to Charlevoix), Cheboygan, Emmet, Oscoda, Otsego, & Presque Isle Counties:					
Brush, roller, & drywall	12.05				
Paperhanging	12.55				
Spray	12.80				
Sandblasting, steam cleaning	14.01				

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PAINTERS (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Steeple jack, tanks, towers, stacks, & flag poles	$14.26				
Antrim, Charlevoix (Remainder of Co.), Grand Traverse, Kalkaska, Leelanau, & Wexford Counties:					
Brush & Roller	11.30	.65	.25		
Paper & Vinyl hangers	11.80	.65	.25		
Swing stage, boatswain chair, window jack, & tapers	11.90	.65	.25		
Spray	11.95	.65	.25		
Sandblasting & steamcleaning	12.05	.65	.25		
Arenac & Ogemaw Counties:					
New Construction:					
Brush & Roller & Taper	12.55	.65	1.00		
Spray & Sandblast	13.40	.65	1.00		
Repaint Work					
Brush & Roller & Taper	11.95	.65	1.00		
Spray & Sandblast	12.80	.65	1.00		
Industrial Work:					
Brush & Roller & Taper	13.35	.65	1.00		
Spray & Sandblast	14.20	.65	1.00		
Benzie, Lake, Manistee, & Mason Counties:					
Brush & Roller	11.75				.02
Paperhangers, drywall, structural steel	12.25				.02
Spray & Sandblast	12.50				.02
Muskegon, Newaygo (W. ½), & Oceana Counties:					
Brush & Roller	10.75				
Spray, sandblast, pressure roller, boatswain chair, swing stage, work performed with a falling distance over 50 feet, perfa tapers, & sanders on drywall work	11.25				
Mecosta, Montcalm, Newaygo (E. ½), & Osceola (Southern Part, including Evart & Reed City) Counties:					
Brush & Roller	11.25	.65	.40		.02
Paperhangers, wall coverers, drywall finishers, & painters on railroad bridges	11.50	.65	.40		.02
Swing stage & window jacks	11.75	.65	.40		.02
Spray, sand & water blast	12.00	.65	.40		.02

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PAINTERS (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Remainder of Counties:					
New Construction:					
Brush, roller, drywall taper	$13.47	.65	.60		.02
Wall covering	13.97	.65	.60		.02
Spray	13.92	.65	.60		.02
Sandblast	14.12	.65	.60		.02
Repaint & Maintenance Work:					
Brush, roller, drywall taper	12.87	.65	.60		.02
Wall covering	13.37	.65	.60		.02
Spray	13.42	.65	.60		.02
Sandblast	13.52	.65	.60		.02
PLUMBERS & PIPEFITTERS:					
Alcona, Arenac, Crawford, Ogemaw, Oscoda, & Roscommon Counties:	16.12	1.30	1.00		.10
Alpena, Cheboygan, Otsego, & Presque Isle Counties	15.76	.60	.90		
Clare, Gladwin, & Midland Cos.	15.37	1.09	1.75		.10
Mecosta, Montcalm, & Osceola Counties	14.89	.85	1.50		.02
Lake, Manistee, Mason, Muskegon, Newaygo, & Oceana Counties	14.99	1.25	1.87		.08
Remainder of Counties	15.65	.75	.50		.03
ROOFERS:					
Arenac, Clare, Gladwin, Midland, Ogemaw, & Roscommon Counties	13.65	1.40	1.40		.02
Mecosta & Montcalm Counties:					
Slate & Tile	10.85	1.10	.40		
Built-up	10.60	1.10	.40		
Lake, Mason, Muskegon, Newaygo, & Oceana Counties:					
Roofers	12.12	.67		1.10	.04
Slate & Tile	12.37	.67		1.10	.04
Remainder of Counties:					
Roofers	13.56				
Pitch	14.06				
SHEET METAL WORKERS:					
Alcona, Alpena, Arenac, Cheboygan, Clare, Gladwin, Midland, Ogemaw, Oscoda, & Presque Isle Counties	15.53	1.00	1.20		.06
Lake, Mason, Mecosta, Montcalm, Muskegon, Newaygo, Oceana, & Osceola Counties	14.10	.92	1.20	1.00	.04
Remainder of Counties	15.18	.90	.68		.07
SPRINKLER FITTERS	15.65	.95	1.40		.08

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LABORERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Mecosta, Montcalm, & Osceola Counties:					
CLASS A	$10.11	.75	.65		.0½
CLASS B	10.26	.75	.65		.0½
CLASS C	10.36	.75	.65		.0½
CLASS D	10.61	.75	.65		.0½
Muskegon, Newaygo, & Oceana Counties:					
CLASS A	9.86	.75	.65		.0½
CLASS B	10.01	.75	.65		.0½
CLASS C	10.11	.75	.65		.0½
CLASS D	10.36	.75	.65		.0½
Lake, Manistee, & Mason Counties:					
CLASS A	9.70	.75	.65		.0½
CLASS B	9.85	.75	.65		.0½
CLASS C	10.15	.75	.65		.0½
CLASS D	9.95	.75	.65		.0½
CLASS E	10.10	.75	.65		.0½
CLASS F	10.05	.75	.65		.0½
Arenac, Clare, Gladwin, Midland Ogemaw, & Roscommon Counties:					
CLASS A	11.24	.75	.65		.0½
CLASS B	11.36	.75	.65		.0½
CLASS C	11.44	.75	.65		.0½
CLASS D	12.01	.75	.65		.0½
Remainder of Counties:					
CLASS A	9.50	.75	.65		.0½
CLASS B	9.65	.75	.65		.0½
CLASS C	10.10	.75	.65		.0½

MECOSTA, MONTCALM, MUSKEGON, NEWAYGO, OCEANA, & OSCEOLA COUNTIES:
CLASS A - General laborers;
CLASS B - Material mixers, operators of portable mixers, air, electric, or gasoline tools, motor driven buggies, laborers working on swing scaffolds, plasterer tenders, and mason tenders;
CLASS C - Jackhammer operators, crocklayers and caisson workers in buildings.
CLASS D - Top men on chimneys or towers over thirty feet (30') in height.

LAKE, MANISTEE, MASON COUNTIES:
CLASS A - General laborers;
CLASS B - Plasterer & mason tenders, mortar mixers, material mixers, all power tools, vibrators, chain saws, nozzle men, & green cut concrete work;
CLASS C - Jackhammer, acetylene & propane torch, well wheel, swing scaffold, chimneys, towers, crane scaffold labor;
CLASS D - Work on scaffold thirty feet (30') in height or more;
CLASS E - Plasterer tenders - machine pumped.
CLASS F - Pipe or crock layers, & caisson work in buildings.

ARENAC, CLARE, GLADWIN, MIDLAND, OGEMAW, & ROSCOMMON COUNTIES:
CLASS A - General laborers;
CLASS B - Mechanized mortar mixing, air, electric, & gas driven tools;
CLASS C - Air or electric driven pavement breakers, concrete vibrators, plasterer tenders & plaster mixers, crock & pipelayers, signal men & top men or caisson work in buildings;
CLASS D - Drillers, blasters, burners, & welders.

LABORERS: (Cont'd)

REMAINDER OF COUNTIES:
CLASS A - General laborers;
CLASS B - Mortar mixers, material mixers, vibrator operators, operators of chipping hammers, concrete breakers (90 lb. hammer or less), concrete mixers, tamping machines, motor driven buggies, sand blasters, plaster mixers, plasterer tenders, pipe or crock layers, or caisson work in buildings only.
CLASS C - Cement gun nozzlemen.

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lineman - Technicians	$13.72	.45	7%	6 + 5%	½ of 1%
Cable splicers	14.28	.45	7%	6 + 5%	½ of 1%
Combination digger ogre, tractor ogre., groundman	10.72	.45	7%	6 + 5%	½ of 1%
Light equipment operators, groundmen, & distribution line truck driver	9.42	.45	7%	6 + 5%	½ of 1%
Combination winch truck driver & groundmen	8.99	.45	7%	6 + 5%	½ of 1%
Combination truck driver & groundman	7.62	.45	7%	6 + 5%	½ of 1%
POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION CONSTRUCTION:					
CLASS A	16.20	1.15	2.10		.10
CLASS B	15.95	1.15	2.10		.10
CLASS C	15.45	1.15	2.10		.10
CLASS D	13.85	1.15	2.10		.10
CLASS E	13.55	1.15	2.10		.10
CLASS F	12.15	1.15	2.10		.10
CLASS G	11.30	1.15	2.10		.10

CLASSIFICATIONS:

CLASS A - Crane with main boom & jib 220' or longer;
CLASS B - Crane with boom & jib 140' or longer, tower crane, gantry crane, & whirley derrick;
CLASS C - Regular equipment operator - crane, stiff leg derrick, scraper, dozer, grader, front end loader, hoist, mechanic, head grease man;
CLASS D - Air tugger (single drum), material hoist, boiler operator, sweeping machine, winch truck, bob-cat & similar equipment, fork lift truck (over 20' lift);
CLASS E - Pump 6" or over, well points, freeze systems, boom truck (non swinging), fork lift truck (under 20' lift on masonry work);
CLASS F - Air compressor, welder, generators, conveyors, pumps under 6", grease man;
CLASS G - Oiler, fireman, & heater operator.

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POWER EQUIPMENT OPERATORS - STEEL ERECTION CONSTRUCTION:

MICH-2-PEO-SE

Alcona, Alpena, Arenac, Cheboygan, Clare, Crawford, Gladwin, Midland, Ogemaw, Oscoda, Otsego, Presque Isle, & Roscommon Counties:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$18.52	1.15	2.10	13%	.10
CLASS B	18.24	1.15	2.10	13%	.10
CLASS C	17.25	1.15	2.10	13%	.10
CLASS D	17.02	1.15	2.10	13%	.10
CLASS E	13.95	1.15	2.10	13%	.10
CLASS F	12.65	1.15	2.10	13%	.10

CLASS A - Engineer when operating combination of boom jib 220' or longer
CLASS B - Engineer when operating combination of boom & jib 140' or longer Tower crane & derrick operator (where operators work stations is 501 or more above first sub level)
CLASS C - Crane operator job mechanic
CLASS D - Hoisting operator
CLASS E - Compressor (or welder) operator
CLASS F - Oiler or fireman

MICH-6-PEO-SE

POWER EQUIPMENT OPERATORS: STEEL ERECTION REMAINING COUNTIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$16.55	1.15	2.10		.10
CLASS B	16.30	1.15	2.10		.10
CLASS C	15.80	1.15	2.10		.10
CLASS D	14.20	1.15	2.10		.10
CLASS E	12.85	1.15	2.10		.10
CLASS F	11.50	1.15	2.10		.10

CLASS A - Crane operator w/main boom & jib 220' or longer
CLASS B - Crane operator w/main boom & jib 140' or longer; power cranes, gantry crane; whirley derrick
CLASS C - Regular equipment operator; crane, dozer, loader; hoist, straddle wagon, Job mechanic
CLASS D - Air tugger (single drum); material hoist, pump 6" or or over
CLASS E - Air compressor, welder, generators-conveyors
CLASS F - Oiler & Fireman

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MICH-8-PEO-U

POWER EQUIPMENT OPERATORS - UNDERGROUND CONSTRUCTION: MIDLAND COUNTIES:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$13.73	1.15	2.10	13%	.10
CLASS II	13.44	1.15	2.10	13%	.10
CLASS III	12.80	1.15	2.10	13%	.10
CLASS IV	12.29	1.15	2.10	13%	.10

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8" digging capacity), mechanic, endloader (over 1¼ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade or over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip from paver slope paver, conveyor loader (euclid type)
CLASS II - Trencher (8' digging capacity & smaller), endloader (1¼ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom) tractor (neu-tired, other than backhoe or front endloader, crusher
CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min, or larger), pumpcrete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ cu. yd. or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - including compressor)
CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4"discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled) concrete saw (40 H.P. or over)

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FLUS-9-PEO-U

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS - UNDERGROUND CONSTRUCTION:					
REMAINDER OF COUNTIES:					
CLASS I	$12.22	1.15	2.10	13%	.10
CLASS II	11.79	1.15	2.10	13%	.10
CLASS III	11.35	1.15	2.10	13%	.10
CLASS IV	11.10	1.15	2.10	13%	.10

CLASS I - Power shovel, crane (crawler, truck type or pile driving), dragline, backhoe clamshell, trencher (over 8" digging capacity), mechanic, endloader (over 1½ cu. yd. cap.), grader, scraper (self-propelled or tractor drawn), dozer (9' blade or over), concrete paver (2 drum or larger), side boom tractor (type D-4 or equivalent & larger), elevating grader, roller (asphalt), gradall (and similar type machine), batching plant operator (concrete), backfiller tamper, well drilling rig, slip form paver slope paver, conveyor loader (euclid type)

CLASS II - Trencher (8' digging capacity & smaller), endloader (1½ cu. yd. capacity & smaller), dozer (less than 9' blade), side boom tractor (smaller than type D-4 or equivalent), pump (1 or more 6" discharge or larger - gas or diesel powered or powered by generator of 300 amps or more inclusive of generator), hoist, boom truck (power sing type boom) tractor (neu-tired, other than backhoe or front endloader, crusher

CLASS III - Air compressor (2 or more - less than 600 CFM), air compressors 600 cu. ft. per min, or larger), pumperete machine (and similar equipment), mechanic helper, maintenance man, boom truck (non-swinging, non powered type boom), welding machine or generator (2 or more - 300 amp. or larger gas or diesel powered), pump (2 or more - 4" up to 6" discharge - gas or diesel powered - excluding submersible pumps), concrete paver (1 drum ½ cu. yd. or larger wagon drill (multiple), elevator (other than passenger), concrete breaker (self-propelled or truck mounted - including compressor)

CLASS IV - Hydraulic pipe pushing machine, pumps (2 or more up to 4"discharge if used 3 hours or more a day gas or diesel powered - excluding submersible pumps), trencher (service), boiler, vibrating compaction equipment, self propelled (6' wide or over), stump remover, mulching equipment, farm tractor (with attachment), finishing machine (concrete), roller (other than asphalt), curing machine (self-propelled), concrete saw (40 H.P. or over)

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Alcona, Alpena, Arenac, Cheboygan, Clare, Crawford, Gladwin, Midland, Ogemaw, Oscoda, Otsego, Presque Isle, & Roscommon Counties:					
Trucks under 8 cu. yds. capacity	$10.30	b 39.50	b 41.00		
Trucks 8 cu. yds. capacity and over, & tandem trucks	10.40	b 39.50	b 41.00		
Semi, double bottom, lowboy, Pitman Ops. & related equip.	10.50	b 39.50	b 41.00		
Euclid type equipment	10.60	b 39.50	b 41.00		
Antrim, Charlevoix, Benzie, Grand Traverse, Kalkaska, Leelanau, Mecosta, Missaukee, Montcalm, Osceola, & Wexford Counties:					
Semi trucks, mechanics	10.67	b 39.50	b 30.00		
Trucks over 8 cu. yds. capacity	10.57	b 39.50	b 30.00		
All other trucks	10.47	b 39.50	b 30.00		

FOOTNOTE:

a. Seven Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day after Thanksgiving Day, & Christmas Day; and Vacation Pay Credit: Employer contributes 6% of the basic hourly rate for employees with 5 years or more of service, or 6% of the basic hourly rate for employees with 6 months to 5 years of service.

b. Per Week, Per Employee.

c. Seven Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Day after Thanksgiving Day, & Christmas Day, provided the employee worked the scheduled work day preceding and the work day following the day observed.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clause (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Pennsylvania

COUNTIES: Columbia, Montour & Snyder

DECISION NO.: PA82-3012

DATE: Date of Publication

Supersedes Decision No. PA80-3032 dated May 30, 1980, in 45 FR 36767.

DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes or apartments up to and including 4 stories). Excluding Sewage and Water Treatment Plant Projects.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers:					
Columbia & Montour Counties	$13.83	.80	.90		.01
Snyder County	14.01	1.12	.90		.02
Boilermakers	16.67	1.275	1.00		.02
Bricklayers & Stonemasons:					
Montour & Snyder Counties	12.25	.55	.80		
Columbia County	12.15	.55	.80		.01
Carpenters	12.72	.70	.90		.05
Cement Masons:					
Montour & Snyder Counties	12.45				.01
Columbia County	11.83	.55	.70		.01
Electricians:					
Montour County: North of U. S. Highway #522 & Selinsgrove Twp. in Snyder Co., and Remainder of Columbia Co.	13.65	.60	3%+.40		.05
Berwick Borough in Columbia Co.	13.27	.65	3%+1.00	a	.05
South of U. S. Highway #522 in Snyder County	13.56	.65	3%+.67		4%
Glaziers:					
Montour County in its entirety; Roaring Creek, Locust, Cleveland, Cunningham, Mt. Carmel Townships in Columbia County	11.54	.75	.70		.015
Snyder County	11.71	.70	.65		.01
Remainder of Columbia County	11.85	.65	.85		
Ironworkers:					
Montour & Snyder Counties	14.265	1.49	1.46		.045
Structural & Ornamental:					
Columbia County	14.75	b			.10
Reinforcing					
Columbia County	14.65	b			.10
Laborers:					
Columbia County:					
Unskilled laborers and window washers	8.59	.80	1.00		
Mason tenders and scaffold builders	8.99	.80	1.00		
Pneumatic electrical tool op. under the jurisdiction of laborers 2' pump-non-metallic pipe laying and making joints clay terra cotta, ironstone, vitrified concrete,					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers (Cont'd.)					
handling of burning torches, asphalt or other hot material; cement finishers and blasters helpers, power buggies, and walk along hoist	$8.69	.80	1.00		
Plasterers tenders, blasters and wagon drill operator	8.84	.80	1.00		
Montour County:					
Unskilled laborers, scaffold builders, wrecking, window cleaners & demolition	8.35	.70	.60		
Operators of jackhammers, paving breakers, vibrators & other pneumatic & mechanical tools coming under the jurisdiction of laborers, wagon drill operators, excavating for caisson, under pinning & pier holes (below 12') nonmetallic pipe layers, plasterers tenders, mortar men (mixed by hand), handling & using cutting or burning torches in the wrecking of buildings, masons tenders	8.50	.70	.60		
Snyder County:					
General Laborers: Air, fuel and electric tool operators and al other pneumatic and mechanical tools, including blow pipe and vacum cleaners. Caission workers (top men), pipelayers for all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe & the making of joints for same. Power-buggy, precast slab placers & signal men, blaster helper, excavation of all foundation, digging of trenches, piers and manholes. Wrecking and moving of all structures. Under pinning & shoring					

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers (Cont'd.) stripping, dismantling, oiling & moving of concrete forms, loading, and carring of reinforcing steel, handling & distribution of lumber, and all other building material to stock piles, piles, unloading, carving, distribution, and laying of precast concrete slabs and planks for flooring & roofing, general cleanup & removal of refuge, debris and all scrap material(s), vibrator operator (concrete placing - whose power is supplied by compressed air, electric, gasoline & any other means	9.45	.60	.73		
Semi-Skilled: Cassion worker (bottom men), blasters, wagon air track and diamond point drill operators, burning torches, green cutting machine (nozzle men), and steam jenny. plaster & cement mason tenders, machine mixers, plater pump and scaffold builders (excluding masonry scaffolding sand blasting nozzle men):	9.92	.60	.73		
Nursery Workers: Window washers floor scrubbers, and watchmen. tenders of propane gas burners, salamanders, smudge pots, tool-room workers. fire watch	8.85	.60	.73		
Mason tenders, machine mixers, motorized stockers, scaffold builders (masonry), mortar pump conveyors, mechanical cleaners, and sandblasting for masonry and masonry equipment	9.72	.60	.73		
Lathers	12.72	.70	.90		.05
Lead Burners	10.75	.40	.25	c	.01

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction					
Lineman, dynamite man, heavy equipment operator	$13.37	.55	3%		3/8%
Winch truck operator	9.38	.55	3%		3/8%
Groundman	8.97	.55	3%		3/8%
Marble Setters	12.65		.95		
Millwrights	14.42	.70	.90		.05
Painters:					
Brush	10.85	.75	.60		.10
Tapers	11.51	.75	.60		.10
Hazardous	12.51	.75	.60		.10
Piledrivermen	12.97	3.13	1.40	d	.13
Plasterers:					
Columbia County	11.85	.55	.70		.01
Snyder & Montour Counties	10.89				
Plumbers & Steamfitters	13.80	1.02	1.00		.11
Roofers:					
Columbia & Montour Counties	12.05	1.00	1.10		
Snyder County	10.76	.80	.35		
Sheet metal workers	13.31	.80	.86		.04
Soft floor layers	10.98	.70	.90		.05
Sprinkler Fitters	15.56	.95	1.40		.08
Truck Drivers:					
Montour County	8.35				
Columbia & Snyder Counties					
Pick-ups and service dump and flat including "2" license	8.07	e	f		
All trucks over "2" license	8.12	e	f		
Fork lifts tow motors, front & pneumatic tired loaders	8.08	e	f		
WELDERS - Rate of Craft					
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1) (ii)).					

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FOOTNOTES:

a. Paid Holidays: July 4th, Labor Day, Thanksgiving Day & Good Friday.

b. Employer contributes $2.95 to a combined Health and Welfare & Pension Fund.

c. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Washington's Birthday; Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceding and following the holidays.

d. Paid Holidays: Washington's Birthday, Good Friday, Memorial Day; Labor Day; Presidential Election Day; Veterans Day; Thanksgiving Day and Christmas Day.

e. Employer contributes $41.00 per month to employees who have worked 60 hour or more for the employer during the preceding month.

f. Employer contributes $25.00 per month to employees who have been employed over 13 weeks.

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POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$14.27	10%	10.3%	a	1.3%
GROUP 2	13.98	10%	10.3%	a	1.3%
GROUP 3	13.11	10%	10.3%	a	1.3%
GROUP 4	12.34	10%	10.3%	a	1.3%
GROUP 5	11.87	10%	10.3%	a	1.3%
GROUP 6	10.96	10%	10.3%	a	1.3%
GROUP 7	14.52	10%	10.3%	a	1.3%
GROUP 7-A	14.77	10%	10.3%	a	1.3%
GROUP 7-B	15.01	10%	10.3%	a	1.3%

CLASSIFICATIONS DEFINITIONS

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2 : All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, fireman (for power equipment) machines similar to above

GROUP 5: - Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc): 100 ft. and over

GROUP 7-A: 150 ft. and over
GROUP 7-B: 200 ft. and over

FOOTNOTES:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTIES: Clinton, Centre, Huntingdon, Fulton & Mifflin

DECISION NO.: PA82-3010 DATE: Date of Publication

Supersedes Decision No. PA80-3074 dated December 12, 1980, in 45 FR 81981.

DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (Does not include single family homes or apartments up to and including 4 stories). Excluding Sewage and Water Treatment Plant Projects.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers:					
Clinton County	$13.83	.80	.90		.01
Centre, Huntingdon, Fulton & Mifflin Counties	14.01	1.12	.90		.01
Boilermakers	16.87	1.275	1.00		.01
Bricklayers & Stonemasons:					
Fulton & Huntingdon Counties	11.90	1.00	1.20		.01
Mifflin County	12.25	.55	.80		
Clinton County in its entirety, and the Remainder of Centre Co.	11.55	1.18	.90		.015
Townships in Centre County: Rush, Halfmoon, Taylor, Patton, Worth & Huston	12.60	1.00	1.20		.01
Carpenters & Soft Floor Layers	12.65	6½%	8%	10%	
Cement Masons:					
Centre, Clinton & Mifflin Cos.	13.26				
Huntingdon County	12.85	9%	7%		
Fulton County	12.10	.90	.90		.01
Glaziers:					
Centre, Fulton, Huntingdon & Mifflin Counties	13.44	1.12	1.55	1.2%	.02
Clinton County	11.71	.70	.65		.01
Electricians:					
Fulton, Huntingdon and Remainder of Centre County	15.95	1.75	3%+1.00		.10
Mifflin County	13.56	.65	3%+.67		4%
Clinton County in its entirety; Townships in Centre County; Burnside, Curtin, Liberty, Howard, Marion, Walker, Miles and Haines	11.50	.65	3%+1.00	1.00	.02
Elevator Constructors	12.84	1.345	1.085	a+b	.035
Elevator Constructors Helpers	70%JR	1.348	1.088	a+b	.035
Elevator Constructors Helpers (Prob.)	50%JR				
Ironworkers:					
Centre & Clinton Counties	13.59	1.22	1.67		.04
Huntingdon and Mifflin Cos.	14.265	1.49	1.46		.045
Fulton County	14.03	.80	1.70		
Laborers:					
Clinton County					
Unskilled Laborers	10.34	10%	9%		
Plasterers Tenders	10.39	10%	9%		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D.)					
Centre, Huntingdon, Fulton and Mifflin Counties:					
Unskilled Laborers	$10.06	10%	9%		
Plasterers Tenders	10.11	10%	9%		
Lead Burners	10.75	.40	.25	c	.01
Line Construction:					
Centre, Fulton & Huntingdon Cos.					
Lineman	16.93	.60	3%		3/8%
Groundman	10.15	.60	3%		3/8%
Winch truck operator	11.85	.60	3%		3/8%
Clinton County:					
Lineman, dynamite man, heavy equipment operators	13.37	.55	3%		3/8%
Groundman	8.97	.55	3%		3/8%
Winch truck operator	9.19	.55	3%		3/8%
Mifflin County:					
Lineman	14.23	.60	3%		3/8%
Winch truck operator	9.96	.60	3%		3/8%
Groundman	8.54	.60	3%		3/8%
Millwrights	13.16	6%	6%	25%	1 ½%
Painters:					
Clinton County:					
Brush	10.85	.75	.60		.10
Tapers	11.51	.75	.60		.10
Hazardous	12.51	.75	.60		.10
Centre, Fulton, Huntingdon & Mifflin Counties					
Commercial					
Brush & Roller	11.99	1.10	1.10		.02
Spray	12.49	1.10	1.10		.02
Industrial					
Brush & Steel	12.84	1.10	1.10		.02
Spray	12.34	1.10	1.10		.02
Piledrivermen	15.18	5.5%	10%		4%
Plasterers:					
Centre, Clinton & Mifflin Cos.	12.00				
Fulton County	12.72	.70	.90		.05
Huntingdon County	12.85				.01
Plumbers & Steamfitters					
Clinton County	14.26	.94	.95		.05
Huntingdon County	13.36	1.07	1.22	.75	.27
Centre, Mifflin & Fulton Cos.	13.80	1.02	1.00		.11

DECISION NO. PA82-3010 PAGE 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers:					
Fulton County:					
Composition, damp and waterproof workers	$11.35	.80	.45		.10
Clinton County					
Composition and kettlemen	12.05	1.00	1.10		
Huntingdon County					
Composition roofers	15.96	.77	1.50		.16
Centre & Mifflin Counties					
Composition roofers	10.76	.80	.55		
Sheet Metal Workers					
Clinton County	13.31	.80	.86		.06
Centre, Huntingdon, Fulton & Mifflin Counties	13.51	1.17	2.17		.23
Sprinkler Fitters	15.56	.95	1.40		.08
TRUCK DRIVERS:					
Centre, Huntingdon & Fulton Cos.					
Service, dump, flat top, jeep fuel & water	8.27	d	e		
Transit mix, dump trailer, winch truck	8.35	d	e		
Euclid & tractor trailer	8.42	d	e		
Helpers	8.17	d	e		
Mifflin County					
Pick-ups, dump, service trucks flat trucks to and including 2 license plates	9.47	f	g		
Transit-mix, winch trucks, tractor, all types, euclids, ross lumber & trucks over 2 plates	9.72	f	g		
Truck Drivers					
Clinton County	8.35				
Welders - Receive rate prescribed for craft performing operation to which welding is incidential					

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.

FOOTNOTES:

a. Employer contribute 8% hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. Paid Holidays: A through F, plus the Friday after Thanksgiving Day.

c. 8 paid holidays: A through F and Washington's Birthday; Good Friday and Christmas Eve, provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceding and following the holiday.

d. $59.00 per month.

e. $14.00 per week.

f. $93.03 per month per employee who have worked sixty (60) hours during the month.

g. $57.89 per month for employee who have worked sixty (60) hours or more during the month.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii))."

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
CLASS 1	$14.625	1.05	1.15		.09
CLASS 1-A	14.875	1.05	1.15		.09
CLASS 1-B	15.125	1.05	1.15		.09
CLASS 1-C	15.375	1.05	1.15		.09
CLASS 2	14.475	1.05	1.15		.09
CLASS 3	12.60	1.05	1.15		.09
CLASS 3-A	13.10	1.05	1.15		.09
CLASS 4	11.95	1.05	1.15		.09
CLASS 5	10.90	1.05	1.15		.09
CLASS 6	11.20	1.05	1.15		.09
CLASS 6-A	11.30	1.05	1.15		.09
CLASS 6-B	11.45	1.05	1.15		.09
CLASS 6-C	12.20	1.05	1.15		

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

Class I - Austin-Western or similar type under 25 ton, austin-western similar type 25 ton or over, auto grader (CMI or similar, backhoe, batch plant when conveyors are used for direct feeding or discharge, batch plant no conveyors for direct feeding or discharge (without oiler), cableway, caisson drill, central mix plant, cranes (excluding overhead) (truck or crawler type), cranes tower (mobile) cranes tower (stationary) (climbing type) use of oil to be discussed at per job) cranes tower (climbing type) cranes hydraulic self contained over 18 ton cranes hydraulic self contained - 18 ton or less, derrick traveler (self propelled), derrick (all types) when assistance required it will be an oiler or apprentice) derrick boats, dragline, dredge, engineer maintenance, franki or similar type pile driver, gradall (remote control or otherwise), helicopter (when used for erection purposes), hi-lift 4 yds or over, hoist-hod (2 cages up to 10 floors) Chicago Boom attached hoist (50 ft. or over) stacks, stoves or furnances) hoist (slipform jobs hop to or similar type with 180 swing hop to or similar type with 360 swing local koehring scooper, metro chip harvester or similar type, mix mobile or similar type (with self-loading attachment), mix mobiling or similar type, mucking machine (tunnel), multiple bowl machines, pipe driver (sonic or similar type) (when assistance required it will be an oiler or apprentice), post driver-guard rail (truck mounted), post driver-guard rail (skid type), pumpkrete - mobile or similar type, quad nine, shovels (all types), slip form paver (CMI or similar), tractors - boom mounted (all types), tractors (all types with hydraulic backhoe attached), tug boat, whirley

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

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CLASS 1-A - Austin-Western or similar type under 25 ton with jib, austin-western or similar type 25 ton or over with jib, cranes boom or mast 100 ft. or over up & including 150 ft. +$.25) (truck or crawler type), cranes mobile (any type 15 ton or over placed on any bldg. structure + $.25), hoist-hod (2 cages over 10 floors Class I rate +$.25, hoist single cage with

CLASS 1-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. + $.50) (truck or crawler type), engineer lead

CLASS 1-C - Cranes (boom or mast over 200 ft. + .75)

CLASS 2 - Asphalt plant operator, athey loader, auger - truck or tractor, mounted, back filling machine, boat material or personnel carrying (powered) boat - job work (inboard or outboard), bulldozer, cable layer, compactor with blade, compressor (1) and air tugger (1) (combination), compressor (1) and gunite machine (1) (combination), concrete belt placer, crane - overhead, crushing & screening plants, drill - davey or similar type drill - core (truck or skid mounted), drill - well & core (truck mounted), elevator new buildings), euclid loader, excavating equipment (all other), forklift lull or similar, (grader), grader elevating, greaser-equipment (head), hi-lift-less than 4 yds., hoist - one drum (4 floors or over), hoist - hod (buildings 4 floors or more), hoist - (2 drums or more in one unit), jumbo operator, locomotive, lift slab machine (hydraulic) mixer - paving, mucking machine, pipe cleaning machine, refrigeration plant (used for construction jobs that is , cooling concrete & holding banks), ross carrier (or similar type), scoop (single bowl) (self-powered & tractor drawn), spreader - concrete, asphalt and stone, tower mobile (hoisting or lowering material), trencher, well point systems, (the following machines shall be considered minor), compressors (3 within a reasonable distance); generators electric (3) (over 5 KW up to 20 KW), pumps (1½" discharge or less) (4 to 5 within reasonable distance), pumps (3) (over 1½ discharge) (within reasonable distance), welding machines (4 to 6 within reasonable distance) (other than electrically driven), grout pump (10 H. P. or over), elevator (when used for alterations & remodeling all buildings), paver operator - asphalt (spreader), pumpkrete or similar type (not self-propelled), pumpkrete machine operator (stationary), tire repairman (when assigned job), welder (repairmen)

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CLASS 3 - Boiler, compactor (ridden or self-propelled), compressor (over 125 CFM and air pump), compressor (1) and sand blasting machine (1) (combination), crane (carry), curb builder (self-propelled), drills-well & horizional truck mounted, forklifts (ridden or self-propelled), hoist one drum (regardless of power used), pavement breaker (self-propelled or ridden), pipe dream, roller, saw (concrete), soil stabilizer (pump type), stone crusher, stone spreader self-propelled, tractors (when used for snaking and hauling), tube finisher (CMI or similar type), tugger, truck, (winch) truck or hydraulic boom (when hoisting & placing), compressors (2) generators (2) mortar machine over 10 cu. ft. and single unit conveyor, pumps (1½" discharge or less (2 to 3), pumps (over 1½" discharge (2) (other than electrically driven)

CLASS 3-A - Conveyors 4 units or more

CLASS 4 - Ballast regulator, boring mochine, broom power (except push type), compressor - single (over 65 CFM), conveyor over 1 and up to 3 units (regardless of power used) form line machine, generator (over 5 KW), hoist (monorail) (regardless of power used) hoist roof (regardless of power used), huck machine or similar type, mixer concrete (regardless of power used) mixer mortar - over 10 cu. ft. (regardless of power used) pump (over 1½" discharge regardless of power used) spray cure machine (power driven) steam jenny (or similar type) syphon (steam or air) welding machine single (300 amp or over) (other than electrically driven) plant, private or industrial air of steam valve

CLASS 5 - Compressor - 65 cubic ft. or under (regardless of power used) conveyor one (1) unit (regardless of power used) heaters - up to and including 6 jack motor hydraulic (single type) power driven ladavator, mixer mortar, (10 cubic ft. or under), mulching machine pin puller (powered) pulverizer, pump - 1½" discharge or less, seeding machine, spreader side delivery, shoulder (attachment) tie tamper (multiple heads) tractor farm (when used for landscaping) water blaster, oiler-truck crane 50 ton up to not incl. 100 ton

CLASS 6 - Brake man, deck hand, helicopter signalman, oiler, mechanic helper

CLASS 6-A - Crane truck oiler & fireman

CLASS 6-B _ Oiler - Truck crane 50 ton up to & incl. 100 ton

CLASS 6-C - Oiler - truck crane 100 ton and over

SUPERSEDEAS DECISION

STATE: Wisconsin COUNTIES: Barron, Dunn, Polk and St. Croix Counties

DECISION NUMBER: WI82-2006 DATE: Date of Publication

Supersedes Decision No. WI80-2029 dated, April 25, 1980 in 45 FR 28075

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$16.03	.60	1.50		.15
BOILERMAKERS	14.97	1.375	1.15		.05
BRICKLAYERS	12.90	.90	.90		.05
CARPENTERS:					
Carpenters	12.27	.60	1.00		.05
Millwrights & Piledrivermen	12.67	.60	1.00		.05
CEMENT MASONS	12.90	.90	.60		.10
ELECTRICIANS	14.91	5%	5%		1%
ELEVATOR CONSTRUCTORS:					
Constructors	14.77	1.345	.95	a+b	.035
Helpers	10.34	1.345	.95	a+b	.035
Helpers (Prob.)	7.63				
IRONWORKERS: Structural, Ornamental and Reinforcing	14.80	.95	.90		.04
LABORERS:					
Laborers, Common Tender	10.67	.65	.55		.03
Mortar Mixer & Plasterer Laborer Air, Gas & Electric Equipment, Vibrator Operator, Kettlemen, Dumpmen & Pittmen, Burner on Wrecking, Scaffold Builder & Washing Walls on swinging Scaffold, Gunniteman & Nozzlemen, Puddlers (when concrete pumps & when working behind paving machine), Dumper	10.82	.65	.55		.03
Jackhammer	10.97	.65	.55		.03
LATHERS	12.27	.60	1.00		.05
LINE CONSTRUCTION:					
Linemen	14.40	.45	9%		1%
Heavy Equipment Operator	12.96	.45	9%		1%
Light Equipment Operator	11.52	.45	9%		1%
Heavy Groundmen-Truck Driver	10.08	.45	9%		1%
Light Groundmen - Truck Driver	9.36	.45	9%		1%
Groundmen	7.92	.45	9%		1%

DECISION NO. WI82-2006

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush	12.00		.15	5%	
Structural Steel	13.00		.15	5%	
Sandblaster and Spray	12.50		.15	5%	
Swing Stage	12.00		.15	5%	
PLASTERERS	12.90	.90		.60	.10
PLUMBERS & STEAMFITTERS	13.67	.75	.85	1.70	
ROOFERS	13.32			3%	
SHEET METAL WORKERS	14.79	.75	.60		.06
TRUCK DRIVERS:					
Two axle	11.10	c	d		
3 or more axles	11.20	c	d		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 3% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

b. Holidays: A through F

c. $21.45 per week for each employee.

d. $27.00 per week for each employee.

DECISION NO. WI82-2006

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	14.12	1.35	1.00		.05
GROUP II	13.85	1.35	1.00		.05
GROUP III	13.52	1.35	1.00		.05
GROUP IV	13.41	1.35	1.00		.05
GROUP V	12.90	1.35	1.00		.05
GROUP VI	12.47	1.35	1.00		.05

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Dredge Operator and Traveling Cranes (Bridge Type), Concrete Paver (over 27E), Concrete Spreader and Distributor

GROUP II - Material Hoists, Tractor or Truck Mounted Hydraulic Backhoe, Tractor or Truck Mounted Hydraulic Crane (5 tons or Under), Manhoist, Tractor (over 40 H.P.), Bulldozer H.P.), Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (wheel type or chain type having over 8-inch bucket), Elevator

GROUP III - Concrete and Grout Pumps, Backfiller, Concrete Auto Breaker (large), Concrete finishing (Road Type), Roller (Rubber Tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw Type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (tuggers) Stump chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor Mounted Equipment, Post Hole Diggers, Stone Crushers and Screening Plants, Firemen (asphalt Plants), Air Compressor (300 CFM or over)

GROUP VI - Generators over 150 KW, Pumps over 3", Augers (vertical and horizontal), Combination Small Equipment Operator; Air, Electric Hydraulic Jacks (Slip Form), Compressors (under 300 CFM); Generators (under 150 KWO, Pumps (3" and under); winches (small electric), Oiler and Greaser, Boiler Operators (Temporary heat), Rotary Drill Helpers, Conveyors, Forklift (12' and under)

SUPERSEDEAS DECISION

STATE: Wisconsin COUNTIES: Brown, Door, Kewaunee & Oconto

DECISION NUMBER: WI82-2008 DATE: Date of Publication

Supersedes Decision No. WI80-2038 dated, May 16, 1980 in 45 FR 32546

DESCRIPTION OF WORK: Building Construction (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$15.06	1.20	.50	.85	.10
BOILERMAKERS	14.97	1.375	1.15		.05
BRICKLAYERS & MARBLE SETTERS & STONEMASONS	12.10	.90	.85		.05
CARPENTERS & LATHERS	12.27	.60	1.00		.05
CEMENT MASONS	11.60	.90	.85		.05
ELECTRICIANS	14.50	.75	3%+.65		1½
ELEVATOR CONSTRUCTORS:					
Constructors	14.75	1.345	.95	a+b	.035
Helper	10.325	1.345	.95	a+b	.035
Helpers (Prob.)	7.375				
IRONWORKERS:					
Structural, Ornamental & Reinforcing	13.81	1.30	1.50	1.21	.23
MILLWRIGHTS & PILEDRIVERMEN	12.67	.60	1.00		.05
PAINTERS:					
Brush	13.05	1.00			
Structural Steel	13.43	1.00			
Spray & Swing Stage	13.43	1.00			
PLASTERERS	12.10	.90	.85		.05
PLUMBERS & STEAMFITTERS	15.68	.85	1.12		.12
ROOFERS:					
Composition	13.50			.50	
SHEET METAL WORKERS	13.24	.95	.72	2.25	.09
SOFT FLOOR LAYERS	12.27	.60	1.00		.05
TERRAZZO WORKERS & TILE SETTERS	12.10	.90	.85		.05
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. WI82-2008

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Holidays, A through F

b. Employer contributes 3% regularly hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employer who has worked in business less than 5 years.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
CLASS I	10.48	.65	.55		.03
CLASS II	10.58	.65	.55		.03
CLASS III	10.73	.65	.55		.03

CLASS I - Construction Laborers, Form Stripper, Form Oiler, Form Cleaner, Dump Men, Pit Men, Building Wrecker, Plumbers Laborer, Motorized Buggy Operator, Concrete Laborer, Air Spade and Chipping Hammer, Drag Tender and Signal Man, Concrete Pumps and Nozzle Man, Bituminous Worker

CLASS - Plasterer Tender, Hod Carrier, Dry Cement Handler, Kettlemen, Vibrator Operator, Slacking Line, Tile Setter Helpers, Core Drill Operator

CLASS III - Jackhammer Operator, Driller Gunite Men, Burner on Wrecking Air Operated Concrete Breaker, Sheeting Driver, Power Tamper, Fork Lift Operator, Jumping Jack, Terrazzo Grinder, Mortar and Plaster Mixer, Creosote Worker, Bob Cat Operator, Sand Blaster, Welder, Mud Jack Operator, Precast Erector Bituminous Raker and Luteman

DECISION NO. WI82-2008

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	14.12	1.35	1.00		.05
GROUP II	13.85	1.35	1.00		.05
GROUP III	13.52	1.35	1.00		.05
GROUP IV	13.41	1.35	1.00		.05
GROUP V	12.90	1.35	1.00		.05
GROUP VI	12.47	1.35	1.00		.05

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Dredge Operator and Traveling Cranes (Bridge Type), Concrete Paver (over 27E), Concrete Spreader and Distributor

GROUP II - Material Hoists, Tractor or Truck Mounted Hydraulic Backhoe, Tractor or Truck Mounted Hydraulic Crane (5 tons or Under), Manhoist, Tractor (over 40 H.P.), Bulldozer H.P.), Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (wheel type or chain type having over 8-inch bucket), Elevator

GROUP III - Concrete and Grout Pumps, Backfiller, Concrete Auto Breaker (large), Concrete finishing (Road Type), Roller (Rubber Tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw Type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (tuggers) Stump chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor Mounted Equipment, Post Hole Diggers, Stone Crushers and Screening Plants, Firemen (asphalt Plants), Air Compressor (300 CFM or over)

GROUP VI - Generators over 150 KW, Pumps over 3", Augers (vertical and horizontal), Combination Small Equipment Operator; Air, Electric Hydraulic Jacks (Slip Form), Compressors (under 300 CFM); Generators (under 150 KWO, Pumps (3" and under); winches (small electric), Oiler and Greaser, Boiler Operators (Temporary heat), Rotary Drill Helpers, Conveyors, Forklift (12' and under)

STATE: WISCONSIN COUNTIES: Calumet, Fond Du Lac, Manitowoc, Outagamie & Sheboygan

DECISION NUMBER: WI82-2009 DATE: Date of Publication

Supersedes Decision No. WI80-2039 dated May 23, 1980 in 45 FR 35152

DESCRIPTION OF WORK: Building Construction (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$15.06	1.28	.50	.85	.10
BOILERMAKERS	14.97	1.375	1.15		.05
BRICKLAYERS	12.10	.90	.85		.05
CARPENTERS:					
All Counties	12.27	.60	1.00		.05
Millwrights & Piledrivermen	12.67	.60	1.00		.05
CEMENT MASONS	11.60	.90	.85		.05
ELECTRICIANS:					
Calumet & Outagamie Cos.	14.88	.85	5%		1%
Manitowoc County	14.50	.75	3%+.65		1%
Fond Du Lac & Sheboygan Cos.	13.81	1.20	3%+.6%	10%	2%
ELEVATOR CONSTRUCTORS:					
Outagamie Co.:					
Constructors	14.75	1.345	.95	a+b	.035
Helpers	10.325	1.345	.95	a+b	.035
Helpers (Prob.)	50%JR				
Remainder of Counties:					
Constructors	15.89	1.345	.95	a+b	.035
Helpers	11.12	1.345	.95	a+b	.035
Helpers (Prob.)	50%JR				
GLAZIERS	11.76	1.05	.70	1.00	
IRONWORKERS:					
Western Part of Fond Du Lac and Outagamie Cos.	13.11	1.25	1.00		.07
Remainder of the Area	13.81	1.30	1.50	1.21	.20
LABORERS:					
General Laborer; Building Wrecker; Form Stripper	10.48	.65	.55		.03
Plaster Tender, Hod Carrier, Mason Tender, Vibrator Operator	10.58	.65	.55		.03
Jackhammer Operators, Driller, Gunnite Men, Mortar & Plasterer Mixer, Fork Lift Operator	10.73	.65	.55		.03

DECISION NO. WI82-2009

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	12.27	.60	1.00		.05
PAINTERS:					
Fond Du Lac, Outagamie & Northwestern Corner of Calumet Counties:					
Brush, Paperhangers and Structural Steel	12.25	1.05	.35		.05
Spray and Sandblasting	12.75	1.05	.35		.05
Manitowoc and the Remainder of Calumet Counties:					
Brush	11.30				
Spray and Roller	11.80				
Sheboygan County:					
Brush	10.40	.50	.30	.30	
Drywall Finishing	10.40	.50	.30	.30	
Spray	10.90	.50	.30	.30	
PLASTERERS	12.10	.90	.85		.05
PLUMBERS & STEAMFITTERS:					
Outagamie Co. and the Northwestern corner of Calumet County	15.25	1.19	1.11		.20
Manitowoc Co. and the Northeastern part of Calumet County	15.23	.85	1.12		.12
Fond Du Lac, Sheboygan & the Remainder of Calumet County	13.35	.80	1.25	1.54	.03
ROOFERS:					
CALUMET & Manitowoc Cos.	13.03	.57	.15	.35	
Fond Du Lac County	11.60	1.65	.80		
Outagamie County	10.65	.95	.70	.55	
Sheboygan County	12.60	1.00	.15	.35	
SHEET METAL WORKERS:					
Outagamie County	13.24	.95	.72	2.25	.09
Remainder of Counties	13.46	1.30	1.23	.62	.10
TERRAZZO WORKERS & TILE SETTERS	12.10	.90	.85		.05
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. WI82-2009

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Six paid holidays, A thru F

b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

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DECISION NO. WI82-2002		Fringe Benefits Payments			
POWER EQUIPMENT OPERATORS	Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	14.12	1.35	1.00		.05
GROUP II	13.85	1.35	1.00		.05
GROUP III	13.52	1.35	1.00		.05
GROUP IV	13.41	1.35	1.00		.05
GROUP V	12.90	1.35	1.00		.05
GROUP VI	12.47	1.35	1.00		.05

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Dredge Operator and Traveling Cranes (Bridge Type), Concrete Paver (over 27E), Concrete Spreader and Distributor

GROUP II - Material Hoists, Tractor or Truck Mounted Hydraulic Backhoe, Tractor or Truck Mounted Hydraulic Crane (5 tons or Under), Manhoist, Tractor (over 40 H.P.), Bulldozer H.P.), Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller Operator and Blaster, Trencher (wheel type or chain type having over 8-inch bucket), Elevator

GROUP III - Concrete and Grout Pumps, Backfiller, Concrete Auto Breaker (large), Concrete finishing (Road Type), Roller (Rubber Tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14E or over), Screw Type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial Locomotives, Roller (under 5 tons), Rotary Drill (wheel type or chain type having over 8-inch bucket) and Firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (tuggers) Stump chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor Mounted Equipment, Post Hole Diggers, Stone Crushers and Screening Plants, Firemen (asphalt Plants), Air Compressor (300 CFM or over)

GROUP VI - Generators over 150 KW, Pumps over 3", Augers (vertical and horizontal), Combination Small Equipment Operator; Air, Electric Hydraulic Jacks (Slip Form), Compressors (under 300 CFM); Generators (under 150 KW0, Pumps (3" and under); winches (small electric), Oiler and Greaser, Boiler Operators (Temporary heat), Rotary Drill Helpers, Conveyors, Forklift (12' and under)

[FR Doc. 82-5725 Filed 3-4-82; 8:45 am]

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federal register

Friday
March 5, 1982

Part III

Office of Personnel Management

Post Employment Conflict of Interest Provisions

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 737

Post Employment Conflict of Interest; Designation of Certain Positions and Agencies

AGENCY: Office of Personnel Management.

ACTION: Final regulation.

SUMMARY: The Office of Personnel Management is issuing a final regulation under the Ethics in Government Act of 1978 which (1) designates certain positions subject to the post employment conflict of interest regulations applicable to "Senior Employees," and (2) designates certain statutory and non-statutory agencies/bureaus for the purpose of limiting the application of 18 U.S.C. 207(c).

DATE: Effective Date: March 5, 1982.

ADDRESS: Office of Government Ethics, Room 436H, 1900 E Street, NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Gary Davis or Robert Flynn at (202) 632-7642.

SUPPLEMENTARY INFORMATION: Subsection 207(d)(1)(C) of title 18 U.S.C., contained in Title V of the Ethics in Government Act of 1978, as amended, ("the Act"), (Pub. L. 95-521), gives the Director of the Office of Government Ethics ("OGE") authority to designate (1) certain employee positions for purposes of the restrictions of 18 U.S.C. subsections 207(b)(ii) and 207(c), and (2) agencies and bureaus, within a parent department or agency, having separate and distinct subject matter jurisdiction; i.e., "separate non-statutory agencies/bureaus." Regulations implementing this authority were published on February 1, 1980 (45 FR 7402). Those regulations designated as "Senior Employees" all employees in a position in any pay system for which the basic rate of pay is equal to or greater than that for GS-17 of the General Schedule, as prescribed by 5 U.S.C. 5332, or positions which are established within the Senior Executive Service (SES) pursuant to the Civil Service Reform Act of 1978, subject to specific exemptions to be made by OGE. The regulations also set forth those separate statutory (18 U.S.C. 207(e)) agencies and bureaus and those separate non-statutory agencies/bureaus (18 U.S.C. 207(d)(1)(C)) as determined by the Director, OGE, to be qualified for designation at the time of publication.

Regarding "Senior Employees" designations, upon review of agency recommendations, made pursuant to the requirement set forth in 5 CFR 737.25(b)(1), the Director, OGE, determined that only those non-exempted positions, i.e., those subject to the prohibitions of 18 U.S.C. 207 (b)(ii) and (c), would be published in the Federal Register. A partial list of such "designated" positions was contained in the February 1, 1980, Federal Register publication (45 FR 7402). That list was followed by another partial list which was published on February 8, 1980 (45 FR 8544). The 1980 Annual Amendments to the list were published on November 14, 1980 (45 FR 75500). The combined lists represented all 18 U.S.C. 207(d)(1)(C) positions which were not exempted by the Director, OGE. This regulation consolidates and amends the previously published lists and is based upon a review of agency annual submissions made pursuant to 5 CFR 737.25(b)(1). All positions designated pursuant to 5 U.S.C.207 (d)(1)(C) not previously designated are marked by an asterisk. In accordance with 5 CFR 737.25(d), designation of such positions shall not become effective until the last day of the fifth full calendar month after this publication. Those positions marked by a double asterisk are former Executive level positions which were converted to SES positions. Such positions were designated by law effective July 1, 1980.

Section 737.25 of the final regulations sets forth the standards and procedures to be applied in determining which position shall be designated. OGE also issued a memorandum to heads of departments, independent agencies, commissions and Government corporations/designated agency ethics officials dated April 20, 1979, giving additional information and guidance on this subject. Section 737.11 sets forth the standards and procedures to be applied in determining which separate statutory and non-statutory agencies and bureaus shall be designated.

The Director, OGE, in consultation with each department and agency concerned, has determined that the positions set forth below qualify for designation as "Senior Employee" positions, 5 CFR 737.33 is hereby amended accordingly. The Director has further determined, in consultation with each department or agency concerned, the separate statutory and non-statutory agencies/bureaus set forth below qualify for such designation.

The "Senior Employee" positions listed constitute all such positions designated under the provisions of subsection 207(d)(1)(C) of title 18 U.S.C. for the departments and agencies listed. In accordance with 5 CFR 737.25(d), subsequent designation of positions within the departments or agencies listed shall not be effective until the last day of the fifth full calendar month after the first publication of a notice by the Director, OGE, of intention to so designate. Such fair notice shall not apply to subsequent designations made under the rule concerning position shifting set forth in 5 CFR 737.25(i).

In several cases, a position in one agency has been designated while a position of similar title in another has not. OGE has, in the exercise of its discretion, accorded some deference to the decision of a department or agency to designate a position where that decision was in favor of designation above minimum OGE standards. As OGE conducted the review necessary for these designations, it became apparent that, because of the subject matter of a department's or agency's business, the gravity of the "revolving door" problems varied significantly from agency to agency. Moreover, positions which were ostensibly similarly titled and described nevertheless had different roles from agency to agency. Also, OGE believes it desirable that the balance between post employment restrictions and impact on recruiting and retention be adjudged on an agency level, as long as minimum standards are met.

Positions automatically designated by 18 U.S.C. 207(d)(1) (A) and (B) are not included in this publication.

This is a final not a proposed regulation. The Director of the Office of Personnel Management, acting pursuant to 5 U.S.C. 553(b)(3)(A), has found good cause for waiving the general notice of proposed rulemaking. This regulation is interpretive in nature, exempt from 5 U.S.C. 553.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulation, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with Foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small governmental jurisdictions.

Office of Personnel Management.

Donald J. Devine,

Director.

PART 737—REGULATIONS CONCERNING POST EMPLOYMENT CONFLICT OF INTEREST

Accordingly, the Office of Personnel Management is revising 5 CFR 737.31, 737.32, and 737.33 to read as follows:

§ 737.31 Separate statutory agencies: Designations.

In accordance with the provisions of 18 U.S.C. 207(e) and § 737.13, each of the following departments or agencies is determined, for purposes of 18 U.S.C. 207(c), to have within it separate statutory agencies or bureaus as set forth below:

Parent Agency: DEPARTMENT OF THE TREASURY
Separate Statutory Components:
- Bureau of Alcohol, Tobacco and Firearms
- Bureau of Engraving and Printing
- Bureau of of the Mint
- Comptroller of the Currency
- Internal Revenue Service
- United States Customs Service
- United States Secret Service

Parent Agency: FEDERAL EMERGENCY MANAGEMENT AGENCY
Separate Statutory Components: United States Fire Administration
Parent Agency: OFFICE OF PERSONNEL MANAGEMENT
Separate Statutory Components: Office of Government Ethics
Parent Agency: DEPARTMENT OF HEALTH AND HUMAN SERVICES
Separate Statutory Components:
- Education Division
- Food and Drug Administration
- Public Health Service
- Social Security Administration

Parent Agency: DEPARTMENT OF TRANSPORTATION
Separate Statutory Components:
- Federal Aviation Administration
- Federal Highway Administration
- Federal Railroad Administration
- Maritime Commission
- National Highway Traffic Safety Administration
- Saint Lawrence Seaway Development Corporation
- United States Coast Guard
- Urban Mass Transportation Administration

Parent Agency: DEPARTMENT OF LABOR
Separate Statutory Components:
- Bureau of Labor Statistics
- Mine Safety and Health Administration
- Occupational Safety and Health Administration

Parent Agency: DEPARTMENT OF JUSTICE
Separate Statutory Components:
- Bureau of Prisons (including Federal Prison Industries, Inc.)
- Community Relations Service
- Drug Enforcement Administration
- Federal Bureau of Investigation
- Foreign Claims Settlement Commission
- *Law Enforcement Assistance Administration
- *National Institute of Justice
- *Bureau of Justice Statistics
- *Office of Justice Assistance, Research and Statistics
- Immigration and Naturalization Service
- United States Parole Commission

Parent Agency: DEPARTMENT OF DEFENSE
Separate Statutory Components:
- Department of the Army
- Department of the Navy
- Department of the Air Force
- Defense Civil Preparedness Agency
- Defense Mapping Agency

Parent Agency: DEPARTMENT OF ENERGY
Separate Statutory Components:
- Federal Energy Regulatory Commission

Parent Agency: DEPARTMENT OF COMMERCE
Separate Statutory Components:
- Economic Development Administration
- Patent and Trademark Office
- Maritime Administration
- National Oceanic and Atmospheric Administration
- Bureau of the Census

Parent Agency: NATIONAL CREDIT UNION ADMINISTRATION
Separate Statutory Component:
- Central Liquidity Facility

§ 737.32 Separate components of agencies or bureaus: designations.

In accordance with the provisions of 18 U.S.C. 207(d)(1)(C) and § 737.14, each of the component agencies or bureaus as set forth below is determined, for purposes of 18 U.S.C. 207(c) and this Part 737, to be separate from the remaining agencies and bureaus of its parent agency (except such agencies and bureaus as specified):

Parent Agency: DEPARTMENT OF HEALTH AND HUMAN SERVICES
Separate Components:
- Health Care Financing Administration

Parent Agency: DEPARTMENT OF TRANSPORTATION
Separate Components:
- Alaska Railroad

Parent Agency: DEPARTMENT OF LABOR
Separate Components:
- Employment and Training Administration
- Employment Standards Administration
- Labor-Management Services Administration

Parent Agency: DEPARTMENT OF DEFENSE
Separate Components:
- Defense Communications Agency
- Defense Intelligence Agency
- Defense Nuclear Agency
- National Security Agency

"These four components shall not, for purposes of 18 U.S.C. 207(c), be considered separate from one another but only from other separate components of the Department of Justice.

Parent Agency: DEPARTMENT OF STATE
Separate Components:
- Foreign Service Grievance Board
- International Joint Commission, United States and Canada (American Section)

Parent Agency: DEPARTMENT OF JUSTICE
Separate Components:
- Office of United States Attorney (for each judicial district (95))—however, each such Office is not designated as separate from the Office of the U.S. Marshal for the same judicial district.
- Office of United States Marshal (for each judicial district (95))—however, each such Office is not designated as separate from the Office of the U.S. Attorney for the same judicial district.
- Antitrust Division
- Civil Rights Division
- Land and Natural Resources Division
- Tax Division
- Civil Division
- Criminal Division
- Office for Improvements in the Administration of Justice

Parent Agency: DEPARTMENT OF COMMERCE
Separate Components:
- International Trade Administration
- Minority Business Development Administration
- National Telecommunication and Information Administration
- Bureau of Industrial Economics

§ 737.33 "Senior Employee" designations.

In accordance with § 737.25(b)(1), the following employee positions have been designated as "Senior Employee" positions for purposes of subsections 207(b)(ii) and (c) of title 18, U.S.C., as amended.[1]

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (OFFICE OF ADMINISTRATION)

Positions: No Section 207(d)(1)(C) Designations

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (COUNCIL OF ECONOMIC ADVISERS)

Positions: No Section 207(d)(1)(C) Designations

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT, (COUNCIL ON ENVIRONMENTAL QUALITY)

Positions:

GS-18 General Counsel
GS-18 Executive Director

[1] All positions designated pursuant to section 207(d)(1)(C) not previously designated are marked by an asterisk (*). Those positions marked by a double asterisk (**) are former Executive level positions which were converted to SES positions. Positions automatically designated by section 207(d)(1) (A) and (B) are not shown.

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (PRESIDENT'S COMMISSION ON EXECUTIVE EXCHANGE)

Positions: No Section 207(d)(1)(C) Designations

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (OFFICE OF MANAGEMENT AND BUDGET)

Positions:
SES General Counsel
SES *Assistant Administrator, Office of Information and Regulatory Affairs
SES *Assistant Administrator for Regulations, Office of Information and Regulatory Affairs
SES Deputy Associate Director, Intergovernmental Affairs
SES *Deputy Associate Director, Organization Studies
SES *Deputy Assistant Administrator, Statistical Policy
SES *Deputy Assistant Director for Evaluation
SES Deputy Assistant Director for Budget Review
SES Deputy Associate Director for International Affairs
SES Deputy Associate Director for National Security
SES Deputy Associate Director for Management, National Security and International Affairs
SES Deputy Associate Director for Health and Income Maintenance
SES Deputy Associate Director for Transportation, Commerce and Housing
SES Deputy Associate Director for Natural Resources
SES Deputy Associate Director for Energy and Science
SES Assistant Director for Public Affairs
SES Assistant Director for Civil Rights
SES Assistant Director for Administration
SES Assistant Director for Legislative Affairs
SES *Deputy Assistant Director for Legislative Affairs
SES Deputy Assistant Director for Legislative Reference
SES Deputy Assistant Director for Economic Policy
SES Chief, Financial Management Branch, Budget Review
SES Chief, Fiscal Analysis Branch, Budget Review
SES Deputy Chief, International Affairs Division
SES Deputy Chief, National Security Division
SES Deputy Associate Director for Management, National Security and International Affairs
SES Deputy Associate Director for Labor, Veterans and Education
SES Deputy Division Chief (Labor), Labor, Veterans and Education
SES Deputy Associate Director for Management, Human Resources, Veterans and Labor
SES Deputy Associate Director for Justice, Treasury and General Management
SES Deputy Associate Director for Management, Economics and Government
SES Deputy Division Chief, Energy and Science
SES Deputy Associate Director for Management, Natural Resources, Energy and Science
SES Deputy General Counsel
SES Executive Director, President's Commission on National Agenda for the 1980's
SES Executive Associate Director
SES Administrator, Office of Information and Regulatory Affairs
SES Associate Director, Management
SES Associate Director, National Security and International Affairs
SES Associate Director, Human Resources, Veterans and Labor
SES Associate Director, National Resources, Energy and Science
SES Associate Director, Economics and Government
SES Assistant Director, Economic Policy
SES Assistant Director, Budget Review
SES Assistant Director, Legislative Reference
SES Assistant Director, Management Improvement and Evaluation
SES Assistant Director, Federal Personnel Policy
SES *Special Counsel for Policy Analysis and Law

OFFICE OF FEDERAL PROCUREMENT POLICY

SES Associate Administrator for Systems and Technology
SES Associate Administrator for Regulations and Procedure
SES Associate Administrator for Acquisition Law
SES Assistant Administrator for Commercial Products
SES Director, Federal Acquisition Institute
SES *Principle Associate Administrator for Procurement
SES Chief, Veterans Affairs Branch, Labor, Veterans and Education Division
SES Chief, Education Branch, Labor, Veterans, and Education Division
SES Chief, Commerce Branch, Transportation, Commerce, and Housing Division
SES Chief, Transportation Branch, Transportation, Commerce, and Housing Division
SES Chief, Housing and Urban Development Branch, Transportation, Commerce, and Housing Division
SES Chief, Justice Treasury Branch, Justice Treasury, General Management Division
SES Chief, General Management Branch, Justice Treasury, General Management Division
SES Chief, Interior Branch, Natural Resources Division
SES Chief, Water Resources Branch, Natural Resources Division
SES Chief, Environmental Branch, Natural Resources Division
SES Chief, Agriculture Branch, Natural Resources Division
SES Chief, Science and Space Programs, Energy and Science Division
SES Chief, Energy Conservation and Regulation Branch, Energy and Science Division
SES Chief, Energy Technology Branch, Energy and Science Division

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (NATIONAL SECURITY COUNCIL)

Positions:
GS-18 *Special Assistant to the President for National Security Affairs
GS-18 *Director, Planning and Evaluation Division
GS-16 Staff Member (Foreign Affairs) (2)
GS-18 Staff Member (Foreign Affairs Officer)
GS-17 Staff Member (Foreign Affairs) (2)
SES-4 *Staff Director
GS-18 *Director, Intelligence Division
FSR-1 Staff Member (Foreign Affairs)
FSIO-1 Staff Member (Foreign Affairs)
O-8 *Military Assistant to the Assistant to the President for National Security Affairs

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (OFFICE OF SCIENCE AND TECHNOLOGY POLICY)

Positions: No Section 207(d)(1)(C) Designations

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS)

Positions:
SES General Counsel
SES Deputy General Counsel
SES Assistant U.S. Trade Representative—Agricultural Affairs and Commodity Policy
SES Assistant U.S. Trade Representative—Energy Policy
SES Assistant U.S. Trade Representative—Industrial Policy
SES Assistant U.S. Trade Representative—Policy Development
SES Deputy Assistant U.S. Trade Representative—Policy Development
SES Director, Computer Operations
SES Assistant U.S. Trade Representative—Japan and LDC Affairs
SES Deputy Assistant U.S. Trade Representative—Japan and LDC Affairs
SES Assistant U.S. Trade Representative—East-West and Developed Country Affairs
SES Assistant U.S. Trade Representative—Interagency Coordination
SES Deputy Assistant U.S. Trade Representative—Interagency Coordination
SES Assistant U.S. Trade Representative—GATT Affairs
SES Chief, Textile Negotiator
SES Deputy Assistant U.S. Trade Representative—GATT Affairs
SES Deputy Assistant U.S. Trade Representative—Industrial Trade Policy

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (OFFICE OF THE VICE PRESIDENT OF THE UNITED STATES)

Positions:
AD Chief of Staff
AD Counsel to the Vice President
AD Assistant to the Vice President for National Security Affairs
AD Assistant to the Vice President and Press Secretary
AD Assistant to the Vice President for Domestic Policy
AD Assistant to the Vice President for Scheduling and Appointments

AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (THE WHITE HOUSE OFFICE)

Positions: No Section 207(d)(1)(C) Designations

AGENCY: DEPARTMENT OF AGRICULTURE

Positions:

OFFICE OF THE SECRETARY

SES Assistant Secretary for Administration
SES Executive Assistant to the Secretary
SES Deputy Assistant Secretary for Food and Consumer Services
SES Deputy Assistant Secretary for Natural Resources and Environment
SES Deputy Under Secretary for Small Community and Rural Development
SES Deputy Under Secretary for International Affairs
SES Deputy Under Secretary for Commodity Programs
SES Deputy Assistant Secretary for Marketing and Transportation Services
SES Deputy Assistant Secretary for Economics
SES Special Assistant for International Scientific and Technical Cooperation

OFFICE OF THE INSPECTOR GENERAL

SES Deputy Inspector General
GS-17 Assistant Inspector General for Auditing
SES Assistant Inspector General for Investigations
SES *Assistant Inspector General for Planning, Research and Evaluation
SES Deputy Assistant Inspector General for Auditing
SES Deputy Assistant Inspector General for Investigations

OFFICE OF GOVERNMENTAL AND PUBLIC AFFAIRS

SES Associate Director

OFFICE OF THE GENERAL COUNSEL

SES Deputy General Counsel

OFFICE OF ADMINISTRATIVE LAW JUDGES

No Section 207(d)(1)(C) Designations

OFFICE OF PERSONNEL

SES Director

OFFICE OF EQUAL OPPORTUNITY

No Section 207(d)(1)(C) Designations

OFFICE OF OPERATIONS AND FINANCE

SES Director
SES Director, National Finance Center

OFFICE OF BUDGET, PLANNING AND EVALUATION

SES Director

WORLD FOOD AND AGRICULTURAL OUTLOOK AND SITUATION BOARD

SES Chairperson

ECONOMICS AND STATISTICS SERVICES

SES Administrator
SES Deputy Administrator for Statistics
SES Deputy Administrator for Economics

AGRICULTURAL COOPERATIVES SERVICE

SES Administrator

RURAL ELECTRIFICATION ADMINISTRATION

SES Deputy Administrator

FARMERS HOME ADMINISTRATION

SES Associate Administrator
SES Deputy Administrator, Financial and Administrative Operations
SES Deputy Administrator, Rural Development
SES Deputy Administrator, Farm and Family Programs
SES Associate Administrator for Rural Development Policy Management and Coordination

SCIENCE AND EDUCATION ADMINISTRATION

SES Director
SES Associate Director
SES Administrator, Human Nutrition Center
SES Associate Administrator, Human Nutrition Center
SES Assistant Director for Special Programs
SES *Deputy Chief for Planning and Evaluation
SES Administrator, Extension
SES Associate Administrator, Extension
SES Administrator, Cooperative Research
SES Associate Administrator, Cooperative Research
SES Deputy Director for Administrative Management
SES Administrator, Agricultural Research
SES Associate Administrator, Agricultural Research

SOIL CONSERVATION SERVICE

SES Chief
SES Associate Chief
SES Deputy Chief for Administration
SES Deputy Chief for Natural Resource Assessments
SES Deputy Chief for Technology Development and Application
SES *Deputy Chief for State and Local Operations
SES *Deputy Chief for Natural Resource Projects
SES *Deputy Chief for Planning and Evaluation

FOREST SERVICE

SES Chief
SES Associate Chief
SES Deputy Chief for Administration
SES Deputy Chief for Research
SES Associate Deputy Chiefs for Research (2)
GS-18 Deputy Chief, National Forest System
SES Associate Deputy Chiefs, National Forest System (2)
SES Deputy Chief, State and Private Forestry
GS-17 Associate Deputy Chief, State and Private Forestry
GS-16 Deputy Chief for Programs and Legislation
GS-17 Associate Deputy Chief for Programs and Legislation

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SES Administrator
SES Associate Administrator
SES Deputy Administrator, State and County Operations
SES Deputy Administrator, Management
SES Deputy Administrator, Commodity Operations

FEDERAL CROP INSURANCE CORPORATION

SES Manager
SES Deputy Manager

FOREIGN AGRICULTURAL SERVICE

SES Administrator
SES Associate Administrator
SES Deputy Assistant Administrator, Commodity Programs
SES Associate Administrator and General Sales Manager

FOOD SAFETY AND QUALITY SERVICE

SES Administrator
SES Associate Administrator
SES Deputy Administrator, Commodity Services
SES Deputy Administrator, Meat and Poultry Inspection, Field Operations
SES Deputy Administrator, Administrative Management

FOOD AND NUTRITION SERVICE

SES Administrator
SES Associate Administrator

AGRICULTURAL MARKETING SERVICE

SES Administrator
SES Deputy Administrator, Marketing Program Operations
SES Deputy Administrator, Packers and Stockyards

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SES Administrator
SES Associate Administrator
SES Deputy Administrator, Veterinary Services
SES Deputy Administrator, Plant Protection and Quarantine
SES Deputy Administrator for Management

FEDERAL GRAIN INSPECTION SERVICE

SES Deputy Administrator, Program Operations

AGENCY: DEPARTMENT OF COMMERCE

Positions:

OFFICE OF THE SECRETARY

SES Counsellor to the Secretary
SES Special Assistants to the Secretary (2)
SES Special Assistant Secretary for Regional Development

SES *Deputy Commissioner General of Section
SES Chairperson, Federal Regional Council, Region VI

Office of the Deputy Secretary

SES *Special Assistant to the Deputy Secretary

Office of the Associate Deputy Secretary

SES *Associate Deputy Secretary for Strategic Policy and Planning
SES Associate Deputy Secretary

Office of Congressional Affairs

SES Deputy Assistant Secretary
SES *Deputy Assistant Secretary

Office of Public Affairs

SES Director
SES Deputy Director

Office of General Counsel

SES Deputy General Counsel

Office of Assistant Secretary for Tourism

SES Deputy Assistant Secretary

Minority Business Development Agency

SES Director
SES Deputy Director
SES Associate Director for Policy and Market Development

Office of Assistant Secretary for Administration

SES *Deputy Assistant Secretary for Operations
SES *Deputy Assistant Secretary for Resources Management
SES Director, Office of Budget
SES *Deputy Assistant Secretary for Acquisition, Grants and Information

Office of the Chief Economist

SES Chief Economist
SES Deputy Chief Economist
SES Director, Office of Federal Statistical Policy and Standards

Bureau of Industrial Economics

SES Director
SES Deputy Director

Bureau of Economic Analysis

SES Director
SES Deputy Director

Office of Assistant Secretary for Productivity, Technology and Innovation

SES Deputy Assistant Secretary

Office of Environmental Affairs

SES Deputy Assistant Secretary

Office of Product Standards

SES Deputy Assistant Secretary

National Technical Information Service

SES Director
SES Deputy Director

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SES Deputy Assistant Secretary
SES Deputy Administrator for Operations

Office of Planning and Policy Coordination

SES Chief Counsel

Office of International Affairs

SES Director

Office of Federal Systems and Spectrum Management

SES Associate Administrator
SES Deputy Associate Administrator

Office of Policy Analysis and Development

SES Associate Administrator
SES Deputy Associate Administrator

Office of Telecommunications Applications

SES Associate Administrator
SES *Deputy Associate Administrator

Institute for Telecommunications Sciences

SES Associate Administrator
SES Deputy Associate Administrator

BUREAU OF THE CENSUS

SES Deputy Director

Demographic Fields

SES Associate Director

Information Technology

SES Associate Director

Statistical Standards and Methodology

SES Associate Director

Field Operations

SES Associate Director

Economic Fields

SES Associate Director

ECONOMIC DEVELOPMENT ADMINISTRATION

SES Deputy Assistant Secretary
SES Deputy Assistant Secretary for Development Finance

Office of Chief Counsel

SES Chief Counsel

Office of Special Projects

SES Director

Economic Development Policy and Planning

SES Deputy Assistant Secretary

Economic Development Operations

SES Deputy Assistant Secretary

Office of Public Works

SES Director

INTERNATIONAL TRADE ADMINISTRATION

SES Deputy Under Secretary
SES *Director General of the Foreign Commercial Service

Office of the Assistant Secretary for International Economic Policy

SES Deputy Assistant Secretary
SES Deputy Assistant Secretary for Textiles and Apparel
SES Deputy Assistant Secretary for Trade Agreements
SES Deputy Assistant Secretary for Finance, Investment and Services

SES Deputy Assistant Secretary for Policy Planning and Analysis

Office of the Assistant Secretary for Trade Administration

SES Deputy Assistant Secretary for Import Administration
SES Deputy to the Deputy
SES Deputy Assistant Secretary
SES Deputy to the Deputy Assistant Secretary

Office of the Assistant Secretary for Trade Development

SES Deputy Assistant Secretary (2)
SES Deputy Assistant Secretary for U.S. Commercial Service
SES Deputy to the Deputy Assistant Secretary
SES Deputy Assistant Secretary for East-West Trade

MARITIME ADMINISTRATION

SES Deputy Assistant Secretary
SES *Assistant Administrator for Marketing and Domestic Enterprise

Office of the General Counsel

SES General Counsel
SES Deputy General Counsel

Policy and Administration

SES Assistant Administrator

Maritime Aids

SES Assistant Administrator
SES Deputy Assistant Administrator for Maritime Aids (Trade)
SES Deputy Assistant Administrator for Maritime Aids (Finance)

Assistant Secretary for Maritime Affairs

SES Assistant Administrator for Shipbuilding and Ship Operations
SES Director, Office of Ship Operations
SES Director, Office of Ship Construction
SES Director, Office of Shipbuilding Costs

Research Development

SES Assistant Administrator
SES Deputy Assistant Administrator

U.S. Merchant Marine Academy

SES Superintendent

NATIONAL BUREAU OF STANDARDS

SES Deputy Director
SES Associate Director for International Affairs

Office of Associate Director for Programs, Budget and Finance

SES Director, Planning Office

National Measurement Laboratory

SES Director
SES Deputy Director for Resources and Operations

National Engineering Laboratory

SES Director
SES Deputy Director

Institute for Computer Sciences and Technology

SES Director
SES Deputy Director

SES Associate Director for Automatic Data Processing Standards

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

GS-17 Special Counsel for Law of the Sea

Office of the General Counsel

SES General Counsel

Office of Policy and Planning

SES Assistant Administrator

Coastal Zone Management

SES Assistant Administrator

National Marine Fisheries Service

SES Assistant Administrator for Fisheries
SES Deputy Assistant Administrator

Office of Research and Development

SES Assistant Administrator for Research and Development

Environmental Research Laboratories

SES Director

Office of Sea Grants

SES Director

Oceanic and Atmospheric Services

SES Assistant Administrator
SES Deputy Assistant Administrator

National Weather Service

SES Director
SES Deputy Director

National Ocean Survey

07-08 Director
SES Deputy Director

Environmental Data and Information Service

SES Director
SES Deputy Director

National Earth Satellite Service

SES Assistant Administrator
SES Deputy Assistant Administrator
SES Deputy Director

NOAA CORPS

07-08 Director

PATENT AND TRADEMARK OFFICE

GS-16 Deputy Commissioner

Office of Assistant Commissioner for Patents

GS-16 Assistant Commissioner
SES Deputy Assistant Commissioner

Office of Assistant Commissioner for Trademarks

GS-17 Assistant Commissioner
SES Deputy Assistant Commissioner

Office of the Solicitor

SES Solicitor
SES Deputy Solicitor

AGENCY: DEPARTMENT OF DEFENSE

Positions:

Office of the Secretary of Defense

SES *The Executive Assistant to the Deputy Secretary of Defense
SES *The Special Assistant to the Secretary and Deputy Secretary of Defense
SES *Inspector General for Defense Intelligence

U.S. Mission to NATO and International Military Activities Staff

SES *Defense Advisor, U.S Mission to NATO
SES *Deputy Defense Advisor for Research Engineering and Acquisition
SES *Director, Defense Plans Division
SES *Director, Communications and Electronics Division

Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics)

SES Principal Deputy Assistant Secretary
SES Special Assistant for Weapons Support
SES Senior Advisor to ASD (MRA&L) and Director, Office of Economic Adjustment (OEA)
SES Deputy Director, OEA
SES Deputy Assistant Secretary, Equal Opportunity
SES Director for Equal Opportunity (Military)
SES Director for Equal Opportunity (Civilian)
SES Deputy Assistant Secretary, Program Management
SES Staff Director, Program Management (PM)
SES Director for Department of Defense Dependent Schools
SES Deputy Assistant Secretary, Supply, Maintenance, and Transportation (SM&T)
SES Director for Supply Management Policy (SM&T)
SES Director for Transportation and Distribution Policy (SM&T)
SES Director for Maintenance Policy (SM&T)
SES Deputy Assistant Secretary, Installation & Housing (I&H)
SES Director for Installation Management and Planning (I&H)
SES Director for Construction Standards and Design (I&H)
SES Director for Facilities Programming (I&H)
O-7 Director for Construction Operations & Facilities Management (I&H)
SES Special Assistant to the DASD, Reserve Affairs
O-8 Deputy Assistant Secretary, Military Personnel Policy (MP)
SES Deputy Assistant Secretary, Civilian Personnel Policy (CP)
SES Director for Compensation & Position Management (CP)
SES Director for Staffing and Career Management (CP)
SES Director for Labor/Management Relations (CP)
SES Director, Overseas & Nonappropriated Funds Personnel Policy (CP)
SES Deputy Assistant Secretary, Energy, Environment, and Safety (EES)
SES Director for Energy Policy (EES)
SES Director for Safety and Occupation Health Policy (EES)
SES Deputy Assistant Secretary, Requirements, Resources & Analysis (RRA)
SES Director for Resource Management and Analysis (RRA)
SES Director for Logistics Programs, Budget & Analysis (RRA)
SES Director for Research & Data (RRA)
SES Director for International Logistics & Support Analysis (RRA)
SES Director, Special Projects
SES Director, Organizational Programs

Under Secretary of Defense (Policy)

SES Deputy Under Secretary of Defense (Policy), OUSD/P
SES Principal Deputy Assistant Secretary of Defense, International Security Affairs
FSO Deputy Assistant Secretary of Defense, Inter-American Affairs, OASD/ISA
SES Deputy Assistant Secretary of Defense, European & NATO Affairs, OASD-ISA
SES Deputy Assistant Secretary of Defense, East Asia & Pacific Affairs, OASD/ISA
SES Deputy Assistant Secretary of Defense, Near Eastern, African and South Asian Affairs, OASD/ISA
SES Deputy Assistant Secretary of Defense, International, Economic and Energy Affairs, OASD/ISA
O-8 Director, Near Eastern & South Asian Region, OASD/ISA
SES Director, Foreign Military Rights Affairs, OASD/ISA
SES Director, Africa Region, OASD/ISA
SES Director, International Economic and Energy Affairs, OASD/ISA
O-8 Director, European and NATO Affairs, OASD/ISP
O-8 Principal Deputy Assistant Secretary of Defense, (International Security Policy)
SES Director, General Purposes Forces Policy, OASD/ISA
SES Director, Theater Nuclear Policy, OASD/ISP
SES Director, Strategic Force Policy OASD/ISP
SES Deputy Director, DOD SALT Task Force, OASD/ISP
SES Deputy Director, Policy and Plans, OASD/ISA
O-8 Director, Intelligence and Space Policy, ODUSD/P
SES Assistant Deputy Under Secretary of Defense (Policy), ODUSD/P
SES Director for Communications, Command and Control Policy, ODUSD/P
SES *Director, Information Security, ODUSD/P
SES Director for Counterintelligence and Security Policy, ODUSD/P
SES Director, Net Assessment
SES Deputy Director, Net Assessment
SES *Director, Defense Security Assistance Agency
O-8 Deputy Director, DSAA
SES Comptroller, DSAA
SES *Deputy Comptroller, DSAA
SES Director, Security Assistance Operations, DSAA
SES Director, Security Assistance Policy and Plans, OASD/ISA
SES *Deputy Assistant Secretary, International Economics, Trade and Security Policy, OASD/ISP
SES *Assistant Deputy Director for Strategic Systems and Senior OSD Advisor (SALT Overseas Element), DOD SALT Task Force, OASD/ISP

SES *Director, MBFR Task Force, OASD/ISP
SES *SECDKF Representative, MBFR Negotiations, OASD/ISP
SES *Deputy Director, EUR/NATO Affairs, OASD/ISP
SES *Director, Counterintelligence and Investigative Programs, ODUSD/P
SES *Director, Special Advisory Staff, ODUSD/P
SES *Deputy Assistant Secretary, Inter-American Affairs, OASD/ISA

Assistant Secretary of Defense (Comptroller)

SES Principal Deputy Assistant Secretary (Comptroller)
SES Deputy Assistant Secretary (Program Budget)
SES Director for Program and Financial Control
SES Director for Construction
SES Director for Procurement
SES Director for Research and Development
SES Director for Operations
SES Deputy Assistant Secretary (Management Systems)
SES Principal Assistant to Deputy Assistant Secretary (Management Systems)
SES Director for Accounting Policy
SES Deputy Assistant Secretary (Audit)
SES Director, Defense Audit Service
SES Deputy Controller for Audit Policy
SES Deputy Assistant Secretary (Administration), Director Washington Headquarters Services
SES Director for Data Automation
SES Director for Management Information Control and Analysis
SES Director for Banking, International Financial and Professional Development
SES *Director, Organizational and Management Planning, DASD/ADMIN

Assistant Secretary of Defense (Program Analysis and Evaluation)

SES Principal Deputy Assistant Secretary (Program Analysis and Evaluation)
SES Deputy Assistant Secretary (General Purpose Programs)
SES Deputy Assistant Secretary (Strategic Programs)
SES Deputy Assistant Secretary (Regional Programs)
SES Deputy Assistant Secretary (Resource Analysis)
SES Director, Land Forces Division
SES Director, Mobility Forces Division
SES Director, Naval Forces Division
SES Director, Tactical Air Division
SES Director, Asia Division
SES Director, Europe Division
SES Director, Special Regional Studies Division
SES Director, Cost and Economic Analysis Division
SES Director, Strategic Offensive Forces and Arms Limitations Division
SES Director, Strategic Defensive and Theater Nuclear Forces Division

Assistant Secretary of Defense (Public Affairs)

SES Principal Deputy Assistant Secretary (Public Affairs)
O–8 Deputy Assistant Secretary (Public Affairs)
SES Director, American Forces Information Service
SES Director for Freedom of Information and Security Review

Assistant to the Secretary of Defense (Atomic Energy)

O–8 Deputy Assistant (Atomic Energy), (Military Applications)
SES Deputy Assistant (Atomic Energy), (Assessment)
SES *Deputy Assistant (Atomic Energy), (Long Range Resource Planning)

Assistant Secretary of Defense (Health Affairs)

SES Principal Deputy Assistant Secretary of Defense (Health Affairs)
O–8 Deputy Assistant Secretary (Health Resources & Programs)
O–7 Deputy Assistant Secretary (Drug and Alcohol Abuse Prevention)
SES *Deputy Assistant Secretary (Health Systems)
SES *Director, Office of Civilian Health and Medical Program of the Uniformed Services

Defense Advanced Research Projects Agency

SES *Director, Defense Advanced Research Projects Agency
SES Director, Tactical Technology Office
SES *Deputy Director, Defense Advanced Research Projects Agency
SES Director, Strategic Technology Office
SES Director, Information Processing Techniques Office
SES Director, Directed Energy Office

Joint Chiefs of Staff

O–7/O–8 Vice Director, Joint Staff
O–7/O–8 Vice Director, Plans and Policy Directorate
O–7/O–8 Deputy Director for Tactical Theater Systems, Command Control and Communications Systems Directorate

Under Secretary of Defense for Research and Engineering and Assistant Secretary of Defense (Communications, Command, Control and Intelligence)

SES *Staff Specialist for International Programs and Policy
SES Deputy Under Secretary R&E (Acquisition Policy)
SES Deputy Under Secretary R&E (International Programs and Technology)
SES Deputy Under Secretary R&E (Research and Advanced Technology)
SES Deputy Under Secretary R&E (Strategic and Space Systems)
SES Deputy Under Secretary R&E (Tactical Warfare Programs)
SES Director, Defense Test & Evaluation
SES *Director, Material Acquisition Policy
SES *Deputy Director, Production Resources
SES *Director, Contracts and Systems Acquisition
SES *Deputy Director, Defense Acquisition Regulatory System
SES *Deputy Director, Major Systems Acquisition
SES *Director, Electronics and Physical Sciences
SES *Director, Engineering Technology
SES *Director, Directed Energy Programs
SES *Director, Defensive Systems
SES *Director, Cruise Missile Systems
SES *Director, Offensive and Space Systems
SES *Director, Office of Land Warfare
SES *Director, Naval Warfare
SES *Director, Office of Air Warfare
SES *Deputy Director for Test Facilities and Resources
SES *Director, Technology Trade
SES *Director, Technology Export
SES *Director, for NATO/European Affairs
SES *Deputy Under Secretary of Defense R&E (Communications, Command, Control and Intelligence)
SES *Deputy Assistant Secretary (Communications, Command and Control)
SES *Deputy Assistant Secretary (Technical Policy and Operations)
SES *Director, Communications Systems
SES *Deputy Assistant Secretary (Intelligence)
SES *Director, National Intelligence Systems
SES *Director, Theater and Tactical Communications, Command and Control
SES *Director, Electronic Warfare and C³ Countermeasures
SES *Staff Specialist for WWMCCS and Other C³ Systems Architecture
SES *Director, Systems Research and Evaluation
SES *Director, C³ Resources
SES *Director, Tactical Intelligence Systems
SES *Director, Information Systems

Office of Small Business and Economic Utilization Policy

SES *Director, Small and Disadvantaged Business Utilization
SES *Director, Disadvantaged Business Utilization Policy
SES *Director, Small Business and Economic Utilization Policy

Washington Headquarters Services

SES *Director, Space Management and Services
SES *Director, Information, Operations and Reports
SES *Director, Personnel and Security
SES *Director, Budget and Finance

DEFENSE AUDIT SERVICE

SES *Deputy Director

DEFENSE CONTRACT AUDIT AGENCY

SES *Director
SES *Deputy Director

AGENCY: DEPARTMENT OF THE AIR FORCE

Positions:

Civilian

OFFICE OF THE SECRETARY OF THE AIR FORCE

Under Secretary of the Air Force

SES Deputy Under Secretary of the Air Force (Space Systems)

Assistant Secretary of the Air Force (Financial Management)

SES Principal Deputy Assistant Secretary of the Air Force (Financial Management)

SES Principal Deputy Assistant Secretary for Programs and Budget
SES *Deputy for Data Automation
SES Deputy for Financial Systems and Analysis
SES The Auditor General
SES Director of Acquisition and Logistics Systems, Air Force Audit Agency

Assistant Secretary of the Air Force (Manpower, Reserve Affairs and Installations)

SES *Principal Deputy Assistant Secretary of the Air Force (Manpower, Reserve Affairs and Installations)
SES Principal Deputy Assistant Secretary for Installations
SES Principal Deputy Assistant Secretary for Manpower Resources and Military Personnel
SES Deputy Assistant Secretary (Reserve Affairs)

Assistant Secretary of the Air Force (Research, Development and Logistics)

SES Principal Deputy Assistant Secretary of the Air Force (Research, Development and Logistics)
SES Deputy Assistant Secretary for Logistics
SES Deputy Assistant Secretary for Programs and Acquisitions
SES Deputy for Acquisition
SES Deputy for Programs and Production
SES Deputy for Supply and Maintenance
SES Deputy for Transportation and Civil Aviation

Administrative Assistant to the Secretary of the Air Force

SES Administrative Assistant to the Secretary of the Air Force

General Counsel

SES The General Counsel
SES Deputy General Counsel
SES Assistant General Counsel, Procurement

Office of Space Systems

SES Director, Office of Space Systems

COMPTROLLER OF THE AIR FORCE

SES Deputy Comptroller of the Air Force
SES Assistant Director, Budget
SES Deputy Director, Air Force Accounting and Finance Center

DEPUTY CHIEF OF STAFF, LOGISTICS AND ENGINEERING

SES Associate Director, Engineering and Services
SES Associate Director, Logistics Plans and Programs
SES *Deputy Director, Air Force Commissary Service

DEPUTY CHIEF OF STAFF, MANPOWER AND PERSONNEL

SES Deputy Assistant Secretary (Civilian Personnel Policy); and Director of Civilian Personnel

DEPUTY CHIEF OF STAFF, RESEARCH, DEVELOPMENT AND ACQUISITION

SES Director, Office of Small and Disadvantaged Business Utilization
SES Associate Director, Contracting and Manufacturing Policy

AIR FORCE LOGISTICS COMMAND

SES Chairperson, Air Force Logistics Command Procurement Committee
SES Director, Materiel Requirements and Financial Resource Management
SES Assistant Deputy Chief of Staff, Logistics Operations
SES Assistant Deputy Chief of Staff, Maintenance
SES Assistant Deputy Chief of Staff, Plans and Programs
SES Assistant Deputy Chief of Staff, Procurement and Production
SES Deputy for Contracting and Manufacturing, Air Force Acquisition Logistics Division
SES Deputy Director, Materiel Management, Ogden Air Logistics Center
SES Deputy Director, Materiel Management, Oklahoma City Air Logistics Center
SES Deputy Director, Materiel Management, Sacramento Air Logistics Center
SES Deputy Director, Materiel Management, San Antonio Air Logistics Center
SES Deputy Director, Materiel Management, Warner Robins Air Logistics Center

AIR FORCE SYSTEMS COMMAND (AFSC)

Headquarters AFSC

SES Principal Assistant Deputy Chief of Staff, Contracting and Manufacturing
SES Chairman, Contract Review Committee
SES Director of Manufacturing

Aeronautical Systems Division

SES Assistant Deputy for Contracting and Manufacturing

Electronics Systems Division

SES Assistant Deputy for Contracting and Manufacturing
SES Deputy for Technical Operations

Space Division

SES Assistant Deputy for Contracting and Manufacturing

AIR FORCE WEAPONS LABORATORY

SES Research and Development Executive (Director, AFWL)

AIR FORCE WRIGHT AERONAUTICAL LABORATORIES

Air Force Materials Laboratory

SES Research and Development Executive (Director, AFML)

AIR FORCE OFFICE OF SCIENTIFIC RESEARCH

SES Research and Development Executive (Director, AFOSR)
SES Director, Aerospace Sciences
SES Director, Chemical Sciences
SES Director, Electronics and Solid State Sciences
SES Director, Life Sciences
SES Director, Mathematical and Information Sciences

Military

OFFICE OF THE SECRETARY OF THE AIR FORCE

O–7/O–8 Commander, Air Force Audit Agency; and Deputy Auditor General
O–7/O–8 Director of Special Projects; and Deputy Commander for Space Operations, Space Division (AFSC)

OFFICE OF AIR FORCE RESERVE

O–7/O–8 Chief of Air Force Reserve; and Commander, Air Force Reserve

NATIONAL GUARD BUREAU

O–7/O–8 Director, Air National Guard

ASSISTANT CHIEF OF STAFF, STUDIES AND ANALYSIS

O–7/O–8 Assistant Chief of Staff, Studies and Analysis

OFFICE OF THE JUDGE ADVOCATE GENERAL

O–7/O–8 The Judge Advocate General; and Commander, Air Force Legal Services Center
O–7/O–8 Deputy Judge Advocate General

COMPTROLLER OF THE AIR FORCE

O–7/O–8 Director, Budget
O–7/O–8 Deputy Director, Budget
O–7/O–8 Commander, Air Force Accounting and Finance Center; Assistant Comptroller for Accounting and Finance; and Assistant Director, Security Assistance Accounting, Defense Security Assistance Agency

DEPUTY CHIEF OF STAFF, LOGISTICS AND ENGINEERING

O–7/O–8 Director, Logistics Plans and Programs
O–7/O–8 *Deputy Director, Logistics Plans and Programs
O–7/O–8 Director, Engineering and Services
O–7/O–8 *Director, Regional Engineer, M–X
O–7/O–8 Director, Transportation
O–7/O–8 Commander, Air Force Commissary Service

DEPUTY CHIEF OF STAFF, PROGRAMS AND EVALUATION

O–7/O–8 *Assistant Deputy Chief of Staff, Programs and Evaluation
O–7/O–8 Director, Programs
O–7/O–8 Director, International Programs

DEPUTY CHIEF OF STAFF, RESEARCH, DEVELOPMENT AND ACQUISITION

O–7/O–8 Assistant Deputy Chief of Staff, Research, Development and Acquisition
O–7/O–8 Director, Space Systems and Command, Control, Communications
O–7/O–8 Director, Contracting and Manufacturing Policy
O–7/O–8 Director, Development and Production
O–7/O–8 Special Assistant for M–X Matters

DEPUTY CHIEF OF STAFF, PLANS AND OPERATIONS

O–7/O–8 Director, Plans

AIR FORCE COMMUNICATIONS COMMAND

O–7/O–8 Commander, Air Force Communications Command

AIR FORCE LOGISTICS COMMAND

O–7/O–8 Chief of Staff
O–7/O–8 Deputy Chief of Staff, Contracting and Manufacturing
O–7/O–8 Deputy Chief of Staff, Logistics Operations
O–7/O–8 Deputy Chief of Staff, Maintenance
O–7/O–8 Deputy Chief of Staff, Plans and Programs
O–7/O–8 Staff Judge Advocate
O–7/O–8 Vice Commander, Air Force Acquisition Logistics Division
O–7/O–8 Commander, Air Force Logistics Command International Logistics Center; and Assistant for International Logistics
O–7/O–8 Commander, Ogden Air Logistics Center
O–7/O–8 Commander, Oklahoma City Air Logistics Center
O–7/O–8 Commander, Sacramento Air Logistics Center
O–7/O–8 Commander, San Antonio Air Logistics Command
O–7/O–8 Commander, Warner Robins Air Logistics Center

AIR FORCE SYSTEMS COMMAND

O–7/O–8 Deputy Chief of Staff, Contracting and Manufacturing
O–7/O–8 Deputy Chief of Staff, Systems
O–7/O–8 Director, Laboratories
O–7/O–8 Staff Judge Advocate
O–7/O–8 Vice Commander, Aeronautical Systems Division (ASD)
O–7/O–8 Deputy for Airlift and Trainer Systems; and C–X System Program Director, ASD
O–7/O–8 *Deputy for Tactical Systems, ASD
O–7/O–8 Deputy for F–16, ASD
O–7/O–8 Vice Commander, Electronics Systems Division (ESD)
O–7/O–8 Deputy for Airborne Warning and Control Systems, ESD
O–7/O–8 Vice Commander, Space Division
O–7/O–8 *Deputy for Space Launch and Control Systems; and System Program Director, Space Transportation System (Space Shuttle), Space Division
O–7/O–8 Commander, Armament Division
O–7/O–8 Deputy Commander, Development and Acquisition, Armament Division
O–7/O–8 Commander, Air Force Contract Management Division
O–7/O–8 Commander, Ballistic Missile Office
O–7/O–8 *Vice Commander, Ballistic Missile Office

MILITARY AIRLIFT COMMAND

O–7/O–8 Deputy Chief of Staff, Air Transportation

AGENCY: DEPARTMENT OF THE ARMY

Positions:

Office, Secretary of the Army

SES Administrative Assistant to the Secretary of the Army
SES Deputy Administrative Assistant

Office of the General Counsel

SES General Counsel
SES Principal Deputy General Counsel

Office of the Under Secretary

SES *Deputy Under Secretary of the Army
SES Deputy Under Secretary of the Army (Operations Res)

Office, Assistant Secretary of the Army (Installations, Logistics and Financial Management)

SES Principal Deputy ASA (IL&FM)
SES Deputy for Installations & Housing
SES Deputy for Logistics
SES Assistant Deputy for Installations and Housing
SES Assistant Deputy for Logistics
SES Deputy for Resource Analysis
SES Deputy for Management System
SES Assistant Deputy for Resource Analysis
SES Deputy for Environment Safety and Occupational Health

Office, Assistant Secretary of the Army (Manpower and Reserve Affairs)

SES Principal Deputy and Deputy ASA for Reserve Affairs (M&RA)
SES Deputy ASA (DA Review Boards and Personnel Security)

Office, Small and Disadvantaged Business Utilization

SES Director, Small and Disadvantaged Business Utilization

Office, Assistant Secretary of the Army (Civil Works)

SES Principal Deputy ASA (CW)

Office, Assistant Secretary of the Army (Research, Development and Acquisition)

SES Deputy ASA (R&D)
SES Deputy ASA (Acquisition)
SES Deputy for Science and Technology
SES Deputy for Materiel Acquisition Management
SES Deputy for Procurement Policy
SES Deputy for Management and Budget
SES Deputy for Air and Missile Defense
SES Deputy for Communications and Target Acquisition
SES Associate Director for Procurement and Management Review

Ballistic Missile Defense Program Office (Washington)

SES Deputy BMD Program Manager
SES Director, BMDPO

Ballistic Missile Defense Systems Command (Huntsville)

SES Chief, Contracts Office
SES Director, Systems Technology Project Office

Ballistic Missile Defense Advance Technology Center (Huntsville)

SES Director, BMD Advance Technical Center

Office of the Chief of Staff

SES Director, Study Management Program

US Army Operational Test and Evaluation Agency (OCSA)

SES Scientific Advisor

Assistant Chief of Staff for Automation and Communications

SES Deputy Assistant Chief of Staff Auto and Commo
SES Director, USA Management Systems Spt Agency
SES Director, US Army Computer Systems Selection Acquisition Agency

Deputy Chief of Staff for Logistics

SES Special Assistant to the DCSLOG/ Chief Aviation Logistics

Program Analysis and Evaluation Directorate (OCSA)

SES Deputy Director for Programming

Comptroller of the Army

SES Deputy Comptroller

Army Audit Agency (OSA)

SES The Auditor General (OCSA)
SES Deputy Auditor General (OSA)
SES *Director, Personnel and Force Management Audits (OSA)
SES *Director, Audit Policy, Plans, and Resources (OSA)
SES Director, Logistical and Financial Audits (OSA)
SES Director, Acquisition and Systems Audits (OSA)

Office of the Judge Advocate General

SES Special Assistant for Comm, Trans and Utilities

US Army Materiel Development and Readiness Command (DARCOM) Headquarters

SES Deputy Comptroller
SES Command Counsel
SES Deputy Command Counsel
SES Chief, Patent Law Division
SES Director, Management Information Systems
SES Director for Quality Assurance
SES Principal Assistant Deputy for Materiel Development
SES *Assistant Deputy for Resources and Management
SES Assistant Deputy for Science and Technology
SES Assistant Deputy for International Research, Development and Standardization
SES Chief, Office of Manufacturing Technology
SES Deputy Director for Development and Engineering
SES *Associate Director for Materiel Programs
SES Assistant Deputy for Materiel Readiness
SES Deputy Director for Materiel Management
SES Associate Director for Procurement
SES Deputy Director, Security Assistance
SES Deputy Director for Procurement and Production

Nuclear Munitions Project Office

SES Deputy Project Manager

Project Office (PATRIOT)

SES Deputy Project Manager

BETA Joint Project Office

SES Director, Beta Joint Project Office

US Army Materiel Systems Analysis Agency (AMSAA)

SES Director, Army Materiel Systems Analysis Agency

US Army Materiels and Mechanics Research Center (AMMRC)

SES Director

Army Research Office (ARO) Durham

SES Technical Director
SES Director, Electronics Division
SES Director, Metallurgy and Materiels Science
SES Director, Physics Division
SES Director, Mathematics Division
SES Director, Engineering Sciences Division

US Army Armament research & Development Command (ARRADCOM) Headquarters

SES Technical Director

Ballistic Research Laboratory

SES *Director, Ballistic Research Laboratory

US Army Armament Materiel Readiness Command (ARRCOM)

SES Deputy for Procurement and Production
SES *Chief Counsel

Chemical Systems Lab

SES Deputy Director

Large Caliber Weapon Systems Laboratory

SES Deputy Director

Small Caliber Weapon Systems Lab

SES Deputy Director

US Army Aviation R&D Command (AVRADCOM) Headquarters

SES Technical Director
SES Director, Aeromechanics Lab
SES Director, Structures Lab
SES Director, Propulsion Lab
SES Director, Research & Technology Lab

US Army Communication and Electronics Materiel Readiness Command (CERCOM)

SES Chief Counsel

US Army Communications R&D Command (CORADCOM)

SES Technical Director
SES Director, Communications System Center
SES Director, Tactical Computer Systems Center
SES Director, Systems Engineering and Integration Center
SES Technical Director, (SATCOMA)
SES Deputy Project Manager, (ARTADS)

US Army Depot Systems Command (DESCOM)

SES Deputy for Tactical Operations

US Army Electronics R&D Command (ERADCOM) Headquarters

SES Technical Director
SES Director, Night Vision & Electronic Optics Lab
SES Director, Signals Warfare Lab
SES Director, Electronic Warfare Lab
SES Director, Electronics Technology & Devices Lab
SES Deputy Director, Combat Surveillance & Target Acquisition Lab
SES Technical Director, Harry Diamond Lab

Mobility Equipment Research and Development Command (MERADCOM)

SES Technical Director

US Army Missile Command (MICOM)

SES *Technical Director and Director, Army Missile Lab
SES Director for Procurement and Production
SES Chief Counsel
SES Deputy Project Manager, Roland
SES *Assistant Director for Readiness
SES *Deputy Director, Missile Intelligence Agency

Natick Research & Development Command (NARADCOM)

SES Technical Director
SES Director, Clothing, Equipment & Materiel Engineering Lab
SES Director, Food Sciences Lab
SES Director, Food Engineering Lab
SES Deputy Technical Director, Food Service System Program

XM–1 Tank Systems Project Office

SES Chief Engineer/Chief Systems Engineering Division

Office of the Project Manager, Fighting Vehicle Systems (FVS)

SES Deputy Project Manager

US Army Tank-Automotive Command (TACOM)

SES Chief Counsel
SES Director, Procurement & Production
SES Technical Director

US Army Test and Evaluation Command (TECOM)

SES Technical Director
SES Director for Analysis
SES Associate Director, Materiel Test Dir (APG)
SES Scientific Director (DPG)
SES Technical Director, Elec Prov Grnd (EPG)
SES Technical Director, National Range Opinions (WSMR)
SES Technical Director & Chief Scientist (WSMR)

US Army Troop Support and Aviation Materiel Readiness Command (TSARCOM)

SES Director for Procurement & Production

Foreign Science and Technology Center

SES Deputy Director, FSTC

US Army Human Engineering Laboratory

SES Director, HEL

Army Materiel and Mechanics Research Center (AMMRC)

SES Director, AMMRC

TRADOC SYSTEM ANALYSIS ACTIVITY (WSMR)

SES Director, TRASANA

THE ARMY STAFF

O–8 Director, Management
O–8 Chief, Army Force Modernization Coordination Office
O–8 Director, Program Analysis and Evaluation
O–8 Assistant Deputy Chief of Staff for Personnel
O–8 Assistant Deputy Chief of Staff for Operations and Plans
O–8 Assistant Deputy Chief of Staff for Operations and Plans for Joint Affairs
O–8 Assistant Deputy Chief of Staff for Logistics
O–8 ADCSRDA and ADCSRDA for International Programs
O–8 Director of Army Budget
O–8 Chief, Army Reserve
O–7 Deputy Chief, Army Reserve
O–8 Director, Army National Guard
O–8 Assistant Chief of Staff for Automation and Communications
O–7 Director of Network Integration
O–8 Assistant Chief of Staff for Intelligence
O–7 Deputy Assistant Chief of Staff for Intelligence
O–8 The Adjutant General
O–7 Deputy TAG
O–8 Chief of chaplains
O–8 The Judge Advocate General
O–8 The Assistant Judge Advocate General
O–8 The Deputy Surgeon General
O–7 Assistant Surgeon General (Research and Development)
O–8 Deputy Chief of Engineers and Chairman, Board of Engineers for Rivers and Harbors

ARMY STAFF FIELD OPERATING AGENCIES

Office, Chief of Staff

O–8 Commanding General, Ballistic Missile Defense Systems Command, Huntsville, Alabama
O–8 Commanding General, US Army Operational Test and Evaluation Agency, Falls Church, Virginia

Office, Deputy Chief of Staff for Personnel

O–8 Commanding General, USA Military Personnel Center, Alexandria, Virginia
O–8 Commanding General, USA Recruiting Command, Fort Sheridan, Illinois
O–7 Deputy Commanding Generals, USA Recruiting Command, Fort Sheridan, Illinois(2)
O–7 Deputy Superintendent, US Military Academy—West Point, New York

Office, Deputy Chief of Staff for Logistics

O–7 Commanding General, US Army Troop Support Agency, Fort Lee, Virginia

Office, Assistant Chief of Staff for Automation and Communications

O–8 Commanding General, US Army Computer Systems Command, Fort Belvoir, Virginia
O–7 Deputy Commanding General, US Army Computer Systems Command, Fort Belvoir, Virginia

Office, The Adjutant General

O–7 Commanding General, US Army Reserve Components Personnel and Administration, St. Louis, Missouri

Office, The Judge Advocate General

O–7 Commanding General, Chief Judge, US Army Legal Services Agency/United States Court of Military Review, Falls Church, Virginia

Office, The Surgeon General

O–7/O–8 Commanding General, US Army Medical Research and Development Command, Fort Detrick, Maryland

US Army Training and Doctrine Command—FORT MONROE, VIRGINIA

O–8 Chief of Staff
O–8 Deputy Chief of Staff, Combat Developments
O–7 Commanding General, Combat Developments Experimentation Command, Fort Ord, California
O–8 Commanding General, TRADOC Combined Arms Test Activity, Fort Hood, Texas

US Army Materiel Development and Readiness Command, Alexandria, Virginia

O–8 Deputy Commander For Resources and Management
O–7/O–8 Director, Development and Engineering
O–8 Director, Procurement and Production
O–7 Director, Materiel Management
O–7/O–8 Director, U.S. Army Security Assistance Center
O–8 Comptroller
O–8 Commanding General, US Army Tank-Automotive Command, Warren, Michigan
O–7 Deputy Commanding General for Research and Development, US Army Tank-Automotive Command, Warren, Michigan
O–8 Command General, US Army Aviation Research and Development Command, St. Louis, Missouri
O–8 Commanding General, US Army Troop Support and Aviation Materiel Readiness Command—St. Louis, Missouri
O–7 *Deputy Director/Commander, US Army Materiel Systems Analysis Activity (AMSAA)
O–7 Deputy Commanding General, US Army Troop Support and Aviation Materiel Readiness Command—St. Louis, Missouri
O–8 Commanding General, US Army Armament Materiel Readiness Command—Rock Island, Illinois
O–7 Deputy Commanding General, US Army Armament Materiel Readiness Command—Rock Island, Illinois
O–8 Commanding General, US Army Armament Research and Development Command—Picatinny Arsenal, New Jersey
O–7 Deputy Commanding General, US Army Armament Research and Development Command—Picatinny Arsenal, New Jersey
O–8 Commander, US Army Missile Command—Redstone Arsenal, Alabama
O–7 Deputy Commander, US Army Missile Command—Redstone Arsenal, Alabama
O–7 Deputy Commander/Deputy for Research and Development, U.S. Army Missile Command
O–7 Project Manager, Roland US Army Missile Command—Redstone Arsenal, Alabama
O–8 Commanding General, US Army Communications and Electronics Materiel Readiness Command
O–7 Deputy Commander/Deputy for Procurement, US Army Communications and Electronics Materiel Readiness Command
O–7 Project Manager, ARTADS/Deputy Commander, US Army Communications and Electronics Materiel Readiness Command
O–8 Commanding General, US Army Electronics Research and Development Command—Adelphi, Maryland
O–8 Commanding General, US Army Test and Evaluation Command—Aberdeen Proving Grounds, Maryland
O–7 Commanding General, White Sands Missile Range—White Sands, New Mexico
O–8 Commanding General, US Army Communication Research and Development Command, Fort Monmouth, New Jersey
O–7 Commanding General, US Army Depot System Command—Chambersburg, Pennsylvania
O–8 Project Manager, Separate Project Managers XM–1 Tank—Warren, Michigan
O–8 Project Manager, Patriot—Redstone Arsenal, Alabama
O–7 Project Manager, Fighting Vehicle Systems—Warren, Michigan
O–7 Program Manager, Advanced Attack Helicopter Program—St. Louis, Missouri
O–7 Project Manager, Saudi Arabian National Guard Modernization—Saudi Arabia

U.S. Army Communications Command

O–8 Commanding General, US Army Communications Command, Fort Huachuca, Arizona
O–7 Commanding General, US Army Communications Systems Agency, Fort Monmouth, New Jersey

Other Commands

O–8 Commander, Military Traffic Management Command, Washington, D.C.
O–8 Commanding General, US Army Intelligence and Security Command, Arlington, Virginia
O–8 Commanding General, US Army Military District of Washington, Washington, D.C.
O–8 Commanding General, US Army Criminal Investigation Command, Falls Church, Virginia
O–8 Commanding General, US Army Health Services Command, Fort Sam Houston, Texas

MAJOR OVERSEAS COMMANDS

US Army, Europe and Seventh Army

O–8 Chief of Staff
O–8 Deputy Chief of Staff, Engineer
O–8 Commanding General, US Army Southern European Task Force

U.S. Army Japan/IX Corps

O–7/O–8 Chief of Staff, United States Army, Japan/IX Corps

U.S. Army Western Command

O–8 Commanding General, US Army Western Command

Special Activities

Army and Air Force Exchange Service

O–8 Commander, Army and Air Force Exchange Service—Dallas, TX

AGENCY: DEPARTMENT OF THE NAVY

Positions

Civilian

Secretarial

SES **Deputy Under Secretary of the Navy (Financial Management)
SES *Deputy Assistant Secretary of the Navy (Logistics)
SES *Deputy Assistant Secretary of the Navy (Sealift and Maritime Affairs)
SES Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics)
SES Principal Deputy Assistant Secretary of the Navy (Manpower and Reserve Affairs)
SES Deputy Assistant Secretary of the Navy (Research and Applied Space Technology)
SES Deputy Assistant Secretary of the Navy (Command, Control, Communications and Intelligence)
SES Deputy Assistant Secretary of the Navy (Manpower)
SES Deputy Assistant Secretary of the Navy (Reserve Affairs)
SES Deputy Assistant Secretary of the Navy (Civilian Personnal Policy/Equal Employment Opportunity)
SES Director, Office of Small and Disadvantaged Business Utilization
SES Assistant Deputy Assistant Secretary of the Navy (Systems Engineering)
SES General Counsel
SES Principal Deputy General Counsel
SES Director, Resources and Policy Evaluation
SES Deputy General Counsel, Logistics
SES Principal Deputy Assistant Secretary of the Navy (Research, Engineering and Systems)
SES Special Assistant to ASN(FM) for Data Automation

Office of the Navy Comptroller

SES Director of Banking and Contract Financing

Naval Audit Service

SES Auditor General of the Navy

Office of Naval Research

SES Director, Acquisition

Office of the Chief of Naval Operations

SES Assistant Deputy Chief of Naval Operations (CP/EEO)
SES Special Assistant for Special Programs

Office of the Chief of Naval Operations Organizations

SES Principal Civilian Adviser for Education and Training

Navy Data Automation Command

SES Technical Director

Naval Security Group Command, Headquarters

SES Technical Director

Military Sealift Command

SES Deputy Executive Director

Marine Corps

SES Assistant Deputy Chief of Staff for Installations and Logistics
SES Director, Contracts Division
SES Fiscal Director of the Marine Corps

Naval Supply Systems Command

SES Assistant Deputy Commander, Plans and Systems Design

Naval Material Command, Headquarters

SES Head, Tri-Service Negotiation Staff
SES Executive Director for Contracts and Business Management
SES Assistant Deputy Chief of NAVMAT (Operations and Logistics)
SES Deputy Chief of Naval Material
SES Director, Procurement Control and Clearance Division
SES Assistant Deputy Chief of Naval Material (Reliability and Engineering)

Strategic Systems Project Office

SES Director, Plans and Programs Division

Naval Air Systems Command

SES Executive Director for Procurement Management

Naval Electronic Systems Command

SES Technical Director, Material Acquisition Engineering Directorate
SES Technical Director
SES Executive Director, Contracts

Naval Sea Systems Command

SES Assistant Deputy Commander for Contracts

Naval Facilities Engineering Command

SES Deputy Assistant Commander for Contracts

Navy Resale System

UA–17 Financial Management Group Director

Military

Flag Officers

O–7/O–8 Vice Commander, Naval Air Systems Command
O–7/O–8 Deputy Commander for Plans and Programs, Naval Air Systems Command
O–7/O–8 Assistant Commander for Contracts, Naval Air Systems Command
O–7/O–8 Assistant Commander for Logistics and Fleet Support, Naval Air Systems Command
O–7/O–8 Assistant Commander for Systems and Engineering, Naval Air Systems Command
O–7/O–8 Assistant Commander for Test and Evaluation, Naval Air Systems Command
O–7/O–8 Commander, Naval Aviation Logistics Center, Naval Air Systems Command
O–7/O–8 Deputy Chief of Naval Material for Logistics, HDQTRS NAVMATCOMD
O–7/O–8 Deputy Chief of Naval Material for Acquisition, HDQTRS NAVMATCOMD
O–7/O–8 Project Manager, TRIDENT System, Naval Material Command
O–7/O–8 Major Project Manager, LAMPS, NAVAIRSYSCOM
O–7/O–8 Director, Saudi Naval Expansion Program, NAVMAT
O–7/O–8 Project Manager, Navy Space Project, NAVELECSYSCOM
O–7/O–8 Director, Joint Cruise Missile Project, Joint Cruise Missiles Project Office (JPM–3)
O–7/O–8 Technical Director, Strategic Systems Projects, SSPO
O–7/O–8 Commander, ASW Systems Project Office (Manager, ASW Systems Project Office) Anti-Submarine Warfare Systems Project Office
O–7/O–8 Vice Commander, Naval Sea Systems Command
O–7/O–8 Deputy Commander for Plans, Programs and Financial Management/ Comptroller, Naval Sea Systems Command
O–7/O–8 Deputy Commander for Contracts, NAVSEASYSCOM
O–7/O–8 NAVSEA Principal Deputy Commander for Acquisition, NAVSEASYSCOM
O–7/O–8 Principal Deputy Commander for Logistics, NAVSEASYSCOM
O–7/O–8 Deputy Commander for Combat, Systems and Training, NAVSEASYSCOM
O–7/O–8 Assistant Deputy Commander for Anti-Submarine Warfare and Underwater Systems, NAVSEASYSCOM (ADDU to CNO as Executive Manager for Explosive Ordance Disposal Technology and Training)
O–7/O–8 Commander, Military Sealift Command, ADDU: Assistant for Naval Control of Shipping Matters, CNO
O–7/O–8 Project Manager, AEGIS Shipbuilding Project, NAVSEASYSCOM
O–7/O–8 Deputy Commander for Industrial and Facility Management, NAVSEASYSCOM
O–7/O–8 Deputy Commander for Submarines, NAVSEASYSCOM
O–7/O–8 Deputy Commander for CV/ AMPH/AUX Ships, NAVSEASYSCOM
O–7/O–8 Deputy Commander for Surface Combatant Ships, NAVSEASYSCOM
O–7/O–8 Supervisor of Shipbuilding, Conversion and Repair, Newport News
O–7/O–8 Deputy Commander for Ship Design and Integration, Naval Sea Systems Command
O–7/O–8 Commander, Naval Supply Systems Command and Chief of Supply Corps
O–7/O–8 Vice Commander, Naval Supply Systems Command
O–7/O–8 Deputy Commander Plans, Policy and Programs Development, Naval Supply Systems Command
O–7/O–8 Commanding Officer, Navy Ships Parts Control Center, Mechanicsburg, PA
O–7/O–8 Supervisor of Shipbuilding, Conversion and Repair, USN, Pascagoula, MS
O–7/O–8 Commanding Officer, Navy Resale and Services Support Office, Brooklyn, NY
O–7/O–8 Commanding Officer, Navy Aviation Supply Office, Philadelphia, PA
O–7/O–8 Commander, Naval Electronics Systems Command Headquarters
O–7/O–8 Vice Commander, Naval Electronics Systems Command
O–7/O–8 Project Manager, Command, Control and Communications, Naval Electronics Systems Command
O–7/O–8 Director, Oceanography Division, OPNAV, Oceanographer of the Navy
O–7/O–8 Commander, Naval Telecommunications Command, Naval Telecommunications
O–7/O–8 Commander, Naval Facilities Engineering Command
O–7/O–8 Vice Commander, Naval Facilities Engineering Command
O–7/O–8 Deputy Commander for Planning, Naval Facilities Engineering Command
O–7/O–8 Commander, Atlantic Division, Naval Facilities Engineering Command
O–7/O–8 Commander, Pacific Division, Naval Facilities Engineering Command
O–7/O–8 Commanding Officer, Northern Division, Naval Facilities Engineering Command
O–7/O–8 Commanding Officer, Western Division, Naval Facilities Engineering Command
O–7/O–8 Director, Multilateral Support Force, Amphibious, Mine and Advanced Naval Vehicles Ships Division, CNO
O–7/O–8 Director, Logistics Plans Division, CNO, ADDU: Naval Advisor to Assistant Secretary for Maritime Affairs, Maritime Administration
O–7/O–8 Director, Material Division, CNO
O–7/O–8 Director, Ships Maintenance and Modernization Division, CNO
O–7/O–8 Director, Shore Facilities Programing Division, CNO

Office of the Comptroller of the Navy

O–7/O–8 Deputy Comptroller of the Navy
O–7/O–8 Director of Budget and Reports
O–7/O–8 Assistant Comptroller, Financial Management Systems/Commander, Navy Accounting and Finance Center

Other Officers

O–7/O–8 Inspector General, HQMC
O–7/O–8 Assistant Deputy Chief of Staff for Plans and Policies
O–7/O–8 Deputy Chief of Staff for Installations and Logistics, Headquarters, Marine Corps
O–7/O–8 Deputy Chief of Staff for Research and Development, HQMC
O–7/O–8 Deputy Chief of Staff for Requirements and Programs, HQMC
O–7/O–8 Director, Personnel Procurement, HQMC
O–7/O–8 Director of Material Division, HQMC
O–7/O–8 Director, Facilities and Services Division, HQMC
O–7/O–8 Director, Command, Control, Communications and Computer Systems Division, HQMC
O–7/O–8 Commanding General, Marine Corps Logistics Base, Albany, Georgia
O–7/O–8 Commanding General, Marine Corps Logistics Base, Barstow, California
O–7/O–8 Director of the Development Center, Marine Corps Development and Education Command
O–7/O–8 Deputy Chief of Naval Material For Contracts and Business Management

O–7/O–8 Director, Tactical Nuclear Weapons Project, NAVMAT
O–7/O–8 Supervisor of Shipbuilding, Conversion and Repair, Groton, CT

AGENCY: DEFENSE COMMUNICATIONS AGENCY

Positions:
O–7 USA Deputy Director, Plans and Programs
O–7 Commander, White House Communications Agency
SES Deputy WWMCCS System Engineer—WSE (Engineering)
O–7 USAF Director, Command and Control Technical Center (CCTC)
SES Assistant Manager (Technology & Standards)—NCS
SES Assistant Manager (Plans and Operations), NCS
SES Deputy Director, WWMCCS, ADP, Technical Support, CCTC
SES Comptroller, DCA
SES WWMCCS System Engineer—WSEO
O–8 USAF Vice Director, Defense Communications Agency
SES Chief Scientist—Associate Director, Technology—DCA
SES Deputy Director, DCEC
SES Chief, Systems Engineering Division, DCEC
SES Deputy Director, Command and Control Technical Center
O–7 USA Deputy Director, Operations and Readiness
SES Assistant Deputy Director, for Computer Services—CCTC
SES Senior Advisor for Technology—DCEC
SES Deputy Manager, National Communications System—DCA
SES Chief, Interoperability and Standards Office—DCEC
SES General Counsel, DCA
SES *Assistant Deputy Director, NMCS ADP—CCTC
SES *Deputy Director for Engineering—CCTC
SES *Deputy Director, Military Satellite Communications Systems
SES *Deputy WWMCCS System Engineer—SD&A—WSE
SES *Chief, WWMCCS Information System Office—WSE

AGENCY: DEFENSE INTELLIGENCE AGENCY

Positions:
GS–18 Deputy Director for Defense Intelligence
GS–17 Assistant Director for Resources and Systems
O–9 Director
O–8 Deputy Director

AGENCY: DEFENSE LOGISTICS AGENCY

Positions:
O–8 Deputy Director
O–8 Deputy Director, Contract Administration Services
O–8 Assistant Director, Plans, Programs and Systems
O–7 Executive Director, Supply Operations
O–7/O–8 Executive Director, Quality Assurance
O–8 Commander, Defense Construction Supply Center
O–7 Commander, Defense Electronics Supply Center
O–8 Commander, Defense Fuel Supply Center
O–7 Commander, Defense General Supply Center
O–7 Commander, Defense Industrial Supply Center
O–8 Commander, Defense Personnel Support Center
O–7 Commander, Defense Property Disposal Service
O–7 Commander, Defense Contract Administration Services Region, Los Angeles
O–7 Commander, Defense Contract Administration Services Region, New York

Headquarters
SES Comptroller, DLA
SES Counsel, DLA
SES Executive Director, Technical and Logistics Services
SES Executive Director, Contracting
SES Deputy Executive Director, Supply Operations
SES Executive Director, Contract Management
SES Associate Counsel, DLA
SES Chief, Logistics Programs Division
SES Chief, Contracts Division, Directorate of Contracting
SES *Executive Director, Office of Telecommunications and Information Systems
SES *Deputy Executive Director, Quality Assurance
SES *Staff Director, Small and Disadvantaged Business Utilization
SES *Chief, Accounting and Finance

AGENCY: DEFENSE MAPPING AGENCY

Positions:
SES Deputy Director, Management and Technology
SES Deputy Director, PP&O
SES Deputy Director for Systems and Techniques
SES Comptroller
O–8 Director, Defense Mapping Agency
O–8 Deputy Director, Defense Mapping Agency
O–7 Deputy Director for Plans and Requirements
SES Staff Director of Personnel
SES Assistant Deputy Director for Programming
SES Assistant Deputy Director for Production and Distribution
SES Chief, Advanced Technology Division [STT]
SES Chief, Acquisitions Systems Development

AGENCY: DEFENSE NUCLEAR AGENCY

Positions:
O–8 Director
AD Deputy Director, Science and Technology
AD Scientific Assistant to the Deputy Director, Science and Technology
AD Assistant to the Deputy Director (Science and Technology) for Theoretical Research
AD Assistant to the Deputy Director (Science and Technology) for Experimental Research
AD Assistant to the Deputy Director (Science and Technology) for Testing
AD Assistant to the Director for Biomedical Effects
O–8 Deputy Director (Operations and Administration)
O–7 Commander, Field Command
AD *Scientific Advisor to the Director, Armed Forces Radiobiology Research Institute

AGENCY: NATIONAL SECURITY AGENCY

Positions:

Military

O–8 Deputy Director, NSA, for Operations

AGENCY: DEPARTMENT OF EDUCATION

Positions:

Office of the Secretary
SES Executive Assistant to the Secretary
SES Executive Secretary to the Secretary
SES *Counsel to the Secretary for Regulation Reform and Deputy General Counsel

Office of the Under Secretary
SES Director of Regional Liaison
SES *Director of Intergovernmental Affairs
SES *Director of Interagency Affairs

Deputy Under Secretary for Management
SES Controller
SES *Administrator for Management Services

Deputy Under Secretary for Planning and Budget
SES Director of Budget Systems and Services
SES Director of Program Planning and Budget Analysis
SES Director of Planning and Evaluation Services

Assistant Secretary for Legislation and Public Affairs
SES Deputy Assistant Secretary for Legislation
SES Deputy Assistant Secretary for Public Affairs

General Counsel
SES Assistant General Counsel for Program Services
SES Assistant General Counsel for Departmental Services

Inspector General
SES Assistant Inspector General for Audits
SES Assistant Inspector General for Investigation
SES Assistant Inspector General for Policy, Planning and Management

Office of Civil Rights
SES Deputy Assistant Secretary for Civil Rights
SES Director of Program Review and Assistance
SES Director of Litigation, Enforcement and Policy
SES Director of Planning and Compliance Operations

Office of Education for Overseas Dependents
SES Administrator of Education for Overseas Dependents

Office of Bilingual Education and Minority Language Affairs
SES Director of Bilingual Education and Minority Languages Affairs
SES Deputy Director of Bilingual Education and Minority Languages Affairs

Office of Special Education and Rehabilitative Services
SES Deputy Assistant Secretary for Special Education and Rehabilitative Services
SES Director of Special Education Programs
SES Deputy Commissioner, Rehabilitative Services Administration
SES Deputy Director, National Institute of Handicapped Research

Office of Postsecondary Education
SES Deputy Assistant Secretary for Postsecondary Education
SES Deputy Assistant Secretary for Student Financial Assistance
SES Director of Institutional Support Programs
SES Director of International Education Programs
SES Director, Fund for the Improvement of Postsecondary Education

Office of Vocational and Adult Education
SES Deputy Assistant Secretary for Vocational and Adult Education
SES *Director of Policy Analysis and Legislation

Office of Elementary and Secondary Education
SES Deputy Assistant Secretary for Elementary and Secondary Programs
SES Director of Educational Support Programs
SES Director of Equal Educational Opportunity Programs
SES Director of Compensatory Education Programs
SES Director of Indian Education Programs
SES Director of Migrant Education Programs
SES Director of School Improvement Programs

Office of Educational Research & Improvement
SES *Deputy Assistant Secretary for Educational Research and Improvement
SES Deputy Director, National Institute of Education
SES Director of Learning and Technology Programs
SES Director of Dissemination and Professional Development Programs
SES Administrator, National Center for Educational Statistics
SES Deputy Administrator, National Center for Educational Statistics

AGENCY: DEPARTMENT OF ENERGY

Positions:
SES Executive Assistant to the Secretary and the Deputy Secretary, Office of the Secretary
SES Deputy Under Secretary (2), Office of the Under Secretary
SES Director of Administration, Office of the Directorate of Administration
SES Director, Intergovernment Affairs, Office of Assistant Secretary, Intergovernmental and Institutional Relations
SES Deputy Administrator, Energy Information Administration
SES Controller, Office of the Controller
SES Administrator, Bonneville Power Administration
SES Deputy General Counsel (1), Office of the General Counsel
SES *Administrative Assistant to the Secretary and Chief of Staff
SES *Special Assistant to the Secretary for Programs and Policy
SES *Director, Office of Policy, Planning, and Analysis

Economic Regulatory Administration
SES Deputy Administrator for Operations and Emergency Management
SES Deputy Administrator for Policy
SES Assistant Administrator for Enforcement
SES Assistant Administrator for Regulations and Emergency Planning
SES Assistant Administrator for Fuels Conversion
SES Assistant Administrator for Petroleum Operations
SES Assistant Administrator for Utilities Systems
SES Deputy Assistant Administrator for Enforcement
SES Deputy Assistant Administrator for Regulations and Emergency Planning
SES Director, Regulatory Interventions Division
SES Director, Regulatory Assistance Division
SES Director, Office of Field Operations, Office of Special Counsel
SES Special Counsel, Office of Special Counsel
SES Deputy Special Counsel, Office of Special Counsel
SES Solicitor, Office of Special Counsel
SES Deputy Assistant Administrator for Petroleum Operations
SES Assistant Administrator for Energy Contingency Planning
SES Deputy Assistant Administrator for Energy Contingency Planning
SES Director, Office of Management and Program Coordination
SES Deputy Assistant Administrator for Fuels Conversion
SES Director, Natural Gas Division

Office of the Director, Policy, Planning, and Analysis
SES Deputy Assistant Secretary for Coal, Nuclear and Electrical Systems
SES Deputy Assistant Secretary for Conservation and Renewable Sources
SES Deputy Assistant Secretary for Oil and Gas
SES Deputy Assistant Secretary for Systems Analysis
SES Principal Deputy Assistant Secretary for Policy and Evaluation

Office of Energy Research
SES Deputy Director
SES Associate Director, Office of Program Analysis
SES Associate Director, Office of Basic Energy Sciences
SES Associate Director, Office of High Energy and Nuclear Physics
SES Associate Director, Office of Field Operations Management
SES Associate Director, Office of Nuclear Non-Proliferation
SES Deputy Associate Director, Office of Field Operations Management
SES Deputy Associate Director, Office of Basic Energy Sciences
SES Deputy Director, Office of Fusion Energy
SES Director, Office of Fusion Energy

Office of the Assistant Secretary for Conservation and Solar Applications
SES Director, Office of Commercialization
SES Director, Office of Policy, Planning and Evaluation
SES Deputy Assistant Secretary for Conservation
SES Deputy Assistant Secretary for Solar Energy
SES Deputy Assistant Secretary for State and Local Assistance Programs
SES Deputy Assistant Secretary for Field Operations and International Programs
SES *Principal Deputy Assistant Secretary for Conservation and Solar Energy

Office of the Assistant Secretary for Environment
SES Deputy Assistant Secretary for Research
SES Director, Office of Technology Impacts
SES Deputy Director, Office of Technology Impacts
SES Director, Office of Health and Environmental Research
SES Deputy Director, Office of Health and Environmental Research
SES Director, Office of Health and Environmental Compliance and Overview
SES Deputy Director, Office of Environmental Compliance and Overview
SES Director, Office of Program Coordination

Office of the Assistant Secretary for International Affairs
SES Deputy Assistant Secretary for International Nuclear and Technical Programs
SES Deputy Assistant Secretary for International Energy Resources
SES Deputy Assistant Secretary for International Energy Analysis
SES Director, Office of Energy Consuming Nations
SES Director, Office of Energy Producing Nations
SES Director, Office of Nuclear Affairs

SES Director, Office of Technical Cooperation
SES Deputy Director, Office of Nuclear Affairs
SES Deputy Director, Office of Technical Cooperation
SES Principal Deputy Assistant Secretary for International Affairs
SES Deputy Assistant Secretary for International Intelligence Affairs
SES Director, Office of Strategic Assessments
SES Director, Office of Market Analysis
SES Director, Office of Country Energy Assessments
SES Director, Office of Senior Intelligence Officer Support Staff
SES Director, Office of International Program Support
SES *Deputy Assistant Secretary for International Trade Resources

Office of the Assistant Secretary for Resource Applications

SES Deputy Assistant Secretary for Utility and Industrial Energy Applications
SES Deputy Assistant Secretary for Industrial Planning and Development
SES Deputy Assistant Secretary for Strategic Petroleum Reserve
SES Deputy Director for Strategic Petroleum Reserve
SES *Deputy Assistant Secretary for Liquid Fuels

Office of the Assistant Secretary for Defense Programs

SES Deputy Assistant Secretary
SES Director, Office of Classification
SES Director, Office of International Security Affairs
SES Director, Office of Inertial Fusion
SES Director, Office of Safeguards and Security
SES Director, Office of Nuclear Materials Production
SES Deputy Director, Office of Nuclear Materials Production
SES Deputy Director, Office of Classification
SES Deputy Director, Office of Safeguards and Security
SES Deputy Director, Office of Military Applications
SES Deputy Director, Office of International Security Affairs
SES Deputy Director, Office of Inertial Fusion
SES Director, Division of Political-Military Security Affairs

Energy Information Administration

SES Assistant Administrator, Energy Information Validation
SES Assistant Administrator, Applied Analysis
SES Assistant Administrator, Program Development
SES Assistant Administrator, Energy Systems Support
SES Assistant Administrator, Energy Data Operations
SES Deputy Assistant Administrator, Energy Systems Support
SES Deputy Assistant Administrator, Energy Data Operations
SES Deputy Assistant Administrator for Applied Analysis
SES Deputy Assistant Administrator for Energy Information Validation
SES Assistant Administrator for Energy Data Validation
SES Director, Financial Reporting System
SES Director, Oil and Gas Information System

Procurement and Contracts Management Directorate

SES Director
SES Deputy Director
SES Director, Office of Small and Disadvantaged Business Utilization
SES Director, Policy Office
SES Director, Program Support Office
SES Director, Procurement Management Office
SES Director, Procurement Operations Office
SES Deputy Director, Program Support Office/Director, Conservation, Solar and Institutional Support Division
SES Deputy Director, Procurement Operations Office
SES Director, Policy and Procedures Division, Office of Policy

Office of the Inspector General

SES Assistant Inspector General for Audits
SES Assistant Inspector General for Inspections
SES Assistant Inspector General for Investigations
SES Deputy Assistant Inspector General for Investigations
SES Deputy Assistant Inspector General for Inspections

Directorate of Administration

SES Deputy Director
SES Director, Office of Personnel
SES Director, Office of Organization and Management Systems
SES Director, Office of Administrative Services
SES Director, Office of Computer Services and Telecommunications Management
SES Deputy Director, Office of Personnel
SES Deputy Director, Office of Organization and Management Systems
SES Deputy Director, Office of Administrative Services
SES Deputy Director, Office of Computer Services and Telecommunications Management

Controller

SES Deputy Controller
SES Director, Office of Budget
SES Director, Office of Finance and Accounting
SES Director, Office of Financial Policy, Analysis, GAO Liaison
SES Director, Office of Program and Project Assessment and Control
SES Director, Office of Management Information Systems

Office of the General Counsel

SES Deputy General Counsel, Regulations
SES Deputy General Counsel, Enforcement and Litigation
SES Deputy General Counsel, Programs
SES Deputy General Counsel, Legal Services

Office of Equal Opportunity

SES Director
SES Deputy Director

Field Offices

SES Regional Representative of the Secretary, Region I
SES Regional Representative of the Secretary, Region II
SES Regional Representative of the Secretary, Region III
SES Regional Representative of the Secretary, Region IV
SES Regional Representative of the Secretary, Region V/Manager, Chicago Operations Office
SES Regional Representative of the Secretary, Region VI
SES Regional Representative of the Secretary, Region VII
SES Regional Representative of the Secretary, Region VIII
SES Regional Representative of the Secretary, Region IX
SES Regional Representative of the Secretary, Region X
SES Deputy Manager, Chicago Operations Office
SES Chief Counsel, Chicago Operations Office
SES Manager, Oak Ridge Operations Office
SES Deputy Manager, Oak Ridge Operations Office
SES Chief Counsel, Oak Ridge Operations Office
SES Manager, Richland Operations Office
SES Deputy Manager, Richland Operations Office
SES Chief Counsel, Richland Operations Office
SES Manager, Nevada Operations Office
SES Deputy Manager, Nevada Operations Office
SES Chief Counsel, Nevada Operations Office
SES Manager, San Francisco Operations Office
SES Deputy Manager, San Francisco Operations Office
SES Chief Counsel, San Francisco Operations Office
SES Manager, Albuquerque Operations Office
SES Deputy Manager, Albuquerque Operations Office
SES Chief Counsel, Albuquerque Operations Office
SES Deputy Manager, Idaho Operations Office
SES Manager, Savannah River Operations Office
SES Deputy Manager, Savannah River Operations Office
SES Administrator, Southeastern Power Administration
SES Administrator, Western Area Power Administration
SES Administrator, Southwestern Power Administration
SES Administrator, Alaska Power Administration
SES Deputy Administrator, Western Area Power Administration

SES Deputy Administrator, Bonneville Power Administration
SES Assistant Administrator, Engineering and Construction, Bonneville Power Administration
SES Assistant Administrator, Power Management, Bonneville Power Administration
SES Deputy Administrator, Southwest Power Administration

Office of the Under Secretary

SES Deputy Under Secretary
SES Director, Office of Project Management and Field Operations

Chief Financial Officer

SES Chief Financial Officer

Gasoline Rationing Preimplementation Project Office

SES Special Administrator, Gasoline Rationing Preimplementation Project Office
SES Deputy Special Administrator, Gasoline Rationing Preimplementation Project Office

Nuclear Energy

SES Principal Deputy Assistant for Nuclear Energy
SES Deputy Assistant Secretary for Nuclear Reactor Programs
SES Deputy Assistant Secretary for Nuclear Waste Management
SES Executive Director, Office of Nuclear Energy Programs
SES Deputy Director, Nuclear Waste Management Programs
SES Deputy Director, Naval Reactor Division
SES Director, Office of Resource Management and Planning
SES Director, Office of Plans and Resource Management
SES *Director, Office of Resource Management
SES *Associate Deputy Assistant Secretary for Nuclear Reactor Programs

Fossil Energy

SES Principal Deputy Assistant Secretary for Fossil Energy
SES Deputy Assistant Secretary for Oil, Gas and Shale Technology
SES Deputy Assistant Secretary for Management
SES Deputy Assistant Secretary for Coal Technology
SES Program Director for Project Management

Minority Economic Impact

SES Deputy Director, Office of Minority Economic Impact

Office of the Assistant to the Secretary for Legislative Affairs

SES Director, Office of Congressional Affairs
SES Deputy Director, Office of Congressional Affairs
SES *Deputy Assistant Secretary for House Liaison
SES *Deputy Assistant Secretary for Senate Liaison

Office of Consumer Affairs

SES Director, Office of Consumer Affairs
SES Deputy Director, Office of Consumer Affairs

Office of the Assistant Secretary for Congressional, Intergovernmental and Public Affairs

SES Director, Office of Public Affairs
SES Deputy Director, Office of Public Affairs
SES *Deputy Assistant Secretary for External Affairs
SES *Deputy Assistant Secretary for Legislative Affairs

AGENCY: DEPARTMENT OF HEALTH AND HUMAN SERVICES

Positions:

OFFICE OF THE SECRETARY

Immediate Office of the Secretary

SES *Chief of Staff
SES *Executive Secretary
SES *Deputy Executive Secretaries to the Department (2)

Immediate Office of the Under Secretary

SES *Counselor to the Under Secretary
SES Deputy Under Secretary
SES Deputy Under Secretary for Special Projects
SES Deputy Under Secretary/Intergovernmental Affairs
SES Principal Regional Official—Region I
SES Principal Regional Official—Region II
SES Principal Regional Official—Region III
SES Principal Regional Official—Region IV
SES Principal Regional Official—Region V
SES Principal Regional Official—Region VI
SES Principal Regional Official—Region VII
SES Principal Regional Official—Region VIII
SES Principal Regional Official—Region IX
SES Principal Regional Official—Region X
SES Director, Office of Refugee Affairs
SES Chairman, Departmental Grant Appeals Board
SES Special Assistant to the Under Secretary/Director, Office of Small and Minority Business Utilization

Office of Planning and Evaluation

SES Principal Deputy Assistant Secretary for Planning and Evaluation
SES Deputy Assistant Secretary for Income Security Policy
SES Deputy Assistant Secretary for Health Planning
SES Deputy Assistant Secretary for Program Systems
SES Deputy Assistant Secretary for Social Services Policy
SES Deputy Assistant Secretary for Evaluation and Technical Analysis

Office of Inspector General

SES Assistant Inspector General for Auditing
SES Deputy Assistant Inspector General for Auditing
SES Senior Assistant Inspector General for Auditing and Systems
SES Assistant Inspector General for Health Care and Systems Review
SES Assistant Inspector General for Investigations
SES Deputy Assistant Inspector General for Investigations
SES Executive Assistant Inspector General

Office of Management and Budget

SES Assistant Secretary for Management and Budget
SES Deputy Assistant Secretary for Policy Coordination
SES Deputy Assistant Secretary for Budget
SES Deputy Assistant Secretary for Finance
SES Deputy Assistant Secretary, Management Analysis and Systems
SES Deputy Assistant Secretary, Grants and Procurement

Legislation

SES Deputy Assistant Secretary for Legislation
SES Deputy Assistant Secretary for Legislation (Health)
SES Deputy Assistant Secretary for Legislation (Welfare)
SES Director of Program Coordination
SES *Deputy Assistant Secretary for Legislation (Special Projects)
SES Deputy Assistant Secretary for Legislation (Congressional Liaison)

Office for Civil Rights

SES Special Assistant to the Secretary for Civil Rights, Director, Office for Civil Rights
SES Deputy Special Assistant to the Secretary/Deputy Director, Office for Civil Rights
SES *Deputy Director for Compliance and Enforcement, Office for Civil Rights
SES *Deputy Director for Technical Assistance, OCR
SES *Deputy Director for Program Development, OCR

Office for Personnel Administration

SES Assistant Secretary for Personnel Administration
SES Deputy Assistant Secretary, Personnel
SES Principal Deputy Assistant Secretary for Personnel Administration
SES Deputy Assistant Secretary, Equal Employment Opportunity

Office of Public Affairs

SES Deputy Assistant Secretary for Operations Management
SES Deputy Assistant Secretary for Communication Planning
SES Deputy Assistant Secretary for Issue and Policy Analysis

Office of the General Counsel

SES *Deputy General Counsel, Program Review
SES *Deputy General Counsel, Regulations
SES *Deputy General Counsel, Litigation
SES Legal Counsel
SES Assistant General Counsel, Legislation Division
SES Assistant General Counsel, Public Health Division
SES Assistant General Counsel, Social Security
SES Assistant General Counsel, Food and Drug Administration
SES Assistant General Counsel, Health Care Financing and Human Development

SES Assistant General Counsel, Civil Rights Division
SES Assistant General Counsel, Business and Administrative Law Division
SES Associate General Counsel (Regional Operations)

Office of Consumer Affairs

SES Deputy Director, Office of Consumer Affairs

OFFICE OF HUMAN DEVELOPMENT SERVICES

SES Deputy Commissioner, Administration on Aging
SES Deputy Assistant Secretary, Human Development Services
GS-18 Commissioner, Administration for Children, Youth and Families
SES Deputy Commissioner, Administration for Children, Youth and Families
SES Commissioner, Administration for Native Americans
SES Commissioner, Administration on Developmental Disabilities
SES Director, Office of Program Coordination and Review

HEALTH CARE FINANCING ADMINISTRATION

SES Administrator, Health Care Financing Administration
SES Deputy Administrator, Health Care Financing Administration
SES Director, Bureau of Program Operations, Medicare
SES Director, Health Care Standards and Quality Bureau
SES Director, Office of Intergovernmental Affairs
SES Director, Office of Management and Budget
SES Director, Office of Research, Demonstrations and Statistics
GS-17 *Director, Office of Professional and Scientific Affairs
SES *Chairperson, Provider Reimbursement Review Board
SES *Associate Administrator for Management and Support Services
SES *Associate Administrator for Policy
SES *Associate Administrator for Operations
SES *Deputy Associate Administrator for Operations (Field)
SES *Associate Administrator for External Affairs
SES Director, Office of Executive Operations
SES Regional Administrator, Region I
SES Regional Administrator, Region II
SES Regional Administrator, Region III
SES Regional Administrator, Region IV
SES Regional Administrator, Region V
SES Regional Administrator, Region VI
SES Regional Administrator, Region VII
SES *Regional Administrator, Region VIII
SES Regional Administrator, Region IX
SES *Regional Administrator, Region X
SES Director, Bureau of Program Policy
SES Director, Bureau of Quality Control
SES Director, Office of Legislation and Policy
SES Director, Bureau of Support Services
SES *Director, Office of Public Affairs

PUBLIC HEALTH SERVICE

Office of the Assistant Secretary for Health

SES *Deputy Assistant Secretary for Health
SES Deputy Assistant Secretary, Health Operations
SES Deputy Assistant Secretary, Health Policy Research, Statistics and Technology
SES Deputy Assistant Secretary, Planning and Evaluation
SES Director, Office of International Health
SES Deputy Assistant Secretary, Population Affairs
SES/O-7 Regional Health Administrators—Regions I-X
SES Executive Director, President's Council on Physical Fitness and Sports
SES Director, National Center for Health Statistics
SES Deputy Director, National Center for Health Statistics
SES Director, National Center for Health Services Research
SES *Director, National Center for Health Care Technology
O-8 Deputy Surgeon General and Chief Dental Officer, Public Health Service
O-8 Chief Nurse Officer, Public Health Service
O-8 Senior Adviser for Environmental Affairs

Center for Disease Control

O-8 Director, Center for Disease Control
O-7 *Director, Center for Prevention Services
SES *Director, Center for Environmental Health
O-7 *Director, Center for Infectious Diseases
SES Director, Center for Professional Development and Training
SES Director, Center for Health Promotion and Education
SES Director, National Institute for Occupational Safety and Health
SES Deputy Director, National Institute for Occupational Safety and Health

Health Resources Administration

SES Administrator, Health Resources Administration
SES Deputy Administrator, Health Resources Administration
SES Director, Bureau of Health Facilities, Financing Compliance and Conversion
SES Director, Bureau of Health Planning
SES Director, Bureau of Health Professions

Health Services Administration

O-8 Administrator, Health Services Administration
SES Deputy Administrator, Health Resources Administration
O-7 Director, Bureau of Medical Services
O-7 Deputy Director, Bureau of Medical Services
O-7 Director, Bureau of Community Health Services
SES Deputy Director, Bureau of Community Health Services
O-8 Director, Indian Health Services
SES Deputy Director, Indian Health Service
O-8 *Director, Bureau of Health Personnel, Development and Service
O-8 *Deputy Director, Bureau of Health Personnel, Development and Service

Alcohol, Drug Abuse, and Mental Health Administration

SES Deputy Administrator, ADAMHA
SES Associate Administrator for Extramural Programs, ADAMHA
SES Associate Administrator for Program Planning and Coordination, ADAMHA
SES Director, National Institute on Alcohol Abuse and Alcoholism
SES Deputy Director, National Institute on Alcohol Abuse and Alcoholism
O-8 Director, National Institute of Mental Health
SES Deputy Director, National Institute of Mental Health
O-8 Director, National Institute on Drug Abuse
SES Deputy Director, National Institute on Drug Abuse

National Institutes of Health

SES Deputy Director, NIH
O-7 Deputy Director for Science
SES Associate Director for Extramural Research Training
SES Associate Director for Program Planning and Evaluation
SES Associate Director for Administration
SES Associate Director for Communications
SES Associate Director for Research Services
SES Associate Director for Clinical Care, NIH and Director of Clinical Center
SES Director, Division of Computer Research and Technology
SES Director, Division of Research Grants
SES Deputy Director, Division of Research Grants
O-8 Director, National Cancer Institute
SES Deputy Director, National Cancer Institute
SES Director, Division of Research Resources
SES Deputy Director, Division of Research Resources
SES Director, Division of Research Services
SES Director, National Eye Institute
SES Director, National Heart, Lung, and Blood Institute
O-8 Director, National Institute of Allergy and Infectious Diseases
SES Deputy Director, National Institute of Allergy and Infectious Diseases
SES Director, National Institute of Arthritis, Metabolism and Digestive Diseases
O-7 Deputy Director, National Institute of Arthritis, Metabolism and Digestive Diseases
O-7 Director, National Institute on Aging
SES Deputy Director, National Institute on Aging
SES Director, National Institute on Child Health and Human Development
SES Deputy Director, National Institute on Child Health and Human Development
O-7 Director, National Institute on Dental Research
O-8 Director, National Institute on Environmental Health Sciences
SES Deputy Director, National Institute on Environmental Health Sciences
SES Director, National Institute of General Medical Sciences

O-7 Director, National Institute of Neurological and Communicative Disorders and Stroke
SES Deputy Director, National Institute of Neurological and Communicative Disorders and Stroke
SES Director, National Library of Medicine
SES Deputy Director, National Library of Medicine

FOOD AND DRUG ADMINISTRATION

SES Commissioner of Food and Drugs
SES Deputy Commissioner for Food and Drugs
SES Associate Commissioner for Consumer Affairs
SES Associate Commissioner for Legislative Affairs
SES Associate Commissioner for Health Affairs
SES Deputy Associate Commissioner for Health Affairs (Sciences)
SES Deputy Associate Commissioner for Health Affairs (Medicine)
SES Deputy Associate Commissioner for Health Affairs (Education and Professional Training)
SES Associate Commissioner for Policy Coordination
SES Associate Commissioner for Planning and Evaluation
SES Associate Commissioner for Regulatory Affairs
SES Deputy Associate Commissioner for Regulatory Affairs
SES Associate Commissioner for Management and Operations
SES Associate Commissioner for Public Affairs

BUREAU OF FOODS

SES Director, Bureau of Foods
SES Deputy Director, Bureau of Foods
O-7 Associate Director for Sciences
SES Deputy Associate Director for Sciences
SES Director, Division of Pathology
SES Director, Division of Toxicology
SES Associate Director for Regulatory Evaluation
SES Associate Director for Laboratory Investigations
SES Director, Divison of Chemistry and Physics
SES Director, Division of Microbiology
SES Deputy Director, Division of Microbiology
SES Associate Director for Compliance
SES Director, Division of Food and Color Additives
SES Director, Office of Technology
SES Deputy Associate Director for Technology
SES Director, Division of Food Technology
SES Director, Division of Chemical Technology
SES Associate Director for Nutrition and Consumer Sciences
SES Deputy Associate Director for Nutrition and Consumer Sciences
SES Director, Division of Nutrition

BUREAU OF DRUGS

O-7 Director, Bureau of Drugs
O-7 *Deputy Director, Bureau of Drugs
SES Director, Office of Planning and Evaluation
SES Associate Director for Compliance
SES Associate Director for New Drug Evaluation
SES Director, Division of Oncology and Radio-Pharmaceutical Drug Products
SES Director, Scientific Investigations Staff
SES Director, Division of Anti-Infective Drug Products
SES Director, Division of Cardio-Renal Drug Products
SES Director, Division of Metabolism and Endocrine Drug Products
SES Director, Division of Surgical-Dental Drug Products
SES Associate Director for Pharmaceutical Research and Testing
SES Deputy Associate Director for Pharmaceutical Research and Testing
SES Director, Division of Drug Biology
SES Director, Division of Drug Chemistry
SES Chief, Drug Pharmacology Branch
SES Director, National Center for Antibiotics Analysis
SES Associate Director for Information Systems
SES Associate Director for Biometrics and Epidemiology
SES Deputy Associate Director for Biometrics and Epidemiology
SES Director, Division of Biometrics
SES Director, Division of Drug Experience
SES Deputy Associate Director for Drug Monographs
SES Director, Division of Biopharmaceutics

BUREAU OF VETERINARY MEDICINE

SES Director, Bureau of Veterinary Medicine
SES Deputy Director, Bureau of Veterinary Medicine
SES Associate Director for Scientific Evaluation
SES Director, Division of Drugs for Avian Species
SES Director, Division of Drugs for Non-Food Animals
SES *Associate Director for Human Food Safety
SES Director, Division of Drugs for Swine and Minor Species
SES Director, Division of Drugs for Ruminant Species
SES Associate Director for Surveillance and Compliance
SES Associate Director for Research
SES Director, Division of Veterinary Medical Research

BUREAU OF MEDICAL DEVICES

SES Director, Bureau of Medical Devices
SES Deputy Director, Bureau of Medical Devices
SES Associate Director for Device Evaluation
SES Associate Director for Standards
SES Associate Director for Compliance
SES Associate Director for Device Research and Testing

BUREAU OF RADIOLOGICAL HEALTH

O-8 Director, Bureau of Radiological Health
SES Deputy Director, Bureau of Radiological Health
SES Director, Division of Biological Effects

BUREAU OF BIOLOGICS

O-8 Director, Bureau of Biologics
SES Deputy Director, Bureau of Biologics
SES Associate Director for Compliance
SES Director, Division of Pathology
SES Director, Division of Control Activities
SES Assistant to the Director for Medical Programs
SES Director, Division of Blood and Blood Products

NATIONAL CENTER FOR TOXICOLOGICAL RESEARCH

SES Director, National Center for Toxicological Research
SES Associate Director for Biometry and Experimental Design
SES Associate Director for Scientific Research
SES Director, Division of Molecular Biology
SES Associate Director for Chronic Studies

EXECUTIVE DIRECTOR OF REGIONAL OPERATIONS

SES Executive Director of Regional Operations
SES Deputy Executive Director of Regional Operations
SES Associate Director for Field Support
SES Regional Food and Drug Director, I
SES Regional Food and Drug Director, II
SES Regional Food and Drug Director, III
SES Regional Food and Drug Director, IV
SES Regional Food and Drug Director, V
SES Regional Food and Drug Director, VI
SES Regional Food and Drug Director, VII
SES Regional Food and Drug Director, VIII
SES Regional Food and Drug Director, IX
SES Regional Food and Drug Director, X
O-7 Regional Medical Officer, Region X

SOCIAL SECURITY ADMINISTRATION

SES Deputy Commissioner for Operations
SES *Deputy Commissioner for External Affairs
SES Deputy Commissioner for Programs
SES *Deputy to Deputy Commissioner for Programs
SES Associate Commissioner for Policy
SES Associate Commissioner for Assessment
SES Associate Commissioner for Systems
SES Associate Commissioner for Central Operations
SES Associate Commissioner for Family Assistance
SES Associate Commissioner, Office of Operational Policy and Procedures
SES Deputy Associate Commissioner for Policy
SES Deputy Associate Commissioner for Central Operations
SES Deputy Associate Commissioner, Office of Operational Policy and Procedures
SES Associate Commissioner, Office of Hearings and Appeals
SES Deputy Associate Commissioner for Appeals, OHA
SES Associate Commissioner for Management, Budget, and Personnel
SES Director, Division of Policy, Office of Family Assistance
SES Deputy Director, Office of Child Support Enforcement
SES Regional Commissioner, Boston—Region I
SES Regional Commissioner, New York—Region II

SES Regional Commissioner, Philadelphia—Region III
SES Regional Commissioner, Atlanta—Region IV
SES Regional Commissioner, Chicago—Region V
SES Regional Commissioner, Dallas—Region VI
SES Regional Commissioner, Kansas City—Region VII
SES Regional Commissioner, Denver—Region VIII
SES Regional Commissioner, San Francisco—Region IX
SES Regional Commissioner, Seattle—Region X

AGENCY: DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Positions:

OFFICE OF THE SECRETARY

SES *Deputy Undersecretary for Intergovernmental Relations
SES Executive Assistants to the Secretary (2)
SES Assistant to the Secretary for International Affairs
SES Assistant to the Secretary for Labor Relations
SES Assistant to the Secretary for Public Affairs

OFFICE OF THE ASSISTANT SECRETARY FOR HOUSING

SES Deputy Assistant Secretary for Multifamily Housing Programs
SES Deputy Assistant Secretary for Single-Family Housing and Mortgagee Activities
SES Deputy Assistant Secretary for Public Housing and Indian Programs
SES Deputy Assistant Secretary for Policy and Budget
SES General Deputy Assistant Secretary for Housing/Deputy Federal Housing Commissioner
SES *Associate General Deputy Assistant Secretary, Housing and Field Coordination
SES *Associate General Deputy Assistant Secretary for Housing

OFFICE OF THE ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT

SES Deputy Assistant Secretary for Planning and Evaluation
SES *Director, Office of Urban Development Action Grants
SES General Deputy Assistant Secretary for Community Planning and Development
SES *Deputy Assistant Secretary for Program Management

OFFICE OF THE ASSISTANT SECRETARY FOR FAIR HOUSING AND EQUAL OPPORTUNITY

SES Deputy Assistant Secretary for Operations and Management
SES Deputy Assistant Secretary for Fair Housing and Equal Opportunity
SES Deputy Assistant Secretary for Enforcement and Compliance

OFFICE OF THE ASSISTANT SECRETARY FOR POLICY DEVELOPMENT AND RESEARCH

SES Deputy Assistant Secretary for Research
SES Deputy Assistant Secretary for Policy Development
SES Deputy Assistant Secretary for Economic Affairs
SES *Deputy Assistant Secretary for Urban and Community Studies

OFFICE OF THE GENERAL COUNSEL

SES Deputy General Counsel
SES *Deputy General Counsel (Operations)

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

SES Deputy Assistant Secretary for Administration

OFFICE OF THE ASSISTANT SECRETARY FOR LEGISLATION AND CONGRESSIONAL RELATIONS

SES *Deputy Assistant Secretary for Legislation
SES *Deputy Assistant Secretary for Congressional Relations

OFFICE OF THE INSPECTOR GENERAL

SES Deputy Inspector General

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

SES Vice President (Mortgage Finance)
SES Vice President (Mortgage Backed Securities)
SES Executive Vice President

Field Offices

Region I

SES Regional Administrator
SES Deputy Regional Administrator
SES Area Manager, Boston Area Office

Region II

SES Regional Administrator
SES Deputy Regional Administrator
SES Area Manager, New York Area Office
SES Area Manager, Newark Area Office

Region III

SES Regional Administrator
SES Deputy Regional Administrator
SES Area Manager, Philadelphia Area Office
SES Area Manager, Pittsburgh Area Office

Region IV

SES Regional Administrator
SES Deputy Regional Administrator
SES Area Manager, Atlanta Area Office
SES Area Manager, Greensboro Area Office
SES Area Manager, Jacksonville Area Office

Region V

SES Regional Administrator
SES Deputy Regional Administrator
SES Area Manager, Detroit Area Office
SES Area Manager, Chicago Area Office
SES Area Manager, Columbus Area Office
SES Area Manager, Minneapolis/St. Paul Area Office
SES Area Manager, Indianapolis Area Office

Region VI

SES Regional Administrator
SES Deputy Regional Administrator
SES Area Manager, Dallas Area Office
SES Area Manager, New Orleans Area Office
SES Area Manager, Oklahoma City Area Office

Region VII

SES Regional Administrator
SES Deputy Regional Administrator

Region VIII

SES Regional Administrator
SES Deputy Regional Administrator

Region IX

SES Regional Administrator
SES Deputy Regional Administrator
SES Area Manager, San Francisco Area Office
SES Area Manager, Los Angeles Area Office

Region X

SES Regional Administrator
SES Deputy Regional Administrator

AGENCY: DEPARTMENT OF THE INTERIOR

Positions:

Office of the Secretary

SES Assistant Inspector General for Auditing
SES Assistant Inspector General for Investigations
SES Director, Office of Small and Disadvantaged Business Utilization
SES Assistant to the Secretary and Director, Office of Congressional Relations
SES Executive Assistant to the Secretary
SES Assistant to the Secretary and Director of Public Affairs
SES Assistants to the Secretary (4)
SES Director, Office of Youth Programs
SES Deputy Under Secretaries (3)
SES Director, Office for Equal Opportunity
SES Legislative Counsel
SES Deputy Director—Senate
SES Deputy Director—House
SES Assistant Director—Federal EEO
SES Assistant Director—Title VI
SES *Deputy Director for Public Affairs
SES *Special Assistant (Field Representative) (Denver)
SES *Special Assistants (3)
SES *Special Assistant to the Secretary (Anchorage)

Office of Hearings and Appeals

SES Director, Office of Hearings and Appeals
SES Chairman, Board of Surface Mining and Reclamation Appeals
SES Chairman, Board of Contract Appeals
SES Vice Chairman, Board of Contract Appeals

Office of Assistant Secretary—Territorial and International Affairs

SES Director, Office of Technical Assistance
SES High Commissioner of the Trust Territory

SES Deputy High Commissioner of the Trust Territory
SES Chief Justice, Trust Territory
SES *Deputy Assistant Secretary Territorial and International Affairs (Policy)
SES *Deputy Assistant Secretary (Operations) and Science Advisor
SES *Director, Office of Program Coordination

Office of the Solicitor

SES Deputy Solicitor
SES *Deputy Solicitor, Legal Services
SES Associate Solicitor—Energy and Resources
SES Associate Solicitor—General Law
SES Associate Solicitor—Conservation Wildlife
SES Associate Solicitor—Indian Affairs
SES Associate Solicitor—Surface Mining
SES Regional Solicitors (7)

Office of the Assistant Secretary—Fish and Wildlife and Parks

SES Deputy Assistant Secretaries (2)
SES *Staff Assistant to the Assistant Secretary
SES *Special Assistant to the Assistant Secretary

National Park Service

SES Director
SES Deputy Director
SES Associate Directors (2)
SES Assistant Directors (3)
SES Director, National Capital Region
SES Regional Directors (8)
SES Regional Director (Alaska)
SES Associate Director, Administration
SES *Chief, Office of Legislation
SES *Chief Scientist

Heritage Conservation and Recreation Service (HCRS)

SES Regional Directors (5)

Fish and Wildlife Service

SES Deputy Director
SES Associate Directors (3)
SES Associate Director for Research
SES Associate Director for Fisheries Resources
SES Regional Directors (5)
SES Regional Director (Alaska)
SES Assistant Director—Planning and Budget

Office of the Assistant Secretary—Energy and Minerals

SES Deputy Assistant Secretaries (2)
SES *Director, Office of Minerals Policy and Research Analysis

Bureau of Mines

SES Deputy Directors (2)
SES *Management Services Officer
SES *Assistant Director for Special Projects
SES *Chief Staff Officer

U.S. Geological Survey

SES Associate Director
SES Assistant Directors (5)
SES *Chief, Office of Earth Sciences Application
SES *Assistant Regional Directors (3)

Office of Surface Mining

SES Deputy Director
SES Assistant Directors (5)
SES Regional Directors (5)

Office of the Assistant Secretary—Land and Water Resources (LWR)

SES Deputy Assistant Secretaries (LWR) (2)
SES *Staff Assistant to the Assistant Secretary (3)
SES *Special Assistant for Emergency Water Planning

Office of Water and Power Resources

SES Commissioner
SES Deputy Commissioner
SES Assistant Commissioners (4)
SES Regional Directors (7)
SES *Special Assistant to the Commissioner

Bureau of Land Management

SES Associate Director
SES Assistant Directors (5)
SES Deputy Directors (3)
SES *Director, Denver Service Center
SES *Chief, Office of Special Projects
SES *State Directors (11)

Office of Water Research and Technology

SES Director
SES Deputy Director
SES Assistant Directors (2)

Office of the Assistant Secretary Policy, Budget and Administration

SES Deputy Assistant Secretaries (3)
SES Assistant to the Assistant Secretary

Office of Acquisition and Property Management

SES Director
SES Chief, Division of Acquisition and Grants

Office of Information Resources Management

SES Director
SES Deputy Director

Office of Environmental Project Review

SES Director

Office of Administrative Services

SES Director

Office of Budget

SES Director
SES Deputy Director
SES *Chief, Division of Budget Operations

Office of Outer Continental Shelf Program Coordination

SES Director
SES Assistant Directors (2)

Office of Policy Analysis

SES Director
SES Assistant Directors (3)

Office of Personnel

SES Director
SES Deputy Director

Office of the Assistant Secretary Indian Affairs

SES Deputy Assistant Secretaries (2)

Bureau of Indian Affairs

SES Area Directors (12)
SES Director, Indian Services
SES Director of Trust Responsibilities
SES Director of Administration
SES Director of Indian Education Programs
SES Director of Tribal Resources

AGENCY: DEPARTMENT OF JUSTICE

Positions:

Office of the Attorney General

SES Counselor to the Attorney General
SES Assistant to the Attorney General
SES *Special Assistant

Office of the Deputy Attorney General

SES All Associate Deputy Attorneys General

Office of the Associate Attorney General

SES All Deputy Associate Attorneys General

Office of the Solicitor General

SES All Deputy Solicitors General

Legal Divisions: Antitrust, Civil, Civil Rights, Criminal, Land and Natural Resources, and Tax

SES All Deputy Assistant Attorneys General in legal divisions
SES Director of Operations, Antitrust Division
SES Chief, Organized Crime and Racketeering Section, Criminal Division

Office of Legal Counsel

SES All Deputy Assistant Attorneys General

Office of Legislative Affairs

No Section 207(d)(1)(C) Designations

Justice Management Division

SES Assistant Attorney General for Administration
SES *Special Assistants to the Assistant Attorney for Administration
SES All Deputy Assistant Attorneys General
SES Staff Directors
SES *Deputy Director, Audit Staff

Office of Public Affairs

SES Director

Board of Immigration Appeals

No Section 207(d)(1)(C) Designations

Office of the Pardon Attorney

No Section 207(d)(1)(C) Designations

United States Parole Commission

GS-16 All Commissioners

United States Marshals Service

SES Director
SES Deputy Director
SES Assistant Director for Operations
SES Assistant Director for Planning, Budget and Administration
SES *Assistant Director for Legal and Personnel Programs

United States Attorneys

SES All United States Attorneys

Drug Enforcement Administration

GS-16 All Assistant Administrators

GS–17 *All Deputy Assistant Administrators
GS–17 All Regional Directors
GS–17 *Director, Office of Congressional and Public Affairs
GS–17 Director, Office of Science and Technology
GS–17 Director, Office of Training
GS–17 Chief Counsel
GS–17 *Chief Inspector

Federal Bureau of Investigation

GS–18 Executive Assistant Directors
GS–18 All Assistant Directors
GS–18 Inspector in Charge—Public Affairs Office
GS–17 All Inspectors/Deputy Assistant Directors
GS–18 or GS–17 All Special Agents in Charge of Field Offices above GS–16

Immigration and Naturalization Service

SES Deputy Commissioner
SES *Special Assistant to the Deputy Commissioner for Statistical Information
SES Executive Assistant to the Commissioner
SES Associate Deputy Commissioner for Planning and Evaluation
SES All Associate Commissioners
SES All Regional Commissioners
SES General Counsel
SES *Special Investigator

Bureau of Prisons

SES Director
SES All Assistant Directors
SES All Regional Directors
SES *Assistant Regional Directors
SES Associate Commissioner for Prison Industries
SES *Wardens
SES General Counsel
SES *Director, National Institute of Corrections

Community Relations Service

SES Deputy Director

Office of Justice Assistance, Research, and Statistics

SES Comptroller
SES *Director, Office of Civil Rights Compliance Task Force
SES Assistant Director, Office of Operations Support
SES General Counsel
SES Assistant Administrator, Office of Planning and Management
SES *Assistant Director for Research Coordination

Law Enforcement Assistance Administration

SES Assistant Administrator, Office of Criminal Justice Programs
SES Deputy Assistant Administrator, Office of Criminal Justice Programs
SES Assistant Administrator, Office of Community Anti-Crime Programs

National Institute of Justice

SES Assistant Director, Office of Development Testing and Dissemination
SES Assistant Director, Office of Research Programs

Office of Juvenile Justice and Delinquency Prevention

SES Deputy Assistant Administrator

Bureau of Justice Statistics

SES Assistant Director, Systems Development Division
SES Deputy Director

Executive Office for United States Trustees

SES *Director

Office of Legal Policy

SES *Deputy Assistant Attorneys General

Office of Intelligence Policy Review

SES *Counsel for Intelligence Policy
SES *Deputy Counsel for Operations

Foreign Claims Settlement Commission

SES *General Counsel

AGENCY: DEPARTMENT OF LABOR

Positions:

Office of the Inspector General (OIG)

SES Deputy Inspector General
SES Assistant Inspector General for Investigations
SES Assistant Inspector General for Audit
SES Director, Office of Loss Analysis and Prevention

Women's Bureau

GS–17 Director
SES Deputy Director

Office of Legislation and Intergovernmental Relations (OLIR)

SES Deputy Under Secretary for Legislation and Intergovernmental Relations

Office of the Assistant Secretary, Administration and Management

SES Deputy Assistant Secretary
SES Director, Office of Administrative Programs and Services
SES Comptroller for the Department
SES Deputy Comptroller
SES Assistant Secretary for Administration and Management

Office of Administrative Law Judges (ALJ)

No Section 207(d)(1)(C) Designations

Office of the Assistant Secretary for Labor-Management relations (LMSA)

SES Deputy Assistant Secretary for Labor-Management Relations
SES **Administrator for Pension and Welfare Benefit Programs (PWBP)
SES Deputy Administrator for Pension and Welfare Benefit Programs (PWBP)
SES Director, Office of Labor-Management Standards Enforcement (LMSE)

Office of the Assistant Secretary for Occupational Safety and Health Administration (OSHA)

SES Deputy Assistant Secretary for Occupational Safety and Health Administration
SES Director, Policy Analysis, Integration and Evaluation
SES Director, Federal Compliance and State Programs
SES Director, Safety Standards Programs
SES Director, Health Standards Programs
SES Director, Training, Education, Consultation and Federal Agency Programs (TECFAP)
SES Director, Technical Support, TECFAP

Office of the Assistant Secretary for Mine Safety and Health Administration (MSHA)

SES Deputy Assistant Secretary for Mine Safety and Health Administration
SES Administrator for Metal and Nonmetal Mine Safety and Health
SES Deputy Administrator for Metal and Nonmetal Mine Safety and Health
SES Administrator for Coal Mine Safety and Health
SES Deputy Administrator for Coal
SES Director of Technical Support
SES Director of Education and Training
SES Director of Assessments
SES Chief, Standards, Regulations and Variances

Office of the Deputy Under Secretary for Employment Standards Administration (ESA)

SES *Deputy Under Secretary for Employment Standards
SES Associate Deputy Under Secretary for Employment Standards
SES Director, Office of Federal Contract Compliance Programs (OFCCP)
SES Deputy Director, OFCCP
SES Deputy Administrator, Wage and Hour Division (WH)
SES Director, Office of Workers' Compensation Programs (OWCP)
SES Deputy Director, OWCP for Operations

Bureau of Labor Statistics (BLS)

SES Deputy Commissioner

Office of the Solicitor of Labor

SES Deputy Solicitor
SES *Deputy Solicitor for Regional Operations

Office of the Assistant Secretary, Employment and Training Administration (ETA)

SES Administrator, Office of Management Assistance
SES Deputy Assistant Secretary, ETA

Office of Policy Evaluation and Research (OPER)

SES Administrator
SES Director, Office of Research and Development

Office of Comprehensive Employment Development (OCED)

SES Administrator

Office of National Programs (ONP)

SES Administrator

Unemployment Insurance Service (UIS)

SES Administrator
SES Deputy Administrator

United States Employment Services (USES)

SES Administrator
SES Deputy Administrator

Bureau of Apprenticeship and Training (BAT)

SES Administrator
SES Deputy Administrator

Office of Administration and Management (OAM)

No Section 207(d)(1)(C) Designations

Office of Youth Programs (OYP)

SES Administrator
SES *Deputy Administrator

Office of the Deputy Under Secretary International Labor Affairs (ILAB)

SES Deputy Under Secretary for International Affairs
SES Associate Deputy Under Secretary for International Labor Affairs

Office of the Assistant Secretary for Policy Evaluation and Research (ASPER)

SES Deputy Assistant Secretary for Policy, Evaluation and Research
SES Deputy Assistant Secretary for Economic Policy and Research

National Commission for Employment Policy (NCEP)

GS–18 Director

President's Committee on Employment of the Handicapped (PCEH)

SES Executive Director
SES Deputy Executive Director

Office of the Assistant Secretary for Veteran's Employment

SES *Deputy Assistant Secretary

AGENCY: DEPARTMENT OF STATE

Positions:

FEMC Executive Assistant to Secretary, S
FEOC Deputy Executive Secretary (3), S/S
FEMC Deputy Director for Planning, S/P
FEMC Office Director, S/P
FEOC Deputy Director for Planning, S/P
FEMC Office Director, D/CT
FEOC Deputy Director, EEO, M/EEOCR
FEMC Deputy Director of Management Operations (2), M/MO
FEMC Director of Management Operations, M/MO
FEMC Deputy Inspector General (2), S/IG
FECM Director Political Military, PM/OD
FEMC Deputy Director PM, PM/AS
FEMC Deputy Director PM, PM/ST
FEMC Medical Director, M/MED
FEMC Deputy Assistant Secretary, INM
FEMC Deputy Assistant Secretary (2), OES
FEMC Director, Refugee Programs, RP
FEOC Deputy Assistant Secretary, RP
FEMC Deputy Assistant Secretary, EB
FEMC Deputy Assistant Secretary, EB/IFD
FEMC Deputy Assistant Secretary, EB/ORF
FEMC Deputy Director INR, INR
FEMC Deputy US Representative, ARA/USOAS
FEMC Deputy Assistant Secretary (5), EUR
FEMC Deputy Assistant Secretary (2), EA
FEMC Deputy Assistant Secretary (4), NEA
FEMC Deputy Assistant Secretary, AF
FE01 Deputy Assistant Secretary, AF
FEMC Deputy US Representative, USUN
FEMC Deputy Assistant Secretary, IO
FEMC Deputy Assistant Secretary, A/CDC
FEMC Deputy Assistant Secretary, DGP/PER
FEMC Deputy Assistant Secretary, A/OPR
FEMC Director Foreign Service Institute, M/FSI
FEMC Deputy Assistant Secretary, A/OC
FEMC Deputy Assistant Secretary, CA
FEMC Deputy Assistant Secretary, CA/PPT
FEMC Deputy Chief of Mission, Buen. Aires
FEOC Deputy Chief of Mission, La Paz
FEMC Deputy Chief of Mission, Brasilia
FEMC Principal Officer, Rio De Jan
FEMC Principal Officer, Sao Paulo
FEOC Deputy Chief of Mission, Santiago
FEOC Principal Officer, Belize City
FEMC Deputy Chief of Mission, Bogota
FEOC Deputy Chief of Mission, Bridgetown
FEOC Deputy Chief of Mission, San Jose
FEMC Principal Officer, Havana
FEOC Deputy Chief of Mission, Santo Dom.
FEOC Deputy Chief of Mission, Quito
FEOC Principal Officer, Guayaquil
FEOC Deputy Chief of Mission, San Salv
FEOC Deputy Chief of Mission (2), Guatemala
FEOC Deputy Chief of Mission, Prt-Au-Prn
FEOC Deputy Chief of Mission, Tegucigalpa
FEOC Deputy Chief of Mission (2), Kingston
FEMC Deputy Chief of Mission, Mexico D.F.
FEOC Principal Officer, Guadalajara
FEOC Principal Officer, Monterrey
FEOC Principal Officer, Tijuana
FEOC Deputy Chief of Mission, Managua
FEMC Deputy Chief of Mission, Panama
FEOC Deputy Chief of Mission, Asuncion
FEMC Deputy Chief of Mission, Lima
FEOC Deputy Chief of Mission, Montevideo
FEMC Deputy Chief of Mission, Caracas
FEOC Deputy Chief of Mission (2), Port O Spain
FEMC Deputy Chief of Mission, Vienna
FEMC Deputy US Representative, Unvie Vienna
FEMC US Representative, Unvie Vienna
FEMC Deputy US Representative, MBFR Vienna
FEMC US Representative, MBFR Vienna
FEMC Deputy Chief of Mission, Brussels
FEMC Deputy Chief of Mission, Brussel–EC
FEMC Deputy Chief of Mission, Brussels NTO
FEMC US Representative, Brussels NTO
FEOC Deputy Chief of Mission (2), Nicosia
FEMC Deputy Chief of Mission, Athens
FEOC Principal Officer, Thessaloniki
FEMC US Representative, Montreal
FEOC Deputy US Representative, Montreal
FEMC Deputy Chief of Mission, Ottawa
FEMC Principal Officer, Montreal
FEMC Principal Officer, Toronto
FEOC Principal Officer, Vancouver
FEOC Deputy Chief of Mission, Copenhagen
FEMC Deputy Chief of Mission, London
FEOC Deputy Chief of Mission, Helsinki
FEMC Deputy Chief of Mission, Paris
FEMC US Representative, OECD Paris
FEMC US Representative, Unesco PRS
FEMC Deputy US Representative, Unesco PRS
FEMC Deputy Chief of Mission, Bonn
FEMC Assistant Chief of Mission, Berlin
FEOC Principal Officer, Dusseldorf
FEMC Principal Officer, Frankfurt
FEOC Principal Officer, Hamburg
FEMC Principal Officer, Munich
FEOC Principal Officer, Stuttgart
FEOC Deputy Chief of Mission, Berlin
FEOC Deputy Chief of Mission, Reykjavik
FEMC Deputy Chief of Mission, Rome
FEMC Principal Officer, Milan
FEMC Principal Officer (2), Naples
FEOC US Representative, USM FAO Rome
FEOC Deputy Chief of Mission, The Hague
FEOC Principal Officer, Amsterdam
FEOC Principal Officer, Rotterdam
FEOC Deputy Chief of Mission, Oslo
FEOC Deputy Chief of Mission, Warsaw
FEOC Deputy Chief of Mission, Lisbon
FEOC Deputy Chief of Mission, Bucharest
FEMC Deputy Chief of Mission, Madrid
FEOC Principal Officer, Barcelona
FEMC Deputy Chief of Mission, Stockholm
FEOC Deputy Chief of Mission, Bern
FEMC US Representative, US Mis Gen
FEMC Deputy US Representative, US Mis Gen
FEMC Deputy Chief of Mission, Ankara
FEMC Principal Officer, Istanbul
FEOC Principal Officer, Izmir
FEMC Deputy Chief of Mission, Moscow
FEOC Principal Officer, Leningrad
FEOC Deputy Chief of Mission, Belgrade
FEMC Deputy Principal Officer, Hong Kong
FEMC Principal Officer, Hong Kong
FEMC Deputy Chief of Mission, Beijing
FEMC Deputy Chief of Mission, Canberra
FEOC Principal Officer, Melbourne
FEMC Principal Officer, Sydney
FEMC Deputy Chief of Mission, Tokyo
FEOC Principal Officer, Osaka-Kobe
FEOC Principal Officer (2), Naha
FEMC Deputy Chief of Mission, Seoul
FEMC Deputy Chief of Mission (2), Vientiane
FEOC Deputy Chief of Mission, Wellington
FEMC Deputy Chief of Mission, Manila
FEMC Deputy Chief of Mission, Bangkok
FEOC Deputy Chief of Mission, Singapore
FEOC Deputy Chief of Mission, Kuala LMPR
FEOC Deputy Chief of Mission, Rangdon
FEOC Deputy Chief of Mission, Kabul
FEOC Deputy Chief of Mission (2), Dacca
FEOC Deputy Chief of Mission, Colombo
FEMC Deputy Chief of Mission, Cairo
FEOC Principal Officer, Alexandria
FEMC Deputy Chief of Mission (2), New Delhi
FEMC Principal Officer, Bombay
FEOC Principal Officer, Baghdad
FEMC Deputy Chief of Mission, Tel Aviv
FEMC Principal Officer, Jerusalem
FEOC Deputy Chief of Mission (2), Amman
FEOC Deputy Chief of Mission, Kuwait
FEMC Deputy Chief of Mission, Beirut
FEOC Deputy Chief of Mission, Rabat
FEOC Principal Officer, Casablanca
FEOC Deputy Chief of Mission, Kathmandu
FEMC Deputy Chief of Mission, Islamabad
FEMC Principal Officer, Karachi
FEMC Deputy Chief of Mission, Jidda
FEOC Principal Officer, Dhahran
FEOC Deputy Chief of Mission, Damascus
FEOC Deputy Chief of Mission, Tunis
FEMC Deputy Chief of Mission, Kinshasa
FEOC Deputy Chief of Mission, Add. Ababa
FEOC Deputy Chief of Mission, Dakar
FEOC Deputy Chief of Mission, Accra
FEOC Deputy Chief of Mission, Abidjan
FEOC Deputy Chief of Mission, Nairobi
FEOC Deputy Chief of Mission, Monrovia
FEMC Deputy Chief of Mission, Lagos
FEOC Deputy Chief of Mission, Pretoria
FEOC Principal Officer, Capetown
FEOC Principal Officer, Johannesburg

AGENCY: DEPARTMENT OF TRANSPORTATION

Positions:

Office of the Secretary of Transportation

SES Deputy General Counsel
SES Deputy Assistant Secretary for Planning and Policy Analysis
SES Deputy Assistant Secretary for Policy and Program Development
SES Deputy Assistant Secretary for Budget and Programs
SES Deputy Assistant Secretary for Governmental Affairs
SES Assistant Secretary for Administration
SES Deputy Assistant Secretary for Administration
SES Director, Office of Civil Rights

United States Coast Guard

SES Deputy Chief Counsel
O-7/O-8 Chief of Staff (Rear Admiral)
O-7/O-8 Chief, Office of Boating, Public and Consumer Affairs (Rear Admiral)
O-7/O-8 Comptroller (Rear Admiral)
O-7/O-8 Chief Counsel (Rear Admiral)
O-7/O-8 Chief, Office of Engineering (Rear Admiral)
O-7/O-8 Chief, Office of Marine Environment and Systems (Rear Admiral)
O-7/O-8 Chief, Office of Merchant Marine Safety (Rear Admiral)
O-7/O-8 Chief, Office of Navigation (Rear Admiral)
O-7/O-8 *Chief, Office of Command, Control and Communication (Rear Admiral)
O-7/O-8 Chief, Office of Operations (Rear Admiral)
O-7/O-8 Chief, Office of Research and Development (Rear Admiral)
O-7/O-8 District Commanders (Rear Admirals) (10)

Federal Aviation Administration

SES Associate Administrator for Administration
SES Deputy Associate Administrator for Administration
SES Associate Administrator for Airports
SES Associate Administrator for Air Traffic and Airway Facilities
SES *Deputy Associate Administrator for Air Traffic and Airway Facilities
SES Associate Administrator for Aviation Standards
SES *Deputy Associate Administrator for Aviation Standards
SES Associate Administrator for Engineering and Development
SES Deputy Associate Administrator for Engineering and Development
SES Associate Administrator for Policy and International Aviation
SES Federal Air Surgeon
SES Deputy Federal Air Surgeon
SES Chief Counsel
SES Deputy Chief Counsel
SES Director, Eastern Region (New York)
SES Deputy Director, Eastern Region (New York)
SES Director, New England Region (Boston)
SES Deputy Director, New England Region (Boston)
SES Director, Southern Region (Atlanta)
SES Deputy Director, Southern Region (Atlanta)
SES Director, Southwest Region (Fort Worth)
SES Deputy Director, Southwest Region (Fort Worth)
SES Director, Central Region (Kansas City)
SES Deputy Director, Central Region (Kansas City)
SES Director, Great Lakes Region (Chicago)
SES Deputy Director, Great Lakes Region (Chicago)
SES Director, Western Region (Los Angeles)
SES Deputy Director, Western Region (Los Angeles)
SES Director, Rocky Mountain Region (Denver)
SES Director, Northwest Region (Seattle)
SES Deputy Director, Northwest Region (Seattle)
SES Director, Alaska Region (Anchorage)
SES Deputy Director, Alaska Region (Anchorage)
SES Director, Pacific-Asia Region (Honolulu)
SES Deputy Director, Pacific-Asia Region (Honolulu)
SES Director, Europe-Africa-Middle East Office

Federal Highway Administration

SES Associate Administrator for Planning and Policy Development
SES Associate Administrator for Research and Development
SES Associate Administrator for Right-Of-Way and Environment
SES Associate Administrator for Engineering and Traffic Operations
SES Associate Administrator for Safety
SES Associate Administrator for Administration
SES Deputy Associate Administrator for Administration
SES Chief Counsel
SES Deputy Chief Counsel
SES Regional Federal Highway Administrators (9)
SES Deputy Administrator
SES Executive Director

Federal Railroad Administration

SES Associate Administrator for Administration
SES Chief Counsel
SES Associate Administrator for Federal Assistance
SES Associate Administrator for Intercity Programs
SES Deputy Associate Administrator for Intercity Programs
SES Associate Administrator for Research and Development
SES Associate Administrator for Policy and Program Development
SES Associate Administrator for Safety
SES Deputy Associate Administrator for Safety
SES Director, Transportation Test Center (TTC)
SES General Manager, Alaska Railroad
SES Deputy Associate Administrator for Policy and Program Development
SES Deputy Administrator

National Highway Traffic Safety Administration

SES Chief Counsel
SES Associate Administrator for Rulemaking
SES Deputy Associate Administrator for Rulemaking
SES Associate Administrator for Traffic Safety Programs
SES Associate Administrator for Reseach and Development
SES Associate Administrator for Enforcement
SES Associate Administrator for Plans and Programs
SES Associate Administrator for Administration
SES Deputy Administrator

Urban Mass Transportation Administration

SES Executive Director
SES Associate Administrator for Administration
SES Chief Counsel
SES Associate Administrator for Technology Development and Deployment
SES Associate Administrator for Transit Assistance
SES Associate Administrator for Policy, Budget, and Program Development
SES Associate Administrator for Planning, Management, and Demonstrations
SES Deputy Administrator

Saint Lawrence Seaway Development Corporation

SES Associate Administrator and Resident Manager

Research and Special Programs Administration

SES Deputy Administrator
SES Chief Counsel
SES Associate Administrator, Office of Policy, Plans, and Program Management
SES Director, Material Transportation Bureau
SES Director, Transportation Programs Bureau
SES Director, Transportation Systems Center
SES Deputy Director, Transportation Systems Center
SES Administrator

AGENCY: DEPARTMENT OF THE TREASURY

Positions:

Office of the Secretary

SES Inspector General

Office of the Assistant Secretary for Domestic Finance

SES Deputy Assistant Secretary, Debt Management
SES Deputy Assistant Secretary, Financial Institutions and Capital Markets Policy
SES Deputy Assistant Secretary, State and Local Finance
SES *Deputy Assistant Secretary, Federal Finance
SES *Director, Office of Government Financing

Office of the Assistant Secretary for International Monetary Affairs

SES Deputy Assistant Secretary for International Monetary Affairs
SES Deputy Assistant Secretary for Developing Nations Finance
SES Deputy Assistant Secretary, Trade and Investment Policy
SES Deputy Assistant Secretary, Commodities and Natural Resources

Office of the Assistant Secretary for Tax Policy

SES Deputy Assistant Secretary, Tax Policy
SES Deputy Assistant Secretary, Tax Policy and Director, Office of Tax Analysis

Office of the Fiscal Assistant Secretary

SES Assistant Secretary

Office of the Assistant Secretary for Public Liaison and Consumer Affairs

SES *Assistant Secretary

Office of the Assistant Secretary for Administration

SES **Assistant Secretary

Legal Division

SES Deputy General Counsel, Office of the General Counsel
SES Assistant General Counsel and Director, Tax Legislative Counsel, Office of the General Counsel
SES International Tax Counsel and Director, Office of International Tax Counsel, Office of the General Counsel
SES Chief Counsel, Customs Department
SES Deputy Chief Counsel, Customs Department
SES Chief Counsel, Comptroller of the Currency
SES Deputy Chief Counsel, Comptroller of the Currency
SES Chief Counsel, Bureau of Alcohol, Tobacco and Firearms
SES Deputy Chief Counsel, Bureau of Alcohol, Tobacco and Firearms
SES Legal Counsel, U.S. Secret Service
SES Deputy Chief Counsel (General), Internal Revenue Service
SES Deputy Chief Counsel (Litigation), Internal Revenue Service
SES Deputy Chief Counsel (Technical), Internal Revenue Service

Customs Service

SES Commissioner
SES Deputy Commissioner
SES *Assistant Commissioner, Border Operations
SES *Deputy Assistant Commissioner, Border Operations
SES Director, Office of Investigations
SES Comptroller
SES Assistant Commissioner, Commercial Operations
SES *Director, Management Inspection Staff
SES Assistant Commissioner, Management Integrity

Bureau of Alcohol, Tobacco and Firearms

SES Directo
SES Deputy Director
SES Assistant Director, Regulatory Enforcement
SES Assistant Director, Criminal Enforcement
SES Assistant Director, Internal Affairs

Bureau of Government Financial Operations

GS-18 Commissioner

Bureau of the Mint

GS-18 Director
SES Deputy Director
SES *Assistant Director (Production)

Bureau of Public Debt

GS-18 Commissioner of Public Debt

Office of Revenue Sharing

SES Director

U.S. Secret Service

SES Director
SES Deputy Director

Office of the Comptroller of the Currency

SES Deputy Comptroller for Special Examinations
SES Chief National Bank Examiner
SES Deputy Comptroller of the Currency, Special Surveillance
SES Deputy Comptroller, Multinational Banking
SES Deputy Comptroller, Research and Economic Programs
SES Deputy Comptroller for Administration/Special Assistant to the Deputy Comptroller for Operations
SES Assistant to the Comptroller/ Senior Advisor to the Comptroller
SES Director, Bank Organization and Structure
SES Deputy Comptroller, Customer and Community Programs
SES Deputy Comptroller of the Currency for Interagency Coordination
SES Senior Deputy Comptroller for Operations
SES Senior Deputy Comptroller for Policy
SES First Deputy Comptroller
SES Senior Deputy Comptroller for Bank Supervision

Internal Revenue Service

SES Deputy Commissioner
SES Assistant Commissioner (EP/EO)
SES Assistant Commissioner (Compliance)
SES Assistant Commissioner (Technical)
SES Assistant Commissioner (Resources Management)
SES Assistant Commissioner (Planning and Research)
SES Assistant Commissioner (Taxpayer Service and Returns Processing)
SES Assistant Commissioner (Inspection)
SES Assistant Commissioner (Data Services)
SES Regional Commissioner, North Atlantic Region
SES Regional Commissioner, Midwest Region
SES Regional Commissioner, Western Region
SES Regional Commissioner, Southeast Region
SES Regional Commissioner, Central Region
SES Regional Commissioner, Southwest Region
SES Regional Commissioner, Mid-Atlantic Region

Bureau of Engraving and Printing

SES Director
GS-17 Deputy Director
SES Assistant Director (Administration)
SES Assistant Director (Operations)
SES Assistant Director (Research and Engineering)

Treasurer of the United States

GS-18 Treasurer and National Savings Bond Director, Office of the Secretary

AGENCY: ACTION

Positions:
SES *Executive Officer
SES Deputy Associate Director for Domestic and Anti-Poverty Operations
SES Executive Assistant for Programs
SES *Deputy Associate Director for Older Americans Volunteer Program (OAVP)
SES Assistant Director for Administration and Finance
SES *Deputy Assistant Director for Administration and Finance
SES General Counsel
SES *Assistant Director for Congressional and Governmental Affairs
SES *Deputy Assistant Director for Voluntary Citizen Participation
SES *Director of Accounting
SES *Deputy Associate Director for VISTA/ ACTION Education Programs
SES Assistant Director for Compliance
SES Assistant Director for Policy and Planning
SES *Director, Vietnam Veterans Leadership Program
SES *Inspector General
FQ-1 *Assistant Director for Recruitment and Communications
FE-2 *General Counsel, Peace Corps
FE-2 *Associate Director, Program Operations, Peace Corps

AGENCY: ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Positions:
SES Executive Secretary
SES Executive Director

AGENCY: ADVISORY COUNCIL ON HISTORIC PRESERVATION

Positions:
SES Executive Director

AGENCY: AMERICAN BATTLE MONUMENTS COMMISSION

Positions:
O-8 Secretary

AGENCY: BOARD FOR INTERNATIONAL BROADCASTING

Positions:
SES Executive Director
SES Director of Engineering

AGENCY: CENTRAL INTELLIGENCE AGENCY

Positions:
AD General Counsel
AD Inspector General
AD Legislative Counsel

AD Deputy Director for Administration
AD Associate Deputy Director for Administration
AD Deputy Director for Operations
AD Associate Deputy Director for Operations
AD Deputy to Director of Central Intelligence for Resource Management
AD Associate Deputy to Director of Central Intelligence for Resource Management
AD Deputy to Director of Central Intelligence for Collection Tasking
AD *Chairman, National Intelligence Council
AD *Associate Chairman, National Intelligence Council
AD Associate Deputy to Director of Central Intelligence for Collection Tasking
AD Deputy Director of the National Foreign Assessment Center
AD Deputy Director for Science and Technology
AD Associate Deputy Director for Science and Technology
AD Director of Technical Services
AD Direcator of Data Processing
AD Director of Sigint Operations
AD Director of Security
AD Director of Research and Development
AD Director of Personnel
AD Comptroller
AD Deputy Comptroller
AD Director of Development and Engineering
AD Director of Logistics
AD Director of Finance
AD Deputy Director of Development and Engineering
AD Deputy Director of Research and Development
AD Deputy Director of Personnel
AD Deputy Director of Finance
AD Deputy Director of Logistics
AD Deputy Director—Data Processing
AD Director of Public Affairs
AD Deputy Legislative Counsel
AD Deputy General Counsel
AD Deputy Inspector General

AGENCY: CIVIL AERONAUTICS BOARD

Positions:
SES Managing Director, Office of Managing Director
SES Director, Bureau of Carrier Accounts and Audits
SES Director, Bureau of Compliance and Consumer Protection
SES Director, Bureau of Domestic Aviation
SES Director, Bureau of International Aviation
SES Director, Office of Community and Congressional Relations
SES Director, Office of Human Resources
SES Comptroller, Office of Comptroller
SES General Counsel, Office of the General Counsel
SES Deputy General Counsel, Office of the General Counsel
SES Deputy Director, Bureau of Compliance and Consumer Protection
SES Deputy Director, Bureau of Domestic Aviation
SES Associate Director, Bureau of International Aviation

AGENCY: COMMISSION ON CIVIL RIGHTS

Positions:
SES Solicitor
SES Assistant Staff Director for Regional Programs
SES Assistant Staff Director for Administration
SES Assistant Staff Director for Program Planning and Evaluation
SES Acting Assistant Staff Director for Program and Policy Review
SES Assistant Staff Director for Civil Rights Evaluation
SES Assistant Staff Director for Congressional and Public Affairs
SES Deputy Staff Director
SES General Counsel

AGENCY: COMMISSION OF FINE ARTS

Positions: No Section 207(d)(1)(C) Designations

AGENCY: COMMODITY FUTURES TRADING COMMISSION

Positions:
SES Executive Director
SES Deputy Executive Director (2)
SES Director, Division of Enforcement
SES Deputy Director, Division of Enforcement (2)
SES Chief Economist, Division of Economics and Education
SES Deputy Chief Economist, Division of Economics and Education (2)
SES Director, Division of Trading and Markets
SES Deputy Director, Division of Trading and Markets (2)
SES Deputy General Counsel, Office of General Counsel (2)
SES *Supervisory Economist, Division of Economics and Education

AGENCY: COMMUNITY SERVICES ADMINISTRATION

Positions:
SES Regional Director, Region I
SES Regional Director, Region II
SES Regional Director, Region III
SES Regional Director, Region IV
SES Regional Director, Region V
SES Regional Director, Region VI
SES Regional Director, Region VII
SES Regional Director, Region VIII
SES Regional Director, Region IX
SES Regional Director, Region X
SES Associate Director for Economic Development
SES Director, Regional Operations
SES Director for Program Development
SES Deputy General Counsel
SES Deputy Associate Director for Economic Development
SES Deputy Assistant Director for Community Action
SES Controller
SES Deputy Inspector General
SES Assistant Inspector General for Auditing
SES Assistant Inspector General for Investigations
SES **General Counsel
SES **Assistant Director for Policy, Planning and Evaluation

AGENCY: CONSUMER PRODUCT SAFETY COMMISSION

Positions:
SES General Counsel
SES Deputy General Counsel
SES Executive Director
SES Deputy Executive Director
SES Associate Executive Director for Engineering and Science
SES Associate Executive Director for Hazard Identification and Analysis
SES Associate Executive Director for Field Operations
SES Associate Executive Director for Administration
SES Associate Executive Director for Compliance and Enforcement
SES Associate Executive Director for Communications
SES Deputy Associate Executive Director for Engineering and Science
SES Deputy Associate Executive Director for Health Sciences
SES Deputy Associate Executive Director for Epidemiology
SES Director, Office of Program Management
SES Director, Office of Budget, Program Planning and Evaluation

AGENCY: COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Positions: No Section 207(d)(1)(C) Designations

AGENCY: DISTRICT OF COLUMBIA GOVERNMENT

Positions:
Corporation Counsel
Director, Department of Transportation
Director, Department of Human Resources
Director, Department of Environmental Services
Superintendent of Schools
President, University of the District of Columbia
Director, Public Defender Service

AGENCY: ENVIRONMENTAL PROTECTION AGENCY

Positions:
SES Regional Administrator, Region I, Boston
SES Regional Administrator, Region II, New York
SES Regional Administrator, Region III, Philadelphia
SES Regional Administrator, Region IV, Atlanta
SES Regional Administrator, Region V, Chicago
SES Regional Administrator, Region VI, Dallas
SES Regional Administrator, Region VII, Kansas City
SES Regional Administrator, Region VIII, Denver
SES Regional Administrator, Region IX, San Francisco

SES Regional Administrator, Region X, Seattle
SES Associate Assistant Administrator for Management Reform
SES Associate Assistant Administrator for Program Management and Policy
SES *Associate Assistant Administrator for Strategic Planning (Water)
SES *Associate Assistant Administrator for Policy and Program Management Operations (Water)
SES Associate Assistant Administrator for Toxics Integration
SES *Associate Administrator for Legal and Enforcement Counsel
SES *Director, Office of Enforcement Counsel
SES *Associate Administrator for Policy and Resources Management
SES *Deputy Associate Administrator for Resources Management
SES Director, Office of Water Enforcement
SES Director, Office of Mobile Source Air Pollution Control
SES Director, Office of Radiation Programs
SES Director, Office of Noise Abatement and Control
SES Director, Office of Water Program Operations
SES Director, Office of Water Regulations and Standards
SES Director, Office of Solid Waste
SES Director, Office of Drinking Water
SES Director, Office of Pesticides Programs
SES Director, Office of Monitoring Systems and Quality Assurance (ORD)
SES Director, Office of Health Research
SES Director, Office of Environmental Processes and Effects Research
SES Director, Office of Enviromental Engineering and Technology
SES Director, Office of Toxic Substances
SES Director, Office of Air Quality Planning and Standards
SES General Counsel
SES Deputy General Counsel
SES Deputy Inspector-General for Audits
SES Deputy Inspector-General for Inspection
SES *Chief of Staff to Administrator
SES Assistant to the Administrator
SES Assistant to the Deputy Administrator
SES Director, Office of Federal Activities
SES Director, Office of Legislation
SES Director, Criteria and Assessment Office—RTP (ORD)

AGENCY: EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Positions:
SES Associate General Counsel, Trial Division
SES Executive Director
SES Deputy Executive Director
SES Director, Office of Program Planning and Evaluation
SES Deputy General Counsel

AGENCY: EXPORT-IMPORT BANK OF THE UNITED STATES

Positions:
GS–18 General Counsel
GS–17 Deputy General Counsel
GS–17 Senior Vice President, Exporter Credits, Guarantees and Insurance
GS–17 Senior Vice President, Policy
GS–17 Senior Vice President, Direct Credits and Financial Guarantees
GS–17 Senior Vice President, International Relations

AGENCY: FARM CREDIT ADMINISTRATION

Positions:
SES Senior Deputy Governor
SES Chief of Staff to the Senior Deputy Governor
SES General Counsel
SES Deputy Governor, Office of Supervision
SES Associate Deputy Governor, Office of Supervision
SES Assistant Deputy Governor, Office of Supervision
SES Deputy Governor and Chief Examiner
SES Associate Deputy Governor, Office of Examination
SES Deputy Governor, Office of Administration
SES Director, Administrative Division
SES *Director, Congressional and Public Affairs Division
GS–18 *Members of the Federal Farm Credit Board (13)

AGENCY: FEDERAL COMMUNICATIONS COMMISSION

Positions:
SES General Counsel
SES Chief, Broadcast Bureau
SES Chief Scientist
SES Chief, Common Carrier Bureau
SES Chief, Field Operations Bureau
SES Deputy Chief, Broadcast Bureau
SES Executive Director
SES Chief, Private Radio Bureau
SES Deputy Chief, Private Radio Bureau
SES Associate Chief, Private Radio Bureau (Policy)
SES Chief, Office of Opinions and Review
SES Deputy Chief Scientist (Technology)
SES Deputy Chief Scientist (Policy)
SES Deputy Chief, Common Carrier Bureau (Operations)
SES Deputy Chief, Common Carrier Bureau (Policy)
SES Chief, Office of Plans and Policy
SES Deputy Chief, Office of Plans and Policy
SES Deputy General Counsel
SES Chief, Cable Television Bureau
SES Deputy Chief, Field Operations Bureau
SES *Management Systems Advisor, Office of Chairman

AGENCY: FEDERAL DEPOSIT INSURANCE CORPORATION

Positions:
AD–16 Deputy to the Chairman
AD–16 Assistant to the Director (Appointive)
AD–17 Director, Office of Employee Relations
AD–17 Director, Office of Personnel Management
AD–16 Controller
AD–16 Director, Division of Management Systems and Financial Statistics
AD–17 Deputy Director, Division of Management Systems and Financial Statistics
AD–17 Director, Office of Corporate Audits
AD–16 General Counsel
AD–16 Director, Division of Bank Supervision
AD–17 Chief Deputy Director, Division of Bank Supervision
AD–17 Deputy Directors, Division of Bank Supervision (2)
AD–17 Assistant Director, Division of Liquidation
AD–16 Director, Division of Liquidation
AD–16 Director, Division of Research
AD–17 Deputy General Counsel

AGENCY: FEDERAL ELECTION COMMISSION

Positions:
GS–17 *Deputy General Counsel

AGENCY: FEDERAL EMERGENCY MANAGEMENT AGENCY

Positions:
SES Director, Public Affairs
SES General Counsel
SES Director, Operations Support
SES Inspector General
SES Director, Program Analysis and Evaluation
SES Director, Finance and Administration
SES Director of Personnel
SES Director, Training and Education
GS–18 Associate Director, Mitigation and Research

AGENCY: FEDERAL EMERGENCY MANAGEMENT AGENCY

Positions:
SES Executive Director, Office of the Executive Director
SES Deputy Executive Director, Office of the Executive Director
SES Director, Office of Electric Power Regulation
SES Deputy Director, Office of Electric Power Regulatioa
SES Director, Office of Pipeline and Producer Regulation
SES Deputy Director, Office of Pipeline and Producer Regulation
SES General Counsel, Office of General Counsel
SES Deputy General Counsel, Office of General Counsel
SES Director, Office of Regulatory Analysis
SES Deputy Director, Office of Regulatory Analysis
SES Chief Accountant, Office of Chief Accountant
SES Deputy Chief Accountant, Office of Chief Accountant
SES Director, Office of Enforcement
SES *Deputy Director, Office of Enforcement
SES Director, Office of Opinions and Review
SES Deputy Director, Office of Opinions and Review

AGENCY: FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Positions:
GS–18 Executive Secretary

AGENCY: FEDERAL HOME LOAN BANK BOARD

Positions:
SES General Counsel
SES Director, Office of District Banks
SES Director, Office of Community Investment
SES Director, Office of Policy and Economic Research
SES Director, Federal Savings and Loan Insurance Corporation
SES Executive Staff Director
SES Director, Office of Examinations and Supervision
SES Director, Internal Evaluation and Compliance Office

AGENCY: FEDERAL HOME LOAN MORTGAGE CORPORATION

Positions:
AD President—Chief Executive Officer
AD Executive Vice President—Chief Operating Officer
AD Executive Vice President—Chief Administrative Officer
AD Executive Vice President—General Counsel
AD Regional Vice President—Los Angeles
AD Executive Vice President—Chief Financial Officer
AD Special Assistant to the President
AD *Vice President—Corporate Information Resources

AGENCY: FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Positions:
SES Deputy Federal Inspector (Washington)
SES *Deputy Federal Inspector (Alaska)
SES Executive Director
SES General Counsel
SES Director, External Affairs
SES Director, Environment
SES Director, Engineering
SES *Deputy Director, Engineering
SES Director, Cost Control and Audit
SES Director, Compliance and Permitting
SES Director of Administration
SES Deputy Director for Administration
SES Director, Procurement and Contracts

AGENCY: FEDERAL LABOR RELATIONS AUTHORITY

Positions:
GS–18 *Member of the Foreign Service Labor Relations Board (2)
GS–18 *Members, Foreign Service Impasse Disputes Panel (2)
GS–18 Members of the Federal Service Impasses Panel (7)
GS–17 *Chief Judge, Office of Administrative Law Judges
SES Executive Director of the Authority
SES Deputy Executive Director of the Authority
SES Chief Counsel, Office of the Chief Counsel
SES Director, Office of Operations and Technical Assistance
SES Deputy General Counsel
SES Assistant General Counsel (Field Management) (3)
SES Assistant General Counsel for Appeals
SES Regional Director, Washington Region
SES *Regional Director, Atlanta Region
SES Executive Director, Federal Service Impasses Panel

AGENCY: FEDERAL MARITIME COMMISSION

Positions:
SES General Counsel
SES Managing Director
SES Director, Bureau of Tariffs
SES Director, Bureau of Agreements
SES Deputy General Counsel, Division of Reports, Opinions and Decisions
SES Deputy General Counsel, Division of Legislation, Orders and Legal Research and Assistance
SES Director, Bureau of Investigation and Enforcement
SES Director, Bureau of Certification and Licensing
SES Secretary
SES Deputy Managing Director
SES *Director, Office of Regulatory Policy and Planning

AGENCY: FEDERAL MEDIATION AND CONCILIATION SERVICE

Positions:
SES Deputy Director
SES Director of Mediation Services
SES Associate Director of Mediation Services (2)
SES Director of Administration
SES Director of Arbitration Services
SES Director of Special Services
SES General Counsel
SES Regional Directors (8)

AGENCY: FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Positions:
SES Executive Director
SES General Counsel

AGENCY: FEDERAL RESERVE SYSTEM

Positions:
FRO–I Secretary of the Board
FRO–I Staff Director for Monetary and Financial Policy
FRO–I Staff Director for Management
FRO–I Director, Division of Research and Statistics
FRO–I General Counsel
FRO–I Director, Division of Banking Supervision and Regulation
FRO–I Director, Division of International Finance
FRO–I Staff Director for Federal Reserve Bank Activities

AGENCY: FEDERAL TRADE COMMISSION

Positions:
SES Director, Office of Policy Planning
SES General Counsel
SES Deputy General Counsel
SES Director, Bureau of Competition
SES Deputy Directors, Bureau of Competition
SES Director, Bureau of Consumer Protection
SES Deputy Directors, Bureau of Consumer Protection
SES Director, Bureau of Economics
SES Deputy Director, Bureau of Economics
SES Executive Director
SES Assistant to the Chairman
SES *Special Assistant to the Chairman
SES Deputy Director, Office of Policy Planning
SES *Special Deputy for Litigation and Enforcement Analysis

AGENCY: GENERAL ACCOUNTING OFFICE

Positions:
SES Director, Program Analysis Division (PAD)
SES Deputy Director, PAD
SES Director, Energy and Minerals Division (EMD)
SES Deputy Director, EMD
SES Director, Community and Economic Development Division (CEDD)
SES Deputy Director, CEDD
SES Director, Federal Personnel and Compensation Division (FPCD)
SES Deputy Director, FPCD
SES Director, Field Operations Division (FOD)
SES Deputy Director, FOD
SES Director, Accounting and Financial Management Division (AFMD)
SES Deputy Director (AFMD)
SES Director, General Government Division (GGD)
SES Deputy Director, GGD
SES Director, International Division (ID)
SES Deputy Director, ID
SES Director, Procurement, Logistics and Readiness Division (PLRD)
SES Deputy Director, PLRD
SES Director, Missions Analysis and Systems Acquisitions Division (MASAD)
SES Deputy Director, MASAD
SES Director, Human Resources Division
SES Deputy General Counsel
SES Director, Office of Internal Review
SES Director, Office of Policy
SES Director of Personnel
SES Director, General Services and Controller
SES *Deputy Director of Personnel
SES *Deputy Director, General Services and Controller
SES *Director, Office of Organization and Human Development
SES *Director, Institute for Program Evaluation
SES *Deputy Director, Institute for Program Evaluation
SES *Director, Civil Rights Office
SES **General Counsel
SES **Assistant Comptroller General for Program Evaluation
SES **Assistant Comptroller General for Policy and Program Planning
SES **Assistant Comptroller General for Administration
SES *Special Assistant for Defense and Materiel Management Studies

AGENCY: GENERAL SERVICES ADMINISTRATION

Positions:

OFFICE OF THE ADMINISTRATOR

SES Deputy Administrator

SES Executive Assistant to the Administrator

OFFICE OF EXTERNAL AFFAIRS

SES Assistant Administrator for External Affairs
SES Deputy Assistant Administrator for External Affairs

INFORMATION SECURITY OVERSIGHT OFFICE

SES Director of Information Security Oversight
SES Deputy Director, Information Security Oversight

OFFICE OF ACQUISITION POLICY

SES Assistant Administrator for Acquisition Policy
SES Deputy Assistant Administrator for Acquisition Policy
SES Director of Contract Clearance
SES Director of Acquisition Policy
SES *Director, Office of Small and Disadvantaged Business Utilization

OFFICE OF PLANS, PROGRAMS, AND FINANCIAL MANAGEMENT

SES Assistant Administrator for Plans, Programs, and Financial Management
SES Deputy Assistant Administrator for Plans, Programs, and Financial Management
SES Director of Finance
SES Director of Budget
SES Director of Data Systems
SES Deputy Director of Planning and Analysis
SES Director of Program Coordination Staff
SES Executive Officer

AUTOMATED DATA AND TELECOMMUNICATIONS SERVICE (ADTS)

SES Commissioner, ADTS
SES *Deputy Commissioner for Program Management
SES *Deputy Commissioner for Government-wide Management
SES Assistant Commissioner for Policy and Planning
SES Assistant Commissioner for Procurement
SES Assistant Commissioner for Systems Engineering and Operations
SES Executive Director, ADTS
SES Director, Voice Communications Systems Division
SES Director, Advanced Planning and Research
SES Director, Data Communications Systems Division
SES Director, Software Development Office

FEDERAL PROPERTY RESOURCES SERVICE (FPRS)

SES Commissioner, Federal Property Resources Service
SES Deputy Commissioner, Federal Property Resources Service
SES *Assistant Commissioner for Real Property
SES *Assistant Commissioner for Personal Property
SES *Deputy Assistant Commissioner for Personal Property
SES Assistant Commissioner, Office of Stockpile Management
SES Assistant Commissioner, Office of Stockpile Transactions

FEDERAL SUPPLY SERVICE (FSS)

SES Commissioner, FSS
SES Deputy Commissioner for Procurement, FSS
SES Deputy Commissioner for Requirements and Supply
SES Associate Commissioner for Management
SES *Assistant Commissioner for Planning, Analysis and Data Systems
SES Assistant Commissioner for Contracts
SES Assistant Commissioner for Supply
SES Assistant Commissioner for Programs and Requirements
SES Assistant Commissioner for Supply Policy
SES Assistant Commissioner for Property Management
SES Assistant Commissioner for Acquisition Planning

NATIONAL ARCHIVES AND RECORDS SERVICE (NARS)

SES Archivist of the United States
SES Deputy Archivist of the United States
SES *Associate Archivist for Management

PUBLIC BUILDINGS SERVICE (PBS)

SES Commissioner, PBS
SES Deputy Commissioner, PBS
SES Assistant Commissioner for Buildings Management
SES *Assistant Commissioner for Federal Protective Service Management
SES *Director, Office of Special Programs
SES Deputy Assistant Commissioner for Buildings Management
SES Assistant Commissioner for Program Support
SES Assistant Commissioner for Design and Construction
SES Assistant Commissioner for Space Management
SES Assistant Commissioner for Contracts

TRANSPORTATION AND PUBLIC UTILITIES SERVICE (TPUS)

SES Commissioner, TPUS
SES Deputy Commissioner, TPUS
SES Assistant Commissioner for Transportation and Travel Management
SES Assistant Commissioner for Public Utilities
SES Assistant Commissioner for Motor Equipment
SES Assistant Commissioner for Transportation Audits

OFFICE OF GENERAL COUNSEL (OGC)

SES General Counsel
SES Deputy General Counsel

GSA BOARD OF CONTRACT APPEALS

GS–18 Chairman and Chief Administrative Judge of Board of Contract Appeals
GS–17 Vice Chairman, Board of Contract Appeals

REGIONAL OFFICES

SES Regional Administrator, Region 1 (Boston)
SES Regional Administrator, Region 2 (New York)
SES Regional Administrator, Region 3 (Philadelphia)
SES Regional Administrator, Region 4 (Atlanta)
SES Regional Administrator, Region 5 (Chicago)
SES Deputy Regional Administrator, Region 5 (Chicago)
SES Regional Administrator, Region 6 (Kansas City)
SES Regional Administrator, Region 7 (Fort Worth)
SES Regional Administrator, Region 8 (Denver)
SES Regional Administrator, Region 9 (San Francisco)
SES Regional Administrator, Region 10 (Auburn)
SES Regional Administrator, National Capitol Region (Washington, D.C.)
SES Deputy Regional Administrator, National Capitol Region (Washington, D.C.)

OFFICE OF THE INSPECTOR GENERAL

SES Deputy Inspector General

OFFICE OF HUMAN RESOURCES AND ORGANIZATION

SES Assistant Administrator for Human Resources and Organization
SES Staff Director to the Assistant Administrator for Human Resources and Organization

AGENCY: INTER-AMERICAN FOUNDATION

Positions: No Section 207(d)(1)(C) Designations

AGENCY: INTERNATIONAL COMMUNICATION AGENCY

Positions:
GS–17 Executive Assistant to the Director
FSIO–1 Director, Office of Public Liaison
SES *Counselor of the Agency
SES Director, Office of the General Counsel and Congressional Liaison
SES Deputy General Counsel
FSIO–1 Deputy Associate Director
GG–18 Director for Institutional Relations
FSIO–1 Director of Cultural Centers and Resources
GG–17 Director, Office of Academic Programs

THE DIRECTORATE FOR BROADCASTING (THE VOICE OF AMERICA)

FSIO–1 Deputy Associate Director
SES Director of Administration
FSIO–1 Director, Office of Programs
SES Director of Engineering and Technical Operations

THE DIRECTORATE FOR MANAGEMENT

FSIO–1 Director of Administrative Services
SES Director of Comptroller Services
SES Director of Personnel Services
SES Director, Office of Systems Technology

THE DIRECTORATE FOR PROGRAMS

SES Director of Exhibits Service
FSIO–1 Director of Press and Publication Services
FSIO–1 Director of Television and Film Service

FSIO–1 Deputy Associate Director
SES Executive Officer

Area Offices

FSIO–1 Director of African Affairs
SES Deputy Director of African Affairs
FSIO–1 Director of European Affairs
FSIO–1 Deputy Directors of European Affairs (2)
FSIO–1 Deputy Director of European Affairs (Exchanges)
FSIO–1 Director of East Asian and Pacific Affairs
FSIO–1 Deputy Directors of East Asian and Pacific Affairs (2)
FSIO–1 Director of American Republic Affairs
FSIO–1 Deputy Director of American Republic Affairs
FSIO–1 Director of North African, Near Eastern and South Asian Affairs
FSIO–1 Deputy Director of North African and Near Eastern Affairs
FSIO–1 Deputy Director of South Asian Affairs
FSIO–1 Public Affairs Officers of Class I Posts (8)

AGENCY: INTERNATIONAL TRADE COMMISSION

Positions:
SES Director of Operations
SES General Counsel
SES Director of Industries
SES Director of Investigations
SES Director, Economic Research
SES *Director of Administration

AGENCY: INTERSTATE COMMERCE COMMISSION

Positions:
SES Managing Director
SES General Counsel
SES Director, Bureau of Traffic
SES Director, Bureau of Accounts
SES Director, Office of Proceedings
SES Director, Office of Policy and Analysis/Rail Services Planning Office
SES Assistant Managing Director
SES Deputy General Counsel
SES Associate Director, Office of Proceedings
SES Associate Director, Office of Policy and Analysis/Rail Services Planning Office
SES *Director, Office of Consumer Protection
SES *Assistant Director, Office of Consumer Protection

AGENCY: JAPAN-UNITED STATES FRIENDSHIP COMMISSION

Positions:
SES Executive Director

AGENCY: MERIT SYSTEMS PROTECTION BOARD

Positions:
SES Managing Director
SES Deputy Managing Director
SES General Counsel
SES Deputy General Counsel
SES *Legislative Counsel
SES Director, Office of Appeals
SES Director, Office of Merit Systems Review and Studies
SES Director, Office of Administration
SES Chief Appeals Officer (Seven positions, one each at these field locations: Atlanta, Chicago, Dallas, New York, Philadelphia, San Francisco, Washington, D.C.)

AGENCY: NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Positions:

OFFICE OF THE ADMINISTRATOR

SES *Associate Administrator/General Manager
SES Associate Deputy Administrator

OFFICE OF THE COMPTROLLER

SES Deputy Comptroller
SES Associate Administrator/Comptroller

OFFICE OF LEGISLATIVE AFFAIRS

SES Director, Legislative Affairs
SES Deputy Director, Legislative Affairs

OFFICE OF THE CHIEF ENGINEER

SES Chief Engineer, NASA
SES Deputy Chief Engineer, NASA

OFFICE OF SPACE AND TERRESTRIAL APPLICATIONS

SES Associate Administrator for Space and Terrestrial Applications
SES Deputy Associate Administrator for Space and Terrestrial Applications

OFFICE OF GENERAL COUNSEL

SES General Counsel
SES Deputy General Counsel, NASA

OFFICE OF PROCUREMENT

SES Director of Procurement
SES Deputy Director of Procurement

OFFICE OF EXTERNAL RELATIONS

SES Associate Administrator for External Relations
SES Deputy Associate Administrator for External Relations

OFFICE OF SPACE TRANSPORTATION SYSTEMS

SES Associate Administrator for Space Transportation Systems
SES Deputy Associate Administrator for Space Transportation Systems

OFFICE OF MANAGEMENT OPERATIONS

SES Associate Administrator for Management Operations
SES Deputy Associate Administrator for Management Operations

OFFICE OF SPACE TRANSPORTATION OPERATIONS

SES *Associate Administrator for Space Transportation Operations
SES Deputy Associate Administrator for Space Transportation Operations

OFFICE OF THE CHIEF SCIENTIST

SES Associate Administrator (Chief Scientist)

OFFICE OF AERONAUTICS AND SPACE TECHNOLOGY

SES Associate Administrator for Aeronautics and Space Technology
SES Deputy Associate Administrator for Aeronautics and Space Technology

OFFICE OF SPACE SCIENCE

SES Associate Administrator for Space Science
SES Deputy Associate Administrator for Space Science

OFFICE OF SPACE TRACKING AND DATA SYSTEMS

SES Associate Administrator for Space Tracking and Data Systems
SES Deputy Associate Administrator for Space Tracking and Data Systems

OFFICE OF EQUAL OPPORTUNITY PROGRAMS

SES Director of Equal Opportunity Programs
SES Deputy Director of Equal Opportunity Programs

INSPECTOR GENERAL

SES Deputy Inspector General

AMES RESEARCH CENTER

SES Director, NASA Ames Research Center
SES Deputy Director, NASA Ames Research Center

DRYDEN FLIGHT RESEARCH CENTER

SES Director, NASA Dryden Flight Research Center
SES Deputy Director, NASA Dryden Flight Research Center

GODDARD SPACE FLIGHT CENTER

SES Director, NASA Goddard Space Flight Center
SES Deputy Director, NASA Goddard Space Flight Center

JOHNSON SPACE CENTER

SES Director, NASA Johnson Space Center
SES Deputy Director, NASA Johnson Space Center

KENNEDY SPACE CENTER

SES Director, NASA Kennedy Space Center
SES Deputy Director, NASA Kennedy Space Center

LANGLEY RESEARCH CENTER

SES Director, NASA Langley Research Center
SES Deputy Director, NASA Langley Research Center

LEWIS RESEARCH CENTER

SES Director, NASA Lewis Research Center
SES Deputy Director, NASA Lewis Research Center

MARSHALL SPACE FLIGHT CENTER

SES Director, NASA Marshall Space Flight Center
SES Deputy Director, NASA Marshall Space Flight Center

NATIONAL SPACE TECHNOLOGY LABORATORIES

SES Manager, National Space Technology Laboratories
SES Deputy Manager, National Space Technology Laboratories

WALLOPS FLIGHT CENTER

SES Director, NASA Wallops Flight Center
SES Associate Director, NASA Wallops Flight Center

AGENCY: NATIONAL CAPITAL PLANNING COMMISSION

Positions:
SES Executive Director
SES Associate Executive Director for Regional Affairs
SES Associate Executive Director for District of Columbia Affairs
SES General Counsel
SES Assistant Executive Director for Administration

AGENCY: NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Positions:
SES 0–4 Executive Director

AGENCY: NATIONAL CREDIT UNION ADMINISTRATION

Positions:
SES General Counsel
SES Director, Office of Examination and Insurance
SES Director, Office of Administration
SES Comptroller
SES Director, Office of Internal Audit and Investigation
SES Regional Directors (6)
SES Director, Office of Policy Analysis
SES Deputy Director, Examination and Insurance
SES Deputy General Counsel
SES President, Central Liquidity Facility
SES *Director, Office of Consumer Affairs

AGENCY: NATIONAL ENDOWMENT FOR THE ARTS

Positions:
SES Deputy Chairman for Policy and Planning
SES Deputy Chairman for Programs
SES Deputy Chairman, Federal Council on the Arts and the Humanities
SES Director of Administration
SES Director, Office for Partnership
SES General Counsel
SES Director of Program Coordination

AGENCY: NATIONAL ENDOWMENT FOR THE HUMANITIES

Positions:
SES Deputy Chairman for Programs
SES Assistant Chairman for Institutional Relations
SES Deputy Chairman for Management
SES Director, Division of State Programs
SES General Counsel
SES Director, Office of Planning and Policy Assessment
SES Director, Division of Public Programs
SES *Director, Division of Education Programs

AGENCY: NATIONAL LABOR RELATIONS BOARD

Positions:
SES Solicitor
SES Executive Secretary
SES Deputy General Counsel
SES Associate General Counsel, Division of Enforcement Litigation

AGENCY: NATIONAL SCIENCE FOUNDATION

Positions:
SES Director, Office of Audit and Oversight
SES Director, Office of Government and Public Programs
SES Director, Office of Planning and Resources Management
SES Director, Office of Small Business Research & Development
SES Deputy Assistant Director, Science Education
SES Deputy Assistant Director, Astronomical, Atmospheric, Earth & Ocean Sciences
SES Deputy Assistant Director, Scientific, Technological and International Affairs
SES Deputy Assistant Director, Administration
SES Deputy Assistant Director, Biological, Behavioral, & Social Sciences
SES General Counsel
SES Assistant Director, Scientific, Technological and International Affairs
SES Assistant Director for Administration
SES *Assistant Director for Engineering
SES *Assistant Director for Science and Engineering Education

AGENCY: NATIONAL TRANSPORTATION SAFETY BOARD

Positions:
SES Managing Director
SES Deputy Managing Director
SES General Counsel
SES Director, Bureau of Accident Investigation
SES Director, Bureau of Technology
SES Director, Bureau of Administration

AGENCY: NUCLEAR REGULATORY COMMISSION

Positions:

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

SES Executive Director, ACRS
SES Deputy Executive Director, ACRS
SES Assistant Executive Director for Project Review, ACRS

OFFICE OF ADMINISTRATION

SES Director, Office of Administration
SES Deputy Director, Office of Administration
SES Director, Division of Organization and Personnel
SES Director, Division of Contracts
SES Director, Division of Tech Information and Document Control

OFFICE OF THE CONTROLLER

SES Controller

OFFICE OF THE SECRETARY

SES Secretary of the Commission
SES Assistant Secretary of the Commission

OFFICE OF INSPECTOR AND AUDITOR

SES Director, OIA
SES Assistant Director for Investigations
SES Assistant Director for Audits

OFFICE OF STATE PROGRAMS

SES Director, State Programs

OFFICE OF STANDARDS DEVELOPMENT

SES Director, Office of Standards Development
SES Deputy Director, Office of Standards Development

ATOMIC SAFETY AND LICENSING BOARD PANEL

SES Vice Chairman, Executive Secretary, ASLBP
SES *Vice Chairman, Technical, ASLBP
SES Chairman, ASLBP

ATOMIC SAFETY AND LICENSING APPEAL PANEL

SES Vice Chairman, ASLAP
GC–17 Permanent Legal Members, ASLAP [3]
SES Chairman, ASLAP

OFFICE OF THE GENERAL COUNSEL

SES General Counsel
SES Solicitor, OGC
SES Deputy General Counsel for Dom Lic & Rul
SES Deputy General Counsel for International Legislation
SES Assistant General Counsel

OFFICE OF PUBLIC AFFAIRS

SES Director, Office of Public Affairs
SES Deputy Director, Office of Public Affairs

OFFICE OF CONGRESSIONAL AFFAIRS

SES Director, Office of Congressional Affairs

OFFICE OF POLICY EVALUATION

SES Director, Office of Policy Evaluation
SES A/D for Technical Review, OPE 229
SES A/D for Management and Program Evaluation, OPE

EXECUTIVE DIRECTOR FOR OPERATIONS

SES Executive Director for Operations
SES Deputy Executive Director for Operations
SES Assistant for Operations
SES *Technical Advisor

OFFICE OF THE EXECUTIVE LEGAL DIRECTOR

SES Executive Legal Director
SES Deputy Executive Legal Director
SES Director and Chief Counsel, Regulations Division
GG–17 Special Assistants to the Executive Legal Director (2)
SES Director/Chief Counsel, Operations and Administration Division
SES Director and Chief Counsel, Hearing Division
SES Assistant Chiefs, Hearing Counsel (4)
SES Deputy Chief, Hearing Counsel, Deputy Director, Hearing Division
SES Director and Chief Counsel, Rulemaking and Enforcement Division
SES Director and Chief Counsel, Antitrust Division

OFFICE OF INTERNATIONAL PROGRAMS

SES Director, Office of International Programs

SES Deputy Director for International Programs and A/D for International Cooperation
SES A/D for Export/Import and International Safeguards

OFFICE OF NUCLEAR REACTOR REGULATION

SES Director, NRR
SES Deputy Director, Office of Nuclear Reactor Regulation
SES Program Director, TMI Program Office
SES Deputy Program Director, TMI Program Office
SES Director, Planning and Program Analysis Staff
SES Director, Division of Licensing
SES Deputy Director, Division of Licensing
SES Assistant Director for Operating Reactors
SES Chief, Operating Reactors Branch 1
SES Chief, Operating Reactors Branch 2
SES Chief, Operating Reactors Branch 3
SES Chief, Operating Reactors Branch 4
SES Assistant Director for Licensing
SES Chief, Licensing Branch 1
SES Chief, Licensing Branch 2
SES Chief, Licensing Branch 3
SES Chief, Standardization and Special Projects Branch
SES Assistant Director for Safety Assessment
SES Chief, Operating Reactors Branch 5
SES Chief, Systematic Evaluation Program Branch
SES Chief, Operating Reactors Assessment Branch
SES Director, Division of Engineering
SES Assistant Director for Components and Structures Engineering
SES Chief, Mechanical Engineering Branch
SES Chief, Structural Engineering Branch
SES Chief, Geosciences Branch
SES Chief, Hydrologic and Geotechnical Engineering Branch
SES Assistant Director for Materials and Qualifications Engineering
SES Chief, Materials Engineering Branch
SES Chief, Chemical Engineering Branch
SES Chief, Equipment Qualification Branch
SES Chief, Quality Assurance Branch
SES Assistant Director for Environmental Technology
SES Chief, Environmental Engineering Branch
SES Chief, Siting Analysis Branch
SES Chief, Utility Finance Branch
SES Director, Division of Systems Integration
SES Assistant Director for Plant Systems
SES Chief, Instrumentation and Control Systems Branch
SES Chief, Power Systems Branch
SES Chief, Containment Systems Branch
SES Chief, Auxiliary Systems Branch
SES Assistant Director for Radiation Protection
SES Chief, Accident Evaluation Branch
SES Chief, Effluent Treatment Systems Branch
SES Assistant Director for Reactor Systems
SES Chief, Reactor Systems Branch
SES Chief, Core Performance Branch
SES Chief, Systems Interaction Branch
SES Director, Division of Human Factors Safety
SES Deputy Director, Division of Human Factors Safety
SES Chief, Human Factors Engineering Branch
SES Chief, Operator Licensing Branch
SES Chief, Licensee Qualifications Branch
SES Chief, Procedures and Test Review Branch
SES Director, Division of Safety Technology
SES Assistant Director for Generic Projects
SES Chief, Generic Issues Branch
SES Chief, Licensing Guidance Branch
SES Chief, Research and Standards Coordination Branch
SES Assistant to the Director for Technology
SES Chief, Safety Program Evaluation Branch
SES Chief, Operating Experience Evaluation Branch
SES Chief, Reliability and Risk Assessment Branch

OFFICE OF NUCLEAR REGULATORY RESEARCH

SES Director, Nuclear Regulatory Research
SES Deputy Director, Nuclear Regulatory Research

OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS

SES Director, NMSS
SES Deputy Director, NMSS
SES Director, Division of Safeguards
SES Deputy Director, Division of Safeguards
SES AD, Division of Safeguards
GG-17 Special Assistant for Licensing
SES Chief, Physical Security Development Branch
SES Chief, Physical Security Licensing Branch
SES Chief, Technical Planning and Information Branch
SES Chief, Material Control and Accountability Licensing Branch
SES Chief, Regulatory Improvements Branch
SES Chief, Material Control and Accountability Development Branch
SES Deputy Director, Division of Fuel Cycle and Material Safety
SES Director, Division of Fuel Cycle and Material Safety
SES Chief, Adv and Spent Fuel Licensing Branch
SES Chief, Uranium Fuel Licensing Branch
SES Chief, Transportation Branch
SES A/D for Material Safety and Licensing
SES Chief, Procedures and Certification Branch
SES Chief, Technology Assessment Branch
SES A/D for Operations and Technology
SES Chief, Low Level Waste Licensing Branch
SES Chief, Uranium Recovery Licensing Branch
SES Chief, Licensing Proc and Integration Branch
SES Chief, Hi-Level Waste Technology Development Branch
SES Deputy Director, Waste Management Division
SES Chief, Hi-Level Waste Licensing Management Branch
SES Director, Division of Waste Management

OFFICE OF INSPECTION AND ENFORCEMENT

SES Director, Inspection and Enforcement
SES Deputy Director, Inspection and Enforcement
SES *Director, Enforcement and Investigation Staff
SES *Director, Division of Resident and Regional Reactor Inspection
SES *Deputy Director, Division of Resident and Regional Reactor Inspection
SES *Chief, Reactor Engineering Branch
SES *Chief, Reactor Projects and Resident Inspection Branch
SES *Chief, Vendor and Special Projects Branch
SES *Director, Division of Safeguards and Radiological Safety Inspection
SES *Chief, Safeguards Branch
SES *Chief, Radiological Safety Branch
SES *Director, Division of Program Development and Appraisal
SES *Deputy Director, Division of Program Development and Appraisal
SES *Chief, Program Development Branch
SES *Chief, Program Appraisal Branch
SES *Director, Division of Emergency Preparedness
SES *Deputy Director, Division of Emergency Preparedness
SES *Chief, Emergency Preparedness Licensing Branch
SES Director, Region I
SES Deputy Director, Region I
SES Director, Region II
SES Deputy Director, Region II
SES Director, Region III
SES Deputy Director, Region III
SES Director, Region IV
SES *Deputy Director, Region IV
SES Director, Region V
SES *Deputy Director, Region V
SES Director, Office for Analysis and Evaluation of Operational Data
SES Deputy Director, Office for Analysis and Evaluation of Operational Data
SES Director, Division of Engineering Standards, Office of Standards Development
SES Director, Division of Siting, Health and Safeguards Standards Branch, Office of Standards Development
SES Director, Probabilistic Staff, Office of Nuclear Regulatory Research
SES Director, Division of Reactor Safety Research, Office of Nuclear Regulatory Research
SES Director, Division of Safeguard Fuel Cycle and Environmental Research Branch, Office of Nuclear Regulatory Research

AGENCY: OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Positions:
SES Executive Director
SES General Counsel

AGENCY: OFFICE OF THE FEDERAL CO-CHAIRMAN, APPALACHIAN REGIONAL COMMISSION

Positions: No Section 207(d)(1)(C) Designations

AGENCY: OFFICE OF PERSONNEL MANAGEMENT

Positions:
SES Assistant Director for Intergovernmental Personnel Programs
SES Assistant Director for Labor-Management Relations
SES Director, Office of Planning and Evaluation
SES Deputy Associate Director for Staffing, Staffing Services Group
SES Chairman, Federal Prevailing Rate Advisory Committee
SES Assistant Director for Agency Compliance and Evaluation, Agency Relations Group
SES Director, Office of Administrative Law Judges, Executive Personnel and Management Development Group
SES Assistant Director for Staffing, Staffing Services Group
SES Deputy Associate Director, Compensation Group
SES Assistant Director for Retirement Programs, Compensation Group
SES Director, Eastern Region
SES *Deputy Director, Eastern Region
SES Director, Great Lakes Region
SES *Deputy Director, Great Lakes Region
SES Director, Southwest Region
SES *Deputy Director, Southwest Region
SES Director, Western Region
SES *Deputy Director, Western Region
SES *Director, New England Region
SES *Deputy Director, New England Region
SES Director, Mid-Atlantic Region
SES *Deputy Director, Mid-Atlantic Region
SES *Director, Southeast Region
SES *Deputy Director, Southeast Region
SES *Director, Rocky Mountain Region
SES *Deputy Director, Rocky Mountain Region
SES *Director, Mid-Continent Region
SES *Deputy Director, Mid-Continent Region
SES *Director, Northwest Region
SES *Deputy Director, Northwest Region
SES Assistant Director for Insurance Operations, Compensation Group
SES Director, Federal Executive Institute
SES Chief, Medical Division, Compensation Group
SES Deputy Assistant Director for Labor-Management Relations
SES Chief, Personnel Research and Development Center, Staffing Services Group
SES Assistant Director for Affirmative Employment Programs
SES Deputy Assistant Director for Grants, Office of Intergovernmental Personnel Programs
SES Deputy Assistant Director for Personnel Systems, Office of Intergovernmental Personnel Programs
SES Director, Office of Management
SES Deputy Associate Director for Personnel Investigations, Staffing Services Group
SES Deputy General Counsel, Office of the General Counsel
SES Associate Director, Agency Relations Group
SES Associate Director, Staffing Services Group
SES Associate Director, Executive Personnel and Management Development Group
SES Associate Director, Compensation Group
SES Associate Director, Work Force Effectiveness and Development Group
SES Deputy Director, Office of Government Ethics
SES Counselor, Office of Government Ethics

AGENCY: OFFICE OF SPECIAL COUNSEL (MSPB)

Positions:
SES Deuty Special Counsel
SES Associate Special Counsel for Investigation
SES Associate Special Counsel for Prosecution

AGENCY: OVERSEAS PRIVATE INVESTMENT CORPORATION

Positions: No Section 207(d)(1)(C) Designations

AGENCY: PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Positions:
AD Executive Director of the Corporation
AD Assistant Director—Legal
AD Assistant Director—Finance
AD All members of the Board of Directors (23)

AGENCY: PENSION BENEFIT GUARANTY CORPORATION

Positions:
GS-17 Deputy Executive Director
GS-17 General Counsel
GS-17 Director, Office of Program Operations

AGENCY: POSTAL RATE COMMISSION

Positions:
GS-18 General Counsel of Commission
GS-18 Director of Technical Analysis and Planning
GS-17 *Deputy Director of Technical Analysis and Planning

AGENCY: RAILROAD RETIREMENT BOARD

Positions:
SES Chief Executive Officer
SES Director, Bureau of Retirement Claims
SES Director of Research
SES General Counsel
SES Chief Actuary
SES Deputy Executive Officer
SES Director, Bureau of Data Processing and Accounts
SES Director, Bureau of Unemployment and Sickness Insurance
SES *Director of Budget and Fiscal Operations
SES *Director of Management Control
SES *Assistant Executive Officer

AGENCY: SECURITIES AND EXCHANGE COMMISSION

Positions:
SES General Counsel
SES Director, Division of Corporation Finance
SES Director, Division of Corporate Regulation
SES Director, Division of Enforcement
SES Director, Division of Investment Management
SES Director, Division of Market Regulation
SES Deputy Director, Division of Corporation Finance
SES Deputy Director, Division of Market Regulation
SES Chief Accountant of the Commission
SES Deputy Chief Accountant
SES Executive Director
SES Regional Administrator, New York
SES Regional Administrator, Chicago
SES Regional Administrator, Los Angeles
SES Deputy Regional Administrator, New York

AGENCY: SELECTIVE SERVICE SYSTEM

Positions:
SES Deputy Director of the Agency
SES Associate Director, Administration
SES Associate Director, Planning and Operations
SES Associate Director, Management Information Systems
SES Associate Director, Policy Development and Administrative Legal Systems
SES *Manager, Purchasing and Contracting Division

AGENCY: SMALL BUSINESS ADMINISTRATION

Positions:
SES Deputy Administrator
SES Associate Administrator for Policy, Planning and Budgeting
SES Regional Administrator, Region I
SES Regional Administrator, Region II
SES Regional Administrator, Region III
SES Regional Administrator, Region IV
SES Regional Administrator, Region V
SES Regional Administrator, Region VI
SES Regional Administrator, Region VII
SES Regional Administrator, Region VIII
SES Regional Administrator, Region IX
SES Regional Administrator, Region X
SES Director, Equal Employment Opportunity and Compliance
SES General Counsel
SES Deputy General Counsel
SES Associate Administrator for Procurement and Technology Assistance
SES Associate Administrator for Management Assistance
SES Associate Administrator for Minority Small Business & Capital Ownership Development
SES Director of Business Development
SES Director of Field Management
SES *Associate Deputy Administrator
SES *Associate Administrator for Finance and Investment
SES *Assistant Administrator for Administration
SES Assistant Administrator for External Affairs
SES Director of Personnel

AGENCY: TENNESSEE VALLEY AUTHORITY

Positions: No Section 207(d)(1)(C) Designations

AGENCY: UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

Positions:
SES General Counsel
SES Public Affairs Adviser
SES The Special Assistant to the Director
SES Deputy Assistant Director, NP
SES Deputy Assistant Director, ISP
SES Deputy Assistant Director, WEC
Vacant/O–7 Senior Military Adviser, D
SES Administrative Director
SES Chief of Operations Analysis
SES Ambassador to CD, D
SES Deputy Assistant Director, MA

AGENCY: U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Positions:

Office of the Assistant Director for Administration

SES Assistant Director for Administration

Office of the Associate Director for Policy and Budget

SES Component Coordinator

AGENCY FOR INTERNATIONAL DEVELOPMENT

Office of the General Counsel (GC)
SES General Counsel
SES Deputy General Counsel

Office of the Inspector General
SES Inspector General
SES Deputy Inspector General

Office of Legislative Affairs (LEG)
SES Director

Office of Public Affairs (OPA)
SES Director

Board for International Food and Agricultural Development Support Staff (BIFAD/S)
Office of the Executive Director
SES Executive Director

Office of U.S. Foreign Disaster Assistance (OFDA)
SES Coordinator, Foreign Disaster Relief

Office of Science Advisor (SCI)
SES Science Advisor

Office of Financial Management
SES Director
SES Deputy Controller

Office of Personnel Management
SFS–MC Director
SES Deputy Director

Office of Equal Opportunity Programs (EOP)
SES Director

Bureau for Food for Peace and Voluntary Assistance (FVA)
Office of the Assistant Administrator (AA/FVA)
SFS–CM Deputy Assistant Administrator
Office of Food for Peace (FFP)
SFS–C Coordinator, Food for Peace
SES Deputy Coordinator, Food for Peace
Office of Private and Voluntary Cooperation (PVC)
SES Director, Private and Voluntary Cooperation
Office of Program and Management Support [PMS]
SFS–C Director, Program and Management Support

Bureau for Private Enterprise (PRE)
Office of the Assistant Administrator (AA/PRE)
SFS *Deputy Assistant Administrator for Investment
SES *Special Assistant for Management
Office of Project and Policy Review
SES *Director
Office of Housing
SES Director

Bureau for Program and Policy Coordination
Office of the Assistant Administrator (AA/PPC)
SFS–CM Deputy Assistant Administrator, Bureau for Program and Policy Coordination
Office of Policy Development and Program Review (PPC/PDPR)
SFS–MC Director
Office of Planning and Budgeting (PPC/PB)
SFS–MC Director

Bureau for Program and Management Services (SER)
Office of the Assistant to the Administrator for Management (AA/SER)
SES Assistant to the Administrator
SES Deputy Assistant Administrator
Office of Management Planning (SER/MP)
SES Director
Office of Management Operations (SER/MO)
SES *Director
Office of Contract Management (SER/CM)
SES Director
SES Deputy Director
Office of Commodity Management (SER/COM)
SES Director
Office of Data Management
SES *Director
SES *Computer Systems Administrator

Bureau for Science and Technology (S&T)
(Undergoing Major Reorganization)

Bureau of Africa (AFR)
Office of the Assistant Administrator (AA/AFR)
SFS–CM Deputy Assistant Administrator
Office of Development Planning (AFR/DP)
SFS–MC *Director
Office of Program Management Resources (AFR/DP)
SFS–MC *Director
Office of Development Resources (AFR/DR)
SFS–MC *Director

Bureau for Asia (ASIA)
Office of the Assistant Administrator (AA/ASIA)
SFS–CM Deputy Assistant Administrator
Office of Development Planning (ASIA/DP)
SFS–MC *Director
Office of Technical Resources (ASIA/TR)
SFS–MC *Director

Bureau for Latin America and the Caribbean (LAC)
Office of the Assistant Administrator (AA/LAC)
SFS–CM Deputy Assistant Administrator
Office of Development Programs (LAC/DP)
SFS–MC Director
Office of Development Resources (LAC/DR)
SFS–MC Director

Bureau for Near East (NE)
Office of the Assistant Administrator (AA/NE)
SES Deputy Assistant Administrator
Office of Development Planning (NE/DP)
SFS–CM Director
Office of Project Development (NE/DP)
SES Director
Office of Technical Support (NE/TECH)
SFS–MC *Director

MISSIONS

Africa
FR–01 Director, Botswana
FR–01 Director, Cameroon
FR–02 *AID Representative, The Gambia
FR–01 Director, Ghana
FR–01 Director, Kenya
FR–01 Director, Lesotho
FR–01 Director, Liberia
FR–01 *AID Representative, Malawi
FR–01 Director, Mali
FR–01 Director, Mauritania
FR–01 Director, Niger
FR–01 Director, Senegal
FR–01 Director, Somalia
FR–01 Director, Sudan
FR–01 Director, Swaziland
FR–01 Director, Tanzania
FR–02 *AID Representative, Togo
FR–01 *Director, Uganda
FR–01 Director, Upper Volta
FR–02 *AID Representative, Zambia
FSR–1 *Director, Zimbabwe
FR–01 Regional Development Officer, West Africa
FR–01 Regional Development Officer, East Africa

Asia
FR–02 *AID Representative, Burma
FR–02 *Regional Development Officer, Fiji
FR–01 Director, Nepal
FR–01 Director, Sri Lanka

Europe

No Section 207(d)(1)(C) Designations

Latin America and the Caribbean
FR–01 Director, Bolivia
FR–01 Director, Regional Development Office, Caribbean
FR–01 Director, Costa Rica
FR–01 Director, Equador
FR–01 Director, El Salvador
FR–01 Director, Guatemala
FR–01 Director, Guyana
FR–01 Director, Regional Office for Central American Programs, ROCAP
FR–01 Director, Haiti
FR–01 Director, Honduras
FR–01 Director, Jamaica
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FR–01 Director, Paraguay

Near East
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FR–01 AID Representative, Lebanon
FR–01 Director, Morocco
FR–02 *AID Representative, Oman
FR–01 AID Representative, Portugal
FR–01 Director, Syria
FR–01 Director, Tunisia
FR–01 Director, Yemen

AGENCY: UNITED STATES METRIC BOARD

Positions:
SES Director, Office of Research, Planning and Coordination
SES Director, Office of Public Awareness and Education
SES General Counsel

AGENCY: U.S. POSTAL SERVICE

Positions: No Section 207(d)(1)(C) Designations

AGENCY: UNITED STATES RAILWAY ASSOCIATION

Positions:
AD President
AD *Executive Vice President—Law
AD Vice President—Finance
AD Vice President—Operations and Marketing
AD Vice President—Law
AD Vice President—Administration
AD *Vice President for Planning

AGENCY: VETERANS ADMINISTRATION

Positions:

Office of the Administrator
SES Associate Deputy Administrator
SES *Assistant Deputy Administrator

Office of the General Counsel
SES General Counsel
SES Deputy General Counsel

Department of Memorial Affairs
SES Chief, Memorial Affairs Director
SES Deputy Chief, Memorial Affairs Director

Department of Veterans' Benefits
SES Chief Benefits Director
SES Deputy Chief Benefits Director

Office of Controller
SES Controller

Staff Office Heads
SES Assistant Administrator for Information Services
SES Assistant Administrator for Planning and Program Evaluation
SES Assistant Administrator for Construction
SES Assistant Administrator for Personnel
SES Assistant Administrator for Data Management and Telecommunications
SES Assistant Administrator for Human Goals
SES *Assistant Administrator for Supply Services

Department of Medicine and Surgery
AD Deputy for Operations
AD Deputy for Program Management

Office of the Inspector General
SES Deputy Inspector General for Intergovernmental Policy Coordination

Office of Construction
SES Deputy Assistant Administrator

Office of Information Services
SES Deputy Assistant Administrator

Office of Personnel
SES Deputy Assistant Administrator

Office of Data Management and Telecommunications
SES Deputy Assistant Administrator

Office of Planning and Program Evaluation
SES *Deputy Assistant Administrator

AGENCY: WATER RESOURCES COUNCIL

Positions:
SES Director
SES Deputy Director
SES Chairman, Great Lakes Basin Commission
SES Chairman, Missouri River Basin Commission
SES Chairman, New England River Basin Commission
SES Chairman, Ohio River Basin Commission
SES Chairman, Pacific Northwest River Basin Commission
SES Chairman, Upper Mississippi River Basin Commission

(16 U.S.C. 207(d)(1)(C))

[FR Doc. 82-5879 Filed 3-4-82; 8:45 am]
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federal register

Friday
March 5, 1982

Part IV

Department of Energy

Strategic Petroleum Reserve

Phase III

DEPARTMENT OF ENERGY

Strategic Petroleum Reserve Phase III; Development at Big Hill, West Hackberry and Bryan Mound Salt Domes; Floodplain/Wetlands Statement of Findings

AGENCY: Department of Energy.

ACTION: Statement of findings for locating components of the Strategic Petroleum Reserve Phase III development within floodplain/wetlands.

SUPPLEMENTARY INFORMATION:

Statement of Findings

The Department of Energy (DOE) decided to proceed with Phase III of the Strategic Petroleum Reserve (SPR) program, which will increase the SPR crude oil storage capacity to 750 million barrels (MMB) by the addition of 212 MMB and increase the average SPR drawdown rate by 1 MMB per day (MMB/D) from 3.5 to 4.5 MMB/D. To achieve the 212–MMB SPR Phase III requirement, DOE will construct storage facilities for 140 MMB at Big Hill salt dome in Jefferson County, Texas. Existing facilities will be expanded at Bryan Mound (Brazoria County, Texas) by 40 MMB and at West Hackberry (Cameron Parish, Louisiana) by 30 MMB. There will also be 2 MMB in associated pipelines and storage tanks.

The proposed site development at Big Hill and the expansion at West Hackberry will not be located in the 100-year floodplain or wetlands. The brine line, raw water pipeline, and oil distribution pipeline(s) for Big Hill and the expansion at Bryan Mound will impact floodplains and wetlands. Storage of crude oil is not a "critical action" within the definition in § 1022.4(c) of the DOE floodplain regulations. Therefore, consideration of the 500-year floodplain is unnecessary.

In compliance with Executive Order 11988, "Floodplain Management", Executive Order 11990, "Protection of Wetlands", Water Resources Council "Floodplain Management Guidelines" (43 CFR 6030), and Department of Energy regulations "Compliance with Floodplain/Wetlands Environmental Review Requirements" (10 CFR 1022), alternatives to this proposed action have been identified and their environmental impacts evaluated. The evaluation included public comments made during the review period for the Draft Environmental Impact Statement (EIS). A determination has been made by DOE that no practicable alternative exists to locating the proposed project in floodplains or wetlands. The proposed action includes all practicable measures to minimize harm to floodplains and wetlands.

Selection of Candidate Storage Sites

Several alternatives to Gulf Coast salt dome storage sites were considered for Phase III and rejected as impracticable for various reasons described in the Final Supplemental EIS for SPR Phase III Development (DOE/EIS–0075, October 1981). DOE evaluated the feasibility of expanding existing Gulf Coast SPR sites, specifically Bryan Mound, West Hackberry, Weeks Island, Bayou Choctaw, and Sulphur Mines. Expansion of the latter three sites was not feasible. The maximum practicable expansion is 60 MMB at Bryan Mound and 30 MMB at West Hackberry for a total increase of 90 MMB. At least one new site is required to store the additional 120 MMB necessary to meet the SPR Phase III goal of 750 MMB.

New candidate sites were identified from the three groups of salt domes (Seaway, Texoma, and Capline) which have been under consideration for the SPR program. These were Napoleonville, Chacahoula, and Iberia of the Capline Group; Black Bayou, Vinton, and Big Hill of the Texoma Group; and Nash, Allen, Damon Mound, and West Columbia of the Seaway Group. The Big Hill dome was chosen as the preferred alternative because of its suitability with regard to all major SPR site selection criteria which include: existing and potential capacity; accessibility to the crude oil distribution network; technical desirability; extent of environmental impacts; feasibility of acquisition; and costs.

Practicability of Alternative Sites

Of the existing and new sites not proposed for expansion or development, an evaluation must be made to determine whether they would be practicable alternatives to locating in floodplains and/or wetlands. The three primary criteria developed to determine the practicability for Phase III development are sufficient storage capacity (for new sites), capability to dispose of brine, and avoidance of major impacts, which could not be adequately mitigated, on a significant area of wetlands.

The Iberia, Allen, and Vinton sites would not provide sufficient storage capacity. Ten sites (Iberia, Chacahoula, Napoleonville, Bayou Choctaw, Nash, Damon Mound, Weeks Island, West Columbia, Sulphur Mines, and Vinton) had major brine disposal problems. Iberia, Chacahoula, Napoleonville, and Black Bayou would have major impacts, which could not be mitigated, on a significant amount of wetlands.

All these sites failed to satisfy the practicability criteria. Therefore, it is believed that there are no practicable alternative sites available for oil storage that would not be located in floodplains and/or wetlands.

Selection of Pipeline Routes

It is also necessary to determine whether any practicable alternatives exist to locating the Big Hill pipelines in floodplains and/or wetlands. Existing facilities would be used at Bryan Mound and West Hackberry.

Crude Oil Pipelines

The preferred crude oil pipeline will extend 23 miles northeast from Big Hill to Sun Terminal at Nederland, Texas (Fig. 1). Any pipeline from the Big Hill dome will cross floodplains (fig. 2). Wetlands traversed by the proposed pipeline occur near Alligator Hole Marsh, Taylor Bayou, and Hillebrandt Bayou. It is estimated that the 150-ft. right-of-way (ROW) would impact about 45 acres of fresh marsh. Most of the land in the area is used for agriculture.

Two alternative crude oil pipeline routes to the Galveston Bay area were developed from 25 possible scenarios (Fig. 1). Factors used in making the choice included total length; land use patterns; environmentally sensitive areas; presence of archaeological, historical, or cultural sites; number of water crossings; presence of existing ROWs; and construction techniques required. The two selected alternatives are the northern route to Oil Tanking of Texas, Inc. (OTTI) and a southern route to Pelican Island, as shown in Fig. 1.

The pipeline route to OTTI would temporarily impact floodplains and wetlands (including areas near Spindletop, Elm, Double, and Cedar bayous) in the area west of Big Hill and in the Trinity Bay area. The southern pipeline route would cross floodplains and wetlands (including areas near Spindletop, Elm, Oyster, and Loan Oak bayous) west and south of Big Hill and the Galveston Bay area. There are no practicable alternatives to routing the crude oil pipelines across floodplains and wetlands to transport the oil to terminal facilities.

Raw Water and Brine Disposal Systems

The raw water and onshore brine disposal pipeline systems will cross a continous floodplain/wetlands area between the Big Hill site and the Gulf of Mexico. There are no practicable alternatives to brine disposal in the Gulf of Mexico. Brine disposal by underground injection has been employed by DOE at four SPR sites and has been found to be impracticable. Except as a small scale, short-term, back-up system. The raw water intake facilities (electric pumps, etc.) will be located at the Intracoastal Waterway (ICW) on a spoil bank around an abandoned barge slip. The raw water intake pipe and associated protective structures will be located within the floodplain below the lowest water level. This will ensure an uninterrupted water supply. These structures will not alter flood elevations in the area and will pose no threat to lives or property. Considering the need for a large amount of raw water located near the site, there is no practicable alternative to laying the pipeline across the floodplain and wetlands to the ICW.

Alternatives at the Proposed Sites

Raw Water Intake Structure at Big Hill

The raw water intake structure will be constructed on an abandoned barge slip at river mile 305 on the ICW. All components of the system (such as electric pump motors) that cannot withstand flooding will be located above the 14-ft., 100-year floodplain level. These structures will not significantly alter the floodplain or floodplain characteristics beyond those alterations caused by the presence of the ICW. Construction of the raw water intake structure will require dredging about 10,000 cubic yards of spoil from the intake channel to guarantee adequate depth and uninterrupted water supply. Spoil may be used as fill for the construction of the upland portion of the raw water facilities or may be placed in an upland spoil disposal area out of wetlands. The exact disposal techniques used will be dependent on the requirements imposed by the permitting agency. There are no expected impacts to wetlands since all construction will be on previously filled areas.

Crude Oil, Raw Water, and Brine Disposal Pipelines for Big Hill

Pipelines associated with Big Hill SPR site development will descend from the site elevation of 30 to 35 ft. to the surrounding floodplain and wetland areas. Pipeline construction will have minimal short-term effects on local flood drainage. Spoil will be stockpiled in a manner that will not totally inhibit natural drainage patterns. Openings of about 50 ft. will be left between every 200 ft. of spoil. Buried pipelines will have no long-term impacts on floodplain action and will not affect property or lives. At water crossings, shorelines will be restored as close to the original contour as practicable, reducing effects on natural overbank flood water distribution.

A major consideration in selecting pipeline routes was the avoidance of wetlands. Appropriate dredging and ditching techniques of pipeline construction will be determined through consultation with permitting and other local, State, and Federal authorities. Impacts resulting from the stockpiling of spoil will be temporary and of short duration. Recovery of vegetation should occur within three years.

The revegetation of critical areas will be incorporated into the mitigation program if deemed necessary through continuing consultation with local, State, and Federal authorities.

By rerouting the brine disposal pipeline, it would be possible to avoid the 73 acres of wetlands in McFaddin National Wildlife Refuge that will be affected by construction. This would affect a greater number of acres (96) of wetlands and was therefore not considered a viable alternative. High-quality wetlands are distributed somewhat homogeneously south of the Big Hill project site from Sabine Lake to Galveston Bay between the ICW and the Gulf of Mexico. The route that would potentially impact fewer wetlands would be the more direct route across McFaddin National Wildlife Refuge. In compliance with the Rights-of-Way General Regulations (50 CFR 29.21; 34 FR 19907), DOE will file a permit application with the Department of the Interior to gain easement across the refuge. Existing pipeline ROWs will be followed where practicable, and mitigating measures (e.g., double-ditching, revegetation, and habitat creation) will be used as required to minimize impacts. The nature and extent of these actions will be determined through continuing consultation with the refuge manager and other authorities.

Bryan Mound Site

Expansion at Bryan Mound will occur within the 100-year floodplain and in an area having some wetlands (Fig. 3). Construction of wellpads will not alter floodplain action or affect the extent or severity of floods. Construction of the wellpads could require disruption of about 5 to 10 acres of wetland habitat under the 40-MMB expansion alternative. Between 7 and 15 acres of wetlands could be disrupted under the 60-MMB expansion alternative. Should Phase III construction at Bryan Mound impact existing wetlands, a wetlands mitigation agreement, with the U.S. Fish and Wildlife Service, provides for creation of new wetlands habitat by lowering and vegetating upland acreage with wetland grasses.

No Action Alternative

There are several significant impacts associated with the no-action option of the proposed Phase III SPR expansion. The SPR would be limited to the 538 MMB storage now under development in Phases I and II and therefore would not provide the United States with sufficient petroleum reserves to adequately minimize the effects of a future oil supply issue. No action would also be in violation of the Energy Policy and Conservation Act of 1975, as amended by the Omnibus Reconciliation Act of August 13, 1981, Section 1033 (Pub. L. 97–35). For these reasons, the no action option is not a practicable alternative.

Dated: February 6, 1982.

Guy W. Fiske,

Under Secretary.

BILLING CODE 6450-01-M

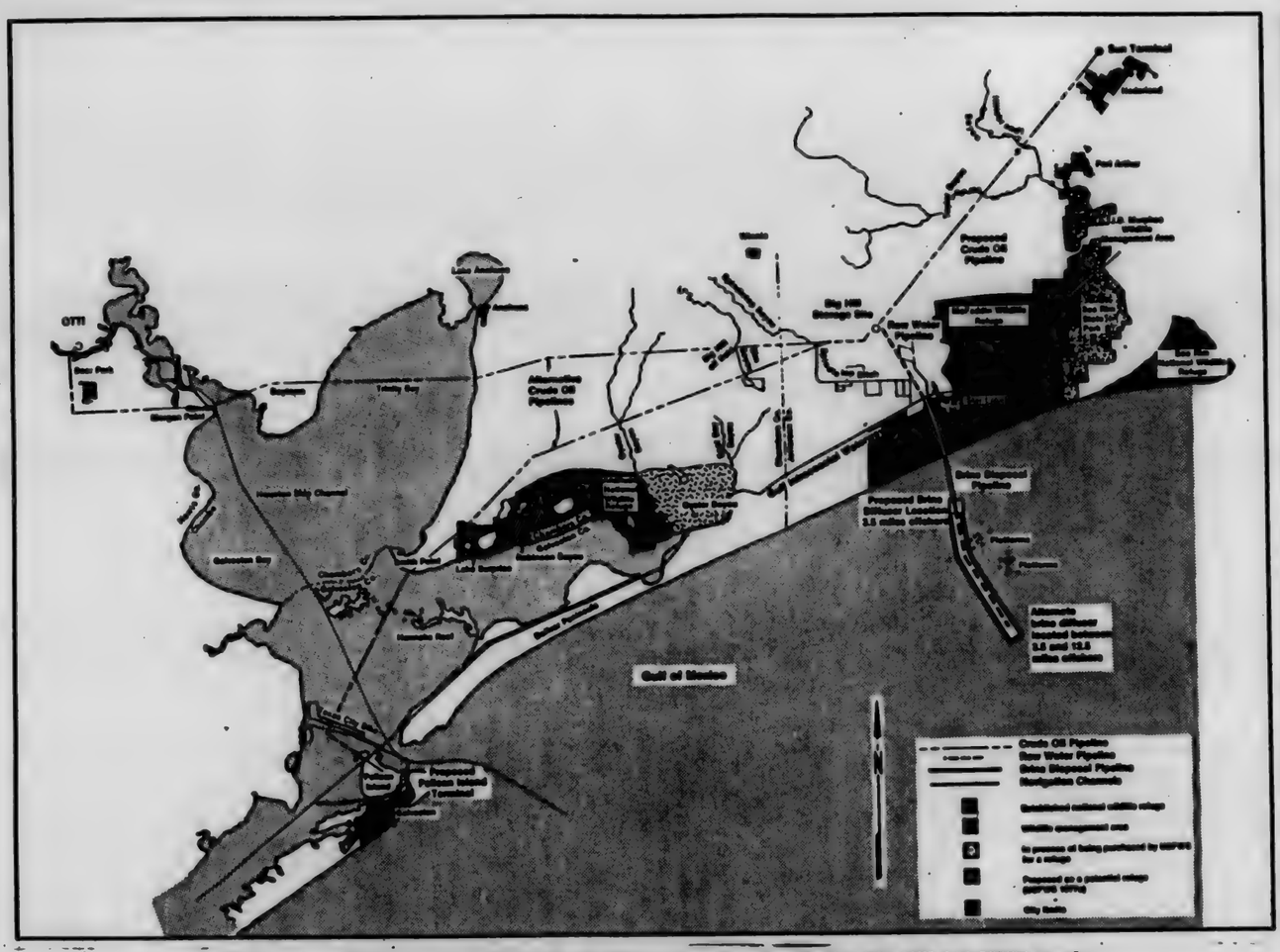

Figure 1. Preferred and alternate pipelines associated with the Big Hill 140-MMB crude oil storage facility.

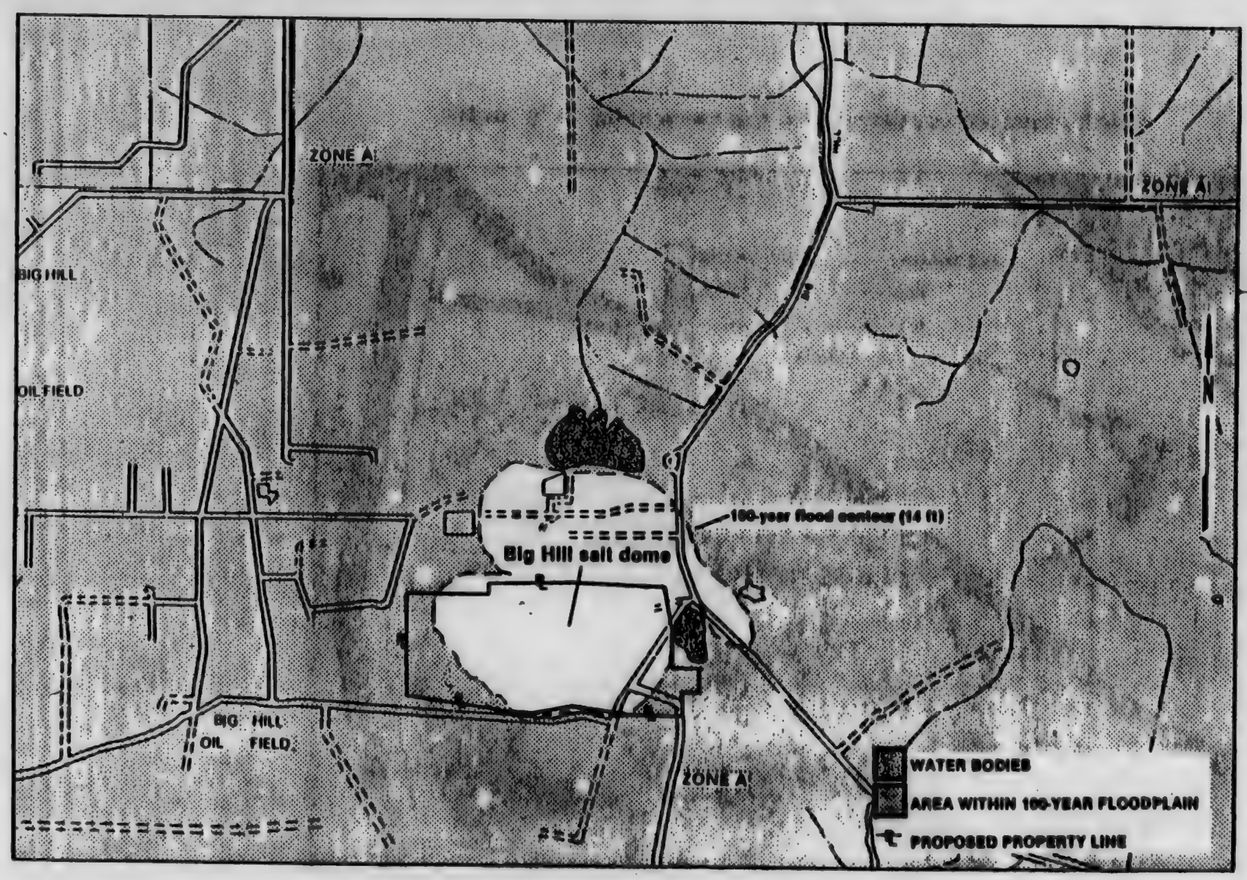

Figure 2. Local 100-year floodplain distribution in the vicinity of the Big Hill SPR site.

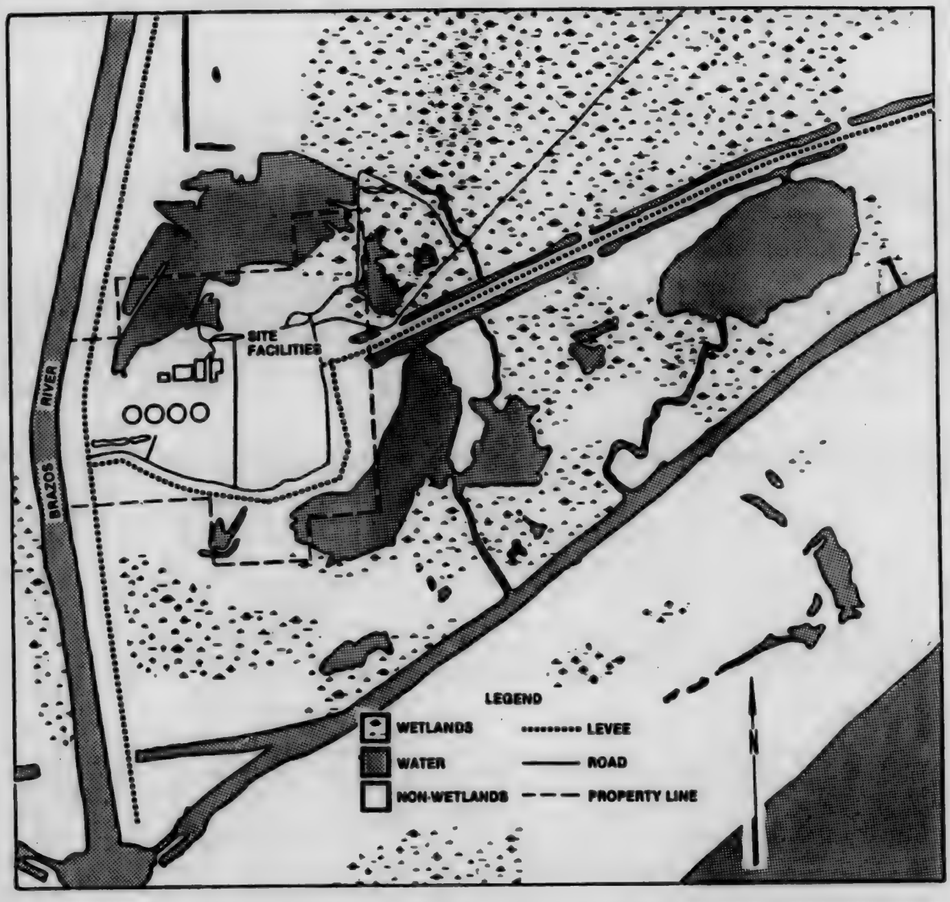

Figure 3. Bryan Mound SPR site hurricane flood protection system.

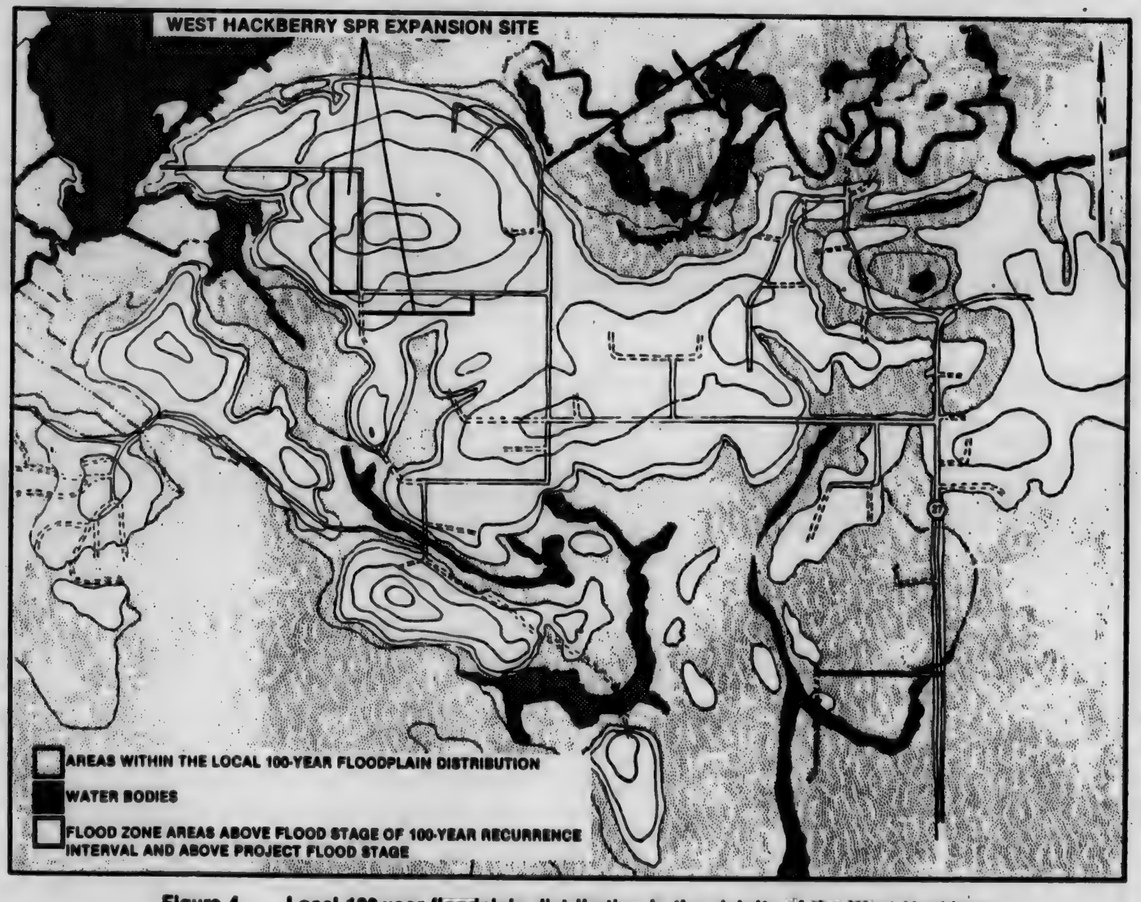

Figure 4. Local 100-year floodplain distribution in the vicinity of the West Hackberry SPR site.

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BILLING CODE 6450-01-C

Strategic Petroleum Reserve; Phase III Expansion; Record of Decision

Pursuant to Regulations of the Council on Environmental Quality (40 CFR Part 1505) and Implementing Procedures of the U.S. Department of Energy (45 FR 20694).

Decision

The U.S. Department of Energy (DOE) has elected to expand the Strategic Petroleum Reserve (SPR) crude oil storage capacity from 538 million barrels (MMB) to a total of 750 MMB and to increase the SPR drawdown capability from 3.5 to 4.5 MMB per day. The additional storage will be accomplished by constructing a new facility at Big Hill salt dome in Jefferson County, Texas and expanding two existing SPR facilities located at Bryan Mound salt dome in Brazoria County, Texas and West Hackberry salt dome in Cameron Parish, Louisiana. The proposed project was identified as the preferred alternative in the Final Supplemental Environmental Impact Statement (EIS) for SPR Phase III Development (DOE/EIS–0075, October 1981).

Project Description

Policies for implementing the SPR program, pursuant to Title I, Part B, of the Energy Policy and Conservation Act of 1975, Pub. L. 94–163, are contained in the SPR Plan that was approved by Congress and became effective on April 18, 1977. As currently amended and approved by Congress, the SPR Plan now authorizes an ultimate SPR size up to 1,000 MMB and includes the implementation plan for developing a 750 MMB government reserve in underground storage. Decisions regarding the timing and method of achieving the fourth 250 MMB have been deferred.

The SPR program is currently structured in three major phases. Phase I was the acquisition and conversion of existing underground storage at five salt domes in Texas and Louisiana, with total capacity of 248 MMB, and one marine terminal. Phase II is the continuing 200–MMB expansion at three of the existing SPR sites consisting of: 120 MMB at Bryan Mound salt dome, 3 miles southwest of Freeport, Texas; 160 MMB at West Hackberry salt dome, 12 miles southwest of Lake Charles, Louisiana; and 10 MMB at Bayou Choctaw salt dome, Iberville Parish, Louisiana, 12 miles southwest of Baton Rouge, Louisiana.

To achieve the Phase III requirement of an additional 212 MMB storage capacity and 935,000 barrel per day drawdown capability, DOE will expand Bryan Mound by an additional 40 MMB and West Hackberry by an additional 30 MMB, and construct a new 140–MMB storage facility at the Big Hill salt dome. There will be up to 2 MMB in new pipelines and tanks associated with Big Hill.

Big Hill

Big Hill salt dome is located about 23 miles southwest of Port Arthur, Texas and 68 miles east of Houston. The facility, planned to consist of fourteen 10–MMB solution-mined (leached) caverns, will encompass about 250 acres. Major facilities at the site will consist of a raw water pond for fire protection; an oil/brine separation system; one or more lined brine ponds for surge and settling of insolubles; blanket oil tanks; oil, brine, and water pumps; and a central control building.

Major off-site facilities will include a raw water intake system, a brine disposal system, and a crude oil distribution system for oil fill and drawdown.

The raw water intake structure will be located on an abandoned barge slip at mile 305 of the Gulf Intracoastal Waterway (ICW). A 48-in. pipeline will connect the intake with the site 5.3 miles to the north along a route designed to minimize impacts to freshwater marshes. The permanent easement will encompass 31 acres.

Brine disposal will be by diffusion in the Gulf of Mexico through a 4,350-ft diffuser consisting of 74 ports on 60-ft centers. DOE intends to locate the diffuser near latitude 29°35' North and longitude 94°10' West, seaward of the 30-ft depth contour about 3.5 statute miles offshore. Brine effluent velocity out of each port will be about 25 ft/s to accommodate a maximum discharge rate of 91.5 ft³/s (1.4 MMB per day).

A 48-in. diameter brine pipeline will run southeasterly from the Big Hill site within the same right-of-way (ROW) as the raw water pipeline to the ICW. From the ICW, the brine pipeline will pass under the waterway and extend south 3.9 miles to the coastline, thence offshore to the diffuser site.

The crude oil distribution system will be designed to increase the SPR's oil fill and drawdown capability by 280,000 and 935,000 barrels per day, respectively. A 36-in. crude oil pipeline will be constructed from the site 23 miles northeast to the Sun Terminal in Nederland, Texas. A final decision has not been made regarding the provision for additional oil distribution to the Galveston Bay area. Either of the alternative crude oil pipelines which were discussed in the Final Supplemental EIS may be built: a 60-mile pipeline to the Oil Tanking of Texas, Inc. (OTTI) Terminal located on the Houston Ship Channel or a 54-mile pipeline to the planned Pelican Island Terminal near Galveston. In addition, two proposals for commercial tie-ins with the Big Hill-Sun Terminal pipeline are being evaluated which would connect Big Hill with Houston area refineries and docks without the cost and environmental impacts of constructing a major new pipeline. Construction of one or more spur pipelines of about 4 to 6 miles along the existing commercial ROWs to the nearest pumping station would be required.

Bryan Mound/West Hackberry Expansion

Phase III expansion of Bryan Mound and West Hackberry will require minimal modifications to current Phase II facilities. The additional 40 MMB at Bryan Mound will be developed within existing DOE property. An additional 30-MMB expansion at West Hackberry may require the acquisition of up to 27 additional acres. Fluid flow rates (oil, brine and water) will not be altered at West Hackberry relative to existing Phase II permitted conditions. At Bryan Mount, DOE has recently acquired the necessary Federal and State permits to accelerate Phase II development by increasing the maximum leach rate from 660,000 bbl/d to 1.1 MMB/d in order to sustain an average leach rate of 980,000 bbl/d. Phase III development will not require further change in fluid flow rates.

Description of Alternatives

The following alternatives to the planned action were considered by DOE in reaching its decision:

1. Terminate SPR development after Phase II (no action);
2. Develop Phase III through private industry on a turnkey basis;
3. Use a storage medium other than underground conventional mines or solution-mined caverns;
4. Expand storage capacity at three remaining SPR sites;
5. Allocate storage capacity differently at SPR sites to be expanded;
6. Develop a new storage facility at a different coastal salt dome;
7. Develop a new storage facility in a salt dome inland from the coastal zone;
8. Develop a new storage facility in a salt dome offshore lying within the Gulf of Mexico;
9. Develop a new storage facility in a conventional inland salt or limestone mine;
10. Use an alternate oil distribution system for Big Hill;
11. Use a different brine disposal site for Big Hill.

Alternative 1 would limit SPR storage capacity to the 538 MMB that will be available at the completion of Phase II at the five existing SPR storage facilities and the associated tanks, pipelines, and marine terminal.

Alternatives 4 and 5 would limit activity to existing SPR sites. In addition to those above, these include Sulphur Mines in Calcasieu Parish and Weeks Island in Iberia Parish, Louisiana.

Alternatives 2, 3, and 6 through 9 would entail the development of one or more new sites. Each of the alternatives 6 through 9 contains options. Under alternative 6, nine coastal salt domes in Louisiana and Texas, which were addressed in previous SPR EISs, were re-evaluated in addition to Big Hill for new development by leaching. These include five in Louisiana (Napoleonville, Assumption Parish; Chacahoula, Lafourche Parish; Iberia, Iberia Parish; Black Bayou, Cameron Parish; and Vinton, Calcasieu Parish) and four in Texas (Nash, Fort Bend County; and Allen, Damon Mound, and West Columbia, all in Brazoria County). Under alternative 7, a group of seven domes in Louisiana, Mississippi, and Alabama was evaluated for new development from an initial screening group of 42 domes located from 40 to 160 miles inland from the coast. Three salt domes in the Gulf of Mexico from 40 to 60 miles offshore of Texas and Louisiana were also considered (alternative 8). Three inland mines were considered under alternative 9.

Alternatives 10 and 11 are related to subsystems for the selected new site, Big Hill. Oil distribution alternatives to the Big Hill-Sun Terminal pipeline were discussed above. Alternative brine disposal sites in the Gulf of Mexico were considered throughout a corridor from 3.5 to 12.5 miles offshore. Throughout the corridor, the sea bottom is flat and relatively featureless; depth ranges from 30 to 40 ft.

Basis for Decision

The SPR program development schedule has been a major governmental policy issue. There has been widespread agreement among Congress, the Executive Branch, and the public at large on the urgency of developing an adequate emergency petroleum stockpile. Congress has reaffirmed its commitment to expand the SPR and has recently provided that the Administration should seek to fill the SPR at an average rate of at least 300,000 barrels per day on an annual basis. Failure to implement Phase III would be contrary to the Congressionally approved plan to expand SPR capacity to 750 MMB and would directly impact the national capability to deal effectively with international oil supply issues.

In November 1978, DOE solicited offers from private industries for the turnkey development of new sites in the belief that this approach might result in the earliest possible availability of storage capacity for Phase III. The turnkey procurement was cancelled in August 1979 because changes in the world crude oil market made the oil-fill schedule and other assumptions of the turnkey effort less certain, and because the turnkey procurement did not offer any apparent advantages to offset the disadvantages of such an approach.

Subsequent to cancellation of the turnkey procurement, first consideration was given to expanding existing SPR sites beyond Phase II. This approach offers significant potential advantages of minimizing environmental impacts, development time, and cost through use of major onsite and offsite facilities previously constructed for Phases I and II. The only new onsite facilities required would be the new caverns and their crude oil, raw water, and brine disposal system connections to the central pumping and control areas.

Expansion at Bayou Choctaw, Sulphur Mines and Weeks Island is not practicable primarily because of limitations on brine disposal. As was fully disclosed in its Final Supplemental EIS, DOE has determined that there is no viable alternative to ocean discharge for disposing of brine at the rates and in the volume required for the SPR. Experience with Phase I underground injection has confirmed that, for the scale of operations of Phases II and III, even a short-term period of successful brine injection may be unattainable because of subsurface reservoir variables that are essentially unknown. While underground injection is feasible for limited rates and durations and is appropriate for an interim backup system, complete reliance on underground injection is an unacceptable risk to the program.

Other brine disposal options have been evaluated and discarded. Usage as feedstock by the petrochemical industry is precluded because of the scale of leaching operations. Permanent brine retention in surface ponds is environmentally unacceptable because of the surface area required. Disposal by tankers on the high seas is logistically and economically impractical.

Sulphur Mines and Bayou Choctaw are too far from the coast for ocean discharge of brine to be reasonable. Although Weeks Island is located on the edge of Vermilion Bay, a very large-diameter pipeline longer than 50 miles would be required because of the number of environmentally sensitive areas involved and the distance off shore to an acceptable depth. Crossing of major offshore oil fields is unavoidable, which would significantly increase construction difficulties.

Bryan Mound could be expanded by up to 60 MMB and West Hackberry could be expanded by up to 30 MMB within SPR technical criteria (e.g., land acquisition, fluid flow rates, cost effectiveness, and implementation time). However, if expansion at Bryan Mound is limited to 40 MMB, it can be integrated into the leaching program for the second half of Phase II development at the site. This will result in a significant time saving of 13 months relative to sequential development. Therefore, the practicable limit for expanding existing SPR sites, consistent with the timing objectives of Phase III, is 70 MMB. Accordingly, new storage facilities with 140–MMB capacity and 935,000 barrels per day drawdown capability are required to achieve the objectives for Phase III.

First consideration for new-site development was given to ten coastal salt domes of Texas and Louisiana that were previously cohsidered as alternatives new sites in the Seaway, Capline, and Texoma Final EISs (DOE/EIS–0021, June 1978; DOE/EIS–0024, July 1978; and DOE/EIS–0029, November 1978, respectively). Preference was given to salt domes with the desired potential storage capacity of at least 140 MMB. New development of multiple sites was not preferred because of environmental, cost, and management considerations.

Big Hill is technically and environmentally the most desirable of the ten candidate coastal domes. Its size is sufficient, and it is close to major oil refining and distribution networks. Further, its location on the coast is desirable for brine disposal to the Gulf, yet the site is not located in wetlands or in the 100-year floodplain.

In contrast, Chacahoula and Black Bayou, two alternative domes comparable in size to Big Hill, lie entirely in wetlands. Napoleonville lies partially in wetlands; this site, Nash, Damon Mound, and West Columbia are too far from the coast for ocean discharge of brine to be practicable. Iberia and Vinton are too small, having a potential capacity of about 50 MMB, and Vinton is too far inland for brine disposal to the ocean. Allen salt dome,

which is near Bryan Mound, is conveniently close to the coast. However, it lies partially under the San Bernard River and its salt mass is too ill-defined to substantiate greater than 35-MMB potential capacity.

Each of the seven inland domes in Alabama, Mississippi, and northern Louisiana was eliminated from consideration because of prohibitive problems resulting from the impracticality of the available method of brine disposal (i.e., deep well injection).

Offshore dome development has been rejected for Phase III because of the unacceptable time required, conservatively estimated to be an additional two years, to resolve geotechnical, engineering, and vulnerability questions before feasibility could be adequately established.

Three exisiting inland mines were rejected because of their relatively small size (14 to 30 MMB) in relation to the cost of new surface facilities required, their remoteness from existing oil distribution systems, and their capability to serve only one refinery. Similarly, excavation of new rock mines would have a practical capacity limit of about 30 MMB. The disposition of mine tailings would present a substantial environmental and economic problems. Therefore, new mine development is inappropriate for Phase III objectives.

Consideration of storage media other than underground mines and caverns was limited to surface tankage and floating storage (e.g., moored surplus tankers). Vulnerability and oil spill risks were judged to be excessive for floating storage; further, air emissions and operating and maintenance costs would be higher than for underground storage. Similarly, compared to underground storage, conventional tankage involves greater vulnerability and oil spill risk, requires a large amount of land and is substantially more expensive to construct.

At Big Hill, DOE's proposal to locate the brine diffuser 3.5 miles offshore is based on a one-year oceanographic site characterization study, regional fishery surveys, and brine discharge monitoring at Bryan Mound and West Hackberry. The available data indicate biological effects, if any, of brine discharge at this site will be minimal.

In summary, the decision to expand SPR facilities at Bryan Mound and West Hackberry and to develop a new crude oil storage facility at Big Hill is based on the belief that, compared to all alternatives considered, it will result in the earliest achievement of SPR Phase III storage and drawdown goals in the most cost-effective manner and will be consistent with the spirit and letter of applicable environmental laws and regulations.

Discussion of Environmentally Preferred Alternatives

The environmentally preferred alternative would be to do nothing ("no action", alternative 1). Environmental impacts of SPR construction and operation would be limited to those associated with continuing Phase I and Phase II activities. At Bryan Mound, the destruction of up to ten acres of wetlands within existing site boundaries would be avoided. At West Hackberry, the acquisition of up to 27 acres of prime farmland, which could result in the removal of up to ten residences and displacement of a corresponding number of families, would not occur. Consumption of raw water for leaching, ocean discharge of brine, and air emissions from oil fill associated with Bryan Mound and West Hackberry development would terminate at least ten months sooner than with Phase III implementation. Big Hill would remain in private ownership and could continue to be used as agricultural pastureland or be developed for various other uses. Resources saved that would otherwise be committed by Big Hill development include 47,000 tons of steel, 200,000 ft^3 of concrete, 53 million tons of rock salt, and the energy equivalent of 520,000 barrels of crude oil for construction and 1.25 MMB of crude oil for operation over the life of the project.

The offsetting environmental impacts of an inadequate national petroleum stockpile resulting from the no-action alternative cannot be accurately determined because of the large number of variables involved. In the absence of sufficient reserves, national security would be impaired by international oil supply issues. "No action" would be in direct violation of the Energy Policy and Conservation Act of 1975 as amended by the Omnibus Reconciliation Act of August 13, 1981, Section 1033 (Pub. L. 97-35).

For purpose of comparison with the eight program development alternatives (alternatives 2 through 9), the pertinent environmental characteristics of the chosen action are summarized as follows.

Construction at Bryan Mound will be within the 100-year floodplain and may destroy up to 10 acres of wetlands. Dikes will protect well pads and associated structures from floods and, conversely, will not alter floodplain action or affect the extent or severity of floods.

West Hackberry expansion will occur above the 100-year flood elevation. No wetlands will be affected.

Air quality may be expected to deteriorate temporarily at Bryan Mound and West Hackberry in proportion to the leaching of additional Phase III caverns. At both sites, Phase III caverns are presently planned to be leached simultaneously with the second half of Phase II. Worst-case emissions of non-methane hydrocarbons (NMHC) will occur during a stage of development called leach/fill. Leach/fill, which accounts for less than 45 percent of the total leaching period, is the only leaching stage for which there is a significant oil injection rate into caverns.

Leach/fill will occur for about 18 months at each site, during which NMHC emissions may be as high as 122 tons per year (tpy) at Bryan Mound and 128 tpy at West Hackberry. During adverse meteorological conditions, these emissions may result in ambient concentrations of up to 5.55 parts per million (ppm) zone. Existing air quality throughout the region is typically about 0.60ppm NMHC and 0.20 ppm NMHC and 0.13 ppm ozone; i.e., background levels of NMHC and ozone already consistently violate National Ambient Air Quality Standards, 0.24 ppm and 0.12 ppm, respectively. At all times other than leach/fill, including oil drawdown, NMHC emissions are predicted to be substantially lower than 50 tpy at each site. In comparison, hydrocarbon emissions in 1977 for Jefferson, Harris, and Galveston counties combined exceeded 500,000 tpy. Therefore, considering that existing background hydrocarbon levels exceed national standards and in view of the intermittent nature of SPR operations, the overall hydrocarbon emissions from Bryan Monund and West Hackberry will probably not contribute significantly to regional levels of photochemical oxidants.

Development of Big Hill will remove 250 acres of prime farmland soils from agricultural production. Construction of the site will have no long- or short-term impact on floodplains or wetlands. The dome elevation places the project facilities well above the 100-year floodplain. Flooding should not occur at the site as it represents the highest elevation in the immediate region. There will be no alteration of surrounding floodplain elevation or other characteristics.

At the off-site raw water intake structure, all components that cannot withstand flooding will be located above the 14-ft, 100-year floodplain level. Above 145 acres of wetlands will be temporarily disrupted by construction of the raw water and brine pipelines. After backfilling, there will be no long-term impacts.

Big Hill will be a major stationary source of air pollutants. NMHC emissions may be as high as 163 tpy during the 18 months that leach/fill is occurring. At all other times, NMHC emissions are expected to be less than 60 tpy. As with West Hackberry and Bryan Mound, adverse meteorological conditions during leach/fill may result in occasional (temporary) down-wind violations of the 0.12 ppm ozone standard.

Although the quantity of water to be withdrawn from the ICW for the Big Hill project is large, long-term effects on the aquatic environment should be negligible. The project should have no impact on water level or quality in the region. There will be no impact on existing uses for transportation and recreation. The source water is too brackish for agricultural use and will be readily replenished from Sabine Lake, Galveston Bay, Spindletop Ditch, and runoff from adjoining wetlands. Salinity of the ICW near the intake, which typically ranges from near 0 to 10 parts per thousand (ppt), will increase by less than 1 ppt due to induced water flow patterns.

Of the eight program development alternatives considered, only the use of offshore domes (alternative 8) was judged to be environmentally preferable to the chosen action.

Development of an offshore dome would entail offshore platforms for pumping and control equipment to accomplish leaching, oil fill, and drawdown; crew living quarters; and ship mooring and anchorage facilities. Fairways leading to designated shipping lanes would be established.

Located 40 to 60 miles from shore in water depths of 85 to 122 ft, the three candidate salt domes off shore of Texas and Louisiana would provide access for Very Large Crude Carriers (VLCCs). Cavern leaching would be accomplished by using seawater, and brine would be discharged from the platforms a few feet below the sea surface.

The offshore dome concept offers distinct environmental advantages over onshore concepts. Oil spill risks would be mitigated because direct offloading of VLCCs into salt dome storage through single-point moorings would result in reduced transshipments and lightering, and avoidance of congested harbors and approaches. Although the maximum credible spill would increase with the use of VLCCs, the biological productivity and environmental sensitivity of the marine environment 40 to 60 miles offshore is substantially less than for estuaries and coastal wetlands, and the probability for spill containment and clean-up without impacting the coast would be relatively high. Brine diffusion downward from near the surface at platforms in deep water is more effective than upward from the bottom in relatively shallow water as is done at Bryan Mound and West Hackberry. For an offshore dome, the area and concentration of the residual brine plume on the sea bottom would be insignificant compared to those at Bryan Mound and West Hackberry. Finally, the use of offshore domes would avoid land use conflicts and would transfer air quality impacts to the open ocean.

Hydrocarbon storage has never been attempted at an offshore dome. The technical considerations of the concept are significantly different from onshore storage and offshore hydrocarbon production. DOE is not yet comfortable with the feasibility of the concept, as major geotechnical, engineering, and vulnerability questions are unresolved. Selection of the offshore alternative is not appropriate at this time.

The turnkey approach (alternative 2), which was initally the preferred alternative for SPR Phase III, would have required the offerors to direct all aspects of the development of the sites proposed by them, including environmental compliance, site design and construction, and initial fill. Environmental evaluation of the array of alternatives developed by DOE subsequent to termination of the turnkey effort revealed nothing to indicate that turnkey development would not have had impacts at least as great as the selected alternative.

Above-ground storage media, such as conventional tanks and floating storage (alternative 3), are less desirable environmentally than underground storage in stable geologic structures. Surface tankage would result in greater land use, NMHC emissions, risks of oil spill and fire, cost, and substantially greater vulnerability to storms, natural disasters, and acts of terrorism. The acreage equivalent to that of the 140-MMB Big Hill site, 250 acres, could accommodate a tank farm of only 12 to 18 MMB. The primary advantages of tank farms are the potential for earlier availability and siting flexibility. The disadvantages outweigh the advantages in comparison to the intended project.

Alternative 4, expansion at the remaining three SPR sites, Sulphur Mines, Bayou Choctaw, and Weeks Island, in lieu of development of a new site, was impractical because of unacceptable technical risks and constraints.

Sulphur Mines is a small salt dome whose availability for expansion is limited; brine disposal is a severe problem; and the site also poses high risk in drilling new caverns because of extensive historical sulfur mining in the dome's caprock.

There is sufficient salt at Bayou Choctaw and Weeks Island combined for leaching additional capacity of more than 150 MMB, which would obviate the need for Big Hill. Up to 30 MMB of new capacity could be accommodated at Bayou Choctaw within existing site property and without impacting wetlands. An additional 20- to 30-MMB increment could be feasible but would require up to 18 acres of deciduous swamp. At Weeks Island, there is sufficient salt to leach more than 100 MMB on the east flank of the dome, which would be compatible with continuing commercial mining on the west flank. However, because the Weeks Island SPR facility is a converted conventional mine, expansion by solution mining would require essentially a whole new facility comparable to Big Hill. Brine disposal at Bayou Choctaw and Weeks Island is impractical; in addition, expansion of Weeks Island alone would offer no environmental advantage over Big Hill, and expansion of the combined sites would be environmentally less desirable.

One of the alternatives available to DOE is to achieve the combined 70-MMB expansion at Bryan Mound and West Hackberry by developing six 10-MMB caverns at Bryan Mound and one 10-MMB cavern at West Hackberry (alternative 5). The advantage of the 60:10 expansion alternative is that it would minimize land acquisition at West Hackberry.

The 60:10 alternative was rejected because it would preclude the complete integration of Phase III solution mining with Phase II at Bryan Mound, resulting in a 6-month delay in completing Phase III expansion relative to the preferred 40:30 configuration. In addition, the 60:10 alternative would cause the following changes in impacts relative to the preferred 40:30 configuration:

(1) Two additional well pads and associated structures would be located within the 100-year floodplain;

(2) Impacts to wetlands would be increased by half at Bryan Mound without any offsetting wetlands avoidance at West Hackberry;

(3) An 8-month increase in duration of worst-case predicted NMHC emissions at Bryan Mound (3.50 grams per second (g/s)), but only a 2½-month reduction of comparable worst-case predicted emissions at West Hackberry (3.67 g/s).

Under alternative 6, the only coastal dome alternatives to Big Hill for which brine disposal to the Gulf of Mexico is reasonable were eliminated, as discussed in the "Basis for Decision" section of this Record of Decision, primarily because of unacceptable impacts to wetlands.

The primary motivation in examining inland salt domes (alternative 7) was to develop a set of alternatives to storage development in the coastal zone. Since wetland avoidance is not an issue at Big Hill, it is not altogether clear that any of the candidate inland domes offers environmental advantages over Big Hill. On the contrary, to dispose of 1.4 MMB/d of brine for almost 4 years, as would be needed for a 140 MMB facility, a brine injection well field of 112 wells located on 980 acres of land would be required. Moreover, raw water supplies would likely be a serious issue that does not exist at Big Hill. DOE judged inland domes to constitute an unacceptable risk to SPR objectives because there is no assurance that subsurface disposal zones would accept brine at the required rate or volume.

The conversion of three existing mines (alternative 9), Central Rock, Ironton, and Kleer, with a combined available capacity of 65 MMB, is an alternative to the 70-MMB expansion of Bryan Mound and West Hackberry. This alternative was discarded because of strategic, economic, and technical disadvantages, as noted in the "Basis for Decision" section. A judgment of environmental preference between this alternative and the proposed action is difficult primarily because of the uncertainty in the extent and nature of land acquisition and impacts at each mine. The acreage that would be graded for construction at each mine would be minimal. However, it is concluded that the combined unavoidable environmental impacts of converting 65 MMB of capacity at the three mines would be comparable to the conversion of Weeks Island and would impact the environment at least as much as the 70-MMB expansion of Bryan Mound and West Hackberry.

Each of the Big Hill-Galveston Bay area crude oil pipeline alternatives (alternative 10) is significantly longer than the Big Hill-Sun Terminal pipeline and would entail proportionally greater oil spill risk. The Big Hill-OTTI pipeline would be 37 miles longer than the Big Hill-Sun Terminal pipeline and would cross an additional half mile of wetland and 11.5 miles of open water. A Big Hill-Pelican Island pipeline would be 31 miles longer and would result in impacts to an additional 9.5 miles of wetlands and 14.5 miles of open water. Impacts of pipeline construction would be temporary, except for the permanent ROW on land which would be kept clear of woody vegetation.

Alternative brine diffuser sites (alternative 11), more distant than the proposed site, 3.5 miles off shore, would involve proportionally greater construction impacts on sessile organisms in the dredged area. Additional increased construction impacts would include greater turbidity and greater temporary hazard to commercial fishing.

The practical limit for alternative diffuser sites was determined to be 12.5 miles. Offshore of this point are an anchorage and a safety fairway, on which encroachment is prohibited. Farther offshore, there would be concern about proximity ot Sabine and Heald Banks, which are sensitive and rich habitats for hard-bottom fauna.

Based on a one-year oceanographic survey, the proposed 3.5-mile site is environmentally preferred to more distant alternatives from the perspective of brine discharge. At the 3.5-mile site, the dynamics of biological community composition and density respond to seasonal temperature changes, occurrences of limiting concentration of dissolved oxygen, pulses of micronutrients and shifts in sediment texture but not to variation in salinity which is relatively great at the site. There are fewer data farther offshore, but as one proceeds offshore, salinity increases and is less variable, i.e., the environment is more marine. It is reasonable to conclue that indigenous populations of the 3.5-mile site are adapted to unstable conditions of a highly variable environment and are, therefore, more tolerant to salinity variation than those farther offshore. The nearshore site would be the more environmentally prudent location to discharge brine.

Conclusion

The benefits from the Phase III expansion of the SPR have been balanced against the potential adverse environmental impacts. In addition, reasonably available project alternatives have been considered. As a result of these evaluations, DOE has decided to proceed with the project. Of the practicable alternatives considered, the project as proposed is environmentally preferred and most likely to achieve SPR program objectives. DOE is aware of the project's potential environmental impacts and will use all practical means to avoid or mitigate them.

Dated: January 22, 1982.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

ATTACHMENT 1.—ENVIRONMENTAL COMPLIANCE, CONTROL, MITIGATION, AND MONITORING FOR PHASE III IMPLEMENTATION OF THE STRATEGIC PETROLEUM RESERVE, DEVELOPMENT OF BIG HILL AND EXPANSION OF BRYAN MOUND AND WEST HACKBERRY

The Department of Energy (DOE) will comply with the requirements of all applicable local, state, and Federal statutes and regulations regarding environmental compliance, control, monitoring, and mitigation of impacts required for construction and operation of facilities for Phase III development of the Strategic Petroleum Reserve.

Specifications for most mitigation measures and monitoring plans will be determined through the permitting procedures of the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers and through consultation with other appropriate local, state, and Federal agencies.

In addition to the types of mitigation measures described below, a detailed Spill Prevention, Control, and Countermeasure (SPCC) Plan and Contingency Plan will be prepared for Big Hill which will identify proper actions to protect the environment from the damaging effects of spills of oil and brine. Existing Contingency and SPCC Plans for Bryan Mound and West Hackberry will be amended if necessary to account for new construction.

Mitigation of Construction Impacts

Land Use

Existing pipeline rights-of-way (ROW) will be followed where practicable.

To the extent practicable, original contours will be maintained, applicable soil conservation practices will be used, and site landscaping will utilize existing trees, shrubs and meadows to enhance the aesthetics of the facility.

Should Phase III construction at Bryan Mound impact existing wetlands, a wetlands mitigation agreement, with the U.S. Fish and Wildlife Service, provides for creation of new wetlands habitat by lowering and vegetating upland acreage with wetland grasses.

Impacts of pipeline construction will be mitigated by construction techniques specified by the Corps of Engineers in permits granted under Section 10 of the Rivers and Harbors Act of 1899 or Section 404 of the Clean Water Act of 1972 as amended. Such techniques may include double-ditching, revegetation, and directional drilling.

DOE is consulting with the manager of McFaddin National Wildlife Refuge to gain easement for constructing the brine pipeline across the refuge from the Intracoastal Waterway (ICW) to the shore. The nature and extent of mitigation measures will be determined by the refuge manager and other authorities.

Dredge spoil from pipeline construction will be stockpiled in a manner that will not totally inhibit natural drainage patterns.

Dredge spoil from construction of the Big Hill raw water intake structure at the ICW may be used as fill for construction of the upland portion of the raw water facilities or may be placed in an upland disposal area out of wetlands as determined by the permit requirements of the Corps of Engineers.

Water Quality

The choice of appropriate dredging techniques and handling of dredge spoil related to pipeline construction will be determined by the requirements of the Corps of Engineers. Mitigation measures to be used will also be determined by the Corps of Engineer in consultation with local, state, and Federal authorities during the permitting process. Choice of dredging and disposal techniques for the crossings at Taylor and Hillebrandt Bayous will depend on results of chemical analysis of sediments for contamination.

During site construction, appropriate erosion control measures will be used to minimize turbidity and sedimentation in nearby waterways and wetlands.

If either of the two alternative crude oil piplines to the Galveston Bay area is selected, impacts of water crossing at Galveston Bay would be mitigated by turbidity screens if required.

At pipline water crossings, shorelines will be restored as close to the original contour as practicable, reducing effects on natural overbank flood water distribution.

Air Quality

Dust suppression techniques will be used to the extent necessary. Any incineration during construction will be limited to materials and times as stated by the applicable regulations.

Biota

The American alligator is the only endangered or threatened species that could be impacted by construction activities. Should it not be delisted in Texas prior to construction, formal consultation will be conducted with the U.S. Fish and Wildlife Service. Alligator nests are highly visible and will be avoided to the extent practicable.

Clearing of land will be minimized. ROWs will be revegetated as stipulated in permits or in other programs developed through continuing consultation with local, state, and Federal authorities.

Noise

Construction contractors will be required to meet all state and Federal regulations related to the exposure of employees to extreme noise levels, as defined by Occupational Safety and Health Administration regulations.

Historic and Archaeologic Sites

The appropriate State Historic Preservation Office (SHPO) will be informed of construction schedules. The proximity of a known shell midden in the vicinity of Taylor Bayou to the planned crude oil pipeline crossing will be investigated before construction. If either crude oil pipeline alternative to the Galveston Bay area is selected, a field survey and a more intensive records survey, commensurate with the known sensitivity of both projected routes, will be conducted before construction. Although there are no known or suspected archaeological, historical, or cultural resources at the storage sites, construction will be carefully monitored. If any such resource is uncovered during construction, all activities will cease and the SHPO will be notified immediately, as required by the National Historic Preservation Act of 1966. Construction will not proceed until the nature and importance of the find is determined.

Mitigation of Operations Impacts

Water Quality

Each site will be secured and brine ponds will be drawn down in advance of floods and hurricanes.

Brine ponds will be lined to prevent leakage.

A sewage treatment system will be designed and operated at Big Hill in accordance with the required EPA wastewater discharge permit and any local and state requirements.

Dikes will be constructed around well pads at all storage sites to contain water from a 25-year 24-hour rainfall until it can be determined that its discharge meets effluent criteria. Culverts will be placed where needed to maintain natural drainage. All water discharges from the sites will be monitored to ensure permit compliance with Federal and state water quality criteria.

Pipeline sectionalizing valves will be installed at the edge of each major water crossing.

Air Quality

Emissions of volatile organic compounds will be controlled by vapor control technology as directed by applicable permit requirements.

Biota

The brine pipeline will be instrumented so that leaks can be quickly detected from the central control building to allow rapid shutdown of the brine disposal system. Performance criteria and specifications for brine line integrity assurance and additional operational requirements will be determined through consultation and negotiation with the permitting agency.

To avoid entrainment of biota, the raw water intake structure will be equipped with traveling screens and will be designed to ensure a maximum water velocity at the traveling screens of 0.5 ft/s while providing 1.4 MMB per day of raw water to the site.

Socioeconomics

The brine diffuser will be designed, situated, and constructed to minimize impacts to commercial fisheries. To prevent entanglement of fishing nets, the diffuser will be buried about 6 ft below the ocean floor in accordance with pipeline permit requirements, a steel diffuser guard cage will be installed on each diffuser port below the mud line, and diffuser port risers above the mud line will be flexible rubber hose. Mutual aid services, such as area-wide fire protection, will be provided to local communities.

Monitoring Programs

Onshore environmental characterization of the Big Hill SPR site will be conducted prior to site development in accordance with DOE Orders and other regulations. This effort will address numerous aspects of the affected environment and will attempt to predict the nature of SPR construction and operations-related impacts. The following factors will be sampled and evaluated as appropriate: meteorology, air quality and noise; hydrology and water quality; soils; vegetation; aquatic ecology; and wildlife.

Monitoring of the brine discharge may be required as a condition of the EPA National Pollutant Discharge Elimination System permit. This determination will be made by the EPA Regional Administrator under applicable rules and regulations. The results of continuing monitoring

programs at Bryan Mound and West Hackberry will undoubtedly be a significant contribution in EPA's determination.

A 1-year oceanographic survey of baseline conditions was conducted in the area of the proposed Big Hill diffuser from September 1977 to October 1978. This study, which was part of a larger regional Texoma survey, included detailed documentation of physical oceanography, marine chemistry, sediment texture and distribution, macro- and meio-benthos, phytoplankton, zooplankton, and demersal nekton populations.

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Friday
March 5, 1982

Part V

Civil Aeronautics Board

Uniform System of Accounts and Reports for Certificated Air Carriers; Reporting of Employment Levels and Employee Protection Program

CIVIL AERONAUTICS BOARD

14 CFR Part 241

[Reg. ER-1295; Amdt. No. 44; Docket No. 38483]

Uniform System of Accounts and Reports for Certificated Air Carriers; Reporting of Employment Levels

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB requires air carriers that held certificates on October 24, 1978, to report the number of employees deprived of employment because of a strike along with the employment levels that they already report monthly. This amendment will enable the CAB to fulfill its responsibilities under the Employee Protection Program established in section 43 of the Airline Deregulation Act. Supplementary information about this rule appears in PR-245, also published in today's issue.

DATES: Adopted: November 18, 1981;[1] Effective: May 3, 1982.

FOR FURTHER INFORMATION CONTACT: Steven B. Farbman, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., 20428; 202-673-5340.

SUPPLEMENTARY INFORMATION: This rule is subject to OMB clearance under the Paperwork Reduction Act. The Board will publish a notice of OMB's decision.

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

The Civil Aeronautics Board amends 14 CFR Part 241, *Uniform System of Accounts and Reports for Certificated Air Carriers*, as follows:

1. The authority citation for Part 241 is revised to read:

Authority: Secs. 101, 204, 401, 402, 403, 404, 407, 411, 416, 417, 901, 902, 1002, 1601, Pub. L. 85-726, as amended, 72 Stat. 737, 743, 754, 758, 766, 769, 774, 783, 788, 76 Stat. 145, 92 Stat. 1744 (49 U.S.C. 1301, 1324, 1371, 1372, 1373, 1374, 1377, 1381, 1472, 1482, 1551); Sec. 43, Pub. L. 95-504, 92 Stat. 1750, 49 U.S.C. 1552.

2. In the instructions to Schedule P-1(a) in Section 24, *Profit and Loss Elements*, the last sentence of paragraph (d) is amended and paragraph (e) is amended by adding a sentence at the end, so that the instructions read as set forth below. As revised, paragraphs (d)(7) and (d)(8), the last two sentences of paragraph (d) and paragraph (e) are revised to read as follows:

[1] Received for publication at the Office of the Federal Register on March 1, 1982.

Schedule P-1(a)—Interim Operations Report

* * * * *

(d) Air carriers shall report on this schedule * * * (7) the total number of full-time and (8) part-time employees. Total number of full-time employees and total number of part-time employees shall reflect for the overall or system operations of the air carrier the total number of full-time and part-time employees, respectively, who worked or received pay for any part of the pay period(s) ending nearest the 15th day of the month. For the purposes of this part, "part-time employees" means those employees hired to work less than the number of hours that is customary or standard for their occupational specialty.

(e) In the event of a labor strike, the "number of employees" to be reported on this schedule shall be determined on and actual payroll basis. Actual payroll shall be determined in accordance with paragraph (d) of these reporting instructions. An air carrier that on October 24, 1978, held a certificate issued under section 401 of the Act shall also report in a footnote on this schedule the number of full-time employees who were deprived of employment because of a strike (*i.e.*, the number of full-time employees who, but for a strike, would have been included in the number reported in accordance with paragraph (d)(7)).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-5874 Filed 3-4-82; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 314

[Reg. PR-245; Docket No. 38483]

Employee Protection Program

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB adopts procedures for implementing its responsibilities under the Employee Protection Program established in section 43 of the Airline Deregulation Act. This program provides for Federal payments to certain airline employees who are dislocated or who have their compensation reduced "on account of a qualifying dislocation." The CAB is responsible for determining when a "qualifying dislocation" has taken place; the program is otherwise administered by the Secretary of Labor.

DATES: Adopted: November 18, 1981;[1] Effective: April 3, 1982.

FOR FURTHER INFORMATION CONTACT: Steven B. Farbman, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5340.

SUPPLEMENTARY INFORMATION: The application requirements of §§ 314.11 and 314.21(b) are subject to OMB clearance under the Paperwork Reduction Act. The Board will publish a notice of OMB's decision. Section 43 of the Airline Deregulation Act, Pub. L. 95-504, established an employee protection program. This program provides protection for airline employees (other than officers or members of the board of directors) who, on October 24, 1978, the date of the Deregulation Act's passage, had at least 4 years of service with one certificated airline. Two types of protection are provided. One, requiring certificated air carriers to accord priority of hiring to furloughed workers, is administered solely by the Secretary of Labor. The second provides for Federal assistance payments to workers who have been deprived of employment or have had their compensation reduced because of a qualifying dislocation. A qualifying dislocation, in turn, is defined by the Act as a bankruptcy or a major contraction in employment, "the major cause of which is the change in regulatory structure provided by the Airline Deregulation Act of 1978." This program is also administered by the Secretary of Labor, who is responsible for determining the eligibility of individual applicants and the level of payments. However, Congress has given the Board the job of deciding the threshold question of whether a qualifying dislocation has occurred. This rule establishes procedures for deciding that question.

The Proposed Rule

In notice of proposed rulemaking EDR-406/PDR-72 (45 FR 49291; July 24, 1980) ("the NPRM"), we proposed to adopt a new 14 CFR Part 314 to govern the Board's role in the employee protection program. Under the proposed rule, the Board would investigate bankruptcies and major contractions to determine whether they were qualifying dislocations. Investigations would begin either on the Board's initiative, or in response to applications from affected employees or their representatives. Applicants could rely on a Board finding that a major contraction had occurred, as discussed below, but would have to

[1] Received for publication at the Office of the Federal Register on March 1, 1982.

explain their basis for claiming that the Deregulation Act was the major cause: Applications would be served on the affected air carrier and the Secretary of Labor, and there would be 7 days for answers. After an investigation, the Board would announce its preliminary determination in a show-cause order, and allow 30 days for interested persons to file objections or comments along with supporting information. The Board would ordinarily make its final determination on the pleadings, but would have the discretion to hear oral argument. It would hold an oral evidentiary hearing only if there were material issues of decisional fact that could not adequately be resolved without a hearing. The Board's final determination would be announced in an order, with notice sent directly to the applicant (if any), the affected air carrier, and the Secretary of Labor.

A "major contraction" is defined in the Act as a reduction by at least 7½ percent in the total number of an air carrier's full-time employees within a 12-month period. Under the proposed rule, the Board would monitor the employment levels reported by certificated carriers and publish the results each month. If any carrier's monthly level were 92.5 percent or less of any of that carrier's preceding 12 reported monthly levels, the Board would find that that carrier had undergone a major contraction. For example, if an airline had 1000 full-time workers in December 1979, an employment level of 925 or less for any month through December 1980 would represent a reduction of at least 7½ percent, and thus constitute a major contraction. To speed up the process when a 7½ percent reduction had not yet occurred but clearly would occur, the Board could make an advance determination of a major contraction. The Board could do this on its own initiative or in response to an application.

The Act directs the Board to determine major contractions without including those employees who are deprived of employment because of a strike or are terminated for cause. The NPRM stated that in order to exclude such employees from a *reduction* in employment, we would include them in the total employment figures. The following example was given:

> An airline has 1,000 full-time employees through January, but in February has only 748 because 50 have been laid off, 200 have gone on strike, and 5 have been fired for cause with 3 of the 5 replaced by new employees. This does not constitute a major contraction. To the 748 actually employed, we add the 200 on strike and the 5 fired for cause, and subtract the 3 replacements—to make a total of 950. (Since those fired for cause are included in the total, their replacements must be subtracted to avoid distortion.)

Air carriers already report their full-time and part-time employment levels monthly on Schedule P-1(a) under 14 CFR Part 241, but these figures include only those employees who have actually been paid during the relevant pay period. To enable the Board to comply with the statutory requirement to disallow certain employee reductions, the NPRM proposed to require the reported number of full-time employees to include those on strike and the number of positions that are vacant as a result of terminations for cause.

The NPRM also proposed an alternative reporting scheme to minimize the burden on air carriers: regular monthly reports would include paid and striking employees, but not vacancies for cause. Under this alternative the Board would presume that the number of such vacancies was always below some threshold, such as 1 or 2 percent. The Board would require a carrier to determine and report the number only on those occasions when it would make a difference in the computation of a major contraction.

The NPRM also briefly addressed the meaning of the statutory requirement that, in order to be a qualifying dislocation, a bankruptcy or major contraction must have as its major cause "the change in regulatory structure provided by the Airline Deregulation Act of 1978." The Supplementary Information portion stated that we would not consider changes in employment that were merely seasonal to be caused by the Deregulation Act. Similarly, it stated that we would ordinarily not consider employment cuts caused by a decline in the general economy or by fuel shortages to be so caused. The text of the proposed rule, however, simply reflected the statutory language.

The Comments

Nine comments on the proposed rule were filed. The commenters were the U.S. Department of Labor, California State Employment Security Agency, Air Transport Association of America (ATA), Pacific Southwest Airlines (PSA), and eight labor organizations, four of which filed jointly. The individual labor commenters were the Air Line Pilots Association (ALPA), Association of Flight Attendants (AFA), Independent Union of Flight Attendants (IUFA), and the International Brotherhood of Teamsters. The joint labor commenters were the Brotherhood of Railway and Airline Clerks, Flight Engineers' International Association, International Association of Machinists and Aerospace Workers, and the Transport Workers Union of America.

Most of the comments were especially concerned with how the Board will interpret and apply the "major cause" language in the statutory definition of qualifying dislocation. Other main areas of concern were reporting requirements and the method of accounting for employees on strike or terminated for cause. The comments also addressed almost every other aspect of the proposed rule.

We have considered all the comments and decided to adopt the rule essentially as proposed, but with the alternative approach to reporting vacancies for cause (i.e., counting them only in close cases) and several changes in the details of the procedure. The comments and our responses are discussed below by subject area.

Interpreting the "Major Cause" Provision

The ATA and the California State Employment Security Agency agreed with our observations in the NPRM that the Deregulation Act should not be considered responsible for either seasonal employment changes or, in most cases, employment cuts caused by fuel or general economic situations. They suggested that these interpretations be explicitly incorporated in the rule. The IUFA argued that the rule should include objective criteria, such as a presumption that the Deregulation Act was the major cause of a carrier's bankruptcy or major contraction if the carrier had previously undergone "a 5 year period of sustained growth and/or profitability." The Teamsters suggested that "*the* major cause" be interpreted to mean "*a* cause which is important and substantial, but not necessarily more important than any other causal factor" (emphasis added). The AFA argued for a similar interpretation.

The final rule includes § 314.6 as proposed, restating the critical portions of the statutory definition of qualifying dislocation without interpreting them. Our interpretation will evolve as we gain experience with actual cases involving specific carriers and employees. We adhere to the observations in the NPRM, however, and note also that there is no basis for such a radical departure from the plain meaning of the statute as the Teamsters and AFA have urged. If Congress had intended such a result, the definition in section 43(h)(2) of the statute would have referred to deregulation as "a

major cause" rather than "the major cause" of the major contraction. In any event, interested persons will have further opportunities to present views on these issues in individual cases.

Reporting Requirements

ALPA and the AFA supported the proposed requirement that carriers' monthly reports of employment levels include the number of employees on strike and the number of positions vacant as a result of terminations for cause. These commenters stated that this information plays a very important role in the Board's computation of employment cuts. They objected to the proposed alternative approach—to require the information only by special report, and only in those close cases where it might make a difference in the finding about a major contraction—on the ground that it would provide inadequate and inaccurate data and would delay relief to affected employees.

The ATA, on the other hand, objected to the first approach. It argued that it would be expensive and time-consuming for carriers to compile information every month on terminations for cause, with the burden wholly disproportionate to the Board's needs for such information. It stated that most vacancies are filled through internal promotions, which trigger a chain of vacancies and promotions, and that it would be hard to trace through to the ultimate hiring of a new employee. ATA supported the proposed alternative approach, and suggested that employment cuts between seven and eight percent be considered the close cases. Only in those cases would it have the Board require special reports from a carrier about vacancies for cause.

We have decided to adopt the alternative approach to reporting of the number of positions vacant as a result of terminations for cause. In a close case where this number could actually make a difference in the computation of a 7½ percent employment reduction, it is essential for the Board to know the number in order to comply with the Congressional mandate. But we agree with the ATA that in the clear majority of cases, including those where the regularly reported figures show an employment reduction of less than 7 or more than 8 percent, the number of vacancies for cause will be irrelevant and requiring carriers to determine and report it would only be wasteful. We disagree with the contention of ALPA and the AFA that the alternative approach would provide inadequate and inaccurate information. And the extra step that this approach adds to the process of identifying major contractions and qualifying dislocations would delay relief to affected employees only briefly.

ATA also suggested that, whichever reporting approach the Board chooses, employees who, although not on strike, are furloughed because of a strike should be excluded from the calculation of employment reductions in the same way as those employees who are actually on strike. This interpretation better reflects the statute, which refers to "employees who are deprived of employment because of a strike," and we have incorporated it into the rule.

PSA pointed out that its employees are not covered by the employee protection program because it did not hold a certificate from the Board on October 24, 1978, and stated that it should therefore not be subject to additional reporting requirements. PSA suggested that the Board relieve it of any extra burden either (1) by requiring additional information only in cases where a proceeding to identify a qualifying dislocation has begun, or (2) by requiring the additional information in regular monthly reports, but only for those carriers subject to the program, so that PSA's regular monthly reports would include unadjusted employment data as in the past. With regard to vacancies for cause we have selected PSA's first suggestion, as explained above. With regard to strikes, however, we have selected the second approach. When strikes occur, a carrier's employment levels can be affected substantially and a presumption that the number of employees deprived of employment is small would be unworkable. We are therefore requiring this information to be reported monthly. In a slight departure from the NPRM, the number of full-time employees deprived of employment because of a strike will be reported separately in a footnote on schedule P–1(a) instead of being included in the total number of full-time employees in the body of the schedule. This way carriers like PSA that are not covered by the employee protection program will merely omit the footnote, and the information in the body of the schedule will remain consistent for all carriers.

On another reporting matter, ATA objected to proposed § 314.4, which states that "The Board may require any carrier to submit any information that the Board considers necessary to carry out its functions under this part." ATA argued that there is no justification for such "unrestrained authority" and that § 314.4 should be confined narrowly. We are not adopting this suggestion. The section does not create any new information-gathering authority, but merely reflects authority that the Board already has under section 407 of the Federal Aviation Act and section 43 of the Deregulation Act. Whether a particular reporting directive is in fact within the scope of that authority will depend on the circumstances of the case.

The Teamsters commented that carriers should be required to report employment levels for each month in 1979 and 1980, to enable the Board to identify major contractions occurring before adoption of the final rule. We already have most of this information. Except for adjustments to include strikers and strike-caused layoffs, the large certificated carriers have been reporting it for the entire period, and all other certificated carriers have been reporting it since October 1, 1980 (ER–1188; 45 FR 48867; July 22, 1980). There is no need to require those other carriers, as a class, to file retroactive reports for the months before October 1980. If there is reason to believe that such information from a particular carrier may indicate a major contraction, we can obtain that information by a special report.

How To Count Employees for Determining Major Contractions

The notice of proposed rulemaking stated that, upon a merger of air carriers, we would determine the existence of a major contraction by comparing the merged carrier's employment levels with the total number of workers employed by each of the predecessor companies. The Teamsters suggested that merged carriers should file data on each individual carrier for 12 months after the effective date of the merger, and that the Board should find a major contraction if either the single- or merged-carrier data show a 7½ percent contraction. We are not adopting this suggestion. Although the individual carriers may retain some separate identities until the merger is consummated, they begin to lose those identities immediately after the merger begins, if not sooner. The separate employment levels would therefore not be meaningful.

The Teamsters also stated that the Board, in determining whether a major contraction has occurred, should count only U.S.-based employees, employees paid abroad in U.S. currency, and those represented by American unions. The statutory definition of "major contraction," however, refers simply to full-time employees of an air carrier, and provides no basis for making the distinction that the Teamsters have suggested. We are therefore not adopting the suggestion.

On accounting for employees terminated for cause, the Department of Labor commented that—

> [F]or the sake of simplicity and consistency, only *additional* vacancies for cause in the "new" month should be added to the employment figure. The previous month's level (regardless of the reason for any vacancies) should reflect the actual employment level. (Italics added.)

This suggestion appears to assume that the computations involve only a single pair of adjacent months. But the monitoring of employment levels is a continuing process, and each month's figure for each carrier is used both to look back at earlier months to see whether the month in question marks the end of a major contraction, and to look forward to see whether it begins a major contraction. In these circumstances we consider it simpler and more consistent to consider each month's employment level as including all vacancies for cause instead of merely additional ones.

The joint labor commenters recommended that all terminations for cause be counted, rather than merely the number of vacancies caused by such terminations. They argued that otherwise carriers would be able, by abolishing the positions of employees who had been fired for cause, to prevent the Board from finding a major contraction when one should be found. We are not adopting this suggestion because it presents the same problem of consistency between months as the Labor Department's. In any event, these commenters appear to have misunderstood the implications of an undercount of vacancies for cause. When a given month's employment level is compared with the preceding 12, an undercount would tend to favor the finding of a major contraction rather than preventing it. Moreover, we see no incentive for carriers to try to prevent the Board from finding a major contraction. In any case, we have adequate authority to require carriers to provide additional information about their counting methods if there is reason to believe that employment figures are distorted.

The California State Employment Security Agency raised several questions about counting employees. The responses are as follows: Positions that are open as a result of voluntary quits or unpaid leaves of absence are considered to be part of employment reductions, because the statute does not provide for special treatment of such cases. To treat such positions otherwise would unnecessarily complicate the counting and reporting of employment levels. But a major contraction finding is only the first step toward payment of benefits. Positions that are open as a result of voluntary quits or unpaid leaves of absence will be weeded out either in the Board's qualifying dislocation determination or in the Department of Labor's eligibility determinations for individual employees. Next, no definition of "strike" appears necessary, since we expect no interpretative problems in the overwhelming majority of cases. We will rely in the first instance on a carrier's own determination of whether its employees are on strike, but in disputed cases we would give weight to the determinations of a State employment security agency.

Finally, ALPA noted the statement in the proposal that we would not consider changes in employment that were merely seasonal to be related to the Deregulation Act. ALPA commented that seasonal workers are full-time employees, and criticized "the Board's action to exclude them in the computations for determining the existence of a major contraction" as an attempt to amend the statutory 7½ percent figure that is "legally improper and a not too subtle attempt to deny ADA benefits to eligible employees." ALPA has misread the proposal. We did not suggest that seasonal full-time employees would not be considered in identifying major contractions. The statement in the proposal addressed the question of *causation*, which is at issue only in determining whether an already identified major contraction was a qualifying dislocation. On that point, as noted above, we conclude that layoffs are not related to the Deregulation Act if they are caused merely by the change of seasons.

Applications: Filing and Contents

In response to suggestions from the Department of Labor, the rule has been redrafted (1) to require in applications for an advance determination of a major contraction the same information as in applications for a determination of a qualifying dislocation; (2) to clarify that applications are to be filed with the Civil Aeronautics Board; and (3) to specify that applications show the number of years an employee was employed by the air carrier as of October 24, 1978, instead of the date of filing. The rule does not require employees to provide information about their current employement along with information about previous employment as the Department recommended, however, because there is no apparent need for such additional information.

The proposed rule would in effect require an application to name an employee who has been deprived of employment or suffered a reduction in compensation and who as of October 24, 1978, had been employed by the carrier for at least 4 years. Other employees are not eligible for benefits on the basis of a qualifying dislocation. The Department of Labor and ALPA object to this requirement, arguing that the Board's statutory role is to determine whether a qualifying dislocation has occurred and that the eligibility of employees is not relevant to the Board's decision. In a related comment, the joint labor commenters stated that a labor union should be able to file an application on behalf of a group of employees without having to file particular information about each one. The final rule has been clarified to explicitly incorporate the latter proposal, but it still requires that each application name and provide the specific information about at least one employee. The purpose of the requirement is to make sure that Board resources are not wasted on qualifying dislocation proceedings where there is no chance that benefits will eventually be paid. We recognize that the determination of whether a particular employee is an "eligible protected employee" within the meaning of the statute is ultimately one for the Department of Labor to make. But when an employee is clearly ineligible, that employee should not be entitled to start a proceeding. And it imposes no significant burden on a union to require it to come up with at least one employee who is not clearly ineligible before the Board triggers its process.

Service; Answers; Publication

The proposed rule would require a person applying for a qualifying dislocation determination to serve a copy of the application on the affected carrier and the Secretary of Labor. In response to a suggestion from the Department of Labor, the final rule provides that the Board will serve the copies to alleviate the burden on applicants. And in response to various suggestions, we have expanded the service list to include the collective bargaining representatives of the affected carrier's employees, State agencies that act as agents of the Department of Labor to administer the program, and the Secretary of Transportation. Several commenters objected to a 7-day answer period as too short and recommended times ranging up to 20 days, and some suggested that

the rule provide for replies to answers. Balancing the need to allow participation by interested persons against the need to get on with the proceeding, we have selected 15 days after service as the deadline for answers, and have decided not to provide a period for replies.

In response to other comments the final rule provides for publication in the Federal Register of all major contraction findings (including advance determinations and terminations of them) and any hearing notices, and summaries of all show-cause orders and final orders. In addition, the Board will serve all these documents on the following persons: the applicant and applicant's representative (if any), the affected carrier, the collective bargaining representatives of the carrier's employees, the Secretary of Labor, and any State agencies that are acting as agents of the Secretary of Labor to administer the Employee Protection Program.

Dismissal of Applications; Hearings

The proposed rule provided in § 314.13(c) that the Board would dismiss an application if the carrier had neither become bankrupt nor undergone a major contraction. Paragraph (d) of that section stated that the Board "may" dismiss an application if it finds that the bankruptcy or major contraction "clearly did not have" as its major cause the change in regulatory structure provided by the Deregulation Act. For applications that are not dismissed, the proposal stated that the Board would use show-cause procedures, and hold an oral evidentiary hearing only when there were material issues of decisional fact that could not adequately be resolved without a hearing.

The ATA stated that "may" should be changed to "will" in § 314.13(c). It argued that if the Board concludes that the change in regulatory structure was not the major cause, immediate dismissal is mandatory because the Board "has made the necessary statutory finding and lacks the authority to continue the qualifying-dislocation proceeding." The AFA, on the other hand, pointed out that the statute does not require that a bankruptcy or major contraction "clearly" have the change in regulatory structure as its major cause. It argued that the word "clearly" should be eliminated from proposed § 314.13(d), apparently believing that such a change would narrow the class of cases that could be dismissed.

The AFA would have the Board hold an oral evidentiary hearing whenever one is requested by an applicant. It stated that applicants will not necessarily have access to the information on which the Board bases its decision, and are entitled to a hearing to challenge carrier data and develop facts. ALPA's position on dismissals and hearings also called for a more elaborate procedure than proposed. Even if the change in regulatory structure were clearly not the major cause of the bankruptcy or major contraction, the Board would have to issue a show-cause order before dismissing the application. In all other cases ALPA would have the Board presume and tentatively conclude for the purpose of issuing a show-cause order that a qualifying dislocation *had* occurred. ALPA would then require that the Board hold an oral evidentiary hearing whenever it sought to change that tentative conclusion, and whenever any interested person requested such a hearing and supported the request with a showing that the issue of causation "is, or may be, affected by material issues of fact."

We are substituting "will" for "may" in § 314.13(d) about dismissals, although not for the reason that ATA gave in its comment, and otherwise are leaving that paragraph unchanged. An application should of course be dismissed as soon as the Board makes a negative finding about causation. The real issue addressed by § 314.13(d), however, is what constitutes adequate grounds for the Board to make such a finding (and so dismiss an application) without any additional procedural steps. The word "clearly" is therefore the key to this provision, and limits dismissals to those cases where the non-occurrence of a qualifying dislocation is so clear that no purpose would be served by any further process.

We are not adopting the suggestions of AFA and ALPA about oral evidentiary hearings, or ALPA's recommended presumption. As to the latter, there were major contractions and bankruptcies of air carriers before passage of the Deregulation Act. There is no basis for presuming that any such occurrence since then either had, or clearly did not have, the Deregulation Act as its major cause. Nothing in the language of section 43 or its legislative history supports such a presumption. The suggested evidentiary procedures could require hearings in many cases where they are unnecessary. The actual need for a hearing, both legal and practical, will vary from case to case. The proposed criterion—hearing when there are material issues of decisional fact that cannot otherwise be adequately resolved—properly reflects that need and gives the Board the flexibility to handle individual cases with the procedures most appropriate to each one.

In response to other comments, a § 314.13(e) has been added to the final rule to state that a Board order dismissing an application will announce the reasons for the dismissal. But a provision that Board findings must be based on substantial evidence is unnecessary, because such a standard is already set out in the Federal Aviation Act. Finally, in response to a suggestion from the Department of Labor, the final rule has been clarified to state explicitly that the Board may in its discretion hear oral argument, in contrast or in addition to holding an oral evidentiary hearing, before making a final decision about a qualifying dislocation.

Miscellaneous

A continuing decline in a carrier's employment level may give rise to a series of major contractions in overlapping 12-month periods. If we find that the first of a series of major contractions was not a qualifying dislocation, fairness to affected employees clearly requires that we proceed to examine the next one. Once we have determined that a particular major contraction *was* a qualifying dislocation, however, the question arises whether we must continue the process of examining the causes of each successive major contraction to determine whether the Deregulation Act was the major cause. The notice of proposed rulemaking stated that in this situation—

> We would ordinarily make no such further determination within 12 months after the point at which the contraction became a qualifying dislocation. A possible exception would be a qualifying dislocation that was followed by an increase in employment and then a new major contraction, all within the same year.

The Department of Labor objected to this approach, stating that a separate qualifying dislocation determination is necessary for each successive 12-month period whose employment level indicates a major contraction. Otherwise, it stated, employees newly laid off after the original qualifying dislocation determination would have to wait 12 months for the next such determination. The Department appears to have misunderstood the proposal. We intend that each qualifying dislocation determination ordinarily be "good for 12 months," so that if a major contraction occurred in the 12 months after the determination we would announce it to be a qualifying dislocation without embarking on a full investigation to identify its major cause. It would then be the Department's responsibility to determine whether an individual employee was an eligible protected employee as set forth in section 43(a)(1) of the Deregulation Act.

Proposed § 314.21(c) stated that the Board will "terminate an advance determination of major contraction whenever it finds that the predicted major contraction has not occurred or will not occur." In response to a comment from the Department of Labor, it is the advance determination itself that would be terminated, rather than a proceeding leading up to such an advance determination. The proposal also noted that, on occasion, an advance determination might be terminated after we had already found a qualifying dislocation and the Department of Labor had paid out money to affected employees. The Department objected to the statement in the proposal that—

> [O]ur objective in such cases would not be to obtain a refund of payments already received—such a retroactive application would be unfair and impractical in our judgment—but to prevent future unwarranted payouts of Federal funds.

The Department stated that "such an 'objective' is not within the Board's purview." The statement in the proposal was intended merely to emphasize what our objective would *not* be. We agree that decisions about when and how much to pay, or retrieve from, particular employees are for the Department of Labor to make, and do not wish to interfere in those decisions.

The Department of Labor suggested that for the sake of consistency with its proposed rules "carrier" be defined as an air carrier holding a certificate as of October 23, 1978, instead of October 24 as we proposed, and cited a statutory reference to certification "prior to the date of enactment" of the Deregulation Act. That reference appears in the duty-to-hire provision, section 43(d), which is administered solely by the Department of Labor. The proposed definition reflects section 43(h), which refers to cetificated status "on the date of enactment." We doubt that Congress intended any difference in the group of carriers covered, and this 1-day discrepancy makes no actual difference. It therefore appears better to have this rule reflect its own statutory basis. The final rule therefore defines "carrier" as proposed.

Major contractions are to be computed from the number of "full-time employees." The meaning of this term is established by implication in Part 241, which defines "part-time employees" as those who work less than the "customary or standard number of hours." The Teamsters suggested a variation of this definition that would, for ground personnel, set the dividing line between full- and part-time employment at 40 hours per week. We see no basis for selecting this particular figure, but have clarified the rule to reflect the fact that the customary or standard number of hours can vary between occupational specialties.

ALPA and the AFA commented that "bankruptcy" should be define in terms of the commencement of bankruptcy proceedings under Title II of the U.S. Code instead of an adjudication of bankruptcy. In support of their position they noted that, under Title II, a corporation is considered a "bankrupt" as soon as the proceedings begin. We are not adopting this suggestion. Rather than the technical meaning of the term in Title II, it seems more likely that Congress had in mind the common understanding of "bankruptcy" when it enacted section 43 of the Airline Deregulation Act—as something that does not occur until officially established. Otherwise, benefits under the employee protection program would be triggered even if a carrier were merely seeking a reorganization with little effect on employment.

Proposed § 314.3 stated that the provisions of Subpart A of 14 CFR Part 302 would apply to proceedings under this employee protection rule, except when they are inconsistent. We are not adopting ALPA's suggestion to set out exactly which provisions apply, which do not, and how they are modified. Those general provisions have been incorporated into several other rules (e.g., 14 CFR Part 321, *Unused Authority Procedures;* Part 322, *Automatic Market Entry Procedures)* without any confusion or problems, and the requested elaboration would merely lengthen the new rule unnecessarily.

The amendment of the reporting requirements of Part 241 appears in ER-1285, also published in today's issue.

Accordingly, the Civil Aeronautics Board adds a new Part 314 to Chapter II of Title 14, Code of Federal Regulations, to read:

PART 314—EMPLOYEE PROTECTION PROGRAM

Subpart A—General

Sec.

314.1 Applicability.
314.2 Definitions.
314.3 Conformity with subpart A of part 302.
314.4 Information requirements.
314.5 Major contractions.
314.6 Qualifying dislocation.

Subpart B—Determination of Qualifying Dislocation

314.10 Beginning of proceeding.
314.11 Applications.
314.12 Answers.
314.13 Disposition of applications.
314.14 Show-cause order.
314.15 Oral proceedings.
314.16 Final determination.

Subpart C—Major Contractions

314.20 Regular monthly computation.
314.21 Advance determinations.
314.22 Notice of major contraction.

Authority: Secs. 204, 407, Pub. L. 85-726, as amended, 72 Stat. 743, 769, 49 U.S.C. 1324, 1377; Sec. 43, Pub. L. 95-504, 92 Stat. 1750 (49 U.S.C. 1552).

Subpart A—General

§ 314.1 Applicability.

Section 43 of the Airline Deregulation Act of 1978, Pub. L. 95-504, establishes an employee protection program. After a determination by the Board that an air carrier has undergone a qualifying dislocation, the Secretary of Labor gives financial assistance to certain employees of the carrier. This part sets out procedures for the Board to determine whether a qualifying dislocation has occurred.

§ 314.2 Definitions.

As used in this part—

"Bankruptcy" means an adjudication of bankruptcy under Title 11 of the United States Code.

"Carrier" means an air carrier that on October 24, 1978, held a certificate issued under section 401 of the Federal Aviation Act of 1958.

§ 314.3 Conformity with subpart A of part 302.

Except where they are inconsistent with this part, the provisions of Subpart A of Part 302 of this chapter shall apply to proceedings under this part.

§ 314.4 Information requirements.

The Board may require any carrier to submit any information that the Board considers necessary to carry out its functions under this part.

§ 314.5 Major contractions.

A major contraction is a reduction by at least 7½ percent of the total number of full-time employees of an air carrier within a 12-month period, and includes an advance determination of major contraction as set forth in § 314.21. The method by which the Board determines whether a carrier has undergone a major contraction is set forth in Subpart C.

§ 314.6 Qualifying dislocation.

A qualifying dislocation is a bankruptcy or major contraction of a

carrier, the major cause of which is the change in regulatory structure provided by the Airline Deregulation Act of 1978.

Subpart B—Determination of Qualifying Dislocation

§ 314.10 Beginning of proceeding.

A proceeding to determine whether a bankruptcy or major contraction is a qualifying dislocation begins either with an application filed with the Board or an investigation on the Board's initiative. Proceedings that begin with an application are governed by §§ 314.11 through 314.16. Board-initiated proceedings are governed by §§ 314.14 through 314.16.

§ 314.11 Applications.

(a) *Who may file.* An application may be filed by an employee who has been deprived of employment or adversely affected with respect to compensation, or by a representative of one or more such employees.

(b) *Title and contents.* Applications shall be titled "Application for Determination of Qualifying Dislocation," and shall contain, with respect to at least one employee:

(1) Name and address of the employee;

(2) Number of years employed by carrier as of October 24, 1978;

(3) Name and address of the applicant, if different from (1);

(4) Name of carrier-employer;

(5) Position held by employee immediately before being deprived of employment or adversely affected with respect to compensation;

(6) Date on which employee was deprived of employment or adversely affected with respect to compensation; and

(7) An explanation of the applicant's basis for claiming that a qualifying dislocation has occurred, including all supporting evidence available to the applicant.

(c) *Service.* The Board will serve a copy of each application on the affected carrier, the collective bargaining representatives of that carrier's employees, the Secretary of Labor, the Secretary of Transportation, and any State agencies that are acting as agents of the Secretary of Labor to administer the Employee Protection Program.

§ 314.12 Answers.

Any person may file an answer to an application within 15 days after the application is served.

§ 314.13 Disposition of applications.

(a) After the due date for answers, the Board will dismiss the application or begin an investigation to determine whether a qualifying dislocation has occurred.

(b) The Board will dismiss an application if it does not name an employee who, on October 24, 1978, had been employed by a carrier for at least 4 years.

(c) The Board will dismiss an application if the carrier has neither become bankrupt nor undergone a major contraction.

(d) The Board will dismiss an application even though the carrier has become bankrupt or undergone a major contraction, if it finds that the bankruptcy or major contraction clearly did not have as its major cause the change in regulatory structure provided by the Airline Deregulation Act.

(e) A Board order dismissing an application will announce the reasons for the dismissal.

§ 314.14 Show-cause order.

When the Board makes a preliminary determination of whether the major cause of the bankruptcy or major contraction was the change in regulatory structure provided by the Airline Deregulation Act of 1978, it will issue an order announcing a tentative decision that a qualifying dislocation has, or has not, occurred. The order will direct all interested persons to show cause why the tentative decision should not be made final, and will allow 30 days for objections to be filed. The Board will publish a summary of the order in the **Federal Register** and serve a copy of the order on each of the following:

(a) The applicant and the applicant's representative, if any;

(b) The affected carrier;

(c) The collective bargaining representatives of the carrier's employees; and

(d) The Secretary of Labor;

(e) The Secretary of Transportation; and

(f) State agencies that are acting as agents of the Secretary of Labor to administer the Employee Protection Program.

§ 314.15 Oral proceedings.

The Board will provide for an oral evidentiary hearing, with notice published in the **Federal Register** and served on the persons listed in § 314.14, if there are material issues of decisional fact that cannot otherwise be adequately resolved. The Board may in its discretion hear oral argument before making a final determination.

§ 314.16 Final determination.

The Board will publish in the **Federal Register** a summary of an order announcing its final determination and, within 3 business days after the determination, serve a copy of the order on the persons listed in § 314.14.

Subpart C—Major Contractions

§ 314.20 Regular monthly computation.

(a) The Board will monitor the number of full-time employees of each carrier, including employees deprived of employment because of a strike, as reported monthly by carriers in accordance with Part 241 of this chapter.

(b) The Board does not require monthly reporting of the number of positions that are vacant as a result of terminations for cause and, except as set forth in paragraph (c)(3) of this section, will not account for those positions in computing major contractions. In the cases set forth in paragraphs (c)(1) and (c)(2) of this section, the Board presumes that the number of employment positions vacant as a result of terminations for cause is small enough that accounting for them would not change the result.

(c) Each month, with respect to each carrier—

(1) If the carrier's current reported full-time employment level is 92 percent or less of any of the carrier's preceding 12 monthly levels, the Board will find that the carrier has undergone a major contraction.

(2) If the current reported level is 93 percent or more of each of the carrier's preceding 12 monthly levels, the Board will not find that the carrier has undergone a major contraction.

(3) If neither of the conditions described in paragraphs (c)(1) and (c)(2) of this section is present, the Board will ascertain by special report from the carrier, and add to the reported employment levels, the number of positions that were vacant in each of the relevant months as a result of terminations for cause. If the resulting figure for the current month in 92.5 percent or less of the resulting figure for any of the preceding 12 months, the Board will find that the carrier has undergone a major contraction. Otherwise, the Board will not make such a finding.

§ 314.21 Advance determinations.

(a) If circumstances indicate that a major contraction will occur, the Board may make an advance determination of a major contraction without waiting for the regular monthly computation set forth in § 314.20. The Board will consider whether to make an advance determination either on its own initiative or upon receipt of an application from an employee who has been deprived of employment or adversely affected with respect to compensation, or a representative of one or more such employees.

(b) An application under this section shall be titled "Application for Advance Determination of Major Contraction." It shall contain the information set forth in § 314.11 (b)(1) through (b)(6) and an explanation of the applicant's basis for claiming that a major contraction will occur, including all supporting evidence available to the applicant. A person may consolidate an application under this section with an application under § 314.11 for determination of a qualifying dislocation.

(c) The Board will terminate an advance determination of major contraction whenever it finds that the predicted major contraction has not occurred or will not occur.

§ 314.22 Notice of major contraction.

Upon finding a major contraction under §314.20, or making or terminating an advance determination under § 314.21, the Board will publish the finding in the **Federal Register** and send written notice of it to the persons listed in § 314.14.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-5075 Filed 3-4-82; 8:45 am]

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federal register

Friday
March 5, 1982

Part VI

Department of Justice

Bureau of Prisons

Modification to List of Bureau of Prisons Institutions; and Control, Custody, Care, Treatment and Instruction of Inmates

DEPARTMENT OF JUSTICE

Bureau of Prisons

Modification to List of Bureau of Prisons Institutions

AGENCY: Bureau of Prisons, Justice.

ACTION: Notice.

SUMMARY: Attorney General Order No. 646–76 (41 FR 14805), as amended, classifies and lists the various Bureau of Prisons institutions. Attorney General Order No. 980–81, Reorganization Regulations, published in the Federal Register October 27, 1981 (at 46 FR 52339 et seq.) delegated to the Director, Bureau of Prisons, in 28 CFR 0.96(r), the authority to establish and designate Bureau of Prison institutions. This notice is intended to consolidate into one new document Attorney General Order No. 646–76 and the subsequent amendments to that Order. The only modifications to the previous notice are made by redesignating the Federal Prison Camp, Seagoville, Texas as the Federal Correctional Institution, Seagoville, Texas, by redesignating the Federal Correctional Institution, Miami, Florida, as the Metropolitan Correctional Center, Miami, Florida, and by designating a new Metropolitan Correctional Center at Tucson, Arizona (scheduled to begin operation in March 1982).

EFFECTIVE DATE: Federal Correctional Institution, Seagoville, Texas—December 7, 1981; Other Institutions—February 18, 1982.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, 320 First Street NW., Washington, D.C. 20534 (202–724–3062).

SUPPLEMENTARY INFORMATION: This notice is not a rule within the meaning of the Administrative Procedure Act, 5 U.S.C. 551(4), the Regulatory Flexibility Act, 5 U.S.C. 601(2), or Executive Order No. 12291, Sec. 1(a).

By virtue of the authority vested in the Attorney General in 18 U.S.C. 4001, 4003, 4042, 4081, and 4082 and delegated to the Director, Bureau of Prisons by 28 CFR 0.96, it is hereby ordered as follows:

The following institutions are established and designated as places of confinement for the detention of persons held under authority of any Act of Congress, and for persons charged with or convicted of offenses against the United States or otherwise placed in the custody of the Attorney General of the United States.

A. The Bureau of Prisons institutions at the following locations are designated as U.S. Penitentiaries:

(1) Atlanta, Georgia
(2) Leavenworth, Kansas
(3) Lewisburg, Pennsylvania
(4) Lompoc, California
(5) Marion, Illinois
(6) Terre Haute, Indiana

B. The Bureau of Prisons institutions at the following locations are designated as Federal Correctional Institutions:

(1) Alderson, West Virginia
(2) Ashland, Kentucky
(3) Bastrop, Texas
(4) Butner, North Carolina
(5) Danbury, Connecticut
(6) El Reno, Oklahoma
(7) Englewood, Colorado
(8) Fort Worth, Texas
(9) La Tuna, Texas
(10) Lexington, Kentucky
(11) Memphis, Tennessee
(12) Milan, Michigan
(13) Morgantown, West Virginia
(14) Otisville, New York
(15) Oxford, Wisconsin
(16) Petersburg, Virginia
(17) Pleasanton, California
(18) Ray Brook, New York
(19) Sandstone, Minnesota
(20) Seagoville, Texas
(21) Talladega, Alabama
(22) Tallahassee, Florida
(23) Terminal Island, California
(24) Texarkana, Texas

C. The Bureau of Prisons institutions at the following locations are designated as Federal Prison Camps:

(1) Allenwood, Pennsylvania
(2) Big Spring, Texas
(3) Boron, California
(4) Eglin Air Force Base, Florida
(5) Maxwell Air Force Base, Montgomery, Alabama
(6) Safford, Arizona

D. The Bureau of Prisons institutions at the following locations are designated as Metropolitan Correctional Centers:

(1) Chicago, Illinois
(2) Miami, Florida
(3) New York, New York
(4) San Diego, California
(5) Tucson, Arizona

E. The Bureau of Prisons institution at Florence, Arizona is designated as a Federal Detention Centers

F. The Bureau of Prisons institution at Springfield, Missouri is designated as the U.S. Medical Center for Federal Prisoners.

Dated: March 2, 1982.

Norman A. Carlson,
Director, Bureau of Prisons.

[FR Doc. 82-6012 Filed 3-4-82; 8:45 am]
BILLING CODE 4410-05-M

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Parts 570 and 571

Control, Custody, Care, Treatment and Instruction of Inmates; Final Rules

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rules.

SUMMARY: This document contains Bureau of Prisons final and amended rules relating to the control, custody, care, treatment, and instruction of inmates. Included is the final rule on Petitions for Commutation of Sentence and amendments to the final rule on Work-Study Release. The rule on Petitions for Commutation of Sentence provides the inmate with information on obtaining the appropriate forms for filing a petition for commutation of sentence and on the role of the Bureau of Prisons in the commutation of sentence process. The rule on Work/Study Release is amended to include the Bureau's existing rule (Part 570, Subpart D) on Reimbursement by Inmates Confined in Federal Facilities Participating in Community Employment Programs.

EFFECTIVE DATE: April 5, 1982.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street NW., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724–3062.

SUPPLEMENTARY INFORMATION: In this document the Bureau of Prisons is publishing its final and amended rules on (1) Petitions for Commutation of Sentence and (2) Work/Study Release. The rule on Petitions for Commutation of Sentence was published in the Federal Register as a proposed rule December 4, 1981 (at 46 FR 59510). The final rule on Work/Study Release was published in the Federal Register November 13, 1980 (at 45 FR 75135 et seq.). This rule is expanded to include the Bureau's final rule on Reimbursement by Inmates Confined in Federal Facilities Participating in Community Employment Programs (Part 570, Subpart D), published in the Federal Register as a final rule June 30, 1980 (at 46 FR 44234). Upon its inclusion in the amended rule on Work/Study Release, existing Subpart D will be deleted from Part 570.

Interested persons were invited to submit comments on the proposed rule on Petitions for Commutation of Sentence and public comments were received from several individuals. Members of the public may submit further comments concerning these rules by writing the previously cited address. These comments will be considered but will receive no further response in the Federal Register.

The Bureau of Prisons has determined that these rules are not major rules for the purpose of E.O. 12291. The Bureau of Prisons has determined that E.O. 12291 does not apply to these rules since the rules involve agency management. After review of the law and the regulations, the Director, Bureau of Prisons has certified that these rules, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354) do not have a significant impact on a substantial number of small entities.

Summary of Changes/Comments

Part 570—Subpart B—Work/Study Release

1. *Section 570.10*—The last sentence of final § 570.10 becomes new final § 570.10(a). The first sentence of final § 570.50 becomes new final § 570.10(b). The second sentence of § 570.50 is removed as its applicability to federal institutions (defined to include federal community treatment centers) is reflected in existing §570.11.

2. *Section 570.11*—In § 570.11, the word "federal" is inserted before the word "institution" to clearly identify to whom this program applies. The phrase "other than a community treatment center" is removed, as this rule does not apply to inmates housed in contract facilities (for example, community treatment centers).

3. *Section 570.17*—The reference to 18 U.S.C. 4082 in § 570.17(b) is amended to read 18 U.S.C. 4082(c)(2). Final § 570.51 is redesignated new final § 570.17(b)(1) and (b)(2). Final § 570.17(b)(1) places in writing the expectation that the inmate participating in a community work program sign an earnings agreement which provides for maintenance payments at the specified rate. Revised § 570.17(c) removes reference to subsistence costs, as these are now encompassed in a new § 570.17(d) (formerly § 570.52). Section 570.52(a)(1)–(2) is redesignated § 570.17(d)(1)–(2). Section 570.52(a)(3) is removed as the Bureau does not presently operate federal community treatment centers. Section 570.52(a)(4) and (a)(5) are redesignated § 570.17(d)(3) and (d)(4). Section 570.52(b) is reworded and becomes § 570.17(d)(5). The intent of § 570.17(d)(5) is unchanged. The final rule requires documentation of a waiver of the fixed charge. Existing § 570.17(d) becomes new final § 570.17(e).

4. Sections 570.19 and 570.23—These sections have received some minor rewriting. Their intent is unchanged.

Part 571—Subpart E—Petitions for Commutation of Sentence

1. *Section 571.40*—Commenters suggested that guidelines be promulgated for commutation of sentence. Title 28, Code of Federal Regulations, Part 1 discusses the commutation process. 28 CFR 1.4 specifically addresses eligibility for filing a petition for commutation of sentence. It is not within the scope of the Bureau of Prisons to promulgate guidelines more specific than those provided within 28 CFR 1.4. In response to public comment, there is no prohibition against second offenders being considered for commutation, nor against persons who commit crimes of violence. In respect to a comment that laws should be promulgated that "would help every class of prisoner reach an area where he could expect a shorter sentence", promulgation of such laws are outside the authority of the Bureau of Prisons. There are existing provisions, however, whereby an inmate can effect a change in status, as evidenced by the parole process.

A commenter suggested that § 571.40(b) contain a clause prohibiting the Warden or any of his subordinates from submitting any information other than that required on standard forms supplied by the Department of Justice. The Bureau forwards information considered relevant to the petition for commutation. This does not include staff views on the inmate's petition. In fact, a recommendation is not made by the Bureau of Prisons unless specifically requested by the United States Pardon Attorney. When a recommendation from the Bureau of Prisons is requested, it is submitted by the Director, Bureau of Prisons based on review of available information.

2. *Sections 571.41–571.41(c)* is expanded to more fully explain the procedure when a petition for commutation of sentence is granted by the President of the United States. The new language specifies that the original of the signed and sealed warrant of clemency evidencing the President's action is forwarded to the Warden of the detaining institution. The Warden is to deliver the original warrant to the inmate and obtain a signed receipt for return to the U.S. Pardon Attorney.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and

delegated to the Director of the Bureau of Prisons in 28 CFR 0.96(q), 28 CFR Chapter V is amended as set forth below:

In Subchapter D, Part 570, Subpart D is removed, with its contents reflected in an amended Subpart B.

In Subchapter D, Part 571, Subpart E is added.

Dated: March 2, 1982.

Norman A. Carlson,

Director, Bureau of Prisons.

PART 570—COMMUNITY PROGRAMS

§§ 552.30—552.34 (Subpart D) [Removed]

A. In Subchapter D, Part 570, Subpart D is removed, with its contents now reflected in an amended Subpart B, as follows:

The authority citation for Part 570, Subpart B reads as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161–4166, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart B—Work/Study Release

1. By revising § 570.10 to read as follows:

§ 570.10 Purpose and scope.

The Bureau of Prisons uses Work and Study Release programs to allow selected inmates, in preparation for release from confinement, to attend school or to work in the local community during the day, returning to the institution at night.

(a) An inmate may not work as a strikebreaker or under working conditions at less than acceptable minimum standards, or in any other situation which, in the Warden's judgment and discretion, could evoke adverse public response towards the inmate, the Bureau of Prisons, or the government.

(b) Under 18 U.S.C. 4082(c)(2), the Attorney General may require a participant in a community work program to pay appropriate and reasonable costs incidental to the inmate's confinement.

2. By revising § 570.11 to read as follows:

§ 570.11 Definitions.

The term "Work and Study Release" means an inmate's authorized absence from a federal institution for the purpose of employment or to participate in an academic or vocational education activity.

3. By revising § 570.17 to read as follows:

§ 570.17 Transportation and subsistence.

(a) all transportation arrangements require approval of the Warden. An inmate shall use and pay for commerical transportation to and from the program placement. Other arrangements for transportation to and from the program placement require prior approval of the Warden.

(b) Under 18 U.S.C. 4082(c)(2), "* * * A prisoner authorized to work at paid employment in the community under this subsection may be required to pay, and the Attorney General is authorized to collect, such costs incident to the prisoner's confinement as the Attorney General deems appropriate and reasonable. Collections shall be deposited in the Treasury of the United States as miscellaneous receipts."

(1) A fully employed participant in a community work program shall pay a fixed charge of $2.00 per calendar day in reimbursement for services and supplies ordinarily made available to inmates of federal institutions. The reimbursement contributes to the cost of services and supplies, such as lodging, meals taken at the residential facility, clothing, bedding, laundry, allowances and medical care, but excludes transportation to and from the inmates's place of work. The Warden shall require the inmate to sign an earnings agreement which incorporates maintenance payments at the specified rate.

(2) No charge is made during the inmate's first thirty calendar days of community employment.

(c) The Warden may waive transportation costs under paragraph (a) of this section when the Warden determines that the costs would unduly burden the inmate financially. Waivers of transportation requirements shall be documented.

(d) The Warden may waive the fixed charge under paragraph (b) of this section for an inmate after the first thirty days when the inmate:

(1) Is unemployed;

(2) Has less than full-time employment (40 hour work week);

(3) Has a verified serious need of financial assistance to the inmate's immediate family;

(4) Has a verified serious need of his own: For example, savings required for establishment of residence; specialized employment requirements (training, education, automobile, etc.); or

(5) For any other compelling reason recommended by the Warden and approved by the Regional Director or designee. Waivers of fixed charge requirements shall be documented.

(e) An inmate may not reimburse the Government for expenses of Work or Study Release except as provided in paragraphs (a) and (b) of this section.

4. By revising § 570.19 to read as follows:

§ 570.19 Expenses.

(a) The inmate, the inmate's family, or other sources approved by the Warden shall bear all expenses incidental to a Work or Study Release program, such as the cost of meals in the community, laundry fees for clothing, cost of special equipment, etc.

(b) an inmate who has sufficient personal financial resources shall bear the cost of the inmate's Study Release program. The Bureau of Prisons may participate in payment for educational courses which lead directly to the development or increase of a viable occupational skill in accordance with the provisions of the Bureau of Prisons rule on Postsecondary Education Programs for Inmates.

5. By revising § 570.23 to read as follows:

§ 570.23 Termination.

The Warden in his/her discretion may terminate an inmate's participation in a Work or Study Release program for any of the following causes:

(a) Completion of the program by the inmate;

(b) The inmate's misconduct or willful negligence;

(c) Cancellation of a placement for reasons beyond the inmate's control, e.g., budget cutbacks, job layoffs, etc.; or

(d) Other sound correctional reasons, documented in the record.

PART 571—RELEASE FROM CUSTODY

B. In Subchapter D, add Subpart E to Part 571 to read as follows:

Subpart E—Petitions for Commutation of Sentence

Sec.

571.40 Purpose and scope.

571.41 Procedures.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4161–4166, 5006–5024, 5039; 28 U.S.C. 509, 510; U.S. Const., Art. II, Sec. 2; 28 CFR 0.95–0.99, 1.1–1.9.

Subpart E—Petitions for Commutation of Sentence

§ 571.40 Purpose and scope.

An inmate may file a petition for commutation of sentence in accordance with the provisions of 28 CFR, Part 1.

(a) An inmate may request from the inmate's case manager the appropriate forms (and instructions) for filing a petition for commutation of sentence.

(b) When specifically requested by the U.S. Pardon Attorney, the Director, Bureau of Prisons will forward a recommendation on the inmate's petition for commutation of sentence.

§ 571.41 Procedures.

(a) Staff shall suggest that an inmate who wishes to submit a petition for commutation of sentence do so through the Warden to the U.S. Pardon Attorney. This procedure allows institution staff to forward with the application the necessary supplemental information (for example, sentencing information, presentence report, progress report, pertinent medical records if the petition involves the inmate's health, etc.). Except as provided in paragraph (b) of this section, no Bureau of Prisons recommendation is to be forwarded with the package of material submitted to the U.S. Pardon Attorney.

(b) When specifically requested by the U.S. Pardon Attorney, the Director, Bureau of Prisons shall submit a recommendation on the petition. Prior to making a recommendation, the Director may request comments from the Warden at the institution where the inmate is confined. Upon review of those comments, the Director will forward a recommendation on the petition to the U.S. Pardon Attorney.

(c) When a petition for commutation of sentence is granted by the President of the United States, the U.S. Pardon Attorney will forward the original of the signed and sealed warrant of clemency evidencing the President's action to the Warden at the detaining institution, with a copy to the Director, Bureau of Prisons. The Warden shall deliver the original warrant to the affected inmate, and obtain a signed receipt for return to the U.S. Pardon Attorney. The Warden shall take such action as is indicated in the warrant of clemency.

(1) If immediate parole eligibility is granted, the inmate is to be placed on the next parole docket.

(2) If a petition for commutation of sentence is granted, institutional staff shall recalculate the inmate's sentence in accordance with the terms of the commutation order.

(d) When a petition for commutation of sentence is denied, the U.S. Pardon Attorney ordinarily notifies the Warden, requesting that the Warden notify the inmate of the denial.

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March 5, 1982

Part VII

Department of Energy

Bonneville Power Administration

Proposed Billing Credits Policy; Opportunities for Public Review and Comment

DEPARTMENT OF ENERGY

Bonneville Power Administration

Proposed Billing Credits Policy; Opportunities for Public Review and Comment

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of proposed billing credits policy and opportunities for public review and comment.

SUMMARY: The Pacific Northwest Electric Power Planning and Conservation Act (Regional Act) provides that the Bonneville Power Administration (BPA) Administrator must grant billing credits to BPA's customers for electric power resources which reduce the Administrator's obligation to acquire resources to meet BPA customers' electric power requirements. This proposed policy interprets the Regional Act and prescribes procedures to be followed by customers seeking billing credits for conservation or other resources that reduce the need for BPA to acquire electric power resources to meet its obligations to its customers. This proposal further sets out a procedure by which the Administrator will evaluate billing credit applications and determine the appropriate amount for any credits granted.

DATES: Because of the interest expressed in the proposed billing credits policy, BPA will hold three types of public meetings: a technical meeting for BPA customers and others interested in a detailed explanation of the proposal, public information forums, and public comment forums.

BPA will hold a technical meeting for BPA customers who will be directly affected by the proposed policy. The meeting will be open to anyone who is interested in a technical presentation that will examine the proposed policy in substantial detail. The technical meeting will be held from 9 a.m.–4 p.m., on March 22, 1982, in the Auditorium of the BPA headquarters building, 1002 NE. Holladay Street in Portland, Oregon.

BPA will hold informational forums in six regional locations to explain the proposed policy and answer questions. These forums will be designed to provide information which will assist the public in commenting on the proposed policy.

Explanatory material will be available prior to and at the information forums to provide general background on the policy. BPA will present the issues which received the most attention in development of the proposal in a summary document. It will include BPA's position on a particular issue and identify the positions supported by groups who participated in preliminary work sessions. The representatives of these groups have been invited to attend the information forums to answer any questions pertaining to their positions.

Registration for the information forums will begin at 7 p.m. and the forums will start at 7:30 p.m. Dates and locations for the information forums are: (1) March 23, in Room 223 of the Federal Building, 1220 SW. Third Avenue, Portland, Oregon; (2) March 24, in the Fidalgo Room of the Seattle Center, First Avenue North and Republican Streets in Seattle, Washington; (3) March 25, in Room 227 of the Federal Building, 211 East 7th Avenue in Eugene, Oregon; (4) March 30, in the Federal Building Auditorium, 825 Jadwin Avenue in Richland, Washington; (5) March 31, in the East Conference Room of the Hall of Mirrors, 700 West State Street, in Boise, Idaho; and (6) April 1, in Room 201 of the Missoula County Courthouse Annex, 200 West Pine Street in Missoula, Montana. The information forums will be recorded and transcribed and will become part of the Official Record on billing credits.

Following the information forums, BPA will hold public comment forums in four regional locations to receive oral comment on the proposed policy. BPA staff will present introductory remarks and answer clarifying questions at the comment forums.

Registration for the comment forums will begin at 7 p.m. and the forums will start at 7:30 p.m. Dates and locations for the comment forums are: (1) April 19, in Room 223 of the Federal Building, 1220 S.W. Third Avenue, Portland, Oregon; (2) April 19 in the East Conference Room of the Hall of Mirrors, 700 West State Street in Boise, Idaho; (3) April 20 in the Blakely Room of the Seattle Center, First Avenue North and Republican Streets in Seattle, Washington; and (4) April 20 in Room 201 in the Missoula County Courthouse Annex, 200 West Pine Street in Missoula, Montana. All comments received at public comment forums will be recorded and transcribed and will become part of the Official Record.

Written comments are also encouraged and will become part of the Official Record. They must be received on or before April 23, 1982.

ADDRESSES: Written comments should be submitted to the Public Involvement Coordinator, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Donna L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503–230–4261. Oregon callers outside of Portland may use the toll-free number 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800–547–6048.

Douglas Hansen, Special Assistant to the Power Manager, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208, 503–230–5708.

George Gwinnut, Area Manager, Suite 288, 1500 NE. Irving Street, Portland, Oregon 97208, 503–230–4551.

Ladd Sutton, District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503–345–0311.

Ronald Wilkerson, Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 503–456–2516.

Ronald K. Rodewald, District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Gordon Brandenburger, District Manager, P.O. Box 758, Kalispell, Montana 59901, 406–755–6202.

Thomas Noguchi, Acting Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206–442–4130.

Roy Nishi, Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–525–5500, extension 701.

Robert Laffel, District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(h) of the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act) (Pub. L. 96–501, 94 Stat. 2897 *et seq.*) directs the Administrator of the Bonneville Power Administation (BPA), to grant billing credits to customers upon request for (1) conservation activities independently undertaken or continued by a customer or a political subdivision served by such customer after the effective date of the Regional Act (i.e., December 5, 1980), or (2) resources constructed, completed, or acquired by a customer, an entity acting on behalf of such customer, or a political subdivision served by such customer after the effective date of the Regional Act, that reduce the obligation of the Administrator to acquire resources under the Regional Act. Retail rate structures which are voluntarily implemented by BPA customers and which induce conservation or installation of consumer-owned renewable resources also qualify for billing credits upon the same showing as

that required for other conservation or renewable resource activities.

Congress created BPA in 1937 to act as marketing agent for power from Bonneville Dam. By subsequent legislation and executive orders, BPA was authorized to market the power from 29 additional Federal dams in the region. BPA also markets the output from the 800,000-kilowatt Hanford generating plant of the Washington Public Power Supply System and the 30 percent of the Trojan nuclear plant output owned by the Eugene Water & Electric Board. To accomplish its power marketing mission, BPA designed and built the Nation's largest network of long-distance, high-voltage transmission lines. BPA does not build dams or power plants. These are built and operated by the U.S. Army Corps of Engineers (Corps) and the Bureau of Reclamation (BR). Most Corps and BR projects are multipurpose; that is, they are designed to provide flood control, navigation, irrigation, municipal and industrial water supply, pollution control, recreation, fish and wildlife or other public benefits besides generating power.

Under the Regional Act, enacted December 5, 1980, BPA is becoming the "power broker" for the Northwest. The Regional Act is intended to help the region achieve an adequate power supply, hold utility rates lower than they would otherwise be, and place maximum reliance on conservation and renewable sources of energy in responding to the growing demand for energy. The Regional Act directs BPA to serve its existing industrial customers at specified demand and to serve on request the net power requirements of all utilities in the region, while also authorizing direct service to Federal agencies in the region. As a result, BPA's obligation to serve its customers under the Regional Act is likely to be greater than BPA's existing obligation to serve its existing customers.

Current BPA resources may be inadequate to serve the contractual obligation to its existing and potential new customers. Therefore, BPA may need to acquire new resources.

BPA is not authorized to own or construct electric generating facilities. However, the Regional Act directs BPA to acquire the right to the output or capability of resources to serve increased customer requirements. Such resources have been defined to include conservation measures, direct application renewable resource measures, such as solar collectors, that displace the use of electric power; and electric generating facilities. The Regional Act directs BPA to apply the following priorities in acquiring resources:

(1) Cost effective conservation;

(2) Cost effective renewable resources;

(3) Cost effective generating resources utilizing waste heat or generating resources of high fuel conversion efficiency; and

(4) All other types of cost effective resources, such as conventional fuel-fired generating plants.

To the extent that BPA's authority to acquire resources is limited to the need to serve its contractual obligations to supply electric power established under the Regional Act, and to assist in meeting the responsibility of BPA and other Federal agencies to operate hydroeletric facilities on the Columbia River and its tributaries to adequately protect, mitigate, and enhance fish and wildlife, there may or may not be a need to acquire additional resources. Congress, which anticipated a need for BPA resource acquisitions on the basis of earlier projections, established the billing credit mechanism to permit local initiative in implementing conservation and developing generating resources as an alternative to BPA's acquisition of resources.

The Regional Act directs BPA to grant billing credits to a customer upon request for actions which reduce its power requirements and thereby reduce BPA's obligation to acquire resources. A billing credit is a payment from BPA to the customer which may be in the form of either an offset to the customer's power bill or a cash payment if the amount of the credit exceeds the amount of the power bill. The billing credit may become negative under certain circumstances.

For conservation measures or retail rate structures which induce conservation, customers are to be credited for the costs BPA saves by not having to acquire other resources. For resources other than conservation or retail rate structures which induce the installation of consumer-owned renewable resources, customers are to be credited for the lesser of either the net costs of the resource or the costs BPA saves by not having to acquire other resources.

The size and effect of a billing credit is limited in two ways. First, the rates to other customers as a result of granting a billing credit for a conservation measure should be *the same* as would otherwise have been the case had BPA been obligated to acquire other resources in lieu of granting the billing credit. Second, the rates to other customers as a result of granting a billing credit for a resource other than conservation shall be *no greater* than otherwise would have been the case had BPA been obligated to acquire resources in lieu of granting the billing credit.

After BPA has determined that a conservation activity or other resource qualifies for a billing credit, BPA will conditionally approve the billing credit application, negotiate a billing credit contract with the customer, comply with the notice provisions of Section 6(c) of the Regional Act in all cases and with the procedural provisions of section 6(c) in the case of billing credits for major resources, and then grant the billing credit. The procedural requirements of section 6(c) permit the Pacific Northwest Electric Power and Conservation Planning Council (Regional Council) to review BPA's determination whether granting a billing credit for a major resource is consistent with the Council's plan, or in the absence of a plan, is consistent with the requirements of section 4(e) of the Regional Act. Eligibility for payment of the credit begins when the resource or conservation activity actually begins to reduce the customer's load on BPA and that reduces BPA's obligation to acquire resources.

BPA began the process of developing the proposed billing credit policy on March 25, 1981, by publishing a notice of intent (46 FR 18583) to develop policy guidelines and a methodology to compute billing credits, implementing section 6(h) of the Regional Act. BPA mailed this request for comments to approximately 2000 people in the region, including BPA customers, state and local government representatives, and other interested individuals and groups. Included in the mailing was a reply card for persons to request information as the methodology developed. About 400 cards were received by BPA. Twenty-three persons submitted written comments by the close of the comment period, June 30, 1981. A BPA task force reviewed these remarks and other information and identified more than 20 key issues which became the structural framework for the development of the initial proposal.

On August 28, 1981, BPA mailed an invitation to those who had submitted comments and other interested persons to attend an informal meeting on September 10. This public meeting was intended to give a general overview of BPA's perception of the issues involved in implementing billing credits and to explain the proposed procedure and schedule for developing the methodology.

At this meeting, BPA staff and the public discussed their understanding of

some of the issues. However, because of the complexity of many of the issues, the participants asked for more time to evaluate and discuss them. BPA agreed to hold a series of five "rap sessions" from September 22 to October 20 to discuss the Administrator's policy alternatives for each of the key issues. BPA task teams analyzed the various issues and prepared papers on policy alternatives with arguments *pro* and *con* for each alternative. These issue papers were mailed to participants prior to the rap session in which they were discussed. BPA also agreed to distribute all written comments submitted on billing credits to the participants and agreed upon a procedure for incorporating these comments as the methodology developed.

On September 15, 1981, BPA mailed a letter to the participants describing the series of five rap sessions and the schedule outlining when each issue would be discussed. The objective of the meetings was to enable the public to respond to the policy alternatives which had been identified and to present their ideas to the BPA staff concerning (1) the definition of the issues which required resolution, (2) alternatives available to the BPA Administrator, and (3) the reasons why the Administrator should consider either adopting or rejecting each alternative.

Following the discussion of an issue, BPA task force representatives reworked the policy alternatives to reflect public input. These were mailed to participants for a second review prior to presentation to the BPA Policy Committee, which is comprised of the Administrator, Deputy Administrator, Assistant Administrators and General Counsel. At the Policy Committee meetings, the Administrator made preliminary decisions on each issue, which were then used as the basis for developing an initial draft of the proposed billing credits policies and procedures.

The number of rap session participants grew from a group of 40 to include more than 200 individuals in addition to the original 400 persons who sent in reply cards. A preliminary draft of the proposal was mailed to the rap session participants on January 11, 1982, and an informal meeting was held January 20 and 21, 1982, to discuss the draft. This meeting was useful for identifying and correcting problems with the draft in terms of its completeness, clarity, and consistency. The comments received from the informal meeting have been considered and incorporated in this proposed policy.

BPA is interested in receiving public comment on its proposed policy. Because of the complexity of the issues and in response to the interest expressed in the proposed policy, BPA will hold three types of public meetings: A technical level meeting for BPA customers and others interested in a detailed explanation of the proposal, six public information forums to explain the proposal and answer questions, and four public comment forums where oral comments will be received. Dates, times and locations for each of the meetings are listed in the previous section, "DATES." All meetings will be transcribed.

Written comments will be accepted at the public forums or may be submitted to Donna L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212. All comments must be received on or before April 23, 1982.

Following the close of the comment period, BPA will evaluate the comments and, where appropriate, incorporate them into its final billing credits policy. The final policy is expected to be announced in late spring 1982.

II. Compliance With National Environmental Policy Act (NEPA)

BPA is preparing an environmental assessment (EA) evaluating its proposed billing credits policy. The EA will discuss the potential environmental impacts associated with the proposed billing credit policy and the alternative issues raised during the policy development process. Once the EA is completed, it will be distributed to all interested parties for a 30-day public review and comment period. Comments on the EA should be sent directly to John B. Pyrch, Environmental Coordinator, Bonneville Power Administration—PBE, P.O. Box 3621, Portland, Oregon 97208; phone 503–230–4261.

In recognition of BPA's NEPA responsibilities, the need to analyze protential environmental impacts was identified as an activity to be performed concurrently with the definition of the major policy issues. By early September, an interdisciplinary environmental task force was established, which began a series of weekly meetings to review the issues as the options were identified. Members of the task force became routinely involved in the public rap sessions and were also members of a number of the task teams which developed the issue options. The task force made a preliminary environmental analysis of each issue available to the Policy Committee as the Administrator made his preliminary decisions. Environmental representatives were available to answer questions and to clarify the preliminary analysis.

III. Major Provisions

A. Policies and Purposes—Section 1

Implementation of the billing credits program is intended to support a number of broad BPA and Regional Act goals. Billing credits for conservation activities are intended to provide customers a level of compensation that will provide an incentive to implement conservation. The program is also intended to encourage long-range planning of resource development. Billing credits for resources other than conservation are intended to cover the costs of such resources up to the limit of BPA's alternative cost, and thereby eliminate the disincentive for developing such resources inherent in BPA's average cost wholesale power rates.

Program implementation should result in consistent application of prudent resource planning principles among the billing credits program, BPA's resource acquisition program, and other regional resource planning to support the Regional Act's resource priority scheme and other non-energy considerations such as the protection of fish and wildlife. Finally, BPA intends to implement billing credits in a way that will encourage customers to plan and operate the resources of the Pacific Northwest as much as possible as if they were owned and operated by a single utility in order to achieve a reliable, efficient power supply at the least cost to the consumer.

B. Definitions—Section 2

Many of the definitions in the proposed policy are taken directly from the Regional Act. Other definitions are based on the Regional Act but have been expanded to clarify BPA's interpretation of them. BPA has defined other terms that BPA will use throughout this proposed policy. Rather than redefine terms each time they arise, BPA has chosen to define them in the "Definitions" section to insure consistent interpretation. BPA intends to the terms "shall" to mean "must" and "may" to indicate discretion. BPA intends the terms "may not" to mean "lack of discretion" or "without authority." BPA solicits comments on the policies inherent in these proposed definitions.

1. The term "acquire" means the purchase of the right to the output or capability of a resource. BPA may not construct or own a generating facility. BPA customers are not limited by this latter constraint.

In this proposed policy, BPA has distinguished between the terms "capability" and "output." In its simplest form, purchase of the capability of a resource means the purchase and ownership of all or a portion of the planned capacity of the resource, requires payment of the resource costs associated with the capability acquired, and transfers financial risk to the power purchaser in the event the generating facility is not completed and operated.

In its simplest form, purchase of the output of a project means the purchase of a fixed amount of electric power from a project at an agreed-upon rate per unit of electric power with no transfer of risk or responsibility to the purchaser for project costs.

2. BPA has used the term "alternative cost" to describe the cost BPA would have paid had it been required to acquire resources to serve the load which is being served by a billing credit resource. BPA has chosen this term instead of the term "avoided cost" for two reasons. First, the term "alternative cost" is used in the legislative history of the Regional Act. Second, BPA wanted to avoid confusion between the rate impact test and the term "avoided cost" which has a specific connotation within the context of the Public Utilities Regulatory Policy Act (PURPA), section 210. BPA has not yet determined how the Regional Act and PURPA mesh.

It may be necessary to calculate alternative costs applicable to a given billing credit resource as many as three times. During the initial planning phases of the billing credit program, when refined data are unavailable, BPA may calculate an "interim alternative cost" based on projections of future loads to be served by BPA and future resources that may be available to meet those loads. At the time BPA conditionally approves a billing credit resource, an "initial alternative cost" will be calculated which will establish the estimated value of the alternative cost at the time the resource is planned to actually change the customer's net requirements for electric power or reserves from BPA. Finally, BPA will calculate the "firm alternative cost" at the time BPA begins to pay the billing credit, and may be equivalent to the interim alternative cost during the early years of the program. The procedure which BPA will use to calculate the alternative cost is discussed further in section E below.

3. The term "billing credit resource" means a conservation activity, a resource other than conservation, or a retail rate structure which is eligible for a billing credit. A billing credit resource is a value to the Administrator only to the extent the customer assumes the obligation of the Administrator to serve a portion of the customer's firm load. (This concept is discussed further in section D below.)

A customer may request a billing credit for all or part of the output or capability of a billing credit resource. Under this proposed policy, any customer wishing to receive a billing credit for an additional increment of output from a resource for which a billing credit has already been granted must submit a new billing credit application to BPA.

4. BPA has used the term "conditional approval" to establish the point at which a customer will be notified that the proposed activity is eligible for a billing credit. However, actual granting and payment of a billing credit will not occur until (1) a contract has been signed establishing a value for the billing credit, and (2) the billing credit resource has begun to produce the expected energy or capacity (or in the case of conservation activities, the expected energy or capacity savings).

5. BPA has not altered the Regional Act definition of "conservation." In order to qualify as a conservation activity, a resource must pass a two-part test. First, the resource must reduce electric power consumption. Second, the reduction in consumption must occur as a result of an increase in the efficiency of energy use, production, or distribution. BPA believes there are two fundamental ways in which to look at efficiency. One is to look at a resource in terms of its ability to produce usable energy per unit of potential energy consumed. An example of a conservation activity that meets this test would be to replace incandescent light bulbs with fluorescent bulbs. Fluorescent bulbs produce more light per unit of electricity than incandescent bulbs produce. The second way to view efficiency is to focus on the task to be done and find ways to perform the task with less energy. An example of a conservation activity that meets this test would be to irrigate an orchard at night to reduce evaporation losses. The reduction in evaporation loss reduces the amount of pumped water needed to irrigate the orchard. Thus, energy is saved because the task, to irrigate the orchard, is being accomplished with less energy.

Curtailments and changes in life style may save energy, but they do not do so as a result of an increase in the efficiency of energy use, distribution, or production. Thus curtailments or life style changes are not examples of conservation as defined by the Regional Act.

It has been suggested to BPA that switches from electric power to fossil fuels could qualify for a billing credit as a conservation activity. BPA believes that this interpretation of conservation may conflict with the definition of renewable resource which defines a switch from electric power to a renewable fuel as a direct application renewable resource and not as a conservation activity. BPA has decided not to resolve this issue in the billing credits policy. Rather, BPA will address the fuel switching issue in a separate proceeding.

6. The Regional Act establishes "cost-effectiveness" as one of the primary criteria for BPA selection of billing credit resources and resource acquisitions. Although the Regional Act specifies a number of elements which should be considered in assessing cost-effectiveness, BPA has initiated a separate policy making process for the purpose of identifying other appropriate factors and calculation mechanisms.

7. BPA has not refined the definition of "customer" as defined in the Regional Act. However, for the purposes of this policy, BPA proposes that only a customer that signs a new power sales contract wth the Administrator under the Regional Act is eligible to request a billing credit. (This concept is explained further in Section C below.)

8. The term "firm resource exhibit" refers to the list of resources which must be attached to utility customers' power sales contracts for which the customer assumes the obligation to operate to serve its own firm load.

9. The Regional Act authorizes BPA to grant billing credits for "independently undertaken conservation activities." BPA proposes that "independently undertaken" refers to activities carried out independently of activities funded and offered by BPA or included in the plan of the Regional Council. The Regional Act directs BPA to exercise its authority to implement all cost-effective conservation as the first priority for meeting BPA's obligations to serve the net requirements of its customers, and BPA is clearly expected to take a position of leadership in implementing and financing conservation programs throughout the region. Only activities over and above BPA conservation activities or beyond the requirements of the Regional Council plan will therefore be considered to be "independently undertaken." An activity which falls below the standard necessary to qualify for a BPA program will not be considered to be independently undertaken.

A conservation program undertaken by a customer or a political subdivision served by a customer, which duplicates all or part of a BPA funded program will not qualify for a billing credit. A conservation program initiated by a customer or a political subdivision prior to adoption of that program by BPA will qualify for a billing credit until a substantially similar program is adopted by BPA. At that time, no further billing credits would be granted for additional conservation measures installed under such program, but all billing credits granted for previously installed measures would continue over the remainder of the useful lives of those measures. BPA will base its decisions on what programs to adopt upon its judgment as to what will be most cost effective for the region as a whole.

Conservation programs implemented by customers or political subdivisions which include activities that produce incremental energy savings over and beyond those produced by BPA funded programs may qualify for billing credits with respect to those additional activities which are not included in BPA funded programs.

A legal mandate to implement a conservation program will not, by itself, disqualify an applicant from receiving a billing credit provided the mandated program is undertaken independently of BPA as described above. A billing credit will not be granted, however, if program implementation is required to comply with the Regional Council plan (e.g., it will be assumed that BPA will implement programs consistent with the requirements of the plan).

10. The definition of a "major resource," which is taken from the Regional Act, applies to any resource that, (1) has a planned capability greater than 50 average megawatts, and (2) if acquired by BPA, is acquired for a period of more than 5 years. Major resources are required to undergo an analysis for inconsistency with the Regional Council plan, or, in the absence of a plan, with the requirements of sections 4(e)(1) and 4(e)(2) of the Regional Act.

11. BPA believes it is authorized to pay billing credits for resources other than conservation only up to the level of the "net cost actually incurred" by the developer of a resource. BPA has attempted in this definition to identify the elements to be included under "net costs."

The proposed cost elements cover not only construction and operation costs but also reasonable financing costs and compensation for risk. If BPA were to acquire a resource directly, it may assume any risk that the project might not operate as planned. It therefore appears appropriate to compensate other resource developers for risks entailed in developing a billing credit resource.

Net costs may not include any portion of costs which have been financed by funds obtained from governmental grants. BPA does not believe that grant monies are a cost actually incurred by a customer in developing a billing credit resource.

BPA recognizes that there will be a great number of uncertainties in the development of net cost data. There is some concern that a resource developer may be unwilling or unable to provide net cost data to a customer, and BPA should therefore be willing to pay the customer for the net incurred by the customer in acquiring the resource without requiring the customer to provide cost or other data about the resource. However, it is the policy of the U.S. Comptroller General that all Federal disbursing officers retain the ability to verify the accuracy and legality of all disbursements. Therefore, BPA must have access to resource specific data. BPA requests suggestions on any other factors that should be considered in determining net costs for billing credit resources.

12. BPA proposes that the definition of "political subdivision served by a customer" refers to governmental units within and including State governments. Consequenlty, for the purpose of determining eligibility for billing credits, political subdivisions will be considered to include states, cities, towns, counties, multi- and special purpose districts (i.e., water, sewer, school, etc.) and Indian Tribes.

BPA has tentatively included States in the definition, because State governments have significant opportunity to implement conservation program, and several states have specifically requested to be included. However, the decision to include States may pose practical problems in establishing the causal relationship between the passage of legislation authorizing conservation activities and the actual conservation of energy. State activities to improve the energy efficiency of State-owned buildings may be eligible for billing credits, but legislation requiring other entities to take conservation actions are likely to impose a financial burden on the other entities rather than on the State government. Consequently, BPA requests comments on the appropriateness of including States as political subdivisions.

13. The phrase "reduce the Administrator's obligation to acquire resources under the Regional Act" is defined to reflect the different explanations of the same concept contained in sections 6(h)(1)(A) and 6(h)(1)(B) of the Regional Act. Section 6(h)(1)(A) refers to "the Administrator's obligation that otherwise would have existed to acquire" while section 6(h)(1)(B) refers to "the Administrator's obligation to acquire." Both phrases explain the concept that a billing credit resource substitutes for a resource BPA would have been obligated to acquire but for the billing credit resource. The different phrases reflect the structure of the net requirements power sales contracts which BPA is required to offer under section 5(b) of the Regional Act. Under these contrcts BPA is required to meet a customer's actual firm power load to the extent such load exceeds the capability of any resources the customer is required or chooses to use to serve such firm load. If a customer implemented a conservation activity or developed a consumer-owned renewable resource, the firm power load met by such resources would not appear on BPA's meters and BPA's obligation to serve such firm power load would not materialize. Therefore, section 6(h)(1)(A) refer to the Administrator's obligation that otherwise would have existed to acquire resources to serve the firm power load that otherwise would have existed but for the billing credit resource.

14. The term "resource," as taken from the Regional Act, is defined as both the actual or planned output of generating facilities and any actual or planned load reduction resulting from direct application of a renewable energy resource or from a conservation measure. An indirect effect of this all-inclusive definition is to broaden the opportunity for implementing energy conservation activities under the billing credit program. In particular, conservation programs delivered by an energy management firm could be considered to be a resource implemented by an "entity acting on behalf of a customer" in accordance with sections 5 and 6(a) of this proposed policy. BPA is interested in hearing if this potential interpretation would pose any particular problems or whether it would be a desirable way to promote conservation.

15. The term "resource priority scheme" is based on section 4(e)(1) of the Regional Act, which requires that priority be given to resources that the Regional Council determines to be cost effective. For any set of cost effective resources, BPA must give priority: first, to conservation; second, to renewable resources; third, to generating resources using waste heat or generating resources of high fuel conversion efficiency; and fourth, to all other resources. BPA will apply the resource priority scheme in granting billing credits among competing billing credit resources and when comparing a billing-credit resource with an alternative acquisition.

16. BPA proposes to establish a special billing credit category of "small resources" which would be any resource with a planned capability of (1) 5 average megawatts or less, and (2) a peak capability of 15 megawatts or less. The category is designed to reduce the customer reporting requirements for such resources. BPA believes such reporting requirements create an administrative burden which is necessary for larger resources but which could needlessly prevent the development of small resources. In particular, sponsors of small resource projects would not be obligated to make available a calculated amount of electric power and BPA would grant a billing credit based on the actual output of the small resource up to the planned capability of the resource. In addition, BPA may, by publishing a finding in the Federal Register, deem the net cost of small resources to be equal to or greater than the Administrator's alternative cost, thereby setting the base value of the credit at the BPA alternative cost.

BPA requests comments on the desirability of establishing a "small resources" category. In particular, BPA is interested in information that will help assess the benefits and risks of this proposal. BPA is also interested in guidance on the appropriate size limit for a "small" resource category. BPA is especially concerned with the views of resource developers and how this special category would influence their approach to the development of small resources.

17. The definition of "voluntarily implemented retail rate structure" reflects BPA's recognition that all utilities are subject to some form of rate approval authority and cannot act independently of such authority. Consequently, a retail rate structure will be considered to be voluntarily implemented upon approval by the duly constituted rate approval authority with jurisdiction over the rates of that utility (i.e., a public utility commission (PUC), a city council, a Public Utility District (PUD) Board, etc.) upon a showing by the utility that: (1) it had initiated an action which led to the rates being approved, (2) the rate structure goes beyond merely reflecting the cost effects of BPA's wholesale rate structure, and (3) the rate structure induces conservation of electric power or the installation of consumer-owned renewable resources in excess of what would be expected to result from implementation of any model conservation standards set forth in the Regional Council's plan.

Implementation of rates pursuant to a legal mandate from any governmental authority other than that of the duly constituted rate approval authority will be considered not to have been voluntarily implemented. For example, a PUC order issued pursuant to the mandates of a Federal or State law would not be considered voluntarily implemented. To qualify for a billing credit, the customer must demonstrate that the rates voluntarily implemented have induced conservation or the installation of consumer-owned renewable resources which reduce BPA's obligation to acquire resources. BPA solicits comments on what standards of evidence BPA should establish for assessing the energy output of voluntarily implemented retail rate structures.

C. Eligibility and Qualifying Actions—Sections 3 Through 8

The Regional Act authorizes BPA to grant billing credits for the following actions:

1. Conservation measures independently undertaken or continued after the effective date of the Regional Act by customers or political subdivisions served by customers which reduce BPA's obligation to acquire resources.

2. Resources constructed, completed or acquired after the effective date of the Regional Act by a customer, an entity acting on behalf of such customer, or a political subdivision served by the customer which reduce BPA's obligation to acquire resources.

3. Retail rate structures voluntarily implemented by customers which induce conservation or installation of consumer-owned renewable resources which reduce BPA's obligation to acquire resources.

The power sales contracts establish the underlying obligation for BPA's acquisition of resources to meet customers' firm loads. Because billing credits are a substitute for the acquisition of resources by BPA, BPA does not believe it is authorized to grant billing credits without the underlying obligation established by a power sales contract under the Regional Act. BPA does not believe that pre-Regional Act power sales contracts or residential exchange contracts create an obligation to acquire long-term resources to meet a customer's firm load.

Under this proposed criterion, a customer with only a residential exchange contract would not qualify for

billing credits due to the fact that equal amounts of power are exchanged. Therefore, there can be no change in the Administrator's net obligation to acquire other resources as a result of the exchange. With regard to pre-Regional Act contracts, although they may provide for the purchase of net requirements, they are subject to the previously issued notice of insufficiency, which provides for power allocations as the remedy for a BPA insufficiency of resources. Furthermore, such contracts do not provide for the purchase of power "pursuant to" the Regional Act and are not linked to participation on the other Regional Act objectives. BPA seeks comments on this proposed approach and on whether alternative policies would achieve the same objective.

BPA will only accept an application from a customer although the billing-credit resource could be owned or controlled by another entity. Because a customer may sponsor a billing credit resource on behalf of another entity such as a local government, a potentially complex situation might arise regarding allocation of the billing credit benefit. BPA proposes not to intervene in the relationship between customer and developer by establishing any specific requirements for the pass-through of benefits. How a BPA customer chooses to use or pass on a billing credit to its consumers or to other constituencies, including political subdivisions, will be left to the customers, their governing or regulatory bodies, and the other entities. However, BPA suggests that it is desirable that such benefits be passed on to the entity initiating these activities to achieve maximum conservation and to encourage non-utility sponsors to develop resources.

Billing credits will be granted (as provided by section 6(h)(1)(B) of the Regional Act) for "resources constructed, completed, or acquired after the effective date of this Act" (December 5, 1980) or conservation activities or retail rate structures effectuated after the date of the Act. The date a conservation program was initiated is immaterial. The key point is when the measure which produces the actual energy savings (i.e., a water heater wrap, ceiling insulation, solar hot water heater, etc.) was installed. BPA had no obligation to acquire resources, implement conservation, grant billing credits, etc., prior to enactment of the Regional Act. Measures installed by a utility prior to the date of enactment of the Regional Act were presumably actions taken by the utility to serve its own existing obligations. Consequently, if a conservation measure was installed December 4, 1980, or prior, there is no eligibility for a billing credit. If it was installed December 5, 1980, or after, it may qualify.

BPA proposes that conservation programs initiated before the enactment of the Regional Act and continued after that date be entitled to billing credits to the extent that new conservation activities are implemented under the program after December 5, 1980. In other words, BPA has interpreted the phrase "conservation activities continued" after December 5, 1980, to refer to new activities carried out under pre-existing programs. Only activities effectuated after December 4, 1980, are eligible for billing credits because BPA had no obligation to acquire resources pursuant to the Regional Act before that date.

BPA believes the Regional Act requires an addition condition before BPA can make a retroactive payment for conservation activities. A customer must sign a power sales contract as offered by BPA on August 28, 1981, before a conservation activity reduces the obligation that the Administrator would otherwise have had to acquire resources. Without execution of a new power sales contract, BPA does not have an obligation under the Regional Act to acquire resources to meet a customer's load. A billing credit may start at the date of signing which is the date the conservation activity first reduces the obligation to acquire for activities implemented after December 5, 1980, but prior to the customer's signing a new power sales contract. The billing credit would cover the remaining useful life of the measure from the date of signing the new power sales contract.

BPA will make retroactive payments for conservation activities which reduce the Administrator's obligation to acquire resources prior to initial payment of the billing credit. The value of a retroactive payment would be calculated in accordance with the procedures used to calculate any other billing credit. The calculation will consider BPA's need to acquire resources as measured by the alternative cost and the applicable rate. In addition, applications for retroactive billing credits must meet any other applicable tests for eligibility, such as the "independently undertaken" standard for conservation activities.

BPA proposes a parallel treatment for retroactive payments for all other resources. Since BPA had no obligation to meet a customer's load prior to signing of the power sales contract, BPA believes it would be fiscally irresponsible to commit to the payment of billing credits for that preliminary period. BPA solicits comments on its policies for retroactive payments.

In accordance with section 6(h)(1)(B) of the Regional Act, BPA proposes to grant billing credits only for resources which are determined not to be inconsistent with the Regional Council's plan, or, in the absence of a plan, not inconsistent with the provisions of sections 4(e)(1) and 4(e)(2) of the Regional Act. Section 4(e)(1) contains the requirements regarding cost-effectiveness and the resource priority scheme. Section 4(e)(2) requires BPA and the Regional Council to give due consideration to (1) environmental quality; (2) compatibility with the existing regional power system; and (3) the protection, mitigation and enhancement of fish and wildlife.

Conservation activities will not be subject to the not-inconsistency test, because the Regional Act imposes no such requirement on the assumption that these activities will always be consistent with the regional plan. In addition, any cost-effectiveness test for conservation is presumably assessed through the rate impact test, i.e., if the other ratepayers are not harmed by granting a billing credit for conservation activities, then those activities are cost-effective. BPA further proposes to interpret the section 6(c) reference to procedural requirements for major resources, including conservation, to be controlled by the section 6(h) billing credit requirement which does not establish a consistency standard for conservation activities.

Billing credits may be granted in certain circumstances for other resources which can not be determined to be cost effective if other factors make the resource desirable. Local authorities might wish to develop a billing credit resource that is more costly than the BPA alternative cost, because the resource confers some other local benefits in addition to power generation. If the resource were demonstrated to be not inconsistent with the other section 4(e)(1) and 4(e)(2) requirements, BPA may grant a billing credit for such resource up to the level of the BPA alternative cost. Other ratepayers are not harmed by the decision to grant a billing credit for a non-cost effective program, because BPA only pays up to the alternative cost, and the locality pays the remaining costs.

BPA proposes that a billing credit resource be not inconsistent with the requirements of section 4(e)(1) to the extent that the resource is cost effective to BPA and that other BPA customers are held harmless with regard to any rate impact. In applying the not-inconsistent test to any social or environmental impacts associated with a billing credit resource, BPA proposes to examine where such impacts might fall. Environmental costs directly attributable to a billing credit resource may be considered to be not inconsistent with cost-effectiveness if such costs primarily occur within the service area of the customer seeking the billing credit. However, if such costs are borne by the ratepayers of other customers, then BPA will consider these impacts in evaluating whether the resource is inconsistent with cost-effectiveness.

BPA solicits comments on this interpretation of the application of the cost-effectiveness test, particularly with regard to any potential environmental impacts.

According to the Regional Act, entitlement to billing credits arises only if BPA's obligation to acquire resources is actually reduced. For purposes of this policy, the obligation of BPA to acquire resources will be determined in accordance with the terms of the power sales contracts offered pursuant to the Regional Act. Billing credit resources must be represented in the region's and in BPA's firm resource planning in a timely manner such that BPA can reasonably determine that such activity or resource will reduce or serve a firm load that would otherwise have been a firm load of BPA. This means that the billing credit activity or resource can only be determined to have offset the BPA obligation to provide the claimed amount of power to be saved or generated for the time periods claimed. Planned potential activities or resources which the utility is not obliged to produce cannot reduce the BPA obligation, and therefore cannot support billing credit eligibility. This topic is discussed further in section D below.

The Regional Act requires that any portion of a major resource not under construction on December 5, 1980, in excess of the customer's reasonable load growth, be offered to other Pacific Northwest utilities for ownership, participation or other sponsorship in order to qualify for a billing credit. This provision is intended to insure that all utilities are allowed to participate in the development of regional resources which are used by BPA to meet the region's requirements for electric power. BPA has not added any clarification to this requirement but is interested in receiving comments on its implementation.

D. General Conditions Governing Granting and Administering Billing Credits—Section 9

Inclusion in BPA Budget. Although BPA may conditionally approve a billing credit at any time it receives a complete application, actual award of the credit may not occur until the costs of the billing credit (including retroactive payments, if any) have been included in a BPA budget as approved by Congress. BPA plans to include the costs of approved billing credits in the budget for the first fiscal year in which the credit is to be paid, but normally no sooner than the next regular budget submission.

Actual Change in Net Requirements. BPA proposes that the customer must demonstrate the amount by which the billing credit resource actually changes the customer's net requirements for supply of electric power or reserves from BPA. In making such demonstration the customer must also show how BPA's obligation to acquire resources under the Regional Act is reduced.

BPA recognizes the customer may change its net requirements for supply of electric power or reserves from BPA without reducing BPA's obligation to acquire resources under the Regional Act. BPA does not believe it has the authority to grant billing credits unless both conditions are met. Granting a billing credit confers a benefit on BPA's other customers by reducing BPA's obligation to acquire resources and relieving BPA of the costs of such acquisition. Unless the change in a customer's net requirement for supply of electric power or reserves actually reduces BPA's obligation to acquire resources, no benefits are conferred on BPA's other customers.

Since BPA's obligation to supply electric power or reserves to a customer is established by its power sales contract, BPA suggests that the power sales contract be used as the basis for determining the actual change of the customer's net requirements. BPA recognizes that firm power and industrial firm power have different characteristics which must be considered in demonstrating actual changes in a customer's net requirements for supply of electric power or reserves from BPA. BPA also recognizes that different methods of purchasing firm power may affect such demonstrations.

An example of different characteristics which need to be considered in demonstrating an actual change in net requirements is reflected by the differences between firm power and industrial firm power. Since BPA relies on its right to interrupt a portion of an industrial firm power load for reserves, the reduction in contract demand of such load does not produce an equal reduction of BPA's obligation to acquire resources. The amount of contract demand reduction must be adjusted to recognize the following factors in determining the actual change in a customer's net requirements for supply of electric power or reserves: (1) The extent to which BPA's available reserves are reduced, and (2) the extent to which BPA's need to use generating resources for reserves is increased.

BPA has identified two circumstances when actual change in a customer's net requirements for electric power or reserves does not reduce BPA's obligation to acquire resources. The first circumstance occurs when BPA can reasonably determine that it would have adequate resources without the billing credit resource. In making such determination BPA will use the data and standards included in the load resource document referred to in the utility power sales contracts described in sections 3(a) (1), (2), and (3) of this proposed policy.

BPA believes that this circumstance would prevent BPA from granting a billing credit or a generating resource. Since the Regional Act directs BPA not to reduce its efforts to achieve conservation or acquire direct application renewable resources installed by residential or small commercial consumers, BPA believes that it may grant billing credits for these resources even though it would have adequate resources without the billing credit resource. BPA solicits comments on its obligation to grant billing credits for conservation and direct application renewable resources when it has adequate resources to meet its obligations.

The other circumstance where a change in a customer's net requirement for supply of electric power or reserves from BPA does not necessarily reduce BPA's obligation to acquire resources is where the billing credit resource does not have the same operating characteristics as the resources BPA otherwise would have acquired. BPA intends to develop a resource acquisition strategy to assist the customer in demonstrating how BPA's obligation to acquire resources is reduced. BPA has several alternatives if the billing credit resource does not have the same operating characteristics as the resources described in BPA's resource acquisition program.

One alternative that BPA is considering if the resource does not

have the same operating characteristics would be to find the resource inconsistent with the considerations of section 4(e)(2) of the Regional Act which requires a resource be compatible with the existing regional power system. Another alternative BPA is considering would be a description of load resource balance which specified the months or hours of the year BPA needs to acquire resources. Under the first alternative this entire resource could be denied a billing credit. Under the second alternative the amount of capacity or energy on which the billing credit is based would be limited to the months and hours of the year BPA needs to acquire resources. BPA solicits comments on how it should treat billing credit resources whose operating characteristics are different than the resources BPA otherwise would have acquired.

Customer's Commitment to Billing Credit Resource Performance. BPA believes that a reduction of BPA's obligation to acquire resources only occurs when a customer makes a commitment to meet what would be BPA's obligation under its power sales contract. BPA recognizes that the power sales contract already requires this commitment for other purposes for the addition of some customer resources under the power sales contract. BPA believes this commitment must be extended to all billing credit resources (except for small resources) under the billing credit contract to the extent the power sales contract does not already require a commitment to resource performance.

Compliance With NEPA and Other Environmental Laws. Individual billing credit applications will be reviewed when they are received. These reviews will follow standard NEPA procedures under the Council of Environmental Quality regulations, Department of Energy NEPA guidelines, and the BPA Environmental Manual.

Duration of a Billing Credit. BPA believes the customer must offer a billing credit resource for the useful life or any remaining portion of the useful life of a resource. BPA believes the purpose of the acquisition authority granted BPA under the Regional Act was to acquire resources on a long-term basis to meet its contractual obligations. Congress expected resource costs to increase over time and provided BPA with long-term acquisition authority to provide a sound planning basis for the region's utilities and to provide service to the region's ratepayers at the lowest possible cost. Therefore, BPA believes that it should only grant a billing credit where the customer intends to reduce BPA's obligation to acquire resources on a long-term basis.

BPA's requirement that a customer offer a resource for its useful life establishes a minimum period in which the resource will reduce BPA's obligation to acquire resources. Due to BPA's allowing termination of a billing credit, this period will vary according to the conditions and notice requirements for removal of a firm resource from the firm resource exhibit under the utility power sales contracts.

The useful life of a billing-credit resource will also be used to adjust the firm alternative cost of such resource. Resources which BPA uses to meet its obligations must be replaced at the end of their useful life. During the useful life of a resource, capital and other fixed costs incurred in the construction or implementation of a resource remain constant for that period of time. To the extent that resource costs are increasing, a resource will be relatively inexpensive at the end of its useful life compared to the cost of a resource acquired to replace it. BPA expects resource costs to increase for the foreseeable future and intends to reflect this principle in calculating the alternative cost. BPA finds that long-term resources have a greater value due to this principle.

A direct service industry is not required to agree to a permanent reduction of contract demand to obtain a billing credit. It may again receive service from BPA for the portion of contract demand served by the billing-credit resource at the end of the useful life of the billing-credit resource.

BPA solicits comments on how to determine the useful life of a resource and the desirability of adjusting the firm alternative cost of a resource to reflect its useful life.

Termination of a Billing Credit. BPA has provided a mechanism for a customer to terminate a billing credit if it desires. However, BPA will require the customer to pay a termination charge to compensate BPA's other customers for not receiving the full benefit of the billing credit resource over its useful life.

Termination charges will take into account two different principles. If the customer terminates a billing credit prior to the end of the useful life of the resource, BPA will have based the firm alternative cost of the billing credit resource on a useful life which was longer than the period it was available to BPA. The termination charge should reflect any overpayment made due to a firm alternative cost greater than the actual value of the resource. BPA has also determined that customers with billing credits for generating resources must pay a negative credit if the BPA wholesale power rate the customer otherwise would have paid without the billing credit resource exceeds the net cost of the billing credit resource. The termination charge should reflect any negative credit the customer would have paid for the billing credit resource during its useful life.

BPA solicits comments on whether a customer should be allowed to terminate a billing credit resource, the need for a termination charge, and the principles which BPA has identified for calculating a termination charge.

Guaranteed Minimum Alternative Cost. BPA proposes to provide a guaranteed minimum alternative cost for certain billing credit resources. BPA believes such guarantee will enhance the viability of the billing credit policy by placing a floor on the risk to a customer applying for billing credits. BPA believes this guarantee should only be provided for billing credit resources when BPA otherwise would have had to make an acquisition under its resource acquisition strategy at that time.

BPA solicits comments on the desirability of providing a guaranteed minimum alternative cost and the limitation on such concept BPA has proposed to protect the regional planning process.

The Administrator's Right to Reschedule Billing Credit Resources. BPA has included an additional condition BPA believes is necessary if it guarantees a minimum alternative cost for a billing credit resource. BPA believes that it must have the right to delay the construction or implementation schedule of such billing credit resource to reflect delays in the need for the billing-credit resource which may occur. Slipping the construction schedule of a new resource allows the region to obtain reliable electric service at the least overall cost. The customer will be protected by BPA's agreeing to pay the customer any additional cost incurred due to the delay. BPA may then determine if the benefits to the region from rescheduling the billing credit resource exceed any cost caused by such rescheduling.

The Administrator's Right to Displace Operation of a Generating Resource. BPA believes it is necessary to retain the right to displace the operation of a billing credit resource for economic reasons. When streamflows are better than expected on the Federal hydroelectric system, BPA can shut down the operation of its resources with higher operating costs. Displacement of higher cost resources when less expensive sources of power are available is a common utility operating practice. Therefore, BPA proposes to retain the right to displace power provided from a billing credit generating resource in order to reduce the overall power costs to its other ratepayers.

BPA proposes to allow the customer to continue to operate the billing credit resource and sell the output when two conditions are met. The customer may not use the billing credit resource to displace other purchases from BPA and thereby reduce BPA revenues. The customer must also receive enough additional revenue from the sale of such additional output to cover the costs of operating the resource. Such condition is required to prevent an increase in the net costs of the billing credit resource due to the displacement of its output. BPA solicits comments on its application of displacement practices to billing credit resources.

E. Methodology for Determining Amounts of Billing Credits—Section 10

The Regional Act makes conservation the first priority for meeting regional load growth, and prescribes a regionwide effort to implement all cost effective conservation. The Regional Act further provides that with respect to billing credits for conservation activities, the rate impact on BPA's other customers of granting the credit shall be equal to the rate impact such customers would have experienced had the Administrator been obligated to acquire resources in an amount equal to that actually saved by the activity for which the credit is granted. BPA interprets this to mean that billing credits for conservation must be based on the cost of the alternative resources that otherwise would be required by BPA but could be deferred as a result of the load reduction achieved through conservation.

As the Regional Act contemplates a regionwide commitment to meeting load growth insofar as possible through conservation, the Administrator believes that the regional incremental cost for meeting the load growth of BPA's customers is a reasonable measurement of the alternative cost. However, because regional utilities previously tended to overlook conservation and other nongenerating resources as a means of meeting load growth, BPA finds that there exists within the region a reservoir of low cost conservation activities and other nongenerating resources which are not representative of the true incremental cost of meeting load growth. Consequently, for determining the amounts of billing credits, BPA will omit from the BPA determination of alternative cost those regional conservation activities and other nongenerating resources which cost less than the regional average for incremental generation. Once the low cost conservation activities and other nongenerating resources have been utilized, this exception will not be necessary, and the regional incremental cost for meeting load growth will be based on whatever conservation activities, generating resources, or combinations thereof are actually used to meet the load growth of BPA's customers. In addition, BPA proposes that during periods when BPA can reasonably determine that it would have adequate resources to meet its obligations without the billing credit resource, the alternative cost should be calculated in a different manner. During these periods, BPA shall determine the alternative cost in the same manner as BPA's determination of cost-effectiveness for the acquisition of conservation or renewable resources installed by residential or small commercial consumers.

The Regional Act stipulates that in the case of billing credits for generating resources, customers be credited for the net cost of the resource. The Regional Act further provides, however, that the power rates charged other BPA customers may not be adversely impacted as a result of granting such a billing credit compared to what rates otherwise would have been if BPA had been obligated to acquire other resources under the Regional Act. BPA interprets this provision as requiring that the BPA alternative cost be the upper limit on the amount of a billing credit for a generating resource.

The proposed policy provides, therefore, that BPA make a determination of the BPA alternative cost for each operating year based upon the weighted average cost of those generating resources actually utilized within the Pacific Northwest to meet load growth among BPA's customers. Conservation activities and other nongenerating resources costing equal to or greater than the weighted average of the generating resources utilized in making the calculation will be included in determining the amount of load growth and in determining the weighted average cost of the resources.

The total cost of conservation programs will be utilized, including portions paid for directly or indirectly by BPA, customers and ultimate consumers.

BPA shall also prepare a forecast of the BPA alternative cost for each of at least the following 10 years based upon BPA's estimates of BPA's customers' load growth and the costs of those regional resources including conservation activities expected to be utilized to meet such load growth in each year. The forecast of BPA alternative costs shall be updated annually as of the start of each operating year.

BPA recognizes that the impact on BPA's other customers' rates of meeting loads with conservation or other nongenerating resources differs from that impact of meeting loads with generating resources. This has been referred to as the "lost revenue" effect. BPA is considering accounting for this effect by developiong a customer conservation charge to recover some portion of the costs of BPA conservation programs. To the degree that the customer conservation charge does not account for this effect, BPA may adjust the alternative cost so that the rate impact on BPA's other customers of granting a billing credit is the same as it would have been had BPA acquired alternative resources in lieu of granting the billing credit.

BPA proposes to determine the fixed and variable cost components of each year's alternative cost, to classify each year's alternative cost into a capacity and energy component, and to time differentiate such capacity and energy components consistent with the manner in which BPA's current wholesale power rates may be time differentiated.

BPA proposes to make a preliminary determination of each year's alternative cost and the forecasted future years' alternative cost, and to solicit public and customer comment thereon. Following review of comments received, BPA will publish each year's determination of alternative cost and the updated forecast of future years' alternative cost.

The alternative cost will be utilized in calculating billing credits as follows:

For conservation activities, the BPA wholesale power rate at which the customer otherwise would have purchased power from BPA had it not implemented the conservation activity, will be subtracted from the alternative cost. The fact that the alternative cost is classified to capacity and energy and time differentiated on the same basis as the rate facilitates this step. The amounts remaining following the subtraction are then multiplied by the quantities of capacity and energy by which the conservation activity actually changes the customer's net requirement for supply of electric power or reserves from BPA. The product is the billing

credit. The calculation will be made monthly.

BPA will adjust the variable cost component of the alternative cost as of the start of each operating year to reflect changes in the variable costs of the resources used as the basis for the determination of alternative costs. This adjustment can be either up or down depending upon how the variable costs may change over time. The BPA wholesale power rates also may be expected to change over time. Consequently, if the power rates increase more than the variable cost component of the alternative cost, a billing credit for conservation could be reduced to zero at some time in the future.

There are two rationales to explain why it is appropriate to subtract the customer's wholesale power rate from the alternative cost on calculating the amount of the billing credit. The first rationale, is that the customer, by reducing its purchase of power through the conservation activity, realizes a reduction in its cost for power purchases from BPA. That saving, together with the billing credit, provides the customer a total amount of compensation equal to the BPA alternative cost. To the extent the cost of the conservation activity to the customer is less than the BPA alternative cost, the customer gains on the transaction, and this provides a financial incentive for conservation activities.

The second rationale is that the rate impact that BPA's other customers would have experienced had BPA acquired an alternative generating resource is dependent upon the customers' wholesale power rate. This is true because rates must increase to the degree that the existing rate fails to recover the cost of an acquisition. In the case of a generating resource, BPA will partially offset the cost of acquiring the resource by selling the electric power generated by the resource. Hence, the amount by which existing rates must be raised is equal to the difference between the unit purchase price and the rate at which the electric power would have been sold.

BPA has chosen to calculate a billing credit on the basis of this model. In the case of billing credits, BPA is using the alternative cost as a proxy for the purchase price of a generating resource BPA would otherwise have acquired in lieu of granting a billing credit. This approach is consistent with the legislative history of the Regional Act.

The calculation of a billing credit for a generating resource is made in a similar manner, except that the basis for the credit is the net cost of the billing credit resource whenever the net cost is less than the alternative cost. If the net cost is more than the alternative cost, the alternative cost is the basis.

A billing credit for a generating resource, therefore, is calculated as follows: The BPA wholesale power rate at which the customer otherwise would have purchased had it not developed the billing credit resource is subtracted from the lesser of the alternative cost or the net cost. The remainder is then multiplied by the quantities of capacity and energy produced by the billing credit resource which actually contribute to reducing BPA's obligation to acquire resources under the Regional Act. A billing credit resource which produces energy, but no dependable capacity, for example, would be credited only for the energy.

The variable cost component of the net cost of the billing credit resource will be adjusted as of the start of each operating year based on information reported to BPA by the customer.

A billing credit for a generating resource also may decrease over time to the extent the BPA power rates increase more than the variable cost component of the net cost or the alternative cost, whichever is controlling. A generating resource billing credit, however, will become a negative amount if the power rate ever exceeds the lesser of the net cost or the alternative cost as adjusted for changes in the variable cost component. A negative billing credit will be added to rather than subtracted from the customer's power bill.

The rational for a generating resource billing credit becoming negative is the provision of the Regional Act that requires that the rates to other customers must never be adversely impacted as a result of granting a billing credit for a generating resource as compared to what such other rates would have been had BPA acquired other resources rather than granting the billing credit. If BPA were to acquire the capability of a generating resource which is less costly than the BPA rate level, such resource would result in the BPA rate level being lower than it would in the absence of that resource. Similarly, in the early years of a newly acquired resource that costs more than the existing rate, the impact on rates of the acquisition is to cause rates to increase. However, in the later years of an acquired resource, it will tend to hold rates down if the rate level then exceeds the cost of the resource. The negative billing credit is necessary to produce the same result if at some time in the future the adjusted net cost of a billing credit resource or the adjusted alternative cost, whichever is utilized, is lower in cost than the future BPA rate level.

Customers, however, will have the right to terminate a billing credit. To prevent the exercise of such right from violating the statutory provision regarding no adverse impact on other rates, it is BPA's intent that billing credit contracts for generating resources contain provisions for a termination charge to compensate the power system for the loss of a low cost resource through customer termination of a billing credit so that the rates to other customers will never be adversely impacted compared to what they otherwise would have been had BPA acquired other resources in lieu of granting the billing credit.

While the same principle applied to conservation, BPA has chosen not to include a negative billing credit for conservation as a way of providing an additional incentive to conservation. BPA recognizes that this approach cannot be shown to comply strictly with the rate impact test, but BPA believes that the special status accorded to conservation in the Regional Act justifies deviating from the theoretically correct rate impact.

Several utilities have advocated that in the case of customers which participate in the exchange of power with BPA authorized by section 5(c) of the Regional Act for service to residential loads, the BPA wholesale power rate used in the calculation of a billing credit be adjusted to reflect the "effective" cost of power purchased from BPA. It has been suggested that the effective cost to such utilities is less than the BPA rate at which the purchases are made because the exchange of power enables exchanging utilities to sell that block of power to BPA at their average system costs and to purchase an equivalent block of power from BPA at the BPA rate for the general requirements of preference customers. The exchange benefits the exchange participants as long as their average system costs are greater than the BPA rate for preference customers. The net cost to BPA of the exchange must be passed on to other BPA customers.

BPA's position is that Congress did not intend the rate impact test to include the effect of the residential exchange contracts. Further, even if BPA accepted the position that the rate impact test should consider the residential exchange contracts, the arguments presented thus far in support of such concept have not adequately considered the ramifications of how residential exchange resource costs and billing credit costs may be allocated in formulating BPA's power rates. Consequently, BPA has not incorporated this concept in its proposed billing credits policy.

However, BPA also recognizes that the concept may have merit, and invites further comment on this point.

F. Resource Acquisition Strategy—Section 11

The Regional Act obligates BPA to acquire sufficient resources to meet the power requirements of its customers. The Act requires that such acquisitions be cost effective, i.e., each acquisition as it is made should be the least costly reliable and available alternative. To best assure meeting these requirements, BPA will develop a long range (up to 20 years) resource acquisition strategy that will set forth the conservation programs BPA proposes to implement and other resources BPA proposes to acquire.

BPA will make its resource acquisition strategy available to customers for their use in identifying how billing credit resources may reduce BPA's obligation to acquire resources.

As BPA approves a billing credit, BPA will determine when the billing credit resources will be integrated into the resource acquisition strategy.

G. Application Procedure—Section 12

This section is built around three general principles. First, BPA needs access to resource specific information in order to process a billing credit application. The problem BPA faces in applying this principle is to identify a set of general standards that will tell a customer what information will be required for each billing credit application. The problem is one of balancing the customer's need to know what to include in an application against BPA's need to maintain flexibility in a set of standards that must accommodate a broad range of resource types under varied circumstances.

Second, BPA believes the burden of providing information necessary to process an application and the burden of proving that the information provided is sufficient to establish an entitlement to a billing credit more appropriately rests with the customer than with BPA. The reasons for this belief are several: (1) customers are more likely than not to have direct access to necessary information; (2) BPA lacks the staff needed to generate missing information; (3) it seems fair to require a customer claiming an entitlement to establish the validity of that claim; and (4) were BPA to assume these burdens, customers seeking billing credits would in effect be imposing a transaction cost on the region's other rate payers that, in BPA's opinion, more properly should be allocated to the customer seeking a billing credit.

Third, it is to BPA's and its customers' mutual advantage to process billing credit applications at an early stage of development so as to provide increased certainty to the resource developer and to facilitate BPA's meeting its obligations on a planned basis. However, BPA proposes not to require that customers seek billing credits at any particular stage of development. The reasons for this choice are: (1) customers may seek billing credits for resources already constructed; (2) BPA recognized that some resources such as the so-called "90-day wonders," may be developed with very short lead times; and (3) BPA believes that the dual constraints of having to include the cost of a billing credit in BPA's budget before paying the credit and having to reduce BPA's obligation to acquire resources on a planning basis are sufficient to encourage customers to apply for billing credits at an early stage of resource development.

BPA plans to assist any customer who requests guidance on how to prepare a billing credit application. BPA's ability to offer specific recommendations on acceptable evidence will, of necessity, be limited during the first year of the program but should expand as its experience grows.

BPA proposes to require that applicants fully describe (1) the methodology they have applied in determining the amount of actual load reduction for which they are requesting a billing credit; (2) how the methodology was applied, including all data collected and used; and (3) the results of the application of the methodology, i.e., the amount of load reduction claimed. Applicants will be free to select or establish any methodology they believe will be appropriate to substantiate their entitlement to a billing credit. BPA plans to evaluate the appropriateness and effectiveness of the methodology as well as the completeness and accuracy of the data and calculations. BPA would prefer that customers submit fairly specific data on the times that the resource will operate. Hourly data is most desirable, but BPA recognizes that such detail may not be possible within the limit of current analytical techniques. Customers submitting billing credit applications for retail rate structures will need to make the same demonstration as either applications for conservation activities or renewable resources regarding the impact on load. There must be demonstrable energy savings for retail rate structures claimed to induce energy conservation, or demonstrable load reductions for rate structures inducing installation of renewable resources. In quantifying the impact of retail rate structures, applicants must be careful not to claim the benefits of other external activities, such as BPA conservation programs.

H. The Administrator's Decisionmaking Process—Section 13

This section responds to suggestions that BPA describe its decisionmaking process vis-a-vis billing credits. Section 6(h) of the Regional Act contains procedures that apply to each decision to grant a billing credit. Section 6(c) of the Regional Act contains additional procedures applicable only to a billing credit for a major resource. BPA has not yet developed a policy for implementing section 6(c) procedures. However, BPA intends to do so in the near future. In developing the decisionmaking process for billing credits, BPA attempted to integrate the requirements of section 6(h) and 6(c) together in a consistent manner.

A number of rap session participants expressed the desire that BPA indicate how negotiating the billing credit contract will fit into the decisionmaking process. Essentially, BPA views its decisionmaking process as consisting of four stages: (1) tentative approval of eligibility based on cost, engineering, environmental analyses, and other Regional Act criteria; (2) negotiation of a proposed billing credit contract; (3) notification to the public and other interested persons; and (4) completion of procedural requirements of the Regional Act.

BPA recognizes that many issues remain to be solved through the contracting process. BPA has not yet determined whether to develop a generic billing credit contract that would incorporate terms common to all billing credits or to develop billing credit contracts on a case-by-case basis.

BPA plans to conduct a preliminary review of each application to determine whether enough evidence has been provided to enable BPA to make a decision regarding the proposed billing credit resource. Applications containing insufficient data will be returned to the applicant with a brief explanation of what more is needed. A customer may resubmit the application with the supplemental information at any time.

Prior to conditionally approving a billing credit, BPA will comply with its obligations pursuant to all appropriate environmental laws, including NEPA, will assess the resource's impact on fish and wildlife, and will decide how to

integrate the resource into the BPA resource acquisition strategy. Following these actions, BPA will within a reasonable time, conditionally approve the application that meets all the relevant criteria.

Conditional approval of a billing credit resource will in essence be a finding that the information in the application demonstrates that the resource has met the BPA requirements and supports eligibility for a billing credit. The conditional approval will be the basis for contract negotiations, when the specific provisions governing the value of the billing credit, the operating schedule, payment procedures, and oversight provisions will be developed.

One of the billing credit contract issues centers on BPA's authority to oversee the construction, operation, costs, and other facets of resource development and operation listed in section 6(i) of the Regional Act. Section 6(i) expressly requires BPA to exercise such oversight in the case of a billing credit for a major resource. BPA believes that section 6(i) of the Regional Act removed BPA's discretion not to oversee the construction and operation of a major billing credit resource. However, BPA believes that section 6(i) does not preclude BPA from overseeing the construction and operation of a nonmajor billing credit resource. BPA's authority to oversee the construction and operation of such resources is found in section 2(f) of the Bonneville Project Act of 1937. That section was specifically incorporated into section 9(a) of the Regional Act. Section 2(f) provides the Administrator with the authority to enter into contracts on such terms and conditions as the Administrator believes are necessary or appropriate to carry out BPA's mission.

BPA believes that one of its objectives is to act in a prudent, businesslike manner. BPA believes that overseeing construction and operation of each billing credit resource is prudent, businesslike conduct. Hence, BPA intends to retain the right to oversee the construction and operation of all billing credit resources. Exactly how BPA will oversee a particular billing credit resource must necessarily be determined on a case-by-case basis. BPA solicits comments on these administrative procedures.

I. Administering Approved Billing Credit Contracts—Section 14

1. *Payment.* This section covers several miscellaneous administrative aspects of billing credits. In order to provide flexibility among BPA and its customers with regard to payment, BPA proposes to pay billing credits with an offset to the customer's bill. Payment by cash may be necessary to avoid possible conflicts with BPA's net billing agreements with some of its customers. The conflict may arise because a billing credit could impair the net billing capacity of some customers—a result prohibited by the net billing agreements.

2. *Customer's Annual Report.* Because the amount of a billing credit changes over time, there is a need for updating information so that BPA may adjust the billing credit consistent with the rate impact test. BPA believes it is the responsibility of the customer to provide current information. Thus, BPA is proposing that customers prepare and submit an annual report on their billing credit resources so that BPA may adjust the billing credit correctly. BPA does not intend to add unnecessary reporting requirements to customers already subject to reporting obligations to BPA and other agencies. BPA especially does not expect customers to duplicate existing analyses. BPA believes that the data necessary to adjust billing credits can largely be found in reports that its customers customarily prepare. BPA would accept such reports for the purposes of recalculating a billing credit. Where routine reports do not contain the information necesary to recompute a billing credit, BPA would accept short, concise reports containing such information.

3. *Adjustment of the Billing Credit.* BPA intends to adjust a billing credit for a number of factors in order to comply with the rate impact test. BPA does not expect that its adjustment will produce the identical rate impact from billing credits as the rate impact that would have occurred had the billing credit resource not been developed. However, BPA believes that its approach will reasonably approximate the theoretically correct rate impact. BPA proposes to adjust the variable cost component of the alternative cost (or of the net cost if the net cost is less than the alternative cost in the case of resources other than conservation) because the variable cost component of an alternative acquired resource would have had an impact on other customer's rates.

Because the rate impact test can be expressed as a function of the alternative cost less the customer's wholesale power rate, the impact on other customer's rates of acquiring an alternative resource declines with increasing customer wholesale power rates. Thus, the billing credit should decrease with increasing customer wholesale power rates. In fact the impact on other customer's rates of acquiring an alternative resource can become negative. That is, when the unit cost of a resource is less than the average cost of all resources, the effect of having acquired that resource is to keep rates down. Thus, assuming that the rate of increase in the customer's wholesale power rate exceeds the rate of increase in the variable cost component of the alternative cost (or net cost as the case may be) then the impact on other customer's rates will become negative in the latter years of a sufficiently long-lived resource acquisition. Because the amount of a billing credit depends on the rate impact test, the billing credit must become negative in order for the billing credit to produce the same impact on other customer's rates as BPA's acquiring alternative resources instead of granting the billing credit would have produced.

4. *Administrator's Periodic Review and Audit.* To assist in satisfying the duties of BPA's Disbursing Officer, and to help fulfill BPA's oversight responsibilities, BPA must retain the right to audit and inspect billing credit resources. BPA must also have access to information necessary to verify the accuracy of data supplied to BPA upon which BPA will base payment of a billing credit.

5. *Remedies.* BPA believes that a remedies section is necessary to ensure that billing credits are granted and administered in a manner consistent with this policy. BPA believes the best remedy is to adjust a billing credit so as to correct for deviations that occur as a result of a customer's not meeting the requirements of this policy.

J. Reconsideration of the Administrator's Decisions—Section 15

BPA proposes to provide an informal mechanism by which customers may request the Administrator to reconsider billing credit decisions. BPA had considered proposing a formal internal appeals process. However, BPA believes that a formal appeals process would place the Administrator in a role that more properly belongs in the courts. Yet, BPA believes it desirable to provide for some form of reconsideration in the interests of avoiding unnecessary litigation. BPA requests comments on whether this reconsideration process is desirable and whether BPA should provide broader access to the process.

K. Records and Access to Information—Section 16

This section makes clear that the Administrator's obligations with respect to trade secrets, proprietary information, the Privacy Act, and the Freedom of Information Act may apply to customers seeking billing credits.

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Authority: The Pacific Northwest Electric Power Planning and Conservation Act [Pub. L. 96–501, 94 Stat. 2697 *et seq.* [16 U.S.C. 839 *et seq.*]]; the Federal Columbia River Transmission System Act [Pub. L. 93–454, 88 Stat. 1376 *et seq.* [16 U.S.C. 838 *et seq.*]], as amended by Pub. L. 96–501; and the Bonneville Project Act [Pub. L. 75–239, 50 Stat. 731 *et seq.* [16 U.S.C. 832 *et seq.*]], as amended by Pub. L. 76–429, Pub. L. 79–201, Pub. L. 79–550, and Pub. L. 89–448.

Section 1: Policies and Purposes

(a) *Policies.*

The Administrator's policy objectives are to use the authority to grant billing credits to assure that:

(1) Customers are compensated as provided in the Regional Act for actions taken which reduce the Administrator's obligation to acquire resources that otherwise would be needed to meet contractual obligations to serve customers' loads, thereby providing an incentive for taking such actions;

(2) billing credit resources are integrated into BPA's resource acquisition program, thereby minimizing overall costs to be borne by power ratepayers; and

(3) the amounts of billing credits are determined in compliance with the Regional Act and the costs to BPA of granting billing credits are allocated among BPA's various power rate schedules so that:

(i) As a result of granting billing credits to any customer for conservation measures, the rates to other customers will be the same as they otherwise would have been if BPA had been obligated to acquire other resources to serve customers' loads in lieu of granting such billing credits; and

(ii) as a result of granting billing credits to any customer for resources other than conservation, the rates to other customers will be no greater than they otherwise would have been if BPA had been obligated to acquire other resources in lieu of granting such billing credits.

(b) *The Administrator believes that:*

(1) Billing credits should encourage local initiative in developing conservation programs and other resources that will benefit the region;

(2) billing credits will work most effectively if customers pass on the benefits of billing credits to those consumers or other entities who take actions to implement conservation or develop resources to meet power requirements; and

(3) resolving the method and amount of billing credit pass through should be by negotiation between the customers receiving a billing credit and those who have implemented the conservation or developed the resource upon which the billing credit is based.

(c) *Purposes:*

The purposes of this policy are to:

(1) Prescribe customer and resource eligibility criteria;

(2) prescribe a procedure whereby a customer may apply for a billing credit;

(3) provide a procedure by which the Administrator will evaluate applications for billing credits and determine the amount of billing credits to be granted;

(4) provide a procedure to administer billing credits; and

(5) encourage early applications for billing credits so as to facilitate planning and reduce uncertainties.

Section 2: Definitions

(a) "Acquire" means purchase of the right to all or a portion of the output or capability of a resource but, in the case of the Administrator, may not include the purchase of any generating facility.

(b) "Adjusted alternative cost" means a firm alternative cost adjusted for changes, if any, in the variable cost component, classified to capacity and energy, and time-differentiated in a manner compatible with the Administrator's current wholesale power rates.

(c) "Adjusted net costs" mean the net costs of a billing credit resource adjusted for the estimated changes, if any, in the variable cost component, classified to capacity and energy, and time-differentiated in a manner compatible with the Administrator's current wholesale power rates.

(d) "Administrator" means the Administrator of the Bonneville Power Administration.

(e) "Administrator's obligation to acquire" means the Administrator's obligations to acquire firm resoures pursuant to section 6(a) of the regional Act.

(f) "Alternative cost" means an estimate of the unit cost to the Administrator of those resources which the Administrator would have been obligated to acquire had the billing credit resource not been developed.

(g) "Billing credit" means (1) a credit against a customer's electric power bill from the Administrator, or (2) a cash payment from the Administrator to a customer in lieu of a credit against the customer's electric power bill, or (3) an addition to a customer's electric power bill from the Administrator if the billing credit is a negative amount.

(h) "Billing credit contract" means a written contract betwen the Administrator and the customer receiving a billing credit setting forth the terms and conditions by which the Administrator will grant billing credits.

(i) "Billing credit resource" means a resource potentially eligible for billing credits. Such term includes conservation activities, renewable resources, multipurpose projects, and other resources, including retail rate structures that induce conservation or installation of consumer-owned renewable resources.

(j) "BPA" means the Bonneville Power Administration.

(k) "Budget submittal" means the Administrator's annual or amended budget submittal to the Congress made pursuant to the Federal Columbia River Transmission System Act (16 U.S.C. 838(j)).

(l) "Capability" is synonymous with capacity.

(m) "Capacity" means (1) the maximum power that can be produced by a generating resource at specified times under specified conditions, or (2) the maximum rate at which power can be saved by a nongenerating resource at specified times under specified conditions. Capacity is expressed in units of either kilowatts or saved kilowatts.

(n) "Conditional approval" means the Administrator's final approval of a billing credit application conditioned on (1) negotiating a billing credit contract, and (2) completing notice and other procedures.

(o) "Conservation" means any reduction in electric power consumption as a result of increases in the efficiency of energy use, production or distribution.

(p) "Conservation activity" means the construction, installation, or making operative a facility or measure for the purpose of achieving conservation whether or not the activity was undertaken pursuant to a new or continuing conservation program.

(q) "Consumer" means any end user of electric power.

(r) "Contract demand" means that amount of industrial firm power fixed by its power sales contract that a customer may request the Administrator to serve.

(s) "Cost effective," when applied to any measure or resource referred to in the Regional Act, means that such measure or resource must be forecast (1) to be reliable and available within the time it is needed, and (2) to meet or reduce the electric power demand, as determined by the Regional Council or the Administrator, as appropriate, of the consumers of the customers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative measure or resource, or any combination thereof.

For purposes of cost effectiveness, the term "system cost" means an estimate of all direct costs of a measure or resource over its effective life, including, if applicable, the cost of distribution and transmission to the consumer and, among other factors, waste disposal costs, end-of-cycle costs, and fuel costs (including projected increases), and such quantifiable environmental costs and benefits as the Administrator determines, on the basis of a methodology developed by the Regional Council as part of the plan, or in the absence of the plan by the Administrator, are directly attributable to such measure or resource.

In determining the amount of power that a conservation measure or other resource may be expected to save or to produce, the Regional Council or the Administrator, as the case may be, shall take into account projected realization factors and plant factors, including appropriate historical experience with similar measures or resources.

For purposes of cost-effectiveness, "estimated incremental system cost" of any conservation measure or resource shall not be treated as greater than that of any nonconservation measure or resource unless the incremental system cost of such conservation measure or resource is in excess of 110 per centum of the incremental system cost of the nonconservation measure or resource.

(t) "Regional Council" means, unless otherwise specifically provided, the members appointed to the Pacific Northwest Electric Power and Conservation Planning Council established pursuant to section 4 of the Regional Act.

(u) "Customer" means anyone who contracts for the purchase of power from the Administrator pursuant to the Regional Act.

(v) "Customer's wholesale power rate" means that rate which the customer receiving a billing credit would have otherwise paid the Administrator for electric power had the Administrator been obligated to acquire resources in lieu of granting the billing credit.

(w) "Direct service industrial (DSI) customer" means an industrial customer that contracts for the purchase of industrial firm power from the Administrator for direct consumption.

(x) "Electric power" means electric peaking capacity, or electric energy, or both.

(y) "Energy" means the ability to do work. Energy is equal to power integreted over time. Energy is expressed in units of kilowatthours.

(z) "Entity acting on behalf of such customer" means any entity that develops a billing credit resource for a customer.

(aa) "Firm alternative cost" means the alternative cost determined by the Administrator for a billing credit resource at the time the billing credit resource initially changes the Administrator's obligation to acquire resources. A firm alternative cost is based upon the most current estimate of the cost of the Administrator's alternative resource acquisition deferred or displaced because of the availability of the billing credit resource as of the time such billing credit initially changes the Administrator's obligation to acquire resources.

(bb) "Firm electric power" means electric power which is guaranteed by the supplier to be available during any specified times except when uncontrollable forces produce outages.

(cc) "Firm resource" means that portion of a resource that produces or saves firm electric power.

(dd) "Firm resource exhibit" means the firm resource exhibit provided for by a customer's power sales contract or by the billing credit contract if the customer's power sales contract does not contain a firm resource exhibit.

(ee) "Fixed costs" mean that portion of net costs or of alternative costs that does not significantly vary over time.

(ff) "Grant a billing credit" means (1) to reduce a customer's electric power bill from the Administrator, or (2) to disburse cash by check or other appropriate instrument in lieu of reducing a customer's electric power bill, or (3) to increase a customer's electric power bill from the Administrator if the billing credit is a negative amount.

(gg) "Independently undertaken conservation activity" means any portion of a conservation activity that is not included in (1) a BPA conservation program that the Administrator makes available to the customer seeking the billing credit, (2) a program implemented pursuant to the plan such as implementing model conservation standards, or (3) a BPA conservation program specifically rejected by BPA in developing BPA's conservation programs because of adverse environmental effects.

(hh) "Indian tribe" means any Indian tribe or band which is located in whole or in part in the region and which has a governing body which is recognized by the Secretary of the Interior.

(ii) "Initial alternative cost" means the alternative cost determined by the Administrator for a billing credit resource as estimated as of the time a billing credit for that resource is granted conditional approval.

(jj) "Interim alternative cost" means an alternative cost determined by the Administrator for a billing credit resource on an interim basis prior to development of the Administrator's resource acquisition program. An interim alternative cost will be converted to either an initial alternative cost or a firm alternative cost when the necessary information becomes available.

(kk) "Load" means the amount of electric power demanded by consumers.

(ll) "Major resource" means any resource that (1) has a planned capability greater than 50 average megawatts, and (2) if acquired by the Administrator, is acquired for a period of more than 5 years. Such term does not include any resource acquired pursuant to section 11(b)(6) of the Federal Columbia River Transmission System Act.

(mm) "Model conservation standards" mean those standards promulgated by the Regional Council and included in the plan as provided for by section 4(e) (3) of the Regional Act.

(nn) "Multipurpose project" means any project that is primarily designed to serve a purpose other than power generation which also produces electric power.

(oo) "NEPA" means the National Environmental Policy Act of 1969.

(pp) "Net costs" mean those costs actually incurred to construct, develop, implement, utilize, operate, maintain, retire, or sell a billing credit resource. The term may include reasonable financing costs, compensation for risk, or return on equity, but may not include any portion of cost financed with funds obtained from governmental grants. Acquisition of a billing credit resource or the right to the output or capability of such resource at a price greater than the net cost does not change the net cost of such billing credit resource.

(qq) "Nonmajor resource" means any resource that either (1) has a planned capability less than or equal to 50 average megawatts or (2) is acquired by the Administrator for 5 years or less. Such term does not include any resource acquired pursuant to section 11(b)(6) of the Federal Columbia River Transmission System Act.

(rr) "Operating demand" means that amount of industrial firm power that a customer requests the Administrator to actually serve pursuant to its power sales contract.

(ss) "Operating year" means the year from July 1 to June 30.

(tt) "Pacific Northwest," "region," or "regional" means (1) the area consisting of the States of Oregon, Washington, and Idaho, the portion of the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin, and (2) any contiguous areas, not in excess of 75 air miles from the area referred to in paragraph (1) above, which are a part of the service area of a rural electric cooperative customer served by the Administrator on the effective date of the Regional Act which has a distribution system from which it serves both within and without such region.

(uu) "Plan" means the Regional Electric Power and Conservation Plan (including any amendments thereto), adopted pursuant to the Regional Act.

(vv) "Political subdivision served by a customer" means any governmental unit which purchases electric power from a customer including, but not limited to, States, State agencies, cities, counties, municipalities, special-purpose districts, and Indian tribes, but not including Federal agencies.

(ww) "Program" means the Council's fish and wildlife program developed pursuant to section 4(h) of the Regional Act.

(xx) "Reduce the Administrator's obligation to acquire resources under the Regional Act" means that a generating resource except for a consumer-owned renewable resource has reduced the Administrator's obligation to acquire resources pursuant to section 6(a) of the Regional Act or that a conservation activity or consumer-owned renewable resource has reduced the Administrator's obligation that otherwise would have existed to acquire other resources pursuant to section 6(a) of the Regional Act.

(yy) "Regional Act" means the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96-501.

(zz) "Renewable resource" means a resource which utilizes solar, wind, hydro, geothermal, biomass, or similar sources of energy and which either is used for electric power generation or will reduce the electric power requirements of a consumer, including by direct application.

(aaa) "Reserves" mean the electric power needed to provide service to customers in the event of generation or transmission system outages, adverse streamflows, delays in the completion of new resources, or other factors which may restrict generating capability or increase loads. Reserves normally are provided from additional resources acquired for that purpose, or from contractual rights to interrupt, curtail, or otherwise withdraw portions of the electric power supplied to customers.

(bbb) "Resource" means (1) electric power, including the actual or planned electric power capability of generating facilities, or (2) actual or planned load reduction resulting from direct application of a renewable energy resource by a consumer, or from a conservation measure.

(ccc) "Resource acquisition strategy" means the Administrator's planned approach to the acquisition of resources to meet the Administrator's contractual obligations to serve customers' electric power requirements and to assist in meeting the Administrator's responsibility for the protection, mitigation, and enhancement of fish and wildlife and related spawning grounds and habitat, including sufficient quantities and qualities of flows for successful migration, survival, and propagation of anadromous fish.

(ddd) "Resource priority scheme" means first priority to cost effective conservation, second priority to cost effective renewable resources, third priority to cost effective generating resources utilizing waste heat and to cost effective generating resources of high fuel conversion efficiency, and fourth priority to all other cost effective resources.

(eee) "Small resource" means a resource with a planned capability not greater than either 5 average megawatts or 15 peak megawatts.

(fff) "System cost" is defined within the definition of cost effective.

(ggg) "Time differentiated" means, when applied to a power rate or a unit cost of power, that the rate or unit cost has been adjusted to reflect a different level of value applicable to different time periods, such as winter or summer, weekdays or weekends, etc.

(hhh) "Uniquely suitable for development by the customer" means the conditions affecting the development of a resource which, due to a particular site or other peculiar factors, make development by a particular customer the only practicable alternative.

(iii) "Unit cost" means the cost of a unit of power, such as a kilowatt of capacity or a kilowatthour of energy.

(jjj) "Variable cost" means that component of net costs or alternative costs that potentially may vary significantly over time.

(kkk) "Voluntarily implemented retail rate structure" means a retail rate structure or that portion of a retail rate structure that is adopted by a customer for reasons other than (1) to satisfy Federal or State statutory mandates, (2) to satisfy the requirements of the plan, or (3) to reflect rate design concepts included in BPA's wholesale rates.

Section 3: Qualifying Applicant

(a) Any of the following customers may request a billing credit:

(1) An investor-owned utility that has signed a firm requirements contract pursuant to section 5(b) of the Regional Act;

(2) A public body or cooperative entitled to preference and priority under the Bonneville Project Act of 1937 that has signed a firm requirements contract pursuant to section 5(b) of the Regional Act;

(3) A Federal agency that has signed a firm requirements contract pursuant to section 5(b) of the Regional Act;

(4) A direct service industrial customer that has signed an industrial firm power contract pursuant to section 5(d) of the Regional Act.

(b) Customers must submit applications that are completed in accordance with these policies to be considered for billing credits.

Section 4: Qualifying Conservation Activities

(a) A customer seeking a billing credit for a conservation activity must show to the satisfaction of the Administrator:

(1) That the activity is:

(i) A conservation activity;

(ii) independently undertaken or continued;

(iii) effective on or after December 5, 1980;

(iv) by either:

(A) such customer; or

(B) a political subdivision served by such customer; and

(2) that the conservation activity will reduce the Administrator's obligation to acquire resources under the Regional Act.

(b) The Administrator may grant billing credits for a conservation activity implemented between December 5, 1980, and the date the customer signs a power sales contract described in section 3, for the remaining useful life of such conservation activity commencing upon the effective date of such power sales contract.

Section 5: Qualifying Renewable Resources

(a) A customer seeking a billing credit for a renewable resource must demonstrate:

(1) that the resource is:

(i) A renewable resource;

(ii) constructed, completed, or acquired after December 5, 1980;

(iii) by either:

(A) Such customer;

(B) an entity acting on behalf of such customer; or

(C) a political subdivision served by such customer; and

(2) that the resource reduces the Administrator's obligation to acquire resources under the Regional Act.

(b)(1) A customer must demonstrate that the renewable resource is:

(i) Not inconsistent with the plan; or

(ii) in the absence of a plan, not inconsistent with:

(A) Cost effectiveness;

(B) the resource priority scheme; and

(C) the Administrator's obligation to give due consideration to;

(1) Environmental quality;

(2) compatibility with the existing regional power system; and

(3) protection, mitigation, and enhancement of fish and wildlife and related spawning grounds and habitat, including sufficient quantities and qualities of flows for successful migration, survival, and propagation of anadromous fish.

(2) A renewable resource is not inconsistent with cost-effectiveness if the effects of the quantifiable environmental cost directly attributable to the resource are primarily confined to the service area of the customer offering the billing credit resource.

(3) The fact that a customer develops a resource that does not meet or reduce electric power demand of the consumers of the customer offering the billing credit resource at an estimated incremental system cost that is no greater than that of the least cost similarly reliable and available alternative resource that the Administrator would have acquired instead of granting the billing credit, will not of itself, bar a billing credit.

(4) The Administrator may not grant a billing credit in lieu of granting a billing credit for a resource that has a higher priority on the resource priority scheme or in lieu of acquiring a resource that has a higher priority on the resource priority scheme.

(c) In the case of a renewable resource that is a major resource, if either the Regional Council or the Administrator determines that such resource is inconsistent with any of the criteria and considerations in subparagraph (b) above, then the Administrator may grant a billing credit only in accordance with paragraph (h) of section 13.

(d) The Administrator may grant billing credits to a customer for a renewable resource constructed, completed, or acquired between December 5, 1980, and the date such customer signs a power sales contract described in section 3 for the remaining useful life of such resource commencing upon the effective date of such power sales contract.

Section 6: Qualifying Multipurpose Projects

(a) A customer seeking a billing credit for a multipurpose project must demonstrate:

(1) That the project is:

(i) a multipurpose project

(ii) constructed, completed, or acquired after December 5, 1980,

(iii) by either:

(A) Such customer,

(B) an entity acting on behalf of such customer, or

(C) a political subdivision served by such customer; and

(2) that the project reduces the Administrator's obligation to acquire resources under the Regional Act.

(b) (1) A customer must also demonstrate that the multipurpose project is:

(i) Not inconsistent with the plan; or

(ii) in the absence of a plan, not inconsistent with:

(A) cost effectiveness;

(B) the resource priority scheme; and

(C) the Administrator's obligation to give due consideration to:

(1) Environmental quality;

(2) compatibility with the existing regional power system; and

(3) protection, mitigation, and enhancement of fish and wildlife and related spawning grounds and habitat, including sufficient quantities and qualities of flows for successful migration, survival, and propagation of anadromous fish.

(2) A multipurpose project is not inconsistent with cost-effectiveness if the effects of the quantifiable environmental costs directly attributable to the resource are primarily confined to the service area of the customer offering the billing-credit resource.

(3) The fact that a customer develops a resource that does not meet or reduce electric power demand of the consumers of the customer offering the billing-credit resource at an estimated incremental system cost that is no greater than that of the least cost similarly reliable and available alternative resource that the Administrator would have acquired instead of granting the billing credit will not, of itself, bar a billing credit.

(4) The Administrator may not grant a billing credit in lieu of granting a billing credit for a resource that has a higher priority on the resource priority scheme or in lieu of acquiring a resource that has a higher priority on the resource priority scheme.

(c) In the case of a multipurpose project that is a major resource, if either the Regional Council or the Administrator determines that such resource is inconsistent with any of the criteria and considerations in subparagraph (b) above, then the Administrator may grant a billing credit only in accordance with paragraph (h) of section 13.

(d) The Administrator may grant billing credits to a customer for a multipurpose project constructed, completed, or acquired between December 5, 1980, and the date such customer signs a power sales contract described in section 3 for the remaining useful life of such resource commencing upon the effective date of such power sales contract.

(e) In the case of a multipurpose project other than one uniquely suitable for development by the customer seeking the billing credit, and which is also a major resource and which also was not under construction on December 5, 1980, the customer must also demonstrate that resources in excess of the customer's reasonable load growth have been offered to others for ownership, participation, or other sponsorship.

Section 7: Other Qualifying Resources

(a) A customer seeking a billing credit for a resource other than a conservation activity, other than a renewable resource, or other than a multipurpose project must demonstrate:

(1) That the resource is:

(i) a resource constructed, completed, or acquired after December 5, 1980;

(ii) by either:

(A) Such customer;

(B) an entity acting on behalf of such customer; or

(C) a political subdivision served by such customer;

(2) that the resource reduces the Administrator's obligation to acquire resources under the Regional Act.

(b) (1) A customer must demonstrate that the resource is either:

(i) Not inconsistent with the plan; or

(ii) in the absence of a plan, is not inconsistent with:

(A) cost effectiveness;

(B) the resource priority scheme; or

(C) the Administrator's obligation to give due consideration to:

(1) Environmental quality;

(2) compatibility with the existing regional power system; and

(3) protection, mitigation, and enhancement of fish and wildlife and related spawning grounds and habitat, including sufficient quantities and qualities of flows for sufficient migation, survival, and propagation of anadromous fish.

(2) Another resource is not inconsistent with cost-effectiveness of the effects of the quantifiable environmental costs directly attributable to the resource are primarily confined to the service area of the customer offering the billing credit resource.

(3) The fact that a customer develops a resource that does not meet or reduce electric power demand of the consumers of the customer offering the billing credit resource at an estimated incremental system cost that is no greater than that of the least cost similarly reliable and available alternative resource that the Administrator would have acquired instead of granting the billing credit, will not, of itself, bar a billing credit.

(4) The Administrator may not grant a billing credit in lieu of granting a billing credit for a resource that has a higher priority on the resource priority scheme or in lieu of acquiring a resource that has a higher priority on the resource priority scheme.

(c) In the case of a resource other than a conservation activity, other than a renewable resource, or other than a multipurpose project that is a major resource, if either the Regional Council or the Administrator determines that such resource is inconsistent with any of the criteria and considerations in subparagraph (b) above, then the Administrator may grant a billing credit only in accordance with paragraph (h) of section 13.

(d) The Administrator may grant billing credits to a customer for a resource other than a conservation activity, other than a renewable resource, or other than a multipurpose project, constructed, completed, or acquired between December 5, 1980, and the date such customer signs a power sales contract described in section 3 for the remaining useful life of such resource commencing upon the effective date of such power sales contract.

(e) In the case of a major resource, except one which was under construction on December 5, 1980, the customer must also demonstrate that resources in excess of that customer's

reasonable load growth have been offered to others for ownership, participation, or other sponsorship.

Section 6: Qualifying Retail Rate Structures

(a) A customer seeking a billing credit for a retail rate structure must demonstrate:

(1) That the rate structure is:

(i) a retail rate structure;

(ii) voluntarily implemented;

(iii) after December 5, 1980;

(iv) by such customer; and

(2) that the retail rate structure induces either:

(A) conservation;

(B) installation of consumer-owned renewable resources.

(b) If the retail rate structure induces conservation, the Administrator shall treat the induced conservation as though it resulted from a conservation activity independently undertaken by the customer, and the customer must demonstrate that such induced conservation meets the requirements applicable to a qualifying conservation activity as set forth in section 4.

(c) If the retail rate structure induces installation of consumer-owned renewable resources, the Administrator shall treat the induced consumer-owned renewable resources as customer-owned renewable resources, and the customer must demonstrate that such renewable resources meet the requirements applicable to a qualifying renewable resource as set forth in section 5.

Section 9: General Conditions Governing Granting and Administering Billing Credits

(a) *Prerequisites for Paying Billing Credits: Budget.* (1) The Administrator may not grant a billing credit until the cost of the billing credit (including retroactive payment, if any) has been included in the Administrator's budget submittal.

(2) The Administrator shall include the costs of each approved billing credit in the budget submittal for the first fiscal year in which the billing credit is to be paid and in each budget submittal for each fiscal year in which a billing credit will be paid thereafter. The Administrator may prepare an amended budget submittal to facilitate prompt payment of an approved billing credit where the approval falls in between normal budget submittal dates, but the Administrator is not obligated to do so.

(b) *Prerequisites for Paying Billing Credits: Actual Change in Net Requirements.* (1) The Administrator may not grant a billing credit for any resource until:

(i) A customer purchasing firm power demonstrates that the billing credit resource actually changes the customer's net requirement for supply of electric power or reserves from the Administrator; or (ii) a customer purchasing industrial firm power demonstrates that the billing credit resource actually changes the customer's net requirement for supply of electric power or reserves from the Administrator, including a demonstration by such customer that it has reduced its operating demand and contract demand specified in its contract for the purchase of industrial firm power from the Administrator.

(2) In demonstrating the actual change in net requirements from the Administrator the customer shall show the amount by which the billing credit resource reduces the Administrator's obligation to acquire resources under the Regional Act.

(c) *Prerequisites for Paying Billing Credits: Customer's Commitment to Billing Credit Resource Performance.* The Administrator may not grant a billing credit until a customer has signed a billing credit contract which, among other things, commits the customer to make the billing credit resource available to achieve the actual change in the customer's net requirement for electric power or reserves from the Administrator during the periods specified in such contract. If the billing credit resource is not available to achieve such change, the customer shall provide equivalent electric power or reserves to achieve such change according to the terms of the billing credit contract.

(d) *Compliance with NEPA and Other Environmental Laws.* (1) The Administrator may not give conditional or any other final approval on a billing credit application until the Administrator satisfies the requirements of NEPA and other applicable environmental laws. The customer must provide such environmental information as will permit the Administrator to comply with NEPA and other applicable environmental laws.

(2) The Administrator shall not grant a billing credit until the customer demonstrates that it has complied with Federal, State, or local environmental laws applicable to the resource.

(3) The Administrator shall make every effort to develop State and Federal environmental analyses in a coordinated manner.

(e) *Duration of a Billing Credit.* (1) A customer shall offer a resource for a billing credit for the useful life of the billing credit resource.

(2) Regardless of any customer offer, the Administrator and the customer may negotiate the duration of a billing credit for any billing credit resource.

(3) A customer which has reduced its contract demand for industrial firm power shall have its contract demand restored at the end of the useful life of the billing credit resource.

(f) *Termination of a Billing Credit.* (1) A customer may terminate a billing credit contract on the same conditions with the same notice requirements as for removal of a firm resource from a firm resource exhibit in a utility power sales contract described in sections 3(a)(1), 3(a)(2) or 3(a)(3) of this policy. A customer which has reduced its contract demand for industrial firm power shall have its contract demand retored upon termination of the billing credit contract.

(2) The Administrator may terminate a billing credit contract (i) under the conditions specified in section 14 of this policy or (ii) as mutually agreed upon in the billing credit contract.

(3) The customer shall pay the Administrator a termination charge as specified in the billing credit contract if the customer terminates a billing credit resource prior to the end of its useful life. The Administrator shall pay the customer a termination charge as specified in the billing credit contract if the Administrator terminates a billing credit contract for reasons other than the conditions specified in section 14 of this policy.

(g) *Guaranteed Minimum Alternative Cost.* If the Administrator would have to make a commitment to acquire a resource under the resource acquisition strategy at the time a billing credit is conditionally approved so that such resource would be available at the time the billing credit resource begins to reduce the Administrator's obligation to acquire resources under the Regional Act, the Administrator shall, at the customer's request, estimate the firm alternative cost for such year and guarantee in the billing credit contract that the alternative cost for such billing credit resource shall not be less than such estimated initial alternative cost.

(h) *The Administrator's Right to Reschedule Billing Credit Resources.* (1) If the Administrator includes a guaranteed minimum alternative cost in the billing credit contract, the Administrator may delay the date the billing credit resource begins to reduce the Administrator's obligation to acquire resources under the Regional Act.

(2) To the extent the customer incurs additional costs in the construction or implementation of the billing credit resource due to such delay, the Administrator shall add such costs to the firm alternative cost for such billing credit resource.

(i) *The Administrator's Right to Displace Operation of a Generating Resource.* (1) The Administrator may displace the operation of a generating resource for which a customer is receiving a billing credit when such displacement reduces the cost of meeting the Administrator's obligations.

(2) A customer may continue to operate a generating resource which the Administrator has displaced if:

(i) Such operation does not reduce the amount of electric energy the customer otherwise would have purchased from the Administrator; and

(ii) Such operation does not increase the net costs of the resource.

(j) *Special Arrangements for Small Resources.* (1) The Administrator may exempt a small resource from the requirements of section 9(c) of this rule.

(2) The Administrator may, by publishing a finding in the Federal Register, deem the net costs of a small resource to be equal to the Administrator's alternative cost at the time the small resource begins to reduce the Administrator's obligation to acquire resources under the Regional Act.

Section 10: Methodology for Determining Amounts of Billing Credits

(a) *Determination of Alternative Cost.* (1) The Administrator shall make a determination of the BPA alternative cost for each operating year based upon the weighted average cost of (i) those generating resources utilized within the Pacific Northwest to meet load growth among the Administator's customers and (ii) conservation activities and other nongenerating resources utilized to meet load growth among the Administrator's customers which are equal to or greater in cost than the weighted average of the generating resources included in the calculation. The total cost of all resources including conservation activities will be utilized, including portions paid for by BPA, customers, and ultimate consumers.

(2) The Administrator may adjust the alternative cost, if necessary, to account for the differences in rate impact on the Administrator's other customers of meeting load with conservation or other nongenerating resources rather than with generating resources, taking into account customer conservation charges designed to recover portions of the costs of BPA conservation programs as well as other factors that affect other customer's rates.

(3) The Administrator shall also prepare a forecast of the BPA alternative cost for each of at least the following 10 years based upon the Administrator's estimates of the load growth of the Administrator's customers and the costs of those resources including conservation activities expected to be utilized to meet such load growth. The forecast of BPA alternative costs shall be updated annually as of the start of each operating year.

(4) The Administrator shall determine the fixed and variable cost components of each year's alternative cost, shall classify each year's alternative cost into a capacity and energy component, and shall time differentiate such capacity and energy components compatible with the manner in which BPA's current wholesale power rates may be time differentiated.

(5) The Administrator shall make a preliminary determination of each year's alternative cost and the forecasted future years' alternative cost and solicit public and customer comment thereon. Following review of comments received, the Administrator shall publish each year's determination of alternative cost and the updated forecast of future years' alternative cost.

(b) *Calculating the Billing Credit for Conservation Activities.* (1)(i) The Administrator shall determine the initial alternative cost for a billing credit resource.

(ii) The Administrator shall establish a formula that the Administrator shall use to adjust the variable cost portion of such initial alternative cost over time.

(2) The Administrator shall determine the billing credit by subtracting the customer's wholesale power rate from the customer's adjusted alternative cost, and multiplying the result by the amount by which the conservation activity actually changes the customer's net requirement for supply of electric power or reserves from the Administrator.

(3) As of the beginning of each operating year, the Administrator shall adjust the billing credit to reflect the adjusted alternative cost.

(4) The Administrator may reduce a billing credit for a conservation activity to zero if the customer's wholesale power rate ever exceeds the adjusted alternative cost. However, a billing credit for a conservation activity may never become a negative amount.

(c) *Calculating the Billing Credit for Resources Other Than Conservation.* (1)(i) The Administrator shall determine the net unit costs of the resource for which the customer is seeking a billing credit based on the cost data that the customer must provide in the application or in the customer's annual report.

(ii) The Administrator shall determine the following components of the resource's net costs:

(A) The fixed cost component;

(B) the variable cost component that would be saved were the resource not operated;

(C) the variable cost component that would not be saved were the resource not operated; and

(D) the Administrator shall classify to capacity and energy and time differentiate the net costs of the resource compatible with the manner in which BPA's current wholesale power rates may be time differentiated.

(2) The Administrator shall determine the resource's firm alternative cost.

(3) The Administrator shall determine the billing credit by subtracting the customer's wholesale power rate from the lesser of (i) the adjusted alternative cost or (ii) the adjusted net cost of the resource and multiplying the result by the amount by which the resource actually changes the customer's net requirement for supply of electric power or reserves from the Administrator.

(4) As soon as practicable after the beginning of each operating year, the Administrator shall adjust the billing credit to account for differences between the variable cost component used in the adjusted net cost of the resource and the net costs which actually occurred during the previous operating year. In making such adjustment, the Administrator shall use the lesser of (i) the net cost as adjusted for differences in the variable cost component of the customer's adjusted net cost and the net costs which actually occurred during the previous operating year, or (ii) the adjusted alternative cost.

(5) The billing credit shall become a negative amount to the extent the customer's wholesale power rate ever exceeds the adjusted net cost or the adjusted alternative cost, whichever is used, including the adjustment to reflect differences in the customer's adjusted net cost and the net costs which actually occurred during a previous operating year.

Section 11: Resource Acquisition Strategy

(a) The Administrator periodically shall develop and update a resource acquisition strategy setting forth the cost effective resources the Administrator reasonably expects to acquire to meet the Administrator's obligations under the Regional Act. The strategy shall cover a 20-year period, or as many years as it is feasible to compile the necessary data.

(b) The Administrator may revise the resource acquisition strategy as often as the Administrator deems necessary but not less often than every 5 years.

(c) The Administrator shall integrate billing credit resources into the resource acquisition strategy as of the time a billing credit resource begins to reduce the Administrator's obligation to acquire resources under the Regional Act.

(d) The Administrator shall, to the fullest extent practicable, develop such resource acquisition strategy consistent with the Regional Council's plan.

(e) The Administrator shall make the resource acquisition strategy available to customers for use in demonstrating in a billing credit application how a billing credit resource will reduce the Administrator's obligation to acquire resources under the Regional Act.

Section 12: Application Procedure

(a) *General Requirements.* (1) The Administrator will consider granting a billing credit only upon receipt of a written application submitted in accordance with this policy.

(2) A customer may submit an application for a billing credit at any time that it has the necessary data to complete an application.

(3) The Administrator recommends that customers apply for a billing credit after the planning stage but prior to beginning construction or implementation of a billing credit resource. Customers are encouraged to consult with BPA's Area offices early in the planning process to facilitate timely application and review.

(4) The customer shall carry the burden of proving that the appropriate criteria necessary to receive a billing credit have been satisfied.

(5) A customer need not follow any particular application format.

(6)(i) A customer applying for a billing credit must submit such information as will permit the Administrator to determine:

(A) whether to grant a billing credit; and

(B) the appropriate amount of the billing credit if it is to be granted.

(ii) While the information required from a customer varies with the type and size of the billing credit resource as well as other factors, the customer must include at least the following information:

(A) A description of the resource including appropriate engineering, cost, and environmental information;

(B) a statement of the amount of energy and capacity which the resource will produce or save and the time periods in which such production or savings will occur;

(C) a statement of the amount by which the billing credit resource will reduce the Administrator's obligation to acquire resources under the Regional Act;

(D) a schedule of the appropriate dates such as construction dates, date of commercial operation, and the dates between which the customer will reduce the Administrator's obligation to acquire resources under the Regional Act;

(E) a description of any methodologies and assumptions that the customer used in preparing information contained in the application;

(F) supporting documentation of the information contained in the application;

(G) the status of any required licenses or permits including copies of licenses or permits that have been granted;

(H) a description of the environmental impacts, if any, the billing credit resource may have; mitigating measures, if any, to be taken; and the status of whatever environmental reviews, permits, or other actions which may be required with regard to environmental impacts;

(I) a description of the impacts, if any, the billing credit resource may have on fish and wildlife; any consultations concerning fish and wildlife; any consultations concerning fish and wildlife impacts with the Federal and the region's State fish and wildlife agencies, and the region's Indian Tribes, including recommendations from such consultations, if any; the mitigating measures, if any, to be taken; and the opportunities, if any, which may be present for enhancing fish and wildlife; and

(J) such other information as may be either requested by the Administrator or required by this policy.

(7) A customer must submit 10 copies of its application together with a transmittal letter addressed to the Administrator.

(8) A customer wishing to protect trade secrets or other proprietary information must specifically identify such information.

(b) *Specific Requirements: Cost Data.* (1) For resources other than conservation, the customer must submit such cost data as will enable the Administrator to determine:

(A) The net costs of the resource;

(B) the fixed and variable cost components;

(C) a classification of the net cost to capacity and energy; and

(D) a means of time differentiating the net cost compatible with the manner in which BPA's current power sales rates are time differentiated.

(2) Customers also must submit an explanation of the cost estimating, accounting, or other methodology used in estimating or determining net costs, including the amount included and the rationale for the cost of capital or return on investment.

(3) In the case of multipurpose projects, the applicant shall provide such information as will permit the Administrator to determine the net cost after allocating the total costs of the project among electric power production and other project purposes.

Section 13: The Administrator's Decisionmaking Process

(a) *Review of Application.* (1) The Administrator shall review each billing credit application to determine whether the application contains such information as will enable the Administrator:

(i) To make a decision consistent with the requirements of this policy;

(ii) To comply with NEPA and other applicable environmental laws; and

(iii) To satisfy the Administrator's obligation to protect, mitigate, and enhance fish and wildlife.

(2) The Administrator may return applications which contain information insufficient to process the billing credit application. In such instances, the Administrator shall briefly explain in a letter to the applicant why the application is inadequate, describe any missing information, and provide an opportunity to submit an amended application.

(b) *NEPA and Other Environmental Considerations.* Prior to conditionally approving or otherwise making a final decision on an application, the Administrator shall comply with NEPA and other environmental laws.

(c) *Integration with Resource Acquisition Strategy.* The Administrator shall determine when the Administrator can integrate the billing credit resource into the resource acquisition strategy in order to (1) establish the date on which the billing credit resource will reduce the Administrator's obligation to acquire resources under the Regional Act, (2) determine the amount of such reduction, and (3) estimate the value of the billing credit.

(d) *Decision on Applications.* The Administrator shall, within a reasonable time of completing the analysis of the application and of completing NEPA or other appropriate procedures, either:

(1) Conditionally approve the billing credit; or

(2) Deny the application by letter, briefly stating the reasons for rejecting the application.

(e) *Billing Credit Contract Negotiation.* (1) Subsequent to giving conditional approval, the Administrator shall, in a reasonable time, begin negotiating a billing credit contract.

(2) The Administrator shall include in all billing credit contracts such terms as will insure:

(i) That the customer will operate the billing credit resource in a manner compatible with the planning and operation of the region's power system;

(ii) That the billing credit resource will be constructed, scheduled, completed, and operated in a timely fashion;

(iii) That the customer shall provide equivalent electric power or reserves to achieve such reduction if the billing credit resource is not available to reduce the customer's load on BPA within the period specified in the billing credit contract;

(iv) That the costs of the billing credit resource are as low as reasonably possible consistent with:

(A) sound engineering, operating, and safety practices;

(B) the protection, mitigation, and enhancement of fish and wildlife, including related spawning grounds and habitat affected by the development of such resources; and

(C) the requirements of the Regional Act;

(v) That the Administrator exercises effective oversight, inspection, audit, and review of such construction and operation;

(vi) That the Administrator has the authority to approve all costs of, and proposals for, major modifications in construction, scheduling, or operations;

(vii) That the Administrator is provided with such information as is necessary to evaluate such construction and operation; and

(viii) That the resource is constructed and operated in a manner consistent with the customer's power sales contract and other agreements related to the construction and operation of the region's resources.

(f) *Procedures for Nonmajor Billing Credit Resources.* (1) Once the Administrator and the applicant have negotiated a proposed billing credit contract, the Administrator shall, prior to signing the billing credit contract, publish notice of the proposed billing credit contract in the Federal Register and provide a copy of such notice to the Regional Council, the Governor of each State in which facilities would be constructed or a conservation measure implemented, the Administrator's customers, and any interested person who requests a copy.

(2) The Administrator shall include in such notice the methodology the Administrator proposes to use in determining the amount of the proposed billing credit.

(3)(i) Anyone wishing to comment on the proposed billing credit contract must do so in writing within 30 days of the date of the notice.

(ii) The Administrator's staff shall evaluate any comments that are submitted and make a recommendation to the Administrator.

(iii) The Administrator shall include any such comments as part of the administrative record.

(4) After the 30-day comment period, the Administrator may:

(i) Sign the billing credit contract or;

(ii) renegotiate the proposed billing credit contract as the Administrator deems appropriate; or

(iii) deny the billing credit application.

(5) The Administrator may republish notice of the proposed billing credit contract if the Administrator and the customer renegotiate the proposed billing credit contract and the renegotiated billing credit contract differs from the initial proposed billing credit contract enough to warrant republication.

(6) Before the Administrator grants a billing credit, the Administrator shall:

(i) Publish notice of the decision in the Federal Register; and

(ii) note the billing credit and include the cost of the billing credit in the Administrator's budget submittal.

(7) The Administrator may not grant a billing credit until 90 days after the date on which the billing credit was noted in the budget submittal or after the date on which such decision has been published in the Federal Register, whichever is later.

(g) *Procedures for Major Billing Credit Resources.* (1) Once the Administrator and the applicant have negotiated a proposed billing credit contract, the Administrator shall, prior to signing the billing credit contract, publish notice of the proposed billing credit contract in the Federal Register and provide a copy of such notice to the Regional Council, the Governor of each State in which the resource would be constructed or implemented, the Administrator's customers, and any interested person who requests a copy.

(2) The Administrator shall include in such notice the methodology the Administrator proposes to use in determining the amount of the proposed billing credit.

(3) Within 60 days of publication of notice of the proposed billing credit contract in the Federal Register, the Administrator shall conduct one or more public hearings presided over by a hearing officer, at which testimony and evidence shall be received, with opportunity for rebuttal and cross-examination as the hearing officer deems appropriate.

(4) The Administrator shall develop an adequate administrative record which shall include the transcripts of the public hearings, together with exhibits, and such other materials and information submitted to or developed by the Administrator.

(5)(i) The Administrator shall make public and provide to the Regional Council a written decision containing:

(A) A finding that granting the billing credit is not inconsistent with the plan, or if no plan is in effect, not inconsistent with:

(1) Cost-effectiveness;

(2) the resource priority scheme; and

(3) the Administrator's obligations to give due consideration to environmental quality, compatibility with the region's power system, and the protection, mitigation, and enhancement of fish and wildlife and related spawning grounds and habitat, including sufficient quantities and qualities of flows for successful migration, survival, and propagation of anadromous fish; and

(B) a finding that the billing credit resource will reduce the Administrator's obligation to acquire resources under the Regional Act.

(ii) (A) A billing credit resource is not inconsistent with cost-effectiveness if the effects of the quantifiable environmental costs and benefits directly attributable to the resource are primarily confined to the service area of the customer offering the billing credit resource.

(B) The fact that a customer develops a resource that does not meet or reduce electric power demand of the consumers of the customer offering the billing credit resource at an estimated incremental system cost that is not greater than that of the least cost similarly reliable and available resource the Administrator would have acquired instead of granting the billing credit will not, of itself, bar a billing credit.

(C) The Administrator may not grant a billing credit for a resource in lieu of granting a billing credit for a resource that has a higher priority on the resource priority scheme or in lieu of acquiring a resource that has a higher priority on the resource priority scheme.

(6) Prior to taking any further action, the Administrator shall wait the lesser of 60 days from the date the written decision is received by the Regional Council or the date the Council determines whether the billing credit is consistent or inconsistent with the plan,

or if no plan is in effect, consistent or inconsistent with:

(i) Cost-effectiveness;

(ii0 the resource priority scheme; and

(iii) the Administrator's obligation to give due consideration to environmental quality, compatibility with the region's power system, and the protection, mitigation, and enhancement of fish and wildlife and related spawning grounds and habitat, including sufficient quantities and qualities of flows for successful migration, survival, and propagation of anadromous fish.

(7) Before the Administrator grants a billing credit, the Administrator shall:

(i) Submit to the appropriate congressional committees:

(A) The administrative record of the decision,

(B) the consistency determination by the Regional Council, if any, and

(C) a statement of NEPA compliance procedures followed or to be followed;

(ii) publish notice of the decision in the **Federal Register**; and

(iii) note the billing credit and include the cost of the billing credit in the Administrator's budget submittal.

(8) The Administrator may not grant a billing credit until 90 days after the date the proposal was noted in the annual budget or 90 days after the date the decision was published in the **Federal Register**, whichever is later.

(h) *Procedures for Inconsistent Major Billing Credit Resources.* The Administrator may not grant a billing credit for a major resource determined by the Administrator or by the Regional Council to be inconsistent with the plan, or if no plan is in effect, inconsistent with cost-effectiveness, the resource priority scheme, or the Administrator's obligations to give due consideration to environmental quality, compatibility with the region's power system, and the protection, mitigation, and enhancement of fish and wildlife and related spawning grounds and habitat, including sufficient quantities and qualities of flows for successful migration, survival, and propagation of anadromous fish, unless:

(1) The Administrator finds that, notwithstanding such inconsistency, such billing credit resource is needed to meet the Administrator's obligation to acquire resources under the Regional Act; and

(2) the expenditure of funds for such billing credit has been specifically authorized by Act of Congress.

Section 14: Administering Approved Billing Credit Contracts

(a) *Payment.* (1) When the billing credit is positive, that is, when the lesser of the adjusted alternative cost or adjusted net costs is greater than the customer's wholesale power rate, the Administrator shall pay billing credits monthly either through offsets to the customer's power bill or by check or other appropriate instrument.

(2) In the case of resources other than conservation, the Administrator shall increase the customer's bill when the billing credit as adjusted is negative, that is, when the lesser of the adjusted alternative cost or adjusted net cost, as the case may be, is less than the customer's wholesale power rate, or the billing credit has been adjusted to reflect differences in the customer's adjusted net costs and the net costs which actually occurred during a previous operating year.

(b) *Customer's Annual Report.* (1) Within 60 days after the start of each operating year, each customer that has received a billing credit during the past operating year shall submit to the Administrator an annual report for each of the customer's billing credit resources.

(2) The customer shall include in the report such information as will enable the Administrator to evaluate the continued effectiveness of the billing credit resource and adjust the customer's billing credit.

(3) A customer receiving a billing credit must monitor the performance of its resource and periodically provide to the Administrator information as will permit the Administrator to evaluate the reduction in the Administrator's obligations that the customer's resource is achieving. The customer must include a statement of:

(i) The performance of the billing credit resource over the past operating year;

(ii) for resources other than conservation, the variable-cost component and the fixed-cost component of net costs actually incurred by the resource developer during the period in which the customer has received a billing credit;

(iii) for resources other than conservation, any anticipated changes in the net costs reasonably expected to be incurred by the resource developer during the next 3 operating years; and

(iv) any other information that the Administrator may request from time to time.

(c) *Adjustment of the Billing Credit.* (1) As soon as practicable after receipt of the customer's annual report, the Administrator shall adjust the billing credit to reflect any differences in the variable cost component used in the adjusted net costs of the billing credit resource and the net cost of the billing credit resource which actually occurred during the previous operating year.

(2) Whenever an adjustment of the variable cost component of the firm alternative cost for a specified operating year is determined by the Administrator, the Administrator shall adjust those billing credits controlled by such adjusted alternative cost.

(3) The Administrator shall adjust the billing credit to reflect any changes in the customer's wholesale power rate, including any surcharges that the Administrator may impose on the customer pursuant to section 4(f) of the Regional Act, whenever such rates change.

(4) The Administrator may adjust the billing credit as appropriate to reflect any:

(i) Changes in the electric power actually produced or saved by a billing-credit resource, or

(ii) deviations from the amount of billing credits that should have been paid whatsoever the reason.

(5) Whenever the Administrator changes the amount of a billing credit, the Administrator shall notify the customer by letter briefly stating the reasons for such changes.

(d) *Administrator's Periodic Review and Audit.* (1) The Administrator may audit, inspect, or otherwise review any aspect of the construction or operation of any resource for which the Administrator grants or intends to grant a billing credit as the Administrator deems appropriate to carry out the Administrator's responsibilities under the Regional Act consistent with sound business practices.

(2) Customers receiving billing credits shall make available to the Administrator such information as the Administrator may request in conducting such audit, inspection, or other review.

(3) The Administrator may conduct, upon reasonable notice, such onsite inspections of a billing credit resource as the Administrator may deem necessary to verify the accuracy of any information provided by such customers or to otherwise perform the Administrator's obligations.

(e) *Remedies.* (1) The Administrator may cease granting a billing credit or adjust a billing credit whenever the Administrator determines that a customer has failed to meet the requirements of this policy or the customer's billing credit contract.

(2) Prior to taking such action, the Administrator shall:

(i) Give 30 days' notice to the customer in writing stating the nature of the breach; and

(ii) state the course of conduct the customer must pursue to cure the breach.

Section 15: Reconsideration of the Administrator's Decisions

(a) *Customer's Right To Request Reconsideration.* Any customer who believes that it has been adversely affected by a decision of the Administrator related to billing credits may request in writing that the Administrator reconsider the decision within 30 days of receipt of notice of such decision.

(b) *The Administrator's Response.* The Administrator shall respond in writing within a reasonable time briefly stating the decision and the reasons therefor.

Section 16: Records and Access to Information

(a) Customers supplying information to the Administrator that is proprietary and intended by the customer to be disclosed in confidence to the Administrator must specifically identify such information.

(b) Customers must maintain such records as will permit the Administrator to exercise prudent oversight including audit, inspection, or other review of any aspects of the construction and operation of a resource as the Administrator determines may be appropriate.

(c) Customers must comply with the requirements of the Privacy Act, Pub. L. 93–579, 88 Stat. 1896.

(d) The Administrator and its customers shall make all records relating to billing credits available to any entity who may wish to inspect or copy such records only in accordance with the requirements of the trade Secrets Act, 18 U.S.C. 1905, the Freedom of Information Act, 5 U.S.C. 552, and the Privacy Act, Pub. L. 93–579, 88 Stat. 1896.

Issued in Portland, Oregon, February 26, 1982.

Peter T. Johnson,

Administrator.

[FR Doc. 82-6050 Filed 3-4-82; 8:45 am]

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Friday
March 5, 1982

Part VIII

Department of Education

**Library Career Training Program
(Title II-B HEA)**

DEPARTMENT OF EDUCATION

34 CFR Part 776

Library Career Training Program (Title II–B HEA)

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education is issuing final regulations for the Library Career Training Program. These final regulations restructure the current regulations, reduce program requirements, and implement statutory changes made by the Education Amendments of 1980.

EFFECTIVE DATE: Unless the Congress takes certain adjournments, these regulations will take effect 45 days after publication in the Federal Register. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

ADDRESSES: Further inquiries may be made to Frank A. Stevens, U.S. Department of Education, 400 Maryland Avenue SW., Room 3822, ROB-3, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:
Frank A. Stevens, Telephone (202) 245-9530.

SUPPLEMENTARY INFORMATION:

Background

The Library Career Training Program provides financial assistance to institutions of higher education and library agencies for fellowships, institutes, and traineeships in the area of library and information science. The program has sought to provide greater training opportunities for minorities, the economically disadvantaged, handicapped individuals, and women, and to satisfy the library and information science needs of underserved groups.

In a notice published in the Federal Register on March 27, 1981 (46 FR 19000), the Secretary announced his intention to review and, as appropriate, amend certain regulations, including the regulations that govern the Library Career Training Program, in order to comply with the requirements of Executive Order 12291 and its overall objective to reduce regulatory burden. The Secretary published proposed rules to implement the Library Career Training Program in the Federal Register on October 23, 1981 (46 FR 53362) and invited public comment on these proposed rules.

Public Comments on the NPRM

The following public comments were received in response to the NPRM:

Section 776.4 Definitions that apply to this program

Comment. One commenter suggested that to be consistent with other portions of the proposed regulations, the phrase "library or information science" that appears in the definition of fellowship be changed to "library and information science."

Response. A change has been made. The definition of fellowship now refers to a program of "library and information science."

Comment. One commenter stated that traineeships are an unwise investment of tax dollars. Because minority persons are already well represented in the clerical ranks of library staffs, the commenter reasoned that traineeships that prepare persons for clerical work are not an effective agent for change. However, another commenter said the reference to "mid-level library and information science professionals" in the definition of traineeship seemed unnecessarily restrictive. This commenter said that applicants should be given as much flexibility as possible in designing traineeships.

Response. No change has been made. The statute these regulations implement allows for the provision of traineeships. See section 222(a)(2) of the Act. However, these regulations do not intend for traineeships to be at the clerical level, but at a professional level. The regulatory definition of traineeship states, in part, that it "is designed to meet the individual needs of mid-level library and information science professionals." Nor does the Secretary believe the term "mid-level" is overly restrictive. It can be read to refer to the number of years in the profession, professional level or title, or salary. It should be interpreted as general guidance in selecting individuals who show the greatest promise of moving into positions of leadership in the library and information science profession, and who would benefit from an internship experience.

Comment. One commenter inquired whether the term "underrepresented groups" was defined in an "official document."

Response. No change has been made. The term is included in the Library Career Training Regulations for the purposes of this program only. This definition reflects the history of the Library Career Training Program in providing training opportunities to such groups and also reflects the intent of Congress.

Comment. One commenter wondered why women were included among those "who are members of groups that have been traditionally underrepresented" in the library and information science profession, because at the master's level four out of five students are women.

Response. A change has been made. The definition of underrepresented groups refers to "groups of persons who have been traditionally underrepresented either at the highest level *or* at other levels of the library and information science profession" (italics added). Women are included in the category of "underrepresented" because traditionally they have not been found at the highest levels of the library and information science profession. However, the definition was not intended to suggest that each group was underrepresented at each professional level. To clarify this, language has been added to the definition to indicate that the identity of underrepresented groups depends, in part, upon the professional level at issue. Therefore, whereas the program objective to "increase opportunities for professional advancement for members of underrepresented groups by providing training beyond the master's degree level" (§ 776.11(b)) may be understood to include women as an underrepresented group, the objective to "increase opportunities for members of underrepresented groups to obtain training in librarianship" (§ 776.11(a)) as applied to training at the master's level or below, may not.

Section 776.11 Program objectives

Comment. One commenter saw a contradiction between the program objectives of "train(ing) library personnel to serve the interest of traditionally underserved groups" and "train(ing) library personnel in the new techniques of information acquisition and transfer." The commenter said that these two objectives should either be related in some fashion or recognized as "mutually independent."

Response. No change has been made. The program objectives in § 776.11 state that "the Secretary encourages applicants to design projects that will accomplish *one or more* of the following objectives" (emphasis added). Applicants are encouraged to select objectives according to their needs and interests. To this extent the two objectives cited, as well as the others, may be considered mutually independent. However, the Secretary believes it would be quite possible to combine two or more of these objectives in a single project.

Comment. One commenter referred to the program objective which reads, "Train or retrain library personnel in new techniques of—Planning, evaluation, and dissemination" and suggested that if the intent was to require projects to include planning, evaluation, and dissemination elements, the section should be reworded to make this clear.

Response. No change has been made. The intent of the objective is to encourage applicants to design projects that deal with training personnel in the new techniques of program planning, evaluation, and dissemination in the library and information science field, as well as in new techniques of information acquisition, transfer, and communication technology. Project planning and evaluation requirements applicable to projects supported by the Library Career Training Program are adequately addressed elsewhere in the regulations.

Comment. One commenter, noting the programmatic emphasis in the proposed rules upon training library personnel in new techniques of information acquisition, transfer, and communication technology, expressed concern about the scarcity of black librarians as well as the hope that the Library Career Training Program would continue to support the training of minorities in the library field.

Response. No change has been made. The program objective described in § 776.11(d)(1) of the regulations reflects statutory language added by the Education Amendments of 1980, Pub. L. 96–374, which indicates the intent of Congress to support library training with respect to "new techniques of information transfer and communication technology" (Section 222(a)(3)). The regulatory section in question also continues to encourage increased opportunities for the training and professional advancement of persons in underrepresented groups, which, as defined by § 776.4(b), includes "racial and ethnic minorities." Further, § 776.11 of the regulations encourages applicants to design projects that will accomplish "one or more" of the stated program objectives—therefore, for example, projects might be designed which recruit and train minorities in the new techniques of information acquisition, transfer and communication technology.

Section 776.31 Selection criteria for fellowship applications

Comment. One commenter stated that proposed § 776.31(a)(2)(ii) implied the existence of one set of standards recognized by the librarianship and information science profession.

Response. No change has been made. The provision is not intended to imply that particular inflexible standards are accepted unanimously by the library and information science profession. Neither is the Secretary attempting to establish standards. The Secretary does believe, however, that persons, themselves experienced members of the profession, who review applications will be able to articulate and apply "standards that are recognized" by the profession.

Comment. One commenter asked if the standard referred to in § 776.31(d)(2)(ii) addressed the problem of the "traditionally underrepresented groups" in the library and information science profession. § 776.31(d)(2)(ii) reads, "the applicant's admissions standards for participants are as high as they are for other students in the library education program.")

Response. No change has been made. References in these regulations to traditionally underrepresented groups in the library and information science profession do not include those who might be considered educationally disadvantaged. The definition in these regulations of "underrepresented groups" states that these groups include "racial and ethnic minorities, economically disadvantaged persons, handicapped persons, and women." The history of the Library Career Training Program demonstrates that successful fellowship candidates from underrepresented groups can meet the regular admissions standards of grantees.

Comment. One commenter requested a clarification of § 776.31(e)(2) (iii) and (iv). Those provisions provide that applications for fellowship projects are judged, in part, on the ratio of degrees awarded to enrollment in the applicant's library education program and the ratio of requested fellowships to other fellowships and scholarships in librarianship supported by the applicant.

Response. No change has been made. These ratios are reviewed to determine whether or not the applicant is awarding an appropriate number of degrees compared to its enrollment and is requesting an appropriate number of fellowships compared to what it is providing itself. The Secretary believes this information bears upon the quality of the applicant's program in library and information science.

Section 776.34 Distribution of funds.

Comment. One commenter questioned the legal authority of the Secretary to specify in an application notice how the funds available for this program "will be divided among fellowship, institute and traineeship grants." The commenter noted that the statute authorizes the use of funds for several types of projects and said that grantees should be given some choice in deciding how the Federal funds are used. Another commenter wanted more grant money available for workshops and institutes.

Response. No change has been made. Section 776.34(a) is believed to be consistent with the intent of Congress. For fiscal year 1982, and for several preceding fiscal years, Congress has made clear during the appropriation process that it intended to support only fellowship projects with Federal funds. This is, of course, consistent with section 222(b) of the Act which mandates that *at least* 50% of the grants awarded under this program for each fiscal year "be for the purpose of establishing and maintaining fellowship or traineeships." Therefore, the Act requires that the Secretary have the authority to impose certain limitations upon the use of available funds. Accordingly, for fiscal year 1982 and preceding years, the Secretary has announced in the application notice that funds would be available only for fellowship projects. Section 776.34(a) does no more than clarify the authority of the Secretary to ensure that funds appropriated for the Library Career Training Programs are used in the manner intended by Congress.

Comment. One commenter suggested that fellowships should be awarded only for graduate level programs because, the commenter argued, it is a poor investment to train individuals in undergraduate programs which do not qualify them for professional positions or for ready acceptance into graduate programs.

Response. No change has been made. Section 776.34 indicates that the Secretary may reserve funds for fellowship awards at particular academic levels. This provision allows the Secretary the discretion to determine at which academic level fellowship projects would hold the greatest promise. The Secretary announces such decisions in the application notice.

Section 776.41 Fellowship project costs.

Comment. One commenter asked if the $3500 in grant funds for fellowships awarded at the post-master's and doctoral level that appears in § 776.41(a)(3) is a typographical error and should read $5200.

Response. A change has been made. The $3500 figure was an inadvertent

error. The section in question now reads, "for each fellowship awarded at the post-master's and doctoral level—$5200 for an academic year plus $800 for a summer session."

§ 776.44 Travel allowances and § 776.45 Allowances for dependents.

Comment. One commenter suggested that allowances for travel and dependents should be assigned a very low priority.

Response. No change has been made. Section 222(a)(2) of the statute specifically authorizes travel and dependency allowances. However, while applicants may request travel and dependency allowances, the Secretary is not required to accept those requests. The regulations in §§ 776.44 and 776.45 indicate that the Secretary will authorize travel and dependency allowances only in certain circumstances—such as "extreme hardship"—and only when the need for them is persuasively documented.

Additional Changes Made to the NPRM

While these final regulations are substantially the same as those of the NPRM, editorial corrections and revisions have been made. They include:

- In § 776.3(a)(1) reference to § 776.13 is deleted because there is no § 776.13 in the regulations.
- In § 776.4(a) local educational agency and State educational agency are deleted since these terms do not appear in the regulations.
- In § 776.4(b), the definition of summer session is deleted because it is deemed unnecessary.
- Section 776.20 is revised to clarify that a grantee may conduct one or more projects.
- Section 776.30(a)(2) has been moved to § 776.34.

Burden Reduction

No response from an institution of higher education regarding burden reduction has been received. to assist the Department in complying with the specific requirements of Executive Order 12291 and its overall objective of reducing regulatory burden, public comment is invited on whether there may be opportunities to reduce any regulatory burdens found in these regulations, especially regard to paperwork and compliance requirements.

Written comments and recommendations may be sent to the address given at the beginning of this preamble. The Secretary will consider and may take action on substantive comments as deemed appropriate.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision. (20 U.S.C. 1021, 1032).

(Catalog of Federal Domestic Assistance No. 84.036, Library Career Training Program)

Dated: March 1, 1982.

T. H. Bell,

Secretary of Education.

The Secretary revises Part 776 of Title 34 of the Code of Federal Regulations to read as follows:

PART 776—LIBRARY CAREER TRAINING PROGRAM

Subpart A—General

Sec.
776.1 The library career training program.
776.2 Eligible parties.
776.3 Regulations that apply to this program.
776.4 Definitions that apply to this program.

Subpart B—Kinds of Projects for Which Grants Are Made

776.10 Types of projects.
776.11 Program objectives.
776.12 Project duration.

Subpart C—How To Apply for a Grant

776.20 Application instructions.

Subpart D—How the Secretary Makes a Grant

776.30 How the Secretary evaluates applications.
776.31 Selection criteria for fellowship applications.
776.32 Selection criteria for institute applications.
776.33 Selection criteria for traineeship applications.
776.34 Distribution of funds.

Subpart E—Conditions That Must Be Met by a Grantee

776.40 Allowable costs.
776.41 Fellowship project costs.
776.42 Institute project costs.
776.43 Traineeship project costs.
776.44 Travel allowances.
776.45 Allowances for dependents.
776.46 Tuition and fees.
776.47 Notification of the State agency.

Subpart F—The Administrative Responsibilities of a Grantee

776.50 Participant eligibility and selection.
776.51 Substitutions.
776.52 Payments to participants.
776.53 Payment adjustments.
776.54 Assistance under other Federal programs.

Authority: Part B of Title II of the Higher Education Act of 1965, as amended by Education Amendments of 1980, Pub. L. 96-374, 94 Stat. 1363 (20 U.S.C. 1021).

Subpart A—General

§ 776.1 The Library Career Training Program.

The Secretary awards grants and contracts for the purpose of—

(a) Training persons in librarianship through fellowships, institutes, or traineeships.

(b) Establishing, developing, and expanding programs of library and information science, including new techniques of information transfer and communication technology.

(Sec. 201 and 222 of the Act, 20 U.S.C. 1021, 1032)

§ 776.2 Eligible parties.

Eligible applicants are—

(a) An institution of higher education.

(b) A library organization or agency.

(Sec. 222 of the Act, 20 U.S.C. 1032)

§ 776.3 Regulations that apply to this program.

(a) The following regulations apply to grants under the Library Career Training Program:

(1) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of grants), 34 CFR Part 75 (Direct Grant Programs), and 34 CFR Part 77 (Definitions); and

(2) The regulations in this Part 776.

(b) A different set of regulations apply to contracts made under this program. (See EDGAR, 34 CFR 75.4 Education Department contracts).

(20 U.S.C. 3474)

§ 776.4 Definitions that apply to this program.

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Parts 74 and 77:

Applicant
Application
Award
Contract (includes definition of Subcontract)
Department
EDGAR
Grant
Grantee
Private
Project
Project period
Public
Secretary

(b) *Other definitions.* The following additional definitions apply to this part:

"Act" means the Higher Education Act of 1965, as amended.

"Dependent" means any individual as described in paragraphs (1), (2), or (3) below who will receive more than half of his or her support from a project participant during the course of a project conducted under this program:

(1) Any individual related by blood or marriage to the participant;

(2) Any legally adopted child or a child placed for adoption in the participant's home by a licensed child-placing agency, and

(3) Any other individual living in the participant's household, provided the relationship of the two individuals is not illegal.

"Fellowship" means an award to an individual who has been accepted for admission to an institution of higher education and who is or will be enrolled full-time in a graduate or undergraduate program of library and information science. The purpose of the award is to assist recipients financially as they work toward or complete the requirements for a specific degree in some aspect of librarianship.

"Institute" means a specialized group training project in librarianship that:

(1) Is separate from the regular academic program of the applicant;

(2) Has an innovative curriculum;

(3) May or may not provide academic credit;

(4) Either provides persons with the skills needed to enter the library and information science field or provides library and information science personnel—including library educators—an opportunity to strengthen or increase their competencies; and

(5) May be long term or short term.

"Institution of higher education" means the type of institution defined by section 1201 of the Act.

"Librarianship" means the principles and practices of library and information science, including the acquisition, organization, storage, retrieval, and dissemination of information, and reference and research use of library and other information resources.

"Library organization or agency" means a public or private organization or agency that provides library services or programs.

"Participants" means a person who is enrolled in a training project funded under this part.

"State agency" means the state agency designated under section 1203 of the Act.

"Traineeship" means a training project in librarianship that:

(1) Is separate from the regular academic program of the applicant;

(2) Is designed to meet the individual needs of mid-level library and information science professionals;

(3) Provides individualized instruction, usually through an internship; and

(4) May include academic instruction.

"Underrepresented groups" means groups of persons who have been traditionally underrepresented either at the highest levels or at other levels of the library and information science profession. Depending upon the level, these groups include racial and ethnic minorities, economically disadvantaged persons, handicapped persons, and women.

"Underserved groups" means groups of persons who have been traditionally underserved by the library and information science profession, such as racial and ethnic minorities, economically disadvantaged persons, handicapped persons, and rural populations.

(Secs. 201 and 222 of the Act, 20 U.S.C. 1021, 1032, 3474)

Subpart B—Kinds of Projects for Which Grants Are Made

§ 776.10 Types of projects.

A grantee may conduct one or more fellowship projects, institute projects, and traineeship projects.

(Secs. 201 and 222 of the Act, 20 U.S.C. 1021, 1032)

§ 776.11 Program objectives.

The Secretary encourages applicants to design projects that will accomplish one or more of the following objectives—

(a) Increase opportunities for members of underrepresented groups to obtain training in librarianship.

(b) Increase opportunities for professional advancement for members of underrepresented groups by providing training beyond the master's degree level.

(c) Train or retrain library personnel to serve the interests of traditionally underserved groups.

(d) Train or retrain library personnel in new techniques of—

(1) Information acquisition, transfer, and communication technology; and

(2) Planning, evaluation, and dissemination.

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474)

§ 776.12 Project duration.

(a) A fellowship or long-term institute project must provide at least one academic year but not more than 12 months of training.

(b) A short-term institute project must provide at least one week but usually not more than six weeks of training.

(c) A traineeship project may not exceed 12 months.

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474)

Subpart C—How To Apply for a Grant

§ 776.20 Application instructions.

(a) An applicant may submit applications for fellowship, institute, and traineeship projects.

(b) An applicant may request any number of fellowships at any number of degree levels in a single application.

(c) An applicant shall specify the amount to be paid to participants as stipends. (See §§ 776.41–776.43.)

(d) An applicant shall estimate the amount needed for travel and dependency allowances. (See §§ 776.44–776.45.)

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474)

Subpart D—How the Secretary Makes a Grant

§ 776.30 How the Secretary evaluates applications.

(a) The Secretary evaluates an application for a fellowship project on the basis of the criteria in § 776.31 and awards up to 100 possible points for these criteria.

(b) The Secretary evaluates an application for an institute project on the basis of the criteria in § 776.32 and awards up to 100 possible points for these criteria.

(c) The Secretary evaluates an application for a traineeship project on the basis of the criteria in § 776.33 and awards up to 100 possible points for these criteria.

(d) The maximum score for each criterion is indicated in parentheses.

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474)

§ 776.31 Selection criteria for fellowship applications.

(a) *Project description.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the applicant's project.

(2) The Secretary looks for information that shows—

(i) The project objectives are clearly stated, realistic, and satisfy a current training need;

(ii) The required courses meet standards that are recognized by the library and information science profession; and

(iii) The extent to which the student field experience component (if included) is well designed.

(b) *Plan of operation.* (15 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;
(ii) An effective plan of management that insures proper and efficient administration of the project;
(iii) A clear description of how the objectives of the project relate to the purpose of the program;
(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and
(v) A clear description of how the applicant will provide equal access and treatment of eligible project participants who are members of groups that have been traditionally underrepresented, such as—members of racial or ethnic minority groups, women, handicapped persons, and the elderly.
(c) *Quality of key personnel.* (7 points)
(1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.
(2) The Secretary looks for information that shows—
(i) The qualifications of the project director (if one is to be used);
(ii) The qualifications of each of the other key personnel to be used in the project;
(iii) The time that each person referred to in paragraphs (2) (i) and (ii) of this section plans to commit to the project; and
(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—members of racial or ethnic minority groups, women, handicapped persons, and the elderly.
(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.
(d) *Participant selection.* (15 points)
(1) The Secretary reviews each application for information that shows the method of participant selection.
(2) The Secretary looks for information that shows—
(i) The participants will be selected in conformance with program objectives (see § 776.11); and
(ii) The applicant's admissions standards for participants are as high as they are for other students in the library education program.
(e) *Applicant characteristics.* (20 points)
(1) The Secretary reviews each application for information that shows the applicant's commitment to library and information science education.
(2) The Secretary looks for information that shows—
(i) The applicant's catalog adequately describes the library education program in which participants will be enrolled;
(ii) The amount the applicant spends per student for education in librarianship is comparable to that of other library education programs with a similar student enrollment and curriculum;
(iii) The ratio of degrees awarded to enrollment in the applicant's library education program is comparable to that of other library education programs;
(iv) The ratio of requested fellowships to other fellowships and scholarships in librarianship supported by the applicant is comparable to that of other library education programs; and
(v) The academic level of the project is appropriate to the applicant's capabilities or experience.
(f) *Budget and cost effectiveness.* (5 points)
(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.
(2) The Secretary looks for information that shows—
(i) The budget for the project is adequate to support the project activities; and
(ii) Costs are reasonable in relation to the objectives of the project.
(g) *Evaluation plan.* (5 points)
(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

Cross reference.—See EDGAR 34 CFR 75.590 (Evaluation by the grantee).

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.
(h) *Adequacy of resources.* (3 points)
(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.
(2) The Secretary looks for information that shows—
(i) The facilities that the applicant plans to use are adequate; and
(ii) The equipment and supplies that the applicant plans to use are adequate.
(i) *Conformance with program objectives.* (20 points)
The Secretary reviews each application for information that shows the project will achieve one or more of the following program objectives:
(1) Increase opportunities for members of underrepresented groups to obtain training in librarianship;
(2) Increase opportunities for professional advancement for members of underrepresented groups by providing training beyond the master's degree level;
(3) Train or retrain library personnel to serve the interests of traditionally underserved groups; and
(4) Train or retrain library personnel in the new techniques of—
(i) Information acquisition, transfer, and communication technology; or
(ii) Planning, evaluation, and dissemination.

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474)

§ 776.32 Selection criteria for institute applications.

(a) *Project description.* (20 points)
(1) The Secretary reviews each application for information that shows the quality of the applicant's project.
(2) The Secretary looks for information that shows—
(i) The subject matter of the project is significant, of current interest to the library and information science community, well described, appropriate for an institute, and is not duplicated in the applicant's regular academic curriculum;
(ii) The project duration is appropriate for presenting the subject matter;
(iii) The project content satisfies educational standards of the library and information science profession;
(iv) The blend of theoretical and practical training is suitable to the subject matter and the needs of the participants; and
(v) The training methods are innovative and imaginative.
(b) *Plan of operation.* (12 points)
(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.
(2) The Secretary looks for information that shows—
(i) High quality in the design of the project;
(ii) An effective plan of management that insures proper and efficient administration of the project;
(iii) A clear description of how the objectives of the project relate to the purpose of the program;
(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and
(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—members of racial or ethnic minority groups, women, handicapped persons, and the elderly.
(c) *Quality of key personnel.* (10 points)
(1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.
(2) The Secretary looks for information that shows—
(i) The qualifications of the project director (if one is to be used);
(ii) The qualifications of each of the other key personnel to be used in the project;
(iii) The time that each person referred to in paragraph (2) (i) and (ii) of this section plans to commit to the project; and
(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—members of racial or ethnic minority groups, women, handicapped persons, and the elderly.
(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.
(d) *Participant selection.* (10 points)
(1) The Secretary reviews each application for information that shows the method of participant selection.
(2) The Secretary looks for information that shows—
(i) Participants will be selected according to their experience, current responsibilities, and training needs; and
(ii) The number or participants is appropriate to the training methods and project resources.
(e) *Budget and cost effectiveness.* (5 points)
(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.
(2) The Secretary looks for information that shows—
(i) The budget for the project is adequate to support the project activities; and
(ii) Costs are reasonable in relation to the objectives of the project.
(f) *Evaluation plan.* (5 points)
(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

Cross reference—See EDGAR, 34 CFR 75.590 (Evaluation by the grantee).

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.
(g) *Adequacy of resources.* (5 points)
(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.
(2) The Secretary looks for information that shows—
(i) The facilities that the applicant plans to use are adequate; and
(ii) The equipment and supplies that the applicant plans to use are adequate.
(h) *Conformance with program objectives.* (20 points)
The Secretary reviews each application for information that shows the project will achieve one or more of the following program objectives:
(1) Increase opportunities for members of underrepresented groups to obtain training in librarianship;
(2) Increase opportunities for professional advancement for members of underrepresented groups by providing training beyond the master's degree levels;
(3) Train or retrain library personnel to serve the interests of traditionally underserved groups; and
(4) Train or retrain library personnel in the new techniques of—
(i) Information acquisition, transfer, and communication technology; or
(ii) Planning, evaluation, and dissemination.
(i) *Project effectiveness.* (10 points)
(1) The Secretary reviews each application for information that shows the effectiveness of the project.
(2) The Secretary looks for information that shows—
(i) The project will increase the number of librarians with specialized skills;
(ii) The project includes plans for how innovative results and materials could be disseminated to other institutions or agencies; and
(iii) The likelihood that project results and materials will be replicated.

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474)

§ 776.33 Selection criteria for traineeship applications.

(a) *Project description.* (15 points)
(1) The Secretary reviews each application for information that shows the quality of the applicant's project.
(2) The Secretary looks for information that shows—
(i) The training needs to be met by the project are significant, of current interest to the library and information science community, and well described;
(ii) The extent to which project activities are designed to meet the individual needs of each participant; and
(iii) The extent to which other library agencies or institutions will cooperate with the applicant in providing appropriate and high quality internship opportunities.
(b) *Plan of operation.* (20 points)
(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.
(2) The Secretary looks for information that shows—
(i) High quality in the design of the project;
(ii) An effective plan of management that insures proper and efficient administration of the project;
(iii) A clear description of how the objectives of the project relate to the purpose of the program;
(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and
(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—members of racial or ethnic minority groups, women, handicapped persons, and the elderly.
(c) *Quality of key personnel.* (7 points)
(1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.
(2) The Secretary looks for information that shows—
(i) The qualifications of the project director (if one is to be used);
(ii) The qualifications of each of the other key personnel to be used in the project;
(iii) The time that each person referred to in paragraphs (2) (i) and (ii) of this section plans to commit to the project; and
(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrespresented such as—members of racial or ethnic minority groups, women, handicapped persons, and the elderly.
(3) To determine the qualifications of a person the Secretary considers evidence of past experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.
(d) *Participant selection.* (15 points)

(1) The Secretary reviews each application for information that shows the method of participant selection.

(2) The Secretary looks for information that shows—

(i) Participants will be selected on the basis of their stated career goals and on their potential for high level advancement and continued professional growth within the field of library and information science; and

(ii) There are more internship opportunities available than the proposed number of participants.

(e) *Budget and cost effectiveness.* (5 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

Cross reference—See EDGAR 34 CFR 75.590 (Evaluation by the grantee).

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(g) *Adequacy of resources.* (3 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(h) *Conformance with program objectives.* (25 points)

The Secretary reviews each application for information that shows the project will achieve one or more of the following program objectives:

(1) Increase opportunities for professional advancement for members of underrepresented groups;

(2) Train or retrain library personnel to serve the interests of traditionally underserved groups; and

(3) Train or retrain library personnel in the new techniques of—

(i) Information acquisition, transfer, and communication technology; or

(ii) Planning, evaluation, and dissemination.

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474)

§ 776.34 Distribution of funds.

In any fiscal year the Secretary may specify in an application notice—

(a) How funds will be divided among fellowship, institute, and traineeship grants.

(b) Whether funds will be reserved for fellowship awards at particular academic levels.

(c) Whether applications for fellowship grants will be evaluated independently according to particular academic levels.

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474)

Subpart E—Conditions That Must Be Met By a Grantee

§ 776.40 Allowable costs.

(a) Allowable costs under this part are those specified in §§ 776.41–776.45.

(b) Fiscal limitations are set forth in § 776.46.

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474)

§ 776.41 Fellowship project costs.

(a) The grantee may use grant funds in the following amounts to cover the cost of providing fellowship training:

(1) For each fellowship awarded at the undergraduate level—$1500 for an academic year plus $250 for a summer session;

(2) For each fellowship awarded at the master's level—$3500 for an academic year plus $500 for a summer session; and

(3) For each fellowship awarded at the post-master's and doctoral level—$5200 for an academic year plus $800 for a summer session.

(b) The grantee shall use grant funds to pay stipends to fellowship participants in the following amounts:

(1) Undergraduate level—$1500 for an academic year plus $250 for a summer session.

(2) Master's level—$3500 for an academic year plus $500 for a summer session; and

(3) Post-master's and doctoral level—$5200 for an academic year plus $800 for a summer session.

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474)

§ 776.42 Institute project costs.

(a) The grantee shall use grant funds to provide institute training in accordance with 34 CFR Part 74, Subpart Q.

(b) The grantee may use grant funds to pay stipends to institute participants. If the grantee pays stipends it shall do so in the following amounts:

(1) Long-term, full-time, post-baccalaureate level—$3500 for an academic year plus $500 for a summer session;

(2) Long-term, full-time, pre-baccalaureate level—$1500 for an academic year plus $250 for a summer session;

(3) Short-term, full-time—$100 per week; and

(4) Part-time—$20 per day.

(Sec. 222 of the Act, 20 U.S.C. 1032)

§ 776.43 Traineeship project costs.

(a) The grantee shall use grant funds to provide traineeship training in accordance with either § 776.41(a) or § 776.42(a), as the grantee elects in its application.

(b) The grantee may use grant funds to pay stipends to traineeship participants. If the grantee pays stipends it shall do so in accordance with either § 776.41(b) or § 776.42(b), as the grantee elects in its application.

(Sec. 222 of the Act, 20 U.S.C. 1032)

§ 776.44 Travel allowances.

(a) The Secretary may authorize travel allowances for participants—

(1) In cases of extreme hardship; and

(2) If travel is necessary for successful participation in the project.

(b) The mileage rate must be consistent with current Federal travel regulations.

(c) The Secretary may defer authorization of travel allowances until the grantee has documented need.

(Sec. 222 of the Act, 20 U.S.C. 1032)

§ 776.45 Allowances for dependents.

(a) In cases of extreme hardship, the Secretary may authorize allowances for dependents of participants. The maximum amount that may be provided per dependent is $450 for an academic year, $100 for a summer session, and $10 per week for short-term projects.

(b) The Secretary may defer authorization of allowances for dependents until the grantee has documented need.

(Sec. 222 of the Act, 20 U.S.C. 1032)

§ 776.46 Tuition and fees.

A grantee shall not charge tuition or fees to a participant in a training project funded under this part.

(Sec. 222 of the Act, 20 U.S.C. 1032)

§ 776.47 Notification of the State agency.

Each institution of higher education that receives a grant under this part shall annually inform the State agency designated under section 1203 of the Act of its project activities.

(Sec. 202 of the Act, 20 U.S.C. 1022)

Subpart F—The Administrative Responsibilities of a Grantee

§ 776.50 Participant eligibility and selection.

(a) A grantee selects project participants on the basis of its own published criteria.

(b) Participants must be—

(1) Nationals of the United States, or be in the United States for other than a temporary purpose and intend to become permanent residents of the United States; and

(2) Engaged in, or preparing to engage in, a profession or other occupation involving library or information science.

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474)

§ 776.51 Substitutions.

The grantees may replace a participant provided the new participant can successfully complete the training project at no additional cost to the Government. The grantee shall notify the Department of Education in writing within 30 days of the withdrawal or substitution of a participant.

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474)

§ 776.52 Payments to participants.

(a) The grant award specifies the amount of money for stipends and for dependency and travel allowances the grantee will receive.

(b) The grantee disburses the stipends, and dependency and travel allowances to the appropriate project participants.

(Sec. 22 of the Act, 20 U.S.C. 1032)

§ 776.53 Payment adjustments.

(a) When a participant withdraws from a training project, the stipend and any allowances the participant received must be prorated according to the number of weeks completed in the training period. When a substitution is not made, the unused portion is returned to the Federal Government.

(b) The date of withdrawal is the participant's last day of class attendance or the date the grantee determines that the participant has ceased to maintain academic proficiency. Attendance in any part of a week is counted as a full week.

(Sec. 222 of the Act, 20 U.S.C. 1032)

§ 776.54 Assistance under other Federal programs.

(a) Any amount paid a participant from any other Federal grant program for educational purposes (except veterans', war orphans', and widows' educational assistance under Title 38, United States Code) must be deducted from the amount the participant would receive under this part.

(b) A participant may apply for and receive a Federal educational loan. The amount of the loan and any interest paid may not be deducted from the amount receivable by the participant under this part.

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474, and 38 U.S.C. 1700, *et seq.*)

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Part IX

Environmental Protection Agency

National Interim Primary Drinking Water Regulations; Trihalomethanes

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 142

[WH-FRL-2038-8]

National Interim Primary Drinking Water Regulations; Trihalomethanes

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This proposed rule identifies the best technology, treatment techniques or other means that the Administrator of the Environmental Protection Agency (EPA) finds to be generally available, taking costs into consideration, pursuant to Section 1415(a)(1)(A) of the Safet Drinking Water Act (SDWA), for use by community water systems in achieving compliance with the National Interim Primary Drinking Water Regulation that establishes a maximum containment level (MCL) for total trihalomethanes (TTHMs). EPA promulgated the TTHM regulation in November 1979 (44 FR 68624) specifying an MCL and monitoring requirements for all public water systems serving 10,000 or more persons. That rule did not identify pursuant to Section 1415(a)(1)(A) what were the best treatment methods generally available that a system subject to that rule could be required to install and/or use to come into compliance with the TTHM MCL. Today's proposed rule applies to all public water systems that serve more than 10,000 persons and specifies what treatment methods a system may be required to install and/or use to come into compliance with the TTHM MCL. The rule further specifies criteria by which EPA and states with primary enforcement responsibility that issue variances shall issue variances and compliance schedules to systems pursuant to Section 1415(a)(1)(A).

DATE: Written public comments on this proposed rule should be submitted on or before April 19, 1982.

ADDRESS: Submit comments to Joseph A. Cotruvo, Director, Criteria and Standards Division, Office of Drinking Water (WH-550), EPA, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Joseph A. Cotruvo, 202-472-5016.

SUPPLEMENTARY INFORMATION:

I. Authority

This regulation is proposed under the authority of Sections 1415 and 1450 of the SDWA, as amended, 42 U.S.C. 300g-4, 300j-9.

II. Purpose of and Need for This Regulation

EPA promulgated a rule which established an MCL (0.10mg/L) for TTHMs pursuant to Section 1412(a) of the SDWA, 42 U.S.C. 300g-1(a), as an amendment to the National Interim Primary Drinking Water Regulations on November 29, 1979, 44 FR 68624, 68641 (hereinafter "TTHM Rule"). The TTHM Rule is applicable to all community water systems that add a disinfectant to their treatment process and serve 10,000 or more persons.

The American Water Works Association, joined by the City of Englewood, Colorado, and the Capital City Water Company, filed a petition for review in the United States Court of Appeals for the District of Columbia Circuit challenging the TTHM Rule. Additional parties have intervened in the suit, and the petition currently is pending before the Court of Appeals. During the past several months, representatives of parties to the litigation have met in an attempt to resolve the issues in that case. Today's action is intended to clarify certain statements made by EPA in the preamble to the TTHM Rule and propose a rule that may allow settlement of most issues in the pending litigation.

In the preamble to the TTHM Rule, EPA discussed various technologies, treatment techniques or other means (hereinafter usually referred to as "treatment methods") that it believed public water systems might use to achieve compliance with the TTHM MCL. *See* 44 FR at 68636. EPA identified generally the following three alternatives for reducing TTHM levels in finished drinking water:

(1) Use of a disinfectant (oxidant) that does not generate (or produces less) TTHMs in water;

(2) Treatment to reduce TTHM precursor concentrations prior to chlorination; and

(3) Treatment to remove TTHMs after formation. *Id.* EPA also identified a number of specific treatment methods within these three categories of alternatives that it concluded had demonstrated some capacity to reduce TTHMs in drinking water. EPA stated in the preamble, however, that it was not requiring any system to use any particular treatment method to achieve compliance with the TTHM standard. EPA explained that:

> [I]t remains only for the individual water systems to select one or more procedures that are optimal for their particular water characteristics. Which treatment method (or combination of treatment methods) is ultimately selected by a water supplier to achieve compliance with the MCL must be based upon a case-by-case assessment of the system's entire treatment process, and an evaluation of the precursor content of its raw water source and the TTHM formation potential as well as the need to assure optimal biological quality of drinking water derived from contaminated sources. (*Id.*)

EPA continues to believe that it is the system's decision, subject to applicable state and federal requirements, to select the treatment method that the system finds most appropriate for achieving compliance with the TTHM standard.

EPA's discussion of the available or potentially available treatment methods for reducing levels of TTHMs has raised concerns among the regulated community as to whether public water systems not in compliance with the TTHM MCL would be required to install and/or use all of the available or potentially available treatment methods in order to come into compliance with the TTHM MCL. EPA did not intend in its discussion of the available or potentially available treatment methods to address the issue of which of these methods could be required in connection with variances or variance compliance schedules. EPA's discussion merely acknowledged the various treatment methods available or potentially available to systems for use in reducing TTHMs.

The SDWA provides that if a system determines that installation and/or use of the "best technology, treatment techniques, or other means which the Administrator finds to be generally available," taking costs into consideration, would not enable the system to comply with the MCL, the system may apply for a variance. Section 1415(a)(1)(A), 42 U.S.C. § 300g-4(a)(1)(A). A variance, if granted, would insulate the system not in compliance from enforcement actions for exceeding the MCL. The system, however, would be required in connection with a variance compliance schedule to install and/or use whatever "generally available" treatment methods, as hereinafter identified, that were available and effective for that system in reducing levels of TTHMs to as close to the MCL as feasible. In addition, pursuant to Section 1414(c)(2), 42 U.S.C. 300g-3(c)(2), any system that receives a variance, must give public notice of such variance to the persons served by it. The purpose of today's rule is to identify the best treatment methods generally available for reducing TTHMs and to specify the decisionmaking criteria for determining when a noncompliant system shall be required to install and/or use such treatment methods. The proposed rule also lists additional treatment methods not found to be generally available for reducing TTHMs but which systems may be required to examine and possibly install as part of a variance compliance schedule.

III. Best Generally Available Treatment Methods for Reducing TTHM

In § 142.60(a) of today's proposed rule, EPA identifies, pursuant to Section 1415(a)(1)(A) of the SDWA, what it finds to be the best treatment methods generally available, taking costs into consideration, for systems in meeting the TTHM MCL. The list of the best treatment methods includes:

1. Use of chloramines as an alternate or supplemental disinfectant or oxidant.
2. Use of chlorine dioxide as an alternate or supplemental disinfectant or oxidant.
3. Improved existing clarification for THM precursor reduction.[1]
4. Moving the point of chlorination to reduce TTHM formation, and, where necessary, substituting for the use of chlorine as a preoxidant chloramines, chlorine dioxide, hydrogen peroxide or potassium permanganate.
5. Use of powdered activated carbon for THM precursor or TTHM reduction seasonally or intermittently at dosages not to exceed 10 mg/L on an annual average basis.

Each of these treatment methods is a widely recognized water treatment technology, is relatively low cost, and is within the technical capabilities of the vast majority of public water systems subject to the TTHM Rule. Thus, EPA finds them to be "generally available," taking costs into consideration. EPA has also concluded, based on studies and experience to date, that these treatment methods will generally be the most effective in reducing TTHMs. Support for EPA's determination is contained in the document, "Technologies and Costs for the Removal of Trihalomethanes from Drinking Water," U.S. EPA, Washington, D.C., which is available upon request at the address listed above for submission of comments.

In § 142.60(b) of today's proposed rule, EPA stipulates how it or a state with primary enforcement responsibility (hereinafter referred to as "primacy state") that issues variances shall make the determination as as to whether a system shall be required to install and/or use a generally available treatment method. All primacy states that issue variances are required to exercise their authority to issue variances in a manner no less stringent than the provisions of §§ 142.60 (a) and (b). These provisions are in addition to the current regulations outlining the procedures for granting variances (40 CFR part 142, Subparts C and E). Those regulations and corresponding state regulations shall continue to apply to the issuance of variances from the TTHM MCL to the extent not inconsistent with the rule that EPA is proposing today.

EPA's list identifies the best treatment methods that it finds to be "generally available" to systems required to comply with the TTHM MCL. A system that is unable to achieve compliance with the TTHM MCL must demonstrate to the Administrator pursuant to 40 CFR 142.42(b), or to a primacy state that issues variances pursuant to its corresponding regulations, why any of the above-listed best treatment methods is not "available and effective" for that system. Pursuant to the criteria in § 142.60(b), a treatment method would not be considered to be "available and effective" for an individual system if the treatment method would not be technically appropriate and technically feasible for that system, or would only result in a marginal reduction in TTHMs for that system. By "technically appropriate" the Agency means that the proposed treatment method would be technically compatible with treatment methods then in use by the system and represent sound water utility engineering judgment applied to that system. By use of the term "marginal reduction", the Agency means that a system should not be required to install and use a treatment method where the reduction in TTHMs would be small relative to the existing levels of TTHMs or small relative to the reductions available by use of one or more of the listed generally available treatment methods. The Agency does not intend that systems be required to use treatment methods that will give only small or insignificant reduction reductions in TTHMs. Inasmuch as the costs of installation and use of any of the above-listed treatment methods have been considered by the agency and are anticipated to be relatively low, it is not anticipated that such costs should be a deterrent to requiring a system to install and use any of such treatment methods. The determination respecting the availability and effectiveness of any of the above-listed treatment methods necessarily would be made on a case-by-case basis, considering the operating characteristics and capabilities of the system applying for a variance. If EPA or a primacy state determines that one of the above-listed best treatment methods is "available and effective" (as defined in § 142.60(b)) for a system and the system has not started or completed installation of the treatment method at the time it applies for a variance, EPA or the primacy state may grant the variance accompanied by a compliance schedule for the expeditious installation of said treatment method.[2]

IV. Additional Treatment Methods for Reducing TTHMs

In addition to the five generally available best treatment methods, EPA in § 142.60(c) has selected five additional treatment methods *not* identified as "generally available" pursuant to Section 1415(a)(1)(A). These treatment methods, however, may be available for some systems. If a system receives a variance after complying with the procedures in § 142.60 (a) and (b), the variance-issuing authority must prescribe a schedule, within one year, including increments of progress aimed at bringing the system into compliance with the MCL. *See* section 1415(a)(1)(A) (i) and (ii). Section 142.60(d) specifies criteria that EPA and primacy states that issue variances shall apply in determining what requirements to include in a compliance schedule accompanying a variance from the TTHM Rule. Such schedules of compliance may include a requirement that the system examine other treatment methods identified below to determine their availability, feasibility, cost and effectiveness. Such an examination may include engineering studies, and for potentially applicable technologies, pilot projects, to determine accurately what reduction in TTHM levels could be achieved by the treatment methods. In prescribing compliance schedules, EPA and primacy states shall consider the potential efficacy of the treatment methods and avoid the requirement for studies of methods that do not have the probability of significantly reducing the levels of TTHMs. The additional treatment methods that EPA believes should be considered as part of a compliance schedule are listed in § 142.60(c) and are:

1. Off-line water storage for THM precursor reduction.
2. Aeration for TTHM reduction, where geographically and environmentally appropriate.[3]

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[1] The term clarification refers to coagulation, sedimentation, filtration, direct filtration and precipitative softening; however, it is not intended to include requiring replacement of sand in filters with granular activated carbon.

[2] An opportunity for public hearing is to be provided by the variance-issuing authority on proposed variances and compliance schedules. Section 1415(a)(1)(A); 42 U.S.C. 300g-4(a)(1)(A). A complete record of these hearings and findings shall be made.

[3] EPA has qualified the application of aeration for TTHM control in areas where it might not be

Continued

3. Introduction of clarification where not currently practiced.
4. Consideration of alternative sources of raw water.
5. Use of ozone as an alternate or supplemental disinfectant or oxidant.

This list is not intended to be inclusive of all potentially available or effective treatment methods and development of new technology is encouraged. Systems always have the option of proposing studies of other methods. Based on studies by the system and other available information, EPA or a primacy state shall decide whether any of the above-identified treatment methods would achieve a reduction in TTHM levels justifying use of the method. It should be reiterated that installation or use of any of these latter five treatment methods is not required for the granting or continuation of a variance. Section 142.60(d) provides, however, that EPA or a primacy state may decide for a particular system that such treatment methods are technically feasible and economically reasonable, and that the TTHM reductions obtained would be commensurate with the costs incurred with the installation and use of the treatment method. In such a case, EPA or the primacy state shall require, as part of a compliance schedule, installation or use of such methods by the system. This provision is not intended to allow a reopening of the health basis of the standard on a case-by-case basis but rather to allow reasonable judgments on the cost and effectiveness of major changes in sources or treatment.

V. GAC and BAC

The treatment methods described herein do not include two treatment methods that EPA discussed in the TTHM Rule preamble as technologies for potential use in achieving compliance with the TTHM MCL. These technologies are (1) granular activated carbon in either the filter replacement or post filter contractor mode (GAC) and (2) biologically activated carbon or BAC (GAC in combination with an oxidant to encourage removal of biodegradable organics). EPA believes that these technologies (or other technologies) not listed as "generally available" pursuant to Section 1415(a)(1)(A) may be studied by some systems for reducing TTHMs. EPA believes further, however, that these methods would consistently achieve substantial reduction of TTHMs only with frequent regeneration at accompanying high costs, or if used without frequent regeneration would not be consistently effective for TTHM control. While EPA encourages systems to study these methods, at this time EPA does not believe that a system should be required to pilot or install these methods in order to obtain a variance or as part of a variance compliance schedule.

VI. Future Goal

In the preamble to the TTHM Rule, EPA stated:

> Based upon the performance of developing technologies, it appears that ultimately many public water supplies with currently high TTHM levels may be able to achieve TTHM concentrations as low as 0.010 to 0.025 mg/L and EPA suggests those values as future goals. (44 FR 68629.)

The statement is directed to the possibility that developing technology, treatment techniques or other meant may permit public water systems with high THM formation potentials to reduce TTHM levels to below 0.10 mg/L. The statement was intended to encourage public water systems to reduce TTHM levels to the extent feasible. The statement was not means to suggest a status for the 0.10 mg/L of short duration. However, if some public water systems may be able feasibly to obtain TTHM levels lower than 0.10 mg/L without extraordinary or costly efforts, they are encouraged to do so as long as they do not compromise microbiological quality.

VII. Regulatory Impact Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. EPA has determined that today's proposed rule is not a major rule under the terms of the Executive Order. This proposal specifies the treatment methods a system not in compliance with the TTHM MCL would be required to install and/or use to come into compliance with the TTHM Rule. The five best treatment methods "generally available" were selected in part because of their low cost. EPA estimated that total compliance cost with the TTHM Rule was $19 million. A large portion of this cost was attributed to systems using the high cost treatment methods GAC and BAC. Today's rule provides that EPA will not require any systems to install GAC or BAC to reduce TTHMs. Today's proposal should *lower* the cost impact of the TTHM Rule, rather than impose costs.

This proposal was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

VIII. Regulatory Flexibility Act

The Regulatory Flexibility Act requires all Federal agencies to consider the effects of their regulation on "small entities," i.e., small business, small organizations and small governmental jurisdictions. Section 603 of the Act directs agencies to propose for public comment a "regulatory flexibility analysis" for any regulations which will cause a significant impact on a substantial number of small entities.

EPA does not believe that this rule will have significant economic impact on a substantial number of small entities. The TTHM Rule applies to public water systems serving more than 10,000 people and thus some small businesses and governmental jurisdictions are covered by that Rule. In proposing today's rule, however, EPA limited the treatment methods that a system may be required to install and/or use to comply with the TTHM Rule. These treatment methods are each of relative low cost. Therefore, today's proposal should lessen the impact of the TTHM Rule on those small community public water systems affected.

Dated: February 23, 1982.

Anne M. Gorsuch,

Administrator.

PART 142—NATIONAL INTERIM PRIMARY DRINKING WATER REGULATIONS IMPLEMENTATION

Accordingly, Part 142, Title 40 of the Code of Federal Regulations is hereby amended to include the following new Subpart G:

Subpart G—Identification of Best Technology, Treatment Techniques or Other Means Generally Available

§ 142.60 Variances from the maximum contaminant level for total trihalomethanes.

(a) The Administrator, pursuant to Section 1415(a)(1)(A) of the Act, hereby identifies the following as the best technology, treatment techniques, or other means generally available for achieving compliance with the maximum contaminant level for total trihalomethanes (§ 141.12(c)):

Use of chloramines as an alternate or supplemental disinfectant or oxidant.

Use of chlorine dioxide as an alternate or supplemental disinfectant or oxidant.

Improved existing clarification for THM precursor reduction.

Moving the point of chlorination to reduce TTHM formation, and, where necessary, substituting for the use of chlorine as a preoxidant chloramines, chlorine dioxide, hydrogen peroxide or potassium permangamate.

Use of powdered activated carbon for THM precursor or TTHM reduction seasonally or intermittently at dosages not to exceed 10 mg/L on an annual average basis.

(b) The Administrator in a state that does not have primary enforcement responsibility or a state with primary enforcement responsibility (primary state) that issues variances shall require a community water system to install and/or use any treatment method identified in § 142.60(a) as a condition for granting a variance unless the Administrator or primacy state determines that such treatment method identified in § 142.60(a) is not available and effective for TTHM control for the system. A treatment method shall not be considered to be "available and effective" for an individual system if the treatment method would not be technically appropriate and technically feasible for that system or would only result in a marginal reduction in TTHM for that system. If, upon application by a system for a variance, the Administrator or primacy state that issues variances determines that none of the treatment methods identified in § 142.60(a) is available and effective for the system, that system shall be entitled to a variance under the provisions of Section 1415(a)(1)(A) of the Act. The Administrator's or primacy state's determination as to the availability and effectiveness of such treatment methods shall be based upon studies by the system and other relevant information. If a system submits information intending to demonstrate that a treatment method is not available and effective for TTHM control for that system, the Administrator or primacy state shall make a finding whether this information supports a decision that such treatment method is not available and effective for that system before requiring installation and/or use of such treatment method.

(c) Pursuant to § 142.43 (c)–(g) or corresponding state regulations, the Administrator or primacy state that issues variances shall issue a schedule of compliance that may require the system being granted the variance to examine the following treatment methods (1) to determine the probability that any of these methods will significantly reduce the level of TTHM for that system, and (2) if such probability exists, to determine whether any of these methods are technically feasible and economically reasonable, and that the TTHM reductions obtained will be commensurate with the costs incurred with the installation and use of such treatment method for that system:

Introduction of off-line water storage for THM precursor reduction.

Aeration for TTHM reduction, where geographically and environmentally appropriate.

Introduction of clarification where not currently practiced.

Consideration of alternative sources of raw water.

Use of ozone as an alternate or supplemental disinfectant or oxidant.

(d) If the Administrator or primacy state that issues variances determines that a treatment method identified in § 142.60(c) is technically feasible, economically reasonable, and will achieve TTHM reductions commensurate with the costs incurred with the installation and/or use of such treatment method for the system, the Administrator or primacy state shall require the system to install and/or use that treatment method in connection with a compliance schedule issued under the provisions of Section 1415(a)(1)(A) of the Act. The Administrator's or primacy state's determination shall be based upon studies by the system and other relevant information. In no event shall the Administrator require a system to install and/or use a treatment method not described in § 142.60 (a) or (c) to obtain or maintain a variance from the TTHM Rule or in connection with any variance compliance schedule.

(Sec. 1415(a)(1)(A) of the Safe Drinking Water Act)

[FR Doc. 82-6008 Filed 3-4-82; 8:45 am]

BILLING CODE 6560-29-M

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geographically or environmentally appropriate. Thus, EPA or primacy states should take into consideration factors such as 1) the efficiency of application in colder climates, 2) whether excessive evaporative water losses would occur in water short areas, 3) whether excessive air concentrations of TTHMs would occur in populated areas in the vicinity of water treatment plants, and 4) whether uncontrollable increases in the corrosivity of the water might occur. The existence of these effects may make aeration geographically or environmentally inappropriate for some systems.

V 47/44 MR 5 82

federal register

Friday
March 5, 1982

Part X

Environmental Protection Agency

Extension of Date for Complying With Prohibition of Landfilling of Containerized Liquid Hazardous Wastes; Public Hearing

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 265

[SW-FRL-2068-6]

Extension of Date for Complying With Prohibition on Landfilling of Containerized Liquid Hazardous Wastes; Public Hearing

AGENCY: Environmental Protection Agency.

ACTION: Notice of public hearing.

SUMMARY: On March 11, 1982, the Environmental Protection Agency (EPA) will hold a public hearing on its February 25, 1982 (47 FR 8304), ninety-day extension of the date for complying with the Agency's regulatory prohibition on the landfilling of containerized liquid hazardous wastes.

DATES: The public hearing will be held on March 11, 1982, starting at 9:00 a.m.

ADDRESSES: The public hearing will be held in Room 3906, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, 800/424-9346 (382-3000 in Washington, D.C.). For specific information contact John P. Lehman, Acting Director, Land Disposal Division, Office of Solid Waste (WH-565), 401 M Street, Washington, D.C. 20460, 202/755-9185. For copies of the petitions referred to in this notice, contact Deneen Schrader, RCRA Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202/755-9173.

SUPPLEMENTARY INFORMATION: On May 19, 1980, EPA issued regulations governing the disposal of hazardous waste in landfills which, among other things, prohibited the landfilling of containerized wastes containing "free liquids" (40 CFR § 265.314(b)). This prohibition was not scheduled to become effective until November 19, 1981.

Shortly after the May 19, 1980 regulations were issued, several parties challenged them in court. See *Shell Oil Company v. EPA*, No. 80-1532 (D.C. Cir.). The petitioners in the *Shell Oil Company* litigation asserted that § 265.314(b) was unduly stringent insofar as it prohibited the landfilling of containerized wastes which contained any amount of free liquids. They argued that it was impractical to expect waste generators and disposers to remove every last drop of liquid from a containerized waste before it could be landfilled. They also contended that containerized wastes containing free liquids could be disposed of safely without such drastic measures and urged the Agency to consider an amendment to its regulations which would allow limited landfilling of containerized wastes containing free liquids.

EPA tentatively decided that the petitioners' claims were meritorious and on February 25, 1982, published a notice in the **Federal Register** proposing two alternative amendments to § 265.314(b) (47 FR 8307). The first would permit the landfilling of containers of waste containing less than 10% free liquids. The second would allow a facility owner or operator to devote a limited percentage of the space available in his landfill to containers that contain any amount of free liquids.

In order to prevent disruption of waste management operations while these alternative proposals were pending, on February 25 EPA also extended the date for complying with the prohibition on landfilling wastes containing free liquids for ninety days (47 FR 8304).

On March 1, 1982, the Hazardous Waste Treatment Council filed a petition for judicial review of the compliance date extension in the United States Court of Appeals for the D.C. Circuit. *Hazardous Waste Treatment Council v. EPA*, No. 82-1207. At the same time, they filed a petition with EPA for an administrative stay of the extension pending judicial review.

In their administrative petition, the Council argues, among other things, that the Agency did not have adequate input from persons other than the *Shell Oil Company* litigants before making its decision to temporarily extend the compliance date for § 265.314(b), that the extension will have adverse environmental consequences and that the extension will be detrimental to the hazardous waste treatment industry.

The National Solid Wastes Management Association (NSWMA) has also filed a rulemaking petition on the Agency's extension.

EPA believes it should try to obtain additional public comment on these issues before it responds to the Council's and NSWMA's petitions. Accordingly, the Agency will be holding a public hearing on the petitions on March 11, 1982 at the time and place indicated above. The purpose of this hearing will be to give the public an opportunity to comment on these petitions as well as any other issues raised by the extension. In particular, comment is solicited on whether the extension should be terminated or left in place or, as suggested by NSWMA, one of the February 25 proposals should be temporarily put into effect. Written comments will also be accepted at that time. The findings of the hearing panel will be transmitted to the Administrator to assist her in determining whether the extension should remain in effect.

Copies of the Council's and NSWMA's petitions are available from the EPA RCRA Docket Clerk, whose address and telephone number appear above.

Dated: March 3, 1982.

Christopher S. Capper,

Assistant Administrator for Solid Waste and Emergency Disposal.

[FR Doc. 82-6188 Filed 3-4-82; 10:53 am]

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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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March 8, 1982

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Presidential Documents

Title 3—

The President

Presidential Determination No. 82–7 of February 10, 1982

Presidential Determination To Authorize Security Assistance for Pakistan

Memorandum for the Honorable Alexander M. Haig, Jr., the Secretary of State

By the authority vested in me as President by the Constitution and statutes of the United States of America, including sections 620E and 670(a)(2) of the Foreign Assistance Act of 1961, as amended ("the Act"), I hereby:

(1) determine, pursuant to section 620E(d) of the Act, that the provision of assistance to Pakistan under the Act through September 30, 1987, is in the national interest of the United States and therefore waive the prohibitions of section 669 of the Act with respect to that period;

(2) determine and certify, pursuant to section 670(a)(2) of the Act, that not providing assistance referred to in section 670(a)(1) of the Act to Pakistan would be seriously prejudicial to the achievement of United States nonproliferation objectives and otherwise jeopardize the common defense and security;

(3) authorize the provision of assistance referred to in sections 669(a)(1) and 670(a)(1) of the Act to Pakistan beginning thirty (30) days following submission of this determination and certification to the Congress.

This determination and certification together with the statement setting forth specific reasons therefore shall be submitted to the Congress immediately.

This determination shall be published in the Federal Register.

Ronald Reagan

THE WHITE HOUSE,
Washington, February 10, 1982.

[FR Doc. 82-6334
Filed 3-4-82; 4:27 pm]
Billing code 3195-01-M

V 47 / 45 MR 8 82

Presidential Documents

Proclamation 4906 of March 4, 1982

Louisiana World Exposition of 1984

By the President of the United States of America

A Proclamation

In 1984, the United States of America will host a major international exposition that will explore the fundamental relationship of water to life. To be held in New Orleans on the great Mississippi River, the Louisiana World Exposition has as its theme "The World of Rivers—Fresh Water as a Source of Life."

The theme is most timely and appropriate.

We are the first generation in history to have seen the Earth from space, and it has given us new understanding. As seen from those great distances, the dominant colors of Earth are blue and white; blue for the great oceans, and white for the canopy of clouds that replenish the land with fresh water, forming rivers and streams that lead again to the oceans. Earth is primarily a water planet.

As the world economy grows, the wise use of all resources, including fresh water, becomes increasingly important. The direct human suffering caused by severe droughts and floods is monumental and can affect the global economic and political system. Man's technological and economic response to the challenge of new demands on our water needs to be shared and demonstrated.

There is inspiration, too, in the power and majesty of the world's rivers and their role in shaping the culture and history of so many different peoples. This celebration of the World of Rivers will be a celebration of the human experience itself.

With its many splendid opportunities for cultural and technological exchange, the Louisiana World Exposition has the full and enthusiastic support of the United States Government. In accordance with law, I shall appoint a United States Commissioner General to exercise the responsibility of the United States Government for fulfillment of the Convention of November 22, 1928, Relating to International Expositions, as modified.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, in further recognition of this Louisiana World Exposition, do hereby invite the several States of the Union and its Territories to participate in the exposition and authorize and direct the Secretary of State to invite, on my behalf, such foreign countries as he may consider appropriate to participate in this event.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of March, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-6377
Filed 3-5-82; 11:03 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 47, No. 45
Monday, March 8, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

Handling of Almonds Grown in California; Revision of Salable and Reserve Percentages for the 1981–82 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action revises the salable and reserve percentages for marketable California almonds received by handlers during the 1981–82 crop year, which began July 1, 1981. The salable percentage is increased from 75 percent to 90 percent, and the reserve percentage is correspondingly decreased from 25 percent to 10 percent. This action is taken under the marketing order for almonds grown in California to promote orderly marketing conditions.

EFFECTIVE DATES: July 1, 1981 through June 30, 1982.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated 26 handlers.

It has been determined that a situation exists which warrants publication of this final rule without prior opportunity for public comment. This action relaxes restrictions on handlers by allowing them to ship additional almonds to salable outlets and must be taken promptly to prevent a shortage of almonds for normal domestic and export needs and maintain the current momentum of sales. Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice of rulemaking and other public procedures with respect to this final action are impracticable and contrary to the public interest.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the Federal Register (5 U.S.C. 553). The relevant provisions of the marketing order for California almonds require that revised salable and reserve percentages established for a particular crop year shall apply to all marketable California almonds received by handlers from the beginning of that year. The 1981–82 crop year began July 1, 1981.

The authority to establish salable and reserve percentages is pursuant to § 981.47 of the marketing agreement and Order No. 981, both as amended (7 CFR 981), regulating the handling of almonds grown in California and hereinafter referred to collectively as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). Section 981.48 of the order provides for an increase in the salable percentage by the Secretary upon findings of fact that the quantity of salable almonds is not sufficient to satisfy trade demand and desirable carryover requirements for the crop year.

On September 1, 1981, an emergency interim final rule was published in the Federal Register (46 FR 43824) establishing on an interim basis salable, reserve, and export percentages of 75 percent, 25 percent, and 0 percent, respectively, for the 1981–82 crop year. That action was based on a recommendation of the Almond Board of California, which works with USDA in administering the order, at its July 29, 1981, marketing policy meeting. A final rule establishing those percentages for the 1981–82 crop year was published in the November 30, 1981, issue of the Federal Register (46 FR 58061).

On February 16, 1982, the Board met to review the salable and reserve percentages established for the 1981–82 crop year and the supply and demand estimates from which those percentages were derived. Pursuant to § 981.48 of the order, the Board recommended an increase in the salable percentage to 90 percent and a corresponding decrease in the reserve percentage to 10 percent. In arriving at this recommendation, the Board noted that the current estimate of 1981 crop production is down 44.0 million pounds from its July 29, 1981, estimate to 406.0 million pounds. The Board also increased the quantity of almonds deemed desirable to be carried out on June 30, 1982, from 94 million pounds to 118.7 million pounds to ensure an adequate supply of good quality almonds for early season use during the 1982–83 crop year. Therefore, an increase in the salable percentage is necessary to ensure that ample supplies of almonds are available to meet trade demand and carryover requirements.

The estimates used by the Board in recommending the revised salable and reserve percentages are tabulated below. The Board's July 29, 1981, estimates are shown as a basis of comparison.

[In millions of pounds]

	Initial estimate (July 29, 1981)	Revised estimate (Feb. 16, 1982)
Production:		
1. 1981 crop	450.0	406.0
2. Loss and exempt	27.0	26.0
3. Marketable supply	423.0	380.0
Trade shipments:		
4. Domestic	125.0	125.0
5. Export	200.0	200.0
6. Total	325.0	325.0
Inventory adjustments:		
7. Carryover, July 1, 1981	101.7	101.7
8. Estimated carryover, June 30, 1982	94.0	118.7
9. Adjustment	(7.7)	17.0
Salable/reserve:		
10. Salable supply (6 plus 9)	317.3	342.0
11. Reserve supply (3 minus 10)	105.7	38.0
12. Salable Percentage (10÷3×100)	75%	90%
13. Reserve percentage (100 percent minus 12)	25%	10%

The reserve of 10 percent must be withheld by handlers from normal domestic and export outlets to meet their reserve obligations. These reserve

almonds would be: (1) Held by handlers as a contingency reserve for possible later releases to augment 1981–82 and/or 1982/83 salable supplies; and/or (2) made available to handlers for sale to new or existing noncompetitive domestic and export outlets approved by the Board through agreements between the Board and handlers.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Board, and other available information, it is further found that the revision of the salable, and reserve percentages, as hereinafter set forth, will tend to effectuate the declared policy of the act.

PART 981—ALMONDS GROWN IN CALIFORNIA

Therefore § 981.230 is revised to read as follows: (The following provisions will not appear in the Code of Federal Regulations)

Subpart—Salable, Reserve, and Export Percentages

§ 981.230 Salable, reserve, and export percentages for almonds during the crop year beginning July 1, 1981.

The salable, reserve, and export percentages during the crop year beginning July 1, 1981, shall be 90, 10, and 0 percent, respectively.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: March 3, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 82-6186 Filed 3-5-82; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 303

Applications, Requests, Submittals, and Notices of Acquisition of Control

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: FDIC is amending its regulations to authorize its Board of Review to act on requests for relief from reimbursement[1] for certain violations of the Truth in Lending Act, as amended. This delegation of authority clarifies existing agency procedures for handling requests for relief from reimbursement, and eliminates the necessity for formal action by FDIC's Board of Directors in each case. FDIC's purpose in adopting this regulation is to announce a uniform procedure for handling requests for relief from reimbursement and to enhance agency responsiveness to such requests.

EFFECTIVE DATE: March 8, 1982.

FOR FURTHER INFORMATION CONTACT: James L. Meador, Attorney, Legal Division, Federal Deposit Insurance Corporation, 550–17th Street, N.W., Washington, D.C. 20429 (202) 389–4422.

SUPPLEMENTARY INFORMATION: In addition to delegating authority to FDIC's Board of Review to act on requests for relief from reimbursement under the Truth in Lending Act, as amended (the "TILA"), the amendments: (1) describe the appropriate considerations for the exercise of discretion; and (2) explicitly provide that the delegation does not preclude the Board of Directors from acting on any request for relief falling within the delegated authority. In order to assist in making an application, this preamble indicates what information is material and suggested for inclusion with the request.

Reimbursable Violations

Section 608 of title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96–221, 94 Stat. 171, effective April 1, 1980) amended section 108 of the Truth in Lending Act (Pub. L. No. 90–321, 82 Stat. 150, effective May 29, 1968) to require a creditor to make an adjustment to the account of a person in a case where an annual percentage rate or finance charge was inaccurately disclosed (15 U.S.C. 1607). Section 608 specifies that its requirements shall be enforced under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) by the Board of Directors of the Federal Deposit Insurance Corporation (the "Board of Directors") in the case of insured banks other than members of the Federal Reserve System (15 U.S.C. 1607(a)(1)(C)).

Section 608 authorizes the FDIC to exercise equitable discretion in requiring an adjustment if it determines that a disclosure error resulted in a nonwillful violation involving the disclosure of an otherwise excludable fee or charge for: (1) Credit life, accident, or health insurance (for Transactions consummated before April 1, 1982; for transactions consummated after that date, adjustment is required for such violations); (2) casualty or liability insurance; and (3) fees prescribed by law to be paid to public officials to determine the existence of or perfect or release a security interest, fees paid for insurance in lieu of a perfected security interest, taxes, or any other type of charge which is not for credit and the exclusion of which is approved by regulation by the Federal Reserve Board (15 U.S.C. 1605(b), (c) (d), and 1607(e)(2)(A)). In addition, the Board of Directors has discretion: (4) in cases where the disclosed amount is 10 percent or less of the appropriate amount and either the finance charge or the annual percentage rate was disclosed correctly (15 U.S.C. 1607(e)(2)(B)); (5) in cases where there was no disclosure of the finance charge or annual percentage rate (15 U.S.C. 1607(e)(2)(C)); and (6) in cases where the disclosure error resulted from unique circumstances involving clearly technical and nonsubstantive violations which did not adversely affect information provided, and that did not mislead or otherwise deceive the consumer (15 U.S.C. 1607(e)(2)(D)). Finally, the TILA directs that with respect to transactions consummated before the effective date of section 608 (April 1, 1980) no adjustment shall be required that would have a significantly adverse impact on the safety or soundness of the bank. With respect to transactions consummated after April 1, 1980, full adjustment (taking into account agency discretion) shall be required, but partial payments may be allowed over an extended period of time which the agency considers to be reasonable to mitigate the impact on the safety or soundness of the bank (15 U.S.C. 1607(e)(3)).

Information Which May Be Included in an Application for Relief

Requests for relief from reimbursement were handled by FDIC on an ad hoc basis until August 19, 1981, when the Division of Bank Supervision instructed the regional directors to follow a uniform policy and procedure with respect to such requests. The proposed amendments would continue to follow the policy and procedure initiated on August 19, 1981, except that the Board of Review would act on requests for relief from reimbursement under delegated authority.

To make a request for relief from reimbursement, an applicant should file a request in writing with the appropriate FDIC regional director. The applicant may include, at his/her option, some or all of the following information as applicable:

(A) Describe each type of violation and illustrate by example how the violation occurred; include the correct annual percentage rate (APR) and/or finance charge and indicate the difference from the disclosed APR and/or finance charge. State whether the violation is nonsubstantive or technical, and explain why;

(B) Cite the applicable provisions of the Truth in Lending Act under which the FDIC may have discretion in ordering reimbursement;

(C) State briefly the bank's arguments for relief from reimbursement or for an extended time period for reimbursement, as applicable;

(D) Describe briefly any efforts made by the bank to correct the violations;

(E) Describe the amount of the total reimbursement involved (number of accounts and total dollar amount of adjustment for each type of violation) and the bank's effort and cost necessary to accomplish reimbursement. Include the size of the bank's total assets, its net earnings and show what effect reimbursement would have on the bank's capital; and

(F) Demonstrate specifically whether the adjustment would have any significant impact on the safety or soundness of the bank. Explain how the remedy could be modified to mitigate any significant adverse impact.

Regulatory Factors

The regulation would not affect in any way the right of any bank to challenge charges alleging violations of the TILA issued under section 8(b) of the Federal Deposit Insurance Act in an administrative hearing or before FDIC's Board of Directors.

Section 303.13(a) of FDIC's rules and regulations (12 CFR 303.13(a)) states that the Board of Directors does not delegate its authority except as provided in Part 303 of FDIC's rules and regulations, or in circumstances where prompt action is required to protect FDIC's interest or for operational flexibility and efficiency in litigation or liquidation matters or in payment of claims for deposit insurance. Thus, there is no alternative means of delegating general authority to grant equitable relief from the requirement for reimbursement.

The amendments are rules of FDIC internal procedure and practice. They prescribe procedures for initially requesting relief from reimbursement, and do not impair the availability of access to the Board of Directors for action on such a request. Therefore, in accordance with the Administrative Procedure Act (5 U.S.C. 553), the Board of Directors may waive notice of proposed rulemaking and public comment.

The requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are inapplicable because the amendments do not impose recordkeeping or reporting requirements on any member of the public. An applicant for relief from reimbursement may include some or all of the information relating to the case as indicated above, but no request for relief will be affected by the failure of an applicant to include such information. Since inclusion of such information is entirely optional, the amendment imposes no "recordkeeping requirement" or "information collection request" as those terms are defined in the Paperwork Reduction Act (44 U.S.C. 3502 (11) and (16)).

Certification Under the Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board of Directors hereby certifies that these amendments will not have a significant economic impact on a substantial number of small entities.

1. The amendments do not affect any substantive legal right or duty of any small entity.

2. The amendments impose no recordkeeping or reporting burden on any small entity.

3. The preamble and amendments will clarify filing procedure and expedite consideration of requests by many small banks for relief from reimbursement for certain nonwillful violations of the TILA.

PART 303—APPLICATIONS, REQUESTS, SUBMITTALS, AND NOTICES OF ACQUISITION OF CONTROL

Part 303 of chapter III of Title 12 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 303 is amended to read:

Authority: Secs. 2(5), 2(6), 2(7)(j), 2(8), 2(9 "Seventh" and "Tenth"), 2(18), 2(19), Pub. L. No. 797, 64 Stat. 876, 881, 891, 893 as amended by Pub. L. No. 86–463, 74 Stat. 129; sec. 2, Pub. L. No. 87–827, 76 Stat. 953; Pub. L. No. 88–593, 78 Stat. 940; Pub. L. No. 89–79, 79 Stat. 244; sec. 1, Pub. L. No. 89–356, 80 Stat. 7; sec. 12(c), Pub. L. No. 89–485, 80 Stat. 242; sec. 3, Pub. L. No. 89–597, 80 Stat. 824; title II, secs. 201, 205, Pub. L. No. 89–695, 80 Stat. 1055; sec. 2(b), Pub. L. No. 90–505, 82 Stat. 856; secs. 6(c)(7), (12), (13), Pub. L. No. 95–369, 92 Stat. 616–620; title III, secs. 306, 309 and title VI, sec. 602, Pub. L. No. 95–630, 92 Stat. 3677, 3683 (12 U.S.C. 1815, 1816, 1817(j), 1818, 1819 "Seventh" and "Tenth", 1828, 1829); title I, sec. 108, Pub. L. No. 90–321, 82 Stat. 150 as amended by title IV, sec. 403, Pub. L. No. 93–495, 88 Stat. 1517 and title VI, sec. 606, Pub. L. No. 96–221, 94 Stat. 171 (15 U.S.C. 1607).

2. By adding a new paragraph (f) to § 303.11 of Part 303 as follows:

§ 303.11 Delegation of authority to act on certain applications and on notices of acquisition of control.

* * * * *

(f) *Delegation of Authority To Act on Requests for Relief From Reimbursement.*

(1) The Board of Directors of the Federal Deposit Insurance Corporation has delegated to the Board of Review authority to act on requests for relief from the requirements for reimbursement under section 608(a)(2) of the Truth in Lending Simplification and Reform Act (section 608(a)(2) of title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980) (15 U.S.C. 1607(e)(2)).

The delegation of authority to the Board of Review to act on request for relief from the requirements for reimbursement under this subsection does not preclude the Board of Directors from acting on any application upon which the Board of Review may not wish to act. Any voting member of the Board of Review attending the meeting at which an application is considered may request that the application be referred to the Board of Directors for its consideration.

(2) In evaluating a request for relief from reimbursement, the Board of Review will take into consideration the following factors:

(i) The impact any reimbursement might have on the safety and soundness of the bank;

(ii) The kind and frequency of any reimbursable violations;

(iii) This history of any previous violations; and

(iv) Such other matters as equity and justice shall require.

By order of the Board of Directors.

Dated: March 1, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 82-6230 Filed 3-5-82; 8:45 am]

BILLING CODE 6714-01-M

12 CFR Part 308

Rules of Practice and Procedures; Correction

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule; correction.

SUMMARY: This document corrects a reference contained in final regulations governing rules of practice and procedures for administrative proceedings before the Federal Deposit Insurance Corporation which were

[1] As used in this context, reimbursement means requirement for making an adjustment to the account of the person to whom credit was extended.

published December 29, 1981 (46 FR 62812).

FOR FURTHER INFORMATION CONTACT:
James L. Meador, Attorney, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429, (202) 389–4422.

Alan J. Kaplan,
Deputy Executive Secretary, Federal Deposit Insurance Corporation.

§ 308.18 Decision of the Board of Directors. [Corrected]

The following correction is made in FR Doc. 81–30643 appearing on pages 62812–62833 in the issue of December 29, 1981:

On page 62820 at the top of column three, "§ 308.17" is corrected to read "§ 308.16."

[FR Doc. 82-6186 Filed 3-5-82; 8:45 am]
BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-NM-05-AD, Amdt. 39-4335]

Airworthiness Directives: Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing Airworthiness Directive (AD) which requires repetitive inspections of the engine pylon and spar attach bolts (fuse pins). A new, improved fuse pin has now been developed and approved to eliminate the need for repetitive inspections. This amendment provides a terminating action.

DATE: Effective date March 16, 1982.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124, or may be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT:
Ms. Michele M. Owsley, Airframe Branch, ANM–120S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, WA 98108, telephone (206) 767–2510.

SUPPLEMENTARY INFORMATION: AD 79–17–04, Amendment 39–3529 (44 FR 47924, August 16, 1979), requires repetitive inspections of the engine pylon and midspar attach bolts (fuse pins) for cracks. A new fuse pin has been developed which reduces the likelihood of cracks developing in the bore recess of the pins. If the existing fuse pins are replaced by the new fuse pins, the repetitive inspections required by the AD may be eliminated. AD 79–17–04 is therefore amended to incorporate a terminating action consisting of replacement of the midspar fuse pins and the associated access covers on the outboard struts of airplanes equipped with JT9D–70 or CF6–50 Series engines.

Since this amendment provides an alternate means of compliance, it has no adverse economic impact and imposes no additional burden on any person. Therefore notice and public procedure hereon are unnecessary, and the amendment may be made effective in less than 30 days.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending AD 79–17–04, Amendment 39–3529 (44 FR 47924, August 16, 1979), by adding a new paragraph G. to read as follows:

G. When fuse pins are replaced in accordance with Boeing Service Bulletin No. 747–54–2063, Revision 1, dated August 13, 1981, or later FAA approved revisions, the actions of paragraph A, C, and D may be discontinued as these fuse pins are terminating action for this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to The Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective March 16, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves an amendment that is relieving in nature and does not impose any additional burden on any person. This amendment is not major under Executive Order 12291 (46 FR 13193; February 19, 1981) and not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation, and I certify that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review only by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Wash., on February 24, 1982.

Charles R. Foster,
Director, Northwest Mountain Region.

[FR Doc. 82-6227 Filed 3-5-82; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 82-NM-06-AD, Amdt. 39-4337]

Airworthiness Directives: Canadair Model CL–600 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires modification of the main windshield lower sills to prevent fatigue cracks from forming on certain Canadair CL–600 airplanes. This modification is necessary since fatigue cracks were found during the manufacturer's cyclic testing which, if allowed to remain unrepaired, could compromise the structural integrity of the windshield lower sills, resulting in possible decompression of the airplane.

DATE: Effective date: March 10, 1982.

ADDRESSES: The service bulletin specified in this Airworthiness Directive may be obtained upon request to Canadair Ltd., Commercial Aircraft Technical Services, Box 6087, Station A, Montreal, Canada PQ H3C3G9, or may be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT:
Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, ANM–150S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767–2530.

SUPPLEMENTARY INFORMATION: The Canadian Department of Transportation (DOT) has issued an Airworthiness Directive which requires modification of the main windshield lower sills to prevent the fatigue cracks from forming on certain Canadair CL–600 airplanes. Cracked lower sill members were found during the manufacturer's cyclic testing which, if allowed to remain, could seriously compromise the structural integrity of the windshield installation. The manufacturer believes the modification is necessary for the continued airworthiness of the airplane, and in order to prevent cracks from occurring in production airplanes. The DOT, which is the Civil Air Authority of Canada, is requiring that the main windshield lower sills be modified in accordance with Canadair Alert Service Bulletin A600–0035 dated May 28, 1981.

This airplane model is manufactured in Canada and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is being issued which requires the modification of the main windshield lower sills on certain Canadair CL–600 airplanes in accordance with the service bulletin.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Canadair: Applies to Canadair Model CL–600–1A11 airplanes, Serial Numbers (S/N) 1005–1008 and 9010–1018, certificated in all categories.

Compliance required as indicated.

To ensure structural integrity of the windshield lower sill members, accomplish the following unless already accomplished:

1. Prior to the accumulation of 600 hours time in service or within 25 hours time in service after the effective date of this AD, whichever occurs later, reinforce the sill members as described in paragraph 2 of Canadair Alert Service Bulletin A600–0035 dated May 28, 1981.

2. Airplanes with Canadair Modification Summary 600–660, Issue NC, installed are exempt from this AD.

3. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, 98108.

4. Airplanes may be flown in accordance with FAR 21.197 to a maintenance base for the accomplishment of the modification required by this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the addresses listed above. These documents may also be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective March 16, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Wash., on February 24, 1982.

Charles R. Foster,
Director, Northwest Mountain Region.

[FR Doc. 82-6228 Filed 3-5-82; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 82-NW-16-AD, Amdt. No. 39-4338]

Airworthiness Directive: Gates Learjet Models 24E/F and 25D/F Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; extension of compliance period.

SUMMARY: This action extends the compliance period for Airworthiness Directive (AD) 81–16–06 which requires modification of the flight control systems, stall warning system, and control wheel of certain Gates Learjet airplanes. The FAA has determined that the original specified compliance time is unduly burdensome, and can be extended without compromising safety.

DATES: Effective date February 27, 1982.

Final compliance date extended from February 28, 1982, to May 31, 1982.

FOR FURTHER INFORMATION CONTACT:
Larry Mahr, ACE–130W, Wichita Aircraft Certification Office, FAA, Room 238, Terminal Building No. 2200, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269–7088.

SUPPLEMENTARY INFORMATION: AD 81–16–06 (Amdt. 39–4184, 46 FR 39990), as revised (Amdt. 39–4285, 47 FR 2477), requires modification of affected airplanes in accordance with Gates Learjet Modification Kits AMK 81–7, AMK 81–8, and AMK 81–13, Change 3, respectively, by February 28, 1982. After the establishment of this compliance date, the FAA received numerous requests from owners/operators for extension of the compliance date since they cannot obtain the necessary modification kits from the airplane manufacturer and accomplish the required modifications by that date. If the compliance time is not extended, numerous airplanes will have to be grounded until the required modifications can be performed. The FAA has reevaluated the service experience in the operation of airplanes affected by this AD in light of the operators' request.

In light of the fact that there has been no further adverse service history reported to date, the increased operator awareness of potential control and handling problems of these airplanes, and the severe economic penalty which would be otherwise incurred by operators in grounding these aircraft due to nonavailability of parts, the FAA has determined that an extension of the compliance time may be granted with no degradation in safety. In the meantime, some aircraft will have already been modified. Accordingly, the final compliance date is extended three months from February 28, 1982, to May 31, 1982.

Since this revision is relieving in nature, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less then thirty (30) days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by further amending Airworthiness Directive 81–16–06 R1, (Amendment 39–4184, 46 FR 39990), as amended

(Amendment 39-4295, 47 FR 2477), as follows:

The date appearing in the first line of paragraph D is changed from February 28, 1982, to May 31, 1982.

This amendment becomes effective on: February 27, 1982.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves an amendment that is relieving in nature and does not impose any additional burden on any person. This amendment is not major under Executive Order 12291 (46 FR 13193; February 19, 1981) and not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation, and I certify that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review only by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Wash., on February 24, 1982.

John Wichels, Jr.,

Acting Director, Northwest Mountain Region.

[FR Doc 82-6230 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-04-AD, Amdt. 39-4339]

Airworthiness Directives: McDonnell Douglas Model DC-9-10 Through -50 Series and C-9 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires inspection of fittings and plates on the horizontal stabilizer center section for cracking and/or corrosion and requires either repair or replacement of the affected parts and/or removal of corrosion with application of corrosion inhibiting compound on certain McDonnell Douglas DC-9 and C-9 series airplanes. This AD is necessary since cracked or corroded fittings or plates could result in failure of the horizontal stabilizer center section and loss of control of the airplane.

DATES: Effective date March 17, 1982.

Comments must be received by April 16, 1982.

Compliance schedule as prescribed in the body of the AD unless already accomplished.

ADDRESSES: The applicable service information and copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training C1-750 (54-60). This information also may be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108; or 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT: Harry Irwin, Aerospace Engineer, Airframe Branch, ANM-120L, Federal Aviation Administration, Los Angeles Area Aircraft Certification Office, Northwest Mountain Region, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2826.

SUPPLEMENTARY INFORMATION: Four operators reported nine instances of cracks in the fittings and plates on the horizontal stabilizer center section on aircraft having accumulated between 2,600 and 23,449 flight hours. Analysis by the manufacturer revealed that the cracks were caused by stress corrosion.

Since the center section box is the sole structural support for the cantilevered horizontal stabilizer and its attached elevator, failure of the center section box could result in loss of these control surfaces with consequent loss of aircraft controllability.

Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires a visual inspection of the fittings and plates for cracking and/or corrosion with repair or replacement of the affected parts. Subsequent repetitive inspections are required.

Request for Comments on the Rule

Although this action is in the form of a final rule, which was not preceded by notice and public procedure, comments are invited on the rule within the next 30 days. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review this amendment. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend this rule. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of this rule and determining whether additional rulemaking is needed.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure herein are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to all McDonnell Douglas Model DC-9-10 through -50 Series and C-9 Series airplanes prior to fuselage number 1013 certificated in all categories.

Compliance required as indicated in the body of this AD, unless previously accomplished. To prevent failure of the horizontal stabilizer center section fittings and plates, perform the following:

A. Prior to the accumulation of 2,900 flight hours, or within 400 flight hours following the effective date of this AD, whichever comes later, accomplish the following:

Note.—Operators who have accomplished the actions required by paragraphs (A)(1)-(A)(3), below, within 2,600 flight hours prior to the effective date of this AD, need not reinspect until 3,200 flight hours following the last inspection, as required by paragraph B, below.

1. Visually inspect for corrosion in areas shown in McDonnell Douglas Structural Repair Manual (SRM), Chapter 55-02, Figure 12, Fitting P/N's 5912486-1, -501, -503, -505, -507.

(a) If corrosion is evident, remove corrosion per SRM Chapter 51-10-3. Reinspect to insure limits established per SRM Chapter 55-02, Figure 12, are maintained and apply corrosion inhibiting compound per SRM Chapter 51-10-3.

(b) If limits are exceeded, replace each affected part as necessary.

(c) If corrosion is not evident, apply corrosion inhibiting compound per SRM Chapter 51-10-3.

2. Visually inspect P/N 5018086-1 and -501 fitting assemblies for cracks, as outlined in SRM Chapter 55-02, Figure 13.

(a) If cracks are found, repair per SRM Chapter 55-02, Figure 13.

(b) If cracks are not found or if cracks have been repaired per (2)(a) above, apply corrosion inhibiting compound to the fitting(s) per SRM Chapter 51-10-3.

(c) If corrosion is not evident, apply corrosion inhibiting compound per SRM Chapter 51-10-3.

3. Visually inspect P/N's 9011661-1, 9011662-1, 9018440-1, and 9018441-1 plates for corrosion in areas shown in SRM Chapter 55-02, Figure 12.

(a) If corrosion is evident, remove corrosion per SRM Chapter 51-10-3. Reinspect to insure limits established per SRM Chapter 55-02, Figure 12, are maintained and apply corrosion inhibiting compound per SRM Chapter 51-10-3.

(b) If limits are exceeded, replace each affected part as necessary.

B. The inspections and repairs set forth in paragraph A above must be repeated at intervals of 3,200 flight hours until the affected parts are replaced by new parts per Service Bulletin 55-32, Revision 1, dated September 28, 1981, or later revisions approved by the Chief, Los Angeles Area Aircraft Certification Office, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the inspection requirements of this AD.

D. Alternative means of compliance with this AD which provide an equivalent level of safety may be used when approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808.

This amendment becomes effective March 17, 1982.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedure (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Wash., on February 25, 1982.

John Wichels, Jr.,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-6229 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 79-ME-09, Amdt. 39-4334]

Pratt & Whitney JT8D-9, -9A, -11, -15, -17 and -17R Turbofan Engines; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment revises the compliance schedule of an existing airworthiness directive (AD) which requires eddy current inspection for cracks of certain front compressor front hub blade slots. The revised inspection intervals are necessary to account for engine model rotor speed differences in the detection of cracks, originating in the blade slot, which could result in complete fracture of blade retention lugs and liberation of first stage fan blades.

DATES: Effective date—March 4, 1982.

Comments on the rule must be received on or before May 4, 1982.

Compliance schedule—as prescribed in the text of the AD.

ADDRESSES: The applicable alert service bulletin may be obtained from Pratt & Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108.

Send comments on the rule to: Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attention: Rules Docket No. ———, 12 New England Executive Park, Burlington, Massachusetts 01803.

Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

Copies of the service bulletins are contained in the Rules Docket, Federal Aviation Administration, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: W. Locke Easton, Transport Engine Certification Section (ANE-141), Engine Certification Branch, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7347.

SUPPLEMENTARY INFORMATION: A final rule to amend Part 39 of the Federal Aviation Regulations to include an AD requiring an eddy current inspection for cracks of certain front compressor front hub blade slots became effective on September 20, 1978. That AD required initial inspection at 13,000 cycles and a repetitive inspection interval of 6,000 cycles of all affected engine models. In the original assessment of blade slot cracking, rotor speed differences between engine models were not considered significant enough to require individual inspection intervals for each model. Recent field experience does not support the original assumptions, and it is necessary to revise the eddy current inspection intervals specified in the original AD. The revised AD requires a repetitive eddy current inspection of front compressor front hubs, in accordance with Pratt & Whitney Aircraft Alert Service Bulletin No. 4041, Revision 4, for cracks in the blade slot pressure face area. This AD revision alters the initial and repetitive inspection requirements for certain engine models.

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by revising AD 78-17-02 to read as follows:

Pratt & Whitney Aircraft: Applies to Pratt & Whitney Aircraft JT8D-9, -9A, -11, -15, -17, and -17R turbofan engine models.

Compliance required as indicated, unless already accomplished.

To detect cracks in compressor front hubs, P/Ns 594301, 701601, 940501, 743981, 739101, and 749801, except those listed in Pratt & Whitney Aircraft Alert Service Bulletin No.

4841, Revision 4, dated November 20, 1981, or later FAA approved revision, which could result in fracture of the retention lugs and release of first stage fan blades, accomplish the following:

(A) Inspect front compressor front hubs for cracks in the blade slots in accordance with Pratt & Whitney Aircraft Alert Service Bulletin No. 4841, Revision 4, dated November 20, 1981, or later FAA approved revision, or equivalent means approved by the Chief, Engine Certification Branch, New England Region, and in accordance with limits specified in Paragraphs (B) and (C). Remove cracked compressor front hubs prior to further flight.

(B) Hubs not previously inspected shall be inspected within 1,000 cycles from the effective date of this AD or before reaching the initial inspection limits specified in Column I of Paragraph (D), whichever occurs later, except do not exceed 13,000 total cycles. Repeat inspections at intervals listed in Column II, Paragraph (D), thereafter.

(C) Hubs which have been previously inspected shall be reinspected within 1,000 cycles after the effective date of this AD or before reaching the initial inspection limit specified in Column I, Paragraph (D), or before reaching the repetitive inspection limits specified in Column II of Paragraph (D), whichever comes later but not to exceed 6,000 cycles since last inspection. Repeat inspections at intervals listed in Column II, Paragraph (D), thereafter.

(D) Table follows:

Model	Column I initial inspection limit (cycles)	Column II repetitive inspection limit (cycles)
JT8D-9, -9A	13,000	6,000
JT8D-11	10,500	6,000
JT8D-15	8,500	6,000
JT8D-17	8,500	6,000
JT8D-17R	8,000	6,000

(E) Upon request of the operator, an FAA maintenance inspector, subject to the approval of the Chief, Engine Certification Branch, FAA, New England Region, may adjust the inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(F) For hubs that have been installed in more than one engine model, the inspection schedule for the engine model with the highest rating in which it has operated is applicable.

Because the rule involves requirements affecting immediate flight safety, the Agency finds that good cause exists for making the rule effective in less than 30 days.

This amendment becomes effective March 4, 1982.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

This amendment revises Amendment 39-3281 (AD78-17-02), effective September 20, 1978.

Note.—The FAA has determined that this regulation is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the Court of Appeals of the United States or the United States Court of Appeals for the District of Columbia.

Issued in Burlington, Mass., on February 23, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82-6236 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-AAL-16]

Establishment of Ambler, Alaska, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes a transition area in the vicinity of Ambler, Alaska. This action provides controlled airspace required for air traffic control services.

EFFECTIVE DATE: May 13, 1982.

FOR FURTHER INFORMATION CONTACT: Jerry M. Wylie, Operations, Procedures, and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, Alaska 99513, telephone (907) 271-5903.

SUPPLEMENTARY INFORMATION:

History

On January 11, 1982, the FAA proposed to amend Part 71 of the Federal Aviation Regulation (14 CFR Part 71) to establish a transition area to provide controlled airspace in the vicinity of Ambler, Alaska. The FAA has installed a Nondirectional Radio Beacon (NDB) at Ambler and has developed a standard instrument approach procedure to the Ambler airport.

Additional controlled airspace is required to provide protected controlled airspace for the instrument approach procedure. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received. This amendment is the same as that proposed in the notice. Section 71.181 was republished on January 2, 1981 (46 FR 540).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations establishes a transition area that extends upward from 700 feet above the surface within 9.5 miles east and 6 miles west of the Ambler NDB 186° and 006° True bearings, extending from 8 miles north of the NDB to 18.5 miles south of the NDB.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 540, 1-2-81), is amended, effective 0901 GMT, May 13, 1982, as follows:

By adding Ambler, AK, Transition Area to read as follows:

Ambler, AK

That airspace extending upward from 700 feet above the surface within 9.5 miles east and 6 miles west of the Ambler NDB (Lat. 67°06'26"N, Long. 157°51'18"W) 186° and 006° bearings, extending from 8 miles north of the NDB to 18.5 miles south of the NDB.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Anchorage, Alaska, on February 24, 1982.

Robert L. Faith,

Director.

[FR Doc. 82-5869 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-ANW-14]

Alteration of Control Zone Abbotsford, British Columbia, Canada; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: In a rule published in the Federal Register on January 11, 1982, (47 FR 1114), the control zone for the Abbotsford, British Columbia, Canada Airport was amended. This action corrects a discrepancy in the geographical coordinates used in describing the control zone.

EFFECTIVE DATE: March 18, 1982.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace Specialist (ANM-534), Operations, Procedures, and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Northwest Mountain Region, FAA Building, Boeing Field, Seattle, Washington 98108; telephone (206) 767-2610.

SUPPLEMENTARY INFORMATION: Earlier in this docket, action was taken to redescribe the Abbotsford, British Columbia, Canada Airport Control Zone. Insofar as it concerns U.S. airspace, the size of the control zone was reduced. This relief was the result of the establishment of a Special Air Traffic Area and Airport Traffic Pattern Rule for U.S. airspace near Abbotsford, British Columbia, which became effective January 21, 1982.

Since this action is only editorial in nature and does not constitute a substantive change in rulemaking, notice and public procedure thereon are unnecessary and the correction may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 455, January 2, 1981) is amended, effective 0901 GMT, March 18, 1982, as follows:

Abbotsford, British Columbia, Canada

On line eight, longitude coordinates 122°28'40"W, should read: 122°27'40"W.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington, February 25, 1982.

John Wichels, Jr.,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-5862 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 81-AAL-14]

Establishment of Jet Routes and Area High Routes; Extension of High Altitude Route J-133

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends High Altitude Route J-133 from Johnstone Point, AK, to Galena, AK. The extension of J-133 will ease flight planning and reduce controller and pilot workload associated with rerouting of these aircraft by allowing flight plans to be filed along the new route.

EFFECTIVE DATE: May 13, 1982.

FOR FURTHER INFORMATION CONTACT: Robert Maxey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On December 10, 1981, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to extend High Altitude Route J-133 as published in the Federal Register (46 FR 60466), from Johnstone Point, AK, to Galena, AK. This action allows pilots to file flight plans along the new route and eliminates the need to reroute aircraft who request direct routing over Anchorage through this area of non-radar control. Pilot and controller workload is reduced and more efficient use of the airspace is achieved. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. One comment objecting to the proposal was received but was subsequently withdrawn. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 was republished on January 2, 1981 (46 FR 634).

The Rule

This amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) extends J-133 from Johnstone Point, AK, to Galena, AK. This action aids flight planning, reduces pilot and controller workload, and provides for more efficient use of the airspace.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (46 FR 634), is amended, effective 0901 GMT, May 13, 1982, as follows:

J-133 [Amended]

By deleting the words "to Johnstone Point, AK." and substituting for them the words "Johnstone Point, AK; Anchorage, AK; to Galena, AK."

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 26, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-5861 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 22704; Amdt. No. 1211]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO–730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4 and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exist for making some SIAPs effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR–VOR/DME SIAPs identified as follows:

* * * Effective May 13, 1982:

Bangor, ME—Bangor Intl, VOR–A, Amdt. 1
Bangor, ME—Bangor Intl, VOR/DME Rwy 15, Amdt. 1
Bangor, ME—Bangor Intl, VOR/DME Rwy 33, Amdt. 3
Perryville, MO—Perryville Muni, VOR/DME–A, Amdt. 3

* * * Effective April 15, 1982:

San Jose, CA—San Jose Muni, VOR Rwy 12L/R, Amdt. 18
Orlando, FL—Orlando International, VOR/DME Rwy 18L, Amdt. 3
Orlando, FL—Orlando International, VOR/DME Rwy 18R, Amdt. 3
Bainbridge, GA—Commodore Decatur, VOR–B, Amdt. 2, cancelled
Lincoln, IL—Logan County, VOR Rwy 3, Amdt. 4
Mt. Pleasant, MI—Mt. Pleasant Municipal, VOR Rwy 27, Amdt. 8
Laurel/Hattiesburg, MS—Pine Belt Regional, VOR Rwy 36, Amdt. 2
Albany, NY—Albany County, VOR Rwy 19, Amdt. 18
Buffalo, NY—Buffalo Airpark, VOR Rwy 24, Amdt. 5

* * * Effective February 16, 1982:

Montague, CA—Siskiyou County, VOR–B, Amdt. 5

2. By amending § 97.25 SDF–LOC–LDA SIAPs identified as follows:

* * * Effective April 15, 1982:

San Jose, CA—San Jose Muni, LOC/DME Rwy 30L, Amdt. 4
Rockland, ME—Knox County Regional, LOC Rwy 3, Amdt. 5
Jackson, MS—Hawkins Field, LOC Rwy 16, Amdt. 1, cancelled

* * * Effective March 18, 1982:

Sioux City, IA—Sioux City Muni, LOC Rwy 13, Amdt. 1, cancelled
St. Louis, MO—Lambert–St. Louis Intl, LDA/DME–A, Amdt. 1, cancelled

Note.—The FAA published an amendment in Docket No. 22588, Amdt No. 1210 to Part 97 of the Federal Aviation Regulations (Vol. 47 FR No. 35 page 7624; dated February 22, 1982) under § 97.25 effective March 18, 1982, which is hereby amended as follows: Dayton, OH-Dayton General Arpt (South) LOC RWY 20. Original, Cancelled.

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * Effective May 13, 1982:

Bangor, ME—Bangor Intl, NDB Rwy 33, Amdt. 4
Pittsfield, ME—Pittsfield Muni, NDB Rwy 1, Amdt. 3

* * * Effective April 15, 1982:

Lincoln, IL—Logan County, NDB Rwy 21, Amdt. 3
Rockland, ME—Knox County Regional, NDB Rwy 3, Amdt. 4
Merrill, WI—Merrill Muni, NDB Rwy 7, Original
Merrill, WI—Merrill Muni, NDB Rwy 16, Amdt. 4
Rice Lake, WI—Rice Lake Municipal, NDB Rwy 36, Amdt. 1

* * * Effective February 19, 1982:

Sulphur Springs, TX—Sulphur Springs Muni, NDB Rwy 18, Amdt. 2

* * * Effective February 16, 1982:

Montague, CA—Siskiyou County, NDB–A, Amdt. 5

4. By amending § 97.29 ILS–MLS SIAPs identified as follows:

* * * Effective May 13, 1982:

Bangor, ME—Bangor Intl, ILS Rwy 33, Amdt. 9

* * * Effective April 15, 1982:

San Jose, CA—San Jose Muni, ILS Rwy 12R, Amdt. 1
San Jose, CA—San Jose Muni, ILS Rwy 30L, Amdt. 14
Jackson, MS—Hawkins Field, ILS Rwy 16, Original
Laurel/Hattiesburg, MS—Pine Belt Regional, ILS Rwy 18, Amdt. 3
Albany, NY—Albany County, ILS Rwy 19, Amdt. 17

* * * Effective March 18, 1982:

Sioux City, IA—Sioux City Muni, ILS Rwy 13, Original
St. Louis, MO—Lambert–St. Louis Intl, ILS Rwy 30L, Amdt. 7

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * Effective April 15, 1982:

Monroe, LA—Monroe Regional, RADAR–1, Amdt. 3
Albany, NY—Albany County, RADAR–1, Amdt. 13

* * * Effective March 18, 1982:

St. Louis, MO—Lambert–St. Louis Intl, RADAR–1, Amdt. 27

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * Effective May 13, 1982:

Perryville, MO—Perryville Muni, RNAV Rwy 19, Original

* * * Effective March 18, 1982:

St. Louis, MO—Lambert–St. Louis Intl, RNAV Rwy 30L, Amdt. 9

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 26, 1982.

John M. Howard,

Acting Chief, Aircraft Programs Division.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1981.

[FR Doc. 82-6231 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 208

[Regulation ER–1266 Amdt. No. 35 to Part 208]

Terms, Conditions, and Limitations of Certificates To Engage in Charter Air Transportation

AGENCY: Civil Aeronautics Board.

ACTION: Final rule; editorial amendment.

SUMMARY: This rule removes an obsolete reference from the Board's rules setting forth the content of charter contracts between a U.S. airline and a charter operator. As a result of this amendment, the airline no longer is required to disclose in the contract the terms of its aircraft accident liability insurance.

DATES: Effective: March 1, 1982.
Adopted: March 1, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202–673–5442.

When the Board adopted a new 14 CFR Part 205, setting requirements for aircraft accident liability insurance for airlines (ER–1253, 46 FR 52572, October 27, 1981), it replaced the existing requirements for charter air carriers in 14 CFR 208.10–208.15. Those sections were replaced with a cross-reference to Part 205.

In § 208.32(d), charter air carriers are required to incorporate the provisions of certain sections of Part 208, including those of §§ 208.10–208.15 for insurance. In Part 205, however, the Board decided that the full terms of the insurance coverage need not be disclosed to the public. The reference to §§ 208.10–208.15 in § 208.32(d) was thus retained by mistake.

In order to prevent confusion and to follow the Board's intent, the requirement to set forth the terms of aircraft accident liability insurance in charter contracts is being removed

PART 208—TERMS, CONDITIONS, AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN CHARTER AIR TRANSPORTATION

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 208, Terms, Conditions, and Limitations of Certificates to Engage in Charter Air Transportation, as follows:

1. The authority for Part 208 is:

Authority: Secs. 101(3), 102, 204, 401, 403, 404, 407, 411, 416, 417, 1002, Pub. L. 85–726, as amended, 72 Stat. 737, 740, 743, 754, 758, 760, 766, 769, 771, 78 Stat. 145, 788; 49 U.S.C. 1301, 1302, 1324, 1371, 1373, 1374, 1377, 1381, 1386, 1387, 1482.

2. Section 208.32(d) is revised to read:

§ 208.32 Terms of service.

* * * * *

(d) Each and every contract for a charter to be operated hereunder shall incorporate the provisions of §§ 208.32a, 208.33, and 208.33a, where applicable, concerning insurance and substitute transportation.

* * * * *

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-6101 Filed 3-5-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 904

Financial Compensation of Participants in Administrative Proceedings

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim rule; suspension.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is suspending its regulations which establish criteria and procedures for reimbursing members of the public for the costs of participation in administrative proceedings conducted by NOAA. NOAA is also requesting comments on a proposal to revoke these regulations in a separate document appearing in this issue of the Federal Register. This action is the result of a recent federal court decision which raises a serious question as to NOAA's authority to implement these regulations. This notice is intended to suspend until further notice 15 CFR Part 904 Subpart C—Financial Compensation of Participants in Administrative Proceedings.

EFFECTIVE DATE: Interim rule effective March 8, 1982 until further notice.

FOR FURTHER INFORMATION CONTACT: Phyllis W. Jackson, Staff Attorney, Office of General Counsel, National Oceanic and Atmospheric Administration, Room 5816, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377–3043.

SUPPLEMENTARY INFORMATION: On Wednesday, April 26, 1978, the National Oceanic and Atmospheric Administration (NOAA) published a notice of final rulemaking on financial compensation of participants in administrative proceedings. These rules went into effect on May 26, 1978. These rules established criteria and procedures for reimbursing members of the public for the costs of participation in administrative proceedings conducted by NOAA. On November 27, 1981, the United States Court of Appeals for the Fourth Circuit held a similar Food and Drug Administration (FDA) regulation invalid in the case of *Pacific Legal Foundation* v. *Goyan*, No. 80–1854 (Nov. 27, 1981). The FDA regulation was established to provide "payment from agency funds of reimbursement for reasonable attorneys' fees, expert witness fees, the expenses of clerical service, travel, studies, demonstrations, and other reasonable and necessary costs of participations incurred by a participant * * * in an agency proceeding * * * that results in a hearing * * *." Congress has not authorized the payment program, but the FDA considered that it held implied power to fund the program because it had broad regulatory powers and was required to hold frequent hearings. The court held that in the absence of specific statutory authorization an agency may not disburse funds to participants in its proceedings. NOAA like FDA, does not have express congressional authorization to spend funds for various costs incurred by participants in agency proceedings. This court decision raises a serious question as to NOAA's authority. Therefore, pursuant to its authority under 31 U.S.C. 620, NOAA is suspending its regulations of 15 CFR Part 904 Subpart G which govern financial compensation of participants in NOAA's administrative proceedings. For good cause shown, this interim action is effective immediately pursuant to the exception to the notice and comment procedures of the Administrative Procedure Act 5 U.S.C. 553. However, NOAA is requesting comments on the proposal to revoke 15 CFR Part 904 Subpart G. This will allow public participation in the rulemaking process prior to any final revocation action.

E.O. 12291

This notice was determined not to be a major rule as defined in Section 1(b) of E.O. 12291 and as such was not the subject of a Regulatory Impact Analysis.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act is designed to relieve small businesses, small organizations and small governmental jurisdictions (collectively "small entities") from burdensome regulatory and recordkeeping requirements which have been imposed uniformly on both large and small entities. This Federal Register notice simply suspends regulations that establish criteria and procedures for reimbursing members of the public for the cost of participation in administrative proceedings. Only a small number of persons have participated in the NOAA program to date. Therefore, it has been determined that this action does not create any new rule and does not have a significant economic impact on a substantial number of small entities.

In accordance with the provisions of Section 605(b) of the Regulatory Flexibility Act, the General Counsel of the Department of Commerce certifies that this action affecting National Oceanic and Atmospheric Administration (NOAA) regulations, 15 CFR Part 904 Subpart G governing "Financial Compensation of Participants in Administrative Proceedings", does not appear to have a significant economic impact on a substantial number of small entities and is, in any event, required by law. He has provided a certification to this effect to the Chief Counsel for Advocacy of the Small Business Administration. Therefore, it has been determined that this action is not subject to the Regulatory Flexibility Analysis requirements of sections 603 and 604 of the Regulatory Flexibility Act.

Paperwork Reduction Act of 1980

This suspension action does not generate any information collection request or paperwork burden or otherwise result in activities which are subject to the requirements of the Paperwork Reduction Act of 1980.

National Environmental Policy Act

NOAA has determined that this regulation does not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969.

PART 904—FINANCIAL COMPENSATION OF PARTICIPANTS IN ADMINISTRATIVE PROCEEDINGS.

§ 904.600 through § 904.604 [Suspended]

For the reasons set out in the preamble, 15 CFR Part 904 Subpart G is suspended.

Dated: January 6, 1982.

John V. Byrne,
Administrator, NOAA.

Regulatory Flexibility Act Section 605(b) Statement and Certification

The Regulatory Flexibility Act is designed to relieve small businesses, small organizations and small governmental jurisdictions (collectively "small entities") from burdensome regulatory and recordkeeping requirements which has been imposed uniformly on both large and small entities. This Federal Register notice suspends and requests comments on the proposal to revoke regulations that establish criteria and procedures for reimbursing members of the public for the cost of participation in administrative proceedings of NOAA.

Since fiscal year 1980, seven payments of financial compensation to participants in administration proceedings, pursuant to 15 CFR 904, Subpart G, have been granted totaling $8,080.19. Outlays to parties have ranged in amount from $281.10 to $2,998.86. Based upon this pattern of usage, suspension of the subject program would not appear to have a significant economic impact on a substantial number of small entities. Section 605 of the Regulatory Flexibility Act ("the Act") (5 U.S.C. 605), entitled "Effect on Other Law," further provides that "The requirements of sections 603 and 604 of this title," dealing with initial and final regulatory flexibility analyses, "do not alter in any manner standards otherwise applicable by law to agency action." Accordingly, given the apparent applicability of the holding of the United States Court of Appeals for the Fourth Circuit in *Pacific Legal Foundation* v. *Goyan*, NOAA is required to suspend its program forthwith and is therefore exempted from the Act's requirement to perform a regulatory flexibility analysis thereon.

For these reasons, in accordance with section 604(b) of the Act, I certify that suspension and request for comments on the proposal to revoke National Oceanic and Atmospheric Administration (NOAA) regulations, 15 CFR Part 904, Subpart G, governing "Financial Compensation of Participants in Administrative Proceedings," does not appear to have a significant economic impact on a substantial number of small entities, and is, in any event, required by law to be effectuated. Therefore, the rulemaking is not subject to the regulatory flexibility analysis requirements of sections 603 and 604 of the Act.

[FR Doc. 82-6236 Filed 3-5-82; 8:45 am]
BILLING CODE 3510-12-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-3084]

Chrysler Corporation; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a Highland Park, Mich. motor vehicle manufacturer and distributor, among other things, to cease misrepresenting or failing to disclose the limited applicability of material standards for its oil filters and other products; and failing to have competent and reliable substantiation for claims concerning such standards. The firm is required to notify aftermarket manufacturers, dealers and owners of certain vehicles of the inaccuracy of its oil filter material standard, and provide them with ways to avoid or remedy any resulting problems. Further, all future owner and service manuals have to contain accurate oil filter use information. The order additionally requires the company to maintain a reasonably-priced subscription service to provide subscribers with up-to-date material standards; and advertise the existence of this service in *Automotive News*.

DATES: Complaint and order issued Feb. 17, 1982.[1]

FOR FURTHER INFORMATION CONTACT: FTC/PE, Gary M. Laden, Washington, D.C. 20580. (202) 724–1524.

SUPPLEMENTARY INFORMATION: On Tuesday, September 8, 1981, there was published in the Federal Register, 46 FR 44765, a proposed consent agreement with analysis in the Matter of Chrysler Corporation, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.170 Qualities or properties of product or service; § 13.190 Results; § 13.205 Scientific or other relevant facts. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–35 Employment of independent agencies; 13.533–45 Maintain records; 13.533–50 Maintain means of communication. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1863 Limitations of product; § 1885 Qualities or properties; § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,
Secretary.

Chrysler Corporation, File No. 802 3009—Separate Statement of Acting Chairman Clanton and Commissioner Bailey

The Commission has voted unanimously to accept a consent agreement with Chrysler Corporation that remedies certain alleged information problems concerning replacement oil filters for its Japanese import vehicles and its Dodge Omni and Plymouth Horizon cars. Commissioner Pertschuk has stated that he would also have required Chrysler to pay consumers for the premature wear of engine balancer chains in the company's 1976–77 Mitsubishi-manufactured cars. We do not believe that the Commission can demand such relief from Chrysler because we are convinced that no law violation has occurred as to the vast majority of cars sold with the engineering development of a balancer chain.

In 1975, Chrysler introduced balancer chains in cars manufactured for the company by Mitsubishi. The balancer chain was developed to reduce engine vibration. Over the next year, Chrysler began to receive complaints that the balancer chains on its cars were wearing out prematurely. It is important to keep in mind that balancer chains were never intended to last the lifetime of the car; rather, the company anticipated that they would have to be replaced at least once.

In about September of 1976, the company had received enough complaints to indicate that some modification of the balancer chain design was necessary. The company immediately moved to discover such a "fix." Within a very short period of time, an effective fix had been implemented. The only use and care information that the company could have communicated to current owners during that time that might have reduced the likelihood of premature balancer chain wear was to advise them to use unleaded gasoline. An analysis by the Commission's economists indicates, however, that had consumers switched to unleaded gasoline, the difference in cost between leaded and unleaded gas would have at least equaled and probably exceeded the cost of dealing with any premature problems with the balancer chain.

Commissioner Pertschuk, in his separate statement, suggests that "the facts are open to reasonable dispute." On the contrary, the facts, as developed in the staff's investigation, are clear. It is the application of the law to those facts that is in dispute here.

The staff's investigation has shown that the company was possibly in technical violation of the Federal Trade Commission Act for a short time period (approximately four months), when it did not inform prospective purchasers of the cars in question that a possible design defect existed. In view of Chrysler's relatively prompt action to develop a solution to the problem, and

[1] Copies of the Complaint and the Decision and Order filed with the original document.

the limited extent of injury to prospective purchasers, we conclude that as a matter of prosecutorial discretion the company should not be charged with a violation of the Federal Trade Commission Act.

Every car buyer must sustain many costs or repairing his or her automobile over its lifetime. There are only certain circumstances in which it is legally appropriate for the Commission to intervene. This is not one of them.

Separate Statement of Commissioner Pertschuk

This Consent Agreement with the Chrysler Corporation does not go far enough. My disagreement with the Commission's action stems not from the useful relief that will be provided concerning oil filters for Chrysler cars, but from the Commission's failure to require Chrysler to redress consumers who suffered millions of dollars in total damages from another serious engine problem in certain Chrysler imports. Specifically, the Consent Agreement fails to compensate Chrysler customers for early failure of the balancer chain, a $150 to $250 device designed to reduce engine wear. This problem has affected as many as 38,000 Dodge Colts and Plymouth Arrows sold from the beginning of the 1976 model year through the middle of the 1977 model year. Chrysler failed to tell its customers of this problem after learning about it.

Acting Chairman Clanton and Commissioner Bailey do not believe the Commission should remedy Chrysler's failure to disclose the balancer chain problem. I disagree. Though the facts are open to reasonable dispute, I think there is reason to believe that Chrysler had a duty under the FTC Act to disclose the balancer chain problem to its customers. It is true that Chrysler moved to find a fix after discovering the problem and eventually landed upon one several months later. In my view, however, a manufacturer has a duty promptly to inform prospective purchasers of a serious defect affecting a substantial portion of a line of its vehicles as soon as it becomes aware of it,[2] whether or not it begins working on a future fix at the same time. Disclosure gives these customers—who will not benefit from any future fix—an opportunity to protect themselves against the defect by, for example, bargaining on price or other terms. There is reason to believe that Chrysler breached this duty to disclose in this case.

[2] The manufacturer may also be said legally to be aware of the problem, based upon information available to, or in the possession of, responsible corporate officials.

In addition, I believe a manufacturer has a duty to disclose material "use and care" information which will help owners solve or mitigate a serious defect and avoid substantial injury. An analysis by the Commission's Bureau of Consumer Protection indicates that consumers could have benefited from the information, known to Chrysler at the time, that the use of unleaded gas would eliminate or alleviate the balancer chain problem. Thus, there is reason to believe that Chrysler also breached this duty in this case.

Overall, the evidence indicates that consumers could have avoided or deferred substantial economic loss if they had been told about the balancer chain failure in time. Therefore, while I concur in this Consent Agreement as far as it goes, I must dissent from the Commission's decision to settle for less than appears justified.

Separate Statement of Commissioner Pertschuk

The consumer comments received strongly criticized the Commission's decision not to seek redress for Chrysler owners who have suffered millions of dollars in damages due to balancer chain failures in certain Chrysler imports. These comments only strengthen my previously expressed feeling that this decision is not in the best interests of consumers. They vividly express my dismay with the fact that the Commission, despite getting a helping hand from Chrysler, did not walk the full mile to protect consumers in this instance.

[FR Doc. 82-6171 Filed 3-5-82; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-82-940]

Community Development Block Grants: States' Program

AGENCY: Office of Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of effective date for interim rule.

SUMMARY: This document announces the effective date for the interim rule published in the Federal Register on November 20, 1981 (46 FR 57256) which established policies and procedures for State administration of Community Development Block Grants for nonentitlement areas. The effective date provision of the rule stated that the rule would become effective upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, subject to waiver, and announced that future notice of the effectiveness of the rule would be published in the Federal Register.

Thirty calendar days of continuous session of Congress have expired since the rule was published.

DATE: The effective date for interim rule published November 20, 1981, at 46 FR 57256, is March 8, 1982.

FOR FURTHER INFORMATION CONTACT: Richard Lasner, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 5218, 451 7th Street, SW., Washington, D.C. 20410, Telephone No. (202) 755-6207. (This is not a toll-free number.)

Dated: March 3, 1982.

John J. Knapp,
General Counsel, Department of Housing and Urban Development.

[FR Doc. 82-6299 Filed 3-5-82; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF JUSTICE

Attorney General

28 CFR Part 0

[Order No. 972-82]

Certification of Obligations; Immigration and Naturalization Service

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order designates the comptroller, Immigration and Naturalization Service, to certify obligations for the Service. He replaces the Assistant Commissioner, Administrative Division, Immigration and Naturalization Service in this capacity.

EFFECTIVE DATE: February 26, 1982.

FOR FURTHER INFORMATION CONTACT: James A. Kennedy, Acting Comptroller, Immigration and Naturalization Service, Room 6307, 425 I Street, NW., Washington, D.C. 20536 (202-633-3206).

SUPPLEMENTARY INFORMATION: This order amends 28 CFR 0.147 to designate the Comptroller of the Immigration and Naturalization Service as the official of the Service authorized to make the certifications required by 31 U.S.C. 200(c). The Assistant Commissioner, Administrative Division, Immigration and Naturalization Service will no longer perform this function.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is not required because the rule relates solely to agency organization and management.

The rule will not have a significant economic impact on a substantial number of small entities since it relates solely to internal management and is exempt from the requirements of E.O. No. 12291 as set out under section 1(a)(3) thereof.

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Accordingly, by virtue of the authority vested in me as Attorney General by 31 U.S.C. 200(c), § 0.147 of Title 28, Code of Federal Regulations is revised to read as follows:

§ 0.147 Certification of obligations.

The following designated officials are authorized to make the certifications required by 31 U.S.C. 200(c): For the Federal Bureau of Investigation, the Assistant Director, Administrative Services Division; for the Bureau of Prisons, the Assistant Director for Planning and Development; for Federal Prison Industries, Inc., the Secretary; for the Immigration and Naturalization Service, the Comptroller; for the Drug Enforcement Administration, the Director of the Office of Administration and Management; for the Office of Justice Assistance, Research and Statistics, the Comptroller; and for all other organizational units of the Department (including United States Attorneys and United States Marshals), the Deputy Assistant Attorney General, Office of the Controller, Justice Management Division.

Dated: February 26, 1982.

William French Smith,
Attorney General.

[FR Doc. 82-6232 Filed 3-5-82; 8:45 am]
BILLING CODE 4410-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Part 1404

Discontinuance of Requirement That Arbitrators Furnish a Copy of the Award to the Federal Mediation and Conciliation Service

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Final rule.

SUMMARY: In order to reduce the number of submissions which arbitrators must number of documents which the agency must handle, maintain and make copies of, the requirement that arbitrators send a copy of their award to FMCS is deleted from agency regulations.

EFFECTIVE DATE: April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Nancy B. Broff, 202/653-5305.

Dated: March 2, 1982.

Kenneth E. Moffett,
Director.

PART 1404—ARBITRATION SERVICES

Subpart C—Procedure for Arbitration Services

1. The requirement in 29 CFR 1404.15(c) that the arbitrator file a copy of the award with the FMCS Office of Arbitration Services is deleted, and paragraph (c) is revised to read as follows:

§ 1404.15 Decision and award.

* * * * *

(c) After an award has been submitted to the parties, the arbitrator is required to submit a Fee and Award Statement, form R-19 showing a breakdown of the fee and expense charges so that the Service may be in a position to review conformance with stated charges under § 1404.12(a). Filing the Statement within 15 days after rendering an award is required of all arbitrators. The Statements are not used for the purpose of compelling payment of fees.

* * * * *

2. The requirement in 29 CFR 1404.15(d) concerning the release of copies of arbitrator awards by FMCS is deleted in conformance with the discontinuance of the submission of these awards to the agency pursuant to paragraph (c) above. Accordingly, paragraph (d) is revised to read as follows:

* * * * *

(d) The Service encourages the publication of arbitration awards. However, the Service expects arbitrators it has nominated or appointed not to give publicity to awards they issue if objected to by one of the parties.

[FR Doc. 82-6227 Filed 3-5-82; 8:45 am]
BILLING CODE 6732-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 209

Service Charges for Allotments of Pay to Savings Accounts of Federal Civilian Employees

AGENCY: Bureau of Government Financial Operations, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: The Department of Treasury is amending 31 CFR 209.8, the regulation governing the service charge for allotments of pay to savings accounts of civilian employees who are employed within the United States. The amendment increases the service charges, established in 1966 and unchanged from that date, to comply with the statutory requirement, that employing agencies be reimbursed by recipient financial organizations for the additional cost of sending allotments requested by employees. The amendment also substitutes a more appropriate statutory reference for the information that collected service charges are deposited into the Treasury as miscellaneous receipts unless the agency has statutory authority otherwise to dispose of the credit.

DATES: The new service charge rates apply to savings allotment deductions applicable to agency pay periods that commence on or after May 31, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. John MacArthur, Government Accounting Systems Staff, Bureau of Government Financial Operations, Room 412, Treasury Annex, Department of the Treasury, Washington, DC 20226 (202/566-8374).

SUPPLEMENTARY INFORMATION:

Classification

The Department of the Treasury has determined that this regulation will not cause a significant effect on the economy and will not result in a major increase in costs or prices for financial organizations, consumers, or government agencies. The Department, therefore, does not consider this regulation to be a major rule for the purpose of Executive Order 12291 (1981).

Background

Title 31 U.S. Code, section 492, requires that agencies be reimbursed for the additional cost of sending checks for

allotments of pay to savings accounts of Federal civilian employees, by the financial organizations to which these checks are sent. Service charges were established in 1966. They no longer adequately reimburse the Government for the cost of administering the savings allotment program. The revised service charges reflect the current additional cost to the Government for processing and mailing savings allotment checks to financial organizations.

A Notice of Proposed Rulemaking on the revised service charges was published in the Federal Register on May 22, 1981 (46 FR 27989). This Notice proposed amending 31 CFR Part 209 to increase the service charges that are currently assessed to financial organizations that accept allotments of pay from Federal civilian employees for credit to their savings accounts. Comments were invited during a period which was to end July 10, 1981. At the request of a trade association representing Federal credit unions, the comment period was extended to October 8, 1981, by a Notice to this effect published in the Federal Register on July 15, 1981. The extension was granted to allow this association additional time to present data in support of its opposition to the proposed increase. Prior to granting the extension the Department responded to a request from another trade association under the Freedom of Information Act for documents and memoranda that were supportive of the requirement to increase service charges and of the means by which the amount of the increase was determined.

The proposed service charges reflect increases in agency costs since 1966, the year the current rates were established. The portion of these original charges applicable to postage costs was increased to reflect increases in first class postage rates since 1966. To the remaining portion, representing agency costs to process payroll deductions and disbursing office costs to process checks, an index reflecting Federal salary increases since 1966 was applied.

The Department intends to review the service charges annually, taking into account changes in first class postage rates and changes in salaries as reflected by the aforementioned index. The goal of this review is to insure that service charges reflect agencies' costs in processing savings allotments. The revised service charge schedule applies to payroll deductions for Federal employees' savings accounts applicable to the first complete pay period that begins on or after May 31, 1982.

Comments on the proposed increase were received from industry trade associations, financial organizations and members of the public. One credit union trade association provided with its comments an analysis of a survey of credit unions relative to the proposed increase. Another trade association presented consolidated comments representing the views of ten trade and service organizations. Comments were also received from an association representing independent banks.

In addition, comments were received from 254 credit unions, 8 credit union leagues, and 315 individual credit union members, as well as from 3 savings and loan leagues, 6 savings and loan associations and 6 banks. In varying degree, all comments expressed opposition to the proposed increase.

Frequently mentioned was the contention that the proposed increase in service charges would disproportionally affect smaller credit unions that serve primarily Federal civilian employees. Some comments also indicated that this situation should cause the Department to reconsider its position that the proposed increase is not a major rule under Executive Order 12291, or that the proposal does not require a regulatory flexibility analysis under the Regulatory Flexibility Act (Pub. L. 96-354).

The data and accompanying analysis submitted by the trade associations were carefully studied and evaluated, as were all comments received. The Department's conclusion, however, is that the facts and arguments presented in opposition to the proposed increase in service charges do not justify modification of the rule proposed.

With respect to small financial organizations, a typical observation was that small credit unions serving primarily Federal civilian employees rely heavily on savings allotments, and that the impact of the proposed increase is heaviest on these institutions. The Department agrees that it is reasonable to assume these types of financial organizations receive savings allotment deductions in amounts that represent a higher proportion of their total assets than do financial organizations not primarily serving Federal civilian employees. It obviously follows that the amount of service charges paid by financial organizations with higher proportions of federal employee customers would be higher.

In determining and assessing service charges, the Department does not have authority to categorize financial organizations selectively as to type, asset size, or field of membership (with respect to credit unions). The Secretary of the Treasury is required by 31 U.S.C. 492 to prescribe regulations under which employing agencies "shall be reimbursed for the additional cost of sending any additional check requested by * * * [an] employee by the financial organization to which such check is sent." 31 U.S.C. 492(b)(1).

The Department emphasizes that the proposed increase in service charges was not made in a capricious or arbitrary manner and that the advisability of conducting a formal economic impact study was carefully considered. The Department concluded, however, that the statute provides insufficient flexibility in discharging its obligation to increase these charges so as to recover current agency cost. The Office of Management and Budget did not object to this assessment in its review of the proposal prior to publication in the Federal Register. The Department, therefore, feels that the cost of conducting such a study cannot be justified. Because the increase in service charges flows directly from the statutory requirement, and because there is no practicable alternative to the proposed increase other than noncompliance with 31 U.S.C. 492(b), the Treasury Department is not required to perform an economic impact analysis.

Numerous comments contended that the service charge increases would discourage continued participation in the savings allotment program by many financial organizations. Also frequently mentioned was the contention that the Federal Government as an employer should absorb the costs associated with savings allotments as a fringe benefit for Federal civilian employees. The Department does not have data to indicate the extent, if any, of attrition by financial organizations that the increased charges might precipitate. However, these comments address the desirability of the policy reflected in 31 U.S.C. 492(b), a matter which is beyond the scope of this regulation project.

The Department does not share the view of those who questioned the validity of using the 1966 service charge rates as a base, and of the index that was subsequently applied to that base. The Department feels that the use of the original 1966 service charges as a base for updating these rates is justified. The charges were originally established as a result of cost estimates submitted by representative agencies and were generally accepted by the financial community. The Department feels that the original service charges represent a fair and reasonable representation of agency costs of administering the savings allotment program in 1966, and that, therefore, it is justified in considering these rates as a base for determining appropriate increases. The Department also notes that these service charge rates have been in effect for 13 years during which time costs for goods and services have increased significantly.

The amounts of the new service charges were determined by postage rate increases and the application of an index measuring Federal salary increases since 1966. The Department believes that this approach is the most reasonable and cost effective means available, considering that data collected from Federal agencies indicates that labor costs comprise the overwhelming majority of the costs of processing savings allotments.

In summary, the Department's position is that the service charges must be increased in order to comply with the statutory requirement that agencies be reimbursed for their additional costs incident to the savings allotment program. In light of the above comments, the Department finds no reason to change the proposed service charge rates.

This amendment is proposed under the authority of Revised Statute 3620, as amended by Pub. L. 90-365, 82 Stat. 274 (31 U.S.C. 492).

PART 209—PAYMENT TO FINANCIAL ORGANIZATIONS FOR CREDIT TO ACCOUNTS OF EMPLOYEES AND BENEFICIARIES

For the reasons set out in the preamble, Part 209 of chapter II of Title 31 of the Code of Federal Regulations is amended as follows.

Accordingly, § 209.8 is amended by revising paragraphs (a)(1), (a)(2), and (b) as follows:

§ 209.8 Service charge.

* * * * *

(a) * * *

(1) Twelve (12) cents for each payroll deduction stated on the record which is to accompany the aggregate remittance for all administrative and payrolling costs in the agency); plus

(2) Twenty-seven (27) cents on each remittance as a single charge for the entire record accompanying the remittance, regardless of the number of payroll deductions listed (for all check preparation and mail preparation costs in the disbursing office, including postage).

(b) In accordance with R.S. Sec. 3617, as amended by Sec. 6, Pub. L. 91-375, 84 Stat. 783 (31 U.S.C. 484), the total service charge collected pursuant to this section shall be covered into the Treasury as miscellaneous receipts unless the agency has statutory authority otherwise to dispose of the credit.

W. E. Douglas,
Commissioner.

December 30, 1981.

[FR Doc 82-6103 Filed 3-5-82; 8:45 am]

BILLING CODE 4810-35-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 81-071]

Drawbridge Operation Regulations; Little Potato Slough, CA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of two yacht clubs, two large marinas, and several mariners, the Coast Guard is changing the regulations governing the Highway 12 bridge over Little Potato Slough near Stockton, California, by requiring the bridge to open on signal 16 hours a day from May to October with four hours advance notice required at all other times. This action will meet the reasonable needs of navigation, improve vessel safety, and reduce marine fuel consumption.

EFFECTIVE DATE: This amendment becomes effective on March 8, 1982.

FOR FURTHER INFORMATION CONTACT: Rose E. Guerra, Bridge Administrator, at (415) 556-8668.

Drafting Information

The principal persons involved in drafting this rule are: Rose E. Guerra, Bridge Administrator, and Lieutenant Commander W. A. Cassels, Project Attorney, District Legal Office, Twelfth Coast Guard District.

SUPPLEMENTARY INFORMATION: On December 10, 1981, the Coast Guard published a proposed rule (46 FR 60477) concerning this amendment. The Commander, Twelfth Coast Guard District, also published these proposals as a Public Notice 12-140 dated 14 December 1981. Interested persons were given until 25 January 1982 to submit comments. The comment period was extended ten days at the request of the California Resources Agency.

Discussion of Comments

Twenty-six comments were received. Twenty-two either agreed with the proposal or offered no objection. Four objected to the proposal or offered substitute regulations.

The Federal Highway Administration (FHWA) and California Department of Transportation (Caltrans) asked the Coast Guard to consider impacts of increased vehicular delay and cost of operation. FHWA also stated that consideration should be given to providing a high level bridge which could result in substantial benefits to users of both forms of transportation.

One commenter wanted the period started earlier, one wanted the period shortened, and one thought that 9 to 12 hours of operation would be sufficient. The California Department of Boating and Waterways suggested that the proposal be implemented for a one year trial. Another commenter offered a substitute regulation which would be more restrictive than the existing regulation, and suggested that any increased costs of a regulation change be borne by those requesting the change. A group of landowners objected to the change and all increased access for boat traffic in the area. A nearby resident objected to the siren used at the bridge and any longer hours of operation which would increase the noise problem, however, he would not object to the proposal if the siren were removed.

The Coast Guard feels the additional openings which would occur at the Little Potato Slough Bridge would reduce the number of openings at the Highway 12 bridge over the Mokelumne River thus offsetting the delays to overland transportation, although there probably will be some slight increase in the total number of openings due to increasing waterway traffic. Both vehicular traffic and vessel traffic are increasing at a rate of about four percent each year in the project area (San Joaquin County). The Coast Guard has had meetings with Caltrans since April 1977 on replacement of the existing span with a high level fixed bridge. The Coast Guard advised the Project Development Team that if the existing swing span was continued in use or a new swing span constructed the present special operating regulation would probably be changed to require full time operation of the bridge. On 16 April 1980 Caltrans decided not to replace the existing bridge.

The comments concerning the period and times of operation were considered, but the regulation as proposed was determined to cover the period and times of peak demand.

The substitute regulation was not adopted since it did not meet the needs of navigation. The suggestion that increased costs be borne by the requestors was not adopted because the increased cost of operation will be offset by the fuel savings to the marine public.

The objection to the siren was outside the authority of the Coast Guard as the siren is not required by Coast Guard regulation. The California Department of Transportation is re-evaluating the need for the siren at the bridge and will try to reduce the noise if it remains.

Because of the increased demand of navigation, the Coast Guard is implementing the regulation at this time. However, the Coast Guard will review the regulation after two seasons of operation to determine if the regulation should be modified.

Regulatory Evaluation

This regulation has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule.

In addition, the regulation is considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, the impact of this regulation is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this rule will not have a significant economic impact on a substantial number of small entities.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.714(g) to read as follows:

§ 117.714 San Joaquin River and its tributaries, Calif.

* * * * *

(g) Little Potato Slough. State of California highway bridge at Terminous.

(1) From May 1 through October 31, the draw shall open on signal from 6 a.m. to 10 p.m.

(2) At all other times the draw shall open on signal if at least 4 hours notice is given to the Rio Vista Bridge.

* * * * *

(Sec. 5, 28 Stat. 362, as amended (33 U.S.C. 499); sec. 6(g)(2), Pub. L. 89–670, 80 Stat. 931, at 937, as amended (49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3)))

Dated: February 18, 1982.

J. P. Stewart,

Vice Admiral, U.S. Coast Guard, Commander, Twelfth Coast Guard District.

[FR Doc. 82-6299 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 36

Decrease in Maximum Permissible Interest Rates on Guaranteed Mobile Home Loans, Home and Condominium Loans, and Home Improvement Loans

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is decreasing the maximum interest rates on guaranteed mobile home unit loans, lot loans, and combination mobile home unit and lot loans. In addition, the maximum interest rates applicable to home and condominium loans, and to home improvement and energy conservation loans are also decreased. These decreases in interest rates are possible because of recent improvements in the availability of funds in various credit markets. The decrease in the interest rates will allow eligible veterans to obtain loans at a lower monthly cost.

EFFECTIVE DATE: March 2, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (284), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202–389–3042).

SUPPLEMENTARY INFORMATION: The Administrator is required by section 1819(f), title 38, United States Code, to establish maximum interest rates for mobile home loans guaranteed by the VA as he finds the mobile home loan capital markets demand. Recent market indicators—including the prime rate, the general decrease in interest rates charged on conventional mobile home loans, and the decrease of other short-term and long-term interest rates—have shown that the mobile home capital markets have improved. It is now possible to decrease the interest rates on mobile home unit loans, lot loans, and combination mobile home unit and lot loans while still assuring an adequate supply of funds from lenders and investors to make these types of VA loans.

The Administrator is also required by section 1803(c), Title 38, United States Code, to establish maximum interest rates for home and condominium loans and for loans for home improvement purposes. Market indicators similarly favor reductions in the maximum interest rates for these types of loans. These lower interest rates should assist more veterans in the purchase of homes and condominiums or to obtain improvement loans because of the decrease in the monthly loan payments for principal and interest.

The Administrator's statutory authority to establish interest rates has been delegated by 38 CFR 2.6(b)(3) to the Chief Benefits Director, Deputy Chief Benefits Director, or person authorized to act for them.

Regulatory Flexibility Act/Executive Order 12291

For the reasons discussed in the May 7, 1981 **Federal Register** (46 FR 25443), it has previously been determined that final regulations of this type which change the maximum interest rates for loans guaranteed, insured, or made pursuant to chapter 37 of title 38, United States Code, are not subject to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

These regulatory amendments have also been reviewed under the provisions of Executive Order 12291. The VA finds that they are not "major rules" as defined in that Order. The existing process of informal consultation among representatives within the Executive Office of the President, OMB, the VA and the Department of Housing and Urban Development has been determined to be adequate to satisfy the intent of this Executive Order for this category of regulations. This alternative consultation process permits timely rate adjustments with minimal risk of premature disclosure. In summary, this consultation process will fulfill the intent of the Executive Order while still permitting compliance with statutory responsibilities for timely rate adjustments and a stable flow of mortgage credit at rates consistent with the market.

These final regulations come within exceptions to the general VA policy of prior publication of proposed rules as contained in 38 CFR 1.12. The publication of notice of a regulatory change in the VA maximum interest rates for VA guaranteed, insured or direct loans would deny veterans the benefit of lower interest rates pending the final rule publication date which would necessarily be more than 30 days after publication in proposed form. Accordingly, it has been determined that publication of proposed regulations prior to publication of final regulations is impracticable, unnecessary, and contrary to the public interest.

(Catalog of Federal Domestic Assistance Program numbers, 64.113, 64.114, and 64.119)

These regulations are adopted under authority granted to the Administrator by sections 210(c), 1803(c)(1), 1811(d)(1) and 1819 (f) and (g) of title 38, United States Code and delegated to the undersigned by 38 CFR 2.6(b)(3). The regulations are clearly within that statutory authority and are consistent with Congressional intent.

These decreases are accomplished by amending §§ 36.4212(a) (1), (2), and (3), and 36.4311 (a), (b) and 36.4503(a), Title 38, Code of Federal Regulations.

Approved: March 1, 1982.

By direction of the Administrator:

Dorothy L. Starbuck,

Chief Benefits Director.

PART 36—LOAN GUARANTY

The Veterans Administration is amending 38 CFR Part 36 as follows:

1. In § 36.4212, paragraph (a) is revised to read as follows:

§ 36.4212 Interest rates and late charges.

(a) The interest rate charged the borrower on a loan guaranteed or insured pursuant to 38 U.S.C. 1819 may not exceed the following maxima except on loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration prior to the respective effective date: (38 U.S.C. 1819(f)).

(1) Effective March 2, 1982, 17½ percent simple interest per annum for a loan which finances the purchase of a mobile home unit only.

(2) Effective March 2, 1982, 17 percent simple interest per annum for a loan which finances the purchase of a lot only and the cost of necessary site preparation, if any.

(3) Effective March 2, 1982, 17 percent simple interest per annum for a loan which will finance the simultaneous acquisition of a mobile home and a lot and/or the site preparation necessary to make a lot acceptable as the site for the mobile home.

* * * * *

2. In § 36.4311, paragraphs (a) and (b) are revised as follows:

§ 36.4311 Interest rates.

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 15½ per centum per annum, effective March 2, 1982, the interest rate on any home or condominium loan guaranteed or insured wholly or in part on or after such date may not exceed 15½ per centum per annum on the unpaid principal balance.

(38 U.S.C. 1803(c)(1))

(b) Effective March 2, 1982, the interest rate on any loan solely for energy conservation improvements or other alterations, improvements of repairs which is guaranteed or insured wholly or in part on or after such date may not exceed 16 per centum per annum on the unpaid principal balance.

(38 U.S.C. 1803(c)(1))

* * * * *

3. In § 36.4503, paragraph (a) is revised as follows:

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after October 1, 1980, shall not exceed an amount which bears the same ratio to $33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $27,500. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Except as to home improvement loans, loans made by the Veterans Administration shall bear interest at the rate of 15½ percent per annum. Loans solely for the purpose of energy conservation improvements or other alterations, improvements, or repairs shall bear interest at the rate of 16 percent per annum.

(38 U.S.C. 1811(d)(1) and (2)(A))

* * * * *

[FR Doc. 82-6234 Filed 3-5-82; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 6

[ER-FRL-1953-2a]

Categorical Exclusion From EPA Procedures Implementing the National Environmental Policy Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: This document amends EPA's procedures implementing the National Environmental Policy Act (NEPA). It includes procedures for granting categorical exclusions from the substantive environmental review requirements of 40 CFR Part 6 for EPA actions subject to NEPA. This action is taken to comply with the Council on Environmental Quality's (CEQ) regulations implementing the procedural provisions of NEPA. The intended effect of this action is to reduce the regulatory requirements on recipients of EPA grants for the planning and construction of wastewater treatment facilities while maintaining the integrity of EPA's environmental review responsibilities. Technical changes will be made during the comment period to make the procedures consistent with Pub L. 97–117 (Municipal Wastewater Treatment Construction Grant Amendments of 1981) and related changes to 40 CFR Part 35.

DATES: Effective date: Interim final rule effective March 8, 1982.

Comment date: Comments must be received on or before April 7, 1982.

ADDRESS: Comments may be mailed to the Office of Federal Activities, A–104, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460; Attention: Richard Otis.

FOR FURTHER INFORMATION CONTACT: John Gustafson, John Gerbe, or Richard Otis, Office of Federal Activities, (202) 755–8835.

SUPPLEMENTARY INFORMATION:

Classification

The Office of Federal Activities has determined that this revision is not a "major" rule within the meaning of Executive Order (E.O.) 12291. This is because the revision will not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, State, or local government agencies; or (3) have significant adverse effects on competition, employment, investment productivity, innovation or on the ability of a United States based enterprise to compete with Foreign-based enterprises in domestic or export markets.

The purpose and effect of this amendment is to reduce unnecessary regulatory burdens on municipalities and other recipients of wastewater treatment facility construction grants. No increased paperwork burdens are imposed by the amendment.

This amendment (will be) was submitted to the Office of Management and Budget (OMB) for review as required by E.O. 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in the Document Control Office, EPA, Room 107, 401 M Street, SW., Washington, D.C. 20460.

Because this amendment is not "major," it is effective immediately as an interim final rule. It may be revised before becoming final if substantive comments are received by the Office of Federal Activities (OFA) within thirty (30) calendar days of the effective date.

Regulatory Analysis

Under E.O. 12291, EPA must determine if a regulation is "major" and therefore subject to a Regulatory Impact Analysis. Since EPA believes that this amendment is not "major," it is not subject to such an analysis. However, this amendment will significantly reduce the regulatory burden on recipients of wastewater treatment facility construction grants.

Action Being Undertaken

EPA is amending its procedures for implementing CEQ's regulations (40 CFR 1508.4) authorized by NEPA to (1) make several technical changes; (2) be consistent with the revised regulations for EPA's Construction Grants Program (40 CFR Part 35); and (3) include categorical exclusions as provided in the CEQ regulations. Technical revisions include changing the name of the Office of Environmental Review to the Office of Federal Activities and correcting references in § 6.600 to the New Source National Pollution Discharge Elimination System consolidated permit program regulations (40 CFR Part 122–125). Alterations to the public participation process are made to be consistent with the revised Construction Grants regulations. Amendments incorporating the categorical exclusion process will exclude specified categories of EPA actions from the substantive environmental review requirements of 40 CFR Part 6.

Definitions

Categorical Exclusion—In part, CEQ's NEPA regulations state that: "Categorical exclusion means a category of actions which does not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency * * * and for which, therefore, neither an environmental assessment nor an environmental impact statement is required." EPA is amending its implementing procedures (40 CFR Part 6) to provide descriptions of the categories of actions within the Construction Grants Program that EPA has determined do not have a significant effect upon the human environment. It also provides the procedures and conditions for granting an exclusion and for identifying additional categories of excluded actions.

It is EPA's intent to apply this exclusion process to actions which, through Agency, State, and grantee experience, have not required an environmental impact statement as defined in 40 CFR 6.506 and which have not generally required the application of procedures described in 40 CFR Subpart C, "Coordination With Other Environmental Review and Consultation Requirements." Categorical exclusions are intended to apply to actions that are small scale, minor, and routine.

Minor Rehabilitation, Minor Expansion, Replacement, and Minor Upgrading—In addition to avoiding primary effects, certain actions eligible for categorical exclusions within the Construction Grants Program are described as being "minor" to avoid the negative secondary environmental effects of induced new development. The intent is to ensure that categorical exclusions assist the Agency's efforts to achieve direct environmental improvements from the Construction Grants Program and not to fund or unintentionally subsidize new development.

Excluded actions involving replacement, minor rehabilitation, minor expansion, or minor upgrading of facilities should not result in increasing the overall design capacity of treatment works, nor the pipe size of interceptors or collector sewers.

Therefore, actions which may result in new community development shall not receive categorical exclusions except for infilling largely built-up areas and where new development is insignificant. Allowing some new development to occur without an environmental review recognizes that there is a trade-off between the potential negative secondary effects of the development and the benefits provided by granting categorical exclusions. It also recognizes that for these actions the possible negative secondary effects are outweighed by the primary benefits. Incidental new development unrelated to the action should not disqualify the action from receiving an exclusion.

Consistency—In granting an exclusion, § 6.508(c) uses a consistency test to determine if an action is eligible for exclusion under one of the categories in § 6.508(c)(1). The consistency test requires the characteristics of the likely alternatives (including but not limited to treatment technology, location, capacity, and possible secondary effects) which may be considered in the planning process or the potential action if facilities planning has begun, to be substantially similar to or described by the characteristics of the actions outlined in a category.

Review Required for Application—The review included as part of the request for an exclusion described in § 6.507(a) shall include a description of the characteristics of the likely alternatives which may be considered in the planning process or the potential action if facility planning has begun. It should also state that the action under consideration is consistent with a category of actions eligible for exclusion and should identify the category. If the environmental review process has not begun, information required for this review should come from existing sources. If such information is not available before the environmental review process begins the action shall not be granted an exclusion at that time even if the action appears consistent with actions described by a category eligible for exclusion. But, information generated during the development of an Environmental Information Document (EID) or an environmental assessment can be used in producing this review.

Timing—Categorical exclusions may be granted for actions before the environmental review process has begun as well as during the process. If, in preparing an EID or environmental assessment, the information generated clearly indicates that the project meets the requirements for an exclusion, the responsible official may grant an exclusion. EPA may revoke an exclusion at any time as described in § 6.107(e).

Response to Comments

Comments from EPA headquarters and regional offices generated during two or more review periods have been addressed or incorporated into this amendment. Comments from major constituent groups and delegated states have also been addressed or incorporated. Several significant comments are discussed below.

Public Review Period—A thirty day public review period had been originally proposed where comments on a publicly available proposed notice of categorical exclusion could be addressed to the official responsible for granting an exclusion. Comments on the notice were intended to assist the responsible official in determining if any serious local or environmental issues exist or if Federal, State, or local laws would be violated by granting an exclusion. After receiving comments from several parties on this topic, and with the responsible official's ability to revoke an exclusion after it is granted (as provided in § 6.107(e)) the regulation development work group concluded that the comment period was unnecessary.

Notice of Categorical Exclusion—In order to further reduce paperwork, the preparation and public issuance of a "notice of categorical exclusion" was removed from the amendment. Instead, the responsible official is required to review the request for an exclusion and document the resulting decision.

New Categories—The work group considered various alternative processes for creating additional categories of excluded actions. This interim final rule will use EPA's minor regulation development process to create new categories. New categories will be published in the **Federal Register** with a subsequent 30 day comment period because CEQ's regulations require public notice and a comment period.

Suggestions are invited from EPA Regional Offices, State governments, and interested parties for new categories of minor construction grants actions that may be eligible for exclusion and which are not already identified in this amendment. Comments are also invited on the process for creating new categories.

Anne M. Gorsuch,
Administrator.
March 1, 1982.

PART 6—IMPLEMENTATION OF PROCEDURES ON THE NATIONAL ENVIRONMENTAL POLICY ACT

For the reasons set out in the preamble, 40 CFR Part 6 is amended as follows:

1. The authority for Part 6 reads as follows:

Authority: Sec. 101, 102 and 103 of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); also, the Council on Environmental Quality Regulations promulgated November 29, 1978 (40 CFR Part 1500).

§§ 6.102 and 6.103 [Amended]

2. Sections 6.102(c) and 6.103(a)(1)(A)(5) are amended by removing the words "Office of Environmental Review, (OER)" and inserting, in their place, the words "Office of Federal Activities, (OFA)."

3. Section 6.103(a)(2) is amended by removing the words "Office of Environmental Review" and inserting, in their place, the words "Office of Federal Activities."

§§ 6.103, 6.104, 6.106, 6.400, 6.401, 6.402, 6.404 [Amended]

4. Amend this part by removing "OER" and inserting in its place "OFA" in the following places:

(a) 40 CFR 6.103(a)(3)(iii) and (iv)
(b) 40 CFR 6.104
(c) 40 CFR 6.106(a)
(d) 40 CFR 6.106(b)(1), (2), and (3)
(e) 40 CFR 6.400(b), (d), and (e)
(f) 40 CFR 6.401(a), (c), (d), and (e)
(g) 40 CFR 6.402(b)
(h) 40 CFR 6.404(b)

5. Section 6.103 is amended by revising paragraph (a)(1)(iii); deleting § 6.103(a)(1)(iii)(A) (1), (2), and (3); and renumbering § 6.103(a)(1)(iii)(A) (4), (5), and (6) as § 6.103(a)(1) (iv), (v), and (vi) to read as follows:

§ 6.103 Responsibilities.

(a) * * *
(1) * * *
(iii) When an EIS is not prepared, assuring documentation of the decision to grant a categorical exclusion, or assuring that findings of no significant impact (FNSIs) and environmental assessments are prepared and distributed for those actions requiring them.
(iv) Consulting with appropriate officials responsible for other environmental law set forth in Subpart C.
(v) Consulting with the Office of Federal Activities (OFA) on actions involving unresolved conflicts concerning this part or other Federal agencies.
(vi) When required, assuring that public participation requirements are met.
* * * * * *

6. Section 6.105 is amended by revising paragraph (b) to read as follows:

§ 6.105 Synopsis of EIS procedures.

* * * * * *

(b) *Environmental information documents.* Environmental information documents must be prepared by applicants, grantees, or permittees and submitted to EPA as required in Subparts E, F, G, H, and I. Environmental information documents will be of sufficient scope to enable the responsible official to prepare an environmental assessment as described under § 6.105(d) of this part and Subparts E through I. Environmental information documents will not have to be issued for actions where a categorical exclusion has been granted.
* * * * * *

7. Subpart A of this part is amended by adding § 6.107 to read as follows:

§ 6.107 Categorical exclusions.

(a) *General.* Categories of actions which do not individually, cumulatively over time, or in conjunction with other Federal, State, local, or private actions have a significant effect on the quality of the human environment and which have been identified as having no such effect in the requirements set forth in Subpart E, may be exempted from the substantive environmental review requirements of this part. Generally, environmental information documents and environmental assessments or environmental impact statements will not be required for excluded actions.

(b) *Determination.* For each excluded action, the responsible official shall determine whether an action is eligible for a categorical exclusion as established in Subpart E. The determination shall be made as early as possible following the receipt of an application or notification that an application will be filed. The responsible official shall document the decision to issue or deny an exclusion. The documentation shall include the application, a brief description of the proposed action, and a brief statement of how the action meets the criteria for a categorical exclusion.

(c) *Consultation.* The documentation outlined in § 6.107(b) of this part shall be made available to the public and a copy be sent to The Office of Federal Activities.

(d) *Extraordinary circumstances.* If undertaking a normally excluded action may violate Federal, State, or local environmental laws or may involve serious local or environmental issues, the full environmental review procedures of this part must be followed. The responsible official shall ensure that actions requiring environmental assessment under this part are not processed as categorical exclusions.

(e) *Revocation.* The responsible official shall revoke a categorical exclusion and shall require a full environmental review if subsequent to the granting of an exclusion, the responsible official determines that: (1) The proposed action no longer meets the requirements for a categorical exclusion due to changes in the proposed action; or (2) determines from new evidence that serious local or environmental issues exist; or (3) that Federal, State, or local laws are being or may be violated.

8. Section 6.400 is amended by adding paragraph (f) to read as follows:

§ 6.400 [Amended]

* * * * * *

(f) *Categorical Exclusions.* The responsible official shall make the documentation described in § 6.107(b) of this part available to the public and shall send a copy to the Office of Federal Activities.

9. Section 6.502 is amended by revising paragraph (a) introductory text to read as follows:

§ 6.502 Applicability.

(a) *Administrative actions covered.* This subpart applies to administrative

actions listed below (except as provided in § 6.503 of this part):

* * * * *

10. Section 6.504 is amended by revising paragraph (a), deleting paragraph (b), and renumbering subsequent paragraphs (c) and (d) as (b) and (c) to read as follows:

§ 6.504 Public participation.

(a) *General.* It is EPA policy that public participation be achieved during the environmental review process as deemed appropriate by the responsible offical under 40 CFR Part 25 and implementing provisions of Part 35, Subpart E of this chapter. Compliance with Part 25 and implementing provisions constitutes compliance with public participation requirements under this part.

(b) Public participation activities undertaken in connection with the environmental review process should be coordinated with the facility planning public participation program wherever possible.

(c) The responsible official may institute such additional NEPA-related public participation procedures as he deems necessary during the environmental review process.

11. Section 6.505 is revised to read as follows:

§ 6.505 Limitations on actions during the environmental review process.

No administrative action under § 6.502(a) shall be taken until the environmental review process has been completed except as provided under § 6.100, § 6.107 and § 6.503 of this part. The responsible official shall ensure compliance in accordance with 40 CFR 1506.1 and Subparts A, C, and D of this part, and all policies, guidance and regulations adopted to implement the requirements under 42 U.S.C. 7616 of the Clean Air Act.

12. Section 6.506 is amended by revising paragraph (a) introductory text, removing paragraph (c), and adding a new paragraph (c) to read as follows:

§ 6.506 Criteria for preparing EISs and granting categorical exclusions.

(a) *EISs.* The responsible official shall assure that an EIS will be issued when he determines that any of the following conditions exist:

* * * * *

(b) * * *

(c) *Categorical Exclusions.* Except as provided in § 6.107(d), the responsible official shall determine and document as provided in § 6.107(b) and § 6.507(a) that an action is consistent with the categories eligible for exclusion identified in § 6.506(c)(1). The responsible official shall ensure that actions consistent with the categories listed in § 6.506(c)(1) but requiring an environmental assessment under § 6.506(c)(2) are not granted categorical exclusions.

(1) Categories of actions eligible for exclusion. For this Subpart, actions consistent with the following categories are eligible for a categorical exclusion:

(i) Actions for which the facilities planning is solely directed toward minor rehabilitation of existing facilities, functional replacement of equipment, or towards the construction of new ancillary facilities adjacent or appurtenant to existing facilities which do not affect the degree of treatment or capacity of the existing facility. Such actions include but are not limited to infiltration and inflow analyses, sewer system evaluation studies, replacement of existing mechanical equipment or structures, and the construction of new small on-site structures.

(ii) Actions in sewered communities of less than 3,500 persons which are for minor upgrading and minor expansion of existing treatment works. This category does not include actions that directly or indirectly involve the extension of new collection systems funded with Federal or other sources of funds.

(iii) Actions in unsewered communities of less than 3,500 persons where onsite or other alternative technologies are proposed.

(iv) Other actions developed in accordance with § 6.506(c)(3).

(2) Criteria for not granting a categorical exclusion. Notwithstanding the provisions of § 6.506(c)(1), the responsible official shall ensure that an adequate environmental information document and environmental assessment are prepared for actions that meet any of the following criteria. An action, therefore, that meets any of the following criteria shall not be granted a categorical exclusion.

(i) The facilities to be provided will create a new discharge to surface or ground waters.

(ii) The facilities will result in substantial increases in the volume of discharge or the loading of pollutants from an existing source or from new facilities to receiving waters.

(iii) The facilities would provide capacity to serve a population 20% greater than the existing population.

(iv) The action is known or expected to have a significant effect on the quality of the human environment, either individually, cumulatively over time, or in conjunction with other Federal, State, local, or private actions.

(v) The action is known or expected to directly or indirectly affect sensitive environmental resources or areas, such as floodplains, wetlands, prime or unique agricultural lands, aquifer recharge zones, archaeological and historic sites, endangered or threatened species, or other areas identified in guidance issued by the OFA.

(vi) The action is known or expected not to be cost-effective or to cause significant public controversy.

(3) Developing new categories of excluded actions. The responsible official or other interested parties may request that a new category of excluded actions be created, or that an existing category be amended or deleted. The request shall be made in writing to the Director, OFA and shall contain adequate information to support the request. Under the direction of OFA, proposed new categories shall be developed through EPA's "non-major" rule-making process (E.O. 12291), including publication as an interim final rule in the **Federal Register** and a subsequent thirty (30) day public comment period. The following shall be considered in evaluating proposals for new categories:

(i) Actions in the proposed category should seldom result in the effects identified in § 6.506(c)(2).

(ii) Based upon previous environmental reviews of similar actions, the proposed category of actions would seldom require the preparation of an EIS.

(iii) Whether information adequate to determine if a potential action is consistent with the proposed category will normally be available when needed.

13. Section 6.507 is amended by revising paragraph (a) to read as follows:

§ 6.507 Environmental review process.

* * * * *

(a) *Award of a facilities planning grant (Step 1).* Prior to award of Step 1 assistance, or within no more than 30 days thereafter, EPA shall review, or request that the State review, if the facilities plan review is delegated under § 205(g) of the Clean Water Act, the likely project alternatives in the potential action and the existence of environmentally sensitive areas in the facilities planning area, including those identified in § 6.506(c)(2)(v) of this Subpart. The responsible official shall use this review and any additional analysis he may deem necessary to determine whether the action is eligible for a categorical exclusion from the substantive environmental review requirements of this part. This review is intended to be brief and concise, drawing on existing information and knowledge of EPA, State agencies, regional planning agencies, water quality management agencies, and grantees. If a categorical exclusion is granted, the grantee will not be required to prepare a formal environmental information document and environmental assessment during facilities planning. This review should also be used to determine the scope of the environmental information document prepared by the grantee when an action does not meet the requirements for a categorical exclusion. It should also be used to make an early determination of the need for an EIS. Whenever possible, this initial review should be discussed at the first conference held with the potential grantee.

* * * * *

14. Section 6.508 is amended by revising paragraph (a) (1) and (2), and paragraph (b) to read as follows:

§ 6.508 Limits on delegation to States.

(a) * * *

(1) The determination of whether or not to prepare an EIS shall be solely that of EPA. EPA shall consider a State's recommendations, but the ultimate decision under NEPA cannot be delegated.

(2) Categorical exclusions, findings of no significant impact and the environmental assessment shall be approved, finalized and issued by EPA.

(3) * * *

(b) *Elimination of duplication.* The responsible official shall assure that maximum efforts are undertaken to minimize duplication within the limits described under § 6.508 and § 6.507(a) of this part. In carrying out requirements under this subpart, maximum consideration shall be given to eliminating duplication in accordance with 40 CFR 1506.2. Where there are State or local procedures comparable to NEPA, EPA should enter into Memoranda of Understanding with a State concerning workload distribution and responsibilities for implementing the environmental review and facilities planning process.

15. Section 6.600 is amended by revising paragraph (b) to read as follows:

§ 6.600 Purpose.

* * * * *

(b) *Permit regulations.* All references in this subpart to the "permit regulations" shall mean Parts 122 and 124 of Title 40 of the Code of Federal Regulations relating to the NPDES program.

* * * * *

16. Section 6.601 is amended by revising paragraph (a) to read as follows:

§ 6.601 Definitions.

(a) The term "administrative action" for the sake of this subpart means the issuance by EPA of an NPDES permit to discharge as a new source, pursuant to 40 CFR 124.15.

* * * * *

17. Section 6.602 is amended by revising paragraph (b) to read as follows:

§ 6.602 Applicability.

* * * * *

(b) *New Source Determination.* An NPDES permittee must be determined a "new source" before these procedures apply. New source determinations will be undertaken pursuant to the provisions of the permit regulations under 40 CFR 122.66 (a) and (b) and 122.53(h)

* * * * *

18. Section 6.603 is revised to read as follows:

§ 6.603 Limitations on actions during environmental review process.

The processing and review of an applicant's NPDES permit application shall proceed concurrently with the procedures within this subpart. Actions undertaken by the applicant or EPA shall be performed consistent with the requirements of 40 CFR 122.66(c).

19. Section 6.604 is amended by revising paragraph (h) to read as follows:

§ 6.604 Environmental review process.

* * * * *

(h) *Documents for the administrative record.* Pursuant to 40 CFR 124.9(b)(6) and 124.18(b)(5) any environmental assessment, FNSI EIS, or supplement to an EIS shall be made a part of the administrative record related to permit issuance.

20. Section 6.606 is amended by revising paragraph (a) to read as follows:

§ 6.606 General.

At the time of permit award, the responsible official shall prepare a record of decision in those cases where a final EIS was issued in accordance with 40 CFR 1505.2 and pursuant to the provisions of the permit regulations under 40 CFR 124.15 and 124.18(b)(5). The record of decision shall list any mitigation measures necessary to make the recommended alternative environmentally acceptable.

* * * * *

21. Section 6.607 is amended to read as follows:

§ 6.607 Monitoring.

In accordance with 40 CFR 1505.3 and pursuant to 40 CFR 122.66(c) and 122.10 the responsible official shall ensure that there is adequate monitoring of compliance with all NEPA related requirements contained in the permit.

[FR Doc. 82-6105 Filed 3-5-82; 8:45 am]
BILLING CODE 6560-37-M

40 CFR Part 6

[ER-FRL-1953-2b]

Segmentation Consultation Process

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: This document revises EPA's procedures implementing the National Environmental Policy Act (40 CFR Part 6) by removing the Council on Environmental Quality (CEQ) from the consultation process on requests to segment wastewater treatment facility construction grant projects and by making several other technical changes.

DATES: Interim final rule effective March 8, 1982. Comments must be received on or before April 7, 1982.

ADDRESSES: Comments may be mailed to the Office of Federal Activities, A-104, Environmental Protection Agency, 401 M St. S.W., Washington, D.C. 20460; Attention: Richard Otis.

FOR FURTHER INFORMATION CONTACT: John Gustafson or Richard Otis, Office of Federal Activities; (202) 755-9835.

SUPPLEMENTARY INFORMATION:

Classification: The Office of Federal Activities has determined that this revision is not a "major" rule within the meaning of Executive Order (E.O.) 12291. This is because the revision will not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, State, or local government agencies; or (3) have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprise to compete with Foreign-based enterprise in domestic or export markets.

The purpose and effect of this revision is to reduce unnecessary regulatory burdens on municipalities and other recipients of EPA grants for planning and constructing wastewater treatment

facilities. No paperwork burdens are imposed by the amendment.

This revision (will be) was submitted to the Office of Management and Budget (OMB) for review as required by E.O. 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in the Document Control Office, EPA, Room 107, 401 M Street, S.W., Washington, D.C. 20460.

Because this revision is not "major," it is effective immediately as an interim final rule. It may be revised before becoming final if substantive comments are received by the Office of Federal Activities (OFA) within thirty (30) calendar days of the effective date.

Regulatory Analysis: Under E.O. 12291, EPA must determine if a regulation is "major" and therefore subject to a Regulatory Impact Analysis. Since EPA believes that this revision is not "major," it is not subject to such an analysis.

Action Being Undertaken

This revision is being made in response to a request from CEQ and after EPA and CEQ determined that the consulting process for approving the segmentation of wastewater treatment facility construction projects now represents a noncontroversial routine action

The segmentation process as outlined in 40 CFR 6.503 allows EPA to award a Step 2 grant for facilities design or a Step 3 grant for construction of a discrete segment of a project before the environmental review for the project as a whole is complete. EPA is currently required to consult with CEQ before awarding grants under this procedure. This revision removes CEQ from the consultation process and also makes several minor technical changes.

The Office of Federal Activities (OFA) is responsible for handling these segmentation requests. Examples include: Award of a Step 2 grant for preparation of plans and specifications for a large treatment plant when the only unresolved issue is the site for final effluent or sludge disposal; and award of a Step 3 grant for construction of collectors and an interceptor to transport flows to an existing plant proposed for expansion from an area of failing septic tanks affecting a public water supply.

OFA will continue to review requests under the procedures currently identified in § 6.503 of this part. In reviewing a request either through the regional office from a delegated State or directly from a regional office in the case of a nondelegated State, OFA will consult with the Office of Water and return its finding to the originating EPA regional office.

Anne M. Gorsuch,

Administrator.

March 1, 1982.

PART 6—IMPLEMENTATION OF PROCEDURES ON THE NATIONAL ENVIRONMENTAL POLICY ACT

For the reasons set out in the preamble, 40 CFR 6.503 is revised to read as follows:

§ 6.503 Consultation during the environmental review process.

When there are overriding considerations of costs or impaired program effectiveness, the responsible official may award a Step 2 or Step 3 grant for a discrete segment of the project plans or construction before the environmental review is completed. The segmented portion of the project must be noncontroversial, necessary to correct water quality or other immediate environmental problems, and cannot, by its completion, foreclose any reasonable options being considered in the environmental review. If a project is segmented the entire project shall be evaluated to determine if an EIS is required. In applying the criteria to determine if an EIS is required, regional EIS preparation staff shall be consulted. In no case may these types of grant assistance for Step 2 or Step 3 projects be awarded unless the OFA has been consulted, an FNSI has been issued on the segments permitted to proceed at least 30 days prior to grant award, and the grant award contains a specific agreement prohibiting action on the segment of planning or construction for which the environmental review is not complete. The Director, OFA is responsible for consulting with the Assistant Administrator for Water.

[FR Doc. 82-6166 Filed 3-5-82; 8:45 am]

BILLING CODE 6560-37-M

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40 CFR Part 52

[A-4-FRL-2050-6]

Approval and Promulgation of Implementation Plans; Kentucky; Jefferson County Regulation for Existing Hot Air Aluminum Atomization Processes

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: EPA today approves a State Implementation Plan (SIP) revision submitted by the Kentucky Department for Natural Resources and Environmental Protection. The SIP revision is Jefferson County's Regulation for Existing Hot Air Aluminum Atomization Processes and is recognized by EPA as part of Appendix N to the Kentucky SIP. The regulation relaxes the particulate limits presently being met by Units #1 and #2 at the Reynolds Metals Company Plant #3 in Louisville, Kentucky.

DATE: This action will be effective on May 7, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the materials submitted may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460;

Office of the Federal Register, Room 8401, 1100 L Street, N.W., Washington, D.C. 20460;

Library, Environmental Protection Agency, EPA Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365; or

Kentucky Department for Natural Resources and Environmental Protection, Division of Air Pollution Control, 18 Reilly Road, Bldg. #2 Ft. Boone Plaza, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Mr. Melvin Russell, Air Programs Branch, EPA Region IV at the above address or call (404) 881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: The Kentucky SIP revision being approved herein was subjected to public hearing on July 16, 1980 in Louisville, Kentucky (Jefferson County). Jefferson County Regulation 6.28, Standard of Performance for Existing Hot Air Aluminum Atomization Processes was subsequently adopted by the Jefferson County Board on March 18, 1981.

Regulation 6.28 establishes standards for particulate matter emissions. Section 3 of the regulation states that:

> No owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere from any affected facility, or from any air pollution control equipment installed on any affected facility, any gases which may contain particulate matter which:
>
> (a) Is equal to or greater than 20 percent opacity; or,
>
> (b) Is in excess of 13.76 pounds per ton of aluminum powder atomized.

The Air Pollution Control District has certified in a letter dated December 16, 1981, that the test methods for determining source compliance with Regulation 6-28 are EPA test methods 1 through 5 as necessary.

Implementation of this regulation will allow the Reynolds Metals Company to discontinue use of the scrubber presently used at Unit #1 and Unit #2. The industry has presented information which strongly implicates the scrubbers as the major cause for the regularity of hazardous explosions which has occurred since the scrubbers were installed. The units will in the future, be controlled by cyclones followed by multiclone collectors. This is the control process that was used prior to the installation of the venturi scrubbers in 1974 and 1975. Prior to approval of Regulation 6.28, Units #1 and #2 were subject to Jefferson County Regulation 6.09. Regulation 6.09 required that the units meet an allowable emission limit of 2.38 lbs/hr, while Regulation 6.28 requires the units to comply with an allowable emission limit of 8.6 lbs/hr.

Approval of the SIP revision will have a minor effect on air quality in Louisville, and will not adversely affect Kentucky's reasonable further progress (RFP) toward attainment of the TSP standard.

The CRSTER model was used to determine ambient air quality impact with and without the scrubbers. The modelling predicts lower maximum 24-hour concentrations for the proposed allowable emissions, using the cyclones and the multiclones without the scrubbers, when compared to the present allowable emissions with the scrubbers. This is because the wet scrubber emissions exit from low horizontal stacks (height=5.5 meters), while the emissions from the multiclones exit from taller vertical stacks (height=8.5 meters).

The modelling also indicates that the annual mean concentration using the proposed allowables provides an overall improvement in air quality when compared to the present allowable emission limits.

There could be a decline in air quality when comparing the proposed allowable emissions to the present actual emissions from the scrubbers. This is because the actual emissions from the scrubbers are less than the actual emissions from the multiclones. But because this increase in emissions will not interfere with reasonable further progress in the nonattainment area, the revision is approvable.

Action: Based on the foregoing, EPA today approves Kentucky's SIP revision which revises Appendix N of the State plan to include Jefferson County Regulations 6.28, Standard of Performance for Existing Hot Air Aluminum Atomization Processes. EPA has chosen to take final Federal Register action on this revision, foregoing the proposal process. This is done because the revision affects only one source and imposes no added restrictions; in fact, the revision responds to a request from the source.

The public should be advised that this action will be effective May 7, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Clean Air Act, judicial review of EPA's approval of this action is available *only* by the filing of a petition for review in the United States Court of Appeals of appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action only approves state actions. It imposes no new requirements. In addition, this action only applies to one facility.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Incorporation by reference of the State Implementation Plan for the Commonwealth of Kentucky was approved by the Director of the Federal Register on July 1, 1981.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: March 1, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart S—Kentucky

In § 52.920, paragraph (c) is amended by adding subparagraph (28) as follows:

§ 52.920 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(28) Addition to Appendix N of Jefferson County Regulation 6.28, Standard of Performance for Existing Hot Air Aluminium Atomization Processes, submitted on May 18, 1981, by the Kentucky Department for Natural Resources and Environmental Protection.

[FR Doc. 82-6169 Filed 3-5-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-9-FRL-2056-2]

Approval and Promulgation Implementation Plans; Nevada State Implementation Plan, Maintenance-of-Pay Provision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA announces its approval of a State Implementation Plan (SIP) revision which the Nevada Department of Conservation and Natural Resources has submitted pursuant to the requirements of the Clean Air Act. The revision provides that a source may not temporarily reduce the pay of an employee by reason of the use of a supplemental or intermittent or other dispersion dependent control system to meet requirements of an order under section 113(d) or section 119 of the Clean Air Act. This type of maintenance-of-pay provision is required by section 110(a)(6) of the Clean Air Act. This action will be effective 60 days from the date of this notice unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

DATE: This action is effective May 7, 1982.

ADDRESSES: Written comments should be addressed to James Hanson of EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105. Copies of the revisions are available for public inspection during normal business hours at the following locations:

Public Information Reference Unit, Environmental Protection Agency, Library, 401 "M" Street S.W., Room 2404, Washington, D.C. 20460;

Library, Office of the Federal Register 100 "L" Street, N.W., Room 8401, Washington, D.C. 20408;

Nevada Department of Conservation and Natural Resources, 201 S. Fall Street, Carson City, NV 89710.

FOR FURTHER INFORMATION CONTACT: James Hanson at EPA Region 9 (address above) or call (415) 974–8038.

SUPPLEMENTARY INFORMATION: On November 17, 1981, the State of Nevada submitted as an SIP revision an addition to Article 14 of the State of Nevada Air Quality Regulations enacted to provide that a worker's pay would not be temporarily reduced when a source used a dispersion-dependent control system to meet the requirements of an order under section 113(d) or section 119 of the Clean Air Act. The regulation satisfies the requirement for such a provision contained in section 110(a)(6) of the Clean Air Act. The regulation submitted is Article 14.1 of the State of Nevada Air Quality Regulations, and is reproduced in its entirety as follows:

"Article 14.1

If the owner or operator of a source uses a supplemental or intermittent control system (or other control system designed to vary with atmospheric conditions) for the purpose of meeting the requirements of an order issued pursuant to section 113(d) or 119 (relating to primary nonferrous smelters) in the Act, he may not temporarily reduce the pay of any of his employees because of his use of the system."

EPA is today approving this revision to the Nevada SIP. This is being done without prior proposal because the change is a requirement of the Clean Air Act and is not controversial. The public should be advised that this approval action will be effective May 7, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, the approval action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action approves the State action. It imposes no new requirements.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, judicial review of these actions is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days from today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Incorporation by reference of the State Implementation Plan of the State of Nevada was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110, 113, 119, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7413, 7419 and 7601(a)))

Dated: March 2, 1982.

Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart DD of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart DD—Nevada

Section 52.1470, paragraph (c) is amended by adding subparagraph (24) to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

(24) The following amendments to the plan were submitted on November 17, 1981 by the Governor.

(i) Amendments to the Nevada Air Quality Regulations: Article 14.1.

* * * * *

[FR Doc. 82-6197 Filed 3-5-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-5-FRL-2042-3]

Revision to the Ohio State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The purpose of this notice is to announce final rulemaking on a site-specific revision to the Ohio State Implementation Plan (SIP) for Republic Steel Corporation's Youngstown, Ohio, Sinter Plant. We are taking this action at the request of the State of Ohio. Approval of these amendments will permit Republic Steel Corporation to operate the Sinter Plant previously closed down by another company.

EFFECTIVE DATE: This action is effective April 7, 1982.

ADDRESSES: Copies of the SIP revision and supplementary information are available for inspection during normal business hours at the following addresses:

Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M. Street SW., Washington, D.C. 20460

The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Carol Wilmowski, Docket Clerk, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353–2094.

SUPPLEMENTARY INFORMATION: On October 28, 1981, (46 FR 52138) U.S. EPA proposed approval of a site-specific revision to the Ohio SIP for particulate matter which establishes emission limitations for Republic Steel Corporation's Youngstown, Ohio, Sinter Plant. In that notice U.S. EPA described the regulatory and statutory framework in which this rulemaking occurs and requested comments from interested parties. No comments have been received. Therefore, U.S. EPA approves this revision. Under the variance permit which is being approved, particulate emissions from the windbox end of Republic's sinter plant will be limited to a concentration of 0.042 grains per dry standard cubic feet of air (gr/dscf); the discharge end will be limited to 0.010 gr/dscf. Overall emissions from the windbox and discharge ends of this sinter plant may not exceed 100 pounds per hour. In addition, local hoods will collect emissions from the cooler and material transfer points following the breaker. These local hoods will be ducted to the same baghouse serving the discharge end. The revised SIP includes a schedule for ultimate compliance by December 31, 1982, with the limit on outlet concentrations listed above.

Based upon the material submitted by the Ohio Environmental Protection Agency (OEPA) and Republic, U.S. EPA determined that the limitation described above represents the application of RACT for this facility. This revision constitutes approval of only one small element of an acceptable overall Part D Plan for Mahoning County. Nonetheless, since the revision for Republic's sinter plant would be acceptable as an element of an overall Part D Plan U.S. EPA will approve it as a SIP revision.

U.S. EPA is not at this time proposing action on Ohio Administrative Code rules 3745–17–01 through 11 which contain TSP requirements. Rulemaking on the adequacy of these rules will be discussed in a separate Federal Register notice to be issued shortly.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the present rule will not have a significant economic impact on a substantial number of small entities. This action only approves a State action and imposes no new requirements.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, judicial review of these actions is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today.

(Secs. 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: February 22, 1982.

Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLAN

Title 40 of the Code of Federal Regulations, Chapter I, Subpart KK, Part 52 is amended as follows:

1. Section 52.1870 is amended by adding a new paragraph (c)(41) as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(41) On April 10, 1981, the Governor of Ohio submitted revised requirements for Republic Steel Corporation's Youngstown Sinter Plant.

* * * * *

[FR Doc. 82-6138 Filed 3-5-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-1-FRL-1996-5]

Approval and Promulgation of Implementation Plans; Provisions for Paper, Fabric and Vinyl Surface Coaters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document approves Massachusetts State Implementation Plan (SIP) revisions for paper, fabric and vinyl surface coaters submitted on March 6, 1981. These revisions fulfill the 1979 SIP approval condition as set forth on September 16, 1980 (45 FR 61293), and they meet the requirements of Part D (Plan Requirements for Non-Attainment Areas) and certain other sections of the Clean Air Act (the Act), as amended in 1977. Approval of these revisions will establish emission limits for fabric and vinyl surface coaters and provide guidance for achieving the limits.

EFFECTIVE DATE: April 7, 1982.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Greene, Air Branch EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223–5630.

ADDRESSES: Copies of the Massachusetts submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, the Office of the Federal Register, 1100 L Street, NW, Room 8401, Washington, DC; and the Department of Environmental Quality Engineering (DEQE), Division of Air Quality Control, One Winter Street, Boston, Massachusetts 02111.

SUPPLEMENTARY INFORMATION: On March 6, 1981, the State of Massachusetts submitted SIP revisions needed to satisfy EPA's conditions for approving the paper, fabric and vinyl surface coating portion of the Massachusetts SIP and to satisfy Part D requirements of the Clean Air Act. (These conditions are set out in the Final Rulemaking Notice published on September 17, 1981 (45 FR 61293).) EPA published a notice proposing to approve these revisions, on July 10, 1981 (46 FR 35685).

Summary of the Revisions

The revisions, based on a comprehensive industry-State-EPA study, consist of three regulations to control volatile organic compound (VOC) emissions from paper, fabric and vinyl surface coaters. (See 310 CMR 7.18 (14), (15), and (16).) The regulations limit the emissions of VOCs to 2.9 pounds per gallon of coating (excluding water) for paper and fabric surface coaters, and 3.8 pounds per gallon of coating (excluding water) for vinyl surface coaters. In all cases, the limits are *on a solids applied basis.* ("On a solids applied basis" means that the limits per gallon of coating are understood as limits *per gallon of solids in the coating actually applied.*) The State has determined that these limits represent "Reasonable Control Technology" (RACT).

A facility can receive an exemption from these RACT limits if it documents, to the State's satisfaction, that achieving these limits using add-on controls is not economically feasible. For the State to grant an exemption, the facility must: (1) commit itself to studying the feasibility of reformulating its surface coating mix to reduce or eliminate solvents; (2) include a workplan with milestone dates; and (3) agree to install add-on controls to achieve an alternative RACT emission limit if reformulation is determined to be inappropiate.

Note.—As a part of granting an exemption from the RACT limits set in the regulation, the State determines appropriate *alternative* emission limits for the facility. These alternative emission limits, that take into account the individual facility's economic circumstances, are referred to as the "alternative RACT limits" for the facility. The State reevaluates these alternative RACT limits every two years.

Comments

EPA received letters from four commenters. Three supported EPA's proposal, although two of these questioned EPA's interpretation of the proposed SIP revision. One commenter opposed the revision. The specific comments, and EPA's responses, are discussed below.

1. *Comment.* A source applying for exemptions from the RACT emission limits on VOCs should not have to agree to install add-on controls to achieve the alternative RACT limits. It is illogical to require this, since to qualify for an exemption in the first place, the source would have already documented that it cannot achieve RACT.

EPA's Response. This requirement is to achieve *alternative* RACT limits. This is not illogical, because: (1) A source that cannot meet the RACT limits may still be able to meet limits that are less stringent, and (2) it is our understanding that the *alternative* RACT limits, where granted, would be less stringent. (DEQE confirmed this understanding in a letter sent August 5, 1981, during the comment period.)

2. *Comment.* In proposing to approve the SIP revisions, EPA stipulates that the RACT limits are "on a solids applied basis". However, the term "on a solids applied basis" is not used in either the Massachusetts SIP or the Control Technique Guidelines (CTG).

EPA's Response. It is true that neither the SIP nor the CTG uses the term "on a solids applied basis". However: (1) In the industry-State-EPA study that formed the basis for the SIP revisions, the participants agreed to 81% control using add-on controls. This agreed upon level of control is equivalent to 2.9 pounds of VOC per gallon of coating, excluding water (3.8 for vinyl), on a solids applied basis. (2) The May 5, 1980, Richard Rhoads memorandum

("Procedure to Calculate Equivalency with the CTG Recommendations for Surface Coating") explains that VOC limits must be determined "on a solids applied basis".

(3) Massachusetts reviewed the NPR before publication, and indicated to EPA that it interpreted its regulation to require equivalency calculations "on a solids applied basis".

3. *Comment.* EPA should not require that the alternative RACT limits (under an exemption) be submitted to EPA as SIP revisions. The State regulation does not require this. In addition, one of the goals of the industry-State-EPA study was to allow the State to exercise this authority and avoid the burden of variances and SIP revisions.

EPA's Response. (1) Under Sections 110(a)(2), 110(a)(3), and 110(i) of the Clean Air Act, EPA is required to review State determined alternative emission limits, since these are changes in the requirements of the SIP. Under these Sections of the Act, EPA can forgo this review only if the State's regulations contain strict mechanical procedures to determine alternative emission limits. Therefore, to ensure that State determined alternative emission limits will not interfere with attainment and maintenance of the National Ambient Air Quality Standards (NAAQS), EPA must require that each be submitted for approval as source-specific SIP revisions. (2) EPA agrees that one of the goals of the industry-State-EPA study was to determine one alternative RACT limit for all Massachusetts paper, fabric, and vinyl surface coaters. This would have eliminated the need for variances for surface coaters, who for economic and technological reasons, could not achieve the State's RACT emission limits. The study showed however, that for these sources, alternative RACT limits have to be determined on a case-by-case basis. Therefore, one *alternative* RACT limit was not feasible for all Massachusetts sources.

4. *Comment.* It is unfair to require compliance by December 31, 1982, for sources that choose to use add-on controls, while extending the compliance deadline to January 1, 1985 for sources that commit themselves to studying the feasibility of using low/no solvent coating mixes.

EPA's Response. EPA disagrees because: (1) The technology for add-on controls exists today, and any source that does not elect to study low/no solvent substitutes for existing coatings can install the control equipment by December 31, 1982. (2) As discussed in the November 3, 1978 memorandum from Walter C. Barber ("Categorical Compliance Schedule for VOC Sources"), EPA advocates the use of low/no solvent technology because of its long-term benefits in eliminating the need for abatement equipment and reducing accompanying energy requirements. Additionally, low/no solvent technology requires research time to develop and evaluate a potential coating mix, and to determine customer acceptance. Therefore, EPA is willing to allow sources this additional time if they are committed to a study.

5. *Comment.* It is unclear whether the 2.9 pounds per gallon of coating (excluding water) on a solids applied basis emission limit applies as an average over a period of time, or whether it applies at every moment in time. If it *can* be an average, it should be a *weekly* average.

EPA's Response. Under 310 CMR 7.18 (14), (15) and (16), the emission limits apply at every moment in time. However, there is an exception to this if a source can meet requirements to entitle it to "bubble". In this case, the limit may apply as a *daily* average of emissions. (See the Massachusetts VOC Surface Coating Bubble Regulation, 310 CMR 7.18(2)(b).)

Other Comments. Other comments dealt with specific requirements of the DEQE regulations. Since these comments are already addressed adequately by DEQE in its record of decision (available at locations listed in the ADDRESSES section above), we will not discuss them further here.

Finally, one commentor supported approval of the regulation, but raised several issues on Massachusetts VOC Surface Coating Bubble Regulation 310 CMR 7.18(2)(b). This regulation is the subject of a July 21, 1981 NPR (46 FR 37525) and these comments will be addressed in a separate Final Rulemaking Notice.

Action: EPA is approving regulations 310 CMR 7.18 (14), (15) and (16) for Paper, Fabric and Vinyl Surface Coating.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. 46 FR 8709 (January 27, 1981). The attached rule constitutes a SIP approval under Sections 110 and 172 within the terms of the January 27 certification. This action only approves state actions and it imposes no new requirements.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

After evaluation of the state's submittal, the Administrator has determined that the Massachusetts revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Massachusetts State Implementation Plan.

(Secs. 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7401(a) and 7601(a)))

Dated: February 26, 1982.

Anne M. Gorsuch,
Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Massachusetts was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40 of the Code of Federal Regulation is amended as follows:

Subpart W—Massachusetts

1. Section 52.1120, is amended by adding paragraph (c)(40) as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(40) Regulations 310 CMR (14), (15), and (16), for paper, fabric, and vinyl surface coaters to meet the requirements of Part D for ozone were submitted by the Governor of Massachusetts on March 6, 1981.

§ 52.1168 [Amended]

2. Section 52.1168 is amended by removing paragraphs (a) (2), (3), (4), and (5), and these paragraphs are thereby reserved.

[FR Doc. 82-6236 Filed 3-5-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-3-FRL-2050-1; Docket No. AH030VA]

Approval of Revision of the Commonwealth of Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval of a variance to the Commonwealth of Virginia State Implementation Plan (SIP). This revision consists of a variance from Emission Standards for Visible Emissions and Fugitive Dust/Emissions, and Emission Standards for Particulate Emissions from Fuel Burning Equipment, for the U.S. Marine Corps Quantico Base Central Heating Plant located in Prince William County, Virginia. The variance would allow the central heating plant to convert from fuel oil to coal and allow for the use of coal while air pollution control devices are being installed.

DATE: This action is effective May 7, 1982 unless notice is received by April 7, 1982 that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Programs & Energy Branch, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: Ms. Carol D. Peters

Virginia State Air Pollution Control Board, Room 801, Ninth Street Office Building, Richmond, Virginia 23219, Attn: Mr. John M. Daniel, Jr.

Public Information Reference Unit, EPA Library, Room 2922, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: Ms. Carol D. Peters at the Region III address stated above or call 215/597-9139.

SUPPLEMENTARY INFORMATION: On November 5, 1980, the Commonwealth of Virginia submitted a variance which it had issued to the U.S. Marine Corps Quantico Base on October 6, 1980. Also submitted were technical and modeling analyses to support the variance. The Commonwealth requested the variance be reviewed and processed as a revision to the Virginia SIP Rules EX-2, Emission Standards for Visible Emissions and Fugitive Dust/Emissions, and EX-3, Emission Standards for Particulate Emissions from Fuel Burning Equipment.

The variance would allow the central heating plant to convert from fuel oil to coal and allow for the use of coal while air pollution control devices are being installed. The heating plant would be allowed to burn 1% sulfur coal during and after the variance. The Commonwealth previously submitted a revision which would change the available sulfur content of solid fuel used in combustion installations from .75% to one percent, in the Northern Virginia Region, which includes the Quantico Marine Base. The revision for the increased sulfur content of fuel for Northern Virginia is presently undergoing EPA evaluation and will be the subject of a separate rulemaking notice.

The Commonwealth provided proof that after adequate public notice, a public hearing was held with regard to this variance. The hearing was held in accordance with public hearing and notice requirements of 40 CFR 51.4 and all relevant State procedural requirements.

EPA Evaluation

The modeling analysis submitted by the Commonwealth was inadequate. After discussions between the Commonwealth and EPA, the Commonwealth submitted a revised variance to EPA on December 16, 1981. For the period of the variance the particulate emission standard is modified to the extent that during the operation of the coal fired boilers, their total particulate emissions will not exceed 55 pounds per hour. The firing rates and operating parameters proposed by the Quantico Marine Base will be subject to approval by the Director, Virginia Air Quality Control Region VII.

Boilers numbers 4 and 5 are for emergency use only, and the Director of Virginia's Region VII must be notified before they may be brought on line.

The allowable particulate emission rate (55 lb/hr) is predicted not to cause violations of the National Ambient Air Quality Standard (NAAQS). The variance will be in effect until October 15, 1983.

Upon completion of the coal conversion project the particulate emission limitations shall be 55 lbs/hr as allocated below and no greater than a total of 1,132 lbs/day.

Boiler No.	Particulate emissions (pounds per hour)
1	10
2	10
3	11
6	24
Total	55

Again, boilers numbers 4 and 5 are for emergency use only.

Conclusion

EPA is approving this variance today, as it is viewed as non-controversial, for the U.S. Marine Corps Quantico Base Central Heating Plant located in Prince William County, Virginia, without prior proposal. The public should be advised that this action will be effective May 7, 1982. However, if notice is received on or before April 7, 1982 that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will withdraw the final action and begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. This action only approves State actions. It imposes no new requirements.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(42 U.S.C. 7401-842)

Dated: February 26, 1982.

Anne M. Gorsuch,
Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the Commonwealth of Virginia was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLAN

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart VV—Virginia

1. In § 52.2420 *Identification of plan* paragraph (c)(62) is added to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(62) A variance issued to the U.S. Marine Corps Quantico Base Central Heating Plant located in Prince William County, Virginia, exempting their boilers from Rules EX-2 and EX-3 until October 15, 1983, submitted on November 5, 1980, revised on December 16, 1981 by the Secretary of Commerce and Resources.

[FR Doc. 82-6238 Filed 3-5-82; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6171

[OR-22030-A (WASH)]

Washington; Revocation of Former Military Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order, as modified to provide for disposition by the Secretary of the Interior, which withdrew 71 acres of land for military purposes. This action will restore the land to operation of the public land laws generally, including the mining laws.

EFFECTIVE DATE: April 2, 1982.

FOR FURTHER INFORMATION CONTACT:
Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of September 22, 1866, which withdrew the following described land for military purposes, as modified by Executive Order No. 3693 of August 13, 1923, to provide for disposition by the Secretary of the Interior, is hereby revoked:

Willamette Meridian

T. 28 N., R. 1 E.,
Sec. 28, lot 1 and SW¼SE¼.
The area described contains 71.00 acres in Jefferson County.

2. At 10 a.m. on April 2, 1982, the land described above will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on April 2, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on April 2, 1982, the land described above will be open to location under the United States mining laws. The land has been and continues to be open to applications and offers under the minerals leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 25, 1982

[FR Doc. 82-6109 Filed 3-5-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6172

[C-24225]

Colorado; Partial Revocation of Reclamation Withdrawal, Fryingpan-Arkansas Project

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes a Secretarial order and opens a 0.57 acre tract of land to operation of the public land laws, including the mining laws. The remaining 23.16 acres are privately owned.

EFFECTIVE DATE: April 2, 1982.

FOR FURTHER INFORMATION CONTACT:
Richard D. Tate, Colorado State Office, 303–837–2535.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order dated June 3, 1946, withdrawing lands for the Bureau of Reclamation's Gunnison-Arkansas Project (now Fryingpan-Arkansas Project) is hereby revoked as to the following described lands:

Sixth Principal Meridian

T. 9 S., R. 80 W.,
Sec. 19, lots 1, 2, 14.
The lands described aggregate approximately 23.73 acres.

2. At 7:45 a.m. on April 2, 1982, lot 14 shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on April 2, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 7:45 a.m. on April 2, 1982, lot 14 will be open to location under the United States mining laws. It has been and continues to be open to applications and offers under the mineral leasing laws.

Inquiries concerning these lands should be directed to the Chief, Withdrawal Section, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 25, 1982.

[FR Doc. 82-6110 Filed 3-5-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6173

[M-41696]

Montana; Partial Revocation Of Public Water Reserve No. 107

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes an Executive and three Secretarial Orders of Interpretation as to 552.24 acres of land withdrawn as public water reserves. This action will restore the lands to operation of the public land laws generally, including non-metalliferous mineral location under the mining laws.

EFFECTIVE DATE: April 2, 1982.

FOR FURTHER INFORMATION CONTACT:
Roland F. Lee, Montana State Office, 406–657–6291.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of April 17, 1926, creating Public Water Reserve No. 107, as construed by Secretarial Orders of January 18, 1935, May 14, 1935, and October 2, 1940, as Interpretation Nos. 212, 217 and 282, respectively, are hereby revoked insofar as they affect the following described lands:

Principal Meridian

T. 9 S., R. 46 E.,
Sec. 35, lot 14.
T. 8 S., R. 51 E.,
Sec. 31, lot 4.
T. 3 S., R. 52 E.,
Sec. 28, NE¼NE¼.
T. 6 S., R. 54 E.,
Sec. 21, NW¼NW¼.
T. 2 S., R. 57 E.,
Sec. 11, SW¼SE¼;
Sec. 14, NW¼NE¼ and SE¼SE¼;
Sec. 27, SE¼NW¼.
T. 2 S., R. 58 E.,
Sec. 11, SW¼NW¼;
Sec. 25, SE¼.
T. 3 S., R. 58 E.,
Sec. 1, SW¼SE¼.

The areas described aggregate 552.24 acres in Carter and Powder River Counties.

2. At 8 a.m. on April 2, 1982, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 8 a.m. on April 2, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

3. The public lands described above will be open to nonmetalliferous mineral location under the United States mining laws at 8 a.m. on April 2, 1982. The lands have been and continue to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 25, 1982.

[FR Doc. 82-6111 Filed 3-5-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6174

[C-11325]

Colorado; Revocation of Section 24 Restriction on a Portion of Powersite Reserve No. 52

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order removes the restriction of Section 24 of the Federal Power Act on a portion of Powersite Reserve No. 52 which was previously revoked.

EFFECTIVE DATE: March 8, 1982.

FOR FURTHER INFORMATION CONTACT:
Richard D. Tate, Colorado State Office, 303–837–2535.

By the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, and pursuant to determination of the Federal Power Commission (now Federal Energy Regulatory Commission) by DA–498 Colorado dated August 25, 1971, it is ordered as follows:

1. Secretary's Order of July 1, 1910, which withdrew lands for Powersite Reserve No. 52, as modified by Secretary's Order of January 19, 1928, is hereby revoked in its entirety as it pertains to the following described lands, which lands are hereby relieved of the restrictions of Section 24 of the Federal Power Act:

Sixth Principal Meridian

T. 3 S., R. 79 W.,
Sec. 12, lot 8 (7.81 acres); Forest land Tract 37 (.31 acres) Patented land (Previously described as Lot 5)

The land described aggregates approximately 8.12 acres in Summit County, Colorado.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 25, 1982.

[FR Doc 82-6112 Filed 3-5-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6175

[W-71343]

Wyoming; Revocation of Executive Order No. 3655

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an executive order which withdrew lands in aid of legislation affecting approximately 320.80 acres. The lands have been patented to Natrona County for park purposes. This action will restore the lands to nonmetalliferous mineral location under the mining laws.

EFFECTIVE DATE: April 2, 1982.

FOR FURTHER INFORMATION CONTACT:
W. Scott Gilmer, Wyoming State Office, 307–776–2220, extension 2336.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 3655 of March 29, 1922, which withdrew the following described lands in aid of legislation, is hereby revoked.

Sixth Principal Meridian

T. 35 N., R. 86 W.,
Sec. 1, lots 1, 2, 3 and 4, S½N½.

The area described contains approximately 320.80 acres in Natrona County, Wyoming.

2. The lands described in paragraph one, are patented to Natrona County for park purposes and are not subject to disposition under the public land laws.

3. At 7:45 a.m. on April 2, 1982, the land will be open to nonmetalliferous mineral location under the United States mining laws subject to valid existing rights, the provisions of existing withdrawals and requirements of applicable law. The lands have been open to applications and offers under the mineral leasing laws and to metalliferous mineral location under the United States mining laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 25, 1982.

[FR Doc. 82-6113 Filed 3-5-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6176

[I-16342]

Idaho; Partial Revocation of Reclamation Project Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: The order revokes 140 acres of national forest lands from two Departmental Orders which affect lands in a Bureau of Reclamation withdrawal. The lands will be opened to such forms of disposition as may by law be made of national forest lands.

EFFECTIVE DATE: April 2, 1982.

FOR FURTHER INFORMATION CONTACT:
Larry Lievsay, Idaho State Office, 208–334–1735.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Departmental Orders of March 6, 1933 and March 23, 1934, which withdrew lands for the Minidoka Reclamation Project, are hereby revoked insofar as they affect the following described lands:

Boise Meridian

Targhee National Forest

T. 13 N., R. 43 E.,
Sec. 19, S½S½SW¼;
Sec. 30, W½NW¼NE¼, N½NW¼.
The area described contains 140 acres in Fremont County.

2. At 7:45 a.m. on April 2, 1982, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 25, 1982.

[FR Doc. 82-6114 Filed 3-5-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6177

[U-6364]

Utah; Powersite Restoration No. 674 Partial Revocation of Powersite Withdrawals No. 34 and 42

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes two Executive orders which withdrew about 8,823 acres of land in connection with powersite reservations affecting the Colorado and Green Rivers in Utah. This action restores 1,560 acres to operation of the public land laws. Approximately 7,263 acres remain withdrawn for the Glen Canyon National Recreation Area.

EFFECTIVE DATE: April 2, 1982.

FOR FURTHER INFORMATION CONTACT: Deen Bowden, Utah State Office, 801–524–4245.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination of the Federal Energy Regulatory Commission in DA–188–Utah, it is ordered as follows:

1. The Executive Orders of July 2, 1910, creating Powersite Reserve Nos. 34 and 42, and any interpretations or modifications of either, are hereby revoked, insofar as they affect any lands outside Canyonlands National Park, as described below:

Salt Lake Meridian

T. 27 S., R. 17 E. (partially surveyed), all lands within two miles of the Green River.
T. 28 S., R. 17 E. (partially surveyed), all lands within three-fourths of a mile of the Green River.
T. 27 S., R. 18 E. (partially surveyed), all lands within two miles of the Green River.
T. 28½ S., R. 18 E. (partially surveyed), all lands within two miles of the Green River.
T. 29 S., R. 19 E. (partially surveyed), all lands within one mile of the Colorado River.

Aggregating approximately 8,823 acres in Wayne and San Juan Counties.

2. The following listed lands, shall at 10:00 a.m. on April 2, 1982, be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10:00 a.m. on April 2, 1982, shall be considered as simultaneoulsy filed at that time. Those received thereafter shall be considered in the order of filing.

Salt Lake Meridian

T. 27 S., R. 17 E. (partially surveyed),
Sec. 8, E½SE¼, SW¼SE¼.
T. 27 S., R. 18 E. (partially surveyed),
Sec. 5, W½(part).
T. 29 S., R. 19 E. (partially surveyed),
Sec. 12, SE¼;
Sec. 13, E½;
Sec. 24, E½;
Sec. 25, NW¼NE¼, NW¼, W½SE¼, SE¼SW¼;
Sec. 36, NW¼, N½SW¼.
Aggregating 1,560 acres.

The remaining lands described in paragraph one are withdrawn for the Glen Canyon National Recreation Area pursuant to Public Law 92–593, dated October 27, 1972.

3. The State of Utah has waived its preference right for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

The public lands described in paragraph 2 have been and will continue to be open to the filing of applications and offers under the mineral leasing laws and to location and entry under the United States mining laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 25, 1982.
[FR Doc. 82-6118 Filed 3-5-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6178

[ORE 016907]

Oregon; Revocation of Public Land Order No. 3954

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order which withdrew 234.46 acres of land for use by the Bureau of Land Management as a recreation area. This action will restore the land to location under the mining laws. The land remains segregated from operation of the public land laws generally by other existing withdrawals.

EFFECTIVE DATE: April 2, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office 503–231–6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 3954 of March 30, 1966, which withdrew the following described land for use by the Bureau of Land Management for recreational purposes, is hereby revoked:

Willamette Meridian

Middle Santiam Recreation Area

T. 12 S., R. 4 E.,
Sec. 19, Lots 1 and 2, W½NE¼, SE¼NE¼, and E½NW¼.

The area described contains 224.46 acres in Linn County.

2. The land remains segregated from operation of the public land laws by Powersite Reserve No. 664 of December 12, 1917, Powersite Classification No. 442 of January 21, 1958, and multiple use management withdrawal by Public Land Order No. 5490 of February 12, 1975.

3. At 10 a.m., on April 2, 1982, the land will be open to location under the United States mining laws. The land has been and continues to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 25, 1982.
[FR Doc. 82-6116 Filed 3-5-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6179

[ORE-04299]

Oregon; Revocation of Public Land Order No. 1314

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order which withdrew 80 acres of land for use by the Bureau of Land Management for communication site purposes. This action will restore the land to operation of the public land laws generally, including the mining laws and mineral leasing laws.

EFFECTIVE DATE: April 2, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 1314 of July 19, 1956, which withdrew the following described land for use by the Bureau of Land Management for communication site purposes, is hereby revoked:

Willamette Meridian

Grizzly Mountain Communication Site

T. 13 S., R. 15 E.,
Sec. 17, W½SE¼.

The area described contains 80 acres in Crook County.

2. At 10 a.m., on April 2, 1982, the land described above will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws. All valid applications received at or prior to 10 a.m., on April 2, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m., on April 2, 1982, the land described above will be open to location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 25, 1982.
[FR Doc. 82-6117 Filed 3-5-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6180

[M-40914]

Montana; Partial Revocation of Public Water Reserve

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial Order affecting 440.14 acres of land withdrawn as a public water reserve. This action will restore 280.14 acres of land to operation of the public land laws generally, and to location of nonmetalliferous minerals. The balance, containing 160 acres, remains segregated from the public land laws, including the mining laws as these lands are within the Charles M. Russell National Wildlife Refuge and the Corps of Engineers Withdrawal for the Fort Peck Reservoir.

EFFECTIVE DATE: April 2, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406–657–6291.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of March 28, 1935, which withdrew lands for public water reserve purposes is hereby revoked insofar as it affects the following described lands:

Principal Meridian

T. 12 N., R. 38 E.,
Sec. 20, W½NW¼, NW¼SW¼.
T. 18 N., R. 40 E.,
Sec. 6, lots 1 and 2, S½NE¼.
T. 22 N., R. 43 E.,
Sec. 17, W½SE¼;
Sec. 20, N½NE¼.

The areas described aggregate 440.14 acres in McCone, Garfield and Rosebud Counties.

2. At 8 a.m. on April 2, 1982, the public lands described below shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8 a.m. on April 2, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Principal Meridian

T. 12 N., R. 38 E.,
Sec. 20, W½NW¼, NW¼SW¼.
T. 18 N., R. 40 E.,
Sec. 6, lots 1 and 2, S½NE¼.

The areas described aggregate 280.14 acres in Garfield and Rosebud Counties.

3. At 8 a.m. on April 2, 1982, the public lands described in Paragraph two, will be open to nonmetalliferous mineral location under the United States mining laws. The lands have been and continue to be open to metalliferous mineral location under the mining laws and to applications and offers under the mineral leasing laws.

4. The following described lands will remain segregated from the public land laws generally, including the mining laws, as these lands are within the Charles M. Russell National Wildlife Refuge, the Corps of Engineers withdrawal for the Fort Peck Reservoir, and segregated by a Bureau of Land Management Withdrawal Application M 30912:

Principal Meridian

T. 22 N., R. 43 E.,
Sec. 17, W½SE¼;
Sec. 20, N½NE¼.

The area described contains 160 acres in McCone County.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Monana 59107.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 25, 1982.
[FR Doc. 82-6118 Filed 3-5-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6181

[OR-22054 (WASH)]

Washington; Partial Revocation of Reclamation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial Order in part as to approximately 3 acres of land withdrawn for reclamation purposes. The land, improvements and mineral estate (except for a reservation of oil and gas to the United States) have been declared excess property and reported to the General Services Administration for disposal. The land remains open to the mineral leasing laws for oil and gas leasing.

EFFECTIVE DATE: March 8, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order of September 12, 1905, which withdrew certain lands for use by the Bureau of Reclamation for reclamation purposes in connection with the Yakima Project, is hereby revoked insofar as it affects the following described land:

Willamette Meridian

T. 9 N., R. 25 N.,
Sec. 20, That portion of the S½SE¼NE¼, lying south of the existing Sunnyside Main Canal right-of-way.

The areas described contains approximately 3 acres in Benton County.

2. The above described land and mineral estate (except for a reservation of oil and gas to the United States) have been reported to the General Services Administration for disposition as excess property pursuant to the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 471, for disposal under that Act.

The land has been and continues to be open to applications and offers under the mineral leasing laws for oil and gas leasing.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 25, 1982.
[FR Doc. 82-6119 Filed 3-5-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6182

[NM 23614]

New Mexico; Withdrawal for Army National Guard Rifle Range

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 52.70 acres of public land and reserves it for use as a rifle range and weekend training site for the New Mexico Army National Guard for a period for 20 years.

EFFECTIVE DATE: March 8, 1982.

FOR FURTHER INFORMATION CONTACT:
Stella V. Gonzales, New Mexico State Office, 505-988-6211.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is hereby ordered as follows:

1. Subject to valid existing rights, the following described public land which is under the jurisdiction of the Secretary of the Interior, is hereby withdrawn from settlement, sale, location or entry, under the general land laws, including the mining laws, 30 U.S.C. Ch. 2 but not the mineral leasing laws, as a rifle range for the New Mexico Army National Guard.

New Mexico Principal Meridian

T. 12 N., R. 30 E.,
Sec. 32, lots 1 and 2.

The area described contains 52.70 acres in Quay County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the land under lease, license or permit, or governing the disposal of its mineral or vegetative resources other than under the mining laws.

3. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 25, 1982.
[FR Doc. 82-6120 Filed 3-5-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6183

[NM 36236]

Oklahoma; Withdrawal Fort Sill Military Reservation

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This action withdraws 10.32 acres of public land and reserves it for troop maneuvers and filed artillery firing exercises at Fort Sill for a period of 20 years.

EFFECTIVE DATES: March 8, 1982.

FOR FURTHER INFORMATION CONTACT:
Stella V. Gonzales, New Mexico State Office 505-988-6211.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is hereby ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry, under the general land laws, including the mining laws, 30 U.S.C. Ch. 2, but not the mineral leasing laws, and reserved for the use of the Department of the Army for military purposes.

Indian Meridian, Oklahoma

T. 3 N., R. 13 W.,
Sec. 19 Block 15 Goldenpass Townsite located in SE¼SE¼;
Sec. 20, Blocks 34, 35 and 36 Goldenpass Townsite located in SW¼SW¼.

The area described contains 10.32 acres in Comanche County, Oklahoma.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
February 25, 1982.
[FR Doc. 82-6121 Filed 3-5-82; 8:45 am]
BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Amdt. 192-39; Docket OPSO-37]

Transportation of Natural and Other Gas by Pipeline; Metal Alloy Fittings in Plastic Pipelines

AGENCY: Materials Transportation Bureau (MTB), RSPA, DOT.

ACTION: Final rule.

SUMMARY: This final rule removes the requirement in § 192.455(f)(3) that a means be provided for identifying the location of each metal alloy fitting that is installed without coating and cathodic protection in plastic pipelines. The identification requirement is unnecessray for safety and hinders the use of corrosion resistant metal alloy fittings to mechanically join plastic pipe and components.

DATE: This final rule takes effect April 7, 1982.

FOR FURTHER INFORMATION CONTACT:
L. M. Furrow; 202-426-2392.

SUPPLEMENTARY INFORMATION: Fittings made of corrosion resistant metal alloys are available for use to mechanically join lengths of plastic pipe and plastic components. These fittings have both safety and economic advantages. For one, mechanical joints may be made by personnel who do not have the added skills required for other methods of joining plastic pipe (see § 192.285). More important, however, a properly selected alloy (matching the alloy with the environment) can protect a buried fitting against electrochemical corrosion without the added expense of cathodic protection.

Before 1977, the use of corrosion resistant metal alloy fittings in plastic pipelines was hindered by MTB's corrosion control regulations (§§ 192.455 and 192.465) aimed at preventing or mitigating corrosion on buried or submerged metal pipelines, including metal fittings in plastic pipelines. Under corrosive conditions, ordinary metal fittings in plastic pipelines can corrode rapidly, causing gas leaks that could threaten public safety. To guard against this result, before 1977 § 192.455 required that all metal fittings be coated and cathodically protected, and then periodically inspected under § 192.465. The cost of materials and labor to comply with these corrosion control measures outweighed the safety and economic benefits from using corrosion resistant metal alloy fittings in plastic pipelines. However, in 1977, MTB considered documented tests and experience (Notice 76-1, 41 FR 42221, Sept. 21, 1976) showing that under various corrosive environments, properly selected metal alloy fittings in plastic pipelines can provide sufficient protection against electrochemical corrosion. Thus, a new paragraph (f) was added to § 192.455 to conditionally except these fittings from the cathodic protection and inspection requirements (Amendment 192-28; 42 FR 35653, July 11, 1977).

Three conditions were established in § 192.455(f) to qualify metal alloy fittings for the exception from the coating and cathodic protection requirements: First, there must be evidence that in the area of application, corrosion will be controlled by alloyage. Second, the fitting must have a design that prevents leakage from localized corrosion pitting. Third, the pipeline operator must have some means to identify the location of each fitting that is installed.

The first condition was adopted to ensure that fittings are made from alloys that have been proven effective against corrosion in the soils in which the fittings are to be used. The second condition recognizes that even under the best circumstances some corrosion pitting can occur, and in the absence of coating and cathodic protection, the fitting's design is the final safeguard against leakage. Because of the relatively small amount of field experience with alloy fittings in plastic pipelines that had occurred by 1977, and the consequent uncertainty in predicting long range corrosion protection, the third condition was established to ensure that operators keep track of any fittings installed so that remedial action could readily be taken if needed in the future.

Looking toward possible relaxation of the conditions under § 192.455(f), MTB has sought to obtain more information about the long-term corrosive effects on alloy fittings in plastic pipelines. For example, in the preamble to the final rule document establishing the conditional exception, MTB requested that operators report the conditions of alloy fittings that are uncovered, paying special attention to leakage and corrosion performance. To date, all the information received about the susceptibility of alloy fittings to corrosion has pointed toward deleting the § 192.455(f)(3) condition as costly and unnecessary for safety.

While the bulk of the information has come from observations by MTB or State field enforcement personnel, or reports made to them, one major gas distribution company, the Pacific Gas and Electric Company (PG&E), has prepared an extensive written finding of its experience with alloy fittings in California soils. The PG&E report dated May, 1980, (a copy of which is in the public docket) shows that out of 362 samples from the approximately 942,000 Type 316 stainless steel alloy fittings manufactured by AMP, Inc., and installed between 1969 and 1979 in a broad range of soil conditions (soil resistivity from 330 to 100,000 ohm.cm; pH from 4.4 to 9) none exhibited any corrosive effects. This report substantiates preliminary findings made by PG&E in a 1976 study of 200 fittings which formed a basis for the notice of proposed rulemaking that preceded Amendment 192-28.

In addition to requesting reports from operators, MTB also sought advice on the need for § 192.455(f)(3) from the Technical Pipeline Safety Standards Committee, a statutory advisory committee made up of 15 knowledgeable persons from both the public and private sectors who are qualified to evaluate pipeline safety regulations. In its report of a meeting held January 17, 1979, the Committee, by unanimous vote, recommended that § 192.455(f)(3) be deleted on grounds that the rule serves no useful purpose and it adds to cost without a commensurate safety benefit.

In a petition (P-17) dated September 21, 1981, AMP Incorporated, a manufacturer of stainless steel fittings for plastic pipelines, argues for removal of the paragraph (f)(3) limitation. AMP states that its fittings made from AISI Series 300 stainless steels "provide a sufficient, long-term safeguard against corrosion, and obviate the need to subject them to additional location recordkeeping requirements." As a basis for its argument, AMP points to its sale since 1967 of over 15,000,000 metal alloy fittings to more than 160 operators throughout the United States, without having received any reports of corrosion failures.

AMP furthers its argument by detailing (in an appendix to the petition) the administrative costs of complying with paragraph (f)(3) by the use of computerized data banks to provide for immediate identification of each fitting installed under § 192.455(f). Although the rule does not require that operators have such means of identification (a mere card index system might suffice, using ordinary business records kept for customer services), according to the petition, operators who choose to comply in this way may spend as much as $22,500 in start-up costs, with on-going industry-wide costs in excess of $500,000 annually.

In addition to the financial costs of complying with paragraph (f)(3), MTB feels the biggest drawback of this provision is the inhibiting effect it has on the use of corrosion resistant alloy fittings to mechanically join plastic pipe components. As previously mentioned, joining plastic pipelines with corrosion resistant alloy fittings has safety and economic advantages over other joining techniques. The main purposes of issuing Amendment 192-28 was to allow operators and the public to fully realize these advantages. Since it appears that most operators are reluctant to utilize alloy fittings and also comply with the identification requirement of § 192.455(f)(3), then paragraph (f)(3) essentially frustrates the main purpose of Amendment 192-28 and should be removed unless it is needed for safety. As to the safety need for paragraph (f)(3), the evidence points to the contrary.

In summary, since Amendment 192-28 was issued, there has been an accumulation of favorable information about the effects of corrosion on alloy fittings that reduces the prior uncertainties about their long-term behavior in corrosive environments. In addition, § 192.455(f)(2) provides a redundant safeguard against the potential harmful effects of corrosion, should any occur. In view of these factors and the added costs and inhibiting effects of providing a means for later identification of the location of each fitting that is installed, MTB is by this document repealing § 192.455(f)(3).

Because this document grants relief from a regulatory burden for which there is no apparent need, a notice and comment period would be unnecessary, and in accordance with 5 U.S.C. 553, the repeal of § 192.455(f)(3) is final. Also, since this final rulemaking action will have a postive effect on the economy of less than $100 million a year, will result in a cost savings to consumers, industry, and government agencies, and no adverse effects are anticipated, the action is not "major" under E.O. 12291 or "significant" under DOT procedures.

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

In consideration of the foregoing, § 192.455(f) of Part 192 of Title 49 of the Code of Federal Regulations is revised to read as follows:

§ 192.455 External corrosion control: Buried or submerged pipelines installed after July 31, 1971.

* * * * *

(f) This section does not apply to electrically isolated, metal alloy fittings in plastic pipelines, if—

(1) For the size fitting to be used, an operator can show by tests, investigation, or experience in the area of application that adequate corrosion control is provided by alloyage; and

(2) The fitting is designed to prevent leakage caused by localized corrosion pitting.

(49 U.S.C. 1672; 49 CFR 1.53 and Appendix A to Part 1)

Issued in Washington, D.C. on March 2, 1982.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 82-6045 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1111

[Ex Parte Nos. 282 (Sub-3) and 282 (Sub-6)]

Railroad Consolidation Procedures, Time Revisions

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission has revised the informational requirements for applications by rail carriers under 49 U.S.C. 11343–11346. These regulations will result in better use of Commission and carrier resources by reducing required information, and avoiding lengthy and costly proceedings when unwarranted by their impact. Additionally, the submission of information that is unnecessary or available elsewhere will no longer be required. The Commission has also adopted rules incorporating the time limits of 49 U.S.C. 11345 as amended by section 228 of the Staggers Rail Act of 1980 (Staggers Act), Pub. L. 96–448. Other changes necessitated by the Staggers Act have also been made.

EFFECTIVE DATES: These procedures will be effective on April 7, 1982.

FOR FURTHER INFORMATION CONTACT: Ernest B. Abbott, (202) 275–3002.

ADDRESS: Copies: The text of the full decision is available from: Office of the Secretary, Interstate Commerce Commission, Room 2227, Washington, D.C. 20423; or by calling toll-free (800) 424–5403.

SUPPLEMENTARY INFORMATION: These rules incorporate changes based on the Staggers Act and on comments to previous versions of the rules, published at 44 FR 66826, November 20, 1979, and 45 FR 62991, September 23, 1980. The text of these rules appears in the Appendix to this notice. The Commission's decision explaining the changes in the rules can be obtained from the Commission's office of the Secretary.

Subpart A to Part 1111 of Title 49 of the Code of Federal Regulations is revised in accordance with the appendix of this decision. (49 U.S.C. 11343–11347 and 5 U.S.C. 552 and 553).

Dated: February 19, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham and Clapp. Commissioner Clapp dissented in part with a separate expression.

Agatha L. Mergenovich,

Secretary.

COMMISSIONER CLAPP, dissenting in part:

While I support the continuing efforts to improve consolidation procedures and to lessen filing burdens where possible, I am concerned about the use of "market or impact analysis" in lieu of more specific filing requirements. An applicant should have the flexibility to provide only useful information but I believe that the Commission should offer more complete guidelines so that all interested persons will know what needs to be filed in an application. I am not necessarily advocating traffic studies although the AAR has pointed out traffic studies may still be necessary for analysis of impact on essential services. Whatever data is required generally, the waiver process is always available for relief when certain information is not needed or not pertinent.

Under the new regulations, the Commission may still be able to obtain the information needed to decide an application, but it will be by way of less certain, more circuitous route. Thus, the burden on all parties may ultimately be greater.

Part 1111 of Title 49 is amended as follows:

1. The heading for Part 1111 is revised.

2. Subpart A is revised to read as follows:

Appendix

Subpart A of Part 1111 of Title 49 is revised to read as follows:

PART 1111—RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION, TRACKAGE RIGHTS AND LEASE PROCEDURES

Subpart A—General Acquisition Procedures

Sec.

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Authority: 49 U.S.C. 11343–11347 and 5 U.S.C. 552 and 553.

Subpart A—General Acquisition Procedures

§ 1111.0 Scope and purpose.

These regulations set out the information to be filed and the procedures to be followed in control, merger, acquisition, lease, trackage rights, and any other consolidation transaction involving more than one railroad that is initiated under 49 U.S.C. 11343. Section 1111.2 separates these transactions into four types: *Major, significant, minor,* and *exempt.* The informational requirements for these types of transactions differ. Before an application is filed, the designation of type of transaction may be clarified or certain of the information required may be waived upon petition to the Commission. This procedure is explained in § 1111.4. The required contents of an application are set out in §§ 1111.6 (general information supporting the transaction), 1111.7 (competitive and market information), 1111.8 (operational information) and 1111.9 (financial data). *Major* and *significant* applications must contain all of the information required in §§ 1111.6 through 1111.9. The informational requirements for a *minor* application are more limited and are set out in §§ 1111.6 and 1111.8. Procedures (including time limits, filing requirements, participation requirements, and other matters) are contained in § 1111.4. Index I lists all exhibits and indicates the type of application for which the exhibit is required. Index II is a table of contents of this Subpart. All applicants must comply with the Commission's general procedural rules, in Part 1100, unless otherwise specified. These regulations may be cited as the Railroad Consolidation Procedures.

§ 1111.1 General policy statement for merger or control of at least two Class I railroads.

(a) *General.* The Interstate Commerce Commission encourages private industry initiative that leads to the rationalization of the nation's rail facilities and reduction of its excess capacity. One means of accomplishing these ends is rail consolidation. However, the Commission does not favor consolidations through the exercise of managerial and financial control if the controlling entity does not assume full responsibility for carrying out the controlled carrier's common carrier obligation to provide adequate service upon reasonable demand. Furthermore, the Commission does not favor consolidations that substantially reduce the transport alternatives available to shippers unless there are substantial and demonstrable benefits to the transaction that cannot be achieved in a less anticompetitive fashion. Our analysis of the competitive impacts of a consolidation is especially critical in light of the Congressionally mandated commitment to give railroads greater freedom to price without regulatory interference.

(b) *Consolidation criteria.* The Commission's consideration of the merger or control of at least two class I railroads is governed by the criteria prescribed in 49 U.S.C. 11344 and by the rail transportation policy set forth in 49 U.S.C. 10101a.

(1) Section 11344 directs the Commission to approve consolidations which are consistent with the public interest. In examining a proposed transaction, the Commission must consider, at a minimum: (i) the effect on the adequacy of transportation to the public; (ii) the effect of including, or failing to include, other rail carriers in the area involved in the proposed transaction; (iii) the total fixed charges that would result; (iv) the interest of affected carrier employees; and (v) the effect on competition among rail carriers in the affected region. (2) The Commission must also consider the impact of any transaction on the quality of the human environment and the conservation of energy resources.

(c) *Public interest considerations.* In determining whether a transaction is in the public interest, the Commission performs a balancing test. It weights the potential benefits to applicants and the public against the potential harm to the public. The Commission will consider whether the benefits claimed by applicants could be realized by means other than the proposed consolidation that would result in less potential harm to the public.

(1) *Potential benefits.* Both the consolidated carrier and the public can benefit from a consolidation if the result is a financially sound competitor better able to provide adequate service on demand. This beneficial result can occur if the consolidated carrier is able to realize operating efficiencies and increased marketing opportunities. Since consolidations can lead to a reduction in redundant facilities and thereby to an increase in traffic density on underused lines, operating efficiencies may be realized. Furthermore, consolidations are the only feasible way for rail carriers to enter many new markets other than by contractual arrangement, such as for joint use of rail facilities or run-through trains. In some markets where there is sufficient existing rail capacity the construction of new rail line is prohibitively expensive and does not represent a feasible means of entry into the market.

(2) *Potential harm.* There are two potential results from consolidations which would ill serve the public—reduction of competition and harm to essential services. In analyzing these impacts, we must consider, but are not limited by, the policies embodied in antitrust laws.

(i) *Reduction of competition.* If two carriers serving the same market consolidate, the result would be the elimination of the competition between the two. Even if the consolidating carriers do not serve the same market, there may be a lessening of potential competition in other markets. While the reduction in the number of competitors serving a market is not in itself harmful, a lessening of competition resulting from the elimination of a competitor may be contrary to the public interest. The Commission recognizes that rail carriers face not only intramodal competition, but also intermodal competition from motor and water carriers. The Commission's competitive analysis depends on the relevant market(s). In some markets the Commission's focus will be on the preservation of effective intermodal competition, while in other markets (such as long-haul movements of bulk commodities) effective intramodal competition may also be important.

(ii) *Harm to essential service.* Consolidations often result in shifts of market patterns. Sometimes the carrier losing its share of the market may not be able to withstand the loss of traffic. In assessing the probable impacts, the Commission's concern is the preservation of essential services, not the survival of particular carriers. A service is essential if there is a sufficient public need for the service and adequate alternative transportation is not available.

(d) *Conditions.* The Commission has broad authority to impose conditions on consolidations, including those that might be useful in ameliorating potential anticompetitive effects of a consolidation. However, the Commission recognizes that conditions may lessen the benefits of a consolidation to both the carrier and the public. Therefore, the Commission will not normally impose conditions on a consolidation to protect a carrier unless essential services are affected and the condition: (1) Is shown to be related to the impact of the consolidation; (2) is designed to enable shippers to receive adequate service; (3) would not pose unreasonable operating or other problems for the consolidated carrier; and (4) would not frustrate the ability of the consolidated carrier to obtain the anticipated public benefits. Moreover, the Commission believes that indemnification is ordinarily not an appropriate remedy in consolidation proceedings. Indemnification conditions can be anticompetitive by requiring the consolidated carrier to subsidize carriers who are no longer able to compete efficiently in the marketplace.

(e) *Inclusion of other carriers.* The Commission will consider requiring inclusion of another carrier as a condition to approval only where there is no other reasonable alternative for providing essential services, the facilities fit operationally into the new system, and inclusion can be accomplished without endangering the operational or financial success of the new company.

(f) *Labor protection.* The Commission is required to provide applicants' employees affected by a consolidation with adequate protection. Similarly situated employees on the applicants' system should be given equal protection. Therefore, absent a negotiated agreement, the Commission will provide for protection at the level mandated by law (49 U.S.C. 11347), unless it can be shown that because of unusual circumstances more stringent protection is necessary to provide employees with a fair and equitable arrangement. The Commission will review negotiated agreements to assure fair and equitable treatment of affected employees.

(g) *Cumulative impacts and crossover effects.* The Commission recognizes that events can occur during its consideration of a consolidation that can have an effect on various of the concerned parties. However, the Commission is mindful of the need to meet its statutory deadlines and make timely administratively final decisions. Therefore, the Commission will not reopen pending proceedings in order to assess the impact of potential or hypothetical combinations or transactions. The proper forum for considering cumulative impacts and crossover effects is in a later

proceeding. In this manner, consideration will be limited to the impacts of transactions which have already been approved and are, therefore, reasonably certain to occur. Furthermore, the Commission will have the benefit of its findings from the prior proceeding to identify more precisely the impacts of that transaction. Proceedings will remain manageable in scope and size, statutory time limits will be met, and all parties will be assured of timely, administratively final decisions.

(h) *Public participation.* To assure a fully developed record on the impacts of a proposed railroad consolidation, the Commission encourages public participation from Federal, State, and local government departments and agencies, affected shippers and carriers, and other interested persons.

§ 1111.2 Types of transactions.

Transactions proposed under 49 U.S.C. 11343 involving more than one common carrier by railroad are of four types: *Major, significant, minor,* and *exempt.*

(a) A *major* transaction is a control or merger involving two or more class I railroads.

(b) A *significant* transaction involves at least one class I railroad, acting together with one or more other class I or class II railroads, in a major market extension. It is of regional or national transportation significance as defined in 49 U.S.C. 11345.

(c) A *minor* transaction is one which involves more than one railroad and which is not a *major, significant,* or *exempt* transaction.

(d) A transaction is *exempt* if it is within one of the six categories described below. The Commission has found that its prior review and approval of these transactions is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101a; and is of limited scope or unnecessary to protect shippers from market abuse. See 49 U.S.C. 10505. A notice must be filed to use one of these class exemptions. The procedures are set out in § 1111.4(g). These class exemptions do not relieve a carrier of its statutory obligation to protect the interests of employees. See 49 U.S.C. 10505(g)(2) and 11347. The enumeration of the following categories of transactions as exempt does not preclude a carrier from seeking an exemption of specific transactions not falling into these categories.

(1) Acquisition of a line of railroad which would not constitute a major market extension where the Commission has found that the public convenience and necessity permit abandonment.

(2) Acquisition of a nonconnecting carrier or one of its lines where (i) the railroads would not connect with each other or any railroads in their corporate family, (ii) the acquisition is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family, and (iii) the transaction does not involve a class I carrier.

(3) Transactions within a corporate family that do not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

(4) Renewal of leases or trackage rights contracts and any other matters where the Commission has previously authorized the transaction, and only an extension in time is involved.

(5) Joint projects involving the relocation of a line of railroad which does not disrupt service to shippers.

(6) Reincorporation in a different State.

§ 1111.3 Definitions.

(a) *Applicant.* The parties initiating a transaction. Parties who are considered applicants, but for whom the information normally required of an applicant need *not* be submitted, are (1) in *minor* trackage rights applications, the transferor and (2) in responsive applications, a primary applicant.

(b) *Applicant carriers.* Applicant, *all carriers related to the applicant,* and all other carriers involved in the transaction. This does not include carriers who are involved in an existing trackage rights agreement with applicants.

(c) *Major market extension.* A major market extension is a transaction which may significantly increase competition by extending service into a new market, expanding service in a currently served market when another carrier concurrently contracts its service to that market as part of the same transaction, or providing significantly more efficient and effective competitive service to a market presently being served. Criteria which can be used to determine if a railroad is proposing to provide a more competitive service to a currently served area include: (1) Creating a shorter route; (2) providing enhanced service capabilities (speed is not the only factor); (3) entering an interchange or market generating more than 5,000 cars per year or 5 percent of applicant's traffic; (4) filing the application as a condition of relief to a pending proceeding; and (5) permitting a carrier to become more competitive (extending its length of haul) See. *Burlington Northern, Inc.—Control & Merger—St. L.,* 354 I.C.C. 616, 617 (1978).

(d) *Petition for clarification.* A request that the Commission clarify the applicability of any part of these regulations to a particular situation or explain the type of material needed to comply with these regulations.

(e) *Petition for waiver.* A request that the Commission either dispense with material required by the regulations, or accept material in place of that required by these regulations.

(f) *Primary application.* A proposal for approval filed under 49 U.S.C. 113343 which begins a new proceeding and is not proposed either as a condition to or as an alternative to Commission approval of another pending application.

(g) *Railroad.* Any common carrier by railroad as defined in 49 U.S.C. 10102(18)–(19).

(h) *Responsive applications.* Applications filed in response to a primary application seeking affirmative relief either as a condition to or in lieu of the approval of the primary application. Responsive applications include inconsistent applications, inclusion applications, and any other affirmative relief that requires an application to be filed with the Commission (such as trackage rights, purchases, construction, operation, pooling, terminal operations, abandonment, etc.).

(i) *Transferee.* The transferee is:

(1) The acquiring corporation in a control proceeding,

(2) The surviving corporation in a merger,

(3) The resulting corporation in a consolidation,

(4) The lessee in a lease,

(5) The purchaser in an acquisition, and

(6) The grantee of trackage rights in a trackage rights proceeding.

(j) *Transferor.* The transferor is:

(1) The corporation acquired in a control proceeding,

(2) The merging corporation in a merger,

(3) All corporations to be consolidated in a consolidation,

(4) The lessor in a lease,

(5) The seller in an acquisition, and

(6) The grantor of trackage rights in a trackage rights proceeding.

§ 1111.4 Procedures.

(a) *General.*

(1) The original and 20 copies of all documents shall be filed in *major* proceedings. The original and 10 copies shall be filed in *significant* and *minor* proceedings.

(2) Each party to a proceeding shall choose a unique acronym of four letters or less for itself. It shall number each document filed in the proceeding consecutively, prefixed by its acronym.

(3) Any document filed with the Commission (including applications, pleadings, etc.) shall be promptly furnished to interested persons on request, unless subject to a protective order. At any time, the Commission may require the submission of additional copies of any document previously filed by any party to the proceeding.

(4) The Commission shall issue a list of all parties to the proceeding within 55 days of the application's acceptance in a *major* transaction, and within 45 days in a *significant* or *minor* transaction.

(b) *Prefiling notification.*

(1) Between 3 to 6 months prior to the proposed filing of an application in a *major* transaction, and 2 to 4 months prior to the proposed filing of an application in a *significant* transaction, applicant shall file a notice with the Commission. The notice shall:

(i) Briefly describe the transaction,

(ii) Indicate the year to be used for the impact analyses,

(iii) Indicate the approximate filing date of the application, and

(iv) Indicate why the transaction is *major* or *significant* (how a major market extension results).

(2) The Commission will publish a notice in the Federal Register within 30 days of receipt of the applicant's notice. The publication shall contain:

(i) A brief description of the transaction,

(ii) The year to be used for the impact analysis,

(iii) The approximate filing date,

(iv) A determination that the transaction is *major, significant,* or *minor,* and

(v) A statement of any additional information which must be filed with the application in order for the application to be considered complete.

(3) A prefiling notice may be amended to indicate a change in the anticipated filing date.

(c) *Application.*

(1) There is a $700 filing fee to file a primary application with the Commission under these procedures. There is no filing fee for a directly related application, a responsive application, or a notice of exemption.

(2) Filing requirements.

(i) The original of all applications shall be signed in ink by the applicant, if an individual; by all partners, if a partnership; and if a corporation, association, or other similar form of organization, by its president, or such other executive officer having knowledge of the matters therein contained and duly designated for that purpose by the applicant. Applications shall be made under oath and shall contain an appropriate certification (if a corporation, by its secretary) showing that the affiant is duly authorized to verify and file the application. Any person controlling an applicant shall also sign the application.

(ii) The application shall be filed with Secretary, Interstate Commerce Commission, Washington, DC 20423.

(iii) Each copy of the application shall conform in all respects to the original and shall be complete in itself except that the signature in the copies may be stamped or typed and the notarial seal may be omitted. In like manner, where certified copies of documents are filed with the application, conformed copies thereof, showing certification in stamped or typewritten form, will be sufficient to accompany the additional copies of the application.

(iv) All applications required to be filed with the Commission or served on designated persons shall include all exhibits, except as otherwise specifically noted. Information from other documents may be incorporated by reference in the application. However, the documents must have been filed with the Commission within three years prior to filing of the application, the information must be up to date, and applicant must be prepared to supply copies of this information to interested persons on specific request.

(v) The applicant shall submit such additional information to support its application as the Commission may require.

(vi) Applicant shall file concurrently all directly related applications, *e.g.,* those seeking authority to construct or abandon rail lines, to issue securities, control motor carriers, obtain terminal operations, acquire trackage rights, et cetera.

(vii) The application shall contain a certificate of service indicating that all persons designated in section 1111.4(c)(5) have been served with a copy of the application.

(3) In a *major* or *significant* transaction, and in all responsive applications, all of the direct testimony of applicants, in the form of verified statements, shall be filed and served with each application.

(4) The application and all exhibits shall be considered part of the evidentiary record upon acceptance. Any portion of an application and exhibits will remain subject to motions to strike. However, no motion need be made to have the application and exhibits admitted to the evidentiary record. If a *major* or *significant* transaction is designated for oral hearing the presiding Administrative Law Judge shall have discretion in extraordinary circumstances to allow for the presentation of oral or written direct testimony not previously submitted with the application.

(5) Service. The applicant shall serve a conformed copy of an application filed under these procedures by first-class mail upon:

(i) The Governor (or Executive Officer), Public Service Commission, and the Department of Transportation of each State in which any part of the properties of the applicant carriers involved in the proposed transaction is situated;

(ii) The Secretary of the United States Department of Transportation (Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Room 5101, 400 Seventh Street, SW., Washington, DC 20590).

(iii) The Attorney General of the United States;

(iv) The Federal Trade Commission; and

(v) In *major* or *significant* transactions, all persons requesting a copy after the prefiling notice is published in the Federal Register.

(6) Application format. (i) The application shall be in the same sequence as the information is requested in these procedures, and shall be numbered to correspond to the numbering in the procedures.

(ii) If any material required in the application would lend itself to being placed in an appendix, this should be done. The appendix and application shall be tabulated and cross-referenced in an index for ease in locating and referring to the information. The appendixes shall be in the same sequence as the information required by these procedures. If certain information required in the application is not applicable, provide an explanation. The application should be bound, and it may be bound in more than one volume. If an application is more than one volume, the cover of each volume should be in a different color. The pages in each volume shall begin with 1, and be sequentially numbered.

(iii) If a question arises regarding an interpretation of the information or format to be included in the application, the party may contact the Commission's Section of Finance for assistance. It will provide informal opinions and interpretations which are not binding on the Commission.

(iv) All filing, service, or other requirements of these procedures must

be complied with when filing the application. Copies of the application filed with the Commission shall be marked in red "Railroad Consolidation Application" on the transmittal envelope or package.

(v) The application shall conform to the typographical specifications of 49 CFR 1100.13.

(7) Acceptance or rejection of an application.

(i) The Commission shall accept a complete application no later than 30 days after the application is filed with the Commission by publishing a notice in the **Federal Register**. A complete application contains all information for all applicant carriers required by these procedures, except as modified by advance waiver. The publication shall indicate the applicable time limits for processing the application. (These are the time limits of 49 U.S.C. 11345(b) for a *major* transaction, 49 U.S.C. 11345(c) for a *significant* transaction, and 49 U.S.C. 11345(d) for a *minor* transaction.)

(ii) The Commission shall reject an incomplete application by serving a decision no later than 30 days after the application is filed with the Commission. The decision shall explain specifically why the application was incomplete. A revised application may be submitted, incorporating portions of the prior application by reference. The resubmission or refiling of an application shall be considered a *de novo* filing for the purpose of computation of the time periods, provided that the resubmitted application is accepted as complete.

(8) The application must present a *prima facie* case. Applicants can fail to meet their burden of proof and thus not present a *prima facie* case either by (i) disclosing facts that, even if construed in their most favorable light, are insufficient to support a finding that the proposal is consistent with the public interest, or by (ii) disclosing facts that affirmatively demonstrate that the proposal is not in the public interest. See Ex Parte No. 282 (Sub-No. 3A), *Railroad Consolidation Procedures Expedited Processing*, 363 I.C.C. 767 (1980).

(d) *Response to application.*

(1) Written comments.

(i) *Time to file.* (A) Written comments on a *major* transaction must be filed no later than 45 days after an application is accepted. (B) Written comments on *significant* or *minor* transactions must be filed within 30 days of the application's acceptance.

(ii) *Service.* Written comments shall be concurrently served by first-class mail on:

(A) The applicants (at each address given in the application),

(B) The United States Secretary of Transportation,

(C) The Attorney General of the United States, and

(D) All parties of record within 10 days of service of the service list by the Commission.

(iii) *Contents.* Written comments must contain:

(A) The docket number and title of the proceeding.

(B) The name, address, and telephone number of the commenting party and its representative upon whom service shall be made.

(C) The commenting party's position (in support, opposition, or undetermined).

(D) If the commenting party intends to participate formally in a proceeding or merely comment upon the proposal.

(E) If desired, a request for an oral hearing with reasons supporting this request. The request must indicate the disputed material facts that can only be resolved at a hearing.

(F) A list of all information sought to be discovered from applicant carriers.

(G) A detailed statement of the issues in *major* and *significant* transactions reflecting the relevant underlying statutory criteria, policy statement (for *major* transactions), and antitrust policy which the Commission must consider in the proceeding.

(H) An initial list of specific protective conditions sought *by nonrailroads* in *major* and *significant* transactions.

(I) The following information *by railroads* filing written comments in *major*, and *significant* transactions:

(*1*) Any existing preferential solicitation agreements.

(*2*) A list of all run-through train operations.

(*3*) An initial list of specific protective conditions sought and a statement concerning whether the commenting railroad intends to file responsive applications, along with a description of the proposed transactions. This will be considered a prefiling notice without which the Commission will not entertain responsive applications.

(iv) *Party.* All persons who file timely written comments shall be a party of record if they so indicate in their comments. In this event, no petition for leave to intervene need be filed.

(2) The Secretary of Transportation and Attorney General of the United States shall file written comments with the Commission within 60 days of the date of acceptance of the application in a *major* transaction. For *significant* and *minor* transactions these comments are due within 45 days of the date of acceptance of the application. These comments shall comply with paragraphs (d)(1)(ii) and (d)(1)(iii) of this section as to service and contents.

(3) A second list of protective conditions shall be filed with the Commission within 75 days of acceptance of the application in a *major* transaction, and within 60 days of acceptance of the application in a *significant* transaction. It shall be concurrently served by first-class mail on all parties of record. The second list of protective conditions shall modify the first list based upon changing conditions, such as protective conditions sought by other parties to the proceeding. Parties to the proceeding shall not be permitted to seek any protective conditions not contained in the second list of protective conditions. This does not preclude refinements in conditions sought, particularly when stipulations to conditions are reached.

(4) Responsive applications.

(i) All responsive applications in *major* transactions shall be filed 90 days, and in *significant* transactions 60 days, after acceptance of the primary application. No responsive applications shall be permitted to *minor* transactions.

(ii) Responsive applications which are not *major* are presumed to be *significant* transactions.

(iii) Responsive applications shall comply as fully as possible with appropriate Commission regulations. Extensions of time for filing are not permitted. The filing of an incomplete application, coupled with an extension of time to complete the application, may be permitted if authorized by the Commission in advance.

(iv) Any petitions for waiver, clarification, extension of time, or for leave to file an incomplete application, or to rebut the presumption of a *significant* transaction, must be filed in advance of the filing of the responsive application (at least 45 days in advance in *major* transactions and 30 days in *significant* transactions).

(v) Each responsive application filed and accepted (if required) is considered consolidated with the primary application.

(e) *Evidentiary proceeding.*

(1) The Commission may order an oral public hearing, a hearing by written submissions, or another kind of evidentiary proceeding. The determination will generally be made on the basis of the needs indicated by the written comments.

(2) The evidentiary proceeding will be completed:

(i) In 24 months (after the primary application is accepted) for a *major* transaction,

(ii) In 180 days for a *significant* transaction, and

(iii) In 105 days for a *minor* transaction;

(3) A final decision on the primary application and on all consolidated cases will be issued:

(i) In 180 days (after the conclusion of the evidentiary proceeding) for a *major* transaction,

(ii) In 90 days for a *significant* transaction, and

(iii) In 45 days for a *minor* transaction.

(4) The Secretary of Transportation may propose modifications to any transaction and shall have standing to appear before the Commission in support of any such proposed modification.

(f) *Waiver or clarification.*

(1) Upon petition of a prospective applicant, the Commission may waive or clarify a portion of these procedures. A petition to waive all of the procedures will not be entertained.

(2) Except as otherwise provided in paragraph (d)(4)(iv) of this section, petitions for waiver or clarification must be filed at least 45 days before the application is filed.

(3) No replies to a petition for waiver will be permitted, except where a proceeding involving the same parties and a related transaction is pending before us.[1] When a reply is permitted, the petition shall be served by first-class mail on all parties to the pending proceedings, with a reply due within 10 days of service. Replies to a petition for clarification shall be permitted within 10 days of the petition's filing.

(4) A waiver or clarification granted to any applicant in a proceeding shall apply to any other party to the proceeding unless otherwise indicated.

(5) All petitions for waiver or clarification must specify the sections for which waiver or clarification is sought and give the specific reasons why each waiver or clarification is necessary.

(g) *Notice of exemption.*

(1) To qualify for an exemption under § 1111.2(d), a railroad must file a verified notice of the transaction with the Commission at least one week before the transaction is consummated indicating the proposed consummation date.

(2) The notice shall contain the information required in § 1111.6(a)(1)(i)–(iii), (a)(5)–(6), and (a)(7)(ii), and indicate the level of labor protection to be imposed.

(3) The Commission shall publish a notice in the **Federal Register** within 30 days of the filing of the notice of exemption. The publication will indicate the labor protection required. If the notice of exemption contains false or misleading information which is brought to the Commission's attention, the Commission shall summarily revoke the exemption for that carrier and require divestiture.

(h) *Official notice.* In connection with any application or request for relief under these procedures, the Commission may take official notice of any or all of the following information. These data will be presumed valid unless discredited by any party. A party relying on information to be noticed officially shall list the information. Upon request, the party shall make the official notice material available. Any party is free to challenge the relevance or application of any such data, or the weight that should be accorded it.

(1) Annual ICC Form R–1 Reports submitted by rail carriers.

(2) Quarterly Commodity Statistics submitted by rail carriers.

(3) ICC Monthly Labor Statistics.

(4) Quarterly Financial Statements of Rail Carriers.

(5) All other reports submitted to the ICC under oath.

(6) Annual 1-percent Waybill Sample.

(7) Federal Reserve Board Production Statistics.

(8) AAR compilations of bad order ratios, equipment ownership and repair statistics, and freight car order figures.

(i) *Untimely decision.* If the Commission does not issue a timely decision that is a final action under 49 U.S.C. 10327, it will send written notice to Congress that the decision was not issued and the reasons why it was not issued.

§ 1111.5 [Reserved]

§ 1111.6 Supporting information.

(a) All applications filed under 49 U.S.C. 11343 shall show in the title the names of the applicants and the nature of the proposed transaction. Beneath the title indicate the name, title, business address, and telephone number of the person(s) to whom correspondence with respect to the application should be addressed. The following information shall be included in all applications:

(1) A description of the proposed transaction, including appropriate references to any supporting exhibits and statements contained in the application and discussing the following:

(i) A brief summary of the proposed transaction, the name of applicants, their business address, telephone number, and the name of the counsel to whom questions regarding the transaction can be addressed.

(ii) The proposed time schedule for consummation of the proposed transaction.

(iii) The purpose sought to be accomplished by the proposed transaction, e.g., operating economies, eliminating excess facilities, improving service, or improving the financial viability of the applicants.

(iv) The nature and amount of any new securities or other financial arrangements.

(2) A detailed discussion of the public interest justifications in support of the application, indicating how the proposed transaction is consistent with the public interest, with particular regard to the relevant statutory criteria, including

(i) The effect of the transaction on inter- and intramodal competition, including a description of the relevant markets (see § 1111.7). Include a discussion of whether, as a result of the transaction, there is likely to be any lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States.

(ii) The financial consideration involved in the proposed transaction, and any economies, to be effected in operations, and any increase in traffic, revenues, earnings available for fixed charges, and net earnings, expected to result from the consummation of the proposed transaction.

(iii) The effect of the increase, if any, of total fixed charges resulting from the proposed transaction.

(iv) The effect of the proposed transaction upon the adequacy of transportation service to the public, as measured by the continuation of essential transportation services by applicants and other carriers.

(v) The effect of the proposed transaction upon applicant carriers' employees (by class or craft), the geographic points where the impact will occur, the time frame of the impact (for at least 3 years after consolidation), and whether any employee protection agreements have been reached.

(vi) The effect of inclusion (or lack of inclusion) in the proposed transaction of other railroads in the territory, under 49 U.S.C. 11344.

(3) Any other supporting or descriptive statements applicants deem material.

(4) An opinion of applicants' counsel that the transaction meets the requirements of the law and will be legally authorized and valid, if approved by the Commission. This should include specific references to any pertinent

[1] See *Itel Corp.—Control-Green Bay and W. R. Co.*, 354 I.C.C. 232, 233 (1978).

provisions of applicants' bylaws or charter or articles of incorporation.[2]

(5) A list of the State(s) in which any part of the property of each applicant carrier is situated.

(6) Map (exhibit 1). Submit a general or key map indicating clearly, in separate colors or otherwise, the line(s) of applicant carriers in their true relations to each other, short line connections, other rail lines in the territory, and the principal geographic points in the region traversed. If a geographically limited transaction is proposed, a map detailing the transaction should also be included. In addition to the map accompanying each application, 20 unbound copies of the map shall be filed with the Commission.

(7) Explanation of the transaction.

(i) Describe the nature of the transaction (e.g., merger, control, purchase, trackage rights), the significant terms and conditions, and the consideration to be paid (monetary or otherwise).

(ii) Agreement (exhibit 2). Submit a copy of any contract or other written instrument entered into, or proposed to be entered into, pertaining to the proposed transaction.[3]

(iii) If a consolidation or merger is proposed, indicate: (A) The name of the company resulting from the consolidation or merger; (B) the State or territory under the laws of which the consolidated company is to be formed or the merged company is to file its certificate of amendment; (C) the capitalization proposed for the resulting company; and (D) the amount and character of capital stock and other securities to be issued.

(iv) Court order (exhibit 3). If a trustee, receiver, assignee, or personal representative of the real party in interest is an applicant, submit a certified copy of the order, if any, of the court having jurisdiction, authorizing the contemplated action.

(v) State whether the property involved in the proposed transaction includes all the property of the applicant carriers and, if not, describe what property is included in the proposed transaction.

(vi) Briefly describe the principal routes and termini of the lines involved, the principal points of interchange on the routes, and the amount of main-line mileage and branch line mileage involved.

(vii) State whether any governmental financial assistance is involved in the proposed transaction and, if so, the form, amount, source, and application of such financial assistance.

(8) Environmental data (exhibit 4). Submit information and data with respect to environmental matters prepared in accordance with 49 CFR Part 1108. In *major* and *significant* transactions, applicants shall, as soon as possible, and no later than the filing of a notice of intent, consult with the Commission's Energy and Environment Branch for the proper format of the environmental report.

(9) Energy data (exhibit 5). Submit information and data with respect to energy consumption prepared in accordance with 49 CFR Part 1106.

(b) Submit the following information in a *major* or *significant* transaction:

(1) Form 10–K (exhibit 6). Submit applicant carriers' most recent filing with the Securities and Exchange Commission (SEC) under 17 CFR 249.310. This shall not be incorporated by reference, and shall be updated with any Form 10–K subsequently filed with the SEC over the duration of the proceeding.

(2) Form S–14 (exhibit 7). Submit applicant carriers' most recent filing with the SEC under 17 CFR 239.23. This shall not be incorporated by reference, and shall be updated with any Form S–14 subsequently filed with the SEC over the duration of the proceeding.

(3) Change in control (exhibit 8). Indicate any change in ownership, control, or officers not indicated in the most recent annual report Form R–1.

(4) Annual reports (exhibit 9). Submit applicant carriers' two most recent annual reports to stockholders. This shall not be incorporated by reference, and shall be updated with any annual or quarterly report to stockholders issued over the duration of the proceeding.

(5) Issues (exhibit 10). Submit a discussion of any other issues relevant to the transaction.

(6) Corporate chart (exhibit 11). Submit a corporate chart indicating all relationships between applicant carriers and all affiliates and subsidiaries and also companies controlling applicant carriers directly, indirectly or through another entity (each chart shall indicate the percentage ownership of every company on the chart by any other company on the chart). For each company include a statement indicating (i) any common officers or directors for every entity on the chart (with reference to the Commission decision by docket number and date authorizing the holding of such positions, or an explanation of why such authorization was not required) and (ii) whether each company is a non-carrier or carrier (by railroad, motor, or water, including the number of any Commission certificate or permit, and the docket number of any proceeding pending before the Commission). Such information may be referenced through notes to the chart.

(7) If applicant is not a carrier, indicate (i) the type of business in which it is engaged, (ii) the length of time so engaged, and (iii) its present and prospective activities which have or may have a relation to transportation subject to 49 U.S.C. Subtitle IV.

(8) Indicate whether there are any direct or indirect intercorporate or financial relationships at the time the application is filed, not disclosed elsewhere in the application, through holding companies, ownership of securities, or otherwise, between (i) applicant carriers and any carrier or person affiliated with any carrier or (ii) a person affiliated with applicant carriers and any carrier or person affiliated with any other carrier. Indicate the nature and extent of such relationships, if they exist, and, if an applicant carrier owns securities of a carrier subject to 49 U.S.C. Subtitle IV provide the carrier's name, a description of securities, par value of each class of securities held, and the applicant carriers' percentage of total ownership.

§ 1111.7 Market analyses.

Impact analyses (exhibit 12). In *major* and *significant* transactions applicants shall submit analyses of the impacts of the proposed transaction—both adverse and beneficial—on inter- and intramodal competition for freight surface transportation in the reigons affected by the transaction and on the provision of essential services by applicants and other carriers. An impact analysis should include underlying data, a study of the implications of that data, and a description of the resulting likely effects of the transaction on transportation alternatives available to the shipping public. Each aspect of the analysis should specifically address significant impacts as they relate to the statutory criteria (49 U.S.C. 11344(b) or (d), essential services, and competition). The Commission may identify particular markets and issues that it believes warrant further study. If appropriate, the Commission will also indicate the format of such analyses. Applicants must address markets and issues identified by the Commission, but also any others they consider relevant. Specific regulations on impact analyses are not provided so that parties will have the greatest leeway to develop the best evidence on the impacts of each individual transaction. General guidelines follow:

(a) Applicants shall prepare analyses of the anticipated effects of the transaction on traffic patterns, market concentrations, or transportation alternatives available to the shipping public.

(b) Applicants (and any other party submitting such analyses) must demonstrate both the relevancy of the market and issues analyzed and the validity of the methodology. All underlying assumptions must be clearly stated.

(c) Supporting data may (but need not) include: Current and projected traffic flows; data underlying sales forecasts or marketing goals; interchange data; market share analysis; diversion studies; and/or shipper surveys. *It is important to note that these types of studies are neither limiting nor all inclusive.* The parties must provide supporting data, but are free to choose the type(s) and format.

(d) Analyses should reflect the consolidated company's marketing plan and existing and potential competitive alternatives (inter- as well intramodal). They can address:

(1) City pairs, interregional movements, movements through a point, or other factors;

(2) A particular commodity, group of commodities, or other commodity factor that will be significantly affected by the transaction; or

(3) Other effects of the transaction (such as on a particular type of service offered).

§ 1111.8 Operational data.

(a) For *major* and *significant* transactions: Operating plan (exhibit 13). Submit a summary of the proposed operating plan changes, based on the impact analyses, that will result from the transaction, and their anticipated timing, allowing for any time required to complete rehabilitation, upgrading, yard construction, or other major operational changes following consummation of the proposed transaction. The plan should make clear the gains in service, operating efficiencies, and other benefits anticipated from the merger. The plan should include:

(1) The patterns of service on the properties, including the proposed principal routes, proposed consolidations of main-line operations, and the anticipated traffic density and general categories of traffic (including numbers of trains) on all main and secondary lines in the system. Identify all yards expected to have an increase in activity greater than 20 percent. Changes in operations may be summarized in a *pro forma* density chart.

(2) If commuter or other passenger services are operated over the lines of applicant carriers, detail any impacts anticipated on such services, including delays which may be occasioned because a line is scheduled to handle increased traffic due to route consolidations.

(3) The anticipated equipment requirements of the proposed system, including locomotives, rolling stock by type, and maintenance-of-way equipment; plans for acquisition and retirement of equipment; projected improvements in equipment utilization and their relation to operating changes; and how these will lead to the financial and service benefits described in the summary.

(4) A description of the effect of any deferred maintenance or delayed capital improvements on any road or equipment properties involved, the schedule for eliminating such deferrals, details of general system rehabilitation including rehabilitation relating to the transaction (including proposed yard and terminal modifications), and how these activities will lead to the service improvements or operating economies anticipated from the transaction.

(5) Density charts (exhibit 14). Gross ton-mile traffic density charts shall be filed for applicant carriers containing a map geographically showing those lines handling 1 million gross ton-miles per mile road or more per year and respective densities, expressed in gross ton-miles per year, in each direction, in segments of such lines between major freight yards and terminals, including major intramodal and intermodal interchange points, using the corporate or political subdivision name of the points shown as well as the railroad station name. The mileage of each segment of line shall be provided, and should be shown on the chart. Data shown in the density chart shall be for the latest available full calender year preceding the filing of the application. At applicants' option data may be shown on the density chart or an explanatory list.

(b) For *minor* transactions: Operating plan-minor (exhibit 18). Discuss any significant changes in patterns or types of service as reflected by the operating plan expected to be used after consummation of the transaction. Where relevant, submit information related to the following:

(1) Traffic level density on lines proposed for joint operations.

(2) Impacts on commuter or other passenger service operated over a line which is to be downgraded, eliminated, or operated on a consolidated basis.

(3) Operating economies, which include, but are not limited to, estimated savings.

(4) Any anticipated discontinuances or abandonments.

§ 1111.9 Financial information.

The following information shall be provided for *major* and *significant* transactions, and for carriers shall conform to the Commission's Uniform System of Accounts, 49 CFR Part 1201:

(a) *Pro forma* balance sheet (exhibit 16). Where the transaction involves a proceeding other than a control, a *pro forma* balance sheet statement giving effect to the proposed transaction commencing for the first year of the Impact Analysis in exhibit 12. The data shall be presented in columnar form showing (1) in the *first* column, the balance sheet of transferee on a corporate entity basis, (2) in the *second* column, a balance sheet of transferor, on a corporate entity basis, (3) in the *third* column, *pro forma* adjustments and eliminations; and (4) in the *fourth* column, transferee's balance sheet giving effect to consumation of the proposed transaction.[4] Each adjustment and elimination shall be properly footnoted and fully explained. A *pro forma balance sheet shall be submitted for the number of years following consummation necessary to effect the operating plan.*

(b) *Pro forma* income statement (exhibit 17). Where the transaction involves a proceeding other than a control, submit a *pro forma* income statement showing transferee's estimate of revenues, expenses, and net income for at least each of the 3 years following consummation of the transaction.[5] The

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[2] An opinion of counsel is not required in a control transaction for the party sought to be controlled, or in a responsive application for the party against whom relief is sought.

[3] A final signed contract or agreement need not be filed with a responsive application. However, a draft contract or agreement should be submitted containing the significant terms proposed.

[4] Where the purchase of a line or line segment is involved, a procedure utilizing three columns should be followed. The *first* colum should show transferee's actual balance sheet on a corporate entity basis for the latest available 12-month period, the *second* column should show the adjustments necessitated by the purchase, and the *third* is a compilation of the first two columns into a *pro forma* balance sheet.

The transferor shall file a balance sheet similar to the one filed by the transferee, with the *second* column reflecting the adjustments resulting from the sale.

If the parent company (if any) of the transferee or transferor is affected, a similar balance sheet shall be filed for each.

All adjustments to these balance sheets shall be supported in footnotes to the appropriate balance sheet.

[5] If the operating plan requires more than 3 years to be put into effect, the *pro forma* income statement shall be prepared for as many years as necessary to implement fully the operating plan.

pro forma data shall be presented in columnar form, showing (1) in the first column, transferee's actual income statement on a corporate entity basis for the year indicated in the impact analysis in exhibit 12; (2) in the *second* column, a similar income statement for the transferor; (3) in the *third* column, forecasted adjustments to the combined revenues, expenses, and net income to reflect increases or decreases anticipated under the unified operations, and (4) in the fourth column, a compilation of the first three columns into a *pro forma* income statement.[6] The adjustments are to be supported by a statement explaining the basis used in determining the estimated changes in revenues, expenses, and net income appearing in the *third* column. Additionally, if the major financial advantages to be derived from the proposed transaction will not occur within 3 years after consummation, then applicant shall furnish additional information to reflect the number of years within which the financial advantages will be realized. The basis for all such data furnished shall be fully explained and supported.

(c) Sources and application of funds (exhibit 18). Transferor's and transferee's statement of sources and application of funds for the current year, and a forecast [7] of sources and application of funds for each carrier (if a merger or consolidation, the surviving or resulting corporation) for the year following consummation of the proposed transaction, and the years necessary to effectuate the operating plan.[8] The form and content of these statements should be constructed in accordance with the schedule: "Statement of Changes in Financial Position" required in the most recently filed Annual Report R-1 for Class I railroads.

(d) Property encumbrance (exhibit 19). If any of the property covered by the application is encumbered and applicant has agreed to assume obligation or liability in respect thereof, submit:

(1) A description of the property encumbered.

(2) Amount of encumbrance and full description thereof, including maturity, interest rate, and other terms and conditions,

(3) Amount of encumbrance assumed or to be assumed by applicant.

(e) The Commission will incorporate by reference the current balance sheets and income statements of Class I railroads which are on file with the Commission. Class II and Class III railroads, and non-carrier entities shall submit balance sheets (exhibit 20) and income statements (exhibit 21) covering a period ending within 6 months before the application is filed.

§ 111.10–19 [Reserved]

Appendix B

Note.—Appendix B, consisting of various indexes to Subpart A will not be shown in the Code of Federal Regulations.

INDEX I FOR SUBPART A.—EXHIBITS

No.	Name	Section	Type of application
1	Map	1111.6(a)(6)	All.
2	Agreement	1111.6(a)(7)(i)	Do.
3	Court order	1111.6(a)(7)(v)	Do.
4	Environmental data	1111.6(a)(8)	Do.
5	Energy data	1111.6(a)(9)	Do.
6	Form 10–K	1111.6(b)(1)	Mjr & Sgt.
7	Form S–14	1111.6(b)(2)	Do.
8	Change in control	1111.6(b)(3)	Do.
9	Annual reports	1111.6(b)(4)	Do.
10	Issues	1111.6(b)(5)	Do.
11	Corporate Chart	1111.6(b)(6)	Do.
12	Market analyses	1111.7	Do.
13	Operating plan—major	1111.8(a)	Do.
14	Density charts	1111.8(a)(5)	Do.
15	Operating plan—minor	1111.8(b)	Minor.
16	Pro forma balance sheets.	1111.9(a)	Mjr & Sgt.
17	Pro forma income statements.	1111.9(b)	Do.
18	Sources and application of funds.	1111.9(c)	Do.
19	Property encumbrance	1111.9(d)	Do.
20	Balance sheet—minor	1111.9(e)	Minor.
21	Income statement—minor.	1111.9(e)	Minor.

INDEX II FOR SUBPART A.—TABLES OF CONTENTS

Section No.	Name	Application type[1]
1111.0	Scope and purpose	All.
1111.1	General policy statement.	Major (Mjr.).
(a)	General	Do.
(b)	Consolidation criteria	Do.
(c)	Public interest considerations.	Do.
(c)(1)	Potential benefits	Do.
(c)(2)	Potential harm	Do.
(c)(2)(i)	Reduction of competition.	Do.
(c)(2)(ii)	Harm to essential service.	Do.
(d)	Conditions	Do.
(e)	Inclusion of other carriers.	Do.
(f)	Labor protection	Do.
(g)	Cumulative impacts and crossover effects.	Do.
(h)	Public participation	Do.
1111.2	Types of transactions	
(a)	Major	Major.
(b)	Significant	Significant (Sgt.).
(c)	Minor	Minor.
(d)	Exempt	Exempt.
(d)(1)	Acquisition—carrier	Do.
(d)(2)	Acquisition—line	Do.
(d)(3)	Within corporate family	Do.
(d)(4)	Renewals	Do.
(d)(5)	Relocations	Do.
(d)(6)	Reincorporation	Do.
1111.3	Definitions	All.
(a)	Applicant	Do.
(b)	Applicant carriers	Do.
(c)	Major market extension	Do.
(d)	Petition for clarification	Do.
(e)	Petition for waiver	Do.
(f)	Primary application	Do.
(g)	Railroad	Do.
(h)	Responsive application	Mjr. and Sgt.
(i)	Transferee	All.
(j)	Transferor	Do.
1111.4	Procedures	All.
(a)	General	Do.
(a)(1)	Copies filed	Do.
(a)(2)	Acronym	Do.
(a)(3)	Furnishing documents	Do.
(a)(4)	Service list	Do.
(b)	Prefiling notification	Mjr. and Sgt.
(b)(1)	Carrier action	Do.
(b)(1)(i)	Description	Do.
(b)(1)(ii)	Impact analyses year	Do.
(b)(1)(iii)	Filing date	Do.
(b)(1)(iv)	Major or significant	Do.
(b)(2)	Commission action	Do.
(b)(2)(i)	Description	Do.
(b)(2)(ii)	Impact analyses year	Do.
(b)(2)(iii)	Filing date	Do.
(b)(2)(iv)	Major or significant	Do.
(b)(2)(v)	Additional information	Do.
(b)(3)	Amendment	Do.
(c)	Application	All.
(c)(1)	Filing fee	Do.
(c)(2)	Filing	Do.
(c)(2)(i)	Signed under oath	Do.
(c)(2)(ii)	Filed with secretary	Do.
(c)(2)(iii)	Copies conform to original.	Do.
(c)(2)(iv)	Include exhibits	Do.
(c)(2)(v)	Additional information	Do.
(c)(2)(vi)	Directly related applications.	Do.
(c)(2)(vii)	Certificate of service	Do.
(c)(3)	Direct testimony	Mjr. and Sgt.
(c)(4)	Evidentiary record	All.
(c)(5)	Service	All.
(c)(5)(i)	States	Do.
(c)(5)(ii)	U.S. Department of Transportation.	Do.
(c)(5)(iii)	U.S. Attorney General	Do.
(c)(5)(iv)	Federal Trade Commission.	Do.
(c)(5)(v)	Others	Mjr. and Sgt.
(c)(6)	Application format	All.
(c)(6)(i)	Sequence	Do.
(c)(6)(ii)	Appendix, volumes, and numbering.	Do.
(c)(6)(iii)	Interpretation	Do.
(c)(6)(iv)	Compliance	Do.
(c)(6)(v)	Typographical specifications.	Do.
(c)(7)	Acceptance or rejection.	Do.
(c)(7)(i)	Acceptance	Do.
(c)(7)(ii)	Rejection	Do.
(c)(8)	Prima facie case	Do.

INDEX II FOR SUBPART A.—TABLES OF CONTENTS—Continued

Section No.	Name	Application type[1]
1111.4:		
(d)	Response to application.	Do.
(d)(1)	Written comments	Do.
(d)(1)(i)	When filed	Do.
(d)(1)(ii)	Service	Do.
(d)(1)(iii)	Applicants	Do.
(d)(1)(iii)(A)	U.S. Department of Transportation.	Do.
(d)(1)(iii)(B)	U.S. Attorney General	Do.
(d)(1)(iii)(C)	Parties on service list	Do.
(d)(1)(iii)(D)	Contents	Do.
(d)(1)(iii)(E)	Docket# number and title.	Do.
(d)(1)(iii)(F)	Representative	Do.
(d)(1)(iii)(G)	Position	Do.
(d)(1)(iii)(H)	Participation	All.
(d)(1)(iii)(I)	Oral hearing request	Do.
(d)(1)(iii)(J)	Discovery	Do.
(d)(1)(iii)(K)	Issues	Mjr.and Sgt.
(d)(1)(iii)(L)	Protective conditions—initial—nonrail.	Do.
(d)(1)(iii)(M)	Railroad information	Do.
(d)(1)(iii)(N)(1)	Preferential solicitation agreements.	Do.
(d)(1)(iii)(N)(2)	Run through train operations.	Do.
(d)(1)(iii)(N)(3)	Protective conditions—initial.	Do.
(d)(1)(iv)	Party of record	Do.
(d)(2)	Comments of DOT and Justice.	All.
(d)(3)	Protective conditions—final.	Mjr. and Sgt.
(d)(4)	Responsive applications.	All.
(d)(4)(i)	Filing time	
(d)(4)(ii)	Significant	Mjr. and Sgt.
(d)(4)(iii)	Compliance; extension of time to complete.	Do.
(d)(4)(iv)	Petitions—time	Do.
(d)(4)(v)	Consolidated	Do.
(e)(1)	Hearing designation	All.
(e)(2)	Evidentiary time periods.	All.
(e)(2)(i)	Major	Major.
(e)(2)(ii)	Significant	Significant.
(e)(2)(iii)	Minor	Minor.
(e)(3)	Decisional time periods	All.
(e)(3)(i)	Major	Major.
(e)(3)(ii)	Significant	Significant.
(e)(3)(iii)	Minor	Minor.
(e)(4)	U.S. Department of Transportation participation.	All.
(f)	Waiver or clarification	Do.
(f)(1)	Petition required	Do.
(f)(2)	When filed	Do.
(f)(3)	No replies to petition	Do.
(f)(4)	Application of waiver to other parties.	Do.
(f)(5)	Specificity of waiver	Do.
(g)	Notice of exemption	Exemption.
(g)(1)	When filed	Do.
(g)(2)	Contents	Do.
(g)(3)	Commission action	Do.
(h)	Official notice	All.
(h)(1)	R–1 Report	Do.
(h)(2)	Quarterly commodity statistics.	Do.
(h)(3)	Labor Statistics	Do.
(h)(4)	Quarterly financial reports.	Do.
(h)(5)	Other reports	Do.
(h)(6)	Waybill sample	Do.
(h)(7)	Production statistics	Do.
(h)(8)	AAR compilations	Do.
(i)	Untimely decision	All
1111.5 reserved		
1111.6:	Supporting information	All.
(a)	All applications	Do.
(a)(1)	Descriptions	Do.
(a)(1)(i)	Summary	Do.
(a)(1)(ii)	Time schedule	Do.
(a)(1)(iii)	Purpose	Do.
(a)(1)(iv)	Financial arrangements	Do.
(a)(2)	Public interest	All.
(a)(2)(i)	Competition	Do.
(a)(2)(ii)	Financial consideration	Do.
(a)(2)(iii)	Fixed charges	Do.
(a)(2)(iv)	Adequate service	Do.
(a)(2)(v)	Employees	Do.
(a)(2)(vi)	Inclusion	Do.
(a)(3)	Other support	Do.
(a)(4)	Option of Counsel	Do.
(a)(5)	States	Do.
(a)(6)	Map	Do.
(a)(7)	Explanation of transaction.	Do.
(a)(7)(i)	Nature of transaction	Do.
(a)(7)(ii)	Agreement	Do.
(a)(7)(iii)	Resulting merged company.	Do.
(a)(7)(iv)	Court order	Do.
(a)(7)(v)	Property involved	Do.
(a)(7)(vi)	Routes	Do.
(a)(7)(vii)	Governmental financial assistance.	Do.
(a)(8)	Environmental data	Do.
(a)(9)	Energy data	Do.
(b)	Major or significant transaction.	Mjr. and Sgt.
(b)(1)	Form 10–k	Do.
(b)(2)	Form S–14	Do.
(b)(3)	Change in control	Do.
(b)(4)	Annual reports	Do.
(b)(5)	Issues	Do.
(b)(6)	Corporate chart	Do.
(b)(6)(i)	Common officer or directors.	Mjr. and Sgt.
(b)(6)(ii)	Carrier or non-carrier	Do.
(b)(7)	Non-carrier information	Do.
(b)(8)	Relationships	Do.
1111.7	Market analyses	Do.
(a)	Impact analysis	Do.
	Traffic pattern, Market concentration, and transportation alternatives.	Do.
(b)	Relevancy and validity	Do.
(c)	Supporting data	Do.
(d)	Marketing plan and competitive alternative effects.	Do.
(d)(1)	Movements	Do.
(d)(2)	Commodity	Do.
(d)(3)	Other	Do.
1111.8	Operational data	
	Major transactions—operating plan.	Mjr. and Sgt.
(a)(1)	Patterns of service	Do.
(a)(2)	Passengers service	Do.
(a)(3)	Equipment requirements.	Do.
(a)(4)	Condition of properties	Do.
(a)(5)	Density charts	Do.
(b)	Minor transaction—operating plan.	Minor.
(b)(1)	Traffic level	Do.
(b)(2)	Passenger service	Do.
(b)(3)	Operating economies	Do.
(b)(4)	Abandonments	Do.
1111.9	Financial information	
(a)	Pro forma balance sheets.	Mjr. and Sgt.
(b)	Pro forma income statement.	Do.
(c)	Sources and applications of funds.	Do.
(d)	Property encumbrance	Do.
(d)(1)	Description	Do.
(d)(2)	Amount	Do.
(d)(3)	Assumption	Do.
(e)	Balance sheet—and Income Statement—minor.	Minor.
(f)		
1111.10–.19	Reserved	
Index I	Exhibits	
Index II	Table of contents	

[1] Major is defined in § 1111.2(a). Significant is defined in § 1111.2(b). Minor is defined in § 1111.2(c). Exception is defined in § 1111.2(d). "All" includes major, significant, and minor.

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[6] Where the purchase of a line or line segment is involved, a procedure utilizing three columns should be followed. The *first* column should show transferee's actual income statement on a corporate entity basis for the latest available 12-month period, the *second* column should show the adjustment necessitated by the purchase, and the *third* column is a compilation of the first two columns into a *pro forma* income statement.

The transferor shall file an income statement similar to the one filed by the transferee, with the second column reflecting the adjustments resulting from the sale.

If the parent company (if any) of the transferor or transferee is affected, a similar statement shall be filed for each.

All adjustments to these income statements shall be supported in footnotes to the appropriate income statements.

[7] The forecast should reflect only changes anticipated to result from the proposed transaction. Forecasts are not required to reflect general economic conditions unrelated to the proposed transaction.

[8] The *pro forma* balance sheets (exhibit 16), *pro forma* income statements (exhibit 17), and sources and application of funds (exhibit 18) shall cover the same years.

Proposed Rules

Federal Register
Vol. 47, No. 45
Monday, March 8, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 81-041]

Importation of Horses From Canada

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document would amend the requirements for importation of horses from Canada to allow entry when accompanied by certification that negative results were obtained from official Agar-gel immunodiffusion (AGID) tests, commonly known as a "Coggins test," for equine infectious anemia (EIA) for which blood samples were drawn within 180 days of the date that the horses are offered for entry or return to the United States.

This action is being proposed because it is believed that the present requirement may be an unnecessary barrier to the importation of horses from Canada. The intended effect of this action would be to allow horses entering or returning to the United States from Canada to enter the United States under adequate but less restrictive requirements.

DATE: Comments must be received on or before May 10, 1982.

ADDRESS: Written comments should be submitted to the Deputy Administrator, Veterinary Services, APHIS, USDA, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. Mark Dulin, USDA, APHIS, VS, Room 818, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." This proposed rule, if adopted, is not likely to result in any significant effect on the economy; any major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Alternatives

The alternatives considered in making this decision were (1) continue the present requirement that Canadian horses must be tested for EIA within 60 days from the date of importation, (2) to remove the test requirement and permit Canadian horses to enter the United States without a Coggins test for EIA, (3) to extend the test requirement from the current 60-day period to a 1-year period, and (4) to extend the test requirement from the current 60-day period to a 180-day period.

Alternative No. 1 causes confusion to United States importers because the Canadian Coggins test requirement for United States horses is valid for a period of 6 months. The current United States import requirements for Canadian horses require the Coggins test to be conducted within 60 days prior to importation. This test requirement was extended to 90 days for returning horses which entered Canada for exhibition purposes.

Alternative No. 2, removing the EIA test requirement, would be an unacceptable health risk and be inconsistent with State EIA control programs.

Alternative No. 3, extending the current test requirement from 60 days to 1 year, was unacceptable because the risk of importing an EIA-affected horse is greater than would occur if all horses were tested within 6 months prior to importation. Also, similar to Alternative No. 1 a one year period would be different from Canada's test requirement and could cause confusion to importers.

Alternative No. 4 would allow horses that had a negative Coggins test to be eligible for importation provided the horse was tested within 6 months prior to importation. This 6-month period offers a minimal risk of importing a horse affected with EIA. Additionally, horse importers would save an average of $20 per test. Because test results would be valid for an additional 4 months, or two-thirds longer, there could be as much as a two-thirds savings to United States importers. The 6-month EIA test requirement would also be consistent with what is required by most States for the interstate movement of United States horses.

Alternative No. 4 was selected because it offers a reasonable amount of protection at less cost to United States importers.

Additionally, Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would reduce the frequency of one inexpensive test for one species of animal from one country. Over the past five years (Fiscal Years 1976–1980), on the average, 19,148 horses have entered or returned to the United States annually from Canada. The aggregate amount received by individual veterinarians and laboratories for testing these animals is not a significant part of their incomes.

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to section 2 of the Act of February 2, 1903, as amended, section 11 of the Act of May 29, 1884, and sections 2, 4, and 11 of the Act of February 2, 1903, as amended; and sections 2, 3, 4, and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 134a, 134b, 134c, and 134f), the Animal and Plant Health Inspection Service is considering amending Part 92, Title 9, Code of Federal Regulations.

The existing certification requirements for importation of horses from Canada, § 92.24(a), include evidence of a negative EIA-test report that has been performed within the last 60 days prior to the animals being offered for entry at our border port. Ninety days is presently allowed for testing exhibition animals that have entered Canada from the United States and are returning to the United States. (§ 92.25(b)). The Department has been strongly urged to reconsider its present requirements in the light of standards of international movement.

EIA is a viral disease of horses. It is transmitted by the bite of bloodsucking insects or use of unsterilized, contaminated surgical instruments, such as hypodermic needles. The disease is found in most countries of the world where there are horses.

The Canadian government has actively pursued an EIA-control program since February 1971. Animals suspected of the disease are tested by the Agar-gel immunodiffusion (AGID) method. Any reactors are disposed of or permanently quarantined. The incidence of the disease in Canada is low because there is less intermingling among herds than in the United States and the insect vector season is shorter than in the United States, thus reducing the opportunities for transmission of the EIA virus. Information provided by the Department's scientific advisors further discloses that there is a small horse population in Canada, that Canada enforces a mandatory EIA test for all horses that are publicly raced, which provides a continuous monitoring of EIA in a representative sampling of the Canadian horse population, and that Canada has a program whereby persons are paid for reporting EIA in horses, which encourages the reporting of EIA reactors. All of the information provided suggests that there would be no significant increase in risk of EIA by extending the time period prior to entry into the United States within which horses from Canada must have been tested for the disease.

Therefore, the Department is proposing to amend § 92.24(a) and § 92.25(b) to require negative results from official tests for EIA for which samples were drawn within 180 days of the date that the horses are offered for entry or return to the United States. The proposed regulation would specify that a test for EIA is only valid since the day the blood sample is drawn, regardless of when the sample is processed by an approved laboratory, because the results of the test are only valid as to the true health status of the animal on the day the blood sample is drawn.

The Department is also proposing to amend the regulation to allow the blood samples to be tested not only in laboratories approved by the Canada Department of Agriculture, but also laboratories approved by this Department. This Department sets the standards for which approval may be granted to a laboratory located in the United States. Canada requires these same standards to be met before it will grant approval to a laboratory. Therefore, a test conducted in an approved laboratory, whether located in the United States or Canada, would be acceptable so long as the blood sample was drawn and tested within 180 days prior to entry of the horse into the United States.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations, would be amended in the following respects:

§ 92.24 [Amended]

1. In § 92.24(a), the phrase, "conducted during the 60 days preceding exportation in a laboratory approved by the Canada Department of Agriculture" would be amended to read "for which blood samples were drawn during the 180 days preceding exportation to the United States and which test was conducted in a laboratory approved by the Canada Department of Agriculture or the United States Department of Agriculture;".

§ 92.25 [Amended]

2. In § 92.25(b), the phrase, "which were conducted within 90 days of the date," would be amended to read: "for which blood samples were drawn within 180 days of the date."

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 870, Hyattsville, MD., during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the Federal Register.

Done at Washington, D.C., this 3d day of March 1982.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc 82-6170 Filed 3-5-82; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 545

[No 82-136]

Service Corporation Activities

Dated: February 26, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Board is seeking public comment concerning the range of activities in which service corporations of federal savings and loan associations may engage without prior Board approval. The Board proposes these amendments in recognition of the need for increased experimentation and innovation in providing financial services through service corporations. Service corporation activities proposed for comment include: real estate brokerage for property owned by third parties; manufacture of mobile homes; commercial lending without restriction; leasing of consumer and business goods; insurance underwriting; debt collection services; expanded loan servicing; coin and currency services; preparation of tax returns for businesses; engaging in certain securities activities such as acting as a broker and organizing and selling shares in mutual funds, and money market funds; investing in certified development corporations; trading GNMA options; acting as a futures commission merchant; and issuing letters of credit. The Board is also proposing the elimination of current customer limitations on certain preapproved activities, including: credit analysis and appraisal; development and administration of personnel benefit programs; advertising and procurement of savings accounts and loans; serving as escrow agent or trustee; providing liquidity management and financial consulting services; and establishing and operating remote service units. The proposal also includes several technical amendments.

DATE: Comments must be received by: May 3, 1982.

ADDRESS: Send comments to Director, Information Services, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Comments will be available at this address for public inspection.

FOR FURTHER INFORMATION CONTACT: Wendy B. Samuel, Office of General Counsel, (202) 377–6465, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On April 23, 1981, by Resolution No 81–208, the Board adopted amendments that expanded federal associations' service corporation investment authorization and preapproved activities. *See*, 46 FR 24526 (May 1, 1981). This expansion was a result of a broadening of statutorily permissible activities for federal associations by the Depository Institutions Deregulation and Monetary

Control Act of 1980, Pub. L. 96–221, and the need for increased experimentation and innovation in providing financial services through service corporations. The months since that amendment have been characterized both by increased need for profitable investments and by an expanded view by the Board of the powers of federal associations generally.

The competitive development that continue to evolve because of the innovative market-oriented approach of many depository and non-depository firms are clear evidence that the traditional business of financial intermediation has changed. In this increasingly competitive financial services market, the Board recognizes the need to consider allowing federal associations to have new and competitive opportunities to engage in activities not directly permissible, and to realize profits in new areas to bolster a reduced return on traditional investments. Moreover, in view of various congressional inquiries and hearings seeking to study and evaluate the changes occurring in the financial services industry, the Board believes that it is similarly appropriate first to seek public comment that will assist its own inquiries and evaluation of appropriate industry powers and the possible expansion of service corporation powers.

Service corporation activities authorized by 12 U.S.C. § 1464(c)(4)(B) have been limited by Board policy to those that are reasonably related to the activities of the parent institution. This has generally included making investments and engaging in activities permissible to the parent, additional services related to lending, such as real estate appraisal and title abstracting, and other financial services that either were reasonably related to the activities of federal associations or were limited to customers of the parent association. As indicated above, it is the Board's view that in the current economic and competitive climate, it is appropriate to reconsider what activities are reasonably related to activities of federal associations and perhaps even whether the requirement that an activity be "reasonably related" still provides a relevant and workable standard. As a result, the Board now seeks comment on an additional expansion in authorized activities for the service corporations of federal associations. Moreover, the Board is particularly interested in comments addressing the specific ways the proposed activities can be used beneficially by associations and can be considered reasonably related to the activities of federal associations.

Proposed New Service Corporation Activities

Manufacture of mobile homes

Current regulations permit the retail sale and the set-up of manufactured homes as reasonably incident to the activities of federal associations, whose authority includes financing the purchase of manufactured homes. It is now proposed that this authority be expanded to include the manufacture of such homes. This activity may be reasonably related to the residental lending activities of the parent because of the latter's authority to finance the purchase of these types of homes, and because such activity is the functional equivalent of real estate development and construction which are within service corporations' current authority. In addition, this activity involves no more risk to the parent than other types of real estate development activities of service corporations. While risk is not germane to the Board's determination of whether an activity is reasonably related, it is relevant to the practical decision whether to permit the activity as preapproved rather than to retain greater control by requiring prior approval.

Insurance underwriting

Under current regulations, service corporations are permitted to act as agents for the sale of liability, casualty, automobile, life, health, accident and title insurance. The Board seeks comment concerning the extension of the preapproved powers of service corporations to include insurance underwriting. Given recent developments in the financial services marketplace, provision of insurance may be reasonably related to both the deposit and lending functions of federal associations, and the underwriting of insurance may be functionally indistinguishable from selling. While the Board believes that the financial risks of acting as an underwriter may be significantly greater than those of acting as a sales agent, prudent management, Board regulations, and state restrictions on insurance underwriters should be sufficient to control this risk. Moreover, the possible detriments that are inherent in the insurance function may not outweigh the benefits to the public, the association and the service corporation from its offering of these services. The Board's experience in previously reviewing and approving some underwriting services on a case-by-case basis indicates that this may be an area appropriate for preapproval authorization.

This proposal also includes private mortgage insurance sales and underwriting services as preapproved activities for service corporations. Currently, service corporations of federal associations are not permitted to act as sales agents or underwriters for private mortgage insurance, and all insured institutions the accounts of which are insured by the FSLIC are limited by § 563.44 of the Insurance Regulations (12 CFR 563.44) with respect to the sale of this type of insurance to their customers by their service corporations. This position has been based on the Board's view that the purpose of requiring private mortgage insurance is to protect the lender from loss upon default where the value realized from the security property is less than the outstanding balance of the loan. Where the insurer is an entity in which the lender has a financial interest, the lender continues to be at risk up to the amount of its investment in the insurer. The Board now believes, however, that since this possibility of loss can be minimized by careful adherence to prudent lending and underwriting standards it is insufficient to justify denying service corporations access to this source of revenue. However, the Board notes that the proposed inclusion of private mortgage insurance services as a preapproved activity would have little effect absent amendment of Section 563.44, which is currently being considered in conjunction with a review of all the Board's conflict-of-interest regulations.

Debt collection

The Board proposes to permit service corporations to preform debt collection services. This would include such activities as contacting delinquent debtors by letter or telephone, attaching or garnishing wages or other assets, and foreclosing against security property. Obtaining repayment is an integral part of lending activity, and therefore is reasonably related to the activities of both the parent and the service corporation. Since as maker and processor of loans the service corporation and parent association are already involved in debt collection activities in connection with their own loans, permitting service corporations to offer this service to third parties may be reasonably related to association activities.

Letters of credit

The Board also seeks comment on whether to permit service corporations to issue letters of credit. These are instruments through which the issuing institution pays the beneficiary and is reimbursed by the account party, who arranges for the credit. Since a letter of credit is not substantially distinguishable for many purposes from a commercial loan, the Board proposes to permit service corporations to issue letters of credit as part of their commercial lending. Standby letters of credit would be subject to any limitations applicable to lending.

Coin and currency

The Board proposes to permit service corporations to operate coin and currency services. This activity includes contracting with Federal Reserve Banks or commercial banks to make coins and currency available to fund normal operations of the parent association or other customer institutions, and could include delivery and security arrangements. Since the use of coin and currency is directly related to most of the normal activities of the depository institution parent, these services may be offered without restriction as to customer.

Engaging in securities activities

Several recent applications have raised questions concerning the authority of service corporations to act as securities brokers (i.e. effecting transactions in securities for the accounts of others) and to organize, sponsor, operate, control, render investment advice to an investment company and underwrite, distribute or sell securities of an investment company. For example, a service corporation might act as a broker and purchase and sell securities pursuant to customers' instructions, and establish a money market mutual fund, and sell the shares of such fund to the public. These services may be reasonably related to the parent's authority to purchase specific types of securities and to act as a fiduciary.

These proposed services raise the issue of the application of the Glass-Steagall Act, 12 U.S.C. 377 and 378, which generally prohibits depository institutions and certain of their affiliates from engaging in the business of issuing, selling or underwriting securities. Without addressing the applicability of this Act to savings and loan associations, the Board has determined that service corporations, because of their separate corporate existence from the depository institution parent, are not subject to the restrictions of the Act. Service corporations are required pursuant to § 563.37 (12 CFR 563.37) to maintain a separate corporate existence from the parent associations, and § 570.10 (12 CFR 570.10) sets general standards for ensuring such separation. Therefore, even assuming application of the Glass-Steagall Act to the parent association(s), where a separate corporate existence is maintained service corporations clearly may engage in securities activities without violating the prohibitions contained in that Act. Furthermore, the securities activities of service corporations would be subject to the rules and regulations of the Securities and Exchange Commission. Subject to these limitations, the Board believes that securities services may be reasonably related to the permissible activities of the parent.

Leasing

The Board proposes to permit service corporations to engage in the leasing of consumer and business goods without limit as to the nature of the lessee. Service corporation leasing is currently limited to office furniture, equipment and remote service units primarily for financial institutions. As the Board established by opinion of the Office of General Counsel issued September 29, 1981, and as set forth in recent judicial decisions, e.g., *M & M Leasing Corp.* v. *Seattle First National Bank*, 563 F.2d 1377 (9th Cir. 1977), *cert. denied*, 436 U.S. 956 (1978), leasing under certain circumstances may be considered the functional equivalent of lending. Consequently, service corporations should be permitted to lease goods and equipment the purchase of which they or the parent would be permitted to finance.

Options trading

The Board has proposed permitting insured institutions to engage in trading contracts on GNMA and certain other contracts when approved for trading on an organized exchange, and adding a new § 563.17–5 to this effect. See Board Res. No. 82–135 (February 25, 1982). Consequently, the Board believes that service corporations should also be permitted to enter this activity, and therefore proposes to include this authority as a revision to the current regulation.

Acting as a futures commission merchant

Under the current regulations, service corporations are permitted to engage in interest-rate futures transactions subject to certain limitations contained in § 563.17–4 (12 CFR § 563.17–4). The Board believes that expansion of this authority to include acting as a futures commission merchant would also be a reasonably related activity. As an FCM, the service corporation would furnish advice and place orders for financial institution customers for trading interest-rate futures contracts. Service corporations engaged in this activity would be subject to the rules and regulations of the Commodities Futures Trading Commission.

Extension of Currently Preapproved Activities

Real estate brokerage

The Board seeks comment on whether service corporations of federal associations should be permitted to offer real estate brokerage services for property owned by third parties. The Board has previously declined to designate such real estate brokerage as a preapproved activity, but applications have been made for authorization on a case-by-case basis. Real estate brokerage is an essential part of the process of marketing and financing homes and, for that reason, may be reasonably related to the activities of federal associations whether or not the property is owned by a third party. For that reason, allowing federal associations to provide real estate brokerage services on a wider scale may foster significant economic and competitive benefits for both the public and the savings and loan industry.

The Board recognizes, however, that a potential conflict of interest may exist, in that the decision of the parent to offer financing in a particular transaction could be affected by anticipation of the fee to a service corporation that would be generated by such a sale. However, after reviewing several applications for approval of this activity, the Board considers this potential conflict sufficiently remote so as not to offset the advantages of increased services to the public and profit opportunities of federal associations. Any actual conflicts of interest can be identified and monitored in the supervisory process.

Farm management

Current regulations permit sevice corporations to engage in the maintenance and management of real property. The Board believes that this section should be amended to include specific reference to real property used for farming. Since the authority of federal associations includes authority for lending secured by agricultural property, a reasonably related activity for service corporations would be the maintenance and management of such property.

Commercial lending

The Board seeks comment on whether to permit service corporations to engage in commercial lending without the current restriction to U.S. agency guaranteed business loans secured by real estate and inventory loans to dealers to finance the purchase of goods to be sold for personal, family, or household purposes. The current lending authority of service corporations is slightly different from the lending powers of the parent association. In seeking comment on the possible extension of the ability of service corporations to experiment and to engage in a wider range of profitable activities, the Board is endeavoring to determine whether the activities of a service corporation which can already engage in real-estate-related commercial lending activities coincidental to the parent's may also engage in the forms of commercial financing activities that expand its current business horizons but that may be considered logical extensions of the authorities already possessed by federal associations.

Loan servicing

Since servicing of loans, including recordkeeping, acceptance of payment, and billing, is reasonably related to the authorized activities of associations, the Board seeks comment concerning the authorization of service corporations to service loans without restricting such servicing to the types of loans in which the service corporation may invest.

Tax return preparation

The Board also proposes to permit service corporations to prepare tax returns. While a service corporation may not serve as an expert tax consultant, the preparation of tax returns has been an adjunct to service corporations' offering of financial counseling services. At present, tax return preparation services may be offered, but not to businesses operated for profit. The restriction to non-profit entities may no longer be justified, and therefore the Board seeks comment on the appropriateness of its deletion.

Investment in certified development corporations

Under current regulations, service corporations are authorized to invest in small business investment companies or minority enterprises licensed pursuant to Section 301(d) of the Small Business Investment Act of 1958, 15 U.S.C. 681(d). This Act was amended in 1980 to add Section 503, 15 U.S.C. 697, which provides that the Small Business Administration (SBA) may guarantee payment of debentures issued by a state or local development company, defined as an entity incorporated under state law "to promote and assist the growth and development of small-business concerns", 15 U.S.C. 662(6). It is the Board's view that investment in such companies should be a permissible type of business lending, and that the SBA payment guarantee makes this type of enterprise a prudent investment. Furthermore, this proposed expansion would enhance associations' ability to utilize the full investment authority earmarked for community development activities.

Elimination of customer restrictions

Certain activities currently are preapproved for service corporations because they are performed for customers of the parent. However, under he expanding view of the appropriate role of an association, the Board seeks comment on including among preapproved activities, without limitation to association customers, the following: credit analysis and other services connected with origination of construction loans; developing and administering personnel benefit plans, including IRA and Keogh plans; activities to procure and retain savings accounts and loans; serving as trustee; providing liquidity management and various financial consulting services; and establishing, owning and operating remote service units.

Technical Admendments

Since the April 1981 amendment of § 545.9–1 (12 CFR 545.9–1), the need for several technical changes has come to the Board's attention. First, some confusion resulted from the inclusion in paragraphs (c)(11) and (c)(12) of references to acquisition and development of real property. The Board therefore is proposing to amend the authorization relating to acquisition and development of real estate to clarify that the limitations on holding periods apply to both types of activity. Another technical amendment concerns paragraph (d)(3), which refers to service corporations that qualify under "paragraph (b) of this section." The Board proposes to amend this section to clarify its intent that the reference be limited to service corporations qualifying under paragraph (b)(1) of this section. Finally, the proposal would rearrange the provisions of paragraph (c) for easier reference.

Accordingly, the Federal Home Bank Board hereby proposes to amend Part 545, Subchapter C, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

Amend § 545.9–1(d)(3) by changing the reference to "paragraph (b)" to "paragraph (b)(1)"; and revising paragraph (c) to read as follows:

§ 545.9–1 Service corporations.

* * * * *

(c) Permitted activities.—A service corporation in which a Federal association may invest is permitted to engage in the following activities:

(1) *Loans.*—Originating, investing in, selling, purchasing, servicing, or otherwise dealing in (including brokerage or warehousing), any of the following:

(i) Loans, and participations in loans, on a prudent basis and secured by real estate or liens on manufactured homes;

(ii) Loans, with or without security, for altering, repairing, improving, equipping, or furnishing real estate;

(iii) Commercial loans;

(iv) Educational loans;

(v) Consumer loans.

(2) *Services primarily for financial institutions.*—Performing any of the following services, primarily for financial institutions:

(i) Research, studies, and surveys;

(ii) Purchasing of office supplies, furniture, and equipment;

(iii) Developing and operating storage facilities for microfilm or other duplicate records;

(iv) Providing clerical, accounting, data processing and internal auditing services;

(v) Acting as a futures commission merchant for interest-rate futures.

(3) *Real estate services.*—(i) Maintaining and managing real estate, including real estate used for agricultural purposes;

(ii) Managing owners' associations for condominium, cooperative, Planned Unit Development or other rental real estate projects;

(iii) Providing homeownership and financial counseling;

(iv) Providing relocation services;

(v) Providing real estate brokerage services;

(vi) Acquiring real estate for prompt development or subdivision, for construction of improvements, for resale or leasing to others for such construction, or for use as manufactured home sites: *Provided,* That any development, subdivision, and construction of improvements is to be completed within three years after commencement of development of the real estate and within five years after acquisition of the real estate, unless such period is extended by the Principal Supervisory Agent (as defined in § 545.14(a)(3) of this Part) upon written application by the service corporation, which application shall be supported by information evidencing that the service corporation will proceed or has proceeded in accordance with a prudent development plan and has not caused undue delay in the completion of construction; and *Provided further,* That acquisition of an option to purchase is not an acquisition for the purpose of determining the periods provided for in this subparagraph;

(vii) Acquiring improved real estate or manufactured homes to be held for rental or resale, or for remodeling, renovating, or demolishing and rebuilding for sale or rental;

(viii) Manufacture and set-up of manufactured homes;

(ix) Acquiring, maintaining and managing real estate (improved or unimproved) to be used for offices and related facilities of a stockholder of the service corporation, or for such offices and related facilities and for rental or sale, if such acquisition, maintenance and management is performed under a prudent program of property acquisition to meet either the stockholder's present needs or reasonable future needs for office and related facilities: *Provided,* That without prior approval of the Board, no service corporation shall acquire such real estate if, as a result of the acquisition, the outstanding aggregate book value of all such real estate owned by the stockholder and its service corporations would exceed their consolidated net worth.

(4) *Other investments.*—(i) Making investments specified in §§ 545.9 and 545.9–3 of this Part;

(ii) Investing in savings accounts in an insured institution that is a stockholder of the service corporation: *Provided,* That the service corporation receives no consideration, other than interest at the current market rate, for opening or maintaining any such account;

(iii) Investing in tax-exempt bonds of state governments or political subdivisions thereof used to finance residential real property for family units and issued pursuant to section 103 of the Internal Revenue Code, and tax-exempt obligations of public housing agencies used to finance housing projects with rental assistance subsidies and issued pursuant to section 11(b) of the United States Housing Act of 1937, as amended;

(iv) Investing in the capital of a small business investment company or minority enterprise small business investment company licensed pursuant to section 301(d) or the debentures of a certified development company guaranteed pursuant to section 503 of the Small Business Investment Act of 1958 by the U.S. Small Business Administration, where such small business or certified development company is engaged exclusively in the activities listed in subparagraphs (c) (1)–(5) of this section.

(5) *Other services.*—(i) Preparing state and Federal tax returns;

(ii) Insurance brokerage, agency or underwriting for liability, casualty, automobile, life, health, accident, title, or private mortgage insurance;

(iii) Providing fiduciary services upon application to the Board pursuant to § 550.2, and subject to the conditions provided in §§ 550.1–550.16, of this Subchapter;

(iv) Issuing credit cards, extending credit in connection therewith, and otherwise engaging in or participating in credit card operations;

(v) Credit analysis, appraising, construction loan inspection, and abstracting;

(vi) Developing and administering personnel benefit programs, including life insurance, health insurance and pension or retirement plans including IRA and Keogh Plans;

(vii) Establishing, owning, leasing, operating or maintaining remote service units;

(viii) Advertising, brokerage and other services to procure and retain both savings accounts and loans, but not pooling savings accounts or soliciting or promoting pooled savings accounts;

(ix) Serving as escrow agent or as trustee under deeds of trust, including executing and delivering conveyances, reconveyances, and transfers of title;

(x) Providing liquidity management, investment, advisory and consulting services;

(xi) Providing coin and currency services;

(xii) Providing debt collection service;

(xiii) Leasing of equipment and business and consumer goods;

(xiv) Servicing loans;

(xv) Engaging in interest-rate futures transactions subject to the provisions of § 573.17–4 of this Chapter, but not subject to any notification requirements thereof;

(xvi) Engaging in options trading subject to the provisions of § 563.17–5 of this Chapter;

(xvii) Issuing notes, bonds, debentures, or other obligations or securities;

(xviii) Acting as a broker, and thereby engaging in effecting transactions in securities for the accounts of others: *Provided,* That (*a*) the service corporation obtains and has on file an opinion of legal counsel certifying that it meets the requirements of § 563.37 of this Chapter regarding the maintenance of a separate corporate existence, and (*b*) that all applicable rules, regulations and statutes pertaining to engaging in such activities are complied with;

(xix) Organizing, sponsoring, operating, controlling, rendering investment advice to an investment company and underwriting, distributing or selling securities in an investment company: *Provided,* That (*a*) the service corporation obtains and has on file an opinion of legal counsel certifying that it meets the requirements of § 563.37 of this Chapter regarding the maintenance of a separate corporate existence, and (*b*) that all applicable rules, regulations and statutes pertaining to engaging in such activities are complied with;

(xx) Issuing letters of credit.

(6) Activities reasonably incident to those listed in subparagraphs (c) (1)–(5) of this section; and

(7) Such other activities reasonably related to the activities of federal associations as the Board may approve.

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 408, 48 Stat. 1261, as added by 73 Stat. 691, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[FR Doc. 82-6210 Filed 3-5-82; 8:45 am]
BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. 22125, Notice No. SC-81-5]

Boeing Model 767 Series Airplanes (Three Man Crew); Withdrawal of Proposed Special Conditions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of proposed special conditions.

SUMMARY: This document withdraws proposed special conditions for the Boeing Commercial Airplane Company Model 767 series airplane (three-man flight crew). The special conditions were proposed to establish appropriate equivalent level of safety standards for novel or unusual design features associated with a centralized caution and warning system. The FAA has reviewed comments from several other interested industry and governmental

organizations, and due consideration has been given by the FAA to all comments presented. In view of the fact that equivalent level of safety findings can be made and the three-man flight crew configuration is no longer a candidate for certification, the proposed special conditions are no longer required, and they are herewith withdrawn.

EFFECTIVE DATE: March 8, 1982.

FOR FURTHER INFORMATION CONTACT: W. M. Peacock, Regulations and Policy Office, ANM-110, FAA Northwest Mountain Region, FAA Building, Boeing Field, Seattle, Washington 98108. Telephone (206) 767-2585.

SUPPLEMENTARY INFORMATION: On September 14, 1981 (46 FR 45617), the FAA proposed special conditions covering the three man flight crew configuration for the new Boeing Commercial Airplane Company model 767 series airplane associated with a novel or unusual design feature, namely a centralized system which would provide caution and warning indications to the flight crew. The FAA has now determined that the basis for certification of the 767 centralized caution and warning system can be accomplished by means of equivalent level of safety findings to existing regulations. Also, the FAA has been officially advised by the Boeing Commercial Airplane Company that the model 767 series airplane, three-man crew configuration is no longer a candidate for FAA certification. The FAA has reviewed comments from several other interested industry and governmental organizations, and due consideration has been given by the FAA to all comments presented. In view of the fact that equivalent level of safety findings can be made and the three-man flight crew configuration is no longer a candidate for certification, the proposed special conditions are no longer required, and they are herewith withdrawn. Withdrawal of the Notice of Special Conditions constitutes only such action and does not preclude the agency from issuing another Notice in the future or commit the agency to any course of action in the future. Since this action withdraws proposed special conditions and imposes no additional burden on any person, it may be made effective in less than 30 days.

Withdrawal

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, the Notice of Proposed Special Conditions for the Boeing Commercial Airplane Company Model 767 series airplane, three-man flight crew centralized caution and warning system, published in the Federal Register on September 14, 1981 (46 FR 4561), is withdrawn.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.45)

Note.—This section is not a proposed rule of general applicability and is therefore not covered under Executive Order 12291 or the Regulatory Flexibility Act. The FAA has determined that this document is not considered to be significant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the regulatory evaluation prepared for this action is contained in the docket. A copy of it may be obtained by contacting the person identified above under "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington, on February 25, 1982.

John Wichels, Jr.,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-5804 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-ACE-16]

Transition Area; Clay Center, Kansas; Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposed to designate a 700-foot transition area at Clay Center, Kansas, to provide controlled airspace for aircraft executing a new instrument approach procedure to Clay Center, Kansas, Municipal Airport, utilizing the Clay Center Non-Directional Radio Beacon (NDB) as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

DATES: Comments must be received on or before April 11, 1982.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, 601 East 12th Street, Kansas City, Missouri.

FOR FURTHER INFORMATION CONTACT: Don A. Peterson, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before April 11, 1982, will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changes in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart § 71.181 of the Federal Aviation Regulation (14 CFR 71.181) by designating a 700-foot transition area at Clay Center, Kansas. To enhance airport usage, a new instrument approach procedure is being developed for the Clay Center, Kansas, Municipal Airport, utilizing the Clay Center NDB as a navigational aid. This radio facility will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transition area at Clay Center, Kansas, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operations and while transiting between the terminal and en route environment.

The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

The Proposed Amendment

Accordingly, Federal Aviation Administration proposes to amend Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1981 (46 FR 540), by adding the following new transition area:

Clay Center, Kansas

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Clay Center Municipal Airport (Latitude 39°23'11"N, Longitude 97°09'25"W), and within 3 miles each side of the 167° bearing from the Clay Center NDB (Latitude 39°22'50"N, Longitude 97°09'40"W), extending from the 5-mile radius area to 8 miles southeast of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on February 23, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-5803 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 904

Financial Compensation of Participants in Administrative Proceedings

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of proposed rulemaking and request for comments on proposal to revoke.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is proposing to revoke its regulations which establish criteria and procedures for reimbursing members of the public for the costs of participation in administrative proceedings conducted by NOAA. NOAA is also requesting comments on its proposal to revoke these regulations. This action is the result of a recent Federal court decision which raises a serious question as to NOAA's authority to implement these regulations. Concurrently NOAA is issuing an interim rule suspending these regulations in a separate document appearing in this issue of the Federal Register.

DATES: Comments on the proposal to revoke must be received on or before May 7, 1982.

ADDRESS: Office of General Counsel, National Oceanic and Atmospheric Administration, Room 5816, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Phyllis W. Jackson, Staff Attorney, Office of General Counsel National Oceanic and Atmospheric Administration, Room 5816, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-3043.

SUPPLEMENTARY INFORMATION: On Wednesday, April 26, 1978, the National Oceanic and Atmospheric Administration (NOAA) published a notice of final rulemaking on financial compensation of participants in administrative proceedings. These rules went into effect on May 26, 1978. These rules established criteria and procedures for reimbursing members of the public for the costs of participation in administrative proceedings conducted by NOAA. On November 27, 1981, the United States Court of Appeals for the Fourth Circuit held a similar Food and Drug Administration (FDA) regulation invalid in the case of *Pacific Legal Foundation* v. *Goyan*, No. 80-1854 (Nov. 27, 1981). The FDA regulation was established to provide "payment from agency funds of reimbursement for reasonable attorneys' fees, expert witness fees, the expenses of clerical service, travel, studies, demonstrations, and other reasonable and necessary costs of participation incurred by a participant * * * in an agency proceeding * * * that results in a hearing * * *." Congress had not authorized the payment program, but the FDA considered that it held implied power to fund the program because it had broad regulatory powers and was required to hold frequent hearings. The court held that in the absence of specific statutory authorization an agency may not disburse funds to participants in its proceedings. NOAA like FDA, does not have express congressional authorization to spend funds for various costs incurred by participants in agency proceedings. This court decision raises a serious question as to NOAA's authority. Therefore, pursuant to its authority under 31 U.S.C. 628, NOAA is proposing to revoke its regulations of 15 CFR Part 904 Subpart G, which govern financial compensation of participants in NOAA's administrative proceedings. NOAA is requesting comments on the proposal to revoke 15 CFR Part 904 Subpart G. This will allow public participation in the rulemaking process prior to any final revocation action. NOAA has received a petition from Pacific Legal Foundation to repeal 15 CFR part 904 Subpart G. Since NOAA has already decided to initiate this rulemaking process, there is no need to publish the additional Federal Register notice of the Pacific Legal Foundation request for rulemaking which would otherwise be required by NOAA procedures.

E.O. 12291

This notice was determined not to be a major rule as defined in Section 1(b) of E.O. 12291 and as such was not the subject of a Regulatory Impact Analysis.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act is designed to relieve small businesses, small organizations and small governmental jurisdictions (collectively "small entities") from burdensome regulatory and recordkeeping requirements which have been imposed uniformly on both large and small entities. This Federal Register notice simply proposes to revoke regulations that establish criteria and procedures for reimbursing members of the public for the cost of participation in administrative proceedings and requests

comments on our proposal to revoke these regulations. Only a small number of persons have participated in the NOAA program to date. Therefore, it has been determined that this action does not create any new rule and does not have a significant economic impact on a substantial number of small entities.

In accordance with the provisions of Section 605(b) of the Regulatory Flexibility Act, the General Counsel of the Department of Commerce certifies that this action affecting National Oceanic and Atmospheric Administration (NOAA) regulations, 15 CFR 904 Subpart G, governing "Financial Compensation of Participants in Administrative Proceedings", does not appear to have a significant economic impact on a substantial number of small entities and is, in any event, required by law. He has provided a certification to this effect to the Chief Counsel for Advocacy of the Small Business Administration. Therefore, it has been determined that this action is not subject to the Regulatory Flexibility Analysis requirements of Sections 603 and 604 of the Regulatory Flexibility Act.

Paperwork Reduction Act of 1980

This proposal to revoke does not generate any information collection request or paperwork burden or otherwise result in activities which are subject to the requirements of the Paperwork Reduction Act of 1980.

National Environmental Policy Act

NOAA has determined that this regulation does not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969.

For the reasons set out in the preamble, the revocation of 15 CFR Part 904 Subpart G is proposed and comments are requested thereon.

Dated: January 6, 1982.

John V. Byrne,

Administrator, NOAA.

Regulatory Flexibility Act Section 605(b) Statement and Certification

The Regulatory Flexibility Act is designed to relieve small businesses, small organizations and small governmental jurisdictions (collectively "small entities") from burdensome regulatory and recordkeeping requirements which have been imposed uniformly on both large and small entities. This **Federal Register** notice suspends and requests comments on the proposal to revoke regulations that establish criteria and procedures for reimbursing members of the public for the cost of participation in administrative proceedings of NOAA.

Since fiscal year 1980, seven payments of financial compensation to participants in administration proceedings, pursuant to 15 CFR 904, Subpart G, have been granted totaling $8,050.19. Outlays to parties have ranged in amount from $251.10 to $2,506.88. Based upon this pattern of usage, suspension of the subject program would not appear to have a significant economic impact on a substantial number of small entities. Section 606 of the Regulatory Flexibility Act ("the Act") (5 U.S.C. 606), entitled "Effect on Other Law," further provides that "The requirements of sections 603 and 604 of this title," dealing with initial and final regulatory flexibility analyses, "do not alter in any manner standards otherwise applicable by law to agency action." Accordingly, given the apparent applicability of the holding of the United States Court of Appeals for the Fourth Circuit in *Pacific Legal Foundation* v. *Goyan*, NOAA is required to suspend its program forthwith and is therefore exempted from the Act's requirement to perrform a regulatory flexibility analysis thereon.

For these reasons, in accordance with Section 604(b) of the Act, I certify that suspension and request for comments on the proposal to revoke National Oceanic and Atmospheric Administration (NOAA) regulations, 15 CFR 904, Subpart G, governing "Financial Compensation of Participants in Administrative Proceedings," does not appear to have a significant economic impact on a substantial number of small entities, and is, in any event, required by law to be effectuated. Therefore, the rulemaking is not subject to the regulatory flexibility analysis requirements of Sections 603 and 604 of the Act.

[FR Doc. 82-6287 Filed 3-5-82; 8:45 am]
BILLING CODE 3510-12-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Cancellation of Public Hearing on Modified Portions of the Iowa Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule: cancellation of public hearing.

SUMMARY: OSM is announcing the cancellation of a public hearing on the adequacy of program modifications submitted to satisfy conditions imposed by the Secretary of the Interior on the approval of the Iowa permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice cancels the public hearing but does not alter the time and location at which the Iowa program and proposed amendments are available for public inspection, or the comment period during which interested persons may submit written comments on the proposed program elements.

DATE: The following hearing is cancelled: The public hearing on the proposed modifications to the Iowa program, March 9, 1982.

ADDRESSES: Written comments should be mailed or hand-delivered to: Office of Surface Mining Reclamation and Enforcement, Kansas City State Office, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Rieke, Office of Surface Mining, Kansas City State Office, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, Telephone: (816) 374-5527.

SUPPLEMENTARY INFORMATION: On February 10, 1982, notice of opportunity for public hearing on the proposed modifications to the Iowa program was published in the **Federal Register** (46 FR 6029-6031). The proposed modifications are regulatory changes required by the Secretary of the Interior in his conditional approval of the Iowa program.

The notice stated that any person interested in making an oral or written presentation at the hearing should contact Mr. Richard Rieke by February 26, 1982, and that if no person contacted Mr. Reike to express an interest in participating in the hearing by the above date, the hearing would be cancelled.

Because no one expressed an interest in attending the hearing by February 26, 1982, the hearing has been cancelled.

While there is no public hearing, interested persons may still submit written comments on the proposed program elements. Written comments must be received on or before 4:00 p.m., on March 11, 1982, to be considered in the Secretary's decision on whether the proposed amendments satisfy the conditions imposed on the approval of the program.

Written comments should be mailed or hand-delivered to: Mr. Richard Rieke, State Office Director, Office of Surface Mining Reclamation and Enforcement, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

Dated: March 4, 1982.

J. S. Griles,

Acting Director, Surface Mining.

[FR Doc. 82-6339 Filed 3-5-82; 8:45 am]
BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 13-82-01]

Seattle Opening Day Yacht Parade and Crew Race

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice establishes a restricted zone in the areas of Union Bay, Portage Bay and Lake Washington on May 1, 1982, from 0800 until 1400. This action is required to permit the conducting of an approved marine event. It is intended to restrict general navigation in the area for the safety of the spectators and participants in the event.

DATE: Comments must be received on or before April 1, 1982.

ADDRESSES: Comments should be mailed to Commander (bb), Thirteenth Coast Guard District, 915 Second Ave., Seattle, WA 98174. Comments may also be hand-delivered to this address. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: LCDR B. W. Mills, Boating Safety Office, (206) 442-7355.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 13-82-01), and the specific section of the proposal to which their comments apply, and give the reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process. The short comment period is necessary to provide sufficient time for publication of the Final Rule before May 1, 1982.

Drafting Information

The principal persons involved in drafting this proposal are LCDR B. W. Mills, USCG, Project Officer, CCGD13 Boating Safety Office, and LCDR R. R. Clark, USCG, Project Attorney, CCGD13 Legal Office.

Discussion of Proposed Rule

The annual yachting season Opening Day Yacht Parade sponsored by the Seattle Yacht Club is scheduled to be held on May 1, 1982, in the Lake Washington Ship Canal between Portage Bay and Webster Point beginning at about 0800 and ending at about 1400 Pacific Daylight Savings Time. A collegiate crew race will also be conducted in this area between 1100 and 1200 PDST. As a result of these two events, traffic in the area will be congested. The congestion, in Portage Bay, and the narrow width of Portage Cut (also known as Montlake Cut) and Bay Reach inhibits vessel maneuverability. For this reason it is proposed that participating sailing vessels in the restricted zone maneuver by propelling machinery. Maneuvering with the assistance of a spinnaker will be allowed if it does not interfere with the sailing vessel's ability to maneuver. The primary concern is for the safety of participants and spectators in an area which is narrow and known for unpredictable winds.

By the authority contained in Title 46, U.S.C. 454, as implemented by Title 33, Part 100 U.S. Code of Federal Regulations, a Special Local Regulation controlling navigation on the waters described is promulgated. By the same authority, the waters involved will be patrolled by vessels of the U.S. Coast Guard. Coast Guard Officers and/or Petty Officers will enforce the regulation and cite persons and vessels in violation.

Summary of Draft Evaluation

These proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.0 of 5-22-80). An economic evaluation of the proposal has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Proposed Regulations

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

In consideration of the foregoing, the Coast Guard is proposing to amend Part 100 of Title 33 Code of Federal Regulations, by adding the following new section:

§ 100.35-1301 Lake Washington/Portage Bay/Union Bay/opening day crew race and yacht parade.

(a) This event will take place on May 1, 1982, between the hours of 0800 PDST and 1400 PDST.

(b) The patrol of the described areas will be under the direction of a designated Coast Guard Patrol Commander who is empowered to forbid and control movement of vessels on the parade course and in the adjoining water areas immediately prior to, during and after the parade for such time as he finds it necessary for the safe and orderly conduct of the program. Portage Cut will be closed to all traffic except crew shells and vessels in the parade from 1030 PDST until the termination of the yacht parade.

(c) All sailing vessels in the restricted zone participating in the parade shall use propelling machinery for maneuvering. Spinnakers may be used, in addition to propelling machinery, to the extent that control of the vessel is not impaired.

(d) Specific areas restricted to general navigation or anchorage from 0800 PDST until termination of the yacht parade are:

(1) The waters of Portage Bay Southeast of a line running from the Western corner of the pier (Showboat) 70 yards South of 47°39' N., 122°18'40" W., 425 yards southwest across Portage Bay to the Northwest corner of the "L" shaped moorage (at the foot of East Shelby St.) at 47°39'52" N., 122°18'52" W.

(2) All waters of Portage Cut (also known as Montlake Cut), to Union Bay Channel Buoy 27 and Union Bay Channel Buoy 28.

(3) All waters between an East and West line connecting Union Bay Channel Buoy 27, Union Bay Channel Buoy 29 and Union Bay Channel Buoy 31 and Webster Point Light 33 and an East and West line connecting Union Bay Channel Buoy 28, Union Bay Channel Buoy 30, 470 yards East of Union Bay Channel Buoy 30 to a point 80 yards South of Webster Point Light 33.

(4) The waters between the judging and reviewing vessels and the Southern edge of the channel described above. This area is generally the area South of Union Bay Channel Buoy 28 and North of Foster Island. The judging and reviewing vessels will be identified by appropriate signs showing over their sides.

(e) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction

of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the patrol vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(Sec. 1, 35-Stat. 60, as amended, 46 U.S.C. 454; sec. 6(b)(1), 80 Stat. 938 (49 U.S.C. 1655(b)(1)); 33 CFR 100.35; 49 CFR 1.46(b))

Dated: March 1, 1982.

C. F. DeWolf,

Rear Admiral, Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 82-6208 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD 82-024]

Drawbridge Operation Regulations; Lagoon Pond, Martha's Vineyard, Mass.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Town of Tisbury, Massachusetts, the Coast Guard is considering establishing a regulation to limit the opening of the highway bridge over the entrance to Lagoon Pond to navigation from May 15 through September 15, except for specified daily openings. The regulation will provide more uniform vehicular traffic movement between Vineyard Haven and Oak Bluffs, and may still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before April 22, 1982.

ADDRESS: Comments should be submitted to and will be available for examination at the office of the Commander (obr), First Coast Guard District, 150 Causeway Street, Boston, Massachusetts 02114.

FOR FURTHER INFORMATION CONTACT: William J. Naulty, Chief, Bridge Branch, First Coast Guard District, 150 Causeway Street, Boston, Massachusetts 02114 (617-223-0645).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed envelope or postcard.

The Commander, First Coast Guard District will evaluate all comments received and decide on the final course of action. The proposed regulations may be changed in light of comments received.

Drafting Information

The principal person involved in drafting this proposal are: William J. Naulty, Chief Bridge Branch, First Coast Guard District, and Lieutenant William B. O'Leary, Project Attorney, Assistant Legal Officer, First Coast Guard District.

Discussion of the Proposed Regulation

The number of motor vehicles on Martha's Vineyard increases fivefold during the summer months. As a result, there is a significant increase in the volume of traffic along the road connecting Vineyard Haven and Oak Bluffs. Vineyard Haven is the point where motor vehicles arrive on and depart from the island. Vehicle traffic to and from Oak Bluffs crosses the entrance to Lagoon Pond one mile from Vineyard Haven. The drawbridge is presently required to open on signal. Daytime or early evening openings of the draw cause a backup of vehicles into Vineyard Haven and Oak Bluffs and a general decrease in movement through both areas. The openings of the draw accommodate recreational traffic; the boats used for scallop harvesting are not restricted by the closed span. The Harbormaster of the Town of Tisbury has stated that the operator of the boatyard on Lagoon Pond has indicated no objection to the proposed regulation. The proposed regulation is being considered because it will provide optimum vehicular movement during the summer months. The regulation is also expected to provide for the reasonable needs of navigation.

The proposed rules have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is not expected to be significant. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33 of the Code of Federal Regulations by adding § 117.79 as follows:

§ 117.79 Lagoon Pond Highway Bridge, Tisbury (Martha's Vineyard), Mass.

(a) The draw shall open on signal from September 16 through May 14 provided 24 hours advance notice is given.

(b) From May 15 through September 15 the draw will open on signal only from 8:15–8:45 a.m., 10:15–11 a.m., 3:15–4 p.m., 5–5:45 p.m., and 7:30–8 p.m. Throughout the remainder of this period, the draw will open for the passage of vessels if 4 hours advance notice is given.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: March 1, 1982.

L. L. Zumstein,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc 82-6207 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[OPTS 00031; TSH-FRL-2067-5]

Administrator's Toxic Substances Advisory Committee; Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule related notice.

SUMMARY: There will be a meeting of the Administrator's Toxic Substances Advisory Committee (ATSAC) to discuss matters related to EPA's implementation of the Toxic Sustances Control Act (Pub. L. 94-569). The meeting will be open to the public.

DATES: The meeting will be held from 9 a.m. to 5 p.m. on Monday and Tuesday, March 22 and 23, 1982.

ADDRESS: The meeting will be held in: Rm. 3906-3908, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Frances Loebenstein, Executive Secretary, Administrator's Toxic Substances Advisory Committee (TS-792), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-537, 401 M St., SW., Washington, D.C. 20460, (202-382-3830).

SUPPLEMENTARY INFORMATION: On Monday, March 22, 1982, Dr. John A. Todhunter, Assistant Administrator for the Office of Pesticides and Toxic Substances, will discuss the Administrator's policy for toxic chemicals and will also discuss ATSAC's role as an advisory committee. Dr. Elizabeth Weisburger, Chairperson of the Interagency Testing Committee (ITC), will speak about the ITC's role, and Mr. Don R. Clay, Director of the Office of Toxic Substances (OTS), will discuss priorities of OTS operations. The Committee will then form concurrent subcommittee on Testing and Premanufacture Notification Programs. At 3:30 p.m., the full Committee will reconvene and report on subcommittee discussions.

The Tuesday, March 23, 1982, agenda includes presentations concerning new chemical follow-up programs and voluntary testing approaches.

The meeting will be open to the public and time will be set aside for public comments concerning the work of the Committee. Any member of the public wishing to present an oral or written statement relating to the Committee's work should contact Ms. Frances Loebenstein at the address or phone number listed above.

Dated: February 26, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82-5166 Filed 3-5-82; 8:45 am]

BILLING CODE 6560-31-M

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40 CFR Parts 123, 260 and 262

[SWH—FRL 1967-4]

Hazardous Waste Management System: General, Standards for Generators of Hazardous Waste, State Hazardous Waste Program Requirements

Correction

In FR Doc. 82-5698, appearing at page 9336, in the issue of Thursday, March 4, 1982, make the following change:

On page 9337, in the middle column, the second line of paragraph *E.* change the word now reading "charge" to "change".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6224]

National Flood Insurance Program; Proposed Flood Elevation Determinations

Correction

In FR Doc. 81-37165 appearing at page 63332 in the issue for Thursday, December 31, 1981, please make the following correction:

On page 63336, in the flood elevation table, for Illinois, Hoover Branch, in the location column, the second line should read "About 300 feet downstream of Old U.S. Highway 36".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171 and 172

[Docket HM-145D; Notice No. 82-2]

Hazardous Waste Manifest; Shipping Papers

Correction

In FR Doc. 82-5699, appearing at page 9346, in the issue of Thursday, March 4, 1982, make the following change:

On page 9346, in the first column, the first paragraph, the ninth line should read as follows: "transportation of hazardous waste because of".

BILLING CODE 1505-01-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 82-05; Notice 1]

Federal Motor Vehicle Safety Standards; Advance Notice of Proposed Rulemaking; Grant of Petitions for Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Advance notice of proposed rulemaking; grant of petitions for rulemaking.

SUMMARY: This notice grants two petitions for rulemaking submitted by Mercedes-Benz of North America, Inc., and solicits comments regarding the agency's intention to issue a notice of proposed rulemaking concerning the issues raised by the petitions. Mercedes-Benz's first petition asks that the definition of Seating Refesence Point, used in a number of safety standards, be amended to incorporate 95th percentile male leg segments rather than 90th percentile male leg segments as a measuring specification. Mercedes-Benz's second petition asks that the latest version of the SAE recommended practice concerning passenger car driver's eye ranges be referenced instead of an earlier version. That recommended practice is also used in a number of safety standards. In addition to deciding whether to propose changes in those areas, the agency is also considering proposing to require that manufacturers specify a vehicle's Seating Reference Point in terms of accessible permanent marks or points on the vehicle structure.

DATE: Comment closing date: April 22, 1982.

ADDRESS: Comments should refer to the docket number and notice number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Kaehn, Office of Crash Avoidance, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-1351).

SUPPLEMENTARY INFORMATION: Mercedes-Benz has submitted two petitions relating to the Seating Reference Point. The Seating Reference Point is a design point that approximately indicates the point in space above a vehicle seat where an occupant's hips will be located. It is used in a number of safety standards as a reference point within the vehicle for determining the precise location in which certain performance requirements apply. These standards include No. 103, *Windshield Defrosting and Defogging Systems;* No. 104, *Windshield Wipers and Washing Systems;* No. 107, *Reflecting Surfaces,* No. 111, *Rearview Mirrors;* No. 201, *Occupant Protection in Interior Impact;* No. 202, *Head Restraints;* and No. 210, *Seat Belt Assembly Anchorages.*

According to the first petition of Mercedes-Benz, industry design practices have changed since the agency defined Seating Reference Point. The industry now uses 95th percentile male leg segments instead of 90th percentile male leg segments as one of the specifications for locating the Seating Reference Point. (A 95th percentile male leg segment refers to the leg portion of a design template (i.e., a two dimensional

manikin) used by the industry to locate the position of the Seating Reference Point in their vehicle design drawings at a point appropriate for a tall (95th percentile) male. By changing from 90th percentile legs to the longer 95th percentile legs, industry is better able to assure that its vehicles are designed appropriately for taller members of the population.)

Mercedes-Benz contends that defining Seating Reference Point in terms of 95th percentile legs would bring the affected standards up-to-date with current industry practice, as well as bringing them into harmony with European standards.

The agency finds merit in Mercedes-Benz's request that 95th percentile male leg segments instead of 90th percentile male leg segments be referenced in the definition of Seating Reference Point. To the extent that industry now uses 95th percentile male leg segments instead of 90th percentile male leg segments in its design efforts, implementation of safety standards written on 90th percentile male leg segments necessitates largely duplicative, although slightly different, measurements to be made.

The agency recognizes, however, that changing the definition of seating Reference Point might slightly change the performance requirements of a number of safety standards. Even if the changes are slight, there may be some cases in which the changes might create difficulties for a manufacturer who currently produces vehicles with only a very slight margin of compliance. The agency invites comments on whether this technical change would create compliance difficulties for manufacturers.

The first petition also sets forth Mercedes-Benz's belief that the current definition of Seating Reference Point limits the length of seat tracks and asks that the definition be amended to permit extended seat track travel.

The present definition of Seating Reference Point, set forth at 49 CFR 571.3, is:

> "Seating reference point" means the manufacturer's design reference point which—
>
> (a) Establishes the rearmost normal design driving or riding position of each designated seating position in a vehicle;
>
> (b) Has coordinates established relative to the designed vehicle structure;
>
> (c) Simulates the position of the pivot center of the human torso and thigh; and
>
> (d) Is the reference point employed to position the two dimensional templates described in SAE Recommended Practice J826, "Manikins for Use in Defining Vehicle Seating Accommodations," November 1962.

Mercedes-Benz's conclusion about the effect of the Seating Reference Point definition is erroneous. Mercedes-Benz interpreted section (a), relating to the rearmost normal design driving or riding position, and section (d), relating to the two dimensional templates, together to mean that the Seating Reference Point represents the "full rear position" of the front seat.

The definition of Seating Reference Point establishes limitations on where manufacturers must locate that point, but does not prevent manufacturers from extending seat track travel behind the point. The first part of the definition indicates that the Seating Reference Point is the manufacturer's design reference point which establishes the rearmost normal design driving or riding position. As such, it represents the rearmost design point from which manufacturers are required to meet various performance standards. It does not establish the absolute rearmost design point to which a seat may be adjusted.

Section (d) of the definition requires that manufacturers use the two dimensional templates described in SAE recommended practice J826 in locating the Seating Reference Point. That recommended practice refers to templates with lower leg and thigh segments in the 10th, 50th and 90th percentile lengths. Since the 90th percentile length is the only appropriate length of the three to use in establishing the rearmost normal design driving or riding position referred to in section (a) of the definition (since it represents the size of a tall person who would use the seat in a rear position), manufacturers must use the 90th percentile segment in locating the Seating Reference Point.

In deciding whether to propose amending the definition of Seating Reference Point, the agency will consider establishing a definition similar to that used by the Society of Automotive Engineers (SAE). That definition, included in SAE Recommended Practice J1100a, "Motor Vehicle Dimensions," is:

> Seating reference point (SgRP)—The manufacturer's design reference point is a unique design H-point which:
>
> (a) Establishes the rearmost normal design driving or riding position of each designated seating position which includes consideration of all modes of adjustment, horizontal, vertical and tilt, in a vehicle;
>
> (b) Has X, Y, Z coordinates established relative to the designed vehicle structure;
>
> (c) Simulates the position of the pivot center of the human torso and thigh, and
>
> (d) Is the reference point employed to position the two-dimensional drafting template with the 95th percentile leg described in SAE Recommended Practice "Devices for Use in Defining and Measuring Vehicle Seating Accommodation"—SAE J826b.

In addition to deciding whether to propose amending the definition of Seating Reference Point, the agency will also consider requiring manufacturers to specify a vehicle's Seating Reference Point in terms of accessible permanent marks or points on the vehicle structure. Since manufacturers already establish a Seating Reference Point for both design and compliance purposes, specifying where that point is in relation to certain marks on the vehicle structure should not present any difficulty. SAE Recommended Practice J182a, "Motor Vehicle Fiducial Marks," deals with this subject. Knowing exactly where the Seating Reference Point is located would facilitate compliance testing by the agency.

Mercedes-Benz's second petition seeks to amend Standards No. 103, *Windshield Defrosting and Defogging Systems;* No. 104, *Windshield Wipers and Washing Systems;* No. 107, *Reflecting Surfaces;* and No. 111, *Rearview Mirrors* to alter references to SAE Recommended Practice J941, "Passenger Car Driver's Eye Range," which was issued in November 1965. The petition asks that the standards be amended to reference the latest version of the same SAE recommended practice, SAE J941e.

One of the primary differences between J941 and J941e is the range of seatback angles for which the practices are intended. The older recommended practice, J941, contains a statement that its use is limited to passenger cars with seatback angles of 22 to 28 degrees. Use of the latest version of the SAE recommended practice is not so limited. It provides eye ranges for seatback angles from 5 to 40 degrees. (The passenger car driver's eye range is a drafting tool, which is based on SAE research, and is used by industry in establishing, defining and checking the view of the driving environment afforded from a range of driver's eye points.)

The agency is handling this petition together with the petition on the leg segments used to define the Seating Reference Point because the latest SAE recommended practice, SAE J941e, contains not only eye ranges for seatback angles from 5 to 40 degrees but relies on a definition of Seating Reference Point based on 95th percentile male leg segments. The positioning of the eye ranges is based in part on that definition. Since the Seating Reference Point issue is common to both petitions, the agency believes that it is appropriate to handle the petitions together.

As noted above, the eye ranges contained in SAE recommended practice, J941, are based on SAE research. That research limited the application of those eye ranges to vehicles with seatback angles from 22 to 28 degrees. Later SAE research resulted in SAE Recommended Practice J941e, which provides eye ranges for vehicles with seatback angles from 5 to 40 degrees. The vast majority of passenger cars sold toady have seatback angles between 22 to 28 degrees. However, a few have seatback angles outside that range. Moreover, as vehicle downsizing continues, manufacturers may produce more vehicles with seatback angles that are outside that range.

The agency therefore finds that Mercedes-Benz's petition to reference the latest SAE recommended practice has merit. As noted above, however, the latest recommended practice is based on a Seating Reference Point defined in terms of 95th percentile male leg segments rather than 90th percentile male leg segments. Before referencing the latest SAE recommended practice, it would be necessary to resolve the issue concerning the definition of Seating Reference Point. Therefore, the agency will continue to handle the rulemakings regarding these two petitions together.

The agency plans to issue a notice of proposed rulemaking concerning the Seating Reference Point and the passenger car driver's eye ranges shortly. A 45-day comment period is being provided at this time to enable manufacturers and other interested parties an opportunity to raise issues and provide information that the agency should consider in making the proposal.

Neither the granting of the petitions nor the issuance of this Advance Notice of Proposed Rulemaking necessarily means that a rule will be issued. The determination of whether to issue a rule is made in the course of the rulemaking proceeding, in accordance with statutory criteria.

NHTSA has considered the impacts of this action in accordance with the Department of Transportation's regulatory policies and procedures and has concluded that it is nonsignificant within the meaning of those procedures. The expected impacts are too indeterminate at this time to conclude whether a regulatory evaluation would be appropriate. Should the agency decide to proceed with a notice of proposed rulemaking, the decision whether to prepare a regulatory evaluation would be made at that time.

Before issuing a notice of proposed rulemaking, the agency would evaluate the action for the purposes of Executive Order 12291, the Regulatory Flexibility Act, and the National Environmental Policy Act.

Interested persons are invited to submit comments on the issues raised by this notice. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

(Secs. 103, 119 and 124, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1407 and 1410(a); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on February 25, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-6067 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Review of the Status of the Spotted Bat (*Euderma maculatum*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of status review.

SUMMARY: The Service is reviewing the status of the spotted bat (*Euderma maculatum*) to determine if it should be added to the List of U.S. Endangered and Threatened Wildlife. The Service welcomes information on the status of the bat and its habitat. The Service also would welcome any information on environmental and economic impacts and effects on small entities that would result from listing the spotted bat as an Endangered or Threatened species.

DATE: Information regarding the status of this species should be submitted on or before June 7, 1982.

ADDRESS: Comments and data submitted in connection with this review should be sent to the Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Langowski, U.S. Fish and Wildlife Service, Region 2, P.O. Box 1306, 500 Gold Avenue SW., Albuquerque, New Mexico 87103 (505/766-3972), or Mr. John L. Paradiso, Office of Endangered Species, Washington, D.C. 20240 (703/235-1975).

SUPPLEMENTARY INFORMATION: The Service is publishing a Notice of Review in order to solicit biological information on the spotted bat (*Euderma maculatum*). The Service is also seeking economic or other relevant information

concerning areas that may be considered for Critical Habitat.

Species Biology

(*Euderma maculatum*) was first collected in March 1890 and by 1950, 16 specimens had been obtained. Most specimens were found dead or dying in proximity to human artifacts. During the last 2 decades, the number of biologists working on bats has increased greatly and techniques for capturing and studying bats have reached a high degree of sophistication. This increase in effort has resulted in more specimens, new locations, and in several instances, small, but viable populations have been found. However, the western United States contains vast tracts of sparsely populated lands that have not been surveyed adequately; therefore, the occurrence and status of the species over much of its range is simply not known.

The distribution of *Euderma* is restricted to western North America. It ranges from the Mexican Plateau in the State of Queretaro to the southern border of British Columbia. Although generally widespread, local distribution is quite patchy.

Inasmuch as spotted bats have been found over a large geographic area, it is not suprising that recorded habitats have been quite varied. *Euderma* has been found or collected from low desert to high mountain locations. However, only five locations have yielded substantial numbers indicating viable populations. The factors each of these locations have in common is the presence of streams (year round or ephemeral with intermittent pools) and nearby cliffs or steep hillsides with loose rocks. Specific vegetation associations, prey items, and climatic features do not appear to be as important to the species as do suitable roost sites.

The known viable populations of *Euderma* in the United States occur on lands of the National Park Service in Big Bend National Park, Texas; the National Forest Service in the Gila and Santa Fe National Forest, New Mexico; and on public lands administered by the Bureau of Land Management in the St. George, Utah, District. Most of the other sites of lesser natural occurrence also come within the boundaries of lands controlled by one of the above Federal agencies.

The population at Big Bend National Park (62 captures, no recaptures) receives some protection due to current Park Service general management policies. The populations in the Santa Fe (10 captures) and Gila (11 captures including adjacent San Mateo Mountains) National Forests receive no direct protection. The population in the Fort Pierce Wash Area of southwestern Utah and adjacent northwestern Arizona (82 captures, 4 recaptures) receives some protection due to Utah's classification of the species as Endangered.

An apparently large literature base exists concerning *Euderma*, but little substantial knowledge exists on population ecology. Judging from locations where spotted bats have been captured, they seem to prefer remote sites in canyon or arroyo situations with the presence of crevice roosts. A detailed description of preferred crevice location and internal micro-climate is needed. As in other plecotines, *Euderma* probably does not migrate great distances and appears to be particularly sensitive to human disturbance.

Four States have designated the spotted bat as a species deserving special consideration: Arizona, Nevada, Utah, and Wyoming. The rare or endangered classification by State wildlife agencies provide only limited protection; collecting permits are refused and possession is unlawful. However, disturbance and habitat modifications are not included in State protection.

Reason for Review

Section 4(a) of the Endangered Act of 1973, as amended, states that the Secretary may determine a species to be Endangered or Threatened because of any of the following factors:

1. The present or threatened destruction, modification, or curtailment of its habitat or range;
2. Overutilization for commercial, sporting, scientific, or education purposes;
3. Disease or predation;
4. The inadequacy of existing regulatory mechanisms; and
5. Other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director, U.S. Fish and Wildlife Service.

The Service has reason to believe that the following factors may be affecting the status of the spotted bat:

1. *The present or threatened destruction, modification, or curtailment of the habitat or range.* Experts on this species feel that, like other plecotine bats, the spotted bat does not migrate great distances and hence is particularly sensitive to disturbance by human. Although four western States classify the animal as a "sensitive species," none provide any habitat protection for it; therefore, it appears to be in an extremely vulnerable position given its sparse distribution and low numbers.

2. *Overutilization.* The rarity of the species, and its striking appearance, make it a significant prize for museums. Considerable effort by field collectors has been expended to obtain this bat. Standard collecting techniques such as netting and shooting present a source of major disturbance, and "the level of impact by scientific collecting can be judged as significant." (Dr. Michael J. O'Farrell, status report prepared for the Service, April 1981.)

3. *Other natural or manmade factors.* Several factors of spotted bat biology may act to intensify adverse impacts. These are: (1) Its patchy distribution probably due to specialized roosting requirements; (2) low population numbers where it occurs; and (3) extreme sensitivity to human disturbance.

The Service is, therefore, considering proposing the spotted bat (*Euderma maculatum*) as an Endangered or Threatened species. The Service is interested in receiving comments on the following:

1. Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to this species;
2. The location of and the reasons why any habitat of this species should or should not be determined to be Critical Habitat as provided for by Section 4 of the Act;
3. Current or planned activities that might be detrimental or beneficial to the species;
4. The probable impacts on such activities if the area is designated as Critical Habitat;
5. Additional information concerning the range and distribution of this species.

Economic Data Requested

The Service is particularly interested in receiving information on the possible economic impacts of listing this species, including any Critical Habitat designation, of federally funded or authorized projects.

The Service will analyze all data that it now has, as well as any data that is obtained as a result of this review, and will take appropriate action concerning listing for the species. The information will also assist in preparing impact analyses, and in examining alternative protective measures under Executive Order 12291 and the Regulatory Flexibility Act (5 U.S.C. 601).

This Notice of Status Review was prepared by Dave Langowski, U.S. Fish and Wildlife Service, Region 2, P.O. Box 1306, 500 Gold Avenue, SW., Albuquerque, New Mexico 87103 (505/766-3972 or FTS 474-3972), and John L. Paradiso, Office of Endangered Species, Washington, D.C. 20240 (703/235-1975).

Dated: February 26, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-6233 Filed 3-5-82; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 18

Request for Information Concerning Incidental Taking of Marine Mammals

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Request for comments.

SUMMARY: The Fish and Wildlife Service (FWS) requests information concerning section 101(a)(5) of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1371(a)(5)) that would authorize the incidental, but not the intentional, taking of small numbers of non-depleted marine mammals requested by U.S. citizens who engage in a specified activity within a specified geographical region. Section 101(a)(5) directs the Secretary (Interior or Commerce), depending upon marine mammal species affected, to allow such incidental taking, upon request, if the Secretary makes certain findings and prescribes certain regulations relating to permissible methods of taking, and the monitoring and reporting of such taking. The FWS invites interested persons to submit information and suggestions on the specific types of activities and specific geographical regions for which authorization may be requested, as well as on the structure and content of any appropriate regulations FWS may develop. The FWS will consider this information to determine if regulations should be proposed to implement section 101(a)(5), for polar bears, walruses, and Alaskan sea otters.

DATE: Information should be submitted on or before April 7, 1982.

ADDRESS: All information should be submitted to: Division of Wildlife Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Jim Gillett, Chief, Division of Wildlife Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 202-632-2202.

SUPPLEMENTARY INFORMATION: Public Law 97-58 (approved October 9, 1981) amended the Marine Mammal Protection Act of 1972 by adding, among other things, a new section 101(a)(5) (16 U.S.C. 1371(a)(5)) which directs the Secretary (either Interior or Commerce, as appropriate) to allow, upon request by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, the incidental, but not the intentional, taking of small numbers of marine mammals. This permission may be granted for a period of five years or less. Such taking may be allowed only if the species involved is not depleted and if the Secretary, after notice and opportunity for public comment: (a) Finds that the total taking will have a negligible impact on the species and its habitat, and on the availability of the species for subsistence uses; (b) prescribes regulations setting forth permissible methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat, paying particular attention to rookeries, mating grounds, and other areas of similar significance; and (c) prescribes regulations pertaining to the monitoring and reporting of such taking. As used in this section, "negligible impact" means an impact which can be disregarded, and "incidental, but not the intentional, taking" means accidental taking, which includes harassing, capturing, or killing.

The FWS is responsible for implementing this new section with respect to polar bears, Alaskan sea otters, and walruses. In order to develop the proposed regulations required by the new section, the FWS invites information on the following:

(1) A description of specific activities other than commercial fishing that can be expected to result in incidental taking of marine mammals;

(2) The dates and duration of such activities and the specific geographical region where they are likely to occur;

(3) The species and numbers of marine mammals likely to be taken by age, sex, and reproductive condition, and the type of taking (e.g., disturbance by sound, injury or dealth resulting from collision, etc.) and the number of times such taking is likely to occur;

(4) A description of the status and distribution of the affected species or stocks likely to be affected by such activities;

(5) The anticipated impact of the activities upon the species of stock, and on the availability of taking for subsistence uses;

(6) The anticipated impact of the activities upon the habitat of any marine mammal populations, and the likelihood of restoration of the affected habitat;

(7) The anticipated impact of the loss or modification of the habitat on the marine mammal populations involved;

(8) The availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activities or other means of effecting the least practicable adverse impact upon the affected species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance;

(9) Suggested specification of classes of activities (e.g., marine geophysical activities such as seismic surveys, core drilling, or vessel transport) and geographical regions in which such activities might be authorized;

(10) Suggested means of accomplishing the necessary monitoring and reporting and of minimizing burdens by coordinating such reporting requirements with other schemes already applicable to persons conducting such activities; and

(11) Suggested means of learning of, encouraging, and coordinating research opportunities, plans and activities relating to reducing such incidental taking and evaluating its effects.

The FWS solicits information and suggestions from interested persons in order to assist it in: (a) Identifying potential activities that may be authorized under section 101(a)(5); (b) developing regulations relating to permissible methods of taking, monitoring and reporting; and (c) developing a system of processing individual requests for such permission to take. In particular, the FWS is aware that persons who engage in seismic activities that may affect marine mammals may be interested in authorization under section 101(a)(5). The FWS specifically invites representatives of this industry as well as other concerned parties to submit relevant information so that appropriate implementing regulations can be developed, including information concerning economic and other impacts under Executive Order 12291, the Regulatory Flexibility Act, and the Paperwork Reduction Act.

After sufficient information has been received to determine if regulations are necessary, the FWS will initiate regulations to consider individual requests to conduct specific activities in specific geographical areas. At that time, the FWS will invite information, suggestions and comments, through notice in the **Federal Register**, newspapers of general circulation, and appropriate electronic media in the coastal areas that may be affected by such activities.

After a finding of negligible impact and the promulgation of regulations

relating to taking, monitoring, and reporting, the FWS likely will issue letters of authorization for persons to conduct the specified activities subject to the regulations. To insure that the purposes of section 101(a)(5) are satisfied, the letters of authorization may specify any terms and conditions that are appropriate. Letters of authorization may be suspended if the FWS determines that the regulations prescribed are not being substantially complied with or the allowed taking is having, or may have, more than a negligible impact on the species or stock concerned, its habitat or on the availability for subsistance uses.

(Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361–1407))

Dated: February 26, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-6109 Filed 3-5-82; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register

Vol. 47, No. 45

Monday, March 8, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Umpqua National Forest, Tiller Ranger District; Decision-Notice and Finding of No Significant Impact; Vegetation Management in Conifer Plantations, Douglas County, Oreg.

An environmental assessment that discusses vegetation management on the Tiller Ranger District involving control of competing vegetation on 3,536 acres of conifer plantations has been prepared. All proposed treatment areas are located on lands administered by the Umpqua National Forest within Douglas County, Oregon. The report is available for public review at the Tiller Ranger District and the Umpqua National Forest Office in Roseburg, Oregon. No flood plains or wetlands are involved in the project.

It is my decision, based on the analysis and evalation described in the Environmental Assessment for this project, to adopt Alternative 2 as modified, "Regional EIS preferred alternative, with aerial chemical applications restricted to brushfields where no other method is biologically and/or economically feasible," using the following methods:

43%—Chemical Methods—Aerial application on 318 acres with Roundup and 191 acres with 2,4–D or Garlon; ground application on 793 acres with Roundup, and 208 acres with Atrazine/dalapon mixture, and 6 acres with the herbicide Asulox.

12%—Mechanical Methods—The use of a tractor with a brush cutter and/or a soil ripping attachment will occur on 28 acres depending on soil conditions. Site preparation by tractors (during logging) will occur on about 400 acres.

11%—Manual Methods—Manual brushing will occur on 347 acres, paper mulching on 25 acres, and hand scalping on 29 acres.

15%—Biological Methods—Cattle grazing in existing allotments is expected to provide some beneficial release on 193 acres, sheep grazing is expected to provide some release on 130 acres, and the use of insects (such as the cinnabar moth) will control tansy ragwort on 220 acres.

19%—Thermal Methods—Prescribed burning (broadcast) will prepare sites on 640 acres. Girding stems with torches will occur on 10 acres.

These treatments, including retreatment acres, are necessary to control competing vegetation to provide moisture, nutrients, and light for conifer survival and growth.

This preferred alternative, with specified mitigation measures and monitoring, provides the best combination of physical, biological, social and economic benefits and is considered to be the environmentally preferable alternative.

The report considers the use of various methods of vegetation management as follows:

A. No Treatment.
B. Manual Methods.
1. Hand brushing.
2. Hand scalping.
3. Paper mulching.
C. Mechanical Methods (Tractor or Other Heavy Equipment).
D. Chemical (Herbicides).
E. Biological (Insects, Sheep, Cattle).
F. Thermal Methods.

Six alternatives were developed using various combinations of these methods.

The site specific effects of all feasible alternatives were addressed and Alternative 2, as modified, provides the best combination of methods to effectively accomplish vegetation management on the 3,536 acres with minimal environmental impacts.

I have determined, based on the environmental analysis, that this is not a major Federal action that would significantly affect the quality of the human environment; therefore, an environmental impact statement is not needed. This determination was made considering the following factors: (a) All chemicals are approved by EPA for the proposed use; (b) application of chemicals will comply with applicable EPA labels, State and Federal law, Forest Service policies and the current R–6 Environmental Statement dealing with vegetative management; (c) treatment with chemical, mechanical or hand methods will have only slight and temporary effect on the ecosystems in the treatment areas; (d) physical and biological effects are limited to the areas of planned treatment; (e) there are no irreversible or irretrievable resource commitments or losses; and (f) no known threatened or endangered plants or animals have been recorded or observed within the project area.

Some public concern exists over the use of any chemical and the effects it has on water quality. The proposed project includes application measures designed to protect non-target areas and the water quality. State and Federal Water Quality Standards will be met.

Project implementation may take place immediately after the date of this decision.

This decision is subject to administrative review (appeal) pursuant to 36 CFR 211.19.

Dated: February 18, 1982.

R. D. Swartzlender,

Forest Supervisor.

[FR Doc. 82-6107 Filed 3-5-82; 8:45 am]

BILLING CODE 3410-11-M

Science and Education Administration

Joint Council on Food and Agricultural Sciences Executive Committee

AGENCY: Science and Education Administration, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 1407 of the National Agricultural Research, Extension, and Teaching Act of 1977, as amended, Science and Education announces the following meeting:

Name: Executive Committee of the Joint Council on Food and Agricultural Sciences
Date: March 10, 1982
Time and place: 8:30 a.m.–4:00 p.m., Room 3109, South Building, USDA, Washington, D.C.
Type of meeting: Open to the public. Persons may participate in the meeting as time and space permit.
Comments: The public may file written comments before or after the meeting with the contact person below.
Purpose: Develop plans for needs assessment of agricultural science and education programs; discuss proposed agenda for April meeting of Joint Council; determine various policy issues to be discussed by the Council in 1982.

Contact person: Susan G. Schram, Executive Secretary, Joint Council on Food and Agricultural Sciences, U.S. Department of Agriculture, Room 351–A, Administration Building, Washington, D.C. 20250, telephone (202) 447–6651.

Done at Washington, D.C., this 2nd day of March 1982.

John G. Stovall,

Executive Director, Joint Council on Food and Agricultural Sciences.

[FR Doc. 82-6068 Filed 3-5-82; 8:59 am]

BILLING CODE 3410-05-M

Office of the Secretary

Establishment of Study Committee To Study Alternative Methods of Establishing Premiums and Discounts for the Upland Cotton Loan Program and of Committee Meeting

1. Establishment of Committee

Pursuant to Section 507 of the Agriculture and Food Act of 1981, (Pub. L. 97–98) notice is hereby given that the Secretary of Agriculture has established a study committee to study alternative methods of establishing premiums and discounts for grade, staple, and micronaire for the upland cotton loan program.

2. Meetings

Pursuant to the provisions of Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following committee meetings.

Name: Study Committee to Study Alternative Methods of Establishing Premiums and Discounts for the Upland Cotton Loan Program

Date: First Meeting March 23, 24, 1982, Second meeting April 6, 7, 1982

Place: U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 4960 South Building, Washington, D.C. 20250.

Time: 9:00 A.M.–4:45 P.M.

Purpose: To enable members to study alternative methods of establishing premiums and discounts for grade, staple, and micronaire for upland cotton that will represent true relative market values and reflect actual market demand for upland cotton produced in the United States. The committee shall submit the results of the study to the Secretary, at the earliest practicable date together with recommendations as the committee considers appropriate.

Agenda: The agenda will include discussion of present methods of establishing premiums and discounts and possible alternative methods consistent with legislative guidelines.

The meetings will be open to the public but space and facilities are limited. Public participation will be limited to written statements submitted before the meeting to the Chairman unless their participation is otherwise requested by the Committee Chairman. Written statements should be sent to Charles V. Cunningham, Acting Deputy Director, Analysis Division, ASCS, Room 3741 South Building, P.O. Box 2415, Washington, D.C. 20013, telephone (202) 447–7954.

Signed at Washington, D.C., on March 4, 1982.

John E. Schrote,

Assistant Secretary for Administration.

[FR Doc. 82-6387 Filed 3-5-82; 9:40 am]

BILLING CODE 3410-05-M

CIVIL AERONAUTICS BOARD

Certificates of Public Convenience and Necessity and Foreign Air Carriers; Applications Filed; Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (See, 14 CFR 302.1701 et seq.); Week Ended February 26, 1982.

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket no	Description
Feb. 26, 1982	40486	Yukon Air Service, Inc., d.b.a. Air North and Nenana Air Service, c/o Michael J. Roberts, Verner Liipfert, Bernhard and McPherson, Suite 1100, 1660 L Street, N.W., Washington, D.C. 20036. Application of Yukon Air Service, Inc., d.b.a. Air North and Nenana Air Service, pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests the Board to issue it an amended certificate of public convenience and necessity which authorizes air transportation of persons, property and mail between and among the following points (in addition to those previously authorized by its Route 269): The terminal point: Akhiok, Alaska, the intermediate points: Aleichak, Alaska, Akiak, Alaska, Alakanuk, Alaska, Aleknagik, Alaska, Allak, Alaska (Lazy Bay), Ambler, Alaska, Amook, Alaska, Aniak, Alaska, Anvik, Alaska, Atgun, Alaska, and Atmautluak, Alaska. Bethel, Alaska, Big Delta, Alaska, Brevig Mission, Alaska, and Buckland, Alaska. Cape Lisburne, Alaska, Cape Newenham, Alaska, Cape Romanzof, Alaska, Cape Yakataga, Alaska, Chandalar, Alaska, Chandalar Shelf, Alaska, Chefornak, Alaska, Chevak, Alaska, Clarks Point, Alaska, Cold Bay, Alaska, Coldfoot, Alaska, Cordova, Alaska, and Crooked Creek, Alaska. Deadhorse, Alaska, Deering, Alaska, Delta Junction, Alaska, Dieterh, Alaska, Dillingham, Alaska, and Dutch Harbor, Alaska. Eek, Alaska, Egegik, Alaska, Eluk, Alaska, Elwok, Alaska, and Ellin, Alaska. Farewell, Alaska, Five Mile, Alaska, Flat, Alaska, Fortuna Ledge, Alaska, and Franklin Bluffs, Alaska. Galbraith Lake, Alaska, Gambell, Alaska, Golden Horn, Alaska, Golovin, Alaska, Goodnews Bay, Alaska, Grayling, Alaska, and Gulkana, Alaska. Happy Valley, Alaska, Holy Cross, Alaska, Homer, Alaska, and Hooper Bay, Alaska. Igiugig, Alaska, Illamna, Alaska, and Isabelle Pass, Alaska. Kaiakag-Lower Kalskag, Alaska, Kaltag, Alaska, Karluk, Alaska, Kasigluk, Alaska, Kenai, Alaska, Ketchikan, Alaska, Kiana, Alaska, King Salmon, Alaska, Kiprunk, Alaska, Kitoi Bay, Alaska, Kivalina, Alaska, Kobuk, Alaska, Kodiak, Alaska, Kokhanok Bay, Alaska, Koliganek, Alaska, Kongiganak, Alaska, Kotlik, Alaska, Koyuk, Alaska, Koyukuk, Alaska, Kwethluk, Alaska, Kwigillingok, Alaska, Kwiguk (Emmonak), Alaska, and Kwinhagak (Quinhagak), Alaska. Lake Nerka, Alaska, Larsen Bay, Alaska, Levelock, Alaska, and Livengood, Alaska. Manokotak, Alaska, Marshall, Alaska, Medfra, Alaska, Meloryuk, Alaska, Moser Bay, Alaska, Moses Point, Alaska, and Mountain Village, Alaska. Naknek, Alaska, Napakiak, Alaska, Napaskiak, Alaska, New Stuyahok, Alaska, Newtok, Alaska, Nightmute, Alaska, Nostak, Alaska, Nondalton, Alaska, Noorvik, Alaska, Northway, Alaska, Nuigsut, Alaska, Nulato, Alaska, and Nunapitchuk-Akolmuit. Old Harbor, Alaska, Old Man, Alaska, Olga Bay, Alaska, and Oushkio, Alaska. Parka, Alaska, Pedercon Point, Alaska, Pedro Bay, Alaska, Petersburg, Alaska, Pilot Point, Alaska, Pilot Station, Alaska, Platinum, Alaska, Point Hope, Alaska, Point Lay, Alaska, Port Vaxon, Alaska, Port Alsworth, Alaska, Port Bailey, Alaska, Port Clarence, Alaska, Port Lions, Alaska, Port Williams, Alaska, Portage Creek, Alaska, and Prospect Creek, Alaska. Queen, Alaska, and Quinhagak, Alaska. Red Devil, Alaska, and Russian Mission, Alaska. St. Mary's, Alaska, San Juan, Alaska, San Point, Alaska, Savoonga, Alaska, Scammon Bay, Alaska, Seal Bay, Alaska, Selawik, Alaska, Seward, Alaska, Shageluk, Alaska, Sheldoolik, Alaska, Sheldon Point, Alaska, Shishmaref, Alaska, Shungnak, Alaska, Siknak, Alaska, Sitka, Alaska, Stevens, Alaska, Stoolmut, Alaska, South Naknek, Alaska, and Stoney River, Alaska. Takotna, Alaska, Tatalina, Alaska, Teller, Alaska, Terror Bay, Alaska, Tin City, Alaska, Togiak, Alaska, Toksook, Alaska, Transcress, Alaska, Tukaknak, Alaska, Tuntutuliak, Alaska, Tununak, Alaska, and Twin Hills, Alaska. Uganik, Alaska, Ugashik, Alaska, Unalakleet, Alaska, and Uyak, Alaska. Valdez, Alaska. Wainwright, Alaska, Wales, Alaska, West Point—Village Isle, White Mountain, Alaska, Wiseman, Alaska, and Wrangell, Alaska.

Date filed	Docket no	Description
		Yakutat, Alaska, and the terminal point: Zacher Bay, Alaska. Conforming applications, motions to modify scope, and answers may be filed by March 26, 1982.

Phillis T. Kaylor,

Secretary.

[FR Doc. 82-6386 Filed 3-5-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82–3–1; Docket 40466]

Compagnie Nationale Air France; U.S.-France/Mexico/Belgium Fares; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board, at its office in Washington, D.C., on the 19th day of February 1982.

In a series of recent tariff revisions, Compagnie Nationale Air France (Air France) has proposed expanding availability of its New York-Paris "vacances" service to Saturdays during the period from March 27 to June 14, 1982;[1] introduction of a New York-Mexico City supersonic fare at $440 one way, effective March 6, 1982; and introduction of new special excursion, special group excursion, advance-purchase excursion (APEX) and group APEX fares between Chicago and New York, on the one hand, and Brussels, on the other, effective April 6, 1982.

We have decided to suspend Air France's proposals. The French aviation authorities have repeatedly denied U.S. carrier attempts to introduce new fares in the U.S.-France market, have disapproved the fare proposals of U.S. carriers seeking entry into the market whenever the proposals had undercut the prevailing fares of Air France, and have even refused U.S. carriers the right to match Air France's fares at the latter's U.S. gateways if the former did not provide single-plane service. Most recently, the French authorities have disapproved two attempts by Pan American World Airways, Inc. (Pan American), to match Air France's Houston-Paris winter group excursion fare. Thus, the Government of France continues its policy of denying U.S. carrier fare initiatives in order to protect Air France, to the detriment of the traveling public. Such circumstances compel us to review Air France's fare proposals with greater scrutiny than we would otherwise prefer.

The proposed expansion of New York-Paris "vacances" service and introduction of new Chicago/New York-Brussels fares are clearly intended to enhance Air France's participation in these markets. In particular, we note that Air France's proposed promotional fares to/from Brussels are designed to match those now offered by Belgium's national carrier, Societe anonyme Belge d'Exploitation de la Navigation Aerienne (Sabena). Sabena, however, provides single-plane service in the markets at issue, whereas Air France's service entails an intraline connection at Paris—precisely the situation at Houston, where the French authorities have blocked Pan American's efforts to compete for low-fare traffic because the carrier's service involves an intraline connection. Indeed, we find the French authorities' action harsher, because it restricts Pan American's ability to compete for traffic to/from its own country, rather than between two foreign countries.

Air France's proposed New York-Mexico supersonic fare, on the other hand, has been suspended once before,[2] and we are unconvinced that the level now proposed is compensatory. At $440, the proposed level now reflects the customary 20 percent differential over the present first-class fare of $366. At 21.1 cents per mile, however, it is still far below prices for supersonic service in other markets—Air France's current levels for the New York-Paris and Washington-Paris markets, for example, amount to 31.0 and 48.3 cents per mile, respectively. In essence, then, Air France has implicitly asked us to give deference to its own marketing judgment and value of service considerations. Such deference, however, is properly based on reciprocity and comity and, given the French authorities' posture, we are unable to approve a fare priced so far below those established for the same service in other markets.

Accordingly, pursuant to sections 102, 204(a), 403, 801 and 1002(j) of the Federal Aviation Act of 1958, as amended:

1. We shall institute an investigation to determine whether the fares and provisions set forth in the attached Appendices A, B and C, and rules and regulations or practices affecting such fares and provisions, are or will be unjust or unreasonable, unjustly discriminatory, unduly prejudicial or otherwise unlawful or contrary to the public interest; and if we find them to be unlawful or contrary to the public interest, to act appropriately to prevent the use of such fares, provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, we suspend and defer the use of the tariff provisions in the attached Appendix A from March 3, 1982, to and including March 2, 1983, Appendix B from April 6, 1982, to and including April 5, 1983, and Appendix C from March 6, 1982, to and including March 5, 1983, unless otherwise ordered by the Board, and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President [3] and, unless disapproved by the President within ten days, it shall become effective March 3, 1982; and

4. We shall file copies of this order in the aforesaid tariff and serve them on Compagnie Nationale Air France and the Ambassador of France in Washington, D.C.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-6393 Filed 3-5-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82–3–4; Docket 39722]

Emergency Air Transportation Requirements; Order Extending Exemption Authority

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 1st day of March, 1982.

By Order 81–11–57, November 10, 1981, we exempted all U.S. and foreign air carriers and commuter air carriers from the provisions of Part 250 of our Economic Regulations to the extent that they would require more than 100 percent compensation if the airline cannot arrange "alternate transportation" as defined in that Part. Our award of this (and other) exemption

[1] The pertinent tariff provisions are scheduled for effectiveness March 3, 1982. Under current provisions, Air France's "vacances" service during the above period would be limited to Mondays, Thursdays, Fridays and Sundays.

[2] See Order 81–5–2, April 21, 1981.

[3] We submitted this order to the President on February 19, 1982.

authority was intended to relieve carriers of certain regulatory requirements during the service cutbacks resulting from the job action by the Professional Air Traffic Controllers Organization (PATCO).[1] In particular, the exemption from the denied boarding rules was granted because of the FAA-imposed limit on capacity and difficulty in predicting the no-show rate during this period of operational constraints.[2] By the terms of our order, this exemption expires on March 1, 1982.

We received a request from the Air Transport Association (ATA) for an extension of this exemption award for the duration of the existence of the FAA's Interim Operations Plan. In support of its request, the ATA states that the situation of reduced capacity that existed when we granted the exemption remains a problem and that "[a]ir traffic control system constraints continue to impede carrier efforts to ascertain no-show patterns and to react appropriately." Although the FAA has improved capacity at its facilities, the ATA argues that disparities in the capacity of airports greatly complicate the scheduling and rescheduling of multi-leg and connecting flights. The ATA concludes that the rescheduling of flights in order to maximize service often conflicts with the carrier's ability to predict and manage the capacity for each flight.

In addition, the ATA states that continued relief from the double-compensation provision of Part 250 would permit the airline industry, which suffered serious losses in 1981, to reduce some of its expenses and still accommodate the consumer protection principles of Part 250.

We received an answer from Transamerica Airlines, Inc. in support of the ATA's request.

We have decided to extend our award of exemption authority until June 1, 1982. The air traffic control system now accommodates more operations than it did at the time of our earlier order, and has attained an improved level of stability and certainty. We recognize, however, that capacity is still significantly curtailed and that neither the airlines nor the public respond as they would in an environment of complete scheduling freedom. Since carriers remain unable to predict with any certainty the no-show rate for their flights which limits the maximum utilization of airlift capacity in a period of reduced operations, we find that it is in the public interest to continue the partial exemption from the denied boarding rules.

We will not, however, extend this exemption authority for the duration of the Plan. Even if the Interim Operations Plan remains in effect, the need for the exemption authority may change. We will review the need for it periodically.[3]

Accordingly,

1. We grant the request of the ATA in Docket 39722;

2. We extend our exemption award in ordering paragraph 2 of Order 81-11-57 which exempts all U.S. and foreign air carriers from the provisions of Part 250 of our Economic Regulations to the extent that they would require more than 100 percent compensation if the airline cannot arrange "alternate transportation" as defined in that Part, this authority shall remain in effect through June 1, 1982; and

3. We will serve a copy of this order on all U.S. certificated and foreign carriers, the Department of Justice, the Department of Transportation, the Federal Emergency Management Agency, the Federal Aviation Administration, the Postmaster General, the Department of Defense, the Aviation Consumer Action Project, and the Air Transport Association of America.

A copy of this order will be published in the Federal Register.

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

All Members concurred except Member Smith who filed the concurring statement below.

Smith, member, concurring:

Airlines have historically oversold flights to counter the overbooking and no-show practices of air travellers. In this context, denied boarding compensation rules have been appropriate to provide a measure of consumer protection in the industry. The Board provided some relief from penalties for "bumping" passengers in the wake of the air traffic control strike which resulted in new capacity controls for airlines.

The incidence of denied boardings for some carriers has increased, however, during the strike aftermath which suggests that it is at best, awkward to take any action which appears to condone the practice. We must acknowledge that our exemption removes much of the incentive the carriers had to make sure their bumped passenger is promptly accommodated on another flight. Furthermore, the Board encouraged the airlines to seek additional ways to counter the overbooking and "no-show" problem and granted immunity for intercarrier discussions on the problem and prospective solutions.

It would be equally inappropriate, however, to impose additional hardships on airlines during a time when capacity constraints continue and since there have been virtually no consumer complaints about the absence of the double compensation. It must also be noted that the Board has solicited comments and is reconsidering the denied boarding compensation rules.

The Board should, therefore, expedite the rulemaking to consider the possibility of giving carriers flexibility in providing alternative forms of compensation, such as future transportation, in lieu of the current fixed compensation which could be of possibly greater value to consumers and result in less fixed cost to airlines.

James R. Smith.

[FR Doc. 82-6204 Filed 3-5-82; 8:45 am]

BILLING CODE 6320-01-M

[1] *See also* Orders 81-9-168, September 30, 1981; 81-9-30, September 3, 1981; 81-9-66, August 13, 1981; 81-8-22, August 6, 1981; 81-7-156, July 30, 1981; and 81-6-148, June 19, 1981.

[2] Order 81-11-57 at 5.

[3] We are reviewing our Denied Boarding Compensation and Oversales rule to determine whether, and in what form, these rules should continue prior to and after the Board sunsets. See EDR-438, 46 FR 62252, December 31, 1981.

[Dockets 33363; 32606, and 32607]

Former Large Irregular Air Service Investigation; Applications of Worldwide Airlines, Inc.; Hearing

By Order dated February 25, 1982, a procedural schedule was established which set March 25, 1982 as the hearing date in this proceeding. After issuing that Order, it was discovered that a hearing room is not available on that date and the hearing, therefore, will be held on March 26, 1982.

Accordingly, notice is hereby given that a hearing in the above-entitled matter is assigned to be held on March 26, 1982, at 10:00 a.m. (local time), in Room 1003 Hearing Room "A", Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., March 2, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82-6202 Filed 3-5-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40459]

United States-Brazil/Argentina All-Cargo Exemption Proceeding; Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on Wednesday, March 31, 1982, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise the Secretary, in writing, on or before Wednesday, March 24, 1982, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., March 2, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-6201 Filed 3-5-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Minority Business Development Agency

New York Region; Application Solicitation

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications for seven New York Region projects as follows:

1. One cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning August 1, 1982 in Bronx, New York (New York SMSA). The cost of the project is estimated to be $313,600. The maximum federal participation amount is $282,240. The minimum amount required for non-federal participation is $31,360. The project number is 02-10-82001-01.

2. One cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning October 1, 1982 in New York (Manhattan), New York SMSA. The cost of the project is estimated to be $235,200. The maximum federal participation amount is $211,680. The minimum amount required for non-federal participation is $23,520. The project number is 02-10-82002-01.

3. One cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning October 1, 1982 in Queens, New York (New York SMSA). The cost of the project is estimated to be $212,800. The maximum federal participation amount is $191,520. The minimum amount required for non-federal participation is $21,280. The project number is 02-10-82003-01.

4. One cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning September 1, 1982 in the counties of Nassau and Suffolk in New York (Nassau SMSA). The cost of the project is estimated to be $250,000. The maximum federal participation amount is $225,000. The minimum amount required for non-federal participation is $25,000. The project number is 02-10-82006-01.

5. One cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning August 1, 1982 in the Boston, Massachusetts SMSA. The cost of the project is estimated to be $250,000. The maximum federal participation amount is $225,000. The minimum amount required for non-federal participation is $25,000. The project number is 01-10-82007-01.

6. One cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning October 1, 1982 in the Hartford, Connecticut SMSA. The cost of the project is estimated to be $170,000. The maximum federal participation amount is $153,000. The minimum amount required for non-federal participation is $17,000. The project number is 01-10-82011-01.

7. One cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning September 1, 1982 in the counties of Orleans, Monroe, Wayne, Ontario and Livington in New York State (Rochester SMSA). The cost of the project is estimated to be $170,000. The maximum federal participation amount is $153,000. The minimum amount required for non-federal participation is $17,000. The project number is 02-10-82012-01.

Applicants shall be required to contribute at least 10% of the total program costs through non-federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

CLOSING DATE: April 16, 1982.

ADDRESS: New York Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 26 Federal Plaza, Room 36-116, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT:

R. Allen Walls, Chief, Enterprise Development, telephone (212) 264-4742.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of This Announcement

Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The BDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA offers Cooperative Agreements that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit—through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants

Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process

All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Business Development Center Application

The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. Capability and Experience of Firm/Staff

Provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority

individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)

Background credentials and references for the owners of the organization and a capability statement of what the organization can do.

Knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local public and private entities—that can possibly enhance the BDC program effort—i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

List personnel to be used. Indicate their salaries, educational level and previous experiences. Provide resumes for all professional staff personnel.

Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.

Provide organization chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.

If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A–110 or A–102.

II. Techniques and Methodology

Specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the BDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; developing and maintaining the profile inventory of minority business; and brokering of new business ownership, market and capital opportunities. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. Resources

Address technical and administrative resources, i.e. computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 10% cost sharing requirement to include a fee for services for assistance provided clients. The fee for services will be 10% for firms with gross sales of $500,000 or less and 25% for firms with gross sales of over $500,000.

Cost sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order of priority: (1) cash contributions; (2) fee for services; and (3) in-kind contributions.

A. *Cash contribution.*—Means cash that is contributed or donated by the recipient, by other non-federal, public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services.*—Are charges to the client for assistance provided by BDC.

C. *In-Kind contributions.*—Represent the value of non-cash contributions provided by the recipient and non-federal parties. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution.

IV. Costs

Demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan and Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost sharing plan information in terms of methodology and format for billing the cost of management and technical assistance to clients.

Total project costs will be evaluated in terms of:

Clear explanations of all expenditures proposed; and

The extent to which the applicant can leverage federal program funds and operate with *economy* and *efficiency*.

In conclusion, the applicant's schedule for start of BDC operation should be included in Part Two. Part Two will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement award.

A detailed justification of all proposed costs is required for Part Four and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered non-responsive and consequently, dropped from competition.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals

Notification of awards will be made by the Grants Officer. Organizations whose proposals are unsuccessful will be advised by the Regional Director.

F. Proposal Instructions and Forms

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as commiting MBDA to divide available funds among all qualified applicants. The program is subject to OMB Circular A–95 requirements.

A Pre-Application conference to assist all interested applicants will be held at the above address on March 31, 1982, at 2:00 PM in Room #305.

(11.800 Minority Business Development (Catalog of Federal Domestic Assistance))

Dated: March 1, 1982.

Ralph J. Perez,

Regional Director.

[FR Doc. 82-6122 Filed 3-5-82; 8:45 am]

BILLING CODE 3510-21-M

National Bureau of Standards

Federal Information Processing Standard FORTRAN (FIPS PUB 69); Proposed Interpretation 1, Nested Parentheses in an Expression

Under the provisions of Pub. L. 89–306 (79 Stat. 1127; 40 U.S.C. 759 (f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce is authorized to establish uniform Federal automatic data processing standards. Interpretation number 1 to FIPS FORTRAN (FIPS PUB 69) is being recommended for Federal use. It pertains to nested parentheses in expressions.

This proposed interpretation is in accordance with the Interpretation Procedures for FIPS FORTRAN as contained in Federal Information Processing Standards Publication 60, paragraph 11.3, dated September 4, 1980. The proposed interpretation, if adopted, will serve as an additional specification to FIPS FORTRAN, which is an adoption of the voluntary industry standard (FORTRAN, X3.9–1978) that has been developed by the American National Standards Institute.

The proposed interpretation contains a definition of the problem, identification of the issues, recommended interpretation, supporting justification for the proposed interpretation, necessary clarifications to FIPS FORTRAN to effect the resolution, and the effective date of the interpretation.

Prior to approval of the proposed interpretation by the Natonal Bureau of Standards, it is essential to assure that proper consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

Interested parties may submit comments in writing to the Director, Institute for Computer Sciences and Technology, ATTN: Proposed FORTRAN Interpretation 1, National Bureau of Standards, Washington, DC 20234, not later than June 7, 1982. Telephone inquiries should be directed to Betty Holberton at (301) 921–3485.

Dated: March 2, 1982.

Ernest Ambler,

Director.

FIPS FORTRAN

Interpretation 1—Nested Parentheses in an Expression

Problem: If an arithmetic assignment statement which contains an arbitrary number of sets of nested parentheses surrounding an arithmetic expression fails to be accepted by a processor, does such action cause the processor to fail to conform to the standard?

Issue: Given the following arithmetic assignment statement:

X = (((((...((A))...)))))
with 57 sets of parentheses surrounding the A.

Does failure to accept such a statement cuase the processor to be non-standard conforming?

Interpretation: This interpretation applies to American National Standard FORTRAN X3.9–1978, as it has been adopted as FIPS FORTRAN, FIPS PUB 69. The interpretation is that a FORTRAN processor may impose limitations on the size and complexity of a standard-conforming program that it may accept. Thus, the standard does not specify the number of nested parentheses that a processor must recognize in an expression. Hence, the number is processor-dependent.

Supporting Justification:

References: The following references to American National Standard FORTRAN, X3.9–1978, pertain to the issue involved in this interpretation:

(a) Page 1–1, 1.3 *Scope*, 1.3.2 *Exclusions.* "This standard does not specify * * * (5) The size or complexity of a program and its data that will exceed the capacity of any specific data processing system or the capability of a particular processor."

(b) Page 1–2, 1.4 *Conformance.* "Because a standard-conforming program may place demands on the processor that are not within the scope of this standard, * * *, conformance to this standard does not ensure that a standard-conforming program will execute consistently on all or any standard-conforming processors."

Discussion: The term "processor", as used in the FORTRAN standard, implies the combined actions of a computer (hardware), its operating system, a compiler, and a loader. The processor may impose limitations on the size and complexity of a program in each of the above areas. Thus, a processor may apply a limit to the size of the stack in the parser of the compiler which can affect the acceptable depth of nesting of parentheses permitted in an expression.

[FR Doc. 82-6193 Filed 3-5-82; 8:45 am]

BILLING CODE 3510-CH-M

Postponement of Scheduled Cost Comparison Reviews of Commercial or Industrial Activities Performed by Government Employees

AGENCY: National Bureau of Standards, Commerce.

ACTION: Postponement of scheduled cost comparison reviews of commercial or industrial activities.

Notice is hereby given that, as a result of budgetary uncertainties and the planned consolidation of routine services within the Department of Commerce, the cost comparison reviews of Government Commercial or Industrial Activities performed by government personnel at the National Bureau of Standards (NBS) will be postponed until later in fiscal year 1982. The initial schedule of reviews was published in the **Federal Register** on July 20, 1980 (45 FR 48680). The review schedule was subsequently revised twice and notice of those revisions was published in the **Federal Register** on July 30, 1981 (46 FR 38949) and on October 16, 1981 (46 FR 51006). An announcement of the third revision of the schedule of A–76 reviews will be published in the **Federal Register** when departmental decisions on budgetary levels and the consolidation issues are resolved.

FOR FURTHER INFORMATION CONTACT: Robert S. Johnson, A–76 Coordinator, Office of the Director of Administration, National Bureau of Standards Washington, D.C. 20234, Telephone: (301) 921–2525.

DATED: March 2, 1982.

[FR Doc. 82-6192 Filed 3-5-82; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Opportunity for Financial Assistance for Marine Pollution Research

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: National Oceanic and Atmospheric Administration (NOAA) through its Office of Marine Pollution Assessment (OMPA) announces opportunity for financial assistance for: (1) Research related toeffects of pollution and human-induced changes of marine ecosystems (including ecosystems of the Great Lakes) under sections 201 and 202 of Pub. L. 95–532 (Marine Protection Research and Sanctuaries Act 1972) and (2) research and development and monitoring projects needed to meet priorities set forth by section 6 of Pub. L. 95–273 (National Ocean Pollution Research Development Monitoring Planning Act of 1978).

ADDRESSES: Information concerning conditions under which applications will be received may be obtained from: Operational Programs Office, Office of Marine Pollution Assessment (MPF28), 7600 Sand Point Way NE, Bin C15700, Seattle, WA 98115.

Eligible Applicants

Individuals, corporations, educational institutions and others, including local, State, and Federal agencies may apply.

SUPPLEMENTARY INFORMATION: The overall goal of the OMPA program is to develop, integrate, and apply information required for technically based decisions on use of the marine

environment with acceptable ecological, economic, and social consequences. To address this goal, three objectives have been defined:

1. Determine the ecological consequences of anthropogenic activities which pollute the marine environment.

2. Assess the consequences of marine-polluting activities in terms of ecological, economic, and social impacts.

3. Define and evaluate environment management alternatives which will foster favorable or minimize adverse consequences of anthropogenic use of the marine environment.

Implementation of this program is in recognition of the need to apply current scientific knowledge of marine ecosystem processes to investigate unresolved problems of how to predict the consequences that do or will result from polluting activities. An underlying premise is that society will continue to use the marine environment and that decisions will continue to be made as to how this will be done. The program emphasis is on developing the best environment management alternatives possible *at any given time.*

Consequently, although all of the objectives shown above are being addressed in the broad sense, the current emphasis is being directed toward the third objective—the development of environment management alternatives to reduce the deleterious consequences of specific polluting activities.

Of the several areas of human activities affecting the marine environment, principal concerns are with the following:

1. Marine Waste Disposal.
(a) Sewage Sludge/Effluents.
(b) Contaminated Dredge Material.
(c) Industrial Wastes.
2. Marine Mining.
(a) Outer Continental Shelf Oil and Gas.
(b) Hard Mineral Extraction.
3. Marine Energy.
4. Marine Transportation.
5. Accidental Discharges.
6. Coastal Land Use.
(a) Non-Point Use.
(b) Hazardous Waste Dumpsites.

Some representative examples of problems or approaches considered relevant to the program are listed below:

1. Given a definition of the oceanic distribution and physical/chemical forms of elemental and organic contaminants, predict concentrations of these contaminants in tissues of marine organisms.

2. Determine the body burden level of specific contaminants in individual organisms which will alter their normal life span or reproductive capability.

3. Determine the critical physical properties of sewage sludge which control its dispersion after discharge at an offshore site.

4. What are the time and space scales for a pollutant field resulting from input of a pollutant by different methods, . . . at different sites.

5. Given the time and space scales of a pollutant field, predict the level and nature of biotic exposure to the pollutant.

These approaches may be addressed in different geographic regions, applied to different classes of pollutants and resources, and directed toward consequences with widely different spatial and temporal scales. The development, validation, and documentation of predictive methodologies is of greatest importance to OMPA.

Procedures

Because of the costs associated with the preparation of full-scale proposals, and the importance of programmatic relevance in reaching final decisions on funding, OMPA invites *initial* proposals of no more than five double-spaced typewritten pages which define the nature of the work to be proposed. Review of initial proposals will be based principally on the degree to which the results of the proposed work will be relevant to OMPA's program. For initial proposals which rank sufficiently high after this review, a request will be made to develop full-scale final proposals. Review of these final proposals will be based primarily on scientific quality of the methods and techniques of the then specifically defined research. All final funding decisions will be constrained by the actual amount of funding available.

Initial proposals may be submitted at any time after March 1, 1982 and will be reviewed regularly during the year. It is anticipated that final proposals developed and submitted as a result of favorable reviews of the initial proposals will be reviewed only once in FY82, but in following years, reviews of final proposals will be held twice yearly.

All *initial* proposals must be accompanied by an Initial Proposal Cover Sheet which may be obtained as part of an Application Package by contracting the above address or Dr. Robert E. Burns at (206) 525–0061.

(Federal Domestic Assistance Catalog No. 11.428, Financial Assistance for Marine Pollution Research)

Dated: February 26, 1982.

Mirco P. Saldero,

Deputy Assistant Administrator for Management and Budget.

[FR Doc. 82-6136 Filed 3-5-82; 8:45 am]

BILLING CODE 3510-12-M

Patent and Trademark Office

Current Membership of Performance Review Board

This notice announces the current membership of the Performance Review Board for the Patent and Trademark Office. Since the last announcement of the membership in the Federal Register of July 22, 1981 (46 FR 37746), the terms of two of the members have expired and two new members have been appointed. The former members whose terms have expired are:

William Feldman, Deputy Assistant Commissioner for Patents, U.S. Patent and Trademark Office, Washington, D.C. 20231

Jere W. Sears, Deputy Solicitor, U.S. Patent and Trademark Office, Washington, D.C. 20231.

The two new members are:

Donald J. Quigg, Deputy Commissioner of Patents and Trademarks, U.S. Patent and Trademark Office, Washington, D.C. 20231

Bradford R. Huther, Assistant Commissioner for Finance and Planning, U.S. Patent and Trademark Office, Washington, D.C. 20231

Each new member is appointed to serve as a permanent member and Mr. Quigg is designated to serve as Chairman. The current membership of the PRB is as follows:

Donald J. Quigg, Chairman, Deputy Commissioner of Patents and Trademarks, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—permanent

Rene D. Tegtmeyer, Member, Assistant Commissioner for Patents, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—permanent

Margaret M. Laurence, Member, Assistant Commissioner for Trademarks, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—permanent

Richard J. Shakman, Member, Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—permanent

Bradford R. Huther, Member, Assistant Commissioner for Finance and Planning, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—permanent

James O. Thomas, Jr., Member, Director, Patent Examining Group 140, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—expires January 31, 1983

Herbert C. Wamsley, Member, Director, Trademark Examining Operation, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—expires January 31, 1983.

Richard J. Wieland, (Outside) Member, Assistant General Counsel for Litigation, HQ National Aeronautics and Space Administration, Washington, D.C. 20546. Term—expires July 12, 1984.

Persons desiring any further information about the membership of the PRB may contact Mr. Aaron W. Deitch, Personnel Officer, U.S. Patent and Trademark Office, Washington, D.C. 20231. Telephone (703) 557–2662.

Dated: March 3, 1982.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

[FR Doc. 82-6059 Filed 3-5-82; 8:45 am]

BILLING CODE 3510-16-M

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. CRT 80-4]

1979 Cable Royalty Distribution Determination

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice of final determination.

SUMMARY: The Copyright Royalty Tribunal (Tribunal) announces the adoption of its final determination in the proceeding concerning the distribution to certain copyright owners of royalty fees paid by cable systems for secondary transmissions during 1979.

FOR FURTHER INFORMATION CONTACT: Frances Garcia, Chairman, Copyright Royalty Tribunal, (202) 653–5175.

Introduction

17 U.S.C. 111(d)(5)(B) requires the Tribunal after the first day of August to determine whether a controversy exists concerning the distribution of cable royalty fees deposited by cable systems with the Copyright Office. Upon determination that a controversy exists, 17 U.S.C. 804(d) requires the Chairman of the Tribunal to publish in the Federal Register a notice announcing the commencement of distribution proceedings.

In a notice published in the Federal Register of October 20, 1980 the Tribunal directed that claimants to royalty fees paid by cable operators for secondary transmissions during 1979 submit not later than November 15, 1980 any comments concerning whether a controversy exists concerning the distribution of the 1979 royalty fees.

In a public meeting on November 25, 1980, after giving claimants the opportunity to appear and present arguments, the Tribunal determined that a controversy did in fact exist concerning the distribution of cable royalty fees for the period from January 1 through December 31, 1979. The Tribunal set the effective date of March 2, 1981 and in the Federal Register of February 26, 1981 (46 FR 14154) announced that distribution proceedings had commenced.

Background and Chronology

Structure of Proceeding

The Tribunal directed claimants or their duly authorized representtives to submit proposals on the structure and procedures of the proceedings to the Tribunal no later than March 13, 1981. Reply comments, if any, were to be submitted no later than March 20, 1981. The Tribunal further directed claimants or their duly authorized representatives to submit legal brief or memorandum concerning any question of copyright owership as it affects a claim or right to any of the cable television royalties by March 23, 1981 with reply brief or memorandum, if any, to be submitted no later than March 30, 1981 (February 26, 1981 (46 FR 14154)).

In the Federal Register of April 6, 1981 (46 FR 20586) the Tribunal announced that a conference of claimants or their authorized representatives would be held on April 15, 1981 to discuss the structure and conduct of the distribution proceedings.

Evidentiary Proceeding

In a notice which appeared in the Federal Register on May 1, 1981 (46 FR 24619) the Tribunal announced that after hearing the views of claimants it has determined that the proceeding would be conducted in two separate phases. Phase I would be devoted to determining the percentages, if any, of the 1979 royalty fund which should be awarded to (a) motion picture and syndicated program suppliers; (b) sports, professional and collegiate; (c) public television; (d) music; (e) commercial television; (f) commercial radio; and (g) public radio. Phase II would be devoted to resolving disputes, if any, among claimants within each of these categories.

The Tribunal also ordered parties desiring to present evidence and argument and participate in cross examination during Phase I to notify the Tribunal of said intention on or before May 15, 1981. Only those parties who provided such notice would be permitted to participate in Phase I. Parties were further advised that participation in Phase I was not a prerequisite to participation in Phase II. Phase I of the evidentiary hearing began on July 7, 1981 and continued over a period of 35 days, concluding September 23, 1981. Participants in Phase I were allowed the opportunity to submit rebuttal evidence after the completion of the direct case. The participants were ordered to submit:

a. Names of rebuttal witnesses
b. Concise summary of each witness rebuttal testimony
c. Copies of rebuttal documentary evidence.

The hearings on the substantive aspects of the rebuttal proceeding began on October 5, 1981 and continued over a period of seven days, concluding on October 14, 1981.

In the Federal Register on December 2, 1981 (46 FR 58545) the Tribunal published its summary statement of its Phase I determinations. In accordance with 17 U.S.C. 803(b), a full and complete statement of the Tribunal's conclusions of law, findings of fact, and other relevant determinations will be included in the Tribunal's final determination.

In that same statement the Tribunal, in preparation for Phase II, directed that not later than December 16, 1981 each claimant category shall notify the Tribunal of any voluntary agreements for distribution of royalty fees among the claimants within a category. The Tribunal further directed that not later than December 16, 1981 any claimant desiring to present evidence during Phase II shall notify the Tribunal of such intention, and the Phase II issues to be decided. Additionally, the Tribunal directed that not later than January 7, 1982 parties participating in Phase II to file with the Tribunal and exchange with other parties their direct, written cases, including list of witnesses, pre-hearing statements, any written witness statements, and all documentary evidence.

Phase II of the evidentiary hearing began on January 19, 1982 and continued over a period of eight days, concluding on January 29, 1982. The Tribunal notified the parties that rebuttal exhibits and/or statements should be exchanged with the parties by the close of business on Monday, February 1, 1982. The hearings on the substantive aspects of the rebuttal proceeding began on February 3, 1982 and continued over a period of three days concluding on

February 5, 1982. The Tribunal ordered the parties to submit findings of fact and conclusons of law on February 16, 1982.

In the Phase II proceeding Multimedia and other parties raised the issue of compliance regarding 20 claims in the program syndicators category. On February 17, 1982 the Tribunal made a request to the Motion Picture Association of America to furnish any materials appropriate to establishing the validity of the 20 claims objected to by Multimedia Program Productions. This material was to be submitted to the Tribunal and interested parties by 2:00 p.m. on February 19, 1982. Replies, if any, were to be submitted by 2:00 p.m. on February 22, 1982.

Summary of Evidentiary Positions of Major Claimants—Phase I

Motion Picture Association of America (MPAA)

MPAA claimed for an allocation of 80.5% of the 1979 cable royalty fund.[1] As the centerpiece for this claim, MPAA presented a Nielsen study of the viewing of distant signal programming by cable households.[2] MPAA contended that the Nielsen Report provided the most reliable and objective figures concerning the relative importance of programming types [3] and that it is a realistic and valid measure of harm, benefit, and marketplace value,[4] thereby conforming with the criteria the Tribunal established as a result of the 1978 cable royalty distribution proceeding. Harm to syndicators is directly affected by increased viewing via distant signal carriage.[5] Benefit to cable operators is confirmed by the very substantial amount of syndicated series and movies which are included in the programming mix.[6] And the proven record of syndicated series and movies argue that they attract subscribers and therefore measures what their demand would be in the marketplace.[7] The wide use and respect for Nielsen data in the industry were a further argument for basing an allocation upon their figures.[8] In the MPAA survey those figures for syndicated programming and movies were 83% for viewing, and 72% for time.[9]

In addition to the Nielsen survey, MPAA presented other evidence and testimony to demonstrate that program syndicators are harmed by distant signal retransmission. Besides suffering from "lost compensation," which can be said to be a harm suffered by all copyright owners,[10] MPAA argued that program syndicators are particularly harmed in that they are completely dependent on syndication in order to realize their return on investment.[11] In 1978–1979 there was a marked inability to sell series in heavily cabled markets.[12] Syndication is not economically feasible on a first-run basis, and therefore network syndication is the means by which the production must first be financed.[13] The secondary syndication market is the means by which companies generally make their profits.[14] Contracts in recent years have caused the length of time it takes for a series to reach its critical mass to be increased; which in turn has caused the financial situation of producers to become more precarious.[15] Cable penetration both has reduced the viewership of network and, because their advertising revenues are affected, has caused them to have fewer funds available for program production.[16] It has also reduced the price at which syndicated series can be sold.[17] The fact that the most heavily cabled markets are frequently the smallest is not, in MPAA's judgement, any reason for this harm to be discounted because the importance of profits from these markets is still significant.[18] MPAA argued that the high prices of some programs are an indication of what other programs in other circumstances have failed to sell for because of cable penetration.[19] MPAA considered that the Nielsen survey was a good measurement of this harm, because distant signal viewing reflects the amount of viewing they have lost in local markets where they sell their programming.[20] MPAA also contended that in contrast to the viewing received by other programming, the amount of viewing received by MPAA programming is a measurement of the degree to which it is more greatly harmed than that of other parties to the proceeding.[21]

In MPAA's judgment, the criteria of benefit to the cable operator and marketplace value are related and therefore should be considered together.[22] The nation-wide appeal of movies and syndicated programming, because they are produced and sold on a national basis, cause their benefit and marketplace value to be greater relatively than that of sports or local station programming.[23] MPAA felt again that the Nielsen survey was the best evidence of this.[24] The results (83% viewing) conform with those in a Joint Sports survey in the 1978 proceedings.[25] The Nielsen survey, according to MPAA, further includes all values of programming as they may relate to prime time and any regional interest.[26] Nor does "hyping" during sweep weeks, in the MPAA's judgment, cause any distortion of the relative values which can be deduced between different kinds of programming from the Nielsen survey.[27] MPAA argued that to the degree that sports might be under-represented during the sweep weeks, they are so because their attractiveness is less than that of movies and sydicated programming.[28] In terms of the Nielsen survey MPAA considered its claim justified on the basis of benefit and marketplace value.[29]

As regards the secondary criterion of time, MPAA considered that the Nielsen survey provided a standard according to which their claim could be justified on that basis also. In that study the sydicated series and movies time share was 72% on a weighed basis and 74.16% on an unweighed basis.[30]

As to the secondary criterion of quality, MPAA cited factors such as awards which would certify their programming as of high quality, and regarded viewing as a measure which would also satisfy this criterion.[31]

The Nielsen survey was the centerpiece of the MPAA case, and its purpose was to provide as accurate a measure as possible of the viewing of distant signal programming by cable households.[32] To achieve this, the study was broken into three steps: choice of the sample stations; determination of distant signal carriage, and categorization of programs.[33] A random sample was rejected because of the high probability that many of the stations would not be carried as distant signals and that their programming would therefore not be representative.[34] Since viewing data was not available upon which to base such a sample, the fee-generation methodology employed in the 1978 proceedings was substituted "because it provides a good approximation of the distant carriage of a particular station." [35] The ratio of 4:1 between independent and network affiliate stations stated in the Copyright Act was respected in employing the fees stations generated as the measure by which they were selected for the sample.[36] The original sampling frame of 104 stations was reduced and stratified into 25 network affiliate and 25 independents.[37] The MPAA contended that the greater importance given to independents in the survey reflects accurately the real world and the relative greater importance of independent distant signal carriage.[38] The survey further weighed the figures of individual stations to project the results to 100 station sampling frame.[39] This weighting was based upon the probability of a station being selected according to its fees generated and according to whether it was a member of a commonly owned group.[40] MPAA rejected the suggestion that any particular kind of programming, such as sports, was injured by this limitation to one station from any commonly owned group on the grounds that there is no demonstrable difference in programming between one station in a group and another.[41] MPAA cited the high level of fees generated attributable to the stations in the sample and in the sampling frame as evidence of the liklihood that the results would correlate very closely with the real world.[42] The results of the viewing for the superstations was cited further as evidence.[43] The sampling frame can also be considered accurate, in the judgment of MPAA, because it reflects the fact that a large number of the 700 or so commercial stations are not carried as a distant signal.[44] Nor is it impaired by the fact that it doesn't include any Form 1 or 2 cable systems; because they represent a very small proportion of the royalty pool and their viewing would very likely be similar to that of Form 3 systems anyway.

The survey was careful to insure that the distinction used between "distant" and "local" conformed to that in the Copyright Act, and not that traditionally used by Nielsen in its other surveys.[45] The distinction in the Copyright Act depends on the FCC definition of "must carry" and "may carry", and these in turn are based upon a geographic contour and a standard of what is "significantly viewed." [46] In order to reduce as much as possible any selection based upon personal judgment, the standard in nearly 90% of the cases was significantly viewed," and when this was not possible the Grade A and B contours were used, so that in only a very small percentage of cases was a distinction made based upon personal judgment.[47]

The program categorization followed, at least to some extent, the program types which were awarded shares in the 1978 distribution.[48] In order to eliminate all network programming Nielsen applied the codes to the results of the survey that it uses normally for such programming.[49] Then two separate classifications of the programming were made; one by Larson Associates and one by Nielsen.[50] Nielsen employed its own expert, the *Nielsen Syndicated Dictionary, BIB ID Sourcebook,* and *Television Radio Age;* and Larson employed the *Annual Programming Reports,* the *BIB ID Sourcebook, Nielsen ROSP, TV Guide,* and telephone calls to the stations.[51] At the end of the classification the lists were exchanged; however, it was agreed beforehand that the final judgment would rest in the hands of Nielsen.[52]

The substance of the survey were the time and viewing figures developed by Nielsen.[53] The source of these figures were the diaries collected by Nielsen from households subscribing to cable.[54] Every station's distant signal viewing from all over the country was counted.[55] The quarter hours of programming on an individual station basis,[56] then, to provide the bottom line figure for each group, were weighted separately within either the network or the independent group.[57] The percentages at the bottom of the study represent the percentages of the total attributable to the various categories of programming.[58] Blacked-out programming, by definition, would not appear, because no figures would be shown.

The survey, based on all four sweep periods, shows the following time and viewing percentages:[59]

	Local (percent)	Syndicated series (percent)	Devotional series (percent)	Non-network movies (percent)	Major sports (percent)	Minor sports (percent)	Other (percent)
Time	18	48	5	23	2	1	0
Viewing	8	53	1	30	5	1	0

MPAA proposed the following allocation for all claimants:[60]

MPAA	[1]80.50
Sports	7.25
NAB	2.25
PBS	2.25
Music	2.25
NPR	.25
CBC	4.50
Devotional	.25
	[1]100.00

[1] Percent.

The Joint Sports Claimants

The claims made by Joint Sports was for 35% of the royalty fund. The Joint Sports claimants contended that their case, more than any of the others, relied most heavily on evidence that conformed with the Tribunal's criteria, in that their focus was specifically on the value of Sports programming to cable operators.[61] Joint Sports claimed that the value of the programming was much greater then the time it occupied, or its viewing.[62] Joint Sports further based its claim on two considerations: That no single formula succeeds in taking into account all pertinent data, and that the proceeding for 1979 reflects circumstances in the industry that are entirely different from what they were in 1978.[63] Joint Sports also emphasized that it was with respect to the claim of

movies and program syndication that its claim was made, in that the two are the largest claimants.[84]

Joint Sports considered that the value of sports programming to cable operators was most effectively proved by the testimony of cable operators themselves,[85] and that such testimony suggested that sports and movie programming were valued equally.[86] Joint Sports considered that three witnesses provided especially valuable testimony: Charles Dolan and Chester Simmons, who appeared on behalf of Sports, and James Hall, who appeared on behalf of NAB.[87] Charles Dolan is the Chief Executive Officer of Cablevision, Chester Simmons is the Chief Executive Officer of Entertainment and Sports Programming Network (ESPN), and James Hall is responsible for the management of cable systems owned by Storer Cable Communication.

Joint Sports considers that the three men offered incontrovertible testimony as to the value of Sports programming to cable systems.[88] Sports programming is the most important programming when a cable system considers which distant signal to import,[89] or at least is equal with movies.[70] Its appeal to cable operators is not on the basis of viewing.[71] Rather it is the ability of sports programming to attract subscribers.[72] Sports programming as distinct from movies or syndicated programming is unique.[73] Sports is carried primarily at times when most viewers can watch television.[74] Sports satisfies the primary advantage that cable offers to subscribers, in that it offers choice beyond what is available locally.[75] While movies and syndicated programming is fungible with programming of its own kind, sports cannot be duplicated.[76] In 2979 Sports did not place the same administrative burden on cable operators that syndicated programming did, to be blacked out in accordance with syndicated exclusivity rules.[77] Sports' underlying value is demonstrated by the fact that even in markets where it is saturated, like New York, sports programming is still of great interest to cable operators.[78]

The Joint Sports claimants introduced a study by BBDO in order to demonstrate that the views held by the cable operators who testified were also shared by others in the industry.[79] To correct the deficiencies that were pointed out in connection with a similar study presented by Sports in the 1978 proceeding, the survey in this proceeding was careful to distinguish between distant signal programming and "made for cable" programming and between network and nonnetwork sports; the study also focussed only on distant signal programming that was actually imported.[90] Interviews were conducted by telephone and embraced 31 of the nation's 50 largest MSO's and 53 of 108 randomly selected Form 3 cable system managers.[91] The results were that sports and movies were considered by far the most valuable distant signal programming, with syndicated programming considered much less important.[92] The method of the study was to ask each respondent what dollar value, out of $100, he would place upon each type of programming.[93]

BBDO STUDY—AVERAGE ALLOCATIONS FOR DISTANT SIGNAL PROGRAMMING CATEGORIES CARRIED IN 1979

(In percent)

	MSO executives	System managers
Movies	38.00	42.86
Live nonnetwork sports	35.00	33.96
Syndicated TV shows	10.57	10.62
News and public affairs	9.40	6.31
PBS and other educational station programming	7.03	6.21

The decline in the results from movies in comparison with the study Sports presented in the 1978 proceeding was attributed to the distinction made in this study between distant signal movies and those on pay cable.[94] The higher value to sports, in turn, was presumbly the converse of this effect.[95]

In addition Joint Sports introduced an econometric study prepared by Lexecon, Inc., to show that the amount of time sports programming is carried by stations has a significantly greater impact on whether that station is carried as a distant signal than does the amount of time it carries of other types of programming.[96] The marginal effect of sports programming on whether or not a station would be carried as a distant signal was found to be 5.9 to 6.6 times greater than that of movies and syndicated programming.[97] On the basis of MPAA/Nielsen data submitted in the 1978 proceeding the marginal effect of sports was found to be 7.2 to 9.9 times greater.[98]

Joint Sports supported these conclusions also with reference to studies submitted by other parties which show the value that cable subscribers place upon sports programming: the Arbitron study submitted by NAB, and the MPAA/Nielsen survey.[99] The conclusion was that sports and movies are the resaons individuals subscribe to cable.[99] Syndicated series were less a reason.[91] The interest in sports has increased from 1978 to 1979.[99]

With respect to the MPAA/Nielsen survey, in the eyes of the Joint Sports claimants, its results reflect the fact that Sports programming is of much greater interest to cable viewers than its time on the air measures.[98] Sports programming's average audience is substantially greater than that for any other program category.[94] Its share of total audience viewing is significantly higher than its share of broadcast time,[95] a ratio of 2.64 to 1,[96] and these values are reflected in prime time viewing of sports.[97]

The distant carriage of sports flagship stations was considered, by the Joint Sports Claimants to be a significant measure of the interest in sports programming,[98] especially as between 1978 and 1979.[99] In 1979 five percent of U.S. television stations were flagship stations; yet they were all carried as one or more distant signals by virtaully every cable sytem.[100] Furthermore, the sports flagship stations contributed 58% to the royalty pool on the MPAA fee-generation basis; in 1978 51%.[101] In 1979 this was an 11⅓ times greater contribution than that of the average television station as opposed to a contribution in 1978 8.8 times greater.[102] The importance of distant signals was overwhelmingly in favor of flagship stations carrying relatively large amounts of sports programming.[103]

Joint Sports submitted that the growth of superstations in 1979 is a factor that must be taken into account in any assessment of the value of sports programming.[104] They were all sports flagship stations and they were the least costly and easiest distant signals to import.[105] To the extent that selection for satellite retranamission is not the choice of the stations themselves, the choice reflects the kind of programming that the cable industry considers the most valuable.[106] To the extent that programming is a factor, the fact that all superstations were sports flagship stations is significant.[107] Evidence was submitted that sports programming is very important to superstations.[108]

The Joint Sport Claimants also submitted evidence to the effect that while cable operators may be interested in other types of programming,[109] documents and testimony before the FCC, nevertheless, do show the interest that cable operators have in sports programing.[110]

According to Joint Sports, the amounts paid by broadcasters for programming rights, contrary to the assertin of MPAA,[111] also attest to the greater value they place upon sports programming.[112] A comparison of the average amount stations which buy movie and syndication rights pay for those rights, with the average amount stations which buy sports programming pay for that programming, reveals that a substantially higher sum is paid per hour of sports programming than for movies ans syndication.[113] Joint Sports cited also as evidence in support of this a comparison of spot ad rates on several flagship stations.[114] The values of sports programming to cable operators is further increased, with respect to movies and syndication, by the fact that much syndication represents duplication [115] and that much of it also is required to be blacked out.[116]

Finally, the Joint Sports Claimants contended that, while it is impossible to quantify the harm to sports from cable retransmission;[117] nevertheless, as an issue harm is much more compelling with respect to sports than it is with respect to other claimants.[118] Joint Sports stated that this harm is due in a major respect to the breadth of the markets in which sports is marketed and in which there is distant signal cable importation.[119] The ephermeral nature of sports is also a way in which it is harmed as no other claimant is.[120] Moreover, the assumption that sports was harmed by cable was present during the entire legislative course of the passage of the Copyright Act.[121] This is a presumption that can further be drawn from the fact thart rival sports clubs do not televise into each other's home markets.[122] Also, the Sports interests have shown their conviction that cable importation is harmful in their efforts before the FCC.[123] and in litigation.[124] The Sports Claimants contended that this harm is an assumption held by everyone in the industry.[125]

Joint Sports proposed the following allocation for all claimants:[126]

	Percent
Movies and syndicated program suppliers (including suppliers of religious programs)	54.00
Joint sports claimants	35.00
Public broadcasting	3.75
Music	3.75
Commercial television broadcasters (including Canadian broadcasters) (for local programming in which they own the copyright)	3.25
Radio	.25
Total	100.00

National Association of Broadcasters (NAB)

NAB made claims according to two methodologies. According to one the royalty share for commercial broadcasters was 17.2%;[127] according to the other it was 12.7%.[128]

NAB contended that, with respect to the criteria established by the Tribunal, the relevant marketplace concerning distant signal retransmission has never existed, and therefore that it must be treated as a summation of other factors such as benefit and harm.[129] The spot ad rates in the record were from the broadcasting market, not the cable market, and in the one instance where distant signal advertising is sold, WTBS, the station refused to furnish the figures.[130] Broadcast program station expenditures bear no relationship to the value of distant signal programming, and, in any event, if any comparison were to be made on this basis, it would have to include many broadcast expenses than those strictly associated with programming rights.[131]

For its claim, NAB therefore relied most heavily on the benefit it contended local station programming provides cable operators as a distant signal. NAB presented four witnesses whose tesfimony was to this effect: James Hall, Vice President for Operation of Storer Cable Communication; Philip McHugh, Chairman of McHugh & Hoffman, Inc., Dr. Leo Beranek, Chairman of the Board of Directors of Boston Broadcasters, Inc. (BBI); and Paul Rich, Vice president of Operations of BBI Communications, Inc.[132]

NAB considered that the advantage, on a distant signal basis, of local station programming to cable operators is the variety that it offers and the fact that it allows the operator to fill as many full channel of programming as possible.[133] Its appeal can also be measured in terms of its relevance to the cable community served; its uniqueness; whether, without subscribing to cable, it is unavailable; its promotability; and its value with respect to the impact of nonbroadcast services, i.e., pay cable.[134] Of prime importance is diversity,[135] which the 1979–80 NEM Arbitron study, introduced by NAB, confirmed to the extent that cable subscribers indicated that the most important reason for subscribing was program choice.[136] Cable operators choose "bundles" of different types of programming as distant signals, not individual programs.[137] The regression analysis prepared for NAB by Information and Analysis, Inc., found that the popularity of particular programs was not a factor in a cable operators selection of a distant signal for retransmission.[138] Instead, the studies prepared by Wharton Econometrics Forecasting Associates, Inc., suggested that this selection was related to (1) the amount of non-network distant signal time occupied by station-originated programming, (2) the proximity between cable systems and the distant signals they import, and (3) the respective size of the television market from which the signal is being imported with respect to the television market into which it is being retransmitted.[139] Ultimately, the only measure of a distant signal's value to cable operators is its ability to attract subscribers.[140] Audience ratings are not such a measure because they do not gauge the ability of a particular signal to sell subscriptions,[141] and Norman Hecht, President of Information and Analysis, Inc., testified that from his experiences cable operators are not interested in viewership ratings.[142]

NAB contended that the appeal of local station programming to cable operators can be found in such programming as "soft news," which has an interest broader than that of the local market in which it is produced;[143] in station originated news for which the demand is increasing;[144] and in many other kinds of programming, particularly children's programming, such as "Mister Rogers' Neighborhood," whose broadcast is not restricted to the local market.[146] Even superstations promote the basis of their own locally produced programming.[146] And in some instances station-produced programming has been the reason cable operators have imported a particular signal.[147]

NAB contended that one of the prime benefits to cable operators of local broadcast stations was their proximity.[148] Most distant signals are imported from communities that are relatively nearby.[149] In 1979 nearly three-quarters of the distant signals imported were from television stations located within 150 miles of the cable system.[150] Cost incontestably was the principal reason for this.[151] But the advantage that signals which are closer and cheaper to import provide cable operators is enhanced further by the interest that large markets have for the inhabitants of nearby smaller markets.[152] In 1979 signals from markets larger than those into which the signals were being imported constituted 73% of total distant signal importation.[153] News in particular has an appeal if it is from nearby.[154]

NAB considered that the best relative criterion on which to base a measure of value was that of time,[155] although time cannot be taken as a measure by itself; and NAB conceded that the Tribunal was correct in its judgment in the 1978 proceeding which was that time was only a criterion of secondary importance.[156] According to NAB, time can serve as a useful measure against which the three primary criteria can be judged: harm, benefit, and marketplace value.[157] The issue is not whether time should be conceded as relevant, since such a concession is already inherent in

the cases of all parties;[156] but to what extent it should be weighed.[159] NAB calculated from its Wharton Study what a time share would be for PBS [160] (since in the MPAA/Nielsen study, a time share for public broadcasting was not included) and produced a time share for major claimant categories as follows:[161]

(In percent)

Program type	MPAA/ Nielsen unadjusted share of time [a]	Actual share of U.S. distant signal time
Syndicated series (including devotional)	54.5	48.9
Movies	23.2	20.8
Local	10.2	17.3
Joint sports	2.0	1.6
PBS	[b]12.5	11.2
Total	111.8	100

The percentage of 17.3% derived from the MPAA/Nielsen study as the share of time for local station programming was consistent, in NAB's judgment, with the 14% derived from the Wharton Study;[162] because in the Wharton Study conservative assumptions were made concerning the relationship between local programming and sports, foreign programming, and advertising time.[163]

With regard to the criterion of quality, NAB considered that it was an extremely difficult criterion to assess and that it was not necessary to have recourse to it as a basis for allocation in the 1979 proceeding. The record without it was complete enough to provide for an allocation according to any number of bases.[164] However, to the extent that the cost of production can be considered a measure of quality, NAB contended that its expense in this regard qualified it to meet a very high standard.[165]

With regard to harm, NAB contended that to the extent that distant signal importation of local station programming constitutes the use of copyrighted materials without compensation to the owner, broadcasters were harmed to the same degree that all other copyright owners were.[166] Broadcasters suffer lost audiences, for instance, to the same extent that sports do.[167] However, unlike sports, movies, and syndicated programming, broadcasters do not benefit from the advantages, referred to as "compensating balances," that cable opens up for these kinds of programming, and which allow them to be sold in other cable markets.[168] Also, viewing data does not show harm unless it is able to make the comparison between viewing before a signal was imported and afterward.[169]

NAB asserted that its programming has value as syndiction,[170] and that the damage that national syndicators claim to suffer from distant signal importation is not borne out by the prices that they are still able to demand.[171]

NAB claims that the record in the 1979 proceeding is sufficiently complete for allocation to be made for radio programming.[172] 90% of all cable systems carried radio, and, of that, a large percentage on a distant signal basis.[173] According to the Wharton Survey, for FM radio this was 45.7%.[174] In 1979, according to the NEM Arbitron Study, 16.9% of all cable subscribers received distant radio signals.[175] Independent of any of the more intangible values that radio represents to cable operators, such as "formatting,"[176] its value can be calculated by multiplying the extent of its carriage times the price charged,[177] a result which produces a share for all radio, including NPR, of 2.8%. NAB argued that the preponderance of this should go to commercial broadcasters, because the percentage of FM distant radio which is commercial is 85%.[178] Nor is the value of public radio broadcasting proven to be necessarily more intrinsically worthwhile than commercial radio.[179]

With regard to the share that music might justifiably claim as its part of commercial radio, NAB considered that this had to be viewed in the context of radio in general; "unlike television, radio listeners choose *stations*, not programs." [180] While an appeal, music is not the only appeal a station will have and constitutes no more than 30% of the ingredients that make a station successful.[181]

In its calculation of a proposed allocation, NAB at first presented two alternative formulas. The first of these was based upon the quantity of distant signal retransmission, in other words, time. This was weighted by other factors to reflect the different degrees of value of different kinds of programming to cable operators.[182] The alternative formula was based upon the viewers' standpoint and the reasons individuals subscribe to cable.[183] The following were the results of the two methods:[184]

	Proposed allocation (percent)	Alternative proposed allocation (percent)
Syndicated series and movies	61.3	56.1
Sports	7.2	12.1
Commercial TV	17.2	12.7
PBS	7.8	10.5
Canadian	.3	.3
Music	4.5	4.5
Commercial radio	1.7	1.7
NPR	.9	.9

Public Broadcasting Service (PBS)

PBS argued that its share of the royalty fund should be 85%.[185]

Harm

On the criterion of harm, PBS witnesses testified the following: That there are two catergories of harm which are sustained by public television. One is the harm that may be suffered by public television producers in the marketing of their programs, distant cable carriage of a given program diminishing the interest in that program by local public television stations whose support is necessary to clear the program through the "station program cooperative" (SPC) process. The second category is that caused by the importation of distant public television signals which erode the local base of financial support for a public television station in the distant cable community. With regard to instructional programming, there was some indication of adverse impact on the sales of an adult educational program series in neighboring states by virtue of the carriage of signals across state lines; also a non-monetary type of harm instructional television programs have been imported without the benefit of the advance community planning and coordination that is supposed to go into the use of those programs.[186]

Benefit and Marketplace Value

PBS argued that, while marketplace value is closely tied to the size of the viewing audience for commercial television, this is not an appropriate measure for marketplace value of public television (PTV), and PTV does not look to mass audience appeal and ratings as a measure of its success. PTV cares more about the program than its numbers.[187]

Evidence was presented to show an increase of approximately 22% of PTV stations carried on a distant signal basis.[188] The aggregate number of instances of distant public television carriage in 1979 increased approximately 28%,[189] and the aggregate number of subscribers attributable to these instances of distant carriage increased by approximately 28%.[190]

PBS utilized the Larson 1979 studies to show that PTV signals accounted for 9.1% of the aggregate instances of all distant signal carriage,[191] which includes a variety of different types of part-time signals. This is consistent with the overall data for commercial stations. Subsequent examination of the underlying data established that, when only full-time distant signals were considered, PTV represented 10.7% of the total.[192]

Two "attitudinal" surveys in the record were referred to: one by BBDO and the other by Arbitron, both noted by their sponsoring witnesses as only supplemental tools with which to measure value.[193] In the BBDO survey respondents expressed their valuation of PTV in terms of time and dollars in a range of from 6.1% to 10.7%.[194] In the Arbitron survey of television preference public television ranked third.[195] PBS argued that the "attitudinal" surveys support its arguments with regard to the benefit and market value of its programming. While people may spend more time viewing entertainment fare on commercial television signals, they nonetheless place substantial value on the opportunity to view the type of programming that is available on public television.

Another factor contributing to the marketplace value and benefit of distant public television signals related/to the quality of over-the-air reception of the signals of public television stations. In the Arbitron survey a number of respondents indicated they subscribe to cable in order to obtain better reception.[196] PBS stated that many public television stations operate on UHF channels, and testimoney was presented concerning the technical difficulties encountered by UHF television stations.[197] In rebutal testimony a PBS witness expressed the view that while the distant carriage of a UHF television station would be of benefit and value to that station, more so than to a VHF station, the distant carriage of a UHF station by the same token would be of a greater benefit and value to cable operators and subscribers than would the distant carriage of a UHF station.[198]

The statute under which federal funds are provided to public television authorizes and directs the Corporation of Public Broadcasting to facilitate the "full development of telecommunications in which programs of high quality, diversity, creativity, excellence and innovation . . . will be made availble to public telecommunications entities." [199] PBS witness testified that PBS regularly provides reports to Congress on its accomplishments and its efforts to meet these standards.[200]

PBS presented five witnesses who testified concerning the quality of PTV programming. The essence of their testimony was that the public television system is different from that of commercial television, which provides programming primarily geared to mass audience tastes and the need to satisfy advertisers in a profit-oriented business. Public television, on the other hand, has the purpose and mission of presenting an alternative program service, whose standards consist of quality, innovation and diversity.

Quantity

PBS cited the study conducted by NAB of Form 1, 2 and 3 cable systems, according to which public television in 1979 constituted approximately 13% of the total time on distant signals.[201]

PBS proposed the following allocation for all claimants:[202]

MPAA and other program syndicators including claimants for syndicated religious programs and programs syndicated by commercial television stations represented by the NAB	[1] 72.00
The joint professional sports claimants and NCAA	12.00
Music performing rights societies	4.50
Commercial television station claimants for station-produced programs that are not syndicated (NAB)	3.00
Total for commercial television claimants	91.50
Canadian Broadcasting Corporation	6.25
All radio	6.25

[1] Percent.

American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), and Sesac, Inc. (Music)

All music claimants joined in one presentation. Music presented evidence on three questions: (1) Music's share of cable royalties attributable to distant cable television carriage; (2) Music's share of cable royalties attributable to distant cable radio carriage; and (3) the division of the total cable royalty fund into television and radio components, which Music claimants felt was necessary for the computation of Music's share of the total fund.

Marketplace

On the question of marketplace value, Music claimed that the closest marketplace analogy available with respect to Music's share was the amount paid for copyrighted works by local television broadcasters.[203] This analogy was felt best because it shows the relative payments by broadcasters for exactly the same copyrighted works as carried by cable operators.

The music claimants argued that the data concerning these payments, complied by the FCC, is not subject to the statistical manipulation that they claimed marked other evidentiary showings in the proceeding and therefore had significant probative value. That report sets forth commercial television stations' operating expenses. Music claimants argued that the only issue before the Tribunal was the value of copyrighted works to cable operators. Stations have many expenses which are not related to expenses for copyright works and hence not related to this issue. Therefore, Music claimants contended that only three of the stations program expense categories were relevant: (1) music license fees; (2) rental and amortization of film and tape; and (3) other program and performing rights.[204] These are the only FCC program expense categories which include amounts paid for copyright rights by local televisioin broadcasters.[205]

Music claimed that other expense categories in the FCC report were not pertinent.[206] Rather, they are cost elements incurred in the day-to-day operations of a television station, including salaries for all program department personnel, travel and entertainment, and the like. Music argued that the costs incurred in producing a program do not represent the marketplace value of that program. An expense program with little audience appeal has less value in the market than a much cheaper program with great audience appeal.

Music presented evidence purporting to show that locally originated programming is of minimal value and therefore has no effect on the computation of relative shares shown by FCC data.

Harm

The music claimants argued that they suffered harm from distant cable carriage in several ways. They claimed copyright owners of music are harmed on an individual basis, because the importation of a certain program by distant signal into a given market, forecloses the likelihood that a television station in the market will buy the program and air it. The music contained in the excluded program will be also excluded.[207]

The fact that performing rights in music are licensed on a non-exclusive, blanket basis does not mean that, on a collective basis, Music is harmed less than the program producers and syndicators: If both the particular program and its music are denied a chance to be sold to a broadcaster in the cable system's market, a different program—with different music—will be

sold to fill that time slot.[208] In this respect, the harm to both Music and program producers and syndicators from cable importation can be said to be equal.[209]

Testimony was presented with respect to additional harm. The competition from distant signals received in a given market reduces the audiences for the local television stations in that market. With a station's audience smaller, its advertising revenues are reduced.[210] The reduction in local stations' advertising revenues causes direct harm to Music because the music license fees paid by local television broadcasters are based upon a percentage of advertising revenues.[211]

Benefit

Music runs throughout all programming, not only movies and syndicated shows, but also public affairs programming; [212] sports; [213] public broadcasting; [214] and even religious and devotional programming.[215] The Music claimants contended that because of this, music benefits cable systems in exactly the same way, and to the same extent, that programs themselves benefit cable systems.

Quality and Time

Music testified that because ASCAP, BMI, and SESAC represent virtually all copyrighted music, music of the "highest" quality, judged on any basis, is included in Music's claim. To the degree that certain programming is deemed of "higher" quality than other programming, the music it contains is also of "higher" quality. Many of the programs cited by public broadcasting as being of "high" quality were primarily devoted to music.[216]

Because music runs throughout all television programming, a time factor cannot be isolated as such. To the degree that time is used as a basis for evaluating a share for a specific type of programming, however, music must automatically be included in that evaluation.

Music proposed the following allocation for all claimants: [217]

Claimant group	Television (percent)	Radio (percent)	Total (percent)
Music	6.50	2.50	9.00
Program producers and syndicators	72.00		72.00
Joint sports claimants	11.50		11.50
Public broadcasting service	3.75		3.75
U.S. commercial and Canadian broadcasters	3.00	0.50	3.50
National public radio		0.25	0.25
Total	96.75	3.25	100.00

Canadian Broadcasting Claimants

The Canadian broadcasting claimants propose that a share of the royalty fund be awarded to their group for all programming carried on Canadian television and radio stations.

The case on behalf of Canadian broadcasters was presented by the Canadian Broadcasting Corporation ("CBC"). CBC presented witnesses and studies in support of a claim for 4.8% of the royalty fund for television and 0.5% of the fund for radio, for a total of 5.3%.

Testimony was presented by three witnesses on (1) the nature of CBC television and radio programs (2) the data on the programming broadcast on a Canadian television station during the FCC's Composite week and (3) the extent to which Canadian television and radio signals are carried on United States cable systems.

CBC claimed all its programming qualified as either local or non-network and stressed its role as a major broadcaster. CBC relied on the MPAA fee-generated approach as a basis for quantifying the Canadian claim.

CBC proposed the following allocation for all claimants:[218]

Music claimants	9.0
PBS	2.5
Canadian claimants	4.8
NPR	0.5
MPAA	64.0
JSC	8.0
NAB	8.0
Other claimants	0
	[1] 100.0

[1] Percent.

National Public Radio (NPR)

NPR Claimed a share of 3.78%.[219]

NPR stated that there were difficulties in establishing this share because of the limited data cable systems declare on their statements of Account.[220] Nevertheless, NPR contended that there was sufficient evidence to justify its award according to the Tribunal's criteria.[221]

The marketplace, as such, is difficult to establish in the case of a noncommercial product;[222] therefore, NPR's case established itself primarily as the measure of the value and benefit of NPR programming to cable operators.[223]

An Arbitron Study, "Ratings of Specific Cable Program Services," was submitted which showed that cable subscribers gave more high ratings to distant FM station service than to distant television signals.[224] With respect to the distant carriage of public radio, NPR presented evidence to the effect that: In 1979 the vast majority of cable systems carried radio; in the NPR survey of over 250 cable systems this was 88.9%; and of the Form 3 systems in that survey 98.7%.[225] As for distant carriage, the NPR survey showed that of all cable systems approximatley half, or 2000 cable systems, carried NPR on a distant signal basis,[226] and that among Form 3 system NPR carriage on a distant signal basis was 63%, or approximately 643 systems, and that as a select signal its carriage was 43%.[227] The percentage as a distant signal of those NPR stations carried on cable systems in general was 77%.[228] Each NPR station is carried on the average by 12 cable systems.[229] NPR contended that this carriage alone was sufficient to establish that cable operators consider its programming a benefit.[230] Each week NPR stations produce on the average 150 hours of original programming.[231]

NPR also cited evidence of the appeal of its programming to subscribers [232] and argued that its programming appeals to "upscale" subscribers who might not be otherwise interested in the programming offered by cable.[233] As a result, it can be assumed that NPR programming is a force which attract subscribers [234] and that it contributes in retaining them, thereby reducing "churn".[235] In the NPR survey, 12% of the cable systems charged separately for radio service; and of them, the percentage of their subscribers paying extra for this service was 7.6%.[236] It cannot be assumed that radio use in general is below that level.[237]

NPR considered that a major benefit of NPR programming was its uniqueness, and that in the marketplace similar programming is not available other than through NPR.[238] This stems partly from the absence of commercials and partly from the particular theme and cohesion of NPR programming.[239] In addition, NPR signals are broadcast directly to only 60% of the population and in 30 of the 100 largest markets there are no NPR signals whatsoever.[240] The benefit to cable operators is being able to retransmit NPR programming is in direct proportion to its unavailability. The wise diversity among NPR stations, however, also causes them to benefit cable and be of value to subscribers, even when a signal is retransmitted within a market where an NMPR station may alrady exist.[241]

One measure of the value of NPR programming is the amount listeners pay. In 1979 over 400,000 listeners donated an average of $23 to NPR.[242] As a percentage of all subscriber fees to cable systems, those for radio represented 1.49% of the total; as a percentage of fees paid for television services alone, 2.16%.[243] When it occurs,

the cost of audio service is generally 10 percent of that for video service.[244]

Other indications of value were: that radio signals represent virtually the sole source of audio service, as compared with television signals which represent a much smaller proportion of total video service;[245] that cable operators incur significant expense to import radio signals, ten to fifteen percent of their investment to retransmit television signals;[246] that the introduction of other cultural services on cable indicates that there is a demand for such a service;[247] and that this demand is also reflected by the success of NPR in marketing its programming through other channels, such as cassettes.[248]

NPR considered that with respect to itself the criterion of quality was a very valid measure.[249] Such a measure has been used previously before other agencies and in other proceedings, and the test of its appropriateness has been the nature of the work.[250] In the case of NPR, this is satisfied by the fact that NPR programming is the "state of the art," its production incurs a high cost,[251] and its quality of presentation can be clearly recognized.[252] NPR programming is unique and has exceptional breadth and appeal.[253] Furthermore the number of awards NPR has received, with respect to any other radio programming, establishes its critical acclaim.[254]

NPR contended that with respect to harm, unlike other claimants, NPR was able to demonstrate concrete examples.[255] To the extent that NPR's signal is used without compensation, NPR's harm is peculiar to it, in that NPR is noncommercial and its signal is being used by someone else for commercial gain.[256] Importation reduces the size of the audience from which NPR might expect contributions. It provides a service to those who might otherwise donate for the creation of a local public radio station,[257] hampering the expansion of the NPR system.[258]

With respect to the suggestion that NPR is a network and that for purposes of the compulsory license its programming is exempt, NPR cited the Tribunal's decision in the 1978 proceeding with respect to PBS; the exemption for network programming does not apply to noncommercial programming because the Copyright Act is clear in making a distinction between the two.[259]

NPR contended that while cable operators benefited from radio retransmission in general, NPR was nevertheless more valuable relatively than commercial radio [260] and that the ratio between their shares should be two-thirds for NPR to one-third for commercial radio.[261] NPR produced 600,000 hours of original programming during 1979. With respect to commercial radio no evidence was forthcoming of anything comparable.[262] Commercial radio consists primarily of music, broken by advertising time, and its news is an edited version of the wire services. In consequence, commercial radio may justly claim only for disc jockey time.[263]

"Formatting" further reduces the value of commercial radio.[264] NPR contrasted the uniqueness of its programming with that of commercial radio and cited the Carnegie Commission Study of 1977 which found that 85% of all commercial radio stations fell within 5 formats, while NPR in 98% of the cases was an alternative to those formats.[265] NPR cited the number of claims filed by its stations as evidence of the value the stations themselves placed upon their programming; 60% of NPR stations filed as opposed to 1.6% commercial stations.[266] NPR cited NPR's distant signal carriage as an indication of how highly prized it is in markets which are naturally already dominated by commercial radio.[267] The following chart is a comparison of incidents of carriage:[268]

	Incidents of carriage	Incidents of distant carriage	Percentage of carriage that is distant
Commercial radio	575	251	25.74
NPR	220	170	77.27

NPR considered that the fact that it was able to sell its programming in other markets an indication of its superior value over commercial programs.[269] NPR receives 100 times more awards than commercial radio.[270] NPR claimed that commercial radio is not harmed by distant signal retransmission, because "formatting" presupposes a given niche in a given market and therefore the retransmission into that market of any signal that is not appropriate to that niche could not be presumed to have any impact on it.[271]

NPR argued that music's share of radio programming should be related to the percentage its license fees are of programming costs. In the case of commercial radio this is 10% and in the case of NPR it is 3%.[272] NPR presented evidence which showed that less than 30% of NPR's programming consists of copyrighted music.[273] This is in contrast with commercial radio, nearly all of whose music is copyrighted.[274] NPR also asserted that no harm has been shown to music from radio retransmission.[275]

As for CBC's share, NPR considered that it was unsubstantiated and should be minimal.[276]

The following was the distribution NPR proposed for radio claimants:[277]

NPR	3.78
NAB	1.80
CBC	.10
Music	.32
Total	6.00

And television claimants:[278]

MPAA	165-73
Sports	10-15
NAB	3-5
PBS	5-8
Music	3-3.7
CBC	.1-.3

[1] Percent.

Phase II—Allocation Among Program Supplier Claimants

MPAA and Associated Program Suppliers

MPAA and associated program suppliers contended that in Phase II their share of the program suppliers category should be 96.5%.[279]

The group of syndicators and producers whom MPAA represented agreed voluntarily among themselves to the methodology on which this claim was based and MPAA contended that it was the only methodolgy providing an allocation in phase II on a coherent basis among all claimants.[280] The other parties did not integrate their claims within an overall scheme, but instead stipulated them only in context with themselves.[281] The voluntary settlement negotiated by MPAA was premised on the assumption that those with whom the agreement was initially reached were obliged contractually to present the interests of the copyright owners.[282] MPAA and associated program suppliers stated their confidence that these contractual obligations would be respected and, in the exchanges of information that have taken place so far, have found no reason to believe that they have not been.[283] MPAA contended that the Copyright Act specifically encouraged voluntary agreements both in spirit and purpose and that the agreement that was reached was based upon this premise.[284]

Not all of the programming of the parties who settled was included in the sampling technique upon which the MPAA methodology was based.

However, the parties settled regardless.[285] 58 parties settled; however, because of the terms of the agreement, these individual shares are not visible. The settling program suppliers were just as protective of their rights within the context of the settlement as those parties were who did not settle.[286] Of those who settled,

some received no share at all.[287] Technical variances in the claims of individual parties to the settlement should not be used against the settlement as a whole: [288] No allusion was made to them until the end of the Phase II proceeding, the discrepancies were easily correctible; [289] and other evidence showed that the distant signal retransmission of the programming involved took place.[290]

MPAA and associated program suppliers contended that the large number of individual claimants within their category precluded balancing among each one of them the factors and criteria employed by the Tribunal in making an allocation in Phase I.[291] Because of the use of these criteria in determining overall shares in Phase I, however, awards made in Phase II would reflect them inherently.[292]

MPAA argued that its method of distribution was even-handed and administratively feasible, that it was characterized internally by openness and free exchange of information,[293] and that it allocated among all claimants on a consistent basis, incorporating the Tribunal's criteria.[294] This was in contrast to parties who were not members of the settlement. Their claims were presented without reference to the context of the overall syndicated program category.[295] They attacked the MPAA/Nielsen data without recognizing that the data produce not the 70% share which is to be distributed among individual syndicators in Phase II, but the share MPAA argued should be awarded to the entire syndicated Programmers category in Phase I, in other words 84.5%.[296] The other parties submitted shares that lacked proportion.[297]

Christian Broadcasting Network, Inc. (CBN)	[1] 7.00
Heritage Village Church (PTL)	11.72
Old Time Gospel Hour (OTGH)	4.00
Mutual of Omaha	1.40
Multimedia, Inc.	2.50
SIN, Inc.	2.30
NAB	5.00
Total	[1] 33.88

[1] Percent.

The MPAA settlement was based upon the viewing figures for each syndicated program. Not all of the 58 partiers who settled were MPAA members. The viewing figures for individual programs were transformed into fractions of the viewing for all syndicated programs, and the share of a particular syndicator or producer was an aggregation of the shares of programming found attributable to him.[298] MPAA reconfirmed that it considered the study, which served as the basis for these viewing figures, was accurate within a narrow range of statistical error,[299] and contended that any study which under these circumstances is not based upon sampling is unrealistic and prohibitively expensive.[300] MPAA did not deny that the use of sweep weeks might cause some programming to be missed, but questioned whether programming not carried in sweep weeks could be considered significant in terms of value anyway.[301]

MPAA and associated program suppliers contended that the thoroughness with which they sought to identify and credit all programming whose viewing was shown in the Nielsen survey was testified to by the fact that, at the end, only 5% remained unidentified.[302] This "unclaimed" fund, in the view of MPAA, should be allocated in the same proportion as the shares are awarded.[303]

MPAA considered that parties other than those it represents should receive 1.5% of the programmers share.[304] MPAA and associated program suppliers proposed the following allocation of the program syndicators' share:[305]

MPAA and associated program suppliers	[1] 96.5
Devotional claimants	0
SIN	.165
Multimedia	
Mutual of Omaha	.105
NAB	.04
Unclaimed	5.00

Multimedia Program Productions, Inc.

Multimedia Program Productions, Inc. (Multimedia) proposed that its share out of the program suppliers category be 3%, or within a range of 2–3%.[306]

Multimedia presented evidence to show that justification of its case was fully supported by the Tribunal's criteria.[307] The Nielsen viewing data, upon which negotiations were held between Multimedia and MPAA were considered confidential and therefore not admitted as evidence of the marketplace value of Multimedia programming.[308] In order to provide a marketplace value benchmark, Multimedia presented instead a study comparing *Donahue* advertising revenues with those of the broadcast industry totals for 1979.[309] The resultant percentage between *Donahue* and total industry advertising revenues was 1.403%;[310] in Multimedia's view, an understatement.[311] *Donahue's* spill-over effect onto the advertising time surrounding other programs was not shown in these figures,[312] and more programming than just *Donahue* was represented by Multimedia.[313] Advertising rates, however, have been recognized in other parts of the proceeding as a valid measure of value.[314] Additional measures of value were the extensive carriage and high ratings of *Donahue* [315] and the requests by viewers for transcripts.[316]

Multimedia contended that cable operators received significant benefit from the retransmission of *Donahue* in that it is a trigger program which will specifically attract subscribers.[317]

Viewers of the retransmission of WGN's signal in 1979 had the benefit of being able to call into the show directly, which the viewers of the syndicated show could not.[318] The immediacy and timeliness of *Donahue* benefits cable operators, and it is used in promotions.[319] Multimedia cited in particular the interest of United Video.[320] *Donahue* has a unique women's audience [321] and its inclusion in *The Today Show* is a sign of its popularity.[322] *Donahue's* daytime shares in 1979 were from 36% to 39% and its audience measure in households from 5,900,000 to 7,200,000.[323]

Multimedia contended that its programming provided ample evidence of quality; [324] first of all by the number of awards won, not only by *Donahue*, but also by *Young People's Specials*,[325] also by its news and public affairs content.[326]

Multimedia cited that the move that *Donahue* was forced to make in 1982 from WGN to WBBN was clear evidence of the harm it suffers from cable retransmission.[327] This move was directly related to the interference that the retransmission of WGN's signal caused *Donahue's* national syndication sales effort.[328] *Donahue* was harmed additionally because in 1979 the FCC ruled that its live nature precluded it from eligibility for syndicated exclusivity protection.[329] Cable importation has made renewal of syndication contracts more difficult,[330] and, as with sports, harm from cable retransmission is magnified because of the ephemeral nature of *Donahue*.[331] The regular version of the *Donahue* show bears no resemblance to the short segments which appear in *The Today Show*, and therefore the duplication which exists in this case cannot be said to be similar to the duplication that results from cable retransmission.[332]

Multimedia presented evidence according to which, with respect to time, Multimedia should be allocated 3.13% of all non-network, non-locally produced commercial programming.[333] It was contended that this percentage of broadcast time also reflected Multimedia's percentage of distant signal programming.

Multimedia proposed the following allocation of the program syndicators share: [334]

MPAA	85.000
Multimedia	3.000
NAB	1.200
SIN	0.500
CBN	0.500
Mutual	0.300
PTL	.050
OTGH	.025
Unclaimed	9.475

National Association of Broadcasters

The National Association of Broadcasters (NAB) proposed that in Phase II its share of the program suppliers' allocation be 5%.[335]

NAB recognized the dominance of the traditional syndicators and considered that with respect to station syndicated programming harm and benefit were difficult to assess but nevertheless felt its claim was justified on the basis of a consideration of all factors.[336]

The basis of this claim was first the value and benefit station syndicated programming represented.[337] Such programming is unique, timely, and first-run.[338] It is not subject to the duplication that is typical of national syndicators, and therefore is intrinsically more valuable.[339] NAB considered that the proximity of the stations originating this programming, and therefore its regional appeal, was also of benefit to cable operators.[340] Local stations are a source of creativity and innovation.[341] The awards station syndicated programming has won attest to its quality,[342] and it has educational value.[343]

The harm suffered is the same as that caused by cable retransmission to all copyright owners generally,[344] however, in addition, station syndicated programming is subject to further specific types of harm.[345] The regional nature of cable importation causes its impact to occur precisely in that area where stations most frequently conducted the intra-group exchange of their syndication.[346] Unlike national syndication, station syndication has no other market, and no other financial base, than the area it is originally sold in.[347] Nor does it have the specific compensating balances with respect to cable that national syndicators enjoy, i.e., pay cable.[348] On superstations national syndicators are able to demand a higher price, and therefore, even in the traditional sense of harm, from cable importation, station syndication is harmed relatively more because it doesn't have this opportunity.[349]

The amount of station syndicated programming in circulation in 1979, according to NAB, was hard to quantify.[350] Some programming follows the pattern of traditional syndication; some is exchanged by means of barter arrangements; some is a collective effort by co-owned stations; and some is organized on the basis of intra-group exchanges.[351] Some distribution takes place among co-owned stations or among *ad hoc* networks created for that purpose, in some instances similar to regional sports networks.[352] NAB cited examples of station syndication that received wide distribution [353] and objected to using the MPAA/Nielsen study as a means of measuring the extent of station programming.[354] Network affiliates, upon which much station syndicated programming is carried, were underrepresented in that study [355] and the use of sweep weeks resulted in a false measure of carriage.[356] Examples were cited of programming the study failed to include.[357] Finally, in NAB's judgment, the Tribunal's rejection in Phase I of any single measure such as viewing as a basis for allocation precluded the use in Phase II of such a measure.[358]

NAB proposed the following allocation of the program syndicators' share:[359]

Multimedia	[1] 2.0
SIN	1.0
Mutual of Omaha	0.5
CBN	0
OTGH	0
PTL	0
NAB	5.0
MPAA	91.5

[1] Percent.

Spanish International Network, Inc.

Spanish International Network, Inc. (SIN) proposed that it receive a share, out of the program syndicator's total, of $311,000.[360]

SIN considered that the amount that it would have received under the MPAA/Nielsen formula did not reflect what it considered its programming to be worth and that, in addition, from SIN's experience Nielsen ratings have always under-represented the actual viewing of Spanish speaking audiences.[361] SIN also argued that it should not be discriminated against because it failed to be party to a voluntary settlement.[362] In SIN's view, its programming is unique and easily differentiated; in awarding a claim the Tribunal is both assisted by this fact and obliged to take it into account.[363]

In 1979, SIN was the single source of Spanish language television programming; it was broadcast in its primary areas on an exclusive basis; and was recognized and paid for as such by cable operators.[364] SIN is the copyright holder for 60% of the programs claimed and has received authorization to represent the remainder.[365] Therefore SIN assumes responsibility for any distribution embraced within its share.[366] SIN considered that the Tribunal's 1978 ruling that a single formula was not appropriate with regard to the allocation among all claimants, did not preclude using a single formula as the basis for allocation to a single claimant and that MPAA's use of a single formula in 1978 for distribution among its members was a precedent.[367] SIN, therefore, urged that its claim be based upon a fee-generated formula.[368] Other claimants involved much more complex circumstances, and a formula appropriate for SIN would not necessarily be appropriate for them.[369]

Because of limited time, SIN based its calculation upon Form 3 systems.[370] SIN identified a total of 135 systems that were able to pick up programming from SIN's five major distributors and verified in their Statements of Account to what extent this occurred. Then, as an average of fees paid for all distant signals on a given system, SIN calculated the fee which should be attributed to SIN and added the fees so derived for all systems.[371]

SIN did not consider that the Tribunal had made any specific ruling requiring the distribution in Phase II to be based upon the criteria enunciated in Phase I.[372] However, SIN felt its claim satisfied these criteria.[373] SIN suffers the same harm all copyright owners suffer under the compulsory license.[374] Cable operators would have to purchase SIN programming if the compulsory license did not exist, and SIN is deprived of this revenue.[375] SIN's audiences are fractionalized.[376]

SIN considered benefit and marketplace were equivalent and that the value of its programming was established by the fact, and in the extent, of its carriage.[377] SIN's programming cannot be considered any less valuable because FCC rules permit carriage of specialty stations under relatively unrestricted circumstances.[378] SIN programming is diverse, covers the entire broadcast day, and focuses on a specific audience which has value to the cable operator.[379] This value is SIN's loss,[380] and the compulsory license permits no other way of measuring that value except through the fee-generated formula.[381] SIN finally cited its tape sales as an additional benchmark of its value.[382]

Mutual of Omaha

Mutual of Omaha claimed that its allocation of the program syndicators' share should be $140,000.[383]

Mutual considered that this share was fully justified in terms of the Tribunal's criteria,[384] and that the share offered it by MPAA was insufficient. [385] It is difficult to assess the value of commercial time when it is bartered, which occurs in the case of "Wild Kingdom" because no fees are exchanged; instead a certain portion of the commercial time is reserved by Mutual for itself.[386] Mutual therefore reconstructed what it felt was the commercial value of its programming on the basis of its cost of production and on the basis of a comparison with the value of other commercial programming in terms of the cost per 1000 commercial minutes delivered.[387] This produced for 1981 a value for "Wild Kingdom" of $14,000,000.[388] Mutual considered that the extensive syndication of "Wild Kingdom" was also an indication of its value; it being one of the top three syndicated shows in the United States.[389] Mutual cited in addition the expense of producing "Wild Kingdom".[390] Its value to cable operators is evidenced by their demands to be licensed to carry it, which Mutual has declined.[391] "Wild Kingdom's" extensive carriage by cable is also another indication.[392]

Mutual suffers harm to the extent that cable importation fractionalizes its audience and frustrates its very careful and expensive marketing strategy of focusing its advertising.[393] Cable importation prevents Mutual from guaranteeing the syndicated exclusivity stations demand, and therefore its efforts at syndication are impaired.[394] Mutual's efforts to customize its commercials to each State, required by the differences in State insurance laws, are also confused.[395]

Mutual did not base its claim entirely upon time, however presented evidence based upon b.i. Associates print-outs to document the time its programming was carried.[396] Mutual considered that the quality of "Wild Kingdom" is amply recognized and has won national awards.[397]

Christian Broadcasting Network, Inc.

The Christian Broadcasting Network, Inc. (CBN) proposed that its share be from 3.4 to 7%.[398] CBN considered that the Tribunal should not take into account the source of a claimant's funding when making an allocation.[399] Funds come from viewers anyway ultimately,[400] and in the commercial world broadcasters do not always pay for programming.[401] CBN's decision not to use advertising is based upon reasons that ar e not related to money, concerns such as retaining control of its programming.[402] The spiritual value of its programming is also not a basis upon which the Tribunal may judge its award; to do so being unconstitutional.[403]

CBN concluded that its claim was justified entirely on the basis of the five Tribunal criteria [404] and that the assertion of its rights was the same as that of any other copyright owner.[405] The evaluation of its claim should not be affected by the fact that it does not have the same resources as other claimants.[406] CBN's marketplace value emerges from the consideration of such factors as production and distribution costs,[407] the fact that it is equivalent to first-run syndication and doesn't benefit from having its production financed by the networks,[408] the amount that CBN pays to have its programming broadcast,[409] and the value viewers place on it in that they are willing to pay to support it.[410] CBN's programming receives distribution over 135 stations.[411] CBN, however, did not consider that the value of its programming could be measured by viewing.[412]

With respect to benefit, CBN considered that its programming offered particular advantages to cable operators because its appeal is to a very specific audience.[413] The nature of CBN's programming also serves to enhance the goodwill between cable operators and the communities they serve.[414] CBN programming also benefits cable operators because they are allowed to pick it up under the FCC rule regarding specialty programming and they can fill a channel that they might not be able to otherwise.[415] The extent of carriage of CBN programming is a further indication of its benefit; it is carried on 9 of the top 25 fee-generating stations.[416]

With respect to harm, CBN contended that distant signal importation fractionalized its audience and, by reducing its "lead in" value as a means of retaining audiences for other programs, resulted in stations demanding a higher price to carry CBN programming.[417] Viewers are confused by cable importation, and the method of CBN's bicycling is disrupted.[418] This results in overexposure, and CBN's relations with its donors are damaged.[419] The fact that in some instances CBN programming overlaps with itself, independent of cable, is not a sign that harm in general does not exist, because these instances are particular.[420] Cable importation interferes with CBN's attempt to distribute its satellite service, and this harm, like that of reduced gate receipts to sports interests because of cable, injures CBN as an entire organization.[421] The quality of CBN programming is inherent in the cost of its production, in the fact that it is not rerun, in its technical advancement,[422] and in the nature of the programming itself, which is not restricted to religious subjects.[423]

CBN considered that significant support for its claim derived from the amount of time its programming occupied,[424] enhanced further by the absence of commercials.[425] While not advocating time as the means for allocation, CBN nevertheless did offer a formula which it suggested could serve as an objective benchmark.[426] The number of hours of CBN programming was divided by the number of hours of all television programming, adjusted to compensate for the DSE value given by the Copyright Act to network programming and for the fact that since 1972 the importation of network affiliates signals has been reduced because of an FCC ruling. The result was a share for CBN of 4.039%.[427] CBN considered that its formula accurately reflected the degree to which independents play a greater role with respect to the importation of distant signals than do network affiliates.[428]

$$R = \frac{995}{14,377 + 1,311} = 4.039\%$$ [429]

CBN proposed the following allocation of the program syndicators' share:[430]

	Percent
MPAA	0 to 66.
CBN, Inc	3.4 to 7.0.
PTL Television Network	3.4 to 7.0.
Old Time Gospel Hour	0.5 to 2.5.
NAB	0.1 to 2.5.
SIN	1.5 to 2.5.
Mutual of Omaha	0.5 to 1.5.
Multimedia	1.5 to 3.0.

PTL

Heritage Village Church and Missionary Fellowship, Inc. (PTL Television Network) proposed that its share of the program suppliers allocation be 7%.[431]

PTL considered that its claim was justified on the basis of the five Tribunal criteria [432] and that its award should not be affected by the fact that it is a religious programmer.[433] Unlike other claimants, who have not gone beyond the simple presumption of harm contained in the establishment of the compulsory license, PTL presented proof of harm that it viewed as concrete.[434] In PTL's view, the assessment of its harm should not be affected by how its programming is financed and distributed.[435] Religious programmers choose not to mix advertising with their programming in order to retain freedom of expression.[436]

The method by which PTL purchases its time from broadcasters permits it very rarely to have access to prime time for its programming. In consequence, to reach prime time and the audience that permits, PTL has an independent satellite service [437] and the placing of this service has been made significantly more difficult by the importation of PTL programming from other markets.[438] PTL has therefore been deprived of access to prime time [439] and cited evidence to show what deprivation is worth in terms of the value of prime time.[440] PTL is caught between either having to abandon its attempts to reach prime time, or else to cease its broadcasts in areas which are not covered by cable television.[441] An additional harm stems from the interruption that distant signal importation causes to PTL's method of bicycling its programming.[442] PTL is also hampered in its efforts to keep track of which of its contributions are due to which broadcast in which locality.[443] In addition, when stations know that their signal is being exported outside their market by cable they charge PTL higher rates.[444] The impact of these effects on PTL is enhanced, because unlike the syndicators, PTL is a small organization,[445] and the benefit that cable might otherwise represent, because of its expanded coverage, is offset by the difficulty and extra cost PTL has in placing its satellite service.[446] PTL's efforts to avoid duplication with respect to its own programming offers proof also that it is harmed by the duplication caused by cable importation.[447]

PTL considered that benefit and marketplace, as they relate to the value of its claim, should be considered together.[448] PTL benefits cable operators in that its programming represents diversity and contrast with respect to other kinds of programming, and PTL's programming cannot be judged by ratings because ratings are above all a commercial measure of success.[449] PTL suggested that movies' high ratings may be due in part, not to their innate popularity but to their historically dominate availability.[450] The determination of value also, according to PTL, is not necessarily related to the time individuals may spend watching given programs.[451] PTL offers choice and a balanced selection to viewers and cable operators.[452] PTL's carriage is extensive both on television stations, 72 out of 100 independents, and on cable systems, 869 Form 3 systems carry it as a distant signal.[453] Broadcast stations, according to PTL, must perceive some benefit, which must also be true presumably of cable systems, because if they considered airing commercial time more remunerative, they would obviously do that instead, as they are under no obligation to sell to PTL.[454]

PTL considered that its programming satisfied the Tribunal's criterion of quality, and presented evidence in support.[455] One such measure is the voluntary nature of the donations which support PTL.[456]

Time was presented by PTL as a factor that, although not of overriding importance, nevertheless might substitute where the other criteria were unclear as guidance.[457]

Religious programming in this respect occupies 20% greater time than other programming because it does not have commercials,[458] a distinction that has much greater importance between claimants within the same category in Phase II than it did between claimants of different categories in Phase I.[459]

PTL presented its time-based formula, not as one that it argued should necessarily be accepted as such, but rather as one that had the advantage above all of being based on objective data. PTL's methodology was identical with that of CBN, drawing its data from the FCC composite week and discounting network affiliate time by .25 DSE value in the Copyright Act and by the amount PTL judged network affiliate distant signal carriage has been reduced following a 1972 FCC ruling.[460] The following were the resultant formulas:[461]

PTL Club

$$R = \frac{2,012}{10,310.8 + 14,376.4}$$

= 8.15% of entire fund
or
11.6% of Movie
& Program Syndicators
70% share

Spanish Language PTL Club

$$R = \frac{23}{10,310.8 + 14,376.4}$$

= .09% of entire fund
or
.12% of Movie
& Program Syndicators
70% share

PTL proposed the following allocation of the program syndicators' share:[462]

	Percent share of 70% award
MPAA	0
SIN	1
Mutual of Omaha	1
Multimedia	3
PTL	7
CBN	7
OTGH	4
NAB	5
Soprano	0
Unclaimed	72
Total	100

Old Time Gospel Hour

Old Time Gospel Hour (OTGH) proposed that its share of the program syndicators' allocation in Phase II be 4%.[463]

While presenting its claim as an independent party, OTGH nevertheless followed the arguments offered by the other religious claimants. In 1979 OTGH, CBN, and PTL were roughly equivalent in terms of gross operations—$50 million per year.[464]

The justification upon which OTGH considered its award based was the Tribunal's criteria.[465] OTGH suffers harm that is related specifically to the fact that it relies on donations for its support.[466] Cable importation has reduced OTGH from being a prominent program alternative into being only one of many choices.[467]

OTGH has been additionally harmed in that it has not received any benefit from cable; its programming is primarily sold on network affiliates and due to an FCC ruling those signals which are retransmitted by cable are predominantly those of independents. While OTGH's own programming is fractionalized, it receives no benefit from any additional audience.[468] OTGH suffers also from the simultaneous duplication of its programming.[469] OTGH, however, was not able to provide any measurement of its carriage on cable.[470] OTGH considered that the extensive carriage of its programming was testimony as to its value [471] and that the audience it provided was of particular benefit to cable.[472] OTGH contended that with respect to quality its programming was superior to other syndicated programming.[473]

OTGH proposed the following allocation of the program syndicators' share:[474]

	Percent
MPAA	0
NAB	0
Old-Time Gospel Hour	4
Christian Broadcasting Network	4
PTL Television Network	4
Multimedia	3
Mutual of Omaha	1
Spanish International Network	.75
Unclaimed	83.25
Total	100.00

Soprano Co.

Soprano Co. presented testimony whereby in 1973 it secured the copyright ownership of the musical work entitled "Movin and Groovin." Soprano stated that Broadcast Music, Inc. (BMI) has the license to this work. Soprano witness testified that derivatives of "Movin and Groovin" were secondarily transmitted and listed several programs to support his testimony.[475] The Soprano Co. claim is for 25% of the music allocation.

Distribution Criteria

The Tribunal in the 1978 cable royalty distribution proceeding adopted the criteria to be applied in that and subsequent cable royalty distribution proceedings. The criteria, an analysis of the criteria, and the relative weight accorded each factor are set forth in the 1978 distribution opinion.[476] We have applied those criteria to the record evidence in this proceeding.

In this proceeding, claimants presented to the Tribunal a wide range of evidence to justify their proposed allocation. We have been presented studies and other evidence based on television viewing, cable royalty fee generation, attitudinal surveys of cable operators, advertising rates, broadcast station expenditures, economic regression analyses, distant signal programming time, innovative and quality programming, and technical equipment. We have not found a single formula or rationale adequate to reach our determination and allocations in this proceeding.

In adopting our criteria, we have taken into account the legislative history of the Copyright Act which assumes that the carriage of distant signals by cable systems is harmful to the copyright owners of the works being transmitted. The record of this proceeding, including proposed findings of several parties, indicates that the "harm" test is of limited utility in allocating royalty fees among categories of claimants.[477]

Program Syndicators

The centerpiece of the Program Syndicators case was the Special Report of Nielsen analyzing the time occupied by and the viewing of different categories of programming. We regard this Report as the single most important piece of evidence in this record. We have concluded that this study does have probative value in establishing the entitlement of claimants in accordance with some, but not all, of the criteria. It is a useful "starting point" for the application of the criteria to the record evidence, but we have not accepted it as a talisman which fully reveals and determines the application of the criteria.

A major reason for the Tribunal being unable to accord the Nielsen "hard numbers" the weight urged upon us by MPAA is that we share the views advanced by certain other claimants, notably Joint Sports and NAB, that cable operators are interested in selling subscriptions and that viewership is of limited relevance to cable operators.[478]

In assessing the weight to be accorded the Nielsen Report we have also considered the evidence as to the methodology of the study, the selection of the station sample on a fee generated basis previously found deficient by the Tribunal, the use of "sweep periods", and the role of MPAA in the design and execution of the survey. The methodology chosen could have resulted in the exclusion of claimants having distant carriage of their programming unless the programming happened to be picked up in the 40 station survey. The procedures followed also could have enhanced the showing of the syndicators to the disadvantage of other claimants, such as by the use of "sweep periods".

The Tribunal in the 1978 cable royalty proceeding opinion set forth our conclusions concerning the general nature of the harm sustained by program syndicators as a result of the cable compulsory license.[479] While our record contains testimony describing the operations and economics of the series and movie syndication market, and the possible adverse impact of cable carriage on such markets, we do not find in the record such a distinctive showing of harm that would justify the Tribunal viewing the syndicators claim more favorably than that of some other claimants by the application of the harm criteria. Although the program syndicators presented a plausible theoretical argument as to harm, they were unable to present factual evidence of such harm in 1979, while NAB presented evidence seeking to establish that program syndicators were not harmed in 1979 by cable importation.

It is argued that viewing figures are a relevant measure of harm as those programs which attract a bigger audience will generally command a higher price, and that the viewing of distant signal programming cuts into the viewing of programs sold in the local markets by syndication. Even if viewership of distant signal programs is an appropriate measure of harm, it would be change in audience, not absolute audience levels, which would have to be considered.[480]

The program syndicators sought to justify their entitlement under both the benefit and marketplace criteria by principal reliance on the Nielsen data. In notable contrast to the Joint Sports claimants, the program syndicators did not present testimony by cable operators in an effort to establish the benefit of their programs to cable systems, or evidence as to the appeal of their programs. In judging the program syndicators case against that of the sports claimants, we found this omission to warrant a downward adjustment of the "hard numbers" proposed by MPAA.

Our record establishes that movies are a significant inducement to subscribe to cable television, but the record also suggests that the appeal of distant signal movies may now be reduced by the availability of movies on pay cable operations. The record has not persuaded us that syndicated series are highly valued either by cable operators or cable viewers. While MPAA is correct in observing that the "duplication" of programs is not restricted to the syndicators category, it is clear that the duplication in syndicated series programs significantly reduces their value to cable operators.

During the direct case of the program syndicators, Mr. Jack Valenti recommended for our consideration a study "Cable Copyright and Consumer Welfare: The Hidden Cost of the Compulsory License", May, 1981 by Harry M. Shooshan, et al., which was made part of this record. Of the subjects discussed with which the Tribunal is directly acquainted, we have not found the study creditable and have given it no weight in reaching our determination.[481]

The Tribunal has utilized the Nielsen numbers as a "starting point" and then reduced the requested allocation of the program syndicators to 70% because of perceived deficiencies in the methodology, and our application of the criteria to all the record evidence relating to the program syndicators.

Joint Sports

As in the 1978 royalty proceeding, the direct case of the Joint Sports claimants was structured and presented to focus on the marketplace considerations we have found most persuasive and useful. We have accepted the contention of Joint Sports that the criteria justify and compel an award to them greater than would be warranted solely by their share of broadcasting hours or by total viewing numbers. We have also been persuaded of the special appeal of sports to cable operators and viewers.[482] This appeal has been recognized by other claimants.[483]

In assessing the Joint Sports claim, we have given consideration to the testimony of individuals either in or with experience in the cable industry as to the appeal and value of sports programming. While such attitudinal evidence cannot be the sole basis of our allocation, we have concluded, particularly in relation to other evidence before us, that it should be a factor in our determinations. We find that the availability of sports programming on distant signals is an important factor in determining whether individuals will subscribe or continue to subscribe to cable.

While we have included the attitudinal evidence as one factor in our determinations, we find nothing in the evidence that would provide any basis for directly linking this evidence to the determination of any particular royalty percentage for the sports claimants. We find the assessment of Mr. Simmons that cable operators in the marketplace would spend about 35% of their programming budget for sports telecasts unsupported by any competent evidence in this record. Likewise, with regard to the BBDO survey, expressions of preference as to the value of sports or any other category of programming cannot be directly quantified or converted into a royalty share allocation.

We have reviewed the trends reflected in the 1978 and 1979 BBDO studies and concluded that there is support for a finding that cable operators assign a declining value to distant signal carriage of movies, with a corresponding rise in the value of sports.

In applying the criteria to the sports programming covered by the claims, we have given consideration to the ephemeral nature of sports telecasts. In contrast to movies and syndicated series which may produce revenues repeatedly in different markets, once a sports event has been telecast, it is thereafter usually of no further monetary value.

In reaching our sports award, we have considered the evidence that those television stations which were the flagship stations of professional sports clubs were carried as a distant signal to a significantly greater extent than those stations that are not flagships. While various factors influence a cable operator's decision to import a distant signal, the record provides support for a finding that the status of a station as a flagship of one or more sports teams is an important consideration. Evidence of other parties, such as the Arbitron Study, further establishes the value of sports programming and provides record support for our award to sports.

We have not found the Lexecon "multiple regression analysis" to be helpful in reaching our determination. Our record adequately established various technical and conceptual limitations of that study, such as the treatment of the alternative dependent variables.

By applying the criteria to all the record evidence relevant to the sports claim, we have determined to award 15% of the royalty fees to the sports claimants. As discussed elsewhere, we have allocated all royalties for sports programming to the Joint Sports claimants.

Public Broadcasting Service

In assessing the case of the Public Broadcasting Service (PBS), we have been guided by the record evidence which in our view suggests that approximately 93% of the royalty fees should be awarded to commercial claimants. We find that this allocation also conforms to the criteria.

Our record suggests that when full-time distant signals are considered, public television signals account for over 10% of the aggregate instances of all distant signal carriage. As with other claims, we have given limited weight to total number of program hours. Consequently, we have made a downward adjustment of PBS' proposed 8% award. The evidence also establishes that there is substantial duplication of PBS programming and that a significant percentage of such programming is carried at the same time by all PBS affiliates. These factors compel a further reduction of the claim.

We have been unable on the basis of the record to evaluate the claim on the basis of commercial marketplace factors. We have concluded that these commercial factors, such as the size of the viewing audience, cannot provide an appropriate measure of the value of public television signals to cable operators. We have chosen to assess the claim in accordance with the public policy considerations which govern the operations of public broadcasting. These include the production of a range of programs, not directed to the attainment of large audiences, which provide an alternative to much of the product of commercial television. The availability of this diverse programming in our view is of benefit to cable systems.

As to the nature, diversity, and innovative quality of this programming, the PBS direct case included extensive testimony.

By applying the criteria to the record evidence, we have awarded 5.25% of the royalty fees to PBS.

U.S. Television Broadcasters

As we have interpreted the Copyright Act,[484] the only copyrighted programs for which television broadcasters may receive royalty fees are for the distant carriage of station programming and for sports programming "when contractual arrangements specifically provide that such royalties should be distributed to broadcaster claimants."[485]

After hearing all testimony on the sports issue presented by the NAB, the Tribunal on September 30, 1981, granted the declaratory ruling requested by the Joint Sports Claimants, whereby we affirmed our previous decision "that cable royalties for sports programming shall be awarded to the sports claimants except when contractual arrangements specifically provide that such royalties should be distributed to broadcaster claimants."[486]

In our opinion in the 1978 cable distribution proceeding, we stated:

> The record is void of any useful evidence that local broadcasters are harmed by cable carriage in distant markets of their locally produced programs, or that distant cable systems benefit from their carriage of locally produced news and public affairs program. We are unable on the basis of this record to find any significant marketplace value for such programs. Finally, we have accorded only secondary value to time related considerations.[487]

The NAB case this year was presented in an effective and coherent manner, but our review of this record has not caused us to alter the basic conclusions we reached in the earlier proceeding. We have accorded time-related considerations only secondary value, which compels us to make only a limited award to commercial television broadcasters. We share and adopt the analysis of the NAB case presented by certain other categories of claimants.[488]

We have in making our allocation to commercial television broadcasters considered their evidence concerning the percentage of commercial distant signals originating from cities located less than 150 miles from the cable community, or distant signals licensed to communities located more than 150 miles, but within the same state as the cable system. In determining our award to this category we gave consideration to the benefit to cable operators, and subscriber interest in station news and public affairs programming from nearby stations or from more distant stations in the same state. Our review of the record evidence, however, has not persuaded us that this programming is of more than marginal value to cable operators, or a significant factor in the decision of the public to subscribe to a cable system.

In contrast to our review of the Joint Sports case, we have determined that the application of the criteria requires a

downward adjustment of the "hard numbers", whether viewed from either the NAB perspective of total programming hours weighted by number of subscribers, or the time and viewing data of the program syndicators.

By the application of the criteria to the record evidence we have made an award to U.S. television broadcasters of 4.5%.

Music

We have made a single award to music for all distant signal carriage of their copyrighted works for which they have established an entitlement under the Copyright Act and the evidence presented in this proceeding.

Music's presentation of their case for royalties for carriage of music on distant television signals rested on an analysis of selective broadcast station expenditures as disclosed in FCC data. They urged that only expenditures for (1) music license fees, (2) rental and amortization of film and tape and (3) other program and performing rights are relevant to our purposes. Music failed to include six other program expense categories in the application of this guide to our determination. It is our conclusion that this exclusion inflates the proposed allocation to music. Our record indicates that as a percentage of all categories, Music's share of broadcast program expenses which in 1979 was 3.7% has declined since 1978.[489]

For the reasons discussed elsewhere we have not made any award to the broadcaster claimants for distant carriage of commercial radio signals, and have made an award to NPR. We find in the record in the cases of several parties sufficient evidence for use to include in our award to music some compensation for the significant performance of copyrighted music on distant radio signals. The useful evidence on this issue is based on time, and even within that standard the record is not clear. The record admits of different time estimates. However, the total of copyrighted music is such as to warrant an award to music. Taking these factors into consideration, and reflecting the limited weight we have accorded to pure time considerations, we have made an allocation of 4.25% of the royalty fund to music.

Canadian Claimants

We have made in Phase I a single award covering all Canadian claimants, except commercial radio.

In examining the Canadian broadcasting claimants case, we note that the claims are not limited to local news and public affairs programs, but encompass a broad range of movies, syndicated series and sports events. The showings as to the Tribunal's criteria made by these separate claimant categories to some extent can be applied to the Canadian claim where the same programming is involved. We also observe that the definition of "network station" in 17 U.S.C 111(f) applies only to affiliates of United States networks, and thus CBC network programs are eligible for cable royalties.

The Canadian claimants have acknowledged that much of the evidence concerning the basis of the Canadian claim suffers from various limitations.[490] The claim is particularly deficient in failing to establish the number of Canadian signals that were carrier "beyond the local service area" of their primary transmitter. We also have declined to employ fee-generated formulas, as urged upon us by the Canadians.

The majority of the Canadian signals retransmitted by U.S. cable systems are from stations forming part of either the CTV or CBC television networks. We have accepted the position that network programming is generally more valuable than most local programming. We also, however, in assessing the marketplace value of the Canadian signals, note that in accordance with Canadian law a majority of the programming on Canadian television stations must be produced with the primary purpose of serving the Canadian national audience. We have also taken into account that a substantial number of television stations in Canada present programming in the French language, and that the record does not establish the benefit of such programs to U.S. residents.

We find that the state of the record with regard to radio signals is even more unsatisfactory than the record on U.S. radio signals. We have chosen to treat Canadian radio signals in a manner consistent with our disposition of the U.S. radio claims, making no award for commercial radio.

By the application of the criteria to the record evidence, we have made an award of .75% to the Canadian claimants.

National Public Radio

While we have concluded that our record justifies an award to NPR while making no award to commercial radio, we have some concerns as to the case presented on behalf of NPR. As stated in the PBS findings, "Much of the case presented by NPR consists of affidavits and hearsay information concerning which there has not been an adequate evidentiary exploration on the hearing record."[491]

Our different treatment of NPR and commercial radio finds record support in the proposed findings of other claimants.[492]

The evidence does indicate that NPR is a producer and syndicator of innovative, distinctive and quality radio programming that is transmitted by a number of cable systems as a distant signal. As with our review of the PBS claim, some customary guides to judging the marketplace value of program product are not useful. The record supports a finding that the programming has a special appeal, which justifies an award.

We have made an award of .25% to NPR.

Commercial Radio

Our review of the evidence presented by any party in this proceeding has not persuaded us to make any award to commercial broadcaster claimants for the distant carriage of radio signals. We do not read the Copyright Act as requiring this agency to make an award to the copyright owners of every program that may be transmitted as a distant signal.

As summarized elsewhere, the Tribunal in this proceeding did receive some random evidence as to radio carriage by cable systems, radio services offered by cable television, and radio station formats. We find none of this evidence supports an award based on even a flexible application of the criteria. We have been unable to discern any significant marketplace value or benefit from distant commercial radio carriage.

Mr. Mankiewicz, President of NPR, in his appearance testified as to the limited appeal to cable of commercial radio signals:[493]

> I suppose there are some but it is difficult to imagine the appeal in community 'A' of an additional top 40 station whose signal is bought from community 'B'. Since commercial radio stations, with very few exceptions, are using one of five, or, perhaps, at the most, six formats which are present in every commercial market, our feeling is that the appeal of an imported commercial station signal is very limited.

We concur in the assessment of the commercial radio evidence presented by PBS:[494]

> It is a fair summary of the record to say that radio signal carriage can be provided by cable systems at nominal costs and, while such carriage may reflect some element of value and benefit to the subscribers, as of 1979 at least radio carriage was not a significant consideration in either the local or distant cable marketplace.

Phase II

The Tribunal considered Phase II issues under the Program Syndicators, U.S. Television Broadcasters, and Music categories.

Program Syndicators

MPAA and Associated Program Suppliers

The MPAA and associated program suppliers (Program Suppliers) who entered into voluntary distribution agreements restricted their direct Phase II case as summarized elsewhere. In effect, Program Suppliers relied on the evidence presented in Phase I on behalf of all Syndicators.

We agree with MPAA that voluntary agreements promote the objectives of the Copyright Act and public policy generally. The Tribunal welcomes voluntary agreements, however, when a Phase II case is presented, the Tribunal has the task of deciding the issues on the basis of the evidence before us, and the private agreements reached by parties in voluntary settlements cannot substitute for the Tribunal's judgment.

On the basis of all relevant evidence in this record, we have awarded 96.6% to the MPAA and associated program suppliers.

Late in the Phase II proceeding, NAB, Multimedia and other parties raised questions concerning asserted deficiencies in a number of the claims of Program Suppliers. It was asserted that certain claims failed to meet one or more of our minimal filing requirements. Multimedia and devotional claimants stated that no royalty fees could be awarded to these claimants, and that adjustments would be necessary in any award to the MPAA and associated program suppliers.

Program suppliers acknowledge that a number of their claims do not meet the requirements of our rule, but urge that we should ignore these "technical imperfections". As has been observed in the comments submitted on this subject at our request, it is difficult to reconcile this recommendation with the consistent course of action of MPAA in this proceeding.[495]

The Tribunal believes that a flexible application of our rules and procedures is compatible with due process, and assists our examination of the complex issues involved in our proceedings. It appears that MPAA now agrees.

We are satisfied that evidence in this record establishes that programs of each of the claimants with defective claims were carried as distant signals. We decline to bar an award to these claimants.

Multimedia Program Productions, Inc.

The record evidence presented by Multimedia Program Productions, Inc., (Multimedia) supports a finding as to the marketplace value, particular benefit to cable operators, and quality of its programs. It does not support the requested 3% allocation.

The issue between Multimedia and those program syndicators associated with MPAA rests both on the evidence presented by Multimedia and on a difference of views of a Phase II proceeding and the function of this Tribunal in resolving a Phase II controversy. In the current proceeding the program suppliers relied on evidence presented in Phase I to achieve the maximum award for all program syndicators vis-a-vis other categories of claimants; however, in Phase II the Tribunal must judge disputes that pit program syndicators who apply the Tribunal criteria to themselves individually against those who rely upon the criteria as they apply to program syndicators in general as a category. Our view is that in the event of a Phase II issue, we must evaluate the record evidence presented by the competing claimants to establish the particular application to each claim or group of claims of all the criteria.

We must look to the Phase II record to ascertain what showing has been made to establish particular entitlement to royalty fees.

We reject in Phase II as in Phase I the application of a single formula as the basis of our decision. Our Phase II allocation cannot be made solely on the basis of a single formula, such as the Nielsen viewing data, which is at most a "useful 'starting point' for the application of the criteria", and which we have found does not reflect all the criteria.

Turning to the Multimedia case, we have reduced the marketplace value placed by Multimedia on the "Donahue" program. Our review of the record establishes, in the words of NAB that "it is clearly an important syndicated program to television stations" and that its value is enhanced because it is "a first-run daily show with few repeats."[496] but, we also agree with NAB that its "value to cable systems on a distant signal is substantially reduced, however, by its wide availability on local television stations."[497]

Our comparative analysis of the Multimedia programming with that of MPAA and associated syndicators has been restricted by the state of the record. Multimedia is not responsible for the limitations under which the Tribunal has operated in Phase II. As was stated by NAB, "In evaluating the entitlement of 'Donahue', for example, the Tribunal should know the allocation MPAA proposes for 'The Merv Griffin Show' and 'The Mike Douglas Show'."[498]

Our award to Multimedia reflects the record evidence presented concerning its programs, including the "Young People's Specials". Again, as stated by NAB, these programs "are fresh, creative syndicated product entitled to royalty recognition."[499] We do not assert that these programs are unique. Programs of equal marketplace appeal and quality may be included under the claims of other program syndicators. However, specific evidence was not presented.

During the rebuttal portion of the Program Suppliers Phase II case, counsel for Multimedia interposed an objection when Program Suppliers counsel asked their witness, Mr. Cooper, to state the percentage award that would go to Multimedia by the application of the Nielsen viewing formula.[500] The Tribunal sustained this objection.[501]

Multimedia asserted that the figures were the basis for private negotiation between MPAA and themselves, and the Tribunal upheld their claim of confidentiality.

Prior to the Tribunal's ruling, the following colloquy occurred:

> Commissioner Brennan: Mr. Lutzker, would you seriously consider withdrawing pending objection if Mr. Cooper's coalition made available all the Nielsen numbers for the claimants in the program syndicator category? . . .[502]
>
> Mr. Lutzker (counsel for Multimedia): . . . If that infomation were available and in the record for all parties, I wouldn't have any objection. . . .[503]
>
> Mr. Cooper: It is my concern, Commissioner Brennan, according to the statute, the statute encourages voluntary agreements, that in the event we were to disclose the information to the individual claimants, that we would not be able to enter into voluntary agreements. . . .[504]
>
> Mr. Lutzker: I think that as I have stated in response to Commissioner Brennan's question, if the full data is revealed, I would certainly withdraw my objection with respect to Multimedia. If less than the full data is revealed, my concern remains that the Tribunal was receiving piecemeal information.[505]

Program Suppliers on January 15, 1982, filed a Motion to Dismiss Certain Claims Filed by Multimedia For Lack of Ownership. The Motion enumerated eight programs owned in 1979 and 1980 by Show Biz, Inc., but not by Multimedia. Although Multimedia filed a valid claim, no claim was filed by Show Biz. Program Suppliers sought dismissal of Multimedia's claim for the Show Biz

programs, arguing that Multimedia is not the owner of such programs for purposes of the 1979 distribution.

Multimedia in Opposition to the Motion To Dismiss argued that as Multimedia had filed a valid claim it may assert a claim regarding 1979 for which Show Biz would have been barred. Multimedia cited our rule in 37 CFR 302.7 which provides that for filing purposes the entity submitting a claim is required to identify itself, not its programs.

Our claim rules do not provide support for Multimedia's theory. 17 USC 111(d)(5)(A) requires that a claim be filed in the month of July by "every person claiming to be entitled to compulsory license fees for secondary transmissions." Show Biz did not file a claim. Multimedia could not acquire by purchase a right to the 1979 cable royalties for cable carriage of Show Biz programs, as Show Biz had no cable royalty rights to transfer.

On the basis of all the record evidence relating to the Multimedia claim we made an award of 1.0%.

National Association of Broadcasters

The NAB case suffered deficiencies shared by other Phase II cases. The Tribunal considers that the data NAB presented with respect to the secondary carriage of station syndication was insufficient.

NAB has advanced several theories, which if supported by more than a minimal evidentiary showing, may justify our further consideration. It is argued that certain station-syndicated programming is more valuable to cable operators than reruns of series and movies because of the asserted greater "intrinsic value, timeliness and freshness" of station-syndicated programs.[508] They also argue that station-syndicated programs are more valuable to cable operators than some typical syndicated shows because station-produced programs are not as widely syndicated. The Tribunal in this proceeding has concluded that extensive syndication in broadcasting markets reduces the value of a program to cable systems on a distant basis.

On the basis of all the record evidence relating to station syndicators we have awarded NAB .8%.

Spanish International Network (SIN)

The Spanish International Network (SIN) case has been seriously weakened by significant evidentiary deficiencies. To some extent this may be attributed to the lack of previous participation in the Tribunal's cable royalty proceedings. It has been established that SIN does not own approximately 40% of the programs carried on SIN stations.[509] We have assessed this claim on the basis of the entire record.

SIN has advanced various arguments as to why the use of a fee generated formula is the appropriate basis for a cable royalty allocation to them, regardless of what may be the Tribunal's judgment concerning the use of such a formula generally. MPAA has argued that "in view of the fact that SIN programming is broadcast by specialty stations, use of the fee generated approach is particularly inappropriate in evaluating the proper share to be allocated for cable's carriage of such programs." [510]

We need not reach this issue in the current proceeding. The record establishes that the formula presented by SIN contains such incomplete and unreliable data that it could not be utilized for distribution purposes, regardless of what conclusion we might reach as to its rationale.

We are satisfied that the entire record supports an award to SIN. We conclude that SIN's Spanish language programming is of particular marketplace value and benefit to cable operators in attracting Spanish-speaking subscribers.

We make an award of .7% to SIN.

Mutual of Omaha

After excluding from any consideration the evidence related to a time-weighted, fee generated computer print-out,[509] the Mutual case consisted of evidence as to the number of stations that broadcast over the air "Wild Kingdom" and the quality of its programming.

We find that the value of "Wild Kingdom" on a distant signal is materially diminished by its extensive coverage on television stations, located in almost every television market.[510] We also find that the program is an advertising vehicle and that Mutual receives some benefit from distant carriage.[511]

Mutual's quality claim rests on the instructional nature of "Wild Kingdom" and the awards it has received. It views its program favorably as compared to quiz shows or certain syndicated programs.[512] MPAA argues that the Tribunal "should give no weight to this argument" and that we should not throw "subject matter into the quality equation." [513] We believe that the task of the Tribunal in the event of a Phase II controversy is to determine the proportionate value of particular programs based on the same criteria we applied in assessing the value of the category grouping of the same programs in Phase I.[514]

On the basis of the entire record evidence relating to Mutual of Omaha, we award this claim .1%.

Devotional Claimants

Although CBN, PTL, and Old Time Gospel Hour (OTGH) are individual claimants and presented separate cases, similar issues are posed by these claims. We therefore discuss them jointly.

We have not found the cases of these claimants to be persuasive. We regard as a fundamental distinction the practice of these syndicator claimants to buy time on television stations to broadcast their programs, while other syndicated programs are purchased by the stations. Although, as discussed elsewhere, we have not found the evidence on the harm criteria to provide much assistance in allocating royalty shares, cable carriage may well benefit these claimants because the expanded carriage provides greater exposure and the potential of increased contributions from viewers. The record establishes that these claimants rely upon direct contribution for the support of the programs and other activities.

PTL and CBN sought to justify in part their claim by a showing of purported harm to their satellite network by distant signal carriage of their programs. It is claimed that the distant signal importation of television broadcast containing their programs has made it more difficult to place their network and its prime time programming on cable systems. Whatever the situation may be, we hold that any harm suffered by a satellite network, whether or not the harm can be linked to distant signal importation, is not a harm for which the Tribunal can provide compensation under the provisions of Section 111 of the Copyright Act. We find nothing in our disposition of the sports claim to provide an analogy to the argument advanced here.

We also have not found convincing the theory advanced by OTGH that we should distribute royalty fees to compensate it for alleged harm resulting from fractionalization of its audience because of distant signal importation of other programs.

On the basis of the evidence before us we have not discovered a marketplace value for the programs of these claimants. CBN and PTL also sought to justify their claim by the use of time based formulas. As we said in the 1978 proceeding:

> We conclude that an allocation of royalties mainly based on the amount of time occupied by particular categories of programming would ignore market consideration and produce a distorted value of programming.[515]

We reaffirm our finding that time based formulas do not provide useful guidance for our distribution functions. In our view, the evidence in this record concerning the time formulas of CBN and PTL provide further support for our holding.

We make no award to CBN, PTL and OTGH.

U.S. Television Broadcasters

Great Trails Broadcasting Corporation, licensee of WHAG–TV, Hagerstown, Maryland, submitted a written case requesting an allocation to it from the Phase I award to U.S. commercial television. Great Trails did not submit any evidence during Phase II. NAB maintains that "Great Trails was not the copyright owner of any distant signal programming in 1979".[516]

On the basis of the record evidence we make no award to Great Trails Broadcasting Corporation.

Music

Soprano Company. The Tribunal received testimony and other evidence in support of the claim of Soprano Company. The evidence clearly established that the claim was based on a dispute concerning a possible infringement of copyright and other issues beyond the jurisdiction of the Tribunal. We make no award to Soprano Company.

Italian Book Corporation. The Italian Book Corporation claims 1% of the royalty fees awarded to the performing rights societies.[517] It is asserted that musical compositions in the Italian Book's catalog "have also been performed on television in motion pictures and otherwise". No evidence was presented. We make no award to the Italian Book Corporation.

Unclaimed Funds

In the Tribunal's opinion in the 1978 royalty distribution proceeding we resolved that "the record provides no objective basis for redistribution of royalty fees among categories of claimants to reflect unclaimed royalties in particular categories.[518]

In this proceeding, the unclaimed funds issue arose in Phase II. Not including possible defective claims, Multimedia found an unclaimed pool amounting to 9.425%.[519] Program Suppliers found an unclaimed fund of "approximately 5%".[520] Because of their conclusions concerning the evidence of Program Suppliers, the devotional claimants in their proposed findings allocated up to 83.25% of the royalty funds to the unclaimed category.[521]

We have not employed any single formula in our Phase II allocation and have not found it necessary to create an unclaimed fund. We have made these allocations based on the entire record. No claimant or group of claimants has received a "windfall share".

DISTRIBUTION OF CABLE ROYALTY FEES

[Financial statement of royalty fees for compulsory licensee for transmissions for cable systems for 1979]

Royalty fees deposited	$15,795,251.78
Interest income	1,785,063.13
Gain on matured securities	3,510,796.05
Total	21,091,144.96
Less:	
Operating costs of the Copyright Office	273,218.00
Refunds issued	113,785.84
Approximate CRT administrative costs	401,000.00
Total	432,003.84
Approximate amount for distribution on Mar. 31, 1982	20,659,141.12

Allocations

The Tribunal has adopted the following allocation to categories of claimants in Phase I of the specified percentage of the royalty fees available for distribution:

	Percent
1. Motion Picture Association of America and other program syndicators	70.00
2. Joint Sports Claimants and NCAA	15.00
3. Public Broadcasting Service (for all purposes)	5.25
4. U.S. Television Broadcasters	4.50
5. Music Performing Rights Societies	4.25
6. Canadian Television Broadcasters	0.75
7. National Public Radio	0.25

The allocations adopted by the Tribunal under Phase II for the individual claimants is as follows:

	Percent
Program Syndicators:	
Motion Picture Association of America	90.8
Multimedia Program Productions, Inc.	1.6
National Association of Broadcasters	0.8
Spanish International Network	0.7
Mutual of Omaha	0.1
Christian Broadcasting Network	0.0
PTL Television Network	0.0
Old Time Gospel Hour	0.0
Music:	
Soprano Co.	0.0
Italian Book Company	0.0

The Tribunal for lack of any justification has not awarded cable fees to claimants who:

1. Were not associated with a Phase II voluntary agreement, or
2. Could not reasonably on the basis of this record be treated according to the terms of voluntary agreements, or
3. Which did not submit adequate entitlement justification.

(17 U.S.C. 111(d) and 803(b))

March 2, 1982.

Frances Garcia,

Chairman.

[FR Doc. 82-6102 Filed 3-5-82; 8:45 am]

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FOOTNOTES

[1] Proposed Findings and Conclusions of the MPAA and Member Companies, p. v and 154.
[2] Ibid, p. iv, 27 and 154.
[3] Ibid, p. 5.
[4] Ibid, p. 154.
[5] Ibid, p. 155.
[6] Ibid, p. 155.
[7] Ibid, p. 155.
[8] Ibid, p. 155.
[9] Ibid, p. v, 5 and 158.
[10] Ibid, p. 28.
[11] Ibid, p. 31.
[12] Ibid, p. 158.
[13] Ibid, p. 32.
[14] Ibid, p. 32.
[15] Ibid, p. 33.
[16] Ibid, p. 35.
[17] Ibid, pp. 35 and 36.
[18] Ibid, p. 37.
[19] Ibid, p. 38.
[20] Ibid, p. 30.
[21] Ibid, p. 39.
[22] Ibid, pp. 40 and 157.
[23] Ibid, p. 42.
[24] Ibid, pp. 41 and 44.
[25] Ibid, p. 45.
[26] Ibid, p. 45.
[27] Ibid, p. 47.
[28] Ibid, p. 47.
[29] Ibid, p. 48.
[30] Ibid, p. 49.
[31] Ibid, p. 49.
[32] Ibid, p. 6.
[33] Ibid, p. 7.
[34] Ibid, p. 7.
[35] Ibid, p. 8.
[36] Ibid, p. 8.
[37] Ibid, p. 8.
[38] Ibid, p. 9.
[39] Ibid, p. 9.
[40] Ibid, p. 10.
[41] Ibid, p. 10.
[42] Ibid, p. 11.
[43] Ibid, p. 11.
[44] Ibid, p. 12.
[45] Ibid, p. 13.
[46] Ibid, p. 14.
[47] Ibid, p. 16.
[48] Ibid, p. 16.
[49] Ibid, p. 17.
[50] Ibid, p. 18.
[51] Ibid, p. 19.
[52] Ibid, pp. 19 and 20.
[53] Ibid, p. 20.
[54] Ibid, p. 23.
[55] Ibid, p. 24.
[56] Ibid, p. 25.
[57] Ibid, p. 25.
[58] Ibid, p. 26.
[59] Ibid, p. 27.
[60] Ibid, pp. 158–170.
[61] Proposed Findings of Fact and Conclusions of Law of the Joint Sports Claimants, p.8.
[62] Ibid., pp. 9 and 11.
[63] Ibid., pp. 2–4.
[64] Ibid., p. 2.
[65] Ibid., p. 17.
[66] Ibid., p. 16.
[67] Ibid., p. 17.
[68] Ibid., p. 18.
[69] Ibid., pp. 19 and 30.
[70] Ibid., p. 34.
[71] Ibid., p. 20.
[72] Ibid., pp. 21, 31 and 35.
[73] Ibid., pp. 23 and 32.
[74] Ibid., p. 24.

[76] Ibid., pp. 24 and 36.
[77] Ibid., pp. 25 and 35.
[78] Ibid., p. 26.
[79] Ibid., pp. 27 and 28.
[80] Ibid., p. 36.
[81] Ibid., p. 37.
[82] Ibid., p. 38.
[83] Ibid., p. 39
[84] Ibid., p. 40.
[85] Ibid, p. 42.
[86] Ibid, p. 43.
[87] Ibid, p. 51.
[88] Ibid, p. 54.
[89] Ibid, p. 53.
[90] Ibid, p. 77.
[91] Ibid, pp. 80, 84 and 85.
[92] Ibid, p. 83.
[93] Ibid, p. 60.
[94] Ibid, p. 91.
[95] Ibid, p. 91.
[96] Ibid, p. 93.
[97] Ibid, p. 94.
[98] Ibid, pp. 95 and 96.
[99] Ibid, p. 45.
[100] Ibid, p. 9.
[101] Ibid, p. 46.
[102] Ibid, p. 47.
[103] Ibid, p. 48.
[104] Ibid, pp. 49 and 50.
[105] Ibid, p. 61.
[106] Ibid, p. 63.
[107] Ibid, p. 64.
[108] Ibid, p. 66.
[109] Ibid, pp. 67–70.
[110] Ibid, p. 76.
[111] Ibid, p. 70.
[112] Ibid, p. 100.
[113] Ibid, pp. 99 and 101–104.
[114] Ibid, pp. 103 and 104.
[115] Ibid, pp. 104–106.
[116] Ibid, p. 107.
[117] Ibid, p. 108.
[118] Ibid, p. 112.
[119] Ibid, pp. 110 and 113.
[120] Ibid, pp. 110–111.
[121] Ibid, p. 113.
[122] Ibid, p. 114.
[123] Ibid, p. 115.
[124] Ibid, p.116.
[125] Ibid, p.117.
[126] Ibid, pp. 117–118.
[127] Ibid, pp. 1 and 2.
[128] Proposed Phase I Findings of Fact and Conclusions of the National Association of Broadcasters, p.22.
[129] Ibid, pp. 29 and 30.
[130] Ibid, p. 43.
[131] Ibid, pp.43 and 75.
[132] Ibid, p.70.
[133] Ibid, p.119.
[134] Ibid, pp. 26 and 40.
[135] Ibid, pp. 30, 85 and 86.
[136] Ibid, pp. 7, 8, 21 and 36.
[137] Ibid, pp. 27 and 36.
[138] Ibid, p. 9.
[139] Ibid, pp. 79–80.
[140] Ibid, p. 116.
[141] Ibid, p. 37.
[142] Ibid, p. 48.
[143] Ibid, p. 50.
[144] Ibid, p. 127.
[145] Ibid, pp. 128 and 129.
[146] Ibid, p. 129.
[147] Ibid, p. 130.
[148] Ibid, pp. 9 and 10.
[149] Ibid, p. 125.
[150] Ibid, pp. 21, 22, and 123.
[151] Ibid, pp. 10 and 86.
[152] Ibid, p. 131.
[153] Ibid, pp. 21 and 131.
[154] Ibid, p. 127.
[155] Ibid, pp. 8, 46 and 61.
[156] Ibid, p. 46.
[157] Ibid, pp. 46 and 8.
[158] Ibid, pp. 8 and 61.
[159] Ibid, p. 62.
[160] Ibid, p. 63.
[161] Ibid, p. 84
[162] Ibid, pp. 121 and 122.
[163] Ibid, p. 122.
[164] Ibid, p. 45.
[165] Ibid, p. 45.
[166] Ibid, pp. 22, 32, and 133.
[167] Ibid, pp. 33 and 134.
[168] Ibid, pp. 10, 35, 36, 37, and 134.
[169] Ibid, p. 53.
[170] Ibid, p. 130.
[171] Ibid, p. 130.
[172] Ibid, p. 24.
[173] Ibid, p. 24.
[174] Ibid, p. 133.
[175] Ibid, p. 25.
[176] Ibid, p. 151.
[177] Ibid, pp. 25, 154, and 155.
[178] Ibid, p. 156.
[179] Ibid, pp. 156–159.
[180] Ibid, p. 160.
[181] Ibid, p. 161.
[182] Ibid, pp. 15 and 16.
[183] Ibid, pp. 27–28.
[184] Ibid. p. 30.
[185] Proposed Findings of Fact and Conclusions of Law of Public Broadcasting Service, p. 1.
[186] Tr. pp. 3918–21.
[187] Tr. pp. 4009.
[188] PB Exhibit II.
[189] Ibid.
[190] Ibid.
[191] Ibid.
[192] Tr., pp. 4946–55; PB Exh. RR.
[193] Tr., pp. 5518–22.
[194] Sports Exh. 1, pp. A–30, A–35, B–18, B–35.
[195] NAB Exh. W, p. 8, PB Exh. KK; Tr. pp. 3987–88.
[196] NAB Exh. W., p. 7
[197] Tr. 4068, *et seq.*
[198] Tr. pp. 4087–4092.
[199] Tr. p. 3835.
[200] Tr. pp. 4289–90.
[201] Tr. pp. 2127–31.
[202] Proposed Findings of Fact and Conclusions of Law of Public Broadcasting Service, p. 2.
[203] Tr. 9/81, p. 4071
[204] Music Exhibits 1, 2.
[205] Tr. 9/81, pp. 4072–4073.
[206] Tr. 9/18, pp. 4072–4073.
[207] Tr. 9/18, p. 4155.
[208] Tr. 9/18, pp. 4155–4156.
[209] Tr. 9/18, p. 4160.
[210] Tr. 7/28, pp. 1975–1976.
[211] Tr. 9/18, pp. 4156–4157.
[212] Tr. 7/30, p. 2256.
[213] Tr. 9/18, pp. 4158–4160.
[214] Summary of Testimony of Lawrence K. Grossman, PB Exhibits G, H, and EE.
[215] OTG Exhibit C.
[216] PB Exhibits G, H, and I.
[217] Proposed Findings of Fact and Conclusions of Law by Music, p. 36.
[218] Proposed Findings of Fact and Conclusions of the Canadian Claimants, p. 10.
[219] Proposed Findings of Fact and Conclusions of Law of National Public Radio, p. 59.
[220] Ibid, pp. 2, 27 and 28.
[221] Ibid, p. 10.
[222] Ibid, p. 10.
[223] Ibid, pp. 4, 5, 11, 42, and 43.
[224] Ibid, pp. 12 and 42.
[225] Ibid, pp. 12 and 13.
[226] Ibid, pp. 13, 25 and 42.
[227] Ibid, pp. 5, 14 and 42.
[228] Ibid, pp. 5 and 14.
[229] Ibid, pp. 5, 25 and 42.
[230] Ibid, p. 34.
[231] Ibid, p. 9.
[232] Ibid, pp. 17–18.
[233] Ibid, p. 21.
[234] Ibid, p. 20.
[235] Ibid, p. 29.
[236] Ibid, p. 20.
[237] Ibid, pp. 43–43.
[238] Ibid, pp. 4 and 15.
[239] Ibid, p. 18.
[240] Ibid, p. 19.
[241] Ibid, p. 20.
[242] Ibid, p. 24.
[243] Ibid, pp. 20, 29 and 43.
[244] Ibid, p. 43.
[245] Ibid, pp. 30 and 43.
[246] Ibid, pp. 21, 22 and 43.
[247] Ibid, p. 22.
[248] Ibid, pp. 5 and 23.
[249] Ibid, p. 34.
[250] Ibid, pp. 34–35.
[251] Ibid, p. 9.
[252] Ibid, p. 36
[253] Ibid, p. 37.
[254] Ibid, pp. 5, 37 and 38.
[255] Ibid, p. 51.
[256] Ibid, p. 32.
[257] Ibid, p. 32.
[258] Ibid, p. 32.
[259] Ibid, p. 40
[260] Ibid, p. 4.
[261] Ibid, pp. 4 and 44.
[262] Ibid, pp. 4 and 44.
[263] Ibid, pp. 45 and 46.
[264] Ibid, p. 47.
[265] Ibid, p. 49.
[266] Ibid, pp. 4 and 50.
[267] Ibid, p. 53.
[268] Ibid, p. 54.
[269] Ibid, p. 55.
[270] Ibid, p. 55.
[271] Ibid, p. 51.
[272] Ibid, pp. 6, 50 and 57.
[273] Ibid, pp. 6 and 58.
[274] Ibid, p. 57.
[275] Ibid, p. 52.
[276] Ibid, pp. 6 and 53.
[277] Ibid, p. 6.
[278] Ibid, p. 7.
[279] Program Supplier's Proposed Findings of Fact & Conclusions of Law on Phase II Issues, pp. 1 and 52.
[280] Ibid, pp. 4 and 5
[281] Ibid, p. 8.
[282] Ibid, p. 6.
[283] Ibid, p. 7.
[284] Ibid, p. 7.
[285] Ibid, p. 11.
[286] Ibid, p. 7.
[287] Ibid, p. 32.
[288] Ibid, p. 32.
[289] Ibid, p. 32.
[290] Ibid, p. 6.
[291] Ibid, p. 9.
[292] Ibid, p. 9.
[293] Ibid, p. 7.
[294] Ibid. pp. 8, 13, and 14.
[295] Ibid. pp. 2, 3, 4, and 13.
[296] Ibid, p. 4.
[297] Ibid, p. 3.
[298] Ibid, pp. 5, 12, and 13.
[299] Ibid, p. 10.
[300] Ibid. pp. 9 and 10.
[301] Ibid, p. 11.
[302] Ibid, p. 6.
[303] Ibid, p. 6.
[304] Ibid. pp. 1 and 2.
[305] Ibid, pp. 52–59.
[306] Proposed Phase II Findings of Fact & conclusions of Multimedia Program Productions, Inc., pp. 22 and 46.
[307] Ibid, pp. 45–46.
[308] Ibid, p. 9.
[309] Ibid, p. 7.
[310] Ibid, p. 7.
[311] Ibid, p. 8.
[312] Ibid, p. 8.
[313] Ibid, pp. 7 and 8.
[314] Ibid, pp. 8 and 9.
[315] Ibid; p. 2.
[316] Ibid, p. 3.
[317] Ibid, pp. 10 and 11.
[318] Ibid, p. 11.
[319] Ibid, p. 12.
[320] Ibid, p. 12.
[321] Ibid, p. 13.
[322] Ibid, p. 13.
[323] Ibid, p. 14.
[324] Ibid, p. 20.
[325] Ibid, p. 3, 5, 20, 21, and 22.
[326] Ibid, p. 3 and 21.
[327] Ibid, p. 15.
[328] Ibid, p. 15.
[329] Ibid, p. 16.
[330] Ibid, p. 17.
[331] Ibid, p. 17 and 18.
[332] Ibid, p. 18.
[333] Ibid, p. 19.
[334] Ibid, p. 53.
[335] Proposed Phase II Findings of Fact & Conclusions of the National Association of Broadcasters, pp. 7, 8, and 28.
[336] Ibid, pp. 7 and 8.
[337] Ibid, p. 25.
[338] Ibid, pp. 6, 25 and 26.
[339] Ibid, pp. 7 and 26.
[340] Ibid, pp. 7, 26 and 27.
[341] Ibid, p. 7.
[342] Ibid, pp. 6 and 26.
[343] Ibid, p. 25.
[344] Ibid, p. 27.
[345] Ibid, p. 27.
[346] Ibid, p. 27.
[347] Ibid, pp. 27 and 28.
[348] Ibid, p. 28.
[349] Ibid, pp. 19–20.
[350] Ibid, p. 30.
[351] Ibid, pp. 21 and 22.
[352] Ibid, pp. 23–24.
[353] Ibid, pp. 24–25.
[354] Ibid, pp. 5 and 12.
[355] Ibid, p. 5.
[356] Ibid, pp. 16–17.
[357] Ibid, p. 17.
[358] Ibid, pp. 5–6.
[359] Ibid, p. 34.
[360] Phase II Proposed Findings and Conclusions of SIN, Inc., p. 34.
[361] Ibid, pp. 3, 4, 5, 10, 30 and 31.
[362] Ibid, p. 34.
[363] Ibid, pp. 11, 31, 33, and 34.
[364] Ibid, pp. 11, 14 and 31.
[365] Ibid, pp. 31 and 33.
[366] Ibid, p. 13.
[367] Ibid, pp. 9 and 33.
[368] Ibid, pp. 10 and 11.
[369] Ibid, pp. 13, 14, 31, and 32.
[370] Ibid, p. 6.
[371] Ibid, p. 6, 7 and 8.
[372] Ibid, p. 15.
[373] Ibid, pp. 14, 15, 32 and 33.
[374] Ibid, p. 15.
[375] Ibid, pp. 15, 16.
[376] Ibid, p. 16.
[377] Ibid, pp. 12, 16, 17 and 24.
[378] Ibid, p. 18.
[379] Ibid, pp. 11 and 21.
[380] Ibid, p. 21.
[381] Ibid, p. 17.
[382] Ibid, p. 23.
[383] Statement of John H. Bull, Vice President of Bozell & Jacobs, Inc., p. 8.
[384] Ibid, p. 2.
[385] Prehearing Statement, Mutual of Omaha Insurance Company, p. 1.
[386] Statement of John H. Bull, p. 2.
[387] Ibid, pp. 2–3.
[388] Ibid, p. 4.
[389] Ibid, p. 4 and Prehearing Statement, p. 2.
[390] Statement of John H. Bull, p. 5.
[391] Ibid, p. 5.
[392] Prehearing Statement, p. 2.
[393] Statement of John H. Bull, p. 6.
[394] Ibid, p. 6.
[395] Ibid, p. 7.
[396] Ibid, p. 8 and Prehearing Statement, p. 2.
[397] Statement of John H. Bull, pp. 5 and 8.
[398] CBN Proposed Phase II Findings of Fact & Conclusions of Law, p. 51.
[399] Ibid, pp. 6, 7, 8, 18, 19, and 40.
[400] Ibid, p. 6.
[401] Ibid, pp. 6, 7 and 8.
[402] Ibid, p. 8.
[403] Ibid, p. 47.
[404] Ibid, pp. 3, 40.
[405] Ibid, p. 47.
[406] Ibid, p. 51.
[407] Ibid, p. 10.
[408] Ibid, p. 10.
[409] Ibid, p. 10.
[410] Ibid, p. 10.
[411] Ibid, p. 11.
[412] Ibid, pp. 17 and 18.
[413] Ibid, pp. 19 and 40.
[414] Ibid, pp. 19, 20 and 40.
[415] Ibid, pp. 20 and 40.
[416] Ibid, p. 21.
[417] Ibid, p. 12.
[418] Ibid, p. 13.
[419] Ibid, pp. 13 and 14.
[420] Ibid, p. 14.
[421] Ibid, pp. 16 and 18.
[422] Ibid, pp. 22 and 23.
[423] Ibid, pp. 23 and 50.
[424] Ibid, pp. 25 and 26.
[425] Ibid, p. 25.
[426] Ibid, p. 26.
[427] Ibid, pp. 26–30 and 50–51.
[428] Ibid, p. 51.
[429] Ibid, p. 26.
[430] Ibid, pp. 55–56.
[431] Phase II Proposed Finding of Fact & Conclusions of Law of Heritage Village Church & Missionary Fellowship, Inc., p. 40.
[432] Ibid, p. 8.
[433] Ibid, p. 23.
[434] Ibid, p. 9.
[435] Ibid, p. 13.
[436] Ibid, p. 15.
[437] Ibid, p. 9
[438] Ibid, p. 10.
[439] Ibid, p. 11.
[440] Ibid, p. 13.
[441] Ibid, p. 11.
[442] Ibid, pp. 11–12.
[443] Ibid, p. 12.
[444] Ibid, pp. 12–13.
[445] Ibid, p. 14.
[446] Ibid, pp. 14–15.
[447] Ibid, p. 20.
[448] Ibid, p. 15.
[449] Ibid, pp. 16–17.
[450] Ibid, p. 17.
[451] Ibid, p. 18.
[452] Ibid, pp. 18–19.
[453] Ibid, p. 19.
[454] Ibid, p. 19.
[455] Ibid, pp. 20–22.
[456] Ibid, p. 22.
[457] Ibid, p. 24.
[458] Ibid, p. 24.
[459] Ibid, p. 25.
[460] Ibid, pp. 26–29.
[461] Ibid, p. 20.
[462] Ibid, p. 2.
[463] Phase II Proposed Findings of Fact & Conclusions of Law of Old-Time Gospel Hour p. 11.
[464] Ibid, p. 10.
[465] Ibid, p. 11.
[466] Ibid, p. 6.
[467] Ibid, p. 6.
[468] Ibid, p. 7.
[469] Ibid, p. 7.
[470] Ibid, p. 10.
[471] Ibid, p. 5.
[472] Ibid, p. 8.
[473] Ibid, p. 10.
[474] Ibid, p. 48.
[475] Reply and Proposed Finding of Fact and Conclusion of Soprano Co., p. 2.
[476] 45 FR 63035–37.
[477] Proposed Findings of Fact and Conclusions of Law of Public Broadcasting, p. 4 "At this point it is accurate to say that there is little concrete evidence of record with regard to the Congressional presumption of harm, although a number of parties have tendered, evidence and arguments concerning theories and 'anecdotal' instances of what they believe to be harm that has been caused by the distant carriage of television signals." Joint Sports findings, p. 112 "In their inability to quantify harm, the sports interests are certainly no different from the other claimants in this proceeding. None of these parties has been able to provide proof of harm with that degree of precision that an administrative agency might desire."
[478] Proposed Phase I Findings of Fact and Conclusions of the National Association of Broadcasters, pp. 46–50; Proposed Findings of Fact and Conclusions of Law of the Joint Sports Claimants, p. 6.
[479] 45 FR 63037.
[480] Proposed Phase I Findings of Fact and Conclusions of the National Association of Broadcasters, p. 52.
[481] Proposed Findings of Fact and Conclusions of Law of Public Broadcasting Service, pp. 50–51.

[400] As cable operator Dolan testified:

(E)verything that you do with a cable system, you do in an effort to improve the subscriber's perception of value of what you are doing for him, because he's sending you money every month, and he is not under contract, and he will subscribe in the first place, and continue to subscribe from month to month, according to what he thinks of the service, his views of it.

This does not have anything to do at all with program tonnage. It has to do with what he regards to be an attraction. Tr. 1219–20.

[401] Reply Of The Motion Picture Association Of America, Inc., And Member Companies To Proposed Findings And Conclusions Of Other Claimant Categories, at p. 6. "No one has challenged the fact that sports programming is attractive"; NAB Findings at p. 106 "There is evidence in the record that distant signal sports are more important to cable operators than is reflected by the time occupied by sports programs" and at 107, "The perception of cable operators that sports is an important reason for subscribing to cable television is confirmed by the Arbitron NEM Study."

[402] 45 FR 63031–35.

[403] We discuss here only the broadcasters entitlement under Phase I.

[404] 45 FR 63034–5 for our discussion of the legal issues relating to royalties for sports programming.

[405] Ibid, 63035.

[406] "The substance of NAB's claim, stripped of its attempted patina of sophistication, is time alone", Proposed Findings and Conclusions of the MPAA and Member Companies, p. 80; "Incredibly, the NAB has come back this year and again proposed that the Tribunal should accord primary importance to the time factor", Proposed Findings of Fact and Conclusions of Law of the Joint Sports Claimants, pp. 118–19; "The NAB produced witnesses whose testimony, like the NAB's case, had a familiar ring: it was primarily based on time considerations", Proposed Findings of Fact and Conclusions of Law by Music, p. 25.

[407] Tr. 4143.

[408] Proposed Findings of Fact and Conclusions of the Canadian Claimants, p. 8 "No claim was made that the data were fully accurate."

[409] Proposed Findings of Fact and Conclusions of Law of Public Broadcasting Service, p. 98.

[410] Proposed Findings and Conclusions of the MPAA and Member Companies, p. 166, "it is concluded that NPR is entitled to 0.25% of the 1979 cable royalty fund on the basis of some slight benefit from carriage of its programs on a distant signal basis. NAB failed to make a sufficient showing on behalf of commercial radio as to any of the Tribunal's primary or secondary factors, and thus should not be given any allocation for distant carriage of commercial radio."; Proposed Findings of Fact and Conclusions of Law of the Joint Sports Claimants, p. 166 "the theory espoused by the NPR is essentially the same as the sports interests."

[411] Tr. p. 456.

[412] Proposed Findings of Fact and Conclusions of Law of Public Broadcasting Service, pp. 97–98.

[413] MPAA and associated program suppliers filed in Phase II: Motion To Dismiss Certain Claims Filed By Multimedia Program Productions, Inc., For Lack of Ownership; Motion To Dismiss Claims of Golden West Broadcasters; Motion To Dismiss For Failure To State A Valid Claim (NAB); Motion to Dismiss Six Claim; Motion To Dismiss Mutual of Omaha Claim; Motion To Bar Six from presenting certain evidence relating to its fee-generated formula; Motion To Dismiss Six Rebuttal Case.

[414] Proposed Phase II Findings of Fact & Conclusions of the National Association of Broadcasters, p. 30.

[415] Ibid.

[416] Ibid, p. 29.

[417] Ibid, p. 30.

[418] Tr. 9959; 9923.

[419] Tr. 9947.

[420] Tr. 9930.

[421] Tr. 9921.

[422] Tr. 9922.

[423] Tr. 9930.

[424] Proposed Phase II Findings of Fact & Conclusions of the National Association of Broadcasters, p. 25.

[425] Tr. 6360.

[426] Program Suppliers' Proposed Findings of Fact & Conclusions of Law on Phase II Issues, p. 31.

[427] Mutual failed to comply with the Tribunal's directive of Jan. 21, 1982 to provide an intelligible explanation of the computer printout.

[428] Proposed Phase II Findings of Fact & Conclusions of the National Association of Broadcasters, p. 32.

[429] Prposed Phase II Findings of Fact & Conclusions of Multimedia Program Productions, Inc., p. 51.

[430] Tr. 9626.

[431] Program Suppliers' Proposed Findings of Fact & Conclusions of Law on Phase II Issues, p. 49.

[432] Proposed Phase II Findings of Fact & Conclusions of the National Association of Broadcasters, p. 12.

[433] 45 FR 63037.

[434] Proposed Phase II Findings of Fact & Conclusions of the National Association of Broadcasters, p. 2

[435] Letter of Dennis Angel, Jan. 18, 1982.

[436] 45 FR 63043.

[437] Proposed Phase II Findings of Fact & Conclusions of Multimedia Program Productions, Inc., p. 52.

[438] Program Suppliers' Proposed Findings of Fact & Conclusions of Law on Phase II Issues, p. 6.

[439] Phase II Proposed Findings of Fact & Conclusions of Law of Old-Time Gospel Hour, p. 48.

DEPARTMENT OF EDUCATION

Office for Civil Rights

Final Annual Operating Plan for Fiscal Year 1982

AGENCY: Education Department.

ACTION: Notice of Final Annual Operating Plan for Fiscal Year 1982.

SUMMARY: The Office for Civil Rights (OCR) issues its Annual Operating Plan (AOP) for Fiscal Year 1982. The AOP describes the activities that OCR plans to conduct in FY 1982 with respect to compliance and enforcement, technical assistance, and program management.

FOR FURTHER INFORMATION CONTACT: Kristine M. Marcy, Director, Planning and Compliance Operations Service, Office for Civil Rights, Department of Education, (RM. 5074, Switzer Bldg.), 400 Maryland Avenue, SW., Washington D.C. 20202. Telephone: (202) 245–0301.

SUPPLEMENTARY INFORMATION: The Office for Civil Rights (OCR) issued its proposed Annual Operating Plan (AOP) for FY 1982 for public comment in the **Federal Register** on September 30, 1981, (46 FR 47810–47813). The comments received on the proposed AOP are summarized below. Each is followed by the response of the Assistant Secretary for Civil Rights.

Comment. By projecting a given level of complaint receipts, the AOP becomes self-fulfilling; i.e., it guides the level of activity to be undertaken by creating or producing a certain number of complaints.

Response. In projecting complaint receipts based on historical trends, OCR attempts to identify, both for its own internal planning purposes and for the interested public, how much of its resources may be consumed by complaint investigation activities and how much will remain to be allocated to other activities. Because OCR has some discretion as to the levels of other activities it will pursue, the Assistant Secretary believes it is first necessary to project OCR's complaint workload in order to adequately plan these other activities. The projection is not intended for other purposes, and OCR regrets any implication that the projection might in itself create a complaint workload or guide the level of complaint investigation activities.

Comment. OCR should indicate the accuracy of its previous estimates in predicting the actual number of complaints received during a fiscal year (FY).

Response. The AOP for FY 1981 projected 4090 complaint receipts. Actual receipts totaled 2876. The AOP for FY 1982 takes into consideration recent trends in projecting complaint receipts.

Comment. The AOP should identify plans for expediting complaint processing in order to free staff resources to pursue other, more effective, compliance activities.

Response. The Assistant Secretary is hopeful that OCR's implementation in each of its regional offices of a process called Early Complaint Resolution (ECR) will facilitate the resolution of complaints. ECR was begun during the first quarter of FY 1982, and full implementation is expected during the second quarter.

ECR is intended for use in those cases in which a good chance of success is expected. It is designed to enable parties to a complaint to resolve the issues between themselves promptly and voluntarily without an OCR investigation.

In addition to implementing the ECR process, OCR intends to continually review, modify and evaluate its operations in order to identify and correct impediments to efficient case processing.

Comment. Given OCR's declining resources, which have resulted in reductions in OCR's compliance review program, OCR should seek additional resources for FY 1982.

Response. The funds provided for FY 1982 will enable OCR to allocate 53 investigative staff years to post-funding compliance reviews. This level of effort will permit OCR to conduct compliance reviews on a wide range of important issues, the selection of which was based on survey results and previous compliance reviews and complaint investigations.

Comment. The AOP should specify the number of compliance reviews that OCR expects to initiate in FY 1982 for each type of issue.

Response. The amount of investigator time needed to complete a compliance review depends upon a number of variables including the issue, the size of the institution being investigated, and the data that are required. Thus, the Assistant Secretary finds it impossible to project an accurate number of compliance reviews that can be undertaken with the investigator time available.

Comment. The AOP should specify how many investigator years will be dedicated to each statutory jurisdiction—that is, Title VI, Section 504 and Title IX—within each compliance review issue.

Resonse. OCR dedicates to each statutory jurisdiction approximately one-third of the investigator years available for each issue. The exceptions are clearly indicated in the AOP when the issue description specifies only a single jurisdiction.

Comment. OCR reviews of graduate and professional school admissions policies should be coupled with reviews of financial aid policies.

Response. The Secretary wishes to point out that this year OCR has introduced separate reviews of student services, which include investigations of financial aid policies and practices.

Comment. OCR should target compliance reviews so that an appropriate number of multi-jurisdictional review sites are selected solely or primarily on the basis of suspected problems under each of OCR's statutory jurisdictions, and secondarily investigated under the other jurisdictions. Title IX was specifically mentioned with respect to this comment.

Response. It is the policy of the Department to focus OCR compliance reviews on institutions that appear to have the most severe compliance problems. Moreover, since severe problems exist under all statutes in OCR's jurisdiction, there has not been a need to consider targeting for any specific jurisdiction.

There appears to be no need at this time for OCR to single out concerns related to compliance with Title IX; for example, a sample of sites nominated for FY 1982 compliance reviews revealed that 62 of 84, or approximately 74 percent, included potential compliance problems under Title IX.

Comment. The AOP should clarify why only one investigator year is assigned to reviews of intercollegiate athletics when so many investigations of this issue are taking place and were not completed by the end of FY 1981.

Response. Only five compliance reviews related to intercollegiate athletics remain to be completed in FY 1982. The Assistant Secretary does not anticipate any difficulty completing them with the resources available. The other intercollegiate athletics investigations being conducted are complaint investigations and are covered by the staff allocations under that activity.

Comment. Since complaints related to Title IX are filed less frequently than complaints related to other statutes under the jurisdiction of OCR, the office should assign more time to compliance reviews involving sex discrimination issues.

Response. The Assistant Secretary regrets that OCR is unable to accommodate this request. As similarly indicated in the AOP for FY 1981, the amount of investigative time (53 investigator years to complete carryover reviews and initiate new ones) limits any significant increase in time for reviews of compliance with Title IX. Any substantial increase in compliance review time for Title IX would leave virtually no time available for reviews related to Section 504 and Title VI.

Comment. In planning its compliance review program, OCR should ensure that its reviews are successful in identifying discrminatory practices and securing corrective actions.

Response. The Assistant Secretary believes that OCR's compliance reviews have generally been effective in identifying and correcting violations of civil rights laws. In fiscal years 1980 and 1981, the percentages of compliance review closures resulting in corrective actions were 77 and 74, respectively. In contrast, during FY 1981 only 55 percent of the investigated complaint closures (not including those complaints closed for administrative reasons) resulted in change.

Comment. Age discrimination should be included within the scope of compliance reviews involving graduate and professional school admissions, vocational rehabilitation services, and other issues in which age discrimination appears to be a serious problem.

Response. The Assistant Secretary has delayed the inclusion of age discrimination issues in OCR's compliance review program pending publication of final Department of Education regulations enforcing the Age Discrimination Act of 1975. OCR is currently reviewing proposed regulations for the Department. The Secretary tentatively plans to publish these proposed regulations in the **Federal Register** in March 1982.

Comment. The AOP should specify separate allocations of investigative staff resources to each type of "other monitoring" activity (i.e., reviews of methods of administration of vocational education and monitoring of remedial action plans resulting from complaint investigations and compliance reviews). Also, the number of plans to be monitored should be identified.

Response. FY 1982 is the first year of OCR's involvement in monitoring the oversight activities of 56 States and Territories concerning the civil rights compliance of their subrecipients of Federal assistance for vocational education. The Assistant Secretary believes it is difficult to project a specific allocation of staff resources because of the lack of experience on which to base that projection. Thus, the Assistant Secretary made a single

projection of five staff years to cover these monitoring activities, as well as the monitoring activities involving remedial action plans. At the same time, however, the Assistant Secretary believes that this AOP represents an improvement over the AOP for FY 1981, which set aside no specific allocation of staff resources for "other monitoring" activities.

With respect to the suggestion that the APO estimate the number of remedial action plans to be monitored, the Assistant Secretary is unable to accommodate this request. Essentially, these activities are conducted on an irregular basis and are prompted when OCR has an indication that there is a need for renewed OCR involvement.

Comment. The AOP should include major plans for the development and review of policies, identifying new policies OCR plans to issue and existing policies targeted for review.

Response. Because the timing of major policy statements can be affected by many factors, the Secretary is reluctant to set dates for the issuance of those types of statements. Currently, for example, the Secretary—in response to Presidential initiatives—has given priority to the Department's regulation review process. This affects the time available to OCR for policy development activities and makes difficult the exact scheduling of those activities.

With respect to identifying plans for regulations review, the Secretary issues semi-annually (as required by the Regulatory Flexibility Act and Executive Order 12291) an agenda of proposed regulations the Department has issued or expects to issue and of current regulations under review. The most recent agenda was published on November 3, 1981.

Comment. The AOP should specify all the major technical assistance activities OCR plans to conduct in FY 1982.

Response. The Assistant Secretary accepts this recommendation. This AOP includes an expanded description of OCR's FY 1982 technical assistance activities and projections of staff resources to be devoted to these activities.

The annual operating plan of the Office for Civil Rights for fiscal year 1982 is as follows:

I. Introduction

The basic purpose of the Office for Civil Rights (OCR) is to ensure that no person is unlawfully discriminated against by recipients of Federal education funds in the delivery of services or the provision of benefits on the basis of race, national origin, handicap, sex or age. The jurisdictional authorities under which OCR operates include Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

Covered under these authorities are 50 State education agencies, 16,000 local education agencies, 3200 institutions of higher education, 50 State rehabilitation agencies and their subrecipients, as well as other institutions such as libraries and museums which receive financial assistance from the Department of Education (ED). The job of protecting the civil rights of 12 million minority group members, 4 million handicapped persons and 26 million women who attend public schools or postsecondary institutions as well as the one million handicapped persons in vocational rehabilitation programs rests almost exclusively with OCR, as does the responsibility of guaranteeing these rights for future students.

OCR's strategy to ensure compliance with Federal civil rights statutes involves two basic types of activities: compliance activities and technical assistance activities. Nearly all of OCR's compliance activities (complaint investigations, compliance reviews, *Lau* plan monitoring, and monitoring State higher education system desegregation) are required by various statutes, regulations and court orders. OCR has some discretion, however, as to where it will conduct its compliance review activities and what issues these reviews will cover. OCR concentrates these investigative activities on those recipients which are believed to be in serious noncompliance with major civil rights requirements, primarily identified by OCR civil rights compliance survey data.

Through the transfer of information, material and skills, OCR encourages recipients to voluntarily comply with, and beneficiaries to understand their rights under, Federal civil rights statutes. OCR staff, including headquarters staff and the Regional Technical Assistance Staff, ED program office staff and contracted personnel are the major vehicles used by OCR to deliver technical assistance.

Compliance activities and technical assistance activities are often combined in a case-specific context. The application of technical assistance can be a positive factor any time after the initiation of a complaint investigation or compliance review. At some point during the investigative process or following its conclusion, technical assistance can be provided in response to a request from a recipient or as a result of an inquiry by investigative staff as to whether a recipient would be interested in such assistance. As a result, resolution of a compliance issue may be achieved which is satisfactory to the complainant and recipient. Through the application of both compliance and technical assistance activities, OCR can often obtain voluntary compliance on the part of ED recipients while avoiding confrontational situations.

The following narrative and tables describe the activities that OCR plans for FY 1982.

II. Regional Investigatory Activities

A total of 371 investigative staff years will be assigned to compliance and enforcement work in FY 1982 as follows:

	Investigator time	
	Staff years	Percentage
Complaint investigations	285	77
Compliance reviews	53	14
Lau monitoring	10	3
Adams monitoring	18	5
Other monitoring	5	1
Total	371	100

A. Complaint Investigations

Table One, below, shows projected complaint receipts, closures, and opening and ending inventories by jurisdiction. In order to determine the level of investigative staff resources required to process these complaints, the following projections were made.

—OCR had a pending caseload of 1533 complaints as of October 1, 1981.

—During FY 1982, OCR will receive 3592 complaints.

—During FY 1982, OCR will close 3592 complaints.

—OCR will have a pending caseload of 1533 complaints as of October 1, 1982.

Based on these projections, 285 investigator years will be allocated to complaints.

This plan anticipates fewer pending complaints as of October 1982 than did the proposed plan. This revised expectation results from a lower number of pending complaints as of October 1981 than was expected. The number of complaint receipts projected for FY 1982 has remained unchanged. OCR will still attempt to close as many complaints as are received during FY 1982 so that the pending complaint workload does not rise. Further, it should be noted that some complaint investigations, because of the nature of the complaints, are expanded in scope so that in reality they are similar to, and as inclusive as compliance reviews.

B. Compliance Reviews

A total of 53 investigator years will be available to conduct compliance reviews in FY 1982. This activity will include completing reviews started in previous years and initiating new reviews. The issues to be covered in the reviews conducted during FY 1982 are presented in Table Two, below. These issues were identified on the basis of survey results, findings from previous complaint investigations and compliance reviews, and related research findings. Table Two also indicates the number of investigator years to be assigned to each issue and an approximate number of new reviews to be initiated during FY 1982. Shortly after the beginning of each quarter of FY 1982, OCR will make available to the public, upon request, information on the specific types of compliance reviews it will initiate during that quarter.

C. Monitoring Activities

During FY 1982, OCR will review recipients to determine whether they are complying with the terms of compliance agreements. These activities will include *Adams* higher education desegregation and *Lau* plan monitoring.

1. *Adams* Higher Education Desegregation Plan Monitoring—OCR is currently monitoring higher education desegregation plans of six States. In FY 1982, 18 investigator years will be allocated to monitoring the desegregation activities of 15 States.

2. *Lau* Plan Monitoring—OCR is required to monitor the implementation of *Lau* plans by recipients. In FY 1982, 10 investigator years will be allocated to monitoring approximately 50 such plans.

3. Other Monitoring—OCR will pursue other monitoring activities in FY 1982 which include reviewing the oversight activities of 56 States and Territories concerning the civil rights compliance of their vocational education subrecipients. OCR will also monitor remedial action plans resulting from its own investigations and reviews conducted in previous years. It is projected that these activities will consume five investigator years.

D. Summary

Table Three summarizes the allocation of investigator years by recipient group. Table Four summarizes the allocation by jurisdiction.

III. Technical Assistance Activities

Over 20,000 education institutions which receive Federal funds must comply with a number of complex civil rights requirements. Because of the numbers involved, OCR is unable to investigate the policies or practices of each recipient. In order to encourage these institutions to voluntarily comply with the law, OCR, either through headquarters or regional staff, provides technical assistance to recipients and works with ED program staff to help recipients understand their civil rights obligations. The major focus of the regional technical assistance program is to combine outreach, targeting and networking strategies to maximize the impact of the technical assistance program and increase the information available to recipients. The majority of activities involve training and on-site consultations designed to develop recipient problem solving skills and resolving issues that hinder compliance. These assistance activities serve as an integral part of OCR's compliance activities by extending the range of OCR's impact beyond those recipients who are directly covered by an OCR investigation and by enabling OCR to accomplish its mission more efficiently and effectively. By combing a forceful compliance review program with an effective assistance program, OCR will be able to make substantial progress toward achieving broad compliance with civil rights statutes.

During FY 1982, OCR will plan and coordinate efforts to implement expanded technical assistance activities to all education recipients and beneficiaries. Our intent is to: (1) Increase the States' capacity to address civil rights compliance concerns; (2) provide accurate compliance related information; (3) utilize innovative techniques, planning and training; and (4) foster voluntary compliance on civil rights matters among education recipients. OCR believes that this strategy will greatly increase the impact of its technical assistance program. OCR also expects to work very closely with State officials or their delegated agencies to increase the States' ability to participate in compliance negotiations. OCR will also solicit the support of ED program offices, professional organizations, educational associations, civil rights groups and consumer agencies in this effort.

A total of 42 OCR professional staff years will be allotted to these activities during FY 1982 including both headquarters staff and Regional Technical Assistance Staff. In addition, another 70 staff years (professional and support) will be available during FY 1982 as a result of contracts totalling approximately $4.8 million which were awarded during FY 1981. These contract expenditures were divided among three of OCR's jurisdictional authorities, with Section 504 receiving 67 percent, Title VI receiving 21 percent and Title IX receiving 12 percent.

IV. Program Management Activities

In order to effectively carry out its compliance, enforcement and technical assistance activities, OCR conducts a comprehensive legal, management and evaluation program that includes:

—Formulating regulations, policies and investigation manuals;

—Providing technical guidance on cases and reviews referred from regional offices;

—Conducting hearings before Administrative Law Judges on the compliance of Federal fund recipients with civil rights requirements;

—Monitoring State higher education desegregation and *Lau* plans;

—Meeting with school district representatives, college and university officials, complainants and civil rights groups to discuss OCR activities;

—Conducting OCR national surveys and data collection projects to obtain information on recipients and beneficiary populations;

—Operating a data base management system to assure that complaint processing time frames are met;

—Providing basic training to new investigators as well as training on policy initiatives for experienced investigators and legal staff;

—Conducting systematic on-site reviews of technical assistance contractors' activities;

—Directing and monitoring the implementation of Regional Technical Assistance workplans; and

—Developing Requests for Proposals, and participating in the selection of contractors, for technical assistance activities selected for implementation by contract.

TABLE 1.—FISCAL YEAR 1982 ANNUAL OPERATING PLAN

[Projected FY 1982 Complaint Workload]

	Title VI [1]	Title IX	Section 504	Age	Total
Pending Oct. 1, 1981	252/64	443	765	9	1,533
FY 1982 Projected Receipts	701/170	603	2063	36	3,592
Fy 1982 Closures (total)	826/170	611	1940	36	3,582
Pending 10/1/82	217/64	335	908	9	1,533

[1] Race/national origination.

NOTE.—Project FY 1982 complaint receipts were distributed according to the proportions each jurisdiction represented in the complaints received from 10/1/80 to 9/30/81. Similarly, the projected FY 1982 closures were distributed according to the proportions each jurisdiction represented in the closures between 10/1/80 and 9/30/81.

TABLE 2.—FISCAL YEAR 1982 ANNUAL OPERATING PLAN

[Compliance reviews scheduled]

Issue	Description of violation	Investigator years planned
Elementary and Secondary Education		
Within School Discrimination: Classroom Assignments, Tracking and Ability Grouping, Special and Physical Education and Secondary School Athletics.	Discriminatory assignment of students on the basis of race, national origin, sex and/or handicap to courses (including industrial arts and home economics), classrooms, special programs, ability groups, and physical education programs. (Special programs would include those for the educable mentally retarded as well as those for the gifted or talented, e.g., advanced mathematics or science.) This issue would also cover biased counseling and appraisals of students as well as unequal opportunities involving athletics.	15
Vocational Education: Access, Admissions and Job Placement.	Discrimination on the basis of race, national origin, sex and/or handicap in vocational education programs and courses.	4
Special Purpose Schools: Program Availability and Least Restrictive Environment.	Discrimination in admissions, accessibility, treatment or employment in State administered special purpose schools on the basis of race, national origin, sex and/or handicap.	4
Unserved Special Education	Discrimination in the provision of a free and appropriate education on the basis of handicap	3
School Segregation	Discriminatory assignment of students to schools on the basis of race or national origin	2
Identification of and Services to Limited-English-Proficient (LEP) Children.	Discrimination against non-English-speaking (NES) or limited-English-proficient (LEP) children	4
School Discipline: Expulsions and Suspensions	Discriminatory disciplinary treatment of students on the basis of race, national origin, sex and/or handicap	2
Postsecondary Education		
Program Accessibility for the Handicapped	Lack of program accessibility and accommodations for handicapped students in postsecondary school programs	3
Graduate and Professional Schools: Admissions	Discrimination on the basis of sex, race and/or national origin in admissions to graduate and professional schools	5
Intercollegiate Athletics: Overall Progam Equality	Lack of comparable intercollegiate athletic facilities and programs for women based on their interests and abilities	1
Vocational Education: Access, Admissions and Job Placement.	Discrimination on the basis of race, national origin, sex and/or handicap in vocational education programs and courses.	4
Student Services	Discrimination on the basis of race, national origin, sex and/or handicap in the provision of services such as financial aid, housing, counseling and tutorial services, health services and insurance benefits, and/or student employment and placement services.	4
Vocational Rehabilitation Services	Discrimination in the provision of services and benefits to individuals on the basis of handicap, race and/or national origin.	4

TABLE 3.—FISCAL YEAR 1982 ANNUAL OPERATING PLAN

[Investigator Years Allocated to Each Type of Recipient]

Type of recipient	Complaints	Compliance reviews	Monitoring			Total	Percent
			Adams	Lau	Other		
Elementary and Secondary Schools	300	32	0	10	3	345	66
Postsecondary Education Institutions	85	21	18	0	2	126	34
Total	385	53	18	10	5	371	100

TABLE 4.—FISCAL YEAR 1982 ANNUAL OPERATING PLAN

[Investigator Years Allocated to Each Jurisdiction]

Jurisdiction	Complaints	Compliance reviews	Monitoring			Total	Percent
			Adams	Lau	Other		
Title VI:							
Race	66	8	18	0	1	93	25
Nat'l Origin	14	11	0	10	1	36	10
Title IX	48	15	0	0	2	65	17
Section 504	154	19	0	0	1	174	47
Age	3	0	0	0	0	3	1
Total	285	53	18	10	5	371	100

Dated: February 21, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-6214 Filed 3-5-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

American Petrofina, Inc.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed consent order and opportunity for public comment.

SUMMARY: The Office of the Special Counsel (OSC) hereby gives the notice required by 10 CFR 205.199J that it has entered into a Consent Order with American Petrofina, Inc. ("FINA"). The Consent Order resolves all issues of compliance with the DOE Petroleum Price and Allocation Regulations for the period January 1, 1973 through January 27, 1981, when crude oil and petroleum products were decontrolled by Executive Order 12287, 46 FR 9909 (January 30, 1981). To remedy any violations that may have occurred during the period, Fina has agreed to make payments totalling $14,010,000 in cash remedies.

As required by the regulation cited above, OSC will receive comments on the Consent Order for a period of not less than 30 days following publication of this notice. OSC will consider any comments received before determining whether to make the Consent Order final. Although the Consent Order has been signed and accepted by the parties; the OSC may, after the expiration of the comment period, withdraw its acceptance of the Consent Order and attempt to obtain a modification of the Consent Order or, if appropriate, issue the Consent Order as proposed.

Comments: To be considered, comments must be received by 5:00 p.m. on April 7, 1982.

Address comments to: Fina Consent Order Comments, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue, NW., Room 5109, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Leslie Wm. Adams, Deputy Solicitor, Economic Regulatory Administration, Department of Energy, 1200 Pennsylvania Avenue, NW., Room 3115, Washington, D.C. 20461, Phone: (202) 633-9165

Copies of the Consent Order may be received free of charge by written request to: Fina Consent Order Request, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20461.

Copies may also be obtained in person at the same address or at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, Room 1E-190, Washington, D.C. 20585.

SUPPLEMENTARY INFORMATION: Fina is a major refiner subject to the audit jurisdiction of the OSC to determine compliance with the DOE Petroleum Price and Allocation Regulations (Regulations). Fina engages in, among other things, the importation, production, refining and marketing of crude oil and refined petroleum products. An audit conducted by OSC of Fina included a review of Fina's records relating to compliance with the Regulations during the period January 1, 1973 through January 27, 1981 (the audit period). During the audit, questions and issues were raised and enforcement documents were issued. This Consent Order resolves all administrative and civil issues not previously resolved concerning the allocation and sale of covered petroleum products during the audit period, whether or not raised in a previous enforcement action.

Conclusion of OSC Audit

The Consent Order addresses all aspects of Fina's compliance with the applicable Regulations. OSC's audit reviewed Fina's pricing and allocation policies and procedures and the manner in which Fina applied the Regulations with respect to, among other things, its production, refining, processing, importation and marketing of crude oil and covered products. While a number of challenges to Fina's application of the regulations resulted from this audit, DOE has no reason to believe, based upon the intensified audit which preceded the agreement to enter into this Consent Order, that Fina would be liable for overcharges in sales of petroleum products after 1974. However, it was DOE's preliminary view that overcharges were identified in calendar year 1974.

At the conclusion of the audit, OSC raised this and other issues with respect to Fina's compliance with the Regulations. Notwithstanding DOE's position, Fina maintains that it has correctly construed and applied the Regulations and that there were no overcharges in any period. The parties desire, however, to resolve the issues raised without resort to complex, lengthy and expensive compliance actions. OSC believes that the terms and conditions of this Consent Order provide a satisfactory resolution of disputed issues and an appropriate conclusion of the Fina audit, and thus, that the Consent Order is in the public interest.

Terms and Conditions of the Consent Order

To remedy any violations that may have occurred during the audit period, Fina has agreed to the following:

1. Fina will make available a total of $14,000,000 for distribution to those individuals or firms (or their successors in interest) that in 1974 purchased motor gasoline directly from Fina's refining and marketing subsidiary, American Petrofina Company of Texas ("APCOT"). No such purchaser will be qualified to participate in this distribution (i) if, in 1974, the purchaser was a refiner, was controlled by Fina, or acted merely as a consignee or commission agent for Fina, or (ii) if, prior to the effective date of this Consent Order, Fina has been released from the claims of such purchaser or its successor in interest arising under Section 210 of the Economic Stabilization Act of 1970 (ESA) or DOE regulations and relating to purchases of petroleum products from Fina in 1974.

Fina will notify and offer a share of the $14,000,000, to each qualifying individual or firm that purchased motor gasoline from Fina's marketing subsidiary, American Petrofina Marketing, Inc., during December 1981.

In addition, qualified 1974 purchasers who did not purchase motor gasoline from Fina in December 1981, can become eligible for a share of the $14,000,000. In order to become eligible, these individuals or firms (or their successors in interest) must submit to Fina a Statement of Intent to Participate in the Distribution to Fina on or before April 7, 1982. Individuals or firms submitting Statements to Participate must include a representation which sufficiently indicates that the individual or firm purchased motor gasoline from Fina in 1974 or is the sole successor in interest to the 1974 purchaser with respect to all claims against Fina arising out of such purchases. The Statement must also be accompanied by a full explanation of the basis for these representations with respect to the interest of the submittor together with copies of any contracts, agreements, or other documents evidencing such interest.

The share to be offered to each eligible 1974 purchaser shall be determined by multiplying $14,000,000 by the percentage derived when the eligible firm or individual's volume of motor gasoline purchased from APCOT in 1974 is divided by the total volume of motor gasoline purchased from APCOT in 1974 by all qualified 1974 purchasers.

Fina will extend these offers of shares within fifteen (15) days after the effective date of the Consent Order by mailing a notice, approved by DOE, to each eligible individual or firm.

Once an offer has been extended to an eligible individual or firm by Fina, the individual or firm can accept the offer only by executing and returning to Fina within forty-five (45) days of the effective date of the Consent Order a duly authorized and fully effective release of Fina form all claims by that individual or firm arising under Section 210 of the ESA and the DOE Regulations with respect to Fina's sales of petroleum products to that purchaser.

Having accepted Fina's offer by its timely return of the release, the individual or firm will then receive from Fina its share of the $14,000,000 according to the following schedule: (i) One-third (⅓) of its share within seventy-five (75) days after the effective date of the Consent Order; (ii) The second one-third (⅓) of its share not later than August 31, 1982; and (iii) the final one-third (⅓) not later then December 31, 1982. Fina, of course, may accelerate share payments to any or all qualifying individuals or firms.

Should Fina not receive an effective release from such individual or firm within forty-five (45) days after the effective date of the Consent Order, or receive satisfactory proof or adequate assurances of its effectiveness and validity within seventy-five (75) days after the effective date of the Consent Order, Fina shall have no further obligation to such individual or firm under the Consent Order. In such cases, Fina shall pay the amount that would otherwise represent the individual or firm's share to the United States Treasury not later than August 31, 1982. Further, shares of qualified purchasers who do not file a statement of intent within 30 days of this notice on or before April 7, 1982) will also be remitted to the U.S. Treasury not later than August 31, 1982.

Should a claim against Fina by an individual or firm otherwise eligible to share in the $14,000,000, arising under section 210 of the ESA or the DOE regulations, become the subject of a Federal District Court Judgment within Forty-five (45) days from the date of execution of the Consent Order, and should Fina's obligation to pay the individual or firm be less under the judgment than under the share provisions of the Consent Order, then Fina's obligation under the Consent Order to the individual or firm will be limited to the amount of the judgment. Fina may elect to pay the difference between the individual or firm's share under the Consent Order and the amount of such judgment to either the individual or firm or the Unites States Treasury on or before August 31, 1982.

Within thirty (30) days after the effective date of this Consent Order, Fina shall pay ten thousand dollars ($10,000) to the United States Treasury as a compromise in lieu of civil penalties, in full settlement of any such penalties for which Fina may be or may have been liable.

The Consent Order also provides details concerning the conclusion of the audit and procedures concerning enforcement of the provisions of the Consent Order. Among other things, DOE reserves the right to initiate enforcement proceedings and to seek appropriate penalties for any newly discovered regulatory violations committed by Fina, but only on the ground that Fina knowingly concealed such violations. Thus, DOE would be free to institute enforcement proceedings where, for example, Fina had misled DOE during the course of an audit. This provision would not warrant subsequent enforcement proceedings merely because the company had inadvertently failed affirmatively to disclose certain material during the course of an audit.

Upon becoming final after consideration of public comments, the Order will be a final order of DOE to which Fina has waived its right to administrative or judicial review. The Consent Order does not constitute an admission by Fina nor a finding by OSC of a violation of any federal petroleum price and allocation statutes or regulations.

Submission of Written Comments

Interested persons are invited to submit written comments concerning this Consent Order to the address noted above. All comments received by 5:00 p.m. on April 7, 1982, will be considered by OSC before determining whether to adopt the Consent Order as a final order. Any modifications to the Consent Order that, in opinion of OSC, significantly change the terms or impact of the Consent Order will be published for comment. After consideration of public comments by DOE, the Consent Order will be made final and effective by actual notice to that effect to Fina. Pursuant to 10 CFR 205.199J(c), DOE will promptly publish in the **Federal Register** notice of any action taken on this Consent Order and an appropriate explanation of the action.

Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures of 10 CFR 205.9(f).

Issued in Washington, D.C. March 2nd, 1982.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 82-6224 Filed 3-5-82; 8:45 am]

BILLING CODE 6450-01-M

Barkett Oil Company, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Barkett Oil Company, Incorporated, 7950 N.W. 58th Street, Miami, Florida 33166. This Proposed Remedial Order charges Barkett Oil Company with pricing violations in the amount of $783,793.14, connected with sales of motor gasoline during the period January 1, 1980 through March 31, 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Mr. William R. Gibson, Deputy Director, Atlanta Office, Economic Regulatory Administration, 1655 Peachtree Street, N.W., Atlanta, Georgia 30367, Telephone (404) 881–2661. On or before March 23, 1982, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th & Penn. Ave. NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Atlanta, Georgia on the 24th day of February 1982.

Leonard F. Bittner,

Director, Atlanta Office, ERA.

Concurrence:

Susan P. Tate,

Deputy Regional Counsel.

[FR Doc. 82-6223 Filed 3-5-82; 8:45 am]

BILLING CODE 6450-01-M

Lawrence Oil Co., Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Lawrence Oil Company, Incorporated, 7950 N.W. 58th Street, Miami, Florida 33166. This Proposed Remedial Order charges Lawrence Oil Company with pricing violations in the amount of $361,828.06, connected with sales of motor gasoline during the period January 1, 1980 through March 31, 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Mr. William R. Gibson, Deputy Director, Atlanta Office, Economic Regulatory Administration, 1655 Peachtree Street, N.E., Atlanta, Georgia 30367, Telephone (404) 881–2661. On or before March 23, 1982, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th & Penn. Ave. NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Atlanta, Georgia on the 24th day of February 1982.

Leonard F. Bittner,

Director, Atlanta Office, ERA.

Concurrence:

Susan P. Tate,

Deputy Regional Counsel.

[FR Doc. 82-6219 Filed 3-5-82; 8:45 am]

BILLING CODE 6450-01-M

John W. McGowan; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with John W. McGowan as a final order of the Department.

EFFECTIVE DATE: March 8, 1982.

FOR FURTHER INFORMATION CONTACT: Leonard F. Bittner, Director, Atlanta Office, Economic Regulatory Administration, 1655 Peachtree Street, N.E., Atlanta Ga 30309, (phone) (404) 881–2781.

SUPPLEMENTARY INFORMATION: On December 31, 1981, in Vol. 46, No. 251, at page 63369 (46 FR 63369), the ERA published a notice in the **Federal Register** that it had executed a proposed Consent Order with John W. McGowan.

Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order. One comment was received questioning the payment of overcharge payments to the U.S. Treasury. Inasmuch as there were no identifiable parties that suffered financial harm, this form of restitution is the only meaningful alternative, and therefore, the Consent Order is herewith issued as signed.

Issued in Atlanta, Georgia on the 24th day of February, 1982.

Leonard F. Bittner,

Director, Atlanta Office, Economic Regulatory Administration.

Concurrence:

Susan P. Tate,

Deputy Regional Counsel.

[FR Doc. 82-6219 Filed 3-5-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TC82-10-000]

El Paso Natural Gas Co.; Petition for Relief

March 4, 1982.

Take notice that on February 3, 1982, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. TC82–10–000 pursuant to § 1.7 of the Commission's Rules of Practice and Procedure (18 CFR 1.7) a petition for relief for 19 Category C customers served by Applicant from authorized overrun gas penalties assessed against and paid by said customers during the period July 1, 1977, through April 30 1981, all as more fully set forth in the filing tendered with the Commission and open to public inspection.

Applicant states that by order issued March 26, 1981, in Docket No. RP72–6, *et al.*, the Commission approved a Stipulation and Agreement Settling Proceedings and Prescribing Permanent Allocation Plan which, *inter alia*, established procedures for the allocation of its available gas supply among its customers. Applicant explains that Article XII of such stipulation and agreement provided that customers classified as Category C customers under its permanent allocation plan would be granted relief from payment of both daily and seasonal unauthorized overrun gas penalties assessed against but not paid by said customers during the period July 1, 1977, through the effective date of the stipulation and agreement which was May 1, 1981. Applicant points out that the stipulation and agreement made no similar provision for Category C customers which incurred and also paid overrun penalties during the same period. Applicant states that in its opinion the exclusion of those Category C customers which paid unauthorized overrun penalties results in discriminatory treatment as between similarly classified customers.

Accordingly, Applicant submits that the Commission should grant the requested relief for the 19 customers from the unauthorized overrun gan penalties assessed against and paid by said customers during the period July 1, 1977, through April 30, 1981, in accordance with the unathorized overrun gas provisions set forth in Applicant's FERC Gas Tariff in effect during such period.

The following tabulation identifies the assessed overrun penalties paid by each of the nineteen Category C customers for which relief would be provided upon grant of the authorization requested herein:

Category C customers	Penalty charges assessed and paid
Amoco Production Co.	$9,475.00
Apache Power Co.	7,275.00
Aztec Oil & Gas Co. (Southland Royalty)	30,707.50
BTA Oil Producers	1,315.00
Compania Minera de Caramex	7,147.50
Denver, city of	9,130.00
Energy Reserves Group, Inc.	4,427.50
Gulf Oil Corp.	7,250.00
Hixon Development Co.	4,467.50
Mapco Natural Gas Co.	6,837.50
Paul Lime Division of Can-Am Corp.	14,055.00
Plains, city of	370.00
Safford, city of	3,635.00
Shell Oil Co.	12,600.00
Surburban Propane Gas Corp.	1,082.50
Sun Oil Co.	27,152.50
Texco, Inc.	1,395.00
Warpac Pipeline, Inc.	995.00
Warren Petroleum Co., a division of Gulf Oil Corp.	155,272.50
Total	294,530.00

Applicant states that it would make appropriate refunds and accounting adjustments to recompense those Category C customers identified above for their respective penalty charges assessed and paid. It is stated that the above mentioned Category C customers do not expect to receive interest on the refund amounts. Applicant explains that of the total $294,530.00 it is to refund $129,760.00 which would have no rate impact while the remaining $164,770.00 (an amount equivalent to total overrun penalty payments made after September 5, 1978) would be debited to Account No. 101–338, Unsuccessful Exploration and Development Costs, pursuant to Article V of Applicant's Stipulation and Agreement approved August 26, 1981, at Docket No. RP79–12, Docket No. CP80–367 and Docket Nos. CI80–311 through CI80–320.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 26, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the

Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6138 Filed 3-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-184-000]

Florida Gas Transmission Co.; Application

March 4, 1982.

Take notice that on January 28, 1982, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP82-184-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of approximately 3.5 miles of 4½-inch pipeline connecting Applicant's Umatilla Lateral with its Leesburg Lateral and certain facilities necessary to establish new delivery points for the City of Leesburg, Florida (Leesburg), and Peoples Gas System, Inc. (PGS), both existing customers of Applicant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Leesburg's requirements have increased since 1959 and that Applicant is no longer able to meet its peak hour requirements. Accordingly, Applicant proposes to construct approximately 3.5 miles of 4½-inch pipeline in order to connect its Umatilla and Leesburg Laterals.

In addition, Applicant proposes to construct and operate a new delivery point, the Haines Creek delivery point, to enable Leesburg to serve residential and commercial gas users through a distribution system within Leesburg's service area though not physically connected to its existing distribution system.

It is stated that by letter agreement dated October 7, 1981, Applicant agreed to provide a new delivery point for PGS. It is further asserted that the agreement provides for the establishment of an additional delivery point for PGS' Triangle Division in Lake County, Florida, in order to help PGS improve its existing system's efficiency and to enable PGS to accommodate high priority load growth.

Applicant maintains that the addition of the foregoing new delivery points would not result in any change to either Leesburg's or PGS' volumetric entitlement.

The total cost of the proposed facilities is estimated at $545,410. It is stated that of the total amount Applicant would be responsible for $300,110 which would be financed from funds on hand and that Leesburg would contribute $114,600 and PGS would contribute $121,700.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 26, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6139 Filed 3-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-345-000]

Florida Power & Light Co.; Filing

March 3, 1982.

Take notice that Florida Power & Light Company (FPL), on February 22, 1982, tendered for filing an Amendment to Supplementary Agreement entitled "Amendment Number One to Supplementary Agreement Number One To Contract Between FPL and Jacksonville Electric Authority for the Transmission of Power and Energy in the Implementation of the Power Sale Agreement Between Jacksonville Electric Authority and Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Southern Company Services, Inc."

FPL states that under the Amendment to Supplementary Agreement, it will provide for increased levels of transmission service during a special extended test period that commenced September 1, 1981, to Jacksonville Electric Authority in the implementation of its Power Sale Agreement with Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Southern Company Services, Inc.

FPL requests waiver of the Commission's Regulations to the extent necessary to permit the Amendment to Supplementary Agreement to become effective January 1, 1982.

According to FPL, copies of the filing were served on the Managing Director of the Jacksonville Electric Authority.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6140 Filed 3-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-336-000]

Montana Power Co.; Filing

March 3, 1982.

Take notice that the Montana Power Company (Montana) on February 22, 1982, tendered for filing in accordance with Section 35 of the Commission's regulations, a Letter Agreement with the Los Angeles Department of Water and Power (Los Angeles). Montana states that this Letter Agreement provides for the sale of firm energy between Montana and Burbank.

Montana indicates that the proposed Letter Agreements increased revenues from jurisdictional sales by $11,040,396.61 based upon energy delivered from April 28, 1981 through December 31, 1981. Montana states that the rate for firm energy under the Letter Agreement was negotiated.

An effective date of April 28, 1981, is proposed and waiver of the Commission's requirements is therefore requested.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 18, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6141 Filed 3-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-337-000]

The Montana Power Co.; Filing

March 3, 1982.

Take notice that the Montana Power Company (Montana) on February 22, 1982, tendered for filing in accordance with section 35 of the Commission's regulations, a Letter Agreement with amending previously filed Letter Agreements, with Pacific Gas & Electric Company (Pacific). Montana states that this amendment provides for the sale of additional firm energy between Montana and Pacific.

Montana indicates that the proposed amendment would increase revenues from jurisdictional sales by an estimated $9,732,112.36, based upon energy delivered through November 30, 1981, under this Amendatory Agreement.

An effective date of August 27, 1981, is proposed and waiver of the Commission's requirements is therefore requested.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 18, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6142 Filed 3-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER 82-341-000]

Tampa Electric Co.; Filing

March 3, 1982.

Take notice that Tampa Electric Company (Tampa Electric), on February 23, 1982, tendered for filing an amended Agreement for Interchange Service Between Tampa Electric and the City of Vero Beach (Vero Beach), together with Service Schedules A, B, and C thereunder. This filing would amend Tampa Electric's Rate Schedule FERC No. 11.

Tampa Electric states that Service Schedules A, B, and C provide for emergency, scheduled short-term, and economy energy interchange service, respectively, between Tampa Electric and Vero Beach.

Tampa Electric Proposes an effective date of February 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on Vero beach and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All Such petitions or protests should be filed on or before March 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6143 Filed 3-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-329-000]

Tucson Electric Power Co.; Filing

March 3, 1982.

Take notice that Tucson Electric Power Company ("Tucson") on February 18, 1982, tendered for filing Amendment No. 1 to the 1980 Nonfirm Energy Agreement Between Tucson and Texas-New Mexico Power Company, formerly Community Public Service Company ("TNP"). The primary purpose of this Amendment No. 1 is to extend the term of the Agreement by advancing the termination date from December 31, 1981 to May 31, 1982 inclusive. Tucson states that copies of the filing were served upon TNP.

Any person desiring to be heard or to make any application with reference to said Amendment should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 18, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Amendment are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6144 Filed 3-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. OF82-75-000]

Wheelabrator-Frye Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

March 3, 1982.

On February 12, 1982, Wheelabrator-Frye Inc., located at Liberty Lane, Hampton, New Hampshire 03842, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility is a solid waste recovery and electric generating facility that will be located in Peekskill, New York. It will have a capacity of approximately 55 megawatts, and will dispose of approximately 1200 to 2000 tons of municipal waste per day. There will be no other facility owned by the applicant using biomass as its primary energy source located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20408, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-6145 Filed 3-5-82; 8:45 am]
BILLING CODE 6717-01-M

Southeastern Power Administration

Proposed Rate Adjustment, Rate Extension, Public Hearing, and Opportunities for Public Review and Comment.

AGENCY: Southeastern Power Administration (Southeastern or SEPA), DOE.

ACTION: Notice of proposed rate adjustment and rate extension for the Jim Woodruff Project, notice of public hearing and opportunity for review and comment.

SUMMARY: Southeastern proposes a new Wholesale Power Rate Schedule JW-1-A to replace the existing JW-1 (Revised) rate schedule. The new rate schedule will be applicable to SEPA power sold to existing preference customers in the Florida Power Corporation service area. Southeastern also proposes to extend Wholesale Power Rate Schedule JW-2-B, which is applicable to SEPA power sold to Florida Power Corporation.

Opportunities will be available for interested persons to review the present rates, the proposed new rate, and the supporting studies, to participate in a hearing and to submit written comments. Southeastern will evaluate all comments received in this process.

DATES: Written comments are due on or before June 1, 1982. A public information and public comment forum will be held in Tallahassee, Florida, on April 20, 1982.

ADDRESSES: Five copies of written comments should be submitted to: Administrator, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635. The public comment forum will begin at 10:00 a.m. on April 20, 1982, in Room 41 of the U.S. Courthouse, 110 East Park Avenue, Tallahassee, Florida 32301.

FOR FURTHER INFORMATION CONTACT: Leon Jourolmon, Jr., Chief, Division of Fiscal Operations, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635, (404) 283-3261.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission by order issued April 9, 1981, in Docket No. EF80-3031 confirmed and approved Wholesale Power Rate Schedules applicable to Jim Woodruff Project power for a period ending August 19, 1982.

Discussion

Existing rate schedules are supported by a May 1979 repayment study and other supporting data all of which are contained in FERC Docket EF80-3031. A repayment study prepared in March of 1982 shows that the existing rates are not adequate to recover the costs of the project within the repayment period. Additionally a revised repayment study with a $500,000 revenue increase in each future year demonstrates that all costs are paid within their repayment life. Therefore, Southeastern is proposing to raise the rates to the preference customers to a level which will recover the additional $500,000.

In the proposed rate schedule JW-1-A, the capacity charge has been increased from $1.50 per kilowatt per month to $2.00 per kilowatt of monthly billing demand, and the energy charge has been increased from 4.5 mills to 6.0 mills per kilowatt-hour. The rate to the Florida Power Corporation was not increased primarily because rate schedule JW-2-B includes rates which have automatically escalated during the period that the rates have been in effect. Southeastern proposes that this new rate and the extended rate remain in effect from August 20, 1982, until August 19, 1987.

In developing the rate adjustment, Southeastern considered revenue requirements as determined by the March 1982 system repayment studies. The studies are available for examination at the Samuel Elbert Building, Elberton, Georgia 30635, as is the 1979 repayment study and the proposed rate schedule.

Issued in Elberton, Georgia, March 1, 1982.

Harry C. Geisinger,
Administrator.

[FR Doc. 82-6228 Filed 3-5-82; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRL-2067-4]

National Drinking Water Advisory Council; Open Meeting

Under section 10(a)(2) of Pub. L. 92-423, "The Federal Advisory Committee Act," notice is hereby given that a meeting of the National Drinking Water Advisory Council establishd under the Safe Drinking Water Act, as amended (42 U.S.C. S300f *et seq.*), will be held at 9:00 a.m. on March 24, 1982, and at 8:30 a.m. on March 25, 1982, at EPA Headquarters, Room 3906, Mail Area, 401 M Street, SW., Washington, D.C. 20460. Council Subcommittees will be meeting at EPA Headquarters on March 23, 1982.

The purpose of the meeting is to install five new members of the Council. Discussions will be held on the reauthorization of the Safe Drinking Water Act, research and ground water issues.

This two day meeting will be open to the public. The Council encourages the hearing of outside statements and will allocate a portion of its meeting time for public participation. Oral statements are generally limited to 15 minutes followed by a 15 minute discussion period. It is preferred that there be one presentor for each statement. Any outside parties interested in presenting an oral statement should petition the Council in writing. The petition should include the topic of the proposed statement, the petitioner's telephone number, and should be received by the Council before March 12, 1982.

Any person who wishes to file a written statement can do so before or after a Council meeting. Accepted written statements will be recognized at the Council meeting and will be part of the permanent meeting record.

Any member of the public wishing to attend the Council meeting, present an oral statement, or submit a written statement, should contact, Ms. Charlene Shaw, Executive Assistant, National Drinking Water Advisory Council, Office of Drinking Water (WH-550), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

The telephone number is: Area Code 202/426-8877.

Bruce R. Barrett,
Acting Assistant Administrator for Water.

[FR Doc. 82-6194 Filed 3-5-82; 8:45 am]
BILLING CODE 6560-29-M

FEDERAL MARITIME COMMISSION

Independent Ocean Freight Forwarder Licenses; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal, Maritime Commission, Washington, D.C. 20573.

Hawk World International Corporation, 2959 N. Airfield Dr., Suite 230, DFW Airport, TX 75261, Officers: John D. Sifuentes, President/Treasurer, Brenda Sifuentes, Secretary, Alvin Stutes, Vice President

George Thielen, d.b.a. GT International, P.O. Box 30489, Denver, CO 80238

Dated: March 3, 1982.

By the Federal Maritime Commission.

Francis C. Hurney,
Secretary.

[FR Doc. 82-6188 Filed 3-5-82; 8:45 am]
BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2236]

Independent Freight Forwarder Licenses; Mary Y. Upton d.b.a. Houston Expeditors; Notice of Reinstatement of License

By Commission Order served January 21, 1982, Mary Y. Upton d.b.a. Houston Expeditors, Independent Ocean Freight Forwarder License No. 2236 was revoked effective January 15, 1982, for failure to maintain a valid surety bond on file with the Commission. The Order of Revocation was published in the **Federal Register** on January 27, 1982 at 47 FR 3879.

An appropriate surety bond has been received in favor of Mary Y. Upton d.b.a. Houston Expeditors, and compliance with section 44 of the Shipping Act, 1916 and 510.15 of General Order 4 has been achieved.

Therefore, by virture of authority vested in me by the Federal Maritime Commission as set forth in 10.01(a) of Commission Order No. 1 (Revised), dated November 12, 1981, Independent Ocean Freight Forwarder License No. 2236 shall be reissued to Mary Y. Upton d.b.a. Houston Expeditors, effective January 15, 1982. A copy of this notice shall be published in the **Federal Register** and served Mary Y. Upton d.b.a. Houston Expeditors.

Albert J. Klingel, Jr.,
Director, Bureau of Certification and Licensing.

[FR Doc. 82-6264 Filed 3-5-82; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

American Eagle Holding Corp.; Formation of Bank Holding Company

American Eagle Holding Corporation, Piedmont, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Rolling Hills State Bank, Piedmont, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 1, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 2, 1982.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 82-6178 Filed 3-5-82; 8:45 am]
BILLING CODE 6210-01-M

Citizens Bank Holding, Inc.; Formation of Bank Holding Company

Citizens Bank Holding, Inc., Mukwonago, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Citizens Bank of Mukwonago, Mikwonago, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 1, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 2, 1982.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 82-6179 Filed 3-5-82; 8:45 am]
BILLING CODE 6210-01-M

Citizens Union Bancorp of Shelbyville, Inc.; Formation of Bank Holding Company

Citizens Union Bancorp of Shelbyville, Inc., Shelbyville, Kentucky, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Citizens Union Bank of Shelbyville, Shelbyville, Kentucky. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or

at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 31, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 2, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6160 Filed 3-5-82; 8:45 am]

BILLING CODE 6210-01-M

Consumer Advisory Council, Meeting of Consumer Advisory Council

The Federal Reserve's Consumer Advisory Council will discuss at its April meeting the impact of the current economic environmental on credit conditions within the community, with a view to assessing developments under the Community Reinvestment Act. The Council has a concern that current economic conditions may be having a disproportionately adverse effect on the availability and affordability of credit for consumers, neighborhood reinvestment and other community needs.

As discussed more fully below, the Council is soliciting views from community and consumer groups, public advocates, creditors of all types, federal, state and local governments, and other interested parties. Comments must be received by April 7, 1982.

The Council's 30 members represent consumers and the financial industry. The Council advises and consults with the Federal Reserve Board on the exercise of the Board's responsibilities under the Consumer Credit Protection Act and on other non-monetary issues on which the Board seeks its views.

Matters on which comments are being requested are as follows:

1. What problems are you facing in this economic environment in providing or obtaining credit for consumer purchases (for example, automobile loans or appliance purchases), neighborhood reinvestment (for example, mortgage credit, rehabilitation loans, home improvement loans or second mortgage loans), and other community purposes?

2. Are particular segments of the population affected more than others, and if so, in what ways?

3. What has been the impact of the current economic environment on existing community credit programs?

4. What programs have been devised by government, businesses, consumer groups or others to address credit problems due to the current economic environment? What efforts have been undertaken by non-creditors in helping to deal with these problems (for example, by labor unions, suppliers of goods and services, private foundations, and corporations)? How successfully have these programs and efforts been?

5. What programs could be devised to better address the credit problems of local communities, including low- and moderate-income neighborhoods?

The Council's meeting will be held on April 28 and 29, 1982, in Washington, D.C. The item discussed in this notice is one of several that will be on the Council's agenda. Meeting times and other agenda items will be announced at a later date.

Persons wishing to submit to the Council their views regarding the above topic may do so by sending written statements to Ms. Kay Oliver, Secretary, Consumer Advisory Council, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Comments must be received no later than Wednesday, April 7, and must be of a quality suitable for reproduction.

Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452–3204.

Board of Governors of the Federal Reserve System, March 3, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-6174 Filed 3-5-82; 8:45 am]

BILLING CODE 6210-01-M

Continental Illinois Corp.; Acquisition of Bank

Continental Illinois Corporation, Chicago, Illinois, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Bank of Oakbrook Terrace, Oakbrook Terrace, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 1, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 2, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6161 Filed 3-5-82; 8:45 am]

BILLING CODE 6210-01-M

First Maryland Bancorp; Acquisition of Bank

First Maryland Bancorp, Baltimore, Maryland, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of First Omni Bank, N.A., Millsboror, Delaware. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 1, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 2, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6162 Filed 3-5-82; 8:45 am]

BILLING CODE 6210-01-M

Home Interstate Bancorp; Formation of Bank Holding Company

Home Interstate Bancorp, Signal Hill, California, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Home Bank, Signal Hill, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 31, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 3, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6163 Filed 3-5-82; 8:45 am]

BILLING CODE 6210-01-M

Independent Bankshares, Inc.; Formation of Bank Holding Company

Independent Bankshares, Inc., Madison, Wisconsin, has applied for the Board's approval under section 3(a) (1) of the Bank Holding Company Act (12 U.S.C. 1842(a) (1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Lake City Bank, Madison, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 1, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 2, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6164 Filed 3-5-82; 8:45 am]

BILLING CODE 6210-01-M

Smith Center Bancshares, Inc.; Formation of Bank Holding Company

Smith Center Bancshares, Inc., Smith Center, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank, Smith Center, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 31, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 2, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6165 Filed 3-5-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-14956-B]

Alaska Native Claims Selection

On December 2, 1974, the White Mountain Native Corporation, for the Native village of White Mountain, filed selection application F-14956-B under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of White Mountain.

As to the lands described below, the application submitted by White Mountain Native Corporation is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a), aggregating approximately 20,114 acres, is considered proper for acquisition by White Mountain Native Corporation and is hereby approved for conveyance pursuant to section 14(a) of the Alaska Native Claims Settlement Act:

Kateel River Meridian, Alaska (Unsurveyed)

T. 7 S., R. 22 W.
- Sec. 6, excluding the Fish River;
- Sec. 7.
- Containing approximately 1,189 acres.

T. 7 S., R. 23 W.
- Secs. 11, 12, 14, and 15, excluding the Fish River;
- Secs. 21 and 22, excluding the Fish River;
- Sec. 27;
- Sec. 28, excluding the Fish River;
- Secs. 33 and 34.
- Containing approximately 6,150 acres.

T. 8 S., R. 23 W.
- Secs. 3, 4, and 5;
- Secs. 8, 9, and 10;
- Secs. 15, 16, and 17;
- Sec. 18, excluding the Fish River;
- Secs. 19 to 24, inclusive;
- Secs. 26, 27, 28, and 29.
- Containing approximately 12,775 acres.
- Aggregating approximately 20,114 acres.

Within the described lands, only the following inland water body, is considered to be navigable:

The Fish River and its interconnecting sloughs.

All other named and unnamed water bodies within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The conveyance issued for the surface estate of the lands described above shall contain the following reservation to the United States:

The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)).

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to section 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Reindeer Grazing Permit, F–030166, issued to Sigfried Aukongak located within lands herein approved for conveyance, will terminate upon conveyance of these lands in accordance with section 9, Additional Condition or Stipulation No. 1 of the permit.

White Mountain Native Corporation is entitled to conveyance of 115,200 acres of land selected pursuant to section 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 103,964 acres of this entitlement have been approved for conveyance. The remaining entitlement of approximately 11,236 acres will be conveyed at a later date.

Pursuant to section 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to Bering Straits Native Corporation when conveyance is granted to White Mountain Native Corporation for the surface estate, and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the NOME NUGGET.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, provided, however, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

Appeals should be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until April 7, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Bering Straits Native Corporation, P.O. Box 1008, Nome, Alaska 99762

White Mountain (Mountain) Native Corporation, White Mountain, Alaska 99784.

Sandra C. Thomas,

Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-6191 Filed 3-5-82; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf; Availability of the Final Supplement to the Environmental Impact Statement, Proposed Five-Year Outer Continental Shelf Oil and Gas Lease Sale Schedule

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final supplement to the final environmental impact statement relating to a proposed revision of the Five-Year Outer Continental Shelf (OCS) Oil and Gas Lease Sale Schedule.

Single copies of the final supplemental environmental impact statement can be obtained from the Office of the Manager, New York Outer Continental Shelf Office, Bureau of Land Management, 26 Federal Plaza, Suite 32–120, New York, New York 10278; Office of the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Hale Boggs Federal Building, Suite 841, 500 Camp Street, New Orleans, Louisiana 70130; Office of the Manager, Pacific Outer Continental Shelf Office, Bureau of Land Management, 1340 West 6th Street, Los Angeles, California 90017; Office of the Manager, Alaska Outer Continental, P.O. Box 1159, Anchorage, Alaska 99510; and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the final supplemental environmental impact statement will also be available for review in public libraries located throughout the coastal States. Information regarding the locations of libraries where copies of the statement will be available may be obtained from the OCS Offices listed above.

Robert F. Burford,

Director, Bureau of Land Management.

Bruce Blanchard,

Director, Office of Environmental Project Review.

March 3, 1982.

[FR Doc. 82-6200 Filed 3-5-82; 8:45 am]

BILLING CODE 4310-84-M

Competitive Coal Leasing—Powder River Federal Coal Production Region; Qualified Surface Owner Consents

AGENCY: Bureau of Land Management, Interior.

ACTION: Filing deadline for qualified surface owner consents, Powder River Federal Coal Production Region.

SUMMARY: On March 3, 1982, final rules were adopted amending those portions of the Federal coal management regulations that establish deadlines for the submission of qualified surface owner consents prior to Federal coal lease sales for lands to which the consents apply. In accordance with those final rules, the public is hereby notified that the deadline for filing consents for lands to be offered for competitive coal lease sale in the Powder River Federal Coal Production Region on April 28, 1982, is April 5, 1982.

DATE: Consents must be filed on or before April 5, 1982.

ADDRESSES: Consent must be filed with the appropriate Bureau of Land Management State Office, either the Montana State Office, Bureau of Land Management, 222 N. 32nd Street, P.O. Box 30157, Billings, Montana 59107, or the Wyoming State Office, Bureau of Land Management, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001.

FOR FURTHER INFORMATION CONTACT: Walter Rewinski, Bureau of Land Management (540), Washington, D.C. 20240, (202) 343–6821; Jeanette Bejot, Montana State Office at the address listed above, (406) 657–6231; or Patty Cooley or Marla Bohl, Wyoming State Office at the address listed above, (307) 778–2330.

SUPPLEMENTARY INFORMATION: The Federal coal management regulations at 43 CFR Part 3427 require qualified surface owner consents for surface-minable split estate lands offered for competitive coal lease sale to be filed with the appropriate Bureau of Land Management State Ofice prior to the lease sale for the lands to which the consents apply. Final rules adopted on March 3, 1982, specify that the deadline for filing consents for lands to be offered in regional Federal coal lease sales would be established on a sale-by-sale basis and that the filing deadline would be announced in a notice published in the Federal Register.

On February 23, 1982, the Secretary of the Interior announced his decision to offer 17 Federal coal tracts in the Powder River Federal Coal Production Region for competitive lease sale on April 28, 1982. Qualified surface owner consents for lands subject to consent within those tracts must be filed with the appropriate Bureau of Land Management State Office on or before April 5, 1982, to receive consideration. Any required consents filed after April 5, 1982, will be accepted but will not be acted upon before the lease sale. Any tracts containing lands covered by consents filed after the deadline will be withdrawn from the lease sale.

Further information on the tracts to be offered for lease sale in the Powder River Region or on the surface owner consent requirements for those tracts may be obtained from the Montana and Wyoming State Offices of the Bureau of Land Management at the addresses listed above.

Robert J. Burford,

Director, Bureau of Land Management.

March 2, 1982.

[FR Doc. 82-6163 Filed 3-5-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Union Oil Company of California has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 2889, Block 40, Vermilion Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: March 1, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-6123 Filed 3-5-82; 8:45 am]

BILLING CODE 4310-31-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carries pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Sepcial Rule 240 of the Commission's rules of practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statement within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose and application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicants supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions or operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of non-complying applicant shall stand denied.

Dated: March 2, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

MC–F–14746, filed February 12, 1982. DELTA CALIFORNIA INDUSTRIES, INC. (DCI) (333 Heggenberger Rd., Oakland, CA 94621—control—WYCOFF COMPANY, INC. (Wycoff) (2410 South 2700 West, P.O. Box 3662, Salt Lake City UT 84110). Representatives: Jack R. Turney, Jr., 2001 Massachusetts Ave, N.W., Washington, DC 20036 and James M. Harbison, Jr., 402 Pierce Ave., P.O. Box 391, Houston, TX 77001). DCI, a non-carrier holding and terminal company, seeks authority to acquire control of Wycoff through Delta Mountain Express, Inc. (DME) and Delta Mountain Properties, Inc. (DMP), both non-carrier subsidiaries of DCI formed for the transaction. The operating rights to be controlled are contained in certificates issued to Wycoff in MC–89684 and sub-numbers thereunder, which authorize the transportation of *general commodities*, usual exceptions, over a network of regular and irregular routes in CA, OR, NV, ID, WY, CO, and UT. DCI controls Delta Lines, Inc. (MC–56640) and Thunderbird Freight Lines, Inc. (MC–60512), both common carriers of *general commodities*, over regular and irregular routes, in CA, AZ, OR, NV, NM, CO, WY, WA, ID, and MN. DCI also controls Distribution Concepts, Inc. (MC–153418) a contract carrier of *general commodities*, between points in the United States, and Nevada-California Express, Inc. (FF–130) a freight forwarder of *general commodities*, between points in CA, UT, OR, WA, ID, and MN. Nevada-California Express, Inc. is to be transferred to Wycoff immediately prior to consummation.

DCI is controlled by Meridian Express Company, (Meridian) a non-carrier holding company. Meridian also controls Merchants Fast Motor Lines, Inc., a motor common carrier, pursuant to certificates issued in MC–2226 and sub-numbers thereunder, and Oil Transport Company, a motor common carrier pursuant to certificates issued in MC–111740 and sub-numbers thereunder. DME and DMP join in the application as the directly participating non-carrier applicants. Meridian, along with non-carrier private investment entities WEDGE Transportation, Inc., Imperial Fund Corporation, Minefa Holding B.V., Issam Investments N.V., and Issam M. Fares, seek authority to control Wycoff through the acquisition of control by DCI.

Notes.—(1) This notice does not purport to be a complete description of the operating rights of the carriers involved.

(2) Application for temporary authority has been file.

(3) A directly related application under 49 U.S.C. 11301 and 11302 has been filed in F.D. 29850, Delta California, California Industries, Inc.—Assumption of Obligation as Guarantor. Delta seeks authority to assume obligation as guarantor of purchase money notes of DME and DMP aggregating $1,776,813.

(4) By decision of January 28, 1982, applicant's petition seeking waiver of certain of the Commission's procedural regulations at 49 CFR 1100.240 was granted.

[FR Doc. 82-6141 Filed 3-5-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's rules of practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later became unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP2–38

Decided: February 26, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 160402, filed February 4, 1982. Applicant: JRU, INC., 2020 West 6th, Mishawaka, IN 46544. Representative: Richard E. Palicki, 10066 Helena Drive, Granger, IN 46530, 1–219–679–4045. As a *broker* of general commodities, (except household goods), between points in the U.S.

MC 160423, filed February 4, 1982. Applicant: RELIABLE CARRIERS, INC., 2098 Kellog Ave., Memphis, TN 38114 Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW, Washington, DC 20004 (202) 347–8862. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Lexington, Luray, Beech Bluff, Ralston, Terrell, Malesus, Medon, Toone, Conger, Bolivar, Hickory Valley, Hickory Point, Dodsville, Fox Bluff, Chapmansboro, Parkburg, Deanburg, Silerton, Hornsby, Serles, Lacy, and Kenwood, TN; Grand Junction, Michigan City, Lamar, Hudsonville, Holly Springs, Waterford, Spraggins, Abbeville, McClary, College Hill, Oxford, Taylor and Water Valley, MS; Deanefield, Whitesville, Philpot, Oak Ridge, Masonville, Thompsonville, and Edgoten, KY on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 160513, filed February 10, 1982. Applicant: JUNIOR M. HENDERSON, AND RAYANNA L. HENDERSON, d.b.a. HENDERSON TRUCKING, 4101 E. Maple, P.O. Box 1763, Des Moines, IA 50306. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160523, filed February 10, 1982. Applicant: INTERSTATE 87 MESSENGER SERVICE, INC., 31 Waterbury Ave., Stamford, CT 06902. Representative: Mr. W. J. Lucken, c/o Connecticut Transp. Service, Inc., 244 Bridgeport Ave., Milford, CT 06460, 203–874–6759. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 160553, filed February 12, 1982. Applicant: ROBERT W. MARKLE, 8913 North 17th Lane, Phoenix, AZ 85021. Representative: (same address as applicant) 602–943–1557. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP1–35

Decided: February 23, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 160580, filed February 16, 1982. Applicant: CHANDLER ENTERPRISES INCORPORATED, 1319 St. Cloud Avenue, Lynchburg, VA 24502. Representative: Richard Chandler (same address as applicant) (804) 846–3662. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160601, filed February 17, 1982. Applicant: ROBERT W. CISCO, 226 Carondelet St., Suite 1116, New Orleans, LA 70130. Representative: Robert W. Cisco (same address as applicant) (504) 528–9308. As a broker of *general commodities* (except household goods), between points in the U.S.

Volume No. OP5–40

Decided: February 23, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 160579, filed February 16, 1982. Applicant: DERISI TRUCKING & LEASING, INC., 34 Burgess Place, Wayne, NJ 07470. Representative: Anthony E. Young, 29 South LaSalle St., Chicago, IL 60603 (312) 782–8880. As a *broker and general commodities* (except household goods), between points in the U.S.

MC 121699 (Sub-16), filed February 17, 1982. Applicant: VOLUNTEER EXPRESS, INC., 1325 Elm Hill Pike, Nashville, TN 37210. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W., Washington, D.C. 20004, 202–347–8862. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which because of their size and weight require the use of special handling or equipment), between Lexington, Luray, Beech Bluff, Ralston, Terrell, Malesus, Medon, Toone, Conger, Boliver, Middleburg, Hickory Valley and Grand Junction, TN; Michigan City, Lamar, Hudsonville Holly Springs, Waterford, Spraggins, Abbeville, McClary, College Hill, Oxford, Taylor, and Water Valley, MS; Deanefield, Whitesville, Philpot, Oak Ridge, Masonville, Thompsonville, and Edgoten, KY; Kenwood, Hickory Point, Dodsville, Fox Bluff, Chapmansboro, Parkburg, Deanburg, Silerton, Hornsby, Searles, and Lacy, TN, on the one hand, and, on the other, points in the U.S. Condition: Approval of this authority is conditioned upon applicant certifying to the Commission, prior to commencing operations, at each point authorized herein, that all rail service, at each point to be served, has actually terminated.

Note.—The sole purpose of this application is to substitute motor carrier service for completely abandoned rail service. Applicant intends to tack and join authority sought herein with its regular route authority contained in docket MC–121699 Sub 15 X.

MC 160589, filed February 16, 1982. Applicant: LANCE HARRINGTON, Rural Route #1, Storm Lake, IA 50588. Representative: Lance Harrington (same address as applicant) (712) 732–3753. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6141 Filed 3-5-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier; Temporary Authority Application

The following are notices of filing of applications for temporary authority under section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-193

The following applications were filed in region I: Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 160736 (Sub-1-1TA), filed February 24, 1982. Applicant: DAVID R. BELL, d.b.a. DAVID R. BELL TRUCKING, 7718 Kendall Road, Pavilion, NY 14525. Representative: David R. Bell (same as applicant). *Contract carrier:* irregular routes: *Agricultural fertilizer and soil conditioners* from port of entry on the International boundary Line at the Niagara River between U.S. and CD in NY to points in the Counties of Monroe, Livingston and Wyoming, NY under continuing contract(s) with Genesee Lime Products, Inc. of Rochester, NY. Supporting shipper: Genesee Lime Products, Inc., 1891 Long Pond Road, Rochester, NY 14606.

MC 160655 (Sub-1-1 TA), filed February 22, 1982. Applicant: MICHAEL V. PETROLE, d.b.a. COMMERCIAL MOTOR FREIGHT CO., 1309 Bergenline Avenue, Union City, NJ 07087. Representative: Michael V. Petrole (same as applicant). *Contract carrier:* irregular routes: *Wearing apparel on hangers and/or in cartons, piece goods, accessories, trimming, supplies and equipment used in the manufacturing of wearing apparel,* between the facilities of Suzette Fashions Inc., Jersey City, NJ on the one hand, and on the other, El Paso, TX, continuing contract(s) with Suzette Fashions Inc. of Jersey City, NJ. Supporting shipper: Suzette Fashions Inc., 14 Burma Road, Jersey City, NJ 07305.

MC 117685 (Sub-1-2TA), filed February 26, 1982. Applicant: CONSOLIDATED TRUCK SERVICE, INC., 1 Scout Avenue, South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Coffee* (1) From San Francisco, CA, to Blaine, WA, Fort Erie and Rouses Point, NY, Chicago, IL New Orleans, LA, Laredo and Houston, TX, Jacksonville and Miami, FL, and Los Angeles, CA; (2) From Laredo, TX, to Los Angeles and San Francisco, CA, Blaine, WA, Fort Erie and Rouses Points, NY, Chicago, IL, New Orleans, LA, Houston, TX, and Jacksonville and Miami, FL; (3) From Houston, TX to Blaine, WA, Fort Erie and Rouses Point, NY, Chicago, IL New Orleans, LA, Laredo, TX, Jacksonville and Miami, FL, Los Angeles and San Francisco, CA; (4) From Jacksonville, FL to Blaine WA, Fort Erie and Rouses Point, NY, Chicago, IL, New Orleans, LA, Laredo and Houston, TX, Miami, FL, and Los Angeles and San Francisco, CA; (5) From Miami, FL to Blaine, WA, Fort Erie and Rouses Point, NY, Chicago, IL, New Orleans, LA, Laredo and Houston, TX, Jacksonville, FL, Los Angeles and San Francisco, CA; (6) From Baltimore, MD, to Blaine, WA, Fort Erie and Rouse Point, NY, Chicago, IL, New Orleans, LA, Laredo and Houston, TX, Miami and Jacksonville, FL, and Los Angeles and San Francisco, CA; and (7) From Chicago, IL, to Blaine WA, Fort Erie and Rouses Point, NY, New Orleans, LA, Laredo and Houston, TX, Jacksonville, and Miami, FL, and Los Angeles and San Francisco, CA. Supporting shipper: Wechsler Coffee Co., 99 Wall St., New York, NY 10005.

MC 151941 (Sub-1-3TA), filed February 26, 1982. Applicant: DELMONT E. HARTT, INC., U.S. Route 2, P.O. Box 26, Etna, ME 04435. Representative: John C. Lightbody, Esq., Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. *Contract Carrier:* irregular routes: *Meat and meat products* between the facilities of John Morrell & Co. located at Sioux City and Estherville, IA, Fairmont and Worthington, MN, and Sioux Falls, SD, on the one hand, and, on the other, points in CT, DE, MA, ME, MD, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC under continuing contract(s) with John Morrell & Co. of Chicago, IL. Supporting shipper: John Morrell & Co., 208 S. LaSalle, Chicago, IL 60604.

MC 159975 (Sub-1-2TA), filed February 26, 1982. Applicant: GEORGE KYER & SON, INC., 341 Maple Avenue, Oradell, NJ 07649. Representative: Robert G. Parks, 20 Walnut St, Suite 101, Wellesley Hills, MA 02181. *Bananas* from Albany, NY to points in MA, RI, NH, CT, NY and NJ. Supporting shipper: Chiquita Brands, Incorporated, 15 Mercedes Drive, Montvale, NJ 07645.

MC 97244 (Sub-1-2TA), filed February 24, 1982. Applicant: MASS. TRANSPORTATION, INC., 187 Sidney Street, Cambridge, MA 02139. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. *Cocoa beans, chocolate liquors, cocoa butter, vegetable fats and chocolate confection,* between Mansfield, South Boston, and Woburn, MA, on the one hand, and, on the other, Norfolk, VA, Philadelphia, PA, Wilmington, DE, Buffalo, NY and Pennsauken, NH. Supporting shipper: Merckens Chocolate, a Division of Nabisco, Inc., 150 Oakland Street, Mansfield, MA 02048.

MC 135069 (Sub-1-2TA), filed February 24, 1982. Applicant: ROCKAWAY TRUCKING, INC., Route 46, Rockaway, NJ 07866. Representative: Dixie C. Newhouse, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. *Contract carrier:* irregular routes: *Clay, concrete, glass or stone products, metal and metal products, tableware, candles and plastic articles,* between Beacon Falls and Hampton, CT on the one hand, and, on the other, Orlando and Hallandale, FL, New Orleans, LA, Charlotte, NC, Murfreesboro, TN, Cohoes, NY, North Conway, NH, Kittery, ME, Mt. Kisco, NY, Flemington, NJ, Lanscaster, PA, Palm Springs and Carmel, CA, Port Chester, Bronx and Corning, NY, Muskogee, OK and Chicago, IL, under continuing contract(s) with Dansk International Designs, Ltd., Mt. Kisco, NY. Supporting shipper: Dansk International Designs, Ltd., Radio Circle Road, Mt. Kisco, NY 10549.

MC 41581 (Sub-1-1TA), filed February 25, 1982. Applicant: WAGNER TOURS, INC., 865 Belmont Avenue, North Haledon, NJ 07508. Representative: Ronald I. Shapss, Esq. 450 Seventh Avenue, New York, NY 10123. *Contract carrier:* irregular routes: *Passengers and their baggage* between Franklin Lakes, NJ and White Plains, NY under continuing contract(s) with IBM Corporation, Princeton, NJ. Supporting shipper: International Business Machines Corp., P.O. Box 10, Princeton, NJ 08540.

MC 151004 (Sub-1-9TA), filed February 26, 1982. Applicant: WARNACO TRUCKING CORP., 350 Lafayette Street, Bridgeport, CT 06601. Representative: John F. Ryan (same as applicant). *Contract carrier:* irregular routes: *Clock parts* between Ashland, MA and Dallas, TX under continuing contract(s) with Dallas Lighthouse for the Blind, Inc., Dallas, TX. Supporting shipper: Dallas Lighthouse for the Blind, Inc., 3940 Capitol Avenue, Dallas, TX 75206.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St. Rm. 620, Philadelphia, PA 19106.

MC 160280 (Sub-II-1TA), filed February 2, 1982. Originally published in **Federal Register** on February 17, 1982.* Applicant: FDD, INC., 2020 Bruck St., Columbus, OH 43207. Representative: Owen B. Katzman, 1828 L St., N.W., Suite 1111, Washington, DC 20036. *Contract: irregular: general commodities (except classes A and B explosives, household goods, and commodities in bulk,* between Columbus, OH, on the one hand, and, on the other, pts. in CA,

*"The purpose of this republication is to add, "between Columbus, OH, on the one hand, and, on the other, pts. in", which was not published originally.

GA, CO, IL, NJ, NY, SC, TX, MA, and UT, under continuing contract(s) with the Distribution Division of Franklin Chemical Industries, Inc., Columbus, OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Distribution Division of Franklin Chemical Industries, Inc., P.O. Box 07802, Columbus, OH 43207.

MC 145282 (Sub-II-6TA), filed February 3, 1982. Originally published in **Federal Register** on February 17, 1982.[1] Applicant: FALCON TRANSPORT, INC., P.O. Box K, Bird-in-Hand, PA 17505. Representative: James E. Brown, 36 Brunswick Rd., Depew, NY 14043. *Building materials, machinery and related commodities, metal products and materials; supplies and equipment used in the manufacture or distribution of such commodities,* between pts. in AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV and WI for 270 days. Intends to interline at all ports of entry on the U.S.-Canadian border within the scope of this application. Supporting shipper(s): There are 10 supporting shippers. Their statements may be examined at the ICC Regional Office, Philadelphia, PA.

MC 153981 (Sub-II-2TA), filed February 4, 1982. Originally published in **Federal Register** on February 17, 1982.[1] Applicant: LEEWAY FLEET LINES, INC., 1321 Arch Street, Suite 1010, Philadelphia, PA 19107. Representative: Curtis Lee (same as applicant). *Passengers and their baggage, in charter and special operations,* beginning and ending at pts. in PA and NJ and extending to pts. in AL, CT, DE, FL, GA, DC, IN, KY, LA, MA, MD, ME, MI, MS, NC, NH, NJ, NY, OH, RI, SC, TN, VA, VT, WV for 180 days. Supporting shippers: There are 10 supporting shippers. Their statements may be examined at the ICC Regional Office, Philadelphia, PA.

MC 1936 (Sub-II-1TA), filed February 25, 1982. Applicant: B & P MOTOR EXPRESS CO., 825 W. Federal St., P.O. Box 119, Youngstown, OH 44501. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Contract: Irregular: Food and related products* between points in the U.S. under continuing contract(s) with Omani Foods International, Ltd., of Rolling Meadows, IL, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Omani Foods International, Ltd., 505 Newport Dr., Suite 404, Rolling Meadows, IL 60008.

MC 160682 (Sub-II-1TA), filed February 22, 1982. Applicant: BARRETT EXPRESS, INC., 820 North 9th St., Stroudsburg, PA 18360. Representative: James C. Barrett, 3 Front St., Clarks Summit, PA 18411. *General commodities, (except Classes A & B explosives, household goods as defined by the Commission and commodities in bulk),* between Monroe County, PA, on the one hand, and, on the other, pts. in CT, DE, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC for 270 days. Applicant intends to interline at Allentown, Scranton, Wilkes-Barre and Philadelphia, PA; Elizabeth, NJ; and Bradford, CT. Supporting shipper(s): There are 7 supporting shippers. Their statements may be examined at the ICC Regional Office, Philadelphia, PA.

MC 63417 (Sub-II-17TA), filed February 22, 1982. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain, (same as applicant). *Plastic or rubber products* between Essex County, MA, on the one hand, and on the other, points in the U.S. in or east of ND, SD, NE, KS, OK, TX for 270 days. Supporting shipper: Voltek, Incorporated, 100 Shepard St., Lawrence, MA 01843.

MC 61470 (Sub-II-3TA), filed February 22, 1982. Applicant: BRYAN TRUCK LINE, INC., 1222 E. Wilson St., Bryan, OH 43506. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017. *General commodities (except classes A & B explosives, household goods and bulk commodities),* between facilities used by Interstate Distribution, Inc., and Interstate Cold Storage Corp., at or near Columbus and Napoleon, OH; Ft. Wayne and Indianapolis, IN on the one hand, and, on the other, points in IL, IN, MI, OH, and PA for 270 days. Supporting shippers: Interstate Distribution, Inc., 7725 Nelson Rd., Ft. Wayne, IN 46803; Interstate Cold Storage Corp., 7725 Nelson Rd., Ft. Wayne, IN 46803.

MC 160752 (Sub-II-1), filed February 25, 1982. Applicant: ELIZABETH T. CRAMER, d.b.a. C & C TRUCKING CO., PO Box 52, Goldsboro, MD 21636. Representative: James H. Sweeney, PO Box 9023, Lester, PA 19113. *Contract,* irregular: *cellulose products, materials, equipment and supplies used in the manufacture and distribution of cellulose products,* between Little Creek, DE on the one hand, and, on the other, points in the US under a continuing contract(s) with Reclamation Center, Inc., of Little Creek, DE. Supporting shipper: Reclamation Center, Inc., PO Box 400, Little Creek, DE 19961.

MC 160629 (Sub-II-1TA), filed February 18, 1982. Applicant: CHARLES W. FLETCHER, d.b.a. FLETCHER DELIVERY SERVICE, Route 11, Box 262, Roanoke, VA 24019. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Cleaning compounds, except in bulk,* between the facilities of WEN-DON Corporation at Roanoke, VA, on the one hand, and, on the other, points in KY, MD, NC, OH, PA, TN, VA, and WV for 270 days. Supporting shipper: WEN-DON Corporation, P.O. Box 13905, Roanoke, VA 24034.

MC 160461 (Sub-II-1TA), filed February 22, 1982. Applicant: HARRISON FREIGHT, INC., 18709 Marks Rd., Strongsville, OH 44136. Representative: Lewis J. Ringler, 300 Leader Bldg., Cleveland, OH 44114. *Contract; irregular: General commodities (except hazardous materials, Class A and B explosives, commodities in bulk, commodities which because of size require special equipment and household goods),* between pts. in the U.S. (except AK and HI), for 270 days, under continuing contract(s) with Midland Steel Products, Cleveland, OH and Unibus, Inc., Strongsville, OH. Supporting shipper(s): Midland Steel Products, 10615 Madison Ave., Cleveland, OH 44102; Unibus, Inc., 15282 Foltz Industrial Parkway, Strongsville, OH 44136.

MC 149451 (Sub-II-1TA), filed February 22, 1982. Applicant: ASHLAND AND SHAMOKIN AUTO BUS COMPANY, d.b.a. KING COAL TOURS, Rt. 61 Kulpmont Highway, Mount Carmel, PA 17851. Representative: Elliott Bunce or Andrew J. Carraway, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. *Passengers and their baggage,* beginning and ending at Ashland, Berwick, Bloomsburg, Coaldale, Jim Thorpe, Kulpmont, Lansford, Lehighton, Lewisburg, Mahanoy City, Wilton, Montgomery, Mt. Carmel, Muncy, Shamokin, Shenandoah, Sunbury, Tamaqua, Watsontown, and Williamsport, PA, and extending to Atlantic City, NJ, for 180 days. An underlying ETA seeks 120 days authority. Supporting shipper: Playboy-Elsinore Associates, d.b.a. The Playboy Motel, 2500 Boardwalk, Atlantic City, NJ.

MC 107012 (Sub-II-213TA), filed February 24, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy, 30 West, P.O. Box 988, Fort

[1] The purpose of this republication is to include "to interline . . . ." phrase, which was left out of original publication.

[2] The purpose of this republication is to delete the destination states of AR and IL and add the destination state of DC.

Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). Contract, irregular: *General commodities (except classes A and B explosives and household goods as defined by the Commision)* between points in the U.S., under continuing contract(s) with Merillat Industries, Inc., Adrian, MI for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Merillat Industries, Inc., 2075 W. Beecher Rd., Adrian, MI 49221.

MC 155261, (Sub-II–2TA), filed February 25, 1982. Applicant: ROBERT PARRY, 620 Powell Avenue, Clarks Summit, PA 18411. Representative: Joseph A. Keating, Jr., 121 South Main Street, Taylor, PA 18517. *Contract,* irregular: *Salt and salt products,* between Livingston and Schuyler Counties, NY and Lackawanna County, PA on the one hand, and, on the other, points in VA, MI, MD, and NJ for 270 days, under continuing contract(s) with International Salt Co., Clarks Summit, PA. Supporting shipper: International Salt Co., Clarks Summit, PA 18411.

MC 150339 (Sub-2–54TA), filed February 25, 1982. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: Stephen J. Hammer (same as applicant). *Contract,* irregular: *General commodities, except classes A and B explosives, household goods and commodities in bulk,* between Atlantic, Gulf, and West Coast ports on the one hand, and, on the other, points in the United States, under continuing contract(s) with Jeuro Container Transport (U.S.A.) Inc., 7700 Edgewater Dr., Suite 300, Oakland, CA 94621. An underlying ETA seeks 120 days authority. Supporting shipper(s): Jeuro Container Transport (U.S.A.) Inc., 7700 Edgewater Dr., Suite 300, Oakland, CA 94621.

MC 74416 (Sub-II–4TA), filed February 24, 1982. Applicant: LESTER M PRANGE, Inc., Box 1, Kirkwood, PA 17536. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th Street, NW., Washington, DC 20005. *Metal and metal products and materials and supplies used in the manufacture and distribution of the aforementioned commodities,* between Baltimore, MD, on the one hand, and, on the other, points in the U.S., in and east of MN, IA, MO, AR and LA, for 270 days. Supporting shipper: Le Nickel, Inc., Park West Office Center, Bldg. 1, Suite 430, Pittsburgh, PA 15275.

MC 160482 (Sub-II–1TA), filed February 22, 1982. Applicant: SILVER COACH, INC., 3904 Ledgewood Drive, Cincinnati, OH 45229. Representative: James Washington, 3094 Ledgewood Drive Cincinnati, OH 45229. *Passengers and their baggage in special and charter round trip operations,* beginning and ending in Cincinnati, OH and pts. in its commercial zone and extending to pts. in the U.S. for 180 days. An underlying ETA seeks 120 days authority. Supporting shippers: Riverfront Coliseum, 100 Broadway, Cincinnati, OH 45202; Brown's Tours & Travel Service, Inc., 2707 Alms Place, P.O. Box 6217, Cincinnati, OH 45206; Family Affair, 534 Clinton Springs Ave., Cincinnati, OH 45220; Gospel Travelers, 1697 Denham St., Cincinnati, OH 45225.

MC 159780 (Sub-III–3TA), filed February 22, 1982. Applicant: R. W. TINNEY, INC., P.O. Box 151, Perrysburg, OH 43551. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. *General commodities (except Classes A and B explosives),* between Toledo, OH, on the one hand, and, on the other, points in the US for 270 days. Supporting shipper(s): There are 6 supporting shippers. Their statements may be examined at the ICC Regional Office, Philadelphia, PA.

MC 160628 (Sub-II–1TA), filed February 18, 1982. Applicant: TITAN TRANSFER, INC., 1547 Pulaski Hyw., P.O.B. 532, Bear, DE 19701. Representative: Gerald K. Burns, 3308 Englewood Rd., Wilmington, DE 19810. Contract, irregular: *Asphalt roofing materials and materials, supplies and equipment used in the manufacture and distribution of asphalt roofing material, including dust and granuals, in bulk or packaged,* between the facilities of IKO Products, Inc. located in Edgemoor, DE, on the one hand, and, on the other, points in NC, VA, WV, DC, MD, DE, PA, OH, NJ, NY, CT, RI, MA, VT, NH and MN, under continuing contract(s) with IKO Products, Inc. An underlying ETA seeks 120 days authority. Supporting shipper(s): IKO Products, Inc., Hay Rd., Edgemoor, DE 19809.

MC 160630 (Sub-II–1TA), Filed February 18, 1982. Applicant: TRANSPORT SERVICE OF AMERICA, INC., 550 N. Dual Highway, Seaford, DE 19973. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. *Contract,* irregular: *Welding rods, wire, steel chain, materials, equipment and supplies use in the manufacture and distribution of welding rods, wire and steel chain,* between York, PA, on the one hand, and, on the other, points in AL, CA, CO, LA, OR, TX and WA, under a continuing contract(s) with Teledyne-McKay, of York, PA. Supporting shipper: Teledyne-McKay, P.O. Box 1509, York, PA 17405.

MC 160688 (Sub-II–1TA), filed February 22, 1982. Applicant: VEE-LINES, INC., 14467 Ravenna Road, Newbury, OH 44065. Representative: Lewis S. Witherspoon, 2455 North Star Road, Columbus, OH 43221. Contract, irregular: *Spent hydrochloric and sulphuric acid, ferrous sulphate, and ferrous chloride* between points in IL, IN, MI, OH, NY, PA, and WI, under continuing contract(s) with By-Products Management of Ohio, Inc. of Cleveland, OH for 270 days. Supporting shipper: By-Products Management of Ohio, Inc., 17677 St. Clair Ave., Cleveland, OH 44110.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 160561 (Sub-3–1TA), filed February 24, 1982. Applicant: WDT, INC., 2125 Marsha Drive, Madison, TN 37115. Representative: J. Greg Hardeman, 618 United American Bank Building, Nashville, TN 37219. *Contract,* irregular: *Such commodities as are dealt in or used by wholesale grocery or grocery distribution warehouses,* between points in Davidson Co., TN, on the one hand, and, points in MO, AR, LA, IL, IN, OH, KY, AL, MS, GA, FL, SC, NC, VA, WV, and PA, on the other under a continuing contract with Bi-Rite Foods, Inc., Nashville, TN. Supporting shipper: Bi-Rite Foods, Inc., 601 Armory Dr., Nashville, TN 37202.

MC 160729 (Sub-3–1TA), filed February 24, 1982. Applicant: WOODBRIDGE, LTD., P.O. Box 351, Dalton, GA 30720. Representative: M. C. Ellis, Chattanooga Freight Bureau, Inc., 1001 Market Street, Chattanooga, TN 37402. *Contract carrier:* irregular route: *floor coverings, and materials, equipment and supplies used in the manufacture and distribution thereof,* between Dalton, GA, on the one hand, and, on the other, points in CA, FL, IL, LA, OH, MD, MA, MN, MO, NJ, NV, OR, TN, TX and WA, under continuing contract(s) with Olympic Carpets, Inc., of Dalton, GA. Supporting shipper: Olympic Carpets, Inc., 396 Cross Plains Industrial Boulevard, Dalton, GA 30720.

MC 155004 (Sub-3–5TA), filed February 24, 1982. Applicant: JOSEPH LAND AND CO., INC., West Central Ave., P.O. Drawer 3310, Lake Wales, FL 33853. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Tools, fasteners, and safety boosters,* between Tulsa, OK, Chesapeake, VA, Stamford, CT, Houston, TX, Sparks, NV, Downers Grove, IL, and Decatur, GA. Supporting shipper: Hilti, Inc., P.O. Box 45400, Tulsa, OK 74145.

MC 145154 (Sub-3–109TA), filed February 24, 1982. Applicant: YOUNG'S TRANSPORTATION CO., 3401 Norman Berry Drive, Suite 246, East Point, GA 30344. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, NW., Washington, DC 20005. *Floor covering, and materials and supplies used in the manufacture and installation of floor covering,* between Jackson, MS, and points in its commercial zone, on the one hand, and, on the other, Houston and San Antonio, TX, and points in their commercial zones. Supporting shipper(s): Readers Wholesale Distributors, Inc., 1201 Naylor, Houston, TX 77062.

MC 140484 (Sub-3–28TA), filed February 24, 1982. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same as applicant). *Chemicals and Allied Products* between seaports in the U.S. on the one hand, and, on the other, points in the U.S. Supporting shipper: Isaac Industries, Inc., P.O. Box 403001, Miami Beach, FL 33140.

MC 160562 (Sub-3–1TA), filed February 24, 1982. Applicant: VENTURE TRUCKING COMPANY, INC., P.O. Box 813, Hwy. 64–70 West, Hickory, NC 28601. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *Contract:* irregular: *furniture and fixtures,* between the facilities of Bassett Furniture Industries of North Carolina, Inc. in Dumas, AR, on the one hand, and, on the other, all points in the United States, under continuing contract with Bassett Furniture Industries of North Carolina, Inc. Supporting shipper: Bassett Furniture Industries of North Carolina, Inc., P.O. Box 47, Newton, NC 28658.

MC 151083 (Sub-3–4TA), filed February 24, 1982. Applicant: JACKSONVILLE EXPRESS, INC., 5912 New Kings Road, Jacksonville, FL 32209. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *General Commodities (except classes A & B explosives, household goods as defined by the commission, commodities in bulk and hazardous materials)* between Duval County, FL on the one hand, and, on the other, points in GA, on and south of U.S. Highway 82. Supporting shippers: Peninsular Warehouse Co., Inc., P.O. Box 40669, Jacksonville, FL 32202; C & C Bulk Liquid Transfer, Inc., 401 Bryan Street, Jacksonville, FL 32202; Grimes Warehouse Co., 600 N. Ellis Rd., Jacksonville, FL 32205.

MC 143567 (Sub-3–1TA), filed February 24, 1982. Applicant: SOUTHERN PAPER STOCK COMPANY, Post Office Box 622, Spartanburg, SC 29304. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Contract;* irregular routes, *such commodities as are dealt in or utilized by a manufacturer of containers,* from Macon and Rome, GA, to Spartanburg, SC, under continuing contract(s) with The Mead Corporation. Supporting shipper: The Mead Corporation, Post Office Box 4371, Spartanburg, SC 29303.

MC 146646 (Sub-3–48TA), filed February 24, 1982. Applicant: BRISTOW TRUCKING CO., INC., 750 Clow Road, Birmingham, AL 35217. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL 35209–4766. *General commodities (except Classes A and B explosives and used household goods and commodities in bulk),* between all points in the United States and the facilities of Trammel Crow Distribution Corporation. Supporting shipper: Trammel Crow Distribution Corporation, P.O. Box 7248, Commerce, CA 90040.

MC 160730 (Sub-3–1TA), filed February 24, 1982. Applicant: ATLANTIC MOBILE TRANSPORT, Gideon Grove Church Road, Stokesdale, NC 27357. Representative: David L. Wilmore (same address as applicant). *Mobile homes, offices, or other trailers of a similar design,* Between points in Forsyth, Guilford, and Rockingham Counties, NC, and points in FL, GA, NC, SC, TN, and VA for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Nobility Homes, Inc., P.O. Box 878, Reidsville, NC 27320; Design Space International, P.O. Box 8293, Greensboro, NC 27419.

MC 160657 (Sub-3–1TA), filed February 24, 1982. Applicant: A AND B TRUCKING, INC., Highway, 17A North, P.O. Box 582, Summerville, SC 29483. Representative: Joseph M. Epting, P.O. Box 11414, Columbia, SC 29211. *Contract carrier:* irregular: *crushed or scrapped vehicles and shredded or compacted metal* between points in Richmond County, GA and points in Charleston and Georgetown Counties, SC, under continuing contracts with Automotive Recycling Company, a division of Addlestone International Corporation. Supporting shipper: Automotive Recycling Company, a division of Addlestone International Corporation, P.O. Box 1290, Augusta, GA 30903.

MC 147494 (Sub-3–6TA), filed February 24, 1982. Applicant: BOBBY KITCHENS, INC., P.O. Drawer 5690, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205. *Food and food stuffs* from Caldwell, Haybern and Nampa, ID to points in AL, FL, GA, LA and MS. Supporting shippers: Pioneer Foodservice, Inc., P.O. Box Daphane, AL 36520; Gulf States Food Service & Marketing, P.O. Box 331, Metairie, LA 70004; Commercial Food Brokers, Inc., P.O. Box 5667, Clearwater, FL 33518; M. K. Horowitz Company, 1649 Tullie Circle, N.E., Suite 105, Atlanta, GA 30329.

MC 149134 (Sub-3–1TA), filed February 24, 1982. Applicant: DONALD B. ROBBINS d.b.a. HORIZONS UNLIMITED, 235 Walnut Street, Statesville, NC 28677. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, N.W., Washington, DC 20005. *Passengers and their baggage in special and charter operations,* beginning and ending at points in Watauga, Caldwell, Avery and Ashe Counties, NC, and extending to points in TN, SC, VA, and GA. Supporting witnesses: Grandfather Mountains, Inc., P.O. Box 128, Linville, NC 28646; Lenoir Chamber of Commerce, P.O. Box 700, Lenoir, NC 28633; Tweetsie Railroad, Inc., P.O. Box 388, Blowing Rock, NC 28605; and Williamson & Associates, Inc., P.O. Box 108, Blowing Rock, NC 28605.

MC 160705 (Sub-3–1TA), filed February 23, 1982. Applicant: L. R.–LANDEN RAY DANIELS TRANSPORTATION CO., INC., 5180 13th Street, Ashland, KY 41101. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. *Scrap metal,* between Ashland, KY and its commercial zone, on the one hand, and, on the other, points in OH and WV. Supporting shipper: Mansbach Metal Co., P.O. Box 1179, Ashland, KY 41101.

MC 155004 (Sub-3–4TA), filed February 22, 1982. Applicant: JOSEPH LAND AND CO., INC., West Central Ave., P.O. Drawer 3310, Lake Wales, FL 33853. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Drilling mud,* from points in VA, FL, and WY, to points in CA, CO, KS, LA, MS, OK, TX, and WY. Supporting shipper: Baker Chemicals, Inc., 2801 South Post Oak Road, Ste. 258, Houston, TX 77056.

MC 30446 (Sub-3–12TA), filed February 22, 1982. Applicant: BRUCE JOHNSTON TRUCKING COMPANY,INC., 3408 North Graham Street, P.O. Box 5647, Charlotte, NC 28225. Representative: Leon Thompson (same address as applicant). *Contract carrier:* irregular: *Department store supplies and merchandise and those articles used in the sale and distribution*

of department store supplies and merchandise, between U.S. points in and east of MS, TN, KY, IN and MI. Supporting shipper: The Gap Stores, Inc., 3434 Mineola Pike, Erlanger, KY 41018.

The following application were filed in Region 4. Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 6992 (Sub-4-3TA), filed February 16, 1982. Applicant: AMERICAN RED BALL TRANSIT CO., INC., 1335 Sadlier Circle, East Drive, Indianapolis, Indiana 46239. Representative: John F. Spickelmier (same address as applicant). *New automotive glass and related glass products* between points in LaGrange County, IN, on the one hand, and on the other, points in the U.S. Supporting shipper: Excel Industries, 1120 N. Main, Elkhart, Indiana 46615.

MC 97932 (Sub 4-7), filed February 16, 1982. Applicant: WREN, INC. d.b.a. LAKEVILLE MOTOR EXPRESS, P.O. Box 8167, Roseville, MN 55113. Representative: Richard L. Gill, Gill & Brinkman, 1806 American National Bank Bldg., St. Paul, MN 55101. *General commodities (except those of unusual value and Classes A and B explosives)*, between Minneapolis-St. Paul, MN and its commercial zone and to all points in the State of MN. Applicant intends to tack with existing authority in MC 97932 and intends to interline at Minneapolis-St. Paul, MN. Supporting shippers: Champion Target, Div. of Federal Cartridge, Inc., 232 Industrial Parkway, Richmond, IN; Baxter Travenol, 6301 Lincoln, Morton Grove, IL 60053; Nor-Lake, Inc., P.O. Box 248, Hudson, WI 54016.

MC 119619 (Sub-4-11TA), filed February 17, 1982. Applicant: DISTRIBUTORS SERVICE CO., 2000 W. 43rd St., Chicago, IL 60609. Representative: Arthur J. Piken, Piken & Piken, 95-25 Queens Blvd., Rego Park, NY 11374. *(1) Such Commodities as are dealt in by grocery and food business houses, drugstores and retail department stores, and discount houses and (2) materials, equipment and supplies used in the conduct of such businesses*, between points in Oakland and Wayne Counties, MI, on the one hand, and, on the other points in CO, CT, DE, DC, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, OH, PA, RI, VT, VA, WV and WI. An underlying ETA seeks 120 days authority. Supporting shipper: Supreme Distributors Company, 21121 Telegraph Road, P.O. Box 5091, Southfield, MI 48037.

MC 138493 (Sub-4-6TA), filed February 16, 1982. Applicant: JAKUM TRUCKING, INC., R.R. 2, Miley Rd., Sheboygan Falls, WI 53085. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703. *Food and related products* from New London, WI to points in AL, AR, CA, CT, FL, GA, LA, MA, MS, NJ, NY, OH, PA, and TX for 270 days. Underlying ETA seeks 120 day authority. Supporting shipper: Hillshire Farm Company, P.O. Box 227, New London, WI 53961.

MC 143778 (Sub-4-23TA), filed February 17, 1982. Applicant: C.D.B., INCORPORATED, 155 Spaulding Avenue, S.E., Grand Rapids, Michigan 49506. Representative: C. Michael Tubbs, Traffic Manager (same address as applicant), (800) 253-9527. *Contract*, Irregular, *Commodities produced and distributed by Superior Pet Products, Inc.* from Plymouth, MA, on the one hand, and, on the other, Atlanta, GA; Chicago, IL; and Detroit, MI, under continuing contract(s) with Superior Pet Products, Inc. An underlying ETA seeks 120-day authority. Supporting shipper: Superior Pet Products, Inc.; 470 Atlantic Avenue; Boston, MA 02210.

MC 146319 (Sub-4-3TA), filed February 12, 1982. Applicant: ELLIOT LAKE FREIGHT LINES LIMITED, P.O. Box 70, Spragge, Ontario, CD P0R 1K0. Representative: William J. Hirsch P.C., 1125 Convention Tower, 43 Court St., Buffalo, NY 14202. *Uranium U-308, Trade Name "Yellow Cake"*; from ports of entry on the International Boundary line between the U.S. and CD, located in the upper penninsula of Michigan to points in Gore, OK. Supporting shipper: Rio Algom Limited, 120 Adelaide St. W., Toronto, Ontario, CD.

MC 150660 (Sub-4-2TA), filed February 16, 1982. Applicant: CAL BETTEN TRUCKING, 4212-44th Street SW, Grandville, MI 49418. Representative: D. Richard Black, Jr., 7810 Cottonwood Drive, P.O. Box 294, Jenison, MI 49428, 616-457-6299. *Conract* irregular: *health and beauty aids, drugs and toilet articles* between the facilities of L. Perrigo, Inc. in Allegan, MI on the one hand and on the other AR, AZ, CA, CT, FL, GA, IL, IN, KS, MA, MI, MO, NC, NJ, NV, NY, OH, OK, PA, SC, TN, TX, UT, VA, WV. Restricted to traffic moving under continuing contract with L. Perrigo, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: L. Perrigo, Inc., 117 Water Street, Allegan, MI 49010.

MC 150660 (Sub-4-3), filed February 16, 1982. Applicant: CAL BETTEN TRUCKING, 4212-44th Street SW, Grandville, MI 49418. Representative: D. Richard Black, Jr., 7810 Cottonwood Drive, P.O. Box 294, Jenison, MI 49428. *Contract* irregular: *furniture fixtures, tilting or revolving; furniture bases; machine parts* between the facilities of Gordon Manufacturing in Grand Rapids, MI on the one hand and on the other NJ, FL, GA, AR, AL, CA, MO and TX. Restricted to traffic moving under continuing contract with Gordon Manufacturing. An underlying ETA seeks 120 days authority. Supporting shipper: Gordon Manufacturing, 5250 52nd Street SE, Grand Rapids, MI 49508.

MC 152030 (Sub-4-2TA), filed February 16, 1982. Applicant: WASPI TRUCKING, INC., 9500 Pyott Road, Algonquin, IL 60102. Representative: Stephen H. Loeb, Suite 2027, 33 N. LaSalle Street, Chicago, IL 60602. *Contract, irregular: Stone and flooring strips*, from points in NC, SC, VA, GA, TN, MO, CO, TX, and WI to the facilities of Terrazzo & Marble Supply Co., of Illinois at Chicago, IL. Supporting shipper: Terrazzo & Marble Supply Co., of Illinois, 5700 S. Hamilton Ave., Chicago, IL 60636.

MC 156401 (Sub-4-3TA), filed February 16, 1982. Applicant: BURWICK'S, INC., Route No. 3, Box 159X, Dickinson, ND 58601. Representative: Richard P. Anderson, P.O. Box 2561, Fargo, ND 58108. *Salt*, from Weber and Salt Lake Counties, UT to Williams, Dunn and Stark Counties, ND. Supporting shippers: Great Salt Lake Minerals & Chemicals Corp., P.O. Box 1190, Ogden, UT 84402 and Morton Salt Co.—A Division of Morton Norwich Products, 110 North Wacker Drive, Chicago, IL 60606.

MC 158300 (Sub-4-4TA), filed February 16, 1982. Applicant: GERALD COSSETTE, d.b.a. GERALD COSSETTE TRUCKING, 2202 5th Avenue N., Fargo, ND 58102. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502. *Contract* irregular: *such commodities sold, distributed or dealt in by suppliers of paper and paper products* from WI, IL, MO, ME, MI, IA, MA, AL, IN, OH, FL, and CA, to Fargo, ND. Underlying ETA seeks 120 day authority. Supporting shipper: Dacotah Paper Co., P.O. Box 2727, Fargo, ND 58102.

MC 159116 (Sub-4-2TA), filed February 17, 1982. Applicant: FRONTIER TRAILS, INC., 18701 S. Wolf Road, Mokena, IL 60448. Representative: James R. Madler, 120 W. Madison Street, Chicago, IL 60602. Contract irregular, *passengers and their baggage, in special and/or charter operations*, beginning or ending at Volusia County, FL, and extending to points in IL, IA, IN, KA, KY, MN, MO, MI, OH and WI. Supporting shipper: Hi-Seas Motel Corp., 1299 S.

Atlantic Avenue, Daytona Beach, FL 32018.

MC 159986 (Sub-4-1TA), filed February 17, 1982. Applicant: AMAZON INDEPENDENT TRANSPORTATION, INC., 12480 24th Ave., Marne, MI 49435. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. *Paper and paper products (except in bulk, Classes A and B explosives, and household goods as defined by the Commission)* between points in Muskegon County, MI, on the one hand, and, on the other, points in the United States. Supporting shipper: S. D. Warren Paper Co., 2400 Lakeshore Dr., Muskegon, MI 49441.

MC 160472 (Sub-4-2TA), filed February 16, 1982. Applicant: TROJAN CORPORATION, Route No. 3, Wolf Lake, IL 62998. Representative: Jack L. Schiller, 123-60 83rd Ave., Kew Gardens, NY 11415, (212) 263-2078. Contract, irregular: *explosives* between Marion and Wolf Lake, IL; Biwabik, MN and Springville, UT, on the one hand, and, on the other, Marion, IL; New Tripoli and Mifflinburg, PA; Forest, OH; Columbus, IN; Romeoville, IL; Greenwood, MO; Bon Air, TN; and Bridgeport, TX, under continuing contract(s) with Nitrochem Energy Corp., of Rolling Meadows, IL. Supporting shipper: Nitrochem Energy Corp. 1896-A Rohlwing Rd., Rolling Meadows, IL 60008.

MC 160574 (Sub-4-1TA), filed February 16, 1982. Applicant: A. BRANDWEIN & COMPANY, 3190 Doolittle Drive, Northbrook, IL 60062. Representative: Edward G. Bazelon, 29 South La Salle Street, Chicago, IL 60603. *Contract*, irregular: *General commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), between Watertown, WI, DeKalb, Peoria and Moline, IL, Grand Rapids, MI, and Louisville, KY, on the one hand, and, on the other, points in WI, IL, IN, KY and MI, under a continuing contract(s) with Sealy Mattress Co. of Ill., Inc., Supporting shipper: Sealy Mattress Co. of Ill., Inc., 3190 Doolittle Drive, Northbrook, IL 60062.

MC 160505 (Sub-4-1TA), filed February 16, 1982. Applicant: GESKE BROS., INC., Box 42, Enderlin, ND 58027. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502. *Contract*, irregular: *Such commodities as dealt in by agricultural implement dealers* (1) from East Moline, IL, Fargo, ND, Grand Island, NE, and the port of entry on the international boundary line between the U.S. and Canada near Portal, ND, to Enderlin, ND and (2) from Enderlin, ND, to MN, ND, SD. Under contract with Kraemer Motors, Inc., Enderlin, ND, underlying ETA seeks 120-day authority. Supporting shipper: Kraemer Motors, Inc., Enderlin, ND 58027.

MC 6992 (Sub-4-4TA), filed February 19, 1982. Applicant: AMERICAN RED BALL TRANSIT CO., INC., 1335 Sadlier Circle, East Drive, Indianapolis, Indiana 46239. Representative: John F. Spickelmier (same address as applicant). *Automotive seating* between points in Elkhart, County, IN on the one hand, and, on the other, points in U.S. Supporting shipper: Shomco, Inc., 1801 Minnie Street, Elkhart, IN 46516.

MC 121212 (Sub-4-1TA), filed February 18, 1982. Applicant: CUMBERLAND TRUCKING CO., INC., 2550 Lunt Ave., Elk Grove Village, IL 60007. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. *Contract*, irregular, *concrete accessories, column clamps, shores for building props, reinforcing accessories, concrete forming equipment, and materials, equipment and supplies used in the manufacture, sale, and distribution thereof*, between Des Plaines, IL and points in IL, IN, MI and WI, under a continuing contract with Symons Corporation, Des Plaines, IL. SS: Symons Corp., 200 E. Toumy Ave., Des Plaines IL 60018.

MC 134401 (Sub-4-2TA), filed February 18, 1982. Applicant: McGILLION TRANSPORT, INC., 141 Healey Road, Box 644, Bolton, Ontario LOP 1AO, CD. Representative: Allan C. Zuckerman, 29 South LaSalle Street, Suite 905, Chicago, IL 60603. *Silica sand*, between the ports of entry on the U.S.-Canadian border in MI and NY, on the one hand, and, on the other, points in IL and IN. Supporting shipper: William R. Barnes Co., Ltd., Box 280, Parkside Dr., Waterdown, Ontario 2HO CD.

MC 136388 (Sub-4-3TA), filed February 18, 1982. Applicant: CHESTER CAINE, JR., d.b.a. CAINE TRANSFER, an individual, Box 376, Lowell, WI 53557. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Meat, meat products, meat byproducts, and articles distributed by meat packing houses*, between Waterloo, WI, on the one hand, and, on the other, points in IN, IL and MI. An underlying ETA seeks 120 days authority. Supporting shipper: Champion Packers, Inc., P.O. Box 68, Waterloo, WI 53594.

MC 146184 (Sub-4-3TA), filed February 18, 1982. Applicant: RUSS TAYLOR TRUCKING, INC., Route 6, Box 161, Watertown, WI 53094. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Contract*; irregular; *malt beverages* between Memphis, TN, and Beloit and Milton, WI. Restriction: restricted to transportation performed under continuing contract(s) with Beloit Beverage Company, Inc., and Harry P. Goodall, Inc. An underlying ETA seeks 120 days authority. Supporting Shippers: Beloit Beverage Company, Inc., 1530 Gale Drive, Beloit, WI 53511; and Harry P. Goodall, Inc., Route 3, 4273 Newville Road, Milton, WI 53563.

MC 151707 (Sub-4-24TA), filed February 19, 1982. Applicant: PIONEER TRUCKING, INC., 1105 N. Market Street—15th Floor, Wilmington, DE 19801. Representative: Dennis J. Kupchik (same address as applicant). *Contract:* Irregular: *Copper and copper products, aluminum and aluminum products, chemicals NOI, and materials and supplies used in the manufacture thereof* between Maspeth, NY, El Paso, TX and points in the US except the states of ID, MT, ND, SD, and WY, under continuing contract with Phelps Dodge Refining Corp. Supporting shipper: Phelps Dodge Refining Corp., 300 Park Avenue, New York, NY 10022.

MC 151707 (Sub-4-23TA), filed February 19, 1982. Applicant: PIONEER TRUCKING, INC., 1105 N. Market Street—15th Floor, Wilmington, DE 19801. Representative: Dennis J. Kupchik (same address as applicant). *Contract:* Irregular: *Copper and copper products, aluminum and aluminum products, materials and supplies used in the manufacture thereof* between Norwich, CT, Elizabeth, NJ, Ft. Wayne, IN, El Paso, TX, Yonkers, NY, DuQuoin, IL, Stockville, MS, Fordyce, AR, Elizabethtown and Hopkinsville, KY, Los Angeles, CA, Houston, TX, Chicago, IL, Atlanta, GA and points in the US except the states of ID, MT, WY, ND and under continuing contract with Phelps Dodge Industries, Inc. S.S.—Phelps Dodge Industries, Inc., 300 Park Ave., New York, NY 10022.

MC 151899 (Sub-4-14TA), filed, February 19, 1982. Applicant: BLACKHAWK EXPRESS, INC., 235 Hake St., Fort Atkinson, WI 53538. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603. *Contract*, Irregular, *Storage systems* from Fort Atkinson, WI and Lawrance, MA to West Lafayette, IN and Champaign, IL, under continuing contract(s) with Spacesaver Corporation. An underlying ETA seeks 120 days authority. Supporting shipper: Spacesaver Corporation, 1450 Janesville Ave., Fort Atkinson, WI 53538.

MC 152030 (Sub-4-3TA), filed, February 19, 1982. Applicant: WASPI TRUCKING, INC., 9600 Pyott Road, Algonquin, IL 60102. Representative: Stephen H. Loeb, Suite 3027, 33 N. LaSalle Street, Chicago, IL 60602. *Contract, irregular: Such commodities as are used in the production of refractories*, from points in PA., VA., OH., GA., AL., MS., AR., TX., and MO. to the facilities of Plibrico Company at Firebrick, OH. and Chicago, IL. Supporting shipper: Plibrico Company, 1800 N. Kingsbury Street, Chicago, IL 60614.

MC 152935 (Sub-4-11TA), filed, February 18, 1982. Applicant: HILL-RON COMPANY, INC., Highway 46, Batesville, IN 47006. Representative: Steve A. Oldham, Hillenbrand Industries, Inc., Highway 46, Batesville, IN 47006. *Contract*, irregular: *umbrellas and cushions* between Pomona, CA and points in IL, IN, KY, MO, and OH. An underlying ETA seeks 120 days' operating authority. Supporting shipper: California Umbrella Sales, Inc., 1325 East Franklin Avenue, Pomona, CA 91766.

MC 152935 (Sub-4-12TA), filed, February 18, 1982. Applicant: HILL-RON COMPANY, INC., Highway 46, Batesville, IN 47006. Representative: Steve A. Oldham, Hillenbrand Industries, Inc., Highway 46, Batesville, IN 47006. *Contract*, irregular: *bedroom furniture* between Cloverdale, CA and points in Denver, CO; Grand Mound, IA; Houston, TX; Lincoln, NE; Little Rock, AR; and Louisville, KY. An underlying ETA seeks 120 days' operating authority. Supporting shipper: Morgan Wood Products, Inc., 26972 Asti Road, Cloverdale, CA 95425.

MC 152935 (Sub-4-13TA), filed, February 18, 1982. Applicant: HILL-RON COMPANY, INC., Highway 46, Batesville, IN 47006. Representative: Steve A. Oldham, Hillenbrand Industries, Inc., Highway 46, Batesville, IN 47006. *Contract*, irregular: *wooden furniture* between San Jose, CA and points in Greenwood, IN and Louisville, KY. An underlying ETA seeks 120 days' operating authority. Supporting shipper: Sheer Comfort Company, Inc., 288 Sharcot Avenue, San Jose, CA 95131.

MC 159459 (Sub-4-2TA), filed February 18, 1982. Applicant: R.B.R. TRUCKING INC., 211 Kocher Street, Rockton, IL 61072. Representative: Richard McArdle (same addres as applicant). *Contract* irregular: 1) *Plastic articles less than two pounds per cubic foot* between Janesville, WI, on the one hand, and on the other, points in MI, IN, IL, OH, KY, NY & PA. Restricted to traffic moving under continuing contract with Fiberglass Engineering, 130 Freedom Lane, Janesville, WI 53545. 2) *Store display racks, NOI, O.T., flat not nested, moldings I/S NOI, galvanized plain or prime welded steel tubing 4" or less in diameter* between points in the state of WI, on the one hand, and on the other, points in the states of VT, NJ, TX, FL, OH, PA & WA. Restricted to traffic moving under continuing contract with United Industries Inc., 1546 Henry Ave., Beloit, WI 53511. 3) *Commodities as are dealt in, or used by, manufacturers or distributors of water conditioning equipment* between points in the U.S. Restricted to traffic moving under continuing contracts with Mechanical Inc., P.O. Box 690, Rt. 20 East, Freeport, IL 61032 and Techni-Chem Inc., 6653 Indy Drive, Belvidere, IL 61008. SS: Fiberglass Engineering, 130 Freedom Ln, Janesville, WI 53545; Mechanical, Inc., P.O. Box 690, Rt 20, E. Freeport, IL; United Industries, Inc., 1546 Henry Ave, Beloit, WI and Techni-Chem, Inc., 6653 Indy Dr, Belvidere, IL.

MC 159661 (Sub-4-2TA), filed February 19, 1982. Applicant: KENNY'S TRUCKING CO., 7800 S. Chicago Ave., Chicago, IL 60619. Representative: Austin O'Malley, 17600 S. Crawford, Country Club Hills, IL 60477. *Contract* regular: *Printed matters and related articles* used in the manufacturer sales, and distribution thereof, between Chicago, Dwight, IL Mattoon, IL, Crawfordsville, IN, Plymouth, IN, Warsaw, IN, and points in AL, GA, IA, IL, IN, KY, LA, ME, MD, MA, MN, MI, MS, NH, NJ, NM, OH, PA, RI, SC, TN, VA, VT, and WI. Restricted to traffic moving under continuing contract with R. R. Donnelley & Sons Co. Supporting shipper: R. R. Donnelley & Sons Co., 2223 Martin Luther King Dr., Chicago, IL 60619. An underlying ETA seeks 120 days authority.

MC 160562 (Sub-4-1TA), filed February 19, 1982. Applicant: GERALD FREDERICK, d.b.a. FREDERICK ENTERPRISES, Box 232, Richardton, ND 58652. Representative: Harlin Gilje, Box 19, Richardton, ND 58652, (701) 974-3301. *Contract;* irregular: *Machinery* between points in the U.S. under continuing contract with Richardton Manufacturing Company of Richardton, ND and Hoff Machine & Weld of Richardton, ND. Supporting shippers: Richardton Manufacturing Company; a Division of Core Industries Inc; Box 290; Richardton, ND 58652 and Hoff Machine & Weld, Box 294; Richardton, ND 58652.

MC 160664 (Sub-4-2TA), filed February 19, 1982. Applicant: REDWAY CONTRACT CARRIER CORPORATION, 506 Industrial Lane, Prairie View, IL 60069. Representative: Paul J. Maton, 10 South La Salle St., Room 1620, Chicago, IL 60603. *Contract:* irregular: *(1) Food products, in containers; and (2) materials, and supplies used in the processing, canning and bottling of food products; (except commodities in bulk),* between points in AL, AR, CO, GA, IA, IL, IN, KS, KY, LA, MI, MN, MO, MS, OH, OK, PA, TN, TX, VA, WI, and WV, under continuing contract with Ocean Spray Cranberries, Inc., 7800 South 60th Avenue, Kenosha, WI 53142. An underlying ETA seeks 120 days authority. Supporting shipper: Ocean Spray Cranberries, Inc., 7800 South 60th Avenue, Kenosha, WI 53142.

MC 93315 (Sub-4-1TA), filed February 24, 1982. Applicant: McCOURT CARTAGE LIMITED, 1850 St. Luke Road, Windsor, Ontario, Canada N8W 3W7. Representative: John W. Ester, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. *General commodities* (except classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between ports of entry on the U.S.-Canada Boundary line, on the one hand, and on the other, points in MI, IL, IN and OH. An underlying ETA seeks 120 days authority. Supporting shipper: There are ten supporting shippers.

MC 109449 (Sub-4-13TA), filed February 19, 1982. Applicant: KUJAK TRANSPORT, INC., 6386 West 6th St., Winona, MN 55987. Representative: Gary Shurson, P.O. Box 799, Winona, MN 55987. *Food and related products,* between points in Jackson County, OH, on the one hand, and, on the other, points in AL, AR, DE, FL, GA, IL, KS, LA, MS, MO, NC, OK, SC, and TX. Supporting shipper: Jeno's Inc., 525 Lake Ave, So., Duluth, MN 55802.

MC 109634 (Sub-4-1TA), filed February 24, 1982. Applicant: TRAILER CONVOYS, INC., 1248 Highway 31, Jeffersonville, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Contract* irregular: *general commodities,* (except household goods, classes A and B explosives, and commodities in bulk) between points in the U.S. under continuing contracts with Wal-Mart Stores, Inc., Bentonville, AR. Supporting shipper: Wal-Mart Stores, Inc., P.O. Box 116 Bentonville, AR 72712.

MC 126477 (Sub-4-1TA), filed February 22, 1982. Applicant: JET AIR FREIGHT & PARCEL DELIVERY, INC., P.O. Box 9313—Beer Field, Fort Wayne, IN 46809. Representative: James P. Kirkhope, for Transport Management Services, Inc., P.O. Box 15286, Fort Wayne, IN 46885. *Contract,* Irregular: *General commodities,* except classes A and B explosives and hazardous materials, when moving under freight forwarder bills of lading. Between Allen County, IN, on the one hand, and, on the other hand, Pittsburgh, PA, St. Louis, MO and their respective commercial zones and points in IL, KY, MI, OH, and WI under continuing contract(s) with American Shippers, Inc. of Fort Wayne, IN. Supporting shipper: American Shippers, Inc., P.O. Box 9728, Fort Wayne, IN 46899.

MC 128837 (Sub-4-24), filed February 25, 1982. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. *Iron and steel wire and wire products, and empty wooden spools,* between Kent, WA, on the one hand, and, on the other, New Madrid, MO. An underlying E/T/A seeks 120 days authority. Supporting shipper: Davis Walker Corporation, 6315 Bandini Blvd., Los Angeles, CA 90040.

MC 135410 (Sub-4-47TA), filed February 25, 1982. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, North Sixth Street Road, P.O. Box 428, Monmouth, IL 61462. Representative: Daniel O. Hands, 205 West Touhy Ave., Suite 200A, Park Ridge, IL 60068. *(1) Plastic articles, cushioned envelopes, packaging machinery and (2) equipment, materials and supplies used in the manufacture and distribution of the commodities in (1),* from the facilities of Packaging Industries Group, Inc., at or near Hyannis and Plymouth, MA to points in IL, IN, IA, KS, MI, MN, MO, OH and WI. Supporting shipper: Packaging Industries Group, Inc., 130 North Street, Hyannis, MA 02601.

MC 136535 (Sub-4-21TA), filed February 23, 1982. Applicant: WHITEFORD TRUCK LINES, INC., 640 West Ireland Road, South Bend, IN 46680. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. (1) *Pulp, paper and related products,* (2) *rubber and plastic products,* (3) *lumber and wood products,* (4) *chemicals and allied products,* and (5) *such commodities as are dealt in by home improvement centers,* between the facilities of Union Camp Corporation at points in the U.S., on the one hand, and, on the other, points in the U.S. Supporting shipper: Union Camp Corporation, 1600 Valley Road, Wayne, NJ 07470.

MC 136535 (Sub-4-22TA), filed February 23, 1982. Applicant: WHITEFORD TRUCK LINES, INC., 640 West Ireland Road, South Bend, IN 46680. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Plumbing fittings, plumbing fixtures, plumbing supplies, vanities, vanity cabinets and plastic articles,* between the facilities of Universal-Rundle Corporation located at New Castle, PA; Leominster, MA; Monroe and Union Point, GA; Corsicana and Hondo, TX; Tempe, AZ; Redlands, CA; Ottumwa, IA; Milwaukee, WI; Renssalear and Crawfordsville, IN and Salem, OH, on the one hand, and, on the other, points in the U.S. Supporting shipper: Universal-Rundle Corporation, 217 N. Mill Street, New Castle, PA 16101.

MC 136635 (Sub-4-23TA), filed February 23, 1982. Applicant: WHITEFORD TRUCK LINES, INC., 640 West Ireland Road, South Bend, IN 46680. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Such commodities as are dealt in by manufacturers or distributors of containers and container closures,* between the facilities of Brockway Glass Company, Inc. at points in the U.S., on the one hand, and, on the other, points in the U.S. Supporting shipper: Brockway Glass Company, Inc., McCullough Ave., Brockway, PA 15824.

MC 138569 (Sub-4-2TA), filed February 23, 1982. Applicant: BRAITHWAITE TRUCKING, INC., 3619 Sunset Drive, Rapid City, SD 57701. Representative: David J. Stanton, Attorney, 2060 West Main, Suite 202, Rapid City, SD 57701. *Coal,* with back-haul of *sand and gravel, crushed rock, haydite* (expanded shale) in bulk from points in Campbell County, WY, to points in Pennington County, SD, with back-haul from points in Pennington County, SD, to points in Campbell County, WY. The underlying Temporary Authority seeks 270 days authority. Supporting Shippers: 1. South Dakota Cement Plant, P.O. Box 360, Rapid City, SD 57709. 2. J & D Precast, 2540 East Highway 44, Rapid City, SD 57701. 3. Reeves Concrete, P.O. Box 1358, Gillette, WY 82716.

MC 139154 (Sub-4-3TA), filed February 19, 1982. Applicant: RICHARDS TRANSPORT LTD., 1155 McKay St., Regina, Sask., Canada. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 South 8th Street, Minneaplis, MN 55402. *Steel pipe,* from points on the U.S.-Canadian boedar in ND and MT to points in MT, ND, SD and WY. An underlying ETA seeks 120 days authority. Supporting shipper: Interprovincial Steel and Pipe Corporation Ltd., P.O. Box 1670, Regina, Saskatchewan S4P 3C7.

MC 139154 (Sub-4-4TA), filed February 22, 1982. Applicant: RICHARDS TRANSPORT LTD., 1155 McKay St., Regina, Saskatchewan, Canada. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402. *Drilling Mud,* from points in WY to points on the United States/Canadian Border in MT and ND. An underlying ETA seeks 120 days authority. Supporting shipper: Pacific West Canadian, Ltd., 108 Woodford Drive S.W., Calgary, Alberta T2W 4C3.

MC 140834 (Sub-4-2TA), filed February 22, 1982. Applicant: TURNER TRANSPORTATION, INC., Route 2, S Second St., Mitchell, IN 47446. Representative: Andrew K. Light, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *School buses, in driveaway service,* from Mitchell, IN to Columbia, SC. Supporting Shippers: Interstate Transportation Equipment, Division of Superior Sales, Inc., P.O. Box 9163, 7660 Sumter Highway, Columbia, SC 29290.

MC 145344 (Sub-4-2), filed February 25, 1982. Applicant: WILLIAMS TRUCKING, INC., Rt. 1, 1396 Hwy. 13 No., Friendship, WI 53934. Representative: Velma Jean Williams (same address as applicant). *Transporting fertilizer in bulk and in tanks,* from points in IL, IA and MN to points in WI. Supporting shipper: Estech, Inc., 1906 Orrie Lane, Green Bay, WI 54304.

MC 146108 (Sub-4-4TA), filed February 22, 1982. Applicant: BIG T TRANSFER, INC., 2414 Jacobs Drive, New Albany, IN 47150. Representative: Harold C. Jolliff, 3242 Beech Drive, Columbus, IN 47201, (812) 379-2556. *Contract* irregular: *(1) Stain, Paint, and Varnish, and (2) Materials, Equipment, and Supplies used in the manufacture and distribution of the commodities in (1) above.* Between Louisville, KY, on the one hand, and, on the other, points in AL, AR, CT, FL, GA, IN, LA, ME, MA, MS, MO, NJ, NH, NC, NY, OH, PA, TN, VT, VA, and WV, under continuing contract(s) with Olympic Stain, a Division of The Clorox Co., of Oakland, CA. An underlying ETA seeks 120 days authority. Supporting shipper: Olympic Stain, a Division of The Clorox Co., of Oakland, CA. 6804 Enterprise Drive, Louisville, KY 40214.

MC 147010 (Sub-4-2TA), filed February 22, 1982. Applicant: WHALEN TRUCKING, INC., 301 Prairie, Waverly, IL 62692. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. *Fertilizer and anhydrous ammonia,* from Ft. Madison, IA and Palmyra, MO to points in IL. Supporting shipper: Chevron Chemical Co., P.O. Box 282, Ft. Madison, IA 52627.

MC 147262 (Sub-4-3TA), filed February 23, 1982. Applicant: DETROIT AIR CARGO, INC., 28450 Highland Road, Romulus, MI 48174. Representative: James P. Kirkhope, for Transport Management Services, Inc., P.O. Box 15296, Fort Wayne, IN 46885, (219) 422-8884. *Contract,* irregular, *General Commodities,* except classes A and B explosives and hazardous materials, when moving under freight forwarder bills of lading, between Detroit, MI and its commercial zone, on the one hand, and, on the other hand, Chicago, IL, Milwaukee, WI, Pittsburgh, PA and their respective commercial zones and points in IN and OH, under continuing contracts with American Shippers, Inc., a certificated freight forwarder, of Fort Wayne, IN. Supporting Shipper: American Shippers, Inc., P.O. Box 9720, Fort Wayne, IN 46899.

MC 151899 (Sub-4-15), filed February 23, 1982. Applicant: BLACKHAWK EXPRESS, INC., 235 Hake Street, Fort Atkinson, WI 53538. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603. *Contract,* irregular, *shelving* from the facilities of Andrew Wilson Co. at Lawrence, MA to points in the U.S. under continuing contract(s) with Andrew Wilson Co. Supporting shipper: Andrew Wilson Co., 616 Essex St., Lawrence, MA 01842.

MC 152905 (Sub-4-1TA), filed February 23, 1982. Applicant: DWAN'S MOVING & STORAGE CO., INC., 207 Hawthorne Ave., St. Joseph, MI 49085. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. *Contrac,t* irregular, *electronic equipment* from St. Joseph, MI, to States on and East of if the Mississippi River and the States of CO, KS, NE, OK and TX, under a continuing contract with the Heath Company, Supporting shipper: Heath Co., Hilltop Rd., St. Joseph, MI 49085.

MC 154767 (Sub-4-1TA), filed February 25, 1982. Applicant: RUSSELL L. DAUM, 1012 East Buchanan Street, Plainfield, IN 46168. Representative: Andrew K. Light, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Contract,* irregular, *fertilizers and herbicides* (specific products: bulk lime, nitrogen solutions, phosphate solutions and combination of phosphates, nitrogen, potassium, various chemical herbicides, and potash), from Calumet Harbor, Marseilles, Peoria, Pekin, and El Paso, IL; Henderson, KY; Newton, IA; and Cincinnati, OH, to points in IN. Restricted to a contract or continuing contracts with Kaiser Agricultural Chemical Division of Kaiser Aluminum & Chemical Sales, Inc., Lebanon, IN, for 270 days. Supporting shipper: Kaiser Agricultural Chemical Division of Kaiser Aluminum & Chemical Sales, Inc., P.O. Box 30, Lebanon, IN 46052.

MC 156496 (Sub-4-2TA), filed February 22, 1982. Applicant: MORRIS VICE, d.b.a. ROYAL GREAT LAKE TOURS, 2008 W. Goguac Street, Battle Creek, Michigan 49015. Representative: William R. Ralls, 116 West Ottawa Street, Suite B, Lansing, Michigan 48933. *Passengers and their baggage,* in special and charter operations, between points in Battle Creek, MI, on the one hand, and on the other, points in the U.S. An underlying ETA was filed with the Commission. Supporting shippers: (1) Kellogg Community College, 450 North Ave., Battle Creek, MI 49017. (2) Youth For Christ, 157 Capital Ave., NE, Battle Creek, MI 49017. (3) City of Battle Creek Senior Citizens, 75 Irving Park Drive, Battle Creek, MI 49017.

MC 157280 (Sub-4-2TA), filed February 23, 1982. Applicant: DATIM, INC., 4117 Terminal Drive, McFarland, WI 53558. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Foodstuffs and materials, equipment and supplies* used in the manufacture, sale or distribution of such commodities (a) between Dane and Sauk Counties, WI, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, KS, KY, MO, NC, NY, OH, PA, SC, and TN; and (b) between Madison, WI, on the one hand, and, on the other, the Chicago, IL, Commercial Zone. Restriction: Item (b) restricted to transportation to be performed for traffic originating or destined for Madison Dairy Produce Company. An underlying ETA seeks 120 days authority. Supporting shippers: Sauk City Canning Co., Inc., 401 J. Q. Adams St., Sauk City, WI 53583; Reedsburg Foods Corporation, Box 270, West 2nd and Eagle St., Reedsburg, WI 53959; and Madison Dairy Produce Co., 1016 East Washington, Madison, WI 53701.

MC 160488 (Sub-4-1TA), filed February 24, 1982. Applicant: BADGER TRANSPORT, INC., Route 2, Box 75, Clintonville, WI 54929. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705-0086, 608-238-3119. *Contract:* Irregular, (1) *Tractors* from Harrisburg, PA to Embarrass, WI; (2) *lumber,* (a) from points in WI to points in IA, IL and IN; (b) from points in MT, WA, MN and the Upper Peninsula of MI to points in WI, all under continuing contract(s) with Peterson Built Products, Inc., of Clintonville, WI. An underlying ETA seeks 120 days authority. Supporting shipper: Peterson Built Products, Inc., Route 2, Box 75, Clintonville, WI 54929.

MC 160560 (Sub-4-1TA), filed February 25, 1982. Applicant: ASP, INC., d.b.a. AACTION MOYERS, 2100 Vermont, Bismarck, ND 58501. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502-2056. *Contract; irregular; transporting office machines and equipment and materials, equipment and supplies therefor,* between points in ND and points in Kittson, Rosseau, Marshall, Polk, Grant, Douglas, Stevens, Pope, Pennington, Red Lake, Clearwater, Mahnomen, Big Stone, Swift, Norman, Clay, Becker, Hubbard, Wadena, Wilkins, Otter Tail, and Traverse Counties, MN, under contract with Xerox Corporation, Des Plains, IL. Supporting shipper: Xerox Corporation, 3000 Des Plaines Ave., Des Plaines, IL 60018; underlying ETA seeks 120 days authority.

MC 160719 (Sub-4-1TA), filed February 24, 1982. Applicant: VALLEY EXPRESS, INC., 39 North 7th Street, P.O. Box 301, Hilbert, WI 54129. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705-0086, 608-238-3119. *(1) Gasoline and kerosene containers, and (2) propane cylinders* from the facilities of Chilton Metal Products, a division of Western Industries, Inc., at or near Chilton, WI to points in CT, DE, MD, MA, NJ, NY, OH, PA, RI, VA and WV. An underlying ETA seeks 120 days authority. Supporting shipper: Chilton Metal Products, a division of Western Industries, Inc., 300 Breed Street, Chilton, WI 53014.

MC 160721 (Sub-4-1TA), filed February 22, 1982. Applicant: RICHARD BELLERUD and ORVIN HELGESON, d.b.a. B & H ENTERPRISES, POB 344, Grafton, ND 58237. Representative: Robert N. Maxwell, POB 2471, Fargo, ND 58108. *Canned goods,* from Paris, TX to Fargo, ND. Supporting shipper: Nash Finch Co., POB 2388, Fargo, ND 58108.

MC 160722 (Sub-4-1TA), filed February 22, 1982. Applicant: LARRY SWIHART, an individual, d.b.a. SWIHART TRUCKING, Route No. 2, Silver Lake, IN 46982. Representative: Paul D. Borghesani, Katz & Borghesani, 300 Communicana Bldg., 421 So. Second Street, Elkhart, IN 46516. *Contract* irregular: *General commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Culver and Wabash, IN; Miami, FL; and Los Angeles, CA, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Mexus Marketing Group, 570 South Miami Street, Wabash, IN 46992.

MC 160728 (Sub-4-1TA), filed February 22, 1982. Applicant: DONALD W. SANTEE d.b.a. TONTO, Route 7, Box 358, Menomonie, WI 54751. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Edina, MN 55424. *Forest products, lumber, and wood products,* between points in Clark, Eau Claire, Jackson, and Trempealeau Counties, WI, and Colfax, WI, on the one hand, and, on the other, points in the U.S. Supporting shippers: Fairchild Wood Products, Inc., P.O. Box 5, Fairchild, WI 54741; Russell Likeness, Route 1, Box 22, Colfax, WI 54730.

MC 160741 (Sub-4-1TA), filed February 24, 1982. Applicant: ASA FREIGHT SYSTEMS, INC., 45 West 6th St., Oshkosh, WI 54901. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. *General commodities (except Classes A and B explosives)* between Brown, Calumet, Dodge, Fond du Lac, Outagamie, Washington, Waupaca and Winnebago Counties, WI; Milwaukee, WI and points within its commercial zone and Chicago, IL and points within its commercial zone. Applicant also intents to interline with other carriers at interchange points of Milwaukee, WI and points within its commercial zone and Chicago, IL and points within its commercial zone. Supporting shippers: 12.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 16334 (Sub-5-4TA), filed February 26, 1982. Applicant: DERRICK TRUCK LINE COMPANY, P.O. Box 421, Paola, KS 66071. Representative: John T. Pruitt, 9832 Connell, Overland Park, KS 66212. *Cellulose, Insulation, Vermiculite, Stall Bedding, and materials and supplies used in the manufacture and distribution thereof,* between Franklin County, KS; Hennepin County, MN; and Adams County, CO on the one hand, and, on the other, points in AR, CO, IL, IA, MN, MO, NE, and OK. Supporting shipper: Shelter Shield Products, a division of Insulation Sales Company, P.O. Box 582, Wellsville, KS 66092.

MC 79658 (Sub-5-1TA), filed February 24, 1982. Applicant: ATLAS VAN LINES, INC., 1212 St. George Road, Evansville, IN 47711. Representative: Robert C. Mills, Michael L. Harvey (same as applicant). Contract, Irregular; *general commodities [except Class A and B explosives],* (1) between points in CO, on the one hand, and, on the other, points in IN, IL, MN, MO, and OH, and (2) from points in IN, IL, MN, MO, and OH to Lexington, KY. Supporting shipper: IBM, Corp., Princeton, NJ.

MC 117478 (Sub-5-2TA), filed February 23, 1982. Applicant: SPERRY TRANSPORTATION CO., 907 F Street, Charles City, IA 50616. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. *Iron and Steel Articles,* from Neenah and Wausau, WI and points in the Chicago, IL Commercial Zone to Charles City and Nashua, IA. Supporting shipper(s): White Farm Equipment Co., 309 Lawler St., Charles City, IA 50616; B.C. Hydrotile, 69 Maple St., Nashua, IA 50658.

MC 126901 (Sub-5-2TA), filed February 25, 1982. Applicant: SUNLINE, LTD., a partnership, 6515 Greenville, Ave., Suite N-207, Dallas, TX 75243. Representative: Clayte Bintin, 623 South Henderson, 2nd Floor, Fort Worth, TX 76104. *Mercer commodities,* between points in TX, on the one hand, and, on the other, points in LA, MS, TX, NM and OK. There are 13 supporting shippers.

MC 135399 (Sub-5-6TA), filed February 24, 1982. Applicant: HASKINS TRUCKING, INC., P.O. Drawer 7729, Longview, TX 75602. Representative: A. William Brackett, 623 S. Henderson, 2nd Floor, Fort Worth, TX 76104. Contract; Irregular. *Metal products, machinery and those commodities which because of their size or weight require the use of special handling or equipment,* between points in the United States. Supporting shipper: Morrow Crane Company, P.O. Box 45556, Houston, TX 77045.

MC 140149 (Sub-5-1TA), filed February 26, 1982. Applicant: M.C. BUNCH, INC., Route 1, Box 52, Lake City, AR 72437. Representative: James M. Duckett, 221 W. 2nd, Suite 411, Little Rock, AR 72201. *Steel tubing and automotive parts, viz. mufflers, exhaust and tail pipe, shock absorbers, springs and related hardware,* from the facilities of Midas International Corp., at Chicago, IL, to points in AR, MS, LA, OK, KY, TN and GA. Supporting shipper: Midas International Corp., 4101 W. 42nd Pl., Chicago, IL.

MC 143345 (Sub-5-1TA), filed: February 24, 1982. Applicant: BILLY JACK HOLLINGSWORTH d.b.a. HOLLINGSWORTH GRAIN & TRUCKING, Box 384, Sanger, TX 76266. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768-2207. *Frozen potato products* from points in WA to points in TX. Supporting shipper: William George Company, Inc., P.O. Box 407, Palestine, TX 75801.

MC 145970 (Sub-5-3TA), filed February 24, 1982. Applicant: SKILLETT & SONS, INC., Rush Center, Kansas, 67575. Representative: Eric W. Francis, Esq., 719 Capitol Federal Bldg., Topeka, Kansas, 66603. Contract: Irregular. *General Commodities,* between Barton County, KS on the one hand and on the other, all points and places in the United States except AK and HI. Under Continuing contract with Fuller Brush Company, P.O. Box 729, Great Bend, KS 67530.

MC 151363 (Sub-5-13TA), filed February 24, 1982. Applicant: NICKELL TRUCKING CO., 4901 West 51st Street, Tulsa, OK 74107. Representative: Fred Rahal, Jr., Suite 305 Reunion Center, 9 East Fourth Street, Tulsa, OK 74103. Contract, Irregular: *Ammunition handling trailers; wheels, tires, hubs, axles, undercarriages and machinery;* and *equipment and materials used in the manufacture and distribution thereof;* between pts in U.S. under continuing contract(s) with Superior Welding, Inc. of Bartlesville, OK. Supporting shipper: Superior Welding, Inc., P.O. Box 607, Bartlesville, OK 74005.

MC 152764 (Sub-5-2TA), filed February 25, 1982. Applicant: L.V.I., INC., 221 South Redman Road, Jacksonville, AR 72076. Representative: Richard L. Vassar (same as applicant). *Alcoholic beverages, (except in bulk),* from points in the U.S. to points in AR. Supporting shipper: Carlisle Distributing Company, Inc.; 200 N. Cedar; North Little Rock, AR 72114.

MC 153723 (Sub-5-9TA), filed February 25, 1982. Applicant: A & M ENTERPRISES, INC., Post Office Box 884, Springdale, AR 72764. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72702. *Wooden Disappearing Attic Stairways, Pocket Door Frames, Attic Fans and Metal Stampings;* and, *Food and Related Products*—Between Pulaski County, AR, on the one hand, and, on the other, points in AL, IL, KS, KY, LA, MO, OK, TN, and TX. Supporting shippers: Century Wel-Bilt Industries, Inc., Post Office Box 6240, Little Rock, AR 72216, C. Finkbeinder, Inc., Post Office Box 1007, Little Rock, AR 72203.

MC 153723 (Sub-5-10TA), filed February 25, 1982. Applicant: A & M ENTERPRISES, INC., Post Office Box 884, Springdale, AR 72764. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72702. *Meats and Meat By-Products* between Palestine, TX, on the one hand, and, on the other, points in the U.S. Supporting shipper: Vernon Calhoun Packing Co., Post Office Box 709, Palestine, TX 75801.

MC 154623 (Sub-5-7TA), filed February 26, 1982. Applicant: LOGGINS

TRUCKING COMPANY, 1925 Oakhurst Circle, Tyler, TX 75711. Representative: Larry Loggins (same as applicant). Contract; Irregular. *Wooden Reels* between Jefferson, TX, on the one hand, and on the other, to Phoenix, AZ. Supporting shipper: Baker Reels Inc., P.O. Box 689, Jefferson, TX 75657.

MC 156076 (Sub-5–2TA), filed February 26, 1982. Applicant: ROLLER TRUCKING, INC., P.O. Box 379, Beebe, AR 72012. Representative: Arthur A. Roller (same as above) *Lumber and Wood Products*, between points in AR, on the one hand and points in CO, on the other. Supporting shipper: Denver Hardwood Co., Denver, CO.

MC 156328 (Sub-5–4TA), filed February 26, 1982. Applicant: U.S. TRANSPORTATION, LTD., 334 N.W. Greenwood, Ankeny, IA 50021. Representative: James R. Snyder, Pres. (same as above). Contract; Irregular. (1) *Pneumatic tires and materials and supplies used in the manufacture and distribution thereof*, between Polk County, IA on the one hand, and on the other, pts. in the U.S. Applicant intends to tack. Supporting shipper: Ruan Tire Sales and Service, Des Moines, IA.

MC 156396 (Sub-5–1TA), filed February 25, 1982. Applicant: G.A. TRUCKING CO., P.O. Box 314, Stephens, AR 71764. Representative: T. A. Womack, P.O. Box 777, Camden, AR 71701. *Roofing and Roofing Materials*, between Ouachita County, AR on the one hand, and, on the other, points in LA, MO, MS, TN, AL, OK and TX. Restricted to shipments originating at or destined to the facilities of ELCOR Corp. of Stephens, AR. Supporting shipper: Elk Corp of Arkansas, P.O. Box 37, Stephens, AR 71764.

MC 160661 (Sub-5–1TA), filed February 25, 1982. Applicant: RICHARD L. PEASE, d.b.a., T-TOWN TRUCKING, 8111 Capital View Drive, Topeka, KS 66617. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Pet food*, From Topeka, KS to the Commercial zones of Los Angeles, Vernon, San Carlos, San Diego and West Los Angeles, CA. Supporting shipper: Hill's Pet Products, Inc., 401 Harrison, Topeka, KS 66603.

MC 160734 (Sub-5–1TA), filed February 24, 1982. Applicant: STAR TRANSPORT CO., Route 1, Wentworth, MO 64873. Representative: Kenneth Raley (same as applicant). *Asphalt, Emulsified Asphalt, Fuel Oils, Jet Fuel, and Gasoline*, between AR, KS, MO, OK, and TN. Supporting shipper: (1) Riffe Petroleum Co., 5801 E. 41st St., Tulsa, OK 74135; (2) Midwest Asphalt Products Co., 4602 Pearl Ave., Joplin, MO 64801; (3) Sunbelt Petroleum Products, Inc., 1350 W. Main, Oklahoma City, OK 73106.

MC 160769 (Sub-5–1TA), filed February 26, 1982. Applicant: ROY HARPER TRUCKING, INC., 315 Meuse Court, Blue Grass, IA 52726. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Contract irregular: *Food and Related Products*, between pts in Clinton and Scott Counties, IA on the one hand, and, on the other, pts in the St. Louis, MO–E St. Louis, IL Commercial Zone and pts in St. Louis County, MO. Supporting shipper: Ralston Purina Company, Checkerboard Square, St. Louis, MO 63164.

MC 160770 (Sub-5–1TA), filed February 26, 1982. Applicant: JAMES LEETE, d.b.a. JAMES LEETE TRUCKING, P.O. Box 147, Farmersburg, IA 52047. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Dry fertilizer*, (1) from Praire du Chien, WI, to Dubuque, Delaware, Clayton, Fayette, and Buchanan Counties, IA; and (2) from Hennepin, IL and Viroqua, Sun Prairie, and Madison, WI to Clayton, Allmakee, and Winneshiek Counties, IA. Supporting shippers: (1) Three Rivers FS Co., P.O. Box 248, Earlville, IA 52041; (2) Farm Bureau Service Company, P.O. Box 127, Maynard, IA 50655; and (3) D & J Feed Service, Inc., Route 1, Monona, IA 52159.

The following applications were filed in region 6. Send protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 151761 (Sub-6–2TA), filed February 18, 1982. Applicant: A. C. CARTAGE (1965), LTD, 6958 120th St., Surrey, B.C., CN V3V 4B4. Representative: Bill Gardiner (same as applicant). (1) *Forest products* (2) *Lumber/wood products* (3) *clay, concrete, glass & stone products;* (4) *metal products related* (5) *gyproc & wallboard* between POE at CN/US border in WA and points in WA and OR, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Windsor Bldg Supplies, 10362 176th St., Surrey, BC, CN; Bear Creek Forest Prod, Rt. 1, POB 25B, Winthrop, WA 98862; Weldwood of Canada, 10619 Robson Rd., Surrey, BC, CN; Brel Wood Prod., POB 111, Nanaimo, BC, CN.

MC 114917 (Sub-6–1TA), filed February 18, 1982. Applicant: DART TRANSPORTATION SERVICE: 1430 S. Eastman Ave., Los Angeles, CA 90023. Representative: John C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017. *Contract carrier*, irregular route; such *commodities as are dealt in by mail order houses and retail department stores* between points in AZ, NV; CA and TX for the account of Terminal Freight Handling Company for 270 days. Supporting shipper: Terminal Freight Handling Co., 1430 Branding Lane, Downers Grove, IL 60515.

MC 160642 (Sub-6–1TA), filed February 16, 1982. Applicant: E. & B. MUD WAREHOUSING, LTD., P.O. Box 1786, Claresholm, AB, Canada T0L 0T0. Representative: John T. Wirth, 717 17th St., Ste. 2600, Denver, CO 80202. *Contract carrier*, irregular routes: *Drilling mud, drilling mud chemicals, and pallets* (except commodities in bulk), from Greybull, WY and Missoula, MT to points on the International Boundary line between the U.S. and Canada located in MT, under a continuing contract(s) with WYO–BEN, Inc. of Billings, MT, for 270 days. Supporting shipper: WYO–BEN, Inc., P.O. Box 1979, Billings, MT 59103.

MC 160615 (Sub-6–1TA), filed February 17, 1982. Applicant: J & LH ENTERPRISES, INC., d.b.a. BILL HILL TRUCKING, 861 Grey Ave., Yuba City, CA 95991. Representative: Jerry W. Hill, 3920 Silver Spur Way, Sacramento, CA 95841. *Contract Carrier*, Irregular routes: *Lumber and Wood Mouldings*, from Yuba City, CA to points in OR, WA, ID, MT, WY, UT, CO, AR, NV, and NM for the account of Yuba River Moulding and Millwork, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Yuba River Moulding and Millwork, Inc., P.O. Box 1078, Yuba City, CA 95991.

MC 160425 (Sub-6–1TA), filed February 16, 1982. Applicant: BETTY JENSEN, d.b.a. HUSKY HAULERS, P.O. Box 60488, Fairbanks, AK 99706. Representative: Everett L. Jensen (same as applicant). (1) *General commodities*, (except Class A and B explosives, hazardous waste materials, and household goods as defined by the Interstate Commerce Commission) between all points in AK, CA, OR, WA; (2) *mercer commodities*, between all points in AK, AZ, CA, CO, ID, KS, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA, WY; and (3) *mining and construction equipment, materials, and supplies*, between all points in AK, AZ, CA, CO, IA, ID, IL, KS, MN, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA, WI, WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are 5 shippers. Their statements may be examined at the Regional Office listed above.

MC 152109 (Sub-6–7TA), filed February 16, 1982. Applicant: KAIBAB TRANSPORTATION, INC., P.O. Box 20506, Phoenix, AZ 85036. Representative: Michael F. Morrone, 1150 17th Street, Suite 1000, Washington, DC 20036. *Contract carrier*, irregular route: *Mouldings, mill work, baled wood shavings* and *gypsum wallboard* from points in El Paso County, TX to points in Maricopa County, AZ; Cochise County, AZ; Clark County, NV; and Santa Fe County, NM under continuing contract(s) with Howrey Lumber Company, Inc., for 270 days. Supporting shipper: Howrey Lumber Company, Inc., 4585 Ripley, El Paso, TX 79922.

MC 160616 (Sub-6–1TA), filed February 11, 1982. Applicant: G. W. KAYS TRUCKING, 9950 E. 8 Mile Road, Stockton, CA 95212. Representative: Gary Wayne Kays (same as above). (1) *Lumber*, and (2) *Chemicals in drums and/or cartons*, between Stockton and Sacramento, CA; from points in AZ, NV, WA, OR, UT, ID to points in CA; from points in CA to points in AZ, NV, WA, OR, ID, UT, for 270 days. Supporting shippers: Timberline Products, 4420 Mariposa Rd., Stockton, CA 95205; Beaver Chemicals, 1448 Shaw Rd., Stockton, CA 95212.

MC 136071 (Sub-6–1TA), filed February 16, 1982. Applicant: KISSNER TRANSPORT, LTD., 529 12th Ave. E., Regina, Sask, CN S4P 3A1. Representative: William L. Libby, 5200 Willson Rd., Suite 307, Edina, MN 55424. *Dry fertilizer*, in bulk, between Ports of Entry on the International Boundary Line between the U.S. and CN in MT, ND and MN, on the one hand, and, on the other, points in MT, MN, ND, SD, IA, NE and WI, for 270 days. Supporting shippers: Edenwold Fertilizer, Ltd., Box 66, Edenwold, Sask., CN SOG 1K0; and Cargill, Inc., Gluek, MN 56261.

MC 160641 (Sub-6–1TA), filed February 11, 1982. Applicant: J. DAVID OATES, P.O. Box 2866, Cheyenne, WY 82001. Representative: J. David Oates (same as applicant). *Contract carrier*, irregular routes: *Beer, not in bulk*, from, to or between points in TX, CO, and WY for the account of Orrison Distributing, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Orrison Distributing, Inc., 1111 Dunn Ave., Cheyenne, WY 82001.

MC 159832 (Sub-6–3TA), filed February 18, 1982. Applicant: PAR TRUCKING, INC., 1008 E. Morven, Lancaster, CA 93535. Representative: Robert Fuller, 13215 E. Penn St., Ste. 310, Whittier, CA 90602. *Sand, silica sand and limestone*, in bulk, from Mead Lake (Overton), NV to Long Beach, CA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Manville Service Corporation, 2600 Campus Drive, San Mateo, CA 94403.

MC 145813 (Sub-6–3TA), filed February 17, 1982. Applicant: POINTS WEST TRUCKING, INC., P.O. Box 55085, Valencia, CA 91355. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Rubber and plastic products*, (a) between Sparks, NV and Long Beach, CA; and (b) from Bergen County, NJ to Sparks, NV and points in CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Colorite Plastic Company, 101 Railroad Ave., Ridgefield, NJ 07657.

MC 160643 (Sub-6–1TA), filed February 17, 1982. Applicant: RONALD LEE SHAFFER AND SHARON LOUISE SHAFFER, a partnership d.b.a., R. L. SHAFFER AND SON TRUCKING, P.O. Box 532, LaSalle, CO 80645. Representative: Ronald Lee Shaffer (same as applicant). *Clay, Concrete, Glass, or Stone Products* from points in McPherson and Franklin Counties, KS to points in Weld, Larimer, Boulder, Denver, Adams, Jefferson, Logan, Arapahoe, and Morgan Counties, CO, and Laramie County, WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Cowan Concrete Products, Inc. d.b.a. Mobile Premix, Inc., P.O. Box 1647, Greeley, CO 80632.

MC 160649 (Sub-6–1TA), filed February 18, 1982. Applicant: SMALLEY TRUCKING COMPANY, P.O. B. 486, Sutherlin, OR 97479. Representative: Michael J. Smalley (same as applicant). *Lumber and wood products and related building materials* between points in OR, WA, CA, NV, ID, UT, AZ, MT, WY, CO, NM, for 270 days. Supporting shippers: There are 6 shippers. Their statements may be examined at the Regional Office listed above.

MC 160649 (Sub-6–2TA), filed February 18, 1982. Applicant: SMALLEY TRUCKING COMPANY, P.O.B. 486, Sutherlin, OR 97479. Representative: Michael J. Smalley (same as applicant). *Baled paper and cardboard for recycling and related products* between points in OR, WA, CA, NV, ID, UT for 270 days. Supporting shippers: Northern Paper Stock Co., P.O.B. 99, San Anselmo, CA 94960; Consolidated Fibres, Inc., 5327 Jacuzzi St., Richmond, CA; Northwest Paper Fibers, P.O.B. 10444, Portland, OR 97210.

MC 159093 (Sub-6–1TA), filed February 18, 1982. Applicant: LARRY C. SMITHEY, 2601 Coors, Albuquerque, NM 87120. Representative: Floyd L. Farano, 2555 E. Chapman Ave., Suite 415, Fullerton, CA 92631. *Contract Carrier* irregular route: *wood and lumber, clay, mica, dry wall texturing compound, drywall, building materials* between points in CA, AZ, and NM for the account of Hamilton Materials, Inc., for 270 days. An underlying ETA seeks 120 days' Authority. Supporting shipper: Hamilton Materials, 345 Meats Avenue, Orange, CA 92665.

MC 151471 (Sub-5–17TA), filed February 18, 1982. Applicant: STEINBECKER BROS., INC., P.O.B. 852, Greeley, CO 80632. Representative: Jack B. Wolfe, 1600 Sherman St., #685, Denver, CO 80203. (1) *Malt beverages* and (2) *related advertising materials*, from St. Paul, MN and St. Louis, MO and points in their commercial zones, to points in Carbon and Albany Counties, WY, for 270 days. Supporting shipper: Smith Beverages. P.O.B. 1206, 105 Clark St., Laramie, WY, 82070.

MC 160345 (Sub-6–2TA), filed February 22, 1982. Applicant: EATON TRANSPORTATION COMPANY, INC., 2951 Coors Court, Santa Rosa, CA 95401. Representative: William D. Taylor, 100 Pine St., #2550, San Francisco, CA 94111. *Food products*, from points in Butte, Sonoma, San Francisco, Alameda and Marin Counties, CA, to points in Denver and Mesa Counties, CO, under a continuing contract(s) with Knudsen & Sons, Inc. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Knudsen & Sons, Inc., P.O. Box 369, Chico, CA, 95927.

MC 154996 (Sub-6–3TA), filed February 22, 1982. Applicant: JOHNSTON MEATS, INC., Rt. 3, Box 3514 Cabana Rd., Hermiston, OR 97838. Representative: Earl M. Johnston (same as applicant). *Lumber, plywood, chipboard, siding, roofing and shingles*, between points in OR, WA and ID for 270 days. An underlying ETA application seeks 120 days authority. Supporting shippers: Marlette Homes, Inc., 400 W. Elm, Hermiston, OR 97838; and Georgia-Pacific Corporation, P.O.B. 1180, Pasco, WA 99301.

MC 157112 (Sub-6–2TA), filed February 19, 1982. Applicant: SIMONICH TRUCKING, 3455 15th Avenue South, Great Falls, MT 59403. Representative: Mr. F. B. Simonich (same address as applicant). *Contract Carrier:* Irregular Routes: *Liquor, Malt (Beer) and Wine* from points in CA, WA and OR to Great Falls, Havre and Conrad, MT, under continuing contract(s) with Gusto Distributing Company d.b.a., Bruce Watkins Distributing Company, Great Falls, MT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Gusto Distributing d.b.a., Bruce Watkins Distributing Company, 624 3rd South, Great Falls, MT 59403.

MC 160669 (Sub-6-1TA), filed February 19, 1982. Applicant: SUNRAY COOPERATIVE TRUCKING INC., Bldg. 123, Naval Shipyards, San Francisco, CA 94124. Representative: Patrick Shannon (same as applicant). *Contract Carrier,* Irregular routes *General Commodities* except "Class" A: Explosives, as described in ATA Hazardous Materials Tariff ICC ATA 111–B, Commodities in Bulk Frozen or Cold Pack Merchandise, except when in shippers equipment; Meat, Fresh; Merchandise delivered to or picked up at a residence; Milk or Cream, fresh; Poultry; Uncrated Household Goods; Hazardous Materials; Corrosive Materials, all points in CA north of the southern borders of Monterey, Kings, Tulare and Inyo Counties, including: Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Tehama, Plumas, Mendocino, Glenn, Butte, Sierra, Lake, Nevada, Placer, Yuba, Sutter, Colusa, Sonoma, Yolo Napa, Solano, El Dorado, Amador, Sacramento, Alpine, Mono, Marin, Contra Costa, San Joaquin, Calaveras, Tuolumne, San Francisco, Alameda, San Mateo, Santa Cruz, Santa Clara, Stanislaus, Merced, Mariposa, Madera, Fresno, Inyo, San Benito, Monteray, Kings and Tulare, for 270 days. Supporting shippers: Midwest Pacific Consolidators, Inc., 12200 Shirley Lane, Alsip, IL 60658; United Shippers Association, Inc., 3475 So. Cicero Ave., Cicero IL 60650; Pacific Coast Wholesalers Association, 610 So. Main St. #624, Los Angeles CA. 90014.

MC 121608 (Sub-6-1TA), filed February 23, 1982. Applicant: ACME DELIVERY SERVICE, INC., 4250 Oneida St., Denver, CO 80216. Representative: Joseph F. Nigro, 1660 Lincoln St., Denver, CO 80264. *Contract carrier,* irregular routes, *copying and duplicating equipment and office and business machines including parts, accessories and supplies used in the manufacture and installation of such commodities crated or uncrated, requiring specialized handling* in the installation for Xerox Corporation only between points in CO on the one hand, and points in WY and UT on the other hand for 270 days. Supporting shipper: Xerox Corporation, 3000 Des Plaines, Des Plaines, IL 60558.

MC 120166 (Sub-6-1TA), filed February 22, 1982. Applicant: ASSEMBLY AND DISTRIBUTION TERMINALS OF MASSACHUSETTS, INC., 2800 N. Going St., Portland, OR 97217. Representative: Joseph T. Bambrick, Jr., P.O.B. 216, Douglassville, PA 19518. *Contract carrier,* irregular routes, *General commodities* (except classes A and B explosives) between points in the U.S. under continuing contract with General Nutrition Corporation, for 270 days. Supporting shipper: General Nutrition Corporation, 3125 Preble Ave., Pittsburgh, PA 15233.

MC 159011 (Sub-6-2TA), filed February 22, 1982. Applicant: Dick Glasser & Son's LTD., 4055 E. 64th, Commerce City, CO 80022. Representative: Thomas J. Simmons, 5301 N. Cliff Ave., P.O.B. 480, Sioux Falls, SD 57101. *Meat and packing house products* between facilities utilized by Sterling Colorado Beef Company in CO, on the one hand, and, on the other, points in AL, CA, FL, GA, IL, IN, IA, KY, MA, MD, MI, MO, NH, NJ, NY, NC, OH, OR, PA, SC, TN, VA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Sterling Colorado Beef Company, 1500 Right of way Rd., P.O.B. 1728, Sterling, CO 80751.

MC 1515 (Sub-6-16TA), filed February 22, 1982. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix AZ 85077. Representative: R. L. Wilson (same as Applicant). *Common carrier,* regular route *passengers and their baggage and express and newspapers in the same vehicle with passengers,* between Kingman, AZ and the California-Arizona State Line east of Needles, CA, serving all intermediate points: From Kingman over U.S. Highway 93 to Junction AZ State Highway 68, thence over AZ State Highway 68 to Junction AZ State Highway 95, thence over AZ State Highway 95 to Bullhead City, thence over AZ State Highway 95 to the California-Arizona State Line and return over the same route, for 180 days. An underlying E.T.A. seeks 90 days authority. Applicant intends to tack this authority with authority it presently holds in MC–1515. Supporting shippers: There are 9 shippers. Their statements may be examined at the Regional Office listed above.

MC 160702 (Sub-6-1TA), filed February 19, 1982. Applicant: GARY WAYNE HOGE, P.O. Box 4722, Helena, MT 59624. Representative: Lawrence D. Huss, P.O. Box 514, Helena, MT 59601. *Contract carrier,* irregular routes: *Agricultural limestone and fertilizers and other soil conditioners,* from all points in WA and ID to Helena, MT, for the account of Agri-Feeds & Service, Inc., for 270 days. Supporting shipper: Agri-Feeds & Service, Inc., 1518 Dodge Avenue, Helena, MT 59624.

MC 158061 (Sub-6-2TA), filed February 22, 1982. Applicant: LAND & SEA, INC., Route 6, Twin Falls, ID 83301. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701. *Fertilizer and feed ingredients,* between points in ID, OR, UT, and WA, on the one hand, and, on the other, points in AZ, CA, ID, MT, NV, OR, UT and WA for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: H. J. Stoll & Son, 2320 S.E. Grand Ave., Portland, OR 97214; Smith & Ardussi, Inc., 1200 W. Amity, Boise, ID 83705.

MC 160701 (Sub-6-1TA), filed February 19, 1982. Applicant: MALERBA TRANSPORT, INC., 3592 Red Cloud Dr., Lake Havasu City, AZ 86403. Representative: Edward C. Kenney (same as applicant). *Contract Carrier,* Irregular routes: *Water Bed Linens, Assesories, Supplies, Raw Materials,* and *Equipment,* between Lake Havasu City, AZ and Points in the 48 United States for the account of Hydro-Dynamics, Inc., for 270 days. Supporting shipper: Hydro-Dynamics, Inc., 2000 Industrial Blvd., Lake Havasu City, AZ 86403.

MC 142631 (Sub-6-2TA), filed February 19, 1982. Applicant: L. PEABODY TRUCKING, INC., 4290 Elton St., Baldwin Park, CA 91776. Representative: Mark S. Gray, 235 Peachtree St., N.E., Ste. 1200, Atlanta, GA 30303. *Contract Carrier,* Irregular routes: *General commodities (except Classes A and B explosives, household goods and commodities in bulk),* between points in NY, on the one hand, and, on the other, points in WA, OR, CA, NV, AZ, UT, CO, IL, TX and OH, *under a continuing contract(s) with Benlin Distribution Services, Inc. of Buffalo, NY.* Supporting shipper: Benlin Distribution Services, Inc., 32 Mississippi Street, Buffalo, NY 14203, for 270 days. An underlying ETA seeks 120 days authority.

MC 160252 (Sub-6-1TA), filed January 22, 1982. Applicant: ROBERT QUINN, d.b.a. ROBERT QUINN HOT SHOT SERVICE, 1556 9th Street, Rock Springs, WY 82901. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. *Machinery, equipment: Tools, and supplies used in the discovery, production, transmission, maintenance and refining of petroleum or natural gas,* in hot shot service between points in CA, CO, ID, KS, MT, NE, NM, NV, ND, OK, SD, TX, UT, WY for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Halliburton Services, P.O. Box 369, Rock Springs, WY; The Western Company of North America, P.O. Box 1660, Rock Springs, WY; Overthrust Tool & Supply Co., 1409 South 1500 East, Vernal, UT; Saxon Oil Field Services, Inc., P.O. Box 1487, Vernal, UT.

MC 151366 (Sub-6-1TA), filed February 23, 1982. Applicant: ROSS TRUCKING CO., 2516 Moyers Rd., Richmond, CA 94806. Representative: Frederick D. Ross (same as applicant). *Contract carrier,* irregular routes, *re-inforced concrete beams,* from the facilities of Retaining Walls, Inc., located in Alameda County, CA, to points in Washoe and Elko County, NV, for 270 days. Supporting shipper: Retaining Walls, Inc., P.O.B. 1036, Orinda, CA 94563.

MC 160409 (Sub-6-1TA), filed February 23, 1982. Applicant: SOUTHERN NEVADA MOVERS, INC., 1037 E. Colton Ave., Las Vegas, NV 89030. Representative: Mike Pavlakis, Box 646, Carson City, NV 89702. *Display cases; trade fixtures,* between points in Clark County, NV, on the one hand, and points in the US, including AK but excluding HI, on the other hand, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: J & R Building Co., 2120 E. Serene, Henderson, NV 89015.

MC 160403 (Sub-6-4TA), filed February 22, 1982. Applicant: TRANS WEST SYSTEMS, INC., P.O.B. 2618, Pocatello, ID 83201. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701. *Contract Carrier,* Irregular routes: *Commodities dealt in by grocery and food business houses,* from the facilities of Honey Wheat Farms, Inc. at or near Salt Lake City, UT to points in CA, CO, ID, MT, and OR, for the account of Honey Wheat Farms, Inc., for 270 days. Supporting shipper: Honey Wheat Farms, Inc., 3783 South 500 West, Suite 5, Salt Lake City, UT 84115.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-6148 Filed 3-5-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket AB-167 (Sub-96N)]

Rail Carriers; Conrail Abandonment of Trackage Rights Between Beesons and Cambridge City, IN; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to discontinue service over its rail line between Beesons (milepost 5.4) and Cambridge City (milepost 12.0) in the Counties of Fayette and Wayne, IN, a total distance of 6.6 miles effective on January 11, 1982.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-6151 Filed 3-5-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket AB-167 (Sub-103N)]

Rail Carriers; Conrail Abandonment Between D&M Connection and Aqueduct, NJ; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between D&M Connection (milepost 0.3) and Aqueduct (milepost 4.1) in the County of Schenectady, PA, a total distance of 3.8 miles effective on February 9, 1982.

The net liquidation value of this line is $173,722. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-6150 Filed 3-5-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket AB-167 (Sub-56N)]

Rail Carriers; Conrail Abandonment of the Cairo Branch Line in Illinois; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 101.1 at Lawrenceville and milepost 126.3 near Mt. Carmel in the Counties of Lawrence and Wabash, IL, a total distance of 25.2 miles effective on January 8, 1982.

The net liquidation value of this line is $1,601,971. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-6152 Filed 3-5-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket AB-167 (Sub-99N)]

Rail Carriers; Conrail Abandonment Between Lansdown and Clinton, N.J.; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Lansdown (milepost 57.9) and Clinton (milepost 59.6) in the County of Hunterdon, NJ, a total distance of 1.7 miles effective on February 4, 1982.

The net liquidation value of this line is $32,385. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-6152 Filed 3-5-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket AB-167 (Sub-100N)]

Rail Carriers; Conrail Abandonment Between Flemington Junction and Flemington, NJ; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Flemington Junction (milepost 50.8) and Flemington (milepost 52.7) in the County of Hunterdon, NJ, a total distance of 1.9 miles effective on February 3, 1982.

The net liquidation value of this line is $98,776. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-6153 Filed 3-5-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket AB-167 (Sub-102N)]

Rail Carriers; Conrail Abandonment at Allentown, Pa.; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 93.5 and milepost 96.9 in Allentown in the County of Lehigh, PA, a total distance of 3.4 miles effective on February 3, 1982.

The net liquidation value of this line is $354,181. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6133 Filed 3-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-101N)]

Rail Carriers; Conrail Abandonment Between Irwin and Bilott County, Pa; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Irwin (milepost 0.0) and Bilott Co. (milepost 2.1) in the County of Westmoreland, PA, a total distance of 2.1 miles effective on February 3, 1982.

The net liquidation value of this line is $70,925. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6134 Filed 3-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-103N)]

Rail Carriers; Conrail Abandonment Between Langeloth Junction and Atlasburg, Pa; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Langeloth Junction (milepost 2.2) and Atlasburg (milepost 4.3) in the County of Washington, PA, a total distance of 2.1 miles effective on February 9, 1982.

The net liquidation value of this line is $43,192. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6130 Filed 3-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-107N)]

Rail Carriers; Conrail Abandonment Between Petersburg and Alexandria, Pa.; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Petersburg (milepost 0.1) and Alexandria (milepost 6.0) in the County of Huntington, PA, a total distance of 5.9 miles effective on February 9, 1982.

The net liquidation value of this line is $350,027. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6135 Filed 3-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-110N)]

Rail Carriers; Conrail Abandonment Between Scottdale and Mt. Pleasant, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Scottdale (milepost 0.0) and Mt. Pleasant (milepost 5.5) in the County of Westmoreland, PA, a total distance of 5.5 miles effective on February 9, 1982.

The net liquidation value of this line is $101,940. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6160 Filed 3-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-40N)]

Rail Carriers; Conrail Abandonment in Scranton, PA; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 2.6 and milepost 3.7 in Scranton in the County of Lackawanna, PA, a total distance of 1.1 miles effective on February 5, 1982.

The net liquidation value of this line is $176,276. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc 82-6140 Filed 3-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-167 (Sub-105N)]

Rail Carriers; Conrail Abandonment Between Manor and the End of the Line in Westmoreland County, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Manor (milepost 0.0) and the end of the line (milepost 1.6) in the County of Westmoreland, PA, a total distance of 1.6 miles effective on February 9, 1982.

The net liquidation value of this line is $46,834. If, within 120 days from the date of this publication, Conrail receives a bonafide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6137 Filed 3-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket 29952]

Rail Carriers; Seaboard Coast Line Railroad Co. and Atlantic Land and Improvement Co.; Acquisition Fort Myers Southern Railroad Company; Exemption

March 1, 1982.

On February 10, 1982, the Seaboard Coast Line Railroad Company (SCL) and its wholly-owned subsidiaries, Fort Myers Southern Railroad Company (Fort Myers) and Atlantic Land and Improvement Company (AL&I), notified the Commission of their intent to dissolve Fort Myers as a corporate entity. Upon dissolution, AL&I will purchase all of Fort Myers' non-operating real property and the remainder of the property will be acquired by SCL.

Fort Myers consists of 24.51 miles of rail line from Fort Myers, FL, to Vanderbilt Beach, FL. Fort Myers is operated by SCL employees as a part of SCL's Tampa Division. The proposed transactions, therefore, will not change present operations or impact on employees, shippers, or on rail service. After dissolution, SCL will assume all liabilities and obligations of Fort Myers. All capital stock of Fort Myers will be cancelled and no shares of capital stock, bonds, or other securities will be issued.

This is a transaction within a corporate family which is exempt because it does not result inadverse changes in service levels, significant operational changes, or a change in the competitive belance with carriers outside the corporate family (49 CFR 1111.5(c)(3)). SCL is undertaking this transaction to improve its operating and managerial flexibility and efficiency.

As a condition to the use of this exemption, any Fort Myers employees affected by this transaction shall be protected pursuant to *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 1979). This will satisfy the statutory requirements of 49 U.S.C. 10505(g)(2).

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6147 Filed 3-5-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Funding Policy for Special Emphasis Programs for Fiscal Year 1982

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Publication of Proposed Office of Juvenile Justice and Delinquency Prevention Funding Policy for the Special Emphasis Program for Fiscal Year 1982.

SUMMARY: Notice is given that the Office of Juvenile Justice and Delinquency Prevention (OJJDP), in planning for implementation of the Administration's proposed phaseout of programs funded under Title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, in Fiscal Year 1983, proposes to utilize Fiscal Year 1982 "Special Emphasis" grant funds primarily to fulfill grant continuation commitments to projects previously funded under a project period system of funding OJJDP Special Emphasis programs. The Office will fund no new Special Emphasis programs or projects unless: (1) They relate to training activities for junvenile justice programs who deal with serious or violent juvenile offenders; (2) they are determined by the Administrator to be priority activities consistent with the Administration's current or future plans: or (3) they constitute an exceptional or emergency circumstance. The Catalog of Federal Domestic Assistance reference for Special Emphasis programs is 16.541. This announcement indirectly affects research, standards, statistics and training programs funded by the National Institute for Juvenile Justice and Delinquency Prevention, catalog reference number 16.542, and OJJDP Technical Assistance efforts, catalog reference number 16.541.

This announcement does not require a Regulatory Impact Analysis under section 3d of Executive Order 12291, or a regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 601 *et. seq.*

DATES: Comments must be submitted on or before April 7, 1982.

FOR FURTHER INFORMATION CONTACT: Charles A. Lauer, Acting Administrator, Office of Juvenile Justice and Delinquency Prevention, Telephone: 202/724-7751.

SUPPLEMENTARY INFORMATION: The Office of Juvenile Justice and Delinquency Prevention is established by Title II of the Juvenile Justice and Delinquency Prevention Act of 1974. The Title II grant program consists of formula grants awarded to the States and research, training, standards, information, statistics and Special Emphasis categorical grants made directly to eligible recipients. The Administration's budget proposal for Fiscal Year 1983 provides no additional funds for new or continuation grants or other Title II program activities currently administrated by the Office of Juvenile Justice and Delinquency Prevention. Therefore, the Office does not anticipate that there will be continuation of categorical grant programs and projects, which would otherwise be eligible for continuation consideration in Fiscal Year 1983 or 1984, from direct Federal fund sources.

It is the intention of the Office to fulfill the public interest and to act in a manner consistent with the Administration's proposed budget with Title II Special Emphasis funds available for Fiscal Year 1982. To achieve this goal, the primary concern to the Office is to assure responsible financial accountability and administration of Fiscal Years 1980-1982 funds which will continue to be available for obligation and expenditure in Fiscal Years 1982-84. Even without a Fiscal Year 1983 appropriation for categorical programs the Office will avoid premature grant termination actions (except for cause) and will attempt to make the maximum use of available funds. It is not in the best interest of the government to begin or continue projects which cannot be completed. Therefore, the general funding plan will be to forego funding of new activities which require long range multi-year funding or which do not offer prospects of becoming self-sufficient or

assumed by State, local or private fund sources. It is in the public interest to complete or bring to a useable stage as many ongoing activities as possible. In Fiscal Year 1982, most of the Special Emphasis projects will have reached this stage. This general funding plan will be carried out as specified in this policy except to the extent that formal rescissions or deferrals of current spending authority are approved by Congress.

Policy

Continuation Grant Policy.—The proposed fund allocations are based largely on OJJDP's interest in completing and evaluating the final budget period of three major competitive programs started in Fiscal Year 1980. All projects under each of these programs cannot be completed as sufficient funds are not available.

The categorical grant programs of the Office generally provide for a fixed term of activity under the "project period" system of award. Under this system, grant activities are approved for a fixed "project period" constituting the entire activity of the grant and are funded by separate awards under shorter "budget periods." The major Special Emphasis programs slated for refunding of an additional budget period within an existing project period in Fiscal Year 1982 are the "New Pride", "Alternative Education" and "Youth Advocacy" Programs. Much smaller amounts may need to be allocated to finish activities relating to the "Restitution" Program, which received a final major fund allocation in Fiscal Year 1981 or the Violent Offender Program, which is ongoing but does not require major funding from Fiscal Year 1982 sources. The final budget period for the three major programs will be funded to the maximum extent funds are allocated and available for these commitments. Because of reduced funding and the existence of more projects than are necessary to demonstrate and evaluate the program concepts in Alternative Education, New Pride and Youth Advocacy, all eligible projects may not be eligible to receive continuation funds.

Miscellaneous Special Emphasis grant projects awarded outside of or prior to the adoption of the project period system will generally not be considered for continuation funding. This restriction is necessary because competitive project period continuations have a higher funding priority and adequate Fiscal Year 1982 continuation funds are not available for refunding all projects that were competitively awarded under the project period system.

Fiscal Year 1982 Grant Policy

The Administration has proposed in its Fiscal Year 1983 budget that no funds be made available for programs of the Juvenile Justice and Delinquency Prevention Act. The current status of the Special Emphasis program is such that three major program efforts were to be largely completed with 1982 funds. These were not slated to receive Fiscal Year 1983 funding. These three programs, along with programs completed in prior years, have covered most of the Special Emphasis program categories authorized by section 224(a) of the Act.

The 1980 Amendments to the Act provide an impetus to programs impacting youth who commit serious and violent crimes. The Attorney General's Violent Crime Task Force has provided policy recommendations which suggest at most, an appropriate Federal funding role that would only include justice programs for applied research, training, or national data gathering (For example, see Violent Crime Task Force recommendations numbers 44, 46, 53, and 61).

The priorities for new categorical juvenile justice grant activities will be consistent with the above factors. The Office will provide no support for new large scale competitive categorical demonstration programs from 1982 funds.

In the applied research area, the National Institute for Juvenile Justice and Delinquency Prevention intends to complete existing research and structure and fund at least three new research efforts relating to serious and violent juveniles in those areas where practitioners have identified greatest need and potential for assistance in fulfilling their constitutional duties. These projects will be structured in phase so that one year of funding can produce responsible and usable results.

In the training field, the Office intends to allocate funds so that existing professional training organizations can modify their base curriculum or add specialty courses to provide training to juvenile judges, prosecutors, police officers, correction officers, youth service workers, and program managers focus on system handling of serious or violent offenders, juvenile gangs, juvenile narcotics problems, and strategies for the use of alternatives. These efforts will be established in such a way that the training structure and curriculum will remain available to State and local government professional personnel after 1982 without a need for substantial Federal funding of ongoing operating costs.

Program Allocations Levels

The allocation of Special Emphasis funds is based on six major factors. The appropriation has been reduced from last year's funding level by 33 percent. This reduction does not take into consideration any inflation factor or the past funding policies of the agency. For the past five years the Special Emphasis program has had an appropriation of $21 million annually. During the past two years the Special Emphasis appropriation has been utilized to start activities at a greater rate than the actual $21 million appropriation. Each year the Office has had "no year" funds and has awarded and started programs on the basis of stable or greater expected future appropriation levels. Consequently, future plans were based on more recent legislative changes or administration policies and provided for new activities and continuation of ongoing activities in a manner which crossed fiscal year boundaries.

Three major program efforts are due for continuation funding in Fiscal Year 1982. The past awards under these grants were governed by a reference to policies set out in OJARS Manual 7100.1B, Paragraph 96 which included, among other things, a reference to termination "where anticipated continuation funds become unavailable." Funds are not available to meet all identified priorities and fund every expected application.

The Administration's priorities and the 1980 Amendments to the Act emphasize that the Office should give primary attention to the most pressing violent crime problems from both a national and local perspective. Control of violent juvenile crime is a responsibility of State and local officials. The Administration has consistently stated that funding of large numbers of federally selected categorical grants slated to deliver assistance in a functional area in which the Federal government has little or no operational responsibility is not an appropriate Federal function. However, individual states and local governments cannot always develop specialized training programs in the most economical manner. Federal funds can develop programs so that they are available to the State and local criminal justice personnel from all States. In a like manner, research and demonstration efforts conducted by one governmental level are more economical and consistent with a National government function. Development of juvenile justice training capacities of existing facilities is consistent with this role and with sections 224(a)(1) and 244.

The demonstration aspects of Youth Advocacy and Alternative Education programs can be continued with fewer projects to demonstrate and evaluate the concepts involved. Ordinarily, six or eight projects are sufficient to complete the Federal research and demonstration interest. The Administration's policies reflect the non-involvement or Federal interference with State and local elected officials' performance of their constitutional functions. To the extent that Federal grants interfere with State and local activities and use Federal funds to accomplish their objectives, these activities should be reduced. Federal funding to complete existing State and local juvenile program activities receiving Juvenile Justice Act funds should be focused on research and demonstration aspects of essential service programs.

The Youth Advocacy program will be continued at the minimum level which will permit the orderly completion of the demonstration and evaluation aspects of the program concept.

New Pride projects which deal with serious offenders, scheduled for refunding early this year, have already been reduced by the elimination of three of the ten active demonstration efforts by mutual agreement and by additional economies consistent with this policy.

Inital Alternative Education grants were supported with $3,000,000 of DOL funds, as well as Juvenile Justice funds. DOL will be unable to allocate any funds for completion of these programs. Rather than cut this program proportionately, we have allocated funds to this area consistent with this overall policy.

Public safety emergencies and legal contingencies related to prior competitive programs (including approximately $200,000 for completing existing Violent Offender, Restitution or other programs in Fiscal Year 1982) have been allocated minimum funds necessary to provide for these areas.

New Pride Criteria

New Pride programs were eligible for refunding early this Fiscal Year. A complete review of each project was conducted in November, 1981. Three of the existing projects were terminated on the basis of clientele related data reflecting program inadequacies. The remaining projects were subject to negotiated reductions. Consequently, no additional criteria are needed.

Criteria for Selection of Advocacy Projects For Third Year Funding

Projects will be rated on their performance during the previous grant period using the following criteria. Projects receiving the highest ratings will be funded up to the available funds allocated for this Program, at not less than a 33 percent reduction.

1. The extent to which the project has met the stated milestones during the previous project period, as outlined in the last revised workplan. (100 points)

2. The level and quality of cooperation and nonconfrontational impact the project has had upon the policies, practices, statutes and procedures of the system(s) identified by the project as outlined in b(4) of the Program Guideline, and in the grant application. (100 points)

3. The extent to which the project(s) activities and related objectives have impacted significant numbers of youth. (100 points)

4. The level and quality of youth involvement in the project. (100 points)

5. The extent to which the project has demonstrated community support, and is viewed as making a beneficial contribution to the welfare of youth. (100 points)

6. The quality of overall project management during the previous grant period, i.e., fiscal and programmatic. (50 points)

7. The extent to which the project has met stated grant terms and conditions, i.e., timely submission of fiscal and progress reports, response to audit and management inquiries, resolution of special conditions. (50 points)

8. The extent to which the project has provided timely and quality response in order to fulfill the evaluation requirements. (100 points)

Projects will also be rated on the quality and potential impact of their third year program design. *Only those projects rated sufficiently high on past performance in relation to availability of funding will be rated on their third year program design.*

1. The extent to which the workplan and milestones projected for the third year have potential of achieving the stated objectives. Potential will be assessed within the context of effectiveness of methodology used in the first two project years. (100 points)

2. The extent to which work now in process has potential for impacting significant numbers of youth. (100 points)

3. The extent to which the project demonstrates continued community support through anticipated participation and resources from various community sectors (e.g., governmental, business, industry, civic and neighborhood groups and organizations). (100 points)

4. The level and quality of youth involvement planned for the third year. (100 points)

5. The extent to which the project is cost effective. (100 points)

Criteria for Submission of Request for Third Year Funding for the Prevention of Delinquency Through Alternative Education Projects

Projects will be rated on their performance during the previous grant period using the following criteria. Projects receiving the highest ratings will be funded up to the available funds allocated for this Program, at not less than a 33 percent reduction.

1. The extent to which the project has met the stated milestones during the previous project period, as outlined in the last approved workplan. (100 points)

2. The extent to which the project has met client flow as outlined in the grant application. (100 points)

3. The extent to which the project has contributed to the adoption and modification of school policies, procedures and practices consistent with project goals. (100 points)

4. The quality of overall project management during the previous grant period, i.e., fiscal and programmatic. (75 points)

5. The extent to which the project has met stated grant terms and conditions, i.e., timely submission of fiscal and progress reports, response to audit and management inquiries, and resolution of special conditions. (75 points)

6. The level and quality of the involvement of youth in the implementation of the project. (100 points)

7. The extent to which policy changes have or will affect significant numbers of youth, i.e., classroom, single school, cluster of schools, schools, school districts and school systems. (100 points)

8. The extent to which the project design is evaluable. (100 points)

9. The extent to which the project has provided timely and quality response in order to fulfill the evaluation requirements. (100 points)

Projects will also be rated on the quality and potential impact of their third year program design. *Only those projects rated sufficiently high on past performance in relation to availability of funding will be rated on their third year program design.*

1. The extent to which work in process has potential for impacting

significant numbers of youth. (100 points)

2. The extent to which the project model demonstrates continued support through anticipated participation and resources from the school system. (100 points)

3. The extent to which activities projected for the third year have potential of achieving stated objectives and bringing the project to successful conclusion at the end of the third year. Potential will be assessed within the context of effectiveness of methodology used in first two years. (100 points)

4. The level and quality of youth involvement planned for the third year. (100 points)

5. The extent to which the project is cost effective. (100 points)

6. The extent to which the evaluation design is being implemented and evaluation requirements are being met. (100 points)

Technical Assistance Functions

OJJDP Technical Assistance activities for Fiscal Year 1982 will consist of five of eight projects begun in past years at a reduced level of funding of $2.028 million (from 3.0 million). Major activities consist of the technical assistance effort for the "Serious and Violent Offender Initiative," including treatment and prevention, two national efforts in the area of system improvement and jail removal, and one national technical assistance effort dealing with Alternative Responses to and for the system regarding serious delinquent behavior. Technical assistance activities will give priority to serious and violent offender initiatives of State and local government and the existing statutory priorities of deinstitutionalization, separation and jail removal.

"No Cost" Extensions

No categorical grantee has a right to a "no cost" extension beyond the initial scheduled termination date of a grant. With the expected reduction of Office staff and available support activities, it is the policy of the Office that "no cost" extensions will not normally be granted. However, for good cause, the Office will consider "no cost" extensions on a case-by-case basis. Good cause will include the reduction of continuation awards, the potential for cost assumption by other fund sources, or the completion of activities so that cost assumption can be given consideration by State budget offices, State legislatures, or other potential continuation fund sources.

Establishment of Competitive Policy for Existing Projects

New Pride, Alternative Education and Youth Advocacy were initially funded as competitive programs. Each has evaluation potential and each has a design which was structured to yield results for potential future consideration by other State, local or private activities.

To fulfill Congressional expectations of section 224(a) and to complete and yield as much knowledge as possible from past investments in these programs, the Office will competitively select the best projects, fund them to the extent that funds are available, and evaluate the results.

Competitive criteria related to performance and evaluation are established so that OJJDP can determine if further funding is warranted. Existing projects will receive written notice of application submission dates and criteria the Office will utilize to select the best projects. Some projects not selected for funding due to fund limitations may be contacted so that specific project activities may be completed or partial funding, as required to meet overall evaluation needs, can be negotiated. Projects not selected for continuation will be eligible for no-cost extensions to provide for a more orderly termination or transfer to other fund sources.

Special Emphasis Fund Allocations

Assuming that final appropriation action is consistent with the Continuing Resolution, the Special Emphasis appropriation for Fiscal Year 1982 will be $14,365,000. Of this figure, allocations reflecting 1982 priorities will be set as follows:

• Section 224(a) statutory territories allocation in accord with criteria published at 47 FR 4626 (Feb. 1, 1982)	$716,250
• Special emphasis program evaluations for New Pride, Restitution, Alternative Education, Youth Advocacy, Violent Offender Part I and Part II	1,545,000
• Prevention R&D program (continuation of single project)	800,000
• New pride completion	2,500,000
• Alternative education completion	2,775,000
• Youth advocacy completion	2,926,000
• Serious and violent offender training programs	2,000,000
• Public safety emergency or legal commitments	1,100,750
Total	14,365,000

Research and Related Activities of the National Institute for Juvenile Justice and Deliquency Prevention

Research and program development activities for Fiscal Year 1982 have a tentative appropriation of $7.4 million and will consist of continuations of fifteen projects begun in past years at a reduced level of funding ranging to 33%. Twenty projects have or will be ending and will not receive 1982 funds. Evaluations of four major Special Emphasis programs are expected to be continued primarily from Special Emphasis funds in order to complete the analysis of the impact of these aproaches for preventing and controlling delinquency. These include Restitution, Replication of Project New Pride, Alternative Education and Youth Advocacy. The Law Related Education Program will be continued from Institute fund sources. Seven research and research and development projects are expected to be continued, including studies of the development of delinquent careers, research on alternative programs for juvenile offenders, and projects focused on prevention of juvenile delinquency. In addition, three national data collection projects are scheduled for continuation. These include national juvenile court statistics, national data on children in custody, and the development of automated juvenile justice information systems. Activities designed to assist State or local government in consideration of juvenile justice standards will be continued and modified to include State and local based projects.

Primary emphasis will be placed on expanding the program of research and development on serious and violent juvenile crime. Projects begun in previous years which focus on monitoring the extent of juvenile involvement in serious and violent crime, prevention of serious and violent juvenile crime, and the development of alternative programs for Primary emphasis will be placed on expanding the program of research and development on serious and violent juvenile crime. Projects begun in previous years which focus on monitoring the extent of juvenile involvement in serious and violent crime, prevention of serious and violent juvenile crime, and the development of alternative programs for serious and violent juvenile offenders will be continued. In addition, several new projects are planned to expand efforts in four areas: (1) Chronic juvenile offender, (2) improvement of violence prediction capabilities, (3) juvenile justice system response, and (4) programs designed to ensure swift and certain prosecution and punishment of serious and violent juvenile offenders. These will include studies designed to identify the chronic juvenile offender and factors related to the initiation and continuation of serious delinquent and criminal careers; research on the effects of juvenile criminal court processing of serious and violent juvenile offenders, and the development and testing of programs to improve the efficiency and effectiveness of juvenile justice system prosecution and treatment of these offenders.

Specific Fund Use Limitations

All existing OJJDP categorical grants were reviewed during the past budget period in an attempt to identify areas for potential savings. Funding for direct program activities or services to juveniles were discussed. Through negotiations with grantees, the Office attempted to focus expense reductions on travel, newsletters, outside training, conference attendance and cluster meetings. As potential areas for further cost savings in Fiscal Year 1982, the Office will review all budgets to minimize these types of expenditures. No more than one cluster meeting will be approved. Neither professional development conference attendance nor outside general purpose training will be approved unless they are clearly related to the performance of grant functions.

Finally, the Office will not approve budgeted costs for any new litigation expenses on behalf of private parties or for suits against State and local governmental units. Litigation funded from appropriated Federal funds raises a strong potential for intergovernmental conflict. Federal Juvenile Justice grant funds will not be used to pursue law suits or other confrontation activities against Federal, State or local governments. In any event, litigation which would start in Fiscal Year 1982 could not be completed before the termination of any existing grants.

New Training Activities

The finding and declaration of purpose clause of the Juvenile Justice Act was amended in 1980 to reflect congressional and public concern with the small but troublesome subset of the youth population who commit a disproportionate share of serious and violent crimes. Research results over the past few years have confirmed this fact and partially identified characteristics of this group. Other amendments to the Act directed the Office to give more attention to these juvenile offenders.

The Attorney General's Task Force on Violent Crime recommendations concerning the Federal Government's role in dealing with violent offenders focused on the potential for the Federal Government to address the training needs of State and local governments' criminal justice officials. The Office has explored possibilities with existing training facilities and organizations and identified the need for training of State and local officials related to both basic and specialized juvenile justice functions.

In the past, resources allocated to training efforts have been limited to the areas of law-related education, judicial training, and alternative programs. These efforts will be continued and additional funding allocated to objectives related to the juvenile justice system's ability to handle serious, violent and chronic juvenile offenders more efficiently and fairly; to increase the system's ability to more effectively prevent, treat, and control violent juvenile behavior; and to provide the knowledge of effective alternatives or the possibilities available to the juvenile justice system so that scarce resources may be more effectively allocated in the most appropriate way to each type of juvenile offender.

In addition to basic judicial training already provided, specialty courses will be added to the existing curriculum of the National Council on Juvenile and Family Court Judges. These modifications in additional courses may include training in such areas as sentencing and decisionmaking, classification, detention criteria, record confidentiality, restitution or victim compensation, use of probation, understanding gangs and the violent offender, use of information systems, and basic understanding of the results of research and national data gathering efforts relating to serious, violent and chronic juvenile offenders.

Community-based or youth service training programs will be developed related to alternatives for the serious, violent and chronic juvenile offender. The National Youth Work Alliance and other organizations, as necessary, will be asked to participate in cooperative efforts to establish and design such curricula.

For State and local law enforcement officials, the Office plans to enter into interagency agreements with the Treasury Department to provide for courses and curricula at the Glenco Training Center for specialized training relating to serious, violent and chronic juvenile offenders. These components would include, but not be limited to, the police decisionmaking process, interagency relationships, police executive training, juvenile gang and group activities, and investigations of school crimes, including drug enforcement and weapons control.

The Office will explore possibilities for the development of prosecutor training programs with the National College of District Attorneys in conjunction with the National District Attorneys Association to provide training for State and local prosecutors functioning primarily in juvenile courts. The training would include such areas as priority prosecution, the role of the prosecutor and defense attorneys, prosecution of group of gang members, evidence presentation, confidentiality of records, and transfer of jurisdiction.

The Office will explore possible cooperative agreements with the American Correctional Association and interagency agreements with the National Institute of Corrections and their National Corrections Academy for the purpose of conducting management training for juvenile corrections administrators in both formal and alternative systems. In addition to general management training, rehabilitation models for handcore juvenile offenders will be developed. The training might include techniques and methods of conducting additional vocational and on-the-job training programs and emphasize the reintegration of serious, violent and chronic juvenile offenders.

Charles A. Lauer,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 82-6128 Filed 3-5-82; 8:45 am]

BILLING CODE 4410-18-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (82-12)]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory Subcommittee on Materials and Structures.

DATE AND TIME: March 24, 1982, 8:30 a.m. to 5 p.m.; March 25, 1982, 8 a.m. to 4 p.m.

ADDRESS: National Aeronautics and Space Administration, 600 Independence Ave., SW., Room 625T, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. M. A. Greenfield, National Aeronautics and Space Administration, Code RRTM-6, Washington, D.C. 20546 (202/755-2364).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Materials and Structures was established to assist the NASA in assessing the current adequacy of Materials, Structures, and Structural Dynamics technology and recommend actions to reduce deficiencies through modification of the planned NASA research and technology program. The Subcommittee, chaired by Dr. Martin Goland, is comprised of thirteen members. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including the Subcommittee members and participants).

Type of meeting: Open

Agenda

March 24, 1982

8:30 a.m. — Introduction.
9 a.m. — 1982/83 Budget Impact on Materials and Structures Program.
11 a.m. — IPAD Program Future.
1 p.m. — Review of Lewis Structures/Dynamics Program.
5 p.m. — Adjourn.

March 25, 1982

8 a.m. — NASA Composite Programs Direction.
1 p.m. — Discussion of Issues.
4 p.m. — Adjourn.

Robert F. Allnutt,

Acting Associate Administrator for External Relations.

[FR Doc. 82-6124 Filed 3-5-82; 8:45 am]
BILLING CODE 7510-01-M

[Notice (82-13)]

NASA Advisory Council, Space Systems and Technology Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Informal Advisory Subcommittee on Space Electronics.

DATES AND TIME: March 29, 1982, 9 A.M. to 4:30; March 30, 1982, 8:30 a.m. to 4:30 p.m.

ADDRESS: NASA Headquarters, Building 10B, Room 625, 600 Independence Avenue, SW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Herman A. Rediess, National Aeronautics and Space Administration, Code RTE-6, Washington, DC 20546 (202/755-3237).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Space Electronics was established to review and make recommendations on NASA research and technology programs and plans in space electronics which include microelectronics devices, sensors, information systems, automation, and guidance and control technology. The Subcommittee, chaired by Dr. Raj Reddy, is comprised of 12 members. The meeting will be open to the public up to the seating capacity of the room (approximately 35 persons including the Subcommittee members and participants).

Type of Meeting: Open.

Agenda

March 29, 1982

9 a.m.—Opening Remarks.
9:30 a.m.—FY 1983 Budget Outlook.
10:30 a.m.—Overview of NASA Research and Technology Programs in Electronics.
1 p.m.—Results of Special Planning Activities in Electronics Programs.
4:30 p.m.—Adjourn.

March 30, 1982

8:30 a.m.—Discussion of NASA Issues and Questions.
1 p.m.—Subcommittee Deliberations and Recommendations.
4:30 p.m.—Adjourn.

Robert F. Allnutt,

Acting Associate Administrator for External Relations.

March 2, 1982.

[FR Doc. 82-6126 Filed 3-5-82; 8:45 am]
BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Structural Engineering; Meeting

The ACRS Subcommittee on Structural Engineering will hold a meeting on March 22, 1982 at the AMFAC Hotel, 2910 Yale Blvd., Albuquerque, NM to review Sandia's containment integrity program, including a visit to the Sandia structural laboratory. Notice of this meeting was published February 17.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Monday, March 22, 1982, 8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Elpidio Igne (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., est.

Dated: March 2, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-6213 Filed 3-5-82; 8:45 am]
BILLING CODE 7590-01-M

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public Notice of Receipt of an Application", please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H St., N.W., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed on or before April 7, 1982. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for license to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new applications for the week ending February 27, 1982.

Dated this 2d day of March, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Marvin R. Peterson,

Acting Assistant Director, Export/Import and International Safeguards, Office of International Programs.

FEDERAL REGISTER (EXPORT)

Name of applicant, Date of application, date received, application No.	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Exxon Nuclear, Feb. 16, 1982, Feb. 22, 1982, XSNMO1829.	3.3% Enriched Uranium	66,530	2,196	2 reloads for Tihange-1	Belgium.
Marubeni America, Feb. 22, 1982, Feb. 23, 1982, XSNMO1831.	3.95% Enriched Uranium	6,056	190	Reload fuel for Fukushima I, Unit 4	Japan.
Marubeni America, Feb. 22, 1982, Feb. 23, 1982, XSNMO1832.	3.95% Enriched Uranium	2,295	90	Reload fuel for Fukushima II, Unit 2	Japan.
General Atomic, Feb. 18, 1982, Feb. 24, 1982, XSNMO1833.	19.9% Enriched Uranium	62.00	12.34	Substitute fuels in conversion of PRR-1 Philippines reactor	Philippines.

[FR Doc. 82-6217 Filed 3-5-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-329 OM and 50-330 OM and Docket Nos. 50-329 OL and 50-330 OL]

Consumers Power Co. (Midland Plant, Units 1 and 2); Reconstitution of Boards

Pursuant to the authority contained in 10 CFR 2.721 (1980) the Atomic Safety and Licensing Boards for Consumers Power Company (Midland Plant, Units 1 and 2), Docket Nos. 50-329 OM and 50-330 OM, and 50-329 OL and 50-330 OL are hereby reconstituted by appointing Administrative Judge Jerry Harbour, currently an alternate member having technical qualifications, as a Board member for purposes of further hearings and decisions thereon in these consolidated proceedings. Mr. Ralph S. Decker has been a member of these Boards, but, because of his forthcoming retirement from the Atomic Safety and Licensing Board Panel, will be unable to continue to serve. However, Mr. Decker will remain a Board member for purposes of the Licensing Board's first Partial Intitial Decision on quality assurance and management attitude issues.

As reconstituted, these Boards are each comprised of the following Administrative Judges:

Charles Bechhoefer, Chairman, Dr. Frederick P. Cowan, Dr. Jerry Harbour.

All correspondence, documents and other materials shall be filed with the Boards in accordance with 10 CFR 2.701 (1980). The address of the new Board member is:

Dr. Jerry Harbour, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Issued at Bethesda, Maryland this 1st day of March 1982.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 82-6216 Filed 3-5-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-409]

Dairyland Power Cooperative (LaCrosse Boiling Water Reactor); Exemption

I

The Dairyland Power Cooperative (Dairyland) is the holder of Provisional Operating License No. DPR-45 which authorizes operation of the LaCrosse Boiling Water Reactor (LACBWR), located in Vernon County, Wisconsin. This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

Section III.O of Appendix R to 10 CFR Part 50 requires that the reactor coolant pump (recirculation pump or forced circulation pump for boiling water reactors) be equipped with an oil collection system if the containment is not inerted during normal operation. Because LACBWR is not inerted during normal operation, under this provision an oil collection system is required. Section III.O of Appendix R specifies that the oil collection system shall be so designed, engineered, and installed that failure will not lead to fire during normal or design basis accidents and that there is reasonable assurance that the system will withstand the Safe Shutdown Earthquake (SSE).

By letter dated March 19, 1981, Dairyland indicated that the installed drip shields do not provide adequate protection against all postulated lube oil leaks and further asserted that a seismically qualified oil collection system would not enhance fire protection safety at the LACBWR because alternative means to fulfill the stated objective of the Commission could be implemented. Accordingly, Dairyland requested an exemption from the requirements of Section III.O of Appendix R to 10 CFR Part 50.

The exemption request is based on the following: The recirculation pump coupling oil (90 gallons per pump) will be removed and replaced with a non-flammable glycol-water solution and the recirculation pump lubricating oil inventory remaining (15 gallons per pump) is so small that it could not cause a major fire at the pump location.

Based upon our evaluation, we conclude that Dairyland's alternative method for providing fire protection in the containment building is adequate and that Dairyland should, therefore, be granted an exemption from the specific requirements of Section III.O of Appendix R to 10 CFR Part 50, "Oil and Oil Collection Systems for Reactor Coolant Pumps".

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the exemption request identified above, subject to the conditions that the recirculation pump coupling oil be removed and replaced with a non-flammable liquid.

The NRC staff has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4),

an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland, this 1st day of March, 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-6216 Filed 3-5-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-329A and 50-330A]

Consumers Power Co.; Receipt of Antitrust Information

The Consumers Power Company as owner of the Midland Plant, Units 1 and 2, has submitted antitrust information in connection with its plans to operate two pressurized water reactors located in Midland County, Michigan. The data submitted contain antitrust information for review pursuant to NRC Regulatory Guide 9.3 necessary to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage.

On completion of staff antitrust review of the above-named application, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the Act. A copy of this finding will be published in the **Federal Register** and will be sent to the Washington and local public document rooms and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any significant changes, request for reevaluation may be submitted for a period of 60 days after the date of the **Federal Register** notice. The results of any reevaluation that is requested will also be published in the **Federal Register** and copies sent to the Washington and local public document rooms.

A copy of the general information portion of the application for operating licenses and the antitrust information submitted is available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the local public document room at the Grace Dow Memorial Library, 1710 W. St. Andrews Road, Midland, Michigan 48640.

Any person who desires additional information regarding the matter covered by this notice or who wishes to have his views considered with respect to significant changes related to antitrust matters which have occurred in the licensee's activities since the construction permit antitrust review for the above-named plant should submit such requests for information or views of the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Antitrust and Economic Analysis Branch, Nuclear Reactor Regulation, on or before April 5, 1982.

Dated at Bethesda, Maryland, this 25th day of January 1982.

For the Nuclear Regulatory Commission.

Calvin W. Moon,

Acting Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 82-5410 Filed 2-26-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

March 1, 1982.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected;

Whether small businesses or organizations are affected;

A description of the Federal budget functional category that covers the information collection;

An estimate of the number of responses;

An estimate of the total number of hours needed to fill out the form;

An estimate of the cost to the Federal Government;

An estimate of the cost to the public;

The number of forms in the request for approval;

An indication of whether section 3504(h) of Pub. L. 96-511 applies;

The name and telephone number of the person or office responsible for OMB review; and

An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form, but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, deputy administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202-377-3627

New

- National Oceanic and Atmospheric Administration

Cost-Earnings Study of the Longline and Handline Fishing Fleet in Hawaii
Nonrecurring
Businesses or other institutions
Commercial fishermen in Hawaii
SIC: 091
Small businesses or organizations
Other advancement and regulation of commerce: 100 responses; 50 hours; $34,971 Federal cost; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202-395-4814

Information on the socio-economics of these segments of the primary producer level in Hawaii is lacking in FMPS for the Western Pacific Region. Results will be incorporated into FMPS on billfish and bottom fish, as well as into ongoing economic analyses of the fresh fish and tuna industries. The one-year survey will begin in February 1982.

- General Administration

Prohibition of Discrimination Against the Handicapped in Doc Grant Programs.
On Occasion
State or local governments
Recipients of the Department of Commerce grants
SIC: Multiple
Other advancement and regulation of Commerce: 439 responses; 439 hours; $20,000 Federal cost; $4,390 public cost; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202-395-4814

To aid recipient in reviewing their programs, policies and practices to improve compliance with section 504 of the Rehabilitation Act of 1973. Record-keeping requirement, with information to be retained for a three year period.

- National telecommunications and Information Administration

Public Telecommunications Facilities Program Grant Application
NTIA-40
On occasion
State or local governments/businesses or other institutions Public telecommunications stations
SIC: 366
Small businesses or organizations
Research and general education aids: 500 responses; 80,000 hours; $250,000 Federal cost; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202-395-4814

The Public Broadcasting Amendments Act of 1981 authorizes grants to be awarded for the planning and construction of public telecommunications facilities. Awarding will be based on the assessment of information included in the proposals submitted for grant funding.

Extensions (Burden Change)

- Bureau of the Census

Manufacturers' Shipments, Inventories, and Orders (M3) Survey
M3, M3 (MD)
Monthly
Businesses or other institutions
Manufacturing companies
SIC: All
Other advancement and regulation of Commerce: 64,320 responses; 22,040 hours; $1,125,000 Federal cost; 2 forms; not applicable under 3504(h)
Statistical Policy Branch, 202-395-7313

This is the only survey that provides monthly statistical information to Government and industry on the entire manufacturing sector of the economy. These statistics are an essential part of the development of the gross national product accounts and the survey is designated as "principal Federal economic indicator" by the office of information and regulatory affairs.

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—202-633-8770

Revisions

- Federal Energy Regulatory Commission

Application for Small Producer Exemption
FPC 314A
Nonrecurring
Businesses or other institutions
Natural gas producers
SIC: 999
Small businesses or organizations
Energy information, policy, and regulation: 150 responses; 450 hours; $117,000 Federal cost; 1 form; not applicable under 3504(h)
Anita T. Ducca, 202-395-7340

The data collected are used by the Federal Energy Regulatory Commission to evaluate and process independent producer applications for the sale of gas in interstate commerce under small producer certificates of public convenience and necessity as prescribed by section 7 of the Natural Gas Act.

Extensions (No Change)

- Federal Energy Regulatory Commission

Service Life Data
FERC 73
Other—see SF83
Businesses or other institutions
Oil pipeline companies within FERC jurisdiction
SIC: 999
Small businesses or organizations
Energy information, policy, and regulation: 21 reponses; 4,620 hours; $163,000 Federal cost; 1 form; not applicable under 3504 (h)
Anita T. Ducca, 202-395-7340

The data collected on this form are used to perform service life analyses for oil pipeline properties. These data are necessary to determine book depreciation rates.

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Windsor—202-426-1867

New

- Urban Mass Transportation Administration

Authorizing Resolution
On occasion, annually, other—see SF83
State or local governments/businesses or other institutions
Public and private mass transportation providers
SIC: 411
Ground transportation: 420 responses; 840 hours; $500 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202-395-7340

Authority needed for compliance with 3(a) (2) (a) and 5(g) is granted by an authorizing resolution passed by the applicant's governing body. UMTA C 9050.1 provides sample format.

- Coast Guard

Subchapter I-A, Plan Approval and Records for Mobile Offshore Drilling Units (46 CFR)
On occasion
Businesses or other institutions
Ship builders, designers, owners and operators
SIC: 373, 441, 442, 443, 444, 445
Small businesses or organizations
Water transportation: 4,823 responses; 2,567 hours; $345,600 Federal cost; $326,000 public cost; 1 form; not applicable under 3504(h)
Wayne Leiss, 202-395-7340

The requirement for plan submission is used to show compliance with regulations for mobile offshore drilling units. It will enable the Coast Guard to determine compliance by examination of the plans, prior to construction.

Extensions (Burden Change)

• National Highway Traffic Safety Administration
On-the-Road Fuel Economy Survey
HS-435
Annually
Individuals or households
Nation's owners of late model passenger cars & trucks
Ground transportation: 46,000 reponses; 7,877 hours; $450,000 Federal cost; 2 forms; not applicable under 3504(h)
Donald Arbuckle, 202-395-7340

Survey of late model passenger cars and light trucks to monitor on-road improvements in fuel economy. Support analysis of future national initiatives in transportation sector, development of yearly/total energy savings of new technologies, support Environmental Protection Agency, Department of Energy in related programs.

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Ms. Joy Tucker—202-634-5394

New

• Internal Revenue Service
Pre-Examination Cover Letter
1646 (P)
On occasion
Businesses of other institutions
Tax protesters claiming to be ministers or a vow of poverty
SIC: 999
Central fiscal operations: 1,800 responses; 12,796 hours; $43,560 Federal cost; 1 form; not applicable under 3504(h)
Karen P. Sagett, 202-395-6880

The letter is used to comply with the restrictions on examination of churches imposed by 26 U.S.C. 7605(c). If the needed information (which must be requested by IRS in writing) is furnished, an on-site examination of books and records would be unnecessary.

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Office—Christine Scoby—202-382-2742

Nfw

• Categorical Exclusions and Segmentation of Construction
Grants Projects
0983
Nonrecurring
Businesses or other institutions
State agencies delegated construction grants authority
SIC: 999
Pollution control and abatement: 1 responses; 2,640 hours; $34,000 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202-395-7340

Amends 40 CFR 6 to include procedures for granting categorical exclusions from the environmental review requirements in compliance with the council on environmental quality's regulations implementing NEPA. Their effect is intended to reduce the regulatory requirements on recipients of EPA grants for the planning, specification and construction of wastewater treatment facilities. Amendments made also to comply with changes to 40 CFR Part 35 (constr. grants program regs.).

Extensions (Burden Change)

• Application for Supplemental Registration of a Distributor (0276)
Nonrecurring
Businesses or other institutions
Pesticide chemical production and marketing industry
SIC: 286
Small businesses or organizations
Pollution control and abatement: 16,000 Responses; 32,000 hours; $1,702,400 Federal cost; 1 form; not applicable under 3504(h)
Robert Shelton, 202-395-7340

40 CFR 162.6 calls for supplemental registration permitting a distributor of registered pesticide product to market that product under the distributor brand name.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Clearance Officer—Thomas P. Goggin—202-634-6983

Reinstatements

• Practical Utility Survey on recordkeeping requirements for UGESP
Nonrecurring
State or local governments/businesses or other institutions
Private & public employers, unions, attorneys
SIC: Multiple
Federal law enforcement activities: 3,825 responses; 1,912 hours; $96,200 Federal cost; 6 forms; not applicable under 3504(h)
Laverne V. Collins, 202-395-6880

This survey is being conducted in response to an OMB request for a study evaluating the practical utility of the recordkeeping requirements of the uniform guidelines on employee selection procedures (UGESP). This survey is designed to obtain information on the burden and utility of the recordkeeping requirements of UGESP.

FEDERAL COMMUNICATIONS COMMISSION

Agency Clearance Officer—Richard D. Goodfriend—202-632-7513

Revisions

• Application for consent to transfer of control of corporation holding broadcast station construction permit or license
315
On occasion
Businesses or other institutions
Applicant of broadcast station seeking transfer of control
SIC: 483
Small businesses or organizations
Other advancement and regulation of commerce; 427 responses; 38,430 hours; $153,793 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202-395-7340

Filing FCC 315 is required when applying for transfer of control of corporation holding radio broadcast station construction permit or license. The data is necessary to determine whether the applicant is qualified and whether granting the application would serve the public interest.

• Application for consent to assignment of broadcast station construction permit or license
314
On occasion
Businesses or other institutions
AM, FM or TV broadcast applicants seeking assignment
SIC: 483
Small businesses or organizations
Other advancement and regulation of commerce: 426 responses; 38,340 hours; $153,432 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202-395-7340

Filing is required when applying for consent for assignment of radio broadcast station construction permit or license. The data is necessary to determine whether the applicant is qualified and whether granting the application would serve the public interest.

FOUNDATION FOR EDUCATION ASSISTANCE

Agency Clearance Officer—Wallace McPherson—202-426-7304

New

• A study of the developing institutions program
ED 675
Nonrecurring
Businesses or institutions
Postsecond. instit. that have partic. in the HEA 111 prog.
SIC: 822

Education, training, employment, and social services; 56 responses; 2,600 hours; $450.00 Federal cost; $442,000 public cost; 1 form; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202-426-5030

The HRA III is the only direct institional support program funded by the ED for postsecondary institutions. ED has never evaluated the impact of Federal funding at the institution level. Given scarce resources there is an increasing need to determine more effective and efficient methods of providing for educational opportunities for students attending these institutions.

• Federal loan transaction statement federally insured student loan program
ED 1199
Monthly
Businesses or other institutions
Colleges & univs. prof. schools & jr. col., fed., etc. SIC; 822, 601, 602, 603, 604, 605
Higher education; 228,000 responses; 228,000 hours; $23,854 Federal cost; $1,368,000 public cost; 1 form; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202-426-5030

This form is used by ED's guaranteed student loan branch to bill lenders for insurance premiums. It is also used by lenders to report changes in the status of existing loans and to report loans paid in full.

INTERNATIONAL TRADE COMMISSION

Agency Clearance Officer—Charles Ervin—202-523-0267

New

• Trends in international trade in printed circuit boards and base material laminates—importers of printed circuit boards and base material laminates
Nonrecurring
Businesses of other institutions
Printed circuit boards incorp. * * * into U.S. electron. prod.
SIC: 367, 307
Small businesses or organizations
Conduct of foreign affairs; 91 responses; 1,456 hours; $106,250 Federal cost; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202-395-4814

Under Section 332 of the Tariff Act of 1930, the USITC has responsibility to provide fact-finding reports on issues affecting U.S. trade position. Data collected through the questionnaire have been requested by the House Ways and Means Committee so that profiles of the U.S. printed circuit boards industry and of base material laminates can be evaluated and compared with that of Canada, Japan, and Europe.

FEDERAL HOME LOAN BANK BOARD

Agency Clearance Officer—Frank J. Crowne—202-377-6825

Revisions

Fair housing and nondiscrimination in lending
See Att. 2
Semiannually
Businesses of other institutions
FSLIC—Insured savings and loan associations
SIC: 612, 616
Mortgage credit and thrift insurance; 1,486,996 responses; 206,755 hours; $202,000 Federal cost; $2,067,550 public cost; 1 form; NPRM under 3504(h)
Robert Neal, 202-395-6880

Data submission and other recordkeeping requirements of the Equal Credit Opportunity Act (12 CFR 202) and FHLBB Regulations (12 CFR 528). Reports replace portions of onsite examination for compliance with FCCA, FHLBB Regulations, the Fair Housing and Community Reinvestment Acts, and reduce overall examination time and cost.

Extensions (Burden Change)

Application to establish branch office
100.743
Nonrecurring
Businesses or other institutions
Savings and loan industry
SIC: 999
Mortgage credit and thrift insurance; 502 responses; 23,092 hours; $4,285 Federal cost; 2 forms; not applicable under 3504(h)
Rober Neal, 202-395-6880

12 CFR 545-14-16 requires Federal associations to submit applications for a branch or agency office. The purpose of this application is to determine whether a branch office can be established without supervisory concern and undue injury to other local thrift institutions. 12 CFR 563E and the Community Reinvestment Act requires the Board to consider an association's community service record when it evaluates a branch application.

NATIONAL FOUNDATION ON THE ARTS

Agency Clearance Officer—Donald L. Case—202-634-6378

New

• Jazz Study Fellowship Grant Program
Monthly, quarterly, annually
Individuals or households/businesses or other institutions
Individual grant recipients, selected master artists
SIC: 999
Small businesses or organizations
Research and general education aids: 148 responses; 58 hours; $1,789 Federal cost; $1,075 public cost; 4 forms; not applicable under 3504(h)
Gwendolyn Pia, 202-395-6880

See continuation sheet.

• Letter of Credit Payment Method Forms
Other-SFE SF83
State or local governments/businesses or other institutions
Non-profit organizations
SIC: 919, 739
Small businesses or organizations
Research and general education aids: 500 responses; 500 hours; $111,900 Federal cost; $4 public cost; 4 forms; not applicable under 3504(h)
Gwendolyn Pia, 202-395-6880

Grantees must submit the "Request for Letter of Credit" and "Authorized Signature Card for Payment Vouchers on Letter of Credit" in order to be placed on the letter of credit payment method. Grantees must then submit the "Request for payment on Letter of Credit and Status of Funds Report" in order to receive payment.

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt (004A2)—202-389-2146)

New

• Gravesite Reservation Survey (2-Year)
40-12
Biennially
Individuals or households
A spouse of a deceased veteran
Other veterans benefits and services: 18,605 responses; 1,550 hours; $50,057 Federal cost; $15,498 public cost; 1 form; not applicable under 3504(h)
Gwendolyn Pia, 202-395-6880

Information needed to compile accurate roster of individuals holding if reservation is still desired. If reservation is no longer desired, gravesite is released for use by another eligible.

• Supplemental Information for Change of Program or Reenrollment After Unsatisfactory Progress of Conduct
22-8873
On occasion
Individuals or households
Veterans, servicepersons and eligible dependents or survivors
Veterans education, training, and rehabilitation: 55,000 responses; 18,315 hours; $194,470 Federal cost; $183,150 public cost; 1 form; not applicable under 3504(h)

Federal Education Data Acquisition Council, 202–426–5030

This form requests information which will be used to evaluate the suitability of a program of education. The form also requests information concerning previous unsatisfactory progress in training. The information which is obtained will be used to make determinations required by 38 U.S.C. 1674, 1724 and 1791 prior to authorization of benefit payments.

• Portfolio Loan Service Report
26–6806A
On occasion
Individuals or households/businesses or other institutions
Homeowners
SIC: 953, 881, 651
Small businesses or organizations
Veterans housing: 16,000 responses; 4,000 hours; $41,121 Federal cost; $40,000 public cost; 1 form; not applicable under 3504(h)
Gwendolyn Pia, 202–395–6880

Form serves as loan service representative's report of contact with obligor of defaulted VA portfolio loan and recommended action. Information provided forms basis for decisions on forbearance, development of repayment plans, recasting or foreclosure.

Revisions

• Health Authority Approval Individual Water Supply and Sewage Disposal System
26–6395
On occasion
State or local governments
Local health department
SIC: 953
Veterans housing: 15,000 responses; 7,500 hours; $78,238 Federal cost; $75,000 public cost; 1 form; not applicable under 3504(h)
Gwendolyn Pia, 202–395–6880

Form signifies acceptability or non-acceptability of individual water or sewage systems based on inspection by VA compliance inspector or local health authorities. Data forms basis for VA determinations on suitability of property and conformity with minimum requirement (38 U.S.C. 1804(a) and 1810(e)(4)).

Reinstatements

• Certification of Monument Data
40–4964
On occasion
Individuals or households
Veterans and veterans dependents
Other veterans benefits and services: 48,000 responses; 4,000 hours; $32,120 Federal cost; $40,000 public cost; 1 form; not applicable under 3504(h)
Gwendolyn Pia, 202–395–6880

VA form 40–4964, certification of monument data—at or before the time of interment of an eligible member or former member of the armed forces in a national cemetery. VA form 40–4964 will be completed by the next of kin or authorized representative. The data collected on this form is authorized by law (38 U.S.C. 906) and certifies the data to be inscribed on the headstone or marker and in completing burial records.

Nathaniel Scurry,
Chief, Reports Management.

[FR Doc. 82-6600 Filed 3-5-82; 8:45 am]
BILLING CODE 3110-01-M

Agency Forms Under Review

March 3, 1982.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available).

The office of the agency issuing this form.

The title of the form.

The agency form number, if applicable.

How often the form must be filled out.

Who will be required or asked to report.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

Whether small businesses or organizations are affected.

A description of the Federal budget functional category that covers the information collection.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

An estimate of the cost to the Federal Government.

An estimate of the cost to the public.

The number of forms in the request for approval.

An indication of whether section 3504(h) of Pub. L. 96–511 applies.

The name and telephone number of the person or office responsible for OMB review and;

An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirments that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirments until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488

Revisions

• Health Care Financing Administration
Professional standards review organization routine Federal reporting requirements
111, 121, 121–E, 135, 153Q, 153A
Quarterly
Businesses or other institutions
Funded paro's and short stay hosp. delegated paro rev. resp.
SIC: 805, 919
Health: 7,914 responses; 24,118 hours; $340,000 Federal cost 6 forms; not applicable under 3504(h)
Fay S. Iudicello, 202–395–3080

Collection of data is authorized by section 1155(f)(1)(B) of the Social Security Act. The data collected through this system is used to manage, monitor and evaluate the activities of the professional standards review organizations.

REINSTATEMENTS

• National Institutes of Health
National survey of the role of the practicing dentist and pediatrician in the use of Caries prevention methods
Nonrecurring
Businesses or other institutions
Pract. dentists and physi. active in direct child pat. care
SIC: 801, 802
Health: 5,000 responses; 2,500 hours; $225,684 Federal cost; $25,000 public cost 2 forms; not applicable under 3504(h)
Fay S. Iudicello, 202–395–3090

There is a need to collect information periodically on the attitudes and knowledge of practicing dentists and physicians about current and projected Caries prevention methods. Such current assessment of knowledge and practices, as well as measures of change over time, will allow the dental profession and NIDR to improve on techniques of communication of technology so that the profession is using the most effective methods available for preventing Caries.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—202–755–5184

NEW

• Housing Programs
Single family mortgage insurance premium remittance form
Monthly
Businesses or other institutions
Mortgate bankers, savings and loans institutions
SIC: 616, 651
Small businesses or organizations
Mortgage credit and thrift insurance: 144,000 responses; 72,000 hours; $875,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

Section 530 of the National Housing Act (established in 1980) requires that single family mortgage insurance premiums be remitted promptly to HUD as they are collected each month. To comply with this new requirement, a new single family mortgage insurance premium remittance form is required.

REVISIONS

• Housing Programs
Premium reconcilement, HUD 239 and HUD 239A, HUD 239A
Monthly
Businesses or other institutions
Mortgage bankers, savings and loans institutions
SIC: 616, 651
Small businesses or organizations
Mortgage credit and thrift insurance: 7,500 responses; 6,000 hours; $500 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

This report is used by mortgagees to notify HUD of additions or delegations made to the original amount of HUD's billing. Data are used to adjust HUD's accounting records.

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—202–523–833

NEW

• Employment and Training Administration
Experimental downriver economic readjustment project
MT–321
Nonrecurring
Individuals or households
Empl. laid off from 8-auto-relat. firms in the det. metro.
Training and employment: 3,300 responses; 2,178 hours; $549,868 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880

The survey results will be used to evaluate the effectiveness of a unique program for training, placement and relocation of unemployed experienced workers. This information will provide critical guidance in the development of future policy and programs for displaced workers. This information cannot be obtained from presently existing data sources.

• Labor-Management Services Administration
Summary plan description requirements final and interim regulations
LMSA-SPD
Other-SEE SF83
Businesses or other institutions
Employ. pension and welf. benefit plans covered under ERISA
SIC: All
Small businesses or organizations
Other labor services: 22,425,671 responses; 9,473,052 hours; $80,000,000 Federal cost; 1 form; not applicable under 3504(h)
Laverne V. Collins, 202–395–6880

Employee benefit plans covered under ERISA must file and distribute summary plan descriptions summarizing plan provisions, summary description of material modifications to the plans, and updated summary plan descriptions which periodically integrate plan amendments. These regulations provide administrators with the guidance necessary to ensure compliance with their statutory obligation.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Agency Clearance Officer—Jeffrey S. Lubbers—202–254–7020

NEW

• Government in the Sunshine Act questionnaire
ACUS–3
Nonrecurring
Individuals of households
Officials and participants involved in Sunshine Act
Federal law enforcement activities: 1,400 responses; 700 hours; $10,500 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

To help with a study of agency experience under the Government in the Sunshine Act.

FEDERAL HOME LOAN BANK BOARD

Agency Clearance Officer—Frank J. Crowne—202–377–6825

EXTENSIONS (NO CHANGE)

• Examination advance package
250 863
Other—see SF83
Businesses or other institutions
FSLIC-insured financial institutions, primarily savings
SIC: 612
Mortgage credit and thrift insurance: 3,300 responses; 104,156 hours; $25,562

Federal cost: 19 forms; not applicable under 3504(h)
Robert Neal, 202–395–6880

12 CFR 563.17–1 requires FSLIC-insured institutions to be examined periodically. This entails detailed analysis of business transactions and review of records for regulatory compliance. Institutions are requested to complete materials for each regular examination in order to facilitate and enhance the examiner's review and to minimize cost and business interruption to the institution.

FEDERAL RESERVE SYSTEM

Agency Clearance Officer—William Jones—202–452–2983

EXTENSIONS (BURDEN CHANGE)

- Uniform termination notice for municipal securities principal municipal securities representative associated with bank municipal securities dealer

MSD–5
On occasion
Businesses or other institutions
Banks and persons designated as municipal securities principals
SIC: 602
General government: 98 responses; 25 hours; $100 Federal cost; $500 public cost; 1 form; not applicable under 3504(h)
Richard Sheppard, 202–395–6880

Notice must be filed 30 days after person associated in a professional capacity with a bank municipal securities dealer terminates employment. Compliance vehicle for rules of municipal securities rulemaking board and related securities and banking laws. Source document for updating information on interagency computer system of records.

FOUNDATION FOR EDUCATION ASSISTANCE

Agency Clearance Officer—Wallace McPherson—202–426–7304

NEW

- Application for title I, ESEA transition services grant funds

Annually
Businesses or other institutions
State and local educational agencies
SIC: 941
Elementary, secondary, and vocational education: 30 responses; 600 hours; $3,950 Federal cost; $18,000 public cost 1 form; not applicable under 3504(h)
Federal education data acquisition council, 202–426–5030

Section 153 of title I, ESEA, as amended by Pub. L. 95–561, authorizes funding for grants to State and local educational agencies to support projects to facilitate the transition of children from state-operated institutions for neglected or delinquent children into locally-operated educational programs.

NUCLEAR REGULATORY COMMISSION

Agency Clearance Officer—Stephen Scott—301–492–8585

REVISIONS

- Physical protection of formula quantities at nonpower reactors

Other—see SF83
Businesses or other institutions
NRC licensees
SIC: 463
Energy information, Policy, and regulation: 15 responses; 1,200 hours; $56,600 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

NRC proposes rulemaking change to affect changes in its regulations to require additional physical protection measures for formula quantities of strategic nuclear material used in operation of nonpower reactors.

Nathaniel Scurry,
Chief, Reports Management.

[FR Doc. 82-6220 Filed 3-5-82; 8:45 am]
BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 18520; SR-CBOE-82-1]

Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

March 2, 1982.

The Chicago Board Options Exchange, Inc., LaSalle at Jackson, Chicago, Illinois, submitted on January 22, 1982, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, that establishes procedures relating to a market maker's bids and offers for Treasury securities options. Among other things, the rule change states that only a market maker's bid and offer for options on $100,000 principal amount of underlying Treasury securities shall be disseminated and that those quotes shall be deemed to include a bid and offer for options on $20,000 principal amount of the same underlying securities no lower than 1/32 less on the bid and 1/32 more on the offer.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18444, January 27, 1982) and by publication in the Federal Register (47 FR 4790, February 2, 1982). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-6220 Filed 3-5-82; 8:45 am]
BILLING CODE 8010-01-M

[File No. 22-11498]

RCA Corp.; Order Granting Application

March 1, 1982.

RCA Corporation, a Delaware corporation ("RCA"), has filed an application pursuant to section 310(b)(1)(ii) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeships of Morgan Guaranty Trust Company of New York, a New York Trust company (the "Bank"), under an Indenture dated as of August 15, 1974 with RCA, which is qualified under the Act, and under a new Indenture dated as of January 14, 1982, with RCA Overseas Finance N.V., a Netherlands Antilles corporation, RCA Overseas Finance B.V., a Netherlands corporation, and RCA, which is not qualified under the Act, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as such under any of these Indentures, all as more fully set forth in said application and Notice of Application and Opportunity for Hearing dated January 15, 1982.

It appears to the Commission that the trusteeships of the Bank under said Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as trustee under any of the aforementioned Indentures.

Notice of the filing of said application having been duly given, RCA having waived hearing thereon, the Commission not having received a request for a hearing within the period specified in the Notice of Application and Opportunity for Hearing, and a hearing not appearing necessary or appropriate in the public interest or for the protection of investors;

It is ordered that the application of RCA Corporation in the premises be, and the same is, hereby granted.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-6221 Filed 3-5-82; 8:45 am]
BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 04/04–0116]

H & T Capital Corp.; Filing of Application for Transfer of Ownership and Control

Notice is hereby given that an application has been filed with the Small Business Administration (SBA), pursuant to § 107.701 of the Regulation governing small business investment companies (13 CFR 107.701 (1982)) for transfer of ownership and control of H & T Capital Corporation, 4750 Selma Highway, Suite C, Montgomery, Alabama 36105, a Federal Licensee under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 et seq.). The proposed transfer of ownership and control of H & T Capital Corporation, which was licensed July 15, 1975, is subject to the prior written approval of SBA.

H & T Capital Corporation is a wholly owned subsidiary of Hudson-Thompson, Inc., with an individual, John A. Thompson, owning approximately 93 percent of the outstanding common stock of Hudson-Thompson, Inc.

Pursuant to a letter of intent between John A. Thompson and the S. M. Flickinger Co., Inc., a New York corporation, headquartered in Buffalo, New York, the S. M. Flickinger Company would acquire all of the outstanding common stock of Hudson-Thompson, Inc. The ownership of the outstanding stock of H & T Capital Corporation will not change. The ownership of H & T Capital Corporation's parent company, Hudson-Thompson, Inc., will change to the S. M. Flickinger Co., Inc.

At the present time the business of Flickinger consists of the wholesale and retail distribution of food and other products.

No single stockholder of the S. M. Flickinger Company, Inc., owns an interest equal to 10 percent or more of the outstanding common stock.

The management and control of H & T Capital Corporation are the officers, directors and beneficial shareholder as follows:

Name and address	Title and relationship	Percent of ownership
John R. Bloom, 4750 Selma Highway, Montgomery, AL 36196.	President, Director.	———
Gerald L. Gwinn, 4750 Selma Highway, Montgomery, AL 36196.	Vice President, Director.	———
Eddie E. Helms, 4750 Selma Highway, Montgomery, AL 36196.	Secretary, Treasurer, Director.	———
S. M. Flickinger Co., Inc., P.O. Box 1986, Buffalo, NY 14240.	Parent of Hudson-Thompson, Inc.	100

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new management, and the probability of successful operations of the company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is given that any person may, on or before March 23, 1982, submit written comments on the proposed transfer of ownership and control to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Montgomery, Alabama and Buffalo, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 2, 1982.

Robert G. Lineberry,
Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-6213 Filed 3-5-82; 8:45 am]
BILLING CODE 8025-01-M

[Proposal No. 03/03–0152]

PNC Capital Corp.; Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA Regulations (13 CFR 107.102 (1982)) by PNC Capital Corporation, Fifth Avenue and Wood Street, Pittsburgh, Pennsylvania, 15222 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors and sole shareholder are:

Name and address	Title and relationship	Percent of ownership
Thomas H. O'Brien, 215 Highland Road, Pittsburgh, Pa. 15228.	Chairman of the Board and Director.	———
James H. Knowles, Jr., 1000 Highmont Road, Pittsburgh, Pa. 15232.	President, General Manager and Director.	———
Gary J. Zentner, 180 Mohawk Drive, Pittsburgh, Pa. 15228.	Vice President, Treasurer and Director.	———
William F. Strome, 5814 Elgin Street, Pittsburgh, Pa. 15206.	Vice President and Secretary.	———
Walter E. Gregg, Jr., 455 Maple Lane, Sewickley, Pa. 15143.	Director.	———
Pittsburgh National Bank, Fifth Avenue and Wood Street, Pittsburgh, Pa. 15222.	Parent Company	100

Pittsburgh National Bank is a wholly owned subsidiary of Pittsburgh National Corporation, a one-bank holding company whole securities are publically owned and traded on the over the counter market. As of February 1, 1982, Pittsburgh National Corporation had 8,424 shareholders of record, none of which owned 10 percent or more. The value of the securities of PNC Capital Corporation owned by Pittsburgh National Bank will not exceed 5 percent of the value of its assets.

The Applicant will begin operations with a capitalization of $2.49 million and will be a source of equity capital and long term loan funds for qualified small business concerns whose needs might not be met by traditional funding sources.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, On or before March 23,1982, submit written comments on the proposed SBIC to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Pittsburgh, Pennsylvania.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 1, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-6212 Filed 3-5-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0440]

Rockland Small Business Investment Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981)), under the name of Rockland Small Business Investment Corp. (Applicant), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant is incorporated under the laws of the State of New York, and it will commence operations with a maximum capitalization of $1,500,000 or a minimum of $500,000.

The Applicant will have its place of business at 65 Prospect Avenue, Nanuet, New York 10954, and it intends to conduct operations primarily in the State of New York. Applicant expects to establish a broad financial policy and recognizes the need for both equity investments and loans with particular attention to growth situations. The officers, directors, and presently known ten percent (10%) or more stockholders of the Applicant will be:

Eugene L. Frost, 65 Prospect Avenue, Nanuet, N.Y. 10954.	President & Director.	15%
Israel Meidick, 10 Hadassah Lane, Spring Valley, N.Y. 10977.	Vice President, Dir. Secretary, Treasurer.	15%
Edward R. Simpkin, 531 N. Broadway, Upper Nyack, N.Y. 10960.	Director	

Matters involved in SBA's consideration of the application include the general business reputation of the owner and management, and the probability of successful operations of the new company, in accordance with the Act and Regulations.

Notice is further given that any person may, on or before March 23, 1982, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communication should be addressed to: Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 1, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-6211 Filed 3-5-82; 8:45 am]

BILLING CODE 8025-01-M

OFFICE OF UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Review of Products for Removal of Eligibility Under the Generalized System of Preferences

Notice is hereby given that the Trade Policy Staff Committee has accepted the petition by the Ferroalloys Association requesting the removal of Brazil from duty-free treatment under the U.S. Generalized System of Preferences (GSP) as provided for in Title V of the Trade Act of 1974 (88 Stat. 2066–2071, 19 U.S.C. 2461–2465) with respect to the following eligible articles:

Article description	TSUSA [1] item No.
Ferroalloys:	
Ferromanganese:	
Not containing over 1 percent by weight of carbon	606.26
Manganese content	
Containing over 1 percent but not over 4 percent by weight of carbon	606.28
Manganese content	
Containing over 4 percent by weight of carbon	606.30
Manganese content	
Ferrosilicon:	
Containing over 80 percent but not over 90 percent by weight of silicon:	
Containing over 3 percent by weight of calcium	606.36
Silicon content	
Other	606.37
Silicon content	606.44
Ferrosilicon manganese	
Manganese content	
Other base metals, unwrought, and waste and scrap of such metals:	
Other than alloys; and waste and scrap:	
Chromium	632.18

[1] Tariff Schedules of the United States, Annotated.

While the Trade Policy Staff Committee's review will focus on Brazil, the Committee reserves the right to address the removal of GSP status for countries other than that specified by the petitioner.

Public hearings have been scheduled for Friday, April 23, 1982. All interested parties who wish to appear at the hearings should notify the Chairman, GSP Subcommittee, Office of the U.S. Trade Representative, 600 17th Street NW., Washington, D.C. 20506 by April 2. Written briefs or statements should be received no later than close of business April 16, 1982. Post-hearing briefs or statements should be received no later than close of business April 30, 1982. Rebuttal briefs or statements addressing issues raised in the post-hearing submissions must be received no later than close of business May 7, 1982.

Written Briefs—All briefs and statements should conform to the regulations codified at 15 CFR Parts 2001–2003, 2007. They should be submitted in 20 copies in English, and should contain the name and address of the party submitting the brief. Information submitted as business confidential information must contain a nonconfidential summary in twenty copies separate from the information to be handled as confidential. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information."

Public Inspection of Information—Except for business confidential information, all written materials filed in connection with this matter will be open to public inspection by appointment with the Secretary of the GSP Information Center (202/395–6971).

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 82-6127 Filed 3-5-82; 8:45 am]

BILLING CODE 3195-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[AC No. 21-AA]

Advisory Circular; Procedures Concerning Supplier Audits and Implementation of Bilateral Agreements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Draft Advisory Circular (AC) and request for comments.

SUMMARY: This proposed AC is to advise the general public and persons holding FAA production approvals of the FAA's intention to cease regularly scheduled quality control system audits and make optional the need for conformity (export) certificates from Foreign Civil Air Authorities (FCAA) for components produced in countries with which the United States has bilateral airworthiness agreements.

DATES: Comments must identify the AC No. 21–AA and be received on or before April 12, 1982.

ADDRESS: Send all comments on the draft AC to: Federal Aviation Administration, Attention: Aircraft Manufacturing Division (AWS–200), 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: George J. Pour, Chief, Aircraft Manufacturing Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone (202) 426–8361.

Comments received on the draft AC may be inspected in Room 301, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, D.C. 20591, between the hours of 8:30 a.m. and 5:00 p.m., Monday thru Friday.

SUPPLEMENTARY INFORMATION

Comments Invited

Comments are invited from all interested persons on the changes proposed in this AC.

Discussion of Draft Advisory Circular

Federal Aviation Regulations (FAR) require an applicant for a production approval to establish an inspection/quality control system as a prerequisite to issuance of the approval, and to maintain that system after the approval has been issued. The approved system must include provisions for control of supplier furnished articles to ensure that such articles conform to the FAA approved design data. The approval holder is held ultimately responsible for ensuring that each completed product, including supplier furnished articles, conforms to the approved design data and is in condition for safe operation.

In the past, the FAA has monitored an approval holder's supplier activities through scheduled quality control audits of selected domestic suppliers. In the case of suppliers located in foreign countries, the FAA has not conducted supplier audits; however, it has exercised surveillance through the limiting of suppliers only to those countries with which the U.S. has bilateral airworthiness agreements, for the reciprocal acceptance of airworthiness certifications and by requiring conformity certificates from the country's Civil Air Authority for each component shipped to the U.S. approval holder. These FAA audits or Foreign Civil Air Authority (FCAA) certificates do not mitigate the ultimate responsibility of the approval holder under the FAR for ensuring the quality and conformity of each product completed in his main domestic facilities.

The current need to reduce the cost of government, as well as the government's goal to reduce the burden of regulations on U.S. citizens wherever possible has indicated a need to reassess the FAA's current supplier surveillance program, to determine whether any burdens on either the FAA or the industry may be relieved, and if so, to develop ways and means of achieving that goal without derogation of the FAA's mandate to promote safety in air commerce. The following factors relating to the subject were the major considerations in the study.

1. The "main" facilities of many U.S. production approval holders have become, for all intents and purposes, assembly plants, since an increasing proportion of the components of the end products are being produced by suppliers, both domestic and foreign. A major transport category aircraft manufacturer may have thousands of domestic and foreign suppliers; however, the FAA has resources to audit only a selected few of the domestic ones. This raises the question as to the cost/safety/effectiveness value of a small sample, when viewed in the light of the vast majority of suppliers that are never audited.

2. The approval holder is held ultimately responsible, under the FAR applicable to his approval, for conformity to the approved design data and condition for safe operation of each end product that leaves his final assembly facility. The FAA holds the approval holder responsible for supplier produced defective components, even though the supplier who produced the component may have just been audited by the FAA, or the component had been issued a conformity certificate by an FCAA. Many U.S. approval holders have questioned the value of these audits/certifications, since they do not in any manner mitigate the approval holder's own ultimate responsibility for controlling his suppliers wherever they may be.

3. Some FCAAs have indicated to the FAA that they are finding it difficult to cope with the burden on their resources created by the FAA requests for conformity certification of components produced in their countries.

4. The FAA has received many complaints from U.S. manufacturers regarding the fees charged to them by the FCAAs for issuance of conformity certificates for components.

5. The statutory requirements for FAA surveillance of production approval holders are in Sections 603, 605, and 609 of the FA Act of 1958. Sections 603 and 605 essentially require inspections "during manufacture"; however, neither of these sections has been implemented by FARs that provide for the FAA to perform such inspections. The current provisions and procedures for surveillance and audits of production approval holders have been in FAA policy documents. On the other hand, Section 609 has been implemented in FAR 13.19, which essentially states in part that the Administrator may reinspect any "civil aircraft, aircraft engine, propeller, appliance, air navigation facility, or air agency", and, if as a result of such reinspection, safety or the public interest requires, the Administrator may issue an order amending, suspending, or revoking, all or part of any "production certificate", among others. Since there are no provisions in either the FA Act or FAR 13.19 that specifically require the FAA to conduct regularly scheduled audits of production approval holders, and since the FA Act and FAR 13.19 are silent with respect to suppliers to production approval holders, the intended meaning of inspection "during manufacture" is subject to interpretation. It would appear that the FAA's mandate to conduct reinspections and/or inspections during manufacture, without having routine, regularly scheduled audits, would be met by concentrating FAA inspection resources at the main facilities of a production approval holder, with particular emphasis on:

a. The monitoring of supplier activities through random audits of the approval holder's own system for supplier qualification, approval, and surveillance, without regard to where the suppliers may be located;

b. Conducting audits of suppliers on a random basis, using either FAA inspectors or designees, whenever a finding at the approval holder's main facility indicates problems or potential problems at either a domestic or foreign supplier; and,

c. Conducting random inspection of parts and components received from suppliers, as well as witnessing inspection and testing, to destruction if considered necessary, of first article(s) received at the production approval holder's domestic facility from new suppliers.

This proposed AC is intended to meet these objectives.

Issued in Washington, D.C. on March 1, 1982.

M. C. Beard,

Director of Airworthiness.

[AC 21–AA]

Advisory Circular

For Guidance Material

Subject: Procedures concerning supplier audits and implementation of bilateral airworthiness agreements.

1. *Purpose.* This advisory circular (AC) is to set forth revised procedures concerning Federal Aviation Administration (FAA) surveillance of suppliers to U.S. holders of FAA production approvals, and advises as to optional procedures outside the provisions of bilateral airworthiness agreements pertaining

to certification of foreign manufactured components.

2. *Information.* Federal Aviation Regulations (FAR) Part 21, Subparts F, G, K, and O require the establishment of an inspection/quality control system as a prerequisite to issuance of an FAA production approval, and maintenance of such system after the approval has been issued. One of the criteria for approval of an inspection/quality control system is the establishment by the applicant of requirements and procedures for ensuring that parts and components produced by suppliers conform to the approved design data and are in condition for safe operation. In the past, the FAA policy for monitoring supplier activity has been to conduct regularly scheduled audits of selected domestic suppliers, and, in the case of foreign suppliers, allow the use of only those in countries with which the U.S. has bilateral airworthiness agreements, and only when each component produced has been issued a conformity certificate (export certificate) by the Foreign Civil Air Authority (FCAA).

The FAA has reassessed its past policy concerning supplier surveillance, in light of current budgetary restraints, and problems experienced with the surveillance procedures with respect to foreign suppliers. Also considered was the ultimate responsibility of the production approval holder, for ensuring that each completed product, including supplier furnished articles, that leaves the holder's domestic production facility conforms to the approved design data and is in condition for safe operation. This responsibility is enforced without regard to where suppliers may be located, whether suppliers have been under FAA surveillance, or whether procured components have been certified under a bilateral airworthiness agreement.

It has been concluded that the safety objectives of the FAA will be met, without regularly scheduled audits of suppliers, by concentrating FAA resources at production approval holder's main domestic facilities, with emphasis on supplier controls and receiving inspection. The FAA will not, however, relinquish the authority or responsibility for reinspection of suppliers, either foreign or domestic, at anytime for cause, using either FAA inspectors or designees. The use of FCAAs to certify components produced in countries with which the U.S. has bilateral airworthiness agreements will be retained as an option, dependent upon individual circumstances.

3. *Applicability.* The procedures outlined in this AC do not apply to:

a. Components for prototype products used in FAA type certification programs; and,

b. Components used in completed products submitted for airworthiness certification or approval after a type certificate (TC) or design approval has been issued but before production approval has been granted; e.g., aircraft submitted for airworthiness certificates after the TC for the aircraft has been issued but before the newly TC'd aircraft has been added to the Production Limitation Record for the Production Certificate. Such components would require conformity inspection or verification by the FAA or its representatives, including foreign civil air authorities, unless the applicant for the TC provides assurance to the FAA that completed products will not be presented to the FAA for airworthiness certification or approval until the production approval has been granted.

4. *Procedure.* a. The following supersedes information pertaining to supplier selection and eligibility currently in AC 21-1, Production Certificates; AC 21-303.1A, Certification Procedures for Products and Parts; and FAA Order 8120.2A Production Approval and Surveillance Procedures. These documents will be amended to incorporate these procedures.

b. The holder of an FAA production approval issued under FAR Part 21, Subpart F, G, K, or O may use suppliers in any location, either domestic or foreign, for components covered by such approvals, provided that the following basic criteria have been met:

(1) The approval holder must establish and document procedures under which suppliers are qualified, and the system that the approval holder has in place to ensure conformity and condition for safe operation of each article produced by suppliers. This system must be FAA approved and is subject to audit by the FAA or its representative at anytime;

(2) The approval holder may not use a supplier in a foreign country whose authorities would prohibit the entry into the country of FAA personnel or representatives, or inhibit in any manner a proposed audit by the FAA of an approval holder's system to oversee the performance of a supplier in that country. (The FAA would *not* audit the quality control system of the foreign manufacturer—only the control system established by the U.S. approval holder);

(3) The system approved under 4b.(1) must include procedures whereby first articles produced by foreign suppliers are subjected to inspection, including destruction as needed, to verify that the articles conform to the type design and are in condition for safe operation. More than one article may require such inspection until the production consistency of the supplier is verified;

(4) The approval holder must make his domestic and foreign supplier lists available to the FAA upon request; and,

(5) The approval holder must keep the FAA informed of each proposed new supplier located in a foreign country, and the receipt of first articles produced by such suppliers. The FAA may witness the inspections required under subparagraph 4b.(3).

c. When a supplier is located in a country with which the U.S. has a bilateral airworthiness agreement, the approval holder has the option of either meeting the criteria in paragraph 4b, or using the bilateral agreement provisions for conformity certificates issued by the FCAA for each component. Notification of the intention to use bilateral agreement procedures should be made to the FAA office that has jurisdiction over the production approval holder's domestic facilities.

d. With the exception of the changes with respect to supplier eligibility and the cessation of scheduled audits, the procedures in Order 8120.2A concerning audit methods, handoff procedures, etc., will be applicable in the case of suppliers that have been selected for audit.

e. Suppliers located in foreign countries may ship components directly to a user, without the components first being processed through the U.S. approval holder's domestic facilities, only if the U.S. approval holder:

(1) Authorizes such shipment in writing, accepting full responsibility for the conformity to FAA approved design data and condition for safe operation of the components so shipped; and,

(2) Advises the FAA office that has jurisdiction over the production approval holder's domestic facilities of each authorization.

[FR Doc. 82-6128 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-82-6]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: March 29, 1982.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No.———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part II of the Federal Aviation Regulations (14 CFR Part II).

Issued in Washington, D.C., on March 1, 1982.

John H. Cassady,

Deputy Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought
22689	Arabian American Oil Company	14 CFR 61.58(c)	To permit petitioner's flightcrews to complete their entire 24-month pilot-in-command proficiency checks for the B-737 aircraft in FAA-approved visual flight simulators.
22557	Hawthorne Aviation	14 CFR 135.261	To permit petitioner to schedule its pilots for 8 to 9 consecutive hours of rest during the 24-hour period preceding the planned completion of the assignment.
22637	Clinchfield Coal Co	14 CFR 91.23(a)	To allow petitioner to reduce the required 45-minute IFR fuel reserve to 30 minutes for IFR operations conducted under Part 91 in a Bell 222 IFR certificated helicopter.
22621	Sun Refining and Marketing Company	14 CFR Part 91	To allow petitioner to operate a helicopter under the previous Subpart D governing large and turbojet-powered multiengine civil airplanes.
22634	Chesapeake & Potomac Airways, Inc	14 CFR 135.183(c)	To permit petitioner to conduct helicopter ambulance service over water without the helicopter being equipped with flotation devices.
22570	Des Moines Flight Service, Inc	14 CFR 141.25(b) (c) & (d)	To allow petitioner to employ Mr. Clyde Sievers as Chief Flight Instructor even though he does not meet all the requirements for that position.
22631	Executive Air Taxi Corporation	14 CFR 135.261(c)	To permit petitioner's pilots on helicopter emergency aerial medical evacuation service to be assigned and to accept duty during flight time with less than 10 consecutive hours of rest during the 24-hour period preceding the planned completion of the assignment.
22626	Pitts Aerobatics	14 CFR 45.29	To permit petitioner to display 2-inch marks on its aircraft instead of the required 12-inch marks.
22614	U.S. Parachute Assoc	14 CFR 91.14(a)(3); 14 CFR Part 125	To permit aircraft hired by petitioner to carry persons and property from the airport of takeoff to the site of the National Parachuting Championships and the National Collegiate Parachuting Championships and return; also to permit parachutists to sit on the floor or on military hoop-type seats along the fuselage shell.
22567	Air Transport Assoc	14 CFR 121.311(f)	To permit petitioner's member airlines to operate certain of their aircraft after March 6, 1982, without each flight attendant having a seat for takeoff and landing in the passenger compartment that meets the requirements of § 25.785 of FARs.
22636	Skybird Aviation, Inc	14 CFR 135.89(b)(3)	To permit petitioner to operate its aircraft without at least one pilot at the controls having to wear, secured and sealed, an oxygen mask.

Dispositions of Petitions for Exemption

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
22328	The Flying Tiger Line Inc	14 CFR 121.578	To permit petitioner to operate their B747-132 aircraft until August 20, 1982 without compliance with the provisions of the cabin ozone concentration regulations. *Withdrawn 2/10/82.*
21611	Falcon Jet Corporation	14 CFR 25.1326	To allow all owners and operators of Fan Jet Falcon and Fan Jet Falcon series C, D, E, and F aircraft equipped with a red pilot heat indicator light to continue to operate without changing the pilot heat indicator light to amber. *Withdrawn 2/4/82.*
22461	Cessna Aircraft Co	14 CFR 45.25(b) & 45.29(b)	To allow the use of 12-inch registration markings on the fuselage side that extend beyond the stabilizer leading edge and also allow 10-inch markings on the engine nacelles on Cessna Models 500, 550, 601, and 551 airplanes. *Partial grant 2/23/82.*
22418	Air Transport Association	14 CFR 63.39(b)(2)	To allow petitioner's members to conduct flight engineer training and certification in normal procedures in an airplane simulator rather than in flight. *Withdrawn 2/23/82.*
21335	The Balloon Federation of America	14 CFR Part 61	To permit petitioner to increase the experience required of applicants for private and commercial pilot certificates with a lighter-than-air free balloon (hot air) rating and also requests that the FAA establish a hot air balloon rating to be placed on flight instructor certificates and establish requirements to obtain that rating. *Denied 2/1/82.*
21991	United Air Lines, Inc	14 CFR 63.39 and 121.425(a)	To permit petitioner's flight engineers, flight engineers of other carriers, and flight engineer applicants being trained by UAL to show that: by the use of an approved pictorial means instead of an airplane, those persons can satisfactorily perform a preflight inspection; in an approved simulator using a line-oriented flight training (LOFT) program, a flight engineer applicant can satisfactorily perform the normal duties and procedures relating to the airplane, airplane engines, propellers (if appropriate), systems, and appliances; and in an approved simulator LOFT program, its flight engineers and flight engineers of other carriers can satisfactorily perform assigned duties accomplished from the flight engineer station during taxi, runup, takeoff, climb, cruise, descent, approach and landing. *Partial grant 2/17/82*
22434	Chalk's International Airline, Inc	14 CFR 61.151(a)	To permit Mr. James W. Tarr to obtain an airline transport pilot certificate before reaching his 23rd birthday. *Denied 2/17/82.*
22458	Western Airlines, Inc	14 CFR 61.39(a)(3) & 121.411(a)(5)	To permit petitioner to use check airmen in its B-727 simulator training program who do not hold Class III medical certificates. *Denied 2/17/82.*
20667	Air Transport Association of America	14 CFR 121.578	To permit petitioner to operation of cargo aircraft and four-engine narrow body aircraft after February 20, 1982, without compliance with the provisions of cabin ozone concentration regulations. *Granted 2/19/82.*
21802	Sowell Aviation, Co	14 CFR 141.65	To permit the petitioner to recommend graduates of FAA-approved courses for certification without further testing to include its FAA-approved courses for flight instructor certificates, airline transport pilot certification and ratings, and turbojet type rating courses. *Granted 2/19/82.*

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
19096	Air Transport Assoc	14 CFR 121.485	To permit petitioner's member airlines to fly more than 12 hours in any 24-consecutive-hour period provided the pilots received the periods of rest specified in the exemption. *Granted 2/18/82.*
21108	Executive Air Fleet Corporation	14 CFR 135.297(a)	Extention of Exemption No. 3203 which permits petitioner to use as pilots in command persons who have within the past 12 months completed an instrument proficiency check and, in addition, within the past 6 months have either completed an instrument proficiency check or trained to proficiency in an approved simulator. *Granted 2/11/82.*
22457	American Airlines	14 CFR 121.99 & 121.351(a)	To permit petitioner to operate its turbojet aircraft in extended overwater operations over the Gulf of Mexico to the Yucatan Peninsula using single Omega Navigation System as the primary means of navigation and also to operate on these routes with one of its two installed HF communications systems inoperative at the time of departure. *Granted 2/11/82.*
19114	The Flying Tiger Line, Inc	14 CFR 121.647(c) & 121.583(a)	To permit petitioner to carry a writer, journalist or photographer, on its B-747 and DC-8 all-cargo aircraft without complying with the passenger-carrying requirements of Part 121 of FARs. *Granted 2/17/82.*

[FR Doc. 82-6130 Filed 3-5-82; 8:45 am]
BILLING CODE 4910-13-M

Withdrawal of Policy Regarding Issuance of Designated Alteration Station Authorizations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of policy.

SUMMARY: This action lifts the moratorium on issuing new Designated Alteration Station (DAS) authorizations and on extending any existing DAS authorizations beyond their current scope. The moratorium was announced in the Notice of Policy Regarding Issuance of Designated Alteration Station Authorizations, published May 15, 1980, in the **Federal Register**. The moratorium is lifted as a result of the concurrent issuance of Advisory Circular AC 21.431-1, Designated Alteration Station Authorization Procedures, setting forth needed guidance material on DAS authorizations.

EFFECTIVE DATE: February 24, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur J. Hayes, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591 (Telephone (202) 426-8363).

SUPPLEMENTAL INFORMATION: On May 12, 1980, the Administrator approved a moratorium on the issuance of new Designated Alteration Station (DAS) authorizations and on the extension of any existing DAS authorization beyond its current scope, pending a review of operations under current authorizations and related regulations. The moratorium and review were announced in the Notice of Policy Regarding Issuance of Designated Alteration Station Authorizations (45 FR 32155) published May 15, 1980.

No major safety deficiencies were found in the DAS approvals reviewed as a result of regional audits. The accident and incident record does not indicate any deficiencies in DAS alterations. Accordingly, there is no justification from a safety standpoint to continue the moratorium, but the FAA has determined there is a need for additional guidance material on procedures, DAS technical staffing qualifications, and FAA participation, including definitive FAA audit procedures.

A notice was issued on June 18, 1981 (46 FR 32983; June 25, 1981) in which the availability of a draft advisory circular containing the additional guidance material was announced and comments were solicited. It was indicated that, after resolving the comments received and upon issuing the advisory circular, the FAA intended to withdraw the moratorium.

In view of the foregoing, I cancel the Notice of Policy Regarding Issuance of Designated Alteration Station Authorizations. The advisory circular is issued concurrently with this action.

This cancellation of policy is issued under the authority of sections 313(a), 314, 601(a), and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1355, 1421(a), and 1423); and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Washington, D.C., on February 24, 1982.

J. Lynn Helms,

Administrator.

[FR Doc. 82-6129 Filed 3-5-82; 8:45 am]
BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Executive Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Executive Committee to be held on March 26, 1982 at the General Aviation Manufacturers Association, 1025 Connecticut Avenue, NW., Suite 517, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Meeting Held on January 22, 1982; (3) Chairman's Report on RTCA Administration and Activities; (4) Special Committee Activities Report for Janaury and February, 1982; (5) Report by the Ad Hoc Group on Future Planning; (6) Report by the Fiscal and Management Sub-committee; (7) Consideration of Establishing new Special Committees; (8) Consideration of Report Prepared by the Ad Hoc Group on Microwave Landing System (MLS) Comments Review; and (9) Other Business.

Attendence is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, NW., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on February 26, 1982.

Karl F. Bierach,

Designated Officer.

[FR Doc. 82-6086 Filed 3-5-82; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

[Docket No. 81-04T]

Delaware River Port Authority Bridge Tolls; Order of the Administrator on Petitions for Reconsideration

In his Order dated January 18, 1982, the Administrator held that the toll schedule adopted by the Delaware River Port Authority (DRPA), effective September 1, 1981, is reasonable and just and that no formal administrative hearing needs to be held. The Order further dismissed all the complaints and limited the effect of his Order on the toll rates to a period of 2 years and 6 months, measured from September 1, 1981.

Upon receipt of the Order dated January 18, 1982, two of the parties each subsequently filed a Petition for Reconsideration. In its Petition, the DRPA has requested that the Administrator reconsider and delete from his Order the language purporting to "freeze" the tolls (Order, p. 23). Metro Cab, Inc., in its Petition, has requested that the Administrator reconsider his dismissal of Metro Cab, Inc.'s complaint regarding DRPA's action in excluding pasenger vehicles for hire from participating in a special reduced toll rate program.

DRPA Petition

The Petition for Reconsideration submitted by DRPA set forth a cogent argument as to why the Administrator, in this particular case, exceeded his authority in limiting the effect of his Order. A review of the Bridge Toll Procedural Rules, 49 CFR Part 310, convinces this Administrator that the various clauses, when read in pari materia, do give the Administrator the authority to prescribe *new* toll rates and limit their effect for a specific period of time, but only after the Administrator has determined that the recently increased toll rates are not reasonable and just. Therefore, the Administrator orders that the first three paragraphs on page 23 of the original Order, all relating to the requirement that the current toll rate schedule remain in effect for a period of 2 years and 6 months from September 1, 1981, be deleted from the Order dated January 18, 1982.

Metro Cab, Inc., Petition

The Petition for Reconsideration submitted by Metro Cab, Inc., repeats many of the arguments set forth in its original complaint. These were fully addressed in the January 18, 1982, Order. That Order specifically addressed the concerns of Metro Cab., Inc., by discussing the following:

1. On page 8—Allegation that the elimination of toll discounts for passenger vehicles for hire is a burden on interstate commerce and is an unfair competitive practice.

2. Page 18—fairness to the bridge user, including passenger vehicles for hire.

3. Page 21—Whether it was reasonable for the DRPA to discontinue a discounted toll for passenger vehicles for hire.

The Petition also attempts to present what appears to be a new legal arguments; including the denial of equal protection, discrimination against interstate commuters who use public vehicles for hire, infringement on the right to travel, and no reasons articulated for denying the discounted toll rate.

The above issues are closely related to the arguments set forth in the original Complaint of Metro Cab., Inc. As indicated above, these were addressed in the previous Order, and need not be addressed further.

There is nothing in this case which would constitute infringement of any constitutional rights. If an individual crosses a DPRA bridge, that person would be required to pay the base fare of $0.75, unless fitting into a category which qualifies for a reduced toll *or* which is required to pay a higher toll. The bottom line, after sifting through all their arguments, is that someone must pay the base rate of $0.75 when a passenger vehicle for hire crosses one of the DPRA bridges. If the passenger pays it, we would not be considerating this Petition. In fact, no passenger who must pay the toll, because they use vehicles for hire belonging to other companies, has filed a complaint. The act that Metro Cab., Inc. continues to pay the bridge tolls, instead of the passenger, is a business decision. (See Order p. 21), which should not affect the authority of the DRPA to set differing tolls for various classes of users, (Order, p. 18-19). The Petition for Reconsideration of Metro Cab., Inc. is denied.

Issued this 26th day of February 1982.

R. A. Barnhart,

Federal Highway Administrator.

[FR Doc. 82-6127 Filed 3-5-82; 8:45 am]
BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. IP82-7; Notice 1]

General Motors Corp.; Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

General Motors Corp., of Warren, Michigan (GM) has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps Reflective Devices and Associated Equipment*, on the basis that it is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

The noncompliance is found on over 15,000 1982 model Pontiac Bonneville passenger cars. Paragraph S4.6(b) of Standard No. 108 requires, in essence, that the parking lamp be steady-burning when in use. The GM system complies when the lamp is used as a parking lamp, but because it is "electrically tied" to the front side marker lamps, flashes when the turn signal or hazard warning lamps are activated. The Pontaic design is a two-cavity lamp, the inboard one functioning both as a turn signal and parking lamp, and the outboard one only as a parking lamp. There are two distinct aspects to the noncompliance. When the headlamp switch is off and the turn signal or hazard lamps are activated, the front side marker and outboard parking lamps flash simultaneouly and in sequence with the inboard turn signal or hazard warning lamps. But if the headlamp switch, is on, the front side marker and outboard parking lamps flash out of sequence with the others.

GM argues that the noncompliance herein described is inconsequential because the flashing of the outboard parking lamp with its two candlepower bulb does not impair the effectiveness of the turn signal or hazard warning signal lamps. Even assuming that the flashing of the low candlepower bulb is discernible, it "can only add to the conspicuity of the required signalling."

Interested persons are invited to submit written data, views and arguments on the petition of General

Motors Corp., described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that five copies be sumitted.

All comments received before the close of business on the comment closing date indicated below will be considered.

The application and supporting materials and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the Federal Register pursuant to the authority indicated below.

The engineer and attorney principally responsible for this notice are Marx Elliott and Taylor Vinson, respectively.

Comment closing date: April 5, 1982.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on February 25, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-5699 Filed 3-5-82; 8:45 am]

BILLING CODE 4910-59-M

VETERANS ADMINISTRATION

Advisory Committee on Former Prisoners of War; Meeting

The Veterans Administration gives notice under 38 U.S.C. 221 that a meeting of the Advisory Committee on Former Prisoners of War will be held in the Omar N. Bradley Conference Room at the Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC 20420, on March 30 and 31, 1982. The purpose of the Committee is to consult with the advise the Administrator of Veterans' Affairs on the administration of benefits under title 38, United States Code, for veterans who are former prisoners of war and on the needs of such veterans with respect to compensation, health care, and rehabilitation.

The sessions will convene at 9 a.m. both days. These sessions will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Miss Linda Gardner, Administrative Assistant to the Chief Benefits Director, Veterans Administration Central Office (phone 202/389-2455) prior to March 23, 1982.

Members of the public may direct questions or submit prepared statements for review by the Committee in advance of the meeting, in writing only, to Mr. H. B. Mars, Deputy Director, Compensation and Pension Service, Department of Veterans Benefits, Room 400, Veterans Administration Central Office. Submitted material must be received at least five days prior to the meeting. Such members of the public may be asked to clarify submitted material prior to considertion by the committee.

Summary minutes of the meeting and rosters of the Committee members may be obtained from Miss Linda Gardner at the aforementioned address.

Dated: March 2, 1982.

Charles T. Hagel,

Deputy Administrator.

[FR Doc. 82-6178 Filed 3-5-82; 8:45 am]

BILLING CODE 8320-01-M

Advisory Committee on Structural Safety of Veterans Administration Facilities; Meeting

The Veterans Administration gives notice under Pub. L. 92-463 that a meeting of the Advisory Committee on Structural Safety of Veterans Administration facilities will be held in Room 442, of the Lafayette Building, 811 Vermont Avenue, NW, Washington, DC on April 2, 1982, at 10 a.m. The committee members will review Veterans Administration construction standards and criteria relating to fire, earthquake and other disaster resistant construction.

The meeting will be open to the public up to the seating capacity of the room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. Richard D. McConnell, Director, Civil Engineering Service, Office of Construction, Veterans Administration Central Office (phone 202-389-2864) prior to March 26, 1982.

Dated: March 2, 1982.

Charles T. Hagel,

Deputy Administrator.

[FR Doc. 82-6177 Filed 3-5-82; 8:45 am]

BILLING CODE 8320-01-M

Medical Research Service Merit Review Boards; Charter Renewals

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), the Veterans Administration announces renewal of the following Merit Review Boards in designated medical specialties for the period February 4, 1982 through February 4, 1984:

Merit Review Board for Basic Science Programs
Merit Review Board for Mental Health and Behavioral Science Programs (formerly Merit Review Board for Behavioral Science Programs)
Merit Review Board for Cardiovascular Programs
Merit Review Board for Clinical Pharmacology, Alcoholism and Drug Dependence Programs
Merit Review Board for Endocrinology Programs
Merit Review Board for Gastroenterology Programs
Merit Review Board for Hematology Programs
Merit Review Board for Immunology Programs
Merit Review Board for Infectious Disease Programs
Merit Review Board for Nephrology Programs
Merit Review Board for Neurobiology Programs
Merit Review Board for Oncology Programs
Merit Review Board for Respiration Programs
Merit Review Board for Surgery Programs

New charters for these committees have been filed in accordance with sections 9 and 14 of Pub. L. 92-463.

Dated: March 2, 1982.

Charles T. Hagel,

Deputy Administrator.

[FR Doc. 82-6175 Filed 3-5-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 45
Monday, March 8, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL CROP INSURANCE CORPORATION

[NOM-82-2]

TIME AND DATE: 8:30 a.m., Tuesday, March 9-10, 1982.

PLACE: Room 201-W, Administration Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Tree Insurance.

CONTACT PERSON FOR MORE INFORMATION: Peter F. Cole, Secretary, 202-447-3325.

Dated: March 1, 1982.

Federal Crop Insurance Corporation.

Peter F. Cole,

Secretary.

[S-347-82 Filed 3-4-82; 10:18 am]

BILLING CODE 3410-08-M

2

FEDERAL ENERGY REGULATORY COMMISSION

Notice of meeting.

March 3, 1982.

TIME AND DATE: 10 a.m., March 10, 1982.

PLACE: Room 9306, 825 North Capitol Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda—745th Meeting, March 10, 1982, Regular Meeting (10 a.m.)

CAP-1. Project No. 4854-002, Joe G. Paesano
CAP-2. Project No. 4024-000, Gregory Wilcox; Project No. 4569-000, City of Montrose, Colorado
CAP-3. Project No. 4122-000, Kern County Water Agency; Project No. 3515-000, Fluid Energy Systems, Inc.; Project No. 4129-001, Olcese Water District
CAP-4. Project No. 5351, Tehama County Flood Control and Water Conservation District
CAP-5. Omitted
CAP-6. Project Nos. 4161, 4162, 4163, and 4164, Sierra Pacific Power Co.
CAP-7. Project No. 2965-000, East Coast Energy Technology, Inc.; Project No. 3040-000, New Hampshire Water Resources Board; Project NO. 3254-000, Concord Electric Co.
CAP-8. Project NO. 3427-000, Cascade Waterpower Development Corp.; Project No. 3867-000, Stanfield Irrigation District & Westland Irrigation District; Project No. 4136-000, Energenics System, Inc.
CAP-9. Project No. 3982-000, Utilities Board of the City of Lamar, Colo.
CAP-10. Project No. 3526-000, Harrison Western Corp.
CAP-11. Docket No. E-6454, City of Centralia
CAP-12. Docket No. EI81-16-000, National Renewable Resources, Inc.
CAP-13. Docket No. ER81-779-000, Pennsylvania Power Co.
CAP-14. Docket No. ER82-146-000, Commonwealth Edision Co.
CAP-15. Docket No. ER82-229-000, Alabama Power Co.
CAP-16. Omitted
CAP-17. Docket No. ER82-211-000, Utah Power & Light Co.
CAP-18. Docket No. ER81-679-003, Pacific Gas & Electric Co.
CAP-19. Docket No. ER82-233-000, Consolidated Edison Co. of New York, Inc.
CAP-20. Docket No. ER82-223-000, The Washington Water Power Co.
CAP-21. Docket No. ER81-387-002, Central Power & Light Co.
CAP-22. Docket No. ER81-450-000, Union Electric Co.; Docket No. ER81-461-000, Missouri Edison Co.
CAP-23. Project No. 5358-001, Woods Creek, Inc.; Project No. 5404-000, Puget Sound Power & Light Co.; Project No. 5428-000, Lawrence J. McMurtrey (Martin Creek Project)
CAP-24. Project No. 4300-001, Toulumne Regional Water District; Project No. 1061-000, Pacific Gas & Electric Co.
CAP-25. Project No. 3760-001, Franklin Industrial Complex, Inc.

Miscellaneous Agenda

CAM-1. Docket No. RM81-7, Exemption from the licensing requirements of Part 1 of the Federal Power Act of certain categories of small hydroelectric power projects with an installed capacity of 5 megawatts or less
CAM-2. Docket No. RM82-10, Revision of power system statement, Form No. 12
CAM-3. Docket No. RM79-76 (Wyoming—8), High-cost gas produced from tight formations
CAM-4. Docket No. RM79-76 (Texas—3 addition), high-cost gas produced from tight formations
CAM-5. Docket No. RM79-76 (Texas—17), high-cost gas produced from tight formations
CAM-6. Omitted
CAM-7. Omitted
CAM-8. Docket No. SA81-11-000, Gasco, Inc.

Consent Gas Agenda

CAG-1. Omitted
CAG-2. Docket Nos. ST81-194-000 and CP81-232-000, Northwest Alabama Gas District
CAG-3. Docket Nos. AR 61-2, et al. and RP80-75, Southern Natural Gas Co.
CAG-4. Docket Nos. CI77-41-000 and CI77-41-001, Mobil Oil Exploration & Producing Southeast, Inc.
CAG-5. Docket No. CI82-36-000, Sun Oil Co.; Docket No. CI82-65-000, Kerr-McGee Corp.; Docket No. CI82-69-000, Mobile Producing Texas & New Mexico inc.; Docket Nos. CI73-630-002, and CI76-886-003, Arco Oil and Gas Co.; Docket No. CI82-58-000, Marathon Oil Co.; Docket No. CI82-62-000, Texas Eastern Exploration Co.;Docket No. CI82-35-000, Amoco Production Co.; Docket No. CI82-155-000, Exxon Corp.
CAG-6. Docket Nos. RP73-110, RP74-98, RP75-108, RP76-106, RP77-98, RP76-78, RP80-107 and TA80-2-28 (AP80-2), Natural Gas Pipeline Co. of America.
CAG-7. Docket No. CP81-161-000, United Gas Pipe Line Co. and Florida Gas Transmission Co.
CAG-8. Docket Nos. CP81-408-000, and CP80-207-001, Michigan Wisconsin Pipe Line Co.
CAG-9. Docket Nos. CP81-378-000, CP81-402-000, CP81-402-001, CP81-417-000 and CP81-417-001, Texas Eastern Transmission Corp.
CAG-10. Docket No. CP81-360-000, El Paso Natural Gas Co.
CAG-11. Docket No. CP79-206-001, Columbia Gas Transmission Corp.
CAG-12. Docket No. CP80-435, Alaskan Northwest Natural Gas Transportation Co.
CAG-13. Docket No. TC81-63-000, South Georgia Natural Gas Co.; Docket No. TC81-64-000, Southern Natural Gas Co.
CAG-14. Docket No. RP80-121, United Gas Pipe Line Co.

Power Agenda

I. Licensed Project Matters

P-1. Omitted
P-2. Project No. 2803-001, BSR Co., Inc.
P-3. Omitted
P-4. Project No. 3592-000, Fluid Energy Systems, Inc.; Project No. 4125-000, Kern County Water Agency; Project No. 4805-001, Bloom Field Ranch Hydropower Project.

II. Electric Rate Matters

ER-1. Omitted
ER-2. Docket No. ER82-225-000, Resources Recovery (Dade County) Inc.

Miscellaneous Agenda

M-1. Docket No. OF81-25-000, Tulsa Energy Corp.
M-2. Omitted
M-3. Reserved
M-4. Reserved
M-5. Docket No. RM82- , Fees Applicable to general activities
M-6. Omitted
M-7. Docket No. GP80-9-000, Equitable Gas Co.

Gas Agenda

I. Pipeline Rate Matters

RP-1. Docket No. TA81-2-000, (PGA81-2, et al.), Tennessee Gas Pipeline Co., a Division of Tenneco Inc.
RP-2. Docket No. IS81-165-000, Shell Pipe Line Corp.; Docket Nos. IS81-11-000, et al., Amoco Pipe Line Co.; Docket No. IS81-32-000, Chicap Pipe Line Co.; Docket No. IS81-116-000, et al., Cities Service Pipe Line Co.; Docket No. IS81-67-000, et al., Marathon Pipe Line Co.; Docket No. IS80-63, et al., Mid-Valley Co.; Docket No. IS81-77-000, et al., Phillips Pipe Line Co.; Docket No. IS81-58-000, Pure Transporation Co.;
RP-3. Omitted

II. Producer Matters

CI-1. Omitted

III. Pipeline Certificate Matters

CP-1. Docket No. CP79-80, Trailblazer Pipeline Co.; Overthrust Pipeline Company and Colorado Interstate Gas Co.; Docket No. CP80-7, Mountain Fuel Supply Corp.; Docket No. CP80-380, Northern Natural Gas Co.
CP-2. Docket No. CP81-505-000, Pacific Gas Transmission Co.; Docket No. CP83-22-000, Pacific Interstate Transmission Co.
CP-3. Docket No. CP81-274-000, Transcontinental Gas Pipe Line Corp.
CP-4. Docket No. CP82-130-002, Distrigas Corp.

Kenneth F. Plumb,
Secretary.

[S-348-82 Filed 3-4-82; 9:48 pm]
BILLING CODE 6720-01-M

3

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 8725, Monday, March 1, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Thursday, March 4, 1982.

PLACE: Board Room, 6th floor, 1700 G Street, N.W., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

CHANGES IN THE MEETING: The Bank Board meeting scheduled for Thursday, March 4, 1982 has been cancelled.

[No. 16, March 4, 1982]

[S-349-82 Filed 3-4-82; 10:32 am]
BILLING CODE 6720-01-M

4

INTERNATIONAL TRADE COMMISSION

[USITC SE-82-10]

TIME AND DATE: 10 a.m., Thursday, March 18, 1982.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigation 337-TA-99 (Molded-In Sandwich Panel Inserts and Methods for Their Installation)—briefing and vote.
6. Investigation 731-TA-42 (Final) (Motorcycle Batteries from Taiwan)—briefing and vote.
7. Investigations 701-TA-146/150 (Preliminary) and Investigation 731-TA-88 (Preliminary) (Carbon Steel Wire Rod from Belgium, Brazil, France, and Venzuela)—briefing and vote.
8. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-346-82 Filed 3-4-82; 10:18 am]
BILLING CODE 7035-02-M

5

NUCLEAR REGULATORY COMMISSION

DATE: Friday, March 5 (Revision #2).

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Friday, March 5: 10:00 a.m.: Discussion of Clinch River Breeder Reactor.

ADDITIONAL INFORMATION: By a vote of 3-0 on March 2, the Commission determined pursuant to 5 U.S.C. 552b(e) and § 9.107a of the Commission's Rules that Commission business required that the Affirmation of Indian Point Order, held that day, be held on less than one week's notice to the public.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Walter Magee,
Office of the Secretary.
March 4, 1982.

[S-351-82 Filed 3-4-82; 3:57 pm]
BILLING CODE 7590-01-M

6

POSTAL SERVICE

(Board of Governors)

Notice of Vote To Close Meeting

On March 1, 1982, the Board of Governors of the United States Postal Service voted to close to public observation its meeting scheduled for April 5, 1982. Except for Governor Sullivan, who was absent, each of the members voted in favor of closing this meeting, which is expected to be attended by the following persons: Governors Hardesty, Babcock, Camp, Hughes, Jenkins and Sullivan; Postmaster General Bolger; Deputy Postmaster General Benson; Secretary of the Board Cox; Counsel to the Governors Califano; and Assistant Postmaster General Cummings.

The meeting to be closed will consist of a discussion of Postal Service strategic planning.

The Board is of the opinion that public access to this discussion would be likely to disclose information in connection with future collective bargaining and information that will become involved in future rate litigation.

Accordingly, the Board of Governors has determined that, pursuant to section

552b(c)(3) of title 5, United States Code, and § 7.3(c) of Title 39, Code of Federal Regulations, the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)), because it is likely to disclose information in connection with proceedings under chapter 36 of Title 39 (having to do with postal ratemaking, mail classification, and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39. The Board determined further that, pursuant to section 552b(c)(10) of title 5 and § 7.3(j) of Title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding or the initiation of a particular case involving a determination on the record after opportunity for a hearing. It also determined, pursuant to section 552b(c)(9)(B) and § 7.3(i) of Title 39, Code of Federal Regulations, that the discussion is exempt because premature disclosure of information to be discussed would be likely significantly to frustrate implementation of future action in regard to future collective bargaining. The Board further determined that the public interest does not require that the Board's discussion of this matter be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and § 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3), (9)(B) and (10) of title 5 and sections 410(c) (3) and (4) of title 39, United States Code, and § 7.3 (c), (i), and (j) of Title 39, Code of Federal Regulations.

Louis A. Cox,
Secretary.

[S-350-82 Filed 3-4-82; 10:02 am]
BILLING CODE 7710-12-M

V 47/45 MR 8 82

federal register

Monday
March 8, 1982

Part II

Department of Agriculture

Agricultural Stabilization and Conservation Service

Peanuts; Poundage Quota Regulations for the 1982 Crop of Peanuts

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 729

Poundage Quota Regulations for the 1982 Crop of Peanuts

AGENCY: Agricultural Stabilization and Conservation Service, USDA

ACTION: Proposed rule.

SUMMARY: This proposed regulation sets forth the rules for establishing State and farm poundage quotas, farm yields, transfers of quota, determination of undermarketings, and issuance of farm quota notices to implement the Agriculture and Food Act of 1981 for the 1982 crop of peanuts. The rules for identification of marketings, assessment of marketing penalties, and processing of violations, will be issued in a later publication in the **Federal Register**. The most significant provisions of this regulation are the determination of farm poundage quota reductions, determination of under marketings, and transfers of farm poundage quotas. The promulgation of this rule is necessary in order that State and farm poundage quotas may be established for the 1982 crop of peanuts.

DATE: Comments must be received on or before March 23, 1982 in order to be assured of consideration.

ADDRESS: Send comments to the Director, Tobacco and Peanuts Division, ASCS, Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. All written submissions made pursuant to this notice will be made available for public inspection in Room 5750 South Building USDA, between the hours of 8:15 and 4:45, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Bruce D. Starnes (ASCS), 202–382–0150. An impact analysis is currently being prepared and will be available for review prior to publication in the Final Rule.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures and Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major." It has been determined that this rule will not result in: (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, industries, Federal, State or local governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program that this final rule applies to are: Commodity Loans and Purchases; 10.051; as found in the Catalog of Federal Domestic Assistance. This proposed rule will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local governments are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since the Department of Agriculture is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

The planting season for peanuts will begin in late March and farmers need to know the details of the peanut program authorizing price support and poundage quotas for the 1982 through 1985 crops of peanuts. Poundage quotas establish eligibility for the $550 per ton quota price support and are an important part of a farmer's financial arrangements to cover production costs such as land preparation, fertilizer, seed, and other similar costs. Therefore, it has been determined that the comment period with respect to this rule shall be limited to a period of 15 days after the publication of this document in the **Federal Register** in order that comments received can be reviewed and a Final Rule can be published at the earliest possible date.

Statutory Requirements

The Agriculture and Food Act of 1981 (the Act), Which was enacted on December 22, 1981, amended the Agricultural Adjustment Act of 1938 and the Agricultural Act of 1949 to make significant changes in the administration of the peanut production and price support program. The Act abolishes acreage allotments for peanuts, thus permitting anyone to produce and market peanuts, under certain conditions, without penalty. The Act provides that the national poundage quota for peanuts will be reduced from 1,440,000 tons in 1981 to 1,200,000 tons for the 1982 crop. The poundage quota is the amount of peanuts entitled to be marketed from a farm directly for domestic edible use. Any peanuts produced on a farm without a farm poundage quota or in excess of the farm poundage quota are classified as additional peanuts and must be contracted for export or crushing by April 15, or placed at harvest in the price support loan pool for additional peanuts. Quota peanuts are eligible for price support at a rate of $550 per ton. The support level for additional peanuts is $200 per ton.

The Act requires that a farm poundage quota be established for each individual farm based on the farm poundage quota established for such farm for the 1981 crop, subject to a reduction which will result in the total of all farm poundage quotas being 1,200,000 tons, the 1982 national poundage quota. The Act specifies that the reduction in poundage quota allocated to States:

". . . shall insofar as practicable and on such fair and equitable basis as the Secretary may by regulation prescribe, be accomplished by reducing the farm poundage quota for each farm in the State to the extent that the farm poundage quota has not been produced on such farm. For purposes of the foregoing sentence, the farm poundage quota shall be considered as not having been produced on a farm to the extent that (i) during any crop year immediately preceding the crop year for which the adjustment is being made, such quota was not actually produced on the farm because there was inadequate tillable cropland available on the farm to produce such quota; or (ii) during any two of the three crop years immediately preceding the crop year for which the adjustment is made: (I) such quota was not actually produced for any other reason (other than natural disasters or such other reasons as the Secretary may prescribe), or (II) such quota was produced but by another operator on a farm to which the poundage quota (or the acreage allotment upon which such poundage quota was based) was transferred by lease. To achieve the reduction in the State poundage quota in any marketing year, the reductions in farm poundage quotas shall be made first under clause (i) of the preceding sentence and, if necessary, under clause (ii)(I) and then clause (ii)(II) thereof."

This proposed regulation sets forth the procedures for the establishment of farm poundage quotas and other terms and conditions of the program affecting the production of peanuts, such as transfers of quotas and the determination of yields. These regulations are based on previous regulations applicable to 1978–81 crops with respect to farm yields and the establishment of the farm poundage quotas, with modifications designed to reflect changes made by the 1981 Act. The primary impact of these regulations is to establish the manner in which the individual farm poundage quotas will be determined.

Reduction in Individual Farm Poundage Quotas

Basically, the Act sets forth farm poundage quota reduction categories for the purpose of establishing priorities in determining individual farm poundage quota reductions. The first category is for farms which did not actually produce peanuts on the farm because there was inadequate tillable cropland available on the farm to produce the quota quantity in the preceding crop year. The second category consists of those farms where peanuts were not actually produced in two out of the three preceding years except in those situations where peanuts were not produced because of a natural disaster or other such reason as prescribed by the Secretary. The third category consists of those farms for which the quota quantity was produced but by another operator on a farm to which the quota (allotment) had been transferred by lease two out of the three preceding years. The fourth category consists of all farms which were not reduced to a zero poundage quota under the first three categories or were not affected by reductions in the first three categories.

The Act requires the Secretary, insofar as practicable, to make reductions in this order and in accordance with such regulations as the Secretary determines to be fair and equitable.

During the development of this proposed rule, however, it has become apparent that there are a large number of farms falling into the third category. It has also become apparent that the application of the poundage quota reduction to farms in the third category might, in some instances, cause significant individual hardships and the disruption of normal production practices in a number of peanut growing areas. In particular, because of the late date on which the Act became law, the Department has had inadequate time to gather sufficient information upon which to evaluate the impact of reductions of farm poundage quotas in the third category. Moreover, producers have had to prepare for planting the 1982 crop of peanuts without knowing the specific manner in which the Department intended to implement the poundage quota reductions mandated by the Act.

In view of this situation, the Secretary proposes that in order to implement the Act in a fair and equitable manner, no individual farm poundage quota reductions should be made in the third category for the 1982 crop. Instead, a uniform State factor would be applied to all farms in the State if the poundage quota reductions in the first category and second category are insufficient to meet the required overall reduction in the State poundage quota.

This proposed rule would apply to the 1982 crop of peanuts only. It is anticipated that proposed regulations will subsequently be issued for the 1983 through 1985 crops of peanuts which will set forth procedures for reducing farm poundage quotas for farms in the third category. They will also afford the Department adequate time to analyze thoroughly the impact of reducing farm poundage quotas for farms in the third category.

Therefore, for purposes of the 1982 crop only, the proposed rule defines the categories of farms in which poundage quota reductions will be made as follows:

A. *Category 1. Inadequate Tillable Cropland.* Adequate tillable cropland is land determined by the county committee for the preceding crop year to be: (1) suitable for the production of peanuts; and (2) land on which a seedbed could have been prepared and a normal crop produced using practices and equipment normally used in the county for planting peanuts. Land not considered suitable for the production of peanuts includes, but is not limited to, established orchards, vineyards, one-row shelter belts, land seeded to trees, and land being prepared for housing developments, shopping centers, or other noncrop uses as determined by the county committee.

B. *Category 2. Non-production of the quota during two out of the three preceding years.* In this category, the farm poundage quota shall be reduced for the current year to the extent that the county committee determines that peanuts were not actually produced during two out of the three years of the base period, except when the county committee determines that the quota quantity was not produced because of natural disasters or other reasons beyond the control of the producer. Such reasons include:

(1) The farm or poundage quota was purchased after the latest normal 1980 planting date but was produced on the farm in 1981. This condition will apply only to establishing the farm poundage quota for such farm for the 1982 crop.

(2) The farm allotment (poundage quota) was in the Eminent Domain pool.

(3) The farm poundage quota was apportioned to the farm from the new farm reserve and produced in 1981. The considered produced credit for 1980 shall not exceed the produced and considered produced poundage quota for such farm for 1981 and shall apply only to establishing the farm poundage quota for the 1982 crop.

C. *Category 3. Farms not reduced to zero in categories 1 or 2.* A uniform State factor will be determined and applied against the preliminary farm poundage quotas on all farms not reduced to zero in the first two reduction categories. Because each State's reduction will be made independent of other States, the application and size of the factor may vary with respect to categories between States. Included in this group will be farms that received a partial reduction in categories 1 or 2 and still retained farm poundage quota. Also, some farms may be reduced in one or two categories prior to a factor being applied because of a combination of circumstances. For example, a farm may take a partial reduction in category 1 because of inadequate tillable cropland and also a reduction for not producing in category 2.

D. *Calculation of the farm poundage quota reduction in categories 1 or 2.* Calculations of farm poundage quota reductions will be done by individual categories in order of priority. In category 1, the reduction will equal the amount of nonproduction of the farm poundage quota that is attributable to inadequate tillable cropland during the previous crop year. In category 2, the reduction will be based on the average of the two highest percentages of nonproduction of the farm poundage quota during the three base period years. The amount of the reduction would equal: (1) the product of the average percentage *times* the preliminary farm poundage quota, *minus* (2) the amount of any reduction made under category 1, but may not be less than zero. The amount of reduction under category 1 is subtracted in order to prevent a duplication of reductions between the two categories. Otherwise, the cumulative effect of reductions in categories 1 and 2 could cause the farm poundage quota to be reduced below the amount of actual marketings of quota peanuts on the farm during the base period years.

The following is an example of how the calculations described above would be made. The example assumes that the farm poundage quota for each of the base period years (1979, 1980, and 1981) was 50,000 pounds, and that the preliminary farm poundage quota for 1982 is also 50,000 pounds.

EXAMPLE OF QUOTA REDUCTION CALCULATIONS

[All numbers in pounds]

	Year		
	1979	1980	1981
Inadequate tillable cropland			10,000
Nonproduction of quota	5,000	15,000	10,000
Actual production of quota	45,000	35,000	40,000

Category 1

Amount of nonproduction due to inadequate tillable cropland = 10,000
Potential reduction = 10,000

Category 2

Two highest percentages of non-production = 15,000 divided by 50,000 = .3 (1980)
Average of two highest percentages = .25
Potential reduction (average percentages × preliminary farm poundage quota) − Category 1 reduction = .25 (50,000) minus 10,000 = 2,500
Total Potential Reduction (Category 1 plus 2) = 12,500
1982 Adjusted Preliminary Farm Poundage Quota = 50,000 minus 12,500 = 36,500*

Reserve for Correction of Errors

The Act requires the Secretary to reduce the farm poundage quota on farms in the States on such fair and equitable basis as is practicable. To accomplish this objective, the proposed rule would require the State committee to establish a State reserve for the correction of errors. The reserve would not exceed 2 percent of the State poundage quota and would be allocated to counties upon request. The reserve will be used to the extent available to correct errors including, but not limited to, missed farms and errors in establishing preliminary farm poundage quotas. Requests for reconsideration and appeal may be made under the provisions of 7 CFR Part 780.

Other Significant Considerations

The Act also modified or affected the terms and conditions for transfers of quota, carryover of undermarketings, farm yields, and quota in the Eminent Domain pool.

(a) *Farm poundage quota transfers.* The Act now allows transfers by lease or sale across county lines within a State in those States which had a State poundage quota of 10,000 tons or less for the 1981 crop. Those States are: Arizona, Arkansas, California, Louisiana, Missouri, Mississippi, New Mexico, and Tennessee. In addition, the owner or the operator of a farm may transfer all or any part of a farm's poundage quota to another farm in the same county or a contiguous county within the State that is owned or controlled by the owner or operator of the transferring farm. If the owner or operator transfer is across county lines, the receiving farm must have had a farm poundage quota for the 1981 crop.

(b) *Carryover of undermarketings.* The Act provides for undermarketings to be cumulative beginning with unused undermarketings from the 1980 crop. Each farm's unused undermarketings will be pooled for each farm under this proposed regulation and carried forward until used or until the authority to carry out this program expires. The total of all farm pooled undermarketings for all States will continue to be subject to the 10 percent maximum carryover for any given crop year. Consistent with previous practice, transfers of actual and effective undermarketings will not be permitted.

(c) *Farm yields.* The Act continues the same base period (i.e. 1973 through 1977) for determining farm yields as was applicable under previous legislation. Farm yields will not, therefore, change significantly.

(d) *Quota in the Eminent Domain pool.* Producers who had farm poundage quota displaced and pooled through the right of eminent domain prior to December 22, 1981 will have a preliminary farm poundage quota established for the 1982 crop. Such quota must then be permanently transferred to an eligible farm prior to the establishment of the 1983 preliminary farm poundage quota or be subject to reduction due to inadequate tillable cropland.

Accordingly, it is proposed to amend the regulations at 7 CFR Part 729 by adding a new subpart to read as follows:

*Prior to the application of any uniform State factor should further reductions in category 3 be necessary.

PART 729—PEANUTS

Subpart—Poundage Quota Regulations for the 1982 Crop of Peanuts

General

Sec.
729.111 Basis and purpose.
729.112 Extent of calculations and rule of fractions.
729.113 Definitions.
729.114 Types of peanuts.
729.115 Supervisory authority of State committee.
729.116–729.119 [Reserved].

State Poundage Quota, Farm Poundage Quota, Notice to Farm Operator and Appeals

729.120 Instructions and forms.
729.121 Determination of State poundage quota.
729.122 Reserves for corrections, and quota reduction exemptions.
729.123 Determination of preliminary farm poundage quota.
729.124 Determination of farm poundage quota.
729.125 Determination of undermarketings.
729.126 Determination of effective farm poundage quota.
729.127 Determination of farm yield.
729.128 Determination of farm yield for reconstituted farm.
729.129 Approval of farm poundage quota and notice to farm operator.
729.130 Erroneous notice of effective farm poundage quota.
729.131 Request for reconsideration or appeal.
729.132 Farm with one acre or less of peanuts.
729.133–729.139 [Reserved].

Transfer of Farm Poundage Quota

729.140 Transfer by sale or lease.
729.141 Transfer by owner or operator.
729.142 Transfer within a State.
729.143 Witness of signatures.
729.144 Filing transfer agreement and time for filing.
729.145 Maximum period of transfer.
729.146 Transfer not to be approved.
729.147 Transfer of farm poundage quota in eminent domain pool.
729.148 Consent of lienholder.
729.149 Transfer to and from farm (subleasing).
729.150 Effect of permanent transfer on determination of farm poundage quota.
729.151 County committee action.
729.152 Withdrawal or minor revision.
729.153 Recomputation of previously approved multiple year transfer.
729.154 Amendment of multiple year transfer filed on or before December 22, 1981.

Authority: Secs. 301, 357, 358, 358a, 359, 372, 373, 375, 52 Stat. 38, as amended, 55 Stat. 88, as amended, 81 Stat. 658, as amended, 55 Stat. 90, as amended, 52 Stat. 65, as amended, 66, as amended, 91 Stat. 944, as amended, 95 Stat. 1248 (7 U.S.C. 1301, 1357, 1358, 1358a, 1359, 1372, 1373, 1375 as amended); Sec. 108A, 95 Stat. 1254 (7 U.S.C. 1445c-1)

Subpart—Poundage Quota Regulations for 1982 Crop of Peanuts

General

§ 729.111 Basis and purpose.

(a) The regulations contained in this subpart are issued in accordance with the Agricultural Adjustment Act of 1938, as amended, and the Agricultural Act of 1949, as amended, and are applicable to the 1982 crop of peanuts. They govern the establishment of farm poundage quotas, the issuance of marketing cards, the identification of marketings of peanuts, the collection and refund of penalties, the keeping of records, and the making of reports incident thereto.

(b) The acreage allotment, marketing quota, and poundage quota regulations for peanuts for the 1978 and subsequent crops (43 FR 28967 and 44 FR 25404, 28294, as amended) are hereby superseded but remain effective with respect to the 1978 through the 1981 crops of peanuts.

§ 729.112 Extent of calculations and rule of fractions.

Computations shall be rounded according to Part 793 of this chapter. The terms set forth below shall be expressed as follows:

(a) Acreage in acres and tenths of acres.

(b) Penalty or damages in dollars and cents.

(c) The quantity of peanuts produced, considered produced and marketed; a preliminary farm poundage quota; a farm poundage quota; an effective farm poundage quota; a farm yield; and an actual yield per acre, in whole pounds.

(d) Factors as a four place decimal except where a different place decimal factor is established by the Deputy Administrator.

§ 729.113 Definitions.

The definitions in and provisions of Parts 718, 719, and 720 of this chapter are hereby incorporated by reference in these regulations unless the context or subject matter or the provisions of these regulations require otherwise. References to other parts of this chapter or title include any amendments to the referenced parts. Unless the context or subject matter require otherwise, the following words and phrases, as used in this subpart and in all related instructions and forms shall mean:

(a) *Additional peanuts.* Any peanuts which are marketed from a farm other than peanuts marketed or considered marketed as quota peanuts.

(b) *Areas.* (1) The southeastern area consisting of the States of Alabama, Georgia, Mississippi, Florida, and that part of South Carolina south and west of the Santee-Congaree-Broad Rivers.

(2) The southwestern area consisting of the States of Arizona, Arkansas, California, Louisiana, New Mexico, Oklahoma, and Texas.

(3) The Virginia-Carolina area consisting of the States of Missouri, North Carolina, Tennessee, Virginia, and that part of South Carolina north and east of the Santee-Congaree-Broad Rivers.

(c) *Base period.* The 3 calendar years immediately preceding the year for which a farm poundage quota is being established.

(d) *Buyer.* A person who:

(1) Buys or otherwise acquires peanuts in any form;

(2) Markets, as a commission merchant, broker, or cooperative, any peanuts for the account of a producer and is responsible to the producer for the amount received for the peanuts; or

(3) Receives peanuts as collateral for or in settlement of a price support loan.

(e) *Considered produced.* The number of pounds of peanuts to be considered produced for the current year or for a base period year for use in computing a future farm poundage quota. Considered produced pounds for a farm will be the sum of the pounds (limited to the farm poundage quota less the pounds of peanuts marketed) which:

(1) Were not produced because of a natural disaster as determined by the county committee in accordance with instructions issued by the Deputy Administrator, State and County Operations, Agricultural Stablization and Conservation Service (hereinafter referred to as the "Deputy Administrator").

(2) Were in an eminent domain pool.

(3) Are equal to the farm poundage quota on a farm where the farm was either purchased or a transfer by sale was approved, after the latest normal planting date for peanuts for the county for the 1980 crop year, and only to the extent that such farm poundage quota was produced or considered produced on the farm to which allocated during the 1981 crop year.

(4) Are equal to the total pounds produced or considered produced on a farm to which was allocated for the 1981 crop year a new farm allotment and quota in accordance with § 729.17 of this chapter.

(f) *Cropland.* Land on a farm which is determined by the county committee to be suitable for the production of peanuts and on which a seedbed could have been prepared and a normal crop produced using practices and equipment normally used in the county for planting peanuts. Land not considered suitable includes, but is not limited to, established orchards, vineyards, one-row shelter belts, land seeded to trees, and land being prepared for housing developments, shopping centers, or other noncorp uses as determined by the county committee.

(g) *Crushing.* The processing of peanuts (1) to extract oil for food uses and meal for feed uses, or (2) into flakes for domestic food uses other than peanut butter, candy, confections or other traditional domestic edible uses.

(h) *Director.* The Director, or Acting Director, Tobacco and Peanuts Division, Agricultural Stablization and Conservation Service, U.S. Department of Agriculture.

(i) *Domestic edible use.* Peanuts which are: (1) used for milling to produce domestic food peanuts, other than peanuts used for crushing; (2) used for seed; or (3) dug peanuts used or consumed on the farm.

(j) *Effective farm poundage quota.* The quota determined in accordance with § 729.126.

(k) *Excess peanuts.* The quantity of peanuts marketed or considered marketed for domestic edible use in the current marketing year in excess of the effective farm poundage quota.

(l) *Farm poundage quota.* The quota determined in accordance with Section 729.124.

(m) *Farm yield.* The farm yield determined in accordance with § 729.127.

(n) *Farmers stock peanuts.* Dug peanuts produced in the United States which have not been shelled, crushed, cleaned, or otherwise changed (except for removal of foreign material, loose shelled kernels, and excess moisture) from the condition in which picked or threshed peanuts are customarily marketed by producers.

(o) *False identification.* False identification shall include the following:

(1) Identifying or permitting the identification of peanuts at time of marketing as having been produced on a farm other than the farm of actual production; or

(2) Marketing or permitting the marketing of peanuts from a farm without identifying the peanuts with a peanut marketing card issued for the farm; or

(3) Permitting the use of the peanut marketing card for the farm to record a marketing of peanuts when, in fact, no peanuts were marketed from the farm.

(p) *Final acreage.* The acreage on the farm from which peanuts are produced as determined and adjusted in accordance with Part 718 of this chapter.

(q) *Green peanuts.* Peanuts which, before drying or removal of moisture from the peanuts either by natural or artificial means, are marketed by the producer for consumption exclusively as boiled peanuts.

(r) *Inspector.* A Federal or Federal-State inspector authorized or licensed by the U.S. Department of Agriculture.

(s) *Marketed.* To dispose of peanuts (including farmers stock peanuts, shelled peanuts, cleaned peanuts, or peanuts in processed form) by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos. The terms "market", "marketing", and "for market" shall have corresponding meanings to the term "marketed" in the connection in which they are used. The terms "barter" and "exchange" shall include the payment by the producer of any quantity of peanuts, for the harvesting,

picking, threshing, cleaning, crushing, or shelling of peanuts, or for any other service rendered to the producer by anyone. Any lot of farmers stock peanuts will be considered as marketed when delivered by the producer to the buyer pursuant to an oral or written sales agreement. Peanuts which are delivered by the producer as collateral for or in settlement of a price support loan will be considered as marketed at the time of delivery. Delivery shall be deemed to have occurred when unloaded at the delivery point. Any peanuts retained on the farm for seed or other use shall be considered marketings of quota peanuts or marketings for domestic edible use.

(t) *Marketing year.* For each crop of peanuts, the period beginning August 1 of the current year and ending July 31 of the following year.

(u) *National poundage quota.* 1,200,000 tons for 1982.

(v) *Planted acreage.* The final acreage of peanuts on a farm determined in accordance with the provisions of Part 718 of this chapter.

(w) *Peanuts.* All peanuts produced, excluding any peanuts which were not dug or were not picked or threshed before or after marketing from the farm and excluding any peanuts marketed by the producer before drying or removal of moisture from such peanuts by natural or artifical means for consumption exclusively as boiled peanuts (referred to as "green peanuts"). If a lot of farmers stock peanuts has been inspected by the Federal-State Inspection Service at the time of marketing, the quantity in the lot shall be the gross weight thereof less foreign material and excess moisture (moisture in excess of 7 percent in the southeastern and southwestern areas and 8 percent in the Virginia-Carolina area). If the lot of peanuts is not inspected by the Federal-State Inspection Service, the quantity in the lot shall be the gross weight thereof. If shelled peanuts are marketed by a producer, the quantity in the lot (farmers stock basis) shall be determined by multiplying the poundage of the shelled peanuts by 1.5.

(x) *Preliminary farm poundage quota.* The quota determined in accordance with § 729.123.

(y) *Produced.* The total pounds of peanuts dug.

(z) *Quota peanuts.* Peanuts (except green peanuts) which are marketed or considered marketed from a farm for domestic edible use. This includes all peanuts which are dug on a farm except the following: (1) green peanuts; (2) peanuts which are placed under loan at the additional support rate and not redeemed by the producer; or (3) peanuts which are marketed under a contract between a handler and a producer for export and/or crushing.

(aa) *Seed sheller.* A person who in the course of his usual business operations shells peanuts for producers for use as seed for the subsequent year's corp.

(bb) *Segregation 1 peanuts.* A lot of farmers stock peanuts which (1) have at least 99 percent peanuts of one type, (2) have not more than 2 percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold, or decay, and (3) are free from visible Aspergillus flavus mold.

(cc) *Undermarketings.* The number of pounds determined in accordance with § 729.125.

(dd) *Yield per acre or actual yield.* The actual yield per acre for the farm obtained by dividing the total production of peanuts for the farm by the final acreage of peanuts.

§ 729.114 Types of peanuts.

The generally known types of peanuts have identifying characteristics as follows:

(a) *Runner type peanuts.* These peanuts are commonly known as African Runner, Alabama Runner, Georgia Runner, Carolina Runner, Wilmington Runner, Dixie Runner, or Runner. They are produced principally in the southeastern peanut producing area of the United States and are identified by the following characteristics: Typically two-seeded pods which are practically cylindrical, medium sized, stem end round and the other pointed with a slight keel having shells fairly thick and strong, with shallow veining and corrugation; seeds crowded in pod with adjacent ends sharply shouldered.

(b) *Spanish type peanuts.* These peanuts are commonly known as White Spanish, Small Spanish, Medium-Small Spanish, or Spanish. They are produced principally in the southeastern and southwestern peanut-producing areas of the United States and are identified by the following general characteristics: Typically two-seeded pods which are small, with both ends rounded, the end opposite the stem having an inconspicuous point or keel, and the waist slender; shells very thin, with veining and corrugation but not deep, and seed globular to oval and practically smooth.

(c) *Valencia type peanuts.* These peanuts are commonly known as New Mexico Valencia, Tennessee Valencia, Tennessee White, Tennessee Red, or Valencia. They are produced principally in Tennessee and New Mexico and are identified by the following general characteristics: Typically three or four-seeded, and sometimes five-seeded pods which are long and slender, with the end opposite the stem having a definite point or keel with conspicuous veining and corrugation, and seeds globular to oval.

(d) *Virginia type peanuts.* The peanuts are commonly known as Virginia Runner, Virginia Bunch, North Carolina Runner, North Carolina Bunch, Jumbo, or Virginia. They are produced principally in North Carolina, Virginia, northeastern South Carolina, and Tennessee, and are identified by the following general characteristics: Typically two-seeded pods which are of an average size larger than any other type, pods are roughly cylindrical, with veining and corrugation deep, and seeds cylindrical with pointed ends, length two or three times diameter, and practically smooth.

§ 729.115 Supervisory authority of State committee.

The State committee shall take any action required to be taken by the county committee which the county committee fails to take. The State committee shall correct or require the county committee to correct any action taken by the county committee which is not in accordance with this subpart. The State committee shall also require the county committee to withhold taking any action which is not in accordance with this subpart.

§§ 729.116–729.119 [Reserved]

State Poundage Quota, Farm Poundage Quota, Notice to Farm Operator and Appeals

§ 729.120 Instructions and forms.

The Director shall issue such forms and instructions as are necessary for carrying out the regulations in this subpart.

§ 729.121 Determination of State poundage quota.

The State poundage quota shall be the State's share of the current year's national poundage quota calculated to equal the percentage of the 1981 national poundage quota allocated to farms in the State.

§ 729.122 Reserve for corrections.

For the purpose of correcting errors, the State committee shall establish a reserve of not to exceed 2 percent of the State poundage quota. If the amount of poundage quota necessary to correct errors is in excess of the reserve established by the State committee, such errors may nevertheless be corrected with the approval of the Deputy Administrator. However, the Deputy Administrator may require the State committee to recalculate the farm poundage quotas for all farms in the State, if the Deputy Administrator determines that the amount of poundage quota necessary to correct errors is substantially in excess of the reserve. In such case, the State committee shall reissue corrected farm poundage quotas for all farms in the State and such corrected farm poundage quota shall be considered the farm poundage quota for the farm for all purposes.

§ 729.123 Determination of preliminary farm poundage quota.

The preliminary farm poundage quota shall be the farm poundage quota established for the farm for the preceding year.

§ 729.124 Determination of farm poundage quota.

The farm poundage quota shall be the preliminary farm poundage quota adjusted downward for poundage quota reductions as required by this section, plus permanent adjustments from reserves and permanent transfers.

(a) *Poundage quota reductions.* The preliminary farm poundage quota for each farm shall be reduced by the county committee in the following order of priority to the extent necessary, in whole or in part, to accomplish the reduction in the total of the preliminary farm poundage quotas for the State to the State poundage quota less the amount withheld for the reserve for the current marketing year.

(1) Inadequate tillable cropland. The preliminary farm poundage quota shall be reduced for a farm to the extent the county committee determines that the farm did not have adequate tillable cropland to produce the farm poundage quota during the preceding crop year. A farm for which the acreage allotment and farm poundage quota was in the eminent domain pool on December 22, 1981 shall be considered as having adequate tillable cropland.

(2) *Quota not produced.* The preliminary farm poundage quota for a farm shall be reduced, or further reduced, to the extent the county committee determines that the farm poundage quota for such farm was not produced or considered produced during any two of the base period years. An individual determination shall be made for the farm as constituted during each year of the base period if the current constitution differs from any one or more of the base period years.

(3) *Calculation of farm poundage quota reductions under subparagraphs (a)(1) and (2).*

(i) The amount of the farm poundage quota reduction made under subparagraph (a)(1) of this section shall equal the amount of the farm poundage quota that was not produced on the farm during the previous crop year because of inadequate tillable cropland.

(ii) The amount of the farm poundage quota reduction made under subparagraph (a)(2) shall equal: (A) the preliminary farm poundage quota times the average of the two highest percentages of the farm poundage quota that was not produced or considered produced during two of the three base period years minus (B) the amount of any reduction under subparagraph (a)(3)(i) of this section, but not less than zero.

(4) *Application of State factor.*

(i) If the cumulative totals of individual farm poundage quota reductions computed in accordance with paragraphs (a)(1) or (2) of this section are more than the required reduction (including amounts withheld for the reserve) in the State poundage quota for the current year, a uniform State factor shall be determined by the State committee and multiplied times the reductions of farm poundage quotas computed for the farms in the category for which the farm poundage quota reductions exceed the total of the required reduction for the State, so as to cause the cumulative total of reductions of individual farm poundage quotas to equal the total reduction for the State plus amounts withheld for the reserve.

(ii) If the cumulative total of individual farm poundage quota reductions in paragraphs (a)(1) and (2) of this section is less than the required reduction (including amounts withheld for the reserve) in State poundage quota for the current year, a uniform State factor shall be determined by the State committee and multiplied times the preliminary farm poundage quotas on the remaining farms in the State (including those not reduced to zero in paragraphs (a)(1) and (2) of this section), so as to cause the cumulative total of reductions of individual farm poundage quotas to equal the total reduction for the State plus amounts withheld for the reserve.

(b) *Permanent adjustments.* The preliminary farm poundage quota, after adjustments under paragraph (a) of this section, if any, shall be adjusted by the county committee to reflect permanent transfers or adjustments from reserves as set forth in this subpart.

(c) *Eminent domain pool quota.* The farm poundage quota in the eminent domain pool on December 22, 1981 shall not be adjusted by the county committee pursuant to paragraph (a) (1) and (2) of this section. Notwithstanding the provisions of § 719.11 of this chapter, peanut farm poundage quotas in the eminent domain pool on December 22, 1981 shall only be transferred from the eminent domain pool in accordance with § 729.147. Peanut farm poundage quotas on farms acquired by an agency having the right of eminent domain after December 22, 1981 shall not be eligible to be pooled under the provisions of § 719.11. In order to preserve farm poundage quotas in the eminent domain pool on December 22, 1981, such quota must be transferred pursuant to the provisions of § 729.147 during calendar year 1982.

§ 729.125 Determination of undermarketings.

(a) *Actual undermarketings.* Actual undermarketings are the number of pounds by which the total marketings of quota peanuts from the farm during previous marketing years (excluding any marketing year before the marketing year for the 1980 crop) were less than the total amount of the applicable farm poundage quotas (disregarding adjustments for undermarketings from prior marketing years) for such marketing years. For purposes of the foregoing sentence, total marketings of quota peanuts for any marketing year shall be the larger of (1) the total production of segregation 1 peanuts on the farm for such year, or (2) the total amount of quota peanuts which were marketed or considered marketed from the farm. However, the total marketings of quota peanuts for any marketing year shall not exceed the effective farm poundage quota for that farm for such year.

(b) *Effective undermarketings.*

(1) If 10 percent of the national poundage quota for the marketing year to which the actual undermarketings are to be applied is equal to or greater than the actual undermarketings on all farms, the effective undermarketings for the farm shall be the same as the actual undermarketings.

(2) If the conditions in paragraph (b)(1) of this section are not applicable, the actual undermarketings will be apportioned to each farm in such manner that the effective undermarketings (i) will not be less than the smaller of the actual undermarketings or 10 percent of the farm poundage quota; (ii) will not be more than the actual undermarketings; and (iii) will be apportioned so as to cause, insofar as practicable, the total of the effective undermarketings on all farms to equal 10 percent of the national poundage quota for the marketing year

to which the effective undermarketings are to be applied.

§ 729.126 Determination of effective farm poundage quota.

The effective farm poundage quota shall be the farm poundage quota adjusted for temporary transfers and effective undermarketings.

§ 729.127 Determination of farm yield.

The farm yield established for a farm for which a farm poundage quota is established for the current year shall be the farm yield established for the farm for the immediately preceding year. If a farm yield is not established for a farm on which a farm poundage quota is established, the county committee shall establish a farm yield in accordance with instructions issued by the Deputy Administrator.

§ 729.128 Determination of farm yield for reconstituted farm.

For reconstitutions which are effective after farm yields have been established the farm yield shall be determined as follows:

(a) *Combination*—(1) *Quota farm.* The farm yield for a combined farm shall be the weighted average of the farm yields for the tracts being combined.

(2) *Quota and nonquota farm.* A combined farm shall be assigned the farm yield of the tract with an established quota if placed in combination with a nonquota tract even though a farm yield previously had been established for such nonquota tract.

(3) *Nonquota farms.* The farm yield for combined nonquota tracts shall be established by the county committee in accordance with § 729.127 even though a farm yield had been previously established for such tracts.

(b) *Divisions*—(1) *No identifiable tracts having tract yield established.* The farm yield shall be the same for each tract as the farm yield for the parent farm.

(2) *Identifiable tracts with tract yield established.* The farm yield shall be the same as the yield which has been previously established for the tract which is divided from the parent farm.

(3) *Division of an identifiable tract having a tract yield established.* The farm yield shall be the same as the yield which has been previously established for the tract which is being divided.

§ 729.129 Approval of farm poundage quota and notice to farm operator.

(a) *Approval.* Each farm yield, preliminary farm poundage quota, farm poundage quota, and effective farm poundage quota shall be determined under the supervision of, and approved by, the county committee of the county in which the farm is administratively located, subject to the concurrence of the State committee or a representative of the State committee. The initial notice of farm poundage quota shall not be mailed to a farm operator until the farm poundage quota has been approved. A revised notice may be mailed without prior approval in any case resulting from: (1) farm reconstitution that does not require allocation of additional poundage quota; or (2) a transfer by lease, sale, owner or operator of poundage quota.

(b) *Notice to farm operator.* (1) As soon as possible after the farm poundage quota or the effective farm poundage quota is approved, an official notice of such quota shall be mailed to the farm operator.

(2) If a farm poundage quota is reduced to zero for the current year, the county committee shall mail to the farm operator a notice of such determination.

(3) A revised notice of farm poundage quota or the effective farm poundage quota shall be mailed to the farm operator as soon as possible after the county committee determines that an incorrect notice has been mailed or the county committee takes an action which requires a revision of the previously determined quota.

(4) The notice to the operator shall constitute notice to all persons who as operator, landlord, tenant, or sharecropper has an interest in the farm for which the quota is established.

§ 729.130 Erroneous notice of effective farm poundage quota.

If the official notice of effective farm poundage quota issued for a farm erroneously stated a quota larger than the correct effective farm poundage quota, the quota shown on the erroneous notice shall be used as the effective farm poundage quota and shall serve as the basis for marketing penalty computations for the farm for the current marketing year only, if the county committee determines and the State Executive Director concurs that: (1) the error was not so substantial as to place the operator on notice thereof, and (2) the operator was not notified of the correct effective farm poundage quota prior to marketing peanuts as quota peanuts in excess of the correct effective farm poundage quota. Notwithstanding the foregoing, undermarketings for farms for which the erroneous notice of the effective farm poundage quota is applied shall be determined on the basis of the correct effective farm poundage quota for the farm.

§ 729.131 Request for reconsideration or appeal.

Any producer who is dissatisfied with the initial determination of the farm poundage quota or the effective farm poundage quota which is established for such farm may file a request for reconsideration with the county committee in accordance with Part 780 of this Chapter. Such request must be filed no later than 15 days after the producer receives the notice of the farm poundage quota or effective farm poundage quota. If after reconsideration the producer remains dissatisfied with the determination, the producer may appeal such determination to the State committee in accordance with Part 780 of this Chapter. Determinations rendered by the State committee with respect to the determination of individual farm poundage quotas and effective farm poundage quotas shall be final and there shall be no further administrative appeal.

§ 729.132 Farms with one acre or less of peanuts.

Peanuts produced on a farm on which the acreage of peanuts is one acre or less are eligible to be marketed for domestic edible use provided that all producers that share in the peanuts produced on such farm do not share in the peanuts produced on any other farm.

§§ 729.133–729.139 [Reserved]

Transfers of Farm Poundage Quota

§ 729.140 Transfer by sale or lease.

The owner and operator of any farm having a farm poundage quota in the current year is eligible to file a record of transfer for sale or lease of all or any part of the farm poundage quota to any other owner or operator of a farm in the same county. The receiving farm need not have a farm poundage quota. If the owner(s) and operator of the farm from which the transfer by sale or lease is to be made are different persons, each shall execute the record of transfer. However, only the owner(s) or operator of the receiving farm is required to execute the record of transfer.

§ 729.141 Transfer by owner or operator.

The owner or operator of any farm having a farm poundage quota in the current year is eligible to file a record of transfer to transfer the farm poundage quota from such farm to another farm owned or controlled by the applicant: (a) in the same county; or (b) in a county that is contiguous to the transferring county in the same State if the receiving farm had a farm poundage quota established for the 1981 crop.

§ 729.142 Transfer within State.

Notwithstanding the provisions of § 729.140 and § 729.141, a transfer of a farm poundage quota by sale, lease, owner or operator, may be made to any other farm in the same State, pursuant to instructions issued by the Deputy Administrator, in the States of Arizona, Arkansas, California, Louisiana, Mississippi, Missouri, New Mexico and Tennessee.

§ 729.143 Witness of signatures.

A county committee member or employee must witness the signature of either the owner or operator of the transferring farm and the owner or operator of the receiving farm. If such signatures cannot be witnessed in the county office where the farm is administratively located, they may be witnesses in any county office convenient to the owner or operator's residence. The requirement that signatures be witnessed for producers who are ill, infirm, reside in distant areas, or are in similar hardship situations, or who may be unduly inconvenienced, may be waived provided the county office mails Form ASCS–375 or such other form approved by the Deputy Administrator to such person for the required signature. In the case of a transfer by sale, such request must be accompanied by a statement signed by all parties to the transaction confirming that the sale has been made.

§ 729.144 Filing transfer agreement and time for filing.

No transfer of any quota under this section shall become effective until a record of transfer, determined by the county committee to be in compliance with the provisions of this subpart, has been executed on Form ASCS–375 or such other form approved by the Deputy Administrator and filed within the time periods set forth in this section with the county committee in the county where the farms are administratively located.

(a) *Transfer filed by July 31.* A record of transfer filed after July 31 may be considered filed by July 31 if the county committee, with approval of the State committee, finds that (1) the transfer was agreed upon no later than July 31, and (2) the record of transfer was not filed by July 31 because of conditions beyond the control of the parties to the transfer.

(b) *Transfer filed after July 31.* A transfer filed after July 31 shall not become effective unless filed no later than December 31 of the current year. A record of transfer filed after December 31 but prior to January 31 may be considered timely filed by December 31 if the county committee with approval of the State committee finds that (1) the transfer was agreed upon no later than December 31, and (2) the record of transfer was not timely filed with the county committee because of conditions beyond the control of the parties to the transfer.

§ 729.145 Maximum period of transfer.

(a) *Owner transfer.* (1) An owner transfer may be approved to a farm owned by such person permanently or temporarily but not beyond the 1985 marketing year. (2) An owner transfer to a farm controlled by such person may be approved for only one year.

(b) *All other transfers.* Transfers by lease and by operator may only be approved for one year. Multiyear leases and permanent operator transfers shall not be permitted.

§ 729.146 Transfer not to be approved.

The county committee shall not approve:

(a) A transfer of poundage quota by sale if poundage quota was transferred to the farm by sale within the 3 preceding crop years.

(b) Temporary transfers by an operator for more than one year.

(c) Permanent transfers by an operator.

(d) Transfers filed after July 31 for more than 1 marketing year.

(e) Transfers of actual or effective undermarketings.

§ 729.147 Permanent transfer of quota in eminent domain pool.

A farm poundage quota established prior to December 22, 1981 as a pooled poundage quota or allotment under Part 719 of this Chapter may be permanently transferred only during calendar year 1982 by the owner to a farm such person owns. Temporary transfers of pooled quota shall not be approved.

§ 729.148 Consent of lienholder.

A transfer of poundage quota from a farm which the county committee has been informed is subject to a mortgage or other lien shall not be approved unless the transfer is agreed to in writing by the lienholder.

§ 729.149 Transfer to and from a farm (subleasing).

(a) *Transfer filed before July 31.* Generally the county committee shall not approve a transfer which is filed (or considered filed) on or before July 31 if the approval would result in a transfer both to and from the farm during the period ending July 31 of the same crop year. However, a transfer may be approved if a poundage quota is transferred temporarily from a farm for 1 or more years (and the transfer remains in effect) and the farm is subsequently combined with another farm that is otherwise eligible to receive poundage quota by transfer.

(b) *Transfer filed after July 31.* A temporary transfer of poundage quota either to or from the same farm (but not both) may be approved by the county committee if filed after July 31 even though a transfer which was filed on or before July 31 is in effect for the farm provided the producers so certify and the county committee determines that the (1) acreage of peanuts planted on the farm was equal to at least 80 percent of the acreage determined by dividing the effective farm poundage quota by the current farm yield for the farm, and (2) the production to peanuts was limited to less than the effective farm poundage quota because of conditions beyond control of the producer.

§ 729.150 Effect of permanent transfer on determination of farm poundage quota.

The quota, pounds produced, pounds considered produced, pounds transferred and produced on a receiving farm for both the transferring farm and the receiving farm shall be adjusted for the current year and for 2 preceding years to reflect the applicable increase or decrease in the farm poundage quota and other historic data or farm practices affecting the determination of farm poundage quotas.

§ 729.151 County committee action.

(a) *Approval of transfer.* The county committee shall approve the transfer of poundage quota only if it determines that a timely filed record has been received and that the transfer complies with the requirements of this subpart. A transfer shall not be effective until approved by the county committee. The county committee may delegate authority to the county executive director and to other county office employees to approve transfers of poundage quotas.

(b) *Notice of revised quotas.* A revised notice of farm poundage quota must be issued for each farm affected by the transfer of farm poundage quota.

(c) *Cancellation of transfer.* (1) A transfer approved on the basis of incorrect information furnished by the parties to the transfer agreement or approved due to error by the county committee shall be canceled effective as of the date of approval. However, the cancellation shall not be effective for the current marketing year if:

(i) The transfer approval was made on the basis of incorrect information unknowingly furnished in good faith by the parties to the transfer agreement or

the transfer approval was made in error by the county committee, and

(ii) The parties to the transfer agreement were not notified of the cancellation prior to the marketings of quota peanuts in excess of the revised effective farm poundage quota.

(2) Where cancellation of a transfer is required, the county committee shall issue revised notices of poundage quota showing the reasons for cancellation.

§ 729.152 Withdrawal or minor revision.

Where the county committee determines that it is clearly in the best interest of all the producers and that effective operation of the program will not be impaired, the county committee may permit withdrawal or minor revisions of a transfer upon written request by all parties to the transfer. However, a temporary transfer may be withdrawn or revised before peanuts are harvested during any year of the agreement, and a permanent transfer may be withdrawn or revised before peanuts are harvested only during the first year of the agreement.

§ 729.153 Recomputation of previously approved multiple year transfer.

For a multiple year temporary transfer approved after 1982, the county committee shall annually recompute the transfer by limiting the poundage quota transferred to the smaller of: (a) the poundage quota initially transferred, or (b) the farm poundage quota for the transferring farm.

§ 729.154 Amendment of multiple year transfer agreements approved on or before December 22, 1981.

Notwithstanding any other provision in this section, a multiple year temporary transfer approved on or before December 22, 1981 shall not be effective after the 1981 crop year unless an amended record of transfer is filed. The county committee shall notify the operator of both the transferring farm and the receiving farm of the requirement for filing an amended record of transfer in order for the previously filed transfer agreement to remain in effect. The amended record of transfer must be filed at the county ASCS office within 30 days from the date of notification by the county committee that an amended transfer agreement is required. The amended agreement shall be on the basis of the farm poundage quota established for the farm for 1982 and shall be agreed upon and signed by each person whose signature is required and in accordance with the provisions of this subpart.

Signed at Washington, D.C. on March 4, 1982.

Richard E. Lyng,

Acting Secretary.

[FR Doc. 82-6365 Filed 3-5-82; 8:45 am]

BILLING CODE 3410-05-M

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Tuesday
March 9, 1982

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 719

[Amdt. 1]

Reconstitution of Farms, Allotments, Normal Crop Acreage and Preceding Year Planted Acreage

AGENCY: Agricultural Stabilization and Conservation Service USDA.

ACTION: Final rule.

SUMMARY: This action adopts as a final rule an interim rule which was published in the Federal Register (46 FR 48629) on October 2, 1981, which authorizes the reconstitution of a farm that is comprised of land located in two or more counties on which there is quota or allotment subject to lease and transfer restrictions across county lines if such farm was constituted as a single farming unit prior to April 20, 1978.

EFFECTIVE DATE: March 8, 1982.

FOR FURTHER INFORMATION CONTACT: Alex King, Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, (202) 447–4542.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "not major." It has been determined that this program provision will not result in (1) annual effect on the economy of $100 million or more; (2) major increases in costs or prices in consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by Office of Management and Budget (OBM) circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

On October 2, 1981, and interim rule was published in the Federal Register (46 FR 48629) amending the regulations set forth at 7 CFR Part 719 which govern the reconstitution of farms, allotments, normal crop acreage and preceding year planted acreage for any program administered by the Agricultural Stabilization and Conservation Service (ASCS). The interim rule permitted producers who own and operate land located in two or more counties and who were required to constitute their land as a single farming unit prior to 1978 to reconstitute their farm by dividing the tracts which are located in different counties. Comments were solicited for a period of 60 days after publication of the document. No comments were received during the comment period.

Final Rule

Accordingly, it has been determined that the interim rule published at (46 FR 48629) amending 7 CFR 719.3 is hereby adopted as a final rule without change.

Signed at Washington, D.C. on March 2, 1982.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 82-6306 Filed 3-8-82; 8:45 am]
BILLING CODE 3410-05-M

Commodity Credit Corporation

7 CFR Part 1475

Emergency Feed Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The purpose of this interim rule is to amend the Emergency Feed Program Regulations in order to provide that applications for assistance under the Emergency Feed Program will no longer be accepted after April 6, 1982. Cost share assistance with respect to applications filed after March 9, 1982, and not later than April 6, 1982, will be limited to cost-share assistance for livestock feed purchased not later than March 9, 1982. The effect of this interim rule is to terminate this discretionary program in order to reduce administrative costs.

DATES: This interim rule shall become effective March 9, 1982. Comments must be received on or before May 10, 1982, in order to be assured of consideration.

ADDRESS: Interested persons may send comments to the Director, Emergency Operations and Livestock Programs Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Clarence Domire, Emergency Operations and Livestock Programs Division, USDA, ASCS, P.O. Box 2415, Room 4095 South Building, Washington, D.C. 20013, (202) 447–6833. A Final Regulatory Impact Statement describing the impact of terminating this program is available from the above-named individual.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "not major." This interim rule has been classified as "not major" since it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in cost or prices for consumers, individual

industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program that this Final Rule applies to are: Title—Emergency Feed Program; Number—10.066 as found in the catalog of Federal Domestic Assistance Programs.

This action will not have a significant impact, specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

The Emergency Feed Program is authorized by section 1105 of the Food and Agriculture Act of 1977, as amended. The program is designed to assist in the preservation and maintenance of livestock in any area of the United States including Puerto Rico, Guam, and the Virgin Islands where because of flood, drought, fire, hurricane, earthquake, storm or other natural disaster, the Secretary determines that an emergency exists. In order to receive assistance under the program, a livestock owner must: (1) Have suffered a substantial loss in the livestock feed normally produced on the farm for such owner's livestock, (2) not have sufficient feed for such owner's livestock for the estimated period of the emergency, and (3) make feed purchases during the period of the emergency in quantities larger than such owner would normally make.

Under the provisions of this interim rule, the Agricultural Stabilization and Conservation Service (ASCS), the agency within the Department of Agriculture which administers the Emergency Feed Program, will not accept any new applications for assistance under the program later than 30 days after the effective date of this interim rule.

With the urgent need to reduce the Federal budget, it has been determined that the Emergency Feed Program should be terminated. The change made by this interim rule will result in a corresponding reduction in Federal expenditures. Since the program is discretionary, the Secretary may implement this program again should it be determined that an emergency situation exists with respect to a shortage of livestock feed which warrants such implementation.

Under the provisions of this interim rule, applications for assistance under the Emergency Feed Program filed by the close of business on March 9, 1982, will be processed according to regulations applicable to the program at that time. With respect to applications filed during the subsequent 30-day period, assistance under the program will be limited to livestock feed purchased by livestock owners not later than March 9, 1982.

Since the purpose of this interim rule is to terminate the Emergency Feed Program it has been determined that this rule shall become effective upon publication in the **Federal Register** (March 9, 1982) without prior opportunity for public comment. However, comments on this interim rule are requested. All comments must be received within 60 days after publication of this interim rule in order to be assured of consideration. This interim rule will be scheduled for review so that a final document discussing comments received and any necessary amendments can be published in the **Federal Register** as soon as possible.

Interim Rule

PART 1475—EMERGENCY FEED PROGRAM

Accordingly, the regulations at 7 CFR 1475.53 are revised to read as follows:

§ 1475.53 Availability

Benefits under the program shall be available to any owner of livestock which are maintained in the United States, including Puerto Rico, Guam, and the Virgin Islands, who: (a) Has suffered during the crop year, a substantial loss of livestock feed normally produced on land owned (or operated under a bona fide lease) by the livestock owner, and (b) has filed an application for assistance under the Emergency Feed Program not later than April 8, 1982, except that with respect to such applications which are filed after March 9, 1982, benefits will be provided under the program only for livestock feed which is purchased by the livestock owner not later than March 9, 1982.

(Sec. 1105 of the Food and Agriculture Act of 1977, 91 Stat. 955, as amended (7 U.S.C. 2207))

Signed at Washington, D.C., on March 2, 1982.

Richard E. Lyng,

Acting Secretary of Agriculture.

[FR Doc. 82-6344 Filed 3-8-82; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of Big Sky Airlines

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds Big Sky Airlines to the listing of carriers which have entered into agreements with the Service for the preinspection of their passengers and crews at locations outside the United States.

EFFECTIVE DATE: February 2, 1982.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions, Officer, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.4 is published pursuant to 5 U.S.C. 552. The Commissioner of Immigration and Naturalization entered into agreement with Big Sky Transportation Company, d/b/a Big Sky Airlines, to guarantee the preinspection of their passengers and crews as provided by section 238(b) of the Immigration and Nationality Act, as amended (8 U.S.C. 1228(b)).

Preinspection outside the United States facilitates processing passengers and crews upon arrival at a U.S. port of entry and is a convenience to the traveling public.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely adds an air carrier to the listing and is editorial in nature.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

Accordingly, 8 CFR Part 238 is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.4 [Amended]

1. In § 238.4 *Preinspection outside the United States*, the listing of

transportation lines is amended by adding in alphabetical sequence, "Big Sky Airlines" under "AT CALGARY".

* * * * *

(Secs. 103, 66 Stat. 173 (8 U.S.C. 1103); 238, 66 Stat. 202 (8 U.S.C. 1228))

Dated: March 1, 1982.

Alan C. Nelson,

Commissioner of Immigration and Naturalization.

[FR Doc. 82-6320 Filed 3-8-82; 8:45 am]

BILLING CODE 4410-10-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 1 and 2

Implementation of Commission's Delegation of Authority To Determine Whether There Have Been Significant Changes in Operating License Applicant's Activities or Proposed Activities Since the Construction Permit Antitrust Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to incorporate final procedures implementing the Commission's delegation of authority to make the "significant changes" determination to the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate. The "significant changes" determination, mandated by Section 105c(2) of the Atomic Energy Act of 1954, as amended, is whether there have been changes of antitrust significance in an operating license applicant's activities or proposed activities that have occurred subsequent to the antitrust review conducted in connection with the facility construction permit.

EFFECTIVE DATE: April 8, 1982.

FOR FURTHER INFORMATION CONTACT: Argil Toalston, Antitrust and Economic Analysis Branch, Division of Engineering, Office of Nuclear Reactor Regulation, Washington, D.C. 20555, Telephone: (301) 492–4691.

SUPPLEMENTARY INFORMATION:

A. Background

In connection with the prelicensing antitrust review of production and utilization facility applicants (primarily nuclear power reactor owners and operators), Section 105c(2) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2135c(2), requires the NRC to forward to the Attorney General, for his antitrust advice, a copy of the operating license ("OL") application if:

> * * * the Commission determines such review is advisable on the ground that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous review by the Attorney General and the Commission under this subsection in connection with the construction permit for the facility.

On September 12, 1979, the Nuclear Regulatory Commission delegated its authority to make the "significant changes" determination under Section 105c(2) to the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate depending on the particular kind of production or utilization facility involved. In connection with that delegation, the Commission approved procedures to be used until such time as regulations implementing those procedures were adopted. Although never formally published, these procedures were and are available as attachments to SECY–79–353 (May 24, 1979) and SECY–81–43 (January 19, 1981) in the Commission's Public Document Room, at 1717 H Street, NW., Washington, D.C. On March 26, 1981, the Commission published for comment in the **Federal Register** a proposed rule to implement the approved procedures (46 FR 18747).

B. Comments

Three comment letters were received from two electric utilities, Carolina Power & Light Company (CP&L) and Arizona Public Service Company (APS), and from one law firm, LeBoeuf, Lamb, Leiby & MacRae (LeBoeuf Lamb); that represents several electric utilities. Copies of these comments and an NRC staff analysis of them are available in the Commission's Public Document Room.

1. *Carolina Power & Light Company ("CP&L").* Under the procedures as originally proposed, the NRC would publish a notice in the **Federal Register** of receipt of antitrust information submitted in connection with an OL application. The notice would direct that comments on the antitrust aspects of the application should be submitted within 60 days to the NRC for presentation to the Attorney General. The proposed procedures envisage receipt of comments and information back from the Attorney General prior to making a "significant changes" determination. CP&L suggested, first, that there should be a fixed time limit of 20 days after receipt of the Attorney General's comments in which the appropriate Director would be required to make the "significant changes" determination.

The Commission has not adopted CP&L's modification because it would establish a single, rigid time schedule without any flexibility. In some situations, full and fair consideration of potentially complex antitrust allegations and factual material may require longer then 20 days. CP&L's suggestion fails to make any accommodation for such case-by-case variations and is, therefore, undesirable.

The proposed rule permitted members of the public a 60-day period in which to submit their comments in response to the **Federal Register** notice of receipt of OL antitrust information, and also permitted another 60-day period in which to request reevaluation of a Director's finding of no significant changes. CP&L asserted that the two proposed 60-day periods should be shortened to be consistent with the Proposed Rule for Expediting the NRC Hearing Process (46 FR 17216, March 18, 1981). The final rule has been changed to provide a 30-day period for the submittal of comments in response to the notice of receipt of OL antitrust information submitted pursuant to Regulatory Guide 9.3. The Commission believes that 30 days is sufficient time to afford to the public a meaningful opportunity to submit relevant antitrust information to the NRC and to the Attorney General without undermining efforts to expedite the processing of OL applications. In addition, in response to CP&L's comment about the excessive length of time for submitting requests for reevaluation of a significant changes determination, this period has been decreased from 60 days to 30 days in the final rule.

2. *LeBoeuf, Lamb, Leiby & MacRae ("LeBoeuf Lamb").* LeBoeuf Lamb pointed out that the phrase, "the antitrust portion of an application for a facility operating license," in the proposed revision to 10 CFR 2.101(c) is incorrect because antitrust information submitted at the OL stage is not a formal part of the OL application. To better indicate the correct relationship between the antitrust information submitted at the OL stage and the OL application itself, the Commission has, in the final rule, replaced that phrase with the phrase "information responsive to Regulatory Guide 9.3 submitted in connection with an application for a facility operating license."

LeBoeuf Lamb, as well as Arizona Public Service Company, also maintained that NRC consultation with the Attorney General prior to making the significant changes determination is contrary to Section 105c(2) of the Act and should be eliminated. Section

105c(2) addresses the Commission's obligation to make the significant changes determination, upon which a full-scale antitrust review and formal rendering of advice by the Attorney General necessarily depends. It is true that Section 105c(2) itself is silent on whether the Commission can or should consult with the Attorney General prior to making the significant changes determination.

The legislative history of Section 105c(2), however, is not silent on this point and explicitly states Congress' intention that this pre-determination consultation should occur. The Joint Committee on Atomic Energy, in connection with the 1970 amendments that added the Section 105c provisions for prelicensing antitrust review, stated that, as to OL applications: "The committee expects that the Commission will consult with the Attorney General in regard to its determination respecting significant changes." H. Rep. No. 91–1470, 91st Cong., 2d Sess., *reprinted in* 3 U.S. Code, Cong. and Adm. News, 91st Cong., 2d Sess., 4981, 5009 (1970). In light of this express Congressional direction and in light of the obvious benefits gained from the sharing of information and ideas with the Attorney General, the final rule retains the pre-determination consultation provisions.

LeBoeuf Lamb also objected to two "public comment" periods provided under § 2.101 in the proposed rule, ostensibly referring to the comment period provided in the **Federal Register** notice of receipt of OL antitrust information and to the period in which reevaluation of a no significant changes finding can be requested. LeBoeuf Lamb asserted that the second was not likely to be useful. The final rule does not include LeBoeuf Lamb's suggestion to eliminate one of the two so-called "comment" periods. The first notice announces receipt of Regulatory Guide 9.3 antitrust information submitted in connection with the OL application. At this time, the antitrust inquiry by the Commission and the Attorney General is not specifically focused on any particular information, and public comments may provide a useful background for the NRC and Attorney General review. The second time period in which members of the public can request reevaluation of a no significant changes finding is initiated by publication of a **Federal Register** notice. That notice contains the Director's initial finding and underlying rationale, and also indicates the availability of any other staff analysis, thus permitting the public to base any request for reevaluation upon specific facts or conclusions directly related to the initial significant changes finding. This second stage for public involvement is a more focused one, which is expected to bring to light any relevant information that might have otherwise not been available to the Director in making the finding. Taken together, these two periods for public input, with their differing emphases, should provide sufficient and current information, supplemented where necessary by independent NRC follow-up activities, upon which a fair and reasoned final significant changes determination can ultimately be made.

3. *Arizona Public Service Company ("APS").* APS also opposed providing the public with any expanded opportunity to submit pertinent antitrust information and comments to the NRC in connection with making the significant changes determination. APS raised concerns about the receipt of comments leading to possible delay in making the significant changes determination, as well as about an increased potential for formal review by the Attorney General and for NRC antitrust hearings, which could cause more licensing delays.

The Commission believes that the reduced 30-day period for submitting public comments, as well as the comments themselves, will not lead to unwarranted or significant delays in the NRC licensing process. The 30-day period accommodates the need for expedition in licensing with the idea that public comments will contribute to a more informed and less speculative significant changes determinatioin. To fulfill its statutory obligations under Section 105c, the NRC must have the most current and complete information possible. It would be short-sighted to eliminate one potentially valuable mechanism by which to obtain such information—comments from the public itself, including other utilities in and around the applicant utility.[1]

C. Other Minor Changes in Final Rule

Several minor editorial changes have been made in the final rule to eliminate certain ambiguities, to correct inaccurate terminology, and to ensure consistency in the Commission's regulations. Among these are the following principal changes:

(1) Sections 1.42, 1.61(e), and 2.101(c)(3): changes have been made to indicate the most current NRC internal organizational structure and division of responsibilities;

(2) Section 2.101(c): clarification that § 2.101(c) applies only to construction permit applications, as reflective of current staff practice;

(3) Section 2.101(e) and Appendix A: changes have been made concerning the timing and nature of the notice of receipt of construction permit application antitrust information and the Regulatory Guide 9.3 OL antitrust information. The changes also include clarification that public comments submitted will be considered by the NRC and will also be forwarded to the Attorney General; and

(4) Section 2.104(d)(3): clarification of the NRC procedures concerned with notices of hearing, to make it clear that the invitation for the public to submit comments on antitrust matters in the notice of receipt of the OL antitrust information has no effect whatsoever on whether an OL hearing will or should be held on health, safety, environmental, or other matters under the provisions of § 2.104(d). In that regard, prelicensing antitrust reviews and hearings are governed by the provisions of section 105c of the Atomic Energy Act of 1954, as amended, *Houston Lighting and Power Co.* (South Texas Project, Unit Nos. 1 and 2), CLI–77–13, 5 NRC 1303 (1977), and are subject to separate licensing proceedings from those concerned with health, safety, and environmental matters, *Public Service Co. of Indiana* (Marble Hill Nuclear Generating Station, Units 1 and 2), ALAB–316, 3 NRC 167 (1976).

Paperwork Reduction Act Statement

Pursuant to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the NRC has made a determination that these amendments do not impose new recordkeeping, information collection, or reporting requirements.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the NRC hereby certifies that the promulgation of this rule will not have a significant economic impact on a substantial number of small entities. The rule implements current NRC internal procedures related to the licensing of production and utilization facilities under Section 103 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2133.

[1] APS asserted the NRC can and should issue operating licenses irrespective of whether the significant changes determination or the completion of an antitrust review have occurred, citing Kansas Gas and Electric Co. (Wolf Creek Generating Station, Unit No. 1), ALAB–270, 1 NRC 559 (1975), and H. Rep. No. 91–1470, 91st Cong., 2d Sess. 31 (1970). These authorities and the issue raised by APS do not address the subject of this rule—the procedures for making a significant changes determination—nor do they provide, without any explanation by APS, an acceptable legal basis for the Commission to agree or disagree with the assertion made.

In addition, the companies (primarily electric utilities) owning and operating these facilities are dominant in their service areas and/or do not fall within the definition of a small business found in Section 3 of the Small Business Act, 15 U.S.C. 632, or within the Small Business Size Standards set forth in 13 CFR Part 121. Accordingly, there is no significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act of 1980.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Section 553 of Title 5 of the United States Code, notice is hereby given that the following amendments to Title 10, Chapter 1, Parts 1 and 2, Code of Federal Regulations, are published as a document subject to codification.

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

1. The authority citation for Part 1 is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948 (42 U.S.C. 2201); secs. 201, as amended, 203, 204, 205, and 209, Pub. L. 93–438, 88 Stat. 1242, 1244, 1245, 1246 and 1248, Pub. L. 94–79, 89 Stat. 413 (42 U.S.C. 5841, 5843, 5844, 5845, and 5849); 5 U.S.C. 552 and 553.

2. In § 1.42, paragraph (e) is revised to read as follows:

§ 1.42 Office of the Executive Legal Director.

* * * * *

(e) The Hearing Division also acts as counsel for the NRC staff in public administrative proceedings before the Commission, Atomic Safety and Licensing Appeal Boards, Atomic Safety and Licensing Boards, and administrative law judges in matters relating to antitrust aspects of applications for nuclear facility licenses; provides legal advice regarding NRC antitrust responsibilities; and, for operating license antitrust reviews, together with the Antitrust and Economic Analysis Branch of the Office of Nuclear Reactor Regulation, recommends to the appropriate Office Director (NRR or NMSS) whether or not a finding of significant changes should be made.

3. In § 1.61, paragraph (e) is revised to read as follows:

§ 1.61 Office of Nuclear Reactor Regulation.

* * * * *

(e) The Antitrust and Economic Analysis Branch conducts prelicensing reviews of applications for nuclear facilities to assure that issuance of a license will not create or maintain a situation inconsistent with the antitrust laws; for operating license antitrust reviews, together with the Hearing Division of the Office of the Executive Legal Director, recommends to the appropriate Office Director (NRR or NMSS) whether or not a finding of significant changes should be made; is responsible for ascertaining compliance with license conditions pertaining to antitrust matters; analyzes broad engineering and economic issues in formulating antitrust policy and guidance; and provides specialized technical capabilities in the area of the benefits and costs of power plants and nuclear facilities and need-for-power assessments.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

4. The authority citation for Part 2 is revised to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953 (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, Pub. L. 93–438, 88 Stat. 1242, as amended by Pub. L. 94–79, 89 Stat. 413 (42 U.S.C. 5841); 5 U.S.C. 552.

(Section 2.101 also issued under secs. 53, 62, 81, 103, 104, 105, 68 Stat. 930, 932, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2093, 2111, 2133, 2134, 2135); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Sections 2.200–2.206 also issued under sec. 168, 68 Stat. 955 (42 U.S.C. 2236); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600–2.606, 2.730, 2.772 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770 also issued under 5 U.S.C. 557. Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133). Sections 2.800–2.807 also issued under 5 U.S.C. 553. Section 2.808 also issued under 5 U.S.C. 553 and sec. 102, 83 Stat. 853 (42 U.S.C. 4332). Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended by Pub. L. 95–209, 91 Stat. 1483 (42 U.S.C. 2039). Appendix A is also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1472 (42 U.S.C. 2135))

5. Remove the authority citations following: §§ 2.1, 2.101, 2.102, 2.104, 2.105, 2.202, 2.206, 2.402, Subparts E and F, §§ 2.700a, 2.709, 2.710, 2.713, 2.714, 2.714a, 2.715, 2.716, 2.719, 2.721, 2.730, 2.740a, 2.743, 2.749, 2.751a, 2.754, 2.760, 2.760a, 2.762, 2.770, 2.771, 2.772, 2.785, 2.786, 2.787, 2.788, 2.790, 2.802, 2.806, Subpart I, and Appendices A and B.

6. In § 2.101, the introductory text of paragraph (c) and paragraphs (c)(3) and (e) are revised to read as follows:

§ 2.101 Filing of application.

* * * * *

(c) The notice published in the **Federal Register** announcing docketing of the antitrust information portion of an application for a facility construction permit under section 103 of the Act, except for those applications described in § 2.101(e) and §2.102(d)(2), shall state that:

* * * * *

(3) Any person who wishes to have his views on the antitrust matters of the application considered by the NRC and presented to the Attorney General for consideration should submit such views within sixty (60) days after publication of the notice announcing receipt and docketing of the antitrust information to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Antitrust and Economic Analysis Branch.

* * * * *

(e)(1) Upon receipt of the antitrust information responsive to Regulatory Guide 9.3 submitted in connection with an application for a facility operating license under section 103 of the Act, the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, shall publish in the **Federal Register** and in appropriate trade journals a "Notice of Receipt of Operating License Antitrust Information." The notice shall invite persons to submit, within thirty (30) days after publication of the notice, comments or information concerning the antitrust aspects of the application to assist the Director in determining, pursuant to section 105c of the Act, whether significant changes in the licensee's activities or proposed activities have occurred since the completion of the previous antitrust review in connection with the construction permit. The notice shall also state that persons who wish to have their views on the antitrust aspects of the application considered by the NRC and presented to the Attorney General for consideration should submit such views within thirty (30) days after publication of the notice to: U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Antitrust and Economic Analysis Branch.

(2) If the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, after reviewing any comments or information received in response to the published notice and any comments or information regarding the applicant received from the Attorney General, concludes that there have been

no significant changes since the completion of the previous antitrust review in connection with the construction permit, a finding of no significant changes shall be published in the Federal Register, together with a notice stating that any request for reevaluation of such finding should be submitted within thirty (30) days of publication of the notice. If no requests for reevaluation are received within that time, the finding shall become the NRC's final determination. Requests for a reevaluation of the no significant changes determination may be accepted after the date when the Director's finding becomes final but before the issuance of the OL only if they contain new information, such as information about facts or events of antitrust significance that have occurred since that date, or information that could not reasonably have been submitted prior to that date.

(3) If, as a result of a reevaluation of the finding described in paragraph (e)(2) of this section, it is determined that there have been no significant changes, the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, shall deny the request and shall publish a notice of finding of no significant changes in the Federal Register. The notice and finding become the final NRC decision thirty (30) days after being made and only in the event that the Commission has not exercised sua sponte review.

(4) If the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, concludes that significant changes have occurred since the completion of the antitrust review in connection with the construction permit, then the provisions of § 2.102(d) apply.

* * * * *

7. In § 2.102, paragraphs (d) (1) and (2) are revised to read as follows:

§ 2.102 Administrative review of application.

* * * * *

(d)(1) Except as provided in paragraph (d)(2) of this section, the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, will refer and transmit a copy of each docketed application for a construction permit or an operating license for a utilization or production facility under section 103 of the Act to the Attorney General as required by section 105c of the Act.

(2) The requirements of paragraph (d)(1) of this section do not apply to an application for an operating license for a production or utilization facility under section 103 of the Act for which the construction permit was also issued under section 103, unless the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, determines, after consultation with the Attorney General and in accordance with § 2.101(e), that such review is advisable on the ground that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous review of the Attorney General and the Commission under section 105c of the Act in connection with the construction permit.

* * * * *

8. In § 2.104, paragraph (d)(3) is revised to read as follows:

§ 2.104 Notice of hearing.

* * * * *

(d) * * *

(3) That matters of radiological health and safety and common defense and security, and matters raised under the National Environmental Policy Act of 1969, will be considered at another hearing if otherwise required or ordered to be held, for which a notice will be published pursuant to paragraphs (a) and (b) of this section, unless otherwise authorized by the Commission.

* * * * *

9. In Appendix A to Part 2, paragraph X.(a) is revised, paragraph X.(b) is redesignated as paragraph X.(b)(1) and is revised, new paragraphs X.(b)(2)–X.(b)(5) are added, and paragraph X.(c) is revised to read as follows:

Appendix A.—Statement of General Policy and Procedure: Conduct of Proceedings for the Issuance of Construction Permits and Operating Licenses for Production and Utilization Facilities for Which a Hearing Is Required Under Section 189 of the Atomic Energy Act of 1954, as Amended

* * * * *

X. Proceedings for the Consideration of Antitrust Aspects of Facility License Applications

(a) Under the Atomic Energy Act of 1954, as amended, the Commission is required, with respect to applications for construction permits or operating licenses for production and utilization facilities for industrial or commercial purposes licensed under section 103, which include power reactors subject to the mandatory hearing requirements of section 189a of the Act, to follow procedures for antitrust review in section 105c of the Act. This section outlines the procedures used by the Commission to implement that section.

(b)(1) When the antitrust information portion of an application is received and docketed for a facility construction permit under section 103 of the Act which is subject to antitrust review under section 105c, the notice of receipt of the antitrust information published in the Federal Register shall state that persons who wish to have their views on the antitrust aspects of the application considered by the NRC and presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after publication of the notice.

(2) Upon receipt of the antitrust information responsive to Regulatory Guide 9.3 submitted in connection with an application for a facility operating license under section 103 of the Act, the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, shall publish in the Federal Register and in appropriate trade journals a "Notice of Receipt of Operating License Antitrust Information." The notice shall invite persons to submit, within thirty (30) days after publication of the notice, comments or information concerning antitrust aspects of the application to assist the Director in determining, pursuant to section 105c of the Act, whether significant changes in the licensee's activities or proposed activities have occurred since completion of the previous antitrust review in connection with the construction permit application. The notice shall also state that persons who wish to have their views on the antitrust aspects of the application considered by the NRC and presented to the Attorney General for consideration should submit such views within thirty (30) days after publication of the notice to: U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Chief, Antitrust and Economic Analysis Branch.

(3) If the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, after reviewing any comments or information received in response to the published notice and any comments or information regarding the applicant received from the Attorney General, concludes that there have been no significant changes since the completion of the previous antitrust review in connection with the construction permit, a finding of no significant changes shall be published in the Federal Register, together with a notice stating that any request for reevaluation of such finding should be submitted within thirty (30) days of publication of the notice. If no requests for reevaluation are received within that time, the finding shall become the NRC's final determination. Requests for a reevaluation of the no significant changes determination shall be accepted after the date when the Director's finding becomes final but before the issuance of the OL only if they contain new information, such as information about facts or events of antitrust significance that have occurred since that date, or information that could not reasonably have been submitted prior to that date.

(4) If, as a result of the reevaluation of the finding described above, it is determined that there have been no significant changes, the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, shall deny the request and shall publish a notice of finding of no significant changes in the Federal Register. The notice and finding become the final NRC decision thirty (30) days after being made and only in the event that the Commission has not exercised sua sponte review.

(5) If the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, concludes that significant changes have occurred since the completion of the previous antitrust review in connection with the construction permit, then the provisions of § 2.102(d) shall apply.

(c)(1) Except as provided in paragraph (c)(2) below, the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, shall refer and transmit a copy of each application for a construction permit or an operating license for a utilization or production facility under section 103 of the Act, to the Attorney General as required by section 105c of the Act. Under that section, the Attorney General will, within a reasonable time, but in no event to exceed 180 days after receipt, render such advice to the Commission as is determined to be appropriate in regard to the finding to be made by the Commission as to whether the activities under the license would create or maintain a situation inconsistent with the antitrust laws specified in subsection 105a of the Act.

(2) The review by the Attorney General described in paragraph (c)(1) above is not required for applications for operating licenses for production or utilization facilities under section 103 of the Act for which the construction permit was also issued under section 103, unless the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, determines, after consultation with the Attorney General and in accordance with § 2.101(e), that such review is advisable on the ground that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous review by the Attorney General and by the Commission under section 105c of the Act in connection with the construction permit.

* * * * *

Dated at Washington, DC this 3d day of March, 1982.

For the Nuclear Regulatory Commission.

Samuel Chilk,

Secretary of the Commission.

[FR Doc. 82-6340 Filed 3-8-82; 8:45 am]

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10 CFR Part 2

General Statement of Policy and Procedure for Enforcement Actions

AGENCY: Nuclear Regulatory Commission.

ACTION: Revised general statement of policy.

SUMMARY: The NRC is revising its enforcement policy based on: (1) experience gained in the implementation of the proposed general guidance to the staff since that guidance was published in October 1980; and (2) comments received during and following public meetings on the policy. The policy statement is intended to inform licensees and the public of the bases for taking various enforcement actions. The policy, which provides guidance, is being codified as Appendix C to Part 2 of Title 10 of the Code of Federal Regulations.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT: James Lieberman, Acting Director, Enforcement Staff, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (301–492–4909).

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission is revising its enforcement policy to respond to comments provided on an earlier version published in October 1980 and to reflect experience gained in use of the interim policy. The revised policy describes the general bases on which various enforcement sanctions are to be used as part of the NRC's regulatory program. The statement of general policy set forth below (as Appendix C to Part 2) is intended to serve as Commission guidance, rather than as rigid requirements.

Background

The criteria used by the Commission's staff to determine categories of noncompliance and enforcement actions arising therefrom (referred to hereafter as "Criteria") were first published on October 17, 1972 (37 FR 21962). These Criteria were subsequently modified on January 3, 1975 (40 FR 820) and on December 3, 1979 (44 FR 77135). In late 1979, the Commission directed the staff to prepare a comprehensive statement of enforcement policy. This staff effort received added urgency with the enactment of Pub. L. 96–295 (signed June 30, 1980), that, among other things, amended Section 234 of the Atomic Energy Act to raise the maximum civil penalty the NRC can impose from $5,000 to $100,000 per violation and eliminated the provision limiting the total civil penalties for any 30-day period to $25,000.

On September 4, 1980, the Commission approved a proposed general statement of policy on enforcement, and directed the staff: (1) To implement the proposed policy as interim guidance; (2) to publish the proposed policy for public comment; and (3) to conduct a series of public meetings to obtain and consider public comments on the proposed policy.

The proposed policy was published in the Federal Register on October 7, 1980 (45 FR 66754). A series of five public meetings was announced on October 17, 1980 (45 FR 69077) and copies of both those Federal Register items were mailed to all NRC licensees and to identified public interest and intervenor groups, soliciting their participation in the meetings.

Results of Meetings

Public meetings were held in early December 1980, as scheduled, in Philadelphia, PA, Atlanta, GA, Chicago, IL, Dallas, TX, and Oakland, CA. Attendance at the meetings varied from about 35 (at the Dallas and Oakland meetings) to a little over 100 (at the Philadelphia and Chicago meetings). All meetings were transcribed, and transcripts are available in the NRC's Public Document Room at 1717 H Street NW, Washington, DC 20555.

In addition to comments received at the public meetings, written comments were submitted by 162 individuals and/or groups. All comments were carefully considered by the staff in its revision of the policy, and where appropriate, the policy was revised to accommodate them. The nature of both verbal and written comments ranged from highly critical to enthusiastically supportive. In general, however, the thrust of the comments was unfavorable, with criticism most often directed at: (1) The generally perceived adversarial tone of the policy; (2) the lack of more explicit consideration of extenuating conditions as they might apply to individual cases, thus arguing for more flexibility for the staff to apply judgment and discretion in enforcement decisions; (3) inadequate recognition of effective licensee audit programs designed to identify and correct problems internally; (4) inconsistency among the severity levels assigned to violations in the various activity areas; (5) lack of clarity in the examples of violations in the supplements; and (6) inadequate distinctions between severity levels, particularly for the less serious violations.

Representative concerns (as paraphrased by the staff) frequently expressed in both the public meetings and the written comments, and the NRC staff responses to them are set forth below. In addition, a compilation of all written comments, and staff responses to them, has been prepared and will be made available soon in the NRC Public Document Room and through the National Technical Information Service (NTIS), Springfield, VA, as an NRC report (NUREG–0730). Many of the oral presentations at the public meetings were reiterated in the

written comments, and the general thrust of all the oral presentations closely paralled the written comments.

Comment: The Commission should be involved in any decisions deviating from the stated enforcement policy, whether that deviation results in a greater or lesser civil penalty.

Response: The Commission is notified before proposing each civil penalty. However, requiring the Commission to rule on each deviation would create an undue burden on the Commission. Currently the policy calls for Commission review when:

a. The proposed action may in itself involve public health and safety risks;

b. The Commission feels it is desirable;

c. The Director feels it is appropriate; or

d. A civil penalty for a single violation exceeds 3.75 times the base amount of a severity level I violation.

Comment: In implementing this policy NRC should follow the requirements of the Regulatory Flexibility Act of 1980.

Response: This policy is not subject to the Regulatory Flexibility Act.

Comment: The size of a fine should be based on hazard, not the ability to pay.

Response: The legislative history of section 234 indicates that ability to pay is a factor to be considered in assessing civil penalties. The structure of Table 1 does reflect generally the nature of hazard involved in licensed activities. A civil penalty is not designed to put a licensee out of business. Where it is appropriate to terminate licensed activities, an order, rather than a civil penalty, is used.

Comment: It should not be NRC policy to fine individual operators licensed under 10 CFR Part 55.

Response: Enforcement actions for licensed operators will be determined on a case-by-case basis, as specified in Section IV.A. of the Policy Statement.

Comment: Inadvertent errors must be accepted as a distinct possibility and severe penalties should be reserved for willful violations only.

Response: NRC expects, and has required, a high standard of licensee compliance; this policy is designed to ensure that this high standard is maintained. Clearly, willful violations should be treated more harshly. A willful violation may be a criminal violation under the Atomic Energy Act and may be referred to the Department of Justice for appropriate action.

Comment: Insufficient time was allowed to prepare for pubic meetings.

Response: The meetings were announced on October 17, 1980 and were held in early December, 1980; a period of at least six weeks to prepare for the meetings.

Comment: Insufficient time has been allowed for written comments.

Response: All comments received before June 1981 were considered in the policy modification, although the formal closing date for receipt of comments was December 31, 1980, which provided almost three months from date of publication in the Federal Register for preparation of written comments.

Comment: The policy should be withdrawn until an assessment can be made as to the necessity of new regulations.

Response: This policy does not add any new requirements. Rather, it announces how the NRC will enforce existing requirements.

Comment: The Office Directors should have more discretion.

Response: The Office Directors have broad discretion. The policy allows for discretion while ensuring that sufficient guidance is present for its even application.

Comment: Any civil penalties imposed on nonprofit hospitals or other nonprofit institutions would have to be paid by increasing charges to the public.

Response: Table 1 has been modified to address this concern. The Commission does not desire to increase consumer costs. Nevertheless, the Commission believes that civil penalties provide both profit-making and nonprofit institutions incentives for safety through compliance with its requirements.

Comment: What criteria were used to place particular violations in their corresponding severity levels?

Response: The actual or potential impact on the health and safety of the public is the fundamental basis for this determination within each activity area. It is inappropriate, however, to compare severity levels between activity areas.

Comment: Are the supplements for guidance only or are they mandatory?

Response: The supplements are for guidance, as is the entire policy statement.

Comment: The aggressive use of monetary civil penalties will not ensure compliance with NRC regulations.

Response: While not ensuring compliance, civil penalties are strong incentives to comply. Enforcement actions are almost exclusively retrospective in nature, of course, and thus address past noncompliance rather than guaranteeing compliance. Nevertheless, the deterrent effect of enforcement, including civil penalties, is considered to be substantial. In addition, it is Commission policy that noncompliance should be more expensive than compliance.

Comment: The language used in the introduction and purpose invites a counterproductive adversarial relationship.

Response: The language in the introduction and purpose has been changed to address this concern.

Comment: The requirement to submit responses to Notices of Violation under oath or affirmation is unnecessary and contributes to an adversarial tone. It should not be required for all responses.

Response: The across-the-board requirement has been eliminated for other than escalated enforcement actions, but the decision to require such sworn responses remains an NRC option under Section 182 of the Atomic Energy Act. The Commission continues to expect accurate, complete and timely information from licensees. The elimination of the oath requirement will not prevent the Commission from taking enforcement action for responses that do not meet that expectation.

Comment: Civil penalties should not be imposed for the same violation which is the basis for a license revocation or suspension.

Response: The Atomic Energy Act expressly provides for civil penalties to be assessed for any violation which would warrant license revocation. The decision as to whether both revocation (or suspension) and civil penalties should be applied for the same violation is made on a case-by-case basis.

Comment: The matching of severity levels to civil penalties may make it easier for the NRC to determine a civil penalty and/or any other sanction, but it takes away from the licensee any chance of proving the existence of mitigating circumstances.

Response: Prior to imposing civil penalties, licensees are given the opportunity to raise any mitigating circumstances unique to the case. These circumstances are taken into consideration when the decision is made whether or not to order the imposition of civil penalties. Mitigation or remission of civil penalties based on such licensee responses is not uncommon when compelling arguments are presented.

Comment: Provisions for escalated action set forth in Table 2 are not appropriate.

Response: Table 2 is advisory, not mandatory.

Comment: Severity levels need to be revised to more clearly reflect health and safety concerns.

Response: The number of severity levels has been reduced to five, with additional guidance in expanded supplements.

Comment: Immediate Action Letters should be called Confirmatory Action Letters.

Response: Adopted.

Comment: Is the Enforcement Policy a General Statement of Policy or a regulation?

Response: An underlying basis of this policy that is reflected throughout it is that the determination of the appropriate sanction requires the exercise of discretion such that each enforcement action is tailored to the particular factual situation. In view of the discretion provided, the enforcement policy is being adopted as a statement of general policy rather than as a regulation, notwithstanding that the statement has been promulgated with notice and comment procedures. A general statement of policy will permit the Commission maximum flexibility in revising the policy statement and it is expected that the statement, especially the supplements, will be revised as necessary to reflect changes in policy and direction of the Commission.

In drafting the statement it was expected that the specific enforcement criteria should provide adequate guidance and be applied in the majority of circumstances requiring enforcement actions. The policy, as indicated above, does provide discretion to take appropriate action if, after considering the policy statement, the Director determines that application of the criteria is inappropriate. For example, there may be cases where more than a 25% increase in civil penalty is appropriate based on prior enforcement history.

Principal Changes

The fundamental basis of the revised policy remains the same as that articulated in the interim policy. That is, violations are categorized by severity level in accordance with guidance incorporated in the policy statement. Based on that severity level, the enforcement sanction to be applied is then determined. Depending on the nature of the licensed activity involved, the size of any base civil penalty that may be called for is then determined and adjusted upward or downward based on the circumstances of the specific case.

In spite of these basic similarities, substantial changes have been made in how the steps are accomplished and in clarifying the language used to present the policy. The most significant of these changes include: (1) Reduction in the number of severity levels from six to five; (2) provision that severity level III violations be considered for civil penalties, rather than normally assessing civil penalties for them; (3) elimination of civil penalties for violations identified, corrected and reported by licensees under certain conditions; (4) elimination of specific criteria for enforcement actions against licensed operators; (5) modification of the tone of presentation to avoid an unnecessarily adversarial character; (6) changes in the base civil penalty values to better differentiate among different types of licensees; (7) clarification of a number of passages and of several terms used in the policy; (8) addition of a new supplement containing guidance on miscellaneous matters, including violations involving material false statements, willful violations and reporting failures; and (9) combination of the supplements applicable to fuel cycle operation and materials activities into one supplement.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Section 552 of Title 5 of the United States Code, the following statement of policy is published as Appendix C to 10 CFR Part 2 as a document subject to codification to be effective March 9, 1982.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority citation for Part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953 (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, Pub. L. 93–438, 88 Stat. 1242, as amended by Pub. L. 94–79, 89 Stat. 413 (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 81, 103, 104, 105, 68 Stat. 930, 932, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2111, 2133, 2134, 2135); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Sections 2.200–2.206 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600–2.606, 2.730, 2.772 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770 also issued under 5 U.S.C. 557. Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133). Sections 2.800–2.807 also issued under 5 U.S.C. 553. Section 2.808 also issued under 5 U.S.C. 553 and sec. 102, 83 Stat. 853 (42 U.S.C. 4332). Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended by Pub. L. 95–209, 91 Stat. 1483 (42 U.S.C. 2039). Appendix A is also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1472 (42 U.S.C. 2135).

2. Part 2 is amended by adding a new Appendix C to read as follows:

Appendix C—General Policy and Procedure for NRC Enforcement Actions

The following statement of general policy and procedure explains the enforcement policy and procedures of the U.S. Nuclear Regulatory Commission and its staff in initiating enforcement actions and of presiding officers, the Atomic Safety and Licensing Appeal Boards, and the Commission in reviewing these actions. This statement is applicable to enforcement in matters involving the public health and safety, the common defense and security, and the environment.[1]

I. Introduction and Purpose

The purpose of the NRC enforcement program is to promote and protect the radiological health and safety of the public, including employees' health and safety, the common defense and security, and the environment by:

- Ensuring compliance with NRC regulations and license conditions;
- Obtaining prompt correction of noncompliance;
- Deterring future noncompliance; and
- Encouraging improvement of licensee performance, and by example, that of industry, including the prompt identification and reporting of potential safety problems.

Consistent with the purpose of this program, prompt and vigorous enforcement action will be taken when dealing with licensees who do not achieve the necessary meticulous attention to detail and the high standard of compliance which the NRC expects of its licensees. Each enforcement action is dependent on the circumstances of the case and requires the exercise of discretion after consideration of these policies and procedures. In no case, however, will licensees who cannot achieve and maintain adequate levels of protection be permitted to conduct licensed activities.

II. Statutory Authority and Procedural Framework

A. Statutory Authority

The NRC's enforcement jurisdiction is drawn from the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended.

Section 161 of the Atomic Energy Act authorizes NRC to conduct inspections and investigations and to issue orders as may be necessary or desirable to promote the common defense and security or to protect health or to minimize danger to life or property. Section 186 authorizes NRC to revoke licenses under certain circumstances (e.g., for material false statements, in response to conditions that would have warranted refusal of a license on an original application, for a licensee's failure to build or

[1] Antitrust enforcement matters will be dealt with on a case-by-case basis.

operate a facility in accordance with the terms of the permit or license, and for violation of a NRC regulation). Section 234 authorizes NRC to impose civil penalties not to exceed $100,000 per violation per day for the violation of certain specified licensing provisions of the Act, rules, orders, and license terms implementing these provisions, and for violations for which licenses can be revoked. Section 232 authorizes NRC to seek injunctive or other equitable relief for violation of regulatory requirements.

Section 206 of the Energy Reorganization Act authorizes NRC to impose civil penalties for knowing and conscious failures to provide certain safety information to the NRC.

Chapter 18 of the Atomic Energy Act provides for varying levels of criminal penalties (i.e., monetary fines and imprisonment) for willful violations of the act and regulations or orders issued under Sections 65, 161(b), 161(i), or 161(o) of the Act. Section 223 provides that criminal penalties may be imposed on certain individuals employed by firms constructing or supplying basic components of any utilization facility if the individual knowingly and willfully violates NRC requirements such that a basic component could be significantly impaired. Section 235 provides that criminal penalties may be imposed on persons who interfere with inspectors. Section 236 provides that criminal penalties may be imposed on persons who attempt to or cause sabotage at a nuclear facility or to nuclear fuel. Alleged or suspected criminal violations of the Atomic Energy Act are referred to the Department of Justice for appropriate action.

B. Procedural Framework

10 CFR Part 2, Subpart B, of NRC's regulations sets forth the procedures the NRC uses in exercising its enforcement authority. 10 CFR 2.201 sets forth the procedures for issuing notices of violation.

The procedure to be used in assessing civil penalties is set forth in 10 CFR 2.205. This regulation provides that the appropriate NRC Office Director initiates the civil penalty process by issuing a notice of violation and proposed imposition of a civil penalty. The licensee is provided an opportunity to contest in writing the proposed imposition of a civil penalty. After evaluation of the licensee's response, the Director may mitigate, remit, or impose the civil penalty. An opportunity is provided for a hearing if a civil penalty is imposed.

The procudure for issuing an order to show cause why a license should not be modified, suspended, or revoked or why such other action should not be taken is set forth in 10 CFR 2.202. The mechanism for modifying a license by order is set forth in 10 CFR 2.204. These sections of Part 2 provide an opportunity for a hearing to the affected licensee. However, the NRC is authorized to make orders immediately effective if the public health, safety or interest so requires or, in the case of an order to show cause, if the alleged violation is willful.

III. Severity of Violations

Regulatory requirements [2] have varying degrees of safety, safeguards, or environmental significance. Therefore, it is essential that the relative importance of each violation be identified as the first step in the enforcement process.

Consequently, violations are categorized in terms of five levels of severity to show their relative importance within each of the following seven activity areas:

Reactor Operations;
Facility Construction;
Safeguards;
Health Physics;
Transportation;
Fuel Cycle and Materials Operations; and
Miscellaneous Matters.

Within each activity area Severity Level I has been assigned to violations that are the most significant and Severity Level V violations are the least significant. Severity Level I had II violations are of very significant regulatory concern. In general, violations that are included in these severity categories involve actual or high potential impact on the public. Severity Level III violations are cause for significant concern. Severity Level IV violations are less serious but are of more than minor concern; *i.e.*, if left uncorrected, they could lead to a more serious concern. Severity Level V violations are of minor safety or environmental concern.

The relative seriousness of violations at the several severity levels applies within each activity area, but comparisons between activity areas are inappropriate. For example, while the immediacy of any hazard to the public associated with Severity Level I violations in Reactor Operations is greater than that associated with Severity Level I violations in Reactor Construction, both areas have violations which cover the full range of severity levels. This disparity in relative seriousness of violations in different activity areas is due to the diversity of licensed activities regulated by NRC and the need for continuing improvement in licensee performance of certain activities.

While examples are provided in Supplements I through VII for determining the appropriate severity level for violations in each of the seven activity areas, the examples are neither exhaustive nor controlling. These examples do not create new requirements. They reflect the seriousness of violations of requirements. Each of the examples in the supplements is predicated on a violation of a regulatory requirement.

In each case, the severity of a violation will be characterized at the level best suited to the significance of the particular violation. Licensed activities not directly covered by one of the above listed areas, e.g., export license activities, will be placed in the activity area most suitable in light of the particular violation involved.

The severity level of a violation may be increased if the circumstances surrounding the matter involve careless disregard of requirements, deception, or other indications of willfulness. The term "willfulness" as used here embraces a spectrum of violations ranging from deliberate intent to violate or falsify to and including careless disregard for requirements. Willfulness does not comprehend acts which do not rise to the level of careless disregard. In determining the specific severity level of a violation involving willfulness consideration will be given to such factors as the position of the person involved in the violation (e.g., first line supervisor or senior manager), the significance of any underlying violation, the intent of the violator (i.e., negligence not amounting to careless disregard, careless disregard, or deliberateness), and the economic advantage, if any, gained by the violation. The relative weight given to each of these factors in arriving at the appropriate severity level will be dependent on the circumstances of the violation.

The NRC expects licensees to provide full, complete, timely, and accurate information and reports. Accordingly, unless otherwise categorized in the Supplements, the severity level of a violation involving the failure to make a required report to the NRC will be based upon the significance of and the circumstances surrounding the matter. However, the severity level of an untimely report, in contrast to no report, may be reduced depending on the circumstances surrounding the matter.

IV. Enforcement Actions

This section describes the enforcement sanctions available to NRC and specifies the conditions under which each may be used. The basic sanctions are notices of violation, civil penalties, and orders of various types. Additionally, related administrative mechanisms such as bulletins and confirmatory action letters are used to supplement the enforcement program. In selecting the enforcement sanctions to be applied, NRC will consider enforcement actions taken by other Federal or State regulatory bodies having concurrent jurisdiction, such as in transportation matters.

With very limited exceptions, whenever noncompliance with NRC requirements is identified, enforcement action is taken. The nature and extent of the enforcement action is intended to reflect the seriousness of the violation involved. For the vast majority of violations, action by an NRC regional office is appropriate in the form of a Notice of Violation requiring a formal response from the licensee describing its corrective actions. The relatively small number of cases involving elevated enforcement action receives substantial attention by the public, and may have signficant impact on the licensee's operation. These elevated enforcement actions include civil penalties; orders modifying, suspending or revoking licenses; or orders to cease and desist from designated activities.

A. Notice of Violation

A notice of violation is a written notice setting forth one or more violations of a legally binding requirement. The notice normally requires the licensee to provide a written statement describing (1) corrective steps which have been taken by the licensee and the results achieved; (2) corrective steps which will be taken to prevent recurrence; and (3) the date when full compliance will be achieved. NRC may require responses to notices of violation to be under oath. Normally, responses under oath will be required only in connection with civil penalties and orders.

NRC uses the notice of violation as the standard method for formalizing the existence of a violation. A notice of violation is normally the only enforcement action taken, except in cases where the criteria for civil penalties and orders, as set forth in Sections IV.B and IV.C respectively, are met. In such cases, the notice of violation will be issued in conjunction with the elevated actions.

Because the NRC wants to encourage and support licensee initiative for self-identification and correction of problems, NRC will not generally issue a notice of violation for a violation that meets all of the following tests:

(1) It was identified by the licensee;
(2) It fits in Severity Level IV or V;
(3) It was reported, if required;
(4) It was or will be corrected, including measures to prevent recurrence, within a reasonable time; and
(5) It was not a violation that could reasonably be expected to have been prevented by the licensee's corrective action for a previous violation.

Licensees are not ordinarily cited for violations resulting from matters not within their control, such as equipment failures that were not avoidable by reasonable licensee quality assurance measures or management controls. Generally, however, licensees are held responsible for the acts of their employees. Accordingly, this policy should not be construed to excuse personnel errors. Enforcement actions involving individuals, including licensed operators, will be determined on a case-by-case basis.[3]

B. Civil Penalty

A civil penalty is a monetary penalty that may be imposed for violation of (a) certain specified licensing provisions of the Atomic Energy Act or supplementary NRC rules or orders, (b) any requirement for which a license may be revoked, or (c) reporting requirements under Section 206 of the Energy Reorganization Act. Civil penalties are designed to emphasize the need for lasting remedial action and to deter future violations.

Generally, civil penalties are imposed for Severity Level I and II violations, are considered and usually imposed for Severity Level III violations, and may be imposed for Severity Level IV violations that are similar [4] to violations discussed in a previous enforcement conference, and for which the enforcement conference was ineffective in achieving the required corrective action.

In applying this guidance for Severity Level IV violations, NRC normally considers civil penalties only for similar violations that occur after the date of the last inspection or within two years, whichever period is greater. Enforcement conferences are normally conducted for all Severity Level I, II, and III violations and for Severity Level IV violations that are considered symptomatic of program deficiencies, rather than isolated concerns. Licensees will be put on notice when a meeting is an enforcement conference.

Civil penalties will normally be assessed for knowing and conscious violations of the reporting requirements of Section 206 of the Energy Reorganization Act, and for any willful violation, including those at any severity level.

NRC imposes different levels of penalties for different severity level violations and different classes of licensees. Tables 1A and 1B show the base civil penalties for various reactor, fuel cycle, and materials programs. The structure of these tables generally takes into account the gravity of the violation as a primary consideration and the ability to pay as a secondary consideration. Generally, operations involving greater nuclear material inventories and greater potential consequences to the public and licensee employees receive higher civil penalties. Regarding the secondary factor of ability of various classes of licensees to pay the civil penalties, it is not the NRC's intention that the economic impact of a civil penalty be such that it puts a licensee out of business (orders, rather than civil penalties, are used when the intent is to terminate licensed activities) or adversely affects a licensee's ability to safely conduct licensed activities. The deterrent effect of civil penalties is best served when the amounts of such penalties take into account a licensee's "ability to pay." In determining the amounts of civil penalties for licensees for whom the tables do not reflect the ability to pay, NRC will consider as necessary an increase or decrease on a case-by-case basis.

NRC attaches great importance to comprehensive licensee programs for detection, correction, and reporting of problems that may constitute, or lead to, violation of regulatory requirements. This is emphasized by giving credit for effective licensee audit programs when licensees find, correct, and report problems expeditiously and effectively. To encourage licensee self-identification and correction of violations and to avoid potential concealment of problems of safety significance, application of the adjustment factors set forth below may result in no civil penalty being assessed for violations which are identified, reported (if required), and effectively corrected by the licensee, provided that such violations were not disclosed as a result of overexposures or unplanned releases of radioactivity or other specific, self-disclosing incidents.

On the other hand, ineffective licensee programs for problem identification or correction are unacceptable. In cases involving willfulness, flagrant NRC-identified violations or serious breakdown in management controls, NRC intends to apply its full enforcement authority where such action is warranted, including issuing appropriate orders and assessing civil penalties for continuing violations on a per day basis, up to the statutory limit of $100,000 per violation, per day.

NRC reviews each proposed civil penalty case on its own merits and adjusts the base civil penalty values upward or downward appropriately. Tables 1A and 1B identify the base civil penalty values for different severity levels, activity areas, and classes of licensees. After considering all relevant circumstances, adjustments to these values may be made for the factors described below:

1. *Prompt Identification and Reporting.* Reduction of up to 30% of the base civil penalty may be given when a licensee identifies the violation and promptly reports the violation to the NRC. In weighing this factor, consideration will be given to, among other things, the length of time the violation existed prior to discovery, the opportunity available to discover the violation, and the promptness and completeness of any required report. This factor will not be applied to violations which constitute or are identified as a result of overexposures, unplanned releases of radioactivity or other specific, self-disclosing incidents. In addition, no consideration will be given to this factor if the licensee does not take immediate action to correct the problem upon discovery.

2. *Corrective Action to Prevent Recurrence.* Recognizing that corrective action is always required to meet regulatory requirements, the promptness and extent to which the licensee takes corrective action, including actions to prevent recurrence, may be considered in modifying the civil penalty to be assessed. Unusually prompt and extensive corrective action may result in reducing the proposed civil penalty as much as 50% of the base value shown in Table 1. On the other hand, the civil penalty may be increased as much as 25% of the base value if initiation of corrective action is not prompt or if the corrective action is only minimally acceptable. In weighing this factor consideration will be given to, among other things, the timeliness of the corrective action, degree of licensee initiative, and comprehensiveness of the corrective action—such as whether the action is focused narrowly to the specific violation or broadly to the general area of concern.

3. *Enforcement History.* The base civil penalty may be increased as much as 25% depending on the enforcement history in the general area of concern. Specifically, failure to implement previous corrective action for prior similar problems may increase the civil penalty value.

4. *Prior Notice of Similar Events.* The base civil penalty may be increased as much as 25% for cases where the licensee had prior knowledge of a problem as a result of a licensee audit, or specific NRC or industry

[1] The term "requirement" as used in this policy means a legally binding requirement such as a statute, regulation, license condition, technical specification, or order.

[2] Section 234 of the Atomic Energy Act gives the Commission authority to impose civil penalties for violations on "any person." "Person" is broadly defined in Section 11s of the AEA to include individuals, a variety of organizations, and any representatives or agents. This gives the Commission authority to impose civil penalties on employees of licensees or on separate entities when a violation of a requirement directly imposed on them is committed.

[3] The word "similar," as used in this policy, refers to those violations which could have been reasonably expected to have been prevented by the licensee's corrective action for the previous violation.

notification, and had failed to take effective preventive steps.

5. *Multiple Occurrences.* The base civil penalty may be increased as much as 25% where multiple examples of a particular violation are identified during the inspection period. This factor is applicable only where NRC identifies the violation, or for violations associated with self-disclosing incidents.

The above factors are additive so that the civil penalty for any severity level may range from plus or minus 100% of the base value. However, in no instance will a civil penalty for any one violation exceed $100,000 per day.

The duration of a violation may also be considered in assessing a civil penalty. A greater civil penalty may be imposed if a violation continues for more than a day. Generally, if a licensee is aware of the existence of a condition which results in an ongoing violation and fails to initiate corrective action, each day the condition existed may be considered as a separate violation and, as such, subject to a separate additional civil penalty.

Generally, for situations where a licensee is unaware of a condition resulting in a continuing violation, a separate violation and attendant civil penalty may be considered for each day that the licensee clearly should have been aware of the condition or had an opportunity to correct the condition, but failed to do so. Civil penalties in excess of 3.75 times the maximum civil penalty for a single Severity Level I violation for each type of licensee require specific Commission approval in accordance with guidance set forth in Section VI below.

NRC statutory authority permits the assessment of the maximum civil penalty for each violation. The Tables and the mitigating factors determine the civil penalties which may be assessed for each violation. However, to emphasize the focus on the fundamental underlying causes of a problem for which enforcement action appears to be warranted, the cumulative total for all violations which contributed to or were unavoidable consequences of that problem will generally be based on the amount shown in the table, as adjusted. If an evaluation of such multiple violations shows that more than one fundamental problem is involved, each of which, if viewed independently, could lead to civil penalty action by itself, then separate civil penalties may be assessed for each such fundamental problem. In this regard, the failure to make a required report of an event requiring such reporting is considered a separate problem and will normally be assessed a separate civil penalty.

TABLE 1A.—BASE CIVIL PENALTIES

[For Severity I Violations]

	Plant openings, construction and health physics	Safeguards		Transportation	
		Category 1[1]	Noncategory 1	High level waste, spent fuel[2]	Low specific activity[3]
a. Power Reactors	$80,000	$40,000	$40,000	$80,000	$5,000
b. Test Reactors	10,000	10,000	5,000	10,000	2,500
c. Research Reactors and Critical Facilities	5,000	5,000	2,500	5,000	1,000
d. Fuel Facilities	40,000	80,000	40,000	40,000	5,000
e. Industrial Users of Material[4]	8,000			8,000	2,500
f. Waste Disposal Licensees	8,000			8,000	2,000
g. Academic or Medical Institutions[5]	4,000			2,500	1,000
h. Other Material Licensees	1,000			2,500	1,000

[1] Category 1 licensees are those authorized to possess formula quantities of strategic special nuclear material (10 CFR 73.2(bb)).
[2] Type B packages.
[3] Type A limited quantity packages.
[4] Includes industrial radiographers, nuclear pharmacies, industrial processors and firms engaged in manufacturing or distribution of byproduct or source materials.
[5] This applies to nonprofit institutions not otherwise categorized under a through f in this table.

TABLE 1B.—BASE CIVIL PENALTIES

Severity level	Base civil penalty amount[1]
I	100
II	80
III	50
IV	15
V	5

[1] Percent of amount listed in table 1A.

C. Orders

An order is a written NRC directive to modify, suspend, or revoke a license; to cease and desist from a given practice or activity; or to take such other action as may be proper (*see* 10 CFR 2.202 and 2.204). Orders may be issued as set forth below. Orders may also be issued in lieu of, or in addition to, civil penalties, as appropriate.

(1) License Modification Orders are issued when some change in licensee equipment, procedures, or management controls is necessary.

(2) Suspension Orders may be used:

(a) To remove a threat to the public health and safety, common defense and security, or the environment;

(b) To stop facility construction when (i) further work could preclude or significantly hinder the identification or correction of an improperly constructed safety-related system or component, or (ii) the licensee's quality assurance program implementation is not adequate to provide confidence that construction activities are being properly carried out;

(c) When the licensee has not responded adequately to other enforcement action;

(d) When the licensee interferes with the conduct of an inspection or investigation; or

(e) For any reason not mentioned above for which license revocation is legally authorized.

Suspensions may apply to all or part of the licensed activity. Ordinarily, a licensed activity is not suspended (nor is a suspension prolonged) for failure to comply with requirements where such failure is not willful and adequate corrective action has been taken.

(3) Revocation Orders may be used:

(a) When a licensee is unable or unwilling to comply with NRC requirements,

(b) When a licensee refuses to correct a violation,

(c) When a licensee does not respond to a notice of violation where a response was required,

(d) When a licensee refuses to pay a fee required by 10 CFR Part 170, or

(e) For any other reason for which revocation is authorized under Section 186 of the Atomic Energy Act (e.g., any condition which would warrant refusal of a license on an original application).

(4) Cease and Desist Orders are typically used to stop an unauthorized activity that has continued after notification by NRC that such activity is unauthorized.

Orders are made effective immediately, without prior opportunity for hearing, whenever it is determined that the public health, interest, or safety so requires, or when the order is responding to a violation involving willfulness. Otherwise, a prior opportunity for a hearing on the order is afforded. For cases in which the NRC believes a basis could reasonably exist for not taking the action as proposed, the licensee will ordinarily be afforded an opportunity to show cause why the order should not be issued in the proposed manner.

D. Escalation of Enforcement Sanctions

NRC considers violations of Severity Levels I, II, or III to be serious. If serious violations occur, NRC will, where necessary, issue orders in conjunction with civil penalties to achieve immediate corrective actions and to deter further recurrence of serious violations. NRC carefully considers the circumstances of each case in selecting and applying the sanction(s) appropriate to the case in accordance with the criteria described in Sections IV.B and IV.C, above.

Examples of enforcement actions that could be taken for similar Severity Level I, II, or III violations are set forth in Table 2. The actual progression to be used in a particular case will depend on the circumstances. However, enforcement sanctions will normally escalate for recurring similar violations.

Normally the progression of enforcement actions for similar violations will be based on violations under a single license. When more than one facility is covered by a single license, the normal progression will be based on similar violations at an individual facility and not on similar violations under the same license. However, it should be noted that under some circumstances, e.g., where there is common control over some facet of facili

operations, similar violations may be charged even though the second violation occurred at a different facility or under a different license. For example, a physical security violation at Unit 2 of a dual unit plant that repeats an earlier violation at Unit 1 might be considered similar.

TABLE 2.—EXAMPLES OF PROGRESSION OF ESCALATED ENFORCEMENT ACTIONS FOR SIMILAR VIOLATIONS IN THE SAME ACTIVITY AREA UNDER THE SAME LICENSE

Severity of violation	Number of similar violations from the date of the last inspection or within the previous 2 years (whichever period is greater)		
	1st	2d	3d
I	a+b	a+b+c	d
II	a	a+b	a+b+c
III	a[1]	a	a+b

a. Civil penalty.
b. Suspension of affected operations until the Office Director is satisfied that there is reasonable assurance that the licensee can operate in compliance with the applicable requirements; or modification of the license, as appropriate.
c. Show cause for modification or revocation of the license, as appropriate.
d. Further action, as appropriate.
[1] Consideration of.

E. Related Administrative Actions

In addition to the formal enforcement mechanisms of notices of violation, civil penalties, and orders, NRC also uses administrative mechanisms, such as enforcement conferences, bulletins, circulars, information notices, generic letters, notices of deviation, and confirmatory action letters to supplement its enforcement program. NRC expects licensees to adhere to any obligations and commitments resulting from these processes and will not hesitate to issue appropriate orders to make sure that such commitments are met.

(1) Enforcement Conferences are meetings held by NRC with licensee management to discuss safety, safeguards or environmental problems, licensee's compliance with regulatory requirements, a licensee's proposed corrective measures (including schedules for implementation) and enforcement options available to the NRC.

(2) Bulletins, Circulars, Information Notices and Generic Letters are written notifications to groups of licensees identifying specific problems and recommending specific actions.

(3) Notices of Deviation are written notices describing a licensee's or a vendor's failure to satisfy a commitment. The commitment involved has not been made a legally binding requirement. The notice of deviation requests the licensee or vendor to provide a written explanation or statement describing corrective steps taken (or planned), the results achieved, and the date when corrective action will be completed.

(4) Confirmatory Action Letters are letters confirming a licensee's agreement to take certain actions to remove significant concerns about health and safety, safeguards, or the environment.

F. Referrals To Department of Justice

Alleged or suspected criminal violations of the Atomic Energy Act (and of other relevant Federal laws) are referred to the Department of Justic for investigation. Referral to the Department of Justice does not preclude the NRC from taking other enforcement action under this General Statement of Policy. However, such actions will be coordinated with the Department of Justice to the extent practicable.

V. Public Disclosure of Enforcement Actions

In accordance with 10 CFR 2.790, all enforcement actions, inspection reports, and licensees' responses are publicly available for inspection. In addition, press releases are generally issued for civil penalties and orders. In the case of orders and civil penalties related to violations at Severity Levels I, II, or III press releases are issued at the time of the order or the proposed imposition of the civil penalty. Press releases are not normally issued for Notices of Violation.

VI. Responsibilities

The Director, Office of Inspection and Enforcement, as the principal enforcement officer of the NRC, has been delegated the authority to issue notices of violations, civil penalties, and orders.[8] In recognition that the regulation of nuclear activities in many cases does not lend itself to a mechanistic treatment, the Director must exercise judgement and discretion in determining the severity levels of the violations and the appropriate enforcement sanctions, including the decision to impose a civil penalty and the amount of such penalty, after considering the general principles of this statement of policy and the technical significance of the violations and the surrounding circumstances.

The Commission will be provided written notification of all enforcement actions involving civil penalties or orders. The Commission will be consulted prior to taking enforcement action in the following situations (unless the urgency of the situation dictates immediate action):

(1) An action affecting a licensee's operation that requires balancing the public health and safety or common defense and security implications of not operating with the potential radiological or other hazards associated with continued operation;

(2) Proposals to impose civil penalties in amounts greater than 3.75 times the Severity Level I values shown in Table 1A;

(3) Any proposed enforcement action on which the Commission asks to be consulted; or

(4) Any action the Office Director believes warrants Commission involvement.

Supplement I—Severity Categories

Reactor Operations

A. Severity I—Very significant violations involving:

1. A Safety Limit, as defined in 10 CFR 50.36 and the Technical Specifications, being exceeded;

2. A system [6] designed to prevent or mitigate a serious safety event not being able to perform its intended safety function [7] when actually called upon to work;

3. An accidental criticality; or

4. Release of radioactivity offsite greater than ten (10) times the Technical Specifications limit.[8]

B. Severity II—Very significant violations involving:

1. A system designed to prevent or mitigate serious safety events not being able to perform its intended safety function; or

2. Release of radioactivity offsite greater than five (5) times the Technical Specifications limit.

C. Severity III—Significant violations involving:

1. A Technical Specification Limiting Condition for Operation being exceeded where the appropriate Action Statement was not satisfied that resulted in:

(a) Loss of a safety function; or

(b) A degraded condition, and sufficient information existed which should have alerted the licensee that he was in an Action Statement condition;

2. A system designed to prevent or mitigate a serious safety event not being able to perform its intended function under certain conditions (e.g., safety system not operable unless offsite power is available; materials or components not environmentally qualified);

3. Serious dereliction of duty on the part of personnel involved in licensed activities;

4. Changes in reactor parameters which cause unanticipated reductions in margins of safety;

5. Release of radioactivity offsite greater than the Technical Specifications limit; or

6. 10 CFR 50.59 such that a required license amendment was not sought.

D. Severity IV—Violations involving:

1. 10 CFR 50.59 that do not result in a Severity Level I, II, or III violation;

2. Failure to meet regulatory requirements that have more than minor safety or environmental significance; or

3. Failure to make a required Licensee Event Report when the reported matter does not constitute a violation.

E. Severity Level V—Violations that have minor safety or environmental significance.

Supplement II—Severity Categories

Part 50 Facility Construction

A. Severity I—Very significant violations involving a structure or system that is

[8] The Directors of the Offices of Nuclear Reactor Regulation and Nuclear Material Safety and Safeguards have also been delegated similar authority, but it is expected that normal use of this authority by NRR and NMSS will be confined to actions necessary in the interest of public health and safety. The Director, Office of Administration, has been delegated the authority to issue orders where licensees violate Commission regulations by nonpayment of license fees. It is planned to consider redelegation of some or all of these authorities to the Administrators of the NRC Regional Offices over the next several years.

[6] "System" as used in these supplements, includes administrative and managerial control systems, as well as physical systems.

[7] "Intended safety function" means the total safety function, and is not directed toward a loss of redundancy. For example, considering a BWR's high pressure ECCS capability, the violation must result in complete invalidation of both HPCI and ADS subsystems. A loss of one subsystem does not defeat the intended safety function as long as the other subsystem is operable.

[8] The Technical Specification limit as used in this Supplement (Items A.4, B.2 and C.5) does not apply to the instantaneous release limit.

completed [9] in such a manner that it would not have satisfied its intended safety related purpose.

B. Severity I—Very significant violations involving:

1. A breakdown in the quality assurance program as exemplified by deficiencies in construction QA related to more than one work activity (e.g., structural, piping, electrical, foundations). Such deficiencies normally involve the licensee's failure to conduct adequate audits or to take prompt corrective action on the basis of such audits and normally involve multiple examples of deficient construction or construction of unknown quality due to inadequate program implementation; or

2. A structure or system that is completed in such a manner that it could have an adverse effect on the safety of operations.

C. Severity III—Significant violations involving:

1. A deficiency in a licensee quality assurance program for construction related to a single work activity (e.g., structural, piping, electrical or foundations). Such significant deficiency normally involves the licensee's failure to conduct adequate audits or to take prompt corrective action on the basis of such audits, and normally involves multiple examples of deficient construction or construction of unknown quality due to inadequate program implementation;

2. Failure to confirm the design safety requirements of a structure or system as a result of inadequate preoperational test program implementation; or

3. Failure to make a required 10 CFR 50.55(e) report.

D. Severity IV—Violations involving failure to meet regulatory requirements including one or more Quality Assurance Criteria not amounting to Severity Level I, II, or III violations that have more than minor safety or environmental significance.

E. Severity V—Violations that have minor safety or environmental significance.

Supplement III—Severity Categories

Safeguards

A. Severity I—Very significant violations involving:

1. An act of radiological sabotage or actual theft, loss, or diversion of a formula quantity of strategic special nuclear material [10] (SSNM);

2. Actual entry of an unauthorized individual into a vital area or material access area from outside the protected area (i.e., penetration of both barriers) that was not detected at the time of entry; or

3. Failure to promptly report knowledge of an actual or attempted theft or diversion of SSNM or an act of radiological sabotage.

B. Severity II—Very significant violations involving:

1. Actual theft, loss or diversion of special nuclear material (SNM) of moderate strategic significance. [11]

2. Failure to use established security systems (including compensatory measures) designed or used to prevent any unauthorized individual from entering a vital area or material access area from outside the protected area (i.e., entry through two barriers) so that access could have been gained without detection;

3. Failure to implement approved compensatory measures when the central (or secondary) alarm station is inoperable;

4. Failure to establish or maintain safeguards systems designed or used to prevent or detect the unauthorized removal of a formula quantity of SSNM from areas of authorized use or storage; or

5. Failure to use established transportation security systems designed or used to prevent the theft, loss, or diversion of a formula quantity of SSNM or acts of radiological sabotage.

C. Severity III—Significant violations involving:

1. Failure to control access to a vital area or material access area from inside the protected area or failure to control access to a protected area from outside the protected area; (i.e., such that only a single security element remained);

2. Failure to control access to a transport vehicle or the SNM being transported that does not constitute a Severity I or II violation;

3. Failure to establish or maintain safeguards systems designed or used to detect the unauthorized removal of SNM of moderate strategic significance from areas of authorized use or storage; or

4. Failure to properly secure or protect classified or other sensitive safeguards information.

D. Severity IV—Violations involving:

1. Failure to establish or maintain safeguards systems designed or used to detect the unauthorized removal of SNM of low strategic significance [12] from areas of authorized use or storage;

2. Failure to implement 10 CFR Parts 25 and 95 and information addressed under Section 142 of the Act, and the NRC approved security plan relevant to those parts; or

3. Other violations, such as failure to follow an approved security plan, that have more than minor safeguards significance.

E. Severity V—Violations that have minor safeguards significance.

Supplement IV—Severity Categories

Health Physics 10 CFR Part 20 [13]

A. Severity I—Very significant violations involving:

1. Single exposure of a worker in excess of 25 rems of radiation to the whole body, 150 rems to the skin of the whole body, or 375 rems to the feet, ankles, hands, or forearms;

2. Annual whole body exposure of a member of the public in excess of 2.5 rems of radiation;

3. Release of radioactive material to an unrestricted area in excess of ten times the limits of 10 CFR 20.106;

4. Disposal of licensed material in quantities or concentrations in excess of ten times the limits of 10 CFR 20.303; or

5. Exposure of a worker in restricted areas of ten times the limits of 10 CFR 20.103.

B. Severity II—Very significant violations involving:

1. Single exposure of a worker in excess of 5 rems of radiation to the whole body, 30 rems to the skin of the whole body, or 75 rems to the feet, ankles, hands or forearms;

2. Annual whole body exposure of a member of the public in excess of 0.5 rems of radiation;

3. Release of radioactive material to an unrestricted area in excess of five times the limits of 10 CFR 20.106;

4. Failure to make an immediate notification as required by 10 CFR 20.403(a)(1) and 10 CFR 20.403(a)(2);

5. Disposal of licensed material in quantities or concentrations in excess of five times the limits of 10 CFR 20.303, or

6. Exposure of a worker in restricted areas in excess of five times the limits of 10 CFR 20.103.

C. Severity III—Significant violations involving:

1. Single exposure of a worker in excess of 3 rems of radiation to the whole body, 7.5 rems to the skin of the whole body, or 18.75 rems to the feet, ankles, hands or forearms;

2. A radiation level in an unrestricted area that exceeds 100 millirem/hour for a one hour period;

3. Failure to make a 24-hour notification as required by 10 CFR 20.403(b) or an immediate notification required by 10 CFR 20.402(a);

4. Substantial potential for an exposure or release in excess of 10 CFR 20 whether or not such exposure or release occurs (e.g., entry into high radiation areas, such as under reactor vessels or in the vicinity of exposed radiographic sources, without having performed an adequate survey, operation of a radiation facility with a nonfunctioning interlock system);

5. Release of radioactive material to an unrestricted area in excess of the limits of 10 CFR 20.106;

6. Improper disposal of licensed material not covered in Severity Levels I or II;

7. Exposure of a worker in restricted areas in excess of the limits of 10 CFR 20.103;

8. Release for unrestricted use of contaminated or radioactive material or equipment which poses a realistic potential for significant exposure to members of the public, or which reflects a programmatic (rather than isolated) weakness in the radiation control program;

9. Cumulative worker exposure above regulatory limits when such cumulative exposure reflects a programmatic, rather than an isolated weakness in radiation protection;

10. Conduct of licensee activities by a technically unqualified person; or

11. Significant failure to control licensed material.

D. Severity IV—Violations involving:

1. Exposures in excess of the limits of 10 CFR 20.101 not constituting Severity Level I, II, or III violations;

2. A radiation level in an unrestricted area such that an individual could receive greater than 2 millirem in a one hour period or 100 millirem in any seven consecutive days;

3. Failure to make a 30-day notification required by 10 CFR 20.405;

4. Failure to make a followup written report as required by 10 CFR 20.402(b), 20.406, and 20.409; or

5. Any other matter that has more than minor safety or environmental significance.

E. Severity V—Violations that have minor safety or environmental significance.

Supplement V—Severity Categories

Transportation [14]

A. Severity I—Very significant violations of NRC transportation requirements involving:

1. Annual whole body radiation exposure of a member of the public in excess of 0.5 rems of radiation; or

2. Breach of package integrity resulting in surface contamination or external radiation levels in excess of ten times the NRC limits.

B. Severity II—Very significant violations of NRC transportation requirements involving:

1. Breach of package integrity resulting in surface contamination or external radiation levels in excess of NRC requirements;

2. Surface contamination or external radiation levels in excess of three times NRC limits that did not result from a breach of package integrity; or

3. Failure to make required initial notifications associated with Severity Level I or II violations.

C. Severity III—Significant violations of NRC transportation requirements involving:

1. Breach of package integrity;

2. Surface contamination or external radiation levels in excess of, but less than a factor of three above NRC requirements, that did not result from a breach of package integrity;

3. Any noncompliance with labelling, placarding, shipping paper, packaging, loading, or other requirements that could reasonably result in the following:

a. Improper identification of the type, quantity, or form of material; or

b. Failure of the carrier or recipient to exercise adequate controls; and

c. Substantial potential for personnel exposure or contamination, or improper transfer of material; or

4. Failure to make required initial notification associated with Severity Level III violations.

D. Severity IV—Violations of NRC transportation requirements involving:

1. Package selection or preparation requirements which do not result in a breach of package integrity or surface contamination or external radiation levels in excess of NRC requirements; or

2. Other violations that have more than minor safety or environmental significance.

E. Severity V—Violations that have minor safety or environmental significance.

Supplement VI—Severity Categories

Fuel Cycle and Materials Operations

A. Severity I—Very significant violations involving:

1. Radiation levels, contamination levels, or releases that exceed ten times the limits specified in the license;

2. A system designed to prevent or mitigate a serious safety event not being operable when actually required to perform its design function; or

3. A nuclear criticality accident.

B. Severity II—Very significant violations involving:

1. Radiation levels, contamination levels, or releases that exceed five times the limits specified in the license; or

2. A system designed to prevent or mitigate a serious safety event being inoperable.

C. Severity III—Significant violations involving:

1. Failure to control access to licensed materials for radiation purposes as specified by NRC requirements;

2. Possession or use of unauthorized equipment or materials in the conduct of licensee activities;

3. Use of radioactive material on humans where such use is not authorized;

4. Conduct of licensed activities by a technically unqualified person;

5. Radiation levels, contamination levels, or releases that exceed the limits specified in the license; or

6. Medical therapeutic misadministrations.

D. Severity IV—Violations involving:

1. Failure to maintain patients hospitalized who have cobalt-60, cesium-137, or iridium-192 implants or to conduct required leakage or contamination tests, or to use properly calibrated equipment;

2. Other violations that have more than minor safety or environmental significance; or

3. Medical diagnostic misadministrations.

E. Severity V—Violations that have minor safety or environmental significance.

Supplement VII—Severity Categories

Miscellaneous Matters [15]

A. Severity I—Very significant violations involving:

1. A Material False Statement (MFS) [16] in which the statement made was deliberately false;

2. A failure to provide the notice required by Part 21 under circumstances for which a civil penalty may be imposed under section 206(b) of the Energy Reorganization Act (ERA); or

3. Deliberate action by management to discriminate (in violation of Section 210 of the ERA) against an employee for attempting to communicate or actually communicating with NRC.

B. Severity II—Very significant violations involving:

1. A MFS or a reporting failure, involving information which, had it been available to the NRC and accurate at the time the information should have been submitted, would have resulted in regulatory action or would likely have resulted in NRC seeking further information;

2. A MFS in which the false statement was made with careless disregard;

3. Discrimination (in violation of Section 210 of the ERA) by management at any level above first-line supervision, against an employee for attempting to communicate or actually communicating with NRC; or

4. A failure to provide the notice required by Part 21.

C. Severity III—Significant violations involving:

1. A MFS not amounting to a severity level I or II violation;

2. Discrimination (in violation of Section 210 of the ERA) against an employee for attempting to communicate or actually communicating with the NRC; or

3. Inadequate review or failure to review such that, if an appropriate review had been made as required, a Part 21 report would have been made.

D. Severity IV—Violations involving:

1. Inadequate review or failure to review under Part 21 or other procedural violations associated with Part 21 with more than minor safety significance; or

2. A false statement caused by an inadvertent clerical or similar error involving information which, had it been available to NRC and accurate at the time the information should have been submitted, would probably not have resulted in regulatory action or NRC seeking additional information.

E. Severity V—Violations of minor procedural requirements of Part 21.

Dated at Washington, D.C., this 3d day of March 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

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[9] "Completed" means completion of construction including review and acceptance by the construction QA organization.

[10] See 10 CFR 73.2(bb).

[11] See 10 CFR 73.2(x).

[12] See 10 CFR 73.2(y).

[13] Personnel overexposures and associated violations, incurred during a life saving effort, will be treated on a case-by-case basis.

[14] Some transportation requirements are applied to more than one licensee involved in the same activity such as a shipper (10 CFR 73.20) and a carrier (10 CFR 70.20a). When a violation of such a requirement occurs, enforcement action will be directed against the responsible licensee which under the circumstances of the case may be one or more of the licensees involved.

[15] As noted in Section III, in determining the specific severity level of a violation, consideration will be given to such factors as the position of the person involved in the violation (e.g., first line supervisor or senior manager), the significance of any underlying violation, the intent of the violator (i.e., negligence not amounting to careless disregard, careless disregard, or deliberateness), and the economic advantage, if any, gained by the violation. The relative weight given to each of these factors in arriving at the appropriate severity level will be dependent on the circumstances of the violation.

[16] In essence, a Material False Statement is a statement that is false by omission or commission and is relevant to the regulatory process.

DEPARTMENT OF ENERGY

10 CFR Part 1004

Freedom of Information; Schedule of Fees

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is adopting final regulations to revise the schedule of fees for processing requests submitted under the Freedom of Information Act (FOIA) (5

U.S.C. 552 *et seq.*). DOE published proposed regulations on December 24, 1981, 43 FR 62464, inviting interested persons to submit comments related to the proposed regulations. No comments were received, and the proposed rule is adopted with no significant revisions. The revision will merely elaborate the types of costs incurred and allow the agency to recover costs that it is permitted to recover when providing documents.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT:
Milton Jordan, Director, Division of Freedom of Information and Privacy Acts Activities, Room 1G–051, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–5955
Abel Lopez, (Office of General Counsel), Department of Energy, Room 6A–211, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–6618

SUPPLEMENTARY INFORMATION:

I. Background.
II. Procedural Requirements.
A. Section 501 of the DOE Organization Act.
B. Executive Order No. 12291.
C. Regulatory Flexibility Act.

I. Background

The FOIA permits the DOE to promulgate regulations, after notice and comment, specifying a uniform fee schedule for document search and duplication services performed by the DOE in response to requests submitted under the FOIA (5 U.S.C. 552(a)(4)). Fees must be limited to reasonable standard charges, and must provide for recovery of only costs directly incurred. Fees are to be waived or reduced, if DOE determines that such waiver or reduction is in the public interest because the public would primarily benefit from furnishing the information to the requester.

The current fee schedule for search and duplication at 10 CFR 1004.9 was published in the Federal Register on January 8, 1979 (44 FR 1908). Under the current DOE Regulation the requester is charged all search and duplication costs associated with processing the FOIA request when the total fee exceeds $25. This Regulation lowers the threshold amount for requests made pursuant to § 1004.4 to $15. The Regulation also further defines the type of costs to be charged and extends the reproduction provisions of the fee schedule to requests for documents available in a DOE Public Reading Room. Where the costs of reproduction for requests made pursuant to § 1004.3 would exceed $10, the full amount of such fees will be charged. These revisions are intended to recover more of the costs associated with these search and duplication requests.

II. Procedural Requirements

A. Section 501 of the DOE Organization Act. Under section 501(c) of the Department of Energy Organization Act, the Department is not bound by the prior hearing requirements of subsections (b), (c) and (d) with respect to the Regulation upon our determination that no substantial issue of fact or law exists and that the Regulation is unlikely to have substantial impact on the Nation's economy or large numbers of individuals and businesses. Where it is determined that no substantial issue or impact exists, the Regulation may be promulgated in accordance with section 553 of Title 5 U.S.C.

The revision of the fee schedule at 10 CFR 1004.9 raises no substantial issues of fact or law because it will merely elaborate the types of costs incurred and allow the agency to recover the costs that it is permitted to recover when providing documents. The amount of costs that the revision permits DOE to recover will not have a substantial impact on the Nation's economy or large numbers of individuals and businesses.

B. Executive Order No. 12291. It has been determined that this Regulation is not a major rule subject to the requirements of the Executive Order No. 12291 (46 FR 13193, February 19, 1981), because it is not likely to result in: an annual effect on the economy of more than $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

C. Regulatory Flexibility Act. Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601–612, DOE finds that sections 603 and 604 of the Act do not apply to the Regulation because promulgation of the rule will not have a significant economic impact on a substantial number of small entities.

While DOE expects that the number of FOIA requesters, including small entities charged a fee will increase, it does not anticipate that such fee increases will have a significant economic impact on the operations of small entities or that the actual number of small entities affected will be "substantial."

(5 U.S.C. 552.)

For the reasons set out in the preamble Part 1004, the DOE is amending Chapter X of 10 CFR as set forth below.

Issued in Washington, DC, March 2, 1982.

William S. Heffelfinger,
Assistant Secretary, Management and Administration.

Title 10 CFR, Chapter X is amended as follows:

PART 1004—FREEDOM OF INFORMATION

1. In § 1004.7, paragraph (a) is revised to read as follows:

§ 1004.7 Response by authorizing officials: Form and content.

(a) *Form of grant.*—Records requested pursuant to § 1004.4 shall be made available promptly, when they are identified and determined to be nonexempt under this Regulation and where the applicable fees are $15 or less or where it has been determined that the payment of applicable fees should be waived. Where the applicable fees exceed $15, the records may be made available before all charges are paid in full.

* * * * *

2. In § 1004.9, paragraph (a)(2) is revised to read as follows:

§ 1004.9 Fees for provisions of records.

(a) * * *

(2) Fees shall not be charged for a request or series of related requests made pursuant to § 1004.4 where they would amount, in the aggregate, to $15 or less. Only reproduction costs will be charged for requests made pursuant to § 1004.3, and such fees will not be charged if, for a request or series of related requests, they would amount to $10 or less. Where fees for requests made pursuant to § 1004.4 and § 1004.3 exceed $15 or $10, respectively, the full amount of such costs will be assessed.

* * * * *

3. Section 1004.9 is amended by revising paragraphs (b)(6), (b)(7) and (c), and adding (d) to read as follows:

(b) * * *

(6) *Computerized records.*—Fees for services in processing requests maintained in whole or in part in computerized form shall be in accordance with this section so far as practicable. Services of personnel in the nature of a search will be charged at rates prescribed in paragraph (b)(4) of this section unless the level of personnel involved permits rates in accordance with paragraph (b)(3) of this section. Charges for computer time involved is as follows:

Programming (per hour)—$17.00
Key punching/per 1,000 card usage—$163.00
Duplication per hour—$45.00
Computer time per quarter hour—$219.00

(7) *Other nonpaper records.*—Fees for services in processing requests where the records are maintained on microfiche, microfilm, recording tape shall be as follows:

105mm fiche (duplicate)—$1.00
100 ft. roll of 35mm microfilm—$7.00
100 ft. roll of 16mm microfilm—$6.00

* * * * *

(c) *Notice of anticipated fees in excess of $15.*—Unless the requester specifically states that he is willing to pay whatever fees are assessed by DOE for meeting the request, or, alternatively, specifies an amount in excess of $15 which he is willing to pay and which in fact covers the anticipated fees for meeting the request, a request that is expected to involve assessed fees in excess of $15 will not be deemed to have been received until the requester is advised of the cost, agrees to bear it, and makes any advance deposit required. Such notification shall be made by the Freedom of Information Officer consistent with § 1004.4(e).

(d) *Public Reading Room fees.*—Where the cost of reproduction for requests made pursuant to § 1004.3 exceed $10, copies of the documents requested will only be made available after the requester has agreed to pay such costs.

[FR Doc. 82-6061 Filed 3-8-82; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 145

[Docket No. 78P–0429]

Canned Pineapple; Amendment of Standards of Identity and Quality; Stay of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; stay of effective date.

SUMMARY: The Food and Drug Administration (FDA) is staying the effective date of the November 24, 1981 (46 FR 57474) amendment of the U.S. standards of identity and quality for canned pineapple to redesignate as "small cubes" or "dice" the style currently referred to as "cubes" or "dice" and to provide for an optional style designated as "large cubes." The purpose of the stay is to allow FDA to consider issues raised by objections and to decide whether a public hearing is justified.

EFFECTIVE DATE: The stay is effective March 9, 1982.

FOR FURTHER INFORMATION CONTACT:
F. Leo Kauffman, Bureau of Foods (HFF–214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: In the Federal Register of November 24, 1981 (46 FR 57474), FDA published a final regulation amending the U.S. standards of identity and quality for canned pineapple (21 CFR 145.180 (a) and (b)). The amendment redesignated as "small cubes" or "dice" the style of pineapple now designated as "cubes" or "dice" and provided for an optional style of canned pineapple designated as "large cubes". The final regulation was based on a petition by the Malaysian Pineapple Industry Board, Ministry of Primary Industries of Malaysia, submitted through the Embassy of Malaysia, 2401 Massachusetts Ave. NW., Washington, DC 20008. The final regulation provided that any person who would be adversely affected could at any time, on or before December 24, 1981, file written objections to the final regulation and request a hearing on specific provisions to which there were objections. Two objections and requests for a hearing were received from the Pineapple Growers Association of Hawaii (PGAH). A senator and two congressmen from Hawaii filed letters in support of the PGAH position. In addition, one objection which did not request a hearing stated that the amendment will create economic hardship for the U.S. industry.

Objections and Requests for a Hearing

1. An objection and request for a hearing was filed relative to the optional style "small cubes" or "dice" in § 145.180(a)(2)(viii) on the basis that replacing the current "cubes" or "dice" style of canned pineapple with the style "small cubes" or "dice" will create consumer confusion because 40 years of consistent industry practice have established a consumer expectation that the "cubes" or "dice" style of canned pineapple contains very small fruit units.

2. An objection and request for a hearing was filed relative to the optional style "large cubes" in § 145.180(a)(2)(xi) on the basis that the provision for an optional canned pineapple style, "large cubes," is contrary to the interest of consumers because (1) a "large cubes" canned pineapple style has never been sold in the United States, consumers are not familiar with this style, and they would not discern the distinction between "large cubes" and "chunks," or between "large cubes" and "small cubes;" (2) the U.S. standard, § 145.180(a)(2)(vii), provides that "chunks," may be cut from either thick slices or whole fruit and therefore under the amended standard the identical product could be labeled either "chunks" or "large cubes;" (3) the Malaysian product does not consist of reasonably uniform cube-shaped units of canned pineapple; (4) the term "cubes" was rejected as a meaningful term for larger size pineapple units, such as those encompassed within the current "chunks" category, by industry in the 1940's and by FDA in the 1951 hearing leading to the promulgation of the U.S. standard of identity; (5) "large cubes" is not a meaningful style internationally; (6) the addition of an optional style, "large cubes," will contribute to a proliferation of permissible styles of canned pineapple which will tend to confuse consumers; and (7) the inclusion of a "large cubes" style will enlarge the number of optional canned pineapple styles, and increase the cost of distribution, inventory control, and supermarket shelving, thereby raising the price of canned pineapple products to the detriment of the consumer.

Stay of Aspects of Identity and Quality Standards

Under section 701(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)) and § 12.23 (21 CFR 12.23), FDA is announcing a stay of the effective date of § 145.180(a)(2) (viii) and (xi) of the standard to which objections and requests for a hearing were received under § 12.22 (21 CFR 12.22). The purpose of the stay is to allow FDA to consider issues raised by the objections and to decide whether a public hearing is justified.

FDA is also staying § 145.180(b)(1)(ii)(*g*) as it pertains to the styles "small cubes" and "large cubes." If it is determined that a hearing has been justified, an announcement scheduling the hearing and specifying the issues will be published at a later date.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), notice is given that in § 145.180 paragraphs (a)(2) (viii) and (xi)

and (b)(1)(ii)(g) are stayed pending consideration of the issues raised by the objections to decide whether a public hearing is justified. If it is decided that a hearing has been justified, an announcement scheduling the hearing and specifying the issues therefore will be published at a later date.

Effective date: This stay is effective March 9, 1982.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: March 3, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-6294 Filed 3-4-82; 1:44 pm]

BILLING CODE 4160-01-M

21 CFR Part 176

[Docket No. 81F-0252]

Indirect Food Additives: Paper and Paperboard Components; Components of Paper and Paperboard in Contact With Aqueous and Fatty Foods

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations for the nitrogen and chlorine specifications for "Polyamine-epichlorohydrin resin produced by the reaction of bis(hexamethylene)triamine and higher homologues with epichlorohydrin". This action is in response to a petition filed by Diamond Shamrock Corp.

DATES: Effective March 9, 1982; objections by April 8, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 8, 1981 (46 FR 44886), FDA announced that a food additive petition (FAP 1B3578) had been filed by Diamond Shamrock Corp., P.O. Box 2366R, Morristown, NJ 07960, proposing to amend § 176.170(a)(5) (21 CFR 176.170(a)(5)) "Polyamine-epichlorohydrin resin produced by the reaction of bis-(hexamethylene)triamine and higher homologues with epichlorohydrin", to increase the permitted range of nitrogen and chlorine specifications.

FDA has evaluated data in the petition and other relevant material and concludes that increasing the permitted range of specifications for nitrogen and chlorine in the additive is safe and § 176.170 should be amended as set forth below. In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency, has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The agency's finding of no significant impact and the evidence supporting this finding, contained in an environmental impact analysis report (pursuant to 21 CFR 25.1(j)) may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 21 CFR 5.1; see 46 FR 26052; May 11, 1981)), Part 176 is amended in § 176.170(a)(5) by revising the entry for "Polyamine-epichlorohydrin resin produced by the reaction of bis(hexamethylene)triamine and higher homologues with epichlorohydrin" under the list of substances column, to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of substances	Limitations
* * * * *	*
Polyamine-epichlorohydrin resin produced by the reaction of bis(hexamethylene)triamine and higher homologues with epichlorohydrin such that the finished resin has a nitrogen content of 8.3–8.9 percent and chlorine content of 18.0–26.3 percent on a dry basis, and a minimum viscosity in 20 percent by weight aqueous solution of 30 centipoises at 25° C, as determined by Brookfield HAT model viscometer using a No. 1H spindle at 50 r.p.m. (or equivalent method).	* * *
* * * * *	

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before April 8, 1982 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective March 9, 1982.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: March 1, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-6178 Filed 3-8-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 178

[Docket No. 80F-0200]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Dimethyl Succinate Polymer With 4-Hydroxy-2,2,6,6-Tetramethyl-1-Piperidineethanol

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of dimethyl succinate polymer with 4-hydroxy-2,2,6,6-tetramethyl-1-piperidineethanol as an antioxidant and/or stabilizer for olefin polymers. Ciba-Geigy Corp. petitioned for this use.

DATES: Effective March 9, 1982. Objections by April 8, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Garnett R. Higginbotham, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 13, 1980 (45 FR 40238), FDA announced that a petition (FAP 0B3507) had been filed by the Ciba-Geigy Corp., Ardsley, NY 10502, proposing that § 178.2010 (21 CFR 178.2010) be amended to provide for the safe use of dimethyl succinate polymer with 4-hydroxy-2,2,6,6-tetramethyl-1-piperidineethanol as an antioxidant and/or stabilizer for olefin polymers.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below. In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency previously considered the potential environmental effects of this rule as announced in the notice of filing published in the **Federal Register**. No new information or comment has been received that would alter the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

Therefore, under the Federal Food, Drug and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 178 is amended in § 178.2010(b) by alphabetically adding a new item in the list of substances to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
Dimethyl succinate polymer with 4-hydroxy-2,2,6,6-tetramethyl-1-piperidineethanol (CAS Reg. No. 65447-77-0).	For use only: 1. At levels not to exceed 0.3 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter: items 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, or 4 when such finished polymers are used in repeat use articles: *Provided*, That the finished polymers contact food only under conditions of use D, E, F, and G described in table 2 of § 176.170(c) of this chapter: *And further provided*, That such repeated use articles have a volume of at least 25 liters. 2. At levels not to exceed 0.25 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter: items 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, or 4 when such finished polymers are used in single use articles: *Provided*, That the finished polymers contact food only under conditions of use D, E, F, and G described in table 2 of § 176.170(c) of this chapter.
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before April 8, 1982 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective March 9, 1982.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: March 1, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-6324 Filed 3-8-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 22

[Departmental Reg. 108.817]

Schedule of Fees for Consular Services

AGENCY: State Department.

ACTION: Final rule.

SUMMARY: The Department amends Item No. 20 and 21 in its Schedule of Fees for Consular Services, Part 22, to increase the fees charged for the processing and issuance of immigrant visas.

EFFECTIVE DATE: April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Philip B. Taylor, (202) 632-3118.

SUPPLEMENTARY INFORMATION: In a proposed rulemaking notice published in the **Federal Register** on December 16, 1981 (46 FR 61298) the Department proposed increases in consular fees for furnishing and verification of application for an immigrant visa from $5 to $25 and for issuance of each immigrant visa from $20 to $75. Interested parties were invited to send comments to Mr. Ronald K. Somerville, Executive Director, Bureau of Consular Affairs, Department of State.

Four comments were received and reviewed. They are summarized and analyzed as follows:

(1) Writers conceded that some increase in the fees is warranted in view of the fact that they have not been increased since 1952 but they think the proposed increases were excessive. The Department arrived at the proposed fee levels following a study which revealed that the actual costs involved in processing immigrant visa applications and issuing visas averaged $100 per case. It is determined that a lower total fee would not satisfy a government-wide policy of recouping, whenever possible, the costs of providing services;

(2) Two writers urged that the increased fees should be charged only in the case of a principal immigrant and that accompanying family members deriving immigrant status through that principal should pay a lesser fee to avoid an unfair burden on immigrants with a large number of accompanying family members in spite of a diminishing ratio processing time factor with respect to each additional member. It was determined that if a lesser fee were to be charged for accompanying family members, fees much higher than those proposed ($25 for application, $75 for issuance) would have to be charged in the case of a principal immigrant in order to recoup the costs of providing immigrant visa services. The creation of different levels of fees for essentially the same service would also make the administration of fee collections more complex and time-consuming;

(3) Two writers stated that the increase in the fees is not justified because the additional revenues gained will not be allocated specifically to the improvement of the quality of services being provided by consular establishments in connection with immigrant visa processing. The Department agrees that although the additional revenues will not be earmarked for the use of consular operations and therefore will not directly relate to improving the quality of consular services, the Office of Management and Budget considers the increased accruals to the Treasury when deciding budget levels for the Department; and

(4) One writer urged that the lower fees should continue to apply to those immigrant visa applicants who have been waiting for years to obtain visas because of the heavy oversubscription of the numerical limits within their immigrant preference categories. The Department agrees that many applicants have been waiting for years to process their immigrant visa application but has found that it is not feasible to establish a fee structure which is determined by a qualifying date rather than by a date on which the service is delivered. The addition of such a system would add another layer to the schedule of fees which would make it more cumbersome and difficult to administer.

The Department has determined that the proposed fee levels are appropriate and they are adopted. Accordingly, Items 20 and 21 of Part 22 are amended as set forth below.

Dated: February 18, 1982.

Richard T. Kennedy,

Under Secretary for Management.

PART 22—SCHEDULE OF FEES FOR CONSULAR SERVICES—DEPARTMENT OF STATE AND FOREIGN SERVICE

1. The authority citation for 22 CFR Part 22 reads as follows:

Authority: Secs. 3, 4, 63 Stat. 111, as amended (22 U.S.C. 811a; 2658; 22 U.S.C. 2651; 5 U.S.C. 483a; 22 U.S.C. 1201); E.O. 10718, 22 FR 4632; 3 CFR, 1954–1958 Comp. page 382.

2. Section 22.1 is amended in the table, by revising Items 20 and 21 to read:

§ 22.1 Schedule of fees.

Item No.	Visa services for aliens	Fee
. . .	. . .	. . .
20	Furnishing and verification of application for immigrant visa, including duplicate copy [112–IVAPPL].	$25.00
21	Issuance of each immigrant visa [113–IV ISSUANCE], [114–R IV ISS], [115–211 WAIV/ISS].	75.00
. . .	. . .	. . .

[FR Doc. 82-6313 Filed 3-8-82; 8:45 am]

BILLING CODE 4710-06-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2704

Rules Implementing the Equal Access to Justice Act

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Adoption of interim rules; request for comments.

SUMMARY: The Equal Access to Justice Act, Pub. L. 96–481, 94 Stat. 2325 (1980) authorizes agencies that conduct adversary adjudications to award attorneys fees and other litigation expenses to certain parties that prevail in those adjudications. The Equal Access to Justice Act requires these agencies to establish procedures for the submission and consideration of applications for the award of fees and other expenses. The Federal Mine Safety and Health Review Commission hereby adopts, on an interim basis, rules establishing such procedures. The Commission also invites public comments on these interim rules.

DATES: Notice and public participation are not required under 5 U.S.C. 553 for procedural rulemaking. Accordingly, the interim rules take effect March 9, 1982. Comments on the rules are invited, however, and will be accepted in writing on or before May 15, 1982.

ADDRESS: Submit written comments to Dan R. De Lacy, Federal Mine Safety and Health Review Commission, Suite 600, 1730 K Street, NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Dan R. De Lacy, 202–653–5658.

SUPPLEMENTARY INFORMATION: The Equal Access to Justice Act charges the Administrative Conference of the United States with coordination of the procedural rules adopted by the various agencies to implement the Act. To meet this responsibility the Administrative Conference of the U.S. has issued model rules for implementing the Equal Access to Justice Act (46 FR 32900, June 25, 1981). The Commission's interim rules for implementing the Equal Access to Justice Act are based on those Model Rules, with certain minor changes and clarifications to reflect the nature of our adjudicatory proceedings. Those modifications include the following:

A "definitions" section has been added to the Model Rules to emphasize the independent roles of the Commission and the Secretary of Labor, and to distinguish between the Equal Access to Justice Act and the Federal Mine Safety and Health Act of 1977. The term "adjudication officer" is also defined so as to reflect the definition in the Equal Access to Justice Act.

The general term "agency" used throughout the Model Rules has been changed to "Department of Labor" and "Commission" as appropriate. This change is necessary to reflect the relationship of the two agencies under the Federal Mine Safety and Health Act of 1977, which establishes the Commission as the agency with the power to conduct adversary adjudications and the Department of Labor as the separate agency charged with bringing enforcement actions before the Commission.

The general term "proceedings" used throughout the Model Rules has been clarified to distinguish between proceedings requesting reimbursement under the Equal Access to Justice Act and the proceedings on the merits of the case under the Federal Mine Safety and Health Act of 1977. The latter are referred to in the interim rules as "adversary adjudications" or simply "the underlying proceedings".

Model Rule 0.108 as presently written is directed to payment of awards by two or more separate agencies—a situation which cannot arise in an enforcement proceeding under the Federal Mine Safety and Health Act of 1977 since the Commission has jurisdiction only over the prosecutory actions of the Secretary of Labor. The Model Rule has been rewritten and used as a vehicle to address the unique relationship between the Commission and the Department of Labor and to emphasize that awards to qualified applicants under the Equal Access to Justice Act will be made by the Commission and paid by the Department of Labor.

Model Rule 0.204(c) has been changed slightly to ensure that the date that an underlying decision on the merits becomes final for purposes of the Equal Access to Justice Act reflects the provision for finality of those decisions for purposes of the Federal Mine Safety and Health Act of 1977.

Model Rule 0.307 has been changed to indicate that the initial decision by an administrative law judge under the Equal Access to Justice Act will become final 40 days after its issuance unless review by the Commission is ordered under section 0.038 of the interim rules, thus paralleling the time frame in which the underlying decision on the merits becomes final under the Federal Mine Safety and Health Act of 1977. Although the decisions result from different statutory authorities, using the similar time frames will avoid needless inconsistency of dates.

Model Rule 0.038 providing for agency review of an initial decision of an administrative law judge under the Equal Access to Justice Act has been rewritten to mirror the provisions for discretionary review by the Commission of a judge's decision on the merits under the Federal Mine Safety and Health Act of 1977. Again, although the procedures for review clearly are discrete, the similarity provided by this change will avoid needless inconsistencies.

Model Rule 0.310 addressing payment of awards has been changed to reflect that the Department of Labor, not the Commission, is the payor and is responsible for payment of all awards under the Equal Access to Justice Act.

Accordingly, under authority granted by 5 U.S.C. 504(c)(1), the Federal Mine Safety and Health Review Commission hereby adopts interim rules implementing the Equal Access to Justice Act. Public comment, although not required, is invited in order to assist the Commission in its deliberations regarding the adoption of permanent rules. The Commission will accept public comment received in writing on or before May 15, 1982.

Title 29 of the Code of Federal Regulations is amended by adding a new Part 2704 which reads as follows:

PART 2704—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN COMMISSION PROCEEDINGS

Subpart A—General Provisions

Sec.
2704.100 Purpose of these rules.
2704.101 Definitions.
2704.102 When the Act applies.
2704.103 Proceedings covered.
2704.104 Eligibility of applicants.
2704.105 Standards for awards.
2704.106 Allowable fees and expenses.
2704.107 Rulemaking on maximum rates for attorney fees.
2704.108 Awards.
2704.109 Delegations of authority.

Subpart B—Information Required From Applicants

2704.201 Contents of application.
2704.202 Net worth exhibit.
2704.203 Documentation of fees and expenses.
2704.204 When an application may be filed.

Subpart C—Procedures for Considering Applications

2704.301 Filing and service of documents.
2704.302 Answer to application.
2704.303 Reply.
2704.304 Comments by other parties.
2704.305 Settlement.
2704.306 Further proceedings on the application.
2704.307 Decision of administrative law judge.
2704.308 Commission review.
2704.309 Judicial review.
2704.310 Payment of award.

Authority: Pub. L. 96–481, 94 Stat. 2325 (5 U.S.C. 504(c)(1)).

Subpart A—General Provisions

§ 2704.100 Purpose of these rules.

The Equal Access to Justice Act, 5 U.S.C. 504 (called "the Act"), provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (called "adversary adjudications") before this Commission. An eligible party may receive an award when it prevails over the Department of Labor, Mine Safety and Health Administration (MSHA), unless the Secretary of Labor's position in the proceeding was substantially justified or special circumstances make an award unjust. These rules describe the parties eligible for awards and the proceedings that are covered. They also explain how to apply for awards, and the procedures and standards that this Commission will use to make them.

§ 2704.101 Definitions.

The following terms shall have the following meaning when used in these rules:

—"The Act" means the Equal Access to Justice Act 5 U.S.C. 504;

—"The Mine Act" means the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 *et seq*;

—"The Commission" means the Federal Mine Safety and Health Review Commission, created as an independent agency under 30 U.S.C. 823;

—"The Secretary" means the Secretary of Labor or his designee;

—"Adjudication Officer", as defined in 5 U.S.C. 504(b)(1)(D), means the Commission's administrative law judge who presided at the underlying adversary adjudication between the applicant and the Secretary of Labor. For the sake of clarity, references hereafter shall be to "administrative law judge".

§ 2704.102 When the Act applies.

The Act applies to any adversary adjudication pending before the Commission at any time between October 1, 1981 and September 30, 1984. This includes proceedings begun before October 1, 1981 if final Commission action has not been taken, and proceedings pending on September 30, 1984, regardless of when they were initiated or when final Commission action occurs.

§ 2704.103 Proceedings covered.

(a) The Act applies to adversary adjudications conducted by this Commission. These are adjudications before the Commission arising under the Mine Act in which the position of the Secretary of Labor is represented by an attorney or other representative who enters an appearance and participates in the proceeding. For this Commission, the types of proceedings generally covered include:

(1) Contests of citations or orders issued under section 104 or 107 of the Mine Act (30 U.S.C. 814, 817);

(2) Contests of penalties proposed under section 105 (a) and (b) of the Mine Act (30 U.S.C. 815(a), (b));

(3) Challenges to claims of discrimination under section 105(c) of the Mine Act (30 U.S.C. 815(c)) where the Secretary of Labor represents the miner;

(b) The Commission may also designate a proceeding not listed in paragraph (a) of this section as an adversary adjudication for purposes of the Act by so stating in an order initiating the proceeding or designating the matter for hearing. The

Commission's failure to designate a proceeding as an adversary adjudication shall not preclude the filing of an application by a party who believes the proceeding is covered by the Act; whether the proceeding is covered will then be an issue for resolution in proceedings on the application.

(c) If a proceeding includes both matters covered by the Act and matters specifically excluded from coverage, any award made will include only fees and expenses related to covered issues.

§ 2704.104 Eligibility of applicants.

(a) To be eligible for an award of attorney fees and other expenses under the Act, the applicant must be a party to the adversary adjudication for which it seeks an award. The term "party" is defined in 5 U.S.C. 551(3). The applicant must show that it satisfies the conditions of eligibility set out in this subpart and in subpart B.

(b) The types of eligible applicants are as follows:

(1) An individual with a net worth of not more than $1 million;

(2) The sole owner of an unincorporated business who has a net worth of not more than $5 million, including both personal and business interests, and not more than 500 employees;

(3) Any other partnership, corporation, association, or public or private organization with a net worth of not more than $5 million and not more than 500 employees.

(c) For the purpose of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the underlying proceeding was initiated under the Mine Act.

(d) An applicant who owns an unincorporated business will be considered as an "individual" rather than a "sole owner of an unincorporated business" if the issues on which the applicant prevails are related primarily to personal interests rather than to business interests.

(e) The employees of an applicant include all persons who regularly perform services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of these rules, unless the administrative law judge determines that such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, the administrative law judge may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(g) An applicant that participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

§ 2704.105 Standards for awards.

(a) A prevailing applicant may receive an award for fees and expenses incurred in connection with an underlying proceeding on the merits, or in a significant and discrete substantive portion of that proceeding, unless the position of the Secretary of Labor over whom the applicant has prevailed was substantially justified. The burden of proof that an award should not be made to an eligible prevailing applicant is on the Secretary of Labor, who may avoid an award by showing that his position was reasonable in law and fact.

(b) An award will be reduced or denied if the applicant has unduly or unreasonably protracted the underlying proceeding or if special circumstances make the award sought unjust.

§ 2704.106 Allowable fees and expenses.

(a) Awards will be based on rates customarily charged by persons engaged in the business of acting as attorneys, agents and expert witnesses, even if the services were made available without charge or at a reduced rate to the applicant.

(b) No award for the fee of an attorney or agent under these rules may exceed $75.00 per hour. No award to compensate an expert witness may exceed the highest rate at which the Secretary of Labor pays expert witnesses. However, an award may also include the reasonable expenses of the attorney, agent, or witness as a separate item, if the attorney, agent or witness ordinarily charges clients separately for such expenses.

(c) In determining the reasonableness of the fee sought for an attorney, agent or expert witness, the administrative law judge shall consider the following:

(1) If the attorney, agent or witness is in private practice, his or her customary fee for similar services, or, if an employee of the applicant, the fully allocated cost of the services;

(2) The prevailing rate for similar services in the community in which the attorney, agent or witness ordinarily performs services;

(3) The time actually spent in the representation of the applicant;

(4) The time reasonably spent in light of the difficulty or complexity of the issues in the underlying proceeding; and

(5) Such other factors as may bear on the value of the services provided.

(d) The reasonable cost of any study, analysis, engineering report, test, project or similar matter prepared on behalf of a party may be awarded, to the extent that the charge for the service does not exceed the prevailing rate for similar services, and the study or other matter was necessary for preparation of the applicant's case in the underlying proceeding.

§ 2704.107 Rulemaking on maximum rates for attorney fees.

(a) If warranted by an increase in the cost of living or by special circumstances (such as limited availability of attorneys qualified to handle certain types of proceedings), the Commission may adopt regulations providing that attorney fees may be awarded at a rate higher than $75 per hour in some or all of the types of proceedings covered by these rules.

(b) Any person may file with the Commission a petition for rulemaking to increase the maximum rate for attorney fees. The petition should identify the rate the petitioner believes the Commission should establish and the types of proceedings in which the rate should be used. It should also explain fully the reasons why the higher rate is warranted. The Commission will respond to the petition within 60 days after it is filed, by initiating an informal rulemaking proceeding, denying the petition, or taking other appropriate action.

§ 2704.108 Awards.

If an applicant is entitled to an award because it prevails over the Secretary of Labor in an adjudicative proceeding on the merits before the Commission and the Secretary of Labor takes a position that is not substantially justified, the award shall be made by the Commission against the Department of Labor.

§ 2704.109 Delegations of authority.

The Commission retains authority to take final action on matters pertaining to the Equal Access to Justice Act in actions arising under the Mine Act. The Commission may, however, by order delegate authority to take final action on matters pertaining to the Equal Access to Justice Act in particular cases to other subordinate officials or bodies.

Subpart B—Information Required From Applicants

§ 2704.201 Contents of application.

(a) An application for an award of fees and expenses under the Act shall be made to the Chairman of the Commission at Suite 600, 1730 K Street NW., Washington, D.C. 20006. The application shall identify the applicant and the underlying proceeding for which an award is sought. The application shall show that the applicant has prevailed in a significant and discrete substantive portion of the underlying proceeding and identify the position of the Department of Labor in the proceeding that the applicant alleges was not substantially justified. Unless the applicant is an individual, the application shall also state the number of employees of the applicant and describe briefly the type and purpose of its organization or business.

(b) The application shall also include a statement that the applicant's net worth does not exceed $1 million (if an individual) or $5 million (for all other applicants, including their affiliates, as described in § 2704.104(f) of this part). However, an applicant may omit this statement if it attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) or, in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualifies under such section.

(c) The application shall state the amount of fees and expenses for which an award is sought.

(d) The application may also include any other matters that the applicant wishes the Commission to consider in determining whether and in what amount an award should be made.

(e) The application shall be signed by the applicant or an authorized officer or attorney of the applicant. It shall also contain or be accompanied by a written verification under oath or under penalty of perjury that the information provided in the application is true and correct.

(f) Upon receipt of an application, the Chairman shall immediately transfer it to the administrative law judge for disposition.

§ 2704.202 Net worth exhibit.

(a) Each applicant except a qualified tax-exempt organization or cooperative association must provide with its application a detailed exhibit showing the net worth of the applicant and any affiliates (as described in § 2704.104(f) of this part) when the underlying proceeding was initiated. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in these rules. The administrative law judge may require an applicant to file additional information to determine its eligibility for an award.

(b) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure may submit that portion of the exhibit directly to the administrative law judge in a sealed envelope labeled "Confidential Financial Information", accompanied by a motion to withhold the information from public disclosure. The motion shall describe the information sought to be withheld and explain, in detail, why it falls within one or more of the specific exemptions from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(1)–(9), why public disclosure of the information would adversely affect the applicant, and why disclosure is not required in the public interest. The material in question shall be served on counsel representing the agency against which the applicant seeks an award, but need not be served on any other party to the proceeding. If the administrative law judge finds that the information should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, any request to inspect or copy the exhibit shall be disposed of in accordance with the Commission's established procedures under the Freedom of Information Act (29 CFR Part 2702).

§ 2704.203 Documentation of fees and expenses.

The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project or similar matter, for which an award is sought. A separate itemized statement shall be submitted for each professional firm or individual whose services are covered by the application, showing the hours spent in connection with the underlying proceeding by each individual, a description of the specific services performed, the rate at which each fee has been computed, any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided. The administrative law judge may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

§ 2704.204 When an application may be filed.

(a) An application may be filed whenever the applicant has prevailed in the underlying proceeding or in a significant and discrete substantive portion of that proceeding, but in no case later than 30 days after the Commission's final disposition of the underlying proceeding.

(b) If review or reconsideration is sought or taken of a decision on the merits as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy.

(c) For purposes of this rule, final disposition means the date on which a decision in the underlying proceeding becomes final under sections 105(a)(d) and 113(d) of the Mine Act (30 U.S.C. 815(d), 823(d)) and §§ 2704.307 and 2704.308 of this part.

Subpart C—Procedures for Considering Applications

§ 2704.301 Filing and service of documents.

Any application for an award or other pleading or other document related to an application, including a petition for discretionary review, shall be filed and served on all parties in the same manner as pleadings in the underlying proceeding, except as provided in § 2704.202(b) for confidential financial information.

§ 2704.302 Answer to application.

(a) Within 30 days after service of an application, counsel representing the Secretary of Labor may file an answer to the application. Unless counsel requests an extension of time for filing or files a statement of intent to negotiate under paragraph (b) of this section, failure to file an answer within the 30-day period may be treated as a consent to the award requested.

(b) If counsel for the Secretary and the applicant believe that the issues in the fee application can be settled, they may jointly file a statement of their intent to

negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 30 days, and further extensions may be granted by the administrative law judge upon request by counsel for the Secretary and the applicant.

(c) The answer shall explain in detail any objections to the award requested and identify the facts relied on in support of the position of the Secretary of Labor. If the answer is based on any alleged facts not already in the record of the underlying proceeding, counsel shall include with the answer either supporting affidavits or a request for further proceedings under § 2704.306 of this part.

§ 2704.303 Reply.

Within 15 days after service of an answer, the applicant may file a reply. If the reply is based on any alleged facts not already in the record of the proceeding, the applicant shall include with the reply either supporting affidavits or a request for further proceedings under § 2704.306 of this part.

§ 2704.304 Comments by other parties.

Any party to a proceeding other than the applicant and counsel for the Secretary of Labor may file comments on an application within 30 days after it is served or on an answer within 15 days after it is served. A commenting party may not participate further in proceedings on the application unless the administrative law judge determines that the public interest requires such participation in order to permit full exploration of matters raised in the comments.

§ 2704.305 Settlement.

The applicant and counsel for the Secretary of Labor may agree on a proposed settlement of the award before final action on the application, either in connection with a settlement of the underlying proceeding on the merits, or after the underlying proceeding has been concluded. If a prevailing party and counsel for the Secretary agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement.

§ 2704.306 Further proceedings on the application.

(a) Ordinarily, the determination of an award will be made on the basis of the written record in the underlying proceeding under the Mine Act. However, on request of either the applicant or counsel for the Secretary of Labor, or on his or her own initiative, the administrative law judge may order further proceedings on the application, such as discovery, an informal conference, oral argument, additional written submissions or an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application, and shall be conducted as promptly as possible.

(b) A request that the administrative law judge order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

§ 2704.307 Decision of administrative law judge.

The administrative law judge shall issue an initial decision on the application within 75 days after completion of proceedings on the application. The decision shall include written findings and conclusions on the applicant's eligibility and status as a prevailing party, and an explanation of the reasons for any difference between the amount requested and the amount awarded. The decision shall also include, if at issue, findings on whether the Secretary of Labor's position was substantially justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust. The initial decision by the adjudication officer shall become final 40 days after its issuance unless review by the Commission is ordered under § 2704.308 of these rules.

§ 2704.308 Commission review.

(a) Either the applicant or the Secretary of Labor may seek review by the Commission of the initial decision by the administrative law judge, but review shall be discretionary with the Commission.

(b) The party seeking review shall file a petition for discretionary review so as to be received by the Commission at 1730 K Street NW., Washington, D.C. 20006 within 30 days of the issuance of the initial decision by the administrative law judge. Each issue in dispute shall be plainly and concisely stated, with supporting reasons set forth. Except for good cause shown, no issue not raised before the administrative law judge shall be set forth in the petition for discretionary review. Review by the Commission shall be granted only by affirmative vote of two of the Commissioners within 40 days of the issuance of the initial opinion, except that within 30 days after the issuance of the initial decision by the administrative law judge, two or more Commissioners may in their discretion order the case for review without the filing of a petition. The latter procedure shall be reserved for novel questions of law or policy, however.

(c) If review of the initial decision of the administrative law judge is granted by the Commission, the Commission shall, after allowing opportunity for presentation of views by opposing parties, review the case and issue its own order affirming, modifying or vacating in whole or in part the initial decision or directing other appropriate relief. The order of the Commission will then be the final order for purposes of section 504(c)(2) of the Act and § 2704.307 of these rules. In the event review is not granted, the initial decision of the administrative law judge shall become final 40 days after its issuance.

§ 2704.309 Judicial review.

Judicial review of final Commission decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

§ 2704.310 Payment of award.

Payment of awards made under the Equal Access to Justice Act by final orders of the Commission or its administrative law judge shall be in accordance with the applicable rules of the Department of Labor.

Dated: March 4, 1982.

Rosemary M. Collyer,

Chairman.

[FR Doc. 82-6312 Filed 3-8-82; 8:45 am]

BILLING CODE 6820-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[A-6-FRL-2057-3]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; New Mexico Plan for Controlling Sulfuric Acid Mist From Existing Sulfuric Acid Production Facilities; New Mexico Negative Declarations—Fluoride Emissions From Primary Aluminum Plants and Total Reduced Sulfur Emissions From Kraft Pulp Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this notice, EPA approves the New Mexico plan for controlling sulfuric acid mist emissions from existing contact process sulfuric acid production plants. The plan was submitted to fulfill the requirements of Section 111(d) of the Clean Air Act, as amended in 1977 (the Act), and regulations promulgated thereunder. The plan was submitted as a part of the State's Air Quality Control Regulation 651, entitled, "SULFURIC ACID PRODUCTION UNITS—SULFUR DIOXIDE, ACID MIST AND VISIBLE EMISSIONS". Also included in this final rulemaking are New Mexico's negative declarations certifying that the State of New Mexico does not contain any primary aluminum plants or kraft pulp mills. This action will be effective on May 10, 1982, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

EFFECTIVE DATE: May 10, 1982.

ADDRESSES: Copies of the State's submittal and incorporation by reference materials are available for inspection during normal business hours at the following locations:

The Office of the Federal Register, 1100 L Street, NW, Washington, D.C. Rm. 8401.

Environmental Protection Agency, Public Information Reference Unit, EPA Library, 401 M Street, NW, Washington, D.C. Rm. 2922.

FOR FURTHER INFORMATION CONTACT:

Estela S. Wackerbarth, Chief, Implementation Plan Section, Air Program Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas, 75206, (214) 767-1518.

SUPPLEMENTARY INFORMATION:

A. Acid Mist from Sulfuric Acid Plants

On May 15, 1981 the State of New Mexico, pursuant to Section 111(d) of the Act, submitted a plan for controlling sulfuric acid mist from existing sulfuric acid production facilities. The plan was adopted on March 13, 1981, and was submitted in accordance with regulations in 40 CFR Part 60, Subpart B. This plan supercedes a previous version which was submitted to EPA on March 3, 1980, following a public hearing on November 15, 1979 and State adoption on January 11, 1980. However, only those portions of State Air Quality Control Regulation 651 pertaining to the control of sulfur dioxide emissions were affected by the March 13, 1981 revision. EPA takes no action on those portions of State Air Quality Regulation 651 pertaining to the control of sulfur dioxide in this notice. EPA has reviewed the State's plan and found that it satisfies the criteria of 40 CFR Part 60, Subpart B. EPA, therefore, approves the plan in this notice. A detailed analysis of the State's plan is contained in EPA's evaluation report.[1]

B. Negative Declarations

Section 62.06 of 40 CFR provides that a State need not submit a plan for designated facilities if the State certifies that there are no such facilities in the State. EPA accepts the declarations submitted on behalf of the State of New Mexico on the date listed below.

Primary Aluminum Plants

New Mexico Environmental Improvement Division—July 8, 1980.

Air Pollution Control Division, City of Albuquerque—September 23, 1980.

Kraft Pulp Mills

New Mexico Environmental Improvement Division—November 5, 1979.

Air Pollution Control Division, City of Albuquerque—July 8, 1980.

The public should be advised that this action will be effective 60 days from the date of this notice (May 10, 1982). However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice published before the effective date. The subsequent notice will withdraw the final action and will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of March 9, 1982. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities. This action only approves state actions. It imposes no new requirements.

(Sec. 111(d) of the Clean Air Act, as amended)

[1] Evaluation Report for New Mexico's 111(d) Plan for Control of Sulfuric Acid Mist Emissions from Sulfuric Acid Plants; available for public inspection at times and places listed above.

Dated: March 1, 1982.

Anne M. Gorsuch,

Administrator.

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

Part 62 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart GG—New Mexico

§ 62.7850 [Redesignated as § 62.7854]

1. In Subpart GG—New Mexico, § 62.7850 in its entirely is redesignated to be § 62.7854.

2. In Subpart GG—New Mexico, new §§ 62.7850, 62.7851, 62.7852 and 62.7853 are added to read as follows:

§ 62.7850 Identification of plan.

(a) Title of plan: "State of New Mexico Designated Facility Plan" (§ 111(d)).

(b) The plan was officially submitted as follows:

(1) Sulfuric acid plants on May 15, 1981.

(c) Affected facilities: The plan includes the following facilities:

(1) Sulfuric acid plants.

Sulfuric Acid Mist Emissions From Sulfuric Acid Plants

§ 62.7851 Identification of sources.

(a) The plan includes the following sources:

(1) Kerr-McGee Nuclear Corporation in McKinley County.

(2) Climax Chemical Corporation in Lea County.

Fluoride Emissions From Primary Aluminum Plants

§ 62.7852 Identification of plan—Negative declaration.

The New Mexico Environmental Improvement Division and the Albuquerque Air Pollution Control Division submitted letters of July 8, 1980 and September 23, 1980, respectively, certifying that there are no existing primary aluminum plants in the State subject to Part 60, Subpart B of this chapter.

Total Reduced Sulfur Emissions From Kraft Pulp Mills

§ 62.7853 Identification of plan—Negative declaration.

The New Mexico Environmental Improvement Division and the Albuquerque Air Pollution Control Division submitted letters of November 5, 1979 and July 8, 1980, respectively.

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certifying that there are no existing kraft pulp mills in the State subject to Part 60, Subpart B of this chapter.

Fluoride Emissions From Phosphate Fertilizer Plants

§ 62.7854 [Redesignated from § 62.7850]

[FR Doc. 82-6330 Filed 3-8-82; 8:45 am]

BILLING CODE 6560-35-M

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40 CFR Parts 122, 264, and 265

[SW-FRL 1999-3a]

Hazardous Waste Management System Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities and EPA Administered Permit Programs; Hazardous Waste Permit Program

Correction

In FR Doc. 82-4899 appearing on page 8304 in the issue of Thursday, February 25, 1982; on page 8306, first column, eleventh line from the bottom, insert the word "not" after "will".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA-6258]

Communities With Minimal Flood Hazard Areas for the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities' Special Flood Hazard Areas are small in size, with minimal flooding problems. Because existing conditions indicate the area is unlikely to be developed in the foreseeable future, there is no immediate need to use the existing detailed study methodology to determine the base flood elevations for the Special Flood Hazard Areas.

Therefore, the Agency is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without determining base flood elevations.

EFFECTIVE DATE: Date listed in fourth column of list of Communities with Minimal Flood Hazards Areas.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Chief Engineering Divison, (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: In these communities, the full limits of flood insurance coverage are available at actuarial, non-subsidized rates. The rate will vary according to the zone designation of the particular area of the community.

Flood insurance for contents, as well as structures, is available. The maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program.

Flood insurance coverage for property located in the communities listed can be purchased from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program. The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the Federal Register.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have significant economic impact on a substantial number of small entities. This rule provides routine legal notice regarding the completed stage of engineering tasks in delineating the special flood hazards areas of the specified community and imposes no new requirements or regulations on participating communities.

The entry reads as follows:

§ 65.7 List of communities with minimal flood hazard areas.

State	County	Community	Date of conversion to regular program
Idaho	Cassia and Minidoka	City of Burley	Mar. 9, 1982.
California	San Mateo	City of Belmont	Do.
Oklahoma	Logan	City of Crescent	Mar. 16, 1982.
Do.	LeFlore	City of Heavener	Do.
Louisiana	St. Tammany	Village of Folsom	Do.
Do.	Teresa	Town of Newellton	Do.
Oklahoma	Ellis	City of Shattuck	Mar. 23, 1982.
Do.	Kiowa	Town of Roosevelt	Do.
Louisiana	Union	Town of Farmerville	Do.
Do.	DeSoto	Village of Grand Cane	Do.

State	County	Community	Date of conversion to regular program
Do.	Claiborne	Town of Haynesville	Mar. 30, 1982.
Do.	St. Landry, Lafayette	Town of Sunset	Do.
Do.		Village of Youngsville	Do.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: February 25, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6273 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6015]

National Flood Insurance Program; Final Flood Elevation Determinations; Florida

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule; correction.

SUMMARY: This document corrects a Notice Final Determinations of base (100-year) flood elevations for selected locations in the City of Inverness, Citrus County, Florida, previously published at 47 FR 25 on January 4, 1982.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Final Determinations of base (100-year) flood elevations for selected locations in the City of Inverness, Citrus County, Florida, previously published at 47 FR 25 on January 4, 1982, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

For the White Lake source of flooding, the elevation for the entire shoreline was shown incorrectly as 36 feet NGVD. The correct elevation for White Lake is 38 feet NGVD. For the Grant Lake source of flooding, the elevation for the entire shoreline was shown incorrectly as 38 feet NGVD. The correct elevation for Grant Lake is 36 feet NGVD.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
Florida	City of Inverness, Citrus County	White Lake	Entire Shoreline	*36
		Grant Lake	Entire Shoreline	*36

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968) as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority of Federal Insurance Administrator 44 FR 20963)

Issued: February 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6289 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Scottsdale, Ariz., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Scottsdale, Arizona. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Scottsdale, Arizona, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 045012A Panels 19 and 20, published on October 6, 1980, in 45 FR 66116, indicates that Lots 1 through 24, 44 through 108, 113, and 122 through 128, Hayden Estates, Scottsdale, Arizona, recorded as Instrument No. 364854 in Book 204, Page 46, in the Office of the Recorder, Maricopa County, Arizona, are within the Special Flood Hazard Area.

Map No. H & I 045012A Panels 19 and 20 are hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on January 9, 1976. These lots are in Zone B.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 29, 1982.

Lee M. Thomas,

Associate Director State and Local Programs and Support.

[FR Doc. 82-6288 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Novato, Calif., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas

have been published. This list included the City of Novato, California. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Novato, California, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H&I 060178 Panel 0002A, published on October 6, 1980, in 45 FR 66116, indicates that the existing structures Nos. 1 through 10, Walnut Grove Apartments, being a portion of Lot 54, Map Divisions A and B of the Novato Ranch, Novato, California, recorded as Instrument Number 22274 in Book 2913, Pages 70 and 71, in the Office of the Recorder, Marin County, California are within the Special Flood Hazard Area.

Map No. H&I 060178 Panel 0002A is hereby corrected to reflect that the above-mentioned structures are not within the Special Flood Hazard Area identified on January 19, 1978. These structures are in Zone B.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 29, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6287 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the Town of Bloomfield, Conn., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Town of Bloomfield, Connecticut. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Town of Bloomfield, Connecticut, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP), P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b): Map Number H & I 090122, Panel 0010A published on October 6, 1980 in 45 FR 66017 indicates that portions of the Park Avenue Christian Church property, also known as 495 Park Avenue, Bloomfield, Connecticut, as recorded in Land Record Volume 280 at Pages 82 and 83 in the Town Clerk's Office, are within the Special Flood Hazard Area.

Map Number H & I 090122, Panel 0010A is hereby corrected to reflect that those portions of the property which are presently at or above 87 feet National Geodetic Vertical Datum (NGVD) are not within the Special Flood Hazard Area identified on August 15, 1977. Those portions which are between 87 feet (NGVD) and 90 feet (NGVD) are located in Zone B. Those portions at or above 90 feet (NGVD) arae in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 29, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6286 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Hillsborough County, Fla., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Hillsborough County, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Hillsborough County, Florida, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 120112 Panel 0205B published on October 6, 1980 in 45 FR 66059 indicates that portions of Units 1, 2, and 3 of Avila Subdivision, recorded in Plat Book 50, Page 21, Plat Book 50, Page 22, and Plat Book 51, Page 38, respectively, all of which are recorded in the Public Records of Hillsborough County, Florida are within the Special Flood Hazard Area.

Map Number H & I 120112 Panel 0205B is corrected to reflect that Lot 6 of Block 2 and Lot 3 of Block 3 in Unit 1, Lot 63 of Block 5 in Unit 2, and Lot 2 of Block 2 in Unit 3 are not within the Special Flood Hazard Area identified on June 16, 1980. The above-mentioned lots are in Zone C.

The existing structures on Lot 82 of Block 5, 923, 925, 927, and 931 Guisando Avenue of Block 8 in Unit 1, Lots 48 and 65 of Block 5 in Unit 2, and Lots 12 and 13 of Block 1, and Lots 29 and 33 of Block 5 in Unit 3 are not within the Special Flood Hazard Area. The structures are in Zone C. However, portions of these lots would be partially inundated by a flood having a one-percent chance of occurrence in any given year (base flood); therefore, any new construction or substantial improvement on the property remains subject to Federal, state, and local regulations for flood plain management.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: February 5, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6285 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Carbondale, Ill., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of Carbondale, Illinois. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Carbondale, Illinois, that a certain structure is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structure is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that structure as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 170298, Panel No. 0020B, published on October 6, 1980, in 45 FR 66073, indicates that the residential structure located on a parcel of land,

being that part of the Northeast Quarter of the Northwest Quarter of Section 35, Township 9 South, Range 1 West of the Third Principal Meridan, lying South and West of State Aid Route 12 as located June 13, 1967; North and West of Drury Creek as located on March 9, 1967; and South of relocated Pleasant Hill Road, located within the extraterritorial limits of the City of Carbondale, Jackson County, Illinois, as recorded in Book 438, Pages 367 and 368, in the Office of the Recorder of Jackson County, Illinois, is located within the Special Flood Hazard Area.

Map No. 170296, Panel No. 0020B, is hereby corrected to reflect that the residential structure located on the above-mentioned property is not within the Special Flood Hazard Area identified on November 1, 1979. The residential structure is in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: February 12, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6284 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Document No. FEMA-6002]

Letter of Map Amendment for the Village of Orland Park, Ill., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Village of Orland Park, Illinois. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Village of Orland Park, Illinois, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject properties are or are not within the Special Flood Hazard Area, removes or reinforces the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 170140, Panel No. 0002C, published on March 5, 1981, in 46 FR 15289, indicates that Lots Nos. 49, 58, and 95, Park View Estates Subdivision, Village of Orland Park, Cook County, Illinois, recorded as Document No. 2506648, in the Office of the Recorder of Cook County, Illinois, are located within the Special Flood Hazard Area.

In addition, the above-mentioned Map and Panel Number indicates that Lots Nos. 76, 85 and 86 are located in Zone C.

Map No. 170140, Panel No. 0002C, is hereby corrected to reflect that Lots Nos. 49, 58, and 95 are not within the Special Flood Hazard Area identified on February 4, 1981. The lots are in Zone C.

Furthermore, the above-mentioned Map and Panel Number is hereby corrected to reflect that portions of Lots Nos. 76, 85 and 86 are in Zone A.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 29, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6283 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Rockford, Ill., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of Rockford, Illinois. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Rockford, Illinois, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 170723, Panel No. 0012A, published on October 6, 1980, in 45 FR 66075, indicates that the Southerly Twenty-four feet in width of Lot Six and the Northerly Twelve feet in width of Lot Seven in Block Five, as designated upon the Plat of Giffen's Subdivision of a part of Block Five of W. T. Robertson's Addition to Rockford, known as 610 13th Street, City of Rockford, Winnebago County, Illinois, recorded as Document No. 1531908, in the Office of the Recorder of Deeds of Winnebago County, Illinois, are located within the Special Flood Hazard Area.

Map No. 170723, Panel No. 0012A, is hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area identified on December 4, 1979. The property is in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: February 22, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6272 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5923]

Letter of Map Amendment for the City of Lafayette, La., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Lafayette, Louisiana. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Lafayette, Louisiana, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 220105 Panel 0010C, published on October 21, 1980, in 45 FR 69450, indicates that the Final Map of South Hill, a residential Townhouse Development located in Section 42, Township 10 South, Range 4 East, Lafayette, Louisiana, recorded as File Number 81–021709, in the Office of the Clerk of Court, Lafayette Parish, Louisiana, is within the Special Flood Hazard Area.

Map No. H & I 220105 Panel 0010C is hereby corrected to reflect that the existing structures located on the above mentioned property are not within the Special Flood Hazard Area identified on September 30, 1980. These structures are in Zone C.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 29, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6282 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-6022]

Letter of Map Amendment for the Unincorporated Area of Baltimore County, Md., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Unincorporated Area of Baltimore County, Maryland. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Unincorporated Area of Baltimore County, Maryland, that a certain structure is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structure is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that structure as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agreed to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 240010, Panel No. 0410B, published on March 31, 1981, in 46 FR 19476, indicates that the residential structure located on Lot No. 2, Block C, Section Nine, Camelot, Unincorporated Area of Baltimore County, Maryland, as recorded in Plat Book O.T.G. 31, Folio 96, in the Office of the Clerk of the Circuit Court of Baltimore County, Maryland, is located within the Special Flood Hazard Area.

Map No. 240010, Panel No. 0410B, is hereby corrected to reflect that the existing residential structure located on the above-mentioned property is not within the Special Flood Hazard Area identified on March 2, 1981. The structure is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: February 12, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6201 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5712]

Letter of Map Amendment for the Town of Ocean City, Md., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Town of Ocean City, Maryland. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Town of Ocean City, Maryland, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. H&I 245207D, Panel No. 04, published on October 23, 1979, in 44 FR 61010, indicates that Lot No. 10, Block No. 22, Fenwick, Maryland, Plat No. 4, Town of Ocean City, Worcester County, Maryland, as recorded in Liber E.W.R. 1, Folio 40, in the Office of the Clerk of the Circuit Court of Worcester County, Maryland, is located within the Special Flood Hazard Area.

Map No. H&I 245207D, Panel No. 04, is hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area identified on February 6, 1976. The property is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: February 12, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6200 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5709]

Letter of Map Amendment for the City of St. Louis Park, Minn. Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Managemnt Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of St. Louis Park, Minnesota. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of St. Louis Park, Minnesota, that certain structures are not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structures are not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for the structures as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. H&I 270184A, Panel No. 04, published on October 6, 1980, in 45 FR 66084, indicates that Buildings Nos. 29 through 32, Shamrock 2nd Addition, City of St. Louis Park, Hennepin County, Minnesota, recorded as Certificate No. 619079 in Plat Book 2054, in the Office of the Registrar of Titles of Hennepin County, Minnesota, are located within the Special Flood Hazard Area.

Map No. H&I 270184A, Panel No. 04, is hereby corrected to reflect that Buildings Nos. 29 through 32, located on the above-mentioned property are not within the Special Flood Hazard Area identified on June 1, 1977. The buildings are in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: February 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6199 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Waveland, Miss., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas have been published. This list included the City of Waveland, Mississippi. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Waveland, Mississippi, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 285282 A, Panel 04 published on October 6, 1980 in 45 FR 66066 indicates that the parcel of land, known as Pinecrest Manor, City of Waveland, recorded in Book AA–29, Page 824, Deed Records of Hancock County, Mississippi is within the Special Flood Hazard Area.

Map Number H & I 285282 A, Panel 04 is hereby corrected to reflect that the above-mentioned property is not located within the Special Flood Hazard Area as identified on April 10, 1976. The property is located in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and

Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: February 16, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6284 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5023]

Letter of Map Amendment for the City of Las Vegas, Nev., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Las Vegas, Nevada. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Las Vegas, Nevada, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, P. E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a fill refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 325276 Panel 0025B, published on October 21, 1980, in 45 FR 69451, indicates that Lots 1 through 9 and 13 through 130, Desert Sands Villas, Las Vegas, Nevada recorded as Document No. 1399800 in Book 27, Page 32 of Plats, Book No. 1440 of Offical Records, in the Office of the Recorder, Clark County, Nevada are within the Special Flood Hazard Area.

Map No. H & I 325276 Panel 0025B is hereby corrected to reflect that the above mentioned properties are not within the Special Flood Hazard Area identified on September 30, 1980. These lots are in Zone B.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: February 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6286 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the Borough of Florham Park, N.J., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Borough of Florham Park, New Jersey. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Borough of Florham Park, New Jersey, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program

(NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 340342, Panel 0005 B published on October 6, 1980 in 45 FR 66028 indicates that Lot 19, Block 16, Florham Park, New Jersey and recorded in Book 2236, Page 94 of the Morris County Land Records is within the Special Flood Hazard Area.

Map Number H & I 340342, Panel 0005 B is hereby corrected to reflect that the exisiting structure located on the above-mentioned property is not within the Special Flood Hazard Area identified on September 14, 1979. The structure is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: February 22, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6271 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the Borough of Florham Park, N.J., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Borough of Florham Park, New Jersey. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Borough of Florham Park, New Jersey, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for the property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Chief, Engineering Branch, State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 340342, Panel 0005 B published on October 6, 1980 in 45 FR 66028 indicates that Lots 243, 244, and 245 of Block 65 in Section 2, Lot 240 of Block 65 and Lot 27 of 65–C, both in Section 3, Lots 229, 233, 235, and 236 of Block 65, all in Section 4 of the subdivision known as Paragon at Lakeside, Florham Park, New Jersey, as recorded on Maps 3800, 3866, and 3914, respectively, in the Office of the Clerk of Morris County, New Jersey, are located within the Special Flood Hazard Area.

Map Number H & I 340342, Panel 0005 B is hereby corrected to reflect that Lots 243, 244, and 245 of Block 65 in Section 2, Lot 240 of Block 65 and Lot 27 of Block 65–C in Section 3 and Lot 233 of Block 65 in Section 4 are not within the Special Flood Hazard Area identified on September 14, 1979. The existing structure on Lots 27, 240, 243, 244, and 245 are located in Zone B and the structure on Lot 233 is in Zone C.

The structures on Lots 229, 235, and 236 of Block 65 in Section 4 are in Zone B. However, the lots would still be inundated by a flood having a one-percent chance of occurrence in any given year.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: February 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6280 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-6237]

Letter of Map Amendment for Borough of Hillsdale, N.J., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Borough of Hillsdale, New Jersey. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Borough of Hillsdale, New Jersey, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a

condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Chief, Engineering Branch, State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 340043 Panel 0002 B published on December 15, 1981 in 47 FR 3356 indicates that the existing structure on the property located at 6 Oak Street, also known as Lot 7, Block 715 on the Assessment Map of the Borough of Hillsdale, New Jersey, as recorded in Deed Book 6405, Pages 15 and 16 in the Bergen County Clerk's Office is within the Special Flood Hazard Area.

Map Number H & I 340043 Panel 0002 B is hereby corrected to reflect that the existing structure located on the above-mentioned property is not within the Special Flood Hazard Area as identified on December 15, 1981. The structure is located in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: February 11, 1982.

Lee M. Thomas,
Associate Director, State and Local Programs and Support.

[FR Doc. 82-6287 Filed 3-8-82; 8:45 am]
BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Tulsa, Okla., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Tulsa, Oklahoma. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Tulsa, Oklahoma, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 405381D Panel 95, published on October 6, 1980, in 45 FR 66095, indicates that Lot 4, Block 1, Tracy Terrace 2nd Addition, Tulsa, Oklahoma, recorded as Instrument Number 902045 in Book 4497, Page 2489, in the Office of the Clerk, Tulsa County, Oklahoma, is within the Special Flood Hazard Area.

Map No. H & I 405381D Panel 95, is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on August 14, 1979. This lot is in Zone B.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 29, 1982.

Lee M. Thomas,
Associate Director, State and Local Programs and Support.

[FR Doc. 82-6286 Filed 3-8-82; 8:45 am]
BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5237]

Letter of Map Amendment for City of Florence, S.C., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Florence, South Carolina. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Florence, South Carolina, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Chief, Engineering Branch, State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 450078, Panel 0005 C published on December 1, 1981 in 47 FR 3356 indicates that the lot in the City of Florence, designated as being a portion of Lots 90, 91, and 92 as shown on a map by Ervin Engineering Company, dated July 30, 1953, recorded in Plat Book N at Page 33 in the Office of the Clerk of Court for Florence County is within the Special Flood Hazard Area.

Map Number H & I 450078, Panel 0005 C is hereby corrected to reflect that the existing structure on the above-mentioned property is not located within the Special Flood Hazard Area identified on December 1, 1981. The structure is located in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: February 11, 1982.

Lee M. Thomas,
Associate Director, State and Local Programs and Support.

[FR Doc. 82-6288 Filed 3-8-82; 8:45 am]
BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Brazoria County, Tex., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Brazoria County, Texas. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Brazoria County, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 485458C Panel 32, published on October 6, 1980, in 45 FR 66097, indicates that a 46.22162 acre tract of land out of a 56.184 acre tract of land of the William Prater Survey, Abstract 120, Brazoria County, Texas, recorded as Document Number 28630, Volume 1531, Pages 338 through 340, in the Office of the Clerk, Brazoria County, Texas is within the Special Flood Hazard Area.

Map No. H & I 485458C Panel 32 is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on October 27, 1978. This property is in Zone B.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6290 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Plano, Tex., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Plano, Texas. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Plano, Texas, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 480140 Panel 0020A, published on October 6, 1980, in 45 FR 66099, indicates that the two existing buildings located in the southeast corner of the Collin Greene Condominiums, being a 9.505 acre tract of land in the William Fitzhugh Survey, Abstract No. 308, Plano, Texas, recorded as Document No. 29964 in Volume 1306, Pages 749 through 751, in the Office of the County Clerk, Collin County, Texas, are within the Special Flood Hazard Area.

Map No. H & I 480140 Panel 0020A is hereby corrected to reflect that the two existing structures located in the southeast corner of the above mentioned property are not within the Special Flood Hazard Area identified on January 2, 1980. These structures are in Zone C.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: February 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6291 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 79-318; FCC 82-99]

Public Mobile Radio Services; Cellular Communications Systems

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The FCC hereby amends Part 22 of the Commission's rules on domestic public mobile radio service governing the use of the bands 825-845 MHz and 870-890 MHz for cellular mobile radio communications systems. The Rules, as amended, will serve the public interest by providing improved mobile telephone service to the public at the earliest possible time while assuring an important measure of competition in this service.

EFFECTIVE DATE: April 8, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas Gutierrez, Mobile Services Division, Common Carrier Bureau (202) 632-6450.

SUPPLEMENTARY INFORMATION:

Memorandum Opinion and Order On Reconsideration

Adopted: February 25, 1982.

Released: March 3, 1982.

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I. Preliminary Statement

1. We have before us numerous petitions for reconsideration or clarification [1] of our Report and Order [2] (Order) in the captioned proceeding. Individually the petitions focus on selected aspects of the Order; collectively they challenge virtually all of its major policy determinations. We have carefully reexamined our decision in light of the arguments presented in the petitions and have affirmed our previous decision in most major respects. However, after careful reflection, we have eliminated the separate subsidiary requirement for wireline carriers, except for the American Telephone and Telegraph Company (AT&T), and have further streamlined the comparative hearing process. The issues raised in the petitions are discussed below, generally in the order that they were presented in our previous decision. Although all arguments raised are not specifically discussed in this document, all arguments have been considered in reaching our decision.

[1] Appendix A lists the parties filing petitions for reconsideration or clarification and responsive pleadings. Appendix A also lists the abbreviations by which various petitioners are identified in this Order.

[2] *An Inquiry Into the Use of the Bands 825-845 MHz and 870-890 MHz for Cellular Communications Systems*, CC Docket No. 79-318, 86 FCC 2d 469, 46 FR 27965 (1981).

II. Discussion

A. Spectrum Allocation and Competitive Systems Within a Market

1. Joint Venture and Sharing Proposals

2. In our Order, we determined that the 40 MHz (825-845 MHz amd 870-890 MHz) frequency block previously allocated for cellular services should be made available immediately for two competing systems per area, with 20 MHz available for each carrier. Order at 482. An additional MHz, comprised of four discrete frequency blocks, would be held in a land mobile reserve. We concluded that such a reserve would preserve our flexibility to respond to a variety of future demands. We further provided that if in a future allocation proceeding we determine, based on actual experience with operational commercial cellular systems, that additional spectrum is required for efficient operation in certain markets, we could make spectrum available from the 20 MHz reserve as appropriate.

3. LIN and Millicom request reconsideration of our decision to initially license two carriers per market. They argue that our market structure plan erroneously rejected alternative licensing proposals that could achieve all of the Commission's cellular goals without having the anticompetitive implications associated with the plan adopted. In this regard, LIN renews its proposal that the Commission select two licensees per market who would construct and operate one 40 MHz system on a joint venture basis until the market can demonstrably support two competitors. At that time, the joint venture phase would cease and each licensee would separately and competitively market its services.

4. Millicom renews its argument that a system of nonexclusive frequency assignments permitting unlimited free entry should be adopted.[3] Millicom contends that the resulting competitively structured cellular industry would ensure rapid development of efficient high quality cellular service and allow consumer choice, rather than regulatory fiat, to determine what cellular services will be offered to the public. According to Millicom, wireline carriers will not vigorously pursue the portable market because it would compete with their landline services, and radio common carriers will not pursue it because of their orientation to vehicular units. Millicom also contends that its open-entry proposal is technically feasible, and objects to our conclusion that Millicom has failed to explain adequately how its proposal would actually work. Millicom has provided the Commission with additional technical information which, it contends, adequately explains its proposal.[4]

5. Three parties, Maximum Telecasters, Inc., Telocator and AT&T, filed opposition pleadings focusing on this issue. They argue that Millicom has not demonstrated the technical, procedural and economic viability of its proposal, and that it has neither designed, developed nor tested its proposal, even in prototype form. In addition, AT&T states that the dynamic channel assignment approach contained in Millicom's proposal would, contrary to Millicom's assertions, introduce even more inefficiencies than would fixed allocations. AT&T also opposes the LIN plan because it does not permit any competition between facilities-based cellular operators for an indefinite time and because it provides little incentive for one company to cooperate with another in providing service where it knows that, sometime in the future, the two will provide that same service in competition with each other.

6. After carefully considering these arguments, we reaffirm that the public interest would best be served through the licensing plan set forth in our Order, namely, the licensing of up to two 20 MHz systems in each market area. As we stated in the Order, this approach affords the public the benefits of some facilities-based competition in cellular service, while also taking into account the convincing record evidence before us that, from a technical standpoint, cellular systems should be allocated no less than 20 MHz each in order to preserve the spectrum efficiency afforded by the cellular concept.[5]

7. We reject the LIN proposal for the reasons stated in our previous order. As we stated there, Order at 478, para. 19, the LIN proposal affords no opportunity for facilities-based competition within a given market area in the near term. In addition, it poses the complication of relying on two licensees, whose individual proposals may differ radically, to agree on a single mode of joint construction and operation. Moreover, it may necessitate the future intervention of the Commission to decide when to dissolve the joint venture, and quite possibly to resolve disputes concerning when and how to expand jointly held facilities, at a time when the Commission is seeking to remove itself from overseeing licensee operations on an ongoing basis in order to conserve our decreasing resources.

8. With respect to the Millicom proposal, while we support its goal of unlimited entry, we are unable to find that the proposal will provide efficient use of spectrum and facilities-based competition, especially without the need for further development. In this regard, one of our major concerns is that the unlimited entry and dynamic frequency assignment proposed by Millicom would limit, if not prevent, frequency reuse unless all systems have approximately co-located transceivers with substantially identical cell patterns. Millicom concedes as much when, in its

[3] In this regard, Millicom states that we mischaracterized its proposal in our Order by describing it as a single 40 MHz system to be shared among several users. Instead, Millicom says that it proposed that any number of licensees in a market be allowed to share, on a non-exclusive basis, the entire 40 MHz frequency allocation with each licensee responsible for providing its own facilities, and that this could result in facilities-based competition. A review of the Order, however, clearly reveals that we recognized the Millicom proposal as theoretically offering facilities-based competition, and that we rejected it for other, unrelated reasons, as discussed in the Order and clarified here.

[4] Authorized *ex parte* presentations were made on behalf of Millicom to staff and various Commissioners' offices. Copies of materials provided to Commission staff in the course of Millicom's presentation have been entered into the record of this proceeding.

[5] As discussed in our Order, each commenter who addressed the spectrum requirements of cellular design agreed that a cellular system based on either the AT&T or the Motorola design could not be efficiently operated in a mature cellular configuration in a major market with any allocation substantially less than 20 MHz. This minimum spectrum requirement is based on the fact that a mature cellular system in a high density market requires multiple frequencies at each cell site to achieve the efficiencies of trunking necessary to accommodate the demand for service. In addition, because the number of frequencies available at each site is limited, several sets of frequencies are required to provide adequate co-channel separation for frequency reuse. Order at 478, para. 15. Moreover, the less spectrum available to a licensee, the sooner cell-splitting must begin. This increases the licensee's costs that will have to be passed on to the consumers because each time a cell is split, additional cell sites and base station equipment are required. *See* Order at 475.

petition for reconsideration, it states that cell sites would have to be approximately co-located, and that substantial divergence in cell patterns between systems can reduce the efficiency of the cellular concept by limiting frequency reuse.[6]

9. Moreover, Millicom has not adequately addressed the problems involved with having approximately co-located cell sites. Although it may be theoretically possible for multiple entrants to share a single 40 MHz allocation, including a common set of 21 control channels, we believe the required coordination would be enormously difficult to implement. For example, one important question involves how licensees would coordinate cell splitting and consequent changes in cell patterns when different systems have different expansion needs. As a result, there remain a number of specific concerns regarding the extent of technical coordination required among participating carriers under the Millicom proposal. For example, carriers would either have to share a common central computer, or at the very least, arrange to link together their individual system computers. Frequency assignment algorithms, which are already complicated by dynamic channel assignment, would have to be agreed upon and stored in each system. Site locations would have to be coordinated, and perhaps arrangements made to share antenna sites.

10. Millicom suggests that if licensees in a particular market cannot agree on how to coordinate with respect to the above issues, their individual proposals should be submitted to a technical coordination procedure conducted by the Commission, similar to the one established in the Commission's Reconsidertion Order in Docket No. 21039.[7] As with the LIN proposal, however, we are disinclined to inject the Commission into such coordination procedures, and we are unwilling to transfer the kinds of problems and prolonged delays the Commission has experienced in Docket No. 21039 to this proceeding.[8] Finally, we note that even assuming that it is possible to reach agreement on all the technical and practical considerations involved with having approximately co-located cell sites, the resulting closely coordinated group of systems with identical, or nearly identical, cell patterns could well result in less meaningful facilities-based competition than would be possible with two independently designed systems.

11. Despite Millicom's submission of additional technical information,[9] we are still troubled by its proposal. In fact, Millicom's most recent presentations raise additional serious questions. In these presentations, Millicom suggests that cell-splitting and frequency reuse may not prove to be the most economically efficient means of accommodating increased service demands, and that system operators should be permitted to choose other ways of increasing capacity, such as conversion to digital or other technologies. This approach represents a significant departure from the concept of cellular service as adopted by the Commission. When the Commission allocated 40 MHz of spectrum for cellular systems, it envisioned high capacity systems capable of accommodating anticipated common carrier mobile service needs to the end of the century. We also envisioned frequency reuse as the key to cellular systems' high capacity and spectrum efficiency. Since Millicom has offered no firm evidence that would warrant a change in our prior determinations with respect to the cellular frequency reuse concept, one of the fundamental underpinnings of the 1974 *Second Report and Order in Docket N. 18262*, 46 FCC 2d 752, we decline to adopt Millicom's proposal, with its limited frequency reuse, based on speculation that some other form of expansion might occur instead.

12. Finally, we reject Millicom's argument that its proposal must be adopted in order to develop the portable telephone market. We see no reason why the portable market would not develop absent Millicom's unlimited entry plan. To the extent that development of this market depends on cellular licensees making service available for portables, we would expect cellular operators to expand into this area as soon as price and marketing considerations indicate a favorable expected return. Likewise, wireline carriers can be expected to follow suit in the face of this competition. *See* para. 19 below. With respect to the availability of portable units, this equipment will be classified as "terminal equipment" consistent with our decision in the *Second Computer Inquiry (Computer II)*.[10] As such, it would not be regulated, but would have to meet our type-acceptance requirements. Millicom's mobile unit, if type-accepted, woud be compatible with all cellular systems. Thus our decision will in no way restrict Millicom from selling this terminal equipment to all cellular system customers. In addition, cellular subscribers would in no way be deprived of the opportunity to utilize any relatively inexpensive Millicom mobile unit unless Millicom or its manufacturer restricts its competitive distribution.[11] The marketplace therefore will decide the ultimate fate of the Millicom mobile unit and its attractiveness to consumers relative to local exchange service is unaffected by our action. For these reasons, and those discussed above, we conclude that the public interest would not be served by revising our allocation scheme to accommodate untested and unproven licensing concepts to the detriment of the spectral efficiency of other, more proven proposals.[12]

2. Mobile Satellite System

13. The National Aeronautics and Space Administration (NASA) has proposed that we consolidate the 20 MHz reserve portion of the spectrum into two bands of 10 MHz each in order to accommodate a possible satellite-based extension of terrestrial based cellular and non-cellular mobile services. We rejected this idea, finding that the need for satellite augmentation of terrestrial cellular systems had not been established and that the uncertain benefit of adjusting the present allocation of the 800 MHz frequencies did not outweigh the cost of further delaying the implementation of commercial cellular service.[13] In addition, we determined that by leaving the reserve bands intact, we were not precluding the possible future development and implementation of a mobile satellite system. Finally, we concluded that consolidation of the reserve bands and a shifting of the cellular allocation would raise considerations requiring time-consuming renegotiations of pending international agreements.

14. NASA requests reconsideration of our Order insofar as it rejected its proposal. In doing so, NASA essentially reargues the position it presented in its comments in this proceeding. NASA also argues that the reserve band described in the Order effectively precludes 12 MHz of the current 20 MHz reserve band from ever being allocated for a mobile satellite service because of specific allocations for mobile satellite services made during the 1979 World Administrative Radio Conference (WARC).[14] According to NASA, this limitation in turn makes such service economically unviable, and therefore effectively precludes the possibility of having a mobile satellite service in the future. Without a satellite system, NASA submits that there will be no nationwide service because terrestrial systems are unlikely to serve thinly populated areas. NASA also finds "startling" the Commission's statement that no need for satellite augmentation of terrestrial services has been shown, in view of the market study submitted with NASA's Supplemental Comments which projects from 400,000 to 900,000 users of a satellite-based mobile telephone service in non-metropolitan areas. NASA further challenges the Commission's suggestion that satellite and terrestrial systems can share spectrum, arguing that the non-directional nature of the mobile unit antennas would virtually assure that destructive interference would result from simultaneous co-channel satellite and terrestrial transmissions. Finally, NASA asserts that the Commission's claims that a consolidation of the reserve spectrum would require time-consuming renegotiation of pending international agreements are based on a distorted reading of a communication from the Canadian Government. In opposition, AT&T argues that NASA has not adequately demonstrated a public need for satellite mobile service and that, despite NASA's statements to the contrary, the Canadian Government is clearly opposed to NASA's proposal.

15. Having carefully reviewed NASA's arguments, we remain convinced that the allocation plan included in the Order is the one most appropriate for the prompt provision of cellular service, while providing sufficient flexibility to accommodate the possibility of supporting satellite systems at some later date. Adoption of the NASA proposal would necessitate an unwarranted delay in the provision of cellular service because shifting the upper portion of the cellular band from 890 to 896 MHz would require additional time-consuming international negotiations. In particular, we note that a recent discussion paper on cellular radio service issued by the Canadian Government states that "there would be a potential immediate, but localized conflict between cellular and fixed assignments in the band 890–896 MHz, which could not be resolved except for reassignment of the affected fixed systems."[15] In addition, we note that our agreements with Mexico for use of the 806–890 MHz band do not extend to the 890–896 MHz band and, thus, that band could not be used for cellular service near either border in the near future. Although only licensing of border systems would be directly affected by shift in the cellular band, we believe it would be unwise to go forward with licensing of any systems until we could be assured that all systems would be utilizing the same frequency bands. Thus, NASA's proposal would delay implementation of cellular in general for an indeterminable length of time. We are particularly disinclined to incur such a delay in view of the other issues involving mobile satellite service which remain unresolved. In particular, it is far from clear that the need for mobile satellite service alleged in the Supplemental Comments in this proceeding cannot be satisfied through terrestrial service,[16] either cellular or not be accommodated by the 8 MHz of spectrum which NASA agrees would be available for future allocation to mobile satellite service. In this regard, we note that the Canadian Government is now preparing for a mobile satellite system that would operate with only 6 MHz of spectrum.

B. The Role of Wireline Carriers

1. Wireline Eligibility to Operate Cellular Systems and Market Definition.

16. In the Order, at 484–485, we recognized that cellular service will be substitutable to a large degree for present common carrier mobile service and private or common carrier dispatch service.[17] We also concluded that cellular services would not be substitutable for local wireline telephone service in the near future. We further found that wireline carriers should not be precluded from participating in the provision of cellular service. In addition, we determined not to impose any restriction on the number of markets any given entity may enter because such a restriction could prove to be a disincentive to investment in the technological development of cellular, while possibly diminishing the number of potential entrants in some geographic markets or limiting the areas in which cellular is offered.

17. Our conclusion that local wireline telephone service is not within the relevant market in this proceeding is challenged. Telocator, Industrial, and Millicom contend that the Order unduly focuses on whether cellular and local landline service are competitive now, as opposed to in the near future. In addition, they state that arguments regarding cellular systems' lack of capacity to capture an entire wireline market are relevant only in a small number of very large markets. They further argue that in light of the telephone companies' investment and incentives, it is inconceivable that wireline cellular operators will truly compete with wireline telephone service. Some petitioners also challenge our decision not to limit the number of markets any given entity may enter. They contend that there is no support for the Commission's conclusion that entities that might otherwise invest heavily in the technological development of cellular would hesitate to do so if they are permitted to operate only in a limited number of markets.

[6] See Millicom petition for reconsideration at 1–2 and 1–9.

[7] In *Docket No. 21039*, the Commission allocated 12 or 24 UHF channel pairs to the Domestic Public Land Mobile Radio Service for use on a shared basis by all applicants within a 50 mile radius of 13 major market areas. *See* 77 FCC 2d 201 (1980).

[8] To date, after 21 months, many meetings and considerable Commission staff time, agreements have been reached and systems authorized in only five of the 10 markets for which applications have been filed.

[9] *See* para. 4 and n. 4, *supra*.

[10] *Computer II (Final Decision)*, 77 FCC 2d 384 (1980); *Reconsideration*, 82 FCC 2d 50 (1980); *Further Reconsideration*, FCC 81–481 released October 30, 1981; *appeal pending sub nom. CCIA* v. *FCC*, No. 80–1471 (D.C. Cir.).

[11] Millicom estimates the cost of a handheld portable mobile unit, the development of which it is sponsoring, to be about $600, with further cost decreases anticipated as microchip technology advances.

[12] In a letter dated November 9, 1981 to the Chief, Common Carrier Bureau, Millicom has suggested a compromise proposal under which the Commission would award two five-year licenses, each for exclusive use of up to 50% of the cellular radio channels, in up to the 20 largest markets where the public need is greatest with no preference for wireline or non-wireline applicants. In all other markets, it proposes that we adopt an unlimited entry licensing approach for systems meeting the technical requirements which Millicom proposes. The reasons set forth in the text above for rejecting Millicom's initial proposal, *i.e.*, inefficient spectrum re-use and technical coordination concerns, apply to any market regardless of size. While the magnitude of the potential problems may vary, these concerns still exist. Therefore, we do not believe the public interest would be served by adopting Millicom's compromise approach for any market.

[13] The Order provides for four discrete reserve bands: 821–825 MHz, 845–851 MHz, 866–870 MHz, and 890–896 MHz. NASA would have us consolidate the reserve portion of the spectrum into two bands at 821–831 MHz and 866–876 MHz.

[14] The 890–896 MHz reserve band is outside the 806–890 band allocated by the 1979 WARC to the Mobile Satellite Services, thereby, NASA argues, eliminating as well the reciprocal 845–851 MHz reserve band from mobile satellite usage. As a result, only the 821–825 MHz and 866–870 MHz bands would be available for such use.

[15] Discussion Paper-Radio Licensing Policy for Cellular Mobile Radio Systems and Preliminary Mobile-Satellite Planning in the Band 806–890 MHz. Department of Communications, Ottawa, Canada, released September 1981.

[16] We note that in its petition for reconsideration, at page 8, NASA discusses additional need studies "currently underway." However, NASA has not provided us with copies of the studies or with any analysis of the results of such studies. Accordingly, any such studies, if they exist, are not part of the record in this proceeding.

[17] Dispatch service is a type of mobile service characterized by the exchange of brief messages between a land based dispatcher and a mobile station without using the public switched telephone network.

18. We affirm the eligibility of wireline carriers to be cellular system licensees. The arguments raised by petitioners do not support a contrary conclusion. We have allocated spectrum for cellular service because of the flexibility it offers consumers in meeting their unique communications needs that cannot adequately or conveniently be met by use of the landline network irrespective of any potential substitutability it might also have with wireline local exchange service. In general, there is a pressing need to meet public demand for traditional mobile radio services, and we anticipate that new service applications will be forthcoming to meet user needs. We envision that cellular systems will be heavily dependent on the presence of the landline network to provide new service applications where the mobility of a party makes use of the landline network alone unattractive. In this regard, we envision use of cellular systems in conjunction with the landline network and, to the extent cellular systems are used to provide traditional and new mobile radio services, there is correspondingly less system capacity to provide meaningful competition with the landline network.

19. Assuming, *arguendo*, that we are wrong in this assessment, we still find that eligibility restrictions on wireline carriers are not warranted. Under the two licensees per market structure we have established, the wireline licensee has an incentive to compete with a non-wireline licensee. In the event that cellular should provide a competitive alternative to the landline network sometime in the future, it is unrealistic to assume that a wireline carrier would stand idly by and lose business to a competing licensee.

20. In addition, we are unpersuaded on reconsideration that a limitation on the number of markets a given entity may enter will serve the public interest. No evidence has been presented that was not considered in making our prior determination. The record before us does not demonstrate that such a limit is warranted to either encourage diversity of ownership or to enhance technical diversity. Accordingly, we affirm our prior determination in this regard.

21. Finally, the United States Court of Appeals for the District of Columbia has requested that we address how the 1956 Consent Decree [18] affects AT&T's eligibility to provide cellular service.[19] Subsequent to that request, AT&T and the United States Department of Justice jointly proposed modifications which if accepted by the court would vacate and replace the 1956 Consent Decree. The Court has established comprehensive procedures in order to compile a sufficient record to determine whether the modifications are in the public interest. [20] Consequently, the status of the Consent Decree is unsettled.

22. We feel that until the United States District Court for the District of Columbia rules upon the proposed Consent Decree modifications, it is premature to comment upon how the new settlement might affect the Bell Operating Companies' offering of cellular services. Suffice it to say at this point, that the modifications in their present form do not appear designed to preclude the Bell Operating Companies from providing cellular services. Should any problems develop in this area, we would expect AT&T to advise us forthwith so that we can take them into account. This is not to imply that such agreements can govern federal communications policy. To the contrary, they cannot "be regarded as in any way confining or limiting or restricting the mandate or discretion of the FCC, or the manner of its exercise." [21]

23. As for the 1956 Decree, AT&T's provision of cellular service is clearly allowed pursuant to Sections II(i) and V, which make clear the company's entitlement to furnish "common carrier communications services." The manufacture and marketing of cellular equipment for use with AT&T's cellular common carrier offerings is allowed for under Sections IV(A), IV(B), and V(g) of that Decree. Thus, the 1956 Decree does not foreclose AT&T from offering cellular services or from the manufacture and provision of equipment to be used in connecton with cellular service. [22]

[18] *United States of America* v. *AT&T* No. 74-1698 (D.D.C.). *Order* dated January 21, 1982.

[19] *United States* v. *Western Electric Co.*, Cir. No. 17-490, slip. op. at 11 (D.N.J. September 3, 1981) (Biunno, J.). appeal pending (3rd Cir.). We would note, however, that under the proposed reorganization of AT&T, the local Bell Operating Companies would continue to be involved in the provision of "exchange telecommunications" and would have access to the "research, development, manufacturing, and support services" of AT&T, Western Electric, and Bell Labs, until September 1, 1987. There would therefore not appear to be any reason to believe that the proposed modification would significantly affect the ability of AT&T's operating companies to provide cellular service. Accordingly, the February 8, 1982 Motion to Reopen Proceeding filed by Industrial Communications Systems, Inc., asking that we delay cellular to examine the effect of the recent settlement activities, will be denied.

[20] This is not a situation like that present in *Connecticut Water Co.*, 25 FCC 1367 (1958), where we refused to license *private* radio systems which were supplied with AT&T equipment under a lease-maintenance contract, the charges for which were not subject to public regulation. Here, there is no provision for lease-maintenance of private systems, and all systems will be subject to public regulation. Nor can we accept Motorola's argument that dispatch service is not "incidental to" a common carrier communications service under Section V(g) of the decree, since such service has traditionally been viewed as a form of common carriage when offered by carriers licensed in the Public Mobile Radio Services.

2. Separate Allocation for Wireline Carriers

24. In Order, we allocated one block of frequencies for wireline carriers and another for non-wireline carriers. We limited this separate allocation to a five-year duration, after which any party could apply for either block of frequencies. Order at 488. Moreover, we provided that a wireline carrier could apply only in those general areas where it is certificated as a wireline carrier, in order to limit the number of applicants in a particular area for the wireline block of frequencies. Order at 490, n. 56. We explained that a separate allocation plan is the most practical way to make cellular service available to the public in substantial number of the most populated and congested cities across the nation in the next three to five years. Our position was based on several important considerations set forth in the Order. First, we noted that there was a pressing need for cellular service in order to relieve the severe congestion that exists on conventional two-way mobile systems around the country. We also noted that given AT&T's distinctive technical capabilities, and its landline operation in most major markets, only AT&T could place cellular systems in operation around the country in the near future. Thus, our decision to limit eligibility for the wireline block of frequencies to wireline carriers, which are easily identifiable since they are already certificated in the same general area, was based primarily upon both wireline carrier expertise and a strong concern that service to as many areas as possible not be delayed by comparative hearings.

25. Many petitioners, including most non-wireline parties, object to the Order's separate five-year frequency allocation on the basis that it provides wireline carriers with an unwarranted advantage over other parties. They dispute the factual premises for the allocation set forth in the Order, *i.e.*, that there is an immediate need for cellular service and that only wireline carriers can meet it quickly. Some petitioners also argue that even assuming the existence of the premises for the separate allocation, the plan is still not appropriate because the time saved by avoiding required comparative hearings is not a consideration sufficient to outweigh the competitive problems raised by it. Finally, petitioners argue that the separate allocation plan violates *Ashbacker Radio Corp.* v. *FCC, (Ashbacker)* 326 U.S. 327 (1945), and that it ignores the warnings of the Court in *NARUC* v. *FCC, (NARUC)* 525 F. 2d 630 (D.C. Cir. 1976), *cert. denied* 425 U.S. 992 (1976).

26. After reviewing the arguments presented in the petitions for reconsideration, we affirm the concept of a separate allocation for wireline carriers. We remain convinced that a separate allocation constitutes the most practical, and quite possibly the only, way to achieve the Commission's twin goals' of making quality mobile telephone service available to the public as rapidly as possible while promoting competition whenever feasible. In this area we view such an approach as critical to the timely accomplishment of our Section 1 mandate to: "make available, as far as possible, to all the people of the United States a rapid, efficient Nationwide . . . wire and radio communications service with adequate facilities at reasonable charges. . . ." 47 U.S.C. 151. The pressing need to relieve congestion on two-way communication facilities noted in our earlier Order, at 489–90, persists today.[23] We continue to believe that wireline carriers, and particularly AT&T, offer the greatest hope for rapid relief of this congestion through the provision of cellular service, especially under the approach set forth in the Order which limits resort to time consuming evidentiary hearings.

27. While we affirm the separate allocation, we are also further limiting its duration. As such, the separate allocation will expire two years from the date of publication of this Order in the Federal Register.[24] We feel that two years is sufficient time for any wireline carrier to put together a good cellular proposal. A primary goal of the separate allocation is the expeditious initiation of cellular service. If in any instance a wireline carrier is unable to initiate service rapidly, perhaps some other party can. By so limiting the duration of the separate allocation we induce wireline carriers to act quickly, and at the same time ensure that no cellular frequency will lie fallow for long.[25]

28. We disagree with those petitioners who argue that our reliance on the expertise of wireline carriers, and especially the independent telephone companies, is misplaced. As we noted in the Order, at 486–489, the primary proponent and developer of cellular technology in this country has been AT&T. Indeed, at the time of the Order, AT&T alone had implemented a limited cellular offering to the public through the developmental cellular system operated in the Chicago area by Illinois Bell Telephone Co.[26] In affirming the separate allocation, this Commission again places weight on the fact that today only AT&T has commercial operational expertise in cellular radio.[27] The benefits of such experience, which include a first hand knowledge of the day-to-day workings of a fully integrated cellular system as well as the development of expertise regarding cellular propagation characteristics, cannot be overemphasized. While other entities may eventually obtain this experience, they do not have it today. At the same time, we continue to recognize the expertise of the independent telephone companies in traffic engineering and the establishment of high capacity local switching networks. This expertise is particularly advantageous in cellular systems, because of the need to tie together various transmitters in a cellular system and to distribute and revise frequency arrangements among the various cells in a system. In addition, we consider cellular to be an extension of local exchange service, and expect that wireline carriers will be able to rely on their expertise and knowledge about their individual service areas to more quickly make quality cellular service available to their communities. We recognize that wireline companies not affiliated with AT&T do not have the same specific cellular operational expertise as Bell. Nevertheless, their expertise, as described above, coupled with a strong public interest in expeditiously providing service, left us with no viable alternative to the separate allocation.

29. *Legal Authority.* We believe our split frequency allocation stands on a firm legal basis. The Commission recognizes that there is no perfect solution when faced with the type of problems before us in this proceeding. However, after more than a decade of consideration, we have determined that the separate allocation offers the most practical way of making this needed service available to the public in an expedited manner while providing for competition to the fullest extent possible. In this regard, it bears emphasizing here that while "competition" is an integral part of the public interest standard, it is not the whole of our statutory mandate. *FCC* v. *FCA Communications Inc.*, 346 U.S. 86, 93 (1952); *Hawaiian Telephone Co.* v. *FCC*, 498 F.2d 771, 777 (D.C. Cir. 1974). Indeed, as the Court of Appeals for the Second Circuit has stated: "(W)ere the Commission to base its action solely upon the ground that competition in the industry would be favored thereby and nothing more, we would have some doubt as to whether it had fulfilled its responsibility to consider other important criteria before determining whether its proposed rule is in the 'public interest.'" *Radio Relay Corp.* v. *FCC, (Radio Relay)* 409 F. 2d 322, 326 (2nd Cir. 1969). The Commission, in making its decision, carefully considered the value of competition in the provision of cellular service. However, we further recognized that our statutory responsibilities require us to weigh the balance competing objectives relating to the public interest, including, for example, optimal allocation of scarce spectrum resources and the timely and efficient delivery of cellular services of proven high quality and coverage. As such, our position on the separate frequency allocation is rationally predicated on a balancing of policy determinations uniquely entrusted to this Commission.

30. In addition, we have prescribed a number of safeguards to minimize any potentially anticompetitive effects stemming from the separate allocation. We have specifically committed ourselves to *ad hoc* consideration of requests for a moratorium on wireline carrier cellular service upon a demonstration of harm to the public interest resulting from a wireline carrier's "head start." Order at 491, n.

[21] In the Order, at 489, we noted that this pressing need is documented by estimates of over 25,000 customers on waiting lists of AT&T nationwide and by long waiting periods to obtain service.

[22] Under our separate allocation, as modified today, for a period of two years following publication of this *Memorandum Opinion and Order* in the Federal Register only non-wireline carriers will be eligible to apply for Block A of frequencies and only wireline carriers will be eligible to apply for Block B of frequencies. After the two year period, any party can apply for either frequency block in any market, except where the block has been applied for during the term of the separate allocation.

[23] Parties may still request waivers of the separate allocation pursuant to the Order, at 488, n. 41, where there is no dispute that other eligible parties will not apply for the frequency during the two year period.

[24] In our *Second Report and Order* in Docket No. 18262, 46 FCC 2d 752 (1974), as amended on reconsideration, 51 FCC 2d 945, 953 (1975), we permitted any party to apply for a cellular developmental authority. However, only a handful of parties applied and only Illinois Bell Telephone Co. has successfully initiated a public offering at the time we adopted our Order.

[25] Although the American Radio Telephone System began a market trial on December 9, 1981, this developmental licensee has not yet developed commerical operational expertise comparable to that of AT&T.

57. We have instituted an interconnection policy requiring telephone companies to furnish the appropriate and necessary interconnection to cellular systems upon reasonable demand and upon terms no less favorable than those provided to their own cellular systems. We have sought to promote a second tier of cellular service competition, at the retail level, by barring any prohibition on the resale and shared use of cellular services. We have conditioned AT&T's participation in cellular systems and services on the formation of a separate subsidiary which must maintain its own books of account, separate officers and personnel, and separate computer and switching facilities.[30] Finally, we have today reduced the duration of the separate allocation from five years to two years.

31. The argument made by some petitioners that the separate allocation does not meet the concerns expressed by the court in *NARUC, supra,* overlooks the fundamental distinction between this allocation plan and the one before the court in *NARUC.*[31] The *NARUC* Court reviewed a Commission plan providing for only one cellular system per market, which the court anticipated would result in AT&T being authorized to operate most, if not all, cellular systems. 525 F.2d at 636. Under that plan non-wireline carriers might well have been entirely excluded from many major markets. However, we have insured against this possibility not only by splitting the frequency into two allocations, but also by reserving one frequency block in every market for non-wireline carriers for the duration of the separate allocation. This increases rather than decreases the competitive nature of the cellular industry. In addition this plan furthers the agency's longstanding and judicially validated policy favoring separate allocations for wireline and non-wireline mobile systems in order to foster "the development of competing systems, techniques and equipments." *General Mobile Radio,* 13 FCC 1190, 1218 (1949); see also *ITT Mobile Telephone, Inc.,* 1 RR 2d 957 (1963).

32. We believe that this dual allocation, limited in time as it is, constitutes the best way of accommodating two separate aspects of the public interest standard: the antitrust component, with which the *NARUC* Court was primarily concerned, and the need for rapid implementation of cellular service. The determination as to where the public interest lies involves balancing a great number of factors, no one of which necessarily predominates.[32] And as the Court has observed more recently, "agencies [must] consider antitrust policy as an important part of their public interest calculus. But the agencies are not strictly bound by the dictates of [the antitrust] laws . . . ; rather, they are entrusted with the responsibility to determine when and to what extent the public interest would be served by competition in the industry." *United States* v. *FCC* (SBS), 652 F. 2d 72, 88 (D.C. Cir. 1980) (en banc) (citation omitted). Thus, the Court continued, "The agency's determination about the proper role of competitive forces in an industry must therefore be based, not exclusively on the letter of the antitrust laws, but also on the 'special considerations' of the particular industry." *Id.* (footnote omitted). In the case of cellular communications, we have attempted to encourage both the development of a competitive market structure and the implementation of cellular service as soon as possible. We have retained, for the initial period, a separate frequency allocation policy for the wireline and non-wireline carriers, consistent with the traditional presence of both types of carriers in this industry. We believe that such a policy will best serve the public interest, and fully addresses the concerns expressed by the court in *NARUC.*

33. Finally, it is clear, contrary to the arguments of those petitioners which charge that the separate allocation violates *Ashbacker,* that this Commission has the rulemaking authority to codify its public interest policy determinations with regard to radio licensing classes and eligibility, so long as those determinations are based on consideration of permissible factors and are otherwise reasonable. As discussed above, our allocation is based on a balancing of policy determinations uniquely entrusted to this Commission, including spectrum efficiency, competition and the timely availability of service. Thus, the Commission's split frequency decision and its underlying policy rationales represent a wholly proper and reasonable exercise of this Commission's well-established rulemaking authority.

34. *Headstart Doctrine.* A number of petitioners argue that, if the separate allocation scheme remains in effect, the Commission should at least revise its position and apply the headstart doctrine considered in *Radio Relay, supra,* to cellular services. They argue that in permitting a headstart, the Order virtually ignores the warning in *NARUC, supra,* against possible domination of the cellular industry by AT&T, particularly since AT&T operates in, and thus will have a headstart in, most major markets. These petitioners contend that the alleged safeguards in the Order are not sufficient to counterbalance the competitive advantages stemming from this headstart. To correct this problem, petitioners request that the Commission adopt a nationwide policy to ameliorate problems stemming from this headstart, with waivers being required to request that the doctrine not be applied in unique situations.

35. We disagree with the arguments of those petitioners who would, in essence, have this Commission institute an across-the-board policy to ameliorate problems stemming from a headstart in cellular service. In our Order, at 491, n. 57, the Commission found that the immediate need for cellular service outweighed the possible anticompetitive effects of allowing wireline carriers to enter a market before non-wireline carriers. We concluded that the unsatisfied demand for two-way service is so great that most markets would be able to support two cellular systems and that any advantages stemming from early entry into the market would not be sufficiently serious to outweigh the nation's critical need for additional two-way service, particularly in view of the fact that our Order prohibited restrictions on the resale of cellular service.[33] At the same time, we also expressly provided that, where a non-wireline applicant can demonstrate that early entry by a wireline would not be in the public interest, we would consider a request for a "brief moratorium on wireline service." Order at 491, n. 57.

36. We believe our handling of the headstart issue in our Order to be correct. Accordingly, we affirm it today.[34] Petitioners' reliance on *Radio Relay, supra,* to support their proposal for a generic headstart rule is misplaced. In discussing the headstart question, the Court in *Radio Relay* expressly stated that "[b]efore making any such determination the Commission will weigh the likely competitive effects in the context of the specific and concrete market situation presented in each instance." 409 F. 2d at 327. Our Order takes this very approach. In addition, the *Radio Relay* court relied on the steps we had taken then to alleviate any possible competitive imbalance stemming from early entry. In particular, the court noted that the Commission had imposed certain conditions upon the ultimate granting of licenses to wireline carriers which were designed to obviate any advantages that may accrue from early entry and to equalize competition, including the requirement to make available to non-wireline carriers the same interconnection arrangements that they use themselves, and had warned that it would exercise its continuing regulatory authority to inquire into practices that might develop which appear to be unlawful, anticompetitive, or inimical to the public interest. 409 F. 2d at 327. In our Order we have taken similar steps. Thus, we believe that the headstart provisions in our Order serve the public interest and are in full accord with the approach set forth by the *Radio Relay* court.

37. *Bonduel Issue.* Various petitioners have also criticized the Commission's conclusion, set forth in n. 56 of the Order, not to apply the rule of *Bonduel Telephone Co. (Bonduel)* [35] to cellular carriers. Independent telephone companies complain that this provision, when combined with the separate allocation, effectively eliminates them from most major markets. At the same time, non-wirelines complain that it exacerbates headstart problems by insulating AT&T from any competition for wireline frequencies in most markets. Independent wireline companies suggest that we revise our rules to permit them to be eligible to apply for non-wireline frequencies in markets where they do not provide wireline service. Non-wireline petitioners oppose this position arguing that it would give wirelines "the best of both worlds" regarding the allocation. They suggest instead that the traditional *Bonduel* rule be applied, thus permitting any wireline company to apply for wireline frequencies in any market.

38. We continue to believe that the approach set forth in our previous Order, *i.e.,* limiting wireline companies to the wireline frequencies in the general area in which they operate as a landline carrier, is the best way to attain our goals of making cellular service available to the public as rapidly as feasible while still promoting competition to the extent possible.[36] We take this opportunity, however, to elaborate on our position on this issue. Where more than one wireline company is certificated in a Standard Metropolitan Statistical Area (SMSA), and those carriers desire to provide cellular service, we strongly urge them to reach mutually acceptable arrangements in order to avoid electrically mutually exclusive applications which require comparative hearings. For example, they might agree upon joint operation of one large system or coordinated operation of adjacent systems which cover the entire metropolitan area. Adoption of the approach proposed by non-wireline petitioners, whereby wireline carriers would be eligible to apply for a wireline frequency in any market regardless of where they provide local exchange service, would frustrate our goal of making cellular service rapidly available to the public because every frequency would be subject to multiple filings and attendant comparative hearing delays. As we noted above, we expect that wireline carriers will be able to more quickly make quality cellular service available to their communities. While some carriers may be interested in serving the more lucrative areas outside their general service areas, the benefits of introducing a new wireline carrier into a market do not appear so great as to outweigh the delay it would cause in bringing service to the public. A wireline carrier's first obligation is to its own general service area, and we encourage every carrier to concentrate on its own area. Moreover, every wireline carrier has been provided with an allocation in at least its own service area and the equitable arguments for allowing it to challenge other carriers are not substantial.

39. We also reject the suggestion of the wireline petitioners that they be permitted to apply for non-wireline frequencies in areas where they provide no local exchange service. Such a policy would run counter to the competitive objectives traditionally associated with a separate allocation, *i.e.,* to foster "the development of competing systems, techniques, and equipments." *General Mobile Radio,* 13 FCC at 1218. It would also offend fundamental notions of equity and fairness in that it would provide wireline carriers with the "best of both worlds", since they would have exclusive access to one frequency block in certain areas and would still be able to compete with non-wireline carriers for access to the other frequency block in all other areas. Finally, adoption of this approach would represent a substantial deviation from the Commission's long and consistently held policy strictly enforcing the rule of separate frequency allocation.

3. Structural Separation for Wireline Carriers

40. In the Order we required that all wireline carriers that provide cellular mobile service do so only through a separate corporate entity. Petitioners, including rural and other independent telephone companies, seek reconsideration of this separate subsidiary requirement.[37] Various arguments are advanced. First, petitioners contend that there is no rational basis for subjecting independent telephone companies to the separate subsidiary requirement. They contend that such a requirement is based on the unsupported hypothesis that all wireline carriers have the opportunity and inclination to engage in anticompetitive conduct. Specific note is made of the lack of an adequate cost/benefit analysis, particularly with respect to rural telephone companies,

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[30] The Commission's previous Order imposed this requirement on all wireline carriers. However, for the reasons discussed in paras. 44–46, *infra,* we have modified the requirement so that it applies only to AT&T.

[31] There are also a number of other distinctions between this present allocation and the one before the *NARUC* court, so that the concerns expressed by that court no longer seem present. See our previous order, at 486–487, n. 40, for a discussion of these.

[32] Thus, while the *NARUC* Court observed that "competitive factors may be properly considered by the Commission under the public interest, convenience, and necessity standard," it recognized that the "F.C.C. may not 'automatically equate the public interest with additional competition.' " 525 F. 2d at 636 n. 28 *(quoting Hawaiian Telephone Co.* v. *FCC,* 498 F. 2d 771, 777 (D.C. Cir. 1974)).

[33] This prohibition is significant with respect to the headstart issue because it permits non-wireline entities to enter the cellular market, in a limited role, even before they obtain any license to provide cellular service. Thus, any carrier can establish a presence in the market through resale as soon as the wireline carrier begins opeations, reducing the potential anticompetitive effects of early wireline entry.

[34] We do take this opportunity, however, to clarify the language contained in n. 57 regarding a possible "brief moratorium" on wireline service. First, any party requesting such a moratorium bears a heavy burden of demonstrating that such action would be in the public interest. In addition, should the public interest case be made to hold back initiation of any wireline cellular service, the moratorium imposed would be of limited duration, in no instance to exceed six months, in order to insure that the initiation of cellular service would not be unduly delayed.

[35] In *Bonduel Telephone Co.,* 68 FCC 2d 497 (1978), we permitted wireline companies to apply for wireline frequencies in any market, without regard to where they are doing business as a wireline. In our Order, at n. 56, we determined that in order to achieve our objective of rapid implementation of service, we would not apply the rule of *Bonduel* during the separate allocation period. Thus we stated that a wireline carrier would be eligible to apply only in "those general areas" in which it or an affiliate company is certified as a wireline carrier.

[36] We note that this limitation applies only for the duration of the separate allocation, see n. 24, *supra.* After the two year period, any party can apply for either frequency block in any market, except where the frequency block has been applied for during the term of the separate allocation. Also this limitation should be read in conjuction with our eligibility requirement for all carriers, wireline as well as non-wireline, included in paras. 62–66, *infra.*

[37] See petitions filed by REA, RTC, GTE, UTS, Centel, IT&T, Continental and USITA.

and the general failure to consider other, less burdensome, safeguards capable of providing adequate protection against perceived potential abuses.

41. Second, petitioners argue that the potential for anticompetitive conduct through either improper pricing or inadequate interconnection does not support imposition of a separate subsidiary requirement on wireline carriers. They argue that FCC concerns over improper pricing of cellular service do not constitute a legitimate basis for such action because cellular is a local exchange service and neither the service nor the price a carrier charges for it is subject to federal regulation. With respect to interconnection, petitioners argue that post-*Guardband*[36] interconnection experience has demonstrated that legitimate disputes over interconnection arrangements can be resolved without undue Commission intervention dictating separate subsidiaries.

42. Third, some petitioners state that imposing a separate subsidiary requirement on all wireline carriers is inconsistent with prior Commission precedent establishing wireline-nonwireline competition for mobile common carrier service without imposing a separate subsidiary requirement. In addition, it is argued that subjecting all wireline carriers to this requirement is inconsistent with the logic and thrust of the Commission's determinations in *Computer II, supra*. Finally, the waiver provisions included in the Order, at 495, are subject to criticism as being too vague to be meaningful.

43. Various non-wireline petitioners support the Order's requirement. Telocator, for example, contends that the potential dangers stemming from wireline participation are structural and unrelated to size and that post-*Guardband* experience does not dictate elimination of the separate subsidiary requirement. Metro Mobile submits that the separate subsidiary requirement is the minimum safeguard which the Commission should impose on independent telephone companies. Some petitioners complain that the separate subsidiary requirement does not extend far enough. In arguing for more stringent structural separation requirements, the contention is made that the separate rules should prohibit joint advertising and promotional efforts by a wireline carrier and its cellular affiliate, and should require that the parent and cellular subsidiary segregate real property holdings and antenna sites.

44. Based on our review of the petitions for reconsideration, we have determined, for the reasons discussed below, that § 22.901 (b) and (c) of the Commission's rules which impose separate subsidiary requirements on wireline carriers should be revised to apply only to AT&T. We are not persuaded as a general matter that the benefits stemming from this requirement outweigh the costs to the independent telephone companies associated with the separate subsidiary requirement, including the cost of additional personnel and the possible dis-economies resulting from separate transmission facilities. Moreover, such costs may be prohibitive for some companies, thus reducing the number of potential competitors for cellular especially in rural areas.

45. The two areas of concern which the separate subsidiary requirement was designed to protect against are possible improper cross-subsidization and possible interconnection abuses. We will rely upon our formal complaint procedures to resolve any charges of cross-subsidization, and in particular predatory pricing, which may be forthcoming, and we have laid down strict requirements to assure fair and reasonable interconnection arrangements (see paras. 49–51, *infra*). If experience shows that these arrangements are insufficient we will consider more stringent measures, including imposition of a separate subsidiary requirement. Our action today eliminating the separate subsidiary requirement from wireline carriers other than AT&T is consistent with previous Commission action in the common carrier mobile radio service. As far back as 1949 this Commission has pursued separate wireline and non-wireline allocations for the purpose of stimulating competition between radio common carriers and wireline carriers, including those carriers providing local exchange landline service in the same area where they propose mobile service, without any requirement that wireline carriers provide mobile service through a separate subsidiary.[37]

[36] In *Allocation of Frequencies (Guardband)*, 12 FCC 2d 451 (1968), *recon. denied*, 14 FCC 2d 209 (1968), *aff'd sub nom. Radio Relay Corp. v. FCC*, 409 F. 2d 322 (2nd Cir. 1969), the Commission imposed a requirement of equal interconnection.

[37] *General Mobile Radio Service*, 12 FCC 1160, *recon. denied*, 13 FCC 1242 (1949). The Commission reviewed this policy in 1969 and found that it has served the public interest well. *ITT Mobile Telephone, Inc.*, 1 RR2d 957 (1969). In 1968, the Commission also established a separate wireline, nonwireline allocation of frequencies, this time for one-way paging services. *Guardband, supra*. Again, the Commission did not require that wireline carriers establish any separate subsidiary to provide these services.

46. We recognize that our decision to retain the separate subsidiary requirement insofar as it applies to AT&T is, to a limited extent, a deviation from our policy on separate subsidiaries discussed above. However, we believe that in formulating a position on such an important issue it is more appropriate to examine how a given position will affect individual entities, particularly those parties which can be expected to play a major role in the service being considered, rather than to make a decision based only on a view of the industry as a whole.[38] In determining whether a particular carrier should be required to operate through a separate subsidiary, the decision must be based, to the extent possible, on how such a requirement will affect the likelihood that the carrier would otherwise engage in the practices that the requirement is designed to guard against and the ability of the carrier to withstand the costs associated with the requirement. Taking this focused approach, the Commission is left with little doubt that, because of its great size and historically dominant position in the American telecommunications industry, AT&T is in a unique position relative to other potential cellular carriers and that a structural separation for the provision of cellular service is an appropriate safeguard to protect the American public. In reaching this conclusion, considerable reliance has been placed on the vast resources available to AT&T. Those resources impact on our decision in two ways. First, they increase the need for a structural separation to detect, and deter, improper activities because more resources (including monopoly-based revenue) are available to subsidize cellular and because the sheer size and configuration of the resources make it more difficult to detect improper cross subsidization absent a structural separation. In addition, they demonstrate the ability of AT&T to more easily incur the costs of such a requirement without any appreciable negative effects. In this regard, not only does AT&T have the resources to meet any costs of separation, in absolute terms, but the costs of the requirement, measured in terms of economic inefficiency, decrease as the size of the firm increases.[39] Thus, we believe that in the case of AT&T the benefits of a separate subsidiary requirement outweigh the associated costs.[40] Accordingly, we are deleting the requirement that wireline carriers can provide cellular service only through a separate subsidiary except to the extent that it applies to AT&T.

[38] We took this same approach in *Computer II*. Upon reconsideration of our Final Decision in that proceeding a separate subsidiary requirement was imposed upon AT&T alone.

4. Interconnection

47. LIN argues that the interconnection requirements adopted by the Commission leave virtually unlimited discretion in the hands of wireline carriers as to how, when and on what terms to make interconnection available. A number of petitioners argue that the Order's provisions regarding interconnection of cellular systems with local wireline systems are impermissably vague and are erroneously tied to the arrangements being provided to a wireline celluar subsidiary rather than the absolute needs of a celluar licensee. It is argued that the rules should require local wireline companies to provide interconnection on a basis no less favorable than that offered to a Class Five Office, but permit the cellular licensee to accept a less comprehensive arrangement if it so desires. In addition, some petitioners argue that a wireline carrier's post-construction system license should be delayed until all interconnection disputes between that carrier and a nonwireline cellular licensee are resolved. In opposition, AT&T states that the Order's interconnection provisions are appropriate because they provide needed flexibility in view of the uncertainty which exists as to how the different types of cellular systems may

[39] This is because, as we noted in *Computer II, supra*, at 446, as a firm increases in size there is a corresponding increase in the flexibility necessary to effect the separation. A rigorous statement of the measure of inefficiency and of this result may be found in K. J. Arrow and F. H. Hahn, General Competitive Analysis, at 365ff., especially Theorum 10 at p. 366, citing R. Starr, "Quasi-Equilibria in Markets with Nonconvex Preferences," Econometrica (1969), and references therein.

[40] If, however, AT&T or any affiliated entity can demonstrate that in a particular situation unique factors exist which cause the benefits of a separate subsidiary to be outweighed by associated costs, we will entertain requests for a waiver of this provision. In this regard, the necessity for a separate subsidiary may be affected by whatever changes to the 1956 Consent Decree are ultimately accepted by the courts.

affect the desirability of a particular interconnection arrangement in a given situation.

48. In discussing interconnection in our Order we stated that we expect all telephone companies to furnish interconnection "upon terms no less favorable than those offered to cellular system of affiliated entities or independent telephone companies." Order at 496. Undue confusion may exist, however, as to the possible dilution of this objective because of our statement that "the particular arrangements involved in interconnection of a given cellular system should be negotiated among the carriers involved and be made subject to an intercarrier agreement." *Id.* Accordingly, we take this opportunity to state more precisely our position on interconnection.

49. Interconnection issues must be viewed within the context of the competitive environment we are attempting to foster for cellular services. After careful consideration we have adopted a two system per market spectrum allocation plan premised on facilities-based competition. In order to provide mobile services it is necessary to obtain interconnection to the local exchange facilities. In addition, effectuation of the public interest benefits flowing from competitive cellular systems requires that competing carriers be afforded equivalent access to the local exchange. It is imperative, therefore, that we establish parameters for reasonable cellular interconnection of cellular carriers. This is not to say, however, that it is necessary that we prescribe a particular form of interconnection. The reason for this is simply that in a dynamic technological environment such a prescription may impose arbitrary limits on cellular system design. Accordingly, our interconnection requirements, set forth below, are intended to provide competing carriers with equal access to the local exchange network while permitting the carriers involved to negotiate specific interconnection arrangements to accommodate differences in cellular system design.

50. First, we wish to emphasize that every wireline carrier has an obligation to provide reasonable interconnection to cellular systems, regardless of whether the wireline carrier seeks to provide cellular service itself. In addition, every non-wireline cellular licensee has the right to interconnect with the landline network in the identical manner as a wireline cellular system with comparable switching serving the same area.[41] To give practical effect to this right, and to insure that no unfair interconnection advantage is conferred on a wireline carrier in its provision of cellular radio services, we are modifying our application process to require that any wireline carrier applying for a cellular system in the area where it is also providing landline service set forth in its application exactly how its system will interconnect with the landline network. Moreover, the interconnection information contained in the application must be of sufficient specificity to enable a potential competitor to design its system to connect with the landline network in exactly the same fashion if the competitor so chooses. Failure to provide such information will constitute cause for denying the application. If a license is granted to a wireline carrier for a cellular system serving the same area as its landline system, the license will be conditioned on the carrier providing a competing cellular operator the option of obtaining interconnection in the manner set forth in its application. In addition, if a wireline carrier's application for a cellular system is not granted, a competing applicant is entitled to obtain interconnection in the same fashion as set forth in the wireline carrier's application.

51. In addition, where a non-wireline carrier seeks interconnection arrangements different from those specified in the application of a wireline carrier, the non-wireline applicant may negotiate other interconnection arrangements with the wireline carrier. This will assure that non-wireline carriers will not necessarily be locked into the specific interconnection arrangements requested by a wireline carrier. Thus, it provides the flexibility necessary in a dynamic technological environment such as cellular. At the same time, the right to identical interconnection arrangements discussed in the preceding paragraph provides non-wireline carriers with the assurance that they can obtain equal interconnection arrangements should the negotiations for different arrangements prove unfruitful.

5. Technology Sharing

52. In our Order we determined not to impose a special requirement upon AT&T to share cellular technology. LIN seeks reconsideration on this issue. It argues that refusal to require AT&T to share will only exacerbate the headstart problem already resulting from the separate allocation scheme and that required sharing of technology is justified because it has been financed by the telephone ratepayer. It is argued that such technology should be regarded as in the public domain and be available to the public with no further charges for a reasonable period of time. In addition, petitioners claim there are serious questions regarding whether any competitive service can ever be initiated so long as AT&T maintains control over the technology derived from its Chicago developmental program. In opposition, AT&T argues that it already shares a sufficient amount of its technology. In particular, AT&T notes that the 1956 Consent Decree requires AT&T to license its U.S. patents and certain other technical data to others. Finally, AT&T argues that imposition of a sharing requirement would have a chilling effect on cellular innovation because a company which is required to make available research and development findings to its competitors would have no incentive to expend further efforts in that direction.

53. Petitioners raise no new arguments to justify reconsideration of our previous determination not to require AT&T to share its cellular related technology. There is every indication that other suppliers will be marketing cellular systems. Although these parties are not now as knowledgeable as AT&T regarding cellular, particularly in terms of operational expertise, the marketplace is currently demonstrating that various domestic and foreign companies are actively pursuing the development of cellular systems. Thus, we attribute little merit to the concern that competition will not develop because of AT&T's alleged control over cellular technology. The general matter of technology sharing has been of concern to us. We are presently compiling a record on this matter in our *License Contract* proceeding, 84 FCC 2d 259 (1981). Moreover the recent settlement development between AT&T and the Department of Justice may have significant impact upon those deliberations. Such complex and far reaching issues should not and cannot be decided on the basis of the record we have compiled here. Accordingly, we affirm our prior determination.

6. Equipment

54. In our Order we determined that wireline subsidiary licensees should be permitted to supply and maintain subscriber equipment and to manufacture mobile as well as base station equipment. Order at 497–98. In addition, analogous to our action in *Computer II, supra*, we determined that mobile units used by the subscriber in conjunction with cellular mobile service may only be offered by a cellular licensee on a detariffed basis separate and apart from the provision of any common carrier service. Moreover, AT&T would be permitted to offer this terminal equipment only through a subsidiary separate from the subsidiary offering basic cellular transmission service.

55. These provisions were challenged on a number of bases. In arguing for a prohibition on the manufacture of subscriber units by wireline cellular carriers and their affiliates, petitioners contend that permitting such manufacture would allow AT&T to extend its dominance in the manufacturing area. In this regard, petitioners state that if wireline carriers are permitted to manufacture mobile units and base station equipment, dominant firms could inhibit competition in the equipment manufacturing marketplace by becoming cellular licensees in major urban areas and awarding equipment supply contracts exclusively or principally to their own manufacturing divisions. In opposition, AT&T argues that precluding licensees from manufacturing would deprive the public of the benefits of competition and provide unwarranted protection to non-licensee manufacturers. AT&T further argues that petitioners ignore the fact that it may offer mobile equipment only through a separate unregulated equipment subsidiary.

56. Two petitioners also express concern that the Order must be revised to assure the availability of subscriber equipment in various situations. Specifically, Mobilfone argues that it will be some time before the industry is capable of meeting the large demand for cellular mobile units on a truly competitive basis and that such a situation would limit any true cellular service competition. As a solution, Mobilfone recommends that a provision be added to the rule whereby, if any non-AT&T licensee or resale entity is unable to obtain sufficient subscriber units, and such a situation is due to large scale purchasing by AT&T, then all other entities will be allowed to participate on an equal basis in any volume purchasing arrangement negotiated by AT&T. NARUC also disagrees with the statement in our Order that "there is no reason to believe that consumers will have difficulty in obtaining mobile units." NARUC states that as cellular service becomes available in non-urban areas, there is a significant possibility that the only source for the necessary equipment may be the carrier offering service, and that in such circumstances tariffing the equipment may be necessary to protect consumers from unreasonable equipment charges. To alleviate this problem, NARUC requests that the Commission eliminate the provision in the Order that requires mobile equipment to be unbundled and detariffed and to leave the decision to tariff such equipment to the states, which have clear authority in the area under section 2(b) and 221(b) of the Act, 47 U.S.C. 152(b) and 221(b).

57. We affirm the provisions in the Order permitting cellular carriers and their affiliates to manufacture cellular equipment. As we stated in the Order, most of the arguments advocating a prohibition on the manufacture of cellular equipment focus on unsupported fears of either anticompetitive procurement practices by licensees or the ability of Western Electric to dominate the market. There is no reason to believe that there will not be significant competition and adequate availability of cellular mobile and base equipment.[42] A new market exists for this type of equipment and the regulatory structure we have established will result in a highly competitive market for this type of equipment. Various manufacturers have already demonstrated their eagerness in this regard. Motorola, E. F. Johnson, and Oki, for example, have already developed units that are being used in conjunction with AT&T's developmentdl system in Chicago. Even if AT&T should decide to compete in the provision of mobile units, a substantial period of time would elapse before AT&T would be in a position to market its own equipment. This is because AT&T has traditionally relied on other vendors to supply mobile units, and a significant amount of lead time is required to develop and gear up for manufacturing of mobile units. Moreover, whether AT&T markets its own mobile equipment or that of another vendor, we have made it clear that such equipment may not be provided through the telephone operating companies or any other AT&T entity that may ultimately be authorized to provide cellular service. Thus, AT&T must compete on the same terms as any other equipment vendor. Moreover, because the mobile unit has been separated from the common carrier offering, consumers will always have a choice of obtaining a mobile unit from another vendor in the competitive marketplace if any wireline carrier charges excessive prices.

58. On a more fundamental level, the overall public interest would be disserved by unduly restricting any domestic manufacturer from participating, on a competitive basis, in the manufacturing and marketing of cellular equipment. There are two major reasons for this. First, limiting entry in this area would provide unwarranted protection for other manufacturers and deprive the public of the benefits of competition in this area. Second, limiting participation by any domestic manufacturer merely increases the likelihood that foreign manufacturers will fill any voids that results in this sector of the economy. We fail to see how the public would be served by foreclosing any domestic entity from participating in the competitive provision of cellular equipment.

59. In addition, contrary to NARUC's assertions, this Commission has the authority to prohibit the tariffing of cellular mobile equipment as part of a common carrier communication service. Under our authority to allocate spectrum for common carrier services, we have delineated the parameters of the common carrier services to be provided by a cellular licensee, and have specifically determined that the provision of mobile units is not part of the common carrier service. Type-accepted mobile units can be provided in a competitive environment, and cellular licensees should not be hindered in their ability to compete in the provision of mobile units due to constraints imposed by state or federal regulation. Competition in the provision of mobile units is essential for the growth and development of cellular systems and the effectuation of our federal determination to encourage competition in this area. Preemption and preclusion of state regulation of mobile units is therefore warranted as a legitimate exercise of our authority. See *Telerent Leasing Corp.*, 45 FCC 2d 204 (1971), *aff'd sub nom., North Carolina Utilities Commission* v. *FCC*, 537 F. 2d 787 (4th Cir.), *cert. denied*, 434 U.S. 1010 (1978). See also 47 U.S.C. § 301. Moreover, our action in this regard is consistent with our determinations in *Computer II* to divorce terminal

[41] Where the local landline telephone company doesn't apply for cellular service, we expect the landline company to provide nonwireline licensees with reasonable and appropriate interconnection, as negotiated between the parties.

[42] We note that applicants must indicate, with their application, the type of base station (but not mobile) equipment they propose to use. We also recognize that at the time applications are first acceptable for filing, much of the base station equipment proposed may not yet be type-accepted. We will, therefore, permit applicants to propose the use of base station equipment not yet type-accepted at the time applications are filed. We note, however, that all equipment, both base station and mobile, must be type-accepted prior to being put into service.

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equipment from the provision of common carrier communications services.

C. General Policies and Standards

1. Acceptance, Processing and Evaluation of Applications

60. In our Order we devoted considerable attention to procedures for processing cellular applications in recognition that the adoption of appropriate procedures was critical to achieving our goal of making cellular service available to the public as rapidly as possible. We continue to believe that it is extremely important for us to ensure that our procedures are as efficient as possible without sacrificing due process for any potential applicant or superior service to the public. To this end, we have revised our filing procedures and further streamlined the selection process established in the Order. Processing alterations include changes of application filing procedures to eliminate "one-upsmanship" opportunities and to reduce the number of electrically mutually exclusive applications, changes in initial processing requirments to reduce delay, and the adoption of hearing procedures which rely heavily on written submissions and which provide for strict discovery limits. To the extent that we have not explicitly made changes here, or in our previous Order, the Commission intends that the Administrative Law Judge (ALJ) and parties continue to follow our ordinary hearing procedures, set forth in Sections 1.201 *et seq.* of the rules. Lastly, we affirm the basic and comparative selection criteria set forth in our previous Order.[43]

61. *Service Areas and Filing Procedures.* In the Order, at 509–10, under the heading "Regulatory Structure", we denominated the "cellular geographic service area (CGSA)" as the area which each applicant proposes to serve. We stipulated that an applicant could define its own CGSA but that it must, from the date of initiation of service onward, serve at least 75 percent of its CGSA.[44] We then discussed elective changes within the CGSA, mutual exclusivity, procedural dates and format of applications. Upon reconsideration, we have decided to make several significant changes in this portion of the Order to facilitate the orderly and expeditious processing of cellular applications.

62. First, we have decided to describe the maximum CGSA an applicant may propose by reference to Standard Metropolitan Statistical Areas (SMSAs) (and combinations as set forth in para. 64, below), thereby limiting somewhat the unfettered discretion of applicants to define their own CGSAs. While we are reluctant to interfere in any way with an applicant's discretion to frame its proposal in response to its perception of the market, there are compelling reasons for doing so here. An SMSA-based service area relieves us of having to compare applications representing different territorial configurations covering different major urban areas. There may be competing applications for the non-wireline allocation within an SMSA, but there will be no significant overlap between adjacent service areas to engender additional cases of electrical mutual exclusivity. It is not farfetched that, absent such a provision, a series of applications in the Northeast Corridor could overlap to such a degree as to dictate a large comparative hearing with thirty or forty applicants arguing over the scope of their CGSAs. We do not want that to occur.

63. That is not to say that a CGSA may not extend beyond the boundaries of an SMSA: [45] It may, but the extensions must be *de minimis* and must not include area within another "central" SMSA (or SMSA combination).[46] If a carrier wishes to operate more than minimally beyond the boundaries of an SMSA, it must file separate applications according to the procedures established below. Our purpose here is to avoid the case in which a carrier would apply in an SMSA and the adjacent area outside the SMSA only to precipitate a mutually exclusive filing from a second carrier which had an interest in the non-SMSA area in issue but not in the SMSA area. Where there are boundary disagreements among carriers proposing service in neighboring SMSAs, we strongly encourage voluntary resolutions between the concerned carriers. Since we view service beyond the SMSA as ancillary and not material to the resolution of the critical licensing questions, we do not consider such service to be of decisional significance in awarding a license. In that vein, any boundary disputes not resolved by the carriers will be resolved by our staff based on written pleadings and technical information.

64. Second, in our Order we said that cellular applicants should follow the public notice and cut-off periods generally applicable to mobile services under Part 22 of our Rules. 86 FCC 2d at 510. However, after further reflection, we have decided to make special provision for cellular applications in the top 30 SMSAs in order to avoid unnecessary processing delays that might result from inundating the agency with a large number of applications filed at the same time. We have scheduled the receipt of applications on the basis of SMSA size because of evidence that the largest SMSAs are those that now suffer the most from mobile service congestion.[47] Accordingly, we will accept applications for the 30 largest SMSAs (and combinations), listed below, on the 90th day after publication of this Order in the **Federal Register**. After an interval of 90 days (*i.e.*, on the 180th day after **Federal Register** publication), we will begin accepting applications for all other SMSAs and non-SMSA communities. In some cases,

[43] These criteria are discussed in our previous Order at 501–503. We believe it appropriate, however, to further clarify our position regarding financial qualifications. As we noted in the Order, at 501–02, applicants must demonstrate that they are financially qualified to construct their proposed facilities and to operate them for a reasonable period of time. One year is a reasonable period of time for purposes of demonstrating financial qualifications because cellular operations may generate a negative cash flow for at least the first year. We also believe it appropriate to note that, where an applicant has applied for cellular facilities in more than one market, each application must contain a demonstration that the applicant has funds available to construct and operate for a reasonable period of time the facilities proposed therein, funds which are not committed for a different cellular system or any other project.

[44] We will clarify this requirement somewhat: an operator may phase in service once its initial facility is in place, but it must serve 75 percent of its CGSA within three years of the effective date of its construction permit.

[45] Boundaries are central cities and counties except in New England where cities and towns, rather than counties, provide the boundaries.

[46] The OCSA may extend into a non-SMSA area or into a "secondary" SMSA, as defined by the Bureau of Economic Analysis of the U.S. Department of Commerce.

[47] While the record in this proceeding portrays a critical shortage of mobile frequencies in the larger metropolitan areas, it is difficult to ascertain which cities have the most dire needs and should therefore receive earlier processing. This is particularly true because cellular is a new form of mobile service offering significantly higher quality service than that now available. However, we note that, in general, demand for mobile communication service is a function of several geographic and demographic factors, not to mention the business practices and efficiency of the carriers providing service. For example, New York, the most populous SMSA, has the third greatest number of mobile units but rankstwenty-ninth in ratio of mobile units to population. On the other hand, Los Angeles, the second-ranking SMSA, has the most mobile units and ranks ninth in ratio of units to population. Thus, the shortage seems far less critical in Los Angeles than in New York. The difference may be attributable to the number of automobiles, population density, population characteristics (including life-style), or simply the much greater area of the Los Angeles SMSA. The record does not reveal the answer. But the record does reveal a negative correlation between SMSA population and mobile units per unit of population (see e.g., Comments of Telocator, filed May 2, 1980). On that basis, we will consider the top thirty SMSAs first.

we have applied judgment to group two or more SMSAS together or to add portions of secondary SMSAs to central SMSAs. This, we believe will result in service areas more closely aligned with actual mobile service marketing areas. The following is a list of the 30 largest SMSAs as modified for purposes of cellular processing:

"Modified SMSAs" [48]

1. New York, NY/Nassau-Suffork, NY/ Newark, Jersey City and Paterson-Clifton-Passaic, NJ
2. Los Angeles-Long Beach/Anaheim-Santa Ana-Garden Grove/Riverside-San Bernardino-Ontario, CA
3. Chicago, IL
4. Philadelphia, PA
5. Detroit/Ann Arbor, MI
6. Boston-Lowell-Brockton-Lawrence-Haverhill, MA–NH
7. San Francisco-Oakland, CA
8. Washington, DC–MD–VA
9. Dallas-Fort Worth, TX
10. Houston, TX
11. St. Louis, MO–IL
12. Miami/Fort Lauderdale-Hollywood, FL
13. Pittsburgh, PA
14. Baltimore, MD
15. Minneapolis-St. Paul, MN–WI
16. Cleveland, OH
17. Atlanta, GA
18. San Diego, CA
19. Denver-Boulder, CO
20. Seattle-Everett, WA
21. Milwaukee, WI
22. Tampa-St. Petersburg, FL
23. Cincinnati, OH–KY–IN
24. Kansas City, MO–KS
25. Buffalo, NY
26. Phoenix, AZ
27. San Jose, CA
28. Indianapolis, IN
29. New Orleans, LA
30. Portland, OR–WA

65. All applications, both wireline and non-wireline, for the 30 largest modified SMSAs will fall due on a date certain as specified above. Applications will be accepted for these markets after the date certain only if one, or both, frequency blocks is not applied for on that date. In the unlikely event that this occurs, we will accept applications for the frequency blocks not previously requested any time thereafter, but they will be subject to the notice and cut-off procedures applicable to market areas other than the top 30 modified SMSAs. There will be no bar to the number of SMSAs for which an applicant may seek a license, but an applicant must submit a separate application for each modified SMSA it desires to serve. While some applicants may wish to propose regional systems covering two or more modified SMSAs, we cannot make provision for such proposals and still maintain our program for orderly, expeditious processing.[49] We want all participants to file applications which represent their best view of a service plan for the named SMSA. To do so, we do not find it necessary for participants to consult the plans of their potential competitors. Setting up a plan which would allow applicants to revise their filings after viewing the applications of others would encourage applicants to engage in "one-upsmanship," which has harmful consequences.[50] This would undermine our ability to compare proposals with some measure of confidence that the applicant had participated in its development. Plans based on another proposal would no longer represent the applicants' best idea of how to serve a given area but would, instead, represent applicants' use of the administrative process to obtain an advantage over competitors. Furthermore, allowing opportunity for one-upsmanship would needlessly encumber an administrative process which we must streamline to its essentials if the American public is to receive cellular service without unnecessary delay.

66. We will follow this procedure for acceptance of applications for only the top thirty modified SMSAs. We find a particular need for prompt service to these population centers and, therefore, a resulting need for special processing measures. Beginning ninety days after the date for receipt of all applications for the top thirty modified SMSAs, we will accept applications for any other service area following ordinarily applicable mobile services notice and cut-off procedures.[51] Staggering of the schedule for receipt of applications should reduce the time between receipt of applications and actual processing by Commission staff. Thus, it should provide for applications being more "fresh" at the time of processing and reduce the need for amendments. It should also permit the more orderly processing of all applications and avoid unnecessary processing delays that might result from inundating the agency with a large number of applications filed at the same time.

67. The Commission's establishment of a firm filing date for applications here, though a concededly different procedure from cut-off rules followed by the Commission in the past, is well within its prerogatives as an administrative agency. The Court in *Ashbacker, supra*, recognized that this Commission could establish dates for the filing of conflicting applications. 326 U.S. 327, 333 n.9 (1945). This Commission can be flexible in establishing these "housekeeping" rules. *Century Broadcasting Corp.* v. *FCC*, 310 F. 2d 864, 867 (D.C. Cir. 1962). The rule treats all prospective applicants equally and fairly by giving them substantial advance notice of due dates for their applications. Therefore, it accords with judicial precedent requiring that the Commission establish cut-off dates so as to "fairly advise prospective applicants of what is being cut-off by the notice." *Ridge Radio Corp.* v. *FCC*, 292 F. 2d 770, 773 (D.C. Cir. 1961).

68. *Accelerated Processing.* It is most important that we avoid undue delay in awarding cellular licenses without sacrificing fairness and procedural due process in our comparative consideration. We are well aware that in most cities there will be more applicants than there are frequency blocks available and it is important to identify the best applicants rapidly so that service may be initiated as soon as possible. Accordingly, we are adopting special procedures for processing cellular applications which apply to the top 30 and all other communities, respectively, as detailed below. To the extent that any situations arise which are *not* covered by these procedures, the administrative law judge and the parties will be guided by our rules of practice. Any existing rule which conflicts with those set out below is hereby waived.

69. First, and perhaps most important, during the term of the separate allocation all applicants for the non-wireline allocation in the top 30 modified SMSAs must submit their affirmative direct cases *with* their applications.[52] Minor or technical amendments and amendments required by § 1.65 of the rules, but no major

[48] SMSA information is derived from Office of Management and Budget, Standard Metropolitan Statistical Areas (revised edition 1975) (population based on estimates of July 1, 1978).

[49] Applicants are free to argue the public benefits of regional systems in the hearings, but we do not anticipate giving any particular weight to regional proposals based on our provisions for nationwide compatibility and universal interconnection with the MTS network.

[50] *See* Zip-Call and Telocator Petitions for Reconsideration which both decry the practice of applicants attempting to gain competitive advantages by "out-doing" earlier applicants.

[51] We note, however, that where an applicant files for a particular market during the term of our separate allocation, other applicants not then eligible for a particular frequency block will not become eligible for it merely because the day cut-off period (where applicable) extends beyond the terms of the allocation. *See* n. 34, *supra*.

[52] In most instances the wireline allocation, and the non-wireline allocation in areas other than the top 30 modified SMSAs, will not be contested. Therefore, it is not necessary to require parties applying for these allocations to submit direct cases with their applications. In the event that mutually exclusive applications are filed for these allocations, all competing applicants must file their affirmative direct cases within 30 days of the date of the Public Notice announcing the mutually exclusive filings.

amendments, may be proffered for good cause until the designation order is published. After that, all amendments, corrections and other changes can be made only by leave of the presiding judge. The affirmative direct case provided with the application shall include all the documentary evidence upon which the applicant intends to rely in a comparative hearing. Each exhibit should be numbered and should include the sponsoring witness affidavit. *Five* copies of exhibits must be filed with each application: two to accompany the original and duplicate applications, two for the Office of Administrative Law Judges, and one for the Common Carrier Bureau's Separated Trial Staff. The burden will be on each applicant to obtain copies of its mutually exclusive opponent's exhibits in a timely manner, either from the opponent or by duplicating the Commission's copies. We expect all parties to cooperate in making available materials to each other upon request. We recognize that in a few cases only one carrier may apply and the exhibit material will be more extensive than necessary. However, we believe that, on balance, this cost is more than justified by the speed this provision will add to our comparative hearing procedure.

70. As soon as possible after filing, acceptable applications for both the wireline and non-wireline allocations will be placed on Public Notice.[53] Interested persons will then have thirty days to submit petitions to deny.[54] Applicants will have fifteen days to file replies; no further pleadings will be accepted. If there is only one application, it comports with the public interest and there are no unresolved, substantial and material questions of fact, the Common Carrier Bureau will grant the application and issue a construction permit.[55] If there are two or more acceptable applications in an SMSA, the Bureau will designate them for hearing to ascertain relative merit. In addition, if there *are* unresolved, substantial and material questions of fact,[56] the Bureau will designate the application(s) for a hearing only on the specific question(s) which remain unresolved. To the extent possible, the Bureau will resolve issues raised in petitions to deny in its hearing designation order.

71. The hearing designation order will specify that the following procedures be applied. *Ten* days after **Federal Register** publication, all notices of appearance must be filed with the Commission. *Thirty* days after **Federal Register** publication (April 8, 1982) all written rebuttal cases must be filed with five copies to the Commission and a copy to each other party to the hearing. The presiding officer will schedule a first hearing session as soon as practicable after the date for filing rebuttal evidence. This first session will be an evidentiary admission session at which each applicant will identify and offer its previously circulated direct and rebuttal exhibits, and each opponent and the Separated Trial Staff will have a chance to lodge any objections.[57] After accepting the exhibits into evidence, the judge will entertain any motions to cross-examine and will rule whether any sponsoring witness needs to be produced for cross-examination. Determination of what, if any, cross-examination is necessary is within the sound judicial discretion of the judge,[58] the prevailing standard being whether the person requesting cross-examination has persuasively demonstrated that written evidence is ineffectual to develop proof.[59] If cross-examination is necessary, the presiding judge will specify a date for the appearance of all witnesses. In addition, if the designation order points out an area where additional underlying data is needed, the judge will have the authority to permit the limited use of discovery procedures. Finally, the presiding officer may find that certain additional testimony or cross-examination is needed to provide a complete record for the Commission. If so, the judge may schedule a further session; but we urge the judge to do so as expeditiously and efficiently as possible.

72. After the hearing record is closed, the judge may request Proposed Findings of Fact and Conclusions of Law to be filed within *thirty* days of the final hearing session. Replies should not be permitted except in unusual cases and then only with respect to the specific issues named by the judge. The judge will then issue an Initial Decision, preferably within sixty days of receipt of the last pleadings. If mutually exclusive applications, as opposed to petitioned applications, are before the judge, the judge will determine which applicant is most qualified for the SMSA at issue. The judge may also rank the applicants in order of merit if there are more than two. Parties will have thirty days in which to file exceptions to the Initial Decision. As in our Previous Order, at 513, we delegate to the Common Carrier Bureau authority to determine, at the time of designation for hearing, that such exceptions will be taken directly to the Commission, rather than to the Review Board.[60]

73. These procedures will work essentially the same way for markets below the top 30 SMSAs. The first application will establish the cut-off date for the service area proposed (as provided for under § 22.31 of our rules). All competing applicants must file their affirmative direct cases within 30 days of the date of the Public Notice announcing the mutually exclusive filings. The procedures for hearing designation, rebuttal submissions, and other matters, will be the same as described above.[61]

74. Our decision to adopt these new streamlined hearing procedures for cellular applicants is based on our weighing of difficult issues of public policy, administrative efficiency and due

[53] Any applications that are not acceptable for filing under § 22.31 of our Rules at the time of filing will be returned and will not be entitled to further consideration. The Commission also reserves the right to return any application listed on public notice if, upon further examination, it is found to be defective and not in conformance with the Commission's rules. *Cf. Ranger* v. *FCC*, 294 F.2d 240 (D.C. Cir. 1961).

[54] We caution interested persons against filing spurious petitions to deny solely to delay entry by wireline carriers. Such pleadings constitute abuse of the Commission's process and will be dealt with as such.

[55] Construction permits will be issued in duration of three years. To the extent that other provisions of our Rules are inconsistent, particularly § 22.43, we waive those other provisions.

[56] *See* 47 U.S.C. 309(d)(2); and *United States* v. *FCC*, No. 77-1249 slip op. at 34 (March 7, 1980). The Commission, of course, also has the option of requesting additional information rather than designating an issue for hearing under Section 308 of the Act. *See* 47 U.S.C. 308 (1970); *Bilingual Bicultural Coalition on Mass Media, Inc.* v. *FCC*, 595 F.2d 621 (D.C. Cir. 1978).

[57] This is merely a formal presentation of materials previously submitted with the application or in response to the designation order.

[58] *NLRB* v. *Miami Coca-Cola Bottling Co.*, 360 F.2d 569, 577 (5th Cir. 1966); *See also Ashworth Transfer, Inc.* v. *United States*, 315 F. Supp. 199, 203 (D.C. Utah 1970).

[59] *American Public Gas Ass'n.* v. *FCC*, 498 F.2d 718, 723 (D.C. Cir. 1974). Petitioners seeking oral proceedings must provide specific reasons for the necessity of an oral hearing, any necessity for cross-examination, any importance of witness credibility, or any evidence that could only be presented orally. *RCA Global Communications, Inc.* v. *FCC*, 559 F.2d 881, *rehearing in part*, 563 F.2d 1 (2nd Cir. 1977).

[60] Any interlocutory appeals as of right must be taken to the Review Board under our Rules.

[61] We do, however, provide one exception to our policy against major amendments. Any mutually exclusive applicant applying for a non-SMSA market area may enlarge its proposed CGSA to approximate or coincide with the CGSA proposed by any other mutually exclusive applicant without such modification being treated as a major amendment. We make this exception in order to discourage the "one upmanship" discussed in para. 69, *supra*, by taking away any incentive that mutually exclusive applicants would otherwise have to propose a CGSA slightly larger than proposed by earlier filed applicants only to gain a comparative preference. It is not necessary that we make this exception applicable to applications filed for SMSA markets discussed above. Because the SMSA boundary provides an outer limit for comparison of CGSA size.

process. We expect cellular to become an important communications tool, the extensive use of which can be of significant benefit to the American economy and to the more general public interest, and we are accordingly anxious to have it implemented as quickly as possible. We have not been able to devote this kind of attention and equivalent resources to rigidly structure the comparative hearing process for other mobile services, and as a result they have experienced unavoidable delays. Regardless of how efficiently we try to conduct our proceedings, it is predictable, given the high stakes involved here, that parties will be extremely active in protecting their perceived interests and that issues, both procedural and substantive, will arise which might lead to delay unless resources and attention are devoted to resolving them quickly. We believe that cellular is important enough to the public interest to warrant special attention to avoid delays.

75. We have broad authority to structure our hearing process in the fashion best designed to resolve the issue at hand. There is little question that "the nature of the 'full hearing' required by Section 309(e) [of the Communications Act] turns on the type of factual questions raised." *United States of America* v. *FCC*, No. 77-1249, slip op. at 38 (D.C. Cir. 1980) (quoting brief submitted by United States Department of Justice). Thus, streamlined proceedings are fully acceptable under Section 309 of the Act if they are properly designed to elicit all evidence necessary to resolve the issues at hand.

76. Provision has been made for such oral proceedings as may be required for a full and true disclosure of the facts. Therefore, the hearing procedures adopted here are in full compliance with Section 309 of the Communications Act and the Administrative Procedure Act. See J. K. Davis, III ADMINISTRATIVE LAW TREATISE § 144 at p. 23 (2d ed. 1980)

2. Federal-State Jurisdiction

77. In our Order we addressed the question of possible conflicts between state regulation and our policy of introducing cellular service in a competitive environment without significant delay. We concluded that in certain areas, specifically technical standards and competitive market structure, assertion of federal primacy was necessary to achieve our desired goals. Order at 504–505. Federal primacy over technical standards was considered necessary to ensure that the 40 MHz of radio spectrum allocated for cellular service is used effectively and efficiently. Similarly, state franchising regulations requiring demonstration of public need for cellular service were deemed inappropriate because they could adversely affect our frequency allocation scheme or delay the nationwide implementation and utility of cellular service. Beyond this, however, we recognized the states' interest in continuing their complementary role in the regulation of cellular service. However, we did not require cellular applicants to secure state certification prior to applying for a construction permit with this Commission.[62]

78. We have received a number of petitions requesting that we reconsider our position on federal-state jurisdiction. Several petitioners argue that the Order is impermissably vague on this issue. Others argue that we should totally preempt state certification, while still others argue that the role of the states should be strengthened by requiring cellular applicants to obtain state certification prior to the time of applying. Those advocating a prior state certification requirement argue that, in effect, the Order's allocation of spectrum to carriers already operating landline facilities amounts to imposing a prior state certification requirement on wireline carriers, and that equity demands that a similar requirement be placed on non-wireline carriers. They also contend that requiring prior state certification would negate the possibility of a conflict between the selection of candidates at the federal and state levels. In those states with exclusive franchising arrangements, it is further argued that prior state certification would eliminate the need for any comparative hearing at the federal level.

79. Those parties that urge a total preemption of state certification, on the other hand, argue that state certification of cellular applicants would create a chilling effect on potential entrants by erecting a barrier to entry and would delay the offering of cellular service by non-wireline carriers due to the time involved in obtaining state certification. In addition, they argue that state certification would not significantly assist the federal selection process because, except where states franchise on an exclusive basis, comparative hearings at the federal level would still be needed. Moreover it is argued that a state certification requirement is undesirable because it would result in an automatic limitation on entry in those states with exclusive franchising arrangements.

80. The concerns raised on reconsideration warrant that we state with greater specificity the extent to which we are preempting state regulation of cellular systems. We address below three separate aspects of the preemption issue: technical standards, market structure, and state certification.

81. We affirm our preemption over the technical standards for cellular systems. We continue to regard this as being essential to the "assurance of compatible operation of equipment on both local and national levels." Order at 505. We have carefully developed the technical requirements essential for efficient spectrum reuse and nationwide compatibility, while providing sufficient flexibility to accommodate new technological innovations. It is imperative that no additional requirements be imposed by the states which could conflict with our standards and frustrate the federal scheme for the provision of nationwide cellular service.

82. We are also preempting the states with respect to the market structure we have established for cellular services. Based on voluminous pleadings, we have made a finding that there is an immediate need for cellular service, that cellular systems require 20 MHz to ensure efficient frequency reuse, and that the public will best be served by providing for up to two cellular systems per market. This is a new service which we desire to make available in all localities, irrespective of what other mobile services are currently offered or able to be offered, in order to achieve nationwide compatibility. More specifically, we have already determined "need" on a nationwide basis and have preempted the states from denying state certification based on the number of existing carriers in the market or the capacity of existing carriers to handle the demand for mobile services. We are making available a substantial amount of scarce frequency for cellular service, and intend that this frequency be used effectively and efficiently. Any state franchising regulations requiring demonstration of general public need could adversely affect our frequency allocation scheme by allowing a frequency block to go unused or unduly

[62] As provided in the Order, cellular facilities shall be constructed and ready for operation within 36 months of the date of a construction permit. Applicants must request a covering license during this period. A licensee must have all requisite State authority, and be in operation, within 240 days of the date of the grant of the covering license or the license will automatically expire and must be submitted for cancellation. *See* 47 CFR 22.13(f)(2).

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delaying the implementation of cellular service. Order at 505.

83. Finally, where states wish to examine the qualifications of individual applicants to serve as common carriers, we see no overriding public interest in requiring this certification process to occur prior to an applicant filing with us. Because state certification proceedings can extend well beyond the time in which an applicant must file with us, the practical result of a prior state certification requirement would be to exclude arbitrarily many potential applicants, notwithstanding that they would have qualified for state certification had they had sufficient time. While we recognize that this approach would avoid or limit the filing of mutually exclusive applications in many instances, we are unwilling to exclude newcomers for this reason alone. This is particularly so given our revised procedures for processing mutually exclusive applications which we view as adequately meeting our concerns of implementing cellular service on a timely basis.

84. As we stated in our previous Order, at 503–505, Title III of the Communications Act of 1934, as amended, provides us with adequate authority to assert federal primacy to the extent set forth above. In addition, the federal plan for the provision of cellular service set forth in our Order, principally the goal of introducing nationwide compatible cellular service without undue delay, and the fact that cellular systems are to be interconnected with the public landline telephone network and capable of providing interstate as well as intrastate communications, provides a further basis for this Commission asserting federal primacy over licensing of cellular facilities.[63] Our assertion of federal primacy focuses on entry qualifications and in accordance with sections 2(b) and 221(b) of the Act, reserves to the states jurisdiction with respect to charges, classifications, practices, services, facilities or regulations for service by licensed carriers.[64]

[63] *See Telerent Leasing Corp.*, 45 FCC 2d 204 (1971), *aff'd sub nom. North Carolina Utilities Commission* v. *FCC*, 537 F. 2d 787 (4 Cir. cert. den. 429 U.S. 1027 (1976). *See* also *California* v. *FCC*, 567 F. 2d 84 (D.C. Cir.), cert. denied, 434 U.S. 1010 (1978).

[64] In this regard, we note that, consistent with our decision in *Computer II, supra*, states have authority to require cellular operators to provide this service only through a separate subsidiary, subject to whatever reasonable restrictions the states deem appropriate, in order to effectively perform their duties regarding the economic regulation of cellular operators.

3. Services

85. In discussing the types of services which could be provided over cellular systems, the Order holds that there will be no prohibition on the provision of dispatch service by cellular carriers.[65] Our position is consistent with Docket No. 18262 where we concluded that if cellular could, through natural economies, provide lower-priced dispatch services the public should not be denied such a benefit. *Second Report and Order, supra*, at 761. In addition, we noted that although it is speculative whether cellular systems would be cost competitive with private systems, especially for large users, it is likely that for some users a cellular system might provide dispatch services at comparable quality and price, and that a cellular system would be able to provide dispatch users with the benefit of interconnected service over the public telephone network.

86. Motorola, in its comments in this proceeding and in its petition for reconsideration, is the chief advocate of a prohibition on the offering of dispatch service over cellular systems. Motorola argues that a combined mobile telephone/dispatch service system is less efficient than separate systems. Motorola also contends that the Commission's Order permitting dispatch service failed adequately to consider the anticompetitive impact of allowing AT&T to offer dispatch service and ignored the fact that AT&T is prohibited from offering such service by the terms of the 1956 Western Electric Consent Decree. In opposition, AT&T states that the consent decree does not foreclose the offering of dispatch service as part of AT&T's cellular service. It contends that Motorola's arguments reflect its interest in retaining its historically dominant position in the private dispatch market and that Motorola is wrong in its assertion that separate dispatch systems would be more efficient than combined ones.

87. We are not foreclosing the provision of dispatch service over cellular systems. No information has been provided to cause us to change either the conclusion or the rationale set forth in our Order with respect to this issue. As we concluded in the Order, if cellular systems can provide lower priced dispatch services, we see no reason to deny the public that benefit. In addition, despite Motorola's claims to the contrary, we remain unconvinced that a combined dispatch/mobile telephone system is necessarily less efficient than separate systems. Further, as we understand it, general dispatch operations on a cellular system are no less efficient in frequency utilization than other cellular calls. Even assuming a minor difference in efficiency exists, it has not been demonstrated that any such difference warrants us banning dispatch offerings over cellular systems and denying the public access to the advantages of combined dispatch/mobile telephone service. Moreover, as indicated above, the consent decree permits AT&T to engage in the provision of common carrier communications services the charges for which are subject to public regulation.[66] Thus, we do not view the consent decree as foreclosing AT&T from providing dispatch service over a cellular system that it is licensed to operate.

[65] Order at *512. See* n. 17, *supra*, for a definition of dispatch service. The Order further provides, at 512–513, that fleet-call dispatch service, which is a variety of dispatch service in which a dispatcher is able to establish simultaneous communications with multiple mobile units, is to be addressed in a *Further Notice of Proposed Rulemaking*. We also note that neither the Order nor the Notice initiating this proceeding specifically addressed the question of whether paging service could be offered over cellular systems. As a result, we have not yet received the benefit of public comment on the issue and, because a primary objective throughout this proceeding has been to relieve the great and pressing need for two-way mobile communications, we believe it would be inappropriate to permit this spectrum to also be used to provide paging service, even on an interim basis, until the effect of that service on the capability of spectrum allocated for cellular service to meet its primary objective has been adequately assessed. Accordingly, we will seek public comment on this issue by including it in the *Further Notice of Proposed Rulemaking* regarding fleetcall dispatch service and, pending resolution of that proceeding, we will prohibit cellular systems from offering paging service.

[66] *See* paras. *22–23, supra* for a discussion of the affect of the 1956 Consent Decree, and the recently proposed modification of it, on AT&T's ability to offer cellular service, including dispatch.

III. Conclusion

88. Careful consideration has been given to the petitions for reconsideration. We have affirmed our overall allocation plan and associated technical standards and our separate allocation for wireline carriers. We have also affirmed our competitive market structure which allows for competition among cellular systems. However, we have eliminated the separate subsidiary requirement for wireline carriers, except in the case of AT&T. An attempt has also been made to facilitate expedition of the comparative hearing process and to focus attention initially on those geographic areas where public demand is greatest.[67]

[67] We have amended the rules, in Appendix B, to incorporate these changes. We have also made some minor editorial changes to the Rules. In particular, § 22.903(a) is revised to require applicants to draw proposed CGSA's on one or

Continued

89. This proceeding has focused on the pressing need to bring the benefits of cellular service to the public as expeditiously as possible while still providing for some degree of competition. We believe that, on balance, the approach we have set forth represents the best means of accomplishing these competing, and indeed sometimes conflicting, public interest goals. Having made this decision, it is now incumbent upon us to ensure that the regulatory process itself does not unduly delay the public from receiving the benefits of cellular mobile radio service.

IV. Ordering Clauses

90. Accordingly, it is ordered, that the petitions for reconsideration and clarification are granted to the extent set forth herein, and are otherwise denied.

91. It is further ordered, that the Motion to Reopen Proceedings filed by Industrial Communications Systems, Inc., is denied.

92. It is further ordered, that the Secretary shall cause a copy of this Order to be published in the **Federal Register.**

93. It is further ordered, pursuant to 47 U.S.C. 154(i), 301 and 303(r), that Title 47 of the Code of Federal Regulations is amended as set forth in Appendix B. These amendments shall become effective April 8, 1982.

94. It is further ordered, that this proceeding is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A.—Parties Filing in Response to Our Report and Order

Petitions for Reconsideration

Central Telephone and Utilities Corporation (Central)
Communications Industries, Inc. (CI)
Continental Telephone Corporation (Continental)
GTE Service Corporation (GTE)
Industrial Communications Systems, Inc. (Industrial)
LIN Broadcasting Corporation (LIN)
Lincoln Telephone and Telegraph Company (Lincoln)
Metro Mobile Communications, Inc. (Metro Mobile)
Millicom, Incorporated (Millicom)
Mobilfone Service, Inc. (Mobilfone)
Motorola, Inc. (Motorola)
National Aeronautics and Space Administration (NASA)
Radiofone, Inc. (Radiofone)
Rogers Radio Communications Services, Inc. (Rogers)
Rural Electrification Administration (REA)
Rural Telephone Coalition (RTC)
Southern Pacific Communications Company (Southern Pacific)
Telocator Network of America (Telocator)
United Communications Systems, Inc. (UCS)
United States Department of Justice (Justice)
United States Independent Telephone Association (USITA)
United Telephone System, Inc. (UTS)
Zip-Call, Inc. (Zip-Call)

Petitions for Clarification

Gencom Incorporated (Gencom)
National Association of Regulatory Utility Commissions (NARUC)

Opposition Pleadings

American Telephone and Telegraph Company (AT&T)
Communications Industries, Inc.
GTE Service Corporation
Industrial Communications Systems, Inc.
Kokusai Electric Company of America (Kokusai)
LIN Broadcasting Corporation
Lincoln Telephone and Telegraph Company
Maximum Service Telecasters, Inc.
Metro Mobile Communications, Inc.
Millicom, Incorporated
National Association of Regulatory Utility Commissions
Telocator Network of America
United States Independent Telephone Association

Reply Pleadings

American Telephone and Telegraph Company
Communications Industries, Inc.
Industrial Communications Systems, Inc.
LIN Broadcasting Corporation
Metro Mobile Communications, Inc.
Millicom, Incorporated
Motorola, Inc.
National Aeronautics and Space Administration
National Association of Regulatory Utility Commissions
Southern Pacific Communications Corporation
Telocator Network of America
United Communications Systems, Inc.
United States Independent Telephone Association

Appendix B

PART 22—PUBLIC MOBILE RADIO SERVICES

Title 47, Part 22 of the Code of Federal Regulations is amended as follows:

1. In § 22.31, paragraph (a)(1) is revised to read as follows:

§ 22.31 Mutually exclusive applications.

(a) * * *

(1) In the Domestic Public Cellular Radio Telecommunications Service, applications shall be considered mutually exclusive if their proposed Cellular Geographic Service Areas overlap.

* * * * *

more U.S. Geological Survey map(s) with a scale of 1: 250,000, rather than on one or more U.S. Geological Survey 7½ minute maps as provided in our earlier Order.

2. Section 22.901 is revised to read as follows:

§ 22.901 Eligibility.

(a) Authorizations for Cellular Systems to be operated in the Domestic Public Cellular Radio Telecommunications Service will be issued to existing and proposed communications common carriers. Applications will be granted only in cases where it is shown that the applicant is legally, financially, technically and otherwise qualified to render the proposed service, there are frequencies available to enable the applicant to render a satisfactory service, and the public interest, convenience and necessity would be served by a grant thereof.

(b) Neither the American Telephone and Telegraph Company, nor any affiliated entity, may engage in the provision of cellular service except as provided for in paragraphs (c) and (d) of this section, or as otherwise authorized by the Commission.

(c) A carrier subject to the restriction in paragraph (b) of this section, may, subject to other provisions of law, have a controlling or lesser interest in, or be under common control with a separate corporate entity that furnishes cellular service provided the following conditions are met:

(1) Each such separate corporation shall obtain access to landline exchange and transmission facilities necessary for the provision of cellular service on the same basis as those facilities are available to other entities, and may not own any facilities for the provision of landline telephone service;

(2) Each such separate corporation shall operate independently in the furnishing of cellular service. It shall maintain its own books of account, have separate officers, utilize separate operating, marketing, installation, and maintenance personnel, and utilize separate computer and transmission facilities in the provision of cellular services. Each such separate corporation which provides cellular services shall deal with any affiliated manufacturing entity only on an arms length basis. Any research or development performed on a joint or separate basis for the subsidiary must be done on a compensatory basis; and

(3) All transactions between the separate corporation and the carrier or its affiliates which involve the transfer, either direct or by accounting or other record entries, of money, personnel, resources, other assets or any thing of value, shall be reduced to writing. A copy of any contract, agreement or other

arrangement entered into between such entities shall be filed with the Commission within 30 days after the contract, agreement, or other arrangement is made. The provision shall not apply to any transaction governed by the provision of an effective state or federal tariff.

(d) A carrier subject to the restriction in paragraph (b) of this section:

(1) Shall not engage in the sale or promotion of cellular services on behalf of the separate corporation or sell, lease or otherwise make available to the separate corporation any transmission facilities which are used in any way for the provision of its landline telephone services, except on a compensatory, arms-length basis; this section shall not prohibit joint advertising or promotional efforts by the landline carrier and its cellular affiliate;

(2) May not provide to any such separate corporation any customer proprietary information unless such information is available to any member of the public on the same terms and conditions; and

(3) Must obtain Commission approval as to the manner in which the separate corporation is to be capitalized, prior to obtaining any interest in the separate corporation or transferring any assets, and must obtain Commission approval of any modification to a Commission-approved capitalization plan.

3. Section 22.902(b) is revised to read as follows:

§ 22.902 Frequencies.

* * * * *

(b) For cellular systems the assignment of frequencies will be divided into two Blocks. Assignments will be made from the frequencies listed for Cellular Systems A and B. For a period of two years from the effective date of these rules, systems for common carriers not also engaged in the business of affording public landline message telephone service will be assigned frequencies from Cellular System A, and systems for common carriers also engaged directly or indirectly, in the business of affording public landline message telephone service will be assigned frequencies from Cellular System B in those general areas in which it provides such landline service.

* * * * *

4. Section 22.903 (a), (c) and (d) are revised and (e) is added to read as follows:

§22.903 Cellular system service areas.

(a) The Cellular Geographic Service Area (CGSA) of a cellular system shall be defined by the applicant as the area intended to be served. No CGSA which includes area within a Standard Metropolitan Statistical Area (SMSA), as modified in subsection (e), below, may extend beyond the boundaries of the SMSA except where any such extensions are *de minimus* and do not include area within another central SMSA. The CGSA must be drawn on one or more U.S. Geolgical survey map(s) with a scale of 1: 250,000. Within the CGSA the applicant must depict each base station site and its respective 39 dBu contour as determined by the methods described in paragraph (c) of this section. An applicant must demonstrate that the combined 39 dbu contours of all base stations will cover at least 75% of the total CGSA.

(b) * * *

(c) For the purpose of establishing the reliable service area of a station and performing interference studies, an applicant must use procedures consistent with § 22.504 and F.C.C. Report No. R–6406, "Technical Factors Affecting The Assignment of Facilities In The Domestic Public Land Mobile Radio Service," by Roger B. Carey. Standards and procedures presently applied to stations in the 450–460 MHz band should be used. Any other interference studies utilizing other procedures, which the applicant believes the Commission should consider, in addition to the above required study, may also be submitted and will be considered in accordance with Public Notice, May 2, 1980, Mimeo 30893, 45 FR 30202 (47 FR 2d 666 (1980)). Furthermore, in cases where the applicant believes that Report No. R–6406 does not accurately depict the realistic 39 dBu service contour(s) of the base station(s) proposed, the applicant may submit for the Commission's consideration alternative propagation studies in addition to the above required studies. All supporting data and calculations must be included with the results of the studies.

(d) An applicant whose proposal would extend any 39 dBu contour, as calculated by F.C.C. Report No. R–6406, outside of its presently authorized CGSA will be deemed to be applying for a change in its CGSA.

(e) Listed below are the top 30 SMSAs, as modified for purposes of this proceeding in order to have service areas more closely aligned with actual mobile service marketing areas. All other SMSAs are in accordance with those listed by the Office of Management and Budget, Standard Metropolitan Statistical Areas.

"Modified SMSAs"

1. New York, NY/ Nassau-Suffolk, NY/ Newark, Jersey City and Paterson-Clifton-Passaic, NJ
2. Los Angeles-Long Beach/Anaheim-Santa Ana-Garden Grove/ Riverside Santa Bernardino-Ontario, CA
3. Chicago, IL
4. Philadelphia, PA
5. Detroit/Ann Arbor, MI
6. Boston-Lowell-Brockton-Lawrence Haverhill, MA
7. San Francisco-Oakland, CA
8. Washington, DC–MD–VA
9. Dallas-Fort Worth, TX
10. Houston, TX
11. St. Louis, MO–IL
12. Miami/Fort Lauderdale-Hollywood, FL
13. Pittsburgh, PA
14. Baltimore, MD
15. Minneapolis-St. Paul, MN–WI
16. Cleveland, OH
17. Atlanta, GA
18. San Diego, CA
19. Denver-Boulder, CO
20. Seattle-Everett, WA
21. Milwaukee, WI
22. Tampa-St. Petersburg, FL
23. Cincinnati, OH–KY–IN
24. Kansas City, MO–KS
25. Buffalo, NY
26. Phoenix, AZ
27. San Jose, CA
28. Indianapolis, IN
29. New Orleans, LA
30. Portland, OR–WA

5. Section 22.913 (a)(9) is revised to read as follows:

§22.913 [Amended]

(a)* * *

(9) Where the applicant is a wireline carrier, an exhibit indicating exactly how its proposed system would interconnect with the landline network. This information must be of sufficient specificity to enable a potential competitor to design its system to connect with the landline system in exactly the same manner if the competitor so chooses.

* * * * *

6. Section 22.916 is revised to read as follows:

§22.916 Evaluation of cellular applications.

(a) All mutually exclusive applications that are acceptable for filing and meet our basic qualifying criteria shall be designated for a comparative hearing. Applications involving basic qualifying issues shall also be designated for hearing on those particular issues, on an expedited basis, as described in paragraph (b) of this section. The comparative hearing shall be conducted by an Administrative Law Judge named in the designation order or a subsequent order.

(b) Expedited hearings procedures. The following procedures shall apply to all hearings in the Domestic Public Cellular Radio Telecommunications Service.

(1) The affirmative direct case, including all documentary evidence upon which an applicant intends to rely in a comparative context, must be submitted within 30 days of the date of the Public Notice announcing the mutually exclusive filings, except that applicants filing for a top 30 modified SMSA on the first possible filing date following adoption of these rules, shall file their direct case with their applications. Five copies of exhibits must be filed with an applicant's comparative case: two to accompany the original and duplicate applications, two for the Office of Administrative Law Judges, and one of the Common Carrier Bureau's Separated Trial Staff. The burden will be on each applicant to obtain copies of its mutually exclusive opponent's exhibits in a timely manner, either from the opponents or by duplicating the Commission's copies. We expect all parties to cooperate in making available materials to each other upon request.

(2) Interested parties have thirty days from the date that an application is placed on Public Notice as accepted for filing to submit petitions to deny. Applicants have 15 days to file replies; no further pleadings will be accepted.

(3) Parties have ten days from publication in the **Federal Register** of the hearing designation order to file notices or appearance.

(4) Thirty days after **Federal Register** publication all written rebuttal cases must be filed with five copies to the Commission and a copy to each other party to the hearing.

(5) The judge will schedule a first hearing session as soon as practicable after the date for filing rebuttal evidence. This first session will be an evidentiary admission session at which each applicant will identify and offer its prviously circulated direct and rebuttal exhibits, and each opponent and the Separated Trial Staff will have a chance to lodge any objections.

(6) After accepting the exhibits into evidence, the judge will entertain any motions to cross-examine and will rule whether any sponsoring witness needs to be produced for cross-examination. Determination of what, if any cross-examination is necessary is within the sound judicial discretion of the judge, the prevailing standard being whether the person requesting cross-examination has persuasively demonstrated that written evidence is ineffectual to develop proof. If cross-examination is necessary, the presiding judge will specify a date for the appearance of all witnesses. In addition, if the designation order points out an area where additional underlying data is needed, the judge will have the authority to permit the limited use of discovery procedures. Finally, the presiding officer may find that certain additional testimony or cross-examination is needed to provide a complete record for the Commission. If so, the judge may schedule a further session.

(7) After the hearing record is closed, the judge may request Proposed Findings of Fact and Conclusions of Law to be filed within thirty days of the final hearing session. Replies are not permitted except in unusual cases and then only with respect to the specific issues named by the judge.

(8) The judge will then issue an Initial Decision, preferably within sixty days of receipt of the last pleadings. If mutually exclusive applications are before the judge, the judge will determine which is most qualified for the SMSA at issue. The judge may also rank the applicants in order of merit if there are more than two.

(9) Parties will have thirty days in which to file exceptions to the Initial Decision. The Common Carrier Bureau has authority to determine, at the time of designation for hearing, that such exceptions will be taken directly to the Commission rather than to the Review Board.

7. Section 22.917 is revised as follows:

§ 22.917 Demonstration of financial qualifications.

(a) Applications for new stations or modified facilities shall demonstrate the applicant's financial ability to meet the realistic and prudent:

(1) Estimated costs of proposed construction and other intial expenses; and

(2) Estimated operating expenses for a period of one year, considering the nature of service proposed and the degree of business uncertainty or risk.

(b) Resources used to demonstrate an applicant's financial ability under paragraph (a) of this section cannot include funds committed to another project, or committed in another cellular application.

(c) Except as provided in paragraph (d) of this section, each application shall demonstrate an applicant's financial ability under paragraph (a) of this section by submitting the following financial information, the information required by paragraph (e) of this section, and whatever other information or details the Commission may require:

(1) A balance sheet current within ninety (90) days of the date of the application and copies of any financial commitments (such as, for example, loan agreements and service contracts) in support of the proposed facilities; and

(2) Whenever the submissions of paragraph (c)(1) of this section do not satisfy paragraph (a) of this section, the applicant shall submit additional information (e.g. a current income statement, and, for the period of proposed construction plus one year operation, a statement of projected revenues and expenses, a statement of projected sources and application of funds, etc.) as is necessary to demonstrate financial ability.

(d) Each application for an assignment of a license (or permit), or for the transfer of control of a corporation holding a license (or permit), shall demonstrate the financial ability of the proposed assignee or transferee to acquire and operate the facilities by submitting adequate financial information under the guidelines specified in this section, as appropriate.

(e) The following additional information shall be submitted on any form of intended credit arrangement or equity placement:

(1) The details of any loan or other form of credit arrangment intended to be utilized to finance the proposed construction, acquisition, or operation of the requested facilities including such information as the identity of the creditor (or creditors), letters of commitment, terms of the transaction, and a statement that paragraph (f) of this section is complied with; and

(2) The details of any sale or placement of any equity or other form of ownership interest.

(f) In addition to the disclosures required by paragraph (d) of this section, any loan or other credit arrangement providing for a chattel mortgage or secured interest in any proposed radio station facility must include a provision for a minimum of ten (10) days prior written notification to the licensee or permittee, and to the Commission, before any such equipment may be repossessed under default provision of the agreement.

Dissenting Statement of Chairman Mark S. Fowler

In Re *Memorandum Opinion and Order on Reconsideration, Cellular Communications Systems—CC Docket No. 79–318*

I regretfully dissent from the majority's decision to continue the automatic "set aside" for wireline carriers of half the spectrum available for establishment of cellular radio services. I agree that it is important to act swiftly to implement cellular services in those areas now experiencing severe mobile radio congestion. However, it does not appear to me that a broad, "nationwide" set aside is necessary or proper to solve that problem, especially in light of the anticompetitive difficulties it creates. In addition to its tenuous justification, the majority's reasoning is enfeebled by inherent contradictions which cannot be reconciled. Consequently, I fear that the court will return the decision as "arbitrary and capricious," and instead of hastening service to the public, we will have unforgivably delayed it.

In fact, we are running a serious risk that the decision will be stayed by the court pending review. In addition to the legal deficiencies of the order, non-wireline

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carriers will have strong arguments that, absent a stay, they will be irreparably injured because: (1) The wireline carriers will have a "headstart" that will enable them to capture most of the interested cellular customers before a non-wireline carrier can be certified; and (2) this headstart may destroy the businesses of existing radio common carriers (RCCs) since their present customers will be lured away to the superior cellular service long before any RCC is certified to operate the competing cellular frequency.

The primary justification for the set aside is that it is the only practical way to expeditiously relieve existing congestion on two-way mobile telephone frequencies. The record reveals that there is a critical shortage of mobile frequencies in the largest metropolitan areas. However, a shortage in the ten, or even thirty, largest metropolitan areas cannot justify a wireline set aside for the entire country in the face of the anticompetitive problems it creates. We have been warned by the Department of Justice (DOJ) that "this licensing scheme assures the dominance of AT&T in what might otherwise be a highly competitive industry." DOJ Petition for Reconsideration, at 4 (June 22, 1981). Such dominance "would be undesirable both because it would weaken incentives for development of improved mobile radio systems, and because it would enhance the already enormous overall economic power of the Bell System." [1]

Such a constriction of competition might be justified if it were essential to relieve serious congestion. However, it is not essential here. There are other ways to rapidly relieve the congestion now present. For example, we could identify the cities experiencing more severe congestion and devote extra staff resources to resolving mutually exclusive applications for those areas. We could reduce the complexity of comparative proceedings by standardizing higher entry qualifications for these areas which would winnow out all but the strongest applicants. Our Office of Administrative Law Judges has advised that by focusing special attention upon those applications, in conjunction with the expedited hearing procedures adopted here at paragraphs 68–70, cases will move quite rapidly and many of them may be completed within one year. This effort to identify and select the best applicants for each city seems a small price to pay in view of the fact that the successful applicants will in all likelihood remain the providers of cellular service for decades into the future. [2]

Accordingly, I see no reason to create a set aside for wireline carriers. Even if one were to accept the majority's rationale that severe congestion in some major cities requires that service be made available immediately, this rationale evaporates when applied to the rest of the country where such congestion does not exist. Surely, at least outside the major cities, we could make the effort to select the best applicants in each area. The competitive benefits could be enormous, and our streamlined procedures insure that the selection procedure will not be unduly extended.

Similarly, there is little reason to extend the set aside to wireline carriers other than AT&T. While AT&T has developed expertise in cellular, the other wireline carriers have not. They do have expertise in traffic engineering and high-capacity switching networks, but this by itself does not establish the qualifications of any independent to implement and operate a cellular system which involves entirely new techniques that have taken companies like AT&T and Motorola years to develop. Both independent and non-wireline applicants would have to purchase expertise from companies such as AT&T or Motorola. Thus, there is no reason to summarily conclude that independent wireline carriers will be able to outperform non-wireline carriers. In fact there are undoubtedly some non-wireline carriers that are far better qualified to provide cellular service than a small telephone company without any experience in the field.

Finally, it appears that in many instances the "set aside" frequency would be embroiled in the very kinds of hearings the majority is seeking to avoid. There are many major areas that are served by more than one wireline carrier. GTE, for example, has advised us that it is preparing many applications for areas served by more than one carrier (such as Los Angeles, the second largest market in the country, served by both an AT&T and GTE company). The majority urges such competing wireline carriers to avoid hearings through compromise. However, compromise appears to be an exceedingly weak reed to rely upon when the stakes are as large as they are in this case.

In sum, I cannot agree that the avoidance of delay caused by even expedited hearings is so critical that it outweighs the competitive disadvantages of the wireline set aside. This is not to suggest that I am opposed to awarding cellular licenses to AT&T or any other wireline carrier. To the contrary, I expect that wireline carriers would win a great number of cellular licenses in a comparative process. If an applicant possesses suspension qualifications or greater technical expertice, it has no need of the automatic grants contemplated in the majority's decision because in a competitive environment its superiority will be adjudged and rewarded by a license. That is the process that Congress has established, and the case has not been made to abandon it here.

Statement of Commissioner James H. Quello

In re *Reconsideration of the Commission's Report and Order in Docket No. 79–318, Cellular Communications System.*

The Commission has, I believe, acted wisely, if belatedly, in this very important matter and the public should soon benefit from this decision. I believe that this action directly responds to our mandate under section I, Title I of the Communications Act of 1934 as amended to "* * * make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide and world-wide wire and radio communication service with adequate facilities at reasonable charges * * *" The provision of service is, after all, at the heart of our mandate and I believe that the public has been denied this important new service far too long.

Much of the comment relating to the *Report and Order* the Commission released last April has centered upon competition and the extent to which competition was accommodated by our action. Our *Order* does address the competitive aspects of cellular radio service very thoroughly, even exhaustively. It is clear that the Commission has chosen to satisfy the need for competition in this important area through the allocation of two 20 MHz blocks of frequencies even though it can be argued that the allocation of only one 40 MHz block, operated by a single entity, would be more technically efficient. Thus, arguments that we have failed to adequately consider the competitive aspects of cellular radio are clearly without merit.

Through resale of cellular services, a requirement of this *Report and Order*, all qualified entities who wish to participate in this market are clearly able to do so from the outset. Resellers have a clear opportunity to seek whatever share of this new market their business acumen and marketing ability will permit. Resellers may enter this market with only a tiny fraction of the capital requirement borne by the providers of the basic service.

Providers of the non-wireline basic service will have opportunities to technically innovate and to market their service on a basis comparable to the wireline provider. Thus, the opportunity for true competition is being presented in all potential markets.

Competition, *per se*, should not be our primary emphasis. As the Court has pointed out in another common carrier matter:

> Competition as a factor might have some relevance to the FCC decision, if competition had been shown to be of benefit to the public on the communication routes in question. Yet it is all too embarrassingly apparent that the Commission has been thinking about competition, not in terms primarily as to its benefit to the public, but specifically with the objective of equalizing competition among *competitors*. (Original emphasis) *Hawaiian Telephone v. FCC, 498 F. 2d 775 (1974)*

It is clear that the public interest is served by rapid establishment of reasonably-priced, widely-available, technically superior and compatible mobile telephone service. We have wrestled with the mechanism to provide such service for too long. The record is long and the hour is late.

Separate Statement of Commissioner Abbott Washburn

Re *Cellular Order on Reconsideration*

[1] *NARUC* v. *FCC*, 525 F. 2d 630, 637 (D.C. Cir.), *cert. denied*, 425 U.S. 992 (1976). The separate subsidiary requirement may make it easier to detect any predatory pricing practice, but it does little to alleviate the "dominance problem." Indeed, the court has already discounted the significance of a separate subsidiary requirement as "largely cosmetic." *Id.* at 637.

[2] The fact that wireline carriers will have to file their applications within two years or lose the separate allocation does little to lessen the anticompetitive impact of the set aside. Wireline carriers will not fail to take advantage of the set aside to acquire most of the very interested customers. The late arrival would face a difficult task to lure customers from the wireline carrier or to stimulate interest from those customers who were not excited enough about the service to take it when it first burst upon the scene.

February 25, 1982.

The underlying thrust and rationale of our Order is to bring this new and vastly improved mobile telephone service to the public at the earliest possible time. At the same time our action assures an important measure of competition. Wireline carriers are in the best position to provide early cellular service in their communities. Their ability to do so is facilitated by the allocation of 20 MHz of spectrum specifically to wireline companies. Potential competition in each market is guaranteed by the allocation of another 20 MHz specifically to non-wireline carriers. The authorization of resale likewise promotes competition.

After carefully considering a host of possible options, the Commission, in my judgment, has reached a sound and fair balance. The regulatory mechanism here adopted is equitable and workable. It is the one with the greatest potential for bringing cellular service to the public promptly.

Following publication of today's Order in the Federal Register, applicants for systems in the 30 top markets will have 90 days in which to file. This will expedite the establishment of service in those metropolitan areas where congestion and unmet demand are currently the greatest.

Careful attention has been given in the Order to streamlining the comparative hearing process. Chief Administrative Law Judge Lenore Ehrig has helped create a set of procedures that will significantly shorten the process and avoid unnecessary regulatory delay. The Commission has authorized the assignment of two attorneys and two engineers to work with the Administrative Law Judges as soon as applications begin to be filed.

As supervising Commissioner on the Reconsideration Order, I deeply appreciate the hard and effective work of the Common Carrier Bureau and of the other Commissioners' offices. The result is a tightly and clearly written Order that, hopefully, will bring this new service to the American public expeditiously.

Separate Statement of Commissioner Joseph R. Fogarty

In Re *Cellular Communications Systems (CC Docket No. 79–318)— Memorandum Opinion and Order on Reconsideration*

I am please that the Commission has reaffirmed the essential elements of its original decision in this proceeding. The FCC has been attempting to provide the requisite regulatory structure for the development and deployment of cellular radio for the last 13 years, and during this extended period of agency indecision, congestion and unsatisfied demand in the mobile radio telephone service have reached epidemic proportions. This Commission's first duty, as mandated by Section 1 of the Communications Act, is "* * * to make available, so far as possible, to all the people of the United States a rapid, efficient Nation-wide * * * wire and radio communications service with adequate facilities at reasonable charges * * *" Service delayed is service denied the American people, and time is now more than ever of the essence.

I firmly believe that the cornerstone of this decision—the split frequency allocation and regulatory structure—represents an eminently reasonable and informed exercise of agency discretion. It embodies a rational and fair balancing of competing policy values within a framework which recognizes the Commission's paramount obligation to the overall public interest. In this regard, "competition" and "pro-competitive" values are but one element in our decisional mix and must be balanced with other compelling considerations, namely, the critical need for expedition of service and the limited spectrum available for allocation and system licensing. This decision has taken pains to recognize and implement the important values of competition, but we have also recognized, as the courts have emphasized, that "equalizing competition between *competitors* * * * is *not* the objective or role assigned by law to the Federal Communications Commission." *Hawaiian Telephone Co.* v. *FCC*, 498 F. 2d 771, 776 (D.C. Cir. 1974) (Original emphasis). Our statutory objective and role is to advance the *public* interest in the timely, efficient, and cost-effective provision of telecommunications facilities and service. We have been faithful to this mandate in our decision.

Given the possibility of mutually exclusive wireline—as well as nonwireline—competing cellular applications where a particular metropolitan area is served by more than one wireline carrier, it is imperative that competing applicants be encouraged in the strongest terms to settle their differences by joint venture or other agreement so as to avoid the delay of comparative hearings—delay which can only work to the detriment of the public interest in the expeditious provision of cellular service. Here, I believe that the element of interindustry competition inherent in the split frequency allocation and licensing structure will provide a powerful incentive for desirable settlements on both sides of the allocation.

We are now well into the second decade of "planning" for cellular communications systems. The American public has waited along enough for this inovative service.

Statement of Commissioner Anne P. Jones

Dissenting in Part

February 25, 1982.

In Re *Memorandum Opinion and Order on Reconsideration of Cellular Communications Systems—CC Docket No. 79–318*

The Commission established the basic regulatory structure for the cellular mobile radio communications system in its April, 1981 Report and Order in this proceeding. On Reconsideration, in December, 1981, the Commission reaffirmed the basic outline of its previous decision. Today, the Commission approves the text of the Reconsideration Order.

Although I dissented in part to the April, 1981 Report and Order, I was generally in agreement with many of the Commission's approaches and findings. I find myself in much the same position today. Although I generally view the Reconsideration Order as an improvement over the Order of last April, I again believe that further improvements could have been made. For this reason, I must again dissent in part.

As I noted last April, I feel very strongly that the services which the cellular mobile radio technology can provide should be made available to the public at the earliest possible date. Since AT&T appears to be in the best position to get cellular systems under way quickly, I do not oppose the basic principle of a set-aside of one of the two 20 MHz allocations for the wireline carriers. However, I felt last April, and I still feel today, that the Commission has gone too far in establishing a set-aside in every market in the country. I believe it would have been much better to limit the set-aside to markets in which it can be demonstrated that there is a present, pressing need for cellular mobile service. The Order on Reconsideration does reduce the length of time during which the wireline set-aside will be maintained, and to the extent that this addresses my concern, albeit indirectly, I view it as an improvement over the Order of last April.

The Order of last April accomplished something rather remarkable—the introduction of two fundamentally different problems with one footnote. Neither of these problems has been resolved on Reconsideration. In its entirety, footnote 56 of the April Order reads:

> "In the past, we have permitted wireline companies to apply for wireline frequencies in any market, without regard to where they are doing business as a wireline. *Bonduel Telephone Co.*, 66 FCC 2d 497 (1978). In order to achieve our objective of rapid implementation of service during the separate five year allocation period, we will not adopt the *Bonduel* approach to wireline cellular applicants, but will consider a wireline applicant to be eligible to apply only in those general areas in which it or an affiliate company is certified as a wireline carrier. This will eliminate comparative hearings for wireline frequencies except in those *rare circumstances* where a particular metropolitan area is served by more than one wireline and each wishes to serve the entire metropolitan area." (emphasis added).

The Commission cannot adopt the *Bonduel* doctrine if it wishes to expedite the assignment of the wireline allocations. However, suspension of *Bonduel* has been coupled with a prohibition on wireline carriers applying for the *non*-wireline allocations outside of their service areas. [1] The combined effect of these two policies is that a wireline carrier cannot apply for *any* cellular allocation outside of its service area.

Thus an Independent telephone company, which might not have any desirable cellular service areas within its operating areas, but which might have the expertise, financing and desire to apply for cellular licenses elsewhere, would be precluded from doing so. I can find no policy justification for this bar in either the April Order or the current Order on Reconsideration. Further, it is difficult to see how such a justification could be developed in the light of the Commission's policies of increased competition and decreased regulation.

Traditionally the Commission has had two concerns which might dictate the imposition

[1] 66 FCC 2d 565 (1981). See 22. 902(b).

of such a bar: the incentive of a wireline carrier to provide inferior interconnection to other carriers who compete in supplying a service such as cellular, and the potential for a wireline carrier to cross-subsidize such a competitive service from its monopoly-based services.

The first concern, that of interconnection, may be dismissed quickly, since we are concerned here with wireline carriers operating *outside* of their service areas.

As to the second concern, although local telephone service is presently a monopoly service, the notion that it is a powerful engine for cross-subsidization is becoming increasingly suspect. If this were the case, why would the Joint Board convened in Docket CC 80-286, of which I am a member, find that its central concern is the maintenance of universal, affordable local service in the face of proposed changes to the jurisdictional separation process? These changes have been characterized as decreasing the subsidy from toll to local service. If, as is often asserted, local service in many locations requires a subsidy in order to be viable, how can it at the same time be a powerful source of subsidy for other services?

There is a second problem which involves footnote 56. While the April, 1981 Order left the definition of a cellular service area somewhat unclear, I was concerned that in many such areas two or more wireline carriers would be qualified to apply for the wireline allocation. Such applications would cause comparative hearings and hence frustrate the whole purpose of the wireline set-aside, which is to provide expedited service to the public.

In the current Order on Reconsideration this problem is probably made worse. A cellular service area has now been defined as an SMSA, which is probably a larger geographic area than was contemplated by the original definition.

Thus, for example, one study indicates that in 20 of the top 30 SMSAs the "rare circumstance" referred to in footnote 56 may occur, since more than one wireline carrier serves these areas.[2] Rare indeed.

In paragraph 38 of the current Order on Reconsideration, the Commission addresses this problem as follows:

"* * * Where more than one wireline company is certified in the Standard Metropolitan Statistical Area (SMSA), and these carriers desire to provide cellular service, we strongly urge them to reach mutually acceptable arrangements in order to avoid electrically mutually exclusive applications which require comparative hearings."

Indeed, the Commission cannot urge the parties strongly enough, since on the hope of this cooperation rests the entire efficacy of the wireline set-aside and its promise of expedited service to the public.

A far better plan, in my view, would have distinguished between significant and peripheral involvement by wireline carriers in cellular service areas. Where two or more carriers have significant involvement, some Commission-approved plan for a joint owned and operated cellular system would have to be adopted. Where a carrier had only peripheral involvement, it would have no claim to the cellular allocation in the area.

I realize that this would involve the Commission in the difficult task of drawing lines between significant and peripheral involvement, but I believe this task could have been performed, and I fear that not doing so may result in a situation which we will all regret.

We have all heralded the era of increasing competition in the supply of telecommunication services. But it brings with it an increasing number of competitors who comes before this Commission with increasingly diverse ideas about the allocation of scarce resources such as spectrum. I believe this is why the Cellular Rulemaking has been such a painfully difficult task for this Commission. But while the Commission has experienced difficulty, consumers have experienced the unavailability of a valuable new service. I hope that other new services which involve regulation can be introduced without repeating this experience. I hope so, but I fear otherwise.

Separate Statement of Commissioner Mimi Weyforth Dawson

Re *Cellular Communications Systems*

With this decision we have at last removed the regulatory roadblocks to the provision of cellular communications service. In 1968 the Commission found that there was serious congestion problems in land mobile communications in some of the major metropolitan areas.[1] Cellular technology should efficiently utilize our limited spectrum resources in these areas as well as provide an important new telecommunications tool. Enabling such a service to go forward is the essence of this agency's mandate "to make available, as far as possible, to all the people of the United States a rapid, efficient, Nation-wide * * * wire and radio communications service with adequate facilities at reasonable charges * * *" 47 U.S.C. 151. Moreover, because of cellular radio's potential to contribute to the nation's economic well-being by increasing productivity as well as generating a significant new equipment and service market, it is especially important that we have authorized this service at last.

While there has been substantial controversy and debate about our approach, I think our overall goal necessitates that we move forward with essentially the same structure found to be in the public interest in April 1981. Thus, because the primary rationale for establishing a cellular service is public need, it is imperative that we provide a framework in which that need can be met as expeditiously as possible. Establishing a wireline allocation is critical to this goal. Our decision here will permit those carriers, and AT&T in particular, to provide this service without the delay of torturous, costly hearings. At the same time, our decision ensures that competitive non-wireline carriers will gain a strong foothold in the marketplace. These non-wireline carriers have been allocated 20 MHz of spectrum in each market and the right of equal access to the local exchange network. In addition, our limitation of the wireline set-aside to two years will increase opportunities for competitive suppliers in all but the markets with most critical need.

In reaching this decision to reaffirm our basic guidelines for cellular service we gave serious consideration to the issues raised by the parties. Because this Commission is keenly interested in maximizing entry potential, we are devoting substantial resources and initiating streamlined hearing procedures so that the non-wireline carriers will not be unduly delayed. To impose an artificial delay factor on wireline carriers, as requested by many parties, would be an alternate prescription for regulatory paralysis. The substantial benefits of getting cellular service to the public quickly counsels against taking such an approach. However, we recognize that there are market situations justifying a wireline moratorium of limited duration and will entertain applications for such relief.

Second, we carefully reviewed whether a "set-aside" for wireline carriers runs afoul of the Court's ruling in *NARUC* v. *FCC*, 525 F. 2d 630, *cert. denied* 425 U.S. 992 (1976). In that decision, faced with the prospect of only one licensee per market, the Court expressed its concern of the anticompetitive effects that might result in the form of AT&T monopolization of cellular communications. Those concerns have, we believe, been ameliorated by our requirement of two competitive systems per market and our restriction on wireline carriers to the markets they now serve. For all practical purposes, this has the effect of limiting AT&T to providing less than fifty percent of all cellular service over the long term. Additionally, AT&T must provide cellular service only through a fully separated subsidiary and its operating companies must provide reasonable interconnection upon demand, including the same interconnecting arrangements that its cellular affiliates are provided. These restrictions should ensure that this market will develop and function in a competitive manner to the benefit of the public.

Our action here, in my mind, has the greatest potential for achieving our public interest objectives of rapid implementation of a much needed service. I have high hopes that we have set the stage for that result.

Concurring Statement of Commissioner Henry M. Rivera in CC Docket No. 79-318

I concur in the majority's reaffirmances of its earlier decision in the Cellular Radio docket. I do not do so, however, out of the conviction that the prior decision constitutes the best public policy which could have been formulated. Rather, my concurrence is based upon the belief that any further delay in the delivery of cellular radio mobile service to the American public is intolerable and that the policy which I would have preferred to have seen adopted would have required additional procedural steps that would cause such delay. There is a critical and immediate need to alleviate congestion in two-way mobile radio. Under such circumstances, I could not advocate additional changes that would have caused further procrastination in the provision of this service. After thirteen years of withholding the important benefits of cellular mobile radio service from the public, this proceeding begs for a final decision. In short, I am forced to conclude that the public is better served by a decision now, albeit an imperfect one, than the additional debate which my proposal would have encouraged.

What follows is an outline of the overall policy I would have preferred if time were not at a premium, as well as my interpretation of the *NARUC* and *Radio Relay* cases.[2]

Preferred Policy

If the Commission had not released a final decision in this docket over seven months ago and had not been deliberating this matter for 13 years, I would have recommended that the Commission adopt a decision which would have been shaped in a different manner.[2a] More specifically, I would have recommended that: (1) the Commission not split the 40 MHz cellular allocation into two mutually exclusive 20 MHz allocations in *every* geographic market; and (2) the exclusive 20 MHz allocations be granted only in geographic areas which will imminently face acute congestion in the provision of cellular radio common carrier communication services. In addition, I would have proposed: (1) Conditions to facilitate the competitive provision of cellular services/equipment; (2) that each cellular license be nonassignable; and (3) that each license be for a term not to exceed five years, and be nonrenewable if the licensee did not have a *bona fide* cellular system in operation by the end of the initial five year term.

Mutually Exclusive Allocation is justified only for Congested Areas

Exclusive 20 MHz allocations are only required because of the inefficiencies in spectrum utilization which are expected to occur in *mature* (i.e. congested) cellular systems. *Report and Order in CC Docket No. 79-318*, 86 F.C.C. 2d 469, 476. That is to say, the split allocation of mutually exclusive 20 MHz assignments is only *required* for geographic areas where saturation of cellular systems is imminent. Accordingly, no reason exists for an exclusive 20 MHz allocation for any geographic area until such a determination has been made. As for non-congested areas, I would have proposed the full 40 MHz be available to qualified applicants on a non-exclusive basis so that comparative hearings would not have been required for those licensees.[3] If such areas were subsequently to become congested and consensual dynamic channel assignment were not technologically feasible, I would have proposed that an aggrieved licensee be permitted to petition this Commission for an exclusive allocation in that area pursuant to § 1.401 of the rules of the Federal Communications Commission, 47 CFR 1.401 (1980). Such an approach, in addition to eliminating the delays inherent in the comparative hearing process, would have fostered economic efficiency and would not have imposed an unnecessary and artificial constraint upon technological development in the cellular radio market.

Technological advances in the area of dynamic sharing of channels may subsequently alleviate the need for mutually exclusive 20 MHz allocations. I would have proposed to recognize the possibility of technological change by providing that mutually exclusive 20 MHz allocations in congested areas would be subject to dissolution (prior to the time specified in the order) upon a convincing showing that shared frequency use by more than two entities in the same congested area was feasible and desirable.

Promotion of Competition

To promote competition in the provision of cellular services and the cellular equipment markets, I would have proposed that the following be imposed by rule: (1) A prohibition against exclusive retail or resale franchise agreements; (2) a prohibition against the ownership or control by any entity or affiliate of more than one cellular or mobile radio common carrier system in any geographic area; and (3) a prohibition against any requirement by any cellular service provider that a customer acquire customer premises equipment from a particular source as a condition of acquiring or maintaining cellular service from that provider.[4] Finally, I would have proposed that mandatory "trunk side" or "line side" interconnection by wireline carriers at the Class V exchange level be required at rates which are fully cost justified, and, if those interconnection rates were not fully cost justified, such interconnections would then have been set at the ordinary "B-1" (business) rate.

The Cases: NARUC and Radio Relay

Some have concluded, after reading *NARUC* and *Radio Relay*, that the exclusive 20 MHz allocation is unlikely to be affirmed upon appeal and that the provision of cellular service to the public will be delayed by a judicial remand which will ultimately require this Commission to adopt a comparative hearing mechanism for each mutually exclusive cellular license. I do not agree with this interpretation of *NARUC* and *Radio Relay*.

In *NARUC*, the D.C. Circuit expressed concern over the anticompetitive consequences of permitting AT&T to occupy the cellular communications market. *NARUC* at 636-39, 647. In *Radio Relay*, the Second Circuit noted the *potential* for anti-competitive harm which was occasioned by a *de facto* "head start" for wireline carriers in an analagous allocation of paging frequencies. *Radio Relay* at 328-29.

The *NARUC* Court, however, in affirming the Commission's earlier cellular radio decision, also stated that its decision was grounded, in part, upon "the view that there will be ample opportunity to challenge anti-competitive effects as the time approaches when they will be felt, and the extent of the impact on competition becomes more readily assessible." *NARUC* at 639. The Commission's two year reservation of 20 MHz for wireline carriers does not itself impose any anti-competitive injury. The direct anticompetitive effects of such a reserved allocation, if present, are too remote in time and speculative in effect to be reached by the *Radio Relay* and *NARUC* prohibitions. Moreover, an application for a radio license to serve a particular cellular market is an affirmative act which, if it results in a violation of the antitrust laws, can be remedied under the U.S. Code.[5] In addition, the Commission must take into account anticompetitive effects when it considers cellular applications.[6] Thus, incipient anticompetitive effects in each geographic area would be addressed more appropriately during each license proceeding.

[FR Doc. 82-6319 Filed 3-8-82; 8:45 am]

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[2] These SMSAs are: New York, N.Y., Los Angeles, Chicago, Philadelphia, Detroit, Washington, D.C., Dallas-Ft. Worth, Houston, St. Louis, Pittsburg, Minneapolis-St. Paul, Cleveland, Seattle-Everett, Milwaukee, Cincinnati, Kansas City, Buffalo, San Jose, Indianapolis and Portland (compiled from 1972 data on Bell Operating Companies and the top 25 Independents).

[1] See Land Mobile Use of 806-960 MHz Band, Docket 16262, 14 FCC 2d 311 (1968).

[2] *National Association of Regulatory Commissioners* v. *FCC*, 525 F. 2d 630 (D.C. Cir. 1976) [herein cited as *NARUC*], and *Radio Relay Corporation* v. *FCC*, 409 F. 2d 322 (2d Cir. 1969) [herein cited as *Radio Relay*].

[2a] In many respects I also share the views which Commissioner Jones expressed in her dissenting statement.

[3] *Ashbacker Radio Corporation* v. *Federal Communications Commission*, 326 U.S. 327, 333 (1945). Moreover, access to the full 40 MHz would permit licensees to utilize less expensive equipment which would permit those licensees to provide service to the public at lower costs.

[4] Such a prohibition should not engender inefficiency since all CPE must be compatible with all cellular service systems. *Report and Order in CC Docket No. 79-318, supra* at 508, 573. However, if the Commission were to impose a bar against renewal if a licensee were not operating a *bona fide* cellular system within the initial five year grant, it would have been desirable to have imposed a bar to output requirements contracts (or their equivalent) between any licensee (including affiliates) and any supplier or manufacturer.

[5] See 15 U.S.C. 2, 4.

[6] See 47 U.S.C 307(a)(b), 309(a), 309(d), 313; 15 U.S.C. 21(a).

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1241

[No. 38590]

Revision to Railroad Annual Report Form R-1

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Interstate Commerce Commission is revising the Annual Report for Class I Railroads (R-1). This includes the elimination of certain schedules; the incorporation of selected operating statistics from previously deleted quarterly report forms OS-A, OS-B and OS-C; and the inclusion of debtholding information from a deleted corporate disclosure supplement. These

changes align the Commission's reporting requirements for Class I Railroads with current information needs of its bureaus and offices.

DATES: Effective for the reporting year ending December 31, 1981.

ADDRESS: Copies of this rule may be obtained by writing to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, or by calling toll-free, 800–424–5403.

FOR FURTHER INFORMATION CONTACT: Wayne D. Howard (202) 275–7448.

SUPPLEMENTARY INFORMATION: On September 16, 1981, the Commission served a Notice of Proposed Rulemaking on Revision to Railroad Annual Report Form R–1 (46 FR 45966). This notice proposed eliminating twenty-one schedules no longer needed by the Commission on a periodic reporting basis. The notice introduced new schedules containing selected operating statistics formerly reported on quarterly reports OS–A, OS–B and OS–C, and certain debtholding information from Annual Report Supplement—Corporate Disclosure. The notice proposed eliminating the other schedules in the corporate disclosure supplement.

Further, the Commission requested that interested parties submit suggested improvements to the R–1, including additional disclosure needs. We solicited opinions on the reinstatement of reporting average cost of ties and average cost of rail and expansion of traffic density categories in schedules 720 to 728.

Review of Responses

The Office of the Secretary received 14 responses to the Notice of Proposed Rulemaking (Appendix C). All railroad respondents endorsed elimination of the 21 schedules. Many respondents opposed elimination of Schedule 900, Compensation of Officers, Directors, Etc. Respondents also suggested additional changes to the R–1 Report.

The objections to eliminating the twenty-one schedules center on the usefulness of the information to outside parties. The New York State Department of Transportation (NY DOT) opposes the deletion of schedules 310, 413, 430, 440, 445 and 900, maintaining that the cost savings do not outweigh the benefits of retaining current reporting requirements. Since NY DOT does not share the Commission's right to obtain information not in the R–1, it maintains the deletion of the schedules would frustrate its regulatory function.

The Railway Labor Executives Association (RLEA) believes all schedules should be retained since they contain relevant information. The Dayton Power and Light Company requests the retention of schedules 310, 310A, 319 and 900.

Many respondents are interested in salaries of railroad officials. Charles M. Rice, Publisher; the United Transportation Union; Patrick W. Simmons, Illinois Legislative Director for United Transportation Union; and RLEA request schedule 900 be retained. The reasons include potential destruction of a particular business and unequal access of railroad employees to salary information.

Railroad respondents submitted numerous suggested changes to other R–1 schedules. The Bureau of Accounts has categorized the suggestions and will consider them for the 1982 Annual Report. Insufficient time remains to initiate further changes to the R–1 for 1981.

Discussion and Conclusions

The Commission's Policy Statement on Financial and Statistical Reporting (44 FR 27537), served May 7, 1979, limits reporting requirements to items essential to Commission needs. Specifically, periodical reports shall be required only for information needed by the Commission on a regular and frequent basis. Further, the Staggers Rail Act of 1980 (49 U.S.C. 11166) generally limits Commission reports to information considered necessary for cost accounting objectives or compliance with generally accepted accounting principles.

This rule eliminates the 20 schedules detailed in Appendix A; these schedules are not needed routinely for Commission purposes. The Commission reserves the right to request specific information when needed for a particular regulatory function, however.

We recognize that state regulatory agencies, consultants and unions may desire certain information contained in these schedules. However, the Commission must weigh outside party desires for information against Commission needs. Whenever it is clearly evident that periodically filed carrier information is not used by the Commission regularly and frequently, the Commission shall adjust the reporting requirements accordingly.

Two schedules proposed for elimination in the Notice of Proposed Rulemaking have been retained. Schedules 310 and 310A relate to investments and advances in carrier affiliated companies. For 1981, this information is essential for certain studies being conducted by the Bureau of Accounts.

This rule adopts Schedule 755, Railroad Operating Statistics, which is essentially former Quarterly Report Form OS–A. We recognize that this schedule retains requests for quarterly information. Carriers will, however, file this report on an annual basis. We will revise the language for the 1982 R–1 report; administrative procedures for new forms issuance do not give sufficient time to revise the former OS–A report.

We have eliminated the corporate disclosure supplement except for Schedule 120, Debtholdings. This schedule is renumbered 510 and is included in the 1981 R–1. We will make necessary adjustments to this schedule in 1982 if information requirements permit.

Schedule 450, Analysis of Federal Income Taxes, has been modified to include essential information from eliminated Schedule 451, Railway Tax Accruals. Further changes suggested by certain respondents will be considered for 1982 R–1 revisions.

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b), the Secretary of the Commission has certified that this final rule will not have a significant economic impact on a substantial number of small entities. This rule directly affects Class I railroads which have annual operating revenues of $50 million or more. No substantial number of small entities shall suffer from this action.

This action does not significantly affect the quality of the human environment or the conservation of energy resources.

(5 U.S.C. 553 and 49 U.S.C. 10321)

We adopt the reporting changes in Appendix A and Appendix B to the annual report described in 49 CFR Part 1241.11 for the reporting year ending December 31, 1981.

Decided: February 25, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, Clapp, and Sterrett.

Agatha L. Mergenovich,

Secretary.

Appendix A

In Annual Report Form R–1 (Class I railroads), the following schedules are eliminated for the reporting year ending December 31, 1981.

Title and Schedule No.

1. Items in Selected Current Asset Accounts—300
2. Special Funds and Other Investments—315
3. Securities, Advances, and Other Intangibles Owned or Controlled Through Non-reporting Subsidiaries—319
4. Property Used in Other Than Carrier Operations—325
5. Other Assets and Deferred Debits—329
6. Other Elements of Investment—355
7. Non-Capitalized Capital Leases—362
8. Items in Selected Current Liability Accounts—370
9. Other Long Term Liabilities and Other Deferred Credits—379
10. Rent for Leased Roads and Equipment—413
11. Miscellaneous Rent Income—430
12. Miscellaneous Rents (Expense)—440
13. Separately Operated Properties—Profits or Loss—445
14. Railway Tax Accruals—[1] 451
15. Miles of Tracks at Close of Year by States and Territories (for Switching and Terminal Companies)—703
16. Grade Crossings—A Railroad With Railroad—760A
17. Grade Crossings—B Railroad With Highway—760B
18. Grade Separations—761
19. Compensation of Officers, Directors, etc.—900
20. Annual Report Supplement—Corporate Disclosure [2]

Appendix B

The following schedules shall be added to the Railroad Annual Report Form R–1 for the year ending December 31, 1981:

Schedule and Title

450 Analysis of Federal Income Taxes
510 Debtholdings
755 Railroad Operating Statistics

Appendix C. Repondents to Docket No. 38590

1. Chicago, Milwaukee, St. Paul and Pacific Railroad Company (the Milwaukee Road)
2. American Bus Association (ABA)
3. Burlington Northern (BN)
4. Southern Railway System (Southern)
5. Union Pacific Railroad Company (UP)
6. New York State Department of Transportation (NY DOT)
7. Association of American Railroads (AAR)
8. The Family Lines Rail System (SCL/L&N)
9. The Dayton Power and Light Company (Dayton Power)
10. Conrail
11. Charles M. Rice, Publisher
12. United Transportation Union (UTU)
13. Railway Labor Executives' Association (RLEA)
14. Patrick W. Simmons

[FR Doc. 82–6316 Filed 3–8–82; 8:45 am]

BILLING CODE 7035–01–M

[1] Information on railroad tax accruals has been transferred to Schedule 450, Analysis of Federal Income Taxes. (See Appendix B.)

[2] Schedule 120, Debtholdings, is retained as R–1 Schedule 510. (See Appendix B.)

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

Tanner Crab Off Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, National Marine Fisheries Service, has determined that the desired harvest level of Tanner crab for the Chignik District in Registration Area J will be achieved on March 4, 1982, and that early closure of the fishery is necessary to protect Tanner crab stocks. The Secretary of Commerce, therefore, issues this notice of closure of the Chignik District to fishing for Tanner crab by vessels of the United States on March 4, 1982, thereby adjusting the previous closing date of May 15, 1982, in order to prevent overfishing of Tanner crab stocks in the Chignik District.

DATE: This notice is effective from 12:00 noon, Alaska Standard Time (AST), March 4, 1982, until 12:00 noon, Alaska Daylight Time (ADT), May 15, 1982. Public comments on the closure are invited until March 19, 1982.

ADDRESS: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, 907–586–7221.

SUPPLEMENTARY INFORMATION: The fishery management plan for the Commercial Tanner Crab Fishery Off the Coast of Alaska (FMP), governing this fishery in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act, Provides for inseason adjustments, by field order, to season and area openings and closures. Implementing rules at 50 CFR 671.27(b) specify that these orders will be issued by the Secretary of Commerce under the criteria set out in that section.

50 CFR 671.26(f) establishes five districts within Registration Area J in order to prevent overfishing of individual Tanner crab stocks by allowing closure or partial closure of a particular district when the desired harvest level is reached. One of these districts is the Chignik District for which an optimum yield for all Tanner crab of 5.0 million pounds has been approved by the Secretary of Commerce and is pending publication of a final implementing rule in the Federal Register. In 1981, the Alaska Department of Fish and Game (ADF&G) instituted a trawl survey in the Chignik District. This survey indicated that the acceptable harvest during the 1981–82 season should be only 3 million pounds. The season opened on December 15 (opening date delayed from November 1 to December 15 at 46 FR 58699 on December 3, 1981); by February 21, 2.5 million pounds of Tanner crab had been landed by a fleet of 34 vessels. The 1981 catch was 3.6 million pounds with a CPUE of 35 crabs per pot. The 1982 CPUE began at 24 crabs per pot but subsequently has declined to 20 crabs per pot. The declining CPUE substantiates the results of the trawl survey and indicates that the optimum yield cannot be achieved without the risk of harm to the resource. It is estimated that the desired harvest of 3 million pounds of Tanner crab from the Chignik District will be achieved on March 4, 1982.

In light of this information, the Regional Director, National Marine Fisheries Service, in accordance with 50 CFR 671.27(b), has determined that:

1. The actual condition of Tanner crab stocks in the Chignik District is substantially different from the condition that was previously anticipated; and

2. This difference reasonably supports the need to protect those Tanner crab stocks by closing the Chignik District to further fishing for Tanner crab during the current fishing year after 12:00 noon, Alaska Standard Time (AST), on March 4, 1982.

For these reasons, the Chignik District of Registration Area J, as defined in 50 CFR 671.26(f)(1)(iii), is closed to all fishing for Tanner crab from 12:00 noon, AST, March 4, 1982, until 12:00 noon, ADT, May 15, 1982, at which time the closure of this district prescribed in 50 CFR 671.26(f)(2)(iii) will begin. The description of this district is corrected elsewhere in today's issue.

This closure will not be effective prior to filing this notice with the Office of the Federal Register and publication of the closure for 48 hours through Alaska Department of Fish and Game procedures, under 50 CFR 671.27(a)(2). Under 50 CFR 671.27(b)(4), public comments on this notice of closure may be submitted to the Regional Director at the address stated above for 15 days following the effective date. During the 15-day comment period, the data upon which this notice is based will be available for public inspection during business hours (8:00 a.m. to 4:30 p.m.) (1) at the NMFS Kodiak Field Office,

ADF&G Building, at Kashevaroff and Mission Roads, Kodiak, Alaska 99615, and (2) at the NMFS Alaska Regional Office, Federal Building, Room 483, 709 West 9th Street, Juneau, Alaska 99802. If comments are received, this closure will be reconsidered and a subsequent notice will be published in the **Federal Register**, either confirming this field order's continued effect, modifying it, or rescinding it.

Other Matters

The Chignik Tanner crab stock will be subject to damage by overfishing unless this order takes effect promptly. I therefore find for good cause that advance notice and public comment on this order is contrary to the public interest, and that there should be no delay between its publication and its effective date.

This action is taken under the authority of regulations specified at 50 CFR 671.27, and is taken in compliance with Executive Order 12291. It is not subject to the requirements of the Regulatory Flexibility Act. In addition, it does not contain any collection of information request, as defined in the Paperwork Reduction Act of 1980.

(16 U.S.C. 1801 *et seq.*)

Dated: March 4, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-6837 Filed 3-4-82; 4:45 pm]

BILLING CODE 3510-22-M

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50 CFR Part 671

Tanner Crab Off Alaska; Correction

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correction.

SUMMARY: This document corrects a description contained in final regulations, published November 23, 1981 (46 FR 57302), implementing Amendment 6 to the fishery management plan for the Commercial Tanner Crab Fishery Off the Coast of Alaska. The correction interchanges "east" and "west" in the description of the Chignik District of Registration Area J, to agree with the intended description of that district as specified in the proposed rules (45 FR 80847).

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. McVey (Director, Alaska Region, National Marine Fisheries Service), 907-586-7221.

Dated: March 4, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

PART 671—TANNER CRAB OFF ALASKA

Accordingly, on page 57305, NOAA is correcting the introductory text of 50 CFR 671.26(f)(1)(iii) to read as follows:

§ 671.26 Season and gear restrictions.

* * * * *

(f) * * *

(1) * * *

(iii) *Chignik District.* All waters west of the longitude of Cape Kumlik (157°35' W. longitude) to east of a line connecting the following points:

* * * * *

(16 U.S.C. 1801 *et seq.*)

[FR Doc. 82-6838 Filed 3-4-82; 4:51 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 47, No. 46

Tuesday, March 9, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 729

Poundage Quota Regulations for the 1982 Crop of Peanuts

Note.—This document originally appeared in the **Federal Register** for March 8, 1982. It is reprinted in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Agricultural Stabilization and Conservation Service.

AGENCY: Agricultural Stabilization and Conservation Service, USDA

ACTION: Proposed rule.

SUMMARY: This proposed regulation sets forth the rules for establishing State and farm poundage quotas, farm yields, transfers of quota, determination of undermarketings, and issuance of farm quota notices to implement the Agriculture and Food Act of 1981 for the 1982 crop of peanuts. The rules for identification of marketings, assessment of marketing penalties, and processing of violations, will be issued in a later publication in the **Federal Register**. The most significant provisions of this regulation are the determination of farm poundage quota reductions, determination of under marketings, and transfers of farm poundage quotas. The promulgation of this rule is necessary in order that State and farm poundage quotas may be established for the 1982 crop of peanuts.

DATE: Comments must be received on or before March 23, 1982 in order to be assured of consideration.

ADDRESS: Send comments to the Director, Tobacco and Peanuts Division, ASCS, Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. All written submissions made pursuant to this notice will be made available for public inspection in Room 5750 South Building USDA, between the hours of 8:15 and 4:45, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Bruce D. Starnes (ASCS), 202-382-0150.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures and Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified "not major." It has been determined that this rule will not result in: (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, industries, Federal, State or local governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program that this final rule applies to are: Commodity Loans and Purchases; 10.051; as found in the Catalog of Federal Domestic Assistance. This proposed rule will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local governments are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since the Department of Agriculture is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

The planting season for peanuts will begin in late March and farmers need to know the details of the peanut program authorizing price support and poundage quotas for the 1982 through 1985 crops of peanuts. Poundage quotas establish eligibility for the $550 per ton quota price support and are an important part of a farmer's financial arrangements to cover production costs such as land preparation, fertilizer, seed, and other similar costs. Therefore, it has been determined that the comment period with respect to this rule shall be limited to a period of 15 days after the publication of this document in the **Federal Register** in order that comments received can be reviewed and a Final Rule can be published at the earliest possible date.

Statutory Requirements

The Agriculture and Food Act of 1981 (the Act), Which was enacted on December 22, 1981, amended the Agricultural Adjustment Act of 1938 and the Agricultural Act of 1949 to make significant changes in the administration of the peanut production and price support program. The Act abolishes acreage allotments for peanuts, thus permitting anyone to produce and market peanuts, under certain conditions, without penalty. The Act provides that the national poundage quota for peanuts will be reduced from 1,440,000 tons in 1981 to 1,200,000 tons for the 1982 crop. The poundage quota is the amount of peanuts entitled to be marketed from a farm directly for domestic edible use. Any peanuts produced on a farm without a farm poundage quota or in excess of the farm poundage quota are classified as additional peanuts and must be contracted for export or crushing by April 15, or placed at harvest in the price support loan pool for additional peanuts. Quota peanuts are eligible for price support at a rate of $550 per ton. The support level for additional peanuts is $200 per ton.

The Act requires that a farm poundage quota be established for each individual farm based on the farm poundage quota established for such farm for the 1981 crop, subject to a reduction which will result in the total of all farm poundage quotas being 1,200,000 tons, the 1982 national poundage quota. The Act specifies that the reduction in poundage quota allocated to States:

". . . shall insofar as practicable and on such fair and equitable basis as the Secretary may by regulation prescribe, be accomplished by reducing the farm poundage quota for each farm in the State to the extent that the farm poundage quota has not been produced on such farm. For purposes of the foregoing sentence, the farm poundage quota shall be considered as not having been produced on a farm to the extent that (i) during any crop year immediately preceding the crop year for which the adjustment is being made, such quota was not actually produced on the farm because there was inadequate tillable cropland available

on the farm to produce such quota; or (ii) during any two of the three crop years immediately preceding the crop year for which the adjustment is made: (I) such quota was not actually produced for any other reason (other than natural disasters or such other reasons as the Secretary may prescribe), or (II) such quota was produced but by another operator on a farm to which the poundage quota (or the acreage allotment upon which such poundage quota was based) was transferred by lease. To Achieve the reduction in the State poundage quota in any marketing year, the reductions in farm poundage quotas shall be made first under clause (i) of the preceding sentence and, if necessary, under clause (ii)(I) and then clause (ii)(II) thereof."

This proposed regulation sets forth the procedures for the establishment of farm poundage quotas and other terms and conditions of the program affecting the production of peanuts, such as transfers of quotas and the determination of yields. These regulations are based on previous regulations applicable to 1978–81 crops with respect to farm yields and the establishment of the farm poundage quotas, with modifications designed to reflect changes made by the 1981 Act. The primary impact of these regulations is to establish the manner in which the individual farm poundage quotas will be determined.

Reduction in Individual Farm Poundage Quotas

Basically, the Act sets forth farm poundage quota reduction categories for the purpose of establishing priorities in determining individual farm poundage quota reductions. The first category is for farms which did not actually produce peanuts on the farm because there was inadequate tillable cropland available on the farm to produce the quota quantity in the preceding crop year. The second category consists of those farms where peanuts were not acutally produced in two out of the three preceding years except in those situations where peanuts were not produced because of a natural disaster or other such reason as prescribed by the Secreatary. The third category consists of those farms for which the quota quantity was produced but by another operator on a farm to which the quota (allotment) had been transferred by lease two out of the three preceding years. The fourth category consists of all farms which were not reduced to a zero poundage quota under the first three categories or were not affected by reductions in the first three categories.

The Act requires the Secretary, insofar as practicable, to make reductions in this order and in accordance with such regulations as the Secretary determines to be fair and equitable.

During the development of this proposed rule, however, it has become apparent that there are a large number of farms falling into the third category. It has also become apparent that the application of the poundage quota reduction to farms in the third category might, in some instances, cause significant individual hardships and the disruption of normal production practices in a number of peanut growing areas. In particular, because of the late date on which the Act became law, the Department has had inadequate time to gather sufficient information upon which to evaluate the impact of reductions of farm poundage quotas in the third category. Moreover, producers have had to prepare for planting the 1982 crop of peanuts without knowing the specific manner in which the Department intended to implement the poundage quota reductions mandated by the Act.

In view of this situation, the Secretary proposes that in order to implement the Act in a fair and equitable manner, no individual farm poundage quota reductions should be made in the third category for the 1982 crop. Instead, a uniform State factor would be applied to all farms in the State if the poundage quota reductions in the first category and second category are insufficient to meet the required overall reduction in the State poundage quota.

This proposed rule would apply to the 1982 crop of peanuts only. It is anticipated that proposed regulations will subsequently be issued for the 1983 through 1985 crops of peanuts which will set forth procedures for reducing farm poundage quotas for farms in the third category. They will also afford the Department adequate time to analyze thoroughly the impact of reducing farm poundage quotas for farms in the third category.

Therefore, for purposes of the 1982 crop only, the proposed rule defines the categories of farms in which poundage quota reductions will be made as follows:

A. *Category 1. Inadequate Tillable Cropland.* Adequate tillable cropland is land determined by the county committee for the preceding crop year to be: (1) suitable for the production of peanuts; and (2) land on which a seedbed could have been prepared and a normal crop produced using practices and equipment normally used in the county for planting peanuts. Land not considered suitable for the production of peanuts includes, but is not limited to, established orchards, vineyards, one-row shelter belts, land seeded to trees, and land being prepared for housing developments, shopping centers, or other noncrop uses as determined by the county committee.

B. *Category 2. Non-production of the quota during two out of the three preceding years.* In this category, the farm poundage quota shall be reduced for the current year to the extent that the county committee determines that peanuts were not actually produced during two out of the three years of the base period, except when the county committee determines that the quota quantity was not produced because of natural disasters or other reasons beyond the control of the producer. Such reasons include:

(1) The farm or poundage quota was purchased after the latest normal 1980 planting date but was produced on the farm in 1981. This condition will apply only to establishing the farm poundage quota for such farm for the 1982 crop.

(2) The farm allotment (poundage quota) was in the Eminent Domain pool.

(3) The farm poundage quota was apportioned to the farm from the new farm reserve and produced in 1981. The considered produced credit for 1980 shall not exceed the produced and considered produced poundage quota for such farm for 1981 and shall apply only to establishing the farm poundage quota for the 1982 crop.

C. *Category 3. Farms not reduced to zero in categories 1 or 2.* A uniform State factor will be determined and applied against the preliminary farm poundage quotas on all farms not reduced to zero in the first two reduction categories. Because each State's reduction will be made independent of other States, the application and size of the factor may vary with respect to categories between States. Included in this group will be farms that received a partial reduction in categories 1 or 2 and still retained farm poundage quota. Also, some farms may be reduced in one or two categories prior to a factor being applied because of a combination of circumstances. For example, a farm may take a partial reduction in category 1 because of inadequate tillable cropland and also a reduction for not producing in category 2.

D. *Calculation of the farm poundage quota reduction in categories 1 or 2.* Calculations of farm poundage quota reductions will be done by individual categories in order of priority. In category 1, the reduction will equal the amount of nonproduction of the farm poundage quota that is attributable to inadequate tillable cropland during the previous crop year. In category 2, the reduction will be based on the average of the two highest percentages of nonproduction of the farm poundage quota during the three base period years. The amount of the reduction would equal: (1) the product of the average percentage *times* the preliminary farm poundage quota, *minus* (2) the amount of any reduction made under category 1, but may not be less than zero. The amount of reduction under category 1 is subtracted in order to prevent a duplication of reductions between the two categories. Otherwise, the cumulative effect of reductions in categories 1 and 2 could cause the farm poundage quota to be reduced below the amount of actual marketings of quota peanuts on the farm during the base period years.

The following is an example of how the calculations described above would be made. The example assumes that the farm poundage quota for each of the base period years (1979, 1980, and 1981) was 50,000 pounds, and that the preliminary farm poundage quota for 1982 is also 50,000 pounds.

EXAMPLE OF QUOTA REDUCTION CALCULATIONS

(All numbers in pounds)

	Year		
	1979	1980	1981
Inadequate tillable cropland			10,000
Nonproduction of quota	5,000	15,000	10,000
Actual production of quota	45,000	35,000	40,000

Category 1

Amount of nonproduction due to inadequate tillable cropland = 10,000
Potential reduction = 10,000

Category 2

Two highest percentages of non-production = 15,000 divided by 50,000 = .3 (1980)
Average of two highest percentages = .25
Potential reduction (average percentages × preliminary farm poundage quota) − Category 1 reduction = .25 (50,000) minus 10,000 = 2,500
Total Potential Reduction (Category 1 plus 2) = 12,500
1982 Adjusted Preliminary Farm Poundage Quota = 50,000 minus 12,500 = 38,500*

Reserve for Correction of Errors

The Act requires the Secretary to reduce the farm poundage quota on farms in the States on such fair and equitable basis as is practicable. To accomplish this objective, the proposed rule would require the State committee to establish a State reserve for the correction of errors. The reserve would not exceed 2 percent of the State poundage quota and would be allocated to counties upon request. The reserve will be used to the extent available to correct errors including, but not limited to, missed farms and errors in establishing preliminary farm poundage quotas. Requests for reconsideration and appeal may be made under the provisions of 7 CFR Part 780.

*Prior to the application of any uniform State factor should further reductions in category 3 be necessary.

Other Significant Considerations

The Act also modified or affected the terms and conditions for transfers of quota, carryover of undermarketings, farm yields, and quota in the Eminent Domain pool.

(a) *Farm poundage quota transfers.* The Act now allows transfers by lease or sale across county lines within a State in those States which had a State poundage quota of 10,000 tons or less for the 1981 crop. Those States are: Arizona, Arkansas, California, Louisiana, Missouri, Mississippi, New Mexico, and Tennessee. In addition, the owner or the operator of a farm may transfer all or any part of a farm's poundage quota to another farm in the same county or a contiguous county within the State that is owned or controlled by the owner or operator of the transferring farm. If the owner or operator transfer is across county lines, the receiving farm must have had a farm poundage quota for the 1981 crop.

(b) *Carryover of undermarketings.* The Act provides for undermarketings to be cumulative beginning with unused undermarketings from the 1980 crop. Each farm's unused undermarketings will be pooled for each farm under this proposed regulation and carried forward until used or until the authority to carry out this program expires. The total of all farm pooled undermarketings for all States will continue to be subject to the 10 percent maximum carryover for any given crop year. Consistent with previous practice, transfers of actual and effective undermarketings will not be permitted.

(c) *Farm yields.* The Act continues the same base period (i.e. 1973 through 1977) for determining farm yields as was applicable under previous legislation. Farm yields will not, therefore, change significantly.

(d) *Quota in the Eminent Domain pool.* Producers who had farm poundage quota displace and pooled through the right of eminent domain prior to December 22, 1981 will have a preliminary farm poundage quota established for the 1982 crop. Such quota must then be permanently transferred to an eligible farm prior to the establishment of the 1983 preliminary farm poundage quote or be subject to reduction due to inadequate tillable cropland.

Accordingly, it is proposed to amend the regulations at 7 CFR Part 729 by adding a new subpart to read as follows:

PART 729—PEANUTS

Subpart—Poundage Quota Regulations for the 1982 Crop of Peanuts

General

Sec.
729.111 Basis and purpose.
729.112 Extent of calculations and rule of fractions.
729.113 Definitions.
729.114 Types of peanuts.
729.115 Supervisory authority of State committee.
729.116–729.119 [Reserved].

State Poundage Quota, Farm Poundage Quota, Notice to Farm Operator and Appeals

729.120 Instructions and forms.
729.121 Determination of State poundage quota.
729.122 Reserves for corrections, and quota reduction exemptions.
729.123 Determination of preliminary farm poundage quota.
729.124 Determination of farm poundage quota.
729.125 Determination of undermarketings.
729.126 Determination of effective farm poundage quota.
729.127 Determination of farm yield.
729.128 Determination of farm yield for reconstituted farm.
729.129 Approval of farm poundage quota and notice to farm operator.
729.130 Erroneous notice of effective farm poundage quota.
729.131 Request for reconsideration or appeal.
729.132 Farm with one acre or less of peanuts.
729.133–729.139 [Reserved].

Transfer of Farm Poundage Quota

729.140 Transfer by sale or lease.
729.141 Transfer by owner or operator.
729.142 Transfer within a State.
729.143 Witness of signatures.
729.144 Filing transfer agreement and time for filing.
729.145 Maximum period of transfer.
729.146 Transfer not to be approved.
729.147 Transfer of farm poundage quota in eminent domain pool.
729.148 Consent of lienholder.
729.149 Transfer to and from farm (subleasing).
729.150 Effect of permanent transfer on determination of farm poundage quota.
729.151 County committee action.
729.152 Withdrawal or minor revision.
729.153 Recomputation of previously approved multiple year transfer.
729.154 Amendment of multiple year transfer filed on or before December 22, 1981.

Authority: Secs. 301, 357, 358, 358a, 359, 372, 373, 375, 52 Stat. 38, as amended, 55 Stat. 88, as amended, 61 Stat. 658, as amended, 55 Stat. 90, as amended, 52 Stat. 65, as amended, 66, as amended, 91 Stat. 944, as amended, 95 Stat. 1260 (7 U.S.C. 1301, 1357, 1358, 1358a, 1359, 1372, 1373, 1375 as amended); Sec. 108A, 95 Stat. 1254 (7 U.S.C. 1445c–1)

Subpart—Poundage Quota Regulations for 1982 Crop of Peanuts

General

§ 729.111 Basis and purpose.

(a) The regulations contained in this subpart are issued in accordance with the Agricultural Adjustment Act of 1938, as amended, and the Agricultural Act of 1949, as amended, and are applicable to the 1982 crop of peanuts. They govern the establishment of farm poundage quotas, the issuance of marketing cards, the identification of marketings of peanuts, the collection and refund of penalties, the keeping of records, and the making of reports incident thereto.

(b) The acreage allotment, marketing quota, and poundage quota regulations for peanuts for the 1978 and subsequent crops (43 FR 28867 and 44 FR 25404, 28294, as amended) are hereby superseded but remain effective with respect to the 1978 through the 1981 crops of peanuts.

§ 729.112 Extent of calculations and rule of fractions.

Computations shall be rounded according to Part 793 of this chapter. The terms set forth below shall be expressed as follows:

(a) Acreage in acres and tenths of acres.

(b) Penalty or damages in dollars and cents.

(c) The quantity of peanuts produced, considered produced and marketed; a preliminary farm poundage quota; a farm poundage quota; an effective farm poundage quota; a farm yield; and an actual yield per acre, in whole pounds.

(d) Factors as a four place decimal except where a different place decimal factor is established by the Deputy Administrator.

§ 729.113 Definitions.

The definitions in and provisions of Parts 718, 719, and 720 of this chapter are hereby incorporated by reference in these regulations unless the context or subject matter or the provisions of these regulations require otherwise. References to other parts of this chapter or title include any amendments to the referenced parts. Unless the context or subject matter require otherwise, the following words and phrases, as used in this subpart and in all related instructions and forms shall mean:

(a) *Additional peanuts.* Any peanuts which are marketed from a farm other than peanuts marketed or considered marketed as quota peanuts.

(b) *Areas.* (1) The southeastern area consisting of the States of Alabama, Georgia, Mississippi, Florida, and that part of South Carolina south and west of the Santee-Congaree-Broad Rivers.

(2) The southwestern area consisting of the States of Arizona, Arkansas, California, Louisiana, New Mexico, Oklahoma, and Texas.

(3) The Virginia-Carolina area consisting of the States of Missouri, North Carolina, Tennessee, Virginia, and that part of South Carolina north and east of the Santee-Congaree-Broad Rivers.

(c) *Base period.* The 3 calendar years immediately preceding the year for which a farm poundage quota is being established.

(d) *Buyer.* A person who:

(1) Buys or otherwise acquires peanuts in any form;

(2) Markets, as a commission merchant, broker, or cooperative, any peanuts for the account of a producer and is responsible to the producer for the amount received for the peanuts; or

(3) Receives peanuts as collateral for or in settlement of a price support loan.

(e) *Considered produced.* The number of pounds of peanuts to be considered produced for the current year or for a base period year for use in computing a future farm poundage quota. Considered produced pounds for a farm will be the sum of the pounds (limited to the farm poundage quota less the pounds of peanuts marketed) which:

(1) Were not produced because of a natural disaster as determined by the county committee in accordance with instructions issued by the Deputy Administrator, State and County Operations, Agricultural Stablization and Conservation Service (hereinafter referred to as the "Deputy Administrator").

(2) Were in an eminent domain pool.

(3) Are equal to the farm poundage quota on a farm where the farm was either purchased or a transfer by sale was approved, after the latest normal planting date for peanuts for the county for the 1980 crop year, and only to the extent that such farm poundage quota was produced or considered produced on the farm to which allocated during the 1981 crop year.

(4) Are equal to the total pounds produced or considered produced on a farm to which was allocated for the 1981 crop year a new farm allotment and quota in accordance with § 729.17 of this chapter.

(f) *Cropland.* Land on a farm which is determined by the county committee to be suitable for the production of peanuts and on which a seedbed could have been prepared and a normal crop produced using practices and equipment normally used in the county for planting peanuts. Land not considered suitable includes, but is not limited to, established orchards, vineyards, one-row shelter belts, land seeded to trees, and land being prepared for housing developments, shopping centers, or other noncorp uses as determined by the county committee.

(g) *Crushing.* The processing of peanuts (1) to extract oil for food uses and meal for feed uses, or (2) into flakes for domestic food uses other than peanut butter, candy, confections or other traditional domestic edible uses.

(h) *Director.* The Director, or Acting Director, Tobacco and Peanuts Division, Agricultural Stablization and Conservation Service, U.S. Department of Agriculture.

(i) *Domestic edible use.* Peanuts which are: (1) used for milling to produce domestic food peanuts, other than peanuts used for crushing; (2) used for seed; or (3) dug peanuts used or consumed on the farm.

(j) *Effective farm poundage quota.* The quota determined in accordance with § 729.126.

(k) *Excess peanuts.* The quantity of peanuts marketed or considered marketed for domestic edible use in the current marketing year in excess of the effective farm poundage quota.

(l) *Farm poundage quota.* The quota determined in accordance with Section 729.124.

(m) *Farm yield.* The farm yield determined in accordance with § 729.127.

(n) *Farmers stock peanuts.* Dug peanuts produced in the United States which have not been shelled, crushed, cleaned, or otherwise changed (except for removal of foreign material, loose shelled kernels, and excess moisture) from the condition in which picked or threshed peanuts are customarily marketed by producers.

(o) *False identification.* False identification shall include the following:

(1) Identifying or permitting the identification of peanuts at time of marketing as having been produced on a farm other than the farm of actual production; or

(2) Marketing or permitting the marketing of peanuts from a farm without identifying the peanuts with a peanut marketing card issued for the farm; or

(3) Permitting the use of the peanut marketing card for the farm to record a marketing of peanuts when, in fact, no peanuts were marketed from the farm.

(p) *Final acreage.* The acreage on the farm from which peanuts are produced as determined and adjusted in accordance with Part 718 of this chapter.

(q) *Green peanuts.* Peanuts which, before drying or removal of moisture from the peanuts either by natural or artificial means, are marketed by the producer for consumption exclusively as boiled peanuts.

(r) *Inspector.* A Federal or Federal-State inspector authorized or licensed by the U.S. Department of Agriculture.

(s) *Marketed.* To dispose of peanuts (including farmers stock peanuts, shelled peanuts, cleaned peanuts, or peanuts in processed form) by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos. The terms "market", "marketing", and "for market" shall have corresponding meanings to the term "marketed" in the connection in which they are used. The terms "barter" and "exchange" shall include the payment by the producer of any quantity of peanuts, for the harvesting, picking, threshing, cleaning, crushing, or shelling of peanuts, or for any other service rendered to the producer by anyone. Any lot of farmers stock peanuts will be considered as marketed when delivered by the producer to the buyer pursuant to an oral or written sales agreement. Peanuts which are delivered by the producer as collateral for or in settlement of a price support loan will be considered as marketed at the time of delivery. Delivery shall be deemed to have occurred when unloaded at the delivery point. Any peanuts retained on the farm for seed or other use shall be considered marketings of quota peanuts or marketings for domestic edible use.

(t) *Marketing year.* For each crop of peanuts, the period beginning August 1 of the current year and ending July 31 of the following year.

(u) *National poundage quota.* 1,200,000 tons for 1982.

(v) *Planted acreage.* The final acreage of peanuts on a farm determined in accordance with the provisions of Part 718 of this chapter.

(w) *Peanuts.* All peanuts produced, excluding any peanuts which were not dug or were not picked or threshed before or after marketing from the farm and excluding any peanuts marketed by the producer before drying or removal of moisture from such peanuts by natural or artifical means for consumption exclusively as boiled peanuts (referred to as "green peanuts"). If a lot of farmers stock peanuts has been inspected by the Federal-State Inspection Service at the time of marketing, the quantity in the lot shall be the gross weight thereof less foreign material and excess moisture (moisture in excess of 7 percent in the southeastern and southwestern areas and 8 percent in the Virginia-Carolina area). If the lot of peanuts is not inspected by the Federal-State Inspection Service, the quantity in the lot shall be the gross weight thereof. If shelled peanuts are marketed by a producer, the quantity in the lot (farmers stock basis) shall be determined by multiplying the poundage of the shelled peanuts by 1.5.

(x) *Preliminary farm poundage quota.* The quota determined in accordance with § 729.123.

(y) *Produced.* The total pounds of peanuts dug.

(z) *Quota peanuts.* Peanuts (except green peanuts) which are marketed or considered marketed from a farm for domestic edible use. This includes all peanuts which are dug on a farm except the following: (1) green peanuts; (2) peanuts which are placed under loan at the additional support rate and not redeemed by the producer; or (3) peanuts which are marketed under a contract between a handler and a producer for export and/or crushing.

(aa) *Seed sheller.* A person who in the course of his usual business operations shells peanuts for producers for use as seed for the subsequent year's corp.

(bb) *Segregation 1 peanuts.* A lot of farmers stock peanuts which (1) have at least 90 percent peanuts of one type, (2) have not more than 2 percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold, or decay, and (3) are free from visible Aspergillus flavus mold.

(cc) *Undermarketings.* The number of pounds determined in accordance with § 729.125.

(dd) *Yield per acre or actual yield.* The actual yield per acre for the farm obtained by dividing the total production of peanuts for the farm by the final acreage of peanuts.

§ 729.114 Types of peanuts.

The generally known types of peanuts have identifying characteristics as follows:

(a) *Runner type peanuts.* These peanuts are commonly known as African Runner, Alabama Runner, Georgia Runner, Carolina Runner, Wilmington Runner, Dixie Runner, or Runner. They are produced principally in the southeastern peanut producing area of the United States and are identified by the following characteristics: Typically two-seeded pods which are practically cylindrical, medium sized, stem end round and the other pointed with a slight keel having shells fairly thick and strong, with shallow veining and corrugation; seeds crowded in pod with adjacent ends sharply shouldered.

(b) *Spanish type peanuts.* These peanuts are commonly known as White Spanish, Small Spanish, Medium-Small Spanish, or Spanish. They are produced principally in the southeastern and southwestern peanut-producing areas of the United States and are identified by the following general characteristics: Typically two-seeded pods which are small, with both ends rounded, the end opposite the stem having an inconspicuous point or keel, and the waist slender; shells very thin, with veining and corrugation but not deep, and seed globular to oval and practically smooth.

(c) *Valencia type peanuts.* These peanuts are commonly known as New Mexico Valencia, Tennessee Valencia, Tennessee White, Tennessee Red, or Valencia. They are produced principally in Tennessee and New Mexico and are inditified by the following general characteristics: Typically three of four-seeded, and sometimes five-seeded pods which are long and slender, with the end opposite the stem having a definite point or keel with conspicuous veining and corrugation, and seeds globular to oval.

(d) *Virginia type peanuts.* The peanuts are commonly known as Virginia Runner, Virginia Bunch, North Carolina Runner, North Carolina Bunch, Jumbo, or Virginia. They are produced principally in North Carolina, Virginia, northeastern South Carolina, and Tennessee, and are identified by the following general characteristics: Typically two-seeded pods which are of an average size larger than any other type, pods are roughly cylindrical, with veining and corrugation deep, and seeds cylindrical with pointed ends, length two or three times diameter, and practically smooth.

§ 729.115 Supervisory authority of State committee.

The State committee shall take any action required to be taken by the county committee which the county committee fails to take. The State committee shall correct or require the county committee to correct any action taken by the county committee which is not in accordance with this subpart. The State committee shall also require the county committee to withhold taking any action which is not in accordance with this subpart.

§§ 729.116-729.119 [Reserved]

State Poundage Quota, Farm Poundage Quota, Notice to Farm Operator and Appeals

§ 729.120 Instructions and forms.

The Director shall issue such forms and instructions as are necessary for carrying out the regulations in this subpart.

§ 729.121 Determination of State poundage quota.

The State poundage quota shall be the State's share of the current year's national poundage quota calculated to equal the percentage of the 1981 national poundage quota allocated to farms in the State.

§ 729.122 Reserve for corrections.

For the purpose of correcting errors, the State committee shall establish a reserve of not to exceed 2 percent of the State poundage quota. If the amount of poundage quota necessary to correct errors is in excess of the reserve established by the State committee, such errors may nevertheless be corrected with the approval of the Deputy Administrator. However, the Deputy Administrator may require the State committee to recalculate the farm poundage quotas for all farms in the State, if the Deputy Administrator determines that the amount of poundage quota necessary to correct errors is substantially in excess of the reserve. In such case, the State committee shall reissue corrected farm poundage quotas for all farms in the State and such corrected farm poundage quota shall be considered the farm poundage quota for the farm for all purposes.

§ 729.123 Determination of preliminary farm poundage quota.

The preliminary farm poundage quota shall be the farm poundage quota established for the farm for the preceding year.

§ 729.124 Determination of farm poundage quota.

The farm poundage quota shall be the preliminary farm poundage quota adjusted downward for poundage quota reductions as required by this section, plus permanent adjustments from reserves and permanent transfers.

(a) *Poundage quota reductions.* The preliminary farm poundage quota for each farm shall be reduced by the county committee in the following order of priority to the extent necessary, in whole or in part, to accomplish the reduction in the total of the preliminary farm poundage quotas for the State to the State poundage quota less the amount withheld for the reserve for the current marketing year.

(1) Inadequate tillable cropland. The preliminary farm poundage quota shall be reduced for a farm to the extent the county committee determines that the farm did not have adequate tillable cropland to produce the farm poundage quota during the preceding crop year. A farm for which the acreage allotment and farm poundage quota was in the eminent domain pool on December 22, 1981 shall be considered as having adequate tillable cropland.

(2) *Quota not produced.* The preliminary farm poundage quota for a farm shall be reduced, or further reduced, to the extent the county committee determines that the farm poundage quota for such farm was not produced or considered produced during any two of the base period years. An individual determination shall be made for the farm as constituted during each year of the base period if the current constitution differs from any one or more of the base period years.

(3) *Calculation of farm poundage quota reductions under subparagraphs (a)(1) and (2).*

(i) The amount of the farm poundage quota reduction made under subparagraph (a)(1) of this section shall equal the amount of the farm poundage quota that was not produced on the farm during the previous crop year because of inadequate tillable cropland.

(ii) The amount of the farm poundage quota reduction made under subparagraph (a)(2) shall equal: (A) the preliminary farm poundage quota times the average of the two highest percentages of the farm poundage quota that was not produced or considered produced during two of the three base period years minus (B) the amount of any reduction under subparagraph (a)(3)(i) of this section, but not less than zero.

(4) *Application of State factor.*

(i) If the cumulative totals of individual farm poundage quota reductions computed in accordance with paragraphs (a)(1) or (2) of this section are more than the required reduction (including amounts withheld for the reserve) in the State poundage quota for the current year, a uniform State factor shall be determined by the State committee and multiplied times the reductions of farm poundage quotas computed for the farms in the category for which the farm poundage quota reductions exceed the total of the required reduction for the State, so as to cause the cumulative total of reductions of individual farm poundage quotas to equal the total reduction for the State plus amounts withheld for the reserve.

(ii) If the cumulative total of individual farm poundage quota reductions in paragraphs (a)(1) and (2) of this section is less than the required reduction (including amounts withheld for the reserve) in State poundage quota for the current year, a uniform State factor shall be determined by the State committee and multiplied times the preliminary farm poundage quotas on the remaining farms in the State (including those not reduced to zero in paragraphs (a)(1) and (2) of this section), so as to cause the cumulative total of reductions of individual farm poundage quotas to equal the total reduction for the State plus amounts withheld for the reserve.

(b) *Permanent adjustments.* The preliminary farm poundage quota, after adjustments under paragraph (a) of this section, if any, shall be adjusted by the county committee to reflect permanent transfers or adjustments from reserves as set forth in this subpart.

(c) *Eminent domain pool quota.* The farm poundage quota in the eminent domain pool on December 22, 1981 shall not be adjusted by the county committee pursuant to paragraph (a) (1) and (2) of this section. Notwithstanding the provisions of § 719.11 of this chapter, peanut farm poundage quotas in the eminent domain pool on December 22, 1981 shall only be transferred from the eminent domain pool in accordance with § 729.147. Peanut farm poundage quotas on farms acquired by an agency having the right of eminent domain after December 22, 1981 shall not be eligible to be pooled under the provisions of § 719.11. In order to preserve farm poundage quotas in the eminent domain pool on December 22, 1981, such quota must be transferred pursuant to the provisions of § 729.147 during calendar year 1982.

§ 729.125 Determination of undermarketings.

(a) *Actual undermarketings.* Actual undermarketings are the number of pounds by which the total marketings of quota peanuts from the farm during previous marketing years (excluding any marketing year before the marketing year for the 1980 crop) were less than the total amount of the applicable farm poundage quotas (disregarding adjustments for undermarketings from prior marketing years) for such marketing years. For purposes of the foregoing sentence, total marketings of quota peanuts for any marketing year shall be the larger of (1) the total production of segregation 1 peanuts on the farm for such year, or (2) the total amount of quota peanuts which were marketed or considered marketed from the farm. However, the total marketings of quota peanuts for any marketing year shall not exceed the effective farm poundage quota for that farm for such year.

(b) *Effective undermarketings.*

(1) If 10 percent of the national poundage quota for the marketing year to which the actual undermarketings are to be applied is equal to or greater than the acutal undermarketings on all farms, the effective undermarketings for the farm shall be the same as the actual undermarketings.

(2) If the conditions in paragraph (b)(1) of this section are not applicable, the actual undermarketings will be apportioned to each farm in such manner that the effective undermarketings (i) will not be less than the smaller of the actual undermarketings or 10 percent of the farm poundage quota; (ii) will not be more than the actual undermarketings; and (iii) will be apportioned so as to cause, insofar as practicable, the total of the effective undermarketings on all farms to equal 10 percent of the national poundage quota for the marketing year to which the effective undermarketings are to be applied.

§ 729.126 Determination of effective farm poundage quota.

The effective farm poundage quota shall be the farm poundage quota adjusted for temporary transfers and effective undermarketings.

§ 729.127 Determination of farm yield.

The farm yield established for a farm for which a farm poundage quota is established for the current year shall be the farm yield established for the farm for the immediately preceding year. If a farm yield is not established for a farm on which a farm poundage quota is established, the county committee shall establish a farm yield in accordance with instructions issued by the Deputy Administrator.

§ 729.128 Determination of farm yield for reconstituted farm.

For reconstitutions which are effective after farm yields have been established the farm yield shall be determined as follows:

(a) *Combination*—(1) *Quota farm.* The farm yield for a combined farm shall be the weighted average of the farm yields for the tracts being combined.

(2) *Quota and nonquota farm.* A combined farm shall be assigned the farm yield of the tract with an established quota if placed in combination with a nonquota tract even though a farm yield previously had been established for such nonquota tract.

(3) *Nonquota farms.* The farm yield for combined nonquota tracts shall be established by the county committee in accordance with § 729.127 even though a farm yield had been previously established for such tracts.

(b) *Divisions*—(1) *No identifiable tracts having tract yield established.* The farm yield shall be the same for each tract as the farm yield for the parent farm.

(2) *Identifiable tracts with tract yield established.* The farm yield shall be the same as the yield which has been previously established for the tract which is divided from the parent farm.

(3) *Division of an identifiable tract having a tract yield established.* The farm yield shall be the same as the yield which has been previously established for the tract which is being divided.

§ 729.129 Approval of farm poundage quota and notice to farm operator.

(a) *Approval.* Each farm yield, preliminary farm poundage quota, farm poundage quota, and effective farm poundage quota shall be determined under the supervision of, and approved by, the county committee of the county in which the farm is administratively located, subject to the concurrence of the State committee or a representative of the State committee. The initial notice of farm poundage quota shall not be mailed to a farm operator until the farm poundage quota has been approved. A revised notice may be mailed without prior approval in any case resulting from: (1) farm reconstitution that does not require allocation of additional poundage quota; or (2) a transfer by lease, sale, owner or operator of poundage quota.

(b) *Notice to farm operator.* (1) As soon as possible after the farm poundage quota or the effective farm poundage quota is approved, an official notice of such quota shall be mailed to the farm operator.

(2) If a farm poundage quota is reduced to zero for the current year, the county committee shall mail to the farm operator a notice of such determination.

(3) A revised notice of farm poundage quota or the effective farm poundage quota shall be mailed to the farm operator as soon as possible after the county committee determines that an incorrect notice has been mailed or the county committee takes an action which requires a revision of the previously determined quota.

(4) The notice to the opertor shall constitute notice to all persons who as operator, landlord, tenant, or sharecropper has an interest in the farm for which the quota is established.

§ 729.130 Erroneous notice of effective farm poundage quota.

If the official notice of effective farm poundage quota issued for a farm erroneously stated a quota larger than the correct effective farm poundage quota, the quota shown on the erroneous notice shall be used as the effective farm poundage quota and shall serve as the basis for marketing penalty computations for the farm for the current marketing year only, if the county committee determines and the State Executive Director concurs that: (1) the error was not so substantial as to place the operator on notice thereof, and (2) the operator was not notified of the correct effective farm poundage quota prior to marketing peanuts as quota peanuts in excess of the correct effective farm poundage quota. Notwithstanding the foregoing, undermarketings for farms for which the erroneous notice of the effective farm poundage quota is applied shall be determined on the basis of the correct effective farm poundage quota for the farm.

§ 729.131 Request for reconsideration or appeal.

Any producer who is dissatisfied with the initial determination of the farm poundage quota or the effective farm poundage quota which is established for such farm may file a request for reconsideration with the county committee in accordance with Part 780 of this Chapter. Such request must be filed no later than 15 days after the producer receives the notice of the farm poundage quota or effective farm poundage quota. If after reconsideration the producer remains dissatisfied with the determination, the producer may appeal such determination to the State committee in accordance with Part 780 of this Chapter. Determinations rendered by the State committee with respect to the determination of individual farm poundage quotas and effective farm poundage quotas shall be final and there shall be no further administrative appeal.

§ 729.132 Farms with one acre or less of peanuts.

Peanuts produced on a farm on which the acreage of peanuts is one acre or less are eligible to be marketed for domestic edible use provided that all producers that share in the peanuts produced on such farm do not share in the peanuts produced on any other farm.

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§§ 729.133–729.139 [Reserved]

Transfers of Farm Poundage Quota

§ 729.140 Transfer by sale or lease.

The owner and operator of any farm having a farm poundage quota in the current year is eligible to file a record of transfer for sale or lease of all or any part of the farm poundage quota to any other owner or operator of a farm in the same county. The receiving farm need not have a farm poundage quota. If the owner(s) and operator of the farm from which the transfer by sale or lease is to be made are different persons, each shall execute the record of transfer. However, only the owner(s) or operator of the receiving farm is required to execute the record of transfer.

§ 729.141 Transfer by owner or operator.

The owner or operator of any farm having a farm poundage quota in the current year is eligible to file a record of transfer to transfer the farm poundage quota from such farm to another farm owned or controlled by the applicant: (a) in the same county; or (b) in a county that is contiguous to the transferring county in the same State if the receiving farm had a farm poundage quota established for the 1981 crop.

§ 729.142 Transfer within State.

Notwithstanding the provisions of § 729.140 and § 729.141, a transfer of a farm poundage quota by sale, lease, owner or operator, may be made to any other farm in the same State, pursuant to instructions issued by the Deputy Administrator, in the States of Arizona, Arkansas, California, Louisiana, Mississippi, Missouri, New Mexico and Tennessee.

§ 729.143 Witness of signatures.

A county committee member or employee must witness the signature of either the owner or operator of the transferring farm and the owner or operator of the receiving farm. If such signatures cannot be witnessed in the county office where the farm is administratively located, they may be witnesses in any county office convenient to the owner or operator's residence. The requirement that signatures be witnessed for producers who are ill, infirm, reside in distant areas, or are in similar hardship situations, or who may be unduly inconvenienced, may be waived provided the county office mails Form ASCS–375 or such other form approved by the Deputy Administrator to such person for the required signature. In the case of a transfer by sale, such request must be accompanied by a statement signed by all parties to the transaction confirming that the sale has been made.

§ 729.144 Filing transfer agreement and time for filing.

No transfer of any quota under this section shall become effective until a record of transfer, determined by the county committee to be in compliance with the provisions of this subpart, has been executed on Form ASCS–375 or such other form approved by the Deputy Administrator and filed within the time periods set forth in this section with the county committee in the county where the farms are administratively located.

(a) *Transfer filed by July 31.* A record of transfer filed after July 31 may be considered filed by July 31 if the county committee, with approval of the State committee, finds that (1) the transfer was agreed upon no later than July 31, and (2) the record of transfer was not filed by July 31 because of conditions beyond the control of the parties to the transfer.

(b) *Transfer filed after July 31.* A transfer filed after July 31 shall not become effective unless filed no later than December 31 of the current year. A record of transfer filed after December 31 but prior to January 31 may be considered timely filed by December 31 if the county committee with approval of the State committee finds that (1) the transfer was agreed upon no later than December 31, and (2) the record of transfer was not timely filed with the county committee because of conditions beyond the control of the parties to the transfer.

§ 729.145 Maximum period of transfer.

(a) *Owner transfer.* (1) An owner transfer may be approved to a farm owned by such person permanently or temporarily but not beyond the 1985 marketing year. (2) An owner transfer to a farm controlled by such person may be approved for only one year.

(b) *All other transfers.* Transfers by lease and by operator may only be approved for one year. Mulityear leases and permanent operator transfers shall not be permitted.

§ 729.146 Transfer not to be approved.

The county committee shall not approve:

(a) A transfer of poundage quota by sale if poundage quota was transferred to the farm by sale within the 3 preceding crop years.

(b) Temporary transfers by an operator for more than one year.

(c) Permanent transfers by an operator.

(d) Transfers filed after July 31 for more than 1 marketing year.

(e) Transfers of actual or effective undermarketings.

§ 729.147 Permanent transfer of quota in eminent domain pool.

A farm poundage quota established prior to December 22, 1981 as a pooled poundage quota or allotment under Part 719 of this Chapter may be permanently transferred only during calendar year 1982 by the owner to a farm such person owns. Temporary transfers of pooled quota shall not be approved.

§ 729.148 Consent of lienholder.

A transfer of poundage quota from a farm which the county committee has been informed is subject to a mortgage or other lien shall not be approved unless the transfer is agreed to in writing by the lienholder.

§ 729.149 Transfer to and from a farm (subleasing).

(a) *Transfer filed before July 31.* Generally the county committee shall not approve a transfer which is filed (or considered filed) on or before July 31 if the approval would result in a transfer both to and from the farm during the period ending July 31 of the same crop year. However, a transfer may be approved if a poundage quota is transferred temporarily from a farm for 1 or more years (and the transfer remains in effect) and the farm is subsequently combined with another farm that is otherwise eligible to receive poundage quota by transfer.

(b) *Transfer filed after July 31.* A temporary transfer of poundage quota either to or from the same farm (but not both) may be approved by the county committee if filed after July 31 even though a transfer which was filed on or before July 31 is in effect for the farm provided the producers so certify and the county committee determines that the (1) acreage of peanuts planted on the farm was equal to at least 80 percent of the acreage determined by dividing the effective farm poundage quota by the current farm yield for the farm, and (2) the production to peanuts was limited to less than the effective farm poundage quota because of conditions beyond control of the producer.

§ 729.150 Effect of permanent transfer on determination of farm poundage quota.

The quota, pounds produced, pounds considered produced, pounds transferred and produced on a receiving farm for both the transferring farm and the receiving farm shall be adjusted for the current year and for 2 preceding years to reflect the applicable increase or decrease in the farm poundage quota and other historic data or farm practices affecting the determination of farm poundage quotas.

§ 729.151 County committee action.

(a) *Approval of transfer.* The county committee shall approve the transfer of poundage quota only if it determines that a timely filed record has been received and that the transfer complies with the requirements of this subpart. A transfer shall not be effective until approved by the county committee. The county committee may delegate authority to the county executive director and to other county office employees to approve transfers of poundage quotas.

(b) *Notice of revised quotas.* A revised notice of farm poundage quota must be issued for each farm affected by the transfer of farm poundage quota.

(c) *Cancellation of transfer.* (1) A transfer approved on the basis of incorrect information furnished by the parties to the transfer agreement or approved due to error by the county committee shall be canceled effective as of the date of approval. However, the cancellation shall not be effective for the current marketing year if:

(i) The transfer approval was made on the basis of incorrect information unknowingly furnished in good faith by the parties to the transfer agreement or the transfer approval was made in error by the county committee, and

(ii) The parties to the transfer agreement were not notified of the cancellation prior to the marketings of quota peanuts in excess of the revised effective farm poundage quota.

(2) Where cancellation of a transfer is required, the county committee shall issue revised notices of poundage quota showing the reasons for cancellation.

§ 729.152 Withdrawal or minor revision.

Where the county committee determines that it is clearly in the best interest of all the producers and that effective operation of the program will not be impaired, the county committee may permit withdrawal or minor revisions of a transfer upon written request by all parties to the transfer. However, a temporary transfer may be withdrawn or revised before peanuts are harvested during any year of the agreement, and a permanent transfer may be withdrawn or revised before peanuts are harvested only during the first year of the agreement.

§ 729.153 Recomputation of previously approved multiple year transfer.

For a multiple year temporary transfer approved after 1982, the county committee shall annually recompute the transfer by limiting the poundage quota transferred to the smaller of: (a) the poundage quota initially transferred, or (b) the farm poundage quota for the transferring farm.

§ 729.154 Amendment of multiple year transfer agreements approved on or before December 22, 1981.

Notwithstanding any other provision in this section, a multiple year temporary transfer approved on or before December 22, 1981 shall not be effective after the 1981 crop year unless an amended record of transfer is filed. The county committee shall notify the operator of both the transferring farm and the receiving farm of the requirement for filing an amended record of transfer in order for the previously filed transfer agreement to remain in effect. The amended record of transfer must be filed at the county ASCS office within 30 days from the date of notification by the county committee that an amended transfer agreement is required. The amended agreement shall be on the basis of the farm poundage quota established for the farm for 1982 and shall be agreed upon and signed by each person whose signature is required and in accordance with the provisions of this subpart.

Signed at Washington, D.C. on March 4, 1982.

Richard E. Lyng,

Acting Secretary.

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Agricultural Marketing Service

7 CFR Part 1007

[Docket No. AO–366–A18]

Milk in the Georgia Marketing Area; Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends amending the Georgia Federal milk marketing order. The change would provide that a distributing plant located within the marketing area that processes and distributes primarily aseptically processed fluid milk products would be fully regulated under the Georgia order, irrespective of the market or markets in which the products may be distributed. The recommendation, which is based on evidence received at a public hearing held at Hapeville, Georgia, on January 21, 1982, is necessary to ensure a stable regulatory environment for such a plant. The hearing was requested by a dairy farmer cooperative association that is now constructing this type of milk plant at Savannah, Georgia.

DATE: Comments are due on or before March 16, 1982.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202/447–4829.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

This action will not have a significant economic impact on a substantial number of small entities. The amendments would promote orderly marketing of milk by producers and regulated handlers.

Prior documents in this proceeding:

Notice of Hearing: Issued January 5, 1982; published January 8, 1982 (47 FR 962).

Correction: Published January 14, 1982 (47 FR 2122).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Georgia marketing area. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C., 20250, on or before March 16, 1982. It is necessary to limit the time for filing exceptions to seven days after **Federal Register** publication in order to complete this proceeding so that an amended order would be effective not later than May 1, 1982. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at

the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing held at Hapeville, Georgia, on January 21, 1982, pursuant to notice thereof issued January 5, 1982 (47 FR 962).

The material issue on the record of hearing relates to whether the pool plant standards should be revised with respect to a milk plant in the marketing area that processes and distributes aseptically processed fluid milk products.

Findings and Conclusions

The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

The provisions of the order describing those plants that qualify as pool plants should be modified to include a distributing plant located in the marketing area if the principal activity of the plant is the processing and distribution of aspetically processed fluid milk products. Such pool status should not be dependent upon the amount of route disposition within the Georgia marketing area. Under the current provisions of the order, a distributing plant qualifies as a pool plant if it has route disposition equal to at least 50 percent of its receipts and has route disposition in the Georgia marketing area equal to at least 15 percent of its total Class I disposition.

Dairymen, Inc. (DI), a dairy farmer cooperative, proposed that the order be amended to accommodate the operations of a new milk plant that it is building at Savannah, Georgia, which is in the defined marketing area. The plant is expected to be operational by May 1, 1982. The cooperative's witness stated that the new plant will utilize "aseptic processing and packaging which means the filling of a commercially-sterilized cool product into presterilized containers, followed by the aseptic hermetical sealing with a presterilized closure, in an atmosphere free of microorganisms * * *." The witness indicated that the aseptic process would include the use of ultra high temperature pasteurization, and that the resulting products, commonly referred to as "UHT" milk, could be distributed and stored unfrigerated for several months.[1]

DI proposed that this type of plant be a pool plant if it is in the marketing area and meets the current performance requirements for a distributing plant except the 15 percent in-area route disposition requirement. It is the cooperative's intent that the plant be pooled under the Georgia order irrespective of the level of route sales in this or other markets.

The DI spokesman stated several reasons why the proposal should be adopted. One reason was the UHT product itself and how it is different from other fluid milk products. According to the witness, fluid milk products processed at ultra high temperatures and aseptically packaged in hermetically sealed containers can be shipped and stored unrefrigerated for several months. As a result, DI's planned distribution of UHT products, which is expected to be throughout a number of Federal order markets, will differ from the usual distribution of fluid milk products. The cooperative expects that the distribution channels used will be those more normally associated with dry or canned goods rather than those associated with the distribution of refrigerated fluid milk products, i.e., UHT milk will move in rather large shipments from the plant to central warehoues for subsequent distribution to consumer outlets. The cooperative indicated that these factors will make it more difficult to track the disposition of UHT milk to final destinations for purposes of determining in which market the plant should be pooled.

The cooperative claims that the size of the plant-to-warehouse shipments, coupled with a less frequent and more irregular delivery schedule, will result in greater variations in deliveries from the plant to specific marketing areas. The witness expressed the cooperative's concern that the distribution patterns for UHT milk will be such that, unless order changes are made, the regulatory status of the UHT plant could shift from order to order, perhaps on a monthly basis. Or, the plant might not qualify as a pool plant under any order and thus could be subject to partial regulation under several orders in the same month. In DI's view, such regulatory variations would create operational problems for the UHT plant, administrative problems for the various orders, competitive uncertainty for other handlers in the Georgia market, and payment problems for producers. The cooperative further contended that such a plant could have problems attracting a milk supply under these circumstances.

No opposition to the proposal was expressed at the hearing or in briefs.

As noted earlier, the new milk plant that DI is building is expected to begin processing and distributing aseptically processed fluid milk products by May 1, 1982. The plant will use only Grade A milk, which will be supplied mostly from dairy farms located in Georgia. The plant will use an aseptic processing system that will include ultra high temperature pasteurization. The resulting products, which will be "fluid milk products" as defined in the order, will be capable of being transported and stored without refrigeration for several months. Projected two-shift capacity of the new plant is roughly 22 million pounds of milk monthly.

Since the new plant is not yet in operation, actual marketing experience is not available to draw upon in considering the issues in this proceeding. Nevertheless, DI's planned distribution channels are likely to be substantially different from those currently used for the distribution of refrigerated fluid milk products. The latter products generally are distributed through regular deliveries by the distributing plant to stores, commonly three times a week. Moreover, brokers generally are not involved in the distribution chain. In contrast, it is anticipated that the fluid milk products disposed of from the Savannah UHT plant will be handled largely by brokers and that shipments will be irregular and on a less frequent schedule. Due to the much longer shelf life, inventories may be carried longer, with a much longer span of time between when the product leaves the plant and when it is purchased by consumers. Large central warehouses may be employed to a greater extent than with ordinary fluid milk product distribution, and transportation methods other than refrigerated trucks probably will be utilized. Also, the cooperative anticipates that the UHT products will be distributed over a very wide geographical area. The level of sales in various markets, including the Georgia market, may or may not be sufficient to qualify the plant for pooling in a particular market.

Accordingly, it is reasonable to conclude that the new plant's regulatory status may not be as predictable or stable as for most milk plants currently regulated under Federal orders. Thus, it is necessary to consider whether a different basis for determining the regulatory status of the plant is needed.

[1] The proposal in the notice of hearing and the testimony presented by proponent's witness commonly used the term "UHT" milk (for ultra high temperature milk). However, "UHT" refers only to part of the process that may be used in making an aseptically processed milk product. For this reason, it is more appropriate for purposes of the order provisions to refer to the products involved as aseptically processed fluid milk products rather than as UHT milk. To facilitate the discussion, however, and because of the common usage of the term "UHT," references will be made to UHT milk or milk products and UHT plant, with the understanding that this is in the above context.

Due to the anticipated distribution pattern, it is not likely that the plant would be pooled under some particular order on a regular basis. At times the plant could be fully regulated under the Georgia order, while at other times it possibly could be regulated under an order applicable to a market considerably distant from where the plant is located. It also is possible that the plant may not meet the pooling standards of any order for a given month, in which case it could be partially regulated under a number of orders.

These pooling situations would not be conducive to maintaining market stability, certainly not in the Georgia market and perhaps not in other markets. For example, the UHT plant would face uncertainty about the level of Federal order Class I prices that would be applicable at the Savannah location. An exhibit introduced at the hearing demonstrates that the Class I price differential at Savannah, which is $2.30 under the Georgia order, could vary from $2.66 under the Upper Florida order to $0.995 under the Memphis order, a range of $1.665 per hundredweight. If the plant's regulatory status changed from one order to another frequently, such a varying pattern of prices would not be desired by either the plant or by the plant's competitors. The record indicates that competitors would prefer to have the new plant subject to a stable pricing system.

In addition, producers who will supply such a plant also would experience uncertainty about the level of returns they would receive for their milk if regulatory status of the plant is unstable. Blend prices under an order are influenced by the amount of the Class I differential, the market's utilization of milk, and the applicable location adjustments. Since these factors vary from order to order, blend prices at the Savannah plant could vary considerably if the plant were to shift regulation from one order to another on the basis of sales shifts. Moreover, some of the markets in the Southeast, such as Georgia, use base-excess plans, while others do not. Also, the base-excess plans differ somewhat from each other. Producers often find it disruptive to their operations and long-range planning to shift from one market to another under this situation.

Providing for the continued pooling of the cooperative's UHT plant on the Georgia market should provide reasonable assurance that the plant will be able to attract adequate supplies of Grade A milk. The plant, irrespective of where it might be pooled, most likely will have to compete in the Georgia market for milk supplies because of its location in that market. This should be facilitated by having the order prices applicable at the plant the same as for any other pool plant under the Georgia order at that same location. It should be noted that there is another fluid milk bottling plant located at Savannah.

For the foregoing reasons, it is concluded that overall market stability will tend to be maintained and the regulatory stability of DI's new plant (or any other such plant) will tend to be assured if the order is modified along the lines proposed.

The actual amendment of the order should be somewhat different from that proposed by DI. As proposed, a plant that *processed only* aseptically processed fluid milk products would be subject to the new pooling provision. Such terminology could be interpreted too narrowly and should be modified to accommodate other milk handling activities at the plant. The record discloses, for example, that some excess cream from DI's UHT plant will need to be disposed of for non-Class I uses. Additionally, DI's witness indicated that the finished products would be held in the plant for a few days while various tests are made to establish product quality. These facts indicate that it may be necessary, on occasion, to dump or otherwise dispose of finished product that does not meet the plant's quality standards. Also, there is no reason to believe that DI's new plant (or any other such plant) would always receive milk that was suitable for processing into aseptically processed fluid milk products. If a load of unsuitable milk were received, the plant should have the operating flexibility to dispose of such milk by transferring it to a manufacturing plant or some other outlet where the milk could be utilized. In addition, although DI indicated that its new plant would process and distribute only products that would be fluid milk products, the record does not provide a basis for concluding that any such plant should be limited to the processing of Class I products. It is conceivable that there might be a desire to extend the UHT process to Class II products as well.

Accordingly, the order should specify that the principal activity at such a plant must be the processing and distribution of aseptically processed fluid milk products. This is intended to assure that a plant would not be able to be pooled under the particular pooling provision at issue unless at least one-half of the plant's receipts are processed and distributed in the form of aseptically processed fluid milk products. Thus, the plant would have some operating flexibility that may have been precluded under the proposal.

In connection with the pooling changes for a UHT plant, it is necessary to indicate in the pool supply plant definition that shipments from a supply plant to a pool distributing plant processing primarily aseptically processed fluid milk products will count as qualifying shipments from the supply plant for purposes of establishing the supply plant's pool status.

A second proposal by DI, which is not adopted, was intended to provide a basis for resolving administrative conflicts that might arise when its UHT plant qualifies for pool status under the Georgia order and under one or more other Federal orders. The association's intent was that the proposal would serve to assure continued regulation by the Georgia order in such a case.

It is not possible to eliminate pooling conflicts between the provisions of the Georgia order and other orders by amending only the Georgia order. Whenever a plant meets the pooling requirements of the Georgia order and another order, an administrative decision as to the order under which the plant shall be pooled may be necessary, depending upon the particular provisions of each order. Although apparently not the cooperative's intent, DI's proposed change would have allowed its UHT plant to be pooled under another order if the other order required such pooling even though route dispositions in the Georgia marketing area were larger. Adoption of this proposal would not be consistent with the other provisions adopted herein to lock a UHT milk plant into regulation by the Georgia order.

It is concluded that the interests of all parties involved in this issue will be served best by the issuance of a recommended decision and an opportunity to file exceptions thereto. At the hearing, DI asked that the recommended decision be omitted. DI's basis for this was that it is desirable to have an amended order effective by May 1 when the new UHT plant is expected to become operational. However, DI indicated in its brief that issuance of a recommended decision would be acceptable if the entire proceeding would be completed by May 1.

An amended order should be possible by May 1 even with the issuance of a recommended decision. Since this decision involves an issue that is unique, it is especially appropriate that

parties have an opportunity to file exceptions to the Department's proposed changes. It is necessary, though, to limit the amount of time for filing exceptions in view of the relatively short time remaining until May 1.

Rulings on Proposed Findings and Conclusions

A brief and proposed findings and conclusions were filed on behalf of the proponent cooperative association. The brief, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by the cooperative are inconsistent with the findings and conclusions set forth herein, the request to make such findings or reach such conclusions is denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar, as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

PART 1007—MILK IN GEORGIA MARKETING AREA

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Georgia marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. Section 1007.7 is revised to read as follows:

§ 1007.7 Pool plant.

Except as provided in paragraph (e) of this section, "pool plant" means:

(a) A distributing plant, other than a plant specified in paragraph (d) of this section, that has route disposition, except filled milk, during the month of not less than 50 percent of the fluid milk products, except filled milk, approved by a duly constituted health authority for fluid consumption that are physically received at such plant or diverted as producer milk to a nonpool plant pursuant to § 1007.13 and that has route disposition, except filled milk, in the marketing area during the month of not less than 15 percent of its total Class I disposition, except filled milk, during the month.

(b) A supply plant from which not less than 50 percent of the total quantity of milk approved by a duly constituted health authority for fluid consumption that is physically received from dairy farmers at such plant or diverted as producer milk to a nonpool plant pursuant to § 1007.13 during the month is shipped as fluid milk products, except filled milk, to pool plants pursuant to paragraph (a) or (d) of this section. A plant that was a pool plant pursuant to this paragraph in each of the immediately preceding months of August through February shall be a pool plant for the months of March through July unless the milk received at the plant does not continue to meet the requirements of a duly constituted health authority or a written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting that the plant be designated as a nonpool plant for such month and each subsequent month through July during which it would not otherwise qualify as a pool plant.

(c) For the purpose of qualifying a supply plant under paragraph (b) of this section, a cooperative association supplying pool distributing plants during the month at least two-thirds of the producer milk of its members (including both milk delivered directly from their farms and that transferred from the supply plant(s) of the cooperative) may count (irrespective of other requirements of § 1007.9(c)) as shipments from the plant to pool distributing plants the milk delivered to pool distributing plants under § 1007.9(c); in the event the cooperative operates more than one supply plant, all such deliveries shall be assigned, for this purpose, to the supply plant nearest Atlanta, Ga.

(d) A distributing plant that meets the following conditions:

(1) The plant is located in the marketing area;

(2) The plant has route disposition, except filled milk, during the month of not less than 50 percent of the fluid milk products, except filled milk, approved by a duly constituted health authority for fluid consumption that are physically received at such plant or diverted as producer milk to a nonpool plant pursuant to § 1007.13; and

(3) The principal activity of such plant is the processing and distribution of aseptically processed fluid milk products.

(e) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt distributing plant; and

(3) A plant (except a plant that is a pool plant pursuant to paragraph (d) of this section) that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to paragraph (a) or (b) of this section and a greater volume of fluid milk products, except filled milk, is disposed of from such plant in this marketing area as route disposition and to pool plants pursuant to paragraph (a) of (d) of this section than is disposed of from such plant in the marketing area regulated pursuant to the other order as route disposition and to plants qualified as fully regulated plants under such other order on the basis of route disposition in its marketing area.

Signed at Washington, D.C., on March 4, 1982.

Eddie F. Kimbrell,

Acting Administrator.

[FR Doc. 82-6043 Filed 3-8-82; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Proposed Rescission of REA Bulletin 100–2

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA hereby proposes to rescind Bulletin 100–2, "minutes of the Meetings of Boards of Directors, Members, or Stockholders," because the procedures and recommendations it sets forth are no longer necessary. The need for a formalized document explaining these procedures and recommendations no longer exists. Rescission of this bulletin will reduce the burden of regulation on REA borrowers.

DATES: Public comments must be received by REA no later than: May 10, 1982.

ADDRESSES: Persons interested in the proposed rescission may submit written comments to Charles Weaver, Director, Electric Loans and Management Division, Rural Electrification Administration, Room 3342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250

FOR FURTHER INFORMATION CONTACT: David Rabideau, Management Analyst, Electric Loans and Management Division, Room 3342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number (202) 382–1904. The Draft Regulatory Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et. seq.) REA proposes to amend Appendix A by withdrawing Bulletin 100–2, "minutes of the Meetings of Boards of Directors, Members, or Stockholders." Proposed rescission of the bulletin will not result in increased costs or prices to consumers or industries nor will it have an annual effect of $100 million or more. Therefore in conformance with Executive Order 12291, Federal Regulation, this proposed action has been determined to be "not major." a regulatory Flexibility Analysis is not required, and an OMB Circular A–95 review is not applicable to this action.

The subject bulletin was reviewed in accordance with Executive Order 12291, Federal Regulation, to assess its: (1) Continued need and (2) clarity. Requirements concerning the submission of resolutions or excerpts of minutes in certain designated circumstances are already covered under existing REA Bulletins or contractual agreements (i.e., the electric loan contract, standard form of the REA–CFC common mortgage. REA Bulletins 20–2, 103–2, 109–4, 115–1, 121–1, etc.). Because the procedures and recommendations which the bulletin sets forth are no longer necessary, rescission of the bulletin was the option selected. Rewriting the bulletin or republishing it in its present form were other options which were considered. For the above reasons and the cost savings which will accrue from eliminating these regulations, the option of rescinding the bulletin was selected.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

All written submissions made pursuant to this action will be made available for public inspection during regular business hours, above address.

Dated: March 2, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-6107 Filed 3-8-82; 8:45 am]

BILLING CODE 3410-15-M

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins; Bulletin 345–84, Specification for Expanded Dielectric Coaxial Cable, PE–84

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA proposes to amend Appendix A by revising Bulletin 345–84, REA Specification for Expanded Dielectric Coaxial Cable, PE–84, to include two additional cable sizes and to require lower attenuation values for all sizes of coaxial cable. The large diversity of population densities served by REA borrowers makes a larger selection of cables desirable, and technology has advanced to where low-loss cables are readily available. This proposal would permit REA borrowers to more cost effectively design systems.

DATE: Public comments must be received by REA no later than May 10, 1982.

ADDRESS: Submit written comments to Joseph M. Flanagan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Harry M. Hutson, Chief, Outside Plant Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382–0667. The draft Regulatory Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend Appendix A by issuing a revised Bulletin 345–84. This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as not major. A Regulatory Flexibility Analysis is not required and an OMB Circular A–95 review is not applicable to this action.

This program is listed in the Catalog of Federal Domestic Assistance as 10.853—Community Antenna Television Loans and Loan Guarantees, and 10.851—Rural Telephone Loans and Loan Guarantees.

All written submissions made pursuant to this action will be made available for public inspection during regular business hours, above address.

There have been significant advances in technology since the promulgation of Bulletin 345–84, and a wider selection of cable sizes is considered desirable for system design considerations. The existing bulletin is not applicable to much of the new technology and restricts cable availability so that as a result REA borrowers would be required to use outmoded less cost-effective technology. If the existing specification is deleted, rather than revised, there would be no REA specification for expanded dielectric coaxial cable which manufacturers would be required to meet. Unacceptable equipment could be sold to REA borrowers which could result in the loss of system effectiveness which could be a threat to REA loan security. As a result, revision of the Bulletin is being proposed since it is considered to be in the best interest of the program.

Dated: February 26, 1982.

Jack Van Mark,

Acting Administrator.

[FR Doc. 82-6343 Filed 3-8-82; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 177

Proposed Change of Practice in Classifying Garments With Simulated Features; Extension of Time for Comments

AGENCY: Customs Service, Treasury.

ACTION: Notice of extension of time for comments.

SUMMARY: This notice extends the period of time within which interested members of the public may submit comments with respect to a notice of a proposed change of practice in Customs classification of garments with simulated features. A document inviting the public to comment on this notice of proposed change of practice was published in the **Federal Register** on January 14, 1982 (47 FR 2126). Comments were to have been received on or before March 15, 1982. Requests have been received to extend the period of time for the submission of comments claiming that additional time is needed to prepare a comprehensive statement of the pertinent facts and law in response to the invitation of comments. Customs believes additional time for comment is warranted. Accordingly, this notice extends the period of time for comment to April 14, 1982.

DATES: Comments must be received on or before April 14, 1982.

ADDRESS: Written comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2428, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:
Philip Robins, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8181).

Dated: March 1, 1982.

John P. Simpson,

Director, Office of Regulations and Rulings.

[FR Doc. 82-6018 Filed 3-8-82; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

Public Disclosure of Comments Received From Federal Agencies on the Resubmitted Illinois State Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; announcement of public disclosure of comment.

SUMMARY: Before the Secretary of the Interior may approve permanent State regulatory programs submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain Federal agencies must be solicited and disclosed. The Secretary has solicited comments from these agencies and is today announcing their public disclosure with regard to the Illinois permanent regulatory program.

ADDRESSES: Copies of the comments received are available for public review during business hours at:

Office of Surface Mining, 5th Floor, 46 East Ohio Street, Indianapolis, Indiana 46204

Office of Surface Mining, Room 5315, 1100 "L" Street, N.W., Washington, D.C. 20240

Department of Mines and Minerals, Division of Land Reclamation, 227 South 7th Street, Suite 204, Springfield, Illinois 62706

FOR FURTHER INFORMATION CONTACT:
Lanny Moore, Office of Surface Mining, Illinois Program Review, 46 East Ohio Street, Indianapolis, Indiana 46204, Telephone: (317) 269-2629.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior is evaluating the Illinois permanent regulatory program originally submitted by Illinois for review on March 3, 1980. The Illinois program was partially approved on October 31, 1980 (45 FR 72468). Illinois resubmitted a revised program for review on December 22, 1981. In the notice published on December 24, 1981 (46 FR 62477), the agency solicited comments on the resubmitted Illinois program. In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1), the Illinois program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program as proposed. In this regard, the following Federal agencies were invited to comment on the Illinois program:

Department of Agriculture
- Soil Conservation Service
- Forest Service
- Farmers Home Administration
- Agriculture Stabilization and Conservation Service

Department of Labor, Mine Safety and Health Administration
U.S. Environmental Protection Agency
Department of Energy
Department of the Interior
- Bureau of Indian Affairs
- Bureau of Land Management
- Bureau of Mines
- Fish and Wildlife Service
- National Park Service
- U.S. Geological Survey

U.S. Army Corps of Engineers

Of those agencies invited to comment, OSM received comments from the following offices:

Department of Agriculture
- Soil Conservation Service
- Forest Service

U.S. Environmental Protection Agency
Department of the Interior
- Bureau of Mines
- Bureau of Land Management
- Fish and Wildlife Service
- National Park Service
- U.S. Geological Survey

These comments are available for review and copying during business hours at the locations listed above under "ADDRESSES."

Dated: March 2, 1982.

J. S. Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82-6328 Filed 3-8-82; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-7-FRL-2057-5]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The State of Missouri has submitted proposed amendments to its State Implementation Plan (SIP) involving the control of volatile organic compounds (VOC) from perchloroethylene dry cleaning installations and pertaining to sulfur dioxide and particulate emissions in the south St. Louis area. EPA has reviewed the state's submission and is proposing to approve the proposed amendments to the SIP provided the state does not make substantive changes to its submission and there are no public comments which would affect the approvability of the regulations. Today's notice is published to advise the public of EPA's proposed action and to request comments.

DATE: Comments must be received on or before April 8, 1982.

ADDRESSES: Comments should be addressed to Mr. Wayne G. Leidwanger, Air Branch, Environmental Protection Agency, 324 East 11th Street, Kansas city, Missouri 64106. Copies of the state submission and EPA's technical evaluation are available at the preceding address as well as the following locations: Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; Missouri Department of Natural Resources, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65101.

FOR FURTHER INFORMATION CONTACT:
Wayne G. Leidwanger at (816) 374-3791 (FTS) 758-3791).

SUPPLEMENTARY INFORMATION: On December 21, 1981, the State of Missouri submitted proposed amendments to Rules 10 CSR 10-2.280, applicable in the Kansas City ozone nonattainment area, and 10 CSR 10-5.320, applicable in the St. Louis ozone nonattainment area. These two rules control VOC emissions from perchloroethylene dry cleaning installations. EPA previously approved these regulations (April 3, 1981, 46 FR 20172) as part of Missouri's control strategy for attainment of the National Ambient Air Quality Standard for ozone as required by Part D of the Clean Air Act, as amended. These two rules, as approved by EPA, require dryer exhaust to be vented through a carbon adsorber such that the maximum solvent concentration in the vent from the adsorber does not exceed 100 ppm. EPA found that these regulations represented reasonably available control technology (RACT) as required by section 172(b)(3) of the Act. The proposed amendments to the rules would allow the use of equally effective control devices as carbon adsorbers. Such devices would be subject to approval by the Director of the Missouri Department of Natural Resources. Any device which is equally effective would meet the requirements for RACT. Therefore, EPA believes the proposed amendments are approvable.

The State of Missouri also submitted on December 21, 1981, proposed changes to Rule 10 CSR 10-5.290, More Restrictive Emission Limitations for Sulfur Dioxide and Particulate Matter in the South St. Louis area. EPA previously approved this rule on April 9, 1980 (45 FR 24140) as meeting RACT and the requirements of Part D of the Act. The proposed amendment would update the names of the facilities covered by the rule and provide for any future changes in ownership and operating responsibilities. EPA believes the state's submission is approvable.

Proposed action: EPA proposes to approve the amendments to Missouri Rules 10 CSR 10-2.280, 10 CSR 10-5.320 and 10 CSR 10-5.290 provided that the state submits final revisions which are substantially the same as the draft changes and there are no public comments which would affect the approvability of the submission. If the rules as adopted by the state are substantially changed, EPA will evaluate those changes and publish a revised notice of proposed rulemaking if necessary.

EPA is soliciting comments on the state's submission and on the proposed approval of these regulations as a revision to the Missouri SIP. The Administrator's decision to approve or disapprove this submission will be based upon the comments received and on whether the SIP revisions meet the requirements of Part D of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

EPA believes the 30-day period allowed for public comments is adequate because the proposed SIP revisions are limited in their impact.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of the Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities (46 FR 8709, January 27, 1981). The attached rule, if promulgated, constitutes a SIP approval under Sections 110 and 172 within the terms of the January 27 certification. This action only approves state actions. It imposes no new requirements.

This notice is issued under the authority of Sections 110 and 172 of the Clean Air Act, as amended.

Dated: February 4, 1982.

John Franke, Jr.,

Regional Administrator.

[FR Doc. 82-6321 Filed 3-8-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 265

[SW-FRL-1999-3]

Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

Correction

In FR Doc. 82-4900 appearing on page 8307 in the issue of Thursday, February 25, 1982; on page 8309, second column, the formula should read as follows:

$$V = \frac{H}{100}$$

for H less than 25 feet

or

$$V = 0.3 - \frac{H}{500}$$

for H equal to or greater than 25 feet

where V = the allowable volumetric fraction of the total volume of wastes and reasonable intermediate cover in the landfill that can be used for disposal of containers holding free liquids

H = the maximum vertical depth of waste and reasonable intermediate cover in the landfill at closure (as measured in feet)

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6218]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction; Minnesota

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Worthington, Nobles County, Minnesota, previously published at 45 FR 62104 on December 22, 1981.

DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287-0230,

Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Worthington, Nobles County, Minnesota previously published at 45 FR 62104 on December 22, 1981, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

Lake Okabena and an area of shallow flooding were omitted from the original BFE notice.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the (proposed) flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Minnesota	(C) Worthington, Nobles County	Lake Okabena Shallow flooding	At shoreline Intersection of Winifred Street and West Okabena Street.	*1,579 #2

(National Flood Insurance Act of 1968 (title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: February 22, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6281 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6224]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Illinois

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule, revision.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Island Lake, McHenry and Lake Counties, Illinois.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published at 45 FR 63335 on December 31, 1981, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above named community.

ADDRESSES: See table below:

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Village of Island Lake, McHenry and Lake Counties, Illinois, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the (proposed) flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirements; of itself it has no economic impact.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(V) Island Lake, McHenry and Lake Counties	Fox River	About 1.8 miles downstream of State Route 176	*736

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: February 22, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6280 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-5966]

Proposed Flood Elevation Determinations; Arizona

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule; revision.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Clarkdale, Yavapai County, Arizona.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 45 FR 85111 on December 24, 1980 and in the *Daily Independent*, published on or about December 4, 1980 and December 11, 1980, and hence supersedes those previously published rules for the areas cited below.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the floodprone areas and the proposed flood elevations are available for review at Town Hall, Ninth Street, Clarkdale, Arizona.

Send comments to: the Honorable Dorothy Benatz, P.O. Box 308, Clarkdale, Arizona 86324.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Town of Clarkdale, Yavapai County, Arizona, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Verde River	At the center of the Tuzigoot National Monument Road crossing of Verde River	*3,350
Deception Wash	20 feet upstream from center of Atchison, Topeka, and Santa Fe Railroad crossing	*3,575
	At the center of the State Highway 279 crossing of Deception Wash	*3,655
	At intersection of western corporate limits and center of Deception Wash	*3,668
Bitter Creek	40 feet upstream from center of Atchison, Topeka, and Santa Fe Railroad crossing (downstream crossing).	*3,360
	110 feet upstream from center of Atchison, Topeka, and Santa Fe Railroad crossing (upstream crossing).	*3,525
Bitter Creek—south fork	30 feet upstream from center of State Highway 279 crossing	*3,691

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: February 22, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6279 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6224]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction; New York

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 46 FR 63342 on December 31, 1981. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Village of Middleburgh, Schoharie County, New York.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287-0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Village of Middleburgh, Schoharie County, New York, previously published at 46 FR 63342 on December 31, 1981, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The notice of Proposed Base Flood Elevation Determinations should be amended to read as follows:

Source of flooding	Location	*Elevation in feet, national geodetic vertical datum
Schoolhouse Creek Tributary A	Upstream of Main Street	*646
	Corporate limits	*635
	Approximately 2,800' upstream of Corporate Limits	*629

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director

Issued: February 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6278 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6061]

Proposed Flood Elevation Determinations; Colo.

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule; revision.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of La Junta, Colorado.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 46 FR 28446 on May 27, 1981 and in the *La Junta Tribune-Democrat*, published on or about May 6, 1981, and May 13, 1981, and hence supersedes those previously published rules for the areas cited below.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Utility Room, City Hall, 6th & Colorado, La Junta, Colorado.

Send comments to: Honorable Donald J. Rizzuto, P.O. Box 489, La Junta, Colorado 81050.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of La Junta, Colorado, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Anderson Arroyo	30 feet upstream of intersection of Third Street and Anderson Arroyo	*4,078

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: February 12, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6282 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5153]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Gaithersburg, Montgomery County, Maryland.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in the Federal Register at 46 FR 48727 on October 2, 1981, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Code Enforcement Office, City Hall, 31 South Summit Avenue, Gaithersburg, Maryland.

Send comments to: Honorable Sanford Daily, City Manager of Gaithersburg, 31 South Summit Avenue, Gaithersburg, Maryland 20760.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287-0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Gaithersburg, Montgomery County, Maryland, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The proposed base (100-year) flood elevation are:

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Muddy Branch	Downstream corporate limits	*318
	Approximately 80 feet upstream of confluence of Muddy Branch Tributary 1.	*330
	Upstream of Muddy Branch Road.	*359
	Upstream of Brighton West Storm Water Retention Structure.	*375
	Upstream of Interstate Route 270 culvert.	*410
	Downstream of State Route 355.	*455
Whetstone Run	Downstream corporate limits	*322
	134 feet upstream of confluence with Watkins Mill Run.	*333
	Approximately 2,360 feet upstream of Watkins Mill Road.	*341
	Upstream of Goshen Road	*389
	Approximately 320 feet upstream of confluence with Left Branch Whetstone Run.	*396
	Upstream corporate limits	*425
Muddy Branch Tributary 1.	Confluence with Muddy Branch.	*330
	Approximately 130 feet upstream of Muddy Branch Road.	*351
	Upstream corporate limits	*371
Long Draught Branch.	Upstream of Long Draught Road culvert.	*348
	Confluence of Long Draught Branch Tributary 1.	*360
	Approximately 80 feet upstream of Quince Orchard Cluster II Water Retention Structure.	*384
	Upstream of Clopper Road	*401
	Upstream of Quince Orchard Road Culvert.	*422
	Downstream of West Diamond Avenue Culvert.	*429
Left Branch Wetstone Run.	Confluence with Whetstone Run.	*396
	Upstream of Victory Farm Storm Water Retention Structure.	*434
	Upstream of Brooks Avenue Culvert.	*446
	Approximately 960 feet upstream of Brooks Avenue Culvert.	*452

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

February 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6393 Filed 3-8-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 82-62; RM-3965; FCC 82-72]

Elimination of the Portable to Vehicular Mobile Ratio in Loading Criteria for Private Land Mobile Radio Systems Operating Above a Specific Frequency

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: The FCC proposes to amend its rules and regulations to eliminate the portable to vehicular mobile ratio in loading criteria for private land mobile radio systems operating above 470 MHz. This action is necessary so that all mobile units would count equally in a communications system.

DATES: Interested parties may file comments on or before April 1, 1982, and reply comments on or before April 16, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Charles F. Turner, Private Radio Bureau, (202) 632-6497.

SUPPLEMENTARY INFORMATION:

Adopted: February 11, 1982.

Released: February 23, 1982.

1. The Commission has before it for consideration on August 7, 1981, petition from the Associated Public Safety Communications Officers, Inc. (APCO) to amend Part 90 of the Commission's Rules to eliminate the 2-to-1 ratio of portable to vehicular mobile units as an element of the loading criteria for public safety land mobile licensees operating in the 470–512 MHz and 800 MHz bands.[1] [2]

2. In support of its petition APCO notes that in Docket No. 18261, which allocated the 470/512 MHz band for land mobile use,[3] the Commission at first adopted a ratio of 4-to-1 for hand carried to vehicular mobile units as an element of the loading criteria for 470–512 MHz band systems. On reconsideration, however, the Commission revised the 4-to-1 ratio to 2-to-1 in the public safety pool and 3-to-1 in all other pools.[4] This lowering of the 4-to-1 ratio initially adopted by the Commission represented an attempt to balance the needs of small users who required spectrum against those of applicants with large fleets of portables which would have captured the available spectrum rapidly if no distinction between hand-held and vehicular mobiles had been made. The loading rules promulgated in § 90.313[5] for the 470–512 MHz band prescribed 50 mobile units as the loading limit in the public safety services, with higher levels for other groups of eligibles. Section 90.313(c) defines a unit "as one vehicular mobile unit or two hand carried transmitter-receivers for the Public Safety services, three hand-units for the Industrial and Land Transportation Services."[6]

3. A similar approach was taken when we allocated channels in the 800 MHz band for land mobile use.[7] However, rather than a different ratio for public safety *vis-a-vis* other groups of eligibles, an across-the-board 2-to-1 ratio of portables to vehicular mobile units was prescribed in the case of conventional systems.[8] No distinction was made in the case of trunked equipment.[9]

4. APCO contends that substantial evolution in the technology of portable units and their resulting popularity justifies treating them as the equivalent of vehicular mobile units for channel loading purposes. From a heavy and cumbersome backpack set available several decades ago the portable has evolved into a lightweight, hand-held transistorized unit. Current technology offers higher power units than were available in the past. Today's multi-channel units, when coupled with "satellite" receivers, provide great flexibility in police operations. Thus, APCO asserts, portable usage is as effective in coverage as vehicular unit usage.

5. Because the portable is as efficient as the vehicular mobile unit, APCO asserts, there is no basis for assuming that the handheld unit generates less traffic than its vehicular counterpart; it may even generate more traffic, it says, because of the user's ability to communicate after leaving the vehicle. APCO points to the increased popularity of the portable marketplace of the 800 MHz band conventional portable unit.

6. We believe that initiation of rule making looking towards abolition of the vehicular unit/portable distinction for channel loading purposes on freqencies above 470 MHz has merit in light of new technology for portable equipment and the handheld unit's acceptance in the marketplace. However, the arguments advanced by APCO in support of public safety land mobile systems would, it appears, be equally applicable to portable use by all other groups of eligibles licensed under Part 90 of our rules. We are, therefore, proposing to eliminate the distinction between vehicular and portable transmitters for channel loading purposes in all Part 90 radio services operating above 470 MHz. This is in keeping with our expressed intention to revisit and adjust the parameters of these systems when our experience indicates that revisions would be appropriate.[10] We request comments in particular as to whether the application of the proposed revision to all groups of eligibles is appropriate; whether the need to save channel space for smaller systems, which led in part to adoption of the present distinction, still exists; and, if so, whether the portable/vehicular mobile ratio is an effective method of doing so.

7. *Regulatory Flexibility Act Initial Analysis.*

I. *Reason for action.* Petitioner, the Associated Public Safety Communications Officers, Inc. (APCO), seeks elimination of the 2-to-1 portable/vehicular mobile ratio for loading channels occupied by public safety users in the 470–512 MHz and 800 MHz bands. Experience since the mid-1970's in the management of this spectrum and the current wider use of hand-held radios do suggest that there is merit to APCO's position that the ratio be eliminated. The Commission, therefore, proposes to do so for all classes of eligibles using these bands.

II. *The objectives.* The Commission desires to revise the rules because they may be burdensome to users of portable mobile equipment and unnecessary to our regulatory objectives.

III. *Legal basis.* Action proposed is in furtherance of Sections 303(r), 4(i) and of the Communications Act of 1934, as amended, which permits the Commission to make such rules and regulations, not inconsistent with law, as may be necessary in the execution of its functions, with the additional view of the public welfare.

IV. *Description, potential impact and number of small entities affected.* Portable and vehicular mobile units are licensed to both large and small entities. The Commission, however, does not require licensees of these units to submit information enabling it to determine what portion of these units are licensed to small entities. When the portable/vehicular mobile unit ratios were promulgated the Commission was concerned that if portables and vehiculars mobiles were placed on an equal footing, users with large fleets of portables would preempt spectrum to the detriment of smaller users. Our information, however, has not disclosed that such preemption has occurred. Experience has shown, in fact, that the great utility of the hand-held unit, resulting from technological innovations, has given it a firm position in the marketplace, even among smaller users, and in some cases a unit is used interchangeably as a portable and as a vehicular mobile, thereby reducing equipment costs to the users including small entities. In addition, record-keeping costs could be reduced because of possible simplification in the procedures relating to channel loading.

V. *Recording, record-keeping and other compliance requirements.* No additional recording or record-keeping, or other compliance requirements would be necessary. In fact, the record-keeping will be simplified because all mobile transmitters will be counted alike for loading purposes.

VI. *Federal rules which overlap, duplicate or conflict with these rules.* None.

VII. *Any significant alternatives minimizing impact on small entities and consistent with the stated objectives.* None, and retention of the *status quo* may constitute a continuing burden to users of portable units in the 470–512 MHz and 800 MHz bands.

8. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission whichever is earlier. In general, and *ex parte* presentation is any written of oral communication (other than formal written comments/pleadings and formal oral arguments between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who make an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's rules, 47 CFR 1.1231.

9. Accordingly, notice is hereby given of rulemaking to amend Part 90 of the Commission's Rules, in accordance with the proposal set forth in the Appendix.

10. The proposed amendment to the Rules is issued pursuant to authority contained in Sections 4(i), 303(b), 303(f), 303(g), and 303(r) of the Communications Act, as amended

11. Pursuant to procedures set out in § 1.415 of the Commission's Rules, 47 CFR 1.415, interested persons may file comments on or before April 1, 1982, and reply comments on or before April 16, 1982. The Commission will consider all relevant and timely comments before taking final action in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

12. In accordance with the provisions of § 1.419 of the Commission's Rules, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

13. For further information contact Charles F. Turner, Federal Communications Commission, Private Radio Bureau, Rules Division, Washington, D.C. 20554, (202) 632-6497.

(Secs. 4, 303, 307 48 Stat., as amended, 1066, 1082, 1083d (47 U.S.C. 154, 303,307))

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

It is proposed that 47 CFR, Part 90 be amended as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. Section 90.313(c) is revised to read as follows:

§ 90.313 Frequency loading criteria.

* * * * * *

(c) A unit is defined as a vehicular mobile unit or a hand-carried transmitter-receiver. Loading standards will be applied in terms of the number of units actually in use or to be placed in use within 8 months following authorization. A licensee will be required to show that an assigned frequency pair is at full capacity before it may be assigned a second or additional frequency pair. Channel capacity may be reached either by the requirements of a single licensee or by several users sharing a channel. Until a channel is loaded to capacity it will be available for assignment to other users in the same area. A frequency pair may be reassigned at distances 64 km. (40 mi.), 32 km. (20 mi.) for Channel 15, Chicago: Channel 20, Philadelphia and Channel 17, Washington or more from the location of base stations authorized on that pair without reference to loading at the point of original installation. Following authorization, the licensee shall notify the Commission either during or at the licensee shall notify the

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[1] In a September 23, 1981, statement, APCO clarifies its petition by emphasizing that it seeks modification of the rules with respect to all public safety licensees operating in these bands, and not just police and fire eligibles.

[2] At present in the 470–512 MHz band two portables equal one vehicular mobile for loading purposes on public safety radio service channels. For all other groups of eligibles in this band, three portables equal one vehicular mobile in determining channel loading. In the 806–821 MHz and 851–866 MHz bands, there is an across-the-board 2-to-1 portable/vehicular unit ratio for loading conventional systems in all radio services.

[3] *Land Mobile-UHF TV Channel Sharing, Second Report and Order, Docket No. 18261,* 30 FCC 2d 221 (1971).

[4] *Land Mobile Use of TV Channels 14 through 20, Memorandum Opinion and Order, Docket No. 18261,* 32 FCC 2d 572 (1971).

[5] 47 CFR 90.313.

[6] 47 CFR 90.313(c).

[7] See generally, Land Mobile Radio Services, Second Report and Order, Docket No. 18262, 46 FCC 2d 752 (1974); Land Mobile Service, Memorandum Opinion and Order, Docket No. 18262, 51 FCC 2d 945 (1975), and Frequency Band 806–960 MHz, 55 FCC 2d 771 (1975) 55 FCC 2d 771 (1975), on appeal sub nom. National Association of Regulatory Utility Commissioners v. Federal Communications Commission, 178 U.S. App. D.C. 413, 525 F. 2d 630 (1976), cert. denied, 425 U.S. 992 (1976).

[8] See 47 CFR 90.377.

[9] See 47 CFR 90.375.

[10] *Land Mobile Service,* f.n. 7 *ante,* 51 FCC 2d at 975–9.

Commission either during or at the close of the 8 months period of the number of units in operation. In the Industrial Radio Services, if the base station facility is to be used by more than a single licensee, the frequency assigned to it will not be reassigned for use by another facility within 64 km. (40 mi.) where applicable for a period of 12 months, *Provided*, That the facility is constructed within 90 days from the date of the first grant, meets the loading standards to at least 50 percent within 9 months, and meets all loading standards within 12 months.

2. Section 90.377(b) is revised to read:

§ 90.377 Conventional systems loading requirements.

* * * * *

(b) Where stations are located within 120 km. (75 mi.) of the designated centers of the top 25 urbanized areas as set forth in Section 90.477(c) of this Part, Table 1 below will govern. In all other cases, Table 2 below will govern.

TABLE 1.—LOADING REQUIREMENTS FOR CONVENTIONAL SYSTEMS

[Located within 120 km. (75 mi.) of the top 25 urbanized areas as set forth in section 90.477(c)]

Service group	Channel loading units per channel
Police and fire group	50
Business radio group	90
Taxi radio group	150
Motor carrier radio group (urban and inter-urban passenger motor carriers, only)	150
Other Service group	70
Mixed service group	

1. Where the primary activity of the licensee is the operation of urban or interurban passenger motor carriers, the loading requirements shall be as shown for the motor carrier group.

TABLE 2.—LOADING REQUIREMENTS FOR CONVENTIONAL SYSTEMS

[Located outside 120 km. (75 mi.) of the top 25 urbanized areas as set forth in section 90.477(c)]

Service Group	Channel loading units per channel		
	Single-licensee	2 to 5 licensee	Over 5 licensee
Police and fire group	50	40	30
Business radio group	90	70	60
Taxicab radio group	150	125	100
Motor carrier radio group (urban and interurban passenger motor carriers only)	150	125	100
Other services group [1]	70	56	40
Mixed service group		70	60

[1] Where the primary activity of the licensee is the operation of urban or interurban passenger motor carriers, the loading requirements shall be as shown for the motor carrier group.

[FR Doc. 82-6308 Filed 3-8-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 387-399

[BMCS Docket No. MC-101; Notice No. 82-4]

Regulatory Cost Accounting Program (RCAP); Public Meeting and Request for Comments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting and request for comments.

SUMMARY: Comments and information are solicited to assist the FHWA in its effort to access the economic burden placed on the motor carrier industry by the Federal Motor Carrier Safety Regulations (FMCSR). A public meeting will be held on March 18 to receive comments.

DATE: Comments must be received on or before April 8, 1982.

ADDRESS: Submit comments, preferably in triplicate, to BMCS Docket No. MC-101; Notice No. 82-4, Room 3404, Bureau of Motor Carrier Safety (BMCS), 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. James K. O'Steen, Bureau of Motor Carrier Safety, (202) 426-1700; or Mr. Stanley H. Abramson, Office of the Chief Counsel, (202) 426-0762, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA's Bureau of Motor Carrier Safety (BMCS) has been asked by the Office of Management and Budget (OMB) to participate in a pilot program for the purpose of testing the feasibility of a Regulatory Cost Accounting Program (RCAP). The objective of the RCAP is to identify the cost components of each regulatory requirement on the regulated industry, then aggregate those components to determine the total cost burden associated with any part of each agency's regulatory program. These cost data could then be used to identify those regulations that impose particularly costly burdens on the industry.

In order to accomplish a task of this magnitude with an acceptable degree of reliability by the end of August 1982, it is essential to have input from motor carriers, drivers, manufacturers and other interested parties. This notice serves as a request for such input, either in the form of written comments to the docket (address above) or, orally at a public meeting scheduled for March 18, Room 6336, DOT Headquarters, 400 Seventh Street, SW., Washington, D.C., 9:00 a.m. to 4:00 p.m. Such input should assist the BMCS in evaluating the economic burden created by the FMCSR on the affected industry. Advance notification of the public meeting is necessarily short because of the time constraints placed on this project.

The data needed to accomplish this effort should focus on the direct costs incurred as a result of a regulation. The BMCS has structured this evaluation such that four primary types of burden will be considered. For the purpose of this exercise, burden is defined as the "cost borne by the industry to stay in compliance with the FMCSR." The four types of burden to be addressed are:

1. Paperwork burden which includes any paperwork preparation and filings necessitated by the FMCSR;

2. Operational burden which includes any time a qualified driver and/or vehicle, both of which are in compliance with the FMCSR, are restricted totally or in part from a revenue generating activity;

3. Hardware burden which includes capital costs directly attributable (at least in part) to the FMCSR; and

4. Overhead burden which includes costs incurred as a result of the FMCSR and not defined in the other three burdens, e.g., mechanical maintenance, file maintenance, administrative, etc., excluding paperwork.

Certain considerations should be made when attempting to determine costs directly attributable to the FMCSR. For example, Section 393.13 of the FMCSR requires that a truck tractor have two operational headlamps. The question arose: Has this requirement been institutionalized to the extent that industry would continue to install two operational headlamps on vehicles if this requirement did not exist? If so, how much (if any) of the compliance cost is attributable to the FMCSR?

Similar questions, concerning those regulations which have been adopted by some or all of the States, were encountered. In such cases, should the cost burden be attributed to the FMCSR or to the State regulation, or a percentage of the burden to each. If a percentage allocation approach is

recommended, what percentage should be allocated to each? Without the FMCSR, would the cost burden decrease or would the nonuniformity of State requirements increase the cost burden.

Many of the FMCSR requirements are based on good accident prevention management principles. Would such practices be used by most motor carriers without the FMCSR requirements?

Comments to these considerations are requested to assist in the development of an approach which is mutually agreeable to both the regulated industry and the BMCS.

Additional comments are requested concerning the RCAP process: Along with comments concerning the scope and methodology of this effort, specific data is needed to identify the cost components of each regulatory requirement on the motor carrier industry. Please provide cost data, if possible, by FMCSR part and section in accordance with the four burden types defined in this notice and estimate the degree of reliability of such data.

All comments submitted will be available, both before and after the closing date, for examination by interested persons in the Docket Room of the BMCS, Room 3404, 400 Seventh Street, SW., Washington, D.C. 20590.

(49 U.S.C. 304; 49 CFR 1.48(b) and 301.60)

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on March 5, 1982.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 82-6370 Filed 3-8-82; 8:45 am]

BILLING CODE 4910-22-M

Notices

Federal Register
Vol. 47, No. 46
Tuesday, March 9, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Demonstration Project for the Distribution of Surplus Cheese

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: On December 29, 1981, the U.S. Department of Agriculture announced that it would provide at least 30 million pounds of surplus process cheese to requesting State agencies for distribution to eligible recipients. (See 46 FR 62882). The Department of Agriculture now announces that it will provide at least 70 million additional pounds of surplus cheese to such State agencies.

FOR FURTHER INFORMATION CONTACT: Patrick J. Clerkin, Acting Deputy Administrator, Special Nutrition Programs, Food and Nutrition Service, Park Office Center, Alexandria, Virginia 22302.

DATE: Requests for allocations of cheese must be submitted by July 1, 1982.

SUPPLEMENTARY INFORMATION: In addition to the 30 million pounds of surplus process cheese previously made available to State agencies for distribution to eligible recipients, the Department is prepared to provide at least an additional 70 million pounds of process cheese to requesting State agencies for the same purpose. The Department will pay the cost of transporting the cheese from Federal storage facilities to centralized storage facilities designated by recipient State agencies. State agencies will be responsible for arranging and financing distribution of the cheese within the State.

The cheese is being offered under the provisions of section 416 of the Agriculture Act of 1949 and section 1114 of the Agriculture and Food Act of 1981. It may be used only in nonprofit school lunch programs, nonprofit summer camps for children, and other child nutrition programs providing food service, in nutrition projects operating under authority of the Older Americans Act of 1965, including congregate nutrition sites and providers of home-delivered meals, in assistance to needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served.

Distribution to needy persons for use in the preparation of meals in the home may be made only through food banks participating in the program established under section 211 of the Agriculture Act of 1980. States wishing to distribute cheese for this use will be required to assist the Department in designating food banks for participation in that program.

State agencies will not be allowed to charge recipients for the cheese or the cost of distributing it.

State agencies participating in this distribution of cheese will be required to enter into an agreement with the Department embodying the terms and conditions under which the cheese is being provided if they have not already done so. A copy of the agreement may be obtained from the appropriate Regional Administrator, Food and Nutrition Service. Agencies wishing to participate in the distribution should advise the appropriate Regional Administrator of their interest and of the amount which they would like to receive, in writing, by July 1, 1982. There is no limitation on the amount of cheese which may be requested by a State agency.

Gene P. Dickey,
Acting Administrator.
February 26, 1982.
[FR Doc. 82-6199 Filed 3-8-82; 8:45 am]
BILLING CODE 3410-30-M

Summer Food Service Program for Children

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs public or private nonprofit school food authorities, public or private nonprofit residential summer camps, or units of local, municipal, county, or State governments of the availability of the Summer Food Service Program (SFSP) for Children.

FOR FURTHER INFORMATION CONTACT: Jordan Benderly, or Beverly Walstrom, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22302, 703-756-3888.

SUPPLEMENTARY INFORMATION: The Summer Food Service Program is authorized by Section 13 of the National School Lunch Act. Comprehensive regulations for the Summer Food Service Program were published in the Federal Register February 16, 1982 (47 FR 6790).

The Summer Food Service Program provides nutritious meals and snacks to children during the summer months when school is not in session.

What Are the Eligibility Requirements?

Organizations which may sponsor the Program are limited to: (1) Public or private nonprofit school food authorities; (2) public or private nonprofit residential summer camps; and (3) State, local, municipal, or county government entities provided that these governmental entities certify that they will directly operate the Program at each site under their sponsorship. Direct operation means that the sponsor will be responsible for: (1) Managing site staff, including such areas as hiring, conditions of employment, and termination; and (2) managing Program operations at sites during the period of Program participation. Managing site staff does not prohibit the staffing of sites by either paid employees or volunteers; however, site staffs must be finally accountable to the sponsor.

When applying for the Program, a potential sponsor must demonstrate that it has the necessary financial and administrative capability to meet Program objectives and comply with Program regulations. Sponsors must also accept final financial and administrative responsibility for all sites under their auspices. All approved sponsors must operate the Program according to the provisions of the SFSP regulations, relevant instructions, Program guidance materials, and applicable State and local laws.

Sponsors of sites which are not camps must serve either: (1) An area in which at least 50 percent of the children who live in the area from which the site draws its attendance are eligible for free or reduced-price meals in the National School Lunch Program and the School Breakfast Program; or (2) serve a site where at least 50 percent of the enrolled children in the Program are eligible for free or reduced-price meals in the National School Lunch Program or School Breakfast Program.

Sponsors offering the SFSP at camps may claim reimbursement only for those meals served to enrolled children who are eligible for free or reduced-price meals under the National School Lunch Program or the School Breakfast Program guidelines.

Who Can Participate?

Children who are 18 years of age or younger and handicapped persons regardless of age who participate in special education programs are eligible.

Meal Service Requirements

Meals served under the Program must meet meal pattern requirements established by the U.S. Department of Agriculture. Noncamp sites can serve either one meal each day (breakfast, lunch, or snack) or two meals consisting of either a lunch and a snack or a lunch and a breakfast. Sites which are camps or which primarily serve children of migrant families may serve up to four meals per day.

What Federal Funds Are Available?

Federal funds are available in the form of per-meal reimbursement rates for Program administrative and operating costs. Each sponsor periodically reports to the administering agency the number of meals it has served and the costs it has incurred on a claim for reimbursement. The administering agency pays each sponsor the lesser of meals times rates or net Program costs. Sponsors earn administrative reimbursement at higher rates for rural sites and for sites where they prepare their own meals.

What Is the Deadline Date To Apply for the Program?

Potential sponsors must submit written applications for Program participation to the appropriate State agency or Regional Office of the Food and Nutrition Service (FNS) by June 15. However, the State Agency may establish an earlier deadline date for Program application submission.

Equal Opportunity

The Summer Food Service Program is an equal opportunity program. If you believe you have been discriminated against because of race, color, national origin, sex, age, or handicap, write immediately to the Secretary of Agriculture, Washington, D.C. 20250.

How Do You Apply for the Program?

Persons desiring information concerning the Program may write to the appropriate State agency or Regional Office of FNS as indicated below:

(a) In the States of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont: Northeast Regional Office, FNS, U.S. Department of Agriculture, 33 North Avenue, Burlington, MA 01803.

(b) In the States of Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, One Vahlsing Center, Robbinsville, NJ 08691.

(c) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, FNS, U.S. Department of Agriculture, 1100 Spring Street, N.W., Atlanta, GA 30367.

(d) In the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin: Midwest Regonal Office, FNS, U.S. Department of Agriculture, 536 South Clark Street, Chicago, IL 60605.

(e) In the States of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas: Southwest Regional Office, FNS, U.S. Department of Agriculture, 1100 Commerce Street, Room 5-C-30, Dallas, TX 75202.

(f) In the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming: Mountain Plains Regional Office, FNS, U.S. Department of Agriculture, 2420 West 26th Avenue, Room 430, Denver, CO 80211.

(g) In the States of Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, the Northern Mariana Islands, and Washington: Western Regional Office, FNS, U.S. Department of Agriculture, 550 Kearny Street, Room 400, San Francisco, CA 94108.

(Catalog of Federal Domestic Assistance Program No. 10.559)

Dated: March 4, 1982.

Gene P. Dickey,
Acting Administrator, Food and Nutrition Service.

[FR Doc. 82-6625 Filed 3-8-82; 8:45 am]
BILLING CODE 3410-30-M

Forest Service

Extension of Public Comment Period; Alternative Goals—1985 Resources Planning Act (RPA) Program

On December 31, 1981, the Forest Service published in the Federal Register (46 FR 63361) a request for public comment on "Alternative Goals—1985 RPA Program". The deadline for the public comment period was set at March 15, 1982. That deadline is now extended to March 31, 1982.

Comments and inquiries should be addressed to: Thomas E. Hamilton, Director, Resources Planning and Assessment; Room 3243 South Building, USDA, Forest Service, Box 2417, Washington, D.C. 20013, (202) 447-5440.

Douglas R. Leisz,
Associate Chief.
March 4, 1982.
[FR Doc. 82-6353 Filed 3-8-82; 8:45 am]
BILLING CODE 3410-11-M

Gila National Forest Grazing Advisory Board; Meeting

The Giles National Forest Grazing Advisory Board will meet at 10:00 a.m., April 9, 1982 in large Conference Room, Federal Building, 2610 North Silver Street, Silver City, New Mexico.

The agenda for this meeting is:

1. Review Allotment Management Plans.
2. Review Program for Range Betterment Funds.
3. New Advisory Board Charter, 1982-84.
4. Election of Officers procedure for 1982.

The meeting will be open to the public.

Dated: March 1, 1982.

Kenneth C. Scoggin,
Forest Supervisor.
[FR Doc. 82-6328 Filed 3-8-82; 8:45 am]
BILLING CODE 3410-11-M

Rural Electrification Administration

Seminole Electric Cooperative, Inc.; Finding of No Significant Impact

The Rural Electrification Administration (REA) has made a Finding of No Significant Impact (FONSI) with respect to the proposed coal transportation arrangement for Seminole Electric Cooperative, Inc., (Seminole) of Tampa, Florida. The coal transportation arrangement would provide approximately 2.7 to 3.5 million tons of coal annually for the 1200 MW Plant Seminole Units 1 and 2 now under

construction near Palatka, Florida. The coal would travel by rail from the Dotiki Mine in Webster County, Kentucky, and later from the White County Mine in White County, Illinois, to a barge loading facility at Mt. Vernon, Indiana, from there by barge to Port St. Joe, Florida, and by rail from Port St. Joe to Plant Seminole. Approximately 100 3,000-ton barges will be used, and it is anticipated that each shipment of coal will consist of six barges in tow, with approximately three tows a week.

REA determined that the Borrower's Environmental Report (BER) and addendum submitted by Seminole is a satisfactory assessment of the environmental aspects of the proposed coal transportation arrangement. Based on the BER and Federal and State agency comments, REA prepared an Environmental Assessment addressing the impacts of the proposed coal transportation arrangement. REA concluded that REA approval of the proposed coal transportation arrangement would not be a major Federal action significantly affecting the quality of the human environment.

The proposed coal transportation arrangement will not significantly affect any prime farmland, wetlands, floodplains or known cultural resources. It is not likely to affect any threatened or endangered species or critical habitats. In REA's judgment, the proposed coal transportation arrangement will not result in any unacceptable environmental impacts.

Seminole and REA considered various alternatives to the proposed coal transportation arrangement, including the all rail option which was specified in the original Environmental Impact Statement (EIS) for Plant Seminole, and various other barge unloading points and rail routes. The substitution of the barge and rail transportation arrangement for the original all rail option was based on projected economics. Based on the information in the BER and consideration of Federal and State agency comments, REA concluded that the proposed coal transportation arrangement is an environmentally acceptable way to transport coal to Plant Seminole. In December 1981, Seminole published public notices in local newspapers, soliciting comments on the proposed coal transportation arrangement. One letter was received before the notice was published and these comments were addressed in the EA. No other comment letters were received within 30 days of the notice publication.

The FONSI, EA, and BER may be requested from or reviewed at the office of the Director, Power Supply Division, Room 0230, South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone: (202) 382–1400; or the Manager (Mr. Harry Wright), Seminole Electric Cooperative, Inc., P.O. Box 17100, Tampa, Florida 33682, telephone: (813) 933–7406.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 2nd day of March 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-6198 Filed 3-8-82; 8:45 am]

BILLING CODE 3410-15-M

East River Electric Power Cooperative, Inc.; Finding of No Significant Impact

The Rural Electrification Administration (REA) has made a Finding of No Significant Impact (FONSI) in connection with the construction by East River Electrical Power Cooperative, Inc., (East River) for a 40 km (25 mi), 3 phase, 69 kV transmission line. The proposed line would connect the Aberdeen Substation in Brown County, South Dakota, with the Ipswich Substation in Edmonds County, South Dakota. The proposed line is required to meet the additional power requirements of East River's member systems.

East River prepared a Borrower's Environmental Report (BER) concerning the project. Based on this BER and other support documents, REA prepared an Environmental Assessment which incorporates the BER. REA's independent evaluation of the project leads to the conclusion that approval of the project does not represent a major Federal action that will significantly affect the quality of the human environment and, in accordance with REA Bulletin 20–21:320–21, REA has made a FONSI.

Alternatives discussed in the BER are no action, alternative types of construction and four alternative routes. The nature of the alternative routes is that the end points are the same and the terrain is similar. The proposed alternative, which is described above, was selected because it avoided, to the extent practicable, closed section lines, Lakes Richmond and Mina and prime farmland. Approximately 10.4 km (6.5 mi) of wetlands and 2.2 km (1.4 mi) of floodplains would be crossed by the proposed line. REA has determined that there is no practicable alternative to crossing these areas and that there should be no long term effects to the ecological functions of these areas. Further information is in the Environmental Assessment.

Copies of the FONSI, REA's Environmental Assessement and East River's Borrower's Environmental Report may be obtained from Frank W. Bennett, Director, Power Supply Division, Room 0230, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone: (202) 382–1400 or the East River Electric Cooperative, Inc., at Drawer E, Madison, South Dakota 57042, telephone: (605) 256–4536.

This Program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 3rd day of March 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-6364 Filed 3-8-82; 8:45 am]

BILLING CODE 3410-15-M

COMMISSION ON CIVIL RIGHTS

Arizona Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Arizona Advisory Committee to the Commission will convene at 10:00 a.m., and will end at 1:00 p.m., on April 3, 1982, at the Ramada Inn, 3801 East Van Buren, in the Kachina Room, Phoenix, Arizona. The purpose of this meeting is to discuss civil rights issues and priorities for project planning and development.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Professor Morrison F. Warren, 1061 East Magdalena Drive, Tempe, Arizona, 85283, (602) 965–6529 or the Western Regional Office, 3660 Wilshire Boulevard, Suite 810, Los Angeles, California 90010, (213) 688–3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 4, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-6331 Filed 3-8-82; 8:45 am]

BILLING CODE 6335-01-M

District of Columbia Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the U.S. Commission on Civil Rights, that a meeting of the District of Columbia Advisory Committee to the Commission will convene at 2:30 p.m., and will end at 6:00 p.m., on March 25, 1982, at the Gelman Building, 2120 L Street, NW., on the lower level, Washington, D.C. 20037. The purpose of this meeting is to receive and discuss reports on block grant proposals by local government.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Walter E. Washington, 408 T Street, NW., Washington, D.C. 20001, (202) 387–4613 or the Mid-Atlantic Regional Office, 2120 L Street, NW., Room 510, Washington, D.C. 20037, (202) 254–6870.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 3, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-6251 Filed 3-8-82; 8:45 am]

BILLING CODE 6335-01-M

New York Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New York Advisory Committee to the Commission will convene at 4:00 p.m., and will end at 6:30 p.m., on March 25, 1982, at the New York Sheraton Hotel, 7th Avenue and 56th Street, in the Manhattan Suite, New York, New York. The purpose of this meeting is to discuss activities for the remaining period of fiscal year 1982.

Persons desiring additional information or planning a presentation to the Committee should contact the Chairperson, Robert J. Mangum, 10 Nathan D. Perlman Place, New York, New York 10003, (212) 420–3935 or the Eastern Regional Office, Jacob K. Javits Building, 26 Federal Plaza, Room 1639, New York, New York 10278, (212) 264–0400.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 3, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-6252 Filed 3-8-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Issuance of Permit To Take Marine Mammals

On January 25, 1982, notice was published in the **Federal Register** (47 FR 3400), that an application had been filed with the National Marine Fisheries Service by the State of Alaska, Department of Fish and Game, P.O. Box 3–2000, Juneau, Alaska 99802, for a Permit to take belukha whales (*Delphinapterus leucas*) for scientific research.

Notice is hereby given that on March 2, 1982, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a scientific research permit for the above taking to the State of Alaska, Department of Fish and Game, subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: March 2, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-6332 Filed 3-8-82; 8:45 am]

BILLING CODE 3510-22-M

Issuance of a General Permit

A general permit was issued on March 2, 1982 to the Embassy of the Republic of Korea, Washington, D.C. to take marine mammals incidental to commercial fishing operations under Category 1: Towed or Dragged Gear, pursuant to 50 CFR 216.24.

The general permit allows the taking of not more than 8 cetaceans, 50 otariid seals or 50 phocid seals by certificate holders operating under this permit within the U.S. fishery conservation zone.

This general permit is available for public review in the Office of the Assistant Administrator for Fisheries, 3300 Whitehaven Street, NW., Washington, D.C.

Dated: March 3, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mamals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-6333 Filed 3-8-82; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Marineland Amusements Corporation.

b. Address: 6610 Palos Verdes Drive, South, Rancho Palos Verdes, California 90274.

2. Type of Permit: Public Display.

3. Name and Number of Animals:

Pacific Pilot whales (*Globicephala macrorhynchus*), 4

Pacific white-sided dolphins (*Lagenorhynchus obliquidens*), 6

4. Type of Take: To take for public display.

5. Location of Activity: Within 10 miles to the east, south, and west of Catalina Island and between Catalina Island and Palos Verdes Peninsula.

6. Period of Activity: 3 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a

hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: March 3, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-6335 Filed 3-8-82; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Pennwalt Corporation, having a place of business at Philadelphia, Pennsylvania an exclusive right in the United States to manufacture, use and sell products embodied in the invention, "Encapsulation by Entrapment Within Starch Adduct Matrix," U.S. Patent Application 202,306 (dated October 30, 1980). The availability of this invention for licensing was announced in the **Federal Register** (Vol. 46, No. 66, page 21220, April 9, 1981). Copies of the Patent Application may be obtained from the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, at the address above, NTIS will maintain and make available for public inspection a file containing all inquiries, comments and other written materials received in response to this Notice and a record of all decisions made in this matter.

Dated: March 2, 1982.

Douglas J. Campion,

Office of Government Inventions and Patents, National Technical Information Service, U.S., Department of Commerce.

[FR Doc. 82-6340 Filed 3-8-82; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Department of the Army

Decision on Applications by Northern Tier Pipeline Co. To Construct Tanker Berthing Facilities and Crude Oil Pipeline Crossings in Waters of the United States Within the Seattle District

AGENCY: US Army Corps of Engineers, DOD.

ACTION: Notice of Decision.

SUMMARY: The Seattle District Corps of Engineers has determined that construction and operation of tanker berthing and offloading facilities at Port Angeles, Washington and oil pipeline crossings of waters of the United States in Washington, Idaho and Western Montana by the Northern Tier Pipeline Company (NTPC) is in the public interest. The proposed facilities will be used for unloading oil tankers and transporting crude oil to inland refineries. Accordingly, on 2 March 1982, pursuant to section 10 of the River and Harbor Act of March 3, 1899 (33 U.S.C.) and section 404 of the Clean Water Act of 1977 (Pub. L. 95–217; 91 Stat. 1600), Department of the Army permits with special conditions were issued to the NTPC. This notification is required by section 511(a) (Pub. L. 95–617), Public Utility Regulatory Policies Act of 1978.

EFFECTIVE DATE: March 2, 1982.

ADDRESS: Department of the Army, Seattle District, Corps of Engineers, P.O. Box C–3755, Seattle, Washington 98124.

FOR FURTHER INFORMATION CONTACT: Mr. Warren Baxter (206) 764–3495 at above address or Mr. Gerald Chastain, Pulaski Building, 20 Massachusetts Avenue Northwest, Washington, DC 20314, telephone (202) 272–0200.

Norman C. Hintz,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 82-6333 Filed 3-8-82; 8:45 am]

BILLING CODE 3710-92-M

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows:

Monday and Tuesday 12–13 April 1982, Plaza West, Rosslyn, Virginia. The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on the Department of Defense Intelligence Information System.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

March 4, 1982.

[FR Doc. 82-6337 Filed 3-8-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Husky Oil Co.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed consent order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Husky Oil Company and provides an opportunity for public comment on the proposed Consent Order.

DATE: Comments by: April 8, 1982.

ADDRESS: Send comments to: Leslie Wm. Adams, Deputy Solicitor, Economic Regulatory Administration, Department of Energy, 1200 Pennsylvania Avenue, NW., Room 3115, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Leslie Wm. Adams, Deputy Solicitor, Economic Regulatory Administration, Department of Energy, 1200 Pennsylvania Avenue, NW., Room 3115, Washington, D.C. 20461, (202) 633–9165.

Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On January 8, 1982, the ERA executed a proposed Consent Order with Husky Oil Company (Husky) of Denver, Colorado. Under 10 CFR 205.199J(b), a proposed Consent Order which involves a sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. The Consent Order

Husky, with its home office located in Denver Colorado, is a firm engaged in the production, refining, and marketing of crude oil and petroleum products, and was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212 during the period covered by this Consent Order, August 19, 1973, through January 27, 1981. To resolve certain potential civil liability arising out of the mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Parts 205, 210, 211, 212 (and predecessor regulations), in connection with Husky's transactions involving crude oil and petroleum products ("covered products") during the period covered by this Consent Order, the ERA and Husky entered into a Consent Order, the significant terms of which are as follows:

The ERA conducted an audit to determine Husky's compliance with the federal petroleum price and allocation regulations ("Regulations"), for the period August 19, 1973 through January 27, 1981. As a result of that examination, the DOE alleged that certain sales of covered products were made by Husky at prices in excess of the maximum allowable prices in violation of the Regulations.

Notwithstanding DOE's position to the contrary, Husky maintains that it correctly calculated all costs, determined all prices, and operated in all other respects in accordance with the Regulations. Both Husky and DOE believe that their positions on the issues raised by the ERA's allegations are likely to be sustained if tried before a court. Husky desires, however, to resolve the issues in order to avoid further business disruption and the expense of protracted, complex litigation and has thus agreed to enter into the Consent Order.

The Consent Order settles all matters arising from Husky's sales of covered products during the period covered by this Consent Order with the exceptions noted in the Consent Order relating to litigation currently pending in the United States District Court for the District of Wyoming (*Husky Oil Company* v. *DOE*, No. C–77–190B), and matters relating to the DOE's entitlements program. Execution of this Consent Order constitutes neither an admission by Husky or a finding by DOE of any violation of the federal petroleum price and allocation regulations.

DOE believes that the terms and conditions of this Consent Order provide a satisfactory resolution of disputed issues and an appropriate conclusion of the Husky audit, and thus, that the Consent Order is in the public interest.

II. Refunds

Under this Consent Order, Husky will pay the sum of $2,000,000 to the United States Department of Energy within ten (10) days following the effective date of the Consent Order. The ERA will determine the ultimate disposition of these funds.

III. Submission of Written Comments

Interested persons are invited to submit written comments concerning this Consent Order to the address noted above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation, "Comments on the Husky Oil Company Consent Order." The ERA will consider all comments received by 5:00 p.m. on the thirtieth day following publication of this notice. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, D.C., March 1, 1982.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 82-6342 Filed 3-8-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–51402; PH–FRL–2068–7]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of sixteen PMNs and provides a summary of each.

DATES: Written comments by: PMN 82–140 and 82–141—April 23, 1982. PMN 82–142, 82–143, 82–144, 82–145, 82–146, 82–147, 82–148 and 82–149—April 24, 1982. PMN 82–150, 82–151, 82–152, 82–153 and 82–154—April 25, 1982. PMN 82–155—April 26, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–51402]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460 (202–382–3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460 (202–382–3729).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 82–140

Close of Review Period. May 23, 1982.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Oxirane (chloromethyl) polymer with 2-(substituted) ethyl amine fractionation forecuts, methal oxirane and oxirane.

Use. Claimed confidential business information.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Clear, dark amber liquid.
pH—5.1.
Specific gravity @ 60° F—1.16.
Flash point—>200.
Viscosity @ 60° F—4910.
Percent volatiles @ 75° F—1.
Vapor pressure @ 100° F—55 mm/Hg.

Toxicity Data

Acute oral toxicity LC_{50} (rat)—>5,000 mg/kg.
Acute dermal toxicity LD_{50} (rat)—2,000 mg/kg.
Primary skin irritation (rabbit)—Mild irritant.
Primary eye irritation (rabbit)—nonirritant.

Exposure. The manufacturer states that during manufacture, processing, use and disposal a total of 64 workers may experience dermal exposure up to 8 hrs/day, up to 27 days/yr.

Environmental Release/Disposal. The manufacturer states that 100–1,000 kg/yr will be released to water. Disposal is to a publicly owned treatment works (POTW).

PMN 82–141

Close of Review Period. May 24, 1982.

Importer's Identity. Takeda U.S.A., Inc., 400 Park Avenue, New York, NY 10022.

Specific Chemical Identity. Adduct of bis (isocyanatomethyl) benzene with 2-ethyl-2 (hydromymethyl)-1,3-propanediol.

Use. The importer states that the PMN substance will be used as an industrial hardener for polyurethane coatings.

IMPORT ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	300	1,505
2d year	500	2,056
3d year	500	3,000

Physical/Chemical Properties

Appearance—Clear viscous liquid.
Viscosity (Gardner)—U–Z (25° C).
Color (Gardner)—1 max.
Percent solids content—74–76.
Solvent—Cellosolve acetate.
NCO content—11.3–11.7%.
Tolerance: ethyl acetate—Over 1,000; methyl ethyl ketone—Over 1,000; methyl isobutyl ketone—Over 1,000.

Toxicity Data

Acute oral toxicity LD_{50} (rat) (Dried film of Takenate D–110N)—>10 g/kg.

Environmental Test Data

LD_{50} 4 hr. (Takenate D–110N)—2.0 g/m^3 with a standard error of 0.279/m^3.

Exposure. The importer states that during use and disposal 15 workers may experience dermal and inhalation exposure 3 hrs/day, 150 days/yr during weighing, mixing, coating, cleaning and disposal.

Environmental Release/Disposal. The importer states that release to the environment will be negligible.

PMN 82–142

Close of Review Period. May 24, 1982.

Manufacturer's Identity. Uniroyal Chemical Company, Spencer Street, Naugatuck, CT 06770.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Isocyanate terminated polyether prepolymer.

Use. The manufacturer states that the PMN substance will be used in sheet goods, load wheels, and rollers.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Viscous Liquid.
Color, Gardner @ 70° C—2 (maximum).
Amine equivalent—447–467.
Isocyanate content—9.0–9.4.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture and processing 4 workers may experience inhalation exposure during drumming and handling.

Environmental Release/Disposal. The manufacturer states that no release to the environment is anticipated. Disposal is by landfill.

PMN 82–143

Close of Review Period. May 24, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:
Annual sales—Over $500 million.
Manufacturing site—Northeastern region.
Standard Industrial Classification Code—2865.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Heterocyclic-phenyl azo substance.

Use. The manufacturer states that the PMN substance will be used as a site-limited chemical intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Amber, oily liquid.
Water content—5 to 10% by weight.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture 12 workers may experience dermal exposure 3 hrs/day, 36 days/yr during sampling and cleaning.

Environmental Release/Disposal. The manufacturer states that 50 kg/yr will be released to water 2 hrs/day, 36 days/yr. Disposal is to a plant waste treatment works.

PMN 82–144

Close of Review Period. May 24, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:
Annual sales—Over 500 million.
Manufacturing site—Northeastern region.
Standard Industrial Classification Code—2865.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Heterocyclic-alkoxyphenyl azo substance.

Use. The manufacturer states that the PMN substance will be used as a site-limited chemical intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Amber, oily liquid.
Water content—5 to 10% by weight.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture 12 workers may experience dermal exposure 3 hrs/day, 36 days/yr during sampling and cleaning.

Environmental Release/Disposal. The manufacturer states that 50 kg/yr will be released to water 2 hrs/day, 36 days/yr. Disposal is to a plant waste treatment works.

PMN 82–145

Close of Review Period. May 24, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:
Manufacturing site—Middle Atlantic region.
Standard Industrial Classification Code—2865.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Modified polyester polyurethane from substituted alkanediols, alkandioic acid, and a diisocyanate.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used as an open use.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	10,000	40,000
2d year	40,000	100,000
3d year	100,000	300,000

Physical/Chemical Properties

Appearance—Translucent to opaque.
Flash point—>190° F.
Viscosity—1.6 sec.
Percent solids—35.0.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture and processing a total of 106 workers may experience dermal and occular exposure up to 6 hrs/day, up to 150 days/yr.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air and water with 100–1,000 kg/yr released to land. Disposal is by distillation and incineration.

PMN 82–146

Close of Review Period. May 24, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:
Annual sales—$500,000,000–$1,000,000,000.
Manufacturing site—Middle Atlantic region.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Acrylic copolymer.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used as a pressure sensitive adhesive.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. No data were submitted.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture 1–2 workers may experience dermal exposure 1–2 hrs/day, 30 days/yr during blending, packaging and transfer.

Environmental Release/Disposal. No data were submitted.

PMN 82–147

Close of Review Period. May 24, 1982.

Importer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Organorhodium complex.

Use. The importer states that the PMN substance will be used as a catalyst.

Import Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Green crystals.
Solubility: water—Insoluble; acetone—Soluble; benzene—Soluble; chlorinated solvents—Soluble.

Toxicity Data

Oral toxicity LD_{50} (rat)—>50–200 mg/kg.
Acute toxicity LD_{50} (rat) (Intratracheal instillation)—12.1 mg/kg.
Uncovered skin irritation (rabbit)—Minor.
Eye irritation (rabbit)—Severe corneal and eyelid injury, iritis.

Environmental Test Data

Inhalation toxicity, Dust (rat)—0.8 mg/l.

Exposure. The importer states that during processing, quality control and materials handling 8 workers may experience dermal, inhalation and occular exposure at 4 hr intervals, 1 to 2 times per year during reactor charging.

Environmental Release/Disposal. The importer states that release to the environmental is nil. Disposal is by recovery.

PMN 82–148

Close of Review Period. May 24, 1982.

Manufacturer's Identity. E. I. du Pont de Nemours and Company, Inc., 1007 Market Street, Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Ethylene interpolymer.

Use. The manufacturer states that the PMN substance will be used as a modifier for plastics.

PRODUCTION ESTIMATES

	Maximum (kilograms per year)
1st year	340,000
2d year	680,000
3d year	1,360,000

Physical/Chemical Properties. No data were submitted.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture 6 workers may experience dermal exposure 10 days/yr.

Environmental Release/Disposal. Disposal is by approved landfill and incineration.

PMN 82–149

Close of Review Period. May 24, 1982.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Trisubstituted phenol.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used as a minor constituent of an article for commercial and consumer use.

PRODUCTION ESTIMATES

	Maximum (kilograms per year)
1st year	3,000
2d year	3,500
3d year	4,000

Physical/Chemical Properties

Melting point—217° C.
Solubility: water—<0.1%; octanol—<0.1%.

Toxicity Data

Acute oral toxicity LD_{50} (rat)—>3,000 mg/kg.
Acute dermal toxicity LD_{50} (rat)—>1,000 mg/kg.
Skin irritation (rabbit)—Slight.
Eye irritation (rabbit)—Slight.

Exposure. The manufacturer states that during manufacture and processing a total of 70 workers may experience dermal and inhalation exposure up to 1 hr/day, up to 40 days/yr.

Environmental Release/Disposal. The manufacturer states that release to the environment will be negligible. Disposal is by incineration and biological treatment system.

PMN 82–150

Close of Review Period. May 25, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:
Annual sales—Between $100,000,000 and $499,999,999.
Manufacturing site—East North Central region.
Standard Industrial Classification Code—285.

Specific Chemical Identity. Polymer of methyl methacrylate, acrylamide, butyl acrylate, acrylic acid, methacrylic acid.

Use. The manufacturer states that the PMN substance will be used in an open use.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st Year	50,000	400,000
2d Year	100,000	#99,000
3d Year	200,000	#92,000

Physical/Chemical Properties

Specific gravity—0.995.
Flash point—38° F.
Percent solids—55.8.
Toxicity Data. No data were submitted on the PMN substance.
Exposure. The manufacturer states that during manufacture and disposal 11 workers may experience dermal and inhalation exposure 8 hrs/day, 80 days/yr.
Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to air. Disposal is by approved landfill.

PMN 82-151

Close of Review Period. May 25, 1982.
Manufacturer's Identity. Ashland Chemical Company, P.O. Box 2219, Columbus, OH 43216.
Specific Chemical Identity. Claimed confidential business information. Generic name provided: Polymer of aliphatic and aromatic diacids and an aliphatic diol.
Use. The manufacturer states that the PMN substance will be used in a cured, cross-linking coating for commercial articles.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	50,000	100,000
2d year	100,000	250,000
3d year	200,000	265,000

Physical/Chemical Properties

Viscosity @ 70% in ethoxyethanol acetate—2,000–5,000 cps.
Solubility: water—Insoluble.
Acid value—5–10.
Vapor pressure—Negligible.
Molecular weight—2,500.
Toxicity Data. No data were submitted.
Exposure. The manufacturer states that exposure is negligible.
Environmental Release/Disposal. Disposal is by approved landfill and incineration.

PMN 82-152

Close of Review Period. May 25, 1982.
Manufacturer's Identity. Claimed confidential business information. Organization information provided:
Annual sales—$100,000,000–$499,000,000.
Manufacturing site—East North Central region.
Standard Industrial Classification Code—285.
Specific Chemical Identity. Claimed confidential business information. Generic name provided: Fatty acids, tall oil, polymers with alicyclic glycol, phthalic anhydride and trimethylol propane.
Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in an open use.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	50,000	100,000
2d year	90,000	800,000
3d year	150,000	#00,000

Physical/Chemical Properties

Appearance (polymer)—Tacky semi-solid
Specific gravity (polymer)—1.09; (80% solution)—1.04.
Viscosity (80% solution)—U–W (G–H).
Solubility: water—Insoluble; alcohol—Soluble; aromatic hydrocarbons—Soluble; esters—Soluble; ketones—Soluble; aliphatic hydrocarbons—Insoluble.
Acid value—5.8.
Color (G–C)—2–4.
Toxicity Data. No data were submitted.
Exposure. The manufacturer states that during manufacture and processing 15 workers may experience dermal exposure 1.5 hrs/day, 20–250 days/yr during sampling, testing and filling.
Environmental Release/Disposal. The manufacturer states that 100–1,000 kg/yr will be released to land.

PMN 82-153

Close of Review Period. May 25, 1982.
Importer's Identity. Claimed confidential business information.
Specific Chemical Identity. Claimed confidential business information. Generic name provided: Alkyl (substituted aryl) alkylate.
Use. Claimed confidential business information. Generic use information provided: The importer states that the PMN substance will be used in a contained use.
Import Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Light yellow viscous liquid.
Specific gravity ($H_20=1$)—1.1.
Boiling point—260° C @ 1 mm Hg.
Flash point (Pensky Martens)>302° F.
Solubility: water—Insoluble.
Refractive index —1.58.
Odor—Undefined odor.

Toxicity Data

Oral toxicity LD_{50} (rat)—>5,000 mg/kg.
Skin irritation (rabbit)—Slight.
Eye irritation (rabbit)—Minimal.
Exposure. Claimed confidential business information.
Environmental Release/Disposal. Claimed confidential business information.

PMN 82-154

Close of Review Period. May 25, 1982.
Importer's Identity. Claimed confidential business information.
Specific Chemical Identity. Claimed confidential business information. Generic name provided: Alkyl (substituted aryl) alkylate.
Use. Claimed confidential business information. Generic use information provided: The importer states that the PMN substance will be used in a contained use.
Import Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Light yellow viscous liquid.
Specific gravity ($H_20=1$)—1.1.
Boiling point—260° C @ 1 mm Hg.
Flash point (Pensky Martens)>302° F.
Solubility: water—Insoluble.
Refractive index —1.58.
Odor—Undefined odor.

Toxicity Data

Oral toxicity LD_{50} (rat)—>5,000 mg/kg.
Skin irritation (rabbit)—Slight.
Eye irritation (rabbit)—Minimal.
Exposure. Claimed confidential business information.
Environmental Release/Disposal. Claimed confidential business information.

PMN 82-155

Close of Review Period. May 26, 1982.
Manufacturer's Identity. Claimed confidential business information. Organization information provided:
Annual sales—$500,000,000.
Manufacturing site—East South Central region.
Standard Industrial Classification Code—284.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Polyether alkanyl esters.
Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in a contained use.
Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Boiling point—Estimated to be >260° C with decomposition.
Solubility @ 25° C: ethyl alcohol (95%)—>10 g/l; toluene—>10 g/l; carbon tetrachloride—>10 g/l.
Density (Liquid) @ 25° C—1.0–1.2 g/cm³.
Solidification temperature—−20 to 15° C.
Toxicity Data. No data were submitted.
Exposure. The manufacturer states that during manufacture, processing, use and disposal a total of 25 workers may experience dermal exposure up to 8 hrs/day, up to 250 days/yr during transfer.
Environmental Release/Disposal. The manufacturer states that 1,000–10,000 kg/yr will be released to water 1 hr/day, 50 days/yr with 1,000–10,000 kg/yr release to land. Disposal is by landfill, biological treatment facility, settling sump and aeration basis.

Dated: March 2, 1982.

Woodson W. Bercaw,
Acting Director, Management Support Division.

[FR Doc. 82-6248 Filed 3-8-82; 8:45 am]
BILLING CODE 6560-31-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. FEMA-REP-6-AR-1]

Arkansas Radiological Emergency Response Plan for the Arkansas Nuclear One Power Plant

AGENCY: Federal Emergency Management Agency.
ACTION: Certification of FEMA Findings and Determination.

In accordance with FEMA Rule 44 CFR Part 350 (proposed), the State of Arkansas submitted its plans relating to the Arkansas Nuclear One Power Plant to the Regional Director who has forwarded his evaluations to the Associate Director for State and Local Programs and Support, in accordance with § 350.11 of the proposed rule. Consideration in his evaluations of the State and associated local plans were the contiguous State and local plans involved in the 10 and 50 mile emergency planning zones, a critique of the exercise conducted on March 24–25, 1981, in accordance with § 350.9 and a report of the public meeting held on March 16, 17, 19, and 20, 1981, to discuss the site specific aspects of the State and local plans in accordance with § 350.10 of the proposed Rule.

Based on a review of the Region's evaluations by FEMA Headquarters, the Associate Director finds and determines that, subject to the condition stated below, State plans and preparedness including local plans and preparedness for the Arkansas Nuclear One Plant are adequate to protect the health and safety of the public living in the vicinity of the plant. There is reasonable assurance that appropriate protective measures can and will be taken offsite in the event of a radiological emergency. The condition for the above approval is that the public alerting and notification system already installed and in operation be tested and evaluated by the FEMA Region VI in accordance with the criteria in NUREG 0654/FEMA-REP-1, Rev. 1 by February 1, 1982.

FEMA will continue to review the status of preparedness of the State and its local jurisdictions associated with the Arkansas Nuclear One Plant in accordance with § 350.13 of the proposed rule.

For further details with respect to the action, refer to Docket File FEMA-REP-6-AR-1 for Arkansas Nuclear One maintained by the FEMA Regional Director at the Federal Center, Denton, Texas 76201.

Dated: January 27, 1982.

For the Federal Emergency Management Agency.

Lee M. Thomas,
Associate Director, State and Local Programs and Support.

[FR Doc. 82-6236 Filed 3-8-82; 8:45 am]
BILLING CODE 6718-01-M

[Docket No. FEMA-REP-6-CO-1]

The State of Colorado Radiological Emergency Response Plan for the Fort St. Vrain Nuclear Generating Station; Certification of FEMA Findings and Determination

AGENCY: Federal Emergency Management Agency.
ACTION: Certification of FEMA Findings and Determination.

In accordance with the FEMA Rule 44 CFR Part 350, (proposed), on June 12, 1980, the State of Colorado submitted its Plans relating to the Fort St. Vrain Nuclear Generating Station to the Director of FEMA Region VIII for review and approval. The Regional Director forwarded his evaluation to the Associate Director for Plans and Preparedness on May 1, 1981, in accordance with § 350.11 of the proposed Rule. Included in this evaluation were a review of the State and local plans around the Fort St. Vrain facility; a critique of the exercise conducted in the vicinity of the site on February 28, 1980, in accordance with § 350.9 of the proposed Rule; a report on the public meeting held on August 13, 1980, to explain the site specific aspects of the State and local plans in accordance with § 350.10 of the proposed Rule. On August 12, 1981, a second exercise was held followed by an exercise critique on August 13, 1981.

Based on the evaluation by the Regional Director and the review by the FEMA Headquarters staff, I find and determine that, subject to the condition stated below, the State and local plans and preparedness for the Fort St. Vrain facility are adequate to protect the health and safety of the public living in the vicinity of the facility. The plans and preparedness are assessed as providing reasonable assurance that appropriate protective measures can and will be taken off-site in the event of a radiological emergency and are capable of being implemented. The condition for the above approval is that by February 1, 1982, the public alerting and notification system must meet the standards set forth in Appendix 3 of the Nuclear Regulatory Commission (NRC)/FEMA Criteria (NUREG-0654/ FEMA-REP-1, Revision 1).

Other deficiencies were noted, however, they either have been or are in the process of being corrected.

FEMA will continue to review the status of plans and preparedness of the State and locality associated with Fort St. Vrain in accordance with § 350.13 of the proposed Rule.

For further details with respect to this action, refer to the FEMA docket file maintained by the Regional Director, FEMA Region VIII, Federal Regional Center, Building 710, Denver, Colorado 80225.

Dated: January 29, 1982.

Lee M. Thomas,
Associate Director, State and Local Programs and Support.

[FR Doc. 82-6235 Filed 3-8-82; 8:45 am]
BILLING CODE 6718-01-M

[Docket No. FEMA 6255]

National Flood Insurance Program; Communities With Flood-Prone Areas Subject to Section 202(a); Prohibition of Federal and Federally Related Assistance

AGENCY: Federal Emergency Management Agency.

ACTION: Notice, correction.

SUMMARY: Appearing in the Federal Register, Vol. 46, No. 200, Docket No. FEMA 6159, FR Doc. 81-29664, at page 51015 in the issue of Friday, October 16, 1981, on page 51023, delete the Village of Savannah, Wayne County, New York from this list. Effective January 1, 1980, the Village dissolved and became part of the Town of Savannah, Wayne County, New York. The Town was eligible to participate in the National Flood Insurance Program February 1, 1980.

FOR FURTHER INFORMATION CONTACT:

Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287-0270, 500 C Street Southwest, Donohoe Building—Room 505, Washington, DC 20472.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: February 25, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6000 Filed 3-8-82; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL HOME LOAN BANK BOARD

Unity Savings Association; Norridge, Ill.; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in section 406(c)(2) of the National Housing Act, as amended (12 U.S.C. 1729(c)(2)), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as receiver for Unity Savings Association, Norridge, Illinois, effective February 20, 1982.

Dated: March 2, 1982.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-6256 Filed 3-8-82; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

First Freeport Corp.; Acquisition of Bank

First Freeport Corporation, Freeport, Illinois, has applied for the Board's approval under Section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Polo Bancorp, Inc., Polo, Illinois. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 1, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 2, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6253 Filed 3-8-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Mental Health Small Grant Review Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory body scheduled to assemble during the months of March and April 1982:

Mental Health Small Grant Review Committee

March 31-April 3; 1:30 p.m.

The Holiday Inn of Georgetown, The Mandelieu and Monte Carlo Rooms, 2101 Wisconsin Avenue, N.W., Washington, D.C. 20007

Open—March 31; 1:30-2:30 p.m.

Closed—Otherwise

Contact: Carole J. Tully, Room 9-104, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4843

Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities for research in all disciplines pertaining to alcohol, drug abuse, and mental health, including psychiatry, sociology, anthropology, psychological sciences, biological sciences, and epidemiology, and makes recommendations to the National Advisory Councils of the respective Institutes for final review.

Agenda: From 1:30-2:30 p.m., March 31, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact person listed above. A summary of the meeting and a roster of the Committee members will be furnished upon request from Ms. Helen W. Garrett, Committee Management Officer, National Institute of Mental Health, Room 9-95, Parklawn Building, Rockville, Maryland 20857, (301) 443-4333.

Dated: March 3, 1982.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 82-6257 Filed 3-8-82; 8:45 am]

BILLING CODE 4160-20-M

Food and Drug Administration

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Dental Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel

Date, time, and place. April 2, 1 p.m., Conference Rm. C, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and panel section leader. This meeting will be held by a conference telephone call. A speaker phone will be provided in the conference room to allow public participation in open sessions of the meeting. Open public hearing, 1 p.m. to 1:30 p.m.; open committee discussion, 1:30 p.m. to 4 p.m.; Gregory Singleton, Bureau of Medical Devices (HFK-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7536.

General function of the coinmittee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the panel section leader before March 15, 1982, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss labeling for 13-cis retinoic acid (NDA 18-662, Hoffmann-La Roche, Inc.) for use in cystic acne; Thilidomide (IND 11,359) in the treatment of pyoderma gangrenosum and other dermatological disorders; and Selsun Shampoo (NDA 7-936) in the treatment of tinea versicolor.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Section 10.210 (21 CFR 10.210) of FDA's procedural regulations requires FDA to give notice of the availability of reimbursement for participation and certain FDA proceedings including advisory committee meetings. However, on November 27, 1981, the United States Court of Appeals for the Fourth Circuit held that FDA does not have authority to reimburse public participants in its administrative proceedings. *Pacific Legal Foundation* v. *Goyan*, No. 80-1854 (4th Cir. November 27, 1981). Accordingly, reimbursement will not be available for participation in the proceedings described in this notice.

Dated: March 2, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-6131 Filed 3-8-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 77N-0080]

Polychlorinated Biphenyls (PCB's) in Fish and Shellfish; Reduction of Tolerances; Availability of Initial Decision; Opportunity for Submission of New Information

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of the Initial Decision of the Administrative Law Judge and an opportunity for the submission of posthearing briefs concerning new information relevant to the rulemaking but outside the scope of the formal evidentiary hearing.

DATES: Posthearing briefs must be received by April 5, 1982. Reply briefs must be received by May 3, 1982.

ADDRESSES: Copies of the Initial Decision are available from, and briefs may be submitted to, the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Theodore E. Herman, Regulations Policy Staff (HFC-10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 1, 1981 (46 FR 24551), FDA announced a public hearing on an objection to the final rule that reduced tolerances for unavoidable residues of PCB's in several classes of food. FDA had published the final

regulation in the Federal Register of June 29, 1979 (44 FR 38330).

The notice of hearing stated that the public hearing would consider only one factual issue: What is the magnitude of the human food loss that would result from lowering the tolerance for PCB's in fish and shellfish from 5 parts per million (ppm) to 2 ppm? FDA further announced in the notice of hearing that new information on other issues, including PCB toxicity, could be submited and commented upon to the Commissioner of Food and Drugs in posthearing briefs and reply briefs, which are to be due on the same dates as the hearing participants' exceptions to the Initial Decision and replies to exceptions. The Commissioner will consider the information in these briefs if he finds good cause for their late inclusion in the administrative record of this rulemaking proceeding.

The Administrative Law Judge issued his Initial Decision on February 8, 1982. A copy of the decision may be obtained from the Dockets Management Branch at the address given above. The Initial Decision provided that exceptions are due by March 10, 1982, and replies to exceptions are due by March 30, 1982. At the request of one of the hearing parties, the Commissioner of Food and Drugs extended these dates to April 5, 1982, and May 3, 1982, respectively.

Therefore, FDA announces that interested persons may submit briefs containing new information that is relevant to this rulemaking proceeding and that is not already part of the administrative record, and may comment upon that information. A person need not have been a hearing participant to submit such a brief or reply brief. Briefs should be addressed to the Dockets Management Branch at the address given above and should be received by the dates given above. Each brief should include a statement concerning why the submitted information was not submitted to FDA during the notice and comment portion of this proceeding.

Dated: March 2, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-6132 Filed 3-8-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81N-0168]

Proposed Recommendation to the Drug Enforcement Administration Regarding the Scheduling Status of Tetrahydrocannabinol

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a proposed recommendation on the appropriate scheduling of tetrahydrocannabinol (THC) under the Controlled Substances Act (CSA). The document also includes a scientific and medical evaluation of THC. The proposed recommendation is published to give interested persons the opportunity to comment on the recommendation and on the scientific and medical evaluation. FDA will consider these comments in preparing its final recommendation on, and scientific and medical evaluation of, tetrahydrocannabinol before transmitting them to the Assistant Secretary for Health of the Department of Health and Human Services (DHHS). the Assistant Secretary for Health is responsible for making the DHHS' recommendation to the Drug Enforcement Administration.

DATE: Comments by May 10, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Edwin V. Dutre, Jr., Bureau of Drugs (HFD-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382 or 443-6490.

SUPPLEMENTARY INFORMATION:

I. Background

The full chemical name for tetrahydrocannabinol, or THC, is (-)-*delta*-9-(trans)-tetrahydrocannabinol. THC, the principal active ingredient in the marihuana plant, *Cannabis sativa*, is present in the plant at varying concentrations. THC can be extracted from plant material or synthesized independently. However, it was not until 1970, after THC synthesis, that sufficient quantities of THC, in purified form, became available for medical research. Investigators have studies THC primarily for its use in treating the nausea and vomitting of some patients receiving cancer chemotherapy. In addition, investigators have studied THC's use in treating glaucoma and muscle spasticity. Medical or investigational use of a drug such as THC that has potential for abuse is regulated under two principal Federal statutes, the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 301 *et seq.*) and the Controlled Substances Act (CSA) (21 U.S.C. 801 *et seq*). Under the FFDCA a drug may be marketed only if (1) it has received an approved new drug application from FDA; (2) the drug is generally recognized as safe and effective on the basis of adequate and well-controlled clinical investigations by well-qualified experts; or (3) the drug is subject to the "grandfather" provisions of the FFDCA.

Enacted in 1970, the CSA establishes domestic control schedules I through V for substances of abuse (21 U.S.C. 812(b)(1) through (5)). Congress placed THC into schedule I, the schedule providing the most stringent controls. The findings required for schedule I are that the substances have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. The major schedule I controls are: dispensing for research use only, separate recordkeeping, and maximum quotas on amounts produced during a given year. The latter two controls also apply to schedule II substances.

In addition to controls under the FFDCA and the CSA, medical or investigational use of a drug that has a potential for abuse also may be subject to control under international treaties: the Single Convention on Narcotic Drugs, and the Convention Psychotropic Substances. Detailed discussion of controls applicable to THC under the Psychotropic Convention are beyond the scope of this notice. However, currently THC is controlled in the most restrictive schedule of the Psychotropic Convention, Psychotrophic schedule I. Schedule I of the Psychotropic Convention also includes certain other hallucinogenic substances, e.g., mescaline, parahexyl, and LSD. The major controls for substances in Psychotropic Convention schedule I are: prohibition of use except for scientific and limited medical purposes, and restriction of the amount supplied to a duly authorized person to the quantity required for an authorized purpose. Thus, the Psychotropic Convention requires the United States to impose certain domestic controls on THC. The United States' responsibilities under the Psychotropic Convention are assigned by the CSA, as amended by the Psychotrophic Substances Act of 1978 (Pub. L. 95-633).

The CSA contains procedures by which changes in domestic scheduling can be effected (21 U.S.C. 811(a)), including "on petition of any interested person." In may 1972, the National Organization for the Reform of Marijuana Laws (NORML) petitioned the Bureau of Narcotics and Dangerous Drugs (now the Drug Enforcement Administration (DEA)) under section 201(a) of the CSA (21 U.S.C. 811(a)) to remove marihuana and its components from control under the CSA or to move marihuana and its components to a less restrictive schedule. DEA denied NORML's requests (see 37 FR 18097, September 1, 1972). NORML sought judicial review of the denial and the United States Court of Appeals for the District of Columbia, in *NORML* v. *Ingersoll*, 497 F. 2d 654 (D.C. Cir. 1974), ordered DEA to hold hearings and reconsider the NORML petition on the basis of evidence introduced at these hearings. Following these hearings, DEA again denied the NORML petition and ruled that the substances at issue must remain in CSA schedule I (40 FR 44164, September 25, 1975). NORML sought judicial review of the second denial and the court remanded the matter to DEA with instructions to refer the NORML petition to the Secretary of DHHS for medical and scientific evaluations and recommendations for rescheduling. See *NORML* v. *DEA*, 559 F. 2d 735, 750 (D.C. Cir. 1977). The court directed DEA to comply with the rulemaking procedures in 21 U.S.C. 811 (a) and (b) after DEA received the Secretary's evaluation and recommendation. Although the original NORML petition requested a change in the scheduling status only of marijuana leaves and other plant components, the court allowed NORML to amend its petition to include THC. *Id.* at p. 757.

The court directed the Secretary of DHHS to make separate evaluations and recommendations for each of the following cannabis materials: "Cannabis" and "cannabis resin" (minimum control—CSA II); cannabis leaves (minimum control—CSA V); cannabis seeds capable of germination (minimum control—CSA V); THC (no minimum control under CSA). The "minimum control" schedules relate to the least restrictive domestic schedules which the court in 1977 stated were consistent with treaty obligations under the Single Convention on Narcotic Drugs, 1961. Each of the "cannabis" materials, other than THC, is controlled by the Single Convention.

The Psychotropic Convention, which requires the United States to impose controls on THC, did not become effective in this country until July 1980. Thus, although the court in 1977 in *NORML* v. *DEA* concluded that no minumum domestic control for THC was required by virtue of international treaty, the court's decision did not take into account the present obligations of the United States under the Psychotropic Convention. See Psychotropic Substances Act of 1978 (amending the CSA to include United States obligations under the Psychotropic Convention).

In June 1977, DEA referred the NORML petition to the Secretary of DHEW (now the Department of Health and Human Services (DHHS)). FDA's Controlled Substances Advisory Committee (CSAC) considered NORML's petition in November 1977 and March 1978. The CSAC (now FDA's Drug Abuse Advisory Committee (DAAC)) recommended that the marihuana plant materials remain in CSA schedule I and that THC be rescheduled to CSA schedule II. The CSA schedule II recommendations were based on the advisory committee's view that placement in schedule II would facilitate research. On June 4, 1979, the Secretary transmitted to DEA the DHHS' evaluation and recommendation that each of the cannabis materials listed above and THC remain in schedule I. DHHS differed with the advisory committee recommendation because the substances met the legal criteria for CSA schedule I and because control of the substances in schedule I was not viewed as a significant impediment to research. On June 20, 1979, DEA denied NORML's petition and request for a hearing on the ground that there was lack of substantial evidence to support lesser control of the substances in question (44 FR 36123).

NORML petitioned the Court of Appeals for review of DEA's final order denying the petition. On October 16, 1980, the court ordered that the case once again be remanded to DEA and that DEA refer all the substances at issue to DHHS for scientific and medical findings and recommendations on scheduling. The court directed that the DHHS review take into account new evidence concerning medical use of the substances at issue. *NORML* v. *DEA and DHEW*, No. 79-1660 (D.C. Cir., October 16, 1980). On April 22, 1981, DEA referred the NORML petition to DHHS for review.

On June 25, 1981, FDA received a new drug application (NDA) seeking approval to market THC for the antinausea indication described above. FDA is now reviewing this NDA. If FDA approves the NDA, THC could not become commercially available until its scheduling status under the CSA were changed.

DHHS has adopted the following special procedures in making its evaluation and scheduling recommendation for THC (a separate procedure applies to the other cannabis-containing substances covered by the court order, which procedure will be the subject of a future Federal Register notice):

(a) Hearing before FDA's DAAC on the scheduling status of THC as a proposed marketed drug for nausea and vomiting in patients receiving cancer chemotherapy.

(b) Review by FDA of evidence concerning THC for this use, including the DAAC recommendation and comment from other appropriate units in DHHS.

(c) Publication in this Federal Register notice of the proposed scientific and medical evaluation and recommendation for public comment.

(d) Consideration of the comments received in response to this Federal Register notice in preparing FDA's evaluation and scheduling recommendation for transmittal to the Assistant Secretary for Health, DHHS.

(e) Review of the evaluation and recommendation by the Assistant Secretary for Health, DHHS, and transmittal to DEA.

To accomplish the first of these steps, FDA issued a Federal Register notice on May 15, 1981 (46 FR 26869-70), announcing that the DAAC would meet to consider the scheduling status of THC. An NDA was submitted to the agency on June 25, 1981 seeking approval to market THC for treatment of nausea and vomiting in patients undergoing cancer chemotherapy. The DAAC met on June 29, 1981 and was asked to make a recommendation for appropriate scheduling if the NDA for THC were approved. The DAAC recommended that upon NDA approval THC should be controlled in CSA schedule II. Transcripts of the June 29, 1981 DAAC meeting as well as the November 1977 and March 1978 CSAC meetings are on file at the FDA Dockets Management Branch (address above).

Following the DAAC meeting, FDA conducted the review referred to in the second step above. This notice represents the third step, notice of FDA's proposed scientific and medical evaluation and scheduling recommendation.

II. Scheduling Recommendation

FDA proposes to recommend to the Assistant Secretary for Health, DHHS, that THC remain in schedule I, but that if the NDA for THC marketing is approved by the agency, THC be rescheduled under the CSA to schedule II.

FDA notes that several members of the DAAC voted against the majority's recommendation for CSA schedule II and implied that they prefer a schedule with lesser controls. The agency has

carefully considered schedule III especially, but also schedules I, IV, and V, and no control, and proposes to conclude that, on balance, THC as a marketed drug would fit best in CSA schedule II.

FDA also notes that any rescheduling of THC from schedule I to II will be influenced not only by the results of this proceeding but also by U.S. treaty obligations under the Psychotropic Convention. As a matter separate from this proceeding but still related to domestic scheduling, FDA is considering with the other interested agencies of government involved in international scheduling whether rescheduling of THC to schedule II domestically could be accomplished without international rescheduling. The agency is not seeking comment on this legal issue.

In making a scheduling recommendation, consideration must be given to the eight factors listed at 21 U.S.C. 811(c). FDA's consideration of these eight factors with respect to THC follows:

(1) *Its actual or relative potential for abuse (21 U.S.C. 811(c)(1)).* The natural source of (-)-*delta*-9-(trans)-THC is the plant *Cannabis sativa*, also called marihuana (Refs. *1* through *4*). THC as a single active substance also can be synthesized chemically. THC's chemical structure is:

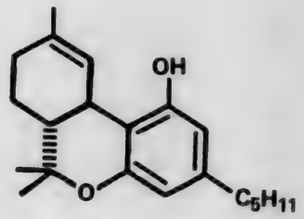

THC occurs in the plant material at concentrations up to approximately 9 percent of the weight of the leaves. Most cannabis contains less than 3 percent THC (Ref. *6*). THC is the major active psychotropic substance in the marihuana plant material.

The legislative history of the Comprehensive Drug Abuse Prevention and Control Act of 1970 defines potential for abuse as:

(1) [E]vidence that individuals are taking a drug or drugs containing a substance in amounts sufficient to create a hazard to their health or to the safety of other individuals or of the community;

(2) [S]ignificant diversion of the drug or drugs containing the substance from legitimate drug channels;

(3) Individuals * * * taking the drug or drugs containing the substance on their own initiative rather than on the basis of medical advice from a practitioner licensed by law to administer such drugs in the course of his professional practice; or

(4) The drug or drugs containing such a substance are new drugs so related in their action to a drug or drugs already listed as having a potential for abuse as to make it likely that the drug will have the same potentiality for abuse as such drugs, thus making it reasonable to assume that there may be significant diversions of the drug from legitimate channels, significant use contrary to or without medical advice, or that the drug has a substantial capability of creating hazards to the health of the user or to the safety of the community (Ref. *5*).

Pure THC has not been available in the United States except in research settings. However, because THC is the major psychoactive ingredient of cannabis, the potential for abuse of THC is indicated by the actual abuse of cannabis. This relation is supported by the practice among abusers of rating the quality of cannabis according to THC content. The higher the THC content, the more desirable the cannabis becomes and the more expensive it becomes on the illicit market (Ref. *6*). As an estimate of the magnitude of the actual abuse of cannabis, approximately 10,000 to 15,000 tons of cannibis were smuggled into the United States in 1978 with a value of approximately $15 to $23 billion (Ref. *7*). The price on the illicit market in 1978 for cannabis was approximately $35 to $50 per ounce or $375 to $800 per pound (Ref. *8*). The usual concentration of THC in illicit cannabis is 1 to 4 percent THC. By comparison, the price of sinsemilla, which is a specially grown high-potency marihuana with a THC content of up to 8 percent, has been reported to be $1,000 to $3,000 per pound (Ref. *7*). At that price per unit of THC, the illicit market value of 100 percent THC would be $12,500 to $37,500 per pound. This is equivalent to the illicit value of cocaine, which sells for approximately $2,000 per ounce or $32,000 per pound. To the extent that the illicit price of a substance is a measure of its potential for abuse, THC would have a high potential for abuse.

Further supporting the conclusion that pure THC has a potential for abuse is the presence on the illicit market of substances alleged to be pure THC but which in fact contain other hallucinogenic substances, such as PCP or LSD (Ref. *9*). Thus, FDA proposes to conclude that there exists a high potential for abuse of THC.

(2) *Scientific evidence of its pharmacological effect, if known (21 U.S.C. 811(c)(2)).* The pharmacological effects of THC have been investigated since it became available in sufficient quantity for extensive studies in the early 1970's. The effect primarily responsible for THC's desirability as a substance of abuse is its ability to produce euphoria. The effects of pure THC are essentially similar to those of cannabis containing THC in equivalent amounts. Responses to THC vary with dosage, frequency of use, and attitude toward the drug (Ref. *10*). External factors such as setting or environment, previous drug experience, and age also affect the response to cannabis. A study of subjective marihuana experience revealed that frequent use of cannabis was associated with reports of increased "creative lucidity," which includes original ideas and greater insight into self, "somatosensory enhancement," which includes more sensual and new touch qualities, and "social withdrawal," which includes a more quiet activity and less talking (Ref. *11*). An individual's perception of space and time (which influences sensory perceptions) is also changed by cannabis (Ref. *12*). Cannabis can produce a slowing or even a stopping of time perception. At high doses THC produces hallucinogenic effects, paresthesias (abnormal sensations), altered perceptions, difficulty with thinking, concentrating, or speaking, and depersonalization (Ref. *13*).

Two physiological effects of cannabis and THC are an increase in heart rate and reddening of the eyes. The increase in heart rate is dependent on the dose of THC in marihuana with a peak effect about 20 minutes after smoking and a duration of about 85 minutes (Ref. *12*). Reddening of the eyes reaches a peak about one hour after smoking and slowly declines. THC acts on both the central and autonomic nervous systems (Ref. *12*).

(3) *The state of current scientific knowledge regarding the drug or other substance (21 U.S.C. 811(c)(3)).* THC synthesis was first reported in 1964 (Ref. *1*). By 1970 there had been sufficient work on the chemistry of THC to produce the material in purified form in sufficient quantities for research (Ref. *15*). Since 1970, the scientific and medical literature concerning THC and THC as a component of cannabis has been extensive (Refs. *14* and *16*). Under the Marijuana and Health Reporting Act of 1970 (Pub. L. 91–296), Congress receives reports on the health consequences of marihuana and marihuana constituents. These reports present summary information of scientific knowledge accumulated on THC and include an extensive bibliography of research with THC (Ref. *17*). The Institute of Medicine of the National Academy of Sciences currently is conducting an independent assessment of the physiological and behavioral effects mainly of marihuana but also of THC. The results of this assessment are not yet available (Ref. *18*). Much of the scientific work done with THC was performed under contract from the National Institute on Drug Abuse and is compiled in FDA's Drug Master File No. 1631 (Ref. *19*).

The National Cancer Institute (NCI) distributes THC as a group C drug under an investigational new drug application for the indication of nausea and vomiting resulting from cancer chemotherapy. Group C drugs are investigational drugs with sufficient evidence of safety and efficacy that they may be useful in the care of cancer patients who are not enrolled in formal clinical trials. Group C drugs are not yet marketed, in part because full documentation of safety and/or effectiveness is still being compiled. THC was classified as a group C investigational new drug on the basis of clinical studies indicating THC's effectiveness in the treatment of some cancer chemotherapy patients with nausea and vomiting refractory to standard antiemetics and because the benefits of treatment with THC exceed the risks identified to date (Ref. *27*). Group C distribution is intended both to provide anti-cancer drugs to patients for humanitarian reasons and to acquire additional information on adverse effects in the context in which the drug is likely to be used in clinical practice after marketing. Under group C distribution, THC remains an investigational drug and is provided only to properly trained physicians who have registered with NCI as clinical investigators.

The precise mechanism of action of THC at the cellular level is unknown. One of the major metabolites of THC is 11-hydroxy-*delta*-9-THC. This metabolite produces effects similar to those of THC but appears to have a more rapid onset and to be more potent (Ref. *14*). Studies have indicated, however, that THC has activity separate from those of the metabolite 11-hydroxy-*delta*-9-THC (Ref. *14*).

(4) *Its history and current pattern of abuse (21 U.S.C. 811(c)(4)).* Pure THC has not been available in the United States except in research settings, and there are no reports of significant diversion or abuse of synthetic THC from scientific and research institutions.

Typical THC values obtained from plant materials in the illicit market and reported in the literature (Ref. *20*) are as follows:

	Percent
Fiber-type cannabis	0.05 THC.
Drug-type cannabis	1.0 to 4.0 THC.
Hashish (resin)	10.0 THC.
Red oil (cannabis distillate)	20.0 THC.

As the concentration of THC increases, the monetary value of the substance on the illicit market also increases. See the above discussion of factor one, potential for abuse. Attempts have been made to increase the THC content of plant materials which are available on the illicit market. It is reasonable to conclude that the pattern of abuse of synthetic THC would be similar to that of cannabis materials with high concentrations of THC.

(5) *The scope, duration, and significance of abuse (21 U.S.C. 811(c)(5)).* There has been no actual abuse of THC reported, either from diverted material or in patients given the drug under the stringent controls that apply to investigational drugs. However, cannabis, which contains THC, is widely abused. See the above discussion of factor one.

(6) *What, if any, risk there is to the public health (21 U.S.C. 811(c)(6)).* The risks to the public health from the illicit use of THC are likely to be similar to those of marihuana. Further, the dosage form proposed in the NDA is a capsule for oral use containing THC in sesame oil. If this dosage form were diverted and injected intravenously, it could cause severe problems to the individual from oil embolism. Taken orally, as intended, the THC capsule would produce psychotropic effects and, like marihuana, could adversely affect job performance and automobile driving. Studies utilizing pure THC or cannabis indicate that the substances impair skills and behavior related to driving (Ref. *21*).

(7) *Its psychic or physiological dependence liability (21 U.S.C 811(c)(7)).* Physical dependence on THC has not been demonstrated. Although one investigator (Ref. *14*) reported withdrawal signs and symptoms after large doses of THC, other investigators have failed to observe a withdrawal syndrome in chronic abusers of marihuana or THC (Ref. *22*).

With respect to psychological dependence, there is evidence to suggest such dependence in some individuals. Marihuana is capable of producing, in certain individuals who use it heavily and repeatedly, an amotivational syndrome (Ref. *22*). Concentrated forms of cannabis such as hashish or red oil have also been reported to produce an acute neurological syndrome which include the clouding of mental processes, disorientation, confusion, and marked memory impairment (Ref. *23*). Illicit marihuana has shown a trend in recent years toward higher concentrations of THC in illicit cannabis-containing plant substances. This material commands a high price and is particularly attractive to certain individuals. A recent report of the American Medical Association's Council on Scientific Affairs, as adopted by the AMA House of Delegates, concluded that marihuana is hazardous to health and that there was a growing prospect of an appreciable number of marihuana users incurring physiological and psychological impairment (Ref. *24*).

FDA proposes to conclude that some individuals should be considered as sufficiently strong drug-seeking in their behavior to be considered severely psychologically dependent on cannabis and that a similar potential dependence should be anticipated for THC. Therefore, FDA proposes to conclude that THC poses a risk to the public health.

(8) *Whether the substance is an immediate precursor of a substance already controlled under this title (21 U.S.C. 811(c)(8)).* THC is not an immediate precursor to a substance already controlled under this title.

III. Criteria for Scheduling

The eight factors discussed above are used to determine which of the five CSA schedules, if any, is appropriate for a given drug or substance. Each of the five CSA schedules has three criteria to aid in this determination. To assign a substance to a specific schedule, the Attorney General must find that the substance meets the statutory criteria for that schedule. 21 U.S.C. 811(a)(1)(B).

Criterion A for all five schedules is a series of descriptions of abuse potential, declining from high to low. Schedules I and II are identical in this regard, both requiring a finding of "high" potential for abuse. Schedules III through V require findings of lower, though still some, abuse potential.

Criterion B for all five schedules is whether the drug, or other substance,

has a currently accepted medical use. Schedule I drugs must be found to have "no currently accepted medical use in treatment in the United States" while schedules II through V all require a "currently accepted medical use in treatment in the United States." In addition, criterion B for schedule II allows an alternative finding, "currently accepted medical use with severe restrictions."

Criterion C is different for schedule I than for the other schedules. For schedule I, the criterion requires a finding of "lack of accepted safety for use of the drug or other substance under medical supervision." For schedules II through V, this criterion consists of a sliding scale of the drug's dependence-producing capacity, either physical or psychological. Schedule II drugs require a finding of the highest dependence-producing capacity while schedule V drugs require the lowest.

The "accepted medical use" status of a drug, therefore, plays a significant role in the scheduling analysis, as one of the three criteria for each schedule. Because FDA has received but not yet acted on an NDA for THC, two separate proposed scheduling recommendations are made: one which would take effect if the drug is approved for marketing (which would signify that there is an accepted medical use for THC), and a second recommendation for THC absent NDA approval.

1. Upon NDA Approval

a. *Criterion A.*—On the scale of abuse potential, FDA proposes to conclude that THC has a high potential for abuse and thus meets this criterion for schedules I and II (the criterion is identical for these two schedules).

As noted above, THC is the major active ingredient in the plant *Cannabis sativa.* As a plant constituent, it has been shown to have a high potential for abuse (see discussion of factor one above). As a single active chemical entity, THC has not been abused because it has been subject to stringent controls as an investigational drug and a schedule I substance under the CSA. The abuse potential of THC must be presumed to be at least as great as that for marihuana. THC has marked psychotropic effects and, if freely available, would very likely to be a major drug of abuse (see above discussion of factors two and four). If THC is marketed in capsules as a drug product, it can be anticipated that there will be attempted thefts, that attempts will be made to divert the drug from legitimate channels, and that any drug so diverted will command premium prices in the illicit market.

The proposed conclusion that THC has a high potential for abuse (thus meeting criterion A for schedules I and II) logically precludes THC from meeting criterion A for schedules III through V, because drugs in each of these three schedules have a progressively lower abuse potential than schedule I and II drugs.

(b.) *Criterion B.*—As with any drug, upon approval of an NDA for marketing, THC would have a "currently accepted medical use in treatment in the United States". FDA interprets the term "accepted medical use" to mean lawfully marketed in this country under the Federal Food, Drug, and Cosmetic Act.

The mechanism set up by Congress for a company lawfully to market a new drug is for the company (the "sponsor") to submit a new drug application to FDA and for FDA to approve that application. Before FDA can approve an NDA, however, the drug's sponsor must submit data from an extensive battery of experimental testing on both animals and humans to establish the drug's safety and effectiveness for its proposed uses. In addition, the sponsor must submit data on manufacturing controls demonstrating that standards of identity, strength, quality, and purity will be met. Finally, the sponsor must submit labeling which adequately reflects the proper conditions for use. See 21 U.S.C. 355(d) and 21 CFR 314.1. Only after FDA has evaluated this large array of information can the agency make a decision on whether the NDA should be approved and the drug marketed.

Thus, FDA's approval of an NDA clearly establishes that a drug has an "accepted medical use", and THC would therefore fall into this category if an NDA were approved.

c. *Criterion C.*—Because an approved NDA for THC would be based, in part, on an FDA finding of THC's safety for its proposed use, in that situation THC would clearly not meet criterion C for schedule I ("lack of accepted safety * * * under medical supervision"). Rather, with an approved NDA the question is where THC fits on the sliding scale of dependence-producing capacity for the remaining schedules, II through V.

Criterion C for schedule II provides that "[a]buse of the drug or other substance *may* lead to severe psychological *or* physical dependence" (emphasis added). FDA proposes to recommend the conclusion that abuse of THC may lead to severe psychological dependence in some individuals (see discussion above under factor seven). Whether this psychological dependence might better be characterized as "high" (the schedule III criterion) rather than "severe" (the schedule II criterion) is a subject of scientific controversy. However, FDA agrees with a majority of its DAAC members that THC's psychological dependence-producing ability lies at the top end of the spectrum and is most appropriately characterized as "severe", meeting the criterion for schedule II.

In terms of possible physical dependence, FDA believes the available information at this time is insufficient to determine with certainty whether physical dependence occurs. As noted above under factor seven, physical dependence on THC has not been clearly demonstrated; the finding of physical dependence by one investigator has not been confined by others.

d. *Summary Chart.*—FDA's proposed findings for the scheduling of THC, if an NDA is approved, are summarized as follows:

Note.—The criteria vary according to the schedule.

	Criterion		
	A	B	C
Schedule I	Met	Not met	Not met.
Schedule II	Met	Met	Met.
Schedule III	Not met	Met	Possibly met.
Schedule IV	Not met	Met	Not met.
Schedule V	Not met	Met	Not met.

e. *Conclusion.*—For the reasons stated above, FDA proposes to recommend that, if an NDA is approved for THC, THC would meet all three criteria of schedule II, and, therefore, at that time DEA should reschedule the drug accordingly.

2. Without NDA Approval:

In 1979, FDA stated that it believed that, from a medical and scientific standpoint, THC "could be placed in either schedule I or schedule II" (44 FR 36127) but that for policy reasons the agency recommended schedule I. Although certain new developments have occurred with respect to THC in the intervening years (i.e., investigational group C status and enabling legislation in some States providing for various degrees and kinds of more relaxed research controls), these developments do not change FDA's opinion that THC (without an approved NDA) meets all three criteria for both schedule I and schedule II. Accordingly, because there appears to be no advantage to rescheduling THC at this time, FDA proposes that because of policy considerations it remain in schedule I. These policy considerations are discussed in section (e) below.

a. *Criterion A.*—As explained above, FDA proposes to conclude that THC has a high potential for abuse, and thus meets this criterion for both schedules I and II but does not meet this criterion for schedules III through V.

b. *Criterion B.*—This criterion involves the "accepted medical use" of the drug and has three variations among the five schedules, as follows:

(1) *Schedule I:* "The drug or other substance has no currently accepted medical use in treatment in the United States".

(2) *Schedule II:* "The drug or other substance has a currently accepted medical use in treatment in the United States *or* a currently accepted medical use with severe restrictions" (emphasis added).

(3) *Schedules III through V:* "The drug or other substance has a currently accepted medical use in treatment in the United States".

For the following reasons, FDA proposes to recommend that THC currently meets equally well criterion B in both schedule I and schedule II.

As explained above, FDA defines "currently accepted medical use * * *" (schedules III through V and schedule II, first clause) to mean lawfully marketed under the Federal Food, Drug, and Cosmetic Act. Conversely, "no currently accepted medical use * * *" must mean not lawfully marketed. THC fits into the latter category because there is not an approved NDA for the drug, and because it cannot be legally marketed without an approved NDA. Therefore, THC meets criterion B for schedule I.

THC also, however, meets the second clause of criterion B for schedule II involving "a currently accepted medical use with severe restrictions". Although this clause is not defined in the statute or the legislative history, the agency believes that certain investigational drugs, such as THC, in the later stages of the investigational process may fall within this statutory language.

Investigational drugs progress from experimentation in a very limited, closely supervised setting involving only a few individuals to use in a broader investigational protocol using hundreds of patients. Under FDA regulations, reports of these clinical studies are periodically sent to FDA so that the agency can properly monitor the ongoing research and progression to broader clinical trials. See 21 CFR Part 312.

The placement of THC in NCI's group C distribution scheme represents an example of clinical research that has progressed sufficiently far to be termed "currently accepted medical use with severe restrictions." As stated in the Surgeon General's September 10, 1980 press release announcing the placement of THC in group C, the new plan would make THC available to an estimated 4,000 cancer specialists for use in combating nausea and vomiting in cancer patients undergoing chemotherapy (*Ref. 25*). FDA decided to authorize this broader distribution plan because, among other reasons, the close supervision required by the study protocol appeared to provide adequate safeguards for patient safety, and sufficient evidence of effectiveness existed to support broader availability for treatment of patients. This decision was based on review of a significant amount of clinical testing already performed on THC and on the advice of FDA's Oncology Advisory Committee. Thus, although FDA does not propose to define "accepted medical use with severe restrictions" as limited to group C drugs, because that definition would improperly limit the statutory language to drugs involved in cancer therapy, FDA does believe that THC's placement in group C fits the statutory language of "accepted medical use with severe restrictions."

Group C distribution of THC, however, should not be confused with the "accepted medical use" standard of lawful marketing. Group C drugs such as THC remain investigational drugs requiring research protocols, informed consent of patients, drug availability to a limited number of physicians registered as clinical investigators, and reports of adverse effects to FDA. These requirements together constitute "severe restrictions" under the statutory language that distinguish investigational drugs like THC from marketed drugs.

Similarly, enabling laws in over 20 States that now authorize the use of marihuana and THC in the context of medical research do not satisfy the "accepted medical use" standard of lawful marketing. For example, at least 11 States have FDA-approved protocols for THC research use. Moreover, such State-enabling laws should not be confused with State laws which "decriminalize" the possession or transfer of certain marihuana materials for personal use, including recreational uses. The latter State laws involve reductions in criminal penalties and do not relate directly to the use of these substances in medical research.

FDA specifically requests comment on its interpretation of the CSA that criterion B of schedule I and criterion B of schedule II may be met simultaneously by a substance, such as THC, that is not approved for marketing but that is available on a limited basis for investigational use.

c. *Criterion C.*—As discussed above, on the sliding scale of dependence-producing capacity (schedules II through V), FDA proposes to recommend that THC fits into schedule II because abuse of the drug may lead to severe psychological dependence.

FDA also proposes that THC meets criterion C for schedule I because there is "a lack of accepted safety for use of the drug or other substance under medical supervision". FDA believes that "accepted safety", like "accepted medical use", refers to an attribute possessed only by drugs lawfully marketed under the Federal Food, Drug, and Cosmetic Act. Accordingly, because THC is not so lawfully marketed, there is a "lack of accepted safety * * *".

As noted above, the FFDCA directs FDA to approve an NDA based upon scientific evidence that the drug has been shown to be safe and effective for its proposed uses. See 21 U.S.C. 355(d). Because no drug is ever completely safe in the absolute sense, FDA considers "safe" to mean (in the context of a human drug) that the therapeutic benefits to be derived from the drug outweight its known and potential risks under the conditions of use prescribed in the labeling. For this reason FDA requires, before approval of an NDA, that extensive clinical and preclinical testing be conducted to establish the safety of the drug. Indeed, FDA must deny approval of an NDA if inadequate information about adverse reactions is presented. See 21 U.S.C. 356(d)(1).

Another factor considered by FDA in assessing the drug's safety is the proposed labeling, which is approved at the time of approval for marketing. A drug might be considered safe under some labeling but not others. Physicians depends on detailed labeling for information on when and how a drug should be used, and any claims in the labeling must be supported by clinical studies. False or misleading proposed labeling also precludes FDA approval of an NDA. 21 U.S.C. 355(d)(6).

Clearly, the futher along a drug is in the investigational process, the more information about safety and effectiveness there will be. But it is only upon approval for marketing that there has been a decision, based on scientific judgment by the regulatory agency charged with the responsibility of evaluating the safety and efficacy of new drugs, that a drug becomes "accepted" as safe under medical supervision.

THC for use in cancer chemotherapy is a drug near the end of the

investigational phase, but FDA has not completed its evaluation of the drug's safety and effectiveness. THC is currently distributed to physicians only as an investigational drug under the group C plan for cancer drugs operated by its sponsor, NCI. NCI's drug master file describes the purpose of group C, in part, as follows:

> The purpose of this distribution *is to acquire information on safety* in the context in which the drug is likely to be used in clinical practice after marketing.

(Ref. *28* at p. 21) (emphasis added).

Thus, participating physicians are required to submit reports directly to NCI when adverse reactions to THC are encountered (Ref. *27*).

THC is also being investigated under IND's for both safety and effectiveness. Only when full information is received and reviewed by FDA can a responsible, scientific judgment be made about THC's "accepted safety for use * * * under medical supervision". Accordingly, FDA proposes that THC meets criterion C for schedule I.

d. *Summary Chart*—FDA's proposed recommendations on scheduling criteria for THC, without an approved NDA, may be summarized in the following chart:

Note.—The criteria vary according to the schedule.

	Criterion A	Criterion B	Criterion C
Schedule I	Met	Met	Met.
Schedule II	Met	Met	Met.
Schedule III	Not met.	Not met.	Possibly met.
Schedule IV	Not met.	Not met.	Not met.
Schedule V	Not met.	Not met.	Not met.

e. *Conclusion*—FDA proposes to recommend that, based on the scientific and medical evaluation, without an approved NDA THC meets all three criteria for both schedules I and II and thus could be placed in either schedule I or II. FDA proposes to recommend that THC remain in schedule I until an NDA is approved, for the following policy reasons.

As noted above, THC is currently in schedule I because Congress put it there. FDA believes that, where discretion is involved, the status quo created by Congress should not be changed unless there are clear data requiring the change or identifiable benefits to be gained by such change. Changing the status of THC under the CSA while THC is still investigational could set a precedent for other investigational drugs and would reasonably imply to physicians and the public that there is some scientific or regulatory reason for such change. At the present time, THC is available for research and for the treatment of cancer patients under a distribution system operated by NCI and under other investigational new drug applications. More widespread availability of the drug is limited by lack of an approved NDA for marketing, not by its schedule I status. FDA is, therefore, unaware of any health problem or barrier to research that would be materially relieved by downscheduling THC from schedule I to schedule II while the drug is still investigational. Also, FDA opposes the expenditure of public resources without commensurate public benefit. FDA would thus propose to recommend downscheduling only if this action is necessary to facilitate marketing of the drug. Accordingly, based on these policy grounds, FDA proposes to conclude that THC not be rescheduled to schedule II unless and until an NDA is approved for marketing of THC.

References

The following information has been placed in the Dockets Management Branch (address above) and may be seen by interested persons from 9 a.m. to 4 p.m., Monday through Friday.

1. Gaoni, Y. and R. Mechoulam, "Isolation, Structure and Partial Synthesis of an Active Constituent of Hashish," *Journal of the American Chemical Society*, 86: 1646, 1964.

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5. House Report No. 91–1444 (Part 1), Comprehensive Drug Abuse Prevention and Control Act of 1970, p. 34.

6. Bill on Narcotics, 1960, Vol. XXXII, No. 4, p. 47.

7. Drug Enforcement, March 1980, p. 16.

8. Pharmchem Newsletter, Vol. 7, No.8.

9. Grassroots "Street Drugs", 110 S. Bedford St., Madison, WI 53703.

10. International Journal of Addictions, 1977, Vol. 12, No. 1, p. 121.

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12. Marihuana and Health, Second Annual Report to Congress, May 1972, p. 114.

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16. Waller, C. W., J. L. Johnson, J. Buelke, and C. E. Turner, "Marihuana: An annotated Bibliography," Macmillan Co., New York, 1970.

17. Marihuana and Health, 6th Annual Report, 1976, 7th Annual Report, 1977, 8th Annual Report, 1980, U.S. Government Printing Office, Washington, DC.

18. **Federal Register**, Vol. 46, No. 30, Tuesday, February 24, 1981, pp. 13816–13818.

19. Drug Master File 1631 for Marihuana and Cannabinoids—FDA Files.

20. Cohen, S., The Substance Abuse Problem, The Harvorth Press, New York, 1981.

21. Drugs and Highway Safety, 1980, by the U.S. Department of Transportation, DOT, HS–805 461.

22. NIDA Research Monograph No. 14, July 1977, p. 152.

23. Marihuana and Health, 6th Annual Report, 1980, p. 21.

24. "Marijuana in the '80s," Report of the American Medical Association on Scientific Affairs as Adopted by the House of Delegates, December 1980.

25. DHHS Press Release—Group C Distribution of THC, September 10, 1980.

26. Drug Master File 2803, Division of Cancer Treatment, National Cancer Institute, p. 21.

27. Group C Guidelines for the Use of Delta-9-Tetrahydrocannabinol, NSC 134454, for nausea and vomiting Induced by Antineoplastic Chemotherapy, Protocol 180–12, National Cancer Institute, September 1980.

Interested persons may, on or before May 10, 1982, submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 31, 1981.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82-6136 Filed 3-8-82; 8:45 am]

BILLING CODE 4160-01-M

Public Advisory Committees; Request for Nominations of Voting Members

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for membership on the Medical Radiation Advisory Committee. Four vacancies will occur on June 30, 1982.

DATE: Nominations must be received by April 23, 1982.

ADDRESS: Nominations must be submitted to the Bureau of Radiological Health (HFX–4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gordon C. Johnson at the address given above (301–443–6220).

SUPPLEMENTARY INFORMATION: The function of the Medical Radiation Advisory Committee is to advise the Commissioner of Food and Drugs on the formulation of policy and development of a coordinated national program relating to application of radiation to obtain maximum diagnostic information and therapeutic benefit per unit of radiation exposure to the public.

The committee meets approximately twice a year and has advised FDA on programs related to the medical and dental use of radiation, diagnostic imaging and therapeutic radiation devices, training and education of medical radiation users, and the development of policy statements on the effective use of medical radiation.

Among its current activities, the committee reviews qualifications of operators of radiation devices; reviews radiological training and education programs; advises on radiation devices guidelines and standards; and considers efficacy in relation to the selection and character of medical and dental uses of radiation.

The committee consists of 13 members including the chairperson. Members are selected and appointed by the Secretary of Health and Human Services from those nominees who have expertise appropriate to the work of the committee in one or more fields of medicine, dentistry, health sciences, biomedical engineering, public health, or related technology. For the 1982 membership, the Medical Radiation Advisory Committee will have particular need for candidates with knowledge of medical diagnosis and decisionmaking, diagnostic imaging technology, and health care delivery. Members are invited to serve 4-year terms. Effective July 1, 1982, there will be a total of four vacancies on this committee. Interested persons are invited to submit names of qualified candidates and accompanying curriculum vitae and other pertinent information.

In previous notices published in the **Federal Register** of February 2, 1980 (45 FR 9328) and May 1, 1981 (46 FR 24693), FDA requested nominations of qualified persons to replace members whose terms expired on June 30, 1980 and June 30, 1981, respectively. Eligible individuals nominated in response to those notices who were not selected will be reconsidered for a period of 2 years thereafter, along with new nominations for membership. The names and affiliations of those appointed under the previous notices have not yet been announced.

FDA has a special interest in assuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and therefore extend particular encouragement to nominations for appropriately qualified female, minority, and physicaly handicapped candidates.

Any interested person may nominate one or more qualified persons for membership. A complete curriculum vitae of the nominees shall be included. Nominations shall state that the nominee is aware of the nomination, is willing to serve as member of the committee, and appears to have no conflict of interest that would preclude committee membership. Potential candidates will be asked by FDA to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts to permit evaluation of possible sources of conflict of interest.

Dated: March 2, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-6134 Filed 3-8-82; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

National Cancer Advisory Board Subcommittees; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the National Cancer Advisory Board Subcommittees on National Organ Site Programs and Activities and Agenda, March 31–April 1, 1982. Both Subcommittees will be held in Building 31, C Wing, Conference Room 6, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205. Both Subcommittees will be open to the public to discuss committee business as indicated in the notice. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, the Committee Management Officer, NCI, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will furnish summaries of the meetings, substantive program information and rosters of members, upon request.

Name of committee: *Subcommittee on National Organ Site Programs*
Date of meeting: March 31–April 1, 1982
Place of meeting: Building 31, C Wing, Conference Room 6, National Institutes of Health
Open: March 31, 7:30 p.m.—adjournment; April 1, 8:30 a.m.—adjournment
Agenda: To review Organ Site Program and make appropriate recommendations
Name of committee: *Subcommittee on Activities and Agenda*
Date of meeting: April 1, 1982
Place of meeting: Building 31, C Wing, Conference Room 6, National Institutes of Health
Open: April 1, 1:30 p.m.—adjournment
Agenda: To discuss administrative details and plan the agenda and activities for the NCAB and its meeting for May 1982.

Dated: March 1, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82-6239 Filed 3-8-82; 8:45 am]

BILLING CODE 4160-01-M

NIDR Special Grants Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Institute of Dental Research Special Grants Review Committee, on March 22–23, 1982, in Conference Room 9, Building 31–C, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 8:30 a.m. to 9:00 a.m. on March 22, 1982, for general discussions. Attendance by the public is limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 9:00 a.m. on March 22 to adjournment on March 23, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Emil L. Rigg, Executive Secretary, NIDR Special Grants Review Committee, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 504,

Bethesda, MD 20205, (telephone 301 496–7658) will provide summaries of meeting, rosters of committee members, and substantive program information.

Dated: March 1, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

(Catalog of Federal Domestic Assistance Programs Nos. 13.840—Caries Research, 13.841—Periodontal Diseases Research, 13.842—Craniofacial Anomalies Research, 13.843—Restorative Materials Research, 13.844—Pain Control and Behavioral Studies, 13.845—Dental Research Institutes, 13.876—Soft Tissue Stomatology and Nutrition Research, National Institutes of Health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

[FR Doc. 82-6300 Filed 3-8-82; 8:45 am]

BILLING CODE 4140-01-M

Social Security Administration

Office of the Actuary; Statement of Organization, Functions and Delegations of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (HHS) covers the Social Security Administration (SSA). Notice is given that Part S, as published in the **Federal Register** (44 FR 46347) on *August 7, 1979*, is being amended to reflect the removal of the Office of the Actuary (SRG) from the Office of Policy (SR) and its establishment as a new office reporting directly to the Office of the Commissioner, through the Deputy Commissioner, Programs. Accordingly, the Sections of Chapter SR, which describe the mission, organization and functions of OP, are being changed to remove reference to OACT, and a new Chapter is being established which describes an independent OACT reporting directly to the Office of the Commissioner. The revisions and new material are as follows:

1. Section SR.00 is being revised so that the tenth sentence reads as follows: The Office provides overall administrative direction to, and coordinates the activities of the offices included in OP in carrying out the OP mission.

2. Section SR.10 is being revised by removing subsection D. OACT (SRG). All remaining material lettered E–H should be relettered D–G.

3. Section SR.20 is being revised by removing subsection D. OACT. All remaining subsections lettered E–H should be relettered D–G.

4. A new Chapter SN is titled and reads as follows:

Sec. SN.00 Office of the Actuary—(Mission)

OACT plans and directs a program of actuarial estimates and analyses pertaining to SSA-administered retirement, survivors and disability insurance programs and to projected changes in those programs. It evaluates operations of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, conducts studies of program financing, performs actuarial and demographic research on social insurance and related program issues, and projects future workloads. The Office provides technical and consultative services to the Commissioner, to HHS officials and to the Board of Trustees of those two Trust Funds, and its staff appears before Congressional Committees to provide expert testimony on the actuarial aspects of Social Security issues.

Sec. SN.10 Office of the Actuary—(Organization)

OACT, under the leadership of the Chief Actuary, includes:

A. The Chief Actuary (SN).

B. The Deputy Chief Actuary (Short-Range) (SN).

C. The Deputy Chief Actuary (Long-Range) (SN).

D. The Immediate Office of the Chief Actuary (SN).

E. The Office of Short-Range Actuarial Estimates (SNS).

F. The Office of Long-Range Actuarial Estimates (SNL).

Sec. SN.20 Office of the Actuary—(Functions)

A. The Chief Actuary (SN) is directly responsible to the Commissioner for carrying out OACT's mission and provides general supervision to the major components of OACT.

B. The Deputy Chief Actuary (Short-Range) (SN) assists the Chief Actuary in carrying our his/her OACT-wide responsibilities and performs other duties as prescribed.

C. The Deputy Chief Actuary (Long-Range) (SN) assists the Chief Actuary in carrying out his/her OACT-wide responsibilities and performs other duties as prescribed.

D. The Immediate Office of the Chief Actuary (SN) provides the Chief Actuary and his/her Deputies with staff assistance on the full range of their responsibilities, and conducts special actuarial studies and analysis.

E. The Office of Short-Range Actuarial Estimates (SNS) is responsible for planning, directing and coordinating the development of short-range cost estimates for all Social Security programs both under current provisions and proposed changes in law or regulation. It develops special cost analyses involving technical actuarial issues, projects operations of the Trust Funds, provides a variety of actuarial data services including data collection, statistical support, and prepares estimates for general fund and interprogram reimbursement.

F. The Office of Long-Range Actuarial Estimates (SNL) is responsible for planning, directing and coordinating the development of long-range cost estimates for all Social Security programs both under current provisions and proposed changes in law or regulation. It designs the economic, demographic and programmatic assumptions and the methods needed to develop these estimates, analyzes and publishes actuarial research based on projections and actual program experience, and provides authoritative advice to agency policymakers and Congressional staffs relating to the long-range actuarial impact of current law and proposed program changes.

Dated: March 1, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82-6307 Filed 3-8-82; 8:45 am]

BILLING CODE 4110-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Intent To Prepare an Environmental Impact Statement for a Proposed Construction of a Railroad on the Navajo Indian Reservation in McKinley and San Juan Counties in Northwestern New Mexico

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: The Bureau of Indian Affairs (BIA) is issuing this notice to advise that a Draft Environmental Impact Statement will be prepared for a proposed construction of a railroad on the Navajo Indian Reservation in McKinley and San Juan Counties located in Northwestern New Mexico.

FOR FURTHER INFORMATION CONTACT: Mr. Jimmy R. Analla, Environmental Protection Specialist, Bureau of Indian Affairs, Navajo Area Office, Window Rock, Arizona 86515, Telephone (602) 871–5151, extension 5314 or FTS 479–5314.

SUPPLEMENTARY INFORMATION: The BIA, in cooperation with the Navajo Tribe, Federal Railroad Administrarion (FRA) and Interstate Commerce Commission (ICC), will prepare a Draft Environmental Impact Statement (DEIS) on a proposed railroad to be constructed from Gallup, New Mexico, north to the San Juan River, east of Shiprock, New Mexico. The proposed project would be approximately 73 to 93 miles long and constructed primarily for transporting coal from the Consolidation Coal Company (CONSOL) coal lease in the Burnham-Bisti area of the Navajo Indian Reservation. A possibility exists that secondary use as a common carrier may be considered, should sufficient need develop.

Information describing the proposed action will be sent to the appropriate Federal, tribal, state and local agencies and to private organizations and citizens who have proviously expressed an interest in this proposal. Briefly, potential environmental impacts resulting from construction of the railroad of the eastern and southern alignments and operations of coal transportation via rail cars are:

1. Land uses.
2. Water Resources and water rights.
3. Noise and Safety.
4. Cultural and historic resources.
5. Socio-economic adjustment.

Scoping will consist of coordination with involved agencies, public meetings, public review of the draft environmental impact statement and formal public hearings. Approximately 29 public meetings have been held to date at the Chapters which are being directly affected. Since this public exposure provided sufficient comments, a formal scoping meeting is not planned at this time.

We estimate that the DEIS will be made available to the public by June 1, 1982.

Comments on the scoping of this project, and identified environmental issues are invited from all interested parties and should be directed to the BIA at the address provided in this Notice. Requests for copies of the DEIS should also be sent to the same address.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmentala Policy Act of 1969, as amended (42 U.S.C. 4371 et seq.), Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), and Department of the Interior procedures (516 DM 1–6) implementing these regulations.

This Notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: February 22, 1982.

John W. Fritz,

Deputy Assistant Secretary—Indian Affairs (Operations).

[FR Doc. 82-6311 Filed 3-8-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Arizona Strip District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Arizona Strip District Grazing Advisory Board will meet on Tuesday, April 6, 1982 at 10:00 a.m. to discuss range improvement plans for Fiscal Year 1982.

DATE: April 6, 1982.

ADDRESS: The Four-Seasons Convention Center—Suite 8, 747 East St. George Blvd., St. George, Utah.

FOR FURTHER INFORMATION CONTACT: Billy R. Templeton, 196 E. Tabernacle St., St. George, Utah 84770, (801) 673–3545.

SUPPLEMENTARY INFORMATION: The Arizona Strip District Grazing Advisory Board will meet at 10:00 a.m. on Tuesday, April 6, 1982 in Suite 8 of the Four Seasons Convention Center at 747 East St. George Blvd. in St. George, Utah. The primary topic on the agenda will be road maintenance and range improvement plans to implement Allotment Management Plans on the Arizona Strip District. This will include a discussion of prescribed burning techniques for range improvement; the wilderness study as it relates to range management; and, urinium mining as it relates to livestock production.

The meeting is open to the public. Anyone wishing to make a presentation to the Board should contact the District Manager of the Arizona Strip District at 196 E. Tabernacle St. in St. George, Utah or call (801) 673–3545 at least 5 days prior to the meeting.

Billy R. Templeton,

District Manager, Arizona Strip District.

[FR Doc. 82-6249 Filed 3-8-82; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Mines

Transfer of the Mineral Institutes Program

AGENCY: Bureau of Mines, Interior.

ACTION: Notice.

SUMMARY: Pursuant to Secretarial Order No. 3073 dated February 1, 1982, authority for administration of the State Mining and Mineral Resources and Research Program has been transferred from the Director, Office of Surface Mining to the Director, Bureau of Mines.

Until further notice by the Director, Bureau of Mines, all Office of Surface Mining regulations concerning the Program will remain in effect.

FOR FURTHER INFORMATION CONTACT: Dr. John D. Morgan, Chief Staff Officer, Bureau of Mines, 2401 E Street NW., Washington, D.C. 20241, Telephone: (202) 634–1330.

Dated: March 2, 1982.

(30 U.S.C. 1201)

Robert C. Horton,

Director, Bureau of Mines.

[FR Doc. 82-6255 Filed 3-8-82; 8:45 am]

BILLING CODE 4310-53-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Correction

In FR Doc. 82–4936 appearing at page 7883 in the issue of Tuesday, February 23, 1982, make the following change:

On page 7884, third column, "OKLAHOMA" should be inserted above "Caddo County".

BILLING CODE 1505-01-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 26, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted on or before March 24, 1982.

William Brabham,

Acting Keeper of the National Register.

ALABAMA

Dallas County

Browns vicinity, *St. Luke's Episcopal Church*, S of Browns

Jefferson County

Birmingham, *Whilldin Building*, 513–517 21st St., N.

ARIZONA

Maricopa County

Phoenix, *Kenilworth Elementary School*, 1210 N. 5th Ave.
Wickenburg, *Garcia School*, Yavapai St. and U.S. 89

ARKANSAS

Benton County

Bentonville, *Terry Block Building*, 101–103 N. Main St.

Madison County

Kingston, *Bank of Kingston*, 101 Public Sq.

Miller County

Texarkana, *Garrison, Augustus M., House*, 600 Pecan St.

Union County

El Dorado, *Bank of Commerce*, 200 N. Washington St.

CALIFORNIA

Placer County

Newcastle vicinity, *Newcastle Portuguese Hall*, Taylor Rd.

CONNECTICUT

Hartford County

Bloomfield, *Gillette, Francis, House*, 511 Bloomfield Ave.
Bristol, *Terry-Hayden House*, 125 Middle St.
Burlington vicinity, *Wiard, John, House*, CT 4
East Hartford, *Bamont, Makens, House*, 307 Burnside Ave.
East Hartford, *First Congregational Church of East Hartford and Parsonage*, 829–837 Main St.

Litchfield County

Sharon, *Gov. Smith Homestead*, S. Main St.

Middlesex County

Essex, *Steamboat Dock Site*, Main St.

New Haven County

East Haven, *First Congregational Church of East Haven*, 251 Main St.

Tolland County

Coventry, *Brigham's Tavern*, 12 Boston Tpke.

INDIANA

Wayne County

Richmond, *Murray Theater*, 1003 Main St.

MARYLAND

Frederick County

Buckeystown, *Buckeystown Historic District*, MD 85

Harford County

Havre de Grace, *Havre de Grace Historic District*, Roughly bounded by Chesapeake Bay, Susquehanna River, U.S. 40, Stokes, Juniata and Superior Sts.

Prince Georges County

Hyattsville, *Hyattsville Historic District*, Off U.S. 1

MISSISSIPPI

Adams County

Natchez, *Dicks, John, House*, 802 N. Union St.
Natchez, *Keyhole House*, 1016 Main St.
Natchez vicinity, *China Grove Plantation*, 12 mi. S of Natchez

Tallahatchie County

Sumner, *Murphy-Jennings House*, 307 Walnut St.

NEVADA

Clark County

Boulder City, *Old Boulder City Hospital*, 701 Park Pl.

Esmeralda County

Goldfield, *Goldfield Historic District*, Roughly bounded by 5th St., Miner, Spring, Crystal and Elliott Aves.

NEW MEXICO

Guadalupe County

Santa Rosa, *Casaus, Jesus M., House*, 626 3rd St.

Santa Fe County

Cerrillos vicinity, *San Marcos Pueblo (L.A. 93)*

OHIO

Adams County

West Union, *Woods, Tet, Building*, 307 Main St.

Montgomery County

Dayton, *Hanitch-Huffman House*, 130 W. Monument Ave.

Scioto County

Portsmouth, *All Saints Episcopal Church*, 4th and Court Sts.

Stark County

Massillon, *Fourth Street Historic District*, Roughly bounded by Federal Ave., 3rd, 5th, and Cherry Sts.

Washington County

Watertown, *Watertown Historic District*, Off OH 339

SOUTH CAROLINA

Abbeville County

Abbeville vicinity, *Cedar Springs Historic District*, SR 33, SR 112 and SR 47

Aiken County

Aiken, *St. Mary Help of Christians Church*, York St. and Park Ave.

Georgetown County

Georgetown vicinity, *China Grove*, SC 512

Horry County

Bucksville vicinity, *Buck's Upper Mill Farm*, N of Bucksville

Jasper County

Ridgland vicinity, *Church of the Holy Trinity*, SC 13 and SC 29

TENNESSEE

Carroll County

Trezevant vicinity, *Hillsman House*, Old Hinkledale-McKenzie Rd.

Carter County

Watauga vicinity, *Range, Henry, House*, S of Watauga on Smallings Rd.

Davidson County

Nashville, *Bush-Herbert Building*, 174 3rd Ave., N.
Nashville, *Goodwill Manor (President's Residence, Tennessee A & I State College)* 3500 Centennial Blvd.
Nashville, *Woodland in Waverly Historic District*, Roughly bounded by I–65, 9th, Bradford and Wedgewood Aves.

Gibson County

Humboldt, *Dodson House*, 119 N. 17th Ave.

Greene County

Greeneville vicinity, *Lowry, James, House*, Asheville Hwy.

Grundy County

Monteagle, *Monteagle Sunday School Assembly Historic District*, Off U.S. 64, U.S. 41 and TN 56

Hamilton County

Chattanooga, *Isbester, Caleb, House*, 551 Oak St.

Knox County

Knoxville, *Knoxville Iron Foundry Complex-Nail Factory and Warehouse*, 715 Western Ave., NW.
Knoxville, *Louisville and Nashville Freight Depot*, 700 Western Ave., NW.
Knoxville, *Louisville and Nashville Passenger Station*, 700 Western Ave., NW.

Lincoln County

Fayetteville, *Douglas, Hugh Bright, House*, 301 Elk Ave. N.

McMinn County

Niota vicinity, *Cate, Elijah, House*, W of Niota on SR 1

Robertson County

Springfield vicinity, *Beeches, The (John Woodard House)* SC 49

Shelby County

Memphis, *Stonewall Place Historic District*, Stonewall St. between Poplar Ave. and North Pkwy.
Memphis, *Toof, John S., House*, 240 Adams Ave.

Sumner County

Gallatin, *Gallatin Presbyterian Church*, 107 W. Main St.
Hendersonville vicinity, *Fite, Leonard B., House*, 1154 W. Main St.

Weakley County

Greenfield vicinity, *Sims, Capt. William, House*, Liberty Rd.
Martin, *Ivandale*, 115 N. McCombs St.
Martin, *Lawler, W. T., House*, 229 University St.
Martin, *Marshalldale*, 115 Ryan Ave.

Winnebago County

Eureka vicinity, *Carpenter Site (47Wn246)* NE of Eureka

WISCONSIN

COBBLESTONE BUILDINGS OF ROCK COUNTY THEMATIC RESOURCES. Reference—see individual listings under Rock County.

Dane County

Madison, *Biederstaedt Grocery*, 851–853 Williamson St.

Rock County

Beloit, *Carpenter-Douglas Barn (Cobblestone Buildings of Rock County Thematic Resources)* 910 Broad St.
Beloit, *Clark-Brown House (Cobblestone Buildings of Rock County Thematic Resources)* 3457 Riverside Dr.
Beloit, *Lathrop-Munn Cobblestone House (Cobblestone Buildings of Rock County Thematic Resources)* 524 Bluff St. (previously listed in the National Register 8–22–77)
Beloit, *Rasey House (Cobblestone Buildings of Rock County Thematic Resources)* 517 Prospect St. (previously listed in the National Register 12–27–74)
Beloit, *Turner-Barber House (Cobblestone Buildings of Rock County Thematic Resources)* 328–328 St. Lawrence
Beloit vicinity, *Murray-George House (Cobblestone Buildings of Rock County Thematic Resources)* SR P
Clinton, *Richardson-Brinkman Cobblestone House (Cobblestone Buildings of Rock County Thematic Resources)* 607 W. Milwaukee Rd. (previously listed in the National Register 7–28–77)
Clinton vicinity, *Jones, Samuel S., Cobblestone House (Cobblestone Buildings of Rock County Thematic Resources)* Milwaukee Rd. (previously listed in the National Register 2–23–78)
Janesville, *Belle Cottage (Kellogg-Damrow House) (Cobblestone Buildings of Rock County Thematic Resources)* 1637 Center Ave. (previously listed in the National Register 5-8-79)
Janesville, *Fredendall Block*, 33–39 S. Main St.
Tiffany, *Stark-Clint House (Cobblestone Buildings of Rock County Thematic Resources)* Creek Rd.

[FR Doc. 82-6007 Filed 3-8-82; 8:45 am]
BILLING CODE 4310-70-M

Frederick O. and Virginia M. Swain; Intention To Negotiate Concession Permit

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on or before April 8, 1982, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession permit with Frederick O. Swain and Virginia M. Swain (Partners), authorizing them to continue to provide boat, canoe and bike rental and visitor convenience item facilities and services for the public at C&O Canal National Historical Park, Maryland, for a period of four (4) years from January 1, 1982, through December 31, 1985.

This permit renewal has been determined to be a categorical exclusion under the National Park Service regulations implementing the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expired by limitation of time on December 31, 1979, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. This provision, in effect, grants Frederick O. Swain and Virginia M. Swain (partners), as the present satisfactory concessioner, the right to meet the terms of responsive proposals for the proposed new permit and a preference in the award of the permit, if, thereafter, the proposal of Frederick O. Swain and Virginia M. Swain (partners), is substantially equal to others received. In the event a responsive proposal superior to that of Frederick O. Swain and Virginia M. Swain (partners), (as determined by the Secretary) is submitted , Frederick O. Swain and Virginia M. Swain (partners), will be given the opportunity to meet the terms and conditions of the superior proposal the Secretary considers desirable, and, if it does so, the new permit will be negotiated with Frederick O. Swain and Virginia M. Swain (partners). The Secretary will consider and evaluate all proposals received as a result of this notice.

Any proposal, including that of the existing concessioner, must be post marked or hand delivered on or before April 8, 1982, to be considered and evaluated.

Interested parties should contact the Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782, for information as to the requirements of the proposed permit.

Dated: February 25, 1982.

Robert Stanton,

Acting Regional Director, National Capital Region.

[FR Doc. 82-6310 Filed 3-8-82; 8:45 am]
BILLING CODE 4310-70-M

Office of the Secretary

Request for Comments on the Subject of Increasing Oil and Gas Royalty Rates on Certain Federal and Indian Lands

AGENCY: Office of the Secretary, Interior.

ACTION: Request for Comments Regarding Onshore Royalty Rates.

SUMMARY: The Commission on Fiscal Accountability has recommended to the Secretary of the Interior that a royalty rate of one-sixth be charged on certain Federal onshore and Indian leases. The Secretary has asked that a study be prepared reviewing this recommendation. To assist on this effort, the Department of the Interior is requesting that industry and other interested members of the public provide it with information regarding the potential impacts of a one-sixth royalty.

The Department is asking the oil and gas industry and other interested members of the public for their views on the merits of increasing onshore royalty rates. The Department is particularly interested in quantitative analysis of what effect, if any, a higher royalty rate would have on: (1) The level and rate of oil and gas exploration and production, (2) exploration in frontier or less accessible areas, (3) oil and gas production in small or marginal fields or where "pay zones" are small, (4) effects on minimum developable field size and (5) effects on leasing Federal lands.

DATES: Comments on or before April 8, 1982.

ADDRESS: Comments should be mailed to: Mr. George Thomas, Room 6619 Department of the Interior, 1800 C Street, NW, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: George Thomas, (202) 343–6306 or David Luken, (202) 342–8804.

Donald Paul Hodel,

Acting Secretary of the Interior.

March 2, 1982.

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INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer

to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP1-34

Decided: February 23, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 11220 (Sub-235), filed February 16, 1982. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Ave., Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101, (901) 775-2042. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with J. C. Penney Company, Inc., of New York, NY.

MC 13070 (Sub-4), filed February 16, 1982. Applicant: GERALD LIPPOLD and RODNEY ARNETT, d.b.a. LIPPOLD & ARNETT, 1302 South Broad, Carlinville, IL 62626. Representative: Rodney Arnett, (same address as applicant), (217) 854-2508. Transporting: *meat packinghouse products, supplies, and equipment*, between points in the U.S., under continuing contract(s) with Diamond Meat Packers, Inc., of Carlinville, IL.

MC 47171 (Sub-220), filed February 16, 1982. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant), (803) 879-2101. Transporting: *general commomdities* except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S., under continuing contract(s) with Melville Private Cartage, of Brockton, MA.

MC 121600 (Sub-17), filed February 16, 1982. Applicant: AVERITT EXPRESS, INC., P.O. Box 273, Livingston, TN 38570. Representative: Robert L. Baker, Sixth Floor, United Southern Bank Building, Nashville, TN 37219, (615) 244-6100. Transporting: *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in TN, on the one hand, and, on the other, those points in the U.S. in and east of KA, NE, ND, OK, SD, and TX.

Note.—Applicant intends to tack the requested authority with its existing regular-route authority.

MC 135231 (Sub-69), filed February 16, 1982. Applicant: NORTH STAR TRANSPORT, INC., Rt. 1, Highways 1 and 59 North, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118, (612) 457-6889. Transporting: *metal products*, between points in the U.S.

MC 136511 (Sub-114), filed February 17, 1982. Applicant: VIRGINIA APPALACHIAN LUMBER CORP., 9640 Timberlake Road, Lynchburg, VA 24502. Representative: J. Johnson Eller, Jr., 513 Main St., Altavista, VA 24517, (804) 369-5661. Transporting: *general commodities* (except classes A and B explosives), between points in OR, on the one hand, and, on the other, points in the U.S.

MC 145240 (Sub-15), filed February 16, 1982. Applicant: L. D. BRINKMAN TRUCKING CORP., 520 N. Wildwood, Irving, TX 75060. Representative: D. Paul Stafford, P.O. Box 45536, Dallas, TX 75245, (214) 358-3341. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Inland Storage Distribution Center, Division of Beatrice Foods, of Kansas City, KS.

MC 145300 (Sub-8), filed February 16, 1982. Applicant: MINUTE MAN TRANSIT, INC., 24 Williams Street, Dedham, MA 02026. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108, (617) 742-3530. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Chrysler Corporation, of Center Line, MI.

MC 145771 (Sub-1), filed February 11, 1982. Applicant: OCONEE TRANSFER SERVICE, INC., P.O. Box 1181, Seneca, SC 29678. Representative: Robert L. Cope, Suite 501, 1730 M St., NW., Washington, DC 20036, (202) 296-2900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in NJ and RI, those points in PA in and east of Lancaster, Dauphin, Schuykill, Columbia, Luzerne, Wyoming and Susquehanna Counties, those points in NY in and south of Brome, Delaware, Greene, Albany and Rennsselaer Counties, points in Fairfield, Hartford, Litchfield and New Haven Counties, CT, points in New Castle County, DE, and points in Berkshire and Hampden Counties, MA.

MC 147511 (Sub-3), filed February 16, 1982. Applicant: DELMER RAY IPOCK, d.b.a. EAST CAROLINA CARTAGE CO., P.O. Box 1245, Kinston, NC 28501. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602, (919) 828-0731. Transporting *corse and tubes*, between points in NC, on the one hand, and, on the other, points in VA and DE.

MC 148490 (Sub-14), filed February 16, 1982. Applicant: C & N EVANS TRUCKING COMPANY, INC., Route 2, Box 39E, Stoneville, NC 27048. Representative: Harry G. Grubbs (same address as applicant), (919) 573-3761. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in the U.S. in and east of MN, IA, NE, KS, OK, and TX.

MC 148560 (Sub-8), filed February 16, 1982. Applicant: GOLD STAR, INC., 130 Davidson Avenue, Somerset, NJ 08873. Representative: A. David Millner, P.O. Box Y, 7 Becker Farm Road, Roseland, NJ 07068, (201) 992-2200. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Progresso Quality Foods, of Vineland, NJ. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's Office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the applications for common control to team 1, room 6354.

MC 149330 (Sub-1), (Republication), filed June 22, 1981, previously noticed in the **Federal Register** issue of July 16, 1981. Applicant: DUNBAR ARMORED SECURITY, INC. 32 Belmont St., Hartford, CT 06106. Representative: George W. Dunbar, Jr. (same address as applicant), (203) 246-8805. Transporting *coin, currency, food stamps, gold and silver*, between points in the U.S., under continuing contract(s) with banks and banking institutions. Condition: Prior to issuance of a permit in this proceeding, applicant shall submit a written request for cancellation of the permit issued December 8, 1981.

Note.—The purpose of this republication is to correct the commodity description and to also indicate the correct class of contracting shippers.

MC 150221 (Sub-12), filed February 16, 1982. Applicant: CENTRAL SOUTHERN, INC., P.O. Box 375, Drayton, SC 29333. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687, (803) 244-9314. Transporting *General commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Noramco Systems, Inc., of Plymouth, MA.

MC 152840 (Sub-1), filed February 16, 1982. Applicant: RAPID DISTRIBUTION SERVICE, INC., 2392 N. Dupont Hwy., Dover, DE 19901. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., N.W., Washington, DC 20005, (202) 298-3555. Transporting *such commodities* as are dealt in or used by variety and retail department stores, between points in the U.S. (except AK and HI), under continuing contract(s) with J. Riggings—Outrigger, of Norcross, GA.

MC 154861 (Sub-8), filed February 17, 1982. Applicant: CAROLINA MOTOR EXPRESS, INC., P.O. Box 550, Forest City, NC 28043. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, N.W., Washington, DC 20005, (202) 347-9332. Transporting *food and related products*, between the facilities of Wilson Foods Corporation, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 156340 (Sub-1), filed February 17, 1982. Applicant: VALLEY GRAIN CO., TRKG., P.O. Box 299, Browns Valley, MN 56219. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542-1121. Transporting *chemicals and related products*, between points in Reno County, KS, on the one hand, and, on the other, points in IL, IA, MN, NE, ND, SD and WI.

MC 158720, filed February 17, 1982. Applicant: CHARLIE GUESS TRUCKING INCORPORATED, P.O. Box 722, Lockeford, CA 95237-0722. Representative: Alan F. Wohlstetter, 1700 K Street, N.W., Washington, DC 20006, (202) 833-8884. Transporting *steel buildings and component parts, steel products, and lumber and wood products*, between points in the U.S., under continuing contract(s) with Bob R. Andersen Co., Inc., of Lockeford, CA.

MC 159901, filed February 16, 1982. Applicant: WOODY DISTRIBUTORS, INC., 1122 Rockland Ave., NW., Roanoke, VA 24012. Representative: J. Bernard Young (same address as applicant), (703) 563-8741. Transporting *yarn*, between points in VA, on the one hand, and, on the other, points in NC, GA, and TN.

MC 160120 (Sub-1), filed February 16, 1982. Applicant: INBULK TRASNSPORT, INC., 5723 Kennedy Ave., Hammond, IN 46323. Representative: Allan C. Zuckerman, 29 South LaSalle St., Suite 905, Chicago, IL 60603, (312) 236-0375. Transporting *commodities in bulk*, between points in the U.S., under continuing contract(s) with Clark Chemical Corporation, of Blue Island, IL, and Cosden Oil & Chemical Company, of Dallas, TX. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 1, Room 6358.

MC 160151, filed February 16, 1982. Applicant: SHOREVILLE TRUCK RENTAL, INC., 38 Roosevelt Place, Massapequa, NY 11758. Representative: John P. Tynan, P.O. Box 777, Jupiter, FL 33458, (305) 746-6777. Transporting *malt beverages*, between points in the U.S., under continuing contract(s) with Midway Beverage Corporation, of Farmingdale, NY.

MC 160200, filed February 16, 1982. Applicant: ANTHONY'S TRUCKING, INC., 350 Brookes Drive, Hazelwood, MO 63042. Representative: Orville L. Handshy, Jr. (same address as applicant), (314) 731-1717. Transporting *household applicances, furniture, and insulation*, between points in MO, on the one hand, and, on the other, points in AR, IL, IN, KS, KY, MO, OH and TN.

MC 160570, filed February 16, 1982. Applicant: CITY SERVICE TAXICAB OF BUFFALO, INC., 1379 Niagara Street, Buffalo, NY 14213. Representative: Donald A. Fisher, 343 Elmwood Avenue, Buffalo, NY 14222, (716) 881-3010. Transporting *passengers*, between the Veterans Administration Medical Center at Buffalo, NY, and points in PA, under continuing contract(s) with Veterans Administration Medical Center, of Buffalo, NY.

MC 160571, filed February 16, 1982. Applicant: DON FLEMING, d.b.a. FLEMING TRUCKING, P.O. Box 396, Loop, TX 79342. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408, (806) 763-9555. Transporting (1) *chemicals and related products and clay products*, between points in WY, SD, TX, and NM; and (2) *oil field commodities*, between points in MT, WY, UT, and Ector County, TX.

MC 160581 (Sub-1), filed February 16, 1982. Applicant: PILGRIM TRANSPORT, INC., 610 West 138th St., Riverdale, IL 60627. Representative: Carl L. Steiner, 29 South LaSalle St., Chicago, IL 60603, (312) 236-9375. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Chicago, IL, on the one hand, and, on the other, points in IL, IN, KY, MI, and OH.

MC 160590, filed February 16, 1982. Applicant: MICHAEL A. and JUDITH A. FALATOVICH, d.b.a. J & M TRAVEL, 227 Chestnut St., Birdsboro, PA 19508. Representative: Charles K. Serine, 542

Court St., P.O. Box 66, Reading, PA 19603, (215) 376–6651. As a *broker* at Birdsboro, PA, in arranging for the transportation of *passengers and their baggage*, in the same vehicle with passengers, between points in PA, on the one hand, and, on the other, points in the U.S.

MC 160591, filed February 16, 1982. Applicant: ALASKA TOUR & MARKETING SERVICES, INC., d.b.a. EXPLORATION HOLIDAYS & CRUISES, 1500 Metropolitan Park Bldg., Seattle, WA 98101. Representative: Edward G. Lowry, III, The Bank of California Center, Seattle, WA 98164, (206) 682–5151. As a broker at Seattle, WA, in arranging for the transportation of *passengers and their baggage*, in special and charter operations, between points in the U.S.

MC 160600, filed February 17, 1982. Applicant: ALLSTATE MOVING & TRANSFER CO., INC., 28 W. 16th Street, Bayonne, NJ 07002. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113, (215) 365–5141. Transporting *household goods, new furniture and fixtures*, between points in CT, DE, FL, GA, IN, IL, MA, MD, ME, NC, NH, NJ, NY, OH, PA, RI, SC, VA, VT, WV and DC.

Volume No. OP2–40

Decided: February 26, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 12723 (Sub-1), filed February 12, 1982. Applicant: VALLEY TRANSPORTATION, INC., d.b.a. CONNECTICUT AMERICAN CHARTERS, 516 Oxford Rd., Oxford, CT 06483. Representative: L.C. Major, Jr., Suite 304 Overlook Bldg., 6121 Lincolnia Rd., P.O. Box 11278, Alexandria, VA 22312, 703–750–1112. As a broker, at Oxford and Milford, CT, in arranging for the transportation of *passengers and their baggage*, between points in the U.S.

MC 45893 (Sub-18) (Correction), filed December 29, 1981, published in the **Federal Register**, issue of January 20, 1982, and republished, as corrected, this issue. Applicant: ROSS TRUCK LINES, INC., 1010 North Pearl, Paola, KS 66071. Representative: Arthur J. Cerra, 2100 CharterBank Center, P.O. Box 19251, Kansas City, MO 64141, (816) 842–8600. Transporting (1) *petro chemical construction equipment and materials, crane parts, trailers, and trailer parts*, between points in Harris County, TX, on the one hand, and, on the other, points in the U.S.; (2) *filters and filter parts*, between points in Montgomery County, TX, on the one hand, and, on the other, points in the U.S.; (3) *pipe, pipe valves, and pipe fittings*, between points in Jefferson County, TX, on the one hand, and, on the other, points in the U.S.; (4) *fabricated structural steel items*, between points in Galveston County, TX, on the one hand, and, on the other, points in the U.S.; (5) *rack and pinion material and personnel hoists, and such commodities* used in construction, maintenance and servicing of hoists, between points in Douglas County, KS, on the one hand, and, on the other, points in the U.S.; and (6) *universal joints*, and such commodities, materials and parts used in the installation and repair of such joints, between points in Johnson County, KS, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this republication is to correct the commodity description in part (6).

MC 52793 (Sub-92), filed February 9, 1982. Applicant: BEKINS VAN LINES CO., 333 S. Center St., Hillside, IL 60162. Representative: David A. Gallagher (same as applicant), (312) 547–2184. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Lerner Stores Corporation, of New York, NY.

MC 67733 (Sub-4), filed February 16, 1982. Applicant: CHAPIN TRUCKING LINE, INC., P.O. Box 1317, Elyria, OH 44036. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215, 612–228–1541. Transporting *general commodities* (except classes A and B explosives and household goods), between Cleveland, OH, on the one hand, and, on the other, points in IL, IN, KY, MI, NY, OH, PA and WV.

MC 108223 (Sub-47), filed February 10, 1982. Applicant: CENTURY MOTOR FREIGHT, INC., P.O. Box 43050, St. Paul, MN 55164. Representative: Warren K. Wahoske (same address as applicant), 612–786–9850. Transporting *general commodities* (except classes A and B explosives), between the facilities of Reliance Electric Co., its subsidiaries and divisions, at points in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 127253 (Sub-55), filed February 16, 1982. Applicant: STEWCO, INC., P.O. Box 728, Waskom, TX 75692. Representative: Clayte Binion, 623 S. Henderson, 2nd Fl., Fort Worth, TX 76104, 817–332–4415. Transporting *petroleum products and chemicals*, (1) betwen points in Caddo Parish, LA, on the one hand, and, on the other, points in TX, LA, AR, KS, MO, IL, IN, OH, PA, WA, NJ, FL, VA, NC, SC, TN, GA, AL, MS, OK, KY, and CO, and (2) between points in Washington County, MS on the one hand, and, on the other, points in AL, LA and AR.

MC 129712 (Sub-68), filed February 12, 1982. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 569, McDonough, GA 30253. Representative: Guy H. Postell, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326, 404–237–6472. Transporting *metal products*, between points in the U.S., under continuing contract(s) with Steelabrade Corp., of St. Louis, MO.,

MC 129712 (Sub-69), filed February 16, 1982. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 569, McDonough, GA 30253. Representative: Guy H. Postell, Suite 713, 3384 Peachtree Rd., NE., Atlanta, GA 30326, (404) 237–6472. Transporting *metal products*, between points in MO and IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146082 (Sub-1), filed February 12, 1982. Applicant: J.C. HAULING CO., P.O. Box 12, Millstadt, IL 62260. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO. 63102, 314–421–0845. Transporting (1) *metal products and hazardous materials*, between Gary, IN, on the one hand, and, on the other, points in Montgomery County, KS and Montgomery County, IL, and (2) *clay, concrete, glass or stone products*, between points in St. Francois County, MO and Morris County, TX.

MC 149133 (Sub-14), filed February 10, 1982. Applicant: DIST/TRANS MULTI-SERVICES, INC., d.b.a. TAHWEELALEN EXPRESS, INC., 1333 Nevada Blvd., P.O. Box 7191, Charlotte, NC 28217. Representative: Charles L. Garrison (same address as applicant), 704–588–2109. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Meldisco-Division of Melville, Corporation, of Hackensack, NJ.

MC 153643 (Sub-1), filed February 16, 1982. Applicant: JIM C. TAYLOR, JR., d.b.a. TAYLOR TRUCK & RIGGING, P.O. Box 235, Coffeyville, KS 67337. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956, 414–722–2848. Transporting (1) *machinery* (a) between points in Sebastian County, AR, on the one hand, and, on the other, points in KS, LA, MO, OK, and TX , and (b) between points in Dallas, TX, on the one hand, and, on the other, points in AR, KS, LA, MO, and OK, (2) *materials and equipment* used by electrical contractors and railroads, between Kansas City, MO, on the one hand, and, on the other, points in AR, LA, KS, OK, and TX, (3) *such commodities* as are dealt in and used by foundries, between points in Montgomery County, KS, on the one hand, and, on the other, points in AR, LA, MO, and TX, (4) *machinery and equipment*, between Tulsa, OK, on the one hand, and, on the other, points in AR, MO, and TX, and (5) *Mercer commodities, machinery and equipment*, between points in Montgomery County, KS, on the one hand, and, on the other, points in AR, LA, MO, and TX.

MC 159072 filed February 9, 1982. Applicant: STEVEN A. HEINTZ & SON, INC., Box 15, Vanderbilt, MI 49795. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, (517) 482–2400. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S., under continuing contract(s) with H & H Tube & Manufacturing Co., of Southfield, MI.

Volume No. OP2–42

Decided: March 1, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 47583 (Sub-151), filed February 16, 1982. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Rd., Kansas City, KS 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044, (913) 843–0110. Transporting *general commodities* (except classes A and B explosives and household goods), between the facilities of Kal Kan Foods, Inc., at points in the U.S., on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 120038 (Sub-10), filed February 16, 1982. Applicant: LINCOLN COACH LINES, P.O. Box 369, Irwin, PA 15642. Representative: John C. Fudesco, Suite 960, 1333 New Hampshire Ave., NW., Washington, DC 20036, (202) 659–5157. Transporting *passengers and their baggage*, in charter operations, between point in the U.S., under continuing contract(s) with Lincoln Coach Travel, Inc., of Irwin, PA.

MC 133562 (Sub-47), filed February 22, 1982. Applicant: HOLIDAY EXPRESS CORPORATION, Iowa Hwy. No. 4—P.O. Box 452, Estherville, IA 51334. Representative: Herbert W. Allen (same address as applicant), 712–362–5812. Transporting (1) *clay, concrete, glass or stone products*, between points in GA, on the one hand, and, on the other, points in IA, IL, IN, MN, NE, ND, MO, SD, and WI, (2) *such commodities* as are dealt in or used by manufacturers and distributors of automobile and truck parts, between Bradford and Oil City, PA, Detroit, MI, Indianapolis, IN, Chicago, IL, St. Louis and Kansas City, MO, Ashland, KY, Congo, WV, Port Arthur, TX, and Philadelphia, PA, on the one hand, and, on the other, points in IA, IL, IN, MN, MO, NE, ND, SD, and WI, (3) *metal products*, between St. Louis, MO and Chicago, IL, on the one hand, and, on the other, points in IA, MN, NE, and SD, (4) *such commodities* as are dealt in or used by manufacturers and distributors of ice machines, energy products, and appliances, between points in IA, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (5) *ink and pulp, paper and related products*, between points in the U.S. (except AK and HI).

MC 135853 (Sub-13), filed February 16, 1982. Applicant: SPECIAL SERVICE TRANSPORTATION, INC., 1100 West Smith, Medina, OH 44256. Representative: Michael Spurlock, 275 East State St., Columbus, OH 43215, (614) 228–8575. Transporting *food and related products and such commodities* as are dealt in or used by food stores, between points in OH, PA, NJ, MA, CT, MD, NY, IN, IL, MI, WI, VA, SC, NC, GA, AL, WV, KY, TN, and DC.

MC 139243 (Sub-7), filed February 22, 1982. Applicant: RIVER BEND TRANSPORT COMPANY, Sunset Ave., North Bend, OH 45052. Representative: David F. Boehm, 2208 Central Trust Tower, Cincinnati, OH 45202, 513–621–1045. Transporting *general commodities*, between Cincinnati, OH, on the one hand, and, on the other, points in IL, IN, KY, MI, OH, and WV. Condition: To the extent any certificate issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issuance.

MC 146402 (Sub-43), filed February 12, 1982. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 988, Jackson, TN 38301. Representative: Robert L. Baker, 6th Floor, U.S. Bank Bldg., Nashville, TN 37219, 615–244–6100. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 146602 (Sub-8), filed January 5, 1982, published in the **Federal Register** issue of January 26, 1982, and republished, as corrected, this issue. Applicant: ODEAN DUANE BAKKEN, d.b.a. BAKKEN TRUCK LINE, 1301 Third Ave South, Northwood, IA 50459. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, 612–542–1121. Transporting food and related products, between Kansas City, MO, Omaha, NE, points in Warren County, IL, Saline County, MO, Fresborn County, MN and IA, on the one hand, and, on the other, points in AR, CT, DE, IA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MN, MO, NE, NJ, NH, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI and DC. The purpose of this republication is to include NH as one of the sought states.

MC 147553 (Sub-16), filed February 16, 1982. Applicant: DENNIS MOSS AND GARY MOSS, d.b.a. MOTOR WEST, P.O. Box 1405, Caldwell, ID 83605. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, 208–343–3071. Transporting *chemicals and related products*, between points in CA, ID, OR, and WA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151083 (Sub-3), filed February 22, 1982. Applicant: JACKSONVILLE EXPRESS, INC., 5912 New Kings Rd., Jacksonville, FL 32209. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, 904–632–2300. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Duval County, FL, on the one hand, and, on the other, points in AL, FL, GA, and SC.

MC 151162 (Sub-8), filed February 16, 1982. Applicant: LOWELL E. CAWOOD, d.b.a. L. E. CAWOOD PRODUCE, P.O. Box 83, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72702, (501) 521–8121. Transporting *excelsior, textiles, fiberglass tubing and filter elements*, between points in Riverside County, CA, Gadsen County, FL, Spartanburg County, SC, Palo Pinto County, TX, and Barron County, WI, on the one hand, and, on the other, points in the U.S.

MC 154053 (Sub-1), filed February 16, 1982. Applicant: EAST-TEX PLASTICS EXPRESS, INC., 3850 Williams, Orange, TX 77630. Representative: Edwin M. Snyder, P.O. Box 45538, Dallas, TX 75245, 214–358–3341. Transporting *rubber and plastic products and chemicals and related products*, between points in TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159403, filed February 16, 1982. Applicant: CHARLES BEUKEMA, Rte. 1, Box 35, Kahawha, IA 50447. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *livestock trailers and horse trailers*, between point in Hancock County, IA, on the one hand, and, on the other, points in ID, KS, MT, ND, NE, OR, SD, UT, WA, WY, CA, AZ, and CO.

MC 160292, filed January 28, 1982. Applicant: ONE WAY FREIGHT

SYSTEMS, INC., 11102-C Valleydale, Dallas, TX 75230. Representative: Andrew L. Emerson (same address as applicant), 214-748-6448. Transporting OVER REGULAR ROUTES, *general commodities* (except classes A and B explosives), between Dallas-Ft. Worth, TX and Oklahoma City, OK, over Interstate Hwy 35.

MC 160332, filed February 1, 1982. Applicant: JACQUELYN S. SNIDER, d.b.a. TEXAS TRAIL TOURS, P.O. Box 1075, 307 W. Franklin, Waxahachie, TX 75165. Representative: James R. Jenkins, 516 West Main St., Waxahachie, TX 75165, 214-937-5710. As a broker, at Waxahachie, TX, in arranging for the transportation by motor vehicle of *passengers and their baggage*, in the same vehicle with passengers, between points in TX, on the one hand, and, on the other, points in the U.S.

MC 160433, filed February 16, 1982. Applicant: ROBERT H. BOLDUC, d.b.a. ROBO, 2 Stuart St., Hudson, NH 03051. Representative: Robert M. Parodi, 41 E. Pearl St., Box 541, Nashua, NH 03061, 603-889-6131. Transporting *machinery and related parts*, between points in Hillsborough and Rockingham Counties, NH, and MA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160563, filed February 16, 1982. Applicant: DM&S, INC., 1431 Okie St. NE., Washington, D.C. 20002. Representative: Dimitri H. Gekas (same address as applicant) 202-832-3600. Transporting *household goods, office furniture, equipment and accessories*, between points in the U.S. (except AK and HI), under continuing contract(s) with Lascaris Design Group International, Inc., of Washington, D.C.

MC 160603, filed February 16, 1982. Applicant: BOBBY R. KELLEY AND SONS, INC., Rte. 1 Old Stage Rd., Camden, TN 38320. Representative: John Davidson, Box 1456, Corinth, MS 38834, 601-287-5452. Transporting *ores and minerals*, between points in the U.S. (except AK and HI), under continuing contract(s) with Tri-State Sand Company, of Camden, TN.

MC 160823, filed February 18, 1982. Applicant: DAVID L. RUDD TRUCKING, INC., P.O. Box 4, Johnson St. Troy, TN 38260. Representative: David L. Rudd (same address as applicant), 901-536-4657. Transporting *lumber and wood products, building materials, and machinery*, between points in TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP4-78

Decided: March 3, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 30446 (Sub-23), filed February 22, 1982. Applicant: BRUCE JOHNSON TRUCKING COMPANY, INC., 3408 Graham St., P.O. Box 5647, Charlotte, NC 28225-5647. Representative: Leon Thompson (same address as applicant), (704) 376-9101. Transporting *department store supplies and merchandise*, between points in the U.S., under continuing contract(s) with The Gap Stores, Inc., of Erlanger, KY.

MC 55866 (Sub-23), filed February 23, 1982. Applicant: BLUE LINE TRANSFER CO., INC., 3rd and Broomall Sts., Chester, PA 19013. Representative: James W. Murphy (same address as applicant), (215) 876-6251. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. in and east of WI, IL, KY, TN and MS.

MC 13900 (Sub-38), filed February 22, 1982. Applicant: RAPIER SMITH, Rural Route 5, Loretto Rd., Bardstown, KY 40004. Representative: William P. Whitney, Jr. (same address as applicant), (502) 348-5159. Transporting *such commodities* as are manufactured, processed, distributed or dealt in by manufacturers of paper, paper products, and specialty chemicals between the facilities of the Westvaco Corporation and its subsidiaries at points in the U.S. on the one hand, and, on the other, points in the U.S.

MC 144316 (Sub-3), filed February 22, 1982. Applicant: J. H. FOODS, INC., 915 W 80th St., Bloomington, MN 55420. Representative: Val M. Higgins, 121 S 8th St., Minneapolis, MN 55402, (612) 333-1341. Transporting *food and related products*, between Minneapolis, MN, on the one hand, and, on the other, points in ND, SD, WI, and MN.

MC 146128 (Sub-1), filed February 24, 1982. Applicant: PAUL GREEN, d.b.a. P & G Trucking, 21418 Peterson, Sauk Village, IL 60411. Representative: Donald S. Mullins, 1033 Graceland Ave., Des Plaines, IL 60016, (312) 298-1094. Transporting *packaging materials*, between points in the U.S. (except AK and HI), under continuing contract(s) with Republic Packaging Corp., of Chicago, IL.

MC 157406 (Sub-2), filed February 24, 1982. Applicant: AUTAUGA TRANSPORT, INC., 1410 S Memorial Dr., Prattville, AL 36067. Representative: Terry P. Wilson, 428 S Lawrence St., Montgomery, AL 36104, (205) 262-2756. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between the facilities of Union Camp Corporation and Moore Handley, Inc., their subsidiaries and affiliates, at points in the U.S., on the one hand, and, on the other, points in AL, AR, FL, GA, IN, KY, LA, MS, NC, SC, TN, TX and VA.

MC 160716, filed February 23, 1982. Applicant: ASAP HOT SHOT SERVICE, INC., P.O. Box 109, Cromwell, OK 74837. Representative: G. Timothy Armstrong, P.O. Box 1124, El Reno, OK 73036, (405) 262-1322. Transporting *Mercer commodities*, between points in OK, on the one hand, and, on the other, points in AR, KS, LA, TX and WY.

Volume No. OP4-77

Decided: March 2, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 1606 (Sub-78), filed February 23, 1982. Applicant: RADIO HENDERSONVILLE, INC., 1450 7th Ave. East, Hendersonville, NC 28739. Representative: Mark J. Prak, P.O. Box 1151, Raleigh, NC 27602, (919) 821-4711. To engage in operations, in interstate or foreign commerce, as a *broker*, at Hendersonville, NC, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, between points in NC, on the one hand, and, on the other points in the U.S.

MC 145906 (Sub-9), filed February 22, 1982. Applicant: GENERAL TRUCKING CO., INC., P.O. Box 269, Columbia, TN 38401. Representative: Edward C. Blank, II, P.O. Box 1004, Columbia, TN 38401, (615) 388-3200. Transporting *metal products*, between points in IA, MN, and DE, on the one hand, and, on the other points in TN.

MC 151036 (Sub-7), filed February 22, 1982. Applicant: DECATUR TRANSIT, INC., 161 First Avenue NE., Decatur, AL 35601. Representative: Eric G. Hancock (same address as applicant), (205) 353-9801. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in Morgan County, AL, on the one hand, and, on the other points in AL, AR, FL, GA, KY, LA, MS, NC, SC, TN, and VA.

MC 159988 (Sub-1), filed February 18, 1982. Applicant: AMAZON INDEPENDENT TRANSPORTATION, INC., 12480 24th Ave., Marene, MI 49435. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 677-1017. Transporting *paper and paper products*, between points in Muskegon County, MI, on the one hand, and, on the other points in the U.S.

MC 160686, filed February 22, 1982. Applicant: ODELL MIKEL TRUCKING AND WAREHOUSE STORAGE COMPANY, 7221 Norvic, P.O. Box 15031, Houston, TX 77020. Representative: Claude W. Ferebee, 3910 Fm 1960 West, Suite 106, Houston, TX 77068, (713) 537-8156. Transporting *metal products*, between points in TX, on the one hand, and, on the other points in AR, LA, OK, MS, NM, and TX.

MC 160706, filed February 23, 1982. Applicant: CHARLES FOLKENS, R.R. #1, Big Lake, MN 55309. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542-1121. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Geo. A. Clark and Son, of Minneapolis, MN.

Volume No. OP4-78

Decided: March 3, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, And Williams.

MC 21866 (Sub-200), filed February 24, 1982. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561-1030. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S., (except AK and HI).

MC 144256 (Sub-3), filed February 23, 1982. Applicant: ARIZONA EXPRESS, INC., P.O. Box 6038, Phoenix, AZ 85005. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014, (602) 258-2662. Transporting *general commodities* (except classes A and B explosives), between points in AZ.

MC 146106 (Sub-2), filed February 24, 1982. Applicant: CASEY TRANSPORTATION, INC. P.O. Box 1054, Leominster, MA 01453. Representative: David M. Marshall, 101 State St.-Suite 304 Springfield, MA 01103, (413) 732-1136. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Cheshire, Hillsborough, Merrimack, Rockingham, Strafford and Sullivan Counties, NH, and points in MA, RI, on the one hand, and, on the other, points in ID, CO, CA and those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 158196, filed February 23, 1982. Applicant: BANKS WRIGHT, d.b.a. WRIGHT MOTOR LINES, P.O. Box 177 Armagh, PA 15920. Representative: Dixie C. Newhouse, P.O. Box 1417, Hagerstown, MD 21740 (301) 797-6060. Transporting *tungsten and tungsten products* between points in the U.S., under continuing contract(s) with Kennmetal, Inc., of Latrobe, PA.

MC 159026 (Sub-1, filed February 24, 1982. Applicant: NCH CORPORATION, 2730 Carl Rd., Irving, TX 75062. Representative: B. W. Huie (same address as applicant), (214) 438-0550. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of lamps and lighting fixtures, between points in the U.S., under continuing contract(s) with Kichler Company, of Cleveland, OH.

Volume No. OP5-50

Decided: March 1, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 29948 (Sub-13), filed February 23, 1982. Applicant: EMPIRE LINES, INC., 910 West Sprague St., Spokane, WA 99210. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St. NW., Washington, DC 20005, 202-783-3525. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter operations between points in the U.S. including AK but excluding HI, under continuing contract(s) with Empire Tours, Inc. of Spokane, WA.

MC 31389 (Sub-335), filed February 23, 1982. Applicant: McLEAN TRUCKING COMPANY, P.O. Box 213, Winston-Salem, NC 27154. Representative: Daniel R. Simmons (same address as applicant), 919-721-2433. Transporting general commodities (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in the U.S. (except AK and HI).

MC 118569 (Sub-11), filed February 18, 1982. Applicant: HALBERG CONSTRUCTION & SUPPLY, INC., d.b.a. KIRSCHER TRANSPORT, South 18th Ave. & 8th St., Virginia, MN 55792. Representative: Robert F. Berger, 1000 Lincoln Bldg., Virginia, MN 55792, 218-749-1982. Transporting *mining and construction equipment*, between points in MN, WI, and ND on the one hand, and, on the other, points in the U.S.

MC 136849 (Sub-2), filed February 19, 1982. Applicant: E & H DISTRIBUTING COMPANY d.b.a. VALLEY FOOD DISTRIBUTORS, P.O. Box 1843, Las Vegas, NV 89114. Representative: William J. Lippman, Steele Park, Suite 588, 50 South Steele St., Denver, CO 80209, 303-322-0800. Transporting *alcoholic beverages*, between points in the U.S. under continuing contract(s) with Southern Wine and Spirits of Las Vegas, NV.

MC 145168 (Sub-3), filed February 23, 1982. Applicant: BRACKEEN TRUCKING, INC., Route 2, Box 612, Scurry, TX 75158. Representative: Thomas L. Cook, Allied Bank-Southwest, 5801 Marvin D. Love Freeway, Suite 301, Dallas, TX 75237-2385, 214-339-4106. Transporting *transportation equipment*, between points in LA and TX, on the one hand, and, on the other, points in AR and MS.

MC 150939 (Sub-28), filed February 19, 1982. Applicant: GEMINI TRUCKING, INC., 1533 Broad St., Greensburg, PA 15601. Representative: John C. Bradley, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, 703-522-0800. Transporting *general commodities* (except classes A and B explosives), between points in the U.S.

MC 151559 (Sub-1), filed February 19, 1982. Applicant: THE GRAY ROCK FARM, INC., Route 12, Box 143, Statesville, NC 28677. Representative: Theodore Polydorff, Suite 301, 1307 Dolly Madison Blvd., McLean, VA 22101, 703-893-4924. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S. under continuing contract(s) with Western Steer-Mom 'n' Pop's, Inc., of Claremont, NC.

MC 152878 (Sub-1), filed February 22, 1982. Applicant: LEXINGTON CARTAGE COMPANY, 2180 Young Dr., Lexington, KY 40593. Representative: Herbert D. Liebman, 403 West Main St., P.O. Box 478, Frankfort, KY 40602, 502-875-3493. Transporting *such merchandise as is dealt in by wholesale, retail and chain grocery and business houses and equipment materials and supplies used in the conduct of such business*, between points in the U.S. under continuing contract(s) with The Kroger Company of Cincinnati, OH.

MC 155658 (Sub-7), filed February 22, 1982. Applicant: D. F. SYSTEM, INC., 875 Providence Hwy, P.O. Box 242, Dedham, MA 02026. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, (617) 235-5571. Transporting *suitcases, traveling bags, and briefcases*, between points in the U.S., under continuing contract(s) with American Tourister, Inc., of Warren, RI. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 1134(a) or submit an affidavit, indicating why such approval is unnecessary, to the

Secretary's office. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 5, Room 8370.

MC 157858, filed February 22, 1982. Applicant: NICK OLIVAS, d.b.a. OLIVAS TRUCKING, 833 Mt. Taylor Ave., Grants, NM 87020. Representative: Nick Olivas (same address as above), (505) 285–5069. Transporting *coal* between points in Sandoval County, NM, on the one hand, and, on the other, Amarillo, TX, and points in Lincoln County, AZ.

MC 158558 (Sub–2), filed February 8, 1982. Applicant: EIGHTEEN WHEEL TRANSPORTATION, INC., 355 South Santa Fe Ave., Los Angeles, CA 90013. Representative: Frederick J. Coffman, 1834 N. Kelly Ave., P.O. Box 1455, Upland, CA 91786, (714) 981–0961. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between Birmingham, AL, Los Angeles, Oakland and San Diego, CA, Atlanta, GA, Chicago, IL, New Orleans, LA, Baltimore, MD, Boston, MA, Kansas City and St. Louis, MO, Omaha, NE, Cincinnati, OH, Memphis, TN, Dallas and Houston, TX and points in Hudson County, NJ, on the one hand, and, on the other, points in the U.S.

MC 160639, filed February 19, 1982. Applicant: MIDTRANS CORPORATION, 4700 Fisher Rd., Columbus, OH 43228. Representative: Charles H. McCreary III, 100 East Broad St., Columbus, OH 43215, 614–227–2300. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those of unusual value, and those requiring special equipment), between Columbus, OH, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, TN, and MS.

MC 160658, filed February 22, 1982. Applicant: YOUR VIP LINES, INCORPORATED, 12823 Cranbrook, Hawthorne, CA 90250. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, 714–667–8107. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter operations, beginning and ending at points in Los Angeles County, CA and extending to points in AZ, UT, NV, and NM.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6306 Filed 3-8-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–78982. By decision of February 22, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to Marathan Bus Lines, Inc. of South Amboy, NJ of Certificate No. MC–140797 (Sub No. 3) issued June 16, 1981 to Blue & Gray Transit, Inc. of Brooklyn, NY authorizing the transportation over regular routes of passengers and their baggage in the same vehicle with passengers between Middletown, NJ and New York; over alternate routes for operating convenience only between Port Street Interchange of the NJ Turnpike and US 9 in Newark, NJ. Between points over the Garden State Parkway, including Woodbridge, Sayreville, Matison TWP, Matawan TWP, Keyport, NJ, and return over the same route, over alternate routes for operating convenience only between Newark and Jersey City, NJ for joinder only. Between Lincroft, Middletown TWP and Keyport, NJ serving all intermediate points; between Holadel, and Matawao, NJ, between points in Raritan TWP, NJ. Subject to the following conditions: No incidental charter operations. Representative: John R. Simms Jr., 915 Pennsylvania Bldg. 425 13th Street NW., Washington, DC 20004.

Note.—The purpose of this Publication is to include the above described (sub 3) authority to the authority approved for transfer by this Board and published in the Federal Register on June 15, 1981, and November 16, 1981.

MC–FC–79437. By decision of February 19, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to Austin Verity & Son, Inc. of Seaford, NY of Certificate No. MC–144276 issued to Massapequa Movers, Inc., of Massapequa, NY authorizing *household goods*, between New York, NY and points on Long Island, on the one hand, and, on the other, points in AL, KY, MI, MO, TN, and TX. Representative: Piken & Piken, 95–25 Queens Blvd., Rego Park, NY 11374. TA lease is not sought. Transferee is a carrier.

MC–FC–79561. By decision of February 19, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to Larrymar Corporation of Mount Holly, NJ of Certificate No. MC–119821 and No. MC–119821 (Sub-Nos. 2, 4, and 7) issued February 10, 1982, respectively. The Sub 7 certificate cancels Certificates Nos. MC–124405 and No. MC–119821 issued to Ochroch Transportation Co., Inc. of Philadelphia, PA authorizing the transportation in (A) (Sub-No. 2F) of *such commodities* as are dealt in by grocery stores, from Baltimore, MD, to New York, NY, those points in PA and east of U.S. Hwy 15, those in NJ on and north of NJ Hwys 70 and 34, and points in Kent and New Castle Counties, DE (B) (Sub-No. 4F) of *pulp paper or allied products*, between points in Bucks and Philadelphia Counties, PA, and Spotsylvania County, VA, on the one hand, and on the other, points in CT, DE, MD, NJ, NY, PA, VA and DC. (C) (Sub-No. 7) of (1)(a) *petroleum lubricants* and *cleaning oils*, in customers and *advertising material and premiums, display racks*, cleaning *machines* and *sheet metalware*, used in the distribution and consumption of petroleum lubricating and cleaning oils, from Philadelphia, PA, to points in NY, NJ, DE, and described portions of MD and VA, and DC and (b) *paper, paper products, rubber printing plates*, and *machinery, equipment* and *supplies* used or useful in the manufacturing and processing of such commodities, from New York, NY, to points in CT, MA, NY, NJ, and PA, within 100 miles of City Hall, New York, NY. *RESTRICTION:* The separately stated authorities above shall not be traced or joined one to another for the purpose of performing any through transportation; and (2) *paper products*, and *such commodities* as are dealt in by wholesale and retail dry goods and grocery houses, between Philadelphia, PA, on the one hand, and, on the other, Newark, New Brunswick, Trenton, Perth Amboy, Passaic, and Paterson, NJ and points in the New York, NY Commercial Zone. (B) *Various washing,, cleaning, and bleaching compounds* between Philadelphia named points in RI, CT, DE, MD, NC and DC., subject to a restriction. (4) *Office furniture*, between Philadelphia, on the one hand, and, on the other, Baltimore, MD, and Washington, DC., and (5) *frozen berries* from Baltimore, MD, to New York, NY.

MC–FC–79614. By decision of February 22, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to Deborah Murphy and Edwin R. Benedict, A Partnership, d/b/a Murphy's Horse Transportation of Elmont, NY, of Certificate No. MC–102917 issued to Carey Cummings Equities, Inc. of Glen Head, NY authorizing the transportation of *flowers and plants* (not including cut flowers), from points in Nassau County, NY to points in CT, DE, MD, MA, NJ, PA, RI, VA, and DC; *horses* (other than ordinary livestock), *equipment and paraphernalia, stable supplies, and equipment, and personal effects* of their attendants, trainers, or exhibitors between named points in NY, and points in NJ, MD, DE, MA, VA, PA, OH, IN, IL, SC, CT, KY, ME, NH, NC, RI, and VT. Representative: Thomas J. O'Brien, 230 Park Avenue, New York, NY 10017. TA lease is not sought. Transferee is/is not a carrier.

MC–FC–79619. By decision of 2–23–82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to TRINITY TRANSPORT, INC. of Certificate No. MC–149483 and MC–149483 (Sub-No. 1) issued to C & H TRUCK BROKERS, INC. authorizing the transportation of (1) *foodstuffs* (a) between points in Sussex County, DE, on the one hand, and, on the other, points in the United States (except AK and HI), and (b) between points in Talbot County, MD, and Northampton County, VA, on the one hand, and, on the other, points in the United States (except AK, AZ, CA, CO, HI, ID, MN, MT, NV, NM, ND, OR, SD, UT, WA, and WY); (2) *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions, for or on behalf of the United States Government, between points in the United States. NOTE: Transferee is a carrier pursuant to a certificate issued in MC–154194. Representative: Andrew D. Lipman, 1777 F Street, NW., Washington, DC 20006. Condition: Transferor must pay any debts owing to owner-operators prior to consummation.

MC–FC–79621. By decision of 2–23–82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number approved the transfer to Midwest Transit Service, Inc. of Certificate No. MC–71452 (Sub-Nos. 19, 21, 22, and 23) issued to Indiana Transit Service, Inc. authorizing the transportation of: Sub-No. 19: *personal care products, nutritional supplements and foods, and cleaning compounds*, over irregular routes, between the facilities of the Shaklee Corporation at or near Chicago, IL, on the one hand, and, on the other, points in IN; Sub-No. 21: *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.; Sub-No. 22: (1) *general commodities* (except classes A and B explosives), between Indianapolis, IN, on the one hand, and, on the other, points in certain IN counties, (2) *motion picture film, theatre equipment, supplies and accessories and printed matter*, (a) between points in Indiana; (b) between points in Indiana, on the one hand, and, on the other, points in Iroquois County, IL, Jefferson County, KY, and Cincinnati, OH; (c) between points in Iroquois County, IL, on the one hand, and, on the other, points in Jefferson County, KY and Cincinnati, OH; and (d) between Cincinnati, OH, and Louisville, KY; and (3) *advertising booklets, pamphlets, catalogues, calendars, paper books and display racks*, (a) between points in Indiana; Sub-No. 23X: *general commodities* (except classes A and B explosives), (1) between Indianapolis, IN, on the one hand, and, on the other, points in certain IN counties, and (2) between points in Indiana, and points in Henderson, Daviess, Jefferson, Boone, Kenton, and Campbell Counties, KY, Hamilton, Butler, Preble, Montgomery, Paulding, Defiance, and Williams Counties, OH, Branch County, MI, and Iroquois, Vermilion, and Clark Counties, IL.

MC–FC–79622. By decision of February 23, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 3 approved the transfer to Ted M. Conrad doing business as Brett Freight Service of Certificate No. MC–33925 (Sub-No. 8) issued December 11, 1981 to Lloyd M. Brett & Gary L. Brett doing business as Brett Freight Service authorizing the transportation of. Representative is: Ted M. Conrad, Brett Freight Service, P.O. Box 2941, Wenatchee, WA 98801.

MC–FC–79625. By decision of 2–22–82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to Intercoastal Express, Inc. of Certificate No. MC–152332 (Sub-No. 2) issued November 27, 1981, to Intercoastal Warehouse Corporation of Louisiana authorizing the transportation of general commodities (except classes A and B explosives), between points in Alabama, Arkansas, Georgia, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas, subject to the following conditions, if any. Applicant's representative: David B. Schneider, Esq. Suite 200, 401 W. Sheriden, Oklahoma City, OK 73102.

MC–FC–79626. By decision of 2–23–82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 3 approved the transfer to Fremont Express, Inc., of Fremont, NE, a part of Certificate No. MC–11022 (Sub-No. 2)X issued July 22, 1981, to Sullivan Transfer & Storage Company, of Lincoln, NE authorizing the transportation of household goods between points in Nebraska, on the one hand, and, on the other, points in Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Oklahoma, Ohio, South Dakota, Texas, Wisconsin, and Wyoming. Applicant's representative is: Scott T. Robertson, P.O. Box 94748, Lincoln, NE 68509. TA has been filed.

MC–FC–79631. By decision of February 19, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to Eugene Walker

and Mildred Walker, d.b.a. Walker Trucking, of 10201 West Beaver Street, Lot 89, Jacksonville, FL 32220, of Certificate of Registration No. MC–121819, issued February 27, 1979, to Lightning Trucking Company, of 435 South Cassat Avenue, Jacksonville, FL 32205, evidencing a right to engage in transportation of interatate commerce corresponding in scope to State Certificate No. 1365, dated June 21, 1978, issued by the Florida Service Commission. Representative: O.C. Beakes, 836 Riverside Avenue, Jacksonville, FL 32204.

MC–FC–79633. By decision of February 22, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to James R. Rutledge d/b/a Jim Rutledge Trucking of Afton, IA of Certificate No. MC–154471 issued March 11, 1981 to Gary R. Bailey d.b.a. Gary R. Bailey Trucking of Afton, IA authorizing transportation as a motor common carrier over regular routes, transporting *feed* between Omaha, NE and Prescott, IA, serving intermediate and off-route points, from Prescott over IA Hwy 186 to junction U.S. Hwy 34, then over U.S. Hwy 34 to Glenwood, IA, then over U.S. Hwy 275 to Council Bluffs, IA, and then across the Missouri River to Omaha. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA.

MC–FC–79634. By decision of 2–25–82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to Georgia-Carolina Truck Transportation Co., Inc. of Certificate No. MC–26088 (Sub-No. 29X) issued to the Sanders Truck Transportation Co., Inc. authorizing the transportation of *cranes, crane parts, fork lifts, welding machines, dollies, boilers, boiler parts, clay products, steel beams, steel bins, steel and tanks and caprolactam, and machinery and machinery parts,* between points in GA and SC, on the one hand, and, on the other, points in the United States.

Note(s).—Transferee is a non-carrier. Applicants' representative: Clyde W. Carver, P.O. Box 720434, Atlanta, Georgia 30328.

MC–FC–79635. By decision of 2–24–82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to Kaibab Distribution Corporation of Permit Nos. MC–152109 and MC–152109 (Sub-No. 1) issued March 6, 1981 to Kaibab Transportation, Inc. authorizing in MC–152109 the transportation of *asphalt roofing products* between points in the U.S. under continuing contract(s) with Tamko Asphalt Products, Inc. of Denver, CO and in MC–152109 (Sub No. 1), *crushed automobile bodies* between points in the U.S., under continuing contract(s) with Milford Pepper, d.b.a. Century Enterprises, Inc. of Denver, CO, subject to the following conditions, if any. Applicant's Representative: Michael F. Morrone, 1150 17 M Street N.W. Suite 1000, Washington, D.C. 20036.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-6308 Filed 3-8-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Restriction Removals; Decision-Notice

Decided: March 3, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,
Secretary.

MC 4426 (Sub-5)X, filed February 24, 1982. Applicant: M & T TRANSPORT, INC., 7391 Richmond Road, Post Office Box 292, East Syracuse, NY 13057. Representative: Herbert M. Canter, Benjamin D. Levine, 305 Montgomery Street, Syracuse, NY 13202. Lead: (1) broaden machinery, contractors' equipment and commodities used in the construction or maintenance of telephone and telegraph systems to "those commodities which because of their size or weight require the use of special handling or equipment and commodities used in the construction or maintenance of telephone and telegraph systems," and (2) change Syracuse, NY to Onondaga County, NY.

MC 25823 (Sub-15)X. filed February 16, 1982. Applicant: WERCH TRUCKING COMPANY, INC., Rte. 2, Box 113, Berlin, WI 54923. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. Lead and Subs 1, 2, 3, 4 (embraces former Subs 5 and 7), and 10 certificates, (1) change one-way service to radial; (2) broaden commodities to: lead certificate, "machinery, chemicals and related products, textile mill products, food and related products, farm products, coal and coal products, and petroleum, natural gas and their products," from farm implements, fertilizer, twine, feed, seed, flour, coal, and oil; Sub 1, "chemicals and related products, and food and related products," from fertilizer and animal and poultry feed; Sub 2, "food and related products, chemicals and related products, and bags and containers," from dry animal and poultry feed and ingredients, insecticides, medication used for treating animals and poultry, and empty bags and other containers, when transported on the same vehicle or as part of a shipment of the described commodities; Sub 3, (a) "food and related products," from animal and poultry feed, condensed milk, and canned goods and preserves; (b) "clay, concrete, glass or stone products," from glassware; and (c) "chemicals and related products," from fertilizer; Sub 4, (a) "food and related products," from animal and poultry feed and concentrates, in bulk, feed and feed ingredients, canned vegetables, and soybean meal (except commodities in bulk, in tank vehicles); and (b) "petroleum, natural gas and their products, food and related products, chemicals and related products, farm products, rubber and plastic products, and machinery," from petroleum products, in containers, animal and poultry feed, fertilizer, in bags or containers, seed, rubber tires, and farm machinery and hardware; and Sub 10, "pulp, paper and related products," from lignin pitch; (3) broaden towns, plantsite, and milage radii descriptions to countywide authority; lead certificate, Green Lake, Waushara, Fond du Lac and Winnebago Counties, WI (Berlin, Ripon, Waukau, Rush Lake, and Borth);

Sub 1, Langlade County, WI (Antigo); Sub 2, Racine County, WI (Burlington); Sub 3, Peoria, Sangamon, McLean and Madison Counties, IL (Bartonsville, Springfield, Bloomington, and Alton): Waupaca and Outagamie Counties, WI (New London): and Madison and Marshall Counties, IN (Lapel and Plymouth); Sub 4, St. Croix County, WI (New Richmond, Stanton, Star Prairie, and Forest): Polk County, WI (Alden): Washington and Dakota Counties, MN (Newport and South St. Paul): Clark and Marathon Counties, WI (Abbotsford): Scott County, MN (plantsite at Savage): and Aitkin, Anoka, Blue Earth, Brown, Carlton, Carver, Cass, Chippewa, Chisago, Cottonwood, Crow Wing, Dakota, Dodge, Douglas, Faribault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Hubbard, Isanti, Itasca, Jackson, Kanabec, Kandiyohi, Le Sueur, Lyon, McLeod, Martin, Meeker, Mille Lacs, Morrison, Mower, Murray, Nicollet, Olmsted, Otter Tail, Pine, Pope, Ramsey, Redwood, Renville, Rice, St. Louis, Scott, Sherburn, Sibley, Stearns, Steele, Stevens, Swift, Todd, Wabasha, Wadena, Waseca, Washington, Watonwan, Winona, Wright and Yellow Medicine Counties, MN (points in MN within 160 miles of New Richmond, WI); and (5) remove the "originating at" restriction in Sub 4, and "except points on U.S. Hwy 41 between the WI–IL Stateline and Milwaukee, including Milwaukee" in Sub 1.

MC 41657 (Sub-1)X, filed February 12, 1982. Applicant: ROSENDO DIAZ, d.b.a. JENSEN MOVERS AND KELLY MOVERS, 2520 Orthodox St., Philadelphia, PA 19137. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. Lead: broaden (1) household goods to "household goods and furniture and fixtures".

MC 76472 (Sub-23)X, filed February 22, 1982. Applicant: MATERIAL TRUCKING, INC., 924 S. Heald St., Wilmington, DE 19801. Representative: Raymond A. Thistle, Jr., Five Cottman Ct., Homestead Rd. & Cottman St., Jenkintown, PA 19046. Lead and Subs 3, 7, 8, 12 and 15. Broaden: lead, from sand and stone, in bulk, in dump trucks and from such bulk commodities as are transported in dump trucks; in Subs 3, 7 and 15, from salt in bulk, salt, in bulk, in dump vehicles (except rock salt and rock salt compounds in bulk); and in Subs 8 and 12 from sand, gravel, stone, clay, earth and bituminous concrete, and gypsum, in bulk, to "commodities in bulk" lead from Glen Mills, PA and points within five miles of Glen Mills to Delaware and Chester Counties, PA and from points in NJ within 60 miles of Glen Mills, PA to Mercer, Burlington, Camden, Gloucester, Salem, Atlantic, Cumberland and Cape May Counties, NJ; Subs 3, 7, 12 and 15, from Wilmington, DE/facilities to New Castle County, DE; and to radial service.

MC 77016 (Sub-25)X, filed February 16, 1982. Applicant: BUDIG TRUCKING CO., 1100 Gest Street, Cincinnati, OH 45203. Representative: George M. Catlett, Suite 700–702, McClure Building, Frankfort, KY 40601. Subs 2, 4, 8, 9, 10, 11, 12, 15, 19F, 23 and 24. Broaden all but Subs 8 and 10 to authorize service at all intermediate points on regular routes; broaden descriptions of general commodities, with exceptions, by removing exceptions of: in Sub 2, milk, empty milk cans, livestock; in Sub 9, other dangerous articles, silk, vehicles; broaden: in Sub 12, unmanufactured tobacco to "tobacco products (except insecticides)" and brick, sand, gravel and cement, in bulk, to "brick, sand, gravel and commodities in bulk"; in Sub 15, roofing to "building materials"; petroleum products to "petroleum, natural gas and their products"; radiators to "transportation equipment"; paint and paint materials to "chemicals and related products"; leather and leather board to "leather and leather products"; in Sub 24, fresh meat, cured meat, smoked meat, lard, oleo and eggs to "food and related products"; remove restrictions: in Sub 10, against service to points in OH within the Maysville and Vanceburg, KY, commercial zones; in Sub 11, to traffic originating at/destined to, Cincinnati, OH; in Sub 19F, against serving points in KY within the Maysville, and Carrollton, KY, commercial zones, and in Sub 23, at Louisville, KY, and Nashville, TN, to traffic originating/destined to or interchanged at points in Mason, Fayette, and Scott Counties, KY; and remove facility restrictions in Sub 24.

MC 95211 (Sub-3)X, filed February 23, 1982. Applicant: JOE FORTUNER, 99 South Main Street, Carbondale, PA 18407. Representative: Joseph A. Keating Jr., 121 South Main Street, Taylor, PA 18517. Lead: (1) broaden household goods to "household goods, and furniture and fixtures," and (2) replace Carbondale, PA with Lackawanna, Susquehanna, and Wayne Counties, PA.

MC 102298 (Sub-19)X, filed February 19, 1982. Applicant: MOHAWK VAN LINES, INC., 251–57 Jericho Turnpike, Bellerose, NY 11426. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528. Lead and Sub 18F (acquired in MC–F–14051) certificates and E1 through E143 letter notices: broaden to "household goods and furniture and fixtures" from household goods, in all Subs.

MC 105997 (Sub-13)X, filed February 22, 1982. Applicant: ALL CHEMICAL TRANSPORT CORP., 1544 Irving St., Rahway, NJ 07065. Representative: Edward L. Nehez, P.O. Box Y, 7 Becker Farm Road, Roseland, NJ 07068. Lead permit: (1) broaden (a) denatured alcohol, denatured alcohol solvents, in bulk, in tank vehicles, (b) solvents (except denatured alcohol solvents), in shipments not exceeding 2500 gallons, in bulk, in tank vehicles (c) synthetic resin, ester gum solutions, and tall oil (crude and esterified), in bulk in tank vehicle to "chemicals and related products"; (2) to between points in the U.S. (except AK and HI) under continuing contract(s) with a named shipper.

MC 115331 (Sub-555)X, filed February 22, 1982. Applicant: TRUCK TRANSPORT INCORPORATED, 11040 Manchester Rd., St. Louis, MO 63122. Representative: J. R. Ferris (same as applicant). Sub Nos. 86, 307, 402, 428, 430, 443, 445, 459, 489 and 547 broaden (1) to "clay, concrete, glass or stone products" from lime and limestone products, Sub 86; cement, Subs 307, 402, 430, 443, 445, 459 and 489; cement and cement kiln dust, Sub 428; and lime and limestone and cement, Sub 547 (2) Davenport, IA to Scott and Muscatine Counties, IA and Rock Island County, IL; Selma, MO to Jefferson County; St. Louis, MO to St. Louis, and St. Louis County; Clarksville, MO to Pike County; Rock Island, IL to Rock Island, IL and Rock Island County; LaSalle, IL to LaSalle County; Chattanooga, TN to Hamilton County; Union, LA to St. James Parish; Alabaster, Allgood and Siluria, AL to Shelby and Blount Counties; (3) remove facilities limitation, restrictions (a) against transportation of lime and limestone, in bags, to points in MN, Sub 86; (b) to in bulk, in bags and (4) to radial authority.

MC 119741 (Sub-314)X, filed February 22, 1982. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). Sub-No. 277F: broaden (1) Tampa, FL, to Hillsborough County; St. Paul and Eagan, MN, to St. Paul and Dakota Counties; Brockport, NY, to Monroe County; Columbus, Toledo, and London, OH, to Columbus, Lucas, and Madison Counties; Bristol, PA, to Bucks County; (2) remove facility restrictions and delete originating at or destined to limitations; (3) delete bulk exceptions.

MC 134925 (Sub-5)X, filed April 6, 1981, previously noticed in the **Federal Register** of April 27, 1981, republished as follows: Applicant: CUMMINGS

TRUCKING COMPANY, INC., 1321 7th Ave., North, Birmingham, AL 35202. Representative: Lewis Cummings, Jr. (same as applicant). As is pertinent here, applicant seeks to broaden its Sub-No. 5X* certificate by broadening the territorial description to Bibb, Chilton, Fayette, Greene, Hale, Jefferson, Lamar, Perry, Pickens, Shelby, Sumter, and Walker Counties, AL, from Tuscaloosa, AL, and 50 mile radius. The certificate issued in this proceeding failed to encompass this revision. The purpose of this republication is to correct this inadvertent omission.

MC 141160 (Sub-6)X, filed February 23, 1982. Applicant: NEWTON TRANSPORTATION, INC., 301 West Railroad St., Pottsville, PA 17901. Representative: Joseph A. Keating Jr., 121 South Main St., Taylor, PA 18517. Lead and Subs 1, 2F, 3F and 5F permits: (A) broaden to "metal products" from wire, cable and copper; "chemicals and related products" from PVC virgin compound and chemical additives; "pulp, paper and related products" from paper and corrugated cartons; "waste or scrap materials not identified by industry producing" from plastic scrap; and "photographic and x-ray film" from discarded photographic and x-ray film, lead; (B) remove (1) "commodities in bulk, in tank vehicle" restriction, lead; and (2) "size or weight" restriction, Sub 3F; and, (C) broaden to "between points in the U.S., "under continuing contract(s) with named shippers, all subs.

MC 145986 (Sub-11)X, filed February 22, 1982. Applicant: NELSEN BROS., INC., P.O. Box 613, Nebraska City, NE 68410. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. MC-145743 Subs 7 and 27 (portions acquired in MC-F-14717); (A) broaden animal feed and animal feed ingredients and canned and preserved foodstuffs to "food and related products" in both Subs; (B) remove: commodities in bulk, and frozen foodstuffs exceptions in both subs; facilities restrictions in both Subs; originating at and destined to restriction in Sub 27; (C) replace LeSueur, Blue Earth, Glencoe and Montgomery, MN with LeSueur, Faribault and McLeod Counties, MN in Sub 27; and (D) change one-way to radial authority.

MC 147494 (Sub-10)X, filed February 24, 1982. Applicant: BOBBY KITCHENS, INC., P.O. Drawer 5690, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205. Sub 2F (1) expand to Talladega County, AL for Talladega, AL; Chatham, Berrien, Elbert and Lowndes Counties, GA for Savannah, Nashville, Elberton and Valdosta, GA; Orleans and Acadia Parishes, LA for New Orleans and Crowley, LA; Mecklenburg and Catawba Counties, NC for Charlotte and Hickory, NC; Spartanburg County, SC for Spartanburg, SC; Shelby County, TN for Memphis, TN; Harris County, TX for Houston, TX; and Warren County, VA for Front Royal, VA; and (2) expand to two-way authority; and delete destined to restrictions to allow service between the above named points, on the one hand, and, on the other, named facilities in four states; and (3) remove bulk restrictions.

MC 147807 (Sub-14)X, filed February 18, 1982. Applicant: TERESI TRUCKING INC., 900½ Victor Road, Lodi, CA 95240. Representative: Eldon Johnson, 650 California Street-Suite 2808, San Francisco, CA 94108. Sub 12X: Broaden construction equipment, to "building materials, construction equipment, materials and supplies."

MC 148788 (Sub-5)X, filed February 12, 1982. Applicant: HARDEE'S TRANSPORT, INC., P.O. Box 26159, Jacksonville, FL 32218. Representative: Norman J. Bolinger, 3100 University Blvd. South, Jacksonville, FL 32216. Sub-No. 4 (1) delete intermodal container restriction in part 1; (2) remove prior or subsequent movement by water restriction in part 1; (3) include the exception of classes A and B explosives in its general commodity authority in part 1.

MC 150089 (Sub-2)X, filed 11-17-81, previously noticed in the Federal Register of 12-3-81, republished as follows: Applicant: RARITAN TRANSPORTATION SERVICES, INC., P.O. Box 1384, Nixon Station, Edison, NJ 08817. Representative: Herbert Alan Dubin, 818 Connecticut Ave., N.W., Washington, DC 20006. Sub 1F: (1) broaden Perth Amboy, NJ, to Middlesex, Monmouth and Union Counties, NJ, and Richmond, Bronx, Kings, Queens, and New York Counties, NY. The purpose of this republication is to include the five NY counties, which were not included in the original "X" certificate draft.

MC 150378 (Sub-3)X, filed February 22, 1982. Applicant: CHASE EXPRESS, INC., 22410 72nd Avenue South, Kent, WA 98031. Representative: Jack R. Davis 1100 IBM Building, Seattle, WA 98101. Sub 2F certificate, remove ex-water restriction in general commodity authority between points in Washington and Oregon.

[FR Doc. 82-6304 Filed 3-8-82; 8:45 am]

BILLING CODE 7035-01-M

[Amdt. No. 3, to Third Revised I.C.C. Order No. 80 Under Service Order No. 1344]

Rail Carriers; Rerouting Traffic; St. Louis Southwestern Railway Co. et al.

To: St. Louis Southwestern Railway Company; Cadillac & Lake City Railway Company; Oklahoma, Kansas and Texas Railroad Company; and Chicago and North Western Transportation Company.

Upon further consideration of Third Revised I.C.C. Order No. 80 and good cause appearing therefor:

It is ordered, I.C.C. Order No. 80 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The order shall expire at 11:59 p.m., May 31, 1982, unless otherwise modified, amended or vacated.

Effective date. This order shall become effective at 11:59 p.m., February 28, 1982.

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., February 28, 1982.

Interstate Commerce Commission.

Bernard Gaillard,

Agent.

[FR Doc. 82-6302 Filed 3-8-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions, Decision-Notice

Correction

In FR Doc. 82-4490 appearing at page 7520 in the issue for Friday, February 19, 1982, please make the following corrections:

On page 7527, in the first column, the paragraph beginning "MC 157569 (Sub-1)", application of Midwest General, Inc., should have begun "MC 157568 (Sub-1)".

BILLING CODE 1505-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the Forty-eighth meeting of the Board for International Food and Agricultural Development (BIFAD) on March 25, 1982.

The purpose of the meeting is to consider such matters as: BIFAD functions, structure, and relationships; reports on the study of incentives for university involvement in international programs, implementation of recommendations in the General Accounting Office (GAO) report on Title XII, the management of the proposed cooperative program between U.S. research institutions and the international agricultural research centers, and the future of A.I.D. University Strengthening Programs; and to meet with the BIFAD Support Staff to discuss staff actions and operational procedures.

The meeting will begin at 9:00 a.m. and adjourn at 12:15 p.m., and will be held in Room 540, National Science Foundation, 1800 G Street, NW., Washington, D.C. The meeting with the BIFAD Support Staff will begin at 1:30 p.m. and adjourn at 3:00 p.m. This meeting will be held in Room 2248, New State Department Building, 22nd and C Streets, NW., Washington, D.C. The meetings are open to the public. Any interested person may attend, may file written statements with the Board before or after the meetings, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meetings permit.

Dr. Erven J. Long, Coordinator, Title XII Strengthening Grants and University Relations, Bureau for Science and Technology, Agency for International Development, is designated as A.I.D. Advisory Committee Representative at this meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, International Development Cooperation Agency, Washington, D.C. 20523, or telephone him at (703) 235-8929.

Dated: March 3, 1982.

Dr. Erven J. Long,

A.I.D. Advisory Committee Representative, Board for International Food and Agricultural Development.

[FR Doc. 82-6301 Filed 3-5-82; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-118]

Certain Sneakers With Fabric Uppers and Rubber Soles; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 3, 1982, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Van Doren Rubber Company, Inc., 704 E. Broadway, Anaheim, California 92805. The complaint alleges unfair methods of competition and unfair acts in the importation of certain sneakers with fabric uppers and rubber soles into the United States, or in their sale, by reason of alleged (1) unfair competition, (2) false designation of source, (3) common-law trademark infringement, and (4) passing off in the manufacture and sale of said shoes. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests the Commission to institute an investigation; during the investigation, to conduct expedited temporary relief proceedings and to issue (1) a temporary exclusion order prohibiting importation of the articles in question into the United States, except under bond, and (2) a temporary cease and desist order; and, after a full investigation, to issue (1) a permanent exclusion order and (2) a permanent cease and desist order.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation:

Having considered the complaint, the U.S. International Trade Commission, on March 2, 1982, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is reason to believe that there is a violation or whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain sneakers with fabric uppers and rubber soles into the United States, or in their sale, by reason of alleged (1) unfair competition, (2) false designation of source, (3) common-law trademark infringement, and (4) passing off in the manufacture and sale of said shoes, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Van Doren Rubber Company, Inc., 704 E. Broadway, Anaheim, California 92805

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Chin Yang Corporation, CPO Box 5731, Seoul, Korea

Thom McAn Shoe Company, Inc., 67 Millbrook, Worcester, Massachusetts 01606

Stride Rite Footwear, Inc., 980 Harrison Avenue, Boston, Massachusetts 02118

(c) Juan S. Cockburn, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 128, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer with instructions to issue a recommended determination as to temporary relief by May 10, 1982, and the Commission hereby shortens to five (5) days the period to be allowed for filing exceptions to the recommended determination and for filing alternative findings of fact and conclusions of law under § 210.54 of the Commission's Rules of Practice and Procedure.

(4) The presiding officer shall also establish a schedule for oral presentations concerning the remedy, bonding, and public-interest aspects of the investigation for the purpose of creating an administrative record to be certified to the Commission by May 14, 1982. In addition, the presiding officer shall provide for a prehearing briefing schedule to be published in the Federal Register soliciting the written views of any persons interested in the temporary relief phase of the investigation. The transcript of the oral presentations, the prehearing briefs, and the other written comments will constitute the administrative record concerning remedy, bonding, and the public interest to be certified to the Commission. The Commission shall issue its

determination on temporary relief by June 14, 1982.

Responses conforming to the requirements of § 210.21(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.21(b)) must be submitted by each named respondent. Such responses will be considered by the Commission if received not later than 10 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–1233.

By order of the Commission.

Issued: March 8, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-6622 Filed 3-10-82; 10:57 am]

BILLING CODE 7020-02-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Arizona State Standards; Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator OSHA), under a delegation of authority from the Assistant Secretary for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On October 29, 1974, notice was published in the **Federal Register** (39 FR 39037) of the approval of the Arizona plan and the adoption of Subart CC to Part 1952 containing the decision.

The Arizona plan provides for the adoption of Federal Standards as State standards after public hearing. Section 1953.20 provides that where "* * * any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State Program, a program change supplement to a State plan shall be required." In response to Federal standards changes, the State has submitted by letter, with attachments, dated August 31, 1981, from Larry Etchechury, Director to Gabriel J. Gillotti, Regional Administrator, and incorporated as part of the plan, State standards reflecting federal standards changes to 29 CFR Parts 1910, 1926, and 1928 published in the **Federal Register**. The standards adopted were 29 CFR part 1910, several sections on Fire Protection; Means of Egress; Hazardous Materials (45 FR 60656); 29 CFR 1910.301–.399; Electrical Standards (46 FR 4034); 29 CFR 1910.1000, Benzene (46 FR 32021); 29 CFR 1910.1025, Lead (46 FR 6134, 14897, 18974, 23741, 27358, 28845, 33244 & 38074); 29 CFR 1910.1046, Cotton dust (46 FR 32021); and 29 CFR 1926.500, Guarding of Low-Pitched Roof Perimeters (45 FR 75618). These standards which are contained in the Arizona Occupational Safety and Health Standards, Arizona construction safety and health regulations, and Arizona occupational standards for agriculture were adopted after public hearings and the resolution adopted by the Industrial Commission of Arizona, Division of Occupational Safety and Health, pursuant to the Arizona Occupational Safety and Health Act of 1972.

2. *Decision.* Having reviewed the State submission in comparison with Federal standards, it has ben determined that the State standards are identical to the Federal standards and accordingly should be approved.

3. *Location of Supplement for Inspection and Copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 450 Golden Gate Avenue, Room 11349, San Francisco, California 94102; Director, Division of Occupational Safety and Health, 1624 West Adams, Phoenix, Arizona 85007; and Directorate of Federal Compliance and State Programs, Room N3613, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. *Public Participation.* Under 29 CFR 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Arizona plan as a proposed change and making the OSHA Regional Administrator's approval effective upon publication for the following reasons:

The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective March 9, 1982.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at San Francisco, California this 2nd Day of November 1981.

Gabriel J. Gillotti,

Regional Administrator.

[FR Doc. 82-6620 Filed 3-8-82; 8:45 am]

BILLING CODE 4510-26-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Emergency Core Cooling Systems; Notice of Meeting

The ACRS Subcommittee on Emergency Core Cooling Systems will hold a meeting on March 24, 1982, at the AMFAC Hotel, 2910 Yale Bldv., Albuquerque, NM. The Subcommittee will discuss the NRC's use on LOCA/ECCS computer codes, aspects of the recent transient at the Ginna plant that impact of LOCA/ECCS concerns, and other miscellaneous items related to the Subcommittee's activities.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Wednesday, March 24, 1982—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding the topics to be discussed.

Further information regarding topics to be discussed, whether the meeting has been cancelled or reschedule, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close sessions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: March 3, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-6621 Filed 3-8-82; 8:45 am]

BILLING CODE 7510-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Safeguards and Security; Meeting

The ACRS Subcommittee on Safeguards and Security will hold a meeting on March 23, 1982, at the SANDIA NATIONAL LABORATORY, Room–A, Building 882, Albuquerque, NM. The Subcommittee will review standard plant designs to determine if

the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Wednesday, March 24, 1982—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding the topics to be discussed.

Further information regarding topics to be discussed, whether the meeting has been cancelled or reschedule, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close sessions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: March 3, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-6631 Filed 3-8-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Advanced Reactors; Meeting

The ACRS Subcommittee on Advanced Reactors will hold a meeting on March 25, 26 and 27, 1982, at the ARGONNE NATIONAL LABORATORY, Building 208, Room C–234, Argonne, IL. The Subcommittee will continue discussion of a report on LMFBR safety philosophy. Notice of this meeting was published February 17, 1982 (47 FR 7022).

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary information. One or more closed sessions may be necessary to discuss such information. (SUNSHINE ACT EXEMPTION 4.) To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Thursday, Friday and Saturday—March 25, 26 and 27, 1982, 8:30 a.m. until the conclusion of business each day.

The meeting will involve discussion of information related to national security and defense.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it will be necessary to close this meeting to public attendance to permit a discussion of national security information. The authority for such closure is Exemption (1) to the Sunshine Act, 5 U.S.C. 552b(c)(12).

Dated: March 3, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-6651 Filed 3-8-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Advanced Reactors; Meeting

The ACRS Subcommittee on Advanced Reactors will hold a meeting on March 25, 26 and 27, 1982, at the ARGONNE NATIONAL LABORATORY, Building 208, Room C–234, Argonne, IL. The Subcommittee will continue discussion of a report on LMFBR safety philosophy. Notice of this meeting was published February 17, 1982 (47 FR 7022).

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary information. One or more closed sessions may be necessary to discuss such information. (SUNSHINE ACT EXEMPTION 4.) To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Thursday, Friday and Saturday—March 25, 26 and 27, 1982, 8:30 a.m. until the conclusion of business each day.

The meeting will involve discussion of information related to national security and defense.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it will be necessary to close this meeting to public attendance to permit a discussion of national security information. The authority for such closure is Exemption (1) to the Sunshine Act, 5 U.S.C. 552b(c)(12).

Dated: March 3, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-6652 Filed 3-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-261]

Carolina Power and Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 62 to Facility Operating License No. DPR–23 issued to Carolina Power and Light Company (the licensee), which revised Technical Specifications for operation of the H. B. Robinson Steam Electric Plant, Unit No. 2 (the facility) located in Darlington County, South Carolina. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to indentify three existing hydraulic snubbers that have been included in the snubber surveillance program although not previously listed as being safety related.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not

result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 27, 1982, (2) Amendment No. 62 to License No. DPR-23, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29550. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 2nd day of March 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-6345 Filed 3-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-261]

Carolina Power and Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 63 to Facility Operating License No. DPR-23 issued to Carolina Power and Light Company (the licensee), which revised Technical Specifications for operation of the H. B. Robinson Steam Electric Plant, Unit No. 2 (the facility) located in Darlington County, South Carolina. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications related to the operation and surveillance of shock suppressors (snubbers).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 27, 1981, (2) Amendment No. 63 to License No. DPR-23, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29550. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of March 1982.

For the Nuclear Regulatory Commission.

Steven A Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-6340 Filed 3-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

Florida Power and Light Co.; Issuance of Amendment to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 78 to Facility Operating License No. DPR-31, and Amendment No. 72 to Facility Operating License No. DPR-41 issued to Florida Power and Light Company (the licensees), which revised Technical Specifications for operation of Turkey Point Plant, Unit Nos. 3 and 4 (the facilities) located in Dade County, Florida. The amendments are effective as of the date of issuance.

The amendments change the Technical Specifications to permit removal of the requirements for Boron Injection Tanks (BIT) effective upon installation of the new model 44F steam generator.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated November 30, 1981, as supplemented February 10, 1982, (2) Amendment Nos. 78 and 72 to License Nos. DPR-31 and DPR-41, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commmission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 2nd day of March 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-6347 Filed 3-8-82; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Revision 1 to Regulatory Guide 1.147, "Inservice Inspection Code Case Acceptability—ASME Section XI, Division 1," lists those code cases that are generally acceptable to the NRC staff for implementation in the inservice inspection of light-water-cooled nuclear power plants. This guide is revised periodically to update the listing of acceptable code cases and to include the results of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Silver Spring, Md. this 2nd day of March 1982.

For the Nuclear Regulatory Commission.

Deanwood F. Ross, Jr.,

Deputy Director, Office of Nuclear Regulatory Research.

[FR Doc. 82-6349 Filed 3-8-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

Toledo Edison Co. and Cleveland Electric Illuminating Co; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Facility Operating License No. NPF-3, issued to The Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), which revised Technical Specifications (TSs) for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

This amendment changes the TSs to permit a one-time extension to the maximum surveillance interval for certain surveillance requirements which are due on various dates in March 1982. This extension permits continued facility operation to a revised refueling outage start date of March 19, 1982, for the purpose of accomplishing more pre-outage work required to complete the large number of TMI-related modifications during refueling.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 23, 1982, (2) Amendment No. 43 to License No. NPF-3, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the William Carlson Library, University of Toledo, 2801 W. Bancroft Avenue, Toledo, Ohio. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 26th day of February 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch #4, Division of Licensing.

[FR Doc. 82-6348 Filed 3-8-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Nos. 301-27-31]

Members of the Tool and Stainless Steel Industry Committee and the United Steelworkers of America; Initiation of Investigation on Petition Filed Seeking Relief

On December 2, 1981, the Chairman of the Section 301 Committee received a petition from the Tool and Stainless Steel Industry Committee and the United Steelworkers of America alleging that certain subsidies granted by the governments of Austria, Belgium, Brazil, France, Italy, Sweden and the United Kingdom were inconsistent with the provisions of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (the Subsidies Code) and constituted an unreasonable and unjustifiable burden on U.S. commerce. The petition filed pursuant to Section 301 of the Trade Act of 1974, as amended (19 U.S.C. 2411 *et seq.*), was supplemented by substantial additional information on January 12, 1982.

On February 26, 1982 the United States Trade Representative decided to intiate investigations concerning the allegations made with respect to five of the seven countries named in the petition: Austria (301-27), France (301-28), Italy (301-29), Sweden (301-30) and the United Kingdom (301-31). A public hearing will be scheduled in the near future in order to provide interested parties with an opportunity to submit their views with respect to the issues raised in the petition regarding these five countries.

The United States Trade Representative decided on February 26, 1982 not to initiate investigations concerning the petitioners' allegations made with respect to Brazil and Belgium. With regard to Brazil, the petitioners' allegations relate almost exclusively to export subsidies. However, because Brazil, pursuant to Art. 14(5) of the Subsidies Code, has entered into a commitment to eliminate its export subsidies, the United States is precluded, pursuant to Art. 14(6) and (8), from challenging Brazil's use of export subsidies as long as Brazil continues to meet the obligations contained in its commitment. With regard to Belgium, the only Belgian producer for which the petitioners provided specific subsidy information is Cockerill-Sambre. The United States Trade Representative has learned, however, that Cockerill-Sambre does not export specialty steel to the United States.

A copy of the petition, in its entirety is printed below. Petitioners have also submitted two supplements to the petition which are available for viewing and copying at the Office of the United States Trade Representative, 600 17th

Street, NW., Rm. 222, Washington, D.C. 20506.

Joanne S. Archibald,
Chairman, Section 301 Committee.

Before the Office of the United States Trade Representative

Members of the Tool and Stainless Steel Industry Committee and the United Steelworkers of America, Petitioners; Petition filed seeking relief under Section 301 of the Trade Act of 1974, as amended.

This petition is filed on behalf of members of the specialty steel industry of the United States by members of the Tool and Stainless Steel Industry Committee and the United Steelworkers of America pursuant to 15 CFR 2006.0(b) (1980) and section 301 *et seq.* of the Trade Act of 1974, as amended, 19 U.S.C. 2411 *et seq.* (Supp. III 1979). The dramatic increase in the import penetration of specialty steel products from certain producers in the European Economic Community (hereinafter "the E.C."), Austria, Brazil, and Sweden has burdened or restricted U.S. Commerce and has caused or threatened to cause injury to the U.S. domestic industry. This increase in imports is largely the result of the bestowal of unreasonable and discriminatory government subsidies by the E.C. member states as well as the aforementioned non-E.C. countries. Petitioners contend that the use of these subsidies violates obligations arising under the provisions on the General Agreement on Tariffs and Trade (hereinafter "the General Agreement") and the Agreement on Interpretation and Application of Articles IV, XVI and XXIII on the General Agreement on Tariffs and Trade (hereinafter the "Subsidies Code") and in so doing burdens and restricts U.S. Commerce.

Petitioners

Petitioners are members of the Tool and Stainless Steel Industry Committee, (hereinafter TSSIC) a nonprofit corporation and a trade association representing sixteen domestic producers of tool and stainless steel. A list of the TSSIC members filing this petition is included in Appendix I. The United Steelworkers of America (hereinafter USW) representing most of the employees in this industry, are also petitioners in this action.

TSSIC and USW have closely monitored the growth of imports of specialty steel products. Both groups are deeply concerned that despite the technological superiority of U.S. specialty steel producers, foreign steel producers (many of whom are highly subsidized or are outright owned by their governments) have captured an increased share of the specialty steel markets in this country. This has resulted in a decline in export opportunities for U.S. producers. Moreover, the growth in imports has directly contributed to plant closings, increased unemployment in the domestic industry, and it has resulted in significant reductions in profits for all domestic firms as well as financial losses by some of the most efficient U.S. companies. TSSIC and USW are filing this petition in the hope that it will trigger a strong response from the U.S. government in opposition to the unfair foreign subsidy practices which the industry believes are largely responsible for this import growth. The injury caused by these practices threatens the ability of the industry to reinvest and thereby maintain its high level of innovation and technological efficiency. Indeed, these practices have so distorted competition in the domestic specialty steel market that the very existence of the U.S. domestic industry is being threatened.

Statutory Basis for This Petition

This petition arises under section 301(a)(2)(A) and (2)(B) of the Trade Act of 1974, as amended, 19 U.S.C. 2411 (Supp. III 1979), Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade and Articles 8, 11, 12 and 13 of the Subsidies Code.

Pricing below cost of production, possible only because of the availability of massive government subsidies to foreign producers of specialty steel, has contributed to increased import penetration in the U.S. domestic market and has caused the U.S. specialty steel industry to suffer injury, and threatens to cause further injury, through the impact of these subsidies on domestic competition. Such subsidies violate commitments made pursuant to Articles 8 and 11(2) of the Subsidies Code, that parties seek to avoid subsidies causing such adverse effects. Articles 12(3) and 13(2) of the Subsidies Code provide that signatories may request consultations, of failing that, refer certain matters to conciliation or dispute settlement if a signatory has reason to believe any subsidy causes injury to its domestic industry or nullifies or impairs benefits accruing to it under the General Agreement. To enforce these provisions, section 301(a)(2)(A) authorizes the President to respond to any act which is inconsistent with the provisions of, or otherwise denies benefits to the United States under any trade agreement (*e.g.*, the Subsidies Code).

Section 301(a)(2)(B) provides that the U.S. may respond to any practice of a foreign government "which is unjustifiable, unreasonable or discriminatory and burdens or restricts United States commerce." It is petitioners' contention that foreign government subsidies on specialty steel are also actionable under this statutory provision as an unreasonable burden on U.S. Commerce, regardless of whether or not they are directly actionable under the Subsidies Code.

Foreign Countries Which are the Subject of This Petition

E.C. members Belgium, France, Italy and the United Kingdom, as well as non-members Austria, Brazil, and Sweden are the subject of this petition. The E.C. signed the Subsidies Code on behalf of all of its member states. Austria, Brazil, and Sweden are individual signatories.

Foreign Products Which are the Subject of This Petition

The specialty steel products for which the rights of the United States under the General Agreement, Subsidies Code and section 301 are being denied include stainless steel sheet and strip;[1] stainless steel plate;[2] stainless steel bar;[3] stainless steel wire rod;[4] and alloy tool steel.[5]

Requests for Other Relief

Pursuant to section 201 of the Trade Act of 1974, 19 U.S.C.A. 2251 (1978) specialty steel companies representing approximately 75 percent of U.S. production and the United Steelworkers of America representing more than 70 percent of the industry's employees filed a petition with the U.S. International Trade Commission (ITC) on July 10, 1975, seeking import relief from foreign producers. Following an affirmative ITC determination,[6] the President established a three-year import restraint program for specialty steel effective June 14, 1976.[7] Among the elements of this program were an orderly marketing agreement with Japan and quotas on imports from the European Economic Community.

[1] TSUSA numbers 607.7610, 607.9010, 607.9630, 608.2800, 608.2900, 608.4300, 608.5700.

[2] TSUSA numbers 607.7605, 607.9005.

[3] TSUSA numbers 608.8005, 608.9010.

[4] TSUSA numbers 607.2800, 607.4300.

[5] TSUSA numbers 608.8300, 608.9400, 608.9505, 609.9510, 606.9620, 606.9525, 606.9535, 608.9540, 607.2800, 607.3406, 607.3420, 607.4600, 607.5405, 607.5420, 607.7205, 607.7230, 607.8805, 607.8830, 608.3405, 608.3420, 608.6905, 608.6920, 609.6405, 608.6420, 608.6520, 608.6550.

[6] U.S. International Trade Commission, USITC Pub. 750, "Stainless Steel and Alloy Tool Steel (TA-201-5)" (1976).

[7] 41 FR 24101 (1976).

The industry subsequently petitioned the ITC for an extension of the existing program, as authorized by section 203(i)(3) of the Trade Act of 1974, 19 U.S.C.A. 2253(i)(3) (1978). While the ITC found in favor of the domestic industry,[8] the President chose to phase out the quotas over an eight month period ending February 1980.[9]

The industry is currently investigating unfair trade practices of various other foreign producers to determine whether to file antidumping or countervailing duty cases.

II. Foreign Practices Which are the Subject of This Petition

A. The U.S. Specialty Steel Industry

The U.S. specialty steel industry is separate and distinct from large integrated carbon steel producers because the end product is a high-alloy and high performance material not amenable to mass production. Furthermore, the U.S. specialty steel industry is a world leader in technological advancement and is cost competitive with its foreign competitors. Like the integrated carbon steel industry, however, the domestic industry has been losing market share as the result of the relentless assault of imports, which are frequently dumped or subsidized by foreign governments.

Technologically modern and efficient, the U.S. specialty steel industry is ready and able to compete with fair competition from all quarters. The unfair subsidy practices of foreign governments have, however, enabled foreign producers to capture an ever increasing share of the U.S. market over the past year-and-a-half. This is particularly significant since domestic demand has remained relatively constant or has declined over the same period. Nevertheless, in certain product areas, import penetration has exceeded the levels in existence in 1975 and 1976 when the U.S. government granted the industry import relief. In view of the fact that the U.S. specialty steel industry is relatively small, this degree of import penetration becomes particularly injurious.

B. Foreign Subsidy Practices—Generally

U.S. specialty steel companies must compete with foreign firms that are either owned by their governments, or that are the beneficiaries of generous financial assistance from their governments.

[8] U.S. International Trade Commission, USITC Pub. 968, "Stainless Steel and Alloy Tool Steel (TA-203-5)" (1979).

[9] 44 FR 41362 (1979).

1. *Foreign Ownership and Control.* The American Iron and Steel Institute has reported that U.S. steel companies compete with foreign firms that are owned wholly or partly by their governments, and that specifically 30 percent of American steelmakers' Free World competition in terms of tonnage capacity is government owned (50 percent or greater equity participation).[10] This includes Sweden, which is 59 percent government-owned, Brazil (66 percent), the United Kingdom (79 percent), and Italy (57 percent).[11] Moreover, in France, the National Assembly recently approved a state takeover of Sacilor and Usinor (which recently acquired Creusot-Loire), the country's two major integrated steelmakers.

Generally government ownership has come about either through the conversion of massive debt into government equity holding or through direct government investment in its domestic steel industry. The former method has typified the growth of government control in such developed countries as France and the United Kingdom; the latter has typified the trent in developing countries such as Brazil.

Initially, foreign specialty steel companies were able to escape the growing trend toward government ownership. Because of the nature of the specialty steel production process, most foreign producers were smaller private-owned companies which specialized in stainless or alloy tool steelmaking. The trend of late, however, has been toward both merger and restructuring. Consequently, even the once privately-owned specialty steel producers are being swallowed up as nations continue the process of rationalizing and nationalizing their steel industries, a trend that has been hastened by the general depression in world steel markets.

2. *Government Assistance to Specialty Steel.* In addition to growing foreign Government involvement in the ownership and management of specialty steel, there has been a trend toward increased subsidization in the foreign industry over the past two years. The subsidization may be characterized in terms of forgiveness of producer's debt; preferential loans—both for purposes of expansion and export assistance; loan guarantees; inventory financing; regional assistance aid; capital grants; preferential utility or freight rates; and raw material subsidies.

[10] American Iron and Steel Institute, "Steel at the Crossroads" (1980) at 79.

[11] *Id.*

Such financial assistance is not limited to the national governments. For example, the E.C. has for many years granted generous loans to the specialty steel industries of its member countries. These loans, aimed at facilitating the industry's rationalization process, are extended at interest rates well below those individual companies would have been able to receive in private financial markets. Moreoever, regional assistance aid in many producing countries is growing at a very rapid pace.

The U.S. specialty steel industry intends that this petition will bring to the attention of the U.S. government the extensive evidence of subsidization it has accumulated over the past two years. The industry hopes that once this evidence is reviewed by the Government in connection with the extent of injury it has suffered as a result of subsidization, the U.S. Government will use all of the tools at it disposal under U.S. and international law to challenge and halt these market distorting practices. The expansion of these subsidization practices by foreign governments virtually ensures the ability of foreign producers to remain viable even while sustaining losses resulting from below cost pricing in foreign markets indefinitely.

C. Foreign Subsidy Practices—Specific

1. *Austria.* Vereinigte Edelstahlwerke (VEW), the nationalized specialty steel company of Austria, posted a loss of Sch 553 m in 1979, and a Sch 1000 m loss in 1980.[12] These were the fifth and sixth consecutive years that the company has turned a loss. Six month 1981 figures show no improvement.

VEW has already received *Sch 1400 m* ($90 million) this year from Osterreichisch Industrieverwaltung AG (OIAG), the holding company for Austrian nationalized industries. It will also receive an additional *Sch 600 m* ($40 million) in the next few months. Voest Alpine, VEW's parent company, has received *Sch 1500 m* ($100 million) this year and will receive a further input of *Sch 500 m* ($33 million) in 1982. Total capital injection into the two companies will add up to *Sch 4000 m* ($260 million).[13] Prior to 1981, Voest and VEW had already received over *Sch 2000 m* ($130 million) in subsidies from the Austrian government.

Government funds will continue to be granted to OIAG as an indirect subsidy to the two companies. Prior to 1978, the companies had been able to meet their financial needs from their own

[12] *Journal of Commerce*, September 24, 1980.

[13] *Metal Bulletin*, November 10, 1981.

resources and opposed any government subsidization. However, the introduction of a West German subsidy program forced the companies to seek this aid in an effort to stay competitive. Although Austria has consistently been a leading exporter to the U.S. of alloy tool steel products, it is noteworthy that over the past nine months, Austrian imports of stainless products have increased 800 percent over the same period in 1980.[14]

2. *Brazil.* 1980 and 1981 were marked by expansion of Brazil's leading specialty steel producers. Two of the country's largest producers, Companhia Acos Especias Itabira (Acesita) and Villares Industrias de Base SA (Vibasa), increased capacity to keep up with anticipated domestic demand. Vibasa, in fact, has just completed its new plant which has a capacity to produce 364,000 tons of specialty steel per year. On the other hand, Acesita, Brazil's largest specialty steel producer, has just completed expansion of its one plant, a move which has increased its annual capacity [15] by 300,000 tons. However, because demand has become sluggish in 1981 these companies have begun concentrating on exports. Acesita is agong 23 steel companies participating in a *government program to promote exports* with the governments' iron, steel and nonferrous metals council (CONSIDER) and CACEX, the Bank of Brazil's export department. The companies are expected to receive financial aid in the form of *credit advances.*[16] A principal target of this export effort is the North American market, particularly the United States where through the first three quarters of 1981, imports of Brazilian stainless bars have already exceeded 1980 totals.[17]

3. *Sweden.* In the mid-1970s, the Swedish Government provided a broad array of subsidy programs to benefit its specialty steel industry. In attempting to increase industrial development in the most climatically difficult parts of Sweden, the government generously provided the industry localization loans, investment grants and transport subsidies. To aid stabilization, investment reserve funds were accorded special tax treatment and financial support was given to encourage inventory building. To further improve the industry's competitive advantages, inventories were given special valuation treatment for tax purposes, while certain companies received direct government funds. At the time, the Swedish specialty steel industry was comprised of eight or nine privately-owned producers. The structure of the industry began to change drastically in the late 1970s.

Following some very poor years in 1975 and 1976, the Swedish specialty steel industry began a reorganization. The Government established a guarantee program in 1977 to aid the restructuring effort. The program included an authorization of about *$275 million* in loans to the specialty steel industry.[18] The restructuring culminated in 1979 with a merger of Granges Nyby with the stainless steel activities of Uddeholm to form a new stainless company Nyby Uddeholm AB.[19] The merger created the second largest stainless steel producer in a Scandinavian country with an output well in excess of 100,000 tpy.[20] As part of the merger the Swedish Parliament permitted Uddeholm to transfer a government loan of *Skr 400 m* ($85 million) to the new company.[21] In addition, the new company was to receive further state loan guarantees amounting to *Skr 75 m* ($19 million).[22] In 1979, the Swedish government also granted SKF Steel, its largest specialty steel producer, *Skr 35 m* ($9 million) in subsidies and loans toward the development of its Wiberg plant.[23] It should be noted that the Swedish economy consumes a relatively small share of its specialty steel production (less then twenty percent). The remaining production is exported.[24] Sweden was the second largest source of U.S. specialty steel imports in 1980 overall, as well as the principal source of U.S. alloy tool steel imports. Import penetration of alloy tool steel from Sweden alone has consistently exceeded ten percent since import relief was removed. Confidential pricing data has revealed Swedish alloy tool steel priced anywhere from 15 to 30 percent below U.S. prices.

4. *Belgium.* The Belgian government recently fell after a government coalition split on the issue of state aid for the country's ailing steel industry. The government, which had already pumped about *Bfr 25 billion* ($610 million) into its two largest companies, had agreed earlier in the year to provide massive state aid to facilitate the merger of Cockerill and Hainaut-Sambre, the nation's two largest steel producers. The Belgian plan involves an injection of almost *Bfr 11.2 billion* ($300 million) to subsidize future losses by the newly merged companies.[25] The government had already bailed out Hainaut-Sambre once before from possible bankruptcy by turning *Bfr 2 billion* ($55 million) in short-term credits into capital. The government has an *80 percent interest* in the new company. More recently the government provided a *Bfr 5.2 billion* ($129 million) guarantee of a commercial loan to Cockerill-Sambre.[26]

Despite the cloud hanging over its future, Cockerill-Sambre has revealed its plan to build a new specialty steel works at Charleroi. The plan is illustrative of the trend on the part of government-owned producers to expand into the specialty steel area.

Cockerill-Sambre also manages specialty steel maker Laminoirs de Jemappes, a company the government had earlier rescued from bankruptcy. Jemappes on 1981 received *bfr 100 m* ($2.5 million) for improvements to its HR bar mill.[27]

Meanwhile SNS, the state-owned steel conglomerate, set up in 1981 as the umbrella for all public holdings in steel, has obtained *$250 million* in syndicated loans for future investments in their holdings.[28] Capital raised from these loans may flow directly to Belgian producers as an indirect government subsidy. There are also indications that ALZ another major stainless producer will benefit from Government largesse. The national steel planning committee has recently approved investments of *Bfr 3,546 m* ($90 million) for the stainless producer.[29]

5. *France.* Although production of specialty steel products represents less than 15 percent of the French steel industry's output, many producers view specialty steel as the only hope for real profits.[30] As a result France's largest integrated producers are grabbing a large share of the specialty steel business, encouraged financially by French government loans and grants. About 50 percent of French specialty steel production is exported.[31]

Included in the government aid has been a *Fr 500 m* ($100 million) *low cost loan* to help launch a new specialty steel manufacturer that groups together Creusot-Loire Dunes, a specialty steel subsidiary of Creusot-Loire with some of the operations of Chiers-Chatillion, an independent specialty steel producer.[32] Usinor, France's largest general-steel maker, now in the process of being fully nationalized, will hold 75 percentg of the new company, The state loans are at rates of interest *pegged to profitability.* Both Creusot-Loire Dunes and Chiers-Chatillion are losing money, meaning low or no interest will be charged on the loans. The new subsidiary will be among the largest specialty steel producers in Europe.

Similar assistance has been promised for the transfer of another major stainless steel producer, Ugine Aciers, to France's other major integrated steel producer, Sacilor.[33] However, in view of the fact that the French government has recently approved a takeover of Sacilor, it is likely that further merger negotiations will be directly with the French government.[34] Similar takeovers by state-run companies of privately owned subsidiaries have been carried out in the past in Europe, and they have usually coincided with substantial financial support from the foreign government. It should also be noted that President Mitterrand has recently indicated that the government would provide some *Fr 500 m* ($100 million) in aid to some of the smaller steelmakers which are not being nationalized.[35] Either way French specialty steel is bound to benefit.

6. *Italy.* The Italian steel industry, which as of 1980 was 57 percent government owned,[36] has hovered on the brink of disaster. Finsider, the nationalized steel holding company whose output accounts for 54 percent of all Italian production—including a significant proportion of specialty steel—lost $750 million in 1979 and $1 billion in 1980. At the end of the last year, the company had debts of $8.5 billion. In June of 1981, the government agreed to a $6 billion package for the Italian steel industry, of which about $5 billion would go to Finsider as part of a major reorganization. At least 50 percent of the aid will be in the form of *interest-free government loans.* As part of the reorganization, all of Finsider's specialty and general tube production will be shifted to Dalmine, one of six sector operating companies. Plant investment at Dalmine over the next three years will exceed *120 billion lira* ($120 million).[37] The Finsider aid plan calls for steels.[38]

Moves are also underway to nationalize remaining portions of the specialty steel sector. In addition to the state sector companies, the specialty steel industry comprises a number of private firms, notably Fiat's Teksid subsidiary. There are indications that as part of the rationalization, Teksid will merge with Italsider (95 percent owned by Finsider), thereby bringing that producer within the state sector.[39] Finsider has in fact already signed a cooperation agreement with Teksid.[40] If the merger does take place, Teksid too would benefit from the massive government handouts available to the Finsider group.

7. *United Kingdom.* In 1979, British Steel Corporation undertook an ambitious plan to gain prominence in the world's specialty steel market. The increase of stainless steel melting capacity at Sheffield has posed a formidable challenge to U.S. stainless producers. Over *£ 150 million* ($300 million) was spent by the British Government to modernize and expand BSC's stainless capacity and as a result BSC now holds approximately 70 percent of the U.K. market for hot-rolled stainless coil.[41] The UK private sector stainless producers account for only 8 percent of the market; the remainder of the marketplace is left to imports. BSC stainless exports have been running at about 45 percent of its total stainless output. Sheffield Division continued to turn a loss in 1979–1980[42] Total state aid to BSC in the form of interest relief alone during the period since BSC's formation in 1967 has exceeded *£ 1000 m* ($2.5 billion).[43] BSC Stainless has undoubtedly benefited from this relief.

British Steel Corp. has not been the only specialty steel beneficiary of government largesse. The Sheffield-based Aurora group secured a UK government grant in 1981 of *£450,000* ($1 million) and a loan of *£836,000* ($1.7 million) from the E.C. for its specialty steel interest.[44] The funds were to be used in the investment of new plants and the concentration of most of the group's steel production.

The EEC in its function as overseer of its member states' subsidy programs has just approved *£360m* ($800 million) in additional aid to British Steel.[45] The aid is intended to help return BSC to profitability. Stainless exports to the U.S. have increased dramatically over the past 9 months. 1981 exports through September have already doubled 1980 totals, and there is no reason to expect a decline in the near future as subsidies continue to flow the company's way.

III. Legal Justification for This Petition

A. Foreign Subsidies to Specialty Steel Producers Are Inconsistent With International Obligations Undertaken by Signatories to the General Argeement and the Subsidies Code.

The acts, policies and practices of the aforementioned foreign governments are inconsistent with obligations undertaken by those countries as signatories to the Subsidies Code. They are in violation of commitments in the Code that the parties avoid any subsidies which cause or threaten to cause injury to another signatory. Specifically, Article 8 of the Subsidies Code provides that singatories agree that they shall seek to avoid causing, through the *use of any subsidy,* injury to the domestic industry of another signatory. Moreover, Article 11, though recognizing that subsidies *other than export subsidies* are widely used as important instruments for the promotion of social and economic policy objectives, provides that signatories should also recognize that such subsidies

> may cause or threaten to cause injury to a domestic industry of another signatory or serious prejudice to the interests of another signatory or may nullify or impair benefits accruing to another signatory under the General Agreement, in particular where such subsidies would adversely affect the conditions of normal competition. *Signatories shall therefore seek to avoid causing such effects* through the use of subsidies (emphasis added).[46]

Thus, in two separate articles, the Code establishes an obligation that parties should seek to avoid causing or threatening to cause injury through the granting of domestic subsidies. The Code enumerates several examples of such subsidies including: government financing of commercial enterprises through grants, loans or guarantees, government provision or government financing provision of utility or other support services; government financing of research and development programs; fiscal incentives; and government subscription to or provision of, equity capital[47] This list is intended to be merely illustrative and not exhaustive.

Article 12 of the Subsidies Code provides for consultations between a

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[14] *Metal Bulletin,* August 7, 1981.
[15] American Metal Market, August 10, 1981 at 8A.
[16] *Id.*
[17] *Id.*
[18] *American Metal Market,* November 15, 1977.
[19] *Metal Bulletin,* June 26, 1979.
[20] *Metal Bulletin,* March 13, 1979, at 37.
[21] *Metal Bulletin,* June 5, 1979.
[22] *Metal Bulletin,* June 15, 1979.
[23] *Metal Bulletin,* August 24, 1979.
[24] U.S. International Trade Commission, USITC Pub. 969, "Stainless Steel and Alloy Tool Steel (TA-203-5)" A-49 (1979).
[25] *Metals Daily,* June 3, 1981 at 1.
[26] *World Business Daily, August 17, 1981.*
[27] *Metal Bulletin,* 1981.
[28] *Wall Street Journal,* October 9, 1981.
[29] *Metal Bulletin,* October 30, 1981.
[30] *The Economist,* May 24, 1980.
[31] U.S. International Trade Commission, USITC Pub. 969, "Stainless Steel and Alloy Tool Steel (TA-203-5)" A-49 (1979).
[32] *Financial Times,* March 20, 1981.
[33] *Metal Bulletin,* October 16, 1981.
[34] *American Metal Market,* August 10, 1981 at 6A.
[35] *Id.*
[36] American Iron and Steel Institute, "Steel at the Crossroads" (1980) at 76.
[37] *Journal of Commerce,* September 22, 1981.
[38] *Metal Bulletin,* November 3, 1981.
[39] *Metal Bulletin,* June 9, 1981.
[40] *Metal Bulletin,* November 3, 1981.
[41] *Metal Producing,* October 1979 at 43.
[42] *Metal Bulletin,* August 1, 1981.
[43] *Metal Bulletin,* September 28, 1981.
[44] *Metal Bulletin, February 24, 1981.*
[45] *Metal Bulletin,* November 17, 1981.
[46] Subsidies Code, Article 11 ¶ 2.
[47] Subsidies Code, Article 11 ¶ 3.

signatory complaining of (1) an export subsidy being granted or maintained by another signatory in a manner inconsistent with the Code;[48] or (2) *any subsidy granted or maintained by another signatory where the effect causes injury to its industries, nullification or impairment of benefits under the GATT, or serious prejudice to its interests as a GATT signatory* (emphasis added).[49] Furthermore, the Code in Article 13 provides that if consultation under Article 12 fails to resolve an issue, the signatory may refer the matter to the GATT Committee of signatories for conciliation and dispute settlement under procedures provided for in the General Agreement. If these vehicles fail, the Committee may make final recommendations to the parties as may be necessary to resolve the issue. If these recommendations are not followed, it may authorize such countermeasures as may be appropriate, taking into account the nature of the adverse effects found to exist.

In sum, the Subsidies Code not only recognizes an *obligation* on the part of the signatories to avoid the use of harmful subsidies, it also provides a *hierarchy of remedies* for signatories who are adversely affected by the granting of such subsidies.

Section 301(a)(2)(A) of the Trade Act of 1974, as amended, requires the President to respond to "any act, policy or practice of a foreign country that is *inconsistent with the provisions of, or otherwise denies benefits* to the United States under, any trade agreement.[50]

The ligislative history of the Act provides that

> * * * the benefits to the United States from the various nontariff agreements negotiated in the MTN depend very heavily on the vigorous insistence by the United States that its rights be secured and that other countries carry out their obligations under the agreements. Absent such insistence, including the use of dispute settlement procedures, agreements such as have been negotiated on subsidies, countervailing duties * * * will become largely one-way streets whereby the United States assumes obligations without reciprocity and whereby the benefits for international trade are substantially reduced * * *.[51]

Petitioners contend that the subsidies granted by foreign governments to their specialty steel producers are inconsistent with obligations set forth in Articles 8 and 11(2) of the Subsidies Code in that:

(1) They have caused injury to the domestic specialty steel industry of the United States; and

(2) They threaten to cause injury to the U.S. domestic industry.

An extensive discussion on the extent of such injury is provided below.

B. Foreign Subsidies to Specialty Steel Producers Are Unreasonable and Also Burden and Restrict U.S. Commerce

Regardless of whether the foreign subsidies in question are inconsistent with obligations under the Subsidies Code, section 301(a)(2)(B) authorizes the President to respond to any "unreasonable" foreign practices that burden or restrict U.S. commerce. The specialty steel industry contends that the subsidies in question are unreasonable and have seriously restricted the growth of the U.S. industry. In some instances, high levels of imports have caused domestic producers to withdraw completely from production of certain product lines.

For purposes of this section, unreasonable acts are defined as acts "which are not necessarily illegal, but which nullify or impair benefits accruing to the United States under trade agreements or which otherwise discriminate against or hinder U.S. commerce." [52] Among the acts, policies or practices originally contemplated by the Trade Act of 1974 are subsidies on foreign exports or *other incentives having the effect of subsidies* on foreign exports which have the effect of substantially reducing sales of competitive products in the United States.[53] Examples of such incentives include: explicit cash payments; implicit payments by means of loans at preferential interest rates; implicit payments through provisions of goods and services at prices or fees below market value; or even subsidies for the construction of vessels used in the commercial transportation by water of goods between foreign countries and the United States.[54]

All acts, policies or practices covered by section 301, as enacted in 1974, are also covered by section 301 as revised by the Trade Agreements Act of 1979.[55] Moreover, the broad inclusive nature of the new language in section 301(a)(2)(B) also covers acts or practices, and applies to countries, *not* subject to a trade agreement.[56]

Petitioners recognize that under this alternative legal theory, they must demonstrate, in addition to unreasonableness, that the challenged practices burden or restrict U.S. commerce. Such a showing, however, would be less rigorous than the showing of injury required under the Subsidies Code, which provides for an examination of the impact of the subsidized imports on the domestic industry based on all relevant economic factors including price undercutting decline in output, sales, market share, profits and employment. Petitioners raise this alternative theory to show that, regardless of whether or not the GATT finds it appropriate to challenge foreign subsidies under the Subsidies Code, these subsidies are nevertheless actionable under U.S. legislation based on a showing of "unreasonableness" and a showing that they burden or restrict U.S. commerce. The industry further contends that the U.S. Government has an obligation under section 301 to respond, either in the context of the GATT or unilaterally if the multilateral approach fails.

IV. Economic Justification for This Petition: Injury to the Speciality Steel Industry

This section describes the nature of the injury needed to satisfy the requirements under the Subsidies Code. By implication this section also shows that the less severe requirements of section 301(a)(2)(B) are clearly met.

The U.S. specialty steel industry is suffering injury as a result of imports. The indices of economic vitality reflect that the conditions of the industry are deteriorating at an increasingly rapid pace. The trend shows that importers will capture a significantly larger percentage of the domestic market. The data suggests that the importers are able to capture the domestic market because they charge prices well below U.S. prices, in large part because foreign producers are heavily subsidized by their governments. If action is not taken to deal with the problem, there will be further deterioration of the domestic industry and an even higher domestic unemployment rate for the specialty steel industry than the current rate of over 21 percent.

A. The Economic Health of the Domestic Specialty Steel Industry Is Deteriorating

The results of a survey of the industry will be submitted shortly describing the specialty steel industry's production and utilization, the number of employes and hours worked, and the profit and loss figures. Petitioners expect the results of this survey to show a severe and growing deterioration in the industry's profits, production, and employment levels.

B. Imports are Injuring the Domestic Industry

In February of 1980 import relief was terminated. Petitioners in its request for government intervention will examine the injury to the domestic industry caused by imports from that time to the present. This time period is relevant because it illustrates the difficulty our modern, efficient industry has competing with subsidized imports.

1. *The Domestic Industry Has Been Injured by a Dramatic Increase in Import Penetration.* In January 1976 the United States International Trade Commission (ITC) made a finding that imports were injuring the domestic industry in the context of section 201 of the Trade Act of 1974. There is a startling similarity between the level of import penetration [57] for the period of time relied on by the ITC to make its injury finding in 1976, and for the period of time since import relief terminated in February, 1980.

Charts 1–6 present the levels of import penetration for the second quarter of 1980 through the third quarter of 1981. The second quarter of 1980 was selected because the relief terminated in February, 1980 and the effects of that termination would begin to appear during the second quarter of 1980. Charts 1–6 also present the levels of import penetration for 1972 through the third quarter of 1975. The third quarter of 1975 was selected because the ITC relied on data through the third quarter of 1975 to make its 1976 injury finding under section 201 of the Trade Act of 1974. The levels of import penetration for these two time periods have been superimposed on Charts 1–6 so that the trends of import penetration for these two time periods can be compared.

The similarity in trends of import penetration for the 1972–75 period and the 1980–81 period are apparent in Chart 1. Chart 1 compares the import penetration for the 1972–75 period and the 1980–81 period for all specialty steel products. After import relief terminated in February of 1980, there was an initial decline in import penetration during the remainder of 1980. However, the increase in import penetration for all specialty steel products has almost doubled from the first quarter 1981 import penetration of 9.4 percent, to the third quarter 1981 import penetration of 17.0 percent.

The import penetration for 1972–75 is comparable. There was a decline during 1972 and 1973, however, the import penetration increased during 1974 and continued to increase to 19.9 percent during 1975. Significantly, at the time the ITC made its injury findings in 1976, the import penetration was only 2.9 percent higher than the figure for the third quarter of 1981.

The impact on the domestic producers is even more severe when individual product lines are examined. With respect to stainless steel bars and alloy tool steel, Charts 5 and 6 reflect greater import penetration levels for the second quarter of 1980 through the third quarter of 1981 than for the entire 1972–75 period. As illustrated in Chart 6, the third quarter 1981 import penetration of 39.5 percent for alloy tool steel is *11 percentage points* greater than the third quarter 1975 import penetration of 28.5 percent, when the industry successfully filed for relief under section 201. Moreover, Chart 5 illustrates that the import penetration for the third quarter of 1981 was 28.6 percent for stainless steel bars, which is 2.5 percent greater than the third quarter import penetration for 1975. Import penetration for stainless plates, sheet and strip, and rods follow a similar pattern, though the rates are lower than in 1975.

The ITC determined in 1976 that the level of import penetration in the domestic injury was increasing as to be a *substantial* cause of *serious* injury under an injury standard far more rigorous than that required under the Subsidies Code or section 301. Relief was granted and the increase in import penetration was halted. In 1981 the levels of import penetration in the third quarter have already exceeded third quarter 1975 levels in two product lines (tool steel and stainless bars) and threaten to surpass these levels during the next quarter in the other three categories.

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[48] Subsidies Code, Article 12 ¶ 1.
[49] Subsidies Code, Article 12 ¶ 3.
[50] 19 U.S.C. 2411 (Supp. III 1979).
[51] *See Trade Agreements Add 1979: Report of the Committee on Finance*, S. Rept. No. 96–249 (96th Cong., 1st Sess.) 236 (1979) (hereinafter S. Rept.).
[52] S. Rept. at 234.
[53] *Id.* at 235.
[54] *See Trade Act of 1974: Report of the Committee on Finance*, S. Rept. No. 93–1298 (93rd Cong., 2nd Sess.) 164 (1974).
[55] S. Rept. at 236.
[56] S. Rept. at 237.
[57] Imports as a percentage of consumption. The consumption equals domestic producer's shipments plus imports, less exports.

CHART 1

The Level of Injury from Imports:
Superimposing Import Penetration Data
for Total Speciality Steel
from 1972-75 and 1980-81 1/

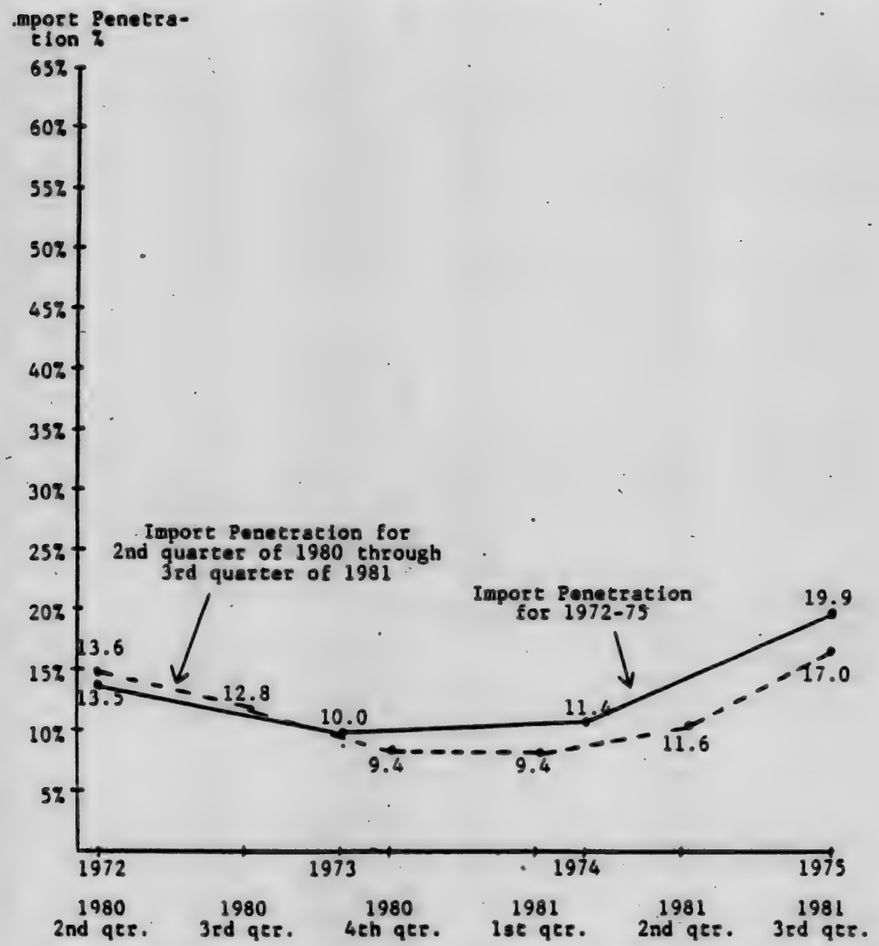

Source: American Iron and Steel Institute, AIS 10-S (shipments), AIS Imports 2 and U.S. Department of Commerce, IM 146 (imports). Minor differences in data may exist between sources due to rounding.

1/ See Table 1, Appendix 2 for data which serves as basis for Chart 1.

CHART 2

The Level of Injury from Imports:
Superimposing Import Penetration Data
for Stainless Steel Sheet & Strip
from 1972-75 and 1980-81 1/

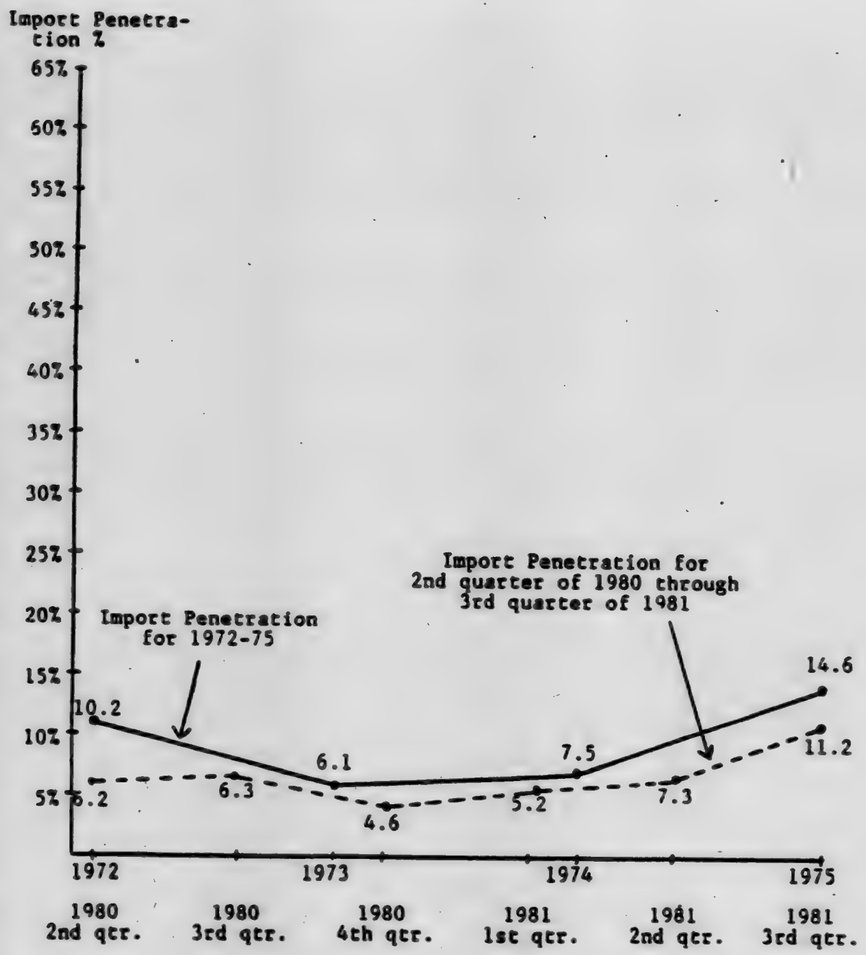

Source: American Iron and Steel Institute, AIS 10-S (shipments), AIS Imports 2 and U.S. Department of Commerce, IM 146 (imports). Minor differences in data may exist between sources due to rounding.

1/ See Table 1, Appendix 2 for data which serves as basis for Chart 2.

CHART 3
The Level of Injury from Imports:
Superimposing Import Penetration Data
for Stainless Steel Plates
from 1972-75 and 1980-81 1/

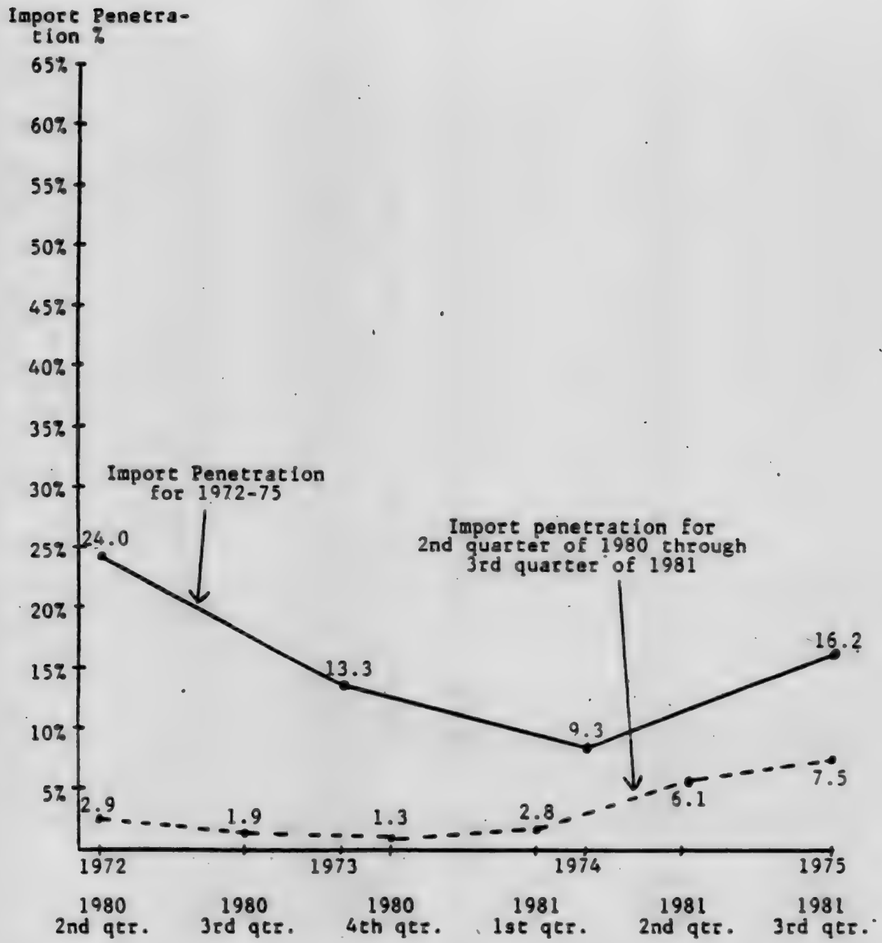

Source: American Iron and Steel Institute, AIS 10-S (shipments), AIS Imports 2 and U.S. Department of Commerce, IM 146 (imports). Minor differences in data may exist between sources due to rounding.

1/ See Table 1, Appendix 2 for data which serves as basis for Chart 3.

CHART 4
The Level of Injury from Imports:
Superimposing Import Penetration Data
for Stainless Steel Rods
from 1972-75 and 1980-81 1/

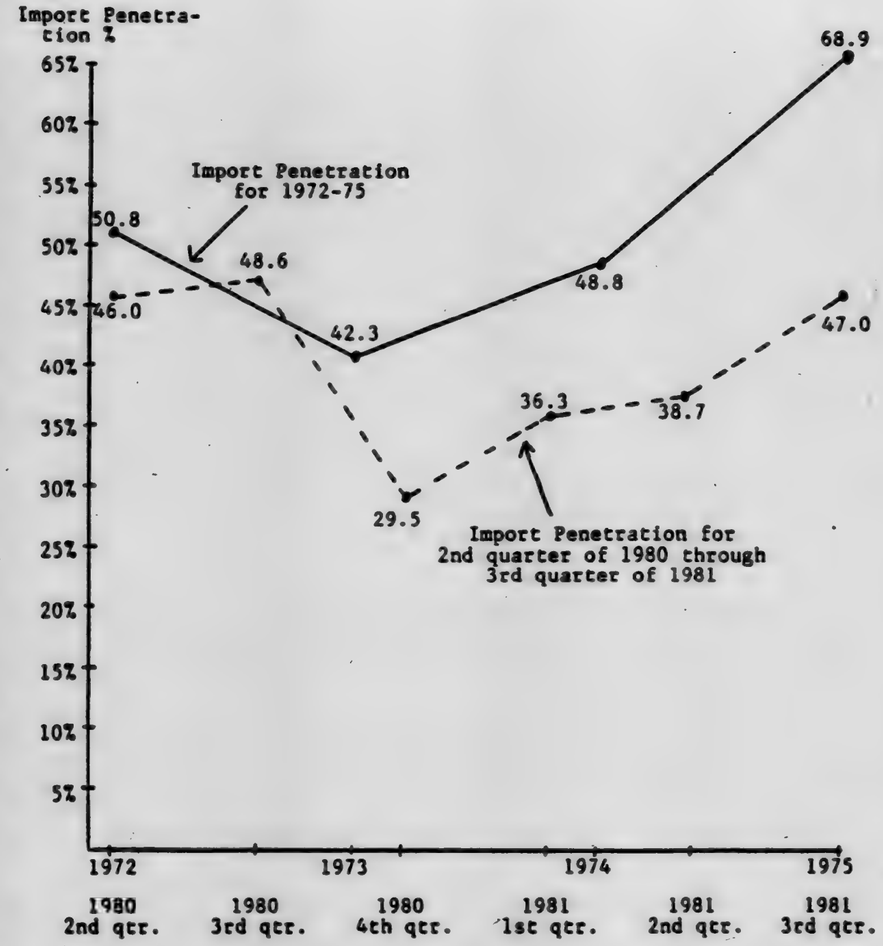

Source: American Iron and Steel Institute, AIS 10-S (shipments), AIS Imports 2 and U.S. Department of Commerce, IM 146 (imports). Minor differences in data may exist between sources due to rounding.

1/ See Table 1, Appendix 2 for data which serves as basis for Chart 4.

CHART 5

The Level of Injury from Imports:
Superimposing Import Penetration Data
for Stainless Steel Bars
from 1972-75 and 1980-81[1/]

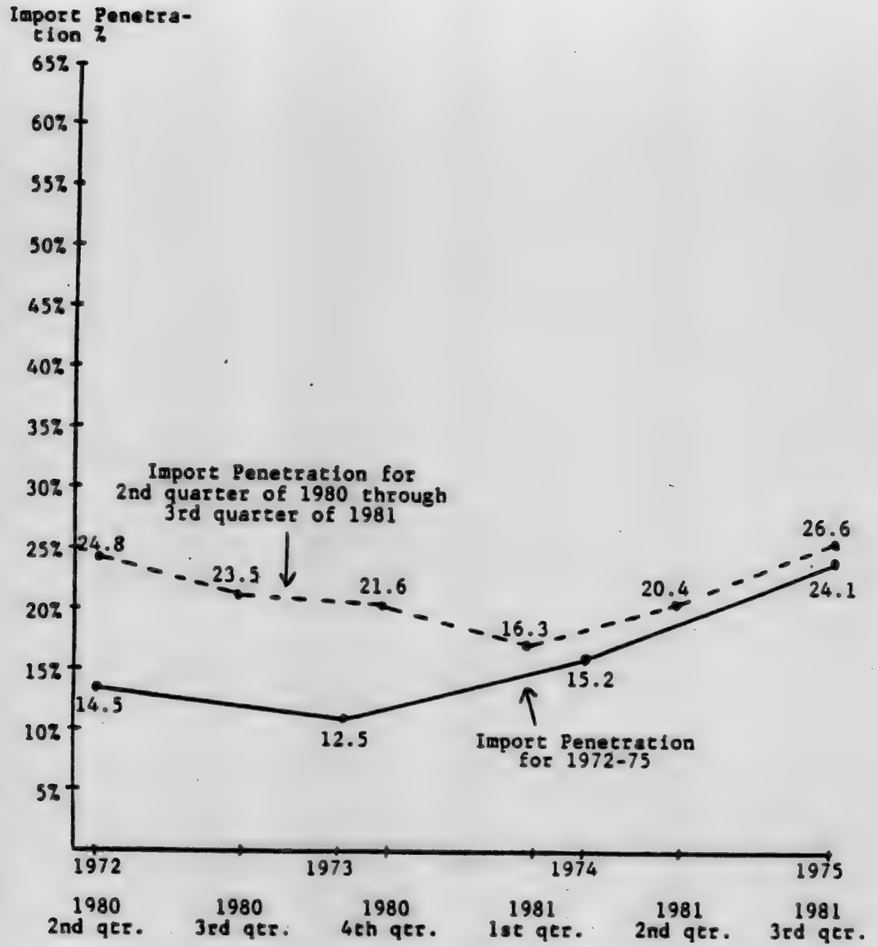

Source: American Iron and Steel Institute, AIS 10-S (shipments), AIS Imports 2 and U.S. Department of Commerce, IM 146 (imports). Minor differences in data may exist between sources due to rounding.

1/ See Table 1, Appendix 2 for data which serves as basis for Chart 5.

CHART 6

The Level of Injury from Imports:
Superimposing Import Penetration Data
for Alloy Tool Steel
from 1972-75 and 1980-81[1/]

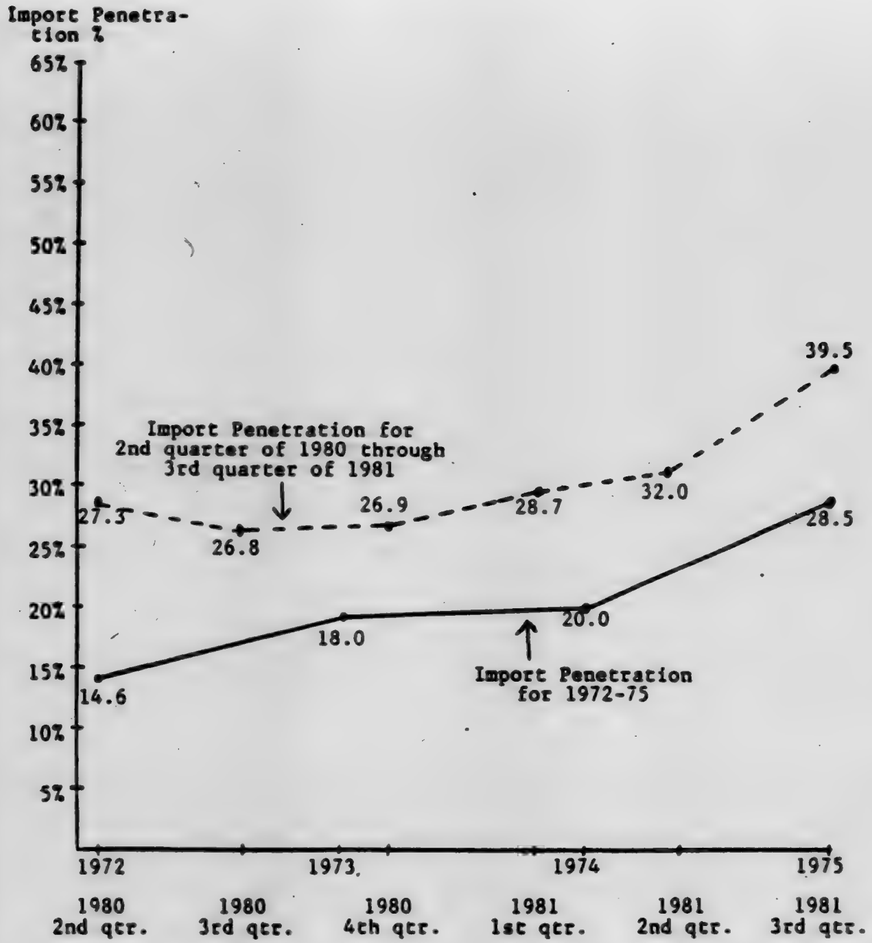

Source: American Iron and Steel Institute, AIS 10-S (shipments), AIS Imports 2 and U.S. Department of Commerce, IM 146 (imports). Minor differences in data may exist between sources due to rounding.

1/ See Table 1, Appendix 2 for data which serves as basis for Chart 6.

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2. *Imports Have Grown in a Declining Market.* Charts 7–12 indicate that imports are taking a growing share of a declining market for all specialty steel products. To understand how this conclusion is reached the nomenclature for Charts 7–12 must be explained. Chart 8 will be used for this explanation. Chart 8 graphs the percent increase or decrease in domestic and import shipments of stainless steel sheet and strip for 1980–81. According to Chart 8, during the third quarter of 1981 there was a 23 percent increase in the quantity of import shipments.[53] During the third quarter of 1981, there was a 21 percent decrease in the quantity of domestic shipments. Consequently, during the third quarter of 1981 the percent change for imports was greater than the percent change for domestic shipments. Therefore, the importers' share of the market was growing at a greater rate than domestic industry's share of the market. Chart 8 also reflects that during the first and second quarters of 1981 the importers' share of the market was growing at a greater rate than the domestic industry's share of the market. The shaded area in Chart 8 identifies the period of time and the extent to which the importers' share of the market was growing at a greater rate than the domestic industry's share of the market.

Chart 7 indicates a trend of specialty steel importers increasing their share of the market at a greater rate than the domestic industry is increasing its share of the market for all specialty steel products from the first quarter of 1981 through the third quarter of 1981. Charts 7–12 confirm the trend in *every product line.*

The fact that subsidized imports are growing at a time when the overall domestic market is declining suggests that such imports are directly displacing U.S. sales. The Subsidies Code provides that, in assessing the impact of subsidized imports for purposes of determining injury, consideration should be given to such factors as the increase of subsidized imports *relative to* production or consumption in the importing countries, as well as absolute import growth.[54]

[53] All percent increases in the quantity of import shipments represent an increase in the import volume from the previous period. For example, in Chart 8, a drop in the percent increase in import shipments from 62 percent for the second quarter of 1981 to 23 percent for the third, nevertheless represents an increase in volume of shipments even though there is a decrease in the percent change for that period.

[54] Subsidies Code, Article 6 ¶ 2.

Growth of Imports in a Declining Market:
Percent Change in Quantity of
Import and Domestic Shipments of
Combined Specialty Steel Products
for 1980-81 1/

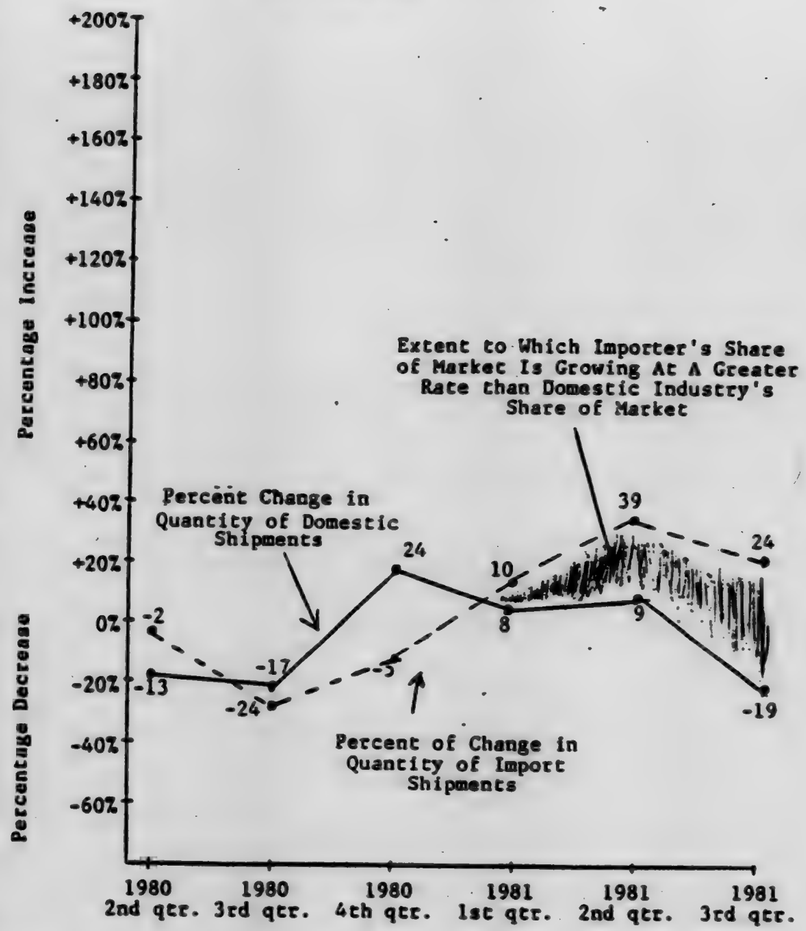

Source: American Iron and Steel Institute, AIS 10-S (shipments), AIS Imports 2 and U.S. Department of Commerce, IM 146 (imports). Minor differences in data may exist between sources due to rounding.

1/ See Table 2, Appendix 2 for data which serves as basis for Chart 7.

CHART 8

Growth of Imports in a Declining Market:
Percent Change in Quantity of
Import and Domestic Shipments of
Stainless Steel Sheet and Strip
for 1980-81

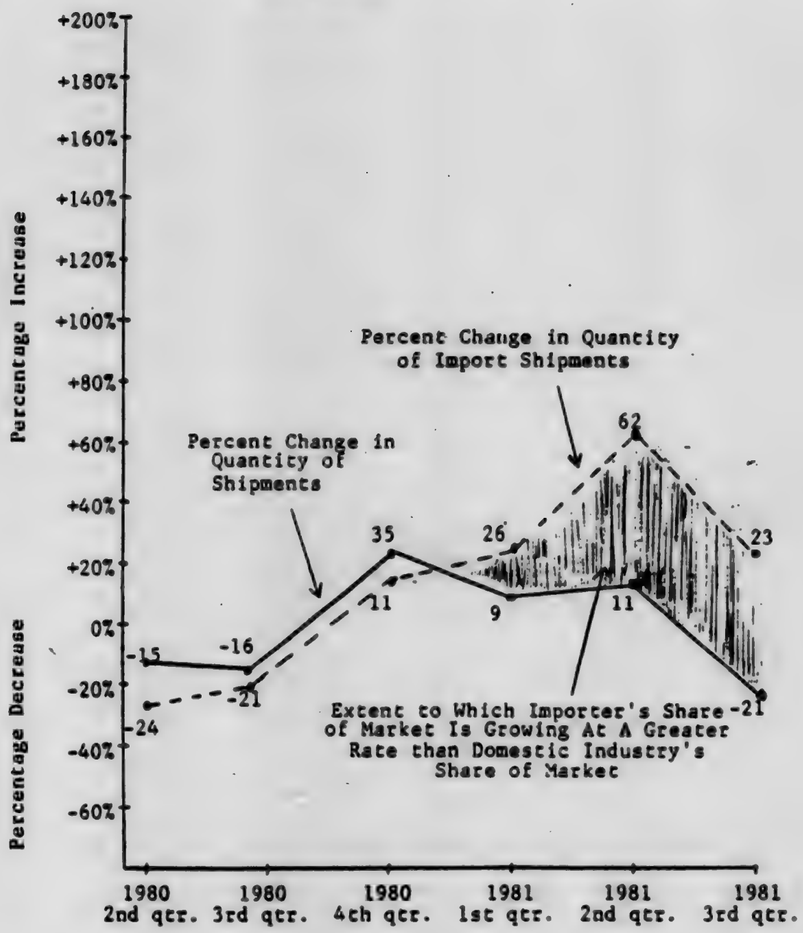

Source: American Iron and Steel Institute, AIS 10-S (shipments), AIS Imports 2 and U.S. Department of Commerce, IM 146 (imports). Minor differences in data may exist between sources due to rounding.

1/ See Table 3, Appendix 2 for data which serves as basis for Chart 8.

CHART 9

Growth of Imports in a Declining Market:
Percent of Change in Quantity of
Import and Domestic Shipments
of Stainless Steel Plates
for 1980-81 1/

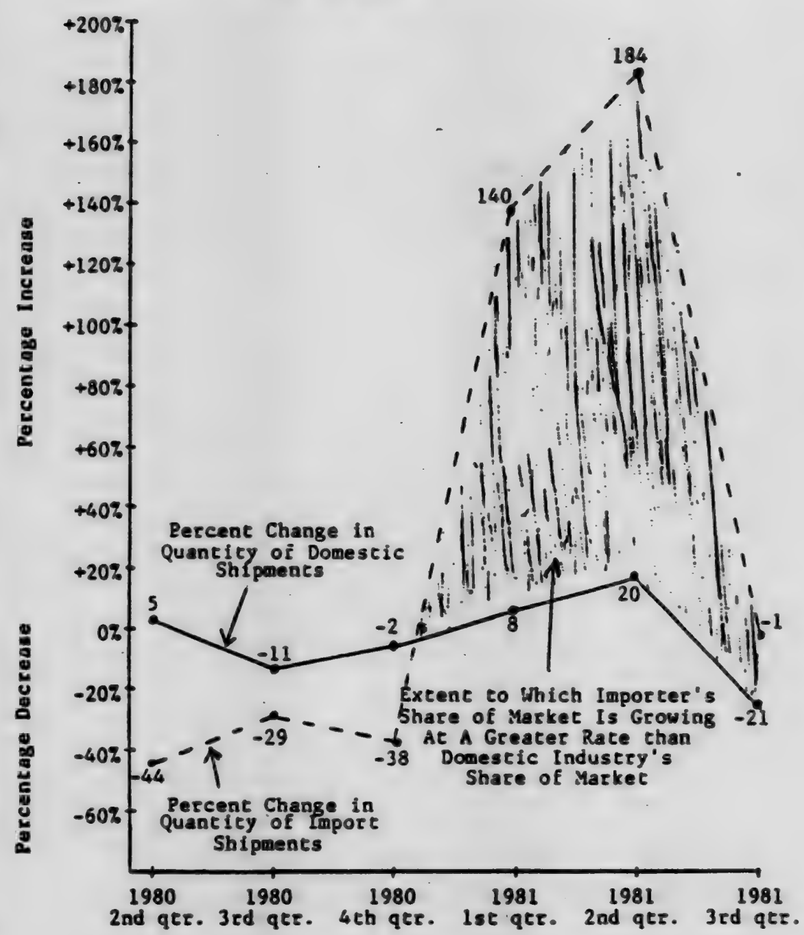

Source: American Iron and Steel Institute, AIS 10-S (shipments), AIS Imports 2 and U.S. Department of Commerce, IM 146 (imports). Minor differences in data may exist between sources due to rounding.

1/ See Table 4, Appendix 2 for data which serves as basis for Chart 9.

CHART 10

Growth of Imports in a Declining Market:
Percent Change in Quantity of
Import and Domestic Shipments of
Stainless Steel Rods
for 1980-81

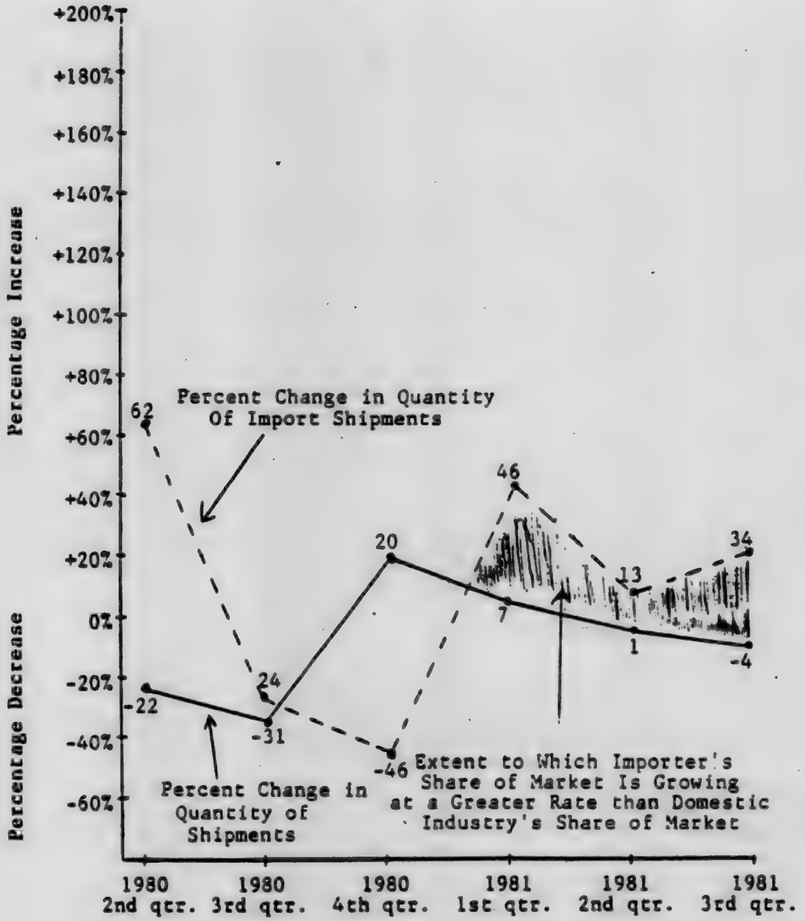

Source: American Iron and Steel Institute, AIS 10-S (shipments), AIS Imports 2 and U.S. Department of Commerce, IM 146 (imports). Minor differences in data may exist between sources due to rounding.

1/ See Table 5, Appendix 2 for data which serves as basis for Chart 10.

CHART 11

Growth of Imports in a Declining Market:
Percent Change in Quantity
of Import and Domestic Shipments
of Stainless Steel Bars
for 1980-81 1/

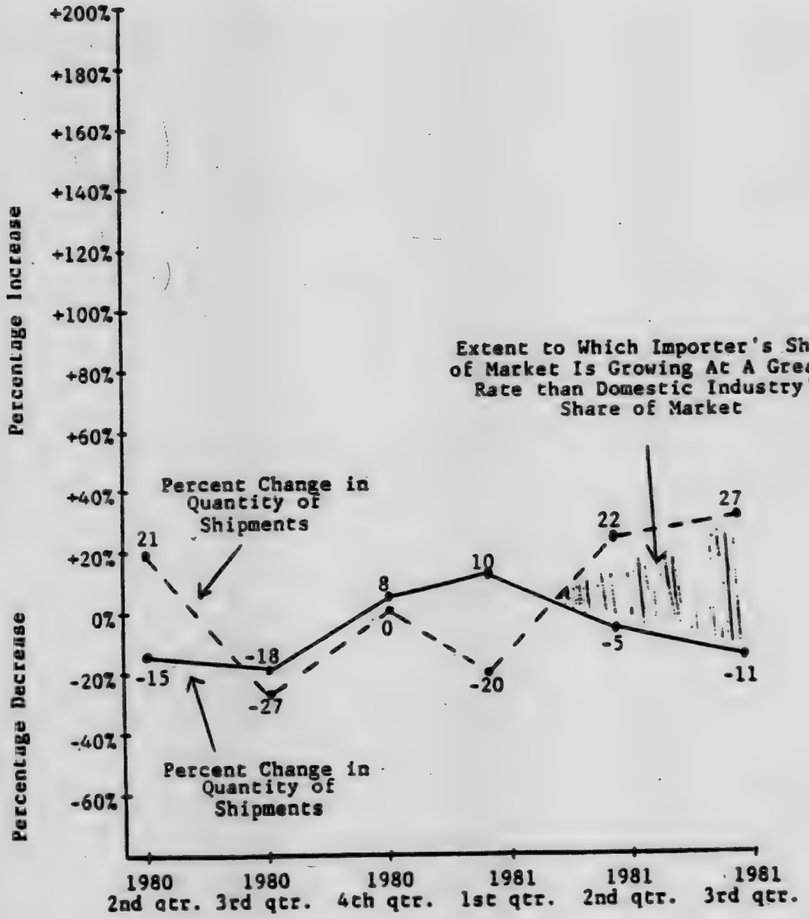

Source: American Iron and Steel Institute, AIS 10-S (shipments), AIS Imports 2 and U.S. Department of Commerce, IM 146 (imports). Minor differences in data may exist between sources due to rounding.

1/ See Table 6, Appendix 2 for data which serves as basis for Chart 11.

CHART 12

Growth of Imports in a Declining Market:
Percent Change in Quantity
of Import and Domestic Shipments
of Alloy Tool Steel
for 1980-81 1/

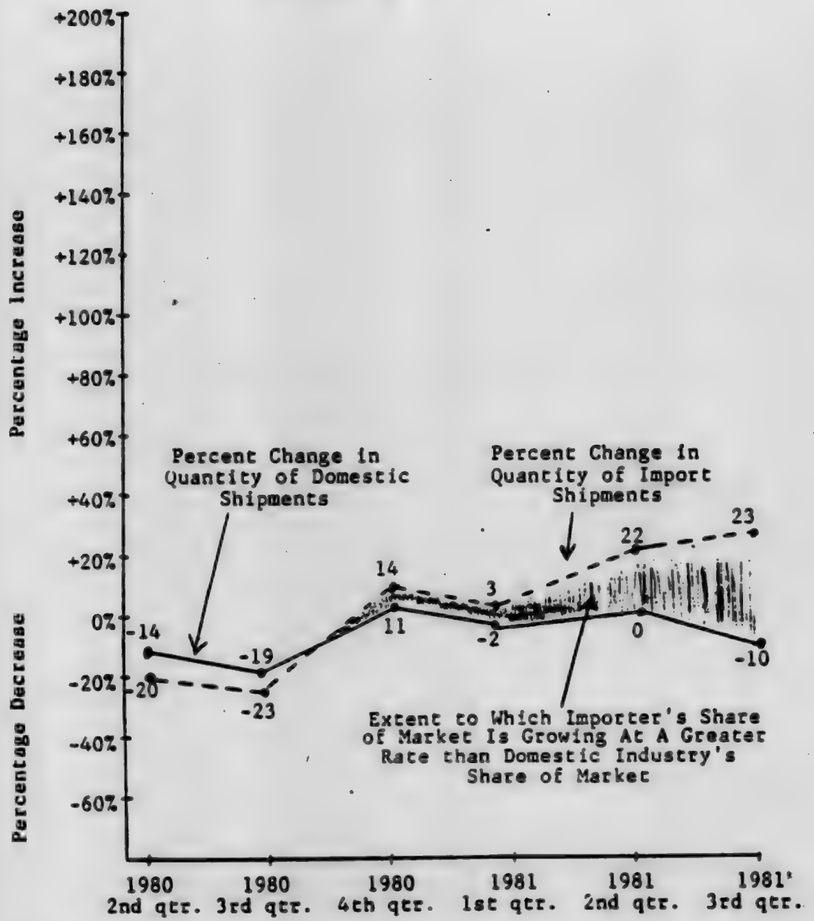

Source: American Iron and Steel Institute, AIS 10-S (shipments), AIS Imports 2 and U.S. Department of Commerce, IM 146 (imports). Minor differences in data may exist between sources due to rounding.

1/ See Table 7, Appendix 2 for data which serves as basis for Chart 12.

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C. Breakdown of Import Penetration by Country of Origin

This section focuses on specific country's contributions to the total import penetration. The following is an analysis of the data summarized in Table 8–12 in Appendix 2 for each specialty steel product of the declining market.

1. *Stainless Steel Sheet and Strip.* France has *tripled* its imports penetration from .8 percent for the fourth quarter of 1980 to 2.4 percent for the third quarter of 1981. Total imports through three quarters of 1981 have exceeded 10,000 tons. 1980 year-end totals were approximately 6200 tons. Also indicative of current trends were the 1981 quarterly breakdowns: 2427 tons for the first quarter; 3019 for the second quarter; and 4490 tons for the third.

The United Kingdom's import penetration also tripled from .2 percent for the second and third quarters of 1980 to .6 percent for the third quarter of 1981. Belgium's import penetration rose from .1 percent for the second and third quarter of 1980 to .2 percent for the third quarter of 1981. Through the first nine months of 1981, total imports of stainless steel sheet and strip from the seven countries which are the subject of this petition were 15,634 tons. During the same period last year total imports from the seven countries was 9739 tons. This involved an increase of about 60 percent.

2. *Stainless Steel Plates.* United Kingdom had the *highest* import penetration of any country during the third quarter of 1981. The import penetration increased from .2 percent for the second and third quarter of 1980 to 3.5 percent for the third quarter of 1981. The 3.5 percent import penetration level represents nearly half of the 7.5 percent import penetration rate for all importing countries.

Sweden has also increased its import penetration from a .2 percent penetration rate during the first quarter of 1981 to a .7 percent penetration rate in the last quarter of 1981. Belgium increased its import penetration from .0 percent for the second quarter of 1980 through the second quarter of 1981, to .2 percent for the third quarter of 1981.

These three countries plus France, which did not sell plate to the U.S. in 1980, accounted for over 70 percent of U.S. imports during the third quarter of 1981. Moreover, their rate of import growth has been staggering. Through the first nine months of 1981, imports of stainless plate from these four countries has been in excess of 4000 metric tons. During the same period last year, imports from the four countries amounted to only 1130 tons. This is the equivalent of a growth rate of almost 300 percent.

3. *Stainless Steel Rods.* France has increased its import penetration ten-fold to 6 percent from the first quarter of 1981 through the third quarter of 1981.

Belgium has steadily increased its import penetration of stainless steel rods from 1.1 percent during the fourth quarter of 1980 to 5.1 percent for the third quarter of 1981. These two countries in addition to Sweden and Italy have accounted for almost 50 percent of U.S. imports of stainless steel rod during the first three quarters of 1981, approximately 7800 metric tons.

4. *Stainless Steel Bar.* Sweden increased its import penetration level from .5 percent during the first quarter of 1981 to 1.4 percent during the third quarter of 1981. Brazil increased its level from 1.2 percent during the first quarter of 1981 to 1.8 percent during the third quarter of 1981. Although the countries subject to this petition only account for approximately 20 percent of U.S. imports of stainless steel bars (approximately 5000 metric tons through the first three quarters of 1981), there is great concern over the quarterly trends in 1981, which show total imports from Sweden, Brazil, France and the U.K. steadily increasing from 1493 metric tons in the first quarter, to 1539 metric tons in the second quarter to 1983 metric tons in the third. Brazil in particular has raised concern as 1981 third quarter imports are almost sixty percent higher over the same period last year.

5. *Alloy Tool Steel.* Sweden has the second largest import penetration level of any country at 9.9 percent. The United Kingdom has doubled its import penetration from .6 percent during the fourth quarter of 1980 to 1.2 percent during the third quarter of 1981. Among the countries subject to this petition, Sweden, Austria, the U.K. and France account for about 50 percent of U.S. alloy tool steel imports. Moreover, Brazil which has not yet made its mark in the import data, is pricing alloy tool steel as much as 67 percent below U.S. prices, and can therefore expect to penetrate the U.S. market in the coming year.

6. *Aggregate Impact of Imports from Target Countries.* In 1980, the seven countries which are the subject of this petition exported 34,063 metric tons of stainless steel to the U.S. and 14,929 metric tons of alloy tool steel. Collectively, they comprised 34 percent of all U.S. stainless steel imports and 52 percent of all alloy tool steel imports.

Through three quarters of 1981 stainless imports from these seven countries amounted to 32,494 metric tons and for alloy tool steel 10,801 metric tons. At an annualized rate, stainless steel imports from the target countries will increase to almost 43,315 metric tons while alloy tool imports will hold constant at around 14,000–15,000 metric tons. In other words, assuming data through three quarters holds constant, stainless steel imports for the seven countries will increase 27 percent in one year, while alloy tool steels imports remain level. But 1981 data trends suggests the data trends will not hold constant, and that the fourth quarter will show even more rapid import growth.

Through the first three quarters of 1981, stainless imports on a quarterly basis from the target countries have grown from 8,531 metric tons in the first quarter, to 11,157 metric tons in the second quarter, to 12,806 metric tons in the third. If this trend continues, total imports in 1981 could exceed 50,000 in which case annual growth could approach forty percent. Similar, but less pronounced growth can also be expected from alloy tool imports, particularly if Brazilian pricing trends begin to make their mark in the U.S. market.

D. A Relationship Exists Between the Injury to the Domestic Market by Imports and the Subsidies Provided Foreign Firms

The data reflects an increase in the growth of imports in an industry where the economic condition of the domestic firms is deteriorating rapidly. There is evidence that importers are charging prices substantially below the U.S. prices which accounts for imports capturing a larger share of the declining domestic market. Confidential sources reveal that importers are charging prices as much as 67 percent below the U.S. price for certain specialty steel products. *See* Table 13 in Appendix II.

Through government subsidization, foreign firms can continue to sell the goods which they produce in the domestic market at cut-rate prices.

E. Conclusion

The picture for American industry is a bleak one. Imports have had a severe impact on the domestic industry. Workers are being laid off at record levels, plants are being underutilized because of an insufficient domestic market, and profits are falling precipitously. By contrast, imports have dramatically increased their share of the domestic market. Further, importers are increasing their share of the domestic market causing a decline in the domestic industry's shipments to the consuming market. Imports from subsidized foreign

firms are responsible for a substantial degree of the growing injury to the domestic industry.

Relief Requested

Based on the foregoing findings of injury, petitioner respectfully requests that the President, pursuant to section 301 of the Trade Act of 1974, as amended, 19 U.S.C. 2411, take all appropriate and feasible steps within his power to obtain the elimination of injurious foreign subsidies on specialty steel. Such efforts should include making use of the consultation, conciliation and dispute settlement mechanisms as provided by Articles 12 and 13 of the Subsidies Code. In the event such steps fail to bring about a resolution of the issue, the President should undertake such countermeasures as are authorized under section 301 of the Trade Act of 1974, as amended, and as are permitted under the General Agreement and the Subsidies Code.

Petitioners specifically request that a public hearing be held as provided by 19 U.S.C.A. 2412(b)2(A), pursuant to 15 CFR 2006.5.

Dated: December 2, 1981.

Respectfully submitted,

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David A Hartquist,

Daniel L. Reich,

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Of Counsel: Collier, Shannon, Rill & Scott, *1055 Thomas Jefferson Street, NW., Washington, D.C. 20007*

Appendix I

Allegheny Ludlum Steel Corporation
Al Tech Specialty Steel Corporation
ARMCO, Inc.
Braeburn Alloy Steel Division, Continential Copper & Steel Industry, Inc.
Carpenter Technology Corporation
Columbia Tool Steel Company
Crucible Materials Group, Colt Industries, Inc.
Eastern Stainless Steel Company
Guterl Specialty Steel Corporation
Jessup Steel Company
Jones & Laughlin Steel Corporation
Joslyn Stainless Steels
Latrobe Steel Company
Universal-Cyclops Specialty Steel Division, Cyclops Corporation
Washington Steel Corporation

Appendix II

TABLE 1.—IMPORT PENETRATION DATA

Product	1972	1973	1974	1st 3 quarters 1975	Total 1975	1976	1977	1978	1979	1st quarter 1980	2d quarter 1980	3d quarter 1980	4th quarter 1980	1st quarter 1981	2d quarter 1981	3d quarter 1981
Stainless Steel Sheet and Strip	10.2	8.1	7.5	14.6	13.9	10.6	9.0	9.6	7.1	6.[illegible]	6.2	6.3	4.6	5.2	7.3	11.2
Stainless Steel Plate	24.0	13.3	9.3	16.2	16.0	20.0	8.4	9.6	5.0	4.2	2.9	1.9	1.3	2.6	9.1	7.5
Stainless Steel Rods	50.8	42.3	46.8	56.9	56.4	61.3	41.2	36.0	31.5	29.9	36.0	46.6	29.5	36.3	38.7	47.0
Stainless Steel Bars	14.5	12.5	15.2	24.1	24.6	19.2	17.4	17.5	16.5	18.9	24.9	23.5	21.6	10.5	20.4	26.6
Alloy Tool Steel	14.6	16.0	20.0	29.5	27.9	25.9	21.8	24.5	27.5	28.6	27.3	28.6	26.9	26.7	32.0	39.5
Total Specialty [1] Steel	13.5	10.0	11.4	19.9					10.8	11.5	13.6	12.6	9.4	9.4	11.6	17.0

[1] The total for specialty steel includes stainless steel sheet and strip, stainless steel plate, stainless steel rods, stainless steel bars, and alloy tool steel.

Source: American Iron and Steel Institute, AIS 10–S (shipments), *AIS Imports 2* and U.S. Department of Commerce, IM 146 (imports). Minor differences in data may exist between sources due to rounding.

TABLE 2.—PERCENT CHANGE IN QUANTITY OF IMPORT AND DOMESTIC SHIPMENTS OF TOTAL SPECIALTY STEEL PRODUCTS FOR 1980–81[1]

	1980 1st quarter domestic shipments	Domestic shipments/percent change					
		1980 2d quarter	1980 3d quarter	1980 4th quarter	1981 1st quarter	1981 2d quarter	1981 3d quarter
Imports	37,337	36,775/−2	27,942/−24	26,609/−5	29,277/+10	40,785/+39	50,542/+24
Domestic	306,180	267,820/−13	223,156/−17	277,263/+24	299,564/+8	327,408/+9	264,438/−19

[1] The total for specialty steel includes stainless steel sheet and strip, stainless steel plate, stainless steel rods, stainless steel bars, and alloy tool steel.

Source: American Iron and Steel Institute, AIS 10–S (shipments), *AIS Imports 2* and U.S. Department of Commerce, IM 146 (imports). Minor differences in data may exist between sources due to rounding.

TABLE 3.—PERCENT CHANGE IN QUANTITY OF IMPORT AND DOMESTIC SHIPMENTS OF STAINLESS STEEL SHEET AND STRIP

	1980 1st quarter	Domestic shipments/percent change					
		1980 2d quarter	1980 3d quarter	1980 4th quarter	1981 1st quarter	1981 2d quarter	1981 3d quarter
Imports	12,717	9,663/−24	7,607/−21	8,450/+11	10,644/+26	17,205/+62	21,198/+23
Domestic	198,076	168,619/−15	141,090/−16	180,208/+35	207,052/+9	230,485/+11	181,413/−21

Source: American Iron and Steel Institute, AIS 10–S (shipments), *AIS Imports 2* and U.S. Department of Commerce, IM 146 (imports). Minor differences in data may exist between sources due to rounding.

TABLE 4.—PERCENT CHANGE IN QUANTITY OF IMPORT AND DOMESTIC SHIPMENTS OF STAINLESS STEEL PLATES

	1980 1st quarter domestic shipments	Domestic shipments/percent change					
		1980 2d quarter	1980 3d quarter	1980 4th quarter	1981 1st quarter	1981 2d quarter	1981 3d quarter
Imports	1,350	756/−44	537/−29	352/−36	797/+140	2,267/+184	2,243/−1
Domestic	31,711	33,412/+5	29,571/−11	29,995/−2	31,172/+8	37,295/+20	29,323/−21

Source: American Iron and Steel Institute, AIS 10–S (shipments), *AIS Imports 2* and U.S. Department of Commerce, IM 146 (imports). Minor differences in data may exist between sources due to rounding.

TABLE 5.—PERCENT CHANGE IN QUANTITY OF IMPORT AND DOMESTIC SHIPMENTS OF STAINLESS STEEL RODS

	Domestic shipments/percent change						
	1980 1st quarter	1980 2d quarter	1980 3d quarter	1980 4th quarter	1981 1st quarter	1981 2d quarter	1981 3d quarter
Imports	4,795	7,771/+62	5,912/−24	3,168/−46	4,629/+46	5,230/+13	7,012/+34
Domestic	11,994	9,314/−22	6,418/−31	7,703/+20	8,200/+7	8,385/+1	8,031/−4

Source: American Iron and Steel Institute, AIS 10–S (shipments), *AIS Imports 2* and U.S. Department of Commerce, IM 146 (imports). Minor differences in data may exist between sources due to rounding.

TABLE 6.—PERCENT CHANGE IN QUANTITY OF IMPORT AND DOMESTIC SHIPMENTS OF STAINLESS STEEL BARS

	Domestic shipments/percent change						
	1980 1st quarter domestic shipments	1980 2d quarter	1980 3d quarter	1980 4th quarter	1981 1st quarter	1981 2d quarter	1981 3d quarter
Imports	9,291	11,197/+21	8,173/−27	8,162/0	6,521/−20	7,932/+22	10,040/+27
Domestic	42,206	36,075/−15	29,547/−18	31,852/+8	35,096/+10	33,199/−5	29,412/−11

Source: American Iron and Steel Institute, AIS 10–S (shipments), *AIS Imports 2* and U.S. Department of Commerce, IM 146 (imports). Minor differences in data may exist between sources due to rounding.

TABLE 7.—PERCENT CHANGE IN QUANTITY OF IMPORT AND DOMESTIC SHIPMENTS OF ALLOY TOOL STEEL

	Domestic shipments/percent change						
	1980 1st quarter domestic shipments	1980 2d quarter	1980 3d quarter	1980 4th quarter	1981 1st quarter	1981 2d quarter	1981 3d quarter
Imports	9,184	7,399/−19	5,713/−23	6,497/+14	6,687/+3	8,151/+22	10,051/+23
Domestic	23,701	20,400/−14	16,530/−19	18,420/+11	17,964/−2	15,042/0	16,259/−10

Source: American Iron and Steel Institute, AIS 10–S (shipments), *AIS Imports 2* and U.S. Department of Commerce, IM 146 (imports). Minor differences in data may exist between sources due to rounding.

V 47 / 46 M R 9 8 2

TABLE 8.—NUMBER OF IMPORTS AND IMPORT PENETRATION FROM COUNTRIES THAT ARE THE SUBJECT OF THIS PETITION FOR STAINLESS STEEL SHEET AND STRIP [1]

Country	1980 first quarter		1980 second and third quarters		1980 fourth quarter		1980 total		1981 first quarter		1981 second quarter		1981 third quarter	
	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)
Belgium	880	.5	328	.1	0	.0	1218	.2	216	.1	421	.2	[2]425	.2
France	1708	.9	2973	1.1	1416	.8	6187	.9	2427	1.2	3018	1.3	4490	2.4
United Kingdom	91	.0	452	.2	347	.2	897	.1	587	.3	1030	.4	1147	.6
Sweden	1156	.6	2044	.7	1929	1.1	5129	.8	892	.3	592	.4	396	.2

[1] Data was not available for certain countries where the quantity of import shipments in terms of the total number of import shipments was insignificant.
[2] Data for third quarter of 1981 includes Belgium and Luxembourg.

Source: U.S. Dept. of Commerce IM 146 (imports), American Iron and Steel Institutes (AIS) imports 5. Minor differences may exist between sources due to rounding. Slight discrepancies may also exist between data sources for computing third quarter of 1981. None of these discrepancies account for more than .3% of the total imports.

TABLE 9.—NUMBER OF IMPORTS AND IMPORT PENETRATION FROM COUNTRIES THAT ARE THE SUBJECT OF THIS PETITION FOR STAINLESS STEEL PLATES [1]

Country	1980 first quarter		1980 second and third quarters		1980 fourth quarter		1980 total		1981 first quarter		1981 second quarter		1981 third quarter	
	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)
Belgium	352	1.1	0	.0	0	.0	352	.3	0	.0	0	.0	[2]57	.2
United Kingdom	62	.2	121	.2	90	.3	273	.2	382	1.4	805	2.4	1051	3.5
Sweden	140	.4	456	.9	39	.2	635	.6	51	.2	5	.2	205	.7
France	0	.0	0	.0	0	.0	0	.0	283	1.0	1016	2.7	41	.1

[1] Data was not available for certain countries where the quantity of import shipments in terms of the total number of import shipments was insignificant.
[2] Data for the quarter of 1981 includes Belgium and Luxembourg.

Source: U.S. Dept. of Commerce IM 146 (imports), American Iron and Steel Institutes (AIS) imports 5. Minor differences may exist between sources due to rounding. Slight discrepancies may also exist between data sources for computing third quarter of 1981. None of these discrepancies account for more than .3% of the total imports.

TABLE 10.—NUMBER OF IMPORTS AND IMPORT PENETRATION FROM COUNTRIES THAT ARE THE SUBJECT OF THIS PETITION FOR STAINLESS STEEL RODS [1]

Country	1980 first quarter		1980 second and third quarters		1980 fourth quarter		1980 total		1981 first quarter		1981 second quarter		1981 third quarter	
	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)
Belgium	315	1.9	436	1.5	116	1.1	870	1.5	306	2.4	582	4.2	[2]756	5.1
France	1349	8.1	3706	12.5	427	4.0	5482	9.6	82	.6	370	2.7	896	6.0
Italy	314	1.9	2620	9.0	151	1.4	3085	5.4	803	6.3	461	3.4	518	3.5
Sweden	1400	8.4	1715	5.9	303	2.8	3418	6.0	997	7.8	1177	8.7	849	5.7

[1] Data was not available for certain countries where the quantity of import shipments in terms of the total number of import shipments was insignificant.
[2] Data for third quarter of 1981 includes Belgium and Luxembourg.

Source: U.S. Dept. of Commerce IM 146 (imports), American Iron and Steel Institutes (AIS) imports 5. Minor differences may exist between sources due to rounding. Slight discrepancies may also exist between data sources for computing third quarter of 1981. None of these discrepancies account for more than .3 percent of the total imports.

TABLE 11.—NUMBER OF IMPORTS AND IMPORT PENETRATION FROM COUNTRIES THAT ARE THE SUBJECT OF THIS PETITION FOR STAINLESS STEEL BARS [1]

Country	1980 first quarter		1980 second and third quarters		1980 fourth quarter		1980 total		1981 first quarter		1981 second quarter		1981 third quarter	
	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)
France	238	.5	1393	1.7	658	1.7	2289	1.3	542	1.4	240	.6	524	1.4
United Kingdom	249	.5	370	.5	296	.8	915	.5	266	.7	421	1.1	288	.7
Sweden	526	1.1	997	1.2	238	.6	1661	1.0	214	.5	236	.6	522	1.4
Brazil	305	.6	716	.9	531	1.4	1552	1.0	471	1.2	640	1.6	686	1.8

[1] Data was not available for certain countries where the quantity of import shipments in terms of the total number of import shipments was insignificant.

Source: U.S. Dept. of Commerce IM 146 (imports), American Iron and Steel Institutes (AIS) imports 5. Minor differences may exist between sources due to rounding. Slight discrepancies may also exist between data sources for computing third quarter of 1981. None of these discrepancies account for more than .3% of the total imports.

TABLE 12.—NUMBER OF IMPORTS AND IMPORT PENETRATION FROM COUNTRIES THAT ARE THE SUBJECT OF THIS PETITION FOR ALLOY TOOL STEEL [1]

Country	1980 first quarter		1980 second and third quarter		1980 fourth quarter		1980 Total		1981 first quarter		1981 second quarter		1981 third quarter	
	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)	No. of import shipments	Import penetration (percent)
France	518	1.6	244	.5	427	1.8	1189	1.1	267	1.1	136	.5	110	.4
United Kingdom	530	1.7	723	1.5	140	.6	1393	1.3	225	1.0	287	1.2	294	1.2
Austria	445	1.4	2356	5.3	416	1.7	2436	2.3	778	3.3	665	2.6	655	2.6
Sweden	2970	9.5	4616	10.0	2123	8.6	9909	9.5	2391	10.3	3450	9.6	2532	9.9

[1] Data was not available for certain countries where the quantity of import shipments in terms of the total number of import shipments was insignificant.

Source: U.S. Dept. of Commerce IM 146 (imports), American Iron and Steel Institutes (AIS) imports 5. Minor differences may exist between sources due to rounding. Slight discrepancies may also exist between data sources for computing third quarter of 1981. None of these discrepancies account for more than .3% of the total imports.

TABLE 13.—EXAMPLES OF FOREIGN PRICING BELOW U.S. PRICES

Country	Company [1]	Product	Per-cent below U.S. price [2]
Belgium		Stainless steel sheet and strip.	5
Brazil		Alloy tool steel H-11, H-12 bar.	15-23
		Alloy tool steel D-2 flats and rounds.	67
France		Stainless steel sheet and strip.	13
		Stainless steel sheet and strip.	16

TABLE 13.—EXAMPLES OF FOREIGN PRICING BELOW U.S. PRICES—Continued

Country	Company [1]	Product	Per-cent below U.S. price [2]
		Stainless steel rods	34
		Stainless steel rods	15-20
		Stainless steel bars	34-40
		Alloy tool steel high-speed.	27-34
Sweden		Stainless steel rods	10-16
		Stainless steel rods	15-20

TABLE 13.—EXAMPLES OF FOREIGN PRICING BELOW U.S. PRICES—Continued

Country	Company [1]	Product	Per-cent below U.S. price [2]
		Alloy tool steel H-11, H-13 bar.	15-23
		Alloy tool steel	15-31

[1] Confidential information to be submitted.
[2] Specific data will be provided on foreign pricing.

Source: Confidential data to be submitted.

[FR Doc. 82-5837 Filed 3-8-82; 8:45 am]
BILLING CODE 3190-01-M

POSTAL RATE COMMISSION

[Docket No. A82-6; Order No. 420]

Stonewall, Arkansas 72469 (Mr. and Mrs. Wayne Keeling and Others, Petitioners); Order of Filing of Appeal

March 2, 1981.

On February 26, 1982, the Commission received an appeal letter from Mr. & Mrs. Wayne Keeling and others (hereinafter "Petitioners"), concerning United States Postal Service's consolidation of the Stonewall, Arkansas, post office. The appeal letter requests that the Stonewall Post Office be left "at its present status." The appeal letter appears to request the review provided for by section 404(b) of the Postal Reorganization Act [39 U.S.C. 404(b)].[1] The petition does not conform perfectly with the Commission's rules of practice, which also require a petitioner to attach a copy of the Postal Service's Final Determination to the petition.[2] However, section 1 of the Commission's rules of practice [3] calls for a liberal construction of the rules to secure just and speedy determination of issues.

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office consolidation so as to "ensure that such persons will have an opportunity to present their views."[4] The petition requests that the decision to consolidate the Stonewall post office be reconsidered.

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that efective postal services be insured to residents of both urban and rural communities.[5]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to consolidate post offices. The effect on the community is also a mandatory consideration under section 404(b)(2)(A) of the Act.

The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the consolidation of post offices.[6]

Upon preliminary inspection, this case appears to involve the following issues of law:

1. Whether the procedure followed by the Postal Service was in compliance with the statute and the Postal Service's regulations.
2. Whether the Postal Service's actions are consistent with the statutory requirement that the Postal Service provide a maximum degree of effective and regular postal services to rural areas, communities and small towns where post offices are not self-sustaining [39 U.S.C. 404(b)(2)(C)].
3. Whether the Postal Service gave adequate consideration to the effect the consolidation would have on that portion of the community that now receives "help in addressing mail, purchasing money orders and filling out Local, State and Federal correspondence" at the Stonewall post office.

Other issues of law may become apparent when the Commission has had the opportunity to examine further the determination made by the Postal Service. Such additional issues may emerge when the parties and the Commission review the Service's determination for consistency with the principles announced in *Lone Grove, Texas, et al.*, Docket Nos. A78-1, *et al.* (May 7, 1979), and the Commission's subsequent decision on appeals of post office closings and consolidations. The determination may be found to resolve adequately one or more of the issues involved in the case.

In view of the above, and in the interest of expediting this proceeding under the 120-day decisional deadline imposed by Section 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on one or more of the issues described above and/or any further issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will make the request therefor by order, specifying the issues to be addressed.

When such a request is issued, the memorandum shall be due within 20 days of the issuance, and a copy of the memorandum shall be served on the Petitioners by the Service.

In briefing the case or in filing any motion to dismiss for want of prosecution, in appropriate circumstances the Service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in Section 404(b) cases,[7] and none is being appointed. The Commission orders:

(A) The letter from the Stonewall, Arkansas post office patrons be accepted as a petition for review pursuant to section 404(b) of the Act [39 U.S.C. 404(b)].

(B) The Secretary of the Commission shall publish this Notice and Order in the Federal Register.

By the Commission.

David F. Harris,

Secretary.

Appendix

February 26, 1982, Filing of Petition
March 2, 1982, Notice and Order of Filing of Appeal.
March 15, 1982, Filing of Record by Postal Service [*see* 39 CFR 3001.113(a)].
March 18, 1982, Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].
March 29, 1982, Petitioner's Initial Brief [*see* 3 CFR 3001.115(a)].
April 13, 1982, Postal Service Answering Brief [*see* 39 CFR 3001.115(b)].
April 28, 1982, (1) Petitioner's Reply Brief should petitioner choose to file [*see* 39 CFR 301.115(c)]; (2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument.
June 20, 1982, Expiration of 120 day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

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BILLING CODE 7715-01-M

[1] 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94-421 (September 24, 1976), 90 Stat. 1310-11. Our rules of practice governing these cases appear at 39 CFR 3001.110 *et seq.*

[2] 39 CFR 3001.1.

[3] 39 CFR 3001.1.

[4] 39 U.S.C. 404(b)(1).

[5] 39 U.S.C. 101(b).

[6] 42 FR 59079-85 (November 17, 1977); the Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).

[7] In the Matter of Gresham, S.C., Route #1, Docket No. A78-1 (May 11, 1978).

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Granting of Relief

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Notice of granting of relief from disabilities incurred by conviction.

SUMMARY: The persons named in this notice have been granted relief by the Director, Bureau of Alcohol, Tobacco and Firearms, from their disabilities imposed by Federal laws. As a result, these persons may lawfully acquire, transfer, receive, ship, and possess firearms if they are in compliance with applicable laws of the jurisdiction in which they live.

FOR FURTHER INFORMATION CONTACT: Acting, Special Agent in Charge Phillip J. Cojnacki, Firearms Enforcement Branch, Investigations Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20028 (202-566-7258).

SUPPLEMENTARY INFORMATION: In accordance with 18 U.S.C. 925(c), the persons named in this notice have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to the Director's satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

The following persons have been granted relief:

Agnos, Nicholas W., 185 Merrimac Avenue, Springfield, Massachusetts, convicted on May 27, 1963, in the Hampden County District Court, Springfield, Massachusetts.

Anderson, Marvin E., 7073 Brookwood Drive, Lithia Springs, Georgia, convicted on December 21, 1961, in the Superior Court of Clayton County, Georgia; and on December 29, 1961, in the Superior Court, DeKalb County, Georgia.

Atkins, William A., Route 3, Box 408, Luray, Virginia, convicted on October 26, 1955, in the Rockingham County Circuit Court, Rockingham County, Virginia.

Baker, Roland B., Route 2, Box 580, Dadeville, Alabama, convicted on May 23, 1967, in the Lee County Criminal Division Circuit Court, Lee County, Alabama.

Basist, Elwaiñ S., 803 West Second Street, Clarksdale, Mississippi, convicted on January 4, 1971, in the United States District Court, Northern District of Mississippi.

Bass, George Edward D., Route 1, Box 309, Wetumpka, Alabama, convicted on May 25, 1964, in the Circuit Court of Montgomery County, Alabama.

Bell, Richard W., 28756 Eagleton Street, Agoura, California, convicted on August 13, 1962, in the Superior Court, Los Angeles, California.

Benton, Willie L., 1517 First Street, NE., Atlanta, Georgia, convicted on April 10, 1975, in the County Court of Monmouth, New Jersey.

Bick, James R., 108 South 22nd Street, Pittsburgh, Pennsylvania, convicted on November 3, 1965, in the Criminal Court of Allegheny County, Pittsburgh, Pennsylvania.

Biggs, Charles T., 3823 Dover Road, Durham, North Carolina, convicted on December 8, 1976, in the United States District Court, Greensboro, North Carolina.

Black, Harold K., 409 Rice, West Memphis, Arkansas, convicted on September 25, 1972, in the Circuit Court of Crittenden County, Arkansas.

Blumling, Eugene H., 215 Chicora Road, Butler, Pennsylvania, convicted on January 30, 1948, in the Butler County Court of Common Pleas, Pennsylvania.

Borges, Jonathan R., 817 Revere Street, Eau Claire, Wisconsin, convicted on October 12, 1977, in the Barron County District Court, Barron, Wisconsin.

Boyk, Robert F., 10863 Parlin Terrace, Philadelphia, Pennsylvania, convicted on October 17, 1962, in the Philadelphia Court of Sessions, Philadelphia, Pennsylvania.

Brandt, Wayne R., Rural Route 1, Box 141, Wells, Minnesota, convicted on January 22, 1980, in the District Court, Fifth Judicial District of Faribault County, Minnesota.

Branham, Wade L., Route 8, Box 105, Northview Acres, Charlottesville, Virginia, convicted on September 13, 1967, in the Circuit Court of Albemarle County, Virginia.

Britton, William jr., 307 Monroe Street, Lexington, Nebraska, convicted on December 8, 1978, in the District Court, Dawson, Nebraska.

Brodsky, Jerome, U.S. Highway 301 North, P.O. Box 209, Waldo, Florida, convicted on October 10, 1953, in the Southern District of Miami, Florida.

Brown, Luther M., Jr., 561 Dogwood Street, Concord, North Carolina, convicted on December 13, 1978, in the United States District Court, Greensboro, North Carolina.

Brown, William P., 7210 34th Avenue, Kenosha, Wisconsin, convicted on January 6, 1976, in Branch III, Kenosha County, Wisconsin.

Buchholtz, Dean H., 5108 South Spring Avenue, Kansas City, Missouri, convicted on March 6, 1964, in the Circuit Court of Jackson County, Missouri.

Buhl, Calvin, 8723 2nd NW., Seattle, Washington, convicted on October 19, 1972, in the Superior Court of King County, Washington.

Burkes, Thomas G. jr., Route 2, Cottondale, Alabama, convicted on September 17, 1953; and on November 15, 1976, in the Sixth Judicial Circuit Court of Alabama.

Bussino, Fred J., Route 2, Brockway Mills Road, Chester, Vermont, convicted on February 24, 1947, in the Federal Court in Rutland, Vermont.

Butler, Drayton O., Route 3, Box 1715, Lufkin, Texas, convicted on October 27, 1970, in the First Judicial District Court, San Augustine County, Texas.

Butler, Gary L., 3168 Modella, Dallas, Texas, convicted on March 12, 1976, in the Criminal District Court #2, Dallas, Texas.

Campbell, Harold A., Route 2, Box 166-E, Longview, Texas, convicted on April 11, 1976, in the 26th District Court, Bossier Parrish, Louisiana.

Campbell, Ricky J., Route 2, Box 2911A, Mercer, Pennsylvania, convicted on February 9, 1976, in the Common Pleas Court, Mercer County, Pennsylvania.

Cannon, Timothy C., 4144 Diamond Drive, Eagan, Minnesota, convicted on August 28, 1979, in the Dakota County Circuit Court, Hastings, Minnesota.

Capone, Louis F., 188 Broad Street, Pittston, Pennsylvania, convicted on July 2, 1976, in the Federal Court, of Harrisburg, Pennsylvania.

Cates, Loralyn, 1315 South Silverlake Space, 148, Tucson, Arizona, convicted on August 22, 1977, in the Superior Court, Pima County, Arizona.

Caudle, Gary H., 408 West First Street, Hopkinsville, Kentucky, convicted on March 9, 1970, in the Circuit Court of Christian County, Kentucky.

Cerasuolo, Donald A., 1 Rose Street, Allison, Pennsylvania, convicted on March 8, 1977, in the United States District Court, Western District of Pittsburgh, Pennsylvania.

Chaney, Curtis E., Route 1, Box 497, in the Pounding Mill, Virginia, convicted on December 5, 1974, in the Buchanan County Circuit Court, Grundy, Virginia.

Chapman, Robert, 1711 Burrell Drive, Lewiston, Idaho, convicted on May 14, 1979, in the District Court of Nez Perce County, Idaho.

Chappell, Clinton, 178 Campground Road, Griffin, Georgia, convicted on October 10, 1961, in the Superior Court of Spalding County, Georgia.

Chatt, L. D., 9512 West Third Street, Dayton, Ohio, convicted on October 23, 1969, in the United States District Court, Southern, Ohio.

Chitwood, Boyd W., 2726 North Colony Avenue, Pranksville, Wisconsin, convicted on November 25, 1957, in the Circuit Court, Rock County, Wisconsin.

Christakis, Lee J., 779 West 100 South, Crown Point, Indiana, convicted on March 21, 1974, in the United States District Court, Northern District of Hammond, Indiana.

Coates, Morgan F., 5213 Stephan Drive, Louisville, Kentucky, convicted on April 6, 1976, in the Jefferson Circuit Court, Louisville, Kentucky.

Cocke, James B., Route 2, Box 45, Bumpass, Virginia, convicted on July 11, 1977, in the United States District Court Richmond, Virginia.

Comer, William K., Route 1, Box 287, Shenandoah, Virginia, convicted on June 16, 1977, in the Circuit Court of Page County, Virginia.

Conley, Frank, P.O. Box 6, Joseph, Oregon, convicted on July 3, 1978, in the United States District Court in Oregon.

Copper, Joan V., 212 South Florence Street, Grangeville, Idaho, convicted on October 10, 1975, in the United States District Court, District of Idaho.

Couture, Robert, 25000 Monroe Log Camp Road, Snohomish, Washington, convicted on July 26, 1961, in the Superior Court of Snohomish County, Washington.

Cox, Melvin R. Sr., 502 West 7th, Galena, Kansas, convicted on September 15, 1972, in the United States District Court, Wichita, Kansas.

Crews, Harold T., 2301 Lakeside Drive, Lot 58, Lynchburg, Virginia, convicted on May 6, 1974, in the Lynchburg Circuit Court, Lynchburg, Virginia.

Cronin, Willim F., 810 Paynes Point Beach Road, Neehan, Wisconsin, convicted on April 11, 1966, in the United States District Court, District of Massachusetts.

Curtis, Larry J., 12766 Renton Avenue South, Seattle, Washington, convicted on March 7, 1975, in the United States District Court, Western District, Seattle, Washington.

Dauphinais, Conrad F. Jr., 283 East Wellings Court, Virginia Beach, Virginia, convicted on July 14, 1976, in the Superior Court of Dougherty County, Georgia.

Davis, Barry E., 475 Rock Creek Drive, Roswell, Georgia, convicted on June 6, 1962, in the Circuit Court of Garrett County, Maryland.

Davis, Charles K., P.O. Box 245, Hornersville, Missouri, convicted on September 23, 1980, in the Circuit Court Division II, Dunklin County, Kenneth, Missouri.

Davis, Major M., 3610 Fruitwood Court, Portsmouth, Virginia, convicted on November 12, 1958, in the Circuit Court in Portsmouth, Virginia.

Davis, Willie L., 1612 South 13th Street, Yakima, Washington, convicted on October 13, 1941, in Benton Harbor, Michigan.

Dawson, Lisa J., 5525 Highway 63 South, Rochester, Minnesota, convicted on November 17, 1978, in the Olmstead County Court, Rochester, Minnesota.

Day, Lester A., P.O. Box 375, Grand Portage, Minnesota, convicted on September 19, 1968, in the Sixth Judicial District Court, St. Louis County, Duluth, Minnesota.

Delorenzo, Joseph P Jr., 14711 Kellywood, Houston, Texas, convicted on August 20, 1977, in the United States District Court, Southern District of Texas.

Dickerson, Robert L., P.O. Box 595, Aulander, North Carolina, convicted on August 16, 1976, in the Superior Court of Pamilco County, North Carolina; and on May 23, 1978, in the Superior Court of Hertford County, North Carolina.

Dobson, Thomas J., 5801 Lathan Road, Norfolk, Virginia, convicted on November 20, 1971, in the Chesapeake Circuit Court of Virginia.

Donet, Robert B., 1114 Frank Street, Adrian, Michigan, convicted on August 11, 1972; and on June 27, 1975, in the Lenawee County Circuit Court, Adrian, Michigan.

Donovan, Edward L., Route 3, Box 267–A, Dayton, Virginia, convicted on September 14, 1971, in the Circuit Court of Rockingham County, Harrisonburg, Virginia.

Dorris, Robert E. Jr., 2714 Simmondale Drive, Fort Worth, Texas, convicted on August 11, 1976, in the United States District Court for Northern Division , Fort Worth, Texas.

Dubersterin, Jay A., 875 Ridge Road, Lot B–125, Mosinee, Wisconsin, convicted on September 22, 1978, in the Circuit Court of Marathon County, Wisconsin.

Dudley, Elam G., Route 1, Box 243–S, Wildwood Drive, Evans, Georgia, convicted on November 30, 1976, in the Court of General Sessions, McCormick County, South Carolina.

Dyer, Jay S., Route 1, Box 71, Cleo Springs, Oklahoma, convicted on April 19, 1976, in the United States District Court, Southern District of Corpus Christi, Texas.

Ellinsburg, Aubray J., 2349 Meadowbrook, Abilene, Texas, convicted on November 16, 1978, in the Circuit Court, Fourteenth Judicial District of Florida.

Evans, James A., Route 2, Box 358 AA, Mobile, Alabama, convicted on August 2, 1960, in the County Circuit Court, Mobile County, Alabama.

Fidalgo, John J., 251 Metropolitan Avenue, Brooklyn, New York, convicted on February 17, 1971, in the Supreme Court, Second District, New York, New York.

Fidoni, Robert, 4828 South 93rd Avenue, Omaha, Nebraska, convicted on March 13, 1964, in the District Court, Douglas County, Nebraska.

Fisher, Kirk D., 4541 Post Cayon Drive, Hood River, Oregon, convicted on November 21, 1975, in the Circuit Court of Hood River County, Oregon; and on January 22, 1976, in the Circuit Court of Wasco County, Oregon.

Ford, Kenneth O., 5320 East Polk, Phoenix, Arizona, convicted on December 22, 1975, in the Superior Court of Maricopa County, Arizona.

Frisbie, George C., 5515 Yarwell Drive, Houston, Texas, convicted on May 2, 1975, in the 209th District Court, Harris County, Texas.

Gay, Homer A., Box 49, Star Route, Appling, Georgia, convicted on March 25, 1969, in the State Court, Columbia County, Georgia; and on June 28, 1979, in the United States District Court, Savannah, Georgia.

Garrett, David H., Route 1, Box 198 Quinlan, Texas, convicted on June 9, 1972, in the 196th Judicial District Court, Hunt County, Texas.

Gaskill, Wayne P., 1003 Greenway Court, Altoona, Iowa, convicted on September 29, 1970, in the District Court of Taylor County, Texas.

General Electric Company, Armament and Electrical Systems, Lakeside Avenue, Burlington, Vermont, convicted on June 23, 1961, in the United States District Court, Judicial District of New Jersey.

Giano, Castenzio, 1917 Harman Street, Ridgewood, New York, convicted on May 10, 1972, in the Supreme Court of Queens County, New York.

Gibson, Edward W., 5112 West Hughes, Lincoln, Nebraska, convicted on January 6, 1966, in the District Court of Nuckolls County, Nebraska.

Gildemeister, Michael J., 250 North 10th Avenue, West Bend, Wisconsin, convicted on June 2, 1975, in the Circuit Court of Washington County, Wisconsin.

Graber, Gary J., P.O. Box 10688, Aspen, Colorado, convicted on March 28, 1979, in the United States District Court, District of Colorado.

Grace, William E., 6001 Indiana Creek Court, Fort Worth, Texas, convicted on June 30, 1976, in the United States District Court, Eastern District of Michigan.

Graybadger, Gregory L., P.O. Box 82053, College Alaska, convicted on May 15, 1978, in the Shasta County Superior Court, California.

Grieve, Scott M., 5361 Woodlawn Boulevard, Minneapolis, Minnesota, convicted on April 22, 1975, in the Second Judicial District Court, Ramsey County, Minnesota.

Grinstead, Gary B., 748 Arlington, St. Paul, Minnesota, convicted on September 28, 1969, in the District Court of Dakota County, Minnesota.

Hannah, Dewey D., 530 Oakdale Road, Waynesville, North Carolina, convicted on February 4, 1971, in the Haywood County Superior Court, North Carolina.

Harrell, Gordon F. Jr., 4875 Texas Avenue, Norfolk, Virginia, convicted on September 26, 1969, in the Circuit Court, City of Norfolk, Virginia.

Harris, Max G., Covered Bridge Apartments, C–4, Philippi, West Virginia, convicted on June 7, 1977, in the Barbour County Circuit Court of West Virginia.

Harsh, Benjamin D., Box 39, Lot 39, Yucca Trailer Court, Del Rio, Texas, convicted on October 20, 1976, in the District Court, Scottsbluff County, Nebraska.

Harvey, Randy C., Route 5, North Platte, Nebraska, convicted on October 21, 1976, in the District Court of Lincoln County, Nebraska.

Heckert, David F., 6576 Stage Coach Road, Santa Barbara, California, convicted on October 4, 1972, in the Superior Court, Santa Barbara County, California.

Helton, Paul, 2076 Highway 18, Medon, Tennessee, convicted on September 27, 1960, in the United States District Court, Western District of Tennessee.

Henderson, Cornelius J., 413 SW. 9th Court, Delray Beach, Florida, convicted on February 9, 1971, in the Criminal Court of Record, County of Palm Beach, Florida.

Hill, Charles A., 1532 West Wallen Road, Fort Wayne, Indiana, convicted on May 20, 1958, in the Tenth Judicial Circuit Court, Nashville, Tennessee.

Hill, Lee N., 2860 East 42nd Place, Tulsa, Oklahoma, convicted on August 28, 1968, in the District Court, Muskogee County, Oklahoma.

Hinson, William M., Route 4, Box 155–B, Auburn, Alabama, convicted on March 16, 1977, in the United States District Court, Middle District of Alabama.

Holman, Glen W., 4779 Dover Drive, Colorado Springs, Colorado, convicted on January 31, 1949, in the Superior Court of Spokane County, Washington.

Holt, Richard C., 4119 Meadowgreen Court, Richmond, Virginia, convicted on January 28, 1974, in the Circuit Court, City of Richmond, Virginia.

Householder, Thomas W., 522 Anderson Avenue, Akron, Ohio, convicted on July 28, 1952, in Fulton County, Atlanta, Georgia.

Hutchinson, Charles M. Sr., 102 Marlin Drive, Richmond, Virginia, convicted on February 24, 1971, in the Circuit Court, Henrico County, Virginia.

Irby, Fitzhugh W., Route 1, Box 304, Hurt, Virginia, convicted on March 18, 1966, in the Circuit Court, Campbell County, Virgina.

Johnson, Blum V., Route 3, Box 369, North Wilkesboro, North Carolina, convicted on November 20, 1954, and March 22, 1966, in the United States District Court, Statesville, North Carolina; and on November 24, 1958, in the United States District Court, Wilkesboro, North Carolina.

Johnson, Steven F., 1315 Maryland Avenue, Glen Allen, Virginia, convicted on April 6, 1971, in the Circuit Court in Buena Vista, Virginia.

Jones, Robert D., 4808 North Lee Street, Spokane, Washington, convicted on July 18, 1977, in the United States District Court, Spokane, Washington.

Keiley, Wylie E., Route 12, Box 216, Florence, Alabama, convicted on September 23, 1927, in the Landerdale County Circuit Court, Florence, Alabama.

Keine, John S., 24616 North Elda Court, Apt. 220, Mount Clemens, Michigan, convicted on October 15, 1965, in the Circuit Court of Macomb County, Michigan; and on April 5, 1974, in the District Court of Summit County, Colorado.

Kemper, Gregory J., 7325 Thasos Avenue, NE., Bremerton, Washington, convicted on November 15, 1979, in the Superior Court of Kitsap County, Washington.

Knol, Steven D., 2224—80th Street, Everett, Washington, convicted on December 15, 1963, in the Kitsap County Superior Court, Bremerton, Washington.

Koepp, Malcolm P., P.O. Box 734, Caldwell, Texas, convicted on October 10, 1972, in the 180th District Court, Harris County, Texas.

Kramer, Richard F., 3216 Dinnen Avenue, Fort Wayne, Indiana, convicted on September 29, 1977, in the Allen Superior Court, Fort Wayne, Indiana.

Krenk, Leslie R., 427 East South, Grand Island, Nebraska, convicted on May 2, 1977, in the Hall County District Court, in Nebraska.

Kuhn, Delmar F., Route 1, Box 119, Irma, Wisconsin, convicted on October 21, 1969, in the Lincoln County Circuit Court, Merrill, Wisconsin.

Lajavic, Donald O., 2425 Brisbane, Walled Lake, Michigan, convicted on March 6, 1951, in the Recorders Court, Detroit, Michigan.

Landers, Haze, Route 3, Box 172, Marshall, North Carolina, convicted on May 13, 1958, in the United States District Court, Asheville, North Carolina.

Laurence, Elmer S., 600 Middle Lane, Austin, Texas, convicted on February 9, 1979, in the 26th judicial District Court, Williamson County, Texas.

Lawson, Marlin R., RD #1, Box 3, Friendsville, Maryland, convicted on September 18, 1978, in the United States District Court for the Northern District of West Virginia.

Lichtman, Leonard, 1333 Fanshawe Street, Philadelphia, Pennsylvania, convicted in August 1962, in the Court of Quarter Sessions, Philadelphia, Pennsylvania.

Lindstrom, John R., 2175—202nd Avenue, NW., Cedar, Minnesota, convicted on February 20, 1976, in the First Judicial District Court, Grand Forks County, North Dakota; and on June 30, 1976, in the Ninth Judicial District Court, Polk County, Minnesota.

Locke, Joe C., 10351 SW., 62nd Street, Miami, Florida, convicted on September 23, 1931, in the Court of Records, Escambia County, Florida.

Luckett, Travis J., 1404 South 10th Avneue, Yakima, Washington, convited on April 9, 1979, in the Superior Court of Yakima County, Washington.

Lucord, Garland P., 2211 Brandonview Avenue, Richmond, Virginia, convicted on April 21, 1972, in the Circuit Court of Henrico County, Virginia; and on September 4, 1975, in the United States District Court, Eastern District of Virginia.

Mahaffey, Ray, 849 Myrick Street, Waynesboro, Georgia, convicted on November 4, 1974, in the United States District Court, Augusta, Georgia.

Malone, Charles H. Jr., 117 Millwood Lane, Winchester, Virginia, convicted on May 12, 1975, in the Circuit Court of Fredwick County, Virginia.

Marbry, Hurley D., 1679 Whitney Avenue, Memphis, Tennessee, convicted on March 16, 1977, in the United States District Court, Western District of Tennessee.

Marshall, Don R., 7166 Club Road, Richmond, Virginia, convicted on November 15, 1973, in the Circuit Court of Henrico County, Virginia.

Masterson, Robert V., RD 2, P.O. Box 339, Park Road, Nottingham, Pennsylvania, convicted on January 30, 1949, in the Court of Common Pleas, Delaware County, Pennsylvania; and on January 26, 1953, in the United States District Court, Southern District of Indiana.

Mazur, Stanley A., 326 River Street, Olyphant, Pennsylvania, convicted on October 26, 1977, in the United States District Court, Middle District of Pennsylvania.

McCarthy, James E., 2925 South Semoran Boulevard, Apt. 261, Orlando, Florida, convicted on July 27, 1973, in the United States District Court, Middle District Division of Orlando, Florida.

McComas, Randall C., 450 Palace Avenue, Elsmere, Kentucky, convicted on March 31, 1975, in the United States District Court, Covington, Kentucky.

McFarlin, David D., 606 East Palm Lane, Phoenix, Arizona, convicted on June 7, 1966, in the Circuit Court of Cape Girardeau, Missouri; and on November 8, 1954, in the Circuit Court of Danklin County, Missouri.

McGraw, Debra G., 10800 Jean Drive, Odessa, Texas, convicted on March 26, 1979, in the 244th Judicial District Court of Eaton County, Texas.

Mears, Wilson A. Jr., 1874 Belle View Way, Tallahassee, Florida, convicted on November 7, 1977, in the Florida Circuit Court of Gadsden County, Florida.

Molina, Richard D., P.O. Box 1563, Springerville, Arizona, convicted on December 11, 1978, in the United States District Court, District of Arizona.

Moore, Douglas L., 6606 Silver Hill Drive, Holiday, Florida, convicted on May 15, 1973; April 24, 1974; and in 1975 in the Circuit Court of Duval County, Florida.

Morgan, Ken A., 4745 Solano Way, Fair Oaks, California, convicted on December 21, 1962, and on June 28, 1964, in the Superior Court of Sacramento, California.

Morris, Franklin D., 159 Howard Street, NE., Atlanta, Georgia, convicted on January 6, 1959; and on April 11, 1963, in the Superior Court, Fulton County, Georgia.

Morrissey, Frederick, 28 Greenville Road, North Smithfield, Rhode Island, convicted on August 8, 1958, in the New York Court of General Sessions in New York.

Mowry, David J., 6803 Hallethsville Highway, Apt. 70, Victoria, Texas, convicted on September 8, 1978, in the 262nd District Court, Harris County, Texas.

Namyniuk, Raymond W., P.O. Box 55, Fairfield, North Dakota, convicted on February 5, 1980, in the District Court of Stark County, North Dakota.

Nelson, Uless, 5617 Boca Raton, Apt. A105, Fort Worth, Texas, convicted on June 3, 1977, in the United States District Court, Northern District of Fort Worth, Texas.

Nelson, Wayne E., East 208 Queen, Spokane, Washington, convicted on June 30, 1975, in the Superior Court of Spokane, Washington.

Norman, William E., 828 Pavillion, Dallas, Texas, convicted on December 19, 1968, in the Sixteenth Judicial District Court, Denton County, Texas.

Ostrander, Eugene K., 3304 Itasca, Lubbock, Texas, convicted on May 6, 1961, in the District Court of Washington County, Oklahoma.

Paige, James G., 1601 Memorial Parkway, Portland, Texas, convicted on February 6, 1963, in the Circuit Court of Panama City, Florida.

Parkinson, Roger A., 616 North Oaks Drive, Apt. 208, Osseo, Minnesota, convicted on December 27, 1976, in the Fourth Judicial District Court, Hennepin County, Minnesota.

Pavlovich, Mladen, 4031 North 66th Avenue, Hollywood, Florida, convicted on April 27, 1976, in the Queens County Superior Court, New York.

Perry, William A., Route 3, Box 584, Front Royal, Virginia, convicted on December 12, 1970, in the Warren County Circuit Court, Front Royal, Virginia.

Peters, Constance F., 1636 8th Avenue East, Twin Falls, Idaho, convicted on May 9, 1977, in the Fourth District of Idaho.

Plemons, Henry J., 1097 Bentee Avenue, SE., Apt. 2, Atlanta, Georgia, convicted on March 14, 1960; and on April 15, 1974, in the Superior Court of De Kalb County, Georgia.

Pope, Dwight E., 1461 Northside Drive, Apt. A–2, Clinton, Mississippi, convicted on November 7, 1975, in the Circuit Court of Harrison County, Mississippi.

Porter, Stacy R., Route 1, St. Cloud, Minnesota, convicted on January 16, 1975, in the Seventh Judicial District Court, Stearns County, Minnesota.

Powell, Jeffrey W., 1354 North 10th Street, Fargo, North Dakota, convicted on April 11, 1975, in the District Court of Cass County, North Dakota.

Powers, John O., Rural Route 1, Maple Hill Drive, Washburn, Wisconsin, convicted on January 30, 1978, in the Bayfield County District Court, Washburn, Wisconsin.

Praglowski, Richard J., 1505 West 224th Street, Torrance, California, convicted on September 10, 1964, in the Superior Court of Los Angeles, California; and on February 17, 1965, in the Superior Court of San Bernardino, California.

Pratt, William C., 521 Ida Place, NE., Albuquerque, New Mexico, convicted on December 15, 1964, in the State Court, Montrose County, Colorado.

Quiring, Marcel, Route 4, Box 4161, Nampa, Idaho, convicted on February 8, 1966, in the Superior Court of Walla Walla County, Washington.

Redmond, Ralph A., 4021 El Camino, Las Vegas, Nevada, convicted on February 1, 1965, in the Air Force Court Martial, Shephard Air Force Base, Texas.

Reed, Lawrence J., 5509 West Lewis, Phoenix, Arizona, convicted on August 4.

1961, in the Superior Court of Los Angeles, California.

Reinhardt, Jerome, 49–12 Ditmars Boulevard, East Elmhurst, New York, convicted on April 11, 1961, in the United States District Court, Southern District of New York.

Riley, Brian K., 8509 Island View Court, Olympia, Washington, convicted on October 4, 1979, in the Superior Court of Thurston County, Washington.

Rippee, Danny L., 3523 Garden City Boulevard, SE., Roanoke, Virginia, convicted on November 1, 1965, in the Hastings Court of Roanoke, Virginia.

Roberts, Charles E., Four Freedoms House, Apt. 208, 1600 Antietam, Detroit, Michigan, convicted on November 19, 1952, in the Recorders Court, Detroit, Michigan.

Robinson, Richard L., Route 10, Box 938–20, Springfield, Missouri, convicted on December 29, 1961, in the Circuit Court of Greene County, Missouri.

Rodriguez, Robert R., P.O. Box 112, Badger, California, convicted on October 4, 1966, in the San Francisco Superior Court, California.

Rogers, Shanley, 3251 North Marston Street, Philadelphia, Pennsylvania, convicted in November 1962, in the United States Court, Philadelphia, Pennsylvania.

Rumsey, Robert, 1131 South Duke Drive, Tucson Arizona, convicted on April 15, 1975, in the United States District Court, Tucson, Arizona.

Sander, Lynn Jr., Route 1, Box 111–H, Allendale, South Carolina, convicted on May 4, 1971, in the Aiken County Court, Aiken, South Carolina.

Sarasnick, Joseph L., 420 James Street, Bridgeville, Pennsylvania, convicted on February 2, 1973, in the Court of Commons Pleas, Allegheny County, Pennsylvania; and in September 1969, in the Court of Quarter Sessions, Washington County, Pennsylvania.

Schultz, Charles D., 1541 Apricot Street, Wisconsin Rapids, Wisconsin, convicted on May 8, 1975, in the Branch II County Court, Wood County, Wisconsin.

Scott, Dennis L., RD #1, Punxsutawney, Pennsylvania, convicted on April 12, 1976, in the Court of Common Pleas, Jefferson County, Pennsylvania.

Serle, Michael P., 2622 Swede Drive, Norristown, Pennsylvania, convicted on April 7, 1972, in the Court of Common Pleas, Montgomery County, Pennsylvania.

Shaw, Emery D., P.O. Box 203, Point of Rocks, Wyoming, convicted on January 28, 1971, in the Fourteenth District Court of Oklahoma.

Shumway, Kim B., 6 Broad Street, Milford, Connecticut, convicted on October 4, 1972, in the Superior Court of Litchfield, Connecticut.

Sidden, James C., Route 1, Box 120½, Traphill, North Carolina, convicted on May 19, 1958; July 15, 1965; and on October 21, 1969, in the United States District Court, Wilkesboro, North Carolina.

Simkanin, Mike, 2831 North 55th Drive, Phoenix, Arizona, convicted on March 17, 1977, in the Superior Court of Maricopa County, Arizona.

Smith, Augustus E., P.O. Box 504, Highway 27, Junction City, Kentucky, convicted on October 15, 1964, in the Common Pleas Court, Westchester, Pennsylvania.

Smoot, Robert E., 303 Dalby Street, Houston, Texas, convicted on April 5, 1972, in the Harris County District Court, Harris County, Texas.

Spencer, Walter E., 1682 Slate Road, Conley, Georgia, convicted on April 15, 1966, and March 11, 1966, in the Superior State Court, Fulton County Georgia; on February 28, 1967, in the Superior State Court of Clayton County, Georgia; and on March 10, 1967, in the Superior State Court of De Kalb County, Georgia.

Sprung, Gene A., P.O. Box 102, Corona, South Dakota, convicted on September 21, 1979, in the United States District Court of South Dakota.

Sprulin, Joey N., Route 1, Box 241–A, Low Gap, North Carolina, convicted on November 14, 1976, in the Superior Court of Surry County, North Carolina.

Stewart, Junius C., 225 North 61st Street, Philadelphia, Pennsylvania, convicted on November 6, 1967, in the Eastern District of Pennsylvania.

Sturtz, James V., 1869 Homestead Farms Lane, Apt. 3, West Valley, Utah, convicted on August 5, 1977, in the United States District Court of Utah.

Swanson, William E., 373 Arcadia, Shelton, Washington, convicted on July 11, 1969, in the Geary County District Court, Kansas; and on October 22, 1969, in the Riley County District Court, Kansas.

Swart, Daniel J., P.O. Box 155, Umatilla, Oregon, convicted on April 17, 1979, in the Circuit Court of Umatilla County, Oregon.

Sweet, Dennis, Rural Route 1, Cuba City, Wisconsin, convicted on February 23, 1973, in the County Court, Grant County, Wisconsin; and on April 29, 1974, in the Circuit Court of Grant County, Wisconsin.

Terrell, Gerald E., 1412 Laredo, Napa, California, convicted on June 24, 1963, in the Solano County Superior Court, California.

Thompson, Charlie, W., Route 1, Box 22–1K, Westover, Alabama, convicted on September 10, 1979, in the United States District Court, Middle District of Alabama.

Thrall, J. D., Route 1, Box 10, Perry, Kansas, convicted on March 5, 1964, and on May 19, 1969, in the Shawnee County District Court, Kansas; and on April 1, 1968, in the Wabaunsee County District Court in Kansas.

Truman, Donald W., 913 East Hill Street, Springfield, Missouri, convicted on July 23, 1979, in the United States District Court, Western District of Missouri.

Vandal, Albert O., 411 First Street, NW., Minot, North Dakota, convicted on July 10, 1978, in the United States District Court, District of North Dakota.

Vaughan, Harold C., 21707 53rd Avenue West, Montlake Terrace, Washington, convicted on June 8, 1977, in the King County Superior Court, Seattle, Washington.

Wagner, Vernon A., 4142 Russell Avenue North, Minneapolis, Minnesota, convicted on November 10, 1971, in the United States Court, Fourth Division, District of Minnesota.

Webb, Robert N., P.O. Box 245, Grant Junction, Texas, convicted on October 18, 1973, in the United States District Court, Western District of Texas.

Wellner, Charles J., P.O. Box 6, Goldendale, Washington, convicted on May 28, 1974, in the Superior Court, Spokane County, Washington.

Westerman, Burl D., 2921 Estates Avenue, Pinole, California, convicted on January 30, 1978, in the United States District Court, District of Arizona.

Wienke, Roy O., 4311 Schofield Avenue, Lot 56, Schofield, Wisconsin, convicted on March 13, 1976, in the Lincoln County Circuit Court, Merrill, Wisconsin.

Williams, David M., 11230 Monday Way, Midlothian, Virginia, convicted on May 2, 1977, in the United States District Court, Richmond, Virginia.

Williams, Ernest L., 200 North Hilton Street, Baltimore, Maryland, convicted on January 31, 1978, in the United States District Court of Baltimore, Maryland.

Williams, John P., 407 18th Plaza, Lynn Haven, Florida, convicted on July 22, 1974, in the Fourteenth Judicial Circuit Court, Bay County, Florida.

Willis, Joseph R., 456 South 3rd West, Cedar City, Utah, convicted on July 11, 1979, in the Fifth Judicial District Court, Washington County, Utah.

Willis, Orum, R. Jr., Route 1, Jackson Gap, Alabama, convicted on August 9, 1976, in the United States District Court, Middle District of Alabama.

Wilson, Willie E., 1498 Martin Luther King Drive, SW., Atlanta, Georgia, convicted on January 30, 1962, in the Superior Court of Fulton County, Georgia.

Winstead, Ralph Q., 415 Sylvia Drive, Forest Park, Georgia, convicted on February 26, 1975, in the Superior Court of Clayton, Georgia.

Wolford, Raymond, 8503 Comolette Street, Downey, California, convicted on December 19, 1939, in the Washington County Court, Bartlesville, Oklahoma.

Wright, William R., 415 East Kennaston, Montesano, Washington, convicted on December 30, 1977, in the Superior Court, Grays Harbor, Washington.

Wynn, Willis A., 241 South Ardmore Avenue, Dayton, Ohio, convicted on May 24, 1951, in the United States District Court, Dayton, Ohio.

Zacher, Michael P., 3585 East Elswood Drive, Idaho Falls, Idaho, convicted on June 27, 1980, in the Superior Court of Kitsap County, Washington.

Zupnyk, William C., 302 Delancy Street, Philadelphia, Pennsylvania, convicted on June 5, 1950, in the Camden Municipal Court of Pennsylvania.

Compliance With Executive Order 12291

It has been determined that this notice is not a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (1981), because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Signed: February 26, 1982.

G. R. Dickerson,

Director.

[FR Doc. 82-6146 Filed 3-8-82; 8:45 am]

BILLING CODE 4810-31-M

Customs Service

[T.D. 82-37]

Revision of Customs Criteria for Establishing Ports of Entry and Stations

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This notice is to advise municipalities, local governments, civic organizations, and other interested parties that Customs has revised the criteria it uses in determining whether to grant requests for the establishment of Customs ports of entry and stations. The new criteria, which are set forth in this document, modify and expand upon certian unpublished workload criteria which Customs has followed since 1973 in evaluating port of entry requests. They represent an increase in the workload levels formerly used in evaluating these requests. By using the revised criteria, Customs will obtain the most efficient use of its personnel, facilities, and resources and provide improved service to carriers, importers, and the public.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT: Richard C. Coleman, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8157).

SUPPLEMENTARY INFORMATION:

Background

The Customs Service has primary responsibility for: (1) Collecting revenue (including customs duties, excise taxes, fees and penalties) due on imported merchandise; (2) processing persons, cargo, baggage, and mail entering the United States from foreign countries; (3) enforcing import and export prohibitions to protect the general welfare and security of the United States; and (4) collecting international trade statistics.

Individuals, vehicles, and merchandise generally enter that United States through established Customs ports of entry and stations. During Fiscal Year 1979, more than 271 million persons, 81 million automobiles, trucks, and buses, 558,714 aircraft, and 227,364 ships entered the United States. In addition, Customs processed over 4 million formal entries to collect approximately $8 billion in duty and taxes on more than $218 billion of imported merchandise.

Customs Ports of Entry

Customs ports of entery are places (seaports, airports, or land border ports) designated by the Secretary of the Treasury where Customs officers or employees are assigned to accept entries of merchandise, clear passengers, collect duties and enforce the various provisions of Customs and related laws.

The Secretary of the Treasury is advised by the Commissioner of Customs in matters affecting the establishment, abolishment, or other change in ports of entry. The Commissioner coordinates these matters with other Federal inspection agencies, and, when appropriate, with Canadian or Mexican officials. Staffing at ports of entry may range from one to several hundred employees, depending upon the volume of business. However, most new ports of entry are staffed by at least a port director, one or more inspectors, and a secretary.

Customs ports of entry are established under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR, 1949–1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101–5 (47 FR 2449).

Customs Stations

Customs stations are places other than ports of entry where Customs officers or employees are stationed to enter and clear vessels and other carriers, accept entries of merchandise, examine baggage, collect duties, and enforce the various provisions of Customs and related laws. Stations may be established or terminated by the Commissioner of Customs.

The significant difference between ports of entry and stations is that at stations, the Federal Government is reimbursed for:

(1) The salaries and expenses of its officers or employees for services rendered in connection with the entry and clearance of vessels; and, except as otherwise provided by the Customs Regulations,

(2) The expenses (including any per diem allowed in lieu of subsistence) but not the salaries of its officers or employees for services rendered in connection with the entry or delivery of merchandise.

Because the cost of services provided at stations must be reimbursed to the Federal Goverment while the cost of services provided at ports of entry is not, Customs receives fewer requests for the establishment of stations. However, the criteria for establishing ports of entry also are applicable to stations. Of course, the potential volume of the workload at a station would be less.

Customs stations are established under the authority of section 1, 37 Stat. 434, section 301, 80 Stat. 379; 5 U.S.C. 301, 19 U.S.C. 1.

Increased Demand for Service

The ability of modern air carriers to transport larger passenger and cargo loads longer distances has prompted demands for additional Customs service throughout the United States. Because Federal inspection facilities at many major airports are overworked, modern air carriers would operate more efficiently by proceeding directly to their destinations instead of stopping for Customs inspection at intermediate points.

Furthermore, because it is advantageous to inspect containerized cargo at or near its ultimate destination, the increased use of containers to transport cargo also has created a demand for additional service at inland locations.

In addition, congestion at "gateway" ports could be reduced by expanding service in alternate locations and by eliminating the requirement that carriers proceeding inland stop at coastal or land border ports for inspection.

To meet these demands, Customs anticipates that it will be necessary to establish or expand areas of Customs service throughout the country.

Procedure for Requesting new or Expanded Service

There is no formal application for requesting new or expanded Customs service. Generally, however, a recognized civic or government organization such as a chamber of commerce, port authority, or city government, makes a request in writing, including the reason for the request, to the District Director of customs in the district where the requested facility is or will be located. In order to receive favorable consideration, there must be a sufficient volume of import business (existing and potential) to justify the expense of maintaining an office or expanding service.

Before approving requests for new service, Customs must have the available manpower. Because budget restrictions have curtailed Customs

resources, permanent manpower may not be assigned for some time. A new port of entry cannot be entirely staffed by part-time help. However, permanent staffing may be supplemented by part-time employees. These factors should be noted by persons making requests for new service.

Criteria

While not absolute, the following criteria should be considered in preparing applications for the establishment of Customs ports of entry and stations.

(1) The requesting community must:

(a) Demonstrate that the benefits to be derived justify the Federal Government expense involved;

(b) Be service by at least two major modes of transportation (rail, air, water, or highway); and

(c) Have a minimum population of 300,000 within the immediate service area (approximately a 70 mile radius).

Land border ports are exempt from (b) and (c).

(2) The actual or potential Customs workload (minimum number of transactions per year), in the area must be:

(a) 15,000 international air passengers; or

(b) 2,500 consumption entries (formal (over $250 in Customs value), information (under $250 in Customs value)); or

(c) 150,000 vehicles (for land border ports); or

(d) 2,000 scheduled international aircraft arrivals (passengers and/or cargo); or

(e) 350 cargo vessel arrivals; or

(f) Any appropriate combination of the above.

(3) Facilities (provided without cost to the Federal Government in most cases) must include:

(a) Wharfage and anchorage adequate for oceangoing cargo/passenger vessels (if a water port);

(b) Cargo and passenger facilities;

(c) Warehousing space for the secure storage of imported cargo pending final Customs inspection and release; and

(d) Administrative office space, cargo inspection areas, primary and secondary inspection rooms and areas, storage areas, and other space necessary for regular Customs operations. Land border inspection stations are provided by the Federal Government.

In addition, Customs must obtain the concurrence of other Federal inspection agencies and ensure that the facility requirements of these agencies are met. Customs also must obtain agreements from Mexican and Canadian officials to establish inspection facilities opposite proposed U.S. ports at land border inspection stations.

Applicability of 5 U.S.C. 553

These criteria shall be used in determining whether to grant requests for establishing or expanding areas of Customs service. Following a decision to grant such a request, any proposed change in the field organization of the Customs Service must be made in accordance witht the notice, comment, and delayed effective date provisions of 5 U.S.C. 553.

Drafting Information

The principal author of this document was Lawrence P. Dunham, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

William T. Archey,

Acting Commissioner of Customs.

Approved:

John P. Simpson,

Acting Assistant Secretary of the Treasury.

February 17, 1982.

[FR Doc. 82-6317 Filed 3-8-82; 8:45 am]

BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register

Vol. 47, No. 46

Tuesday, March 9, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[M-344, Amdt. 5; Mar. 3, 1982]

CIVIL AERONAUTICS BOARD

Notice of deletion from the March 4, 1982.

TIME AND DATE: 10 a.m., March 4, 1982.

PLACE: Room 1027 (open), Room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 10. Docket 38904, A two-year review for fitness determinations for non-operating carriers. (Memo 1130, OGC, BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

[S-329-82 Filed 3-5-82; 2:11 pm]

BILLING CODE 6320-01-M

2

[M-344, Amdt. 6; Mar. 3, 1982]

CIVIL AERONAUTICS BOARD

Notice of addition of closed items to the March 4, 1982 meeting.

TIME AND DATE: 10 a.m., March 4, 1982.

PLACE: Room 1027 (open), Room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 43. Discussion on the Upcoming Negotiations with Japan. (BIA)

44. Discussion on Saudi Arabia—Recent Developments. (BIA)

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

[S-328-82 Filed 3-5-82; 2:13 pm]

BILLING CODE 6320-01-M

3

CONSUMER PRODUCT SAFETY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVISION ANNOUNCEMENT: 47 FR 9630.

PREVIOUELY ANNOUNCED TIME AND DATE OF THE MEETING: March 10, 1982, 9:30 a.m.

CHANGES IN THE MEETING: Previous items 1 and 3 have been deleted from the Agenda. Previous item 1 concerning chain saws was addressed at the March 3, 1982 scheduled briefing. Previous item 3 concerning indoor air quality is tentatively scheduled for consideration at the March 31, 1982 Commission meeting. In addition, the Commission has added enforcement matter 092010 to its Agenda for March 10, 1982 for consideration in closed session.

[S-329-82 Filed 3-5-82; 12:42 pm]

BILLING CODE 6355-01-M

4

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, March 11, 1982, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* Radio Technical Commission for Marine Services (RTCM). *Summary:* The Commission sponsors the RTCM. As part of the program reductions mandated by the current budget, it is proposed to terminate sponsorship at the end of FY 82.

2—*Title:* Amendment of Section 2.806 of marketing rules (Gen. Docket 81-463). *Summary:* The Commission considers the matter of amending Section 2.806 to clarify the exemption from marketing restrictions to allow operation of computing equipment prior to a determination of compliance.

Issued: March 4, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

Agenda, Item No., and Subject

Private Radio—1—*Title:* Report and Order terminating the Notice of Inquiry in General Docket 78-250 and dismissing RM-2567 and RM-3138. *Summary:* The Commission will consider whether to adopt a Report and Order terminating General Docket 78-250 and dismissing RM-2567 and RM-3138. Docket 78-250 contained a Notice of Inquiry into the administration of telegraphy exams to handicapped applicants for amateur radio operator licenses. RM-2567 proposes rule changes regarding telegraphy exams for deaf applicants. RM-3138 proposes elimination of telegraphy requirements and the telegraphy subbands.

Common Carrier—1—*Title: Western Union Telegraph Company,* Revisions to Tariffs FCC Nos. 260, 252, 258, 260, 263 and 269—Restructuring of Telex and TWX Services (Docket No. 78-97). *Summary:* The FCC will consider applications for review and a petition for reconsideration of the Common Carrier Bureau's order denying petitions to reject or suspend distance insensitive or "postalized" tariff rates. Also to be considered are two motions involving Docket No. 78-97 (*Telex/TWX Investigation*). One seeks enlargement of the investigation and rescission of the ALJ's interim prescription of charges for outbound international traffic. The other requests termination of phase II of the investigation which deals solely with the

2—Application for Review of *New York Telephone Co. (Transmittal No. 550),* Mimeo No. 003011, released August 21, 1981. American Satellite Company seeks review of order entered under delegated authority by Chief, Common Carrier Bureau denying petitions to reject. Commission must consider whether two-year statute of limitations in Communications Act § 415(a) applies to tariff filings.

3—*Title:* American Telephone and Telegraph Company—Offer of Facilities to Other Common Carriers *Summary:* The Commission will consider questions raised by Court's decision in *MCI Telecommunications Corporation* v. *FCC,* No. 80-1624, DC Circuit, September 24, 1981.

Cable Television—1—"Petition for Partial Reconsideration" (CSR-1763) filed January 22, 1981, by WNNE-TV, Inc. WNNE-TV, Inc., licensee of Station WNNE-TV (NBC, Channel 31), Hanover, New Hampshire, seeks partial reconsideration of the Commission's opinion in *Northern New England Television* (WNNE-TV) (Hanover, New Hampshire), FCC 80-721, 83 FCC 2d 418 [1980].

Renewal—1—*Title:* License Renewal Applications of Certain Broadcast Stations Serving the Chicago Metropolitan Area. *Summary:* The Commission considers a petition to deny an informal objection by the Latino Committee on the Media, which challenges the renewal of licenses for 27 stations located within the Chicago metropolitan area, based on allegedly deficient employment practices regarding Hispanics.

Aural—1—*Subject:* Memorandum Opinion and Order in repetition for review filed by ICBC Corporation, New York, New York. *Summary:* The Commission considers whether the Broadcast Bureau erred in

declining to waive Section 73.37(a) so as to accept for filing the applicant's request to change frequencies and operate on an unlimited time basis.

Broadcast—1—*Title:* Request of Mrs. Titilola Payne, construction permittee of translator K43AD, Channel 43, Knoxville, Tennessee, for Special Temporary Authority to originate local programming and operate a teletext service; application of Expo International Broadcasters, Inc. (Expo), for an experimental station, on Channel 7, Knoxville, Tennessee. *Summary:* The proposed Order considers Mrs. Payne's request for Special Temporary Authority and considers allegations raised by South Central Broadcasting and Tennessee Telecasting, Inc., that: (a) Expo's proposal violates the purpose of the Experimental Rules, (b) Expo's application is inconsistent with other applications filed by Expo's President, (c) Expo's President's other broadcast interests cast doubt on the bona fides of Expo's proposal, (d) Expo's programming is not unique or necessary, (e) Expo's application is incomplete, and (f) applicant is not financially qualified to be a Commission licensee.

2—*Title:* Amendment of Form 324, Annual Financial Report of Broadcast Stations. *Subject:* The Commission will review § 73.3611 of its Rules, the annual financial report, and consider whether to expand, reduce or eliminate the report.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

[S-353-82 Filed 3-5-82; 11:20 am]

BILLING CODE 6712-01-M

5

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will consider this additional item on the subject listed below at the Closed Meeting scheduled for Thursday, March 11, 1982, following the Open Meeting which is scheduled to commence at 9:30 A.M., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

General—1—Headquarters Relocation.

This item is closed to the public because it concerns Permature Disclosure matters (See 47 CFR 0.603(i)).

The following persons are expected to attend: Commissioners and their Assistants, Managing Director and members of his staff, General Counsel and members of his staff, Chief, Office of Public Affairs and members of his staff.

Action by the Commission March 4, 1982: Commissioners Fowler, Chairman; Quello, Washburn, Fogarty, Jones, Dawson and Rivera voting to consider this item in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: March 4, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-354-82 Filed 3-5-82; 11:20 am]

BILLING CODE 6712-01-M

6

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold a Closed Meeting on the subject listed below on Thursday, March 11, 1982, following the Open Meeting which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1—Applications for Review in the Gulf Coast Communications, Inc., Tampa, Florida Public Coast III–B Maritime Mobile Radio proceeding. (PR Docket No. 78–259–60).

This item is closed to the public because it concerns adjudicatory matters (See 47 CFR 0.603(j)).

The following persons are expected to attend: Commissioners and their Assistants, General Counsel and members of his staff, Managing Director and members of his staff, Chief, Office of Public Affairs and members of his staff.

Action by the Commission January 13, 1982. Commissioners Fowler, Chairman; Quello, Washburn, Fogarty, Jones, Dawson and Rivera voting to consider this item in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be optained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: March 4, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-355-82 Filed 3-5-82; 11:21 am]

BILLING CODE 6712-01-M

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FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 3:15 P.M., Friday, March 5, 1982.

PLACE: Board Room, 6th Floor, 1700 G St., NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6679).

MATTERS TO BE CONSIDERED: The following regulations are to be on the special board meeting.

Amendment of Regulations Regarding Charter Conversion for Supervisory Purposes.

FSLIC Insurance Coverage of Deferred Compensation Plans Sponsored by State and Local Governments.

Employment Contracts and Compensation.

Manufactured Mobil Home Loans.

No. 17, March 5, 1982.

[S-357-82 Filed 3-5-82; 1:06 pm]

BILLING CODE 6720-01-M

8

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [To be published].

STATUS: Open/closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, February 22, 1982.

CHANGES IN THE MEETING: Deletion/additional items.

The following item was not considered at an open meeting scheduled for Wednesday, March 3, 1982:

Consideration of whether to propose for public comment Rule 17f–5 under the Investment Company Act of 1940 which would permit a management investment company to authorize a qualified bank custodian or sub-custodian to place and maintain the company's foreign securities in foreign banks and foreign securities depositories under certain conditions. For further information, please contact Elizabeth K. Norsworthy at (202) 272–2020.

The following items will not be considered at a closed meeting scheduled for Thursday, March 4, 1982, at 10:00 a.m.:

Freedom of Information Act appeal.

Access to investigative files by Federal, State, or Self-Regulatory authorities.

The following were considered at a closed meeting scheduled on February 9, February 24, and March 3, 1982:

Regulatory matters bearing enforcement implications.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Diane Klinke at (202) 272–2178.

March 4, 1982.

[S-352-82 Filed 3-5-82; 10:47 am]

BILLING CODE 6710-01-M

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federal register

Tuesday
March 9, 1982

Part II

Department of Defense

Office of the Secretary

Enlisted Administrative Separations; Final Rule

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 41

[DOD Directive 1332.14]

Enlisted Administrative Separations

AGENCY: Office of the Secretary, DOD.

ACTION: Amendment to final rule.

SUMMARY: This part, appearing in 46 FR 9571, January 16, 1981, is being revised to include as reason for separation, provisions on drug abuse. Immediate implementation is necessary to conform to DOD policy and implementing documents of the Military Departments. This part will continue to be used for administrative separation proceedings initiated on or before September 30, 1982.

EFFECTIVE DATE: January 28, 1982.

FOR FURTHER INFORMATION CONTACT: Colonel John L. Fugh, USA, Office of the Deputy Assistant Secretary of Defense (Military Personnel and Force Management), the Pentagon, Room 3D283, Washington, D.C. 20301; telephone 202–697–3387.

SUPPLEMENTARY INFORMATION: A complete revision of this part is published elsewhere in this part II. The complete revision will apply to separation proceedings initiated on or after October 1, 1982. For the information of the public, the relevant provisions of the Deputy Secretary of Defense Memorandum, "Alcohol and Drug Abuse," December 28, 1981, are as follows:

Urine Testing Procedures

"*Section 1. General Guidance.* Urinalysis for the purpose of testing for controlled substances may be used for a number of distinct purposes. First, it may be used to identify personnel for referral to counseling, treatment, and rehabilitation programs. Second, it may be used as evidence in actions under the Uniform Code of Military Justice in accordance with Section 2. Evidence of drug abuse that is produced in such tests also may be used in administrative actions as provided in this Enclosure.

"*Section 2. Guidelines for Use of Urinalysis for Drug Testing.*

"a. Mandatory urinalysis testing for controlled substances may be conducted during—

"(1) An inspection under Military Rule of Evidence 313;

"(2) A search or seizure under Military Rules of Evidence 311–317;

"(3) An examination for a valid medical purpose under Military Rule of Evidence 312(f) to determine a member's fitness for duty; to ascertain whether a member requires counseling, treatment, or rehabilitation for drug abuse; or in conjunction with a member's participation in a DOD drug treatment and rehabilitation program; or

"(4) Any other examination for a valid medical purpose under Military Rule of Evidence 312(f).

"b. Subject to limitations in Section 3, the results of mandatory urinalysis may be used to refer a member to a DOD treatment and rehabilitation program, to take appropriate disciplinary action, and to establish the basis for a separation and characterization in a separation proceeding in accordance with DOD Directives 1332.14 and 1332.30. The results of mandatory urinalysis may be used in other administrative determinations except as otherwise limited in this Enclosure or under rules issued by the Department of Defense or the military departments.

"Section 3. *Limitations on Use of Urinalysis Results.*

"a. Results obtained from urinalysis under Section 2.a.(3) may not be used against the member in actions under the Uniform Code of Military Justice and on the issue of characterization in separation proceedings.

"b. A member's voluntary submission to a DOD treatment and rehabilitation program, and evidence provided voluntarily by the member as part of initial entry into such a program, may not be used against the member in an action under the Uniform Code of Military Justice or on the issue of characterization in a separation proceeding.

"c. Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any drug abuse prevention function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States may not be introduced against the patient in a court-martial except as authorized by a court order issued under the standards set forth in 21 U.S.C. 1175(b)(2)(C).

"d. The limitations in this Section do not apply to—

"(1) The introduction of evidence for impeachment or rebuttal purposes in any proceeding in which the evidence of drug abuse (or lack thereof) has been first introduced by the member; and

"(2) Disciplinary or other action based on independently derived evidence, including evidence of drug abuse after initial entry into the treatment and rehabilitation program.".

PART 41—ENLISTED ADMINISTRATIVE SEPARATION

Accordingly, 32 CFR Part 41 is amended as follows:

1. In § 41.7, paragraphs (f) and (i)(6) are revised to read as follows:

§ 41.7 Reason for separation.

* * * * *

(f) *Personal abuse of drugs other than alcoholic beverages.* Discharge with an honorable discharge, or general discharge as warranted by the member's military record, when based on evidence developed as a direct or indirect result of a urinalysis test administered for identification of drug abusers, or by a member's volunteering for treatment for a drug problem under the Drug Identification and Treatment Program administered by his or her particular Armed Force, and:

(1) Member's record indicates lack of potential for continued military service; or

(2) Long-term rehabilitation is determined necessary and member is transferred to a Veteran's Administration or civilian medical facility for rehabilitation; or

(3) Member has failed, through inability or refusal, to participate in, cooperate in, or complete a drug abuse treatment and rehabilitation program.

Note.—Nothing in this section precludes separation under any other provision of this Part in appropriate cases involving a member who has been identified through urinalysis or who has volunteered for treatment, subject to the limitations on characterization in the Deputy Secretary of Defense memorandum, "Alcohol and Drug Abuse," dated December 28, 1981.

* * * * *

(i) * * *

(6) Drug abuse, which is the illegal, wrongful, or improper use, possession, sale, transfer or introduction on a military installation of any narcotic substance, intoxicating inhaled substance, marijuana, or controlled substance, as established by 21 U.S.C. 812, subject to the limitations on characterization in the Deputy Secretary of Defense Memorandum, "Alcohol and Drug Abuse," dated December 28, 1981.

* * * * *

(Title 10, U.S.C. 1162, 1163, 1169, 1170, 1172, and 1173)

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

March 3, 1982.

[FR Doc. 82-6278 Filed 3-8-82; 8:45 am]

BILLING CODE 3810-01-M

32 CFR Part 41

[DOD Directive 1332.14]

Enlisted Administrative Separations

AGENCY: Office of the Secretary, DOD.

ACTION: Final rule.

SUMMARY: This rule is being reissued to provide guidance to the Military Departments, including the Reserve Components thereof, on enlisted administration separation policy. It provides reasons for separation, standards for separation and characterization of service, and procedures for separation.

EFFECTIVE DATE: October 1, 1982.

ADDRESS: Copies of DOD Directive 1332.14 may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

FOR FURTHER INFORMATION CONTACT: Colonel John L. Fugh, USA, Office of the Deputy Assistant Secretary of Defense (Military Personnel and Force Management), the Pentagon, Room 3D823, Washington, D.C. 20301, telephone 202–697–3387.

SUPPLEMENTARY INFORMATION: In FR Doc. 81–17882, appearing in the **Federal Register** on June 17, 1981 (46 FR 31663), the Office of the Secretary of Defense published a proposed rule to revise DOD Directive 1332.14, Enlisted Administrative Separations. The Supplementary Information accompanying the proposed rule described the prior history of this rule.

In response to the notice of proposed rulemaking, DOD received comments from 12 different organizations and individuals. Each comment was reviewed with care. A number of changes were made in the proposed rule as a direct result of comments submitted by the public. Other changes were made as a result of the Department's overall reexamination of the proposed rule in light of the comments. The primary factors considered in evaluating the public comments are set forth in the following material in the Sectional Analysis.

The comments generally reacted favorably to the format, style, and clarity of the proposed rule. Several comments suggested the need for further clarification of the rule, and the final rule reflects the Department's efforts in this regard.

One comment suggested that the Department issue operational guidance for each section of the rule. The operational guidance will be provided by the Military Departments in their implementing documents. As a further means of insuring that operational problems under the final rule are addressed in a timely matter, the final rule delegates authority to modify or supplement the Enclosures to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).

Specific comments were directed at a number of substantive and procedural provisions of the proposed rule, and these matters are discussed in the Sectional Analysis, below.

The reissuance applies to all enlisted administrative separations initiated on or after October 1, 1982. In addition, a separate amendment to the current directive has been issued which is applicable to separation proceedings as provided in the implementing documents of the military departments. The separate amendment which is published elsewhere in this Part II, concerns separations involving drug abuse, and is consistent with treatment of drug abuse in the new rule. Immediate implementation is necessary to conform separation policy to the Deputy Secretary of Defense Memorandum, "Alcohol and Drug Abuse," December 28, 1981. The separate amendment and the Deputy Secretary of Defense Memorandum are published elsewhere in this Part II.

The Supplementary Information and the Sectional Analysis contained herein are intended only to improve the internal management of the federal government, and are not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

Sectional Analysis of the Final Rule

DOD Directive 1332.14, 32 CFR Part 41

Section 41.1. Reissuance and purpose. This is taken from § 41.1 of the proposed rule.

Section 41.2. Applicability and scope. This is taken from § 41.2 of the proposed rule with minor changes in terminology. In addition, the final rule deletes the references to the Coast Guard. The final rule will be applicable to the Coast Guard only when that service comes under the direct control of the Department of the Navy.

Section 41.3. Policy. This is taken from § 41.3 of the proposed rule. The final rule provides further detail, with particular emphasis on both the importance of the honorable service and the concept that military service is a calling different from any civilian occupation.

Section 41.4. Responsibilities. 1. *The Secretaries of the Military Departments* (§ 41.4(a)). This subsection, which is new, assigns the responsibility for consistency in separation policy to the Secretaries of the Military Departments. The goal of consistency is limited by the phrase "to the extent practicable in a system that is based on command discretion." This limitation reflects the fact that separation policy is but one aspect of the Department's overall military personnel and force management policies. These policies give commanders the personnel tools needed to meet their readiness requirements. One of the primary features of military personnel policy is the grant of wide discretion to commanders in deciding upon appropriate actions, ranging from reprimands to courts-martial, in dealing with personnel problems. Absolute consistency in disposition of separation cases would be an illusory goal in view of the size of our armed forces, the variety of missions, and the diverse characteristics of different units and commanders. Moreover, a requirement of absolute consistency would unduly constrain the degree of discretion that must be provided to individual commanders to manage their units on the basis of first-hand knowledge of personnel and mission requirements. Subject to the foregoing considerations, there is a substantial potential for consistency in the application of separation policies. General requirements can guide the exercise of discretion by commanders in the use of separation policy, and can provide members facing separation with a set of basic procedural rights. This Directive provides for substantial consistency among the Military Departments in this regard, and the Secretaries of the Military Departments are charged with the responsibility of furthering the goal of consistency within their departments.

a. *Processing goals* (§ 41.4(a)(1)). This is similar to § 41.4(c) of the proposed rule, with minor changes in terminology.

b. *Periodic explanations* (§ 41.4(a)(2)). This is taken from § 41.4(a) of the proposed rule. The final rule adds a reference to the bar to Veterans Administration benefits in Pub. L. No. 97–66 (38 U.S.C. 3103).

c. *Provision of information during separation processing* (§ 41.4(a)(3)). This is taken from § 41.4(b) of the proposed rule, with minor changes in terminology. One comment noted that it was unclear whether the written information provided to the members upon separation would include notice about the Discharge Review Boards and Boards for Correction of Military Records. The final rule has been rewritten to make it clear that the written information should pertain to all the matters covered in this subsection. Another comment suggested that the same information be mailed to the former member a year after separation. This comment was rejected in view of the administrative burden and costs of providing information to the tens of thousands of persons separated each year, when such information would duplicate the material provided upon separation.

2. *The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics)* (§ 41.4(b)). This is taken from § 41.4(d) of the proposed rule, and has

been revised to allow a Deputy Assistant Secretary of Defense to establish reporting requirements for reasons for separation.

Section 41.5. Effective date and implementation. This section is new, and provides guidance to the Military Departments as to when to apply the new directive to separation proceedings. The October 1, 1982 date of application to new proceedings is designed to provide sufficient time for implementation.

Section 41.6. Definitions. The definitions appear in § 41.5 of the proposed rule. The final rule deletes the definition of "counsel," which appeared in § 41.5(h) of the proposed rule, because the definition was substantially procedural. *See* Sections B.1.f and C.1.d. of Appendix A, Part 3, in the final rule. The definition of "noncommissioned officer," which appeared in § 41.5(j) of the proposed rule, has been deleted as unnecessary in the final rule. The definitions in the final rule are discussed below.

Section 41.6(a). Member. This is taken from the proposed rule (§ 41.5(a)).

Section 41.6(b). Discharge. This is similar to the definition in the current directive. The final rule modifies the proposed rule (§ 41.5(b)) to make it clear that a discharge does not sever military status when such status was acquired during unrelated enlistment that was not terminated by a discharge.

Section 41.6(c). Release from active duty. This is taken from the proposed rule (§ 41.5(c)).

Section 41.6(d). Separation. The final rule modifies the proposed rule (§ 41.5(d)) to note that the term "separation" includes changes in military status similar to those matters listed expressly in the definition of separation.

Section 41.6(e). Military Record. This definition embodies the traditional concept that all aspects of an individual's conduct, including conduct while in an off-duty status, may be reflected in the member's military record. The final rule is taken from the proposed rule (§ 41.5(e)).

Section 41.6(f). Separation Authority. This is taken without change from the first sentence of the definition in the proposed rule (§ 41.5(f)). The second sentence of the proposed rule is embodied in the definition of the Convening Authority (Section G).

Section 41.6(g). Convening Authority. This definition, which is new, is taken from the second sentence in the definition of "Separation Authority" in the proposed rule (§ 41.5(f)). The definition provides flexibility when the Separation Authority is located in a centralized headquarters, while the primary responsibility for processing the action rests with a subordinate commander who is otherwise qualified to act as a Separation Authority.

Section 41.6(h). Respondent. This is taken from the proposed rule (§ 41.5(g)).

Section 41.6(i). Entry level status. The final rule modifies the proposed rule (§ 41.5(i)) by adding to the definition the period of assignment to a reserve component prior to active military service.

Appendix A, Standards and Procedures. The Table of Contents is new and is designed to enhance the clarity of the directive.

Part 1, Reasons for Separation. The reasons for separation appear in § 41.6 of the proposed rule. The final rule is similar to the proposed rule, with changes listed below. The new rule substantially changes the current directive by providing greater detail under each reason for separation as to the basis for separation, guidance as to characterization of service or description of separation, counseling requirements (if any), and procedural limitations.

One comment inquired as to whether the new rule repealed by implication any grounds for separation or characterization set forth in the current directive or implementing instructions of the Military Departments. The answer is no. The new rule represents a substantial revision of the terms, standards, and procedures applicable to separation and charaterization. Many grounds for separation in the old rule have been subsumed under different categories in the new rule; other grounds have not been changed, but the standards and procedures applicable to separation or characterization have been revised. The fact that an item from the old rule has been omitted from the new rule should not be taken as a suggestion that the underlying circumstances of military service that might have resulted in separation under the old rule would not support a separation under the new rule. For example, the term "unsuitability" no longer is used as a reason for separation, but the circumstances which provided a basis for an unsuitability separation under the old rule might provide a basis for separation under the new rule for Convenience of the Government, Entry Level Performance and Conduct, Unsatisfactory Performance, Alcohol Abuse Rehabilitation Failure, or Misconduct, depending on the facts of the case and the standards set forth in the new rule. Likewise, although an item in the new rule did not appear in the old rule, the new rule may represent a codification of grounds for separation implicit in the old rule. *See, e.g.,* Appendix A, Part 1, section G (Unsatisfactory Performance). The only limitations on separation or characterization are those that are provided expressly in the new rule.

A. *Expiration of Service Obligation.* This is similar to § 41.6(a)(1)(i) of the proposed rule. The proposed rule listed this reason in conjunction with similar changes in military status which are now listed in Section B of Appendix A. The expiration of Service Obligation has been listed as a separate reason to highlight its place at the benchmark from which all other reasons for separation are measured.

The service of a member separated at the expiration of a term of service normally will be characterized as Honorable. There are circumstances, however, in which characterization of service as General (under honorable conditions) is warranted when significant negative aspects of the member's conduct or performance of duty outweigh positive aspects of the member's military record. Such a characterization is authorized under this reason only when based on a formal rating system.

B. *Selected Changes in Service Obligation.* The reasons listed in this section involve those circumstances in which the term of service has been shortened for reasons directly related to changes in military status. These reasons are substantially similar to expiration of service obligation for purposes of characterization. The final rule is taken from § 41.6(a)(1) (ii)–(v) of the proposed rule, with the addition of a provision on interservice transfer of inactive reserves.

C. *Convenience of the Government.* This section, which is taken from § 41.6(b) of the proposed rule with changes, lists those reasons in which various personal circumstances render it desirable to terminate a member's service for the convenience of the government. In addition, Section C.4.h. has been revised to make it clear that separation for personality disorder is not appropriate if separation is warranted under any other provision of the directive, such as Unsatisfactory Performance or Misconduct. This is in furtherance of the general policy of the new rule that separation actions generally should be based upon the command's observations concerning performance and conduct rather than determinations outside the chain of command. At the same time, experience has demonstrated that there are circumstances in which various physical and mental conditions not amounting to disability potentially interfere with performance of duty, and provide a basis for separation before such problems directly affect performance of conduct. Section C.4.h. provides the basis for separation in such cases.

In response to public comments suggesting that psychologists should be authorized to determine the existence of personality disorders, section C.4.h. of the final rule has been amended to permit both psychologists and psychiatrists to make such determinations. In addition, a specific reference to counseling requirements has been included in that section for purposes of clarity.

One comment interpreted the proposed rule as implying that the Department assumed that homosexuality is a personality disorder. Section C.4.h. has been rewritten to preclude such a misinterpretation. Another comment suggested that the rule specify whether section C.4.h. permits separation for venereal disease. Rather than provide such detail in the overall Directive, section C.4.h. requires that the Military Departments designate specific grounds for separation under this provision based upon their particular requirements and experiences.

With respect to character of service, one comment opposed that portion of the proposed rule that would permit issuance of a General Discharge to a person separated for personality disorder. Under the final rule, a person separated during the first six months of active service on the basis of a personality disorder under section C.4.h. will receive an Entry Level Separation. *See* section C.3.a. of Part 2. After six months of service, the member will have established a sufficient record to warrant characterization of service. If an Honorable characterization is warranted, it will be issued. A record that otherwise warrants a characterization as General (under honorable conditions) under section C.2. of Part 2, should not be characterized as Honorable simply because the individual was separated on the grounds of a personality disorder. It is appropriate, however, to take physical and mental condition into account when assessing character of service under section C. of Part 2, and the relationship between a personality disorder and the member's record is an appropriate consideration when characterizing service upon separation for personality disorder.

The rule permits characterization of service as General (under honorable conditions) upon separation for Convenience of the Government (section C) or Disability (section D) based upon a formal, periodic rating system without further notice at separation. One comment suggested that the rule require opportunities to challenge such ratings. Only the Navy and the Marine Corps employ such a system at this time, and they provide appropriate means for challenging ratings. No further guidance from the Department of Defense is needed at this time. Another comment suggested that the full Notification Procedure (section B., Part 3) be required when characterization of service as General (under honorable conditions) is based on such ratings. This comment was rejected because the member is adequately informed of the rating scheme, the requirements for an Honorable characterization, and periodic scores prior to separation. In that context, the full Notification Procedure is unnecessary, particularly in view of the adequate opportunities available to the member for challenging ratings.

D. *Disability.* This is taken from § 41.6(c) of the proposed rule.

E. *Defective Enlistments and Inductions.* 1. *Minority.* This is taken from the proposed rule (§ 41.6(d)(2)) with a minor modification referencing the statutory basis for separation.

2. *Erroneous.* This is taken from the proposed rule (§ 41.6(d)(2)) with minor changes in terminology to reference the standards on separation in section A. of Part 2 and to conform to the revisions in the Notification Procedure with respect to counseling and rehabilitation requirements. *See* Chapter 5, section B. of Part 3.

3. *Defective enlistment agreements.* This section is taken from § 41.6(d)(3) of the proposed rule, and reflects Department of Defense policy described during congressional consideration of the Department of Defense Authorization Act, 1980, Pub. L. No. 96–107, title VIII, 801(a), 93 Stat. 810 (1979) (amending Art. 2, Uniform Code of Military Justice, 10 U.S.C. 802, concerning jurisdiction over persons). *See Amendments to Articles 2 and 36, Uniform Code of Military Justice;* Hearings before the *Military Personnel Subcommittee of* the House *Committee on Armed Services,* 96th Cong., 1st Session 11–13 (1979) (Letter from Deanne C. Siemer, General Counsel, U.S. Department of Defense, to Rep. Richard C. White, Chairman, Subcommittee on Military Personnel, June 25, 1979); H.R. Rep. No. 512, 96th Congress, 1st Session 51 (1979).

4. *Fraudulent entry into military services.* The final rule adopts the proposed rule (§ 41.6(d)(4)), with a reference to the standards for separation in section A. of Part 2. It also provides further detail as to the suspension of separation and separation for homosexuality when fraudulent entry is at issue.

Two comments noted the need to clarify the relationship between separation for homosexuality and separation for fraudulent enlistment. The final rule makes it clear that when the enlistment involved a misrepresentation as to homosexuality that amounts to a fraudulent enlistment, the basis for separation is fraudulent enlistment; however, the procedural requirements for separations based on homosexuality are applicable.

One comment recommended that the rule preclude characterization of service Under Other Than Honorable Conditions when the fraudulent enlistment involves a misrepresentation as to homosexuality because such concealment involved a desire to serve the country. The Department rejected this recommendation because there are likely to be cases in which the primary motivation to conceal a disqualifying matter (homosexuality or other disqualification) stems from considerations other than patriotism. It would not be desirable to establish rigid limitations on characterization in such circumstances. Instead, the question of motivation for the fraudulent enlistment is one of the factors that may be considered on the issue of characterization under the guidance in section C. of Part 2.

F. *Entry Level Performance and Conduct.* The final rule is taken from the proposed rule (§ 41.6(e)), with changes to reflect the fact that certain members in entry level status may be assigned to operational units rather than training units. In addition, the final rule refers to the standards for separation in section A. of Part 2, and expressly sets forth counseling and rehabilitation requirements.

G. *Unsatisfactory performance.* The final rule is taken from the proposed rule (§ 41.6(f)) with several changes. First, the reference to "inability or lack of reasonable effort" as part of the basis has been eliminated. Although such factors may be relevant to the issue of characterization or efforts at rehabilitation, the basis for separation is the objective manifestation of unsatisfactory performance. Second, the final rule expressly references the standards for separation in Section A. of Part 2. Third, the counseling and rehabilitation language (incorporated from § 41.6(b)(1) of the proposed rule) has been supplemented to make it clear

that military service is a calling difference from any civilian occupation; it is not a job that an individual can quit, nor is separation necessarily appropriate at the first manifestation of unsatisfactory performance; rather, military service entails an obligation to serve, and the Military Departments are charged with the responsibility for requiring individuals to fulfill that obligation.

One comment stated that separation for unsatisfactory performance is inappropriate for persons who are unacceptable "through no fault of their own." This comment was based upon the premise that the term "unsatisfactory performance" is a mere recharacterization of the term "unsuitability" in the current directive. This premise is incorrect. The term "unsuitability" in the current directive refers to an individual, regardless of time in service, who is determined to be "unsuitable for further military service" because of various deficiencies (personality disorder, alcohol abuse, unsanitary habits, financial irresponsibility, apathy, defective attitudes, inability to expend effort constructively, and inaptitude.) The term "unsatisfactory performance" represents a different approach to separation policy. The new rule focuses solely on the performance of those who have completed at least six months of active duty. Military commanders, Board members, and Separation Authorities are trained in making judgments as to the adequacy of military performance and the potential for further military service. By concentrating on performance rather than the various items listed in the current directive, the new rule is more likely to produce consistency in the application of separation policies. Moreover, by precluding use of this reason for members in entry level status, the new rule will insure that persons who are unacceptable by reason of inability to adapt to military environment will be separated under a different provision of the directive. *See* section F. (Entry Level Performance and Conduct). Finally, the new rule provides sufficient means to address individual circumstances related to performance. Such matters are appropriate for consideration in assessing rehabilitative efforts under subsection G.2. Factors such as age, aptitude and physical or mental condition are appropriate matters for consideration on the issue of characterization under section C. of Part 2.

Another comment suggested that characterization of service as General (under honorable conditions) should not be permitted when the unsatisfactory performance is caused by inability. This comment overlooks the fact that a person who is separated because of inability to perform during the first six months of active duty will receive an Entry Level Separation, not a characterization of service. *See* section F. By contrast, a member who has completed six months of active duty has demonstrated a minimum ability to perform in the military environment, and has established a record of service that permits characterization. If characterization of service as General (under honorable conditions) is warranted on the basis of that record, characterization of service as Honorable should not be mandated simply because the reason for separation is Unsatisfactory Performance whether or not resulting from inability. The effect of aptitude on the reason for separation is not necessarily the same as the effect of aptitude on the character of service prior to separation. It would be inappropriate to establish a rigid requirement for characterization as Honorable in all cases in which the Unsatisfactory Performance of a person with more than six months active duty is affected by inaptitude. The new rule, however, expressly permits consideration of aptitude as a factor bearing on the issue of characterization. *See* section C. of Part 2.

A third comment suggested that the term "unsatisfactory" is unnecessarily pejorative when the reason for unsatisfactory performance is inability. It is not the intent of the Department to take action for pejorative purposes. The primary purpose of the Directive is to provide clear guidance to the Military Departments for incorporation in their implementing documents. Resort to euphemisms would increase the possibility of misinterpretation and misapplication of policy in the field. Cases involving unsatisfactory performance are not readily grouped into separate categories that pertain solely to inability, lack of reasonable effort, or other specific problems; rather, such cases often involve a combination of factors. What is of primary interest to the Department is clear guidance in cases involving an objective manifestation of unsatisfactory performance. Creation of a separate category for cases in which inability was a factor would diminish the clarity of the new rule.

H. *Homosexuality.* The final rule is taken from the proposed rule (§ 41.6(g)) with several changes. First, subsection H.2., relating to characterization of service Under Other Than Honorable Conditions has been changed by expressly requiring consideration of the guidance in section C. of Part 2. Second, the reference in the proposed rule to exemption from counseling and rehabilitation requirements (§ 41.6(g)(3)(ii)) has been deleted as unnecessary. Under the final rule, counseling and rehabilitation requirements have been deleted from the Notification Procedure (section B. of Part 3) and the Administrative Board Procedure (section C. of Part 3), and are applicable only to the extent expressly referenced under specific reasons for separation.

Several public comments expressed disagreement with the listing of homosexuality as a reason for separation. This reason for separation reflects the traditional position of the Department of Defense. The final rule reaffirms the collective judgment of the civilian and military leadership as to the necessity for this reason for separation. In view of the concerns that have been raised at various times, the rule provides greater discussion of the basis for the policy, and greater description of procedural rights, than is provided for any other reason for separation.

Another comment objected to the fact that the definition of homosexual includes a person who desires to engage in or intends to engage in homosexual acts. (Section H.1.b.(1)). These items are included because a person who, by conduct or statements, demonstrates a propensity to engage in homosexual acts, has an adverse impact on the armed forces. *See* section H.1.a.

Several comments suggested that greater detail be provided on the issue of characterization of service in cases involving homosexuality (section H.2), including suggestions that the characterization be Honorable in most cases. Elsewhere, the final rule contains modifications of the general guidance on characterization which will apply to all reasons for separation, including homosexuality. *See* section C. of Part 2. As a further protection, the rule sets forth specific limitations as to when service may be characterized Under Other Than Honorable Conditions when separation is based upon homosexuality (section H.2.). In view of the many variables that affect characterization of service as Honorable, General (under honorable conditions), and Under Other Than Honorable Conditions, however, it would not be desirable to set forth further restrictions. The guidance in section C. of Part 2. provides ample latitude to issue a character of service

determination that is appropriate to each case.

Several comments criticized the listing of grounds for characterization Under Other Than Honorable Conditions (section H.2., second sentence). The primary concern expressed in these comments was that this provision treats homosexual conduct more harshly than other forms of illegal conduct. These comments fail to recognize that the listing of circumstances in section H.2. provides an important procedural protection because it expressly limits the grounds on characterization set forth in section C. of Part 2 that apply to other reasons for separation. The final rule makes it clear that characterization Under Other Than Honorable Conditions cannot be issued unless two conditions are met: (1) There is a finding that the conduct falls into the circumstances listed in section H.2.; and (2) characterization of service Under Other Than Honorable Conditions is warranted in the specific case under the guidance in section C. of Part 2.

One comment suggested that the proposed rule was unclear as to the type of findings required. Under the final rule, findings are required on the following matters: (1) Homosexuality (section H.1.c.); (2) the factual circumstances raising the authority to characterize service Under Other Than Honorable Conditions (section H.2., subsections (a)–(g)); and (3) the limited circumstances authorizing retention if raised by the respondent or relied upon by the Board or Separation Authority (section H.3.f.).

Other comments noted a potential lack of clarity regarding the relationship between homosexuality and fraudulent enlistment as reasons for separation. The changes made in the final rule on this matter are discussed above with respect to section E.4. (Fraudulent Entry into Military Service).

Another comment suggested that homosexuality be placed under a broader section such as Convenience of the Government on the basis of "the simple right of privacy and the improperly prejudicial use of this description in society * * *." This was rejected because even under Convenience of the Government, homosexuality would have to be separately identified as a subordinate reason in order to provide the guidance necessary to the proper application of separation policies.

I. *Drug Abuse Rehabilitation Failure.* The final rule is taken from the proposed rule (§ 41.6(h)), with a number of changes. First, the proposed rule, which dealt with both drug and alcohol rehabilitation, has been divided into separate sections for drug and alcohol (see section J. below with respect to alcohol rehabilitation failures). Second, the final rule provides greater detail in section I.1.a. regarding the basis for rehabilitation failure as a means of providing improved guidance. Third, section I.1.b. has been revised to provide a clear statement on the authority to separate a member who has been referred to a rehabilitation program under other provisions of this directive. Fourth, the discussion of characterization in section I.2. has been modified to provide cross-references to the limitations in cases involving voluntary submission or mandatory urinalysis.

One comment stated that the potential for a characterization of service as General (under honorable conditions) would be detrimental to the goals of treatment. The Department takes the opposite view: A mandatory Honorable characterization would be contrary to the goals of treatment because it would provide an easy means to avoid both the service obligation and the rehabilitation program without making a reasonable effort. Moreover, a mandatory Honorable characterization would be inconsistent with the concept of basing characterization at the time of separation upon character of service. The comment also suggested that it would be improper to characterize a separation after a voluntary submission or positive urinalysis that was not preceded by a self-incrimination warning under Article 31, UCMJ, or probable cause. There is no legal requirement for Article 31 warnings with respect to voluntary submission for treatment. Moreover, the implementing documents will establish clear policy that failure to complete the program will result in separation, and that a characterization of service determination will be made at the time of separation. With respect to urinalysis, the Military Rules of Evidence do not limit the range of permissible intrusions to those based on probable cause. So long as the intrusions are consistent with the guidance from the Secretary of Defense and the Military Departments, there is no limitation on the use of urinalysis results on the issue of characterization. *See* section C.2.c(7) of Part 2.

Another comment suggested that this reason be placed under a broader reason, such as Convenience of the Government, "to minimize the impact on privacy." The suggestion was not adopted. Even under Convenience of the Government, it would be listed as a subordinate reason in order to provide the guidance necessary to the proper application of separation policies.

J. *Alcohol Abuse Rehabilitation Failure.* As noted with respect to section I. above, this provision was combined with Drug Abuse Rehabilitation Failure in the proposed rule. Although the treatment and rehabilitation issues are similar to those involving drug abuse, there are certain differences in evidentiary and procedural considerations because drug abuse involves criminal activity. It was determined that clearer guidance could be provided by listing this as a separate reason.

K. *Misconduct.* The final rule is taken from the proposed rule (§ 41.6(i)) with a number of changes. A new category entitled "minor disciplinary infractions" has been added to permit a more detailed description of the relationship between Misconduct and Entry Level Performance and Conduct as reasons for separation. The category entitled "A pattern of misconduct," which has been retained from the proposed rule, includes minor disciplinary infractions as well as other offenses.

The category entitled "Commission of a serious offense" has been amended to remove the prohibition on separations where former jeopardy would have precluded a trial by court-martial, which had been in § 41.6(i)(1)(B)(3) of the proposed rule. No such limitation exists in the current directive. Upon further review, it was deleted for the following reasons. In a court-martial, the court determines whether a criminal offense has been committed and, if so, an appropriate punishment. The court-martial has no power to separate an individual for an administrative reason; nor can it make an administrative character of service determination. The power of a court-martial in this regard is limited to imposition of a punishment in the form of a bad-conduct or dishonorable discharge. A court-martial cannot order a separation or characterize service as Honorable, General (under honorable conditions), or Under Other Than Honorable Conditions even if the members of the court-material believe that such action would be in the best interests of the Service. Accordingly, the determination by a court-martial that an individual convicted of an offense should receive, *e.g.*, confinement without a punitive discharge, does not represent a judgment as to whether the member should be retained in service or separated with a characterization of service as Honorable, General, or Under Other Than Honorable Conditions.

An administrative separation proceeding involves issues that are different from those before a court-martial. The first question in an administrative proceeding is whether the individual committed the act of misconduct; the second question is whether the act, in light of the factors in section A. of Part 2 warrants separation from service (regardless of characterization); the third question involves the characterization of service as Honorable, General (under honorable conditions), or (Under Other Than Honorable Conditions) under the guidance of section C. of Part 2. The character of service determination is not a form of punishment, but is an administrative personnel action. The directive contains important safeguards to insure that this authority is used fairly. Section A.3.a. of Part 2 precludes separation for misconduct (even with an Honorable characterization) when the conduct has been the subject of prior federal judicial proceedings resulting in acquittal. When the sole basis for separation is conduct that resulted in conviction by a court-martial that did not impose a bad-conduct or dishonorable discharge, section C.2.c. (4) of Part 2 precludes characterization Under Other Than Honorable Conditions except when approved by the Secretary concerned. An absolute bar on separation for an offense that resulted in a court-martial conviction would unnecessarily mix administrative and criminal justice concepts.

A prohibition on separation based upon conviction by court-martial would lead to anomalous results. For example, it would be incongruous if the directive permitted separation of a member sentenced by a civilian court to six months confinement (section K.1.a.(4)), but precluded separation of a member who received the same punishment for the same offense in the military justice system. Likewise, it would be incongruous if the directive permitted misconduct to be considered on the issue of characterization for other reasons for separation, but required an Honorable characterization when the member is separated on the basis of a serious offense. A court-martial conviction should not bar a commander from initiating a separation proceeding, and the judgment of conviction by a court-martial is an appropriate matter for consideration on the issue of characterization.

In section K.1.a.(4), (civilian conviction) the reference to actions "tantamount to a finding of guilty" includes pleas of nolo contendere and actions that are subject to being expunged based on factors unrelated to guilt or innocence. In the final rule, the minimum period of civilian confinement which may for the basis for separation has been reduced from one year to six months in order to provide flexibility when such circumstances impact on personnel assignment policy. In this regard, it is noted that this provision does not require separation upon civilian conviction; rather, the initiation of separation proceedings is a command decision based upon the circumstances of the case, and the decision as to separation must be made under the factors set forth in Section A. of Part 2.

A new subsection (K.1.b) has been added to detail reporting requirements. At a minimum, the reporting categories under each of the four reasons in section K.1.a. will be "drug abuse," "unauthorized absence," and "all other."

The matter set forth in the second sentence of § 41.6(i)(1)(ii) of the proposed rule has been moved to Section K.1.a.(1) of the final rule.

The guidance on characterization of the proposed rule (§ 41.6(i)(2)) has been revised in the final rule (Section K.3.) to distinguish more clearly among the various characterizations in the context of misconduct.

The guidance on counseling and rehabilitation in the final rule (section K.2.) is taken from §§ 41.6(i)(3)(ii) and 41.6(c)(1) of the proposed rule, with minor modifications.

The procedural requirements in the final rule (section K.4.) are taken from § 41.6(i)(3) of the proposed rule, with minor changes to conform to the other changes discussed above.

One comment inquired as to whether misconduct consists solely of criminal offenses. The answer is no. Misconduct consists of offenses under the Uniform Code of Military Justice and civilian offenses. In addition, it consists of minor disciplinary infractions, discreditable involvement with civil or military authorities, and conduct prejudicial to good order and discipline regardless of whether such actions are subject to UCMJ jurisdiction or otherwise meet the technical requirements of pleading and proof for civilian or military offenses.

Several comments suggested that it is improper to permit separation for misconduct on the basis of conduct that is triable by courts-martial. The Department does not agree. The purpose of a court-martial is to determine whether a member has committed a criminal offense, and, if so, what is an appropriate punishment. The purpose of an administrative separation proceeding for misconduct is to determine whether an individual has committed an act of misconduct (which may or may not constitute an offense under the UCMJ); if so, whether the member should be separated on the basis of the act and other aspects of the service record; and, if separation is warranted, what is an appropriate characterization of service. The administrative action does not entail the possibility of confinement, a criminal conviction, or a bad-conduct or dishonorable discharge. The determination as to whether administrative separation proceedings should be initiated is a matter of command discretion related to personnel management considerations that are substantially different from the disciplinary considerations that enter into a judgment as to whether court-martial proceedings should be initiated.

One comment suggested that greater detail be provided as to the number and type of actions that would support separation for a pattern of misconduct (section K.1.a.(1),(2)). Under the rule such actions may be based on counseling statements, adverse administrative action, non-judicial punishment, court-martial, and similar actions. In view of the variety of considerations that might affect the relationship between the type of misconduct and the standards for separation in section A., it was determined that further guidance would not be useful.

With respect to separation on the basis of a serious offense (section K.1.a.(3)), one comment expressed concern that this provision would be applied whenever a punitive discharge would be authorized for the same or a closely related offense under the Manual for Court-Martial. The comment noted that the seriousness of an offense is not necessarily measured by the theoretical possibility of a punitive discharge. The rule does not state that the mere possibility of a bad-conduct discharge for an act of misconduct is the sole measure of the seriousness of an offense. The rule requires that there also be a determination that the "specific circumstances of the offense warrant separation * * *" (section K.1.a.(3)(a)). In addition, the rule requires a determination "under the guidance set forth in section A. of Part 2 that the member is unqualified for further military service * * *." These requirements are sufficient to demonstrate that the reference to punitive discharge offenses in section K.1.a.(3)(a) merely establishes the minimum level of "seriousness," and does not require separation unless such action is otherwise warranted under the tests established by the rule.

Another comment opposed characterization of service Under Other Than Honorable Conditions when the basis for separation is a civilian conviction (section K.1.a.(4)). This comment was rejected because such a conviction is an appropriate part of the member's military record. However, the rule permits the member to demonstrate that the conduct did not adversely affect his or her military service. *See* Part 2, section C.2.a.(2). Moreover, the rule does not mandate characterization Under Other Than Honorable Conditions; a more favorable characterization may be issued when appropriate under the standards in the rule. *See* section K.3 and section C. of Part 2.

One comment inquired as to whether the rule eliminated from consideration in misconduct proceedings the types of conduct forming the basis for misconduct separations under the current directive. The answer is no; any conduct that could form the basis for separation under the current directive may be considered on the issue of misconduct under the new rule. The new rule, however, establishes several different tests with respect to a "pattern" or "seriousness" of offenses, and provides detailed guidance on the issue of separation in section A. of Part 2. Accordingly, although there is no difference between the new rule and old rule as to the types of conduct that may be considered under misconduct, the question of retention or separation involves a somewhat different set of considerations.

L. *Separation in Lieu of Trial by Court-Martial.* The final rule is taken from the proposed rule (§ 41.6(j)), with several changes. The basis has been changed to require a determination that separation is warranted under the standards in section A. of Part 2. The guidelines on characterization have been revised to conform to the guidelines under Section K. (Misconduct). The procedures have been changed to provide the Military Departments with latitude in determining whether the request should include acknowledgment of guilt or evidence in support of the charges (or both).

Several comments recommended that the provisions of the Uniform Code of Military Justice apply to such separations in lieu of trial by court-martial. These comments were rejected in view of the differences between UCMJ proceedings and administrative separations, particularly in that the latter do not involve the possibility of confinement or a criminal conviction. One comment suggested that the separation file contain a statement of the Government's evidence rather than an admission of guilt by the individual. The final rule partially incorporates this by permitting the military Departments to determine whether the request for separation should include a statement of guilt, material concerning the evidence supporting the charges, or both.

Several comments expressed concern over the possibility that this authority might be misused when the circumstances would warrant separation or characterization of service as General (under honorable conditions) of Under Other Than Honorable Conditions. One such comment recommended that such requests be reviewed by a military judge or military magistrate. Such a diversion of military justice personnel into administrative matters was deemed unnecessary, particularly because the final rule establishes a number of safeguards not contained in the current directive. Charges must be preferred, the member must be afforded the opportunity to consult with counsel qualified under the UCMJ, the counsel must sign the request, the request must contain information reflecting the respondent's understanding of the charges and the consequences, and the request must contain an acknowledgment of guilt or material concerning the evidence (or both). In addition, if the sole basis for the request involves minor offenses in which a punitive discharge would be warranted only under the "escalator clause" of the Manual for Courts-Martial, this provision may not be used unless the charges have been referred to trial. In short, the procedures are designed to insure that the authority is used only when voluntarily invoked by the accused and qualified counsel. Moreover, the separation authority also must determine that separation is warranted under the standards section A. of Part 2. These guidelines represent significant improvements over the old rule and are designed to promote appropriate use of this procedure for administrative purposes.

M. *Security.* The final rule is taken from the proposed rule (§ 41.6(k)) with minor changes in terminology to conform to other changes in the final rule.

N. *Unsatisfactory Participation in the Ready Reserve.* The final rule is taken from the proposed rule (§ 41.6(l)) with minor changes in terminology, and section N. 3 has been changed to conform to the procedural rights generally applicable to other reasons for separation.

O. *Secretarial Plenary Authority.* The final rule is taken from the proposed rule (§ 41.6(m)), with minor changes in terminology. The exemption from counseling requirements, which was contained in the proposed rule, has been eliminated as unnecessary in view of the structure of the final rule (which limits counseling and rehabilitation requirements to those reasons for separation that expressly include such provisions). The basis for separation has been modified to make it clear that the limitations applicable to other reasons for separation do not apply to the Secretarial Plenary Authority.

One comment suggested that characterization as General (under honorable conditions) should not be permitted without an Administrative Board hearing. The rule requires adequate notice and an opportunity to respond through incorporation of the Notification Procedure. *See* section B.2. of Part 3. The question of whether a Board hearing should be a prerequisite for characterization of service as General (under honorable conditions) is discussed below in connection with section C. of Part 2.

P. *Reasons Established by the Military Department.* The final rule is taken from § 41.6(n) of the proposed rule, with minor changes in terminology. The section on counseling and rehabilitation has been added to conform to the change of format in the final rule.

Part 2, Guidelines on Separation and Characterization

The final rule changes the title that appeared in the proposed rule (§ 41.7) in the interests of clarity and brevity.

A. *Separation.* The final rule is taken from § 41.7(a) of the proposed rule, with the changes noted below.

1. *Scope.* This is taken from § 41.7(a)(2)(i) of the proposed rule, and has been rewritten to make it clear that the guidance in this section applies only to the extent that this section is referenced in Part 1.

2. *Guidance.* This is taken from § 41.7(a)(1) and § 41.7(a)(2) of the proposed rule, with minor changes in terminology.

3. *Limitations on separation actions.* This is taken from §41.7(a)(3) of the proposed rule, but has been substantially rewritten to clarify the circumstances in which matter considered in a previous proceeding may be used in a subsequent separation action. One comment suggested that there be an absolute bar on consideration of matter from a previous proceeding in which there was a

determination that a member should be retained. The final rule generally prohibits use of such evidence, but does not establish an absolute bar. Two examples illustrate this position. In the first example, assume that an Administrative Board determines that the evidence did not sustain an allegation with respect to a specific incident in a misconduct proceeding. The final rule precludes use of that conduct in a subsequent separation proceeding unless the finding was obtained by fraud. In the second example, assume that an Administrative Board determined that the evidence sustained an allegation that such misconduct occurred, but the Board recommended retention on the basis of other aspects of the member's record; subsequently, the member engaged in a pattern of misconduct, and was processed for separation. In the former example, the Board determined that there was insufficient evidence to support a finding as to the occurrence of the incident of misconduct. In the latter example, however, the Board entered a finding that the incident of misconduct did occur. In such a case, there is no reason to exclude consideration of the previous finding of misconduct in a subsequent action.

B. *Suspension of Separation.* The final rule is taken from § 41.7(b) of the proposed rule, with minor changes in the grounds for vacation of suspension and the requirement for legal review. One comment recommended that a Board hearing be provided prior to vacation of a suspended separation. The final rule provides notice, counsel, and an opportunity to respond. These provisions are sufficient to protect the interests of members facing execution of a previously approved separation.

C. *Characterization or Description of Service.* The final rule is taken from the proposed rule (§ 41.7(c)), with the changes noted below.

1. *Types of characterization or description.* This is taken from § 41.7(c)(1)(i) of the proposed rule. The title has been rewritten to make it clear that the term "characterization" pertains to characterization of the entire record of service at the time of separation, not simply characterization of the fact of separation. Characterization of service involves more than simply reflecting the reason for separation; it entails an evaluation of the member's entire record while a member of the service. Conforming changes have been made throughout the rule.

Section 41.7(c)(1)(i)(D) of the proposed rule (Separation from the Delayed Entry Program) has been deleted as a description of separation. This subject is covered in the new rule under section C.3.a(4) of Part 2.

A number of comments reflected misunderstanding of the relationship between the issues of separation from service and characterization of service. These comments viewed characterization as a means of punishing a member for circumstances that occasioned the separation. This is not correct. The issue of separation is directed solely at the administrative decision as to whether the individual should remain a member of the armed forces, regardless of characterization. The issue of characterization does not arise until a decision has been made to separate. At the time of separation, a determination is made as to character of service. This determination is made regardless of whether the separation is voluntary or involuntary, and regardless of whether it is because a member has completed successfully a term of service or whether the member is separated for cause (*e.g.*, Misconduct). The character of service determination reflects the entire period of enlistment, including both positive and negative aspects of the member's record, *see* section C. of Part 2. The reason for separation is just one factor that is considered on the issue of characterization, although in some cases it may be of such importance as to be the dominant factor as to the character of service. *See* subsection C.2. of Part 2. As noted above, the final rule has been revised throughout to make it clear that the issue of characterization involves a character of service determination, and is not a means of characterizing the fact of separation.

Several comments recommended elimination of the practice of characterizing service. The Department does not agree. Characterization of service is a traditional aspect of military personnel policy, and is designed to enhance morale, performance, and discipline by providing an appropriate recognition of service. In addition, characterization of service is relied upon by the Department, other agencies, and Congress in a variety of matters involving military service.

Other comments suggested various modifications of the present system, primarily focussing on a "two-tier" (*e.g.*, Honorable and Other Than Honorable) system. The Department believes that the present system provides appropriate distinctions between various types of service. The middle-tier in the present three-tiered system is the characterization of service as General (under honorable conditions). The Department has retained this characterization as a means of recognizing honorable service by members whose records do not warrant an Honorable Discharge, but whose service to the nation generally has been honest and faithful.

The new rule provides for several descriptions of separation not found in the current directive, particularly the Entry Level Separation. Most of the comments reacted favorably to the concept of generally not characterizing service of persons separated during the first six months of active duty, although some comments expressed concern that the new description might cause some public confusion. The Department believes that the new policy will strengthen the concept of characterization. The new rule will remove the requirement for characterization when the period of service has been too brief to establish the character of service; absent specific circumstances in which a basis for characterization has been established. *See* section C.3.a.

2. *Characterization of service.* a. *General considerations.* This is taken from the proposed rule (41.7(c)(2)(i)) with several changes. A sentence has been added to subparagraph C.2.a.(2) to set forth the procedure for determining whether conduct in the civilian community should be considered on the issue of characterization with respect to a member on active duty or active duty for training. An additional sentence has been added to section C.2.a.(3) to make it clear that the reason for separation may be considered on the issue of characterization, although a single incident normally will not be the basis for characterization. Subparagraph C.2.a.(4) has been amended to provide expressly that standards of conduct and performance, as well as physical and mental condition, may be considered in conjunction with the other factors specified in that provision on the issue of characterization.

Several comments suggested that conduct in the civilian community should not be considered on the issue of characterization except when such conduct has some adverse impact on the military service or the member's service. The rule provides that conduct in the civilian community considered on the issue of characterization must be service discrediting or prejudicial to good order and discipline. Subparagraph C.2.a.(2). These standards are consistent with the opinion in *Roslofs v. Secretary of the Air Force*, 628 F. 2d. 594 (D.C. Cir. 1980), which was cited in the comments.

b. *Types of characterization.* This is taken from § 41.7(c)(2)(ii) of the proposed rule. The standard for

characterization of service as Honorable has been amended to conform to the changes in the guidance on characterization upon completion of an obligated term of service. *See* section A. of Part 1, above. The guidance on characterization of service as General (under honorable conditions) has been amended by deleting the references to age, length of service, grade, and aptitude. These factors are listed under the guidance applicable to all characterizations (section C.2.a.(4)), and it would be confusing to repeat these matters again. In addition, the reference to a rating system has been deleted as redundant. The standards for characterization of service Under Other Than Honorable Conditions have been amended to provide more detailed guidance.

Several comments suggested that the guidance in the proposed rule was insufficient to produce uniformity in characterization. Uniformity is an important consideration in separation policy, but it must be viewed in the context of other important interests. Separation policy is applied tens of thousands of times each year by military personnel in widely disparate circumstances. Differing missions, requirements, and responsibilities produce a wide variety of factors that impact on the decision to separate and on the characterization of service. In addition, the factors applicable to individual members involve countless variations. There is an inherent tension between the goal of uniformity and the need to address individual cases according to individual circumstances. The amendments to this Section, as well as the guidance on characterization in Enclosure 3, Part 1, balance these considerations by establishing specific restrictions, along with general guidance applicable to all cases. The rule is designed to insure that in each case, the decisionmaker will consider the factors that have a direct bearing on the issue of characterization. Through this process, the rule produces uniformity of procedure on the issue of characterization.

Another comment commended the improved guidance, but suggested that separate findings on characterization be required when service is characterized as General (under honorable conditions) or Under Other Than Honorable Conditions. Such findings are provided by the Discharge Review Boards under 32 CFR Part 70 (DOD Directive 1332.28) and it is not necessary to provide for the same action in this rule.

c. *Limitations on characterization.* This is taken from § 41.7(c)(2)(iii) of the proposed rule, with several changes. The limitation on consideration of preservice activities on the issue of characterization (subparagraph C.2.c.(2)) has been revised to make it clear that the only exception is for proceedings involving fraudulent entry. The prohibition in subparagraph C.2.c.(3) on consideration of acts relied upon in previous proceedings has been revised to parallel the prohibitions that apply to consideration of such matters on the issue of separation in subsection A.3. A new provision (subparagraph C.2.c.(4)) has been added governing characterization when the sole basis for separation is an offense that resulted in conviction by court-martial (whether or not empowered to impose a punitive discharge.) The matters at issue in a separation proceedings are not identical to those involved in a court-martial. There are cases in which a court-martial—which does not have the power to impose an administrative discharge—does not impose a punitive discharge, but the command believes that administrative separation is in the best interest of the service. In such cases, it would be inconsistent with the purposes of characterization to preclude consideration of the court-martial. *See* the discussion of Part 1, section K. above. In order to insure that this authority is handled with proper discretion, the new provision requires approval by the Secretary concerned in any such case in which service is characterized Under Other Than Honorable Conditions.

Two additional provisions (subparagraphs C.2.c. (6), (7)) have been added to implement the Department's change in policy on urinalysis and drug treatment, as set forth in the Deputy Secretary of Defense Memorandum, "Alcohol and Drug Abuse," December 28, 1981. *See United States* v. *Armstrong*, 9 M.J. 374 (C.M.A. 1980).

One comment on this section suggested that the limitation on consideration of prior courts-martial apply to characterization of service as General (under honorable conditions). This has been accommodated in the change to subparagraph C.2.c.(3) discussed above. Another comment criticized the fact that discharge characterization could be based upon matters considered by a court-martial. Matters considered by a court-martial that did not result in acquittal (or a decision having the same effect) are appropriate aspects of the service record for consideration on the issue of characterization for the reasons set forth in the discussion of Part 1, section K. A different comment suggested that the exception to the general prohibition on consideration of preservice conduct in § 41.7(c)(2)(iii)(B) the proposed rule was unclear and unduly harsh if it involved recruiter misconduct. The new rule (subparagraph C.2.c.(2)) has been revised as described above. Because the final rule limits consideration to cases involving fraudulent entry—a traditional element of the service record—consideration of the fraud is appropriate on the issue of characterization. The existence of recruiter misconduct is an appropriate matter for consideration in assessing of character of service, but it should not be the sole consideration.

Several comments noted that the opportunity to request an Administrative Separation Board, which is applicable to characterizations Under Other Than Honorable Conditions under Subparagraphs C.2.b(3)(b), should also apply to characterization of service as General (under honorable conditions). The new rule greatly expands the rights of all persons facing involuntary separation, including those involving characterization of service as General (under honorable conditions), by establishing a detailed Notification Procedure, section B. of Part 3. This procedure also permits a person with six or more years of service to request an Administrative Board regardless of characterization. Characterization of service as General (under honorable conditions) includes a statement that the member has served under honorable conditions. The additional administrative requirements of an Administrative Board are not necessary to provide appropriate procedural protections for personnel with less than six years of service whose service is characterized under honorable conditions. Requiring a Board in every such case would be contrary to the best interests of the armed forces in providing for timely processing of administrative separations.

3. *Uncharacterized Service.* a. *Entry Level Separation.* This is taken from § 41.7(c)(3) of the proposed rule. Subparagraph C.3.a.(2) has been added to permit limited delegation of the authority to characterize service as Honorable with respect to persons in operational units who are in Entry Level Status. This delegation is not likely to be used except in combat operations or othe special circumstances. The material in subparagraphs C.3.a.(3)–(4) has been modified. Because the Entry Level Separation is new, there is a need to set forth its relationship to various statutory and administrative matters related to characterization. The amended sections permit flexibility favorable to the

member when the Entry Level Separation is considered for such purposes, except when a statutory or administrative matter expressly requires different treatment of an Entry Level Separation. The sole exception is an Entry Level Separation from the Delayed Entry Program. Because this is a separation from a Reserve Component without an Administrative Board, this will be considered to be a separation under honorable conditions in view of the requirements of 10 U.S.C. 1163.

b. *Void enlistments or inductions.* This is taken from §41.7(c)(4) of the proposed rule. The final rule deletes the reference in the proposed rule to enlistments of persons under age 18 without parental consent. This conforms to Part 1, paragraph E.1.b., which calls for an Entry Level Separation for 17 year-olds in such circumstances. One comment objected to that portion of the rule which adopts the criteria for construction enlistment in 10 U.S.C. 802 (Article 2 of the UCMJ). The Department's implementation, however, reflectes congressional intent.

c. *Dropping from the rolls.* This is taken from §41.7(c)(5) of the proposed rule, with minor changes in terminology to conform to other aspects of the final rule.

Part 3, Procedures for Separation

This part is taken from §41.8 of the proposed rule, with the changes set forth below.

A. *Scope.* This is taken from §41.8(a) of the proposed rule. Subsection 1 has been rewritten to clarify the relationship between the procedures in Part 3 and the procedures required under specific reasons for separation in Part 1. Subsection 2 has been added to describe the procedural requirements when a member is being processed for separation for multiple reasons.

B. *Notification Procedure.* This is taken from §41.8(b) of the proposed rule, with the changes noted below. The general reference to counseling and rehabilitation requirements in § 41.8(b)(1) of the proposed rule has been deleted. The final rule has specific counseling and rehabilitation requirements under designated reasons for separation in Part 1 of Appendix A. This change is designed to give counseling and rehabilitation requirements greater visibility as part of the goal of reducing unnecessary attrition.

1. *Notice.* This is taken from §41.8(b)(2) of the proposed rule with minor changes in terminology. In addition, the material related to counsel has been expanded in conjunction with the elimination of the definition of counsel from Enclosure 2. The right to request a board (regardless of characterization) has been reivsed by eliminating the reference to noncommissioned officers and by reducing the time in service requirement from 8 years to 6 years. The rule also sets forth the right to request documents concerning the basis for the proposed action. If such documents are classified, a summary may be provided to the respondent.

One comment suggested that all persons facing involuntary separation have the right to request an Administrative Board. The new rule greatly expands procedural requirements for persons facing involuntary separation, and reduces the amount of time in service required before a member is eligible to request a board, as described above. As noted in the discussion of characterization of service (Part 2, section C.), the procedures established in this section provide greater protection than given in the past for persons facing separation under honorable conditions, and it would be contrary to the best interest of the armed forces to establish additional requirements for junior personnel separated under such circumstances. Another comment noted the importance of access to documents that will be used as the basis for the proposed separation, and the final rule clarifies the respondent's right to such matter.

With respect to the question of waiver, one comment suggested involvement of a "neutral magistrate" to preclude unwarranted waivers by "immature" members. This is not necessary under the new rule, which provides for more detailed notice as to the nature of the waiver than the old rule, and requires that the respondent have the opportunity to consult with counsel before executing a waiver, regardless of characterization of separation. The respondent's counsel is the appropriate person to provide guidance as to the advisability of a waiver, and the Separation Authority is the appropriate official to review such a waiver. Introduction of a third party between the counsel and the Separation Authority would produce delay in the process without a clear benefit to either the servicemember or the separation process.

One comment recommended that respondent have the right to consult with a lawyer. The final rule permits the respondent to consult with civilian counsel retained at the member's own expense, and further authorizes the provision of military counsel at no expense to the member. Such military counsel must be a judge advocate, with limited exceptions set forth in the rule for circumstances in which judge advocates are not available.

2. *Additional Notice Requirements.* This is taken from § 41.8(b)(3) of the proposed rule, with minor changes in terminology.

3. *Response.* This is taken from § 41.8(b)(4) of the proposed rule. An additional sentence has been added to make it clear that an extension in the time for a response may be granted upon a timely showing of good cause. Several comments suggested that the requirement to provide the respondent with at least two days for preparation of a response was insufficient. These comments overlooked the fact that the rule requires that the respondent be provided with "a reasonable period of time" to act on the notice, and that the reference to two working days in the rule is merely a minimum. In order to deal with potential problems, the rule has been modified to provide for extensions upon a showing of good cause, as described above.

Other comments recommended deletion of that aspect of the rule which specifies that failure to exercise the rights provided therein constitutes a waiver. The final rule provides the applicant with detailed notice, counsel, a reasonable period of time to act on the notice, and an opportunity to obtain an extension of time to act on the notice upon showing a good cause. The rule further requires that the respondent and counsel sign any decision as to election of rights. When the respondent declines to respond, a notation to that effect will be made. If the respondent has been provided with a reasonable period of time and does not have a good cause for inaction, then the failure to respond on the part of the respondent should not act as vehicle for unwarranted delaying tactics.

4. *Separation Authority.* This is taken from § 41.8(b)(5) of the proposed rule. The proposed rule has been modified to permit this authority to be exercised by commanding officers in grade O–5 and above who are not special court-martial convening authorities under circumstances approved by the Assistant Secretary of Defense (MRA&L) (Subsection 4.a.). In addition, the proposed rule has been amended to delete the repetitive reference to the standard of evidence. The evidentiary standard is applicable to the proof of factual allegations, which is covered in subsection 4.c. The action of the Separation Authority on the issues of separation and characterization is a matter of discretion. One comment recommended that a more rigorous evidentiary standard than a preponderance should apply on the grounds that this is a quasi-criminal proceeding. The Department rejects the view that this administrative procedure is quasi-criminal. As noted in the discussion of Part 1, the proceeding involves three separate considerations: Are the allegations accurate; if so, should the member be separated or retained; and if separated, what has been the member's character of service. These matters are solely of an administrative nature. The proceedings do not impose any criminal or quasi-criminal punishment, and the sole purpose of the proceedings is to further the military personnel and force management policies of the Department of Defense. Moreover, the preponderance standard is higher than is required for many administrative actions.

C. *Administrative Board Procedure.* This is taken from § 41.8(c) of the proposed rule. The references to counseling and rehabilitation have been deleted for the reasons set forth above in the discussion of the Notification Procedure (section B). A number of the comments as to notice, opportunity to respond, and standard of proof were applicable to both the Notification Procedure (section B.) and the Administrative Board Procedure (this section). These comments were considered separately with respect to each procedure, with full recognition of the differences between the Notification Procedure and the Administrative Board Procedure. The discussion of comments below is directed on matters not previously noted in this analysis with respect to the Notification Procedure.

1. *Notice.* This is taken from § 41.8(c)(2) of the proposed rule, with minor changes in terminology. In addition, the material related to counsel has been expanded in conjunction with the elimination of the term "counsel" from the definitions (§ 41.6). The rule also sets forth the right to request documents, as explained in the discussion of this matter with respect to the Notification Procedure (paragraph B.1.d.).

2. *Additional Notice Requirements.* This is taken from § 41.8(c)(3) of the proposed rule with minor changes in terminology.

3. *Response.* This is taken from § 41.8(c)(4) of the proposed rules with changes similar to those discussed under the Notification Procedure (subsection B.3).

4. *Waiver.* This is taken from § 41.8(c)(5) of the proposed rule with minor changes in terminology. One comment expressed concern that the conditional waiver could lead to lack of uniformity, and could prompt a member to opt for characterization of service as General (under honorable conditions) even though the member believed characterization as Honorable would be more appropriate. This comment overlooks the fact that a conditional waiver can produce characterization of service as Honorable, as well as General. Moreover, elimination of the conditional waiver would preclude servicemembers from gaining the benefit of the procedure in close cases where a full board hearing might result in a recommendation for a less favorable characterization than that resulting from the conditional waiver. The Secretaries of the Military Departments will monitor this authority to ensure appropriate use.

5. *Hearing Procedure.* This is taken from § 41.8(c)(6) of the proposed rule with minor changes in terminology to conform to changes in parallel aspects of the Notification Procedure (section B.). The duties of the Separation Authority have been moved to subsection C.6., which is discussed below. The guidance on production of witnesses (paragraph C.5.c.) has been revised. The rights of the respondent (paragraph C.5.f.) have been set forth as a separate paragraph. The guidance on findings and recommendations (paragraph C.5.g.) has been rewritten in the interests of clarity and to specify that the evidentiary standard applies to factual allegations; the recommendations are a matter of discretion.

One comment recommended that removal of the limitation that enlisted members of the Board be in grade E–7 or higher on the grounds that no such limitation exists under the UCMJ. Actions under the UCMJ, however, are in the nature of criminal justice proceedings, whereas separation board actions are an aspect of personnel management. As such, it is appropriate that only senior noncommissioned officers be appointed to the Boards in order to ensure that Board members possess the appropriate degree of experience in personnel matters.

Two comments suggested greater reliance on live testimony than is provided by the rule. The rule gives the respondent considerable latitude in obtaining live testimony, and has reasonable restrictions with respect to production of witnesses at government expense, i.e., military personnel or government employees who are not located at same place as the hearing. The requirement for legal advice on witness requests is designed to ensure fair application of these restrictions. Another comment recommended provision of a verbatim transcript or tape recording in every case involving characterization of service under other than honorable conditions. A transcript requirement would impose undesirable delays and expenditures in the separation process, and a tape recording would not necessarily produce a meaningful record of the proceeding without a reporter's transcription. The rule leaves this matter for determination by the Military Departments.

One comment recommended that the Board be required to make specific findings and give reasons as to why a better form of characterization was not given to the respondent (e.g., when the respondent receives a characterization of service as General (under honorable conditions) or Under Other Than Honorable Conditions). The Board's function is to make findings on the factual allegations and to recommend action as to retention and characterization. The question of characterization involves an evaluation of the entire service record. The Separation Authority traditionally has been free to disregard the Board's recommendations on characterization in order to approve the same or a more favorable characterization (but not a less favorable characterization). The Discharge Review Board, acting under 32 CFR Part 70 (DOD Directive 1332.28) may approve the same or more favorable characterization as that approved by the Separation Authority, but the Discharge Review Board must give findings and reasons for its actions. This process provides an appropriate means for allowing comprehensive review of the service record at all stages, and ensures that the respondent can obtain findings and reasons on the issue of characterization if he so requested from the Discharge Review Board without the risk of obtaining a less favorable characterization upon such a request.

6. *Separation Authority.* This is taken from § 41.8(c)(6)(vij) of the proposed rule, with minor changes in terminology to conform to other related aspects of the final rule. The requirement for legal review has been revised to state that such review is not required unless the respondent specifies legal issues for consideration or the case involves characterization of service under other than honorable conditions. Section 41.8(c)(6)(vii)(E) of the proposed rule, relating to limitations on former proceedings, has been deleted. This subject is covered in Part 2, subsection A.3. of the final rule.

D. *Additional provisions concerning members confined by civil authorities.*

This is taken from § 41.6(d) of the proposed rule with minor changes in terminology.

E. *Additional requirements for certain members of Reserve Components.* This is taken from § 41.8(e) of the proposed rule with minor changes in terminology. One comment recommended that reservists facing an Administrative Board be allowed to have the Board near their homes or be provided a sufficient period of time to arrange for attendance. These are matters which the member should address in the response to the notice under subsection C.3., and are appropriate for consideration as to whether the member has established good cause for delay under that section. The decision, however, rests with the sound discretion of the Convening Authority.

F. *Additional requirements for members beyond military control by reason of unauthorized absence.* This is taken from § 41.8(f) of the proposed rule with minor changes in terminology.

The existing 32 CFR Part 41 (46 FR 9571) and the change thereto, published in this Part II, shall continue to be used for administrative separation proceedings initiated on or before September 30, 1982.

Accordingly, 32 CFR Part 41 is revised to apply for administrative separation proceedings initiated on or after October 1, 1982, and reads as follows:

PART 41—ENLISTED ADMINISTRATIVE SEPARATIONS

Sec.

41.1 Purpose.
41.2 Applicability and scope.
41.3 Policy.
41.4 Responsibilities.
41.5 Effective date and implementation.
41.6 Definitions.
Appendix A Standards and Procedures

Authority: Title 10, U.S.C. 1162, 1163, 1169, 1170, 1172, and 1173.

§ 41.1 Purpose.

This Part establishes policies, standards, and procedures governing the administrative separation of enlisted members from the Military Services.

§ 41.2 Applicability and scope.

The provisions of this part apply to Office of the Secretary of Defense and the Military Departments (including their reserve components). The term "Military Services," as used herein, refers to the Army, Navy, Air Force and Marine Corps.

§ 41.3 Policy.

(a) It is the policy of the Department of Defense to promote the readiness of the Military Services by maintaining high standards of conduct and performance. Separation policy promotes the readiness of the Military Services by providing an orderly means to:

(1) Ensure that the Military Services are served by individuals capable of meeting required standards of duty performance and discipline;

(2) Maintain standards of performance and conduct through characterization of service in a system that emphasizes the importance of honorable service;

(3) Achieve authorized force levels and grade distributions; and

(4) Provide for the orderly administrative separation of enlisted personnel in a variety of circumstances.

(b) DOD separation policy is designed to strengthen the concept that military service is a calling different from any civilian occupation.

(1) The acquisition of military status, whether through enlistment or induction, involves a commitment to the United States, the service, and one's fellow citizens and servicemembers to complete successfully a period of obligated service. Early separation for failure to meet required standards of performance or discipline represents a failure to fulfill that commitment.

(2) Millions of Americans from diverse backgrounds and with a wide variety of aptitudes and attitudes upon entering military service have served successfully in the armed forces. It is the policy of the Department of Defense to provide servicemembers with the training, motivation, and professional leadership that inspires the dedicated enlisted member to emulate his or her predecessors and peers in meeting required standards of performance and discipline.

(3) The Military Services make a substantial investment in training, time, equipment, and related expenses when persons are enlisted or inducted into military service. Separation prior to completion of an obligated period of service is wasteful because it results in loss of this investment and generates a requirement for increased accession. Consequently, attrition is an issue of significant concern at all levels of responsibility within the armed forces. Reasonable efforts should be made to identify enlisted members who exhibit a likelihood for early separation, and to improve their chances for retention through counseling, retraining, and rehabilitation prior to initiation of separation proceedings. Enlisted members who do not demonstrate potential for further military service should be separated in order to avoid the high costs in terms of pay, administrative efforts, degradation of morale, and substandard mission performance that are associated with retention of enlisted members who do not conform to required standards of discipline and performance despite efforts at counseling, retraining, or rehabilitation.

(c) Standards and procedures for implementation of these policies are set forth in Appendix A to this part.

§ 41.4 Responsibilities.

(a) The *Secretaries of the Military Departments* shall prescribe implementing documents to ensure that the policies, standards, and procedures set forth in this part are administered in a manner that provides consistency in separation policy to the extent practicable in a system that is based on command discretion. The implementing documents also shall address the following matters:

(1) *Processing goals.* The Secretary concerned shall establish processing time goals for the types of administrative separations authorized by this part. Such goals shall be designed to further the efficient administration of the armed forces and shall be measured from the date of notification to the date of separation. Normally such goals should not exceed 15 working days for the Notification Procedure (Part 3, section B., Appendix A) and 50 working days for the Administrative Board Procedure (Part 3, section C., Appendix A) Goals for shorter processing times are encouraged, particularly for cases in which expeditious action is likely. Variations may be established for complex cases or cases in which the Separation Authority is not located on the same facility as the respondent. The goals, and a program for monitoring effectiveness, shall be set forth in the implementing document of the Military Department. Failure to process an administrative separation within the prescribed goal for processing times shall not create a bar to separation or characterization.

(2) *Periodic explanations.* The Secretary concerned shall prescribe appropriate internal procedures for periodic explanation to enlisted members of the types of separations, the basis for their issuance, the possible effects of various actions upon reenlistment, civilian employment, veterans' benefits, and related matters, and the effects of 10 U.S.C. 977 and Pub. L. No. 97-66, concerning denial of certain benefits to members who fail to complete at least 2 years of an original enlistment. Such explanation may be provided in the form of a written fact sheet or similar document. The periodic explanation shall take place at least each time the provisions of the Uniform Code of Military Justice (UCMJ) are explained pursuant to Article 137 of the UCMJ. The requirement that the effects of the various types of separations be explained to enlisted members is a command responsibility, not a procedural entitlement. Failure on the part of the member to receive or to understand such explanation does not create a bar to separation or characterization.

(3) *Provision of information during separation processing.* The Secretary concerned shall ensure that information concerning the purpose and authority of the Discharge Review Board and the Board for Correction of Military/Naval Records, established under 10 U.S.C. 1552 and 1553 and 32 CFR Part 70 (DOD Directive 1332.28) is provided during the separation processing of all members, except when the separation is for the purpose of an immediate reenlistment. Specific counseling is required under 38 U.S.C. 3103(a) which states that a discharge under other than honorable conditions, resulting from a period of continuous, unauthorized absence of 180 days or more, is a conditional bar to benefits administered by the Veterans Administration, notwithstanding any action by a Discharge Review Board. The information required by this paragraph should be provided in the form of a written fact sheet or similar document. Failure on the part of the member to receive or to understand such explanation does not create a bar to separation or characterization.

(b) The *Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics)* may modify or supplement the enclosures to this Directive, and may delegate the authority to establish reporting requirements for the reasons for separation (Part 1, Appendix A) to a Deputy Assistant Secretary.

§ 41.5 Effective date and implementation.

(a) This part applies only to administrative separation proceedings initiated on or after October 1, 1982.

(b) Part 41, effective December 29, 1976 shall continue to be used for administrative separation proceedings initiated on or before September 30, 1982.

§ 41.6 Definitions.

(a) *Member.* An enlisted member of a Military Service.

(b) *Discharge.* Complete severance from all military status gained by the enlistment or induction concerned.

(c) *Release from Active Duty.* Termination of active duty status and transfer or reversion to a reserve component not on active duty, including transfer to the Individual Ready Reserve (IRR).

(d) *Separation.* A general term which includes discharge, release from active duty, release from custody and control of the armed forces, transfer to the IRR, and similar changes in active or reserve status.

(e) *Military Record.* An individual's overall performance while a member of a Military Service, including personal conduct and performance of duty.

(f) *Separation Authority.* An official authorized by the Secretary concerned to take final action with respect to a specified type of separation.

(g) *Convening Authority.* (1) The Separation Authority or (2) a commanding officer who has been authorized by the Secretary concerned to process the case except for final action and who otherwise has the qualifications to act as a Separation Authority.

(h) *Respondent.* A member of a Military Service who has been notified that action has been initiated to separate the member.

(i) *Entry Level Status.* The first 180 days of continuous active military service. For members of a reserve component who have not completed 180 days of continuous active military service and who are not on active duty, entry level status begins upon enlistment in a reserve component (including a period of assignment to a delayed entry program) and terminates 180 days after beginning an initial period of entry level active duty training. For purposes of characterization of service or description of separation, the member's status is determined by the date of notification as to the initiation of separation proceedings.

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Part 1—Reasons for Separation

A. *Expiration of Service Obligation.* 1. *Basis.* A member may be separated upon expiration of enlistment or fulfillment of service obligation. This includes separation authorized by the Secretary concerned when the member is within 30 days of the date of expiration of term of service under the following circumstances:

a. The member is serving outside the continental United States (CONUS); or

b. The member is a resident of a state, territory, or possession outside CONUS and is serving outside the member's state, territory, or possession of residence.

2. *Characterization or description.* Honorable, unless:

a. An Entry Level Separation is required under subsection C.3. of Part 2;

b. Characterization of service as General (under honorable conditions) is warranted under section C. of Part 2 on the basis of numerical scores accumulated in a formal, Service-wide rating system that evaluates conduct and performance on a regular basis; or

c. Another characterization is warranted upon discharge from the IRR under section E. of Part 3.

B. *Selected Changes in Service Obligations.* 1. *Basis.* A member may be separated for the following reasons:

a. General demobilization or reduction in authorized strength.

b. Early separation of personnel under a program established by the Secretary concerned. A copy of the document authorizing such program shall be forwarded to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics (ASD(MRA&L)) on or before the date of implementation.

c. Acceptance of an active duty commission or appointment, or acceptance into a program leading to such a commission or appointment in any branch of the Military Services.

d. Immediate enlistment or reenlistment.

e. Interservice transfer of inactive reserves in accordance with DOD Directive 1205.5.

2. *Characterization or description.* Honorable, unless:

a. An Entry Level Separation is required under section C. of Part 2;

b. Characterization of service as General (under honorable conditions) is warranted under section C. of Part 2 on the basis of numerical scores accumulated in a formal, Service-wide rating system that evaluates conduct and performance on a regular basis; or

c. Another characterization is warranted upon discharge from the IRR under section E. of Part 3.

C. *Convenience of the Government.* 1. *Basis.* A member may be separated for convenience of the government for the reasons set forth in subsection C.4., below.

2. *Characterization or description.* Honorable, unless:

a. An Entry Level Separation is required under section C. of Part 2; or

b. Characterization of service as General (under honorable conditions) is warranted under section C. of Part 2.

3. *Procedures.* Procedural requirements may be established by the Secretary concerned, subject to procedures established in subsection C.4., below. Prior to characterization of service as General (under honorable conditions), the member shall be notified of the specific factors in the service record that warrant such a characterization, and the Notification Procedure (section B. of Part 3) shall be used. Such notice and procedure is not required, however, when characterization of service as General (under honorable conditions) is based upon numerical scores accumulated in a formal, service-wide rating system that evaluates conduct and performance on a regular basis.

4. *Reasons.* a. *Early release to further education.* A member may be separated under DOD Directive 1332.15 to attend a college, university, vocational school, or technical school.

b. *Early release to accept public office.* A member may be separated to accept public office only under circumstances authorized by the Military Department concerned and consistent with DOD Directive 1344.10.

c. *Dependency or hardship.* (1) Upon request of the member and concurrence of the government, separation may be directed when genuine dependency or undue hardship exists under the following circumstances:

(a) The hardship or dependency is not temporary;

(b) Conditions have arisen or have been aggravated to an excessive degree since entry into the Service, and the member has made every reasonable effort to remedy the situation;

(c) The administrative separation will eliminate or materially alleviate the condition; and

(d) There are no other means of alleviation reasonably available.

(2) Undue hardship does not necessarily exist solely because of altered present or expected income, family separation, or other inconveniences normally incident to Military Service.

d. *Pregnancy or childbirth.* A female member may be separated on the basis of pregnancy or childbirth upon her request, unless retention is determined to be in the best interests of the service under section A. of Part 2 and guidance established by the Military Department concerned.

e. *Parenthood.* A member may be separated by reason of parenthood if as a result thereof it is determined under the guidance set forth in section A. of Part 2 that the member is unable satisfactorily to perform his or her duties or is unavailable for worldwide assignment or deployment. Prior to involuntary separation under this provision, the Notification Procedure (section B. of Part 3) shall be used. Separation processing may not be initiated until the member has been counseled formally concerning deficiencies and has been afforded an opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records.

f. *Conscientious objection.* A member may be separated if authorized under 32 CFR Part 75 (DOD Directive 1300.6).

g. *Surviving family member.* A member may be separated if authorized under 32 CFR Part 52 (DOD Directive 1315.14).

h. *Other designated physical or mental conditions.* (1) The Secretary concerned may authorize separation on the basis of other designated physical or mental conditions, not amounting to Disability (section D., below), that potentially interfere with assignment to or performance of duty under the guidance set forth in section A. of Part 2. Such conditions may include but are not limited to chronic seasickness or airsickness, enuresis, and personality disorder.[1]

(2) Separation processing may not be initiated until the member has been counseled formally concerning deficiencies and has been afforded an opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records.

(3) Separation on the basis of personality disorder is authorized only if a diagnosis by a psychiatrist or psychologist, completed in accordance with procedures established by the Military Department concerned, concludes, that the disorder is so severe that the member's ability to function effectively in the military environment is significantly impaired.

(4) Separation for personality disorder is not appropriate when separation is warranted under sections A. through N. or section P. of this Part. For example, if separation is warranted on the basis of unsatisfactory performance (section G.) or misconduct (section K.), the member should not be separated under this section regardless of the existence of a personality disorder.

(5) Nothing in this provision precludes separation of a member who has such a condition under any other basis set forth under this section (Convenience of the Government) or for any other reason authorized by this part.

(6) Prior to involuntary separation under this provision, the Notification Procedure (section B. of Part 3) shall be used.

(7) The reasons designated by the Secretary concerned shall be separately reported.

i. *Additional grounds.* The Secretary concerned may provide additional grounds for separation for the convenience of the government. A copy of the document authorizing such grounds shall be forwarded to the ASD(MRA&L) on or before the date of implementation.

D. *Disability.* 1. *Basis.* A member may be separated for disability under the provisions of 10 U.S.C. chapter 61.

2. *Characterization or description.* Honorable, unless:

a. An Entry Level Separation is required under section C. of Part 2; or

b. Characterization of service as General (under honorable conditions) is warranted under section C. of Part 2.

3. *Procedures.* Procedural requirements for separation may be established by the Military Departments consistent with 10 U.S.C. chapter 61. If separation is recommended, the following requirements apply prior to characterization of service as General (under honorable conditions): the member shall be notified of the specific factors in the service record that warrant such a characterization, and the Notification Procedure (section B. of Part 3) shall be used. Such notice and procedure is not required, however, when characterization of service as General (under honorable conditions) is based upon numerical scores accumulated in a formal, service-wide rating system that evaluates conduct and performance on a regular basis.

E. *Defective Enlistments and Inductions.* 1. *Minority.* a. *Basis.* (1) *Under age 17.* If a member is under the age of 17, the enlistment of the member is void, and the member shall be separated.

(2) *Age 17.* A member shall be separated under 10 U.S.C. 1170 in the following circumstances except when the member is retained for the purpose of trial by court-martial:

(a) There is evidence satisfactory to the Secretary concerned that the member is under 18 years of age;

(b) The member enlisted without the written consent of the member's parent or guardian; and

(c) An application for the member's separation is submitted to the Secretary concerned by the parent or guardian within 90 days of the member's enlistment.

b. *Description of separation.* A member separated under subparagraph E.1.a.(1), above, shall receive an order of release from the custody and control of the armed forces (by reason of void enlistment or induction). The separation of a member under subparagraph E.1.a.(2), above, shall be described as an Entry Level Separation.

c. *Procedure.* The Notification Procedure (section B. of Part 3) shall be used.

2. *Erroneous.* a. *Basis.* A member may be separated on the basis of an erroneous enlistment, induction, or extension of enlistment under the guidance set forth in section A. of Part 2. An enlistment, induction, or extension of enlistment is erroneous in the following circumstances, if:

(1) It would not have occurred had the relevant facts been known by the government or had appropriate directives been followed;

(2) It was not the result of fraudulent conduct on the part of the member; and

(3) The defect is unchanged in material respects.

b. *Characterization or description.* Honorable, unless an Entry Level Separation or an order of release from the custody and control of the Military Services (by reason of void enlistment or induction) is required under section C. of Part 2.

c. *Procedure.* (1) If the command recommends that the individual be retained in military service, the initiation of separation processing is not required in the following circumstances:

(a) The defect is no longer present; or

(b) The defect is waivable and a waiver is obtained from appropriate authority.

(2) If separation processing is initiated, the Notification Procedure (section B. of Part 3) shall be used.

3. *Defective enlistment agreements.* a. *Basis.* A defective enlistment agreement exists in the following circumstances:

(1) As a result of a material misrepresentation by recruiting personnel, upon which the member reasonably relied, the member was induced to enlist with a commitment for which the member was not qualified;

(2) The member received a written enlistment commitment from recruiting personnel for which the member was

[1] Personality disorders are described in the Diagnostic and Statistical Manual (DSM–III) of Mental Disorders, 3rd Edition, Committee on Nomenclature & Statistics, American Psychiatric Association, Washington, D.C., 1978.

qualified, but which cannot be fulfilled by the Military Service; or

(3) The enlistment was involuntary. *See* 10 U.S.C. 802.

b. *Characterization or description.* Honorable, unless an Entry Level Separation or an order of release from the custody and control of the Military Services (by reason of void enlistment)[4] is required under section C. of Part 2.

c. *Procedures.* This provision does not bar appropriate disciplinary action or other administrative separation proceedings regardless of when the defect is raised. Separation is appropriate under this provision only in the following circumstances:

(1) The member did not knowingly participate in creation of the defective enlistment;

(2) The member brings the defect to the attention of appropriate authorities within 30 days after the defect is discovered or reasonably should have been discovered by the member;

(3) The member requests separation instead of other authorized corrective action; and

(4) The request otherwise meets such criteria as may be established by the Secretary concerned.

4. *Fraudulent entry into military service.* a. *Basis.* A member may be separated under guidance set forth in section A. of Part 2 on the basis of procurement of a fraudulent enlistment, induction, or period of military service through any deliberate material misrepresentation, omission, or concealment which, if known at the time of enlistment, induction, or entry onto a period of military service, might have resulted in rejection.

b. *Characterization or description.* Characterization of service or description of separation shall be in accordance with section C. of Part 2. If the fraud involves concealment of a prior separation in which service was not characterized as Honorable, characterization normally shall be Under Other Than Honorable Conditions.

c. *Procedures.* The Notification Procedure (section B. of Part 3) shall be used except as follows:

(1) Characterization of service Under Other Than Honorable Conditions may not be issued unless the Administrative Board Procedure (section C. of Part 3) is used.

(2) When the sole reason for separation is fraudulent entry, suspension of separation (section B. of Part 2) is not authorized. When there are approved reasons for separation in addition to fraudulent entry, suspension of separation is authorized only in the following circumstances:

(a) A waiver of the fraudulent entry is approved; and

(b) The suspension pertains to reasons for separation other than the fraudulent entry.

(3) If the command recommends that the member be retained in military service, the initiation of separation processing is unnecessary in the following circumstances:

(a) The defect is no longer present; or

(b) the defect is waivable and a waiver is obtained from appropriate authority.

(4) If the material misrepresentation includes preservice homosexuality (subsection H.1.), the standards of paragraph H.1.c. and procedures of subsection H.3. shall be applied in processing a separation under this section. In such a case the characterization or description of the separation shall be determined under paragraph E.4.b., above.

F. *Entry Level Performance and Conduct.* 1. *Basis.* a. A member may be separated while in entry level status (§ 41.6(i)) when it is determined under the guidance set forth in section A. of Part 2 that the member is unqualified for further military service by reason of unsatisfactory performance or conduct (or both), as evidenced by inability, lack of reasonable effort, failure to adapt to the military environment or minor disciplinary infractions.

b. When separation of a member in entry level status is warranted by unsatisfactory performance or minor disciplinary infractions (or both), the member normally should be separated under this section. Nothing in this provision precludes separation under another provision of this Directive when such separation is authorized and warranted by the circumstances of the case.

2. *Counseling and rehabilitation.* Separation processing may not be initiated until the member has been counseled formally concerning deficiencies and has been afforded an opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records. Counseling and rehabilitation requirements are important with respect to this reason for separation. Because military service is a calling different from any civilian occupation, a member should not be separated when this is the sole reason unless there have been efforts at rehabilitation under standards prescribed by the Secretary concerned.

3. *Description of separation.* Entry Level Separation.

4. *Procedures.* The Notification Procedure (section B. of Part 3) shall be used.

G. *Unsatisfactory Performance.* 1. *Basis.* A member may be separated when it is determined under the guidance set forth in section A. of Part 2 that the member is unqualified for further military service by reason of unsatisfactory performance. This reason shall not be used if the member is in entry level status (§ 41.6(i)).

2. *Counseling and Rehabilitation.* Separation processing may not be initiated until the member has been counseled formally concerning deficiencies and has been afforded an opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records. Counseling and rehabilitation requirements are of particular importance with respect to this reason for separation. Because military service is a calling different from any civilian occupation, a member should not be separated when unsatisfactory performance is the sole reason unless there have been efforts at rehabilitation under standards prescribed by the Secretary concerned.

3. *Characterization or description.* The service shall be characterized as Honorable or General (under honorable conditions) in accordance with section C. of Part 2.

4. *Procedures.* The Notification Procedure (section B. of Part 3) shall be used.

H. *Homosexuality.* 1. *Basis.* a. Homosexuality is incompatible with military service. The presence in the military environment of persons who engage in homosexual conduct or who, by their statements, demonstrate a propensity to engage in homosexual conduct, seriously impairs the accomplishment of the military mission. The presence of such members adversely affects the ability of the Military Services to maintain discipline, good order, and morale; to foster mutual trust and confidence among servicemembers; to ensure the integrity of the system of rank and command; to facilitate assignment and worldwide deployment of servicemembers who frequently must live and work under close conditions affording minimal privacy; to recruit and retain members of the Military Services; to maintain the public acceptability of military service; and to prevent breaches of security.

b. As used in this section:

(1) Homosexual means a person, regardless of sex, who engages in, desires to engage in, or intends to engage in homosexual acts;

(2) Bisexual means a person who engages in, desires to engage in, or intends to engage in homosexual and heterosexual acts; and

(3) A homosexual act means bodily contact, actively undertaken or passively permitted, between members of the same sex for the purpose of satisfying sexual desires.

c. The basis for separation may include preservice, prior service, or current service conduct or statements. A member shall be separated under this section if one or more of the following approved findings is made:

(1) The member has engaged in, attempted to engage in, or solicited another to engage in a homosexual act or acts unless there are approved further findings that:

(a) Such conduct is a departure from the member's usual and customary behavior;

(b) Such conduct under all the circumstances is unlikely to recur;

(c) Such conduct was not accomplished by use of force, coercion, or intimidation by the member during a period of military service;

(d) Under the particular circumstances of the case, the member's continued presence in the Service is consistent with the interest of the Service in proper discipline, good order, and morale; and

(e) The member does not desire to engage in or intend to engage in homosexual acts.

(2) The member has stated that he or she is a homosexual or bisexual unless there is a further finding that the member is not a homosexual or bisexual.

(3) The member has married or attempted to marry a person known to be of the same biological sex (as evidenced by the external anatomy of the persons involved) unless there are further findings that the member is not a homosexual or bisexual and that the purpose of the marriage or attempt was the avoidance or termination of military service.

2. *Characterization or description.* Characterization of service or description of separation shall be in accordance with the guidance in section C. of Part 2. When the sole basis for separation is homosexuality, a characterization Under Other Than Honorable Conditions may be issued only if such a characterization is warranted under section C. of Part 2 and there is a finding that during the current term of service the member attempted, solicited, or committed a homosexual act in the following circumstances:

a. By using force, coercion, or intimidation;

b. With a person under 16 years of age;

c. With a subordinate in circumstances that violate customary military superior-subordinate relationships;

d. Openly in public view;

e. For compensation;

f. Aboard a military vessel or aircraft; or

g. In another location subject to military control under aggravating circumstances noted in the finding that have an adverse impact on discipline, good order, or morale comparable to the impact of such activity aboard a vessel or aircraft.

3. *Procedures.* The Administrative Board Procedure (section C. of Part 3) shall be used, subject to the following guidance:

a. Separation processing shall be initiated if there is probable cause to believe separation is warranted under paragraph H.1.c., above.

b. The Administrative Board shall follow the procedures set forth in subsection C.5. of Part 3, except with respect to the following matters:

(1) If the Board finds that one or more of the circumstances authorizing separation under paragraph H.1.c., above, is supported by the evidence, the Board shall recommend separation unless the Board finds that retention is warranted under the limited circumstances described in that paragraph.

(2) If the Board does not find that there is sufficient evidence that one or more of the circumstances authorizing separation under paragraph H.1.c. has occurred, the Board shall recommend retention unless the case involves another basis for separation of which the member has been duly notified.

c. In any case in which characterization of service Under Other Than Honorable Conditions is not authorized, the Separation Authority may be exercised by an officer designated under paragraph B.4.a. of Part 3.

d. The Separation Authority shall dispose of the case according to the following provisions:

(1) If the Board recommends retention, the Separation Authority shall take one of the following actions:

(a) Approve the finding and direct retention; or

(b) Forward the case to the Secretary concerned with a recommendation that the Secretary separate the member under the Secretary's Authority (section O. of this Part 1).

(2) If the Board recommends separation, the Separation Authority shall take one of the following actions:

(a) Approve the finding and direct separation; or

(b) Disapprove the finding on the basis of the following considerations:

1 There is insufficient evidence to support the finding; or

2 Retention is warranted under the limited circumstances described in paragraph H.1.c., above.

(3) If there has been a waiver of Board proceedings, the Separation Authority shall dispose of the case in accordance with the following provisions:

(a) If the Separation Authority determines that there is not sufficient evidence to support separation under paragraph H.1.c., the Separation Authority shall direct retention unless there is another basis for separation of which the member has been duly notified.

(b) If the Separation Authority determines that one or more of the circumstances authorizing separation under paragraph H.1.c. has occurred, the member shall be separated unless retention is warranted under the limited circumstances described in that paragraph.

e. The burden of proving that retention is warranted under the limited circumstances described in paragraph H.1.c. rests with the member, except in cases where the member's conduct was solely the result of a desire to avoid or terminate military service.

f. Findings regarding the existence of the limited circumstances warranting a member's retention under paragraph H.1.c. are required only if:

(1) The member clearly and specifically raises such limited circumstances; or

(2) The Board or Separation Authority relies upon such circumstances to justify the member's retention.

g. Nothing in these procedures:

(1) Limits the authority of the Secretary concerned to take appropriate action in a case to ensure that there has been compliance with the provisions of this part;

(2) Precludes retention of a member for a limited period of time in the interests of national security as authorized by the Secretary concerned;

(3) Authorizes a member to seek Secretarial review unless authorized in procedures promulgated by the Secretary concerned;

(4) Precludes separation in appropriate circumstances for another reason set forth in this part; or

(5) Precludes trial by court-martial in appropriate cases.

I. *Drug Abuse Rehabilitation Failure.* 1. *Basis.* a. A member who has been referred to a program of rehabilitation for personal drug and alcohol abuse may be separated for failure through inability

or refusal to participate in, cooperate in, or successfully complete such a program in the following circumstances:

(1) There is a lack of potential for continued military service; or

(2) Long-term rehabilitation is determined necessary and the member is transferred to a civilian medical facility for rehabilitation.

b. Nothing in this provision precludes separation of a member who has been referred to such a program under any other provision of this part in appropriate cases.

c. Drug abuse rehabilitation failures shall be reported separately from alcohol abuse rehabilitation failures. If separation is based on both, the primary basis shall be used for reporting requirements.

2. *Characterization or description.* When a member is separated under this provision, characterization of service as Honorable or General (under honorable conditions) is authorized except when an Entry Level Separation is required under section C. of Part 2. The relationship between voluntary submission for treatment and the evidence that may be considered on the issue of characterization is set forth in subparagraph C.2.c.(6) of Part 2. The relationship between mandatory urinalysis and the evidence that may be considered on the issue of characterization is set forth in subparagraph C.2.c.(7) of Part 2.

3. *Procedures.* The Notification Procedure (section B. of Part 3) shall be used.

J. *Alcohol Abuse Rehabilitation Failure.* 1. *Basis.* a. A member who has been referred to a program of rehabilitation for drug and alcohol abuse may be separated for failure through inability or refusal to participate in, cooperate in, or successfully complete such a program in the following circumstances:

(1) There is a lack of potential for continued military service; or

(2) Long-term rehabilitation is determined necessary and the member is transferred to a civilian medical facility for rehabilitation.

b. Nothing in this provision precludes separation of a member who has been referred to such a program under any other provision of this part in appropriate cases.

c. Alcohol abuse rehabilitation failures shall be reported separately from drug abuse rehabilitation failures. If separation is based on both, the primary basis shall be used for reporting purposes.

2. *Characterization or description.* When a member is separated under this provision, characterization of service as Honorable or General (under honorable conditions) is authorized except when an Entry Level Separation is required under section C. of Part 2.

3. *Procedures.* The Notification Procedure (section B. of Part 3) shall be used.

K. *Misconduct.* 1. *Basis.* a. *Reasons.* A member may be separated for misconduct when it is determined under the guidance set forth in section A. of Part 2 that the member is unqualified for further military service by reason of one or more of the following circumstances:

(1) *Minor disciplinary infractions.* A pattern of misconduct consisting solely of minor disciplinary infractions. If separation of a member in entry level status is warranted solely by reason of minor disciplinary infractions, the action should be processed under Entry Level Performance and Conduct (section F., above).

(2) *A pattern of misconduct.* A pattern of misconduct consisting of (a) descreditable involvement with civil or military authorities or (b) conduct prejudicial to good order and discipline.

(3) *Commission of a serious offense.* Commission of a serious military or civilian offense if in the following circumstances:

(a) The specific circumstances of the offense warrant separation; and

(b) A punitive discharge would be authorized for the same or a closely related offense under the Manual for Courts-Martial, 1969 (Revised Edition), as amended.

(4) *Civilian conviction.* (a) Conviction by civilian authorities or action taken which is tantamount to a finding of guilty, including similar adjudications in juvenile proceedings, when the specific circumstances of the offense warrant separation, and the following conditions are present:

1 A punitive discharge would be authorized for the same or a closely related offense under the Manual for Courts-Martial; or

2 The sentence by civilian authorities includes confinement for six months or more without regard to suspension or probation.

(b) Separation processing may be initiated whether or not a member has filed an appeal of a civilian conviction or has stated an intention to do so. Execution of an approved separation should be withheld pending outcome of the appeal or until the time for appeal has passed, but the member may be separated prior to final action on the appeal upon request of the member or upon direction of the Secretary concerned.

b. *Reporting.* The Deputy Assistant Secretary (Military Personnel and Force Management), Office of the ASD (MRA&L), shall require separate reports under each subparagraph in paragraph K.1.a. for misconduct by reason of drug abuse, unauthorized absence, and such other categories as may be appropriate.

c. *Related separations.* Misconduct involving homosexuality shall be processed under section H. Misconduct involving a fraudulent enlistment is considered under subsection E.4., above.

2. *Counseling and rehabilitation.* Separation processing for a pattern of misconduct (subparagraphs K.1.a. (1) and (2)) may not be initiated until the member has been counseled formally concerning deficiencies and has been afforded an opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records. If the sole basis of separation is a single offense (subparagraph K.1.a.(3)) or a civilian conviction or a similar juvenile adjudication (subparagraph K.1.a.(4)), the counseling and rehabilitation requirements are not applicable.

3. *Characterization or description.* Characterization of service normally shall be Under Other Than Honorable Conditions, but characterization as General (under honorable conditions) may be warranted under the guidelines in section C. of Part 2. For respondents who have completed entry level status, characterization of service as Honorable is not authorized unless the respondent's record is otherwise so meritorious that any other characterization clearly would be inappropriate and the separation is approved by a commander exercising general court-martial jurisdiction or higher authority as specified by the Secretary concerned. When characterization of service Under Other Than Honorable Conditions is not warranted for a member in entry level status under section C. of Part 2, the separation shall be described as an Entry Level Separation.

4. *Procedures.* The Administrative Board Procedure (section C. of Part 3) shall be used, except that use of the Notification Procedure (section B. of Part 3) is authorized if separation is based upon subparagraphs K.1.a.(1) and K.1.a.(2) and characterization of service Under Other Than Honorable Conditions is not warranted under section C. of Part 2.

L. *Separation in Lieu of Trial by Court-Martial.* 1. *Basis.* A member may be separated upon request of trial by court-martial if charges have been preferred with respect to an offense for which a punitive discharge is authorized and it is determined that the member is unqualified for further military service under the guidance set forth in section A. of Part 2. This provision may not be used when section B. of paragraph 127*c* of the Manual for Courts-Martial provides the sole basis for a punitive discharge unless the charges have been referred to a court-martial empowered to adjudge a punitive discharge.

2. *Characterization or description.* Characterization of service normally shall be Under Other Than Honorable Conditions, but characterization as General (under honorable conditions) may be warranted under the guidelines in section C. of Part 2. For respondents who have completed entry level status, characterization of service as Honorable is not authorized unless the respondent's record is otherwise so meritorious that any other characterization clearly would be inappropriate. When characterization of service Under Other Than Honorable Conditions is not warranted for a member in entry level status under section C. of Part 2, the separation shall be described as an Entry Level Separation.

3. *Procedures.* a. The request for discharge must be submitted in writing and signed by the member.

b. The member shall be afforded opportunity to consult with counsel qualified under Article 27(b)(1) of the UCMJ. If the member refuses to do so, counsel shall prepare a statement to this effect, which shall be attached to the file, and the member shall state that he or she has waived the right to consult with counsel.

c. Except when the member has waived the right to counsel, the request shall be signed by counsel.

d. In the written request, the member shall state that he or she understands the following:

(1) The elements of the offense or offenses charged;

(2) That characterization of service Under Other Than Honorable Conditions is authorized; and

(3) The adverse nature of such a characterization and possible consequences thereof.

e. The Secretary concerned shall also require that one or both of the following matters be included in the request:

(1) An acknowledgment of guilt of one or more of the offenses or any lesser included offenses for which a punitive discharge is authorized; or

(2) A summary of the evidence or list of documents (or copies thereof) provided to the member pertaining to the offenses for which a punitive discharge is authorized.

f. The Separation Authority shall be a commander exercising general court-martial jurisdiction or higher authority as specified by the Secretary concerned.

g. Statements by the member or the member's counsel submitted in connection with a request under this subsection are not admissible against the member in a court-martial except as authorized under Military Rule of Evidence 410, Manual for Courts-Martial.

M. *Security.* 1. *Basis.* When retention is clearly inconsistent with the interest of national security, a member may be separated by reason of security and under conditions and procedures established by the Secretary of Defense in DoD 5200.2–R.

2. *Characterization or description.* Characterization of service or description of a separation shall be in accordance with section C. of Part 2.

N. *Unsatisfactory Participation in the Ready Reserve.* 1. *Basis.* A member may be separated for unsatisfactory participation in the Ready Reserve under criteria established by the Secretary concerned under 32 CFR Part 100 (DoD Directive 1215.13).

2. *Characterization or description.* Characterization of service or description of a separation shall be in accordance with section C. of Part 2 and 32 CFR Part 100 (DoD Directive 1215.13).

3. *Procedures.* The Administrative Board Procedure (section C. of Part 3) shall be used, except that the Notification Procedure (section B. of Part 3) may be used if characterization of service Under Other Than Honorable Conditions is not warranted under section C. of Part 2.

O. *Secretarial Plenary Authority.* 1. *Basis.* Notwithstanding any limitation on separations provided in this part the Secretary concerned may direct the separation of any member prior to expiration of term of service after determining it to be in the best interests of the Service.

2. *Characterization or description.* Honorable or General (under honorable conditions) as warranted under section C. of Part 2 unless an Entry Level Separation is required under section C. of Part 2.

3. *Procedures.* Prior to involuntary separation, the Notification Procedure (section B. of Part 3) shall be used, except the procedure for requesting an Administrative Board (paragraph B.1.g. of Part 3) is not applicable.

P. *Reasons Established by the Military Departments.* 1. *Basis.* The Military Departments may establish additional reasons for separation for circumstances not otherwise provided for in this part to meet specific requirements, subject to approval by the ASD (MRA&L).

2. *Counseling and rehabilitation.* Separation processing may not be initiated until the member has been counseled formally concerning deficiencies and has been afforded an opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records except when the Military Department concerned provides in its implementing document that counseling and rehabilitation requirements are not applicable for the specific reason for separation.

3. *Characterization or description.* Characterization of service or description of a separation shall be in accordance with section C. of Part 2.

4. *Procedures.* The procedures established by the Military Departments shall be consistent with the procedures contained in this part insofar as practicable.

Part 2—Guidelines on Separation and Characterization

A. *Separation.* 1. *Scope.* This general guidance applies when referenced in Part 1. Further guidance is set forth under the specific reasons for separation in Part 1.

2. *Guidance.* a. There is a substantial investment in the training of persons enlisted or inducted into the Military Services. As a general matter, reasonable efforts at rehabilitation should be made prior to initiation of separation proceedings.

b. Unless separation is mandatory, the potential for rehabilitation and further useful military service shall be considered by the Separation Authority and, where applicable, the Administrative Board. If separation is warranted despite the potential for rehabilitation, consideration should be given to suspension of the separation, if authorized.

c. Counseling and rehabilitation efforts are a prerequisite to initiation of separation proceedings only insofar as expressly set forth under specific requirements for separation in Part 1. An alleged or established inadequacy in previous rehabilitative efforts does not provide a legal bar to separation.

d. The following factors may be considered on the issue of retention or separation, depending on the circumstances of the case:

(1) The seriousness of the circumstances forming the basis for initiation of separation proceedings, and the effect of the member's continued retention on military discipline, good order, and morale.

(2) The likelihood of continuation or recurrence of the circumstances forming the basis for initiation of separation proceedings.

(3) The likelihood that the member will be a disruptive or undesirable influence in present or future duty assignments.

(4) The ability of the member to perform duties effectively in the present and in the future, including potential for advancement or leadership.

(5) The member's rehabilitative potential.

(6) The member's entire military record. (a) This may include:

(1) Past contributions to the Service, assignments, awards and decorations, evaluation ratings, and letters of commendation;

2 Letters of reprimand or admonition, counseling records, records of nonjudicial punishment, records of conviction by court-martial and records of involvement with civilian authorities; and

3 Any other matter deemed relevant by the Board, if any, or the Separation Authority, based upon the specialized training, duties, and experience of persons entrusted by this part with recommendations and decisions on the issue of separation or retention.

(b) The following guidance applies to consideration of matter under subparagraph A.2.d.(6)(a):

1 Adverse matter from a prior enlistment or period of military service, such as records of nonjudicial punishment and convictions by courts-martial, may be considered only when such records would have a direct and strong probative value in determining whether separation is appropriate. The use of such records ordinarily shall be limited to those cases involving patterns of conduct manifested over an extended period of time.

2 Isolated incidents and events that are remote in time normally have little probative value in determining whether administrative separation should be effected.

3. *Limitations on separation actions.* A member may not be separated on the basis of the following:

a. Conduct that has been the subject of judicial proceedings resulting in an acquittal or action having the effect thereof except in the following circumstances:

(1) When such action is based upon a judicial determination not going to the guilt or innocence of the respondent; or

(2) When the judicial proceeding was conducted in a State or foreign court and the separation is approved by the Secretary concerned.

b. Conduct that has been the subject of a prior Administrative Board in which the Board entered an approved finding that the evidence did not sustain the factual allegations concerning the conduct except when the conduct is the subject of a rehearing ordered on the basis of fraud or collusion; or

c. Conduct that has been the subject of an administrative separation proceeding resulting in a final determination by a Separation Authority that the member should be retained, except in the following circumstances:

(1) When there is subsequent conduct or performance forming the basis, in whole or in part, for a new proceeding;

(2) When there is new or newly discovered evidence that was not reasonably available at the time of the prior proceeding; or

(3) When the conduct is the subject of a rehearing ordered on the basis of fraud or collusion.

B. *Suspension of Separation.* 1. *Suspension.* a. Unless prohibited by this part a separation may be suspended for a specified period of not more than 12 months by the Separation Authority or higher authority if the circumstances of the case indicate a reasonable likelihood or rehabilitation.

b. During the period of suspension, the member shall be afforded an opportunity to meet appropriate standards of conduct and duty performance.

c. Unless sooner vacated or remitted, execution of the approved separation shall be remitted upon completion of the probationary period, upon termination of the member's enlistment or period of obligated service, or upon decision of the Separation Authority that the goal of rehabilitation has been achieved.

2. *Action during the period of suspension.* a. During the period of suspension, if there are further grounds for separation under Part 1, one or more of the following actions may be taken:

(1) Disciplinary action;

(2) New administrative action; or

(3) Vacation of the suspension accompanied by execution of the separation if the member engages in conduct similar to that for which separation was approved (but suspended) or otherwise fails to meet appropriate standards of conduct and duty performance.

b. Prior to vacation of a suspension, the member shall be notified in writing of the basis for the action and shall be afforded the opportunity to consult with counsel (as provided in paragraph B.1.f. of Part 3) and to submit a statement in writing to the Separation Authority. The respondent shall be provided a reasonable period of time, but not less than 2 working days, to act on the notice. If the respondent identifies specific legal issues for consideration by the Separation Authority, the matter shall be reviewed by a judge advocate or civilian lawyer employed by the government prior to final action by the Separation Authority.

C. *Characterization of Service or Description of Separation.* 1. *Types of characterization or description.* a. At separation, the following types of characterization of service or description of separation are authorized under this Part:

(1) Separation with characterization of service as Honorable, General (under honorable conditions), or Under Other Than Honorable Conditions.

(2) Entry Level Separation.

(3) Order of release from the custody and control of the Military Services by reason of void enlistment or induction.

(4) Separation by being dropped from the rolls of the Service.

b. Any of the types of separation listed in this section may be used in appropriate circumstances unless a limitation set forth in this section or in Part 1 (Reasons for Separation).

2. *Characterization of service.* a. *General considerations.* (1) Characterization at separation shall be based upon the quality of the member's service, including the reason for separation and guidance in paragraph C.2.b., below, subject to the limitations set forth under various reasons for separation in Part 1. The quality of service will be determined in accordance with standards of acceptable personal conduct and performance of duty for military personnel. These standards are found in the 10 U.S.C., Sections 801–940, UCMJ, directives and regulations issued by the Department of Defense and the Military Departments, and the time-honored customs and traditions of military service.

(2) The quality of service of a member on active duty or active duty for training is affected adversely by conduct that is of a nature to bring discredit on the Military Services or is prejudicial to good order and discipline, regardless of whether the conduct is subject to UCMJ jurisdiction. Characterization may be based on conduct in the civilian community, and the burden is on the respondent to demonstrate that such conduct did not adversely affect the respondent's service.

(3) The reasons for separation, including the specific circumstances that form the basis for the separation, shall be considered on the issue of characterization. As a general matter, characterization will be based upon a pattern of behavior rather than an isolated incident. There are circumstances, however, in which the conduct or performance of duty

reflected by a single incident provides the basis for characterization.

(4) Due consideration shall be given to the member's age, length of service, grade, aptitude, physical and mental condition, and the standards of acceptable conduct and performance of duty.

b. *Types of characterization.* (1) *Honorable.* The Honorable characterization is appropriate when the quality of the member's service generally has met the standards of acceptable conduct and performance of duty for military personnel, or is otherwise so meritorious that any other characterization would be clearly inappropriate. In the case of an Honorable Discharge, an Honorable Discharge Certificate (DD Form 256) will be awarded and a notation will be made on the appropriate copies of the DD Form 214/5 in accordance with 32 CFR Part 45 (DoD Directive 1336.1).

(2) *General (under honorable conditions).* If a member's service has been honest and faithful, it is appropriate to characterize that service under honorable conditions. Characterization of service as General (under honorable conditions) is warranted when significant negative aspects of the member's conduct or performance of duty outweigh positive aspects of the member's military record.

(3) *Under Other Than Honorable Conditions.* (a) This characterization may be issued in the following circumstances:

1 When the reason for separation is based upon a pattern of behavior that constitutes a significant departure from the conduct expected of members of the Military Services.

2 When the reason for separation is based upon one or more acts or omissions that constitute a significant departure from the conduct expected of members of the Military Services. Examples of factors that may be considered include the use of force or violence to produce serious bodily injury or death, abuse of a special position of trust, disregard by a superior of customary superior-subordinate relationships, acts or omissions that endanger the security of the United States or the health and welfare of other members of the Military Services, and deliberate acts or omissions that seriously endanger the health and safety of other persons.

(b) This characterization is authorized only if the member has been afforded the opportunity to request an Administrative Board, except as provided in section L. of Part 1 (Separation in Lieu of Trial by Courts-Martial).

c. *Limitations on characterization.* Except as otherwise provided in this paragraph, characterization will be determined solely by the member's military record during the current enlistment or period of service to which the separation pertains, plus any extensions thereof prescribed by law or regulation or effected with the consent of the member.

(1) Prior service activities, including records of conviction by courts-martial, records of absence without leave, or commission of other offenses for which punishment was not imposed shall not be considered on the issue of characterization. To the extent that such matters are considered on the issue of retention or separation (subsection A.2. of this Part 2), the record of proceedings may reflect express direction that such information shall not be considered on the issue of characterization.

(2) Preservice activities may not be considered on the issue of characterization except as follows: in a proceeding concerning fraudulent entry into military service (subsection E.4. of Part 1), evidence of preservice misrepresentations about matters that would have precluded, postponed, or otherwise affected the member's eligibility for enlistment or induction may be considered on the issue of characterization.

(3) The limitations in subsection A.3., above, as to matters that may be considered on the issue of separation are applicable to matters that may be considered on the issue of characterization.

(4) When the sole basis for separation is a serious offense which resulted in a conviction by a court-martial that did not impose a punitive discharge, the member's service may not be characterized Under Other Than Honorable Conditions unless such characterization is approved by the Secretary concerned.

(5) Conduct in the civilian community of a member of a reserve component who is not on active duty or active duty for training may form the basis for characterization Under Other Than Honorable Conditions only if such conduct affects directly the performance of military duties. Such conduct may form the basis of characterization as General (under honorable conditions) only if such conduct has an adverse impact on the overall effectiveness of the service, including military morale and efficiency.

(6) A member's voluntary submission to a DoD treatment and rehabilitation program (for personal use of drugs) and evidence provided voluntarily by the member concerning personal use of drugs as part of initial entry into such a program may not be used against the member on the issue of characterization. This limitation does not preclude the following actions:

(a) The introduction of evidence for impeachment or rebuttal purposes in any proceeding in which the evidence of drug abuse (or lack thereof) has been first introduced by the member; and

(b) Taking action based on independently derived evidence, including evidence of drug abuse after initial entry into the treatment and rehabilitation program.

(7) The results of mandatory urinalysis may be used on the issue of characterization except as provided in the Deputy Secretary of Defense Memorandum, "Alcohol and Drug Abuse," December 28, 1981, and rules promulgated thereunder.

3. *Uncharacterized separations.* a. *Entry Level Separation.* (1) A separation shall be described as an Entry Level Separation if separation processing is initiated while a member is in entry level status, except in the following circumstances:

(a) When characterization Under Other Than Honorable Conditions is authorized under the reason for separation (Part 1) and is warranted by the circumstances of the case; or

(b) The Secretary concerned, on a case-by-case basis, determines that characterization of service as Honorable is clearly warranted by the presence of unusual circumstances involving personal conduct and performance of military duty. This characterization is authorized when the member is separated under Part 1 by reason of selected changes in service obligation (section B.), Convenience of the Government (section C.), Disability (section D.), Secretarial Plenary Authority (secton O.), or an approved reason established by the Military Department (section P.).

(2) In time of mobilization or in other appropriate circumstances, the ASD (MRA&L) may authorize the Secretary concerned to delegate the authority in subparagraph (1)(b), above, (concerning the Honorable characterization) to a general court-martial convening authority with respect to members serving in operational units.

(3) With respect to administrative matters outside this Part that require a characterization as Honorable or General, an Entry Level Separation shall be treated as the required characterization. This provision does not apply to administrative matters that expressly require different treatment of

an Entry Level Separation except as provided in subparagraph (4), below.

(4) In accordance with 10 U.S.C. 1163, an Entry Level Separation for a member of a Reserve Component separated from the Delayed Entry Program is "under honorable conditions."

b. *Void enlistments or inductions.* A member shall not receive a discharge, characterization of service at separation, or an Entry Level Separation if the enlistment or induction is void except when a constructive enlistment arises and such action is required under subparagraph (3), below. If characterization or an Entry Level Separation is not required, the separation shall be described as an order of release from custody or control of the Military Services.

(1) An enlistment is void in the following circumstances:

(a) If it was effected without the voluntary consent of a person who has the capacity to understand the significance of enlisting in the Military Services, including enlistment of a person who is intoxicated or insane at the time of enlistment. 10 U.S.C. 504; Article 2(b), UCMJ.

(b) If the person is under 17 years of age. 10 U.S.C. 505.

(c) If the person is a deserter from another Military Service. 10 U.S.C. 504.

(2) Although an enlistment may be void at its inception, a constructive enlistment shall arise in the case of a person serving with a Military Service who:

(a) Submitted voluntarily to military authority;

(b) Met the mental competency and minimum 10 U.S.C. age qualifications of Sections 504 and 505 of, at the time of voluntary submission to military authority;

(c) Received military pay or allowances; and

(d) Performed military duties.

(3) If an enlistment that is void at its inception is followed by a constructive enlistment within the same term of service, characterization of service or description of separation shall be in accordance with subsection C.2. or paragraph C.3.a. of this Part 2, as appropriate; however, if the enlistment was void by reason of desertion from another Military Service, the member shall be separated by an order of release from the custody and control of the Service regardless of any subsequent constructive enlistment. The occurrence of such a constructive enlistment does not preclude the Military Departments, in appropriate cases, from either retaining the member or separating the member under section E. of Part 1 on the basis of the circumstances that occasioned the original void enlistment or upon any other basis for separation provided in this Part.

c. *Dropping from the rolls.* A member may be dropped from the rolls of the Service when such action is authorized by the Military Department concerned and a characterization of service or other description of separation is not authorized or warranted.

Part 3—Procedures For Separation

A. *Scope.* 1. The supplementary procedures in this Part are applicable only when required under a specific reason for separation (Part 1). These procedures are subject to the requirements set forth in Part 1 with respect to specific reasons for separation.

2. When a member is processed on the basis of multiple reasons for separation, the following guidelines apply to procedural requirements (including procedural limitations on characterization of service or description of separation):

a. The requirements for each reason will be applied to the extent practicable.

b. If a reason for separation set forth in the notice of proposed action requires processing under the Administrative Board Procedure (section C., below), the entire matter shall be processed under section C.

c. If more than one reason for separation is approved, the guidance on characterization that provides the greatest latitude may be applied.

d. When there is any other clear conflict between a specific requirement applicable to one reason and a general requirement applicable to another reason, the specific requirement shall be applied.

e. If a conflict in procedures cannot be resolved on the basis of the foregoing principles, the procedure most favorable to the respondent shall be used.

B. *Notification Procedure.* 1. *Notice.* If the Notification Procedure is initiated under Part 1, the respondent shall be notified in writing of the matter set forth in this section.

a. The basis of the proposed separation, including the circumstances upon which the action is based and a reference to the applicable provisions of the Military Department's implementing regulation.

b. Whether the proposed separation could result in discharge, release from active duty to a reserve component, transfer from the Selected Reserve to the IRR, release from custody or control of the Military Services, or other form of separation.

c. The least favorable characterization of service or description of separation authorized for the proposed separation.

d. The right to obtain copies of documents that will be forwarded to the Separation Authority supporting the basis of the proposed separation. Classified documents may be summarized.

e. The respondent's right to submit statements.

f. The respondent's right to consult with counsel qualified under Article 27(b)(1) of the UCMJ. Nonlawyer counsel may be appointed when the respondent is deployed aboard a vessel or in similar circumstances of separation from sufficient judge advocate resources as determined under standards and procedures specified by the Secretary concerned. The respondent also may consult with civilian counsel retained at the member's own expense.

g. If the respondent has 6 or more years of total active and reserve military service, the right to request an Administrative Board (section C.).

h. The right to waive paragraphs d., e., f. or g., above, after being afforded a reasonable opportunity to consult with counsel, and that failure to respond shall constitute a waiver of the right.

2. *Additional notice requirements.* a. If separation processing is initiated on the basis of more than one reason under Part 1, the requirements of paragraph B.1.a. apply to all proposed reasons for separation.

b. If the respondent is in civil confinement, absent without leave, or in a reserve component not on active duty or upon transfer to the IRR, the relevant notification procedures in sections D., E., or F. of this Part 3 apply.

c. Additional notification requirements are set forth in Part 1, sections C. and D., when characterization of service as General (under honorable conditions) is authorized and the member is processed for separation by reason of Convenience of the Government or Disability.

3. *Response.* The respondent shall be provided a reasonable period of time, but not less than 2 working days, to act on the notice. An extension may be granted upon a timely showing of good cause by the respondent. The decision of the respondent on each of the rights set forth in paragraphs 1.d. through g., above, and applicable provisions referenced in subsection 2. shall be recorded and signed by the respondent and counsel, subject to the following limitation:

a. If notice by mail is authorized under sections D., E., or F. of this Part 3 and the respondent fails to acknowledge receipt or submit a timely reply, that fact shall constitute a waiver of rights and an appropriate notation shall be recorded on a retained copy of the appropriate form.

b. If the respondent declines to respond as to the selection of rights, such declination shall constitute a waiver of rights and an appropriate notation will be made on the form provided for respondent's reply. If the respondent indicates that one or more of the rights will be exercised, but declines to sign the appropriate form, the selection of rights will be noted and an appropriate notation as to the failure to sign will be made.

4. *Separation Authority.* a. The Separation Authority for actions initiated under the Notification Procedure shall be a special court-martial convening authority or higher authority. The Secretary concerned also may authorize a commanding officer in grade 0–5 or above with a judge advocate or legal advisor available to the command to act as a Separation Authority for a specified reason for separation, subject to approval by the ASD(MRA&L). When the case has been initiated under the Administrative Board Procedure and the member has waived the right to a hearing under section C.4., the Separation Authority shall be an official designated under subsection C.6., below.

b. The action of the Separation Authority shall be recorded.

c. The Separation Authority shall determine whether there is sufficient evidence to verify the allegations set forth in the notification of the basis for separation. If an allegation is not supported by a preponderance of the evidence, it may not be used as a basis for separation.

d. If there is a sufficient factual basis for separation, the Separation Authority shall determine whether separation is warranted under the guidance in sections A. and B. of Part 2. On the basis of that guidance, the Separation Authority shall direct one of the following actions:

(1) Retention;

(2) Separation for a specific reason under Part 1; or

(3) Suspended separation in accordance with the guidance in section B. Part 2.

e. If the Separation Authority directs separation or suspended separation on the basis of more than one reason under Part 1, the Separation Authority shall designate the most appropriate basis as the primary reason for reporting purposes.

f. If separation or a suspended separation is directed, the Separation Authority shall assign a characterization or description in accordance with section C. of Part 2.

g. Except when characterization Under Other Than Honorable Conditions is directed or the member is separated on the basis of homosexuality or a void enlistment or induction, the Secretary concerned may authorize the Separation Authority or higher authority to make a recommendation or determination as to whether the respondent should be retained in the Ready Reserve as a mobilization asset to fulfill the respondent's total military obligation. This option applies in cases involving separation from active duty or from the Selected Reserve. Section E. of this Part 3 is applicable if such action is approved.

c. *Administrative Board Procedure.* 1. *Notice.* If an Administrative Board is required, the respondent shall be notified in writing of the matters set forth in this section.

a. The basis of the proposed separation, including the circumstances upon which the action is based and reference to the applicable provisions of the Military Department's implementing regulation.

b. Whether the proposed separation could result in discharge, release from active duty to a reserve component, transfer from the Selected Reserve to the IRR, release from the custody or control of the Military Services, or other form of separation.

c. The least favorable characterization of service or description of separation authorized for the proposed separation.

d. The respondent's right to consult with counsel as prescribed in paragraph B.1.f. of this Part 3. However, nonlawyer counsel may not represent a respondent before an Administrative Board unless (1) the respondent expressly declines appointment of counsel qualified under Article 27(b) (1) of the UCMJ (10 U.S.C.) and requests a specific nonlawyer counsel; or (2) the Separation Authority assigns nonlawyer counsel as assistant counsel.

e. The right to obtain copies of documents that will be forwarded to the Separation Authority supporting the basis of the proposed separation. Classified documents may be summarized.

f. The respondent's right to request a hearing before an Administrative Board.

g. The respondent's right to present written statements instead of board proceedings.

h. The respondent's right to representation at the Administrative Board either by military counsel appointed by the Convening Authority or by military counsel of the respondent's own choice (if counsel of choice is determined to be reasonably available under regulations of the Secretary concerned) but not both.

i. The right to representation at the Administrative Board by civilian counsel at the respondent's own expense.

j. The right to waive the rights in paragraphs d. through i., above.

k. That failure to respond after being afforded a reasonable opportunity to consult with counsel constitutes a waiver of the rights in paragraphs d. through i., above.

l. Failure to appear without good cause at a hearing constitutes waiver of the right to be present at the hearing.

2. *Additional notice requirements.* a. If separation processing is initiated on the basis of more than one reason under Part 1, the requirements of paragraph C.1.a. apply to all proposed reasons for separation.

b. If the respondent is in civil confinement, absent without leave, or in a reserve component not on active duty or upon transfer to the IRR, the relevant notification procedures in sections D., E., or F. of this Part 3 apply.

c. Additional notification requirements are set forth in sections C. and D., Part 1, when characterization of service as General (under honorable conditions) is authorized and the member is processed for separation by reason of Convenience of the Government or Disability.

3. *Response.* The respondent shall be provided a reasonable period of time, but not less than 2 working days, to act on the notice. An extension may be granted upon a timely showing of good cause by the respondent. The decision of the respondent on each of the rights set forth in paragraphs 1.d. through 1.i., above, and applicable provisions referenced in subsection 2., above, shall be recorded and signed by the respondent and counsel, subject to the following limitations:

a. If notice by mail is authorized under sections D., E., or F. of this Part 3 and the respondent fails to acknowledge receipt or submit a timely reply, that fact shall constitute a waiver of rights and an appropriate notation shall be recorded on a retained copy of the appropriate form.

b. If the respondent declines to respond as to the selection of rights, such declination shall constitute a waiver of rights and an appropriate notation will be made on the form provided for respondent's reply. If the respondent indicates that one or more of the rights will be exercised, but declines to sign the appropriate form, the

selection of rights will be noted and an appropriate notation as to the failure to sign will be made.

4. *Waiver.* a. If the right to a hearing before an Administrative Board is waived, the case will be processed under subsection B.4. of this Part 3 (Notification Procedure), but the Separation Authority in such cases shall be an official designated under subsection C.6.

b. When authorized by the Secretary concerned, a respondent entitled to an Administrative Board may exercise a conditional waiver after a reasonable opportunity to consult with counsel under paragraph C.1.d. A conditional waiver is a statement initiated by a respondent waiving the right to a board proceeding contingent upon receiving a characterization of service or description of separation higher than the least favorable characterization or description authorized for the basis of separation set forth in the notice to the respondent.

5. *Hearing procedure.* If a respondent requests a hearing before an Administrative Board, the following procedures are applicable:

a. *Composition.* (1) The Convening Authority shall appoint to the Administrative Board at least three experienced commissioned, warrant, or noncommissioned officers. Enlisted personnel appointed to the Board shall be in grade E–7 or above, and shall be senior to the respondent. At least one member of the Board shall be serving in the grade of 0–4 or higher, and a majority shall be commissioned or warrant officers. The senior member shall be the president of the Board. The Convening Authority also may appoint to the Board a nonvoting recorder. A nonvoting legal advisor may be appointed to assist the Board if authorized by the Secretary concerned.

(2) If the respondent is an enlisted member of a reserve component or holds an appointment as a reserve commissioned or warrant officer, the Board shall include at least one Reserve officer as a voting member. Voting members shall be senior to the respondent's reserve grade. *See* 10 U.S.C. 266.

(3) The Convening Authority shall insure that the opportunity to serve on Administrative Boards is given to women and minorities. The mere appointment or failure to appoint a member of such a group to the Board, however, does not provide a basis for challenging the proceeding.

(4) The respondent may challenge a voting member of the Board or the legal advisor, if any, for cause only.

b. *Presiding officer.* The president shall preside and rule finally on all matters of procedure and evidence, but the rulings of the president may be overruled by a majority of the Board. If appointed, the legal advisor shall rule finally on all matters of evidence and challenges except challenges to himself.

c. *Witnesses.* (1) The respondent may request the attendance of witnesses in accordance with the implementing instruction of the Military Department concerned.

(2) In accordance with such instructions, the respondent may submit a written request for TDY or invitational travel orders for witnesses. Such a request shall contain the following matter:

(a) A synopsis of the testimony that the witness is expected to give.

(b) An explanation of the relevance of such testimony to the issues of separation or characterization.

(c) An explanation as to why written or recorded testimony would not be sufficient to provide for a fair determination.

(3) The Convening Authority may authorize expenditure of funds for production of witnesses only if the presiding officer (after consultation with a judge advocate) or the legal advisor (if appointed) determines that:

(a) The testimony of a witness is not cumulative;

(b) The personal appearance of the witness is essential to a fair determination on the issues of separation or characterization;

(c) Written or recorded testimony will not accomplish adequately the same objective;

(d) The need for live testimony is substantial, material, and necessary for a proper disposition of the case; and

(e) The significance of the personal appearance of the witness, when balanced against the practical difficulties in producing the witness, favors production of the witness. Factors to be considered in relation to the balancing test include, but are not limited to, the cost of producing the witness, the timing of the request for production of the witness, the potential delay in the proceeding that may be caused by producing the witness, or the likelihood of significant interference with military operational deployment, mission accomplishment, or essential training.

(4) If the Convening Authority determines that the personal testimony of a witness is required, the hearing will be postponed or continued if necessary to permit the attendance of the witness.

(5) The hearing shall be continued or postponed to provide the respondent with a reasonable opportunity to obtain a written statement from the witness if a witness requested by the respondent is unavailable in the following circumstances:

(a) When the presiding officer determines that the personal testimony of the witness is not required;

(b) When the commanding officer of a military witness determines that military necessity precludes the witness' attendance at the hearing; or

(c) When a civilian witness declines to attend the hearing.

(6) Paragraph (5)(c), above, does not authorize a federal employee to decline to appear as a witness if directed to do so in accordance with applicable procedures of the employing agency.

d. *Record of proceedings.* The record of the proceedings shall be kept in summarized form unless a verbatim record is required by the Secretary concerned. In all cases, the findings and recommendations of the Board shall be in verbatim form.

e. *Presentation of evidence.* The rules of evidence for courts-martial and other judicial proceedings are not applicable before an Administrative Board. Reasonable restrictions shall be observed, however, concerning relevancy and competency of evidence.

f. *Rights of the respondent.* (1) The respondent may testify in his or her own behalf, subject to the provisions of Article 31(a), UCMJ (10 U.S.C.).

(2) At any time during the proceedings, the respondent or counsel may submit written or recorded matter for consideration by the Board.

(3) The respondent or counsel may call witnesses in his or her behalf.

(4) The respondent or counsel may question any witness who appears before the Board.

(5) The respondent or counsel may present argument prior to when the Board closes the case for deliberation on findings and recommendations.

g. *Findings and recommendations.* (1) The Board shall determine its findings and recommendations in closed session. Only voting members of the Board shall be present.

(2) The Board shall determine whether each allegation set forth in the notice of proposed separation is supported by a preponderance of the evidence.

(3) The Board shall then determine under the guidance in section A. of Part 2 whether the findings warrant separation with respect to the reason for separation set forth in the Notice. If more than one reason was contained in the Notice, there shall be a separate determination for each reason.

(4) The Board shall make recommendations on the following:

(a) *Retention or separation.* The Board shall recommend retention or separation.

(b) *Suspension of separation.* If the Board recommends separation, it may recommend that the separation be suspended in accordance with section B. of Part 2, but the recommendation of the Board as to suspension is not binding on the Separation Authority.

(c) *Characterization of service or description of separation.* If separation or suspended separation is recommended, the Board shall recommend a characterization of service or description of separation as authorized in Part 1 (Reasons for Separation) in accordance with the guidance in section C. of Part 2.

(d) *Transfer to the Ready Reserve.* Except when the Board has recommended separation on the basis of homosexuality or has recommended characterization of service Under Other Than Honorable Conditions, the Secretary Concerned may authorize the Board to make a recommendation as to whether the respondent should be retained in the Ready Reserve as a mobilization asset to fulfill the respondent's total military obligation. This option applies to cases involving separation from active duty or from the Selected Reserve. Section E. of this Part 3 is applicable if the action is approved.

6. *Separation Authority.* A. The separation Authority for actions initiated under the Administrative Board Procedure shall be a general court-martial convening authority or higher authority. The Secretary concerned also may authorize a commanding officer in grade 0–7 or above with a judge advocate or legal advisor available to his command to act as a separation authority in specified circumstances. When an Administrative Board recommends characterization of service as Honorable or General (under honorable conditions), the Separation Authority may be exercised by an officer designated under subsection B.4. When the case has been initiated under the Notification Procedure and the hearing is a result of a request under paragraph B.1.g., the Separation Authority shall be as designated in subsection B.4.

b. In every case in which characterization of sevice Under Other Than Honorable Conditions is recommended, the record of the Board's proceedings will be reviewed by a judge advocate or civilian attorney employed by the Military Department prior to action by the Separation Authority. Such review is not required when another characterization is recommended unless the respondent identifies specific legal issues for consideration by the Separation Authority.

c. The respondent will be provided with a copy of the Board's statement of facts and recommendations.

d. The Separation Authority shall take action in accordance with this subparagraph, the requirements of Part 1 with respect to the reason for separation, and the guidance in Part 2 on separation and characterization.

(1) If the Separation Authority approves the recommendations of the Board on the issue of separation or characterization (or both) this constitutes approval of the Board's findings and recommendations under paragraph C.5.g. unless the Separation Authority expressly modifies such findings or recommendations.

(2) If the Board recommends retention, the Separation Authority may take one of the following actions:

(a) Approve the recommendation.

(b) Forward the matter to the Secretary concerned with a recommendation for separation based upon the circumstances of the case. In such a case, the Secretary may direct retention or separation. If the Secretary approves separation, the characterization of service or description of separation will be Honorable, General (under honorable conditions) or an Entry Level Separation under the guidance in section C. of Part 2.

(3) If the Board recommends separation, the Separation Authority may:

(a) Approve the Board's recommendation;

(b) Approve the Board's recommendation, but modify the recommendations by one or more of the following actions when appropriate:

1 Approve the separation but suspend execution as provided in section B. of Part 2.

2 Change the character of service or description of separation to a more favorable characterization or description.

3 Change the Board's recommendation, if any, concerning transfer to the IRR.

(c) Disapprove the Board's recommendation and retain the respondent.

(4) If the Separation Authority approves the Board's findings and recommendations in whole or in part with respect to more than one reason under Part 1, the Separation Authority shall designate the most appropriate basis as the primary reason for reporting purposes.

(5) If the Separation Authority finds legal prejudice to a substantial right of the respondent or determines that the findings of the Board have been obtained by fraud or collusion, the case may be referred to a new board. No member of the new board shall have served on a prior board that considered the case. The Separation Authority may not approve findings and recommendations less favorable to the respondent than those rendered by the previous board unless the Separation Authority finds that fraud or collusion in the previous board is attributable to the respondent or an individual acting on the respondent's behalf.

D. *Additional Provisions Concerning Members Confined by Civil Authorities.* 1. If proceedings under this part have been initiated against a respondent confined by civil authorities, the case may be processed in the absence of the respondent. Paragraph C.5.e. of this Part 3 is not applicable except insofar as such rights can be exercised by counsel on behalf of the respondent.

2. The following requirements apply:

a. The notice shall contain the matter set forth in subsection B.1. of this Part or subsection C.1. (Notice in the Administrative Board Procedure), as appropriate. The notice shall be delivered personally to the respondent or sent by registered mail or certified mail, return receipt requested (or by an equivalent form of notice if such service is not available for delivery by U.S. mail at an address outside the United States). If the member refuses to acknowledge receipt of notice, the individual who mails the notification shall prepare a Sworn Affidavit of Service by Mail (see 32 CFR Part 100) [DOD Directive 1215.13], which will be inserted in the member's personnel file together with PS Form 3800.

b. If delivered personally, receipt shall be acknowledged in writing by the respondent. If the respondent does not acknowledge receipt, the notice shall be sent by mail as provided in paragraph 2.a., above.

c. The notice shall state that the action has been suspended until a specific date (not less than 30 days from the date of delivery) in order to give the respondent the opportunity to exercise the rights set forth in the notice. If respondent does not reply by such date, the separation authority shall take appropriate action under subsection B.4. of this Part 3.

d. The name and address of the military counsel for appointed consultation shall be specified in the notice.

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e. If the case involves entitlement to an Administrative Board, the respondent shall be notified that the board will proceed in the respondent's absence and that the case may be presented on respondent's behalf by counsel for the respondent.

E. *Additional Requirements for Certain Members of Reserve Components.* 1. *Members of reserve components not on active duty.* a. If proceedings under this Chapter have been initiated against a member of a reserve component not on active duty, the case may be processed in the absence of the member in the following circumstances:

(1) At the request of the member;

(2) If the member does not respond to the notice of proceedings on or before the suspense date provided therein; or

(3) If the member fails to appear at a hearing as provided in paragraph C.1.1.

b. The notice shall contain the matter set forth in subsections B.1. or C.1. of this Part 3, as appropriate.

c. If the action involves a transfer to the IRR under circumstances in which the procedures in this Appendix A are applicable, the member will be notified that the character of service upon transfer to the IRR also will constitute the character of service upon discharge at the completion of the military service obligation unless specified conditions established by the Secretary concerned are met.

2. *Transfer to the IRR.* Upon transfer to the IRR, the member will be notified of the following:

a. The character of service upon transfer from active duty or the Selected Reserve to the IRR, and that the character of service upon completion of the military service obligation will be the same unless specified conditions established by the Secretary concerned are met.

b. The date upon which the military service obligation will expire.

c. The date by which the member must submit evidence of satisfactory completion of the specified conditions.

3. If the member submits evidence of completion of the specified conditions but the Military Department proposes to issue a discharge other than an Honorable Discharge, the Notification Procedure shall be used. An Administrative Board is not required at this point notwithstanding the member's years of service.

4. If the member does not submit such information on or before the date specified in the notice, no further proceedings are required. The character of discharge at the completion of the military service obligation shall be the same as the character of service upon transfer from the Selected Reserve to the IRR.

5. The following requirements apply to the notices required by subsections E.1. and E.2. of this Part 3.

a. Reasonable effort should be made to furnish copies of the notice to the member through personal contact by a representative of the command. In such a case, a written acknowledgment of the notice shall be obtained.

b. If the member cannot be contacted or refuses to acknowledge receipt of the notice, the notice shall be sent by registered or certified mail, return receipt requested (or by an equivalent form of notice if such service by U.S. Mail is not available for delivery at an address outside the United States) to the most recent address furnished by the member as an address for receipt or forwarding of official mail. The individual who mails the notification shall prepare a Sworn Affidavit of Service by Mail (see 32 CFR Part 100 (DOD Directive 1215.13)), which will be inserted in the member's personnel file together with PS Form 3800.

F. *Additional Requirements for Members Beyond Military Control by Reason of Unauthorized Absence.* 1. *Determination of applicability.* If the general court-martial convening authority or higher authority determines that separation is otherwise appropriate under this Part, a member may be separated without return to military control in one or more of the following circumstances:

a. Absence without authority after receiving notice of initiation of separation processing.

b. When prosecution of a member who is absent without authority appears to be barred by the statute of limitations, Article 43, UCMJ.

c. When a member who is an alien is absent without leave and appears to have gone to a foreign country where the United States has no authority to apprehend the member under a treaty or other agreement.

2. *Notice.* Prior to execution of the separation under paragraphs 1.b. or 1.c., the member will be notified of the imminent action by registered mail or certified mail, return receipt requested (or by an equivalent form of Notice if such service by U.S. Mail is not available for delivery at an address outside the United States) to the member's last known address or the next of kin under regulations prescribed by the Military Department concerned. The notice shall contain the matter set forth in subsections B.1. or C.1., as appropriate, and shall specify that the action has been suspended until a specific date (not less than 30 days from the date of mailing) in order to give the respondent the opportunity to return to military control. If the respondent does not return to military control by such date, the separation authority shall take appropriate action under subsection B.4. of this Part 3.

3. *Members of reserve components.* See 10 U.S.C 1163 with respect to limitations on separation of members of reserve components.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

March 3, 1982.

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Tuesday, March 9, 1982

Part III

Department of Labor

Mine Safety and Health Administration

Review of Metal and Nonmetal Standards

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 55 and 57

Review of Metal and Nonmetal Standards Public Conferences

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of Public Conferences.

SUMMARY: The Mine Safety and Health Administration (MSHA) will hold a series of public conferences throughout the country to discuss issues relating to certain standards in 30 CFR Parts 55 and 57: Section .3 (Ground Control); Section .4 (Fire Prevention and Control); Section .5 (Air Quality); Section .6 (Explosives); Section .9 (Loading, Hauling, Dumping); Section .12 (Electricity); Section .14 (Use of Equipment); and Section .21 (Gassy Mines).

The purpose of this review is to improve the quality and effectiveness of MSHA's standards by eliminating duplication, reducing excessive recordkeeping requirements, upgrading provisions consistent with advances in mining technology, and eliminating unnecessary standards. Information gathered at these conferences will assist the agency in developing regulatory proposals.

DATES: All requests to participate in the public conferences should be submitted at least five (5) days prior to the conference date. All post-conference written comments should be submitted by June 4, 1982. The conferences will be held at the following locations on the dates indicated, beginning at 9:00 a.m.:

March 29, 1982— Reno, Nevada (.3 Ground Control).

March 30, 1982— Reno, Nevada (.6 Explosives), and Knoxville, Tennessee (.4 Fire Prevention and Control).

March 31, 1982—Carlsbad, New Mexico (.21 Gassy Mines), and Knoxville, Tennessee (.12 Electricity).

April 1, 1982—Albuquerque, New Mexico (.3 Ground Control).

April 2, 1982—Albuquerque, New Mexico (.6 Explosives).

April 6, 1982—Salt Lake City, Utah (.21 Gassy Mines).

April 13, 1982—Phoenix, Arizona (.4 Fire Prevention and Control), and Louisville, Kentucky (.3 Ground Control).

April 14, 1982—Phoenix, Arizona (.12 Electricity), and Louisville, Kentucky (.6 Explosives).

April 15, 1982—Louisville, Kentucky (.5 Air Quality).

April 20, 1982—St. Paul, Minnesota (.9 Loading, Hauling, Dumping), and Albuquerque, New Mexico (.5 Air Quality).

April 21, 1982—St. Paul, Minnesota (.14 Use of Equipment).

April 22, 1982—Pittsburgh, Pennsylvania (.9 Loading, Hauling, Dumping), and Reno, Nevada (.5 Air Quality).

April 23, 1982—Pittsburgh, Pennsylvania (.14 Use of Equipment).

April 26, 1982—Spokane, Washington (.9 Loading, Hauling, Dumping).

April 27, 1982—Spokane, Washington (.14 Use of Equipment).

April 28, 1982—Spokane, Washington (.4 Prevention and Control).

April 29, 1982—Spokane, Washington (.12 Electricity), and Denver, Colorado (.9 Loading, Hauling, Dumping).

April 30, 1982—Denver, Colorado (.14 Use of Equipment).

May 4, 1982—New Orleans, Louisiana (.21 Gassy Mines).

ADDRESSES: The conferences will be held at the following locations:

Albuquerque, New Mexico (April 1—.3 Ground Control; April 2—.6 Explosives; April 20—.5 Air Quality)—Sheraton Old Town, 800 Rio Grande Boulevard, NW., Albuquerque, New Mexico 87104.

Carlsbad, New Mexico (March 31—.21 Gassy Mines)—Best Western Motel Stevens, 1829 South Canal, Carlsbad, New Mexico 88220.

Denver, Colorado (April 29—.9 Loading, Hauling, Dumping; April 30—.14 Use of Equipment)—United States Post Office, Main Office Building, Room 467, 1823 Stout Street, Denver, Colorado 80202.

Knoxville, Tennessee (March 30—.4 Fire Prevention and Control; March 31—.12 Electricity)—Hyatt Regency Knoxville, 500 Hill Avenue, Knoxville, Tennessee 37915.

Louisville, Kentucky (April 13—.3 Ground Control; April 14—.6 Explosives; April 15—.5 Air Quality)—Holiday Inn Midtown, 200 East Liberty Street, Louisville, Kentucky 40202.

New Orleans, Louisiana (May 4—.21 Gassy Mines)—F. Edward Hebert Federal Building, Room 631, 600 South Street, New Orleans, Louisiana 70130.

Phoenix, Arizona (April 13—.4 Fire Prevention and Control; April 14—.12 Electricity)—Federal Building and Courthouse, Room 1013, 230 North First Avenue, Phoenix, Arizona 85025.

Pittsburgh, Pennsylvania (April 22—.9 Loading, Hauling, Dumping; April 23—.14 Use of Equipment)—Bureau of Mines Auditorium, 4800 Forbes Avenue, Pittsburgh, Pennsylvania 15213.

Reno, Nevada (March 29—.3 Ground Control; March 30—.6 Explosives; April 22—.5 Air Quality)—Bureau of Mines, Room 211, 1605 Evans Avenue, Reno, Nevada 89512.

St. Paul, Minnesota (April 20—.9 Loading, Hauling, Dumping; April 21—.14 Use of Equipment)—Bishop Henry Whipple Federal Building, Room 564, Fort Snelling, St. Paul, Minnesota 55111.

Salt Lake City, Utah (April 6—.21 Gassy Mines)—Salt Palace Center, Room 220, 100 South West Temple, Salt Lake City, Utah 84101.

Spokane, Washington (April 26—.9 Loading, Hauling, Dumping; April 27—.14 Use of Equipment; April 28—.4 Fire Prevention and Control; April 29—.12 Electricity)—United States Court House, Room 752, West 920 Riverside Avenue, Spokane, Washington 99201.

All requests for oral presentations and all post-conference written comments should be submitted to the Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Acting Director, Office of Standards, Regulations and Variances, MSHA, (703) 235-1910.

SUPPLEMENTARY INFORMATION:

Public Participation

The purpose of these public conferences is to provide a forum for the free and open exchange of ideas in an informal setting. Each conference will begin at 9:00 a.m.

All persons making timely written requests to speak will have time allotted to them for their presentations. The request should identify the person and organization, the amount of time requested for the presentation, the specific standards as appropriate, and the location where the presentation will be made. Although written statements are not required, participants are encouraged to submit written materials in support of their positions.

Other persons wishing to speak should register prior to each conference at the beginning of the public session. If time is limited, priority will be given to those who have requested time in advance.

Interested persons may request that speakers clarify their comments or provide additional information during the conferences. It should be noted that the issues which are specifically addressed in this notice are not intended to limit the scope of discussion at the open conferences. Rather, their purpose is to focus attention on those areas which are of particular concern to the metal and nonmetal mining community.

Discussion and comment may address alternatives to existing regulatory requirements, including specific regulatory language, the continued need for specific standards, the elimination of duplicate standards, conflicts with other Federal or state regulations, the impact of specific standards on small businesses, and recordkeeping and reporting requirements. Persons are also encouraged to submit estimates related to the costs of complying with existing standards and costs related to any alternatives submitted. A formal transcript will not be made of these conferences. Following the conferences, MSHA welcomes additional written comments relevant to any issues concerning the affected standards.

On March 25, 1980, MSHA published an Advance Notice of Proposed Rulemaking (ANPR) in the **Federal Register** (45 FR 19267) announcing its comprehensive review of existing metal and nonmetal mine safety and health standards in 30 CFR Part 55, 56 and 57.[1] The ANPR invited the public to fully participate in all aspects of the review. A comment period was established and subsequently extended to August 5, 1980 (45 FR 38067). In response to the agency's request for information relating to problems associated with metal and nonmetal standards, MSHA received written comments from over 100 persons representing a wide spectrum of the metal and nonmetal mining community.

On November 20, 1981, MSHA published a subsequent ANPR in the **Federal Register** (45 FR 57253) which set forth eight sections in 30 CFR Parts, 55, 56, and 57 that it initially selected for priority review. The standards that were selected cover: ground control; fire prevention and control, air quality; explosives; loading, hauling, dumping; electricity; use of equipment; and gassy mines.

As part of this review and in addition to the statutory rulemaking requirements of the Federal Mine Safety and Health Act of 1977, MSHA will also be evaluating its standards in accordance with Executive Order 12291, the Regulatory Flexibility Act, and the Paperwork Reduction Act of 1980. An appropriate regulatory analysis will be undertaken for each rulemaking.

[1] Note.—As a result of recent Congressional budget actions, restrictions have been temporarily placed on MSHA which prohibit expenditure of funds incidental to jurisdiction over mining and milling operations covered by Part 56, specific open pit mines covered by Part 55, and certain surface construction activities. As long as these restrictions remain in effect, the agency is unable to proceed with the review of standards affecting these operations.

Following these public conferences, MSHA will develop revised standards which will be published as proposed rulemaking in the **Federal Register**. The proposals will be followed by a comment period and public hearings. In issuing its final rules, MSHA will make every effort to be responsive to the concerns of the metal and nonmetal mining community and to advance the goals of regulatory relief without reducing protections necessary to miner safety and health.

Section-by-Section Analysis

For each area of standards, MSHA has prepared a section-by-section analysis of the issues raised thus far in the review process.

Section .3 Ground Control

MSHA's ground control standards are primarily intended to reduce accidents and injuries resulting from unplanned falls of ground from the roof, rib, and face areas of underground mines and from banks, pit walls and face areas of surface operations. Inspection requirements, proper scaling methods and reliable ground support are the specific objectives of most of the standards in the section.

Commenters suggested that several standards were in need of clarification or revision. Commenters stated that standard .3–3 [2] (bench width and height) was vague and that specific measurements for the width and height of benches should be included. Standard .3–6 (scaling practice) requires that loose rock and areas to be scaled must be approached from above in order to guard against the hazard of falling ground. Commenters suggested that the standard be revised to allow persons to approach such areas from an alternate safe location if appropriate. Discussion of this issue would be helpful.

Commenters noted that standard 57.3–50 (secondary breaking procedure) is confusing and complicated; MSHA seeks alternative language to clarify and simplify the standard. Standard .3–53 (rock-bolt test procedures) requires that test procedures be established and followed for rock-bolt installations. A commenter requested that the standard be revised to reflect the specific tests required. Discussion therefore should include whether MSHA should provide specific guidelines for the test procedures. Commenters stated that standard .3–55(d) (point-anchor rock-bolt testing) was ambiguous. One commenter suggested deleting the phrase "equivalent to" and replacing it with the phrase "such as." MSHA seeks further discussion on whether alternative support systems should be specified in the current standard.

Comment is being solicited for those standards which impose recordkeeping requirements. Standard .3–53 requires that an operator establish test procedures for rock-bolt installations, and that a copy of the test results must be available to MSHA. Standard 57.3–35 (rock-burst detection plan) states that, if appropriate, an operator must develop a rock-burst detection plan which must be available to MSHA. MSHA requests advice on alternatives which may achieve the intent of the standards and minimize paperwork requirements.

Commenters stated that certain groups of standards contain duplicate requirements and should be combined. For instance, they stated that standards .3–6 (pre-shift and after-blasting examinations), .3–9 (examination by miners), and 57.3–22 (examination of ground conditions) contain similar inspection requirements, and therefore should be combined into a single standard. MSHA desires further discussion on this issue and suggestions for appropriate wording for a combined standard. Also, commenters thought that standards .3–1 (pit wall control), .3–2 (stripping), .3–3 (bench width and height), .3–4 (scaling pit banks), .3–5 (dangerous banks or ground), and .3–6 (scaling practices) provide duplicate coverage. MSHA seeks discussion on whether these standards should be combined, or whether the individual standards should be retained. A commenter stated that standards .3–53 (anchorage test procedures), .3–54 (torquing) and .3–55 (point-anchor rock bolts) should specifically address split-set rock bolts. MSHA requests additional input on the issue of including specific criteria for split-set and resin rock bolts.

Several commenters suggested that a comprehensive ground control plan standard should be developed by MSHA. Such a standard would require operators to develop and submit to the appropriate MSHA District Manager a detailed plan consisting of ground control procedures and mining practices which would assure safe ground conditions in all areas of the mine. However, such a standard, depending on the specific requirements, could replace existing standards in the Section. In that case, MSHA would enforce the provisions of the plan rather than the individual standards.

[2] Note.—All standards which are currently found in identical form in both 30 CFR Parts 55 and 57 are referenced in the document without their respective Part designations. For example, "56.3–3" and "57.3–3" appear as ".3–3"; but § 57.3–50, an "underground only" standard, appears as § 57.3–50.

Specifically, it was suggested that the plan should include: structural geology of the mine; a map of the mine; chronology of development; method of rock breakage; support system and installation procedures; equipment used for the installation and testing of rock bolts and for scaling; method for monitoring ground movement; and other detailed information. As suggested, the plan and periodic modifications would be sent to the District Manager for approval. MSHA is interested in receiving further information with respect to the feasibility of a ground control plan standard.

Section .4 Fire Prevention and Control

The standards in section .4 are designed to protect miners against the hazards of fires and explosions. They also seek to protect miners from the hazards of vapors, fumes, smoke, liquids or materials which may be either flammable or combustible.

MSHA received over 150 comments on standards in Section .4. Many of these comments suggested combining or deleting standards which relate closely to or duplicate other standards. MSHA encourages comment on standards which could be combined or deleted. In each instance, MSHA will carefully assess whether the standards are redundant or whether the hazards addressed in each are significantly different to merit separate consideration. Commenters expressed concern that some standards are unclear because they do not specifically identify the hazards addressed, or identify the safety measures required.

Commenters proposed new wording for some standards. MSHA has reviewed these proposals and found that some of the alternative wording suggested could result in improved standards. MSHA will consider all suggestions.

A large number of commenters indicated that several standards incorporate ambiguous terms that may be subject to different interpretations. Examples of these terms include "suitable" and "unsafe." MSHA welcomes suggestions that would clarify or better define such terms.

MSHA would like suggestions for alternative regulatory language for standard .4–39A (storage facilities for flammable and combustible materials). Some commenters stated that the standard should not apply to combustible liquids because some liquids, such as oil and other lubricants, which are accurately classified as combustible liquids, are not flammable. Commenters also indicated that the phrase "where miners normally work" is overly broad and subject to various interpretations by MSHA's inspectors. MSHA is interested in suggestions for addressing the hazards covered by this standard in a more precise manner.

MSHA also requests suggestions for alternative regulatory language for standard .4–27 (fire extinguishers for mobile equipment) that would clarify the extent and nature of the hazard involved. Many commenters stated that the phrase "readily accessible" is vague.

The terms "combustible" and "flammable" are defined in Section .2 (Definitions), but the terms "flammable liquids" and "combustible liquids" are not defined. Commenters stated that these terms are ambiguous and confusing. MSHA is considering adoption of the definitions for "flammable liquids" and "combustible liquids" from the 14th edition of the National Fire Protection Association's *Fire Protection Handbook*. The *Handbook* defines flammable liquids as those having a flash point below 100° F (37.8° C) and having a vapor pressure not exceeding 40 psi absolute (2068.6 mm Hg) at 100° F (37.8° C). It defines combustible liquids as those with a flash point at or above 100° F (37.8° C).

Many commenters suggested a need to improve the definitions in this section. For example, standards .4–22 (firefighting equipment) and .4–1 (smoking or use of open flames) use the terms "suitable" and "unsafe distance." Commenters stated that "suitable" and "unsafe distance" are vague and ambiguous.

In standard .4–4 (storage of flammable liquids), MSHA incorporates National Fire Protection Association consensus standards. Some commenters requested that the incorporation by reference be deleted. MSHA intends to delete the incorporation where possible by including specific requirements in the standard. This will eliminate the need to look to different sources to determine compliance requirements. MSHA is interested in receiving suggestions for alternative regulatory language that would address requirements of the incorporated material. Suggestions should explain how the alternative language addresses the hazards involved.

MSHA also welcomes suggestions for improvement of any recordkeeping or reporting requirements contained in the standards in Section .4 including: .4–23 (firefighting equipment inspection records); .4–48 (employee fire emergency training records); 57.4–73 (mine evacuation drill records); and 57.4–74 (employee escape and evacuation training records). In addition, commenters suggested that many of the training requirements contained in these standards are duplicative of Part 48 training requirements. MSHA solicits comment on these issues.

Section .5 Air Quality

MSHA's initial review of Section .5 concerns standards relating to air quality health hazards (.5–1 through .5–10, §§ 57.5–15 and 57.5–16), and associated problems resulting from overexposure to airborne contaminants in mine environments.

Since MSHA first published its air quality standards, advances in the field of health technology have occurred in analytical and sampling techniques, and knowledge of the nature and effect of health hazards has increased. Moreover, MSHA believes it is important to periodically review air quality standards to assure that they provide effective and feasible protection for miners. To further this purpose, MSHA has defined several related issues and requests comments on the various provisions of existing standards. Suggestions are also welcome for specific alternatives dealing with organization and language, analysis and sampling, exposure limits, exposure control, respiratory protection programs, and recordkeeping.

One air quality standard, .5–1(b) (asbestos), will not be addressed as part of this priority standards review process because the National Institute for Occupational Safety and Health (NIOSH) is currently working on a comprehensive standards recommendation for asbestos exposure in mining. MSHA intends to address this issue after receiving the NIOSH recommendation.

Standard .5–1 (airborne contaminants) incorporates by reference portions of the 1973 edition of *Threshold Limit Values for Chemical Substances in Workroom Air*, adopted by the American Conference of Governmental Industrial Hygienists (ACGIH). Standard .5–5(b) (respiratory programs) incorporates by reference the requirements of ANSI Z88.2–1969 entitled "Practices for Respiratory Protection." To the extent possible, MSHA would like to delete incorporations by reference since they require mine operators and miners to refer to other documents for complete compliance requirements. MSHA seeks alternatives to the incorporations which would clearly set forth the agency's compliance requirements without reference to other documents.

Standard .5–5 (exposure control) currently combines requirements for engineering controls and a respiratory protection program. MSHA is considering removing the requirements for a respiratory protection program from standard .5–5 and including these requirements in section .15 (Personal Protection) as a separate standard. MSHA is also considering combining the exposure control provisions of standard .5–5 with the exposure limit provisions of standard .5–1. Further discussion is invited.

In the ACGIH booklet, the term "Threshold Limit Value" (TLV) is used. This term is copyrighted by ACGIH. MSHA is considering use of the term "Permissible Exposure Limit" (PEL) instead of TLV to designate the daily average exposure level which must not be exceeded. The agency invites comment on the use of this term or alternative suggestions.

Commenters pointed out a conflict between standards .5–6 (chemical substances) and .20–5 (carbon tetrachloride). The former permits the use of carbon tetrachloride by competent persons under laboratory conditions while the latter forbids its use at all. Also, an apparent inconsistency may exist between standards .5–10 (silica sand) and 57.5–16 (silica sand). MSHA prohibits the use of silica sand containing more than one percent (1%) free silica for sand blasting underground, but permits its use on the surface with the use of air supplied respirators. MSHA intends to study the circumstances surrounding the use of carbon tetrachloride and silica sand blasting, and seeks further comments on these issues.

With respect to standard .5–3 (dust control measures for drilling), MSHA is evaluating whether this standard should be moved to Section .7 (Drilling). Another alternative would be to delete the standard and treat wet drilling as a contaminant control under standard .5–5. MSHA solicits specific comments on these issues.

Certain standards use words or phrases which some commenters have described as overly broad or difficult to interpret. For example, standard .5–2 (dust, gas, mist and fume surveys) requires that surveys be conducted "as frequently as necessary." MSHA recognizes the need to provide operators with specific language to provide them with proper notice of their compliance obligations; however, the agency also wishes to provide maximum flexibility for operators in meeting their obligations. MSHA solicits specific language to clarify this standard.

To simplify requirements and to reduce administrative costs, MSHA is considering updating the method of collecting mineral dust samples. This change would replace midget impinger sampling with gravimetric sampling. It would also replace TLVs expressed in millions of particles per cubic foot (mppcf) with corresponding TLVs in milligrams per cubic meter (mg/m^3). This change has been incorporated in TLV documents published since 1976.

MSHA uses shift-weighted average (SWA) contaminant concentrations to normalize time-weighted average (TWA) contaminant concentrations to an eight-hour shift to measure compliance. Some commenters have expressed the opinion that MSHA should adjust the exposure limit to account for novel work schedules rather than adjusting the TWA.

MSHA is considering the use of the respirable dust sampling method for sampling nuisance dusts. The total dust sampling method would be reserved for sampling for specific health hazards, for example, those contaminants that cause upper respiratory tract irritation. MSHA seeks comments on the appropriateness of such an alternative.

Some substances for which a TLV exists may not be present in mine atmospheres, or may not be present at levels which pose an occupational hazard to the health of miners. Other substances may be present for which adverse health effects have been observed after exposure to concentrations below the MSHA exposure limit. MSHA requests information on those substances which have little or no adverse health effect on miners, and those which have generated concern in the mining community for the health of miners.

MSHA is considering reprinting the ACGIH TLV list, as appropriate, in standard .5–1. MSHA seeks data developed since 1973 which demonstrates that the health risk associated with a given substance justifies the setting of a limit different from the existing one. MSHA then will evaluate the appropriateness of adjusting the limit. Also, rapidly changing industrial practices often introduce new chemicals into the workplace. Where data exist indicating that specific substances not on the TLV list pose significant hazards, MSHA will consider the advisability of adding these to the list.

MSHA is considering adopting a general mine dust standard to provide an exposure limit for all airborne particles not otherwise appearing in the ACGIH TLV list. This limit would then be adjusted to take into account the limits for those substances that appear on the TLV list and constitute a significant percentage of the mine dust. MSHA welcomes comments concerning the concept of "mine dust", relevant data for setting an appropriate limit of exposure, and specific alternatives to the mine dust concept.

MSHA incorporates as part of standard .5–1(a) ANSI *Maximum Exposure Limits*, ANSI *Ceiling Limits*, *Pennsylvania Rules on Short-Term Limits*, and the ACGIH *Threshold Limit Values Excursion Factors*. MSHA is considering the publication of short-term limits to clarify which requirements are to be applied when more than one contaminant limit exists. Similarly, MSHA is evaluating the appropriateness of revising standard .5–1(c) to require withdrawal of employees from areas where substances are found in concentrations which exceed the MSHA short-term limit published for that substance. MSHA requests comments on specific substances for which employee withdrawal would be appropriate.

An extended period of time may be necessary for the installation of exposure controls under .5–5. Unusual economic considerations could also become a factor affecting installation of such controls. When these circumstances are present, MSHA now requests an operator to submit a contaminant control plan outlining the steps which will be taken to comply with this standard. MSHA then determines an appropriate time frame for abatement of the hazard. MSHA welcomes specific comments on this policy and on the appropriate role of personal protection equipment in contaminant control plans.

MSHA also seeks comments on the concept of an exposure control plan, including specific suggestions concerning implementation and maintenance.

At the present time MSHA enforces the respiratory protection program contained in ANSI Z88.2–1969. This document was revised in 1980. MSHA is considering updating the respiratory program requirements of standard .5–5(b) by adopting the mandatory provisions of ANSI Z88.2–1980. MSHA seeks comments on these mandatory provisions and on alternatives to the use of ANSI Z88.2–1980 as a basis for MSHA's standard for a respiratory protection program. Comments should include specific, performance-oriented regulatory language.

In the standards under review which relate to air quality, the only one which explicitly requires the keeping of a record is standard .5–5(b) which incorporates ANSI Z88.2–1969. ANSI requires the keeping of various records, including records of fitting, testing, selection, and maintenance of respirators. MSHA will examine each

recordkeeping requirement to determine whether it is necessary and effective. MSHA welcomes any substantive comments on this issue.

Standard .5–2 requires that surveys be conducted as frequently as necessary to determine the adequacy of control measures. The surveys provide a basis for determining compliance with exposure levels specified in standard .5–1; MSHA is considering specifying the frequency of these surveys and requiring that records be kept. MSHA specifically solicits comments and suggestions on this issue including current practices, record retention periods, and alternatives to recordkeeping.

Section .6 Explosives

Section .6 addresses hazards involved in the transportation, storage, use and disposal of explosives, blasting agents and related devices in metal and nonmetal mines.

Commenters raised several issues with regard to standard .6–20 (surface magazine requirements). MSHA seeks specific discussion on whether incorporated material from the Institute of Makers of Explosives publication, *American Table of Distances for Storage of Explosives*, should be modified, or deleted and distance requirements specifically published in section .6; whether non-sparking materials should be allowed to be stored in magazines; the appropriateness of allowing the use of acceptable electrical heating devices; a clarification of "suitable" danger signs and "substantial construction" requirements; and the proper minimum distance of magazines from fuel storage facilities.

Several commenters stated that certain terms need clarification. For example, .6–40 (transportation of explosives and detonators) contains the phrase "separated by 4 inches of hardwood or the equivalent"; standards .6–56 (containers for transporting explosives) and .6–57 (containers for transporting fuses and detonators) use the terms "substantial nonconductive containers" and "nonconductive containers," respectively. MSHA would like specific suggestions for clarifying these terms.

MSHA seeks additional comments on clarifying language of the phrase "suitable fire extinguishers" in standard .6–42 (vehicles used to transport explosive material). The agency is also interested in information concerning whether a chart should be included in the standard which would list the acceptable types and size of fire extinguishers. For example, the type and size could correspond to the gross weight of the vehicle including explosive materials.

Several commenters stated that the term "proper warning signs" in standard .6–43 (vehicles for explosive material transportation) needs clarification. Also in need of clarification is standard .6–46 (vehicle maintenance and operation) which requires that such vehicles be maintained in "good condition," operated at "safe" speeds and in accordance with "safe operating practices." Commenters requested guidance on the practical application of these terms.

In standard 57.6–77 (vehicles containing explosives or detonators), commenters stated that MSHA should provide a definition for the term "attended", and suggested that it may not be realistic to require that vehicles holding explosive materials underground be attended at all times. MSHA seeks additional comments on these issues.

Standard .6–90 (qualifications of blasters) and standard .6–91 (authorized persons) address the hazard presented where inexperienced or untrained persons use explosive materials. One commenter suggested that the word "experienced" be replaced by the defined word "competent" in standard .6–90. Another commenter questioned the appropriateness of the phrase "authorized persons" in standard .6–91. MSHA requests discussion of these issues.

Commenters requested clarification of standard .6–92 (disposal of explosive material). MSHA seeks additional comments concerning whether the term "designated agent" should be changed; whether the term "disposed of promptly" should be added; and whether the disposal of small quantities of materials could be exempted from the requirement of the standard without adversely affecting the safety of miners.

MSHA is aware that application of the terms "charged" and "loaded" have caused concern within the mining community. Either one or both of the terms is used in standards .6–65 (vehicles containing explosives), 57.6–77 (vehicles loaded with explosives), .6–93 (borehole obstruction), .6–94 (timing of blast hole preparation and blasting), .6–96 (separation of explosive materials), .6–98 (connection of initiators), .6–102 (safe locations) and .6–103 (security of blast areas). Discussion should also address definitions of the terms "charged" and "loaded", or alternatively, whether the terms should be deleted and be replaced by more descriptive language.

Commenters questioned the return time to a misfired hole or holes in standards .6–104 (when safety fuse is used) and .6–105 (when electric blasting caps are used). MSHA solicits comments on this issue. Also, suggestions are solicited as to whether the phrase "after each shot" should be added to either or both of these standards.

Commenters requested clarification of standard .6–135 (collaring holes in bootlegs) which currently prohibits holes from being collared in "bootlegged" holes. Discussion is also requested on the issue of combining standard .6–135 with standard .6–107 (drilling near holes containing explosive materials).

In response to comments, MSHA requests alternative language for standard .6–138 which protects against the unplanned detonation of explosive materials placed into hot drilled or "sprung" blast holes.

Section .9 Loading, Hauling, Dumping

This Section covers potential hazards relating to the defects, repairs, inspection and operation of mobile and stationary equipment, and related activities. Among the areas covered are roadways, track roadbeds, berms and guards, ramps, dumping places and facilities, muck piles and materials transfer points.

General comments indicated that Section .9 should be expanded to include all mobile equipment, and reorganized by grouping standards by subject matter such as separate areas for rail haulage and mobile equipment. Categories such as maintenance of equipment, performance of equipment, and conduct of personnel were also suggested. Other commenters identified duplicative or overlapping standards that could be eliminated through consolidation. Clarification for the following terms was also requested: "self-propelled equipment"; "powered mobile equipment"; and "heavy duty mobile equipment".

Certain standards have been identified by commenters as being unclear. MSHA solicits alternative language for these and any other standards that may be ambiguous.

Commenters believe the term "adequate brakes" in standard .9–3 (powered mobile equipment brakes) should be clarified and parking brakes should be included in the standard.

Suggestions were made to either clarify or delete standard .9–19 (track rails, guard rails, and frogs).

Commenters suggested that standard .9–37 (unattended mobile equipment) should be revised to clarify the term "unattended", and to specify the type of brakes required. They also suggested that .9–37 should be combined with standard .9–36 (unattended electrically-powered mobile equipment). Discussion of these issues is requested.

In addition, standards .9–40 (transportation of men), .9–41 (authorized persons on trains), .9–65 (coupling of railroad cars), § 57.9–103 (collars of open draw holes), and § 57.9–107 (broken rock or draw points) were identified as vague, ambiguous, and in need of clarification.

Commenters indicated that the following standards should be combined or rewritten because they either duplicate or overlap one another: standards .9–2 (equipment safety defects) and .9–73 (tagging of equipment), also .9–23 (power control and .9–24 (operator control of equipment). They suggested that certain standards be made more specific or expanded to better address the hazards involved. MSHA requests further comment and alternative language.

With respect to standard .9–6 (starting conveyors), it was recommended that the standard be expanded to include automatic warning devices with built-in delays. Commenters also suggested broadening standard .9–11 (condition of cab glass windows) to include glass windows on equipment without cabs.

MSHA received requests for more definitive guidelines for berms under standard .9–22 (berms or guards on elevated roadways). For example, the standard would specify the mid-axle height of the largest equipment on the roadway as the required height for berms.

Commenters stated that back-up alarms required by standard .9–87 (audible warning devices for heavy duty mobile equipment) are not reliable, and that MSHA should establish performance standards for back-up alarms. Also, visual aids (mirrors) and visual warnings for backing-up were suggested. MSHA solicits suggestions on how to improve the above standards while retaining flexibility in the methods an operator may use to address the hazards involved.

Several commenters noted that other standards in Section .9 need to be reworded to clarify the scope of a standard or to simplify complex standards. Concerning standard .9–48 (braking shoes for railroad cars), commenters pointed out that mine operators have no control over public railroads and equipment. As presently worded, this standard may be confusing and may need clarification. Commenters also recommended rewording standard .9–53 (hazards to moving equipment) to emphasize protection of miners rather than equipment.

Standard .9–86 (roll-over Protective structures-ROPS) incorporates by reference several ANSI documents. Commenters suggested that the standard be reworded for simplification, that a section be added to include conditions where ROPS are not needed, and that a retrofit requirement be included. Commenters also noted that this standard is inconsistent with standard .14–13 (canopies). MSHA solicits further comments and recommendations on these standards, with specific suggestions on the appropriateness of the incorporated material, or alternative language.

Section .12 Electricity

The standards in section .12 are designed to protect miners against hazards resulting from electrical arcs, electrically generated heat and explosions, and from electrical shock and electrocution.

MSHA has received many comments on the standards in Section .12, including a number referring to terms that are undefined or subject to different interpretations. Some commenters suggested that MSHA define more of the terms used; others suggested that MSHA use the definitions provided by the Institute of Electrical and Electronics Engineers, Inc. (IEEE). MSHA will review the definitions in this Section. Some commenters expressed concern about the application and scope of standards, while others expressed concern that many standards were unclear because they do not sufficiently identify the hazard addressed or clearly identify the safety measure required.

Commenters expressed the following concerns about the clarity of some Section .12 standards: standard .12–1 (protection of circuits against overloads) does not specify the correct type and capacity of fuses or circuit breakers needed to prevent excessive overloads; standard .12–10 (protection of telephone and low-potential signal wires) does not specify what constitutes "isolation" of wires and "suitable insulation;" standard .12–25 (grounding electrical circuits) does not specify the proper means of grounding; standard .12–28 (testing grounding systems) contains underfined terms that make compliance with the standard difficult, and that some small operators may find it difficult to conduct the continuity and resistance testing required by the standard; and standard 57.12–82 (separation or insulation of power lines) does not clearly define the phrase "well separated or insulated" or the word "powerlines." MSHA solicits suggestions for alternative regulatory language for these standards.

Some commenters requested consolidation of standards .12–16 (deenergizing electrically powered equipment) and .12–17 (deenergizing power circuits). Other commenters believed that standard .12–16 should be transferred to Section .14 (Use of equipment).

Standards .12–45 (installation of powerlines), .12–47 (requirements for guy wires) and .12–48 (installation of telegraph, telephone or signal wires) reference the *National Electrical Code* and the *National Electrical Safety Code*. MSHA is considering deleting these incorporations and developing standards which contain all requirements necessary for compliance by mine operators. This action would eliminate the need to refer to different sources for compliance with MSHA's requirements.

This approach was recently adopted by the Occupational Safety and Health Administration which promulgated standards (29 CFR 1910.302–309) to replace the incorporation by reference of the *National Electrical Code*. Alternative regulatory language for requirements which would eliminate the incorporated documents in this Section is welcome. Such suggestions should include an explanation as to how the alternative language would address the hazards involved.

Commenters suggested that the terms "electrical grounding", "distribution box", "insulation", "overload", and "circuit" need to be redefined or clarified. Alternative language for these and other terms which cause confusion is solicited. Suggested alternatives will be considered with the view that any new definition of a term will affect the application of each standard in which it is used.

Standard .12–28 (testing grounding systems) requires that a record of the last resistance measured be made available to MSHA on request. In an effort to reduce this recordkeeping requirement in accordance with the Paperwork Reduction Act of 1980, MSHA is considering accepting a written certification by the operator that the standard has been complied with, instead of requiring the retention of a record. Suggestions are solicited on whether the recordkeeping requirements should be changed to a certification requirement.

Section .14 Use of Equipment

Section .14 deals with the physical hazards associated with the use of a wide variety of mechanical equipment

and exposure of their component parts. MSHA's statistics reveal that the standards within Section .14 are cited more frequently than standards in any other section.

Based upon the public comments and the agency's own review, three major categories of issues have been identified: standards which may be deleted; standards which may be consolidated; and standards which may be improved through clarification of wording or the addition of defined terms.

Several issues have been raised relating to the deletion of certain standards on the basis that they duplicate other standards or overlap other regulatory requirements. The requirements of standard .14–9 (grinding wheel operation) provide that grinding wheels are to be operated according to the manufacturer's specifications. Commenters questioned whether this is adequately covered by standard .14–36 (use of tools and equipment) which requires that tools and equipment only be used in the manner in which they were designed and for their intended purposes. Standard .14–14 (grinding wheel eye protection) provides for wearing face shields or goggles during grinding wheel operations and may be adequately covered in the fact protection provision of standard .15–4 (eye protection). Standards § 57.14–55 (welding operations) and .14–45 (surface welding operations) contain the identical requirement that welding operations be shielded and well-ventilated. Commenters suggested that they be combined. Standard .14–31 (shifting of drive belts) applies to the shifting of drive belts while they are in motion, and standard .14–32 (power drives-use of hands) covers hand guiding of belts, chains, and ropes onto power driven moving pulleys. It has been suggested that these standards have become outmoded due to automation within the mining industry and the state-of-the-art of drive belts and moving pulleys.

Standards .14–1 (equipment guards), .14–2 (overhead belt guards), and .14–3 (conveyors at pulleys) dealing with machinery guarding may be consolidated into one standard without reducing any margin of safety protection to miners exposed to such hazards.

Comments suggesting the need for clarification of the meaning and scope of Section .14 standards, either through the use of more precise language or the adoption of defined terms, constituted the most frequent type of public comment.

The following issues were raised with respect to specific words and phrases within Section .14 standards:

—The scope of the phrase "similar exposed moving machine parts which may be contacted by persons" in standard .14–1;

—The impreciseness of the terms "sufficient" and "accidentally" in standard .14–3;

—The ambiguity of the terms "substantial construction" and "properly maintained" which may result in a lack of meaningful guidelines in reference to the quality of guards in standard .14–7 (guard maintenance);

—The need for clarification of the phrase "friction or other equivalent safety devices" relating to hand-held power tools in standard .14–10 (hand-held power tools); and

—The redundancy of standard .14–13 (canopies), dealing with a requirement for substantial canopies when necessary to protect the operator of a fork-lift truck, front-end loader, or bulldozer, with standard .9–86 (ROPS), which pertains to roll-over protection. A separate issue raised with respect to this standard was whether the term "substantial" is too vague in describing the canopy requirment.

Commenters suggested that the phrase "unsafe equipment or machinery" in standard .14–26 (equipment and machinery safety), relating to a requirement that such objects be immediately removed from service, may use excessively broad language. They have also indicated that the same hazards may be adequately addressed by standard .9–73 (defective equipment), .18–2 (working place safety examination), and .7–2 (equipment defects).

Standard .14–27 (machinery equipment operators) and its requirement that only competent persons be assigned to the operation of machinery or equipment may be covered adequately by 30 CFR Part 48, "Training and Retraining of Miners."

In standard .14–35 (lubrication of machinery), commenters stated that there is need for a definition or further clarification of the phrase "where a hazard exists." The standard requires that machinery shall not be lubricated while it is in motion, unless it is equipped with extended fittings or cups. Discussion of this issue is also requested.

Section 21 Gassy Mines

The potential for flammable gas including methane emanating from the ore body or the strata surrounding an ore body exists in virtually every underground mine. Methane may emanate from fractures, faults, or shear zones overlying or underlying the strata that surround the ore body, as well as from certain ore bodies themselves. When methane is present, it is often found in open workings near the mine back or roof, or in other high places. After becoming thoroughly mixed with air, it may become uniformly distributed over any cross section of moving air currents.

Among metal and nonmetal underground mines with flammable gas problems are the emerging oil shale mines in Colorado and Utah, domal salt mines in Louisiana, torna mines in Wyoming, and potash mines in New Mexico.

Under the existing classification systems provided in standard 57.21–1 (classification), underground mines are either "nongassy" or "gassy." The system is currently structured so that once a mine is deemed to be gassy it will always be gassy. This has been criticized by the mining industries. Specific areas of criticism are:

—The finding of a relatively small amount of flammable gas (0.25%) classifies a mine as gassy;

—One ignition of flammable gas is cause for a gassy classification;

—The classification standard and other metal and nonmetal gassy mine standards in § 57.21 are inappropriately premised on underground coal mine experience;

—The system classifies the whole mine and not a part of the mine as gassy;

—The system does not provide for a change from gassy to nongassy;

—The system does not provide for a classification of gassy before a mine begins operations in a known or potentially gassy geology; and

—The system applies to all mines without making a distinction between the various mining methods and the types of flammable gas emissions in each mine.

The issues raised by public comments suggest that MSHA consider alternatives to the existing classification system. The agency is considering several alternatives to this system including:

—Retention of the existing system with revisions to the classification standard and certain standards published in § 57.21;

—Revision of the existing system to provide for an interim classification period once flammable gas has been found (This interim period would provide a sufficient amount of time to study the hazards of involved gases, monitor gas emissions, study ventilation and equipment, and to improve mine supervision. During this period the mine would operate under an MSHA approved plan rather than comply with all of the standards published in § 57.21.);

—Creation of a separate classification system for oil shale mines, domal salt mines, potash mines, uranium mines, and other selected mines (Each of the special systems would have specific standards developed for the gas hazards applicable to that system and its related dangers.); and

—Creation of a new classification system with levels based upon the degree of gas dangers or hazards, and each with specific standards.

MSHA would appreciate detailed comments on why the classification should be changed, how the change should be made and specific wording for any new classification system or standard.

In addition to the classification standard, § 57.21 sets forth 62 mandatory standards under which a gassy mine must operate.

Commenters indicated that standard 57.21–29(c) (booster fan safety devices) is unclear. The intent of paragraph (c) is to provide an open airway once the booster fan is stopped so that air from the main fan will continue to flow in the airway and will not be obstructed by the booster fan installation. Compliance with the standard is normally achieved by installing doors which open automatically at the booster fan installation.

A recommendation has been made which would increase the volume of air required in the last open crosscut and across longwall faces as stated in standard § 57.21–34 (minimum quantity of air flow). The standard specifies 6,000 and 9,000 CFM (cubic feet per minute). However, while the specified quantities may provide adequate air velocity in mines with small openings, the standard may prove to be inadequate for the large openings found in other mines, such as oil shale or domal salt mines.

Standard 57.21–51 (providing crosscuts before abandoning workings) poses no particular problems for mines utilizing a room and pillar method of mining in bedded deposits, but MSHA's experience suggests that it may present problems in other types of mining. Alternatives are sought which will assure that air in such openings is of satisfactory quality.

There is a general misunderstanding concerning the interpretation and application of standard 57.21–78 (permissible equipment) to various gassy mines. MSHA is considering defining certain terms and clarifying the requirements of the standard, including the locations where permissible equipment must be used.

MSHA recognizes that gassy metal and nonmetal mines include a variety of situations with diverse mining techniques and hazards of different levels and intensities. Accordingly, MSHA has been requested to develop specific safety standards for trona, oil shale, domal salt and potash mining, or to study the feasibility of an approved mining plan standard for such gassy mines. The plans would tailor compliance to the individual mine, rather than require all of the mines to comply with each of the 62 standards in § 57.21. MSHA requests comments on these concepts, particularly with respect to the retention of existing standards.

Under the existing standards, clarification has been requested for the following terms: flammable gas, last open crosscut, permissible, bleeder system, suitable, dangerous quantities of flammable gas, and air analysis. MSHA requests specific wording for any revisions of these terms, and others where appropriate, as used in Section .21.

Clarification has been requested for the sampling procedures, calibration and use of specific measuring devices, recordkeeping provisions, and the qualifications of persons who sample for methane. MSHA requests further comments and recommendations concerning these requirements.

Commenters suggested that standards be added providing for the use of exhaust-type face ventilation fan equipment or systems used in gassy mines. Essentially, these fans are used in room and pillar mines when the contaminated air is pulled from the face and through the exhausting fan. One possibility would be to add a requirement for methane monitors on the exhaust fans and on drilling, cutting, and loading face equipment. The monitors would turn off all power in the panel if a concentration of one percent (1.0%) or more of methane is detected. MSHA requests further comments on this recommendation and the wording for such a standard.

Generally, based upon the comments, MSHA is considering the feasibility of an alternative to existing ventilation practices in large open mines that permits a positive, separate exhaust ventilation system. This system could require driving smaller drifts above the production drift or ore body and drilling boreholes at strategic locations in the floor of the exhaust ventilation drift through the back of the production drift. Airborne contaminants would then be drawn up through the boreholes and out the exhaust ventilation drift. MSHA requests comments on this type of ventilation system.

Recommendations have also been made to require certification of miners who perform certain critical tasks such as testing for methane, electrical work, blasting or shot firing, and conducting preshift and on-shift examinations. MSHA requests further comments on these recommendations and the wording for such standards.

Dated: March 4, 1982.

Ford B. Ford,

Assistant Secretary for Mine Safety and Health.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

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3-10-82
Vol. 47 No. 47
Pages 10199–10502

federal register

Wednesday
March 10, 1982

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Wednesday, March 10, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Loan Interest Rates

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: This rule authorizes Federal credit unions to charge interest rates of up to 21 percent per year on loans granted after September 2, 1981 and before September 5, 1983. The 21 percent interest rate ceiling was scheduled to expire June 3, 1982. This rule is necessary because of fluctuations in the cost of funds. The conditions which led the Board to determine that an increase in the loan rate ceiling was justified in December, 1980 have remained basically unchanged throughout 1981.

DATES: Effective date: March 4, 1982. Expiration date: September 4, 1983 or as otherwise ordered by the NCUA Board.

ADDRESS: National Credit Union Administration, 1776 G Street NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Randall J. Miller, Acting Director, Office of Policy Analysis, (202) 357–1090.

SUPPLEMENTARY INFORMATION:

Background

Public Law 96–221 raised the interest rate ceiling for Federal credit unions from 1 percent per month (12 percent per year) to 15 percent per year. It also authorized the NCUA Board to set a higher limit (or limits), after consultation with Congress and other Federal financial agencies, if the Board should determine that (i) money market interest rates have risen over the preceding six months and that (ii) prevailing interest rate levels threaten the safety and soundness of individual credit unions as evidenced by adverse trends in liquidity, capital, earnings, and growth.

On December 3, 1980, the NCUA Board, having consulted with the appropriate Congressional committees, the Department of the Treasury, and the other Federal financial regulatory agencies, determined that these conditions had been met. The Board therefore raised the interest rate ceiling to 21 percent for a nine month period. In a subsequent action the Board extended the period governed by the 21 percent ceiling an additional nine months. The 21 percent ceiling is scheduled to expire on June 3, 1982.

Economic Conditions

The conditions which led the Board to determine that an increase in the loan rate ceiling was justified in December, 1980 have remained basically unchanged throughout 1981.

During 1980, money market rates followed an upward trend for more than six months and were fluctuating in the 13% to 15% range. This pattern continued through 1981. In 42 out of 52 weeks during 1981, the six-month Treasury bill rate was greater than 13%. In May, the six-month Treasury bill rate peaked at 15.7%. It declined slightly during June and July and returned to about 15% in July, August and September. The six-month rate decreased from more than 15% to about 11% during the fourth quarter of 1981. However, from November, 1981 through the end of January, 1982, the six-month rate increased continually at a trend rate of about 13 basis points per week. As of February 18, 1982, the six-month Treasury bill rate was 14.4%.

Federal credit union liquidity remains high due to modest loan growth. At yearend 1980, the loan-to-share ratio, an inverse measure of liquidity, was 70%. As of December, 1981, it remained basically unchanged. However, a revival of loan growth could quickly reverse the present abundance of liquid assets. In addition, if money market rates continue at their current levels, Federal credit unions whose poor earnings will not permit them to pay high dividend rates may experience outflows of shares and a resulting decline in liquidity.

Below normal earnings during 1979 and 1980 prevented Federal credit unions from building their capital. The ratio of capital—regular reserves plus other reserves, the allowance for loan losses, and retained earnings—to total assets declined from 6.2% to 5.6% from yearend 1979 to yearend 1980. Earnings improved somewhat during 1981 as a result of the additional flexibility provided to Federal credit unions on loan rates and as a result of a modest increase in loans outstanding. However, the rebuilding of Federal credit union capital as a result of this improvement is modest.

High interest rates continue to affect credit union earnings. Earnings improved slightly during 1981. However, this improvement was, in part, the consequence of the greater flexibility Federal credit unions had with respect to loan rates since December, 1980.

Growth in Federal credit union assets, loans, and savings has been modest during 1981. As of December, 1981, (the most recent data) assets and savings at Federal credit unions were growing at about a 3% annual rate. Loans were growing at an annual rate of about 1%. Insufficient flexibility in loan rates during 1982 and 1983 would prevent some Federal credit unions from paying competitive dividend rates and would stifle any improvement in growth.

Extension of Interest Rate Ceiling

The NCUA Board is therefore extending the 21 percent interest rate ceiling an additional 18 months. Federal credit unions will continue to be able to charge interest rates of up to 21 percent per year on the unpaid balance inclusive of all finance charges. The ceiling will expire after September 4, 1983, unless otherwise ordered by the NCUA Board.

The 21 percent ceiling is scheduled to expire after June 3, 1982, but it is being extended at this time in order to facilitate planning by credit union officials. Because of the time lag encountered in making changes to data processing systems and because of the time necessary to revise forms, without this change credit unions would now have to begin planning for the expiration of the interest rate ceiling. A delay in extending the ceiling could therefore result in additional costs being incurred by Federal credit unions.

Again, the NCUA Board does not expect that all Federal credit unions will raise their loan rates nor does it expect that those credit unions that do increase their loan rates will do so on all categories of loans. Neither does the Board expect that those Federal credit

unions that have already raised their rates will necessarily maintain them at their current levels. The ceiling is being extended so that the board of directors of each credit union will continue to have the flexibility to react to economic conditions in the manner that is in the best interests of their members.

Regulatory Procedures

The NCUA Board has determined that notice and public comment on this rule are impracticable and not in the public interest. 5 U.S.C. 553(b)(B). Because of the need for a planning period, and because of the threat to the safety and soundness of individual credit unions with insufficient flexibility to determine loan rates, an immediate extension of the 21 percent interest rate ceiling is necessary. For these reasons and because the rule relieves a restriction, the Board has determined not to provide a delayed effective date. 5 U.S.C. 553(d).

For the same reasons and because the change will increase the management flexibility and competitive positions of small credit unions, a regulatory flexibility analysis is not required. 5 U.S.C. 603(a), 604(a). Nonetheless, if the Regulatory Flexibility Act did apply, the Board would be willing to certify that this rule will not have a significant economic impact on a substantial number of small Federal credit unions. This rule is necessary because of fluctuations in the cost of funds. These fluctuations affect all Federal credit unions regardless of size.

Since the rule would relieve burdens and delay would cause unnecessary harm, the NCUA Board also finds that full and separate consideration of all the requirements of the Regulatory Simplification Act is impracticable. However, the NCUA Board has considered a number of these policies, as set forth in the preamble above.

Accordingly, NCUA amends § 701.21–1A of its rules and regulations as set forth below.

Dated: March 4, 1982.

Rosemary Brady,

Secretary of the Board.

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

§ 701.21–1A [Amended]

1. Section 701.21–1A paragraph (c) is amended by replacing the date "June 2, 1982" with the date "September 4, 1983" each time it appears and by replacing the date "June 3, 1982" with the date "September 5, 1983" each time it appears.

(12 U.S.C. 1757(5)(A)(vi)(I), 1757(5)(A)(ix), 1766)

[FR Doc. 82-6219 Filed 3-9-82; 8:45 am]

BILLING CODE 7535-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 385

[Reg. OR–192; Amdt. No. 121]

Delegations and Review of Action Under Delegation; Nonhearing Matters

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: The CAB amends its delegations of authority to reflect a recent change in its smoking rule.

DATES: Adopted: March 4, 1982; Effective: March 10, 1982.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: By ER–1203, 45 FR 83208, December 18, 1980, the Board added a new § 252.6 to its smoking rule, 14 CFR Part 252, to allow airlines to request a waiver of one or more requirements of that rule in order to experiment with alternative "methods for protecting nonsmokers from tobacco smoke to the maximum possible degree." At the same time, by OR–176, 45 FR 83207, December 18, 1980, the Board delegated authority to the Director, Bureau of Consumer Protection to grant or deny these waiver requests from airlines. This delegation of authority followed the language of § 252.6.

By ER–1245, 46 FR 45934, September 16, 1981, the Board reissued its smoking rule. The waiver provision was renumbered § 252.4 and its wording was changed. It now allows airlines to request a waiver of one or more requirements of Part 252 in order to experiment with other "methods of achieving the public policy goals" of that part. By this notice, we are changing the language of the delegation of authority to conform to the changes in the smoking rule made by ER–1245. By a previous notice, OR–190, 47 FR 5204, February 4, 1982, this authority was transferred to the Deputy General Counsel.

Since this is a rule of agency procedure and merely conforms one provision in our rules to another, the Board finds that notice and public procedure are unnecessary and that the rule may take effect in less than 30 days.

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Accordingly, the Board amends 14 CFR Part 385, *Delegations and Review of Action Under Delegation; Nonhearing Matters*, as follows:

1. The authority for Part 385 is:

Authority: Secs. 102, 204, 401, 402, 403, 407, 416, Pub. L. 85–726, as amended, 72 Stat. 740, 743, 754, 757, 758, 766, 771, 49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1377, 1386; Reorganization Plan No. 3 of 1961, 26 FR 5989.

2. Paragraph (g) of § 385.22 is revised to read:

§ 385.22 Delegation to the Deputy General Counsel.

The Board hereby delegates to the Deputy General Counsel, the authority to:

* * * * *

(g) Grant or deny applications for waivers filed under § 252.4 of this chapter in order to allow a carrier to experiment with other methods of achieving the public policy objectives of part 252 of this chapter.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-6449 Filed 3-9-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 904

Financial Compensation of Participants in Administrative Proceedings

Correction

In FR Doc. 82–6256, appearing on page 9820 in the issue of Monday, March 8, 1982, make the following correction.

On page 9820, third column, the part heading should have read:

"PART 904—CIVIL PROCEDURES".

BILLING CODE 1505-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Human Prescription Drugs in Oral Dosage Forms; Exemption of All Unit-Dose Forms of Potassium Supplements Containing Not More Than 50 Milliequivalents of Potassium Per Unit-Dose From Child-Protection Packaging Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission exempts all unit-dose forms of potassium supplements containing not more than 50 milliequivalents of potassium per unit-dose from child-protection packaging requirements. The information available to the Commission indicates that child-protection packaging for the drug as described is not needed to protect children from serious illness or injury, because of the absence of adverse experience from ingestion by children of potassium supplements in all forms, including powdered and liquid potassium.

DATE: This exemption is effective March 10, 1982.

FOR FURTHER INFORMATION CONTACT: Charles Jacobson, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492–6400.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 8, 1981 (46 FR 35296), the Commission proposed to exempt from the child-resistant packaging requirements of the Poison Prevention Packaging Act of 1970 (PPPA) (15 U.S.C. 1471–1476) all unit-dose forms of potassium supplement containing not more than 50 milliequivalents (mEq) of potassium per unit-dose. Such preparations are required to be packaged in child-resistant packaging by regulations issued under the PPPA, published at 16 CFR 1700.14(a)(10). These regulations are applicable to all human oral prescription drugs, and were issued to protect children from serious personal injury or illness which might result from handling, using, or ingesting these substances.

Background

In the Federal Register of September 30, 1980 (44 FR 34986), the Commission issued a regulation to exempt potassium supplements in individually-packaged effervescent tablets containing not more than 50 milliequivalents of potassium from requirements for child-resistant packaging. This exemption was based on the absence of adverse experience with effervescent potassium tablets, and on test data indicating that their effervescence inhibits ingestion in dangerous amounts.

In the same Federal Register notice, the Commission announced its intention to reopen the issue of exempting all unit-dose forms of potassium supplements, including powdered and liquid forms as well as individually wrapped tablets. The Commission decided to reopen this issue after considering correspondence from Berlex Laboratories, a manufacturer of a powdered potassium supplement, stating that the proposal of an exemption for potassium supplements in effervescent form was inconsistent with the denial of a petition from that firm (PP 75–11) which had requested an exemption from special packaging requirements for powdered potassium chloride in individual packets.

The Commission denied that petition because experimental evidence indicated that potassium chloride powder, administered to rabbits in amounts equivalent to ingestion of one to three packets of the drug by a small child, caused severe gastic irritation and injury to the animals. The Commission also based its denial of petition PP 75–11 on the lack, at that time, of human experience data with this drug.

The Commission had also denied an earlier petition from Warren-Teed Pharmaceuticals, Inc. (PP 74–42) for exemption of liquid potassium supplements in unit-dose form. The Commission denied that petition because of the lack of adequate human experience data available at that time with which to evaluate the effect of its ingestion by children; the fact that the products were highly flavored; and an evaluation of toxicity data indicating that five unit-dose vials (100 mEq potassium) might produce toxic effects in a small child.

Proposal of July 8, 1981

After the Commission voted in 1975 to deny the petitions for exemption of potassium supplements in powdered and liquid form, additional information, data, and human experience became available to the Commission about these products. After considering this more recently developed information and data, the Commission published a proposal in the Federal Register of July 8, 1981 (46 FR 35296) to exempt from the requirements for child-resistant packaging all potassium supplements in unit-dose form that contain not more than 50 mEq of potassium per unit-dose. The notice of July 8, 1981, solicited written comments from all interested parties on the proposed exemption.

In that notice, the Commission published a detailed explanation of the reasons for proposing to exempt all potassium supplements in unit-dose form. The following is a summary of those reasons:

1. *Absence of reports of adverse effects to young children from ingestion.* Examination of National Clearinghouse for Poison Control Center (NCPCC) data, now available for the period 1968–1978, reveals no reported ingestions in children under 5 of any of the liquid or powered potassium supplement brands which comprise the majority of the market. NCPCC data involving the ingestion of generic potassium chloride (dosage form and trade name not specified) show only 37 ingestions in children under 5, one of which resulted in symptoms; there was no hospitalization. Estimates from information available to the Commission indicate that over 40 million prescriptions for potassium supplements were dispensed over that period. Examination of National Electronic Injury Surveillance System (NEISS) data through 1980 reveals no reports of ingestion of powdered or liquid potassium supplements.

Additionally, the Commission believes that the rabbit test, used at the time of denial of the petitions to show that low doses of powdered potassium chloride were capable of producing gastric injury in the animals, was too sensitive a model for prediction of human injury. Recent CPSC studies indicate that common vinegar, which is regularly consumed by children and adults without adverse effect, causes gastric damage in rabbits in excess of that produced by powdered potassium supplements.

The Commission observed that gastric lesions of the type induced in the rabbits by potassium chloride would be readily apparent in children were they to occur. The Commission also noted that the fact that they do not occur is supported by the substantial human experience data discussed above as well as by the absence of any harmful sequellae occurring to children involved in the child taste studies submitted with the original petitions on potassium powder.

2. *Low toxicity of all dosage forms of potassium supplements.* At the time the Commission proposed the exemption, it pointed out that acute toxicity from oral administration of potassium is highly unlikely because large doses induce vomiting and because absorbed potassium is excreted rapidly unless

there has been prior kidney damage. Based upon staff calculations, a small child (22 lbs.) would have to ingest a minimum of 100 mEq of potassium (4–5 unit-dose packets of powder or 5 unit dose vials of liquid) before physiological effects such as listlessness, mental confusion or muscle weakness in the extremities might be expected. Child taste studies, submitted by Berlex, Mead-Johnson and Abbott Laboratories at the time of their original petitions, indicated that more than half of the children consumed (or spilled) less than one mEq of powdered potassium chloride. Of the remaining children, only one percent ingested (or spilled) more than 15 mEq.

The Commission also observed that the unit-dose packaging of the liquid potassium supplements may be a deterrent to their home use. The proposal did not apply to liquid potassium supplements which are not packaged in individual doses. These products are manufactured and labeled "for institutional use only." This, combined with the higher cost of the unit-dose vial and pharmacy storage space requirements, suggests that pharmacists are less apt to dispense this package form in filling patient prescriptions. The Commission noted that the crimped aluminum cap on the liquid potassium supplements can be an impediment to small children's ingestion of toxic amounts of the drug. Although the cap is not marketed as a child-resistant closure, the manufacturers consider the seal on the vial to be an impediment to children. This may be significant since rapid consumption and absorption of potassium are necessary in order to exceed the kidney threshold and accumulate toxic amounts of potassium within the body.

3. *Recommendations of the Technical Advisory Committee.* Members of the Technical Advisory Committee on Poison Prevention Packaging were asked to comment on the merits of proposing an exemption for all unit-dose forms of potassium supplements before that committee was abolished by the Consumer Product Safety Amendments of 1981 (Pub. L. 97–35; 95 Stat. 702, 753). Nine of the twelve members who responded recommended proposal of the exemption for potassium supplements in both powdered and liquid form. One member recommended that potassium powder should be exempt, but not liquid potassium products. Another member recommended that exemptions for powdered and liquid potassium supplements should not be granted, except for liquid preparations sold to institutions. One member did not make a recommendation.

4. *Recommendation of the Food and Drug Administration.* The Food and Drug Administration (FDA), which had concurred with the Commission's original decision to deny the requests for exemption of powdered potassium supplements, gave updated comments on the possibility of exempting powdered potassium supplements in individual packets. Those comments recommended that the Commission propose an exemption from special packaging requirements for powdered potassium supplements. These comments cited information indicating that the rabbit test was inappropriate, and human experience data generated since denial of the petition indicating that potassium supplements do not pose a significant poisoning risk for children if ingested.

Response to Proposal

The Commission received no comments in response to the proposal of July 8, 1981. The Commission has received no additional information from any other source which causes it to conclude that the proposed exemption should not be issued on a final basis.

Conclusion

Having considered the requested exemptions, the available human experience data, information on the inappropriateness of the rabbit test, toxicity information, opinions of the members of the Technical Advisory Committee on Poison Prevention Packaging, and recommendations of the Food and Drug Administration, the Commission finds that special packaging is not required to protect children from serious personal injury or illness resulting from handling, using, or ingesting all unit dose forms of potassium supplements, including unit dose vials of liquid potassium and powdered potassium in unit-dose packets as well as individually-packaged effervescent tablets, containing not more than 50 mEq of potassium per unit dose. Potassium supplements which are not packaged in unit dose forms are not within the coverage of this exemption.

Effective Date

The Administrative Procedure Act provides at 5 U.S.C. 553(d) that a substantive rule must be published at least 30 days before its effective date, except in the case of a rule which grants an exemption. The rule issued below grants an exemption from requirements for child-resistant packaging which would otherwise be applicable to potassium supplements in unit dose form, and will be effective immediately.

PART 1700—POISON PREVENTION PACKAGING

Therefore, for the reasons set forth above, § 1700.14 of Title 16 of the Code of Federal Regulations is amended by revising paragraph (a)(10)(vi) to read as follows:

§ 1700.14 Substances requiring special packaging.

(a) * * *

(10) Prescription Drugs. Any drug for human use that is in a dosage form intended for oral administration and that is required by Federal Law to be dispensed only by or upon an oral or written prescription of a practitioner licensed by law to administer such drug shall be packaged in accordance with the provisions of § 1700.15 (a), (b), and (c) except for the following: * * *

(vi) All unit dose forms of potassium supplements, including individually-wrapped effervescent tablets, unit dose vials of liquid potassium, and powdered potassium in unit-dose packets, containing not more than 50 milliequivalents of potassium per unit dose.

* * * * * *

(Pub. L. 91–601, secs. 2(4), 3, 4, 84 Stat. 1670–72 (15 U.S.C. 1471(4), 1472, 1474); Pub. L. 92–573, sec. 30 (a), 86 Stat. 1231 (15 U.S.C. 2079(a)))

Effective date. This amendment shall be effective on March 10, 1982.

Dated: March 5, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 82-6490 Filed 3-9-82; 8:45 am]
BILLING CODE 6355-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 260

[Docket No. RM82-16-000; Order No. 215]

Revision of System Flow Diagrams; Format No. FERC 567

Issued March 4, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) revises its regulations at § 260.8, that require the report of "System Flow Diagrams" by attaching a formal designation number to this report, by updating certain descriptions in the regulations and by reducing the number of copies of the report that are required to be filed. The report is filed annually by major natural gas pipelines and contains data on the operation of the pipeline.

EFFECTIVE DATE: April 5, 1982.

FOR FURTHER INFORMATION CONTACT: Robert Czarick, Federal Energy Regulatory Commission, Office of Pipeline and Producer Regulation, 825 North Capitol Street, NE., Room 6006–C, Washington, D.C. 20426, (202) 357–9098.

SUPPLEMENTARY INFORMATION:

Issued: March 4, 1982.

I. Background and Summary

By this rule, the Federal Energy Regulatory Commission (Commission) makes certain non-substantive revisions to its regulations at 18 CFR 260.8 requiring and describing the annual report, "Form RO284, System Flow Diagrams".[1] The Commission collects the data required in § 260.8 from certain natural gas pipeline companies under the authority of sections 4, 5, 7, and 10 of the Natural Gas Act (15 U.S.C. 717c, 717d, 717f and 717i).[2]

Section 260.8 requires the annual filing of a diagram from each Class A natural gas pipeline company [3] having a system delivery capacity in excess of 100,000 Mcf of natural gas per day. Each diagram must reflect certain operating conditions of the company's main transmission system, such as pipeline diameters, pressure and volume data. The diagram is important because it provides the Commission with information, on a yearly basis, concerning the means of transporting gas, including the distance of haul, the peak day and average day volumes carried, emergency interconnections, and engineering data describing the pipeline system configuration. This report supplements the information filed in certificate applications.

The Commission has determined that the information reported in the system flow diagrams is necessary to its regulatory functions, and will, therefore, continue to collect it. The Commission, however, makes the following non-substantive revisions to its regulations at § 260.8: (1) The official designation for the system flow diagram report is to be styled as "Format No. FERC 567", (2) the number of copies of the report required for submission is reduced from twelve to five, and (3) the references to "FPC" [4] in clauses (12) and (15) of paragraph (b) are changed to "FERC".

II. Public Procedure and Effective Date

The revisions prescribed in this rulemaking do not substantively change the Commission's regulations or reporting requirements. Accordingly, the Commission finds that notice and public procedure pursuant to 5 U.S.C. 553(b) are unnecessary. The changes in this final rule will be effective April 5, 1982, for reports filed on or before June 1, 1982, and for all reports thereafter.

(Natural Gas Act, as amended, 15 U.S.C. 717–717w; Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 3 CFR 142)

For the foregoing reasons, Chapter I of Title 18, Code of Federal Regulations, is amended in Part 260, effective April 5, 1982, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

Section 260.8 is amended by revising the heading, paragraph (a), and paragraphs (b)(12)(iii) and (b)(15) to read as follows:

§ 260.8 System flow diagrams: Format No. FERC 567.

(a) Each Class A natural gas pipeline company, having a system delivery capacity in excess of 100,000 Mcf per day (measured at 14.73 p.s.i.a. and 60° F.), shall file with the Commission by June 1 of each year five (5) copies of a diagram or diagrams * * *

(b) * * *

(12) * * * (iii) the maximum daily volumes (noncoincidental) delivered to each customer under rates subject to FERC jurisdiction.

* * * * * *

(15) The information required by paragraphs (b)(12), (13) and (14), of this section may be furnished in tabular form, or by reference to FERC Form No. 2, providing, that the information is suitably keyed to the diagram by appropriate identifying symbol or number.

[FR Doc. 82-6489 Filed 3-9-82; 8:45 am]
BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79-76-000 (Nebraska—1); Order No. 214]

High-Cost Gas Produced From Tight Formations

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5) the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Nebraska Oil and Gas Conservation Commission that the Niobrara Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective March 4, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511 or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

Issued: March 4, 1982.

The Commission hereby amends § 271.703(d) of its regulations to include the Niobrara Formation in Nebraska as a designated tight formation eligible for incentive pricing under §271.703. The amendment was proposed in a Notice of Proposed Rulemaking by Director, OPPR, issued November 6, 1981 (46 FR

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[1] The reporting requirement was never given an official designation by this Commission. The designation, "Form RO284" was assigned to the reporting requirement by the Office of Management and Budget.

[2] The requirement in § 260.8 was initially prescribed by Order No. 303–A (May 10, 1966, 31 FR 7228, May 18, 1966) and was modified twice thereafter (Order No. 345, May 9, 1967, 32 FR 7331, May 17, 1967; and Order No. 430, April 12, 1971, 36 FR 7051, April 14, 1971).

The Commission exercises its authority under sections 4, 5, and 7 of the Natural Gas Act pursuant to section 402(a) of the Department of Energy Organization Act (42 U.S.C. 7172). The Commission is authorized to collect data under section 10 of the Natural Gas Act pursuant to a delegation of authority from the Secretary of Energy to the Commission (Delegation Order No. 0204–1 (1977)).

[3] A Class A natural gas company is one having annual operating revenues of $2,500,000 or more. (*See* Part 201, Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act (Class A and Class B), General Instructions.)

[4] Federal Power Commission, the Commission's predecessor agency.

56428, November 17, 1981) [1] based on a recommendation by the State of Nebraska Oil and Gas Conservation Commission (Nebraska) in accordance with § 271.703(c) that the Niobrara Formation be designated as a tight formation.

Evidence submitted by Nebraska supports the assertion that the Niobrara Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Nebraska recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3101–3432; Administrative Procedure Act, 5 U.S.C. 553.)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective March 4, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703(d) is amended by adding new subparagraph (71) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(71) *Niobrara Formation in Nebraska.* RM79–76–000 (Nebraska—1).

(i) *Delineation of formation.* The Niobrara Formation is found in all of Chase, Deuel, Dundy, Hitchcock, Keith, and Perkins Counties, the western half of Frontier County, (Townships 5 through 8 North, Ranges 27 through 30 West), the eastern half of Cheyenne County (Townships 12 through 17 North, Ranges 46 through 49 West), and the southernmost third of Garden County (Townships 15 through 19 North, Ranges 41 through 46 West).

(ii) *Depth.* The Niobrara Formation underlies the Fort Hays Limestone Formation and overlies the Pierre Shale Formation. The average depth to the top of the Niobrara Formation is 2,450 feet.

[FR Doc. 82-6420 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[1] Comments were invited and one comment in support of the recommendation was received. No party requested a hearing and no hearing was held.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 201

[Docket No. R-82-972]

Mortgage Insurance Loans; Changes in Interest Rates

AGENCY: Commissioner, Office of Assistant Secretary for Housing—Federal Housing.

ACTION: Final rule.

SUMMARY: This change in the regulations decreases the HUD/FHA maximum allowable finance charge on Title I mobile home loans, and combination and mobile home lot loans. This action by HUD is designed to bring the maximum interest rate and financing charges on HUD/FHA-insured loans into line with market rates and help assure an adequate supply of and demand for FHA financing.

EFFECTIVE DATE: March 9, 1982.

FOR FURTHER INFORMATION CONTACT: John L. Brady, Director, Office of Title I Insured Loans, Office of Single Family Housing, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410 (202–755–6660).

SUPPLEMENTARY INFORMATION: The following miscellaneous amendments have been made to this chapter to decrease the maximum interest rate which may be charged on loans insured by this Department. Maximum finance charges on mobile home loans have been lowered from 19.00 percent to 18.00 percent, and the finance charge on combination loans for the purchase of a mobile home and a developed or undeveloped lot has been lowered from 18.50 percent to 17.50 percent. The Secretary has determined that such changes are immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709–1, as amended. The Secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD's environmental procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

Accordingly, Chapter II is amended as follows:

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Subpart B—Eligibility Requirements—Mobile Home Loans

1. Section 201.540 paragraph (a) is revised to read as follows:

§ 201.540 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exceed 18.00 percent simple interest per annum. No points or discounts of any kind may be assessed or collected in connection with the loan transaction, except that a one percent origination fee may be collected from the borrower. If assessed, this fee must be included in the finance charge. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

* * * * *

Subpart D—Eligibility Requirements—Combination and Mobile Home Lot Loans

2. Section 201.1511, paragraph (a)(1) is revised to read as follows:

§ 201.1511 Financing charges.

(a) *Maximum financing charges.* * * *

(1) 17.50 percent per annum.

* * * * *

(Sec. 3(a), 82 Stat. 113; 12 U.S.C. 1709–1; sec. 7, Department of Housing and Urban Development Act, 42 U.S.C. 3534(d))

Dated: March 1, 1982.

Philip D. Winn,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 82-6388 Filed 3-9-82; 8:45 am]

BILLING CODE 4210-01-M

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24 CFR Parts 203, 213, 234

[Docket No. R-82-971]

Mortgage Insurance Loans; Changes in Interest Rates

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This change in the regulations decreases the HUD/FHA interest rates on insured home loans. This action by HUD is designed to bring the maximum interest rates into line with other competitive market rates and help assure an adequate supply of and demand for FHA financing.

EFFECTIVE DATE: March 2, 1982.

FOR FURTHER INFORMATION CONTACT: John N. Dickie, Director, Financial Analysis Division, Office of Financial Management, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410 (202–426–4667).

SUPPLEMENTARY INFORMATION: The following amendments have been made to this chapter to decrease the maximum interest rate which may be charged on loans insured by this Department. The maximum interest rate on HUD/FHA insured home mortgage insurance programs has been lowered from 16.50 percent to 15.50 percent for level payment (including operative builder) and graduated payment home loan programs (GPM).

The Secretary has determined that such changes are immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709–1, as amended. The Secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

A Finding of Inapplicability with respect to the National Environmental Policy Act of 1969 has been made in accordance with HUD's environmental procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

Accordingly, Chapter II is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

Subpart A—Eligibility Requirements

1. Section 203.20 paragraph (a) is revised to read as follows:

§ 203.20 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 15.50 percent per annum, except that where an application for commitment was received by the Secretary before March 2, 1982, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

2. Section 203.45 paragraph (b) is revised to read as follows:

§ 203.45 Eligibility of graduated payment mortgages.

* * * * *

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 15.50 percent per annum, except that where an application for commitment was received by the Secretary before March 2, 1982, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

3. Section 203.46 paragraph (c) is revised to read as follows:

§ 203.46 Eligibility of modified graduated payment mortgages.

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 15.50 percent per annum, except that where an application for commitment was received by the Secretary before March 2, 1982, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

Subpart C—Eligibility Requirements Individual Properties Released From Project Mortgage

4. Section 213.511 paragraph (a) is revised to read as follows:

§ 213.511 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 15.50 percent per annum, except that where an application for commitment was received by the Secretary before March 2, 1982, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Subpart A—Eligibility Requirements Individually Owned Units

5. Section 234.29 paragraph (a) is revised to read as follows:

§ 234.29 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 15.50 percent per annum, except that where an application for commitment was received by the Secretary before March 2, 1982, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

6. Section 234.75 paragraph (b) is revised to read as follows:

§ 234.75 Eligibility of graduated payment mortgages.

* * * * *

(b) The mortgate shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 15.50 percent per annum, except that where an application for commitment was received by the Secretary before March 2, 1982, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

7. Section 234.76 paragraph (c) is revised to read as follows:

§ 234.76 Eligibility of modified graduated payment mortgages.

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 15.50 percent per annum, except that where an application for commitment was received by the Secretary before March 2, 1982, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

(Sec. 3(a), 82 Stat. 113; 12 U.S.C. 1709–1; sec. 7 of the Department of Housing and Urban Development Act, (42 U.S.C. 3535 (d)))

Dated: March 1, 1982.

Philip D. Winn,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 82-6000 Filed 3-9-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 570

Control, Custody, Care, Treatment and Instruction of Inmates; Final Rules

Correction

In FR Doc. 82-6013, appearing at page 9755 in the issue of Friday, March 5, 1982, the line immediately following the heading, "Part 570—Community Programs" in the first column of page 9756 should have read, "§§ 570.50–570.52 (Subpart D) [Removed]"

BILLING CODE 1505-01-M

POSTAL SERVICE

39 CFR Part 111

Express Mail Next Day Service Acceptance Times

AGENCY: Postal Service.

ACTION: Interim regulations with request for comments.

SUMMARY: By notice published in the March 4, 1982, issue of the Federal Register, the Postal Service announced that it will implement a change in the Domestic Mail Classification Schedule for Express Mail Next Day Service acceptance times on March 14, 1982, on a temporary basis. Under this change, Express Mail Next Day Service articles can be accepted at the time or times prescribed by the Postal Service, instead of the former 5:00 p.m. acceptance time, which has constrained the Postal Service's operational latitude and flexibility.

Interim implementing regulations for the temporary change in the classification schedule have been developed and are set forth below. Although they are to take effect on March 14, 1982, comments on these regulations are solicited, and will be considered in drafting regulations for a permanent classification change, if the Postal Service proposal is implemented on a permanent basis.

EFFECTIVE DATE: 12:01 a.m., March 14, 1982.

COMMENT DATE: Written comments should be received on or before April 30, 1982.

ADDRESS: Written comments should be directed to the General Manager, Expedited Mail Services Division, Customer Services Department, Room 5541, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260. Copies of all written comments will be available for public inspection and copying between 9:00 a.m. and 4:00 p.m., Monday through Friday, at the above location.

FOR FURTHER INFORMATION CONTACT: Buford L. Knowles, Expedited Mail Services Division, (202) 245–5024.

SUPPLEMENTARY INFORMATION: The current Domestic Mail Classification Schedule provision on acceptance times for Express Mail Next Day Service provides for a nationwide 5:00 p.m. acceptance time. The temporary classification change recognizes that this rigid 5:00 p.m. acceptance time has constrained the Postal Service's operational latitude and flexibility to adjust to changes in air transporation schedules. The current inability to adjust acceptance times has resulted in a reduction in the scope of Express Mail Next Day Service in many instances and has also been the source of customer complaints. The temporary classification change will afford the Postal Service the operational latitude and flexibility it needs.

To implement this temporary classification change, interim regulations considered necessary by the Postal Service are set forth below. These regulations take effect when the change in Express Mail Next Day Service acceptance times classification provision is implemented on a temporary basis at 12:01 a.m., March 14, 1982.

By notice in the March 4, 1982 issue of the Federal Register of the resolution of the Board of Governors of the Postal Service implementing the classification change on a temporary basis, the Postal Service has given the 10 days' notice required by 39 U.S.C. 3641(e). Accordingly, the Postal Service finds it unnecessary and not required by the public interest to give additional notice of these interim regulations before they become effective. However, we reiterate that comments are welcomed, and that they will be considered as appropriate.

In view of the considerations discussed above, the Postal Service hereby adopts the following interim revision of the Domestic Mail Manual, which is incorporated by reference in the Federal Register. *See* 39 CFR 111.1.

224 Express Mail Next Day Service

Section 224.1 is revised to read as follows:

224.1 Availability of Service

a. Facilities. Next Day Service is available at designated retail postal facilities for overnight service to designated destination 3-digit ZIP Code delivery areas, facilities or locations.

b. Acceptance Times. Next Day Service mail must be tendered by the time or times authorized by the postmaster.

c. Next Day Service Directories. Each designated facility provided for in 224.1a must maintain an Express Mail Next Day Service directory showing, for the 3-digit ZIP Code area in which the facility is located, the following information:

(1) The 3-digit ZIP Code areas to which next day delivery service is offered;

(2) the Express Mail zone from the origin to each destination 3-digit ZIP Code area;

(3) The retail facilities at which Next Day Service mail may be tendered;

(4) The acceptance times for each such facility; and

(5) A list of facilities at which Next Day Service mail may be claimed.

d. Service Limitation. Service to or from 3-digit ZIP Code areas, facilities or offices, or at times not listed in the Next Day Service directory for a designated facility provided for in 224.1a is prohibited.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of these changes will be published in the Federal Register as provided in 39 CFR 111.3.

(39 U.S.C. 401, 403, 404, 3021, 3623, 3641(e))

Fred Eggleston,

Assistant General Counsel, Legislative Division, Office of General Law and Administration.

[FR Doc. 82-6501 Filed 3-9-82; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL-2062-4]

Approval and Promulgation of Implementation Plans; San Diego Nonattainment Area Plan State of California

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: On April 14, 1981 the Environmental Protection Agency (EPA) took actions on the San Diego Air Basin Nonattainment Area Plan (NAP) with regard to the requirements of Part D, "Plan Requirements for Nonattainment Areas," of the Clean Air Act. EPA approved with conditions portions of the NAP for total suspended particulates (TSP), nitrogen dioxide (NO_2), carbon monoxide (CO), and ozone (O_3). The conditions of approval required that the State of California submit specific material as State Implementation Plan (SIP) revisions to correct deficiencies which were identified in the San Diego NAP.

The purpose of this notice is to advise the public that certain of these conditions have been fulfilled by the State.

EPA is therefore taking final action to approve the material, incorporate it into the SIP, and revoke the applicable conditions.

EFFECTIVE DATE: May 10, 1982.

ADDRESSES: Copies of the State's submittal are available for public inspection during normal business hours at the EPA Region 9 Office and at the following locations.

The Office of the Federal Register, 1100 L Street NW., Washington, D.C. 20408

Public Information Reference Unit, Environmental Protection Agency Library, 401 M Street SW., Washington, D.C. 20460

California Air Resources Board, 1102 Q Street, Sacramento, CA 95812

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123

San Diego Association of Governments, 1200 Third Avenue, Suite 524, San Diego, CA 92101.

FOR FURTHER INFORMATION CONTACT: David P. Howekamp, Acting Director, Air Management Division, U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Attn: Melinda Taplin, (415) 974–8008.

SUPPLEMENTARY INFORMATION:

Background

On April 14, 1981 (46 FR 5965), EPA conditionally approved the NAP for TSP and NO_2 and deferred action overall on the NAP for O_3 and CO. The reader is referred to that Federal Register notice for a detailed discussion of EPA's findings. Today's notice discusses conditions of EPA's approval of the NAP which required the State to submit corrective material by July 13 and December 31, 1981.

This action does not address deficiencies in the Inspection/Maintenance (I/M) portion of the NAP as the State has not submitted corrections to the SIP in this area. It also does not address volatile organic compound (VOC) rules or the permit program which are being addressed in other notices.

Description

On July 13, August 31, November 18, and December 8, 1981 the State submitted materials to satisfy the conditions of approval promulgated in the April 14, 1981 rulemaking. These portions respond directly to the conditions and, in so doing, update the NAP. The State submittals are as follows:

July 13, 1981—Annual emission reduction estimates per pollutant per tactic, emission inventory subcategories of fugitive dust, 1982 emission projections for reactive hydrocarbons (RHC), CO, NO_x and TSP, 1987 emission projections for RHC and CO, justification for TSP design value, health effects of the plan provisions, resolutions from local governments committing to adoption/implementation of transportation control measures, basic transportation needs commitment, and a schedule to analyze alternative transportation control measures.

August 31, 1981—Air Pollution Control Board resolutions committing the District to (1) submit annual implementing agency fiscal and personnel commitments to implement the NAP and (2) implement those nontraditional TSP source control measures necessary to provide for attainment, and emission reduction estimates for the transportation control measures.

November 18, 1981—Schedule to study nontraditional TSP sources.

December 8, 1981—TSP modeling results which show the emission reductions necessary to provide for attainment.

Discussion

EPA's conditions, the State's responses, and EPA's actions are described below. A more detailed discussion of EPA's findings is included in the Technical Support Document available at the addresses indicated above.

1. *Condition*—Emission projections for O_3, CO, TSP, and NO_2 for December 31, 1982, and for O_3 and CO for December 31, 1987.

State Action—On July 13, 1981 the State submitted the 1982 and 1987 emission projections noted above.

EPA Action—This material corrects the deficiency. EPA approves the submittal for incorporation into the SIP and revokes the applicable condition.

2. *Condition*—Annual emission reduction estimates per control tactic per pollutant.

State Action—On July 13 and August 31, 1981 the State submitted annual emission reduction estimates for each control tactic for O_3, CO, TSP, and NO_2.

EPA Action—This material corrects the deficiency. EPA approves the submittal for incorporation into the SIP and revokes the applicable condition.

3. *Condition*—Commitment to submit annual implementing agency and personnel commitments to implement the San Diego Air Basin NAP.

State Action—On July 13 and August 31, 1981 the State submitted the necessary commitments.

EPA Action—This material corrects the deficiency. EPA approves the submittal for incorporation into the SIP and revokes the applicable condition.

4. *Condition*—Identification and analysis of the health effects of the San Diego Air Basin NAP provisions.

State Action—On July 13, 1981 the State submitted health effects analyses which complement the previous State submittal of Chapter 26.

EPA Action—This material corrects the deficiency. EPA approves the submittal for incorporation into the SIP and revokes the applicable condition.

5. *Condition*—Written evidence of local adoption of legally enforceable commitments and implementation schedules consistent with reasonable further progress for the seven adopted transportation control measures (TCMs).

State Action—On July 13, 1981 the State submitted copies of local government resolutions of adoption for TCMs contained in the NAP along with implementation schedules.

EPA Action—This material corrects the deficiency. EPA approves the submittal for incorporation into the SIP and revokes the applicable condition.

6. *Condition*—A commitment to establish, expand, or improve public transportation to meet basic transportation needs.

State Action—On July 13, 1981 the State submitted the San Diego Association of Governments' commitment to meet basic transportation needs via their Overall Work Program, a 1979 study, and their 1980 Regional Transportation Plan.

EPA Action—This material corrects the deficiency. EPA approves the submittal for incorporation into the SIP and revokes the applicable condition.

7. *Condition*—A schedule to analyze alternative packages of TCMs, including but not limited to those measures listed in section 108(f)(1)(A) of the Clean Air Act.

State Action—On July 13, 1981 the State submitted a schedule and work program which provide for development and technical analysis of additional TCMs to be considered for inclusion in the required 1982 NAP submittal.

EPA Action—This material corrects the deficiency. EPA approves the submittal for incorporation into the SIP and revokes the applicable condition.

8. *Condition*—Documentation for the TSP design value used to determine allowable emissions, and modeling results showing emission reductions necessary to provide for attainment of the TSP standard.

State Action—On July 13, 1981 the State submitted documentation for the chosen design value and on December 8, 1981 they submitted modeling results.

EPA Action—This material corrects the deficiency. EPA approves the submittal for incorporation into the SIP and revokes the applicable condition.

9. *Condition*—Emission inventory for the San Diego Air Basin for TSP identifying subcategories of the fugitive dust source category.

State Action—On July 13, 1981 the State submitted the necessary fugitive dust subcategories for the TSP inventory.

EPA Action—This material corrects the deficiency. EPA approves the submittal for incorporation into the SIP and revokes the applicable condition.

10. *Condition*—Commitment and schedule to study nontraditional TSP source control measures, and a commitment to implement those measures necessary to provide for attainment.

State Action—On August 31, 1981 the State submitted a resolution from the San Diego Air Pollution Control Board committing to study and implementation. On November 16, 1981 the State submitted a study schedule and commitment to work with the districts to implement those measures determined necessary after study.

EPA Action—This material corrects the deficiency. EPA approves the submittal for incorporation into the SIP and revokes the applicable condition. The November 16, 1981 submittal was approved in a recent final rulemaking notice.

11. *Condition*—Reanalysis of NO_2 attainment demonstration or NO_2 analysis which can support an EPA attainment redesignation.

State Action—On March 26, 1981 the State submitted air quality data showing that there were no NO_2 National Ambient Air Quality Standards violations in West San Diego County during 1979 and 1980.

EPA Action—On July 23, 1981 EPA designated West San Diego County attainment for NO_2 (46 FR 37896). Therefore, EPA revokes the applicable condition.

Today's action results in a continued overall conditional approval of the NAP for TSP with respect to Part D. However, since this notice addresses neither the I/M program, the permit program, nor the VOC rules, today's actions do not result in a final overall approval or disapproval of the NAP for O_3 and CO with respect to Part D. Thus, the prohibition on construction of certain major new or modified VOC and CO sources remains in effect as well as limitations on certain Federal funding assistance for San Diego County required by section 176(a) of the Clean Air Act.

Regulatory Process

EPA has determined that good cause (see Administrative Procedure Act, 5 U.S.C. 553(b)) exists to approve the above items without providing further notice and opportunity to comment since the revisions merely satisfy certain conditions of approval. EPA has already provided opportunity to comment on the appropriateness of the conditions in the October 4, 1979 proposed rulemaking notice (44 FR 57109). The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 10, 1982. This action may not be challenged later in proceedings to enforce its requirements.

Incorporation by reference of the State implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1981.

(Sections 110, 120, 171 to 178, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7429, 7501 to 7508, and 7601(a)))

Dated: March 4, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c) is amended by adding subparagraphs (113), (114), and (115) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

* * * * *

(113) Supplemental material for the San Diego Nonattainment Area Plan submitted on July 13, 1981, by the Governor's designee.

(114) Supplemental material for the San Diego Nonattainment Area Plan submitted on August 31, 1981, by the Governor's designee.

(115) Supplemental material for the San Diego Nonattainment Area Plan submitted on December 8, 1981, by the Governor's designee.

* * * * *

2. Section 52.232, paragraph (a) is amended by *revoking, removing, and reserving* paragraphs (a)(4)(i)(B), (a)(4)(ii), (a)(4)(iii), and (a)(4)(iv) as follows:

§ 52.232 Part D Conditional approval.

(a) * * *

* * * * *

(4) * * *

(i) * * *

(A) * * *

(B) [Reserved]

(ii) [Reserved]

(iii) [Reserved]

(iv) [Reserved]

* * * * *

[FR Doc. 82-6504 Filed 3-9-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-2-FRL-2047-7]

Approval and Promulgation of Implementation Plans; Revision to the New York State Implementation Plan

Correction

In FR Doc. 82-6046, appearing at page 9463 in the issue of Friday, March 5, 1982, the sixth line of § 52.1670(c)(65) in the third column of page 9464 should have read, "years from March 5, 1982, the".

BILLING CODE 1505-01-M

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40 CFR Part 81

[A-7-FRL-2049-7]

Designation of Areas for Air Quality Planning Purposes; State of Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Section 107(d) of the Clean Air Act, as amended (hereafter referred to as "the Act"), requires the states and EPA to determine the attainment status of all areas in regard to the National Ambient Air Quality Standards (NAAQS). All designations are recommended by the state and approved or modified as necessary by EPA. Designations in Nebraska of areas as either attainment, nonattainment or unclassifiable were published in the March 3, 1978, Federal Register (43 FR 8962).

EPA is taking final action in this notice on redesignation requests for the Lincoln carbon monoxide (CO), and Douglas, Sarpy, and Cass County total suspended particulate (TSP) nonattainment areas which were proposed in the November 13, 1979 (44 FR 65408) and the January 22, 1981 (46 FR 7009) Federal Registers.

DATES: These designations are effective March 10, 1982.

ADDRESSES: Copies of the state submittal and EPA's evaluation report are available at the following locations.

Environmental Protection Agency, Public Information and Reference Unit, Room 2922, 401 M Street, SW., Washington, D.C. 20460

Nebraska Department of Environmental Control, 301 Centennial Mall, Lincoln, Nebraska 68509

Lincoln-Lancaster County Air Pollution Control Agency, 2200 St. Mary's Avenue, Lincoln, Nebraska 68502

Permits and Inspection Division, Housing and Community Development Department, Room 402, 1819 Farnam, Omaha, Nebraska 68102

Lincoln-Lancaster County Planning Commission, 555 South Tenth Street, Lincoln, Nebraska 68508

Omaha-Council Bluffs Metropolitan Area Planning Agency, 7000 West Center Road, Omaha, Nebraska 68106

FOR FURTHER INFORMATION CONTACT: Eloise Reed at (816) 374-3791 (FTS 758-3791).

SUPPLEMENTARY INFORMATION: The Act required each state to prepare a list of areas which attained the NAAQS, which exceeded the NAAQS, and which had insufficient data to make a determination, for each pollutant for which there is a standard. An attainment area is one in which the measured or predicted air quality does not exceed the ambient air quality standards. A nonattainment area is one in which the air quality is worse than the standards. An unclassifiable area is one for which there is insufficient monitoring or modeling data to determine whether the area is attainment or nonattainment.

The state of Nebraska submitted requests to EPA for redesignation of the Lincoln CO nonattainment area in the May 14, 1979, state implementation plan (SIP) submittal for Lincoln CO, and for redesignation of the Douglas, Sarpy and Cass County TSP nonattainment areas in the September 25, 1980, SIP submittal for these areas. EPA proposed action on these redesignation requests on November 13, 1979 (44 FR 65408) and January 22, 1981 (46 FR 7009), respectively, and is now taking final action to redesignate the applicable areas. No comments were received on either proposed rulemaking.

EPA will be taking final action on the Part D requirements for these nonattainment areas in a future Federal Register.

Area Designations

The March 3, 1978, designations for the areas discussed in this notice are being changed based on the results of adequate monitoring or modeling data to more accurately define the areas where violations occurred. The reader is referred to the proposed rulemakings referenced above for background information on these actions.

(a) Lincoln CO—EPA proposed that the CO nonattainment area for Lincoln be revised to (1) retain the CO nonattainment designation for the Antelope Creek Basin (as described in the SIP revision) and (2) redesignate Lincoln, excluding the Antelope Creek Basin, as unclassifiable for CO.

No comments were received on this proposed action.

Action—EPA approves Nebraska's request for boundary changes and redesignations for the Lincoln CO nonattainment area, as described above.

(b) Douglas County TSP—EPA proposed that the primary TSP nonattainment area for Douglas County be revised to (1) retain the primary TSP nonattainment area for the 24th and "O" Street, and 11th and Nicholas Street sites, as defined in the SIP, (2) remove the primary and retain the secondary nonattainment designation for the remainder of Omaha, and (3) redesignate Douglas County, excluding Omaha, as attainment for TSP.

No comments were received on this proposed action.

Action—EPA approves Nebraska's request for boundary changes and redesignations for the Douglas County TSP nonattainment area, as described above.

(c) Sarpy County TSP—EPA proposed that the primary TSP nonattainment status for Sarpy County be revised to (1) remove the primary nonattainment designation and retain the secondary nonattainment designation for Bellevue, and (2) reclassify all of Sarpy County, excluding Bellevue, as an attainment area. In so doing EPA is modifying the state's request for a redesignation to attainment for the entire county.

No comments were received on this proposed action.

Action—EPA approves the boundary changes and redesignations for the Sarpy County primary TSP nonattainment area, as described above.

(d) Cass County TSP—EPA proposed that the primary TSP nonattainment status for Cass County be revised to (1) redesignate Cass County, excluding the municipal boundaries of Weeping Water and Louisville, as unclassifiable for TSP, and (2) retain the primary TSP nonattainment designation for the area within the municipal boundaries of Weeping Water and Louisville. In so doing, EPA is modifying the state's request for a redesignation to attainment for Cass County, excluding Weeping Water and Louisville.

No comments were received on this action.

Action—EPA approves the boundary changes and redesignation for the Cass County primary TSP nonattainment area, as described above.

Conclusions

In some instances, the description of the areas submitted by the state are so lengthy that they cannot be published in the limited space available. Exact descriptions of all designated areas are available from EPA and the state at the addresses given above.

The Administrator finds good cause to make these designations effective immediately, as they form the basis for the Nebraska nonattainment plan submission on which final action will be taken in a future Federal Register.

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This

rule is not "major" because for most of the designation changes, it only approves state actions and imposes no additional substantive requirements which are not currently applicable under State law. For the state actions which EPA is modifying, no additional regulatory requirements are imposed by this rule. Hence it is unlikely to have an annual effect on the economy of $100 million or more, or to have other significant adverse impacts on the national economy.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that these attainment status redesignations will not have a significant economic impact on a substantial number of small entities. This action imposes no regulatory requirements but only changes area air quality designations.

Under section 307(b)(1) of the Clean Air Act, as amended, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2), the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce those requirements.

This notice of final rulemaking is issued under the authority of section 107(d) of the Clean Air Act Amendments of 1977.

Dated: March 4, 1982.

Anne M. Gorsuch,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Section 81.328 is amended by revising the table for carbon monoxide (CO) and total suspended particulate (TSP) to read as follows:

§ 81.328 Nebraska

* * * * *

NEBRASKA—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
AQCR 085 (Douglas and Sarpy Counties):				
Douglas County:				
Omaha—24th and O Street site [1]	X			
Omaha—11th and Nicholas Street site [1]	X			
Remainder of Omaha		X		
Remainder of Douglas County				X
Sarpy County:				
Bellevue		X [2]		
Remainder of Sarpy County				X
AQCR 086			X [2]	
AQCR 145				X
AQCR 148:				
Cass County:				
Louisville (municipal boundaries)	X			
Weeping Water (municipal boundaries)	X			
Remainder of Cass County			X [2]	
Dawson County			X [2]	
Remainder of AQCR 148				X

[1] As described in the State implementation plan.
[2] EPA designation replaces State designation.

NEBRASKA—CO

Designated area	Does not meet primary standards	Cannot be classified	Better than national standards
City of Lincoln:			
Antelope Creek basin [1]	X		
Rest of city of Lincoln		X	
City of Omaha	X		
Remainder of State			X

[1] As described in the State implementation plan.

[FR Doc. 82-6608 Filed 3-9-82; 8:45 am]

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40 CFR Part 180

[OPP-300042A; PH-FRL-2071-1]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Polyethylene Glycol

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule amends 40 CFR 180.1001 (c), (d), and (e) by revising (broadening) the permissible mean molecular weight to the 194–9,500 range for the inert ingredient polyethylene glycol [alpha-hydro-omega-hydroxypoly(oxyethylene)]. This regulation was requested by American Cyanamid Co.

EFFECTIVE DATE: Effective on March 10, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. M–3708 (A–110), 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Peter Gray, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 514D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–7110).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the Federal Register of April 13, 1981 (46 FR 21632), that American Cyanamid Co., Agricultural Research Div., Box 400, Princeton, NJ 08540, requested that the Administrator amend 40 CFR 180.1001(d) by broadening the permissible mean molecular weight of polyethylene glycol from 200–9,500 to the 194–9,500 range.

Only one comment was received. The commenter was in agreement with the proposal and also proposed that the same change be made in the listing of polyethylene glycol in 40 CFR 180.1001(c) for reasons of consistency. By clerical error, polyethylene glycols are also listed in paragraph (c) under the chemical name as: "[alpha-hydro-omega-hydroxypoly(oxyethylene)]; molecular weight 200–9,500 (as defined in 21 CFR 121.2513)." Note that § 121.2513 has been changed to 21 CFR 178.3750. The agency notes that polyethylene gylcol is also listed in 40 CFR 180.1001(e) for use on animals.

Therefore, in order to be consistent, the agency has concluded that the following editorial changes should be made in 40 CFR 180.1001.

1. In paragraph (c), the present entry for alpha-hydro-omega-hydroxypoly(oxyethylene) should be replaced with: "Polyethylene glycol [alpha-hydro-omega-hydroxypoly(oxyethylene)]; mean molecular weight 194 to 9,500—conforms to 21 CFR 178.3750."

2. Because paragraph (c) includes both pre- and post-harvest uses, the present entry for polyethylene glycol in paragraph (d) (pre-harvest) is not consistent and should be deleted.

3. The present entry for polyethylene glycol in paragraph (e) should be changed to read exactly as that in the revised paragraph (c) above.

The changes in nomenclature are editorial only. No substantive comments were received on the proposal to broaden the acceptable molecular weight from 200–9,500 to 194–9,500. No requests were received for referral to an advisory committee.

Therefore, it is concluded that the amendments to 40 CFR 180.1001 (c), (d), and (e) will protect the public health, and they are established as set forth below.

Any person adversely affected by this regulation may, on or before April 9, 1982, file written objections with the hearing Clerk, EPA, Rm. M–3708 (A–110), 401 M St., SW., Washington, DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Effective on March 10, 1982.

(Sec. 408(e), 68 Stat. 514; (21 U.S.C. 346a(e)))

Dated: March 2, 1982.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.1001 is amended in paragraph (c) by revising the entry "alpha-hydro-omega-hydroxypoly-(oxyethylene); mean molecular weight 200–9,500 (as defined in 21 CFR 121.2513)" in paragraph (d) by deleting the entry for "Polyethylene glycol (mean molecular weight 200 to 9,500)" and in paragraph (e) by revising the entry "Polyethylene glycol (mean molecular weight 200 to 9,500)," as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * *	*	* * *
Polyethylene glycol [alpha-hydro-omega-hydroxypoly (oxyethylene)] mean molecular weight 194 to 9,500 conforms to 21 CFR 178.3750.		Surfactants, related adjuvants of surfactants.
* * *	*	* * *

(d) * * *

Inert ingredients	Limits	Uses
* * *	*	* * *
Polyethylene glycol (mean molecular weight 200 to 9,500).		Solvent, deactivator. [Deleted.]
* * *	*	* * *

(e) * * *

* * *	*	* * *
Polyethylene glycol [alpha-, hydro-omega-hydroxypoly (oxyethylene)]; mean molecular weight 194 to 9,500 conforms to 21 CFR 178.3750.		Surfactants, related adjuvants of surfactants.
* * *	*	* * *

[FR Doc. 82-6608 Filed 3-9-82; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[OPP-00000/R362; PH-FRL-2065-7]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Rule related notice.

SUMMARY: This notice gives background information regarding EPA's decision to consider for approval tolerances for minor uses based on residue data from limited geographical areas. Approval of proposals will result in amending sections in 40 CFR Part 180 pertaining to specific chemicals.

DATE: Comments must be received on or before March 25, 1982.

ADDRESS: Written comments to: Donald Stubbs, Emergency Response Section, Registration Division (TS–767C), Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703–557–7123).

SUPPLEMENTARY INFORMATION: In the Federal Register of March 5, 1979 (44 FR 12097), EPA issued a minor use policy statement on pesticide registration and request for information. Written comments were invited regarding present or anticipated minor use registration problems. Several commenters questioned the EPA policy of requiring residue data for minor uses from all geographical regions where the crop is grown. These commenters contended that often field plots must be treated and residue samples collected and analyzed even though the pest problem does not occur and there is no need for the pesticide in the area under study. They pointed out that the current residue data requirements may delay IR–4 for years in submitting a petition to the Agency for a pesticide use important to one region, because of the necessity of gathering data from regions where there is little or no need for the pesticide.

The Congress actively supported EPA's minor use role by amending the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) in 1978 to include the so-called "minor use amendment" set forth in section 3(c)(2)(A). That provision of the law directs EPA to make minor use data requirements commensurate with the anticipated extent and pattern of use and degree of exposure of man and the environment to the pesticide, and

instructs the agency to consider relevant economic factors, including impact on the registrant's incentive to develop the needed data, in structuring these data requirements.

The Agency agrees with the commenters, that a tolerance important only to a limited region could be established based on residue data from only that region. Therefore, EPA has decided to consider for approval tolerances for minor uses based on residue data from limited geographical areas. Products for which such tolerances have been established will be registered only for those geographical areas for which the residue data has been submitted and approved. In order to expand the area of usage, the registrant will have to submit additional residue chemistry data to support the requested expansion of use. Each proposed tolerance will be evaluated based on the available data to determine if such data allows a finding that the tolerance will protect the public health.

(Sec. 3(c)(2)(A) FIFRA as amended)

Dated: February 19, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82-6027 Filed 3-9-82; 8:45 am]

BILLING CODE 6560-32-M

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40 CFR Part 180

[OPP-300058A; PH-FRL-2065-5]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Corn Syrup

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for the inert ingredient corn syrup under 40 CFR 180.1001(c). This exemption was requested by Tuco Products Co., Division of the Upjohn Co.

EFFECTIVE DATE: Effective on March 10, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking in the **Federal Register** of January 20, 1982 (47 FR 2889) which announced that at the request of Tuco Products Co., Division of Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49001, the Administrator proposed to amend 40 CFR 180.1001(c) by establishing an exemption from the requirement of a tolerance for the inert ingredient corn syrup.

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It is concluded that the amendment to 40 CFR 180.1001(c) will protect the public health; therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before April 9, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Effective on: March 10, 1982.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a), (e)))

Dated: February 23, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.1001(c) is amended by adding and alphabetically inserting corn syrup to the table to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

Inert Ingredients	Limits	Uses
*	*	*
Corn syrup	Pre- and postharvest application.	Rehydrating agent.
*	*	*

[FR Doc. 82-6003 Filed 3-9-82; 8:45 am]

BILLING CODE 6560-32-M

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40 CFR Part 180

[OPP-300054A; PH-FRL-2065-6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Dimethylformamide (DMF)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for dimethylformamide (DMF). The exemption is limited to use by the U.S. Department of Interior (USDI) in formulations of the lamprecide sodium salt of alpha, alpha, alpha-trifluoro-4-nitro-meta-cresol or 4-nitro-3-(trifluoromethyl) phenol (also called TFM) in the Great Lakes.

EFFECTIVE DATE: Effective on March 10, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Peter Gray, Process Coordination Branch, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 514D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7110).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking that published in the **Federal Register** of December 23, 1981 (46 FR 62299) that the U.S. Department of the Interior, Fish and Wildlife Service, Washington, DC 20240, had requested that 40 CFR 180.1046 be amended by establishing an exemption from the requirement of a tolerance for dimethylformamide when used as a solvent for the sodium salt of alpha, alpha, alpha-trifluoro-4-nitro-meta-cresol or 4-nitro-3-(trifluoromethyl)phenol, (also called TFM) in water for control of the sea lamprey.

No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It is concluded that the amendment to 40 CFR 180.1046 will protect the public health, therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before April 9, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify

the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Effective on: March 10, 1982.

(Sec. 408(e), 68 Stat. 514, (21 U.S.C. 346a(e)))

Dated: February 17, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.1046 is amended by designating the existing text as paragraph (a) and adding paragraph (b) to read as follows:

§ 180.1046 Dimethylformamide; exemption from the requirement of tolerances.

* * * * *

(b) Dimethylformamide (DFM) is exempted from the requirement of a tolerance, when used by the U.S. Department of Interior, Fish and Wildlife Service, as a solvent for the lamprecide, sodium salt of alpha, alpha, alpha-trifluoro-4-nitro-meta-cresol, or 4-nitro-3-(trifluoromethyl)phenol in the Great Lakes.

[FR Doc. 82-6004 Filed 3-9-82; 8:45 am]

BILLING CODE 6560-32-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6184

[OR-22028 (Wash)]

Washington; Revocation of Executive Order of June 13, 1902

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order which withdrew 160 acres of land for use by the Navy Department for target range purposes. The land is in private ownership.

EFFECTIVE DATE: March 10, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr. Oregon State Office, 503-231-6906.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of June 13, 1902, which withdrew the following described land for use by the Navy Department for target range purposes is hereby revoked:

Willamette Meridian

T. 23 N., R. 1 E.,
Sec. 34, SE¼.

The area described contains 160 acres in Kitsap County.

2. The land described above has been conveyed from United States ownership and will not be restored to operation of the public land laws, including the mining laws and mineral leasing laws.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

March 2, 1982.

[FR Doc. 82-6421 Filed 3-9-82; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6186

[W-060194]

Wyoming; Revocation of Public Land Order No. 1642

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a public land order affecting 80 acres of public land withdrawn for use by the Bureau of Land Management as an administrative site. This action will restore the lands to operation of the public land laws, including the mining and mineral leasing laws.

EFFECTIVE DATE: April 7, 1982.

FOR FURTHER INFORMATION CONTACT: W. Scott Gilmer, Wyoming State Office, 307-778-2220, extension 2336.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 1642 of May 22, 1958, which withdrew the following described public lands for use by the Bureau of Land Management as an administrative site is hereby revoked.

Sixth Principal Meridian

T. 19 N., R. 81 W.,
Sec. 8, SW¼NE¼, NW¼SE¼.

The area described contains 80 acres in Carbon County.

2. At 10:00 a.m. on April 7, 1982, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10:00 a.m. on April 7, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands will be open to applications and offers under the mineral leasing laws and to location under the United States mining laws at 10:00 a.m. on April 7, 1982.

4. The lands have been and will continue to be open to appropriation under the Mineral Material Act of July 31, 1947, as amended, 30 U.S.C. 601-604.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

March 2, 1982.

[FR Doc. 82-6422 Filed 3-9-82; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6187

[NM-36235]

New Mexico Powersite Restoration No. 754; Partial Revocation of Waterpower Designation No. 1

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes Waterpower Designation No. 1, New Mexico 1, as it affects 114.96 acres of public and nonpublic lands in Otero County. This land is no longer valuable for power purposes. The 34.96 acres of public land will be restored to operation of the public land laws. The remaining 80 acres, situated within the Mescalero Apache Indian Reservation will remain withdrawn for that purpose.

EFFECTIVE DATE: April 7, 1982.

FOR FURTHER INFORMATION CONTACT: Stella V. Gonzales, New Mexico State Office, 505-988-6211.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2651; 43 U.S.C. 1714, and pursuant to the determination of the Federal Energy Regulatory Commission in DA-87, New Mexico, it is ordered as follows:

1. Departmental Order of August 7, 1916, is hereby revoked insofar as it affects the following described lands:

New Mexico Principal Meridian

T. 13 S., R. 11 E.,
Sec. 22, lot 3, SE¼SW¼;
Sec. 27, NE¼NW¼.

The area described contains 34.98 acres of public and 80.00 acres of nonpublic lands in Otero County.

2. The State of New Mexico has waived its preference right for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. At 10 a.m. on April 7, 1982, the public lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on April 7, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The lands have been open and continue to be open to applications and offers under the mineral leasing laws, and to location under the United States mining laws subject to the provisions of the Act of August 11, 1955, 69 Stat. 682; 30 U.S.C. 621.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
March 2, 1982.

[FR Doc. 82-6417 Filed 3-9-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6190

[OR-30253]

Oregon; Partial Revocation of Reclamation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial Order in part as to 30.20 acres of land withdrawn for reclamation purposes. The land will not be open to operation of the public land laws, including the mining laws, because it is included within an application for withdrawal by the U.S. Fish and Wildlife Service.

EFFECTIVE DATE: March 10, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of June 25, 1919, which withdrew the following described land for use by the Bureau of Reclamation for reclamation purposes in connection with the Klamath Project, is hereby revoked insofar as it affects the following described land:

Willamette Meridian Klamath Project

T. 41 S., R. 10 E.,
Sec. 15, Lot 2.

The area described contains 30.20 acres in Klamath County.

2. The land is included in the U.S. Fish and Wildlife Service withdrawal application OR 12169 for an addition to the Lower Klamath National Wildlife Refuge and remains segregated from operation of the public land laws, including the United States mining laws. the land has been and continues to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
March 2, 1982.

[FR Doc. 82-6418 Filed 3-9-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6191

[M-66919]

Montana; Revocation of Public Land Order No. 3633

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes Public Land Order No. 3633, dated April 9, 1965, affecting 145 acres withdrawn for a public recreation area. This action will restore the land to operation of the public land laws generally, including location under the mining laws.

EFFECTIVE DATE: April 7, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office 406-657-6291.

By virtue of the authority vested in the Secretary of the Interior, by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 3633, dated April 9, 1965, which withdrew certain land for use as a public recreation area is hereby revoked in its entirety.

Principal Meridian

Maiden Canyon Recreation Area

T. 16 N., R. 20 E.,
Sec. 4, SW¼SW¼;
Sec. 5, lots 14 and 15.

A roadside strip 100 feet on each side of the centerline of the Bureau of Land Management's Maiden Canyon Road, starting at the engineer's station 26+14.35 on the southeasterly boundary of the Kentucky Favorite Mineral Survey No. 3314 and along a portion of the southeasterly boundary of the Spotted Horse Mineral Survey No. 2361, lot 8, section 5, T. 16 N., R. 20 E., and extending southeasterly for approximately 1.5 miles, ending at engineer's station 124+32.53 in SE¼, section 9, T. 16 N., R. 20 E.

The areas described aggregate approximately 145 acres in Fergus County.

2. At 8 a.m. on April 7, 1982, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8 a.m. on April 7, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

3. At 8 a.m. on April 7, 1982, the lands above will be open to mineral location under the mining laws.

The lands have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
March 2, 1982.

[FR Doc. 82-6416 Filed 3-9-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6193

[OR-19298, OR-19299]

Oregon; Revocation of Executive Order No. 5683 and Secretarial Order of April 26, 1933

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive Order which withdrew 40 acres of land and a Secretarial Order which withdrew 39.95 acres of land as lookout stations. This action will restore the lands to operation of the public land laws generally, including the mining laws.

EFFECTIVE DATE: April 7, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 5683 of August 12, 1931, and the Secretarial Order of April 26, 1933, which withdrew the following described lands as lookout stations, are hereby revoked:

Willamette Meridian

Revested Oregon and California Railroad Grant Land

T. 40 S., R. 5 E.,
Sec. 31, lot 4.
T. 41 S., R. 5 E.,
Sec. 5, NE¼SW¼.

The areas described aggregate 79.95 acres in Klamath County.

2. At 10 a.m., on April 7, 1982, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands will be open to such forms of disposition as may by law be made of revested Oregon and California Railroad Grant Land.

3. At 10 a.m., on April 7, 1982, the lands will be open to nonmetalliferous mineral location under the United States mining laws. The lands have been and continue to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
March 2, 1982.

[FR Doc. 82-6419 Filed 3-9-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6194

[C-0102703, C-26516]

Colorado; Partial Revocation of Reclamation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a portion of Public Land Order 3500 which withdrew land for the Bureau of Reclamation Fryingpan-Arkansas Project. This action will restore 40 acres of land to Forest Service management and open it to operation of the mining laws.

EFFECTIVE DATE: April 7, 1982.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303-837-2535.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order 3500 dated December 2, 1964, FR Doc. 64-12562, which withdrew land for the Bureau of Reclamation Fryingpan-Arkansas Project is hereby revoked as to the following described land:

Sixth Principal Meridian

San Isabel National Forest

T. 10 S., R. 80 W.,
Sec. 31, SW¼SE¼.

The area described contains 40 acres in Lake County.

2. At 7:45 a.m. on April 7, 1982, this land shall be open to such forms of appropriation as may by law be made of national forest land, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on April 7, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. This land shall be open to location and entry under the United States mining laws at 7:45 a.m. on April 7, 1982. These lands have been and remain open to applications and offers under the mineral leasing laws.

Inquiries concerning this land should be addressed to the Chief, Withdrawal Section, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
March 2, 1982.

[FR Doc. 82-6414 Filed 3-9-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6195

[OR-5546]

Oregon; Revocation of Public Land Order No. 4839

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order which withdrew 158.44 acres of land for recreation and scientific study purposes. This action will restore the land to operation of the public land laws, including the mining laws.

EFFECTIVE DATE: April 7, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 4839 of June 1, 1970, which withdrew the following described land for use by the Bureau of Land Management for recreation and scientific study purposes, is hereby revoked:

Willamette Meridian

Revested Oregon and California Railroad Grant Land, Rogers Mountain Petrified Wood Area

T. 10 S., R. 1 E.,
Sec. 31, N½NE¼, NE¼NW¼, and fractional NW¼NW¼.

The area described contains 158.44 acres in Linn County.

2. At 10 a.m., on April 7, 1982, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land will be open to such forms of disposition as may by law be made of Revested Oregon and California Railroad Grant Lands.

3. At 10 a.m., on April 7, 1982, the land will be open to location under the United States mining laws. The land has been and continues to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
March 2, 1982.

[FR Doc. 82-6420 Filed 3-9-82; 8:45 am]
BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Associate Director, State and Local Programs and Support, after consultation with the Chief Executive Officer of each community listed, finds that modification of the proposed Special Flood Hazard Areas (SFHAs) for those communities is appropriate as a result of requests for changes in the interim and/or Proposed Rule.

DATES: These modified SFHAs are in effect as of the dates listed in the sixth column of the attached list and amend the Flood Insurance Rate Map(s) (FIRM) in effect for each listed community prior to this date.

ADDRESSES: The modified SFHA determinations for each community are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P. E., Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support has published a notification of the SFHAs in prominent local newspapers for the communities listed below. Ninety (90) days have elapsed since that publication, and the Associate Director has received appeals from the communities requesting changes in the proposed SFHA determinations.

The numerous changes made in the SFHAs on the Flood Insurance Rate Map for each community make it administratively infeasible to publish in this notice all of the SFHA changes contained on the maps. However, this notice includes the address of the Chief Executive Officer where the modified SFHA determinations are available for inspection.

The modifications are pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 65).

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These SFHAs are basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These SFHAs together with the flood plain management measures required by § 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified SFHAs shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

The changes in the SFHAs listed below are in accordance with 44 CFR 65.4.

§ 65.4 [Amended]

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Arizona: Mohave	City of Kingman (Docket No. FEMA 6037).	*The Kingman Daily Miner:* May 14, 1981; May 15, 1981.	The Honorable A. H. Carpenter, Mayor, City of Kingman, 310 North Fourth Street, Kingman, AZ 86401.	Dec. 22, 1981	040060C
Connecticut: New Haven	Town of Southbury (Docket No. FEMA 6053).	*Voices:* May 13, 1981; May 20, 1981.	Mr. Michael J. Kenney, First Selectman, Town of Southbury, 501 Main Street, Southbury, CT 06488.	Dec. 11, 1981	090096C
Illinois: Lake	Village of Third Lake (Docket No. FEMA 6056).	*Grayslake Times:* May 14, 1981; May 21, 1981.	Edwin Sutter, President, Village of Third Lake, 23 South Lake Ave., Lake Villa, IL 60046.	Dec. 25, 1981	170398C
Kentucky: Harlan	City of Loyall (Docket No. FEMA 6039).	*Harlan Daily Enterprise:* May 15, 1981; May 22, 1981.	The Honorable Charles Wattenberger, Mayor, City of Loyall, P.O. Box 127, Loyall, Kentucky 40854.	Dec. 11, 1981	2151698
Michigan: Emmet	City of Harbor Springs, (Docket No. FEMA 6040).	*Harbor Light:* May 13, 1981; May 20, 1981.	Honorable David Irish, Mayor, City of Harbor Springs, 348 East Main Street, Harbor Springs, MI 49740.	Dec. 24, 1981	260272C
New Jersey: Bergen	Township of Rochelle Park (Docket No. FEMA 6054).	*Our Town:* May 21, 1981; May 28, 1981.	The Honorable William Schneider, Mayor, Township of Rochelle Park, 24 Chestnut Avenue, Rochelle Park, NJ 07662.	Dec. 18, 1981	340070B
Monmouth	Township of Ocean (Docket No. FEMA 6041).	*Asbury Park Press:* May 21, 1981; May 28, 1981.	The Honorable Richard E. English III, Mayor, Township of Ocean, Township Hall, Deal and Monmouth Roads, Oakhurst, NJ 07755.	Dec. 18, 1981	340316D
Monmouth	Township of Upper Freehold (Docket No. FEMA 6042).	*Messenger Press:* May 14, 1981; May 21, 1981.	The Honorable W. Wilmer Drewa, Mayor, Township of Upper Freehold, Upper Freehold Township Building, P.O. Box 86, Cream Ridge, NJ 08514.	Dec. 11, 1981	340332D
North Carolina: Rowan	Town of East Spencer (Docket No. FEMA 6043).	*Salisbury Post:* May 15, 1981; May 22, 1981.	The Honorable Reginald Massey, Mayor, Town of East Spencer, P.O. Box 336, East Spencer, North Carolina 28039.	Dec. 11, 1981	370211C
Ohio: Ashland	City of Ashland (Docket No. FEMA 6044).	*Ashland Times Gazette:* May 15, 1981; May 22, 1981.	Honorable Don M. Richey, Mayor, City of Ashland, Municipal Building, 206 Claremont Avenue, Ashland, Ohio 44805.	Dec. 25, 1981	390007C
Butler	City of Trenton (Docket No. FEMA 6045).	*Middletown Journal:* May 15, 1981; May 22, 1981.	Honorable John Medoffori, Mayor, City of Trenton, 21 East State Street, Trenton, Ohio 45067.	Dec. 25, 1981	3900478
Pennsylvania: Delaware	Borough of Brookhaven (Docket No. FEMA 6046).	*Delaware County Daily Times:* May 1, 1981; May 8, 1981.	John Moccia, President, Brookhaven Borough Council, Brookhaven Road and Edgemont Avenue, Brookhaven, PA 19105.	Dec. 4, 1981	420403B
South Carolina: Sumter	City of Sumter (Docket No. FEMA 6057).	*Sumter Daily Item:* May 22, 1981; May 29, 1981.	The Honorable W. A. McElveen, Jr., Mayor, City of Sumter, P.O. Box 1449, Sumter, SC 29150.	Dec. 18, 1981	450184B
Utah: Davis	City of North Salt Lake (Docket No. FEMA 6017).	*Davis County Clipper:* May 6, 1981; May 13, 1981.	The Honorable Robert Palmquist, Mayor, City of North Salt Lake, 17 South Main Street, North Salt Lake, UT 84054.	Dec. 22, 1981	490046C
Vermont: Washington	Town of Waitsfield (Docket No. FEMA 6054).	*Valley Reporter:* May 21, 1981; May 28, 1981.	Mr. Everett Larrow, Chairman, Board of Selectmen, Town of Waitsfield, P.O. Box 134–A, Waitsfield, VT 05673.	Dec. 18, 1981	500120C
California: Riverside	City of Indian Wells (Docket No. FEMA 6048).	*Daily News:* June 10, 1981; June 17, 1981.	The Honorable Frank Chilson, Mayor, City of Indian Wells, 45–300 Club Drive, Indian Wells, CA 92260.	Jan. 19, 1982	060254D
San Diego	City of El Cajon (Docket No. FEMA 6050).	*The Daily Californian:* June 17, 1981; June 18, 1981.	The Honorable John Reber, Mayor, City of El Cajon, 200 East Main Street, El Cajon, CA 92020.	Jan. 19, 1982	060299C
North Dakota: Mercer	City of Hazen (Docket No. FEMA 6051).	*Hazen Star:* May 14, 1981; May 21, 1981.	The Honorable Melvin P. Beckler, Mayor, City of Hazen, P.O. Box 717, Hazen, ND 58545.	Jan. 18, 1982	380087C
Utah: Utah	City of Payson (Docket No. FEMA 6057).	*The Payson Chronicle:* August 26, 1981; September 2, 1981.	The Honorable Gary S. Hansen, Mayor, City of Payson, P.O. Box 118, Payson, UT 84651.	Jan. 6, 1982	490157C
Connecticut: Litchfield	Town of New Milford (Docket No. FEMA 6070).	*New Milford Times:* June 4, 1981; June 11, 1981.	The Honorable Clifford Chapin, First Selectman, Town of New Milford, Town Hall, 10 Main Street, New Milford, CT 06776.	Feb. 12, 1982	090048C
Hartford	Town of Wethersfield (Docket No. FEMA 6296).	*Hartford Courant:* July 3, 1981; July 10, 1981.	Mr. Henry R. Allen, Town Manager, Town of Wethersfield, 505 Silas Deane Highway, Wethersfield, Connecticut 06109.	Feb. 18, 1982	090040B

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Kentucky: McCracken	City of Paducah (Docket No. FEMA 6008).	*The Paducah Sun:* March 20, 1981; March 27, 1981.	The Honorable John K. Penrod, Mayor, City of Paducah, P.O. Box 2267, Paducah, Kentucky 42001.	Feb. 12, 1982	210153C
Minnesota: Hennepin	City of Plymouth (Docket No. FEMA 6100).	*The Newhope Plymouth Post:* July 9, 1981; July 16, 1981.	James G. Willis, City Manager, City of Plymouth, 3400 Plymouth Blvd., Plymouth, MN 55447.	Feb. 19, 1982	270178C
Massachusetts: Berkshire	City of Pittsfield (Docket No. FEMA 6091).	*Berkshire Eagle:* June 19, 1981; June 26, 1981.	The Honorable Charles Smith, Mayor of Pittsfield, City Hall, 70 Allen Street, Pittsfield, MA 02101.	Feb. 19, 1982	250037C
Plymouth	Town of Pembroke (Docket No. FEMA 6099).	*Silver Lake News:* July 2, 1981; July 9, 1981.	Mr. John Ahearn, Chairman, Board of Selectmen, Town of Pembroke, Littles Avenue, Pembroke, Massachusetts 02359.	Feb. 19, 1982	250277
New Jersey: Bergen	Borough of Elmwood Park (Docket No. FEMA 6101).	*The Record:* July 3, 1981; July 10, 1981.	The Honorable Richard A. Mola, Mayor, Borough of Elmwood Park, Borough Hall, Market Street, Elmwood Park, New Jersey 07407.	Feb. 26, 1982	340500B
New York: Steuben	City of Corning (Docket No. FEMA 6072).	*Corning Leader:* June 19, 1981; June 26, 1981.	The Honorable Joseph J. Nesser, Mayor, City of Corning, City Hall, Corning, NY 14830.	Feb. 12, 1982	360772C
North Carolina: Wake	Town of Cary (Docket No. FEMA 6102).	*Cary News:* July 8, 1981; July 15, 1981.	The Honorable Fred Bond, Mayor, Town of Cary, 316 North Academy Street, P.O. Box 128, Cary, North Carolina 27511.	Feb. 26, 1982	370236B
Mecklenburg	City of Charlotte (Docket No. FEMA 6103).	*The Charlotte Observer:* July 3, 1981; July 10, 1981.	Honorable Eddie Knox, Mayor, City of Charlotte, City Hall, 600 East Trade Street, Charlotte, NC 28202.	Feb. 26, 1982	3701598
Texas: Harris	City of Shoreacres (Docket No. FEMA 6104).	*The Bayshore Sun:* July 9, 1981; July 16, 1981.	The Honorable Rose H. Holmes, Mayor, City of Shoreacres Boulevard, LaPorte, TX 77571.	Feb. 16, 1982	485510C
Vermont: Windsor	Town of Chester (Docket No. FEMA 6105).	*Rutland Herald:* July 2, 1981; July 9, 1981.	Mr. Prentice Hammond, Town Manager, Town Office, Chester, Vermont 05144.	Feb. 26, 1982	500146C
Washington: King	City of Bellevue (Docket No. FEMA 6106).	*The Daily Journal-American:* July 6, 1981; July 7, 1981.	The Honorable Richard M. Foreman, Major, City of Bellevue, P.O. Box 1768, Bellevue, WA 98009.	Feb. 23, 1982	530074C
Wisconsin: Brown	(Unincorporated area (Docket No. FEMA 6083).	*Green Bay Press Gazette:* June 26, 1981; July 3, 1981.	William H. Hinitcka, County Administrator, Brown County, North Building, 305 East Walnut St., Green Bay, WI 54301.	Feb. 19, 1982	5500298
New Jersey: Morris	Township of Hanover (Docket No. FEMA 6114).	*Regional Weekly News:* July 22, 1981; July 29, 1981.	Mr. Harold Kasenan Township Administrator, Township of Hanover, P.O. Box 250, Whippany, New Jersey 07981.	Mar. 5, 1982	340043
North Dakota: Mercer	City of Beulah (Docket No. FEMA 6095).	*Beulah Beacon:* June 18, 1981; June 25, 1981.	The Honorable Darold Benz, Mayor, City of Beulah, P.O. Box 910, Beulah, ND 58523.	Mar. 2, 1982	380066C
Utah: Davis	City of Bountiful (Docket No. FEMA 6084).	*Davis County Clipper:* June 17, 1981; June 24, 1981.	The Honorable Elmer W. Barlow, Mayor, City of Bountiful, 790 South 100 East, Bountiful, UT 84010.	Mar. 2, 1982	490089B
Washington: Lewis	City of Morton (Docket No. FEMA 6107).	*The Morton-Eastern Lewis County Journal:* July 9, 1981; July 16, 1981.	The Honorable James A. Mitchell, Mayor, City of Morton, P.O. Box 1088, Morton, WA 98356.	Mar. 2, 1982	530109C
Wyoming: Laramie	City of Cheyenne (Docket No. FEMA 6115).	*The Wyoming State Tribune* and *The Wyoming Eagle:* July 21, 1981; July 22, 1981.	The Honorable Don Erickson, Mayor, City of Cheyenne, 2101 O'Neil Avenue, Cheyenne, WY 82001.	Mar. 2, 1982	560030C

Pursuant to the provisions of 5 USC 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: February 25, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6080 Filed 3-9-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

46 CFR Part 524

[General Order 23, Revised; Docket 81–18]

Exemption of Certain Agreements From the Requirements of Section 15, Shipping Act, 1916

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: This exempts agreements which provide for the collection, compilation and exchange of credit experience information from the filing and approval requirements of section 15 of the Shipping Act, 1916 (46 U.S.C. 814). The Commission has determined that this exemption will not substantially impair effective regulation of common carrier practices, result in unjust discrimination or be detrimental to commerce.

EFFECTIVE DATE: April 9, 1982.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION: Section 35 of the Shipping Act, 1916 (the Act) (46 U.S.C. 833a) allows the Commission to exempt any class of agreements between persons subject to the Act from any requirement of the Act where it finds that such exemption will not substantially impair effective regulations by the Commission, be unjustly discriminatory, or be detrimental to commerce. Under this authority the Commission previously announced (46 FR 13243) that it proposed to amend 46 CFR Part 524 (Commission General Order 23) to exempt from the filing and approval requirements of section 15 of the Act, agreements which provide for the collection, compilation, and exchange of credit information.

Comments on the proposed rule were due by April 21, 1981 and were received from the (1) Baltimore Marine Terminal

Association, (2) New York Credit and Financial Management Association, (3) Puerto Rico Maritime Shipping Authority (PRMSA), (4) North European Conferences (NEC), (5) Atlantic and Gulf American-Flag Berth Operators (AGAFBO) and (6) ten conference and rate agreements (Group of Ten).

On June 18, 1981, the Department of Justice (DOJ) filed a motion seeking leave to file reply comments to NEC's arguments concerning antitrust immunity for the exempted agreements.[1] This motion was granted by the Commission on July 8, 1981. On August 5, 1981 the Commission, in response to a motion from NEC, denied NEC's request for oral argument but permitted NEC to file a reply to DOJ's comments. On August 24, 1981, the Associated Latin American Freight Conferences (ALAFC) filed a Petition for Intervention in response to the Commission's Order dated August 5, 1981, on the question "whether agreements exempted by Commission rule from section 15 requirements are excepted from the provisions of the antitrust laws." The ALAFC Petition is hereby accepted.

The Baltimore Marine Terminal Association and the New York Credit and Financial Management Association support the rule as proposed. The New York Association of 3200 members note that the exchange of credit information among competitors has long been recognized in law and by the courts as proper business activity.

PRMSA supports the proposed rulemaking and asks that the Commission address specific questions so as to allow for a better understanding of how the exemption can and cannot be utilized by carriers. The Commission offers the following in response to the four specific questions raised by PRMSA:

(a) The final rule does not allow carriers to discuss or agree to credit policies and practices such as concern the period of time for which credit is to be extended or the procedure to be utilized if payment is not received within a certain period. These activities fall within the scope of credit rule enabling authority found in conference or ratemaking agreements which is excluded by the rule. By way of clarification, the final rule limits approved activity under the exemption to that which pertains to the collection, compilation and exchange of credit experience information only. Agreement on any credit matter which is required to be published in a tariff on file with the Commission is prohibited.

(b) The rule would allow carriers to exchange credit experience information such as providing each other with the names of shippers who have not paid freight charges within the period called for by a carrier's tariff rules.

(c) The rule would allow agreement parties to form or employ an entity to collect, compile and distribute credit experience information.

(d) The rule provides only for collecting, compiling and exchanging credit experience information and does not allow carriers to discuss or agree upon a common "credit history report" form which is to be completed by shippers prior to their being granted credit privileges. However, if such a credit history report form is already required by individual members of an agreement, the information in that report could be distributed to the other members.

The Group of Ten comments that the agreements proposed to be exempted are purely administrative agreements serving no competitive purpose and that such agreements allow each carrier to exercise individual judgment in determining whether to extend credit or require cash from any given shipper. Consequently, although the conferences do not believe this type of agreement is subject to the filing and approval requirements of section 15, they support the proposal noting that those who wish to obtain antitrust immunity may file for section 15 approval.[2] This commentator also asks that credit rule enabling authority, which is specifically excluded in the proposal, be clarified and that the Commission affirm its past holding that separate section 15 approval is not required for credit rule enabling authority in ratemaking agreements. The Commission notes that credit rule enabling authority has been clarified in the final rule and that such activity is specifically prohibited activity only as to the types of credit information agreements exempted under this rule.

NEC and AGAFBO generally support the proposed Rule. However, they and the ALAFC take exception to the statment appearing in the supplementary information that the proposed exemption will not confer antitrust immunity. In general, these parties argue that exempted agreements are lawful for Shipping Act purposes and are, therefore, entitled to the antitrust immunity which section 15 affords "lawful agreements." They submit that section 35 does not preclude the grant of antitrust immunity and that the Commission may, in considering a proposed exemption, properly determine that a class of agreements satisfies the standards for antitrust immunity set forth in section 15. Regarding the class of agreements subject to this proceeding, these parties submit that there are no competitive considerations that would preclude approval and antiturst immunity. The Department of Justice opposes the contention that an exemption under section 35 can have the effect of granting immunity from the antitrust laws.

As NEC indicated in its comments, the Commission has previously determined that antitrust immunity does not attach to agreements exempted pursuant to section 35. *Exemption of Non-Exclusive Transshipment Agreements*, 10 S.R.R. 148 (1968). In fact, both the Commission and the Supreme Court have indicated that the limited antitrust immunity afforded by section 15 is only conferred by an affirmative act of approval pursuant to section 15. *FMC* v. *Svenska Amerika Linien*, 390 U.S. 234, 242 (1968); *Volkswagenwerk* v. *FMC*, 390 U.S.C 281, 273 (1968).

In our view, agreements awarded a section 35 exemption from the filing and approval requirments of section 15 enable parties to elect not to file such agreements without fear that they will violate those requirements. Relief from the filing and approval requirements cannot be construed or equated with approval and the concomitant finding that the agreement merits antitrust immunity. Should exempted agreements authorize concerted conduct which has antitrust implications, the parties operate under that agreement at their risk. Moreover, in the usual course, the Commission would not authorize section 35 exemptions to agreements which have significant antitrust implications. The Commission, as the public arbiter of competition in the shipping industry, has an affirmative duty to examine the potential anticompetitive consequences of each agreement, as well as the circumstances surrounding it, before granting approval and the limited antitrust immunity afforded by such approval. Accordingly, the Commission rejects the NEC, AGAFBO, and the ALAFC positions regarding antitrust immunity in the Final Rule.

Section 35 also provides that the Commission may attach conditions to any exemption and may, by order, revoke any such exemption. The Commission has provided that these agreements, although exempted, must be kept by the parties and available for inspection by the Commission during the term of the agreement and two years thereafter.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Commission certifies that the rulemaking will not have a significant economic impact on a substantial number of small entities. The exemption will not impose any reporting or record keeping requirements which might result in a compliance or reporting burden on small entities. The exemption will primarily benefit carriers. The shipping public, some of whom undoubtedly are small entities may enjoy a secondary benefit from this exemption but it is not foreseen that this benefit will amount to a "significant economic impact," within the meaning of 5 U.S.C. 605(b).

PART 524—EXEMPTION OF CERTAIN AGREEMENTS FROM THE REQUIREMENTS OF SECTION 15, SHIPPING ACT, 1916

Accordingly, under sections 15, 35 and 43 of the Shipping Act, 1916 (46 U.S.C. 814, 833a and 841a) and 5 U.S.C. 553, the Federal Maritime Commission amends 46 CFR Part 524 as follows:

1. A new paragraph (e) is added to § 524.2, *Definitions* which reads:

§ 524.2 Definitions.

* * * * *

(e) A credit information agreement is an agreement between common carriers by water or their duly appointed representatives which provides only for the collection, compilation and exchange of credit experience information. Under such an agreement, the parties cannot discuss or agree on any matter which is required to be published in a tariff pursuant to the Shipping Act, 1916 or any rule published pursuant thereto.

2. A sentence is added to § 524.3, *Exemption of agreements* which reads:

§ 524.3 Exemption of agreements.

* * * Agreements as defined in paragraph 524.2(e) shall be kept by the parties and shall be available for inspection by the Commission during the term of the agreement and two years thereafter.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-6861 Filed 3-9-82; 8:45 am]

BILLING CODE 6730-01-M

[1] The supplementary information in the Notice of Proposed Rulemaking 46 FR 13243 provided that: "The proposed exemption would not confer antitrust immunity." NEC's comments took exception to this statement.

[2] Optional section 15 approval is available under 46 CFR 524.7.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 68

Connection of Terminal Equipment to the Telephone Network

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its rules concerning connection of telephone equipment to the telephone network to correct a typographical error and to correctly identify a standard reference document.

FOR FURTHER INFORMATION CONTACT: William H. von Alven, Common Carrier Bureau, (202) 632-6440.

SUPPLEMENTARY INFORMATION: In the matter of editorial amendment of §§ 68.308(b)(6)(iii) and 68.314(e)(1); Order.

Adopted: February 23, 1982.

[Released: February 24, 1982.]

PART 68—CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK

1. We are amending an equation appearing in § 68.308(b)(6)(iii) to read as follows:

§ 68.308 [Amended]

* * * * *

(b) * * *

(6) * * *

(iii) For the four-wire conventional terminating set interface.

$$|E_0/E_{in}| = \begin{cases} (16.4 \frac{\log (f/200)}{\log 2.5}) \text{ dB; for } 200 < f < 300 \text{ Hz} \\ 14 \text{ dB; for } 300 \text{ Hz} < f < 3200 \text{ Hz} \end{cases}$$

RLJRLo>3dB

* * * * *

The denominator, log 2.5, is missing in the current version of the rules.

§ 68.314 [Amended]

2. We are editorially amending § 68.314(e)(1) of the Commission's rules to correct a reference to a publication which has been superseded. The last sentence of this paragraph is changed to read:

A sufficient set of operating characteristics for interfacing with central office AIOD channels is contained in the Electronics Industries Association (EIA) Standard RS-464, Section 4.4.1., dated December 1980.

The original document, EIA Specification SP-1285, is no longer available.

3. Authority for this action is contained in section 4(i) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's rules. Since these changes are editorial in nature, the public notice, procedure and effective date provisions of 5 U.S.C. 553 do not apply.

4. Questions related to this matter should be directed to William H. von Alven, (202) 632-6440.

5. In view of the above, it is ordered, that the editorial amendments set forth herein are adopted, effective March 10, 1982.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307).

Federal Communications Commission.

Alan R. McKie,

Deputy Managing Director.

[FR Doc. 82-6867 Filed 3-9-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-688; RM-3989]

FM Broadcast Station in Kodiak, Alaska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 266 to Kodiak, Alaska, in response to a petition filed by Kachemack Broadcasters, Inc. The assigned channel would provide a first commercial FM service to Kodiak.

DATE: Effective: April 27, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order; Proceeding Terminated

Adopted: February 18, 1982.

Released: February 26, 1982.

By the Acting Chief, Policy and Rules Division:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Kodiak, Alaska).

1. The Commission has under consideration a Notice of Proposed Rule Making, 46 FR 43208, published August 27, 1981, proposing the assignment of Class C FM Channel 266 to Kodiak, Alaska, in response to a petition filed by Kachemack Broadcasters Inc.

(petitioner).[1] Supporting comments were filed by the petitioner. No oppositions to the proposal were received.

2. Kodiak (population 4,756)[2] on Kodiak Island (population 9,939) is located in the Gulf of Alaska, approximately 400 kilometers (250 miles) southwest of Anchorage, Alaska. It is served locally by full-time AM Station KVOK (licensed to the petitioner) and noncommercial FM Station KMXT (Channel 261A).

3. In its comments, the petitioner restated the information contained in the Notice demonstrating the need for a first commercial FM station at Kodiak. Petitioner claims that the continued expansion of population and industry and the promise of future growth in this area emphasize the need to provide the first commercial FM service to this strategic transportation and service center. The proposed assignment would serve the public interest and promote the Commission's allocation policies as stated in its Revision of FM Rules (First Report and Order) in Docket 14185, 23 RR 1603 (1962), according to petitioner. Petitioner also reiterated its intent to apply for the channel if assigned.

4. The Commission believes that the public interest would be served by assigning Channel 266 to Kodiak, Alaska. The petitioner has shown that there is a need and it is willing to operate a first commercial FM service in that community. Although a community the size of Kodiak is not normally assigned a Class C channel, we proposed the assignment based on the remoteness of the community and its apparent need for a wide coverage area station. We also find no intermixture problems with the assignment since the Class A licensee operates a noncommercial station which would not be considered a competition.

5. Accordingly, pursuant to sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, That effective April 27, 1982, the FM Table of Assignments (§ 73.202(b) of the Commission's rules), is amended with respect to the following community:

City	Channel No.
Kodiak, Alaska	261A, 266

6. It is further ordered, that this proceeding is terminated.

[1] Kachemack is licensee of AM Station KVOK, Kodiak, Alaska.

[2] Population figures are taken from the 1980 U.S. Census.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-6086 Filed 3-9-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 83

[FR Docket No. 79-336; FCC 82-75]

Stations on Shipboard in the Maritime Services; Grant of General Exemption From the Radiotelegraph Requirements of the Communications Act to Certain United States Cargo Ships

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting a final rule to grant a general exemption from the radiotelegraph requirements of the Communications Act to cargo ships of 1600 gross tons and upward when engaged on coastwise voyages along the east, west and Gulf coasts of the contiguous 48 states. Since it could not be determined that radiotelephony on 2182 kHz would provide adequate safety coverage on all coastwise voyages to a distance of 150 nautical miles from land, additional communications requirements are specified in the rule for obtaining the general exemption.

EFFECTIVE DATE: April 2, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nicholas G. Bagnato, Private Radio Bureau, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

Adopted: February 11, 1982.

Released: February 24, 1982.

By the Commission: Commissioners Quello and Jones concurring in the result; Commissioner Fogarty dissenting.

In the Matter of Amendment of Part 83 to grant a general exemption from the radiotelegraph requirements of Title III, Part II of the Communications Act to United States cargo ships of 1600 gross tons and upward navigated solely on domestic voyages along the east, west or Gulf coasts of the contiguous 48 states.

1. A notice of proposed rulemaking and notice of inquiry in the above-captioned matter was released on January 3, 1980, and was published in the Federal Register on January 9, 1980, 45 FR 1924. The time for filing comments was extended by Private Radio Bureau Order released January 28, 1980, and was published in the Federal Register on February 1, 1980, 45 FR 7269. The time for filing comments and reply comments has expired.

2. By this action we are establishing the criteria for granting a general exemption from the requirements of section 351(a)(1)(A) of the Communications Act, which requires cargo ships of 1600 gross tons and upward to be equipped with a radiotelegraph station. In the Notice of Proposed Rule Making, we proposed to grant a general exemption from the radiotelegraph requirements for cargo ships of 1600 gross tons and upward that are navigated on coastwise voyages, so long as the ships are equipped with radiotelephone installations operating in the medium frequency (MF) bans. We have concluded however, that a radiotelephone installation operating solely in the MF band would not provide the necessary safety communications in all cases. Instead, to qualify for a general exemption ships must meet certain additional communications requirements. In particular, ships must possess a capability for radiotelephony via satellite and be equipped with very high frequency (VHF), high frequency (HF) and medium frequency (MF) terrestrial equipment. In addition, we are requiring that ships have radioteletype capability in the satellite and HF bands. The ships shall also have a radiotelegraph auto alarm to receive any distress messages on 500 kHz and have the capability to relay the distress message to a station having a radiotelegraph capability via any of the systems on the ship. We are also requiring that the ship participate in the Automated Mutual-assistance Vessel Rescue System (AMVER). In addition, we are specifying that the ship have adequate personnel on board to operate all of the systems installed and the capability to keep all systems in satisfactory operating condition.

3. Title III, Part II of the Communications Act of 1934, as amended, provides that unless an exemption is granted, all cargo ships of 1600 gross tons and upward must be equipped with a radiotelegraph (Morse code) station operated by one or more radio officers or operators. Pursuant to the statute, an exemption can only be granted to ships navigated not more than 150 nautical miles from the nearest land, and if it is determined that the routes of the voyages or other circumstances are such as to render full application of the radiotelegraph requirements unreasonable or unnecessary. In determining whether a general exemption is warranted, we also must consider any effects on the efficiency of distress services for all ships. We have concluded that the alternate means of communications discussed above, if provided in lieu of the radiotelegraph installation, would provide equivalent or better communications for distress and safety. Therefore, we have concluded that for ships meeting the specified conditions the radiotelegraph requirements need not be met.

Background

4. Congress allowed the Commission the discretion to grant exemptions from these radiotelegraph requirements set forth in section 351 of the Act. Section 352(b) of the Communications Act of 1934, as amended, provides in pertient part that:

> (b) Except for nuclear ships, the Commission may, if it considers that the route or the conditions of the voyage or other circumstances are such as to render a radio station unreasonable or unnecessary for the purpose of this part, exempt from the provisions of this part any ship or class of ships which falls within any of the following descriptions:
>
> * * * * *
>
> (2) Cargo ships which in the course of their voyage do not go more than one hundred and fifty nautical miles from the nearest land;
>
> * * * * *

5. The Commission has already granted exemptions from the radiotelegraph requirements of Title III, Part II to some cargo ships of 1600 gross tons and upward. For example, exemptions have been granted for ships whose special configuration allows them to navigate on the New York Barge Canal, [1] and ships that navigate on the Great Lakes 90% of the time but make occasional coastwise voyages when the Great Lakes are closed to navigation.[2]

6. In the past, the Commission has also received requests to exempt from the radiotelegraph requirements cargo ships that engage in coastwise voyages, but do not navigate in excess of 150 miles from land. The Commission has generally denied such requests on the ground that radiotelegraph systems are essential for the ship-to-ship communications necessary to ensure that each ship may act as a potential lifeboat for others in its same class. This conclusion stemmed from a belief that the effectiveness of the pool of mutual assistance is in direct ratio to the number of ships on international, as well as on domestic, voyages that are in the pool.[3] It is clear, however, that marine communications technology has changed dramatically in the past few years. Accordingly, our view of exemption requests must take these changes into consideration.

7. In recent years there have been substantial improvements in marine high seas radiotelephone communications as a result of the introduction of single sideband. Further, the Safety of Life at Sea Convention, London, 1974 (SOLAS, 1974) now requires that all compulsorily installed radiotelephone and radiotelegraphy ships maintain a continuous watch on 2182 kHz. Radiotelephone and radiotelegraphy ships subject to SOLAS, 1974 are also required to install a VHF installation to permit a listening watch to be maintained on the bridge. While ships of 1600 gross tons or more navigated on domestic coastwise voyages are not subject to SOLAS, 1974, they are required to be fitted with VHF in order to comply with existing safety regulations, such as bridge-to-bridge and vessel traffic services system requirements.

8. In addition, the United States Coast Guard has complete VHF coverage of the coastline of the contiguous 48 states up to a minimum distance of 20 nautical miles. Radiotelegraph ships with 2182 kHz transmit and receive capability are able to participate in both the VHF and MF safety systems. This capability establishes a link between radiotelegraph and radiotelephone ships.

9. Because of these developments, we proposed in this proceeding to grant a general exemption from the radiotelegraph requirement to all cargo ships of 1600 gross tons and upward. We left open, however, whether ships qualifying for this exemption would be permitted to operate up to 150 nautical miles from the nearest land as permitted in section 352(b)(2) of the Act, and expected to reach a determination on this issue after considering the comments received. In addition, we requested specific comments on: (a) Whether the Commission has the authority to grant a general exemption to ships of 1600 gross tons and upward, (b) the operational effectiveness of radiotelephony on 2182 khZ as compared to radiotelegraphy on 500 khz, and (c) whether a language barrier exists which would inhibit the effectiveness of radiotelephone for safety purposes.

Comments of Participants

10. In response to the Notice, we have received letters, formal comments and reply comments as follows:

a. Correspondence received (Appendix B)

(i) 33 Congressional inquiries on behalf of constitutents, of which 22 were radio officers.

(ii) 6 letters from Congressmen on their own behalf.

(iii) 15 letters from radio officers.

b. Comments were received from:

American Institute of Marine shipping [AIMS]
American Pacific Container Lines (AMPAC)
American Radio Association and Radio Officers Union (ARA/ROU)
Atlantic Richfield Company (ARCO)
Central Committee of Telecommunications of the American Petroleum Institute (API)
United States Coast Guard (USCG)
Communications Workers of America (CWA)
ITT Mackay Marine (ITT)
William N. Krebs (KREBS)
Maritime Administration (MARAD)
International Organization of Masters, Mates and Pilots (IOMMP)
Matson Lines (MATSON)
Department of the Navy (USN)
William B. Prechtl (PRECHTL)
Sun Transport, Inc. (SUN)
Texaco, Inc. (TEXACO)

c. Reply comments were received from:

AIMS
ARA/ROU
ARCO
Center for Law and Social Policy on behalf of Center for Environment Education, Coast Alliance, Defenders of Wildlife, Environmental Defense Fund, Environmental Policy Center, Friends of the Earth, Fund for Animals, National Wildlife Federation, Natural Resources Defense Council, Sierra Club, Society for Animal Protective Legislation and Wilderness Society (Environmental Agencies)
KREBS

d. *Ex parte* comments and oral presentations were made by AIMS, EXXON and ARA/ROU to the Commission and various staff members in the Private Radio Bureau and Office of Plans and Policy. A new proposal was submitted to consider individual exemptions based on improved communications rather than a general exemption. The criteria which the Commission would use to consider an individual exemption should be placed

[1] On these ships, the wheelhouse may be hydraulically lowered to clear low bridges.

[2] VHF radiotelephone in the band 156.250–162.000 MHz is used as the safety system on the Great Lakes; MF radiotelephone systems were replaced by VHF as provided for in the most recent Great Lakes Agreement between the United States and Canada, which entered into force May 0, 1975.

[3] See, for example, *Request for Reconsideration of Previous Denial of Exemption from the Radiotelegraph Provisions, Memorandum Opinion and Order*, aff'd sub nom. *Spentonbush Fuel Transport Service, Inc.* v. *FCC, 315 F. 2d 198 2nd Cir. (1963).*

in the rules for guidance for the applicant.

11. A summary of each comment and reply comment received is attached in Appendix D in alphabetical order. The Comments and reply comments addressed several main issues, which are set out in the following paragraphs.

12. All of the radio officers believed that the marine safety system would be severely derogated if the radiotelegraph were removed from ships engaged on coastwise voyages. The comments noted that, because a ship radio officer's sole duty is communications, during any distress situation, his entire attention may be devoted to passing distress traffic. They also point out that radio operators, as a result of their professional training, are able to fine-tune equipment so as to receive communications under adverse conditions of noise and other sources of interference. Further, they assert, certain types of messages such as weather and MEDICO messages are more efficiently received by telegraphy by experienced operators. The radio operators believed in addition that radiotelegraph is more accurate than radiotelephone under all conditions and point out that no language barrier exists in radiotelegraphy communications. Similarly, many of the commenters did not believe that a radiotelephone watch officer would be a satisfactory substitute for a ship's radio officer because of the asserted lack of communications professionalism of the deck officers, and because a deck officer's radio duties would be secondary to his deck duties. Other commenters stated that the radio discipline on the radiotelephone distress frequency is so poor and the volume of traffic so great, that the deck officer turns down the volume and adjusts the squelch to the point that no effective watch is maintained on the radiotelephone distress frequency.

13. Other commenters, respond, however, that during a distress it is undesirable to have complete control of communications in the hands of one person. In their view, reliance for communications on one person in a distress situation reduces a ship's effectiveness, particularly during the on-scene phase of the rescue operation. They also point out that some information contained in weather and MEDICO messages can be passed more rapidly by radiotelephone even though the information may have to be repeated to ensure accuracy. They believe in addition that no language barrier exists for radiotelephone transmissions since English is the universal language for maritime navigation and all ships have English speaking deck officers for VHF communications when entering port areas. Finally, these commenters point out that the radiotelegraph watch maintained by a radio operator is only for an 8 hour period. The remaining 16 hours are guarded by an auto alarm. Further, they assert, auto alarm systems are greatly affected by atmospherics and during periods of high atmospheric noise the auto alarm is practically useless. Hence, they challenge the alleged safety benefits of maintaining a radio officer, since his watch is effectively limited to only 8 hours out of any 24 hour period.

14. AIMS (API and EXXON associating themselves with AIMS) supported the proposal stating that, while the 5000 kHz safety system has proved to be effective, other systems which include MF, HF and VHF radiotelephony and satellite communications are capable of producing an even more effective safety system. However, in defining a safety system, they believe that certain distance parameters should be established that would coincide with the radio equipment now available to cover such defined areas. AIMS also submitted a proposal which recommended the necessary equipment for a general exemption based on varying distances from land.[4] In addition, AIMS recommends that to qualify for the exemption ships be required to participate in the AMVER system.[5]

15. ARA/ROU oppose a general exemption because they believe it has not been established that requiring radiotelegraph installations on ships on coastwise voyages is unreasonable or unnecessary. According to ARA/ROU, because the density of shipping increases as ships approach port areas, the routes of coast-wise voyages are as hazardous as, or more hazardous than, ocean voyages. They also believe that a general exemption would remove these ships as potential lifeboats to other large ships in distress and would derogate the safety system. They point out that, because environmental conditions of strong winds, heavy seas and storm conditions are usually prevalent during distress situations, ship survivors and ships rely heavily on large ships to provide assistance, since these ships are equipped with radiotelegraph, auto alarm and direction finding equipment.

16. The US Navy is also opposed to the proposal on grounds that it would remove coastal ships from participation in international agreements for guarding 500 kHz and inhibit lending aid to ships in distress. Like ARA/ROU it believes coastal trade, out to 150 nautical miles, is more congested and dangerous than ocean traffic. Further, because the coastal belt is heavily used by international shipping, and since foreign ships do not guard 2182 kHz (the radiotelephone distress frequency), the Navy fears that there will be no distress guard between international and U.S. coastal shipping.

17. In the NPRM/NOI we expressly requested comments on the maximum distance from land that might be appropriate for granting a general exemption. The commenters were nearly unanimous in their view that 2182 kHz was not effective up to 150 nautical miles.[6] The Coast Guard, which by statute is authorized to assume operational responsibilities relating to maritime distress, safety and protection of life and property on the high seas and coastal areas, points out that its coverage on 2182 kHz is restricted to 70 nautical miles. Thus, it states, because the Coast Guard station cannot provide a safety system on 2182 kHz equivalent to 500 kHz, a general exemption based on the radiotelephone distress frequency 2182 kHz would not be feasible at this time.[7]

[4] These recommendations are shown in Appendix C. In this docket, we are only considering the recommendation to distances up to 150 nautical miles from the nearest land with equipment operating in all of the above listed bands.

[5] AMVER—Automated Mutual-assistance Vessel Rescue System is operated by the Coast Guard and is an international system which provides important aid to the development and coordination of Search and Rescue (SAR) efforts. Merchant ships of all nations are encouraged to send voluntary sailing reports to the AMVER Center to be entered into the electronic computer which generates and maintains dead reckoning positions for the ships. Characteristics of the ships which are valuable in SAR efforts are also entered into the computer from available sources of information.

[6] A technical analysis comparing the range of 500 kHz and 2182 kHz prepared by Mr. George W. Haydon of the National Telecommunications and Information Agency (NTIA) was submitted by ARA/ROU. In this report, Mr. Haydon determined that 500 kHz was more effective than 2182 kHz to distance up to 150 nautical miles. AIMS, in their reply comments, submitted excerpts from a technical report prepared by Mr. William A. Kissick, which was prepared for the Coast Guard. In this report, charts, were submitted which showed coverage on 2182 kHz to distances beyond 150 nautical miles along the coast of the U.S. These reports are further discussed in footnote 21.

[7] The Coast Guard also states the AMVER systems reports are more easily handled on either manual or automated telegraphy than by radiotelephony. It explains that ships reporting into the AMVER system usually report in on high frequencies. Thus, because the Coast Guard capability to handle a large number of AMVER messages by radiotelephony is limited, the Coast Guard is not prepared to accept a significant number of nondistress messages by radiotelephony in either the MF of HF frequency bands.

18. On June 18, 1981, and *ex parte* presentation was made by EXXON Communications Company which requested that Section 83.480 of the Commission's rules be amended to set forth specific conditions under which the Commission would grant requests for exemption to distances beyond 70 nautical miles up to the statutory limit of 150 nautical miles. In EXXON's view, to be considered for exemption for distances between 70 and 150 nautical miles, a ship should report to AMVER as recommended by that system and have at least the following communications equipment installed:

a. Satellite earth terminal providing both voice and telex with a main, emergency and reserve source of energy;

b. HF single sideband radiotelephone capable of operating on any designated safety and distress channel;

c. Radiotelephone installation which fully complies with the rules applicable to the 2182 kHz distress watch receiver;

d. Narrow-band direct-printing telegraphy with SITOR; and

e. At least two VHF transceivers.

19. ARA/ROU made an *ex parte* presentation in response to EXXON. ARA/ROU believe that the shift from a general exemption to individual exemptions based on installation of certain communications equipment, as proposed by EXXON, is deceptive. ARA/ROU believe that, because there would be no examination by the Commission of the individual circumstances affecting the safety of the particular ship, EXXON's approach would be similar to a general exemption. That is, any ship having the prescribed equipment would be treated the same, even though the route and conditions of the voyages and other circumstances relating to safety might differ in the various coastal areas and among the different types of ships. ARA/ROU also object to the specifics of EXXON's proposal, arguing that:

a. There is not now nor is there any early plan for a safety system based on using satellite terminals on ships;

b. SITOR facilities are used between shore and ship stations. There is no direct ship-to-ship communications during distress. SITOR terminals automatically shut down under poor signal conditions leaving blank spaces which are unacceptable for distress communications.

c. The FGMDSS [8] will require selective calling. SITOR is not an effective substitute for selective calling. SITOR is effective only when used in a one-to-one shore communications link in the ARQ mode. When used in the FEC mode, SITOR can only detect errors which appear as blank spots in the transmission. There is no SITOR frequency dedicated to distress.

d. U.S. ships now report to AMVER, but foreign ships are not required to participate.

Finally ARA/ROU state that EXXON merely proposes a hodge-podge of equipment which would frustrate the requirement to maintain a satisfactory safety system during the transition to FGMDSS. According to ARA/ROU, the EXXON proposal also does not create a competitive market for equipment or encourage development of improved telecommunications, but simply an inferior system that would result in the loss of lives.

20. Additional *ex parte* presentations were made by both ARA/ROU and EXXON concerning points previously raised. One of the points of major differences was the coverage and effectiveness of satellite communications for safety purposes. ARA/ROU assert that a ship terminal requires a stable platform for transmission and that satellite antennas must be accurately directed to the satellite irrespective of the motion of the ship. Accordingly, ARA/ROU conclude that satellite communications is basically only a "fair weather" mode. ARA/ROU also state that satellite coverage between 10 and 5 degrees elevation angles over the horizon is marginal in the Gulf of Mexico from Tampa, Florida to New Orleans, Louisiana and west of New Orleans, Louisiana to Brownsville, Texas there is no satellite coverage. EXXON responds that the MARISAT/INMARSAT system provides reliable coverage down to 5 degrees and diminishing quality communications down to the horizon. According to EXXON, MARISAT coverage exists in all coastal waters except for that portion of the western Gulf of Mexico, and for these waters the Commission could consider alternate means of communications available for safety and distress in the MF, HF and VHF bands. EXXON also states that a new satellite will be operational in February 1982, which will provide additional coverage for the Atlantic coast and throughout the entire Gulf of Mexico. EXXON also disagreed with ARA/ROU statements concerning the reliability of satellite communications during severe weather conditions.

21. The Coast Guard, in its comments on the *ex parte* proposals, states its view that the provision of additional equipment, along with the capability to operate and maintain all the ship's systems used for distress and safety would be an adequate substitute for the mandated radiotelegraph system. In its opinion, the following equipment should be required:

a. A satellite earth terminal providing both voice and telex.

b. A single sideband radiotelephone with voice channels capable of operating on any distress and safety frequency in the maritime bands.

c. Narrow-band direct-printing radiotelegraphy with SITOR.

d. An IMCO required 2182 kHz radiotelephone distress frequency watch receiver with a radiotelephone alarm generator.

e. At least two VHF tranaceivers.

f. Provision for emergency and reserve power sources.

g. A 500 kHz auto alarm receiver and the capability of relaying the distress message to shore via one of the systems listed above.

The Coast Guard also recommends that ships qualifying for the general exemption be required to participate in the AMVER system, and, further, that the ships maintain and operate all of the ships' systems used for distress and safety in accordance with §§ 83.155(d) and 83.162 of the Commission's rules.

22. The opposing commenters in this proceeding also vigorously dispute the Commission's legal authority to grant the general exemption originally proposed in this docket. The American Radio Association-MMP and the Radio Officers Union-MEBA ("ARA/ROU") also assert that, even if the Commission has such authority, it may not grant such an exemption or promulgate such a rule without further notice of proposed rule making.

Discussion

A. Authority To Promulgate a Final Rule Without Further Notice

23. In a reply, dated August 26, 1981, to an *ex parte* presentation by EXXON, the ARA/ROU, by its attorney, described what in their view are two procedural barriers to granting a general exemption by final rule without further notice of proposed rule making.

24. The first objection of ARA/ROU is that the Commission's notice of proposed rule making and notice of inquiry in this docket did not "wholly meet" the requirement of section 553(b)(2) of the Administrative Procedure Act, 5 U.S.C. 553(b), that a notice of proposed rule making contain "reference to the legal authority under which the rule is proposed." In support of their contention, ARA/ROU point out that paragraph 10 of our notice cited only section 4(i) and 303(r) of the Communications Act of 1934, as

[8] See paragraph 36 for discussion of FGMDSS.

amended, and did not cite section 352(b) of the Act.[9] The short answer to this contention is that, while paragraph 10 of our notice did not cite section 352(b), paragraph 4 of our notice expressly did so, even so far as to quote the relevant language of the section on which we were relying. Further, paragraph 9(1) of our notice made the question of our authority to grant the proposed exemption a principal question in our inquiry. For these reasons, we feel this objection is without merit.

25. The ARA/ROU also objects that the exemption and rule we are hereby adopting is beyond the scope of our notice of proposed rule making and notice of inquiry in this proceeding and consequently cannot be adopted, if at all, without further notice of proposed rule making.

26. In this connection, ARA/ROU point out that our notice did not expressly mention that such items as satellite communications, SITOR [10] and participation in AMVER might be considered as grounds for granting an exemption.[11] ARA/ROU further assert that the Administrative Procedure Act requires that notice be published in the **Federal Register**, and because the proposals by AIMS/EXXON (and presumably by the Coast Guard) were not published in the **Federal Register**, they may not be used as a basis for consideration in our decision to grant a general exemption.

27. Having duly considered these objections, we conclude that further proceedings are not required, and indeed are not warranted. We believe that the Notice of Proposed Rule Making and Notice of Inquiry adequately informed the public of the "terms and substance of the proposed rule or a description of the subjects and issues involved," as required by the Administrative Procedure Act, 5 U.S.C. 553(b)(3). The rule ultimately adopted need not be identical to those proposed, but may take into consideration factors brought out in the comments. "Surely every time the Commission decides to take account of some additional factor it is not required to start the proceedings all over again." *Logansport Broadcasting Corp.* v. *United States*, 210 F. 2d 24, 28 (1954). We conclude that the rules are within the scope of the original notice and do not require further notice for several reasons. First, the requirement that the equipments and procedures mentioned be conditions for a vessel to qualify for the exemption results in a substantially lesser "scope" of exemption than the one originally proposed. Second, our original notice did not limit itself as to the considerations which might be taken into account in granting such an exemption.[12] Third, all interested members of the public who participated in this proceeding were on actual notice that the Commission was considering these matters and, in fact, vigorously participated on the record in their consideration. Fourth, the record of the proceeding is replete with discussion of all possible nuances of our proposal. Accordingly, we feel that further proceedings would not result in any further facts or arguments not now on the record, and would result in repetitive discussion and waste our resources and those of the public.

B. Legal Authority for the Exemption Herein Adopted

28. The ARA/ROU argue vigorously that the Commission lacks the legal authority to adopt the exemption proposed in our notice. AIMS, on the other hand, argues with equal vigor that the Commission has such authority. We conclude that we do have authority to adopt the exemption for the following reasons.

1. *The Language of the Act Confers Exemption Authority*

29. Without regard to the legislative history of the Act (which is discussed below), the plain text of the applicable provisions of the Act grant the Commission authority to adopt this exemption. A brief discussion of those provisions is essential to illustrate this conclusion. Section 351(a)(1) of the Act imposes the radiotelegraph requirement on cargo ships of 1600 gross tons and upward. In relevant part, section 351(a)(1) reads as follows:

"Except as provided in section 352 hereof it shall be unlawful for any ship of the United States * * * to be navigated in the open sea * * * unless such ship is equipped with an efficient radio station * * * as specified by subparagraphs (A) * * *."

Subparagraph (A) of Section 351(a)(1) reads in relevant part: "* * * cargo ships of one thousand six hundred gross tons and upward shall be equipped with a radiotelegraph station * * *." Section 352(b) gives the Commission the authority to exempt ships from the requirements of section 351. In relevant part, section 352(b) reads: "* * * the Commission *may*, if it considers that the route or the conditions of the voyage *or other circumstances* are such as to render a radio station unreasonable or unnecessary for the purpose of this part, exempt from the provision of this part any ship or classes of ship within * * * the following description * * * cargo ships which in the course of their voyage do not go more than one hundred and fifty nautical miles from the nearest land * * *." (emphasis supplied).

30. Even the ARA/ROU appears to concede that, read literally, this language appears to grant the Commission authority to exempt cargo ships of 1600 gross tons and upward from the radiotelegraphy requirement.[13] Thus, for purposes of the exemption here at issue, and reading the Act literally, the Commission could exempt a "class of ships", namely cargo ships which do not go more than 150 nautical miles from land, from the requirement to carry any radio station whatever if the Commission concluded that "other circumstances" rendered a radio station "unreasonable or unnecessary".

31. It is a standard rule of statutory construction that, if the plain language of a statute authorizes an action, the courts need not look to the legislative history of it. However, because the ARA/ROU make strong arguments that such a literal construction of the statute is not warranted by other provisions of the Act read in the light of the legislative history, we will discuss the legislative history.

2. *The Legislative History Permits The Exemption Hereby Adopted*

32. The ARA/ROU contend that, even if the Commission were to conclude (as we have) that an exemption such as the one proposed were warranted, this conclusion would constitute an administrative agency policy determination in favor of radiotelephony over radiotelegraphy in violation of the clear intent of Congress to require radiotelegraphy. If this is so, of course, legislative action by the Congress would be required to permit the exemption, in spite of our decision on the merits, because use of telegraphy would be compelled by statute.

33. Without belaboring the extensive record in this proceeding, we agree with ARA/ROU that, in the past, Congress clearly contemplated that United States cargo ships of 1600 gross tons or more on coastwise (domestic) voyages would "track" the radio communications standards, namely the requirement of telegraphy capability and the concomitant requirement for radio officers, established by the Safety of Life at Sea Convention (SOLAS) for vessels on international voyages.[14] Nor is there any doubt that, in the past, and until very recently, the Commission has expressed a view that it might not have the authority to grant a general exemption relieving the requirement.[15]

34. Having so stated, however, we nevertheless conclude that the disjunctive phrase "or other circumstances" in section 352 permits the Commission to consider intervening historical and technical developments as factors in deciding whether or not to exempt a "class of ships" from the requirement to carry radiotelegraph equipment. As set forth in our notice in this docket and as fully explained in this report and order, communications developments have occurred which, in our opinion warrant the adoption of this exemption. The fact is that, because of recent equipment requirements, all telegraphy vessels are now mandatorily equipped with telephony equipment which renders them *de facto* members of the "mutual pool of assistance".[16] Further, the additional and clearly stringent capabilities we are imposing as conditions for qualifying for the exemption hereby adopted further ensure the ability of vessels of 1600 gross tons and upward to participate in both the domestic and international "safety system". Because adherence to these conditions renders the radiotelegraph requirements unreasonable and unnecessary, these developments and conditions constitute, in our view, precisely the kind of "other circumstances" that the Congress intended we could consider in exercising the very broad exemption power clearly and literally conferred by section 352 of the Act. Certainly, nothing in the legislative history cited by ARA/ROU precludes such an interpretation.

35. Our past doubts on the scope of our exemption power are also no bar to this conclusion. See *United States* v. *Southwestern Cable Co.*, 392 U.S. 157, 168–170 (1968). Furthermore, while legislation to clarify whatever ambiguity might attend this question would be useful, it is not necessary to deciding it. Consequently, we have concluded that the Act empowers us to grant the exemption hereby adopted and that it is warranted by the technical, operational and practical considerations discussed elsewhere in this report and order.

C. Justification For The Exemption

36. After carefully considering the comments in this proceeding we conclude that, where ships meet specified radio equipment and other safety requirements, it is unreasonable and unnecessary to require these ships to meet the radiotelegraphy requirement set forth in section 351 of the Act. As stated earlier,[17] this conclusion is based primarily on the significant advances that have occurred in radiotelephony in the 45 years since enactment of section 351 and on factors relating to the changing characteristics of the maritime distress system. The present maritime distress system is based on the principle that a ship in distress alerts another ship on 500 kHz for radiotelegraphy ships and on 2182 kHz for radiotelephony ships. However, efforts to improve the present system led the IMCO Maritime Safety Committee in 1981 to adopt a proposal for a Future Global Maritime Distress and Safety System,[18] which will essentially consist of the ship-to-shore distress alerting of a rescue coordinating center (RCC) and the shore-to-ship alerting by the RCC of the most suitable rescuing ship or ships. The FGMDSS concept, which has been approved by the IMCO Maritime Safety Committee with a goal of adoption by 1990, plans to make maximum use of satellite techniques including satellite Emergency Position Indicating Radio Beacons (EPIRB's) and digital selecting calling. Other improved communications utilized in the system concept are narrow-band direct-printing and single sideband voice. In essence, the FGMDSS will provide integrated use of all the maritime mobile frequency bands to ensure transmission and reception of distress and safety calls at short, medium and long range.[19] Thus, it seems clear that a substitution of terrestrial radiotelephony, satellite, and narrow-band direct-printing equipment instead of manual radiotelegraphy equipment is fully consistent with modern concepts of structuring maritime distress systems, such as the planned FGMDSS system, and, in our view, will provide an effective safety communications system prior to the transition period to the FGMDSS.

37. Moreover, we note that, about 7 years ago, the US Navy itself removed the 500 kHz equipment and watch requirements on naval ships. Radiotelephony and radio teletype were substituted as a means of providing satisfactory and secure communications for command and control of the ships, and resulted in its removal of all naval ships from the radio telegraph pool of mutual assistance. Despite that, there have been no reports of accidents to other ships or derogation of the radiotelegraphy pool of mutual assistance as a direct result of the removal of this 500 kHz capability from naval ships. This record, we believe, provides additional evidence that reliance on radiotelephonic communications is unlikely to have an adverse effect on overall distress communications.[20]

38. In reaching this conclusion, we concede that the most efficient watch may be that which is maintained by a radio officer during the period he is on duty. However, we also recognize that, during the period that the watch is maintained on the auto alarm, there may

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[9] Sections 4(i) and 303(r) confer general rule making authority on the Commission. Section 352(b) confers the specific authority to grant exemptions from the provisions of Part II of Title III of the Act.

[10] SITOR (Simplex Telegraphy Over Radio) involves three modes:

a. ARQ—Automatic Retransmission Request.

b. FEC—Forward Error Correction (Broadcast mode).

c. SEL FEC—Selective Forward Error Correction (Broadcast mode) limited to an addressee or collective addressees.

[11] In passing, we note that our notice also did not mention 2 VHF transceivers and the 500 kHz auto alarm equipment, as proposed by the U.S. Coast Guard in this proceeding, which is incorporated in our final rule granting an exemption.

[12] In this regard, the Commission in paragraph 6 and footnote 3 thereto expressly notified the public that it was considering reversing past practice of not granting general exemptions from radio telegraphy requirements except under the most rigorous conditions. Further, paragraph 7 in the notice sets forth an illustrative, but not exclusive, list of recent developments which warranted this reconsideration of past practice. See paragraph 7 above.

[13] The ARA/ROU, however, argue that the legislative history of these provisions precludes such a literal reading. This argument is treated below.

[14] See for example ARA/ROU "Comment" dated April 18, 1980, in this docket, at page 11.

[15] See ARA/ROU "Comment", at pages 12–17.

[16] See paragraph 6 of our notice of proposed rule making and notice of inquiry in this docket. See also paragraph 7 above.

[17] See para. 7, *supra*.

[18] Details of the concepts, operations and equipment requirements of the FGMDSS are contained in the Sixth Notice of Inquiry, Docket No. 20274; FCC 81–72, released March 12, 1981 (46 FR 16662; March 13, 1981).

[19] In the FGMDSS, short range does not exceed 25 miles. Medium range does not exceed 100 miles. Long range exceeds 200 miles.

[20] We note that the Maritime Administration proposes to commence implementing Public Law 96–387, which when funded will pay ship operators to install communications equipment on ships found to be suitable for use by the U.S. Government in time of war or national emergency. This equipment is expected to improve communications between U.S. Navy and U.S. merchant marine ships. All U.S. cargo ships of 1600 gross tons and upwards which are likely to be involved in national security support operations are eligible to receive subsidies to install National Defense Features (NDF) communicatione to participate in this program. In recent years a gap developed between U.S. Navy ship and U.S. merchant marine ship communications within the U.S. Navy removed their radio telegraph installations for higher capability communications systems. These NDF installations are intended to provide the necessary facilities for long-distance communications between U.S. Navy and U.S. merchant ships. The NDF equipment consists of the following:

a. One high frequency transmitter;

b. Two high frequency receivers;

c. One marine digital selective calling system; and

d. One MARISAT terminal.

be a decrease in efficiency since the auto alarm is subject to false alarms and equipment malfunctions. Furthermore, although the deck officer has other duties in addition to maintaining the radio watch, we believe, nevertheless, that this watch is satisfactory for safety purposes. Indeed, during certain phases of distress situation, it may be especially desirable to have the communications on the bridge where the ship is being operated. As to the fears of some commenters that the deck officer may disable the receiver to reduce the noise of the bridge, we observe that the Commission can only specify the required equipment and establish operational requirements; it is ultimately the responsibility of the master to ensure that the operation is in accordance with our rules.

39. Finally, the Commission recognizes that each capability, such as SITOR and satellite communications, that we are imposing as a condition for the general exemption has its unique limitations. However, we believe that the cumulative effect of requiring the installation of all these capabilities clearly results in an adequate substitute for manual Morse telegraphy and, therefore, constitutes a sufficient basis for granting a general exemption. We also do not believe that the language barrier on radiotelephony exists to a degree that it inhibits safety communications. The English language is the universal language used in the maritime service for communications on VHF in port areas. Moreover, use of the IMCO "Standard Marine Navigational Vocabulary" provides that standard for satisfactory verbal communications.

40. As suggested by the foregoing, we have also studied the proposals for additional equipment and the Coast Guard's comments on the efficiency of this enhanced communications for safety purposes.[21] We conclude that the recommendation of the Coast Guard, which would require the provision of additional equipment, participation in the AMVER system, and the capability to operate and maintain all of the installed communications equipment in accordance with §§ 83.159 and 83.162 of the Commission's rules respectively, satisfies the requirement for a general exemption.[22] In sum, in order to qualify for the general exemption we believe that ships must be equipped with radiotelephone equipment operating in the MF, HF, VHF and satellite bands. The HF and satellite installations must also be capable of TELEX operation with SITOR. Moreover, ships must be equipped with the radiotelephone distress frequency watch receiver with a radiotelephone alarm.

41. In view of foregoing, we conclude that § 83.480 of the rules can be amended to grant the general exemption for ships meeting all of the specified criteria.

42. Regarding questions on matters covered in this document contact Nicholas G. Ragnato (202) 632–7175.

Action

43. Accordingly, It is Ordered, That under the authority contained in Sections 4(i), 303(r) and 352(b) of the Communications Act of 1934, as amended, Part 83 of the Commission's rules be amended as set forth in the attached Appendix A effective April 2, 1982.

44. It is further ordered, that this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Note.—Due to the ongoing effort to minimize publishing costs, Appendices B through D will not be printed herein. However, they are available for inspection in the Commission's Docket Branch, Room 239, 1919 M St. NW., Washington. D.C.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Section 83.480 is amended by revising the title of the section redesignating existing paragraph (c) as (d) and adding new paragraph (c) to read as follows:

§ 83.480 General and individual ship exemptions.

* * * * *

(c) Exemption from the radiotelegraph requirements of Title III, Part II of the Communications Act of 1934, as amended, is granted to cargo ships of 1600 gross tons and upward navigated on domestic voyages along the coasts of the contiguous 48 states if the following criteria are met:

(1) The routes of the voyage are never more than 150 nautical miles from the nearest land.

(2) The ship shall have a satellite terminal providing both voice and telex.

(3) The ship shall have a single sideband radiotelephone with voice channels capable of operating on any distress and safety channel in the marine bands.

(4) The ship shall have a narrow-band direct-printing radiotelegraph with SITOR.

(5) The ship shall have the required 2182 kHz radiotelephone distress frequency watch receiver with a radiotelephone alarm signal generator.

(6) The ship shall have at least two VHF transceivers.

(7) The above equipment shall have provisions for emergency and reserve power sources.

(8) The ship shall have a 500 kHz auto alarm receiver and the capability of relaying the distress messages received to shore via one of the systems listed above.

(9) The ship shall participate in the AMVER system.

(10) The ship shall have the capability to operate and maintain all of the ships systems used for distress and safety in accordance with §§ 83.156(d) and 83.162 of the Commission's Rules respectively.

(d) * * *

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[21] Technical analysis which compared the communications range of 500 kHz and 2182 kHz prepared by Mr. George W. Haydon of the National Telecommunications and Information Agency (NTIA), was submitted by ARA/ROU. AIMS, in their reply comments, submitted excerpts from a technical report prepared by Mr. William A. Kissick of NTIA, which was prepared for the Coast Guard. Certain assumptions were made in each of these reports which prevent direct comparison such as different values for the RF signal-to-noise density ratio, different emissions and different power outputs. However, when adjustments were made for comparison of the minimum coverage distances, both reports were found to be substantially the same. The Kissick report is misleading because it is a computer analysis of coverage under given conditions. The actual Coast Guard coverage in 2182 kHz is 70 nautical miles and is limited by the receivers installed. There is no program to change receivers to enhance the coverage to 150 nautical miles. In light of these limitations several commenters stated that it was necessary to supplement 2182 kHz with HF frequencies to assure communications when 2182 kHz is ineffective due to either the attenuation of ground waves or high noise conditions. It was suggested that 4125 and 6215.5 kHz be designated for distress and safety purposes in the Radio Regulations. In the United States, however 4125 kHz is available to limited coast/ship stations. Accordingly, before making this frequency available for distress and safety purposes, it would be necessary to obtain a replacement frequency for these limited coast/ship stations. In addition, the United States is now preparing its proposals for the 1983 World Administrative Radio Conference for Mobile Telecommunications, which will be held in Geneva beginning February 23, 1983, and one of the items on the agenda is a proposal to use 4125 kHz and 6215.5 kHz to supplement the carrier frequency 2182 kHz for distress and safety purposes. We believe it would be inadvisable to assign any additional high frequencies for distress and safety communications prior to the Conference.

[22] In light of these conclusions, and the fact that exempt vessels so fitted will function efficiently in a safety system, we further conclude that there will be no impact on safety and consequently no impact on the environment. Consequently, the preparation of an environmental impact statement, as suggested by one commenter, is not necessary before adopting the general exemption. This rulemaking does not involve any of the classes of "major action" requiring preparation of an environmental impact statement. See 47 CFR 1.1305.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of effective date.

SUMMARY: This notice publicizes the effective date of certain foreign reporting requirements that were included in the final rules implementing the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area.

EFFECTIVE DATE: March 10, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone 907–586–7221.

SUPPLEMENTARY INFORMATION: With several exceptions, the rules implementing the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (46 FR 63295) became effective on January 1, 1982. The effective date of § 611.93(d), "Additional reporting requirements," was delayed until the reporting requirements were approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. The Director of OMB approved § 611.93(d) on February 16, 1982, and assigned it OMB control number OMB 648–0075. Accordingly, the effective date of § 611.93(d) as set forth in the final rules implementing the FMP is March 10, 1982.

Dated: March 5, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-6590 Filed 3-9-82; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 611

Foreign Fishing in the North Pacific Ocean and Bering Sea

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: The NOAA issues final regulations on foreign check-in requirements off Alaska. Foreign fishing vessels carrying fish caught outside U.S. fishery conservation zone (FCZ) are subject to inspection by an authorized officer before catching or processing fish within the FCZ seaward of Alaska if notified that an inspection is required. This regulation will prevent reporting fish caught in the FCZ as being caught outside the FCZ.

EFFECTIVE DATE: April 9, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Telephone (907) 586–7221.

SUPPLEMENTARY INFORMATION: Foreign fishing vessels in the FCZ are required by 50 CFR 611.9 to maintain daily cumulative catch and transfer logs for fish harvested, processed, or transferred in the FCZ. Catch logs or other records are not required for fish caught outside the FCZ and brought in, although some vessels voluntarily report their catch. These undocumented fish preclude enforcement officers from determining what proportion of fish on board a foreign fishing vessel was taken from the FCZ. Therefore, this amendment establishes procedures that ensure accountability for all of the catch on board, by requiring foreign fishing vessels either to enter the FCZ off Alaska with an empty hold or to document fish in the hold when entering the FCZ. This amendment will facilitate enforcement of the catch reporting rules required by 50 CFR 611.9. The proposed rulemaking was published on October 3, 1980 (45 FR 65641). Comments were invited for 60 days, and three letters were received. A summary of their comments and NOAA's response appear below.

Comments

The proposed rulemaking was published on October 3, 1980 (45 FR 65641). Comments were invited for 60 days, and three letters were received. A summary of their comments and NOAA's responses appear below.

1. To minimize time losses due to a required inspection, at least 6–12 hours advance notice of the inspection or waiver of the inspection should be given before the starting time reported in the BEGIN notice. If the inspection is required, the inspection should be conducted within a reasonable period before the start of fishing reported in the BEGIN notice, at a position which will not require the vessel to deviate from its course.

2. If an inspection would cause the foreign vessel to lose fishing time, then a notice waiving the inspection should be issued.

3. Foreign fishing fees have already been paid to offset the costs of enforcing this regulation; therefore, any inconvenience which would result in delays or additional operating costs should be absorbed by the Coast Guard rather than passed on to the foreign vessel.

4. The proposed regulations can cause many misinterpretations and it is suggested that a simpler form of the regulations be drafted.

5. The U.S. enforcement officers always have the right to inspect the catch on board a fishing vessel whenever they think necessary, and there is no reason to repeat this authority once again in these regulations.

6. It is understood that the fish caught in the FCZ other than in the Alaska Region need not be reported upon entering the FCZ seaward of Alaska.

Response to Comments

1 & 2. A vessel which has made the required BEGIN and PRODUCT ABOARD reports may begin fishing twenty-four hours after such reports, unless notified that an inspection will be required. Since U.S. surveillance vessels cover a broad area, a foreign fishing vessel may have to await the arrival of an authorized inspection officer or deviate from its course to meet the authorized officer.

3. Additional costs to the U.S. resulting from implementing and enforcing these regulations will not be passed on to the foreign fishing vessel inspected.

As mentioned above, authorized officers requesting an inspection will make an effort to minimize any inconvenience to the foreign fishing vessel inspected; however, costs to the fishing vessel which may result from procedures to comply with these regulations will be absorbed by that vessel.

4. The final regulations have been redrafted. Any time a vessel enters the FCZ seaward of Alaska with fish or fish products onboard caught outside the FCZ, it will have to report the fish.

5. The purpose of this regulation is not to reiterate U.S. authority to inspect foreign vessels within the FCZ, but rather to require those vessels to make a report which may serve as the basis for an exercise of such authority.

6. Upon entering the FCZ seaward of Alaska, foreign fishing vessels are required to report only those fish caught outside of the U.S. FCZ. Fish caught elsewhere within the U.S. FCZ will have been recorded in the daily cumulative catch logs and reported in the weekly

catch report required under 50 CFR 611.9.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this amendment to the foreign fishing regulations is necessary and appropriate to the conservation and management of Alaska groundfish resources, and that it is consistent with the national standards of the Magnuson Fishery Conservation and Management Act (MFCMA), other provisions of the MFCMA, and other applicable law. He also has determined that this is not a major Federal action significantly affecting the quality of the human environment, and that it therefore does not require preparation of an environmental impact statement under Section 102(2)(C), the National Environmental Policy Act.

The Administrator of the National Oceanic and Atmospheric Administration has determined that this regulation is not a "major rule" requiring a regulatory analysis under Executive Order 12291; since it is a foreign fishing reporting requirement, it will not result in a major increase in costs or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or exports markets.

The Administrator has determined that this recordkeeping requirement on foreign fishing vessels will not have a significant economic impact on a substantial number of small entities, and thus does not require the preparation of a regulatory flexibility analysis under 5 U.S.C. 603 and 604.

These regulations impose a new reporting burden on foreign fishermen. The Office of Management and Budget has approved collecting this information through March 31, 1983, under OMB #648–0075.

Dated: March 4, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

PART 611—FOREIGN FISHING

1. The authority citation for 50 CFR Part 611 reads as follows:

Authority: 16 U.S.C. 971 *et seq.*, 16 U.S.C. 1361 *et seq.*, and 16 U.S.C. 1821 and 1855.

2. For the reasons set out in the preamble, 50 CFR 611.90 is amended by adding paragraph (f) as follows:

§ 611.90 General provisions.

* * * * *

(f) *Additional report.* (1) When transmitting the BEGIN notice required under § 611.4(a)(1), each foreign fishing vessel carrying fish and entering the fishery conservation zone (FCZ) seaward of the State of Alaska must declare the amount of fish and fish products on board which were caught or processed outside of the FCZ. An illustration of a sample report follows:

The stern trawler NAVIS, LTUX, will begin fishing on June 15, 1981, at 1500 G.m.t. at position 56°00'N. latitude, 166°00'W. longitude in Bering Sea Area I. The NAVIS has on board 105.5 metric tons (mt) of frozen Pacific cod, and 35 mt of fish meal that were produced from fish caught outside the FCZ. The required message would be transmitted as follows:

FROM: F/V NAVIS, LTUX
TO: 17th COAST GUARD DISTRICT, ALASKA REGION, NMFS, JUNEAU, ALASKA
VESREP
NAVIS/LTUX/0615/1500/5600N/16600W/51/BEGIN//PRODUCT ABOARD/701/105.5/702/53/MEAL/35//

(2) If a vessel thus reporting fish or fish products onboard will be inspected, notice of an inspection shall be sent to the vessel within 24 hours after transmission of the BEGIN notice. Each vessel that will be inspected shall not harvest or process fish in the FCZ until the inspection is completed by an authorized officer. If notice of an inspection is not sent to the vessel within 24 hours after transmission of the BEGIN notice and PRODUCT ABOARD reports, the vessel may begin to harvest or process fish.

(3) It will be presumed that unreported fish or fish products were harvested in the FCZ unless the vessel has on board records of the amounts of fish and fish products caught outside the FCZ. The records must be in English and provide the same information required by §§ 611.9(b), 611.9(d)(1), and 611.9(d)(2).

[FR Doc. 82-6621 Filed 3-9-82; 8:45 am]
BILLING CODE 3510-22-M

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50 CFR Part 671

Tanner Crab Off Alaska; Early Closure of Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, National Marine Fisheries Service, has determined that the desired harvest level of Tanner crab for the Northeast Section of the Kodiak District in Registration Area J will be achieved on March 5, 1982, and that early closure of the fishery is necessary to protect Tanner crab stocks. The Secretary of Commerce, therefore, issues this notice of closure of the Northeast Section to fishing for Tanner crab by vessels of the United States on March 5, 1982, thereby adjusting the previous closing date of April 30, 1982, in order to prevent overfishing of Tanner crab stocks in the Northeast Section.

DATES: This notice is effective from 12:00 noon, Alaska Standard Time (AST), March 5, 1982, until 12:00 noon Alaska Daylight Time (ADT), April 30, 1982. Notice of closure was filed for public inspection with the Office of the Federal Register on March 5, 1982 at 3:49 p.m.

Public comments on the closure are invited until March 20, 1982.

ADDRESS: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, 907–586–7221.

SUPPLEMENTARY INFORMATION:

The fishery management plan for the Commercial Tanner Crab Fishery Off the Coast of Alaska (FMP), governing this fishery in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act, provides for inseason adjustments, by field order, to season and area openings and closures. Implementing rules at 50 CFR 671.27(b) specify that these orders will be issued by the Secretary of Commerce under the criteria set out in that section.

50 CFR 671.26(f) establishes five districts within Registration Area J in order to prevent overfishing of individual Tanner crab stocks by allowing closure or partial closure of a particular district when the desired harvest level is reached. One of these districts is the Kodiak District, for which an overall optimum yield of 35 million pounds has been set.

One of the sections in the Kodiak District is the Northeast Section. The State of Alaska's 1981 Tanner crab index survey indicates the desired harvest level during the 1982 season to be 800,000 pounds for this section. That level is based on the relative abundance of legal male crabs observed in the crab indexing surveys conducted in 1981 as compared to 1980—the survey showed that the number of legal male crabs has declined by 50 percent from 1980 levels. During the 1982 fishing season, which began February 10, (the opening date was delayed from January 22 to February 10, see 46 FR 58899), catch per unit of effort (CPUE) has declined from an average of 40 crabs per pot to 22 crabs per pot over the area. This declining CPUE substantiates the results of the 1981 survey. Further fishing could result in harm to the resource.

As of February 28, about 600,000 pounds have been harvested in the Northeast Section. It is estimated that the desired harvest of 800,000 pounds of crab from this section will be achieved on March 5, 1982.

In light of this information, the Regional Director, National Marine Fisheries Service, in accordance with 50 CFR 671.27(b), has determined that:

1. The actual condition of Tanner crab stocks in the Northeast Section is substantially different from the condition that was previously anticipated; and

2. This difference reasonably supports the need to protect those Tanner crab stocks by closing the Northeast Section to further fishing for Tanner crab during the current fishing year after 12:00 noon, AST, on March 5, 1982.

For these reasons, the Northeast Section of the Kodiak District in Registration Area J, as defined in 50 CFR 671.26(f)(1)(i), is closed to all fishing for Tanner crab from 12:00 noon, AST, March 5, 1982, until 12:00 noon, ADT, April 30, 1982, at which time the closure of the Kodiak District prescribed in 50 CFR 671.26(f)(2)(i) will begin.

This closure will not be effective prior to filing this notice for public inspection with the Office of the Federal Register and publicizing the closure for 48 hours through ADF&G procedures, under 50 CFR 671.27(a)(2). Under 50 CFR 671.27(b)(4), public comments on this notice of closure may be submitted to the Regional Director at the address stated above for 15 days following the effective date. During the 15-day comment period, the data upon which this notice is based will be available for public inspection during business hours (8:00 a.m. to 4:30 p.m.) at (1) the NMFS Kodiak Field Office, ADF&G Building at Kashevaroff and Mission Roads, Kodiak, Alaska 99615, and (2) the NMFS Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802. If comments are received, the necessity of this closure will be reconsidered and a subsequent notice will be published in the **Federal Register**, either confirming this field order's continued effect, modifying it, or rescinding it.

Other Matters

The Tanner crab stock in the Northeast Section will be subject to damage by overfishing unless this order takes effect promptly. I therefore find for good cause that advance notice and public comment on this order is contrary to the public interest, and that there should be no delay in its effective date.

This action is taken under the authority of regulations specified at 50 CFR 671.27, and is taken in compliance with Executive Order 12291. It is not subject to the requirements of the Regulatory Flexibility Act. In addition, it does not contain any collection of information request, as defined in the Paperwork Reduction Act of 1980.

(16 U.S.C. 1801 *et seq.*)

Dated: March 5, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-6679 Filed 3-5-82; 3:49 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 47
Wednesday, March 10, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1004, 1006, 1007, 1011, 1012, 1046, 1094, 1096, and 1098

[Docket No. AO-366-A19 et al.]

Milk in the Georgia and Certain Other Marketing Areas; Hearings on Proposed Amendments to Tentative Marketing Agreements and Orders

7 CFR part	Marketing area	AO No.
1007	Georgia	AO-366-A19.
1004	Middle Atlantic	AO-160-A68.
1006	Upper Florida	AO-356-A19.
1011	Tennessee Valley	AO-251-A24.
1012	Tampa Bay	AO-347-A22.
1046	Louisville-Lexington-Evansville	AO-123-A49.
1094	New Orleans-Mississippi	AO-103-A43.
1096	Greater Louisiana	AO-257-A30.
1098	Nashville, Tennessee	AO-194-A44.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider proposals by cooperative associations to amend nine Federal milk marketing orders that regulate the handling of milk in the marketing areas listed above. The proposals would provide in each order during April, May and June 1982 a hauling credit on certain bulk Class II and Class III milk transferred or diverted to unusually distant outlets for surplus disposition. One of the proponent cooperatives has requested that these proposals be adopted on an expedited basis so that the amendments can be made effective for the spring months of 1982. The cooperative claims that the proposed action is needed because of increased production, declining fluid milk sales, and the loss of manufacturing capacity in the area over the past several years.

DATE: The hearing will convene March 16, 1982.

ADDRESS: The hearing will be held at the Airport Holiday Inn North, 1380 Virginia Avenue, East Point, Georgia 30344, beginning at 9:30 a.m., local time.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202/447-4829.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Airport Holiday Inn North, 1380 Virginia Avenue, East Point, Georgia 30344, beginning at 9:30 a.m., local time, on March 16, 1982, with respect to proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in the Georgia; Middle Atlantic; Upper Florida; Tennessee Valley; Tampa Bay; Louisville-Lexington-Evansville; New Orleans-Mississippi; Greater Louisiana; and Nashville, Tennessee, marketing areas. In view of the request for expedited action, the Department has concluded that less than 15 days' notice of the hearing is warranted in this proceeding.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR 900.12(d)) with respect to Proposals Nos. 1 through 9.

Begining January 1, 1981, actions under the Federal milk order program became subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Dairymen, Inc.:

PART 1007—MILK IN THE GEORGIA MARKETING AREA

Proposal No. 1

Add a new paragraph (g) to § 1007.60 as follows:

§ 1007.60 Handler's value of milk for computing uniform price.

* * * * *

(g) For the months of April, May and June 1982, subtract the amount obtained from multiplying the pounds of bulk fluid milk products classified as Class II or Class III which were transferred or diverted to an other order plant pursuant to § 1007.42(b)(3) or to an other nonpool plant pursuant to § 1007.42(d)(2) which is located outside Alabama, Georgia, Tennessee and South Carolina, and more than 225 miles, as determined by the market administrator, from the pool plant from which transferred or if diverted from the pool plant of last receipt by a per hundredweight rate for each such transfer or diversion equal to 3.6 cents for each 10 miles or fraction thereof that such plant is located more than 225 miles from the pool plant from which transferred or if diverted from the pool plant of last receipt.

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

Proposal No. 2

Add a new paragraph (f) to § 1004.60 as follows:

§ 1004.60 Pool obligation of each pool handler.

* * * * *

(f) For the months of April, May and June 1982, subtract the amount obtained from multiplying the pounds of bulk fluid milk products classified as Class II which were transferred to an other order plant pursuant to § 1004.42(e)(3) or transferred or diverted to a nonpool plant pursuant to § 1004.42(d) which is located, as determined by the market administrator, more than 180 miles from the city hall in Philadelphia, Pennsylvania, and also more than 200 miles from the zero milestone in Washington, D.C., or the city hall in Baltimore, Maryland, by a per hundredweight rate for each such transfer or diversion equal to 3.6 cents for each 10 miles or fraction thereof that such plant is located more than 180 miles from the city hall in Philadelphia, Pennsylvania, and also more than 200 miles from the zero milestone in Washington, D.C., or the city hall in Baltimore, Maryland, whichever is less.

PART 1011—MILK IN THE TENNESSEE VALLEY MARKETING AREA

Proposal No. 3

Add a new paragraph (g) to § 1011.60 as follows:

§ 1011.60 Handler's value of milk for computing uniform price.

* * * * *

(g) For the months of April, May and June 1982, subtract the amount obtained from multiplying the pounds of bulk fluid milk products classified as Class II or Class III which were transferred or diverted to an other order plant pursuant to § 1011.42(b)(3) or to an other nonpool plant pursuant to § 1011.42(d)(2) which is located outside Tennessee and more than 125 miles, as determined by the market administrator, from the pool plant from which transferred or if diverted from the pool plant of last receipt by a per hundredweight rate for each such transfer or diversion equal to 3.6 cents for each 10 miles or fraction thereof that such plant is located outside Tennessee and more than 125 miles from the pool plant from which transferred or if diverted from the pool plant of last receipt.

PART 1046—MILK IN THE LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

Proposal No. 4

Add a new paragraph (g) to § 1046.60 as follows:

§ 1046.60 Handler's value of milk for computing uniform price.

* * * * *

(g) For the months of April, May and June 1982, subtract the amount obtained from multiplying the pounds of bulk fluid milk products classified as Class II or Class III which were transferred or diverted to an other order plant pursuant to § 1046.42(b)(3) or to an other nonpool plant pursuant to § 1046.42(d)(2) which is located outside the State of Kentucky and the Indiana counties included within the marketing area and more than 100 miles, as determined by the market administrator, from the pool plant from which transferred or if diverted from the pool plant of last receipt by a per hundredweight rate for each such transfer or diversion equal to 3.6 cents for each 10 miles or fraction thereof that such plant is located more than 100 miles from the pool plant from which transferred or if diverted from the pool plant of last receipt.

PART 1094—MILK IN THE NEW ORLEANS-MISSISSIPPI MARKETING AREA

Proposal No. 5

Add a new paragraph (h) to § 1094.60 as follows:

§ 1094.60 Handler's value of milk for computing uniform price.

* * * * *

(h) For the months of April, May and June 1982, subtract the amount obtained from multiplying the pounds of bulk fluid milk products classified as Class II or Class III which were transferred or diverted to an other order plant pursuant to § 1094.42(b)(3) or to an other nonpool plant pursuant to § 1094.42(d)(2) which is located outside the marketing area and more than 150 miles, as determined by the market administrator, from the pool plant from which transferred or if diverted from the pool plant of last receipt by a per hundredweight rate for each such transfer or diversion equal to 3.6 cents for each 10 miles or fraction thereof that such plant is located more than 150 miles from the pool plant from which transferred or if diverted from the pool plant of least receipt.

PART 1096—MILK IN THE GREATER LOUISIANA MARKETING AREA

Proposal No. 6

Add a new paragraph (g) to § 1096.60 as follows:

§ 1096.60 Handler's value of milk for computing uniform price.

* * * * *

(g) For the months of April, May and June 1982, subtract the amount obtained from multiplying the pounds of bulk fluid milk products classified as Class II or Class III which were transferred or diverted to an other order plant pursuant to § 1096.42(b)(3) or to another nonpool plant pursuant to § 1096.42(d)(2) which is located outside Louisiana and Mississippi and more than 150 miles, as determined by the market administrator, from the pool plant from which transferred or if diverted from the pool plant of last receipt by a per hundredweight rate for each such transfer or diversion equal to 3.6 cents for each 10 miles or fraction thereof that such plant is located more than 150 miles from the pool plant from which transferred or if diverted from the pool plant of least receipt.

PART 1098—MILK IN THE NASHVILLE, TENNESSEE, MARKETING AREA

Proposal No. 7

Add a new paragraph (g) to § 1098.60 as follows:

§ 1098.60 Handler's value of milk for computing uniform price.

* * * * *

(g) For the months of April, May and June 1982, subtract the amount obtained from multiplying the pounds of bulk fluid milk products classified as Class II or Class III which were transferred or diverted to an other order plant pursuant to § 1098.42(b)(3) or to an other nonpool plant pursuant to § 1098.42(d)(2) which is located outside Tennessee and more than 100 miles, as determined by the market administrator, from the pool plant from which transferred or if diverted from the pool plant of last receipt by a per hundredweight rate for each such transfer or diversion equal to 3.6 cents for each 10 miles or fraction thereof that such plant is located more than 100 miles from the pool plant from which transferred or if diverted from the pool plant of last receipt.

Proposed by Upper Florida Milk Producers Association, and Tampa Independent Dairy Farmers Association, Inc.:

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

Proposal No. 8

Add a new paragraph (h) to § 1006.60 as follows:

§ 1006.60 Handler's value of milk for computing uniform price.

* * * * *

(h) For the months of April, May, and June 1982, subtract the amount obtained

from multiplying the pounds of bulk fluid milk products classified as Class II which were transferred or diverted to an other order plant pursuant to § 1006.42(c)(3) or to an other nonpool plant pursuant to § 1006.42(b) which is located outside Florida, Louisiana, Mississippi, North Carolina, South Carolina, Alabama, Georgia, Tennessee and Kentucky, and more than 225 miles, as determined by the market administrator, from the pool plant from which transferred or if diverted from the pool plant of last receipt by a per hundredweight rate for each such transfer or diversion equal to 3.6 cents for each 10 miles or fraction thereof that such plant is located more than 225 miles from the pool plant from which transferred or if diverted from the pool plant of last receipt.

PART 1012—MILK IN THE TAMPA BAY MARKETING AREA

Proposal No. 9

Add a new paragraph (h) to § 1012.60 as follows:

§ 1012.60 Handler's value of milk for computing uniform price.

* * * * *

(h) For the months of April, May, and June 1982, subtract the amount obtained from multiplying the pounds of bulk fluid milk products classified as Class II which were transferred or diverted to an other order plant pursuant to § 1012.42(c)(3) or to an other nonpool plant pursuant to § 1012.42(b) which is located outside Florida, Louisiana, Mississippi, North Carolina, South Carolina, Alabama, Georgia, Tennessee and Kentucky, and more than 225 miles, as determined by the market administrator, from the pool plant from which transferred or if diverted from the pool plant of last receipt by a per hundredweight rate for each such transfer or diversion equal to 3.6 cents for each 10 miles or fraction thereof that such plant is located more than 225 miles from the pool plant from which transferred or if diverted from the pool plant of last receipt.

PARTS 1007, 1004, 1006, 1011, 1012, 1046, 1094, 1096, AND 1098 [AMENDED]

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 10

Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the market administrator of each of the orders for the aforesaid specified marketing areas or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington Office only).
Office of the Market Administrator of each of the orders for the aforesaid specified marketing areas

Procedual matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on March 4, 1982.

Eddie F. Kimbrell,

Acting Administrator.

[FR Doc. 82-6081 Filed 3-9-82; 8:45 am]
BILLING CODE 3410-05-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Deregulation of Credit Union Service Corporations

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would deregulate the majority of Section 701.27–2 of NCUA's Rules and Regulations (12 CFR 701.27–2) entitled "Credit Union Service Corporations." The proposal would deregulate and leave to the discretion of a Federal credit union's board of directors the identity of investment partners, the percentage of services to be sold to noninvesting credit unions, and most other general business matters. In addition, the proposal would permit other than the corporate form of organization and would also permit these organizations to be profit-making entities. It is also proposed that the current approval procedures for this type investment (as required by the Federal Credit Union Act) be significantly simplified. The proposal to deregulate is based on a determination by the NCUA Board that these rules may be having a stifling effect on the innovation and flexibility of the credit unions in utilizing the service concept which is not beneficial to the credit unions, especially in these difficult economic and budgetary times.

DATE: Comments must be received on or before May 10, 1982.

ADDRESS: Comments should be sent to Robert S. Monheit, Regulatory Development Coordinator, National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Todd A. Okun, Assistant General Counsel, Office of General Counsel, at the above address. Telephone: (202) 357–1030.

SUPPLEMENTARY INFORMATION: Effective April 9, 1979, NCUA published a final rule implementing the provisions of Pub. L. 96–22 which authorized Federal credit unions to invest in, to make loans to, or extend lines of credit to organizations providing services associated with the routine operations of credit unions 44 FR 12401, Mar. 7, 1979. As this new authorization represented a significant departure from and expansion of previous Federal credit union authority, the implementing regulation stringently limited the options and alternatives available to credit union service corporations.

It is the view of the NCUA Board that a significant amount of time has elapsed during which Federal credit unions have been able to familiarize themselves with this new authority. In addition, this time period has enabled the NCUA Board to monitor credit union activity pursuant to the regulation. It appears that the stringency of the present regulation may be having a stifling effect on both innovation and flexibility in utilizing the credit union service corporation concept. The NCUA Board is convinced that in these difficult economic and budgetary times, boards of directors must be free to fashion programs and make investments, as permitted by statute, that will be the most beneficial for a given credit union. It is in this spirit that the following proposal is offered.

Analysis of Proposed Changes

1. It is proposed that the title of the regulation be changed to "Credit Union Service Organizations" to reflect the fact that what has been called "credit union service corporations" need not be limited to a corporate form. Appropriate definitional changes are proposed.

2. It is proposed that a "credit union service organization" need not be comprised solely of credit unions.

3. It is proposed that a "credit union service organization" not be required to provide services to each of its investing credit unions nor must it limit its provision of services to noninvestors to the present 20% or any particular percentage of the previous fiscal year's cost of operation.

4. It is proposed that a "credit union service organization" not be limited to non-profit status.

5. It is proposed that service fees charged by a "credit union service organization" not be limited to an amount sufficient only to cover the cost of the services provided.

6. It is proposed that a Federal credit union may form, by itself or jointly with other entities, a "credit union service organization" engaging in any of the activities listed in the regulation (those activities taken from the legislative history and later added to) without the necessity of applying for NCUA approval. In effect, those listed activities will be "pre-approved" by the NCUA Board. However, applications must be submitted to NCUA and approval given for any other proposed activities that are associated with the routine operations of credit unions. This is a requirement of section 107(7)(I) of the Federal Credit Union Act (12 U.S.C. 1757(7)(I)). If approved, they will be added to the list of approved activities.

7. It is proposed that the current portion of the regulation requiring that certain language be adopted showing NUCA approval be deleted as unnecessary.

8. It is proposed that the current portion of the regulation delineating the procedure for revoking approval of a credit union service corporation be deleted as unnecessary. The Federal Credit Union Act contains sufficient authority to deal with violations of law or rules and unsafe or unsound practices engaged in by Federal credit unions.

9. It is proposed that loans to "credit union service organizations" *not* be limited to "credit union service organizations" in which the would-be lender has already invested.

10. It is proposed that the section of the current regulation requiring submission of articles of incorporation be omitted even when the corporate form is chosen.

The NCUA Board is also soliciting comment on whether any other activities or services should, at the time any proposed rule becomes final, be added to subsection (b) of the proposed rule as permissible investments. It must be remembered that in order to be deemed permissible such activities or services must be "associated with the routine operations of credit unions." Comments suggesting such new services or activities (such as, for example, tax counseling services or differing types of EFT, ATM or transaction related services) should include justification for deeming them to be "associated with the routine operations of credit unions."

Procedures for Regulatory Development

The NCUA Board certifies that these proposed changes, if adopted, will not have a significant economic impact on a substantial number of small Federal credit unions (Federal credit unions with less than $1,000,000 in assets). The NCUA Board believes that only a few Federal credit unions below $1,000,000 in assets are participating in credit union service corporations. Therefore, a substantial number of small Federal credit unions will not be affected. In addition, because these proposed changes, if adopted, will increase the management flexibility of small credit unions, increase their competitive positions and reduce their paperwork burden, a regulatory analysis is not required. 5 U.S.C. 605(b).

Dated: March 4, 1982.

Rosemary Brady,

Secretary, National Credit Union Administration Board.

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

Accordingly, it is proposed that 12 CFR 701.27–2 be revised to read as follows:

701.27–2 Credit union service organizations.

(a) For purposes of this section, a "credit union service organization," is an entity defined in section 107(5)(D) or described in section 107(7)(I) of the Federal Credit Union Act.

(b) The purpose of a credit union service organization is to provide only those goods and services and perform only those functions that are associated with routine credit union operations. It may provide any or all of the following to its customers:

(1) Data processing services;

(2) promotion, marketing and general management support services;

(3) access to sophisticated accounting systems;

(4) debt counseling services;

(5) management training and education to credit union personnel;

(6) services related to processing, selling or servicing mortgage loans;

(7) credit card services;

(8) automated teller machine services; and

(9) Debt collection services.

(c) A Federal credit union may, either by itself or by agreement with other entities, form or invest in a credit union service organization. Such an organization may be formed or invested in without NCUA approval if it will perform only those services described in paragraph (b) of this section.

(d) If a Federal credit union desires to form or invest in a credit union service organization that will provide services or engage in activities not described in paragraph (b) of this section, it must submit in writing to the NCUA Board an application to approve such new activities or new services. The application must contain a narrative indicating the activities to be engaged in or services to be provided and why they should be considered associated with the routine operations of credit unions.

(e) No official and/or employee of a Federal credit union may have a direct or indirect pecuniary interest in a credit union service organization in which that Federal credit union has invested or to which it has loaned funds. In addition, no official of a Federal credit union may receive any salary or compensation from a credit union service organization in which that Federal credit union has invested or to which it has loaned funds other than reimbursement for necessary expenses incurred in operating the credit union service organization.

(f) A credit union service organization may charge service fees.

(g) A Federal credit union investing in or lending to a credit union service organization must submit call reports or any other information upon request by the NCUA Board.

(h) A Federal credit union may invest in and lend to a credit union service organization within the limits delineated in sections 107(7)(I) and 107(5)(D) of the Federal Credit Union Act (12 U.S.C. 1757(7)(I) and 1757(5)(D)).

(i) A credit union service organization shall be subject to examination by the NCUA Board to the extent permitted by law.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1768) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789))

[FR Doc. 82-6017 Filed 3-9-82; 8:45 am]
BILLING CODE 7535-01-M

12 CFR Part 701

Share, Share Draft, and Share Certificate Accounts

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: On December 18, 1981, the NCUA Board issued an advance notice of Proposed Rulemaking soliciting public comment on a proposal to deregulate § 701.35 of the NCUA Rules and Regulations which covers the terms, conditions and classes of accounts to be offered by Federal credit unions. The majority of the public comments supported complete deregulation of § 701.35 including deletion of the regulations governing significant terms and conditions of share, share draft, and share certificate accounts, operational constraints, and specific advertising and disclosure requirements. In view of the public comments, the Board has issued a proposed rule which provides for the deregulation of share, share draft, and share certificate accounts. The deregulation proposal would remove numerous regulatory restrictions and therefore would provide Federal Credit Unions greater opportunities to compete effectively and to better meet the needs of their members.

DATES: Comments must be received on or before April 10, 1982.

ADDRESS: Send comments to Regulatory Development Coordinator, Robert Monhait, National Credit Union Administration, 1776 G St., NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Randall J. Miller, Acting Director, Office of Policy Analysis, Telephone (202) 357–1090, or Steven Bisker, Senior Attorney, Office of General Counsel, Telephone (202) 357–1030.

SUPPLEMENTARY INFORMATION: On December 18, 1981, the NCUA Board issued an advance notice of proposed rulemaking soliciting public comment on a proposal to deregulate § 701.35 of the NCUA Rules and Regulations (12 CFR 701.35). The advance notice proposed to place the responsibility for determining the terms and conditions governing accounts with a Federal credit union's board of directors. A board of directors would be responsible for determining the classes of accounts to be offered, maturities, dividend rates, minimum denominations, premature withdrawal penalty provisions, and any other terms or conditions governing the account. In addition, the advance notice requested comments on whether the operational constraints and advertising and disclosure provisions in the current regulations should be amended.

This deregulation proposal would remove numerous regulatory restrictions and therefore would provide all Federal credit unions greater opportunities to compete effectively and to better meet their members' needs.

Summary of Public Comments

A total of 285 comments on the deregulation proposal were received from credit unions, credit union leagues and trade associations, and other interested parties. A majority (199) of the commenters supported the proposal to completely deregulate § 701.35. Specific suggestions included the deletion of specified dividend rate ceilings, required early withdrawal penalties, the required truncation of share drafts, and the specific notice that dividends cannot be guaranteed. Many commenters favoring the deregulation proposal also suggested that NCUA support legislative action which would remove the base 15% statutory loan rate limit (currently 21% under the provisional rate ceiling authority) and would expand Federal credit union investment powers. In their view, it is unduly restrictive from a management perspective to provide complete flexibility on the liability side of the balance sheet without corresponding flexibility on the asset side. Finally, some commenters favoring deregulation recommended that NCUA consider issuing regulatory guidelines to provide some information to those credit unions which may be unsure of the many alternatives available for structuring share, share draft, and share certificate accounts once such accounts have been deregulated.

A group of 21 commenters did not address the deregulation proposal generally but instead confined their comments to the current specifically worded disclosure that dividends cannot be guaranteed. Without exception, this group of commenters recommended deletion of the specifically worded disclosure.

Among the commenters opposed to deregulation, the general view was that there was a need for specific regulations. These commenters suggested that since many credit unions relied on volunteers, it was difficult to determine appropriate business decisions for a credit union without specific regulatory guidance. Other commenters opposing the proposal supported deregulation, but recommended that deregulation be phased in gradually over an extended period of time.

A Proposed Rule

In view of the public comments generally supporting the proposal to deregulate § 701.35 of the NCUA Rules and Regulations, the NCUA Board has approved the issuance of a proposed rule for public comment which places the responsibility for determining the terms and conditions governing share, share draft, and share certificate accounts with a Federal credit union's board of directors. In addition, the proposed rule specifies no operational constraints on share, share draft, or share certificate accounts, and requires that if advertising and disclosures are made, they accurately present the significant terms and conditions governing accounts.

The proposed rule references sections 107(6) and 117 of the Federal Credit Union Act (12 U.S.C. sections 1757(6) and 1763). Section 107 (6) stipulates that Federal credit unions may receive from members, other credit unions, certain public units, and nonmembers in the case of credit unions serving predominantly low-income members payments on shares at varying dividend rates, share certificates at varying dividend rates and maturities, and share drafts subject to terms, rates, and conditions as may be established by the board of directors. Thus, with the exception of low-income credit unions, the Act does not authorize Federal credit unions to establish accounts for nonmember individuals.

Section 117 states that Federal credit union boards of directors may authorize, after the provision for required reserves, the payment of dividends on share, share certificate, and share draft accounts. Authorized dividends, therefore, are based on available current and prior earnings after the provision for required reserves.

Numerous commenters on the advance notice suggested that the deregulation of share, share draft, and share certificate accounts should be accompanied by similar deregulation of the asset side of credit union balance sheets. Accordingly, the Board would like to receive comments on: (1) Whether the current 21-percent loan rate ceiling or a higher or lower rate ceiling would be appropriate in the event of deregulation of share accounts, and (2) how any other asset side regulations should be amended.

Regulatory Procedures

A comment period of 30 days (rather than 60 days) is provided because the Advance Notice of Proposed Rulemaking has provided ample opportunity for comment on the broad policy issues. The NCUA Board certifies that the proposed rule will not have a significant economic impact on a substantial number of small Federal credit unions. The proposed change in § 701.35 of the NCUA Rules and Regulations reduces regulatory restrictions and increases management flexibility and the competitive position of small credit unions. Therefore, a regulatory flexibility analysis is not required. 5 U.S.C. 603(a), 604(a).

In accordance with the provisions of the Regulatory Simplification Act, rules stipulating alternative restrictions than those in the current proposal were considered by the NCUA Board. However, in view of the public comments, the alternatives were burdensome by comparison to the proposed rule.

Accordingly, NCUA proposes that a new 12 CFR 701.35 be adopted as set forth below.

Dated: March 4, 1982.

Rosemary Brady,

Secretary of the Board.

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

It is proposed that 12 CFR 701.35 be revised to read as follows:

§ 701.35 Share, share draft and share certificate accounts.

(a) Federal credit unions may offer share, share draft and share certificate accounts in accordance with section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)), and the board of directors may declare dividends on such accounts as provided in section 117 of the Federal Credit Union Act (12 U.S.C. 1763).

(b) No Federal credit union shall use advertising, disclosures or agreements, whether written or oral, that misrepresent the terms or conditions of its share, share draft or share certificate accounts or that are designed so as to mislead current or prospective account holders.

(12 U.S.C. 1757(6), 1766(a))

[FR Doc. 82-6518 Filed 3-9-82; 8:45 am]

BILLING CODE 7535-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Human Prescription Drugs in Oral Dosage Forms; Exemption of Prednisone Tablets From Child-Protection Packaging Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes for public comment an exemption from child-protection packaging requirements for prednisone in tablet form when dispensed in packages containing no more that 105 mg. of the drug. Prednisone is an anti-inflammatory steroid drug. The Commission believes that child-resistant packaging is unnecessary to protect children who ingest the drug in quantities of 105 mg. or less from serious illness or injury, because of the low toxicity of prednisone and the lack of adverse human experience associated with the drug. Mayrand Pharmaceuticals, Inc., a manufacturer of prednisone tablets, petitioned the Commission for this exemption.

DATE: Comments on this proposed exemption must be received by May 10, 1982. Comments received after this date will be considered to the extent practicable.

If the Commission issues a final regulation exempting this product, the Commission proposes that the exemption become effective on the date the final regulation is published in the Federal Register.

ADDRESS: Comments, preferably in five copies, should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Third Floor, 1111 18th Street, NW., Washington, D.C. 20207. Comments received may be seen in the Office of the Secretary during working hours Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. Fred Marozzi, Division of Safety Packaging and Scientific Coordination, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207, telephone 301–492–6604.

Background

On May 29, 1981, the Commission received a petition (PP 81–1) from Mayrand Pharmaceuticals, Inc., Greensboro, North Carolina, requesting an exemption from child-resistant (special) packaging requirements for its prednisone product, the Sterapred Uni Pak. The Uni Pak consists of a polystyrene package containing 21 individually packaged 5 mg. prednisone tablets. Prednisone is a steroid used for its potent anti-inflammatory effects in disorders of many organ systems. Based upon the low toxicity of prednisone and the lack of adverse human experience data, the Commission is proposing an exemption for prednisone tablets on a generic basis.

Grounds for Exemption

The petitioner contends that an exemption for prednisone in tablet form when dispensed in amounts of 105 mg. or less is justified based upon the low toxicity of the drug and upon the lack of adverse human experience data associated with accidental ingestions of the drug. The petitioner further states that this amount, based on well established comparative pharmacologic activity, is equivalent to 84 mg. of methylprednisolone. The Commission has issued an exemption from special packaging requirements for packages containing not more than 84 mg. of methylprednisolone.

The toxic effects of the glucocorticoid hormones and their synthetic derivatives are entirely associated with long-term therapy. The petitioner has indicated that oral LD_{50} values are not presently available for prednisone. The Commission finds that glucocorticoids, such as prednisone, are virtually nontoxic in even very large acute dosages. It is, for this reason, nearly impossible to administer sufficient drug to test animals to arrive at an LD_{50} dose and thus such values are not generally reported in the literature. However, prednisolone, a synthetic glucocorticoid which is pharmacologically equivalent to prednisone, failed to produce any deaths in mice when given in oral does of up to 5 gm./kg. Methylporednisolone, a synthetic glucocorticoid already exempted from special packaging requirements when dispensed in amounts of 84 mg. or less, was found to produce no deaths in rats when administered orally in doses of up to 12 gm./kg. Based on available pharmacological and toxicological data, the Commission believes that one could reasonably predict that the LD_{50} for prednisone would be equivalent to its pharmacologic twin, prednisolone (i.e., greater than 5 gm./kg.). LD_{50} values of this magnitude generally indicate negligible to slight acute toxicity.

A review of data from the National Clearinghouse for Poison Control Centers (NCPCC) for the three-year period 1977–1979 indicates a total of 328 ingestions of oral glucocorticoid anti-inflammatory drugs by children under

five (dosage form not specified). Fourteen of these were reported as exhibiting symptomatology such as nausea, vomiting, and lethargy. There was one hospitalization; however, the individual was asymptomatic and was presumably held only for observation. Represented among this total number of ingestions are 124 involving prednisone. Five of these prednisone ingestions exhibited symptomatology similar to that described above; no child was reported hospitalized.

The Commission's Poison Control Center Contract Data Bases for 1976 and 1977 were also reviewed for ingestion data. Sixteen ingestions involving this class of drugs were reported in 1976; one involved symptoms such as nausea, vomiting and lethargy. There were no hospitalizations. Eleven of 16 cases were associated with prednisone. A total of 8 cases were reported in 1977 (one with symptoms; no hospitalization). Two of these 8 cases were associated with prednisone.

Information available from the National Electronic Injury Surveillance System shows that five incidents involving children under five years of age ingesting steroid based anti-inflammatory drugs were reported. Two involved prednisone. All children involved in these incidents were treated and released. Similarly, two reports of ingestion of similar products to the National Injury Information Clearinghouse indicate that both children were treated and released.

The Commission solicited the opinion of the Food and Drug Administration (FDA) on the exemption request. FDA recommended that the exemption be granted because of the lack of reported adverse human experience associated with accidential ingestion, the low acute oral toxicity of gluco-corticoid drugs in general, and because the amount of prednisone for which the exemption was sought is far lower than the amount necessary to produce toxic effects. In support of the latter reason, the FDA noted that, because prednisone and methylprednisolone are bioequivalent, the moderate acute toxicity for the two drugs would be the same. Accordingly, on the basis of the LD 50 data available for methylprednisolone, FDA concurred with Mayrand's extrapolation (submitted in support of the petition for exemption) showing that over 1100 five mg. prednisone tablets would have to be ingested to produce toxic effects in a 10 kg. (22 lb.) child.

The Commission also solicited comments from its Technical Advisory Committee on Poison Prevention Packaging.[1] All nine members who responded favored granting the exemption on the basis of low acute toxicity and the fact that similar steroid based prescription drugs have previously been granted exemptions from the special packaging requirements.

Findings

Based on currently available information showing the low toxicity of prednisone and the lack of adverse human experience reported as a result of children ingesting prednisone, the Commission preliminarily finds that prednisone tablets, when dispensed in packages containing no more than 105 mg. of the drug, do not pose a risk of serious personal illness or serious injury to children. Accordingly, the Commission proposes to exempt prednisone tablets when dispensed in packages containing not more than 105 mg. of the drug, from the child-resistant packaging requirements. This action constitutes the granting of petition PP 81–1.

The Commission emphasizes that this proposed exemption is limited to prednisone tablets which contain no other substances subject to the requirements for special packaging under 16 CFR 1700.14(a)(10).

Environmental Considerations

The Commission's interim rules for carrying out its responsibilities under the National Environmental Policy Act (see 16 CFR Part 1221; 42 FR 25494) provide that exemptions to an existing standard that do not alter the principal purpose or effect of the standard normally have no potential for affecting the environment and that, therefore, environmental review of exemptions is generally not required (§ 1021.5(b)(1)). The rules also state that environmental review of rules requiring poison prevention packaging is generally not required (§ 1021.5(b)(3)).

With respect to the exemption of prednisone, when dispensed in tablet form in packages containing no more than 105 mg. of the drug, from the requirements for special packaging, the Commission finds that the rule will have no significant effect on the environment and that no environmental review is necessary.

Impact on Small Businesses. Section 603 of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires agencies to prepare and make available for public comment an initial regulatory flexibility analysis of the impact of a proposed rule on small entities, including small businesses. Section 605(b) of this act provides that an agency is not required to prepare a regulatory flexibility analysis where the agency certifies that the rule will not, if issued, have a significant economic impact on a substantial number of small entities. In accordance with section 605(b), the Commission certifies that the regulation proposed here, if issued in final form, will not have a significant economic impact on a substantial number of small entities. The regulation proposed here exempts, from special packaging requirements, prednisone tablets when packaged in quantities of not more than 105 mg. Thus, pharmacists dispensing the drug in these quantities or manufacturers packaging such quantities in packages intended to be dispensed directly to the consumer need not utilize child-resistant packaging. Rather, they are free to use conventional packaging which, in most cases, is less expensive than child-resistant packaging. Accordingly, the proposed exemption will have the effect of decreasing pharmacists' and manufacturers' packaging costs for prednisone tablets packaged in quantities of not more than 105 mg.

Conclusion and Promulgation

PART 1700—POISON PREVENTION PACKAGING

Having considered the petition, human experience data and the animal toxicity studies, the poison control statistics of the National Clearinghouse for Poison Controls Centers from 1977 through 1979, medical and scientific literature, and information from other Commission data sources, and having consulted, pursuant to section 3 of the Poison Prevention Packaging Act of 1970 (PPPA), with the Technical Advisory Committee on Poison Prevention Packaging established in accordance with section 6 of the PPPA, the Commission concludes that an exemption from the special packaging requirements for prednisone in tablet form when dispensed in packages containing no more than 105 mg. of the drug should be proposed as set forth below. Accordingly, pursuant to the provisions of the PPPA (Pub. L. 91–601, sections 2, 3, 4; 85 Stat. 1670–72; 15 U.S.C. 1471, 1472, 1474) and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92–572, section 30(a); 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission proposes that 16 CFR 1700.14(a)(10) be amended by adding subparagraph (ix), as follows:

[1] This consultation occurred prior to the 1981 amendment to the Poison Prevention Packaging Act which abolished the Technical Advisory Committee. *See* Section 1205 of the Omnibus Reconciliation Act of 1981, Pub. L. 97–35, 95 Stat. 357.

§ 1700.14 Substances requiring special packaging.

(a) * * * (10) *Prescription drugs.* Any drug for human use that is in a dosage form intended for oral administration and that is required by Federal law to be dispensed only by or upon an oral or written prescription of a practitioner licensed by law to administer such drug shall be packaged in accordance with the provisions of § 1700.15 (a), (b), and (c), except for the following:

* * * * *

(ix) prednisone in tablet form, when dispensed in packages containing no more than 105 mg. of the drug, and containing no other substances subject to this § 1700.14(a)(10).

* * * * *

(Secs. 2, 3, 5, Pub. L. 91–601, 84 Stat. 1670, 1671 (15 U.S.C. 1471, 1472, 1474))

Dated: March 5, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 82-6497 Filed 3-9-82; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 141

[Docket No. RM80-55-000]

Order Granting Rehearing for Purposes of Further Consideration

Issued: March 5, 1982.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order granting rehearing for purposes of further consideration.

SUMMARY: The Federal Energy Regulatory Commission (Commission) grants rehearing for the limited purpose of further consideration of a petition to rehear Order No. 200, a final rule to revise Form No. 1, "Annual Report of Public Utilities, Licensees and Others (Class A and Class B)". That final rule, which was issued on January 6, 1982 (47 FR 1287, January 12, 1982), revised and reduced the number of data elements in the form.

FOR FURTHER INFORMATION CONTACT: Cathy Ciaglo, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, NE., Room 8104–B, Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION:

In the matter of a revision of FERC Form No. 1, Annual Report of Electric Utilities, Licensees and Others (Class A and Class B), Docket No. RM80–55–000, order granting rehearing for purposes of further consideration.

On January 6, 1982, the Federal Energy Regulatory Commission (Commission) issued a final rule to revise Form No. 1, "Annual Report of Electric Utilities, Licensees and Others (Class A and Class B)" (Order No. 200, 47 FR 1267, January 12, 1982). This rule substantially reduced the number of schedules and data elements in the form, established or altered threshold reporting levels in certain schedules, and changed the reporting instructions in several schedules. The revisions were made as part of the Commission's ongoing program to review all of its reporting requirements and to eliminate any further collection of data that are not needed for Commission decisionmaking and regulatory duties.

On February 4, 1982, Certain Municipal Systems filed a timely petition for rehearing of Order No. 200. In order to have sufficient time to consider the issues raised in this application, the Commission will grant rehearing of Order No. 200 solely for the purpose of further consideration.

The Commission Orders

Rehearing of Order No. 200 is granted for the limited purpose of further consideration of the issues raised in the petition for rehearing. This action does not constitute a grant or denial of the petition on its merits in whole or part. As provided in § 1.34(d) of the Commission's regulations, no answers to this petition will be entertained by the Commission because this Order does not grant rehearing on any substantive issues.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6495 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76 (Alabama-2)]

High-Cost Gas Produced From Tight Formations; Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR § 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking contains the recommendations of the State Oil and Gas Board of Alabama that the Hartselle Sandstone Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on April 5, 1982.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on March 19, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washigton, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

Issued: March 4, 1982.

I. Background

On February 8, 1982, the State Oil and Gas Board of Alabama (Alabama) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Hartselle Sandstone Formation located in Walker and Winston Counties, Alabama, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determined whether Alabama's recommendation that the Hartselle Sandstone Formation be designated a tight formation should be adopted. Alabama's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Alabama recommends that the Hartselle Sandstone Formation found beneath the Bangor limestone of the Mississippian period, in the Black Warrior Basin, be designated a tight formation. The recommended formation

is found in Township 11 South, Ranges 7 to 9 West and Township 12 South, Ranges 6 to 10 West in Winston County, and in Townships 12 to 17 South, Ranges 4 to 10 West in Walker County. Alabama recommends excluding the Jasper Field located in Township 13 South, Range 7 West, Sections 21 through 28, and 33 through 36, in Walker County.

The depth to the top of the recommended formation varies from approximately 400 feet below the surface in the northern part of the area to 3,000 feet below the surface in the southern part. The Hartselle Sandstone Formation varies in thickness from zero at the downdip pinchout in southern Walker County and along the western border of Walker County, to over 150 feet in northern Walker County and southern Winston County.

III. Discussion of Recommendation

Alabama claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by Alabama on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Alabama further asserts that existing State and Federal regulations assure that development of this formation will not adversely affect any fresh water aquifers that are, or are expected to be, used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53458, August 12, 1980), notice is hereby given of the proposal submitted by Alabama that the Hartselle Sandstone Formation, as described and delineated in Alabama's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before April 5, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76 (Alabama–2), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than March 19, 1982.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

PART 271—CEILING PRICES

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

Section 271.703(d) is revised by adding new subparagraph (101) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(72) through (100) [Reserved]

(101) *Hartselle Sandstone Formation in Alabama.* RM79–76 (Alabama–2)

(i) *Delineation of formation.* The Hartselle Sandstone Formation in Alabama is found in Township 11 South, Ranges 7 to 9 West and Township 12 South, Ranges 6 to 10 West in Winston County, and in Townships 12 to 17 South, Ranges 4 to 10 West, in Walker County. The Jasper Field located in Township 13 South, Range 7 West, Sections 21 through 28, and 33 through 36, in Walter County is excluded.

(ii) *Depth.* The depth of the formation varies from approximately 400 feet in the northern part of the recommended area to 3,000 feet in the southern part of the area. It varies in thickness from zero at the downdip pinchout in southern Walker County and along the western border of Walker County, to over 150 feet in northern Walker and southern Winston Counties.

[FR Doc. 82-6430 Filed 3-9-82; 8:45 am]
BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79–76 (Colorado–23)]

High-Cost Gas Produced From Tight Formations; Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Colorado that the Dakota and Morrison Formations each be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on April 5, 1982.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on March 19, 1982.

ADDRESS: Comments and request for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8016.

SUPPLEMENTARY INFORMATION:

Issued: March 4, 1982.

I. Background

On February 19, 1982, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Dakota and Morrison Formations located in Garfield and Mesa Counties, Colorado, each be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Colorado's recommendation that the Dakota and Morrison Formations each be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service (formerly the U.S. Geological Survey) concurs with Colorado's recommendation. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of recommendation

The recommended formations underlie portions of Garfield and Mesa Counties, Colorado. The area is located within the Grand Valley of western Colorado near the city of Grand Junction, Colorado. The area contains 303,000 acres of which 75% are Federal lands and 25% are fee lands, and encompasses all or portions of Townships 7 through 13 South, Ranges 97 through 98 and 100 through 104 West, 6th P.M.; Townships 1 and 2 North, Ranges 1 and 2 West, Ute P.M.; Township 1 North, Range 1 East, Ute P.M.; Township 1 South, Range 1 West, Ute P.M.; and Townships 1 through 3 South, Ranges 1 and 2 East, Ute P.M. The average depth to the top of the Dakota Formation is 2,615 feet. The average thickness of the Dakota Formation is 190 feet with the base of the Dakota Formation defined as the top of the Morrison Formation. The average depth to the top of the Morrison Formation is 3,005 feet.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. NG–28 convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formations, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formations is expected to produce more than five (5) barrels of oil per day.

Colorado further asserts that existing State and Federal Regulations assure that development of these formations will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53458, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that the Dakota and Morrison Formations, as described and delineated in Colorado's recommendation as filed with the Commission, each be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposal rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before April 5, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76 (Colorado–23), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than March 19, 1982.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

PART 271—CEILING PRICES

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

Section 271.703(d) is revised by adding new subparagraphs (96) and (97) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(72) through (95) [Reserved]

(96) *Dakota Formation in Colorado.* RM79–76 (Colorado–23).

(i) *Delineation of formation.* The Dakota Formation is located in Garfield and Mesa Counties, Colorado, and underlies portions of Townships 7 through 13 South, Ranges 97 through 98 and 100 through 104 West, 6th P.M.; Townships 1 and 2 North, Ranges 1 and 2 West, Ute P.M.; Townships 1 North, Range 1 East, Ute P.M.; Township 1 South, Range 1 West, Ute P.M.; and Township 1 through 3 South, Ranges 1 and 2 East, Ute P.M.

(ii) *Depth.* The average depth to the top of the Dakota Formation is 2,615 feet.

(97) *Morrison Formation in Colorado.* RM79–76 (Colorado–23).

(i) *Delineation of formation.* The Morrison Formation is located in Garfield and Mesa Counties, Colorado, and underlies portions of Townships 7 though 13 South, Ranges 97 through 98 and 100 through 104 West, 6th P.M.; Townships 1 and 2 North, Ranges 1 and 2 West, Ute P.M.; Township 1 North, Range 1 East, Ute P.M.; Township 1 South, Range 1 West, Ute P.M.; and Townships 1 through 3 South, Ranges 1 and 2 East, Ute P.M.

(ii) *Depth.* The average depth to the top of the Morrison Formation is 3,005 feet.

[FR Doc. 82-6431 Filed 3-9-82; 8:45 am]
BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79–76 (Colorado–24)]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the National Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Colorado that the Mesaverde and Mancos Formations each be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on April 5, 1982.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on March 19, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:
Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

Issued: March 4, 1982.

I. Background

On February 5, 1982, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Mesaverde and Mancos Formations located in Rio Blanco County, Colorado, each be designated as a tight formation. Pursuant to §271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Colorado's recommendation that the Mesaverde and Mancos Formation each be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service (formerly the U.S. Geological Survey) concurs with Colorado's recommendation. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formations are located entirely within Rio Blanco County, Colorado, in portions of Township 1 South, Ranges 98, 99, and 100 West, 6th P.M. and Township 2 South, Ranges 98, 99, and 100 West 6th P.M. The recommended area covers approximately 93,134 acres, of which 87,536 acres or 94% consists of Federal and Indian land. The area under consideration is on the western flank of the Piceance Creek Basin with an average depth to the top of the producing interval of 6,693 feet for the Mesaverde and 9,495 feet for the Mancos.

The Mancos "B" member of the Mancos Formation in those portions of Townships 1 and 2 South, Range 100 West within the recommended area has previously been designated a tight formation in FERC Docket No. RM79–76 (Colorado–13), Order No. 143 issued April 29, 1981. The present recommendation asks that the rest of the Mancos formation in this area be designated a tight gas formation.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. NG–27 convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formations, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B), and

(3) No well drilled into the recommended formations is expected to produce more than five (5) barrels of oil per day.

Colorado futher asserts that existing State and Federal Regulations assure that development of these formations will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53450, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that the Mesaverde and Mancos Formations, as described and delineated in Colorado's recommendation as filed with the Commission, each be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views, or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before April 5, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76 (Colorado-24), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communcations concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than March 19, 1982.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

PART 271—CEILING PRICES

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,
Director, Office of Pipeline and Producer Regulation.

Section 271.703(d) is revised by adding new subparagraphs (96) and (99) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(72) through (97) [Reserved]

(96) *Mesaverde Formation in Colorado.* RM79–76 (Colorado-24).

(i) *Delineation of formation.* The Mesaverde Formation is found in the southwestern portion of Rio Blanco County, Colorado, about 70 miles northwest of the town of Grand Junction. The Mesaverde Formation is located in Township 1 South, Ranges 98 and 99 West, 6th P.M., all; Township 1 South, Range 100 West, 6th P.M., Sections 1 through 3, 10 through 15, 22 through 27, and 34 through 36; Township 2 South, Range 98 West, 6th P.M., Sections 4 through 8; Township 2 South, Range 99 West, 6th P.M., Sections 1 through 12, 15 through 22, and 27 through 34; and Township 2 South, Range 100 West, 6th P.M., Sections 1 through 3, 10 through 15, 22 through 27, and 34 through 36.

(ii) *Depth.* The Mesaverde Formation varies in thickness from 2,900 to 3,600 feet. The average depth to the top of the Mesaverde Formation is 6,693 feet.

(99) *Mancos Formation in Colorado.* RM79–76 (Colorado-24).

(i) *Delineation of formation.* The Mancos Formation is found in the southwestern portion of Rio Blanco County, Colorado, about 70 miles northwest of Grand Junction. The Mancos Formation is located in Township 1 South, Ranges 98 and 99 West, 6th P.M., all; Township 1 South, Range 100 West, 6th P.M., Sections 1 through 3, 10 through 15, 22 through 27, and 34 through 36; Township 2 South, Range 98 West, 6th P.M., Sections 4 through 8; Township 2 South, Range 99 West, 6th P.M., Sections 1 through 12, 15 through 22, and 27 through 34; and Township 2 South, Range 100 West, 6th P.M., Sections 1 through 3, 10 through 15, 22 through 27, and 34 through 36.

(ii) *Depth.* The Mancos Formation is approximately 5,000 feet thick. The average depth to the top of the Mancos Formation is 9,495 feet.

[FR Doc. 82-6432 Filed 3-9-82; 8:45 am]
BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79–76 (New Mexico–9)]

High-Cost Gas Produced From Tight Formation; Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of New Mexico that the Dakota Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on April 2, 1982.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written request for a public hearing are due on March 18, 1982.

ADDRESS: Comments are requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:
Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

Issued: March 3, 1982.

I. Background

On February 18, 1982, the State of New Mexico Energy and Minerals Department, Oil Conservation Division (New Mexico) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Dakota Formation located in San Juan County, New Mexico, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether New Mexico's recommendation that the Dakota Formation be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service (formerly the U.S. Geological Survey) concurs with New Mexico's recommendation. New Mexico's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The Dakota Formation is located in San Juan County, New Mexico, in Townships 31 and 32 North, Ranges 10 through 13 West, NMPM, in the Basin Dakota Gas Pool, in the northwestern portion of the San Juan Basin near the Hogback Monocline. The average depth to the top of the Dakota Formation is 6,753 feet. The gross thickness of the formation varies from 200 to 300 feet.

The recommended area is subject to New Mexico Order No. R–1670–V, issued on May 22, 1979, which authorizes infill drilling in the Basin-Dakota Gas Pool. Accordingly, certain portions within the proposed area may be subject to exclusion pursuant to § 271.703(c)(2)(i)(D) of the regulations.

III. Discussion of Recommendation

New Mexico claims in its submission that evidence gathered through information and testimony presented at a public hearing in Case No. 7361 convened by New Mexico on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

New Mexico further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53458, August 12, 1980), notice is hereby given of the proposal submitted by New Mexico that the Dakota Formation, as described and delineated in New Mexico's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before April 2, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76 (New Mexico–9), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to

whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than March 18, 1982.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

PART 271—CEILING PRICES

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event New Mexico's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

Section 271.703(d) is revised by adding new subparagraph (100) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(72) through (99) [Reserved]

(100) *Dakota Formation in New Mexico.* RM79–76 (New Mexico–9).

(i) *Delineation of formation.* The Dakota Formation is found in Townships 31 and 32 North, Ranges 10 through 13 West, NMPM, in San Juan County, New Mexico. The formation is within the Basin-Dakota Gas Pool, in the northwestern portion of the San Juan Basin near the Hogback Monocline.

(ii) *Depth.* The Dakota Formation is below the Graneros Shale Formation and above the Morrison Formation. The average depth to the top of the Dakota Formation is 6,753 feet. Gross thickness of the formation varies from 200 to 300 feet.

[FR Doc. 82-6483 Filed 3-9-82; 8:45 am]
BILLING CODE 6717-01-M

CFR Part 271

[Docket No. RM79-76 (New Mexico-10)]

High-Cost Gas Produced From Tight Formations; Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of New Mexico that the Chacra Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on April 5, 1982.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on March 19, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

Issued: March 4, 1982.

I. Background

On March 1, 1982, the State of New Mexico Energy and Minerals Departments, Oil Conservation Division (New Mexico) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Chacra Formation located in Sandoval County, New Mexico, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determined whether New Mexico's recommendation that the Chacra Formation be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service (formerly the U.S. Geological Survey) concurs with New Mexico's recommendation. New Mexico's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The Chacra Formation is located in Sandoval County, New Mexico, in portions of Townships 21 and 22 North, Ranges 5 through 7 West, NMPM, on the Chaco Slope of the Southern San Juan Basin. The average depth to the top of the Chacra Formation is 1,656 feet. The average thickness of the formation is 300 feet.

III. Discussion of Recommendation

New Mexico claims in its submission that evidence gathered through information and testimony presented at a public hearing in Case No. 7300 convened by New Mexico on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

New Mexico further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by New Mexico that the Chacra Formation, as described and delineated in New Mexico's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before April 5, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76 (New Mexico-10), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than March 19, 1982.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

PART 271—CEILING PRICES

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event New Mexico's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

Section 271.703(d) is revised by adding new subparagraph (102) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(72) through (101) [Reserved]

(102) *Chacra Formation in New Mexico.* RM79–76 (New Mexico-10).

(i) *Delineation of formation.* The Chacra Formation is found in Township 21 North, Range 5 West, Sections 6, 7, 8, 18 through 22 and 28 through 36; Township 21 North, Range 6 West, Sections 1 through 18, 20 through 27, 35 and 36; Township 21 North, Range 7 West, Sections 1 through 4, and 10 through 13; Township 22 North, Range 6 West, Sections 6, 7, 8, 16 through 22, and 28 through 36; and Township 22 North, Range 7 West, Sections 1 through 36, NMPM in Sandoval County, New Mexico. The formation is on the Chaco Slope of the Southern San Juan Basin.

(ii) *Depth.* The Chacra Formation averages 300 feet in thickness and is the uppermost sand formation below the Huerfanito bentonite bed. The average depth to the top of the Chacra Formation is 1,656 feet.

[FR Doc. 82-6484 Filed 3-9-82; 8:45 am]
BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-9-FRL-2050-7]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations: Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: In today's notice, EPA is proposing to revise the sulfur oxides (SO_x) attainment status designation for portions of the Steptoe Valley Hydrographic Region of Nevada. The SO_x designation is proposed to be changed from nonattainment to unclassifiable for all of Steptoe Valley except the central portion. The designation for the central portion of the Valley, including the cities of Ely and McGill, is proposed to remain nonattainment for SO_x. These revisions are being proposed pursuant to section 107(d)(2) of the Clean Air Act. The EPA invites public comment on the proposed redesignations.

DATE: Comments will be considered if received on or before April 9, 1982.

ADDRESSES: Comments should be directed to: Douglas Grano, Air Programs Branch (A–2–3), Air Management Division, EPA Region 9, 215 Fremont Street, San Francisco, CA 94105.

EPA's Technical Support Document for the proposed redesignation is available for public inspection during normal business hours at the EPA Region 9 Office at the address above and at the following locations:

Public Information Reference Unit, Room 2404 (EPA Library), 401 M Street SW., Washington, DC 20460
Nevada Department of Conservation and Natural Resources, 201 South Fall Street, Carson City, NV 89710

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Telephone: (415) 974–8222.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, under Paragraph 107(d)(2) of the Clean Air Act, as amended, EPA promulgated attainment status designations for all states (43 FR 8962). The Steptoe Valley Hydrographic Region of Nevada was designated nonattainment for SO_x due to measured ambient air quality violations. These violations were recorded at monitoring sites surrounding the Kennecott Corporation copper smelter in McGill. The McGill smelter is the only major stationary source of SO_x in the Valley. Under Paragraph 107(d)(5) of the Clean Air Act, a state may revise its designations of attainment status and submit them to EPA for consideration and promulgation.

A study entitled, "Technical Support Document—Redesignation of Steptoe Valley, Nevada," was recently prepared for the State of Nevada by the consulting firm of Dames & Moore. The study uses dispersion modeling and indicates that the nonattainment area for SO_x should be smaller than the entire Steptoe Valley. As a result, the Nevada Division of Environmental Protection (NDEP) has published a notice of public hearing to consider changes to the designation for SO_x in the Steptoe Valley. the changes are: the northern and southern portions of the Valley be redesignated to unclassifiable, while the remainder, or central portion, stay nonattainment.

Discussion

EPA has reviewed the proposed designation changes and modeling study, and has determined that the redesignations are approvable. NDEP's action is consistent with the EPA policy which allows nonattainment areas to be as small as possible as long as they encompass all areas expected to be experiencing ambient air quality violations and all sources which are believed to have a significant impact on the expected violations. The modeling study and EPA's analysis are discussed in detail in EPA's Technical Support Document.

The proposed boundaries of the nonattainent area (central portion of the Valley) are:

That portion of the Steptoe Valley Hydrographic Region (179) which lies between two east-west lines located approximately 20 miles to the north and south of McGill, Nevada.

The legal description of the nonattainment area boundary is contained in EPA's Technical Support Document.

EPA Actions

The NDEP's proposal to redesignate portions of Steptoe Valley is approvable. In the interest of shortening the Federal review period, EPA is proposing to redesignate these portions of Nevada now, prior to receiving a formal request from the State. This new procedure is referred to as "parallel processing". If NDEP's formal redesignation request substantively differs from today's proposal, EPA would publish a revised notice of proposed rulemaking. However, if no substantive changes are made in NDEP's formal request, EPA will issue a final rulemaking notice based on today's proposal and any comments received.

If EPA redesignates the northern and southern portions of the Valley to unclassifiable, the Part D requirements of the Clean Air Act would no longer apply for SO_x in those areas.

Note.—Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities (46 FR 8709, January 27, 1981). The attached rule, if promulgated, constitutes a SIP approval under Section 110 and 172 within the terms of the January 27 certification. This action only approves state actions. It imposes no new requirements.

(Sections 107(d) and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7407(d) and 7601(a)).

Dated: February 4, 1982.

Sonia F. Crow,

Regional Administrator.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

[FR Doc. 82-6402 Filed 3-9-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 180

[PP 0E2387/P191; PH-FRL-2065-4]

Chlorpyrifos; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for the combined residues of the insecticide chlorpyrifos and its metabolite in or on the raw agricultural commodity onions (dry bulb). The proposed amendment to establish a maximum permissible level for residues of the insecticide in or on the commodity was submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before March 25, 1982.

ADDRESS: Written comments to: Donald Stubbs, Emergency Response Section, Registration Division (TS-767C), Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-7123) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 0E2387 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Michigan, New York, Oregon, Washington, and Wisconsin.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on the agricultural commodity onions (dry bulb) at 0.5 ppm.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicology data considered in support of the proposed tolerance of 0.5 ppm in or on onions (dry bulb) were two-year rat and dog feeding studies, each with no-observable-effect levels (NOEL's) of 0.1 mg/kg/day based on red blood cell anticholinesterase (RBC AChE) effects and 3.0 mg/kg/day based on systemic effects (highest dose) with the rat feeding study giving negative onceogenic potential; a 3-generation rat reproduction study with a NOEL of 1.0 mg/kg/day (highest dose); a mouse teratology study negative for teratogenic effects at 25 mg/kg/day (highest dose); a hen acute delayed neurotoxicity study negative at 100 mg/kg; and a mouse oncogenicity study negative at 15 ppm (highest dose).

The acceptable daily intake (ADI), based on the rat feeding study (NOEL of 0.1 mg/kg/day) and using a 10-fold safety factor, is calculated to be 0.01 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60 kg human is calculated to be 0.6 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 0.1953 mg/day. The current action will utilize 0.9% of the ADI. Published tolerances utilize 32.54% of the ADI. All tolerances (published and currently pending) utilize 70.21% of the ADI.

The metabolism of chlorpyrifos is adequately understood for the proposed use in this petition. An adequate analytical method (gas chromatography) is available for enforcement purposes. Reside data are from tests conducted in New York, Washington, and Wisconsin. Since no feed item is involved, there should be no secondary residues transferred to meat, milk, poultry, or eggs. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR Part 180 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein may request, on or before March 25, 1982, that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. As provided for in the Administrative Procedure Act (5 U.S.C. 553(d)(3)), the comment period time is shortened to less than 30 days because of the necessity to expeditiously provide a means for control of onion maggots which infest direct-seeded onions. The comments must bear a notation indicating the document control number, "(PP 0E2387/P191)." All written comments filed in response to this petition will be available for public inspection in the office of Donald Stubbs from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

As required by Executive Order 12291, EPA has determined that this proposed rule is not a "Major" rule therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this regulation from the OMB review requirements of Executive Order 12291 pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerances levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

Dated: February 24, 1982.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.342 be amended by adding and alphabetically inserting the commodity onions (drybulb) to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodity	Part per million
* * * * *	
Onions (dry bulb)	0.5
* * * * *	

[FR Doc. 82-6536 Filed 3-9-82; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6254]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below and proposed changes to base flood elevations for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., National Flood Insurance Program, 202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 USC 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations proscribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arizona	Pima County (Unincorporated Areas)	Santa Cruz River	120 feet upstream of the intersection of Avra Valley Road and Santa Cruz River.	*2,086
			120 feet downstream of the intersection of Sunset Road and Santa Cruz River.	*2,213
		Santa Cruz River—With Consideration of Levee.	75 feet downstream of the intersection of the Southern Pacific Railroad spur bridge and Santa Cruz River.	*2,714
		Santa Cruz River—Without Consideration of Levee.	Intersection of Sahuarita Road and Southern Pacific Railroad.	*2,704

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Santa Cruz River	60 feet upstream of the intersection of Continental Road and Santa Cruz River.	*2,854
			Center of U.S. Highway 89 (State Highway 93), 150 feet north of its intersection with Pima Mine Road.	#3
		Santa Cruz River West Overflow Channel.	125 feet downstream of the intersection of Continental Road and Santa Cruz River West Overflow Channel.	*2,854
		Los Robles Wash	180 feet upstream of the intersection of Trico Road and Los Robles Wash.	*1,929
			Center of Avra Road, 1,000 feet north of its intersection with Avra Valley Road.	#3
		West Branch Brawley Wash	110 feet downstream of the intersection of Avra Valley Road and West Branch Brawley Wash.	*1,991
		Blanco Wash	Intersection of Chinle Road and Chinle Lane	*1,918
			Center of Tucker Road, 4,200 feet west of its intersection with Arvway Road.	#2
		Brawley Wash	Intersection of Manville Road and Reservation Road	#1
		Black Wash	Center of Snyder Hill Road, 2.5 miles east of its intersection with Sandario Road.	#2
		Rillito Creek	Intersection of La Cholla Boulevard and Rillito Creek	*2,256
			25 feet upstream of the intersection of Dodge Boulevard and Rillito Creek.	*2,382
		Pantano Wash—With Consideration of Levee.	80 feet north of the intersection of North Craycroft Road and Pantano Wash.	*2,435
		Pantano Wash—Without Consideration of Levee.	Center of North Craycroft Road, 1,250 feet north of its intersection with Fort Lowell Road.	*2,434
		Pantano Wash	Intersection of Golf Links Road and Camino Seco	*2,667
		Canada del Oro	Intersection of Magee Road and Shannon Road	*2,301
			25 feet upstream of the intersection of U.S. Highway 89 (Tucson-Florence Highway) and Canada del Oro.	*2,639
			Intersection of Rollins Road and Lago del Oro Parkway.	*2,026
		Tanque Verde Creek	100 feet upstream of the intersection of Sabino Canyon Road and Tanque Verde Creek.	*2,476
			Center of Barbary Coast Road, 150 feet east of its intersection with Soldier Terrace.	*2,634
		Soporl Wash	Intersection of Arivaca Road and Soporl Ranch Road	*3,197
		Soporl Wash Overflow	Center of U.S. Highway 89, 350 feet south of its intersection with Arivaca Road.	*3,069
		West Branch Santa Cruz River	Center of Valencia Road, 3,800 feet east of its intersection with Mission Road.	#1
		East Branch Brawley Wash	Intersection of Clayton Road and Twin Peaks Road	#1
		Big Wash	75 feet downstream of the intersection of Wilds Road and Big Wash.	*2,970
		Rincon Creek—With Consideration of Levee.	Center of Old Spanish Trail, 1,800 feet west of its intersection with Camino del Garanon.	*2,902
		Rincon Creek—Without Consideration of Levee.	North side of the levee, 2,100 feet upstream along Rincon Creek from its intersection with Old Spanish Trail.	*2,884
		Rincon Creek	50 feet upstream of the intersection of Camino Loma Alta and Rincon Creek.	*2,987
		Sabino Creek	200 feet east of the intersection of Snyder Road and Hidden Valley Road.	*2,594
		Agua	Intersection of Fort Lowell Road and Connestoga Avenue.	*2,843
		Julian Wash	25 feet upstream of the intersection of Alvernon Way and Julian Wash.	*2,803
			Intersection of McKinley Avenue and Dream Street	#1
		Airport Wash	50 feet downstream of the intersection of the Air National Guard Access Road and Airport Wash.	*2,548
		Ventana Canyon Wash	130 feet upstream of the intersection of River Road and Ventana Canyon Wash.	*2,508
		Pima Wash	Intersection of Orange Grove Road and Pima Wash	*2,483
		Gibson Arroyo	Intersection of Arroyo Avenue and Palm Street	*1,749

Maps available for inspection at Planning and Zoning Department, 191 West Congress, Tucson, Arizona.

Send comments to the Honorable Sam Lena, 131 West Congress, Tucson, Arizona 85701.

Arkansas	Unincorporated areas of Ashley County	Fountain Creek	Just upstream of Arkansas Highway 81	*162
		Snake Creek	Approximately 600 feet downstream of the gravel road that is located about 0.75 miles upstream of the confluence of Snake Creek Tributary 1.	*93
			Just upstream of the gravel road that is located about 0.81 miles upstream of the confluence Snake Creek Tributary 5.	*121
		Snake Creek Tributary 1	Just upstream of the gravel road that is located about 0.52 miles upstream of the confluence with Snake Creek.	*84
		Snake Creek Tributary 2	Just upstream of the gravel road that is located about 0.41 miles upstream of the confluence with Snake Creek.	*97
		Snake Creek Tributary 3	Just upstream of the gravel road that is located about 1.80 miles upstream of the confluence with Snake Creek.	*127
		Snake Creek Tributary 5	Approximately 200 feet upstream of Arkansas Highway 133.	*138
		Big Brushy Creek	Approximately 400 feet upstream of the Rock Island and Pacific Railroad.	*120

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 900 feet downstream of Arkansas Highway 133.	*125
		Bell Branch	Approximately 400 feet upstream of Manila Saline Road.	*97
		Maxwell Creek	Just downstream of the asphalt road that is located about 1.45 miles upstream of the confluence with Big Brushy Creek.	*119
		Big Brushy Creek Tributary 1	Just upstream of the gravel road that is located about 0.44 miles upstream of the confluence with Big Brushy Creek.	*147
		Big Brushy Creek Tributary 2	Approximately 0.35 miles upstream of the confluence with Big Brushy Creek.	*134
		Big Brushy Creek Tributary 3	Approximately 400 feet downstream of the gravel road that is located about 1.04 miles upstream of the confluence with Big Brushy Creek.	*120
		Little Brushy Creek	Just upstream of Hancock Road	*108
			Just upstream of Arkansas Highway 135	*151
		Little Brushy Creek Tributary 1	Just upstream of Arkansas Highway 133	*130
		Little Brushy Creek Tributary 2	Just downstream of the asphalt road that is located about 0.43 miles upstream of the confluence with Little Brushy Creek.	*134
		Middle Fork West Creek	Just upstream of U.S. Highway 82	*144
		Middle Fork Tributary	Just downstream of U.S. Highway 82	*147
		West Fork West Creek	Just downstream of the asphalt road that is located 1,100 feet upstream of the confluence with Middle Fork West Creek.	*147
		East Fork West Creek	Just upstream of U.S. Highway 82	*147
			Just upstream of Arkansas Highway 82	*176

Maps available for inspection at Ashley County Judge's Office, County Courthouse for Ashley, Hamburg, Arkansas 71646.

Send comments to Mr. Dan Hartley, Ashley County Judge or Mr. Norman T. Watson, County Administrative Assistant, Ashley County Courthouse, Hamburg, Arkansas 71646.

Arkansas	Unincorporated areas of Lonoke County	Fourmile Creek	Just upstream of Arkansas Highway 319	*228
			Just upstream of Arkansas Highway 321	*243
			Just downstream of Arkansas Highway 5	*286
			Just upstream of Lonoke-Pulaski County Line	*313
		Magness Creek	Just upstream of County Road	*240
			Just upstream of County Line	*264
			Just upstream of Arkansas Highway 5	*268
		Hudson Branch Creek	Just upstream of County Road	*243
			Just upstream of Arkansas Highway 38	*262
			Just upstream of East Main STreet	*267
		White Oak Branch	Just downstream of First Street	*269
			Just upstream of U.S. Highway 67, 167	*277
			Just upstream of Arkansas Highway 5	*267
		Bayou Two Prairie Near Cabot	Just upstream of First Street	*268
			Just upstream of Arkansas Highway 367	*268
			Just upstream of U.S. Highway 67, 167	*271
		Bayou Two Prairie Tributary Near Cabot.	Just upstream of Arkansas Highway 89	*267
		North Bayou	Just upstream of Scroggins Street	*221
			Just upstream of Arkansas Highway 161	*224
		Bayou Two Prairie Near Carlisle	Just upstream of Arkansas Highway 13	*215
			Just upstream of U.S. Highway 70	*218
		Bayou Meto	Just upstream of U.S. Interstate 40	*238
			Just upstream of County Line	*245
		Bayou Two Prairie Near Lonoke	Just upstream of Arkansas Highway 31	*227
			Just upstream of the corporate limits	*228
		Pack Branch	Just upstream of Dismukes Avenue	*239

Maps available for inspection at the Lonoke County Judge's Office, County Courthouse, Lonoke, Arkansas 72081.

Send comments to Honorable Don C. Spence, Lonoke County Judge, County Courthouse, P.O. Box 431, Lonoke, Arkansas 72081.

Arkansas	Unincorporated areas of Saline County	Saline River	Just upstream of Highway 291	*252
			Just downstream of County Road 27	*264
			Just upstream of Chicago Rock Island and Pacific Railroad.	*281
			Just upstream of Interstate Highway 30	*288
		Alum Fork Saline River	Just downstream of County Road	*289
		Cedar Creek	Just downstream of County Road 186	*466
			Just upstream of County Road 59	*580
			Just upstream of County Road	*580
			Just downstream of County Road	*586
		Middle Fork Saline River	Approximately 600 feet upstream of County Road 58	*508
			Approximately 300 feet downstream of County Road 59.	*504
			Approximately 660 feet downstream of County Road 57.	*481
		Mill Creek	Lake Carter	*539
			Approximately 350 feet upstream of downstream County Limits.	*539
		North Fork Saline River	Approximately 1,200 feet upstream of State Highway 5	*300
		Hurricane Creek	Just upstream of Missouri Pacific Railroad	*300
			Just downstream of County Road 43	*309
			Just downstream of Interstate Highway Service Road	*371
			Just upstream of Interstate Highway Service Road	*373

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Fourch Creek	Just upstream of Cross Section A. At mile 22.54 above mouth, approximately 800 feet at upstream of the location in alignment with County Road 63 Extended.	*321
			Just upstream of County Line Road	*488
			Just upstream of County Road 36	*532
		Otter Creek	At Cross Section A just upstream of the corporate limits of Shannon Hills.	*319
			At County Road 37	*330
			Approximately 130 feet at downstream of County Road 37.	*332
		Crooked Creek	Approximately 150 feet at upstream of State Highway 111.	*316
			Approximately 250 feet at downstream of Missouri Pacific Railroad.	*322
			Just downstream of County Road 612	*336
		Lorence and Dry Creek	Just upstream of the upstream crossing of U.S. Highways 65 and 167.	*248
			Approximately 400 feet at downstream of County Road 215.	*296
			Just upstream of County Road 204 (Chicot Road)	*283
			Just downstream of County Road 31 (Shannon Hills Road).	*297

Maps available for inspection at Saline County Judge's Office, County Courthouse, Benton, Arkansas 72015.

Send comments to Honorable Wayne M. Bishop, Saline County Judge, County Courthouse, Benton, Arkansas 72015.

Colorado	Lamar (City), Prowers County	Arkansas River	Approximately 400 feet west of the intersection of Moyer Street and Fifth Street.	*3,615
		Willow Creek	Downstream side of the intersection of First Street and the channel.	*3,631
			Downstream side of the intersection of Woodland Lane and channel.	*3,651
			Intersection of southernmost corporate limits and channel.	*3,666

Maps available for inspection at City Surveyor's Office, 104 E. Parmenter, Lamar, Colorado.

Send comments to the Honorable Joe Reichert, Box 370, Lamar, Colorado 81052.

Illinois	(Uninc.) Boone County	Kishwaukee River	About 4,100 feet downstream of Newburg Road	*729
			Just downstream of Stone Quarry Road	*755
			About 200 feet downstream of Poplar Grove Road	*760
			At County Line Road	*779
		North Kinnikinnick Creek	Just upstream of Chrysler Road	*829
			Just upstream of McCurry Road	*842
			Just upstream of Rockton Road	*862
			Just upstream of Free Church Road	*880
			Just upstream of Grade School Road	*931
			About 2,200 feet upstream of Grade School Road	*933
		South Kinnikinnick Creek	At downstream county boundary	*811
			About 100 feet downstream of Conservation Area Road.	*855
			About 200 feet upstream of North Boone School Road (near Caledonia road).	*878
			About 500 feet upstream of Livingston School Road	*905
			Just downstream of North Boone School Road (upstream of Livingston School Road).	*917
		Beaver Creek	About 3,600 feet downstream of North Road	*735
			Just upstream of Riverside Road	*785
			Just upstream of Orth Road	*821
			Just downstream of Hunter Road	*898
		Mosquito Creek	At mouth	*767
			Just downstream of Reed's Crossing Road	*808
		Pleasant Creek	About 300 feet downstream of Lawrence Road	*764
			Just upstream of Squaw Prairie Road	*775
			About 500 feet upstream of Woodstock Road	*799
		Coon Creek	At Chicago and North Western railroad	*765
			About 5,800 feet upstream of Garden Prairie Road	*775
		Tributary A	At mouth	*753
			About 200 feet downstream of Chicago and North Western railroad.	*758
			About 250 feet upstream of Chicago and North Western railroad.	*767
			Just downstream of Interstate 90	*799
		Tributary D	At mouth	*810
			Just upstream of Orth Road	*821
			About 5,680 feet upstream of Orth Road	*845

Maps available for inspection at the City-County Planning Commission, Boone County Courthouse, Belvidere, Illinois.

Send comments to Honorable LeRoy Schroeder, Chairman of the Boone County Board, Boone County, Boone County Office Building, 615 North Main, Belvidere, Illinois 61008.

Indiana	(C) Hartford City, Blackford County	Little Lick Creek	About 660 feet downstream of Walnut Street	*873
			Just upstream of Norfolk and Western Railway	*878
			About 4,360 feet upstream of Water Street at the eastern corporate limits.	*880

Maps available for inspection at the City Hall, 327 North High Street, Hartford City, Indiana.

Send comments to Honorable Merle R. Headley, Mayor, City of Hartford City, City Hall, 327 North High Street, Hartford City, Indiana 47348.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Indiana	(C) Marion Grant County	Mississinewa River	About 2,000 feet downstream of State Routes 9 and 37.	*785
			Just downstream of Pennsylvania Street	*800

Maps available for inspection at the City Engineer's Office, City Hall, 301 South Branson Street, Marion, Indiana.

Send comments to Honorable Fred Weagley, Mayor, City of Marion, City Hall, 301 South Branson Street, Marion, Indiana 46952.

Indiana	(T) Roanoke, Huntington County	Cow Creek	About 400 feet downstream of High Street at the eastern corporate limits.	*754
			About 1,600 feet upstream of Seminary Street at the eastern corporate limits.	*758
		McPherran Ditch	About 920 feet downstream of Second Street at the eastern corporate limits.	*754
			About 1,400 feet upstream of Seminary Street	*766

Maps available for inspection at the Town Hall, P.O. Box 328, Roanoke, Indiana.

Send comments to Honorable Carolyn Parsons, Town Board President, Town of Roanoke, Town Hall, P.O. Box 328, Roanoke, Indiana 46783.

Indiana	(Uninc.) Rush County	Big Blue River	Just upstream of County Road 1,000 West	*851
			About 450 feet upstream of State Route 140	*862
		Flatrock River	Just upstream of County Road 350 South	*837
			Just upstream of State Route 3	*855
			Just downstream of County Road 300 North	*867
		Six Mile Creek	At County Road 1000 West (about 3,900 feet downstream of County Road 800 North.	*888
			Just upstream of County Road 1000 West (about 2,550 feet upstream of County Road 900 North.	*893
			About 6,900 feet upstream of County Road 1100 North (upstream county boundary).	*927
		Goose Creek	At confluence with Big Blue River	*875
			Just downstream of Big Blue Dam No. 2	*910
			Just upstream of Big Blue Dam No. 2	*935
		Three Mile Creek	At confluence with Big Blue River	*881
			Just downstream of Big Blue Dam No. 3	*894
			Just upstream of Big Blue Dam No. 3	*928
			Just upstream of Campground Dam	*930
			About 2,900 feet upstream of County Road 250 West	*998
		Charlottes Brook	At confluence with Six Mile Creek	*914
			At upstream county boundary	*951

Maps available for inspection at the Area Planning Commission Office, Rush County Courthouse, 1st and Main Street, Rushville, Indiana.

Send comments to Honorable Lowell Angle, President of the County Commission Board, Rush County, Rush County Courthouse, 1st and Main Street, 2nd Floor, Planning Commission Office, Rushville, Indiana 46173.

Maryland	Town, Charlestown, Cecil County	Chesapeak Bay (Tidal Flooding affecting Northeast River).	Entire shoreline within the Town of Charlestown	*12

Maps available for inspection at the Town Hall, Charlestown, Maryland.

Send comments to Honorable Roger A. Herron, Council President of Charlestown, P.O. Box 154, Charlestown, Maryland 21914.

Massachusetts	Shirley, Town, Middlesex County	Nashua River	Downstream Corporate Limits	*215
			Upstream Corporate Limits	225
		Squannacook River	Confluence with Nashua River	*215
			300 feet upstream of West Groton Road	*238
			Upstream Corporate Limits	*258
		Catacoonamug River	Confulence with Nashua River	*224
			Upstream of Phoenix Pond Dam	*241
			180 feet upstream of Main Street	*259
			Upstream of dam	*265
			Confluence of Bow Brook	*272
		Bow Brook	Confluence with Catacoonamug Brook	*272
			Private Drive	*292
		Morse Brook	Confluence with Nashua River	*218
			4,175 feet upstream of Walker Road	*224
		Mulpus Brook	Confluence with Nashua River upstream of Private Drive.	*218
			Approximately 100 feet	*236
			Upstream of Hazen Road	*264
			Upstream of Longley Road	*286
			Upstream Corporate Limits	*296
		Walker Brook	Confluence with Nashu River	*218
			2,700 feet upstream of Walker Road	*230
			Approximately 5,045 feet upstream Walker Road	*246
		Trout Brook	Confluence with Nashua River	*223
			120 feet downstream of Front Street	*245
			580 feet upstream of Ayer Road	*260
			Clark Road	*272

Maps available for inspection at the Town of Shirley Town Hall, Lancaster Road, Shirley, Massachusetts.

Send comments to Honorable Henry D. Fagan, Chairman of the Town of Shirley Board of Selectmen, Lancaster Road, Shirley, Massachusetts 01464.

New Hampshire	Newport, Town, Sullivan County	Sugar River	Downstream corporate limits	*393
			Upstream of Claremont and Concord Railroad (1st crossing).	*617

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream side of Claremont and Concord Railroad bridge (2nd crossing).	*661
			Downstream of State Routes 11 and 103	*676
			Approximately 4,750' upstream of State Routes 11 and 103.	*709
			Upstream side of Claremont and Concord Railroad bridge (3rd crossing).	*752
			Approximately 1,200' upstream of Claremont and Concord Railroad bridge (5th crossing).	*769
			Downstream of Oak Street	*782
			Upstream side of Belknap Avenue	*790
			Downstream of Cross Street	*816
			Upstream of Private Road	*852
		North Branch	Confluence with Sugar River	*774
		Sugar River	Corporate limits	*778
		South Branch	Confluence with Sugar River	*791
		Sugar River	Downstream of Pollards Mill Road	*803
			Approximately 3,400' upstream of Pollards Mill Road	*851
			Approximately 3,300' downstream of confluence of Spring Brook.	*888
			Downstream of Coon Brook Road	*821
			Corporate limits	*831

Maps available for inspection at the Office of the Selectmen, Newport Town Municipal Building, 15 Sunapee Street, Newport, New Hampshire.

Send comments to Honorable Arnold Greenleaves, Chairman of the Town of Newport Board of Selectmen, Municipal Building, 15 Sunapee Street, Newport, New Hampshire 03773.

New Hampshire	Rumney, Town, Grafton County	Baker River	Downstream Limits	*490
			Approximately 5,000' upstream of downstream Corporate Limits.	*491
			Approximately 10,000' upstream of downstream Corporate Limits.	*492
			Confluence of Clark Brook	*495
			Confluence of Stinson Brook	*500
			Upstream Stinson Lake Road	*502
			Confluence of Halls Brook	*508
			Approximately 5,000' upstream of confluence of Halls Brook.	*513
			Upstream Sand Hill Road	*523
			Upstream Corporate Limits	*532
		Stinson Brook	Confluence with Baker River	*500
			Approximately 90' upstream of Quincy Road	*510
			Approximately 110' upstream of Stinson Lake Road	*634
			Approximately 1,300' upstream of Stinson Lake Road	*662

Maps available for inspection at the Chairman Board of Selectmans Office, Rumney, New Hampshire.

Send comments to Honorable Donald Kenneson, Chairmen of the Town of Rumney Board of Selectmen, Rumney, New Hampshire 03266.

New Jersey	Deptford, Township, Gloucester County	Delaware River	At downstream corporate limits	*10
			At Almonesson Road	*10
		South Branch Big Timber Creek	Approximately 3,000' upstream Almonesson Road	*11
			Upstream Lower Landing Road	*17
			At upstream corporate limits	*18

Maps available for inspection at the Municipal Building, 1011 Cooper Street, Deptford, New Jersey.

Send comments to Honorable James E. McGrattan, Mayor of Deptford Township, Municipal Building, 1011 Cooper Street, Deptford, New Jersey 08096.

New Jersey	Hackensack, City, Bergen County	Hackensack River	Entire shoreline within community	*8
		Coles Brook	Confluence with Hackensack River	*8
			Kinderkamack Avenue (upstream side)	*10
			Main Street (downstream side)	*15

Maps available for inspection at the City Hall, 65 Central Avenue, Hackensack, New Jersey.

Send comments to Honorable Fred Carbe, Mayor of Hackensack, City Hall, 65 Central Avenue, Hackensack, New Jersey 07602.

New Jersey	Hoboken, City, Hudson County	Upper New York Bay	Entire shoreline of the Hudson River within the Corporate Limits.	*10

Maps available for inspection at the City Hall, Washington and First Streets, Hoboken, New Jersey.

Send comments to Honorable Steve Cappiello, Mayor of Hoboken, City Hall, Washington and First Streets, Hoboken, New Jersey 07030.

New Jersey	Monmouth Beach, Borough, Monmouth County.	Atlantic Ocean	Entire shoreline within community	*16
		South Shrewsbury River	Shoreline from northern corporate limits to confluence of Pleasure Bay.	*12
		Pleasure Bay	Shoreline from confluence with South Shrewsbury River to 325 feet north of extended Gull Point Road.	*12
			Shoreline from 325 feet north of extended Gull Point Road to confluence of Manahassett Creek.	*11
		Manahassett Creek	Shoreline from confluence with Pleasure Bay to southern corporate limits.	*11

Maps available for inspection at the Municipal Building, 22 Beach Road, Monmouth Beach, New Jersey.

Send comments to Honorable F. Brent Neale, Mayor of Monmouth Beach, Municipal Building, 22 Beach Road, Monmouth Beach, New Jersey 07750.

New Jersey	Somers Point, City, Atlantic County	Great Egg Harbor Bay	Shoreline within corporate limits	*9

Maps available for inspection at the Municipal Building, Shore Road, Somers Point, New Jersey.

Send comments to Honorable Harvey L. Smith, Mayor of Somers Point, Shore Road and New Jersey Avenue, Somers Point, New Jersey 08244.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New Jersey	Stanhope, Borough, Sussex County	Musconetcong River	Downstream Corporate Limits	*711
			Approximately 180 feet downstream of Interstate Route 181 and U.S. Route 206 connector.	*731
			Howdelle Road (upstream side)	*742
			Approximately 610 feet upstream of Howdelle Road	*751
			Approximately 1,800 feet upstream of Howdelle Road	*767
			Upstream of dam located upstream of abandoned railroad crossing downstream of Waterloo Road.	*786
			Approximately 550 feet upstream of Waterloo Road	*796
			Approximately 1,070 feet upstream of Waterloo Road	*811
			Downstream of dam located downstream of Furnace Street.	*824
			Furnace Street (upstream side)	*837
			Downstream of U.S. Route 206	*883
			Upstream of Lake Musconetcong Dam	*892
			Upstream Corporate Limits	*894

Maps available for inspection at the Municipal Building, 77 Main Street, Stanhope, New Jersey.

Send comments to Honorable Michael Bender, Mayor of Stanhope, Municipal Building, 77 Main Street, Stanhope, New Jersey 07874.

New Jersey	Washington, Township, Gloucester County.	South Branch Big Timber Creek	Downstream corporate limits	*18
			Approximately 300' upstream West Church Street	*24
			Approximately 3,800' upstream of West Church Street	*25
			Upstream side of Dam No. 2	*45
			Upstream side of Dam No. 3	*68
			Upstream side of Dam No. 4	*85
			Approximately 3,460' upstream of Atlantic City Expressway D^96.	
			Upstream side of Redwood Street	*105
		Mantua Creek	Upstream of Delsea Drive	*67
			Approximately 1,580' downstream of Green Tree Road	*81
			Upstream of Fish Pond Road	*111
		Duffield Run	Downstream corporate limits	*74
			Downstream of Green Tree Road	*84
			Approximately 1,320' upstream of Kandle Lake Dam	*105

Maps available for inspection at the Municipal Building, Trainerville, New Jersey.

Send comments to Honorable Howard E. Johnson, Mayor of Washington Township, P.O. 1108, Trainerville, New Jersey 08012.

New Jersey	Woodbridge, Township, Middlesex County.	Rahway River	Entire lenght of river within community	*11
		South Branch Rahway River	Approximately 2,780' downstream of corporate limits	*12
			At downstream corporate limits	*15
			Upstream of New Dover Road	*29
			Upstream of Green Street	*39
			Upstream of Wood Avenue	*48
		Parkway Branch	At confluence with South Branch Rahway River	*28
			Downstream of Garden State Parkway	*44
		Pumpkin Patch Brook	At downstream corporate limits	*51
			Upstream of Inmans Avenue	*59
			Upstream of Inwood Avenue	*68
		Woodbridge River	Entire length of river within community	*12
		Raritan River	Entire shoreline within community	*15
		Spa Spring	At confluence with Woodbridge River	*12
			Downstream of Convey Boulevard	*15
		Heards Brook	At confluence with Woodbridge River	*12
			Upstream of Amboy Avenue	*25
			Downstream of U.S. Route 9	*42

Maps available for inspection at the Municipal Building, One Main Street, Woodbridge, New Jersey.

Send comments to Honorable Joseph DeMarion, Mayor of Woodbridge, One Main Street, Woodbridge, New Jersey 07095.

New York	The Branch, Village, Suffolk County	Northeast Branch, Nesequoque River.	Downstream Corporate Limits	*35
			Approximately 320 feet downstream of Hauppauge Road.	*43
			Upstream Corporate Limits	*48

Maps available for inspection at the residence of the Mayor, 18 Cambridge Street, Smithtown, New York.

Send comments to Honorable John Lenihan, Mayor of The Branch, 18 Cambridge Street, Smithtown, New York 11787.

New York	Palatine Bridge, Village, Montgomery County.	Mohawk River	Downstream Corporate Limits	*300
			Upstream Corporate Limits	*302

Maps available for inspection at the Village Office, Route 5, Palatine Bridge, New York.

Send comments to Honorable Anthony Malagesi, Mayor of Palatine Bridge, Box 308, Route 5, Palatine Bridge, New York 13428.

New York	Piermont, Village, Rockland County	Hudson River	Shoreline from approximately 0.18 mile north of Orchard Terrace (extended) to a point 0.84 mile southwest of Ferry Road (extended).	*10

Maps available for inspection at the Office of the Village Clerk, Village Hall, 478 Piermont Avenue, Piermont, New York.

Send comments to Honorable William Goesick, Mayor of Piermont, Village Hall, 478 Piermont Avenue, Piermont, New York 10968.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	Russell Gardens, Village, Nassau County	Russells Creek	Approximately 20 feet downstream of Cient Road	*74
			Approximately 265 feet upstream of Cient Road	*81
			Upstream Corporate Limits	*115
Maps available for inspection at the Village Hall, Six Tain Drive, Russell Gardens, New York.				
Send comments to Honorable Rosario Negri, Mayor of Russell Gardens, Village Hall, Six Tain Drive, Russell Gardens, New York 11021.				
New York	Sag Harbor, Village, Suffolk County	Sag Harbor Bay	Entire shoreline within community	*12
		Little Northwest Creek	Shoreline from confluence with Sag Harbor Bay to corporate limits.	*10
		Sag Harbor Cove	Shoreline from Bay Street extended to 400 feet south of extended Redwood Road.	*11
			Shoreline from 400 feet south of extended Redwood Road to confluence of Ligonee Brook.	*9
		Ligonee Brook	Shoreline from confluence with Sag Harbor Cove to corporate limits.	*9
Maps available for inspection at the Village Hall, Main Street, Sag Harbor, New York.				
Send comments to Honorable Fred Runco, Mayor of Sag Harbor, Village Hall, Main Street, Box 660, Sag Harbor, New York 11963.				
Ohio	(C) Sidney, Shelby County	Great Miami River	About 0.3 mile downstream of Chessie System	*924
			Just upstream of Gearhart Road	*937
			About 0.8 mile upstream of confluence of Tawawa Creek.	*946
		Tawawa Creek	About 0.2 mile upstream of Riverside Drive	*944
			Just upstrem of Civic Park Road	*956
			At upstream corporate limits	*969
Maps available for inspection at the City Manager's Office, City Hall, 201 West Popular Street, Sidney, Ohio.				
Send comments to Honorable Gary Van Fossen, Mayor, City of Sidney, City Hall, 201 West Poplar Street, Sidney, Ohio 45365.				
Oklahoma	City of Oklahoma City, Oklahoma, Canadian, Cleveland, McClain, Pottawatomie Counties.	North Canadian River	Just upstream of St. Louis and San Francisco Railroad	*1,107
			Just upstream of Westminister Road	*1,124
			Just downstream of northeast 108th Street	*1,132
			Just downstream of Midwest Boulevard	*1,148
			Just downstream of I-35	*1,174
			Just downstream of Western Avenue	*1,185
			Just upstream of Portland Avenue	*1,198
			Just upstream of Chicago Rock Island and Pacific Railroad.	*1,226
			Just upstream of U.S. Highway 66	*1,248
		North Canadian Tributary 8	Just upstream of northeast 93rd Street	*1,152
			Just upstream of northeast 75th Street	*1,173
			Just downstream of northeast 63rd Street	*1,192
		North Canadian Tributary 9	Just downstream of St. Louis and San Francisco Railway.	*1,153
			Just upstream of Post Road	*1,186
		Crutcho Creek	Just downstream of Arnold Drive	*1,205
			Just downstream of southeast 59th Street	*1,225
			Just downstream of southeast 74th Street	*1,243
		Crutcho Creek Tributary E	Just upstream of southeast 44th Street	*1,210
			Just upstream of Reserve Road	*1,228
		Crutcho Creek Tributary C	Just upstream of Twinning Drive	*1,213
			Just downstream of Epperly Drive	*1,246
		Crutcho Creek Tributary C-1	Approximately 400 feet downstream of southeast 59th Street.	*1,232
		Crutcho Creek Tributary F	Just upstream of Voorhees Road	*1,228
		Crutcho Creek Tributary G	Approximately 1,400 feet downstream of Atchison Topeka & Santa Fe Railway.	*1,240
		Cherry Creek	Just downstream of Parker Drive	*1,256
		Crooked Oak Creek	Just downstream of I-40	*1,175
			Just downstream of southeast 22nd Street	*1,194
			Just downstream of Grand Boulevard	*1,213
			Just upstream of southeast 44th Street	*1,221
			Just downstream of southeast 59th Street	*1,236
			Just upstream of Atchison Topeka & Santa Fe Railway	*1,252
			Just upstream of southeast 74th Street (I-240)	*1,265
		Crooked Oak Creek Tributary A	Approximately 500 feet upstream of Eastern Avenue	*1,239
		Lightning Creek	Just upstream of southeast 29th Street	*1,182
			Just downstream of southeast 59th Street	*1,213
			Just upstream of southeast 67th Street	*1,217
			Just upstream of I-240	*1,225
			Just downstream of Western Avenue	*1,247
			Just downstream of Walker Avenue	*1,264
		Lightning Creek Tributary-1	Just downstream of Southeast 59th Street	*1,224
			Just upstream of Santa Fe Avenue	*1,237
		Lightning Creek Tributary 3	Just upstream of South Walker	*1,231
		Lightning Creek Tributary 6	Approximately 1,500 feet upstream of confluence with Lightning Creek.	*1,243
			Just downstream of Pennsylvania Avenue	*1,267
		Twin Creek	Just upstream of Western Avenue	*1,189
			Just upstream of Pennsylvania Avenue	*1,198
			Just upstream of St. Louis San Francisco Railway	*1,210
			Just downstream of southeast 29th Street	*1,221

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Brock Creek	Just upstream of southwest 46th Street	*1,241
			Just upstream of southeast 25th Street (Commerce Street).	*1,301
			Just upstream of southwest 44th Street	*1,223
			Just downstream of southwest 59th Street	*1,238
		North Canadian River Tributary 10	Just downstream of southwest 25th Street	*1,208
			Just upstream of South Portland Avenue	*1,227
		North Canadian River Tributary 12	Approximately 3,000 feet upstream of confluence of North Canadian Tributary t3.	*1,222
		North Canadian River Tributary 13	Just upstream of southwest 29th Street	*1,228
		Campbell Creek	Just upstream of southwest 25th Street	*1,234
		Campbell Creek East Branch	Just upstream of southwest 44th Street	*1,251
		Campbell Creek Middle Branch	Just upstream of Council Road	*1,264
			Just downstream of southwest 59th Street	*1,279
		North Canadian River Tributary 14	Just upstream of West Reno Avenue	*1,216
			Just downstream of Chicago, Rock Island, and Pacific Railroad.	*1,229
			Just upstream of 10th Street	*1,254
			Just downstream of N.W. 16th Street	*1,270
		Mustang Creek	Just upstrean of southwest 15th Street	*1,238
			Just downstream of Morgan Road	*1,249
			Just downstream of Sara Road	*1,244
			Just downstream of southwest 29th Street	*1,280
			Just downstream of Czech Hall Road	*1,285
			Just downstream of Cemetery Road	*1,325
		Mustang Creek (New Channel)	Just downstream of Dam	*1,244
		Mustang Creek Tributary 1	Just downstream of southwest 29th Street	*1,241
			Just downstream of southwest 44th Street	*1,253
			Just downstream of southwest 59th Street	*1,288
		Mustang Creek Tributary 1 West Branch.	Just downstream of southwest 59th Street	*1,292
		Mustang Creek Tributary 2	Just downstream of southwest 29th Street	*1,255
			Just upstream of southwest 44th Street	*1,271
			Just upstream of Mustang Road	*1,279
			Just upstream of Czech Hall Road	*1,297
		Mustang Creek Tributary 2 South Branch.	Just downstream of southwest 59th Street	*1,297
		Mustang Creek Tributary 3	Just downstream of southwest 15th Street	*1,265
			Just upstream of Mustang Road	*1,288
			Just upstream of Czech Hall Road	*1,289
			Just downstream of Reno Avenue	*1,320
		Mustang Creek Tributary 3 East Branch.	Just upstream of Mustang Road	*1,289
		Mustang Creek Tributary 3 West Branch	Just upstream of Reno Avenue	*1,321
			Just downstream of Wildwood Drive	*1,285
		Mustang Creek Tributary 4	Just downstream of Cemetery Road	*1,306
		Shell Creek	Just upstream of I-40	*1,270
			Just upstream of northwest 23rd Street	*1,285
			Just upstream of northwest 10th Street	*1,295
			Just upstream of West Reno Avenue	*1,305
			Just downstream of southwest 15th Street	*1,318
			Just upstream of southwest 29th Street	*1,332
		Shell Creek Tributary 1	Just downstream of Cimarron Road	*1,306
		Shell Creek Tributary 2	Just downstream of Richland Road	*1,290
		Shell Creek Tributary 3	Just downstream of northwest 10th Street	*1,295
			Just upstream of Richland Road	*1,304
			Just upstream of Frisco Road	*1,331
		Shell Creek Tributary 4	Just upstream of Cimarron Road	*1,308
			Just downstream of West Reno Avenue	*1,312
		Shell Creek Tributary 4 West Branch.	Just upstream of Cimarron Road	*1,290
		Shell Creek Tributary 5	Just upstream of Richland Road	*1,313
			Just upstream of southwest 15th Street	*1,324
			Just downstream of southwest 29th Street	*1,340
		Shell Creek Tributary 5 East Branch.	Approximately 1,000 feet upstream of confluence with Shell Creek Tributary 5.	*1,316
		Shell Creek Tributary 6	Just upstream of southwest 29th Street	*1,300
		Canadian River	Just upstream of U.S. Highway 62	*1,162
		Canadian River Tributary 1	Just upstream of southwest 142th Street	*1,172
			Just upstream of southwest 134th Street	*1,183
			Just downstream of Pennsylvania Avenue	*1,186
			Just downstream of southwest 119th Street	*1,204
			Just downstream of southwest 104th Street	*1,232
		Tributary 1 of Canadian River Tributary 1.	Just upstream of southwest 149th Street	*1,175
		Tributary 2 of Canadian River Tributary 1.	Just upstream of southwest 149th Street	*1,160
		Tributary 0 of Canadian River Tributary 1.	Just upstream of Western Avenue	*1,181
			Just downstream of southwest 134th Street	*1,180
		Tributary 3 of Canadian River Tributary 1.	Just downstream of Western Avenue	*1,199
			Just downstream of southwest 119th Street	*1,205
		Tributary 4 of Canadian River Tributary 1.	Just upstream of southwest 119th Street	*1,201
		Canadian River Tributary 2	Just upstream of southwest 149th Street	*1,162
			Just downstream of southeast 134th Street	*1,185
			Just upstream of southwest 119th Street	*1,210

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Cow Creek	Just downstream of southwest 134th Street	*1,185
			Just upstream of 119th Street	*1,196
			Just downstream of southwest 104th Street	*1,209
			Just upstream of southwest 89th Street	*1,232
		Cow Creek Tributary 1	Just downstream of southwest 119th Street	*1,202
			Just downstream of southwest 104th Street	*1,232
		Cow Creek Tributary 2	Just upstream of of southwest 119th Street	*1,196
			Just upstream of Council Road	*1,237
			Just upstream of County Line road	*1,259
			Just downstream of southwest 104th Street	*1,274
		North Branch of Cow Creek Tributary 2.	Just upstream of southwest 104th Street	*1,213
			Just downstream of Council Road	*1,257
		West Branch of Cow Creek Tributary 2.	Just upstream of southwest 104th Street	*1,240
		Cow Creek Tributary 3	Just upstream of southwest 104th Street	*1,213
		Deep Fork	Just downstream of Triple X Road	*[illegible]
			Just downstream of Choctaw Road	*832
			Just downstream of Memorial Road	*1,007
			Just upstream of northeast 122nd Street	*1,017
			Just downstream of northeast 108th Street	*1,028
			Just upstream of Britton Road	*1,043
			Just upstream of Wilshire Boulevard (78th Street)	*1,052
			Just upstream of northeast 63rd Street	*1,064
			Just upstream of Eastern Avenue	*1,077
			Just upstream of Kelly Avenue	*1,088
			Just downstream of Lincoln Boulevard	*1,091
			Just upstream of Northeast Expressway	*1,111
			Just upstream of Mathern Drive	*1,136
			Just upstream of Young Boulevard	*1,152
			Just downstream of 36th Street	*1,164
			Just upstream of May Avenue	*1,181
			Just downstream of North Rolf Street	*1,215
			Just downstream of Warren Avenue	*1,238
		Deep Fork Tributary 4	Approximately 2,520 feet upstream of confluence with Deep Fork.	*1,010
		Deep Fork Tributary 5	Just downstream of Turner Turnpike	*1,011
			Just downstream of northeast 122nd Street	*1,048
		Deep Fork Tributary 6	Just upstream of Interstate Highway 35	*1,046
		Deep Fork Tributary 7	Just upstream of Sooner Road	*1,031
			Just upstream of northeast 93rd Street	*1,070
		Harrison Creek	Just downstream of Interstate Highway 35	*1,040
			Just downstream of Bryant Avenue	*1,053
			Just upstream of Eastern Avenue	*1,073
			Just downstream of Kelley Avenue	*1,105
			Just upstream of 108th Street	*1,127
		Harrison Creek Tributary 1	Approximately 1,300 feet upstream of confluence with Harrison Creek.	*1,051
		Harrison Creek Tributary 2	Just upstream of northeast 122nd Street	*1,083
			Just upstream of Eastern Avenue	*1,082
		West Branch of Harrison Creek Tributary 2.	Approximately 1,000 feet upstream of confluence with Harrison Creek Tributary 2.	*1,088
		Harrison Creek Tributary 3	Just downstream of Kelley Avenue	*1,111
		Deep Fork Tributary 9	Just upstream of Missouri-Kansas-Texas Railroad	*1,050
			Just downstream of Wilshire Boulevard (78th Street)	*1,066
		Deep Fork Tributary 10	Just upstream of Interstate Highway 35	*1,052
			Just upstream of Eastern Avenue	*1,073
			Just upstream of Wilshire Boulevard (79th Street)	*1,087
		Deep Fork Tributary 11	Approximately 1,500 feet upstream of confluence with Deep Fork.	*1,072
		Deep Fork Tributary 12	Just upstream of 80th Street	*1,087
		Deep Fork Tributary 13	Just downstream of Grand boulevard	*1,075
			Just downstream of Eastern Avenue	*1,110
			Just upstream of northeast 36th Street	*1,135
		Deep Fork Tributary13A	Just upstream of Eastern Avenue	*1,115
		Deep Fork Tributary 13B	Just upstream of 36th Street	*1,127
		Deep Fork Tributary 16	Just downstream of 55th Street	*1,092
			Just upstream of 50th Street	*1,119
			Just downstream of northeast 42nd Street	*1,121
		Deep Fork Tributary 18	Just upstream of northeast 50th Street	*1,112
		West Branch	Just downstream of Lincoln Boulevard (U.S. Highway 77).	*1,118
		Deep Fork Tributary 17	Just upstream of northeast Expressway	*1,081
			Just downstream of Santa Fe Boulevard	*1,121
			Just downstream of northwest 71st Street	*1,130
		Deep Fork Tributary 18	Just downstream [illegible] Private Road	*1,137
			Just downstream [illegible] Northwest 39th Street	*1,148
		Deep Fork Tributary 19	Just upstream of North Walker	*1,144
			Just downstream of northwest 36th Street	*1,161
		Deep Fork Tributary 20	Just upstream of Western Avenue	*1,138
		Golf Course Creek	Just upstream of North Bellview Drive	*1,153
			Just downstream of northwest 63rd Street	*1,164
		Golf Course Creek West Branch	Just upstream of Rivera Drive	*1,163
		Cloverleaf Creek	Just downstream of Pennsylvania Avenue	*1,142
			Just downstream of Bellview Drive	*1,153
		Deep Fork Tributary 22	Approximately 1,000 feet upstream of confluence with Deep Fork.	*1,159
		Chisholm Creek	Just downstream of 192nd Street	*1,052

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of 175th Street	*1,[illegible]
			Just downstream of Western Avenue	*1,086
			Just downstream of Memorial Road	*1,121
			Just downstream of 122nd Street	*1,143
			Just downstream of Pennsylvania Avenue	*1,164
		Chisholm Creek Tributary 3	Just downstream of 192nd Street	*1,067
		Chisholm Creek Tributary 4	Just downstream of Corporate Limits	*1,064
		Chisholm Creek Tributary 6	Just upstream of N.W. 164th Street	*1,065
		Chisholm Creek Tributary 8	Just upstream N.W. 150th Street	*1,098
			Just downstream of Memorial Road	*1,125
		Chisholm Creek Tributary 9	Just downstream of Hefner Road	*1,169
		Deer Creek	Just downstream of Morgan Road	*1,087
			Just downstream of Sara Road	*1,098
			Just upstream of Czech Hall Road	*1,127
			Just downstream of Frisco Road	*1,172
			Just downstream of Richland Road	*1,217
		Walnut Creek	Just upstream of N.W. 164th Street	*1,068
			Just downstream of N.W. 150th Street	*1,090
			Just downstream of N.W. 139th Street	*1,117
			Just upstream of Council Road	*1,167
			Just upstream of Hefner Road	*1,204
		Deer Creek Tributary 3	Just upstream of Northwest Expressway	*1,230
			Just downstream of N.W. 150th Street	*1,087
			Just upstream of Memorial Road	*1,125
			Just upstream of N.W. 122nd Street	*1,176
		Deer Creek Tributary 3 West Branch.	Just upstream of County Line Road	*1,152
		Deer Creek Tributary 4	Just downstream of N.W. 122nd Street	*1,167
		Deer Creek Tributary 5	Just upstream of Mustang Road	*1,121
		Deer Creek Tributary 6	Just downstream of Memorial Road	*1,134
		Deer Creek Tributary 7	Just upstream of Memorial Road	*1,125
			Just downstream of Northwest Expressway	*1,161
		Spring Creek of Deer Creek	Just downstream of Memorial Road	*1,129
			Just upstream of N.W. 122nd Street	*1,167
			Just downstream of Czech Hall Road	*1,211
		Deer Creek Tributary 8	Just downstream of Northwest Expressway	*1,149
			Just downstream of Cemetary Road	*1,185
		Deer Creek Tributary 11	Just downstream of Oak Hill Road	*1,178
		Deer Creek Tributary 12	Just downstream of Frisco Road	*1,170
		Deer Creek Tributary 13	Just upstream of Frisco Road	*1,220
		Deer Creek Tributary 14	Just upstream of Memorial Road	*1,225
		Bluff Creek	Just downstream of N.W. 192nd Street	*1,036
		Bluff Creek	Just downstream of N.W. 122nd Street	*1,095
		Bluff Creek Tributary A	Just downstream of Portland Avenue	*1,082
		Bluff Creek Tributary A–1	Just downstream of Portland Avenue	*1,089
		Dry Creek of Bluff Creek	Just downstream of of (West Bound) Memorial Road	*1,090
			Just downstream of Quail Creek Road	*1,139
		Bush Creek of Dry Creek	Just downstream of Oak Hollow Road	*1,132
		Spring Creek of Bluff Creek	Just upstream of MacArthur Boulevard	*1,108
			Just downstream of Britton Road	*1,152
			Just downstream of N.W. 63rd Street	*1,180
		Spring Creek West Branch	Just downstream of N.W. 63rd Street	*1,247
			Just downstream of MacArther Boulevard	*1,102
			Just downstream of Hefner Road	*1,195
		Silver Creek of Spring Creek	Just downstream of of Rockwell Avenue	*1,179
		Bluff Creek above Lake Hefner	Just downstream of Northwest Expressway	*1,215
			Just downstream of N.W. 63rd Street	*1,224
		Hog Creek	Just upstream of south 149th Street	*1,056
			Just upstream of southeast 119th Street	*1,072
			Just upstream of Choctaw Road	*1,086
			Just downstream of I–40 Just	*1,116
			Just upstream of Hiwassee Road	*1,149
			Just upstream of Anderson Road	*1,179
			Just downstream of Westminster Road	*1,207
		Hog Creek Tributary 1	Just upstream of Choctaw Road	*1,084
		Hog Creek Tributary 2	Just upstream of Indian Meridian Road	*1,099
			Just upstream of S.E. 104th Street	*1,122
		Hog Creek East Branch	Just downstream of Inter-State Highway 40th Street	*1,114
			Just upstream of Interstate Highway 40	*1,124
			Just upstream of S.E. 59th Street	*1,149
		Hog Creek West Branch	Just upstream of Hiwassee Road	*1,124
			Just downstream of Anderson Road	*1,139
			Just upstream of Brook Haven Road	*1,185
		Hog Creek West Branch Tributary 1.	Aproximately 400 feet upstream of confluence with Hog Creek West Branch.	*1,090
		Hog Creek West Branch Tributary 2	Just downstream of of Hiwassee Road	*1,222
		Hog Creek West Branch Tributary 3	Just downstream of southeast 74th Street	*1,182
		Hog Creek Tributary 3	Just downstream of southeast 59th Street	*1,149
			Just upstream of southeast 59th Street	*1,152
		Hog Creek Tributary 5	Just downstream of southeast 44th Street	*1,172
		Hog Creek Tributary 6	Just downstream of southeast 44th Street	*1,155

Maps available for inspection at City Clerk's Office, Room 208, Municipal Building, 200 North Walker Street, Oklahoma City, Oklahoma 73102.

Send comments to Mayor Patience Latting or Mr. Scott Johnson, City manager, Room 302, Municipal Building, 200 North Walker Street, Oklahoma City, Oklahoma 73102.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Franklin, Township, York County	North Branch Bermudian Creek	Downstream Corporate Limits	*490
			Approximately 100' upstream of Franklintown Road	*505
			Confluence of Tributary No. 2	*515
			Confluence of Tributary No. 3	*527
			Approximately 200' upstream of U. S. Route 15	*549
			Approximately 200' upstream of Century Lane	*565
		Tributary No. 1	Approximately 100' downstream of downstream Corporate Limits.	*506
			At first upstream Corporate Limits	*548
			At second upstream Corporate Limits	*752
			Approximately 50' upstream of Stoney Run Road	*586
			Approximately 100' upstream of Private Road located upstream of State Route 194.	*604
		Tributary No. 2	Confluence with North Branch Bermudian Creek	*515
			Approximately 150' upstream of U. S. Route 15	*526
		Tributary No. 3	Confluence with North Branch No 3. Bermudian Creek	*527
			Approximately 700' upstream of FranklinChurch Road	*536
		Dogwood Run	Approximately 200' downstream of downstream Corporate Limits.	*536
			Approximately 1,800' upstream of Greenhouse Road	*680
			Approximately 3,100' upstream of Greenhouse Road	*687

Maps available for inspection at the Franklin Township Building, Dillsburg, Pennsylvania.

Send comments to Honorable Ray Knaub, Chairman of the Franklin Board of Supervisors, R. D. 1, Dillsburg, Pennsylvania 17019.

Pennsylvania	Kennett, Township, Chester County	Red Clay Creek	At the downstream Corporate Limits	*191
			At the confluence of East Branch Red Clay Creek	*204
		West Branch Red Clay Creek	At the confluence with East Branch Red Clay Creek	*204
			Approximately 1,600' upstream of Winding Lane	*217
			At Kaolin Road	*236
			At Private Road located approximately 3,850' upstream of Chandler Mill Road.	*244
			At Hillendale Road brigde	*256
			At Quarry Road	*265
			At West Cypress Street	*277
			At the upstream Corporate Limits	*286
		East Branch Red Clay Creek	At the confluence with Red Clay Creek	*204
			At downstream side of Old Kennett Road	*224
			At upstream side of McFarland Road bridge	*241
			Approximately 500' upstream of Hillendale Road bridge.	*280
			At the downstream Kennett Square Corporate Limits	*283
			At the upstream Kennett Square Corporate Limits	*305
			At the upstream Corporate Limits	*324
		Tributary 1	At the downstream Corporate Limits	*209
			At Burnt Mill Road bridge	*222
			Approximately 2,500' upstream of Burnt Mill Road bridge.	*246
		Tributary 2	At the downstream Corporate Limits	*316
			At the upstream side of Hadley Mill Road bridge	*326
			Approximately 1,300' upstream of Hadley Mill Road bridge.	*341
			At the upstream of Corporate Limits	*360

Maps available for inspection at the Township Building, Kennett Square, Pennsylvania.

Send comments to Honorable J. Fendall Froning, Chairman of the Kennett Board of Supervisors, P.O. Box H, Kennett Square, Pennsylvania 19348.

Pennsylvania	Parkesburg, Borough, Chester County	Little Buck Run	Approximately 200' downstream corporate limits	*470
			Downstream corporate limits	*471
			Upstream Church Street (Route 10) first crossing	*486
			Approximately 1,400' upstream of Church Street first crossing.	*502
			Upstream CONRAIL	*520
			Approximately 750' upstream of CONRAIL	*538
			Upstream Church Street third crossing	*559
			Approximately 900' upstream of Church Street third crossing.	*575
			Upstream corporate limits	*592

Maps available for inspection at the Borough Hall, 329 West First Avenue, Parkesburg, Pennsylvania.

Send comments to Honorable Peggy Smith, Council President of Parkesburg, 329 West First Avenue, Parkesburg, Pennsylvania 19365.

Pennsylvania	Pike, Township, Berks County	Pine Creek	Downstream Corporate Limits	*352
			Lobachaville Road (upstream side)	*367
			Confluence of West Branch of Pine Creek	*408
		West Branch of Pine Creek	Confluence with Pine Creek	*409
			Downstream of Rupert School Road	*447
		Oysterdale Creek	Downstream Corporate Limits	*358
			Downstream of Rohrbach Road	*375

Maps available for inspection at the residence of the Pike Township Secretary, Ms. Shirley Rhoads, R. D. 2, Oley, Pennsylvania.

Send comments to Honorable Rudolph S. Rhoads, Chairman of the Pike Board of Supervisors, R. D. 2, Oley, Pennsylvania 19547.

Pennsylvania	Selinsgrove, Borough, Snyder County	Susquehanna River	Downstream Corporate Limits (extended)	*434
			Upstream of CONRAIL crossing	*436

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Penns Creek	Upstream Corporate Limits (extended)	*436
			Downstream of downstream Corporate Limits	*433
			Upstream of upstream Corporate Limits	*434
		South Tributary	Downstream of Market Street at downstream Corporate Limits.	*433
			Upstream of Sandhill Road	*437
			Approximately 200 feet upstream of Abandoned Private Bridge.	*440
			Downstream of West Sassafrass Street	*451

Maps available for inspection at the Borough Office, Selinsgrove, Pennsylvania.

Send comments to Honorable Tobias Cordek, Town Manager of Selinsgrove, P.O. Box 34, Selinsgrove, Pennsylvania 17870.

Pennsylvania	Springfield, Township Erie County	Turkey Creek	State Line Road (upstream side)	*613
			Childs Road (upstream side) (downstream crossing)	*627
			Childs Road (downstream side (upstream crossing)	*648
			Norfolk and Western Railway (upstream side)	*665
			Interstate Route 90 (upstream side)	*686
		Tributary A to Turkey Creek	AT confluence with Turkey Creek	*668
			U.S. Route 20 (upstream side)	*680
			Interstate Route 90 (upstream side)	*701
		Raccoon Creek	Approximately 950 feet downstream of Conrail	*620
			Elmwood Road (upstream side)	*659
			U.S. Route 20 (upstream side)	*682
			Approximately 700 feet upstream of Sanford Road	*724
		Tributary A to Raccoon Creek	Confluence with Raccoon Creek	*668
			Nye Road (upstream side)	*671
			Approximately 2,900 feet upstream of Nye Road	*682
		Tributary B to Raccoon Creek	At confluence with Raccoon Creek	*682
			Approximately 4,300 feet upstream of Coon Creek Road.	*708
		Tributary C to Raccoon Creek	At confluence with Tributary B to Raccoon Creek	*682
			Approximately 3,400 feet upstream of confluence with Tributary B to Raccoon Creek.	*698
		Crooked Creek	At confluence with Lake Erie	*577
			Conrail (upstream side)	*627
			Norfolk & Western Railway (upstream side)	*661
			U.S. Route 20 (upstream side)	*676
			Approximately 1,600 feet upstream of Tubbs Road	*720
		Tributary A to Crooked Creek	At confluence with Crooked Creek	*588
			Approximately 3,700 feet upstream of confluence with Crooked Creek.	*616
		Tributary B to Crooked Creek	AT confluence with Crooked Creek	*662
			Academy Street (upstream side)	*716
			Approximately 300 feet upstream of Main Street	*733

Maps available for inspection at the Springfield Town House, Route 20 and Nye Road, West Springfield, Pennsylvania.

Send comments to Honorable Howard Weldon, Chairman of the Springfield Board of Supervisors, Sanford Road, West Springfield, Pennsylvania.

Pennsylvania	Union, Township Snyder County	Susquehanna River	Corporate Limits (extended)	*426
			Confluence with Silver Creek	*422
			Confluence with Penns Creek	*430
		Penns Creek	Confluence with the Susquehanna River	*430
			Upstream of U.S. Routes 11 and 15	*433
		Middle Creek	Confluence with Penns Creek Upstream of dam	*433
			Upstream of dam	*441
			At Corporate Limits	*441
		Silver Creek	Confluence with the Susquehanna River	*422
			Approximately 70 feet upstream of Legislative Route 54018 (downstream crossing).	*462
			Approximately 80 feet upstream of Legislative Route 54018 (upstream crossing).	*529
			Approximately 60 feet upstream of Legislative Route 54071.	*554
			Approximately 100 feet downstream of Township Route 357 (extended).	*557

Maps available for inspection at the residence of the Union Township Secretary, R.D. 1, Port Trevorton, Pennsylvania.

Send comments to Honorable Thomas Herrold, Chairman of the Union Board of Supervisors, R.D. 1, Port Trevorton, Pennsylvania 17864.

Pennsylvania	York Springs, Borough Adams County	Tributary 1	Approximately 850' downstream of Latimore Street	*595
			Upstream Latimore Street	*609
			Upstream Corporate Limits	*607
		Tributary 2	Confluence with Tributary 1	*606
			Downstream Main Street	*618
			Upstream Corporate Limits	*636
		Gardner Run	Downstream Corporate Limits	*586
			Approximately 200' upstream Corporate Limits	*586

Maps available for inspection at the Borough Office, York Springs, Pennsylvania.

Send comments to Honorable Charles Kutz, Council President of York Springs, Borough Office, York Springs, Pennsylvania 17372.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Tennessee	City of Dickson, Dickson County	Jones Creek	Just upstream of confluence of Jones Creek Tributary	*716
			Just upstream of Spring Street	*741
		Jones Creek Tributary	Just upstream of North Main Street (State Route 48)	*717
	Maps available for inspection at inspection at City Hall, 202 South Main Street, Dickson, Tennessee 37055.			
	Send comments to Mayor J. Buckner, City Hall, 202 South Main Street, Dickson, Tennessee 37055.			
Texas	City of Montgomery, Montgomery County	Town Creek	300 feet upstream of FM 149	*242
			Just downstream of the confluence with Town Creek Tributary.	*243
		Stewart Creek North	Just downstream of FM 149	*257
	Maps available for inspection at City Hall, Montogmery, Texas 77356.			
	Send comments to Mayor Alex L. Brown or Barbra Watson, City Secretary, City Hall, P.O. Box 708, Montgomery, Texas 77356.			
Virginia	Saxis, Town, Accomack County	Pocomoke Sound	Entire shoreline within community	*10
	Maps available for inspection at the Town Office in the Fire House, Saxis, Virginia.			
	Send comments to Honorable Paul Martin, Major of Saxis, P.O. Box 43, Saxis, Virginia 23427.			
West Virginia	Chester, City, Hancock County	Ohio River	Downstream Corporate Limits	*667
			Upstream Corporate Limits	*669
	Maps available for inspection at the City Building, 375 Carolina Avenue, Chester, West Virginia.			
	Send comments to Honorable William Scarry, Mayor of Chester, 375 Carolina Avenue, Chester, West Virginia 26034.			
West Virginia	Wellsburg, City, Brooke County	Ohio River	Downstream corporate limits	*656
			Upstream corporate limits	*667
	Maps available for inspection at the City Hall, Seventh Street, Wellsburg, West Virginia.			
	Send comments to Honorable Anthony J. Cipriani, Mayor of Wellsburg, City Hall, Seventh Street, Wellsburg, West Virginia 26070.			
Wisconsin	(C) Lake Geneva, Walworth County	White River	About 200 feet upstream of State Highway 12	*836
			About 100 feet downstream of Chicago and North Western Railroad.	*849
			Just upstream of Lake Shore Drive	*858
			Just downstream of Lake Geneva Spillway	*859
		Lake Geneva	Shoreline	*865
	Maps available for inspection at the City Hall, 626 Geneva Street, Lake Geneva, Wisconsin.			
	Send comments to the Honorable Richard Folman, Mayor, City of Lake Geneva, City Hall, 626 Geneva Street, Lake Geneva, Wisconsin 53147.			
Wisconsin	(V) Lannon, Waukesha County	Fox River	About 2,900 feet downstream of Good Hope Road	*838
			About 900 feet downstream of Custer Lane	*855
			About 2,000 feet upstream of Custer Lane	*868
	Maps available for inspection at the Village Hall, Box 225, Lannon, Wisconsin.			
	Send comments to the Honorable Nicholas Custero, Village President, Village of Lannon, Village Hall, Box 225, Lannon, Wisconsin 53046.			
Wisconsin	(C) Monroe, Greene County	Honey Creek	About 2,100 feet downstream of 4th Avenue, West	*996
			Just upstream of Meadow Green Court	*1,010
			Just upstream of 18th Avenue	*1,036
			About 1,200 feet upstream of 20th Avenue	*1,043
		Thunder Creek	Mouth at Honey Creek	*993
			Just upstream of 11th Street	*1,004
			About 1,300 feet upstream of State Highway 69	*1,015
	Maps available for inspection at the Office of the City Clerk, City Hall, Box 200, Monroe, Wisconsin.			
	Send comments to the Honorable Cliff Reese, Mayor, City of Monroe, City Hall, Box 200, Monroe, Wisconsin 53566.			
Wisconsin	(C) Waupun, Dodge and Fond du Lac Counties	Harris Creek	Just upstream of Newton Avenue	*866
			Just downstream of Main Street	*869
		South Branch of the Rock River	About 0.3 mile downstream of Fond du Lac Avenue	*872
			Just upstream of River Road	*877
			Just upstream of Brandon Street	*884
			About 1.0 mile upstream of Brandon Street	*886
	Maps available for inspection at the Office of the Flood Plain Administrator, City Hall, 201 East Main Street, Waupun, Wisconsin.			
	Send comments to the Honorable Harold Nummerder, Mayor, City of Waupun, City Hall, 201 East Main Street, Waupun, Wisconsin 53963.			

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 40014128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: February 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 0277 Filed 3-9-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-112; RM-4023]

TV Broadcast Station in Charleston, S.C.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign UHF-TV Channel 24 to Charleston, South Carolina, as its fifth TV channel in response to a request from BK Enterprises.

DATES: Comments must be filed on or before April 12, 1982, and reply comments must be filed on or before April 26, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip Cross, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: February 16, 1982.

Released: February 26, 1982.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Charleston, South Carolina); BC Docket No. 82-112, RM-4023.

1. The Commission herein considers a petition for rule making filed by B.K. Enterprises ("petitioner"), which seeks the assignment of UHF television Channel 24 to Charleston, South Carolina. Petitioner expressed an interest in applying for the channel, if assigned.

2. Charleston (population 69,510), seat of Charleston County (population 277,308),[1] is located on the Atlantic coast, 130 kilometers (80 miles) northeast of Savannah, Georgia. Charleston has four VHF television channel assignments, 2, 4, 5, and *7, of which three are commercial and one is noncommercial educational. This would be the first UHF channel assignment in Charleston.

3. According to the petitioner, substantial growth in Charleston and Charleston County evidences the need for expanded television selection. Petitioner states that the Trident Complex, a three county area—Berkeley, Charleston and Dorchester—that comprise the Charleston Metropolitan Market, has grown 28 percent between 1970 and 1980, from 336,040 to 430,301. It is projected to grow to over 500,000 by 1990. Petitioner indicates that the part of Charleston ranks 12th among U.S. ports in dollar value of cargo. Rapid growth of the area in recent years is said to be sparked by geographic location, favorable business climate, ample labor force and growth-minded government. Petitioner states that assignment of UHF Channel 24 to Charleston would serve to provide an important additional choice of programming.

4. In view of the foregoing, the Commission believes it appropriate to propose amending the Television Table of Assignments, § 73.606(b) of the Commission's Rules, with regard to the city of Charleston, South Carolina, as follows:

City	Channel No.	
	Present	Proposed
Charleston, S.C.	2+, 4, 5+, and *7-.	2+, 4, 5+, *7-, and 24.

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before April 12, 1982, and reply comments on or before April 26, 1982.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules. *See, Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Philip Cross, Broadcast Bureau, (202) 632-5414. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file

[1] Population figures are taken from the 1980 U.S. Census.

comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-6291 Filed 3-9-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-114; RM-3961]

FM Broadcast Station in Yellville, Arkansas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of FM Channel 249A to Yellville, Arkansas, in response to a petition filed by Adams Broadcasting Company. The assignment could provide a first FM service to Yellville.

DATES: Comments must be filed on or before April 12, 1982, and reply comments on or before April 26, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.302(b), Table of Assignments, FM Broadcast Stations, (Yellville, Arkansas); BC Docket No. 82-114, RM-3961.

Adopted: February 18, 1982.

Released: February 26, 1982.

1. The Commission herein considers a petition for rule making,[1] filed by Adams Broadcasting Company ("petitioner"), proposing the assignment of Channel 249A to Yellville, Arkansas, as that community's first FM assignment. Petitioner stated that it will apply for the channel, if assigned. No oppositions to the proposal were received.

2. Yellville (population 1,044),[2] seat of Marion County (population 11,333), is located approximately 176 kilometers (110 miles) north of Little Rock, Arkansas. It is served locally by daytime only AM Station KCTT.

3. According to the petitioner, Yellville and the Marion County area is one of the fastest growing areas in the United States, and it is ranked second in the State of Arkansas, in 1978, in terms of growth. Petitioner also states that agriculture and farming are the primary industries in Yellville, with a variety of new industries steadily locating in the city and surrounding area. Tourism is becoming increasingly important to the economy of Yellville (and Marion County) inasmuch as Yellville is only minutes from several lakes. Petitioner notes that the financial institutions serving Yellville have net assets of more than 110 million dollars. Finally, the petitioner claims that the proposed assignment would bring a first fulltime service to the community and would sustain current growth trends, paving the way for even larger expansion in the near future.

4. In view of the fact that the proposed FM assignment could provide a first FM broadcast service to Yellville, the Commission proposes to amend the FM Table of Assignments (Section 73.202(b) of the Rules) as follows:

City	Channel No.	
	Present	Proposed
Yellville, Ark.		249A.

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before April 12, 1982, and reply comments on or before April 26, 1982.

[1] Public Notice of the petition was given on August 17, 1981, Report No. 1305.

[2] Population figures are taken from the 1980 U.S. Census.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, §73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the notice of proposed rule making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counter proposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions by parties of this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-6292 Filed 3-9-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-113; RM-3972]

FM Broadcast Station in Marshall, Minnesota; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of a second FM channel to Marshall, Minnesota, in response to a petition filed by Donnell, Inc.

DATES: Comments must be filed on or before April 12, 1982, and reply comments on or before April 26, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Marshall, Minnesota); BC Docket No. 82-113, RM-3972.

Adopted: February 18, 1982.

Released: February 26, 1982.

1. A petition for rule making,[1] was filed by Donnell, Inc. "petitioner") proposing the assignment of Channel 296A to Marshall, Minnesota, as that community's second FM assignment. Petitioner stated its intent to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Marshall (population 9,886),[2] seat of Lyon County (population 24,273) is located approximately 216 kilometers (135 miles) west-southwest of St. Paul, Minnesota. It is served locally by fulltime AM Station KMHL and Station KMHL-FM (Channel 261A) under common ownership.

3. In support of its proposal, the petitioner contends that Marshall is governed by a mayor-council form of government, and that it is the home of Southwest State University. It is a center of manufacturing and retail trade, and has a number of local industries. As the shopping and business center for a large area, Marshall has stores and professional offices of every type, in addition to its banks and savings associations.

[1] Public Notice of the petition was given on September 8, 1981, Report No. 1306.

[2] Population figures are taken from the 1980 U.S. Census.

4. Petitioner did not submit a preclusion study, and is requested to do so in comments to this proposal, listing communities over 1,000 population and without local aural service precluded by the proposed assignment. In addition a howing that alternate channels are available to those communities should be submitted.

5. In view of the foregoing information and the fact that the assignment would provide a second FM broadcast service to Marshall, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, with regard to the community of Marshall, Minnesota, as follows:

City	Channel No.	
	Present	Proposed
Marshall, Minn.	261A	261A and 296A.

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before April 12, 1982, and reply comments on or before April 26, 1982.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792. However, members of the pubic should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a

message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignments is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceedings or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-6666 Filed 3-9-82; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 47, No. 47
Wednesday, March 10, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

Application of Airpac, Inc. for Certificate Authority Under Subpart Q

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (82–3–32).

SUMMARY: The Board is proposing to award a certificate of public convenience and necessity to Airpac, Inc., authorizing it to engage in the interstate and overseas air transportation of persons, and the interstate and overseas air transportation of property and mail between all points in the United States, its territories and possessions, except that its authority to conduct all-cargo operations within Alaska or Hawaii shall be limited to the points listed in its application. The Board is also tentatively deciding that Airpac is fit, willing, and able to provide service.

DATES: Objections: All interested persons having objections to the Board's issuing the proposed certificate or to its tentative finding of fitness shall file, and serve upon all persons listed below no later than March 31, 1982, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 40345, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on Airpac, Inc.; the mayor and airport manager of each city to which the pleading refers; and the Alaska Transportation Commission.

FOR FURTHER INFORMATION CONTACT: Gerard N. Boller, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–5330.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–3–32 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82–3–32 to that address.

By the Civil Aeronautics Board, March 4, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-6674 Filed 3-9-82; 8:45 am]

BILLING CODE 6320-01-M

[Order To Show Cause 82–3–25]

Order Proposing To Cancel Permit of Thompson Travel Ltd.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause 82–3–35.

SUMMARY: The Board has decided to cancel the section 402 permit of Thompson Travel Limited, which authorized it to engage in the indirect air transportation of persons and their accompanying baggage between any point or points in the United States and any point or points outside the United States. This action is being taken at the request of Thompson Travel who indicated that it does not intend to use its permit.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this action be taken, as described in the order cited above, shall no later than March 29, 1982, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 40504, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to Thompson Travel Limited, Embassy of the United Kingdom, and the Departments of State and Transportation. A statement of objections must cite the docket number and must include a summary of testimony, statistical data or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to the disapproval of the President, make final the Board's tentative findings and conclusions and cancel the section 402 permit of Thomson Travel Limited.

TO GET A COPY OF THE COMPLETE ORDER: Request it from the Civil Aeronautics Board, Distribution Section, Room, 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington Metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Laurie S. Schaffer, (202) 673–5035, Legal Division, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20418.

By the Civil Aeronautics Board, March 4, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-6675 Filed 3-9-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee on Population Statistics; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, as amended by Pub. L. 94–409), Notice is hereby given that the Census Advisory Committee on Population Statistics will convene on April 2, 1982, at 9:15 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee on Population Statistics advises the Director, Bureau of the Census, on current programs and on plans for the decennial census of population.

The Committee is compose of six members appointed by the Secretary of Commerce, and nine members designated by the President of the Population Association of America from the membership of that Association.

The agenda for the meeting, which is scheduled to adjourn at 4:15 p.m., is: (1) Introductory remarks by the Director of the Bureau of the Census, including staff changes and program and budget developments; (2) 1980 census update; (3) outlook for redesign of demographic surveys; (4) potential improvements in geographic aspects of the census; (5) race and Spanish statistics during the 1980's; (6) overview of population projections; (7) international demographic programs; (8) publicity and outreach program for 1980 census data products; (9) discussion of additional material sent to Committee Members; (10) Committee recommendations; and (11) agenda for the next meeting.

The meeting will be open to the public, and a brief period will be set aside for public comments and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Dr. Campbell Gibson, Room 2266, Federal Building 3, Suitland, Maryland. (Mailing address: Washington, D.C. 20233). Telephone (301) 763–1408.

Dated: March 4, 1982.

Bruce Chapman,

Director, Bureau of the Census.

[FR Doc. 82-6423 Filed 3-9-82; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

Certain Scissors and Shears From Brazil; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of countervailing duty order.

SUMMARY: On July 30, 1981, the Department of Commerce published in the **Federal Register** a notice of the preliminary results of its administrative review of the countervailing duty order on certain scissors and shears from Brazil. The review is based upon information for the period March 1, 1979 through February 29, 1980. The notice stated that the Department had preliminarily determined the amount of the net subsidy to be 3.5 percent *ad valorem*. Interested parties were invited to comment on these prelimianry results. After analysis of all comments received, the Department determines that countervailing duties in the amount of 2.03 percent *ad valorem* will be assessed on all entries of this merchandise exported from December 7, 1979 through February 29, 1980. The Department further determines that a cash deposit of estimated countervailing duties of 2.79 percent *ad valorem* will be required on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results.

EFFECTIVE DATE: March 10, 1982.

FOR FURTHER INFORMATION CONTACT: Edward F. Haley, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–1787).

SUPPLEMENTARY INFORMATION:

Procedural Background

On July 30, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 38942) a notice of "Preliminary Results of Administrative Review of Countervailing Duty Order" on certain scissors and shears from Brazil (T.D. 77–64, 42 FR 8634). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are scissors and shears valued over $1.75 per dozen imported directly or indirectly from Brazil. These imports are currently classifiable under item numbers 650.90 and 650.92 of the Tariff Schedules of the United States.

There are two known exporters of this merchandise to the United States. This review is based on information from one of these exporters, ZIVI S.A.–Cutelaria, which represented approximately 85% of Brazilian exports, for the period March 1, 1979 through February 29, 1980. The review is limited to the benefits recieved under programs for preferential financing for exports and income tax exemptions for export earnings.

Analysis of Comments Received

Interested parties were invited to comment on our preliminary results. The Department received comments only from the Brazilian government.

The Brazilian government submitted several comments pertaining to the Department's methodology for cauculating the value of the net subsidy.

1. *Comment:* The Brazilian government argues that benefits derived from its program for income tax exemption on export earnings should be allocated over total revenues rather than export revenues. Under this program, exporters receive an exemption from Brazilian income tax at the end of the fiscal year based on the ratio of export to total sales, provided that the firm has made an overall profit on total production. The Brazilian government argues that, because the determining factor in a firm's eligibility for this benefit is its overall profitability for a given year, the benefit accrues to the operations of the whole firm and not just to exports. Further, an exemption calculated on this basis cannot directly affect the price of the exported product; it can only have a general effect on all prices, both domestic and export. Thus, by allocating the benefits only to export revenues, the Department overstates the value of the subsidy, and allocating the tax savings over total revenues would more accurately reflect the true value of the benefit conferred.

Determination: When a firm must export to be eligible for benefits under a subsidy program, and when the amount of the benefit received is tied directly or indirectly to the firm's level of exorts, that program is an export subsidy. The fact that the firm as a whole must be profitable in order to benefit from this program does not detract from the program's basic function as an export subsidy. The possibility that a firm may not be profitable in a particular year and, due to this uncertainty, could not specifically apply benefits from this program to its export prices is not relevant to our determination. Therefore, the Department will continue to allocate the benefits under this program over the firm's export revenues instead of total revenues.

2. *Comment:* Under the income tax exemption program, the benefit from the tax savings earned during a particular tax year can not be calculated by the firm until its books are closed, sometime during the following year, when the firm can determine with finality its income for the tax year. Therefore, the numerator in the calculation of this benefit contained in the preliminary results, which ascribes the full value of the tax savings to the year in which it is earned, is incorrect. The Department should recognize this delay and choose as the appropriate numerator either the tax savings adjusted to reflect the loss in the value of the subsidy resulting from its deferred receipt, or alternatively, use the tax savings received during the review period (i.e., that earned during the previous year and calculated during the review period, when the company closed its books).

Determination: The Department agrees that we should use the tax savings received during the period under review. It is our general policy to allocate benefits over the period in which they are received. In the past, it has been our practice to consider benefits from any income tax-related subsidy program as received in the same year in which they were earned. In other words, tax benefits calculated on the basis of company performance in a given fiscal year were allocated over the same period. However, in light of the comments submitted by the Brazilian government, we now recognize that the period over which the benefits are earned is not necessarily coincident with the period in which the benefit is received and used by the firm. Therefore, in such situations of uncertain benefits, tax savings earned as a result of company performance in a given fiscal year will now be allocated over the fiscal year in which they are received.

Although this is entirely consistent with our policies and principles, it represents a change in our method of allocation of many income tax-related subsidies to one year or another. In those cases where an order is outstanding, this change in methodology will necessitate a transitional reallocation of benefits. For example, in the instant case, because the tax savings received during this period of review have already been countervailed as though they were received in the period of review, we will not countervail the same benefits again for entries during the current period of review. Benefits earned as a result of company performance during the current period of review will be allocated over exports for the next administrative review. Therefore, for the purpose of this annual review, no countervailing duties will be actually assessed for this program for the period for which benefits have already been countervailed. The estimated countervailing duty deposit rate on future entries does not include estimated benefits under this program based on the new method of calculation, because export information needed to calculate those benefits was not available.

With the adoption of the above procedure, the alternate proposal of adjusting the tax savings to reflect the loss in value of the subsidy resulting from its deferred receipt becomes moot.

3. *Comment:* The Department overstates the benefit conferred by working-capital loans received through the preferential financing program by assuming that the entire interest savings from these short-term loans accrues during the review period in which the loans are granted, even if the loan occurs late in the period and can only affect entries after the date of the loan. In allocating loans contracted for during the current period of review, the Department should prorate the benefit throughout the duration of a loan, to the exent that such loans extend into a subsequent period of review. Loans from an earlier period which extend into the time covered by the current review should be allocated on the same basis. The Department's current method anticipates the actual receipt of the benefit and does not fully allow for factors, such as increased or decreased exports, which will affect the ultimate *ad valorem* value of the benefits.

Determination: Normally in a program such as this, where access to preferential loans is based upon a fixed percentage of the previous year's exports, there would be little difference between the method the Department employed in its preliminary notice and that proposed by the Brazilian government. However, when each year there is substantial growth in the value of exports over the previous year, the administrative convenience of allocating the whole loan to the period of review in which it was granted can create a distortion and overstate the *ad valorem* value of the benefit. Consequently, the Department agrees with the Brazilian government and is adopting the method proposed.

4. *Comment:* The Department calculated the deposit rate of estimated countervailing duties for future entries based upon the maximum level of utilization possible under the preferential financing program rather than the on the actual level of utilization during the period of review. By doing so, the Department makes the unrealistic assumptions that all loans made under this program have a duration of one full year and that there will be no growth in the value of exports over the previous year. This procedure fails to recognize that the causes for underutilization of the program during the period of review are inherent in the way the program operates and that the actual level of utilization during the review period is a reasonably accurate projection of future utilization.

Determination: The Department chose the method used in the preliminary results believing that the underutilization during the period of review was an anomaly. We departed from the normal procedure of calculating estimated duties by projecting results from the review period because we believed that such rates would mislead importers and lead to unexpected future liability. We believed that the maximum level of utilization possible under this program would more accurately reflect the results of future reviews.

Upon re-examination of information from the original investigations in this and other Brazilian countervailing duty cases and using corrected information for the annual review of this case, we have discovered that the apparent underutilization of this program is not unusual. Consequently, we have determined to use the usual method of projecting results from the review period when calculating the estimated countervailing duty deposit rate.

Final Results of the Review

As a result of our analysis of the comments received, we determine that during the period of review the net subsidy under the preferential financing program was 2.03 percent *ad valorem*, and that the net subsidy under the income tax exemption program has already been countervailed. Therefore, the net subsidy for assessment purposes conferred by the Government of Brazil on the export of certain scissors and shears is 2.03 percent *ad valorem*. With respect to the estimated duty deposit rate, based solely on estimated benefits under the preferential financing program, and taking into account the legal changes in the preferential financing program discussed in our notice of preliminary results of review, we have determined the appropriate rate for deposit of estimated duties to be 2.79 percent *ad valorem* on future entries.

The U.S. Customs Service will assess countervailing duties of 2.03 percent of the f.o.b. invoice price on all unliquidated entries of certain scissors and shears exported from Brazil during the period December 7, 1979 through February 29, 1980. All unliquidated entries exported from Brazil before December 7, 1979 will be liquidated according to instructions in earlier **Federal Register** notices dated June 21, 1977 (42 FR 31449), July 3, 1979 (44 FR 38839), September 28, 1979 (44 FR 55625) and February 28, 1980 (45 FR 12413).

Further, as provided by section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act"), the Customs Service will collect a cash deposit of estimated countervailing duties of 2.79 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results.

This deposit requirement will remain in effect until publication of the final results of the next administrative review. The Department intends to begin the next review immediately after the publication of this determination. The amount of countervailing duties to be imposed on entries made from March 1980 through February 1981, will be determined in the next administrative review. Consequently, the suspension of liquidation previously ordered will continue for all shipments exported from Brazil on or after March 1, 1980.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1))

and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Gary N. Horlick,
Deputy Assistant Secretary for Import Administration.
March 4, 1982.

[FR Doc. 82-6366 Filed 3-9-82; 8:45 am]
BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigations; Certain Stainless Steel Products From Spain

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigations.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating three countervailing duty investigations to determine whether producers, manufacturers, or exporters in Spain of hot-rolled stainless steel bar, cold-formed stainless steel bar and stainless steel wire rod receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigations proceed normally, we will make our preliminary determinations on or before May 13, 1982.

EFFECTIVE DATE: March 10, 1982.

FOR FURTHER INFORMATION CONTACT: Holly Kuga, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, (202) 377-0171.

SUPPLEMENTARY INFORMATION:

Petition

On February 17, 1982, we received a petition from counsel for Al Tech Specialty Steel Corporation, Armco Stainless Steel Division, Carpenter Technology Corporation, Colt Industries, Inc. (Crucible Materials Group), Cyclops Corporation, Guteri Special Steel Corporation, Joslyn Stainless Steels, and Republic Steel Corporation, on behalf of the U.S. industry producing stainless steel bar and stainless steel wire rod. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26) the petition alleges that producers, manufacturers, or exporters in Spain of stainless steel bar and wire rod receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the "Act").

Since Spain is not a "country under the Agreement", section 303 of the Act applies to these investigations. In addition, the merchandise is dutiable; therefore, an injury determination is not required.

Initiation of Investigations

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of countervailing duty investigations and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on hot-rolled stainless steel bar, cold-formed stainless steel bar and stainless steel wire rod, and have found that the petition meets these requirements.

Therefore, we are initiating countervailing duty investigations to determine whether manufacturers, producers, or exporters in Spain of hot-rolled stainless steel bar, cold-formed stainless steel bar and stainless steel wire rod, as listed in the "Scope of the Investigations" section of this notice, receive bounties or grants. If our investigations proceed normally, we will make our preliminary determinations by May 13, 1982.

Scope of the Investigations

The products covered by each respective investigation are: stainless steel wire rod, hot-rolled stainless steel bar and cold-formed stainless steel bar. For a further description of these products, see Appendix A to this notice.

Allegations of Bounties or Grants

The petition alleges that producers, manufacturers, or exporters in Spain of hot-rolled stainless steel bar, cold-formed stainless steel bar and stainless steel wire rod receive the following benefits that constitute bounties or grants: excessive remission of indirect taxes; preferential loans and loan guarantees; preferential export financing programs; and capital grants.

Gary N. Horlick,
Deputy Assistant Secretary for Import Administration.
March 4, 1982.

Appendix A

For purpose of these investigations, the products are described below:

1. The term *"stainless steel wire rod"* covers a coiled, semi-finished, hot-rolled stainless steel product of solid cross section, approximately round in cross section, not under 0.20 inches nor over 0.74 inch in a diameter, not tempered, not treated, and not partly manufactured as currently provided for in item 607.26 of the *Tariff Schedules of the United States (TSUS)* or if tempered, treated, or partly manufactured as provided for in item 607.43 of the TSUS.

2. The term *"hot-rolled stainless steel bars"* covers hot-rolled stainless steel products of solid section having cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons or octagons, not coated or plated with metal as currently provided for in item 606.9005 of the *Tariff Schedules of the United States Annotated.*

3. The term *"cold-formed stainless steel bars"* covers cold-formed stainless steel products of solid section having cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons or octagons, not coated or plated with metal as currently provided for in item 606.9010 of the *Tariff Schedules of the United States Annotated.*

Stainless steel is an alloy steel which contains by weight less than 1 percent of carbon and over 11.5 percent of chromium. Iron must predominate by weight and the alloy is malleable as first cast. Alloy steel is defined as a steel which contains one or more of the following elements in the quantity, by weight, respectively indicated:

over 1.65 percent of manganese, or
over 0.25 percent of phosphorus, or
over 0.35 percent of sulphur, or
over 0.60 percent of silicon, or
over 0.60 percent of copper, or
over 0.30 percent of aluminum, or
over 0.20 percent of chromium, or
over 0.30 percent of cobalt, or
over 0.35 percent of lead, or
over 0.50 percent of nickel, or
over 0.30 percent of tungsten, or
over 0.10 percent of any other metallic element.

[FR Doc. 82-6350 Filed 3-9-82; 8:45 am]
BILLING CODE 3510-25-M

[A-427-030]

Large Power Transformers From France; Final Results of Administrative Review of Antidumping Finding

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On June 25, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on large power transformers from France. This review covered the only known exporter from France to the United States, Alsthom-Atlantique, S.A. (formerly Alsthom-Unelec), and the period October 1, 1972 through June 30, 1980.

Interested parties were given an opportunity to submit written comments or request a hearing on these preliminary results. At the request of the respondent the Department held a hearing on July 30, 1981.

After our analysis of the respondent's and a domestic interested party's pre-hearing briefs, comments at the hearing, and post-hearing briefs, our preliminary results of administrative review remain unchanged.

EFFECTIVE DATE: March 10, 1982.

FOR FURTHER INFORMATION CONTACT: Sid Briggs or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-5346/5289).

SUPPLEMENTARY INFORMATION:

Background

On June 14, 1972, a dumping finding with respect to large power transformers from France was published in the **Federal Register** as Treasury Decision 72-160 (37 FR 11772). On June 25, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 32928) the preliminary results of its administrative review of the finding. The Department has now completed its administrative review of that finding.

Scope of the Review

Imports covered by this review are shipments of large power transformers, that is, all types of transformers rated 10,000 KVA (kilovolt-amperes) or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electric power. The term "transformers" includes, but is not limited to, shunt reactors, autotransformers, rectifier transformers, and power rectifier transformers. Not included are rectifier-transformer units, commonly known as rectiformers, if the entire assembly is imported in the same shipment and entered on the same entry, and the assembly has been ordered and invoiced as a unit, without a separate price for the transformer portion of the assembly. Such transformers are currently classifiable under items 682.0765 and 682.0775 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of one exporter of large power transformers from France to the United States, Alsthom-Atlantique S.A. (formerly Alsthom-Unelec).

Alsthom-Atlantique sells to the United States through its subsidiary, Cogenel, Inc. This review covers the period October 1, 1972 through June 30, 1980.

Analysis of the Respondent's Comments

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. At the request of the respondent, Alsthom-Atlantique, and its subsidiary, Cogenel, Inc., the Department held a hearing on July 30, 1981.

(1) *Comment:* The respondent argued that the Department has the legal power to correct the scope of Treasury's determination of sales at less than fair value, which in the respondent's view erroneously included shunt reactors.

Position

Each stage of the statutory proceeding maintains the scope passed on from the previous stage. In this case, shunt reactors were included in the class or kind of merchandise described in the petition. Shunt reactors were subject to Treasury's investigation and covered by Treasury's final determination of sales at LTFV, the Tariff Commission's injury determination, and the antidumping finding. The scope of the antidumping finding may not be changed now during the section 751 administrative review since it is clear that shunt reactors were included in the subject class or kind of merchandise throughout the administrative proceeding.

(2) *Comment:* The respondent further contends that shunt reactors should not be subject to the finding because an article cannot be within the class or kind of merchandise covered by a finding unless there is evidence that the article was in fact exported during the period of investigation and was sold at less than fair value.

Position

We determine that shunt reactors are clearly within the stated definition of the class or kind of merchandise. Not all elements of a class or kind of merchandise must be exported to the U.S. during the period of investigation in order for such elements to be within the scope of the finding or order. Similarly, not all elements must be sold at less than fair value.

(3) *Comment:* The respondent contends that since there have been no shipments of French shunt reactors to the U.S. for the past dozen years, the Department has no information on sales of shunt reactors on which to base a cash deposit rate. The Department cannot use the fair value margin, since that was based on an investigation which did not examine exports of French shunt reactors. Should the Department include shunt reactors, the cash deposit rate should, therefore, be zero.

Position

Since the results of the fair value investigation were applicable to all items within the class or kind of merchandise, including shunt reactors, it is appropriate for the Department to use those dumping margins of 24 percent as best information available to establish a cash deposit rate of estimated duties. In general, the Department applies a single rate to a class or kind of merchandise.

Final Results of the Review

As a result of our analysis of these comments, the final results of our review are the same as those presented in our preliminary results of review. We therefore determine to postpone appraisement of shipments entered during the period October 1, 1972 through June 30, 1980, pending receipt of more specific information from the exporter regarding merchandise sold in the home market.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of 24 percent shall be required on all shipments of large power transformers, including shunt reactors, from France entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of June 1982.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Leonard M. Shambon,
Director, Office of Compliance.
March 3, 1982.

[FR Doc. 82-6411 Filed 3-9-82; 8:45 am]
BILLING CODE 3510-25-M

Minority Business Development Agency

Financial Assistance Application Announcement

The Minority Business Development Agency announces that it is seeking applications under its program to operate six San Francisco Region projects for a twelve month period. The aggregate total costs of the projects are $1,340,000.

Funding Instrument: It is anticipated that the funding instruments as defined by the Federal Grant and Cooperative

Agreement Act of 1977 will be Cooperative Agreements.

Program Descriptions: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible minority clients in areas related to the establishment and operation of businesses. These proposed projects are specifically designed to provide business information counseling, financial packaging assistance, and assistance in identifying and exploiting business opportunities and new/or expanding markets.

One Cooperative Agreement Under the Business Development Center (BDC) Program to operate a pilot project for a 12-month period beginning September 1, 1982 in the Sacramento SMSA. This pilot project will operate at a cost not to exceed $250,000 and the project I.D. Number is 09-10-82011-01. Closing Date: 25 May 1982.

One Cooperative Agreement Under the Business Development Center (BDC) Program to operate a pilot project for a 12-month period beginning September 1, 1982 in the Stockton SMSA. This pilot project will operate at a cost not to exceed $170,000 and the project I.D. Number is 09-10-82016-01. Closing Date 25 May 1982.

One Cooperative Agreement Under the Business Development Center (BDC) Program to operate a pilot project for a 12-month period beginning September 1, 1982 in the Vallejo SMSA. This pilot project will operate at a cost not to exceed $170,000 and the project I.D. Number is 09-10-82022-01. Closing Date: 25 May 1982.

One Cooperative Agreement Under the Business Development Center (BDC) Program to operate a pilot project for a 12-month period beginning October 1, 1982 in the San Jose SMSA. This pilot project will operate at a cost not to exceed $410,000 and the project I. D. Number is 09-10-82008-01. Closing Date: 22 June 1982.

One Cooperative Agreement Under the Business Development Center (BDC) Program to operate a pilot project for a 12-month period beginning November 1, 1982 in the Seattle SMSA. This pilot project will operate at a cost not to exceed $170,000 and the project I. D. Number is 10-10-82013-01. Closing Date: 22 June 1982.

One Cooperative Agreement Under the Business Development Center (BDC) Program to operate a pilot project for a 12-month period beginning October 1, 1982 in the Salinas SMSA. This pilot project will operate at a cost not to exceed $170,000 I.D. Number is 09-10-82015-01. Closing Date: 22 June 1982.

An Application kit is available upon written request.

The pre-application conference to assist all interested applicants will be held at 450 Golden Gate Avenue, San Francisco, California 94102, Room 13029, (13th Floor) on April 21, 1982 at 10:00 A.M.

MBDA offers competitive Cooperative Agreements to all individuals, non-profit organizations, for-profit firms, local and state governments, federally recognized American Indian Tribes and educational institutions to perform the functions of a BDC which are:

—To provide managment and technical assistance to qualified minority firms,

—To develop and maintain an inventory of existing minority businesses and prospective entrepreneurs, and

—To provide brokering service that will foster and promote new business ownership, business expansions, market opportunities and new capital sources.

Legal services are excluded.

Applicants shall be required to contribute at least 10% of the total program costs through non-federal funds. A fee for services for assistance provided clients will be charged. The fee for services will be 10% for firms with gross sales of $500,000 or less and 25% for the firms with gross sales of over $500,000. Cost sharing contributions can be in the form of cash contributions, fee for services, or in-kind contributions.

The program is subject to OMB Circular A-95 requirements.

Proposals are to be mailed to the following address: Minority Business Development Agency, U.S. Department of Commerce, San Francisco Regional Office, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102.

For further information contact Mr. Mikel Cook at 415/556-6733.

(11.800 Minority Business Development (Catalog of Federal Domestic Assistance))

Dated: February 22, 1982.

R. V. Romero,

Regional Director.

[FR Doc. 82-6426 Filed 3-9-82; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Application for Marine Mammal Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name Southwest Fisheries Center, NOAA, (P77Z), National Marine Fisheries Service

b. Address P.O. Box 271, La Jolla, California 92038.

2. Type of Permit Scientific Research.

3. Name and Number of Animals:

California sea lion (Zalophus californianus), 150

Harbor seal (Phoca vitulina), 150

4. Type of Take: Capture, tag, and release.

5. Location of Activity: Channel Islands, California.

6. Period of Activity: 3 years.

Concurrent with the publication of this notice in the Federal Register, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, on or before April 9, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: March 8, 1982.

Richard B. Roe,

Acting Deputy Director Office of Marine Mammals and Endangered Species National Marine Fisheries Service.

[FR Doc. 82-6436 Filed 3-9-82; 8:45 am]

BILLING CODE 3510-22-M

Proposed Estuarine Sanctuary, Hudson River, New York; Intent To Conduct Scoping Meeting and Prepare Environmental Impact Statement

AGENCY: Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), intends to conduct a scoping meeting on March 18, 1982, and prepare a draft environmental impact statement (DEIS) on a proposed estuarine sanctuary on the Hudson River in New York, in accordance with the provisions of the National Environmental Policy Act (NEPA) and section 315 of the Coastal Zone Management Act (CZMA). Designation of the sanctuary would protect and manage approximately 3,000 acres of important estuarine habitat at four sites along the Hudson River from southern most Piermont March (290 acres), Iona Island (240 acres), Tivoli Bay (875 acres) to the northernmost site of Stockport Marshes (1,855 acres). The distances between sites range from 20 miles to 50 miles.

Discussion

The estuarine sanctuary proposal is currently being developed in consultation with the State of New York, Federal agencies, and affected public groups. The proposal, as a federally assisted action, has been reviewed by the New York State Department of Environmental Conservation, Office of Natural Resources, in accordance with OMB Circular A-95.

The Office of Coastal Zone Management will hold a scoping meeting on March 18, 1982, at 10:00 a.m. in the Navy Conference Room at Page Building #1, Office of Coastal Zone Management, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235. Interested parties who wish to submit suggestions, comments, or substantive information concerning the scope or content of this proposed environmental impact statement are invited to attend. Parties who wish to respond in writing should do so by March 29, 1982. The DEIS will be prepared in compliance with the Council on Environmental Quality (CEQ) regulations (FR. Vol. 43 November 29, 1982).

Comments may be submitted in writing or by telephone to Dr. Nancy Foster, Deputy Director, Sanctuary Programs Office, Office of Coastal Zone Management, NOAA; 3300 Whitehaven Street, NW., Washington, D.C. 20235, (202)634-4236.

FOR FURTHER INFORMATION CONTACT: Dr. Richard J. Podgorny, Regional Sanctuaries Projects Manager, Sanctuary Programs Office, Office of Coastal Zone Management, (202) 634-4236.

(Federal Domestic Assistance Catalog No. 11.420 Coastal Zone Management Program Estuarine Sanctuary)

Dated: March 2, 1982.

William Matuszeski,

Acting Assistant Administrator for Coastal Zone Management.

[FR Doc. 82-6360 Filed 3-9-82; 8:45 am]

BILLING CODE 3510-08-M

St. Thomas, Virgin Islands; Announcement of Removal of the Southeastern St. Thomas Site From the List of Active Candidates

AGENCY: Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), Commerce.

SUMMARY: On October 31, 1979 (44 FR 62552), NOAA placed an area off southeastern St. Thomas on its List of Active Candidates (LAC) for further evaluation as a potential national marine sanctuary. In April 1981 a draft environmental impact statement was distributed and a public hearing was held on June 3, 1981. Draft regulations were published June 30, 1981 (FR Vol. 46, No. 125). The proposed St. Thomas marine sanctuary is not being removed from the LAC. The sanctuary anticipated cooperative management between the Virgin Islands and NOAA and delays in the promulgation of regulations by the Virgin Islands for activities within the proposed area have prevented NOAA from committing funds for designation and management in FY 1982. Funding levels for fiscal year 1983 are not sufficient to provide for designation and management of the site. A final environmental impact statement will not be prepared.

FOR FURTHER INFORMATION CONTACT: Edward Lindelof, Sancturay Project Manager, (202) 634-4236.

ADDRESS: Sanctuary Programs Office, Office of Coastal Zone Management, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

SUPPLEMENTARY INFORMATION: Title III of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1431-1434 (the Act), authorizes the Secretary of Commerce, with Presidential approval, to designate ocean waters as marine sanctuaries to protect their distinctive conservation, recreational, ecological, or esthetic values.

Placement on the List of Active Candidates is a procedural step in the evaluation of any area as a potential marine sanctuary. The southeastern St. Thomas site was made an active candidate on October 31, 1979 (44 FR 62552). A draft environmental impact statement (DEIS) on the proposal was distributed in April 1981 and a public hearing on the DEIS was held June 3, 1981.

The St. Thomas site is now being removed from the LAC. This project always has been considered a cooperative one between the Virgin Islands and NOAA with NOAA relying upon local regulations to control activities within the area of the proposed sanctuary. Delays in the promulgation of these regulations and the uncertainty of their eventual implemention have precluded timely progress on the project.

The decision to remove the St. Thomas site from active candidate status will not preclude reconsideration of this or other Virgin Islands sites in the future. NOAA is initiating a new process for evaluating potential marine sanctuaries by establishing a Site Evaluation List (SEL). Eight regional resource evaluation teams (including a Caribbean team) will identify, analyze, and recommend sites suitable for sanctuary consideration. Information on the St. Thomas site will be given to the regional team. If the area receives a high ranking relative to other sites within the Caribbean region, the team can recommend in essence that southeastern St. Thomas be reconsidered. Under these circumstances and if the Virgin Islands is interested and funding allows, the site can be reactivated.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: March 2, 1982.

William Matuszeski,

Acting Assistant Administrator for Coastal Zone Management.

[FR Doc. 82-6361 Filed 3-9-82; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

February 26, 1982.

The USAF Scientific Advisory Board will hold its Spring General Meeting at Peterson Air Force Base, Colorado

during the period April 28–29, 1982. The meeting will start at 8:30 a.m. and adjourn at 5:00 p.m. on April 28 and start at 8:00 a.m. and adjourn at 2:15 p.m. on April 29.

The Board will receive classified briefings on the Air Defense of North America. The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-6423 Filed 3-9-82; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

[Case No. DW–002]

Energy Conservation Program for Consumer Products; Petition for Waiver of Dishwasher Test Procedures From General Electric Co.

Correction

In FR Doc. 82–5594 appearing on page 8813, in the issue of Tuesday, March 2, 1982, make the following changes.

1. On page 8814, second column, the "Note." indicated material deleted from the document was replaced with "XXXX's." Material deleted from the document was actually replaced with asterisks.

2. On page 8814, third column, second complete paragraph, asterisks should have been added to the end of the paragraph to indicate deleted material.

BILLING CODE 1505-01-M

Federal Energy Regulatory Commission

[Docket No. RE81–129–000]

City of Anchorage, Alaska; Application for Exemption

March 4, 1982.

Take notice that City of Anchorage, Alaska (Anchorage) filed an application on September 29, 1981 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act, Order No. 48 [44 FR 56667, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1982, information on the costs of providing electric service as specified in Subparts B, C, D, and E.

In its application for exemption Anchorage states that it should not be required to file the specified data for the following reasons:

1. Anchorage is a publicly owned and controlled electric utility. The Assembly of the Municipality of Anchorage is a body elected substantially from electric utility ratepayers and therefore exerts public review and control over the rate setting.

2. Anchorage is a small municipal utility which was not jurisdictionally within PURPA until 1980 having sold slightly in excess of the PURPA jurisdictional limit in the calendar year 1979 (522 million KWH).

3. Anchorage is physically and technically incapable of collecting the above data based upon the 1981 calendar year of operation. Anchorage's limited staff has been physically unable to write specifications, go to bid, purchase, install and operate the necessary metering and accounting system to adequately collect the above data.

4. Anchorage utilizes gas turbines for base load generation and peaks with these same units. Anchorage is not connected to a large power grid and is basically restricted in its generation options.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before April 26, 1982. Within that 45 day period such person must also serve a copy of such comments on: Mr. Thomas R. Stahr, City of Anchorage Municipal Light and Power Department, 1200 East First Avenue, Anchorage, Alaska 99501.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6440 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5973–000]

City of Arcata; Application for Preliminary Permit

March 8, 1982.

Take notice that The City of Arcata (Applicant) filed on February 12, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5973 to be known as the Jacoby Creek Water Power Project located on Jacoby Creek in Humboldt, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. R. Robinson, City Manager, City of Arcata, 736 F Street, Arcata, California 95521.

Project Description—The proposed project would consist of: (1) A 3-foot high, 15-foot long diversion structure; (2) a 36-inch-diameter, 6000-foot long conduit; (3) a 30-inch diamter, 4000-foot long penstock; (4) a powerhouse containing a turbine-generating unit with a rated capacity of 400 kW; and (5) a 200-yard long 12-kV transmission line connecting to an existing Pacific Gas and Electric Line. The Applicant estimates a 1.2 million kWh annual energy production.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, and geological, environmental, and economic feasibility studies. The cost of the fore mentioned activities along with preparation of an environmental impact report, obtaining agreements with Federal, State, and local agencies, and preparing a license application is estimated by the Applicant to be $60,000. Power would be sold to Pacific Gas and Electric Company.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 14, 1982, the competing application itself; or a notice of intent to file such an application [see: 18 CFR 4.30 et eq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 14, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than July 14, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have not comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 14, 1982.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. 825 North Capitol Street, NE., A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6446 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-3-32-000 (PGA82-2)]

Colorado Interstate Gas Co.; Proposed Changes in Rates Under Purchased Gas Adjustment Clause Provision

March 5, 1982.

Take notice that Colorado Interstate Gas Company, on February 24, 1982, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1. The proposed changes would increase the commodity rate under CIG's jurisdictional rate schedules by 6.26 cents per Mcf and decrease the demand rate by 15.00 cents per Mcf.

The filing was made to enable CIG to reflect in its rates, pursuant to Section 21 of CIG's FERC Gas Tariff, Original Volume No. 1, net increased purchased gas costs it will experience as of April 1, 1982, as the result of rate filings made by certain of its pipeline suppliers.

CIG requests that the instant filing be made effective on April 1, 1982.

Copies of the filing have been served upon the Company's jurisdictional customers and other interested persons, including public bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6460 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-3-31-000 (PGA82-2, IPR82-2)]

Arkansas Louisiana Gas Co.; Filing of Revised Tariff Sheets Reflecting Tariff Adjustment

March 5, 1982.

Take notice that on March 1, 1982 Arkansas Louisiana Gas Company (Arkla) tendered for filing 29th Revised Sheet No. 4 and 5th Revised Sheet No. 4A to its FERC Gas Tariff First Revised Volume No. 1, Rate Schedule No. G–2, to become effective April 1, 1982.

Arkla states that the purpose of 29th Revised Sheet No. 4 is to (1) reflect the cost of purchased gas for the six months period commencing April 1, 1982, (2) recover the accumulated deferred gas costs as of December 31, 1981, and (3) set forth the reduced PGA and estimated incremental pricing surcharges to be billed during the PGA period as contained on 5th Revised Sheet No. 4A effective April 1, 1982.

Arkla also states that copies of the revised tariff sheet and supporting data are being mailed to Arkla's jurisdictional customers and other interested parties affected by this tariff change.

Any person desiring to be heard or to protest said filing should file a Petition To Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6442 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-31-001 (PGA82-2, IPR82-2)]

Arkansas Louisiana Gas Co.; Filing of Revised Tariff Sheets Reflecting Tariff Adjustment

March 5, 1982.

Take notice that on March 1, 1982 Arkansas Louisiana Gas Company (Arkla) tendered for filing 27th Revised Sheet No. 185 and 5th Revised Sheet No. 185A to its FERC Gas Tariff Original Volume No. 3, Rate Schedule No. X–26, to become effective April 1, 1982.

Arkla states that the purpose of 27th Revised Sheet No. 185 is to (1) reflect the cost of purchased gas for the six months period commencing April 1, 1982, (2) recover the accumulated deferred gas costs as of December 31, 1981, and (3) set forth the reduced PGA and estimated incremental pricing surcharges to be billed during the PGA period as contained on 5th Revised Sheet No. 185A effective April 1, 1982.

Arkla also states that copies of the revised tariff sheet and supporting data are being mailed to Arkla's jurisdictional customers and other interested parties affected by this tariff change.

Any person desiring to be heard or to protest said filing should file a Petition To Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8, and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition To Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6448 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-577-000]

Arkansas Power & Light Co.; Order Denying Motion To Reject

Issued: March 3, 1982.

On December 30, 1981, the Cities of Campbell and Thayer, Missouri (Cities) filed a motion requesting the Commission to modify its August 28, 1981 order accepting and suspending the rate increase in this proceeding and to reject the filing as to Cities because of an asserted *Mobile-Sierra* provision in Cities' contracts with Arkansas Power & Light Company. An answer was filed by AP&L on January 15, 1982. On January 29, 1982, the Commission issued a notice of intent to act on the motion.

The Cities' motion to reject is based on the following purported *Mobile-Sierra* [1] language in their contracts:

Article III—Rate

Each month Customer will pay to the Company for all energy delivered during the preceding month an amount determined in accordance with the Company's R–1 rate as now on file with the Federal Power Commission or as same may by amended from time to time.

* * * * *

Article VII—Regulatory Approval

This agreement is entered into subject to the approval of regulatory agencies having jurisdiction over such company matters. In addition, the rate, terms and conditions stated in this contract are subject to change at any time subject to the approval of government regulatory bodies having jurisdiction.

Cities contend that there is no language in the contracts "specifically providing for a change in rates by a unilateral rate filing." AP&L counters that the plain contract language clearly provides for a rate change "at any time" and notes that the Cities did not object to the Section 205 filing of AP&L's previous rate increase under these contracts in Docket No. ER76–489. AP&L further contends that contract language in other cases which Cities cite in support of their position is distinguishable from the contract language here.

We find that the contract language, while not specifically using the word "filing," does appear to provide for unilateral rate changes upon a filing by the utility. Article III of Campbell's contract [2] clearly states that the rate on file "may be amended from time to time," without qualification. Likewise, Article VII states that the rate, terms and conditions are "subject to change at any time." While such change is subject to the approval of the Commission, as are all unilateral changes made under Section 205, the change is not required to be made by the Commission. This fact distinguishes the language of other contracts relied on by Cities in their motion because those contracts provided for changes or amendments to be made by the regulatory authority having jurisdiction or conditioned upon its orders.[3] In contrast, the contract language at issue here provides for party-initiated changes which will be subject to the approval of the Commission. This procedure is completely consistent with that to a unilateral rate filing under Section 205(e) in which a rate change is made, "if at all," [4] by the filing utility, subject to approval in whole or in part by the Commission. The Courts have consistently distinguished between party-made and Commission-made rates in this context.[5]

Nor is there any contract language here to indicate that the Commission's approval must precede the effectiveness (subject to refund) of the rate. The term "subject to" is used twice in Article VII within the same sentence. It is clear that the statement "the rates, terms and conditions stated in this contract are subject to change at any time" does not mean that such change must occur prior to the effectiveness of the contract rate, terms and conditions. Such a reading would be absurd. There is likewise no reason to believe that the use of the phrase "subject to the approval of government regulatory bodies having jurisdiction" requires that such approval precede the effectiveness of the rate change, subject to refund, pending final Commission approval in whole or in part.

We note that, even if we had found the contract language to be ambiguous, which we have not, the question would not be settled. Cities did not object on contractual grounds to AP&L's Section 205 filing when it was made on June 30, 1981 or when the rate was placed into effect, subject to refund, by Commission order issued on August 28, 1981. Likewise, Cities did not object to the unilateral change of their rates in AP&L's prior rate case in Docket No. ER78–489. These facts might bear upon the intent of the parties or might demonstrate that acquiescence in or modification of the contract to provide for unilateral filings has occurred, even if a different interpretation of the contract were accepted. Further, the courts have found that:

> [s]trict construction against the drafter of a tariff is not justified if it ignores an alternate, reasonable construction which conforms to practical application and the intent of drafters or if other rules of tariff construction outweigh the ambiquity rule. *Coca-Cola v. Atchison, T & SF RY Co.*, 608 F.2d 213 at 221 (5th Cir. 1979).

Here, we find that the plain language of the contract provides for a rate change procedure that is entirely consistant with the procedure for a unilateral rate filing under Section 205, where a rate change becomes effective, subject to refund, pending approval by the Commission. We therefore find that AP&L's contract with the Cities provides for unilateral rate changes under Section 205(e), which changes become effective subject to refund if suspended, and we shall deny Cities' motion to reject the filing.

The Commission orders:

(A) Cities' motion to reject is hereby denied.

(B) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6457 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[1] United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956); FPC v. Sierra Pacific Power Co., 350 U.S. 348 (1956).

[2] Cities state at p. 3 that Articles III and VII of Campbell's contract are virtually identical to Articles IV and VIII of Thayer's contract. Therefore we include Thayer's contract in our discussion of Campbell's.

[3] *See* "Missouri Cities' Motion to Reject Rate Increase" at p. 6; "Answer of Arkansas Power & Light Company" at pp. 4–8.

[4] *Cf. Mobile, supra*, 350 U.S. 332 at 342.

[5] *Id.;* City of Oglesby v. FERC, 610 F.2d 907 at 910, 912 (D.C. Cir. 1979).

[Project No. 5394–000]

Capital Development Co.; Application for Preliminary Permit

March 8, 1982.

Take notice that Capital Development Company (Applicant) filed on September 22, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5394 to be known as the Summit Creek Water Power Project located on Summit Creek, within Gifford Pinchot National Forest in Lewis County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. John Terpstra, Capital Development Company, #4 South Sound Center, P.O. Box 3467, Lacey, Washington 98503.

Project Description—The proposed project would consist of: (1) A concrete diversion structure 10 feet high at Elevation 2080 feet; (2) 1.4 miles of diversion conduit; (3) 0.6 mile of penstock; (4) a powerhouse containing a turbine generator with 21 MW capacity and 69,985 MWh annual energy output; and (5) 8 miles of transmission line. The proposed market for project-generated energy is the Lewis County Public Utility District.

Purposed Scope of Studies Under Permit.—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a term of 36 months, during which engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estimate cost of permit activities is $150,000.

Competing Applications.—This application was filed as a competing application to Hydro Resources Company's application for Project No. 5320 filed on September 4, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR § 4.30 et. seq. or § 4.101 et. seq. (1981), as appropriate].

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have not comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB, at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6460 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-162-000]

Central Illinois Public Service Co.; Application

March 4, 1982.

Take notice that on January 27, 1981, Central Illinois Public Service Company (Applicant), 607 East Adams Street, Springfield, Illinois 62701, filed in Docket No. CP82–162–000 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.222 of the Commission's Regulations for a certificate of public convenience and necessity for blanket authorization to transport, sell, and assign natural gas in interstate commerce as if Applicant were an intrastate pipeline as defined in Subparts C, D, and E of Part 284 of the Commission's Regulations under the Natural Gas Policy Act of 1978 as well as § 284.203 thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it received approximately 29,900,000,000 Mcf of natural gas within or at the boundaries of Illinois during the 12-month period ending December 1981. It is asserted that during the same period Applicant received approximately 30,850,000,000 Mcf of natural gas from all sources. It is also submitted that all of Applicant's existing operations are conducted in Illinois and that Applicant currently holds an exemption pursuant to Section 1(c) of the Natural Gas Act.

Applicant asserts that it would comply with the conditions set forth in § 284.222(e) of the Commission's Regulations.

Applicant elects to petition the Commission for rate approval of each transaction entered into under this blanket authorization in accordance with § 284.123(b)(2) of the Commission's Regulations. Therefore, Applicant does not propose to set forth any rate methodology in connection with such transactions at this time.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 26, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a

proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6458 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5598-000]

East Coast Engineering; Application for License

March 8, 1982.

Take notice that East Coast Engineering (Applicant) filed on November 3, 1981, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for construction and operation of a water power project to be known as Milton Leather Board Project No. 5598. The project would be located on the Salmon Falls River in Strafford County, New Hampshire and York County, Maine. Correspondence with the Applicant should be directed to: Mr. James Rea, East Coast Engineering, P.O. Box 25, Barrington, New Hampshire 03825.

Project Description—The proposed project would consist of: (1) The existing stone masonry and concrete gravity dam, 350 feet long and varying in height from 2 feet to 37 feet; (2) a reservoir having a surface of 3.7 acres, a storage capacity of 60 acre-feet, and a normal pool elevation of 398.5 feet; (3) a new headgate structure; (4) a new 7-foot diameter steel penstock 600 feet long; (5) a new powerhouse with 2 units having a total generating capacity of 600 kW; (6) a new 34.5-kV transmission line 310 feet long; and (7) appurtenant facilities. The Applicant estimates the average annual energy production would be 3,600,000 kWh.

Purpose of Project—All project would be sold to the Public Service Company of New Hampshire.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before May 13, 1982, either the competing application itself [See 18 CFR 4.33(a) and (d)] or a notice of intent [See 18 CFR 4.33(b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 13, 1982.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6447 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-33-000]

El Paso Natural Gas Co.; Proposed Change in Rates Pursuant to Purchased Gas Cost Adjustments

March 5, 1982.

Take notice that on March 1, 1982, El Paso Natural Gas Company ("El Paso") tendered for filing a notice of a change in rates:

(i) For jurisdictional gas service rendered to customers served by its interstate gas transmission system under rate schedules affected by and subject to Section 19, Purchased Gas Cost Adjustment Provision ("PGAC"), contained in the General Terms and Conditions applicable to El Paso's FERC Gas Tariff, Original Volume No. 1, which Section 19 also applies to certain special rate schedules contained in El Paso's FERC Gas Tariff, Third Revised Volume No. 2 and Original Volume No. 2A;

(ii) Attributable to a special surcharge to recover El Paso's estimated additional purchased gas costs for the period retroactive to December 1, 1978 incurred as a result of Federal Energy Regulatory Commission ("Commission") Order Nos. 93 and 93–A issued July 16, 1980 and April 24, 1981, respectively, at Docket No. RM80–33, as provided in El Paso's Petition for Waiver of Regulations Under the Natural Gas Act and Relief From Currently Effective Tariff Provisions filed February 3, 1982 at Docket No. RP82–41;

(iii) Attributable to El Paso's implementation, with respect to certain of its pipeline production, of the December 23, 1981 decision by the United States Court of Appeals for the Fifth Circuit in Mid-Louisiana Gas Co. v. FERC, No 80–3804, hereinafter referred to as Mid-Louisiana;[1] and

(iv) Attributable to advance payments, transportation costs, and gas well royalty and production tax costs pursuant to the adjustment mechanisms designed to track such costs provide for in El Paso's Stipulation and Agreement dated July 10, 1981 and filed July 13, 1981 at Docket Nos. RP79–12 (Further Extension), CP80–367, and CI80–311 through CI80–320, as approved by Commision order dated August 28, 1981.

El Paso states that the total net change in El Paso's currently effective rates attributable to the PGAC, tracking mechanism adjustments, Order Nos. 93 and 93-A special surcharge and the implementation of the Mid-Louisiana decision is an increase of 62.39¢ per Mcf.

To implement the instant notice of change in rates, El Paso filed the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A:[1]

Tariff volume	Tariff sheet
Original Volume No. 1.	First Substitute Thirtieth Revised Sheet No. 9–B, Fifth Revised Sheet No. 15B.
Third Revised Volume No. 2.	First Substitute Twenty-first Revised Sheet No. 1–D.
Original Volume No. 2A.	First Substitute Twenty-second Revised Sheet No. 1C.

El Paso has included in the filing the implementation of the Mid-Louisiana decision with respect to certain categories of its pipeline production. In this connection, the filing includes both a prospective annualized component and a surcharge designed to recover prices permitted by the Natural Gas Policy Act of 1978 for certain categories of gas produced by El Paso from and after December 1, 1978. Because of the magnitude of said retroactive dollar amount, El Paso proposed a surcharge for the twelve (12) month period commencing April 1, 1982. However, in order to implement a surcharge for a twelve (12) month period, El Paso requested the Commission to waive Section 154.38(d)(4) of its Regulations Under the Natural Gas Act and grant relief from section 19.7 of El Paso's FERC Gas Tariff, Original Volume No. 1.

If, upon review of the instant filing during the thirty (30) day notice period, the Commission is unable to make a final determination that the resale rates reflected on the proposed tariff sheets are just and reasonable because of questions regarding El Paso's right to implement the Mid-Louisiana decision with respect to certain categories of its pipeline-produced gas or regarding the manner of said implementation, El Paso requested the Commission to suspend El Paso's proposed tariff sheets for the minimum suspension period so that the rates may go into effect April 1, 1982, subject to refund, pending final Commission determination of said questions.

El Paso also requested that waiver be granted of all applicable rules, orders and regulations of the Commission, as may be deemed necessary, to permit the effectiveness of the tendered revised tariff sheets on April 1, 1982. However, in the event the Fifth Circuit Court has not issued a mandate in Mid-Louisiana by April 1, 1982, and only in that event, El Paso requested that the Commission accept for filing and make effective April 1, 1982, the substitute revised tariff sheets tendered which reflect the net change in El Paso's currently effective rates without the Mid-Louisiana decision. If the substitute sheets are thus made effective and the Fifth Circuit subsequently issues a mandate in the proceeding, El Paso proposes that the primary tariff sheets be made effective upon issuance of the mandate, and requests all waivers necessary to accomplish the post-April 1, 1982, effectiveness.

El Paso states that copies of the filing and the enclosures thereto have been served upon all interstate pipeline system customers of El Paso and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before Mar. 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.0) and the Regulations Under the Natural Gas Act (18 CFR 157.10). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6448 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[1] El Paso also tendered, in addition to the above revised tariff sheets, certain substitute revised tariff sheets as discussed below.

[Project No. 5941-000]

Energenics Systems, Inc.; Application for Preliminary Permit

March 8, 1982.

Take notice that Energenics Systems, Inc. (Applicant) filed on February 2, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5941 to be known as the Ohio River Lock and Dam No. 52 located on the Ohio River in Massac County, Illinois and McCracken County, Kentucky. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas H. Clarke, Jr., President, Energenics Systems, Inc., 1727 Q Street, N.W., Washington, D.C. 20009.

Project Description—The proposed project would consist of: (1) A proposed powerhouse with generating units having a total installed capacity of 34.5 MW; (2) proposed 69-kV transmission lines; and (3) appurtenant facilities. The Applicant proposes to utilize an existing dam owned by the U.S. Corps of Engineers, and the Applicant estimates the average annual energy output would be 302 GWH.

Proposed Scope of Studies under Permit.—A preliminary permit, if issued, does not authorize construction. Energenics seeks issuance of a preliminary permit for a period of 36 months. During this time the Applicant proposes to study the engineering, economic and environmental feasibility of the project, in addition to consulting Federal, State, and local agencies to determine the environmental effects of the project. Applicant estimates the cost of the studies would be $50,000.

Competing Applications.—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 14, 1982, the competing application itself [see 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 14, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR

4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 14, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6449 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5905-000]

Energenics Systems, Inc.; Application for Preliminary Permit

March 8, 1982.

Take notice that Energenics Systems, Inc. (Applicant) filed on January 21, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5905 to be known as the Conchas Hydro Project located on the Canadian River in San Miguel County, New Mexico. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas H. Clarke, Jr., President, Energenics Systems, Inc., 1727 Q Street, N.W., Washington, D.C. 20009

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Conchas Dam and Reservoir and would consist of: (1) A new steel penstock, 200 feet long and of 48-inch diameter, exending from an existing penstock (to be unplugged) in the main dam; (2) a second new penstock extending from a bifurcation to be installed in the irrigation outlet works in another section of the dam; (3) two new powerhouses containing turbine-generator units having a total rated capacity of 2,000 kW; (4) two tailraces; (5) a new transmission line, approximately 35 miles long; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 3,000,000 kWh. Project energy would be sold to the Plains Electric Generation and Transmission Cooperative or to nearby public institutions or industrial users.

Purposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates cost of the studies under the permit would be $35,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 14, 1982, the competing application itself [see 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 14, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 14, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6450 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-48-000]

Florida Gas Transmission Co.; Notice of Proposed Cancellation of Tariff Sheets

March 8, 1982.

Take notice that on March 1, 1982, Florida Gas Transmission Company (FGT), P.O. Box 44, Winter Park, Florida 32790, tendered for filing cancellation of the following tariff sheets in its F.E.R.C. Gas Tariff:

Original Volume No. 1

Original Sheet No. 22–O
Substitute Original Sheet No. 22–P

The aforementioned tariff sheets contain Section 20 of the General Terms and Conditions of FGT's F.E.R.C. Gas Tariff, Original Volume No. 1. Section 20 is entitled "Louisiana First Use Tax Provision" and sets forth the manner in which FGT shall collect such tax in its jurisdictional resale rates.

On June 29, 1981, the Commission issued an order directing pipelines to cease collection of the First Use Tax from their customers; terminating tracking of the First Use Tax; and requiring the filing of revised rate tariff sheets. The order further required the filing of revised tariff sheets to eliminate from tariffs the current adjustment for the First Use Tax. On July 13, 1981, FGT filed a revised rate tariff sheet in compliance with the June 29th order of the Commission. On August 4, 1981 the Commission accepted FGT's revised rate tariff sheet. The instant filing will eliminate the Louisiana First Use Tax Provision from FGT's FERC Gas Tariff, Original Volume No. 1.

FGT states that a copy of its filing has been served on all customers receiving gas under its FERC Gas Tariff, Original Volume No. 1 and interested State Commissions and is being posted.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules should be filed on or before March 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6451 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5989-000]

City of Jersey City; Application for Preliminary Permit

March 8, 1982.

Take notice that the City of Jersey City (Applicant) filed on February 16, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5989 to be known as the Boonton Project located on Boonton Reservoir, Rockaway River in Parsippany Troy Hills, Morris County, New Jersey. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. William R. Goble, Division of Engineering, 575 State Highway No. 440, Jersey City, New Jersey 07305.

Project Description—The proposed project would consist of: (1) an existing 30-foot high 3,250-foot long earthen dike at the south end of the Boonton Reservoir and a 2,150-foot long 120-foot high masonry gravity dam at the north end of the Reservoir; (2) Boonton Reservoir with a surface area of 794.1 acres at elevation 307.25 feet M.S.L.; (3) a new 285-kW turbine-generator located within a water treatment plant located 800 feet downstream from the masonry dam; (4) 0.2-mile long 220 V transmission line; and (5) appurtenant facilities. The project would produce up to 1,576,000 kWh annually to be sold to the local utility. The project is owned by the Applicant.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be up to $30,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 14, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 14, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR § 4.30 et seq. or § 4.10 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protest, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 14, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", on "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc.82-6445 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5785-000]

Keith Roberts Parkinson; Application for Preliminary Permit

March 8, 1982.

Take notice that Keith Roberts Parkinson (Applicant) filed on December 17, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5785 to be known

as the Teton River Project located on the Teton River in Fremont County Idaho. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Keith Roberts Parkinson, Route 1, Box 135–6, St. Anthony, Idaho 83445.

Project Description—The proposed project would consist of either:

(A) Alternative 1 consisting of: (1) A 7-foot high concrete diversion structure; (2) a 100-foot long steel penstock; (3) a powerhouse containing one generating unit rated at 650 kW; and (4) a transmission line; or

(B) Alternative 2 consisting of: (1) a 3-foot high concrete diversion structure; (2) a 300-foot long steel penstock; (3) a powerhouse containing one generating unit rated at 650 kW; and (4) a transmission line.

The average annual energy generation is estimated to be 5.0 million kWh.

Purposed Scope of Studies under Permit.—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time it would conduct environmental, engineering, economic, and feasibility studies, and prepare an FERC license application. A 400-foot long temporary access road will be required to conduct the studies. The road will be restored to the natural condition if the project proves infeasible. The cost of the work is estimated to be $30,000.

Competing Applications.—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 14, 1982, the competing application itself or a notice of intent to file such an application [see: 18 CFR 4.30 et. seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 14, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than July 12, 1982.

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 14, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6685 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5645-000]

Lakeview Hydro Associates; Application for Preliminary Permit

March 8, 1982.

Take notice that Lakeview Hydro Associates (Applicant) filed on January 4, 1982 an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)—825(r)] for Project No. 5648 to be known as the Lakeview Hydropower Project located on the Swift River near Colonial Heights, in Chesterfield County, Virginia. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Wayne L. Rogers, Lakeview Hydro Associates, 1444 Foxwood Court, Annapolis, Maryland 21401.

Project Description—The proposed project would consist of: (1) An existing 418-foot long and 38-foot high concrete dam; (2) a reservoir with a storage capacity of 570-acre foot; (3) a proposed powerhouse located at the left abutment of the dam; (4) proposed transmission lines; and (5) appurtenant facilities. Applicant estimates the capacity of the proposed project to be 500 KW, and the annual energy output to be 2 GWh. Energy produced at the proposed project would be sold to the Virginia Electric Power Company.

Proposed Scope of Studies under Permit.—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 18-month permit to prepare a project report including preliminary designs, results of hydrological, environmental and economic feasibility studies. The cost of the above activities along with preparation of an environmental impact report, obtaining agreements with Forest Service and other Federal, State and local agencies, preparing a license application conducting final field surveys and preparing designs is estimated by the Application to be $35,000.

Competing Applications.—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 14, 1982, the competing application itself [see 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 14, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et. seq. (1981), as appropriate].

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 14, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION" "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6682 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5764-000]

Long Lake Energy Corp.; Application for Preliminary Permit

March 8, 1982.

Take notice that Long Lake Energy Corporation (Applicant) filed on December 14, 1981 an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5764 to be known as the Court Street Dam Project located on the Genesee River in Monroe County, New York. The application is on file with the Commission and is available for public inspection.

(A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 14, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6683 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5784-000]

Long Lake Energy Corp.; Application for Preliminary Permit

March 8, 1982.

Take notice that Long Lake Energy Corporation (Applicant) filed on December 8, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5784 to be known as the Deer Creek Project located on the Genesee River in Monroe County, New York. The application is on file with the Commission and is available for public inspection.

Project Description—The proposed project would consist of: 1) The existing dam 11 feet high and 325 feet long and having 4 steel gates to maintain pool elevation for the Erie Canal.; 2) a reservoir with a surface area of 176 acres, a normal maximum pool elevation of 513.1 feet msl, and a storage capacity of 760 acre-feet; 3) an existing intake structure; 4) a new powerhouse having units with a total generating capacity of 2,250 kW; 5) a new tailrace; 6) a new switchyard; 7) a new transmission line 1800 feet long; and 8) appurtenant facilities. The Applicant estimates the annual energy production to be 6,100,000 kW-hrs. Project energy would be sold to Rochester Gas and Electric Corporation. The existing project facilities are owned by the City of Rochester and the State of New York.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates cost of the studies under the permit would be $60,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 14, 1982, the competing application itself [see: 18 CFR 4.30 et. seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 14, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 14, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6684 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4234-001]

Long Lake Energy Corp.; Application for License

March 8, 1982.

Take notice that Long Lake Energy Corporation (Applicant) filed on December 8, 1981, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as the Philadelphia Hydroelectric Project No. 4334. The project would be located on the Indian River in Jefferson County, New York. Correspondence with the Applicant should be directed to: Paul J. Elston, 330 Madison Avenue, 7th Floor, New York, New York 10017 and Marvin

S. Lieberman, 888 17th Street, N.W., Washington, D.C. 20006.

Project Description—The proposed project would consist of: (1) Two existing concrete dams joined by an island and designated as the East and West Dams 60 feet long and 4 feet high and 30 feet long and 6 feet high, respectively; (2) an existing non-overflow section 45 feet long and 13 feet high; (3) an existing reservoir with a surface elevation of 475.9 feet m.s.l.; (4) new 1.2-foot high flashboards on the East Dam; (5) a new reinforced concrete intake structure in the non-overflow section; (6) a new 9-foot diameter penstock, 400 feet long; (7) a new powerhouse to contain a 3,000 kW turbine-generator unit; (8) a new 120-foot long transmission line; and (9) other appurtenances. The existing facilities are currently owned by the Village of Philadelphia. Applicant estimates that the average annual energy output would be 10,500,000 kWh.

Purpose of Project—Project energy would be sold to the Niagara Mohawk Power Corporation (NMPC).

Agency Comment.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before May 14, 1982, either the competing application itself [See 18 CFR 4.33 (a) and (d)] or a notice of intent [See 18 CFR 4.33 (b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 14, 1982.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6464 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-48-000]

Mississippi River Transmission Corp.; Tariff Filing

March 5, 1982.

Take notice that on March 1, 1982, Mississippi River Transmission Corporation (MRTC) tendered for filing Eighth Revised Sheet No. 27H to its FERC Gas Tariff, First Revised Volume No. 1. MRTC states that the filing is being made to name in the purchased gas cost adjustment (PGA) provisions of its tariff pipeline supplier minimum commodity bill charges as costs, the jurisdictional portion of which is recoverable thereunder. MRTC states that its existing PGA provisions in fact provide for the recovery of such charges, and that accordingly the revised tariff sheet, which merely identifies these costs by name, does not effect a substantive tariff change. MRTC proposes that this tariff sheet be made effective as of April 1, 1982.

A copy of this filing has been mailed to Mississippi's jurisdictional customers and to the State Commissions of Arkansas, Illinois and Missouri.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8, and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc.82-6461 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP81-71-000]

Montana-Dakota Utilities Co.; Settlement Conference

March 5, 1982.

Take notice that a settlement conference in the above-captioned dockets will be held at 10:00 a.m., on March 24, 1982, at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6455 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-47-000]

Mountain Fuel Resources, Inc.; Notice of FERC Gas Tariff Filing

March 5, 1982.

Take notice that Mountain Fuel Resouces, Inc. (Resources), on March 1, 1982 tendered for filing and acceptance Fourth Revised Sheet No. 4 and Second Substitute Fourteenth Revised Sheet No. 7 of its FERC Gas Tariff, Original Volume No, 1, to become effective November 16, 1981. Resources also filed Substitute Fifteenth Revised Sheet No. 7 of the above-referenced FERC Gas Tariff to become effective December 1, 1981.

The purpose of the instant filing is to restate the Base Tariff Rate as of November 16, 1981 in compliance with § 154.38(d)(4)(vi)(a) and the Commission's order issued December 31, 1981. The new Base Tariff Rate of $1.8608 is based on a cost-of-service calculation for the twelve months ended August 31, 1981, as adjusted for annualization of changes during the base period.

Resources states that copies of this filing were served on the Company's jurisdictional customers and affected state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6465 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-36-000]

Mountain Fuel Supply Co.; Tariff Sheet Filing

March 5, 1982.

Take notice that on March 1, 1982, Mountain Fuel Supply Company (Mountain Fuel), pursuant to § 154.62 of the Regulations of the Federal Energy Regulatory Commission (Commission), filed Fourteenth Revised Sheet No. 3–A to its FERC Gas Tariff, Original Volume No. 1. Mountain Fuel states that the filed tariff sheet relates to the Unrecovered Purchased Gas Cost Account of the Purchased Gas Adjustment Provision authorized by Commission order issued February 27, 1976, in Docket No. RP76–64. More specifically, the tariff sheet reflects a net increase from that currently being collected of $.30973/Mcf (Rate Schedule X–4), $.20007/Mcf (Rate Schedule X–5) and $.30772/Mcf (Rate Schedule X–20) all to be effective April 1, 1982.

Any person desiring to be heard or to make any protest with reference to said filing should on or before March 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's Rules. Mountain Fuel's Tariff Filing is on file with the Commission and available for public inspection

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6460 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79-115-011]

Mountain Fuel Supply Co.; Petition To Amend

March 4, 1982.

Take notice that on February 11, 1982, Mountain Fuel Supply Company (Petitioner), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP79–115–011 a petition to amend the order issued August 9, 1979, in the instant docket pursuant to § 7(c) of the Natural Gas Act so as to authorize the gathering and exchange of natural gas for Northwest Pipeline Corporation (Northwest) from an enlarged area in Sweetwater County, Wyoming, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued August 9, 1979, in the instant docket Petitioner was authorized pursuant to a letter agreement dated May 23, 1979, between the parties to provide Northwest with mutual gathering and exchange services in the Moxa Arch area of Lincoln, Uinta, and Sweetwater Counties, Wyoming.

Petitioner asserts that Northwest now desires to connect supplies of natural gas not located within the acreage designated in the agreement but adjacent to the Moxa Arch area to Petitioner's gathering facilities. It is submitted that Northwest and Petitioner have accordingly entered into an amendatory agreement dated August 1, 1980, wherein the parties agreed to add Section 5–T22N–R111W, Sweetwater County, Wyoming, to the area designated in the May 23, 1979, agreement. Petitioner therefore requests that the Commission amend its August 9, 1979, order in the instant docket so as to authorize the gathering and exchange of natural gas from an enlarged area pursuant to the August 1, 1980, amendatory agreement.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 26, 1982 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6462 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-45-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Proposed Changes FERC Gas Tariff

March 5, 1982.

Take Notice that on February 26, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern) tendered for filing First Revised Sheet Nos. 53, 55, 56 and 57 which Northern proposed to become effective April 1, 1982.

These proposed revisions to the General Terms and Conditions of Northern's FERC Gas Tariff, Third Revised Volume No. 1 reflect a new policy with respect to the construction and financing of additional sales facilities.

Any person desiring to be heard or to protest said filing should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1982. Protests will be considered by the Commission in determining the

appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file petition to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6464 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

Oil Pipeline Annual Valuation Reports; Finality of 1979

March 9, 1982.

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to Section 19a of the Interstate Commerce Act.

The Board has issued the tentative 1979 annual valuation reports for the following common carriers by oil pipelines:

Acorn Pipeline Company, Docket No. PV-1364-000
Allegheny Pipeline Company, Docket No. PV-1414-000
Amdel Pipeline Inc., Docket No. PV-1439-000
American Petrofina Pipe Line Company, Docket No. PV-1440-000
Amoco Pipeline Company, Docket No. PV-1302-000
Arapahoe Pipe Line Company, Docket No. PV-1378-000
ARCO Pipe Line Company, Docket No. PV-1329-000
Ashland Pipe Line Company, Docket No. PV-1291-000
Badger Pipe Line Company, Docket No. PV-1381-000
Belle Fourche Pipeline Company, Docket No. PV-1430-000
Black Lake Pipe Line Company, Docket No. PV-1425-000
Buckeye Pipe Line Company, Docket No. PV-1322-000
Butte Pipe Line Company, Docket No. PV-1382-000
Cainev Pipe Line Company, Docket No. PV-1404-000
Chevron Pipe Line Company, Docket No. PV-1416-000
Cheyenne Pipeline Company, Docket No. PV-1368-000
Chicap Pipeline Company, Docket No. PV-1427-000
Cities Service Pipe Line Company, Docket No. PV-1312-000
Collins Pipeline Company, Docket No. PV-1433-000
Colonial Pipeline Company, Docket No. PV-1422-000
Continental Pipe Line Company, Docket No. PV-1318-000
Cook Inlet Pipe Line Company, Docket No. PV-1426-000
CRA, Inc., Docket No. PV-1341-000
Crown-Rancho Pipe Line Corporation, Docket No. PV-1365-000
Diamond Shamrock Corporation, Docket No. PV-1349-000
Dixie Pipeline Company, Docket No. PV-1411-000
Emerald Pipe Line Corporation, Docket No. PV-1385-000
The Eureka Pipe Line Company, Docket No. PV-1338-000
Explorer Pipeline Company, Docket No. PV-1441-000
Exxon Pipeline Company, Docket No. PV-1394-000
Four Corners Pipe Line Company, Docket No. PV-1389-000
Getty Pipeline, Inc., Docket No. PV-1402-000
Gulf Central Pipeline Company, Docket No. PV-1438-000
Gulf Refining Company, Docket No. PV-1333-000
Hess Pipeline Company, Docket No. PV-1409-000
Hydrocarbon Transportation, Inc., Docket No. PV-1431-000
Jayhawk Pipeline Corporation, Docket No. PV-1406-000
Jet Lines, Inc., Docket No. PV-1413-000
Kaneb Pipe Line Company, Docket No. PV-1375-000
Kaw Pipe Line Company, Docket No. PV-1299-000
Kenai Pipe Line Company, Docket No. PV-1399-000
Kerr-McGee Pipeline Corporation, Docket No. PV-1429-000
Kiantone Pipeline Corporation, Docket No. PV-1435-000
Lake Charles Pipe Line Company, Docket No. PV-1419-000
Lakehead Pipe Line Company, Inc., Docket No. PV-1354-000
Laurel Pipe Line Company, Docket No. PV-1403-000
Marathon Pipe Line Company, Docket No. PV-1392-000
Mid-America Pipeline System, Docket No. PV-1395-000
Mid-Valley Pipeline Company, Docket No. PV-1353-000
Minnesota Pipe Line Company, Docket No. PV-1384-000
Mobil Pipe Line Company, Docket No. PV-1311-000
National Transit Company, Docket No. PV-1332-000
Ohio River Pipe Line Company, Docket No. PV-1292-000
Olympic Pipe Line Company, Docket No. PV-1417-000
Owensboro-Ashland Company, Docket No. PV-1456-000
Paloma Pipe Line Company, Docket No. PV-1420-000
Phillips Pipe Line Company, Docket No. PV-1320-000
Pioneer Pipe Line Company, Docket No. PV-1372-000
Plantation Pipe Line Company, Docket No. PV-1343-000
Platte Pipe Line Company, Docket No. PV-1367-000
Portal Pipe Line Company, Docket No. PV-1410-000
Portland Pipe Line Corporation, Docket No. PV-1347-000
Powder River Corporation, Docket No. PV-1437-000
Pure Transportation Company, Docket No. PV-1327-000
Santa Fe Pipeline Company, Docket No. PV-1428-000
The Shamrock Pipe Line Corporation, Docket No. PV-1369-000
Shell Pipe Line Corporation, Docket No. PV-1326-000
Sohio Pipe Line Company, Docket No. PV-1335-000
Southcap Pipe Line Company, Docket No. PV-1424-000
Southern Pacific Pipe Lines, Inc., Docket No. PV-1393-000
Sun Oil Line Company of Michigan, Docket No. PV-1370-000
Sun Pipe Line Company, Docket No. PV-1315-000
Tecumseh Pipe Line Company, Docket No. PV-1386-000
Texaco-Cities Service Pipe Line Company, Docket No. PV-1300-000
Texas Eastern Transmission Corporation, (Little Big Inch Division), Docket No. PV-1408-000
Texas-New Mexico Pipe Line Company, Docket No. PV-1293-000
The Texas Pipe Line Company, Docket No. PV-1330-000
Texoma Pipe Line Company, Docket No. PV-1449-000
Total Pipeline Corporation, Docket No. PV-1357-000
Trans Mountain Oil Pipe Line Corporation, Docket No. PV-1379-000
Trans-Ohio Pipeline Company, Docket No. PV-1412-000
West Emerald Pipe Line Corporation, Docket No. PV-1388-000
West Shore Pipe Line Company, Docket No. PV-1396-000
West Texas Gulf Pipe Line Company, Docket No. PV-1362-000
White Shoal Pipeline Corporation, Docket No. PV-1421-000
Williams Pipe Line Company, Docket No. PV-1423-000
Wolverine Pipe Line Company, Docket No. PV-1377-000
Wyco Pipe Line Company, Docket No. PV-1355-000
Yellowstone Pipe Line Company, Docket No. PV-1373-000

Section 19a(h) of the Interstate Commerce Act provides that if no protest is filed within thirty days, the valuation shall become final as of the date thereof. Notice is hereby given that no protest to the valuation reports for any of these carriers have been received and that each valuation report is final as of the date it was issued by the Board.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 82-6461 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-46-000]

South Georgia Natural Gas Co.; Proposed Changes in FERC Gas Tariff

March 5, 1982.

Take notice that South Georgia Natural Gas Company (South Georgia), on March 1, 1982 tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1. The proposed changes are based on the twelve month period ending December 31, 1981, as adjusted, and would increase jurisdictional revenues by $623,889.

South Georgia states that the principal reasons for the proposed rate increase are to reflect (1) increased rate base due to new facilities, (2) increased operation and maintenance expenses and other taxes, and (3) a reduction in the sales volumes for the test year.

Copies of this filing have been served upon South Georgia's jurisdictional customers and interested state public service Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1982. Petitions will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6460 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-3-41-000 (PGA82-2)]

Southwest Gas Corp.; Change in Rates Pursuant to Purchased Gas Cost Adjustment

March 5, 1982.

Take notice that Southwest Gas Corporation (Southwest) on March 1, 1982, tendered for filing Fourteenth Revised Sheet No. 10 and Fourth Revised Sheet No. 10A pursuant to Section 9, Purchased Gas Adjustment Clause (PGA), of the General Terms and Conditions contained in its FERC Gas Tariff, Original Volume No. 1. The purpose of said filing is to reflect an increase in rates occasioned by an increase in rates from Southwest's northern Nevada sole supplier of gas, Northwest Pipeline Corporation, effective April 1, 1982. The proposed increase in rates is effective April 1, 1982.

Southwest states that a copy of this filing has been mailed to the Nevada Public Service Commission, the California Public Utilities Commission, Sierra Pacific Power Company and CP National.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6457 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP81-130-001]

Transwestern Pipeline Co.; Proposed Change in FERC Gas Tariff

March 4, 1982.

Take notice that on February 26, 1982, Transwestern Pipeline Company (Transwestern) tendered for filing primary revised tariff sheets, adjusted for changes in accordance with the September 28, 1981 order issued by the Commission; in the alternative, Transwestern has tendered for filing revised tariff sheets, adjusted for changes in accordance with the September 28, 1981 order. The effective date of the revised tariff sheets is February 28, 1982. The revised tariff sheets are as follows:

Revised Nineteenth Revised Sheet No. 5
Revised Nineteenth Revised Sheet No. 6
Second Revised Sheet No. 25
First Revised Sheet No. 51
First Revised Sheet No. 52
First Revised Sheet No. 53
First Revised Sheet No. 54
First Revised Sheet No. 55
Second Revised Sheet No. 63
Second Revised Sheet No. 64
Original Sheet No. 64-A
Sixth Revised Sheet No. 74
First Revised Sheet No. 76-A
First Revised Sheet No. 76-B
First Revised Sheet No. 76-C
Original Sheet No. 76-D
Second Revised Sheet No. 80
First Revised Sheet No. 81

or:

Alternate Revised Nineteenth Revised Sheet No. 5
Alternate Revised Nineteenth Revised Sheet No. 6

Transwestern states that the primary revised tariff sheets were filed to reflect use of the *United* method of cost classification and did not reflect use of the *South Georgia* method of amortizing Transwestern's future unfunded income tax liability. However, the alternative revised tariff sheets included as Alternates 1, 2 and 3 were filed to reflect use of the *Seaboard* method of cost classification and/or to reflect utilization of the *South Georgia* method. Furthermore, the alternate tariff sheets were filed to effectuate the agreement between Staff, Transwestern and the parties that Transwestern would eliminate any and all costs associated with the WESCO Coal Gasification project from its rates in Docket No. RP81-130-000.

In addition, Transwestern states that whether it moved to place into effect the primary revised tariff sheets or the revised tariff sheets included in Alternates 1, 2 or 3 depended upon (1) whether Transwestern believed it would be free from risk of undercollections if it put *Seaboard* rates into effect and (2) whether the IRS had issued a ruling respecting Transwestern's right to utilize the South Georgia method and continue to take advantage of accelerated depreciation for tax purposes. Because neither of the contingencies set forth above occurred, Transwestern moved to place into effect the primary revised tariff sheets, subject to Transwestern's alternative request.

Copies of this filing were served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6488 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-42-000]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

March 5, 1982.

Take notice that Transwestern Pipeline Company (Transwestern) on March 1, 1982 tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following sheets:

Twentieth Revised Sheet No. 5
Twentieth Revised Sheet No. 6
Fifth Revised Sheet No. 6A

or as an alternative to Sheet Nos. 5 and 6,

Alternate Twentieth Revised Sheet No. 5
Alternate Twentieth Revised Sheet No. 6

The above listed tariff sheets are issued pursuant to Transwestern's Purchased Gas Cost Adjustment provision set forth in Article 19 of the General Terms and Conditions of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1. The Purchased Gas Cost Adjustment reflected in the above listed tariff sheets consists of an increase of 102.24¢/dth based upon increased purchased gas costs, adjusted for Projected Incremental Pricing Surcharges for the months of April, 1982 through September, 1982, and an increased balance in the Gas Cost Adjustment Account. This increase in rates is applied to those rates which Transwestern has moved to place into effect in Docket No. RP81-130 by letter dated February 25, 1982. In the February 25, 1982 filing Transwestern included two alternative sets of rate tariff sheets based on the inclusion or exclusion of costs associated with the WESCO coal gasification project. Transwestern proposes herein that the Commission accept the appropriate set of Sheet Nos. 5 and 6 listed above (in addition to Fifth Revised Sheet No. 6A) based on the Commission's determination with respect to Transwestern's February 25, 1982 motion in Docket No. RP81-130.

The proposed effective date of these tariff sheets is April 1, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6489 Filed 3-9-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PF-264; PH-FLL-2069-5]

Certain Companies; Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that certain companies have filed petitions proposing to establish tolerances for certain pesticide chemicals in or on certain raw agricultural commodities.

ADDRESS: Written comments to the product manager (PM) cited in each specific petition at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number "[PF-264]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the following pesticide petitions have been submitted to the Agency requesting establishment of tolerances for certain pesticide chemicals in or on certain raw agricultural commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

PP 2F2845. Elanco Product Co., Division of Eli Lilly and Co., 740 South Alabama St., Indianapolis, IN 46285. Proposes amending 40 CFR Part 180 by establishing tolerances for residues of the herbicide ethalfluralin [*N*-ethyl-*N*-(2-methyl-2-propenyl)-2,6-dinitro-4-(trifluoromethyl)benzenamine] in or on the raw agricultural commodities grouping seed and pod vegetables, forage legumes and cucurbits at 0.05 part per million (ppm). The proposed analytical method for determining residues is by electron capture gas-liquid chromatography. (PM-23, Richard Mountfort, 703-557-1830).

PP 2F2828. American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540. Proposes amending 40 CFR 180.361 by establishing tolerances for the combined residues of the herbicide pendimethalin [*N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine] and its metabolite 4-[(1-ethylpropyl)amino]-2-methyl-3,5-dinitrobenzyl] alcohol in or on the raw agricultural commodities sweet corn fodder, sweet corn forage, and sweet corn grain at 0.1 ppm. The proposed analytical method for determining residues is gas chromatography. (PM-25, Robert Taylor, 703-557-1800).

(Sec. 408(d)(1), 68 Stat. 512 (7 U.S.C. 136))

Dated: March 2, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-6486 Filed 3-9-82; 8:45 am]

BILLING CODE 6560-32-M

[OPP-30215; PH-FRL-2069-5]

Elanco Products Co.; Application To Register a Pesticide Product Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Elanco Products Company has submitted an application to register the herbicide Sonalan E.C., a pesticide product containing an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comments by April 9, 1982.

ADDRESS: Written comments, identified by the document control number "[OPP-30215]" and the file symbol, should be submitted to: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., NW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort (703-557-1830).

SUPPLEMENTARY INFORMATION: Elanco Products Company, a Division of Eli Lilly and Company, 740 South Alabama St., Indianapolis, IN 46285 has submitted an application to EPA to register the pesticide product Sonalan E.C., File symbol 1471-REE, containing 35.1 percent of the active ingredient ethalfluralin [*N*-ethyl-*N*(2-methyl-2-propenyl)-2,6-dinitro-4-(trifluoromethyl)benzenamine]. The applicant requests a conditional registration for general use for preemergence control of annual grasses, broadleaf weeds in seed and pod vegetables and cucurbits.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register.** Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the product manager's office between 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing such comments telephone the product manager's office to ensure that the file is available on the date of the intended visit.

(Sec. 3(4)(c) of FIFRA, as amended)

Dated: March 2, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-6485 Filed 3-9-82; 8:45 am]

BILLING CODE 6560-32-M

[AMS-FRL-2069-4]

Announcement of Fuel Economy Retrofit Device Evaluation for "Super-Mag Fuel Extender"

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Fuel Economy Retrofit Device Evaluation.

SUMMARY: This document announces the conclusions of the EPA evaluation of the "Super-Mag Fuel Extender" device under provisions of Section 511 of the Motor Vehicle Information and Cost Savings Act.

BACKGROUND INFORMATION: Section 511(b)(1) and section 511(c) of the Motor Vehicle Information and Cost Savings Act [15 U.S.C. 2011(b)] requires that:

(b)(1) Upon application of any manufacturer of a retrofit device (or prototype thereof), upon the request of the Federal Trade Commission pursuant to subsection (a), or upon his own motion, the EPA Administrator shall evaluate, in accordance with rules prescribed under subsection (d), any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations (if any) made with respect to such retrofit devices are accurate.

(c) The EPA Administrator shall publish in the **Federal Register** a summary of the results of all tests conducted under this section, together with the EPA Administrator's conclusions as to—

(1) The effect of any retrofit device on fuel economy;

(2) The effect of any such device on emissions of air pollutants; and

(3) Any other information which the Administrator determines to be relevant in evaluating such device.

EPA published final regulations establishing procedures for conducting fuel economy retrofit device evaluations on March 23, 1979 [44 FR 17946].

Origin of Request for Evaluation

On December 10, 1980, the EPA received a written request from the Metropolitan Denver District Attorney's Office of Consumer Fraud and Economic Crime to test at least one "cow magnet" type of fuel economy device. Following a survey of devices being marketed, the Metropolitan Denver District Attorney's Office selected the "Super-Mag" device as typical of its category and on April 13, 1981 provided EPA with units for testing.

Availability of Evaluation Report

An evaluation has been made and the results are described completely in a report entitled: "Evaluation of the Super-Mag Fuel Extender Device Under Section 511 of the Motor Vehicle Information and Cost Savings Act," report number EPA-AA-TEB-511-82-3 consisting of 20 pages including all attachments.

EPA also tested the Super-Mag Fuel Extender device. The EPA testing is described completely in the report "Evaluation of the Super-Mag Fuel Extender," EPA-AA-TEB-81-30, consisting of 12 pages. This report is contained in the preceding 511 Evaluation as an attachment.

Copies of these reports may be obtained from the National Technical Information Service by using the above report numbers. Address requests to: National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, Telephone: (703) 487-4650 or FTS 737-4650.

Summary of Evaluation

The "Super-Mag Fuel Extender" consists of a set of two rectangular magnets mounted on plates, two steel plates, and two plastic ties that are installed around a vehicle's fuel line, about 3 inches from the carburetor. The magnets and plates are arranged so as to form an open-ended four-sided box surrounding the fuel line. A claim for the device's effectiveness appears in a message on the package label, which reads "Transforms Molecular Properties of Liquid Fuel to Maximum Combustion Efficiency." Advertisements also state, "The Super-Mag has been developed to increase gas mileage on compact, mid-size and luxury model automobiles with a savings up to 30%."

The request for evaluation of the "Super-Mag Fuel Extender" was made by the Metropolitan Denver District Attorney's Office of Consumer Fraud and Economic Crime.

The EPA evaluation of the device using three vehicles, showed that there was no emission or fuel economy benefit due to the installation of the "Super-Mag Fuel Extender."

FOR FURTHER INFORMATION CONTACT: Merrill W. Korth, Emission Control Technology Division, Office of Mobile Source Air Pollution Control, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, (313) 668-4299.

Dated: March 1, 1982.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 82-6494 Filed 3-9-82; 8:45 am]

BILLING CODE 6560-29-M

[OPP-30188A; PH-FRL-2070-1]

Nor-Am Agricultural Products Co.; Approval of Application To Register a Pesticide Product Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has approved the application by Nor-Am Agricultural Products Co. to register the pesticide product Prevex Turf Fungicide containing an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, CM#2 Rm. 227, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the Federal Register of May 7, 1981 (46 FR 25544) that Nor-Am Agricultural Products, Inc., 350 West Sherman Blvd., Naperville, IL 60566, had submitted an application to register the pesticide product Prevex Turf Fungicide containing 66.5 percent of the active ingredient propyl [3-(dimethylamino)propyl]carbamate monohydrochloride also known as propamocarb hydrochloride, an ingredient not included in any previously registered product.

The application was approved on February 3, 1982 for general use in pesticide formulation. The product was assigned EPA registration No. 2139–121.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the product manager. The data and other scientific information used to support registration, except for the material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (92 Stat. 819; 7 U.S.C. 136), will be available for public inspection in accordance with section 3(c)(2) of FIFRA within 30 days after registration date. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), EPA, 410 M St., SW., Washington, DC 20460. Such requests should: (1) identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(2) FIFRA, as amended)

Dated: March 2, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82-6499 Filed 3-9-82; 8:45 am]

BILLING CODE 6560-32-M

[OPP–50565; PH-FRL-2069-6]

Department of the Interior; Receipt of Application for an Experimental Use Permit for Sodium Monofluoroacetate (Compound 1080)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received an application for an experimental use permit from the U.S. Department of the Interior. The experimental use permit, file symbol 6704–EUP–EA, proposes allowing the use of 0.05 pound of sodium monofluoroacetate (Compound 1080) in single lethal dose baits on livestock ranges to evaluate the control of coyotes. A total of 512,00 acres would be used in programs in Idaho, Montana, and Texas.

DATE: Written comments must be received on or before April 9, 1982.

ADDRESS: Comments should bear the document control number OPP-50565 and be submitted to: Document Control Office (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–401, 401 M St., SW., Washington, D.C. 20460.

The public record filed regarding this notice will be available for public inspection in Rm. E–107, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: William Miller (PM) 16, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 211, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2600).

SUPPLEMENTARY INFORMATION: The Department of Interior's experimental use permit application requests that EPA approve experimental use of Compound 1080 in single lethal dose baits to control coyotes. EPA is also currently conducting a formal adjudicatory hearing on applications for registration and emergency exemptions for the use of Compound 1080 as a predacide and a finding by the Administrator that "substantial new evidence" existed that would warrant such hearings. In addition to the applications for Compound 1080 single lethal dose baits, the applicants seek to use Compound 1080 in toxic collars, meat stations, and smear posts. The Subpart D hearings will address all of these Compound 1080 delivery mechanisms.

(Sec. 5, 92 Stat. 819, as amended (7 U.S.C. 136))

Dated: March 3, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-6498 Filed 3-9-82; 8:45 am]

BILLING CODE 6560-32-M

[OPP-50570; PH-FRL-2069-7]

University of California; Receipt of Application for an Experimental Use Permit for Sodium Monofluoroacetate (Compound 1080)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received an application for an experimental use permit from the University of California. The experimental use permit, file symbol 46879–EUP–R, proposes allowing the use of 0.66 pound of sodium monofluoroacetate (Compound 1080) in bait delivery units on livestock grazing areas to evaluate the control of coyotes on 400 acres in California.

DATE: Written comments must be received on or before April 9, 1982.

ADDRESS: Comments should bear the document control number OPP–50570 and be submitted to: Document Control Office (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, RM. E–401, 401 M St., SW., Washington, DC 20460.

The public record filed regarding this notice will be available for public inspection in Rm. E–107, at the above address from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: William Miller (PM) 16, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 211, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–2600).

SUPPLEMENTARY INFORMATION: The University of California's experimental use permit application requests that EPA approve experimental use of Compound 1080 in bait delivery units to control coyotes. EPA is currently conducting a formal adjudicatory hearing on applications for registration and emergency exemptions of Compound 1080 to control livestock predators, principally coyotes. The purpose of this hearing, which was initiated by a notice in the Federal Register of December 7, 1981 (46 FR 59622), is to determine whether EPA's 1972 Order cancelling and suspending the registration of Compound 1080 predacides should be modified or reversed. The hearings are being conducted under Subpart D of EPA's Rules of Practice, 40 CFR 164.130 through 164.133.

These hearings were initiated as a result of applications being submitted by State and Federal agencies requesting registration and emergency exemptions for the use of Compound 1080 as a predacide and a finding by the Administrator that "substantial new evidence" existed that would warrant such hearings. In addition to the applications for Compound 1080 single lethal dose baits, the applicants seek to use Compound 1080 in toxic collars, meat stations, and smear posts. The Subpart D hearings will address all of these Compound 1080 delivery mechanisms.

(Sec. 5, 92 Stat. 819, as amended (7 U.S.C. 136))

Dated: March 3, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-6497 Filed 3-9-82; 8:45 am]

BILLING CODE 6560-32-M

[OPP-30209A PH-FRL-2085-3]

E. I. du Pont de Nemours & Co.; Approval of Application To Conditionally Register a Pesticide Product Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has conditionally approved the application by E. I. du Pont de Nemours & Co. to register the pesticide product Du Pont Oust Weed Killer Dry Flowable herbicide containing an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, CM#2 Rm. 245, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the Federal Register of January 6, 1982 (47 FR 672) that E. I. du Pont de Nemours & Co., Wilmington, DE 19898, had submitted an application to register the pesticide product Du Pont Oust Weed Killer Dry Flowable herbicide containing 75 percent of the active ingredient Methyl 2-(((((4,6-dimethyl-2-pyridimidinyl)amino)-carbonyl)amino)sulfonyl)benzoate, an ingredient not included in any previously registered product.

The application was approved on February 8, 1982 for general use in pesticide formulation. The product was assigned EPA registration No. 352–401.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the product manager. The data and other scientific information used to support registration, except for the material specifically protected by section 10 of he Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (92 Stat. 819; 7 U.S.C. 136), will be available for public inspection in accordance with section 3(c)(2) of FIFRA within 30 days after registration date. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), EPA, 401 M St., SW., Washington, DC 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(2) FIFRA, as amended)

Dated: February 23, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 82-6661 Filed 3-9-82; 8:45 am]

BILLING CODE 6560-32-M

[PH-FRL-2068-5; OPP-30214]

Certain Companies; Applications To Register Pesticide Products Containing New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by April 9, 1982.

ADDRESS: Written comments, identified by the document control number [OPP–30214] and the file or registration number, should be submitted to the manager (PM) cited at the address below: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: The product manager at the telephone number cited.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Applications Received

1. File Symbol: 476–EERR.
Applicant: Stauffer Chemical Co., 1200 South 47th Street., Richmond, CA 94804.
Product name: MV–678 Insect Growth Regulator.
Active ingredient: 1-(8-Methoxy-4,8-dimethylnonyl)-4-(1-methylethyl) benzene 1.2%.
Proposed classification/Use: General. Used for the control of the red imported fire ants.
Type registration: Conditional.
Product manager (PM) 17: Franklin Gee, (703–557–2690).

2. File Symbol: 10182–AA.

Applicant: ICI Americas, Inc., Agricultural Chemicals Division, Wilmington, DE 19897.
Product name: Fusilade 2E Herbicide.
Active ingredient: (±)-Butyl 2-[4-[[5-(trifluoro-methyl)-2-pyridinyl]oxy]phenoxy] propanoate 25.2%.
Proposed classification/Use: General. For control of perennial and annual grasses in cotton and soybeans.
Type registration: Conditional.
Product manager (PM) 23: Richard Mountfort, (703–557–1830).
3. File Symbol: 10182–AT.
Applicant: ICI Americas, Inc.
Product name: Fusilade 4E Herbicide.
Active ingredient: (†)-Butyl 2-[4-[[5-(trifluoro-methyl)-2-pyrindinyl]oxy]phenoxy] propanoate 46.5%.
Proposed classification/Use: General. Controls perennial and annual grass weeds in cotton and soybeans.
Type registration: Conditional.
Product manager (PM) 23: Richard Mountfort, (703–557–1830).

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice will be available in the product manager's office between 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing such comments telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: February 25, 1982.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-6240 Filed 3-9-82; 8:45 am]

BILLING CODE 6560-32-M

[PH-FRL-2068-4; PF-263]

Certain Companies; Filing of Pesticide, Food, and Feed Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that certain companies have submitted pesticide, food, and feed additive petitions to the EPA requesting establishment of tolerances, food, and feed additive regulations.

ADDRESS: Written comments may be submitted to the product manager cited in each petition at the address below: Registration Division (TS–767C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

Written comments may be submitted while the petitions are pending before the agency. The comments are to be identified by the document control number [PF–263] and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the following pesticide, food, and feed additive petitions have been submitted to the Agency requesting the establishment of tolerances, food, and feed additive regulations in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

PP 2F2630. ICI Americas, Inc., Agricultural Chemicals Div., Wilmington, DE 19897. Proposes amending 40 CFR Part 180 by establishing tolerances for residues of the herbicide (±)-butyl 2-[4-[(5-trifluoromethyl)-2-pyridinyl]oxy]phenoxy]propanoate in on the following raw agricultural commodities:

Commodities	Parts per million
Cattle, fat	0.05
Cattle, meat	.05
Cattle, mbyp	.05
Cottonseed	.1
Eggs	.05
Goats, fat	.05
Goats, meat	.05
Goats, mbyp	.05
Hogs, fat	.05
Hogs, meat	.05
Hogs, mbyp	.05
Horses, fat	.05
Horses, meat	.05
Horses, mbyp	.05
Milk	.05
Poultry, fat	.05
Poultry, meat	.05
Poultry, mbyp	.05
Sheep, fat	.05
Sheep, meat	.05
Sheep, mbyp	.05
Soybeans	1.0

The proposed analytical method for determining residues is by high pressure liquid chromatography (HPLC) using an ultra-violet detector. (PM 23, Richard Mountfort, (703–557–1830)).

FAP 2H5337. FMC Corp., 2000 Market St., Philadelphia, PA 19103. Proposes amending 21 CFR Part 193 by establishing a temporary regulation in conjuction with an experimental use permit permitting residues of the insecticide (2,3-dihydro-2,2-dimethyl-7-benzofuranyl [(dibutylamino) thio]methyl carbamate) and its carbamate cholinesterase inhibiting metabolities (2,3-dihydro-2,2-dimethyl-7-benzofuranyl-*n*-methylcarbamate; 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl-*n*-methylcarbamate; 2,3-dihydro-2,2-dimethyl-3-keto-7-benzofuranyl-*n*-methylcarbamate); and its phenolic metabolites (2,3-dihydro-2,2-dimethyl-7-benzofuranol; 2,3-dihydro-2,2-dimethyl-3-oxo-7-benzofuranol and 2,3-dihydro-2,2-dimethyl-3,7-benzofurandiol) and its dibutylamine mebolite in or on citrus oil at 14.5 ppm and molasses 12.5 ppm. (PM 12, Jay Ellenberger, (557–2386)).

FAP 2H5337. FMC Corp., 2000 Market St., Philadelphia, PA 19103. Proposes 21 CFR Part 561 by establishing a temporary regulation in conjunction with an experimental use permit permitting residues of the insecticide (2,3-dihydro-2,2-dimethyl-7-benzofuranyl [(dibutylamino) thio]methyl carbamate) and its carbamate cholinesterase inhibiting metabolities (2,3-dihydro-2,2-dimethyl-7-benzofuranyl-*n*methylcarbamate; 2,3-dihydro-2,2-dimethyl-7-benzofuranyl-*n*-methyl-carbamate; 2,3-dihydro-2,2-dimethyl-3-keto-7-benzofuranyl-*n*-methylcarbamate;); and its phenolic metabolites (2,3-dihydro-2,2-dimethyl-7-benzofuranyl; 2,3-dihydro-2,2-dimethyl-3-oxo-7-benzofuranol and 2,3-dihydro-2,2-dimethyl-3,7-benzofurandiol) and its dibutylamine mebolite in dried citrus pulp 9.50 ppm. (PM 12, Jay Ellenberger, (577–2386)).

PP 2F2640. Mobay Chemical Corp., Agricultural Chemicals Div., PO Box 4913, Kansas City, MO 64120. Proposes amending 40 CFR Part 180 by establishing a tolerance for residues of the fungicide 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-l-yl)-2-butanone and its metabolite beta-(4-chlorophenoxy-alpha-(1,1-dimethylehtyl)-1*H*-1,2,4-triazol-l-ethanol in or on pears at 1.0 ppm. (PM 21 Henry Jacoby, (703–557–1900)).

(Sec. 408(d) (1), 68 Stat. 512 (7 U.S.C. 136); 409(b) (5), 72 Stat. 1786 (21 U.S.C. 348))

Dated: February 24, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-6245 Filed 3-9-82; 8:45 am]

BILLING CODE 6560-32-M

[PH-FRL-2068-2; OPP-66090]

Certain Pesticide Products; Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice lists the name of firms requesting voluntary cancellation of registration of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Production of these products after the effective date of cancellation will be considered a violation of the Act unless continued registration is requested.

EFFECTIVE DATE: April 9, 1982.

ADDRESS: Written comments to: Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–401, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lela Sykes, Process Coordination Branch (TS–767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 516, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7121).

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of their intent to voluntarily cancel registration of their pesticide products.

Registration No.	Product name	Registrant	Date registered
30–19	Sweeney's Rat & Mouse Killer	W. R. Sweeney Manufacturer, Inc., 312–16 South Broadway, Salisbury, MO 65281	Nov. 7, 1957.
30–20	Sweeney's Mouse Bait	do	Nov. 19, 1971.
66–18	Raponex Warfarin Prepared Rat Killer Bait	The Hyponex Company, Inc., P.O. Box 4300, Copley, OH 44321	Aug. 10, 1971.
201–269	Shell Azodrin 5 Insecticide	Shell Chemical Company, 1025 Connecticut Ave., NW, Suite 200, Washington, DC 20036.	Dec. 7, 1971.
239–765	Ortho Chinch Bug	Chevron Chemical Company, 940 Hensley St., Richmond, CA 94801	June 18, 1954.
239–1188	Ortho Cryolite 50 Dust	do	July 22, 1958.
239–1529	Methyl Parathion 5 Emulsive	do	July 14, 1960.
239–1595	Ortho Dibrom Kelthane 2–3 Dust	do	May 5, 1961.
239–1757	Ortho Dibrom Kelthene Sulfur 4–4–30 Dust	do	Aug. 27, 1962.
239–1782	Ortho Malathion Cryolite 4–25 Dust	do	Nov. 19, 1962.
239–2074	Ortho Methyl Parathion 25 Wettable	do	Mar. 12, 1965.
239–2150	Ortho Dibrom Kelthane-Karathane 2–3–1 Dust	do	Oct. 25, 1965.
239–2194	Ortho Parathion Methyl Parathion 6–3 Emulsive	do	July 23, 1966.
239–2264	Ortho Torbidan 2–6 Spray	do	June 14, 1968.
239–2271	Ortho Parathion-Methyl Parathion 4–4 Emulsive	do	Aug. 19, 1968.
239–2347	Ortho Parathion Cryolite 2–40 Dust	do	June 25, 1971.
239–2380	Ortho Sod Webworm Control	do	May 13, 1972.
264–129	Rootone No. 10	Union Carbide Agricultural Products Company, Inc., P.O. Box 12014, Research Triangle Park, NC 27709.	July 12, 1960.
264–130	Transplantone	do	Do.
264–151	Rootone	do	May 31, 1961.
264–175	Vegiben Granular Pre-emergence Weedkiller	do	June 11, 1963.
264–178	Vegiben	do	Jan. 15, 1964.
264–217	Tre-Hold	do	May 31, 1967.
264–251	Amiben 20% Granular	do	July 24, 1970.
264–253	Coriben WP Pre-emergency Weedkiller	do	Feb. 7, 1972.
264–254	Amilon WP Pre-emergence Weedkiller	do	Aug. 4, 1970.
264–256	Dynoram Weed Killer	do	Apr. 12, 1971.
264–260	Vegiben 2E	do	Apr. 4, 1973.
264–266	Amiben Super 6 Liquid	do	Feb. 13, 1973.
264–274	Amiben 10 Granular	do	July 31, 1973.
264–276	Technical Methyl Ester	do	Aug. 21, 1973.
264–279	Technical Amiben Sodium Salt	do	Sept. 12, 1973.
279–83	Niagara CR 50 Dust	FMC Corporation, Agricultural Chemicals Division, 2000 Market St., Philadelphia, PA 19103.	Apr. 2, 1948.
279–1736	NAA 0.2 Dust	do	Mar. 3, 1961.
279–1955	Niagara Liqui-Stik 600	do	Sept. 24, 1962.
293–126	Livestock Dust Contains 0.5% Co-Ral	C. J. Martin Co., P.O. Box 1089, Nacogdoches, TX 75961	May 1, 1969.
335–214	Penbrite S	Pennwalt Corporation, Three Parkway, Philadelphia, PA 19102	Feb. 18, 1975.
464–201	Esteron 99 Concentrate	Dow Chemical U.S.A., P.O. Box 1706, Midland, MI 48640	Sept. 25, 1957.
476–1706	Cryolite Sevin 35–5 Dust	Stauffer Chemical Company, 1200 South 47th St., Richomond, CA 94804	Feb. 13, 1964.
485–26	Winru Warfarin Rat & Mouse Killer	The Industrial Fumigant Company, P.O. Box 1200, Olathe, KS 66061	Jan. 8, 1952.
485–30	57% Malathion Concentrate	do	Mar. 10, 1958.
524–114	Granular Randox T	Monsanto Agricultural Products Company, 1101 17th St., NW, Suite 604, Washington, DC 20036.	Feb. 11, 1960.
524–109	Randox-T	do	Jan. 26, 1950.
602–75	Purina Co-Ral Animal Insecticide (25% Wettable Powder)	Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188	Aug. 22, 1958.
635–631	Noraben LS Herbicide	Grower Service Corporation, P.O. Box 18037, Lansing, MI 48901	Apr. 30, 1970.
728–104	Texas Star Screwworm Killer	Drexel Chemical Company, P.O. Box 9306, Memphis, TN 38109	Sept. 28, 1972.
802–469	Miller's Rat & Mouse Bait	The Charles N. Lilly Company, 7737 NE. Killingworth, Portland, OR 97218	Sept. 1, 1972.
827–200	Agrico Chinch Bug Control	Agrico Chemical Company, P.O. Box 346, Memphis, TN 38101	Mar. 9, 1964.
827–205	Agrico Tonic Contains Di-Syston 8–8–8 Plant Food	do	Jan. 10, 1967.
912–93	Pacific Cooperative's Prolin Ready-to-Use Rat & Mouse Bait	Farmers Union Central Exchange, Inc., P.O. Box 43089, St. Paul, MN 55164	June 24, 1963.
1691–82	Rodenticide Zinc Phosphide	Chemical Compounding Corporation, 680 Elion Avenue, Riverhead, NY 11901	June 29, 1961.
1990–487	Sure Death Brand Weapon 4E	Farmland Industries, Inc., P.O. Box 7305, Kansas City, MO 64116	June 25, 1956.
1990–497	Noraben Herben-Amiben Liquid Slurry Mixture	do	June 25, 1971.
1990–501	Ethion 4EC	do	Dec. 13, 1971.
3051–70	ACCO Cattle Dust Bag	Agricultural Products Company, Inc., P.O. Box 698, Mesquite, NM 88048	June 29, 1970.
3134–22	Evsco 15CC Ceramite	Evsco Pharmaceutical Corporation, 115 Fourth Ave., Needham Hts., MA 02194	Sept. 16, 1966.
3618–7	Industrial Brand 72½ Chlordane Emulsifiable Concentrate	Industrial Colloids & Chemicals, Inc., P.O. Box 1946, Knoxville, TN 37901	Apr. 5, 1957.

Registration No.	Product name	Registrant	Date registered
8481-104	Nematocide Granules 80	AMVAC Chemical Corporation, 4100 East Washington Boulevard, Los Angeles, CA 90023.	July 16, 1972.
5967-76	Dibrom Kelthane Dust No. 4-3	Moyer Chemical Company, P.O. Box 945, San Jose, CA 95108	Aug. 24, 1973.
7476-1	Alg-Away	General Development Corporation, P.O. Box 3675, Milwaukee, WI 53217	Jan. 14, 1963.
9691-22	Gustafson Thriom Technical	Gustafson, Inc., P.O. Box 220065, Dallas, TX 75222	May 29, 1980.
9691-23	Mixed Grain Bait for Field Mice	Mammal Survey & Control Service, 216 N. Tillamook St., Portland, OR 97227	Feb. 12, 1981.
9779-7	Mixed Grain Bait for Field Mice (Zinc Phosphide 2.0%)	do	Do.
9936-9	Riverside Ethion 4 Dust	Riverside Chemical Company, P.O. Box 1828, Sioux City, IA 51102	Aug. 23, 1967.
11556-3	Grace Fertilizer Contains 0.8% Di-System	W. R. Grace & Company, 100 North Main St., Memphis, TN 38101	Feb. 7, 1968.
11556-9	Co-Ral Parasiticide 15% Concentrate	Bayvet, P.O. Box 360, Shawnee Mission, KS 66201	Oct. 14, 1971.
11556-10	Baymix 2 Feed Premix (Medicated)	do	Dec. 29, 1971.
11556-22	Baymix 50 Feed Premix (Medicated)	do	Do.
11556-26	Co-Ral Dog Pressurized Spray	do	Do.
11556-49	Co-Ral (Coumaphous) Livestock Insecticide Spray	do	Do.
33313-14	Co-Ral (Coumaphous) 50% Dust Base	do	May 5, 1976.
45639-36	Wellgro Systemic Fertilizer Contains Di-Syston	Blakeley-Wellgro, Inc., P.O. Box 26, Wellington, CO 80549	July 14, 1970.
45639-44	Torak Emulsifiable Concentrate Insecticide & Miticide	BFC Chemicals, Inc., P.O. Box 2867, Wilmington, DE 19805	Apr. 13, 1973.
45639-45	Torak 50% Wettable Powder Insecticide	do	Nov. 25, 1974.
45639-46	Torak-P Emulsifiable Concentrate Insecticide	do	Do.
45639-47	Torak G Emulsifiable Concentrate Insecticide	do	Do.
	Torak An Insecticide for Formulating Use	do	June 3, 1977.

The Agency has agreed that such cancellation shall be effective April 9, 1982, unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for 1 year after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Production of these products as pesticide formulations after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these products be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "(OPP–66090)" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in the Document Control Office, Room E–107, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 6(a)(1) of FIFRA as amended 86 Stat. 973 89 Stat. (751, 7 U.S.C. 136))

Dated: February 25, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 82-6343 Filed 3-9-82; 8:45 am]

BILLING CODE 6560-32-M

[PH–FRL–2068–6; PP 1G2471/T350]

Diamond Shamrock Corp. Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for residues of the fungicide 2,4,5,6-tetrachloroisophthalonitrile and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile in or on the raw agricultural commodity almonds with a label restriction against feeding treated hulls to livestock. The temporary tolerance was requested by Diamond Shamrock Corporation.

DATE: This temporary tolerance expires December 31, 1983.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, Production Manager (PM) 21, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1900).

SUPPLEMENTARY INFORMATION: Diamond Shamrock Corporation, 1100 Superior Ave., Cleveland, OH 4414, has requested the establishment of a temporary tolerance for residues of the fungicide 2,4,5,6-tetrachloroisophthalonitrile and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile in or on the raw agricultural commodity almonds at 0.05 part per million (ppm), with a label restriction against feeding treated hulls to livestock.

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of experimental use permit 677–EUP–21 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporay tolerance has been established on the condition that the pesticide be used accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experiemental use permit

2. Diamond Shamrock Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA of the Food and Drug Administration.

This tolerance expires December 31, 1983. Residues in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience of scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Fleaxibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 610–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a subtstantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: February 25, 1982.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-6347 Filed 3-9-82; 8:45 am]

BILLING CODE 6560-32-M

[PH–FRL–2068–3; F–61B]

Union Carbide Corp.; Filing of Pesticide Petition; Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Union Carbide Corp. has amended a pesticide petiton (PP 8F2043) to propose establishment of tolerances for residues of the insecticide/nematocide 2-methyl-2-(methylsulfonyl)propanal *O*-[(methylamino)carbonyl]oxime in or on certain raw agricultural commodities.

ADDRESS: Written comments to: Jay S. Ellenberger, Product Manager (PM) 12, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Jay S. Ellenberger (703–557–2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the **Federal Register** of February 27,1978 (43 FR 8029), which announced that Union Carbide Corp., P.O. Box 12014, TW Alexander Drive, Research Triangle Park, NC 27709 had submitted pesticide petition 8F2043 to the EPA proposing that tolerances be established for residues of the insecticide/nematocide 2-methyl-2-(methylsulfonyl)propanal *O*-[(methylamino)carbonyl]oxime in or on certain raw agricultural commodities.

Union Carbide Corp. has submitted an amendment to the petition to include proposed tolerances for the following raw agricultural commodities:

Commodities	Parts per million
Cattle, fat	0.01
Cattle, meat	.01
Cattle, mbyp	.01
Goats, fat	.01
Goats, meat	.01
Goats, mbyp	.01
Hogs, fat	.01
Hogs, meat	.01
Hogs, mbyp	.01
Horses, fat	.01
Horses, meat	.01
Horses, mbyp	.01
Milk	.002
Sheep, fat	.01
Sheep, meat	.01
Sheep, mbyp	.01

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136))

Dated: February 24, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs

[FR Doc. 82-6344 Filed 3-9-82; 8:45 am]

BILLING CODE 6560-32-M

[AD–FRL–2068–3]

Approval of Revised Compliance Schedules for Control of Volatile Organic Compounds From Certain Can Coating Operations

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: This notice restates the Environmental Protection Agency (EPA) policy to approve extensions of State Implementation Plan compliance schedules for controlling emissions of volatile organic compounds from certain processes in can manufacturing plants.

FOR FURTHER INFORMATION CONTACT: Leo Stander, Control Programs Development Division (MD–15), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541–5516.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency will approve extensions of compliance schedules for the control of volatile organic compounds from certain processes in can manufacturing plants. Such extensions will be approved for sheet base coat and end sealing compound coating processes in circumstances where they will facilitate the expeditious conversion to low solvent technology. These extensions may be granted for a period up to 1985 where an expeditious, legally enforceable compliance program has been developed consistent with reasonable further progress requirements and the ozone control strategy as defined in the State Implementation Plan and with other applicable provisions of the Clean Air Act.

Dated: February 14, 1982.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 82-6466 Filed 3-9-82; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL HOME LOAN BANK BOARD

[No. AC–159]

Continental Federal Savings and Loan Association; Oklahoma City, Okla.; Final Action Approval of Conversion Applications

Dated: March 5, 1982.

Notice is hereby given that on February 5, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 82–90 approved the application of Continental Federal Savings and Loan Association, Oklahoma City, Oklahoma, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, 3 Townsite Plaza, 120 East 6th Street, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-6462 Filed 3-9-82; 8:45 am]

BILLING CODE 6720-01-M

Federal Savings and Loan Advisory Council; Meeting

March 5, 1982.

Pursuant to section 10(a) of Pub. L. 92–463, entitled the Federal Advisory Committee Act, notice is hereby given of the Meeting of the Federal Savings and Loan Advisory Council on Tuesday, April 13 and Wednesday, April 14, 1982. The meeting will commence at 9:00 a.m. each day. The meeting will be held at the Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C., Bank Board Conference Room, Sixth Floor.

Tuesday, April 13

9:00 a.m.—Opening Remarks—Review of Topics and Subcommittee Assignments
9:30 a.m.—Subcommittee begin Deliberations
S&L Ownership and Concentration of Control
Short Term Government Support Efforts
Pension Funds and Mortgage Financing
Federal Home Loan Bank Systems
12:00 None—Lunch

1:30 p.m.—Subcommittee Resume Deliberations
3:00 p.m.—Subcommittee Begin Formulation of Resolutions

Wednesday, April 14

9:00 a.m.—Subcommittee Complete Work on Resolutions
10:30 a.m.—Council Votes on Proposed Resolutions
12:00 Noon—Lunch
1:30 p.m.—Resume Vote on Resolutions
3:00 p.m.—Present Resolutions to the Board Members
5:30 p.m.—Adjourn

The meeting of the Federal Savings and Loan Advisory Council is open to the public.

Richard T. Pratt,
Chairman.

[FR Doc. 82-6470 Filed 3-9-82; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-162]

Highland Federal Savings and Loan Association, Los Angeles, Calif.; Final Action; Approval of Conversion Applications

Dated: March 5, 1982.

Notice is hereby given that on February 22, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 82-122 approved the application of Highland Federal Savings and Loan Association, Los Angeles, California for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of San Francisco, 600 California Street, San Francisco, California 94120.

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.

[FR Doc. 82-6463 Filed 3-9-82; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-160]

Home Federal Savings and Loan Association, Tucson, Ariz.; Final Action; Approval of Conversion Applications

Dated: March 5, 1982.

Notice is hereby given that on February 18, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 82-107 approved the application of Home Federal Savings and Loan Association, Tucson, Arizona, for permission to convert to the stock of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of San Francisco, 600 California Street, San Francisco, California 94120.

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.

[FR Doc. 82-6464 Filed 3-9-82; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-156; Correction]

Home Federal Savings and Loan Association, of Deming, Deming, N. Mex.; Final Action Approval of Conversion Applications

Dated: March 5, 1982.

Notice is hereby given that on February 2, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 82-69 approved the application of Home Federal Savings and Loan Association, of Deming, Deming, New Mexico, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.

[FR Doc. 82-6465 Filed 3-9-82; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-157]

Keene Co-Operative Bank, Keene, N.H.; Final Action; Approval of Conversion Applications

Dated: March 5, 1982.

Notice is hereby given that on February 4, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 82-87 approved the application of Keene Co-Operative Bank, Keene, New Hampshire, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Boston, One Federal Street, 30th Floor, Boston, Massachusetts.

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.

[FR Doc. 82-6466 Filed 3-9-82; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-158]

Local Federal Savings and Loan Association, Oklahoma City, Okla.; Final Action; Approval of Conversion Applications

Dated: March 5, 1982.

Notice is hereby given that on February 5, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 82-89 approved the application of Local Federal Savings and Loan Association, Oklahoma City, Oklahoma, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, 3 Townsite Plaza, 120 East 6th Street, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.

[FR Doc. 82-6467 Filed 3-9-82; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-163]

Mid-State Federal Savings and Loan Association, Ocala, Fla.; Final Action; Approval of Conversion Applications

Dated: March 5, 1982.

Notice is hereby given that on February 24, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 82-132 approved the application of Mid-State Federal Savings and Loan Association, Ocala, Florida, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, Coastal State Building, 269 Peachtree Street, N.W., Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.

[FR Doc. 82-6468 Filed 3-9-82; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-161]

Washington Federal Savings and Loan Association Seattle, Wash; Final Action; Approval of Conversion Applications

Dated: March 5, 1982.

Notice is hereby given that on February 22, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 82-124 approved the application of Washington Federal Savings and Loan Association of Seattle, Washington, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Seattle, 600 Stewart Street, Seattle, Washington 98101.

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.

[FR Doc. 82-6469 Filed 3-9-82; 8:45 am]
BILLING CODE 6720-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicaid Program; Hearing; Reconsideration of Disapproval of a South Carolina State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on April 28, 1982 in Atlanta, Georgia to reconsider our decision to disapprove South Carolina State plan amendment 81-9.

CLOSING DATE: Request to participate in the hearing as a party must be received by March 25, 1982.

FOR FURTHER INFORMATION, CONTACT: Lawrence Ageloff, Hearing Officer, Bureau of Program Policy, 1-C-5 East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594-8260.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to deny a South Carolina State plan amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a denial of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer on or before March 25, 1982, in accordance with additional requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with additional requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter relates to limiting the number of Medicaid-payable days in skilled nursing facilities and intermediate care facilities based on the number of beds in each facility that were Medicaid-occupied as of April 1, 1981. Essentially, the proposal would establish a cap based on Medicaid utilization levels on that date, even though the facility may have additional beds that are certified for participation in the Medicaid program. The Health Care Financing Administration contends that the proposed State plan amendment would violate existing statutory and regulatory requirements under the Medicaid program.

The notice to South Carolina announcing an administrative hearing to reconsider our denial of its State plan amendment reads as follows:

March 2, 1982.

Mr. Virgil L. Conrad,
Commissioner, South Carolina Department of Social Services,
P.O. Box 1520, Columbia, South Carolina

Dear Mr. Conrad: This is to advise you that your letter of January 29, 1982, requesting a reconsideration of the decision to disapprove South Carolina State plan amendment 81-9 was received on February 1, 1982. This amendment would freeze Medicaid utilization of skilled nursing facility and intermediate care facility services by limiting each facility's payable patient days based on the number of beds in each facility that were occupied by Medicaid patients as of April 1, 1981. You have requested a reconsideration of whether this plan amendment conforms to the Social Security Act and pertient regulations.

I am scheduling a hearing on your request to be held on April 28, 1982 at 10:00 a.m. in the 7th Floor Conference Room, 101 Marietta Tower, Spring and Marietta Streets, Atlanta; Georgia. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Lawrence Ageloff as the presiding official. Please let him know if these arrangements present any problems. He can be reached on (301) 594-8260.

Sincerely yours,
Carolyne K. Davis, Ph. D.

(Sec. 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance program No. 13.714, Medical Assistance Program)

Dated: March 2, 1982.

Paul Willging
Acting Administrator, Health Care Financing Administration.

[FR Doc. 82-6470 Filed 3-9-82; 8:45 am]
BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Alabama; Coal Production

AGENCY: Bureau of Land Management, Eastern State Office.

ACTION: Notice deleting Jefferson County from the Alabama Subregion of the Southern Appalachian Coal Production Region and opening the county to leasing by application.

SUMMARY: On November 9, 1979, the Department of the Interior established the Alabama Subregion of the Southern Appalachian Coal Production Region for the management of Federal coal (44 FR 65196-65197). The subregion originally included Fayette, Tuscaloosa, and Walker Counties, and the western portion of Jefferson County. Information acquired since the establishment of this subregion indicated that the volumes of Federal coal in Jefferson County and the degree of industry interest in this coal do not justify inclusion of this county in a Federal coal production region as outlined in 43 CFR 3420. In accordance with 43 CFR 3420.3-1(a)(1), this notice deletes that portion of Jefferson County currently within the Alabama Subregion of the Southern Appalachian Coal Production Region. Further, this notice designates Federal coal reserves in Jefferson County as open to leasing by application in accordance with 43 CFR 3425.

FOR FURTHER INFORMATION CONTACT: Bibi Giorlando, Bureau of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304 ((703) 235–3630).

SUPPLEMENTARY INFORMATION: The expected benefits of the action outlined above are a savings in administrative costs to the Federal government and a more responsive leasing process for local coal operators.

Applications under 43 CFR 3425 will be accepted by BLM to lease Federal coal in Jefferson County, Alabama. Three copies of each application submitted should be filed at the following address: Bureau of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304. Information on procedures for leasing by application is available from this and other BLM offices.

Rolla E. Chandler,

Acting Eastern States Director.

[FR Doc. 82-6409 Filed 3-9-82; 8:45 am]

BILLING CODE 4310-84-M

Eugene District Advisory Council; Meeting

Notice is hereby given in accordance with section 309 of the Federal Land Policy and Management Act of 1976 that a meeting of the Eugene District Advisory Council will be held on April 5, 1982.

The meeting will begin at 9:00 a.m. and conclude at 12:00 noon Pacific Standard Time, in Room 227 in the Federal Building at 211 E. 7th, Eugene, Oregon.

The main subject on the agenda will be the scoping of alternatives and issues for the Environmental Impact Statement on the Timber Management Plan for the Upper Willamette-Siuslaw Sustained Yield Units. The Council will hear a report on the public EIS scoping meeting held April 5, the previous day, and provide its own comments on the EIS scoping.

The meeting is open to the public. Interested persons may make oral statements to the Council between 11:30 a.m. and 12:00 noon on April 6, 1982, or file written statements for the Council's consideration. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, 1255 Pearl Street, Eugene, Oregon 97401, by March 30, 1982. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Council meeting will be maintained in the District Office and be available for public inspection during regular business hours within 30 days following the meeting.

Dated: March 1, 1982.

Dwight L. Patton,

District Manager.

[FR Doc. 82-6439 Filed 3-9-82; 8:45 am]

BILLING CODE 4310-84-M

[OR 6410]

Oregon; Termination of Classification for Multiple Use Management

1. By order the Oregon State Director, Bureau of Land Management, which was published in the **Federal Register** on September 24, 1970 (35 FR 14858), 31,825.11 acres of public lands under the jurisdiction of the Bureau of Land Management were classified for multiple use management pursuant to the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1411–18) and the regulations in 43 CFR Part 2460. The lands are located in Curry County, Oregon.

2. Pursuant to 43 CFR 2461.5(c)(2), the classification is terminated in its entirety on March 10, 1982.

3. The public lands involved remain withdrawn for multiple use management purposes by Public Land Order No. 5490 of February 12, 1975, and will therefore not be open to appropriation under the agricultural land laws (43 U.S.C. Ch. 9, 25 U.S.C. 334). Subject to the provisions of other existing withdrawals and classificiations, the lands have been and continue to be open to all other forms of appropriation, including the United States mining laws and mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: February 26, 1982.

Paul M. Vetterick,

Associate State Director.

[FR Doc. 82-6438 Filed 3-9-82; 8:45 am]

BILLING CODE 4310-84-M

[W-50061]

Wyoming; Notice of Coal Lease Offering by Sealed Bid

March 1, 1982.

Department of the Interior, Bureau of Land Management, Wyoming State Office, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001. Notice is hereby given that at 2:00 p.m., April 7, 1982, certain coal resources in the lands hereinafter described in Carbon and Sheridan Counties, Wyoming, will be offered for competitive lease by sealed bid of $25.00 per acre or more to the qualified bidder submitting the highest bonus bid in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended, and the Department of Energy Organization Act of August 4, 1977 (91 Stat. 565, 42 U.S.C. 7101). However, no bid will be accepted for less than fair market value as determined by the authorized officer.

The sale will be held in the third floor Conference Room, 2515 Warren Avenue, Cheyenne, Wyoming. No bids received after 1:00 p.m., on April 7, 1982, will be considered.

Coal Offered: Consists of the coal recoverable by underground mining methods from the A to D zone of the Finch group, the G seam of the Finch group, the E seam of the Blue group and the Johnson seam in the following described land located approximately twelve (12) miles southeast of Hanna, Wyoming:

6th P. M., Wyoming

T. 21 N., R. 79 W.,
- Sec. 8, all;
- Sec. 18, lots 1, 2, 3, 4, E½ and E½W½, (all);
- Sec. 20, N½ and SW¼;
- Sec. 30, lots 1, 2, 3, 4, E½ and E½W½, (all).

6th P. M., Wyoming

T. 21 N., R. 80 W.,
- Sec. 12, all;
- Sec. 14, all;
- Sec. 22, all;
- Sec. 24, all;
- Sec. 26, all;
- Sec. 28, W½ and SE¼;
- Sec. 32, E½, and SE¼SW¼;
- Sec. 34, all.

Containing 7,065.75 acres

The estimated total reserves are 103 million short tons. The average coal quality is as follows: BTU—11,200/lb., Sulfur—0.5 and Ash—8. percent. (This would classify the coal as high volatile C bituminous under ASTM Specification D 388–66.) The A to D zone of the Finch group averages 16.5 feet over 1,702.00 acres of the described lands; the G seam of the Finch group averages 6.9 feet over 2,560.00 acres; the E seam of the Blue group averages 3.3 feet over 3,542.00 acres; and the Johnson coal bed averages 22.5 feet thick over all the described lands.

The tract lies within the Hanna and Carbon Basins known recoverable coal resource area (KRCRA), Carbon County, Wyoming.

The lease issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre or fraction thereof and a royalty payable to the United States.

Notice of Availability: Bidding instructions are included in the Detailed Statement of the Lease Sale. A copy of the Statement and of the proposed coal lease are available at the Bureau of Land Management, 2515 Warren Avenue, Cheyenne, Wyoming 82001. All case file documents and written comments submitted by the public on Fair Market Value or royalty rates, except those portions identified as proprietary by the commentor and meeting exemptions stated in the Freedom in Information Act, are available for public inspection at the above address on the fourth floor.

James H. O'Connor,

Acting State Director.

[FR Doc. 82-6427 Filed 3-9-82; 8:45 am]

BILLING CODE 4310-84-M

Las Vegas District Resource Area Boundary Realignment

AGENCY: Bureau of Land Management, Interior.

ACTION: Information.

SUMMARY: This is to serve notice that the boundary between the Caliente Resource Area and the Stateline-Esmeralda Resource Area in the Bureau's Las Vegas (NV) District has been realigned to the Clark County-Lincoln County boundary. All public lands in the northeast portion of Clark County (the Virgin Valley Planning Unit) previously administered by the Caliente Resource Area, are now administered by the Stateline-Esmeralda Resource Area. The Northern boundary of the Caliente Resource Area and the Southern boundary of the Stateline Esmeralda Resource Area remain unchanged.

For further information about, or to conduct business pertaining to, the BLM administered lands in Clark County, Nevada please contact:

William T. Civish, Area Manager, 300 East Stewart Street, 2nd Floor, Las Vegas, Nevada, (702) 385–6627; or write

William T. Civish, Area Manager, Stateline-Esmeralda Resource Area, Bureau of Land Management, P.O. Box 26569, Las Vegas, Nevada 89126.

For information about, or to conduct business pertaining to, BLM administered lands in Lincoln County in the Caliente Resource Area please contact:

Darwin G. Anderson, Area Manager, BLM Office, U.S. Highway 93, Caliente, Nevada, (702) 726–3141; or write

Darwin G. Anderson, Area Manager, Caliente Resource Area, P.O. Box 237, Caliente, Nevada 89008.

Dated: February 25, 1982.

Kemp Conn,

District Manager.

[FR Doc. 82-6383 Filed 3-9-82; 8:45 am]

BILLING CODE 4310-84-M

[M 17856]

Montana; Termination of Proposed Withdrawal

March 2, 1982.

1. The Bureau of Land Management, United States Department of Interior, filed application for withdrawal of the following described land from all forms of appropriation under the public land laws, including the mining laws, but not from leasing under the mineral leasing laws. The Notice of Proposed Withdrawal was published in the **Federal Register**, Volume 38, Number 35 on page 4792 of the issue of February 22, 1973.

The applicant agency has cancelled its application in its entirety.

Principal Meridian

T. 7 N., R. 46 E.,
- Sec. 14, lots 6 and 7;
- Sec. 15, lot 3;
- Sec. 22, lots 1, 4, and 5;
- Sec. 23, lots 2 and 3.

The area described contains 131.92 acres in Custer County.

2. Therefore, pursuant to the regulations contained in 43 CFR 2091.2–5(b)(1), at 8 a.m. on April 20, 1982, such land will be relieved of the segregative effect of the above mentioned application.

Inquiries concerning these lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-6382 Filed 3-9-82; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

Closed Basin Division, San Luis Valley Project, Colo.; Public Hearings on Draft Supplement to Final Environmental Statement and on Executive Orders 11988 (Floodplain Management) and 11990 (Protection of Wetlands)

Pursuant to section 102(2)(C) of the National Environment Policy Act of 1969, the Department of the Interior, Bureau of Reclamation, has prepared a draft supplement to the final environmental statement for the Closed Basin Division of the San Luis Valley Project. This draft supplement (DES 82–6, dated February 11, 1982) was made available to the public on February 12, 1982.

The Closed Basin Division is a multiple-purpose project designed to salvage ground water now being lost to evaporation and deliver it to the Rio Grande through a system of laterals and a canal. Recreational development and enhancement of fish and wildlife resources will also result.

The supplemental statement is necessary to present a revised plan to mitigate project effects. Additional data gathered and analyzed indicate that less mitigation is required than originally proposed.

The revised mitigation plan provides for acquisition, development, and management of the Russell Lakes Wildlife Management Area as a replacement for the previously proposed Mishak National Wildlife Refuge. This change reduces the amount of private lands to be acquired from more than 10,000 acres to about 3,100 acres.

Public hearings will be held at 7:30 p.m. on April 13, 1982, in Alamosa, Colorado, on the Adams State College campus (in the Carson Auditorium at the College Center) and at 7:30 p.m. on April 14, 1982, at Saguache, Colorado, in the Mountain Valley School gymnasium, 403 Pitkin Avenue. The purpose of these hearings is twofold—to receive views and comments from interested organizations and individuals relating to the environmental impacts of the project and to provide the public with information on the effect this project will have on wetlands (Executive Order 11990) and flood plains (Executive Order 11988). The hearings will give the public an opportunity to participate in the decisionmaking process.

Oral statements at the hearing will be limited to 10 minutes. Speakers will not trade their time to obtain a longer oral presentation; however, the hearings officer may allow any speaker to provide additional oral comment after all persons wishing to comment have been heard. Speakers will be scheduled according to the time preference mentioned in their letter or telephone request whenever possible; and any scheduled speaker not present when called will lose his/her privilege in the scheduled order, and his/her name will be recalled at the end of the scheduled speakers. Requests for scheduled presentations will be accepted through April 9, 1982, and any subsequent requests will be handled on a first-come-

first-served basis following the scheduled presentation.

Organizations or individuals desiring to present statements at the hearing should contact the Bureau of Reclamation, 714 South Tyler Street, Suite 201, Amarillo, Texas 79101, telephone (806) 378–5400, extension 599, and announce their intention to participate. Written comments from those unable to attend and from those wishing to supplement their oral presentation at the hearing should be received by April 23, 1982, for inclusion in the hearing record.

Dated: March 4, 1982

Eugene Hinds,

Assistant Commissioner, Bureau of Reclamation.

[FR Doc. 82-6060 Filed 3-9-82; 8:45 am]

BILLING CODE 4310-09-M

National Park Service

National Registry of Natural Landmarks

AGENCY: National Park Service, Interior.

ACTION: Public notice and request for comment.

The areas listed below appear to qualify for designation as national natural landmarks, in accordance with the provisions of 36 CFR Part 62. Pursuant to § 62.4 (d)(1) of 36 CFR Part 62, written comments concerning the potential designation of these areas as natural landmarks may be forwarded to the Associate Director, Science and Technology, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or requests for additional time or information should be received no later than May 10, 1982.

Dated: February 16, 1982.

Richard H. Briceland,

Associate Director, Science and Technology.

New Jersey

Passaic County

Great Falls of Paterson-Garrett Mountain; the Garrett Mountain site, 309 acres located adjacent to the City of Paterson, is proposed as an addition to the Great Falls of Paterson National Natural Landmark. Together, these two areas provide an excellent illustration of the jointed basaltic lava flow which began a period of extrusion and intrusion throughout eastern North America in the early Mesozoic, influencing present day landforms in this region.

New Jersey/New York

Bergen County (NJ)/Rockland County (NY)

Palisades of the Hudson; this 2,620-acre site is located along the west side of the Hudson River from the George Washington Bridge north to Sparkhill, NY. This is the best example of a thick diabase sill in the United States, displaying excellent examples of columnar jointing, olivine formation, and thermal metamorphism.

Oklahoma

Alfalfa County

Great Salt Plains; this 31,380-acre site, located 2.5 miles east of Cherokee, is administered by the U.S. Fish and Wildlife Service as Salt Plains National Wildlife Refuge. It is the largest inland saline basin in the Great Plains, providing one of the few remaining habitats for many migrating waterfowl.

Texas

Anderson County

Catfish Creek; this 3,140-acre site is located within the Engling State Wildlife Management Area and is 20 miles northwest of Palestine. It is the best example of the few remaining undisturbed riparian habitats of the Western Gulf Coastal Plain, supporting a number of rare wildlife species.

[FR Doc. 82-6473 Filed 3-9-82; 8:45 am]

BILLING CODE 4310-70-M

Cape Cod National Seashore Advisory Commission, South Wellfleet, Mass.; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770 (5 U.S.C. App. 1 § 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held at 1:30 p.m. on Friday, March 26, 1982, at the Headquarters Building, Cape Cod National Seashore.

The Commission was established pursuant to Pub. L. 91–383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The members of the Advisory Commission are as follows:

Dexter M. Keezer, Truro
Francis R. King, Wellfleet
Nathan Malchman, Provincetown
Barbara S. Mayo, Provincetown
Joshua A. Nickerson, Chatham
David F. Ryder, Chatham
Sherrill B. Smith, Jr., Orleans
Clifford H. White, Wrentham
Elizabeth F. Worthing, Eastham
Paul F. Nace, Jr., Woods Hole

At the meeting the Commission will consider the following:
Recommendations of the Commission on the Analysis of Water Resource Management Alternatives (with Environmental Assessment).

The meeting is open to the public. It is expected that 50 persons will be able to attend the session in addition to the Commission members.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Herbert Olsen, Superintendent, Cape Cod National Seashore, South Wellfleet, MA 02663, telephone (617) 349–3785. Minutes of the meeting will be available for public information and copying four weeks after the meeting at the Office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts.

Herbert Olsen,

Superintendent, Cape Cod National Seashore.

February 24, 1982.

[FR Doc. 82-6477 Filed 3-9-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[AB 72 SDM]

Rail Carriers; Sacramento Northern Railway; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.23, that the Sacramento Northern Railway has filed with the Commission its amended color-coded system diagram map in docket No. AB 72 SDM. The Commission on February 12, 1982, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AM 72 SDM.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6401 Filed 3-9-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Decision-Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924,10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply whith the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–79576. By decision of February 26, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to NEVADA GENERAL TRANSPORTATION, INC., of Draper, UT, of Certificate No. MC–138274 (Sub-No. 45)X, issued February 19, 1982, to PAYNE MOTOR LINES, INC., of Draper, UT, which authorizes the transportation of *food and related products,* between points in Ada County, ID, on the one hand, and, on the other, points in AZ, CA, CO, IL, IA, UT,KS, MN, MO, NE, OR, WA, and WI.

Notes.—(1) Transferee holds authority under MC–146464 and sub-numbers thereunder. (2) This notice is supplemental to the **Federal Register** notice of February 4, 1982 at page 5366, which published the January 20, 1982 decision authorizing the transfer of other authority in this proceeding.

MC–FC–79628. By decision of February 18, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 2 approved the transfer to United Cargo Express, Inc. of Fort Worth, TX, of Certificates No. MC–133805 (and Permits No. MC–133805 (Sub-No. MC–149555F issued between April 14, 1971 and May 28, 1981 and Lone Star Carriers, Inc. of Tolar, TX authorizing transportation (1) as a motor common carrier over irregular routes transporting *meats* and *related products, clay, frozen bakery goods, textiles and textile piece goods, tile, steel shot, foodstuffs, canned and preserved foodstuffs, containers and container lids, auto supply store merchandise, coal briquets, lighter fluid, hickory chips and barbeque items, discount and variety store merchandise, furniture, china, flatware, cookware, glassware, chemicals and materials and supplies used to distribute chemicals, plastic and burlap articles, general commodities, plastic film and articles, corrugated boxes and materials and supplies used to manufacture and distribute such plastic and corrugated items, auto cleaner and polish, cardboard displays, toilet preparations and materials, and supplies used in the manufacture and distribution of toilet preparations, paint and caulking compounds and materials and supplies used to manufacture paint and caulking supplies;* between specific points in the U.S. and between points in the U.S., generally and (2) as a motor contract carrier over irregular routes transporting (a) *meats, meat byproducts, meat products and articles distributed by meat packing houses;* (b) *foodstuffs,* and (c) *materials, equipment and supplies* used to manufacture and distribute the commodities in (a) and (b) between points in the U.S. under continuing contracts with Swift & Independent Packing Co. of Chicago, IL; and *meat, meat products, meat by-products and articles distributed by meat packing houses* between points in the U.S. under continuing contracts with Freezer Services, Inc. *Condition: Transferor also seeks to transfer No. MC–133805 (Sub-No. 66), currently pending. Transferee shall file a petition for substitution as applicant in that proceeding as condition to approval of the instant transaction. Applicant's representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112.

Note.—(1) The above descriptions of commodities and territories are general and the specific descriptions are available at the Interstate Commerce Commission's Washington, DC and Fort Worth, TX offices; (2) Application for TA has been filed.

MC–FC–79642. By decision of March 2, 1982 issued under 49 U.S.C 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to EVERMAN'S INCORPORATED, of Humeston, IA, of Certificate Nos. MC–143257 and MC–143257 (Sub-Nos. 2, 3, and 4X), issued to CHAMBERS, LTD., of Corydon, IA, which authorize the transportation of (A) (1) (a) *grain drying equipment and grain bins,* and (b) *parts and accessories* for the commodities in (a) above, from Corydon, IA, to points in the U.S. (except AK, HI, and IA); and (2) *materials and supplies* (except commodities in bulk) used in the manufacture and distribution of the commodities in (1) above, in the reverse direction; (B) (1) *cosmetic body care products;* (2) *health food products,* and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between the facilities of Sasco Cosmetics, Inc., at or near Dallas, TX, on the one hand, and, on the other, points in the U.S.; (C) (1) *horticultural equipment, implements, and tools; (2) plastic and rubber products;* and (3) *chemicals and related products,* between the facilities of Ross Daniels, Inc., at points in IA, on the one hand, and, on the other, points in the U.S. in and west of MN, IA, MO, AR, and LA; and (D) (1) *chemicals and related products,* and (2) *food and related products,* between Dallas, Tarrant, Denton, Collin, Rockwall, Kaufman, and Ellis Counties, TX, on the one hand, and, on the other, points in IA, IL, and MN. Representative: Larry Knox, 600 Hubbell Bldg., Des Moines, IA 50309.

Notes.—TA has not been filed. Transferee is not a carrier.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-6375 Filed 3-9-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Decision Notice; Finance Applications

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed by Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated; March 4, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,
Secretary.

MC-F-14804, filed February 10, 1982. J. C. LOVELACE, an individual, (Lovelace) (2222, E. Grauwyler Rd, Irving, TX 75061)—Continuance in Control—Trans-Overland Xpress, Inc. (Trans-Overland) (297 County Line Rd., Midlothian, TX 76065). Representative: Ralph W. Pulley, Jr., 102 Metropolitan Savings Tower, 5944 Luther Lane, Dallas, TX 75225. Lovelace seeks authority to continue in control of Trans-Overland. Lovelace presently controls TOX Holdings, Inc., a non-carrier holding company with a wholly-owned subsidiary, Texas Oklahoma Express, Inc. Texas Oklahoma Express, Inc., is a common carrier operating pursuant to authority issued in MC 116004 and sub-numbers thereunder. Trans-Overland has been granted authority in MC 151607, which authorizes operations as a contract carrier, transporting *general commodities* between points in the United States, under continuing contract(s) with Seal-Right Co., Inc. of Kansas City, KS, Western Auto Supply Co., of Kansas City, MO, Standard T Chemical Co., Inc., of Dallas, TX and Sears, Roebuck and Co., of Dallas, TX. Trans-Overland has four applications pending in Subs 1, 2, 3 and 4.

MF-F-14806, filed February 12, 1982. Applicants: SMITH BROTHERS TRUCKING, INC., North Third Street, Bardstown, KY 40004—Purchase (Portion)—Rapier Smith, North Third Street, Bardstown, KY 40004; Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. Smith Brothers Trucking, Inc. seeks authority to purchase a portion of the interstate operating rights of Rapier Smith. B. L. Smith, Sr., B. L. Smith, Jr., Charles R. Smith, Francis X. Smith, Carl P. Smith, and William J. Smith join in the application as the individuals in control of Smith Brothers Trucking, Inc. and seek authority to acquire control of said rights through the transaction. Approval is sought for the transfer of the following interstate common carrier authority in MC 139006: (a) Sub 24—general commodities serving facilities of Owens-Illinois, Inc. in and east of MN, IA, NE, KS, OK, and TX, (b) Sub 25—food and related products between designated points and areas in AR, KY, IL, LA, MI, NJ, CA, NY, OH, TX, PA, MD, FL, AL and GA, (c) Sub 28—such commodities as are dealt in by grocery and food business and agricultural feed business houses between points in and east of MN, IA, MO, KS, OK, and TX,-(d) Sub 28—general commodities serving facilities of Rand McNally and subsidiaries at all points in US, (e) portion of Sub 29X—general commodities over regular route between Bardstown, KY and Chaplin, KY; plastic and paper articles and building materials between Nelson County, KY, on the one hand, and, on the other, points in and east of MN, IA, KS, NE, OK, and TX; furniture, fixtures and metal products serving facilities of Leggett & Platt in the US; food and related products between designated points and areas in MI and OH, on the one hand, and, on the other, points in and east of WI, IA, MO, AR, and LA; general commodities serving facilities of Essex Group and subsidiaries in US; general commodities serving facilities of Plough, Inc. and subsidiaries in and east of MN, IA, NE, KS, OK, and TX; food and related products between points in KY and TN and designated points in IL, NJ, AR and LA, on the one hand, and, on the other, points in and east of MN, IA, MO, KS, OK, and TX; containers between Logan County, IL, on the one hand, and, on the other, IA, IN, KY, MI, MO, and OH; food and related products between Lawrenceburg, IN, Louisville, KY and Marion County, KY, on the one hand, and, on the other, Atlanta, GA; food and related products between Indianapolis, IN, on the one hand, and, on the other, KY, MI, IL, NY, and MO, (f) Sub 31—plastic articles serving facilities of Mobil Chemical Co. in the US, (g) Sub 32—food and related products, motor oil, and liquid cleaner between Lowndes County, MS, on the one hand, and, on the other, points in the US, (h) authority which may issue from all pending and future applications in MC 139006 including Sub 3—general commodities between points in and east of ND, SD, NE, KS, OK, and TX; Sub 34—agricultural chemicals between points in the US; Sub 36—plastic and plastic articles between points in the US; and Sub 37—general commodities serving Holiday Inn Products Services Division and vendors in the US. Smith Brothers Trucking, Inc. holds no interstate authority but individuals controlling it also control Distillery Transfer Service, Inc. (MC 67996 and Subs thereunder). One of the controlling individuals, Charles R. Smith, also control transferor proprietorship Rapier Smith. His common control of Distillery Transfer Service, Inc. and Rapier Smith has previously been approved in MC-F-12356. B. L. Smith, Sr., B. L. Smith, Jr., Charles R. Smith, Francis X. Smith, Carl P. Smith and William J. Smith have filed directly related application for approval of their continuance in control of Smith Brothers Trucking, Inc., Distillery Transfer Service, Inc., and proprietorship Rapier Smith. No application for TA has been filed.

[FR Doc. 82-6376 Filed 3-9-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Ofice named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers Of Property

Notice No. F-194

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 160767 (Sub-3-1 TA), filed February 26, 1982. Applicant: LADD TRANSPORTATION, INC., One Plaza Center, P.O. Box HP-3, High Pont, NC 27261. Representative: James M. Iseman, Jr., Esq., 1001 West Fourth Street, Winston Salem, NC 27101. *Contract carrier;* irregular routes; *commodities as are dealt in and used by retail department stores and trading stamp redemption stores* between points in the Continental U.S. under continuing contract with The Sperry & Hutchinson Company, Inc., of New York, NY. Supporting shipper: The Sperry & Hutchinson Company, Inc., 330 Madison Ave., New York, NY 10017.

MC 156998R (Sub-3-2 TA), filed: February 26, 1982. Applicant: DEWITT SPARKS, d.b.a. SPARKS TRUCKING, 811 Creekway Drive, Lenior, NC 28645. Representative: Dewitt Sparks, 811 Creekway Drive, Lenior, NC 28645. *Hazardous waste (Bulk and drums)* between Spruce Pine ;and Lenoir, NC and points in: AL, CT, DE, FL, GA, IL, IN, KY, MD, MI, NH, NJ, NY, OH, PA, SC, TN, VA, WV, WI. Supporting shipper: Caldwell Systems, Mt. Herman Rd., Lenoir, NC 28645.

MC 140902 (Sub-3-11 TA), filed: February 26, 1982. Applicant: DPD, INC., 3600 N.W. 82nd Avenue, Miami, FL 33166. Representative: Dale A. Tibbets (same address as applicant). *Contract;* irregular; *Refractories and materials and supplies used in the manufacture and installation thereof* from Claysburg, Salina and Sproul, PA and Warren, OH to Lackawanna and Buffalo, NY under continuing contract(s) with General Refractories Company. Supporting shipper: General Refractories Company, 225 City Line Avenue, Bala Cynwayd, PA 19004.

MC 145906 (Sub-3-4 TA), filed: February 26, 1982. Applicant: GENERAL TRUCKING CO., INC., P.O. Box 289, Columbia TN 38401. Representative: Edward C. Blank II, P.O. Box 1004, Columbia, TN 38401. *Metal products and materials, equipment and supplies used in the manufacture, sale or distribution thereof,* between points in IA and MD on the one hand, and TN on the other. Supporting shippers: Peachtree Trading, Inc., P.O. Box 740, Columbia, TN; L and S Metals and Processing, Inc., P.O. Box 1058, Columbia, TN 38401.

MC 145154 (Sub-3-11 TA), filed: February 26, 1982. Applicant: YOUNG'S TRANSPORTATION CO., 3401 Norman Berry Drive, Suite 246, East Point, GA 30344. Representative: Eric Meierboefer, Suite 1000, 1029 Vermont Avenue, N.W., Washington, D.C. 20005. *Foodstuffs, and materials and supplies used in the manufacture and distribution thereof,* between the facilities of Fiesta Foods, Inc., at or near Dallas and San Antonio, TX, Denver, CO, Los Angeles and San Francisco, CA, and Atlanta, GA, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, NE, KS, OK, AR, and LA. Supporting Shipper(s): Fiesta Foods, Inc., 310 West Mockingbird, Dallas, TX 75247

MC 136291 (Sub-3-4TA), filed February 26, 1982. Applicant: CUSTOMIZED PARTS DISTRIBUTION, INC., 3600 N.W. 82nd Avenue, Miami, FL 33166. Representative: Dale A. Tibbets (same address as applicant). Contract; irregular; *Bakery ingredients and food items handled by grocery warehouses* from New Prague, MN to Chicago, IL and Detroit, MI under continuing contract(s) with International Multifoods Corporation. Supporting shipper: International Multifoods Corporation, International Multifoods Building, Eighth and Marquette, Minneapolis, MN 55402.

MC 136291 (Sub-3-3TA), filed February 25, 1982. Applicant: CUSTOMIZED PARTS DISTRIBUTION, INC., 3600 N.W. 82nd Avenue, Miami, FL 33166. Representative: Dale A. Tibbets (same address as applicant). Contract; irregular; *Bakery ingredients* from Minneapolis, New Prague and Rush City, MN and Chicago, IL to Detroit, MI under continuing contract(s) with DSM Food Products, Inc. Supporting shipper: DSM Food Products, Inc., 7800 Intervale, Detroit, MI 48238.

MC 152544 (Sub-3-14TA), filed February 25, 1982. Applicant: CYPRESS TRUCK LINES, INC., 1746 East Adams Street, Jacksonville, FL 32202. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Building and construction materials,* between points in York County, PA; Tarrant County, TX; Solano County, CA; and Kane County, IL on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: W. R. Meadows of Georgia, Inc., 4765 Frederick Drive, Atlanta, GA 30336.

MC 159818 (Sub-3-1TA); filed February 26, 1982. Applicant: HAYWOOD TRANSIT, INC., Rt. 2, Box 331, Canton, N.C. 28716. Representative: Arthur F. Huber (same address as applicant). *Contract:* Irregular: *Passengers and their baggage in Charter and special operations* beginning and ending in points in Haywood County, NC and Knoxville, TN. Under continuing contract with the Haywood Co. and Maggie Valley Area Chambers of Commerce. Supporting shipper: Haywood County, jointly with Maggie Valley Area Chambers of Commerce, P.O. Box 125, Waynesville, NC 28716.

MC 160762 (Sub-3-1TA), filed February 26, 1982. Applicant: BAND BUSSES, INC., Rt. 7, Box 521, Gadsden, AL 35903. Representative: James H. McGinnis, Route 7, Box 521, Gadsden, AL 35903. *Passengers and their baggage in round trip special and charter operations* beginning and ending at points in Montgomery, Autauga, Etowah, Jefferson, Marshall, Calhoun, Cherokee and DeKalb Counties in AL also Covington, GA and Knox county TN and extending to points in the U.S. (excluding AK and HI). Supporting shipper(s): There are seven statements of support which may be examined at the ICC Regional Office, Altanta, GA.

MC 160783 (Sub-3-1TA), filed February 26, 1982. Applicant: SWANSON INDUSTRIES, INC., 1204 Turner McCall Blvd., Rome, GA 30161. Representative: Robert A. Swanson, Route 1, Floyd Springs Rd., Armuchee, GA 30105. *Passengers and their baggage, in special and charter operations,* between points in AL, GA, NC, and TN. Supporting shipper(s): Rome Tourist and Convention Commission, Civic Center, Rome, GA 30161 and World Travel Agency, 430 Broad St., P.O. Box 1393, Rome, GA 30161.

MC 155013 (Sub-3-4TA), filed March 3, 1982. Applicant: FREIGHTMASTER, INC., P.O. Box 488, Taylorsville, NC 28681. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *Tile* from points in NC, OH, CA, GA, VA, and Plant City, FL and Owensboro, KY to points in IL and MI. There are five (5) supporting shippers whose statements may be examined at the I.C.C. Regional Office, Altanta, GA.

MC 160835 (Sub-3-1TA), filed March 3, 1982. Applicant: McCURRY CONSTRUCTION CO., INC., Frazier Road, P.O. Box 3448, Cleveland, TN 37311. Representative: M. C. Ellis, % Chattanooga Freight Bureau, Inc., 1001 Market Street, Chattanooga, TN 37402. *Contract carrier:* irregular: *fertilizer, chemicals, soil conditioners, animal and poultry feed, and materials, supplies and equipment used in the manufacture and distribution thereof,* between points in Bradley County, TN, on the one hand, and, on the other, Birmingham, Florence, Huntsville, Montgomery, Muscle Shoals, and Tuscaloosa, AL, Orlando, Quincy, and Tampa, FL, Augusta, Marietta, Savannah, and Stone Mountain, GA, Charlotte and Greensboro, NC, Charleston and Spartanburg, SC, and Virginia Beach, VA; under continuing contract(s) with Beaty Feed & Hardware Co., Inc., and Beaty Fertilizer and Chemcial, Inc., of Cleveland, TN. Supporting shippers: Beaty Feed & Hardware Co., Inc., 650 Wildwood Avenue, Cleveland, TN 37311 and Beaty Fertilizer and Chemical, Inc., P.O. Box 3352, Cleveland, TN 37311.

MC 159333 (Sub-3-2TA), filed March 2, 1982. Applicant: McINVALE FREIGHT LINES, INC., 5965 Hwy. 18 S., Jackson, MS 39209. Representative: W. M. McInvale (same as applicant). *General commodities (except Class A & B explosives), commodities in bulk, commodities of unusual value, household goods and those requiring the use of special equipment,* between the facilities of Streamline Shippers Assn., Los Angeles, CA, on the one hand, and, on the other, points in AL, GA, LA, MS, OK, TN, and TX. Supporting shipper: Streamline Shippers Assn., 970 E. Third St., Los Angeles, CA 90013.

MC 160678 (Sub-3-1TA), filed March 2, 1982. Applicant: AL CORDEIRO, d.b.a., CORDEIRO TRUCKING, 713 N.W. 6th Avenue, Dania, Florida 33004. Representative: Bernard C. Pestcoe, Esq., 201 Alhambra Circle, Suite 511, Coral Gables, Fl 33134. *Contract* Carrier: Irregular: *Class A, B, and C explosives and electric blasting caps, primers, detonation cord, aluminum, micro-balloons, Q-cells, perlite, typar and/or similar construction fabrics, to be transported between points in the state of AL, TN and FL.* Supporting shipper: Florida Explosives, Inc., P.O. Box 4921, Hialeah, FL 33014.

MC 151375 (Sub-3-4TA), filed March 2, 1982. Applicant: COMPUTER TRANSPORT OF GEORGIA, INC., 6105 Perdue Drive, S.W., Atlanta, GA 30336. Representative: Bruce E. Mitchell, Esq., 3390 Peachtree Rd., N.E., Suite 520, Atlanta, GA 30326. *Duplicating machines, computers, typewriters, instruments, and photographic goods; related materials, equipment and supplies,* between Baltimore, MD, and points in MD and VA. Supporting shipper: Xerox Corporation, 3000 Des Plaines Ave., Des Plaines, IL 60018.

MC 160537 (Sub-3-1TA), filed March 2, 1982. Applicant: LUALLEN TRUCKING COMPANY, INC., 8456 Newman Street, Douglasville, GA 30134. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237. *Metal products, paper and paper products, plastic articles, cleaning compounds and furniture,* between points in GA, on the one hand, and, on the other, points in the states of AL, AR, CT, FL, GA, IL, IA, KS, KY, LA, MA, MD, MI, MN, MO, MS, NC, NE, NJ, NY, OH, OK, PA, SC, TN, TX, VA, WI and WV. Supporting shippers: There are nine (9) statements in support of the application, which may be examined at ICC Regional Office, Atlanta, GA.

MC 160068 (Sub-3-1TA), filed March 1, 1982. Applicant: MOBILE CHECK EXCHANGE, INC., 2660 Springhill Avenue, Mobile, AL 36601. Representative: J. B. Ward (same address as above). *Money, currency, coin, bullion, precious metals, negotiable and non-negotiable securities, negotiable and non-negotiable bank checks, valuable papers, and other valuables requiring special handling and securities, auditing and accounting media, data processing media, business records, processed and unprocessed film and legal documents* between Harrison, Hancock, Stone and Pearl River Counties, MS and Orleans Parish, LA. Supporting shipper: Hancock Bank, 2500 14th Street, Gulfport, MS 38395.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 114284 (Sub-5-15TA), filed February 22, 1982. Applicant: FOX-SMYTHE TRANSPORTATION CO., P.O. Box 82307, Oklahoma City, OK 73148. Representative: M. W. Thompson (same). *Food and Related Products,* (1) From Cactus, TX to points in AZ, CA, MS, SD, and TN. (2) From Guymon, OK to points in AR, CO, IL, IA, KS, LA, MN, MO, MS, TN, and WI. Supporting shipper: Swift Independent Packing Company, 115 West Jackson Boulevard, Chicago, IL 60604.

MC 115669 (Sub-5-16TA), filed February 22, 1982. Applicant: DAHLSTEN TRUCK LINE, INC., P.O. Box 95, Clay Center, NE 68933. Representative: Vayle Hayes (same address as applicant). *Malt beverages, related advertising materials and materials and supplies used in the manufacture and distribution of malt beverages,* between pts in Houston County, GA, on the one hand, and, on the other, pts in KS and OK. Supporting shipper: Pabst Brewing Company, Highway 247 Spur, Pabst, GA 31069.

MC 117765 (Sub-5-29TA), filed February 22, 1982. Applicant: HAHN TRUCK LINE, INC., P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same as applicant). *Malt Beverages, related advertising material and materials and supplies (except commodities in bulk) used in the manufacture and distribution of malt beverages,* between Houston County, GA on the one hand, and, on the other points in AR, IA, KS, MO and OK. Supporting shipper: Pabst Brewing Company, Highway 247 Spur, Pabst, GA 31069.

MC 135861 (Sub-5-19TA), filed February 22, 1982. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. Contract, irregular; *General commodities (except classes A & B explosives, household goods, and commodities in bulk in tank vehicles),* between pts in the U.S., under continuing contract(s) with Standard Brands Paint Co., Inc., and its subsidiaries. Supporting shippper: Standard Brands Paint Co., Inc., 4300 West 190th Street, Torrance, CA 90509.

MC 135861 (Sub-5-20TA), filed February 23, 1982. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Food and related products,* between points in the U.S., under continuing contract(s) with Bartons Candy Corporation, Brooklyn, NY. Supporting shipper: Bartons Candy Corporation, 80 DeKalb Avenue, Brooklyn, NY 11201.

MC 135861 (Sub-5-21TA), filed February 23, 1982. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Coaxial cable, and materials, equipment and supplies used in the manufacture and distribution of coaxial cable,* between points in the U.S., under continuing contract(s) with Capscan Cable Co., Inc. Supporting shipper: Capscan Cable Co., Inc., Halls Mill Road, Freehold, NJ 07728.

MC 139973 (Sub-5-14TA), filed February 22, 1982. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 396, Fulton, Mo 65251. Representative: Ronald R. Adams or Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Magazines, catalogs, periodicals, newspaper supplements, inserts, and printed matter,* between the facility utilized by Southern State Periodical Shippers, Inc., at or near New Orleans, LA, on the one hand, and, on the other, pts in AL, AR, LA, FL, MS, TN, and TX. Supporting shipper: Southern State Periodical Shippers, Inc., 300 Jefferson Highway, Suite 304, Jefferson, LA 70121.

MC 148832 (Sub-5-10TA), filed February 22, 1982. Applicant: DELTA MOTOR FREIGHT, INC., 1616 Rowe Boulevard, Poplar Bluff, MO 63901. Representative: Ronald D. Dodds (same address as applicant). *Paper, Paper Products, and Related Materials* between Sikeston, MO on the one hand, and, on the other, Selma, Montgomery, Fayette, and Birmingham, AL; Paragould, AR; Colorado Springs, CO; Atlanta, Columbus, and Rossville, GA; Carbondale, Granite City, and Olney, IL; Evansville and Ft. Wayne, IN; Shreveport, New Iberia, New Orleans, and Metairie, LA; Topeka, KS; Fulton and London, KY; Jackson, Oxford, Kosciusco, and Canton, MS; Ardmore, Enid, and Oklahoma City, OK; Arlington, Covington, Knoxville, and Nashville, TN; Dallas, Tyler, Houston, and Texarkana, TX; and Bristol, VA. Supporting shipper Potlatch Corporation, Sikeston, MO 63801.

MC 152971 (Sub-5-2TA), filed February 22, 1982. Applicant: DEEP SOUTH FREIGHT LINES, INC., 6308 Boutall Street, Metairie, LA 70003. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. Contract, irregular; *paper and paper products, and materials, equipment and supplies used in the menufacture and distribution of such commodities,* between Washington and West Feliciana Parishes, LA, on the one hand, and, on the other, pts in AL, AR, FL, GA, IN, LA, MS, NC, SC, TN, TX, VA and WV, under continuing contracts with Crown Zellerbach Corporation, Bogalusa, LA. Supporting shipper: Crown Zellerback Corporation, P.O. Box 1060, Bogalusa, LA 70427.

MC 157680 (Sub-1-TA), filed February 22, 1982. Applicant: PAUL ZIRKLE, d.b.a. ZIRKLE TRUCK LINE, 9021 SW 79th, Auburn, KS 66402. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 6661. *Iron and steel articles and fabricated metal items,* between pts and places in Shawnee and Osage Counties, KS on the one hand and Pts in OK, TX and CO on the one hand. Supporting shippers: Topeka Foundry & Iron Works Co. Inc., 300 Jackson, Topeka, KS 66603 (or P.O. Box 147, Topeka, KS 66601); Gerald Garrett, d.b.a. Garrett Ranch Supply, R.R. 2, Carbondale, KS 66414.

MC 160063 (Sub-5-1TA), filed February 22, 1982. Applicant: B & R TRUCKING CO., INC., 420 Gimblin Road, St. Louis, MO 63147. Representative: Ronnie E. St. Arbor (Same address as applicant). *General commodities having a prior or subsequent movement by rail,* between St. Louis, MO and pts in its commercial zone, on the one hand, and, on the other, rail ramps at North Jefferson City, MO. Supporting shipper(s): Missouri, Kansas, Texas Railroad Company, 101 E. Main St., Denison, TX 75020.

MC 160427 (Sub-5-1TA), filed February 22, 1982. Applicant: MELVIN R. WHITE, Route 1, Savannah, MO 64485. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105-1961. *Clips and crushed cars* from Lincoln, NE to Kansas City, MO and its commercial zone. Supporting shipper: Northwestern Metal Co., P.O. Box 81626, Lincoln, NE 68501.

MC 160650 (Sub-5-1TA), filed February 22, 1982. Applicant: OSBORNES TRUCKING, INC., 3908 Wilbarger, Vernon, TX 76384. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *General Commodities (except classes A and B explosives or hazardous materials)* between OK and TX on the one hand, and, on the other, pts in the states of AR, CO, IL, IN, IA, KS, MO, MN, NE, OH, OK, TN, TX and WI. Restricted to shipments originating at or destined to the facilities of Osborne Distributing Co., Inc. and its subsidiaries—COD, Inc. and DLO, Inc. Supporting shipper: Osborne Distributing Co., Inc., 3908 Wilbarger Street, Vernon, TX 76384.

MC 160656 (Sub-5-1 TA), filed: February 22, 1982. Applicant: T. P. LEASING, INC., Post Office Box 5450, North Little Rock, AR 72119. Representative: L. Ann Henderson, 2500 McCain Blvd., Suite 103, North Little Rock, AR 72116. *(1) Fiberglass insulation in rolls and bags; (2) electrical appliances, equipment and supplies, televisions, stereos and video equipment in cartons; (3) paper products in pallets or bundles and cans in cartons or pallets; (4) beer; (5) Aluminum Ventilating products, roof louvers,*

turbines and shutters, parts and accessories used in the manufacture and distribution thereof; (1) between Pulaski County, AR, and the States of TX, LA, MS, MO, OK, and KS, (2) between Little Rock, AR, and the States of TX, LA, OK, MD, IL, KY, and VA, (3) between Pulaski County, AR, and the States of TX, LA, MS, MO, OK, and KS, (4) between Tarrant County, TX, and Pulaski County, AR, (5) between Jacksonville, AR, and points in AR, TX, KY, LA, MS, MO, TN, and KS. Supporting shippers: Seven.

MC 160603 (Sub-5–1 TA), filed: February 22, 1982. Applicant: ALL-WAYS INTERSTATE TRUCKING CO., P.O. Box 2564, Iowa City, IA 52244. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Contract irregular: *General Commodities, (except Household goods and Classes A and B Explosives),* Between Pts in the U.S. under continuing contract(s) with Fleetway Stores, Inc. and Stokes Ellis Canning Co. Supporting shippers: Stokes Ellis Canning Co., 1575 Alcott So., Dever, CO 80204 and Fleetway Stores, Inc., 655 Hollywood Blvd. Iowa City, IA 52240.

MC 160665 (Sub-5–1 TA), filed: February 22, 1982. Applicant: GOLDENROD DISTRIBUTION COMPANY, 1221 South 39th Street, St. Louis, MO 63110. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102. *Aluminum and glass building products, equipment materials and supplies used in the installation and assembly of aluminum and glass building products; aluminum and glass scrap,* between Phoeniz, AZ; Los Angeles, Oakland and San Francisco, CA; Denver, CO; Miami, FL; Atlanta, GA; Chicago and Morris, IL; Lafayette IN; Davenport, IA; Kansas City, KS; New Orleans, LA; Baltimore, MD; St. Louis, MO; St. Paul, MN; New York, NY; Oklahoma City, OK; Portland, OR; Philadelphia and Pittsburgh, PA; Dallas and Houston, TX; Salt Lake City, UT and Seattle, WA. Supporting shipper: H. H. Robertson/Supplies Products Division, St. Louis, MO.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 158037 (Sub-6–2TA), filed February 25, 1982. Applicant: ALMAC OF ARIZONA, INC., 2831 W Indian School Rd, Phoenix, AZ 85017. Representative: Stanford E. Lerch, 650 N. Second Ave., Phoenix, AZ 85003. *Contract, carrier* irregular routes: *Equipment, materials and other Property of The Mountain States Telephone and Telegraph Company,* between points in CO, WY, under continuous contract with said company, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Mountain States Telephone and Telegraph Co., 930 15th St, Denver, CO 80202.

MC 156827 (Sub-6–2TA), filed February 24, 1982. Applicant: RALPH H. BENSON dba BENSON TRUCKING, P.O. Box 262, Pico Rivera, CA 90660. Representative: Ralph H. Benson (same address as applicant). *Contract Carrier:* Irregular routes: *Fireplaces, Barbeques, Grills and Ventilators and parts and accessories for same,* between Riverside County, CA and points in AR, AZ, CO, ID, KS, LA, MO, MS, MT, NM, NV, OK, OR, TN, TX, UT and WA for 270 days. Supporting shipper: Temtex Products, Inc., 23560 Oleander, Perris, CA 92370.

MC 134387 (Sub-6–30TA), filed February 26, 1982. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Ave., South Gate, CA 90280. Representative: Patricia M. Schnegg, 707 Wilshire Blvd., Ste. 1800, Los Angeles, CA 90017. *General Commodities* (except household goods as defined by the Commission in Class A & B explosives and commodities in bulk) from points in CA to points in OR, WA and ID. Restricted to traffic moving on bills of lading issued by Washington-Oregon Shippers Cooperative Association, for 270 days. Supporting shippers: Washington-Oregon Shippers, Cooperative Association, Inc., 200 W. Thomas St., 5th Fl., Seattle, WA 98119.

MC 160760 (Sub-6–1TA), filed February 22, 1982. Applicant: DAVID L. LORD d.b.a. DAV-GLO INTERNATIONAL CO., 3065 S. E. Condor St., Gresham OR., 97030. Representative: David L. Lord (same as applicant). *Contract Carrier,* Irregular routes: *Malt Beverages,* from Seattle, WA., to Gresham, OR., for the account of Manchesters Distributors, for 270 days. Supporting shipper: Manchesters Distributors, 620 N. E. Kelly, Gresham, OR., 97030.

MC 160759 (Sub-6–1TA), filed February 22, 1982. Applicant: JAMES B. GORDON, JR., d.b.a. GORDON TOURS, 2516 Young Ave., Thousand Oaks, CA 91360. Representative: James B. Gordon, Jr. (same as applicant). *Contract carrier,* irregular route, *Youth and adult charter passenger groups,* from Thousand Oaks, CA (and area within 50 miles) to points in the U.S., for 180 days. Supporting shippers: None.

MC 115067 (Sub-6–2TA), filed February 25, 1982. Applicant: INDEPENDENT MOTOR TRANSPORT, 32455 Hwy 34, Tangent, OR 97389. Representative: James L. Kampstra (same as applicant). *Contract Carrier,* irregular routes: (1) *Food Products,* from Seattle, WA to Eugene, McMinnville, and Portland, OR for the account of Fisher Mill, Inc., (2) *Food Products,* between the facilities of Oregon Freeze Dry Foods, Inc., at Albany, OR, on the one hand, and, on the other, points in CA, OR, and WA., (3) and (4) *General Commodities, (except Class A and B explosives, household goods and commodities in bulk),* between points in OR and WA for the accounts of Washington-Oregon Shippers Cooperative Association, Inc., and Pacific Northwest Perishable Shippers Association, for 270 days. Supporting shippers: Fisher Mill, Inc., 2801 NW Nela, Portland, OR 97210; Oregon Freeze Dry Foods, Inc., 770 W 29th, Albany, OR; Washington-Oregon Shippers Cooperative Association, Inc., and Pacific Northwest Perishable Shippers Association, 200 W Thomas St., Seattle, WA 98119.

MC 160761 (Sub-6–1TA), filed February 24, 1982. Applicant: M & M CHARTER BUS SERVICE, INC., 4714 Crenshaw Blvd., Los Angeles, CA 90043. Representative: James D. McCarns (same as applicant). *Passengers and their baggage* in charter and special service operations from Los Angeles County, CA extending to points in AZ, CO, NM, NV, OR, UT, WA, and return, for 180 days. Supporting shippers: There are 6 supporting shippers. Their statements may be examined in the Regional Office listed above.

MC 154223 (Sub-6–1TA), filed February 26, 1982. Applicant: ROLAND J. MONTBRAND AND SONS TRUCKING, 718 Coal Ave, SW, Albuquerque, NM 87102. Representative: Roland J. Montbrand, 720 Coal Ave, SW, Albuquerque, NM 87102. *Contract,* irregular; *Iron and Steel articles and metal products* From: Albuquerque, NM; Houston, TX; Los Angeles, CA; and points in UT and CO. To: Phoenix and Tucson, AZ and El Paso, Odessa and Brownwood, TX, for the account of Rio Grande Steel Co., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Rio Grande Steel Co., 7100 Second St. NW, Albuquerque, NM 87107.

MC 157626 (Sub-6–3TA), filed February 22, 1982. Applicant: NAVAJO EXPRESS, INC., 5150 Brighton Boulevard, Denver, CO 80216. Representative: Charles J. Kimball, 1600 Sherman St. #665, Denver, CO 80203. *Contract carrier,* irregular routes, *food and related products,* from the facilities of Packers' Cold Storage, Inc., at or near Laramie, WY to points in the U.S., except AK and HI, under continuing contract with Packers' Cold Storage, Inc., for 270 days. An underlying ETA application seeks 120 days authority. Supporting shipper: Packers' Cold Storage, Inc., 310 East Walnut Ave., Fullerton, CA, 92632.

MC 160700 (Sub-6–1TA), filed February 26, 1982. Applicant: R & B MOVING & STORAGE CO. d.b.a. BROADWAY MOVING & STORAGE CO., 4830 Monaco, Commerce City, CO 80022. Representative: Bruce Luckett, 13100 Willow Lane, Golden, CO 80401. *Household Goods* having a prior or subsequent movement in containers between all points in CO and the CO State Boundary lines and restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Lowry Air Force Base, Lowry AFB, CO 80230.

MC 158675 (Sub-6–2TA), filed February 22, 1982. Applicant: REMICK TRUCKING LTD., 215 E. 37th, Boise ID 83704. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701. *Contract carrier,* Irregular routes: *Sand,* from Emmett, ID to points in AZ, CA, CO, ID, MT, NV, OR, UT and WA, for the account of Martin Marietta Aggregates, for 270 days. An underlying ETA seeks 120 days authority. Supporting Shipper: Martin Marietta Aggregates, Two Crossroads of Commerce Building, Rolling Meadows, IL 60008.

MC 160745 (Sub-6–1TA), filed February 22, 1982. Applicant: ARLYN ROWAN TRUCKING, 425 S. Lincoln Ave., Fleming, CO. 80728. Representative: Arlyn Rowan (Same as applicant). *Clay, Concrete, Glass* or *Stone products,* from points in McPherson and Franklin Counties, KS to points in Weld, Larimer, Boulder, Denver, Adams, Jefferson, Logan, Arapahoe, Morgan Counties, CO and Laramie County, WY. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Cowan Concrete Products, Inc. D.B.A. Mobile Premix Inc., P.O.B. 1647, Greeley, CO. 80632.

MC 150318 (Sub-6–3TA), filed February 26, 1982. Applicant: TAYLOR WAREHOUSE & TRUCKING COMPANY, INC., 14615 Anson Ave., Santa Fe Springs, CA 90670. Representative: William J. Monhein, P.O. Box 1756, Whittier, CA 90609. *Contract carrier,* irregular routes: (1) *Sanitary napkins,* from Santa Fe Springs, CA, to Denver, CO; Boise, ID; Chicago, Elk Grove Village, and Milan, IL; Las Vegas, Reno, Sparks, and Stateline, NV; Oklahoma City, OK; Houston, TX; and Salt Lake City, UT; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of sanitary napkins, (a) from Rosser, GA; Middleton, MA; Midland, MI; New York, NY; and points in NJ and WI to Santa Fe Springs, CA, and (b) from Middleton, MA; New York, NY; and points in NJ to King of Prussia, PA, for 270 days. An underlying ETA seeks 120-days authority. Supporting shipper: International Consumer Disposables, Inc., 13930 Mica St., Santa Fe Springs, CA 90670.

MC 160774 (Sub-6–1TA), filed February 25, 1982. Applicant: TRANSCO SERVICES, INC., P.O. Box 20133, Phoenix, AZ 85036. Representative: David Robinson, 7975 N. Hayden Rd., Scottsdale, AZ 85258. *Contract carrier,* irregular routes, *paving and roadbuilding equipment, materials and parts,* between points in the U.S. under continuing contract with Crafco, Inc., of Chandler, AZ, for 270 days. An underlying ETA application seeks 120 day authority. Supporting shipper: Crafco, Inc., 6975 W. Crafco Way, Chandler, AZ 85224.

MC 148616 (Sub-6–3TA), filed February 25, 1982. Applicant: TRANSPORT WEST, INC., P.O. Box 2015, Eugene, OR 97402. Representative: Gene E. Cook (Same as Applicant). *Contract Carrier,* Irregular routes: *Metal Products, Machinery, Building Materials, and Commodities used in the Manufacture of the Above,* between the facilities of West Coast Steel Fabricators, Inc., at Eugene, OR, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, for the account of West Coast Steel Fabricators, Inc., for 270 days. Supporting shipper: West Coast Steel Fabricators, Inc., P.O.B. 2326, Eugene, OR 97402.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6305 Filed 3-9-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in

interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–36

Decided: February 26, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating in part.)

MC 12741 (Sub-1), filed February 22, 1982. Applicant: HOLIDAY TOURS, INC., 3801 N. Piedras, El Paso, TX 79930. Representative: Harvey Meston (same address as applicant) (915) 566–8621. As a broker at El Paso, TX, in arranging for the transportation of *passengers and their baggage*, in the same vehicle with passengers, in special or charter operations, between points in the U.S. (including AK and HI).

MC 76191 (Sub-2), filed February 10, 1982. Applicant: WM. PENN HIGHWAY EXPRESS, INC., 225 W. Howard St., Stowe, PA 19464. Representative: Jerry Hugo (same address as applicant) (215) 327–4500. Transporting *general commodities* (except classes A and B explosives), between Philadelphia, PA, and New York, NY, on the one hand, and, on the other, points in Montgomery, Berks, and Chester Counties, PA.

MC 105461 (Sub-121), filed February 16, 1982. Applicant: HERR'S MOTOR EXPRESS, INC., P.O. Box 6, Quarryville, PA 17566. Representative: Robert R. Herr (same address as applicant) (717) 786–2161. Transporting *such commodities* as are dealt in or used by food, grocery, and drug business houses, between those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 123310 (Sub-25), filed February 18, 1982. Applicant: DOUG ANDRUS DISTRIBUTING, INC., 1820 W. Broadway, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 1578, Boise, ID 83701 (208) 343–3071. Transporting *metal products, building materials, and lumber and wood products*, between points in AZ, CA, CO, ID, MT, NE, NM, OR, UT, WA, and WY.

MC 127061 (Sub-5), filed February 22, 1982. Applicant: L. C. WALSON, 501 Main Street, P.O. Box 56, Dover, ID 83825. Representative: L. C. Walson (same address as applicant) (208) 263–3607. Transporting *poles, piling, lumber and wood products, and machinery*, between points in ID, WA, MT, OR, CA, NV, UT, AZ, NM, CO, NE, WY, SD, and ND.

MC 133691 (Sub-2), filed February 22, 1982. Applicant: ARMSTRONG MOVING & STORAGE, INC., P.O. Box 1460, Lubbock, TX 79408. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408 (806) 763–9555. Transporting *household goods, furniture, electronic equipment and fixtures*, between points in TX, NM, AZ, CA, CO, OK, WY, KS, MO, AR, LA, NV, and TN.

MC 139380 (Sub-11), filed February 19, 1982. Applicant: STIDHAM TRUCKING, INC., P.O. Box 308, Yreka, CA 96097. Representative: O. L. Stidham (Same address as applicant) (916) 842–4161. Transporting *building materials, wood products, millwork, insulation, woodpulp, paperboard, and cartons*, between points in the U.S., under continuing contract(s) with Louisiana-Pacific Corporation, of Portland, OR.

MC 139771 (Sub-4), filed February 18, 1982. Applicant: GAFCO, INC., 1041 West 45th St., Norfolk, VA 23508. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., N.W., Washington, DC 20005 (202) 296–3555. Transporting *building materials*, between points in the U.S. (except AK and HI), under continuing contract(s) with Hey'di American Corporation, of Virginia Beach, VA.

MC 142011 (Sub-4), filed February 12, 1982. Applicant: LEISURE TIME TOURS, 4 Houvenkoph Road, Mahwah, NJ 07430. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123. Over regular routes, transporting *passengers and their baggage, and express and newspapers*, in the same vehicle with passengers, (1) between Mahwah, NJ, and junction access road and NJ Hwy 202, from Mahwah, over US Hwy 202 to junction Darlington Ave., then over Darlington Ave., to Pulis Ave., then over Pulis Ave., to Franklin Lakes Park & Ride, then over access road to junction NJ Hwy 22, and return over the same route; (2) between Wycoff, NJ, and the Garden State Shopping Plaza, NJ., from Wycoff over Wycoff Ave., to junction Goffle Rd., then over Goffle Rd., to junction NJ Hwy 208, then over NJ Hwy 208 to junction NJ Hwy 4, then over NJ Hwy 4, to the Garden State Shopping Plaza, and return over the same route; and (3) between the Garden State Shopping Plaza, NJ, and New York, NY, from Garden State Shopping Plaza (a) over NJ Hwy 17 to US Hwy 80, then over US Hwy 80 to junction US Hwy 95, then over US Hwy 95 to junction US Hwy 495, then over US Hwy 495 to the Lincoln Tunnel, then thru the Lincoln Tunnel to New York, NY, and return over the same route; and (b) over NJ Hwy 4 to the Garden State Parkway, then over the Garden State Parkway to junction US Hwy 80 and return over the same route, serving all intermediate points in routes (1), (2) and (3) above. Note: Applicant intends to tack this authority with its existing regular-route authorty in MC 142011.

MC 142831 (Sub-4), filed: February 18, 1982. Applicant: L. PEABODY TRUCKING, INC., 2490 Elton St., Baldwin Park, CA 91776. Representative: Mark S. Gray, 235 Peachtree St. NE., Suite 1200, Atlanta, GA 30303, (404) 522–2322. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Benlin Distribution Services, Inc., of Buffalo, NY.

MC 148151 (Sub-5), filed: February 22, 1982. Applicant: RAY BELLEW & SONS, INC., 7810 Almeda Genoa Rd., Houston, TX 77034. Representative: Joe G. Fender, 9601 Katy Freeway, Suite 320, Houston, TX 77024, (713) 827–1407. Transporting (1) *Mercer commodities* and (2) *earth drilling machinery and equipment*, between points in TX, on the one hand, and, on the other, points in AR, LA, and NM.

MC 150270 (Sub-1), filed: February 22, 1981. Applicant: PEIRONE PRODUCE COMPANY, East 524 Trent Avenue, Spokane, WA 99202. Representative: James I. Morrow (same address as applicant), (509) 838–6473. Transporting (1) *ceramic tile*, (2) *food and related products*, (3) *plastic bags*, and (4) *plastic bottles*, between points in the U.S., under continuing contract(s) with Quarry Tile Company, of Spokane, WA, in (a) above, 2–J Produce, of Missoula, MT, in (2) above, Friedman Bag Company, of Los Angeles, CA, in (3) above, and Olympic Foods, Inc., of Spokane, WA, in (4) above.

MC 151000 (Sub-2), filed: February 22, 1982. Applicant: WILFORD P. DONNELLY, d.b.a. TUFFERNELL TRUCKING, P.O. Box 526, Chadron, NE 69337. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *food and related products*, between points in NE and SD, on the one hand, and, on the other, points in AR, CO, KS, IA, IL, MN, MO, NE, NY, OK, PA, SD, TN, TX, WA and WI.

MC 160210, filed January 22, 1982. Applicant: VERNON M. DUNHAM, 424 N 6th St., Millville, NJ 08322. Representative: Vernon M. Dunham (same address as applicant), (609) 825–7333. As a broker, at Millville, NJ, in arranging for the transportation of *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Cumberland County, NJ, and extending to points in PA, MD, DE, NJ, NY, and DC.

MC 160581, filed February 16, 1982. Applicant: PILGRIM TRANSPORT, INC., 610 West 138th Street, Riverdale, IL 60627. Representative: Carl L. Steiner, 29 South LaSalle Street, Chicago, IL 60603, (312) 236–9375. Transporting *metal products*, between Newport and Wilder, KY, on the one hand, and, on the other, those points in the U.S. on and east of U.S. Hwy 85. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) from common control to team 1, Room 6358.

MC 160631, filed February 18, 1982. Applicant: ORCHARD VIEW COMMUNITY EDUCATION, 2310 Marquette Avenue, Muskegon, MI 49442. Representative: Patrick G. Shafer (same address as applicant), (616) 773–3231. As a broker at Muskegon, MI, in arranging for the transportation of *passengers and their baggage* in the same vehicle with passengers, in special or charter operations, between points in Muskegon County, MI, on the one hand, and, on the other, points in the U.S. (including AK and HI).

MC 160640, filed February 19, 1982. Applicant: BRODHEAD GRAIN TRUCKING CO., INC., Rt. 1, Brodhead, WI 53520. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *such commodities* as are dealt in or used by farmers, farm suppliers and dealers, and agricultural cooperatives, between points in the U.S., under continuing contract(s) with Howard A. Krupke, d.b.a. Brodhead Grain Co., of Brodhead, WI.

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Decided: March 2, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 59150 (Sub-107), filed February 23, 1982. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose St., Jacksonville, FL 32206. Representative: Martin Sack, Jr., 203 Marine National Bank Bldg., 311 W. Duval St., Jacksonville, FL 32202 (904) 353–9707. Transporting *general commodities* (except classes A and B explosives), between the facilities of United States Gypsum Company, its subsidiaries and affiliates, in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 79550 (Sub-13), filed February 23, 1982. Applicant: ERSKINE TRUCKING, INC., 6210 Center Rd., Lowellville, OH 44436. Representative: E. H. van Deusen, P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting (1) *metal products*, (2) *machinery*, (3) *building materials*, (4) *clay, concrete, glass, or stone products, and* (5) *chemicals and related products* (except commodities in bulk and classes A and B explosives), between points in the U.S.

MC 85401 (Sub-3), filed February 25, 1982. Applicant: BELLINGHAM SUMAS STAGES, INC., P.O. Box 648, Sumner, WA 98390. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055–3273, (206) 235–1111. Transporting *passengers and their baggage* in the same vehicle with passengers, in special or charter operations, between points in WA, on the one hand, and, on the other, points in the U.S.

MC 92371 (Sub-6), filed February 22, 1982. Applicant: SUNCREST TRANSPORTATION, INC., d.b.a. SHEARERS EXPRESS, P.O. Box 189, Commercial Drive, Oneonta, NY 13820. Representative: Raymond A. Richards, 35 Curtice Pk, Webster, NY 14580, (716) 265–9510. Transporting *textile mill products; pulp, paper and related products, chemicals and related products; rubber and plastic products; clay, concrete, glass or stone products; and wood products*, between points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada.

MC 105350 (Sub-36), filed February 22, 1982. Applicant: NORTH PARK TRANSPORTATION CO., 5150 Columbie St., Denver, CO 80216. Representative: Leslie R. Kehl, 1660 Lincoln St., Suite 1600, Denver, CO 80264, (303) 861–4028. Transporting *general commodities* between those points in the U.S. in and west of WI, IL, MO, AR, and LA. Condition: To the extent that the certificate in this proceeding authorizes the transportation of classes A and B explosives, it will expire 5 years from the date of issuance.

MC 119741 (Sub-313), filed February 22, 1982. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant), (515) 576–6831. Transporting *machinery*, between points in Williams County, OH, on the one hand, and, on the other, points in the U.S.

MC 121630 (Sub-6), filed February 23, 1982. Applicant: LEMORE TRANSPORTATION, INC., d.b.a. ROYAL TRUCKING CO., 1420 Royal Industrial Way, Concord, CA 94520. Representative: Daniel W. Baker, 100 Pine St., Suite 2550, San Francisco, CA 94111, (415) 986–1414. Transporting *such commodities* as are dealt in by manufacturers, distributors, retailers and wholesalers of food, groceries and home products, between points in the U.S. (except AK and HI), under continuing contract(s) with The Clorox Company, of Oakland, CA, and its subsidiaries.

MC 129410 (Sub-30), filed February 19, 1982. Applicant: BONCOSKY TRANSPORTATION, INC., 1301 Industrial Drive, Algonquin, IL 60102. Representative: Carl L. Steiner, 29 South LaSalle St., Chicago, IL 60603, (312) 236–9375. Transporting *oils*, between points in the U.S., under continuing contract(s) with Palmco, Inc., of Portland, OR.

MC 134701 (Sub-9), filed February 25, 1982. Applicant: J-V INCORPORATED, 723 E. 8425 S., Sandy, UT 84070. Representative: Irene Warr, 311 S. State St., Suite 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *metal products* between points in the U.S., under continuing contract(s) with Sherritt Gordon Mines Limited, of Edmonton, Canada.

MC 135861 (Sub-101), filed February 25, 1982. Applicant: LISA MOTOR LINES, INC., PO Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103, (817) 332–4718. Transporting *such commodities* as are dealt in or used by a manufacturer and distributor of coaxial cable, between points in the U.S., under continuing contract(s) with Capscan Cable Co., Inc., of Freehold, NJ.

MC 135861 (Sub-102), filed February 25, 1982. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, (817) 332–4718. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Bartons Candy Corporation, of Brooklyn, NY, and H Bar K Meat Processors, Inc., of Fort Worth, TX.

MC 141751 (Sub-5), filed February 22, 1982. Applicant: M.P.C. TRUCKING, INC., Cold Stream Road, Kimberton, PA 19442. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561–1030. Transporting *general commodities* (except classes A and B

explosives and household goods), between Philadelphia, PA, and points in Chester County, PA, Bergen County, NJ, and Saratoga County, NY, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, and NM.

MC 141791 (Sub-4), filed February 23, 1982. Applicant: MONTGOMERY TRUCKING COMPANY, a Corporation, P.O. Box 21, Wellston, OH 45692. Representative: Andrew Jay Burkholder, 275 E. State St., Columbus, OH 43215, (615) 228–8575. Transporting *food and related products* between the facilities used by Jeno's, Inc., at points in the U.S. (except AK and HI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 145790 (Sub-7), filed February 25, 1982. Applicant: SKILLETT & SONS, INC., Rush Center, KS 67575. Representative: Erle W. Francis, 719 Capitol Federal Bldg., Topeka, KS 66603, (913) 232–0801. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Fuller Brush Company, of Great Bend, KS.

MC 146121 (Sub-2), filed February 24, 1982. Applicant: BAY CARTAGE COMPANY, 1122 East Barney, Muskegon, MI 49444. Representative: William H. Heritage, Jr., 400 Calder Plaza Bldg., Grand Rapids, MI 49503, (616) 774–8031. Transporting *foundary materials, equipment, and supplies,* between points in the U.S. (except AK and HI), under continuing contract(s) with Carpenter Brothers, Inc., of Muskegon, MI.

MC 150240 (Sub-2), filed February 22, 1982. Applicant: FREIGHT SALES, INC., 477 James Parkway, P.O. Box 1176, Newark, OH 43055. Representative: James R. Stiverson, 1396 W. Fifth Ave., P.O. Box 12241, Columbus, OH 43212, (614) 481–8621. Transporting *petroleum and petroleum products,* between points in the U.S., under continuing contract(s) with (1) River Oil Co., of Marietta, OH, (2) Eagle Oil Company, of Columbus, OH, (3) Englefield Oil Co., of Newark, OH, and (4) Michels Oil Company, of Pennsboro, WV.

MC 152261 (Sub-4), filed February 24, 1982. Applicant: M. W. ETTINGER, INC., 2711 Fairview Avenue North, Roseville, MN 55113. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440 (612) 542–1121. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S.

MC 152840 (Sub-2), filed February 25, 1982. Applicant: RAPID DISTRIBUTION SERVICE, INC., 2392 N. Dupont Highway, Dover, DE 19901. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth St., NW., Washington, DC 20005, (202) 296–3555. Transporting *such merchandise* as is dealt in or distributed by variety and retail department stores, between points in the U.S. (except AK and HI), under continuing contract(s) with McCrory Stores, a Division of McCrory Corporation, of York, PA, and Otasco, Inc., a subsidiary of McCrory Corporation, of Tulsa, OK.

MC 153680 (Sub-1), filed February 23, 1982. Applicant: DEE AND VEE MAHAN TRUCKING, Route 2, Box 179½ G, Elwood, NE 68937. Representative: Max H. Johnston, PO Box 6597, Lincoln, NE 68506, (402) 488–4841. Transporting *meat, meat products, meat by-products, and articles distributed by meat packinghouses,* (1) between points in Dawson County, NE, on the one hand, and, on the other, points in the U.S. (except CO, IL, IA, KS, MO, TX, and WI); and (2) between points in Buffalo County, NE, on the one hand, and, on the other, points in AZ, CA, FL, OK, TN and TX.

MC 155371 (Sub-1), filed February 22, 1982. Applicant: JERRY L. ELLIS, d.b.a. JERRY L. ELLIS TRUCKING COMPANY, 505 Metcalf, Mansfield, TX 76063. Representative: Clint Oldham, 623 South Henderson, 2nd Floor, Fort Worth, TX 76104, (817) 332–4415. Transporting *metal products,* between points in TX, on the one hand, and, on the other, points in AR, KS, LA, OK, NM, and TX.

MC 156331 (Sub-1), filed February 25, 1982. Applicant: MD ASSOCIATES, 3220 Phillips Highway, Jacksonville, FL 32207. Representative: Sol H . Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, (904) 632–2300. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Mobil Oil Corporation, of Fairfax, VA, and Container Corporation of America, W. F. Hall Printing Company, and Montgomery Ward & Co., all of Chicago, IL.

MC 157910 (Sub-1), filed February 22, 1982. Applicant: ALPHA OMEGA LINE, INC., 739 Vandalia, St. Paul, MN 55114. Representative: Samuel Rubenstein, P.O Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *food and related products,* between points in MN, MO, and ND, on the one hand, and, on the other, points in AR, IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, OK, SD, TN, and WI.

MC 160680, filed February 22, 1982. Applicant: L.G.H. TRUCKING, INC., 710 Ventura St. N., Salem, OR 97303. Representative: John A. Anderson, Suite 801— The 1515 Building, 115 S. W. 5th Avenue, Portland, OR 97201, (503) 227–4586. Transporting (1) *pulp, paper and related products,* and (2) *food and related products,* between points in OR, on the one hand, and, on the other, points in WA, ID, and CA.

MC 160720, filed February 24, 1982. Applicant: ELMER FARMER, d.b.a. ELMER FARMER CO., Route 7, Clinton Hwy, Powell, TN 37849. Representative: John M. Norris, P.O. Box 2665, Knoxville, TN 37901–2665, (615) 546–7470. Transporting *transportation equipment,* between points in the U.S., (except AK and HI), under continuing contract(s) with General Motors Acceptance Corporation, of Knoxville, TN.

MC 160750, filed February 24, 1982. Applicant: JOHN Q. STOKER, RAMON G. STOKER and HERBERT A DODGE, d.b.a. S-K TRUCKING, P.O. Box 350, Arlington #2, Council, ID 83612. Representative: Ramon G. Stoker, (same address as applicant), (208) 253–4581. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Silver King Mines, Inc., of Salt Lake City, UT.

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Decided: March 2, 1982.
By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 1515 (Sub-305), filed February 24, 1982. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: R. L. Wilson (same as applicant), (602) 248–5016. Over regular route, transporting *passenger and their baggage and express and newspapers* in the same vehicle with passengers, between Kingman, AZ, and the CA–AZ State line: From Kingman over U.S. Hwy 93 to junction AZ Hwy 68, then over AZ Hwy 68 to junction AZ Hwy 95, then over AZ Hwy 95 to Bullhead City, then over AZ Hwy 95 to the CA–AZ State line, and return over the same route, serving all intermediate points.

MC 9644 (Sub-17), filed February 22, 1,982. Applicant: HAYES TRUCK LINE, INC., 1410 Intercity Trafficway, P.O. Box 4018, Kansas City, MO 64101. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between the

facilities of The Clorox Company and its subsidiaries, at points in AR, CO, IL, IA, KS, LA, MO, NE, OK, TN, TX and WY, on the one hand, and, on the other, points in AR, CO, IL, LA, KS, LA, MO, NE, OK, TN, TX and WY.

MC 15735 (Sub-39), filed February 23, 1982. Applicant: ALLIED VAN LINES, INC., P.O. Box 4403, Chicago, IL 60680. Representative: Richard V. Merrill (same address as applicant), (312) 681–8378. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with international Business Machine Corporation of Armonk, NY.

MC 35295 (Sub-13), filed February 11, 1982. Applicant: AMERICAN TRANSFER CO., P.O. Box 1226, Fresno, CA 93715. Representative: Marvin Handler, 100 Pine St., Ste. 2550, San Francisco, CA 94111, (415) 986–1414. A. Over *regular routes,* transporting *general commodities* (except classes A and B explosives and household goods), (1) between San Francisco and Roseville: From San Francisco over Interstate Hwy 80 to junction CA Hwy 65, then over CA Hwy 65 to Roseville; (2) between Roseville and Marysville, over CA Hwy 65; (3) between junction CA Hwy 4 and Interstate Hwy 80, near Pinole, and Stockton, over CA Hwy 4; (4) between junction Interstate Hwy 580 and Interstate 80 and junction Interstate Hwy 5 and Interstate Hwy 580, near the Stanislaus/San Joaquin county line, over Interstate Hwy 580; (5) between junction Interstate Hwy 205 and Interstate Hwy 580 and Interstate Hwy 5, and Interstate Hwy 205, over Interstate Hwy 205; (6) between junction CA Hwy 120 and Interstate Hwy 5, and Sonora: From junction CA Hwy 120 and Interstate Hwy 5, over CA Hwy 120 to junction CA Hwy 108, over CA Hwy 108 to Sonora; (7) between Mendota and Cedar Grove, over CA Hwy 180; (8) between junction CA Hwy 152 and Interstate Hwy 5 and CA Hwy 99 and Interstate Hwy 5, over Interstate Hwy 5; (9) between Maricopa and junction CA Hwy 166 and CA Hwy 99, over CA Hwy 166; (10) between junction CA Hwy 198 and Interstate Hwy 5, and junction CA Hwy 99 and CA Hwy 198, over CA Hwy 198; (11) between junction CA Hwy 65 and CA Hwy 198 and junction CA Hwy 99 and CA Hwy 198, over CA Hwy 198; (12) between junction CA Hwy 33 and Interstate Hwy 5 southeast of Tracy, over CA Hwy 33 to Maricopa; (13) between Redding and San Ysidro, over Interstate Hwy 5; (14) between Redding and Wheeler Ridge, over CA Hwy 99; (15) between San Francisco and Los Angeles, over U.S. Hwy 101; (16) between Fresno and Mono Hot Springs, over CA Hwy 168; (17) between junction CA Hwy 41 and Interstate Hwy 5 and junction CA Hwy 41, over CA Hwy 41; (18) between Paso Robles and Last Hills, over CA Hwy 46; (19) between Santa Margarita and junction Interstate Hwy 5 and CA Hwy 58, over CA Hwy 58, serving all intermediate points on routes 1 through 19, and serving points in Shasta, Tehama, Glenn, Butte, Colusa, Sutter, Yuba, Placer, Sacremento, San Joaquin, Santa Clara, Monterey, Tulare, Kings, Ventura, Los Angeles, Orange, Riverside, San Diego, San Bernardino, Kern, Santa Barbara, San Luis Obispo, San Benito, Madera, San Mateo, San Francisco, Marin, Contra Costa, Solano, Fresno, Merced and Stanislaus Counties, CA, as off-route points in conjunction with the above described regular routes, and (B) over irregular routes, transporting *commodities in bulk,* between (a) points in CA and ID and (b) between points in CA and ID, on the one hand, and, on the other, points in CA, AZ, CO, ID, MT, NV, OR, TX, UT, WA, and WY. Conditions: Issuance of a certificate is subject to prior or coincidental cancellation, at applicant's written request of Certificate of Registration No. MC–35295 Sub 12.

MC 46614 (Sub-14), filed February 23, 1982. Applicant: BLUE & WHITE LINES, INC., 516 West Plank Rd., Altoona, PA 16602. Representative: Robert J. Brooks, Suite 1111, 1828 L St. NW., Washington, DC 20036, (202) 466–3892. Transporting *passengers and their baggage,* in charter and special operations, between points in the U.S., under continuing contract(s) with Blue & White Travel Agency, Inc., of Altoona, PA.

MC 106074 (Sub-190), filed February 24, 1982. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd. and U.S. Hwy. 221, S., Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328, (404) 256–4320. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and south of CA, AZ, CO, NE, IA, MN, WI, MI, OH, PA, and NJ.

MC 110104 (Sub-3), filed February 22, 1982. Applicant: MELVIN ASTON TRUCKING COMPANY, INC., 2101 E. Galbraithe Rd., Cincinnati, OH 45237. Representative: James W. Muldoon, 50 W. Broad St., Columbus, OH 43215, (614) 464–4103. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Cincinnati, OH, on the one hand, and, on the other, points in the U.S.

MC 117765 (Sub-326), filed February 22, 1982. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, Oklahoma City, OK 73147. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106, (405) 528–3884. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, AR, CO, IA, IL, IN, KS, KY, LA, MI, MN, MO, MS, NE, ND, NM, OH, OK, SD, TN, TX, WI, and WY.

MC 117765 (Sub-327), filed February 23, 1982. Applicant: HAHN TRUCK LINE, INC., 100 S. MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant), (405) 943–8533. Transporting *malt beverages,* between points in Houston County, GA, on the one hand, and, on the other, points in AR, IA, KS, MO, and OK.

MC 117954 (Sub-32), filed February 22, 1982. Applicant: H. L. HERRIN, JR., P.O. Box 1106, Metairie, LA 70004. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202, (316) 265–2634. Transporting *cheese and dairy products,* between points in Marathon and Brown Counties, WI, on the one hand, and, on the other, points in AL, AR, LA, MS, OK, TN, and TX.

MC 121284 (Sub-2), filed February 22, 1982. Applicant: ZONE CARTAGE, INC., 611 Main Ave., S.W., Warren, OH 44483. Representative: Lewis S. Witherspoon, 2455 No. Star Rd., Columbus, OH 43221, (614) 486–0448. Transporting *general commodities* (except classes A and B explosives and household goods), (1) between points in OH, (2) between points in CT, DE, IL, IN, KS, KY, MD, MA, MI, MO, NJ, NY, OH, OK, PA, RI, WV, WI and DC, and (3) between points in OH, on the one hand, and, on the other, points in GA, NC, SC, TN and VA.

MC 129124 (Sub-37), filed February 24, 1982. Applicant: SAMUEL J. LANSBERRY, INC., P.O. Box 58, Woodland, PA 16881. Representative: John C. Fudesco, Suite 960, 1333 New Hampshire Ave., NW., Washington, D.C. 20036, (202) 659–5157. Transporting *commodities in bulk,* (1) between points in NY, on the one hand, and, on the other, points in IL, MI, and WV; and (2) between points in PA, on the one hand, and, on the other, points in DE, NC, VA, and WV.

MC 134484 (Sub-34), filed February 24, 1982. Applicant: EDWARDS BROS., INC., P.O. Box 1664, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 523–1362. Transporting *general*

commodities (except classes A and B explosives, and household goods), between points in the U.S., under continuing contract(s) with Howells, Inc., of Salt Lake City, UT.

MC 135924 (Sub-34), filed February 22, 1982. Applicant: SIMONS TRUCKING CO., INC., 3851 River Rd., Grand Rapids, MN 55744. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *lumber and wood products*, between points in Beltrami County, MN, on the one hand, and, on the other, points in the U.S.

MC 136635 (Sub-69), filed February 22, 1982. Applicant: WHITEFORD TRUCK LINES, INC., 640 West Ireland Rd., South Bend, IN 46680. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345, (404) 321–1765. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of containers and container closures, between the facilities of Brockway Glass Company, Inc., at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 136635 (Sub-70), filed February 23, 1982. Applicant: WHITEFORD TRUCK LINES, INC., 640 West Ireland Rd., South Bend, IN 46680. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345, (404) 321–1765. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of plumbing equipment, materials, and supplies, vanities, vanity cabinets, and plastic articles, between points in Stark County, OH, and the facilities of Universal-Rundle Corporation, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 140205 (Sub-13), filed February 23, 1982. Applicant: MOUW TRANSPORTATION, INC., 307 Maple Dr., Sibley, IA 50249. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *food and related products*, between points in Osceola, Johnson and Muscatine Counties, IA, on the one hand, and, on the other, points in CA, CO, IL, KS, MN, MO, ND, NE, OH, PA, SD and WI.

MC 140635 (Sub-34), filed February 23, 1982. Applicant: ADAMS LINES, INC., 2619 N St., Omaha, NE 68107. Representative: John L. Hornung (same address as applicant), (402) 733–6292. Transporting *general commodities* (except classes A and B explosives), between the facilities of the Purex Corporation, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 143154 (Sub-14), filed February 23, 1982. Applicant: A & S TRUCKING, P.O. Box 4027, Missoula, MT 59806. Representative: Charles A. Murray, Jr., 2822 Third Ave. N., Billings, MT 59101, (406) 252–4165. Transporting *such commodities* as are dealt in by grocery business houses, between points in MT, ID, WA, OR, CA, UT, WY, and CO, on the one hand, and, on the other, points in MT, ID, WA, OR, CA, UT, WY, CO, NM, TX, MN, MD, IL, OH, IN, WI, and IA.

MC 144715 (Sub-22), filed February 23, 1982. Applicant: ANDERSON & WEBB TRUCKING CO., INC., P.O. Box 1523, 770 W. Lebanon St., Mt. Airy, NC 270301523. Representative: Michael Corder (same address as applicant), (800) 334–9187. Transporting *food and related products*, between points in Woodbury County, IA, Dakota County, NE, and Lyon County, KS, on the one hand, and, on the other, points in SC, FL, GA, TN, WV, AZ, CA, NV, OR, and WA.

MC 145695 (Sub-11), filed February 22, 1982. Applicant: MAZCO SYSTEMS, INC., 140 Grand Street, Carlstadt, NJ 07072. Representative: Roy A. Jacobs, 550 Mamaroneck Avenue, Harrison, NY 10528, (914) 835–4411. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in the U.S. (except AK and HI), under a continuing contract(s) with Pfizer Inc., of New York, NY.

MC 151395 (Sub-10), filed February 23, 1982. Applicant: SNEAKER FREIGHT LINE, INC., P.O. Box 768, Conley, GA 30027. Representative: Archie B. Culbreth, 2200 Century Parkway, Suite 202, Atlanta, GA 30345, (404) 321–1765. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of paints, highway marking materials and coatings, industrial coatings, and highway safety and maintenance products and equipment, between the facilities of Prismo Universal Corporation and its affiliates, Universal Road Marking, Inc., Transmark, Inc., and Redland Limited, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 152435, filed February 22, 1982. Applicant: STONE LOAD DELIVERY CO., INC., R.R. 2, Harrisonville, MO 64701. Representative: James E. Thompson Jr., P.O. Box 280 Law Bldg., Harrisonville, MO 64701, (816) 884–3238. Transporting *cement, fly ash, rock, sand and related commodities*, between points in the U.S., under continuing contract(s) with Gebhardt Concrete, of Butler, MO, Cass County Concrete, and Limpus Quarries, Inc., both of Harrisonville, MO.

MC 155755, filed February 22, 1982. Applicant: WILLIAM L. GARRETT, d.b.a. W. L. Garrett Trucking, 2501 Blackstone CT., Bakersfield, CA 93304. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, (805) 872–1106. Transporting (1) *Mercer commodities and metal products*, (2) *such commodities* as are dealt in or used by manufacturers of pipe, (3) *lumber and wood products*, between points in the U.S., under continuing contract(s) with (1) Hopper, Inc., (2) Polaris Pipe Co. and (3) Pacific Wood Preserving of Bakersfield, Inc., all of Bakersfield, CA.

MC 158055 (Sub-1), filed February 22, 1982. Applicant: PEMBROKE TRANSPORTATION CORP., 15 Baldwin Avenue, Massena, NY 13662. Representative: Zoe Ann Pace, Suite 2372, One World Trade Center, New York, NY 10048, (212) 432–0940. Transporting *metal products, and pulp, paper and related products*, between points in St. Lawrence County, NY, on the one hand, and, on the other, points in the U.S. in and east of TX, OK, KS, NE, SD and ND.

MC 158845 (Sub-1), filed February 22, 1982. Applicant: JERRY SMITH d.b.a. JERRY SMITH TRANSFER, P.O. Box 69, Magnolia St., Geneva, GA 31810. Representative: F. Lee Champion, III, P.O. Box 2525, Columbus, GA 31902, (404) 324–4477. Transporting *plastics and related products*, between points in the U.S., under continuing contract(s) with Buck Plastics Company, of Columbus, GA.

MC 159055, filed February 22, 1982. Applicant: WHITTLESEA BELL LUXURY LIMOUSINE, 1910 Industrial Rd., Las Vegas, NV 89102. Representative: Michael W. Dyer, 50 W. Liberty, Suite 610, Reno, NV 89501, (702) 322–4200. Transporting *passengers and their baggage*, limited to the transportation of no more than 7 passengers (including the driver) in one vehicle at one time, beginning and ending at points in Clark County, NV, and extending to points in CA, AZ, and UT.

MC 159075, filed February 22, 1982. Applicant: WILLIAM P. JONES d.b.a. JONES BROS. TRUCKING, 2400 Old Fort Road, Missoula, MT 59801. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. Transporting *iron and steel articles*, between Chicago, IL, and points in Grayson County, TX, Peoria, Woodford, and Tazewell Counties, IL, and Santa Clara and Alameda Counties, CA, on the one hand, and, on the other, points

in AZ, CA, ID, IL, MT, NM, NE, ND, OR, PA, SD, TX, WA, and WY.

MC 159075 (Sub-1), filed February 22, 1982. Applicant: WILLIAM P. JONES d.b.a. JONES BROS. TRUCKING, 2400 Old Fort Rd., Missoula, MT 59801. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *lumber*, between points in Ferry County, WA, on the one hand, and, on the other, points in IA, IL, MN, ND, SD, and WI.

MC 160594, filed February 22, 1982. Applicant: JAMES YARBROUGH, Rt. 1, Box 34, Iowa Park, TX 76367. Representative: James Yarbrough (same address as applicant), (817) 592–4904. Transporting *clay, concrete, glass or stone products*, between points in Wichita County, TX, on the one hand, and, on the other, points in Commanche, Caddo, and Cotton Counties, OK.

MC 160654, filed February 22, 1982. Applicant: MILAN RACANOVIC d.b.a. MILAN TOURS, 22070 Miller Ave., Euclid, OH 44119. Representative: Charles J. Williams, P.O. Box 186, Scotch Plains, NJ 07076, (201) 322–5030. As a *broker* at Euclid, OH, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, between points in the U.S. (including AK and HI).

MC 160674, filed February 22, 1982. Applicant: PIONEER PIPE STRINGING, INC., 925 S. Main, Suite 203, Grapevine, TX 76051. Representative: J. Michael Alexander, 5801 Marvin D. Love Freeway, Suite 301, Dallas, TX 75237–2385, (214) 339–4108. Transporting *metal products*, between points in the U.S. (including AK, but excluding HI).

MC 160675, filed February 22, 1982. Applicant: HUSTLER EXPRESS, INC., P.O. Box 1307, Calumet City, IL 60409. Representative: William D. Brejcha, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603, (312) 263–1600. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Chicago, IL, and points in McHenry County, IL, on the one hand, and, on the other, points in U.S.

MC 160715, filed February 23, 1982. Applicant: MOJAC, INC., 185 Island Rd., Circleville, OH 43113. Representative: E. H. van Deusen, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting (1) *petroleum, natural gas and their products*, and (2) *chemicals and related products* (except classes A and B explosives), between points in OH, on the one hand, and, on the other, points in IL, IN, KY, MI, NY, OH, PA, and WV.

MC 160724, filed February 24, 1982. Applicant: GEORGE L. HILL, P.O. Box 2536, 325 Pennsylvania Ave. SE., Washington, DC 20013. Representative: George L. Hill (same address as applicant), (202) 546–7550. As a *broker*, at Washington, DC, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, beginning at points in Washington, DC, and extending to points in the U.S.

Volume No. OP5–52

Decided: March 2, 1982.

By the Commission, Review Board No. 3. Members Krock, Joyce, and Dowell.

MC 79658 (Sub-16), filed February 23, 1982. Applicant: ATLAS VAN LINES, INC., 1212 St. George Road, P.O. Box 509, Evansville, IN 47710. Representative: Robert C. Mills (same address as applicant), (812) 424–2222. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with International Business Machines Corporation, of Armonk, NY.

MC 87178 (Sub-1), filed February 23, 1982. Applicant: ORVILLE H. ANDERSON ELLIOTT TRANSFER COMPANY, Fergus Falls, MN 56537. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108, (701) 237–4223. Transporting *household goods* as defined by the Commission, between points in IA, MN, ND, SD, and WI.

MC 134328 (Sub-10), filed February 22, 1982. Applicant: D & G TRUCKING CO., INC., P.O. Box 1004, Wynne, AR 72398. Representative: James N. Clay, III, P.O. Box 9508, Memphis, TN 38109, (901) 774–9992. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Musco Olive Products, Inc., of Orland CA.

MC 140889 (Sub-26), filed February 24, 1982. Applicant: FIVE STAR TRUCKING, INC., 4720 Beidler Rd., Willoughby, OH 44094. Representative: Ignatius B. Trombetta, One Public S., Suite 1001, Cleveland, OH 44113, 216–589–0448. Transporting *textile mill products*, between points in the U.S. under continuing contract(s) with B & V Distributing, Inc. of Valley View, OH.

MC 141318 (Sub-17), filed February 23, 1982. Applicant: WEATHER SHIELD TRANSPORTATION, LTD., P.O. Box LTD, Medford, WI 54451. Representative: Robert S. Lee, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting (1) *urethane foam products*, under continuing contract(s) with Lear Siegler, Inc., of West Chicago, IL, (2) *clay, concrete, glass or stone products*, under contract(s) with Double Seal Glass Company, Inc., of Flint, MI, (3) *such commodities* as are dealt in by manufacturers and distributors of heating, ventilation and air conditioning products, under continuing contract(s) with Interstate Energy Systems, Ltd., of Milwaukee, WI, and (4) *such commodities* as are dealt in or used by distributors of lumber, plywood and millwork, under continuing contract(s) with Metropolitan Lumber Company, of Oakbrook, IL, between points in the U.S.

MC 145058 (Sub-7), filed February 22, 1982. Applicant: THOMAS PRODUCE COMPANY OF MOUNT AIRY, INC., P.O. Box 16707, Greensboro, NC 27406. Representative: Michael F. Morrone, 1150 17th St. NW, Suite 1000, (202) 457–1124. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between points in Clarke County, GA, on the one hand, and, on the other, points in MN, IA, MO, AR, LA, ND, SD, NE, KS, OK, MT, WY, CO, NM, TX, ID, UT, AZ, WA, OR, NV, and CA.

MC 143229 (Sub-4), filed February 8, 1982. Applicant: ANDERSON CARTAGE CO., INC., 4040 Holly St.—Unit #10, Denver, CO 80216. Representative: James P. Kirkhope, P.O. Box 15296, Fort Wayne, IN 46885, (219) 422–8884. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with American Shippers, Inc., of Fort Wayne, IN. CONDITION: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit, indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 5, Room 6370.

MC 145106 (Sub-63), filed February 22, 1982. Applicant: BULLET EXPRESS, INC., P.O. Box 289, Bay Ridge Station, Brooklyn, NY 11220. Representative: Robert L. Van Buren (same address as applicant), (212) 492–7332. Transporting *chewing gum and confectionery products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Wm. Wrigley Jr. Company of Chicago, IL.

MC 146868 (Sub-7), filed February 22, 1982. Applicant: MICKS SERVICE INC., 2146 Camanche Ave., P.O. Box 838, Clinton, IA 52732. Representative: Carl E. Munson, 409 Fischer Bldg., P.O. Box 798, Dubuque, IA 52001, (319) 557–1320.

Transporting *foodstuffs and related products* between points in the U.S. (except AK and HI), under continuing contract(s) with the Erie Casein Company, Inc., of Erie, IL.

MC 147769 (Sub-2), filed February 23, 1982. Applicant: SHORE AIR FREIGHT SERVICE, INC., P.O. Box 18302, Baltimore, MD 21240. Representative: Marshall Kragen, 1919 Pennsylvania Ave NW., Suite 300, Washington, DC 20006, 202-466-3778. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between Baltimore, MD, on the one hand, and, on the other, points in Cecil, Kent, Queen Annes, Talbot, Caroline, Dorchester, Wicomico, Worcester and Somerset Counties, MD, and DE.

MC 148158 (Sub-17), filed February 22, 1982. Applicant: CONTROLLED DELIVERY SERVICE, INC., 17295 E. Railroad Ave., City of Industry, CA 91749. Representative: Robert L. Cope, 1730 M St. NW., Suite 501, Washington, DC 20036, 202-296-2900. Transporting *food and related products*, between points in the U.S.

MC 148569 (Sub-9), filed February 22, 1982. Applicant: STOREY TRUCKING COMPANY, INC., P.O. Box 128, Henegar, AL 35978. Representative: Blaine Buchanan, 1012 James Bldg., Chattanooga, TN 37402, 615-267-1135. Transporting (1) *carpets and rugs*, under continuing contract(s) with Coronet Industries, Inc., of Dalton, GA; (2) *floor coverings including wood*, under continuing contract(s) with Pacific Floor Supply, Inc. of Emeryville, CA; (3) *paper and paper products, and floor coverings*, under continuing contract(s) with Fargo Paper Company, Inc. of Fargo, ND; (4) *polypropylene and polypropylene products*, under continuing contract(s) with Synthetic Industries, Inc. of Chickamauga, GA; and (5) *rubber and rubber products*, under continuing contract(s) with Mohawk Tire and Rubber Company of Hudson, OH, between points in the U.S.

MC 152509 (Sub-21), filed February 22, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., 1370 Ontario St., Cleveland, OH 44101. Representative: J. L. Nedrich (same address as applicant), (216) 566-2677. Transporting *lead-acid storage batteries, battery plates, and related products*, between points in the U.S., under continuing contract(s) with Alco Battery Co., Inc., of Lithonia, GA.

MC 155779 (Sub-3), filed February 22, 1982. Applicant: DIAMONDHEAD FREIGHT SYSTEM, INC., P.O. Box 462, Decatur, IN 46733. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204, (217) 636-1301. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in IL, IN, MI, and OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 156509 (Sub-1), filed February 23, 1982. Applicant: W.M.M. COMPANY, INC., P.O. Box 80, Goshen, OR 97401-1043. Representative: Wilford L. Main, 2299 Willona Dr., Eugene, OR 97401, 503-485-4255. Transporting *building materials*, between points in CA, NV, OR, and WA.

MC 160689, filed February 23, 1982. Applicant: BOATS & THINGS TRUCKING CO., INC., 1505 Sherbrook Rd., Chesapeake, VA 23223. Representative: John W. Perry, Sr. (same address as applicant), (804) 487-0825. Transporting *general commodities* (except classes A and B explosives), between Portsmouth, VA, on the one hand, and, on the other, Norfolk, Chesapeake, Virginia Beach, Hampton, Newport News, and Suffolk, VA, and points in York County, VA.

MC 160678, filed February 22, 1982. Applicant: AL CORDEIRO d.b.a. CORDEIRO TRUCKING, 713 Northwest 6th Ave., Dania, FL 33004. Representative: Bernard C. Pestcoe, 201 Alhambra Circle, Suite 511, Coral Gables, FL 33134, 305-445-9666. Transporting (1) *classes A, B and C explosives*, and (2) *plastic and/or polypropylene fabrics*, between points in the U.S. under continuing contract(s) with Florida Explosives, Inc. of Hialeah, FL. Condition: Any certificate issued in this proceeding to the extent it authorizes transportation of classes A and B explosives shall be limited in point of time to a period expiring five (5) years from the date of issuance of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6368 Filed 3-9-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP1-37

Decided: February 20, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating in part).

MC 95211 (Sub-2), filed February 22, 1982. Applicant: JOE FORTUNER, 99 South Main Street, Carbondale, PA 18407. Representative: Joseph A. Keating, Jr., 121 South Main Street, Taylor, PA 18517, (717) 344, 8030. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

MC 159101 (Sub-1), filed February 18, 1982. Applicant: FREEMAN'S TRUCKING COMPANY, 919 K St., Tacoma, WA 98405. Representative: Marvin P. Freeman, 8350 6th Ave., Tacoma, WA 94365, (206) 564-8122. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditions* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160651, filed February 22, 1982. Applicant: MOVE AMERICA, INC., 2 Olmstead Place, Norwalk, CT 06855. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, (202) 785-0024. As a *broker* of *general commodities* (except household goods), between points in the U.S.

Volume No. OP1-39

Decided: March 2, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 160671, filed February 22, 1982. Applicant ROBERT H. COTTON, 6710 Doncaster Dr., Gladstone, OR 97027. Representative: Robert H. Cotton (same address as applicant), (503) 654-9972. Transporting *food and other edible products and byproducts intended for human consumption* (except alcholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of of the motor vehicle in such vehicle, between points in the U.S.

MC 160691, filed February 22, 1982. Applicant: TIM KENNEDY TRUCKING, 912 Knottingham Drive, $2A, Schaumburg, IL 60172. Representative: Tim Kennedy (same address as applicant), 312-980-3639. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160700, filed February 22, 1982. Applicant: R & B MOVING & STORAGE CO., d.b.a. BROADWAY MOVING & STORAGE CO., 4830 Monaco, Commerce City, CO 80022. Representative: Bruce Luckett, 13100 Willow Lane, Golden, CO 80401, (303) 233-0706. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

Volume No. OP3-040

Decided: March 3, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 141094 (Sub-11), filed February 22, 1982. Applicant: ACME TRUCKING, INC., 109 E. Main St., Newark, OH 43055. Representative: Frank L. Calvary, 3066 N. Star Rd., Columbus, OH 43221, (614) 459-4248. Transporting *general commodities*, between South Haven, Cableton, Covert, and Toquin, MI, Abbeville, College Hill, Holly Springs, Hudsonville, Lamar, McClary, Michigan City, Oxford, Spraggins, Taylor, Waterford, Water Valley, Arm, Oakville, Hathorn, and Columbia, MS, Bolivar, Conger, Hickory Valley, Malesus, Medon, Middleburg, Toone, Rose Hill, Beach Bluff, Luray, Lexington, Dresden, Ralston, Martin, Gibbs, Riverside, Jordania, Scottsboro, Steel City, Ashland City, Chapmansboro, Fox Bluff, Doddsville, Hickory Point, New Providence, Kenwood, and Edgoten, TN, Broughton, Dales, Equality, Havoline, Junction, Shawneetown, Graymont, and Flanagan, IL, Barton, Bergoo, Hylow Mine, and Webster Springs, WV, Badger, Westgate, Sumner, Fredericksburg, Alta Vista, Elma, Riceville, McIntyre, and Centerville, IA, Elkton, Sargeant, Waltham, Hayfield, West Concord, Nerstrand, and Dennison, MN, Tea, Lennox, Davis, Viborg, and Irene, SD, Nelson, NE, Wayland, Kahoka, Granger, Arbela, Memphis, Downing, and Lancaster, MO, Joliet, Boyd, Roberts, and Red Lodge, MT, Benton, Thompsonville, and Masonville, KY, Elsinore, CA, Weston and Parrott, GA, Henrietta, NC, Edgefield and Furman, SC, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 152144 (Sub-2), filed February 23, 1982. Applicant: COMBINED TRANSPORT, INC., P.O. Box 3667, Central Point, OR 97502. Representative: Kenneth R. Mitchell, 2320A Milwaukee WY, Tacoma, WA 98421, (206) 383-3996. Transporting for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munition), between points in the U.S.

MC 160704, filed February 22, 1982. Applicant: RICHARD L. MONG, d.b.a. EATMORE MARKET, 312 S. Broadway, Greenville, OH 45331. Representative: (Same as above) (513) 548-2520. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160735, filed February 24, 1982. Applicant: CALIFORNIA CROWN INDUSTRIES, INC., 3883 Arvidson, Rd., Chino, CA 91710. Representative: Miles L. Kavaller, 315 S. Beverly Dr., Suite 315, (213) 277-2323. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between point in the U.S.

Volume No. OP4-75

Decided: March 3, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher and Williams.

MC 147036 (Sub-3), filed February 22, 1982. Applicant: R-D TRANSPORT CO., INC., P.O. Box 229, Winchendon, MA 01475. Representative: Charles Biter, 59 Harrison Dr., Fairless Hills, PA 19030, (215) 493-8424. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 160756, filed February 25, 1982. Applicant: CARL K. WILLIQUETTE, d.b.a. GREAT LAKES INDEPENDENTS, 2806 River View Dr., Green Bay, WI 54303. Representative: Wayne W.

Wilson, 150 E. Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP5–51

Decided: March 1, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 160409 (Sub-1,), filed February 22, 1982. Applicant: SOUTHERN NEVADA MOVERS, INC., 1037 East Colton Ave., Las Vegas, NV 89030. Representative: Mike Pavlakis, P.O. Box 646, Carson City, NV 89702, (702) 882–0202. Transporting *used household goods* for the account of the United States Government, incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between point in the U.S.

MC 160618 filed February 18, 1982. Applicant: JAMES MORTON WARE, d.b.a. WAREXPRESS TRUCKING CO., 4205 Selkirk Dr. West, Fort Worth, TX 76109. Representative: A. William Brackett, 623 South Henderson, 2nd Floor, Fort Worth, TX 76104, 817–332–4415. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160636, filed February 19, 1982. Applicant: GERALD BARNARD, Rt. 1, Wakita, OK 73771. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154, 405–424–3301. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 160648, filed February 19, 1982. Applicant: HENRY ALFONSO, 94 Maplewood Dr., Halifax, MA 02338. Representative: Henry Alfonso (same address as applicant), 617–293–7470. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 160659, filed February 19, 1982. Applicant: A J TABONE AGENCY INC., 107 Seventh North St., Room 143, Liverpool, NY 13088. Representative: Anthony J. Tabone, 9 Jefferson St., Auburn, NY 13021, 315–252–8109. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP5–53

Decided: March 2, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 141898 (Sub-5), filed February 22, 1982. Applicant: ROBERTS EXPRESS, INC., P.O. Box 7162, Akron, OH 44306. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. (614) 481–8821. Transporting *shipments* weighing 100 pounds or less, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6397 Filed 3-9-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-117]

Certain Automotive Visors; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: March 3, 1982.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 82-6470 Filed 3-9-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-116]

Certain Drill Point Screws for Drywall Construction; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: March 3, 1982.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 82-6471 Filed 3-9-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-96 Through 119, 701-TA-121, 701-TA-123 Through 144, 701-TA-146, 701-TA-147, 731-TA-53 Through 65, and 731-TA-67 Through 86 (Preliminary)]

Certain Steel Products From Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West German

On March 3, 1982, the Commission's determinations in these investigations and the views of Chairman Alberger, Vice Chairman Calhoun, and Commissioners Stern and Eckes were published in the **Federal Register** (47 FR 9087). The views of Commissioner Eugene J. Frank follow.

Views of Commissioner Eugene J. Frank

I. Overview

First, I would like to note that the statute and legislative history in title VII investigations require the Commission in its preliminary determinations for both antidumping and countervailing duty investigations to exercise only a low-threshold test based upon the best information available to it at the time of such determination that the facts reasonably indicate that an industry in the United States could *possibly* be suffering material injury, threat thereof, or material retardation.[1]

The 45-day preliminary injury determination compressed time period was, in my view, intended by Congress to screen those petitions where it was readily apparent, albeit based on a necessarily incomplete record, that there was no indication of possibly establishing injury even with adequate time, a thorough and fully developed investigation and record, and comprehensive hearing before the Commission. As Chairman Alberger stated in testimony on November 12, 1981, before the House Ways and Means Trade Subcommittee:

The "reasonable indication of material injury" standard is low enough that it does not force domestic industries to present more than a prima facie case before there is a full adjudication.

Such a standard applies equally to antidumping and countervailing duty investigations inasmuch as the statutory language is the same and given the intent of Congress for subsidy cases to follow the general practices of the ITC under the antidumping law.

Of course, it is important to keep in mind that the Traiff Act of 1930 and its legislative history are quite clear that the "material injury" to be ascertained in these investigations is defined to mean harm which is "not inconsequential, immaterial, or unimportant".[2] Section 771(7)(B) of the Act provides factors the Commission shall consider, among other factors:

(i) the volume of imports of the merchandise which is the subject of the investigation,

(ii) the effect of imports of that merchandise on prices in the United States for like products, and

(iii) the impact of imports of such merchandise on domestic producers of like products.[3]

Within the context of evaluating the volume of imports of the merchandise which is subject to the investigation and its effect on prices, in assessing impact in the affected industry, the language of the statute makes it clear that economic factors cited therein are not all-inclusive to wit: "* * * the Commission should evaluate all relevant economic factors which have a bearing on the state of the industry, including but not limited to * * *".[4] Legislative history on this point is also quite clear:

In determining whether an industry is materially injured, as that phrase is used in the bill, the ITC will consider, to the extent permitted by information submitted to it in a timely manner, the factors set forth in section 771(7) (C) and (D) together with any other factors it deems relevant.[5]

There is also recognition in the Statute and legislative history that discretion necessarily must be given to the Commission to determine the significane to be assigned to a particular factor within the framework of other facts of each specific case.

Neither the presence nor the absence of any factor listed in the bill can necessarily give decisive guidance with respect to whether an industry is materially injured, and the significance to be assigned to a particular factor is for the ITC to decide.[6]

It is expected that in its investigation the Commission will continue to focus on the conditions of trade, competition, and development regarding the industry concerned.[7]

A word on the issue of causation is pertinent, because I feel there is some misunderstanding about just what is required by law in this crucial area in these preliminary investigations. The causation element is that material injury must be "by reason of" the subsidized or less-than-fair-value imports: the linkage language "by reason of" directing an examination of the effects of such imports on the domestic industry. Legislative history makes it clear that Congress did not intend for the Commission in examining whether a causal link exists, to weigh injury which might be incurred from such imports against other factors which may be contributing to overall injury to an industry, although it should take into account evidence alleging such harm which was attributed to such imports was attributable to other factors. Moreover, the petitioner is not required to "bear the burden of proving the negative" that material injury is in fact *not caused* by such other factors. Further, the Commission is not required to make any precise mathematical calculations with respect to the harm associated by other factors.[8] Finally to quote directly from the House Report:

In short, the Committee does not view overall injury caused by unfair competition, such as dumping, to require as strong a causation link to unfairly competitive imports as would be required for determining the existence of injury under fair trade conditions.[9]

I would like to emphasize an important point, namely, that the Commission's charge in these *preliminary investigations* in evaluating the impact of alleged unfair imports, within the framework of the aforementioned discretion accorded it in analyzing relevant factors and establishing a causation link, must be undertaken within the less rigorous standard that the facts on the record and information available to it *reasonably indicate* that the affected domestic industry could *possibly be suffering material injury, threat thereof, or material retardation.*[10]

This less rigorous standard which was, as I have said earlier, intended by Congress in my view to be applied in a 45-day compressed time frame to screen petitions devoid of any merit where there was no indication of possibly establishing injury even with adequate time, must be applied with caution and equity, not in an arbitrary or capricious fashion, with the reasons set forth adequately documented. Yet we are to face a problem in the staff report on which the Commission relies in its determinations for these 92 steel investigations (during which there was a considerable volume of data and submissions tendered the Commission by a sundry number of parties), of material omissions of corroborated information on a number of critical factors that the Commission responsibly should take into consideration before eliminating products and countries involved in these investigations from proceeding to the final stage, permitting the Administering Authority (Commerce) to continue its investigations on a preliminary basis for these products including:

- Lack of sufficient data on production capabilities and utilization of capacity for all products and countries cited in these investigations (bearing particularly on the issue of threat and potential surges of unfairly traded imports to the U.S.);
- Related to the previous, the lack of comprehensive data on the capability of foreign producers having integrated operations to switch to other finished products which may be excluded from further investigation by the Commission and Administering Authority;
- Lack of data on other international markets' (in addition to the U.S.), present and potential demand served or to be served by such products and related pricing patterns and other pertinent economic factors;
- No work or analysis or even recognition given to potential impacts on net revenues, profits, employment, lost economic opportunities if certain products were eliminated and countries excluded due to de minimis considerations. An important corollary consideration here is the concentration in the domestic market in a number of these products by large integrated producers where loss of gross revenues on a marginal basis have a more pronounced effect on the front end of the steel making process characterized by high capital investment and concomitant high fixed costs. Even with respect to certain steel bar products in which integrated firms have less market presence that are characterized by high value-added in finishing, many firms producing these products include such products in a fairly broad product spectrum, and in the case of electric furnace operations nonetheless have high fixed costs at the raw-steel end to cover;

[1] H.R. Report No. 96–317, 96th Cong., 1st Sess., p. 52 (1979).

[2] Report on H.R. 4537 of the Senate Committee on Finance, p. 88.

[3] 19 U.S.C. 1677(7)(B).

[4] 19 U.S.C. 1077(7)(C).

[5] Report on H.R. 4537 of the Senate Committee on Finance, p. 88.

[6] Id., and 19 U.S.C. § 1677(7)(E).

[7] Senate report, p. 88.

[8] Report of the House Ways and Means Committee on H.R. 4537, p. 47.

[9] Id.

[10] Although, having found a reasonable indication of material injury by reason of these imports in these investigations, I did not reach the issue of threat, nonetheless data and trends with respect to certain products, which appeared incomplete in these preliminary investigations along with the record to reach that determination, still point to the possibility of future determinations of threat if a full investigation were able to provide more comprehensive data on e.g. Foreign Capacity. In this respect, I will discuss the issue of threat from time to time in these views.

• Lack of acceptable information on prices and lost sales upon which to draw definitive conclusions. Discussions on pricing trends between imported and domestic products utilizing producer price, unit value indices and trigger prices can be misleading and are less than comprehensive. The Producer Price Index is based on list prices and may not reflect changes in actual transaction prices. Unit value indices may vary with time not only due to prices but also to changes in the specific type of steel being imported (including quality considerations). Data and indices presented on transaction prices (i.e., average net selling price for specific products from domestic producers and importers) are average weighted prices charged in different transactions. There is nothing that corroborates conclusively the representativeness of the transactions and products selected and credibility of sources utilized that would justify relying on such data to compare trends in levels of importers' and domestic producers' prices and/or on a country-by-country basis. Also direct inquires of purchasers for information on delivered prices paid in specific transactions, based on information at hand on a limited number of products, not in most cases representing total country coverage and from sources where their degree of market participation is not disclosed, cannot be relied upon in terms of comprehensiveness or representativeness. Also terms and conditions of credit extended for such transactions are not included in such data. In terms of lost sales, coverage of allegations was less than complete, and for the most part, in my judgement confirmed results were not representative. Sources for this information were not disclosed, their relationship if any, to foreign and domestic producers, nor was their market participation cited. I believe acceptance of such information in terms of prices received and magnitude of sales, in the absence of hard documented data from Customs and/or examination of actual invoices for such transactions, in order to reach determinations as to whether underselling occurred and, if so, the tonnage and countries involved, is not appropriate. Telephone inquiries with parties able to make verbal representations as to transactions could be questioned and could be considered incomplete and impervious to accountability.

Although one could argue with reason that such issues could not be covered comprehensively in a 45-day investigation by a staff hardpressed to complete the task at hand, information was lacking for the most part, for some reason, particularly with respect to foreign capacity for products/countries involved and with respect to price data. With regard to pricing data, for the purpose of these preliminary investigations in recognition of the low threshold standard, I have been compelled to rely on the record and petitioner allegations of unfair pricing practices and concomitant margins of underselling (including that submitted to the administering authority (Commerce)) which have not been conclusively refuted to date, as part of my determinations. Obviously, such a procedure and reliance devoid of staff corroboration would be manifestly unjustified in a final investigation process as it would be inconsistent, in my view, with the more rigorous standards required in final determinations of injury. I will, however, when I feel it germane, allude from time to time to certain information obtained by staff in certain products which show certain indications of pricing patterns which albeit less than complete, are at least worthy of mention. I do not believe, however, that the intent of Congress was to penalize petitioners who have demonstrated potentially meritorious cases in the preliminary stage that are worthy of continuation, for an inability to obtain certain information in satisfactory form and substance in critical areas such as price, particularly when substantial potential economic consequences are at stake as is the case in these steel investigations. As stated before, I believe the legislative history permits the Commission the discretion to take into consideration and weigh information and economic factors *or the lack thereof* in its deliberations and determinations.

The issue of cumulation with regard to the imported products subject to these preliminary investigations, has been addressed extensively in various memoranda of the General Counsel submitted to the Commission, as well as in briefs and statements submitted by various parties.[11] Within each of the nine product categories, the impact of comparable imported articles from as many of the respondent nations that produce and export the products in question to the United States, has been cumulated. I believe the record amply corroborates the fungibility of the articles in question and therefore their comparability in terms of "like product" and being of the same class or kind of merchandise.

[11] See e.g., GC–E–337, GC–F–028, GC–F–034.

Arguments have been presented that the Commission should address the cumulation question in a well-reasoned set of criteria. I believe this is a logical and correct approach. I believe that the statute, as well as other pertinent economic factors, permit the Commission to take into consideration the cumulative injury caused by all alleged unfairly traded imports. The emphasis is the possible resulting injury, not a narrow focus on the procedures and methods employed, although they should and are being considered. The nature of the industry in both the United States, as well as in those countries subject to these preliminary investigations, is such that a focus purely constrained by market considerations within a like product basis, may obscure the reality that producers can shift within a finished product category in response to demand conditions. For example, producers will allocate more raw steel capacity to specific finishing mills depending on end-market conditions, decisions which are governed by several factors such as demand, prices, profit margins, inventory of that specific product, and working capital requirements. The suggested criteria that cumulation is appropriate if the dumped or subsidized imports concerned all compete or impact upon the *same market* could be an impossible requirement. It assumes end-users' demand and the character and nature of end users to be constant which it is not, and ignores the dynamics of the uses of these steel products and the particular needs they satisfy.

Whether the steel products being imported are directed to the same end users or same geographical market, or whether they pass through the same or different channels of distribution, or whether they are priced similarly, the fact that these penetrate contemporaneously or sequentially according to the same demand patterns, is important. However, this recommended criteria ignores the fact that these imported articles within the same product categories can be directed to other end users and other geographical markets, perhaps under not similar terms and conditions and prices rather quickly, depending on the prevailing conditions and patterns of trade, resulting in not inconsequential injury. For example, alloy steel bar shipped mostly to satisfy oil-country goods needs, can tomorrow be shipped for automotive or industrial machinery or heavy construction equipment end-use application. The law and the intent of Congress, cover, in my judgment, the fact that unfairly traded imports of "a class or kind of merchandise" from one or many sources, will have the same injurious impact on the domestic industry. It has been asserted by some respondents that even if we could cumulate import data in these preliminary investigations, it would not be appropriate to cumulate imports of certain products from certain countries, because these imports are so minimal as not in themselves contributing to material injury. I do not agree with this contention because if it were applied consistently, assuming one could reasonably define what is minimal (aside from the questionability of applying the same definition to different finished product lines with varying historical tonnage consumption patterns and uses and characteristics), an industry could be impaired by a significant level of imports from numerous sources, yet have no remedy under trade laws, inasmuch as none of these sources would be construed to account per se for the injury. As indicated before, the application of a standard of what would be considered to be minimal on a volume basis across product lines, appears to be questionable and arbitrary. For example, the loss of a 5,000 ton order of cold-rolled alloy steel bar is usually of greater economic and financial consequence compared with a loss of similar size order of hot-rolled carbon steel sheet. Therefore, I believe it makes no sense to excuse voluntarily ab initio even for screening purposes allegedly unfairly imported products by national origin on a de minimis basis when the problem is the totality of all such imports.

Condition of the U.S. Steel Industry

Steel production in the United States is characterized by concentration in terms of raw steelmaking capacity in large integrated firms, with the seven largest firms accounting for about 75 percent of raw steel produced in 1980.[12] Mini mills making steel with electric furnaces, and specializing in a more narrow-product range, have increased their share of steel shipments, accounting for an estimated 12 to 15 percent of total U.S. steel shipments in 1980. Capacity utilization measured in raw steel production has declined from 86.8 percent in 1978 to 72.8 percent in 1980. In the last quarter of 1981, capacity utilization was about 63 percent.[13] In recent years several producers have closed steel-producing facilities and others have announced they will be purchasing substantial amounts of semifinished steel from offshore sources to be processed in their finishing mills. Of note, McLouth Steel Corp. (the 10th largest U.S. steel producer) recently filed for protection under the Bankruptcy Act. Raw steel production in the U.S. in 1980 fell to the lowest level in the last decade, dropping to 112 million tons. The domestic industry's share of world production of raw steel similarly declined from 19.6 percent in 1973 to 14.1 percent in 1980. Net shipments by domestic producers of all steel mill products in 1981 totaled 81 million tons, about 4 percent more than 1980 shipments, but considerably lower than the 94.2 million ton average annual net shipment levels registered over the 1971–80 period inclusive. U.S. producers' shipments of carbon steel mill products subject to these investigations, fell from 56.2 million tons in 1979 to 45.7 million tons in 1980, representing a 21-percent decline. U.S. producers' shipments of the alloy steel mill products subject to these investigations decreased to 2.1 million tons in 1980 from the 2.9 million tons in 1978 and 1979, or by 28 percent. U.S. steel exports, however, showed an increase from 2.8 million net tons in 1979 to 4.1 million in 1980, with the largest share, approximately 47 percent, going to Latin America. Imports of all products subject to these investigations in 1978 amounted to approximately 20.8 million tons, declining in 1979 to 17.3 million tons and in 1980 to approximately 15.3 million tons. U.S. imports for consumption from the countries subject to these investigations for the products covered by these investigations amounted to about 7 million tons in 1978, 5.3 million tons in 1979, and about 4 million tons in 1980.

However, cumulative comparative 10-month 1980 and 1981 data for these same products from respondent countries, which were not presented in the Staff Report in aggregate form, as submitted by certain petitioners citing Department of Commerce/Wharton sources, show totals of such imports for these comparable periods increasing by over 736,000 tons, representing a 22-percent increase over the total for 1980, reaching over 4 million tons in the past 10 months. This 1981 10-month level exceeded the approximately 4 million ton levels reached for all of 1980.[14] Certain petitioners, citing the same sources, indicate that imports of the accused products from the respondent nations in the aggregate, as a share of aggregate domestic consumption, rose from 4.7 percent in the first quarter of 1981, to 7.2 percent in the second quarter, and to 10.7 percent in the third quarter. Correspondingly, shipments of the same products by domestic steel producers as a share of aggregate domestic consumption fell from 89.2 percent in the first quarter to 85.4 percent to 80.8 percent in the third quarter 1981.[15]

Total employees engaged in the production and sale of iron and steel products as compiled by the AISI decreased from 508,600 in 1974 to 453,200 in 1979. In 1980, this total went down from 453,200 to 398,800. Furthermore, AISI statistics indicate that average number of employees for the month of October 1981 was down further to 380,000.[16] As of December 26, 1981, over 76,000 steelworkers were on layoff status as compared with about 24,000 in May 1981. Also, a large number of steelworkers were working a short work week in 1981, increasing from 2,536 as of the end of May, to 16,388 as of December 26, 1981.[17]

Total labor costs per hour increased from $14.30 in 1978 for wage employees, to $18.45 in 1980. The average annual increase in 1971 to 1980 was 12.8 percent. Productivity, as measured by the Bureau of Labor Statistics Productivity Index, which showed an increase from 1975 to 1979, went down in 1980 and registered only a 1.3-percent average annual increase in the 1971–80 period.

Net sales for 1980 of 17 U.S. producers accounting for an estimated 82 percent of total U.S. production of raw steel in 1980 were $35.4 billion down 9 percent from 1979's $38.9 billion level. Operating profit for the same period showed an even more drastic decline, dropping from $1.6 billion to 723 million, or by 55 percent. Cash flow from operations for these same companies was reduced by over 27 percent in 1979–80, dropping from $3 billion to $2.2 billion. Capital expenditures for these 17 firms have been increasing each year from 1978 to 1980. At the same time, the ratio of operating profit to net sales has gone down from 5 percent in 1978 to 4.1 percent in 1979, to a dangerously low 2.0 percent in 1980, representing a decline of 60 percent for this critical ratio during that period. Similarly, adverse financial

[12] I–4 Staff Report. Unless otherwise indicated, all data in this section were obtained from the accompanying staff report.

[13] Data reported on a weekly basis by the American Iron and Steel Institute (AISI) to the media.

[14] Brief of Cravath, Swaine & Moore, attorneys for petitioners Republic Steel, Inland Steel, J&L, National Steel, Cyclops (hereinafter "group of five"), pp. 190–191.

[15] Id. pp. 244–245.

[16] AISI "Steel Employment News" release dated Nov. 10, 1981.

[17] Brief of Cravath, Swaine & Moore, attorneys for the group of five, p. 182, citing Ms. Janet Nash of AISI as source.

experience was reported for 18 selected producers, which provided usable data for operations which produced carbon steel products from 1978 to 1980. Although there was some improvement in net operating profit and net sales in 1981 for these firms, accounting for 80 percent of U.S. producers' shipments of carbon steel mill products subject to these investigations, operating profit margins were still well below 1978 and 1979 results, and many more firms reported operating losses. Profit-and-loss experience of 10 U.S. producers of alloy steel products accounting for 61 percent of U.S. shipments of such products evidenced improvement over 1980 on their gross and operating profits, but operating profits at 2.2 percent of sales were below 1978 levels of 2.7 percent, and, in any event, did not represent a satisfactory return. Comparative data for the domestic producers of all steel products under investigation indicate that with the exception of those producing hot-rolled alloy steel bar and cold-formed alloy steel bar they showed lower returns on their operations than did either all manufacturing companies or all durable goods producers for January-September 1981. In 1980, producers of hot-rolled alloy steel bar also registered lower returns on operations than did all manufacturing companies or durable goods producers. Of the nine products under investigation, producers of six products experienced negative operating profit ratios in 1980. In the more recent 1981 period, six of the nine products involved similarly showed negatiave operating profit ratios. For 1978 and 1979, producers of only one of these products evidenced a negative operating ratio.

I believe, consistent with my recent determinations on *Hot-Rolled Carbon Steel Sheet From France* and *Hot-Rolled Carbon Steel Plate From Belgium, Brazil, and Romania,*[18] that the markets for these steel products are largely price sensitive, particularly in a period of falling domestic consumption for many of these products, which further exacerbates the potential impact of increased volumes of imports on prices.

Testimony by an experienced steel marketing executive has emphasized that, particularly in times of weak demand, price is the overriding factor in purchasing decisions over and above reliability, quality, service, proximity of source, etc. This particular testimony claims that no producer from Europe can make a product or quality because of particular facilities that domestic producers cannot make.[19] The fact that product differentiation is not an issue, further underscores the importance of price as the determining factor in the steel business, and this reaccentuates the role that alleged subsidized or less-than-fair-value imports play in facilitating the obtainment of larger domestic market shares by foreign producers, to the detriment of the domestic industry. Furthermore, looking strictly at lost sales allegations may obscure the fact that competing domestic producers may have had to discount significantly in order to make sales and preserve cash flow.

The whole history of the domestic steel industry bears testimony to the fact that the demand for steel is inelastic. Fierce price competition in periods of slack demand has never expanded the demand for steel products. It has, however, changed the vendors, whichever one has the lowest quote. In periods of peak demand, premium prices have never affected final demand—witness 1974, when premium prices were readily accepted by end users over a large spectrum of products without a corresponding weakening of demand.

Definition of the Domestic Industries

Pursuant to sections 771(4)(A) and 771(10) of the Tariff Act of 1930, I have determined the scope of the domestic industries involved in these investigations to be the nine different categories of steel products alleged to be sold at less than fair value or subsidized from Belgium, Brazil, the Federal Republic of Germany, France, Italy, Luxembourg, the Netherlands, Romania, and the United Kingdom as well as two countries for which the Commission is not charged with making an injury determination, Spain and the Republic of South Africa, as more fully detailed in respective descriptions of the product, its uses, characteristics, and methods of manufacture in the Report. These nine steel product categories are:

(1) hot-rolled carbon steel plate.
(2) hot-rolled carbon steel sheet and strip.
(3) cold-rolled carbon steel sheet and strip.
(4) galvanized carbon steel sheet.
(5) carbon steel structural shapes.
(6) hot-rolled carbon steel bar.
(7) hot-rolled alloy steel bar.
(8) cold-formed carbon steel bar.
(9) cold-formed alloy steel bar.

On the basis of the information before me in these preliminary investigations, I have found each of the nine separate product categories to constitute a "like product," each of which possesses separate physical characteristics of size, shape, or composition and uses and serves markets that generally do not compete with one another; therefore, I have found that there are nine domestic industries involved in these investigations defined by these nine product categories.

Since the act prescribes such a domestic industry approach in these investigations, I believe, in ascertaining injury to the domestic industry affected in the conduct of these investigations, it is appropriate to consider as a relevant factor in all of these investigations the basic, commonsense economic reality of the impact of such imports on the domestic steel industry in general. This is why I have provided a summary glance at the state of the domestic steel industry which shows that it is not in good health.

Individual product lines in the nine categories, each of which makes up a separate industry in compliance with the Act, cannot be examined in a caccum. In six of the nine product lines, the "industry" is heavily concentrated by the sizable market presence of large integrated producers. In the three other products which are high value-added finished products more typically characterized in market presence by mini mills and fabricators, you still have to look back to the raw-steel end, regardless of its source—whether by an electric furnace operation contained in the same facilities or via purchased semifinished steel for a fabricating operation

The steel industry has been accurately depicted as a capital intensive industry with the bulk of capital dollars, around 70 percent at the "front end," i.e., the hot-metal/raw-steel end. In an industry characterized by high fixed costs (in recent years a considerable portion of which emanated from government regulatory mandated facility improvements that while promulgating perhaps socially desirable results in pollution control and OSHA do not possess positive incremental cash flow benefits), an integrated producer's economic behavior whether pushing the steel through the flow-line to a finished good or to a semifinished state for sale to intermediaries such as steel service centers, fabricators, etc., must exhibit a rational concern for maximizing overall profits and favorable levels of capacity utilization rather than a focus on profits on any one line or product category.

Scrutiny of aggregate raw steel capacity utilization and overall financial experience is therefore of paramount importance; and in the end result, such an approach supersedes technical accounting distinctions and allocations on a product-line basis, in assessing the viability of an industry of significance to the U.S. not only from an economic standpoint but from a national security standpoint. Consequently, accounting profits booked on a product-line basis may in fact be illusory, e.g., based on arbitary cost allocations, artificial inventory profits or on unrealistic depreciation schedules in view of replacement costs. Further, even if profits are in fact based on intrinsic economic reality, a microeconomic approach would dictate viewing tonnage on a marginal revenue product/marginal cost basis: that is, with an "industry," narrowly defined, booking profitable margins, the opportunity costs associated with potential lost tonnage of the product or at depressed or suppressed prices are magnified when associated with the overall high level of fixed costs that have to be covered on a raw-steel operating basis. Also, in financial analytical terms this approach recognizes that there is a high degree of operating leverage which magnifies gains on the bottom line when operating capacity rates increase incrementally but conversely increases losses when such rates incrementally decline past "break-even levels."

Therefore, in the conduct of these preliminary investigations, I have taken into consideration in my analyses of the effect of such imports on the "nine" industries defined, their impact on the overall condition of the steel industry. To do otherwise in my view would be indulging in analytical myopia as well as ignoring the effects and impacts other economic considerations which I consider relevant are having on this basic industry, some of which are allegedly caused by this increased volume and penetration of imports.

I would close by saying that the steel industry has many problems confronting it aside from the issues of alleged unfairly traded imports before the Commission in these investigations which are well-known and bear no repetition here. I must reiterate my previous discussion that the Statute does not require a weighing of such other factors against the factor of whether material injury to the affected domestic industry has been caused by unfairly traded imports in establishing the requisite causal linkage. I have taken such factors into consideration in my analyses.

I believe the following statement of Commissioner Stern set forth in her views concerning the preliminary investigation of *Certain Carbon Steel Products* in May 1980 is germane to the issues of material omission of critical information for these investigations: "In preliminary cases, I must base my determination as much on what information the Commission has not been able to gather (but has expectations of developing in a full scale investigation) as on the information before me." [20]

I feel however, that the record and information before me provides a reasonable indication that an industry in the United States could possibly be suffering material injury in these preliminary investigations by reason of allegedly unfairly traded imports from the countries cited and have made my determinations accordingly as set forth herein.

A final word is appropriate here. The magnitude of injury incurred by the basic steel industry and the segment of the industrial base of the United States dependent upon it is readily discernible. The steel industry has been impacted financially and, as a result, is going through a period of self-liquidation. Numerous plants have been closed and companies have gone bankrupt. Questions are now being asked as to the extent of the erosion of our industrial base and possible national security problems. Tens of thousands of steelworkers' jobs have been permanently lost. Unemployment continues to run rampant and dozens of communities dependent upon the steel industry or its suppliers are facing difficult times. Total direct and indirect steel unemployment is now estimated to be in excess of 300,000 jobs which, aside from personal injury, also has a damaging negative impact on this Nation's effort to balance its budget. Imports continue to come in at record levels, putting additional pressure on the industry financially, thus jeopardizing its modernization program as well as creating severe and continuing hardship for steelworkers and further impacting this Nation's balance of trade.

A preliminary finding that there is *not* a reasonable indication that imports are causing material injury (or threat thereof) to the domestic industry in the majority or all of the cases before the Commission would be a determination *without the benefit of:*

1. Proper analysis with necessary financial and technical information and understanding about the structure of the basic steel industry relative to cumulation issues, which as staff has advised me, the Report does not take into account;

2. Proper and complete internal analysis of the impact of lost gross revenues which are marginal and what their impact would be on net revenues and profits, particularly in an industry characterized by high fixed costs such as steel. Testimony was presented by Dr. Lawrence Klein, a Nobel Prize-winning economist, who did such an analysis that indicated there would be a more pronounced effect on net revenues. The analysis of the impact of lost gross revenues on net margins coupled with a detailed financial study which would include such points as breakeven analysis, etc., are particulary important when considering an import from a country of a product representing a comparatively small or diminutive percentage of import penetration;

3. Detailed financial analyses other than mere reporting of revenues and income. Based on the premise that the steel industry is being self-liquidated, proper financial analysis then would confirm in many cases that although a profit may have been earned, it may be inadequate and as a result the facility could go into liquidation due to high replacement or modernization cost;

4. Availability of documented price data on imports. Any mention of price or price levels would be mere speculation unless the price data on the imports were supplied by Customs;

5. Proper documentation on lost sales information. The Commission in making its decisions was not in a position to comment on lost sales. When rendering an opinion, any comment or weight given to the Commission's data on lost sales would be mere speculation in that Commission Staff advised they were hastily put together, and therefore could be inaccurate and have no value;

6. Complete information on production capabilities of foreign producers for products and countries covered by these investigations and other international markets and related economic factors served by these products.

II. Hot-Rolled Carbon Steel Plate

In the investigations on hot-rolled carbon steel plate (invs. Nos. 701–TA–88 through 93 and 731–TA–53 through 60), I conclude that there is a reasonable indication that allegedly dumped and/or subsidized imports from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, Romania, the United

[18] Investigation No. 701–TA–85 (Preliminary), January 1982, USITC Publication 1206; investigations Nos. 701–TA–83 and 84 (Preliminary) and investigation No. 731–TA–51 (Preliminary), January 1982, USITC Publication 1207.

[19] Written testimony of Mr. William F. Ewart, Senior Vice President, National Steel Corporation, before the USITC.

[20] Statement of reasons of Commissioner Paula Stern in investigations Nos. 731–TA–18–24 (Preliminary), *Certain Carbon Steel Products From Belgium, the Federal Republic of Germany, France, Italy, Luxembourg, the Netherlands, and the United Kingdom*, p. 41.

Kingdom, and West Germany are causing material injury to the domestic industry.

Condition of the Domestic Industry

About 15 firms produce hot-rolled carbon steel plate in the United States, operating approximately 30 establishments in which carbon steel plate is produced throughout the U.S., but centered primarily in Pennsylvania and the Great Lakes area. Domestic production is highly concentrated, with the four largest producers, accounting for 70 percent of total domestic producers' shipments in 1980, being fully integrated firms that provide a wide range of steel will products.[21]

There is a reasonable indication that the domestic hot-rolled carbon steel plate industry is in poor health. Domestic production, which rose from 5,576,000 tons in 1978 to 5,897,000 tons in 1979, fell markedly to 5,564,000 tons in 1980 and 5,161,000 tons in 1981. The industry's practical capacity declined significantly from 9,713,000 tons in 1979 (having increased from 8,987,000 tons in 1978) to 9,051,000 tons in 1981 while capacity utilization during the 1978–81 period registered a substantial uninterrupted decline from a 62-percent level in 1978, to a 57-percent level in 1981. Although there were some additions to practical capacity, notably at Bethlehem Steel's Chestertown, Indiana, facilities in 1978, there have been a number of closures of carbon steel steel plate facilities during the period, most recently in February 1981 the permanent shutdown of Jones & Laughlin Steel's only plate mill and a hot strip mill in Pittsburgh, Pennsylvania.[22]

U.S. producers' shipments of carbon steel plate, which increases 3 percent from 1978 to 1979, fell 8 percent annually in 1980 and 1981, registering a 12 percent overall decline during the 1978–81 period, from 6,588,000 tons to 5,772,000 tons, with exports by producers accounting for less than 2 percent of total shipments and intracompany and intercompany shipments remaining relatively stable at 6 percent of total annual shipments during the same period.[23] U.S. consumption of carbon steel plate also showed a significant uninterrupted decline from 8,452,000 tons in 1978 to 7,651,000 tons in 1980, and to an estimated 7,439,000 tons in 1981, representing a 12-percent overall decrease.[24]

Employment of production and related workers in the carbon steel plate sector fell from 19,143 workers in 1979 to 16,469 workers in 1980 and even more precipitously to 16,937 workers in 1981. Similarly, hours paid for production and related workers showed and almost 14 percent decline from 1979 to 1981, from 38,896 hours to 33,570 hours.[25] Productivity data on tons per hour quantity basis remained unchanged from 1980 to 1981, having registered a 1.5-percent increase in 1980. Hourly compensation, however, increased continuously during the 1978–81 period; thus unit labor costs showed marked increases during the period, from $91 per ton in 1978 to $123 per ton in 1981, having not been offset by improved labor productivity.[26]

Although the 10 firms which furnished profit-and-loss data (accounting for 69 percent of total 1980 U.S. producers' shipments) showed aggregate profitability both on gross and operating profit bases, profitability remained extremely low and could be characterized as less than satisfactory. Operating profit margins, reaching 4 percent in 1978, declined to 1.4 percent in 1980, though increased to 2.3 percent in 1981. Indeed, six firms sustained operating losses in 1980 and four firms sustained such losses in 1979 and 1981.[27]

Reasonable Indication of Material Injury by Reason of Imports

During the 1978–80 period, about 10 percent of total U.S. imports of all carbon steel mill products were accounted for by imports of carbon steel plate products. Although such imports declined from 2.0 million tons in 1978 to 1.3 million tons in 1979, they increased to 1.6 million tons in 1980, and showed even more significant increases on an 11-month January–November 1980 and 1981 comparative period basis, with 1.7 million tons imported during January–November 1981, compared with 1.4 million tons imported during the corresponding 1980 period. The ratio of imports from all sources to apparent domestic consumption decreased from 23.4 percent in 1978 to 15.9 percent in 1979, but subsequently increased to 20.5 percent in 1980 and 24.9 percent in January–November 1981, with the ratio of imports to U.S. producers' shipments following a similar trend.[28]

Imports from all countries subject to countervailing duty and antidumping investigations to the United States of hot-rolled carbon steel plate have evidenced substantial increases in terms of quantity, value, and relative to apparent domestic consumption during the recent period. Such imports, which registered at levels of 1,194,000 tons ($291,868,000 in value) in 1978, having declined to 673,000 tons ($207,229,000 in value) in 1979, increased to 961,000 tons ($308,598,000) in 1980. Comparative January–November 1980 and 1981 data show imports of 869,000 tons in the 1980 period ($277,878,080 in value) increasing markedly to 1,116,000 tons ($409,444,000 in value) in the corresponding 1981 period. Likewise, such imports evidenced significant increases in penetration during this period of basically declining domestic consumption, with market penetration by such imports increasing from 8.5 percent in 1979 to 12.5 percent in 1980. Comparative January-November 1980 and 1981 data evidence even more dramatic trands, with 11-month 1980 penetration at 12.4 percent compared with the corresponding 1981 period registering a 16.0 percent penetration figure. The ratio of those imports to U.S. producers' shipments manifest similar patterns, showing figures of 9.9 percent in 1979, 15.4 percent in 1980, with 1980 and 1981 11-month comparative levels of 15.2 percent and 20.7 percent, respectively. Examining comparative data with respect to these relationships and import levels for the last two quarters for 1980 and 1981 disclose similar trends.[29]

Pricing information on imported hot-rolled carbon steel plate in these investigations warrants further investigation.

Worthy of some comment, at least during the preliminary phase of these investigations, was the result of direct inquiries of purchasers to furnish the *delivered prices* they paid in specific transactions for four imported and domestically produced hot-rolled carbon steel plate products. With one-third of the 66 purchasers responding, 22 providing price information on domestically produced hot-rolled carbon steel plate and 18 providing price information on certain imported plate from these countries, without knowing the degree of participation in the domestic market of these purchasers, it would be difficult to characterize the results as representative and certainly the data arrayed is not comprehensive. However, there is an indication of material underselling in certain instances worthy of further scrutiny.[30]

My comments concerning lost sales data are subject to my concerns in this area set forth in the overview. With respect to lost sales, the staff was able to investigate in the time available 32 of 273 specific allegations of lost sales, with over 360,000 tons involved, and found price to be the major reason for purchasing the imported product in all 27 allegations confirmed.[31] Allegations of lost sales from the three largest foreign suppliers of such merchandise in the U.S. market in 1980 and 1981 were discussed in the report. Coverage of these allegations was incomplete no doubt due to the time-frame involved, but the small number that were checked and confirmed indicated that price in most instances was the overriding factor in purchasing decision, although in a number of instances, purchasers claimed they purchased the foreign product at trigger prices.[32]

The carbon steel plate industry appears highly price sensitive, and even more so during periods of stagnant or declining demand. Buyers usually are quite cognizant of prevailing market prices and are in a postion to play off competing domestic and foreign offers. Low prices obtained by one firm, foreign or domestic, may have a broad-ranging impact on the market.

I believe information on pricing patterns, although obviously less than complete, coupled with the allegations of petitioners in these investigations submitted for the record which have not been conclusively refuted by respondents, evidences a reasonable indication of possible price suppression and depression by reason of underselling attributable to allegedly dumped and subsidized imports which merits further investigation.

Accordingly, I conclude that there is a reasonable indication that the domestic industry has suffered material injury by reason of allegedly LTFV and subsidized imports.

III. Hot-Rolled Carbon Steel Sheet and Strip

In the investigations on hot-rolled carbon steel sheet and strip (investigations Nos. 701–TA–94 through 101 and 731–TA–61 through 67), I conclude that there is a reasonable indication that allegedly dumped and/or subsidized imports from Belgium, Brazil (except strip), France, Italy, Luxembourg, the Netherlands, the United Kingdom (except strip), and West Germany are causing material injury to the affected U.S. industry.

Condition of the Domestic Industry

About 20 firms in the United States produce hot-rolled carbon steel sheet in approximately 40 mills, and the principal producers can be characterized as largely integrated operations with the 6 largest U.S. producers of raw steel accounting for almost 70 percent of total U.S. producers' shipments of hot-rolled sheet and strip (as reported by AISI) in 1980. Hot-rolled sheet was the second largest finished carbon steel product manufactured by the U.S. steel industry in 1980.[33]

There is a reasonable indication that the domestic hot-rolled carbon steel sheet and strip industry is in poor health. U.S. production and practical capacity figures which increased substantially in 1979, reaching levels of 12.6 million tons and 19.4 million tons, respectively, fell markedly in 1980 to under 10 million tons and 18.6 million tons, respectively. Figures for 1981, while showing increases in production and capacity levels to 11.4 million tons and 19.4 million tons, respectively, must be tempered with a realized capacity utilization rate of 59.0 percent, significantly less than 1978's 65.7 percent level and representing less than satisfactory utilization, although an improvement over 1980's 52.5 percent rate.[34] U.S. Producers' shipments showed similar trends, declining substantially in 1980 from 15 million tons to 11.5 million tons, and increasing to 12.6 million tons in 1981, still down 16 percent from the 1978 level. Comparative fourth quarter 1980 and 1981 results, however, show a 28 percent dropoff in 1981 shipments from corresponding 1980 levels. Exports of hot-rolled carbon steel sheet and strip accounted for about 3 percent of annual U.S. exports of all carbon steel mill products during the 1978–80 period, with January–November 1981 tonnage approximately the same reported for the corresponding 1980 period. Canada was the principal export market for hot-rolled sheet and strip, receiving approximately 50 percent of such exports from January 1978 to November 1981.[35]

Apparent U.S. consumption of these products declined about 27 percent from 18.3 million tons in 1978 to 13.3 million tons in 1980. Although consumption during the January–November 1981 period increased by 15 percent to 13.7 million tons over the corresponding 1980 period, these levels are substantially less than 1978 and 1979 levels. The share of the market supplied by domestic producers increased from 1978 to 1979 and remained stable in 1980 to January–November 1981, with imports yet maintaining almost 15 percent penetration on a domestic consumption basis and over 17 percent with respect to domestic shipments. However, quarterly comparative data for 1980–81 through the third quarter indicate that, following a decline in market penetration of imports from 17.6 percent in April–June 1980 to 7.4 percent in January–March 1981, this trend changed abruptly as imports almost doubled their share of the market and continued to increase their share in July–September 1981 to 17.4 percent with respect to apparent domestic consumption, and, as producers' shipments declined, to over 20 percent with respect to domestic shipments.[36]

Inventories, though representing on a yearend basis about 6 percent of producers' total annual shipments in each of the 1978–81 periods, showed a substantial 14-percent increase on an end-of-year basis in 1981 from 1980 levels.[37]

Employment of production and related workers in the hot-rolled carbon steel sheet and strip sector increased from 23,103 to 25,400 in 1979, dropped almost 20 percent to 20,432 in 1980, and increased almost 10 percent in 1981 to 22,404, a level nonetheless almost 12 percent below 1979 employment levels. Hours paid for production and related workers followed a similar trend, at the end of 1981 down almost 14 percent from 1979 levels. Hourly compensation increased steadily from 1978 to 1980 with minimal changes in productivity resulting in a unit labor cost per ton increase from $80.98 in 1978 to $78.83 in 1980. However, labor productivity showed an almost 5 percent increase in 1981 over what it was in 1980, which mitigated hourly compensation increases of only half 1979–80 increases, resulting in a much lower increase, 4 percent, in unit labor costs in 1981 to $81.61 per ton.[38]

Financial experience on a profit-and-loss basis reported by nine producers accounting for (in terms of 1980 shipments) about 83 percent of U.S. producers' shipments evidenced most unsatisfactory results. Aggregate operating profit declined from $162 million (4.8 percent of net sales) to $95 million in 1979 (2.4 percent of net sales), notwithstanding an increase in net sales of hot-rolled carbon steel sheet and strip from $3.3 billion in 1978 to $4.0 billion in 1979. Although net sales in 1981 increased to $4.0 billion from $3.1 billion

[21] Report at II–6.
[22] Report at II–7 and II–8.
[23] Report at II–12.
[24] Report at II–9 and II–10.
[25] Report at II–15 and II–16.
[26] Report at II–18.
[27] Report at II–19.
[28] Report at II–10, II–22.
[29] Report at II–28 through II–38.
[30] Report at II–52.
[31] Report at II–52 and II–53.
[32] Report at II–53 and II–54.
[33] Report at III–6 through III–8.
[34] Report at III–8.
[35] Report at III–9 through III–12.
[36] Report at III–8.
[37] Report at III–11.
[38] Report at III–13 through III–15.

in 1980, reporting firms sustained significant operating losses of $232 million (or 7.5 percent of net sales) in 1980 and $139 million (or 3.5 percent of net sales) in 1981. Six firms reported losses in 1981, and 8 in 1980, compared with five and four firms so reporting in 1978 and 1979, respectively.[39]

Reasonable Indication of Material Injury by Reason of Imports

During the 1978–80 period, imports from all sources of hot-rolled carbon steel sheet and strip accounted for about 15 percent of total U.S. imports of all carbon mill products. About 2.0 million tons ($837 million) were imported in January–November 1981, compared with 1.8 million tons ($509 million) during the corresponding months of 1980. All imports of these products had declined from 3.4 million tons in 1978 to 1.9 million tons in 1980. Imports from all countries subject to these investigations provided 54 percent of total imports in 1980.[40]

Domestic market penetration by imports of hot-rolled sheet and strip from all sources declined from 18.4 percent in 1978 to 14.7 percent in 1980 and during the January–November 1981 period accounted for about the same share of the U.S. market; but on a quarterly basis, such imports have evidenced a greater degree of penetration in 1981, rising from a low of 7.4 percent in January–March to 17.4 percent in July–September.[41]

Although such imports of hot-rolled carbon steel sheet and strip from all countries subject to these investigations declined from 2.2 million tons in 1978 to 1.1 million tons in 1980, during the January–November 1981 period, levels hit 1.2 million tons, representing a 9-percent increase from those in the corresponding period of 1980. In terms of market share with respect to apparent domestic consumption similar trends were discerned: 1978, 12.2 percent, 8.0 percent in 1980 and 8.5 percent in January–November 1981. However, on a quarterly basis more dramatic trends are apparent: such imports increased rapidly from 89,000 tons in January–March 1981 to 415,000 tons in July–September, and levels for October–December of 515,000 tons were double the amount imported in the corresponding quarter of 1980. Market share by these imports also increased substantially from 2.5 percent in January–March 1981 to 11.1 percent in July–September 1981.[42] As a percentage imports evidenced a similar pattern, climbing from 2.6 percent in January–March 1981 to 13.1 percent in July–September.[43]

Pricing information on imported hot-rolled carbon steel sheet and strip warrants further investigation. Direct inquiry of purchasers of these products to supply data on actual transactions in 1981 was somewhat illuminating but appears hardly representative. Some trends were discerned: for example, margins of underselling of these products were manifest in a number of instances, although differences in such margins were seen among source countries and by location of the purchaser; in several instances the price of the imported product exceeded the domestic price; in general average margins of underselling were smaller on sales to end-user customers.[44]

My observations on lost sales data obtained are subject to my aforementioned concerns in this area. A total of 16 specific allegations of lost sales of hot-rolled carbon steel sheet to imports were investigated by the staff. Ten purchasers indicated lower price as the principal factor in their purchasing decisions.[45] Further inquiry into this area is definitely warranted.

The carbon steel sheet and strip sector appears highly price sensitive, even more so during periods of stagnant or declining demand. Buyers usually are quite cognizant of prevailing market prices and are in a position to play off competing domestic and foreign offers. Low prices obtained by one firm, foreign or domestic, may have a broad-ranging impact on the market.

I believe information on pricing patterns, albeit obviously less than comprehensive and complete, coupled with the allegations of petitioners in these investigations which have not been conclusively refuted by respondents, evidences a reasonable indication of possible price suppression and depression by reason of underselling attributable to allegedly dumped and/or subsidized imports which merits further investigation.

Accordingly, I conclude that there is a reasonable indication that the domestic industry has suffered material injury by reason of allegedly LTFV and/or subsidized imports.

IV. Cold-Rolled Carbon Steel Sheet and Strip

In the investigations on cold-rolled carbon steel sheet and strip (Investigations Nos. 701–TA–102 through 109 (Preliminary) and 731–TA–68 through 74 (Preliminary) I conclude there is a reasonable indication that allegedly dumped and/or subsidized imports from Belgium, Brazil (except strip), France, Italy, Luxembourg, the Netherlands, the United Kingdom (except strip), and West Germany are causing material injury to the affected industry.

Condition of the Domestic Industry

According to the AISI, 16 domestic companies have the capacity to produce cold-rolled carbon steel sheet and 31 companies have the capacity to produce cold-rolled carbon steel strip. Eight carbon steel producers accounted for over 75 percent of total U.S. shipments of these products in 1980.[46]

There is a reasonable indication that the domestic cold-rolled carbon steel sheet and strip industry is in poor health. U.S. production of cold-rolled carbon steel sheet and strip which remained stable at 13.2 million tons in 1978 and 1979 declined 22 percent to 10.3 million tons in 1980. Although production increased to 11.2 million tons in 1981, this was still 2 million tons and 15 percent below 1978 levels. Domestic production capacity during the 1978–81 period evidenced a slight 2-percent increase, but capacity utilization during the same period fell significantly, from 84.7 percent in 1978 to 64.8 percent in 1980, increasing somewhat in 1981 to 70.4 percent.[47]

U.S. producers' shipments of cold-rolled carbon steel sheet and strip declined steadily from 10.2 million tons in 1978 to 13.4 million tons in 1980, though accounting steadily for about 20 percent of aggregate domestic shipments of all carbon steel mill products.

In 1981, U.S. producers' shipments increased to 14.5 million tons, increasing 8.4 percent from what they were in 1980, but still representing a 19.9-percent decline from 1978 shipment levels. Moreover, on a quarterly basis, U.S. producers' shipments declined sharply from 4.3 million tons in April–June 1981 to 2.8 million tons in October–December, and fourth quarter 1981 levels represented a 26.7-percent decline from corresponding fourth quarter 1980 shipments.[48]

Exports of cold-rolled carbon steel sheet and strip ranged from 3 to 5 percent of annual U.S. exports of all carbon steel mill products during 1978–80, but made up less than 1 percent of total domestic shipments. Such exports declined from 120,000 tons in 1978 to 103,000 tons in 1979, but then rebounded in 1980 to 124,000 tons. However, exports during the January–November 1981 period were 67,000 tons, 43 percent below the level of exports in the corresponding period of 1980. Canada was the primary export market for these products during this period, although in 1980 Brazil surfaced as an important market, accounting for 31 percent of exports.[49]

U.S. producers' inventories, which evidenced an irregular decline from 878,394 tons in 1978 to 774,488 tons in 1980, increased 9.3 percent on an end-of-year basis from December 31, 1981, to 846,870 tons.[50]

Employment of production and related workers in the cold-rolled carbon steel sheet and strip sector increased from 37,632 to 39,223 in 1979, but declined 18.3 percent to 32,050 in 1980. Employment of such workers increased, however, 10.1 percent to 35,303 in 1981, but this still represented a 6-percent decline from 1978 levels and a 10-percent decline from 1979 figures.[51] Some industry observers claim an appropriate industry benchmark "full employment" figure is the average employment attained in the 1973 and 1974 period, which for these products was 52,000.[52] Using this benchmark, employment levels for 1981 are off benchmark levels by over 32 percent. Hours paid for production and related workers followed the same trend as employment. Wages paid to such workers increased by 17 percent over the 1978–81 period, while productivity declined each year, resulting in a 48-percent overall increase in unit labor cost per ton during this period.[53]

Financial experience on a profit-and-loss basis reported by nine producers (accounting for in terms of 1980 U.S. producers' shipments 77 percent) manifest the poor health of this industry. Aggregate gross profits which were $236 million in 1978 (5.0 percent of net sales) on $4.7 billion of net sales declined in 1979 to $180 million on $5.3 billion of net sales (3.4 percent) hitting red ink at losses of $264 million on $4.2 billion in net sales (9.2 percent of net sales) in 1980 and losses of $149 million on $4.9 billion (5.9 percent of net sales) in 1981. Likewise losses on an operating profit (loss) basis were recorded in 1980 and 1981 at $383 million and $293 million, respectively. Eight and seven firms reported operating losses in 1980 and 1981, respectively, compared with three firms in 1978 and four firms in 1979.[54]

Reasonable Indication of Material Injury by Reason of Imports

During 1978–80, imports from all sources of cold-rolled carbon steel sheet and strip accounted for 10 to 15 percent of total U.S. imports of all carbon steel mill products. Such imports declined each year from the 1978 level of 3.2 million tons to 2.4 million tons in 1979 and 1.5 million tons in 1980, although subject merchandise imports increased to 1.6 million tons in 1981. Imports from all countries subject to these investigations accounted for 60 percent of total imports in 1980. In relation to U.S. consumption, imports of cold-rolled carbon steel sheet and strip from all sources declined from 15 percent in 1978 to 10 percent in 1980 and January–November 1981; but on a quarterly basis in 1981 imports have taken a larger share of the market, rising from a low of 5 percent in January–March to 12 percent in July–September.[55]

Although imports of cold-rolled carbon steel sheet and strip from all countries subject to these countervailing and antidumping investigations steadily declined from 1.7 million tons in 1978 to 671,000 tons in 1980, imports during January–November 1981 increased to approximately 831,000 tons, after netting out imports of cold-rolled carbon steel sheet from the United Kingdom and cold-rolled carbon steel sheet from Brazil which were excluded from these investigations, as compared with approximately 591,000 tons during the corresponding period of 1980. Value represented by such imports during the January–November 1980 and 1981 periods (including those imports from the United Kingdom and Brazil excluded from the investigations, which represented approximately 0.4 percent and 2.1 percent of total imports from respondent countries for the 1980 and 1981 periods, respectively) was approximately $215 million and $334 million, respectively.[56] Looking at such imports on a quarterly basis during the 1980 and 1981 period reveals some dramatic trends. Imports of 403,000 tons in the last quarter of 1981 were double the comparable 1980 quarter and, for the comparable July to December 1980 and 1981 period, imports increased 97 percent from 366,000 tons to 721,000 tons. A figure representing market penetration of such imports as a share of apparent U.S. consumption on a percentage basis was not available for the fourth quarter 1981, but third quarter 1980 and 1981 comparative results evidence a significant increase in market share taken by such imports from 4.8 percent to 7.6 percent which appears more representative of trends in this respect than comparative January–November 1980 and 1981 overall penetration figures which were 4.4 percent and 5.5 percent, respectively, still representing an increase.[57]

Although there is no doubt that recent market conditions in, for example, the automotive and construction industries have reduced demand for steel sheet and have had a dampening effect on prices, this has, I believe, rendered the domestic industry even more vulnerable on economic and financial bases to the effects of increased imports of such a price sensitive product allegedly subsidized and/or sold at less than fair value. Results of Commission inquiries from domestic producers and importers to supply data on actual transaction prices and on average net selling prices paid by steel purchases, while hardly comprehensive or even perhaps representative and though mixed, show indications of greater than an inconsequential degree of such imported products underselling domestic products and deserve further inquiry. Staff investigation of specific allegations of lost sales of cold-rolled carbon steel sheet to imports was less than complete and I cannot at this time draw any definite conclusions one way or another from the results cited in the report.[58]

I believe information on pricing patterns, although less than complete, coupled with the allegations of petitioners which have not been conclusively refuted by respondents, evidences a reasonable indication of possible price suppression and depression by reason of underselling attributable to alleged dumped and/or subsidized imports which warrants further investigation.

Accordingly, I conclude that there is a reasonable indication that the domestic industry has suffered material injury by reason of allegedly LTFV and/or subsidized imports.

V. Galvanized Carbon Steel Sheet

In the investigations on galvanized carbon steel sheet (investigations Nos. 701–TA–110 through 116 (Preliminary) and 731–TA–75 through 81 (Preliminary)), I conclude that there is a reasonable indication that allegedly dumped and/or subsidized imports from

[39] Report at III–16.
[40] Report at III–21.
[41] Report at III–6.
[42] Report at III–22 and III–23.
[43] Report at III–29.
[44] Report at III–30 through III–41, and app. J.
[45] Report at III–41.
[46] Report at IV–5 through IV–8.
[47] Report at IV–10.
[48] Report at IV–11.
[49] Report at IV–11 and IV–12.
[50] Report at IV–13.
[51] Report at IV–14.
[52] Brief of testimony of Eugene L. Stewart, Esq., on behalf of Bethlehem Steel, 2/3/82, citing AISI and U.S. Dept. of Labor/BLS as sources, p. 123.
[53] Report at IV–16 through IV–18.
[54] Report at IV–17.
[55] Report at IV–5 and IV–24 through IV–26.
[56] Report at IV–28.
[57] Report at IV–25 and IV–27.
[58] Report at IV–35 through IV–43 (please refer to my observations in the overview section on lost sales data).

Belgium, France, Italy, Luxembourg, the Netherlands, the United Kingdom, and West Germany are causing material injury to the domestic industry.

Condition of the Domestic Industry

The bulk of U.S. production of galvanized carbon steel sheet is accounted for the seven largest integrated steel producers in the United States, with production concentrated in the North Central and Midwestern regions of the United States.[59]

There is a reasonable indication that the domestic galvanized carbon steel sheet industry is in poor health. Apparent U.S. consumption declined from 6.7 million tons in 1978 to 6.5 million tons, down 25 percent. While consumption during January–November 1981 of 6.8 million tons amounted to a 13 percent greater level than the corresponding 1980 period, such levels still represent a lower level of demand for these products than in 1978 and 1979.[60] U.S. production of these products reported by firms responding to Commission questionnaires (usable data by producers accounted for 73 percent of total shipments of galvanized sheet in 1980) increased slightly from 4.5 million tons in 1978 to 4.7 million tons in 1979, fell to 3.7 million tons in 1980 and increased to 4.4 million tons in 1981. Capacity during the period, which had increased from 6.2 million tons in 1978 to 6.7 million tons in 1979, declined to 1978 levels in 1981, with capacity utilization rates dropping precipitously from 72.7 percent in 1978 to 59.4 percent though rebounding to 70.7 percent for 1981,[61] still a less than satisfactory operating rate. U.S. producers' shipments of galvanized carbon sheet which accounted for approximately 7 percent of aggregate shipments of all carbon steel mill products in the 1978–80 period, declined steadily from 6.4 million tons in 1978 to 5.2 million tons in 1980, or by 19 percent. Net shipments increased in 1981 12 percent to 5.8 million tons but this figure still represented a 10-percent overall decline from 1978 shipment levels.[62] Examining 1981 domestic producer's shipments on a quarterly basis shows an even more marked decline from 1.6 million tons in January–March to 1.1 million tons the last quarter of 1981, representing a 28 percent drop from corresponding 1980 fourth quarter levels.[63]

Further, such indicators for this industry can be misleading. As an example, on the west coast, which is called the Western Region, domestic galvanizing capacity approximates 600,000 tons made up of Pinole Point, 150,000 tons, Kaiser Steel, 200,000 tons, and U.S. Steel, the balance. Market for galvanized in this region was approximately 900,000 tons in 1980 and has dropped to approximately 800,000 in 1981. The Western Region is a shortage region relative to galvanized sheet. Despite shortage conditions, Kaiser Steel is contemplating shutting down its galvanizing line and Pinole is currently running at 40 percent of capacity. Its not that the market or demand is not there but offshore competition with allegedly steep discounts estimated to be $50 per ton below domestic prices is claimed to be taking away the volume. Pinole could possibly discount more to obtain an order but financially if it did it would not survive. A company such as Pinole or any company can make some profit but can still go bankrupt if the conditions continue, because as an example a coating line when originally installed costs approximately $2 million but eventually must be replaced. Today if it were replaced, it would cost $20 million.

Yearend inventories of galvanized carbon steel sheet increased from 318,000 tons in 1977 to 377,000 tons in 1979, declining somewhat to 349,000 tons in 1980, but surging to 450,000 tons in 1981, the highest level during the period.[64]

The average number of production and related workers producing galvanized sheet which increased slightly from 13,123 in 1978 to 13,683 in 1979, declined by 13 percent to 12,046 in 1980, and increased again by 15 percent in 1981 to 13,919, representing an overall 6-percent increase for the period. Hours paid for such workers also followed a similar trend, yet for the overall period showed a smaller increase of 2.4 percent. Total compensation paid to such workers increased 43 percent during the period while labor productivity declined by 5 percent, forcing unit labor costs per ton up 47 percent.[65]

Financial experience on a profit-and-loss basis by producers (accounting for 73 percent of U.S. producers' shipment in 1980) are further manifestation of the poor health of this industry. Although net sales increased irregularly during 1978–81 from $2.0 billion to $2.4 billion in 1981 (having dropped to $1.9 billion 1980), operating profits which increased from $108 million in 1978 to $135 million in 1979, plunged to operating losses recorded at $91 million in 1980 (negative 4.8 percent) and $29 million in 1981 (negative 1.2 percent). The number of firms reporting operating losses increased from 3 in 1978 and 1979, to 6 in 1980 and 5 in 1981.[66]

Reasonable Indication of Material Injury by Reason of Imports

During the 1978–80 period, all imports of galvanized carbon steel sheet, which accounted for between 8 and 12 percent of total U.S. imports of all carbon steel mill products, declined each year from 2.3 million tons to 2.1 million tons in 1979 and 1.3 million tons in 1980 and 1981. As a share of U.S. consumption, such imports also declined from 27 percent in 1978 to 21 percent in 1980, but in 1981 on a quarterly basis, have taken a larger share of the market, rising from a low of 10 percent in January–March to 22 percent in July–September.[67]

Imports of galvanized sheet from all countries subject to these investigations which had declined steadily from 717,000 tons in 1978 to 276,000 tons in 1980 (from 8.3 percent of apparent domestic consumption in 1978 to 4.3 percent in 1980), increased 8 percent in 1981 to 299,000 tons. On a quarterly basis such imports increased consistently from 25,000 tons in January–March 1981 to 149,000 tons in October–December 1981, with respective market penetration data relative to apparent domestic consumption jumping from 1.4 percent the first quarter of 1981 to 4.8 percent in July–September 1981.[68] During January–November 1980–81 corresponding periods such imports on a value basis increased 11 percent from $101 million to $112 million.[69] Such imports with respect to U.S. producers' shipments also mirrored penetration levels on a consumption basis, looking at 1981 quarterly data, increasing from 1.7 percent of U.S. producers' shipments for the January–March 1981 quarter to 6.1 percent for the July–September 1981 quarter.[70]

Data supplied by Cravath, Swaine & Moore, attorneys for certain Petitioners [71] citing Department of Commerce/AISI/Wharton as sources, comparing first half of 1981 import penetration of these products of 1.8 percent with July through October 1981 monthly data on import penetrations reveal even greater penetration levels, reaching 8.0 percent for the month of October 1981 for such imports of galvanized sheet.[72]

Pricing data obtained on comparative imported and domestic products and lost sales information of a meaningful nature were incomplete and I believe no definitive conclusion can be drawn from what were obtained by staff. However, in viewing the financial experience and other adverse indicators of the industry, in particular the poor gross margins and adverse financial results in general undoubtedly even more accentuated during the last half of 1981 and exacerbated in terms of price sensitivity for these products by recent declines in end-use markets such as the automotive and construction industries, coupled with the allegations of petitioners in this respect which have not been conclusively refuted at this point, I believe there is a reasonable indication of possible price suppression and depression by virtue of such imports which warrants further investigation.

Accordingly, I conclude that there is a reasonable indication that the domestic industry has suffered material injury by reason of allegedly LTFV and/or subsidized imports.

VI. Carbon Steel Structural Shapes

In these investigations on carbon steel structural shapes,[73] I conclude that there is a reasonable indication that allegedly dumped and/or subsidized imports from Belgium, the Federal Republic of Germany, France, Luxembourg, the United Kingdom, and Brazil are causing material injury to the affected U.S. industry.

Condition of the Domestic Industry

The principal domestic firms producing this product (accounting for an 85-percent share of 1980 U.S. producers' shipments of carbon steel structural shapes) are integrated producers, rolling a wide range of shapes, with the remaining producers (minimills), rolling small angles, channels, and standard beams on an assortment of bar or light structural mills. The condition of the U.S. industry producing carbon steel structural shapes has declined since 1979. Production increased somewhat from 1978 to 1979, but dropped from 4.1 million tons in 1979 to 3.7 million tons in 1981, representing a decline of about 10 percent.[74] Domestic shipments also increased slightly from 1978 to 1979, but declined from 4.5 million tons in 1979 to 4.1 million tons in 1980 and 4 million tons in 1981, despite the fact that apparent U.S. consumption which in 1980 declined 8 percent to 5.7 million tons from 1979 levels, had increased on a January–November 1980 and 1981 comparative basis 8 percent to 5.5 million tons. U.S. producers' shipments during the second half of 1980 and 1981 showed an 11-percent decline from approximately 2 million tons to 1.8 million tons.[75] Exports of this product, accounting for about 4 percent of aggregate exports of all carbon steel mill products during 1978–80 accounted for less than 3 percent of net domestic shipments in 1980.[76]

Capacity for the production of structural shapes declined from 6.4 million tons to 6.3 million tons between 1979 and 1981. Utilization of available capacity dropped during that period, from 64.4 percent to 58.2 percent.[77] U.S. producers' yearend inventories remained relatively constant throughout the 1978–81 period, at roughly 6 percent of total annual shipments.[78]

Employment of all persons and production and related workers in domestic establishments producing structural shapes rose with increased production in 1979, but fell significantly in 1980 and 1981 as production and domestic shipments declined. Employment levels of such workers in 1981 were 10.7 percent below levels in 1979. The number of hours worked similarly declined, although total compensation to production and related workers continued to increase, albeit at a much lower pace than from 1978 to 1979.[79]

The lack of profitability of the stuctural shapes industry is striking. The domestic industry producing structural shapes recorded a loss in every year from 1978 to 1981.[80] The operating loss declined from $25 million in 1978 to $4 million in 1979, then ballooned to $62 million in 1980 and $66 million in 1981. Net sales for the comparable years were $1.1 billion in 1978 increasing to $1.3 billion in 1979 and remaining flat at about $1.3 billion in 1980 and 1981. The ratio of operating loss to net sales decreased from 2.2 percent in 1978 to 0.3 percent in 1979, then increased markedly to 4.7 percent in 1980 and 4.9 percent in 1981. Four firms out of the U.S. producers accounting for 78 percent of total shipments of structural shapes in 1980 reported operating losses in 1978 and 1979, increasing to five firms in 1980 and 1981.[81]

Reasonable Indication of Material Injury by Reason of Imports

During the 1978–80 period, imports of structural shapes made up about 10 percent of total U.S. imports of all carbon steel mill products. Such imports from all sources amounted to 1.8 million tons ($445 million in value) in 1978, 1.9 million tons ($579 million) in 1979, and 1.7 million tons ($575 million) in 1980. January–November 1981 figures of such imports showed an increase to 1.9 million tons ($668 million) compared with 1.6 million tons ($521 million) imported during the 1980 corresponding period. Imports from all countries subject to these investigations accounted for 47 percent of total imports in 1980 with other principal suppliers, Japan (36 percent) and Canada (15 percent).[82]

Imports from all countries subject to these investigations declined steadily from 899,000 tons in 1978 ($218 million in value) to 806,000 tons in 1980 ($258 million), but increased substantially by 32 percent to 1,065,000 tons in 1981 ($369 million value for 1.01 million tons through November).[83] Market penetration by these imports in terms of apparent domestic consumption increased rapidly also from 12.7 in October–December 1980 quarter to 19.8 percent in the July–September 1981 quarter. Such penetration by imports had been as low, relatively speaking as 11.8 percent in the January–March 1980 quarter. Such imports for the corresponding July–December 1980 and 1981 periods increased from 397,000 tons to 511,000 tons, respectively, representing a 28.7 percent increase.[84]

Price trends based on average selling prices requested of domestic producers and importers for six carbon steel structural shape products selected to be "representative" appear inconclusive but there are some indications of underselling and sales lost due to underselling by such imports from all countries investigated except Brazil that warrant further scrutiny.[85] The data developed here nevertheless cannot be described as comprehensive in coverage but do provide some indication of a

[59] Report at V–8.
[60] Report at V–3 and V–4.
[61] Report at V–7.
[62] Report at V–8.
[63] Report at V–8.
[64] Report at V–10.
[65] Report at V–11 through V–13.
[66] Report at V–14.
[67] Report at V–19 and V–4, table V–2.
[68] Report at V–20 through V–23.
[69] Report at V–24.
[70] Report at V–30.
[71] The "group of five", Republic Steel, Inland Steel, J&L, National Steel, and Cyclops.
[72] Jan. 11, 1982, brief of Cravath, Swaine & Moore, vol. II., p. 247.
[73] Investigations Nos. 701–TA–117 through 119 (Preliminary), 701–TA–121 (Preliminary), 701–TA–123 and 124 (Preliminary), and 731–TA–82 to 86 (Preliminary).
[74] Report at VI–4 and VI–7.
[75] *Id.* at VI–3 and VI–8.
[76] *Id.* at VI–9 and VI–10.
[77] *Id.* at VI–7.
[78] *Id.* at VI–10 and VI–11.
[79] *Id.* at VI–11 through VI–14.
[80] Profit-and-loss data were received from seven firms accounting for 78 percent of U.S. shipments in 1980.
[81] Report at VI–16.
[82] Report at VI–23.
[83] Report at VI–34, Table VI–16, Table VI–17 at p. VI–36, and Table VI–18 at p. VI–37, Table VI–19, at VI–39. There are some minor mathematical inconsistencies in comparing totals of date which are arrayed differently on these tables.
[84] Report at VI–32.
[85] Report at VI–32 through VI–51.

possible pattern of underselling such imports. I believe such data coupled with the allegations of petitioners which have not been conclusively refuted evidence a reasonable indication of possible price suppression and depression by reason of underselling attributable to allegedly dumped and/or subsidized imports which merits further investigation.

Accordingly, I conclude that there is a reasonable indication that the domestic industry has suffered material injury by reason of allegedly LTFV and/or subsidized imports.

VII. Hot-Rolled Carbon Steel Bar

In the investigations on hot-rolled carbon steel bar (investigations Nos. 701–TA–125 through 129, 701–TA–146, and 701–TA–147 (Preliminary)), I conclude that there is a reasonable indication that allegedly subsidized imports from Belgium, Brazil, France, Italy, Luxembourg, the United Kingdom, and West Germany are causing material injury to the affected industry.

Condition of the Domestic Industry

U.S. producer shipments have remained level for steel service centers and distributors from 1979 to the first 9 months of 1981, and declined slightly for machinery, industrial equipment, and tools market. The auto sector has been the largest user of hot-rolled carbon steel bar, although use of this product by this sector has declined from 1979 through the first 9 months of 1981. U.S. producers' net shipments of hot-rolled carbon steel bars were approximately 5.9 million tons in 1970, declining to a little over 4 million tons in 1980, and increasing to 4.2 million tons in 1981.[86]

Hot-rolled carbon steel bars are produced in the U.S. by three types of producers: integrated steel companies, mini-mills, and steel rerollers which purchase steel billets from abroad or domestic sources, and then roll these into bars. The major producers are the integrated mills. There are over 50 companies with capacity to produce carbon steel bars, and to operate approximately 92 mills in the U.S. There are more than 50 importers of this product from the countries subject to these preliminary investigations. These import firms in many cases, are owned by or affiliated with steel producers in the countries subject to these investigations. Ratio of imports to domestic consumption has been increasing since 1979, and in the last two quarters of 1981 these increases accelerated to 10.3 percent and 11.2 percent from 6.5 percent and 8.4 percent of the first two quarters of 1981. Apparent consumption and shipments increased in 1981 from what they were in 1980. Imports also increased, especially during the second half of 1981; just when shipments were going down as well as when consumption was going down.[87] Capacity utilization by domestic producers has fallen severely from 68.1 percent in 1978 to 66.6 percent in 1979, and to 50.7 percent in 1980, improving slightly in 1981 to 52.9 percent. Capacity utilization in 1981 was about 14 percentage points less than in 1979 and U.S. production in 1981 was 24 percent less than production in 1979.[88] Exports of hot-rolled carbon steel has accounted for only 3 percent of annual U.S. exports during the 1978 to 1980 period. For 1981, exports were higher than in 1980. Inventories at the end of 1981 were down to their lowest levels in the last 5 years.[89]

The number of workers producing hot-rolled carbon steel bar declined from 20,272 in 1978 to 19,877 in 1979, falling sharply to 14,396, representing a 27 percent curtailment in 1980, and then increasing slightly in 1981 to 14, 579. Hours paid for workers producing this specific product line fell from 41.1 million in 1978 to 27.6 million in 1980, but increasing to 28.3 million in 1981.[90] Value of wages paid for production and related workers in hot-rolled carbon steel bars were up in 1981 from what it was in 1980. Labor productivity increased by about 2 percent annually in 1978–81. Hourly compensation and unit labor costs although higher in 1981 than 1980, increased at lower percentages than for the previous 2 years, with increases in those two labor cost factors increasing at half the increases registered in 1980.[91]

Net sales for firms producing about 91 percent of total U.S. producers shipments of hot-rolled carbon steel bar had decreased in 1980 to $1.6 billion from $2.2 billion in 1979. Net sales increased in 1981 to $1.9 billion but these 11 firms' combined results manifested operating losses in both 1980 and 1981, with at least 6 firms individually reporting operating losses in each year. Capital expenditures of firms supplying data to the Commission for the production of hot-rolled carbon steel bars rose substantially from $158 million in 1978 to $253 million in 1980, and then declined in 1981 to $225 million. Research and development expenditures that were up in 1978 and in 1979 to $2.0 million and $2.1 million, respectively, were reported to have declined in 1981 to $1.5 million.[92]

Reasonable Indication of Material Injury by Reason of Imports

Imports from all sources of hot-rolled carbon steel bar as a percentage of apparent U.S. consumption, have increased in both 1980 and 1981.[93] Imports from the EC in January–November 1981 amounted to 132,000 tons or 73 percent more than imports in January–November 1980. The ratio of EC imports to apparent U.S. consumption of hot-rolled carbon steel bar remained at about 2 percent during the 1978 to 1980 period, but then rose to 3.1 percent in the first 11 months of 1981.[94] Market penetration by the countries subject to the investigations in this product in the aggregate increased in 1981. Japan is still the largest exporter to the U.S. in the 1978 to November 1981 period of this product. The EC was second, and Canada third. Imports of hot-rolled carbon steel bars from the countries subject to these countervailing duty preliminary investigations and also Spain and South Africa, had been going down in 1979 and in 1980. Then in 1981 they increased sharply from 134,325 tons in 1980 to 194,377 tons in 1981.[95] This increase was sharply concentrated in the last three quarters of 1981, when these imports accounted for 55,797, 58,916 and 60,645 tons, respectively, after a first quarter of only 19,019 tons. For example, imports of hot-rolled carbon steel bars in the January–November 1981 period amounted to 13,000 tons from Belgium and Luxembourg, compared with 8,000 tons during the corresponding period of 1980 In the case of France for the same period, such imports increased from 3,000 tons to 5,000 tons in 1981. These 5,000 tons were brought into the U.S. market during an 11 month period in 1981, while in 1980 for the entire year 4,000 tons of this product were imported. Italy, though importing less than 500 tons for this period, still increased imports in tons and value from the corresponding period of 1980. United Kingdom almost doubled their imports in terms of tonnage, from 53,000 tons in the 1980 11-month period (January to November) to 102,000 tons. West Germany also increased tons imported, from 11,000 tons to 12,000 tons for the same 11-month period. Brazil, though it reduced tons imported for the

[86] Report at VII–7.

[87] Report at VII–4, table VII–2.
[88] Report at VII–6.
[89] Report at VII–10.
[90] Report at VII–10.
[91] Report at VII–13.

[92] Report at VII–14.
[93] Report at VII–5 and VII–21.
[94] Report at VII–22.
[95] Report at VII–23, table VII–16.

comparable 11-month period by a considerable amount, the unit value per ton was lower than all other importers subject to these investigations and its imports in the last quarter of 1981 increased sharply from what they were in the last quarter of 1980.[96]

Several allegations were made of lost sales, and also purchases were made from foreign producers because of corporate relationships with steel producers in those countries. Price is the influential factor in purchasing this product, and these products appear highly price sensitive, even more so during periods of stagnant or declining demand.

Information on comparative pricing patterns between domestic and imported products and countries involved is incomplete, but there are indications of underselling and of possible price suppression and depression that merit further scrutiny. I believe the information at hand, albeit incomplete, coupled with the allegations of Petitioners in these investigations submitted for the record at this point which have not been conclusively refuted point to a reasonable indication of possible price suppression and depression by underselling attributable to allegedly subsidized imports which merits further investigation.

Accordingly, I conclude that there is a reasonable indication that the domestic industry has suffered material injury by reason of allegedly subsidized imports.

VIII. Hot-Rolled Alloy Steel Bar

Introduction

In the investigation on hot-rolled alloy steel bars (investigations Nos. 701–TA–130 through 133 (Preliminary)) I conclude that there is a reasonable indication that the domestic industry is being materially injured by reason of allegedly subsidized imports of hot-rolled alloy steel bar from France, Italy, the United Kingdom, and West Germany.

Condition of the Domestic Industry

Some 34 firms produce hot-rolled alloy steel bars in the United States. During the 1978 to 1981 period the overall decreases in production, capacity, capacity utilization,[97] quantity of shipments,[98] employment of production and related workers in establishments producing hot-rolled alloy steel bar, paid hours worked,[99] and inconsistency in attained operating profits and operating profits as a percent of sales,[100] are only part of the reasons that the U.S. industry producing hot-rolled alloy steel bar as covered by this analysis, is vulnerable to the effects of and has possibly experienced material injury from collective imports from all countries subject to the referenced investigation numbers.

Reasonable Indication of Material Injury by Reason of Imports

These imports from countries subject to these investigations rose very sharply from a depressed 11-month 1980 total of 8,406 tons to 49,147 tons in the first 11 months of 1981. In comparison, the full year 1979 level was only 12,067 tons. Including inflation, the value of these imports also rose significantly for the same comparsion periods.[101] Collectively imports from France, Italy, the United Kingdom, West Germany, Spain, and South Africa—all cited countries—accounted for 35 percent of imports in the January–November 1981 period, when such imports peaked in terms of both volume and share of imports. There was a general rise in imports in each quarter of 1981 as compared with the respective quarter in 1980.[102] The penetration of imports from all countries subject to countervailing duty investigations as a percent of apparent U.S. consumption rose slightly from the 1978 year share of 1.7 percent to an 1981 11-month share of 2.1 percent and 2.5 percent in the third quarter 1981. However, it is important to note that such imports had only attained penetration levels of 0.5 percent of domestic consumption in 1979 and 1980.[103]

As I indicated in the overview, the Commission's comparison of indexes for producer prices, trigger prices, and unit values of imports has its limitations because of discounts or premiums that may exist relative to producers' list prices and other factors. Unit value of imports may also reflect changes in actual product mixes within hot-rolled alloy steel bar, and acceptable data from Germany were not available.[104] Only limited transaction price information was obtained by the Commission in this preliminary investigation. In these analyses, it is not certain whether the samples contacted are representative of the indsutry. No purchasers reported prices for imported hot-rolled alloy steel bar.[105] Certainly more investigation of pricing is required in my opinion.

Capacity details on foreign capabilities to produce hot-rolled alloy steel bars, the relative available markets abroad, availabilities of internal markets from growth in each foreign producing country and other information was lacking and does not justify in this respect discontinuance of the investigations. A preliminary investigation attempts to assess the possibility of present injury and imminent threat of material injury. Continuation of this investigation based upon the cumulated impact of the cited countries is appropriate because past small increases in market penetrations can be quickly altered upward as can prices. Also data on importers' inventories of these products were incomplete.

Although certain industry indicators appear mixed, I believe the industry is vulnerable to effects of and has possibly suffered material injury from evident increased imports allegedly unfairly traded and is not in good health. I must also recognize that much information including that bearing on threat is missing. I therefore determine there is a reasonable indication that the domestic industry producing hot-rolled alloy steel bar is possibly suffering material injury by reason of allegedly unfairly traded imports. I rely on the "low-threshold" intended by Congress to allow continuation of these preliminary investigations into final determinations, if the facts so warrant.

IX. Cold-Formed Carbon Steel Bar

With regard to the six countervailing duty investigations involving cold-formed carbon steel bar,[106] I determine that there is a reasonable indication of material injury by reason of the allegedly subsidized imports from Belgium, Brazil, France, Italy, the United Kindgom, and West Germany.

Condition of the Domestic Industry

The facilities manufacturing cold-formed carbon steel bar have been faced in the years 1980 and 1981 with demand that was substantially lower than in the previous 2 years, with apparent consumption of 1.3 million tons in January–November 1981, though 9 percent higher than the corresponding 1980 levels, still considerably below 1.8 million tons in 1978 and 1.9 million tons in 1979. Some 40 firms produce cold-

[96] Report at table VII 20, at VII–38.
[97] Report, table VIII–3.
[98] *Id.* Table VIII–4.
[99] *Id.* table VIII–6.

[100] *Id.* table VIII–6. Nine firms accounting for about 62 percent of U.S. producer shipments.
[101] *Id.* table VIII–11.
[102] *Id.* at VIII–25.
[103] *Id.* tables VIII–14 and VIII–16. This includes also Spain and South Africa statistics.
[104] *Id.* table VIII–17.

[105] *Id.* at VIII–39.
[106] Investigations Nos. 701–TA–134 to 139 (Preliminary).

formed carbon steel bar in the United States. Only two large integrated steel producers, Republic Steel and Jones & Laughlin Steel produce these products, accounting for less than one-third of total U.S. producers' shipments of these products in 1981, but still a considerable portion. The rest of the firms are basically electric furnace/mini-mill and fabricator operations.[107] U.S. production of the product fell sharply from 1979 to 1980 from 1 million tons to 738,000 tons. While production was up in 1981 to 796,000 tons, the increase still left production levels 24 percent below the 1979 mark.[108] Shipment data reveal a similar trend, showing a 7 percent rise from 1978 to 1979, then a precipitous drop of almost one-third in 1980. Total domestic shipments then rebounded somewhat in 1981, but still represented a 28-percent decline from 1979 levels.[109]

Capacity to produce cold-formed carbon steel bar fluctuated throughout the period from 1.3 million tons in 1978, reaching its highest level, 1.4 million tons, in 1981. Because of lagging production and shipment levels in 1980 and 1981, capacity utilization dropped sharply after 1979, falling to 56 percent in 1981.[110] U.S. producers' inventories of the product remained fairly constant throughout the period at 10 to 12 percent of annual shipments.[111]

Employment trends followed the trends in production. The average number of workers engaged in producing the product increased 2 percent from 1978 to 1979, then fell 24 percent in 1980 but also fell an additional 4 percent in 1981. Employment of such workers in 1981 of 2,731 represented a 25-percent decline from 1978 employment levels. Hours paid for workers engaged in producing cold-formed carbon steel bar declined 30 percent from 1979 to 1980 and a further 1 percent in 1981. Total wages and compensation in 1980 and 1981 were also well below 1979 levels. Labor productivity fluctuated markedly during the 1978–81 period rising by 3 percent in 1979, declining slightly in 1980 and rising by 6 percent in 1981, but was outpaced substantially by gains in hourly compensation of 14 percent in 1979 and 1980 and 10 percent in 1981. Unit labor costs thus increased even more substantially or 32 percent during the period on a per ton basis.[112]

U.S. producers' profitability has suffered in the last 2 years as well.[113] Net sales grew from $393 million in 1978 to $467 million in 1979, then declined radically in 1980. Rising sales in 1981 amounted to $411 million, still well below the level of 1979. Operating profits were $16 million in 1978 and $19 million in 1979, or 4.1 percent of net sales in both years. However, losses of $7 million and $5 million were sustained in 1980 and 1981, respectively. These losses amounted to 1.9 percent and 1.2 percent of net sales. While only one firm reported operating losses in 1978 and none reported losses in 1979, four suffered losses in 1980, and three in 1981.[114]

Reasonable Indication of Material Injury by Reason of Imports

During the 1978–80 period, imports from all sources of cold-formed carbon steel bar comprised less than 1 percent of total U.S. imports of all carbon steel mill products, and fell from 141,000 tons in 1978 to 86,000 tons in 1980. However, during the January–November 1981 period 120,000 tons, a 58 percent increase over the comparable 1980 period, were imported. Market penetration by such imports with respect to apparent U.S. consumption decreased from 7.8 percent in 1978 to 5.0 percent in 1979, but subsequently increased to 6.5 percent in 1980, and jumped to 9.0 percent in the January–November 1981 period. The uptrend for such imports is even more pronounced in examining 1980 and 1981 quarterly data which indicate that such imports rose irregularly from 24,000 tons in the first quarter 1980 to a peak of 36,000 tons a quarter in the last two quarters of 1981, showing a dramatic increase in penetration from 5.7 percent in January–March 1980 to 11.9 percent in October–December 1981.[115] The principal supplier of cold-formed carbon steel bar to the U.S. during January 1978 to November 1981 was Japan, accounting for 57 percent of total imports during the period with the EC supplying an aggregate of 26 percent of such imports.[116]

Imports from all countries subject to these investigations and from Spain and South Africa similarly showed dramatic increases both in absolute levels and relative to domestic consumption. After having declined steadily from 42,500 tons in 1978 to 23,818 tons in 1980, such imports increased dramatically in 1981, 150 percent, from 1980 levels to 59,633 tons. Likewise import market penetration which stood at 2.3 percent in 1978 as a share of apparent domestic consumption declined to 1.6 percent in 1979, stood at 1.8 percent in 1980, and jumped to an estimated 4.2 percent for the 1981 period.[117] Quarterly figures for the 1980–81 period evidence the surge in such imports from 4,298 tons in the third quarter of 1980 to over 16,000 tons in the third and fourth quarters of 1981 with July–December 1981 levels of 32,974 tons having increased over three times from the corresponding 1980 6-month period levels. Market penetration of such imports during the 1980 and 1981 period on a quarterly basis increased quarterly from 1.8 percent of apparent domestic consumption in the third quarter of 1980 to an estimated 5.5 percent for the fourth quarter of 1981.[118] In terms of value, such imports to the U.S. increased from $10.3 million to $33.3 million during the January–November 1980 to 1981 comparative periods.[119]

Data on prices of imported and domestic products and lost sales were quite incomplete with product and country coverage hardly comprehensive, but there are instances of possible underselling by these imports which warrant further investigation should final investigations be conducted.[120]

These data, coupled with allegations of petitioners in this respect which have not been conclusively refuted by respondents, evidence a reasonable indication of possible price suppression and depression by reason of underselling by such imports which merits further investigation.

Accordingly, I conclude that there is a reasonable indication that the domestic industry has suffered material injury by reason of allegedly subsidized imports.

X. Cold-Formed Alloy Steel Bar

In the countervailing duty investigations Nos. 701–TA–140 to 144 (Preliminary) on cold-formed alloy steel bar, I determine that there is a reasonable indication of material injury by reason of imports from Belgium, the Federal Republic of Germany, France, Italy, and the United Kingdom.

Condition of the Domestic Industry

During the 1978 to 1981 period the decreases in production,[121] capacity utilization,[122] employment of production and related workers in establishments producing cold-formed alloy steel bar,[123] paid hours worked,[124] flattened operating profits,[125] and flattened operating profits as a percent of sales (though at first glance seemingly favorabl)[126] are only part of the reasons that the U.S. industry producing cold-formed alloy steel bar, as covered by this analysis, is vulnerable to the effects of and has possibly experienced material injury from collective imports from all countries subject to these countervailing duty investigations.

Reasonable Indication of Material Injury by Reason of Imports.

Such imports rose from a full-year 1978 quantify of 25,668 tons to an 11-month 1981 total of 42,066 tons. The share of apparent U.S. consumption more than doubled from 7.9 percent in 1978 to 16.1 percent for the first 11 months of 1981.[127]

Purchasers contacted by the Commission regarding cold-formed alloy steel bar prices failed to provide information regarding specific prices of imported bars.[128] Selection of overall unit value of imports can be misleading if particular kinds of cold-formed alloy steel bars imported change between the periods measured. Producer price indexes can be misleading if based on list prices and changes in discounts or premiums from list prices are not reflected. Hence, the usefulness of price index comparisons such as those in table X–18 of the Report and the limited response to the Commission's efforts to get information in these preliminary investigations argue for obtaining more facts and continuing the investigations in this regard. When a set of different indexes is selected it is important to review pertinent domestic and international economic trends during the years selected in order to make a fair judgment on what year the index is based upon as well as what beginning and terminal years are selected for change measurement.

A few observations are in order with respect to seemingly mixed indicators of the industry's health. It is not enough to say that a product lines' profit as a percent of sales is above the average profits recorded for manufacturing concerns in the United States or to assume all capital investment in plant and equipment is for cash-generating productive improvements. As in any analysis of the condition of an industry, a particular product must not be divorced from the component, in view of the contribution it has in overall companies' viability. Also, age of equipment and recent levels of depreciation writeoff influence profit levels, that are perhaps misleading and illusory from an intrinsic economic standpoint.

Also, it is not appropriate to have unresolved questions regarding the claimed misclassification of imports from France relative to cold-formed alloy bars.[129]

In the case of the cold-formed alloy steel bar industry, national security and other critical considerations that are economic factors of relevance must be addressed. The industry's petition is not fivolous nor marginal in my judgment. Weaking demand in many steel products and for U.S. raw steel produced in general in the fourth quarter of 1981 and so far during the first quarter of 1982 provides an economic context pertinent in reviewing this industry's condition during these preliminary investigations. There is a reasonable indication that U.S. firms producing cold-formed alloy steel bar did not maintain the more favorable operating rates and financial results that existed in the first half of 1981. Undue reliance on yearly average comparisons to say that a particular profit picture is extremely healthy may neglect quarterly changes and trends and how these must be related to overall companies' viability.

Even conditions which some may indicate contributed during the 1978 through 1981 period to an above average profit picture do not cover *in toto* the present or future threats of material injury which may reasonably exist because of impacts from allegedly subsidized cold-formed alloy steel bar exports from an accumulated group of countries. Additionally, it is important to note such profitability data were obtained from three firms accounting for only about 45 percent of total producers' shipments in 1980 of these products. It is important to state here, also, that end-of-period inventories of imports from all sources rose sharply from a 1980 level of 5,156 short tons to a 1981 level of 16,949 short tons.[130] This inventory accumulation represents an overhang which could disrupt the United States market. The effective capacity of foreign countries to export to the United States and other foreign markets is not even adequately referred to in the Report, nor is there detail on their own internal demand and other pertinent economic factors such as pricing patterns. These considerations have a bearing on the issue of threat to the domestic injury.

Although certain industry indicators appear mixed, I believe the industry is not in good health and is vulnerable to effects of and is possibly suffering material injury from evident increased imports. As stated, much data pertaining that bearing on threat is missing. I therefore determine that there is a reasonable indication that the domestic industry producing cold-formed alloy steel bars is possibly suffering material injury by reason of allegedly unfairly traded imports. I am relying on the "low-threshold" intended by Congress to allow continuance of these preliminary investigations into final determinations, if the facts so warrant.

XI. Conclusion

I conclude that there is a causal link between the allegedly subsidized and/or allegedly LTFV imports for all the products and from all those countries part of these investigations, with the material injury experienced by the domestic industry. The principal bases for my affirmative determinations are the significant cumulative impact that these alleged unfair imports have had on the operations and financial condition of the domestic producers, adverse employment trends, depressed levels of utilization of capacity, and their possible considerable influence in prices, which have had a material adverse effect on the condition of the respective domestic industries covered by these preliminary investigations, as well as the injurious effects to the overall health of the U.S. steel industry, which I believe is a relevant factor to consider in these preliminary investigation.

Issued: March 5, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-6472 Filed 3-9-82; 8:45 am]

BILLING CODE 7020-02-M

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[107] Report at IX–6 through IX–7.
[108] Report, table IX–4, and IX–9.
[109] *Id.* at IX–9 and IX–10.
[110] *Id.*, Table IX–4.
[111] *Id.*, at IX–12.
[112] *Id.* at IX–12 to IX–15. It should be noted that U.S. producers submitting useble data in this regard accounted for 30 percent of total shipments in 1980.
[113] Profit-and-loss figures were submitted by four firms accounting for about 42 percent of U.S. shipments in 1980.
[114] *Id.* at IX–15.
[115] Report at IX–19, Table IX–16.
[116] Report at IX–19.
[117] Report, table IX–12.
[118] *Id.*
[119] Report, table IX–14.
[120] Report at X–34 and IX–35.
[121] Report, table X–3.
[122] *Id.*
[123] *Id.*, table X–6.
[124] *Id.*
[125] *Id.*, table X–9.
[126] *Id.* Firms reporting accounted for only about 45 percent of total producer shipments of such product.
[127] *Id.* table X–11. Countries include Belgium, France, Italy, United Kingdom, West Germany and Spain.
[128] *Id.* X–32 through X–33.
[129] *Id.* at X–26 through X–32.
[130] *Id* table X–10.

NATIONAL COMMISSION ON SOCIAL SECURITY REFORM

Meeting

AGENCY: National Commission on Social Security Reform.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forth-coming meeting of the National Commission on Social Security Reform.

This notice also describes the functions of the Commission. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: March 26, 1982: 9:30 a.m. to 1:30 p.m.

ADDRESS: Room 5110, Dirksen Senate Office Building, Washington, D.C. 20510.

FOR FURTHER INFORMATION CONTACT: Robert J. Myers, Executive Director, 736 Jackson Place NW., Washington, D.C. 20503, Telephone—(202) 395–5132.

SUPPLEMENTARY INFORMATION: The National Commission on Social Security Reform is established by Executive Order No. 12335 dated December 16, 1981 to provide appropriate recommendations to the Secretary of Health and Human Services, the President, and the Congress on long-term reforms to put Social Security back on a sound financial footing.

The meeting of the Commission is open to the public. The proposed agenda includes:

Discussion of method of computation of Social Security benefits.

Discussion of Social Security financing issues.

Discussion of staff papers on short-term and long-term financing of the Social Security system.

Such new business as the chairman or the membership may put before the Commission.

Records are kept of all Commission proceedings, and are available for public inspection at the office of The Executive Director, National Commission on Social Security Reform, 736 Jackson Place NW., Washington, D.C. 20503.

Robert J. Myers,

Executive Director.

[FR Doc. 82-6304 Filed 3-9-82; 8:45 am]

BILLING CODE 3115-01-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Inter-Arts Panel (Artists Colonies); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Inter-arts Panel (Artists Colonies) to the National Council on the Arts to be held on March 25, 1982, from 10:00 a.m.–4:00 p.m. in room 1340 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code. Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

March 1, 1982.

[FR Doc. 82-6264 Filed 3-9-82; 8:45 am]

BILLING CODE 7537-01-M

Theater Panel (Large Companies, Companies With Short Seasons); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Theater Panel (Large Companies, Companies with Short Seasons) to the National Council on the Arts to be held on March 28, 1982, from 10 a.m.–5:30 p.m., on March 29, and March 30, 1982, from 9 a.m.–5:30 p.m., in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

March 2, 1982.

[FR Doc. 82-6265 Filed 3-9-82; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Application for License To Import Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public Notice of Receipt of an Application" please take notice that the Nuclear Regulatory Commission has received the following applications for import licenses. Copies of the applications are on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H St., NW., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed on or before April 9, 1982. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

The table below lists the import applications.

Dated this 4th day of March at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Marvin R. Peterson,

Acting Assistant Director, Export/Import and International Safeguards, Office of International Programs.

FEDERAL REGISTER—IMPORTS

Name of applicant, Date of application, Date received, application No.	Material type	Material in kilograms		End-Use	Country of destination
		Total element	Total isotope		
Exxon Nuclear Corp., Feb. 26, 1982, Mar. 2, 1982, ISNM-2004.	3.4% Enriched Uranium	55,000	1,870	UF_6 will be fabricated by Exxon into fuel assemblies & reexported for use in the Biblis A Reactor.	From Netherlands.
Exxon Nuclear Corp., Feb. 26, 1982, Mar. 2, 1982, ISNM-2005.	3.4% Enriched Uranium	80,000	2,224	UF_6 will be fabricated by Exxon into fuel assemblies & reexported for use in the Biblis B Reactor.	From USSR.

[FR Doc. 82-6440 Filed 3-9-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–528A, 529A, 530A]

Arizona Public Service Co.; Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received the following additional advice, pursuant to section 105c of the amended Atomic Energy Act of 1954, from the Attorney General of the United States, dated February 11, 1982, with respect to the construction permit application for the Palo Verde Nuclear Generating Station, Units 1, 2, and 3.

You have requested our advice pursuant to the provisions of Section 105c of the Atomic Energy Act of 1954, as amended, in regard to a transfer of ownership interest in the above referenced units by Salt River Project Agricultural Improvement and Power District ("SRP") to the Los Angeles Department of Water and Power ("LADWP") and to the Southern California Public Power Authority ("SCPPA").[1] Under the proposed transfer, LADWP will acquire a 5.7 percent interest, and SCPPA will acquire a 5.91 percent in each of the three 1270 megwatt units. The Palo Verde Nuclear Generating Station ("PVNGS") is located near Phoenix, Arizona. LADWP and the members of SCPPA are California utilities.

LADWP has been the subject of antitrust review on three previous occasions. The most recent occasion was in connection with LADWP's participation in PVNGS Units 4 and 5. The Department of Justice advised the Nuclear Regulatory Commission by letter dated February 22, 1979 that the participation of LADWP in PVNGS Units 4 and 5 would not create or maintain a situation inconsistent with the antitrust laws.[2]

Some of the members of SCPPA were the subject of antitrust review in connection with the Sundesert Nuclear Plant, and the San Joaquin Nuclear Project. On November 24, 1975 the Department advised that no hearing was required in connection with the Cities of Anaheim, Glendale, Riverside and Pasadena participating in the San Joaquin Nuclear Project. On September 2, 1977 the same advice was given in connection with the four cities participating in the Sundesert Nuclear Plant. We advised on July 17, 1978 that participation by the City of Burbank in the Sundesert Project would not require an antitrust hearing. We also advised on January 31, 1980, that participation by the Cities of Anaheim and Riverside in San Onofre Nuclear Generating Company, Units 2 and 3, would not require an antitrust hearing.

Our review of the information submitted in connection with the current application, as well as other relevant information, has disclosed no evidence that would warrant a change of our earlier advice with respect to LADWP, or the members of SCPPA that were the subject of prior antitrust review. We are not aware of any evidence that the other members of SCPPA have engaged in any conduct that might warrant further antitrust scrutiny. Accordingly, it is the Department's view that no antitrust hearing is necessary with respect to the proposed transfers of ownership.

Any person whose interest may be affected by this proceeding may, pursuant to § 2.714 of the Commission's "Rules of Practice," 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by (30 days) either (1) by delivery to the NRC Docketing and Service Branch at 1717 H Street NW., Washington, D.C. or (2) by mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

For the Nuclear Regulatory Commission.

Argil Toalston,

Acting Chief, Antitrust and Economic Analysis Branch, Division of Engineering, Office of Nuclear Reactor Regulation.

[FR Doc. 82-6435 Filed 3-9-82; 8:45 am]

BILLING CODE 7590-01-M

[1] The SCPPA is an entity formed pursuant to California law for the purpose of financing, acquiring, constructing, maintaining, and operating generation and transmission projects. The members of, and their percentage participating in SCPPA are: Los Angeles Department of Water (62%), City of Burbank (4%), City of Glendale (4%), City of Pasadena (4%), City of Riverside (5%), City of Anaheim (7.5%), City of Banning (1%), City of Vernon (4.5%), and Imperial Irrigation District (6%).

[2] LADWP was also the subject of antitrust review in connection with the Sundesert Nuclear Plant, Units 1 and 2 and the San Joaquin Nuclear Project. In both reviews the Department advised that antitrust hearings were not required.

[Docket No. 50–366]

Georgia Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 26 to Facility Operating License No. NPF–5, issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia, which revised Technical Specifications (TSs) for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 2 (the facility) located in Appling County, Georgia. The amendment is effective as of the date of issuance.

This amendment revises the Technical Specification surveillance requirements needed to determine the operability of the source range monitors during periods of core alteration.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 22, 1982, (2) Amendment No. 26 to License No. NPF–5, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the

Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 26th day of February, 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-6436 Filed 3-9-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-298]

Nebraska Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 76 to Facility Operating License No. DPR-46 issued to Nebraska Public Power District (the licensee), which revised the Technical Specifications for operation of the Cooper Nuclear Station, located in Nemaha County, Nebraska. The amendment is effective as of its date of issuance

These changes to the Technical Specifications involve changes that correct pump flow rates for testing the Low Pressure Coolant Injection subsystem.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 25, 1982, (2) Amendment No. 76 to License No. DPR-46, and (3) the Commission's letter to the licensee dated March 3, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of March 1982.

For the Nuclear Regulatory Commission.

Domenic B.Vassallo,

Chief Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-6437 Filed 3-9-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-282 and 50-306]

Northern States Power Co.; Issuance of Amendments to Facility Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 54 and 48 to Facility Operating License Nos. DPR-42 and DPR-60 issued to Northern States Power Company (the licensee), which revised Technical Specifications for operation of Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2 (the facilities) located in Goodhue County, Minnesota. The amendments are effective as of the date of issuance.

The amendments delete Appendix B (Environmental Technical Specifications) from the operating licenses and include in Appendix A certain reporting requirements which were included in Appendix B.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an Environmental Impact Appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated May 1973.

For further details with respect to this action, see (1) the application for amendments dated April 24, 1981, (2) Amendment Nos. 54 and 48 to License Nos. DPR-42 and DPR-60, and (3) the Commission's related Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Environmental Conservation Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 26th day of February, 1982.

For the Nuclear Regulatory Commission.

R. A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-6438 Filed 3-9-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-256]

Public Service Company of Colorado; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 25 to Facility Operating License No. DPR-34 issued to the Public Service Company of Colorado, which revised Technical Specifications for operation of the Fort St. Vrain Generating Station (the facility) located in Platteville, Colorado. The amendment is effective as of the date of issuance.

The amendment modifies the license to permit possession of additional sources and revise the Technical Specifications to: (1) Specify the period of time and conditions under which the Unit Auxiliary Transformer can be removed from service with the reactor at power, (2) substitute the requirement for an Annual Operating Report with an Annual Occupational Exposure Report and a Monthly Operating Report, (3) allow manual reset of the 30% bistables for operation at less than 30% but greater than 10% power, (4) require

operability of snubbers when the reactor is at power, (5) establish an upper time limit for loss of voltage to 480 volt buses and the method to be used during surveillance testing, (6) substitute outdated requirements with those that comply to 10 CFR 20.103, (7) revise the method of performing thermocouple testing, (8) specify the testing of carbon sample cannisters as per NRC requirements, and (9) include two additional snubbers.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 20, 1978, April 14, 1978, May 9, 1978, June 19, 1979, July 24, 1980, and December 31, 1980; (2) Amendment No. 25 to Facility Operating License No. DPR-34; and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Greeley Public Library, City Complex Building, Greeley, Colorado. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 2d day of March, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-6439 Filed 3-9-82; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Advisory Committee on Shareholder Communications; Meeting

This is to give public notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I., 10(a), that the Securities and Exchange Commission Advisory Committee on Shareholder Communications will conduct meetings on March 22 and 23, 1982 at the Belmont Conference Center, 655 Belmont Woods Road, Elkridge, Maryland, beginning at 9:00 a.m. each day.

The purposes of the meetings are to consider recommendations with respect to: (1) Improving existing procedures relating to distribution of proxy material and annual reports; (2) Improving existing proxy voting procedures; (3) Improving existing procedures relating to distribution of non-proxy corporate communications; and (4) The feasibility of providing a means for issuers to identify the beneficial owners of street or other nominee held securities.

Further information may be obtained by contacting: Gregory H. Mathews, Division of Corporation Finance, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549, (202) 272-2589.

Dated: March 4, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6473 Filed 3-9-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18534; File No. SR-CBOE-82-5]

Chicago Board Options Exchange, Inc.; Filing of Proposed Rule Change

March 4, 1982.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 22, 1982, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change, among other things, would specifically provide that the exercise limits governing options on Treasury bonds and notes would apply to the duration of the "when-issued" period for the underlying securities, *i.e.*, the period between the auction and issuance of the underlying securities. The current CBOE exercise limits prescribe the maximum number of Treasury options contracts that can be exercised over any consecutive five business day period. The proposed rule change also would provide that the exercise limits could not be exceeded during the when-issued period, which generally exceeds five business days.

The proposed rule change also would revise the Government securities option margin rule and the related definition of "covered" so that "mini-series" options may offset and may be offset by, standard-sized options on the same underlying Government security. The statutory basis for the proposed rule change is section 6(b)(5) of the Act in that the change will assist in the implementation and operation of the Exchange's Government securities options markets and protect investors and the public interest.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission on or before March 31, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-CBOE-82-5.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendment also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6471 Filed 3-9-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18535; File No. SR-CBOE-82-4]

Chicago Board Options Exchange, Inc.; Filing of Proposed Rule Change

March 4, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 22, 1982, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would conform several provisions of the Exchange's rules relating to GNMA options to previously adopted parallel Exchange rules relating to Government securities options. The statutory basis for this proposed rule change is Section 6(b)(5) of the Act in that the change will assist the implementation and operation of the Exchange's GNMA and Government securities options markets and protect investors and the public interest.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission on or before March 31, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-CBOE-82-4.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6372 Filed 3-9-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18529; File No. SR-MCC-82-2]

Midwest Clearing Corp.; Effectiveness of a Proposed Rule Change

March 3, 1982.

The Midwest Clearing Corporation ("MCC") submitted a rule change on February 8, 1982, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 that provides a detailed statement of the buy-in procedures used by MCC. MCC has restated, for the benefit of its participants, current procedures with respect to when and how a buy-in notice may be submitted and executed.

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934 and Rule 19b-4 thereunder. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the securities Exchange Act of 1934.

Publication of the submission is expected to be made in the Federal Register. Interested persons are invited to submit written data, views and agruments concerning the submission on or before March 31, 1982. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to file No. SR-MCC-82-2

Copies of the submission, with accompanying exhibits, and of all written comments will be available for public inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of the filing will also be available at the principal office of the above-mentioned self-regulatory organization.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George. A. Fitzsimmons,

Secretary.

[FR Doc. 82-6373 Filed 3-9-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18531; SR-MSTC-82-1]

Midwest Securities Trust Co. ("MSTC"); Order Approving Proposed Rule Change

March 3, 1982.

On January 27, 1982, MSTC filed with the Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), (the "Act") and Rule 19b-4 thereunder, a proposed rule change that would permit MSTC participants to settle their institutional trades automatically through a link with Depository Trust Company's Institutional Delivery System ("IDS"). The proposal also would permit MSTC to discontinue its Participant Delivery System, which is similar to IDS.

Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by publication of Securities Exchange Act Release No. 18462 (February 1, 1982) and by publication in the Federal Register (47 FR 5829, February 8, 1982). No letters or comments were received by the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of section 17A of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6374 Filed 3-9-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18533; SR-PSE-81-28]

Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

March 4, 1982.

The Pacific Stock Exchange, Inc. ("PSE"), 301 Pine Street, San Francisco, California 94104, submitted on January 6, 1982, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend Rule II, section 3(g) of the PSE rules, relating to specialists accepting orders before the opening. The proposed amendment requires a specialist to accept round lot orders for executions prior to the reopening of a stock in which trading has been halted until two minutes prior to the reopening of trading by the specialist.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18412, January 12, 1982) and by publication in the Federal Register (47 FR 4794, February 2, 1982). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6375 Filed 3-9-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18530; SR-SCCP-81-7]

Stock Clearing Corp. of Philadelphia ("SCCP"); Order Approving Proposed Rule Change

March 3, 1982.

On December 9, 1981, SCCP filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rules 19b-4 thereunder, a proposed rule change that would amend SCCP's buy-in rules. The proposed rule change (i) permits SCCP participants to buy-in securities against SCCP and (ii) provides for the extension of time for executing buy-ins when securities subject to a buy-in notice are delayed in transfer.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 18375, December 24, 1981) and by publication in the Federal Register (46 FR 63441, December 31, 1981). No written comments were received by the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6376 Filed 3-9-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22410; 70-6706]

New England Electric System; Proposal Relating to Short-Term Bank Borrowings, Issuance of Commercial Paper, and Request for Exception From Competitive Bidding

March 3, 1982.

In the matter of New England Electric System, Granite State Electric Company, Massachusetts Electric Company, The Narragansett Electric Company, New England Power Company, and New England Power Service Company, 25 Research Drive, Westborough, Massachusetts 01581.

New England Electric System ("NEES"), a registered holding company, and five of its subsidiaries, Granite State Electric Company ("Granite"), Massachusetts Electric Company ("Mass Electric"), the Narragansett Electric Company ("Narragansett"), New England Power Company ("NEP") and New England Power Service Company ("NEPSCO") have filed an application-declaration with this Commission pursuant to sections 6(a), 7, 9(a), 10 and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42(a), 43, 45(a), 50(a)(2), 50(a)(3) and 50(a)(5) thereunder.

The above-named subsidiaries propose to borrow from NEES, banks, and a system money pool currently in operation, and/or to issue commercial paper. Granite, Mass Electric, Naragansett, NEP and NEPSCO seek authorization to borrow through March 31, 1983 up to an aggregate outstanding principal amount of borrowings not to exceed $5,500,000, $32,000,000, $8,000,000, $230,000,000 and $6,000,000, respectively. The proceeds of the proposed borrowings are to be used to pay outstanding notes to banks, dealers in commercial paper, NEES and/or borrowings from the money pool, to provide new money for capitalizable expenditures (or reimburse the treasury therefor), to refund maturing bonds pending permanent financing, and for other corporate purposes.

The bank borrowings would be from a group of 41 banks, evidenced by notes maturing in less than one year from the date of issuance. Borrowings may be under compensating balances or fee arrangements equivalent to such compensating balance requirements. The effective interest cost of such borrowings will not be greater than the effective interest cost of borrowings at the bank's base or prime lending rate with compensating balance requirements of 10% of the line of credit and 10% of the borrowings thereunder. Borrowings may also be negotiated without compensating balances or fee arrangements at an effective interest cost not exceeding the effective interests costs under compensating balances or fee arrangements. Fixed rate borrowings may be made having no prepayment privileges, for periods not exceeding 30 days. Such rates may be greater than the then current base or prime lending rate, but in no event greater than the above limit on effective interest cost. Based on compensating balance requirements of about 10 to 20%, or fees equivalent thereto, the effective interest cost of bank borrowing would be approximately 16.3% to 20.6% per annum, based on a base lending rate of 16½%.

Borrowings from NEES would be at an effective interest cost equal to the base or prime lending rate of the First National Bank of Boston and would be evidenced by notes maturing in less than one year from the date of issuance. The borrowing companies may prepay their notes to NEES, in whole or in part, with borrowings from banks or the pool or from the sale of commercial paper. Except for borrowings at a fixed interest rate, borrowings from banks may be prepaid, in whole or in part, with borrowings from NEES, the pool, or the sale of commercial paper. In the event of borrowings from banks at a higher interest rate or the sale of commercial paper at a higher effective interest cost, to prepay notes to NEES, NEES will credit the borrowers for any excess interest from the date of issuance of the new notes or commercial paper to the normal maturity date of the notes to NEES being prepaid. Conversely, in the event of borrowings from NEES to prepay notes to banks, the interest rate of the notes issued to NEES will be the lower of (1) the interest rate of the notes being prepaid or (2) the prime interest rate in effect, but with respect to (1) only to the maturity date of the notes so prepaid, and thereafter at the prime interest rate in effect at the time the new notes are issued.

Mass Electric and NEP propose to issue and sell commercial paper during the period through March 31, 1983 directly to Lehman Commercial Paper

Incorporated ("Lehman") and/or A.G. Becker & Co., Incorporated ("Becker"), dealers in such commercial paper. The dealers will reoffer the commercial paper to not more than 100 of their institutional customers on non-public lists. If any purchaser wishes to resell prior to maturity the dealer, pursuant to an oral repurchase agreement, will repurchase the paper for resale to others on such lists.

The commercial paper will be in the form of unsecured promissory notes having varying maturities not exceeding 270 days. The terms of the commercial paper do not provide for prepayment prior to maturity. The commercial paper will be purchased by Lehman and/or Becker from the issuer at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for the particular maturity at which prime commerical paper of comparable quality is sold by public utility issuers to commercial paper dealers. Lehman, and/or Becker will initially reoffer the commercial paper at a discount rate not more than ⅛ of 1% per annum less than the prevailing discount rate to the issuer.

The effective interest cost to the issuer on such paper will not exceed the effective interest costs at the time of issue for borrowings from the First National Bank of Boston, except that, in order to obtain maximum flexibility, commercial paper may be issued with a maturity of not more than 90 days from the date of issue with an effective cost in excess of such effective interest cost.

The borrowing companies propose to reduce their need for outside borrowing through the continued use of a money pool. Under the money pool, surplus funds that may be available from day to day in the treasuries of certain of the NEES System subsidiaries are used to make loans to subsidiaries in need of short-term funds. Each member will determine each day, on the basis of cash flow projections, the amount of surplus funds it has available for contribution to the pool. The surplus funds are turned over to NEPSCO which administers the pool as agent ("Agent") for the member companies. NEES may not borrow funds from the pool or loan funds to the pool.

Loans from the pool are made pursuant to open account advances. Evidence of indebtedness is not prepared for each pool transaction unless a lending subsidiary requests such evidence, in which case, a promissory note will be issued. Loans are made first to the borrower paying the highest rate for outside funds. If two or more members are paying the same rate, loans are made to them equally until the needs of one are met. All short-term borrowing needs of members are met by surplus funds in the pool to the extent such funds are available. All loans made from the pool are made payable on demand and may be prepaid by the borrower without penalty.

Borrowing companies pay a monthly rate based upon the rate the borrower would otherwise have to pay an outside lender. Those companies without the ability to issue commercial paper pay the monthly average of the floating base rate of The First National Bank of Boston. Those companies able to issue commercial paper will pay the weighted monthly average of the rates on outstanding commercial paper of all subsidiaries. During any month when no such commercial paper is outstanding, the rate is the monthly average of the rate for high grade 30-day commercial paper sold through dealers by major corporations as published in the *Wall Street Journal*.

Each member receives as interest that fraction of the total interest received by the pool equal to the ratio of the surplus funds the member has contributed to the total surplus funds in the pool. Such interest is computed on a monthly basis. Each member may withdraw for operational purposes any of its surplus funds at any time without notice. If there are more surplus funds in the pool than are necessary to meet the borrowing needs of the members, the Agent invests the excess on behalf of the pool in certain instruments permitted by Massachusetts law. It is anticipated that lenders to the pool will receive a higher return on their investments than they otherwise would. Borrowers obtain reduced fees due to a reduced need for bank lines of credit.

Mass Electric and NEP request an exception from the competitive bidding requirements of Rule 50, pursuant to subparagraph (a)(5), for the issuance and sale of commercial paper because (1) the commercial paper to be issued will have maturities of not more than nine months, (2) the effective interest cost thereon will not exceed the effective interest costs at the time of issue for borrowings from the First National Bank of Boston (except commercial paper issued with a maturity of not more than 90 days), (3) the current rates for commercial paper are readily ascertainable, and (4) it is not practical to publish invitations for bids for commercial paper.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Any interested persons wishing to comment or request a hearing should submit their views in writing by March 29, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the address specified above and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6368 Filed 3-9-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22409; 70-6712]

Northeast Utilities; Proposed Increase in Number of Authorized Common Shares and Order Authorizing Solicitation of Proxies in Connection Therewith

March 3, 1982.

Northeast Utilities ("Northeast"), P.O. Box 27, Hartford, Connecticut 06101, a registered holding company, has filed a declaration with this Commission pursuant to section 6(a), 7 and 12(e) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 62 thereunder.

Northeast proposes to increase from 100,000,000 to 130,000,000 the Company's total number of authorized common shares, par value $5. The authorized number is fixed from time to time by shareholder resolution. Of the 100,000,000 shares currently authorized, 79,001,844 were issued and outstanding as of December 31, 1981. As of that date an additional 9,874,024 authorized but unissued shares were reserved for issuance under Northeast's Dividend Reinvestment and Common Share Purchase Plan. Northeast also anticipates financing additional equity capital requirements for its operating subsidiaries and possibly issuing shares in the future to fund its Tax Reduction Act Employee Stock Ownership Plan. Northeast believes the increased authorization is necessary to give it sufficient flexibility in the timing and amount of future equity financings.

The proposal to increase authorized common shares will be submitted for shareholder consideration and action at the next Annual Meeting to be held on May 25, 1982. In connection therewith, Northeast proposes to solicit proxies from its shareholders. Adoption of the proposal requires the affirmative vote of the holders of a majority of the oustanding common shares. Northeast has filed preliminary copies of the proxy solicitation material and requests the effectiveness of its declaration with respect to the solicitation be accelerated as provided in Rule 62.

It appears that the declaration insofar as it relates to the proposed solicitation of proxies should be permitted to become effective forthwith pursuant to Rule 62.

It is ordered, therefore, that the declaration insofar as it relates to the proposed solicitation of proxies be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hering should submit their views in writing by March 29, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6369 Filed 3-9-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22408; 70-6701]

Southern Co., et al.; Proposed Issuance and Sale of Short-Term Notes to Banks and Commercial Paper to Dealers; Capital Contributions by Holding Company to Subsidiaries; Request for Exception From Competitive Bidding

In the matter of the Southern Company, 64 Perimeter Center East, Atlanta, Georgia 30346, Georgia Power Company, 333 Piedmont Avenue, N.E., Atlanta, Georgia 30302; and Mississippi Power Company, 2992 West Beach Boulevard, Gulfport, Mississippi 39501.

The Southern Company ("Southern"), a registered holding company, and Georgia Power Company ("Georgia"), and Mississippi Power Company ("Mississippi"), electric utility subsidiaries of Southern, have filed an application-declaration and an amendment thereto with this Commission pursuant to Sections 6, 7, and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45, 50(a)(2), and 50(a)(5) promulgated thereunder.

The applicant-declarants propose to issue and sell from time to time, prior to April 1, 1983, short-term notes to banks and commercial paper to dealers up to the following aggregate principal amounts at any one time outstanding: Southern, $100,000,000; Georgia, $625,000,000; Mississippi, $84,000,000.

Such notes will be issued from time to time as funds are required prior to April 1, 1983. The maximum short-term debt authorizations for Georgia, Gulf and Mississippi will be automatically reduced by the amount of net cash proceeds these companies receive from the sale of long-term debt and/or preferred stock. However, the short-term debt authorization will not be reduced below those amounts authorized under Section 6(b) of the Act.

Southern has obtained commitments from four international banks for an aggregate principal amount $100,000,000. Each commitment extends to December 31, 1982 and is subject to renewal in accordance with its terms. A commitment fee of ¼% per annum on undrawn amounts is payable for each commitment. Borrowings will, at Southern's option, bear interest at an effective rate of (a) ½% per annum over the lender's floating prime rate or (b) a margin over the London Interbank Offered Rate ("LIBOR"). Swiss Bank Corporation also offers borrowings at ½% per annum over its prime rate on the date of the advance, fixed for 90 days. Borrowings under option (a) are prepayable by Southern at any time without premium or penalty. The commitments, and the interest rates and periods under option (b) are:

Bank	Commitment (in millions)	Margin over LIBOR (percent)	Loan periods
Barclays Bank International	$40	¾	30 to 180 days.
Swiss Bank Corporation	20	¾	30 to 180 days.
Credit Suisse	20	¾	30, 60 or 90 days.
Union Bank of Switzerland	20	½	one to 6 months.

Advances under option (b) from Credit Suisse and the Union Bank of Switzerland are not prepayable. Prepayment of advances from Barclays Bank International Limited and the Swiss Bank Corporation is conditioned on payment of a compensatory premium, usually equal to the difference between the interest that would have been earned to maturity on the prepaid amount and the interest to maturity from relending such amount. The maximum term for borrowings under option (a) is one year, 180 days for Swiss Bank Corporation, or if earlier, the expiration date of the commitment.

Southern will borrow from these banks under the available option providing the lowest effective cost for the borrowing period. Assuming 50% usage of the commitment of each bank and a prevailing prime interest rate or LIBOR of 16%, the effective cost of borrowings (including commitment fees) under these facilities would be as follows: Under option (a), the effective cost from each bank would be 16.75%. Under option (b), the effective cost of borrowings from Union Bank of Switerland would be 16.75% and the effective cost of borrowings from the other facilities would be 17.00%. Southern would not use option (b) unless the LIBOR was such that the related cost was less than the cost under option (a).

Georgia has obtained commitments from ten banks for revolving credit aggregating $550,000,000 for the period from October 1, 1981, through December 31, 1984. The commitment of each bank is evidenced by a separate agreement with Georgia. Each borrowing by Georgia under revolving credit agreement will be evidenced by a master promissory note to be dated the date of borrowing, to mature not more than 270 days (but not later than the expiration of the lending bank's commitment) after the date of issue. Such notes will be prepayable, in whole or in part, at any time without penalty or premium. The revolving credit agreements have been separately negotiated with each of the several banks and, consequently, the pricing terms, interest rates and fees payable by Georgia pursuant to each commitment vary.

Under each agreement Georgia is obligated to pay a commitment fee. The fee is determined by multiplying the unused portion of the commitment by a specified fraction or fractions of a percent (ranging from .375 to .5%).

The rates of interest for revolving credit borrowings vary in one instance based on the amount of aggregate

borrowings outstanding from the lending bank and may rise in the last two commitment years. Under each agreement the annual interest rate will either be equal to, or a percentage multiple of, or plus a specified number of basis points in excess of, a prescribed floating base rate, such as the prime rate or a higher money market rate. Under one agreement, if borrowings exceed 25% of the commitment, a facility fee equal to a fraction of a percentage of the commitment is payable.

Assuming a prime rate of 16% per annum and full usage, the highest effective cost under the revolving credit arrangements would be 16.50% in the first year and 16.80% in the second year and 17.0% in the third year. Assuming 50% usage and a 16% prime rate, the highest effective interest cost would be 17.48% in the first through third years. The ten bank weighted average based on full usage would be 16.055% in the first year and rise to 16.246 in the third year. Georgia may reduce such fees by maintaining balances with the banks.

Georgia may at any time without penalty terminate or reduce the commitment of any bank, provided that no bank's commitment may be reduced to an amount less than the outstanding principal amount of borrowings from such bank at the time of reduction. Each year Georgia expects to extend the commitments for an additional year and to renegotiate commitment terms.

In addition to the above described specific bank borrowing arrangements, the applicant-declarants, except Southern, propose to borrow from other banks within the authorized limits. These bank borrowings will be evidenced by either notes dated as of the borrowing date or the initial borrowing date for master notes. The notes will mature 9 months or less after the date of issue, will be prepayable in whole or in part without penalty or premium, and will be at the prevailing prime rate plus the maintenance of compensating balances of up to 10% of the undrawn amounts and up to 20% of amounts borrowed (or comparable fees in lieu of balances). The maximum effective interest cost of amounts so borrowed under such a facility would be 20% based on an assumed prevailing prime interest rate of 16%. A list of these banks and the principal amount of borrowing from each bank has been provided to the Commission.

The applicants-declarants, including Southern, propose to sell commercial paper within the aggregate principal limit set forth above for each company. The commercial paper will be in the form of promissory notes with varying maturities not to exceed 270 days. Such notes will not by their terms be prepayable prior to maturity.

The commercial paper will be sold directly to or through the following commercial paper dealers: The First Boston Corporation for Southern; Salomon Brothers Inc. for Georgia; and A.G. Becker & Co. Incorporated for Mississippi. The discount or interest rate will not exceed the annual discount rate prevailing at the issuance date of commercial paper of comparable quality and maturity. However, no notes of more than 90 day maturity will be issued at an effective interest cost exceeding that issuer's effective interest cost for bank borrowings of at least equal principal amount. Except for a commission not to exceed ⅛ of 1% per annum payable to the dealer as principal for the issure, no commission or fees will be paid. However, the dealer may reoffer such commercial paper at a discount rate of ⅛ of 1% per annum less than the prevailing interest rate to the issuer or at an equivalent cost if sold on an interest bearing basis.

The dealer will offer the commercial paper to not more than 200 institutional customers of the dealer identified and designated in a nonpublic list prepared in advance by the dealer. It is expected that the commercial paper of the applicant-declarants will be held by customers to maturity. However, if they wish to resell prior to maturity, the dealer, pursuant to a verbal repurchase agreement, will repurchase the commerical paper and reoffer the same to others on the customer list.

Southern proposes to use the bank and commerical paper borrowings, treasury funds and other external funds to make capital contributions to Georgia and Mississippi, as well as to Alabama Power Company ("Alabama") and Gulf Power Company ("Gulf"), two other electric utility subsidiaries of Southern. Such funds will also be used to pay Southern's indebtedness when due, to make loans to Southern Company Services, Inc., and to serve other corporate purposes. Southern proposes to make capital contributions from the effective date of the Commission's order herein through March 31, 1983 in amounts not to exceed the following:

Company	Amount
Alabama	$140,000,000
Georgia	280,000,000
Gulf	8,000,000
Mississippi	8,000,000

The funds will be used by the subsidiaries for financing in part their respective construction programs and for other corporate purposes. Part or all of the net proceeds of any long-term financing will be applied to pay or reduce the principal amount of outstanding short-term borrowings.

Except as may be otherwise authorized by the Commission, any short-term borrowings of the applicant-declarants outstanding hereunder after March 31, 1983 will be retired (1) from internal cash resources or from the proceeds of equity financing in the case of Southern and (2) from internal cash resources and/or from the proceeds of long-term debt or equity financing in the cases of the other applicant-declarants.

The applicant-declarants seek an exception from the competitive bidding requirements of Rule 50(b) pursuant to subparagraph (a)(5) thereof for the issuance of commerical paper because the commercial paper will have maturities not in excess of 270 days, current commercial paper rates for prime borrowers are published in daily financial publications and it is impractical to invite competitive bids for commercial paper.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 26, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarants at addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the applicant declaration, as amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6370 Filed 3-9-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[SBLC No. 02/8-0022]

FB Small Business Lending Corp.; Filing of Application for Eligibility Determination as a Small Business Lending Company

An application for Eligibility Determination as a Small Business Lending Company has been filed by FB Small Business Lending Corp. (Applicant), 20 Exchange Place, New York, New York 10005, with the Small Business Administration pursuant to § 120.4(b) of SBA Regulations (13 CFR 120.4(b) (1981)), promulgated under the Small Business Act.

As a Small Business Lending Company (SBLC), under Subsection (b) mentioned above, the Applicant will be engaged *solely*, in the making of loans to small business concerns, in participation with SBA, and in accordance with applicable SBA Regulations.

The Applicant will be incorporated under the laws of the State of Delaware, and it will commence operations with initial capitalization of $500,000. The proposed owner of 100 percent of the Applicants' outstanding Common Stock, par value $1 per share, is FB Lending Corporation, 20 Exchange Place, New York, New York 10005, an indirect wholly-owned subsidiary of First Boston, Inc., 30 South 17th Street, Philadelphia, PA 19103.

The Applicant intends to conduct its operations on a nationwide basis commencing with the Baltimore/Washington, New York and Puerto Rico areas, and to sell in the Secondary Market, SBA's guaranteed portions of loans to small business concerns.

The Officers and Directors of the Applicant are:

Frances P. Jenkins, Jr., Chairman, 17 Westorchard Road, Chappaqua, New York 10514
William P. McCauley, President, 161 East 61st Street, #15M, New York, New York 10021
Michael D. Goth, Executive Vice President, 1001 Wilson Blvd., #206, Arlington, Virginia 22209
A. Bruce Cleveland, Managing Director, 1701 North Kent Street, #1105, Arlington, Virginia 22209
Patricia McCole, Secretary, 157 H Main Street, Little Falls, New Jersey 07424
Mark S. Finston, Director, 303 E 83d Street, Apt. 219, New York, New York 10028
John E. Toffolon, Director, 245 E 63d Street, Apt. 1116, New York, New York 10021
Harry A. Bello, 1839 STA. Isabel Reparte Romang, Rio Piedras, Puerto Rico 00926.

Matters involved in SBA's consideration of the application include the general business reputation and character of management, and the probability of successful operation of the corporation under their management, including profitability and financial soundness, in accordance with the Small Business Act and the Regulations promulgated thereunder.

Notice is hereby given that all interested parties may, not later than March 25, 1982 submit to SBA written comments on the proposed Applicant and/or its management. Any such communication should be addressed to: Wayne S. Foren, Director, Office of Lender Relations & Certification, Small Business Administration, 1441 L Street NW., Room 720, Washington, D.C. 20416.

A copy of this Notice shall be published in the four (4) regional editions of the *Wall Street Journal.*

Catalogue of Federal Domestic Assistance Program No. 59.012 Small Business Loans)

Dated: March 3, 1982.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 82-6460 Filed 3-9-82; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 03/03-5150]

Washington Finance and Investment Corp.; Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.) has been filed by Washington Finance and Investment Corporation (applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1981).

The officers, directors and stockholders of the applicant are as follows:

Nicolas M. Salgo, Fairviewlakes, No. 21B, Ocean Reef, Key Largo, Florida 33037, Chairman of the Board 50 percent Stockholder
Chang H. Lie, 1430 Lady Bird Drive, McLean, Virginia 22101, President, Director, 50 percent Stockholder
Yong S. Choe, 7412 Eldorado Street Mclean, Virginia 22101 Vice President, Director
John K Grarey, 124 Fourth Street, N.E., Apt. 2, Washington, D.C. 20002, Vice President Treasurer, Director
Sun H. Lee, 13028 Country Ridge Drive, Germantown, Maryland 20767, Secretary.

The applicant, a District of Columbia corporation with its principal place of business located at 600 New Hamphire Avenue, N.W., Room 818, Washington, D.C. 20037, will begin operations with $500,000 of paid-in capital and paid-in surplus derived from the sale of 10,000 shares of common stock.

The applicant will conduct its activities primarily in the District of Columbia, Northern Virginia, and suburban Maryland.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the applicant under this management, including adequate profitability and financial soundness, in accordance with the small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than March 25, 1982 submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Washington, D.C.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 5, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-6461 Filed 3-9-82; 8:45 am]

BILLING CODE 8025-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 47
Wednesday, March 10, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, March 12, 1982.

PLACE: 2033 K Street, N.W., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-8314.

[S 360-82 Filed 3-8-82; 9:17 am]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, March 19, 1982.

PLACE: 2033 K Street, NW., Washington, D.C., eight floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S 361-82 Filed 3-8-82; 9:18 am]

BILLING CODE 6351-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, March 15, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: March 8, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[S 365-82 Filed 3-8-82; 12:26 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, March 15, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for Federal deposit insurance:

Citibank (Delaware), a proposed new bank, to be located at One Rodney Square, Wilmington, Delaware.

Application for consent to purchase assets and assume liabilities and to establish one branch:

Northwest Bank, Seattle, Washington, for consent to purchase the assets of and assume the liability to pay deposits made in the Inglewood Village Branch of City Bank, Lynnwood, Washington, and to establish that office as a branch of Northwest Bank.

Request for an extension of time to establish a branch:

Oregon Mutual Savings Bank, Portland, Oregon, for an extension of time within which to establish the approved branch on Pacific Highway two blocks south of the intersection with Park Street, Tigard, Oregon.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Sidley & Austin, Chicago, Illinois, in connection with the receivership of the The Des Plaines Bank, Des Plaines, Illinois.

Kaye, Scholer, Fierman, Hays, & Handler, New York, New York, in connection with the receivership of American Bank & Trust Company, New York, New York.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchase of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: March 8, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[S-364-82 Filed 3-8-82; 12:27 pm]

BILLING CODE 6714-01-M

5

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Monday, March 15, 1982.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board: (202) 452-3204.

Dated: March 5, 1982.

James McAfee,
Assistant Secretary of the Board.

[S-363-82 Filed 3-8-82; 9:50 am]

BILLING CODE 6210-01-M

6

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 10 a.m., Monday, March 8, 1982.

PLACE: Board Conference Room, sixth floor, 1717 Pennsylvania Avenue, N.W., Washington, D.C.

STATUS: Closed to public observation pursuant to 5 U.S.C. 552b(c)(2) (internal personnel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

MATTERS TO BE CONSIDERED: To consider candidates for Regional Director, Region 6, Pittsburgh, Pennsylvania and other personnel matters.

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, Washington, D.C. 20570; Telephone: (202) 254-9430.

Dated: March 5, 1982.

By direction of the Board.

National Labor Relations Board.

John C. Truesdale,
Executive Secretary.

[S 362-82 Filed 3-8-82; 9:31 am]

BILLING CODE 7545-01-M

7

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the Week of March 15, 1982, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Thursday, March 18, 1982, at 9:00 a.m., followed by a closed meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Shad and Commissioner Loomis, Evans, Thomas and Longstreth voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Thursday, March 18, 1982, at 9:00 a.m., will be:

Consideration of wether to issue a notice of intention to cancel, pursuant to section 203(h) of the Investment Advisers Act of 1940, the registrations of certain investment advisers who have failed to keep their registrations current and either cannot be located or have not responded to staff efforts to obtain their voluntary withdrawal. For further information, please contact Gene A. Gohlke at (202) 272-3024, or Paul J. Heaney at (202) 272-2057.

The subject matter of the closed meeting scheduled for Thursday, March 18, 1982, following the 9:00 a.m. open meeting:

Access to investigative files by Federal, State or Self-Regulatory authorities.
Litigation matters.
Formal orders of investigation.
Institution of administrative proceedings of an enforcement nature.
Settlement of administrative proceeding of an enforcement nature.
Institution of injunctive actions.
Freedom of Information Act appeal.
Application for re-entry into employment in the securities industry.
Opinion.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bruce Mendelsohn at (202) 272-2091.

March 5, 1981.

[S. 365-82 Filed 3-8-82; 12:26 pm]

BILLING CODE 8010-01-M

V 47 / 47 MR 1 82

federal register

Wednesday
March 10, 1982

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations Under Federal Program for Georgia

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 910

Surface Coal Mining and Reclamation Operations Under Federal Program for Georgia

AGENCY: Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior.

ACTION: Final rules.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM or the Office), U.S. Department of the Interior adopts final regulations amending 30 CFR Chapter VII by adding a new Part 910 to contain a Federal program for the regulation by the Secretary of the Interior (the Secretary) of coal exploration and surface coal mining and reclamation operations, including the surface effects of underground coal mining on non-Federal and non-Indian lands within the State of Georgia in accordance with Section 504 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) and 30 CFR Part 736.

EFFECTIVE DATE: April 9, 1982.

ADDRESSES: A transcript of the public hearing, all written comments received, summaries of meetings with representatives of OSM and other documents constituting the administrative record on the Georgia Federal program will be made available for public review and copying during regular business hours at the addresses below. Copies of the proposed and final regulations may also be obtained at the following addresses.

Administrative Record Room, Office of Surface Mining, 530 Gay Street, SW., Suite 500, Knoxville, Tennessee 37902

Administrative Record Room, Room 5315L, Office of Surface Mining, Department of the Interior, 1100 L St., N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. John T. Davis, Assistant Regional Director, 530 Gay Street, S.W., Knoxville, Tennessee 37902 (615–637–8060).

SUPPLEMENTARY INFORMATION: This document contains final rules through which the Director of OSM (the Director) will regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands within the State of Georgia. Also included are the comments received, their disposition and discussion of changes made in developing final rules from those that were proposed.

Good cause is found for making these rules effective immediately because surface mining operations are presently taking place in the State. The State does not regulate the operations and unless OSM has a program in effect no effective enforcement can occur. Furthermore, the Surface Mining Act in section 504(a) required a Federal program for a State by June 3, 1980, if it, like Georgia, failed or refused to submit a program for the assumption of regulatory responsibility.

Background

Title V of SMCRA requires the implementation of permanent programs to regulate coal exploration and surface coal mining and reclamation operations in each State in which such operations are occurring or may be expected to occur. OSM promulgated national permanent program regulations in 30 CFR Chapter VII which establish the minimum standards for the regulatory programs in each State and the procedures for developing, promulgating, and implementing the programs.

The rules for the national permanent program are found in 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56064). Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62889). The other permanent program regulations were published at 44 FR 15312–15463 (March 13, 1979). Corrections were published at 44 FR 15485 (March 14, 1979), 44 FR 49673–49687 (August 24, 1979), 44 FR 53507–53509 (September 14, 1979), 44 FR 66195 (November 19, 1979), 45 FR 26001 (April 16, 1980), 45 FR 37818 (June 5, 1980) and 45 FR 47424 (July 15, 1980). Amendments to the rules have been published at 44 FR 60989 (October 22, 1979), as corrected at 44 FR 75143 (December 19, 1979), and at 41 FR 75302 (December 19, 1979), 45 FR 77440–77447 (December 31, 1979), 45 FR 2626–2629 (January 11, 1980), 45 FR 25998–26001 (April 16, 1980), 45 FR 33926–33927 (May 21, 1980), 45 FR 39446–39447 (June 10, 1980), 45 FR 52306–52324 (August 6, 1980), 45 FR 54752–54753 (August 18, 1980), 45 FR 58780–58786 (September 4, 1980), 45 FR 64908–64909 (October 1, 1980), 45 FR 73945–73946 (November 7, 1980), 45 FR 76932 (November 20, 1980), 45 FR 82084–82100 (December 12, 1980, and 45 FR 83166–83169 (December 17, 1980).

Representatives of industry, two States and several environmental groups challenged the national permanent regulatory program in the U.S. District Court for the District of Columbia. These suits were consolidated and heard in a single lawsuit entitled *In Re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144). In response to the arguments raised in the challenges, the Secretary voluntarily suspended several permanent program regulations. These suspensions were announced in the Federal Register on November 27, 1979 (44 FR 67942). December 31, 1979 (44 FR 77447–77454) and January 30, 1980 (45 FR 6913). In two opinions the court remained certain other regulations which had been challenged in the lawsuit. These opinions were issued on February 26, 1980, and May 16, 1980.

OSM considered the reasons for these suspensions and remands in drafting the proposed Georgia program regulations. In some cases, OSM proposed new language in the Georgia program regulations. The basis for this language was explained in the discussion accompanying the proposed rules. A list of all the suspended and remanded Federal regulations, along with a statement of proposed disposition within the context of the Federal program for the State of Georiga, was set forth in the proposed rules under "Disposition of Suspended and Remanded National Permanent Program Regulations." This list identified those provisions that the Secretary did not include in the proposed Georgia program and, for subject areas where rules were being proposed, the language proposed in order to render the Georgia program legally sufficient. These determinations were made only for the Georgia Federal program, in view of conditions in the State of Georgia. This language does not supersede, amend or modify the permanent program rules in any way, nor does it limit the Secretary in considering alternative approaches in the context of other rulemakings. The Office will promulgate new provisions in the national permanent program regulations, and the Georgia program will be amended to incorporate those provisions to the extent appropriate.

Under Sections 501–503 of the Act and 30 CFR Part 731 States were provided the opportunity to submit programs for approval by the Secretary and thus achieve primacy for regulating coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands. A deadline of August 3, 1979, was established by 30 CFR 731.12 for submittal of State programs. The deadline for submissions was extended to March 3, 1980, by an opinion entered on August 21, 1979, by the District Court for the District of Columbia, *In Re: Permanent Surface Mining Regulation Litigation*, 13 ERC 1586. By March 3, 1980, 24 of the States with known coal reserves had submitted programs to obtain primacy.

Under Section 504 of SMCRA and 30 CFR 736.11, OSM must promulgate and implement a Federal program in each State that did not submit a program by March 3, 1980, and in which the Director reasonably expects coal exploration or surface coal mining and reclamation operations to occur on non-Federal and non-Indian lands at any time before June, 1985. On May 16, 1980 (45 FR 32328–32331), OSM published an advance notice of intent to promulgate Federal regulatory programs for States with known surface coal mining and reclamation activities that had not submitted programs by March 3, 1980. That notice stated that the State of Georgia by letter dated June 20, 1979, advised OSM that it would not be submitting a program for approval by the Secretary. Coal mining operations are currently being conducted in Georgia. Therefore, these final rules are issued to promulgate a Federal regulatory program on non-Federal and non-Indian lands in the State of Georgia.

Under Section 504(g) of the Act any statutes or regulations of the State which are in effect to regulate surface coal mining and reclamation operations subject to the Act shall, insofar as they interfere with the achievement of the purposes and the requirements of the Act and the Federal program, be preempted and superseded by the Federal program. In accordance with 30 CFR 736.23, the Director has identified the following statute and regulations:

(a) Georgia Surface Mining Act of 1968, Ga. Code Anno. § 43–1401 et seq.;

(b) Rules for Land Reclamation, Georgia Department of Natural Resources, Environmental Protection Division, Chapter 391–3–3 (1976).

The Georgia Surface Mining Act 1968 regulates surface mining in Georgia. Surface mining is defined in the Act as "any activity constituting all or part of a process for the removal of minerals, ores and other solid matter for sale or for processing or for consumption in the regular operation of a business." The Act therefore regulates the mining of other minerals as well as coal. Except with respect to the regulation of operations affecting less than two acres, the Federal program promulgated herein for the regulation of surface mining is pervasive with regard to coal mining. To the extent that the Georgia Surface Mining Act of 1968 regulates surface coal mining, it is preempted and superseded by this Federal program. In no instance are the standards of the Georgia Act more stringent than those of the Federal Act or regulations. The Georgia Act is no longer applicable to the regulation of coal exploration or surface coal mining operations in the State of Georgia, except to the extent of its application to operations affecting two acres or less.

Similarly, the rules and regulations of the Georgia Department of Natural Resources, Environmental Protection Division, concerning land reclamation after coal mining are preempted and superseded by the program promulgated herein. These rules and regulations were adopted pursuant to the Georgia Surface Mining Act of 1968. Like that Act these rules pertain to the mining of other minerals in addition to coal. In no instance do they establish more stringent standards than the Federal Act or regulations. These rules and regulations will no longer be applicable to surface coal mining operations to the extent that they affect surface coal mining, except with respect to operations affecting less than two acres.

Copies of the Georgia Surface Mining Act of 1968 and the rules and regulations of the Georgia Department of Natural Resources are in the administrative record and are available for review at the place listed above under "Addresses."

Public Participation

Throughout the development of the final rules upon which a permanent Federal program to regulate coal exploration and surface coal mining and reclamation operations in Georgia is based, OSM solicited and gave consideration to the comments and recommendations received from the public. In development of these rules for the Georgia program, OSM initially published a notice of intent to promulgate a Federal program for Georgia in the Federal Register on May 16, 1980 (45 FR 32328–32331). Two comments were received and discussed in the preamble to the proposed rules. On September 15, 1980, OSM published proposed rules in the Federal Register (45 FR 61120–61248) which would establish a Federal program in Georgia.

The public comment period on the proposed rules extended until November 21, 1980. A public hearing was held in Atlanta, Georgia, on November 18, 1980. All comments received were considered and are discussed in the preamble below, and are available for review at places listed above under "Addresses."

OMB Review

The record-keeping and reporting requirements of the final rules are the same as the national permanent program regulations which were cleared by the Office of Management and Budget (OMB). Forms are being developed for use in implementing the recordkeeping and reporting requirements of the program. All forms that will affect 10 or more persons will be cleared with OMB, with accompanying notices in the Federal Register, in accordance with the requirements of 44 U.S.C. 3507. Those recordkeeping and reporting requirements which are applicable to Federal programs are included in the administrative record at GA–7. Clearance numbers are assigned as follows:

OMB Clearance Numbers

Section and Clearance No.
910.701—N/A
910.761—1029–0029
910.762—N/A
910.764—1029–0030
910.770—N/A
910.776—1029–0033
910.787—N/A
910.800—1029–0043
910.805—1029–0044
910.806—1029–0045
910.809—N/A
910.815—N/A
910.840—1029–0051
910.843—1029–0052
910.845—1029–0053

Other Information

OSM has determined that the final rules are not major as defined in Executive Order 12291. The "Determination of Effect" document prepared by OSM is available for inspection in the administrative record at the address above.

An environmental impact statement is not required pursuant to Section 702(d) of SMCRA, which states that the promulgation of Federal programs pursuant to Section 504 of SMCRA shall not constitute a major Federal action within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

It has been determined that the rules will not have a significant effect on a substantial number of small entities pursuant to the Regulatory Flexibility Act, 5 U.S.C. § 605(b). A substantial number of small entities in the State will not be affected significantly by promulgation of the rules because there are few operators of surface and underground coal mines in the State. It is expected that in the future coal production in the State will remain of minor importance.

Content and Organization of the Program

Section 504(a) of the Act and 30 CFR 736.22(a)(1) require that each Federal program consider the nature of the State's soils, topography, and climate and biological, chemical, geological, hydrological, agronomic and other relevant physical conditions. Special environmental conditions have been identified. Also, the Director shall include any provisions that are necessary to implement the requirements of 30 CFR 736.22(a)(2) regarding the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), the Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661–666c), the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469a), and other relevant Federal laws imposing duties upon the Secretary, including the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

Under Section 504(g) of the Act and 30 CFR 736.22(a)(3) and 736.23(b), OSM also must include the provisions of any existing State statutes and regulations which provide for more stringent land use and environmental control and regulation of coal exploration or surface coal mining and reclamation operations than do the provisions of the Act or the national permanent program regulations. In preparing the final rules, OSM reviewed existing State statutes and regulations and incorporated provisions more stringent than the national minimum requirements promulgated by OSM in 30 CFR Chapter VII.

In addition, State statutory or regulatory provisions that were equivalent to the Federal Act and regulations have been incorporated into the final rules to the extent possible. This is to provide better continuity of existing operations during transition from State regulation to Federal regulation, better coordination with other State agencies which have responsibilities relating to the regulation of coal exploration and surface coal mining and reclamation operations, and to ease the transition from Federal to State regulation if the State of Georgia elects to submit a program for approval by the Secretary at a future date.

State requirements in Georgia Code Ann. Section 56–412, pertaining to limitation of risks for insurance companies and Georgia Code Ann. Sections 41 A–1306 and 1309, pertaining to limitation on loan amounts made by banks, have been incorporated into 30 CFR 910.806–12. Compliance with the Georgia Safe Dams Act of 1978 and the Rules For Dams Safety, Chapter 391–3–8 of the Rules of the Department of Natural Resources, Environmental Protection Division, have been incorporated into 30 CFR 910.816–49(a)(8) and 30 CFR 910.817–49(a)(8) to the extent of requiring that the operator obtain a permit for permanent impoundments. The requirements of Chapter 391–34 of the rules of the Georgia Department of Natural Resources, Environmental Protection Division, pertaining to solid waste management, have been incorporated into 30 CFR 910.816–89 and 30 CFR 910.817–89. Regulations setting forth noxious weed species in the Georgia Seed Law and Rules and Regulations have been incorporated into the definition of noxious weeds in § 910.701–5. All of the revisions to the national permanent program regulations to incorporate provisions of existing State statutes and regulations were identified by section and discussed in detail in the preamble to proposed rules for the Georgia Federal program.

The final rules are based on applicable provisions of the permanent program regulations, 30 CFR Chapter VII, as follows:

Subchapter A—General
Subchapter F—Areas Unsuitable for Mining
Subchapter G—Surface Coal Mining and Reclamation Operations Permits and Coal Exploration Systems Under Regulatory Programs
Subchapter J—Bond and Insurance Requirements for Bonding of Surface Coal Mining and Reclamation Operations
Subchapter K—Permanent Program Performance Standards
Subchapter L—Permanent Program Inspection and Enforcement Procedures

The Office has promulgated portions of 30 CFR Subchapter M, Training Program for Blasters and Members of Blasting Crews and Certification Program for Blasters as published in the **Federal Register**, December 12, 1980 (45 FR 82084–82100). The Office will amend the Georgia program to incorporate the applicable provisions of 30 CFR Subchapter M six months after the complete subchapter has been promulgated.

Technical literature cited by OSM in the preamble to the permanent regulatory program (44 CFR 14901–15309, March 13, 1979) was also relied upon in developing the regulations for the Georgia Federal Program. The reader is referred to that preamble for a discussion of the bases and purposes of the permanent program rules proposed to be incorporated in the Georgia program without substantive change.

The numbering system of the national permanent program regulations has been incorporated into the numbering system for the final rules of the Georgia Federal program. Program elements have been categorized under headings similar to the Subchapter titles. Subchapter T in 30 CFR Chapter VII has been established to include regulatory programs by State. Each State is assigned a part number alphabetically. The program for the State of Georgia is assigned Part 910.

In addition to the final rules published herein, the Federal regulatory program for the State of Georgia includes the following provisions of 30 CFR Chapter VII:

30 CFR Chapter VII, Subchapter P—Protection of Employees
30 CFR Chapter VII, Part 706—Restriction of Financial Interest of Federal Employees

Those provisions have been fully promulgated and implemented for application to all regulatory programs under 30 CFR Chapter VII. They will not be modified for application in any specific State. Therefore, those provisions, as codified in 30 CFR Chapter VII, are part of the Federal regulatory program for the State of Georgia. On Federal lands in the State of Georgia, the permanent regulatory program will consist of the Federal rules made applicable under 30 CFR Chapter VII, Subchapter D, Parts 740–745, and Subchapter F, Part 761, §§ 761.11(b)(2) and 761–12(c), and Part 769. The permanent regulatory program becomes effective in Georgia on the same date the Federal program becomes effective.

Disposition of Public Comment and Other Changes From the Proposed Program

Only those proposed regulations which were the subject of public comment or otherwise changed are discussed below. For a detailed discussion of rules not discussed here the reader is referred to the September 15, 1980, **Federal Register** (45 FR 61120–61131). Some comments on the proposed Georgia program were received after the official close of the public comment period but were considered in the development of the final rules. Consideration of these comments did not create an administrative burden for the agency or cause any delays in the development of the program.

General

(Subparts 910.701 through 910.707)

910.701–5 Definitions

The Consolidation Coal Company (Consol) commented that Class II and III roads should not be defined on the basis of length of use, but rather on the nature of use, as proposed. Consol contends that it is not appropriate to designate a road which will be used infrequently, in good weather, by light vehicles (e.g., to monitor environmental stations) as a higher class road simply because it will exist for the life of the mine. In fact, Consol points out, the surface of such roads is often naturally covered by volunteer vegetation, especially in the eastern U.S., because of lack of traffic. However, Consol also feels that approving Class III roads on a case by case basis is overly restrictive. Consol maintains that exploration roads should not have to be approved since only a notice of intent must be filed under § 910.776–11 for exploration under 250 tons and Class III roads do not constitute substantial disturbance of the natural land surface and therefore do not require approval under § 910.776–15(a).

The Office feels that approving Class III roads on a case by case basis is not overly restrictive because it affords the Office the opportunity of considering each, and making the classification designation in accordance with each site's special conditions.

For roads used in exploration activities where less than 250 tons of coal is removed, the applicant is required to file a notice of intent and a general map of the area. The requirement at 30 CFR 910.815–15(c)(2), that if the road is used over six months the operator must obtain approval has been deleted.

The Office feels that it is necessary to approve plans for exploration roads which will be used to remove more than 250 tons of coal. Since there is no maximum limit for use of exploration roads the Office feels it is necessary to know the location of roads that may be frequently traveled. Road construction and use can affect the soil mantle, soil loss, on-site productivity, water control, water quality and soil stability.

The State of Georgia, Department of Natural Resources (DNR) commented that the conclusion which stated "In no instance is the Georgia Act more stringent than the Federal act or regulations" is incorrect. The Georgia DNR points out that the Georgia Surface Mined Land Reclamation Program requires all sites where coal may be mined to obtain a permit, unlike the Federal act which exempts mine sites of two acres or less. Georgia would like the more stringent provision of the Georgia Act to be incorporated into the Federal program.

Support for Georgia's contention that the Georgia Act is more stringent, and therefore should be included in the Federal program, can be found in Sections 504(g) and 505 (a) and (b). These Sections state that any State statute which is more stringent shall not be construed as being inconsistent. However, in Section 528(2) of the Act it clearly states that SMCRA will not apply to surface mining operations which affect two acres or less.

Section 528(2) takes precedence over Sections 504 and 505. None of the provisions of the Act may be applied to surface coal mining operations affecting less than two acres.

The inability of OSM to regulate mining on less than two acres does not preclude the State of Georgia from regulating those surface mining operations.

910.701–14 Availability of Records

The location of records for public review has been changed from the county courthouse to the OSM field office to reflect OSM's intent to open a field office in Georgia near the mining area. Location of records in an OSM office rather than the county courthouse will facilitate timely and consistent placement and maintenance of the files. In addition, OSM personnel will be more readily available to interested parties for assistance in finding information.

Areas Unsuitable for Mining

(Subparts 910.761 through 910.784)

910.761–5 Definitions

The Consolidation Coal Company (Consol) felt that the definition of public road should include the criterion of the public's right to use the road. Consol contends that the regulation is to protect the road and the right the public has to use the road. Therefore, the definition should not include persons that do not have a right to use the road even though they may use it. Further, the cases cited in the preamble deal with criminal actions and personal liability. However, according to Consol, OSM's responsibility just includes protecting the environment as related to coal mining, not protecting the public health and safety related to coal mining, which is the Mine Safety and Health Administration's responsibility.

Despite the comment, a review of Georgia statutes reveals a definition of "public road" in Ga. Code Ann. § 95A–104 which is closely similar to that which was proposed in § 910.761–5. Under the Act, § 505, a State statute which sets more stringent standards cannot be construed as inconsistent with it. In the absence of Federal law (see *Wilson* v. *Omaha Indian Tribe*, 99 S.Ct. 2529 (1979)), the principal basis for interpretating a term is State law. The public road definition established by State statute should be the most assured means of determining whether the public has a right to use a road. Therefore, the definition in the State statute is being adopted as not only consistent with the intent of the Act, but also as the best means of making a determination of the public's right to use a road.

The Illinois State Museum noted that §§ 910.761–11(b) and 910.761–12(e)(1) would contravene the Programmatic Memorandum of Agreement (PMOA) as well as the National Historic Preservation Act (NHPA) Section 106 and 30 CFR 770.12(c) and 30 CFR 786.11(c)(1), which require approval of agencies not only with jurisdiction over cultural resources but also agencies with interest in such resources. The National Park Service (NPS) also felt that the State Historic Preservation Officer should have approval or disapproval authority of permit applications where cultural resources are affected.

Proposed §§ 910.761–11(b) and 910.761–12(e)(1) are taken verbatim from 30 CFR 761.11(c) and 761.12(e)(1), except that the words "or a statutory or regulatory responsibility for" were omitted from proposed § 910.761–12(e)(1). These words were suspended by administrative decision in connection with litigation insofar as they would apply to privately owned places listed on the National Register of Historic Places in addition to publicly-owned places. See 44 FR 67942. These Sections are consistent with 30 CFR 770.12(c) and 30 CFR 786.11(c)(1) which correspond to §§ 910.770–12(c) and 910.786–1(c)(1). OSM feels that the concerns of the Illinois State Museum and NPS are alleviated by § 910.770–12(c) which provides that the permit application be coordinated with other agencies with responsibilities under several enumerated statutes including the National Historic Preservation Act of 1966. Additionally, § 910.786–11(c)(1) provides that written notification be sent to any "* * * governmental agencies with jurisdiction over or an interest in the area of the proposed operations, including * * * historic preservation agencies."

With respect to the commenter's concern that proposed rules 910.761–11(b) and 910.761–12(e)(1) interfere with

the PMOA, OSM will not establish procedural guidelines for the Georgia federal program through a PMOA. We assume the PMOA to which the reader referred is that signed May 23, 1980. That PMOA applies only to approved state regulatory programs, not to federal programs for states. Because of limited coal mining in Georgia, each application for an exploration approval or a mining permit will be handled on a case by case basis in accordance with the procedures set forth under Section 106 of the National Historic Preservation Act (NHPA).

910.761–12 Procedures

The National Park Service (NPS) commented that when cultural resources will be affected by the proposed operation, the regulation should explicitly state that the State Historic Preservation Officer (SHPO) must be forwarded a complete copy of the permit application and that the SHPO must approve the proposed operation.

Proposed regulation 910.786–11(c)(2) requires that all Federal, state or local agencies which may have jurisdiction over any park or historic place in the area be notified of the proposed operation. Proposed operations that will adversely affect any publicly owned park or places include in the National Register of Historic Places must first be approved by the Federal, State or local agency with jurisdiction as provided in 910.786–19(e).

The Illinois State Museum points out that the proposed rules do not provide for field inspections by OSM personnel for those permit areas for which information is complete. As explained above, OSM will follow the procedures prescribed under Section 106 of NHPA on a case by case basis.

910.762–11(6) Criteria for Designating Lands as Unsuitable

A provision is included here which permits the Director to establish additional discretionary criteria for determining whether lands within the State should be designated as unsuitable for mining. The Director's authority is based on 30 CFR 762.12.

910.764–17 Procedures: Hearing Requirements

Section 910.764–17(b)(2) requires the Office to give notice of a hearing to consider a petition to have an area designated as unsuitable for surface coal mining to persons with an ownership or other interest in the area covered by the petition. Language in this Section has been modified to require the Office to give notice by regular mail rather than certified mail. The Office has determined from recent experience that providing notice of a hearing by certified mail is often an enormous burden. The revised rule will still insure that interested citizens will receive adequate notification and relieve the Office of an unwarranted burden.

910.764–19 Procedures: Decision

Section 910.764–19(b) reflects similar modification, requiring the Office to send the final decision on a petition to the petitioner and other parties by regular mail rather than by certified mail.

Permits and Coal Exploration Approvals

(Subparts 910.770 through 910.785)

910.771–25 Permit Fees

Any person interested in applying for a permit should contact the OSM official listed above under FOR FURTHER INFORMATION CONTACT, for information on the fee pending promulgation of a rule setting a fee schedule.

910.776–12 General Requirements: Exploration of More Than 250 Tons

The Consolidation Coal Company (Consol), asserts that the information required under §§ 910.776–12(a)(3), 910.779–12(b), 910.779–24(i), 910.783–12(b), and 910.783–24(i) should be requested by OSM from Federal, State or local cultural and preservation agencies rather than from the operator. The requirement is for all proposed operations to take into account the effect on any site which may be eligible for or listed on the National Register of Historic Places. In addition the NPS maintains that if a cultural resource survey is necessary for the identification process, the OSM, as the regulatory authority, is responsible for conducting the survey.

It is the responsibility of the permit applicant to establish its entitlement to a permit. *See* Sections 102, 507, 508, and, 510 of the Act. As required by Section 106 of the National Historic Preservation Act of 1966, (16 U.S.C. 470f), the Federal agency is responsible for taking into account the effect of the undertaking on those places listed on or eligible for listing on the National Register. OSM is implementing this responsibility by requiring the applicant to identify and describe all such known resources on the site. This is consistent with the Act.

The NPS asserted that a provision should be included which would restrict public dissemination of information identifying historic, archeological or Indian burial site locations if such disclosure might result in vandalism to these sites.

Under the National Historic Preservation Act of 1966, 16 U.S.C. 470a(a)(4), the Secretary may withhold from disclosure information relating to the location of sites or objects listed on the National Register whenever it is determined that disclosure would create a risk of destruction or harm to such sites or objects. This non-disclosure provision was broadened in the amendments to the Act passed on December 12, 1980, Pub. L. 96–515, section 304. Now information concerning sites eligible for inclusion may be withheld.

The NPS comment is well taken. However, the availability of information is dealt with under other regulations, 43 CFR Part 2, implementing the Freedom of Information Act, 5 U.S.C. 552. No revision of the proposed rule to which the comment is addressed, § 910.776–12(b)(2), is being made because the public notice of coal exploration is only to describe the general area, not a specific one on which a determination can be made of whether any historic resource is at risk. Nevertheless, a new subsection, (c), is being added to § 910.776–17 and § 910.786–17 to allow for the withholding of cultural resource information when it is determined that its disclosure would create a substantial risk of harm, theft or destruction to such resources.

910.776–13 Applications: Approval or Disapproval of Explorations of More Than 250 Tons

The Georgia Department of Natural Resources (DNR) believed that the references to "adverse effect" to cultural resources used throughout the regulations were undefined because the steps leading to the determination of "adverse effect" are not described and because it appears that an adverse effect to cultural resources would precipitate automatic disapproval of the exploration. The DNR maintained that compliance with the regulations of the Advisory Council on Historic Preservation (36 CFR Part 800) does not necessarily mean permit disapproval even if an adverse effect would result.

The Office does not believe its procedures for compliance with the, National Historic Preservation Act or the regulations of the Advisory Council on Historic Preservation should be included in the Georgia program regulations. The Office recognizes that a finding of adverse effect would not automatically cause permit disapproval but believes the proposed language properly shows that the Office has discretion in this regard. However, a minor editorial change has been made to the final rules; regulatory authority was changed to Office to clarify that the OSM is responsible.

The DNR also stressed OSM's responsibility for addressing existing mines and accompanying resources as possibly eligible for the National Register.

The Office recognizes this as its responsibility under the National Historic Preservation Act. The Office, however, does not believe its compliance procedures should be detailed in these rules.

910.779–12 General Environmental Resources Information

The Advisory Council on Historic Preservation, the Illinois State Museum, the Georgia Department of Natural Resources, and the National Park Service (NPS) commented that the phrase "eligible for listing on" was not included in §§ 910.779–12(b), 910.779–24(i), 910.783–12(b), and 910.783–24(i). This omission is contrary to OSM's discussion of suspended regulations in the preamble of the Georgia regulations. The Illinois State Museum, the Council, and NPS feel this omission would impair OSM's responsibility in implementing Section 106 of the National Historic Preservation Act of 1966 which requires that each Federal agency head take into account the effects of project approval on properties eligible for or listed on the National Register of Historic Places.

The Georgia DNR further noted that "eligible" listings are published by the Federal Register as well as listed properties, which makes the listing an available resource. NPS, in addition, felt that the phrase should also be included in 30 CFR 910.761–11(b) and 910.776–12(3).

By administrative decision as a result of the permanent program regulations litigation, the phrase "or eligible for listing on" was suspended from the national permanent program, as published in the Federal Register (44 FR 67942). As discussed in the preamble to the Georgia rules the phrase was to be reproposed in §§ 910.776–12(a)(3), 910.779–12(b), 910.779–24(i), 910.783–12(b) and 910.783–24(i). However, it was only reproposed in § 910.776–12(a)(3). This oversight has been corrected for the final rules and the phrase has been inserted in all those Sections.

NPS, in addition, felt that the phrase should also be included in 30 CFR 910.761–11(b) and 910.776–12(3). The Office assumes that NPS' reference to 910.776–12(3) was an intended reference to 30 CFR 910.776–12(a)(3). The phrase is included in that section. The phrase is not proposed in Section 910.761–11(b) because the Office believes that the SMCRA does not provide authority for prohibiting mining on places "eligible for listing" on the National Register of Historic Places.

The Georgia DNR inquired whether cultural resources identification is necessary for both exploration and coal mining operation activities. Identification of cultural and historical resources is required for permit applications for surface coal mining and reclamation operations and for approval of exploration activities in which more than two hundred fifty tons of coal will be removed. Identification of cultural and historical resources is not required for exploration activities during which less than two hundred fifty tons of coal will be removed. Coal exploration activities removing less than two hundred fifty tons are authorized by Section 512 of SMCRA and do not require approval.

Identification of cultural and historic resources is a required part of the application for a mining permit or an application for exploratory operations affecting more than 250 tons. Exploration requirements relative to cultural and historic resources are covered in §§ 910.776–12(a)(3)(i) and 910.776–13(b)(3). Surface and underground mining requirements relative to cultural and historic resources are covered in §§ 910.779–12(b) and 910.783–12(b) respectively.

NPS also suggested that information on cultural resources which does not meet national criteria should be included in the permit application. This comment also applies to 30 CFR 910.783–12.

The Office believes this suggested change would go beyond the authorization of SMCRA and the National Historic Preservation Act and would not be consistent with the language in the national permanent program regulations published March 13, 1979.

910.779–20 Fish and Wildlife Resources Information

910.780–16 Fish and Wildlife Plan

Consol claims that the information requirements of §§ 910.779–20, 910.780–16, 910.783–20, and 910.784–21 concerning fish and wildlife data should be obtained by OSM and not the permit applicant. These sections require the applicant to submit a study of fish and wildlife, and a fish and wildlife / reclamation plan. Consol points out that these provisions were remanded by court decision in the national permanent program litigation and should not be included in the Georgia Federal program.

As discussed in the comment under Section 910.776–12 above, it is OSM's position that it is the permit applicant's burden and responsibility to establish its entitlement to a permit.

OSM is proposing these requirements to comply with other applicable Federal statutes, including the Fish and Wildlife Coordination Act, as amended, 16 U.S.C. 661–666c, and the Endangered Species Act, as amended, 16 U.S.C. 1531. Authority for the fish and wildlife provisions is found in Section 702 of SMCRA.

The Georgia DNR requested notification of discoveries of protected species of plants or wildlife by permit applicants. Also, the State wishes to be notified if ginseng is identified on a permit area.

The Office will notify the DNR of any protected species of plants or wildlife discovered by applicants for permits. The Georgia Ginseng Protection Act of 1979 set forth requirements for harvesting, exporting, and registering ginseng dealers. Applicants for permits should be aware of this law and include the presence of ginseng in the permit area as required by § 910.780–16.

910.780–21 Reclamation Plan: Protection of Hydrologic Balance

The Tennessee Valley Authority (TVA) questioned the omission in Section 910.780–21 of requiring the plan for treatment of discharges to meet the standards of 30 CFR 910.816–21, or other applicable State and Federal laws, whichever is more stringent. This comment would also apply to 30 CFR 910.784–14.

The reference to other applicable State and Federal laws was omitted as no such laws were identified which contained standards more stringent than those set forth in 30 CFR 910.816–12. However, this regulation has been revised to provide that the plan for treatment set limits on pollutant discharges according to the more stringent of either 30 CFR 910.816–48 or other applicable State and Federal laws. In the event that more stringent State or Federal laws regarding pollutant discharges become applicable, the more stringent standards would apply.

910.780–31 Protection of Public Parks and Historic Places

The Advisory Council on Historic Preservation commented that it is their understanding from a meeting on October 2, 1980, with OSM's Office of State and Federal Programs that OSM will assume direct responsibility for compliance with Section 106 of the National Historic Preservation Act (16

U.S.C. Sec. 470f, as amended, 80 Stat. 1320). In addition, based on information furnished by the applicant OSM would identify all historic and cultural properties within the area of potential environmental impact and consider any potential effects to eligible or listed properties in its review of permit applications, as required by 36 CFR Part 800. The Council commented that it assumes that since the program is Federally administered by OSM, OSM will abide by the Programmatic Memorandum of Agreement (PMOA) of May 23, 1980, between the Council, OSM, the Bureau of Land Management, the Geological Survey, and the National Conference of State Historic Preservation Officers.

As stated in the proposed rules, 30 CFR 910.770–12(c), the Federal program will provide for the coordination of review and issuance of permits with the applicable requirements of the National Historic Preservation Act of 1966. However, as stated in the preamble to the proposed rulemaking, OSM will not establish guidelines for Georgia through a PMOA. Instead, because of limited coal mining in Georgia, each exploration and application for a mining permit will be handled on a case-by-case basis. The Council concurs with this policy and no change in the regulation is needed.

910.783–25 Cross Section Maps and Plans

Consol asserts the map and plan information requirements concerning coal seams and overburden in § 910.783–25 (c), (h) and (i) are not necessary to make a determination regarding protection of the hydrologic balance. Consol claims that detailed geologic descriptions of the overburden are only required for those areas where the overburden will be removed down to the level of the coal seam (30 CFR 910.783–14(a)(1)). This is not the case where the possibility of subsidence is a concern. A map requirement for a coal seam and overburden description is not necessary for determination of waste handling procedures. In addition, in Consol's view the location of all existing waste disposal areas plotted on a map is not necessary to determine whether the location chosen for waste disposal is the best, if indeed waste will be disposed of in the permit area. If run of mine coal is to be transported to a processing facility at a location other than the mine site, information on existing waste disposal sites in the permit area is of no value whatsoever.

The office believes that the waste-handling mapping requirements found in 30 CFR 910.783–25 (c) and (i) are necessary to ensure that waste handling associated with underground mines is well planned and to provide uninterrupted use of existing pollution control facilities located near the underground mining operations. As discussed in the preamble to the permanent program (44 FR 15045, 15069), knowledge of the nature of the coal seam, the overburden and underlying strata and the location of waste, spoil and associated facilities is necessary to evaluate the impacts that the proposed operation will have on the surface.

The information requested in 30 CFR 910.783–25 (c) and (h) will help identify measures to mitigate the effects of acid mine drainage and other pollutants from underground mines. Water infiltration into the mine through the mine roof from existing mine areas, overlying strata, boreholes and fracture zones may react with air and pyrite within the mines to cause acid and other pollutant drainage. Thus, knowledge of the nature, depth and thickness of the overburden and of the location of existing or previously mined areas will aid the office in determining, for example, how to reduce fracturing in the overlying strata. The information required by § 910.783–25 (c) and (h) will thus serve to indicate whether the operator can comply with Section 516(b)(9) of the Act, 30 U.S.C. 1266(b)(9), which requires the minimization of disturbances to the hydrologic balance by, among other things, avoidance of acid or other toxic mine drainage, and with 30 CFR 910.817–41 through 910.17–55, which set forth the performance standards designed to protect the hydrologic balance.

Finally, the information required by 30 CFR 910.783–25 is necessary for the Office to evaluate fully the applicant's ability to comply with the subsidence performance standards in 30 CFR 910.817–121. The long-range effects of past underground mining and the geology and technology of proposed mine sites must be considered in evaluating future mining activities. The Office must have at its disposal data on weakened bedrock, potentially deformed coal and overburden rock tensions, and tilt and fault zones susceptible to collapse. Discussion of the need for this information is presented in the preamble to the subsidence performance standards (44 FR 15273).

Bond and Insurance Requirements

(Subpart 910.800 through 910.805)

910.807–11 Procedures for Seeking Release of Performance Bond

The U.S. Forest Service recommended that provisions be made for early release of performance bonds on increments within research plots so that responsibility for the research plot could be assumed by an appropriate Federal agency.

The Office is currently reviewing a petition for rule change to the permanent regulatory program on this subject (45 FR 41166). The Office has elected not to change the Georgia rule until after the proposed rule change to the national regulations is finally considered.

910.808–14 Determination of Forfeiture Amount

Consol objects to the inclusion of the provision in 910.808–14(b) which allows bond forfeiture funds to include expenses for administration associated with the conduct of reclamation. The regulation states that an amount sufficient to "* * * offset costs and administrative expenses associated with the conduct of reclamation * * *" will be put in an escrow account by the Office. This provision, Consol claims, is contrary to the court decision which states that "Nowhere does the Act authorize use of the excess bond to pay the administration costs of part of the State program" (Dist. Ct. opinion, February 26, 1980, at pp. 44–45).

The Act authorizes the bond to be "sufficient to assure the completion of the reclamation plan." Section 509(a) includes contracting expenses that OSM may incur in order for the reclamation to be performed by a contractor.

Future rulemaking will be proposed in order that the portion of the bond that is not needed for contract completion of the reclamation plan, including any administrative contracting costs, will be returned to the permittee. This is consistent with the National Coal Association's contention in the litigation that the unused portion of the bond should be returned to the operator. Covering administrative costs is consistent with § 805.11(a)(2) of the national permanent program regulations and Section 509(a) of the Act.

Performance Standards

(Subparts 910.815 through 910.838)

910.816–41 Hydrologic Balance: General Requirements

The Georgia DNR requested OSM to reevaluate its view that no regionally significant water quality problems have been identified which would require OSM to set forth additional water quality standards. The DNR was especially concerned with the influence of mining activities on the water quality of the Little River and Lake Lahusage.

The Office agrees with the concept of protecting valuable natural resources, such as Lake Lahusage, and that potential damage to this lake might be given consideration or attention on individual permit applications because of its unique or recreational qualities or other factors. However, no special condition concerning the mentioned parameters have been identified which would indicate this lake to be more sensitive or susceptible than other similar lakes.

The information and planning requirements necessary to obtain a surface coal mining permit are expected to insure that OSM is aware of any expected impact of coal mining activities on the river and lake in question. Sections 910.816–41 and § 910.817–41 require surface and underground coal mining activities to be planned to mimimize water pollution in addition to meeting state and federal effluent limitations. These regulations will provide authority for OSM to consider the water quality of Lake Lahusage in reviewing an applicant's plan for protecting the hydrologic balance.

910.816–42 Hydrologic Balance: Water Quality Standards and Effluent Limitations

The U.S. Environmental Protection Agency (U.S. EPA) and TVA noted that a table has been omitted immediately following § 910.816–42(a)(3)(ii). The Office has included this table setting forth effluent limitations in its final rules.

The first sentence, § 910.816–42(b), has been reworded to omit redundant language in response to a comment by the U.S. EPA.

910.816–46 Hydrologic Balance: Sedimentation Ponds

The Tennessee Valley Authority (TVA) commented that the term "adequate" to describe the necessary minimum storage volume of sedimentation ponds could lead to inconsistencies in enforcement. In addition, the requirement that "sediment shall be removed from sedimentation ponds," found in paragraph (h), is vague. TVA feels the more detailed requirements found in the permanent program regulations should be used.

30 CFR 816.46 (b) and (h), the language on which the proposed rules were based, were suspended by court order. In order for OSM to comply with the court order, the Georgia rules require that sedimentation ponds provide an adequate minimum sediment storage volume and that sediment be removed from the pond. Determination of adequacy will be made on a site-specific basis. These Sections are to be used in the interim until OSM can amend the permanent program regulations and, subsequently, the Georgia rules in order to establish a more detailed requirement.

910.816–48 Hydrologic Balance: Acid Forming and Toxic Forming Spoil

TVA noticed an erroneous citation within § 910.816–48(b). This citation has been corrected from § 910.86–103 to § 910.816–103.

910.816–71 Disposal of Excess Spoil: General Requirements

The U.S. EPA suggested that the use of the word "degraded" in § 910.816–71(a), in reference to both surface and ground waters, is ambigous.

The language in this rule is the same as that found in the national permanent program and the Office does not beleive a revision for the Georgia program is necessary. The word "degrade" is intended to be broad in scope and is synonymous with "adversely affect" as it is used in other regulations such as 30 CFR 910.816–48.

910.816–97 Protection of Fish, Wildlife, and Related Environmental Values

The Georgia DNR requested information from OSM in the event of a fish kill so that they may recover damages from the responsible parties.

OSM will provide information concerning any fish kills which are alleged to be the result of surface coal mining operations to the Environmental Protection Division of the Georgia Department of Natural Resources.

910.816–111 Revegetation: General Requirements

TVA recommended that § 910.816–111 be modified to include more specific requirements for preparation, mixture, and seed requirements for revegetation.

30 CFR 816.111 which provides the authority for this section, does not require specifications for preparation, mixture, and seed requirements. The suggested change has not been included as the performance standards set forth in § 910.816–111 are sufficient to achieve the objectives of the regulations and to allow mine operators flexibility in achieving revegetation standards. OSM will recommend methods for achieving revegetation standards.

910.816–116 Revegetation: Standards for Success

The U.S. Forest Service suggested revising § 910.816–116 to add a standards for success of revegetation on areas planted with a mixture of herbaceous and woody species.

Section 910.816–116(b)(1) provides for measurement of ground cover and productivity by comparison with approved reference areas or by standards set forth in technical guides approved by OSM. The standards suggested by the Forest Service are already incorporated in § 910.816–116(d)(2) as an alternative standard for measuring the success of revegetation on certain small minesites. The requested change was rejected. Paragraphs (b)(1) and (d)(2) insure adequate standards for success of revegetation on areas planted with herbaceous and woody species.

910.816–117 Revegetation: Tree and Shrub Stocking of Forest Land

The Georgia DNR Disagrees with the requirement to establish a stocking equal to or greater than 450 trees or shrubs per acre. The DNR maintains that such a requirement is not applicable to the eastern United States where, under wet, humid conditions, a greater stocking of forest stands is desirable.

The Office agrees that stocking greater than 450 trees/acre may be desirable. However, the minimum requirements as set forth in § 910.816–117(b) are consistent with 30 CFR 816.117(b) and are considered adequate to accomplish soil stabilization and other reclamation requirements. Therefore, no change is needed. Permittees will also establish successful revegetation in accordance with § 910.816–116(b)(2)(iv) which provides for comparison of the permittee's revegetation efforts with an undisturbed reference area.

30 CFR 910.817–101(b)(1) and 910.817–102 Backfilling and grading

Consol asserted that flexibility should be incorporated in the standards for approximate original contour (AOC) for surface disturbance areas of any underground mine, including those which will begin operation in the future. Consol claims that an underground mine will generally be in existence for several decades, during which surface disturbance areas may become naturally vegetated and stabilized. Plans can still be proposed in permit applications for new mines to return to AOC, but if at the end of the mine's life any areas meet the criteria of § 910.817–102(a)(3) (i) through (iii) the operator should be granted the same flexibility that may be applied to existing underground mines. This, Consol claims, is in accordance with the District Court opinion of May 26, 1980.

OSM feels that the proposed language addresses Consol's concern. The language speaks in general terms of underground mines. This means all underground mines. The regulation does not differentiate between existing mines and mines which may not begin operation until some future date. Thus, the flexibility suggested is contained in regulations.

30 CFR 910.816–133 Postmining land use

The term "range" has been deleted from § 910.816–133(c)(9) on proposals for changing premining land uses because there is no range land in the State.

Several changes have been made in the rules as the result of amendments in the permanent program rules on which the Georgia program rules are based. Public comment was afforded on those revisions. Therefore, separate comment now is considered unnecessary. The changes are as follows: (1) § 910.785–17 which establishes a grandfather provision for prune farmlands is revised to incorporate the final rulemaking published on September 29, 1981, 46 FR 47720; and (2) §§ 910.816–71 and 910.817–71 are revised to adopt the rulemaking of July 17, 1981, 46 FR 37232, which added a subsection (o) to allow for the disposal of excess spoil from an upper bench to a lower one by gravity transport.

Dated: February 5, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

Part 910 is added to read as follows:

PART 910—GEORGIA

Sec.

910.1 Scope.

Subpart 910.701—General

910.701–1 Scope.
910.701–3 Authority.
910.701–4 Responsibility.
910.701–5 Definitions.
910.701–11 Applicability.
910.701–12 Petitions to initiate rulemaking.
910.701–13 Notice of citizen suits.
910.701–14 Availability of records.
910.701–15 Computation of time.
910.701–16 Termination of program.

Subpart 910.707—Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction

910.707–1 Scope.
910.707–5 Definitions.
910.707–11 Applicability.
910.707–12 Information to be maintained on the site.

Subpart 910.761—Areas Designated by Act of Congress

910.761–4 Responsibility.
910.761–5 Definitions.

Sec.

910.761–11 Areas where mining is prohibited or limited.
910.761–12 Procedures.

Subpart 910.762—Criteria for Designating Areas as Unsuitable for Surface Coal Mining Operations

910.762–4 Responsibility.
910.762–5 Definitions.
910.762–11 Criteria for designating lands as unsuitable.
910.762–13 Land exempt from designation as unsuitable for surface coal mining operations.
910.762–14 Exploration of land designated as unsuitable for surface coal mining operations.

Subpart 910.764—Process for Designating Areas Unsuitable for Surface Coal Mining Operations

910.764–3 Authority.
910.764–13 Procedures: Petitions.
910.764–15 Procedures: Initial processing, recordkeeping, and notification requirements.
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Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

§ 910.1 Scope.

This Part contains all rules applicable only within Georgia that have been adopted under the Surface Mining Control and Reclamation Act of 1977.

Subpart 910.701—General

§ 910.701–1 Scope.

(a) Subparts 910.701–910.848 set forth and identify the Federal Program applicable to all coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in Georgia.

(b) The following regulations apply to the Federal program in the State of Georgia:

(1) Subparts 910.760 through 910.764 for areas unsuitable for surface coal mining operations and the process for designating these lands or withdrawing the designation;

(2) Subparts 910.770 through 910.795 on the process for application, approval, denial, revision, and renewal of permits for surface coal mining and reclamation operations, including the small operator assistance program, requirements for special categories of these operations, and requirements for coal exploration;

(3) Subparts 910.800 through 910.808 on public liability insurance and performance bonds or other assurances of performance for surface coal mining and reclamation operations;

(4) Subparts 910.815 through 910.828 on performance standards which apply to coal exploration, surface coal mining and reclamation operations, and special categories of these operations;

(5) Subparts 910.842 through 910.845 on inspection and enforcement responsibilities and civil penalties; and

(6) Subpart 910.850 on the training, examination, and certification of blasters.

(7) 30 CFR Subchapter P on protection of employees.

(8) 30 CFR Part 706 on restriction of financial interests of Federal employees.

§ 910.701-3 Authority.

(a) The Secretary is required by Section 504(a) of the Surface Mining Control and Reclamation Act (the Act) to prepare, promulgate and implement a Federal program for the State of Georgia because the State of Georgia failed to submit a program covering surface coal mining and reclamation operations by March 3, 1980, in accordance with Section 504(a) of the Act, 30 CFR Part 731, and the July 25, 1979, and August 21, 1979, opinions of the District Court for the District of Columbia *In Re: Permanent Surface Mining Regulation Litigation.*

§ 910.701-4 Responsibility.

The Director of the Office of Surface Mining has primary responsibility for the regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in the State of Georgia in accordance with Section 504 of the Act and 30 CFR Part 736. The Director has responsibility for review of and decisions on permits and bonding for surface coal mining and reclamation operations, approval of coal exploration which substantially disturbs the natural land surface and removes more than 250 tons of coal from the earth in any one location, inspection and enforcement of coal exploration and surface coal mining and reclamation operations for compliance with permits and exploration approvals issued under this program, except where the primary responsibility has been retained by the Secretary as specified in this program. The Director may delegate all or any part of his responsibilities to a Regional Director or other official of the Office of Surface Mining except where the Director is specifically identified as the responsible official in this program.

§ 910.701-5 Definitions.

As used in this Part, the following terms have the specified meanings, except where otherwise indicated:

Acid drainage means water with a pH of less than 6.0 and in which total acidity exceeds total alkalinity, discharged from an active, inactive or abandoned surface coal mine and reclamation operation or from an area affected by surface coal mining and reclamation operations.

Acid-forming materials means earth materials that contain sulfide minerals or other materials which, if exposed to air, water, or weathering processes, form acids that may create acid drainage.

Act means the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87).

Adjacent area means land located outside the permit area, where air, surface or ground water, fish, wildlife, vegetation or other resources protected by the Act may be adversely impacted by surface coal mining and reclamation operations.

Affected area means, with respect to surface mining activities, any land or water upon or in which those activities are conducted or located. With respect to underground mining activities, *affected area* means: (a) Any water or surface land upon or in which those activities are conducted or located; and (b) land or water which is located above underground mine workings.

Agricultural use means the use of any tract of land for the production of animal or vegetable life. The uses include, but are not limited to, the pasturing, grazing, and watering of livestock, and the cropping, cultivation, and harvesting of plants.

Applicant means any person seeking a permit from the Office to conduct surface coal mining and reclamation operations pursuant to this program.

Approximate original contour means that surface configuration achieved by backfilling and grading of the mined areas so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls, spoil piles and coal refuse piles eliminated. Permanent water impoundments may be permitted where the Office has determined that they comply with 30 CFR 910.816-49 and 910.816-56, 910.816-133 or 910.817-49, 910.817-56, and 910.817-133.

Aquifer means a zone, stratum, or group of strata that can store and transmit water in sufficient quantities for a specific use.

Auger mining means a method of mining coal at a cliff or highwall by drilling holes into an exposed coal seam from the highwall and transporting the coal along an auger bit to the surface.

Best technology currently available means equipment, devices, systems, methods, or techniques which will (a), prevent, to the extent possible, additional contributions of suspended solids to stream flow or runoff outside the permit area, but in no event result in contributions of suspended solids in excess of requirements set by applicable State or Federal laws; and (b) minimize, to the extent possible, disturbances and adverse impacts on fish, wildlife and related environmental values, and achieve enhancement of those resources where practicable. The term includes equipment, devices, systems, methods, or techniques which are currently available anywhere as determined by the Director, even if they are not in routine use. The term includes, but is not limited to, construction practices, siting requirements, vegetative selection and planting requirements, animal stocking requirements, scheduling of activities and design of sedimentation ponds in accordance with 30 CFR 910.816 and 910.817. Within the constraints of this program, the Office shall have the discretion to determine the best technology currently available on a case-by-case basis.

Coal means combustible carbonaceous rock, classified as anthracite, bituminous, subbituminous, or lignite by ASTM Standard D 388-77.

Coal classifications are published by the American Society of Testing and Materials under the title, *Standard Specification for Classification of Coals by Rank*, ASTM D 388-77, on pages 220 through 224. Table 1 which classifies the coal by rank is presented on page 223. This publication is hereby incorporated by reference as it exists on the date of adoption of these regulations. Notices of changes made to this publication will be periodically published by the Office of Surface Mining in the **Federal Register**. This ASTM Standard is on file and available for inspection at the OSM Office, U.S. Department of the Interior, South Interior Building, Washington, D.C. 20240, at each OSM Regional Office, District Office, and Field Office. Copies of this publication may also be obtained by writing to the above locations. A copy of this publication will also be on file for public inspection at the **Federal Register** Library, 1100 L St. NW., Washington, D.C.

Coal exploration means the field gathering of: (a) Surface or subsurface geologic, physical, or chemical data by mapping, trenching, drilling, geophysical, or other techniques necessary to determine the quality and quantity of overburden and coal of an area; or (b) the gathering of environmental data to establish the conditions of an area before beginning surface coal mining and reclamation operations under the requirements of this Part.

Coal processing plant means a collection of facilities where run-of-the-mine coal is subjected to chemical or physical processing and separated from its impurities. The processing plant may consist of, but need not be limited to, the following facilities: loading facilities; storage and stockpile facilities; sheds, shops and other buildings; water treatment and water storage facilities; settling basins and impoundments, coal processing and other waste disposal areas; roads, railroads and other transport facilities.

Coal processing waste means earth materials which are combustible, physically unstable, or acid-forming or toxic-forming, which are wasted or otherwise separated from product coal, and slurried or otherwise transported from coal preparation plants, after physical or chemical processing, cleaning, or concentrating of coal.

Combustible material means organic material that is capable of burning, either by fire or through oxidation, accompanied by the evolution of heat and a significant temperature rise.

Compaction means increasing the density of a material by reducing the voids between the particles and is generally accomplished by controlled placement and mechanical effort such as from repeated application of wheel, track, or roller loads from heavy equipment.

Cropland means land used for the production of adopted crops for harvest, alone or in a rotation with grasses and legumes, and includes row crops, small grain crops, hay crops, nursery crops, orchard crops, and other similar specialty crops.

Department means the Department of the Interior.

Director means the Director, Office of Surface Mining Reclamation and Enforcement, or the Director's representative.

Disturbed area means an area where vegetation, topsoil, or overburden is removed or upon which topsoil, spoil, coal processing waste, underground development waste, or noncoal waste is placed by surface coal mining operations. Those areas are classified as disturbed until reclamation is complete and the performance bond or other assurance of performance required by Subparts 910.800 through 910.808 of this Part is released.

Diversion means a channel, embankment, or other man-made structure constructed to divert water from one area to another.

Downslope means the land surface between the projected outcrop of the lowest coalbed being mined along each highwall and a valley floor.

Embankment means an artificial deposit of material that is raised above the natural surface of the land and used to contain, divert, or store water, support roads or railways, or for other similar purposes.

Ephemeral stream means a stream which flows only in direct response to precipitation in the immediate watershed or in response to the melting of a cover of snow and ice, and which has a channel bottom that is always above the local water table.

Existing structure means a structure or facility used in connection with or to facilitate surface coal mining and reclamation operations for which construction begins prior to the implementation of this Federal program.

Federal lands means any land, including mineral interests, owned by the United States, without regard to how the United States acquired ownership of the lands or which agency manages the lands. It does not include Indian lands. However, lands or mineral interests east of the 100th meridian west longitude owned by the United States and entrusted to or managed by the Tennessee Valley Authority are not subject to Sections 714 (surface owner protection) and 715 (Federal lessee protection) of the Act.

Federal lands program means a program established by the Secretary pursuant to Section 523 of the Act to regulate surface coal mining and reclamation operations on Federal lands.

Federal program means a program established by the Secretary pursuant to Section 504 of the Act to regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands within a State in accordance with the Act and 30 CFR Chapter VII.

Fugitive dust means that particulate matter not emitted from a duct or stack which becomes airborne due to the forces of wind or surface coal mining and reclamation operations or both. During surface coal mining and reclamation operations it may include emissions from haul roads; wind erosion of exposed surfaces, storage piles, and spoil piles; reclamation operations; and other activities in which material is either removed, stored, transported, or redistributed.

Ground water means subsurface water that fills available openings in rock or soil materials to the extent that they are considered water saturated.

Half-shrub means a perennial plant with a woody base whose annually produced stems die back each year.

Head-of-hollow fill means a fill structure consisting of any material, other than coal processing waste and organic material, placed in the uppermost reaches of a hollow where side slopes of the existing hollow measured at the steepest point are greater than 20° or the average slope of the profile of the hollow from the toe of the fill to the top of the fill is greater than 10°. In fills with less than 250,000 cubic yards of material, associated with contour mining, the top surface of the fill will be at the elevation of the coal seam. In all other head-of-hollow fills, the top surface of the fill, when completed, is at approximately the same elevation as the adjacent ridge line, and no significant area of natural drainage occurs above the fill draining into the fill area.

Highwall means the face of exposed overburden and coal in an open cut of a surface coal mining activity or for entry to underground mining activities.

Historically used for cropland means (a) lands that have been used for cropland for any 5 years or more out of the 10 years immediately preceding the acquisition, including purchase, lease, or option, of the land for the purpose of conducting or allowing through resale, lease or option the conduct of surface coal mining and reclamation operations; (b) lands that the Office determines, on the basis of additional cropland history of the surrounding lands and the lands under consideration, that the permit area is clearly cropland but falls outside the specific 5-years-in-10 criterion, in which case the regulations for prime farmland may be applied to include more years of cropland history only to increase the prime farmland acreage to be preserved; or (c) lands that would likely have been used as cropland for any 5 out of the last 10 years, immediately preceding such acquisition but for the same fact of ownership or control of the land unrelated to the productivity of the land.

Hydrologic balance means the relationship between the quality and quantity of water inflow to, water outflow from, and water storage in a hydrologic unit such as a drainage basin, aquifer, soil zone, lake, or reservoir. It encompasses the dynamic

relationships among precipitation, runoff, evaporation, and changes in ground and surface water storage.

Hydrologic regime means the entire state of water movement in a given area. It is a function of the climate and includes the phenomena by which water first occurs as atmospheric water vapor, passes into a liquid or solid form, falls as precipitation, moves along or into the ground surface, and returns to the atmosphere as vapor by means of evaporation and transpiration.

Imminent danger to the health and safety of the public means the existence of any condition or practice, or any violation of a permit or other requirements of the Act in a surface coal mining and reclamation operation, which could reasonably be expected to cause substantial physical harm to persons outside the permit area before the condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same condition or practice giving rise to the peril, would avoid exposure to the danger during the time necessary for abatement.

Impoundment means a closed basin, naturally formed or artificially built, which is dammed or excavated for the retention of water, sediment, or waste.

In situ processes means activities conducted on the surface or underground in connection with in-place distillation, retorting, leaching, or other chemical or physical processing of coal. The term includes, but is not limited to, in situ gasification, in situ leaching, slurry mining, solution mining, borehole mining, and fluid recovery mining.

Indian lands means all lands, including mineral interests, within the exterior boundaries of any Federal Indian reservation, notwithstanding the issuance of any patent, and including rights-of-way, and all lands including mineral interests held in trust for or supervised by an Indian tribe.

Intermittent stream means—

(a) A stream or reach of a stream that drains a watershed of at least one square mile, or

(b) A stream or reach of a stream that is below the local water table for at least some part of the year, and obtains its flow from both surface runoff and ground water discharge.

Land use means specific uses or management-related activities, rather than the vegetation or cover of the land. Land uses may be identified in combination when joint or seasonal uses occur. Changes of land use or uses from one of the following categories to another shall be considered as a change to an alternative land use which is subject to approval by the Office.

(a) *Cropland* means land used for the production of adapted crops for harvest, alone or in a rotation with grasses and legumes, and includes row crops, small grain crops, hay crops, nursery crops, orchard crops, and other similar specialty crops. Land used for facilities in support of cropland farming operations which is adjacent to or an integral part of these operations is also included for purposes of these land use categories.

(b) *Pastureland or land occasionally cut for hay.* Land used primarily for the long-term production of adapted, domesticated forage plants to be grazed by livestock or occasionally cut and cured for livestock feed. Land used for facilities in support of pastureland or land occasionally cut for hay which is adjacent to or an integral part of these operations is also included.

(c) *Grazingland.* Includes both grasslands and forest lands where the indigenous vegetation is actively managed for grazing, browsing, or occasional hay production. Land used for facilities in support of ranching operations which are adjacent to or an integral part of these operations is also included.

(d) *Forestry.* Land used or managed for the long-term production of wood, wood fiber, or wood derived products. Land used for facilities in support of forest harvest and management operations which is adjacent to or an integral part of these operations is also included.

(e) *Residential.* Includes single- and multiple-family housing, mobile home parks, and other residential lodgings. Land used for facilities in support of residential operations which is adjacent to or an integral part of these operations is also included. Support facilities include, but are not limited to, vehicle parking and open space that directly relate to the residential use.

(f) *Industrial/Commercial.* Land used for—

(1) Extraction or transformation of materials for fabrication of products, wholesaling of products or for long-term storage of products. This includes all heavy and light manufacturing facilities such as lumber and wood processing, chemical manufacturing, petroleum refining, and fabricated metal products manufacture. Land used for facilities in support of these operations which is adjacent to or an integral part of that operation is also included. Support facilities include, but are not limited to, all rail, road, and other transportation facilities.

(2) Retail or trade of goods or services, including hotels, motels, stores, restaurants, and other commercial establishments. Land used for facilities in support of commercial operations which is adjacent to or an intergral part of these operations is also included. Support facilities include, but are not limited to, parking, storage or shipping facilities.

(g) *Recreation.* Land used for public or private leisure-time use, including developed recreation facilities such as parks, camps, and amusement areas, as well as areas for less intensive uses such as hiking, canoeing, and other undeveloped recreational uses.

(h) *Fish and wildlife habitat.* Land dedicated wholly or partially to the production, protection or management of species of fish or wildlife.

(i) *Developed water resources.* Includes land used for storing water for beneficial uses such as stockponds, irrigation, fire protection, flood control, and water supply.

(j) *Undeveloped land or no current use or land management.* Land that is undeveloped or, if previously developed, land that has been allowed to return naturally to an undeveloped state or has been allowed to return to forest through natural succession.

Moist bulk density means the weight of soil (oven dry) per unit volume. Volume is measured when the soil is at field moisture capacity (⅓ bar moisture tension). Weight is determined after drying the soil at 105°C.

Mulch means vegetation residues or other suitable materials that aid in soil stabilization and soil moisture conservation, thus providing micro-climatic conditions suitable for germination and growth.

Noxious plants means species that have been included in the "Noxious Weed List" set forth in regulation 4 of the Georgia Seed Laws and Rules and Regulations.

Office means the Office of Surface Mining Reclamation and Enforcement established under Title II of the Act.

Operator means any person engaged in coal mining who removes or intends to remove more than 250 tons of coal from the earth or from coal refuse piles by mining within 12 consecutive calendar months in any one location.

Outslope means the face of the spoil or embankment sloping downward from the highest elevation to the toe.

Overburden means material of any nature, consolidated or unconsolidated, that overlies a coal deposit, excluding topsoil.

Perennial stream means a stream or part of a stream that flows continuously

during all of the calendar year as a result of groundwater discharge or surface runoff. The term does not include intermittent stream or ephemeral stream.

Performance bond means a surety bond, collateral bond or self-bond or a combination thereof, by which a permittee assures faithful performance of all the requirements of this part and the requirements of the permit and reclamation plan.

Permanent diversion means a diversion remaining after surface coal mining and reclamation operations are completed which has been approved for retention by the Office and other appropriate State and Federal agencies including but not limited to Corps of Engineers and the U.S. Fish and Wildlife Service.

Permit means a permit to conduct surface coal mining and reclamation operations issued by the Office pursuant to this part. For purposes of the Federal lands program, permit means the document issued authorizing surface coal mining and reclamation operations on Federal lands, after approval of a mining plan by the Secretary.

Permit area means the area of land and water within the boundaries of the permit which are designated on the permit application maps, as approved by the Office. This area shall include, at a minimum, all areas which are or will be affected by the surface coal mining and reclamation operations during the term of the permit.

Permittee means a person holding or required by this Part to hold a permit to conduct surface coal mining and reclamation operations issued by the Office pursuant to this part.

Person means an individual, Indian tribe when conducting surface coal mining reclamation operations on non-Indian lands, partnership, association, society, joint venture, joint stock company, firm, company, corporation, cooperative or other business organization and any agency, unit, or instrumentality of Federal, State or local government including any publicly owned utility or publicly owned corporation of Federal, State or local government.

Person having an interest which is or may be adversely affected or person with a valid legal interest shall include any person—

(a) Who uses any resource of economic, recreational, esthetic, or environmental value that may be adversely affected by coal exploration or surface coal mining and reclamation operations or any related action of the Secretary, or

(b) Whose property is or may be adversely affected by coal exploration or surface coal mining and reclamation operations or any related action of the Secretary.

Precipitation event means a quantity of water resulting from drizzle, rain, snow, sleet, or hail in a limited period of time. It may be expressed in terms of recurrence interval. As used in these regulations, *precipitation event* also includes that quantity of water emanating from snow cover as snowmelt in a limited period of time.

Prime farmland means those lands which are defined by the Secretary of Agriculture in 7 CFR Part 657 and which have historically been used for cropland as that phrase is defined above.

Public office means a facility under the direction and control of a governmental entity which is open to public access on a regular basis during reasonable business hours.

Rangeland means land on which the natural potential (climax) plant cover is principally native grasses, forbs, and shrubs valuable for forage. This land includes natural grasslands and savannahs, such as prairies, and juniper savannahs, such as brushlands. Except for brush control, management is primarily achieved by regulating the intensity of grazing and season of use.

Recharge capacity means the ability of the soils and underlying materials to allow precipitation and runoff to infiltrate and reach the zone of saturation.

Reclamation means those actions taken to restore mined land as required by this Part to a postmining land use approved by the Office.

Recurrence interval means the interval of time in which a precipitation event is expected to occur once, on the average. For example, the 10-year, 24-hour precipitation event would be that 24-hour precipitation event expected to occur on the average once in 10 years.

Reference area means a land unit maintained under appropriate management for the purpose of measuring vegetation ground cover, productivity and plant species diversity that are produced naturally or by crop production methods approved by the Office. Reference areas must be representative of geology, soil, slope, and vegetation in the permit area.

Regional Director means a Regional Director of the Office or a Regional Director's representative.

Regulatory authority means the Secretary when administering this Part.

Regulatory program means any approved State or Federal program.

Renewable resource lands means aquifers and areas for the recharge of aquifers and other underground waters, areas for agricultural or silvicultural production of food and fiber, and grazinglands.

Road means a surface right-of-way for purposes of travel by land vehicles used in coal exploration or surface coal mining and reclamation operations. A road consists of the entire area within the right-of-way, including the roadbed, shoulders, parking and side area, approaches, structures, ditches, surface, and such contiguous appendages as are necessary for the total structure. The term includes access and haul roads constructed, used, reconstructed, improved, or maintained for use in coal exploration or surface coal mining and reclamation operations, including use by coal-hauling vehicles leading to transfer, processing, or storage areas. The term does not include pioneer or construction roadways used for part of the road construction procedure and promptly replaced by a Class I, Class II, or Class III road located in the identical right-of-way as the pioneer or construction roadway. The term also excludes any roadway within the immediate mining pit area.

(a) *Class I Road* means a road used for transportation of coal.

(b) *Class II Road* means any road, exclusive of Class I and Class III roads, used for transportation of personnel, equipment, and materials.

(c) *Class III Road* means a road used primarily for a short duration during favorable weather periods, requiring Office approval on a case-by-case basis. Examples of permissible use are:

(1) Exploration; and

(2) Occasional inspection of monitoring equipment, weather station, and test plots.

Safety factor means the ratio of the available shear strength to the developed shear stress, or the ratio of the sum of the resisting forces to the sum of the loading or driving forces, as determined by accepted engineering practices.

Secretary means the Secretary of the Interior or the Secretary's representative.

Sedimentation pond means a primary sediment control structure designed, constructed and maintained in accordance with 30 CFR 910.816–46 and including, but not limited to, a barrier, dam, or excavated depression which slows down water runoff to allow sediment to settle out. A sedimentation pond shall not include secondary sedimentation control structures, such as straw dikes, riprap, check dams, mulches, dugouts and other measures that reduce overland flow velocity,

reduce runoff volume or trap sediment, to the extent that such secondary sedimentation structures drain to a sedimentation pond.

Significant, imminent environmental harm to land, air or water resources means—

(a) An environmental harm is an adverse impact on land, air, or water resources which resources include, but are not limited to, plant and animal life.

(b) An environmental harm is imminent, if a condition, practice, or violation exists which—

(1) Is causing such harm; or

(2) May reasonably be expected to cause such harm at any time before the end of the reasonable abatement time that would be set under Section 521(a)(3) of the Act.

(c) An environmental harm is significant if that harm is appreciable and not immediately reparable.

Slope means average inclination of a surface, measured from the horizontal, generally expressed as the ratio of a unit of horizontal distance to a given number of units of vertical distance (e.g. 2h:1v) may also be expressed as a percentage or in degrees.

Soil horizons means contrasting layers of soil parallel or nearly parallel to the land surface. Soil horizons are differentiated on the basis of field characteristics and laboratory data. The three major soil horizons are—

(a) *A horizon.* The uppermost mineral layer, often called the surface soil. It is the part of the soil in which organic matter is most abundant, and leaching of soluble or suspended particles is typically the greatest.

(b) *B horizon.* The layer that typically is immediately beneath the A horizon and often called the subsoil. This middle layer commonly contains more clay, iron, or aluminum than the A or C horizons.

(c) *C horizon.* The deepest layer of soil profile. It consists of loose material or weathered rock that is relatively unaffected by biologic activity.

Soil survey means a field and other investigation, resulting in a map showing the geographic distribution of different kinds of soils and an accompanying report that describes, classifies, and interprets such soils for use. Soil surveys must meet the standards of the National Cooperative Soil Survey as incorporated by reference in 30 CFR 910.785–17(b)(1).

Spoil means overburden that has been removed during surface coal mining operations.

Stabilize means to control movement of soil, spoil piles, or areas of disturbed earth by modifying the geometry of the mass, or by otherwise modifying physical or chemical properties, such as by providing a protective surface coating.

Steep slope means any slope of more than 20°.

Substantially disturb means, for purposes of coal exploration, to impact significantly upon land, air or water resources by such activities as blasting, mechanical excavation, drilling or altering coal or water exploratory holes or wells, construction of roads and other access routes, and the placement of structures, excavated earth, or other debris on the surface of land.

Surface coal mining operations means—

(a) Activities conducted on the surface of lands in connection with a surface coal mine or, subject to the requirements of Section 516 of the Act, surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, the uses of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal for interstate commerce at or near the mine-site: *Provided,* These activities do not include the extraction of coal incidental to the extraction of other minerals, where coal does not exceed 16⅔ per centum of the tonnage of minerals removed for purposes of commercial use or sale, or coal exploration subject to Section 512 of the Act: *And provided further,* That excavation for the purpose of obtaining coal includes extraction of coal from coal refuse piles; and

(b) Areas upon which the activities described in paragraph (a) of this section occur or where those activities disturb the natural land surface. These areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of those activities and for haulage and excavation, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or material on the surface, resulting from or incident to those activities.

Surface coal mining and reclamation operations means surface coal mining operations and all activities necessary or incidental to the reclamation of such operations. This term includes the term surface coal mining operations.

Surface mining activities means those surface coal mining and reclamation operations incident to the extraction of coal from the earth by removing the materials over a coal seam, before recovering the coal, by auger coal mining, or by recovery of coal from a deposit that is not in its original geologic location.

Suspended solids or nonfilterable residue, expressed as milligrams per liter, means organic or inorganic materials carried or held in suspension in water which are retained by a standard glass fiber filter in the procedure outlined by the Environmental Protection Agency's regulations for waste water and analyses (40 CFR Part 136).

Temporary diversion means a diversion of a stream or overland flow which is used during coal exploration or surface coal mining and reclamation operation and not approved by the Office to remain after reclamation as part of the postmining land use.

Topsoil means the A soil horizon layer of the three major soil horizons.

Toxic-forming materials means earth materials or wastes which, if acted upon by air, water, weathering, or microbiological processes, are likely to produce chemical or physical conditions in soils or water that are detrimental to biota or uses of water.

Toxic mine drainage means water that is discharged from active or abandoned mines or other areas affected by coal exploration or surface coal mining and reclamation operations, which contains a substance that through chemical action or physical effects is likely to kill, injure, or impair biota commonly present in the area that might be exposed to it.

Underground development waste means waste rock mixtures of coal, shale, claystone, siltstone, sandstone, limestone, or related materials that are excavated, moved, and disposed of during development and preparation of areas incident to underground mining activities.

Underground mining activities means a combination of—

(a) Surface operations incident to underground extraction of coal or in situ processing, such as construction, use, maintenance, and reclamation of roads, above-ground repair areas, storage areas, processing areas, shipping areas, areas upon which are sited support facilities including hoist and ventilating ducts, areas utilized for the disposal and storage of waste, and areas on which materials incident to underground mining operations are placed; and

(b) Underground operations such as underground construction, operation, and reclamation of shafts, adits, underground support facilities, in situ processing, and underground mining, hauling, storage, and blasting.

Valley fill means a fill structure consisting of any material other than coal waste and organic material that is placed in a valley where side slopes of the existing valley measured at the steepest point are greater than 20° or the average slope of the profile of the valley from the toe of the fill to the top of the fill is greater than 10°.

Water table means the upper surface of a zone of saturation, where the body of ground water is not confined by an overlying impermeable zone.

§ 910.701–11 Applicability

(a) Subpart 910.701 through 910.845 apply to all coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands within the State of Georgia, except—

(1) The extraction of coal by a landowner for his or her own noncommercial use from land owned or leased by him or her. Noncommercial use does not include the extraction of coal by one unit of an integrated company or other business or nonprofit entity which uses the coal in its own manufacturing or power plants;

(2) The extraction of coal for commercial purposes where the surface mining operation affects two acres or less;

(3) The extraction of 250 tons of coal or less by a person conducting a surface coal mining and reclamation operation. A person who intends to remove more than 250 tons is not exempted;

(4) The extraction of coal as an incidental part of Federal, State or local government-financed highway or other construction in accordance with Subpart 910.707;

(5) The extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅔ percent of the mineral tonnage removed for commercial use or sale;

(6) The exploration for or extraction of coal on Indian or Federal lands.

(b) Except as stated in Subpart 910.701.11(a) (1)–(6) above, any person who conducts surface coal mining and reclamation operations on non-Indian or non-Federal lands in the State of Georgia on or after 8 months from the effective date of this part shall have a permit issued pursuant to this part. However, under conditions specified in 30 CFR 910.771–13(b), a person may continue operations under a previously issued Georgia permit after the effective date of this part.

(c)(1) Each structure used in connection with or to facilitate a coal exploration or surface coal mining and reclamation operations shall comply with the performance standards and the design requirements of Subparts 910.815 through 910.828 of this part, except that—

(i) An existing stucture which meets the performance standards of Subparts 910.815 through 910.828 of this part but does not meet the design requirements of Subparts 910.815 through 910.828 of this part may be exempted from meeting those design requirements by the Office. The Office shall grant this exemption only as part of the permit application process after obtaining the information required by 30 CFR 910.780–12 or 910.784–12.

(ii) If the performance standard of 30 CFR Chapter VII, Subchapter B is at least as stringent as the comparable performance standard of Subparts 910.815 through 910.828 of this part, an existing structure which meets the performance standards of 30 CFR Chapter VII, Subchapter B may be exempted by the Office from meeting the design requirements of Subparts 910.815 through 910.828. The Office shall grant this exemption only as part of the permit application process after obtaining the information required by 30 CFR 910.780–12 or 910.784–12.

(iii) An existing structure which meets a performance standard of 30 CFR Chapter VII, Subchapter B which is less stringent than the comparable performance standards of Subparts 910.815 through 910.828 or which does not meet a performance standard of Subparts 910.815 through 910.828 for which there was no equivalent performance standard in 30 CFR Chapter VII, Subchapter B shall be modified or reconstructed to meet the design standard of Subparts 910.815 through 910.828 pursuant to a compliance plan approved by the Office only as part of the permit application as required in 30 CFR 910.780–12 or 910.784–12 and according to the findings required by 30 CFR 910.786–21.

(iv) An existing structure which does not meet the performance standards of 30 CFR Chapter VII, Subchapter B and which the applicant proposes to use in connection with or to facilitate the coal exploration or surface coal mining and reclamation operation shall be modified or reconstructed to meet the design standards of Subparts 910.815 through 910.828 prior to issuance of the permit.

(2) The exemptions provided in paragraph (c)(1)(i) and (c)(1)(ii) of this section shall not apply to:

(i) The requirements for existing and new waste piles used either temporarily or permanently as dams or embankments; and

(ii) The requirements to restore the approximate original contour of the land.

(d)(1) Any person conducting coal exploration on non-Federal and non-Indian lands on or after the effective date of this Part shall either file a notice of intention to explore or obtain approval of the Office as required by 30 CFR 910.776.

(2) Coal exploration performance standards in 30 CFR 910.615 shall apply to coal exploration on non-Federal and non-Indian lands which substantially disturbs the natural land surface 2 months after the effective date of this part.

§ 910.701–12 Petitions to initiate rulemaking.

(a) Any person may petition the Director to initiate a proceeding for the issuance, amendment, or repeal of any regulation in this Part. The petition shall be submitted to the Office of the Director, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Washington, D.C. 20240.

(b) The petition shall be a concise statement of the facts, technical justification, and law which require issuance, amendment, or repeal of a regulation and shall indicate whether the petitioner desires a public hearing.

(c) Upon receipt of the petition, the Director shall determine if the petition sets forth facts, technical justification and law which may provide a reasonable basis for issuance, amendment or repeal of a regulation. Facts, technical justification or law previously considered in a petition or rulemaking on the same issue shall not provide a reasonable basis. If the Director determines that the petition has a reasonable basis, a notice shall be published in the Federal Register seeking comments from the public on the proposed change. The Director may hold a public hearing, may conduct an investigation or take other action to determine whether the petition should be granted.

(d) Within 90 days from receipt of the petition, the Director shall issue a written decision either granting or denying the petition. The Director's

decision shall constitute the final decision for the Department.

(1) If the petition is granted, the Director shall initiate a rulemaking proceeding.

(2) If the petition is denied, the Director shall notify the petitioner in writing, setting forth the reasons for denial.

§ 910.701–13 Notice of citizen suits.

(a) A person who intends to initiate a civil action on his or her own behalf under Section 520 of the Act shall give notice of intent to do so, in accordance with this Subpart.

(b) Notice shall be given by certified mail to the Secretary, the Director and the Regional Director.

(c) Notice shall be given by certified mail to the alleged violator, if the complaint alleges a violation of the Act or any regulation, order, or permit issued under the Act.

(d) Service of notice under this Section is complete upon mailing to the last known address of the person being notified.

(e) A person giving notice regarding an alleged violation shall state, to the extent known—

(1) Sufficient information to identify the provision of the Act, regulation, order, or permit allegedly violated;

(2) The act or omission alleged to constitute a violation;

(3) The name, address, and telephone numbers of the person or persons responsible for the alleged violation;

(4) The date, time, and location of the alleged violation;

(5) The name, address, and telephone number of the person giving notice; and

(6) The name, address, and telephone number of legal counsel, if any, of the person giving notice.

(f) A person giving notice of an alleged failure by the Secretary or the Office to perform a mandatory act or duty under the Act shall state, to the extent known—

(1) The provision of the Act containing the mandatory act or duty allegedly not performed.

(2) Sufficient information to identify the omission alleged to constitute the failure to perform a mandatory act or duty under the Act;

(3) The name, address, and telephone number of the person giving notice; and

(4) The name, address, and telephone number of legal counsel, if any, of the person giving notice.

§ 910.701–14 Availability of records.

(a) Records required by the Act to be made available locally to the public shall be retained at the OSM field office in Georgia.

(b) Other records or documents in the possession of the Office may be requested under 43 CFR Part 2, which implements the Freedom of Information Act and the Privacy Act.

§ 910.701–15 Computation of time.

(a) Except as otherwise provided, computation of time under 30 CFR Chapter VII and this Part is based on calendar days.

(b) In computing any period of prescribed time, the day on which the designated period of time begins is not included. The last day of the period is included unless it is a Saturday, Sunday, or legal holiday on which the Office is not open for business, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday.

(c) Intermediate Saturdays, Sundays, and legal holidays are excluded from the computation when the period of prescribed time is 7 days or less.

§ 910.701–16 Termination of the program.

Termination of the Federal program in the State of Georgia shall be accomplished at the same time and through the procedures for approval of a State program for the State of Georgia under 30 CFR Part 732. The Federal program in the State of Georgia shall not be considered terminated until a State program for the State of Georgia has been approved by the Secretary in accordance with 30 CFR Part 732.

Subpart 910.707—Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction

§ 910.707–1 Scope.

(a) This subpart establishes the procedures for determining those surface coal mining and reclamation operations which are exempt from this Part because the extraction of coal is an incidental part of Federal, State, or local government-financed highway or other construction.

(b) This subpart exempts the extraction of coal which is incidental to government-financed construction from the requirements of this part, if that extraction meets specified criteria which ensure that the construction is government-financed and that the extraction of coal is incidental to it.

§ 910.707–5 Definitions.

As used in this subpart, the following terms have the specified meaning:

Extraction of coal as an incidental part means the extraction of coal which is necessary to enable the construction to be accomplished. For purposes of this subpart, only that coal extracted from within the right-of-way, in the case of a road, railroad, utility line or other such construction or within the boundaries of the area directly affected by other types of government-financed construction, may be considered incidental to that construction. Extraction of coal outside the right-of-way or boundary of the area directly affected by the construction shall be subject to the requirements of this Part.

Government financing agency means a Federal, State, county, municipal, or local unit of government, or a department, bureau, agency or office of the unit which, directly or through another unit of government, finances construction.

Government-financed construction means construction funded 50 percent or more by funds appropriated from a government financing agency's budget or obtained from general revenue bonds, but shall not mean government financing agency guarantees, insurance, loans, funds obtained through industrial revenue bonds or their equivalent, or in-kind payments.

§ 910.707–11 Applicability.

(a) Coal extraction which is an incidental part of government-financed construction and for which there is compliance with the provisions of this subpart, is exempt from the other provisions of this part.

(b) Any person who conducts or intends to conduct coal extraction which does not satisfy paragraph (a) of this section shall not proceed until a permit has been obtained from the Office under this part.

§ 910.707–12 Information to be maintained on site.

Any person extracting coal incident to government-financed highway or other construction who extracts more than 250 tons of coal and affects more than two acres shall maintain, on the site of the extraction operation and available for inspection, documents which show—

(a) A description of the construction project;

(b) The exact location of the construction, right-of-way or the boundaries of the area which will be directly affected by the construction; and

(c) The government agency which is providing the financing and the kind and amount of public financing, including the percentage of the entire construction costs represented by the government financing.

Areas Unsuitable for Mining

Subpart 910.761—Areas Designated by Act of Congress

§ 910.761–4 Responsibility.

The Director or his designee shall determine—

(a) Whether any application for a permit for surface coal mining operations must be denied because the operations are prohibited or limited by Section 522(e) of the Act; and

(b) Whether an applicant for a permit either had any valid existing rights on August 3, 1977, or was conducting an existing surface coal mining operation on those lands on August 3, 1977.

§ 910.761–5 Definitions.

For the purposes of this subpart—

Valid existing rights means:

(a) Except for haul roads,

(1) Those property rights in existence on August 3, 1977, that were created by a legally binding conveyance, lease, deed, contract or other document which authorizes the applicant to produce coal by a surface coal mining operation; and

(2) The person proposing to conduct surface coal mining operations on such lands either

(i) Had been validly issued, or exercised a good faith attempt to obtain, on or before August 3, 1977, all State and Federal permits necessary to conduct such operations on those lands, or

(ii) Can demonstrate that the coal is both needed for, and immediately adjacent to, an on-going surface coal mining operation for which all permits were obtained prior to August 3, 1977;

(b) For haul roads,

(1) A recorded right-of-way, recorded easement or a permit for a coal haul road recorded as of August 3, 1977; or

(2) Any other road in existence as of August 3, 1977;

(c) Interpretation of the terms of the document relied upon to establish valid existing rights shall be based upon the usage and custom at the time and place where it came into existence and upon a showing by the applicant that the parties to the document actually contemplated a right to conduct the same underground or surface mining activities for which the applicant claims a valid existing right;

(d) Valid existing rights does not mean mere expectation of a right to conduct surface coal mining operations or the right to conduct underground coal mining. Examples of rights which alone do not constitute valid existing rights include, but are not limited to, coal exploration permits or licenses, applications or bids for leases, or where a person has only applied for a State or Federal permit.

No significant recreational, timber, economic or other values incompatible with surface coal mining operations means those significant values which could be damaged by, and are not capable of existing together with, surface coal mining operations because of the undesirable effects mining would have on those values, either on the area included in the permit application or on adjacent areas which may be affected by mining. Those values to be evaluated for their importance include:

(a) Recreation, including hiking, boating, camping, skiing or other related outdoor activities;

(b) Timber management and silviculture;

(c) Agriculture, aquaculture or production of other natural, processed or manufactured products which enter commerce;

(d) Scenic, historic, archeologic, esthetic, fish, wildlife, plants or cultural interests.

Surface operations and impacts incident to an underground coal mine means all activities involved in or related to underground coal mining which are either conducted on the surface of the land, produce changes in the land surface or disturb the surface, air or water resources of the area, including all activities listed in Section 701(28) of the Act and the definition of surface coal mining operations appearing in 30 CFR 910.701–5.

Significant forest cover means an existing plant community consisting predominantly of trees and other woody vegetation. The Secretary of Agriculture shall decide on a case-by-case basis whether the forest cover is significant within those national forests west of the 100th meridian.

Occupied dwelling means any building that is currently being used on a regular or temporary basis for human habitation.

Public building means any structure that is owned by a public agency or used principally for public business, meetings or other group gatherings.

Community or institutional building means any structure, other than a public building or an occupied dwelling, which is used primarily for meetings, gatherings or functions of local civic organizations or other community groups; functions as an educational, cultural, historic, religious, scientific, correctional, mental-health or physical health care facility; or is used for public services, including, but not limited to, water supply, power generation or sewage treatment.

Surface coal mining operations which exist on the date of enactment means all surface coal mining operations which were being conducted on August 3, 1977.

Public park means an area dedicated or designated by any Federal, State, or local agency for public recreational use, whether or not such use is limited to certain times or days, including any land leased, reserved or held open to the public because of that use.

Public road the highway, road, street, avenue, drive, detour, or other way open to the public and intended or used for its enjoyment and for the passage of vehicles in any county or municipality of the State of Georgia, including but not limited to the following public rights, structures, sidewalks, facilities and appurtenances incident to the construction, maintenance and enjoyment of such rights-of-way; Surface, shoulders and sides; bridges; causeways; viaducts; ferries; overpasses; underpasses; railroad grade crossing; tunnels; signs; signals; markings or other traffic control devices; buildings for public equipment and personnel used for or engaged in administration construction or maintenance of such ways or research pertaining thereto; wayside parks; parking facilities; drainage ditches; canals, culverts; rest areas; truck-weighing stations or check points; scenic easements and easements of light, air, view and access.

Cemetery means any area of land where human bodies are interred.

§ 910.761–11 Areas where mining is prohibited or limited.

Subject to valid existing rights, no surface coal mining operations shall be conducted after August 3, 1977, unless those operations existed on the date of enactment:

(a) On any lands within the boundaries of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including study rivers designated under Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)), and National Recreation Areas designated by Act of Congress;

(b) On any lands which will adversely affect any publicly owned park or places included on the National Register of Historic Places, unless approved by the Federal, State or local agency with jurisdiction over the park or places;

(c) Within 100 feet measured horizontally of the outside right-of-way line of any public road, except—

(1) Where mine access roads or haulage roads join such right-of-way line; or

(2) Where the Office allows the public road to be relocated or the area affected to be within 100 feet of such road, after—

(i) Public notice and opportunity for a public hearing in accordance with § 910.761–12(c); and,

(ii) Making a written finding that the interests of the affected public and landowners will be protected;

(d) Within 300 feet measured horizontally from any occupied dwelling, unless the owner thereof has provided a written waiver consenting to surface coal mining operations closer than 300 feet;

(e) Within 300 feet measured horizontally of any public building, school, church, community or institutional building or public park; or

(f) Within 100 feet measured horizontally of a cemetery.

§ 910.761–12 Procedures.

(a) Upon receipt of a complete application for a surface coal mining and reclamation operation permit, the Office shall review the application to determine whether surface coal mining operations are limited or prohibited under § 910.761–11 on the lands which would be disturbed by the proposed operation.

(b)(1) Where the proposed operation would be located on any lands listed in § 910.761–11 (a), (e), or (f), the Office shall reject the application if the applicant had no valid existing rights for the area on August 3, 1977, or if the operation did not exist on that date.

(2) If the Office is unable to determine whether the proposed operation is located within the boundaries of any of the lands in § 910.761–11(a) or closer than the limits provided in § 910.761–11 (e) or (f), the Office shall transmit a copy of the relevant portions of the permit application to the appropriate Federal, State or local government agency for a determination or clarification of the relevant boundaries or distances, with a notice to the appropriate agency that it must respond within 30 days of receipt of the request.

(c) Where the proposed mining operation is to be conducted within 100 feet measured horizontally of the outside right-of-way line of any public road (except where mine access roads or haulage roads join such right-of-way line) or where the applicant proposes to relocate any public road, the Office shall—

(1) Require the applicant to obtain necessary approvals of the authority with jurisdiction over the public road;

(2) Provide notice in a newspaper of general circulation in the affected locale of a public hearing at least 2 weeks before the hearing;

(3) Provide an opportunity for a public hearing at which any member of the public may participate in the locality of the proposed mining operations for the purpose of determining whether the interests of the public and affected landowners will be protected; and

(4) Make a written finding based upon information received at the public hearing within 30 days after completion of the hearing as to whether the interests of the public and affected landowners will be protected from the proposed mining operations.

(d) Where the proposed surface coal mining operations would be conducted within 300 feet measured horizontally of any occupied dwelling, the applicant shall submit with the application a written waiver from the owner of the dwelling, consenting to such operations within a closer distance of the dwelling as specified in the waiver. The waiver must be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver.

(e)(1) Where the proposed surface coal mining operation may adversely affect any public park or places included on the National Register of Historic Places, the Office shall transmit to the Federal, State or local agencies with jurisdiction over the park or historic place a copy of the completed permit application containing the following:

(i) A request for that agency's approval or disapproval of the operations;

(ii) A notice to the appropriate agency that it must respond within 30 days from receipt of the request.

(2) A permit for the operations shall not be issued unless jointly approved by all affected agencies.

(f) If the Office determines that the proposed surface coal mining operation is not prohibited under Section 522(e) of the Act (30 U.S.C. 1272(e)), it may nevertheless, pursuant to appropriate petitions designate such lands as unsuitable for all or certain types of surface coal mining operations pursuant to 30 CFR 910.762 and 910.769.

(g) A determination by the Office that a person holds or does not hold a valid existing right or that surface coal mining operations did or did not exist on the date of enactment shall be subject to administrative and judicial review under 30 CFR 910.767–11(c) and 12(b)(2).

Subpart 762—Criteria for Designating Areas as Unsuitable for Surface Coal Mining Operations

§ 910.762–4 Responsibility.

The Office shall use the criteria in this subpart for the evaluation of each petition for the designation of areas as unsuitable for surface coal mining operations.

§ 910.762–5 Definitions.

For purposes of this subpart:

Fragile lands means geographic areas containing natural, ecologic, scientific or esthetic resources that could be damaged or destroyed by surface coal mining operations. Examples of fragile lands include valuable habitats for fish or wildlife, critical habitats for endangered or threatened species of animals or plants, uncommon geologic formations, National Natural Landmark sites, areas where mining may cause flooding, environmental corridors containing a concentration of ecologic and esthetic features, areas of recreational value due to high environmental quality, and buffer zones adjacent to the boundaries of areas where surface coal mining operations are prohibited under Section 522(e) of the Act and 30 CFR 910.761.

Historic lands means historic or cultural districts, places, structures or objects, including archeological and paleontological sites, National Historic Landmark sites, sites listed on or eligible for listing on a State or National Register of Historic Places, sites having religious or cultural significance to native Americans or religious groups or sites for which historic designation is pending.

Natural hazard lands means geographic areas in which natural conditions exist which pose or, as a result of surface coal mining operations, may pose a threat to the health, safety or welfare of people, property or the environment, including areas subject to landslides, cave-ins, large or encroaching sand dunes, severe wind or soil erosion, frequent flooding, avalanches and areas of unstable geology.

Substantial legal and financial commitments in a surface coal mining operation means significant investments that have been made on the basis of a long-term coal contract in power plants, railroads, coal-handling, preparation, extraction or storage facilities and other capital-intensive activities. An example would be an existing mine, not actually producing coal, but in a substantial stage of development prior to production. Costs of acquiring the coal in place or the right to mine it without an existing mine, as described in the above example, alone are not sufficient to constitute substantial legal and financial commitments.

§ 910.762–11 Criteria for designating lands as unsuitable.

(a) Upon petition an area shall be designated as unsuitable for all or certain types of surface coal mining operations, if the Office determines that reclamation is not technologically and economically feasible.

(b) Upon petition an area may be (but is not required to be) designated as unsuitable for certain types of surface coal mining operations, if the operations will—

(1) Be incompatible with existing State or local land use plans or programs;

(2) Affect fragile or historic lands in which the operations could result in significant damage to important historic, cultural, scientific, or esthetic values or natural systems;

(3) Affect renewable resource lands in which the operations could result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products; or

(4) Affect natural hazard lands in which the operations could substantially endanger life and property, such lands to include areas subject to frequent flooding and areas of unstable geology.

(c) The Director may establish additional criteria, through rulemaking, for determining whether lands within the State should be designated unsuitable for surface coal mining operations.

§ 910.762–13 Land exempt from designation as unsuitable for surface coal mining operations.

The requirements of this subpart do not apply to—

(a) Lands on which surface coal mining operations were being conducted on the date of enactment;

(b) Lands covered by a permit issued under the Act; or

(c) Lands where substantial legal and financial commitments in surface coal mining operations were in existence prior to January 4, 1977.

§ 910.762–14 Exploration on land designated as unsuitable for surface coal mining operations.

Designation of any area as unsuitable for all or certain types of surface coal mining operations pursuant to Section 522 of the Act and regulations of Subparts 910.760 through 910.764 does not prohibit coal exploration operations in the area, if conducted in accordance with this program. Exploration operations on any lands designated unsuitable for surface coal mining operations must be approved by the Office under 30 CFR 910.776 to insure that exploration does not interfere with any value for which the area has been designated unsuitable for surface coal mining.

Subpart 910.764—Process for Designating Areas Unsuitable for Surface Coal Mining Operations

§ 910.764–3 Authority.

The Director or his designee has authority under Sections 504(a) and 522 of the Act to receive and review petitions to designate lands as unsuitable for all or certain types of surface coal mining operations and for terminating such designations beginning 1 year after this program is effective.

§ 910.764–13 Procedures: Petitions.

(a) *Right to petition.* Any person having an interest which is or may be adversely affected has the right to petition the Office to have an area designated as unsuitable for surface coal mining operations, or to have an existing designation terminated.

(b) *Designation.* The only information that a petitioner need provide is:

(1) The location and size of the area covered by the petition;

(2) Allegations of facts and supporting evidence which would tend to establish that the area is unsuitable for all or certain types of surface coal mining operations;

(3) A description of how mining of the area has affected or may adversely affect people, land, air, water or other resources;

(4) The petitioner's name, address and telephone number; and

(5) Identification of the petitioner's interest which is or may be adversely affected.

(c) *Termination.* The only information that a petitioner need provide to terminate a designation is:

(1) The location and size of the area covered by the petition;

(2) Allegations of facts, with supporting evidence, not contained in the record of the proceeding in which the area was designated unsuitable, which would tend to establish the statements or allegations, and which statements or allegations indicate that the designation should be terminated based on:

(i) The nature or abundance of the protected resource or condition or other basis of the designation if the designation was based on criteria found in 30 CFR 910.762–11(b); or

(ii) Reclamation now being technologically and economically feasible, if the designation was based on the criteria found in 30 CFR 910.762–11(a); or

(iii) The resources or condition not being affected by surface coal mining operations, or in the case of land use plans, not being incompatible with surface coal mining operations during and after mining, if the designation was based on the criteria found in 30 CFR 910.762–11(b).

(3) The petitioner's name, address and telephone number; and

(4) Identification of the petitioner's interest which is or may be adversely affected by the continuation of the designation.

§ 910.764–15 Procedures: Initial processing, recordkeeping, and notification requirements.

(a)(1) Within 30 days of receipt of a petition, the Office shall notify the petitioner by certified mail whether or not the petition is complete under § 910.764–13 (b) or (c).

(2) The Office shall determine whether any identified coal resources exist in the area covered by the petition, without requiring any showing from the petitioner. If the Office finds there are not any identified coal resources in that area, it shall return the petition to the petitioner with a statement of the findings.

(3) The Office may reject petitions for designations or terminations of designations which are frivolous. Once the requirements of § 910.764–13 are met, no party shall bear any burden of proof, but each accepted petition shall be considered and acted upon by the Office pursuant to the procedures of this Subpart.

(4) When considering a petition for an area which was previously and unsuccessfully proposed for designation, the Office shall determine if the new petition presents new allegations of facts. If the petition does not contain new allegations of facts, the Office shall not consider the petition and shall return the petition to the petitioner, with a statement of its findings and a reference to the record of the previous designation proceedings where the facts were considered.

(5) If the Office determines that the petition is incomplete or frivolous, it shall return the petition to the petitioner, with a written statement of the reasons for the determination and the categories of information needed to make the petition complete.

(6) The Office shall notify the person who submits a petition of any application for a permit received which

proposes to include any area covered by the petition.

(7) Any petitions received after the close of the public comment period on a permit application relating to the same proposed permit area shall not prevent the Office from issuing a decision on that permit application. The Office may return any petition received thereafter to the petitioner with a statement why the Office cannot consider the petition. For the purposes of this section, close of the public comment period shall mean at the close of any informal conference held under 30 CFR 910.786–14, or, if no conference is requested, at the close of the period for filing written comments and objections under 30 CFR 910.786–12 and 13.

(b)(1) Within three weeks after the determination that a petition is complete, the Office shall circulate copies of the petition to, and request submissions of relevant information from, other interested governmental agencies, the petitioner, intervenors, persons with an ownership interest of record in the property, and other persons known to the Office to have an interest in the property.

(2) Within three weeks after the determination that a petition is complete, the Office shall notify the general public of the receipt of the petition and request submissions of relevant information by a newspaper advertisement placed once a week for two consecutive weeks in the locale of the area covered by the petition, in the newspaper of largest circulation in the State, and in the Federal Register.

(c) Until three days before the Office holds a hearing under 30 CFR 910.784–17, any person may intervene in the proceeding by filing allegations of facts, supporting evidence, a short statement identifying the petition to which the allegations pertain, and the intervenor's name, address and telephone number.

(d) Beginning immediately after a complete petition is filed, the Office shall compile and maintain a record consisting of all documents relating to the petition filed with or prepared by the Office. The Office shall make the record available for public inspection, free of charge, and copying, at reasonable cost, during all normal business hours at a central location of the county or multi-county area in which the land petitioned is located, and at the Regional Office and the Washington, D.C., Office of the Office.

§ 910.784–17 Procedures: Hearing requirements.

(a) Within 10 months after receipt of a complete petition, the Office shall hold a public hearing in the locality of the area covered by the petition. If all petitioners and intervenors agree, the hearing need not be held. The hearing shall be legislative and fact-finding in nature, without cross-examination of witnesses. The Office shall make a verbatim transcript of the hearing.

(b)(1) The Office shall give notice of the date, time, and location of the hearing to:

(i) Local, State, and Federal agencies which may have an interest in the decision on the petition;

(ii) The petitioner and the intervenors; and

(iii) Any person with an ownership or other interest known to the Office in the area covered by the petition.

(2) Notice of the hearing shall be sent by regular mail and postmarked not less than 30 days before the scheduled date of the hearing.

(c) The Office shall notify the general public of the date, time, and location of the hearing by placing a newspaper advertisement once a week for 2 consecutive weeks in the locale of the area covered by the petition and once during the week prior to the scheduled date of the public hearing. The consecutive weekly advertisement must begin between 4 and 5 weeks before the scheduled date of the public hearing.

(d) The Office may consolidate in a single hearing the hearings required for each of several petitions which relate to areas in the same locale.

(e) Prior to designating any land areas as unsuitable for surface coal mining operations, the Office shall prepare a detailed statement, using existing and available information on the potential coal resources of the area, the demand for coal resources, and the impact of such designation on the environment, the economy, and the supply of coal.

(f) In the event that all petitioners and intervenors stipulate agreement prior to the hearing, the petition may be withdrawn from consideration.

§ 910.784–18 Procedures decision.

(a) In reaching its decision, the Office shall use—

(1) The information contained in the data base and inventory system developed in accordance with the requirements of 30 CFR 764.21;

(2) Information provided by other governmental agencies;

(3) The detailed statement prepared under § 910.764–17(e); and

(4) Any other relevant information submitted during the comment period.

(b) A final written decision shall be issued by the Office including a statement of reasons, within 60 days of completion of the public hearing, or, if no public hearing is held, then within 12 months after receipt of the complete petition. The Office shall simultaneously send the decision by regular mail to the petitioner, every other party to the proceeding, and to the Georgia Department of Natural Resources.

(c) The decision of the Office with respect to a petition, or the failure of the Office to act within the time limits set forth in this section, shall be subject to judicial review by the United States District Court for the District in which the area is located in accordance with section 526(a)(2) and (b) of the Act and 30 CFR 910.787–12.

§ 910.784–22 Public information.

The Office shall:

(a) Make the information and data base system available to the public for inspection free of charge and for copying at reasonable cost.

(b) Provide information to the public on the petition procedures necessary to have an area designated as unsuitable for all or certain types of surface coal mining operations or to have designations terminated and describe how the inventory and data base system can be used.

(c) Maintain a map of areas designated as unsuitable for all or certain types of surface coal mining operations.

(d) Make available to any person any information within its control regarding designations, including mineral or elemental content which is potentially toxic in the environment but excepting proprietary information on the chemical and physical properties of the coal.

Surface Coal Mining and Reclamation Operations Permits and Coal Exploration Systems

Subpart 910.770—General Requirements for Permit and Exploration Procedures

§ 910.770–4 Responsibilities.

(a) Persons seeking to engage in surface coal mining and reclamation operations must submit an application for and obtain a permit for those operations in accordance with Subparts 910.770 through 910.785. Persons seeking to conduct coal exploration must first file the notice of intention or obtain approval of the Office as required under 30 CFR 910.776.

(b) It is the responsibility of the applicant to provide to the Office all of the information required by Subparts 910.780 and 910.784 except where specifically exempted.

(c) The Office shall review each application for exploration approval and for a permit, approve or disapprove each permit application or exploration application, and issue, condition, suspend, or revoke exploration approval, permits, renewals, or revised permits under this Part.

(d) It is the responsibility of the Department and other Federal governmental agencies to provide information to the Office where specifically required in Subparts 910.780 and 910.784.

§ 910.770–5 Definitions.

As used throughout Subparts 910.770 through 910.795, except where otherwise indicated:

Applicant means a person who seeks to obtain exploration approval or a permit under Subparts 910.770 through 910.795.

Application means the documents and other information filed with the Office under Subparts 910.770 through 910.795 for the issuance of exploration approval or a permit.

Complete application means an application for exploration approval or permit, which contains all information required under the Act, and Subparts 910.770 through 910.795.

General area means, with respect to hydrology, the topographic and groundwater basin surrounding a proposed permit area which is of sufficient size, including areal extent and depth, to include one or more watersheds containing perennial streams and groundwater zones and to allow assessment of the probable cumulative impacts on the quality and quantity of surface and groundwater systems in the basins.

Principal shareholder means any person who is the record or beneficial owner of 10 percent or more of any class of voting stock.

Property to be mined means both the surface and mineral estates on and underneath lands which are within the permit area.

Violation notice means any written notification from a governmental entity of a violation of law, whether by letter, memorandum, legal or administrative pleading, or other written communication.

§ 910.770–12 Coordination with requirements under other laws.

This Federal program shall, to avoid duplication, provide for the coordination of review and issuance of permits for surface coal mining and reclamation operations with—

(a) Any other Federal or State permit process applicable to those operations including, at a minimum, permits required under the—

(1) Clean Water Act, as amended (33 U.S.C. 1251 *et seq.*);

(2) Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*);

(3) Resource Conservation and Recovery Act (42 U.S.C. 3251 *et seq.*);

(4) Georgia Water Quality Control Act (§ 17–501);

(5) Georgia Solid Waste Management Act (§ 43–1601) (permit required from Georgia Department of Natural Resources);

(6) Georgia Air Quality Act of 1978;

(7) Georgia Safe Dams Act of 1973;

(8) Georgia Hazardous Waste Management Act of 1979;

(9) Georgia Groundwater Use Act; and

(10) Rules of the Georgia Safety Fire Commission (Blaster Permit).

(b) The requirements of any water quality management plans which have been approved by the Administrator of the United States Environmental Protection Agency under Sections 208 or 303 (c), (e) of the Clean Water Act, as amended, (33 U.S.C. 1288, 1313 (c), (e)).

(c) The applicable requirements of the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531 *et seq.*); the Fish and Wildlife Coordination Act, as amended, (16 U.S.C. 661 *et seq.*); the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 *et seq.*); Executive Order 11593; the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469 *et seq.*); and the National Environmental Policy Act of 1969, as amended, (42 U.S.C. 4332); the Georgia Wildflower Preservation Act of 1973 (§ 43–1801 *et seq.*); the Georgia Endangered Wildlife Act of 1973 (§ 43–2101 *et seq.*); the Georgia Heritage Trust Act of 1975 (§ 43–2301 *et seq.*); and the Georgia Cave Protection Act of 1977 (§ 43–2501 *et seq.*).

Subpart 910.771—General Requirements for Permits and Permit Applications

§ 910.771–11 General requirements for permits: Operators.

Except as provided for in § 910.771–13, on and after 8 months from the date on which this part becomes effective, no person shall engage in or carry out surface coal mining and reclamation operations on non-Federal or non-Indian lands within the State of Georgia, unless that person has first obtained a valid permit issued by the Office.

§ 910.771–13 Continued operation under interim permits.

A person conducting surface coal mining operations, under a permit issued or amended by the State in accordance with the requirements of Section 502 of the Act, may conduct these operations beyond the period prescribed in § 910.771–11, if—

(a) Timely and complete application for a permit under this part has been made.

(b) The Office has not yet rendered an initial decision with respect to such application; and

(c) The operations are conducted in compliance with all terms and conditions of the interim permit, the requirements of the Act, 30 CFR Subchapter B, and the State statutes and regulations.

§ 910.771–19 Compliance with permits.

All persons shall conduct surface coal mining and reclamation operations under permits issued pursuant to Subparts 910.770 through 910.785 and shall comply with the terms and conditions of the permit.

§ 910.771–21 Permit application filing deadlines.

(a) *Initial implementation* of this part.

(1) Not later than 2 months following the effective date of this part, regardless of litigation contesting the development, promulgation, or implementation of this part, each person who conducts or expects to conduct surface coal mining and reclamation operations 8 months from the effective date of this part, shall file an application for a permit for those operations.

(2) Applications for those operations which are not filed within the time required by paragraph (a)(1) of this section shall be deemed applications filed under paragraph (b)(1) of this section.

(b) *Filing deadlines after initial implementation of this part*—(1) *General.* Each person who conducts or expects to conduct new surface coal mining and reclamation operations shall file a complete application for a permit for those operations at least 12 months prior to the date upon which permit issuance is desired by the applicant. If the completeness review under § 910.771–22 determines an environmental impact statement is not necessary, the Office shall attempt to complete the review process within 6 months or less. If an environmental impact statement is to be prepared, the Office shall attempt to complete its decision within 12 months.

(2) *Renewal of valid permits.* An application for renewal of a permit under 30 CFR 910.788–13 and 910.788–14 shall be filed with the Office at least 120 days before the expiration of the permit involved.

(3) *Revisions of permits.* Any application for revision of a permit

under 30 CFR 910.788–12 shall in all cases be filed with the Office before the date on which the permittee expects to revise surface coal mining or reclamation operations. The application shall be submitted to the Office as soon as practicable after it becomes apparent that a revision will be needed and, if possible, at least 12 months before the operations are to be revised. The Office will consider emergency applications on a case-by-case basis.

(4) *Succession to rights granted under prior permits.* Any application for a new permit required for a person succeeding by transfer, sale, or assignment of rights granted under a permit shall be filed with the Office not later than 30 days after that succession is approved by the Office.

§ 910.771–22 Review of permit application.

(a)(1) Within 60 days of the receipt of an application the Office shall review it for apparent completeness and acceptability for further review and shall notify the applicant in writing of the findings. The Office shall:

(i) Reject a flagrantly deficient application, notifying the applicant of the findings, or

(ii) Request additional information required for completeness stating specifically what information must be supplied and the date by which the information must be submitted, or

(iii) Judge the application apparently complete and acceptable for further review.

(2) Should the applicant not submit the information as provided by paragraph (a)(1)(ii) of this section by the indicated date, the Office shall reject the application. When the applicant submits the required information by the indicated date, the Office shall review it and advise the applicant within 30 days of its acceptability. When, with the additional information, the application is judged apparently complete, the applicant shall be advised by the Office to file the public notice pursuant to 30 CFR 910.788–11(a).

(3) The Office shall review the application, written comments, written objections, and records of any informal conference held with respect to the application under §§ 910.788–11 through 910.788–15 and approve or disapprove the application.

(4) The Office shall approve or disapprove all applications for permits on the basis of—

(i) Complete applications for permits and revisions or renewals thereof which meet the requirements of this part;

(ii) Public participation as provided for in this part;

(iii) Compliance with any applicable provision of 30 CFR 910.785;

(iv) Processing and review of applications as required by this part.

(5) The detailed review for compliance with the National Environmental Policy Act of 1969, *as amended*, and § 910.788–19 shall be made on the basis of a complete application. The Office may require specific additional information from the applicant as the review progresses, when such specific information is vital for a recommendation of approval under § 910.788–17. Failure to submit the required information by the date(s) requested could result in disapproval of the application.

§ 910.771–23 Permit applications—General requirements for format and contents.

(a) Applications for permits to conduct surface coal mining and reclamation operations shall be filed in the format required by the Office. The application shall be complete and include, at a minimum: for surface mining activities, all the applicable information required under 30 CFR 910.778, 910.779, and 910.780; for underground mining activities, all the information required under 30 CFR 910.782, 910.783, and 910.784; and, for special types of surface coal mining and reclamation operations, all the information required under 30 CFR 910.785.

(b) Information set forth in the application shall be current, presented clearly and concisely, and supported by appropriate references to technical and other written material available to the Office.

(c) All technical data submitted in the application shall be accompanied by—

(1) Names of persons or organizations which collected and analyzed such data;

(2) Dates of the collection and analyses; and

(3) Descriptions of methodology used to collect and analyze the data.

(d) The application shall state the name, address and position of officials of each private or academic research organization or governmental agency consulted by the applicant in preparation of the application for information on land uses, soils, geology, vegetation, fish and wildlife, water quantity and quality, air quality, and archeological, cultural, and historic features.

(e) Maps and plans—General requirements.

(1) Maps submitted with applications shall be presented in a consolidated format, to the extent possible, and shall include all the types of information that are set forth on topographic maps of the U.S. Geological Survey of the 1:24,000 scale series. Maps of the permit area shall be at a scale of 1:6,000 or larger. Maps of the remainder of the adjacent area shall clearly show the lands and waters within that area and be in a scale of 1:24,000 or larger.

(2) All maps and plans submitted with the application shall distinguish among each of the phases during which surface coal mining operations were or will be conducted at any place within the life of the operations. At a minimum, distinctions shall be clearly shown among those portions of the life of the operations in which surface coal mining operations occurred—

(i) Prior to August 3, 1977;

(ii) After August 3, 1977, and prior to either—

(A) May 3, 1978; or

(B) In the case of an applicant or operator which obtained a small operator's exemption in accordance with 30 CFR 910.710–12, January 1, 1979;

(iii) After May 3, 1978 (or January 1, 1979, for persons who received a small operator's exemption) and prior to the effective date of this part.

(iv) After the estimated date of issuance of a permit by the Office.

§ 910.771–25 Permit fees. [Reserved]

§ 910.771–27 Verification of application.

Applications for permits shall be verified under oath or affirmation, by a responsible official of the applicant, that the information contained in the application is true and correct to the best of the official's information and belief.

Subpart 910.776—General Requirements for Coal Exploration

§ 910.776–11 General requirements: Exploration of less than 250 tons.

(a) Any person who intends to conduct coal exploration during which less than 250 tons of coal will be removed in the area to be explored shall, prior to conducting the exploration, file with the Office a written notice of intention to explore.

(b) The notice shall include—

(1) The name, address, and telephone number of the person seeking to explore;

(2) The name, address, and telephone number of the representative who will be present at and responsible for conducting the exploration activities;

(3) A precise description or a map, at a scale of 1:24,000 or larger, sufficient to identify the area or areas on the ground within which the exploration operations are to be conducted and the distance from the area or areas to a public road and the access routes to be used;

(4) A statement of the period of intended exploration, including a description of the area to be explored;

(5) A description of the practices proposed to be followed to protect the environment from adverse impacts as a result of the exploration activities.

(c) Any person who conducts coal exploration activities pursuant to this section which substantially disturb the natural land surface shall comply with 30 CFR 910.815.

(d) The Office shall, except as otherwise provided in § 910.776–17, place such notices on public file and make them available for public inspection and copying. Notices required by the Act to be made available locally to the public shall be retained at the OSM field office in Georgia and the regional office.

§ 910.776–12 General requirements: Exploration of more than 250 tons.

Any person who intends to conduct coal exploration in which more than 250 tons of coal are removed in the area to be explored, shall, prior to conducting the exploration, obtain the written approval of the Office, in accordance with the following:

(a) *Contents of application for approval.* Each application for approval shall contain, at a minimum, the following information—

(1) The name, address, and telephone number of the applicant;

(2) The name, address, and telephone number of the representative of the applicant who will be present at and be responsible for conducting the exploration;

(3) An exploration and reclamation operations plan, including—

(i) A narrative description of the proposed exploration area, cross-referenced to the map required under paragraph (a)(5) of this section, including surface topography; geological, surface water, and other physical features; vegetative cover; the distribution and important habitats of fish, wildlife, and plants, including, but not limited to, any endangered or threatened species listed pursuant to the Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 *et seq.*); districts, sites, buildings, structures or objects listed on or eligible for listing on the National Register of Historic Places; and known archeological resources located within the proposed exploration area;

(ii) A narrative description of the methods to be used to conduct coal exploration and reclamation, including, but not limited to, the types and uses of equipment, drilling, blasting, road or other access route construction, and excavated earth and other debris disposal activities;

(iii) An estimated timetable for conducting and completing each phase of the exploration and reclamation;

(iv) The estimated amounts of coal to be removed and a description of the methods to be used to determine those amounts;

(v) A description of the measures to be used to comply with the applicable requirements of 30 CFR 910.815;

(4) The name and address of the owner(s) of record of the surface land and of the subsurface mineral estate of the area to be explored;

(5) A map at a scale of 1:24,000 or larger, showing the areas of land to be substantially disturbed by the proposed exploration and reclamation. The map shall specifically show existing roads, occupied dwellings, and pipelines; proposed location of trenches, roads, and other access routes and structures to be constructed; the location of land excavations to be conducted; water or coal exploratory holes and wells to be drilled or altered; earth or debris disposal areas; existing bodies of surface water; historic, topographic, cultural and drainage features; and habitats of any endangered or threatened species listed pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*); and

(b) *Public notice and opportunity to comment.* Public notice of the application and opportunity to comment shall be provided as follows:

(1) Within a week after the Office has determined the application to be complete, public notice of the filing of the application shall be posted at the OSM field office in Georgia and at the regional office.

(2) The public notice shall state the name and business address of the person seeking approval, the date of filing of the application, the address to which written comments on the application may be submitted, the closing date of the comment period, and a description of the general area of exploration.

(3) Any person with an interest which is or may be adversely affected shall have the right to file written comments on the application within 15 days after the posting of the notice, as prescribed in paragraph (b)(1) of this section.

§ 910.776–13 Applications: Approval or disapproval of exploration of more than 250 tons.

(a) The Office shall act upon a completed application for approval within 60 days, unless a longer period is necessary to comply with other Federal laws and regulations.

(b) The Office shall approve a complete application if it finds, in writing, that the applicant has demonstrated that the exploration and reclamation described in the application—

(1) Will be conducted in accordance with Subpart 910.815.

(2) Will not jeopardize the continued existence of an endangered or threatened species listed pursuant to Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) or result in the destruction or adverse modification of critical habitat of those species; and

(3) Will not adversely affect cultural resources or districts, sites, buildings, structures, or objects listed on the National Register of Historic Places, unless the proposed exploration has been approved by both the Office and the agency with jurisdiction over such matters.

(c) *Terms of approval.* Each approval shall contain conditions necessary to ensure that the exploration and reclamation will be conducted in compliance with 30 CFR 910.815.

§ 910.776–14 Applications: Notice and hearing for exploration of more than 250 tons.

(a) The Office shall notify the applicant and the appropriate local government officials, in writing, of its decision to approve or disapprove the application. If the application is disapproved, the notice to the applicant shall include a statement of the reason for disapproval. The Office shall provide public notice of approval or disapproval of each application, by publication in a newspaper of general circulation in the general vicinity of the proposed operations.

(b) Any person with interests which are or may be adversely affected by a decision of the Office pursuant to paragraph (a) of this section, shall have the opportunity for administrative and judicial review as are set forth in 30 CFR 910.787.

§ 910.776–15 Coal exploration compliance duties.

(a) All coal exploration and reclamation which substantially disturb the natural land surface or which remove more than 250 tons of coal shall be conducted in accordance with the coal exploration requirements of this Part and any conditions on approval for exploration and reclamation imposed by the Office.

(b) Any person who conducts any coal exploration in violation of the provisions of this Subpart or Subpart 910.815 shall

be subject to the provisions of Subparts 910.842 through 910.845.

§ 910.776-17 Public availability of information.

(a) Except as provided in paragraph (b) of this section, all information submitted to the Office under this Subpart shall be made available for public inspection and copying at the OSM field office in Georgia.

(b)(1) The Office shall not make information available for public inspection, if the person submitting it requests in writing, at the time of submission, that it not be disclosed and the Office determines that the information is confidential.

(2) The Office shall determine that information is confidential only if it concerns trade secrets or is privileged commercial or financial information which relates to the competitive rights of the person intending to conduct coal exploration.

(3) Information requested to be held as confidential under this section shall not be made publicly available until after notice and opportunity to be heard is afforded both persons seeking and opposing disclosure of the information.

(c) Information pertaining to the location of historic or cultural resource may be withheld from public disclosure if a determination is made that its disclosure may create a substantial risk or harm, theft or destruction to such resources.

Subpart 910.778—Surface Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information

§ 910.778-13 Identification of interests.

(a) Each application shall contain the names and addresses of—

(1) The permit applicant, including his or her telephone number;

(2) Every legal or equitable owner of record of the property to be mined;

(3) The holders of record of any leasehold interest in the property to be mined;

(4) Any purchaser of record under a real estate contract of the property to be mined;

(5) The operator, if the operator is a person different from the applicant, including his or her telephone number; and

(6) The resident agent of the applicant who will accept service of process, including his or her telephone number.

(b) Each application shall contain a statement of whether the applicant is a corporation, partnership, single proprietorship, association or other business entity. For businesses other than single proprietorships, the application shall contain the following information, where applicable:

(1) Names and addresses of every officer, partner, director, or other person performing a function similar to a director of the applicant;

(2) Name and address of any person who is a principal shareholder of the applicant; and

(3) Names under which the applicant, partner, or principal shareholder previously operated a surface coal mining operation in the United States within the 5 years preceding the date of application.

(c) If any owner, holder, purchaser, or operator, identified under paragraph (a) of this section, is a business entity other than a single proprietor, the application shall contain the names and addresses of their respective principals, officers, and resident agents.

(d) Each application shall contain a statement of any current or previous coal mining permits in the United States held by the applicant subsequent to 1970 and by any person identified in paragraph (b)(3) of this section, and of any pending permit application to conduct surface coal mining and reclamation operations in the United States. The information shall be listed by permit or application number and identify the regulatory authority for each of those coal mining operations.

(e) Each application shall contain the names and addresses of the owners of record of all surface and subsurface areas contiguous to any part of the proposed permit area.

(f) Each application shall contain the name of the proposed mine and the Mine Safety and Health Administration identification number for the mine and all sections, if any.

(g) Each application shall contain a statement of all lands, interests in lands, options, or pending bids on interests held or made by the applicant for lands which are contiguous to the area to be covered by the permit.

§ 910.778-14 Compliance information.

Each application shall contain—

(a) A statement of whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant has—

(1) Has a Federal or State mining permit suspended or revoked in the last 5 years; or,

(2) Forfeited a mining bond or similar security deposited in lieu of bond.

(b) If any such suspension, revocation, or forfeiture has occurred, a statement of the facts involved, including—

(1) Identification number and date of issuance of the permit or date and amount of bond or similar security;

(2) Identification of the authority that suspended or revoked a permit or forefeited a bond and the stated reasons for that action;

(3) The current status of the permit, bond, or similar security involved;

(4) The date, location, and type of any administrative or judicial proceedings initiated concerning the suspension, revocation, or forefeiture; and

(5) The current status of these proceedings.

(c) A listing of each violation notice received by the applicant in connection with any surface coal mining operation during the 3-year period before the application date, for violations of any law, rule, or regulation of the United States, or of any State law, rule, or regulation enacted pursuant to Federal law, rule, or regulation, or of any provision of the Act pertaining to air or water environmental protection. The application shall also contain a statement regarding each violation notice, including—

(1) The date of issuance and identity of the issuing regulatory authority, department, or agency;

(2) A brief description of the particular violation alleged in the notice;

(3) The date, location, and type of any administrative or judicial proceedings initiated concerning the violation, including, but not limited to, proceedings initiated by the applicant to obtain administrative or judicial review of the violations;

(4) The current status of the proceedings and of the violation notice; and

(5) The actions, if any, taken by the applicant to abate the violation.

§ 910.778-15 Right of entry and operation information.

(a) Each application shall contain a description of the documents upon which the applicant bases his or her legal right to enter and begin surface mining activities in the permit area and whether that right is the subject of pending litigation. The description shall identify those documents by type and date of execution, identify the specific lands to which the document pertains, and explain the legal rights claimed by the applicant.

(b) Where the private mineral estate to be mined has been severed from the private surface estate, the application shall also provide for lands within the permit area—

(1) A copy of the written consent of the surface owner to the extraction of coal by surface mining methods; or

(2) A copy of the document of conveyance that expressly grants or reserves the right to extract the coal by surface mining methods; or

(3) If the conveyance does not expressly grant the right to extract the coal by surface mining methods, documentation that under the applicable State law, the applicant has the legal authority to extract the coal by those methods.

(c) Nothing in this section shall be construed to afford the Office the authority to adjudicate property title disputes.

§ 910.778-16 Relationship to areas designated unsuitable for mining.

(a) Each application shall contain a statement of available information on whether the proposed permit area is within an area designated unsuitable for surface mining activities under 30 CFR 910.764 or under study for designation in an administrative proceeding under those subparts.

(b) If an applicant claims the exemption in 30 CFR 910.766-19(d)(2), the application shall contain information supporting the applicant's assertion that it made substantial legal and financial commitments before January 4, 1977, concerning the proposed surface mining activities.

(c) If an applicant proposes to conduct surface mining activities within 300 feet of an occupied dwelling, the application shall contain the waiver of the owner of the dwelling as required in 30 CFR 910.761-12(e).

§ 910.778-17 Permit term information.

(a) Each application shall state the anticipated or actual starting and termination date of each mining activity *phase* and the anticipated number of acres of land to be affected for each mining activity *phase* of mining and over the total life of the permit.

(b) If the applicant proposes to conduct the surface mining activities in excess of 5 years, the application shall contain the information needed for the showing required under 30 CFR 910.766-25(a).

§ 910.778-18 Personal injury and property damage insurance information.

Each permit application shall contain either a certificate of liability insurance or evidence that the self-insurance requirements in 30 CFR 910.809-10 are satisfied.

§ 910.778-19 Identification of other licenses and permits.

Each application shall contain a list of all other licenses and permits needed by the applicant to conduct the proposed surface mining activities. This list shall identify each license and permit by—

(a) Type of permit or license;

(b) Name and address of issuing authority;

(c) Identification numbers of applications for those permits or licenses or, if issued, the identification numbers of the permits or licenses; and

(d) If a decision has been made, the date of approval or disapproval by each issuing authority.

§ 910.778-20 Identification of location of public office for filing of application.

Each application shall identify, by name and address, the public office where the applicant will simultaneously file a copy of the application for public inspection under 30 CFR 910.786-11(d).

§ 910.778-21 Newspaper advertisement and proof of publication.

A copy of the newspaper advertisement of the application and proof of publication of the advertisement shall be filed with the Office and made a part of the complete application, not later than 4 weeks after the last date of publication required under 30 CFR 910.786-11(a).

Subpart 910.779—Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources

§ 910.779-11 General requirements.

Each permit application shall include a description of the existing, premining environmental resources within the proposed permit area and adjacent area, or more extensive area as required, that may be affected by the proposed surface mining activities.

§ 910.779-12 General environmental resources information.

Each application shall describe and identify—

(a) The size, sequence, and timing of the areas for which it is anticipated that individual permits for mining will be requested over the estimated total life of the proposed surface mining activities; and

(b) The nature of cultural and historic resources listed or eligible for listing on the National Register of Historic Places and known archeological features within the proposed permit area and adjacent areas. The description shall be based on all available information, including, but not limited to, data of Federal, State and local archeological, historical, and cultural preservation agencies.

§ 910.779-13 Description of hydrology and geology: General requirements.

(a) Each application shall contain a description of the geology, hydrology, and water quality and quantity of all lands within the proposed permit area, adjacent area, and the general area. The description shall include information on the characteristics of all surface and ground waters within the general area, and any water which will flow into or receive discharges of water from the general area. The description shall be prepared according to §§ 910.779-13 through 910.779-17 and conform to the following:

(b)(1) Information on hydrology, water quality and quantity, and geology related to hydrology of areas outside the proposed permit area and within the general area shall be provided by the Office, to the extent that this data is available from an appropriate Federal or State agency.

(2) If this information is not available from those agencies, the applicant may gather and submit this information as part of the permit application.

(3) The permit shall not be approved until this information is made available in the application.

(c) The use of modeling techniques may be included as part of the permit application, but the same surface and ground water information may be required for each site as when models are not used.

§ 910.779-14 Geology description.

(a) The description shall include a general statement of the geology within the proposed permit area down to and including the first aquifer to be affected below the lowest coal seam to be mined.

(b)(1) Test borings or core samples from the proposed permit area shall be collected and analyzed down to and including the stratum immediately below the lowest coal seam to be mined to provide the following data in the description:

(i) Location of subsurface water, if encountered;

(ii) Logs of drill holes showing the lithologic characteristics and thickness of each stratum and each coal seam;

(iii) Physical properties of each stratum within the overburden including compaction and erodibility;

(iv) Chemical analyses of each stratum within the overburden and the stratum immediately below the lowest coal seam to be mined to identify, at a minimum, those horizons which contain

potential acid-forming, toxic-forming, or alkalinity producing materials; and

(v) Analyses of the coal seam, including, but not limited to, an analysis of the sulfur, pyrite, and marcasite content.

(2) If required by the Office, test borings or core samplings shall be collected and analyzed to greater depths within the proposed permit area, or for areas outside the proposed permit area to provide for evaluation of the impact of the proposed activities on the hydrologic balance on a site by site basis.

(3) An applicant may request that the requirement for a statement of the results of the test borings or core samplings be waived. The waiver may be granted only if the Office makes a written determination that the statement is unnecessary because other equivalent information is accessible to it in a statisfactory form.

§ 910.779–15 Ground water information.

(a) The application shall contain a description of the ground water hydrology for the proposed permit area and adjacent area, including, at a minimum—

(1) The depth below the surface and the horizontal extent of the water table and aquifers;

(2) The lithology and thickness of the aquifers;

(3) Known uses of the water in the aquifers and water table; and

(4) The quality of subsurface water, if encountered.

(b) The application shall contain additional information which describes the recharge, storage, and discharge characteristics of aquifers and the quality and quantity of ground water, according to the parameters and in the detail required by the Office. At a minimum static water level, yield, drawdown, and specific capacity of a sufficient number of wells shall be seasonally measured to demonstrate that surface mining activities are not adversely impairing the water yielding capability of off-site aquifers.

§ 910.779–16 Surface water information.

(a) Surface water information shall be described, including the name of the watershed which will receive water discharges, the location of all surface water bodies such as streams, lakes, ponds, and springs, the location of any water discharge into any surface body of water, and descriptions of surface drainage systems sufficient to identify, in detail, the seasonal variations in water quantity and quality within the proposed permit area and adjacent area.

(b) Surface water information shall include—

(1) Minimum, maximum, and average discharge conditions which identify critical low flow and peak discharge rates of streams sufficient to identify seasonal variations; and

(2) Water quality data within the proposed permit area and adjacent area to identify the characteristics of surface waters in, discharging into, or which will receive flows from surface or ground water from affected areas, sufficient to identify seasonal variations, showing—

(i) Total dissolved solids in milligrams per liter;

(ii) Total suspended solids in milligrams per liter;

(iii) Acidity;

(iv) pH in standard units;

(v) Total and dissolved iron in milligrams per liter;

(vi) Total manganese in milligrams per liter; and

(vii) Such other information as the Office determines is relevant.

§ 910.779–17 Alternative water supply information.

The application shall identify the extent to which the proposed surface mining activities may proximately result in contamination, diminution, or interruption of an underground or surface source of water within the proposed permit area and adjacent area for domestic, agricultural, industrial, or other legitimate use. If contamination, diminution, or interruption may result, then the description shall identify the alternative sources of water supply that could be developed to replace the existing sources.

§ 910.779–18 Climatological information.

(a) When requested by the Office, the application shall contain a statement of the climatological factors that are representative of the locality of the land to be affected, including:

(1) The average seasonal precipitation;

(2) The average direction and velocity of prevailing winds; and

(3) Seasonal temperature ranges.

(b) The Office may request such additional data as deemed necessary to ensure compliance with the requirements of this Part on a site by site basis.

§ 910.779–19 Vegetation information.

(a) The permit application shall, if required by the Office, contain a map that delineates existing vegetative types and a description of the plant communities within the proposed permit area and within any proposed reference area. This description shall include information adequate to predict the potential for reestablishing vegetation.

(b) Sufficient adjacent areas shall be included to allow evaluation of vegetation as important habitat for fish and wildlife for those species of fish and wildlife identified under 30 CFR 910.779–20.

§ 910.779–20 Fish and wildlife resources information.

(a) Each application shall include a study of fish and wildlife and their habitats within the proposed permit area and the portions of the adjacent areas where effects on such resources may reasonably be expected to occur.

(b) Prior to initiating such studies, the applicant shall contact the Office to determine what fish and wildlife resources information will be required.

(c) The Office, in consultation with the appropriate State and Federal fish and wildlife management, conservation, or land management agencies having responsibilities for fish and wildlife or their habitats, shall determine the level of detail and the areas of such studies, according to—

(1) Published data and other information;

(2) Site-specific information obtained by the applicant; and

(3) Written guidance obtained from agencies consulted.

§ 910.779–21 Soil resources information.

(a) The applicant shall provide adequate soil survey information for those lands in the permit application which a reconnaissance inspection indicates are or may be prime farmlands or if otherwise required pursuant to those Federal statutes set forth in Section 702 of the Act, consisting of the following:

(1) A map delineating different soils;

(2) Soil identification;

(3) Soil description; and

(4) Present and potential productivity of existing soils.

(b) Where the applicant proposes to use selected overburden materials as a supplement or substitute for topsoil, the application shall provide results of the analyses, trials, and tests required under 30 CFR 910.816–22.

§ 910.779–22 Land-use information.

(a) The application shall contain a statement of the condition, capability, and productivity of the land within the proposed permit area, including—

(1) A map and supporting narrative of the uses of the land existing at the time of the filing of the application. If the premining use of the land was changed within 5 years before the anticipated

date of beginning the proposed operations, the historic use of the land shall also be described.

(2) A narrative of land capability and productivity, which analyzes the land-use description under paragraph (a) of this section in conjunction with other environmental resources information required under this Subpart. The narrative shall provide analyses of:

(i) The capability of the land before any mining to support a variety of uses, giving consideration to soil and foundation characteristics, topography, vegetative cover and the hydrology of the proposed permit area; and

(ii) The productivity of the proposed permit area before mining, expressed as average yield of food, fiber, forage, or wood products from such lands obtained under high levels of management. The productivity shall be determined by yield data or estimates for similar sites based on current data from the U.S. Department of Agriculture, State agricultural universities or appropriate State natural resource or agricultural agencies.

(b) The application shall state whether the proposed permit area has been previously mined, and, if so, the following information, if available—

(1) The type of mining method used;

(2) The coal seams or other mineral strata mined;

(3) The extent of coal or other minerals removed;

(4) The approximate dates of past mining; and

(5) The uses of the land preceding mining.

(c) The application shall contain a description of the existing land uses and land use classifications under local law, if any, of the proposed permit area and adjacent area.

§ 910.779–24 Maps: General requirements.

The permit application shall include maps showing—

(a) All boundaries of lands and names of present owners of record of those lands, both surface and subsurface, included in or contiguous to the permit area;

(b) The boundaries of land within the proposed permit area upon which the applicant has the legal right to enter and begin surface mining activities;

(c) The boundaries of all areas proposed to be affected over the estimated total life of the proposed surface mining activities, with a description of size, sequence, and timing of the mining of sub-areas for which it is anticipated that additional permits will be sought;

(d) The location of all buildings on and within 1,000 feet of the proposed permit area, with identification of current use of the buildings;

(e) The location of surface and subsurface man-made features within, passing through, or passing over the proposed permit area, including, but not limited to, major electric transmission lines, pipelines, and agricultural drainage tile fields;

(f) The location and boundaries of any proposed reference areas for determining the success of revegetation;

(g) The locations of water supply intakes for current users of surface water flowing into, out of, and within a hydrologic area defined by the Office and those surface waters in the proposed permit area and adjacent area which will receive discharges from affected areas;

(h) Each public road located in or within 100 feet of the proposed permit area;

(i) The boundaries of any public park and locations of any cultural or historical resources listed or eligible for listing on the National Register of Historic Places and known archeological sites within the permit area and adjacent area.

(j) Each public or private cemetery or Indian burial ground located in or within 100 feet of the proposed permit area;

(k) Any land within the proposed permit area and adjacent area which is within the boundaries of any units of the National System of Trails or the Wild and Scenic Rivers System, including study rivers designated under Section 5(a) of the Wild and Scenic Rivers Act; and

(l) Other relevant information required by the Office.

§ 910.779–25 Cross sections, maps, and plans.

The application shall include cross sections, maps, and plans showing—

(a) Elevations and locations of test borings and core samplings;

(b) Elevations and locations of monitoring stations used to gather data for water quality and quantity, fish and wildlife, and air quality, if required, in preparation of the application;

(c) Nature, depth, and thickness of the coal seams to be mined, any coal or rider seams above the seam to be mined, each stratum of the overburden, and the stratum immediately below the lowest coal seam to be mined;

(d) All coal crop lines and the strike and dip of the coal to be mined within the proposed permit area;

(e) Location and extent of known workings of active, inactive, or abandoned underground mines, including mine openings to the surface within the proposed permit area and adjacent area;

(f) Location and extent of sub-surface water, if encountered, within the proposed permit area or adjacent area;

(g) Location of surface water bodies such as streams, lakes, ponds, springs, constructed or natural drains, and irrigation ditches within the proposed permit area and adjacent area;

(h) Location and extent of existing or previously surface-mined areas within the proposed permit area;

(i) Location and dimensions of existing areas of spoil, waste, and non-coal waste disposal, dams, embankments, other impoundments, and water treatment and air pollution control facilities within the proposed permit area;

(j) Location, and depth if available, of gas and oil wells within the proposed permit area and water wells in the permit area and adjacent area;

(k) Sufficient slope measurements to represent adequately the existing land surface configuration of the proposed permit area, measured and recorded according to the following:

(1) Each measurement shall consist of an angle of inclination along the prevailing slope extending 100 linear feet above and below or beyond the coal outcrop or the area to be disturbed or, where this is impractical, at locations specified by the Office.

(2) Where the area has been previously mined, the measurements shall extend at least 100 feet beyond the limits of mining disturbances, or any other distance determined by the Office to be representative of the premining configuration of the land.

(3) Slope measurements shall take into account natural variations in slope, to provide accurate representation of the range of natural slopes and reflect geomorphic differences of the area to be disturbed.

(l) Maps, plans, and cross sections included in a permit application which are required by this section shall be prepared by or under the direction of and certified by a qualified registered professional engineer or professional geologist, with assistance from experts in related fields such as land surveying and landscape architecture and shall be updated as required by the Office.

§ 910.779–27 Prime farmland investigation.

(a) The applicant shall conduct a pre-application investigation of the proposed permit area to determine whether lands within the area may be prime farmland.

(b) Land shall not be considered prime farmland where the applicant can demonstrate one of the following—

(1) The land has not been historically used as cropland;

(2) The slope of the land is 10 percent or greater;

(3) Other factors exist, such as a very rocky surface, or the land is frequently flooded during the growing season, more often than once in 2 years, and the flooding has reduced crop yields; or

(4) On the basis of a soil survey of lands within the proposed permit area, there are no soil map units that have been designated prime farmland by the U.S. Soil Conservation Service.

(c) If the investigation establishes that the lands are not prime farmland, the applicant shall submit with the permit application a request for a negative determination which shows that the land for which the negative determination is sought meets one of the criteria of paragraph (b) of this section.

(d) If the investigation indicates that lands within the proposed permit area may be prime farmlands, the applicant shall contact the U.S. Soil Conservation Service to determine if a soil survey exists for those lands and whether the applicable soil map units have been designated as prime farmlands. If no soil survey has been made for the lands within the proposed permit area, the applicant shall cause such a survey to be made.

(1) When a soil survey of lands within the proposed permit area contains soil map units which have been designated as prime farmlands, the applicant shall consult with the Office to obtain guidance for meeting the requirements of Section 515(b)(7) of the Act.

(2) When a soil survey for lands within the proposed permit area contains soil map units which have not been designated as prime farmland after review by the U.S. Soil Conservation Service, the applicant shall submit a request for negative determination for non-designated land with the permit application establishing compliance with paragraph (b) of this section.

Subpart 910.780—Surface Mining Permit Applications—Minimum Requirement for Reclamation and Operation Plan

§ 910.780–11 Operation plan: General requirements.

Each application shall contain a description of the mining operations proposed to be conducted within the proposed permit area, including, at a minimum, the following:

(a) A narrative description of the type and method of coal mining procedures and proposed engineering techniques, anticipated annual and total production of coal, by tonnage, and the major equipment to be used for all aspects of those operations; and

(b) A narrative explaining the construction, modification, use, maintenance, and removal of the following facilities (unless retention of such facilities is necessary for postmining land use as specified in § 910.816–133):

(1) Dams, embankments, and other impoundments;

(2) Overburden and topsoil handling and storage areas and structures;

(3) Coal removal, handling, storage, cleaning, and transportation areas and structures;

(4) Spoil, coal processing waste, and non-coal waste removal, handling, storage, transportation, and disposal areas and structures;

(5) Mine facilities; and

(6) Water and air pollution control facilities.

§ 910.780–12 Operation plan: Existing structures.

(a) Each application shall contain a description of each existing structure proposed to be used in connection with or to facilitate the surface coal mining and reclamation operation. The description shall include—

(1) Location;

(2) Plans of the structure which describe its current condition;

(3) Approximate dates on which construction of the existing structure was begun and completed; and

(4) A showing, including relevant monitoring data or other evidence, whether the structure meets the performance standards of this part or, if the structure does not meet the performance standards of this part, a showing whether the structure meets the performance standards of 30 CFR Subchapter B.

(b) Each application shall contain a compliance plan for each existing structure proposed to be modified or reconstructed for use in connection with or to facilitate the surface coal mining and reclamation operation. The compliance plan shall include—

(1) Design specifications for the modification or reconstruction of the structure to meet the design and performance standards of this part;

(2) A construction schedule which shows dates for beginning and completing interim steps and final reconstruction;

(3) Provisions for monitoring the structure during and after modification or reconstruction to ensure that the performance standards of this part are met; and

(4) A showing that the risk of harm to the environment or to public health or safety is not significant during the period of modification or reconstruction.

§ 910.780–13 Operation plan: Blasting.

Each application shall contain a blasting plan for the proposed permit area, explaining how the applicant intends to comply with the requirements of 30 CFR 910.816–61 through 910.816–68 and including the following:

(a) Types and approximate amounts of explosives to be used for each type of blasting operation to be conducted;

(b) Description of procedures and plans for recording and retention of information on the following during blasting—

(1) Drilling patterns, including size, number, depths, and spacing of holes;

(2) Charge and packing of holes;

(3) Types of fuses and detonation controls; and

(4) Sequence and timing of firing holes.

(c) Description of blasting warning and site access control equipment and procedures;

(d) Description of types, capabilities, sensitivities, and locations of use of any blast monitoring equipment and procedures proposed to be used;

(e) Description of plans for recording and reporting to the Office the results of preblasting surveys, if required; and

(f) Description of unavoidable hazardous conditions for which deviations from the blasting schedule will be needed under 30 CFR 910.816–65(b).

§ 910.780–14 Operation plan: Maps and plans.

Each application shall contain maps and plans of the proposed permit area and adjacent area as follows—

(a) The maps and plans shall show the lands proposed to be affected throughout the operation and any change in a facility or feature to be caused by the proposed operations, if the facility or feature was shown under 30 CFR 910.779–24 through 910.779–025.

(b) The following shall be shown for the proposed permit area unless otherwise specified by the requirements of this section:

(1) Buildings, utility corridors and facilities to be used;

(2) The area of land to be affected within the proposed life of operations, according to the sequence of mining and reclamation;

(3) Each area of land for which a performance bond or other equivalent guarantee will be posted under Subparts 910.800 through 910.808;

(4) Each coal storage, cleaning and loading area;

(5) Each topsoil, spoil, coal waste, and non-coal waste storage area;

(6) Each water diversion, collection, conveyance, treatment, storage, and discharge facility to be used;

(7) Each air pollution monitoring, collection and control facility;

(8) Each source of waste and each waste disposal facility relating to coal processing or pollution control;

(9) Each facility to be used to protect and enhance fish and wildlife and related environmental values;

(10) Each explosive storage and handling facility; and

(11) Location of each sedimentation pond, permanent water impoundment, coal processing waste bank, and coal processing waste dam and embankment, in accordance with 30 CFR 910.780–25, and fill area for the disposal of excess spoil in accordance 30 CFR 910.780–35.

(c) Maps, plans, and cross-sections required under paragraphs (b)(4), (5), (10), and (11) of this section shall be prepared by, or under the direction of and certified by a qualified registered professional engineer, or professional geologist, with assistance from experts in related fields such as land surveying and landscape architecture, except that—

(1) Maps, plans and cross-sections for sedimentation ponds may only be prepared by a qualified registered professional engineer; and

(2) Maps, plans, and cross-section of spoil disposal facilities may only be prepared by a qualified registered professional engineer.

§ 910.780–15 Air pollution control plan.

(a) For all surface mining activities the application shall contain an air pollution control plan which includes the following:

(1) An air quality monitoring program, if required by the Office, to provide sufficient data to evaluate the effectiveness of the fugitive dust control practices under paragraph (a)(2) of this section to comply with applicable Federal and State air quality standards, including Chapter 391–3–1 Rules and Regulations for Air Quality Control, Georgia Department of Natural Resources.

(2) A plan for fugitive dust control practices, as required under 30 CFR 910.816–95.

§ 910.780–16 Fish and wildlife plan.

(a) Each application shall contain a fish and wildlife plan,consistent with 30 CFR 910.816–97 which provides:

(1) A statement of how the plan will minimize disturbances and adverse impacts on fish and wildlife and related environmental values during surface coal mining and reclamation operations, and how enhancement of these resources will be achieved, where practicable. The plan shall cover the permit area and portions of adjacent areas as determined by the Office pursuant to § 910.779–20(c).

(2) If the applicant states that it will not be practicable, in accordance with paragraph (a)(1) of this section, to achieve a condition which clearly shows a trend toward enhancement of fish and wildlife resources at the time revegetation has been successfully completed under 30 CFR 910.816–111 through 910.816–117, a statement shall be provided which establishes, to the satisfaction of the Office, why it is not practicable to achieve such a condition.

(b) A statement explaining how the applicant will utilize impact control measures, management techniques, and monitoring methods to protect or enhance the following, if they are to be affected by the proposed activities:

(1) Threatened or endangered species of plants or animals listed by the Secretary under the Endangered Species Act of 1973, *as amended* (16 U.S.C. Sec. 1531 *et seq.*) and their critical habitats;

(2) Species such as eagles, migratory birds or other animals protected by State or Federal law, and their habitats; or other species identified through the consultation process pursuant to § 910.779–20; or

(3) Habitats of unusually high value for fish and wildlife, such as wetlands, riparian areas, cliffs supporting raptors, areas offering special shelter or protection, reproduction and nursery areas, and wintering areas:

§ 910.780–18 Reclamation plan: General requirements.

(a) Each application shall contain a plan for reclamation of the lands within the proposed permit area, showing how the applicant will comply with the environmental protection performance standards of Subparts 910.815 through 910.828. The plan shall include, at a minimum, all information required under 30 CFR 910.780–18 through 910.780–37.

(b) Each plan shall contain the following information for the proposed permit area—

(1) A detailed timetable for the completion of each major step in the reclamation plan;

(2) A detailed estimate of the cost of reclamation of the proposed operations required to be covered by a performance bond under Subparts 910.800 through 910.808, with supporting calculations for the estimates on a form provided by the Office.

(3) A plan for backfilling, soil stabilization, compacting, and grading, with contour maps or cross sections that show the anticipated final surface configuration of the proposed permit area, in accordance with 30 CFR 910.816–101 through 910.816–106;

(4) A plan for removal, storage, and redistribution of topsoil, subsoil, and other material to meet the requirements of 30 CFR 910.816–21 through 910.816–25.

(5) A plan for revegetation as required in 30 CFR 910.816–111 through 910.816–117, including, but not limited to, descriptions of the—

(i) Schedule of revegetation;

(ii) Species and amounts per acre of seeds and seedlings to be used;

(iii) Methods to be used in planting and seeding;

(iv) Mulching techniques;

(v) Irrigation, if appropriate, and pest and disease control measures, if any; and

(vi) Measures proposed to be used to determine the success of revegetation as required in 30 CFR 910.816–116.

(vii) A soil testing plan for evaluation of the results of topsoil handling and reclamation procedures related to revegetation.

(6) A description of the measures to be used to maximize the use and conservation of the coal resource as required in 30 CFR 910.816–59;

(7) A description of measures to be employed to ensure that all debris, acid-forming and toxic-forming materials, and materials constituting a fire hazard are disposed of in accordance with 30 CFR 910.816–89 and 910.816–103 and a description of the contingency plans which have been developed to preclude sustained combustion of such materials;

(8) A description, including appropriate cross sections and maps, of the measures to be used to seal or manage mine openings, and to plug, case, or manage exploration holes, other bore holes, wells, and other openings within the proposed permit area, in accordance with 30 CFR 910.816–13 through 910.816–15; and

(9) A description of steps to be taken to comply with the requirements of the Clean Air Act (42 U.S.C. 7401 *et seq.*), the Clean Water Act (33 U.S.C. 1251 *et seq.*), and other applicable air and water quality laws and regulations and health and safety standards.

§ 910.780–21 Reclamation plan: Protection of hydrologic balance.

(a) Each plan shall contain a detailed description, with appropriate maps and cross section drawings, of the measures

to be taken during and after the proposed surface mining activities, in accordance with 30 CFR 910.816, to ensure the protection of—

(1) The quality of surface and ground water systems, within proposed permit area and adjacent area, from the adverse effects of the proposed surface mining activities;

(2) The rights of present users of surface and ground water; and

(3) The quantity of surface and ground water both within the proposed permit area and adjacent area from adverse effects of the proposed surface mining activities, or to provide alternative sources of water in accordance with 30 CFR 910.779–17 and 910.816–54, where the protection of quantity cannot be ensured.

(b) The description shall include—

(1) A plan for the control, in accordance with 30 CFR 910.816, of surface and ground water drainage into, through, and out of the proposed permit area;

(2) A plan for the treatment, where required under Subparts 910.815 through 910.828, of surface and ground water drainage from the area to be disturbed by the proposed activities, and proposed quantitative limits on pollutants in discharges subject to 30 CFR 910.816–42 or applicable State and Federal laws, whichever is more stringent;

(3) A plan for the restoration of the approximate recharge capacity of the proposed permit area and adjacent area, in accordance with 30 CFR 910.816–51; and

(4) A plan for the collection, recording, and reporting of ground surface water quality and quantity data, according to 30 CFR 910.816–52.

(c) The description shall include a determination of the probable hydrologic consequences of the proposed surface mining activities on the proposed permit area and adjacent area, with respect to the hydrologic regime and the quantity and quality of water in surface and ground water systems under all seasonal conditions, including the contents of dissolved and total suspended solids, total iron, pH, total manganese, and other parameters required by the Office in a site-by-site basis.

§ 910.780–23 Reclamation plan: Postmining land uses.

(a) Each plan shall contain a detailed description of the proposed use, following reclamation, of the land within the proposed permit area including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses, and the relationship of the proposed use to existing land use policies and plans. This description shall explain—

(1) How the proposed postmining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use;

(2) Where a land use different from the pre-mining land use is proposed, all materials needed for approval of the alternative use under 30 CFR 910.816–133; and

(3) The consideration which has been given to making all of the proposed surface mining activities consistent with surface owner plans and applicable State and local land use plans and programs.

(b) The description shall be accompanied by a copy of the comments concerning the proposed use by the legal or equitable owner of record of the surface of the proposed permit area and the State and local government agencies which would have to initiate, implement, approve, or authorize the proposed use of the land following reclamation.

§ 910.780–25 Reclamation plan: Ponds, impoundments, banks, dams, and embankments.

(a) *General.* Each application shall include a general plan for each proposed sedimentation pond, water impoundment, and coal processing waste bank, dam, or embankment within the proposed permit area.

(1) Each general plan shall—

(i) Be prepared by, or under the direction of, and certified by a qualified registered professional engineer, or by a professional geologist with assistance from experts in related fields such as land surveying and landscape architecture;

(ii) Contain a description, map, and cross section of the structure and its location;

(iii) Contain preliminary hydrologic and geologic information required to assess the hydrologic impact of the structure;

(iv) Contain a survey describing the potential effect on the structure from subsidence of the subsurface strata resulting from past underground mining operations if underground mining has occurred; and

(v) Contain a certification statement which includes a schedule setting forth the dates that any detailed design plans for structures that are not submitted with the general plan will be submitted to the Office. The Office shall have approved, in writing, the detailed design plan for a structure before construction of the structure begins.

(2) Each detailed design plan for a structure that meets or exceeds the size or other criteria of the Mine Safety and Health Administration, 30 CFR 77.216(a), shall—

(i) Be prepared by, or under the direction of, and certified by a qualified registered professional engineer with assistance from experts in related fields such as geology, land surveying, and landscape architecture;

(ii) Include any geotechnical investigation, design, and construction requirements for the structure;

(iii) Describe the operation and maintenance requirements for each structure; and

(iv) Describe the timetable and plans to remove each structure, if appropriate.

(3) Each detailed design plan for a structure that does not meet size or other criteria of 30 CFR 77.216(a) shall—

(i) Be prepared by, or under the direction of, and certified by a qualified registered professional engineer or registered land surveyor except that all coal processing waste dams and embankments covered by 30 CFR 910.816–01 through 910.816–03 shall be certified by a qualified registered professional engineer;

(ii) Include any design and construction requirements for the structure, including any required geotechnical information;

(iii) Describe the operation and maintenance requirements for each structure; and

(iv) Describe the timetable and plans to remove each structure, if appropriate.

(b) *Sedimentation ponds.* Sedimentation ponds, whether temporary or permanent, shall be designed in compliance with the requirements of 30 CFR 910.816–46. Any sedimentation pond or earthen structure which will remain on the proposed permit area as a permanent water impoundment shall also be designed to comply with the requirements of 30 CFR 910.816–49. Each plan shall, at a minimum, comply with the requirements of the Mine Safety and Health Administration, 30 CFR 77.216–1 and 77.216–2.

(c) *Permanent and temporary impoundments.* Permanent and temporary impoundments shall be designed to comply with the requirements of 30 CFR 910.816–49. Each plan shall comply with the requirements of the Mine Safety and Health Administration, 30 CFR 77.216–1 and 77.216–2.

(d) *Coal processing waste banks.* Coal processing waste banks shall be designed to comply with the requirements of 30 CFR 910.816–81 through 910.816–85.

(e) *Coal processing waste dams and embankments.* Coal processing waste dams and embankments shall be designed to comply with the requirements of 30 CFR 910.816–81 through 910.816–83. Each plan shall comply with the requirements of the Mine Safety and Health Administration, 30 CFR 77.216–1 and 77.216–2, and shall contain the results of a geotechnical investigation of the proposed dam or embankment foundation area, to determine the structural competence of the foundation which will support the proposed dam or embankment structure and the impounded material. The geotechnical investigation shall be planned and supervised by an engineer or engineering geologist, according to the following:

(1) The number, location, and depth of borings and test pits shall be determined using current prudent engineering practice for the size of the dam or embankment, quantity of material to be impounded, and subsurface conditions.

(2) The character of the overburden and bedrock, the proposed abutment sites, and any adverse geotechnical conditions which may affect the particular dam, embankment, or reservoir site shall be considered.

(3) All springs, seepage, and ground water flow observed or anticipated during wet periods in the area of the proposed dam or embankment shall be identified on each plan.

(4) Consideration shall be given to the possibility of mudflows, rock-debris falls, or other landslides into the dam, embankment, or impounded material.

(f) If the structure is 20 feet or higher or impounds more than 20 acre-feet, each plan under paragraphs (b), (c), and (e) of this section shall include a stability analysis of each structure. The stability analysis shall include, but not be limited to, strength parameters, pore pressures, and long-term seepage conditions. The plan shall also contain a description of each engineering design assumption and calculation with a discussion of each alternative considered in selecting the specific design parameters and construction methods.

§ 910.780–27 Reclamation plan: Surface mining near underground mining.

For surface mining activities within the proposed permit area to be conducted within 500 feet of an underground mine, the application shall describe the measures to be used to comply with 30 CFR 910.816–79.

§ 910.780–29 Diversions.

Each application shall contain descriptions, including maps and cross sections, of stream channel diversions and other diversions to be constructed within the proposed permit area to achieve compliance with 30 CFR 910.816–43 through 910.816–44.

§ 910.780–31 Protection of public parks and historic places.

For any public parks or historic places that may be adversely affected by the proposed operations, each plan shall describe the measures to be used to minimize or prevent these impacts and to obtain approval of the Office and other agencies as required in 30 CFR 910.761–12(e).

§ 910.780–33 Relocation or use of public roads.

Each application shall describe, with appropriate maps and cross sections, the measures to be used to ensure that the interests of the public and landowners affected are protected if, under 30 CFR 910.761–12(d), the applicant seeks to have the Office approve—

(a) Conducting the proposed surface mining activities within 100 feet of the right-of-way line of any public road, except where mine access or haul roads join that right-of-way; or

(b) Relocating a public road.

§ 910.780–35 Disposal of excess spoil.

(a) Each application shall contain descriptions, including appropriate maps and cross section drawings, of the proposed disposal site and design of the spoil disposal structures according to 30 CFR 910.816–71 through 910.816–74. These plans shall describe the geotechnical investigation, design, construction, operation, maintenance, and removal, if appropriate, of the site and structures.

(b) Each application shall contain the results of a geotechnical investigation of the proposed disposal site, including the following:

(1) The character of bedrock and any adverse geologic conditions of the disposal area;

(2) A survey identifying all springs, seepage, and ground water flow observed or anticipated during wet periods in the area of the disposal site;

(3) A survey of the potential effects of subsidence of the subsurface strata due to past and future mining operations;

(4) A technical description of the rock materials to be utilized in the construction of those disposal structures containing rock chimney cores or underlain by a rock drainage blanket; and

(5) A stability analysis including, but not limited to, strength parameters, pore pressures and long-term seepage conditions. These data shall be accompanied by a description of all engineering design assumptions and calculations and the alternatives considered in selecting the specific design specifications and methods.

(c) If, under 30 CFR 910.816–71(i), rock-toe buttresses or key-way cuts are required, the application shall include the following:

(1) The number, location, and depth of borings or test pits which shall be determined with respect to the size of the spoil disposal structure and subsurface conditions; and

(2) Engineering specifications utilized to design the rock-toe buttress or key-way cuts which shall be determined in accordance with paragraph (b)(5) of this section.

§ 910.780–37 Transportation facilities.

Each application shall contain a detailed description of each road, conveyor, or rail system to be constructed, used, or maintained within the proposed permit area. The description shall include a map, appropriate cross sections, and the following:

(a) Specifications for each road width, road gradient, road surface, road cut, fill embankment, culvert, bridge, drainage ditch, and drainage structure.

(b) A report of appropriate geotechnical analysis, where approval is required for alternative specifications, or for steep cut slopes under 30 CFR 910.816–150(d), 910.816–152(c), 910.816–160(d) or 910.816–162(c).

(c) A description of measures to be taken to obtain approval of the alteration or relocation of a natural drainageway under 30 CFR 910.816–153(d), 910.816–163(d) or 910.816–173(c).

(d) A description of measures, other than use of a rock headwall, to be taken to protect the inlet end of a ditch relief culvert, for approval, under 30 CFR 910.816–153(c)(2)(vi) and 910.816–163(c)(2)(vi).

(e) Each plan shall contain a general description of each road, conveyor, or rail system to be constructed, used, or maintained within the proposed permit area.

Subpart 910.782—Underground Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information

§ 910.782–13 Identification of interests.

(a) Each application shall contain the names and addresses of—

(1) The permit applicant, including his or her telephone number;

(2) Every legal or equitable owner of record of the areas to be affected by surface operations and facilities and

every legal or equitable owner of record of the coal to be mined;

(3) The holders of record of any leasehold interest in areas to be affected by surface operations or facilities and the holders of record of any leasehold interest in the coal to be mined;

(4) Any purchaser of record under a real estate contract of areas to be affected by surface operations and facilities and any purchaser of record under a real estate contract of the coal to be mined;

(5) The operator, if the operator is a person different from the applicant, including his or her telephone number; and

(6) The resident agent of the applicant who will accept service of process, including his or her telephone number.

(b) Each application shall contain a statement of whether the applicant is a corporation, partnership, single proprietorship, association, or other business entity. For businesses other than single proprietorships, the application shall contain the following information, where applicable:

(1) Names and addresses of every officer, partner, director, or other person performing a function similar to a director of the applicant;

(2) Name and address of any person who is a principal shareholder of the applicant; and

(3) Names under which the applicant, partner, or principal shareholder previously operated a surface coal mining operation in the United States within the 5 years preceding the date of application.

(c) If any owner, holder, purchaser, or operator, identified under paragraph (a) of this section, is a business entity other than a single proprietor, the application shall contain the names and addresses of their respective principals, officers, and resident agents.

(d) Each application shall contain a statement of any current or previous coal mining permits in the United States held by the applicant subsequent to 1970 and by any person identified in paragraph (b)(3) of this section and of any pending permit application to conduct surface coal mining and reclamation operations in the United States. The information shall be listed by permit or application number and identify the regulatory authority for each of those coal mining operations.

(e) Each application shall contain the names and addresses of the owners of record of all surface and subsurface areas contiguous to any part of the proposed permit area.

(f) Each application shall contain the name of the proposed mine and the Mine Safety and Health Administration identification number for the mine and all sections, if any.

(g) Each application shall contain a statement of all lands, interests in lands, options, or pending bids on interests held or made by the applicant for lands which are contiguous to the area to be covered by the permit.

§ 910.782–14 Compliance information.

Each application shall contain—

(a) A statement of whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant has:

(1) Had a Federal or State mining permit suspended or revoked in the last 5 years; or,

(2) Forfeited a mining bond or similar security deposited in lieu of bond.

(b) If any such suspension, revocation, or forfeiture has occurred, a statement of the facts involved, including:

(1) Identification number and date of issuance of the permit or date and amount of bond or similar security;

(2) Identification of the authority that suspended or revoked a permit or forfeited a bond and the stated reasons for that action;

(3) The current status of the permit, bond, or similar security involved;

(4) The date, location, and type of any administrative or judicial proceedings initiated concerning the suspension, revocation, or forfeiture; and

(5) The current status of these proceedings.

(c) A listing of each violation notice received by the applicant in connection with any surface coal mining operation during the 3-year period before the application date, for violations of any law, rule, or regulation of the United States, or of any State law, rule, or regulation enacted pursuant to Federal law, rule, or regulation, or of any provision of the Act pertaining to air or water environmental protection. The application shall also contain a statement regarding each violation notice, including—

(1) The date of issuance and identity of the issuing regulatory authority, department, or agency;

(2) A brief description of the particular violation alleged in the notice;

(3) The date, location, and type of any administrative or judicial proceedings initiated concerning the violation, including, but not limited to, proceedings initiated by the applicant to obtain administrative or judicial review of the violations;

(4) The current status of the proceedings and of the violation notice; and

(5) The actions, if any, taken by the applicant to abate the violation.

§ 910.782–15 Right of entry and operation information.

(a) Each application shall contain a description of the documents upon which the applicant bases his or her legal right to enter and begin underground mining activities in the permit area and whether that right is the subject of pending litigation. The description shall identify those documents by type and date of execution, identify the specific lands to which the document pertains, and explain the legal rights claimed by the applicant.

(b) For underground mining activities where the associated surface operations involve the surface mining of coal and the private mineral estate to be mined has been severed from the private surface estate, the application shall also provide, for lands to be affected by those operations within the permit area—

(1) A copy of the written consent of the surface owner to the extraction of coal by surface mining methods; or

(2) A copy of the document of conveyance that expressly grants or reserves the right to extract the coal by surface mining methods; or

(3) If the conveyance does not expressly grant the right to extract coal by surface mining methods, documentation that under the applicable State law, the applicant has the legal authority to extract the coal by those methods.

(c) Nothing in this section shall be construed to afford the Office the authority to adjudicate property title disputes.

§ 910.782–16 Relationship to areas designated unsuitable for mining.

(a) Each application shall contain a statement of available information on whether the proposed permit area is within an area designated unsuitable for underground mining activities under 30 CFR 910.761 and 910.764 or under study for designation in an administrative proceeding initiated under those subparts.

(b) If an applicant claims the exemption in 30 CFR 910.786–19(d)(2), the application shall contain information supporting the applicant's assertion that it made substantial legal and financial commitments before January 4, 1977, concerning the proposed underground mining activities.

(c) If an applicant proposes to conduct or locate surface operations or facilities within 300 feet of an occupied dwelling, the application shall include the waiver of the owner of the dwelling as required in 30 CFR 910.761–12(e).

§ 910.782–17 Permit term information.

(a) Each application shall state the anticipated or actual starting and termination date of each phase of the underground mining activities and the anticipated number of acres of surface lands to be affected, and the horizontal and vertical extent of proposed underground mine workings, for each phase of mining and over the total life of the permit.

(b) If the applicant proposes to conduct the underground mining activities in excess of 5 years, the application shall contain the information needed for the showing required under 30 CFR 910.706–25(a)

§ 910.782–18 Personal injury and property damage insurance information.

Each application shall contain either a certificate of liability insurance or evidence that the self-insurance requirements in 30 CFR 910.806–14 are satisfied.

§ 910.782–19 Identification of other licenses and permits.

Each application shall contain a list of all other licenses and permits needed by the applicant to conduct the proposed underground mining activities. This list shall identify each license and permit by—

(a) Type of permit or license;

(b) Name and address of issuing authority;

(c) Identification numbers of applications for those permits or licenses or, if issued, the identification numbers of the permits or licenses; and

(d) If a decision has been made, the date of approval or disapproval by each issuing authority.

§ 910.782–20 Identification of location of public office for filing of application.

Each application shall identify, by name and address, the public office where the applicant will simultaneously file a copy of the application for public inspection under 30 CFR 910.786–11(d). The location of the file copy will be at the County courthouse (Clerk's Office) and at the regional office.

§ 910.782–21 Newspaper advertisement and proof of publication.

A copy of the newspaper advertisement of the application and proof of publication of the advertisement shall be filed with the Office and made a part of the complete application not later than 4 weeks after the last date of publication required under 30 CFR 910.786–11(a).

Subpart 910.783—Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources

§ 910.783–11 General requirements.

Each permit application shall include a description of the existing, premining environmental resources within the proposed permit area and adjacent area, or more extensive area as required, that may be affected by the proposed underground mining activities.

§ 910.783–12 General environmental resources information.

Each application shall describe and identify—

(a) The size, sequence, and timing of mining of the areas for which it is anticipated that individual permits for mining will be requested over the estimated total life of the proposed underground mining activities; and

(b) The nature of cultural and historic resources listed or eligible for listing on the National Register of Historic Places and known archeological sites within the proposed permit area and adjacent area. The description shall be based on all available information, including, but not limited to, data of Federal, State and local archeological, historic, and cultural preservation agencies.

§ 910.783–13 Description of hydrology and geology: General requirements.

(a) Each application shall contain a description of the geology, hydrology and water quality and quantity of all lands within the proposed permit area, the adjacent area, and the general area. The description shall include information on the characteristics of all surface and ground waters within the general area, and any water which will flow into or receive discharges of water from the general area. The description shall be prepared according to §§ 910.783–13 through 910.783–16 and conform to the following:

(1) Information on hydrology, water quality and quantity, and geology related to hydrology of areas outside the proposed permit area and within the general area shall be provided by the Office, to the extent that this data is available from an appropriate Federal or State agency.

(2) If this information is not available from these agencies, the applicant may gather and submit this information as part of the permit application.

(3) The permit shall not be approved until this information is made available in the application.

(b) The use of modeling techniques may be included as part of the permit application, but the same surface and ground water information may be required for each site as when models are not used.

§ 910.783–14 Geology description.

(a) The description shall include a general statement of the geology within the proposed permit area, down to and including the first aquifer to be affected below the lowest coal seam to be mined. The geology for areas proposed to be affected by surface operations and facilities, those surface lands overlying coal to be mined, and the coal to be mined shall be separately described, as follows:

(1) Geology of all the strata to be disturbed or affected by surface operations or facilities shall be described. The description shall include, at a minimum, the lithologic characteristics and physical and chemical properties of each stratum. For those areas to be affected by surface operations or facilities where removal of the overburden down to the level of the coal seam will occur, the geology of the strata down to and including the stratum immediately below any coal seam to be mined shall be described, including the following data resulting from analyses of test borings, core samplings, or outcrop samples—

(2) The geology for those surface lands within the proposed permit area which are underlain by the coal seam to be extracted and the geology of the coal seam itself, including—

(i) Location of subsurface water, if encountered;

(ii) The depth, classification, and geologic structure of the overburden;

(iii) Pyritic content and potential alkalinity of the stratum immediately above and below the coal seam to be mined and the clay content of the stratum immediately below the coal seam to be mined; and

(iv) Pyrite, marcasite, and sulfur content of the coal seam.

(b) An applicant may request that the requirements of Paragraph (a)(1) of this Section be waived. The waiver may be granted only if the Office makes a written determination that the statement required is unnecessary because other equivalent information is accessible to it in a satisfactory form.

§ 910.783–15 Ground water information.

(a) The application shall contain a description of the ground water hydrology for the proposed permit area and adjacent area, including, at a minimum—

(1) The depth below the surface and the horizontal extent of the water table and aquifers;

(2) The lithology and thickness of the aquifers;

(3) The uses of the water in the aquifers and water table; and

(4) The quality of subsurface water, if encountered.

(b)(1) The application shall contain additional information which describes the recharge, storage, and discharge characteristics of aquifers and the quality and quantity of ground water, in the detail required by the Office.

(2) At a minimum, static water level, yield, drawdown, and specific capacity of a sufficient number of wells shall be seasonally measured to demonstrate that surface mining activities are not adversely impairing the water yielding capability of off-site aquifers.

§ 910.783–16 Surface water information.

(a) Surface water information shall be described, including the name of the watershed which will receive water discharges, the location of all surface water bodies such as streams, lakes, ponds, and springs, the locations of any water discharge into any surface body of water, and descriptions of surface drainage systems sufficient to identify, in detail, the seasonal variations in water quantity and quality within the proposed permit area and adjacent area.

(b) Surface water information shall include:

(1) Minimum, maximum, and average discharge conditions, which identify critical low flows and peak discharge rates of streams sufficient to identify seasonal variations; and

(2) Water quality data within the proposed permit area and adjacent area to identify the characteristics of surface waters in, discharging into, or which will receive flows of surface or ground water from the affected areas sufficient to identify seasonal variations, showing—

(i) Total dissolved solids in milligrams per liter;

(ii) Total suspended solids in milligrams per liter;

(iii) Acidity;

(iv) pH in standard units;

(v) Total and dissolved iron in milligrams per liter;

(vi) Total manganese in milligrams per liter; and

(vii) Such other information as the Office determines is relevant.

§ 910.783–17 Alternative water supply information.

The application shall identify the extent to which the proposed underground mining activities may proximately result in contamination, diminution, or interruption of an underground or surface source of water within the proposed permit area or adjacent area for domestic, agricultural, industrial, or other legitimate use.

If contamination, diminution, or interruption may result, then the description shall identify the alternative sources of water supply that could be developed to replace the existing sources.

§ 910.783–18 Climatological information.

(a) When requested by the Office, the application shall contain a statement of the climatological factors that are peculiar to the locality of the land to be affected, including—

(1) The average seasonal precipitation;

(2) The average direction and velocity of prevailing winds; and

(3) Seasonal temperature ranges.

(b) The Office may request such additional data as is deemed necessary to ensure compliance with the requirements of this part on a site by site basis.

§ 910.783–19 Vegetation information.

(a) The permit application shall, if required by the Office, contain a map that delineates existing vegetative types and a description of the plant communities within the area affected by surface operations and facilities and within any proposed reference area. This description shall include information adequate to predict the potential for reestablishing vegetation.

(b) Sufficient adjacent areas shall be included to allow evaluation of vegetation as important habitat for fish and wildlife for those species of fish and wildlife identified under 30 CFR 910.779–20.

§ 910.783–20 Fish and wildlife resources information.

(a) Each application shall include a study of fish and wildlife and their habitats within the proposed permit area where surface operations will be conducted or facilities located and the portions of the adjacent areas where effects on such resources may reasonably be expected to occur.

(b) Prior to initiating such studies, the applicant shall contact the Office to determine what fish and wildlife resources information will be required.

(c) The Office, in consultation with the appropriate State and Federal fish and wildlife management, conservation, or land management agencies having responsibilities for fish or wildlife or their habitats, shall determine the level of detail and the areas of such studies according to:

(1) Published data and other information,

(2) Cite specific information obtained by the applicant, and

(3) Written guidance obtained from agencies consulted.

§ 910.783–21 Soil resources information.

(a) The applicant shall provide adequate soil survey information for those lands in the permit application which a reconnaissance inspection indicates are or may be prime farmlands or if otherwise required pursuant to those Federal statutes set forth in Section 702 of the Act, consisting of the following:

(1) A map delineating different soils;

(2) Soil identification;

(3) Soil description; and

(4) Present and potential productivity of existing soils.

(b) Where the applicant proposes to use selected overburden materials as a supplement or substitute for topsoil, the application shall provide results of the analyses, trials and tests required under 30 CFR 910.817–22.

§ 910.783–22 Land-use information.

(a) The application shall contain a statement of the condition, capability and productivity of the land which will be affected by surface operations and facilities within the proposed permit area, including—

(1) A map and supporting narrative of the uses of the land existing at the time of the filing of the application. If the premining use of the land was changed within 5 years before the anticipated date of beginning the proposed operations, the historic use of the land shall also be described.

(2) A narrative of land capability and productivity, which analyzes the land-use description under paragraph (a) of this section in conjunction with other environmental resources information required under this subpart. The narrative shall provide analyses of:

(i) The capability of the land before any mining to support a variety of uses, giving consideration to soil and foundation characteristics, topography, vegetative cover, and the hydrology of the area proposed to be affected by surface operations or facilities; and

(ii) The productivity of the area proposed to be affected by surface operations and facilities before mining, expressed as average yield of food, fiber, forage, or wood products from such lands obtained under high levels of management. The productivity shall be determined by yield data or estimates for similar sites based on current data from the U.S. Department of Agriculture, State agricultural universities or appropriate State natural resources or agricultural agencies.

(b) The application shall state whether the proposed permit area has been previously mined, and, if so, the following information, if available—

(1) The type of mining method used;

(2) The coal seams or other mineral strata mined;

(3) The extent of coal or other minerals removed;

(4) The approximate dates of past mining; and

(5) The uses of the land preceding mining.

(c) The application shall contain a description of the existing land uses and land use classifications under local law, if any, of the proposed permit area and adjacent area.

§ 910.783–24 Maps: General requirements.

The permit application shall include maps showing:

(a) All boundaries of lands and names of present owners of record of those lands, both surface and subsurface, included in or contiguous to the permit area;

(b) The boundaries of land within the proposed permit area upon which the applicant has the legal right to enter and begin underground mining activities;

(c) The boundaries of all areas proposed to be affected over the estimated total life of the underground mining activities, with a description of size, sequence and timing of the mining of subareas for which it is anticipated that additional permits will be sought;

(d) The location of all buildings in and within 1,000 feet of the proposed permit area, with identification of the current use of the buildings;

(e) The location of surface and subsurface man-made features within, passing through, or passing over the proposed permit area, including, but not limited to, major electric transmission lines, pipelines, and agricultural drainage tile fields;

(f) The location and boundaries of any proposed reference areas for determining the success of revegetation;

(g) The locations of water supply intakes for current users of surface waters flowing into, out of, and within a hydrologic area defined by the Office, and those surface waters in the permit area and adjacent areas which will receive discharges from affected areas;

(h) Each public road located in or within 100 feet of the proposed permit area;

(i) The boundaries of any public park and locations of any cultural or historical resources listed or eligible for listing on the National Register of Historic Places and known archeological sites within the proposed permit area and adjacent area.

(j) Each public or private cemetery or Indian burial ground located in or within 100 feet of the proposed permit area;

(k) Any land within the proposed permit area and adjacent area which is within the boundaries of any units of the National System of Trails or the Wild and Scenic Rivers System, including study rivers designated under Section 5(a) of the Wild and Scenic Rivers Act; and

(l) Other relevant information required by the Office.

§ 910.783–25 Cross sections, maps, and plans.

The application shall include cross sections, maps, and plans showing—

(a) Elevations and locations of test borings and core samplings;

(b) Elevations and locations of monitoring stations used to gather data on water quality and quantity, fish and wildlife, and air quality, if required, in preparation of the application;

(c) Nature, depth, and thickness of the coal seams to be mined, any coal or rider seams above the seam to be mined, each stratum of the overburden, and the stratum immediately below the lowest coal seam to be mined;

(d) All coal crop lines and the strike and dip of the coal to be mined within the proposed permit area;

(e) Location and extent of known workings of active, inactive, or abandoned underground mines, including mine openings to the surface within the proposed permit area and adjacent area;

(f) Location and extent of subsurface water, if encountered, within the proposed permit area or adjacent area, including, but not limited to areal and vertical distribution of aquifers, and portrayal of seasonal differences of head in different aquifers on cross-sections and contour maps;

(g) Location of surface water bodies such as streams, lakes, ponds, springs, constructed or natural drains, and irrigation ditches within the proposed permit area and adjacent area;

(h) Location and extent of existing or previously surface-mined areas within the proposed permit area;

(i) Location and dimensions of existing areas of spoil, waste, coal development waste, and non-coal waste disposal, dams, embankments, other impoundments, and water treatment and air pollution control facilities within the proposed permit area;

(j) Location, and depth if available, of gas and oil wells within the proposed permit area and water wells in the permit area and adjacent area;

(k) Sufficient slope measurements to adequately represent the existing land surface configuration of the area affected by surface operations and facilities, measured and recorded according to the following:

(1) Each measurement shall consist of an angle of inclination along the prevailing slope extending 100 linear feet above and below or beyond the coal outcrop or the area to be disturbed or, where this is impractical, at locations specified by the Office.

(2) Where the area has been previously mined, the measurements shall extend at least 100 feet beyond the limits of mining disturbances, or any other distance determined by the Office to be representative of the premining configuration of the land.

(3) Slope measurements shall take into account natural variations in slope, to provide accurate representation of the range of natural slopes and reflect geomorphic differences of the area to be disturbed.

(l) Maps, plans and cross sections included in a permit application and required by this Section shall be prepared by, or under the direction of and certified by a qualified registered professional engineer or professional geologist, with assistance from experts in related fields such as land surveying and landscape architecture and shall be updated as required by the Office.

§ 910.783–27 Prime farmland investigation.

(a) The applicant shall conduct a pre-application investigation of the area proposed to be affected by surface operations or facilities to determine whether lands within the area may be prime farmland.

(b) Land shall not be considered prime farmland where the applicant can demonstrate one or more of the following:

(1) The land has not been historically used as cropland;

(2) The slope of the land is 10 percent or greater;

(3) Other factors exist, such as a very rocky surface, or the land is frequently flooded during the growing season more often than once in 2 years and the flooding has reduced crop yields; or

(4) On the basis of a soil survey of the lands within the permit area there are no soil map units that have been designated prime farmland by the U.S. Soil Conservation Service.

(c) If the investigation establishes that the lands are not prime farmland, the applicant shall submit with the permit application a request for a negative determination which shows that the land for which the negative determination is sought meets one or

more of the criteria in paragraph (b) of this section.

(d) If the investigation indicates that lands within the proposed area to be affected by surface operations and facilities may be prime farmlands, the applicant shall contact the U.S. Soil Conservation Service to determine if these lands have a soil survey and whether the applicable soil map units have been designated prime farmlands. If no such soil survey has been made for these lands, the applicant shall cause such a survey to be made.

(1) When a soil survey as required in paragraph (d) of this section contains soil map units which have been designated as prime farmlands, the applicant shall consult with the Office to obtain guidance for meeting the requirements of Section 515(b)(7) of the Act.

(2) When a soil survey as required in paragraph (d) of this section contains soil map units which have not been designated, after review by the U.S. Soil Conservation Service, as prime farmland, the applicant shall submit a request for negative determination for non-designated land with the permit application establishing compliance with paragraph (b) of this section.

Subpart 910.784—Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan

§ 910.784–11 Operation plan: General requirements.

Each application shall contain a description of the mining operations proposed to be conducted within the proposed permit area, including, at a minimum, the following:

(a) A narrative description of the type and method of coal mining procedures and proposed engineering techniques, anticipated annual and total production of coal, by tonnage, and the major equipment to be used for all aspects of those operations; and

(b) A narrative explaining the construction, modification, use, maintenance, and removal of the following facilities (unless retention of such facility is necessary for postmining land use as specified in § 910.817–133)—

(1) Dams, embankments, and other impoundments;

(2) Overburden and topsoil handling and storage areas and structures;

(3) Coal removal, handling, storage, cleaning, and transportation areas and structures;

(4) Spoil, coal processing waste, mine development waste, and non-coal waste removal, handling, storage, transportation, and disposal areas and structures;

(5) Mine facilities; and

(6) Water pollution control facilities.

§ 910.784–12 Operation plan: Existing structures.

(a) Each application shall contain a description of each existing structure proposed to be used in connection with or to facilitate the surface coal mining and reclamation operation. The description shall include—

(1) Location;

(2) Plans of the structure which describe its current condition;

(3) Approximate dates on which construction of the existing structure was begun and completed; and

(4) A showing, including relevant monitoring data or other evidence, whether the structure meets the performance standards of this part, or if the structure does not meet the performance standards of this Part, a showing whether the structure meets the performance standards of 30 CFR Subchapter B.

(b) Each application shall contain a compliance plan for each existing structure proposed to be modified or reconstructed for use in connection with or to facilitate the surface coal mining and reclamation operation. The compliance plan shall include—

(1) Design specifications for the modification or reconstruction of the structure to meet the design and performance standards of this part;

(2) A construction schedule which shows dates for beginning and completing interim steps and final reconstruction;

(3) Provisions for monitoring the structure during and after modification or reconstruction to ensure that the performance standards of this part are met; and

(4) A showing that the risk of harm to the environment or to public health or safety is not significant during the period of modification or reconstruction.

§ 910.784–13 Reclamation plan: General requirements.

(a) Each application shall contain a plan for the reclamation of the lands within the proposed permit area, showing how the applicant will comply with the environmental protection performance standards of this part. The plan shall include, at a minimum, all information required under 30 CFR 910.784–13 through 910.784–26.

(b) Each plan shall contain the following information for the proposed permit area;

(1) A detailed timetable for the completion of each major step in the reclamation plan;

(2) A detailed estimate of the cost of the reclamation of the proposed operations required to be covered by a performance bond under Subparts 910.800 through 910.808, with supporting calculations for the estimates;

(3) A plan for backfilling, soil stabilization, compacting and grading, with contour maps or cross sections that show the anticipated final surface configuration of the proposed permit area, in accordance with 30 CFR 910.817–101 through 910.817–106;

(4) A plan for removal, storage, and redistribution of topsoil, subsoil, and other material to meet the requirements of 30 CFR 910.817–21 and 910.817–25;

(5) A plan for revegetation as required in 30 CFR 910.817–111 through 910.817–116, including, but not limited to, descriptions of the—

(i) Schedule of revegetation;

(ii) Species and amounts per acre of seeds and seedlings to be used;

(iii) Methods to be used in planting and seeding;

(iv) Mulching techniques;

(v) Irrigation, if appropriate, and pest and disease control measures, if any;

(vi) Measures proposed to be used to determine the success of revegetation as required in 30 CFR 910.817–116; and

(vii) A soil testing plan for evaluation of the results of topsoil handling and reclamation procedures related to revegetation.

(6) A description of the measures to be used to maximize the use and conservation of the coal resource as required in 30 CFR 910.817–59;

(7) A description of measures to be employed to ensure that all debris, acid-forming and toxic-forming materials, and materials constituting a fire hazard are disposed of in accordance with 30 CFR 910.817–89 and 910.817–103 and a description of the contingency plans which have been developed to preclude sustained combustion of such materials;

(8) A description, including appropriate cross sections and maps, of the measures to be used to seal or manage mine openings, and to plug, case or manage exploration holes, other bore holes, wells and other openings within the proposed permit area, in accordance with 30 CFR 910.817–13 through 910.817–15; and

(9) A description of steps to be taken to comply with the requirements of the Clean Air Act (42 U.S.C. Sec. 7401 et seq.), the Clean Water Act (33 U.S.C. Sec. 1251 et seq.), and other applicable air and water quality laws and regulations and health and safety standards.

§ 910.784–14 Reclamation plan: Protection of hydrologic balance.

(a) Each plan shall contain a detailed description, with appropriate maps and cross section drawings, of the measures to be taken during and after the proposed underground mining activities, in accordance with 30 CFR 910.817, to ensure the protection of:

(1) The quality of surface and ground water within the proposed permit area and adjacent area from adverse effects of the proposed underground mining activities;

(2) The rights of present users to surface and ground water;

(3) The quantity of surface and ground water both within the proposed permit area and adjacent area from adverse effects of the proposed underground mining activities, in accordance with 30 CFR 910.783–17; and

(4) Water quality by locating openings for mines in accordance with 30 CFR 910.817–50.

(b) The description shall include—

(1) A plan for the control, in accordance with 30 CFR 910.817, of surface and ground water drainage into, through, and out of the proposed permit area;

(2) A plan for the treatment, where required under Subparts 910.815 through 910.828, and surface and ground water drainage from the area to be affected by the proposed activities, and proposed quantitative limits on pollutants in discharges subject to 30 CFR 910.817–42;

(3) A plan for the collection, recording, and reporting of ground and surface water quality and quantity data, according to 30 CFR 910.817–52.

(c) The description shall include a determination of the probable hydrologic consequences of the proposed underground mining activities, on the proposed permit area and adjacent area, with respect to the hydrologic regime and the quantity and quality of water in surface and ground water systems under all seasonal conditions, including the contents of dissolved and total suspended solids, total iron, pH, total manganese, and other parameters required by the Office on a site by site basis.

(d) Each plan shall contain a detailed description, with appropriate drawings, of permanent entry seals and down-slope barriers designed to ensure stability under anticipated hydraulic heads developed while promoting mine inundation after mine closure for the proposed permit area.

§ 910.784–15 Reclamation plan: Postmining land uses.

(a) Each plan shall contain a detailed description of the proposed use, following reclamation, of the land to be affected within the proposed permit area by surface operations or facilities, including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses, and the relationship of the proposed use to existing land use policies and plans. This description shall explain—

(1) How the proposed postmining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use;

(2) Where a land use different from the pre-mining land use is proposed, all materials needed for approval of the alternative use under 30 CFR 910.817–133; and

(3) The consideration given to making all of the proposed underground mining activities consistent with surface owner plans and applicable State and local land use plans and programs.

(b) The description shall be accompanied by a copy of the comments concerning the proposed use from the legal or equitable owner of record of the surface areas to be affected by surface operations or facilities within the proposed permit area and the State and local government agencies which would have to initiate, implement, approve, or authorize the proposed use of the land following reclamation.

§ 910.784–16 Reclamation plan: Ponds, impoundments, banks, dams, and embankments.

(a) *General.* Each application shall include a general plan for each proposed sedimentation pond, water impoundment, and coal processing waste bank, dam, or embankment within the proposed permit area.

(1) Each general plan shall—

(i) Be prepared by, or under the direction of, and certified by, a qualified registered professional engineer or by a professional geologist with assistance from experts in related fields such as land surveying and landscape architecture;

(ii) Contain a description, map, and cross section of the structure and its location;

(iii) Contain preliminary hydrologic and geologic information required to assess the hydrologic impact of the structure;

(iv) Contain a survey describing the potential effect on the structure from subsidence of the subsurface strata resulting from past underground mining operations if underground mining has occurred; and

(v) Contain a certification statement which includes a schedule setting forth the dates when any detailed design plans for structures that are not submitted with the general plan will be submitted to the Office. The Office shall have approved, in writing, the detailed design plan for a structure before construction of the structure begins.

(2) Each detailed design plan for a structure that meets or exceeds the size or other criteria of the Mine Safety and Health Administration, 30 CFR 77.216(a) shall—

(i) Be prepared by, or under the direction of, and certified by a qualified registered professional engineer with assistance from experts in related fields such as geology, land surveying, and landscape architecture;

(ii) Include any geotechnical investigation, design, and construction requirements for the structure;

(iii) Describe the operation and maintenance requirements for each structure; and

(iv) Describe the timetable and plans to remove each structure, if appropriate.

(3) Each detailed design plan for a structure that does not meet the size or other criteria of 30 CFR 77.216(a) shall—

(i) Be prepared by, or under the direction of, and certified by a qualified registered professional engineer or registered land surveyor except that all coal processing waste dams and embankments covered by 30 CFR 910.817–01 through 910.817–03 shall be certified by a qualified registered professional engineer;

(ii) Include any design and construction requirements for the structure, including any required geotechnical information;

(iii) Describe the operation and maintenance requirements for each structure; and

(iv) Describe the timetable and plans to remove each structure, if appropriate.

(b) *Sedimentation ponds.* (1) Sedimentation ponds, whether temporary or permanent, shall be designed in compliance with the requirements of 30 CFR 910.817–46. Any sedimentation pond or earthen structure which will remain on the proposed permit area as a permanent water impoundment shall also be designed to comply with the requirements of 30 CFR 910.817–49.

(2) Each plan shall, at a minimum, comply with the requirements of the Mine Safety and Health Administration, 30 CFR 77.216–1 and 77.216–2.

(c) *Permanent and temporary impoundments.* Permanent and temporary impoundments shall be designed to comply with the

requirements of 30 CFR 817.49. Each plan shall comply with the requirements of the Mine Safety and Health Administration, 30 CFR 77.216–1 and 77.216–2.

(d) *Coal processing waste banks.* Coal processing waste banks shall be designed to comply with the requirements of 30 CFR 910.817–81 through 910.817–85.

(e) *Coal processing waste dams and embankments.* Coal processing waste dams and embankments shall be designed to comply with the requirements of 30 CFR 910.817–91 through 910.817–93. Each plan shall comply with the requirements of the Mine Safety and Health Administration, 30 CFR 77.216–1 and 77.216–2, and shall contain the results of a geotechnical investigation of the proposed dam or embankment foundation area, to determine the structural competence of the foundation which will support the proposed dam or embankment structure and the impounded material. The geotechnical investigation shall be planned and supervised by an engineer or engineering geologist, according to the following:

(1) The number, location, and depth of borings and test pits shall be determined using current prudent engineering practice for the size of the dam or embankment, quantity of material to be impounded, and subsurface conditions.

(2) The character of the overburden and bedrock, the proposed abutment sites, and any adverse geotechnical conditions which may affect the particular dam, embankment, or reservoir site shall be considered.

(3) All springs, seepage, and ground water flow observed or anticipated during wet periods in the area of the proposed dam or embankment shall be identified on each plan.

(4) Consideration shall be given to the possibility of mudflows, rock-debris falls, or other landslides into the dam, embankment, or impounded material.

(f) If the structure is 20 feet or higher or impounds more than 20 acre-feet, each plan under paragraphs (b), (c), and (e) of this section shall include a stability analysis of each structure. The stability analysis shall include, but not be limited to, strength parameters, pore pressures, and long-term seepage conditions. The plan shall also contain a description of each engineering design assumption and calculation with a discussion of each alternative considered in selecting the specific design parameters and construction methods.

§ 910.784–17 Protection of public parks and historic places.

For any public parks or historic places that may be adversely affected by the proposed operation, each plan shall describe the measures to be used to minimize or prevent these impacts and to obtain approval of the Office and other agencies as required in 30 CFR 910.761–12(f).

§ 910.784–18 Relocation or use of public roads.

Each application shall describe, with appropriate maps and cross sections, the measures to be used to ensure that the interests of the public and landowners affected are protected if, under 30 CFR 910.761–12(d), the applicant seeks to have the Office approve—

(a) Conducting the proposed underground mining activities within 100 feet of the right-of-way line of any public road, except where mine access or haul roads join that right-of-way; or

(b) Relocating a public road.

§ 910.784–19 Underground development waste.

Each plan shall contain descriptions, including appropriate maps and cross section drawings of the proposed disposal methods and sites for placing underground development waste and excess spoil generated at surface areas affected by surface operations and facilities, according to 30 CFR 910.817–71 and 910.817–74. Each plan shall describe the geotechnical investigation, design, construction, operation, maintenance and removal, if appropriate, of the structures and be prepared according to 30 CFR 910.780–35.

§ 910.784–20 Subsidence control plan.

The application shall include a survey which shall show whether structures or renewable resource lands exist within the proposed permit and adjacent area and whether subsidence if it occurred could cause material damage or diminution of reasonably foreseeable use of such structures or renewable resource lands. If the survey shows that no such structures or renewable resource lands exist, or no such material damage or diminution could be caused in the event of mine subsidence, and if the Office agrees with such conclusion, no further information need be provided in the application under this Section. In the event the survey shows such structures or renewable resource lands exist, or that subsidence could cause material damage or diminution of value or foreseeable use of the land, or if the Office determines that such damage or diminution could occur, the application shall include a subsidence control plan which shall contain the following information—

(a) A detailed description of the mining method and other measures to be taken which may affect subsidence, including:

(1) The technique of coal removal, such as longwall mining, room and pillar with pillar removal, hydraulic mining or other methods; and

(2) The extent, if any, to which planned and controlled subsidence is intended.

(b) A detailed description of the measures to be taken to prevent subsidence from causing material damage or lessening the value or reasonably foreseeable use of the surface, including—

(1) The anticipated effects of planned subsidence, if any;

(2) Measures, if any, to be taken in the mine to reduce the likelihood of subsidence, including such measures as—

(i) Backstowing or backfilling of voids;

(ii) Leaving support pillars of coal; and

(iii) Areas in which no coal removal is planned, including a description of the overlying area to be protected by leaving coal in place.

(3) Measures to be taken on the surface to prevent material damage or lessening of the value or reasonably foreseeable use of the surface including such measures as—

(i) Reinforcement of sensitive structures or features;

(ii) Installation of footers designed to reduce damage caused by movement;

(iii) Change of location of pipelines, utility lines or other features;

(iv) Relocation of movable improvements to sites outside the angle-of-draw; and

(v) Monitoring, if any, to determine the commencement and degree of subsidence so that other appropriate measures can be taken to prevent or reduce material damage.

(c) A detailed description of the measures to be taken to mitigate the effects of any material damage or diminution of value or foreseeable use of lands which may occur, including one or more of the following as required by 30 CFR 910.817–124—

(1) Restoration or rehabilitation of structures and features, including approximate land-surface contours, to premining condition.

(2) Replacement of structures destroyed by subsidence.

(3) Purchase of structures prior to mining and restoration of the land after subsidence to condition capable of supporting and suitable for the structures and foreseeable land uses.

(4) Purchase of non-cancellable insurance policies payable to the surface owner in the full amount of the possible material damage or other comparable measures.

(d) A detailed description of measures to be taken to determine the degree of material damage or diminution of value or foreseeable use of the surface, including such measures as—

(1) The results of pre-subsidence surveys of all structures and surface features which might be materially damaged by subsidence.

(2) Monitoring, if any, proposed to measure deformations near specified structures or features or otherwise as appropriate for the operation.

§ 910.784–21 Fish and wildlife plan.

(a) Each application shall contain a fish and wildlife plan, consistent with the performance standards of 30 CFR 910.817–97 and which provides:

(1) A statement of how the plan will minimize disturbances and adverse impacts on fish and wildlife and related environmental values during surface coal mining and reclamation operations, and how enhancement of these resources will be achieved, where practicable. The plan shall cover the portions of the permit area and adjacent areas as determined by the Office pursuant to § 910.783–20.

(2) If the applicant states that it will not be practicable, in accordance with paragraph (a)(1) of this section, to achieve a condition which clearly shows a trend toward enhancement of fish and wildlife resources at the time revegetation has been successfully completed under 30 CFR 910.817–111 and 910.817–117, a statement shall be provided which establishes, to the satisfaction of the Office, why it is not practicable to achieve such a condition.

(b) A statement explaining how the applicant will utilize impact control measures, management techniques, and monitoring methods to protect or enhance the following, if they are to be affected by the proposed activities:

(1) Threatened or endangered species of plants or animals listed by the Secretary under the Endangered Species Act of 1973, as amended (16 U.S.C. Sec. 1531 *et seq.* and their critical habitats);

(2) Species such as eagles, migratory birds or other animals protected by State or Federal law, and their habitats; or other species identified through the consultation process pursuant to 30 CFR 910.783–20 or applicable State and Federal laws, whichever is more stringent; or

(3) Habitats of unusually high value for fish and wildlife, such as wetlands, riparian areas, cliffs supporting raptors, areas offering special shelter or protection, reproduction and nursery areas, and wintering areas.

§ 910.784–22 Diversions.

Each application shall contain descriptions, including maps and cross sections, of stream channel diversions and other diversions to be constructed within the proposed permit area to achieve compliance with 30 CFR 910.817–43 through 910.817–44.

§ 910.784–23 Operation plan: Maps and plans.

Each application shall contain maps, plans, and cross sections of the proposed permit area and adjacent areas as follows—

(a) The maps, plans and cross sections shall show the underground mining activities to be conducted, the lands to be affected throughout the operation, and any change in a facility or feature to be caused by the proposed operations, if the facility or feature was shown under 30 CFR 910.783–24 through 910.783–25.

(b) The following shall be shown for the proposed permit area unless otherwise specified for the requirements of this section:

(1) Buildings, utility corridors, and facilities to be used;

(2) The area of land to be affected within the proposed life of operations, according to the sequence of mining and reclamation;

(3) Each area of land for which a performance bond or other equivalent guarantee will be posted under Subparts 910.800 through 910.806;

(4) Each coal storage, cleaning and loading area;

(5) Each topsoil, spoil, coal preparation waste, underground development waste, and non-coal waste storage area;

(6) Each water diversion, collection, conveyance, treatment, storage and discharge facility to be used;

(7) Each source of waste and each waste disposal facility relating to coal processing or pollution control;

(8) Each facility to be used to protect and enhance fish and wildlife related environmental values;

(9) Each explosive storage and handling facility;

(10) Location of each sedimentation pond, permanent water impoundment, coal processing waste bank, and coal processing waste dam and embankment, in accordance with 30 CFR 910.784–16 and disposal areas for underground development waste and excess spoil, in accordance with 30 CFR 910.784–19;

(11) Each profile, at cross sections specified by the Office of the anticipated final surface configuration to be achieved for the affected areas;

(12) Location of each water and subsidence monitoring point; and

(13) Location of each facility that will remain on the proposed permit area as a permanent feature, after the completion of underground mining activities.

(c) Maps, plans, and cross sections required under paragraphs (b)(5), (6), (10), and (11) of this section shall be prepared by, or under the direction of and certified by a qualified professional engineer, or professional geologist, with assistance from experts in related fields such as land surveying and landscape architecture, except that—

(1) Maps, plans, and cross sections for sedimentation ponds may only be prepared by a qualified registered engineer; and

(2) Excess spoil and underground development waste facilities maps, plans, and cross sections may only be prepared by a qualified registered professional engineer.

§ 910.784–24 Transportation facilities.

Each application shall contain a detailed description of each road, conveyor, and rail system to be constructed, used, or maintained within the proposed permit area. The description shall include a map, appropriate cross sections, and the following:

(a) Specifications for each road width, road gradient, road surface, road cut, fill embankment, culvert, bridge, drainage ditch, and drainage structure.

(b) A report of appropriate geotechnical analysis, where approval is required for alternative specifications or for steep cut slopes under 30 CFR 910.817–150(d), 910.817–152(c), 910.817–160(d) or 910.817–162(c).

(c) A description of each measure to be taken to obtain approval of alteration or relocation of a natural drainageway under 30 CFR 910.817–153(d), 910.817–163(d), or 910.817–173(c).

(d) A description of measures, other than use of a rock headwall, to be taken to protect the inlet end of a ditch relief culvert, for approval under 30 CFR 910.817–153(c)(2)(vi) and 910.817–163(c)(2)(vi).

(e) Each plan shall contain a general description of each road, conveyor, or rail system to be constructed, used, or maintained within the proposed permit area.

§ 910.784–25 Return of coal processing waste to abandoned underground workings.

(a) Each plan shall describe the design, operation and maintenance of any proposed coal processing waste disposal facility, including flow diagrams and any other necessary drawings and maps, for the approval of the Office and the Mine Safety and Health Administration under 30 CFR 910.817–88.

(b) Each plan shall describe the source and quality of waste to be stowed, area to be backfilled, percent of the mine void to be filled, method of constructing underground retaining walls, influence of the backfilling operation on active underground mine operations, surface area to be supported by the backfill, and the anticipated occurrence of surface effects following backfilling.

(c) The applicant shall describe the source of the hydraulic transport mediums, method of dewatering the placed backfill, retainment of water underground, treatment of water if released to surface streams, and the effect on the hydrologic regime.

(d) The plan shall describe each permanent monitoring well to be located in the backfilled area, the stratum underlying the mined coal, and gradient from the backfilled area.

(e) The requirements of paragraphs (a), (b), (c), and (d) of this section shall also apply to pneumatic backfilling operations, except where the operations are exempted by the Office from requirements specifying hydrologic monitoring.

§ 910.784–28 Air pollution control plan.

For all surface operations associated with underground mining activities, the application shall contain an air pollution control plan which includes the following:

(a) An air quality monitoring program, if required by the Office, to provide sufficient data to evaluate the effectiveness of the fugitive dust control practices, under paragraph (b) of this section to comply with applicable Federal and State air quality standards; and including Chapter 391–3–1 Rules and Regulations for Air Quality Control.

(b) A plan for fugitive dust control practices, as required under 30 CFR 910.817–95.

Subpart 910.785—Requirements for Permits for Special Categories of Mining

§ 910.785–13 Experimental practices mining.

(a) Paragraphs (b)–(i) of this section apply to any person who conducts or intends to conduct surface coal mining and reclamation operations under a permit authorizing the use of alternative mining practices on an experimental basis if the practices require a variance from the environmental protection performance standards of Subparts 910.815 through 910.828.

(b) The purpose of this section is to provide requirements for the permitting of surface coal mining and reclamation operations that encourage advances in mining and reclamation practices or allow postmining land use for industrial, commercial, residential or public use (including recreational facilities) on an experimental basis.

(c) Experimental practice, as used in this section, means the use of alternative surface coal mining and reclamation operation practices for experimental or research purposes. Experimental practices need not comply with specific environmental protection performance standards of Subparts 910.815 through 910.828, if approved pursuant to this section.

(d) No person shall engage in or maintain any experimental practice, unless that practice is first approved in a permit by the Director.

(e) Each person who desires to conduct an experimental practice shall submit a permit application for the approval of the Director. The permit application shall contain appropriate descriptions, maps and plans which show:

(1) The nature of the experimental practice;

(2) How use of the experimental practice—

(i) Encourages advances in mining and reclamation technology, or,

(ii) Allows a postmining land use for industrial, commercial, residential, or public use (including recreational facilities), on an experimental basis, when the results are not otherwise attainable under this part.

(3) That the mining and reclamation operations proposed for using an experimental practice are not larger or more numerous than necessary to determine the effectiveness and economic feasibility of the experimental practice;

(4) That the experimental practice—

(i) Is potentially more or at least as environmentally protective, during and after the proposed mining and reclamation operations, as those required under Subparts 910.815 through 910.828; and

(ii) Will not reduce the protection afforded public health and safety below that provided by the requirements of Subparts 910.815 through 910.828;

(5) That the applicant will conduct special monitoring with respect to the experimental practice during and after the operations involved. The monitoring program shall—

(i) Insure the collection and analysis of sufficient and reliable data to enable the Director to make adequate comparisons with other surface coal mining and reclamation operations employing similar experimental practices; and

(ii) Include requirements designed to identify, as soon as possible, potential risks to the environment and public health and safety from the use of the experimental practice.

(f) Each application shall set forth the environmental protection performance standards of Subparts 910.815 through 910.828 which will be implemented, in the event the objective of the experimental practice is a failure.

(g) All experimental practices for which variances are sought shall be specifically identified through newspaper advertisements by the applicant and the written notifications by the Office required under 30 CFR 910.786–11.

(h) No permit authorizing an experimental practice shall be issued, unless the Office first finds, in writing, upon the basis of both a complete application filed in accordance with the requirements of this Section that:

(1) The experimental practice meets all of the requirements of paragraphs (e)(2) through (e)(5) of this section;

(2) The experimental practice is based on a clearly defined set of objectives which can reasonably be expected to be achieved;

(3) The experimental practice has been specifically approved, in writing, by the Director, based on the Director's findings that all of the requirements of paragraphs (e)(1) through (e)(5) of this section will be met; and

(4) The permit contains conditions which specifically—

(i) Limit the experimental practice authorized to that granted by the Director;

(ii) Impose enforceable alternative environmental protection requirements; and

(iii) Require the person to conduct the periodic monitoring, recording and reporting program set forth in the application, with such additional requirements as the Office may require.

(i) Each permit which authorizes the use of an experimental practice shall be reviewed in its entirety at least every 3 years by the Office, or at least once prior to the middle of the permit term. After review, the Director shall require by order, supported by written findings, any reasonable revision or modification of the permit provisions necessary to ensure that the operations involved are conducted to protect fully the environment and public health and safety. Any person who is or may be adversely affected by the order shall be provided with an opportunity for an informal conference as established in 30 CFR 910.786–14.

§ 910.785–14 Mountaintop removal mining.

(a) This Section applies to any person who conducts or intends to conduct surface mining activities by mountaintop removal mining.

(b) Mountaintop removal mining means surface mining activities, where the mining operation removes an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill, except as provided for in 30 CFR 910.824–11(a)(6), by removing substantially all of the overburden off the bench and creating a level plateau or a gently rolling contour, with no highwalls remaining, and capable of supporting postmining land uses in accordance with the requirements of this Section.

(c) The Office may issue a permit for mountaintop removal mining, without regard to the requirements of 30 CFR 910.816–101 through 910.816–105 to restore the lands disturbed by such mining to their approximate original contour, if it first finds, in writing, on the basis of a complete application, that the following requirements are met:

(1) The proposed postmining land use of the lands to be affected will be an industrial, commercial, agricultural, residential, or public facility (including recreational facilities) use and, if—

(i) After consultation with the appropriate land-use planning agencies, if any, the proposed land use is deemed by the Office to constitute an equal or better economic or public use of the affected land compared with the pre-mining use;

(ii) The applicant demonstrates compliance with the requirements for acceptable alternative postmining land uses of 30 CFR 910.816–133;

(iii) The proposed use would be compatible with adjacent land uses and existing State and local land use plans and programs; and

(iv) The Office has provided, in writing, an opportunity of not more than 60 days to review and comment on such proposed use to the governing body of general purpose government in whose jurisdiction the land is located and any State or Federal agency which the Office, in its discretion, determines to have an interest in the proposed use.

(2) The applicant has demonstrated that, in place of restoration of the land to be affected to the approximate original contour under 30 CFR 910.816–101 through 910.816–105, the operation will be conducted in compliance with the requirements of 30 CFR 910.824.

(3) The requirements of 30 CFR 910.824 are made a specific condition of the permit.

(4) All other requirements of this Part are met by the proposed operations.

(5) The permit is clearly identified as being for mountaintop removal mining.

(d)(1) Any permits incorporating a variance issued under this section shall be reviewed by the Office to evaluate the progress and development of mining activities to establish that the operator is proceeding in accordance with the terms of the variance—

(i) Within the sixth month preceding the third year from the date of its issuance;

(ii) Before each permit renewal; and

(iii) Not later than the middle of each permit term.

(2) Any review required under paragraph (d)(1) of this section need not be held if the permittee has demonstrated and the Office finds, in writing, within the three months before the scheduled review, that all operations under the permit are proceeding and will continue to be conducted in accordance with the terms of the permit and this part.

(3) The terms and conditions of a permit for mountaintop removal mining may be modified at any time by the Office, if it determines that more stringent measures are necessary to insure that the operation involved is conducted in compliance with the requirements of this part.

§ 910.785–15 Steep slope mining.

(a) This Section applies to any person who conducts or intends to conduct steep slope surface coal mining and reclamation operations, except—

(1) Where an operator proposes to conduct surface coal mining and reclamation operations on flat or gently rolling terrain, leaving a plain or predominantly flat area, but on which an occasional steep slope is encountered as the mining operation proceeds;

(2) Where a person obtains a permit under the provisions of § 910.785–14; or

(3) To the extent that a person obtains a permit incorporating a variance under § 910.785–16.

(b) Any application for a permit for surface coal mining and reclamation operations covered by this Section shall contain sufficient information to establish that the operations will be conducted in accordance with the requirements of 30 CFR 910.826–12.

(c) No permit shall be issued for any operations covered by this Section, unless the Office finds, in writing, that in addition to meeting all other requirements of Subparts 910.815 through 910.828, the operation will be conducted in accordance with the requirements of 30 CFR 910.826–12.

§ 910.785–16 Permits incorporating variances from approximate original contour restoration requirements for steep slope mining.

(a) This Section applies to non-mountaintop removal, steep slope surface coal mining and reclamation operations where the operation is not to be reclaimed to achieve the approximate original contour required by 30 CFR 910.816–101 through 910.816–106 or 910.817–101 through 910.817–106 and 910.826–12(b).

(b) The objective of this Section is to allow for a variance from approximate original contour restoration requirements on steep slopes for surface coal mining and reclamation operations to—

(1) Improve watershed control of lands within the permit area and on adjacent lands; and

(2) Make land within the permit area, after reclamation, suitable for an industrial, commercial, residential, or public use, including recreational facilities.

(c) The Office may issue a permit for surface mining activities incorporating a variance from the requirement for restoration of the affected lands to their approximate original contour only if it first finds, in writing, on the basis of a complete application, that all of the following requirements are met:

(1) The applicant has demonstrated that the purpose of the variance is to make the lands to be affected within the permit area suitable for an industrial, commercial, residential, or public use postmining land use.

(2) The proposed use, after consultation with the appropriate land-use planning agencies, if any, constitutes an equal or better economic or public use.

(3) The applicant has demonstrated compliance with the requirements for acceptable alternative postmining land

uses of 30 CFR 910.816–133 or 910.817–133.

(4) The applicant has demonstrated that the watershed of lands within the proposed permit area and adjacent areas will be improved by the operations. The watershed will only be deemed improved if—

(i) There will be a reduction in the amount of total suspended solids or other pollutants discharged to ground or surface waters from the permit area as compared to such discharges prior to mining, so as to improve public or private uses or the ecology of such waters; or, there will be reduced flood hazards within the watershed containing the permit area by reduction of the peak flow discharges from precipitation events or thaws;

(ii) The total volume of flows from the proposed permit area, during every season of the year, will not vary in a way that adversely affects the ecology of any surface water or any existing or planned use of surface or ground water; and

(iii) The Georgia Department of Natural Resources approves the plan.

(5) The applicant has demonstrated that the owner of the surface of the lands within the permit area has knowingly requested, in writing, as part of the application, that a variance be granted. The request shall be made separately from any surface owner consent given for the operations under 30 CFR 910.778–15 or 910.782–15 and shall show an understanding that the variance could not be granted without the surface owner's request.

(6) The applicant has demonstrated that the proposed operations will be conducted in compliance with the requirements of 30 CFR 910.826–15.

(7) All other requirements of this Part will be met by the proposed operations.

(d) If a variance is granted under this Section—

(1) The requirements of 30 CFR 910.826–15 shall be made a specific condition of the permit.

(2) The permit shall be specifically marked as containing a variance from approximate original contour.

(e) Any permits incorporating a variance issued under this section shall be reviewed by the Office to evaluate the progress and development of the mining activities, to establish that the operator is proceeding in accordance with the terms of the variance—

(1) Within the sixth month preceding the third year from the date of its issuance;

(2) Before each permit renewal; and

(3) Not later than the middle of each permit term.

(f) If the permittee demonstrates to the Office at any of the times specified in paragraph (e) of this section that the operations involved have been and continue to be conducted in compliance with the terms and conditions of the permit and this part, the review required at that time need not be held.

(g) The terms and conditions of a permit incorporating a variance under this Section may be modified at any time by the Office, if it determines that more stringent measures are necessary to insure that the operations involved are conducted in compliance with the requirements of this part.

§ 910.785–17 Prime farmlands.

(a) This section applies to any person who conducts or intends to conduct surface coal mining and reclamation operations on prime farmlands historically used for cropland. This section does not apply to:

(1) Lands on which surface coal mining and reclamation operations are conducted pursuant to any permit issued prior to August 3, 1977; or

(2) Lands on which surface coal mining and reclamation operations are conducted pursuant to any renewal or revision of a permit issued prior to August 3, 1977; or

(3) Lands included in any existing surface coal mining operations for which a permit was issued for all or any part thereof prior to August 3, 1977, provided that:

(i) Such lands are part of a single continuous surface coal mining operation begun under a permit issued before August 3, 1977; and

(ii) The permittee had a legal right to mine the lands prior to August 3, 1977, through ownership, contract, or lease but not including an option to buy, lease, or contract; and

(iii) The lands contain part of a continuous recoverable coal seam that was being mined in a single continuous mining pit (or multiple pits if the lands are proven to be part of a single continuous surface coal mining operation) begun under a permit issued prior to August 3, 1977.

(4) For purposes of this section:

(i) "Renewal" of a permit shall mean a decision by the regulatory authority to extend the time by which the permittee may complete mining within the boundaries of the original permit, and "revision" of the permit shall mean a decision by the regulatory authority to allow changes in the method of mining operations within the original permit area, or the decision of the regulatory authority to allow incidental boundary changes to the original permit;

(ii) A pit shall be deemed to be a single continuous mining pit even if portions of the pit are crossed by a road, pipeline, railroad, or powerline or similar crossing;

(iii) A single continuous surface coal mining operation is presumed to consist only of a single continuous mining pit under a permit issued prior to August 3, 1977, but may include non-contiguous parcels if the operator can prove by clear and convincing evidence that, prior to August 3, 1977, the non-contiguous parcels were part of a single permitted operation. For the purposes of this paragraph, clear and convincing evidence includes, but is not limited to, contracts, leases, deeds or other properly executed legal documents (not including options) that specifically treat physically separate parcels as one surface coal mining operation.

(Secs. 201, 501, 527 and 529, Pub. L. 95–87 Stat. 445 (30 U.S.C. 1201))

§ 910.785–18 Variances for delay in contemporaneous reclamation requirement in combined surface and underground mining operations.

(a) *Scope.* This section applies to any person who conducts or intends to conduct combined surface mining activities and underground mining activities, where contemporaneous reclamation as required by § 910.816–100 is not practicable and a delay is requested to allow underground mining activities to be conducted before the reclamation operation for the surface mining activities can be completed.

(b) *Objective.* This section is to allow for delay in reclamation of surface mining activities, if that delay will allow underground mining activities to be conducted to ensure both maximum practical recovery of coal resources and to avoid multiple future disturbances of surface lands or waters.

(c) *Application contents for variances.* Any person who desires to obtain a variance under this Section shall file with the Office complete applications for both the surface mining activities and underground mining activities which are to be combined. The operation and reclamation plans for these permits shall contain appropriate narratives, maps and plans, which—

(1) Show why the proposed underground mining activities are necessary or desirable to assure maximum practical recovery of coal;

(2) Show how multiple future disturbances of surface lands or waters will be avoided;

(3) Identify the specific surface areas for which a variance is sought and the particular sections of the Act and this part from which a variance is being sought;

(4) Show how the activities will comply with 30 CFR 910.816;

(5) Show why the variance sought is necessary for the implementation of the proposed underground mining activities;

(6) Provide an assessment of the adverse environmental consequences and damages, if any, that will result if the reclamation of surface mining activities is delayed; and

(7) Show how off-site storage of spoil will be conducted to comply with the requirements of the Act and 30 CFR 910.816–71 through 910.816–74.

(d) *Issuance of permit.* A permit incorporating a variance under this Section may be issued by the Office if it first finds, in writing, upon the basis of a complete application filed in accordance with this section, that—

(1) The applicant has presented, as part of the permit application, specific, feasible plans for the proposed underground mining activities;

(2) The proposed underground mining activities are necessary or desirable to assure maximum practical recovery of the mineral resource and will avoid multiple future disturbances of surface land or waters;

(3) The applicant has satisfactorily demonstrated that the applications for the surface mining activities and underground mining activities conform to the requirements of this Part and that all other permits necessary for the underground mining activities have been issued by the appropriate authority;

(4) The surface area of surface mining activities proposed for the variance have been shown by the applicant to be necessary for implementing the proposed underground mining activities;

(5) No substantial adverse environmental damage, either on-site or off-site, will result from the delay in completion of reclamation otherwise required by Subpart 910.816;

(6) The operations will, insofar as a variance is authorized, be conducted in compliance with the requirements of 30 CFR 910.816;

(7) Provisions for off-site storage of spoil will comply with the requirements of 30 CFR 910.816–71 through 910.816–74;

(8) Liability under the performance bond required pursuant to Subparts 910.800 through 910.808 have been complied with; and

(9) The permit for the surface mining activities contains specific conditions.

(i) Delineating the particular surface areas for which a variance is authorized;

(ii) Identifying the particular requirements of 30 CFR 910.816 which are to be complied with, in lieu of the otherwise applicable provisions of 30 CFR 910.816; and

(iii) Providing a detailed schedule for compliance with the particular requirements of Subpart 910.816 identified under paragraph (d)(9)(ii) of this section.

(e) *Review of permits containing variances.* Variances granted under permits issued under this Section shall be reviewed by the Office no later than 3 years from the dates of issuance of the permit and any permit renewals.

§ 910.785–20 Augering.

(a) This Section applies to any person who conducts or intends to conduct surface coal mining and reclamation operations utilizing augering operations.

(b) Any application for a permit for operations covered by this Section shall contain, in the operation and reclamation plan, a description of the augering methods to be used and the measures to be used to comply with 30 CFR 910.819.

(c) No permit shall be issued for any operations covered by this Section unless the Office finds, in writing, that in addition to meeting all other applicable requirements of this part, the operation will be conducted in compliance with 30 CFR 910.819.

§ 910.785–21 Coal processing plants or support facilities not located within the permit area of a specified mine.

(a) This section applies to any person who conducts or intends to conduct surface coal mining and reclamation operations utilizing coal processing plants or support facilities not within a permit area of a specific mine. Any person who operates such a processing plant or support facility shall have obtained a permit from the Office in accordance with the requirements of this section.

(b) Any application for a permit for operations covered by this Section shall contain in the operation and reclamation plan, specific plans, including descriptions, maps and cross sections of the construction, operation, maintenance and removal of the processing plants and associated support facilities. The plan shall demonstrate that those operations will be conducted in compliance with 30 CFR 910.827.

(c) No permit shall be issued for any operation covered by this Section, unless the Office finds, in writing, that, in addition to meeting all other applicable requirements of this Part, the operations will be conducted in compliance with the requirements of 30 CFR 910.827.

§ 910.785–22 In situ processing activities.

(a) This section applies to any person who conducts or intends to conduct surface coal mining and reclamation operations utilizing in situ processing activities.

(b) Any application for a permit for operations covered by this section shall be made according to all requirements of Subparts 910.815 through 910.828 applicable to underground mining activities. In addition, the operation and reclamation plan for operations involving in situ processing activities shall contain information establishing how those operations will be conducted in compliance with the requirements of 30 CFR 910.828, including—

(1) Delineation of proposed holes and wells and production zone for approval of the Office;

(2) Specifications of drill holes and casings proposed to be used;

(3) A plan for treatment, confinement or disposal of all acid-forming, toxic-forming or radioactive gases, solids, or liquids constituting a fire, health, safety or environmental hazard caused by the mining and recovery process; and

(4) Plans for monitoring surface and ground water and air quality, as required by the Office.

(c) No permit shall be issued for operations covered by this section, unless the Office first finds, in writing, upon the basis of a complete application made in accordance with paragraph (b) of this section, that the operation will be conducted in compliance with all requirements of Subparts 910.815 through 910.828 relating to underground mining activities, and 30 CFR 910.817 and 910.828.

Subpart 910.786—Review, Public Participation, and Approval or Disapproval of Permit Applications and Permit Terms and Conditions

§ 910.786–5 Definitions.

As used in 30 CFR 910.786–17(d) and 910.786–19(i)—

Irreparable damage to the environment means any damage to the environment that cannot be corrected by actions of the applicant.

Willful violation means an act or omission which violates the Act, State, or Federal laws or regulations, or individual permit conditions, committed by a person who intends the result which actually occurs.

§ 910.786–11 Public notices of filing of permit applications.

(a) An applicant for a permit shall place an advertisement in a local newspaper of general circulation in the

locality of the proposed surface coal mining and reclamation operations at least once a week for four consecutive weeks. The applicant shall place the advertisement in the newspaper at the same time the application is determined complete by the Office. The advertisement shall contain, at a minimum, the following information:

(1) The name and business address of the applicant; and

(2) A map or description which shall—

(i) Clearly show or describe towns, rivers, streams, or other bodies of water, local landmarks, and any other information, including routes, streets, or roads and accurate distance measurements, necessary to allow local residents to readily identify the proposed permit area;

(ii) Clearly show or describe the exact location and boundaries of the proposed permit area;

(iii) State the name of the U.S. Geological Survey 7.5-minute quadrangle map(s) which contains the area shown or described; and

(iv) If a map is used, indicate the north point.

(3) The location where a copy of the application is available for public inspection under paragraph (c) of this section;

(4) The name and address of the Office to which written comments, objections, or requests for informal conferences on the application may be submitted under §§ 910.786–12 and 910.786–14; and

(5) If an applicant seeks a permit to mine within 100 feet of the outside right-of-way of a public road or to relocate a public road, a concise statement describing the public road, the particular part to be relocated, where the relocation is to occur, and the duration of the relocation.

(b) Upon receipt of a complete application for a permit, the Office shall issue written notification of—

(1) The applicant's intention to surface mine a particularly described tract of land;

(2) The application number;

(3) Where a copy of the application may be inspected; and

(4) Where comments on the application may be submitted under § 910.786–12 of this subpart.

(c) The written notifications shall be sent to—(1) Federal, State and local government agencies with jurisdiction over or an interest in the area of the proposed operations, including, but not limited to, general governmental entities and fish and wildlife and historic preservation agencies;

(2) Governmental planning agencies with jurisdiction to act with regard to lands use, air, or water quality planning in the area of the proposed operations;

(3) Sewage and water treatment authorities and water companies, either providing sewage or water services to users in the area of the proposed operations or having water sources or collection, treatment, or distribution facilities located in these areas; and

(4) The Federal or State governmental agencies with authority to issue all other permits and licenses needed by the applicant in connection with operations proposed in the application.

(d)(1) The applicant shall make a full copy of his or her complete application for a permit available for the public to inspect and copy. This shall be done by filing a copy of the application submitted to the recorder at the courthouse of the county where the mining is proposed to occur, or if approved by the Office, at another equivalent public office, if it is determined that that office will be more accessible to local residents than the county courthouse.

(2) The applicant shall file the copy of the complete application under paragraph (d)(1) of this section by the first date of newspaper advertisement of the application. The applicant shall file any subsequent revision of the application with the public office at the same time the revision is submitted to the Office.

§ 910.786–12 Opportunity for submission of written comments on permit applications.

(a) Written comments on permit applications may be submitted to the Office by the public entities to whom notification is provided under § 910.786–11 (b) and (c) with respect to the effects of the proposed mining operations on the environment within their area of responsibility.

(b) These comments shall be submitted to the Office and within 30 days of the receipt of the application under § 910.786–11 (b) and (c).

(c) The Office shall immediately transmit a copy of all such comments for filing and public inspection at the public office where the applicant filed a copy of the application for permit under § 910.786–11(d). A copy shall also be transmitted to the applicant.

§ 910.786–13 Right to file written objections.

(a) Any person whose interests are or may be adversely affected or an officer or head of any Federal, State, or local government agency or authority shall have the right to file written objections to an initial or revised application for a permit with the Office, within 30 days after the last publication of the newspaper notice required by § 910.786–11(a).

(b) The Office shall, immediately upon receipt of any written objections—

(1) Transmit a copy of them to the applicant; and

(2) File a copy for public inspection at the public office where the applicant filed a copy of the application for permit under § 910.786–11(d).

§ 910.786–14 Informal conferences.

(a) *Procedure for requests.* Any person, whose interests are or may be adversely affected by the issuance of the permit, or the officer or head of any Federal, State or local government agency or authority may, in writing, request that the Office hold an informal conference on any application for a permit. The request shall—

(1) Briefly summarize the issues to be raised by the requestor at the conference;

(2) State whether the requestor desires to have the conference conducted in the locality of the proposed mining operations;

(3) Be filed with the Office not later than 30 days after the last publication of the newspaper advertisement placed by the applicant under § 910.786–11(a).

(b) Except as provided in paragraph (c) of this section, if an informal conference is requested in accordance with paragraph (a) of this section, the Office shall hold an informal conference within 30 days following the receipt of the request. The informal conference shall be conducted according to the following:

(1) If requested under paragraph (a)(2) of this section, it shall be held in the locality of the proposed mining.

(2) The date, time, and location of the informal conference shall be advertised by the Office in a newspaper of general circulation in the locality of the proposed mine at least two weeks prior to the scheduled conference.

(3) If requested, in writing, by a conference requestor in a reasonable time prior to the conference, the Office may arrange with the applicant to grant parties to the conference access to the proposed permit area for the purpose of gathering information relevant to the conference.

(4) The requirements of Section 5 of the Administrative Procedures Act, as amended (5 U.S.C. 554), shall not apply to the conduct of the informal conference. The conference shall be conducted by a representative of the Office who may accept oral or written statements and any other relevant information from any party to the conference. An electronic or stenographic record shall be made of the conference proceeding, unless waived by all the parties. The record shall be maintained and shall be accessible to the parties of the conference until final release of the applicant's performance bond or other equivalent guarantee pursuant to Subparts 910.800 through 910.806.

(c) If all parties requesting the informal conference stipulate agreement before the requested informal conference and withdraw their request, the informal conference need not be held.

(d) Informal conferences held in accordance with this section may be used by the Office as the public hearing required under 30 CFR 910.761–12(d) on proposed uses or relocation of public roads.

§ 910.786–15 Public availability of information in permit applications on file with the Office.

(a) Information contained in permit applications on file with the Office shall be open, upon written request, for public inspection and copying between 8:00 a.m. and 4:30 p.m., Mondays through Fridays, except for holidays.

(1) Information pertaining to coal seams, test borings, core samplings, or soil samples in permit applications shall be made available for inspection and copying to any person with an interest which is or may be adversely affected; and

(2) Information in permit applications which pertains only to the analysis of the chemical and physical properties of the coal to be mined (excepting information regarding mineral or elemental contents of such coal, which are potentially toxic in the environment) shall be kept confidential and not made a matter of public record; and

(3) Information in the reclamation plan portions of the application, which is required to be filed with the Office only under Section 508 of the Act shall be held in confidence by the Office upon the written request of the applicant.

(b) The Office shall provide for procedures to maintain information required to be kept confidential under paragraph (a) of this section separately from other portions of the permit application. This information shall be clearly identified by the applicant and submitted separately from other portions of the application.

(c) Information pertaining to a location of historic or cultural resources may be withheld from public disclosure if a determination is made that its disclosure may create a substantial risk or harm or theft or destruction to such resources.

§ 910.786–17 Review of permit applications.

(a)(1) The Office shall review the complete application and written comments, written objections submitted, and records of any informal conference held under 30 CFR 910.786–12 through 910.786–14.

(2) The Office shall determine the adequacy of the fish and wildlife plan submitted pursuant to 30 CFR 910.780–16 or 30 CFR 910.784–21 in consultation with State and Federal fish and wildlife management and conservation agencies having responsibilities for the management and protection of fish and wildlife or their habitats which may be affected or impacted by the proposed surface coal mining and reclamation operations.

(b) If the Office decides to approve the application, it shall require that the applicant file the performance bond or provide other equivalent guarantee before the permit is issued, in accordance with the provisions of Subparts 910.800 through 910.806.

(c) If the Office determines from either the schedule submitted as part of the application under 30 CFR 910.778–14(c) or 910.782–14(c), or from other available information, that any surface mining operation owned or controlled by the applicant is currently in violation of any law, rule, or regulation of the United States, or of any State law, rule, or regulation enacted pursuant to Federal law, rule, or regulation pertaining to air or water environmental protection, or of any provision of the Act, the Office shall require the applicant, before the issuance of the permit, to either—

(1) Submit to the Office reviewing the application, proof which is satisfactory to the Office, department, or agency which has jurisdiction over such violation, that the violation—

(i) Has been corrected, or

(ii) Is in the process of being corrected; or

(2) Establish to the Office that the applicant has filed and is presently pursuing, in good faith, a direct administrative or judicial appeal to contest the validity of that violation. If the administrative or judicial hearing authority either denies a stay applied for in the appeal or affirms the violation, then any surface coal mining operations being conducted under a permit issued according to this paragraph shall be immediately terminated, unless and until the provisions of paragraph (c)(1) of this section are satisfied.

(d) Before any final determination by the Office that the applicant, or the operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violation of the Act of such nature, duration, and with such resulting irreparable damage to the environment that indicates an intent not to comply with the provisions of the Act, the applicant or operator shall be afforded an opportunity for an adjudicatory hearing on the determination as provided for in § 910.787–11.

§ 910.786–18 Criteria for permit approval or denial.

No permit or revision application shall be approved, unless the application affirmatively demonstrates and the Office finds, in writing, on the basis of information set forth in the application or from information otherwise available, which is documented in the approval and made available to the applicant, that—

(a) The permit application is accurate and complete and that all requirements of this Part have been complied with.

(b) The applicant has demonstrated that surface coal mining and reclamation operations, as required by this Part, can be feasibly accomplished under the operation and reclamation plan contained in the application.

(c) The assessment of the probable cumulative impacts of all anticipated coal mining in the general area on the hydrologic balance, has been made by the Office and the operations proposed under the application have been designed to prevent damage to the hydrologic balance outside the proposed permit area.

(d) The proposed permit area is:

(1) Not included within an area designated unsuitable for surface coal mining operations under 30 CFR 910.764; or

(2) Not within an area under study for designation as unsuitable for surface coal mining operations in an administrative proceeding begun under 30 CFR 910.764, unless the applicant demonstrates that, before January 4, 1977, he or she has made substantial legal and financial commitments in relation to the operation for which he or she is applying for a permit; or

(3) Not on any lands subject to the prohibitions or limitations of 30 CFR 910.761–11 (a), (f), or (g); or

(4) Not within 100 feet of the outside right-of-way line of any public road, except as provided for in 30 CFR 910.761–12(d); or

(5) Not within 300 feet from any occupied dwelling, except as provided for in 30 CFR 910.761–11(e) and 910.761–12(e).

(e) The proposed operations will not adversely affect any publicly-owned parks or places included in the National Register of Historic Places, except as provided for in 30 CFR 910.761–11(b).

(f) For operations involving the surface mining of coal where the private mineral estate to be mined has been severed from the private surface estate, the applicant has submitted to the Office the documentation required under 30 CFR 910.778–15(b) or 910.782–15(b).

(g) The applicant has either—

(1) Submitted the proof required by § 910.786–17(c)(1); or

(2) Made the demonstration required by § 910.786–17(c)(2).

(h) The applicant has submitted proof that all reclamation fees required by 30 CFR Subchapter R have been paid.

(i) The applicant or the operator, if other than the applicant, does not control and has not controlled mining operations with a demonstrated pattern of willful violations of the Act of such nature, duration, and with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of the Act.

(j) Surface coal mining and reclamation operations to be performed under the permit will not be inconsistent with other such operations anticipated to be performed in areas adjacent to the proposed permit area.

(k) The applicant will submit the performance bond or other equivalent guarantee required under Subparts 910.800 through 910.808 prior to the issuance of the permit.

(l) The applicant has, with respect to prime farmland, obtained either a negative determination or satisfied the requirements of 30 CFR 910.785–17.

(m) The proposed postmining land use of the permit area has been approved by the Office in accordance with the requirements of 30 CFR 910.816–133 or 910.817–133.

(n) The Office has made all specific approvals required under Subparts 910.815 through 910.828.

(o) The Office has found that the activities would not affect the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitats as determined under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

§ 910.786–21 Criteria for permit approval or denial: Existing structures.

(a) No application for a permit or revision which proposes to use an existing structure in connection with or to facilitate the proposed surface coal mining and reclamation operation shall be approved, unless the applicant demonstrates and the Office finds, in writing, on the basis of information set forth in the complete application that—

(1) If the applicant proposes to use an existing structure in accordance with exemption provided in 30 CFR 910.701–11(d)(1)(i)—

(i) The structure meets the performance standards of this Part; and

(ii) No significant harm to the environment or public health or safety will result from use of the structure.

(2)(i) If the applicant proposes to use an existing structure in accordance with the exemption provided in § 910.701–11(d)(1)(ii),

(A) The structure meets the performance standards of the 30 CFR Subchapter B;

(B) No significant harm to the environment or public health or safety will result from use of the structure; and

(C) The performance standards of 30 CFR Subchapter B are at least as stringent as the performance standards of this Part.

(ii) If the Office finds that the structure meets the criteria of 30 CFR 910.701–11(d)(1)(iii) but does not meet the criterion of paragraph (b)(1)(iii) of this section, the Office shall require the applicant to submit a compliance plan for modification or reconstruction of the structure and shall find prior to the issuance of the permit that—

(A) The modification or reconstruction of the structure will bring the structure into compliance with the design and performance standards of this Part as soon as possible, but not later than six months after issuance of the permit;

(B) The risk of harm to the environment or to public health or safety is not significant during the period of modification or reconstruction; and

(C) The applicant will monitor the structure to determine compliance with the performance standards of this Part.

(b) Should the Office find that the existing structure cannot be reconstructed without causing significant harm to the environment or public health or safety, the applicant will be required to abandon the existing structure. The structure shall not be used for or to facilitate surface coal mining operations after the effective date of issuance of the permit under this Part. Abandonment of the structure shall proceed on a schedule approved by the Office, in compliance with 30 CFR 910.816–132 or 910.817–132.

§ 910.786–23 Permit approval or denial actions.

(a) The Office shall approve, require modification of, or deny all applications for permits under this Part on the basis of—

(1) Complete applications for permits and revisions or renewals thereof;

(2) Public participation as provided for in Subparts 910.770 through 910.795;

(3) Compliance with any applicable provisions of 30 CFR 910.785; and

(4) Processing and review of applications as required by this subpart.

(b) The Office shall take action as required under paragraph (a) of this section, within the following times—

(1) *Initiation of regulatory program.* Except as provided for in paragraph (b)(3) of this section and 30 CFR 910.771–13, a complete application submitted to the Office within the time required by 30 CFR 910.771–21(a)(1) shall be processed by the Office so that an application is, to the extent possible, approved or denied—

(i) Within eight months after the effective date of this Part; and

(ii) If an informal conference has been held pursuant to 30 CFR 910.786–14 within 60 days from the close of the conference.

(2) *Subsequent operation of regulatory program.* Except as provided for in paragraph (b)(3) of this section, a complete application submitted to the Office after the time required in 30 CFR 910.771–21(a)(1) and in accordance with 30 CFR 910.771–21(b) shall be processed by the Office, so that an application is approved or denied, to the extent possible, within the following times:

(i) If an informal conference has been held under § 910.786–14 within 60 days of the close of the conference; or

(ii) If no informal conference has been held under 30 CFR 910.786–14 then within 3 months, if preparation of an environmental impact statement is not required for compliance with Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, or within 12 months if preparation of an environmental impact statement is required.

(3) Notwithstanding any of the foregoing provisions of this section, no time limit under the Act or this Section requiring the Office to act shall be considered expired from the time the Office initiates a proceeding under 30 CFR 910.786–17(d) until the final decision of the hearing body.

(c) If an informal conference is held under § 910.786–14, the Office shall give its written findings to the permit applicant and to each person who is a party to the conference, approving, modifying or denying the application in whole, or in part, and stating the specific reasons therefor in the decision.

(d) If no such informal conference has been held, the Office shall give its written findings to the permit applicant, approving, modifying or denying the application in whole, or in part, and stating the specific reasons in the decision.

(e) Simultaneously, the Office shall—

(1) Give a copy of its decision to:

(i) Each person and government official who filed a written objection or comment with respect to the application; and

(ii) The Georgia Department of Natural Resources.

(2) Publish a summary of its decision in a newspaper or similar periodical of general circulation in the general area of the proposed operation.

(f) Within 10 days after the granting of a permit, including the filing of the performance bond or other equivalent guarantee which complies with Subparts 910.800 through 910.808, the Office shall notify the local government officials in the local political subdivision in which the area of land to be affected is located that a permit has been issued and shall describe the location of the lands within the permit area.

§ 910.786–25 Permit terms.

(a) Each permit shall be issued for a fixed term not to exceed 5 years. A longer fixed permit term may be granted, if—

(1) The application is full and complete for the specified longer term; and

(2) The applicant shows that a specified longer term is reasonably needed to allow the applicant to obtain necessary financing of equipment and the opening of the operation, and this need is confirmed, in writing, by the applicant's proposed source for the financing.

(b)(1) A permit shall terminate, if the permittee has not begun the surface coal mining and reclamation operation covered by the permit within 3 years of the issuance of the permit.

(2) The Office may grant reasonable extensions of time for commencement of these operations, upon receipt of a written statement showing that such extensions of time are necessary, if—

(i) Litigation precludes the commencement or threatens substantial economic loss to the permittee, or

(ii) There are conditions beyond the control and without the fault or negligence of the permittee.

(3) With respect to coal to be mined for use in a synthetic fuel facility or specified major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at the time that the construction of the synthetic fuel or generating facility is initiated.

(4) Extensions of time granted by the Office under this paragraph shall be specifically set forth in the permit and notice of the extension shall be made to the public.

(c) Permits may be suspended, revoked, or modified by the Office, in accordance with 30 CFR 910.785–13, 910.785–15, 910.785–16, 910.785–18, 910.788–11, and Subparts 910.842 through 910.845.

§ 910.786–27 Conditions of permits: General and right of entry.

Each permit shall ensure and contain specific conditions requiring that—

(a) Except to the extent that the Office otherwise directs in the permit that specific actions be taken, the permittee shall conduct all surface coal mining and reclamation operations as described in the complete application; and,

(b) The permittee shall allow the authorized representatives of the Office, including, but not limited to, inspectors and fee compliance officers, without advance notice or a search warrant, upon presentation of appropriate credentials, and without delay, to—

(1) Have the rights of entry provided for in 30 CFR 910.840–12 and 910.842–13; and

(2) Be accompanied by private persons for the purpose of conducting an inspection in accordance with 30 CFR 910.842, when the inspection is in response to an alleged violation reported to the Office by a private person.

(c) The permittee shall conduct surface coal mining and reclamation operations only on those lands specifically designated on the maps submitted under 30 CFR 910.779, 910.780 or 910.783, 910.784 and approved for the term of the permit and which are subject to the performance bond or other equivalent guarantee in effect pursuant to Subparts 910.800 through 910.808.

§ 910.786–29 Conditions of permits: Environment, public health, and safety.

Each permit shall ensure and contain specific conditions requiring that the—

(a) Permittee shall take all possible steps to minimize any adverse impact to the environment or public health and safety resulting from noncompliance with any term or condition of the permit, including, but not limited to:

(1) Any accelerated or additional monitoring necessary to determine the nature and extent of noncompliance and the results of the noncompliance;

(2) Immediate implementation of measures necessary to comply; and

(3) Warning, as soon as possible after learning of such noncompliance, any person whose health and safety is in imminent danger due to the noncompliance.

(b) The permittee shall dispose of solids, sludge, filter backwash, or pollutants removed in the course of treatment or control of waters or emissions to the air in the manner required by Subparts 910.815 through 910.828 and which prevents violation of any other applicable State or Federal law.

(c) The permittee shall conduct its operations—

(1) In accordance with any measures specified in the permit as necessary to prevent significant, imminent environmental harm to the health or safety of the public; and

(2) Utilizing any methods specified in the permit by the Office in approving alternative methods of compliance with the performance standards of Subparts 910.815 through 910.828.

Subpart 910.787—Administrative and Judicial Review of Decisions on Permit Applications

§ 910.787–11 Administrative review.

(a) Within 30 days after the applicant or permittee is notified of the final decision of the Office concerning the application for a permit, revision or renewal thereof, permit, application for transfer, sale, or assignment of rights, or concerning an application for coal exploration under 30 CFR 910.776–14, the applicant, permittee or any person with an interest which is or may be adversely affected may request a hearing by the Office of Hearings and Appeals, Department of the Interior, on the reasons for the final decision in accordance with this Section.

(b) All hearings or applications for permits, revisions, renewals thereof, applications for transfer, sale or assignment of rights granted under permits, and applications for coal exploration shall be of record and governed by 5 U.S.C. Section 554 and 43 CFR Part 4.

§ 910.787–12 Judicial review.

(a) Any applicant or any person with an interest which is or may be adversely affected and who has participated in the administrative proceedings as an objector shall have the right to appeal as provided in Paragraph (b) of this section, if—

(1) The applicant or person is aggrieved by the decision of the hearing authority in an administrative review

proceeding conducted pursuant to § 910.787–11; or

(2) Either the Office or the hearing authority for administrative review under § 910.787–11 fails to act within time limits specified in the Subparts 910.770 through 910.795.

(b) The action of the Office or hearing authority identified in Paragraph (a) of this section is subject to judicial review by the United States District Court for the district in which the coal exploration or surface coal mining and reclamation operations is or would be located, in the time and manner provided for in Section 526(a)(2) and (b) of the Act. The availability of such review shall not be considered to limit the operations of rights established in Section 520 of the Act.

Subpart 910.788—Permit Reviews, Revisions, and Renewals, and Transfer, Sale, and Assignment of Rights Granted Under Permits

§ 910.788–3 Responsibilities.

The Office shall—

(a) Ensure that permits are revised prior to changes in surface coal mining and reclamation operations;

(b) Ensure that all permits are regularly reviewed to determine that surface coal mining and reclamation operations under these permits are conducted in compliance with this Part;

(c) Effectively review and act on applications to renew existing permits, in a timely manner, to ensure that surface coal mining and reclamation operations continue, if they comply with this Part; and

(d) Ensure that no person conducts surface coal mining and reclamation operations, through the transfer, sale, or assignment of rights granted under permits, without the prior approval of the Office.

§ 910.788–5 Definitions.

As used in § 910.788–17 through 910.788–19.

Successor in interest means any person who succeeds to rights granted under a permit, by transfer, assignment, or sale of those rights.

Transfer, assignment, or sale of rights means a change in ownership or other effective control over the right to conduct surface coal mining operations under a permit issued by the Office.

§ 910.788–11 Review of outstanding permits.

(a)(1) The Office shall review each permit issued and outstanding under this Part during the term of the permit. This review shall occur not later than the middle of the permit term and as required by 30 CFR 910.785–13, 910.785–14, 910.785–16, and 910.785–18.

(2) For permits of longer than five year terms, a review of the permit shall be no less frequent than the permit midterm or every five years, whichever is more frequent.

(b) After this review, the Office may, by order, require reasonable revision or modificaton of the permit provisions to ensure compliance with this Part.

(c) Copies of the decision of the Office shall be sent to the permittee.

(d) Any order of the Office requiring revision or modification of permits shall be based upon written findings and shall be subject to the provisions for administrative and judicial review of 30 CFR 910.787.

§ 910.788–12 Permit revisions.

(a) A revision to a permit shall be obtained—

(1) For changes in the surface coal mining or reclamation operations described in the original application and approved under the original permit, when such changes constitute a significant departure from the method of conduct of mining or reclamation operations contemplated by the original permit such as a change in mining method, a significant change in hydrologic balance outside of the mine plan area, a change in postmining land use, or a major structural change in sedimentation ponds, coal waste piles, coal processing waste disposal facilities, dams, impoundments or embankments, the application for permit revision shall also include the following, as applicable:

(i) A description of the type, engineering technique and method of any proposed changes in coal mining methods, anticipated change in the annual and total production of coal by tonnage resulting from the proposed changed mining method, and the major equipment to be used for the proposed changes in coal mining methods;

(ii) A description of any major structural changes proposed for sedimentation ponds, dams, embankments or other impoundments, coal waste piles, and coal processing waste disposal facilities, together with a reclamation plan for such proposed changes, meeting the applicable requirements of § 910.780–25 or § 910.784–19.

(iii) A description meeting the requirements of § 910.780–21 or § 910.784–17 of the measures to be taken during and after the proposed changes in coal mining or reclamation operations to ensure the protection of—

(A) The quantity and quality of surface and ground water in the adjacent areas from any anticipated significant adverse effects of the proposed change, or to provide alternative sources of water in accordance with §§ 910.779–17 and 910.816–54 or §§ 910.783–17 and 910.817–54, where such protection of the quantity of surface and ground water in the adjacent areas cannot be ensured; and

(B) The right of present users of surface and ground water;

(iv) A description of the proposed change in post-mining land-use, meeting the requirements of §§ 910.780–23 and 910.784–18; and

(2) When required by an order issued under 30 CFR 910.788–11;

(3) In order to continue operation after the cancellation or material reduction of the liability insurance policy, capability of self-insurance, performance bond, or other equivalent guarantee upon which the original permit was issued; or

(b) The application for revision shall be filed in accordance with the following:

(1) The permittee shall submit the application to the Office within the time provided for by 30 CFR 910.771–21(b)(3);

(2) The scale or extent of permit application information requirements and procedures, including notice and hearings, applicable to revision requests shall be as provided. Any application for a revision which proposes significant alterations in the operations described in the materials submitted in the application for the original permit under 30 CFR 910.778, 910.779, 910.780, 910.782, 910.783, 910.784 910.785, or in the conditions of the original permit, shall, at minimum, be subject to the requirements of 30 CFR 910.786, and 910.787.

(c) The Office shall approve or disapprove the complete application for revision, in accordance with the requirements of 30 CFR 910.786, within 6 months, if no environmental impact statement is needed for compliance with the National Environmental Policy Act of 1969, as amended, and within 12 months if an environmental impact statement is needed.

(d) Any extensions to the area covered by a permit, except for incidental boundary revisions, shall be made by application for a new permit and shall not be approved under this subpart.

§ 910.788–13 Permit renewals: General requirements.

(a) Any valid, existing permit issued pursuant to this Part shall carry with it the right of successive renewal upon expiration of the term of the permit, in accordance with §§ 910.788–14 through 910.788–16. Successive renewal shall be available only for those areas which were specifically approved by the Office on the application for the existing permit as within the boundaries of the permit.

(b) Permit renewal shall not be available for conducting surface coal mining and reclamation operations on lands beyond the boundaries of the permit area approved under the existing permit. Approval of permits to conduct operations on these lands shall be obtained in accordance with § 910.788–14(b)(2).

§ 910.788–14 Permit renewals: Completed applications.

(a) *Contents.* Complete applications for renewals of a permit shall be made within the time prescribed by 30 CFR 910.771–21(b)(2). Renewal applications shall be in a form and with contents required by the Office in accordance with paragraph (b)(2) of this section, including at a minimum, the following:

(1) A statement of the name and address of the permittee, the term of the renewal requested, the permit number, and a description of any changes to the matters set forth in the original application for a permit or prior permit renewal;

(2) A copy of the newspaper notice and proof of publication of same under 30 CFR 910.786–11(a); and

(3) Evidence that liability insurance policy or adequate self-insurance under 30 CFR 910.808–14 will be provided by the applicant for the proposed period of renewal.

(b) *Processing and review.* (1) Complete applications for renewal shall be subject to the requirements of public notification and participation contained in 30 CFR 910.786–11 and 910.786–14.

(2) If a complete application for renewal of a permit includes a proposal to extend the mining and reclamation operation beyond the boundaries authorized in the existing permit, the portion of the complete application for renewal of a valid permit which addresses any new land areas shall be subject to the full standards applicable to new permit applications under 30 CFR 910.771, 910.778, 910.779, 910.780, 910.782, 910.783, 910.784, 910.785, 910.786, 910.787, and 910.788, and Subparts 910.800 through 910.808.

(3) If the surface coal mining reclamation operations authorized under the original permit were not subject to the standards contained in Sections 510(b)(5) (A) and (B) of the Act and Section 910.785–19 of this Part, because the permittee complied with the exceptions to Section 510(b)(5) of the Act, the portion of the application for renewal of the permit which addresses any new land areas previously identified in the reclamation plan submitted pursuant to 30 CFR 910.780 or 910.784 for the original permit shall not be subject to the standards contained in Sections 501(b)(5) (A) and (B) of the Act and 30 CFR 910.785–19.

(4) Before finally acting to grant the permit renewal, the Office shall require any additional performance bond needed by the permittee to comply with the requirements of § 910.788–16(a)(4) to be filed with the Office.

§ 910.788–15 Permit renewals: Terms.

Any permit renewal shall be for a term not to exceed the period of the original permit established under 30 CFR 910.786–25.

§ 910.788–16 Permit renewals: Approval or denial.

(a) The Office shall, upon the basis of a complete application for renewal and completion of all procedures required under §§ 910.788–14 and 910.788–15, issue a renewal of a permit, unless it is established and written findings by the Office are made that—

(1) The terms and conditions of the existing permit are not being satisfactorily met;

(2) The present surface coal mining and reclamation operations are not in compliance with the environmental protection standards in Subparts 910.815 through 910.828.

(3) The requested renewal substantially jeopardizes the operator's continuing responsibility to comply with this Part;

(4) The operator has not provided evidence that any performance bond required to be in effect for the operations will continue in full force and effect for the proposed period of renewal, as well as any additional bond the Office might require pursuant to Subparts 910.800 through 910.808; or

(5) Any additional revised or updated information required by the Office has not been provided by the applicant.

(b) In determining whether to approve or deny a renewal, the burden shall be on the opponents of renewal.

(c) The Office shall send copies of its decision to the applicant, any persons who filed objections or comments to the renewal, and to any persons who were parties to any informal conference held on the permit renewal.

(d) Any person having an interest which is or may be adversely affected by the decision of the Office shall have the right to administrative and judicial review set forth in 30 CFR 910.787.

§ 910.788–17 Transfer, assignment, or sale of permit rights: General requirements.

No transfer, assignment, or sale of the rights granted under any permit issued pursuant to this Part shall be made without the prior written approval of the Office, in accordance with §§ 910.788–17 through 910.788–19.

§ 910.788–18 Transfer, assignment, or sale of permit rights: Obtaining approval.

(a) Any person seeking to succeed by transfer, assignment, or sale to the rights granted by a permit issued under this part shall, prior to the date of such transfer, assignment or sale—

(1) Obtain the performance bond coverage of the original permittee by

(i) Obtaining transfer of the original bond;

(ii) Obtaining a written agreement with the original permittee and all subsequent successors in interest (if any) that the bond posted by the original permittee and all successors shall continue in force on all areas affected by the original permittee and all successors, and supplementing such previous bonding with such additional bond as may be required by the Office. If such an agreement is reached, the Office may authorize for each previous successor and the original permittee the release of any remaining amount of bond in excess of that required by the agreement;

(iii) Providing sufficient bond to cover the original permit in its entirety from inception to completion of reclamation operations; or

(iv) Such other methods as would provide that reclamation of all areas affected by the original permittee is assured under bonding coverage at least equal to that of the original permittee; and

(2) Provide the Office with an application for approval of such proposed transfer, assignment, or sale, including—

(i) The name and address of the existing permittee;

(ii) The name and address of the person proposing to succeed by such transfer, assignment, or sale and the name and address of that person's resident agent;

(iii) For surface mining activities, the same information as is required by 30 CFR 910.778–13, 910.778–14, 910.778–15, 910.778–16(c), 910.778–18 and 910.778–19 for applications for new permits for those activities; or

(iv) For underground mining activities, the same information as is required by 30 CFR 910.782–13, 910.782–14, 910.782–15, 910.782–16(c), 910.782–18 and

910.782–19 for applications for new permits for those activities.

(3) Obtain the written approval of the Office for transfer, assignment, or sale of rights, according to paragraph (c) of this section.

(b)(1) The person applying for approval of such transfer, assignment or sale of rights granted by a permit shall advertise the filing of the application in a newspaper of general circulation in the locality of the operations involved, indicating the name and address of the applicant, the original permittee, the number and particular geographic location of the permit, and the address to which written comments may be sent under this paragraph.

(2) Any person whose interests are or may be adversely affected, including, but not limited to, the head of any local, State or Federal government agency may submit written comments on the application for approval to the Office, within 6 months.

(c) The Office may, upon the basis of the applicant's compliance with the requirements of paragraphs (a) and (b) of this section, grant written approval for the transfer, sale, or assignment of rights under a permit, if it first finds, in writing, that—

(1) The person seeking approval will conduct the operations covered by the permit in accordance with the criteria specified in 30 CFR 910.785, 910.788–19, 910.788–21 and the requirements of this part.

(2) The applicant has, in accordance with 30 CFR 910.788–18(a)(1), submitted a performance bond or other guarantee as required by subparts 910.800 through 910.808 and at least equivalent to the bond or other guarantee of the original permittee; and

(3) The applicant will continue to conduct the operations involved in full compliance with the terms and conditions of the original permit, unless and until it has obtained a new permit in accordance with the Subparts 910.770 through 910.795 as required in § 910.788–19.

§ 910.788–19 Requirements for new permits for persons succeeding to rights granted under a permit.

(a) A successor in interest to a permittee who is able to obtain the bond coverage of the original permittee may continue surface coal mining and reclamation operations according to the approved operation and reclamation plan and permit of the original permittee.

(b) Pursuant to § 910.788–18(c)(3), any successor in interest seeking to change the conditions of mining or reclamation operations, or any of the terms or conditions of the original permit shall—

(1) Make application for a new permit under 30 CFR 910.771 through 910.787, if the change involves conducting operations outside the original permit area; or

(2) Make application for a revised permit under § 910.788–12.

Subpart 910.795—Small Operator Assistance

§ 910.795–1 Scope.

This subpart comprises the small operator assistance program (SOAP program) and governs the procedures for providing assistance to qualified small mine operators who request assistance under Section 507(c) of the Act, for—

(a) The determination of the probable hydrologic consequences of mining and reclamation, under Section 507(b)(11) of the Act; and

(b) The statement of physical and chemical analyses of test borings or core samplings, under Section 507(b)(15) of the Act.

§ 910.795–2 Objective.

The objective of this Subpart is to meet the intent of Section 502(c) of the Act by—

(a) Providing services and other necessary assistance to qualified small operators; and

(b) Assuring that the Office shall have sufficient information to make a reasonable assessment of the probable cumulative impacts of all anticipated mining upon the hydrology of the area and particularly upon water availability.

§ 910.795–3 Authority.

The Office shall provide financial and other assistance under Section 507(c) of the Act to the extent funds are appropriated by Congress specifically for the SOAP program.

§ 910.795–4 Responsibilities.

(a) The Office shall—

(1) Review requests for assistance and determine qualified operators;

(2) Develop and maintain a list of qualified laboratories, and select and pay laboratories for services rendered;

(3) Conduct periodic on-site evaluations of the SOAP program activities with the appropriate small operator; and

(4) Participate in data coordination activities with the U.S. Geological Survey, U.S. Environmental Protection Agency, and other appropriate agencies or institutions.

(b) The Office shall develop oversight policies and procedures to implement the SOAP program. These shall include policies and procedures for—

(1) Data acquisition, analysis and interpretation;

(2) Interstate coordination and exchange of data;

(3) Model contract stipulations;

(4) National qualification of labs.

(c) The Office shall insure that applicable equal opportunity in employment provisions are included within any contract or other procurement documents.

§ 910.795–5 Definitions.

As used in this subpart—

(a) *Monitoring* means the collection of environmental data by either continuous or periodic sampling methods.

(b) *Probable cumulative impacts* means the expected total qualitative, and quantitative, direct and indirect effects of mining and reclamation activities on the hydrologic regime.

(c) *Probable hydrologic consequence* means the projected result of proposed surface coal mining and reclamation operations which may reasonably be expected to change the quantity or quality of the surface and ground water; the surface or ground water flow, timing and pattern; the stream channel conditions; and the aquatic habitat in the permit and adjacent area.

§ 910.795–11 Small operator assistance program initiation procedures.

The Office shall initiate the program by—

(a) Making announcements in periodicals and the news media;

(b) Contacting operators and laboratories;

(c) Making applications and other information for assistance and qualification available to operators and laboratories; and

(d) Providing seminars, workshops and other assistance to operators and laboratories.

§ 910.795–12 Program services.

To the extent possible with available funds, the Office shall for qualified small operators who request assistance—

(a) Select and pay a qualified laboratory to—

(1) Determine for the operator the probable hydrologic consequences of the mining and reclamation operations in the permit and adjacent area in accordance with § 910.795–16.

(2) Prepare a statement of the results of test borings or core samplings for the proposed permit area in accordance with § 910.795–16.

(b) Collect and provide general hydrologic information on the general area within which the anticipated

mining will occur. The information provided shall be limited to that required to relate the hydrology of the general area to the hydrology of the proposed permit area.

§ 910.795–13 Eligibility for assistance.

An applicant is eligible for assistance if the applicant—

(a) Intends to apply for a permit pursuant to the Act; and

(b) Establishes that the probable total actual and attributed production of the applicant for each year of the permit will not exceed 100,000 tons. Production from the following operations shall be attributed to the applicant—

(1) All coal produced by operations beneficially owned entirely by the applicant or controlled, by reason of ownership, direction of the management or any other manner whatsoever, by the applicant.

(2) The pro rata share, based upon percentage of beneficial ownership, of coal produced by operations in which the applicant owns more than a 5 percent interest.

(3) All coal produced by persons who own more than 5 percent of the applicant or who directly or indirectly control the applicant by reason of stock ownership, direction of the management or in any other manner whatsoever.

(4) The pro rata share of coal produced by operations owned or controlled by the person who owns or controls the applicant.

§ 910.795–14 Filing for assistance.

Each applicant shall submit the following information to the Office on an application form provided by the Office at any time after initiation of the small operator assistance program within the state in which mining is proposed—

(a) A statement of intent to file a permit application;

(b) The names and addresses of—

(1) The potential permit applicant;

(2) The potential operator if different from the applicant.

(c) A schedule of the estimated total production of coal from the proposed permit area and all other locations from which production is attributed to the applicant under § 910.795–13. The schedule shall include for each location—

(1) The name under which coal is or will be mined;

(2) The permit number and Mine Safety and Health Administration identification number;

(3) The actual coal production for the year preceding the application for assistance and that portion of the production attributed to the applicant; and

(4) The estimated coal production for each year of the proposed permit and that portion attributed to the applicant.

(d) A description of—

(1) The method of surface coal mining operation proposed;

(2) The anticipated starting and termination dates of mining operations;

(3) The number of acres of land to be affected by the proposed mining; and

(4) A general statement on the probable depth and thickness of the coal resource.

(e) A U.S. Geological Survey topographic map of 1:24,000 scale or larger or other topographic map of equivalent detail which clearly shows—

(1) The area of land to be affected and the natural drainage above and below the affected area;

(2) The names of property owners within the area to be affected and of adjacent lands;

(3) The location of existing structures and developed water sources within the area to be affected and on adjacent lands;

(4) The location of existing and proposed test boring or core sampling; and

(5) The location and extent of known working of any underground mines.

(f) A map of the permit area at a scale of 1:6,000 or larger.

(g) Copies of documents which show that—

(1) The applicant has a legal right to enter and commence mining within the permit area; and

(2) A legal right of entry has been obtained for the Office and laboratory personnel to inspect the lands to be mined and adjacent lands which may be affected to collect environmental data or install necessary instruments.

§ 910.795–15 Application approval and notice.

(a) If the Office finds the applicant eligible, and does not have information readily available which would preclude issuance of a permit to the applicant for mining in the area proposed, it shall—

(1) Determine the minimum data requirements necessary to meet the provision of § 910.795–16.

(2) Select the services of one or more qualified laboratories to perform the required work. A copy of the contract or other appropriate work order and the final approved report shall be provided to the applicant.

(b) The Office shall inform the applicant in writing if the application is denied and shall state the reasons for denial.

(c) The granting of assistance under this subpart shall not be a factor in decisions by the Office on a subsequent permit application.

§ 910.795–16 Data requirements.

(a) *General.* This Section describes the minimum requirements for the collection of data to meet the objective of the program. The Office shall determine the data collection requirements for each applicant or group of applicants. Data collection and analysis may proceed concurrently with the development of operation and reclamation plans by the operator. The data requirements shall be based on—

(1) The extent of currently available hydrologic and core analysis data for the applicable area provided by the Office; and

(2) The data collection and analysis guidelines developed and provided by the Office.

(b) *Specific Provisions.* (1) A determination of the probable hydrologic consequences of the mining and reclamation operations in the permit and adjacent area shall be made by a qualified laboratory. The data for this determination shall include—

(i) The existing and projected surface and ground water seasonal flow regime, including water level and water table evaluations. The Office shall specify duration and return frequencies to be used in the determination.

(ii) The existing and projected seasonal quality of the surface and ground water regime. This shall include measurements and estimates of dissolved and suspended solids, pH, iron, manganese, surface and channel erosion and other water quality parameters specified by the Office.

(2) A statement of the results of test borings or core samplings from the proposed permit area, including—

(i) Logs from any drill holes including identification of each stratum and water level penetrated;

(ii) The coal seam thickness and its chemical analysis including sulfur content;

(iii) The chemical analysis of potentially acid or toxic forming sections of the overburden, and the chemical analysis of the stratum lying immediately underneath the coal to be mined.

(c) *Exemptions.* The statement under paragraph (b)(2) of this section may be waived by the Office by a written determination that such requirements are unnecessary with respect to the specific permit application.

(d) *Data Availability.* Data collected under the SOAP program shall be made

available to all interested persons, except information related to the chemical and physical properties of coal. Information regarding the mineral or elemental content of the coal which is potentially toxic in the environment shall be made available.

§ 910.795–17 Qualified laboratories.

(a) *General.* (1) As used in this section, qualified laboratory means a designated public agency, private consulting firm, institution, or analytical laboratory which can provide the required determination or statement under the SOAP program.

(2) The Office shall establish and periodically publish in the Federal Register a list of qualified laboratories which may be used under the procedures of this section.

(3) Persons who desire to be included in the list of qualified laboratories established by the Office shall apply to the Office and provide such information as is necessary to establish the qualifications required by paragraph (b) of this section.

(b) *Basic qualifications.* (1) To qualify, the laboratory shall demonstrate in an application form provided by the Office and by an on-site inspection of its personnel and facilities that it—

(i) Is staffed with experienced, professional personnel in the fields of hydrology, mining engineering, aquatic biology, geology or chemistry applicable to the work to be performed.

(ii) Is capable of collecting necessary field data and samples.

(iii) Has adequate space for material preparation, cleaning and sterilizing necessary equipment, stationary equipment, storage, and space to accommodate periods of peak work loads.

(iv) Meets the requirements of the Occupational Safety and Health Act.

(v) Has the financial capability and business organization necessary to perform the work required.

(vi) Has analytical, monitoring and measuring equipment capable of meeting the applicable standards and methods contained in—

(A) *Standard Methods for the Examination of Water and Waste Water, 14th Edition, 1975.* This publication is available from the American Public Health Association, 1015 18th Street, NW., Washington, D.C. 20036.

(B) *Methods for Chemical Analysis of Water and Wastes, 1974.* This publication is available from the Office of Technology Transfer, U.S. Environmental Protection Agency, Industrial Environmental Research Laboratory, Cincinnati, Ohio 45268. These standards are hereby incorporated by reference.

(vii) Has the capability of making hydrologic field measurements and analytical laboratory determinations by acceptable hydrologic, engineering or analytical methods, or by those appropriate methods or guidelines for data acquisition recommended by the Office or other Federal agencies.

(2) The qualified laboratory shall be capable of performing either the determination or statement under § 910.795–16 (b)(1) or (b)(2). Subcontractors may be used to provide the services required provided their use is defined in the application for qualification and approved by the Office.

§ 910.795–18 Assistance funding.

(a) *Use of Funds.* Funds authorized for this SOAP program shall not be used to cover the costs of test boring or core sampling.

(b) *Allocation of Funds.* The Office shall to the extent practicable establish a formula for allocating funds to service eligible small operators if available funds are less than those required to provide the services pursuant to this subpart. This formula shall include such factors as the applicant's—

(1) Anticipated date of filing a permit application;

(2) Anticipated date for commencing mining; and

(3) Performance history.

§ 910.795–19 Applicant liability.

(a) The applicant shall reimburse the Office for the cost of the laboratory services performed pursuant to this subpart if the applicant—

(1) Submits false information;

(2) Fails to submit a permit application within 1 year from the date of receipt of the approved laboratory report;

(3) Fails to mine after obtaining a permit; or

(4) If the Office finds that the applicant's actual and attributed annual production of coal exceeds 100,000 tons during any year of mining under the permit for which the assistance is provided.

(b) The Office may waive the reimbursement obligation if it finds that the applicant at all times acted in good faith. The incorporations by reference in this Subpart were approved by the Director, Office of the Federal Register on November 11, 1977 and are on file in the Federal Register information center.

Bond and Insurance Requirements

Subpart 910.800—General Requirements for Bonding of Surface Coal Mining and Reclamation Operations

§ 910.800–5 Definitions.

(a) *Surety bond* means an indemnity agreement in a sum certain payable to the Office executed by the permittee which is supported by the performance guarantee of a corporation licensed to do business as a surety in the State where the surface or underground coal mining operation subject to the indemnity agreement is located.

(b) *Collateral bond* means an indemnity agreement in sum certain deposited with the Office or executed by the permittee and supported by one or more of the following—

(1) The deposit of cash in one or more federally insured accounts, payable only to the Office upon demand;

(2) Negotiable bonds of the United States, a State, or a municipality, endorsed to the order of, and in the possession of, the Office;

(3) Negotiable certificates of deposit, payable only to the Office and in its possession;

(4) An irrevocable letter of credit of any bank organized or authorized to transact business in the United States, payable only upon presentation by the Office;

(5) A perfected, first-lien security interest in real or personal property, in favor of the Office;

(6) Investment-grade rated securities, having the highest rating issued by a nationally recognized securities rating service, endorsed to the order of, and in the possession of, the Office, excluding all issues of the type traded on a commodity exchange such as contracts for future delivery of goods.

(c) *Self-bond* means an indemnity agreement in a sum certain payable to the Office executed by the permittee and by each individual and business organization capable of influencing or controlling the investment or financial practices of the permittee by virtue of his authority as an officer or ownership of all or a significant part of the permittee, and supported by agreements granting the Office a security interest in real or personal property pledged to secure performance by the permittee.

(d) *Common-size comparative balance sheet* means item amounts from a number of the permittee's or applicant's successive yearly balance sheets arranged side by side in a single statement followed by common-size percentages whereby: (a) The asset total is assigned a value of 100 percent; (b) the total of liabilities and owner equity is also assigned a value of 100 percent; and (c) each individual asset, liability, and owner equity item is shown as a fraction of one of the 100 percent totals.

(e) *Common-size comparative income statement* means an operator's income statement amounts for a number of successive yearly periods arranged side by side in a single statement followed by common-size percentages whereby net sales are assigned a 100 percent value, and then each statement item is shown as a percentage of net sales.

(f) *Retained earnings* means stockholder's equity that has arisen from retained assets from earnings in the business. This shall include only earnings from normal operations and not gains from such transactions as the sale of plant assets or investments.

(g) *Working capital* means the excess of the operator's current assets over its current liabilities.

(h) *Current assets* means cash and assets that are reasonably expected to be realized in cash or sold or consumed within one year.

(i) *Current liabilities* means debts or other obligations that must be paid or liquidated within a short period of time, usually a year. This shall also include dividends payable on preferred stock within one year.

(j) *Current ratio* means the relation of current assets to current liabilities.

(k) *Acid-test ratio* means the relation of quick assets to current liabilities.

(l) *Quick assets* means cash and current assets that can be quickly turned into cash.

(m) *Cash* means (1) all cash items except cash (i) restricted by an agreement, or (ii) described as earmarked for a particular purpose; and (2) short-term investments such as stocks, bonds, notes, and certificates of deposit, where the intent and ability to sell them in the near future is established by the operator.

(n) *Liquidity ratio* means the relation of cash to current liabilities.

(o) *Asset ratio* means the relation of total assets to total liabilities.

(p) *Return on investment* means the relation of net profit for the last yearly period to ending net worth.

(q) *Net worth* means preferred and common stock, all surplus accounts, and retained earnings.

(r) *Net profit* means the bottom line of the income statement after taxes, including taxes based on income, adjustments, all extraordinary income and expense, but before preferred and common stock dividends.

(s) *Capital assets* means those assets such as land, buildings and equipment held for use in the production or sale of other assets or services.

§ 910.800–11 Requirement to file a bond.

(a) After an application for a new, revised or renewed permit to conduct surface coal mining and reclamation operations has been approved under Subparts 910.770 through 910.795, but before such permit is issued, the applicant shall file with the Office a performance bond payable to the Office. The performance bond will be conditioned upon the faithful performance of all the requirements of the provisions of the reclamation plan and permit. The amount, duration, form, conditions and terms of the performance bond shall conform to 30 CFR Subparts 910.805 and 910.806.

(b) An operator shall not disturb surface acreage or extend any underground shafts, tunnels or operations prior to receipt of approval from the Office of a performance bond covering the surface acreage to be affected.

(1) Liability on the performance bond shall cover all surface coal mining and reclamation operations to be conducted within the permit area during the life of the mine. After the amount of the bond has been determined for the permit area in accordance with 30 CFR Subpart 910.805, the permittee or applicant may either file—

(i) The entire performance bond required during the term of the permit; or

(ii) A cumulative bond schedule listing the areas covered by the bond and the sequence for release of acreage as it progresses through varying reclamation phases and for the addition of other acreage as it is affected. The amount of bond required to obtain a permit shall include the full reclamation cost of the initial area being affected; or

(iii) An incremental bond schedule and the new performance bond required for the first increment in the schedule.

(2) When the operator elects to "increment" the amount of the performance bond during the term of the permit, he shall identify the initial and successive incremental areas for bonding on the permit application map submitted for approval as provided in 30 CFR 910.780–14, and shall specify the proportion of the total bond amount required for the term of the permit which will be filed prior to commencing operations on each incremental area. The scheduled amount of each performance bond increment shall be filed in the sequence approved in the permit, and shall be filed with the Office at least 30 days prior to the commencement of surface coal mining and reclamation operations in the next incremental area.

(c) The amount, duration, form, conditions and terms of the performance bond shall conform to 30 CFR Subparts 910.805 and 910.806.

§ 910.800–12 Requirement to file a certificate of liability insurance.

Each applicant for a permit shall submit to the Office, as part of the permit application—

(a) A certificate issued by an insurance company authorized to do business in the United States. The amount, duration, form, conditions and terms of this insurance shall conform to 30 CFR 910.806–16; or

(b) Evidence that it satisfies applicable State or Federal self-insurance requirements and that self-insurance for liability is otherwise consistent with 30 CFR 910.806–14.

§ 910.800–13 Responsibilities.

(a) The Office shall prescribe and furnish forms for filing performance bonds.

(b) The Office shall prescribe terms and conditions for performance bonds and insurance by regulations which meet, at a minimum, the requirements of Subparts 910.805 and 910.806.

(c) The Office shall determine the amount of the performance bond required for the permit area, including adjustments to the initial amount from time-to-time as land acreages in the permit area are revised, or when other relevant conditions change according to the minimum requirements of § 910.805–11(a).

(d) The Office may not accept a self-bond in lieu of a surety or collateral bond, unless the permittee meets the requirements of § 910.806–14 and any evaluation criteria established by the Office.

(e) The Office shall release the permittee from his bond and insurance requirements consistent with 30 CFR Subpart 910.807.

(f) The Office shall cause all or part of a bond to be forfeited consistent with 30 CFR Subpart 910.808.

Subpart 910.801—Bonding Requirements for Underground Coal Mines, Coal-Processing Plants, Associated Structures, and Other Coal-Related Long-Term Facilities and Structures

§ 910.801–1 Scope.

This Subpart establishes bonding procedures applicable to long-term facilities, such as underground mines, coal-processing plants, refuse areas, and other long-term facilities and structures

associated with surface and underground coal mining. Such permits may have several renewal terms, or may have a single permit term in excess of 5 years, so long as the surface area affected during the life of the facility remains basically unchanged.

§ 910.801–4 Responsibilities.

The Office shall ensure that bond coverage is provided for long-term surface facilities and surface areas of underground mines subject to the requirements of this Part. Specific reclamation techniques required for underground mines and long-term facilities, such as the removal of deposits of coal mines, sealing of shafts and portals, and removal of structures, shall be considered in determining the amount of bond to complete the reclamation and as determined in the associated cost estimates.

§ 910.801–11 Applicability.

(a) Operations subject to provisions of this Subpart are—

(1) Portions of underground coal mines which will continuously disturb the surface for a period in excess of 5 years and surface construction activities included under subsidence-control measures and mine-drainage treatment in 30 CFR 910.801–16;

(2) Coal-processing plants to be operated for more than 5 years from the date a permit is first issued under this part;

(3) Coal-refuse areas to be operated for more than 5 years;

(4) Coal-loading facilities to be operated for more than 5 years from the date a permit is first issued for it under this Part; and

(5) Long-term coal-related facilities to be permitted for operation longer than 5 years in accordance with 30 CFR 910.785–21.

(b) Operations listed in paragraph (a) of this section, conducted within a permit area for a mine which includes areas or facilities not subject to this subpart, may be bonded as a separate increment of the surface mine permit area. If bonded separately, provisions of this subpart shall apply to that increment. If bonded as part of the permit area which includes areas or facilities not subject to this subpart, bond liability shall continue in accordance with 30 CFR 910.805–13.

§ 910.801–12 Amount of bond required.

(a) The Office shall determine the bond amount necessary to complete reclamation of the area in accordance with 30 CFR 910.805–11.

(b) The area considered in the reclamation plan shall include the entire area disturbed.

(c) The amount of bond necessary to obtain a permit is the entire performance bond required during the term of the permit.

§ 910.801–13 Period of liability.

(a) The period of liability for every bond covering a long-term operation shall commence with issuance of a permit and extend until all reclamation, restoration, and abatement work under provisions of the permit have been completed, and the bond released in accordance with Subpart 910.807 or replaced in accordance with paragraph (b) of this section.

(b) To achieve the liability requirements for long-term operations, continuous bond coverage shall be provided. Bond coverage shall commence with issuance of a permit, cover the initial term of the bond, and be conditioned to extend, replace, or pay the full amount of the bond 120 days prior to the expiration of any bond term, which in no case shall be less than 5 years. Failure to extend or replace bond coverage not less than 120 days prior to expiration shall subject the bond to conditions of forfeiture under Subpart 910.808.

§ 910.801–14 Form of bond.

Performance bonding may be authorized by the Office in accordance with the methods listed in 30 CFR 910.808–11. An escrow account may be established on the basis of a coal-production rate, periodic-deposit schedule, or other similar schedule, so that replacement of surety bond with collateral bond in whole or in part may be authorized in accordance with 30 CFR 910.808–13. Upon development of full bond coverage under an escrow account, any surety bond or indemnity agreement may be released. All bonding methods shall comply with the provisions and conditions set forth in this subpart.

§ 910.801–15 Applicability of other sections.

Except to the extent that other provisions of Subparts 910.800 through 910.808 conflict with this subpart, all other portions of Subparts 910.800 through 910.808 shall apply to bonding requirements for underground coal mining operations and long-term coal-related facilities subject to this subpart.

§ 910.801–16 Subsidence and mine drainage.

(a) 30 CFR 910.784–20 and 910.817–121 through 910.817–128 shall apply to the protection of surface-owner property rights against potential damage caused by unplanned subsidence. All measures undertaken to conform with 30 CFR 910.784–20(b) in the prevention of damage to surface facilities through planned subsidence shall be subject to performance bond coverage, and the estimated cost of such measures shall be included under 30 CFR 910.805–11. In addition, the bond liability shall extend to performance of the construction, site preparation, and relocations approved by the Office under 30 CFR 910.784–20(a). Release of bond coverage for construction of control measures to prevent subsidence shall be authorized only after final inspection, acceptance, and approval by the Office, and shall not be subject to the liability period of 30 CFR 910.805–13 or the bond-release criteria of 30 CFR 910.807–12. Procedures for seeking bond release for construction of surface measures shall be conducted in accordance with 30 CFR 910.807–11. Inspections of the construction of surface control measures shall be coordinated with the surface owner, if possible. If a surface owner refuses to allow an inspection, a separate request to waive inspection shall be sent to the surface owner, by certified mail with return receipt requested. If the Office receives no response within 30 days of delivery of the notice, or if within such period a response is received which waives the inspection or denies reasonable access for inspection, the Office may assume that the inspection has been waived and the applicable portion of the bond may be released without inspection having occurred.

(b) Performance-bond liability shall include construction of planned impoundments, conveying systems, and treatment facilities for mine drainage in accordance with the standards of 30 CFR 910.816–42, 910.816–48, 910.816–50, 910.817–42, 910.817–48, and 910.817–50. Bond release for such facilities shall be authorized only after final inspection, acceptance, and approval by the Office and is not subject to the period of liability of 30 CFR 910.805–13 or the bond-release criteria of 30 CFR 910.807–12. Procedures for seeking bond release shall be conducted in accordance with 30 CFR 910.807–11. Bond liability with respect to mine drainage shall extend to the construction and ultimate removal of facilities described in the permit application or reclamation plan as associated with the treatment of mine drainage. Bond coverage for any subsequent revegetation on that area previously used as an impoundment shall be subject to liability and releases of 30 CFR 910.805–13, 910.807–11, and 910.807–12. The estimated bond amount computed under 30 CFR 910.805–11 need not include continuous treatment, monitoring, or potential unpredictable expenses as a result of mine drainage.

§ 910.801–17 Bond forfeiture.

The Office shall forfeit a bond pursuant to this subpart if—

(a) The operator has not filed a performance bond or other security as required under this subpart, 120 days prior to bond expiration; or

(b) The Office determines that a permittee is subject to forfeiture under the criteria of 30 CFR 910.808–13(a).

Subpart 910.805—Amount and Duration of Performance Bond

§ 910.805–11 Determination of bond amount.

(a) The standard applied by the Office in determining the amount of performance bond shall be the estimated cost to the Office if it had to perform the reclamation, restoration and abatement work required of a person who conducts surface coal mining and reclamation operations under a permit issued in accordance with this part and such additional work as would be required to achieve compliance with the general standards for revegetation in 30 CFR 910.816–116(b)(3) or 910.817–116(b)(3) in the event the permittee fails to implement an approved alternative postmining land use plan within the two years required by § 910.816–116(b)(3)(ii) or § 910.817–116(b)(3)(ii). This amount shall be based on, but not be limited to—

(1) The estimated costs submitted by the permittee in accordance with 30 CFR 910.780–18 and 910.784–13.

(2) The additional estimated costs to the Office which may arise from applicable public contracting requirements or the need to bring personnel and equipment to the permit area after its abandonment by the permittee to perform reclamation, restoration, and abatement work.

(3) All additional estimated costs necessary, expedient, and incident to the satisfactory completion of the requirements identified in this paragraph.

(4) An additional amount based on factors of cost changes during the preceding 5 years for the types of activities associated with the reclamation to be performed; and

(5) Such other cost information as may be required by or available to the Office.

§ 910.805–12 Minimum amount.

The amount of the bond for surface coal mining and reclamation operations shall be $10,000 at a minimum, for the entire area under one permit and be sufficient to assure performance of reclamation, restoration and abatement work required of a person who conducts surface coal mining and reclamation operations under the provisions of the permit issued under this Part, if the work had to be performed by the Office in the event of forfeiture.

§ 910.805–13 Period of liability.

(a) Liability under performance bond(s) applicable to a permit shall continue until all reclamation, restoration and abatement work required of persons who conduct surface coal mining and reclamation operations under the provisions of a permit issued under this part has been completed, and the permit terminated by release of the permittee from any further liability in accordance with 30 CFR Subpart 910.807.

(b)(1) In addition to the period necessary to achieve compliance with all requirements of this part and the permit, the period of liability under performance bond shall continue for a minimum period in accordance with paragraph (b)(2) of this section, beginning with the last year of augmented seeding, fertilization, irrigation or other work.

(2) The minimum period of liability shall continue for not less than 5 years in areas with more than 26.0 inches average annual precipitation. The period of liability shall begin again whenever augmented seeding, fertilization, irrigation, or other work is required or conducted on the site prior to bond release, except as noted in paragraph (b)(3) of this section.

(3) The Office may approve selective husbandry practices, excluding augmented seeding, fertilization, or irrigation, without extending the period of bond liability, if the permittee can demonstrate that discontinuance of such measures after the liability period expires will not reduce the probability of permanent revegetation success. Approved practices may include pest and vermin control, pruning, and repair of any rills and gullies and any reseeding and/or transplanting specifically necessitated by such actions, but shall be normal conservation practices within the region for unmined lands having land uses similar to the approved postmining land use of the area covered by the bond.

(c) A portion of a bonded area requiring extended liability because of augmentation may be separated from the original area and bonded separately upon approval by the Office. Before determining that extended liability should apply to only a portion of the original bonded area, the Office shall determine that such portion—

(1) Is not significant in extent in relation to the entire area under the bond; and

(2) Is limited to isolated, distinguishable, and contiguous portions of the bonded area and does not comprise scattered or intermittent occurrences throughout the bonded area.

(d) If the Office approves a long-term intensive agricultural postmining land use, in accordance with 30 CFR Subpart 910.816–133, the applicable 5 year period of liability shall commence at the date of initial planting for such long-term intensive agricultural land use.

(e) If the Office issues a written finding approving a long-term intensive agricultural land use, the operation shall be exempt from the requirements of §§ 910.816–111(a) or 910.817–111(a). Such a finding shall not constitute a grant of an exception of the bond-liability periods of this section.

(f) The bond liability of the permittee shall include only those actions which the operator is obliged to take under the permit, including completion of the reclamation plan in such a manner that the land will be capable of supporting a postmining land use approved under 30 CFR 910.816–133(c) or 910.817–133(c). Actions of third parties which are beyond the control and influence of the operator and for which the operator is not responsible under the permit need not be covered by the bond.

(g) If an area is separated under paragraph (c) of this section, that portion shall be bonded separately and the applicable period of liability, in accordance with 30 CFR 910.805–13(b), shall commence anew. The period of liability for the remaining area shall continue in effect without extension. The amount of bond on the original bonded area may be adjusted in accordance with 30 CFR 910.805–14.

§ 910.805–14 Adjustment of amount.

(a) The amount of the performance bond liability applicable to a permit shall be adjusted by the Office as the acreage in the permit area is revised, methods of mining operation change, standards of reclamation change, or when the cost of future reclamation, restoration or abatement work changes. The Office shall notify persons involved in bond coverage of any proposed bond adjustments and provide those persons an opportunity for an informal conference on the adjustment. For purposes of this section, a person involved in bond coverage shall include the permittee, the surety, and any other

person with a property interest in collateral posted under Subparts 910.800 through 910.808 who has in writing to the office requested such notification at the time the collateral is posted or the interest is acquired, whichever occurs later. The Office shall review each outstanding performance bond at the time that permit reviews are conducted under 30 CFR 910.788–11, and reevaluate those performance bonds in accordance with the standards in § 910.805–11.

(b) A permittee, surety, or any person with property interest in collateral offered as bond coverage may request reduction of the required performance bond amount upon submission of evidence to the Office proving that the permittee's method of operation or other circumstances will reduce the maximum estimated cost to the Office if it has to complete the reclamation and therefore warrants a reduction of the bond amount. The request shall be considered as a request for partial bond release in accordance with the procedures of 30 CFR Subpart 910.807.

Subpart 910.806—Form, Conditions, and Terms of Performance Bonds and Liability Insurance

§ 910.806–11 Form of the performance bond.

The form for the performance bond shall be prescribed by the Office in accordance with the provisions of 30 CFR Subparts 910.805 and 910.806. The Office may allow—

(a) A surety bond,

(b) A collateral bond,

(c) An escrow account,

(d) Self-bonding,

(e) Combined surety/escrow bonding, or

(f) A combination of any of these bonding methods.

§ 910.806–12 Terms and conditions of the bond.

(a) The performance bond shall be in an amount determined by the Office as provided in 30 CFR 910.805–11 and 910.805–12.

(b) The performance bond shall be payable to the Office.

(c) The performance bond shall be conditioned upon faithful performance of all of the requirements of the conditions of the permit issued under this part and shall cover the entire permit area.

(d) The duration of the bond shall be for the time period provided in 30 CFR 910.805–13.

(e) Surety bonds shall be subject to the following conditions:

(1) The Office shall not accept the bond of a surety company unless the bond shall not be cancellable by the surety at any time for any reason including, but not limited to non-payment of premium or bankruptcy of the permittee during the period of liability. Surety bond coverage for permitted lands not disturbed may be cancelled with the consent of the Office: *Provided*, the surety gives at least sixty days notice to both the permittee and the Office of the intent to cancel prior to cancellation. Such notice shall be by certified mail and shall not be effective until received by both the permittee and Office. Cancellation shall not be effective for lands subject to bond coverage which are disturbed after receipt of notice, but prior to approval by the Office. The Office may approve such cancellation only if a replacement bond is filed by the permittee prior to the cancellation date, or the permit is amended so that the surface coal mining operations approved under the permit are reduced to the degree necessary to cover all the costs attributable to the completion of reclamation operations on the reduced permit area in accordance with 30 CFR Subpart 910.805 and the remaining performance bond liability.

(2) The Office shall not accept a surety company's bond in excess of 10 percent of the surety company's surplus to policy holders, as provided by Georgia Code Ann. § 56–412.

(3) The Office shall not accept surety bonds from a surety company for any person, on all permits held by that person, in excess of three times the company's maximum single obligation, as provided in paragraph (e)(2) of this section.

(4) The Office may provide in the bond that the amount shall be confessed to judgment upon forfeiture, if this procedure is authorized by State law.

(5) The bond shall provide that the surety and the permittee shall be jointly and severally liable.

(6) The bond shall provide that—

(i) The surety will give prompt notice to the permittee and the Office of any notice received or action filed alleging the insolvency or bankruptcy of the surety, or alleging any violations of regulatory requirements which could result in suspension or revocation of the surety's license to do business;

(ii) In the event the surety becomes unable to fulfill its obligations under the bond for any reason, notice shall be given immediately to the permittee and the Office;

(iii) Upon the incapacity of a surety by reason of bankruptcy, insolvency, or suspension or revocation of its license, the permittee shall be deemed to be without bond coverage in violation of § 910.800–11(b). The Office shall issue a notice of violation against any operator who is without bond coverage. The notice shall specify a reasonable period to replace bond coverage, not to exceed 90 days. During this period the Office shall conduct weekly inspections to ensure continuing compliance with other permit requirements and this part. Such notice of violation, if abated within the period allowed, shall not be counted as a notice of violation for purposes of determining a "pattern of willful violation" under 30 CFR 910.843–13 and need not be reported as a past violation in permit applications under 30 CFR 910.778–14 or 910.782–14. If such a notice of violation is not abated in accordance with the schedule, a cessation order shall be issued.

(f) Collateral bonds, except for letters of credit, shall be subject to the following conditions:

(1) The Office shall obtain possession of and keep in custody all collateral deposited by the applicant, until authorized for release or replacement as provided in this subpart.

(2) The Office shall value collateral at their current market value, not face value.

(3) The Office shall require that certificates of deposit be assigned to the Office, in writing, and upon the books of the bank issuing such certificates.

(4) The Office shall not accept an individual certificate for a denomination in excess of $40,000, or maximum insurable amount as determined by F.D.I.C. and F.S.L.I.C.

(5) The Office shall require the banks issuing these certificates to waive all rights of setoff or liens which it has or might have against those certificates.

(6) The Office shall only accept automatically renewable certificates of deposit.

(7) The Office shall require the applicant to deposit sufficient amounts of certificates of deposit, to assure that the Office will be able to liquidate those certificates prior to maturity, upon forfeiture, for the amount of the bond required by this Subpart.

(g) Letters of credit shall be subject to the following conditions—

(1) The letter may only be issued by a bank organized or authorized to do business in the U.S.

(2) Letters of credit shall be irrevocable during their terms. The Office may approve the use of letters of credit as security in accordance with a schedule approved with the permit. Any bank issuing a letter of credit for the purposes of this paragraph shall notify the Office in writing at least 90 days prior to the maturity date of such letter of credit or the expiration of the letter of credit agreement. Letters of credit utilized as security in areas requiring continuous bond coverage shall be forfeited and collected by the Office if not replaced by other suitable evidence of financial responsibility at least 30 days before the expiration date of the letter of credit agreement.

(3) The letter must be payable to the Office in part or in full upon demand and receipt from the Office of a notice of forfeiture issued in accordance with 30 CFR 910.808.

(4) The Office shall not accept a letter of credit in excess of 10 percent of the bank's capital surplus account as shown on a balance sheet certified by a certified public accountant.

(5) The Office shall not accept letters of credit from a bank for any person, on all permits held by that person, in excess of three times the company's maximum single obligation as provided by Georgia Code Ann. § 41A–1306, 1309.

(6) The Office may provide in the indemnity agreement that the amount shall be confessed to judgment upon forfeiture, if this procedure is authorized by State law.

(7) The bond shall provide that—

(i) The bank will give prompt notice to the permittee and the Office of any notice received or action filed alleging the insolvency or bankruptcy of the bank, or alleging any violations of regulatory requirements which could result in suspension or revocation of the bank's charter or license to do business;

(ii) In the event the bank becomes unable to fulfill its obligations under the letter of credit for any reason, notice shall be given immediately to the permittee and the Office;

(iii) Upon the incapacity of a bank by reason of bankruptcy, insolvency, suspension or revocation of its charter or license, the permittee shall be deemed to be without bond coverage in violation of 30 CFR 910.800–11(b). The Office shall issue a notice of violation against any operator who is without bond coverage. The notice shall specify a reasonable period to replace bond coverage, not to exceed 90 days. During this period the Office shall conduct weekly inspections to ensure continuing compliance with other permit requirements and this part. Such notice of violation, if abated within the period allowed, shall not be counted as a notice of violation for purposes of determining a "pattern of willful violation" under 30 CFR 910.843–13 and need not be reported as a past violation in permit applications under 30 CFR 910.778–14 and 910.782–14. If such a notice of violation is not abated in accordance with the schedule, a cessation order shall be issued.

(h) Real and personal property posted as a collateral bond shall meet the following criteria:

(1) The applicant shall grant the Office a mortgage or perfected first-lien security interest in real or personal property.

(2) The instrument creating such mortgage or security interest shall vest such interest in the Office so as to secure the right and power in the Office to immediately attach said property concurrent with the issuance of a notice of forfeiture under 30 CFR Subpart 910.808 and to sell or otherwise dispose of the property by a public or private transaction, and to establish the Office as the sole secured creditor with respect to such property, so as to assure the Office of a preferred claim over all other creditors in case of bankruptcy. For classes of property with respect to which a preferred claim cannot be maintained against subsequent bona fide purchasers for value under the Uniform Commercial Code, the instrument shall require possession of the property by the Office. The property subject to the security interest shall not be subject to any conflicting or prior security interest. The instrument creating the interest in real property shall be recorded as authorized for fee interests. The instrument creating the security interest in personal property shall be recorded in accordance with, and otherwise conform to, the requirements of the Uniform Commercial Code for perfecting a security interest in the State. In order for the Office to evaluate the adequacy of the property offered to satisfy this requirement, the applicant shall submit a schedule of the real or personal property which shall be pledged to secure the obligations under the indemnity agreement. The schedule shall include—

(i) A description of the property;

(ii) The fair market value as determined by at least two independent appraisals conducted by appraisers certified in the State in which the property is located. The reasonable expense of the appraisals shall be borne by the permittee, and final acceptance of the value of property for bonding purposes shall be subject to Office determination and shall be based on findings by appointed appraisers when deemed necessary;

(iii) Proof of the mortgagor's possession of, and title to, the unencumbered real property within the State which is offered to secure the obligations under the bond. Such proof shall include—

(A) If the interest arises under a Federal or State lease, a status report prepared by a non-affiliated attorney competent to evaluate the asset, and an affidavit from the owner in fee establishing that the leasehold can be transferred to the Office upon forfeiture; and

(B) If the title is in fee, a title certificate or similar evidence of title and encumbrances prepared by an abstract office authorized to transact business within the State.

(3) The property may include land which is part of the permit area only after reclamation standards of phase II are met on such land. The bonding value of land within a permit area may not exceed 65 percent of the appraised value if reclaimed to standards of phase III reclamation, based on the value of surrounding land less the value for any coal in place and the current uses of the land. Land pledged as security shall not be mined under any permit.

(4) Proof that the person granting the security interest holds possession of, and title to, personal property within the State which is offered to secure the obligation of the permittee under the bond. Evidence of such ownership shall be submitted in a form satisfactory to the Office. The Office may accept a perfected first-lien security interest in negotiable bonds of the U.S. Government, general revenue bonds of the State, municipal bonds, of rated marketable securities, excluding commodity issues, of non-affiliated companies registered under the Federal Securities Act, which are rated at the highest rating offered by a nationally recognized securities rating service. The ratio of bond value to market value of each security or bond shall be determined by the Office on the basis of its marketability and a financial analysis. The personal property offered shall not include—

(i) Property in which a security interest is held by any other person;

(ii) Goods which the operator sells in the ordinary course of his or her business;

(iii) Fixtures;

(iv) Securities which do not meet the standards of § 910.806–12(h)(4); or

(v) Certificates of deposit which are not federally insured or are issued by a depository that is unacceptable to the Office.

(i) The estimated bond value of all collateral posted as bond assurance under 30 CFR 910.806–12(f), (g), and (h) shall be subject to a margin—bond value to market value ratio—determined by the Office. This margin shall reflect legal and liquidation fees, as well as value depreciation, marketability, and fluctuations which might affect the net

cash available to the Office in performing reclamation. The bond value of collateral may be evaluated at any time, but shall be evaluated as part of permit renewal. In no case shall the bond value exceed the market value.

§ 910.806–13 Escrow bonding.

(a) The Office may authorize the operator to supplement a bonding program through the establishment of an escrow account deposited in one or more federally insured accounts payable on demand only to the Office or deposited with the Office directly. Contributions to the account may be based on acres affected or tons of coal produced or any other rate approved by the Office. In all cases, the total bond including the escrow amount, as determined by the Office in the bonding schedule, shall not be less than the amount required under 30 CFR Subpart 910.805 including any adjustments, less amounts released in accordance with 30 CFR Subpart 910.807.

(b) Escrow funds deposited in federally insured accounts shall not exceed the maximum insured amount under applicable Federal insurance programs such as by FDIC or FSLIC.

(c) Interest paid on an escrow account shall be retained in the escrow account and applied to the bond value of the escrow account unless the Office has approved that the interest be paid to the operator. In order to qualify for interest payment, the operator shall request such action in writing during the permit-application process under 30 CFR 910.800–11.

(d) Certificates of deposit may be substituted for escrow accounts upon approval of the Office. Provisions of 30 CFR 910.806–12(f) shall apply to certificates of deposit as a collateral bond.

§ 910.806–14 Self-bonding.

(a) The Office may accept a self-bond from the applicant under the following conditions:

(1) The applicant shall designate the name and address of a suitable agent to receive service of process in the State where the surface coal mining operation is located.

(2) The applicant, or the applicant's parent organization in the event the applicant is a subsidiary corporation, shall have demonstrated to the satisfaction of the Office a history of financial solvency and continuous operation as a business entity prior to filing the application.

(3) If at any time the conditions upon which the self-bond was approved no longer prevail, the Office shall require the posting of a surety or collateral bond before mining operations may continue.

§ 910.806–15 Replacement of bonds.

(a) The Office may allow permittees to replace existing surety or collateral bonds with other surety or collateral bonds, if the liability which has accrued against the permittee on the permit area is transferred to such replacement bonds.

(b) The Office may allow the permittee to replace existing surety or collateral bonds with a self-bond: *Provided,* That the permittee meets the requirements of self-bonding as provided in 30 CFR Subpart 910.806–14.

(c) The Office shall not release existing performance bonds until the permittee has submitted and the Office has approved acceptable replacement performance bonds. A replacement of performance bonds pursuant to this section shall not constitute a release of bond under 30 CFR Subpart 910.807.

§ 910.806–16 Terms and conditions for liability insurance.

(a) The Office shall require the applicant to submit at the time of permit application, a certificate certifying that the applicant has a public liability insurance policy in force for the surface coal mining and reclamation operation for which the permit is sought. The certificate shall provide for personal injury and property damage protection in an amount adequate to compensate all persons injured or property damaged as a result of surface coal mining and reclamation operations, including use of explosives and damage to water wells, and entitled to compensation under the applicable provisions of State law. Minimum insurance coverage for bodily injury shall be $300,000 for each occurrence and $500,000 aggregate; and minimum insurance coverage for property damage shall be $300,000 for each occurrence and $500,000 aggregate.

(b) The policy shall be maintained in full force during the life of the permit or any renewal thereof, including completion of all reclamation operations under a permit issued under this part.

(c) The policy shall include a rider requiring that the insurer notify the Office whenever substantive changes are made in the policy, including any termination or failure to renew.

(d) The Office may accept from the applicant, in lieu of a certificate for a public liability insurance policy, satisfactory evidence from the applicant that it satisfies applicable State self-insurance requirements.

§ 910.806–17 Combined surety/escrow bonding.

(a) The Office may accept a combined surety/escrow bonding schedule: *Provided,* That—

(1) A surety bond payable to the Office is posted in the amount determined under 30 CFR 910.805–11 for reclamation of each successive increment, and

(2) An interest-bearing escrow account payable to the Office with a predetermined deposit amount and frequency is established.

(b) Conditions of the combined surety/escrow bonding method shall be as follows:

(1) *Surety bond.* (i) The term of the surety bond shall be not less than 2 years.

(ii) The amount of the surety bond shall always be sufficient to cover the difference between the escrow balance and the total reclamation cost.

(iii) The surety bond may be reduced in amount, but the liability remaining shall depend on the escrow-deposit rate which shall be subject to provisions of 30 CFR 910.805–14 and 910.806–15.

(iv) The surety bond shall be noncancellable by the surety during the bond term.

(v) Surety-bond coverage may be released by the Office without applying the bond-release criteria of 30 CFR Subpart 910.807 at any time during the bond term, provided provisions of paragraph (b)(2)(vi) of this section are met or are in accordance with the provisions of bond replacement under 30 CFR 910.806–15.

(vi) The surety bond is subject to the conditions of bond forfeiture of 30 CFR Subpart 910.808, including noncompliance with escrow-account provisions of paragraph (b)(2) of this section.

(2) *Escrow account.* (i) The terms and conditions of the escrow account shall be developed jointly by the operator, surety, and Office. For the purposes of this section, the development of the escrow account shall be based on a production basis in an amount not less than that required to make the escrow account equal to or greater than the bond requirement within the term of the surety bond as agreed on jointly by the operator, the surety, and the Office. Deposits to the escrow account by the operator shall be made monthly and so reported to the Office. Failure to make deposits on schedule shall be just cause for action by the Office.

(ii) A certified escrow-account balance statement shall be provided quarterly to the surety and the Office.

(iii) Provisions of the escrow account shall be in accordance with 30 CFR 910.806–13.

(iv) The deposit amount shall be adjusted to provide for changing reclamation costs in accordance with 30 CFR 910.805–14. However, when the escrow account equals or exceeds the total bonding amount, the monthly payment of the operator shall continue, at the option of the Office, in an amount necessary to provide for any foreseeable adjustments.

(v) The escrow account shall be subject to the bond-forfeiture conditions of 30 CFR Subpart 910.808.

(vi) The escrow-account balance shall equal the initial bond amount, plus any adjustments required by paragraph (b)(2)(i) of this section, 120 days prior to surety-bond termination, unless the total bond amount required has been previously reduced through the bond-release procedures of 30 CFR 910.807.

(vii) Release of liability under the escrow account shall be subject to the provisions of 30 CFR Subpart 910.807.

(c) Provisions of 30 CFR Subpart 910.807 may be applied to both surety- and escrow-bond coverage during the bond term.

(d) The surety/escrow combination may be repeated successively or amended during the term by replacing the escrow account with a surety bond, and reestablishing the escrow terms and deposit rate, subject to Office approval.

Subpart 910.807—Procedures, Criteria and Schedule for Release of Performance Bond

§ 910.807–11 Procedures for seeking release of performance bond.

(a) *Bond release application and contents.* The permittee or any person authorized to act on his behalf, may file an application with the Office for release of all or part of the performance bond liability applicable to a particular permit after all reclamation, restoration and abatement work in a reclamation phase as defined in 30 CFR 910.807–12(e) has been completed on the entire permit area or on an area approved pursuant to 30 CFR 910.800–11(b)(2) for the incremental filing and release of bond liability. The procedures of this section also apply to requests made pursuant to 30 CFR 910.805–14(b).

(1) Applications may only be filed at times or seasons that allow the Office to evaluate properly the reclamation operations alleged to have been completed. The times or seasons appropriate for the evaluation of certain types of reclamation shall be identified in the operation and reclamation plan required in Subparts 910.770 through 910.795.

(2) The application shall include copies of letters sent to adjoining property owners, surface owners, local government bodies, planning agencies, and sewage and water treatment facilities or water companies in the locality of the permit area, notifying them of the permittee's intention to seek release of performance bond(s). These letters shall be sent before the permittee files the application for release.

(3) Within 30 days after filing the application for release the permittee shall submit proof of publication of the advertisement required by Paragraph (b) of this section. Such proof of publication shall be considered part of the bond release application.

(b) *Newspaper advertisement of application.* At the time of filing an application under this section, the permittee shall advertise the filing of the application in a newspaper of general circulation in the locality of the permit area. The advertisement shall—

(1) Be placed in the newspaper at least once a week for four (4) consecutive weeks;

(2) Show the name of the permittee, including the number and date of issuance or renewal of the permit;

(3) Show the precise location and the number of acres of the lands subject to the application;

(4) Show the total amount of bond in effect for the permit area and the amount for which release is sought;

(5) Summarize the reclamation, restoration or abatement work done, including, but not limited to, backstowing or mine sealing, if applicable, and give the dates of completion of that work;

(6) Describe the reclamation results achieved, as they relate to compliance with the approved operation and reclamation plan and permit issued under this part;

(7) State that written comments, objections, and requests for a public hearing or informal conference may be submitted to the Office, provide the address of the Office, and the closing date by which comments, objections, and requests must be received.

(c) *Objections and requests for hearing.* Written objections to the proposed bond release and requests for an informal conference may be filed with Office by any affected person within thirty (30) days following the last advertisement of the filing of the application. For the purpose of this section, an affected person is—

(1) Any person with a valid legal interest which might be adversely affected by bond release; and

(2) The responsible officer or head of any Federal, State or local government agency which—

(i) Has jurisdiction by law or special expertise with respect to any environmental, social or economic impact involved, or

(ii) Is authorized to develop and enforce environmental standards with respect to surface coal mining and reclamation operations.

(d) *Inspection.* The Office shall inspect and evaluate the reclamation work involved within 30 days after receiving a completed application for bond release, or as soon thereafter as weather conditions permit. The surface owner, or agent, or lessee shall be given notice of such inspection and may participate with the Office in making the bond release inspection.

(e) *Informal conferences.* The Office shall schedule a conference if written objections are filed and a conference is requested. The conference shall be held in the locality of the permit area for which bond release is sought. The Office may arrange with the applicant upon request by any party to the administrative proceeding access to the proposed mining area for the purpose of gathering information relevant to the proceeding.

(1) Notice of an informal conference shall be published in the **Federal Register**, and in a newspaper of general circulation in the locality of the conference, at least two weeks before the date of the conference.

(2) The informal conference shall be held within 30 days from the date of the notice.

(3) The requirements of Section 5 of the Administrative Procedures Act (5 U.S.C. Sec. 554) shall not apply to the conduct of the informal conference.

(4) An electronic or stenographic record shall be made of the conference and the record maintained for access by the parties, until final release of the bond, unless recording is waived by all of the parties to the conference.

(f) *Review and decision.* (1) The Office shall consider, during inspection, evaluation, hearing and decision—

(i) Whether the permittee has met the criteria for release of the bond under § 910.807–12;

(ii) The degree of difficulty in completing any remaining reclamation, restoration or abatement work; and

(iii) Whether pollution of surface and subsurface water is occurring, the probability of future pollution or the continuance of any present pollution, and the estimated cost of abating any pollution.

(2) If no informal conference has been held under paragraph (e) of this section, the Office shall notify the permittee and any other interested parties in writing of its decision to release or not to release all or part of the performance bond or deposit within sixty (60) days from the receipt of the completed application, or within thirty (30) days from the close of the public comment period if comments were received, whichever occurs last.

(3) If there has been an informal conference held under paragraph (e) of this section, the notification of the decision shall be made to the permittee and all interested parties within thirty (30) days after conclusion of the conference.

(4) The notice of the decision shall state the reasons for the decision, recommend any corrective actions necessary to secure the release, and notify the permittee and all interested parties of their right to request a public hearing in accordance with paragraphs (g) and (h) of this section.

(5) The Office shall not release the bond until:

(i) The town, city or other municipality nearest to, or the county in which the surface coal mining and reclamation operation is located has received at least thirty (30) days notice of the release by certified mail; and

(ii) The right to request a public hearing pursuant to paragraph (g) of this section has not been exercised, or a final decision by the hearing authority approving the release has been issued pursuant to paragraph (h) of this section.

(g) *Administrative review.* Following receipt of the decision of the Office under paragraph (f) of this section, the permittee or any affected person may request a public hearing conducted by the Office of Hearings and Appeals, Department of the Interior, on the reasons for that decision. Requests for hearings shall be filed within 30 days after the permittee and other parties are notified of the decision under paragraph (f) of this section.

(h) *Public hearings.* Hearings shall be conducted in accordance with 5 U.S.C. Sec. 554 and the rules of the Department's Office of Hearings and Appeals, 43 CFR Part 4.

§ 910.807-12 Criteria and schedule for release of performance bond.

(a) The Office may release portions of the liability under performance bonds applicable to the permit area following the completion of reclamation phases as defined in paragraph (e) of this section.

(b) The maximum liability of performance bonds applicable to an increment or permit area which may be released shall be calculated on the following basis:

(1) Release of an amount not to exceed 60 percent of the total bond amount on the increment or permit area upon completion of phase I reclamation.

(2) Release of an additional amount not to exceed 25 percent of the total original bond amount on the permit area or an increment upon completion of phase II reclamation, but in all cases the amount remaining shall be sufficient to reestablish vegetation and reconstruct any drainage structures.

(3) Release of the remaining portion of the total performance bond on the increment or permit area after standards of phase III reclamation have been attained and final inspection and procedures of 30 CFR 910.807-11 have been satisfied.

(c) The Office may choose to release all bond coverage for an increment if the phase III reclamation of the increment is complete. The portion of the permit area being released from bond coverage shall be capable of supporting the proposed postmining land use independent of the successful completion of the reclamation portions of the permit area still under bond or not yet initially disturbed. No increment shall be totally released from the permit area until conditions of phase III reclamation for the last increment of the permit area have been met.

(d) The Office shall require performance-bond liability, applicable to the permit area or an increment, in the amount necessary to—

(1) Allow someone other than the operator to complete the approved reclamation plan, achieving compliance with this Part and the permit;

(2) Allow someone other than the operator to abate any significant environmental harm to air, water, or land resources, or danger to public health and safety prior to release of the land under the terms of the permit;

(3) Achieve the capability of supporting any alternative postmining land-use plan proposed in the permit, consistent with 30 CFR 910.816-116, 910.816-133, 910.817-116, and 910.817-133 of this part, including such measures as may be necessary in the event the permittee fails to undertake development within the 2 years required by 30 CFR 910.806-116(b)(3)(ii) or 910.817-116(b)(3)(ii) of this part; and

(4) Fulfill the minimum bond amount of $10,000 as required by 30 CFR 910.805-12.

(e) For the purposes of this subpart—

(1) Reclamation phase I shall be deemed to have been completed when the permittee completes backfilling, topsoil replacement, regrading, and drainage control in accordance with the approved reclamation plan; and

(2) Reclamation phase II shall be deemed to have been completed when—

(i) Revegetation has been established in accordance with the approved reclamation plan and the standards for the success of revegetation are met;

(ii) The lands are not contributing suspended solids to stream flow or runoff outside the permit area in excess of the requirements of Subparts 910.815 through 910.828; and

(iii) With respect to prime farmlands, soil productivity has been returned to the level of yield as required by 30 CFR 910.785-17 and Subpart 910.823 when compared with non-mined prime farmland in the surrounding area as determined from the soil survey performed under the plan approved under 30 CFR 910.785-17; and

(iv) The provisions of a plan approved by the Office for the sound future management of any permanent impoundment by the permittee or landowner have been implemented to the satisfaction of the Office; and

(3) Reclamation phase III will be deemed to have been completed when—

(i) The permittee has successfully completed all surface coal mining and reclamation operations in accordance with the approved reclamation plan so that the land is capable of supporting any postmining land use approved pursuant to 30 CFR 910.816-133 or 910.817-133;

(ii) The permittee has achieved compliance with the requirements of this Part and the permit; and

(iii) The applicable liability period under Section 515(b)(20) of the Act and 30 CFR 910.805-13(b) of this part has expired.

Subpart 910.808—Performance Bond Forfeiture Criteria and Procedures

§ 910.808-11 General.

(a) The Office shall forfeit all or part of a bond for any permit where required or authorized by § 910.808-13.

(b) The Office may withhold forfeiture, if the permittee and surety, if applicable, agree to a compliance schedule to comply with the violations of the permit or bond conditions.

(c) The Office may allow the surety to complete the reclamation plan if the surety can demonstrate the ability to complete the reclamation plan, including achievement of the capability to support the alternative postmining land use approved by the Office. No bond shall be released, except for partial releases authorized under 30 CFR 910.807-11, until successful completion of all reclamation under the terms of the permit, including applicable liability periods of 30 CFR Subpart 910.807.

§ 910.808-12 Procedures.

(a) In the event forfeiture of the bond is required by §§ 910.808-11 and 910.808-13, the Office shall—

(1) Send written notification by certified mail, return receipt requested to the permittee, and the surety on the bond, if applicable, of the Office's determination to forfeit all or part of the bond and the reasons for the forfeiture, including a finding of the amount to be forfeited;

(2) Advise the permittee and surety, if applicable, of any rights of appeal that may be available from that determination under 5 U.S.C. Section 554 and 43 CFR Part 4; and

(3) Proceed in an action for collection on the bond as provided by applicable laws for the collection of defaulted bonds or other debts, consistent with this section, for the amount forfeited, if an appeal is not filed within a time established by the Office and a stay of collection issued by the hearing authority or such appeal is unsuccessful; and

(4) If an appeal is filed, defend the action.

(b) The written determination to forfeit all or part of the bond, including the reasons for forfeiture and the amount to be forfeited, shall be a final decision by the Office.

(c) The Office may forfeit any or all bonds deposited for an entire permit area or any increment thereof in order to satisfy 30 CFR 910.808-11 through 910.808-14.

(d) The Office shall utilize funds collected from bond forfeiture to complete the reclamation plan on the permit area on which bond coverage applies, and to cover associated administrative expenses.

§ 910.808-13 Criteria for forfeiture.

(a) A bond shall be forfeited, if the Office finds that—

(1) The permittee has violated any of the terms or conditions of the bond and has failed to take corrective action;

(2) The permittee has failed to conduct the surface mining and reclamation operations in accordance with conditions of this part and the permit within the time required, and the Office has determined that it is necessary in order to fulfill the requirements of the permit and the reclamation plan, to have someone other than the operator correct or complete reclamation;

(3) The permit of the area under bond has been revoked, unless the operator assumes liability for completion of reclamation work and is, in the opinion of the Office, diligently and satisfactorily performing such work; or

(4) The permittee has failed to comply with a compliance schedule approved pursuant to § 910.808-11(b).

(b) A bond may be forfeited, if the Office finds that—

(1) The permittee has become insolvent, failed in business, been adjudicated a bankrupt, filed a petition in bankruptcy or for a receiver, or had a receiver appointed by any court; or

(2) A creditor of the permittee has attached or executed a judgment against the permittee's equipment, materials, facilities at the permit area or on the collateral pledged to the Office; and

(3) The permittee cannot demonstrate or prove the ability to continue to operate in compliance with the permit.

§ 910.808-14 Determination of forfeiture amount.

The Office shall either—

(a) Determine the amount of the bond to be forfeited on the basis of the estimated cost to the Office or its contractor to complete the reclamation plan and other regulatory requirements in accordance with this part, and the requirements of the permit; or

(b) Forfeiture the entire amount of the bond for which liability is outstanding and deposit the proceeds thereof in an escrow account to offset costs and adminstrative expenses associated with the conduct of reclamation, restoration or abatement activities by the Office. Any remainder amount of the bond in excess of the cost expended to complete the reclamation activities shall be reimbursed to the permittee.

Subpart 910.815—Performance Standards—Coal Exploration

§ 910.815-11 General responsibility of persons conducting coal exploration.

(a) Each person who conducts coal exploration which substantially disturbs the natural land surface and in which 250 tons or less of coal are removed shall file the notice of intention to explore required under 30 CFR 910.776-11 and shall comply with § 910.815-15 of this subpart.

(b) Each person who conducts coal exploration which substantially disturbs the natural land surface and in which more than 250 tons of coal are removed in the area described by the written approval from the Office, shall comply with the procedures described in the exploration and reclamation operations plan approved under 30 CFR 910.776-12 and shall comply with § 910.815-15 of this subpart.

§ 910.815-13 Required documents.

Each person who conducts coal exploration which substantially disturbs the natural land surface and which removes more than 250 tons of coal shall, while in the exploration area, possess written approval of the Office for the activities granted under 30 CFR 910.776-12. The written approval shall be available for review by the authorized representative of the Office upon request.

§ 910.815-15 Performance standards for coal exploration.

The performance standards in this section are applicable to coal exploration which substantially disturbs land surface.

(a) Habitats of unique value for fish, wildlife, and other related environmental values and areas identified in 30 CFR 910.780-16(b) shall not be disturbed during coal exploration.

(b) The person who conducts coal exploration shall, to the extent practicable, measure important environmental characteristics of the exploration area during the operations, to minimize environmental damage to the area and to provide supportive information for any permit application that person may submit under Subparts 910.770 through 910.792.

(c)(1) Vehicular travel on other than established graded and surfaced roads shall be limited by the person who conducts coal exploration to that absolutely necessary to conduct the exploration. Travel shall be confined to graded and surfaced roads during periods when excessive damage to vegetation or rutting of the land surface could result.

(2) Existing roads may be used for exploration in accordance with the following:

(i) All applicable Federal, State, and local requirements shall be met.

(ii) If the road is significantly altered for exploration, including, but not limited to, change of grade, widening, or change of route, or if use of the road for exploration contributes additional suspended solids to streamflow or runoff, them paragraph (g) of this section shall apply to all areas of the road which are altered or which result in such additional contributions.

(iii) If the road is significantly altered for exploration activities and will remain as a permanent road after exploration activities are completed, the person conducting exploration shall ensure that the requirements of 30 CFR 910.816-150 through 910.816-166, as appropriate, are met for the design,

construction, alteration, and maintenance of the road.

(4) Promptly after exploration activities are completed, existing roads used during exploration shall be reclaimed either—

(i) To a condition equal to or better than their pre-exploration condition; or

(ii) To the condition required for permanent roads under 30 CFR 910.816–150 through 910.816–166, as appropriate.

(d) If excavations, artificial flat areas, or embankments are created during exploration, these areas shall be returned to the approximate original contour promptly after such features are no longer needed for coal exploration.

(e) Topsoil shall be removed, stored, and redistributed on disturbed areas as necessary to assure successful revegetation or as required by the Office.

(f) Revegetation of areas disturbed by coal exploration shall be performed by the person who conducts the exploration, or his or her agent. If more than 250 tons of coal are removed from the exploration area, all revegetation shall be in compliance with the plan approved by the Office and carried out in a manner that encourages prompt vegetative cover and recovery of productivity levels compatible with approved postexploration land use and in accordance with the following:

(1) All disturbed lands shall be seeded or planted to the same seasonal variety native to the disturbed area. If both the preexploration and postexploration land uses are intensive agriculture, planting of the crops normally grown will meet the requirements of this paragraph.

(2) The vegetative cover shall be capable of stabilizing the soil surface in regards to erosion.

(g) With the exception of small and temporary diversions of overland flow of water around new roads, drill pads, and support facilities, no ephemeral, intermittent or perennial stream shall be diverted during coal exploration activities. Overland flow of water shall be diverted in a manner that—

(1) Prevents erosion;

(2) To the extent possible using the best technology currently available, prevents additional contributions of suspended solids to streamflow or runoff outside the exploration area; and

(3) Complies with all other applicable State or Federal requirements.

(h) Each exploration hole, borehole, well, or other exposed underground opening created during exploration must meet the requirements of 30 CFR 910.816–13, 910.816–14, and 910.816–15.

(i) All facilities and equipment shall be removed from the exploration area promptly when they are no longer needed for exploration, except for those facilities and equipment that the Office determines may remain to—

(1) Provide additional environmental quality data;

(2) Reduce or control the on- and off-site effects of the exploration activities; or

(3) Facilitate future surface mining and reclamation operations by the person conducting the exploration, under an approved permit.

(j) Coal exploration shall be conducted in a manner which minimizes disturbance of the prevailing hydrologic balance, and shall include sediment control measures such as those listed in 30 CFR 910.816–45 or sedimentation ponds which comply with 30 CFR 910.816–46. The Office may specify additional measures which shall be adopted by the person engaged in coal exploration.

(k) Toxic- or acid-forming materials shall be handled and disposed of in accordance with 30 CFR 910.816–48 and 910.816–103. If specified by the Office, additional measures shall be adopted by the person engaged in coal exploration.

§ 910.815–17 Requirement for a permit.

Any person who extracts coal for commercial sale during coal exploration operations must obtain a permit for those operations from the Office under Subparts 910.770 through 910.795. No permit is required if the Office makes a prior determination that the sale is to test for coal properties necessary for the development of surface coal mining and reclamation operations for which a permit application is to be submitted at a later time.

Subpart 910.816—Performance Standards—Surface Mining Activities

§ 910.816–11 Signs and markers.

(a) *Specifications.* Signs and markers required under this Subpart shall—

(1) Be posted and maintained by the person who conducts the surface mining activities;

(2) Be of a uniform design throughout the operation that can be easily seen and read;

(3) Be made of durable material; and

(4) Conform to local ordinances and codes.

(b) *Duration of maintenance.* Signs and markers shall be maintained during the conduct of all activities to which they pertain.

(c) *Mine and permit identification signs.* (1) Identification signs shall be displayed at each point of access to the permit area from public roads.

(2) Signs shall show the name, business address, and telephone number of the person who conducts the surface mining activities and the identification number of the current permit authorizing surface mining activities.

(3) Signs shall be retained and maintained until after the release of all bonds for the permit area.

(d) *Perimeter markers.* The perimeter of a permit area shall be clearly marked before the beginning of surface mining activities.

(e) *Buffer zone markers.* Buffer zones shall be marked along their boundaries as required under section 910.816–57.

(f) *Blasting signs.* If blasting is conducted incident to surface mining activities, the person who conducts these activities shall:

(1) Conspicuously display signs reading, "Blasting Area" along the edge of any blasting area that comes within 50 feet of any road within the permit area, or within 100 feet of any public road right of way.

(2) Place at all entrances to the permit area from public roads or highways conspicuous signs which state "Warning! Explosives in Use", which clearly explain the blast warning and all clear signals that are in use, and which explain the marking of blast areas and charged holes within the permit area.

(g) *Topsoil markers.* Where topsoil or other vegetation-supporting material is segregated and stockpiled as required under § 910.816–23, the stockpiled material shall be clearly marked.

§ 910.816–13 Casing and sealing of drilled holes: General requirements.

Each exploration hole, other drill or borehole, well, or other exposed underground opening shall be cased, sealed, or otherwise managed, as approved by the Office, to prevent acid or other toxic drainage from entering ground or surface waters, to minimize disturbance to the prevailing hydrologic balance, and to ensure the safety of people, livestock, fish and wildlife, and machinery in the permit and adjacent area. If these openings are uncovered or exposed by surface mining activities within the permit area they shall be permanently closed, unless approved for water monitoring, or otherwise managed in a manner approved by the Office. Use of a drilled hole or borehole or monitoring well as a water well must meet the provisions of § 910.816–53. This section does not apply to holes solely drilled and used for blasting.

§ 910.816–14 Casing and sealing of drilled holes: Temporary.

Each exploration hole, other drill or boreholes, wells and other exposed underground openings which have been

identified in the approved permit application for use to return coal processing waste or water to underground workings, or to be used to monitor ground water conditions, shall be temporarily sealed before use and protected during use by barricades, or fences, or other protective devices approved by the Office. These devices shall be periodically inspected and maintained in good operating condition by the person who conducts the surface mining activities.

§ 910.816–15 Casing and sealing of drilled holes: Permanent.

When no longer needed for monitoring or other use approved by the Office upon a finding of no adverse environmental or health and safety effect, or unless approved for transfer as a water well under § 910.816–53, each exploration hole, other drilled hole or borehole, well, and other exposed underground opening shall be capped, sealed, backfilled, or otherwise properly managed, as required by the Office, under § 910.816–13 and consistent with 30 CFR 75.1711. Permanent closure measures shall be designed to prevent access to the mine workings by people, livestock, fish and wildlife, and machinery, and to keep acid or other toxic drainage from entering ground or surface waters.

§ 910.816–21 Topsoil: General requirements.

(a) Before disturbance of an area, topsoil and subsoils to be saved under § 910.816–22 shall be separately removed and segregated from other material.

(b) After removal, topsoil shall either be immediately redistributed as required under § 910.816–24 or stockpiled pending redistribution as required under § 910.816–23.

§ 910.816–22 Topsoil: Removal.

(a) *Timing.* Topsoil shall be removed after vegetative cover that would interfere with the use of the topsoil is cleared from the areas to be disturbed, but before any drilling, blasting, mining, or other surface disturbance.

(b) *Materials to be removed.* All topsoil shall be removed in a separate layer from the areas to be disturbed, unless use of substitute or supplemental materials is approved by the Office in accordance with paragraph (e) of this section. If use of substitute or supplemental materials is approved, all materials to be redistributed shall be removed.

(c) *Material to be removed in thin topsoil situations.* If the topsoil is less than 6 inches, a 6-inch layer that includes the A horizon and the unconsolidated materials immediately below the A horizon or the A horizon and all unconsolidated material if the total available is less than 6 inches, shall be removed and the mixture segregated and redistributed as the surface soil layer, unless topsoil substitutes are approved by the Office pursuant to paragraph (e) of this section.

(d) *Subsoil segregation.* The B horizon and portions of the C horizon, or other underlying layers demonstrated to have qualities for comparable root development shall be segregated and replaced as subsoil, if the Office determines that either of these is necessary or desirable to ensure soil productivity consistent with the approved postmining land use.

(e) *Topsoil substitutes and supplements.* (1) Selected overburden materials may be substituted for or used as a supplement to, topsoil, if the Office determines that the resulting soil medium is equal to or more suitable for sustaining revegetation than is the available topsoil and the substitute material is the best available to support revegetation. This determination shall be based on:

(i) *The results of chemical and physical analyses of overburden and topsoil.* These analyses shall include determinations of pH, net acidity or alkalinity, phosphorus, potassium, texture class, and other analyses as required by the Office. The Office may also require that results of field-site trials or greenhouse tests be used to demonstrate the feasibility of using these overburden materials.

(ii) Results of analyses, trials, and tests shall be submitted to the Office. Certification of trials and tests shall be made by a laboratory approved by the Office, stating that:

(A) The proposed substitute material is equal to or more suitable for sustaining the vegetation than is the available topsoil;

(B) The substitute material is the best available material to support the vegetation; and

(C) The trials and tests were conducted using standard testing procedures.

(2) Substituted or supplemental material shall be removed, segregated, and replaced in compliance with the requirements for topsoil under this section.

(f) *Limits on topsoil removal area.* Where the removal of vegetative material, topsoil, or other materials may result in erosion which may cause air or water pollution—

(1) The size of the area from which topsoil is removed at any one time shall be limited;

(2) The surface soil layer shall be redistributed at a time when the physical and chemical properties of topsoil can be protected and erosion can be minimized; and

(3) Such other measures shall be taken as the Office may approve or require to control erosion.

§ 910.816–23 Topsoil: Storage.

(a) Topsoil and other materials removed under § 910.816–22 shall be stockpiled only when it is impractical to promptly redistribute such materials on regraded areas.

(b) Stockpiled materials shall be selectively placed on a stable area within the permit area, not disturbed, and protected from wind and water erosion, unnecessary compaction, and contaminants which lessen the capability of the materials to support vegetation when redistributed.

(1) Protection measures shall be accomplished either by—

(i) An effective cover of nonnoxious, quick-growing annual and perennial plants, seeded or planted during the first normal period after removal for favorable planting conditions; or

(ii) Other methods demonstrated to and approved by the Office to provide equal protection.

(2) Unless approved by the Office, stockpiled topsoil and other materials shall not be moved until required for redistribution on a regraded area.

§ 910.816–24 Topsoil: Redistribution.

(a) After final grading and before the replacement of topsoil and other materials segregated in accordance with § 910.816–23, regraded land shall be scarified or otherwise treated as required by the Office to eliminate slippage surfaces and to promote root penetration. If the person who conducts the surface mining activities shows, through appropriate tests, and the Office approves, that no harm will be caused to the topsoil and vegetation, scarification may be conducted after topsoiling.

(b) Topsoil and other materials shall be redistributed in a manner that—

(1) Achieves an approximate uniform, stable thickness consistent with the approved postmining land uses, contours, and surface water drainage system;

(2) Prevents excess compaction of the topsoil; and

(3) Protects the topsoil from wind and water erosion before and after it is seeded and planted.

§ 910.816–25 Topsoil: Nutrients and soil amendments.

Nutrients and soil amendments in the amounts determined by soil tests shall be applied to the redistributed surface soil layer, so that it supports the approved postmining land use and meets the revegetation requirements of §§ 910.816–111 through 910.816–117. All soil tests shall be performed by a qualified laboratory using standard methods approved by the Office.

§ 910.816–41 Hydrologic balance: General requirements.

(a) Surface mining activities shall be planned and conducted to minimize changes to the prevailing hydrologic balance in both the permit area and adjacent area, in order to prevent long-term adverse changes in that balance that could result from those activities.

(b) Changes in water quality and quantity, in the depth to ground water, and in the location of surface water drainage channels shall be minimized so that the approved postmining land use of the permit area is not adversely affected.

(c) In no case shall Federal and State water quality statutes, regulations, standards, or effluent limitations be violated.

(d) Operations shall be conducted to minimize water pollution and, where necessary, treatment methods shall be used to control water pollution.

(1) Each person who conducts surface mining activities shall emphasize mining and reclamation practices that prevent or minimize water pollution. Changes in flow of drainage shall be used in preference to the use of water treatment facilities.

(2) Acceptable practices to control and minimize water pollution include, but are not limited to—

(i) Stabilizing disturbed areas through land shaping;

(ii) Diverting runoff;

(iii) Achieving quickly germinating and growing stands of temporary vegetation;

(iv) Regulating channel velocity of water;

(v) Lining drainage channels with rock or vegetation;

(vi) Mulching;

(vii) Selectively placing and sealing acid-forming and toxic-forming materials; and

(viii) Selectively placing waste materials in backfill areas.

(3) If the practices listed at paragraph (d)(2) of this section are not adequate to meet the requirements of this subpart, the person who conducts surface mining activities shall operate and maintain the necessary water treatment facilities for as long as treatment is required under this subpart.

§ 910.816–42 Hydrologic balance: Water quality standards and effluent limitations.

(a) (1) [Reserved]

(2) Sedimentation ponds and other treatment facilities shall be maintained until the disturbed area has been restored and the vegetation requirements of §§ 910.816–111 through 910.816–117 are met and the quality of the untreated drainage from the disturbed area meets the applicable State and Federal water quality standards requirements for the receiving stream.

(3) The Office may grant exemptions from these requirements only when:

(i) The disturbed drainage area within the total disturbed area is small; and

(ii) The person who conducts the surface mining activities demonstrates that sedimentation ponds and treatment facilities are not necessary for drainage from the disturbed drainage areas to meet the effluent limitations in the table below and the applicable State and Federal water quality standards for downstream receiving waters.

(4) For the purposes of this section only, *disturbed area* shall not include those areas in which only diversion ditches, sedimentation ponds, or roads are installed in accordance with this subpart and the upstream area is not otherwise disturbed by the person who conducts the surface mining activities.

(5) Sedimentation ponds required by this section shall be constructed in accordance with § 910.816–46, in appropriate locations before beginning any surface mining activities in the drainage area to be affected.

(6) Where the sedimentation pond or series of sedimentation ponds is used so as to result in the mixing of drainage from the disturbed areas with drainage from other areas not disturbed by current surface coal mining and reclamation operations, the permittee shall achieve the effluent limitations set forth below for all of the mixed drainage when it leaves the permit area.

(7) Discharges of water from areas disturbed by surface mining activities shall be made in compliance with all Federal and State laws and regulations and, at a minimum, the following numerical effluent limitations:

EFFLUENT LIMITATIONS, IN MILLIGRAMS PER LITER (MG/L), EXCEPT FOR PH

Effluent characteristics [1]	Maximum allowable [2]	Average of daily values for 30 consecutive discharge days [3]
Iron total	7.0	3.5
Manganese, total [4]	4.0	2.0
Total suspended solids	70.0	35.0
pH [5]	[6]	[6]

[1] To be determined according to collection and analytical procedures adopted by the United States Environmental Protection Agency's regulations for waste water analyses (40 CFR Part 136).

[2] Based on representative sampling.

[3] The manganese limitation shall not apply to untreated discharges which are alkaline as defined by the Environmental Protection Agency (40 CFR Part 434).

[4] Where the application of neutralization and sedimentation treatment technology results in inability to comply with the manganese limitations set forth above, the Office may allow the pH level in the discharge to exceed to a small extent the upper limit of 9.0 in order that the manganese limitations will be achieved.

[5] Discharges of iron from new sources, as defined under 40 CFR 434.11(l), shall be limited to 6.0 mg./1-maximum allowable; 3.0 mg./1-average of daily values for 30 consecutive discharge days.

[6] Within the range 6.0 to 9.0.

(b) Any overflow increase in volume of a discharge or discharge from a bypass system caused by precipitation or snowmelt shall not be subject to the limitations set forth in paragraph (a) of this section. This exemption shall be available only if the facility is designed, constructed and maintained to contain or treat the volume of water which would fall on the areas covered by this subpart during a 10-year 24-hour or larger precipitation even (or snowmelt of equivalent volume). The operator shall have the burden of demonstrating to the appropriate authority that the prerequisites to an exemption set forth in this subsection have been met.

(c) Adequate facilities shall be installed, operated, and maintained to treat any water discharged from the disturbed area so that it complies with all Federal and State laws and regulations and the limitations of this section. If the pH of water to be discharged from the disturbed area is less than 6.0, an automatic lime feeder or other automatic neutralization process approved by the Office shall be installed, operated, and maintained. The Office may authorize the use of a manual system, if it finds that—

(1) Flow is infrequent and presents small and infrequent treatment requirements to meet applicable standards which do not require use of an automatic neutralization process; and

(2) Timely and consistent treatment is ensured.

§ 910.816–43 Hydrologic balance: Diversions and conveyance of overland flow and shallow ground water flow, and ephemeral streams.

Overland flow, including flow through litter, and shallow ground water flow from undisturbed areas, and flow in ephemeral streams, may be diverted away from disturbed areas by means of temporary or permanent diversions, if required or approved by the Office as necessary to minimize erosion, to reduce the volume of water to be treated, and to prevent or remove water from contact with acid-forming or toxic-forming materials. The following requirements shall be met for all diversions and for all collection drains that are used to transport water into water-treatment facilities and for all diversions of overland and shallow ground water flow and ephemeral streams—

(a) Temporary diversions shall be constructed to pass safely the peak runoff from a precipitation event with a 2-year recurrence interval, or a larger event as specified by the Office.

(b) To protect fills and property and to avoid danger to public health and safety, permanent diversions shall be constructed to pass safely the peak runoff from a precipitation event with a 10-year recurrence interval, or a larger event as specified by the Office. Permanent diversions shall be constructed with gently sloping banks that are stabilized by vegetation. Asphalt, concrete, or other similar linings shall be used only when approved by the Office to prevent seepage or to provide stability.

(c) Diversions shall be designed, constructed, and maintained in a manner which prevents additional contributions of suspended solids to streamflow and to runoff outside the permit area, to the extent possible using the best technology currently available. Appropriate sediment control measures for these diversions may include, but not be limited to, maintenance of appropriate gradients, channel lining, revegetation, roughness structures, and detention basins.

(d) No diversion shall be located so as to increase the potential for land slides. No diversion shall be constructed on existing land slides, unless approved by the Office.

(e) When no longer needed, each temporary diversion shall be removed and the affected land regraded, topsoiled, and revegetated in accordance with §§ 910.816–24, 910.816–25, 910.816–101 through 910.816–106, and 910.816–111 through 910.816–117.

(f) Diversion design shall incorporate the following:

(1) Channel lining shall be designed using standard engineering practices to pass safely the design velocities. Riprap shall comply with the requirements of § 910.816–72(b)(4), except for sand and gravel.

(2) Freeboard shall be no less than 0.3 feet. Protection shall be provided for transition of flows and for critical areas such as swales and curves. Where the area protected is a critical area as determined by the Office, the design freeboard may be increased.

(3) Energy dissipators shall be installed when necessary at discharge points, where diversions intersect with natural streams and exit velocity of the diversion ditch flow is greater than that of the receiving stream.

(4) Excess excavated material not necessary for diversion channel geometry or regrading of the channel shall be disposed of in accordance with 30 CFR 910.816–71 through 910.816–74.

(5) Topsoil shall be handled in compliance with 30 CFR 910.816–21 through 910.816–25.

(g) Diversions shall not be constructed or operated to divert water into underground mines without the approval of the Office under § 910.816–55.

§ 910.816–44 Hydrologic balance: Stream channel diversions.

(a) Flow from perennial and intermittent streams within the permit area may be diverted, if the diversions—

(1) Are approved by the Office after making the findings called for in § 910.816–57(a).

(2) Comply with other requirements of this subpart; and

(3) Comply with local, State, and Federal statutes and regulations.

(b) When streamflow is allowed to be diverted, the stream channel diversion shall be designed, constructed, and removed, in accordance with the following:

(1) The longitudinal profile of the stream, the channel, and the flood plain shall be designed and constructed to remain stable and to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or to runoff outside the permit area. These contributions shall not be in excess of requirements of State or Federal law. Erosion control structures such as channel lining structures, retention basins, and artificial channel roughness structures shall be used in diversions only when approved by the Office as being necessary to control erosion. These structures shall be approved for permanent diversions only where they are stable and will require infrequent maintenance.

(2) The combination of channel, bank, and flood plain configurations shall be adequate to pass safely the peak runoff of a 10-year, 24-hour precipitation event for temporary diversions, a 100-year, 24-hour precipitation event for permanent diversions, or larger events specified by the Office. However, the capacity of the channel itself should be at least equal to the capacity of the unmodified stream channel immediately upstream and downstream of the diversion.

(c) When no longer needed to achieve the purpose for which they were authorized, all temporary stream channel diversions shall be removed and the affected land regraded and revegetated, in accordance with §§ 910.816–24, 910.816–25, 910.816–101 through 910.816–105, and 910.816–111 through 910.816–117. At the time diversions are removed, downstream water treatment facilities previously protected by the diversion shall be modified or removed to prevent overtopping or failure of the facilities. This requirement shall not relieve the person who conducts the surface mining activities from maintenance of a water treatment facility otherwise required under this subpart or the permit.

(d) When permanent diversions are constructed or stream channels restored, after temporary divisions, the operator shall:

(1) Restore, enhance where practicable, or maintain natural riparian vegetation on the banks of the stream;

(2) Establish or restore the stream to its natural meandering shape of an environmentally acceptable gradient, as determined by the Office;

(3) Establish or restore the stream to a longitudinal profile and cross-section, including aquatic habitats (usually a pattern of riffles, pools, and drops rather than uniform depth) that approximate premining stream channel characteristics.

§ 910.816–45 Hydrologic balance: Sediment control measures.

(a) Appropriate sediment control measures shall be designed, constructed, and maintained using the best technology currently available to:

(1) Prevent, to the extent possible, additional contributions of sediment to streamflow or to runoff outside the permit area,

(2) Meet the more stringent of applicable State or Federal effluent limitations,

(3) Minimize erosion to the extent possible.

(b) Sediment control measures include practices carried out within and adjacent to the disturbed area. The sedimentation storage capacity of practices in and downstream from the disturbed area shall reflect the degree to which successful mining and reclamation techniques are applied to reduce erosion and control sediment. Sediment control measures consist of the utilization of proper mining and reclamation methods and sediment control practices, singly or in combination. Sediment control methods include but are not limited to—

(1) Disturbing the smallest practicable area at any one time during the mining operation through progressive backfilling, grading, and prompt revegetation as required in § 910.816–111(b);

(2) Stabilizing the backfill material to promote a reduction in the rate and volume of runoff, in accordance with the requirements of § 910.816–101;

(3) Retaining sediment within disturbed areas;

(4) Diverting runoff away from disturbed areas;

(5) Diverting runoff using protected channels or pipes through disturbed areas so as not to cause additional erosion;

(6) Using straw dikes, riprap, check dams, mulches, vegetative sediment filters, dugout ponds, and other measures that reduce overland flow velocity, reduce runoff volume, or trap sediment; and

(7) Treating with chemicals.

§ 910.816–46 Hydrologic balance: Sedimentation ponds.

(a) *General requirements.* Sedimentation ponds shall be used individually or in series and shall—

(1) Be constructed before any disturbance of the undisturbed area to be drained into the pond;

(2) Be located as near as possible to the disturbed area and out of perennial streams; unless approved by the Office.

(3) Meet all the criteria of this Section.

(b) *Sediment Storage Volume.* Sedimentation ponds shall provide an adequate minimum sediment storage volume.

(c) *Detention time.* Sedimentation on ponds shall provide the required theoretical detention time for the water inflow or runoff entering the pond from a 10-year, 24-hour precipitation event (design event).

(d) *Dewatering.* The water storage resulting from inflow shall be removed by a nonclogging dewatering device or a conduit spillway approved by the Office.

(e) Each person who conducts surface mining activities shall design, construct, and maintain sedimentation ponds to prevent short circuiting to the extent possible.

(f) The design, construction, and maintenance of a sedimentation pond or other sediment control measures in accordance with this Section shall not relieve the person from compliance with applicable effluent limitations as contained in 30 CFR 910.816–42.

(g) There shall be no out-flow through the emergency spillway during the passage of the runoff resulting from the 10-year, 24-hour precipitation event or lesser events through the sedimentation pond.

(h) Sediment shall be removed from sedimentation ponds.

(i) An appropriate combination of principal and emergency spillways shall be provided to safely discharge the runoff from a 25-year, 24-hour precipitation event, or larger event specified by the Office. The elevation of the crest of the emergency spillway shall be a minimum of 1.0 foot above the crest of the principal spillway. Emergency spillway grades and allowable velocities shall be approved by the Office.

(j) The minimum elevation at the top of the settled embankment shall be 1.0 foot above the water surface in the pond with the emergency spillway flowing at design depth. For embankments subject to settlement, this 1.0 foot minimum elevation requirement shall apply at all times, including the period after settlement.

(k) The constructed height of the dam shall be increased a minimum of 5 percent over the design height to allow for settlement, unless it has been demonstrated to the Office that the material used and the design will ensure against all settlement.

(l) The minimum top width of the embankment shall not be less than the quotient of $(H+35)/5$, where H is the height, in feet, of the embankment as measured from the upstream toe of the embankment.

(m) The combined upstream and downstream side slopes of the settled embankment shall not be less than $1v{:}5h$, with neither slope steeper than $1v{:}2h$. Slopes shall be designed to be stable in all cases, even if flatter side slopes are required.

(n) The embankment foundation area shall be cleared of all organic matter, all surfaces sloped to no steeper than $1v{:}1h$, and the entire foundation surface scarified.

(o) The fill material shall be free of sod, large roots, other large vegetative matter, and frozen soil, and in no case shall coal-processing waste be used.

(p) The placing and spreading of fill material shall be started at the lowest point of the foundation. The fill shall be brought up in horizontal layers of such thickness as is required to facilitate compaction and meet the design requirements of this section. Compaction shall be conducted as specified in the design approved by the Office.

(q) If a sedimentation pond has an embankment that is more than 20 feet in height, as measured from the upstream toe of the embankment to the crest of the emergency spillway, or has a storage volume of 20 acre-feet or more, the following additional requirements shall be met:

(1) An appropriate combination of principal and emergency spillways shall be provided to discharge safely the runoff resulting from a 100-year, 24-hour precipitation event, or a larger event specified by the Office.

(2) The embankment shall be designed and constructed with a static safety factor of at least 1.5, or a higher safety factor as designated by the Office to ensure stability.

(3) Appropriate barriers shall be provided to control seepage along conduits that extend through the embankment.

(4) The criteria of the Mine Safety and Health Administration as published in 30 CFR 77.216 shall be met.

(r) Each pond shall be designed and inspected during construction under the supervision of, and certified after construction by, a registered professional engineer.

(s) The entire embankment including the surrounding areas disturbed by construction shall be stabilized with respect to erosion by a vegetative cover or other means immediately after the embankment is completed. The active upstream face of the embankment where water will be impounded may be riprapped or otherwise stabilized. Areas in which the vegetation is not successful or where rills and gullies develop shall be repaired and revegetated in accordance with Section 910.816–106.

(t) All ponds, including those not meeting the size or other criteria of 30 CFR 77.216(a), shall be examined for structural weakness, erosion, and other hazardous conditions, and reports and modifications shall be made to the Office, in accordance with 30 CFR 77.216–3. With the approval of the Office, dams not meeting these criteria (30 CFR 77.216(a)) shall be examined four times per year.

(u) Sedimentation ponds shall not be removed until the disturbed area has been restored, and the vegetation requirements of §§ 910.816–111 through 910.816–117 are met and the drainage entering the pond has met the applicable State and Federal water quality requirements for the receiving stream. When the sedimentation pond is removed, the affected land shall be regraded and revegetated in accordance with §§ 910.816–100 through 910.816–106, and 910.816–111 through 910.816–117, unless the pond has been approved by the Office for retention as being compatible with the approved postmining land use under § 910.816–133. If the Office approves retention, the sedimentation pond shall meet all the requirements for permanent impoundments of §§ 910.816–49 and 910.816–56.

§ 910.816–47 Hydrologic balance: Discharge structures.

Discharge from sedimentation ponds, permanent and temporary impoundments, coal processing waste dams and embankments, and diversions shall be controlled, by energy dissipators, riprap channels, and other devices, where necessary, to reduce erosion, to prevent deepening or enlargement of stream channels, and to minimize disturbance of the hydrologic balance. Discharge structures shall be designed according to standard engineering-design procedures.

§ 910.816–48 Hydrologic balance: Acid-forming and toxic-forming spoil.

Drainage from acid-forming and toxic-forming spoil into ground and surface water shall be avoided by—

(a) Identifying, burying, and treating where necessary, spoil which, in the judgment of the Office, may be detrimental to vegetation or may adversely affect water quality if not treated or buried;

(b) Preventing water from coming into contact with acid-forming and toxic-forming spoil in accordance with § 910.816–103, and other measures as required by the Office; and

(c) Burying or otherwise treating all acid-forming or toxic-forming spoil within 30 days after it is first exposed on the mine site, or within a lesser period required by the Office. Temporary storage of the spoil may be approved by the Office upon a finding that burial or treatment within 30 days is not feasible and will not result in any material risk of water pollution or other environmental damage. Storage shall be limited to the period until burial or treatment first becomes feasible. Acid-forming or toxic-forming spoil to be stored shall be placed on impermeable material and protected from erosion and contact with surface water.

§ 910.816–49 Hydrologic balance: Permanent and temporary impoundments.

(a) Permanent impoundments are prohibited unless authorized by the Office, upon the basis of the following demonstration:

(1) The quality of the impounded water shall be suitable on a permanent basis for its intended use, and discharge of water from the impoundment shall not degrade the quality of receiving waters to less than the water-quality standards established pursuant to applicable State and Federal laws.

(2) The level of water shall be sufficiently stable to support the intended use.

(3) Adequate safety and access to the impounded water shall be provided for proposed water users.

(4) Water impoundments shall not result in the diminution of the quality or quantity of water used by adjacent or surrounding land-owners for agricultural, industrial, recreational, or domestic uses.

(5) The design, construction, and maintenance of structures shall achieve the minimum design requirements applicable to structures constructed and maintained under the Watershed Protection and Flood Prevention Act, Pub. L. 83–566 (16 U.S.C. 1006). Requirements for impoundments that meet the size or other criteria of the Mine Safety and Health Administration, 30 CFR 77–216(a) are contained in U.S. Soil Conservation Service Technical Release No. 60, "Earth Dams and Reservoirs," June 1976. Requirements for impoundments that do not meet the size or other criteria contained in 30 CFR 77.216(a) are contained in U.S. Soil Conservation Service Practice Standard 378, "Ponds," October 1978. The technical release and practice standard are hereby incorporated by reference as they exist on the date of adoption of this Subpart. Notices of changes made in these publications will be periodically published by OSM in the Federal Register. Technical Release No. 60 and Practice Standard 378 are on file and available for inspection at the OSM Central Office, U.S. Department of the Interior, South Interior Bldg., 1951 Constitution Ave., NW., Washington, D.C. 20240, at each OSM Regional Office, District Office, and Field Office. Copies of these publications may also be obtained by writing to the above locations. Copies of these publications will also be on file for public inspection at the Federal Register Library, 1100 L Street NW., Washington, D.C. Incorporation-by-reference provisions have been approved by the Director of the Federal Register, February 7, 1979. The Director's approval of this incorporation by reference expires on July 1, 1981.

(6) The size of the impoundment is adequate for its intended purposes.

(7) The impoundment will be suitable for the approved postmining land use.

(8) A permit is obtained for the dam pursuant to the Georgia State Safe Dams Act of 1978 and Rules for Dam Safety promulgated by the Georgia Department of Natural Resources, Environmental Protection Division.

(b) Temporary impoundments of water in which the water is impounded by a dam shall meet the requirements of 30 CFR 910.816–46 (e)–(u).

(c) Excavations that will impound water during or after the mining operation shall have perimeter slopes that are stable and shall not be steeper than $1v{:}2h$. Where surface runoff enters the impountment area, the side slope shall be protected against erosion.

(d) Slope protection shall be provided to minimize surface erosion at the site and sediment control measures shall be required where necessary to reduce the sediment leaving the site.

(e) All embankments of temporary and permanent impoundments, and the surrounding areas and diversion ditches disturbed or created by construction, shall be graded, fertilized, seeded, and mulched to comply with the requirements of 30 CFR 910.816–111 through 910.816–117 immediately after the embankment is completed: *Provided,* That the active, upstream face of the embankment where water will be impounded may be riprapped or otherwise stabilized. Areas in which the vegetation is not successful or where rills and gullies develop shall be repaired and revegetated to comply with the requirements of 30 CFR 910.816–106 and 30 CFR 910.816–111 through 910.816–117.

(f) All dams and embankments meeting the size or other criteria of 30 CFR 77.216(a) shall be routinely inspected by a qualified registered professional engineer, or by someone under the supervision of a qualified registered professional engineer, in accordance with 30 CFR 77.216–3.

(g) All dams and embankments shall be routinely maintained during the mining operations. Vegetative growth shall be cut where necessary to facilitate inspection and repairs. Ditches and spillways shall be cleaned. Any combustible material present on the surface, other than material such as mulch or dry vegetation used for surface stability, shall be removed and all other appropriate maintenance procedures followed.

(h) All dams and embankments that meet or exceed the size or other criteria of 30 CFR 77.216(a) shall be certified to the Office by a qualified registered professional engineer, immediately after construction and annually thereafter, as having been constructed and/or maintained to comply with the requirements of this section. All dams and embankments that do not meet the size or other criteria of 30 CFR 77.216(a) shall be certified by either a qualified registered professional engineer or a registered land surveyor, except that all coal processing waste dams and embankments covered by 30 CFR 910.816–01 through 910.816–03 shall be certified by a qualified registered professional engineer. Certification reports shall include statements on—

(1) Existing and required monitoring procedures and instrumentation;

(2) The design depth and elevation of any impounded waters at the time of the initial certification report or the average and maximum depths and elevations of any impounded waters over the past year for the annual certification reports;

(3) Existing storage capacity of the dam or embankment;

(4) Any fires occurring in the construction material up to the date of the initial certification or over the past year for the annual certification reports; and

(5) Any other aspects of the dam or embankment affecting stability.

(i) Plans for any enlargement, reduction in size, reconstruction, or other modification of dams or impoundments shall be submitted to the Office and shall comply with the requirements of this section. Except where a modification is required to eliminate an emergency condition constituting a hazard to public health, safety, or the environment, the Office shall approve the plans before modification begins.

§ 910.816–50 Hydrologic balance: Ground water protection.

(a) Backfilled materials shall be placed so as to minimize contamination of ground water systems with acid, toxic, or otherwise harmful mine drainage, to minimize adverse effects of mining on ground water systems outside the permit area, and to support approved postmining land uses.

(b) To control the effects of mine drainage, pits, cuts, and other mine excavation or disturbances shall be located, designed, constructed, and utilized in such manner as to prevent or control discharge of acid, toxic, or otherwise harmful mine drainage waters into ground water systems and to prevent adverse impacts on such ground water systems or on approved postmining land uses.

§ 910.816–51 Hydrologic balance: Protection of ground water recharge capacity.

Surface mining activities shall be conducted in a manner that facilitates reclamation which will restore approximate pre-mining recharge capacity, through restoration of the capability of the reclaimed areas as a whole, excluding coal processing waste and underground development waste disposal areas and fills, to transmit water to the ground water system. The recharge capacity shall be restored to a condition which—

(a) Supports the approved postmining land use;

(b) Minimizes disturbances to the prevailing hydrologic balance in the permit area and in adjacent area; and

(c) Provides a rate of recharge that approximates the pre-mining recharge rate.

§ 910.816–52 Hydrologic balance: Surface and ground water monitoring.

(a) *Ground water.* (1) Ground water levels, infiltration rates, subsurface flow and storage characteristics, and the quality of ground water shall be monitored in a manner approved by the Office, to determine the effects of surface mining activities on the recharge capacity of reclaimed lands and on the quantity and quality of water in ground water systems in the permit area and adjacent areas.

(2) When surface mining activities may affect the ground water systems which serve as aquifers which significantly ensure the hydrologic balance of water use in the permit area and adjacent area, ground water levels and ground water quality shall be periodically monitored. Monitoring shall include measurements from a sufficient number of wells and mineralogical and chemical analyses of aquifer, overburden, and spoil that are adequate to reflect changes in ground water quantity and quality resulting from those activities. Monitoring shall be adequate to plan for modification of surface mining activities, if necessary, to minimize disturbance of the prevailing hydrologic balance.

(3) As specified and approved by the Office, the person who conducts surface mining activities shall conduct additional hydrologic tests, including drilling, infiltration tests, and aquifer tests and shall submit the results to the Office, to demonstrate compliance with §§ 910.816–50 through 910.816–52.

(b) *Surface water.* (1) Surface water monitoring shall be conducted in accordance with the monitoring program submitted under 30 CFR 910.780–21(b)(4) and approved by the Office. The Office shall determine the nature of data, frequency of collection, and reporting requirements. Monitoring shall—

(i) Be adequate to measure accurately and record water quantity and quality of the discharges from the permit area;

(ii) In all cases in which analytical results of the sample collections indicate noncompliance with a permit condition or applicable standard has occurred, shall result in the person who conducts the surface mining activities notifying the Office within 5 days. Where a National Pollutant Discharge Elimination System (NPDES) permit effluent limitation noncompliance has occurred, the person who conducts surface mining activities shall forward the analytical results concurrently with the written notice of noncompliance.

(iii) Result in quarterly reports to the Office to include analytical results from each sample taken during the quarter. Any sample results which indicate a permit violation will be reported immediately to the Office. In those cases where the discharge for which water monitoring reports are required is also subject to regulation by a NPDES permit issued under the Clean Water Act of 1977 (30 U.S.C. Sec. 1251–1378) and where such permit includes provisions for equivalent reporting requirements and requires filing of the water monitoring reports within 90 days or less of sample collection, the following alternative procedure shall be used. The person who conducts the surface mining activities shall submit to the Office on the same time schedule as required by the NPDES permit or within 90 days following sample collection, whichever is earlier, either—

(A) A copy of the completed reporting form filed to meet NPDES permit requirements; or

(B) A letter identifying the State government official with whom the reporting form was filed to meet NPDES permit requirements and the date of filing.

(2) After disturbed areas have been regraded and stabilized according to this subpart, the person who conducts surface mining activities shall monitor surface water flow and quality. Data from this monitoring may be used to demonstrate that the quality and quantity of runoff without treatment is consistent with the requirements of this subpart to minimize disturbance to the prevailing hydrologic balance and attain the approved postmining land use. These data may also provide a basis for approval by the Office for removal of water quality or flow control systems.

(3) Equipment, structures, and other devices necessary to measure and sample accurately the quality and quantity of surface water discharges from the disturbed area shall be properly installed, maintained, and operated and shall be removed when no longer required.

§ 910.816–53 Hydrologic balance: Transfer of wells.

(a) An exploratory or monitoring well may only be transferred by the person who conducts surface mining activities for further use as a water well with the prior approval of the Office. That person and the surface owner of the lands where the well is located shall jointly submit a written request to the Office for that approval.

(b) Upon an approved transfer of a well, the transferee shall—

(1) Assume primary liability for damages to persons or property from the well;

(2) Plug the well when necessary, but in no case later than abandonment of the well; and

(3) Assume primary responsibility for compliance with §§ 910.816–13 through 910.816–15 with respect to the well.

(c) Upon an approved transfer of a well, the transferor shall be secondarily liable for the transferee's obligations under paragraph (b) of this section, until release of the bond or other equivalent guarantee required by Subparts 910.800 through 910.808 for the area in which the well is located.

§ 910.816–54 Hydrologic balance: Water rights and replacement.

Any person who conducts surface mining activities shall replace the water supply of an owner of interest in real property who obtains all or part of his or her supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source, where the water supply has been affected by contamination, diminution, or interruption proximately resulting from the surface mining activities.

§ 910.816–55 Hydrologic balance: Discharge of water into an underground mine.

Surface water shall not be diverted or otherwise discharged into underground mine workings, unless the person who conducts the surface mining activities demonstrates to the Office that this will—

(a) Abate water pollution or otherwise eliminate public hazards resulting from surface mining activities; and

(b) Be discharged as a controlled flow, meeting the effluent limitations of § 910.816–42 for pH and total suspended solids, except that the pH and total suspended solid limitations may be exceeded, if approved by the Office, and the discharge is limited to—

(1) Coal processing waste;

(2) Fly ash from a coal-fired facility;

(3) Sludge from an acid mine drainage treatment facility;

(4) Flue gas desulfurization sludge;

(5) Inert materials used for stabilizing underground mines or;

(6) Underground mine development wastes;

(c) In any event, the discharge from underground mines to surface waters will not cause, result in or contribute to a violation of applicable water quality standards or effluent limitations;

(d) Minimizes disturbance to the hydrologic balance; and

(e) Meets with the approval of the Mine Safety and Health Administration.

§ 910.816–56 Hydrologic balance: Postmining rehabilitation of sedimentation ponds, diversions, impoundments, and treatment facilities.

Before abandoning the permit area, the person who conducts the surface mining activities shall renovate all permanent sedimentation ponds, diversions, impoundments, and treatment facilities to meet criteria specified in the detailed design plan for the permanent structures and impoundments.

§ 910.816–57 Hydrologic balance: Stream buffer zones.

(a) No land within 100 feet of a perennial stream or a stream with a biological community determined according to paragraph (c) of this section shall be disturbed by surface mining activities, except in accordance with §§ 910.816–43 through 910.816–44, unless the Office specifically authorizes surface mining activities closer to or through such a stream upon finding—

(1) That the original stream channel will be restored; and

(2) During and after the mining, the water quantity and quality from the stream section within 100 feet of the surface mining activities shall not be adversely affected.

(b) The area not to be disturbed shall be designated a buffer zone and marked as specified in § 910.816–11.

(c) A stream with a biological community shall be determined by the existence in the stream at any time of an assemblage of two or more species of arthropods or mulluscan animals which are—

(1) Adapted to flowing water for all or part of their life cycle;

(2) Dependent upon a flowing water habitat;

(3) Reproducing or can reasonably be expected to reproduce in the water body where they are found; and

(4) Longer than 2 millimeters at some stage of the part of their life cycle spent in the flowing water habitat.

§ 910.816–59 Coal recovery.

Surface mining activities shall be conducted so as to maximize the utilization and conservation of the coal, while utilizing the best appropriate technology currently available to maintain environmental integrity, so that reaffecting the land in the future through surface coal mining operations is minimized.

§ 910.816–61 Use of explosives: General requirements.

(a) Each person who conducts surface mining activities shall comply with all applicable State and Federal laws in the use of explosives.

(b) Blasts that use more than 5 pounds of explosive or blasting agent shall be conducted according to the schedule required by § 910.816–64.

(c) All blasting operations shall be conducted by experienced, trained, and competent persons who understand the hazards involved. Each person responsible for blasting operations shall possess a valid certification as required by 30 CFR Subpart 910.850 when promulgated.

§ 910.816–62 Use of explosives: Pre-blasting survey.

(a) On the request to the Office by a resident or owner of a dwelling or structure that is located within one-half mile of any part of the permit area, the person who conducts the surface mining activities shall promptly conduct a pre-blasting survey of the dwelling or structure and promptly submit a report of the survey to the Office and to the person requesting the survey. If a structure is renovated or added to, subsequent to a pre-blast survey, then upon request to the Office a survey of such additions and renovations shall be performed in accordance with this Section.

(b) The survey shall determine the condition of the dwelling or structure and document any pre-blasting damage and other physical factors that could reasonably be affected by the blasting. Assessments of structures such as pipes, cables, transmission lines, and wells and other water systems shall be limited to surface condition and readily available data. Special attention shall be given to the pre-blasting condition of wells and other water systems used for

human, animal, or agricultural purposes and to the quantity and quality of the water.

(c) A written report of the survey shall be prepared and signed by the person who conducted the survey. The report may include recommendations of any special conditions or proposed adjustments to the blasting procedure which should be incorporated into the blasting plan to prevent damage. Copies of the report shall be provided to the person requesting the survey and to the Office. If the person requesting the survey disagrees with the results of the survey, he or she may notify, in writing, both the permittee and the Office of the specific areas of disagreement.

§ 910.816-64 Use of explosives: Public notice of blasting schedule.

(a) *Blasting schedule publication.* (1) Each person who conducts surface mining activities shall publish a blasting schedule at least 10 days, but not more than 20 days, before beginning a blasting program in which blasts that use more than 5 pounds of explosive or blasting agent are detonated. The blasting schedule shall be published in a newspaper of general circulation in the locality of the blasting site.

(2) Copies of the schedule shall be distributed by mail to local governments and public utilities and by mail or delivered to each residence within one-half mile of the permit area described in the schedule. For the purposes of this section, the permit area does not include haul or access roads, coal preparation and loading facilities, and transportation facilities between coal excavation areas and coal preparation or loading facilities, if blasting is not conducted in these areas. Copies sent to residences shall be accompanied by information advising the owner or resident how to request a pre-blasting survey.

(3) The person who conducts the surface mining activities shall republish and redistribute the schedule by mail at least every 12 months.

(b) *Blasting schedule contents.* (1) A blasting schedule shall not be so general as to cover the entire permit area or all working hours, but shall identify as accurately as possible the location of the blasting sites and the time periods when blasting will occur.

(2) The blasting schedule shall contain at a minimum—

(i) Identification of the specific areas in which blasting will take place. Each specific blasting area described shall be reasonably compact and not larger than 300 acres;

(ii) Dates and time periods when explosives are to be detonated. These periods shall not exceed an aggregate of 4 hours in any one day;

(iii) Methods to be used to control access to the blasting area;

(iv) Types of audible warnings and all-clear signals to be used before and after blasting; and

(v) A description of unavoidable hazardous situations referred to in § 910.816-65(b) which have been approved by the Office for blasting at times other than those described in the schedule.

(c) Public notice of changes to blasting schedules.

(1) Before blasting in areas or at times not in a previous schedule, the person who conducts the surface mining activities shall prepare a revised blasting schedule according to the procedures in paragraphs (a) and (b) of this section. Where notice has previously been mailed to the owner or residents under paragraph (a)(2) of this section with advice on requesting a pre-blast survey, the notice of change need not include information regarding pre-blast surveys.

(2) If there is a substantial pattern of non-adherence to the published blasting schedule as evidenced by the absence of blasting during scheduled periods, the Office may require that the person who conducts the surface mining activities prepare a revised blasting schedule according to the procedures in paragraph (c)(1) of this section.

§ 910.816-65 Use of explosives: Surface blasting requirements.

(a) All blasting shall be conducted between sunrise and sunset.

(1) The Office may specify more restrictive time periods, based on public requests or other relevant information, according to the need to adequately protect the public from adverse noise.

(2) Blasting may, however, be conducted between sunset and sunrise if:

(i) A blast that has been prepared during the afternoon must be delayed due to the occurrence of an unavoidable hazardous condition and cannot be delayed until the next day because a potential safety hazard could result that cannot be adequately mitigated.

(ii) In addition to the required warning signals, oral notices are provided to persons within one-half mile of the blasting site; and

(iii) A complete written report of blasting at night is filed by the person conducting the surface mining activities with the Office not later than 3 days after the night blasting. The report shall include a description in detail of the reasons for the delay in blasting including why the blast could not be held over to the next day, when the blast was actually conducted, the warning notices given, and a copy of the blast report required by § 910.816-66.

(b) Blasting shall be conducted at times announced in the blasting schedule, except in those unavoidable hazardous situations, previously approved by the Office in the permit application, where operator or public safety require unscheduled detonation.

(c) Warning and all-clear signals of different character that are audible within a range of one-half mile from the point of the blast shall be given. Each person within the permit area and each person who resides or regularly works within one-half mile of the permit area shall be notified of the meaning of the signals through appropriate instructions. These instructions shall be periodically delivered or otherwise communicated in a manner which can be reasonably expected to inform such persons of the meaning of the signals. Each person who conducts surface mining activities shall maintain signs in accordance with section 910.816-11(f).

(d) Access to an area possibly subject to flyrock from blasting shall be regulated to protect the public and livestock. Access to the area shall be controlled to prevent the presence of livestock or unauthorized personnel during blasting and until an authorized representative of the person who conducts the surface mining activities has reasonably determined—

(1) That no unusual circumstances, such as imminent slides or undetonated charges, exist; and

(2) That access to and travel in or through the area can be safely resumed.

(e)(1) Airblast shall be controlled so that it does not exceed the values specified below at any dwelling, public building, school, church, or commercial or institutional structure, unless such structure is owned by the person who conducts the surface mining activities and is not leased to any other person. If a building owned by the person conducting surface mining activities is leased to another person, the lessee may sign a waiver relieving the operator from meeting the airblast limitations of this paragraph.

Lower frequency limit of measuring system, H_z (±3dB)	Maximum level in decibels
0.1 H_z or lower—flat response	135 peak.
2 H_z or lower—flat response	132 peak.
6 H_z or lower—flat response	130 peak.
C-weighted, slow response	105 C.

(2) In all cases except the C-weighted, slow-response, the measuring systems used shall have a flat frequency response of at least 200 H_z at the upper end. The C-weighted shall be measured with a type 1 sound level meter that meets the standard American National Standards Institute (ANSI) S1.4-1971 specifications. The ANSI S1.4-1971 is hereby incorporated by reference as it exists on the date of adoption of this Subpart. Notices of changes made to this publication will be periodically published by OSM in the Federal Register. ANSI S1.4-1971 is on file and available for inspection at the OSM Central Office, U.S. Department of the Interior, South Interior Building, Washington, D.C. 20240, at each OSM Regional Office, District Office, and Field Office. Copies of this publication may also be obtained by writing to the above locations. A copy of this publication will also be on file for public inspection at the Federal Register Library, 1000 L Street NW., Washington, D.C. Incorporation by reference provisions approved by the director of the Federal Register February 7, 1979. The director's approval of this incorporation by reference expires on July 1, 1981.

(3) The person who conducts blasting may satisfy the provisions of this section by meeting any of the four specifications in the chart in paragraph (e)(1) of this section.

(4) The Office may require an airblast measurement of any or all blasts, and may specify the location of such measurements.

(f) Blasting shall not be conducted within—

(1) 300 feet of any building used as a dwelling, school, church, hospital, or nursing facility; and

(2) 300 feet of facilities including, but not limited to, disposal wells, petroleum or gas-storage facilities, municipal water-storage facilities, fluid-transmission pipelines, gas or oil-collection lines, or water and sewage lines.

(g) Flyrock, including blasted material traveling along the ground, shall not be cast from the blasting vicinity more than half the distance to the nearest dwelling or other occupied structure and in no case beyond the line of property owned or leased by the permittee, or beyond the area of regulated access required under paragraph (d) of this section.

(h) Blasting shall be conducted to prevent injury to persons, damage to public or private property outside the permit area, adverse impacts on any underground mine, and change in the course, channel, or availability of ground or surface waters outside the permit area.

(i) In all blasting operations, except as otherwise authorized in this section, the maximum peak particle velocity shall not exceed 1 inch per second at the location of any dwelling, public building, school, church, or commercial or institutional building. Peak particle velocities shall be recorded in 3 mutually perpendicular directions. The maximum peak particle velocity shall be the largest of any of the three measurements. The Office may reduce the maximum peak particle velocity allowed, if it determines that a lower standard is required because of density of population or land use, age or type of structure, geology or hydrology of the area, frequency of blasts, or other factors.

(j) If blasting is conducted to prevent adverse impacts on any underground mine and changes in the course, channel, or availability of ground or surface water outside the permit area, then the maximum peak particle velocity limitation of paragraph (i) of this section shall not apply at the following locations:

(1) At structures owned by the person conducting the mining activity, and not leased to another party; and

(2) At structures owned by the person conducting the mining activity, and leased to another party, if a written waiver by the lessee is submitted to the Office prior to blasting.

(k) An equation for determining the maximum weight of explosives that can be detonated within any 8-millisecond period is in paragraph (l) of this section. If the blasting is conducted in accordance with this equation, the peak particle velocity shall be deemed to be within the 1-inch-per-second limit.

(l)(1) The maximum weight of explosives to be detonated within any 8-millisecond period may be determined by the formula $W = (D/60)^2$ where W = the maximum weight of explosives, in pounds, that can be detonated in any 8-millisecond period, and D = the distance, in feet, from the blast to the nearest dwelling, school, church, or commercial or institutional building.

(2) For distances between 300 and 5,000 feet, solution of the equation results in the following maximum weight:

Distance in feet (D)	Maximum weight in pounds (W)
300	25
350	34
400	44
500	69
600	100
700	136
800	178
900	225
1,000	278
1,100	336
1,200	400
1,300	469
1,400	544
1,500	625
1,600	711
1,700	803
1,800	900
1,900	1,002
2,000	1,111
2,500	1,736
3,000	2,500
3,500	3,403
4,000	4,444
4,500	5,625
5,000	6,944

§ 910.816-67 Use of explosives: Seismographic measurements.

(a) Where a seismograph is used to monitor the velocity of ground motion and the peak particle velocity limit of 1 inch per second is not exceeded, the equation in § 910.816-65(1) need not be used. If that equation is not used by the person conducting the surface mining activities, a seismograph record shall be obtained for each shot.

(b) The use of a modified equation to determine maximum weight of explosives per delay for blasting operations at a particular site, may be approved by the Office on receipt of a petition accompanied by reports including seismograph records of test blasting on the site. In no case shall the Office approve the use of a modified equation where the peak particle velocity of 1 inch per second required in § 910.816-65(i) would be exceeded.

(c) The Office may require a seismograph record of any or all blasts and may specify the location at which such measurements are taken.

§ 910.816-68 Use of explosives: Records of blasting operations.

A record of each blast, including seismograph reports, shall be retained for at least 3 years and shall be available for inspection by the Office and the public on request. The record shall contain the following data:

(a) Name of the operator conducting the blast.

(b) Location, date, and time of blast.

(c) Name, signature, and license number of blaster-in-charge.

(d) Direction and distance, in feet, to the nearest dwelling, school, church, or commercial or insitutional building either—

(1) Not located in the permit area; or

(2) Not owned nor leased by the person who conducts the surface mining activities.

(e) Weather conditions, including temperature, wind direction, and approximate velocity.

(f) Type of material blasted.
(g) Number of holes, burden, and spacing.
(h) Diameter and depth of holes.
(i) Types of explosives used.
(j) Total weight of explosives used.
(k) Maximum weight of explosives detonated within any 8-millisecond period.
(l) Maximum number of holes detonated within any 8-millisecond period.
(m) Initiation system.
(n) Type and length of stemming.
(o) Mats or other protections used.
(p) Type of delay detonator and delay periods used.
(q) Sketch of the delay pattern.
(r) Number of persons in the blasting crew.
(s) Seismographic records, where required, including the calibration signal of the gain setting and—
(1) Seismographic reading, including exact location of seismograph and its distance from the blast;
(2) Name of the person taking the seismograph reading; and
(3) Name of the person and firm analyzing the seismographic record.

§ 910.816–71 Disposal of excess spoil: General requirements.

(a) Spoil not required to achieve the approximate original contour within the area where overburden has been removed shall be hauled or conveyed to and placed in designated disposal areas within a permit area, if the disposal areas are authorized for such purposes in the approved permit application in accordance with §§ 910.816–71 through 910.816–74. The spoil shall be placed in a controlled manner to ensure—
(1) That leachate and surface runoff from the fill will not degrade surface or ground waters or exceed the effluent limitations of § 910.816–42;
(2) Stability of the fill; and
(3) That the land mass designated as the disposal area is suitable for reclamation and revegetation compatible with the natural surroundings.
(b) The fill shall be designed using recognized professional standards, certified by a registered professional engineer, and approved by the Office.
(c) All vegetative and organic materials shall be removed from the disposal area and the topsoil shall be removed, segregated, and stored or replaced under §§ 910.816–21 through 910.816–25. If approved by the Office, organic material may be used as mulch or may be included in the topsoil to control erosion, promote growth of vegetation, or increase the moisture retention of the soil.
(d) Slope protection shall be provided to minimize surface erosion at the site. Diversion design shall conform with the requirements of § 910.816–43. All disturbed areas, including diversion ditches that are not rip-rapped, shall be vegetated upon completion of construction.
(e) The disposal areas shall be located on the most moderately sloping and naturally stable areas available as approved by the Office. If such placement provides additional stability and prevents mass movement, fill materials suitable for disposal shall be placed upon or above a natural terrace, bench, or berm.
(f) The spoil shall be hauled or conveyed and placed in horizontal lifts in a controlled manner, concurrently compacted as necessary to ensure mass stability and prevent mass movement, covered, and graded to allow surface and subsurface drainage to be compatible with the natural surroundings and ensure a long-term static safety factor of 1.5.
(g) The final configuration of the fill must be suitable for postmining land uses approved in accordance with § 910.816–133, except that no depressions or impoundments shall be allowed on the completed fill.
(h) Terraces may be utilized to control erosion and enhance stability if approved by the Office and consistent with § 910.816–102(b).
(i) Where the slope in the disposal area exceeds $1v:2.8h$ (36 percent), or such lesser slope as may be designated by the Office based on local conditions, keyway cuts (excavations to stable bedrock) or rock toe buttresses shall be constructed to stabilize the fill. Where the toe of the spoil rests on a downslope, stability analyses shall be performed in accordance with § 910.780–35(c) to determine the size of rock toe buttresses and keyway cuts.
(j) The fill shall be inspected for stability by a registered engineer or other qualified professional specialist experienced in the construction of earth and rockfill embankments at least quarterly throughout construction and during the following critical construction periods: (1) Removal of all organic material and topsoil, (2) placement of underdrainage systems, (3) installation of surface drainage systems, (4) placement and compaction of fill materials, and (5) revegetation. The registered engineer or other qualified professional specialist shall provide to the Office a certified report within 2 weeks after each inspection that the fill has been constructed as specified in the design approved by the Office. A copy of the report shall be retained at the minesite.
(k) Coal processing wastes shall not be disposed of in head-of-hollow or valley fills, and may only be disposed of in other excess spoil fills, if such waste is—
(1) Placed in accordance with § 910.816–85;
(2) Demonstrated to be nontoxic and nonacid forming; and
(3) Demonstrated to be consistent with the design stability of the fill.
(l) If the disposal area contains springs, natural or man-made watercourses, or wet-weather seeps, an underdrain system consisting of durable rock shall be constructed from the wet areas in a manner that prevents infiltration of the water into the spoil material. The underdrain system shall be protected by an adequate filter and shall be designed and constructed using standard geotechnical engineering methods.
(m) The foundation and abutments of the fill shall be stable under all conditions of construction and operation. Sufficient foundation investigation and laboratory testing of foundation materials shall be performed in order to determine the design requirements for stability of the foundation. Analyses of foundation conditions shall include the effect of underground mine workings, if any, upon the stability of the structure.
(n) Excess spoil may be returned to underground mine workings, but only in accordance with a disposal program approved by the Office and MSHA upon the basis of a plan submitted under 30 CFR 910.784–25.
(o) Disposal of excess spoil from an upper actively mined bench to a lower pre-existing bench by means of gravity transport is permitted provided that:
(1) The operator receives the prior written approval of the regulatory authority upon demonstration by the operator that the spoil to be disposed of by gravity transport is not necessary for elimination of the highwall and return of the upper bench to approximate original contour;
(2) The following conditions and performance standards in addition to the environmental performance standards of this part are met:
(i) The highwall of the lower bench intersects (meets) the upper actively mined bench with no natural slope between them;
(ii) The gravity transport points are determined on a site specific basis by the operator and approved by the regulatory authority to minimize hazards to health and safety and to ensure that damage will be minimized should spoil accidentally move downslope of the lower bench;
(iii) The excess spoil is placed only on solid portions of the lower pre-existing bench;
(iv) All excess spoil on the lower solid bench, including that spoil immediately below the gravity transport points, is rehandled and placed in a controlled manner to eliminate as much of the lower highwall as practicable. Rehandling and placing the excess spoil on the lower solid bench shall consist of placing the excess spoil in horizontal lifts in a controlled manner, concurrently compacted as necessary to ensure mass stability and prevent mass movement, and graded to allow surface and subsurface drainage to be compatible with the natural surroundings to ensure a long-term static safety factor of 1.3. Spoil on the bench prior to the current mining operation need not be rehandled except to ensure stability of the fill;
(v) A safety berm is constructed on the solid portion of the lower bench prior to gravity transport of the excess spoil. Where there is insufficient material on the lower bench to construct a safety berm, only that amount of spoil necessary for the construction of the berm may be gravity transported to the lower bench prior to construction of the berm. The safety berm must be removed by the operator during final grading operations;
(vi) The area of the lower bench used to facilitate the disposal of excess spoil is considered an affected area.

§ 910.816–72 Disposal of excess spoil: Valley fills.

Valley fills shall meet all of the requirements of § 910.816–71 and the additional requirements of this Section.
(a) The fill shall be designed to attain a long-term static safety factor of 1.5 based upon data obtained from subsurface exploration, geotechnical testing, foundation design, and accepted engineering analyses.
(b) A subdrainage system for the fill shall be constructed in accordance with the following:
(1) A system of underdrains constructed of durable rock shall meet the requirements of paragraph (b)(4) of this section and:
(i) Be installed along the natural drainage system;
(ii) Extend from the toe to the head of the fill; and
(iii) Contain lateral drains to each area of potential drainage or seepage.
(2) A filter system to insure the proper functioning of the rock underdrain system shall be designed and constructed using standard geotechnical engineering methods.
(3) In constructing the underdrains, no more than 10 percent of the rock may be less than 12 inches in size and no single rock may be larger than 25 percent of the width of the drain. Rock used in underdrains shall meet the requirements of paragraph (b)(4) of this section. The minimum size of the main underdrain shall be:

Total amount of fill material	Predominant type of fill material	Minimum size of drain, in feet	
		Width	Height
Less than 1 million yd³	Sandstone	10	4
Do	Shale	16	8
More than 1 million yd³	Sandstone	16	8
Do	Shale	16	16

(4) Underdrains shall consist of non-degradable, non-acid or toxic forming rock such as natural sand and gravel, sandstone, limestone, or other durable rock that will not slake in water and will be free of coal, clay or shale.
(c) Spoil shall be hauled or conveyed and placed in a controlled manner and concurrently compacted as specified by the Office, in lifts no greater than 4 feet or less if required by the Office to—
(1) Achieve the densities designed to ensure mass stability;
(2) Prevent mass movement;
(3) Avoid contamination of the rock underdrain or rock core; and
(4) Prevent formation of voids.
(d) Surface water runoff from the area above the fill shall be diverted away from the fill and into stabilized diversion channels designed to pass safely the runoff from a 100-year, 24-hour precipitation event or larger event specified by the Office. Surface runoff from the fill surface shall be diverted to stabilized channels off the fill which will safely pass the runoff from a 100-year, 24-hour precipitation event. Diversion design shall comply with the requirements of § 910.816–43(f).
(e) The tops of the fill and any terrace constructed to stabilize the face shall be graded no steeper than $1v:20h$ (5 percent). The vertical distance between terraces shall not exceed 50 feet.
(f) Drainage shall not be directed over the outslope of the fill.
(g) The outslope of the fill shall not exceed $1v:2h$ (50 percent). The Office may require a flatter slope.

§ 910.816–73 Disposal of excess spoil: Head-of-hollow fills.

Disposal of spoil in the head-of-hollow fill shall meet all standards set forth in §§ 910.816–71 and 910.816–72 and the additional requirements of this section.
(a) The fill shall be designed to completely fill the disposal site to the approximate elevation of the ridgeline. A rock-core chimney drain may be utilized instead of the subdrain and surface diversion system required for valley fills. If the crest of the fill is not approximately at the same elevation as the low point of the adjacent ridgeline, the fill must be designed as specified in § 910.816–72, with diversion of runoff around the fill. A fill associated with contour mining and placed at or near the coal seam, and which does not exceed 250,000 cubic yards may use the rock-core chimney drain.
(b) The alternative rock-core chimney drain system shall be designed and incorporated into the construction of head-of-hollow fills as follows:
(1) The fill shall have, along the vertical projection of the main buried stream channel or rill a vertical core of durable rock at least 16 feet thick which shall extend from the toe of the fill to the head of the fill, and from the base of the fill to the surface of the fill. A system of lateral rock underdrains shall connect this rock core to each area of potential drainage or seepage in the disposal area. Rocks used in the rock core and underdrains shall meet the requirements of § 910.816–72(b).
(2) A filter system to ensure the proper functioning of the rock core shall be designed and constructed using standard geotechnical engineering methods.
(3) The grading may drain surface water away from the outslope of the fill and toward the rock core. The maximum slope of the top of the fill shall be $1v:33h$ (3 percent). Instead of the requirements of § 910.816–71(g), a drainage pocket may be maintained at the head of the fill during and after construction, to intercept surface runoff and discharge the runoff through or over the rock drain, if stability of the fill is not impaired. In no case shall this pocket or sump have a potential for impounding more than 10,000 cubic feet of water. Terraces on the fill shall be graded with a 3- to 5-percent grade toward the fill and a 1-percent slope toward the rock core.
(c) The drainage control system shall be capable of passing safely the runoff from a 100-year, 24-hour precipitation event, or larger event specified by the Office.

§ 910.816–74 Disposal of excess spoil: Durable rock fills.

In lieu of the requirements of §§ 910.816–72 and 910.816–73, the Office

may approve alternate methods for disposal of hard rock spoil, including fill placement by dumping in a single lift, on a site specific basis, provided the services of a registered professional engineer experienced in the design and construction of earth and rockfill embankments are utilized and provided the requirements of this section and § 910.816–71 are met. For this Section, hard rock spoil shall be defined as rockfill consisting of at least 80 percent by volume of sandstone, limestone, or other rocks that do not slake in water. Resistance of the hard rock spoil to slaking shall be determined by using the slake index and slake durability tests in accordance with guidelines and criteria established by the Office.

(a) Spoil is to be transported and placed in a specified and controlled manner which will ensure stability of the fill.

(1) The method of spoil placement shall be designed to ensure mass stability and prevent mass movement in accordance with the additional requirements of this Section.

(2) Loads of noncemented clay shale and/or clay spoil in the fill shall be mixed with hard rock spoil in a controlled manner to limit on a unit basis concentrations of noncemented clay shale and clay in the fill. Such materials shall comprise no more than 20 percent of the fill volume as determined by tests performed by a registered engineer and approved by the Office.

(b)(1) Stability analyses shall be made by the registered professional engineer. Parameters used in the stability analyses shall be based on adequate field reconnaissance, subsurface investigations, including borings, and laboratory tests.

(2) The embankment which constitutes the valley fill or head-of-hollow fill shall be designed with the following factors of safety:

Case	Design condition	Minimum factor of safety
I	End of construction	1.5
II	Earthquake	1.1

(c) The design of a head-of-hollow fill shall include an internal drainage system which will ensure continued free drainage of anticipated seepage from precipitation and from springs or wet weather seeps.

(1) Anticipated discharge from springs and seeps and due to precipitation shall be based on records and/or field investigations to determine seasonal variation. The design of the internal drainage system shall be based on the maximum anticipated discharge.

(2) All granular material used for the drainage system shall be free of clay and consist of durable particles such as natural sands and gravels, sandstone, limestone or other durable rock which will not slake in water.

(3) The internal drain shall be protected by a properly designed filter system.

(d) Surface water runoff from the areas adjacent to and above the fill shall not be allowed to flow onto the fill and shall be diverted into stabilized channels which are designed to pass safely the runoff from a 100-year, 24-hour precipitation event. Diversion design shall comply with the requirements of § 910.816–43(f).

(e) The top surface of the completed fill shall be graded such that the final slope after settlement will be no steeper than 1*v*:20*h* (5 percent) toward properly designed drainage channels in natural ground along the periphery of the fill. Surface runoff from the top surface of the fill shall not be allowed to flow over the outslope of the fill.

(f) Surface runoff from the outslope of the fill shall be diverted off the fill to properly designed channels which will pass safely a 100-year, 24-hour precipitation event. Diversion design shall comply with the requirements of § 910.816–43(f).

(g) Terraces shall be constructed on the outslope if required for control of erosion or for roads included in the approved postmining land use plan. Terraces shall meet the following requirements:

(1) The slope of the outslope between terrace benches shall not exceed 1*v*: 2*h* *(50 percent)*.

(2) To control surface runoff, each terrace bench shall be graded to a slope of 1*v*:20*h* (5 percent) toward the embankment. Runoff shall be collected by a ditch along the intersection of each terrace bench and the outslope.

(3) Terrace ditches shall have a 5-percent slope toward the channels specified in paragraph (f) of this section, unless steeper slopes are necessary in conjunction with approved roads.

§ 910.816–79 Protection of underground mining.

(a) No surface coal mining activities shall be conducted closer than 500 feet to any point of either an active or abandoned underground mine, except to the extent that—

(1) The nature, timing, and sequence of the operations are jointly approved by the Office, the Mine Safety and Health Administration,

(2) The activities result in improved resource recovery, abatement of water pollution, or elimination of hazards to the health and safety of the public.

(b) Surface mining activities shall be designed to protect disturbed surface areas, including spoil disposal sites, so as not to endanger any present or future operations of either surface or underground mining activities.

§ 910.816–81 Coal processing waste banks: General requirements.

(a) All coal processing waste shall be hauled or conveyed and placed in new and existing disposal areas approved by the Office for this purpose. These areas shall be within a permit area. The disposal area shall be designed, constructed, and maintained—

(1) In accordance with §§ 910.816–71 and 910.816–72, this section, and §§ 910.816–82 through 910.816–88; and

(2) To prevent combustion.

(b) Coal processing waste materials from activities located outside a permit area, such as those activities at other mines or abandoned mine waste piles may be disposed of in the permit area only if approved by the Office. Approval shall be based on a showing by the person who conducts surface mining activities in the permit area, using hydrologic, geotechnical, physical, and chemical analysis, that disposal of these materials does not—

(1) Adversely affect water quality, water flow, or vegetation;

(2) Create public health hazards; or

(3) Cause instability in the disposal areas.

§ 910.816–82 Coal processing waste banks: Site inspection.

(a) All coal processing waste banks shall be inspected, on behalf of the person conducting surface mining activities, by a qualified registered engineer or other person approved by the Office.

(1) Inspection shall occur at least quarterly, beginning within 7 days after preparation of the disposal area begins. The Office may require more frequent inspection based upon an evaluation of the potential danger to the health or safety of the public and the potential harm to land, air and water resources. Inspections may terminate when the coal processing waste bank has been graded, covered in accordance with § 910.816–85, topsoil has been distributed on the bank in accordance with § 910.816–24, or at such a later time as the Office may require.

(2) Inspections shall include such observations and tests as may be necessary to evaluate the potential hazard to human life and property, to ensure that all organic material and topsoil have been removed and that proper construction and maintenance are occurring in accordance with the plan submitted under 30 CFR 910.780–25 and approved by the Office.

(3) The engineer or other approved inspector shall consider steepness of slopes, seepage, and other visible factors which could indicate potential failure, and the results of failure with respect to the threat to human life and property.

(4) Copies of the inspection findings shall be maintained at the mine site.

(b) If any inspection discloses that a potential hazard exists, the Office shall be informed promptly of the finding and of the emergency procedures formulated for public protection and remedial action. If adequate procedures cannot be formulated or implemented, the Office shall be notified immediately. The Office shall then notify the appropriate emergency agencies that other emergency procedures are required to protect the public from the coal processing waste area.

§ 910.816–83 Coal processing waste banks: Water control measures.

(a) Unless the operator demonstrates that a subdrain system is not required to ensure structural integrity and protection of the surface and ground water quality, a properly designed subdrainage system shall be provided, which shall—

(1) Intercept all ground water sources;

(2) Be protected by an adequate filter; and

(3) Be covered so as to protect against the entrance of surface water *or* leachate from the coal processing waste.

(b) All surface drainage from the area above the coal processing waste bank and from the crest and face of the waste disposal area shall be diverted, in accordance with § 910.816–72(d).

(c) Slope protection shall be provided to minimize surface erosion at the site. All disturbed areas, including diversion ditches that are not riprapped, shall be vegetated upon completion of construction.

(d) All water discharged from a coal processing waste bank shall comply with 30 CFR 910.816–41, 910.816–42, 910.816–45 through 910.816–46, 910.816–52, and 910.816–55.

§ 910.816–85 Coal processing waste banks: Construction requirements.

(a) Coal processing waste banks shall be constructed in compliance with §§ 910.816–71 and 910.816–72, except to the extent that the requirements of those sections are varied in this section.

(b) Coal processing waste banks shall have a minimum static safety factor of 1.5.

(c) Compaction requirements during construction or modification of all coal processing waste banks shall meet the requirements of this paragraph, instead of those specified in § 910.816–72(c). The coal processing waste shall be—

(1) Spread in layers no more than 24 inches in thickness; and

(2) Compacted to attain 90 percent of the maximum dry density to prevent spontaneous combustion and to provide the strength required for stability of the coal processing waste bank. Dry densities shall be determined in accordance with the American Association of State Highway and Transportation Officials (AASHTO) Specifications T99–74 (Twelfth Edition) (July 1978) or an equivalent method. AASHTO T99–74 is hereby incorporated-by-reference as it exists on the date of adoption of this subpart. Notices of changes made to this publication will be periodically published by OSM in the **Federal Register**. AASHTO T99–74 is on file and available for inspection at the OSM Central Office, U.S. Department of the Interior, South Interior Building, Washington, D.C. 20240, at each OSM Regional Office, District Office, and Field Office. Copies of this publication may also be obtained by writing to the above locations. A copy of this publication will also be on file for public inspection at the **Federal Register** Library, 1100 L Street, NW., Washington, D.C.

(3) Variations may be allowed in these requirements for the disposal of dewatered fine coal waste (minus 28 sieve size) with approval of the Office.

(d) Following grading of the coal processing waste bank, the site shall be covered with a minimum of 4 feet of the best available non-toxic and non-combustible material, in accordance with 30 CFR 910.816–22(e), and in a manner that does not impede flow from subdrainage systems. The coal processing waste bank shall be revegetated in accordance with §§ 910.816–111 through 910.816–117. The Office may allow less than 4 feet of cover material based on physical and chemical analyses which show that the requirements of §§ 910.816–111 through 910.816–117 will be met.

§ 910.816–86 Coal processing waste: Burning.

Coal processing waste fires shall be extinguished by the person who conducts the surface mining activities, in accordance with a plan approved by the Office and the Mine Safety and Health Administration. The plan shall contain, at a minimum, provisions to ensure that only those persons authorized by the operator, and who have an understanding of the procedures to be used, shall be involved in the extinguishing operations.

§ 910.816–87 Coal processing waste: Burned waste utilization.

Before any burned coal processing waste, other materials, or refuse is removed from a disposal area, approval shall be obtained from the Office. A plan for the method of removal, with maps and appropriate drawings to illustrate the proposed sequence of the operation and method of compliance with this subpart, shall be submitted to the Office. Consideration shall be given in the plan to potential hazards which may be created by removal to persons working or living in the vicinity of the structure. The plan shall be certified by a qualified engineer.

§ 910.816–88 Coal processing waste: Return to underground workings.

Coal processing waste may be returned to underground mine workings only in accordance with the waste disposal program approved by the Office and MSHA under 30 CFR 910.784–25.

§ 910.816–89 Disposal of noncoal wastes.

(a) Noncoal wastes including, but not limited to, grease, lubricants, paints, flammable liquids, garbage, abandoned mining machinery, lumber and other combustibles generated during surface mining activities shall be placed and stored in a controlled manner in a designated portion of the permit area. Placement and storage shall ensure that leachate and surface runoff do not degrade surface or ground water, fires are prevented, and that the area remains stable and suitable for reclamation and revegetation compatible with the natural surroundings.

(b) Final disposal of noncoal wastes shall be in a designated disposal site in the permit area. Disposal sites shall be designed and constructed with appropriate water barriers on the bottom and sides of the designated site. Wastes shall be routinely compacted and covered to prevent combustion and wind-born waste. When the disposal is completed a minimum of 2 feet of soil cover shall be placed over the site, slopes stabilized, and revegetation accomplished in accordance with 30 CFR 910.816–111—910.816–117. Operation of the disposal site shall be conducted in accordance with all local, State, and Federal requirements, including Chapter 391–3–4, Solid Waste

Management Rules of the Georgia Department of Natural Resources, Environmental Protection Division.

(c) At no time shall any solid waste material be deposited at refuse embankments or impoundment sites, nor shall any excavation for solid waste disposal be located within 8 feet of any coal outcrop or coal storage area.

§ 910.816-81 Coal processing waste: Dams and embankments: General requirements.

(a) Sections 910.816-81 through 910.816-93 apply to dams and embankments, constructed of coal processing waste or intended to impound coal processing waste, whether they were completed before adoption of this part or are intended to be completed thereafter.

(b) Waste shall not be used in the construction of dams and embankments unless it has been demonstrated to the Office that the stability of such a structure conforms with the requirements of 30 CFR 910.816-83(a). It shall also be demonstrated that the use of waste material shall not have a detrimental effect on downstream water quality or the environment due to acid seepage through the dam or embankment. All demonstrations shall be submitted to and approved by the Office.

§ 910.816-82 Coal processing waste: Dams and embankments: Site preparation.

Before coal processing waste is placed at a dam or embankment site—

(a) All trees, shrubs, grasses, and other organic material shall be cleared and grubbed from the site, and all combustibles shall be removed and stockpiled in accordance with the requirements of this subpart; and

(b) Surface drainage that may cause erosion to the embankment area or the embankment features, whether during construction or after completion, shall be diverted away from the embankment by diversion ditches that comply with the requirements of 30 CFR 910.816-43. Adequate outlets for discharge from these diversions shall be in accordance with 30 CFR 910.816-47. Diversions that designed to divert drainage from the upstream area away from the impoundment area shall be designed to carry the peak runoff from a 100-year, 24-hour precipitation event. The diversion shall be maintained to prevent blockage, and the discharge shall be in accordance with 30 CFR 910.816-47. Sediment control measures shall be provided at the discharge of each diversion ditch before entry into natural watercourses in accordance with 30 CFR 910.816-41 through 910.816-46.

§ 910.816-83 Coal processing waste: Dams and embankments: Design and construction.

(a) The design of each dam and embankment constructed of coal processing waste or intended to impound such waste shall comply with the requirements of 30 CFR 910.816-49(a)(5), (e), (f), (g), (h), and (i), modified as follows:

(1) The design freeboard between the lowest point on the embankment crest and the maximum water elevation shall be at least 3 feet. The maximum water elevation shall be that determined by the freeboard hydrograph criteria contained in the U.S. Soil Conservation Service criteria referenced in 30 CFR 910.816-49.

(2) The dam and embankment shall have a minimum safety factor of 1.5 for the partial pool with steady seepage saturation conditions, and the seismic safety factor shall be at least 1.2.

(3) The dam or embankment foundation and abutments shall be designed to be stable under all conditions of construction and operation of the impoundment. Sufficient foundation investigations and laboratory testing shall be performed to determine the safety factors of the dam or embankment for all loading conditions appearing in paragraph (a)(2) of this section or the publications referred to in 30 CFR 910.816-49 and for all increments of construction.

(b) Spillways and outlet works shall be designed to provide adequate protection against erosion and corrosion. Inlets shall be protected against blockage.

(c) Dams or embankments constructed of or impounding waste materials shall be designed so that at least 90 percent of the water stored during the design precipitation event shall be removed within a 10-day period.

§ 910.816-85 Air resources protection [Reserved]

§ 910.816-97 Protection of fish, wildlife, and related environmental values.

(a) Any person conducting surface mining activities shall, to the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the activities on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable.

(b) A person who conducts surface mining activities shall promptly report to the Office the presence in the permit area of any critical habitat of a threatened or endangered species listed by the Secretary, any plant or animal listed as threatened or endangered by the State, or any bald or golden eagle, of which that person becomes aware and which was not previously reported to the Office by that person.

(c) A person who conducts surface mining activities shall ensure that the design and construction of electric power lines and other transmission facilities used for or incidental to the surface mining activities on the permit area are in accordance with the guidelines set forth in Environmental Criteria for Electric Transmission System (USDI, USDA (1970)), or in alternative guidance manuals approved by the Office. Distribution lines shall be designed and constructed in accordance with REA Bulletin 61-10, Powerline Contacts by Eagles and Other Large Birds, or in alternative guidance manuals approved by the Office. For informational purposes, these two documents are available at the OSM Office, U.S. Department of the Interior, South Interior Building, Washington, D.C. 20240, at each OSM Regional Office, District Office and Field Office.

(d) Each person who conducts surface mining activities shall, to the extent possible using the best technology currently available—

(1) Locate and operate haul and access roads so as to avoid or minimize impacts to important fish and wildlife species or other species protected by State or Federal law;

(2) Fence roadways where specified by the Office to guide locally important wildlife to roadway underpasses or overpasses and construct the necessary passages. No new barrier shall be created in known and important wildlife migration routes;

(3) Fence, cover, or use other appropriate methods to exclude wildlife from ponds which contain hazardous concentrations of toxic-forming materials;

(4) Restore, enhance where practicable or avoid disturbance to habitats of unusually high value for fish and wildlife;

(5) Restore, enhance where practicable, or maintain natural riparian vegetation on the banks of streams, lakes, and other wetland areas;

(6) Afford protection to aquatic communities by avoiding stream channels as required in § 910.816-57 or restoring stream channels as required in § 910.816-44.

(7) Not use persistent pesticides on the area during surface mining and reclamation activities, unless approved by the Office.

(8) To the extent possible prevent, control, and suppress range, forest, and coal fires which are not approved by the Office as part of a management plan.

(9) If fish and wildlife habitat is to be a primary or secondary postmining land use, the operator shall in addition to the requirements of 30 CFR 910.816-111 through 910.816-117—

(i) Select plant species to be used on reclaimed areas, based on the following criteria—

(A) Their proven nutritional value for fish and wildlife,

(B) Their uses as cover for fish and wildlife, and

(C) Their ability to support and enhance fish and wildlife habitat after release of bonds; and

(ii) Distribute plant groupings to maximize benefit to fish and wildlife. Plants should be grouped and distributed in a manner which optimizes edge effect, cover, and other benefits for fish and wildlife;

(10) Where cropland is to be the alternative postmining land use on lands diverted from a fish and wildlife premining land use and where appropriate for wildlife and crop management practices, intersperse the fields with trees, hedges, or fence rows throughout the harvested area to break up large blocks of monoculture and to diversify habitat types for birds and other animals. Wetlands shall be preserved or created rather than drained or otherwise permanently abolished; and

(11) Where the primary land use is to be residential, public service, or industrial land use, intersperse reclaimed lands with greenbelts utilizing species of grass, shrubs and trees useful as food and cover for birds and small animals, unless such green belts are inconsistent with the approved postmining land use.

§ 910.816-99 Slides and other damage.

(a) An undisturbed natural barrier shall be provided beginning at the elevation of the lowest coal seam to be mined and extending from the outslope for such distance as may be determined by the Office as is needed to assure stability. The barrier shall be retained in place to prevent slides and erosion.

(b) At any time a slide occurs which may have a potential adverse affect on public property, health, safety, or the environment, the person who conducts the surface mining activities shall notify the Office by the fastest available means and comply with any remedial measures required by the Office.

§ 910.816-100 Contemporaneous reclamation.

Reclamation efforts, including, but not limited to, backfilling, grading, topsoil replacement and revegetation, of all land that is disturbed by surface mining activities shall occur as contemporaneously as practicable with mining operations.

§ 910.816-101 Backfilling and grading: General requirements.

(a) *Timing of backfilling and grading.*

(1) *Contour mining.* Rough backfilling and grading shall follow coal removal by not more than 60 days or 1,500 linear feet. The Office may grant additional time for rough backfilling and grading if the permittee can demonstrate, through a detailed written analysis under 30 CFR 910.780-18(b)(3), that additional time is necessary.

(2) *Open pit mining with thin overburden.* Rough backfilling and grading shall occur in accordance with the time schedule approved by the Office, on the basis of the materials submitted under 30 CFR 910.780-18(b)(3), which shall specifically establish in stated increments the period between removal of coal and completion of backfilling and grading.

(3) *Area strip mining.* Rough backfilling and grading shall be completed within 180 days following coal removal and shall not be more than four spoil ridges behind the pit being worked, the spoil from the active pit being considered the first ridge. The Office may grant additional time for rough backfilling and grading if the permittee can demonstrate, through a detailed written analysis under 30 CFR 910.780-18(b)(3), that additional time is necessary.

(b) *Method for backfilling and grading.* (1) Except as specifically exempted in Subparts 910.815 through 910.828, all disturbed areas shall be returned to their approximate original contour. All spoil shall be transported, backfilled, compacted (where advisable to insure stability or to prevent leaching) and graded to eliminate all highwalls, spoil piles, and depressions.

(2) Backfilled material shall be placed to minimize adverse effects on ground water, minimize off-site effects, and to support the approved postmining land use.

(3) The postmining graded slopes need not be of uniform slope.

(4) Cut-and-fill terraces may be used only in those situations expressly identified in § 910.816-102.

§ 910.816-102 Backfilling and grading: General grading requirements.

(a) The final graded slopes shall not exceed in grade either the approximate premining slopes, or any lesser slopes approved by the Office based on consideration of soil, climate, or other characteristics of the surrounding area. Postmining final graded slopes need not be uniform but shall approximate the general nature of the premining topography. The requirements of this Section may be modified by the Office where the surface mining activities are reaffecting previously mined lands that have not been restored to the standards of this Subpart and sufficient spoil is not available to otherwise comply with this Section. The person who conducts surface mining activities shall, at a minimum—

(1) Retain all overburden and spoil on the solid portion of existing or new benches; and

(2) Backfill and grade to the most moderate slope possible, to eliminate the highwall which does not exceed either the angle of repose or such lesser slope as is necessary to achieve a minimum static safety factor of 1.3. In all cases the highwall shall be eliminated.

(b) On approval by the Office in order to conserve soil moisture, ensure stability, and control erosion on final graded slopes, cut-and-fill terraces may be allowed, if the terraces are compatible with the approved postmining land use and are appropriate substitutes for construction of lower grades on the reclaimed lands. The terraces shall meet the following requirements:

(1) The width of the individual terrace bench shall not exceed 20 feet, unless specifically approved by the Office as necessary for stability, erosion control, or roads included in the approved postmining land use plan.

(2) The vertical distance between terraces shall be as specified by the Office, to prevent excessive erosion and to provide long-term stability.

(3) The slope of the terrace outslope shall not exceed $1v:2h$ (50 percent). Outslopes which exceed $1v:2h$ (50 percent) may be approved, if they have a minimum static safety factor of more than 1.3, provide adequate control over erosion, and closely resemble the surface configuration of the land prior to mining. In no case may highwalls be left as part of terraces.

(4) Culverts and underground rock drains shall be used on the terrace only when approved by the Office.

(c) Small depressions may be constructed, if they—

(1) Are approved by the Office to minimize erosion, conserve soil moisture, or promote vegetation;

(2) Do not restrict normal access; and

(3) Are not inappropriate substitutes for lower grades on the reclaimed lands.

(d) All surface mining activities on slopes above 20 degrees shall meet the provisions of 30 CFR Subpart 910.820.

(e) All final grading, preparation of overburden before replacement of topsoil, and placement of topsoil shall be done along the contour to minimize subsequent erosion and instability. If such grading, preparation, or placement along the contour is hazardous to equipment operators, then grading, preparation, or placement in a direction other than generally parallel to the contour may be used. In all cases, grading, preparation, or placement shall be conducted in a manner which minimizes erosion and provides a surface for replacement of topsoil which will minimize slippage.

§ 910.816–103 Backfilling and grading: Covering coal and acid- and toxic-forming materials.

(a) *Cover.* (1) A person who conducts surface mining activities shall either cover, with a minimum of 4 feet of the best available nontoxic and noncombustible material, or, treat all exposed coal seams remaining after mining and all acid-forming, toxic-forming, combustible, or other materials identified by the Office as exposed, used or produced during mining. Cover or treatment shall be provided so as to neutralize toxicity, acidity and combustibility in order to prevent water pollution and sustained combustion and to minimize adverse effects on plant growth and land uses.

(2) Where necessary to protect against upward migration of salts, exposure by erosion, formation of acid or toxic seeps, to provide an adequate depth for plant growth, or otherwise to meet local conditions, the Office shall specify thicker amounts of cover using non-toxic material, or special compaction and isolation from ground water contact.

(3) Acid-forming or toxic-forming material shall not be buried or stored in proximity to a drainage course so as to cause or pose a threat of water pollution.

(b) *Stabilization.* Backfilled materials shall be selectively hauled or conveyed, and compacted, wherever necessary to prevent leaching of acid-forming and toxic-forming materials into surface or ground waters and wherever necessary to insure stability of the backfilled materials. The method and design specifications of compacting material shall be approved by the Office before acid-forming or toxic-forming materials are covered.

§ 910.816–104 Backfilling and grading: Thin overburden.

(a) The provisions of this section apply only where the final thickness is less than 0.8 of the initial thickness. Initial thickness is the sum of the overburden thickness and coal thickness prior to removal of coal. Final thickness is the product of the overburden thickness prior to removal of coal, times the bulking factor to be determined for each permit area. The provisions of this Section apply only when surface mining activities cannot be carried out to comply with § 910.816–101 to achieve the approximate original contour.

(b) In surface mining activities carried out continuously in the same limited pit area for more than 1 year from the day coal-removal operations begin and where the volume of all available spoil and suitable waste materials over the permit area is demonstrated to be insufficient to achieve the approximate original contour of the lands disturbed, surface mining activities shall be conducted to meet, at a minimum, the following standards—

(1) Haul or convey, backfill, and grade, using all available spoil and suitable waste materials from the entire permit area, to attain the lowest practicable stable grade, to achieve a static safety factor of 1.3, and to provide adequate drainage and long-term stability of the regraded areas and cover all acid-forming and toxic-forming materials.

(2) Eliminate highwalls by grading or backfilling to stable slopes not exceeding 1v:2*h* (50 percent), or such lesser slopes as the Office may specify to reduce erosion, maintain the hydrologic balance, or allow the approved postmining land use.

(3) Haul or convey, backfill, grade, and revegetate in accordance with §§ 910.816–111 through 910.816–117, to achieve an ecologically sound land use compatible with the prevailing use in unmined areas in the permit area and adjacent area; and

(4) Haul or convey, backfill, and grade, to ensure impoundments are constructed only where—

(i) It has been demonstrated to the Office's satisfaction that all requirements of §§ 910.816–41 through 910.816–56 have been met; and

(ii) The impoundments have been approved by the Office as suitable for the approved postmining land use and as meeting the requirements of this Subpart and all other applicable Federal and State laws and regulations.

§ 910.816–105 Backfilling and grading: Thick overburden.

(a) The provisions of this section apply only where the final thickness is greater than 1.2 of the initial thickness. Initial thickness is the sum of the overburden thickness and coal thickness prior to removal of coal. Final thickness is the product of the overburden thickness prior to removal of coal, times the bulking factor to be determined for each permit area. The provisions of this section apply only when surface mining activities cannot be carried out to comply with § 910.816–101 to achieve the approximate original contour.

(b) In surface mining activities where the volume of spoil over the permit area is demonstrated to be more than sufficient to achieve the approximate original contour, surface mining activities shall be conducted to meet, at a minimum, the following standards—

(1) Haul or convey, backfill, and grade all spoil and wastes, not required to achieve the approximate original contour of the permit area, to the lowest practicable grade, to achieve a static factor of safety of 1.3 and cover all acid-forming and other toxic-forming materials;

(2) Haul or convey, backfill, and grade excess spoil and wastes only within the permit area and dispose of such materials in accordance with §§ 910.816–71 through 910.816–74.

(3) Haul or convey, backfill, and grade excess spoil and wastes to maintain the hydrologic balance, in accordance with §§ 910.816–41 through 910.816–57 and to provide long-term stability by preventing slides, erosion and water pollution.

(4) Haul or convey, backfill, grade, and revegetate wastes and excess spoil to achieve an ecologically sound land use approved by the Office as compatible with the prevailing land uses in unmined areas in the permit area and adjacent area.

(5) Eliminate all highwalls and depressions by backfilling with spoil and suitable waste materials; and

(6) Meet the revegetation requirements of §§ 910.816–111 through 910.816–117 for all disturbed areas.

§ 910.816–106 Regarding or stabilizing rills and gullies.

When rills or gullies deeper than 9 inches form in areas that have been regraded and topsoiled, the rills and gullies shall be filled, graded, or otherwise stabilized and the area reseeded or replanted according to §§ 910.816–111 through 910.816–117. The Office shall specify that rills or gullies of lesser size be stabilized and the area reseeded or replanted if the rills or gullies are disruptive to the approved postmining land use or may result in additional erosion and sedimentation.

§ 910.816–111 Revegetation: General requirements.

(a) Each person who conducts surface mining activities shall establish on all affected land a diverse, effective, and permanent vegetative cover of the same seasonal variety native to the area of disturbed land or species that supports the approved postmining land use. For areas designated as prime farmland, the requirements of 30 CFR 910.823 shall apply.

(b) All revegetation shall be in compliance with the plans submitted under 30 CFR 910.780–18 and 910.780–23, as approved by the Office in the permit, and carried out in a manner that encourages a prompt vegetative cover and recovery of productivity levels compatible with the approved postmining land use.

(1) All disturbed land, except water areas and surface areas of roads that are approved as a part of the postmining land use, shall be seeded or planted to achieve a permanent vegetative cover of the same seasonal variety native to the area of disturbed land.

(2) The vegetative cover shall be capable of stabilizing the soil surface from erosion.

(3) Vegetative cover shall be considered of the same seasonal variety when it consists of a mixture of species of equal or superior utility for the approved postmining land use, when compared with the utility of naturally-occurring vegetation during each season of the year.

(4) If both the premining and postmining land uses are cropland, planting of the crops normally grown will meet the requirements of paragraph (b)(1) of this section.

§ 910.816–112 Revegetation: Use of introduced species.

Introduced species may be substituted for native species only if approved by the Office under the following conditions:

(a) After appropriate field trials have demonstrated that the introduced species are desirable and necessary to achieve the approved postmining land use;

(b) The species are necessary to achieve a quick, temporary, and stabilizing cover that aids in controlling erosion; and measures to establish permanent vegetation are included in the approved plan submitted under §§ 910.780–18(b)(3) and 910.780–23;

(c) The species are compatible with the plant and animal species of the region; and

(d) The species meet the requirements of applicable State and Federal seed or introduced species statutes, that the noxious weed seed per pound of pure seed does not exceed the limitations set forth in regulation 4 of the Georgia Seed Laws and Rules and Regulations, and that the species are not poisonous or noxious.

§ 910.816–113 Revegetation: Timing.

Seeding and planting of disturbed areas shall be conducted during the first normal period for favorable planting conditions after final preparation. The normal period for favorable planting shall be that planting time generally accepted locally for the type of plant materials selected. When necessary to effectively control erosion, any disturbed area shall be seeded and planted, as contemporaneously as practicable with the completion of backfilling and grading, with a temporary cover of small grains, grasses, or legumes until a permanent cover is established.

§ 910.816–114 Revegetation: Mulching and other soil stabilizing practices.

(a) Suitable mulch and other soil stabilizing practices shall be used on all regraded and topsoiled areas to control erosion, promote germination of seeds, or increase the moisture-retention capacity of the soil. The Office may, on a case-by-case basis, suspend the requirement for mulch, if the permittee can demonstrate that alternative procedures will achieve the requirements of § 910.816–116 and do not cause or contribute to air or water pollution.

(b) When required by the Office, mulches shall be mechanically or chemically anchored to the soil surface to assure effective protection of the soil and vegetation.

(c) Annual grasses and grains may be used alone, as in situ mulch, or in conjunction with another mulch, when the Office determines that they will provide adequate soil erosion control and will later be replaced by perennial species approved for the postmining land use.

(d) Chemical soil stabilizers alone, or in combination with appropriate mulches, may be used in conjunction with vegetative covers approved for the postmining land use.

§ 910.816–115 Revegetation: Grazing.

When the approved postmining land use is range or pasture land, grazing use of such land during the period of operator responsibility is allowed. If actual grazing occurs after mining, the performance of the area in such use may be used to demonstrate the self-regeneration capability of the planted species and their utility to the postmining land use. The type and extent of use (season of use and grazing capacity) should demonstrate that ordinary grazing use does not endanger the survival coverage (ground cover) and productivity of the postmining vegetation, and that the premined capability has been restored.

§ 910.816–116 Revegetation: Standards for success.

(a) Success of revegetation shall be measured by techniques approved by the Office after consultation with appropriate State and Federal agencies. Comparison of ground cover and productivity may be made on the basis of reference areas or through the use of technical guidance procedures published by USDA or USDI for assessing ground cover and productivity. Management of the reference area, if applicable, shall be comparable to that which is required for the approved postmining land use of the permit area.

(b)(1) Ground cover and productivity of living plants on the revegetated area within the permit area shall be equal to the ground cover and productivity of living plants on the approved reference area or to the standards in other technical guides approved by the Office, from among those published by USDA or USDI, for use in this Part. The period of extended responsibility under the performance bond requirements of Subparts 910.800 through 910.808 initiates after the last year of augmented seeding, fertilizing, irrigation or other work which ensures success and continues for not less than five years. Ground cover and productivity shall equal the approved standard for the last two consecutive years of the responsibility period.

(2) The ground cover and productivity of the revegetated area shall be considered equal if they are at least 90 percent of the ground cover and productivity of the reference area with 90 percent statistical confidence, or with 80 percent statistical confidence on shrublands, or ground cover and productivity are at least 90 percent of the standards in a technical guide approved pursuant to 30 CFR 910.816–116(b)(1). Exceptions may be authorized by the Office under the following standards:

(i) For previously mined areas that were not reclaimed to the requirements

of Subparts 910.815 through 910.828, as a minimum the ground cover of living plants shall not be less than can be supported by the best available topsoil or other suitable material in the reaffected area, shall not be less than the ground cover existing before redisturbance, and shall be adequate to control erosion;

(ii) For areas to be developed for industrial or residential use less than 2 years after regrading is completed, the ground cover of living plants shall not be less than required to control erosion; and

(iii) For areas to be used for cropland, success in revegetation of cropland shall be determined on the basis of crop production from the mined area as compared to approved reference areas or other technical guidance procedures. Crop production from the mined area shall be equal to or greater than that of the approved standard for the last two consecutive growing seasons of the 5 or 10 year liability period established in paragraph (b)(1) of this Section. The applicable 5 or 10 year period of responsibility for revegetation shall commence at the date of initial planting of the crop being grown. Production shall not be considered equal if it is less than 90 percent of the production of the approved standard with 90 percent statistical confidence.

(iv) On areas to be developed for fish and wildlife management or forestland, success of vegetation shall be determined on the basis of tree, shrub or half-shrub stocking and ground cover. The tree, shrub, or half-shrub stocking shall meet the standards described in § 910.816–117. The area seeded to a ground cover shall be considered acceptable if it is at least 70 percent of the ground cover of the reference areas within 90 percent statistical confidence or if the ground cover is determined to be adequate to control erosion by the Office. Section 910.816–116(b) shall determine the responsibility period and the frequency of ground cover measurement.

(c) The person who conducts surface mining activities shall—

(1) Maintain any necessary fences and proper management practices; and

(2) Conduct periodic measurements of vegetation, soils, and water prescribed or approved by the Office, to identify conditions during the applicable period of liability specified in Paragraph (b) of this Section.

(d) For permit areas 40 acres or less in size, in locations with an average annual precipitation of more than 26 inches, the following performance standards, if approved by the Office, may be used instead of reference areas to measure success of revegetation on sites that are disturbed. These standards shall be met for a minimum of 5 full consecutive years.

(1) Areas planted only in herbaceous species shall sustain a vegetative ground cover of 70 percent for 5 full consecutive years.

(2) Areas planted with a mixture of herbaceous and woody species shall sustain a herbaceous vegetative ground cover of 70 percent for 5 full consecutive years and 400 woody plants per acre after 5 years. On steep slopes, the minimum number of woody plants shall be 600 per acre.

(3) For purposes of this Section, herbaceous species means grasses, legumes, and nonleguminous forbs; wood plants means woody shrubs, trees and vines; and ground cover means the area of ground covered by the combined aerial parts of vegetation and the litter that is produced naturally onsite, expressed as a percentage of the total area of measurement.

§ 910.816–117 Revegetation: Tree and shrub stocking for forest land.

This section sets forth forest resource conservation standards for reforestation operations to ensure that a cover of commercial tree species, non-commercial tree species, shrubs or half shrubs, sufficient for adequate use of the available growing space, is established after surface mining activities.

(a) Stocking, i.e. the number of stems per unit area, will be used to determine the degree to which space is occupied by well-distributed, countable trees, shrubs or half-shrubs.

(1) Root crown or root sprouts over 1 foot in height shall count as one toward meeting the stocking requirements. Where multiple stems occur only the tallest stem will be counted.

(2) A countable tree or shrub means a tree that can be used in calculating the degree of stocking under the following criteria:

(i) the tree or shrub shall be in place at least 2 growing seasons,

(ii) the tree or shrub shall be alive and healthy, and

(iii) the tree or shrub shall have at least one third of its length in live crown.

(3) Rock areas, permanent road and surface water drainage ways on the revegetated area shall not require stocking.

(b) The following are the minimum performance standards for areas where commercial forest land is the approved postmining land use:

(1) The area shall have a minimum stocking of 450 trees or shrubs per acre;

(2) A minimum of 75 percent of countable trees or shrubs shall be commercial trees species;

(3) The number of trees or shrubs and the ground cover shall be determined using procedures described in §§ 910.816–116(b)(3)(iv) and 910.816–117(a) and the sampling method approved by the Office; when the stocking is equal to or greater than 450 trees or shrubs per acre and there is acceptable ground cover, the 5 year responsibility period required in § 910.816–116(b) shall begin;

(4) Upon expiration of the 5-year responsibility period and at the time of request for bond release, each permittee shall provide documentation showing that the stocking of trees and shrubs and the ground cover on the revegetated area satisfy §§ 910.816–116(b)(2)(iv) and 910.816–117(b)(i).

(c) The following are the minimum performance standards for areas where woody plants are used for wildlife management, recreation, shelter belts, or forest uses other than commercial forest land:

(1) An inventory of trees, half-shrubs and shrubs shall be conducted on established reference areas according to methods approved by the Office; this inventory shall contain but not be limited to—

(i) Site quality,

(ii) Stand size,

(iii) Stand condition,

(iv) Site and species relations, and

(v) Appropriate forest land utilization considerations.

(2) The stocking of trees, shrubs, half-shrubs and the ground cover established on the revegetated area shall approximate the stocking and ground cover on the reference area and shall utilize local and regional recommendations regarding species composition, spacing and planting arrangement. The stocking of live woody plants shall be equal to or greater than 90 percent of the stocking of woody plants of the same life form on the reference area. When this requirement is met and acceptable ground cover is achieved, the 5 year responsibility period required in § 910.816–116(b) shall begin.

(3) Upon expiration of the 5-year responsibility period and at the time of request for bond release, each permittee shall provide documentation showing that:

(i) The woody plants established on the revegetated site are equal to or greater than 90 percent of the stocking of live woody plants of the same life form of the approved reference areas with 80 percent statistical confidence and

(ii) The ground cover on the revegetated area satisfies § 910.816–116(b)(3)(iv). Species diversity, seasonal variety and regenerative capacity of the vegetation of the revegetated area shall be evaluated on the basis of the results which could reasonably be expected using the revegetation methods described in the operation and reclamation plan.

§ 910.816–131 Cessation of operations: Temporary.

(a) Each person who conducts surface mining activities shall effectively secure surface facilities in areas in which there are no current operations, but in which operations are to be resumed under an approved permit. Temporary abandonment shall not relieve a person of their obligation to comply with any provisions of the approved permit.

(b) Before temporary cessation of mining and reclamation operations for a period of thirty days or more, or as soon as it is known that a temporary cessation will extend beyond 30 days, persons who conduct surface mining activities shall submit to the Office a notice of intention to cease or abandon mining and reclamation operations. This notice shall include a statement of the exact number of acres which will have been affected in the permit area, prior to such temporary cessation, the extent and kind of reclamation of those areas which will have been accomplished, and identification of the backfilling, regrading, revegetation, environmental monitoring, and water treatment activities that will continue during the temporary cessation.

§ 910.816–132 Cessation of operations: Permanent.

(a) Persons who cease surface mining activities permanently shall close or backfill or otherwise permanently reclaim all affected areas, in accordance with this part and the permit approved by the Office.

(b) All underground openings, equipment, structures, or other facilities not required for monitoring, unless approved by the Office as suitable for the postmining land use or environmental monitoring, shall be removed and the affected land reclaimed.

§ 910.816–133 Postmining land use.

(a) *General.* All affected areas shall be restored in a timely manner—

(1) To conditions that are capable of supporting the uses which they were capable of supporting before any mining; or

(2) To higher or better uses achievable under criteria and procedures of this Section.

(b) *Determining pre-mining use of land.* The pre-mining uses of land to which the postmining land use is compared shall be those uses which the land previously supported, if the land had not been previously mined and had been properly managed.

(1) The postmining land use for land that has been previously mined and not reclaimed shall be restored to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is a reasonable likelihood, at the option of the operator.

(2) The postmining land use for land that has received improper management shall be judged on the basis of the pre-mining use of surrounding lands that have received proper management.

(3) If the premining use of the land was changed within 5 years of the beginning of mining, the comparison of postmining use to premining use shall include a comparison with the historic use of the land as well as its use immediately preceding mining.

(c) Prior to the release of lands from the permit area in accordance with 30 CFR 910.807–12(c), the permit area shall be restored, in a timely manner, either to conditions capable of supporting the uses they were capable of supporting before any mining or to conditions capable of supporting approved alternative land uses. Alternative land uses may be approved by the Office after consultation with the landowner or the land-management agency having jurisdiction over the lands, if the following criteria are met:

(1) The proposed postmining land use is compatible with adjacent land use and, where applicable, with existing local, State, or Federal land use policies and plans: A written statement of the views of the authorities with statutory responsibilities for land use policies and plans is submitted to the Office within 60 days of notice by the Office and before surface mining activities begin. Any required approval, including any necessary zoning or other changes required for land use by local, State, or Federal land management agencies, is obtained and remains valid throughout the surface mining activities.

(2) Specific plans are prepared and submitted to the Office which show the feasibility of the postmining land use as related to projected land use trends and markets and that include a schedule showing how the proposed use will be developed and achieved within a reasonable time after mining and will be sustained. The Office may require appropriate demonstrations to show that the planned procedures are feasible, reasonable, and integrated with mining and reclamation, and that the plans will result in successful reclamation.

(3) Provision of any necessary public facilities is ensured as evidenced by letters of commitment from parties other than the person who conducts surface mining activities, as appropriate, to provide the public facilities in a manner compatible with the plans submitted under 30 CFR 910.780–23. The letters shall be submitted to the Office before surface mining activities begin.

(4) Specific and feasible plans are submitted to the Office which show that financing, attainment and maintenance of the postmining land use are feasible.

(5) Plans for the postmining land use are designed under the general supervision of a registered professional engineer, or other appropriate professional, who will ensure that the plans conform to applicable accepted standards for adequate land stability, drainage, vegetative cover, and esthetic design appropriate for the postmining use of the site.

(6) The proposed use will neither present actual or probable hazard to public health or safety nor will it pose any actual or probable threat of water flow diminution or pollution.

(7) The use will not involve unreasonable delays in reclamation.

(8) Necessary approval of measures to prevent or mitigate adverse effects on fish, wildlife, and related environmental values and threatened or endangered plants is obtained from the Office and appropriate State and Federal fish and wildlife management agencies have been provided a 60 day period in which to review the plan before surface mining activities begin.

(9) Proposals to change pre-mining land uses of fish and wildlife habitat, forest land, hayland, or pasture to a postmining cropland use, where the cropland would require continuous maintenance such as seeding, plowing, cultivation, fertilization, or other similar practices to be practicable or to comply with applicable Federal, State, and local laws, are reviewed by the Office to ensure that—

(i) The proposed postmining cropland use remains practical and reasonable;

(ii) There is sufficient water available and committed to maintain crop production; and

(iii) Topsoil quality and depth are sufficient to support the proposed use.

§ 910.816–150 Roads: Class I: General.

(a) Each person who conducts surface mining activities shall design, construct or reconstruct, utilize, and maintain Class I Roads and restore the area to meet the requirements of 30 CFR 910.816–151 through 910.816–156 and to control or minimize erosion and siltation, air and water pollution, and damage to public or private property.

(b) To the extent possible using the best technology currently available, Class I Roads shall not cause damage to fish, wildlife, and related environmental values and shall not cause additional contributions of suspended solids to streamflow or to runoff outside the permit area. Any such contributions shall not be in excess of limitations of State or Federal law.

(c) All Class I Roads shall be removed and the land affected regraded and revegetated in accordance with the requirements of 30 CFR 910.816–156 unless—

(1) Retention of the road is approved as part of the approved postmining land use or as being necessary to control erosion adequately;

(2) The necessary maintenance is assured; and

(3) All drainage is controlled according to 30 CFR 910.816–153.

(d)(1) The design and construction or reconstruction of Class I Roads shall be certified by a registered qualified professional engineer in accordance with 30 CFR 910.816–151 through 910.816–154, except to the extent that alternative specifications are used. Alternative specifications may be used only after approval by the Office upon a demonstration by a registered qualified professional engineer that they will result in performance equal to or better than that resulting from Class I Roads complying with 30 CFR 910.816–151 through 910.816–156.

(2) The design shall incorporate the demand for mobility and travel efficiency, based on geometric criteria, both horizontal and vertical, appropriate for the anticipated volume of traffic and weight and speed of vehicles to be used.

§ 910.816–151 Roads: Class I: Location.

(a) Class I Roads shall be located, insofar as possible, on ridges or on the most stable available slopes to minimize erosion.

(b) No part of any Class I Road shall be located in the channel of an intermittent or perennial stream unless specifically approved by the Office.

(c) Stream fords are prohibited unless they are specifically approved by the Office as temporary routes during periods of construction. The fords shall not adversely affect stream sedimentation or fish, wildlife, and related environmental values. All other stream crossings shall be made using bridges, culverts, or other structures designed, constructed, and maintained to meet the requirements of 30 CFR 910.816–153.

(d) Class I Roads shall be located to minimize downstream sedimentation and flooding.

§ 910.816–152 Roads: Class I: Design and construction.

Class I Roads shall be designed and constructed or reconstructed in compliance with the following standards in order to control subsequent erosion and disturbance of the hydrologic balance:

(a) *Vertical alinement.* Except where lesser grades are necessary to control site-specific conditions, maximum road grades shall be as follows:

(1) the overall grade shall not exceed 1*v*:10*h* (10 percent).

(2) The maximum pitch grade shall not exceed 1*v*:6.5*h* (15 percent).

(3) There shall be not more than 300 feet of pitch grade exceeding 10 percent within any consecutive 1,000 feet of Class I Roads, but in no case shall there be any pitch grade over 15 percent.

(b) *Horizontal alinement.* Class I Roads shall have horizontal alinement as consistent with the existing topography as possible, and shall provide the alinement required to meet the performance standards of 30 CFR 910.816–150 through 910.816–156. The alinement shall be determined in accordance with the anticipated volume of traffic and weight and speed of vehicles to be used. Horizontal and vertical alinement shall be coordinated to ensure that one will not adversely affect the other and to ensure that the road will not cause environmental damage.

(c) *Road cuts.* (1) Cut slopes shall not be steeper than specifically authorized by the Office which shall not authorize slopes steeper than 1*v*:1.5*h* in unconsolidated materials or 1*v*:0.25*h* in rock except that steeper slopes may be specifically authorized by the Office if geotechnical analysis demonstrates that a minimum safety factor of 1.5 can be maintained.

(2) Topsoil or other materials suitable under 30 CFR 910.816–22 shall be placed on all cut slopes of 1*v*:1.5*h* or flatter to aid in establishing vegetation and to minimize erosion. Topsoil depth shall be adequate to support vegetation necessary to control erosion

(3) Temporary erosion-control measures shall be implemented during construction to minimize sedimentation and erosion until permanent control measures can be established.

(d) *Road embankments.* Embankment sections shall be constructed in accordance with the following provisions:

(1) All vegetative material and topsoil shall be removed from the embankment foundation during construction to increase stability, and no vegetative material or topsoil shall be placed beneath or in any Class I Road embankment.

(2) Where an embankment is to be placed on side slopes exceeding 1*v*:5*h* (20 percent), the existing ground shall be plowed, stepped, or, if in bedrock, keyed in a manner which increases the stability of the fill. The keyway shall be a minimum of 10 feet in width and shall extend a minimum of 2 feet below the toe of the fill.

(3) Material containing by volume less than 25 percent of rock larger than 6 inches in greatest dimension shall be spread in successive uniform layers not exceeding 12 inches in thickness before compaction.

(4) Where the material for an embankment consists of large-size rock, broken stone, or fragmented material that makes placing it in 12-inch layers impossible under paragraph (d)(3) of this section, the embankment shall be constructed in uniform layers not exceeding in thickness the approximate average size of the rock used, but the layers shall not exceed 36 inches in thickness. Rock shall not be dumped in final position, but shall be distributed by blading or dozing in a manner that will ensure proper placement in the embankment, so that voids, pockets, and bridging will be reduced to a minimum. The final layer of the embankment shall meet the requirements of paragraph (d)(3) of this section.

(5) Each layer of the embankment shall be completed, leveled, and compacted before the succeeding layer is placed. Loads of material shall be leveled as placed and kept smooth. The successive layers shall be compacted evenly by routing the hauling and leveling equipment over the entire width of the embankment. This procedure shall be continued until no visible horizontal movement of the embankment material is apparent.

(6) Embankment layers shall be compacted as necessary to ensure that the embankment is adequate to support the anticipated volume of traffic and weight and speed of vehicles to be used. In selecting the method to be used for placing embankment material, consideration shall be given in the design to such factors as the foundation, geological structure, soils, type of construction, and equipment to be used. A structural and foundation analysis shall be performed to establish design standards for embankment stability appropriate to the site. Publications of the American Association of State Highway and Transportation Officials (AASHTO), including AASHTO T–99, T–180, T–91, and the modified AASHTO test, or other specifications generally recognized by transportation engineers as adequate for design of highway embankments, shall be used to determine the degree of compaction required, on the basis of soil type and the anticipated volume of traffic and weight and speed vehicles to be used. Compaction effort shall be adequate to achieve the degree of compaction required. No lift shall be placed on a layer until the design density is achieved throughout the layer. AASHTO specifications such as T–99, T–180, the modified AASHTO test, or other comparable specifications approved by the Office shall be used as guidelines for the determination of the maximum dry density for granular materials.

(7) Material shall be placed in an embankment only when its moisture content is within acceptable levels to achieve design compaction.

(8) Embankment slopes shall not be steeper than 1*v*:2*h*, except that where the embankment material is a minimum of 85 percent rock, slopes shall not be steeper than 1*v*:1.35*h*, if it has been demonstrated to the Office that embankment stability will result. Where rock embankments are constructed, they shall meet the requirements of paragraph (d)(4) of this section.

(9) The minimum safety factor for all embankments shall be 1.25, or such higher factor as the Office may specify.

(10) The road surface shall be sloped toward the ditch line at a minimum rate of one-quarter inch per foot of surface width, or crowned at a minimum rate of one-quarter inch per foot of surface width as measured from the centerline of the road.

(11) All material used in embankments shall be suitable for use under paragraphs (d)(1)–(8) of this section. The material shall be reasonably free of organic material, coal or coal blossom, frozen materials, wet or peat material, natural soils containing organic matter, or any other material considered unsuitable by the Office for use in embankment construction.

(12) Excess or unsuitable material from excavations, as defined in paragraph (d)(11) of this section, shall be disposed of in accordance with 30 CFR 910.816–71. Acid- and toxic-forming material shall be disposed of in accordance with 30 CFR 910.816–46, 910.816–61, and 910.816–103.

(13) Acid-producing materials shall be permitted for constructing embankments for only those Class I Roads constructed or reconstructed on coal processing waste banks and only if it has been demonstrated to the Office that no additional acid will leave the confines of the coal processing waste bank. In no case shall acid-bearing refuse material be used outside the confines of the coal processing waste bank. Restoration of the road shall be in accordance with the requirements of 30 CFR 910.816–103 through 910.816–117.

(14) Topsoil or other material suitable under 30 CFR 910.816–22 shall be placed on all embankment slopes of 1*v*:1.5*h* or flatter to aid in establishing vegetation and to minimize erosion. Topsoil material depth shall be adequate to support vegetation and to prevent erosion.

(15) Temporary erosion-control measures shall be incorporated during construction to control sedimentation and minimize erosion until permanent control measures can be established.

(e) *Topsoil removal.* Before initiation of construction or reconstruction of a Class I Road, topsoil and other materials, as determined under 30 CFR 910.816–22, shall be removed from the design roadbed, shoulders, and surfaces where associated structures will be placed, and shall be stored in accordance with 30 CFR 910.816–23.

§ 910.816–153 Roads: Class I: Drainage.

(a) *General.* (1) Each Class I Road shall be designed, constructed or reconstructed, and maintained to have adequate drainage, using structures such as, but not limited to, ditches, cross drains, and ditch relief drains. The water-control system shall be designed to safely pass the peak runoff from a 10-year, 24-hour precipitation event or a greater event if required by the Office.

(2) Sediment control shall comply with 30 CFR 910.816–42 and 910.816–45.

(3) Vegetation shall not be cleared for more than the width necessary for road and associated ditch construction, to serve traffic needs and for utilities.

(b) *Ditches.* (1) A ditch shall be provided on both sides of a through-cut and on the inside shoulder of a cut-and-fill section, with ditch relief cross drains spaced according to grade. Water shall be intercepted before reaching a switchback or large fill and drained safely away in accordance with this section. Water from a fill or switchback shall be released below the fill, through conduits or in riprapped channels, and shall not be discharged onto the fill. Drainage ditches shall be placed at the toe of all cut slopes formed by the construction of roads.

(2) On flat sections of Class I Roads where rolling topography is insufficient to provide natural ditch drainage, the road grade shall be undulated to provide for free flow of water in the ditch section. Road sections may be constructed to elevate the road surface above the original ground surface to facilitate drainage.

(c) *Culverts and bridges.*

(1)(i) Culverts with an end area of 35 square feet or less shall be designed to safely pass the 10-year, 24-hour precipitation event without a head of water at the entrance. Culverts with an end area of greater than 35 square feet, and bridges with spans of 30 feet or less, shall be designed to safely pass the 20-year, 24-hour precipitation event. Bridges with spans of more than 30 feet shall be designed to safely pass the 100-year, 24-hour precipitation event or a larger event as specified by the Office.

(ii) Drainage pipes and culverts shall be constructed to avoid plugging or collapse and erosion at inlets and outlets.

(iii) Trash racks and debris basins shall be installed in the drainage ditches wherever debris from the drainage area could impair the functions of drainage and sediment-control structures.

(iv) All culverts shall be covered by compacted fill to a minimum depth of 1 foot.

(v) Culverts shall be designed, constructed, and maintained to sustain the vertical soil pressure, the passive resistance of the foundation, and the weight of vehicles to be used.

(2) Culverts for road-surface drainage only shall be constructed in accordance with the following:

(i) Unless otherwise authorized or required under paragraphs (c)(2) (ii) or (iii) of this section, culverts shall be spaced as follows:

(A) Spacing shall not exceed 1,000 feet on grades of 0 to 3 percent.

(B) Spacing shall not exceed 800 feet on grades of 3 to 6 percent.

(C) Spacing shall not exceed 500 feet on grades of 6 to 10 percent.

(D) Spacing shall not exceed 300 feet on grades of 10 percent or greater.

(ii) Culverts at closer intervals than the maximum in paragraph (c)(2)(i) of this section shall be installed if required by the Office as appropriate for the erosive properties of the soil or to accommodate flow from small intersecting drainages.

(iii) Culverts may be constructed at greater intervals that the maximum indicated in paragraph (c)(2)(i) of this section if authorized by the Office upon

a finding that greater spacing will not increase erosion.

(iv) Culverts shall cross the road at not less than a 30 degree angle downgrade.

(v) Culverts may be designed to carry less than the peak runoff from a 10-year, 24-hour precipitation event if the ditch will not overtop and will remain stable.

(vi) The inlet end shall be protected by a rock headwall or other material approved by the Office as adequate protection against erosion of the headwall. The water shall be discharged below the toe of the fill through conduits or in riprapped channels and shall not be discharged onto the fill.

(d) *Natural drainage.* Natural channel drainageways shall not be altered or relocated for road construction or reconstruction without the prior approval of the Office in accordance with 30 CFR 910.816–43 and 910.816–44. The Office may approve alterations and relocations only if—

(1) The natural-channel drainage is not blocked;

(2) No significant damage occurs to the hydrologic balance; and

(3) There is no adverse impact on adjoining landowners.

(e) *Stream crossings.* Drainage structures are required for stream channel crossings. Drainage structures shall not affect the normal flow or gradient of the stream, or adversely affect fish migration and aquatic habitat or related environmental values.

§ 910.816–154 Roads: Class I: Surfacing.

(a) Class I Roads shall be surfaced with rock, crushed gravel, asphalt, or other material approved by the Office as sufficiently durable for the anticipated volume of traffic and weight and speed of vehicles to be used.

(b) Acid- or toxic-forming substances shall not be used in road surfacing.

§ 910.816–155 Roads: Class I: Maintenance.

(a) Class I Roads shall be maintained in such a manner that the required or approved design standards are met throughout the life of the entire transportation facility including surface, shoulders, parking and side areas, approach structures, erosion control devices, cut-and-fill sections, and such traffic-control devices as are necessary for safe and efficient utilization of the road.

(b) Class I Road maintenance shall include repairs to the road surface, blading, filling of potholes, and replacement of gravel or asphalt. It shall include revegetating, brush removal, watering for dust control, and minor reconstruction of road segments as necessary.

(c) Class I Roads damaged by catastrophic events such as floods or earthquakes shall not be used until reconstruction of damaged road elements. The reconstruction shall be completed as soon as practicable after the damage has occurred.

§ 910.816–156 Roads: Class I: Restoration.

(a) Unless the Office approves retention of a Class I Road as suitable for the approved postmining land use, immediately after the road is no longer needed for operations, reclamation, or monitoring—

(1) The road shall be closed to vehicular traffic;

(2) The natural-drainage patterns shall be restored;

(3) All bridges and culverts shall be removed;

(4) Roadbeds shall be ripped, plowed, and scarified;

(5) Fill slopes shall be rounded or reduced and shaped to conform the site to adjacent terrain and to meet natural-drainage restoration standards;

(6) Cut slopes shall be shaped to blend with the natural contour;

(7) Cross drains, dikes, and water bars shall be constructed to minimize erosion;

(8) Terraces shall be constructed as necessary to prevent excessive erosion and to provide long-term stability in cut-and-fill slopes; and

(9) Road surfaces shall be covered with topsoil in accordance with 30 CFR 910.816–24(b) and revegetated in accordance with 30 CFR 910.816–111 through 910.816–116.

(b) Unless otherwise authorized by the Office, all road-surfacing materials shall be removed, hauled or conveyed, and disposed of under 30 CFR 910.816–89.

§ 910.816–160 Roads: Class II: General.

(a) Each person who conducts surface mining activities shall design, construct or reconstruct, utilize, and maintain Class II Roads and restore the area to meet the requirements of 30 CFR 910.816–161 through 910.816–166 and to control or minimize erosion and siltation, air and water pollution, and damage to public or private property.

(b) To the extent possible using the best technology currently available, Class II Roads shall not cause damage to fish, wildlife, and related environmental values and shall not cause additional contributions of suspended solids to streamflow or to run off outside the permit area. Any such contributions shall not be in excess of limitations of State or Federal law.

(c) All Class II Roads shall be removed and the land affected regraded and revegetated in accordance with the requirements of 30 CFR 910.816–166, unless—

(1) Retention of the road is approved as part of the approved postmining land use or as being necessary to control erosion adequately;

(2) The necessary maintenance is assured; and

(3) All drainage is controlled according to 30 CFR 910.816–163.

(d)(1) Class II Roads shall be designed and constructed in accordance with 30 CFR 910.816–161 through 910.816–164, except to the extent that alternative specifications are used. Alternative specifications may only be used after approval by the Office upon a demonstration by a qualified professional engineer that they will result in performance equal to or better than that resulting from Class II Roads complying with 30 CFR 910.816–161 through 910.816–166.

(2) The design shall incorporate consideration of the needs of the specific uses of the road in addition to travel efficiency. To the extent that the anticipated volume of traffic or weight or speed of vehicles to be used requires higher standards than those set forth in 30 CFR 910.816–161 through 910.816–166, such higher standards shall be incorporated in the design, construction or reconstruction, and maintenance of Class II Roads.

§ 910.816–161 Roads: Class II: Location.

(a) Class II Roads shall be located, insofar as possible, on ridges or on the most stable available slopes to minimize erosion.

(b) No part of any Class II Road shall be located in the channel of an intermittent or perennial stream unless specifically approved by the Office.

(c) Stream fords are prohibited unless they are specifically approved by the Office as temporary routes during periods of construction. The fords shall not adversely affect stream sedimentation or fish, wildlife, and related environmental values. All other stream crossings shall be made using bridges, culverts, or other structures, designed, constructed, and maintained to meet the requirements of 30 CFR 910.816–163.

(d) Class II Roads shall be located to minimize downstream sedimentation and flooding.

§ 910.816–162 Roads: Class II: Design and construction.

Class II Roads shall be designed and constructed or reconstructed in compliance with the following standards in order to control subsequent erosion and disturbance of the hydrologic balance:

(a) *Vertical alinement.* A continuous grade with excessive cuts or embankments shall be avoided. Changes of grade shall be made to conform as closely as possible to the existing terrain, and maximum road grades shall be as follows:

(1) The overall grade shall not exceed 1*v*:10*h* (10 percent).

(2) The pitch grade shall not exceed 1*v*:6.5*h* (15 percent), for any consecutive 1,000 feet.

(3) The pitch grade exceeding 15 percent shall not be longer than 300 feet within any consecutive 1,000 feet of Class II Roads.

(b) *Horizontal alinement.* Class II Roads shall have horizontal alinement as consistent with the existing natural topography as possible, and shall provide the alinement required for the performance standards of 30 CFR 910.816–160 through 910.816–166. The alinement shall be determined in accordance with the anticipated volume of traffic and weight and speed of vehicles to be used. Horizontal and vertical alinement shall be coordinated to ensure that one will not adversely affect the other and to ensure that the road will not cause environmental damage.

(c) *Road cuts.* Cut slopes shall not be steeper than specifically authorized by the Office, which shall not authorize slopes steeper than 1*v*:1.5*h* in unconsolidated materials or 1*v*:0.25*h* in rock, except that steeper slopes may be specifically authorized by the Office if geotechnical analysis demonstrates that a minimum safety factor of 1.5 can be maintained.

(1) Topsoil or other materials suitable under 30 CFR 910.816–22 shall be placed on all cut slopes of 1*v*:1.5*h* or flatter to aid in establishing vegetation and to minimize erosion. Topsoil depth shall be adequate to support vegetation necessary to minimize erosion.

(2) Temporary erosion-control measures shall be implemented during construction to minimize sedimentation and erosion until permanent control measures can be established.

(d) *Road embankments.* Embankment sections shall be constructed in accordance with the following provisions:

(1) All vegetative material and topsoil shall be removed from the embankment foundation to increase stability, and no vegetative material or topsoil shall be placed beneath or in any Class II Road embankment.

(2) Where an embankment is to be placed on side slopes exceeding 1*v*:3*h* (33 percent), the existing ground shall be plowed, stepped, or if in rock, keyed in a manner which increases the stability of the fill. The keyway shall be a minimum of 10 feet in width and shall begin at the toe of fill. No material shall be placed below the toe or be allowed to slide below the toe. For slopes of less than 1*v*:3*h* (33 percent), the slopes shall be scarified to ensure bonding of the embankment and natural material.

(3) Material containing by volume less than 25 percent of rock larger than 6 inches in greatest dimension shall be spread in successive uniform layers not exceeding 12 inches in thickness before compaction.

(4) Where the material for an embankment consists of large-size rock, broken stone, or fragmented material that makes placing in 12-inch layers impossible under paragraph (d)(3) of this section, the embankment shall be constructed in uniform layers not exceeding in thickness the approximate average size of the rock used, but the layers shall not exceed 36 inches in thickness. Rock shall not be dumped in final position, but shall be distributed by blading or dozing in a manner that will ensure proper placement in the embankment, so that voids, pockets, and bridging will be reduced to a minimum. The final layer of the embankment shall meet the requirements of paragraph (d)(3) of this section.

(5) Each layer of the embankment shall be completed, leveled, and compacted before the succeeding layer is placed. Embankment material shall be leveled as placed and kept smooth. The successive layers shall be compacted evenly by routing the hauling and leveling equipment over the entire width of the embankment. This procedure shall be continued until no visible horizontal movement of the embankment material is apparent.

(6) Compaction greater than that specified in paragraph (d)(5) of this section shall be performed to the extent necessary to ensure stability.

(7) Material shall be placed in an embankment under moisture content conditions which will permit compaction and ensure proper soil cohesion.

(8) Embankment slopes shall not be steeper than 1*v*:1.5*h*, except that if the embankment material is a minimum of 85 percent rock, slopes shall not be steeper than 1*v*:1.35*h* if it has been demonstrated to the Office that embankment stability will result. Where rock embankments are constructed, they shall meet the requirements of paragraph (d)(4) of this section.

(9) The minimum safety factor for all embankments shall be 1.25, or such higher factor as the Office may specify.

(10) The road surface shall be sloped sufficiently to prevent ponding of water on the surface.

(11) All material used in embankments shall be suitable for use under paragraphs (d) (1)–(8) of this section. The material shall be reasonably free of organic material, coal or coal blossom, frozen material, wet or peat material or natural soils containing organic matter, or any other material considered unsuitable for use in embankment construction by the Office.

(12) Excess or unsuitable material from excavations, as defined in paragraph (d)(11) of this section, shall be disposed of in accordance with 30 CFR 910.816–71. Acid- and toxic-forming material shall be disposed of in accordance with 30 CFR 910.816–40, 910.816–61, and 910.816–103.

(13) Topsoil or other material suitable under 30 CFR 910.816–22 shall be placed on all embankment slopes of 1*v*:1.5*h* or flatter, to aid in establishing vegetation to minimize erosion. Topsoil material depth shall be adequate to support vegetation and to minimize erosion.

(14) Temporary erosion-control measures shall be incorporated during construction to control sedimentation and minimized erosion until permanent control measures can be established.

(e) *Topsoil removal.* Before initiation of construction or reconstruction of a Class II Road, topsoil and other materials, as determined under 30 CFR 910.816–22, shall be removed from the design roadbed, shoulders, and surfaces where associated structures will be placed, and shall be stored in accordance with 30 CFR 910.816–23.

§ 910.816–163 Roads: Class II: Drainage.

(a) *General.* (1) Each Class II Road shall be designed, constructed or reconstructed, and maintained to have adequate drainage, using structures such as ditches in wet areas, cross drains in natural drainageways, surface dips, and stream crossings. The water-control system shall be designed to safely pass the peak runoff from a 10-year, 24-hour precipitation event or a greater event if required by the Office.

(2) Sediment control shall comply with 30 CFR 910.816–42.

(b) *ditches and alternative measures for roadbed erosion control.* Where required to minimize erosion on the roadbed, ditches shall be designed and constructed in accordance with 30 CFR 910.816–153(b). In wet areas or where there is free water, such ditch sections shall be required. For every segment of a

Class II Road without drainage ditches which comply with 30 CFR 910.816–153(b), drainage shall be provided by surface dips. These drainage dips shall be constructed as undulations in the roadway of sufficient height from the hydraulic bottom to the top of the dip to prevent water from running down the surface of the road. Insloped dips shall discharge into a culvert or drop inlet. Outsloped dips shall discharge either onto the natural ground or onto embankments if a drain is provided. The bottom of the dip shall be rock surfaced to prevent erosion. Dip spacing shall be sufficient to minimize erosion of the road surface.

(c) *Culverts and bridges.* (1)(i) Culverts with an end area of 35 square feet or less shall be designed to safely pass the 10-year, 24-hour precipitation event without a head of water at the entrance. Culverts with an end area of greater than 35 square feet, and bridges with spans of 30 feet or less, shall be designed to safely pass the 20-year, 24-hour precipitation event. Bridges with spans of more than 30 feet shall be designed to safely pass the 100-year, 24-hour precipitation event or larger event as specified by the Office.

(ii) Drainage pipes and culverts shall be constructed to avoid plugging or collapse, and erosion at inlets and outlets.

(iii) Culverts shall be covered by compacted fill to a minimum depth of 1 foot.

(iv) Culverts shall be designed, constructed, and maintained to sustain the vertical soil pressure, the passive resistance of the road foundation, and the weight of vehicles to be used.

(2) Culverts or dips for road-surface drainage only, shall be constructed in accordance with the following:

(i) Unless otherwise authorized or required under paragraphs (c)(2) (ii) or (iii) of this section, culverts and dips shall be spaced as follows:

(A) Spacing shall not exceed 1,000 feet on grades of 0 to 3 percent.

(B) Spacing shall not exceed 600 feet on grades of 3 to 6 percent.

(C) Spacing shall not exceed 400 feet on grades of 6 to 10 percent.

(D) Spacing shall not exceed 200 feet on grades of 10 percent or greater.

(ii) Surface dips or culverts at closer intervals than the maximum indicated in paragraph (c)(2)(i) of this section shall be installed if required by the Office as appropriate for the erosive properties of the soil or to accommodate flow from small intersecting drainages.

(iii) Surface dips or culverts may be constructed at greater intervals than the maximum indicated in paragraph (c)(2)(i) of this section if authorized by the Office upon a finding that greater spacing will not increase erosion.

(iv) Culverts and the bottoms of drainage dips shall cross the road at not less than a 30 degree angle downgrade.

(v) A culvert may be designed to carry less than the peak runoff from a 10-year, 24-hour precipitation event if the ditch will not overtop and will remain stable.

(vi) The inlet end of all culverts shall be protected by a rock headwall or other material approved by the Office as adequate protection against erosion of the headwall. The water shall be discharged below the toe of the fill through conduits or in riprapped channels and shall not be discharged onto the fill.

(D) *Natural drainage.* Natural-channel drainageways shall not be altered or relocated for road construction or reconstruction without the prior approval of the Office in accordance with 30 CFR 910.816–43 and 910.816–44. The Office may approve alterations and relocations only if—

(1) The natural-channel drainage is not blocked;

(2) No significant degradation occurs to the hydrologic balance; and

(3) There is no adverse impact on adjoining landowners.

(E) *Stream crossings.* Drainage structures are required for stream-channel crossings. Drainage structures shall not affect the normal flow or gradient of the stream, or adversely affect fish migration or aquatic habitat or related environmental values.

§ 910.816–164 Roads: Class II: Surfacing.

(a) Class II Roads shall be surfaced with rock, crushed gravel, asphalt, or other material approved by the Office as sufficiently durable for the anticipated volume of traffic and weight and speed of vehicles to be used.

(b) Acid- or toxic-forming substances shall not be used in road surfacing.

(c) Vegetation shall not be cleared for more than the width necessary for road and associated ditch construction, to serve traffic needs and for utilities.

§ 910.816–165 Roads: Class II: Maintenance.

(a) Class II Roads shall be maintained in such a manner that the required or approved design criteria are met throughout the life of the facility including surface and shoulders, parking, side areas, approach structures, erosion-control devices, and such traffic-control devices as are necessary for safe and efficient utilization.

(b) Class II Road maintenance shall include basic custodial care as required to protect the road investment and to prevent damage to adjacent resources. This includes maintenance to control erosion, repair of structures and drainage systems, removal of rocks and debris, replacement of surface, and restoration of the road prism.

§ 910.816–166 Roads: Class II: Restoration.

(a) Unless the Office approves retention of a Class II Road as suitable for the approved postmining land use, immediately after the road is no longer needed for operations, reclamation, or monitoring—

(1) The road shall be closed to vehicular traffic;

(2) The natural drainage patterns shall be restored;

(3) All bridges and culverts shall be removed;

(4) Roadbeds shall be ripped, plowed, and scarified;

(5) Fill slopes shall be rounded or reduced and shaped to conform the site to adjacent terrain and to meet natural-drainage restoration standards;

(6) Cut slopes shall be reshaped to blend with the natural contour;

(7) Cross drains, dikes, and water bars shall be constructed to minimize erosion;

(8) Terraces shall be constructed as necessary to prevent excessive erosion and to provide long-term stability in cut-and-fill slopes; and

(9) Road surfaces shall be covered with topsoil in accordance with 30 CFR 910.816–24(b) and revegetated in accordance with 30 CFR 910.816–111 through 910.816–116.

(b) Unless otherwise authorized by the Office, all road surfacing materials shall be removed, hauled or conveyed, and disposed of under 30 CFR 910.816–89.

§ 910.816–170 Roads: Class III: General.

(a) Each person who conducts surface mining activities shall design, construct or reconstruct, utilize, and maintain Class III Roads and restore the area to meet the requirements of 30 CFR 910.816–171 through 910.816–176 and to control or minimize erosion and siltation, air and water pollution, and damage to public or private property.

(b) To the extent possible using the best technology currently available, Class III Roads shall not cause damage to fish, wildlife, and related environmental values and shall not cause additional contributions of suspended solids to streamflow or to runoff outside the permit area. Any such contributions shall not be in excess of limitations of State or Federal law.

(c) All Class III Roads shall be completely removed and the land

affected regraded to the approximate original contour and revegetated in accordance with the requirements of 30 CFR 910.816–176 except where 30 CFR 910.816–171(g) shall apply.

(d) To the extent that the anticipated volume or weight or speed of vehicles to be used requires higher standards than those set forth in 30 CFR 910.816–171 through 910.816–175, such higher standards shall be incorporated in the design, construction, and reconstruction or maintenance of Class III Roads.

§ 910.816–171 Roads: Class III: Location.

(a) Class III Roads shall be located on ridges or on the most stable available slopes to minimize erosion.

(b) No part of any Class III Road shall be located in the channel of an intermittent or perennial stream unless specifically approved by the Office.

(c) Stream fords are prohibited unless they are approved by the Office as temporary routes across ephemeral or intermittent streams that will not adversely affect stream sedimentation or fish, wildlife, and related environmental values. All other stream crossings shall be made using temporary bridges, culverts, or other structures designed, constructed, and maintained to meet the requirements of 30 CFR 910.816–173.

(d) Class III Roads shall be located to minimize downstream sedimentation and flooding.

(e) Not later than the date a permit application is submitted to the Office for surface mining activities for which a Class III Road is proposed, the location of the proposed road shall be clearly marked in the field by flags or stakes to enable the Office to perform onsite review.

(f) Class III Roads shall not be located in wet, steep, or unstable areas where complete restoration under 30 CFR 910.816–176 cannot be accomplished.

(g) A Class III Road may be constructed in the same alinement as a Class I or Class II Road that is to be constructed on the same location at a later date. This may be permitted if the requirements for the location of the Class I or Class II Road are met, and the construction begins within 6 months from the time the Class III Road is constructed.

§ 910.816–172 Roads: Class III: Design and construction.

Field-design methods shall be utilized for Class III Roads.

(a) *Vertical alinement.* Except where lesser grades are necessary to control site-specific conditions, maximum road grades shall be as follows:

(1) The overall grade shall not exceed $1v{:}10h$ (10 percent).

(2) The pitch grade shall not exceed $1v{:}5h$ (20 percent).

(3) There shall not be more than 1,000 consecutive feet of maximum pitch grade.

(b) *Horizontal alinement.* Class III Roads may meander so as to avoid large growths of vegetation and other natural obstructions.

(c) *Road cuts.* Sidecast construction may be used.

(d) *Road embankments.* Compaction on embankments shall be required only to the extent necessary to control erosion and maintain the road.

(e) *Topsoil removal.* Topsoil shall be removed and stockpiled only where excavation would require replacement of material and redistribution of topsoil for proper revegetation.

§ 910.816–173 Roads: Class III: Drainage.

(a) *General.* (1) Class III Road drainage shall consist of temporary culverts in flowing streams, wet areas, and in ephemeral channels as necessary to protect the facility during its life and to minimize disturbance of the hydrologic balance.

(2) Sediment control shall comply with 30 CFR 910.816–42 and 910.816–45.

(b) *Culverts and bridges.* Temporary culverts shall be installed for all flowing drainages and stream crossings. Temporary culverts and bridges shall be sized to safely pass the 1-year, 6-hour precipitation event.

(c) *Natural drainage.* Natural channel drainageways shall not be altered or relocated for the purposes of Class III Road construction.

(d) *Stream crossings.* Temporary drainage structures are required for crossing permanent streams. Drainage structures shall not affect the normal flow or gradient of the stream, adversely affect fish migration and aquatic habitat or related environmental values.

§ 910.816–174 Roads: Class III: Surfacing.

(a) Class III Road surfaces shall be adequate for the use of the road.

(b) Acid- or toxic-forming substances shall not be used in road surfacing.

(c) Vegetation shall not be cleared for more than the width necessary to serve traffic needs and for utilities.

§ 910.816–175 Roads: Class III: Maintenance.

(a) Class III Road Maintenance shall be sufficient to ensure minimization of erosion for the life of the road.

(b) Class III Roads shall not be used if climatic conditions are such that usage may cause degradation of water quality.

§ 910.816–176 Roads: Class III: Restoration.

Immediately after a Class III Road is no longer needed for operations, reclamation, or monitoring—

(a) The road shall be closed to vehicular traffic;

(b) The natural drainage patterns shall be restored;

(c) All bridges and culverts shall be removed;

(d) Roadbeds shall be ripped, plowed, and scarified;

(e) Full slopes shall be rounded or reduced and shaped to conform the site to adjacent terrain and meet natural-drainage restoration standards;

(f) Cut slopes shall be reshaped to blend with the natural contour;

(g) Cross drains, dikes, and water bars shall be constructed to control erosion; and

(h) Road surfaces from which topsoil has been removed shall be covered with topsoil in accordance with 30 CFR 910.816–24(b), and the surface shall be revegetated in accordance with 30 CFR 910.816–111 through 910.816–116.

§ 910.816–180 Other transportation facilities.

Railroad loops, spurs, sidings, surface conveyor systems, chutes, aerial tramways, or other transportation facilities shall be designed, constructed or reconstructed, and maintained, and the area restored, to—

(a) Prevent, to the extent possible using the best technology currently available—

(1) Damage to fish, wildlife, and related environmental values; and

(2) Additional contributions of suspended solids to streamflow or runoff outside the permit area. Any such contributions shall not be in excess of limitations of State or Federal law;

(b) Control and minimize diminution or degradation of water quality and quantity;

(c) Control and minimize erosion and siltation;

(d) Control and minimize air pollution; and

(e) Prevent damage to public or private property.

§ 910.816–181 Support facilities and utility installations.

(a) Support facilities required for, or used incidentally to, the operation of the mine, including, but not limited to, mine buildings, coal loading facilities at or near the minesite, coal storage, facilities, equipment-storage facilities, fan buildings, hoist buildings, preparation plants, sheds, shops, and other buildings, shall be designed, constructed

or reconstructed, and located to prevent or control erosion and siltation, water pollution, and damage to public or private property. Support facilities shall be designed, constructed or reconstructed, maintained, and used in a manner which prevents, to the extent possible using the best technology currently available—

(1) Damage to fish, wildlife, and related environmental values; and

(2) Additional contributions of suspended solids to streamflow or runoff outside the permit area. Any such contributions shall not be in excess of limitations of State or Federal law.

(b) All surface mining activities shall be conducted in a manner which minimizes damage, destruction, or disruption of services provided by oil, gas, and water wells; oil, gas, and coal-slurry pipelines; railroads, electric and telephone lines; and water and sewage lines which pass over, under, or through the permit area, unless otherwise approved by the owner of those facilities and the Office.

§ 910.816–200 Interpretative rules related to general performance standards.

(a) Interpretations of § 910.816–74—Disposal of excess spoil: Durable rock fills.

(1) The term "rock" as used in 30 CFR 910.816–74 is interpreted to mean minerals or mineral aggregates 80% or more of which when subjected to a grain size analysis will not pass a ¼-inch sieve (¼-inch mesh).

(2) The term "hard rock spoil" as used in 30 CFR 910.816–74 is interpreted to mean rock consisting of at least 80 percent by volume of sandstone, limestone or other rocks that will not pass ¼-inch sieve and do not slake in water.

(3) The terms "slake durability" and "slake index tests" identified in 30 CFR 910.816–74 and used as the basis for determining "durability" of hard rock spoil, are interpreted to be applicable to rock placed in the fill and not only to rock obtained either from inplace strata prior to excavation or from the spoil source prior to placement in the fill.

(b) [Reserved]

(c) Interpretation of § 910.816–22(e)—Topsoil Removal.

(1) Results of physical and chemical analyses of overburden and topsoil to demonstrate that the resulting soil medium is equal to or more suitable for sustaining revegetation than the available topsoil provided that trials and test are certified by an approved laboratory in accordance with 30 CFR 910.816–22(e)(1)(ii) may be obtained from any one or a combination of the following sources:

(i) U.S. Department of Agriculture Soil Conservation Service published data based on established soil series.

(ii) U.S. Department of Agriculture Soil Conservation Service Technical Guides:

(iii) State agricultural agency, university, Tennessee Valley Authority, Bureau of Land Management or U.S. Department of Agriculture Forest Service published data based on soil series properties and behavior; or

(iv) Results of physical and chemical analyses, field site trials, or greenhouse tests of the topsoil and overburden materials (soil series) from the permit area.

(2) If the operator demonstrates through soil survey or other data that the topsoil and unconsolidated material are insufficient and substitute materials will be used, only the substitute materials must be analyzed in accordance with 30 CFR 910.816–22(e)(i).

Subpart 910.817—Performance Standards—Underground Mining Activities

§ 910.817–11 Signs and markers.

(a) *Specifications.* Signs and markers required under this Subpart shall—

(1) Be posted, maintained, and removed by the person who conducts the underground mining activities;

(2) Be of a uniform design throughout the activities that can be easily seen and read;

(3) Be made of durable material; and

(4) Conform to local laws and regulations.

(b) *Duration of maintenance.* Signs and markers shall be maintained during all activities to which they pertain.

(c) *Mine and permit identification signs.* (1) Identification signs shall be displayed at each point of access from public roads to areas of surface operations and facilities on permit areas for underground mining activities.

(2) Signs will show the name, business address, and telephone number of the person who conducts underground mining activities and the identification number of the current regulatory program permit authorizing underground mining activities.

(3) Signs shall be retained and maintained until after the release of all bonds for the permit area.

(d) *Perimeter markers.* Each person who conducts underground mining activities shall clearly mark the perimeter of all areas affected by surface operations or facilities before beginning mining activities.

(e) *Buffer zone markers.* Buffer zones required by Section 910.817–57 shall be clearly marked to prevent disturbance by surface operations and facilities.

(f) *Blasting signs.* Persons who conduct surface blasting incidental to underground mining activities shall place at all entrances to areas of surface operations and facilities in the permit area, from public roads or highways, conspicious signs which state—"Warning: Explosives in Use."

(g) *Topsoil markers.* Where topsoil or other vegetation-supporting material is segregated and stockpiled as required under § 910.817–23, the stockpiled material shall be clearly marked.

§ 910.817–13 Casing and sealing of exposed underground openings: General requirements.

Each exploration hole, other drillhole or borehole, shaft, well, or other exposed underground opening shall be cased, lined, or otherwise managed as approved by the Office to prevent acid or other toxic drainage from entering ground and surface waters, to minimize disturbance to the prevailing hydrologic balance and to ensure the safety of people, livestock, fish and wildlife, and machinery in the permit area and adjacent area. Each exploration hole, drillhole or borehole or well that is uncovered or exposed by mining activities within the permit area shall be permanently closed, unless approved for water monitoring or otherwise managed in a manner approved by the Office. Use of a drilled hole or monitoring well as a water well must meet the provisions of § 910.817–53. This Section does not apply to holes drilled and used for blasting in the area affected by surface operations.

§ 910.817–14 Casing and sealing of underground openings: Temporary.

(a) Each mine entry which is temporarily inactive, but has a further projected useful service under the approved permit application, shall be protected by barricades or other covering devices, fenced, and posted with signs, to prevent access into the entry and to identify the hazardous nature of the opening. These devices shall be periodically inspected and maintained in good operating condition by the person who conducts the underground mining activities.

(b) Each exploration hole, other drillhole or borehole, shaft, well, and other exposed underground opening which has been identified in the approved permit application for use to return underground development waste, coal processing waste or water to underground workings, or to be used to monitor ground water conditions, shall be temporarily sealed until actual use.

§ 910.817–15 Casing and sealing of underground openings: Permanent.

When no longer needed for monitoring or other use approved by the Office upon a finding of no adverse environmental or health and safety effects, or unless approved for transfer as a water well under § 910.817–53, each shaft, drift, adit, tunnel, exploratory hole, entryway or other opening to the surface from underground shall be capped, sealed, backfilled, or otherwise properly managed, as required by the Office in accordance with § 910.817–13 and 910.817–50 and consistent with 30 CFR 75.1771. Permanent closure measures shall be designed to prevent access to the mine workings by people, livestock, fish and wildlife, machinery and to keep acid or other toxic drainage from entering ground or surface waters.

§ 910.817–21 Topsoil: General requirements.

(a) Before disturbance of areas affected by surface operations, topsoil and subsoils to be saved under § 910.817–22 shall be separately removed and segregated from other material.

(b) After removal, topsoil shall be immediately redistributed in accordance with § 910.817–24, stockpiled pending redistribution under § 910.817–23, or if the permittee can demonstrate that an alternative procedure will provide equal or more protection for the topsoil, the Office, may, on a case by case basis, approve an alternative.

§ 910.817–22 Topsoil: Removal.

(a) *Timing.* Topsoil shall be removed from areas to be affected by surface operations or major structures, after vegetative cover that would interfere with the use of the topsoil is cleared from portions of those areas that will be disturbed, but before any drilling for blasting, mining, or other surface disturbance of surface lands.

(b) *Materials to be removed.* Topsoil shall be removed in a separate layer from the areas to be disturbed, unless use of substitute or supplemental materials is approved by the Office in accordance with paragraph (e) of this section. If use of substitute or supplemental materials is approved, all materials to be redistributed shall be removed.

(c) *Materials to be removed in thin topsoil situations.* If the topsoil is less than 6 inches, a 6-inch layer that includes the A horizon and the unconsolidated materials immediately below the A horizon or the A horizon and all unconsolidated material if the total available is less than 6 inches, shall be removed and the mixture segregated and redistributed as the surface soil layer, unless topsoil substitutes are approved by the Office pursuant to paragraph (e) of this section.

(d) *Subsoil segregation.* The B horizon and portions of the C horizon, or other underlying layers demonstrated to have qualities for comparable root development shall be segregated and replaced as subsoil, if the Office determines that either of these is necessary or desirable to ensure soil productivity consistent with the approved postmining land use.

(e) *Topsoil substitutes and supplements.* (1) Selected overburden materials may be substituted for, or used as a supplement to, topsoil, if the Office determines that the resulting soil medium is equal to or more suitable for sustaining the vegetation than is the available topsoil and the substitute material is the best available to support the vegetation. This determination shall be based on:

(i) The results of chemical and physical analyses of overburden and topsoil. These analyses shall include determinations of pH, net acidity or alkalinity, phosphorus, potassium, texture class, and other analyses as required by the Office. The Office may also require that results of field-site trials or greenhouse tests be used to demonstrate the feasibility of using these overburden materials.

(ii) Results of analyses, trials, and tests shall be submitted to the Office. Certification of trials and tests shall be made by a laboratory approved by the Office stating that:

(A) The proposed substitute material is equal to or more suitable for sustaining the vegetation than is the available topsoil;

(B) The substitute material is the best available material to support the vegetation; and

(C) The trials and tests were conducted using standard testing procedures.

(2) Substituted or supplemented material shall be removed, segregated, and replaced in compliance with the requirements for topsoil under this section.

(f) *Limits on topsoil removal area.* Where the removal of vegetative material, topsoil, or other materials may result in erosion which may cause air or water pollution—

(1) The size of the area from which topsoil is removed at any one time shall be limited;

(2) The surface soil layer shall be redistributed at a time when the physical and chemical properties of topsoil can be protected and erosion can be minimized; and

(3) Such other measures shall be taken as the Office may approve or require to control erosion.

§ 910.817–23 Topsoil: Storage.

(a) Topsoil and other materials removed under § 910.817–22 shall be stockpiled only when it is impractical to promptly redistribute such materials on regraded areas.

(b) Stockpiled materials shall be selectively placed on a stable surface area within the permit area, not disturbed, and protected from wind and water erosion, unnecessary compaction, and contaminants which lessen the capability of the materials to support vegetation when redistributed.

(1) Protection measures shall be accomplished either by—

(i) An effective cover of nonnoxious, quick-growing annual and perennial plants, seeded or planted during the first normal period after removal for favorable planting conditions; or

(ii) Other methods demonstrated to and approved by the Office to provide equal protection.

(2) Unless approved by the Office, stockpiled topsoil and other materials shall not be moved until required for redistribution on a disturbed area.

§ 910.817–24 Topsoil: Redistribution.

(a) After final grading and before the replacement of topsoil and other materials segregated in accordance with § 910.817–23, regraded land shall be scarified or otherwise treated as required by the Office to eliminate slippage surfaces and to promote root penetration. If the person who conducts underground mining activities shows, through appropriate tests, and the Office approves, that no harm will be caused to the topsoil and vegetation, scarification may be conducted after topsoiling.

(b) Topsoil and other materials shall be redistributed in a manner that—

(1) Achieves an approximate uniform, stable thickness consistent with the postmining land uses, slopes, and surface drainage system;

(2) Prevents excess compaction of the topsoil; and

(3) Protects the topsoil from wind and water erosion before and after it is seeded and planted.

§ 910.817–25 Topsoil: Nutrients and soil amendments.

Nutrients and soil amendments in the amounts determined by soil tests shall be applied to the redistributed surface soil layer so that it supports the

postmining land use approved by the Office and meets the revegetation requirements of §§ 910.817–111 through 910.817–117. All soil tests shall be performed by a qualified laboratory using standard methods approved by the Office.

§ 910.817–41 Hydrologic balance: General requirements.

(a) Underground mining activities shall be planned and conducted to minimize changes to the prevailing hydrologic balance in both the permit and adjacent areas, in order to prevent long-term adverse changes in that balance that could result from those activities.

(b) Changes in water quality and quantity, in the depth to ground water, and in the location of surface water drainage channels shall be minimized so that the approved postmining land use of the permit area is not adversely affected.

(c) In no case shall Federal and State water quality statutes, regulations, standards or effluent limitations be violated.

(d) Operations shall be conducted to minimize water pollution and, where necessary, treatment methods shall be used to control water pollution.

(1) Each person who conducts underground mining activities shall emphasize mining and reclamation practices that prevent or minimize water pollution. Changes in flow shall be used in preference to the use of water treatment facilities.

(2) Acceptable practices to control and minimize water pollution include, but are not limited to—

(i) Stabilizing disturbed areas through land shaping;

(ii) Diverting runoff;

(iii) Achieving quickly germinating and growing stands of temporary vegetation;

(iv) Regulating channel velocity of water;

(v) Lining drainage channels with rock or vegetation;

(vi) Mulching;

(vii) Selectively placing and sealing acid-forming and toxic-forming materials;

(viii) Designing mines to prevent gravity drainage of acid waters;

(ix) Sealing;

(x) Controlling subsidence; and

(xi) Preventing acid mine drainage.

(3) If the practices listed at paragraph (d)(2) of this section are not adequate to meet the requirements of this subpart, the person who conducts underground mining activities shall operate and maintain the necessary water treatment facilities for as long as treatment is required under this subpart.

§ 910.817–42 Hydrologic balance: Water quality standards and effluent limitations.

(a)(1) [Reserved.]

(2) Sedimentation ponds and treatment facilities for surface drainage from the disturbed area shall be maintained until the disturbed area has been restored and the vegetation requirements of §§ 910.817–111 through 910.817–117 are met and the quality of the untreated drainage from the disturbed area meets the applicable State and Federal water quality standards requirements for the receiving stream. Sedimentation ponds and treatment facilities for discharges from underground workings shall be maintained until either the discharge continuously meets the effluent limitations of this section without treatment or until the discharge has permanently ceased.

(3) The Office may grant exemptions from these requirements only in accordance with the following—

(i) The person who conducts the underground mining activities demonstrates that sedimentation ponds and treatment facilities are not necessary for the drainage to be exempted to meet the effluent limitations of this Section or the applicable State and Federal water quality requirements for downstream receiving waters; and

(ii)(A) For drainage from areas affected by surface operations and facilities, an exemption may be authorized only if the disturbed surface drainage area within the total disturbed surface area is small and there is no mixture of surface drainage with a discharge from underground mine workings; or

(B) For drainage from underground mine workings, exemption may be authorized only if there is no mixture of that drainage with drainage from surface areas.

(4) For the purposes of this Section only, disturbed area shall not include those areas affected by surface operations in which only diversion ditches, sedimentation ponds, or roads are installed in accordance with this Subpart and the upstream area is not otherwise disturbed by the person who conducts the underground mining activities.

(5) Sedimentation ponds required by this Section shall be constructed in accordance with § 910.817–46, in appropriate locations before beginning any underground mining activities in the affected drainage area.

(6) Where the sedimentation ponds or series of sedimentation ponds is used so as to result in the mixing of drainage from the disturbed areas with drainage from other areas not disturbed by current surface coal mining and reclamation operations, the permittee shall achieve the effluent limitations below for all of the mixed drainage when it leaves the permit area.

(7) Discharges of water from areas disturbed by underground mining activities shall be made in compliance with all Federal and State laws and regulations and, at a minimum, the following numerical effluent limitations:

EFFLUENT LIMITATIONS, IN MILLIGRAMS PER LITER (MG/L), EXCEPT FOR pH

Effluent characteristics [1]	Maximum allowable [2]	Average of daily values for 30 consecutive discharge days [3]
Iron total [4]	7.0	3.5
Manganese, total [5]	4.0	2.0
Total suspended solids	70.0	35.0
pH [6]	(7)	*

[1] To be determined according to collection and analytical procedures adopted by the United States Environmental Protection Agency's regulations for waste water analysis (40 CFR Part 136).

[2] Based on representative sampling.

[3] The manganese limitation shall not apply to untreated discharges which are alkaline as defined by the Environmental Protection Agency (40 CFR 434).

[4] Where the application of neutralization and sedimentation treatment technology results in inability to comply with the manganese limitations set forth above, the Office may allow the pH level in the discharge to exceed, to a small extent, the upper limit of 9.0 in order that the manganese limitations will be achieved.

[5] Discharges of iron from natural sources, as defined under 40 CFR 434.11(j), shall be limited to 6.0 mg/l (maximum allowable) and 3.0 mg/l (average of daily values for 30 consecutive discharge days).

[6] Within the range 6.0 to 9.0

(b) Any overflow increase in volume of a discharge or discharge from a bypass system caused by precipitation or snowmelt shall not be subject to the limitations set forth in Paragraph (a) of this Section. This exemption shall be available only if the facility is designed, constructed and maintained to contain or treat the volume of water which would fall on the areas covered by this subpart during a 10-year, 24-hour or larger precipitation event (or snowmelt of equivalent volume). The operator shall have the burden of demonstrating to the appropriate authority that the prerequisites to an exemption set forth in this subsection have been met.

(c) Adequate facilities shall be installed, operated, and maintained to treat any water discharged from the disturbed area or discharged from the underground mine, so that it complies with all Federal and State laws and regulations and the limitations of this Section. If the pH of water to be discharged from the disturbed area or mine is less than 6.0, an automatic lime feeder or other automatic neutralization process approved by the Office shall be installed, operated, and maintained. The Office may authorize the use of a manual system, if it finds that—

(1) Flow is infrequent and presents small and infrequent treatment requirements to meet applicable standards which do not require use of an automatic neutralization process; and

(2) Timely and consistent treatment is ensured.

§ 910.817–43 Hydrologic balance: Diversions and conveyance of overland flow, shallow ground water flow, and ephemeral streams.

Overland flow, including flow through litter, and shallow ground water flow from undisturbed areas, and flow in ephemeral streams may be diverted away from disturbed areas by means of temporary or permanent diversions, if required or approved by the Office as necessary to minimize erosion, to reduce volume of water to be treated, and to prevent or remove water from contact with acid-forming and toxic-forming materials. The following requirements shall be met for all diversions and all collection drains that are used to transport waters into water-treatment facilities and all diversions of overland and shallow ground water flow and ephemeral streams.

(a) Temporary diversions shall be constructed to pass safely the peak runoff from a precipitation event with a 2-year recurrence interval, or a larger event as specified by the Office.

(b) To protect fills and property and to avoid danger to public health and safety, permanent diversions shall be constructed to pass safely the peak runoff from a precipitation event with a 10-year recurrence interval, or a larger event as specified by the Office. Permanent diversions shall be constructed with gently sloping banks that are stabilized by vegetation. Asphalt, concrete, or other similar linings shall be used, only when approved by the Office to prevent seepage or to provide stability.

(c) Diversions shall be designed, constructed, and maintained in a manner which prevents additional contributions of suspended solids to streamflow and to runoff outside the permit area, to the extent possible using the best technology currently available. Appropriate sediment control measures for these diversions may include, but not be limited to, maintenance of appropriate gradients, channel lining, revegetation, roughness structures, and detention basins.

(d) No diversion shall be located so as to increase the potential for land slides and no diversion shall be constructed on existing slides unless approved by the Office.

(e) When no longer needed, each temporary diversion shall be removed and the affected land regraded, topsoiled, and revegetated in accordance with §§ 910.817–24, 910.817–25, 910.817–101 through 910.817–106 and 910.817–111 through 910.817–117.

(f) Diversion design shall incorporate the following:

(1) Channel linings shall be designed using standard engineering practices to safely pass the design velocities. Riprap shall comply with the requirements of § 910.817–72(b)(4), except for sand and gravel.

(2) Freeboard shall be no less than 0.3 feet. Protection shall be provided for transition of flows and for critical areas such as swales and curves. Where the area protected is a critical area as determined by the Office, the design freeboard may be increased.

(3) Energy dissipators shall be installed, when necessary, at discharge points, where diversions intersect with natural streams and exit velocity of the diversion ditch flow is greater than that of the receiving stream.

(4) Excess excavated material not necessary for diversion channel geometry or regrading of the channel shall be disposed of in accordance with 30 CFR 910.817–71 through 910.817–74.

(5) Topsoil removed from the diversion excavations shall be handled in accordance with 30 CFR 910.817–21 through 910.817–25.

(g) Diversions shall not be constructed or operated to divert water into underground mines without the approval of the Office under § 910.817–55.

§ 910.817–44 Hydrologic balance: Stream channel diversions.

(a) Flow from perennial and intermittent streams within the permit area may be diverted if the diversions—

(1) Are approved by the Office after making the findings called for in § 910.817–57;

(2) Comply with other requirements of Subparts 910.815 through 910.828; and

(3) Comply with local, State, and Federal statutes and regulations.

(b) When streamflow is allowed to be diverted, the stream channel diversion shall be designed, constructed, and removed, in accordance with the following:

(1) The longitudinal profile of the stream, the channel, and the flood plain shall be designed and constructed to remain stable and to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or to runoff outside the permit area. These contributions shall not be in excess of requirements of State or Federal law. Erosion control structures such as channel lining structures, retention basins, and artificial channel roughness structures shall be used in diversions only when approved by the Office as being necessary to control erosion. These structures shall be approved for permanent diversions only where they are stable and will require infrequent maintenance.

(2) The combination of channel, bank, and flood-plain configurations shall be adequate to pass safely the peak runoff of a 10-year, 24-hour precipitation event for temporary diversions, a 100-year, 24-hour precipitation event for permanent diversions, or larger events, as specified by the Office. However, the capacity of the channel itself should be at least equal to the capacity of the unmodified stream channel immediately upstream and downstream of the diversion.

(c) When no longer needed to achieve the purpose for which they are authorized, all temporary stream channel diversions shall be removed and the affected land regraded and revegetated, in accordance with the §§ 910.817–24, 910.817–25, 910.817–101 through 910.817–106 and 910.817–111 through 910.817–117. At the time diversions are removed, downstream water treatment facilities previously protected by the diversion shall be modified or removed to prevent overtopping or failure of the facilities. This requirement shall not relieve the person who conducts the underground mining activities from maintenance of a water treatment facility otherwise

required under this subpart or the permit.

(d) When permanent diversions are constructed or stream channels restored after temporary diversions, the operator shall:

(1) Restore, enhance where practicable, or maintain natural riparian vegetation on the banks of the stream;

(2) Establish or restore the stream to its natural meandering shape of an environmentally acceptable gradient; as determined by the Office; and

(3) Establish or restore the stream to a longitudinal profile and cross-section, including aquatic habitats (usually a pattern of riffles, pools, and drops rather than uniform depth) that approximate premining stream channel characteristics.

§ 910.817-45 Hydrologic balance: Sediment control measures.

(a) Appropriate sediment control measures shall be designed, constructed, and maintained using the best technology currently available to:

(1) prevent, to the extent possible, additional contributions of sediment to stream flow or to runoff outside the permit area,

(2) meet the more stringent of applicable State or Federal effluent limitations,

(3) minimize erosion to the extent possible.

(b) Sediment control measures include practices carried out within and adjacent to the disturbed area. The sedimentation storage capacity of practices in and downstream from the disturbed areas shall reflect the degree to which successful mining and reclamation techniques are applied to reduce erosion and control sediment. Sediment control measures consist of the utilization of proper mining and reclamation methods and sediment control practices, singly or in combination. Sediment control methods include but are not limited to—

(1) Disturbing the smallest practicable area at any one time during the mining operation through progressive backfilling, grading, and prompt revegetation as required in § 910.817-111(b);

(2) Stabilizing the backfilled material to promote a reduction of the rate and volume of runoff in accordance with the requirements of § 910.817-101;

(3) Retaining sediment within disturbed areas;

(4) Diverting runoff away from disturbed areas;

(5) Diverting runoff using protected channels or pipes through disturbed areas so as not to cause additional erosion;

(6) Using straw dikes, riprap, check dams, mulches, vegetative sediment filters, dugout ponds, and other measures that reduce overland flow velocity, reduce runoff volume, or trap sediment;

(7) Treating with chemicals; and

(8) Treating mine drainage in underground sumps.

§ 910.817-46 Hydrologic balance: Sedimentation ponds.

(a) *General requirements.* Sedimentation ponds shall be used individually or in series and shall—

(1) Be constructed before any disturbance of the undisturbed area to be drained into the pond and prior to any discharge of water to surface waters from underground mine workings;

(2) Be located as near as possible to the disturbed area and out of perennial streams, unless approved by the Office.

(3) Meet all the criteria of this Section.

(b) *Sediment storage volume.* Sedimentation ponds shall provide an adequate minimum sediment storage volume.

(c) *Detention time.* Sedimentation ponds shall provide the required theoretical detention time for the water inflow or runoff entering the pond from a 10-year, 24-hour precipitation event (design event).

(d) *Dewatering.* The water storage resulting from inflow shall be removed by a nonclogging dewatering device or a conduit spillway approved by the Office.

(e) Each person who conducts underground mining activities shall design, construct, and maintain sedimentation ponds to prevent short-circuiting to the extent possible.

(f) The design, construction, and maintenance of a sedimentation pond or other sediment control measures in accordance with this Section shall not relieve the person from compliance with applicable effluent limitations as contained in 30 CFR 910.816-42.

(g) There shall be no out-flow through the emergency spillway during the passage of the runoff resulting from the 10-year, 24-hour precipitation events and lesser events through the sedimentation pond, regardless of the volume of water and sediment present from the underground mine during the runoff.

(h) Sediment shall be removed from sedimentation ponds.

(i) An appropriate combination of principal and emergency spillways shall be provided to discharge safely the runoff from a 25-year, 24-hour precipitation event, or larger event specified by the Office, plus any inflow from the underground mine. The elevation of the crest of the emergency spillway shall be a minimum of 1.0 foot above the crest of the principal spillway. Emergency spillway grades and allowable velocities shall be approved by the Office.

(j) The minimum elevation of the top of the settled embankment shall be 1.0 foot above the water surface in the reservoir with the emergency spillway flowing at design depth. For embankments subject to settlement, this 1.0 foot minimum elevation requirement shall apply at all times, including the period after settlement.

(k) The constructed height of the dam shall be increased a minimum of 5 percent over the design height to allow for settlement, unless it has been demonstrated to the Office that the material used and the design will ensure against all settlement.

(l) The minimum top width of the embankment shall not be less than the quotient of (H+35)/5, where H in feet, is the height of the embankment as measured from the upstream toe of the embankment.

(m) The combined upstream and downstream side slopes of the settled embankment shall not be less than 1*v*:5*h*, with neither slope steeper than 1*v*:2*h*. Slopes shall be designed to be stable in all cases, even if flatter side slopes are required.

(n) The embankment foundation area shall be cleared of all organic matter, all surfaces sloped to no steeper than 1*v*:1*h*, and the entire foundation surface scarified.

(o) The fill material shall be free of sod, large roots, other large vegetative matter, and frozen soil, and in no case shall coal-processing waste be used.

(p) The placing and spreading of fill material shall be started at the lowest point of the foundation. The fill shall be brought up in horizontal layers of such thickness as is required to facilitate compaction and meet the design requirements of this section. Compaction shall be conducted as specified in the design approved by the Office.

(q) If a sedimentation pond has an embankment that is more than 20 feet in height, as measured from the upstream toe of the embankment to the crest of the emergency spillway, or has a storage volume of 20 acre-feet or more, the following additional requirements shall be met:

(1) An appropriate combination of principal and emergency spillways shall be provided to safely discharge the runoff resulting from a 100-year, 24-hour precipitation event, or a larger event specified by the Office, plus any in-flow from the underground mine.

(2) The embankment shall be designed and constructed with an acceptable static safety factor of at least 1.5, or a higher safety factor as designated by the Office to ensure stability.

(3) Appropriate barriers shall be provided to control seepage along conduits that extend through the embankment.

(4) The criteria of the Mine Safety and Health Administration as published in 30 CFR 77.216 shall be met.

(r) Each pond shall be designed and inspected during construction under the supervision of, and certified after construction by, a registered professional engineer.

(s) The entire embankment including the surrounding areas disturbed by construction shall be stabilized with respect to erosion by a vegetative cover or other means immediately after the embankment is completed. The active upstream face of the embankment where water is being impounded may be riprapped or otherwise stabilized. Areas in which the vegetation is not successful or where rills and gullies develop shall be repaired and revegetated, in accordance with § 910.817-106.

(t) All ponds, including those not meeting the size or other criteria of 30 CFR 77.216(a), shall be examined for structural weakness, erosion, and other hazardous conditions and reports and notifications shall be made to the Office, in accordance with 30 CFR 77.216-3. With the approval of the Office, dams not meeting these criteria (30 CFR 77.216(a)) shall be examined four times per year.

(u) Sedimentation ponds shall not be removed until the disturbed area has been restored and the vegetation requirements of §§ 910.816-111 through 910.816-117 are met and the drainage entering the pond has met the applicable State and Federal water quality requirements for the receiving stream. When the sedimentation pond is removed, the affected land shall be regraded and revegetated in accordance with §§ 910.817-101 through 910.817-106, and 910.817-111 through 910.817-117, unless the pond has been approved by the Office for retention as compatible with the approved postmining land use under § 910.817-133. If the Office approves retention, the sedimentation pond shall meet all the requirements for permanent impoundments of §§ 910.817-49 and 910.817-56.

§ 910.817-47 Hydrologic balance: Discharge structures.

Discharge from sedimentation ponds, permanent and temporary impoundments, coal processing waste dams and embankments, and diversions shall be controlled, by energy dissipators, riprap channels, and other devices, where necessary, to reduce erosion, to prevent deepening or enlargement of stream channels, and to minimize disturbance of the hydrologic balance. Discharge structures shall be designed according to standard engineering design procedures.

§ 910.817-48 Hydrologic balance: Acid-forming and toxic-forming materials.

Drainage from acid-forming and toxic-forming underground development waste and spoil, if any, into ground and surface water shall be avoided by—

(a) Identifying, burying, and treating, where necessary, waste and spoil which, in the judgment of the Office, may be detrimental to vegetation or may adversely affect water quality, if not treated or buried;

(b) Preventing water from coming into contact with acid-forming and toxic-forming materials in accordance with § 910.817-103, and other measures required by the Office; and

(c) Burying or otherwise treating all acid-forming or toxic-forming underground development waste and spoil within 30 days after they are first exposed on the mine site, or within a lesser period required by the Office. Temporary storage of such materials may be approved by the Office upon a finding that burial or treatment within 30 days is not feasible and will not result in any material risk of water pollution or other environmental damage. Storage shall be limited to the period until burial or treatment first becomes feasible. Acid-forming and toxic-forming underground development waste and spoil to be stored shall be placed on impermeable material and protected from erosion and contact with surface water.

§ 910.817-49 Hydrologic balance: Permanent and temporary impoundments.

(a) Permanent impoundments are prohibited unless authorized by the Office, upon the basis of the following demonstration:

(1) The quality of the impounded water shall be suitable, on a permanent basis, for its intended use, and discharge of water from the impoundment shall not degrade the quality of receiving waters to less than the water-quality standards established pursuant to applicable State and Federal laws.

(2) The level of water shall be sufficiently stable to support the intended use.

(3) Adequate safety and access to the impounded water shall be provided for proposed water users.

(4) Water impoundments will not result in the diminution of the quality or quantity of water used by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses.

(5) The design, construction, and maintenance of structures shall achieve the minimum design requirements applicable to structures constructed and maintained under the Watershed Protection and Flood Prevention Act, Pub. L. 83-566 (16 U.S.C. 1006). Requirements for impoundments that meet the size or other criteria of the Mine Safety and Health Administration, 30 CFR 77.216(a) are contained in U.S. Soil Conservation Service Technical Release No. 60, "Earth Dams and Reservoirs", June 1976. Requirements for impoundments that do not meet the size or other criteria contained in 30 CFR 77.216(a) are contained in U.S. Soil Conservation Service Practice Standard 378, "Ponds", October 1978. The technical release and practice standard are hereby incorporated by reference as they exist on the date of adoption of this Subpart. Notices of changes made in these publications will be periodically published by OSM in the Federal Register. Technical Release No. 60 and Practice Standard 378 are on file and available for inspection at the OSM Central Office, U.S. Department of the Interior, South Interior Bldg., 1951 Constitution Ave., NW., Washington, D.C. 20240, at each OSM Regional Office, District Office, and Field Office. Copies of the publications may also be obtained by writing to the above locations. Copies of these publications will also be on file for public inspection at the Federal Register Library, 1100 L St., NW., Washington, D.C.

(6) The size of the impoundment is adequate for its intended purposes.

(7) The impoundment will be suitable for the approved postmining land use.

(8) A permit is obtained for the dam pursuant to the Georgia Safe Dams Act of 1978 and Rules for Dam Safety (Chapter 391-3-8) promulgated by the Georgia Department of Natural Resources, Environmental Protection Division.

(b) Temporary impoundments of water in which the water is impounded in a dam shall meet the requirements of 30 CFR 910.817-46 (e)-(u).

(c) Excavations that will impound water during or after the mining operation shall have perimeter slopes that are stable and shall not be steeper than 1*v*:2*h*. Where surface runoff enters the impoundment area, the side slope shall be protected against erosion.

(d) Slope protection shall be provided to minimize surface erosion at the site and sediment control measures shall be required where necessary to reduce the sediment leaving the site.

(e) All embankments of temporary and permanent impoundments, and the surrounding areas and diversion ditches disturbed or created by construction, shall be graded, fertilized, seeded, and mulched to comply with the requirements of 30 CFR 910.817–111 through 910.817–117 immediately after the embankment is completed, provided that the active, upstream face of the embankment where water will be impounded may be riprapped or otherwise stabilized. Areas in which the vegetation is not successful or where rills and gullies develop shall be repaired and revegetated to comply with the requirements of 30 CFR 910.817–106 and 30 CFR 910.817–111 through 910.817–117.

(f) All dams and embankments meeting the size or other criteria of 30 CFR 77.216(a) shall be routinely inspected by a qualified registered professional engineer, or by someone under the supervision of a qualified registered professional engineer, in accordance with 30 CFR 77.216–3.

(g) All dams and embankments shall be routinely maintained during the mining operations. Vegetative growth shall be cut where necessary to facilitate inspection and repairs. Ditches and spillways shall be cleaned. Any combustible materials present on the surface, other than material such as mulch or dry vegetation used for surface stability, shall be removed and all other appropriate maintenance procedures followed.

(h) All dams and embankments that meet or exceed the size or other criteria of 30 CFR 77.216(a) shall be certified to the Office by a qualified registered professional engineer, immediately after construction and annually thereafter, as having been constructed and/or maintained to comply with the requirements of this Section. All dams and embankments that do not meet the size or other criteria of 30 CFR 77.216(a) shall be certified by either a qualified registered professional engineer or a registered land surveyor, except that all coal processing waste dams and embankments covered by 30 CFR 910.817–91 through 910.817–93 shall be certified by a qualified registered professional engineer. Certification reports shall include statements on—

(1) Existing and required monitoring procedures and instrumentation;

(2) The design depth and elevation of any impounded waters at the time of the initial certification report or the average and maximum depths and elevations of any impounded waters over the past year for the annual certification reports;

(3) Existing storage capacity of the dam or embankment;

(4) Any fires occurring in the construction material up to the date of the initial certification or over the past year for the annual certification reports; and

(5) Any other aspects of the dam or embankment affecting stability.

(i) Plans for any enlargement, reduction in size, reconstruction, or other modification of dams or impoundments shall be submitted to the Office and shall comply with the requirements of this Section. Except where a modification is required to eliminate an emergency condition constituting a hazard to public health, safety, or the environment, the Office shall approve the plans before modification begins.

§ 910.817–50 Hydrologic balance: Underground mine entry and access discharges.

(a) Surface entries and accesses to underground workings, including adits and slopes, shall be located, designed, constructed, and utilized to prevent or control gravity discharge of water from the mine.

(b) Gravity discharge of water from an underground mine, other than a drift mine subject to Paragraph (c) of this Section, may be allowed by the Office, if it is demonstrated that—

(1)(i) The discharge, without treatment, satisfies the water effluent limitations of 30 CFR 910.817–42 and all applicable State and Federal water quality standards; and

(ii) That discharge will result in changes in the prevailing hydrologic balance that are minimal and approved postmining land uses will not be adversely affected; or

(2)(i) The discharge is conveyed to a treatment facility in the permit area in accordance with § 910.817–42(a);

(ii) All water from the underground mine discharged from the treatment facility meets the effluent limitations of § 910.817–42 and all other applicable State and Federal statutes and regulations; and

(iii) Consistent maintenance of the treatment facility will occur throughout the anticipated period of gravity discharge.

(c) Notwithstanding anything to the contrary in Paragraphs (a) and (b) of this Section, for a draft mine first used after the implementation of this Part and located in acid-producing or iron-producing coal seams, surface entries and accesses shall be located in such a manner as to prevent any gravity discharge from the mine.

§ 910.817–52 Hydrologic balance: Surface and ground water monitoring.

(a) *Surface water.*

(1) Surface water monitoring shall be conducted in accordance with the monitoring program submitted under 30 CFR 910.784–14(b)(3) and approved by the Office. The Office shall determine the nature of data, frequency of collection, and reporting requirements. Monitoring shall—

(i) Be adequate to measure accurately and record water quantity and quality of discharges from the permit area;

(ii) All cases in which analytical results of the sample collections indicate noncompliance with a permit condition or applicable standard has occurred shall result in the person who conducts underground mining activities notifying the Office within 5 days. Where a National Pollutant Discharge Elimination System (NPDES) permit effluent limitation noncompliance has occurred, the person who conducts the underground mining activities shall forward the analytic results concurrently with the written notice of noncompliance.

(iii) Result in quarterly reports to the Office, to include analytical results from each sample taken during the quarter. Any sample results which indicate a permit violation will be reported immediately to the Office. In those cases where the discharge for which water monitoring reports are required is also subject to regulation by a NPDES permit issued under the Clean Water Act of 1977 (30 U.S.C. Sec. 1251–1378) and where such permit includes provisions for equivalent reporting requirements and requires filing of the water monitoring reports within 90 days or less of sample collection, the following alternative procedure shall be used. The person who conducts the underground mining activities shall submit to the Office on the same time schedule as required by the NPDES permit, or within 90 days following sample collection, whichever is earlier, either—

(A) A copy of the completed reporting form filed to meet NPDES permit requirements; or

(B) A letter identifying the State or Federal government official with whom the reporting form was filed to meet NPDES permit requirements and the date of filing.

(2) Surface water flow and quality, including discharges to surface waters from the permit area, and receiving waters, shall continue to be monitored after both the cessation of use of underground mine workings and after surface disturbed areas have been regraded and stabilized according to this Subpart. Data from this monitoring may be used to demonstrate that the quality and quantity of runoff without treatment is consistent with the requirement of this Subpart to minimize disturbance to the prevailing hydrologic balance and to attain the approved postmining land use. These data may also provide a basis for approval by the Office for removal of water quality or flow control systems.

(3) Equipment, structures, and other devices necessary to measure and sample accurately the quality and quantity of surface water discharges from the surface disturbed area and from underground mine workings shall be properly installed, maintained, and operated and shall be removed when no longer required.

§ 910.817–53 Hydrologic balance: Transfer of wells.

(a) An exploratory or monitoring well may only be transferred by the person who conducts underground mining activities for further use as water well with the prior approval of the Office. That person and the surface owner of the lands where the well is located shall jointly submit a written request to the Office for that approval.

(b) Upon an approved transfer of a well, the transferee shall—

(1) Assume primary liability for damages to persons or property from the well;

(2) Plug the well when necessary, but in no case later than abandonment of the well; and

(3) Assume primary responsibility for compliance with §§ 910.817–13 through 910.817–15 with respect to the well.

(c) Upon an approved transfer of a well, the transferor shall be secondarily liable for the transferee's obligations under Paragraph (b) of this Section, until release of the bond or other equivalent guarantee required by Subparts 910.800 through 910.806 for the area in which the well is located.

§ 910.817–54 [Reserved]

§ 910.817–55 Hydrologic balance: Discharge of water into an underground mine.

Water from the surface or from an underground mine shall not be diverted or discharged into other underground mine workings, unless the person who conducts the underground mining activities demonstrates to the Office that the discharge will—

(a) Abate water pollution or otherwise eliminate public hazards resulting from underground mining activities;

(b) Be discharged as a controlled flow;

(c) Meets the effluent limitations of § 910.817–42 for pH and total suspended solids, except that the pH and total suspended solid limitations may be exceeded, if approved by the Office and is limited to—

(1) Coal processing waste;

(2) Underground mine development waste;

(3) Fly ash from a coal-fired facility;

(4) Sludge from an acid mine drainage treatment facility;

(5) Flue gas desulfurization sludge; or

(6) Inert materials used for stabilizing underground mines;

(d) Continue as a controlled and identifiable flow and is ultimately treated by an existing treatment facility;

(e) In any event, the discharge from underground mines to surface waters will not cause, result in, or contribute to a violation of applicable water quality standards or effluent limitations;

(f) Minimizes disturbance to the hydrologic balance; and

(g) Meets with the approval of the Mine Safety and Health Administration.

§ 910.817–56 Hydrologic balance: Postmining rehabilitation of sedimentation ponds, diversions, impoundments, and treatment facilities.

Before abandoning the permit area, the person who conducts the underground mining activities shall renovate all permanent sedimentation ponds, diversions, impoundments and treatment facilities to meet criteria specified in the detailed design plan for the permanent structures and impoundments.

§ 910.817–57 Hydrologic balance: Stream buffer zones.

(a) No surface area within 100 feet of a perennial stream or a stream with a biological community determined according to Paragraph (c) below shall be disturbed by surface operations and facilities, except in accordance with §§ 910.817–43 through 910.817–44, unless the Office specifically authorizes underground mining activities closer to or through such a stream upon finding—

(1) That the original stream channel will be restored; and

(2) During and after the mining, the water quantity and quality from the stream section within 100 feet of the underground mining activities shall not be adversely affected.

(b) The area not to be disturbed shall be designated a buffer zone and marked as specified in § 910.817–11.

(c) A stream with a biological community shall be determined by the existence in the stream at any time of an assemblage of two or more species of arthropods or mulluscan animals which are—

(1) Adapted to flowing water for all or part of their life cycle;

(2) Dependent upon a flowing water habitat;

(3) Reproducing or can reasonably be expected to reproduce in the water body where they are found; and

(4) Longer than 2 millimeters at some stage or part of their life cycle spent in the flowing water habitat.

§ 910.817–58 Coal recovery.

Underground mining activities shall be conducted so as to maximize the utilization and conservation of the coal, while utilizing the best technology currently available to maintain environmental integrity, so that reaffecting the land in the future through surface coal mining operations is minimized.

§ 910.817–61 Use of explosives: General requirements.

(a) Sections 910.817–61 through 910.817–68 apply only to surface blasting activities incident to underground mining, including, but not limited to, initial rounds of slopes and shafts.

(b) Each person who conducts underground mining activities shall comply with all applicable State and Federal laws in the use of explosives.

(c) All blasting operations shall be conducted by experienced, trained, and competent persons who understand the hazards involved. Each person responsible for blasting operations shall possess a valid certification as required by Subpart 910.850 when it is promulgated.

§ 910.817–62 Use of explosives: Preblasting survey.

(a) On the request to the Office by a resident or owner of a dwelling or structure that is located within one-half mile of any surface blasting activity covered by §§ 910.817–61 through 910.817–68, the person who conducts the underground mining activities shall promptly conduct a preblasting survey of the dwelling or structure and promptly submit a report of the survey to the Office and to the person requesting the survey. If a structure is renovated or added to, subsequent to a preblast survey, then upon request to the Office a survey of such additions and renovations shall be performed in accordance with this Section.

(b) The survey shall determine the condition of the dwelling or structure and document any preblasting damage and other physical factors that could reasonably be affected by the blasting. Assessments of structures such as pipes.

cables, transmission lines, and wells and other water systems shall be limited to surface condition and readily available data. Special attention shall be given to the preblasting condition of wells and other water systems used for human, animal, or agricultural purposes and to the quantity and quality of the water.

(c) A written report of the survey shall be prepared and signed by the person who conducted the survey. The report may include recommendations of any special conditions or proposed adjustments to the blasting procedure which should be incorporated into the blasting plan to prevent damage. Copies of the report shall be provided to the person requesting the survey and to the Office. If the person requesting the survey disagrees with the results of the survey, he or she may notify, in writing, both the permittee and the Office of the specific areas of disagreement.

§ 910.817-65 Use of explosives: Surface blasting requirements.

(a) A resident or owner of a dwelling or structure that is located within one-half mile of any area affected by surface blasting activities shall be notified approximately 24 hours prior to any surface blasting event.

(b) All blasting shall be conducted between sunrise and sunset.

(1) The Office may specify more restrictive time periods, based on public requests or other relevant information according to the need to adequately protect the public from adverse noise.

(2) Blasting may, however, be conducted between sunset and sunrise if:

(i) A blast that has been prepared during the afternoon must be delayed due to the occurrence of an unavoidable hazardous condition and cannot be delayed until the next day because a potential safety hazard would result that cannot be adequately mitigated;

(ii) In addition to the required warning signals, oral notices are provided to persons within one-half mile of the blasting site; and

(iii) A complete written report of blasting at night is filed by the person conducting the surface blasting activities with the Office not later than 3 days after the night blasting. The report shall include a description in detail of the reason for the delay in blasting including why the blasting could not be held over the the next day, when the blast was actually conducted, the warning notices given, and a copy of the blast report required by § 910.817-66.

(c) Warning and all-clear signals of different character that are audible within a range of one-half mile from the point of the blast shall be given. Each person within the permit area and each person who resides or regularly works within one-half mile of the permit area shall be notified of the meaning of the signals through appropriate instructions. These instructions shall be periodically delivered or otherwise communicated in a manner which can reasonably be expected to inform such persons of the meaning of the signals. Each person who conducts surface blasting incident to underground mining activities shall maintain signs in accordance with § 910.817-11(f).

(d) Access to an area possibly subject to flyrock from blasting shall be regulated to protect the public and livestock. Access to the area shall be controlled to prevent the presence of livestock or unauthorized personnel during blasting until an authorized representative of the person who conducts the underground mining activities has reasonably determined—

(1) That no unusual circumstances, such as imminent slides or undetonated charges, exist; and

(2) That access to and travel in or through the area can be safely resumed.

(e)(1) Airblast shall be controlled so that it does not exceed the values specified below at any dwelling, public building, school, church, or commercial or institutional building, unless such structure is owned or leased by the person who conducts the underground mining activities and is not leased to any other person. If a building owned by the person conducting the underground mining activities is leased to another person, the lessee may sign a waiver relieving the operator from meeting the airblast limitations of this paragraph.

Lower frequency limit of measuring system, H_z(± 3 dB)	Maximum level in dB
0.1 Hz or lower—flat response	134 peak.
2 Hz or lower—flat response	132 peak.
6 Hz lower—flat response	130 peak.
C-weighted, slow response	105C.

(2) In all cases except the C-weighted, slow response, the measuring systems used must have a flat frequency response of at least 200 Hz at the upper end. The C-weighted shall be measured with a Type 1 sound level meter that meets the standard ANSI S1.4-1971 specifications.

The ANSI S1.4-1971 is hereby incorporated by reference as it exists on the date of adoption of this Subpart. Notices of changes made to this publication will be periodically published by OSM in the Federal Register. ANSI S1.4-1971 is on file and available for inspection at the OSM Central Office, U.S. Department of the Interior, South Interior Building, Washington, D.C. 20240, at each OSM Regional Office, District Office, and Field Office. Copies of this publication may also be obtained by writing to the above locations. A copy of this publication will also be on file for public inspection at the Federal Register Library, 1100 L St., N.W., Washington, D.C.

(3) The person who conducts blasting may satisfy the provisions of this Section by meeting any one of the four specifications in the chart in paragraph (e)(1) of this section.

(4) The Office may require an airblast measurement of any or all blasts, and may specify the location of such measurements.

(f) Blasting shall not be conducted within—

(1) 300 feet of any building used as a dwelling, school, church, hospital, or nursing facility; and

(2) 300 feet of facilities including, but not limited to, disposal wells, petroleum or gas-storage facilities, municipal water-storage facilities, fluid-transmission pipelines, gas or oil-collection lines, or water and sewage lines.

(g) Flyrock, including blasted material traveling along the ground, shall not be cast from the blasting vicinity more than half the distance to the nearest dwelling or other occupied structure and in no case beyond the line of property owned or leased by the permittee, or beyond the area of regulated access required under paragraph (d) of this section.

(h) Blasting shall be conducted to prevent injury to persons, damage to public or private property outside the permit area, adverse impacts on any underground mine, and change in the course, channel, or availability of ground or surface waters outside the permit area.

(i) In all blasting operations, except as otherwise authorized in this Section, the maximum peak particle velocity shall not exceed 1 inch per second at the location of any dwelling, public building, school, church, or commercial or institutional building. Peak particle velocities shall be recorded in 3 mutually perpendicular directions. The maximum peak particle velocity shall be the largest of any of the three measurements. The Office may reduce the maximum peak particle velocity allowed, if it determines that a lower standard is required because of density of population or land use, age or type of structure, geology or hydrology of the area, frequency of blasts, or other factors.

(j) If blasting is conducted to prevent adverse impacts on any underground mine and changes in the course, channel, or availability of ground or surface water outside the permit area, then the maximum peak particle velocity limitation of Paragraph (i) of this Section shall not apply at the following locations.

(1) At structures owned by the person conducting the mining activity, and not leased to another party.

(2) At structures owned by the person conducting the mining activity, and leased to another party, if a written waiver by the lessee is submitted to the Office prior to blasting.

(k) An equation for determining the maximum weight of explosives that can be detonated within any 8-millisecond period is in Paragraph (1) of this Section. If the blasting is conducted in accordance with this equation, the peak particle velocity shall be deemed to be within the 1-inch-per-second limit.

(l)(1) The maximum weight of explosives to be detonated within any 8-millisecond may be determined by the formula $W=(D/60)^2$ where W = the maximum weight of explosives, in pounds, that can be detonated in any 8-millisecond period, and D = the distance, in feet, from the blast to the nearest dwelling, school, church, or commercial or institutional building.

(2) For distances between 300 and 5,000 feet, solution of the equation results in the following maximum weight:

Distance, in feet (D)	Maximum weight, in pounds (W)
300	25
350	34
400	44
500	69
600	100
700	136
800	178
900	225
1,000	278
1,110	336
1,200	400
1,300	469
1,400	544
1,500	625
1,600	711
1,700	803
1,800	900
1,900	1,002
2,000	1,111
2,500	1,736
3,000	2,500
3,500	3,403
4,000	4,444
4,500	5,625
5,000	6,944

§ 910.817-67 Use of explosives: Seismographic measurements.

(a) Where a seismograph is used to monitor the velocity of ground motion and the peak particle velocity limit of 1 inch per second is not exceeded, the equation in § 910.817-65(1) need not be used. If that equation is not used by the person conducting underground mining activities, a seismographic record shall be obtained for each shot.

(b) The use of a modified equation from that specified in § 910.817-65(1), to determine maximum weight of explosives per delay for blasting operations at a particular site, may be approved by the Office on receipt of a petition accompanied by reports including seismograph records of test blasting on the site. In no case shall the Office approve the use of a modified equation where the peak particle velocity of 1 inch per second required in § 910.817-65(i) would be exceeded.

(c) The Office may require a seismograph record of any or all blasts and may specify the location at which such measurements are taken.

§ 910.817-66 Use of explosives: Records of blasting operations.

A record of each blast, including seismograph reports, shall be retained for at least 3 years and shall be available for inspection by the Office and the public on request. The record shall contain the following data:

(a) Name of the operator conducting the blast.

(b) Location, date, and time of blast.

(c) Name, signature, and license number of blaster-in-charge.

(d) Direction and distance, in feet, to the nearest dwelling, school, church, or commercial or institutional building either—

(1) Not located in the permit area; or

(2) Not owned nor leased by the person who conducts the underground mining activities.

(e) Weather conditions, including temperature, wind direction, and approximate velocity.

(f) Type of material blasted.

(g) Number of holes, burden, and spacing.

(h) Diameter and depth of holes.

(i) Types of explosives used.

(j) Total weight of explosives used.

(k) Maximum weight of explosives detonated within any 8-millisecond period.

(l) Maximum number of holes detonated within any 8-millisecond period.

(m) Initiation system.

(n) Type and length of stemming.

(o) Mats or other protections used.

(p) Type of delay detonator and delay periods used.

(q) Sketch of the delay pattern.

(r) Number of persons in the blasting crew.

(s) Seismographic records, where required, including the calibration signal of the gain setting and—

(1) Seismograph reading, including exact location of seismograph and its distance from the blast;

(2) Name of the person taking the seismograph reading; and

(3) Name of person and firm analyzing the seismograph record.

§ 910.817-71 Disposal of underground development waste and excess spoil: General requirements.

(a) Underground development waste and spoil not required to achieve the approximate original contour and which is not used as backfill shall be hauled or conveyed to and placed in designated disposal areas within a permit area if the disposal areas are authorized for such purposes in the approved permit application in accordance with §§ 910.817-71 through 910.817-74. The material shall be placed in a controlled manner to ensure—

(1) That leachate and surface runoff from the fill will not degrade surface or ground waters or exceed the effluent limitations of § 910.817-42;

(2) Stability of the fill; and

(3) That the land mass designated as the disposal area is suitable for reclamation and revegetation compatible with the natural surroundings.

(b) The fill shall be designed using recognized professional standards, certified by a registered professional engineer, and approved by the Office.

(c) All vegetative and organic materials shall be removed from the disposal area and the topsoil shall be removed, segregated and stored or replaced in accordance with §§ 910.817-21 through 910.817-25. If approved by the Office organic material may be used as mulch or may be included in the topsoil to control erosion, promote growth of vegetation, or increase the moisture retention of the soil.

(d) Slope protection shall be provided to minimize surface erosion at the site. Diversion design shall conform with the requirements of § 910.816-43. All disturbed areas, including diversion ditches that are not riprapped, shall be vegetated upon completion of construction.

(e) The disposal areas shall be located on the most moderately sloping and naturally stable areas available as approved by the Office. If such placement provides additional stability and prevents mass movement, fill materials suitable for disposal shall be placed upon or above a natural terrace, bench, or berm.

(f) The fill materials shall be hauled or conveyed and placed in horizontal lifts in a controlled manner, concurrently compacted as necessary to ensure mass stability and prevent mass movement, covered, and graded to allow surface and sub-surface drainage to be compatible with the natural surroundings and ensure a long term static safety factor of 1.5.

(g) The final configuration of the fill must be suitable for postmining land uses approved in accordance with § 910.817–133, except that no depressions or impoundments shall be allowed on the completed fill.

(h) Terraces may be utilized to control erosion and enhance stability if approved by the Office and consistent with § 910.817–102(b).

(i) Where the slope in the disposal area exceeds 1*v*:2.6*h* (36 percent), or such lesser slope as may be designated by the Office based on local conditions, keyway cuts (excavations to stable bedrock) or rock toe buttresses shall be constructed to stabilize the fill. Where the toe of the spoil rests on a downslope, stability analyses shall be performed in accordance with § 910.784–19 to determine the size of the rock toe buttresses or keyway cuts.

(j) The fill shall be inspected for stability by a registered engineer or other qualified professional specialist experienced in the construction of earth and rockfill embankments at least quarterly throughout construction, and during the following critical construction periods: (1) Removal of all organic material and topsoil, (2) placement of underdrainage systems, (3) installation of surface drainage systems, (4) placement and compaction of fill materials, and (5) revegetation. The registered engineer or other qualified professional specialist shall provide to the Office a certified report within 2 weeks after each inspection that the fill has been constructed as specified in the design approved by the Office. A copy of the report shall be retained at the minesite.

(k) Coal processing waste shall not be disposed of in valley or head-of-hollow fills and may only be disposed of with underground development waste, or in other excess spoil fills, if such waste is—

(1) Placed in accordance with § 910.817–85;

(2) Demonstrated to be non-toxic and non-acid forming; and

(3) Demonstrated to be consistent with the design stability of the fill.

(l) If the disposal area contains springs, natural or manmade watercourses, or wet weather seeps, an underdrain system consisting of durable rock shall be constructed from the wet areas in a manner that prevents infiltration of the water into the spoil material. The underdrain system shall be protected by an adequate filter and shall be designed and constructed using standard geotechnical engineering methods.

(m) The foundation and abutments of the fill shall be stable under all conditions of construction and operation. Sufficient foundation investigations and laboratory testing of foundation materials shall be performed in order to determine the design requirements for stability of the foundation. Analyses of foundation conditions shall include the effect of underground mine workings, if any, upon the stability of the structure.

(n) Underground development waste and excess spoil may be returned to underground workings only in accordance with the disposal plans submitted under 30 CFR 910.784–25 and approved by the Office and MSHA.

(o) Disposal of excess spoil from an upper actively mined bench to a lower pre-existing bench by means of gravity transport is permitted provided that:

(1) The operator receives the prior written approval of the regulatory authority upon demonstration by the operator that the spoil to be disposed of by gravity transport is not necessary for elimination of the highwall and return of the upper bench to approximate original contour;

(2) The following conditions and performance standards in addition to the environmental performance standards of this part are met:

(i) The highwall of the lower bench intersects (meets) the upper actively mined bench with no natural slope between them;

(ii) Only underground development waste and spoil in excess of that necessary to eliminate the highwall and return the upper bench to the approximate original contour may be placed on the lower solid bench;

(iii) The gravity transport points are determined on a site specific basis by the operator and approved by the regulatory authority to minimize hazards to health and safety and to ensure that damage will be minimized should spoil accidently move down slope of the lower bench;

(iv) The excess spoil is placed only on solid portions of the lower pre-existing bench;

(v) All excess spoil on the lower solid bench, including that spoil immediately below the gravity transport points, is rehandled and placed in a controlled manner to eliminate as much of the lower highwall as practicable. Rehandling and placing the excess spoil on the lower solid bench shall consist of placing the excess spoil in horizontal lifts in a controlled manner, concurrently compacted as necessary to ensure mass stability and prevent mass movement, and graded to allow surface and subsurface drainage to be compatible with the natural surroundings to ensure a long term static safety factor of 1.3. Spoil on the bench prior to the current mining operation need not be rehandled except to ensure stability of the fill.

(vi) A safety berm is constructed on the solid portion of the lower bench prior to gravity transport of the excess spoil. Where there is insufficient material on the lower bench to construct a safety berm, only that amount of spoil necessary for the construction of the berm may be gravity transported to the lower bench prior to construction of the berm. The safety berm must be removed by the operator by final grading operations;

(vii) The area of the lower bench used to facilitate the disposal of excess spoil in considered an affected area.

§ 910.817–72 Disposal of underground development waste and excess spoil: Valley fills.

Valley fills shall meet all of the requirements of § 910.817–71 and the additional requirements of this section.

(a) The fill shall be designed to attain a long term static factor of safety of 1.5, based upon data obtained from subsurface exploration, geotechnical testing, foundation design, and accepted engineering analyses.

(b) A sub-drainage system for the fill shall be constructed in accordance with the following:

(1) A system of underdrains constructed of durable rock shall meet the requirements of paragraph (b)(4) of this section and:

(i) Be installed along the natural drainage system;

(ii) Extend from the toe to the head of the fill; and

(iii) Contain lateral drains to each area of potential drainage or seepage.

(2) A filter system to ensure the proper functioning of the rock underdrain system shall be designed and constructed using standard geotechnical engineering methods.

(3) In constructing the underdrains, no more than 10 percent of the rock may be less than 12 inches in size and no single rock may be larger than 25 percent of the width of the drain. Rock used in underdrains shall meet the requirements of paragraph (b)(4) of this section. The minimum size of the main underdrain shall be:

Total amount of fill material	Predominant type of fill material	Minimum size of drain, in feet	
		Width	Height
Less than 1,000,000 yd³.	Sandstone	10	4
Do	Shale	16	8
More than 1,000,000 yd³.	Sandstone	16	8
Do	Shale	16	16

(4) Underdrains shall consist of non-degradable, non-acid or toxic forming rock such as natural sand and gravel, sandstone, limestone, or other durable rock that will not slake in water and will be free of coal, clay, or shale.

(c) Underground development waste and excess spoil shall be hauled or conveyed and placed in a controlled manner and concurrently compacted as specified by the Office in lifts no greater than four feet or less if required by the Office to—

(1) Achieve the densities designed to ensure mass stability;

(2) Prevent mass movement;

(3) Avoid contamination of the rock underdrain or rock core; and

(4) Prevent formation of voids.

(d) Surface water runoff from the area above the fill shall be diverted away from the fill and into stabilized diversion channels designed to pass safely the runoff from the 100-year, 24-hour precipitation event or larger event specified by the Office. Surface runoff from the fill surface shall be diverted to stabilized channels of the fill which will safely pass runoff from a 100-year, 24-hour precipitation event. Diversion design shall comply with the requirements of § 910.817–43(f).

(e) The tops of the fill and any terrace constructed to stabilize the face shall be graded no steeper than 1*v*:20*h* (5 percent). The vertical distance between terraces shall not exceed 50 feet.

(f) Drainage shall not be directed over the outslope of the fill.

(g) The outslope of the fill shall not exceed 1*v*:2*h* (50 percent). The Office may require a flatter slope.

§ 910.817–73 Disposal of underground development waste and excess spoil: Head-of-hollow fills.

Disposal of underground development waste and excess spoil in the head-of-hollow fill shall meet all standards set forth in §§ 910.817–71 and 910.817–72 and the additional requirements of this Section.

(a) The fill shall be designed to completely fill the disposal site to the approximate elevation of the ridgeline. A rock-core chimney drain may be utilized instead of the subdrain and surface diversion system required for valley fills. If the crest of the fill is not approximately at the same elevation as the low point of the adjacent ridgeline, the fill must be designed as specified in Section 910.817–72, with diversion of runoff around the fill.

(b) The alternative rock-core chimney drain system shall be designed and incorporated into the construction of head-of-hollow fills as follows:

(1) The fill shall have, along the vertical projection of the main buried stream channel or rill, a vertical core of durable rock at least 16 feet thick which shall extend from the toe of the fill to the head of the fill, and from the base of the fill to the surface of the fill. A system of lateral rock underdrains shall connect this rock core to each area of potential drainage or seepage in the disposal area. Rocks used in the rock core and underdrains shall meet the requirements of § 910.817–72(b).

(2) A filter system to ensure the proper functioning of the rock core shall be designed and constructed using standard geotechnical engineering methods.

(3) The grading may drain surface water away from the outslope of the fill and toward the rock core. The maximum slope of the top of the fill shall be 1*v*:33*h* (3 percent). Instead of the requirements of § 910.817–71(g), a drainage pocket may be maintained at the head of the fill during and after construction, to intercept surface runoff and discharge the runoff through or over the rock drain, if stability of the fill is not impaired. In no case shall this pocket or sump have a potential for impounding more than 10,000 cubic feet of water. Terraces on the fill shall be graded with a 3- to 5-percent grade toward the fill and a 1-percent slope toward the rock core.

(c) The drainage control system shall be capable of safely passing the runoff from a 100-year, 24-hour precipitation event or larger event specified by the Office.

§ 910.817–74 Disposal of underground development waste and excess spoil: Durable rock fills.

In lieu of the requirements of §§ 910.817–72 and 910.817–73, the Office may approve alternate methods for disposal of hard rock spoil, including fill placement by dumping in a single lift, on a site specific basis, provided the services of a registered professional engineer experienced in the design and construction of earth and rockfill embankments are utilized and provided the requirements of this section and § 910.817–71 are met. For this section, hard rock spoil shall be defined as rockfill consisting of at least 80 percent by volume of sandstone, limestone, or other rocks that do not slake in water. Resistance of the hard rock waste or spoil to slaking shall be determined by using the slake index and slake durability tests in accordance with guidelines and criteria established by the Office.

(a) Waste or spoil is to be transported and placed in a specified and controlled manner which will ensure stability of the fill.

(1) The method of waste spoil placement shall be designed to ensure mass stability and prevent mass movement in accordance with the additional requirements of this Section.

(2) Loads of noncemented clay shale and/or clay spoil in the fill shall be mixed with hard rock waste spoil in a controlled manner to limit on a unit basis concentrations of noncemented clay shale and clay in the fill. Such materials will comprise no more than 20% of the fill volume as determined by tests performed by a registered engineer and approved by the Office.

(b)(1) Stability analyses shall be made by the registered professional engineer. Parameters used in the stability analyses shall be based on adequate field reconnaissance, subsurface investigations, including borings, and laboratory tests.

(2) The embankment which constitutes the valley fill or head-of-hollow fill shall be designed with the following factors of safety:

Case	Design condition	Minimum factor of safety
I	End of construction	1.5
II	Earthquake	1.1

(c) The design of a head-of-hollow fill shall include an internal drainage system which will ensure continued free drainage of anticipated seepage from precipitation and from springs or wet weather seeps.

(1) Anticipated discharge from springs and seeps and due to precipitation shall be based on records and/or field investigations to determine seasonal variation. The design of the internal drainage system shall be based on the maximum anticipated discharge.

(2) All granular material used for the drainage system shall be free of clay and consist of durable particles such as natural sands and gravels, sandstone, limestone or other durable rock which will not slake in water.

(3) The internal drain shall be protected by properly designed filter system.

(d) Surface water runoff from the areas adjacent to and above the fill shall not be allowed to flow onto the fill and shall be diverted into stabilized channels which are designed to pass the runoff safely from a 100-year, 24-hour precipitation event. Diversion design shall comply with the requirements of § 910.817–43(f).

(e) The top surface of the completed fill shall be graded such that the final slope after settlement will be no steeper than 1*v*:20*h* (5 percent) toward properly designed drainage channels in natural ground along the periphery of the fill. Surface runoff from the top surface of the fill shall not be allowed to flow over the outslope of the fill.

(f) Surface runoff from the outslope of the fill shall be diverted off the fill to properly designed channels which will safely pass a 100-year, 24-hour precipitation event. Diversion design shall comply with the requirements of § 910.817–43(f).

(g) Terraces shall be constructed on the outslope if required for control of erosion or for roads included in the approved postmining land use plan. Terraces shall meet the following requirements:

(1) The slope of the outslope between terrace benches shall not exceed 1*v*:2*h* (50 percent).

(2) To control surface runoff, each terrace bench shall be graded to a slope 1*v*:20*h* (5 percent) toward the embankment. Runoff shall be collected by a ditch along the intersection of each terrace bench and the outslope.

(3) Terrace ditches shall have a 5 percent slope toward the channels specified in paragraph (f) of this section, unless steeper slopes are necessary in conjunction with approved roads.

§ 910.817–81 Coal processing waste banks: General requirements.

(a) All coal processing waste shall be hauled or conveyed and placed in new and existing disposal areas approved by the Office for this purpose. These areas shall be within a permit area. The disposal area shall be designed, constructed and maintained—

(1) In accordance with §§ 910.817–71 and 910.817–72, this section, and §§ 910.817–82 through 910.817–88; and

(2) To prevent combustion.

(b) Coal processing waste materials from activities located outside a permit area, such as those activities at other mines or abandoned mine waste piles, may be disposed of in the permit area only if approved by the Office. Approval shall be based on a showing by the person who conducts underground mining activities in the permit area, using hydrologic, geologic, geotechnical, physical, and chemical analyses, that disposal of these materials does not—

(1) Adversely affect water quality, water flow, or vegetation;

(2) Create public health hazards; or

(3) Cause instability in the disposal areas.

§ 910.817–82 Coal processing waste banks: Site inspection.

(a) All coal processing waste banks shall be inspected, on behalf of the person conducting underground mining activities, by a qualified registered engineer or other person approved by the Office.

(1) Inspections shall occur at least quarterly, beginning within 7 days after preparation of the disposal area begins. The Office may require more frequent inspections based upon an evaluation of the potential danger to the health or safety of the public and the potential harm to land, air and water resources. Inspections may terminate when the coal processing waste bank has been graded, covered in accordance with § 910.817–85, topsoil has been distributed on the bank in accordance with § 910.817–24, or at such a later time as the Office may require.

(2) Inspections shall include such observations and tests as may be necessary to evaluate the potential hazard to human life and property, ensure that all organic material and topsoil have been removed and that proper construction and maintenance are occurring in accordance with the plan submitted under 30 CFR 910.784–16 through 910.784–19 and approved by the Office.

(3) The engineer or other approved inspector shall consider steepness of slopes, seepage, and other visible factors which could indicate potential failure, and the results of failure with respect to the threat to human life and property.

(4) Copies of the inspection findings shall be maintained at the mine site.

(b) If any inspection discloses that a potential hazard exists, the Office shall be informed promptly of the finding and of the emergency procedures formulated for public protection and remedial action. If adequate procedures cannot be formulated or implemented, the Office shall be notified immediately. The Office shall then notify the appropriate emergency agencies that other emergency procedures are required to protect the public from the coal processing waste area.

§ 910.817–83 Coal processing waste banks: Water control measures.

(a) Unless the operator demonstrates that a subdrain system is not required to ensure structural integrity and protection of the surface and ground water quality, a properly designed sub-drainage system shall be provided, which shall—

(1) Intercept all ground water sources;

(2) Be protected by an adequate filter; and

(3) Be covered so as to protect against the entrance of surface water or leachate from the coal processing waste.

(b) All surface drainage from the area above the coal processing waste bank and from the crest and face of the waste disposal area shall be diverted, in accordance with § 910.817–72(d).

(c) Slope protection shall be provided to minimize surface erosion at the site. All disturbed areas, including diversion ditches that are not riprapped, shall be vegetated upon completion of construction.

(d) Discharges of all water from a coal processing waste bank shall comply with the 30 CFR 910.817–41, 910.817–42, 910.817–45 through 910.817–46, 910.817–52, and 910.817–55.

§ 910.817–85 Coal processing waste banks: Construction requirements.

(a) Coal processing waste banks shall be constructed in compliance with 30 CFR 910.817–71 and 910.817–72, except to the extent the requirements of those Sections are specifically varied in this section.

(b) Coal processing waste banks shall have a minimum static factor of safety of 1.5.

(c) Compaction requirements during construction or modification of all coal processing waste banks shall meet the requirements of this Paragraph, instead of those specified in § 910.817–72(c). The coal processing waste shall be—

(1) Spread in layers no more than 24 inches in thickness; and

(2) Compacted to attain 90 percent of the maximum dry density in order to prevent spontaneous combustion and to provide the strength required for stability of the coal processing waste bank. Dry densities shall be determined in accordance with the American Association of State Highway and Transportation Officials (AASHTO) Specification T99–74 (Twelfth Edition) (July 1978) or an equivalent method. AASHTO T99–74 is hereby incorporated by reference as it exists on the date of adoption of this subpart. Notices of changes made to this publication will be periodically published by OSM in the Federal Register. AASHTO T99–74 is on file and available for inspection at the OSM Central Office, U.S. Department of the Interior, South Interior Building, Washington, D.C. 20240, at each OSM Regional Office, District Office, and Field Office. Copies of this publication may also be obtained by writing to the above locations. A copy of this publication will also be on file for public inspection at the Federal Register Library, 1100 L St., NW., Washington, D.C.

(3) Variations may be allowed in these requirements for the disposal of dewatered fine coal waste (minus 28 sieve size) with approval of the Office.

(d) Following grading of the coal processing waste bank, the site shall be covered with a minimum of 4 feet of the best available non-toxic and non-combustible material, in accordance with 30 CFR 910.817–22(e), and in a manner that does not impede flow from subdrainage systems. The coal processing waste bank shall be revegetated in accordance with 910.817–111 through 910.817–117. The Office may allow less than 4 feet of cover material based on physical and chemical analyses which show that the requirements of §§ 910.817–111 through 910.817–117 will be met.

§ 910.817–86 Coal processing waste: Burning.

Coal processing waste fires shall be extinguished by the person who conducts the underground mining activities, in accordance with a plan approved by the Office and the Mine Safety and Health Administration. The plan shall contain, as a minimum, provisions to ensure that only those persons authorized by the operator, and who have an understanding of the procedure to be used, shall be involved in the extinguishing operations.

§ 910.817–87 Coal processing waste: Burned waste utilization.

Before any burned coal processing waste or other materials or refuse is removed from a disposal area, approval shall be obtained from the Office. A plan for the method of removal, with maps and appropriate drawings to illustrate the proposed sequence of the operation and methods of compliance with this subpart, shall be submitted to the Office. Consideration shall be given in the plan to potential hazards which may be created by removal to persons working or living in the vicinity of the structure. The plan shall be certified by a qualified engineer.

§ 910.817–88 Coal processing waste: Return to underground workings.

Coal processing waste may be returned to underground mine workings only in accordance with the waste disposal program approved by the Office and MSHA under 30 CFR 910.784–19 and 910.784–25.

§ 910.817–89 Disposal of noncoal wastes.

(a) Noncoal wastes including, but not limited to, grease, lubricants, paints, flammable liquids, garbage, abandoned mining machinery, timber and other combustibles generated during underground mining activities shall be placed and stored in a controlled manner in a designated portion of the permit area. Placement and storage shall ensure that leachate and surface runoff do not degrade surface or ground water, fires are prevented, and that the area remains stable and suitable for reclamation and revegetation compatible with the natural surroundings.

(b) Final disposal of noncoal wastes shall be in a designated disposal site in the permit area. Disposal sites shall be designed and constructed with appropriate water barriers on the bottom and sides of the designated site. Wastes shall be routinely compacted and covered to prevent combustion and wind-born waste. When disposal is completed, a minimum of 2 feet of soil cover shall be placed over the site, slopes stabilized, and revegetation accomplished in accordance with 30 CFR 910.817–111 through 910.817–117. Operation of the disposal site shall be conducted in accordance with all local, State, and Federal requirements, including Chapter 391–3–4 Solid Waste Management Rules of Georgia Department of Natural Resources.

(c) At no time shall any solid waste material be deposited at refuse embankments or impoundment sites, nor shall any solid waste disposal excavation be placed within 8 feet of any coal outcrop or coal storage area.

§ 910.817–91 Coal processing waste: Dams and embankments: General requirements.

(a) Sections 910.817–91 through 910.817–93 apply to dams and embankments, constructed of coal processing waste or intended to impound coal processing waste, whether they were completed before adoption of this Part.

(b) Waste shall not be used in the construction of dams and embankments unless it has been demonstrated to the Office that the stability of such a structure conforms with the requirements of 30 CFR 910.817–93(a). It shall also be demonstrated that the use of waste material shall not have a detrimental effect on downstream water quality or the environment due to acid seepage through the dam or embankment. All demonstrations shall be submitted to and approved by the Office.

§ 910.817–92 Coal processing waste: Dams and embankments: Site preparation.

Before coal processing waste is placed at a dam or embankment site—

(a) All trees, shrubs, grasses, and other organic material shall be cleared and grubbed from the site, and all combustibles shall be removed and stockpiled in accordance with the requirements of this Subpart; and

(b) Surface drainage that may cause erosion to the embankment area or the embankment features, whether during construction or after completion, shall be diverted away from the embankment by diversion ditches that comply with the requirements of 30 CFR 910.817–43. Adequate outlets for discharge from these diversions shall be in accordance with 30 CFR 910.817–47. Diversions that are designed to divert drainage from the upstream area away from the impoundment area shall be designed to carry the peak runoff from a 100-year, 24-hour precipitation event. The diversion shall be maintained to prevent blockage, and the discharges shall be in accordance with 30 CFR 910.817–47. Sediment control measures shall be provided at the discharge of each diversion ditch before entry into natural watercourses in accordance with 30 CFR 910.817–41 through 910.817–46.

§ 910.817–93 Coal processing waste: Dams and embankments: Design and construction.

(a) The design of each dam and embankment constructed of coal processing waste or intended to impound such waste shall comply with the requirements of 30 CFR 910.817–49(a)(5), (e), (f), (g), (h), and (i) modified as follows.

(1) The design freeboard between the lowest point on the embankment crest and the maximum water elevation shall be at least 3 feet. The maximum water elevation shall be that determined by the freeboard hydrograph criteria contained in the U.S. Soil Conservation Service criteria referenced in 30 CFR 910.817–49.

(2) The dam and embankment shall have a minimum safety factor of 1.5 for the partial pool with steady seepage saturation conditions, and the seismic safety factor shall be at least 1.2.

(3) The dam or embankment foundation and abutments shall be designed to be stable under all conditions of construction and operation of the impoundment. Sufficient foundation investigations and laboratory testing shall be performed to

determine the safety factors of the dam or embankment for all loading conditions appearing in paragraph (a)(2) of this section or the publications referred to in 30 CFR 910.817-49, and for all increments of construction.

(b) Spillways and outlet works shall be designed to provide adequate protection against erosion and corrosion. Inlets shall be protected against blockage.

(c) Dams or embankments constructed of impounding waste materials shall be designed so that at least 90 percent of the water stored during the design precipitation event shall be removed within a 10-day period.

§ 910.817-95 Air resources protection. [Reserved]

§ 910.817-97 Protection of fish, wildlife, and related environmental values.

(a) Any person conducting underground mining activities shall, to the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the activities on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable.

(b) A person who conducts underground mining activities shall promptly report to the Office the presence in the permit area of any critical habitat of a threatened or endangered species listed by the Secretary, any plant or animal listed as threatened or endangered by the State, or any bald or golden eagle, of which that person becomes aware and which was not previously reported to the Office by that person.

(c) A person who conducts underground mining activities shall ensure that the design and construction of electric power lines and other transmission facilities used for or incidental to the underground mining activities on the permit area shall be designed and constructed in accordance with the guidelines set forth in the "Environmental Criteria for Electric Transmission Systems" (USDI, USDA (1970)), or in alternative guidance manuals approved by the Office. Distribution lines shall be designed and constructed in accordance with REA Bulletin 61-10 "Powerline Contacts by Eagles and Other Large Birds" or in alternative guidance manuals approved by the Office. For informational purposes, these two documents are available at the OSM Office, U.S. Department of the Interior, South Interior Building, Washington, D.C. 20240, and at each OSM Regional Office, District Office and Field Office.

(d) Each person who conducts underground mining activities shall to the extent possible using the best technology currently available—

(1) Locate and operate haul and access roads so as to avoid or minimize impacts to important fish and wildlife species or other species protected by State or Federal law;

(2) Fence roadways where specified by the Office to guide locally important wildlife to roadway underpasses or overpasses and construct the necessary passages. No new barrier shall be located in known and important wildlife migration routes.

(3) Fence, cover, or use other appropriate methods to exclude wildlife from ponds which contain hazardous concentrations of toxic-forming materials;

(4) Restore, enhance where practicable, or avoid disturbances to habitats of unusually high value for fish and wildlife;

(5) Restore, enhance where practicable, or maintain natural riparian vegetation on the banks of streams, lakes, and other wetland areas;

(6) Afford protection to aquatic communities by avoiding stream channels as required in §§ 910.817-57 and 910.817-128 or restoring stream channels as required in § 910.817-44.

(7) Not use persistent pesticides on the area during underground mining and reclamation activities unless approved by the Office;

(8) To the extent possible prevent, control, and suppress range forest and coal fires which are not approved by the Office as part of a management plan.

(9) If fish and wildlife habitat is to be a primary or secondary postmining land use, the operator shall, in addition to the requirements of 30 CFR 910.816-111 through 910.816-117—

(i) Select plant species to be used on reclaimed areas, based on the following criteria—

(A) Their proven nutritional value for fish and wildlife;

(B) Their uses as cover for fish and wildlife; and

(C) Their ability to support and enhance fish and wildlife habitat after release of bonds; and

(ii) Distribute plant groupings to maximize benefit to fish and wildlife. Plants should be grouped and distributed in a manner which optimizes edge effect, cover, and other benefits for fish and wildlife;

(10) Where cropland is to be the alternative postmining land use on lands diverted from a fish and wildlife premining land use, and crop management practices, intersperse the fields with trees, hedges of fence rows throughout the harvested area to break up large blocks of monoculture and to diversify habitat types for birds and other animals; and

(11) Where the primary land use is to be residential, public service, or industrial land use, intersperse reclaimed lands with greenbelts, utilizing species of grass, shrubs and trees useful as food and cover for birds and small animals.

§ 910.817-99 Slides and other damage.

At any time a slide occurs which may have a potential adverse effect on public, property, health, safety, or the environment, the person who conducts the underground mining activities shall notify the Office by the fastest available means and comply with any remedial measures required by the Office.

§ 910.817-100 Contemporaneous reclamation.

Reclamation efforts, including, but not limited to, backfilling, grading, topsoil replacement and revegetation, of all areas affected by surface operations shall occur as contemporaneously as practicable with mining operations.

§ 910.817-101 Backfilling and grading: General requirements.

(a) Surface areas disturbed incident to underground mining activities shall be backfilled and graded in accordance with the time schedule approved by the Office as a condition of the permit.

(b) *Backfilling and grading.* (1) Except for those areas where the Office determines that § 910.817-102(a)(3) applies, all surface areas affected by underground mine operations shall be returned to the approximate original contour. All spoil shall be transported, backfilled, and compacted (where advisable to ensure stability or to prevent leaching) and graded to eliminate all highwalls, spoil piles, and depressions. The final graded slopes shall not exceed in grade either the approximate premining slopes, or any lesser slopes as approved by the Office based on consideration of soil, climate, or other characteristics of the surrounding area. Postmining final graded slopes need not be uniform but shall approximate the general nature of the premining topography.

(2) Backfilled material shall be placed to minimize adverse effects on ground water, minimize off-site effects, and support the approved postmining land use.

(3) The postmining graded slopes need not be uniform.

(4) Cut-and-fill terraces may be used only in those situations expressly identified in § 910.817-102.

§ 910.817-102 Backfilling and grading: General grading requirements.

(a) For existing underground mining activities and for underground mining activities affecting previously mined lands that have not been restored to the standards of this part and that lack sufficient spoil to otherwise comply with this section, the person who conducts underground mining activities shall—

(1) Retain all spoil and underground development waste on the solid portion of existing or new benches; and

(2) Backfill and grade all spoil and underground development waste to the moderate slope possible and to achieve a result as close to approximate original contour as possible; or

(3) Where spoil or non-toxic or non-acidic mine waste materials have become settled, revegetated and can be shown to meet the criteria outlined in paragraphs (a)(3) (i) through (iii) of this section, then regrading of the settled and revegetated areas will not be required to achieve approximate original contour.

(i) The spoil or mine development waste is not located such that it is detrimental to the environment, or to the health and safety of the public;

(ii) The spoil or mine development waste stability is demonstrated through standard geotechnical analysis to be consistent with backfill and grading requirements (1.3 safety factor) for material on the solid bench or fill requirements (1.5 safety factor) for material on the outslope;

(iii) The spoil or mine development waste surface is sufficiently vegetated to prevent erosion and contribution of suspended solids from normal runoff;

(iv) If paragraphs (a)(3) (i), (ii), and (iii) of this section cannot be achieved, and if the Office determines that disturbance of the existing spoil or mine development waste would increase environmental harm or reduce the health and safety of the public then the existing spoil or mine development waste pile shall remain in place;

(v) The Office may require stabilization of the spoil or mine development waste in paragraph (a)(3)(iv) of this section to meet the requirements of paragraphs (a)(3) (i), (ii) and (iii) of this section.

(4) Backfill and grade so that any mine entry is properly sealed and covered in accordance with other applicable requirements of this regulatory program.

(b) On approval by the Office and in order to conserve soil moisture, ensure stability, and control erosion on final graded slopes, cut-and-fill terraces may be allowed, if the terraces are compatible with the approved postmining land use and are appropriate substitutes for construction of lower grades on the reclaimed lands. The terraces shall meet the following requirements:

(1) The width of the individual terrace bench shall not exceed 20 feet, unless specifically approved by the Office, as necessary for stability, erosion control, or roads included in the approved postmining land use plan.

(2) The vertical distance between terraces shall be as specified by the Office, to prevent excessive erosion and to provide long-term stability.

(3) The slope of the terrace outslope shall not exceed 1*v*:2*h* (50 percent). Outslopes which exceed 1*v*:2*h* (50 percent) may be approved, if they have a minimum static safety factor of more than 1.3, provide adequate control over erosion, and closely resemble the surface configuration of the land prior to mining. In no case may highwalls be left as part of terraces.

(4) Culverts and underground rock drains shall be used on the terrace only when approved by the Office.

(c) Small depressions may be constructed, if they—

(1) Are approved by the Office to minimize erosion, conserve soil moisture or promote vegetation;

(2) Do not restrict normal access; and

(3) Are not inappropriate substitutes for lower grades on the reclaimed lands.

(d) All underground mining activities on slopes above 20 degrees shall meet the provisions of 30 CFR Subpart 910.826.

(e) All final grading, preparation of overburden before replacement of topsoil, and placement of topsoil shall be done along the contour to minimize subsequent erosion and instability. If such grading, preparation or placement along the contour is hazardous to equipment operators, then grading, preparation or placement in a direction other than generally parallel to the contour may be used. In all cases, grading, preparation, or placement shall be conducted in a manner which minimizes erosion and provides a surface for replacement of topsoil which will minimize slippage.

§ 910.817-103 Backfilling and grading: Covering coal and acid- and toxic-forming materials.

(a) *Cover.* (1) A person who conducts surface mining activities shall either cover, with a minimum of 4 feet of the best available nontoxic and noncombustible material, or, treat all exposed coal seams remaining after mining and all acid-forming, toxic-forming, combustible or other materials identified by the Office as exposed, used or produced during mining. Cover or treatment shall be provided so as to neutralize toxicity, acidity and combustibility in order to prevent water pollution and sustained combustion and to minimize adverse effects on plant growth and land uses.

(2) Where necessary to protect against upward migration of salts, exposure by erosion, formation of acid or toxic seeps, to provide an adequate depth for plant growth, or otherwise to meet local conditions, the Office shall specify thicker amounts of cover using non-toxic material, or special compaction and isolation from ground water contact.

(3) Acid-forming or toxic-forming material shall not be buried or stored in proximity to a drainage course so as to cause or pose a threat of water pollution.

(b) *Stabilization.* Backfilled materials shall be selectively hauled or conveyed, and compacted, wherever necessary to prevent leaching of acid-forming and toxic-forming materials into surface or ground waters and wherever necessary to ensure the stability of backfilled materials. The method and design specifications of compacting material shall be approved by the Office before acid-forming and toxic-forming materials are covered.

§ 910.817-106 Regrading or stabilizing rills and gullies.

When rills or gullies deeper than 9 inches form in areas that have been regraded and topsoiled, the rills and gullies shall be filled, graded, or otherwise stabilized and the area reseeded or replanted according to §§ 910.817-111 through 910.817-117. The Office shall specify that rills or gullies of lesser size be stabilized, and the area reseeded or replanted if the rills or gullies are disruptive to the approved postmining land use or may result in additional erosion and sedimentation.

§ 910.817-111 Revegetation: General requirements.

(a) Each person who conducts underground mining activities shall establish on all areas disturbed by surface operations and facilities diverse effective and permanent vegetative cover. For areas designated as prime farmland, the requirements of 30 CFR 910.823 shall apply.

(b) All revegetation shall be in compliance with the plan submitted under 30 CFR 910.784-13 and 910.784-15, as approved by the Office in the permit, and carried out in a manner that encourages a prompt vegetative cover and recovery of productivity levels compatible with the approved postmining land use.

(1) All disturbed lands, except water areas and surface areas of roads that are approved as a part of the postmining land use, shall be seeded or planted to achieve a permanent vegetative cover of the same seasonal variety native to the area of disturbed land.

(2) The vegetative cover shall be capable of self-regeneration and plant succession.

(3) Vegetative cover shall be at least equal in extent of cover to the natural vegetation of the area.

(4) If both the premining and the postmining land uses are cropland, planting of the crops normally grown will meet the requirements of paragraph (b)(1) of this section.

§ 910.817-112 Revegetation: Use of introduced species.

Introduced species may be used if approved by the Office under the following conditions:

(a) After appropriate field trials have demonstrated that the introduced species can establish a diverse, effective, and permanent cover capable of achieving the approved postmining land use;

(b) The species are necessary to achieve a quick, temporary, and stabilizing cover that aids in controlling erosion; and measures to establish permanent vegetation are included in the approved plan;

(c) The species are compatible with the plant and animal species of the region; and

(d) The species meet the requirements of applicable State and Federal seed or introduced species statutes, that the noxious weed seed per pound of pure seed do not exceed the limitations set forth in regulation H of the Georgia Seed Laws and Rules and Regulations, and that the species are not poisonous or noxious.

§ 910.817-113 Revegetation: Timing.

Seeding and planting of disturbed areas shall be conducted during the first normal period for favorable planting conditions after final preparation. The normal period for favorable planting shall be that planting time generally accepted locally for the type of plant materials selected. When necessary to effectively control erosion, any disturbed area shall be seeded, as contemporaneously as practicable, with a temporary cover of small grains, grasses, or legumes until a permanent cover is established.

§ 910.817-114 Revegetation: Mulching and other soil stabilizing practices.

(a) Suitable mulch or other soil stabilizing practices shall be used on all regraded and topsoiled areas to control erosion, to promote germination of seeds, or to increase the moisture retention of the soil. The Office may, on a case-by-case basis, suspend the requirement for mulch if the permittee can demonstrate that alternative procedures will achieve the requirements of § 910.817-116 and do not cause or contribute to air or water pollution.

(b) Mulches shall be mechanically or chemically anchored to the soil surface to assure effective protection of the soil and vegetation when required by the Office.

(c) Annual grasses and grains may be used alone, as in situ mulch, or in conjunction with another mulch when the Office determines they will provide adequate soil erosion control and will later be replaced by perennial species approved for the postmining land use.

(d) Chemical soil stabilizers alone or in combination with appropriate mulches may be used in conjunction with vegetative covers approved for the postmining land use.

§ 910.817-115 Revegetation: Grazing.

When the approved postmining land use is range or pasture land, grazing use of such lands during the period of operator responsibility is allowed. If actual grazing occurs after mining, the performance of the area in such use may be used to demonstrate the self-regeneration capability of the planted species and their utility to the postmining land use. The type and extent of use (season of use and grazing capacity) should demonstrate that ordinary grazing use does not endanger the survival coverage (ground cover) and productivity of the postmining vegetation, and that the premined capability has been restored.

§ 910.817-116 Revegetation: Standards for success.

(a) Success of revegetation shall be measured by techniques approved by the Office after consultation with appropriate State and Federal agencies. Comparison of ground cover and productivity may be made on the basis of reference areas or through the use of technical guidance procedures published by USDA or USDI for assessing ground cover and productivity. Management of the reference area, if applicable, shall be comparable to that which is required for the approved postmining land use of the permit area.

(b)(1) The ground cover and productivity of living plants on the revegetated area shall be equal to the ground cover and productivity of living plants on the approved reference area or to the standards in technical guides approved by the Office, from among those published by USDA or USDI for use in this Part. The period of extended responsibility under the performance bond requirements of Subparts 910.800 through 910.808 begins after the last year of augmented seeding, fertilizing, irrigation or other work which ensures success and continues for not less than five years. Ground cover and productivity shall equal the approved standard for the last two consecutive years of the responsibility period.

(2) The ground cover and productivity of the revegetated area shall be considered equal, if they are at least 90 percent of the ground cover and productivity of the reference area with 90 percent statistical confidence, or with 80 percent statistical confidence on shrublands or ground cover and productivity are at least 90 percent of the technical guide approved pursuant to 30 CFR 910.817-116(b)(1). Exceptions may be authorized by the Office under the following standards:

(i) For previously mined areas that were not reclaimed to the requirements of Subparts 910.815 through 910.828, as a minimum the ground cover of living plants shall not be less than can be supported by the best available topsoil or other suitable material in the reaffected area, shall not be less than the ground cover existing before redisturbance and shall be adequate to control erosion;

(ii) For areas to be developed for industrial or residential use less than 2 years after regrading is completed, the ground cover of living plants shall not be less than required to control erosion; and

(iii) For areas to be used for cropland, success in revegetation of cropland shall be determined on the basis of crop production from the mined area as compared to the approved reference areas or other technical guidance procedures. Crop production from the mined area shall be equal to or greater than that of the approved standard for the last two consecutive growing seasons of the 5 or 10 year liability period established in paragraph (b)(1) of this section. The applicable 5 year period of responsibility for revegetation shall commence at the date of initial planting of the crop being grown. Production shall not be considered equal if it is less than 90 percent of the production of the approved standard with 90 percent statistical confidence.

(iv) On areas to be developed for fish and wildlife management or forestland, successful vegetation shall be determined on the basis of tree, shrub or half-shrub stocking and ground cover. The tree, shrub or half-shrub, stocking shall meet the standards described in § 910.817-117. The area seeded to a ground cover shall be considered acceptable if it is at least 70 percent of the ground cover of the reference areas with 90 percent statistical confidence or if the ground cover is determined to be adequate to control erosion by the Office. Section 910.817-116(b) shall determine the responsibility period and the frequency of ground cover measurement.

(c) The person who conducts underground mining activities shall:

(1) Maintain any necessary fences and proper management practices; and

(2) Conduct periodic measurements of vegetation, soils, and water prescribed or approved by the Office, to identify conditions during the applicable period of liability specified in paragraph (b) of this section.

§ 910.817-117 Revegetation: Tree and shrub stocking for forest land.

This Section sets forth forest resource conservation standards for reforestation operations to ensure that a cover of commercial tree species, non-commercial tree species, shrubs or half shrubs, sufficient for adequate use of available growing space, is established after underground mining activities.

(a) Stocking, i.e. the number of stems per unit area, will be used to determine the degree to which space is occupied by well distributed countable trees, shrubs or half shrubs.

(1) Root crown or root sprouts over 1 foot in height shall count as one toward meeting the stocking requirements. Where multiple stems occur only the tallest stem will be counted.

(2) A countable tree or shrub means a tree that can be used in calculating the degree of stocking under the following criteria:

(i) the tree or shrub shall be in place at least 2 growing seasons,

(ii) the tree or shrub shall be alive and healthy, and

(iii) the tree or shrub shall have at least one third of its length in live crown.

(3) Rock areas, permanent road and surface water drainage ways on the revegetated area shall not require stocking.

(b) The following are the minimum performance standards for areas where commercial forest land is the approved postmining land use:

(1) The area shall have a minimum stocking of 450 trees or shrubs per acre.

(2) A minimum of 75 percent of countable trees or shrubs shall be commercial trees species.

(3) The number of trees or shrubs and the ground cover shall be determined using procedures described in §§ 910.817-116(b)(3)(iv) and 910.817-117(a) and the sampling method approved by the Office; when the stocking is equal to or greater than 450 trees or shrubs per acre and there is acceptable groundcover, the 5 year responsibility period required in § 910.816-116(b) shall begin.

(4) Upon expiration of the 5 year responsibility period and at the time of request for bond release each permittee shall provide documentation showing that the stocking of trees and shrubs and the groundcover on the revegetated area satisfy §§ 910.817-116(b)(3)(iv) and 910.817-117(b)(i).

(c) The following are the minimum performance standards for areas where woody plants are used for wildlife management, recreation, shelter belts, or forest uses other than commercial forest land:

(1) An inventory of trees, half-shrubs and shrubs shall be conducted on established reference areas according to methods approved by the Office. This inventory shall contain but not be limited to—

(i) Site quality,

(ii) Stand size,

(iii) Stand condition,

(iv) Site and species relations, and

(v) Appropriate forest land utilization considerations;

(2) The stocking of trees, shrubs, half-shrubs, and the ground cover established on the revegetated area shall approximate the stocking and ground cover on the reference area and shall utilize local and regional recommendations regarding species composition, spacing and planting arrangement. The stocking of live woody plants shall be equal to or greater than 90 percent of the stocking of wood plants of the same life form on the reference area. When this requirement is met and acceptable ground cover is achieved, the 5 year responsibility period required in § 910.817-116(b) shall begin.

(3) Upon expiration of the 5-year responsibility period and at the time of request for bond release each permittee shall provide documentation showing that (i) the woody plants established on the revegetated site are equal to or greater than 90 percent of the stocking of live woody plants of the same life form of the approved reference areas with 80 percent statistical confidence and (ii) the groundcover on the revegetated area satisfies § 910.817-116(b)(3)(iv). Species diversity, seasonal variety and regenerative capacity of the vegetation of the revegetated area shall be evaluated on the basis of the results which could reasonably be expected using the revegetation methods described in the operation and reclamation plan.

§ 910.817-121 Subsidence control: General requirements.

(a) Underground mining activities shall be planned and conducted so as to prevent subsidence from causing material damage to the surface, to the extent technologically and economically feasible, and so as to maintain the value and reasonably foreseeable use of surface lands. This may be accomplished by leaving adequate coal in place, backfilling, or other measures to support the surface, or by conducting underground mining in a manner that provides for planned and controlled subsidence. Nothing in this Part shall be construed to prohibit the standard method of room and pillar mining.

(b) The person engaged in underground mining activities shall comply with all provisions of the subsidence control plan prepared pursuant to 30 CFR 910.784-20 and approved by the Office.

§ 910.817-122 Subsidence control: Public notice.

The mining schedule shall be distributed by mail to all owners of property and residents within the area above the underground workings and adjacent areas. Each such person shall be notified by mail at least six months prior to mining beneath his or her property or residence. The notification shall contain, as a minimum:

(a) Identification of specific areas in which mining will take place;

(b) Dates of mining activities that could cause subsidence and affect specific structures; and

(c) Measures to be taken to prevent or control adverse surface effects.

§ 910.817-124 Subsidence control: Surface owner protection.

(a) Each person who conducts underground mining activities shall adopt all measures approved by the Office under 30 CFR 910.784-20 to reduce the likelihood of subsidence, to prevent subsidence causing material damage or reducing the value or reasonably foreseeable use of surface lands, and to mitigate the effects of any such damage or reduction which may occur.

(b) Each person who conducts underground mining which results in subsidence that causes material damage or reduces the value or reasonably foreseeable use of the surface lands

shall, with respect to each surface area affected by subsidence—

(1) Restore, rehabilitate, or remove and replace each damaged structure, feature or value, promptly after the damage is suffered, to the condition it would be in if no subsidence had occurred and restore the land to a condition capable of supporting reasonably foreseeable uses it was capable of supporting before subsidence;

(2) Purchase the damaged structure or feature for its fair market, pre-subsidence value and shall promptly after subsidence occurs, to the extent technologically and economically feasible, restore the land surface to a condition capable and appropriate of supporting the purchased structure, and other foreseeable uses it was capable of supporting before mining. Nothing in this paragraph shall be deemed to grant or authorize an exercise of the power of condemnation or the right of eminent domain by any person engaged in underground mining activities; or

(c) Each person who conducts underground mining activities will compensate the owner of any surface structure in the full amount of the diminution in value resulting from subsidence, by purchase prior to mining of a noncancellable, premium prepaid insurance policy or other means approved by the Office as assuring before mining begins that payment will occur; indemnify every person with an interest in the surface for all damages suffered as a result of the subsidence; and, to the extent technologically and economically feasible, fully restore the land to a condition capable of maintaining reasonable foreseeable uses which it could support before subsidence.

§ 910.817-126 Subsidence control: Buffer zones.

(a) Underground mining activities shall not be conducted beneath or adjacent to any perennial stream, or impoundment having a storage volume of 20 acre-feet or more, unless the Office on the basis of detailed subsurface information, determines that subsidence will not cause material damage to streams, water bodies and associated structures. If subsidence causes material damage, then measures will be taken to the extent technologically and economically feasible to correct the damage and to prevent additional subsidence from occurring.

(b) Underground mining activities beneath any aquifer that serves as a significant source of water supply to any public water system shall be conducted so as to avoid disruption of the aquifer and consequent exchange of ground water between the aquifer and other strata. The Office may prohibit mining in the vicinity of the aquifer or may limit the percentage of coal extraction to protect the aquifer and water supply.

(c) Underground mining activities shall not be conducted beneath or in close proximity to any public buildings, including but not limited to churches, schools, hospitals, courthouses and government offices, unless the Office on the basis of detailed subsurface information, determines that subsidence from those activities will not cause material damage to these structures and specifically authorizes the mining activities.

(d) The Office shall suspend underground coal mining under urbanized areas, cities, towns, and communities, and adjacent to industrial or commercial buildings, major impoundments or permanent streams, if imminent danger is found to inhabitants of the urbanized areas, cities, towns, or communities.

§ 910.817-131 Cessation of operations: Temporary.

(a) Each person who conducts underground mining activities shall effectively support and maintain all surface access openings to underground operations, and secure surface facilities in areas in which there are no current operations, but operations are to be resumed under an approved permit. Temporary abandonment shall not relieve a person of his or her obligation to comply with any provisions of the approved permit.

(b) Before temporary cessation of mining and reclamation operations for a period of thirty days or more, or as soon as it is know that a temporary cessation will extend beyond 30 days, each person who conducts underground mining activities shall submit to the Office a notice of intention to cease or abandon operations. This notice shall include a statement of the exact number of surface acres and the horizontal and vertical extent of sub-surface strata which have been in the permit area prior to cessation or abandonment, the extent and kind of reclamation of surface area which will have been accomplished, and identification of the backfilling, regrading, revegetation, environmental monitoring, underground opening closures and water treatment activities that will continue during the temporary cessation.

§ 910.817-132 Cessation of operations: Permanent.

(a) The person who conducts underground mining activities shall close or backfill or otherwise permanently reclaim all affected areas, in accordance with this Part and according to the permit approved by the Office.

(b) All surface equipment, structures, or other facilities not required for continued underground mining activities and monitoring, unless approved by the Office, as suitable for the postmining land use or environmental monitoring, shall be removed and the affected lands reclaimed.

§ 910.817-133 Postmining land use.

(a) *General.* Surface land areas affected by mining activities shall be restored in a timely manner—

(1) To conditions that are capable of supporting the use which they were capable of supporting before any mining;

(2) To higher or better uses achievable under criteria and procedures of this Section.

(b) *Determining pre-mining use of land.* The premining uses of land to which the postmining land use is compared shall be those uses which the land previously supported, if the land had not been previously mined and had been properly managed.

(1) The postmining land use for land that has been previously mined and not reclaimed shall be restored to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is a reasonable likelihood, at the option of the operator.

(2) The postmining land use for land that has received improper management shall be judged on the basis of the premining use of surrounding lands that have received proper management.

(3) If the premining use of the land was changed within 5 years of the beginning of mining, the comparison of postmining use to premining use shall include a comparison with the historic use of the land as well as its use immediately preceding mining.

(c) Prior to the release of lands from the permit area in accordance with 30 CFR 910.807–12(c) the permit area shall be restored, in a timely manner, either to conditions capable of supporting the uses they were capable of supporting before any mining or to conditions capable of supporting approved alternative land uses. Alternative land uses may be approved by the Office after consultation with the landowner or the land management agency having jurisdiction over the lands, if the following criteria are met:

(1) The proposed postmining land use is compatible with adjacent land use and, where applicable, with existing local, State, or Federal land use policies and plans; a written statement of the views of the authorities with statutory responsibilities for land use policies and plans shall have been submitted to the Office within 60 days of notice by the Office before underground mining activities begin. Any required approval of local, State, or Federal land management agencies, including any necessary zoning or other changes required for the land use, shall have been obtained and shall remain valid throughout the underground mining activities.

(2) Specific plans shall be prepared and submitted to the Office which show the feasibility of the postmining land use as related to projected land use trends and markets and that include a schedule showing how the proposed land use will be developed and achieved within a reasonable time after mining and be sustained. The Office may require appropriate demonstrations to show that the planned procedures are feasible, reasonable, and integrated with mining and reclamation, and that the plans will result in successful reclamation.

(3) Provision of any necessary public facilities shall be ensured as evidenced by letters of commitment from parties other than the person who conducts underground mining activities, as appropriate, to provide them in a manner compatible with the plans submitted under 30 CFR 910.784–15. The letters shall be submitted to the Office before underground mining activities begin.

(4) Specific and feasible plans are submitted to the Office which show that financing and attainment and maintenance of the postmining land use are feasible.

(5) Plans for the postmining land use shall have been designed under the general supervision of a registered professional engineer, or other appropriate professional, who will ensure that the plans conform to applicable accepted standards for adequate land stability, drainage, vegetative cover, and esthetic design appropriate for the postmining use of the site.

(6) The proposed use or uses will neither present actual or probable hazard to public health or safety nor will they pose any actual or probable threat of water flow diminution or pollution.

(7) The use or uses will not involve unreasonable delays in reclamation.

(8) Necessary approval of measures to prevent or mitigate adverse effects on fish, wildlife, and related environmental values and threatened or endangered plants shall have been obtained from the Office and appropriate State and Federal fish and wildlife management agencies have been provided a 60-day period in which to review the plan before underground mining activities begin.

(9) Proposals to change premining land uses of range, fish and wildlife habitat, forest land, hayland, or pasture to a postmining cropland use, where the cropland would require continuous maintenance such as seeding, plowing, cultivation, fertilization, or other similar practices to be practicable or to comply with applicable Federal, State, and local laws, have been reviewed by the Office to ensure that—

(i) The proposed postmining cropland use remains practical and reasonable;

(ii) There is sufficient water available and committed to maintain crop production; and

(iii) Topsoil quality and depth are sufficient to support the proposed use.

§ 910.817-150 Roads: Class I: General.

(a) Each person who conducts underground mining activities shall design, construct or reconstruct, utilize, and maintain Class I Roads and restore the area to meet the requirements of 30 CFR 910.816–151 through 910.816–156 and to control or minimize erosion and siltation, air and water pollution, and damage to public or private property.

(b) To the extent possible using the best technology currently available, Class I Roads shall not cause damage to fish, wildlife, and related environmental values and shall not cause additional contributions of suspended solids to streamflow or to runoff outside the permit area. Any such contributions shall not be in excess of limitations of State or Federal law.

(c) All Class I Roads shall be removed and the land affected regraded and revegetated in accordance with the requirements of 30 CFR 910.817–156 unless—

(1) Retention of the road is approved as part of the approved postmining land use or as being necessary to control erosion adequately;

(2) The necessary maintenance is assured; and

(3) All drainage is controlled according to 30 CFR 910.817–153.

(d)(1) The design and construction or reconstruction of Class I Roads shall be certified by a registered qualified professional engineer in accordance with 30 CFR 910.817–151, through 910.817–154, except to the extent that alternative specifications are used. Alternative specifications may be used only after approval by the Office upon a demonstration by a registered qualified professional engineer that they will result in performance equal to or better than that resulting from Class I Roads complying with 30 CFR 910.817–151 through 910.817–156.

(2) The design shall incorporate the demand for mobility and travel efficiency, based on geometric criteria, both horizontal and vertical, appropriate for the anticipated volume of traffic and weight and speed of vehicles to be used.

§ 910.817-151 Roads: Class I: Location.

(a) Class I Roads shall be located, insofar as possible, on ridges or on the most stable available slopes to minimize erosion.

(b) No part of any Class I Road shall be located in the channel of an intermittent or perennial stream unless specifically approved by the Office.

(c) Stream fords are prohibited unless they are specifically approved by the Office as temporary routes during periods of construction. The fords shall not adversely affect stream sedimentation or fish, wildlife, and related environmental values. All other stream crossings shall be made using bridges, culverts, or other structures designed, constructed, and maintained to meet the requirements of 30 CFR 910.817–153.

(d) Class I Roads shall be located to minimize downstream sedimentation and flooding.

§ 910.817-152 Roads: Class I: Design and construction.

Class I Roads shall be designed and constructed or reconstructed in compliance with the following standards in order to control subsequent erosion and disturbance of the hydrologic balance:

(a) *Vertical alinement.* Except where lesser grades are necessary to control site-specific conditions, maximum road grades shall be as follows:

(1) The overall grades shall not exceed 1*v*:10*h* (10 percent).

(2) The maximum pitch grade shall not exceed 1*v*:6.5*h* (15 percent).

(3) There shall be not more than 300 feet of pitch grade exceeding 10 percent within any consecutive 1,000 feet of Class I Roads, but in no case shall there be any pitch grade over 15 percent.

(b) *Horizontal alinement.* Class I Roads shall have horizontal alinement as consistent with the existing topography as possible, and shall provide the alinement required to meet the performance standards of 30 CFR 910.817–150 through 910.817–156. The alinement shall be determined in accordance with the anticipated volume of traffic and weight and speed of

vehicles to be used. Horizontal and vertical alinement shall be coordinated to ensure that one will not adversely affect the other and to ensure that the road will not cause environmental damage.

(c) *Road cuts.*

(1) Cut slopes shall not be steeper than specifically authorized by the Office which shall not authorize slopes steeper than 1*v*:1.5*h* in unconsolidated materials or 1*v*:0.25*h* in rock, except that steeper slopes may be specifically authorized by the Office if geotechnical analysis demonstrates that a minimum safety factor of 1.5 can be maintained.

(2) Topsoil or other materials suitable under 30 CFR 817.22 shall be placed on all cut slopes of 1*v*:1.5*h* or flatter to aid in establishing vegetation and to minimize erosion. Topsoil depth shall be adequate to support vegetation necessary to control erosion.

(3) Temporary erosion-control measures shall be implemented during construction to minimize sedimentation and erosion until permanent control measures can be established.

(d) *Road embankments.* Embankment sections shall be constructed in accordance with the following provisions:

(1) All vegetative material and topsoil shall be removed from the embankment foundation during construction to increase stability, and no vegetative material or topsoil shall be placed beneath or in any Class I Road embankment.

(2) Where an embankment is to be placed on side slopes exceeding 1*v*:5*h* (20 percent), the existing ground shall be plowed, stepped, or, if in bedrock, keyed in a manner which increases the stability of the fill. The keyway shall be a minimum of 10 feet in width and shall extend a minimum of 2 feet below the toe of the fill.

(3) Material containing by volume less than 25 percent of rock larger than 6 inches in greatest dimension shall be spread in successive uniform layers not exceeding 12 inches in thickness before compaction.

(4) Where the material for an embankment consists of large-size rock, broken stone, or fragmented material that makes placing it in 12-inch layers impossible under paragraph (d)(3) of this section, the embankment shall be constructed in uniform layers not exceeding in thickness the approximate average size of the rock used, but the layers shall not exceed 36 inches in thickness. Rock shall not be dumped in final position, but shall be distributed by blading or dozing in a manner that will ensure proper placement in the embankment, so that voids, pockets, and bridging will be reduced to a minimum. The final layer of the embankment shall meet the requirements of paragraph (d)(3) of this section.

(5) Each layer of the embankment shall be completed, leveled, and compacted before the succeeding layer is placed. Loads of material shall be leveled as placed and kept smooth. The successive layers shall be compacted evenly by routing the hauling and leveling equipment over the entire width of the embankment. This procedure shall be continued until no visible horizontal movement of the embankment material is apparent.

(6) Embankment layers shall be compacted as necessary to ensure that the embankment is adequate to support the anticipated volume of traffic and weight and speed of vehicles to be used. In selecting the method to be used for placing embankment material, consideration shall be given in the design to such factors as the foundation, geological structure, soils, type of construction, and equipment to be used. A structural and foundation analysis shall be performed to establish design standards for embankment stability appropriate to the site. Publications of the American Association of State Highway and Transportation Officers (AASHTO), including AASHTO T–99, T–180, T–91, and the modified AASHTO test, or other specifications generally recognized by transportation engineers as adequate for design of highway embankments, shall be used to determine the degree of compaction required, on the basis of soil type and the anticipated volume of traffic and weight and speed of vehicles to be used. Compaction effort shall be adequate to achieve the degree of compaction required. No lift shall be placed on a layer until the design density is achieved throughout the layer. AASHTO specifications such as T–99, T–180, the modified AASHTO test, or other comparable specifications approved by the Office shall be used as guidelines for the determination of the maximum dry density for granular materials.

(7) Material shall be placed in an embankment only when its moisture content is within acceptable levels to achieve design compaction.

(8) Embankment slopes shall not be steeper than 1*v*:2*h* except that where the embankment material is a minimum of 85 percent rock, slopes shall not be steeper than 1*v*:1.35*h* if it has been demonstrated to the Office that embankment stability will result. Where rock embankments are constructed they shall meet the requirements of paragraph (d)(4) of this section.

(9) The minimum safety factor for all embankments shall be 1.25, or such higher factor as the Office may specify.

(10) The road surface shall be sloped toward the ditch line at a minimum rate of one-quarter inch per foot of surface width, or crowned at a minimum rate of one-quarter inch per foot of surface width as measured from the centerline of the road.

(11) All material used in embankments shall be suitable for use under paragraph (d)(1)–(8) of this section. The material shall be reasonably free of organic material, coal or coal blossom, frozen materials, wet or peat material, natural soils containing organic matter, or any other material considered unsuitable by the Office for use in embankment construction.

(12) Excess or unsuitable material from excavations, as defined in paragraph (d)(11) of this section, shall be disposed of in accordance with 30 CFR 910.817–71. Acid- and toxic-forming materials shall be disposed of in accordance with 30 CFR 910.817–48, 910.817–61, and 910.817–103.

(13) Acid-producing materials shall be permitted for constructing embankments for, only those Class I Roads constructed or reconstructed on coal processing waste banks and only if it has been demonstrated to the Office that no additional acid will leave the confines of the coal processing waste bank. In no case shall acid-bearing refuse material be used outside the confines of the coal processing waste bank. Restoration of the road shall be in accordance with the requirements of 30 CFR 910.817–103 through 910.817–117.

(14) Topsoil or other materials suitable under 30 CFR 910.817–22 shall be placed on all embankment slopes of 1*v*:1.5*h* or flatter to aid in establishing vegetation and to minimize erosion. Topsoil material depth shall be adequate to support vegetation and to prevent erosion.

(15) Temporary erosion-control measures shall be incorporated during construction to control sedimentation and minimize erosion until permanent control measures can be established.

(e) *Topsoil removal.* Before initiation of construction or reconstruction of a Class I Road, topsoil and other materials, as determined under 30 CFR 910.817–22, shall be removed from the design roadbed, shoulders, and surface where associated structures will be placed, and shall be stored in accordance with 30 CFR 910.817–23.

§ 910.817–153 Roads: Class I: Drainage.

(a) *General.*

(1) Each Class I Road shall be designed, constructed, or reconstructed, and maintained to have adequate drainage, using structures, such as, but not limited to, ditches, cross drains, and ditch relief drains. The water-control system shall be designed to safely pass the peak runoff from a 10-year, 24-hour precipitation event or a greater event if required by the Office.

(2) Sediment control shall comply with 30 CFR 910.817–42 and 910.817–45.

(3) Vegetation shall not be cleared for more than the width necessary for road and associated ditch construction, to serve traffic needs and for utilities.

(b) *Ditches.* (1) A ditch shall be provided on both sides of a through-cut and on the inside shoulder of a cut-and-fill section, with ditch relief cross-drains spaced according to grade. Water shall be intercepted before reaching a switchback or large fill and drained safely away in accordance with this section. Water from a fill or switchback shall be released below the fill, through conduits or in riprapped channels, and shall not be discharged onto the fill. Drainage ditches shall be placed at the toe of all cut slopes formed by the construction of roads.

(2) On flat sections of Class I Roads where rolling topography is insufficient to provide natural ditch drainage, the road grade shall be undulated to provide for free flow of water in the ditch section. Road sections may be constructed to elevate the road surface above the original ground surface to facilitate drainage.

(c) *Culverts and bridges.* (1)(i) Culverts with an end area of 35 square feet or less shall be designed to safely pass the 10-year, 24-hour precipitation event without a head of water at the entrance. Culverts with an end area of greater than 35 square feet, and bridges with spans of 30 feet or less, shall be designed to safely pass the 20-year, 24-hour precipitation event. Bridges with spans of more than 30 feet shall be designed to safely pass the 100-year, 24-hour precipitation event, or a larger event as specified by the Office.

(ii) Drainage pipes and culverts shall be constructed to avoid plugging or collapse and erosion at inlets and outlets.

(iii) Trash racks and debris basins shall be installed in the drainage ditches wherever debris from the drainage area could impair the functions of drainage and sediment-control structures.

(iv) All culverts shall be covered by compacted fill to a minimum depth of 1 foot.

(v) Culverts shall be designed, constructed, and maintained to sustain the vertical soil pressure, the passive resistance of the foundation, and the weight of vehicles to be used.

(2) Culverts for road surface drainage only, shall be constructed in accordance with the following:

(i) Unless otherwise authorized or required under paragraphs (c)(2) (ii) or (iii) of this section, culverts shall be spaced as follows:

(A) Spacing shall not exceed 1,000 feet on grades of 0 to 3 percent.

(B) Spacing shall not exceed 800 feet on grades of 3 to 6 percent.

(C) Spacing shall not exceed 500 feet on grades of 6 to 10 percent.

(D) Spacing shall not exceed 300 feet on grades of 10 percent or greater.

(ii) Culverts at closer intervals than the maximum in Paragraph (c)(2)(i) of this section shall be installed if required by the Office as appropriate for the erosive properties of the soil or to accommodate flow from small intersecting drainages.

(iii) Culverts may be constructed at greater intervals than the maximum indicated in paragraph (c)(2)(i) of this section if authorized by the Office upon a finding that greater spacing will not increase erosion.

(iv) Culverts shall cross the road at not less than a 30 degree angle downgrade.

(v) Culverts may be designed to carry less than the peak runoff from a 10-year, 24-hour precipitation event if the ditch will not overtop and will remain stable.

(vi) The inlet end shall be protected by a rock headwall or other material approved by the Office as adequate protection against erosion of the headwall. The water shall be discharged below the toe of the fill through conduits or in riprapped channels and shall not be discharged onto the fill.

(d) *Natural drainage.* Natural-channel drainageways shall not be altered or relocated for road construction or reconstruction without the prior approval of the Office in accordance with 30 CFR 910.817–43 and 910.817–44. The Office may approve alterations and relocations only if—

(1) The natural-channel drainage is not blocked;

(2) No significant damage occurs to the hydrologic balance; and

(3) There is no adverse impact on adjoining landowners.

(e) *Stream crossings.* Drainage structures are required for stream channel crossings. Drainage structures shall not affect the normal flow or gradient of the stream, or adversely affect fish migration and aquatic habitat or related environmental values.

§ 910.817–154 Roads: Class I: Surfacing.

(a) Class I Roads shall be surfaced with rock, crushed gravel, asphalt, or other material approved by the Office as sufficiently durable for the anticipated volume of traffic and weight and speed of vehicles to be used.

(b) Acid- or toxic-forming substances shall not be used in road surfacing.

§ 910.817–155 Roads: Class I: Maintenance.

(a) Class I Roads shall be maintained in such a manner that the required or approved design standards are met throughout the life of the entire transportation facility including surface, shoulders, parking and side areas, approach structures, erosion control devices, cut-and-fill sections, and such traffic-control devices as are necessary for safe and efficient utilization of the road.

(b) Class I Road maintenance shall include repairs to the road surface, blading, filling of potholes, and replacement of gravel or asphalt. It shall include revegetating, brush removal, watering for dust control, and minor reconstruction of road segments as necessary.

(c) Class I Roads damaged by catastrophic events such as floods or earthquakes shall not be used until reconstruction of damaged road elements. The reconstruction shall be completed as soon as practicable after the damage has occurred.

§ 910.817–156 Roads: Class I: Restoration.

(a) Unless the Office approves retention of a Class I Road as suitable for the approved postmining land use, immediately after the road is no longer needed for operations, reclamation, or monitoring—

(1) The road shall be closed to vehicular traffic;

(2) The natural-drainage patterns shall be restored;

(3) All bridges and culverts shall be removed;

(4) Roadbeds shall be ripped, plowed, and scarified;

(5) Fill slopes shall be rounded or reduced and shaped to conform the site to adjacent terrain and to meet natural-drainage restoration standards;

(6) Cut slopes shall be shaped to blend with the natural contour;

(7) Cross drains, dikes, and water bars shall be constructed to minimize erosion;

(8) Terraces shall be constructed as necessary to prevent excessive erosion and to provide long-term stability in cut-and-fill slopes; and

(9) Road surfaces shall be covered with topsoil in accordance with 30 CFR 910.817–24(b) and revegetated in accordance with 30 CFR 910.817–111 through 910.817–116.

(b) Unless otherwise authorized by the Office all road-surfacing materials shall be removed, hauled or conveyed, and disposed of under 30 CFR 910.817–80.

§ 910.817–160 Roads: Class II: General.

(a) Each person who conducts underground mining activities shall design, construct or reconstruct, utilize, and maintain Class II Roads and restore the area to meet the requirements of 30 CFR 910.817–161 through 910.817–166 and to control or minimize erosion and siltation, air and water pollution, and damage to public or private property.

(b) To the extent possible using the best technology currently available, Class II Roads shall not cause damage to fish, wildlife, and related environmental values and shall not cause additional contributions of suspended solids to streamflow or to runoff outside the permit area. Any such contributions shall not be in excess of limitations of State or Federal law.

(c) All Class II Roads shall be removed and the land affected regraded and revegetated in accordance with the requirements of 30 CFR 910.817–166, unless—

(1) Retention of the road is approved as part of the approved postmining land use or as being necessary to control erosion adequately;

(2) The necessary maintenance is assured; and

(3) All drainage is controlled according to 30 CFR 910.817–163.

(d)(1) Class II Roads shall be designed and constructed in accordance with 30 CFR 910.817–161 through 910.817–164 except to the extent that alternative specifications are used. Alternative specifications may be used only after approval by the Office upon a demonstration by a qualified professional engineer that they will result in performance equal or better than that resulting from Class II Roads complying with 30 CFR 910.817–161 through 910.817–166.

(2) The design shall incorporate consideration of the needs of the specific uses of the road in addition to travel efficiency. To the extent that the anticipated volume of traffic or weight or speed of vehicles to be used requires higher standards than those set forth in 30 CFR 910.817–161 through 910.817–166, such higher standards shall be incorporated in the design, construction or reconstruction, and maintenance of Class II Roads.

§ 910.817–161 Roads: Class II: Location.

(a) Class II Roads shall be located, insofar as possible, on ridges or on the most stable available slopes to minimize erosion.

(b) No part of any Class II Road shall be located in the channel of an intermittent or perennial stream unless specifically approved by the Office.

(c) Stream fords are prohibited unless they are specifically approved by the Office as temporary routes during periods of construction. The fords shall not adversely affect stream sedimentation or fish, wildlife, and related environmental values. All other stream crossings shall be made using bridges, culverts, or other structures, designed, constructed, and maintained to meet the requirements of 30 CFR 910.817–163.

(d) Class II Roads shall be located to minimize downstream and flooding.

§ 910.817–162 Roads: Class II: Design and construction.

Class II Roads shall be designed and constructed or reconstructed in compliance with the following standards in order to control subsequent erosion and disturbance of the hydrologic balance:

(a) *Vertical alinement.* A continuous grade with excessive cuts or embankments shall be avoided. Changes of grade shall be made to conform as closely as possible to the existing terrain, and maximum road grades shall be as follows:

(1) The overall grade shall not exceed 1*v*:10*h* (10 percent).

(2) The pitch grade shall not exceed 1*v*:6.5*h* (15 percent), for any consecutive 1,000 feet.

(3) The pitch grade exceeding 15 percent shall not be longer than 300 feet within any consecutive 1,000 feet of Class II Road.

(b) *Horizontal alinement.* Class II Roads shall have horizontal alinement as consistent with the existing natural topography as possible, and shall provide the alinement required for the performance standards of 30 CFR 910.817–160 through 910.817–166. The alinement shall be determined in accordance with the anticipated volume of traffic and weight and speed of vehicles to be used. Horizontal and vertical alinement shall be coordinated to ensure that one will not adversely affect the other and to ensure that the road will not cause environmental damage.

(c) *Road cuts.* Cut slopes shall not be steeper than specifically authorized by the Office, which shall not authorize slopes steeper than 1*v*:1.5*h* in unconsolidated materials or 1*v*:0.25*h* in rock, except that steeper slopes may be specifically authorized by the Office if geotechnical analysis demonstrates that a minimum safety factor of 1.5 can be maintained.

(1) Topsoil or other materials suitable under 30 CFR 910.817–22 shall be placed on all cut slopes of 1*v*:1.5*h* or flatter to aid in establishing vegetation and to minimize erosion. Topsoil depth shall be adequate to support vegetation necessary to minimize erosion.

(2) Temporary erosion-control measures shall be implemented during construction to minimize sedimentation and erosion until permanent control measures can be established.

(d) *Road embankments.* Embankment sections shall be constructed in accordance with the following provisions:

(1) All vegetative material and topsoil shall be removed from the embankment foundation to increase stability, and no vegetative material or topsoil shall be placed beneath or in any Class II Road embankment.

(2) Where an embankment is to be placed on side slopes exceeding 1*v*:3*h* (33 percent), the existing ground shall be plowed, stepped, or if in rock, keyed in a manner which increases the stability of the fill. The keyway shall be a minimum of 10 feet in width and shall begin at the toe of the fill. No material shall be placed below the toe or be allowed to slide below the toe. For slopes of less than 1*v*:2*h* (33 percent), the slopes shall be scarified to ensure bonding of the embankment and natural material.

(3) Material containing by volume less than 25 percent of rock larger than 6 inches in greatest dimension shall be spread in successive uniform layers not exceeding 12 inches in thickness before compaction.

(4) Where the material for an embankment consists of large-size rock, broken stone, or fragmented material that makes placing in 12-inch layers impossible under paragraph (d)(3) of this section, the embankment shall be constructed in uniform layers not exceeding in thickness the approximate average size of the rock used, but the layers shall not exceed 36 inches in thickness. Rock shall not be dumped in final position, but shall be distributed by blading or dozing in a manner that will ensure proper placement in the embankment, so that voids, pockets, and bridging will be reduced to a minimum. The final layer of the embankment shall meet the requirements of paragraph (d)(3) of this section.

(5) Each layer of the embankment shall be completed, leveled, and compacted before the succeeding layer is placed. Embankment material shall be leveled as placed and kept smooth. The successive layers shall be compacted evenly by routing the hauling and leveling equipment over the entire width of the embankment. This procedure shall be continued until no visible horizontal movement of the embankment material is apparent.

(6) Compaction greater than that specified in paragraph (d)(5) of this section shall be performed to the extent necessary to ensure stability.

(7) Material shall be placed in an embankment under moisture content conditions which will permit compaction and ensure proper soil cohesion.

(8) Embankment slopes shall not be steeper than 1*v*:1.5*h* except that if the embankment material is a minimum of 85 percent rock, slopes shall not be steeper than 1*v*:1.35*h* if it has been demonstrated to the Office that embankment stability will result. Where rock embankments are constructed they shall meet the requirements of paragraph (d)(4) of this section.

(9) The minimum safety factor for all embankments shall be 1.25, or such higher factor as the Office may specify.

(10) The road surface shall be sloped sufficiently to prevent ponding of water on the surface.

(11) All material used in embankments shall be suitable for use under paragraphs (d)(1)–(8) of this section. The material shall be reasonably free of organic material, coal or coal blossom, frozen materials, wet or peat material or natural soils containing organic matter, or any other material considered unsuitable for use in embankment construction by the Office.

(12) Excess or unsuitable material from excavations, as defined in paragraph (d)(11) of this section, shall be disposed of in accordance with 30 CFR 910.817–71. Acid- and toxic-forming material shall be disposed of in accordance with 30 CFR 910.817–48, 910.817–81 and 910.817–103.

(13) Topsoil or other material suitable under 30 CFR 910.817–22 shall be placed on all embankment slopes of 1*v*:1.5*h* or flatter, to aid in establishing vegetation and to minimize erosion. Topsoil material depth shall be adequate to support vegetation and to minimize erosion.

(14) Temporary erosion-control measures shall be incorporated during construction to control sedimentation and minimize erosion until permanent control measures can be established.

(e) *Topsoil removal.* Before initiation of construction or reconstruction of a Class II Road, topsoil and other materials, as determined under 30 CFR 910.817–22, shall be removed from the design roadbed, shoulders, and surfaces where associated structures will be placed, and shall be stored in accordance with 30 CFR 910.817–23.

§ 910.817–163 Roads: Class II: Drainage.

(a) *General.*

(1) Each Class II Road shall be designed, constructed or reconstructed, and maintained to have adequate drainage, using structures such as ditches in wet areas, cross drains in natural drainageways, surface dips, and stream crossings. The water-control system shall be designed to pass the peak runoff safely from a 10-year, 24-hour precipitation event or a greater event if required by the Office.

(2) Sediment control shall comply with 30 CFR 910.817–42 and 910.817–45.

(b) *Ditches and alternative measures for roadbed erosion control.* Where required to minimize erosion on the roadbed, ditches shall be designed and constructed in accordance with 30 CFR 910.817–153(b). In wet areas or where there is free water such ditch sections shall be required. For every segment of a Class II Road without drainage ditches which comply with 30 CFR 910.817–153(b), drainage shall be provided by surface dips. These drainage dips shall be constructed as undulations in the roadway of sufficient height from the hydraulic bottom to the top of the dip to prevent water from running down the surface of the road. Insloped dips shall discharge into a culvert or drop inlet. Outsloped dips shall discharge either onto the natural ground or, onto embankments if a drain is provided. The bottom of the dip shall be rock surfaced to prevent erosion. Dip spacing shall be sufficient to minimize erosion of the road surface.

(c) *Culverts and bridges.* (1)(i) Culverts with an end area of 35 square feet or less shall be designed to safely pass the 10-year, 24-hour precipitation event without a head of water at the entrance. Culverts with an end area of greater than 35 square feet, and bridges with spans of 30 feet or less, shall be designed to safely pass the 20-year, 24-hour precipitation event. Bridges with spans of more than 30 feet shall be designed to safely pass the 100-year, 24-hour precipitation event or larger event as specified by the Office.

(ii) Drainage pipes and culverts shall be constructed to avoid plugging or collapse, and erosion at inlets and outlets.

(iii) Culverts shall be covered by compacted fill to a minimum depth of 1 foot.

(iv) Culverts shall be designed, constructed, and maintained to sustain the vertical soil pressure, the passive resistance of the road foundation, and the weight of vehicles to be used.

(2) Culverts or dips for road surface drainage only, shall be constructed in accordance with the following:

(i) Unless otherwise authorized or required under paragraphs (c)(2) (ii) or (iii) of this section, culverts and dips shall be spaced as follows:

(A) Spacing shall not exceed 1,000 feet on grades of 0 to 3 percent.

(B) Spacing shall not exceed 600 feet on grades of 3 to 6 percent.

(C) Spacing shall not exceed 400 feet on grades of 6 to 10 percent.

(D) Spacing shall not exceed 200 feet on grades of 10 percent or greater.

(ii) Surface dips or culverts at closer intervals than the maximum indicated in paragraph (c)(2)(i) of this section shall be installed if required by the Office as appropriate for the erosive properties of the soil or to accommodate flow from small intersecting drainages.

(iii) Surface dips or culverts may be constructed at greater intervals than the maximum indicated in paragraph (c)(2)(i) of this section if authorized by the Office upon a finding that greater spacing will not increase erosion.

(iv) Culverts and the bottoms of drainage dips shall cross the road at not less than a 30 degree angle downgrade.

(v) A culvert may be designed to carry less than the peak runoff from a 10-year, 24-hour precipitation event if the ditch will not overtop and will remain stable.

(vi) The inlet end of all culverts shall be protected by a rock headwall or other material approved by the Office as adequate protection against erosion of the headwall. The water shall be discharged below the toe of the fill, through conduits or in riprapped channels and shall not be discharged onto the fill.

(d) *Natural drainage.* Natural-channel drainageways shall not be altered or relocated for road construction or reconstruction without the prior approval of the Office in accordance with 30 CFR 910.817–43 and 910.817–44. The Office may approve alterations and relocations only if—

(i) The natural-channel drainage is not blocked;

(ii) No significant degradation occurs to the hydrologic balance; and

(iii) There is no adverse impact on adjoining landowners.

(e) *Stream crossings.* Drainage structures are required for stream-channel crossings. Drainage structures shall not affect the normal flow or gradient of the stream, or adversely affect fish migration or aquatic habitat or related environmental values.

§ 910.817-164 Roads: Class II: Surfacing.

(a) Class II Roads shall be surfaced with rock, crushed gravel, asphalt, or other material approved by the Office as sufficiently durable for the anticipated volume of traffic and weight and speed of vehicles to be used.

(b) Acid- or toxic-forming substances shall not be used in road surfacing.

(c) Vegetation shall not be cleared for more than the width necessary for road and associated ditch construction, to serve traffic needs and for utilities.

§ 910.817-165 Roads: Class II: Maintenance.

(a) Class II Roads shall be maintained in such a manner that the required or approved design criteria are met throughout the life of the facility including surface and shoulders, parking, side areas, approach structures, erosion-control devices, and such traffic-control devices as are necessary for safe and efficient utilization.

(b) Class II Road maintenance shall include basic custodial care as required to protect the road investment and to prevent damage to adjacent resources. This includes maintenance to control erosion, repair of structures and drainage systems, removal of rocks and debris, replacement of surface and restoration of the road prism.

§ 910.817-166 Roads: Class II: Restoration.

(a) Unless the Office approves retention of a Class II Road as suitable for the approved postmining land use, immediately after a road is no longer needed for operations, reclamation, or monitoring—

(1) The road shall be closed to vehicular traffic;

(2) The natural drainage patterns shall be restored;

(3) All bridges and culverts shall be removed;

(4) Roadbeds shall be ripped, plowed, and scarified;

(5) Fill slopes shall be rounded or reduced and shaped to conform the site to adjacent terrain and to meet natural drainage restoration standards;

(6) Cut slopes shall be reshaped to blend with the natural contour;

(7) Cross drains, dikes, and water bars shall be constructed to minimize erosion;

(8) Terraces shall be constructed as necessary to prevent excessive erosion and to provide long-term stability in cut-and-fill slopes; and

(9) Road surfaces shall be covered with topsoil in accordance with 30 CFR 910.817-24(b) and revegetated in accordance with 30 CFR 910.817-111 through 910.817-116.

(b) Unless otherwise authorized by the Office, all road surfacing materials shall be removed, hauled or conveyed, and disposed of under 30 CFR 910.817-69.

§ 910.817-170 Roads: Class III: General.

(a) Each person who conducts underground mining activities shall design, construct or reconstruct, utilize, and maintain Class III Roads and restore the area to meet the requirements of 30 CFR 910.817-171 through 910.817-176 and to control or minimize erosion and siltation, air and water pollution, and damage to public or private property.

(b) To the extent possible using the best technology currently available, Class III Roads shall not cause damage to fish, wildlife, and related environmental values and shall not cause additional contributions of suspended solids to streamflow or to runoff outside the permit area. Any such contributions shall not be in excess of limitations of State or Federal law.

(c) All Class III Roads shall be completely removed and the land affected regraded to the approximate original contour and revegetated in accordance with the requirements of 30 CFR 910.817-176 except where 30 CFR 910.817-171(g) shall apply.

(d) To the extent the anticipated volume of traffic or weight or speed of vehicles to be used requires higher standards than those set forth in 30 CFR 910.817-171 through 910.817-175, such higher standards shall be incorporated in the design, construction, reconstruction or maintenance of Class III Roads.

§ 910.817-171 Roads: Class III: Location.

(a) Class III Roads shall be located on ridges or on the most stable available slopes to minimize erosion.

(b) No part of any Class III Road shall be located in the channel of an intermittent or perennial stream unless specifically approved by the Office.

(c) Stream fords are prohibited unless they are approved by the Office as temporary routes across ephemeral or intermittent streams that will not adversely affect stream sedimentation or fish, wildlife, and related environmental values. All other stream crossings shall be made using temporary bridges, culverts, or other structures designed, constructed, and maintained to meet the requirements of 30 CFR 910.817-173.

(d) Class III Roads shall be constructed to minimize downstream sedimentation and flooding.

(e) Not later than the date a permit application is submitted to the Office for underground mining activities for which a Class III Road is proposed, the location of the proposed road shall be clearly marked in the field by flags or stakes to enable the Office to perform onsite review.

(f) Class III Roads shall not be located in wet, steep, or unstable areas where complete restoration under 30 CFR 910.817-176 cannot be accomplished.

(g) A Class III Road may be constructed in the same alinement as a Class I or Class II Road that is to be constructed on the same location at a later date. This may be permitted if the requirements for the location of the Class I or Class II Road are met, and the construction begins within 6 months from the time the Class III Road is constructed.

§ 910.817-172 Roads: Class III: Design and construction.

Field-design methods shall be utilized for Class III Roads.

(a) *Vertical alinement.* Except where lesser grades are necessary to control site-specific conditions, maximum road grades shall be as follows:

(1) The overall grade shall not exceed 1*v*:10*h* (10 percent).

(2) The maximum pitch grade shall not exceed 1*v*:5*h* (20 percent).

(3) There shall not be more than 1,000 consecutive feet of maximum pitch grade.

(b) *Horizontal alignment.* Class III Roads may meander so as to avoid large growths of vegetation and other natural obstructions.

(c) *Road cuts.* Sidecast construction may be used.

(d) *Road embankments.* Compaction on embankments shall be required only to the extent necessary to control erosion and maintain the road.

(e) *Topsoil removal.* Topsoil shall be removed and stockpiled only where excavation would require replacement of material and redistribution of topsoil for proper revegetation.

§ 910.817-173 Roads: Class III: Drainage.

(a) *General.*

(1) Class III Road drainage shall consist of temporary culverts in flowing streams, wet areas, and in ephemeral channels as necessary to protect the facility during its life and to minimize disturbance of the hydrologic balance.

(2) Sediment control shall comply with 30 CFR 910.817-42.

(b) *Culverts and bridges.* Temporary culverts shall be installed for all flowing drainages and stream crossings. Temporary culverts and bridges shall be sized to safety pass the 1-year, 6-hour precipitation event.

(c) *Natural drainage.* Natural channel drainageways shall not be altered or relocated for the purposes of Class III Road construction.

(d) *Stream crossings.* Temporary drainage structures are required for crossing permanent streams. Drainage structures shall not affect the normal flow or gradient of the stream, adversely affect fish migration and aquatic habitat or related environmental values.

§ 910.817-174 Roads: Class III: Surfacing.

(a) Class III Road surfaces shall be adequate for the use of the road.

(b) Acid- or toxic-forming substances shall not be used in road surfacing.

(c) Vegetation shall not be cleared for more than the width necessary to serve traffic needs and for utilities.

§ 910.817-175 Roads: Class III: Maintenance.

(a) Class III Road maintenance shall be sufficient to ensure minimization of erosion for the life of the road.

(b) Class III Roads shall not be used if climatic conditions are such that usage may cause degradation of water quality.

§ 910.817-176 Roads: Class III: Restoration.

Immediately after a Class III Road is no longer needed for operations, reclamation, or monitoring—

(a) The road shall be closed to vehicular traffic;

(b) The natural drainage patterns shall be restored;

(c) All bridges and culverts shall be removed;

(d) Roadbeds shall be ripped, plowed, and scarified;

(e) Fill slopes shall be rounded or reduced and shaped to conform the site to adjacent terrain and meet natural drainage restoration standards;

(f) Cut slopes shall be reshaped to blend with the natural contour;

(g) Cross drains, dikes, and water bars shall be constructed to control erosion; and

(h) Road surfaces from which topsoil has been removed shall be covered with topsoil in accordance with 30 CFR 910.817-24(b), and the surface shall be revegetated in accordance with 30 CFR 910.817-111 through 910.817-116.

§ 910.817-180 Other transportation facilities.

Railroad loops, spurs, sidings, surface conveyor systems, chutes, aerial tramways, or other transport facilities shall be designed, constructed or reconstructed, and maintained, and the area restored to—

(a) Prevent, to the extent possible using the best technology currently available—

(1) Damage to fish, wildlife and related environmental values; and

(2) Additional contributions of suspended solids to streamflow or runoff outside the permit area. Any such contributions shall not be in excess of limitations of State or Federal law;

(b) Control and minimize diminution or degradation of water quality and quantity;

(c) Control and minimize erosion and siltation;

(d) Control and minimize air pollution; and

(e) Prevent damage to public or private property.

§ 910.817-181 Support facilities and utility installations.

(a) Support facilities required for, or used incidentally to, the operation of the underground mine, including, but not limited to, mine buildings, coal-loading facilities at or near the mine-site, coal storage facilities, equipment-storage facilities, fan buildings, hoist buildings, preparation plants, sheds, shops, and other buildings, shall be designed, constructed or reconstructed, and located to prevent or control erosion and siltation, water pollution, and damage to public or private property. Support facilities shall be designed, constructed or reconstructed, maintained, and used in a manner which prevents, to the extent possible using the best technology currently available—

(1) Damage to fish, wildlife, and related environmental values; and

(2) Additional contributions of suspended solids to streamflow or runoff outside the permit area. Any such contributions shall not be in excess of limitations of State or Federal law;

(b) All underground mining activities shall be conducted in a manner which minimizes damage, destruction, or disruption of services provided by oil, gas, and water wells; oil, gas, and coal-slurry pipelines; railroads; electric and telephone lines; and water and sewage lines which pass over, under, or through the permit area, unless otherwise approved by the owner of those facilities and the Office.

§ 910.817-200 Interpretative rules related to general performance standards.

(a) Interpretations of § 910.817-74—Disposal of excess spoil: Durable rock fills;

(1) The term "rock" as used in 30 CFR 910.817-74 is interpreted to mean minerals or mineral aggregates 80% or more of which when subjected to a grain size analysis will not pass a ¼ inch sieve (¼ inch mesh).

(2) The term "hard rock spoil" as used in 30 CFR 910.817-74 is interpreted to mean rock consisting of at least 80 percent by volume of sandstone, limestone or other rocks that will not pass ¼ inch sieve and do not slake in water.

(3) The terms "slake durability" and "slake index tests" identified in 30 CFR 910.817-74 and used as the basis for determining "durability" of hard rock spoil, are interpreted to be applicable to rock placed in the fill and not only to rock obtained either from inplace strata prior to excavation or from the spoil source prior to placement in the fill.

(b) [Reserved.]

(c) Interpretation of § 910.817-22(e)—Topsoil Removal:

(1) Results of physical and chemical analyses of overburden and topsoil to demonstrate that the resulting soil medium is equal to or more suitable for sustaining revegetation than the available topsoil, provided that trials and tests are certified by an approved laboratory in accordance with 30 CFR 910.817-22(e)(1)(ii) may be obtained from any one or a combination of the following sources:

(i) U.S. Department of Agriculture Soil Conservation Service published data based on established soil series;

(ii) U.S. Department of Agriculture Soil Conservation Service Technical Guides;

(iii) State agricultural agency, university, Tennessee Valley Authority, Bureau of Land Management or U.S. Department of Agriculture Forest Service published data based on soil series properties and behavior; or

(iv) Results of physical and chemical analyses, field site trials or greenhouse tests of the topsoil and overburden materials (soil series) from the permit area.

(2) If the operator demonstrates through soil survey or other data that the topsoil and unconsolidated material are insufficient and substitute materials will be used, only the substitute materials must be analyzed in accordance with 30 CFR 910.817-22(e)(1).

Subpart 910.818—Special Performance Standards—Concurrent Surface and Underground Mining

§ 910.818-4 Responsibilities.

(a) The Director or his designee shall review and grant or deny requests for variances from the requirement that reclamation efforts proceed as contemporaneously as practicable, in accordance with 30 CFR 910.785-18 and this subpart.

(b) The person who conducts combined surface and underground

mining activities shall comply with the provisions of this subpart.

§ 910.818–11 Applicability.

A variance under this subpart applies only to those specific areas within the permit area that the person conducting combined surface and underground mining activities has shown to be necessary for implementing the proposed concurrent operations and that the Office has approved in the permit under 30 CFR 910.785–18. The variance is effective for any particular portion of the permit area only for the time necessary to facilitate the authorized underground mining activities.

§ 910.818–13 Compliance with variance terms.

(a) Each person who conducts operations under a variance issued under 30 CFR 910.785–18 shall comply with all applicable requirements of this Part, except to the extent that—

(1) A delay in compliance with these requirements is specifically authorized by the variance issued under the permit; and

(2) The delay in compliance is necessary to achieve the purposes for which the variance was granted.

(b) Each person who conducts activities under a variance issued under 30 CFR 910.785–18 shall comply with each requirement of the variance as set forth in the permit.

§ 910.818–15 Additional performance standards.

In addition to the requirements of 30 CFR 910.816 and 910.817, each person who conducts combined surface and underground mining activities shall comply with the following:

(a) A 500-foot barrier pillar of coal shall be maintained between the surface and underground mining activities in any one seam. The Office and the Mine Safety and Health Administration, may, however, approve a lesser distance, after a finding by the Office that mining at a lesser distance will result in—

(1) Improved coal resources recovery;

(2) Abatement of water pollution; or

(3) Elimination of hazards to the health and safety of the public.

(b) The vertical distance between combined surface and underground mining activities working separate seams shall be sufficient to provide for the health and safety of the workers and to prevent surface water from entering the underground workings.

(c) No combined activities shall reduce the protection provided public health and safety below the level of protection required for those activities if conducted without a variance.

Subpart 910.819—Special Performance Standards—Auger Mining

§ 910.819–11 Auger mining: Additional performance standards.

(a) Any auger mining associated with surface mining activities shall be conducted to maximize recoverability of mineral reserves remaining after the mining activities are completed. Each person who conducts auger mining operations shall leave areas of undisturbed coal to provide access for removal of those reserves by future underground mining activities, unless the Office determines that the coal reserves have been depleted or are limited in thickness or extent to the point that it will not be practicable to recover the remaining coal reserves. The Office shall make such determination only upon presentation of appropriate technical evidence by the operator.

Undisturbed areas of coal shall be left in unmined sections which—

(1) Are a minimum of 250 feet wide at any point between each group of auger openings to the full depth of the auger hole;

(2) Are no more than 2,500 feet apart, measured from the center of one section to the center of the next section, unless a greater distance is set forth in the permit application under 30 CFR 910.785–20 and approved by the Office; and

(3) For multiple seam mining, shall have a width of at least 250 feet plus 50 feet for each subjacent workable coal seam. The centers of all unmined sections shall be aligned vertically.

(b) No auger hole shall be made closer than 500 feet in horizontal distance to any abandoned or active underground mine workings, except as approved in accordance with 30 CFR 910.816–79.

(c) In order to prevent pollution of surface and ground water and to reduce fire hazards, each auger hole, except as provided in paragraph (d) of this section, shall be plugged so as to prevent the discharge of water from the hole and access of air to the coal, as follows:

(1) Each auger hole discharging water containing toxic-forming or acid-forming material shall be plugged within 72 hours after completion by backfilling and compacting noncombustible and impervious material into the hole to a depth sufficient to form a water-tight seal or the discharge shall be treated commencing within 72 hours after completion to meet applicable effluent limitations and water quality standards under 30 CFR 910.816–42, until the hole is properly sealed; and

(2) Each auger hole not discharging water shall be sealed as in paragraph (c)(1) of this section, to close the opening within 30 days following completion.

(d) An auger hole need not be plugged, if the Office finds—

(1) Impoundment of the water which would result from plugging the hole may create a hazard to the environment or public health or safety; and

(2) Drainage from the auger hole will not pose a threat of pollution to surface water and will comply with the requirements of 30 CFR 910.816–41 through 910.816–42.

(e) The Office shall prohibit auger mining, if it determines that—

(1) Adverse water quality impacts cannot be prevented or corrected;

(2) Fill stability cannot be achieved;

(3) The prohibition is necessary to maximize the utilization, recoverability or conservation of the solid fuel resources; or

(4) Subsidence resulting from auger mining may disturb or damage powerlines; pipelines, buildings, or other facilities.

Subpart 910.823—Special Performance Standards—Operations on Prime Farmland [Reserved]

Subpart 910.824—Special Performance Standards—Mountaintop Removal

§ 910.824–11 Mountaintop removal: Performance standards.

(a) Surface coal mining activities may be conducted under a variance from the requirement of Subparts 910.815 through 910.828 for restoring affected areas to their approximate original contour, if—

(1) The Office grants the variance under a permit, in accordance with 30 CFR 910.785–14;

(2) The activities involve the mining of an entire coal seam running through the upper fraction of a mountain, ridge, or hill, by removing all of the overburden and creating a level plateau or gently rolling contour with no highwalls remaining;

(3) An industrial, commercial, agricultural, residential, or public facility (including recreational facilities) use is proposed and approved for the affected land;

(4) The alternative land-use requirements of 30 CFR 910.816–133 are met;

(5) All applicable requirements of this Part, other than the requirement to restore affected areas to their approximate original contour, are met;

(6) An outcrop barrier of sufficient width, consisting of the toe of the lowest coal seam, and its associated overburden, are retained to prevent slides and erosion, except that the Office may permit an exemption to the retention of the coal barrier requirement if the following conditions are satisfied:

(i) The proposed mine site was mined prior to May 3, 1978, and the toe of the lowest seam has been removed; or

(ii) A coal barrier adjacent to a head-of-hollow fill may be removed after the elevation of a head-of-hollow fill attains the elevation of the coal barrier if the head-of-hollow fill provides the stability otherwise ensured by the retention of a coal barrier;

(7) The final graded slopes on the mined area are less than 1*v*:5*h*, so as to create a level plateau or gently rolling configuration, and the outslopes of the plateau do not exceed 1*v*:2*h* except where engineering data substantiates, and the Office finds, in writing, and includes in the permit under 30 CFR 910.785–14, that a minimum static safety factor of 1.5 will be attained;

(8) The resulting level or gently rolling contour is graded to drain inward from the outslope, except at specified points where it drains over the outslope in stable and protected channels. The drainage shall not be through or over a valley or head-of-hollow fill.

(9) Natural watercourses below the lowest coal seam mined are not damaged;

(10) All waste and acid-forming or toxic-forming materials, including the strata immediately below the coal seam, are covered with non-toxic spoil to prevent pollution and achieve the approved postmining land use; and

(11) Spoil is placed on the mountaintop bench as necessary to achieve the postmining land use approved under paragraphs (a)(3) and (a)(4) of this section. All excess spoil material not retained on the mountaintop shall be placed in accordance with 30 CFR 910.816–52 and 910.816–71 through 910.816–74.

Subpart 826—Special Performance Standards—Operations on Steep Slopes

§ 910.826–11 Applicability.

(a) Any surface coal mining and reclamation operations on steep slopes shall meet the requirements of this Subpart. Steep slopes, as defined in § 910.701–5 means any slope of 20 degrees or more.

(b) The standards of this Subpart do not apply to mining conducted on a flat or gently rolling terrain with an occasional steep slope through which the mining proceeds and leaves a plain or predominantly flat area, or to operations covered by 30 CFR 910.824.

§ 910.826–12 Steep slopes: Performance standards.

Surface coal mining and reclamation operations on steep slopes shall comply with requirements of Subparts 910.770 through 910.795 and the following, except to the extent a variance is approved under § 910.826–15:

(a)(1) The person engaged in surface coal mining and reclamation operations shall prevent the following materials from being placed or allowed to remain on the downslope:

(i) Spoil;

(ii) Waste materials, including waste mineral matter;

(iii) Debris, including that from clearing and grubbing of haul road construction; and

(iv) Abandoned or disabled equipment;

(2) Nothing in this Subsection shall prohibit the placement of material in road embankments located on the downslope, so long as the material used and embankment design comply with the requirements of 30 CFR 910.816–150 through 910.816–180 or 910.817–150 through 910.817–180 and the material is moved and placed in a controlled manner.

(b) The highwall shall be completely covered with compacted spoil and the disturbed area graded to comply with the provisions of 30 CFR 910.816–101 through 910.816–106 and 30 CFR 910.817–101 through 910.817–106, including, but not limited to, the return of the site to the approximate original contour. The person who conducts the surface coal mining and reclamation operation must demonstrate to the Office, using standard geotechnical analysis, that the minimum static factor of safety for the stability of all portions of the reclaimed land is at least 1.3.

(c) Land above the highwall shall not be disturbed, unless the Office finds that the disturbance facilitates compliance with the requirements of this Subpart.

(d) Material in excess of that required by the grading and backfilling provisions of paragraph (b) of this section shall be disposed of in accordance with the requirements of 30 CFR 910.816–71 through 910.816–74 or 910.817–71 through 910.817–74.

(e) Woody materials shall not be buried in the backfilled area unless the regulatory authority determines that the proposed method for placing woody material beneath the highwall will not deteriorate the stable condition of the backfilled area as required in § 910.826–12(b). Woody materials may be chipped and distributed over the surface of the backfill as mulch, if special provision is made for their use and approved by the Office.

(f) Unlined or unprotected drainage channels shall not be constructed on backfills unless approved by the Office as stable and not subject to erosion.

§ 910.826–15 Steep slopes: Limited variances.

Persons may be granted variances from the approximate original contour requirements of § 910.826–12(b) for steep slope surface coal mining and reclamation operations, if the following standards are met and a permit incorporating the variance is approved under 30 CFR 910.785–16:

(a) The highwall shall be completely backfilled with spoil material, in a manner which results in a static factor of safety of at least 1.3 using standard geotechnical analyses.

(b) The watershed control of the area within which the mining occurs shall be improved by reducing the peak flow from precipitation or thaw and reducing the total suspended solids or other pollutants in the surface water discharge during precipitation or thaw. The total volume of flow during every season of the year shall not vary in a way that adversely affects the ecology of any surface water or any existing or planned public or private use of surface or ground water.

(c) Land above the highwall may be disturbed only to the extent that the Office deems appropriate and approves as necessary to facilitate compliance with the provisions of this Subpart and if the Office finds that the disturbance is necessary to—

(1) Blend the solid highwall and the backfilled material;

(2) Control surface runoff; or

(3) Provide access to the area above the highwall.

(d) The landowner of the permit area has requested, in writing, as part of the permit application under 30 CFR 910.785–16, that the variance be granted.

(e) The operations are conducted in full compliance with a permit issued in accordance with 30 CFR 910.785–16.

(f) Only the amount of spoil as is necessary to achieve the postmining land use, ensure the stability of spoil retained on the bench, and meet all other requirements of the Act and this Part shall be placed off the mine bench. All spoil not retained on the bench shall be placed in accordance with 30 CFR 910.816–71 through 910.816–74 or 910.817–71 through 910.817–74 and 30 CFR 910.816–101 through 910.816–102 or 910.817–101 through 910.817–102

§ 910.826–16 Steep slopes: Multiple seam.

In multiple-seam steep slope affected areas, spoil not required to reclaim and

restore the permit area may be placed on a pre-existing bench, if approved by the Office and if the following requirements are met:

(a) All excess spoil must be hauled, placed, and retained on the solid bench.

(b) The spoil must be graded to the most moderate slope so as to eliminate the existing highwall to the extent possible with the available spoil.

(c) The fill must comply with 30 CFR 910.816–71 or 910.817–72 and the other requirements of Subparts 910.615 through 910.626.

(d) The bench on which the spoil is to be placed must have been created and abandoned due to coal mining prior to August 3, 1977.

Subpart 910.827—Special Performance Standards—Coal Processing Plants and Support Facilities Not Located at or Near the Minesite or Not Within the Permit Area for a Mine

§ 910.827–11 Applicability.

Each person who conducts surface coal mining and reclamation operations, which includes the operation of a coal processing plant or support facility which is not located within the permit area for a specific mine, shall obtain a permit in accordance with 30 CFR 910.785–21 to conduct those operations and comply with § 910.827–12.

§ 910.827–12 Coal processing plants: Performance standards.

Construction, operation, maintenance, modification, reclamation, and removal activities at operations covered by this subpart shall comply with the following:

(a) Signs and markers for the coal processing plant, coal processing waste disposal area, and water treatment facilities shall comply with 30 CFR 910.816–11.

(b) Roads, transport, and associated structures shall be constructed, maintained, and reclaimed in accordance with 30 CFR 910.816–150 through 910.816–181.

(c) Any stream or channel realignment shall comply with 30 CFR 910.816–44.

(d) If required by the Office, any disturbed area related to the coal processing plant or associated facilities shall have sediment control structures, in compliance with 30 CFR 910.816–45 and 910.816–46, and all discharges from these areas shall meet the requirements of 30 CFR 910.816–41 through 910.816–42 and any other applicable State or Federal law.

(e) Permanent impoundments associated with coal processing plants shall meet the requirements of 30 CFR 910.816–49 and 910.816–56. Dams constructed of or impounding coal processing waste shall comply with 30 CFR 910.816–91 through 910.816–93.

(f) Use of water wells shall comply with 30 CFR 910.816–53 and water rights shall be protected in accordance with 30 CFR 910.816–54.

(g) Disposal of coal processing waste, solid waste, and any excavated materials shall comply with 30 CFR 910.816–81 through 910.816–86, 910.816–89, and 910.816–71 through 910.816–74, respectively.

(h) Discharge structures for diversions and sediment control structures shall comply with 30 CFR 910.816–47.

(i) Air pollution control measures associated with fugitive dust emissions shall comply with 30 CFR 910.816–95.

(j) Fish, wildlife and related environmental values shall be protected in accordance with 30 CFR 910.816–97.

(k) Slide areas and other surface areas shall comply with 30 CFR 910.816–99.

(l) Adverse effects upon or resulting from nearby underground coal mining activities shall be minimized by appropriate measures including, but not limited to compliance with 30 CFR 910.816–55 and 910.816–79.

(m) Reclamation shall include proper topsoil handling procedures, revegetation, and abandonment, in accordance with 30 CFR 910.816–56, 910.816–100 through 910.816–106, 910.816–111 through 910.816–117 and 910.816–131 through 910.816–133.

(n) Conveyors, buildings, storage bins or stockpiles, water treatment facilities, water storage facilities, and any structure or system related to the coal processing plant shall comply with 30 CFR 910.815.

Subpart 910.828—Special Performance Standards—In Situ Processing

§ 910.828–11 In situ processing: Performance standards.

(a) The person who conducts in situ processing activities shall comply with 30 CFR 910.817 and this section.

(b) In situ processing activities shall be planned and conducted to minimize disturbance to the prevailing hydrologic balance by:

(1) Avoiding discharge of fluids into holes or wells, other than as approved by the Office;

(2) Injecting process recovery fluids only into geologic zones or intervals approved as production zones by the Office;

(3) Avoiding annular injection between the wall of the drill hole and the casing; and

(4) Preventing discharge of process fluid into surface waters.

(c) Each person who conducts in situ processing activities shall submit for approval as part of the application for permit under 30 CFR 910.785–22, and follow after approval, a plan that ensures that all acid-forming, toxic-forming, or radioactive gases, solids, or liquids constituting a fire, health, safety, or environmental hazard and caused by the mining and recovery process are promptly treated, confined, or disposed of, in a manner that prevents contamination of ground and surface waters, damage to fish, wildlife and related environmental values, and threats to the public health and safety.

(d) Each person who conducts in situ processing activities shall prevent flow of the process recovery fluid:

(1) Horizontally beyond the affected area identified in the permit; and

(2) Vertically into overlying or underlying aquifers.

(e) Each person who conducts in situ processing activities shall restore the quality of affected ground water in the permit area and adjacent area, including ground water above and below the production zone, to the approximate premining levels or better, to ensure that the potential for use of the ground water is not diminished.

§ 910.828–12 In situ processing: Monitoring.

(a) Each person who conducts in situ processing activities shall monitor the quality and quantity of surface water including the surface water flow in a manner approved by the Office under 30 CFR 910.817–52 to measure changes in the quantity and quality of water in the permit area and adjacent areas.

(b) Air and water quality monitoring shall be conducted in accordance with monitoring programs approved by the Office as necessary according to appropriate Federal and State air and water quality standards.

Inspection and Enforcement Procedures

Subpart 910.842—Federal Inspections

§ 910.842–11 Federal inspections.

(a) Authorized representatives of the Secretary shall conduct inspections of surface coal mining and reclamation operations as necessary:

(1) To develop or enforce this part;

(2) To enforce those requirements and permit conditions imposed under this part of section 521(b) of the Act, 30 CFR or as provided in this section; and

(3) To determine whether any notice of violation or cessation order issued during an inspection authorized under this section has been complied with.

(b)(1) An authorized representative of the Secretary shall immediately conduct

a Federal inspection to enforce any requirement of the Act, this part, or any condition of a permit or an exploration approval imposed under the Act or, this part when the authorized representative has reason to believe, on the basis of information available to him or her (other than information resulting from a previous Federal inspection), that there exists a violation of the Act, this part, or any condition of a permit or an exploration approval, or that there exists any condition, practice or violation which creates an imminent danger to the health or safety of the public or is causing or can reasonably be expected to cause a significant, imminent environmental harm to land, air or water resources.

(2) An authorized representative shall have reason to believe that a violation, condition or practice exists if the facts alleged by the informant would, if true, constitute a condition, practice or violation referred to in paragraph (b)(1) of this section.

(c) The Office, as the regulatory authority under this part, shall conduct inspections of all coal exploration and surface coal mining and reclamation operations under its jurisdiction. These inspections shall average at least:

(1) One partial inspection per month of each surface coal mining and reclamation operation. A partial inspection is an onsite review of a person's compliance with some of the permit conditions and requirements imposed under the applicable program, during which the inspector collects evidence with respect to every violation of any such condition or requirement observed;

(2) One complete inspection per calendar quarter of each surface coal mining and reclamation operation. A complete inspection is an onsite review of a person's compliance with all permit conditions and requirements imposed under the applicable program within the entire area disturbed or affected by surface coal mining and reclamation operations, including the collection of evidence with respect to every violation of any such condition or requirement; and

(3) Periodic inspections of all coal exploration operations required to comply in whole or in part with the Act or this part including the collection of evidence with respect to every violation on any condition of the exploration approval or requirement of this part.

(d) The inspections required under paragraph (c) of this section shall—

(1) Be carried out on an irregular basis so as to monitor compliance at all operations, including those which operate nights, weekends, or holidays;

(2) Occur without prior notice to the person being inspected or any of his agents or employees, except for necessary onsite meetings; and

(3) Include the prompt filing of inspection reports adequate to enforce the requirements of and to carry out the terms and purposes of this part any condition of an exploration approval or permit imposed under this part and the Act.

§ 910.842–12 Citizens' requests for Federal inspections.

(a) A citizen may request a Federal inspection under 30 CFR 910.842–11(b), by furnishing to an authorized representative of the Secretary a signed, written statement (or an oral report followed by a signed, written statement) giving the authorized representative reason to believe that a violation, condition, or practice referred to in 30 CFR 910.842–11(b)(1)(i) exists and setting forth a phone number and address where the citizen can be contacted.

(b) The identity of any person supplying information to the Office relating to a possible violation or imminent danger or harm shall remain confidential with the Office, if requested by that person, unless that person elects to accompany the inspector on the inspection, or unless disclosure is required under the Freedom of Information Act (5 U.S.C. Section 552) or other Federal law;

(c) If a Federal inspection is conducted as a result of information provided to the Office by a citizen as described in paragraph (a) of this section, the citizen shall be notified as far in advance as practicable when the inspection is to occur and shall be allowed to accompany the authorized representative of the Secretary during the inspection. Such person has a right of entry to, upon and through the coal exploration or surface coal mining and reclamation operation about which he or she supplied information, but only if he or she is in the presence of and is under the control, direction and supervision of the authorized representative while on the mine property. Such right of entry does not include a right to enter buildings without consent of the person in control of the building or without a search warrant.

(d) Within 10 days of the Federal inspection or, if there is no inspection, within 15 days of receipt of the citizen's written statement, the Office shall send the citizen the following:

(1) If an inspection was made, a description of the enforcement action taken, which may consist of copies of the Federal inspection report and all notices of violation and cessation orders issued as a result of the inspection or an explanation of why no enforcement action was taken;

(2) If no Federal inspection was conducted, an explanation of the reason why; and

(3) An explanation of the citizen's right, if any, to informal review of the action or inaction of the Office under 30 CFR 910.842–15.

(e) The Office shall give copies of all materials in paragraphs (d) (1) and (2) of this section within the time limits specified in those paragraphs to the person alleged to be in violation, except that the name of the citizen shall be removed unless disclosure of the citizen's identity is permitted under paragraph (b) of this section.

§ 910.842–13 Right of entry.

(a) Each authorized representative of the Secretary conducting a Federal inspection under 30 CFR 910.842–11:

(1) Shall have a right of entry to, upon, and through any coal exploration or surface coal mining and reclamation operation, without advance notice or a search warrant, upon presentation of appropriate credentials; and

(2) May, at reasonable times and without delay, have access to and copy any records, and inspect any monitoring equipment or method of operation, required under the Act, this part, or any condition of an exploration approval or permit imposed under the Act or this part.

(b) No search warrant shall be required with respect to any activity under paragraph (a) of this section except that a search warrant may be required for entry into a building.

§ 910.842–14 Review of adequacy and completeness of inspections.

Any person who is or may be adversely affected by a surface coal mining and reclamation operation or a coal exploration operation may notify the Office in writing of any alleged failure on the part of the Office to make adequate and complete or periodic Federal inspections as provided in 30 CFR 910.842–11(b)(1) (c) and (d). The notification shall include sufficient information to create a reasonable belief that 30 CFR 910.842–11(b)(1) (c) and (d) are not being complied with and to demonstrate that the person is or may be adversely affected. The Office shall within 15 days of receipt of the notification determine whether 30 CFR 910.842–11(b)(1) (c) and (d) are being complied with, and if not, shall immediately order a Federal inspection to remedy the noncompliance. The

Office shall also furnish the complainant with a written statement of the reasons for such determination and the actions, if any, taken to remedy the noncompliance.

§ 910.842–15 Review of decision not to inspect or enforce.

(a) Any person who is or may be adversely affected by a coal exploration or surface coal mining and reclamation operation may ask the Office to review informally an authorized representative's decision not to inspect or take appropriate enforcement action with respect to any violation alleged by that person in a request for Federal inspection under 30 CFR 910.842–12. The request for review shall be in writing and include a statement of how the person is or may be adversely affected and why the decision merits review.

(b) The Office shall conduct the review and inform the person, in writing, of the results of the review within 30 days of his or her receipt of the request. The person alleged to be in violation shall also be given a copy of the results of the review, except that the name of the citizen shall not be disclosed unless confidentiality has been waived or disclosure is required under the Freedom of Information Act or other Federal law.

(c) Informal review under this Section shall not affect any right to formal review under Section 525 of the Act or to a citizen's suit under Section 520 of the Act.

§ 910.842–16 Availability of records.

(a) Copies of all records, reports, inspection materials, or information obtained by the Office under Title V of the Act and this Part or 30 CFR 910.842–11 or 910.842–12 shall be made immediately available to the public at the OMS field office in Georgia where the mining is taking place, except that the Office may refuse to make available—

(1) Investigatory records compiled for law enforcement purposes to the extent provided in the Freedom of Information Act (5 U.S.C. Section 552(b)) and

(2) Information not required to be made available under 30 CFR 910.775–17 and 910.785–15.

(b) Copies of documents and information required to be made available under paragraph (a) of this section shall be provided upon request to the Georgia Department of Natural Resources.

Subpart 843—Federal Enforcement

§ 910.843–11 Cessation orders.

(a)(1) An authorized representative of the Secretary shall immediately order a cessation of surface coal mining and reclamation operations or of the relevant portion thereof, if he finds, on the basis of any Federal inspection, any condition or practice, or any violation of the Act, this Part, or any condition of an exploration approval or permit imposed under this Part, which:

(i) Creates an imminent danger to the health or safety of the public; or

(ii) Is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources.

(2) If the cessation ordered under paragraph (a)(1) of this section will not completely abate the imminent danger or harm in the most expeditious manner physically possible, the authorized representative of the Secretary shall impose affirmative obligations on the person to whom it is issued to abate the conditions, practice, or violation. The order shall specify the time by which abatement shall be accomplished and may require, among other things, the use of existing or additional personnel and equipment.

(b)(1) An authorized representative of the Secretary shall immediately order a cessation of coal exploration or surface coal mining and reclamation operations, or of the relevant portion thereof, when a notice of violation has been issued under 30 CFR 910.843–12(a) and the person to whom it was issued fails to abate the violation within the abatement period fixed or subsequently extended by the authorized representative.

(2) A cessation order issued under this paragraph shall require the person to whom it is issued to take all steps the authorized representative of the Secretary deems necessary to abate the violations covered by the order in the most expeditious manner physically possible.

(c) An authorized representative of the Secretary may extend the time set for abatement or for accomplishment of an interim step, if the failure to meet the time previously set was not caused by lack of diligence on the part of the person to whom it was issued. The total time for abatement under a notice of violation, including all extensions, shall not exceed 90 days from the date of issuance, except upon a showing by the permittee that it is not feasible to abate the violation within 90 calendar days due to one or more of the circumstances in § 843.12(f). An extended abatement date pursuant to this section shall not be granted when the permittee's failure to abate within 90 days has been caused by a lack of diligence or intentional delay by the permittee in completing the remedial action required.

(d) Reclamation operations and other activities intended to protect public health and safety and the environment shall continue during the period of any order unless otherwise provided in the order.

(e) An authorized representative of the Secretary may modify, terminate or vacate a cessation order for good cause, and may extend the time for abatement if the failure to abate within the time previously set was not caused by lack of diligence on the part of the person to whom it was issued.

(f) Circumstances which may qualify a surface coal mining operation for an abatement period of more than 90 days are:

(1) where the permittee of an ongoing permitted operation has timely applied for and diligently pursued a permit renewal or other necessary approval of designs or plans but such permit or approval has not been or will not be issued within 90 days after a valid permit expires or is required, for reasons not within the control of the permittee;

(2) where there is a valid judicial order precluding abatement within 90 days as to which the permittee has diligently pursued all rights of appeal and as to which he or she has no other effective legal remedy;

(3) where the permittee cannot abate within 90 days due to a labor strike;

(4) where climatic conditions preclude abatement within 90 days, or where, due to climatic conditions, abatement within 90 days clearly:

(i) would cause more environmental harm than it would prevent; or

(ii) requires action that would violate safety standards established by statute or regulation under the Mine Safety and Health Act.

(g) Whenever an abatement time in excess of 90 days is permitted, interim abatement measures shall be imposed to the extent necessary to minimize harm to the public or the environment.

(h) If any of the conditions in paragraph (f) (1)–(4) exist, the permittee may request the authorized representative to grant an abatement period exceeding 90 days. The authorized representative shall not grant such an abatement period without the concurrence of the Director or his or her designee and the abatement period granted shall not exceed the shortest possible time necessary to abate the violation. The permittee shall have the burden of establishing by clear and convincing proof that he or she is entitled to an extension under the provisions of § 843.12 (c) and (f). In determining whether or not to grant an abatement period exceeding 90 days the authorized representative may consider any relevant written or oral information from the permittee or any other source. The authorized representative shall promptly and fully document in the file his or her reasons for granting or denying the request. The inspector's immediate supervisor shall review this document before concurring in or disapproving the extended abatement date and shall promptly and fully document the reasons for his or her concurrence or disapproval in the file.

(i) Any determination made under paragraph (h) shall be in writing and shall contain a right of appeal to the Office of Hearings and Appeals in accordance with 43 CFR 4.1281 and the regulations at 43 CFR Part 4.

(j) No extension granted under paragraph (h) may exceed 90 days in length. Where the condition or circumstance which prevented abatement within 90 days exists at the expiration of any such extensions the permittee may request a further extension in accordance with the procedures of paragraph (h).

§ 910.843–12 Notices of violation.

(a) An authorized representative of the Secretary shall issue a notice of violation if, on the basis of a Federal inspection carried out during the enforcement of this part, he finds a violation of the Act, this part, or any condition of a permit or an exploration approval imposed under the Act or this part, which does not create an imminent danger or harm for which a cessation order must be issued under 30 CFR 910.843–11.

(b) A notice of violation issued under this section shall be in writing, signed by the authorized representative who issues it, and shall set forth with reasonable specificity:

(1) The nature of the violation;

(2) The remedial action required, which may include interim steps;

(3) A reasonable time for abatement, which may include time for accomplishment of interim steps; and

(4) A reasonable description of the portion of the coal exploration or surface coal mining and reclamation operation to which it applies.

(c) An authorized representative of the Secretary may extend the time set for abatement or for accomplishment of an interim step, if the failure to meet the time previously set was not caused by lack of diligence on the part of the person to whom it was issued. The total time for abatement under a notice of violation, including all extensions, shall not exceed 90 days from the date of issuance.

(d) If the person to whom the notice was issued fails to meet any time set for abatement or for accomplishment of an interim step, the authorized representative shall issue a cessation order under 30 CFR 910.843–11(b).

(e) An authorized representative of the Secretary shall terminate a notice of violation by written notice to the person to whom it was issued, when he determines that all violations listed in the notice of violation have been abated. Termination shall not affect the right of the Office to assess civil penalties for those violations under 30 CFR Subpart 910.845 (civil penalties).

§ 910.843–13 Suspension or revocation of permits.

(a)(1) Except as provided in paragraph (b) of this section, the Director shall issue an order to a permittee requiring him to show cause why his permit and right to mine under the Act should not be suspended or revoked, if the Director determines that a pattern of violations of any requirements of the Act, this part, or any permit condition required by the Act exists or has existed, and that the violations were caused by the willful or unwarranted failure to comply with those requirements or conditions by the permittee. Willful violation means an act or omission which violates the Act, this part, or any permit condition required by the Act, or this part, committed by a person who intends the result which actually occurs. Unwarranted failure to comply means the failure of the permittee to prevent the occurrence of any violation of the permit or any requirement of the Act, due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or the Act, due to indifference, lack of diligence, or lack of reasonable care. Violations by any person conducting surface coal mining operations on behalf of the permittee shall be attributed to the permittee, unless the permittee establishes that they were acts of deliberate sabotage.

(2) The Director may determine that a pattern of violations exists or has existed, based on two or more Federal inspections of the permit area within any 12-month period, after considering the circumstances, including:

(i) The number of violations, cited on more than one occasion, of the same or related requirements of the Act, this part, or the permit;

(ii) The number of violations, cited on more than one occasion, of different requirements of the Act, this Part, or the permit; and

(iii) The extent to which the violations were isolated departures from lawful conduct.

(3) The Director shall determine that a pattern of violations exists, if he finds that there were violations of the same or related requirements of the Act, this part, or the permit during three or more Federal inspections of the permit area within any 12-month period.

(4) In determining the number of violations within any 12-month period, the Director shall consider only violations issued as a result of a Federal inspection carried out–

(i) During enforcement of this Part; or,

(ii) During the interim program and before the effective date of the Federal Program under this part.

(b) The Director may decline to issue a show cause order, or may vacate an outstanding show cause order, if he finds that, taking into account exceptional factors present in the particular case, it would be demonstrably unjust to issue or to fail to vacate the show cause order. The basis for this finding shall be fully explained and documented in the records of case.

(c) At the same time as the issuance of the order, the Director shall:

(1) File a copy of the order to show cause with the Office of Hearings and Appeals and provide a copy to the Georgia Department of Natural Resources.

(2) If practicable, publish notice of the order, including a brief statement of the procedure for intervention in the proceeding, in a newspaper of general circulation in the area of the surface coal mining and reclamation operations; and

(3) Post the notice at the regional, district or field office closest to the area of the surface coal mining and reclamation operations.

(d) If the permittee files an answer to the show cause order and requests a hearing under 43 CFR Part 4, a public hearing shall be provided as set forth in that Part. The Office of Hearings and Appeals shall give thirty days written notice of the date, time and place of the hearing to the Director, the permittee, the Georgia Dept. of Natural Resources and any intervenor. Upon receipt of the notice, the Director shall publish it, if practicable, in a newspaper of general circulation in the area of the surface coal mining and reclamation operations, and shall post it at the regional, district or field office closest to those operations.

(e) Within sixty days after the hearing, and within the time limits set forth in 43 CFR Part 4, the Office of Hearings and Appeals shall issue a

written determination as to whether a pattern of violations exists and, if appropriate, on order. If the Office of Hearings and Appeals revokes or suspends the permit and the permittee's right to mine under the Act, the permittee shall immediately cease surface coal mining operations on the permit area and shall:

(1) If the permit and the right to mine under the Act are revoked, complete reclamation within the time specified in the order; or

(2) If the permit and the right to mine under the Act are suspended, complete all affirmative obligations to abate all conditions, practices or violations, as specified in the order.

(f) Whenever a permittee fails to abate a violation contained in a notice of violation or a cessation order within the abatement period set in the notice or order or as subsequently extended, the Director shall review the permittee's history of violations to determine whether a pattern of violations exists pursuant to this section, and shall issue an order to show cause as appropriate pursuant to 30 CFR 845.15(b)(2).

§ 910.843–14 Service of notices of violations, cessation orders, and show cause orders.

(a) A notice of violation or cessation order shall be served on the person to whom it is directed or his designated agent promptly after issuance, as follows:

(1) By tendering a copy of the coal exploration or surface coal mining and reclamation operation to the designated agent or to the individual who, based upon reasonable inquiry by the authorized representative, appears to be in charge of the coal exploration or surface coal mining and reclamation operation referred to in the notice or order. If no such individual can be located at the site, a copy may be tendered to any individual at the site who appears to be an employee or agent of the person to whom the notice or order is issued. Service shall be complete upon tender of the notice or order and shall not be deemed incomplete because of refusal to accept.

(2) As an alternative to paragraph (a)(1) of this section, service may be made by sending a copy of the notice or order by certified mail or by hand to the person to whom it is issued or his designated agent. Service shall be complete upon tender of the notice or order or of the mail and shall not be deemed incomplete because of refusal to accept.

(b) A show cause order may be served on the person to whom it is issued in either manner provided in paragraph (a) of this section.

(c) Designation by any person of an agent for service of notices and orders shall be made in writing to the appropriate regional, district or field office of the Office.

(d) The Office shall furnish copies of notices and orders to the Department of Natural Resources upon request. The Office may furnish copies to any person having an interest in the coal exploration, surface coal mining and reclamation operation, or the permit area, such as the owner of the fee, a corporate officer of the permittee or entity conducting coal exploration, or the bonding company.

§ 910.843–15 Informal public hearing.

(a) Except as provided in paragraphs (b) and (c) of this section, a notice of violation or cessation order which requires cessation of mining, expressly or by necessary implication, shall expire within 30 days after it is served unless an informal public hearing has been held within that time. The hearing shall be held at or reasonably close to the mine site so that it may be viewed during the hearing or at any other location acceptable to the Office and the person to whom the notice or order was issued. The Office of Surface Mining office nearest to the minesite shall be deemed to be reasonably close to the minesite unless a closer location is requested and agreed to by the Office. Expiration of a notice or order shall not affect the Director's right to assess civil penalties with respect to the period during which the notice or order was in effect. No hearing will be required where the condition, practice or violation in question has been abated, or the hearing has been waived. For purposes of this section only, mining means (1) extracting coal from the earth or from coal waste piles and transporting it within or from the permit area, and (2) the processing, cleaning, concentrating, preparing or loading of coal where such operations occur at a place other than a minesite.

(b) A notice of violation or cessation order shall not expire as provided in paragraph (a) of this section if the informal public hearing has been waived or if, with the consent of the person to whom the notice or order was issued, the informal public hearing is held later than 30 days after the notice or order was served. For purposes of this subsection:

(1) The informal public hearing will be deemed waived if the person to whom the notice or order is issued:

(i) Is informed, by written notice served in the manner provided in paragraph (b)(2) of this section, that he will be deemed to have waived an informal public hearing unless he requests one within 30 days after service of the notice or order, and

(ii) Fails to request an informal public hearing within that time.

(2) The written notice referred to in paragraph (b)(1)(i) of this section shall be delivered to such person by an authorized representative or sent by certified mail to such person no later than five days after the notice or order is served on such person.

(3) The person to whom the notice or order is issued shall be deemed to have consented to an extension of the time for holding the informal public hearing if his request is received on or after the 21st day after service of the notice of order. The extension of time shall be equal to the number of days elapsed after the 21st day.

(c) The Office shall give as much advance notice as is practicable of the time, place, and subject matter of the informal public hearing to:

(1) The person to whom the notice or order was issued;

(2) Any person who filed a report which led to that notice or order; and

(3) The Georgia Department of Natural Resources upon request.

(d) The Office shall also post notice of the hearing at the regional, district or field office closest to the mine site, and publish it, where practicable, in a newspaper of general circulation in the area of the mine.

(e) Section 554 of Title 5 of the United States Code, regarding requirements for formal adjudicatory hearings, shall not govern informal public hearings. An informal public hearing shall be conducted by a representative of the Office, who may accept oral or written arguments and any other relevant information from any person attending.

(f) Within five days after the close of the informal public hearing, the Office shall affirm, modify, or vacate the notice or order in writing. The decision shall be sent to—

(1) The person to whom the notice or order was issued;

(2) Any person who filed a report which led to the notice or order; and

(3) The Georgia Department of Natural Resources upon request.

(g) The granting or waiver of an informal public hearing shall not affect the right of any person to formal review under Sections 518(b), 521(a)(4), or 525, of the Act.

(h) The person conducting the hearing for the Office shall determine whether or not the mine site should be viewed during the hearing. In making this determination the only consideration shall be whether a view of the mine site will assist the person conducting the hearing in reviewing the appropriateness of the enforcement action or the required remedial action.

§ 910.843–16 Formal review of citations.

(a) A person issued a notice of violation or cessation order under 30 CFR 910.843–11 or 910.843–12, or a person having an interest which is or may be adversely affected by the issuance, modification, vacation or termination of a notice or order, may request review of that action by filing an application for review and request for hearing, under 43 CFR Part 4, within 30 days after receiving notice of the action.

(b) The filing of an application for review and request for a hearing under this Section shall not operate as a stay of any notice or order, or of any modification, termination or vacation of either.

§ 910.843–17 Lack of information.

No notice of violation, cessation order, show cause order, or order revoking or suspending a permit may be vacated because it is subsequently determined that the Office did not have information sufficient, under 30 CFR 910.842–11(b)(1) and 910.842–11(b)(2), to justify an inspection.

§ 910.843–18 Inability to comply.

(a) No cessation order or notice of violation issued under this Subpart may be vacated because of inability to comply.

(b) Inability to comply may not be considered in determining whether a pattern of violations exists.

(c) Unless caused by lack of diligence, inability to comply may be considered only in mitigation of the amount of civil penalty under 30 CFR Subpart 910.845 and of the duration of the suspension of a permit under 30 CFR 910.843–13(e).

§ 910.843–19 Injunctive relief.

The Office may request the Attorney General of the United States to institute a civil action for relief, including a permanent or temporary injunction, restraining order or any other order, in the district court of the United States for the district in which the coal exploration or surface coal mining and reclamation operation is located or in which the person to whom the notice of violation or order has been issued has his principal office, whenever that person or his or her agent, in violation of the Act, this part, or any condition of an exploration approval or permit imposed under the Act, or this part:

(a) Violates or fails or refuses to comply with any order or decision of the Secretary or an authorized representative of the Secretary under the Act or this Part;

(b) Interferes with, hinders or delays the Secretary or an authorized representative of the Secretary in carrying out the provisions of the Act or this part;

(c) Refuses to admit an authorized representative of the Secretary to a mine;

(d) Refuses to permit inspection of a mine by an authorized representative of the Secretary;

(e) Refuses to furnish any required information or report;

(f) Refuses to permit access to or copying of any required records; or

(g) Refuses to permit inspection of monitoring equipment.

Subpart 910.845—Civil Penalties

§ 910.845–11 How assessments are made.

The Office shall review each notice of violation and cessation order issued under Subpart 910.843 in accordance with the assessment procedures described in 30 CFR 910.845–12, 910.845–13, 910.845–14, 910.845–15 and 910.845–16 to determine whether a civil penalty will be assessed, the amount of the penalty, and whether each day of a continuing violation will be deemed a separate violation for purposes of the total penalty assessed.

§ 910.845–12 When penalty will be assessed.

(a) The Office shall assess a penalty for each cessation order.

(b) The Office shall assess a penalty for each notice of violation, if the violation is assigned 31 points or more under the point system described in 30 CFR 910.845–13.

§ 910.845–13 Point system for penalties.

(a) The Office shall use the point system described in this Section to determine the amount of the penalty and, in the case of notices of violation, whether a mandatory penalty should be assessed as provided in 30 CFR 910.845–12(B).

(b) Points shall be assigned as follows:

(1) *History of previous violations.* The Office shall assign up to 30 points based on the history of previous violations. One point shall be assigned for each past violation contained in a notice of violation. Five points shall be assigned for each violation (but not a condition or practice) contained in a cessation order. The history of previous violations, for the purpose of assigning points, shall be determined and the points assigned with respect to a particular coal exploration or surface coal mining operation. Points shall be assigned as follows:

(i) A violation shall not be counted, if the notice or order is the subject of pending administrative or judicial review or if the time to request such review or to appeal any administrative or judicial decision has not expired, and thereafter it shall be counted for only one year;

(ii) No violation for which the notice or order has been vacated shall be counted; and

(iii) Each violation shall be counted without regard to whether it led to a civil penalty assessment.

(2) *Seriousness.* The Office shall assign up to 30 points based on the seriousness of the violation, as follows:

(i) *Probability of occurrence.* The Office shall assign up to 15 points based on the probability of the occurrence of the event which a violated standard is designed to prevent. Points shall be assessed according to the following schedule:

Probability of Occurrence and Points

None, 0
Insignificant, 1 to 4
Unlikely, 5 to 9
Likely, 10 to 14
Occurred, 15

(ii) *Extent of potential or actual damage.* The Office shall assign up to 15 points, based on the extent of the potential or actual damage, in terms of area and impact on the public or environment, as follows:

(A) If the damage or impact which the violated standard is designed to prevent would remain within the coal exploration or permit area, the Office shall assign zero to seven points, depending on the duration and extent of the damage or impact.

(B) If the damage or impact which the violated standard is designed to prevent would extent outside the coal exploration or permit area, the Office shall assign eight to fifteen points, depending on the duration and extent of the damage or impact.

(iii) *Alternative.* In the case of a violation of an administrative requirement, such as a requirement to keep records, the Office shall, in lieu of paragraphs (b)(2) (i) and (ii) of this section, assign up to 15 points for seriousness, based upon the extent to which enforcement is obstructed by the violation.

(3) *Negligence.* (i) The Office shall assign up to 25 points based on the degree of fault of the person to whom the notice or order was issued in causing or failing to correct the

violation, condition, or practice which led to the notice or order, either through act or omission. Points shall be assessed as follows:

(A) A violation which occurs through no negligence shall be assigned no penalty points for negligence;

(B) A violation which is caused by negligence shall be assigned 12 points or less, depending on the degree of negligence;

(C) A violation which occurs through a greater degree of fault than negligence shall be assigned 13 to 25 points, depending on the degree of fault.

(ii) In determining the degree of negligence involved in a violation and the number of points to be assigned, the following definitions apply:

(A) No negligence means an inadvertent violation which was unavoidable by the exercise of reasonable care.

(B) Negligence means the failure of a permittee to prevent the occurrence of any violation of his or her permit or any requirement of the Act or this Chapter due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or the Act due to indifference, lack of diligence, or lack or reasonable care.

(C) A greater degree of fault than negligence means reckless, knowing, or intentional conduct.

(iii) In calculating points to be assigned for negligence, the acts of all persons working on the coal exploration or surface coal mining and reclamation site shall be attributed to the person to whom the notice or order was issued unless that person establishes that they were acts of deliberate sabotage.

(4) *Good faith in attempting to achieve compliance.* (i) The Office shall add points based on the degree of good faith of the person to whom the notice or order was issued in attempting to achieve rapid compliance after notification of the violation. Points shall be assigned as follows:

Degree of Good Faith and Points

Rapid compliance, −1 to −10
Normal compliance, 0

(ii) The following definitions shall apply under paragraph (b)(4)(i) of this section:

(A) Rapid compliance means that the person to whom the notice or order was issued took extraordinary measures to abate the violation in the shortest possible time and that abatement was achieved before the time set for abatement.

(B) *Normal compliance* means the person to whom the notice or order was issued abated the violation within the time given for abatement.

(iii) If the consideration of this criterion is impractical because of the length of the abatement period, the assessment may be made without considering this criterion and may be reassessed after the violation has been abated.

§ 910.845–14 Determination of amount of penalty.

The Office shall determine the amount of any civil penalty by converting the total number of points assigned under 30 CFR 910.845–13 to a dollar amount, according to the following schedule:

Points	Dollars
1	20
2	40
3	60
4	80
5	100
6	120
7	140
8	160
9	180
10	200
11	220
12	240
13	260
14	280
15	300
16	320
17	340
18	360
19	380
20	400
21	420
22	440
23	460
24	480
25	500
26	600
27	700
28	800
29	900
30	1,000
31	1,100
32	1,200
33	1,300
34	1,400
35	1,500
36	1,600
37	1,700
38	1,800
39	1,900
40	2,000
41	2,100
42	2,200
43	2,300
44	2,400
45	2,500
46	2,600
47	2,700
48	2,800
49	2,900
50	3,000
51	3,100
52	3,200
53	3,300
54	3,400
55	3,500
56	3,600
57	3,700
58	3,800
59	3,900
60	4,000
61	4,100
62	4,200
63	4,300
64	4,400
65	4,500
66	4,600
67	4,700
68	4,800
69	4,900
70 and above	5,000

§ 910.845–15 Assessment of separate violations for each day.

(a) The Office may assess separately a civil penalty for each day from the date of issuance of the notice of violation or cessation order to the date set for abatement of the violation. In determining whether to make such an assessment, the Office shall consider the factors listed in 30 CFR 910.843–13 and may consider the extent to which the person to whom the notice or order was issued gained any economic benefit as a result of a failure to comply. For any violation which continues for two or more days and which is assigned more than 70 points under 30 CFR 910.845–13(b), the Office shall assess a civil penalty for a minimum of two separate days.

(b) In addition to the civil penalty provided for in Paragraph (a), whenever a violation contained in a notice of violation or cessation order has not been abated within the abatement period set in the notice or order or as subsequently extended pursuant to section 521(a) of the Act, a civil penalty of not less than $750 shall be assessed for each day during which such failure to abate continues, except that:

(1)(i) If suspension of the abatement requirements of the notice or order is ordered in a temporary relief proceeding under section 525(c) of the Act, after a determination that the person to whom the notice or order was issued will suffer irreparable loss or damage from the application of the requirements, the period permitted for abatement shall not end until the date on which the Office of Hearings and Appeals issues a final order with respect to the violation in question; and

(ii) If the person to whom the notice or order was issued initiates review proceedings under section 526 of the Act with respect to the violation, in which the obligations to abate are suspended by the court pursuant to section 526(c) of the Act, the daily assessment of a penalty shall not be made for any period before entry of a final order by the court;

(2) Such penalty for the failure to abate a violation shall not be assessed for more than 30 days for each such violation. If the permittee has not abated the violation within the 30-day period, the Office shall take appropriate action pursuant to sections 518(e), 518(f), 521(a)(4), or 521(c) of the Act within 30 days to ensure that abatement occurs or to ensure that there will not be a reoccurrence of the failure to abate.

§ 910.845–16 Waiver of use of formula to determine civil penalty.

(a) The Director, upon his own initiative or upon written request received within 15 days of issuance of a notice of violation or a cessation order, may waive the use of the formula contained in 30 CFR 910.845–13 to set the civil penalty, if he or she determines that, taking into account exceptional factors present in the particular case, the penalty is demonstrably unjust. However, the Director shall not waive the use of the formula or reduce the proposed assessment on the basis of an argument that a reduction in the proposed penalty could be used to abate violations of the Act, this Chapter, this Part, or any condition of any permit or exploration approval. The basis for every waiver shall be fully explained and documented in the records of the case.

(b) If the Director waives the use of the formula, he or she shall use the criteria set forth in 30 CFR 910.845–13(b) to determine the appropriate penalty. When the Director has elected to waive the use of the formula, he or she shall give a written explanation of the basis for the assessment made to the person to whom the notice or order was issued.

§ 910.845–17 Procedures for assessment of civil penalties.

(a) Within 15 days of service of a notice or order, the person to whom it was issued may submit written information about the violation to the Office and to the inspector who issued the notice of violation or cessation order. The Office shall consider any information so submitted in determining the facts surrounding the violation and the amount of the penalty.

(b) The Office shall serve a copy of the proposed assessment and of the worksheet showing the computation of the proposed assessment on the person to whom the notice or order was issued, by certified mail, within 30 days of the issuance of the notice or order. If the mail is tendered at the address of that person set forth in the sign required under 30 CFR 910.816–11, or at any address at which that person is in fact located, and he or she refuses to accept delivery of or to collect such mail, the requirements of this paragraph shall be deemed to have been complied with upon such tender.

(c) Unless a conference has been requested, the Office shall review and reassess any penalty if necessary to consider facts which were not reasonably available on the date of issuance of the proposed assessment because of the length of the abatement period. The Office shall serve a copy of any such reassessment and of the worksheet showing the computation of the reassessment in the manner provided in Paragraph (b) within 30 days after the date the violation is abated.

§ 910.845–18 Procedures for assessment conference.

(a) The Office shall arrange for a conference to review the proposed assessment or reassessment, upon written request of the person to whom the notice or order was issued, if the request is received within 15 days from the date the proposed assessment or reassessment is mailed.

(b)(1) The Office shall assign a conference officer to hold the assessment conference. The assessment conference shall not be governed by Section 554 of Title 5 of the United States Code, regarding requirements for formal adjudicatory hearings. The assessment conference shall be held within 60 days from the date of issuance of the proposed assessment or the end of the abatement period, whichever is later.

(2) The Office shall post notice of the time and place of the conference at the regional, district or field office closest to the mine at least 5 days before the conference. Any person shall have a right to attend and participate in the conference.

(3) The conference officer shall consider all relevant information on the violation. Within 30 days after the conference is held, the conference officer shall either:

(i) Settle the issues, in which case a settlement agreement shall be prepared and signed by the conference officer on behalf of the Office and by the person assessed; or

(ii) Affirm, raise, lower, or vacate the penalty.

(4) An increase or reduction of a proposed civil penalty assessment of more than 25 percent and more than $500 shall not be final and binding on the Secretary, until approved by the Director or his designee.

(c) The conference officer shall promptly serve the person assessed with a notice of his or her action in the manner provided in 30 CFR 910.845–17(b) and shall include a worksheet if the penalty has been raised or lowered. The reasons for the conference officer's action shall be fully documented in the file.

(d)(1) If a settlement agreement is entered into, the person assessed will be deemed to have waived all rights to further review of the violation or penalty in question, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a clause to this effect.

(2) If full payment of the amount specified in the settlement agreement is not received by the Office within 30 days after the date of signing, the Office may enforce the agreement or rescind it and proceed according to paragraph (b)(3)(ii) of this section within 30 days from the date of the rescission.

§ 910.845–19 Request for hearing.

(a) The person charged with the violation may contest the proposed penalty or the fact of the violation by submitting a petition and an amount equal to the proposed penalty or, if a conference has been held, the reassessed or affirmed penalty to the Office of Hearings and Appeals (to be held in escrow as provided in paragraph (b) of this section) within 30 days from receipt of the proposed assessment or reassessment or 15 days from the date of service of the conference officer's action, whichever is later. The fact of the violation may not be contested, if it has been decided in a review proceeding commenced under 30 CFR 910.843–16.

(b) The Office of Hearings and Appeals shall transfer all funds submitted under paragraph (a) of this section to the Office, which shall hold them in escrow pending completion of the administrative and judicial review process, at which time it shall disburse them as provided in 30 CFR 910.845–20.

§ 910.845–20 Final assessment and payment of penalty.

(a) If the person to whom a notice of violation or cessation order is issued fails to request a hearing as provided in 30 CFR 910.845–19, the proposed assessment shall become a final order of the Secretary and the penalty assessed shall become due and payable upon expiration of the time allowed to request a hearing.

(b) If any party requests judicial review of a final order of the Secretary, the proposed penalty shall continue to be held in escrow until completion of the review. Otherwise, subject to paragraph (c) of this section, the escrowed funds

shall be transferred to the Office in payment of the penalty, and the escrow shall end.

(c) If the final decision in the administrative and judicial review results in an order reducing or eliminating the proposed penalty assessed under this subpart, the Office shall within 30 days of receipt of the order refund to the person assessed all or part of the escrowed amount, with interest from the date of payment into escrow to the date of the refund at the rate of 6 percent or at the prevailing Department of the Treasury rate, whichever is greater.

(d) If the review results in an order increasing the penalty, the person to whom the notice or order was issued shall pay the difference to the Office within 15 days after the order is mailed to such person.

[FR Doc. 82-5555 Filed 3-9-82; 8:45 am]
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federal register

Wednesday
March 10, 1982

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Erosion and Attendant Air Pollution

V 47 / 4 M R 1 8 2

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 816 and 817

Erosion and Attendant Air Pollution

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule—public hearing, correction.

SUMMARY: On February 18, 1982, the Office of Surface Mining (OSM) issued a Federal Register Notice for Proposed Rulemaking on 30 CFR 816.95 and 817.95 47 FR 7384–7386 (Erosion and Attendant Air Pollution).

Due to recent developments, the Lexington, Kentucky, public hearing date, place and time have been changed.

DATE: The hearing date has been changed to 6:00 p.m. (local time) on March 15, 1982.

ADDRESS: The location of the hearing in Lexington, Kentucky is hereby changed to the Harley Hotel, 2143 N. Broadway.

FOR FURTHER INFORMATION CONTACT: Robert Goldberg, P.E., Division of Engineering Analysis, (202) 343–4022.

Dated: March 9, 1982.

J. S. Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82-6721 Filed 3-9-82; 11:31 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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Now Available 1979 Microfilm Edition of the Federal Register

The microfilm edition of the **Federal Register** for 1979, (volume 44), is how available at a cost of $325. This volume covers 77,498 pages and the annual index, plus the quarterly index of List of CFR Sections Affected. It is microfilmed on 35mm rolls only. This microfilm publication, (M190), now comprises 361 rolls and spans the years 1936–1979. The entire publication is for sale at $4693. Further information concerning the 1979 volume or any other volume may be obtained from the Publications Sales Branch (NEPS), National Archives & Records Service, Washington, D.C. 20408. Institutional orders may be placed directly with NEPS.

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Thursday
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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Presidential Documents

Title 3—

The President

Executive Order 12350 of March 9, 1982

Termination of Urban and Community Impact Analyses

By the authority vested in me as President by the Constitution of the United States of America, Executive Order No. 12074 of August 16, 1978, entitled "Urban and Community Impact Analyses," is hereby revoked.

Ronald Reagan

THE WHITE HOUSE,
March 9, 1982.

[FR Doc. 82-6808
Filed 3-9-82; 3:57 pm]
Billing code 3195-01-M

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Presidential Documents

Executive Order 12351 of March 9, 1982

Nuclear Cooperation With EURATOM

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 126a(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2155(a)(2)), and having determined that, upon the expiration of the period specified in the first proviso to Section 126a(2) of such Act and extended by Executive Orders No. 12193 and No. 12295, failure to continue peaceful nuclear cooperation with the European Atomic Energy Community would be seriously prejudicial to the achievement of United States nonproliferation objectives and would otherwise jeopardize the common defense and security of the United States, and having notified the Congress of this determination, I hereby extend the duration of that period to March 10, 1983.

Ronald Reagan

THE WHITE HOUSE,
March 9, 1982.

[FR Doc. 82-6840]
Filed 3-10-82; 10:41 am]
Billing code 3195-01-M

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Presidential Documents

Proclamation 4907 of March 10, 1982

Imports of Petroleum

By the President of the United States of America

A Proclamation

The Secretaries of Commerce and Energy have advised me that the threat to the national security posed by imports of petroleum continues. The Secretaries, in conjunction with the Secretaries of State, Defense, and Treasury, advise that we no longer consider Libya to be a reliable supplier of United States energy needs, and that we must ensure we are not vulnerable to Libyan action in this area. Libyan policy and action supported by revenues from the sale of oil imported into the United States are inimical to the United States national security. The Secretaries recommend that I take steps immediately to eliminate the dependence of the United States on Libya as a source of crude oil.

I agree with the recommendation and believe that the changes proposed are consistent with the purposes of Proclamation 3279, as amended, and the national security findings on which it is based.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by the authority vested in me by the Constitution and the laws of the United States, including Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), do hereby proclaim that:

Section 1. Section 1 of Proclamation 3279, as amended, is further amended by the revision of paragraph (e) to read as follows:

Sec. 1(e). Notwithstanding any other provision of the Proclamation, no crude oil produced in Libya (except crude oil loaded aboard maritime vessels at any time prior to March 12, 1982) may be imported into the United States, its territories or possessions.

Sec. 2. Section 11 of Proclamation 3279, as amended, is further amended by the revision of paragraph (l) to read as follows:

Sec. 11(l) The term "imports", when applied to crude oil other than that produced in Libya, includes both entry for consumption and withdrawal from warehouse for consumption, but excludes unfinished oils and finished products processed in the United States territories and foreign trade zones from crude oil produced in the United States.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of March, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-6879
Filed 3-10-82; 1:09 pm]
Billing code 3195-01-M

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 0

Employee Responsibilities and Conduct

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document amends the conduct regulations of the Department of Agriculture to designate the Director of Personnel as the Designated Agency Ethics Official to administer the provisions of the Ethics in Government Act of 1978 (Pub. L. 95–521).

DATE: Effective March 11, 1982.

FOR FURTHER INFORMATION CONTACT: Peter Sleight (Office of Personnel), United States Department of Agriculture, 14th and Independence Avenue, SW., Washington, D.C. 20250, (202) 447–7654.

SUPPLEMENTARY INFORMATION: 5 CFR 738.201 requires each agency to have a Designated Agency Ethics Official to coordinate, administer and oversee implementation of the various provisions of the Ethics in Government Act of 1978. The Secretary of Agriculture has named the Director of Personnel to fulfill this function. The document amends the Department's responsibilities and conduct regulations to reflect that designation and set forth the duties of the Designated Agency Ethics Official.

Since this rule relates solely to internal agency management, pursuant to 5 U.S.C. 553 it is found that notice and other public procedures with respect thereto are impracticable and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to agency personnel management, it is exempt from the provisions of Executive Order 12291.

Lastly, this action is not a rule as defined by Pub. L. 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

PART 0—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Accordingly, 7 CFR 0.735–3 is amended by the addition of new paragraph (g) to read as follows:

§ 0.735–3 Counseling and Advisory Service.

* * * * *

(g) In addition to the counseling service set forth in paragraphs (a) through (f) of this section, 5 CFR 738 prescribes the naming of a Designated Agency Ethics Official (DAEO) to administer Title II of the Ethics in Government Act of 1978, to coordinate and manage the agency's ethics program, and to provide liaison with the Office of Government Ethics with regard to all aspects of the Ethics program. The Director of Personnel has been designated by the Secretary of Agriculture to serve as DAEO for USDA. The responsibilities and duties of the DAEO can be found in 5 CFR 738.203.

(5 U.S.C. 301; Title II of Pub. L. 95–521, 92 Stat. 1836, as amended, 5 U.S.C. app.; 5 CFR 738)

Dated: March 5, 1982.

John R. Block,
Secretary of Agriculture.

[FR Doc. 82–6557 Filed 3–10–82; 8:45 am]

BILLING CODE 3410–01–M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 544; Navel Orange Reg. 543, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period March 12–March 18, 1982, and increases the quantity of such oranges that may be so shipped during the period March 5–March 11, 1982. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective March 12, 1982, and the amendment is effective for the period March 5–March 11, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under Secretary's Memorandum 1512–1, and Executive Order 12291 and has been designated a "non-major" rule. This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on October 6, 1981. The committee met again publicly on March 9, 1982 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an

opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and effective time.

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Section 907.844 is added as follows:

§ 907.844 Navel Orange Regulation 544.

The quantities of navel oranges grown in Arizona and California which may be handled during the period March 12, 1982, through March 18, 1982, are established as follows:

(1) District 1: 1,600,000 cartons;
(2) District 2: Unlimited cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

2. Section 907.843, *Navel Orange Regulation 543* (47 FR 9188), is hereby amended to read:

§ 907.843 Navel Orange Regulation 543.

* * * * *

(1) District 1: 1,775,000 cartons;
(2) District 2: Unlimited cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: March 10, 1982

D. S. Kuryloski,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-6868 Filed 3-10-82; 11:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1094

[Milk Order No. 94]

Milk in the New Orleans-Mississippi Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends certain provisions affecting the regulatory status of milk plants under the New Orleans-Mississippi Federal milk order. The suspension removes for March and April 1982 the requirement that a cooperative must deliver at least 50 percent of its member producer milk to pool distributing plants each month to qualify its supply-balancing plant as a pool plant under the order. The suspension was requested by a cooperative association primarily because its sales to distributing plants have decreased substantially from a year ago. The action is needed to assure that dairy farmers regularly supplying a portion of the fluid milk needs of the market will continue to share in the market's Class I sales during March and April of this year without the necessity of inefficient handling and transportation of the milk.

EFFECTIVE DATE: March 11, 1982.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–4829.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued February 17, 1982; published February 22, 1982 (47 FR 7676).

This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified "not significant" and, therefore, not a major action.

It also has been determined that any need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the issuance of the suspension in time to include March 1982 in the suspension period. The initial request for this action was received on February 11, 1982. A notice of proposed suspension was issued on February 17, 1982, inviting interested parties to comment on the proposed action by March 1, 1982.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action would not have a significant economic impact on a substantial number of small entities. Such action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers regularly supplying a portion of the market's fluid milk needs will continue to share in the proceeds of the market's Class I sales during March and April of this year without the necessity of inefficient handling and transportation of the milk.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the New Orleans-Mississippi marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on February 22, 1982 (47 FR 7676), concerning a proposed suspension of certain provisions of the order. Interested persons were afforded the opportunity to file written data, views or arguments thereon.

After consideration of all relevant material, including the notice of proposed suspension and any views, data, and arguments filed in response (none were filed), it is hereby found and determined that for the months of March and April 1982 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1094.7(c), the words, "* * * 50 percent or more of the * * *".

Statement of Consideration

The suspension removes for March and April 1982 the requirement that a cooperative must deliver at least 50 percent of its member producer milk to pool distributing plants each month to qualify its supply-balancing plant as a pool plant under the order. The suspension was requested by Gulf Dairy Association, Inc., a cooperative that operates such a pool plant under the New Orleans-Mississippi order.

Interested parties were given the opportunity to submit written data, views or arguments concerning the suspension. No additional views were received.

The proponent cooperative apparently was barely able to meet the 50 percent delivery requirement for its supply-balancing plant at Kentwood, Louisiana, in the spring months of 1981. With its milk production virtually unchanged but deliveries to pool distributing plants down substantially, it appears likely that the association will be unable to qualify such plant as a pool plant during March and April this year without making uneconomic milk movements.

Market data indicate that producer deliveries during 1981 were up about 1 percent from last year while the market's Class I utilization of producer milk in 1981 was down 4.2 percent from 1980. Specifically, with respect to the proponent cooperative, production of its members during the last four months (October 1981–January 1982) was essentially unchanged from the same 4-month period a year ago. However, during the October 1981–January 1982 period, deliveries by the cooperative to pool distributing plants, which are used to qualify the cooperative's supply-balancing plant, were down almost 10 percent from the same 4-month period a year earlier. It is this decline in shipments to distributing plants that will cause the cooperative problems in keeping its balancing plant pooled.

Absent a suspension action, the cooperative could maintain pool status for its supply-balancing plant. However, to do so the cooperative may find it necessary to uneconomically haul as many as 50 loads of milk per month to distributing plants during March and April for the sole purpose of qualifying the milk for pool status. Moreover, the order's location adjustment provisions would help the association to so move the milk because the applicable uniform price for milk received at the distributing plants supplied by the association is 18 cents higher than such price for milk received directly at the Kentwood pool plant. In effect, other producers would be paying through the marketwide pool much of the cost to move the milk to the distribuitng plants when it is not needed there. Additional plant handling also would be involved in that the milk would have to be unloaded and received at the distributing plants and then reloaded and shipped back to the cooperative's plant. This would be an inefficient way to pool milk.

To the extent possible, the association wants to avoid such uneconomic movements. However, the association intends to pool all of its milk and move its producer milk supplies in such a manner that pool status for its supply-balancing plant will be maintained.

In view of the circumstances, the aforesaid provisions should be suspended to assure that producers regularly supplying a portion of the market's fluid milk needs will continue to share in the proceeds of the market's Class I sales during March and April of this year without the necessity of inefficient handling and transportation of the milk.

It is hereby found and determined that thirty days' notice of the effective date is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that without this action uneconomic movements of milk would be made solely for the purpose of assuring that the dairy farmers who have supplied a portion of the fluid milk needs of the market will continue to have their milk pooled and priced under the order;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given to interested parties and they were afforded the opportunity to comment. No opposing views were received.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register**.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of March and April 1982.

Effective Date: March 11, 1982.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Signed at Washington, D.C., on March 8, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-6594 Filed 3-10-82; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 82-147]

Net Worth Amendment; Correction

March 2, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final Rule; Correction.

SUMMARY: The Federal Home Loan Bank Board corrects its final amendments to the net worth regulations which were published at 47 FR 3543 (January 26, 1982).

FOR FURTHER INFORMATION CONTACT: James C. Stewart, Attorney, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552, (202) (377–6457).

EFFECTIVE DATE: December 31, 1980.

SUPPLEMENTARY INFORMATION: By Resolution No. 82–19, the Federal Home Loan Bank Board lowered the net worth requirement, 12 CFR 563.13, for insured institutions from 4% to 3% of liabilities. The reduction was accomplished by amending paragraphs (a)(2) and (b)(2) of § 563.13. Inadvertently omitted from the resolution was a corresponding amendment to paragraph (a)(5) which imposes one-time requirement on certain insured institutions to meet their statutory reserve requirement without averaging.

Accordingly, the Board hereby corrects the first amendatory instruction to read as follows:

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

§ 563.13 [Amended]

1. Amend paragraphs (a)(2), (a)(5), and (b)(2) of § 563.13 by substituting the phrase "three percent" for the phrase "four percent" wherever it occurs.

(Sec. 409, 94 Stat. 160, secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1728, 1730). Sec. 5A, 47 Stat. 727, as amended by sec. 1, 64 Stat. 256, as amended, sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425a, 1437). Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981 3 CFR, 1943–48 Comp., p. 1071))

By the Federal Home Loan Bank Board.

Thomas P. Vartanian,

General Counsel.

[FR Doc. 82-6662 Filed 3-10-82; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-NE-43; Amdt. 39-4336]

Sikorsky Aircraft Model S-76A Helicopters Certificated in All Categories; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises AD 80–22–55 R3 to eliminate the requirement for repetitive inspections on the piston rods of improved design main rotor dampers on Sikorsky S–76A helicopters. The manufacturer has developed and substantiated an improved damper. Based upon substantiating data, the FAA has determined that the repetitive dye penetrant inspections are unnecessary for this structurally improved damper. The inspections of AD–80–22–55 R3, are retained for the old design dampers. Inspections for the new dampers' bearings are now specified in the Airworthiness Limitations Section of the S–76A Maintenance Manual.

DATES: Effective March 10, 1982. Compliance as prescribed in the AD.

ADDRESSES: The applicable Sikorsky publications may be obtained from Sikorsky Aircraft, Division of United Technologies Corporation, Stratford, Connecticut 06602. Copies of the maintenance manual revisions are contained in the Rules Docket, Office of the Regional Counsel, New England

Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT:
William E. Garlock ANE-152, Boston Aircraft Certification Branch, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7336.

SUPPLEMENTARY INFORMATION:

Prior Regulatory History

Because of fatigue failures and the separation of the piston rods of main rotor dampers, a telegraphic AD, T80-22-55, was issued on October 24, 1980, requiring visual inspections and, if any indication of a crack was found, dye penetrant inspections of the piston rods on dampers, P/N 76106-08000. The AD also required that the dampers be removed from service if a crack was found. Subsequent to the issuance of the telegraphic AD, engineering tests and analyses indicated that wear and subsequent metal-to-metal contact within the damper spherical rod end bearings can increase the damper piston rod loads and contribute to the fatigue failure of these rods. Another failure of a piston rod occurred in service; therefore, emergency AD T80-22-55 was issued on November 21, 1980, to add requirements for a one time dye penetrant inspection of all damper piston rods, based upon time in service and previous replacement of bearings, and repetitive inspections of the damper spherical rod end bearings for wear. After adoption of that amendment, an additional failure in-flight of a damper piston rod occurred. The FAA determined that the visual inspections of AD T80-22-55 R1 were ineffective and should be replaced with more stringent repetitive dye penetrant inspections. AD T80-22-55 R1 was revised by AD 80-22-55 R3 to eliminate the requirement for visual inspections and to establish a requirement for reptitive dye penetrant inspections. AD 80-22-55 R3 applies to "P/N 76106-08000 main rotor dampers."

Subsequently, the manufacturer developed and substantiated an improved damper, P/N 76106-08000-044. Based upon substantiating data, the FAA has determined that the repetitive dye penetrant inspections are unnecessary for this structurally improved damper. Therefore, this amendment, in effect, eliminates the requirement for dye penetrant inspections for the piston rods of P/N 76106-08000-044 dampers. The requirement for these inspections remains in effect for -042 and -043 dampers. The bearing wear inspections are also being retained for the older design dampers. For the new improved dampers, the bearing wear inspections are now incorporated in the Airworthiness Limitations Section, Chapter 4, of the Sikorsky S-76 Maintenance Manual, SA 4047-76-2-1. The mandatory reporting requirement contained in paragraph 4 is also deleted. Voluntary reporting and reporting under FAR 21.3 will suffice hereafter.

Since this amendment relieves requirements and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by revising Amendment 39-4016 (46 FR 3496), AD T80-22-55 R2, as amended by Amendment 39-4943 (46 FR 12950), AD 80-22-55 R3, as follows:

1. In paragraph 1 delete "P/N 76106-08000," and insert in its place "P/N 76106-08000-042 and -043."

2. In paragraph 2 delete "damper spherical bearings" and insert in its place "spherical bearings of P/N 76106-08000-042 and -043 main rotor dampers."

3. At the end of paragraph 2 add a Note: "Mandatory requirements for wear inspections of the spherical bearings of P/N 76106-08000-044 dampers are contained in Airworthiness Limitations Section, Chapter 4, Sikorsky S-76A Maintenance Manual, SA 4047-76-2-1."

4. Delete paragraph 4 entirely, including the parenthetical statement.

This amendment becomes effective March 10, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This rule eliminates an inspection and reporting requirement of AD 80-22-55 R3 and therefore reduces the economic burden of some operators.

Issued in Fort Worth, Texas, on February 24, 1982.

C. R. Melugin, Jr.,
Director, Southwest Region.

[FR Doc. 82-6515 Filed 3-10-82; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-ACE-24]

Alteration of Control Zone—Hays, Kans.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment to alter the Hays, Kansas, control zone is necessary to provide additional airspace for a new Non-Directional Beacon (NDB) approach to Runway 34 at the Hays, Kansas, Municipal Airport. A minimal alteration of the control zone's present south extension is required to include the new instrument approach procedure.

EFFECTIVE DATE: May 13, 1982.

FOR FURTHER INFORMATION CONTACT:
Don A. Peterson, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR 71.171) is to alter the control zone designation for the Hays, Kansas, Municipal Airport. The alteration is necessary to provide additional airpace for a new NDB approach to Runway 34 at the airport. A control zone is defined as a 5-mile radius plus extensions. A minimal alteration of the Hays, Kansas, control zone's present south extension is required to include the new approach procedure. Since this change is not significant and does not impose any additional burden, notice and public procedure under 5 U.S.C. 553(b) is impracticable and good cause exists for making this amendment effective in less than thirty (30) days.

Accordingly, Subpart F, § 71.171 of the Federal Aviation Regulations (14 CFR 71.171) as republished on January 2, 1981, (46 FR 455) is amended effective 0901 G.m.t. May 13, 1982, by altering the following control zone:

Hays, Kans.

That airspace within a 5-mile radius of the Hays Municipal Airport (latitude 38°50'45" North, longitude 99°16'20" West) and within 2 miles each side of the Hays NDB 167° bearing, extending from the 5-mile radius zone to 8 miles south of the VORTAC; and within 2 miles each side of the Hays VORTAC 162° radial, extending from the 5-mile radius zone to 8 miles south of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on February 25, 1982.

Murray E. Smith,
Director, Central Region.

[FR Doc. 82-6520 Filed 3-10-82; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-7]

Alteration of Control Zone, Memphis, Tenn.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Memphis, Tennessee, Control Zone by revoking the exclusion associated with the De Soto Air Park, Horn Lake, Mississippi, which has been permanently closed.

EFFECTIVE DATE: 0901 G.m.t., May 13, 1982.

FOR FURTHER INFORMATION CONTACT:
Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

History

In the Memphis, Tennessee, Control Zone described in § 71.171 (46 FR 455), a portion is excluded around the De Soto Air Park. Since the Air Park has been permanently closed, it is necessary to alter the designated airspace.

In the interest of safety, it is found that notice and public procedure hereon are impracticable and contrary to the public interest.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations will delete reference to the De Soto Air Park, Horn Lake, Mississippi, in the description of the Memphis, Tennessee, Control Zone.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171, Subpart F, of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (46 FR 455) is further amended, effective 0901 G.m.t., May 13, 1982, as follows:

Memphis, Tennessee

The present description is deleted and "• • • Within a 5-mile radius of Memphis International Airport (Lat. 35°03'00"N., Long. 89°58'15"W.) • • •" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a major rule under Executive Order 12291; (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) it is certified that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

This action involves only a small alteration of navigable airspace and air traffic control procedures over a limited area.

Issued in East Point, Georgia, on February 24, 1982.

George R. LaCaille,
Acting Director, Southern Region.

[FR Doc. 82-6519 Filed 3-10-82; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-6]

Alteration of Transition Area, Mount Pleasant, Tenn.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Mount Pleasant, Tennessee, Transition Area, by revoking an unnecessary extension, reducing the size of another extension and correcting the geographical coordinates of the Maury County radio beacon (RBN).

EFFECTIVE DATE: 0901 G.m.t., May 13, 1982.

FOR FURTHER INFORMATION CONTACT:
Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

History

In the Mount Pleasant, Tennessee, Transition Area described in § 71.181 (46 FR 540), extensions are designated on the 060° and 227° bearings from the Maury County RBN. Relocation of the RBN to an off-airport site negates the need for the extension aligned on the 227° bearing and allows for reduction in size and realignment of the extension which is designated on the 060° bearing. It is necessary to revoke one extension, redesignate another extension and correct the location of the RBN in order to provide controlled airspace for Instrument Flight Rules (IFR) operations at the Airport.

In the interest of safety, it is found that notice and public procedure hereon are impracticable and contrary to the public interest.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the Mount Pleasant, Tennessee, Transition Area by revoking an extension, redesignating an extension and correcting the location of an air navigational facility.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181, Subpart G, of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (and amended) (46 FR 540)

is further amended, effective 0901 G.m.t., May 13, 1982, as follows:

The present Transition Area description of Mount Pleasant, Tennessee, is deleted and the following is substituted therefor:

Mount Pleasant, Tennessee

That airspace extending upwards from 700 feet above the surface within a 9.5-mile radius of Maury County Airport (Lat. 35°33'15" N., Long. 87°10'50" W.); within 3 miles each side of the 052° bearing from the Maury County RBN (Lat. 35°36'30" N., Long. 87°05'29" W.), extending from the 9.5-mile radius area to 8.5 miles northeast of the RBN.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a major rule under Executive Order 12291; (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) it is certified that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

This action involves only a small alteration of navigable airspace and air traffic control procedures over a limited area.

Issued in East Point, Georgia, on February 24, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-6609 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 91

[Docket No. 22743; Amendment No. 91-177]

Transport Category Airplanes; Shoulder Harness

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment changes the compliance date of March 6, 1982, for the combined safety belt and shoulder harness required by § 91.200 to March 6, 1983. This compliance date does not provide operators of affected aircraft sufficient time for the acquisition and installation of required equipment in certain aircraft. Failure to provide such operators additional time within which to comply with the equipment requirements would result in substantial economic penalties for affected operators and would provide a significant amount of inconvenience to the traveling public. Consequently, the relief afforded by this rule is fully consistent with the President's regulatory policies and Executive Order 12291.

DATE: Effective Date—March 6, 1982. Comments must be received on or before April 6, 1982.

ADDRESSES: Send comments on the rule in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC-204), Docket No. 22743, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Frank M. Jamison, Jr., Project Development Branch, General Aviation and Commercial Division, Office of Flight Operations, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426-8150.

SUPPLEMENTARY INFORMATION:

Background

On February 4, 1980, the FAA published Airworthiness Review Program Amendment No. 8, Cabin Safety and Flight Attendant Amendments (45 FR 7750), which amended 14 CFR Parts 23, 25, 27, 29, 91, and 121 to update and improve airworthiness standards applicable to cabin safety and flight attendants. Amendment 91-162 added § 91.200, which prescribes a combined safety belt and shoulder harness requirement for transport category airplanes operating under Subpart D of Part 91. Amendment 91-162 requires compliance no later than March 6, 1981; however, § 91.200(b) contains a provision whereby an operator may obtain an extension of the compliance date, but not beyond March 6, 1982, if the operator shows that required hardware is unavailable and submits an acceptable schedule for compliance which indicates that compliance will be achieved at the earliest practicable date.

Under the provisions of § 91.200(b), the Director of Flight Operations issued 373 letters extending the compliance date to March 6, 1982. The letters were in response to requests by operators who were unable to obtain the necessary hardware because of its unavailability.

Need for This Regulatory Change

Based upon an analysis of the number of operators who continue to be unable to obtain the required hardware, the FAA recognizes that a substantial number will be unable to meet the extended compliance date of March 6, 1982. For example, as of February 1, 1982, operators of approximately 110 airplanes informed the FAA that they are unable to obtain the necessary equipment and engineering data to comply with § 91.200(b) by March 6, 1982. Enforcement of the rule, as originally adopted, would cause these operators to suffer a severe and costly penalty because their airplanes would have to be grounded until such time as they could comply with the rule.

FAA inspection and surveillance staff have reviewed the operators' requests. FAA finds that, despite the fact that the large majority of operators have been successful in obtaining and installing appropriate equipment, there remains a smaller number of operators who have been unable to do so. In general, this results from inadequate equipment-manufacturer production rates and resulting equipment supply shortages. In viewing this situation, FAA finds that sufficient time to correct these problems will result if this amendment is adopted, and compliance with the equipment installation requirements of § 91.200 would then be achievable without an undue burden to society.

In view of the foregoing, the FAA has changed the compliance date specified in § 91.200(b) from March 6, 1982, to March 6, 1983. This will allow affected operators additional time to obtain and install the required hardware.

Need for Immediate Adoption

Most of the affected operators are solely dependent on the manufacturers to secure the necessary design changes and hardware. When obtained, the required equipment must be installed in accordance with data that has been approved by the FAA. Airplane manufacturers are unable to provide affected operators with the necessary modifications for each airplane type to bring the entire fleet of airplanes being operated under Subpart D of Part 91 into full compliance before the March 6, 1982, deadline. Not adopting this amendment would impose substantial economic losses and inconveniences on the affected operators whose airplanes would have to be grounded until they are appropriately equipped. Accordingly, I find that an emergency exists as prescribed in Section 8(a)(1) of Executive Order 12291 and that following the procedures of the Executive Order is impracticable. Since the current amendment becomes effective on March 6, 1982, I also find that notice and public procedure are impracticable and contrary to the public interest and that good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

PART 91—GENERAL OPERATING AND FLIGHT RULES

§ 91.200 [Amended]

Accordingly, § 91.200(b) of the Federal Aviation Regulations (14 CFR § 91.200(b)) is amended effective March 6, 1982, by changing the "March 6, 1982" compliance date to "March 6, 1983".

(Secs. 313, 314, and 601 through 610, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, and 1421 through 1430); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to prevent a significant inconvenience to the traveling public. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket; otherwise, an evaluation is not required. A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, D.C., on March 4, 1982.

J. Lynn Helms,

Administrator.

[FR Doc. 82-6609 Filed 3-5-82; 4:10 pm]

BILLING CODE 4910-13-M

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14 CFR Part 121

[Docket No. 22746; Amdt. 121-177]

Seats, Safety Belts and Shoulder Harnesses; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Federal Aviation Regulations (FAR) clarifies the applicability of a specific safety belt and shoulder harness regulation to transport category airplanes, clarifies the effective date of a FAR section incorporated by reference therein, and deletes sections and dates rendered inoperative by the passage of time.

DATES: Effective March 6, 1982.

FOR FURTHER INFORMATION CONTACT: Larry Bedore, Project Development Branch, Air Transportation Division, Office of Flight Operations, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426-8098.

SUPPLEMENTARY INFORMATION:

Background

On February 4, 1980, the Federal Aviation Administration (FAA) published Airworthiness Review Program Amendment No. 8, Cabin Safety and Flight Attendant Amendments (45 FR 7750), which, in pertinent part, amended 14 CFR Parts 25, 91, and 121 to update and improve airworthiness standards applicable to cabin safety and flight attendants. Amendment 121-155 incorporated new provisions into § 121.311 to upgrade seat, safety belt, and shoulder harness requirements for flight attendants.

As adopted, § 121.311(e)(1) required that, effective March 6, 1980, each transport category airplane type certificated after January 1, 1958, and operated pursuant to Part 121, be equipped with a shoulder harness at the pilot-in-command, second-in-command, and flight engineer stations. Section 121.311(e)(2) required that, after March 6, 1981, each transport category airplane operated pursuant to Part 121 must be equipped with a combined safety belt and shoulder harness, meeting the applicable requirements of § 25.785, at each flight deck station. Soon after issuance of Amendment 121-155, the FAA received requests for interpretation of § 121.311(e), subsequently amended by Amendment 121-170 (46 FR 15460, effective March 5, 1981). The questions indicated uncertainty regarding whether § 121.311(e)(2) was applicable to transport category airplanes type certificated prior to January 1, 1958, and whether § 121.311(e)(2) applied to all flight deck station seats or only seats of required flight crewmembers. This amendment to § 121.311(e) is necessary to express clearly the regulatory intent that this section apply only to transport category airplanes type certificated after January 1, 1958.

Sections 121.311(e) and (f) are also amended to include the applicable revision level of § 25.785, which is incorporated by reference in those sections. This is necessary because, as promulgated in Notice 75-31, and issued in Amendment 121-155, § 121.311 (e) and (f) require Part 121 operators to meet equipment requirements defined, in part, by airworthiness type certification standards found in § 25.785. Amendment 25-51, which was issued as part of Airworthiness Review Program Amendment No. 8 (45 FR 7750; February 4, 1980) along with Amendment 121-155, amended § 25.785 to require, in pertinent part, upgraded safety belt and shoulder harness type certification standards for each flight deck station and flight attendant seat in transport category airplanes. These upgraded seat standards were incorporated by reference into § 121.311 (e) and (f) in Amendment 121-155, which inadvertently failed to include a reference to the effective date of § 25.785 which the FAA intended to apply. This amendment of § 121.311 (e) and (f) is necessary to indicate that the sections refer to § 25.785 effective March 6, 1980, so that future amendments to § 25.785 will not automatically impose retroactive equipment requirements upon Part 121 operators.

Section 121.311 (f) and (h) of Amendment 121-155 contained future compliance dates for the new equipment requirements of March 6, 1980, and March 6, 1981, respectively. Those dates were subsequently extended through March 6, 1982, by Amendment 121-170. Since reference to the March 6, 1982, compliance date will no longer be necessary on or after the effective date of the present amendment, this amendment deletes the reference to those dates from the FAR. Similarly, § 121.311(g) has been deleted since the interim period of its intended effectivity will also have passed. Accordingly, § 121.311 (h) and (i) have been redesignated as § 121.311 (g) and (h).

Need for Immediate Adoption

Numerous Part 121 operations are conducted using transport category airplanes type certificated prior to January 1, 1958. Based upon the requests for interpretation and exemption already received from Part 121 operators, the FAA recognizes an urgent need to amend § 121.311(e) to restore its original intent and thereby relieve the public and the aviation community from the economic burden of seeking clarification of, or exemption from, an ambiguous rule. Affected operators of transport category airplanes type certificated prior to January 1, 1958, are unable to determine whether they are required to upgrade their equipment in order lawfully to continue operations after March 6, 1982. Consequently, not adopting this amendment immediately would unnecessarily perpetuate such uncertainty beyond the critical compliance date and could result in the unnecessary, and economically damaging, voluntary grounding of

affected aircraft by Part 121 operators. Since this amendment is clarifying and editorial in nature, I find that notice and public procedure are impractical and contrary to the public interest and that good cause exists for making this amendment effective in less than 30 days.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Adoption of Amendment

Accordingly, Part 121 of the Federal Aviation Regulations (14 CFR Part 121) is amended as follows, effective March 6, 1982:

§ 121.311 [Amended]

1. By revising § 121.311(e) to read as follows:

* * * * *

(e) No person may operate a transport category airplane that was type certificated after January 1, 1958, unless it is equipped at each flight deck station with a combined safety belt and shoulder harness that meets the applicable requirements specified in § 25.785 of this chapter, effective March 6, 1980, except that—

(1) Shoulder harnesses and combined safety belt and shoulder harnesses that were approved and installed before March 6, 1980, may continue to be used; and

(2) Safety belt and shoulder harness restraint systems may be designed to the inertia load factors established under the certification basis of the airplane.

* * * * *

2. By amending § 121.311(f) by deleting the words "After March 6, 1982, each" and inserting the word "Each" in place thereof, and by inserting the phrase ", effective March 6, 1980" after the word "chapter".

3. By deleting § 121.311(g) and redesignating § 121.311 (h) and (i) as § 121.311 (g) and (h), respectively.

4. By amending newly redesignated § 121.311(g) by deleting the words "After March 6, 1982, each" and inserting the word "Each" in place thereof.

(Secs. 313, 314, 601, and 603 through 605, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, 1421, and 1423 through 1425); section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this amendment is not a major rule under Executive Order 12291 or a significant regulation under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action is clarifying and editorial in nature, I also find that the economic impact is so minimal that no regulatory evaluation is now necessary.

Issued in Washington, D.C., on March 5, 1982.

J. Lynn Helms,
Administrator.

[FR Doc. 82-6491 Filed 3-9-82; 4:07 pm]
BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 202

[Reg. ER-1287; Amdt. 4 to Part 202; Docket No. 40092]

Final Rule To Discontinue Airport Notice and Service Plan Requirements and Unnecessary Operating Restrictions

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Board is discontinuing its airport notice and approved service plan requirements and several unnecessary operating restrictions contained in Parts 202 and 213 of its Economic Regulations. This action is being taken on the Board's own initiative in order to eliminate unnecessary administrative burdens on carriers and on the Board's staff. In addition, in order to conform to the new rule, the Organization Regulations are being modified.

DATES: Adopted: February 23, 1982. Effective: April 10, 1982.

FOR FURTHER INFORMATION CONTACT: Ira Leibowitz, Bureau of International Aviation, Legal Division, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5203.

SUPPLEMENTARY INFORMATION: On October 1, 1981, the Board proposed to adopt a rule which would amend Parts 202 and 213 of its Economic Regulations to eliminate airport notice, approved service plan, and attendant reporting requirements, and other provisions which restrict carrier operations (EDR-432, 46 FR 50551, October 14, 1981).

Section 202.13 (a) and (b) and § 213.4 require certificated air carriers and foreign air carriers, respectively, to apply to the Board for permission to initiate service to a point, to change the airport used to serve a point, or to serve two points by the same airport. Proposed changes may not be implemented until 30 days have elapsed or the Board approves the changes, whichever occurs first. Section 202.13(d) requires U.S. carriers to notify the Board if foreign governments require them to serve a point through an airport not regularly used by the carrier.

Section 202.15 governs carrier deviation from certificates that are conditioned by approved service plans. A service plan provides the Board with detailed flight information to foreign points and must be approved before service over the proposed routing may be initiated.[1] Section 202.16 requires U.S. carriers to notify the Board if foreign goyernments require them to make stops or serve points not named in their certificates or approved service plans.

Sections 202.21 and 202.22 and Appendices A and B to Part 202 delineate the procedural framework for these rules.

Part 202 also imposes restrictions on carrier operations. Section 202.12 limits the period of time aircraft may spend at "intermediate" stops. Another part of that section, along with §§ 202.13(c) and 202.14, contain provisions which were designed to facilitate Board oversight of U.S. carrier service to the points named in their certificates.

In EDR-432we explained that these rules create undue costs and administrative burdens on both carriers and Board staff. The requirements they impose serve no regulatory purpose, particularly in light of the policies of the Airline Deregulation Act of 1978 (ADA) and the International Air Transportation Competition Act of 1979 (IATCA).

We also emphasized that if the Board needs the subject information in other contexts, it has ample residual powers. For instance, it can utilize, when appropriate, Part 213 or 231 of the Regulations or Sections 407 or 419 of the Federal Aviation Act (the Act). It may also rely on the public and other carriers and such industry publications as the Official Airline Guide (OAG). Such monitoring procedures are in keeping with the Board's more limited role envisioned by deregulation legislation and policy.

Comments on EDR-432 were filed by the Airport Operators Council International (AOCI), and by the National Air Carrier Association (NACA). After careful consideration of these comments, we have decided that they do not warrant a change in our earlier findings and conclusions. We have therefore decided to amend Parts 202 and 213 as proposed in EDR-432.

AOCI basically argues for a retention of §§ 202.13(a) and (b) and § 202.14 and of most of the attendant notice provisions of § 202.22.[2] It states that the provisions it seeks to retain are essential to the forecast of aviation demand and aircraft movement and to the expression of public interest in the evolution of air service patterns.

AOCI's comments do not provide a sufficient basis for continuing the burdens and restrictions imposed on carrier operations by Parts 202 and 213. The Board does not rely on airport notices to forecast aviation demand, as suggested by AOCI. There are other far more useful sources of information available for this purpose, including traffic data collected by the Board and made available to the public. While airport notices provide some information as to the presence of service at particular airports, we have previously noted that the public's interest in obtaining this information is adequately served through alternate and far less burdensome means. Furthermore, an airport will receive advance notice of an air carrier's desire to serve it through the carrier's need to arrange for landing rights, gate and counter space, and the other facilities and amenities that must precede actual operations to a new or newly regular destination.

NACA supports the proposed rule in large part but opposes removal of the provisions insofar as they affect foreign air carriers. It states that these rules are needed for effective oversight of the airport activities of foreign air carriers, implying that a foreign airport restriction imposed on a U.S. carrier by a foreign government could not be met with an effective response by the United States if the subject rules are eliminated. We disagree. The movements of foreign air carriers may still be monitored by other means, including conditioning their permits and requiring them to file schedules under Part 213. Other retaliatory measures contemplated by the Act remain, of course, in place. We do not anticipate that these rule changes will weaken our ability to monitor the operations of foreign air carriers and to effectively respond to restrictive, discriminatory, or unfair competitive practices against U.S. carriers abroad.

We are making the rule changes final, as proposed. This regulation will be effective 30 days after publication.

Final Regulatory Flexibility Analysis

The discussion above constitutes the Board's final regulatory flexibility analysis of this rule, pursuant to 5 U.S.C. 604. Copies of this document can be obtained from the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428, (202) 673-5432, by referring to the "ER" number at the top of the document.

Final Rule

PART 202—CERTIFICATES AUTHORIZING SCHEDULED ROUTE SERVICE: TERMS, CONDITIONS, AND LIMITATIONS

Accordingly, the Board amends 14 CFR Part 202, "Certificates Authorizing Scheduled Route Service: Terms, Conditions and Limitations," as follows:

1. The authority for Part 202 is:

Authority: Secs. 102, 204, 401, 402, 403, 407, 416, Pub. L. 85-726, as amended, 72 Stat. 740, 743, 754, 757, 758, 766, 771, (49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1377, 1386); Reorganization Plan No. 3 of 1961, 26 FR 5989.

§§ 202.12-202.16, 202.21, 202.22 and Appendices A and B [Removed]

2. Sections 202.12, 202.13, 202.14, 202.15, 202.16, 202.21, and 202.22, and accompanying appendices A and B, are removed.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-6670 Filed 3-10-82; 8:45 am]
BILLING CODE 6320-01-M

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14 CFR Part 213

[Reg. ER-1288; Amdt. No. 8 to Part 213; Docket No. 40092]

Final Rule to Discontinue Airport Notice and Service Plan Requirements and Unnecessary Operating Restrictions

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: In ER-1287, also issued today, the Board discontinued its airport notice and approved service plan requirements and several unnecessary operating restrictions contained in its regulations. The reasons for this change are explained therein. Part 213 is being amended to conform with the new rule.

DATES: Adopted: February 23, 1982. Effective: April 10, 1982.

FOR FURTHER INFORMATION CONTACT: Ira Leibowitz, Legal Division, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5203.

PART 213—TERMS, CONDITIONS AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS

Accordingly, the Board amends 14 CFR Part 213, *"Terms, Conditions and Limitations of Foreign Air Carrier Permits,"* as follows:

1. The authority for Part 213 is:

Authority: Secs. 204, 402, Pub. L. 85-726, as amended, 72 Stat. 743, 757; (49 U.S.C. 1324, 1372).

§ 213.4 and Appendices A and B [Reserved]

2. Section 213.4 and accompanying appendices A and B are removed and reserved.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-6681 Filed 3-10-82; 8:45 am]
BILLING CODE 6320-01-M

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14 CFR Part 385

[Reg. OR-193; Amdt. No. 122 to Part 385; Docket No. 40092]

Final Rule To Discontinue Airport Notice and Service Plan Requirements and Unnecessary Operating Restrictions

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: In ER-1287, also issued today, the Board discontinued its airport notice and approved service plan requirements and several unnecessary operating restrictions contained in its regulations. The reasons for this change are explained therein. Part 385 is being amended to conform with the new rule.

DATES: Adopted: February 23, 1982. Effective: April 10, 1982.

FOR FURTHER INFORMATION CONTACT: Ira Leibowitz, Legal Division, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673-5203.

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Accordingly, the Board amends 14 CFR Part 385, "Delegations and Review of Action Under Delegation; Nonhearing Matters," as follows:

1. The authority for Part 385 is:

Authority: Secs. 102, 204, 401, 402, 403, 407, 416, Pub. L. 85-726, as amended, 72 Stat. 740, 743, 754, 757, 758, 766, 771; (49 U.S.C. 1302,

[1] We no longer condition existing certificates with such service plans. Moreover, the elimination of existing service plans from all certificates authorizing foreign air transportation was adopted by Order 82-3-58.

[2] AOCI urges that each notice that it would require be served upon all the individuals and entities listed in § 202.22 except the Postmaster General and the other scheduled carriers serving the airport or point.

1324, 1371, 1372, 1373, 1377, 1386); Reorganization Plan No. 3 of 1961, 26 FR 5969.

§ 385.13 [Amended]

2. In § 385.13, *Delegation to the Director, Bureau of Domestic Aviation*, paragraphs (a)(3) and (m) are removed and reserved.

§ 385.20 [Amended]

3. In § 385.20, *Delegation to the Director, Bureau of International Aviation*, paragraphs (a)(3), (a)(4), and (j) are removed and reserved.

By the Civil Aeronautics Board.

Phillis T. Kaylor,

Secretary.

[FR Doc. 82-6979 Filed 3-10-82; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 389

[Reg. OR-164; Amdt. No. 29 to Part 389; Docket No. 40092]

Final Rule To Discontinue Airport Notice and Service Plan Requirements and Unnecessary Operating Restrictions

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: In ER-1267, also issued today, the Board discontinued its airport notice and approved service plan requirements and several unnecessary operating restrictions contained in its regulations. The reasons for this change are explained therein. Part 389 is being amended to conform with the new rule.

DATES: Adopted: February 23, 1982. Effective: April 10, 1982.

FOR FURTHER INFORMATION CONTACT: Ira Leibowitz, Legal Division, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5203.

PART 389—FEES AND CHARGES FOR SPECIAL SERVICES

Accordingly, the Board amends 14 CFR Part 389, "Fees and Charges for Special Services," as follows:

1. The authority for Part 389 is:

Authority: Sec. 204, Pub. L. 85-726, as amended, 72 Stat. 743; (49 U.S.C. 1324).

§ 389.25 [Amended]

2. In § 389.25, *Schedule of Filing and License Fees*, paragraph (d) is removed and reserved.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-6980 Filed 3-10-82; 8:45 am]

BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 271 and 274

[Release No. IC-12274, File No. S7-680]

Adoption of Permanent Notification Forms for Business Development Companies; Statement of Staff Position

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of permanent forms; statement of staff position.

SUMMARY: The Commission is adopting today, on a permanent basis, three forms: a notice of intent to elect to be regulated as a business development company, a notification of election to be regulated as a business development company and a notification of withdrawal of such election. The three permanent forms are substantially the same as interim forms on which the Commission previously sought public comment (March 31, 1981; 46 FR 19459), although a minor technical change has been made in one of the forms in response to public comment. The Commission also is publishing the views of its Division of Investment Management, as expressed in response to a "no-action" request, regarding the distribution of preliminary prospectuses by a company after it has filed a notice of intent to elect but before it has filed a notification of election.

DATE: Effective March 5, 1982.

FOR FURTHER INFORMATION CONTACT: Kathleen A. Jackson, Special Counsel, (202) 272-2115 or Eric H. Pookrum, Esq., (202) 272-2116, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the adoption, on a permanent basis, of three forms under certain provisions of the Investment Company Act of 1940 ("1940 Act") [15 U.S.C. 80a-1 *et seq.* as amended by Pub. L. No. 96-477 (October 21, 1980)]:

(1) Form N-6F [17 CFR 274.15], a form for notice of intent to elect to be subject to sections 55 through 65 of the 1940 Act [15 U.S.C. 80a-54 through 80a-64], the regulatory provisions applicable to business development companies;

(2) Form N-54A [17 CFR 274.53], a form for notification of such election under the 1940 Act; and

(3) Form N-54C [17 CFR 274.54], a form for notification of withdrawal of such election under the 1940 Act.

Additionally, the Commission is announcing the views of its Division of Investment Management, as expressed in response to a "no-action" request, regarding the distribution of preliminary prospectuses by a company after it has filed a notice of intent to elect to be subject to sections 55 through 65 of the 1940 Act, but before it has filed a notification of election.

Adoption of Permanent Forms

The Small Business Investment Incentive Act of 1980 (the "SBIIA") [Pub. L. No. 96-477] was enacted to enable small enterprises, particularly small growing and financially troubled enterprises, to raise needed capital in a manner consistent with the interests of investor protection.[1] To achieve this purpose, the SBIIA *inter alia*, amended various provisions of the 1940 Act by establishing a system of regulation for certain investment companies termed "business development companies." A business development company is defined,[2] in effect, as a domestic closed-end company [3] that is operated for the purpose of making investments in small, developing and financially troubled businesses and that makes available significant managerial assistance to its portfolio companies.

The system for regulation of business development companies is set forth in sections 55 through 65 of the 1940 Act. Although the system of regulation found in these sections is similar to the regulatory system applied to registered investment companies by sections 1 through 53 of the 1940 Act, in general, business development companies are permitted greater flexibility in dealing with their portfolio companies, issuing securities and compensating their management.[4]

[1] H.R. Rep. No. 1341, 96th Cong., 2d Sess. 19 (1980).

[2] The term "business development company" is defined in section 2(a)(48) of the 1940 Act [15 U.S.C. 80a-2(a)(48)].

[3] Closed-end investment companies are management companies that do not offer for sale or have outstanding any redeemable security. See section 5(a)(2) of the 1940 Act [15 U.S.C. 80a-5(a)(2)].

[4] For a more detailed discussion of the differences between the regulatory system applied to business development companies and that applied to registered investment companies, see Investment Company Act Release No. 11708 (March 25, 1981) [46 FR 19459, March 31, 1981].

Business development companies are not required to register as investment companies under the 1940 Act. However, they are required to register under the Securities Exchange Act of 1934, [15 U.S.C. 78a et seq.] and the SBIIA contemplates the development of certain notification forms to be used by a company in connection with its election to be a business development company or its withdrawal of such an election. More specifically, there are three types of notices or notifications that might be filed by business development companies:

1. a notice of intent to elect to be a business development company;
2. a notification of election to be a business development company; and
3. a notification of withdrawal of such an election.

The filing of a notice of intent to elect would permit a private company to prepare to make a public offering as a business development company without immediately becoming fully subject to the 1940 Act, as amended.

The reports accompanying both the House bill that was enacted as the SBIIA and the substantially similar Senate bill expressed the Congressional intent that the Commission adopt new forms or adapt existing ones for these purposes on an expedited or emergency basis.[5] Therefore, in March, 1981, the Commission adopted interim forms for each of the three types of notifications described above without prior notice and opporunity for comment.[6] At the same time, however, the Commission, among other things, solicited public comment on whether the interim forms should be adopted on a permanent basis and, if so, whether the forms should be changed in any way.

In response to its request for comment, the Commission received one letter. Although the commentator endorsed the adoption of each of the three forms, it suggested one technical change to clarify a possible ambiguity in the certification requirement of Interim Form N-54A. Interim Form N-54A requires that a business development company certify, among other things,

that it will be operated for the purpose of making investments in securities described in sections 55(a) (1) through (3) of the Investment Company Act of 1940; and that it will make available significant managerial assistance with respect to issuers of such securities as represent 70 percent of the total assets of the company for purposes of the computation required by section 55(a) of the Act.

This certification was intended to require a business development company to certify that it met the definitional requirements of section 2(a)(48) of the 1940 Act. However, the commentator asserted that the certification might be construed to go beyond the scope of one of the definitional requirements of section 2(a)(48).

Section 2(a)(48) requires a business development company to be operated for the purpose of making investments in securities described in sections 55(a) (1) through (3) of the 1940 Act [15 U.S.C. 80a-55(a)(1) through 80a-55(a)(3)] [7] and to make available significant managerial assistance to those issuers whose securities are described in sections 55(a) (1) through (3) but only to the extent that such issuers "are treated by such business development company as satisfying the 70 per centum of the value of its total assets condition of section 55."

The commentator expressed the view that the purpose of the proviso in section 2(a)(48) is to make it clear that a business development company which has more than 70 percent of its assets in securities described in sections 55(a) (1) through (3) of the 1940 Act does not have to provide managerial assistance to issuers of those securities represented in the portion of its assets which exceeds the 70 percent threshold. The commentator then pointed out that section 55(a) of the 1940 Act does not require a business development company to maintain 70 percent or any other fixed percentage of its assets in securities or the other types of assets described in section 55(a). Rather, that section makes it unlawful for a business development company to make any *new* acquisitions of assets (other than those described in sections 55(a) (1) through (7)) unless, at the time of the acquisition, at least 70 percent of the value of the company's assets, other than assets described in paragraph (7) of section 55(a), consist of sections 55(a) (1) through (6) assets. In addition, the commentator noted that, under section 55(a), a business development company lawfully may invest in, and count toward meeting the 70 percent test of that section, securities issued by persons to whom the company could not provide managerial assistance, such as the Federal Government. In this connection the commentator contended that a business development company also may acquire or continue to hold and treat as qualifying assets under section 55(a), securities, the issuer of which may no longer need managerial assistance.

The commentator suggested that the certification be amended by either (1) deleting the phrase "as represent 70 percent of the total assets of the company for purposes of the computation required by section 55(a) of the Act" or (2) adding the phrase "to the extent necessary to meet the requirements of the Act" following the word "Act" in the last line of the certification.

The Commission agrees that the certification in Interim Form N-54A might be confusing, and the certification in the permanent form has ben changed. While the Commission has not adopted either of the specific changes suggested by the commentator, the Commission believes that the revised certification meets both the concern of the commentator and the intent of the SBIIA. The revised certification in relevant part provides

that it will be operated for the purpose of making investments in securities described in sections 55(a) (1) through (3) of the Investment Company Act of 1940; and that it will make available significant managerial assistance with respect to the issuers of such securities to the extent required by the Act.

[5] H.R. Rep. No. 1341, 96th Cong., 2d Sess. 38 (1980); S. Rep. No. 852, 96th Cong., 2d Sess. 23 (1980).

[6] Investment Company Act Release No. 11704, note 4, *supra*.

[7] Sections 55(a) (1) through (3) securities, generally, may be described as securities issued by any company that is organized and has its principal place of business in the U.S., and that is an operating company (i.e., not an investment company, business development company, or other type of financial intermediary such as a bank, broker-dealer, insurance company, etc.). Sections 55(a) (1) through (3) securities must also meet one or more of the following criteria:

(1) The securities were acquired by the business development company in private placement transactions from the issuer or from a present or recent affiliate of the issuer and, at the time of the business development company's investment, the issuer did not have a class of its securities listed on an exchange or on the Federal Reserve Board's margin list;

(2) The securities were acquired by the business development company in private placement transactions from the issuer or an officer or employee of the issuer as a "follow-on investment" in an existing portfolio company, which was not exchange or margin-listed at the time of the business development company's initial investment *and* the business development company has retained a substantial part of its original equity investment in the issuer;

(3) The issuer of the securities is a company that (a) the business development company "controls" (meaning beneficial ownership of 25% of the company's voting securities), (b) the business development company actually helps manage, and (c) on whose board the business development company has a representative (securities in this category may be exchange or margin-listed and may be purchased from any person in the open market or in private placement transactions); or

(4) The securities were purchased in private placement transactions from an issuer that at or immediately before the time of the business development company's acquisition was in bankruptcy or reorganization or was unable to meet its obligations as they came due, or were purchased from present or recent affiliates of such an issuer.

Interim Form N–6F, the notice of intent to elect, and Interim Form N–54C, the notification of withdrawal of election, are adopted permanently as originally proposed.

Distribution of Preliminary Prospectuses

To provide guidance to companies that are contemplating becoming business development companies, the Commission is publishing a position recently taken by its Division of Investment Management in response to a "no-action" request. The request was made on behalf of a closed-end company which at the time of its request had fewer than 100 beneficial owners of its securities but which had filed a registration statement on Form N–2 in anticipation of making a public offering as a business development company. At the time of the filing of its registration statement, the issuer had also filed a notice of its intent to file a notification of election to be a business development company. This notice was necessary in light of the interaction of Section 3(c)(1) of the 1940 Act and Section 6(f)(2) of the 1940 Act [15 U.S.C. 80a–3(c)(1), 80a–6(f)(2)], which was added by the SBIIA. Section 3(c)(1) excludes from the definition of an investment company an issuer that has no more than 100 shareholders and is not making or proposing to make a public offering of its securities. Once such an issuer proposed to make such a public offering, it would become ineligible for the exclusion; however, Section 6(f)(2) provides an exemption for such an issuer from many provisions of the 1940 Act if it notifies the Commission that it "intends in good faith to file, within 90 days, a notification of election" to be a business development company.

At the time the no-action request was made, the issuer expected to file an amendment to its registration statement and contemplated that the prospectus contained in that amendment would be circulated by the underwriters of the proposed offering. Counsel for the issuer pointed out that circulation of the company's preliminary prospectus might be deemed to constitute a public offering of the company's securities and that, since the section 6(f)(2) exemption applies only to companies that are *proposing* to make a public offering, distribution of preliminary prospectuses could raise a question about the continued availability of the exemption. Counsel contended, however, that the exemption would not be lost for two reasons. First, counsel stated that the issuer would not complete any public offering or make any sale of its securities unless and until it had filed its notice of election to be regulated as a business development company. Additionally, the issuer undertook to disclose prominently in its preliminary prospectus that the issuer had filed a notice of intent to elect, that it had not yet become a business development company, and that the offering could not be completed unless and until it had made such an election. Finally, the issuer, undertook to file a notification of election before or simultaneously with the filing of the pricing amendment to its registration statement. The issuer requested assurance that the staff would not recommend enforcement action if the Corporation continued to rely on the section 6(f)(2) exemption until the earlier of (1) the date on which the issuer's registration statement on Form N–2 became effective or (2) the expiration of the 90-day period provided by Section 6(f)(2) (or any extension thereof which might be permitted by the Commission). (*Heizer Corporation*, available April 30, 1981).

The Division of Investment Management responded affirmatively to this request. Where the facts are the same as those described in the Heizer no-action letter, it is the position of the Division of Investment Management that the exemption from sections 1 through 53 of the 1940 Act (except to the extent provided in Sections 59 through 65) provided by section 6(f)(2) of that Act may be relied upon to the extent described above.

In accordance with the foregoing 17 CFR Part 271 is amended by adding reference to this release thereto.

Text of Forms

The text of the forms is set forth in the appendix to this release.

Statutory Authority, Effective Date

The Commission hereby adopts Forms N–6F, N–54A, and N–54C pursuant to section 6(f) [15 U.S.C. 80a–6(f)], section 38(a) [15 U.S.C 80a–37(a)], section 54 [15 U.S.C. 80a–53], and section 59 [15 U.S.C. 80a–58] of the 1940 Act. This action is effective immediately pursuant to the Administrative Procedure Act [5 U.S.C. 553(d)(3)].

By the Commission.

George A. Fitzsimmons,

Secretary.

March 5, 1982.

Text of Forms

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

Subpart A of Part 274 of Chapter II of Title 17 of the Code of Federal Regulations is hereby amended as follows:

1. By adding § 274.15 to read as follows:

274.15 Form N–6F, notice of intent to elect to be subject to sections 55 through 65 of the Investment Company Act of 1940.

This form shall be used by a company that would be excluded from the definition of an investment company by section 3(c)(1) of the Investment Company Act of 1940 [15 U.S.C. 80a–3(c)(1)], except that at the time of filing it proposes to make a public offering of its securities as a business development company, to notify the Securities and Exchange Commission that the company intends in good faith to file, within 90 days, a notification of election to become subject to the provisions of sections 55 through 65 of the Investment Company Act of 1940 [15 U.S.C. 80a–54 through 64].

2. By adding § 274.53 to read as follows:

§ 274.53 Form N–54A, notification of election to be subject to sections 55 through 65 of the Investment Company Act of 1940 filed pursuant to section 54(a) of the Act.

This form shall be used pursuant to section 54(a) of the Investment Company Act of 1940 [15 U.S.C. 80a–53(a)] by a company of the type defined in sections 2(a)(48) (A) and (B) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(48) (A) and (B) to notify the Securities and Exchange Commission of its election to be subject to the provisins of sections 55 through 65 of said act [15 U.S.C. 80a–54 through 64].

3. By adding § 274.54 to read as follows:

§ 274.54 Form N–54C, notification of withdrawal of election to be subject to sections 55 through 65 of the Investment Company Act of 1940 filed pursuant to section 54(c) of the Investment Company Act of 1940.

This form shall be used pursuant to section 54(c) of the Investment Company Act of 1940 [15 U.S.C. 80a–53(c)] by a business development company to file a notice of withdrawal of its election under section 54(a) of the Investment Company Act of 1940 [15 U.S.C. 80a–53(a)].

The text of the forms is set forth below.

Securities and Exchange Commission, Washington, D.C.; Form N–6F

Notice of Intent To Elect To Be Subject to Sections 55 Through 65 of the Investment Company Act of 1940

The undersigned hereby notifies the Securities and Exchange Commission that it intends to file a notification of election to be subject to sections 55 through 65 of the

Investment Company Act of 1940 (the "Act") and in connection with such notice submits the following information:

Name: [1] ———

Address of Principal Business Office (No. & Street, City, State, ZIP Code): ———

Telephone Number (including area code): ———

Name and adress of agent for service of process: ———

The undersigned company hereby notifies the Securities and Exchange Commission that it intends to file a notification of election to be subject to sections 55 through 65 of the Act within ninety days of the date of this filing. The company would be excluded from the definition of an investment company by section 3(c)(1) of the Act, except that it presently proposes to make a public offering of its securities as a business development company.

Signature

Pursuant to the requirements of section 6(f) of the Act, the undersigned company has caused this notice of intent to elect to be subject to sections 55 through 65 of the Act pursuant to section 54(a) of the Act to be duly executed on its behalf in the city of ——— and the state of ——— on the — day of ———, 19—.

[SEAL] Signature ———
(Name of Company)

By ———
(Name of director, officer or general partner signing on behalf of the company)

(Title)

Attest: ———
(Name)

(Title)

Instructions for Form N–6F

Read instructions carefully before preparing this notice. It may be returned as not acceptable for filing unless it is prepared, executed, and filed substantially in accordance with these instructions. This form is not to be used as a blank form to be filled in, but only as a guide in the preparation of a notice of intent to file a notification of election. The form should be filed on paper 8½ x 11 inches in size.

(a) This form shall be used pursuant to section 6(f) of the Act to notify the Commission of the company's intent to file a notification of election to be subject to sections 55 through 65 of the Act. The form should not be filed by a company that at the time of filing has more than one hundred beneficial owners of its securities, or by a company that expects to have more than one hundred beneficial owners of its securities before a notification of election will be filed. Such a company should consider whether or not it needs to file a notification of registration under section 6(a) of the Act or a notification of election under section 54(a) of the Act.

(b) Signature.

An original and three copies of the notice of intent to file a notification of election shall be filed. The three copies may have facsimile or typed signatures. If the company is a business development company having a board of directors, the original notice of intent to file a notification of election shall be signed on behalf of the company by a director, officer, or trustee. If the company is a partnership, the original notice shall be signed by a general partner.

(c) Filing.

The notice of intent to elect and all inquiries and communication with respect thereto shall be forwarded to the Securities and Exchange Commission, Washington, D.C. 20549.

(d) Fee.

There is no fee charged for filing the notice of intent to elect.

Securities and Exchange Commission, Washington, D.C.; Form N–54A

Notification of Election To Be Subject to Sections 55 Through 65 of the Investment Company Act of 1940 Filed Pursuant to Section 54(a) of the Act

The undersigned business development company hereby notifies the Securities and Exchange Commission that it elects, pursuant to the provisions of section 54(a) of the Investment Company Act of 1940 (the "Act"), to be subject to the provisions of sections 55 through 65 of the Act and, in connection with such notification of election, submits the following information:

Name: ———

Address of Principal Business Office (No. & Street, City, State, ZIP Code): ———

Telephone Number (including area code): ———

Name and address of agent for service of process: ———

Check one of the following:

[ ] The company has filed a registration statement for a class of equity securities pursuant to section 12 of the Securities Exchange Act of 1934. Give the file number of the registration statement or, if the file number is unknown or has not yet been assigned, give the date on which the registration statement was filed: ———

[ ] The company is relying on rule 12g–2 under the Securities Exchange Act of 1934 in lieu of filing a registration statement for a class of equity securities under that Act.

The file number of the registration as an investment company pursuant to section 8(a) of the Act, if any, of the company: ———

The file number of the registration as an investment company pursuant to section 8(a) of the Act, if any, of any subsidiary of the company: ———

The undersigned company certifies that it is a closed-end company organized under the laws of ——— (state) and with its principal place of business in —— (state); that it will be operated for the purpose of making investments in securities described in section 55(a) (1) through (3) of the Investment Company Act of 1940; and that it will make available significant managerial assistance with respect to issuers of such securities to the extent required by the Act.

Pursuant to the requirements of the Act, the undersigned company has caused this notification of election to be subject to sections 55 through 65 of the Investment Company Act of 1940 to be duly signed on its behalf in the city of ——— and state of ——— on the —— day of ——— 19—.

[SEAL] Signature ———

By ———
(Name of director, officer, or general partner signing on behalf of the company)

Title ———

Attest: ———
(Name)

(Title)

Instructions for Form N–54A

Read instructions carefully before preparing the notification of election. A notification of election may be returned as not acceptable for filing unless it is prepared, executed, and filed substantially in accordance with these instructions. This form is not to be used as a blank form to be filled in, but only as a guide in the preparation of a notification of election. The form should be filed on paper 8½ x 11 inches in size.

(a) This form shall be used as the notification of election to be subject to sections 55 through 65 of the Act filed with the Commission pursuant to section 54(a) of the Act.

(b) Signature.

An original and seven copies of each notification of election shall be filed. The seven copies of the notification of election may have facsimile or typed signatures. If the company is a business development company having a board of directors, the original notification of election shall be signed on behalf of the company by a director, officer, or trustee. If the company is a partnership, the original notification shall be signed by a general partner.

(c) Filing.

The notification of election and all inquiries and communications with respect thereto shall be forwarded to the Securities and Exchange Commission, Washington, D.C. 20549.

(d) Fee.

There is no fee charged for filing the notification of election.

(e) Rule 12g–2.

Only companies with a class of equity securites that would have been required to be registered pursuant to section 12(g)(1) of the Securities Exchange Act of 1934 except for the exemption from registration under section 12(g)(2)(B), and that is held of record by at least 300 persons, may rely on rule 12g–2. All other companies must register a class of equity securities under section 12 of the Securities Exchange Act of 1934 before or simultaneously with the filing of this notification of election.

(f) Name.

In selecting a name a company should consider the following: (a) section 35(d) of the Act; (b) the current list of companies

[1] In selecting a name a company should consider the following: (a) section 35(d) of the Act; (b) the current list of companies registered under the Act (in order to ascertain if the name is similar to that of any existing company); and (c) its corporate policies.

registered under the Act (in order to ascertain if the name is similar to that of any existing company); and (c) its corporate policies.

Securities and Exchange Commission, Washington, D.C.; Form N–54C

Notification of Withdrawal of Election To Be Subject to Sections 55 Through 65 of the Investment Company Act of 1940 Filed Pursuant to Section 54(c) of the Investment Company Act of 1940

The undersigned business development company hereby notifies the Securities and Exchange Commission that it withdraws its election to be subject to sections 55 through 65 of the Investment Company Act of 1940 (the "Act"), pursuant to the provisions of section 54(c) of the Act, and in connection with such notice of withdrawal of election submits the following information:

Name:——
Address of Principal Business Office (No. and Street, City, State, Zip Code): ——
Telephone Number (including area code):——
File Number under the Securities Exchange Act of 1934: ——

In addition to completing the cover page, a company withdrawing its election under section 54(a) of the Act must state one of the following bases for filing the notification of withdrawal:

A. The company has never made a public offering of its securities; does not have more than 100 securityholders for purposes of section 3(c)(1) of the Act and the rules thereunder, and does not propose to make a public offering.

B. The company (1) has distributed substantially all of its assets to its securityholders and has effected, or is in the process of effecting, a winding-up of its affairs, and (2) is not liquidating as part of a merger.

C. The company has (1) sold substantially all of its assets to another company; or (2) merged into or consolidated with another company. Give the name of the other company and state whether the other company is a registered investment company, a company excluded from the definition of an investment company by section 3(c)(1) of the Act, a business development company, or none of the above.

D. The company has changed the nature of its business so as to cease to be a business development company, and such change was authorized by the vote of a majority of its outstanding voting securities or partnership interests. Describe the company's new business. Give the date of the shareholders' or partners' meeting and the number of votes in favor of and opposed to the change.

E. The company has filed a notice of registration under section 8 of the Act. State the filing date of the company's notice of registration (Form N–8A) under the Act.

F. Other. Explain the circumstances surrounding the withdrawal of election.

Signature

Form of signature:

Pursuant to the requirements of the Act, the undersigned company has caused this notification of withdrawal of election to be subject to sections 55 through 65 of the Act to be duly signed on its behalf in the city of —— and state of —— on the day of —— 19—.

[SEAL] Signature ——
(Name of company)

By ——
(Name of director, officer, or general partner signing on behalf of the company)
Title ——
Attest: ——
(Name)
——
(Title)

Instructions for Form N–54C

Read instructions carefully before preparing this notification. It may be returned as not acceptable for filing unless it is prepared, executed, and filed substantially in accordance with these instructions. This form is not to be used as a blank form to be filled in, but only a guide for the preparation of a notification of withdrawal. The form should be filed on paper 8½ x 11 inches in size.

(a) This form shall be used pursuant to section 54(c) of the Act to notify the Commission of the company's withdrawal of its notification of election to be subject to sections 55 through 65 of the Act. Such withdrawal will be effective immediately upon receipt by the Commission. Companies filing this notification should be aware that it is only a withdrawal from the regulatory system applicable to business development companies, described in sections 55 through 65 of the Act. A company which files this notification may be subject to sections 1 through 53 of the Act unless it qualifies for another exemption from those sections.

(b) Signature.

An original and three copies of the notification of withdrawal of election shall be filed. The three copies may have facsimile or typed signatures. If the company is a business development company having a board of directors, the original notification of withdrawal of election shall be signed on behalf of the company by a director, officer, or trustee. If the company is a partnership, the original notice shall be signed by a general partner.

(c) Filing.

The notification of withdrawal of election and all inquiries and communication with respect thereto shall be forwarded to the Securities and Exchange Commission, Washington, D.C. 20549.

(d) Fee.

There is no fee charged for filing the notification of withdrawal of election.

(e) Incorporation by Reference.

A company may incorporate by reference any information previously filed in a current report on Form 8–K under the Securities Exchange Act of 1934 by so stating and giving the date on which the Form 8–K was filed.

[FR Doc. 82-6805 Filed 3-10-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 12

State Internal Audit Responsibilities; Revision

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This document revises existing Federal Highway Administration (FHWA) regulations that set forth a State highway agency's (SHA) responsibilities for audit of its financial operations, and that identify the standards under which the audits will be accomplished. The two major purposes of this action are to ensure that those regulations accurately reflect organizational changes within the Department of Transportation (DOT) as a result of the establishment of the DOT Office of Inspector General, and to implement and incorporate reference to Government-wide audit and management standards issued by the Office of Management and Budget.

EFFECTIVE DATE: April 12, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey C. Wood, Office of Fiscal Services, 202–426–0562, or Mr. S. James Wiese, Office of Chief Counsel, 202–426–0762, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: These amendments are necessitated by developments that are external to, but have nevertheless affected, the SHA's internal audit responsibilities under the Federal-aid highway program. On February 25, 1979, the Office of Inspector General was established in the Department of Transportation. On October 22, 1979, the Office of Management and Budget (OMB) revised Circular A–102, Uniform Requirements for Assistance to State and Local Governments, by adding Attachment P, Audit Requirements. In February of 1980, the U.S. General Accounting Office (GAO) reissued Guidelines for Financial and Compliance Audits of Federally Assisted Programs.

The revision to 23 CFR Part 12 is primarily intended to implement new audit policies established by OMB and DOT, and to provide guidance on the audit standards set forth in OMB Circular A–102, Attachment P and GAO's Guidelines for Financial and Compliance Audits of Federally Assisted Programs. Specifically, these revisions expand upon current audit policy by requiring SHA's to (1) provide information governing the distribution of audit reports, (2) provide for followup and disposition actions on reports, findings, and recommendations, (3) submit an annual certification of timely and acceptable audits of Federal-aid programs, and (4) modify their single audit plans to include procedures for auditing subrecipients and contracting for audit services.

The following changes have been made to the existing regulations:

(a) Section 12.1 is revised to include references to criteria prescribed by OMB Circular A–102, Attachment P and DOT Order 4600.9B, Uniform Administrative Requirements for Grants-In-Aid to State and Local Governments.

(b) Section 12.2 is redesignated as § 12.3 and redefines "audit" to be consistent with GAO guides and OMB Circular A–102. The term "State" is replaced by "State highway agency" and that term is defined. Definitions of the following terms have been added for clarification: cognizant audit agency, cognizant administrative agency, recipient organization, subrecipient organization, single audit, other non-Federal audits, and organization-wide audit.

(c) The former § 12.3 is deleted and the requirements are incorporated into § 12.7 of the revised regulations.

(d) Section 12.4 is redesignated as § 12.5 and is changed to clarify applicability to SHA's and their subrecipients. The SHA's are required to ensure that subrecipients adopt the audit requirements, pursuant to OMB Circular A–102, Attachment P.

(e) The former § 12.5 is redesignated as § 12.7 and is expanded to include all audit criteria, administration of audits, coverage, and procedures for resolving recommendations and findings as required by OMB Circular A–102, Attachment P and DOT directives.

(f) Section 12.6 is redesignated as § 12.17 and is reworded, but contains no change in practice. The provisions for records retention and availability of work papers are required by OMB Circular A–102, Attachment P.

(g) The former § 12.7 is redesignated as § 12.19. Consistent with the other requirements of these regulations, the format of the single audit plan is revised to include procedures relating to audits of subrecipients and an affirmative action statement. Since almost all SHA's are operating under approved single audit plans, only minor revisions may be necessary in most cases. For SHA's not having an approved plan, the submission deadline is extended.

(h) A new § 12.9 requires recipients to submit an annual statement certifying that the proper audit arrangements have been made. Failure to furnish an acceptable audit may be a basis for denying Federal funds and/or requiring that Federal funds be refunded. This certification is required by DOT Order 4600.9B, Uniform Administrative Requirements for Grants-In-Aid to State and Local Governments, dated May 8, 1978 and revised September 24, 1980.

(i) A new § 12.11 requires the SHA to submit audit reports to FHWA and the Office of Inspector General. This is required by the GAO audit standards and OMB Circular A–102, Attachment P. Most of the SHA's already submit audit reports to FHWA.

(j) A new § 12.13 establishes the procedures for FHWA followup and disposition of SHA audit findings and recommendations. This is required by OMB Circular A–102, Attachment P and DOT Order 8000.1, Follow-up Action and Resolution of Audit Recommendations, dated October 5, 1979.

(k) A new § 12.15 encourages audit coordination. The provisions of this section are not mandatory, but reflect the intent of OMB Circular A–102, Attachment P.

The foregoing revisions will not impose any requirements on SHA's beyond those which are currently applicable to all Federal grant recipients and, in particular, recipients of programs administered by DOT. The revised regulations include the minimum requirements necessary to implement the applicable OMB, GAO and DOT directives and are consistent with the FHWA's policy on redtape reduction (43 FR 10578) and DOT regulatory policy (44 FR 11033).

These revisions will not impose any additional costs on SHA's nor will the revisions change the process by which States are reimbursed for costs incurred under the Federal-aid highway program. Under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities. For the foregoing reasons, a full regulatory evaluation is not required.

Because the only substantive revisions being made are those required by OMB, GAO or DOT directives, it is not anticipated that notice and opportunity for comment would result in the receipt of useful information or any substantive changes. In addition, expeditious action has been requested by a number of SHA's which are reluctant to finalize their audit procedures and assume full responsibility for audits without the guidance provided by a revised Part 12 and the companion FHWA directive (Volume 1, Chapter 9, Section 1, Subsection 1 of the Federal-Aid Highway Program Manual). For the foregoing reasons, notice and opportunity for comment are not required under the DOT's regulatory policies and procedures. A general notice of proposed rulemaking is not required under the Administrative Procedure Act because the matters affected relate to grants, benefits, or contracts pursuant to 5 U.S.C. 553(a)(2).

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under DOT regulatory procedures.

Information collection requirements contained in this regulation (§§ 12.9, 12.11, and 12.19) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control number 2105–0112.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued on: March 4, 1982.

R. A. Barnhart,
Federal Highway Administrator.

In consideration of the foregoing, the FHWA revises Part 12 of Chapter I of Title 23, Code of Federal Regulations, to read as set forth below.

PART 12—FEDERAL-AID HIGHWAY PROGRAMS; STATE INTERNAL AUDIT RESPONSIBILITIES

Sec.
12.1 Purpose.
12.3 Definitions.
12.5 Applicability.
12.7 Criteria for audit performance and administration.
12.9 Annual certification.
12.11 Review of audit reports.
12.13 FHWA followup and disposition actions on reports, findings, and recommendations.
12.15 Audit coordination.
12.17 Retention of records.
12.19 SHA single audit plans.

Authority: 23 U.S.C. 315; OMB Cir. A–102, Attachment P dated October 22, 1979; 49 CFR 1.48(b).

§ 12.1 Purpose.

The purpose of this part is to establish a State highway agency's (SHA)

responsibilities for audit of its financial operations (including internal audits), identify audit standards under which the audits will be accomplished, and prescribed Federal Highway Administration (FHWA) audit criteria to implement applicable provisions of the Office of Management and Budget (OMB) Circular A-102, Attachment P, Audit Requirements, dated October 22, 1979, and the Department of Transportation (DOT) Order 4600.9B, Attachment 11, Audit Requirements, dated September 24, 1980.[1]

§ 12.3 Definitions.

(a) *State highway agency (SHA)*—that department, commission, board, or official of any State, the District of Columbia, and the Commonwealth of Puerto Rico charged by its laws with the responsibility for highway construction and that has the delegated authority to administer Federal highway funds which are received under title 23, United States Code.

(b) *Cognizant audit agency*—the Federal agency assigned audit responsibility by OMB for a particular organization receiving Federal assistance or administering federally assisted programs. In those instances where OMB has designated the DOT as the cognizant agency for a recipient, cognizant audit responsibilities will be performed by the DOT Office of Inspector General (OIG).

(c) *Cognizant administrative agency*—the DOT agency assigned cognizant responsibilities for administrative actions relating to audit reports and resolution of audit findings for recipients of DOT funds. The cognizant administrative agency for funds and programs administered by the SHA's is FHWA.

(d) *Recipient organization*—an SHA receiving Federal highway funds under title 23, United States Code.

(e) *Subrecipient organization*—another State government agency, a local government agency, or other public agency (including metropolitan planning organizations) that receives Federal highway funds from an SHA.

(f) *Single audit*—the concept whereby all requirements for the audit of an organization are satisfied by a single organization-wide audit by an SHA's internal audit unit or other non-Federal audit unit, in accordance with this part.

(g) *Other non-Federal audits*—independent audits performed by (1) internal audit units of State government agencies other than an SHA, (2) local governments, (3) other public agencies, or (4) qualified public accountants.

(h) *Audit*—a systematic review and appraisal by an SHA's internal audit unit or other non-Federal auditor of the accounting, administrative, and operational controls to determine and report on whether:

(1) Financial operations are conducted properly;

(2) Financial statements are presented fairly;

(3) The SHA or subrecipient organization has complied with laws and regulations affecting the expenditure of Federal funds;

(4) Internal procedures have been established to meet the objectives of federally assisted programs; and

(5) Financial reports to the Federal Government contain accurate and reliable information.

(i) *Organization-wide audit*—an audit covering all operations of an SHA wherein Federal funds may be involved. This audit may be:

(1) A single audit covering all financial and compliance aspects of the SHA;

(2) A single financial audit of the SHA in which the auditor's opinion and comments incorporate by reference the results of separate compliance audits that may have been performed during the audit period; or

(3) A State-wide audit in which the SHA's financial and compliance requirements are adequately addressed.

§ 12.5 Applicability.

These requirements shall apply to all SHA's administering the State highway program involving Federal-aid funding under title 23, United States Code. The SHA shall ensure that subrecipients of Federal-aid funding adopt the audit reporting requirements, standards for audit performance and administration, records retention, and audit coordination requirements contained in this part.

§ 12.7 Criteria for audit performance and administration.

(a) The correctness and propriety of Federal-aid claims and compliance with governing laws and regulations are inherent in the certifying responsibility of the SHA. Consistent with this responsibility, audits are to be made by the SHA or at its direction on an organization-wide basis and will be conducted in accordance with the General Accounting Office *Standards for Audit of Governmental Organizations, Programs, Activities, and Functions,*[2] the *Guidelines for Financial and Compliance Audits of Federally Assisted Programs,*[2] any compliance supplements approved by OMB, and generally accepted auditing standards established by the American Institute of Certified Public Accountants.

(b) Audits will be scheduled with reasonable frequency, usually annually, but not less frequently than once every two years, considering the nature, size, newness, and complexity of the activity. Audits performed by an SHA internal audit unit or other non-Federal audit unit in accordance with this part will be relied upon by FHWA, and any additional audit work shall build upon work already done.

(c) Governmental auditing standards provide that SHA internal audit units may not be considered independent when performing audits of their own organization. This qualification on independence may be removed or satisfied when other non-Federal auditors have incorporated the work of SHA internal auditors in their reports and have performed independent compliance and financial tests of the work of the SHA internal auditors. For all audits by non-Federal auditors, including those conducted solely by the SHA internal audit unit, the OIG will perform the additional audit tests necessary to attest to the acceptability of the audit reports.

(d) Audits will be of sufficient scope and coverage to meet the minimum reporting requirements defined in § 12.3(h) and will include, at a minimum, an examination of the systems of internal control, systems established to insure compliance with laws and regulations affecting the expenditure of Federal funds, financial transactions and accounts, and financial statements and reports of SHA's and subrecipients. Audits are to be performed on an organization-wide basis, except in those instances where it would be more cost effective to audit programs, activities, or functions individually, or when deficiencies indicate the need for such an audit.

(e) Procedures shall be established by each SHA to assure that audit recommendations and findings are resolved in a timely and adequate manner, and that FHWA is promptly advised of corrective actions taken or contemplated.

[1] These documents are available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

[2] Published in 1981 by the GAO. It is available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 [Stock Number 020-000-00229-1].

[3] The Guidelines were published at 46 FR 21636 (April 2, 1981) and available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 [Stock Number 020-000-00181-6].

(f) When contracts are to be awarded for audits as defined in this part, the recipient shall take affirmative action to assure that small and minority businesses are given the maximum practicable opportunity to compete for and participate in the performance of audits.

§ 12.9 Annual certification.

Recipients shall submit to FHWA an annual statement containing the following or similar certification: "Arrangements have been made for the required financial and compliance audit. The audit will be made within the prescribed audit reporting cycle." Failure to furnish an acceptable audit as determined by the cognizant Federal audit agency may be a basis for denial and/or refunding of Federal funds. The single audit plan should provide the necessary documentation to support the certification. A letter addressed to the FHWA Division Administrator on an annual basis will satisfy this requirement. (Approved by OMB under OMB control number 2105-0112.)

§ 12.11 Review of audit reports.

The SHA internal audit unit shall furnish directly to FHWA and the OIG copies of all audit reports prepared by the internal audit unit or other non-Federal audit unit that include coverage of systems or procedures which may affect the amount of Federal-aid highway funds due the SHA. This includes a system or procedure having an effect on SHA compliance with Federal laws and regulations that relate to Federal-aid highway programs. The OIG is responsible for performing quality assessment reviews to determine that the audits have been conducted in accordance with applicable standards and requirements. (Approved by OMB under OMB control number 2105-0112.)

§ 12.13 FHWA followup and disposition actions on reports, findings, and recommendations.

(a) After receipt of an SHA audit report, or audit report on activities of a subrecipient of Federal-aid highway funds, FHWA shall (1) make an evaluation in order to develop the official position on findings and recommendations affecting Federal-aid funds, (2) make a determination as to action(s) required by FHWA, and (3) advise the SHA of FHWA's official position with regard to the recommendations and findings, the adequacy of actions taken or contemplated by the SHA, and any additional actions considered necessary to protect the Federal interest. This total process should normally be completed within 90 days.

(b) Prompt notification shall be made to the SHA when FHWA considers the disposition actions taken by the SHA to have satisfactorily and effectively resolved the recommendations and audit findings affecting Federal-aid funds. A copy of the notification document together with a summary of disposition actions by the SHA and FHWA will be concurrently submitted to the OIG.

(c) Usually within 15 days after receipt of the advice of completion of disposition actions, the OIG shall advise FHWA of its concurrence or comments.

§ 12.15 Audit coordination.

To improve audit coordination, provide assistance, and reduce duplication of audit coverage, the SHA, FHWA, and OIG are encouraged to coordinate scheduled audits and reviews.

§ 12.17 Retention of records.

Working papers and reports prepared by the SHA internal audit unit and other non-Federal independent auditors shall be retained for a minimum of three years from the date of the audit report unless the SHA is notified in writing by FHWA or the OIG of the need to extend the retention period. Audit working papers shall be made available upon request to FHWA, the OIG, and the General Accounting Office.

§12.19 SHA single audit plans.

(a) Any SHA presently operating under an approved single audit plan shall review its plans and procedures for compliance with Attachment P of OMB Circular A-102 and this part, and advise FHWA and the OIG of any revisions considered necessary, including procedures for implementing paragraphs (b) (4) and (5) of this section.

(b) Any SHA which has not received approval of its single audit plan shall forward a plan to FHWA within 90 calendar days of the date of this regulation. The plan shall include:

(1) Organization and functional statements delineating and assigning internal audit responsibility;

(2) Policy directives which conform to the audit standards and requirements referenced herein;

(3) Present staffing levels, planned staffing levels and collateral duties of internal audit personnel;

(4) Procedures for auditing, or arranging for other non-Federal audits, of subrecipients; and

(5) An affirmative action statement which includes procedures to ensure that small business concerns, and business concerns owned and controlled by socially and economically disadvantaged individuals, have the maximum practicable opportunity to participate when contracting for audit services. (Approved by OMB under OMB control number 2105-0112.)

(c) An SHA that does not meet the requirements of paragraphs (a) or (b) of this section or that has received partial approval of its audit plan, must submit an implementation plan to FHWA within 90 calendar days of the effective date of this regulation outlining the steps proposed to ensure compliance, including proposed implementation dates. Any statutory restrictions which preclude full compliance are to be identified. (Approved by OMB under OMB control number 2105-0112.)

(d) The FHWA Division Administrator will review the SHA's single audit plan and will recommend appropriate action to the Regional Federal Highway Administrator. The Regional Federal Highway Administrator will approve the plan, if acceptable, after appropriate coordination with the OIG.

[FR Doc. 82-6667 Filed 3-10-82; 8:45 am]
BILLING CODE 4910-22-M

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 660

[FHWA Docket Number 80-16, Notice 2]

Forest Highways; Administration and Construction Provisions

AGENCY: Forest Service, USDA and Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This regulation revises and updates procedures for the administration and construction of forest highways. The revisions are consistent with the change in the statutory definition of forest highways in the Surface Transportation Assistance Act of 1978.

EFFECTIVE DATE: April 12, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. Coles, Office of Highway Operations (HHO-12), (202) 426-0460, or Mr. Leo J. Burstyn, Office of the Chief Counsel (HCC-10), (202) 426-0754, Federal Highway Administration, 400

Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Currently, there are 22,000 miles of public roads in 40 States and Puerto Rico designated as forest highways. These highways are of special Federal interest because they provide access to the resources of the national forests. Forest highways also provide benefits to communities in or near forest boundaries.

Forest highways are under the jurisdiction of, and maintained by, State or local authorities. The FHWA administers the forest highway program in cooperation with the Forest Service (FS), United States Department of Agriculture. Under this program, Federal funds are made available for the construction and improvement of forest highways.

The regulation governing the forest highway program is codified in Part 660 of Title 23, Code of Federal Regulations (23 CFR Part 660). Subpart A contains the procedures which are used to select forest highway projects for Federal funding and to administer the construction of those projects. Subpart B establishes a Forest Highway System and the procedures for classifying, numbering, and modifying forest highway routes.

The administration of the Forest Highway System was reviewed by the United States General Accounting Office (GAO) and was the subject of a report entitled "Federal Interests Should Receive More Consideration Under the Forest Highway Program" (CED-77-130, October 13, 1977).[1] The GAO report found that certain roads essential to the national forests were not being given sufficient consideration in the financing of forest highway improvements. For example, some 3,700 miles of forest roads were found to be ineligible for Federal funding because of legislative and administrative changes between 1970 and 1977. State and local funds then became the only source of funding for needed improvements on these routes. The GAO report recommended legislative action to permit those forest roads that were formerly considered forest highways to be eligible for funding under the forest highway program.

The Surface Transportation Assistance Act of 1978 (STAA) (Pub. L. 95-599) amended the definition of "forest highway" in section 101(a) of title 23, United States Code (23 U.S.C. 101(a)). This amendment was recommended by the Executive branch in response to the GAO report.

The definition of forest highways in 23 U.S.C. § 101(a) is now broad enough to incorporate those roads which had become ineligible for Federal funding. It includes all forest roads which are under the jurisdiction of, and maintained by, a public authority and open to public travel. It allows the FHWA and the FS to develop a more integrated forest road system by extending funding to those highways which link the various Federal-aid highway systems (i.e., primary, secondary, etc.) with the forest development roads, which are administered by the FS.

The GAO report also recommended that the FHWA and the FS jointly develop and issue specific criteria for selecting projects for forest highway funding. Because of limited funds authorized for the program, the GAO recommended that project development and selection be based on sound criteria to assure that those projects that best meet the program's intent are given top consideration.

Section 660.103(b) of this regulation incorporates the new definition of forest highways which has been in effect since 1978. Section 660.109 establishes a formal program and project selection process based on specific criteria. The selection process is intended to better protect the Federal interest in forest highways by providing a greater role for the FS in the development and selection of programs and projects.

The Forest Highway System, as such, is being eliminated. All references to the Forest Highway System in 23 CFR Part 660, Subpart A and the entire Subpart B have been deleted. The Forest Highway System was not established as a result of any statutory requirement, but rather was created as an administrative mechanism for designating forest highway routes. Under § 660.105, forest roads will be designated as forest highways on the basis of three fundamental criteria, without reference to a formal Forest Highway System. This change is designed to eliminate unnecessary paperwork and administrative burdens in the forest highway program.

The regulation provides for consultation between the FHWA, the FS, State highway agencies, and local government agencies, as appropriate, in a number of important areas including the designation of forest highways (§ 660.105), program and project selection (§ 660.109), and maintenance (§ 660.115). The FHWA encourages agencies with an interest in forest highways to consult with each other on a regular basis and to share their expertise in all program areas.

This regulation represents a condensed version of the former regulation for administering forest highways. Extraneous material and requirements have been eliminated. Other provisions have been revised or supplemented with references to existing policies and procedures to improve the clarity and usefulness.

Section 660.111 retains the concept of a statewide or countywide forest highway agreement, with a project level agreement required only under certain specified conditions. It is intended that all existing agreements between the FHWA and cooperating agencies (i.e., "cooperators") remain in effect under this regulation.

Section 660.113 recognizes that forest highway projects may be constructed or administered directly by the FHWA under the FHWA's "Direct Federal" procedures, or by a cooperator under normal Federal-aid highway program procedures. This section also indicates that the design standards approved for use by the FHWA in 23 CFR Part 625 apply to forest highways unless other standards are approved by the FHWA for use on a particular project.

Section 660.117(a) recognizes that the Federal share of funding for forest highway projects may be any amount up to and including 100 percent, but also makes it clear that participation by cooperators is not required. However, the FHWA encourages coopertors to participate in project funding, as this allows Federal funds to be used for a greater number of projects. Section 660.117(c) is a statement of the FHWA's existing policy which discourages the use of forest highway funds for right-of-way acquisition and maintenance. This policy is based on the same concept of making limited Federal funds available for as many projects as possible.

Discussion of Comments

A notice of proposed rulemaking was published on August 25, 1980 (45 FR 56355). Responses to the NPRM were received from the Western Association of State Highway and Transportation Officials (representing 14 States) and nine other State highway agencies, a county engineers association, and five environmental groups. Changes were made in the regulation in response to comments in order to clarify certain sections.

[1] This report is available from the U.S. GAO, Distribution Section, Room 4522, 441 G Street NW., Washington, D.C. 20548. It is available for inspection and copying from the Office of Highway Operations (ATTN: HHO-12), Room 3110, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590.

A definition of a forest road was added to § 660.103 in response to one comment that it would be helpful to supplement the definition of a forest highway. Both forest highway and forest road are defined in 23 U.S.C. 101(a).

An environmental group was concerned that there were no provisions in this regulation for environmental and Section 4(f) reviews. Section 660.113(b) has been revised to make it clear that forest highway projects must be developed in accordance with the appropriate environmental procedures in Subchapter H of Chapter 1, Title 23, CFR, which includes provisions for compliance with the National Environmental Policy Act, Section 4(f) of the DOT Act, and other environmental statutes.

Three environmental groups indicated that they believed the changes are major and should be discussed in an environmental assessment. These groups further stated they believed the proposed rule was contrary to their goal of keeping parts of the United States in a roadless, undeveloped condition.

This rulemaking is mainly in response to statutory changes (previously indicated) which were passed to better protect the Federal interest with respect to national forests. The FHWA and FS do not consider these changes major. In response to the charge that roads will be placed in roadless areas, this regulation does not change any rules regarding road construction in designated wilderness areas or areas where the land management plan prohibits such use. Public involvement and an environmental analysis are part of the development process of land management plans.

Comments from highway agencies indicated they wanted equal influence in the designation of forest highways and that some of the language used made selection too restrictive. One stated that the selection of a forest highway system could more appropriately be handled by the State highway agency and the FS. Others suggested that FHWA, with the concurrence of the FS and the State highway agency, designate forest highways.

The method of designation indicated in the final rule is necessary to protect the Federal interest with respect to the National Forest System, and allows the selection of projects that will be most beneficial to the management of the system. The selection process was intentionally made restrictive. The forest highway annual apportionment has been limited to $33 million for the past 20 years. Since these funds are limited, only roads that meet FS needs will be selected.

Section 660.105, Designation of forest highways, was revised in response to a comment from a highway association which requested the addition of some language to permit the use of forest highway funds on roads that are impacted by forest traffic because of the loads or capacity problems.

Another general comment was that it is not necessary to bring two separate priority lists (FS and State highway agency) of projects to the programing meeting. One joint list could be made. This procedure is satisfactory if agreement can be reached between the FS and the State highway agency.

The highway agencies were also concerned with § 660.113, Construction. This section was modified to indicate that the cooperator and the FS will concur in the plans, specifications, and estimates of projects and that the completed project will not be accepted by FHWA until it has been inspected and approved by the cooperator, the FS, and FHWA.

Several commenters questioned why it is necessary for the cooperator to consult the FS on maintenance since all the cooperators are experienced in this area. In response to that particular comment, the consultation requirement was eliminated.

Section 204(d) of title 23, U.S.C., requires that all appropriations for forest highways be administered in conformity with regulations jointly approved by the Secretary of Transportation and the Secretary of Agriculture. That approval authority has been delegated to the Federal Highway Administrator and the Chief of the Forest Service, respectively. The issuance of this final rule has been approved by both the FHWA and the FS as indicated by the signatures below.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation according to the regulatory policies and procedures of the Department of Transportation. The anticipated impact of this action is so minimal as to not require preparation of a full regulatory evaluation. Under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

In consideration of the foregoing, Chapter I, Part 660 of Title 23, Code of Federal Regulations, is revised as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally-assisted programs and projects apply to this program)

Issued on March 4, 1982.

L. P. Lamm,
Executive Director, Federal Highway Administration.

Gary E. Cargill,
Associate Deputy Chief, National Forest System, Forest Service.

PART 660—SPECIAL PROGRAMS (DIRECT FEDERAL)

1. Part 660, Subpart A is revised to read as set forth below.

Subpart A—Forest Highways

Sec.

660.101 Purpose.
660.103 Definitions.
660.105 Designation of forest highways.
660.107 Apportionments.
660.109 Program and project selection.
660.111 Agreements.
660.113 Construction.
660.115 Maintenance.
660.117 Funding, records and accounting.

* * * * *

Authority: 16 U.S.C. 1606–1610; 23 U.S.C. 101, 204, 315; 49 CFR 1.48(b).

Subpart A—Forest Highways

§ 660.101 Purpose.

To enhance local, regional, and national benefits by providing for the construction and maintenance of forest highways which serve the National Forest System and its renewable resources.

§ 660.103 Definitions.

In addition to the definitions in 23 U.S.C. 101(a), the following apply to this subpart:

(a) *Cooperator*—a State or local government agency which has jurisdiction over and/or maintenance responsibility for forest highways.

(b) *Forest highway*—a forest road under the jurisdiction of, and maintained by, a public authority and open to public travel.

(c) *Forest road*—a road wholly or partly within, or adjacent to, and serving the National Forest System and which is necessary for the protection, administration, and utilization of the National Forest System and the use and development of its resources.

(d) *National Forest System (NFS)*—lands and facilities administered by the Forest Service (FS), U.S. Department of Agriculture, as set forth in the National Forest Management Act of 1976, as amended (16 U.S.C. 1609(a)).

(e) *Open to public travel*—except during scheduled periods, extreme

weather conditions, or emergencies, open to the general public for use with a standard passenger auto, without restrictive gates or prohibitive signs or regulations, other than for general traffic control or restrictions based on size, weight, or class of registration.

(f) *Renewable resources*—those matters within the scope of responsibilities and authorities of the FS as defined in the National Forest Management Act of 1976, as amended (16 U.S.C. 1610), such as recreation, wilderness, wildlife and fish, range, timber, land, water, and human and community development.

§ 660.105 Designation of forest highways.

(a) The Federal Highway Administration (FHWA), in consultation with the FS and cooperators, where appropriate, will designate forest highways from the forest roads which serve the NFS in each State.

(1) The State highway administration (SHA) will represent the State and county interest. All counties should send their proposals to the State.

(2) The SHA and the FS will be able to nominate roads for forest highway designation.

(b) A forest road designated as a forest highway for purposes of this subpart will meet the following criteria:

(1) It is under the jurisdiction of a cooperator and open to public travel.

(2) It provides a connection between an adequate and safe public road and the renewable resources of the NFS which are essential to the local, regional, or national economy, and/or the communities, shipping points, or markets which depend upon those renewable resources.

(3) It serves other local needs such as schools, mail delivery, commercial supply, and access to private property within the NFS, or serves traffic of which a preponderance is generated by use of the NFS and its resources, or serves NFS generated traffic volumes that have a substantial impact on roadway design and construction.

§ 660.107 Apportionments.

On October 1 of each fiscal year the FHWA will apportion the funds authorized for forest highways for that fiscal year after deducting such sums as deemed necessary for the administrative requirements of the FHWA and the necessary expenses of the FS.

§ 660.109 Program and project selection.

(a) For each fiscal year that funds are apportioned for forest highways, the FHWA will request that the FS and the State highway agency (acting for all cooperators in the State) each submit a list of projects proposed for financing with such funds, listed in order of priority.

(b) Following receipt of the lists of projects, the FHWA will conduct a joint conference with the FS and the SHA to resolve any disagreements and to select the projects which will be included in the programs for the current fiscal year and at least the next four years. If there are no disagreements, a conference will not be required. Projects included in each year's program will be jointly selected based upon the following criteria:

(1) The development, utilization, protection and administration of the NFS and its renewable resources.

(2) The enhancement of economic development at the local, regional, and national level.

(3) The continuity of the transportation network serving the NFS and its dependent communities.

(4) The mobility of the users of the transportation network and the goods and services provided.

(5) The improvement of the transportation network for economy of operation and maintenance and the safety of its users.

(6) The protection and enhancement of the rural environment associated with the NFS and its renewable resources.

(c) The recommended program of projects will be prepared by the FHWA and submitted to the FS and SHA for concurrence. The FHWA will approve the program of projects. Following approval, the SHA shall advise any other cooperators in the State of the projects included in the final program. The SHA shall also determine the amount of State and local participation required for the funding of each project.

§ 660.111 Agreements.

(a) A forest highway agreement shall be entered into between the FHWA and each cooperator prior to the expenditure of any funds by the FHWA in the State, county, or other local jurisdiction involved. The forest highway agreement shall set forth the responsibilities of each party, including that of adherence to the applicable provisions of Federal statutes and regulations.

(b) A project agreement implementing the forest highway agreement shall be entered into between the FHWA and the cooperator involved under one or more of the following conditions:

(1) A cooperator's funds are to be made available to the FHWA for the project or any portion of the project.

(2) Federal funds are to be made available to a cooperator for any work.

(3) Special circumstances exist which make a project agreement necessary for payment purposes or to clarify any aspect of the project.

§ 660.113 Construction.

(a) Forest highway projects will be constructed or administered by the FHWA unless otherwise provided for in an agreement with the cooperator approved under this subpart.

(b) Projects to be constructed or administered by the FHWA will be developed in accordance with FHWA procedures including the appropriate environmental procedures in Subchapter H of this chapter and the Nationwide Action Plan for the Direct Federal Program.[1] Projects to be constructed or administered by a cooperator shall be developed in accordance with Federal-aid procedures including the appropriate environmental procedures in Subchapter H of this chapter.

(c) No construction shall be undertaken on any forest highway project until plans, specifications and estimates have been concurred in by the cooperator and the FS and approved by the FHWA.

(d) Forest highway projects shall be designed in accordance with Part 625 of this chapter or those criteria specifically approved by the FHWA for a particular project.

(e) The construction of forest highways will be performed by the contract method, unless construction by the FHWA or a cooperator on its own account is warranted under 23 U.S.C. 204(c).

(f) Construction of any project shall not be accepted by the FHWA as completed until the project has been inspected and approved by the cooperator, the FS, and the FHWA.

§ 660.115 Maintenance.

The cooperator having jurisdiction over a forest highway shall have the responsibility for maintaining it, unless otherwise provided for in an agreement approved under this subpart.

§ 660.117 Funding, records and accounting.

(a) The Federal share of funding for eligible forest highway projects may be any amount up to and including 100 percent. A cooperator may participate in the cost of construction, but participation shall not be required.

(b) Forest highway funds shall be available for adjacent vehicular parking areas and for sanitary, water, and fire control facilities.

(c) Use of forest highway funds for right-of-way acquisition or maintenance shall be subject to specific approval by FHWA.

(d) Cooperators which administer construction of forest highway projects and the SHA's shall maintain their forest highway records according to the provisions of Part 17 of this chapter.

(e) Funds provided to the FHWA by a cooperator in advance of construction will be deposited in the Treasury of the United States to the credit of "Cooperative Work, Forest Highways, Federal Highway Administration."

[1] Available for inspection and copying as prescribed in 49 CFR 7, App. D.

§§ 660.201–660.213 (Subpart B) [Removed and Reserved]

2. Part 660, Subpart B, consisting of §§ 660.201–660.213, is removed and reserved.

[FR Doc. 82-6389 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 668

Emergency Relief Program; Procedures for Federal Roads; Technical Amendments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Technical amendments to final rule.

SUMMARY: This document makes a technical nomenclature change in the delegation of authority for the administration of emergency relief to Federal agencies for the repair or reconstruction of Federal roads.

EFFECTIVE DATE: March 11, 1982.

FOR FURTHER INFORMATION CONTACT: Robert C. Coles, Office of Highway Operations, HHO–12, 202–426–0460; or Lee J. Burstyn, Office of the Chief Counsel, HCC–10, 202–426–0754, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Pursuant to 23 U.S.C. 125(c), the FHWA is authorized to make emergency relief funds available for the repair or reconstruction of Federal roads which have suffered serious damage as a result of natural disaster over a wide area or by catastrophic failure.

As a result of a recent internal reorganization of the FHWA's direct Federal program, all activities involving Federal roads, including emergency relief projects, are now administered by the Associate Administrator for Engineering and Traffic Operations through the FHWA's Direct Federal Program Administrator. Similarly, field operations are now conducted under the supervision of Direct Federal Division Engineers rather than Regional Federal Highway Administrators.

The new organizational structure for the direct Federal program and revised delegations of authority necessitate a nomenclature change to the applicable regulation, 23 CFR Part 668, Subpart B.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. Under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

Notice and opportunity for comment are not required because these amendments are administrative in nature, and it is not anticipated that a request for comments would result in the receipt of useful information. Due to the technical nature of these amendments, the FHWA finds good cause to make it effective in less than 30 days.

(23 U.S.C. 120(f), 123, and 315; 41 U.S.C. 252; 42 U.S.C. 5155; 49 CFR 1.48(b))

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: March 2, 1982.

Richard B. Robertson,

Associate Administrator for Planning and Policy Development, Federal Highway Administration.

PART 668—EMERGENCY RELIEF PROGRAM

In consideration of the foregoing, Chapter I of Title 23, Code of Federal Regulations, Part 668, Subpart B is amended as set forth below.

§ 668.203 [Amended]

1. In § 668.203(f), remove the words "Regional Federal Highway Administrator" and insert in lieu thereof the words "Direct Federal Division Engineer (DFDE)";

2. In § 668.203, revise paragrah (i) to read as follows:

* * * * *

(i) "Direct Federal Division Engineer." Director of one of the Direct Federal field offices located in Vancouver, Washington; Denver, Colorado; and Arlington, Virginia.

* * * * *

§§ 668.205, 668.209, 668.211, 668.213, and 668.215 [Amended]

3. In §§ 668.205, 668.209, 668.211, 668.213, and 668.215, wherever the acronym "RFHA" appears, it is amended to read "DFDE".

[FR Doc. 82-6522 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-22-M

23 CFR Part 712

Right-of-Way Revolving Fund

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Amendment to final rule.

SUMMARY: As part of a continuing effort to reduce costs and paperwork burdens imposed on the States, the Federal Highway Administration (FHWA) is amending procedures that apply to the Right-of-Way Revolving Fund to delete the requirement imposed on each State to submit, by April 1, an estimate of its total needs from the fund for the following fiscal year.

EFFECTIVE DATE: March 11, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Moeller, Office of Right-of-Way (Attention: HRW-12), 202/426–0142, or Mr. Thomas P. Holian, Office of the Chief Counsel (Attention: HCC–10) 202/426–0761, Federal Highway Administration, 400 7th Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: To encourage States to acquire right-of-way in advance of normal situations, recognizing the length of time often necessary to acquire real property and relocate people and personal property, Congress established the Right-of-Way Revolving Fund as part of the Federal-Aid Highway Act of 1968 (Pub. L. 90–495). Congress thereby authorized the Secretary of Transportation to administer funds for the purpose of acquiring rights-of-way for future construction of highway on any Federal-aid system. Subsequently, $300 million was authorized for the program to be set aside from the Trust Fund and kept in the Treasury. The Secretary of Transportation, upon request from a State Highway Agency, is authorized to advance funds without interest from amounts remaining available to pay for entire projects for acquisition of rights-of-way, including the net cost to the State of property management, if any, and related moving and relocation costs.

The implementing regulation, 23 CFR Part 712, Subpart G, requires each State Highway Agency that anticipates using

the revolving fund during the next fiscal year to submit, by April 1, an estimate of its total needs from the fund for the next fiscal year. This estimate is to be sent to Regional Federal Highway Administrators who, in turn, submit requests to FHWA Washington Headquarters for allocation of funds to meet the needs of the various regions.

Currently, the full $300 million authorized by Congress has been allocated to the regional offices for obligation by States within their regions on "as-needed" and "as-funds-are-available" bases. As States identify specific projects which they wish to finance from the revolving fund or projects previously authorized need additional funds, they are required to make specific requests for allocation of funds to FHWA Regional and Division Offices subsequent to April 1 for obligational authority.

Elimination of the requirement for an April 1 submission will result in less paperwork for States seeking allocation and obligational authority on any project which will qualify as a revolving fund project. It is estimated that the elimination of this submission will reduce redtape and time in the approval of eligible projects at the regional level where the obligational authority has been delegated. No additional economic impacts are anticipated as a result of this action.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under DOT regulatory procedures. Under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities. Accordingly, a full regulatory evaluation is not required.

Notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation (DOT) because it is not anticipated that such action would result in the receipt of useful information. Further, because this amendment relieves a regulatory burden and pertains to a once yearly reporting requirement due on April 1, the FHWA finds good cause to make this amendment effective in less than 30 days under DOT regulatory procedures. Accordingly, this amendment is effective upon publication. Neither a general notice of proposed rulemaking nor a 30-day delay in effective date is required under the Administrative Procedure Act because the matters affected relate to grants, benefits, or contracts pursuant to 5 U.S.C. 553(a)(2).

PART 712—THE ACQUISITION FUNCTION

§ 712.703 [Amended]

Accordingly, Chapter I of 23 CFR Part 712, Subpart G is amended by removing paragraph (a) of § 712.703 and redesignating paragraphs (b) through (f) as paragraphs (a) through (e).

(23 U.S.C. 106, 315; 49 CFR 1.48(b))

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction; 23.003, Appalachian Development Highway System; and 23.006 Appalachian Local Access Roads. The provisions of OMB Circular No. A–95 regarding State and Local clearinghouse review of Federal and federally-assisted programs and projects apply to this program.)

Issued: March 2, 1982.

Richard B. Robertson,

Associate Administrator for Planning and Policy Development, Federal Highway Administration.

[FR Doc. 82-6736 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-22-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Parts 1401, 1402, 1410, 1420, and 1425

Change in Designation of Regions, in Location for Filing Notices of Dispute, and Requests for Copies of Notices of Dispute

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Final rule.

SUMMARY: Pursuant to a reorganization of the Federal Mediation and Conciliation Service, the number of regional offices has been reduced from 6 to 4. While the street addresses of the 4 remaining regional offices have not changed, each of these offices has been given a new designation and a new geographical jurisdiction. Accordingly, in order to insure that individuals, employers, and labor organizations seeking assistance from the agency's regional offices are directed to the proper location, notice is given of the correct designation and of the new area covered for each of the four regional offices now in operation.

The agency has also established, pursuant to the reorganization, a Division of Case Control located in the FMCS National Office. All notices of labor negotiation disputes (Form F–7 and Form F–53) previously filed in regional offices should now be sent instead to the Division of Case Control. See address below.

In addition, Freedom of Information Act requests for copies of notices of labor negotiation disputes (Form F–7 and F–53) should likewise be sent to the Division of Case Control. See address below.

EFFECTIVE DATE: March 29, 1982.

ADDRESS: Federal Mediation and Conciliation Service, Division of Case Control, 2100 K Street, NW., Washington, DC 20427.

FOR FURTHER INFORMATION CONTACT: Nancy B. Broff (202) 653–5305.

Dated: March 4, 1982.

Kenneth E. Moffett,

Director.

PART 1401—PUBLIC INFORMATION

§ 1401.31 [Amended]

1. The address for the Washington, D.C., office of FMCS, stated in § 1401.31(b) introductory text, is corrected to read "2100 K Street, NW., Washington, D.C., 20427."

PART 1410—PRIVACY

PART 1420—FEDERAL MEDIATION AND CONCILIATION SERVICE—ASSISTANCE IN THE HEALTH CARE INDUSTRY

§ 1410.3 [Amended]

§ 1420.5 [Amended]

2. The lists of regional offices in §§ 1410.3(d) and 1420.5(f) are amended to show the four FMCS regional offices now in operation. The offices, and their areas of jurisdiction, are as follow:

1. *Eastern Region:*

Address: Jacob K. Javits Federal Building, 26 Federal Plaza, Room 2937, New York, NY 10278.

Consists of: Maine, New Hampshire, Vermont, Connecticut, Rhode Island, Massachusetts, New York, Puerto Rico, the Virgin Islands, Pennsylvania, Delaware, New Jersey, Garrett and Alleghany Counties of Maryland; and Brooke and Hancock Counties of West Virginia.

2. *Central Region:*

Address: Insurance Exchange Building, Room 1641, 175 W. Jackson Street, Chicago, IL 60604.

Consist of: Illinois (except counties listed under the the Southern Region); Indiana (except counties listed under Southern Region); Wisconsin, Minnesota, North Dakota, South Dakota, Michigan, and Ohio (except counties listed under the Southern Region).

3. *Southern Region:*

Address: Suite 400, 1422 W. Peachtree St., NW., Atlanta, GA 30309.

Consists of: Virginia, Maryland (except counties listed under the Eastern Region); Tennessee; North Carolina; South Carolina; Georgia; Alabama; Florida; Mississippi; Louisiana; Arkansas; Kentucky; Texas (except for Hudspeth and El Paso counties); Oklahoma; Missouri (except for those counties listed for the Western Region); Illinois (in counties of Calhoun, Greene, Jersey, McCoupin, Montgomery, Fayette, Bond, Madison, St. Clair, Monroe, Clinton, Washington, Marion, White, Hamilton, Wayne, Edwards, Wabash, Lawrence, Richland, Clay, Effingham, Jasper, and Crawford); Indiana (the counties of Knox, Daviess, Martin, Orange, Washington, Clark, Floyd, Harrison, Crawford, Perry, Spencer, DuBois, Pike, Gibson, Posey, Vanderburgh, and Warrick); Ohio (the counties of Butler, Hamilton, Warren, Clermont, Brown, Highland, Clinton, Ross, Pike, Adams, Scioto, Lawrence, Ballia, Jackson, Vinton, Hocking, Athens, and Meigs); Kansas (the counties of Bourbon, Crawford, Cherokee, and Ottawa); West Virginia (except counties listed under the Central Region); and the Canal Zone.

4. *Western Region:*

Address: Francisco Bay Building, Suite 235, 50 Francisco Street, San Francisco, CA 94133.

Consists of: California; Nevada; Arizona; New Mexico; El Paso and Hudspeth Counties [only] in Texas; Hawaii; Guam; Alaska; Washington; Oregon; Colorado; Utah; Wyoming; Montana; Idaho; Nebraska; Kansas; Iowa; Missouri (the counties of Atchinson, Nodaway, Worth, Harrison, Mercer, Putnam, Schuyler, Scotland, Knox, Adair, Sullivan, Grundy, Daviess, Gentry, DeKalb, Andrew, Holt, Buchanan, Clinton, Caldwell, Livingston, Linn, Macon, Shelby, Randolph, Charlton, Carrol, Ray, Clay, Platte, Jackson, Lafayette, Saline, Howard, Boon, Cooper, Pettis, Johnson, Cass, Bates, Henry, St. Clair, Benton, and Morgan); American Somoa; and Wake Island.

PART 1402—PROCEDURES OF THE SERVICE

§ 1402.1 [Amended]

3. FMCS Form F–7 in § 1402.1 is amended by revising the line immediately following the heading "Notice to Mediation Agencies" to read, "To: Federal Mediation and Conciliation Service, Washington, D.C. 20427."

PART 1425—MEDIATION ASSISTANCE IN THE FEDERAL SERVICE

§ 1425.2 [Amended]

4. The first sentence of the introductory paragraph is revised to read, "In order that the service may provide assistance to the parties, the party initiating negotiations shall file a notice with the FMCS Division of Case Control, 2100 K Street, NW., Washington, D.C. 20427, at least 30 days prior to the expiration or modification date of an existing agreement."

5. FMCS Form F–53 in § 1425.2 is amended by

(i) Revising the line immediately following the "Date" line to read, "TO: FEDERAL MEDIATION AND CONCILIATION SERVICE, Washington, D.C., 20427."

(ii) Revising the second line from the bottom of the Form to read, "TO FMCS, Washington, D.C. 20427."

(iii) Removing the last line at the bottom of the form.

PART 1401—PUBLIC INFORMATION

§ 1401.24 [Amended]

6. § 1401.24 is amended by revising the second sentence and adding a third sentence to read, "Parties at interest have the right to receive certified copies of any such notice of dispute upon written request. Requests for copies of notices should be submitted to FMCS, Division of Case Control, 2100 K Street, NW., Washington, D.C. 20427."

[FR Doc. 82-6664 Filed 3-10-82; 8:45 am]

BILLING CODE 6732-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 84, 85 and 86

[CGD 81-008, 81-006, and 81-009]

Annexes I, II, and III to Inland Navigation Rules; Great Lakes Effective Date

AGENCY: Coast Guard, DOT.

ACTION: Final rule, notice of effective date.

SUMMARY: This document establishes the effective date on the Great Lakes for Annexes I, II, and III to the Inland Navigation Rules. These annexes are respectively entitled Positioning and Technical Details of Lights and Shapes, Additional Signals for Fishing Vessels Fishing in Close Proximity, and Technical Details of Sound Signal Appliances, and were published on December 21 and 24, 1981. These regulations were made effective on December 24, 1981, on all inland waters *except* for the Great Lakes, where the effective date was left open. When the annexes were published, the Great Lakes effective date for the Inland Navigation Rules was not known. This notice makes the Great Lakes effective date for Annexes I, II, and III July 1, 1982, which coincides with the recently established Great Lakes effective date for the new Inland Navigation Rules.

EFFECTIVE DATE: The effective date of 33 CFR Parts 84, 85, and 86 on the Great Lakes is July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Llana, Project Manager, Office of Navigation, Room 1606, U.S. Coast Guard Headquarters, 2100 Second Street S.W., Washington, DC 20593, (202) 245–0106.

SUPPLEMENTARY INFORMATION: New statutory Inland Navigation Rules were enacted on December 24, 1980 and were made effective one year later on all United States inland waters except for the Great Lakes. The new Rules were also to apply on the Great lakes, but the effective date was delayed for the Great Lakes to allow the Canadian government time to enact parallel navigation rules and to have the new United States and Canadian navigation rules to take effect on the Great Lakes simultaneously.

The Inland Navigation Rules Act of 1980 also called for the Implementation of special regulatory annexes to supplement the statutory rules. Final regulations for Annex I to the Inland Navigation Rules were published on December 24, 1981 (46 FR 62443) and for Annexes II and III on December 21, 1981 (46 FR 61845). These regulations were made effective on December 24, 1981 (the same date the statutory Rules took effect) on all inland waters except for the Great Lakes. The Great Lakes effective date for those Annexes was not announced at that time because the effective date for the statutory Rules on the Great Lakes had not then been determined.

On February 8, 1982, the Great Lakes effective date for the new Inland Navigation Rules was announced (47 FR 5834). That effective date, July 1, 1982, is being adopted as the effective date for Annexes I, II, and III on the Great Lakes, so that the statutory Rules and the regulatory annexes become effective at the same time.

Drafting Information

The principal persons involved in drafting this notice are Mr. Chris Llana, Project Manager, Office of Navigation, and Lieutenant Michael Tagg, Project Attorney, Office of Chief Counsel.

Accordingly, the effective date of 33 CFR Parts 84, 85, and 86 on the Great Lakes is hereby established as July 1, 1982.

(Sec. 3, Pub. L. 96–591, 33 U.S.C. 2071; 49 CFR 1.46(n)(14))

Dated: March 2, 1982.

R. A. Bauman,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 82-6728 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGDS 81-09R]

Drawbridge Operation Regulations: Anacostia River, District of Columbia

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the District of Columbia Department of Transportation, the Coast Guard is amending the regulations governing operation of the Frederick Douglass drawbridge on South Capitol Street across the Anacostia River, mile 1.2, at Washington, D.C. to require an advance notice for all draw openings. This change is being made because the current volume of vessel traffic passing through the bridge is not sufficient to warrant constant attendance by a bridge tender. Also, a new provision is being added that will allow the bridge to remain closed to vessel traffic on every Presidential Inauguration Day in order to prevent vehicular traffic congestion at the bridge on that day. This action will accommodate the needs of vehicular traffic while providing for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment becomes effective on April 12, 1982.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Specialist, Aids to Navigation Branch, Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705, (804) 398-6222.

SUPPLEMENTARY INFORMATION: On December 7, 1981, the Coast Guard published a proposed rule (46 FR 59554) concerning this amendment. The Commander, Fifth Coast Guard District, also published this proposal in Public Notice (5-500) dated December 4, 1981, which was included in Local Notice to Mariners No. 50 dated December 18, 1981. Interested persons were requested to submit their comments and two comments were received.

Discussion of Rule

The District of Columbia Department of Transportation, owner of this bridge, requested the Coast Guard to change the existing regulation which requires that the bridge be opened on signal except for restricted openings during morning and evening rush hours. The request was based on the fact that the draw has been required to be opened infrequently for vessel traffic in recent years, and it has not been cost effective for the owner to maintain an operator in constant attendance when the need for one does not exist. The Coast Guard evaluated the problem, and based on its findings, is now amending the regulation to require a 24-hour advance notice for all draw openings year round. The Coast Guard feels that this change may be made without unduly restricting current water traffic volumes while at the same time relieving the bridge owner of the responsibility of providing constant operator attendance at the bridge. The new provision to allow the bridge to remain closed to vessel traffic on every Presidential Inauguration Day merely affirms the Coast Guard's traditional approval of the District of Columbia's request to do so. The provision in the existing regulation that the draw will remain closed to navigation on certain other occasions to permit uninterrupted passage of dignitaries across the bridge has been retained, as this is considered a necessary provision and was not a subject for change.

One of the comments received in response to the proposed rule recommended an additional provision to require the draw to be opened once each quarter to insure that the draw mechanism remains in operational condition. This provision has not been adopted for this regulation, since there is a general requirement in the Code of Federal Regulations for owners of all drawbridges in the pertinent geographical area to maintain proper mechanical operation of their bridges for the safe, prompt and efficient opening of the draw for the passage of vessels. The other commenter suggested that requiring 24-hour's advance notice is unreasonably inconvenient to waterway users, and that it should be possible to reduce the interval to 4 hours and still obtain cost savings. The Coast Guard has not adopted this suggestion since all its findings during the investigation of this bridge revealed that 24-hour's advance notice would amply provide for all current waterway usage. If usage patterns should change as a result of future development of the waterway, the regulation may change accordingly. This commenter also recommended listing telephone contact numbers for restricted bridges in the *Coast Pilot* publication. The Coast Guard will take action on this suggestion, although such action does not change the text of this regulation. In view of the above comments and the lack of further public comment, there are no substantive differences between this rule and the proposed rule.

There are no known businesses that will be significantly impacted by this change. Since most water traffic on this waterway consists of military craft and visiting U.S. and foreign ships who plan their trips according to a prearranged schedule, it is felt that these may plan their trips around the advance notice opening requirement, thus avoiding any inconvenience or expense resulting from fuel consumption often encountered during unexpected delays. The District of Columbia Department of Transportation will be beneficially affected from an economic standpoint since they will be relieved of the responsibility of providing a salaried operator on a continuous basis.

Evaluation

This regulation has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule. In addition, this regulation is considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact will be minimal. In accordance with Section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is certified that this rule will not have a significant economic impact on a substantial number of small entities.

Final Regulation

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations is amended by revising 33 CFR 117.330, paragraph (c) to read as follows:

§ 117.330 Anacostia River, Washington, D.C.; bridges.

* * * * *

(c) District of Columbia; South Capitol Street (Frederick Douglass) Bridge.

(1) The draw shall be opened for the passage of vessel traffic if at least 24 hours' advance notice has been given to the District of Columbia Department of Transportation.

(2) Requests for draw openings that coincide with the prearranged passage of dignitaries across the bridge will be scheduled so as not to interfere with the dignitaries' crossing.

(3) The bridge shall remain closed to vessel traffic all day on every Presidential Inauguration Day.

(4) A brief summary of the regulations in this section with a telephone number where the bridge owner can be reached shall be posted on both sides of the bridge in such a manner that it may be read easily from an approaching vessel.

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2), 49 CFR 1.46(c)(5), 33 CFR 1.05-1(g)(3))

Dated: February 23, 1982.

John D. Costello,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 82-6727 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Parts 144, 149, and 175

[CGD 80-155b]

Lifesaving Equipment

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: In a separate document, published elsewhere in this issue, the Coast Guard is revoking obsolete specifications concerning cork and balsa wood ring life buoys (Type IV personal flotation devices). This action requires editorial amendments to the regulations that allow cork and balsa wood ring buoys on artifical islands, fixed offshore structures, and recreational boats. Since equipment that has been previously approved may be used if in good and serviceable condition, there are no substantive changes to the regulations.

EFFECTIVE DATE: This final rule becomes effective on April 12, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Frank K. Thompson, Merchant Marine Technical Division (G-MMT/12), Office of Merchant Marine Safety, Room 1216, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202) 426-2174.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** of July 20, 1981, (46 FR 37286). The public was invited to submit comments until September 3, 1981. No comments were received and the rules are therefore made effective as proposed.

Drafting Information

The principal persons involved in drafting this final rule are Mr. Frank K. Thompson, Project Manager, Office of Merchant Marine Safety, and Lieutenant Walter J. Brudzinski, Project Counsel, Office of the Chief Counsel.

Discussion

Because they are no longer being manufactured, the approval specifications for cork or balsa ring life buoys and the material specifications for balsa wood and sheet cork have been revoked. These revocations are contained in Coast Guard Final Rule CGD 80-155a, which appears elsewhere in this issue of the **Federal Register**.

This final rule involves only editorial amendments to reflect the revocations. There are no substantive changes to the lifesaving equipment regulations. The amendments allow previously approved cork and balsa wood ring life bouys to continue to be sold and used as long as they are in good and serviceable condition. This final rule also updates the authority citations of the affected CFR Parts.

Evaluation

The Coast Guard has evaluated this final rule under Executive Order 12291 and has determined that it is not a major regulation. The Coast Guard has also determined that it is nonsignificant in accordance with the guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 dated 5-22-80). An economic evaluation has not been conducted since this final rule involves no substantive changes to the lifesaving equipment regulations, and its impact is expected to be minimal.

Final Regulations

In consideration of the foregoing, Parts 144, 149, and 175 of Title 33, Code of Federal Regulations are amended as follows:

PART 144—LIFESAVING APPLIANCES

1. The authority citation for Part 144 is revised to read as follows:

Authority: Sec. 4(e), 67 Stat. 462, as amended, (49 U.S.C. 1333(d)); 49 CFR 1.46(b).

2. In § 144.01-25, paragraph (a) is revised to read as follows:

§ 144.01-25 Ring life buoys.

(a) Each manned platform must have at least four approved ring life buoys constructed in accordance with 46 CFR Subpart 160.050; except ring life buoys approved under former 46 CFR Subpart 160.009 may be used as long as they are in good and serviceable condition. One ring life buoy must be placed on a suitable rack on each side of a manned platform in an accessible place. The ring life buoy must always be capable of being cast loose and may not be permanently secured in any way.

* * * * *

3. In § 144.10-1, Table 2 is removed, paragraph (a)(2) is revised, and a new paragraph, (a)(3), is added to read as follows:

§ 144.10-1 Lifesaving equipment.

(a) * * *

(2) An approved ring life buoy (Type IV PFD) for every two persons, but no more than four devices are required. Each ring life buoy must be of a type constructed in accordance with 46 CFR Subpart 160.050; except a ring life buoy that was approved under former 46 CFR Subpart 160.009 may be used as long as it is in good and serviceable condition.

(3) Each ring life buoy under paragraph (a)(2) of this section must have an approved automatic electric water light that is attached as described in § 144.01-25(b).

* * * * *

PART 149—DESIGN, CONSTRUCTION, AND EQUIPMENT

1. The authority citation for Part 149 reads as follows:

Authority: Secs. 5(a), 5(b), Pub. L. 93-627, 88 Stat. 2131 (33 U.S.C. 1504(a), (b)); 49 CFR 1.46(a).

2. Section 149.526 is revised to read as follows:

§ 149.526 Approved ring life buoys (Type IV personal flotation devices).

(a) Each PPC must have at least 6 approved ring life buoys (Type IV PFDs) and mounting racks distributed about the perimeter of the platform.

(b) Each ring life buoy must be constructed in accordance with 46 CFR Subpart 160.050 except a ring life buoy that was approved under former 46 CFR Subpart 160.009 may be used as long as it is in good and serviceable condition. Each ring life buoy must be of the 30-inch size, international orange, and easily accessible to persons on board.

(c) At least fifty percent of the ring life buoys required by this section must have an electric water light approved under 46 CFR 161.010.

(d) At least one ring life buoy on each side of the platform must have a buoyant line attached to it that is 1½ times the distance from the buoy to the mean low water line of the platform, or 15 fathoms in length, whichever is greater.

3. Section 149.526 in the table of sections is revised to read as follows:

149.526 Approved ring life buoys (Type IV personal flotation devices).

PART 175—EQUIPMENT REQUIREMENTS

1. The authority citation for Part 175 is revised to read as follows:

Authority: Secs. 5, 39, 85 Stat. 215, 228, as amended (46 U.S.C. 1454, 1488); 49 CFR 1.46(n)(1), unless otherwise noted.

2. Footnote 1 is added to Table 175.23 to read as follows:

§ 175.23 Personal flotation device equivalents.

* * * * *

TABLE 175.23

Devices marked			Are equivalent to performance type		
•	•	•	•	•	
160.009 Ring life buoy [1].		Type IV—Personal Device.			Flotation
•	•	•	•	•	

[1] 46 CFR Subpart 160.009 has been revoked. Type IV PFDs previously approved under that subpart may be used as long as they are in good and serviceable condition.

Dated: March 3, 1982.

Clyde A. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard,

Chief, Office of Merchant Marine Safety.

[FR Doc. 82-6729 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-10-FRL-2062-3]

Approval and Promulgation of Implementation Plan Revisions; Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The purpose of this rulemaking is to take final action approving volatile organic compound (VOC) rules submitted by the State of Oregon Department of Environmental Quality (DEQ) to require additional control in ozone nonattainment areas of VOC's emitted from industrial sources covered by EPA's Group II Control Technique Guidelines (CTG's). Since no comments were received on the proposed action, EPA's final action will be the same as proposed.

EFFECTIVE DATE: March 11, 1982.

ADDRESSES: Copies of the Oregon submission are available for review during normal business hours at the following locations:

Central Docket Section (10A-80-16), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, M/S 532, Seattle, Washington 98101

State of Oregon, Department of Environmental Quality, Yeon Building, 522 SW. Fifth, Portland, Oregon 97207

Office of Federal Register, 1100 L Street, Room 8401, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Richard F. White, Air Programs, Environmental Protection Agency, 1200 Sixth Avenue, M/S 532, Seattle, Washington 98101: Telephone: (206) 442-1275; FTS: 399-1275.

SUPPLEMENTARY INFORMATION: On November 12, 1981 (46 FR 55720) EPA proposed to fully approve portions of the Oregon Group II VOC regulations and conditionally approve others where there were minor deficiencies. Since no comments were received with respect to our proposed approval and conditional approval actions, EPA will take final action in the same manner as proposed. However, because the deficiencies identified in the proposal are relatively minor in terms of their effect on VOC emissions and attainment of the ozone standard, EPA will approve the regulations, based on the understanding that the DEQ will correct the deficiencies identified on November 12, 1981 and as described briefly below:

(1) OAR 340-22-153: Petroleum Refinery Leaks—(a) add the phrase "and operating" to the requirements for intermediate valves on open ended lines, (b) clarify that the exemption in paragraph (4) is determined at the highest temperature at which the liquid is handled and (c) update the reference to the definition of "true vapor pressure."

(2) OAR 340-22-160 (4): Secondary Seals on VOC Liquid Storage—Correct the temperture at which the vapor pressure is measured to be the "storage temperature."

(3) OAR 340-22-210: Rotogravure and Flexographic Printing—(a) Clarify the application of the regulation for specialty printers and (b) revise the regulation to require monitoring of temperature rise across catalytic incinerator beds (no catalytic incinerators at present).

(4) OAR 340-22-170(5): Surface Coating in Manufacturing—add language referencing DEQ test method 24 for compliance determination.

EPA finds that good cause exists for making the action taken in this notice immediately effective for the following reasons: (1) implementation plan revisions are already in effect under State law and EPA approval poses no additional regulatory burden, and (2) EPA has a responsibility under the Clean Air Act to take final action on the portion of the SIP which addresses Part D regulations by July 1, 1979 or as soon therefter as possible.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that the SIP approvals under 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities (46 FR 8709, January 27, 1981). This action constitutes a SIP approval under section 110 and 172 within terms of the January 27, 1981 certification.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Secs. 110 and 172, Clean Air Act as amended (42 U.S.C. 7410(a) and 7502))

Dated: March 4, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Oregon was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart MM—Oregon

1. Section 52.1985 is amended by adding introductory text immediately following the heading of paragraph (a) and by adding paragraphs (a) (2) and (3) as follows:

§ 52.1985 Rules and regulations.

(a) *Part D—Approval.* The Oregon VOC regulations (OAR 340-22-100 through 220) covering Groups I and II Control Technique Guidelines are approved with the following clarifications:

• • • • •

(2) EPA approval of OAR 340-22-170(5) is with the understanding that DEQ source test method 24 will be used to determine compliance.

(3) EPA approval of OAR 340-22-170(5) is with the understanding that compliance determinations will be based on methods approved as part of the SIP.

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[FR Doc. 82-6662 Filed 3-10-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Parts 52 and 62

[A-3-FRL-2050-5]

Approval of Revisions of Delaware's Air Quality Plans

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The State of Delaware submitted changes to its approved Part D (Clean Air Act) State Implementation Plan, consisting of amendments to its volatile organic compound (VOC) regulations for stationary sources and a request for a delay in the final implementation date for the State's inspection and maintenance (I/M) program. The State also submitted a State Implementation Plan for lead (Pb) and a section 111(d) (Clean Air Act) plan for sulfuric acid mist. EPA approves all of the above-mentioned submittals as all of the applicable requirements of the Clean Air Act, 40 CFR Part 51 (Requirements for Preparation, Adoption and Submittal or Implementation Plans) and 40 CFR Part 60, Subpart B (Adoption and Submittal of State Plans for Designated Facilities) have been met.

EFFECTIVE DATE: April 12, 1982.

ADDRESSES:

U. S. Environmental Protection Agency, Region III, Air Media and Energy Branch, 6th and Walnut Streets, Curtis Building, Philadelphia, PA 19106; ATTN: Harold A. Frankford (3AW12) Ref. AH201/303/304/400DE;

Delaware Department of Natural Resources and Environmental Control, Air Resources Section, Tatnall Building, Capitol Complex, Dover, Delaware 19901; ATTN: Robert R. French;

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W. (Waterside Mall), Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford at the above address; telephone: (215) 597-8392.

SUPPLEMENTARY INFORMATION:

Background

40 CFR Part 52—Approval and Promulgation of Implementation Plans

On December 23, 1980 and December 29, 1980 the State of Delaware submitted the following items:

1. Amendments to Regulations I and XXIV pertaining to control of volatile organic compound (VOC) emissions.

2. A request to delay the final date for implementation of the State's mandatory inspection/maintenance (I/M) program in New Castle County.

3. A State Implementation Plan (SIP) for lead.

A description of these items were summarized and proposed for approval in the September 10, 1981 Federal Register, 46 FR 45161. The State also certified that public hearings with regard to these items were held in Wilmington on June 19, 1980 and October 31, 1980 in accordance with the requirements of 40 CFR 51.4.

Request for Public Comments

In the proposed rulemaking notice with regard to these amendments, 46 FR 45161 (1981), EPA stated its reasons for proposing approval of the amendments to State Regulations I and XXIV and the revised I/M schedule as revisions of Delaware's Part D non attainment SIP, as well as its reasons for proposing approval of the State's lead (Pb) SIP. In this notice, EPA solicited public comment on the proposed approval actions. However, during the 30-day public comment period, no comments were received.

EPA's Approval Actions

Delaware's Lead SIP

The lead SIP submitted by the State, addresses the maintenance of the lead standard, and concludes that lead concentrations in the atmosphere throughout the State will not increase. This conclusion rests on the assumptions that mobile source emissions will be controlled through the Federal motor vehicle control and lead-in-fuels programs, and that no new significant point sources of lead will be constructed. The SIP also includes a requirement for a review of new and modified major sources of lead. EPA has reviewed the State submission and approves the plan as submitted.

Delaware's Revised I/M Schedule

On November 20, 1981, the State informed EPA that through a combination of additional State and EPA funds, it will have adequate funding available to hire the personnel needed to run the program. EPA believes that this additional funding will help ensure the implementation of a voluntary I/M program and that the necessary funding will be available to enable the State to continue towards implementation of the mandatory program by the August 1, 1982 date set forth in its revised I/M schedule. Therefore, EPA approves the revised I/M schedule submitted on December 29, 1980 as a revision of the Delaware SIP.

Amendments to Regulations I and XXIV

As mentioned in the notice of proposed rulemaking, 46 FR 45160 (1980), EPA proposed approval of an exemption, provided in Regulation XXIV, section 8.1B4 with regard to VOC emissions from crude oil storage tanks, which would exempt the secondary seal requirement for external floating roof storage tanks. The rationale for EPA's proposal action was provided in the proposed rulemaking notice and comments were solicited. During the public comment period, no comments were received. The State of Delaware intends to request consideration of the subject in greater detail, and will make its findings available to EPA. In the interim, EPA believes that this exemption will not interfere with Delaware's reasonable further progress towards attainment of the NAAQS for ozone by December 1987, and therefore approves Delaware's exemption of crude oil storage tanks from the secondary seals requirements as a revision of the Delaware SIP. EPA also approves as a revision of the SIP, the remainder of the Round II CTG regulations submitted by Delaware.

In view of the above evaluation, the Administrator approves the revised I/M schedule and the amendments to Delaware Regulations I and XXIV as revisions of the Delaware SIP. The Administrator also approves the SIP for the control of lead emissions. At the same time, 40 CFR 52.420 (Identification of Plan) of Subpart I (Delaware) is amended to reflect the Administrator's approval action. Because the revised I/M schedule corrects a portion of Delaware's Part D nonattainment SIP that previously had been conditionally approved, 45 FR 14551 (1980), 46 FR 47777 (1981), this rulemaking action deletes 40 CFR 52.433 (Control Strategy: Ozone (hydrocarbons)).

40 CFR Part 62—Approval and Promulgation of State Plans for Designated Facilities and Pollutants

On December 29, 1980, pursuant to section 111(d) of the Clean Air Act, the State of Delaware submitted to EPA Region III a plan to control sulfuric acid mist from existing sources. The State has amended Regulation IX of its air pollution control regulations to include an emission limitation of 0.5 lb/ton of acid produced which corresponds to the emission guideline for these sources in 40 CFR 60.33(a). The State has determined that the Allied Chemical Company's sulfuric acid plant is the only designated facility subject to the sulfuric acid mist standard in Regulation IX. The

State has also determined that Allied Chemical is meeting the emission limitation as determined by EPA Test Method 8. The State provided certification that public hearings were held on October 31, 1980 in accordance with the requirements of 40 CFR 60.23.

This section 111(d) plan supplements an earlier incomplete version submitted by Delaware on October 5, 1978.

EPA Actions

On September 10, 1981, 46 FR 45161, EPA proposed approval of the State's section 111(d) plan for sulfuric acid mist and solicited public comments. During the 30-day public comment period, no comments were received. EPA concludes that the section 111(d) plan now contains all of the necessary elements required by 40 CFR Part 60 and therefore, is approved. At the same time, 40 CFR 62.1875 (Identification of Plan—Sulfuric Acid Mist from Existing Sulfuric Acid Plants) is added to reflect EPA's approval action of the State's section 111(d) plan.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981). This action constitutes a SIP approval under sections 110 and 172 within the terms of the January 27 certification. This action only approves State actions, and imposes no new requirements.

I hereby certify that the plan approval contained herein under section 111(d) of the Clean Air Act will not have a significant economic impact on a substantial number of small entities because it only covers one facility, which is already meeting the applicable sulfuric acid mist limitation. Furthermore this action only approves State actions and imposes no new requirements.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(42 U.S.C. 7410–842)

Dated: March 4, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Delaware was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

A. Title 40, Part 52, Subpart I of the Code of Federal Regulations is revised to read as follows:

Subpart I—Delaware

1. In § 52.420, paragraphs (c) (23), (24) and (25) are added to read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) * * *

(23) Amendments to Regulations I (Definitions) and XXIV (Control of Organic Compounds Emissions) submitted on December 23, 1980 by the Secretary, Delaware Department of Natural Resources and Environmental Control.

(24) A State Implementation Plan for the Control of lead emissions submitted on December 23, 1980 by the Secretary, Delaware Department of Natural Resources and Environmental Control.

(25) A revised schedule for implementation of Delaware's inspection and maintenance program submitted on December 29, 1980 by the Secretary, Delaware Department of Natural Resources and Environmental Control.

§ 52.433 [Removed]

2. Section 52.433 (Controlled Strategy—Ozone) is removed.

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

B. Title 40, Part 62, Subpart I of the Code of Federal Regulations is amended as follows:

Subpart I—Delaware

1. A new center heading and § 62.1875 are added to read as follows:

Sulfuric Acid Mist From Existing Sulfuric Acid Plants

§ 62.1875 Identification of plan.

(a) Title of plan: State implementation plan for control of sulfuric acid mist from existing sulfuric acid plants.

(b) The plan was officially submitted on September 8, 1978 with amendments submitted on December 29, 1980.

(c) Identification of Sources: The plan includes the following sulfuric acid plants:

(1) Allied Chemical Company, Claymont (New Castle County).

[FR Doc. 82-6605 Filed 3-10-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 180

[PP 1F2521/PP 1F2506/PP 1F2495/PP 9F2203/PP 2F2601/R412; PH-FRL-2072-8]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Metolachlor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide metolachlor in or on certain raw agricultural commodities. This regulation to establish the maximum permissible level for residues of the herbicide in or on the commodities was requested by Ciba-Geigy Corp.

EFFECTIVE DATE: March 11, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202; (703–557–1830).

SUPPLEMENTARY INFORMATION: Notices were published in the **Federal Register** that Ciba-Geigy Corp., PO Box 11422, Greensboro, NC 27409, had filed petitions with EPA. These petitions proposed that 40 CFR 180.368 be amended by establishing tolerances for residues of the herbicide metolachlor [2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl) acetamide] and its metabolites determined as 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, expressed as the parent compound, in or on the raw agricultural commodities at the parts per million (ppm) listed below:

Petition	Date	Issue	Commodities	PPM
1F2521	July 20, 1981	46 FR 37324	Fresh corn (includes sweet corn), popcorn grain	0.1
1F2506	June 19, 1981	46 FR 32071	Cottonseed	0.1
1F2495	June 9, 1981	46 FR 30562	Seed and pod vegetables	0.2
9F2203	June 7, 1979	44 FR 32737	Potatoes	0.1
2F2601	Jan. 13, 1982	47 FR 1408	Safflower seed	0.1

The petitioner subsequently amended pesticide petition 9F2203 in the **Federal Register** of November 20, 1981 (46 FR 5709) by increasing the proposed tolerance level for potatoes from 0.1 to 0.2 ppm.

No comments were received in response to these notices of filing.

The data submitted in these petitions and other relevant material have been evaluated. The data considered in support of the proposed tolerances included: a rat acute oral toxicity study with a lethal dose (LD_{50}) of 2.78 grams (g)/kilogram (kg) of body weight (bw); a 90-day dog feeding study with a no-observed-effect level (NOEL) of 500 ppm; a 6-month dog feeding study with a NOEL of 100 ppm; a rat teratology study with a NOEL of 360 milligrams (mg)/kg; a rabbit teratology study with a NOEL of 360 mg/kg; a 2-generation rat reproduction study with a NOEL of 300 ppm; a mouse dominant lethal study (negative); an AMES mutagenicity assay (negative); a 2-year mouse oncogenicity study with no observed oncogenic potential at 30, 1,000, and 3,000 ppm; and a 2-year rat oncogenicity/chronic feeding study in which a NOEL was not established and is discussed further below. In addition, the petitioner has submitted a 12-month interim report of an additional 2-year rat oncogenicity/chronic feeding study in progress. The final report is to be submitted to the Agency by September 1, 1983; however, no gross or microscopic findings that have been observed thus far appear to be treatment related. A second mouse oncogenicity study is to be submitted to the Agency by November 1, 1982.

Results of the completed oncogenicity/chronic feeding study, performed by Industrial Biotest Laboratory (IBT), show a statistically significant increase in primary liver neoplasms in females of the high dose group (3,000 ppm). The Agency's review of this study indicated that the study is not completely adequate for all purposes. Based on the IBT study the Agency evaluated dietary exposure to metolachlor residues and has estimated that residues resulting from these tolerances and previously established tolerances result in a "worst case" oncogenic risk of less than one in one million. The Agency will reassess this risk estimate and reevaluate these and all other tolerances for metolachlor when data from the two new oncogenicity studies are received and reviewed.

Tolerances have previously been established for residues of metolachlor ranging from 0.02 ppm in meat, milk, and eggs to 3.0 ppm in peanut forage and hay. Based upon the NOEL of 100 ppm in the 6-month dog feeding study and a 1,000 fold safety factor, the acceptable daily intake (ADI) has been set at 0.0025 mg/kg/day with a maximum permissible intake (MPI) of 0.150 mg/day for a 60–kg person. Previously established and proposed tolerances have a theoretical maximal residue contribution (TRMC) of 0.052545 mg/day in a 1.5 kg diet or 35.03 percent of the ADI.

There are no regulatory actions pending against the registration of this chemical. The metabolism of metolachlor in plants and animals is adequately understood and an analytical method (gas chromatography) is available for enforcement purposes.

The pesticide is considered useful for the purposes for which the tolerances are sought and it is concluded that the tolerance will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before April 12, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective date: March 11, 1982.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

Dated: March 5, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.368 is amended by adding and alphabetically inserting the raw agricultural commodities: corn, fresh; cottonseed; potatoes; seed and pod vegetables; and safflower seed; and deleting "(exc. popcorn)" following the commodity "corn, grain" to read as follows:

§ 180.368 Metolachlor; tolerances for residues.

* * * * *

Commodities	Parts per million
Corn, fresh (inc sweet K+CWHR)	0.1
Corn, grain	0.1
Cottonseed	0.1
Potatoes	0.2
Safflower seed	0.1
Seed and pod vegetables	0.2

[FR Doc. 82-6757 Filed 3-10-82; 8:45 a.m.]

BILLING CODE 6560-32-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6143

[M-31168]

Montana; Revocation of Secretarial Order Dated June 18, 1908, Blossburg Administrative Site

Correction

In FR Doc. 82–4156, published on page 6855, on Wednesday, February 17, 1982, in the third column, in the second to last line, "T.11.," should be corrected to read "T.11N.,".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 6257]

Identification and Mapping of Special Flood Hazard Areas; Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Associate Director, State and Local Programs and Support reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table.

Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P. E., Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0220.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations on the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection.

Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 65.4.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4.

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Arizona: Benton	City of Bentonville	*Daily Democrat*: Jan. 18, 1982; Jan. 19, 1982.	Honorable Richard Hobaok, Mayor, City of Bentonville, 115 West Central Ave., Bentonville, AR 72712.	Jan. 19, 1982	050012C
Pulaski	City of Sherwood	*Arkansas Gazette*: Jan. 18, 1982; Jan. 19, 1982.	Honorable Bill Henson, Mayor, City of Sherwood, 201 Country Club Road, Sherwood, AR 72116.	Jan. 19, 1982	050236D
California: Orange	City of Brea	*Daily Star Progress*: Jan. 18, 1982; Jan. 19, 1982.	Honorable Melvin LeBaron, Mayor, City of Brea, 401 South Brea Boulevard, Brea, CA 92821.	Jan. 19, 1982	060214C
San Joaquin	City of Lodi	*Sentinel*: Jan. 18, 1982; Jan. 19, 1982.	Honorable James McCarty, Mayor, City of Lodi, 221 West Pine St., Lodi, CA 95254.	Jan. 19, 1982	060300D
Santa Barbara	City of Carpinteria	*Carpinteria Herald*: Jan. 15, 1982; Jan. 19, 1982.	Honorable John K. Fukasawa, Mayor, City of Carpinteria, 5775 Carpinteria Ave., Carpinteria, CA 93013.	Jan. 19, 1982	060332D
Colorado: Adams	City of Commerce City	*Commerce City Sentinel*: Jan. 14, 1982; Jan. 21, 1982.	Honorable Harold Kile, Mayor, City of Commerce City, P.O. Box 40, Commerce City, CO 80037.	Jan. 19, 1982	080006D
Adams	City of Thornton	*Northglenn-Thornton Sentinel*: Jan. 14, 1982; Jan. 21, 1982.	Honorable Margaret Carpenter, Mayor, City of Thornton, 8982 North Washington St., Thornton, CO 80229.	Jan. 19, 1982	080007C
Boulder	City of Louisville	*The Louisville Times*: Dec. 30, 1981; Jan. 6, 1982.	Honorable Norbert Meier, Mayor, City of Louisville, 749 Main St., Louisville, CO 80027.	Jan. 5, 1982	085076E
Delaware: Kent	Town of Smyrna	*Smyrna Times*: Jan. 7, 1982; Jan. 14, 1982.	Honorable George E. Wright, Town of Smyrna, P.O. Box 307, Smyrna, DE 19977.	Jan. 5, 1982	100017E
Florida: Seminole	City of Winter Springs	*The Sentinel Star*: Jan. 5, 1982; Jan. 12, 1982.	The Honorable Troy J. Piland, Mayor, City of Winter Springs, 400 North Edgemon Avenue, Winter Springs, Florida 32708.	Jan. 15, 1982	120295C
Bay	City of Panama City	*Panama City News Herald*: Jan. 15, 1982; Jan. 22, 1982.	The Honorable Jerry Clemons, Mayor, City of Panama City, P.O. Box 1880, Panama City, FL 32401.	Jan. 22, 1982	120012C
Broward	Town of Pembroke Park	*The Hollywood Sun Tower*: Jan. 15, 1982; Jan. 22, 1982.	The Honorable Gerald J. Yourmah, Mayor, Town of Pembroke Park, 3160 S.W. 52nd Avenue, Pembroke Park, FL 33023.	Jan. 22, 1982	120052C
Georgia: Troup	City of LaGrange	*The LaGrange Daily News*: Jan. 8, 1982; Jan. 15, 1982.	The Honorable J. Gardner Newman, Mayor, City of LaGrange, P.O. Box 430, LaGrange, GA 30241.	Jan. 15, 1982	130177B
Idaho: Power	City of American Falls	*Power County Press*: Jan. 13, 1982; Jan. 14, 1982.	Honorable Kenneth Morgan, Mayor, City of American Falls, 239 Idaho Street, American Falls, ID 83211.	Jan. 19, 1982	160109C
Illinois: DuPage	Village of Glendale Heights	*Daily Journal*: Dec. 24, 1981; Dec. 31, 1981.	John J. Grotto, Village Administrator, Village of Glendale Heights, 1101 Bloomingdale Road, Glendale Heights, IL 60137.	Jan. 1, 1982	170306C

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
DuPage	Village of Glen Ellyn	*Glen Ellyn News*: Jan. 13, 1982; Jan. 20, 1982.	Michael Formento, President, Village Board, Village of Glen Ellyn, Village Hall, 535 Duane St., Glen Ellyn, IL 60137.	Jan. 22, 1982	170207C
Indiana: Floyd	City of New Albany	*New Albany Tribune*: Jan. 22, 1982; Jan. 29, 1982.	Honorable Robert L. Real, Mayor, City of New Albany, Room 316, City County Building, New Albany, Indiana 47150.	Jan. 29, 1982	180062C
Iowa: Johnson	City of Iowa City	*Iowa City Press-Citizen*: Jan. 16, 1982; Jan. 19, 1982.	Honorable John R. Balmer, Mayor, City of Iowa City, Civic Center, 410 East Washington, Iowa City, IA 52240.	Jan. 19, 1982	1901716
Kansas: Reno	City of Hutchinson	*The Hutchinson News*: Jan. 16, 1982; Jan. 19, 1982.	Honorable John L. Corey, Mayor, City of Hutchinson, P.O. Box 1567, Hutchinson, KS 67501.	Jan. 19, 1982	200283C
Kentucky: Kenton	City of Covington	*The Kentucky Post*: Jan. 15, 1982; Jan. 22, 1982.	Honorable B. J. Moormen, Mayor, City of Covington, The City and County Municipal Bldg., 9th Floor, 303 Court Street, Covington, KY 41011.	Jan. 22, 1982	210125C
Louisiana: Concordia Parish	Town of Vidalia	*Natchez Democrat*: Jan. 4, 1982; Jan. 5, 1982.	Honorable Sidney A. Murray, Jr., Mayor, Town of Vidalia, 409 Texas Street, Vidalia, LA 71343.	Jan. 5, 1982	220057C
West Baton Rouge Parish	City of Port Allen	*Port Allen West Side Journal*: Jan. 7, 1982; Jan. 14, 1982.	Honorable William C. LeBlanc, Mayor, City of Port Allen, P.O. Box 468, Port Allen, LA 70767.	Dec. 16, 1981 (95–E).	2202428
Maryland: Allegany	Town of Luke	*The Cumberland Times News*: Jan. 22, 1982; Jan. 29, 1982.	Honorable Overton B. Walker, Mayor, Town of Luke, Grant Street, P.O. Box 9, Luke, Maryland 21540.	Jan. 29, 1982	240114C
Michigan: Iosco	Township of Oscoda	*Oscoda Press*: Dec. 23, 1981; Dec. 30, 1981.	Robert K. Foster, Township Supervisor, Township of Oscoda, 110 South State Street, Oscoda, Michigan 48750.	Jan. 1, 1982	260161C
St. Clair	Township of Clay	*Courier Journal*: Jan. 13, 1982; Jan. 20, 1982.	Ms. Jacquelyn Downing, Township Supervisor, Township of Clay, 4710 Pointe Tremble Road, Algonac, MI 48001.	Jan. 22, 1982	260194B
Mississippi: Sunflower	Town of Inverness	*The Enterprise Tocsin*: Jan. 7, 1982; Jan. 14, 1982.	The Honorable J.W. Lang, Sr., Mayor, Town of Inverness, P.O. Box 166, Inverness, MS 38753.	Jan. 15, 1982	280185C
New Mexico: Dona Ana	City of Las Cruces	*Las Cruces Sun-News*: Jan. 11, 1982; Jan. 12, 1982.	Honorable J.A. Camunez, Mayor, City of Las Cruces, P.O. Drawer CLC, Las Cruces, NM 88001.	Jan. 12, 1982	365332C
North Carolina: Craven	City of New Bern	*The Sun Journal*: Jan. 15, 1982; Jan. 22, 1982.	The Honorable Leander R. Morgan, Mayor, City of New Bern, City Hall, Box 1129, New Bern, North Carolina 28560.	Jan. 22, 1982	370074D
Durham	City of Durham	*Durham Morning Herald*: Jan. 8, 1982; Jan. 15, 1982.	Mr. Barry Del Castillo, City Manager, 101 City Hall Plaza, Durham, NC 27701.	Jan. 15, 1982	370086E
Gaston	City of Gastonia	*The Gastonia Gazette*: Jan. 8, 1982; Jan. 15, 1982.	The Honorable Thebaud Jeffers, Mayor, City of Gastonia, Box 1748, Gastonia, NC 28052.	Jan. 15, 1982	370100C
Haywood	Town of Canton	*The Canton Enterprise*: Jan. 14, 1982; Jan. 21, 1982.	The Honorable H.W. Ramsey, Mayor, Town of Canton, Box 667, Canton, NC 28716.	Jan. 22, 1982	370121C
Pasquotank & Camden	Town of Elizabeth City	*The Daily Advance*: Jan. 8, 1982; Jan. 15, 1982.	Mr. Tommy M. Combs, City Manager, City of Elizabeth City, P.O. Box 347, Elizabeth City, NC 27909.	Jan. 15, 1982	370165C
North Dakota: Cass	City of Fargo	*The Forum*: Jan. 26, 1982; Jan. 27, 1982.	Honorable Jon G. Lindgren, Mayor, City of Fargo, City Hall, Fargo, ND 58102.	Jan. 19, 1982	385364C
Oklahoma: Atlatis	City of Cherokee	*The Cherokee Messenger*: Jan. 12, 1982; Jan. 19, 1982.	Honorable Gordon McDowell, Mayor, City of Cherokee, 121 North Grand, Cherokee, OK 73728.	Jan. 19, 1982	400006C
Rogers	City of Claremore	*The Claremore Progress*: Jan. 19, 1982; Jan. 20, 1982.	Honorable Elizabeth Gordon, Mayor, City of Claremore, P.O. Box 249, Claremore, OK 74107.	Jan. 19, 1982	405375D
Stephens	City of Duncan	*The Duncan Banner*: Jan. 11, 1982; Jan. 12, 1982.	Honorable Bobby Pollock, Mayor, City of Duncan, P.O. Box 958, Duncan, OK 73533.	Jan. 12, 1982	400202C
Oregon: Jackson	City of Central Point	*Medford Mail Tribune*: Jan. 27, 1982; Jan. 28, 1982.	Honorable Don Jones, Mayor, City of Central Point, P.O. Box 3576, Central Point, OR 97502.	Jan. 19, 1982	410092C
Tillamook	City of Manzanita	*Fishrapper*: Jan. 7, 1982; Jan. 14, 1982.	Honorable Irving Carr, Mayor, City of Manzanita, P.O. Box C, Manzanita, OR 97130.	Jan. 12, 1982	410199B
Douglas	City of Roseburg	*The News Review*: Jan. 4, 1982; Jan. 5, 1982.	Honorable John Dunn, Mayor, City of Roseburg, 900 S.E. Douglas St., Roseburg, OR 97470.	Jan. 5, 1982	410067C
Jackson	City of Talent	*The Daily Tidings*: Jan. 26, 1982; Jan. 29, 1982.	Honorable Robert F. Underhill, Mayor, City of Talent, P.O. Box 445, Talent, OR 97540.	Jan. 19, 1982	410100C
Pennsylvania: Allegheny	Borough of McKees Rocks	*Suburban Gazette*: Dec. 23, 1981; Dec. 30, 1981.	George Traupman, Borough Secretary, Borough of McKees Rocks, Municipal Building, Linden and Bell Avenues, McKees Rocks, PA 15136.	Jan. 1, 1982	420052C
Lancaster	Township of Manheim	*Lancaster New Era*: Dec. 25, 1981; Jan. 1, 1982.	Jay Gregg, Township Manager, Township of Manheim, 1821, Municipal Drive, Lancaster, Pennsylvania 17601.	Jan. 1, 1982	420536C
South Dakota: Butte	City of Belle Fourche	*The Post*: Jan. 26, 1982; Jan. 27, 1982.	Honorable Robert L. Helmer, Mayor, City of Bell Fourche, 606 Sixth Street, Belle Fourche, SD 57717.	Jan. 19, 1982	460012C
Meade	City of Sturgis	*Meade County Times-Tribune*: Jan. 26, 1982; Feb. 2, 1982.	Honorable Robert Voorhees, Mayor, City of Sturgis, Engineering and Inspection Department, 1029 First Street, Sturgis, SD 57785.	Jan. 19, 1982	460055D
Tennessee: Anderson	City of Oak Ridge	*The Oak Ridger*: Jan. 15, 1982; Jan. 22, 1982.	Mr. Lucian Faust, City Planner, City of Oak Ridge, City Hall, P.O. Box 1, Oak Ridge, Tennessee 37830.	Jan. 22, 1982	475441C
Bradley	City of Cleveland	*The Cleveland Daily*: Jan. 8, 1982; Jan. 15, 1982.	The Honorable Harry L. Dethero, Mayor, City of Cleveland, 180 Church Street, N.E., Cleveland, TN 37311.	Jan. 15, 1982	470015B
Carter	City of Elizabethton	*The Elizabethton Star*: Jan. 15, 1982; Jan. 22, 1982.	The Honorable J. B. Shepard, Mayor, City of Elizabethton, P.O. Box 189, Elizabethton, TN 37643.	Jan. 22, 1982	475425B
Maury	City of Columbia	*The Daily Herald*: Jan. 15, 1982; Jan. 22, 1982.	The Honorable J. A. Morgan, Mayor, City of Columbia, City Hall, 707 N. Main Street, Columbia, TN 38401.	Jan. 22, 1982	475429C
Texas: Dallas	City of Irving	*Irving Daily News*: Feb. 9, 1982; Feb. 10, 1982.	Honorable Bobby Joe Reper, Mayor, City of Irving, 825 West Irving Boulevard, Irving, TX 75060.	Jan. 25, 1982 (85–B).	480180A
Kerr	City of Kerrville	*Kerrville Daily Times*: Jan. 26, 1982; Jan. 27, 1982.	Honorable H. Lee Jennings, Mayor, City of Kerrville, 800 Main St., Kerrville, TX 78028.	Jan. 19, 1982	480420D
Utah: Sevier	Town of Aurora	*Salina Sun*: Jan. 7, 1982; Jan. 14, 1982.	Honorable Marvin Mason, Mayor, Town of Aurora, P.O. Box 1054, Aurora, UT 84620.	Jan. 12, 1982	490123C

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Washington:					
King	City of Redmond	*Sammamish Valley News*: Jan. 27, 1982; Feb. 3, 1982.	Honorable Christine T. Himes, Mayor, City of Redmond, 15670 N.E. 85th St., Redmond, WA 98052.	Jan. 19, 1982	530087C
Okanogan	Town of Riverside	*Omak-Okanogan County Chronicle*: Dec. 31, 1981; Jan. 7, 1982.	Honorable Phillip Stokes, Mayor, Town of Riverside, P.O. Box 186, Riverside, WA 98849.	Jan. 5, 1982	530122B
Island	City of Oak Harbor	*Whidbey News-Times*: Jan. 6, 1982; Jan. 13, 1982.	Honorable Al Koetje, Mayor, City of Oak Harbor, 3075—30th Avenue West, Oak Harbor, WA 98277.	Jan. 12, 1982	530099C
Cowlitz	City of Castle Rock	*Cowlitz County Advocate*: Jan. 14, 1982; Jan. 21, 1982.	Honorable Michael D. Huson, Mayor, City of Castle Rock, P.O. Box 396, Castle Rock, WA 98611.	Jan. 19, 1982	530277C
Wisconsin:					
Vernon	Village of Stoddard	*Chipmunk Press*: Dec. 23, 1981; Dec. 30, 1981.	Lester Helgeson, Village President, Village of Stoddard, 180 North Main Street, Stoddard, WI 54658.	Jan. 1, 1982	555582C
Racine	City of Burlington	*Burlington Standard Press*: Jan. 6, 1982; Jan. 13, 1982.	Honorable Leonard Kitkowski, City of Burlington, 300 N. Pine Street, Burlington, WI 53105.	Jan. 15, 1981	550348C
Washburn	City of Spooner	*Spooner Advocate*: Dec. 24, 1981; Dec. 31, 1981.	Honorable Rodney Ripley, City of Spooner, 322 Walnut Street, Spooner, WI 54801-1258.	Jan. 1, 1982	550470C
Wyoming:					
Fremont	City of Lander	*Wyoming State Journal*: Jan. 18, 1982; Jan. 21, 1982.	Honorable Delbert McOmie, Mayor, City of Lander, 183 South 4th Street, Lander, WY 82520.	Jan. 19, 1982	560020D
Washakie	City of Worland	*Northern Wyoming Daily News*: Jan. 19, 1982; Jan. 30, 1982.	Honorable Timothy E. McHenry, Mayor, City of Worland, P.O. Box 225, Worland, WY 82401.	Jan. 18, 1982	560060C

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: February 25, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6270 Filed 3-10-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESS: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determination of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided.

No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Agency has developed criteria for flood plain management in floodprone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not prescribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The final base (100-year) flood elevations for selected locations are:

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	City of Butler, Choctaw (FEMA-6152)	Wahalak Creek	Just upstream of South Mulberry Avenue	*105
		Wahalak Creek Tributary 1	Just upstream of Smith Street	*150
		Brock Creek	Just downstream of South Mulberry Avenue	*101

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of Ridgewood Drive	*114
			Just upstream of Alabama Highway 10	*117
		Brock Creek Tributary 2	Just upstream of Stevens Road	*125
		Pickett Creek	Just upstream of Alabama Highway 10 (Fushmatahe Street).	*127
			Just upstream of Alabama Highway 17 (North Mulberry Street).	*143
		Pickett Creek Tributary 5	Just upstream of Vanity Fair Avenue	*130
			Just upstream of Alabama Highway 17	*144
		Pickett Creek Tributary 4	Just upstream of Vanity Fair Avenue	*132
		Pickett Creek Tributary 3	Just upstream of Woodley Avenue	*137
			Just upstream of Alabama Highway 10	*147
Maps available for inspection at City Clerk's Office, City Hall, 114 North Academy Street, Butler, Alabama 36904.				
Alabama	City of Heflin, Cleburne County (FEMA-6152)	Cahulga Creek	Approximately 120 feet upstream at the confluence of Town Creek.	*958
		Town Creek	Approximately 260 feet upstream from Town Creek Road.	*989
			Just upstream from Almon Street	*995
			Approximately 150 feet upstream from Coleman Street	*900
Maps available for inspection at City Hall, 405 Ross Street, Heflin, Alabama 36264.				
Alabama	Unincorporated Areas of Randolph County (FEMA-6153).	Wehadkee Creek	Just upstream of Mark Head Road	*687
			Just downstream of County Road 30	*777
		High Pine Creek	Just upstream of Dickert Road	*555
			Just downstream of Connector Road	*686
		Town Creek	Just downstream of City of Roanoke Corporate Limits	*715
		Wedowee Creek	Just upstream of U.S. Highway 431 (Main Street)	*785
			Just downstream of County Road (Circle Drive)	*805
Maps available for inspection at Randolph County Courthouse, Main Street, Wedowee Alabama 36278.				
Alabama	City of Roanoke, Randolph County (FEMA-6152)	High Pine Creek	West Corporate Limits	*716
			North Corporate Limits	*724
		Town Creek	Just downstream of Lovina Street	*742
			Just downstream of Chestnut Street	*764
Maps available for inspection at City Hall Main Street, Roanoke Alabama 36274.				
Alabama	Unincorporated Areas of Walker County (FEMA-6152)	Mulberry Fork (near Gorgas)	Just downstream of the confluence of Backer Creek	*266
			Just upstream of State Highway 269	*269
			Just downstream of upstream limit of detailed study	*273
		Mulberry Fork (near Cordova)	Just upstream of Southern Railway	*278
			Approximately 1,000 feet downstream of County Road 90.	*280
			Just downstream of U.S. Highway 78	*285
		Lost Creek	Approximately 550 feet downstream of America Mine #7 Bridge.	*257
		Lost Creek (near Carbon Hill)	Approximately 2,000 feet upstream of St. Louis San Francisco Railway.	*826
		Wolf Creek	Approximately 500 feet downstream of upstream limit of detailed study.	*265
		Blackwater Creek	Just upstream of State Highway 195	*457
			Just upstream of Harris Bridge	473
			Just upstream of Staggs Bridge	*476
			Just downstream of County Highway 25	*500
		Poley Creek	Approximately 250 feet upstream of State Highway 69	*372
			Approximately 300 feet upstream of Shenanecot Drive	*390
		Poley Creek Tributary One	Just downstream of upstream limit of detailed study	*415
		Town Creek	Just upstream of Southern Railway	*293
Maps available for inspection at Walker County Courthouse, 18th Street and Third Avenue, Jasper, Alabama 35501.				
Alabama	Town to Wedowee, Randolph County (FEMA-6152)	Wedowee Creek	Just downstream of U.S. 431 (Main Street)	*785
			Just downstream of Circle Drive	*805
		Frog Level Branch	Just downstream of Woodland Avenue	*805
			Just downstream of U.S. 431 (Main Street)	*819
Maps available for inspection at Town Hall, Wedowee, Alabama 36278.				
Arizona	Apache County (Unincorporated Areas) (FEMA-6153)	Little Colorado River at St. Johns	50 feet downstream of intersection of U.S. Highways 666 and 61 with Little Colorado River at St. Johns.	*5,679
		Little Colorado River at Springerville.	50 feet upstream of intersection of Airport Road and Little Colorado River at Springerville.	*6,958
		San Francisco River	100 feet upstream of intersection of U.S. Highway 180 and San Francisco River.	*7,825
			100 feet upstream of intersection of U.S. Highway 666 (Coronado Trail) and San Francisco River.	*7,872
Maps available for inspection at Department of Planning and Zoning, Washington and Fifth, St. Johns, Arizona.				
Arkansas	City of Magnolia, Columbia County (FEMA-6154)	Nations Creek	Just upstream of Calhoun Road	*271
			Approximately 300 feet downstream of U.S. Highway 82.	*273
		Tanyard Branch	Approximately 100 feet downstream of Louisiana & Northwestern Railroad.	*267
			Approximately 50 feet downstream of State Highway 19.	*276

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Barlow Branch	Approximately 50 feet upstream of U.S. Highway 82 Bypass.	*266
		Tributary to Barlow Branch	Approximately 140 feet upstream of U.S. Highway Bypass.	*273
			At U.S. Highway 82 Business State Highway 19	*273
		Tributary to Big Creek	Approximately 150 feet upstream of North Height Street.	*269

Maps available for inspection at City Hall, 308 North Jackson Street, Magnolia, Arkansas 72204.

California	San Luis Obispo County (Unincorporated Areas) FEMA-6153.	Graves Creek	200 feet upstream from center of U.S. Highway 101 (South Bound).	*775
		North Fork Paloma Creek	At confluence of North Fork Paloma Creek and Paloma Creek.	*681
		Paloma Creek	175 feet upstream from center of the Southern Pacific Railroad.	*678
			850 feet southwest of intersection of Southern Pacific Railroad and San Rafael Road.	*679
			850 feet southwest of confluence of Paloma Creek and South Fork Paloma Creek.	#1
		Salinas River	50 feet upstream from center of State Highway 46 (24th Street).	*682
			60 feet upstream from center of Templeton Road	*762
			At confluence of Salinas River and Santa Margarita Creek.	*893
		Santa Margarita Creek	25 feet upstream from center of Southern Pacific Railroad.	*918
			25 feet upstream from center of Yerba Buena Avenue	*1002
		Shallow Flooding	At intersection of Oak Road and Chestnut Avenue	*949
		Shallow Flooding	350 feet west of intersection of Oak Road and Walnut Avenue.	*959
		South Branch Toad Creek	125 feet downstream from center of U.S. Highway 101	*806
		Toad Creek (Main and North Branch).	70 feet upstream of the Southern Pacific Railroad	*749
			50 feet upstream from center of Florence Street	*795
		Shallow Flooding	200 feet west of intersection of Toad Creek and center of Southern Pacific Railroad.	*749
			350 feet east of the intersection of Ramada Drive and Main Street.	#2
		Unnamed Creek #1	85 feet upstream from center of River Road	*722
		Yerba Buena Creek	25 feet upstream of H Street	*999
			At intersection of Margarita Avenue and I Street	#1

Maps available for inspection at Planning Department, 2156 Sierra Way, San Luis Obispo, California.

Connecticut	Thomaston, town, Litchfield County (Docket No. FEMA-6161).	Naugatuck River	Downstream corporate limits	*295
			Downstream of Conrail Bridge	*319
			Upstream of Waterbury Road	*336
			Approximately 1,600' upstream of State Route 8 southbound.	*346
			Downstream East Main Street	*363
			Upstream Hill Road	*380
			Approximately 2,070' upstream of Hill Road	*383
			Upstream of Thomaston Dam	*496
			Upstream corporate limits	*496
		Branch Brook	Confluence with Naugatuck River	*321
			Upstream State Route 8 and 202	*358
			Downstream of Blackrock Dam Wigwam Dam	*567
			Upstream corporate limits	*568

Maps available for inspection at the Office of the Building Inspector, Thomaston Town Hall, 158 Main Street, Thomaston, Connecticut.

Connecticut	Wolcott, town, New Haven County (Docket No. FEMA-6153).	Mad River	Downstream corporate limits	*462
			Approximately 160' downstream of confluence with Finch Brook.	*473
			1st dam (upstream)	*509
			2nd dam (upstream)	*532
			3rd dam (upstream)	*574
			Approximately 1,250' upstream of State Route 69 (first crossing).	*610
			Approximately 2,300' upstream of State Route 69 (first crossing).	*630
			Center Street (upstream)	*689
			Approximately 1,270' upstream of Mad River Hill Road	*695
			Approximately 2,510' upstream of Mad River Hill Road	*709
		Old Tannery Brook	Downstream corporate limits	*462
			Nutmeg Road (upstream)	*465
			Town Road (upstream)	*482
			State Route 69 (upstream)	*512
			Approximately 740' upstream of State Route 69	*516
			Approximately 2,185' upstream of State Route 69	*527
			Approximately 3,925' upstream of State Route 69	*540
			Approximately 4,885' upstream of State Route 69	*560
		Lindsley Brook	Confluence with Scoville Reservoir	*533
			Approximately 630' upstream of Woodlick Road (first crossing).	*573
			Approximately 40' downstream of Ransom Hill Road	*626
			Woodlick Road (second crossing) (upstream)	*668
			Center Street (upstream)	*686

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Woodlick Road (fourth crossing) (upstream) Lindsley Drive.	*744

Maps available for inspection at the Planning and Zoning Department, Wolcott Town Hall, 10 Kenea Avenue, Wolcott, Connecticut.

Illinois	(C) Springfield, Sangamon County (Docket No. FEMA-6144).	Sangamon River	About 2.25 miles downstream of Chicago and Illinois Midland Railway.	*527
			About 1.44 miles upstream of Chicago and Illinois Midland Railway.	*529
		Spring Creek	At mouth at Sangamon River	*528
			At confluence of town branch	*536
			Just downstream of Meadow Brook Road	*543
		Jacksonville Branch	About 1,500 feet downstream of Churchill Road	*540
			About 400 feet downstream of Fayette Avenue	*556
			Just upstream of Park Drive South	*563
			Just downstream of U.S. Route 54	*564
		Town Branch	Within corporate limits	*539
		Jacksonville Branch Tributary	About 0.21 mile downstream of Bates Avenue	*574
			Just downstream of Bates Avenue	*576
		Sugar Creek	About 1.8 miles downstream of State Route 29	*542
			Just downstream of Spaulding Dam	*547
		Horse Creek	At mouth at South Fork Sangamon River	*545
			About 2.8 miles upstream of mouth	*548

Maps available for inspection at the Engineering Department, Municipal Building, Room 307, 7th and Monroe Street, Springfield, Illinois.

Iowa	(C) Center Point, Linn County (Docket No. FEMA-6155).	Apple Creek	About 300 feet downstream of confluence of Tributary A.	*799
			About 1,500 feet upstream of Chicago, Rock Island and Pacific Railroad.	*820
		Tributary A	About 150 feet upstream of confluence of confluence with Apple Creek.	*791
			Just downstream of Franklin Street	*794

Maps available for inspection at the City Hall, 1508 Franklin, Center Point, Iowa

Iowa	(C) Marion, Linn County (Docket No. FEMA-6155)	Indian Creek	About 2000 feet upstream of 29th Street (at southern corporate limit).	*782
			About 1.3 miles upstream of 10th Street	*797
		Dry Creek	At mouth	*786
			About 1.8 miles upstream of mouth (at western corporate limit).	*795
		Squaw Creek	About 0.8 mile downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*764
			Just downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*792
			Just upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*799
			Just downstream of U.S. Highway 151	*801
		West Fork Squaw Creek	At mouth	*789
			Just downstream of U.S. Highway 151	*800
			Just upstream of U.S. Highway 151	*806

Maps available for inspection at the Community Development Department, City Hall, 1100 8th Avenue, Marion, Iowa.

Iowa	(C) Robins, Linn County (Docket No. FEMA-6155)	Dry Creek	About 1.5 miles downstream of Main Street	*832
			About 500 feet upstream of Main Street	*842
			About 2,500 feet upstream of Meritzer Road	*847

Maps available for inspection at the Robins Community Building, 95 Front Street, Robins, Iowa.

Kansas	(C) Arkansas City, Cowley County (Docket No. FEMA-6155).	Arkansas River	Just upstream of Atchison, Topeka and Santa Fe Railway.	*1,071
			Just upstream of U.S. Highway 77	*1,073
			About 2,900 feet upstream of Chestnut Avenue	*1,082
		Walnut River	At confluence of Mill Canal	*1,076
			Just upstream of Chestnut Avenue	*1,072
			Just downstream of Kansas Avenue	*1,075
		"C" Street Canal	Just upstream of U.S. Highway 77	*1,087
			About 100 feet downstream of Hickory Avenue	*1,101
			Just upstream of 8th Street	*1,108
			About 0.76 mile upstream of 8th Street (at upstream corporate limits).	*1,125
		North Creek	At downstream corporate limits	*1,063
			About 200 feet downstream of northern corporate limits.	*1,081
		Shallow Flooding (Ponding From Rainfall).	About 200 feet northeast of intersection of F Street and Hickory Avenue, just south of Warren Way.	*1,077
			North of Arkansas River and south of Tyler Avenue, east of Atchison, Topeka and Santa Fe Railway.	*1,070
		Shallow Flooding (Overflow From "C" Street Canal).	North of Kansas Avenue and south of Osage Avenue, just east of U.S. Highway 77 and west of "C" Street.	#1
			North of Kansas Avenue and south of Virginia Avenue, just west of Atchison, Topeka and Santa Fe Railway and east of "C" Street.	#2

Maps available for inspection at the City Hall, 1st and Central, Arkansas City, Kansas.

Kentucky	City of Greenup, Greenup County (FEMA-6152)	Ohio River	Entire river Bank	*543

Maps available for inspection at the City Hall, 1005 Walnut Street, Greenup, Kentucky 41144.

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Kentucky	City of Morehead, Rowan County (FEMA-6152)	Triplett Creek	Just downstream of South Tolliver Road	*739
			Just upstream of a Walkway Bridge	*750
			Just upstream of State Highway 519	*715
		North Fork Triplett Creek	Just downstream of Interstate Highway 64	*690
		Christy Creek	At mouth (confluence with Triplett Creek)	*742
	Maps available for inspection at the City Hall, 168 East Main Street, Morehead, Kentucky 40351.			
Maine	Buxton, town, York County (Docket No. FEMA-5047)	Saco River	Downstream Corporate Limits	*73
			Directly downstream of Skeleton Station Dam	*77
			Upstream of Skeleton Station Dam	*126
			3,900' upstream of State Route 4A	*157
			Upstream of State Route 4	*144
			Upstream of Bar Mills Dam	*152
			Approximately 1,000' upstream of abandoned railroad bridge.	*168
			Directly downstream of West Buxton Dam	*186
			Directly upstream of West Buxton Dam	*181
			Approximately 1,050' downstream of corporate limits (upstream crossing).	*192
			Upstream corporate limits	*204
		Saco River	Confluence with Saco River	*182
		Right Channel	Upstream corporate limits	*183
	Maps available for inspection at the Buxton Town Offices, West Buxton, Maine.			
Massachusetts	(T) Arlington, Middlesex County (Docket No. FEMA-6124).	Mystic River	At confluence of Alewife Brook	*5
			At outlet of Mystic Lake	*9
		Alewife Brook	About 250 feet upstream of Broadway	*7
			Just upstream of Massachusetts Avenue	*8
			About 350 feet upstream of State Route 2	*8
		Mill Brook	Mouth at Lower Mystic Lake	*9
			About 50 feet upstream of Mystic Valley Parkway	*12
			Just upstream of Fowle Avenue	*16
			Just upstream of Mystic Street	*20
			Just downstream of Cookes Hollow Dam	*21
			About 350 feet downstream of Mill Street	*41
			Just upstream of Mill Street	*49
			Just upstream of Grove Street	*57
			Just upstream of Brattle Street	*91
			Just downstream of Mill Lane	*115
			Just downstream of Boston and Maine Railroad	*152
	Maps available for inspection at the Planning and Development Department, Town Hall, Arlington, Massachusetts.			
Massachusetts	Clarksburg, town, Berkshire County (Docket No. FEMA-6074).	North Branch Hoosic River	Downstream corporate limits approximately 100' upstream of private drive; 600' upstream of downstream corporate limits.	*891 *906
			Downstream of dam	*932
			Upstream of cross road	*949
			Approximately 100' upstream of River Road (State Route 8).	*1,016
			Upstream of private drive off River Road	*1,080
			Downstream of Henderson Road	*1,062
			Upstream corporate limits	*1,076
		Hudson Brook	Downstream corporate limits	*1,005
			Approximately 1,450' upstream of downstream corporate limits.	*1,027
			Upstream of Daub Drive	*1,046
			Upstream of cross road	*1,052
			Downstream of Middle Road	*1,064
			Approximately 1,100' upstream of Middle Road	*1,097
	Maps available for inspection at the Town Hall, Briggsville School, Route 8, Clarksburg, Massachusetts.			
Massachusetts	Dalton, town, Berkshire County (Docket No. FEMA-6015).	East Branch Housatonic River	Downstream corporate limits	*1,024
			Pioneer Mill Dam (upstream)	*1,051
			Old Berkshire Mill Dam (upstream)	*1,078
			Byron Weston Dam No. 2 (downstream)	*1,102
			Byron Weston Dam No. 2 (upstream)	*1,128
			Orchard Road (upstream)	*1,146
			Old Windsor Road (upstream)	*1,158
			East Housatonic Street (upstream)	*1,180
			State Route 9 (approximately 5,000' upstream of East Housatonic Street (upstream).	*1,291
			Upstream corporate limits	*1,319
		Wahconah Falls Brook	Confluence with east branch Housatonic River	*1,146
			North Street (upstream)	*1,153
			Holiday Road (upstream)	*1,177
			Cleveland Road (upstream)	*1,209
			Approximately 2,800' upstream of Cleveland Road	*1,231
		Anthony Brook	Confluence with Wahconah Falls Brook	*1,146
			North Street (upstream)	*1,158
			Approximately 2,600' upstream of North Street	*1,182
		Sackett Brook	Washington Mountain Road (upstream)	*1,059
			Kirchner Road (downstream)	*1,072
	Maps available for inspection at the Dalton Selectmen's/Planning Board Office, Dalton, Massachusetts.			

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Massachusetts	Dunstable, town, Middlesex County (Docket No. FEMA-6050).	Nashua River	State boundary	*177
			Upstream corporate limits	*182
		Salmon Brook	State boundary	*180
			Upstream Pleasant Street	*186
			Upstream of corporate limits	*189
	Maps available for inspection at the Town Hall Library, Main Street, Dunstable, Massachusetts.			
Massachusetts	Groton, town, Middlesex County (Docket No. FEMA-6064).	Nashua River	Downstream corporate limits	*204
			Upstream corporate limits	*215
		Squannacook River	Confluence with Nashua River	*215
			Approximately 1,700' downstream of West Groton Road.	*225
			Approximately 3,900' upstream of West Groton Road	*240
			Upstream corporate limits	*256
		James Brook	Downstream corporate limits	*241
			Approximately 920' upstream of Old Ayer Road (downstream crossing).	*280
			Upstream of Indian Hill Road	*296
			Upstream of Boston and Maine Railroad (furthest upstream crossing).	*304
		Reedy Meadow Brook	Downstream corporate limits	*208
			Approximately 600' downstream of Nashua Road	*220
			Approximately 500' upstream of Nashua Road	*238
		Unkety Brook	Approximately 650' upstream of the downstream corporate limits.	*214
			Approximately 3,660' upstream of Radien Road	*225
		Cow Pond Brook	Approximately 625' downstream of abandoned railroad	*180
			Upstream of Bridge Street	*195
			Downstream of Lost Lake Dam	*207
		Baddacook Brook	Confluence with Cow Pond Brook	*198
			Upstream of access road (upstream crossing)	*216
			Upstream of Cart Road	*228
		Martins Pond Brook	Confluence with Lost Lake	*216
			Approximately 1,080' upstream of confluence with Lost Lake.	*235
			Approximately 4,800' upstream of confluence with Lost Lake.	*257
		Massapoag Pond	Entire shoreline within community	*168
	Maps available for inspection at the Office of the Planning Department, Town Hall, Groton, Massachusetts.			
Massachusetts	Erving, town, Franklin County (Docket No. FEMA-6052).	Connecticut River	Confluence of Millers River	*192
			Upstream corporate limits	*205
		Millers River	East Mineral Road	*192
			Gunn Street	*224
			Central Vermont Railway	*228
			Mill Road	*238
			Breached dam	*252
			Approximately 1.0 mile upstream breached dam	*300
			Approximately 1.5 miles downstream Farley Road	*230
			Farley Road	*394
			Boston and Maine Railroad	*430
			North Street	*456
			Upstream corporate limits	*477
		Keyup Brook	Confluence with Millers River	*459
			Boston and Maine Railroad	*464
			State Route 2	*468
	Maps available for inspection at the Erving Town Hall, Erving, Massachusetts.			
Massachusetts	Halifax, town, Plymouth County (Docket No. FEMA-6027).	Taunton River	Confluence of Winnetuxet River	*27
			Cherry Street Bridge (Upstream side)	*28
		Winnetuxet River	Confluence with Taunton River	*27
			Upstream corporate limits	*29
		Palmer Mill Brook	Confluence with Winnetuxet River	*29
			Upstream side of Hayward Street Bridge	*29
	Maps available for inspection at the Halifax Selectmen's Office, Town Hall, Halifax, Massachusetts.			
Massachusetts	Hopkinton, town, Middlesex County (Docket No. FEMA-5978).	Sudbury River	Downstream corporate limits	*236
			Upstream of Stone Arch Bridge	*242
			Just upstream of Cordaville Dam	*256
			Approximately 740' downstream of Fruit Street	*266
			Upstream of Fruit Street	*275
			Upstream corporate limits	*277
		Whitehall Brook	Downstream corporate limits	*260
			Approximately 2,150' upstream of Fruit Street	*295
			Whitehall State Park boundary	*294
		Cold Spring Brook	Downstream corporate limits	*226
			Just downstream of North Mill Street	*244
			Upstream of North Mill Street Dam	*253
			Upstream of South Mill Street Dam	*262
			Just downstream of Front Street	*273
		Indian Brook	Approximately 1,150' downstream of confluence with tributary to Indians Brook.	*301
			Approximately 1,300' downstream of Wood Street	*305

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Tributary to Indian Brook	Confluence with Indian Brook	*283
			Just downstream of Wood Street	*307

Maps available for inspection at Town Hall, 18 Main Street, Hopkinton, Massachusetts.

Massachusetts	Lancaster, town, Worcester County (Docket No. FEMA-5005).	Nashua River	Downstream corporate limits	*225
			Upstream side of Seven Bridge Road	*232
			Upstream corporate limits	*241
		North Nashua River	Confluence with Nashua River	*236
			Approximately 160' upstream of Main Street	*241
			Upstream side of North Main Street	*249
			Approximately 1,800' upstream of Ponakin Road	*268
			Approximately 1.8 miles upstream of Ponakin Road	*270
			Upstream corporate limits	*280
		Goodridge Brook	Downstream corporate limits	*258
			Approximately 125' upstream of Parker Road	*265
			Approximately 1, 063' upstream of Parker Road	*268

Maps available for inspection at the Town Clerk's Office, Town Hall, Main Street, Lancaster, Massachusetts.

Massachusetts	Leicester, town, Worcester County (Docket No. FEMA-6061).	French River	Corporate limits (downstream)	*597
			Downstream of Conrail	*685
			Stafford Street	*689
			Dam (downstream)	*691
			Dam (upstream)	*705
			Pleasant Street	*738
			Greenville Pond Dam (downstream)	*755
		Town Meadow Brook	Greenville Pond Dam (upstream)	*763
			Green Street	*769
			0.270 mile upstream from Green Street	*760
			0.420 mile upstream from Green Street	*795
			0.930 mile downstream from Pine Street	*810
			Pine Street	*820
			Dutton Pond	*830
			0.165 mile upstream of Dutton Pond	*855
			Culvert 0.210 mile downstream of SR 9 (upstream side)	*877
			SR 9	*899
			Sargent Pond Dam (downstream)	*904
			Sargent Pond Dam (upstream)	*909
		Lynde Brook	Main Street	*705
			0.12 mile above Main Street	*715
			0.20 mile above Main Street	*726
			0.31 mile above Main Street	*742
			0.36 mile above Main Street	*756
			0.45 mile above Main Street	*771
			0.48 mile above Main Street	*791
			Lynde Brook Reservoir Dam	*825

Maps available for inspection at the Office of the Planning Board, Washburn Square, Leicester, Massachusetts.

Massachusetts	Lenox, town, Berkshire County (Docket No. FEMA-6091).	Housatonic River	Downstream corporate limits	*826
			Upstream of Mill Street	*836
			Upstream of Brown Street extended	*845
			Upstream of Valley Mill Dam	*855
			Upstream corporate limits	*962
		Yokun Brook	Downstream of East Street	*969
			Downstream of Edgewood Drive	*991
			Approximately 500' upstream of Edgewood Drive	*1,002
			Approximately 2,375' upstream of Edgewood Drive	*1,020
			Approximately 3,500' downstream of New Lenox Road	*1,040
			Approximately 2,400' downstream of New Lenox Road	*1,080
			Downstream of New Lenox Road	*1,110
			Downstream of U.S. Routes 7 and 20	*1,120
			Downstream of West Mountain Road (downstream crossing)	*1,134
			Approximately 2,100' downstream of Lime Kiln Road	*1,152
			Approximately 640' downstream of Lime Kiln Road	*1,187
			Upstream of Lime Kiln Road	*1,219
		Sawmill Brook	Upstream of East Street	*1,020
			Downstream of Sherwood Drive	*1,047
			Upstream of Sherwood Drive	*1,059
			Approximately 120' downstream of Hubbard Street	*1,107
			Upstream of Hubbard Street	*1,119
			Approximately 580' upstream of Hubbard Street	*1,129
			Downstream of U.S. Routes 7 and 20	*1,150
		March Brook	Downstream corporate limits	*1,008
			Downstream of private road	*1,033
			Downstream of West Street	*1,037
		Sargent Brook	Downstream corporate limits	*978
			Upstream of private road (extended)	*993
			Downstream of Plunkett Street	*1,090

Maps available for inspection at the Lenox Town Hall, Walker Street, Lenox, Massachusetts.

Massachusetts	Merrimac, town, Essex County (Docket No. FEMA-6105).	Lake Attitash	Entire shoreline within community	*98
		Merrimack River	Downstream corporate limits	*13
			Upstream corporate limits	*16
		Tributary to Neal Pond	Birch Meadow Road No. 1	*102

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			At most upstream crossing of Birch Meadow Road No. 2.	*107

Maps available for inspection at the Conservation Commission, Town Hall, School Street, Merrimac, Massachusetts

Massachusetts	North Brookfield, town, Worcester County (Docket No. FEMA-6052).	Meadow Brook	Downstream corporate limits	*709
			Prouty Road (downstream)	*709
		Sucker Brook	Confluence with Meadow Brook	*700
			Murphy Road (downstream)	*737
			Footbridge (upstream)	*751
			Mill Road (upstream)	*791
		Coys Brook	Downstream corporate limits	*617
			State Route 67 (upstream)	*622
			Farm Road (upstream)	*627
			Cider Mill Road (upstream)	*643
			Tucker Road (downstream)	*652
		Lake Lashaway	Entire shoreline	*619

Maps available for inspection at the Town Clerk's Office, North Brookfield Town Office, North Brookfield, Massachusetts.

Massachusetts	Orange, town, Franklin County (Docket No. FEMA-6050).	Millers River	Downstream corporate limits	*477
			1,850' upstream of Boston and Maine Railroad (second crossing).	*487
			Downstream of Boston and Maine Railroad (third crossing).	*497
			Upstream of New Hope Dam	*507
			Upstream county boundary	*511
		East branch Tully River	Downstream county boundary	*516
			1,950' upstream of Tully Road	*526
			1,135' downstream of Fryeville Road	*536
			500' downstream of Fryeville Road	*546
			450' upstream of Fryeville Road	*556
			240' downstream of first dam	*565
			Downstream of first dam	*574
			Upstream of first dam	*583
			Downstream of second dam	*594
			1,640' upstream of second dam	*604
			500' downstream of upstream county boundary	*614
			Upstream county boundary	*623

Maps available for inspection at the Town Administrator's Office, Orange Town Hall, Orange, Massachusetts.

Massachusetts	Plympton, town, Plymouth County (Docket No. FEMA-6012).	Winnetuxet River	Downstream corporate limits	*29
			Downstream of Winnetuxet Road	*40
			Upstream of Winnetuxet Road	*47
			Upstream of dam above Winnetuxet Road	*55
			Approximately 1,350' upstream of Parsonage Road	*66
			Upstream corporate limits	*76

Maps available for inspection at the Plympton Planning Office, Town Hall, Palmer Road, Plympton, Massachusetts.

Massachusetts	Rochester, town, Plymouth County (Docket No. FEMA-6057).	Mattapoisett River	Wolf Island Road (upstream side)	*22
			Approximately 800' downstream of New Bedford Road	*30
			Approximately 2,700' upstream of Rounseville Road	*40
			Cultivation Dam in Rochester wildlife management area (upstream side).	*51
			Snipatuit Pond spillway (downstream side)	*55

Maps available for inspection at the Rochester Town Hall, Rounseville Road, Rochester, Massachusetts.

Massachusetts	Stockbridge, town, Berkshire County (Docket No. FEMA-5979).	Housatonic River	Downstream corporate limits	*747
			Upstream breached dam	*762
			Upstream side of Conrail	*773
			Downstream Glendale Dam	*794
			Upstream Glendale Dam	*816
			Downstream side of Glendale North Road	*822
			Upstream side of U.S. Route 7	*829
			Upstream corporate limits	*834

Maps available for inspection at the Town Clerk's Office, Stockbridge Town Hall, West Main Street, Stockbridge, Massachusetts.

Massachusetts	Webster, town, Worcester County (Docket No. FEMA-6012).	French River	Approximately 1,200' downstream of downstream corporate limits.	*382
			Downstream corporate limits	*402
			Upstream of Providence & Worcester Company Railroad.	*408
			Upstream of Chase Avenue	*417
			Upstream of Peter Street	*421
			Downstream of dam located approximately 1,600' upstream at Peter Street.	*426
			Upstream of dam located approximately 1,600' upstream of Peter Street.	*435
			Downstream of dam located approximately 650' downstream of North Main Street.	*436
			Upstream of dam located approximately 650' downstream of North Main Street.	*452
			Confluence of Mill Brook	*453
			Upstream corporate limits	*454
		Mill Brook	Confluence with French River	*453

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 1,250' upstream of Arkwright Road	*455
Maps available for inspection at the Town Engineer's Office, Town Hall, Main Street, Webster, Massachusetts.				
Massachusetts	Wrentham, town, Norfolk County (Docket No. FEMA-6121).	Rabbit Hill Brook	Downstream corporate limits	*178
			Downstream U.S. Route 1	*187
			Upstream of U.S. Route 1	*189
			Upstream of motel access road	*197
			Downstream of Myrtle Street	*200
			Approximately 100 feet upstream of Myrtle Street	*203
		Crocker Brook	Downstream of access road	*206
			1,300 feet upstream of East Street (downstream of Conrail bridge).	*210
		Burnt Swamp Brook	Downstream corporate limits	*236
			Upstream of Burnt Swamp Road	*245
			Upstream of private road (approximately 1,040 feet downstream of West Street).	*251
			Approximately 1,700 feet upstream of West Street	*258
Maps available for inspection at the Town Clerk's Office, Town Offices, South Street, Wrentham, Massachusetts.				
Missouri	(C) Neosho, Newton County (Docket No. FEMA-6155).	Hickory Creek	About 1,600 feet downstream of College Street	*992
			Just upstream of College Street	*995
			About 200 feet upstream of Wood Street	*1,006
			Just upstream of Kansas City Southern Railroad	*1,012
			About 200 feet upstream of State Highway 86	*1,026
			About 1,500 feet upstream of confluence of Shartel Branch.	*1,039
		High School Branch	About 400 feet upstream of mouth	*994
			Just upstream of the Kansas City Southern Railroad	*1,004
			About 200 feet upstream of Lincoln Street	*1,023
			Just upstream of McCord Street culvert	*1,036
			Just downstream of Spring Street	*1,043
			Just upstream of Hill Street	*1,061
			Just upstream of Walnut Drive	*1,079
			Just upstream of South Street	*1,093
			Just upstream of service road	*1,107
		Hatchery Branch	At mouth	*1,013
			About 150 feet downstream of McKinney Street	*1,024
			Just upstream of Park Street	*1,042
			About 450 feet upstream of Park Street (just upstream of Kansas City Southern Railroad.	*1,048
			About 400 feet upstream of Fein Street	*1,069
			Just upstream of Kansas City Southern Railroad	*1,088
			Just upstream of Daughtery Road	*1,109
		West High School Branch	At mouth	*1,044
			Just upstream of Hillcrest Drive	*1,065
			Just downstream of U.S. Highway 71 Culvert	*1,070
			Just upstream of U.S. Highway 71	*1,076
		Shartel Branch	About 250 feet downstream of Stratford Place	*1,034
			Just downstream of South Street	*1,050
		Buffalo Creek	About 2000 feet downstream of Lyon Drive	*1,157
			Just downstream of Lyon Drive	*1,160
			Just upstream of Lyon Drive	*1,171
			Just downstream of Howard Bush Drive	*1,211
			About 100 feet upstream of Howard Bush Drive	*1,218
			Just upstream of Kansas City Southern Railroad	*1,220
Maps available for inspection at the City Hall, 221 North College, Neosho, Missouri.				
Montana	Dillon (city), Beaverhead County (FEMA-6181)	Blacktail Deer Creek	20 feet upstream from center of Cornell Street	*5,101
		Beaverhead River	200 feet southeast from intersection of Park Street with Bannack Street.	*5,094
Maps available for inspection at City Hall, 125 N. Idaho Street, Dillon, Montana.				
Montana	Drummond (town), Granite County (FEMA-6153)	Edwards Gulch	30 feet upstream of the intersection of First Street and Edwards Gulch.	*3,900
		Bergman Slough	Intersection of Old U.S. Highway 10A (Main Street) and Bergman Slough.	*3,948
		Clark Fork	100 feet south of intersection of Old U.S. Highway 10A (Main Street) and Chicago, Milwaukee, St. Paul and Pacific Railroad.	*3,956
Maps available for inspection at Town Hall, Drummond, Montana.				
Montana	Granite County (unincorporated areas) (FEMA-6153)	Clark Fork (downstream segment)	Confluence with Gillespie Creek	*3,900
		Clark Fork (upstream segment)	100 feet upstream of the intersection of Old U.S. Highway 10A and Clark Fork.	*3,953
		Clark Fork Divided Flow	Upstream side of Chicago, Milwaukee, St. Paul and Pacific Railroad Bridge.	*3,900
		Bergman Slough	125 feet downstream of intersection of U.S. Highway 10A and Bergman Slough.	*3,941
		Flint Creek	50 feet downstream of intersection of bridge on Gravel Road and Flint Creek.	*4,023
		Frost Creek	Centerline of Sansome Street over Frost Creek	*5,298
		Rock Creek	50 feet downstream of intersection of unnamed road and Rock Creek (2.74 miles above mouth).	*3,592
			Confluence with Bear Gulch	*3,887
Maps available for inspection at Granite County Courthouse, Philipsburg, Montana.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Montana	Lima (town), Beaverhead County (FEMA-6181)	Junction Creek	30 feet upstream from the center of Bailey Street	*5,259
		Junction Creek Overbank	20 feet upstream from the center of Peat Street	*5,257
		Shallow Flooding	At intersection of Keller Street and Broadway Street	#1
Maps available for inspection at Town Hall, Lima, Montana.				
Montana	Philipsburg (town), Granite County (FEMA-6153)	Camp Creek	30 feet upstream of the intersection of Railroad Street and Camp Creek.	*5,168
			Intersection of footbride and Camp Creek	*5,270
		Frost Creek	Intersection of West Street and Frost Creek	*5,255
Maps available for inspection at Town Hall, Philipsburg, Montana.				
New Jersey	Leonia, borough, Bergen County (Docket No. FEMA-6147).	Overpeck Creek	Downstream corporate limits	*9
			Upstream corporate limits	*9
		Flat Rock Brook	Confluence with Overpeck Creek	*9
			Upstream corporate limits	*9
Maps available for inspection at the Office of the Borough Administrator, Borough Hall, 312 Broad Avenue, Leonia, New Jersey.				
New Jersey	Mendham, township, Morris County (Docket No. FEMA-6147.	North Branch Raritan River	Downstream corporate limits	*296
			Mosle Road (upstream side)	*317
			Confluence of McVickers Brook	*319
			Union Schoolhouse Road (upstream side)	*347
			Confluence of Burnett Brook	*361
			State Route 24 (upstream side)	*394
			Upstream corporate limits	*425
		Burnett Brook	Confluence with North Branch Raritan River	*361
			Downstream confluence of Indian Brook	*373
			State Route 24 (upstream side)	*406
			Upstream confluence of Indian Brook	*446
			Old Mill Road (upstream side)	*470
			Footbridge (upstream side)	*520
			Old Mill Road (upstream side) (upstream crossing)	*535
			Upstream corporate limits	*709
		Indian Brook	Confluence with Burnett Brook	*373
			Approximately 1,140' upstream of the confluence with Burnett Brook.	*383
			Corporate limits	*401
		Dawsons Brook	Confluence with Burnett Brook	*702
			Ironia Road (upstream side)	*722
			Corporate limits	*747
		Passaic River	Downstream corporate limits	*332
			Jockey Hollow Road (upstream side) (1st crossing)	*423
			Tempe Wick Road (upstream side) (1st crossing)	*446
			Corey Lane (upstream side)	*458
			Tempe Wick Road (upstream side) (2nd crossing)	*468
			Approximately 785' upstream of Dam	*472
		Whippany River	Downstream corporate limits	*346
			Tingley Road (upstream side)	*363
			Footbridge (upstream side)	*386
			Confluence of Harmony Brook	*396
		Harmony Brook	Confluence with Whippany River	*396
			Main Street (upstream side)	*425
			Private Road (upstream side) (1st crossing)	*447
			Woodland Road (upstream side) (1st crossing)	*536
			Approximately 100' upstream of Woodland Road (2nd crossing).	*599
Maps available for inspection at the Township Building, West Main Street, Brookside, New Jersey.				
New Jersey	Penns Grove, borough, Salem County (Docket No. FEMA-6147).	Delaware River	Entire shoreline within corporate limits	*9
Maps available for inspection at the Municipal Building, Penns Grove, New Jersey.				
New Jersey	Swedesboro, borough, Gloucester County (Docket No. FEMA-6147).	Raccoon Creek	Locke Avenue (upstream side)	*8
			Kings Highway (upstream side)	*10
Maps available for inspection at the Municipal Building, 500 Kings Highway, Swedesboro, New Jersey.				
New Jersey	Vineland, city, Cumberland County (Docket No. FEMA-6147).	Scotland Run	Upstream Willow Grove Lake Dam	*75
			Upstream State Route 55 (northbound)	*78
		Long Branch	Confluence with Blackwater Branch	*69
			Corporate limits	*83
		Piney Branch	Confluence with Blackwater Branch	*78
			Downstream of North Valley Avenue	*86
		Manantico Creek	Upstream of Manantico Lake Dam	*55
			Upstream of Dante Avenue	*63
		Cedar Branch	Confluence with Manantico Creek	*63
			Downstream of Chestnut Avenue	*71
			Downstream of Maple Avenue	*81
		Blackwater Branch	Approximately 1,875' downstream of Maurice River Parkway.	*57
			Upstream of North Mill Road	*65
			Upstream of Delsea Drive	*79
			Upstream of Northeast Avenue	*84
			Corporate limits	*93

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Manumuskin River	Downstream corporate limits	*33
			Approximately 5,450' downstream of Old Mays Landing Road.	*51
			Upstream of Mays Landing Road	*61
			Upstream corporate limits	*75
		Maurice River	Downstream corporate limits	*31
			Approximately 2 miles upstream of corporate limits	*40
			Downstream of Landis Avenue	*50
			Upstream of Garden Road	*62
			Downstream of Weymouth Road	*71
Maps available for inspection at the Office of the City Engineer, City Hall, Vineland, New Jersey.				
New Mexico	City of Grants, Valencia County (FEMA-6152)	Rio San Jose	Approximately 125 feet downstream of U.S. Route 66 (Santa Fe Avenue).	*6,415
			Approximately 270 feet downstream of Nimitz Drive	*6,424
			Just downstream of State Highway 547 (First Street)	*6,436
			Approximately 180 feet upstream of upstream crossing of Santa Fe Avenue (U.S. Route 66).	*6,445
		Grants Canyon	Approximately 600 feet upstream of confluence with Rio San Jose.	*6,426
			Just downstream of Washington Avenue	*6,434
			Approximately 125 feet downstream of Roosevelt Avenue.	*6,445
		Zuni Canyon	At I-40 culvert entrance	*6,505
Maps available for inspection at Grants City Hall, 600 West Santa Fe, Grants, New Mexico 87020.				
New Mexico	Village of Milan, Valencia County (FEMA-6152)	Rio San Jose	Just downstream of Milan Street	*6,513
			Just downstream of U.S. Highway 66	*6,522
			Just downstream of Stanley Street	*6,529
		Zuni Canyon	Approximately 670 feet upstream of Russell Avenue	*6,510
Maps available for inspection at City Hall, 623 Usonrum Street, Milan, New Mexico 87021.				
New Mexico	Village of Ruidoso Downs, Lincoln County (FEMA-6154).	Rio Ruidoso	Approximately 80 feet upstream of Bridgefront	*6,431
			Just upstream of Entrance Road	*6,335
		Turkey Spring Canyon	Just upstream of U.S. Highway 37–70	*6,434
Maps available for inspection at Village Hall, U.S. 70 Highway, Ruidoso Downs, New Mexico 88346.				
New York	Ossining, village, Westchester County (Docket No. FEMA-6147).	Hudson River	Entire Shoreline	*8
		Kil Brook	Downstream corporate limits	*216
			Upstream of Park Avenue	*257
			Upstream of Campwoods Road	*334
			Downstream of State Route 9A	*372
Maps available for inspection at the Village Hall, 16 Croton Avenue, Ossining, New York.				
North Carolina	Town of Hot Springs, Madison County (FEMA-6152)	French Board River	Just upstream of U.S. Highway 25 and 70	*1,328
		Spring Creek	Just upstream of Bridge Street (State Highway 209)	*1,333
			Just downstream of Station Highway 209 at Station 1.20 miles above mouth.	*1,361
Maps available for inspection at Town Hall, Andrews Avenue, Hot Springs, North Carolina 28743.				
North Dakota	Stanley (township), Cass County (FEMA-6157)	Red River of the North	At confluence with Wild Rice River	*907
Maps available for inspection at 13 Sleepy Hollow, Horace, North Dakota.				
Ohio	(C) Alliance, Stark, and Mahoning Counties (Docket No. FEMA-6155).	Tributary No. 1 to Mahoning River	About 140 feet upstream of Vine Street	*1,060
			Just upstream of North Rockhill Avenue	*1,069
			Just upstream of Johnson Avenue	*1,088
			Just upstream of Buckeye Avenue	*1,092
			Just upstream of Klinger Avenue	*1,096
Maps available for inspection at the City Engineer's Office, City Hall, 470 East Market Street, Alliance, Ohio.				
Ohio	(V) Canal Fulton, Stark County (Docket No. FEMA-6155).	Tuscarawas River	About 150 feet downstream of downstream corporate limit.	*944
			About 4,280 feet upstream of Market Street	*947
		Plum Creek	About 400 feet downstream of Manchester Road	*955
			About 1,500 feet upstream of Strauser Street	*967
Maps available for inspection at the Engineer's Office, Town Hall, 155 East Market Street, Canal Fulton, Ohio.				
Ohio	(C) Massillon, Stark County (Docket No. FEMA-6144)	East Sippo Creek	About 3,700 feet downstream of Lincoln Way East (at culvert inlet).	*947
			About 1,400 feet downstream of Lincoln Way East	*972
Maps available for inspection at the Mayor's Office, City Hall, 100–102 City Hall Street, Massillon, Ohio.				
Ohio	(V) Minerva, Stark, Carroll, and Columbiana Counties (Docket No. FEMA-6144).	Sandy Creek	At downstream corporate limits	*1,031
			Just upstream of Grant Street	*1,040
			About 2,100 feet upstream of East Lincoln Way	*1,052
			About 700 feet upstream of State Route 183	*1,063
Maps available for inspection at the Village Administrator's Office, Town Hall, 209 North Market Street, Minerva, Ohio.				
Ohio	(V) Navarre, Stark County (Docket No. FEMA-6155)	Tuscarawas River	About 1,100 feet upstream of Wooster Street	*924
			About 650 feet downstream of Blough Avenue	*919
Maps available for inspection at the Mayor's Office, Town Hall, 27 West Canal Street, Navarre, Ohio.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Ohio	(V) Waynesburg, Stark County (Docket No. FEMA-6144).	Sandy Creek	About 1,120 feet downstream of confluence of Indian Run.	*982
			Just upstream of Waynesburg Drive	*995
			At upstream corporate limits	*997
Maps available for inspection at the Mayor's Office, Town Hall, 141 East Lisbon Street, Waynesburg, Ohio.				
Oregon	Gaston (city), Washington County (FEMA-6143)	Tualatin River	Approximately 500 feet east along Main Street from its intersection with Tualatin Valley Highway.	*174
Maps available for inspection at City Hall, 116 Front Street, Gaston, Oregon.				
Oregon	Jackson County (unincorporated areas) (FEMA-6088)	Lazy Creek	Upstream limit of detailed study, approximately 100 feet upstream of the City of Medford corporate limits.	*1,389
		Unnamed tributary to Larson Creek	Intersection of Creek and center of North Phoenix Road.	*1,540
		Griffin Creek	30 feet upstream from center of Scenic Avenue	*1,234
		Pleasant Creek	Intersection of Bellinger Lane and Minear Road	*1,459
			Intersection of Creek and center of Cassens Branch Road.	*1,122
		Foots Creek	Intersection of Creek and center of Foots Creek Road	*1,100
		Little Butte Creek	75 feet upstream from center of Crater Lake Highway State Highway 62.	*1,281
			At confluence with Schoolhouse Creek	*1,436
		Lone Pine Creek	Intersection of Creek and center of Foothill Road (at upstream limit of detailed study).	*1,395
		Larson Creek	Intersection of Creek and center of Ellendale Drive	*1,496
		Crooked Creek	25 feet upstream from center of Stewart Avenue	*1,402
			Intersection of Dark Hollow Road and Skydew Drive	*1,567
		Daisy Creek	10 feet downstream from center of Third Street South	*1,742
		Evans Creek	At confluence with Maple Creek	*1,016
			10 feet upstream from center of Covered Bridge Road	*1,138
		Rogue River	Intersection of Savage Creek Road and U.S. Highway 99.	*979
			500 feet upstream from center of Table Rock Road	*1,199
			Intersection of River and center of Dodge Bridge State Highway 234.	*1,295
			At confluence with Big Butte Creek	*1,534
		Wagner Creek	At confluence with Bear Creek	*1,582
		Ashland Creek	400 feet upstream from center of Bridge to Treatment Plant.	*1,715
		Coleman Creek	Intersection of Creek and center of U.S. Highway 99	*1,499
		Clay Creek	Intersection of Creek and center of East Main Street	*1,935
		Bear Creek	10 feet upstream from center of Kirtland Road	*1,188
			200 feet upstream from center of Fern Valley Road	*1,472
			2,780 feet upstream from center of Fern Valley Road	*1,483
			Intersection of Valley View Road and North Main Street U.S. Highway 99.	*1,838
Map available for inspection at Jackson County Courthouse, Medford, Oregon.				
South Carolina	Unincorporated areas of Chester County (FEMA-6161).	Dry Fork Creek	Approximately 250 feet upstream of Highway 9	*431
			Just upstream of County Route 225	*444
		Tanyard Branch	Approximately 100 feet upstream of State Highway 72 Bypass.	*451
		Grassy Run Branch	Just upstream of State Highway 9	*500
			Just upstream of State Highway 72	*507
		Tributary GR-1	Just upstream of State Road 132	*531
		Tributary GR-2	Just upstream of County Route 367	*530
Maps available for inspection at Tax Assessor's Office, Chester County Courthouse, Main Street, Chester, South Carolina 29706.				
South Carolina	City of Chester, Chester County (FEMA-6154)	Dry Fork Creek	At Chester corporate limits	*447
			Approximately 120 feet downstream of Center Street (U.S. Route 321).	*466
		Tributary DF-1	Just downstream of Cushman Drive extended	*454
		Tanyard Branch	Just downstream of West End Street	*456
			Approximately 170 feet downstream of Crestwood Drive.	*472
		Tributary TB-1	Just upstream of Arch Street extended	*471
Maps available for inspection at City Hall, 100 West End Street, Chester, South Carolina 29706.				
South Carolina	City of Lancaster, Lancaster County (FEMA-6154)	Cane Creek	Just upstream of Highway 9 (Rockhill Road)	*439
			Just upstream of State Highway 9 Bypass	*441
		Bear Creek	Approximately 100 feet upstream of State Highway 9	*442
			Just upstream of Tenth Street extension	*452
		Gills Creek	Just downstream of Roddey Drive	*445
			Just downstream of U.S. Highway 521 Bypass	*453
		Hannahs Creek	Just downstream of East Barr Street	*455
			Just downstream of State Highway 9 Bypass (U.S. Highway 521 Bypass).	*461
		Camp Creek	Just upstream of County Road 58 (University Drive)	*446
Maps available for inspection at City Hall, 201 West Gay Street, Lancaster, South Carolina 29720.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
South Dakota	Madison (city), Lake County (FEMA–5701)	Park Creek	20 feet upstream from center of 4th Street	*1,659
			20 feet upstream from center of 1st Street	*1,668
			40 feet upstream from center of Egan Street	*1,679
			80 feet upstream from center of Ninth Street Northwest.	*1,694
		Park Creek Tributary	Center of Josephine Avenue	*1,680
		Silver Creek	Center of Highland Avenue	*1,690
			Center of Frank Street	*1,657
			Center of Egan Avenue	*1,663
			Center of Highland Avenue	*1,686

Maps available for inspection at City Hall, 116 West Center, Madison, South Dakota.

Tennessee	Town of Gallaway, Fayette County (FEMA–6154)	Loosahatchie River	Just upstream of Gallaway Road	*276
		West Gallaway Branch	Just downstream of Brownville Road	*292
			Just upstream of U.S. Highway 70 & 79	*297
		Cane Creek	Just upstream of Brownville Road	*283
		Cane Creek Tributary	Just upstream of Louisville and Nashville Railroad	*285
			Just upstream of U.S. Highway 70 & 79	*295

Maps available for inspection at Town Hall, 609 Watson Drive, Gallaway, Tennessee 38036.

Tennessee	Town of Somerville, Fayette County (FEMA–6154)	Loosahatchie River	Just upstream of State Highway 76 and 59	*343
			Just downstream of Old Mill Road	*346

Maps available for inspection at Town Hall, West North Street, Somerville, Tennessee 38068.

Texas	City of Angleton, Brazoria County (FEMA–6163)	Brushy Bayou	Just upstream of the Missouri Pacific Railroad	*21
			Just downstream of State Highway 35	*24
			At Molina Court extended	*29
			Just downstream of State Highway 288 (Velasco Street).	*31
		East Levee Ditch	Just upstream of Missouri-Pacific Railroad	*24
		Shallow Flooding	At the intersection of Browning and North Rock Island Streets.	#1
			At the intersection of Chenango and East Mulberry Streets.	#1

Maps available for inspection at City Hall, Council's Chambers, 121 South Velasco, Angleton, Texas 77515.

Texas	City of Bay City, Matagorda County (FEMA–6163)	Cottonwood Creek	Just upstream of Hammon Road	*42
			At 4th Street	*50
			At 6th Street	*51
			Just downstream of Southern Pacific Railroad	*52

Maps available for inspection at City Hall, 1901 Fifth Street, Bay City, Texas 77414.

Texas	City of Belton, Bell County (FEMA–6152)	Nolan Creek	Just upstream of Interstate Highway 36	*508
			Just downstream of Main St. (State Highway 317)	*514
		Nolan Creek Tributary 1	Just downstream of 2nd Avenue (FM 2748)	*533
			Just upstream of 2nd Avenue (FM 2748)	*550
		Nolan Creek Tributary 2	Approximately 350 feet upstream of confluence with Nolan Creek Tributary 1.	*558
		Mitchell Branch	Just upstream of Loop 121	*567
			Just downstream of Interstate Highway 35	*611
		Leon River	Just downstream of Belton Railroad	*476
			Just upstream of Waco Road (FM 817)	*482
			Just upstream of Main Street (State Highway 317)	*499

Maps available for inspection at City Hall, 333 East A Street, Belton, Texas 76513.

Texas	City of Edna, Jackson County (FEMA–6160)	Dry Creek	Just downstream of Sunny Lane	*58
			Just upstream of Vanderbilt Road	*61
			Just upstream of W. Elm Street	*65
			Just upstream of U.S. Highway 59	*68
		East Ditch	Just upstream of East Division Stream	*54
			Just downstream of State Highway 59	*58

Maps available for inspection at City Hall, 105 North Allen Street, Edna, Texas 77957.

Texas	City of South Lake, Tarrant and Denton Counties (FEMA–6154).	Bear Creek	Just upstream of St. Louis Southwestern Railway	*575
			Just upstream of White Chapel Road	*595
			Just downstream of Oakwood Trail extended	*604
		Tributary B66	Just downstream of the dam	*577
			Just upstream of the dam	*582
			Just upstream of Continental Boulevard	*584
		Tributary B68	Just upstream of Continental Boulevard	*601
		Tributary B69	Just upstream of FM 1709 (West South Lake Boulevard).	*644
		West Jones Branch	Just upstream of Shady Lane	*573
			Just upstream of Kimbell Avenue	*582
		Dove Creek	Just upstream of East Dove Street	*574
			Just downstream of North Carroll Avenue	*580
			Just upstream of Northwest Parkway Southbound (State Highway 114).	*618

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		South Fork Kirkwood Branch	Just upstream of North White Chapel Road	*570
			Approximately 100 feet downstream of Northwest Parkway North Bound (State Highway 114).	*583
		Higgins Branch	Just upstream of Dove Street	*608
			Approximately 100 feet at upstream of Dove Street	*601

Maps available for inspection at City Hall, 667 North Carroll Street, South Lake, Texas 76292.

Vermont	Richmond, town, Chittenden County (Docket No. FEMA–6154).	Winooski River	Downstream corporate limits	*306
			Downstream village corporate limits	*308
			Upstream village corporate limits	*312
			Confluence of Huntington River	*323
			Upstream corporate limits	*325
		Huntington River	Confluence with Winooski River	*323
			Approximately 4,240' upstream of Cochran Road	*343
			Approximately 9,220' upstream of Cochran Road	*408
			Approximately 9,220' downstream of Huntington Road	*472
			Approximately 4,700' downstream of Huntington Road	*498
			Approximately 140' upstream of Huntington Road	*520
			Upstream corporate limits	*526

Maps available for inspection at the Richmond Town Clerk's Office, Town Hall, Richmond, Vermont.

Virginia	Courtland, town, Southampton County (Docket No. FEMA–6147).	Nottaway River	Upstream of Interstate Route 58 and State Route 35 Bypass (under construction).	*23
			Upstream of Norfolk, Danville & Franklin Railway Company.	*25
			Upstream corporate limits	*26

Maps available for inspection at the Town Hall, Courtland, Virginia.

Washington	Sedro Woolley (city), Skagit County (FEMA–6157)	Skagit River	At intersection of Graves Street and Dunlap Avenue	*51

Maps available for inspection at City Clerk's Office, 720 Murdock Street, Sedro Woolley, Washington.

Wisconsin	(V) Mukwonago, Waukesha County (Docket No. FEMA–6144).	Fox River	About 1600 feet downstream of Soo Line Railroad	*764
			Just downstream of Soo Line Railroad	*764
		Lower Phantom Lake	Within community	*782
		Mukwonago River	About 1.0 mile downstream of State Highway 83	*763
			Just downstream of Lower Phantom Lake Dam	*785
			Just upstream of Lower Phantom Lake Dam	*782

Maps available for inspection at the Village Hall, 625 South Rochester, Mukwonago, Wisconsin.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: February 11, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6274 Filed 3-10-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 205

[Docket No. 205 Sub D-1]

Disaster Assistance: Individual and Family Grant Program

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This Rule establishes the Federal Emergency Management Agency (FEMA) program regulations for the Individual and Family Grant (IFG) program under Section 408 of the Disaster Relief Act of 1974. The IFG program provides for grants to States so that States may make grants to individuals and families who, as a result of a major disaster, are unable to meet disaster-related necessary expenses or serious needs. The regulation specifies eligibility criteria for individuals, eligible categories of assistance, the requirements placed upon States for administering the program, procedures for obtaining Federal funds, and fiscal provisions.

DATES: This Rule is effective April 12, 1982.

FOR FURTHER INFORMATION CONTACT: Sarah L. Wise, Office of Disaster Assistance Programs, State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, 202–287–0550.

SUPPLEMENTARY INFORMATION: On September 23, 1981, FEMA published a proposed rule in the **Federal Register**. Twenty-seven State agencies provided comments. As a result, several significant changes were made.

The most significant change in this final rule is the elimination of the three-year flood insurance policy as an adequate policy. In its place a requirement for adequate coverage for one year has been levied on disaster victims, with clearly defined penalties for failure to either obtain or maintain such coverage. Adequate flood insurance coverage has been determined to be $5,000 on the structure and $2,000 on contents for an owner-occupant and $5,000 on contents for a renter. The basis for this determination is the need to provide coverage in an amount at least equal to the maximum available amount of the grant. The amount of contents coverage was determined by an analysis of grants made for personal property in previous programs (highest average was $1,600), and in most cases, the minimum premium for flood insurance ($50) will purchase the coverage described above for both

owner-occupants and renters. Applicants who are required to purchase flood insurance as a condition of receiving a grant must obtain and maintain insurance for the life of the structure or for as long as the applicant lives there whichever is less. If the applicant does not obtain the required flood insurance he/she must return to the State the amount awarded for acquisition and construction as well as the amount awarded for the premium. If the applicant does not maintain the required flood insurance, he/she will receive grant assistance in subsequent disasters only for flood damage to insurable items in an amount over and above that which would have been covered by the flood insurance.

The separate paragraph requiring farmers, ranchers and persons engaged in aquaculture to apply for assistance to Farmers Home Administration (FmHA) or the Small Business Administration has been deleted. Since FmHA will withdraw an applicant rather than deny assistance based on the test for credit, there is no need to specifically identify farmers, ranchers or persons engaged in aquaculture.

Fifteen respondents opposed the encouragement to issue grants to individuals and families prior to receiving assistance from other means. This sentence in the Purpose paragraph (§ 205.54(b)) has been rewritten to permit States to make grants before assistance from other means is received, but only in emergency situations and with a reimbursement commitment on the part of the applicant.

Ten respondents objected to the addition of "Food" as an eligible category of assistance. As a result, it has been deleted as an identified eligible category and will be considered a necessary expense or serious need on a case-by-case basis if approved by a State under the "Other" category.

The separate paragraph under the eligibility criteria allowing the combining of grants with funds made available by other individuals or families for repairing or providing a facility that serves more than one individual or family has been deleted. It has been rewritten and inserted as part of providing access under the housing category. This change reflects the original intent of allowing grant recipients to combine grant funds with other funds for the purpose of providing access.

The provision for developing a site for, towing, setting up and connecting a mobile home has been deleted as a specified eligible item. Since the housing category defines a residence to include a mobile home, these costs are implicit in the repair or replacement of a residence.

Several minor changes were also made as a result of the comments received. However, many of the comments received can be handled through interpretation of the regulations and will be clarified when the IFG program handbook revisions are completed.

As a result of a FEMA General Counsel opinion, issued subsequent to the proposed rule, paragraph (h)(5) requiring States to return to the U.S. Treasury any interest earned on an excess advance has been deleted from this Final Rule.

In addition, several comments addressed increasing the maximum amount of the grants to individuals and families and the percent of reimbursable State administrative expenses. The two issues are legislative and cannot be changed by regulation.

Finally, paragraph (n), covering the exceptions for the Combined Application and Verification Process has been deleted. The Agency is re-evaluating the type of system that would be most beneficial to both the disaster victim and the agencies which provide disaster assistance. Adequate notification will be given when FEMA has completed this project.

FEMA has determined that there will be no significant impact on the environment caused by implementation of these proposed regulations. An environmental assessment resulting in a finding of no significant impact has been prepared in accordance with 44 CFR 10.9(e), and pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 and the implementing regulations of the Council on Environmental Quality (40 CFR Parts 1500–1508). Copies of this assessment may be inspected or obtained at the Office of Disaster Assistance Programs, at the address stated above. An environmental impact statement will not be prepared.

It has been determined that this regulation is procedural in nature, and that the changes from the existing regulation will have little, if any, impact on costs and, thus, this is not a major rule.

Also, as the regulation is applicable only to States, or to individuals or families, it is not applicable to small entities. Thus, it is certified that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities, and an initial regulatory impact analysis will not be prepared.

PART 205—FEDERAL DISASTER ASSISTANCE (PUBLIC LAW 93–288)

This rule implements section 408 of the Disaster Relieve Act of 1974 and is issued under authority in section 601 of that Act. Accordingly § 205.48 of Title 44 CFR is repealed and a new § 205.54 added to Subchapter D of Title 44 Code of Federal Regulations as follows:

§ 205.48 [Removed]

§ 205.54 Individual and family grant (IFG) programs.

(a) *General.* The Governor may request that a Federal grant be made to a State for the purpose of such State making grants to individuals or families who, as a result of a major disaster, are unable to meet disaster-related necessary expenses or serious needs. The total Federal grant under this section will be equal to 75 percent of the actual cost of meeting necessary expenses or serious needs of individuals and families, plus State administrative expenses not to exceed 3 percent of the Federal grant (see computation of State administrative expenses in paragraph (i)(1) of this section.). The total Federal grant is made only on condition that the remaining 25 percent of the actual cost of meeting individuals' or families' necessary expenses or serious needs is paid from funds made available by the State. With respect to any one major disaster, an individual or family may not receive a grant or grants under this section totaling more than $5,000, including both the Federal and State shares. The Governor or his/her designee is responsible for the administration of the grant program.

(b) *Purpose.* The grant program is intended to provide funds to individuals or families to permit them to meet those disaster-related necessary expenses or serious needs for which assistance from other means is either unavailable or inadequate. Meeting those expenses and needs as expeditiously as possible will require States to make an early commitment of personnel and resources. States may make grants for emergency needs in instances where there is an unreasonable delay in receiving assistance from other means, with a commitment from the applicant that when assistance is received from other means the State must be reimbursed. The grant program is not intended to indemnify disaster losses or to permit purchase of items or services which may generally be characterized as nonessential, luxury, or decorative.

(c) *Definitions used in this section.* (1) "Necessary expense" means the cost of an item of service essential to an individual or family to prevent, mitigate or overcome a disaster-related hardship, injury, or adverse condition.

(2) "Serious need" means the requirement for an item or service essential to an individual or family to prevent, mitigate or overcome a disaster-related hardship, injury or adverse condition.

(3) "Family" means a social unit living together and comprised of a husband and wife and dependents, if any, or a household comprised of an unmarried person living with a dependent son, stepson, daughter, stepdaughter, or a dependent descendant of a son or daughter.

(4) "Individual" means a person who is not a member of a family, as defined in paragraph (c)(3) of this section.

(5) "Assistance from other means" means assistance, including monetary or in-kind contributions, from other governmental programs, insurance, voluntary or charitable organizations, or from any sources other than those of the individual or family.

(6) "Owner-occupied" means that the residence is occupied by: The legal owner; a person who does not hold formal title to the residence but is responsible for payment of taxes, maintenance of the residence, and pays no rent; or a person who has lifetime occupancy rights in the residence with formal title vested in another.

(d) *National eligibility criteria.* In administering the IFG program, a State shall determine the eligibility of an individual or family in accordance with the following criteria:

(1) *General.* (i) To qualify for a grant under this section, an individual or family representative must:

(A) Make application to all applicable available governmental disaster assistance programs for assistance to meet a necessary expense or serious need (see exception in paragraph (d)(1)(iii) of this section), and be determined not qualified for such assistance, or demonstrate that the assistance received does not satisfy the total necessary expense or serious need;

(B) Not have previously received or refused assistance from other means for the specific necessary expense or serious need, or portion thereof, for which application is made; and

(C) Certify to refund to the State that part of the grant for which assistance from other means is received, or which is not spent as identified in the grant award document.

(ii) Individuals or families who incur a necessary expense or serious need in the major disaster area may be eligible for assistance under this section without regard to their alienage, their residency in the major disaster area, or their residency within the State in which the major disaster has been declared.

(iii) Individuals or families are ineligible for disaster loan assistance from the Small Business Administration (SBA), and need not apply for such assistance, if they certify that they:

(A) Suffered only personal property damage; and

(B) Are unemployed; and

(C) Derive more than 50 percent of their income from welfare or social security payments.

(iv) The flood Disaster Protection Act of 1973, Pub. L. 93–234, as amended, imposes certain restrictions on approval of Federal financial assistance for acquisition and construction purposes. Subpart K of Part 205 implements Pub. L. 93–234 for FEMA assistance generally. This paragraph refines those requirements for the IFG program. To the extent that this paragraph is inconsistent with Subpart K, this paragraph applies.

(A) For the purposes of this paragraph, "financial assistance for acquisition or construction purposes" means a grant to an individual or family to repair, replace, or rebuild a home, and/or to purchase or repair insurable contents. However, the term does not include grants related to non-flood damage.

(B) A State may not make a grant for acquisition or construction purposes where the structure to which the grant assistant relates is located in a designated special flood hazard area which has been identified by the Director for at least one year as flood-prone, unless the community in which the structure is located is participating in the National Flood Insurance Program (NFIP). However, if a community qualifies for and enters the NFIP during the six-month period described in 44 CFR 205.253(a)(3)(i), the Governor's Authorized Representative (GAR) may request a time extension (see paragraph (k)(1) (ii) and (iii) of this section) from the Regional Director for the purpose of accepting and processing grant applications in that community. The Regional Director or Associate Director, as appropriate (see paragraph (k)(2) of this section), may approve the State's request if those applicable governmental disaster assistance programs which were available during the original application period are available to the grant applicants during the extended application period.

(C) (*1*) The State may not make a grant for acquisition or construction purposes where the structure to which the grant assistance relates is located in a designated special flood hazard area in which the sale of flood insurance is available under the NFIP unless the individual or family agrees to purchase adequate flood insurance and to maintain such insurance for the life of the structure or for as long as the individual or family occupies the residence whichever is less. Adequate flood insurance, for purposes of the IFG program means (*i*) for an owner-occupant, a policy providing coverage of at least $5,000 for the structure and $2,000 for contents; (*ii*) for a renter, a policy providing coverage of at least $5,000 for contents. If the grant recipient fails to obtain the required flood insurance he/she must return to the State the amount of the grant received for acquisition and construction and the amount received for the first year's premium. If the grant recipient fails to maintain the required insurance he/she will receive grant assistance only for flood damage to insurable items which exceeds the face value of the flood insurance policy had the policy been maintained. If the grant recipient can show proof that the settlement would have been less than the face value of the flood insurance policy, the State may approve the increased amount. The cost of the first year's premium is considered a necessary expense for those individuals or families who are required to obtain flood insurance (see paragraph (d)(2)(vi) of this section). If the same premium will provide more than the required coverage, the higher coverage should be obtained.

(*2*) After a determination that flood insurance is required and after disbursement of a grant, States shall require the grant recipient to provide proof of purchase of the required flood insurance.

(D) A State may not make a grant for acquisition or construction purposes where an applicant who is required to apply to SBA or FmHA in accordance with paragraph (d)(1)(i)(A) of this section is denied loan assistance because of failure to have obtained and/or maintained a flood insurance policy required as a condition of previous loan assistance.

(v) In order to comply with the President's Executive Orders on Floodplain Management (EO 11988) and Protection of Wetlands (EO 11990), the State must implement the IFG program in accordance with FEMA regulations 44 CFR Part 9. That part specifies which IFG program actions require a floodplain management decision-making process before a grant may be made, and also specifies the steps to follow in the decision-making process. Should the State determine that an individual or family is otherwise eligible for grant

assistance, the State shall accomplish the necessary steps in accordance with that section, and request the Regional Director to make a final floodplain management determination.

(2) *Eligible categories.* Assistance under this section shall be made available to meet necessary expenses or serious needs by providing essential items or services in the following categories:

(i) Housing. With respect to primary residences (including mobile homes) which are owner-occupied at the time of the disaster, grants may be authorized to:

(A) Repair, replace, or rebuild;

(B) Provide access. Where an access serves more than one individual or family, an owner-occupant whose primary residence is served by the access may be eligible for a proportionate share of the cost of jointly repairing or providing such access. The owner-occupant may combine his/her grant funds with funds made available by the other individuals or families if a joint use agreement is executed (with no cost or charges involved) or if joint ownership of the access is agreed to;

(C) Clean or make sanitary;

(D) Remove debris from such residences. Debris removal is limited to the minimum required to remove health or safety hazards from, or protect against additional damage to, the residence; and

(E) Provide or take minimum protective measures required to protect such residences against the immediate threat of damage.

(ii) Personal property such as:

(A) Clothing;

(B) Household items, furnishings, or appliances. If a pre-disaster renter receives a grant for household items, furnishings, or appliances, and these items are an integral part of a mobile home or other furnished unit, the pre-disaster renter may apply the funds awarded for these specific items toward the purchase of the furnished unit, and toward mobile home site development, towing, set-up connecting and/or reconnecting;

(C) Tools, specialized or protective clothing, and equipment which are required by an employer as a condition of employment;

(D) Repairing, cleaning or sanitizing any eligible personal property item; and

(E) Moving and storing to prevent or reduce damage.

(iii) Transportation. Grants may be authorized to provide public transportation. When public transportation is unavailable or inadequate, grants for private transportation may be provided.

(iv) Medical or dental expenses.

(v) Funeral expenses. Grants may include funeral and burial (and/or cremation) expenses.

(vi) Cost of the first year's flood insurance premium to meet the requirements of paragraph (d)(1)(iv)(C) of this section.

(vii) Minimization measures required by owner-occupants to: Comply with the provisions of 44 CFR Part 9 (Floodplain Management and Protection of Wetlands); enable them to receive assistance from other means; and enable them to comply with a community's floodplain management regulations.

(viii) Cost for estimates required for eligibility determinations under the IFG program. A grant in this category may not exceed the customary charges for such services in the disaster area.

(ix) Other. A State may determine that other necessary expenses and serious needs are eligible for grant assistance. If such a determination is made, the State must summarize the facts of the case and throughly document its finding of eligibility. Should the State require technical assistance in making a determination of eligibility, it may provide a factual summary to the Regional Director and request guidance. The Associate Director also may determine that other necessary expenses and serious needs are eligible for grant assistance. Following such a determination, the Associate Director shall advise the State, through the Regional Director, and provide the necessary program guidance.

(3) *Ineligible categories.* Assistance under this section shall not be made available for any item or service in the following categories:

(i) Business losses, including farm businesses and self-employment;

(ii) Improvements or additions to real or personal property, except those required to comply with paragraph (d)(2)(vii) of this section;

(iii) Landscaping;

(iv) Real or personal property used exclusively for recreation; and

(v) Financial obligations incurred prior to the disaster.

(e) *State administrative plan.* (1) The State shall develop a plan for the administration of the IFG program that includes, as a minimum, the items listed below:

(i) Assignment of grant program responsibilities to State officials or agencies.

(ii) Procedures for:

(A) Notifying potential grant applicants of the availability of the program, to include the publication of application deadlines, pertinent program descriptions, and further program information on the requirements which must be met by the applicant in order to receive assistance;

(B) Accepting applications at Disaster Assistance Centers and subsequently at State established local application centers;

(C) Establishing local application centers after the closing of Disaster Assistance Centers;

(D) Verifying necessary expenses and serious needs;

(E) Determining applicant eligibility and grant amounts by a State employee or panel of State employees, and notifying applicants of the State's decision;

(F) Determining the requirement for flood insurance;

(G) Preventing duplication of benefits between grant assistance and assistance from other means;

(H) At the applicant's request, reconsidering the State's determinations;

(I) Processing applicant appeals, recognizing that the State has final authority. Such procedures must provide for:

(*1*) The receipt of oral or written evidence from the appellant or representative,

(*2*) A determination on the record, and

(*3*) A decision by an impartial person or board;

(J) Disbursing grants in a timely manner;

(K) Verifying by random sample (no less than a 5% sample) that grant funds: are meeting applicants' needs; are not duplicating assistance from other means; and are meeting floodplain management and flood insurance requirements.

(L) Recovering grant funds obtained fraudulently, expended for unauthorized items or services, expended for items for which assistance is received from other means, not expended or committed as of the date the State requests Federal reimbursement, or authorized for acquisition or construction purposes where proof of purchase of flood insurance is not provided to the State;

(M) Conducting a State audit;

(N) Reporting to the Regional Director, and to the Federal Coordinating Officer as required; and

(O) Reviewing and updating the plan.

(iii) National eligibility criteria as defined in paragraph (d) of this section.

(iv) Provisions for compliance with Section 311 of the Act, Non-discrimination in Disaster Assistance, and Section 317 of the Act, Criminal and Civil Penalties.

(v) Pertinent time limitations for accepting applications, grant award activities, and administrative activities.

(vi) Provisions for specifically identifying, in the accounts of the State, all Federal and State funds committed to each grant program, and provisions for ensuring the immediate return, upon discovery, of all advances made by the Federal Government that are excess to the program needs.

(D) The Governor or his/her designee may request the Regional Director to provide technical assistance in the preparation of an administrative plan to implement this program.

(3) The Regional Director shall review the State administrative plan in each disaster for which assistance under this section is requested, and may defer approval until the plan meets the requirements of this section and current policy guidance.

(4) The State shall make its approved administrative plan part of the State emergency plan, as described in Section 205.4 of these regulations.

(f) *State initiation of the IFG program.* To make assistance under this section available to disaster victims, the Governor must, either in the request to the President for a major disaster declaration or by separate letter to the Regional Director, express his/her intention to implement the program. This expression of intent must include an estimate of the size and cost of the program. In addition, this expression of intent represents the Governor's agreement to the following:

(1) That the program is needed to satisfy necessary expenses and serious needs of disaster victims which cannot otherwise be met;

(2) That the State will pay its 25 percent share of all grants to individuals and families;

(3) That the State will return immediately upon discovery advanced Federal funds that exceed actual requirements;

(4) To implement an administrative plan as identified in paragraph (e) of this section;

(5) To implement the grant program throughout the area designated as eligible for assistance by the Associate Director; and

(6) To maintain close coordination with and provide reports to the Regional Director.

(g) *Approval of funds.* (1) The Regional Director may approve Federal assistance under this section upon his/her determination that:

(i) The Governor has indicated his/her intention to implement the program in accordance with paragraph (f) of this section; and

(ii) The State administrative plan meets the requirements of this section and current policy guidance.

(2) The Regional Director may approve Federal assistance based on his/her estimate of the amount required to meet the necessary expenses and serious needs of disaster-affected individuals and families which cannot be met through assistance from other means. The Regional Director may authorize the use of the letter of credit as a mechanism for funding the IFG program.

(h) *Advance of funds.* (1) The GAR shall submit requests, and the Regional Director may authorize advances of funds, for the Federal share of grants under this section.

(2) The Regional Director may also authorize advances of funds for the State share of grants under this section if the State is unable immediately to pay its 25 percent share.

(i) The Governor shall make the initial request to the Regional Director for an advance of the State share. The request shall include:

(A) A certification that the State is unable immediately to pay its 25 percent share;

(B) A statement of the specific actions taken or to be taken to overcome the inability to provide the State share;

(C) A certification that the State will repay this advance when it is able, and the date for this repayment; and

(D) An estimate of the total amount needed to meet the State's 25 percent share.

(ii) The GAR may submit to the Regional Director subsequent requests for advances of the State share.

(3) The Regional Director may recover any advance of the State share not repaid by the date established in accordance with paragraph (h)(2)(i)(C) of this section, or any excess advance of the Federal share not refunded within 30 days after completion of the Federal audit (or State audit in those programs where no Federal audit is conducted), in accordance with 44 CFR Part 11, Subpart C, including the offset of Federal funds to which the State would otherwise be entitled.

(4) The Regional Director may withhold advances under this section if the State has failed to repay an advance of its share in a previous IFG program in accordance with the date in paragraph (h)(2)(i)(C), of this section, or has failed to repay previous excess advances of Federal funds after completion of the Federal audit (or State audit in those programs where no Federal audit is conducted).

(i) *Reimbursement to the State.* (1) The Regional Director shall approve reimbursement to the State of the Federal share of eligible costs on the basis of a voucher filed by the State and supported by a State audit. Costs that are eligible for reimbursement include 75 percent of the cost of meeting necessary expenses or serious needs of individuals and families, and expenses incurred in administering the grant program. The maximum amount of State administrative expenses that is eligible for reimbursement is computed by dividing the eligible Federal cost of meeting necessary expenses or serious needs of individuals and families by 0.97, and subtracting the eligible Federal cost of meeting such expenses or needs from the quotient.

(2) If a State requests reimbursement for a grant that is improperly or inadequately documented, or that does not conform to the State administrative plan, the Regional Director shall suspend the claim.

(3) The State may request reimbursement for a grant that has not yet been expended or committed by the grant recipient. The State shall justify such a claim, including the steps being taken to eliminate it. If the Regional Director determines that the justification is inadequate, he/she shall suspend the claim.

(4) The State may request reimbursement for a grant that was made on the basis of fraudulent information, that was misapplied by the grant recipient, that duplicates assistance from other means, or that was authorized for acquisition or construction where proof of purchase of flood insurance was not provided to the State. If the State has taken the action required by its administrative plan to recover the grant funds, but has been unable to do so, the Regional Director shall approve the claim.

(j) *Audits.* The State shall audit each grant program in accordance with audit guidelines provided by the Regional Director. All claims are subject to Federal audit.

(k) *Time limitations.* (1) In the administration of the IFG program:

(i) The Governor shall indicate his/her intention to implement the IFG program no later than seven days following the day on which the major disaster was declared and in the manner set forth in paragraph (f) of this section;

(ii) The State shall accept applications from individuals or families for a period

of 60 days following the declaration date, and for a minimum of 30 days thereafter when the State determines that extenuating circumstances beyond the applicants' control (such as, but not limited to, hospitalization, illness, or inaccessibility to application centers) prevented them from applying in a timely manner;

(iii) The State shall complete all grant award activity, including eligibility determinations, disbursements, and disposition of appeals, within 180 days following the declaration date. The Regional Director shall suspend all grant awards disbursed after the specified completion date; and

(iv) The State shall complete all administrative activities and submit final reports, State audit, and vouchers to the Regional Director within 90 days of the completion of all grant award activity.

(2) The GAR may submit a request with appropriate justification for the extension of any time limitation. The Regional Director may approve the request for a period not to exceed 90 days. The Associate Director may approve any request for a further extension of the time limitations.

(l) *Appeals.* (1) The State may appeal to the Regional Director any Federal action under paragraphs (g) through (k) of this section. An appeal shall be made in writing within 30 days of the date of the Federal action. The Regional Director shall review the material submitted, conduct an investigation if appropriate, and, not later than 15 days following receipt of the appeal, notify the State of his/her decision in writing.

(2) The State may further appeal the Regional Director's decision to the Associate Director. This appeal shall be made in writing within 15 days of the Regional Director's decision. Action by the Associate Director is final.

(m) *Exemptions from garnishment.* All proceeds received or receivable under the IFG program shall be exempt from garnishment, seizure, encumbrance, levy, execution, pledge, attachment, release, or waiver. No rights under this provision are assignable or transferable. The above exemptions will not apply to the requirement imposed by paragraph (e)(1)(ii)(L) of this section.

Dated: March 2, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6866 Filed 3-10-82; 8:45 am]

BILLING CODE 4718-02-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 25, 33, 75, 94, 108, 160, 162, 164, 180, and 192

[CGD 80-155a]

Lifesaving Equipment; Revocation of Obsolete Specifications

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revoking the approval specifications for cork and balsa wood ring life buoys, and the material specifications for cork and balsa wood. These ring life buoys are no longer manufactured. The requirements for ring life buoys have been amended to allow buoys approved under these specifications to be used as long as they are in good and serviceable condition. This action eliminates obsolete regulations from the Code of Federal Regulations.

EFFECTIVE DATES: This final rule becomes effective on April 12, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Frank K. Thompson, Merchant Marine Technical Division, (G-MMT/12), Office of Merchant Marine Safety, Room 1216, U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Washington, D.C. 20593, (202) 426-2174.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** of July 20, 1981 (46 FR 37290). The public was invited to submit comments until September 3, 1981. No comments were received and the rules are therefore made effective as proposed.

Drafting Information

The principal persons involved in drafting this final rule are Mr. Frank K. Thompson, Project Manager, Office of Merchant Marine Safety, and Lieutenant Walter J. Brudzinski, Project Counsel, Office of the Chief Counsel.

Discussion

The Coast Guard is revoking 46 CFR Subpart 160.009, the approval specification for cork and balsa wood ring life buoys. Because these items are no longer manufactured, a specification for their approval is unnecessary. Ring life buoys made of foam plastic (see 46 CFR 160.050) have replaced the wooden type and are now the only type of ring life buoy approved by the Coast Guard. Cork and balsa wood ring buoys previously approved under the revoked subpart may, however, be used as long as they are in good condition. With the revocation of Subpart 160.009, the material specifications for sheet cork, Subpart 164.001, and for balsa wood, Subpart 164.002 are unnecessary and therefore the Coast Guard is revoking them also.

These revocations require amendments to the various requirements for ring life buoys on vessels and structures which are located throughout Titles 33 and 46, Code of Federal Regulations. Amendments to Title 33, similar in language and form to these amendments, are set out in a separate rulemaking document in this issue of the **Federal Register**. This final rule also updates the authority citations of the affected CFR Parts.

Evaluation

This final rule has been reviewed under the provisions of Executive Order 12291 and has been determined not to be major. In addition, this final rule is considered to be nonsignificant in accordance with the guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). An economic evaluation has not been conducted because the impact is expected to be minimal. These amendments merely revoke outdated approval specifications, but allow equipment previously approved under those specifications to remain in use as long as it is in good and serviceable condition.

Final Regulations

In consideration of the foregoing, Chapter I of Title 46, Code of Federal Regulations is amended as follows:

PART 25—REQUIREMENTS

1. The authority citation for Subpart 25.25 is revised to read as follows:

Authority: R.S. 4405 as amended (46 U.S.C. 375); R.S. 4462 as amended (46 U.S.C. 416); c. 155, sec. 17, 54 Stat. 166 as amended (46 U.S.C. 526p); secs. 5, 39, 85 Stat. 215, 228 (46 U.S.C. 1454, 1488); sec. 6(b)(1), 80 Stat. 938 (49 U.S. C. 1655(b)(1)); 49 CFR 1.46(b).

2. § 25.25-5(d) is revised to read as follows:

§ 25.25-5 Life preservers and other lifesaving equipment required.

* * * * *

(d) In addition to the equipment required by paragraph (b) or (c) of this section, each vessel 26 feet in length or longer must have at least one approved ring life buoy, constructed in accordance with Subpart 160.050 of this chapter; except a ring life buoy that was approved under former Subpart 160.009 of this chapter may be used as long as it is in good and serviceable condition.

PART 33—LIFESAVING EQUIPMENT

1. The authority citation for Part 33 is revised to read as follows:

Authority: R.S. 4405, as amended, (46 U.S.C. 375); R.S. 4417a, as amended, (46 U.S.C. 391a); R.S. 4462, as amended, (46 U.S.C. 416); R.S. 4488, as amended, (46 U.S.C. 481); sec. 3, 65 Stat. 675, (50 U.S.C. 198); E.O. 12234, 3 CFR, 1980 Comp.; sec. 6(b)(1), 80 Stat. 938 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b).

2. In § 33.40-1, paragraph (a) is revised to read as follows:

§ 33.40-1 Ring life buoys and water lights, general requirements—TB/ALL.

(a) Each ring life buoy must be of an approved type, constructed in accordance with Subpart 160.050 of this chapter; except a ring life buoy that was approved under former Subpart 160.009 of this chapter may be used as long as it is in good and serviceable condition.

* * * * *

PART 75—LIFESAVING EQUIPMENT

1. The authority citation for Part 75 is revised to read as follows:

Authority: R.S. 4405, as amended, (46 U.S.C. 375); R.S. 4462, as amended, (46 U.S.C. 476); c. 463, sec. 5, 49 Stat. 1384, as amended, (46 U.S.C. 369); R.S. 4417, as amended, (46 U.S.C. 391); R.S. 4418, as amended, (46 U.S.C. 392); R.S. 4426, as amended, (46 U.S.C. 404); R.S. 4488, as amended, (46 U.S.C. 481); R.S. 4491, as amended, (46 U.S.C. 489); sec. 10, 35 Stat. 428, as amended, (46 U.S.C. 395); 41 Stat. 305, as amended, (46 U.S.C. 363); secs. 1, 2, 49 Stat. 1544, 1545 (46 U.S.C. 367); c. 258, sec 3, 70 Stat. 152, as amended, (46 U S.C. 390b); c. 155, sec. 17, 54 Stat. 166, as amended, (46 U.S.C. 526(p)); sec. 3, 68 Stat. 675, (50 U.S.C. 198); E.O. 12234, 3 CFR, 1980 Comp.; sec. 6(b)(1), 80 Stat. 938 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b).

2. Paragraph (a) of § 75.43-5 is revised to read as follows:

§ 75.43-5 General.

(a) Each ring life buoy must be an approved type, constructed in accordance with Subpart 160.050 of this chapter; except a ring life buoy that was approved under former Subpart 160.009 of this chapter may be used if it is in good and serviceable condition.

* * * * *

PART 94—LIFESAVING EQUIPMENT

1. The authority citation for Subpart 94.43 is revised to read as follows:

Authority: R.S. 4405, as amended, (46 U.S.C. 375); R.S. 4462, as amended, (46 U.S.C. 416); sec. 6(b)(1), 80 Stat. 938, (49 U.S.C. 1655(b)(1)); (49 CFR 1.46(b)). Interpret or apply R.S. 4417, as amended, (46 U.S.C. 391); R.S. 4488, as amended, (46 U.S.C. 481); R.S. 4491, as amended, (46 U.S.C. 489); sec. 10, 35 Stat. 428, as amended, (46 U.S.C. 395); 41 Stat. 305, as amended, (46 U.S.C. 363); secs. 1, 2, 49 Stat. 1544, 1545, (46 U.S.C. 367); sec. 3, 65 Stat. 675, (50 U.S.C. 198); E.O. 12234, 3 CFR, 1980 Comp.; sec. 6(b)(1), 80 Stat. 938 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b).

2. Paragraph (a) of § 94.43-5 is revised to read as follows:

§ 94.43-5 General.

(a) Each ring life buoy must be of an approved type, constructed in accordance with Subpart 160.050 of this chapter; except a ring life buoy that was approved under former Subpart 160.009 of this chapter may be used if it is in good and serviceable condition.

* * * * *

PART 108—DESIGN AND EQUIPMENT

1. § 108.515(b)(2) is revised to read as follows:

§ 108.515 Ring life buoys.

* * * * *

(b) * * *

(2) Be approved under Subpart 160.050 of this chapter; except a ring life buoy that was approved under former Subpart 160.009 of this chapter may be used as long as it is in good and serviceable condition.

* * * * *

PART 160—LIFESAVING EQUIPMENT

§§ 160.009-1—160.009-7 (Subpart 160.009) [Removed]

1. Part 160 is amended by removing Subpart 160.009—"Specification for a Buoy, Life Ring, Cork or Balsa Wood for Merchant Vessels and Boats."

PART 164—MATERIALS

§§ 164.001-1—164.001-5 (Subpart 164.001) [Removed]

§§ 164.002-1—164.002-6 (Subpart 164.002) [Removed]

1. Part 164 is amended by removing Subpart 164.001, *Cork, Sheet, for Merchant Vessels* and Subpart 164.002 *Balsa Wood, for Merchant Vessels.*

PART 180—LIFESAVING EQUIPMENT

1. The authority citation for Part 180 is revised to read as follows:

Authority: R.S. 4405, as amended, (46 U.S.C. 375); R.S. 4462, as amended (46 U.S.C. 416); sec. 3, 70 Stat. 152, as amended, (46 U.S.C. 390b); R.S. 4488, as amended, (46 U.S.C. 481); sec. 6(b)(1), 80 Stat. 938 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b).

2. Section 180.05-1(b)(7) is revised to read as follows:

§ 180.05-1 Equipment of an approved type.

* * * * *

(b)* * *

(7) Ring Life Buoys 160.050

* * * * *

3. Section 180.30-1 (a) is revised to read as follows:

§ 180.30-1 General.

(a) Each ring life buoy must be of an approved type, constructed in accordance with Subpart 160.050 of this chapter; except a ring life buoy that was approved under former Subpart 160.009 of this chapter may be used if it is in good and serviceable condition.

* * * * *

PART 192—LIFESAVING EQUIPMENT

1. The authority citation for Part 192 is revised to read as follows:

Authority: R.S. 4405, as amended, (46 U.S.C. 375); R.S. 4462, as amended, (46 U.S.C. 416). Interpret or apply R.S. 4417, as amended (46 U.S.C. 391); R.S. 4418, as amended, (46 U.S.C. 392); R.S. 4453, as amended, (46 U.S.C. 435); R.S. 4488, as amended (46 U.S.C. 481); sec. 10, 35 Stat. 428, as amended (46 U.S.C. 395); c. 62, 41 Stat. 305, as amended (46 U.S.C. 363); secs. 1, 2, 49 Stat. 1544, 1545, as amended (46 U.S.C. 367); secs. 5, 17, 54 Stat. 164, 166, as amended, (46 U.S.C. 526e,p); sec. 6(b)(1), 80 Stat. 938 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b), unless otherwise noted.

2. Paragraph (a) of § 192.43-5 is revised to read as follows:

§ 192.43-5 General.

(a) Each ring life buoy must be of an approved type constructed in accordance with Subpart 160.050 of this chapter; except a ring life buoy that was approved under former Subpart 160.009 of this chapter may be used if it is in good and serviceable condition.

* * * * *

Dated: March 3, 1982.

Clyde T. Lusk,

Rear Admiral, U.S. Coast Guard Chief, Office of Merchant Marine Safety.

[FR Doc. 82-6725 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 42

Preservation of Records of Communication Common Carriers; Clarification of Requirement for Retention of Trouble Report History Records

AGENCY: Federal Communications Commission.

ACTION: Clarification of a certain section of the Commission's rules.

SUMMARY: This document clarifies a section of Part 42 of the Commission's rules for Mr. F. L. Koerner, General Rates Planning Staff Manager of Central Telephone and Utilities Corporation who requested clarification of the retention requirement as prescribed in § 42.9 of Part 42 of the Commission's rules and regulations as it pertains to trouble report history records. He also requests clarification of the term "active file" as used in the context of § 42.9.

FOR FURTHER INFORMATION CONTACT:
Mr. Stephen Steckler, Chief, Accounting Branch, Accounting and Audits Division, Common Carrier Bureau, Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554, Telephone (202) 634–1861.

Stephen Steckler,

Chief, Accounting Branch, Accounting and Audits Division, Common Carrier Bureau.

Central Telephone and Utilities Corporation,
O'Hare Plaza, 5725 East River Road,
Chicago, Illinois.

Attention: F. L. Koerner, General Rate Planning Staff Manager.

Gentlemen: This refers to your letter of January 12, 1982, wherein you request clarification as to whether or not "trouble report history records" are included in retention requirement item 44(h) contained in § 42.9 of Part 42 of our rules and regulations. You also request an interpretation of what is meant by "active file" as contained in the referenced section.

In reponse to your first question, § 42.1(a) states that the regulations in this part apply to all accounts, records, memoranda, documents, papers, and correspondence prepared by or on behalf of the carrier * * *" Item 44(h) specifically lists individual *trouble reports*, also toll circuit *trouble history records*. The list of records outlined in § 42.9 appears quite explicit in this regard. Therefore, your trouble report history records should be retained as prescribed.

You also request that we clarify our interpretation of the term "active file." In the context in which it is used in § 42.9 "active file" refers to a file on current, on line customers. Once the customer terminates service, his file is no longer active (except temporary disconnects for non-payment of bill or seasonal disconnects).

I hope this information is helpful to you; if we can be of further assistance do not hesitate to contact this office.

Sincerely,

Stephen Steckler,

Chief, Accounting Branch, Accounting and Audits Division, Common Carrier Bureau.

[FR Doc. 82-6693 Filed 3-10-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-201, etc.; RM-3249 and 3710, etc.]

FM Broadcast Station In Certain Communities In South Carolina; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a second FM channel to North Charleston, South Carolina, at the request of T. B. Trammel. Also, first FM assignments are made to Eastover, Ravenel, Parris Island, and Mount Pleasant, South Carolina, at the request of William G. Dudley, M. E. Foley, D. W. McFarland, and John M. Dunnagan, respectively. Because they were either mutually exclusive with the new assignments or could not conform with the Commission's minimum distance separation requirements for FM stations, proposed assignments at Elloree, Manning, Johnston, Winnsbŏro Mills, Saluda, and Union, South Carolina, are denied. A proposed assignment to Leesville, South Carolina, is denied for lack of interest in the channel.

DATE: Effective May 7, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Michael A. McGregor, Broadcast Bureau, 632–7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (North Charleston, Eastover, and Ravenel, South Carolina) BC Docket No. 80–201, RM–3249, RM–3710; Amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Elloree, South Carolina), BC Docket No. 80–211, RM–3579; Amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Mount Pleasant, Parris Island, Manning, Bamberg, and Batesburg, South Carolina), BC Docket No. 80–213, RM–3408, RM–3718, RM–3719; Amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Johnston, Leesville, Winnsboro Mills, Saluda, Union, and Batesburg, South Carolina), BC Docket No. 81–171, RM–3518, RM–3556, RM–3613, RM–3666, RM–3771.

Report and Order—Proceeding Terminated

Adopted: February 25, 1982.

Released: March 8, 1982.

1. Before the Commission is a "Further Notice of Proposed Rule Making and Orders to Show Cause," 46 FR 19737, published March 26, 1981, proposing seven separate assignment plans involving the above-captioned communities. The communities were divided into two sets, Set A and Set B, because any assignment plan proposed for Set A could be adopted independently of any assignment plan for Set B. The communities included in Set A are North Charleston, Eastover, Ravenel, Elloree, Parris Island, and Mount Pleasant. Set B includes the communities of Manning, Bamberg, Batesburg, Johnston, Winnsboro Mills, Saluda, Union, and Leesville. In this "Report and Order", we shall first address Set A in its entirety and then proceed to an analysis of Set B.

Set A

2. The following table lists the three assignment plans proposed for the communities in Set A:

Community	Plan A-I		Plan A-II		Plan A-III	
	Present	Proposed	Present	Proposed	Present	Proposed
North Charleston	273	241, 273	273	241, 273	273	273
Eastover		257A				240A
Ravenel		269A		269A		240A
Elloree				257A		257A
Parris Island		221A		221A		221A
Mount Pleasant		285A		285A		269A, 285A

As explained in the "Further Notice", in Plan I, North Charleston is assigned a second Class C channel, and all of the other communities are assigned Class A channels except Elloree. Plan II is similar except Elloree receives an assignment and Eastover does not. Plan III proposes no further assignment to North Charleston, but assigns two Class A channels to Mount Pleasant in addition to Class A channels to all the other communities. Comments in response to the "Further Notice" were submitted by T. B. Trammel ("Trammel"), the original proponent of the Class C assignment to North Charleston; William K. Durst ("Durst"); William G. Dudley, III ("Dudley"), proponent of the assignment to Eastover; M. E. Foley ("Foley"), proponent of the assignment to Ravenel; Santee-Cooper Broadcasting Company ("Santee-Cooper"), proponent of the assignment to Elloree; D. W. McFarland ("McFarland"), proponent of the assignment to Parris Island; and John M. Dunnagan ("Dunnagan"), proponent of the proposal to assign a channel to Mount Pleasant. Reply comments were filed by Trammel, William Roversi ("Roversi"), Dudley, Foley, and Santee-Cooper.

3. Before summarizing the comments received in response to the "Further Notice", we believe it would be helpful to provide some background information on the communities involved in this proceeding and the justifications given by the assignments' proponents for placing FM channels in particular communities. Much of this information was presented in the "Further Notice", but we will repeat it here for the convenience of the reader.

4. North Charleston, with a 1980 population of 65,630,[1] has increased in size by over 45,000 inhabitants since 1970. The city is located approximately 10 kilometers (6 miles) north of Charleston, and is served locally by daytime-only AM Station WNCG and FM Station WKTM (Channel 273). The petitioner for the North Charleston assignment asserts that the city plays an important role in the growth and expansion of the entire county and contains the largest share of industry in the area. The community also includes the Charleston Naval Base, which makes North Charleston a large center of employment.

5. Ravenel has a reported 1980 population of 1,655 as compared with its 1970 population of 931. Ravenel is located approximately 27 kilometers (17 miles) west of Charleston. The community presently has no local aural service. M. E. Foley, the proponent of the assignment to Ravenel, states that Ravenel is an incorporated town governed by a mayor and six town council members. In addition to being a "convenient resting place for travelers," Foley asserts that small locally owned businesses and a nearby chemical plant support the economy of the city.

6. Eastover has grown from a population of 817 in 1970 to 899 in 1980. Eastover is located 40 kilometers (25 miles) east of Columbia, South Carolina. The city has no local aural service. Petitioner for the Eastover assignment, William G. Dudley, states that Eastover is an incorporated town which is governed by an elected mayor and four town council members. Eastover is located in the heart of a large agricultural section of Richland County and serves as a market place for area farmers and agricultural workers and the employees of the East Coast steel mill, Westvaco forestry activities, and a new electricity and gas complex.

7. The community of Elloree has declined in population from 940 in 1970 to 909 in 1980. Elloree is located approximately 108 kilometers (67 miles) northwest of Charleston. Since this proceeding was initiated, Elloree has received local aural service from a new daytime-only AM station licensed to Elloree-Santee. Petitioner for the Elloree assignment, Santee-Cooper, asserts that Elloree and its surrounding area is the retirement and recreational spot in the heart of South Carolina. It avers that the proposed station would provide a first local FM service to Elloree and would also serve an important section of rural population in Orangeburg County.

8. Mount Pleasant has grown from a 1970 population of 6,879 to a 1980 population of 13,838. The community, which is located approximately 6 kilometers (4 miles) from Charleston, presently has no local aural broadcast service. John M. Dunnagan, the proponent of the Mount Pleasant assignment, states that the most important industry, in and around the city, is fishing, with large seafood packing companies located in Mount Pleasant. Dunnagan notes that because of the community's rapid growth, the construction and service industries have expanded greatly.

9. Parris Island, which had a 1970 population of 8,868,[2] is located approximately 85 kilometers (53 miles) southwest of Charleston and presently has no local aural service. According to the petitioner for the Parris Island assignment, D. W. McFarland, Parris Island is a Marine Corps Recruiting Depot housing 2,300 permanent personnel and from 5,000 to 10,000 temporary personnel at any one time. Petitioner states that for assignment purposes Parris Island has many attributes of a community including a Base Exchange, commissary, library, golf course, service station, post office, commercial bank, and bowling alley.

Comments in Response to the Further Notice

10. Trammel, the original petitioner for a Class C channel assignment to North Charleston, reaffirms his intention to apply for the channel if assigned to that city. Trammel supports the adoption of assignment Plan II because that plan proposes assignments to cities having the greatest combined population. Trammel opposes Plan III because that plan would not assign a second channel to North Charleston. According to Trammel, failing to assign a second channel to North Charleston in order to make a first assignment to the smaller cities of Elloree, Ravenel, and Eastover would not result in the "fair, efficient, and equitable distribution of radio services" as required by the Communications Act. Trammel avers that North Charleston's only present FM station is co-owned with the city's only AM station and that a second FM assignment would provide North Charleston with its first competitive aural service. Trammel also notes the growth of North Charleston as further evidence of the community's need for a second FM assignment. Durst also supports the assignment of Channel 241 to North Charleston and asserts that he will apply for the channel, if assigned. Durst opines that the possibility of a Class A assignment to communities such as Eastover and Elloree, which have populations less than 1,000 and are already well served with FM reception service, should not foreclose a second assignment to the rapidly growing community of North Charleston.

11. Dudley, petitioner for the assignment to Eastover, reiterates his intention to apply for a channel, if assigned. Dudley notes that Plan I would deprive Elloree of its first assignment while Plan II similarly deprives Eastover. Dudley asserts that because the implementation of first local service is a primary assignment criterion, both communities should receive a channel. Therefore, Dudley supports Plan III.

12. Foley, proponent of the assignment to Ravenel, repeats his commitment to apply for the channel in Ravenel if assigned. Foley notes that two channels have been suggested for assignment to Ravenel, Channels 240A and 269A. According to Foley, assigning Channel 269A to Ravenel could cause site location problems due to interference with Station WCEW operating on Channel 215. Foley also claims that assigning Channel 269A to Ravenel would preclude Station WCEW from increasing its power and changing its transmitter site in the future. For these reasons, Foley urges the assignment of Channel 240A to Ravenel, and therefore prefers assignment Plan III.

13. Santee-Cooper makes several arguments in support of the assignment of Channel 257A to Elloree. In addition to presenting community data and discussing the growth of Elloree and the

[1] All population figures are taken from the 1970 and 1980 U.S. Censuses.

[2] No 1980 Census data are available for Parris Island.

surrounding area, Santee-Cooper asserts that the commission wrongly included Elloree in this expanded rule making. Santee-Cooper states that the initial Elloree proposal was not contested or even commented upon and should have been finalized long ago. The Commission's actions, by including Elloree in the instant proceeding, threaten to delay and possibly prevent Elloree from receiving a much-needed first FM assignment. Santee-Cooper reasons that the mandate of section 307(b) of the communications Act of 1934—to assign frequencies in a fair and efficient manner—should not be automatically applied in derogation of a sound regulatory process. Santee-Cooper, noting that Dudley owns North Charleston's two existing radio stations, further alleges that the Eastover and Ravenel proposals are not *bona fide* proposals and were offered simply to defeat the assignment of a second channel to North Charleston. Therefore, Santee-Cooper opines that the Eastover and Ravenel proposals should be dismissed. If the Commission is inclined to consider the Eastover and Ravenel proposals, Santee-Cooper submits that all the communities under consideration could be assigned a new channel if the proposed standards of BC Docket 80–90 were utilized.[3]

14. McFarland, the petitioner for Channel 221A at Parris Island, reaffirms his interest in the assignment and states that he will apply for the channel if assigned. Dunnagan, the proponent of the assignment to Mount Pleasant, likewise states that if a channel is assigned to Mount Pleasant, he will apply for authority to construct and operate a station.

15. In reply, Trammel states that only one party has expressed a continuing interest in an assignment at Mount Pleasant. This is an additional factor, according to Trammel, arguing against adopting Plan III, which proposes two Mount Pleasant assignments but no additional assignment to North Charleston. Trammel also concludes that Elloree appears to warrant an assignment. By contrast, Trammel asserts that the comments and petitions supporting assignments to Eastover and Ravenel give no description of the communities and no justification for making assignments there. Trammel concludes that neither Eastover nor Ravenel should be assigned a channel. Accordingly, Trammel supports adoption of Plan II, except for the assignment of a channel to Ravenel. William Roversi also supports the assignment of a second FM channel at North Charleston and states that he will apply for a channel there, if assigned.

16. Dudley states in his reply comments that the proponents of a second North Charleston assignment conveniently ignore the fact that North Charleston is not an isolated community but is adjacent to Charleston. Dudley states that assigning another FM station to North Charleston would not provide the third local service to a separate community, but would add the 12th station to an already well-served area. Dudley also counters Durst's assertions that a channel in North Charleston would serve any previously underserved areas by stating that recent changes in the operation of existing stations have already covered any previously "gray" areas. Regarding Santee-Cooper's comments, Dudley asserts that the "scurrilous and completely unsupported" allegations should be stricken from the record as having no basis in fact. Similarly, Foley states that Santee-Cooper has no proof or substantiation for the charges that the Ravenel petition represents a "strike proposal," and he argues that the comments should be stricken from the record.

17. Santee-Cooper, in its reply comments, again avers that the assignment to Elloree should be finalized irrespective of any other actions taken in this proceeding. Santee-Cooper reiterates its charges that the Eastover and Ravenel proposals are merely intended to prevent a second assignment to North Charleston. Finally, Santee-Cooper states that it supports the assignment of two channels to Mount Pleasant, although it does not commit itself to apply for a channel there.

18. Initially, we note that under all three plans proposed for the communities listed in Set A, the communities of Parris Island and Mount Pleasant would receive at least one FM assignment. No parties commenting in this proceeding have opposed a first FM assignment to either Parris Island or Mount Pleasant. Further, it appears that both communities deserve assignments and interests have been expressed in their use. Thus, we shall assign one channel to Parris Island and Mount Pleasant. The Parris Island assignment requires a site restriction of 4 miles northeast in order to avoid short-spacing to Hinesville, Georgia. With respect to a second channel assignment to Mount Pleasant, no party commenting in this proceeding has expressed a willingness to apply for an additional channel. Without this expression of interest, we shall not make the assignment.

19. The remaining four communities under consideration are North Charleston, seeking its second FM assignment, and Eastover, Elloree, and Ravenel, each seeking a first FM assignment. To some degree, all of these proposed assignments have been contested. Therefore, an analysis of the issues presented regarding these remaining communities requires a somewhat more extensive treatment. We shall first address the propriety of making a second channel assignment to North Charleston vis-a-vis a first assighment to either Eastover or Elloree.[4] In comparing mutually exclusive assignments, the Commission generally first looks to its established FM assignment priorities.[5] These priorities, as applicable to this proceeding are:

(a) Insofar as possible, to provide each community with at least one FM broadcast station, especially where the community has only a daytime-only or local AM station, and especially where the community is outside of an urbanized area;

(b) Provide a choice of at least two FM services to as much of the population of the United States as possible, especially where there is no primary AM service available; and,

(c) Provide, in all communities which appear to be of large enough size to support two local stations, two local FM stations, especially where the community is outside of an urbanized area.

A straightforward application of the above-listed priorities would result in first assignments to Elloree and Eastover, which both have populations of less than 1,000, while denying a second assignment to the larger and more important city of North Charleston. We do not believe that such a result is equitable in this paraticular instance. First of all, our priorities were not intended to be applied in rigid and mechanical fashion. "See, Anamosa, Iowa," *supra* at 525. Rather, we take into account the relative sizes and the need for the requested FM assignment. Here, favoring a second assignment to a large, dynamic community over a first assignment to a very small community is not inconsistent with the Commission's mandate to assign frequencies in a fair and efficient manner.

20. The Commission has stated that applying the assignment priorities in a strict manner may lead to anomalous results. For example, applying the priorities literally, "* * * the result would be that any community, even one of only 100 persons, seeking a first channel would automatically succeed in preference to a second channel in a city of 1,000,000 that would bring a second service to 4,000,000 people. Needless to say, we have not followed such a rigid pattern and have taken into account the size of the respective communities and their need for an FM station." "Anamosa and Iowa City, Iowa," *supra* at 525 (1974). In this particular instance, we find it more equitable to assign a second channel to North Charleston. We base this decision on its recent large growth in population and relative lack of strictly local service. Having determined that North Charleston deserves a second FM channel, we may exclude Plan III from further consideration. In excluding this plan, we deny a second FM Channel to Mt. Pleasant in which no interest has been expressed and force a choice between Elloree and Eastover for a first FM channel.

21. Plans I and II are similar except that Plan I makes an assignment to Eastover while Plan II favors an assignment to Elloree. Thus, we must now make a decision concerning which community, Eastover or Elloree, is more deserving of a first FM assignment. In making such a comparison, we must consider the size, growth, location, ability to receive additional FM services, and existing local aural service of both communities. According to the 1980 U.S. Census, the towns of Eastover and Elloree are virtually the same size. However, in comparing 1980 versus 1970 populations, we find that Eastover has made a modest gain in population while Elloree has shown a slight decline. Eastover, however, is part of the Columbia, South Carolina, SMSA and receives 60 dBu service or better from four FM stations. Elloree receives such service from three FM stations. Neither proposed assignment would provide any first or second FM service to unserved or underserved areas. With respect to existing local aural service, Eastover has none while Elloree is served by a daytime-only AM station licensed to Elloree-Santee. In our opinion, the fact that Elloree has some local aural service combined with its declining population persuades us that, of the two communities, Eastover is more deserving of a first FM channel. The assignment of Channel 257A to Eastover requires a 3.2-mile southeast site restriction.

22. In favoring Eastover over Elloree, we feel compelled to answer several of the arguments proffered by Santee-Cooper, the proponent of the Elloree assignment. Santee-Cooper forcefully argues that its petition was initially uncontested and mutually exclusive with no other FM proposal and that it is therefore unfair for the Commission staff to include it in this complex proceeding. According to Santee-Cooper, sound administrative procedures are at least as important as the Commission's mandate to make assignments in a fair and equitable manner. We disagree. The fact that the Elloree petition was initially uncontested and could have been granted earlier cannot be given precedence over the situation as it now exists. We must make our determination based on our perceptions of the public interest at the present. The Elloree petition was included in this expanded proceeding for the purpose of determining which communities in South Carolina are most deserving of the limited channels available. Having determined that North Charleston and Eastover are more deserving of FM assignments, we cannot agree that sound administrative policy demands that Santee-Cooper's previously uncontested petition be granted. See, "Blytheville, Arkansas, et al." 49 R.R. 2d 470 (Broadcast Bureau 1981).

23. Santee-Cooper also avers that denying Elloree an assignment at this time effectively precludes the community from ever receiving any local FM service. While it is true that our actions prevent Elloree from immediately receiving an assignment, it is by no means certain that the community is thus forever foreclosed. Rearrangements in the Table of Assignments in the future may open up other assignment possibilities for Elloree. Also, if the Commission adopts the proposals in BC Docket 80–90,[6] a significant increase in the availability of FM frequencies in the South Carolina area could occur.[7] Thus our actions today certainly do not foreclose the possibility that Elloree might receive an assignment in the future.

24. Santee-Cooper's final argument concerns the motivations of Dudley and Foley in proposing the Eastover and Ravenel assignments. According to Santee-Cooper, these proposals were made solely to defeat the North Charleston assignment and thereby prevent competition to Dudley's existing North Charleston stations. Aside from Santee-Cooper's allegations, nothing in the record corroborates these assertions. Dudley and Foley have submitted information indicating that Eastover and Ravenel are communities deserving of FM assignments. Further, they have committed themselves to apply for channels in Eastover and Ravenel, if assigned. Thus, we believe that Dudley and Foley have met the Commission's assignment criteria. The fact that Dudley owns the existing North Charleston stations is, for our present purposes, irrelevant. Station ownership is not a consideration in FM assignment cases unless it can be shown that the proponent of a new assignment would not be permitted to operate the requested channel because of our multiple ownership rules. "Hunter-Granger, Utah", 40 R.R. 2d 535, 538 (Broadcast Bureau, 1977). No such showing has been made in this proceeding. Thus, the assertions of Santee-Cooper regarding the motivations of Dudley and Foley in prosecuting the Eastover and Ravenel assignments have no bearing on our considerations, and we shall assign Class A channels to both communities.

25. One final issue must be addressed. Foley argues that he prefers the assignment of Channel 240A over 269A to Ravenel because of possible conflicts with Class D noncommercial Station WCEW operating in Charleston on Channel 215. At present, the Commission does not protect Class D stations. Further, if Station WCEW wants to upgrade its facilities at some time in the future, the required separation between it and Channel 269A would be only five miles. Because Station WCEW and the Ravenel reference point are over 10 miles apart, no problem is anticipated. We shall therefore adopt our proposal to assign Channel 269A to Ravenel.

Set B

26. The following table lists the four assignment plans proposed for the communities in Set B:

[3] Modification of FM Broadcast Station Rules to Increase the Availability of Commercial FM Broadcast Assignments, 78 F.C.C. 2d 1235 (Notice of Proposed Rule Making, 1980).

[4] As indicated earlier, all three of these cities cannot, at this time, receive the requested assignment.

[5] The FM assignment priorities were originally set out in the Further Notice of Proposed Rule Making in Docket No. 14185, 27 FR 7797, 7798 (August 7, 1962), and restated in Anamosa and Iowa City, Iowa, 46 F.C.C. 2d 520 (1974).

[6] See footnote 3.

[7] Although we acknowledge that our actions in BC Docket 80–90 may open up new assignment possibilities for Elloree, our action in this proceeding in no way relies on that possibility. We have consistently stated that we will not make important assignment decisions based on the potential outcome of BC Docket 80–90. Beaumont, Lake Jackson and Port Lavaca, Texas, 46 FR 62074, published December 22, 1981; Rhinelander, Wisconsin, et al. 49 R.R. 2d 1113 (Broadcast Bureau, 1981). Similarly, we are not inclined to grant waivers of the existing regulations in order to grant assignments which would comply with the proposals of Docket 80–90. Thus, the proposal of Santee-Cooper to make a series of assignments based on proposed changes in the assignment regulations will not be adopted.

	Plan B-I		Plan B-II		Plan B-III		Plan B-IV	
Manning	221A	223	221A	223	221A	223	221A	221A
Bamberg	224A	221A	224A	221A	224A	221A	224A	224A
Batesburg	221A	237A	221A	237A	221A	237A	221A	221A
Johnston		224A		224A				
Winnsboro Mills		221A						
Saluda						221A		
Union				221A				
Leesville								237A

The first three plans propose the substitution of a Class C channel for the existing Class A channel at Manning. According to the proponent of the Manning substitution, operations on a Class C channel would provide a first aural nighttime service to 13,485 persons and a second FM service to 61,820 persons. The differences in the first three plans center on which communities, Johnston, Winnsboro Mills, Saluda, and/or Union, will receive a first FM assignment. All of these proposed assignments require channel substitutions at Bamberg and Batesburg. Plan B–IV assigns a first FM channel to Leesville which does not require any substitutions at Bamberg and Batesburg.

27. Comments in response to the "Further Notice" were submitted by Clarendon County Broadcasting Corporation ("CCBC"), the proponent of the Manning channel substitution; Edgefield-Saluda Radio Company ("Edgefield-Saluda"), the petitioner for the Johnston assignment; Fairfield Broadcasting, Incorporated ("Fairfield"); Ridge Broadcasting Company ("Ridge"), the petitioner for the Winsboro Mills assignment and licensee of Station WKWQ–FM, Batesburg; William K. Durst ("Durst"), proponent of the Saluda assignment; and the Broadcasting Company of Union ("BCU"), the proponent of the Union assignment. Reply comments were submitted by CCBC, Edgefield-Saluda, and Durst.

28. Manning, located approximately 112 kilometers (70 miles) northwest of Charleston, has grown from a 1970 population of 4,025 to a 1980 population of 4,746. Manning is presently served locally by FM Station WTWE (Channel 221A). Manning's economy is supported by tourism, agriculture and agriculturally oriented businesses.

29. Johnston, whose population has grown from 2,552 in 1970 to 2,624 in 1980, is located approximately 72 kilometers (45 miles) west-southwest of Columbia. Johnston is currently served locally by daytime-only AM Station WJES. According to the proponent of the Johnston assignment, peach growing is the community's major industry, though manufacturing is increasing in importance in the local economy.

30. Leesville is located approximately 43 kilometers (27 miles) north of Columbia. The city grew in population from 1,907 in 1970 to 2,296 in 1980. Leesville has no local service at present.

31. Saluda, with a 1980 population of 2,752, has grown from a population of 2,442 in 1970. Saluda is located approximately 66 kilometers (41 miles) west of Columbia and has no local aural service. The proponent of the Saluda assignment states that it is the commercial center for Saluda County agricultural and manufacturing industries, and that there are about 100 business establishments in the community.

32. Union, located approximately 95 kilometers (60 miles) northwest of Columbia, has declined slightly in population from 10,775 in 1970 to 10,523 in 1980. Union is currently served by full-time AM Station WBCU (1460 kHz).

33. Winnsboro Mills, an unincorporated community located approximately 42 kilometers (26 miles) north of Columbia, had a 1970 population of 2,312. No 1980 population data is available for Winnsboro Mills. The community presently has no local aural service. According to the proponent of the assignment, Winnsboro Mills is a separate community from nearby Winnsboro, and it supports its own stores and business establishments.

34. As stated in paragraph 25, above, the first three assignment plans for Set B require channel substitutions at Bamberg and Batesburg. Also, as explained in the "Further Notice," the channel substitution at Batesburg would, because of minimum distance spacing requirements, require the existing station in Batesburg, Station WKWQ–FM, to relocate its transmitter to a location approximately 5.5 kilometers (3.5 miles) south of its present site. We stated that we will not normally require a station to change transmitter sites in order to accommodate additional assignments. In this case, however, because the licensee of Station WKWQ–FM, Ridge, was also a petitioner in the proceeding, and had offered a proposal which involved a change in its transmitter site, we felt there might be no obstacle to our proposals requiring Ridge to change sites. We specifically asked Ridge to state any reasons why it might not be willing to make the necessary relocation in the event that the assignment it sought at Winnsboro Mills was not approved.

35. Because of our resolution of the Set B assignments, a detailed summary of the comments received is unnecessary. Briefly, except for the Leesville channel, continuing interests for all the proposed assignments were stated by at least one party to the proceeding. Ridge, however, asks that its petition seeking an assignment to Winnsboro Mills be dismissed and states that it no longer consents to the modification of Station WKWQ–FM's license and transmitter relocation. Several commenters argue that Ridge's refusal to cooperate should not defeat the prospect of two new FM assignments plus the initiation of new service to previously unserved and underserved populations. These parties aver that the Commission should nonetheless modify Ridge's license for Station WKWQ–FM and adopt one of the first three assignment plans. Several commenters also aver that, because Ridge initially supported a plan which would have required the channel substitution and transmitter relocation, Ridge should not be reimbursed for any expenses incurred. These parties imply that Ridge's prior support for the proposals indicates that Ridge was willing and able to absorb these costs without reimbursement. Having agreed to this earlier, the commenters suggest that Ridge should not now be entitled to reimbursement.

36. It is the Commission's established policy to substitute FM channels, even when the channel is occupied and in use, where such substitution will permit a more efficient and fair allocation of broadcast frequencies. "See, e.g., Baxley, Georgia, et al.," 42 R.R. 2d 249 (1978); "Blytheville, Arkansas, et al." 46 R.R. 2d 1267 (1980). However, as a general matter, we will not require relocating a station's transmitter site without the licensee's consent. "Smiths Grove, Kentucky," 48 R.R. 2d 1195, reconsid. denied, 50 R.R. 2d 236 (Broadcast Bureau, 1981); "Woodward and Alva, Oklahoma," 48 R.R. 2d 1537 reconsid. granted in part, 50 R.R. 2d 771 (Broadcast Bureau, 1981). In this proceeding, Ridge, although initially suggesting that it would modify its license and relocate its transmitter, now indicates that it is not willing to undertake the necessary relocation. Without Ridge's express consent, we do not believe that we should further pursue any proposal which includes the relocation of Station WKWQ–FM's transmitter.

37. We have stated in the past that a balancing of interests must be made when a forced transmitter relocation is being considered. In "Asheville, North Carolina," 36 R.R. 2d 810 (1976), *supra* at 815, we stated that a relocation would not be required "* * * absent an unusually strong and compelling showing that the public gains achievable are sufficient to overcome concern with the ensuing impact upon the affected station and the public." It is, therefore, conceivable that given the proper circumstances, we would proceed with an assignment proposal which required a nonconsenting licensee to change operating frequencies and relocate its transmitter. While the potential public interest benefits of any of the first three plans are sizable, we do not feel that they are of such significance that they override our general policy of not requiring relocation. In any event, if we were to modify Station WKWQ–FM's license and force it to relocate its transmitter, we would expect any ultimate licensee benefitting from such modification to share in the reimbursement of Ridge for its modification and relocation expenses. As noted earlier, several potential beneficiaries of a license modification in Batesburg argued strenuously against reimbursement. Thus, we shall not order Ridge to modify its license.[8] This action effectively eliminates Plans I, II, and III from further consideration.[9]

38. The sole remaining assignment plan is Plan IV which proposes a first FM assignment to Leesville, South Carolina. None of the parties commenting in this proceeding have expressed any continuing interest in the Leesville assignment. Absent a commitment to apply for the channel, we will not make the assignment. Therefore, none of the plans proposed for the communities, included in Set B, will be adopted.

39. Accordingly, it is ordered, That effective May 7, 1982, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended with respect to the following communities:

City	Channel No.
Eastover, SC	257A
Mount Pleasant, S.C	265A
North Charleston, S.C	241, 273
Parris Island, S.C	221A
Ravenel, S.C	269A

40. Authority for the actions taken herein is contained in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

41. For further information concerning this proceeding, contact Michael A. McGregor, Broadcast Bureau, (202) 632–7792.

42. It is further ordered, that this proceeding is terminated.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-6667 Filed 3-10-82; 8:45 am]

BILLING CODE 6712-01-M

[8] Ridge's license for Station WKWQ–FM was recently renewed (December 1, 1981), conditioned on the outcome of this proceeding. Generally our policy, pursuant to the decision in "Transcontinent Television Corp. v. F.C.C.", 308 F. 2d 339 (D.C. Cir. 1962) is to delay modifying the license (without a hearing) until the expiration of the license term.

[9] Several parties suggest that because Ridge originally consented to the modification and resulting site change, we should overlook Ridge's subsequent refusal. We disagree. The fact that Ridge originally agreed to the relocation cannot affect our decision; we must act on the basis of the facts as they presently exist. *Cf.* "Smiths Grove, Kentucky", *supra.*

Proposed Rules

Federal Register
Vol. 47, No. 48
Thursday, March 11, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1944

Revision of Section 502 Rural Housing Loan Policies, Procedures and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration proposes to amend its regulations regarding section 502 Rural Housing Loan Policies, Procedures and Authorizations. The proposed action implements a 1-year Interest Credit Agreement. The circumstances requiring this action is an Office of Audit report which indicates an excessive amount of improper interest credit is being granted. The intended effect is more accurated granting of interest credit based on current income. Also proposed is a loan restriction on applicants who previously had a Farmers Home Administration loan on an adequate dwelling but disposed of the property through sale or transfer unless 2 years have elapsed or there were mitigating circumstances. This action is required for better administrative control of the program. The intended effect is to stop the program from being used for personal gain beyond adequate shelter.

A proposal is being made to change the maximum moderate-income limit for eligibility to $3,000 over the maximum low-income limit with no area moderate-income limit to be less than $15,600, or greater than $23,000 with the exception of Alaska. The circumstances requiring this action is a lack of resources to meet the needs of the population within the present income limits. The intended effect is to allocate limited resources to applicants least likely to obtain housing from other sources.

DATE: Comments must be received on or before May 10, 1982.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Daryl L. Grove, Director, Single Family Housing Processing Division, Farmers Home Administration, USDA, Room 5345, South Agriculture Building, Washington, DC 20250, telephone: 202–382–1474; or Ruth Smith, Loan Specialist, Single Family Housing Processing Division, Farmers Home Administration, USDA, Room 5349, South Agriculture Building, Washington, DC 20250, telephone: 202–382–1488.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 which implements Executive Order 12291 and has been classified as "nonmajor."

This action requires no increase in costs to the Government. There is no impact on proposed budget levels, and funding allocations will not be affected because of this action. There will be a modest increase in the reporting requirements required of the public in order to determine eligibility of those receiving the benefits. We have determined that the increase in reporting requirements is not a significant impact and that this regulation maximizes net benefit to society at the lowest net cost.

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that it does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

This regulation does not directly affect any FmHA programs or projects which are subject to A–95 clearinghouse review.

CFDA No. 10.410—Low to Moderate Income Housing Loans (Rural Housing Loans—Section 502-Insured).

1. Interest Credit Agreement

The Agency proposes to implement a 1-year interest credit contract based on the borrower's current circumstances. Changes will be made only in case of error in borrower information, cancellation if the borrower's adjusted income exceeds the moderate-income limit, and granting of moratorium if decrease in income justifies and borrower qualifies.

The Agency studied two alternatives regarding the term of the Interest Credit Agreement.

Alternative 1 (current method). A 2-year Interest Credit Agreement based on the current household situation and income projected for the next 12 months.

Effects: This alternative has the least public and administration burden. It is estimated that it cost the public $345,000 to comply. It requires completion of approximately 200,000 agreements by FmHA each year. Audit findings estimate that 190.7 million dollars of excessive interest credit are granted because of initial errors and borrower circumstances changing over the life of the agreement. Changes in the family income during the 2-year period result in 19 percent of the borrowers subsequently becoming ineligible and an additional 48 percent receiving excessive benefits. It also results in borrowers adjusting to a living standard above their means causing financial problems at time of renewal if benefits are lowered.

Alternative 2 (chosen method). A 1-year interest credit contract based on the borrower's current circumstances and income.

Effects: This alternative increases the public and administrative burden over alternative 1. It is estimated that the public burden will be $550,000 or $205,000 over alternative 1. It doubles the administrative burden of the interest credit program. However, it is estimated that it will reduce the cost of the interest credit program by about $128 million dollars. It benefits the borrower by frequent revision of housing cost in ratio to household income. Computing current income is also a more accurate method of determining annual income than projecting income for the next 12 months as is presently required.

2. Loan Restriction

The Agency proposes a loan restriction on an applicant who previously had a section 502 rural housing loan but disposed of the property through sale or transfer unless 2 years have elapsed or there were mitigating circumstances.

Alternative 1. Provide for no eligibility restriction in regards to applicants who previously had been section 502 rural housing borrowers.

Effect: This alternative permits borrowers the option to sell their property for a profit and then reapply for a new loan. These previous borrowers apply for the limited available resources causing delay in service to other applicants without adequate housing. It is estimated that in some areas over 10 percent of FmHA loan funds are being used to serve this group. Because housing costs have constantly increased, the cost to the Government in providing subsidy to this group is also higher.

Alternative 2. Restrict applicants who previously had a section 502 rural housing loan to a 2-year waiting period.

Effect: This option should curb the incentive to sell for profit and thus reduce Government cost. It diminishes the tendency of third party groups to profit at the expense of the borrower. It still permits eligibility for those borrowers who must sell because of job transfer or other extenuating circumstances.

3. Moderate Income Limit

FmHA proposes to lower the maximum moderate-income limits to $3,000 more than the applicable maximum low-income limit for the area except that no maximum moderate-income limit would be less than $15,600, or greater than $23,000 with the exception of Alaska.

Alternative 1. Establish the moderate-income limit at a constant $5,500 above the low-income limit (current method).

Effect: It is estimated that about 3 million households have a moderate income based on this definition. About 197,800 of these households occupy substandard houses and most of these could qualify for a Section 502 rural housing loan. Based on current budget levels, less than 10 percent of eligible households could be provided with a Section 502 loan in any year. Most programs with eligibility income limits serve those at the top first and those with lower income later. Therefore, it is concluded that this option would help an income group that may have other alternatives for housing.

Alternative 2. Establish the moderate-income limit at a constant $3,000 above the low-income limit with no limit less than $15,600 or over $23,000 with the exception of Alaska.

Effect: It is estimated that about 2 million households have a moderate income based on this definition. About 100,000 of these households occupy substandard houses. This alternative increases the opportunity of these households to receive a section 502 loan by more than 30 percent over alternative 1. This alternative, therefore, better allocates limited resources to those of lower income.

The reporting and recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget.

PART 1944—HOUSING

For the reasons set out in the preamble, Part 1944, Subpart A, Chapter XVIII, of Title 7 of the Code of Federal Regulations is proposed to be amended by revising §§ 1944.1 through 1944.50 and Exhibit C and D to read as follows:

1. As proposed, §§ 1944.1 through 1944.50 are revised as follows:

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, Authorizations

Sec.

1944.1 General.
1944.2 Definitions.
1944.3 Loan purposes.
1944.4 Loan restrictions.
1944.5–1944.7 [Reserved]
1944.8 Income eligibility requirements.
1944.9 Other eligibility requirements.
1944.10 Rural area designation.
1944.11 Property requirements.
1944.12–1944.14 [Reserved]
1944.15 Ownership requirements.
1944.16 Building requirements.
1944.17 Maximum loan amounts.
1944.18 Security requirements.
1944.19–1944.21 [Reserved]
1944.22 Refinancing debts.
1944.23 Loans to Farm Ownership (FO), Individual Soil and Water (SW), and Recreation (RL) borrowers.
1944.24 Technical services.
1944.25 Rates, terms, and source of funds.
1944.26 Application processing.
1944.27–1944.29 [Reserved]
1944.30 Preparation of loan docket.
1944.31 Loan approval.
1944.32 Actions subsequent to loan approval.
1944.33 Loan closing.
1944.34 Interest credit.
1944.35–1944.36 [Reserved]
1944.37 Subsequent Section 502 loans.
1944.38 Mutual self-help housing loans.
1944.39 RH loans to FmHA employees and loan closing officials
1944.40 Rural Housing Disaster (RHD) loans.
1944.41—1944.43 [Reserved]
1944.44 Borrower graduation.
1944.45 Conditional commitments.
1944.46 Construction financing for builders by private credit sources.
1944.47–1944.50 [Reserved]

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Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

§ 1944.1 General.

This subpart sets forth the policies and procedures and delegates authority for making section 502 Rural Housing (RH) loans to individuals under Title V of the Housing Act of 1949, as amended. The objective of section 502 loans is to provide eligible persons who will live in rural areas an opportunity to obtain adequate but modest, decent, safe, and sanitary dwellings and related facilities. The requirements of Farmers Home Administration (FmHA) Instruction 1901–E will be applied as appropriate. Loans and services provided under this Subpart shall not be denied to any person or applicant based on race, sex, national origin, color, religion, marital status, age, physical or mental handicap (applicant must possess the capacity to enter into a legal contract for services), receipt of income from public assistance, or because the applicant has, in good faith, exercised any right under the Consumer Protection Act.

§ 1944.2 Definitions.

The following definitions apply to this subpart:

(a) *Above-moderate income.* An adjusted annual income that exceeds the maximum limit for moderate-income households as provided in Exhibit C of this Subpart.

(b) *Adjusted annual income.* Annual income as defined in paragraph (c) of this section less 5 percent thereof and less an additional $300 for each dependent minor person (excluding the applicant and foster children) who is a member of the household.

(c) *Annual income.* Current monthly income received by the applicant and all adult members of the household times twelve. See § 1944.8(c) for supplemental rules on determining annual income.

(d) *Cosigner.* A party who joins in the execution of a promissory note to guarantee its repayment by the borrower. The cosigner becomes jointly and severally liable to comply with the terms of the note in the event of the borrower's default.

(e) *County Supervisor.* Includes Assistant County Supervisor for all duties and responsibilities which are included in the employee's job description and for authorizations which have been delegated in writing in accordance with FmHA Instruction 2006–F (available in any FmHA office).

For the areas of Alaska and the Western Pacific Territories it also includes the Area Supervisor.

(f) *Existing dwelling.* One which is (1) more than 1 year old, or (2) previously occupied as a residence.

(g) *Extended family.* A family unit consisting of parents, children and other relatives who will live together on a permanent basis as a part of a household.

(h) *Farm.* Includes the total acreage of one or more tracts of land which (1) is owned by the applicant, (2) is operated as a single unit, (3) is in agricultural production, and (4) annually will produce agricultural commodities for sale and home use with a gross value of at least $400 based on 1944 prices. To aid in estimating the gross annual value of agricultural commodities produced on a particular farm, a State Supplement will be issued listing the 1944 prices for the principal farm commodities in the State.

(i) *Household.* The applicant and all other persons who will make the applicant's dwelling their primary residence for all or part of the next 12 months.

(j) *Low income.* Eighty percent of the area median income rounded up to the next $500 but not less than 60 percent nor greater than 80 percent of the non-metro census regional income. Maximum low-income limits are set forth in Exhibit C of this Subpart.

(k) *Moderate income.* Three thousand dollars more than low income with no moderate-income limit less than $15,000, or greater than $23,000 with the exception of Alaska. Maximum moderate-income limits are set forth in Exhibit C of this Subpart.

(l) *Nonfarm tract.* A parcel of land that is not a farm and is located in a rural area, or a building site that is part of a farm, and which secures an RH loan in accordance with § 1944.18(b)(10).

(m) *Place.* An area containing a concentration of inhabitants within a determinable unincorporated area.

(n) *Rehabilitation.* Major repairs and improvements to existing dwellings such as the installation or completion of bathroom facilities, installation of major items of equipment, additions, or structural changes.

(o) *Senior citizen.* A "senior citizen" is a person who is 62 years of age or older.

(p) *Town.* A "town" means a municipality similar to a city but not a New England-type town which resembles a township or county in most States.

(q) *Urban area.* Either a town, village, city, place or any associated combination thereof, which with the immediately adjacent densely settled areas has a population in excess of the limits prescribed in § 1944.10 (a) (2) (i) and (ii).

(r) *Very low income.* Fifty percent of area median income. Maximum limits for very low income are set forth in Exhibit C of this Subpart.

§ 1944.3 Loan purposes.

(a) A loan may be made to an eligible applicant for the following purposes:

(1) To buy, build, rehabilitate, improve or relocate a dwelling and provide related facilities for use by the applicant as a permanent residence.

(2) To buy, build, rehabilitate, improve or relocate a dwelling, and provide related facilities for a farm owner to provide housing to be occupied by the farm manager, tenants, sharecroppers or farm laborers.

(3) To refinance secured debts or unsecured debts as provided in § 1944.22.

(b) A loan made under § 1944.3 (a) (1) or (2) may be used to:

(1) Purchase, in fee title, a minimum adequate site, as outlined in § 1944.11 (c) on which the improvements are or will be located, if the applicant does not own an adequate site.

(2) Pay reasonable acquisition cost for a leasehold interest in a minimum adequate site at the time of making the initial RH loan.

(3) Provide an adequate and safe water supply and/or an adequate sewage disposal facility.

(4) Provide site preparation, including grading, foundation planting, seeding or sodding of lawns, trees, walks, yard fences and driveways to building sites.

(5) Purchase and install essential equipment in the dwelling including items such as a range, refrigerator, clothes washer or clothes dryer, if these items are normally sold with dwellings in the area and if purchase of these items is not the primary purpose of the loan.

(6) Provide special design features or equipment when necessary because of physical handicap or disability of the applicant or a member of the household.

(7) Purchase and install approved energy saving measures and approved furnaces and space heaters which use a type of fuel that is commonly used, and is economical and dependably available.

(8) Provide storm cellars, and similar protective structures.

(9) Pay incidental expenses such as fees for credit reports, tax monitoring service, legal, title clearance, loan closing, architectural, surveying and other technical services.

(10) Pay reasonable connection fees for utilities such as water, sewer, electricity or gas, which are required to be paid by the borrower and which cannot be paid from other funds.

(11) Pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making the planned improvements.

(12) Pay real estate taxes which are due and payable on the building and/or site at the time of closing on an initial loan, if this amount is not a substantial part of the loan.

(13) Establish escrow accounts for the payment of real estate taxes or property insurance premiums in those states where the use of escrow accounts is authorized by the National Office.

(14) Provide living area for all members of the applicant's household, including "extended family," as provided in § 1944.16(a)(7).

(15) Pay part of the cost of constructing, remodeling, repairing or buying a domestic water system or waste disposal system provided prior authorization is obtained from the National Office and the following conditions are met:

(i) The facility must be jointly owned and used by not more than 10 participants.

(ii) The domestic water or waste disposal system cannot be provided with a Community Facilities loan.

(iii) The group must act as individuals and not as a legal entity such as a partnership, corporation or association.

(iv) The facility will be located in a rural area and will be used only for normal home use.

(v) The applicant will give FmHA a mortgage as required in § 1944.18(a), including the applicant's interest in the system if it is practical to mortgage the system. The interest of any co-owners of the jointly owned facility who are not applicants may be excluded from the mortgage on prior approval by the State Director, as provided in § 1944.18(b)(8).

(vi) The owners have written agreements as to the construction, use, maintenance and repair of the facility and obtain necessary jointly owned easements.

(vii) The facility will cost not more than $50,000 or have a depreciated replacement value that does not exceed $50,000 if such facility is being purchased, enlarged, or improved.

(viii) All funds to be used to finance construction or installation of the joint facility will be deposited in a supervised bank account.

§ 1944.4 Loan restrictions.

(a) A loan will not be made to an applicant who, within the previous 2 years, had a section 502 RH loan but

disposed of the property through sale or transfer unless:

(1) The dwelling sold or transferred was inadequate to meet the applicant's housing needs; or

(2) The applicant was compelled to relocate due to change of employment or health reasons and the property the applicant proposes to buy is in a different trade/market/employment area; or

(3) The housing need is due to a legal separation or divorce.

(b) Loan funds may not be used to:

(1) Buy or improve income-producing land, or buildings to be used for income-producing purposes or buildings not essential for RH purposes.

(2) Pay fees, charges or commissions such as finders' fees, for packaging the application or placement fees for the referral of prospective applicants to FmHA.

(c) A loan will not be made to an applicant whose previous FmHA debts have been settled pursuant to Part 1864 of this chapter (FmHA Instruction 456.1) or by release from personal liability under Subpart A of Part 1955 of this chapter as reflected by the County Office records, or where settlement under such regulation is contemplated, unless failure to pay the indebtedness was the result of circumstances beyond the applicant's control, or the conditions which necessitated the debt settlement or release, other than weather hazards, disasters, or price fluctuations, have been removed or will be removed by making the loan. Before approving the property or causing such an applicant to incur any expense in connection with the loan the County Supervisor will complete Form FmHA 431–2, "Farm and Home Plan," or Form FmHA 431–3, "Household Financial Statement and Budget," and send it with the application, any available case folders, and recommendations to the State Office for a determination as to whether to proceed with the development of the loan docket.

(d) Loans will not be made to a homestead entryman or desert entryman to improve the entry prior to receipt of patent.

§§ 1944.5–1944.7 [Reserved]

§ 1944.8 Income eligibility requirements.

(a) An applicant is eligible for a Section 502 loan only if the following requirements are met:

(1) The adjusted annual income of the applicant's household as defined in § 1944.2(b) does not exceed the applicable income limit in Exhibit C. Exceptions to this requirement may be authorized by the State Director in accordance with § 1944.33 (a) or (b), or by the National Office.

(2) Repayment ability as provided in § 1944.26(e), is demonstrated in the following manner:

(i) The applicant has adequate and dependably available income. The determination of income dependability will include consideration of the applicant's past history of annual income and/or the history of the typical annual income of others in the area with similar types of employment. Such income should be sufficient to meet living expenses, pay taxes, insurance and maintenance costs, and to make required payments on all obligations including the section 502 loan; or

(ii) The applicant obtains a cosigner with dependably available income which will be sufficient to repay the loan. The cosigner must be an individual but may not be a member of the applicant's household.

(b) All adult members of the household whose income must be included to meet the repayment requirements in paragraph (a) (2) (i) of this section will be considered applicants.

(c) Annual income as defined in § 1944.2 (c) will be determined as follows:

(1) The current monthly income times twelve for all adults, including the spouse, will be included for either full-time or part-time employment if presently employed. If the spouse or any other adult is not presently employed but there is a recent history of such employment, that person's income will be considered unless the applicant and the person involved sign a statement that the person is not presently employed and does not intend to resume employment in the foreseeable future or, if interest credit is involved, during the term of the Interest Credit Agreement. The statement will be filed in the borrower's case file.

(2) Current monthly income will include income from all sources except as provided in paragraph (c)(3) of this section. Income such as that from the sources specified in this paragraph will be included in current monthly income (even though not received in the current month) as the estimated annual amount of such income for the current year prorated on a monthly basis. Income sources include, but are not limited to:

(i) Gross income from wages, salaries, and commissions, including that from seasonal type work which can be expected to be repeated.

(ii) Historical receipt of overtime and bonus income which can reasonably be expected to be repeated.

(iii) All net farm and nonfarm business income. Farm or nonfarm business losses will be considered as "0" in determining annual income.

(iv) Pensions, Social Security, welfare, and unemployment compensation.

(v) Child support payments and other payments made on behalf of minors.

(vi) The income of an applicant's spouse, unless the spouse has been living apart from the applicant for at least 6 months (for reasons other than military or work assignment), or court proceedings for divorce or legal separation have been commenced.

(vii) GI bill benefits, fellowships, scholarships, and assistantships.

(viii) Alimony, or other spousal support payment.

(ix) Proceeds from the sale of equipment, mineral rights or real estate sold under long-term contract (usually more than 3 years).

(3) The following income will not be included in determining annual adjusted income, although it will be included under § 1944.26 (b)(2) and (e)(2) for documenting repayment ability:

(i) Income received by a full time student (*who is not* the applicant or co-applicant) from employment or income from GI Bill benefits, fellowships scholarships, or assistantships for schooling.

(ii) Proceeds from the sale of equipment, mineral rights, or real estate sold under a short term contract (usually 3 years or less).

(iii) Cash value of food stamps, real estate tax exemptions, or similar types of assistance.

(iv) Payments received for the care of foster children, foster adults or for services rendered as a volunteer on a project sponsored by any of the following programs:

(A) Retired Senior Volunteer Program.

(B) Foster Grandparent and Older American Community Service Programs (as either a foster grandparent, senior health aide or senior companion).

(C) National Volunteer Programs to Assist Small Business and Promote Volunteer Service by Persons With Business Experience.

(D) Peace Corps, VISTA, or any other volunteer program sponsored by ACTION.

(v) Allowances, such as training and travel expenses, paid by the Department of Labor to CETA participants. (Wages paid by the employers of CETA workers will be included.)

(vi) Any payments received by "live in" aides for members of a senior citizen borrower's household paid by state or federal programs which specifically

exclude the cost of shelter from the amount received.

(vii) Funds which a Federal law specifies must not be used as the basis for denying or reducing Federal financial assistance or benefits to which the recipient would otherwise be entitled.

(4) In determining the applicant's annual income the following deductions are allowed:

(i) A deduction may be made in the same manner as outlined in Internal Revenue Service (IRS) regulations for the exhaustion, wear and tear, and obsolescence of depreciable property used in the applicant's trade, business, or farming operation. The applicant must provide an itemized schedule showing the depreciation claimed. The schedule should be consistent with the amount of depreciation actually claimed for these items for Federal income tax purposes.

(ii) A deduction may be made in the same manner as outlined in IRS regulations for necessary work related expenses actually paid by the employee in excess of the amount reimbursed by the employer. The deduction must be reasonable and, in the judgment of the approving official, should be deducted from an employee's income to reflect annual income on an equal basis with other employed persons. Deductions, however, are not permitted for the following:

(A) Transportation to and from work.

(B) Cost of meals incurred on one day business trips.

(C) Educational expenses except those incurred to meet the minimum requirements for the employee's present position.

(D) Fines and penalties for violation of laws.

(iii) A maximum aggregate deduction of $400 per month may be made for child care or disabled dependent care which is necessary to enable the borrower to be gainfully employed. The deduction will be based only on moneys actually paid for care services. Payments for these services may not be made to persons whom the borrower is entitled to claim as dependents for income tax purposes. Full justification for such deduction must be recorded in detail in the applicant's loan docket.

(iv) A maximum aggregate deduction of $400 per month may be made for full time nursing home or institutional type care which cannot be provided in the home for a member of the household. Such care must be expected to be required for a period of six months or more. The deduction will be limited to expenditures actually paid for such services.

§ 1944.9 Other eligibility requirements.

In addition to the income eligibility requirements of § 1944.8, the applicant must:

(a) Qualify as one of the following:

(1) A person who does not own a dwelling which is structurally sound, functionally adequate, and which is large enough to accommodate the needs of the applicant, or

(2) A farmowner without decent, safe and sanitiary housing for the farmowner's own use or for the use of farm tenants, sharecroppers, farm laborers, or farm manager.

(b) Be without sufficient resources to provide the necessary housing or related facilities, and be unable to secure the necessary credit from other sources upon terms and conditions which the applicant could reasonably be expected to fulfill. If the applicant has only an undivided interest in the land to be improved, those co-owners whose execution of the mortagage is required under § 1944.18(b)(8) must also be unable to provide the improvement with their own resources or obtain the necessary credit elsewhere either individually or jointly with the applicant.

(c) Be a natural person (individual) who resides as a citizen in any of the 50 States, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands, or a noncitizen who resides in one of the foregoing areas after being legally admitted for permanent residence or on indefinite parole. Permanent residents can verify their status by presentation of Form I–551, "Alien Registration Receipt Card," or any later revison of the form. Those on indefinite parole must present Form I–94, "Arrival/Departure Card," or any later revision of the form. The County Supervisor must further authenticate such information through the Immigration and Naturalization Service if the Authenticity of the information provided is in doubt (See Exhibit B).

(d) Possess legal capacity to incur the loan obligation, and have reached the legal age of majority in the State, or have had the disability of minority removed by court action.

(e) Have the potential ability to personally occupy the home on a permanent basis, if the loan is to provide housing for the applicant's own use. To illustrate, because of the probability of their being transferred or moving after graduation, military personnel on active duty and full-time students will not be granted loans unless:

(1) The applicant, if military personnel, will be discharged at an early date (usually within 1 year). The family must continue to occupy the home in case the borrower is transferred to another duty station before discharge, and

(2) The appliant intends to make the home a permanent residence and there are reasonable prospects that employmnent will be availble in the area after graduation or discharge, and

(3) An adult member of the household will be available to make inspections if the home is being constructed and to sign checks for work performed.

(f) Have a credit history which indicates a reasonable ability and willingness to meet obligations as they become due. The following *will not* indicate an unacceptable credit history:

(1) "No hsitory" of credit transactions by the applicant.

(2) Bankruptcies, foreclosures, satisfied judgments, or delinquent payment records which occurred more than 36 months before the application if no recent similar situations have occurred.

(3) Isolated incidents of delinquent payments which do not represent a general pattern of unsatisfactory or slow payment.

(4) Recent bankruptcy, foreclosure, judgment or delinquent payment when the applicant can satisfactorily demonstrate that:

(i) The circumstances causing any of the above were of a temporary nature, were beyond the applicant's control and have been removed. Examples: loss of job; delay or reduction in government benefits, or other loss of income; increased expenses due to illness, death, etc.

(ii) The adverse action or delinquency was the result of a refusal to make full payment because of defective goods or services or as a result of some other justifiable dispute relating to the goods or services purchased or contracted for.

(g) Possess the ability necessary to carry out the undertakings and obligations required in connection with the loan.

§ 1944.10 Rural area designation.

(a) For the purposes of this Subpart, a rural area is:

(1) Open country which is not part of or associated with an urban area, or

(2) Any town, village, city or place, including the immediately adjacent densely settled area, which is not part of or associated with an urban area and which:

(i) has a population not in excess of 10,000 if it is rural in character, or

(ii) has a population in excess of 10,000 but not in excess of 20,000, and

(A) is not contained within a Standard Metropolitan Statistical Area (SMSA), and

(B) has a serious lack of mortgage credit for low- and moderate-income households as determined by the Secretary of Agriculture and the Secretary of Housing and Urban Development.

(b) A determination that open country, or any town, village, city, or place is not part of or associated with an urban area must include a finding that any densely populated section of the area in question is separated from the densely populated section of any adjacent urban area by open spaces (which are undeveloped, agricultural, or sparsely settled) other than open spaces due to physical barriers, commercial or industrial developments, public parks and similar open spaces, and areas reserved for recreational purposes. This determination should also consider such other factors as:

(1) The existence of known plans for development within the near future (e.g., 3 to 5 years) of a substantial portion of the intervening land between the areas in question and an urban area.

(2) Separate school systems and separate utilities such as water and sewer and solid waste disposal; however, consolidated schools and/or combined facilities do not necessarily indicate being "associated with."

(c) Two or more towns, villages, cities, and places may have contiguous boundaries, and each be considered separately if they are not otherwise associated with each other, as determined after consideration of paragraphs (a) and (b) of this section.

(d) The latest official Bureau of the Census data or more recent official population counts (U.S. Census of Population or other Governmental official counts) will be used in determining population.

(e) The State Director will be responsible for determining boundaries of rural areas and shall issue an appropriate State Supplement to identify such areas by list and maps. Areas in excess of 10,000 population will be identified as "rural areas" in a State Supplement only after written authorization by the National Office and compliance with the requirement of paragraph (a)(2)(ii) of this section.

(f) When a change of designation from rural to nonrural is anticipated, all developers and other interested parties should be notified.

(g) If an area designation is changed from rural to nonrural, loans maay be made only in the following instances:

(1) Applications received by FmHA prior to the change of designation may be processed.

(2) New conditional commitments may be issued and existing conditional commitments will be honored only in conjunction with the approval of RH loan applications which were received prior to the date the area was designated nonrural.

(3) Credit sales and transfers with assumptions may be processed in such areas as authorized by § 1955.103(e) of Subpart C of Part 1955 of this chapter and § 1872.18(c)(i) of this chapter (FmHA Instruction 465.1, paragraph XVIIIC1a).

(4) Subsequent loans may be made on property in an area where the designation was changed from rural to nonrural after the initial loan was made:

(i) To make necessary repairs.

(ii) To pay equity in connection with an assumption and transfer of an RH loan.

§ 1944.11 Property requirements.

(a) The property on which the loan is made must be located on a farm, or in a designated rural area as defined in § 1944.10 or in an area the designation of which has been changed as provided in § 1944.10(g). A nonfarm tract to be purchased or improved with loan funds must not include or be closely associated with farm service buildings.

(b) Unless an exception is granted by the National Office (notwithstanding the requirement of § 1804.67(b) of this chapter, FmHA Instruction 424.5, paragraph VIIB) the property must be contiguous to and have direct access from an:

(1) All-weather street which has been dedicated to and accepted by a public body which shall be responsible for continuous maintenance, or

(2) Extended driveway if:

(i) The driveway has an all-weather surface,

(ii) The driveway does not potentially serve more than two individual dwellings,

(iii) The applicant obtains title or an easement to the driveway and it is included in the security for the loan, and

(iv) The maintenance cost for the driveway is considered in determining the applicant's repayment ability.

(c) The property on which the loan is made may not be larger than a minimum adequate site, which is the smallest area sufficient for the dwelling, related facilities, and a yard. In determining whether the property is a minimum adequate site the following considerations apply:

(1) In case of a loan to construct a dwelling, or purchase of a new dwelling and site, the site should be not more than one acre of land unless more than one acre is needed to provide for an adequate water supply or waste disposal system.

(2) When an existing dwelling is being purchased or debts are being refinanced, the site may include more than one acre only under the following conditions:

(i) When an existing dwelling is being purchased, the seller will sell the dwelling only with the entire site on which it is located and the cost of extra land is not a substantial portion of the loan, or

(ii) In a refinancing case, the extra land cannot be sold for a significant amount, or

(iii) More than one acre is needed to provide an adequate water supply or waste disposal system.

(3) In all cases, a site of more than one acre must by fully justified and the reasons recorded in the loan docket. In no case may the site include more than three acres unless authorized by the National Office.

(d) Loans made to buy, build, or repair dwellings located in an area having special flood or mudslide hazards are subject to the conditions of Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2).

§§ 1944.12–1944.14 [Reserved]

§ 1944.15 Ownership requirements.

(a) After the loan is closed, the applicant must have an interest in the property to be purchased, improved, or refinanced, which qualifies as one of the following:

(1) Full marketable title.

(2) The purchaser's interest under a land purchase contract which obligates payment of the purchase price, gives the rights of present possession, control and beneficial use of the property, and entitles the purchaser to a deed upon paying all or a specific part of the purchase price.

(3) An undivided fee interest if the co-owners meet the security requirements imposed by § 1944.18(b)(8).

(4) A life estate interest with rights of present possession, control and beneficial use of the property if the remaindermen meet the security requirements imposed by § 1944.18(b)(9).

(5) Leasehold interest if all of the following conditions are met:

(f) The applicant is unable to obtain fee title to the property and the rent charged for the lease does not exceed the rate being paid for similar leases.

(ii) The lessor owns the fee simple title.

(iii) Neither the leasehold nor the fee simple title is subject to a prior lien, unless the County Supervisor submits complete information to the State Director for review and authorization prior to approval of the loan. The amount of the RH loan plus any prior liens may not exceed the recommended market value of the leasehold.

(iv) The written lease contains the following provisions:

(A) The lessor's consent to the RH mortgage.

(B) Reasonable security of tenure. The borrower's interest must not be subject to summary forfeiture or cancellation.

(C) The right of FmHA to foreclose the RH mortgage and sell without restrictions that would adversely affect the market value of the security.

(D) The right of FmHA to bid at foreclosure sale or to accept voluntary conveyance of the security in lieu of foreclosure.

(E) The right of FmHA, after acquiring the leasehold through foreclosure or voluntary conveyance in lieu of foreclosure, or in event of abandonment by the borrower, to occupy the property or sublet it, and to sell for cash or credit. In case of a credit sale, FmHA will take a mortgage with rights similar to those under the original RH mortgage.

(F) The right of the borrower, in the event of default or inability to continue with the lease and the RH loan, to transfer the leasehold, subject to the RH mortgage, to an eligible transferee with assumption of the RH debt.

(G) Advance notice of at least 90 days to FmHA of lessor's intention to cancel or terminate the lease. Such advance notice will be long enough to permit FmHA to ascertain the amount of delinquencies, the total amount of the lessor's and any other prior interests, and the market value of the leasehold interest and, if litigation is involved, to refer the case with a report of the facts to the United States Attorney for appropriate action.

(H) Express provisions covering the question of liabiltiy of FmHA for unpaid rentals or other charges accured at the time it acquires possession of the property or title to the leasehold, and those which become due during FmHA's possession or ownership, pending further servicing or liquidation.

(I) Any necessary provisions to assure fair compensation to the lessee for any part of the premises taken by condemnation.

(v) The lease has an unexpired term, from the date of loan approval, of at least 50 years (a lease for 25 years with an option to the lessee to renew for an additional 25 years would be considered a 50 year lease) except where:

(A) A lease is granted for the purpose of permitting a person to obtain an RH loan and the time required to process and approve the loan results in the unexpired term of the lease being not less than 40 years, or

(B) a lease is in existence at least 1 year prior to the date of the loan approval, and the unexpired term of the lease is at least 50 pecent longer than the repayment period of the loan. In no case may the unexpired term of the lease be less than 15 years.

(6) Possessory rights on an Indian reservation or State-owned land if the security requirements imposed by § 1944.18(b)(2) are met.

(7) The interest of an Indian in land held in severalty under trust patents or deeds containing restriction against alienation if the security requirements imposed by § 1944.18(b)(3) are met.

(b) If an applicant's title to any part of the property does not qualify as an ownership interest under paragraph (a) of this section and is therefore defective, an RH loan may nevertheless be made if:

(1) The defect cannot be cured at a reasonable cost, and

(2) No improvements to be constructed or repaired with loan funds will be located on the parcel to which title is defective, and

(3) No security value will be accorded to the parcel to which title is defective.

§ 1944.16 Building requirements.

(a) *New dwellings.* Dwellings to be built or purchased new must provide decent, safe and sanitary housing that is modest in size, design and cost, and consistent with the market in the area. Applicants should be counseled regarding the type of housing necessary to meet their needs, however, modest housing may include 3 bedrooms and 1½ bathrooms if such a dwelling is within the applicant's repayment ability and is typical of other dwellings owned or being built in the area by persons with similar incomes.

(1) The dwelling will contain no more than 1,200 square feet of living area. When the size of the household results in an average of more than two persons per bedroom a larger dwelling may be justified to provide adequate sleeping space. For purposes of complying with this paragraph, the following will be considered in determining living area:

(i) Living area will include all finished areas as well as unfinished areas that are designed for or normally considered as living area. This will include those areas which meet or can be improved to meet the Housing and Urban Development (HUD) Minimum Property Standards (MPS) requirements for habitable area.

(ii) Living area will not include such space as a stairway between living areas, enclosed stairway, enclosed entryway, space necessary for utilities in a home without a basement, general storage area, porch not suited for year-round use, solar greenhouse which provides heat to the living area, garage or carport which is attached, detached or in the basement area; basement or other area not designed for or normally considered living area.

(2) Special design features or equipment may be included when necessary because of physical handicap or disability.

(3) Each dwelling shall have an automatic primary or secondary heating system capable of maintaining living spaces at 55 degrees (f).

(4) Two-car garages or carports will not be authorized. Single-car garages or carports may be included if customarily included in other homes in the area.

(5) Energy saving measures which exceed FmHA requirements and cost more than 1 percent of the market value of the property and solar energy systems may be used only after approval by the State Architect/Engineer and authorization by the State Director. Complex systems, such as active solar space heating or cooling, geothermal, hydropower, wind and photovoltaic, that could be considered unconventional, must be submitted to the National Office for concurrence prior to authorization by the State Director.

(6) Fireplaces and other solid fuel burning devices may be authorized only if the loan approval official determines and documents that a dependable and economical fuel supply is available. All fireplaces and other solid fuel burning devices must comply with HUD Minimum Property Standards (4900.1, 610–1.1) and with Exhibit D, paragraph IV D2, of Part 1924, Subpart A. To assure compliance and to remove uncertainties regarding safety and efficency, fireplaces and other solid fuel burning devices are authorized only after approval by the State Architect/Engineer and subsequent authorization by the State Director.

(7) A dwelling for an extended family as defined in § 1944.2(g) may included bedroom area with an exterior entrance and an additional bathroom. This area should be designed in a manner that will not adversely affect the home's potential for resale.

(b) *Existing dwellings.* Existing dwellings purchased with RH funds must be structurally sound, functionally adequate, either be in good repair or placed in good repair with loan funds and meet the standards required by § 1924.5(d)(l)(ii) of Subpart A of Part 1924 of this chapter. All existing dwellings must meet the thermal performance standards required in Exhibit D, paragraph IV B, of Subpart A of Part 1924. The policies stated in paragraph (a) (1), (5) and (6) of this section may be used as a guide in making a determination of adequate but modest existing dwellings, however, the maximum square footage of living area should be flexible to adjust for modest adequate existing homes that may be available.

(c) *Repairs.* Any dwelling repaired with RH funds must be structurally sound, functionally adequate, and be placed in good repair with loan funds. If the loan is not more than $7,500 and is scheduled for repayment in not more than 15 years from the date of the note, the dwelling may lack some equipment or features such as a complete bath, kitchen cabinets, closets, or completely finished interior in some rooms. Such dwellings must meet the basic housing needs of the applicant and provide decent, safe, and sanitary living conditions when the improvements financed with the loan are complete.

(d) *Improvements.* Improvements financed with loan funds must be on land which, after loan closing, is part of a tract owned by the borrower in accordance with § 1944.15(a), or on an easement appurtenant to such a tract.

§ 1944.17 Maximum loan amounts.

(a) An RH loan to buy or build a dwelling may be made up to the market value of the security less the unpaid principal balance and past-due interest of any other liens against the security property for:

(1) An existing dwelling which is more than a year old or previously occupied as a residence.

(2) A new dwelling when any of the following conditions exist:

(i) A conditional commitment was issued in accordance with § 1944.45.

(ii) The RH loan will be closed prior to the start of construction.

(iii) Construction is financed in accordance with § 1944.46.

(iv) The required construction inspections were made by the Federal Housing Administration (FHA) or Veterans Administration (VA). A complete set of plans and specifications will be submitted together with copies of inspection reports or certification by FHA or VA indicating the dwelling was built in accordance with approved plans and specifications. The builder will also furnish a certification of compliance with FmHA thermal standards for new construction as required by Exhibit D of Subpart A of Part 1924 of this chapter.

(v) The dwelling was constructed under an insured 10-year warranty plan. The builder will provide complete plans and specifications together with a certification that construction was completed in compliance with the plans and specifications, HUD-FHA Minimum Property Standards and FmHA thermal standards for new construction. The cost of the insured warranty will be included in the sale price of the dwelling, if it is to be charged to the borrower. Prior to loan approval the builder must provide evidence that he/she is an approved builder in good standing under a 10-year insured warranty plan.

(b) Except as provided in paragraph (c) of this section a loan will be limited to 90 percent of the market value of the security for any dwelling that does not meet the requirements of paragraph (a) of this section.

(c) A loan which causes the total secured indebtedness to exceed the appraised value of the property securing the loan may be made when the amount exceeding the appraised value is all or part of a lien held by a public body, hospital or welfare institution for advances made for medical bills, welfare payments, or state motor vehicle judgments provided:

(1) The borrower is unable to settle or compromise such lien sufficiently to avoid exceeding the market value, and

(2) The lien securing the excess amount will at all times be inferior to the FmHA mortgage securing the initial loan and any subsequent loan or advances determined by the FmHA to be reasonably necessary to carry out the purpose of the initial loan or to protect the Government's financial interest, and

(3) The existence of the excess lien will not jeopardize the scurity or servicing so as to preclude the making of a sound RH loan, and

(4) The borrower has the ability to meet any payments on the excess debt as they become due or are likely to become due.

§ 1944.18 Security requirements.

(a) *Adequate security.* To protect the interest of FmHA all loans must be adequately secured. Except as provided in paragraph (b) of this section, a loan is adequately secured only when all of the following requirements are met:

(1) FmHA obtains at closing a mortgage on all ownership interests in the entire tract;

(2) No liens prior to the FmHA mortgate exist at the time of closing, and no junior liens are likely to be taken immediately subsequent to or at the time of closing.

(3) The provisions of Part 1807 of this chapter (FmHA Instruction 427.1) regarding title clearance and the use of legal services are complied with.

(b) *Exceptions.* Exceptions to the usual security requirements will be made as follows:

(1) *Note only.* A loan of $2,500 or less scheduled for repayment in not more than 10 years from the date of the note, and that is not subject to recapture of subsidy in accordance with Subpart I of Part 1951 of this Chapter, may be secured by the borrower's promissory note alone when the County Supervisor determines that:

(i) The applicant has a credit history which indicates an ability and willingness to pay debts when they are due;

(ii) The applicant will have sufficient income to readily meet all obligations; and

(iii) The applicant's equity in the real estate as improved equals or exceeds the amount of the proposed loan.

(2) *Mortgage insurance.* When the applicant is the holder of possessory rights on an Indian reservation or State-owned land, adequate security in the form of mortgage insurance guaranteeing payment from a State agency or Indian tribe will be acceptable. Separate State Supplements covering loan approval, title clearance, closing, appropriate loan documents and a Memorandum of Understanding with the State or Indian tribe insuring agency should be developed and used with the approval of the State Director and the concurrence of the Office of General Counsel (OGC). Approval of such supplements by the National Office is required prior to participation in any such program.

(3) *Indian land.* Indian land in trust or restricted status acquired with an RH loan will remain in trust or restricted status. In these cases mortgages must be approved by the Secretary of the Interior. When a lien is to be taken on trust or restricted property, the local Bureau of Indian Affairs (BIA) representative will be requested to furnish advice and information with respect to the property and each applicant. The FmHA State Director should arrange with the BIA Area Director or other appropriate local BIA official as to how the information will be requested and furnished. A State Supplement will be issued to prescribe the actions to be taken by FmHA personnel to implement the making of loans under such conditions.

(4) *Best mortgage obtainable.* Loans of $7,500 or less scheduled for repayment in not more than 15 years from the date of the note must be secured by a mortgage, except as provided in paragraph (b)(1) of this section, but title clearance and the use of legal services in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1) are not required. The best mortgage obtainable without use of these procedures will be sufficient unless the loan approval official determines that the procedures in Part 1807 of this Chapter (FmHA Instruction 427.1) are necessary to assure repayment or accomplish the objective of the loan. Evidence of ownership must comply with § 1944.24(d)(2).

(5) *Leasehold.* When the applicant owns only a leashold interest, FmHA may not require a mortgage on the lessor's interest but will treat the lessee's interest like any other type of ownership interest in determining whether a mortgage on the leasehold is required. The lease must meet the requirements of § 1944.15(a)(5) (iv) and (v). In any State in which applicants are likely to own a leasehold interest, the State Director will issue a State Supplement outlining the technical requirements for making such loans.

(6) *Security by junior lien.* FmHA may take a junior mortgage as security for an RH loan if the tract which will secure the FmHA mortgage provides adequte security for the entire prior lien debt and the RH loan, and

(i) The prior mortgage does not contain provisions that may jeopardize FmHA's securtiy position or the borrower's ability to repay the loan, such as provisions for future advances, forfeiture, cancellation, foreclosure without adequate notice to junior lienholders; or

(ii) Such provisions are satisfactorily limited, modified, or waived.

(7) *Liens junior to FmHA lien.* Liens junior to the FmHA lien will be allowed at closing or immediately subsequent to closing only when:

(i) The junior lien will not interfere with the purposes or repayment of the RH loan, and

(ii) The total amount of the RH loan, the junior lien, and any prior liens will not exceed the market value of the security except as provided in §1944.17(c).

(8) *Undivided interest.* When the applicant owns an undivided interest in the property, the co-owners' interests need not be included in the mortgage in the following cases:

(i) When one or more of the co-owners are not legally competent, or cannot be located, or the ownership rights are divided among such a large number of co-owners that it is not practical for all their interests to be mortgaged, the mortgaging of interests not exceeding 50 percent may be excluded from the security requirement upon prior approval by the State Director. The State Director should review the County Supervisor's recommendation accompanied by a full statement of ownership and conditions which justify the exclusion. All legally competent co-owners using or occupying the property will be required to sign the mortgage. Co-owners will be requiured to sign the note when necessary for a sound loan or to obtain the required security. The loan may not exceed the percentage of the market value of the property represented by the interests of the owners who sign the mortgage. In determining such value, consideration will be given to any adverse effect which might resut from sale of the mortgaged interests separately from the nonmortgaged interests.

(ii) When an applicant owns an undivided interest in part of a farm and seeks a loan to build or improve facilities on another part in which the applicant owns the entire interest, or the applicant owns only an individed interest in building site which will be a part of the farm, the interest of the applicant's co-owners may be excluded from the security requirements upon approval by the State Director if:

(A) The loan will be adequately secured by the applicant's equity in the wholly owned tract,

(B) The market value of the jointly owned tract is at least equal to the debts against it, and

(C) The applicant's participation in the joint ownership of part of the farm and its operations has been is likely to continue to be successful.

(9) *Life estate.* When the applicant owns a life estate interest in the property, the remaindermen's interests need not be included in the mortgage if one or more of the remaindermen are not legally competent or cannot be located or if the remainer rights are divided among such a large number of remaindermen that it is not practicable to obtain the signatures of all the remaindermen. In that case, the mortgaging of remainder interests, not exceeding 50 percent of the total remainder interest may be excluded from the security requirements upon prior approval by the State Director. The State Director should review the County Supervisor's and District Director's recommendations accomanied by a memorandum stating complete ownership information and circumstances which justify the exclusion. In such cases, the loan may not exceed the percentage of market value of the property represented by the interests of those remaindermen who sign the mortgage, determined with due regard to all adverse factors involved. Remaindermen will be required to sign the note when necessary for a sound loan or to obtain the required security.

(10) *Farm dwelling.* When the applicant is the owner of a farm, a mortgage may be taken only on the dwelling and dwelling site provided the following conditions can be met:

(i) The tract to be mortgaged must not include or be close to farm service buildings, must be in a good residential location, be otherwise suitable as a residential type of nonfarm tract, provide adequate security for the loan, be contiguous to and have direct access to a public road, or

(ii) The tract to be mortgaged must contain at least enough land to clearly provide adequate security for the loan and to make the tract readily saleable in the area.

(11) *Land purchase contract.* When the ownership interest is by virtue of a land purchase contract a prior lienholder's agreement must be obtained as required by Part 1807 of this chapter (FmHA Instruction 427.1, paragraph IIF5.)

(c) *Additional security.* When necessary to supplement the applicant's equity in the farm or nonfarm tract on which the dwelling is located, or to facilitate servicing the loan, FmHA may also take a mortgage on other real estate owned by the applicant.

(d) *Assignment of income from real estate to be mortgaged.* Income to be received by the borrower from royalties, leases, or other existing agreements under which the value of the real estate security will be depreciated will be assigned and disposed of in accordance with § 1872.11 of Part 1872 of this chapter (FmHA Instruction 465.1, paragraph XI), and the provisions for written consent of any prior lienholder. In small nonfarm tract cases, the State Director may authorize withholding transmittal of assignments to lessees for execution until production begins. The State Director may, in individual cases, waive the requirement of taking an assignment if repayment of the loan is reasonably assured from other sources.

§§ 1944.19–1944.21 [Reserved]

§ 1944.22 Refinancing debts.

(a) Refinancing of FmHA debts is not authorized.

(b) Loan funds may be used for refinancing non-FmHA debts only if the debt was incurred by the applicant prior to the date the application was filed and the following conditions can be met:

(1) The debt was incurred for purposes for which a Section 502 RH loan could be made or is a protective advance by the mortgagee for items covered by the mortgage to be refinanced, such as accrued interest, insurance premium or real estate tax advances or preliminary foreclosure costs.

(2) The debt must be a lien against the property which will be security for the RH loan. The promissory note and security instrument for the debt must represent rates and terms that were typical and customary for long-term residential financing in the area at the time the debt was incurred.

(3) A loan to refinance a qualified secured debt may also include short-term or unsecured debts, if necessary to establish a sound repayment ability, if such short-term or unsecured debts were incurred for authorized Section 502 loan purposes and are not a significant portion of the loan.

(4) Payments on the debt are so seriously delinquent, for reasons beyond the control of the applicant, that the applicant is likely to lose the dwelling at an early date if the debt is not refinanced. Such delinquency must be due to loss of employment or income, illness, or such other similar events or unforeseen circumstances.

(5) A statement will be obtained for each debt to be refinanced showing the purpose for which the debt was incurred, the date on which it was incurred, the final due date, interest rate, amount and frequency of installments, amount of delinquency, unpaid principal and accrued interest.

(c) If a loan of $5,000 or more is necessary for repairs to correct major deficiencies to make the dwelling decent, safe and sanitary, an existing lien which meets the requirements of paragraph (b) (1), (2) and (3) of this section may be refinanced regardless of delinquency, if necessary for the applicant to have repayment ability for the existing loan and the requested loan for repairs.

(d) Debts or costs incurred after the date of application may be refinanced if the costs were incurred for:

(1) Fees for legal, architectural and other technical services, or

(2) Materials, construction or site acquisition.

(3) The County Supervisor may authorize the use of RH funds to pay costs provided for in paragraphs (d) (1) and (2) of this section only when all of the following conditions exist:

(i) The costs were incurred after the applicant filed a written application for a loan but before the loan was closed. In the case of a subsequent loan to complete improvements previously planned, the costs must have been incurred after the initial loan was closed.

(ii) The applicant is unable to pay such costs from personal resources or to obtain credit from other sources and failure to authorize the use of RH funds to pay such costs would jeopardize the applicant's capability of repaying the loan.

(iii) The construction or repair work conforms to that shown on the building plans and specifications or Form FmHA 424–1, "Development Plan," when applicable, and the costs were incurred for authorized section 502 loan purposes.

§ 1944.23 Loans to farm ownership (FO), individual soil and water (SW), and recreation (RL) borrowers.

A section 502 loan may may be made to an FO, SW, or RL borrower or simultaneously with an FO loan and a loan from another lender, if all conditions of this Subpart are met. In these cases, the borrower's current FO, SW, or RL loan may be reamortized in accordance with § 1951.40 of Subpart A of Part 1951 of this chapter.

§ 1944.24 Technical services.

(a) *Planning and performing construction work.* Any construction work will be planned and completed in accordance with Subpart A of Part 1924 of this chapter.

(b) *Planning and performing site development work.* Any site development will be planned and completed in accordance with Subpart D of Part 1804 of this chapter (FmHA Instruction 424.5).

(c) *Appraisal.* The value of property securing RH loans will be determined as follows:

(1) When a mortgage will be taken on a nonfarm tract or small farm, or on a leasehold interest in a nonfarm tract or small farm, to secure a total indebtedness of more than $7,500, an appraisal of the security property will be made in accordance with FmHA Instruction 422.3 (available in any FmHA office). A small farm for the purpose of this Subpart is a farm as defined in §1944.2(h) of this subpart which has value primarily as a residence rather than for the production of agricultural commodities, and repayment of the RH loan is not dependent on farm income.

(2) When a mortgage will be taken on a farm tract or leasehold interest in a farm tract to secure a total indebtedness of more than $7,500, an appraisal of the security property will be made in accordance with Subpart A of Part 1809, of this chapter (FmHA Instruction 422.1).

(3) When the total indebtedness will be not more than $7,500, an appraisal of the real estate or leasehold interest is not required, unless the County Supervisor or loan approval official is uncertain as to the adequacy of the security. When an appraisal is not completed the County Supervisor will document in the case file the estimated market value of the property.

(4) When a loan is being made to an FmHA real estate borrower and the FmHA appraisal report in the borrower's case folder indicates the value of the security property is adequate to secure the total real estate indebtedness, including the planned loan, an appraisal is not required.

(5) Real estate mortgaged as additional security will be appraised when it represents a substantial portion of the security for the loan or when requested by the loan approving official.

(d) *Title clearance and legal services.* (1) When real estate will be taken as security except on a best mortgage obtainable basis (including a mortgage on a leasehold), title clearance and legal services for making and closing the loan will be provided in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1). Title clearance and legal services will not be requested until the loan is approved.

(2) When real estate will not be mortgaged or when the best real estate mortgage obtainable is taken as security without title clearance or use of legal services, each applicant will be required to submit evidence of ownership of the farm or nonfarm tract. This may be the original or a certified or photostatic copy of the deed, purchase contract, or other instrument evidencing ownership. When the County Supervisor is uncertain as to whether or not the applicant is a qualified owner, such action will be taken as the County Supervisor considers necessary, such as requiring the applicant to furnish additional information or obtaining the advice of the OGC regarding the evidence of ownership submitted and any further information or action that may be needed. Proof of ownership need not be as much as that required by Part 1807 of this chapter (FmHA Instruction 427.1). For example, it may include such evidence as the levy and payment, in the applicant's name, of taxes on the real estate and affidavits by others in the community to the effect that the applicant has occupied the property as the apparent owner for a given length of

time and is believed and generally reputed to be the owner. No loan will be made if the County Supervisor has actual knowledge that the applicant does not have a valid title to the property.

§ 1944.25 Rates, terms, and source of funds.

(a) *Source of funds.* Insured loan funds from the Rural Housing Insurance Fund (RHIF) will be used for all Section 502 loans.

(b) *Interest rate per annum on unpaid principal.* Loans will be made at the interest rate(s) specified in FmHA Instruction 440.1, Exhibit B (available in any FmHA office). If only one interest rate is so specified, such rate will be the maximum interest rate established for mortgages under Section 203(b) of the National Housing Act by the Secretary of Housing and Urban Development (HUD). If there are two interest rates for Section 502 insured RH loans specified in FmHA Instruction 440.1, Exhibit B, moderate-income borrowers will pay the HUD rate if the annual payments required for principal and interest on existing section 502 RH loans, if any, the annual principal and interest payments on the loan for which application is being made (with payments calculated at the HUD rate), taxes, and insurance are not more than twenty percent (20%) of the borrower's adjusted annual income. In all other cases, moderate-income borrowers will pay the rate specified as the Section 502 rate.

(c) *Amortization.* Each loan will be scheduled for repayment over a period not to exceed 33 years from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probability of depreciation of the security. A loan for $2,500 or less not secured by a real estate mortgage will be scheduled for repayment over a period not to exceed 10 years from the date of the note.

(d) *Interest credit.* Borrowers may be eligible for an interest credit subsidy which can reduce the borrower's effective interest rate to as low as 1 percent. The policies and procedures for granting and servicing interest credit on RH loans are set forth in § 1944.34.

§ 1944.26 Application processing.

(a) *Processing priorities.* Applications for section 502 RH loans will be processed in accordance with § 1910.4(a) of Subpart A of Part 1910 of this chapter except that applications for the following types of loans will have processing priority:

(1) Loans to refinance qualified debts in accordance with § 1944.22(b). Cases where the applicant is in immediate danger of losing the dwelling may be funded from National Office reserve funds if allocated funds are not available.

(2) Subsequent loans which are necessary to complete transfers by assumption, complete credit sales, or for essential improvements or repairs.

(b) *Application forms.* (1) Applications for section 502 RH loans will be made on Form FmHA 410–4, "Application for Rural Housing Loans (Nonfarm Tract)," or Form FmHA 410–1, "Application for FmHA Services," which are available at local County Offices, and processed in accordance with Subpart A of Part 1910 of this chapter.

(2) If Form FmHA 410–4 does not provide sufficient information to clearly determine the applicant's repayment ability, or if the applicant needs credit counseling, Form FmHA 431–3 will be completed by the applicant and County Supervisor. In preparing Form FmHA 431–3 the following will be considered:

(i) Non-cash items (*e.g.*, food stamps, scholarships, free clothing, or transportation which help reduce the applicant's budgeted expenses) will be properly documented, and budgeted expenses will be reduced accordingly.

(ii) Dependably available income from all sources not used to determine adjusted annual income, such as earnings from employment of minors or full-time students, foster care payments, and similar income items, will be considered to the extent it is used to offset budgeted expenses even though such income will not be included in "annual income."

(3) An applicant who completes Form FmHA 410–1 will also complete Form FmHA 431–2 as prescribed in Subpart B of Part 1924 of this Chapter. In preparing Form 431–2, the provisions of paragraphs (2) (i) and (ii) of this section will apply to allow consideration of all income and non-cash items. When a loan is to be made to an non-operator farmowner, the columns in Tables B and C pertaining to the operator's share will be changed to the owner's share. If an application is being considered early in the crop year for a borrower who has a current Form FmHA 431–2, such form will be revised to show changes in the financial statement and significant changes in the planned operation. However, if the crop year is well advanced or completed, a farm and home plan will be developed for the ensuing year. The applicant will also complete Form FmHA 431–1, "Long-Time Farm and Home Plan," when needed.

(4) When available funds are not adequate to complete the processing of all applications as they are received, a preliminary determination of eligibility will be made in accordance with § 1910.6(c) of Subpart A of Part 1910 of this chapter. Applicants who appear eligible based on information provided at time of application will be advised of the estimated waiting period and that a final determination of eligibility will be made when loan funds are available for the processing of their applications. Exhibit E should be used as a guide to notify applicants of preliminary eligibility. Applicants on the waiting list will be notified when funds are available and will be advised of information necessary to determine final eligibility for loan approval.

(c) *Applicant interview.* A personal interview will be conducted by FmHA employees with all applicants before approval of the requested loan. During the interview, the applicant will verify information, including any submitted by a packager or others, concerning the applicant's employment and income. The applicant will also verify information concerning persons who will occupy the dwelling and on whose income eligibility for the loan and any interest credit is based. The County Supervisor will inform the applicant, and reach an understanding with the applicant, as to the FmHA loan making and servicing authorities, and the responsibilities of the applicant or borrower. The *discussion* will include an explanation of all options of assistance which may be available to the applicant or borrower. A documentation of the items *discussed* will be placed in each applicant case file and will be dated and signed by both the applicant and County Supervisor. A copy will be provided to the applicant or borrower at the time of the personal interview. Exhibit D of this Subpart sets forth items which must be included and may be used as a guide in preparing the required documentation for this purpose. *No housing loan will be approved without such evidence that a personal interview has been completed.*

(d) *Credit counseling.* During the time of the applicant's initial interview and application processing, consultation will be provided as necessary to assist the applicant in preparing and understanding a meaningful budget, Form FmHA 431–2, or Form FmHA 431–3, which will reasonably reflect the applicant's repayment ability. County Supervisors will work closely with applicants to better understand all sources of income and cash substitutes. Credit and financial counseling will also be provided, as needed, to suggest financial management methods by which the applicant's success as a homeowner may most likely be achieved. When the County Supervisor determines that the applicant does not have sufficient income to repay the requested loan, other alternatives will be considered such as reducing amenities in the dwelling, selecting a less expensive dwelling or site, obtaining a cosigner, reduction of present debt load or, when appropriate, building the dwelling by the self-help method.

(e) *Determining eligibility.* (1) The County Committee will determine eligibility of RH applicants who are also applying for or are indebted for a Farmer Program loan. The County Supervisor will determine eligibility for all other RH applicants.

(2) Repayment ability as outlined in § 1944(a)(2), will be evaluated on the circumstances surrounding the individual case including possible eligibility for interest credits as provided in § 1944.34. Obvious repayment ability may be determined by use of the short budget on Form FmHA 410–4. Form FmHA 431–3 will be completed by the applicant and the County Supervisor if eligibility cannot be clearly determined from the short budget. Under no condition(s) will arbitrary guidelines or "rules of thumb" be used. If the applicant(s) can verify payment of a comparable or greater amount for housing costs for the previous 12 months, the applicant will be presumed to have repayment ability for the requested loan unless:

(i) Current annual income is less than past income,

(ii) Planned expenses are proportionally greater than current expenses, when compared to income, or

(iii) The applicant has increased debts, or failed to pay existing debts in order to maintain the present standard of living.

(3) Credit history will be considered to the extent that it is used in evaluating all applicants for similar types and amounts of credit in accordance with the Equal Credit Opportunity Act. For instance, credit requirements for a female applicant will not differ from those of a male applicant.

(4) The age of the applicant will not be used as a consideration of eligibility, except as provided in § 1944.9(d).

(5) The County Supervisor must determine whether the applicant could obtain housing credit elsewhere as follows:

(i) In any case in which a County Supervisor determines there is no possibility of the applicant's obtaining adequate housing credit elsewhere and, therefore, does not require the applicant to provide evidence that an effort has been made to obtain such credit, the County Supervisor will record that conclusion and the basis for it in the loan docket.

(ii) In any case where there may be a possibility that credit could be obtained from another source, the County Supervisor will require the applicant to make a diligent effort to obtain other credit.

(A) Applicants will be expected to apply for credit from lenders engaged in extending long-term housing credit in the area.

(B) Applicants should be advised to request lenders to indicate the amount, interest rate, and terms of housing credit they would be willing to extend to the applicant.

(C) When appropriate, the County Supervisor should verify evidence presented by an applicant that adequate credit is not available elsewhere.

(D) Letters from the lenders and any other evidence indicating that the applicant is unable to obtain credit elsewhere will be included in the loan docket.

(E) In no case will a loan be made to an applicant who is able to obtain the credit needed from another source at terms that can reasonably be expected to be within the applicant's repayment ability.

(f) *Veterans preference.* Veterans preference will apply when:

(1) There is a shortage of funds,

(2) Obligating forms are ready to be submitted to the Finance Office, and

(3) There is more than one application having the same date.

(g) *Optioning of real estate.* The County Supervisor should advise the applicant with respect to the size, design, quality, cost and location of the dwellings and dwelling sites suitable for the RH program. If possible this should be done before the applicant selects a property to be purchased. Form FmHA 440–34, "Option to Purchase Real Property," should be used; however, other option forms may be used if their provisions are acceptable.

(h) *Application assistance.* Builders, brokers, contractors, and others including organizations such as those providing self-help assistance, who can provide complete information on the applicant and the house that is to be purchased, may assist in the assembly and processing of loan applications. Form FmHA 1944–12, "Rural Housing Loan Application Package," will be used for this purpose. Builders or sellers who received conditional commitments may also assist applicants in applying for an RH loan to buy a house for which a conditional commitment was issued in accordance with § 1944.45. The County Supervisor will meet with such interested parties to explain:

(1) The elegibility requirements of RH loans,

(2) The size, design, cost and location of homes that can be financed,

(3) The requirements of FmHA Instruction 1901–E,

(4) How applications will be handled, and

(5) The type of information that must be submitted is listed in Exhibit A of this Subpart which may be used as a guide.

(i) *Appeal.* If the decision on the applicant's request for assistance is unfavorable and was based on appealable actions, the applicant will be notified of appeal rights as required by § 1910.6(b) of Subpart A of Part 1910 and Subpart B of Part 1900 of this chapter.

§§ 1944.27–1944.29 [Reserved]

§ 1944.30 Preparation of loan docket.

(a) Forms and documents will be fastened in the designated filing positions of the case folder as prescribed in Exhibit A of FmHA Instruction 2033–A (available in any FmHA office). Appropriate loan docket forms will be prepared in accordance with the Forms Manual Insert (FMI) for distribution as follows:

Form No.	Name of form	Total number of copies	Number signed by borrower	Loan docket	Copy for borrower
FmHA 410–1	Application for FmHA Services	1	1–O	1–O	
FmHA 410–4	Application for Rural Housing Loans (nonfarm tract)	1	1–O	1–O	
FmHA 1944–12	Rural Housing Loan Application Package	1		1–O	
FmHA 410–6	Request for Verification of Employment	1		1–O	
FmHA 410–7	Notification to Applicant on Use of Financial Information from Financial Institution.	2		1–C	1–O
FmHA 410–8	Applicant Reference Letter	1		1–O	
FmHA 410–9	Statement Required by the Privacy Act	2	2–O and C	1–C	1–O

Form No.	Name of form	Total number of copies	Number signed by borrower	Loan docket	Copy for borrower
FmHA 431-2	Farm and Home Plan	1	1-O	1-O	(In record book).
FmHA 431-1	Long-Time Farm and Home Plan	2	2-O and C	1-C	1-O.
FmHA 431-3	Household Financial Statement and Budget	2	2-O and C	1-C	1-O.
FmHA 440-2	County Committee Certification or Recommendation	1		1-O	
FmHA 427-8	Agreement with Prior Lienholder (or similar form)	[3]		1-O	1-C.
FmHA 440-34	Option to Purchase Real Property	[5]	2-O and C	1-O	1-C.
FmHA 424-1	Development Plan (including any plans, specifications, and cost estimates).	[2]	1-O	1-O	1-C.
FmHA 422-1	Appraisal Report (farm tract) (with attachments)	1		1-O	
FmHA 427-9	Preliminary Title Opinion	2		1-O	1-C (Designated attorney).
FmHA 1944-6	Interest Credit Agreement (Section 502 RH loans)	3	1-O	1-O	1-C (Finance) 1-C.
FmHA 1940-1	Request for Obligation of Funds	4	2-O and C	1-O	1-C.
FmHA 444-2	Single Family Housing Fund Analysis	4		1-C	
FmHA 440-25	Acceptance of Option	2	1-O	1-C	1-O[4].
FmHA 440-41	Disclosure Statement for Loans Secured by Real Estate	3	(See FMI)	1-C	1-O.
FmHA 440-42	Credit Sale Disclosure Statement	3	(See FMI)	1-C	1-O.
FmHA 440-43	Notice of Right to Rescind	3		1-C	2-O and C.
FmHA 400-3	Notice to Contractors and Applicants	3		1-C	1-C 1-O (Contractor).
FmHA 400-6	Compliance Statement	3		1-C	1-O (Contractor). 1-C
FmHA 440-8	Supplementary Payment Agreement	2	1-O	1-O	1-C.
FmHA 440-45	Nondiscrimination Certificate (Individual housing)	2	2-O and C	1-O	1-C.

O—original; C—copy.
[1] When contract method will be used, 3 copies of plans and specifications will be required.
[2] Copy to lienholder.
[3] Signed copy of option previously delivered to seller.
[4] Original to seller.

(b) All other documents necessary for approval of the particular loan will be included in the loan docket. This will include the following or others as appropriate:

(1) A copy of Exhibit D, "Rural Housing Applicant Interview," or a similar document executed by the applicant.

(2) Credit report(s) on the applicant(s).

(3) Evidence of ownership such as a certified copy of the applicant's deed, lease, purchase contract, or other evidence specified in § 1944.24(d), or a statement by the County Supervisor that such documents have been reviewed.

(4) Estimates of the value of any security for which a formal appraisal report is not required.

(5) Agreements from prior lienholders, if any, when necessary to comply with § 1944.18(b)(6) and § 1807.2(f) of this chapter (paragraph II F of FmHA Instruction 427.1).

(6) When the loan is to be secured by a junior real estate mortgage, the docket must include a copy of each prior mortgage and, if available, a copy of each secured note or other obligation, furnished by the applicant at the applicant's own expense. The docket must include a current statement signed by the mortgagee showing the amount of unpaid principal secured by the mortgage; the amount of any accrued interest; the amount of any delinquency, with interest and principal shown separately; and, if a copy of the note is not furnished, its maturity date, payment schedule, interest rate, and a summary of any other provisions of the note.

(7) When the applicant obtains a cosigner, the docket must include that cosigner's current financial statement, income statement, and employment or business history. This will be supplemented by a statement from the County Supervisor as to the cosigner's financial condition and reputation for paying debts, and any other information, such as a credit report, that will be of assistance to the loan approval official.

§ 1944.31 Loan approval.

(a) The State Director, District and Assistant District Directors, County and Assistant County Supervisors are authorized to approve or disapprove loans in accordance with FmHA Instruction 1901-A (available in any FmHA office).

(b) The loan approval official is responsible for reviewing the docket to determine that the proposed loan complies with established policies and all pertinent regulations and that funds are available for the loan.

(c) Prior to loan approval a new verification of employment will be required if more than 90 days have elapsed since the date of the last verification of employment, or if evidence is brought to the attention of the loan approval official that indicates the applicant's financial status has changed significantly.

(d) When a loan is approved, the loan approval official will:

(1) Indicate on all copies of Form FmHA 1940-1 any condition that must be met before the loan is closed. Also, the loan approval official will specify all security requirements that the applicant will need to meet, such as a first real estate lien or a junior lien subject to certain prior liens. If title evidence is required in accordance with Part 1807 of this chapter (FmHA Instruction 427.1) or in accordance with any special requirements for the loan but is not included in the docket, the loan may be approved subject to the applicant's furnishing the required title evidence. When the applicant furnishes required title evidence, the County Supervisor will proceed with processing the loan. In those cases in which the title evidence does not comply with the conditions specified by the approval official, the docket will be reconsidered by the loan approval official.

(2) Sign the approval certification on the original and one copy of Form FmHA 1940-1 and insert title in the space provided. The remaining copies will be conformed.

(3) If a loan is not approved after the docket has been developed, the reason for such action with date and initial of the approval official will be shown on the original Form FmHA 1940-1 and the County Supervisor will notify the applicant in accordance with § 1910.6(b) of Subpart A of Part 1910 of this chapter.

(e) After the loan is approved the docket forms will be distributed as outlined below.

(1) *To the Finance Office.*

(i) Form FmHA 1940-1 (first copy);

(ii) Form FmHA 444-2 (original).

(2) *To the State Office.* If the loan is approved by the County Supervisor, or the District Director, an unsigned copy of Form FmHA 1940-1 (unless exempted by State Supplement) and a copy of Form FmHA 444-2 will be sent to the State Office. If the loan is approved in the State Office, an unsigned copy of Form FmHA 1940-1 and a copy of Form FmHA 444-2 will be retained in the State Office.

(3) *To the borrower.* A signed copy of Form FmHA 1940-1, the original of Form FmHA 440-41, and if applicable, the original and copy of Form FmHA 440-43.

§ 1944.32 Actions subsequent to loan approval.

(a) *Requesting a loan check.* (1) A loan check may be requested when all approval conditions can be met and necessary curative actions have been taken to provide a satisfactory title to real estate security. Form FmHA 440-57, "Acknowledgment of Obligated Funds/Check Request," will be completed and a copy sent to the Finance Office to request the check.

(2) A loan check may be requested at the time of loan approval by entering the amount of the check requested on Form FmHA 1940-1 when one of the following conditions exist:

(i) The loan will be secured by a promissory note only, or

(ii) Real estate security will be taken and the County Supervisor is reasonably certain that satisfactory title evidence can be obtained and the loan can be closed within 21 days from the date of the check request.

(3) When not more than $4,000 of the loan funds will remain unexpended for more than 15 days after loan closing, the total amount of the loan will be requested in a single advance.

(4) If loan funds cannot be expended within 15 days, the County Supervisor will enter in the appropriate "block" of Form FmHA 1940-1 the amount of loan funds to be disbursed at loan closing. Additional loan funds will be requested when, and in amounts, needed by submitting a completed copy of Form FmHA 440-57 to the Finance Office, or by telephone request if the additional funds cannot be received by the date needed using mail service. The County Supervisor should work with borrowers, developers, and others to be sure that funds will be available when needed and to reduce the multiple advances to a reasonable number. Any loan funds not requested by the "amortization effective date" for the loan, will be disbursed by the Finance Office to the County Office by check dated on the amortization effective date. The check will be deposited in the borrower's supervised bank account if it cannot be endorsed directly to a payee within 20 working days from the date of the check.

(b) *Handling loan checks.* (1) When the loan check or borrower's personal funds are to be deposited in the designted loan closing agent's escrow account, this will be done no later than the date of loan closing. If loan funds or borrower's personal funds are to be deposited in a supervised bank account, this will be done in accordance with § 1902.6 of Subpart A of Part 1902 of this chapter no later than the first banking day following the date of loan closing.

(2) If a loan check is received and the loan cannot be closed within 20 working days from the date of the check, the County Supervisor will take appropriate action in accordance with FmHA Instruction 102.1 (available in any FmHA office).

(c) *Cancellation of loan.* Loans may be cancelled before loan closing by the use of Form FmHA 440-10, "Cancellation of Loan or Grant Check and/or Obligation," prepared in accordance with the FMI for that form. Checks received in the County Office will be returned with a copy of Form FmHA 440-10 to the Disbursing Center, U.S. Treasury Department, P.O. Box 3329, Kansas City, Kansas 66103. Interested parties will be notified of the cancellation as provided in § 1807.6 of this chapter (FmHA Instruction 427.1). If the cancellation is not a voluntary action by the applicant, the applicant will be notified in accordance with § 1910.6 (b) of Subpart A of Part 1910 of this chapter.

(d) *Increase or decrease in amount of loan.* If it becomes necessary that the amount of the loan be increased or decreased prior to loan closing, the County Supervisor will request that all distributed docket forms be returned to the County Office. The loan docket will be revised accordingly and reprocessed.

(e) *Property insurance.* Buildings on the property which is to be taken as security for the loan will be insured in accordance with Subparts A and B of Part 1806 of this chapter (FmHA Instructions 426.1 and 426.2) when appropriate.

§ 1944.33 Loan Closing.

(a) *Loans approved with interest credit.* If the loan will be closed and Form FmHA 1944-6 or 1944-A6, "Interest Credit Agreement (section 502 RH Loans), "will be executed more than 90 days after the last "Verification of Employment," or if there is evidence to indicate the applicant's financial status has changed signifcantly, a current "Verification of Employment" will be obtained and the amount of interest credit will be determined on the baiss of the applicant's new circumstances. If the adjusted income exceeds the low-income limit set forth in Exhibit C of this Subpart, the loan will not be closed unless authorized by the State Director. Such authorization may be granted if there is documented evidence to clearly indicate other credit is not available. Interest credit will not be granted in any case in which the adjusted income exceeds the moderate-income limit set forth in Exhibit C.

(b) *Loans approved without interest credit.* Further review of the applicant's financial status is not required at the time of closing unless the loan is closed more than 90 days after the date of loan approval, or there is evidence to indicate the financial status has changed significantly. If the adjusted income exceeds the limit for moderate income set forth in Exhibit C of this Subpart, the case will be referred to the State Director. The State Director may authorize closing of the loan if there is documented evidence to clearly indicate other credit is not available.

(c) *Promissory note.* Form FmHA 440-16, "Promissory Note," will be prepared and signed in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1), and the FMI for the form.

(1) The payment alternatives of the note will be completed in accordance with the FMI for the form. Payments of principal and interest will be deferred during the period the dwelling is not expected to be suitable for occupancy as a residence because of construction or repairs to be made. In such cases if the loan is closed before any funds are advanced by the Finance Office or loan funds are distributed by multiple advance, accrued interest is added to principal and repaid in regular amortized installments (payment alternative II) after the deferment period.

(2) The payment provision of the note will be completed in accordance with the FMI for the form and the following:

(i) The monthly payment provision will be used for all borrowers who regularly receive monthly income and who can repay the loan in 12 equal monthly payments.

(ii) The annual payment provision will be used only for borrowers who do not regularly receive monthly income throughout the year. If installments are not to be deferred, the following provisions apply:

(A) The amount of the first installment will be determined by the County Supervisor after considering the immediate debt paying ability of the borrower. The amount of the first installment may be less, but not more, than a regular annual installment.

(B) The amount of the first installment may not be less than the amount equal to interest on the loan from the date of loan closing to the next January 1.

(C) Form FmHA 440-9 should be used to supplement this payment provision to facilitate servicing of loans for borrowers who pay more than one time a year.

(d) *Real estate mortgage.* Form FmHA 427-1, "Real Estate Mortgage for (State)," will be used for loans to be secured by a real estate mortgage. Any

changes made in the text by deletion, substitution, or addition (excluding filling in blanks) will be initialed in the margin by all persons signing the mortgage. Additions will be made on the mortgage in the following cases:

(1) For a loan secured by a mortgage on a leasehold, the following language, or similar language which in the opinion of OGC is legally adequate, will be inserted in the mortgage just before the legal description of the real estate:

All Borrower's right, title, and interest in and to the leasehold estate for a term of —. years beginning on ——, 19—, created, executed and established by certain Lease dated ——, 19—, by ———— as lessor(s), and recorded at Book ————, Page — of the ——— Records of said County and State, and any renewals and extensions thereof, and all Borrower's right, title, and interest in and to said Lease, covering the following real estate:

(2) For a loan secured by a mortgage on a leasehold an additional covenant will be inserted in the mortgage to read as follows:

Borrower will pay when due all rents and any and all other charges required by said Lease, will comply with all other requirements of said Lease, and will not surrender or relinquish, without the Government's written consent, any of Borrower's right, title or interest in or to said leasehold estate or under said Lease while this instrument remains in effect.

(3) For all initial and subsequent Section 502 RH loans, until the mortgage forms are revised, the following additional covenant will be inserted above the signature line on the mortgage and be initialed at loan closing by all parties signing the mortgage.

This instrument also secures the recapture of any interest credit or subsidy which may be granted to the borrower(s) by the Government pursuant to 42 U.S.C. 1490a.

(e) *Collection of first installment.* If the annual payment provision of the note is used and payments are not deferred, the first installment of a loan closed during December will be collected at the time of loan closing.

(f) *Direct payments.* Direct payment cards for all new borrowers, including transferees, will be retained in the County Office until the borrower has made at least three monthly payments on time. The cards may then be delivered to the borrower and payments made directly to the Finance Office. The County Supervisor may retain the payment cards for a longer period if such action is considered to be necessary to determine that the borrower is able to make timely payments as agreed. Payments made to the County Office will be forwarded to the Finance Office with the appropriate direct payment card in the Finance Office mail. Cash payments, refunds, and extra payments made by borrowers will be handled in accordance with Subpart B of Part 1951 of this chapter.

(g) *Owner's policy of title insurance.* If an owner's policy of title insurance is obtained, it will be delivered to the borrower as soon as it is received from the title insurance company.

(h) *Real estate mortgage after filing.* When the real estate mortgage is returned by the filing official or loan closing official, the original will be filed in the borrower's case folder. If the original is retained by the filing official in the official records, a copy conformed to show the recording data including the date and place of recording and the book and page number will be filed in the borrower's case folder. A copy of the mortgage will be delivered to the borrower.

(i) *Effective date of loan closing.* A loan secured by a real estate mortgage is closed when the mortgage is filed for record. In other cases a loan is closed when the borrower executes the note and any other required instruments.

(j) *Water stock certificate or other such collateral.* When water stock certificates or other such collateral are part of the security, they will be retained in the County Office. A notation will be made on Form FmHA 1905–1, "Management System Card-Individual," or Form FmHA 1905–5, "Management System Card-Individual (RH Only)," as appropriate, showing that such security has been retained.

(k) *Account record and case folder.* The account record and case folder will be established in accordance with FmHA Instructions 2033–A and 1905–A (available at any FmHA office).

§ 1944.34 Interest credit.

(a) *General.* It is the policy of FmHA to grant interest credit on loans to low-income borrowers to assist them in obtaining decent, safe, and sanitary dwellings and related facilities.

(b) *Definitions.*

(1) *Annual payment borrowers.* Borrowers who signed promissory notes providing for annual payments, including borrowers converted to monthly payments through the use of Form FmHA 451–34, "Direct Payment Plan Change."

(2) *Monthly payment borrowers.* Borrowers who signed promissory notes providing for monthly payments.

(3) *Review period.* The review period for an annual payment borrower will be the months of October and November. The review period for a monthly payment borrower will be the second and third months prior to the anniversary date of the borrower's current Interest Credit Agreement.

(4) *Real estate taxes.* Real estate taxes for interest credit purposes means the amount of real estate taxes and assessments that will actually be due and payable on the dwelling and the dwelling site during the interest credit period, reduced by the amount of any tax exemption available to the borrower, regardless of whether such exemption is actually claimed. Tax exemptions may include such things as homestead exemptions, special exemptions for low-income families, senior citizens, veterans and others.

(c) *Approval authority.* Those FmHA officials who are authorized to approve Section 502 loans are also authorized to approve the Interest Credit Agreement.

(d) *Amount of interest credit.*

(1) Loans qualified to be considered in the interest credit calculation include only those advanced for authorized Section 502 RH purposes and which are a lien against the FmHA security by virtue of a prior mortgage or a junior mortgage consented to by FmHA. Except as provided in paragraph (d)(2) of this section, the amount of interest credit granted will be the lesser of:

(i) The difference between 20 percent of the borrower's adjusted annual income and the sum of the annual installments due at the note interest rate on qualified loans plus the cost of real estate taxes and insurance, or

(ii) The difference between the annual installment due on the FmHA promissory notes eligible for interest credit and the amount the borrower would pay if the loan(s) were amortized at an interest rate of 1 percent.

(2) For repair and rehabilitation loans which meet the requirements of paragraph (f)(6) of this section, interest credit will be granted in an amount to achieve the following effective interest rates:

(i) For borrowers whose adjusted annual income is not more than $5,000, interest credit will be calculated to reduce the effective interest rate to 1 percent.

(ii) For borrowers whose adjusted annual income is more than $5,000 but not more than $7,000, interest credit will be calculated to reduce the effective interest rate to 2 percent.

(iii) For borrowers whose adjusted annual income is more than $7,000 but not more than $10,000, interest credit will be calculated to reduce the effective interest rate to 3 percent.

(3) Borrowers qualifying for interest credit assistance under both paragraphs (d) (1) and (2) of this section will be granted only the one type of interest credit assistance that is most beneficial to them. Interest credit on initial and subsequent loans will always be the same type. There is no provision for switching from one type of interest credit to the other.

(e) *Recapture.* At the applicant interview, the Country Supervisor will advise all Section 502 RH applicants that interest credit is subject to recapture. Applicants who receive interest credit will be required to sign a "Subsidy Repayment Agreement" (Subpart I of Part 1951 of this Chapter, Exhibit A) at the time the initial interest credit agreement is signed.

(f) *Eligibility.* To be eligible for interest credit, a borrower must qualify for a Section 502 loan, must personally occupy the dwelling, and must meet the following additional requirements:

(1) *Initial loans.* Interest credit may be granted at loan closing if:

(i) The borrower's adjusted annual income does not exceed the applicable low-income limit in Exhibit C.

(ii) The borrower's net worth does not exceed $7,500 (a maximum net worth of $10,000 will be allowed for senior citizens) unless an exception is authorized. The calculation of net worth will exclude the value of the dwelling and dwelling site, cash on hand which will be used to reduce the amount of the loan, and household goods and the debts against them. For the purpose of determining whether an exception is justified, consideration will be given to the nature of the assets, particularly whether they are assets upon which a borrower is currently dependent for a livelihood or which could be used to reduce or eliminate the need for interest credit. The District Director may authorize exceptions of the net worth limitation up to $20,000. Cases recommended by the State Director for which the net worth exceeds $20,000 will be submitted to the National Office for authorization to grant interest credit.

(iii) The term of the loan is for 33 years, unless authorized otherwise by the State Director based on complete documentation of the justifiable reasons on an individual case basis. Interest credit will not be granted on loans with a term of less than 25 years, except as provided in paragraphs (f) (4) and (6) of this section.

(iv) The loan was approved on or after August 1, 1968.

(v) The amount of interest credit will be $5 or more per month or $60 or more annually.

(2) *Subsequent loans.* Interest credit may be granted on subsequent loans which meet the requirements of paragraph (f)(1) of this section or in cases where interest credit is presently being granted on the initial loan and the borrower's adjusted income does not exceed the moderate-income limit set forth in Exhibit C of this subpart.

(3) *Transfers and credit sales.* Interest credit may be granted to a borrower buying an inventory dwelling or assuming an RH loan provided:

(i) The requirements of paragraph (f)(1) of this section are met except that if the loan being assumed was initially approved before August 1, 1968, the assumption must be on new terms.

(ii) The note being assumed is not an above-moderate loan.

(4) *Reamortization.* Interest credit may be granted on loans after reamortization under the following conditions:

(i) If the loan was eligible for interest credit prior to reamortization, interest credit may continue to be granted even though the term of the reamortization period is less than 25 years; or

(ii) If the loan was not eligible for interest credit prior to reamortization, the reamortized term of the loan must be 25 or more years and all other conditions of paragraph (f)(1) of this section must be met.

(5) *Existing loans.* Interest credit may be granted at any time after loan closing if:

(i) The requirements of paragraph (f)(1) of this section are met.

(ii) The loan was approved as a "low or moderate" Section 502 loan on or after August 1, 1968.

(iii) The borrower requests interest credit, or the County Supervisor determines that interest credit is needed to enable the borrower to repay the loan. In the case of married borrowers, when one spouse has left the dwelling due to martial discord, interest credit based on the remaining spouse's income may be extended to the remaining spouse if:

(A) The remaining spouse is occupying the dwelling, owns a legal interest in the property, and is liable for the debt;

(B) The FmHA loan account is put in the remaining spouse's name;

(C) Legal papers have been filed with the appropriate court to commerce divorce or legal separation proceedings, or one spouse has not been living in the dwelling for at least six months. Interest credit will not be granted if separation is due only to work assignment or military order; and

(D) The remaining spouse is informed and agrees that should the spouse begin to live in the dwelling, that spouse's income will then be counted toward annual income and interest credit may be reduced or cancelled.

(6) *Repair and rehabiliation loans.* Interest credit may be granted on Section 502 RH loans made to repair or rehabilitate a dwelling already owned by the applicant provided the following conditions are met:

(i) The initial interest credit will be granted at the time of loan closing and the loan will be secured by a real estate mortgage;

(ii) The dwelling is, or will be, occupied by an eligible borrower after the loan is made;

(iii) The amount of the loan will not exceed $10,000, or be amortized for not more than 25 years;

(iv) The applicant's adjusted annual income does not exceed $10,000;

(v) The repairs will be made to bring a substandard dwelling up to the standards outlined in § 1944.16(c); and

(vi) The net worth requirements in paragraph (f)(1)(ii) of this section are met.

(g) *Processing interest credit.*—(1) *General.* The amount of interest credit for which a borrower may be eligible will be determined by use of Form FmHA 1944–6 or Form FmHA 1944–A6 as outlined in paragraph (d) of this section.

(i) *Determination of income.* The County Supervisor is responsible for determining the borrower's adjusted annual and annual income as defined in § 1944.2, paragraphs (b) and (c) respectively, of this subpart. A borrower interview will be conducted in all cases for granting initial interest credit. Form FmHA 410–5 will be used to verify the earnings from employment of all persons whose income is included in "Annual Income."

(ii) *Effective period.* Interest Credit Agreements on loans made to monthly payment borrowers will be for a 12-month period with the agreement extendable for an additional 12 months if the borrower's circumstances do not change. For annual payment borrowers the agreement will be in effect until the first December 31 after the effective date with the agreement extendable until the second December 31 after the effective date if the borrower's circumstances do not change. The effective date will be as indicated on the FMI for Form FmHA 1944–6.

(iii) *Partial year interest credit.* For an annual payment borrower with an initial installment less than a regular installment, and who will receive less than a full year of interest credit assistance, the interest credit granted will be a pro rata portion calculated on the number of months left in the current calendar year, including the month in which the loan is closed.

(iv) *Advance from the insurance fund.* The repayment schedule for advances made from the Rural Housing Insurance Fund will be computed at the interest rate shown on the promisory note. However, interest will accrue and payments will be applied on the amount advanced at the reduced interest rate in effect at the time of payment.

(v) *Preparation of the transaction record.* For borrowers receiving interest credit, the following changes will be shown on Form FmHA 451–26, "Transaction Record," when prepared by the Finance Office:

(A) Interest rate field. The interest rate field of the form will continue to show the interest rate on the note. The Finance Office will compute the effective interest rate charged the borrower based on the amount of interest credit granted. The computed rate, rounded to the nearest ⅛ of a percent, will be shown as a footnote on the form as "Interest Rate reduced to — %." Subsequent transactions will be applied to the loan by the Finance Office at the reduced interest rate until such time as renewal, change, or cancellation occurs.

(B) Daily interest accural field. The daily interest accural will be shown at the reduced interest rate and the interest will accrue at the same interest rate until such time as the interest credit is renewed, changed, or cancelled.

(C) Application of credit field. The initial transaction record form will not have an entry in the "Application of Credit" field. The Interest Credit Transaction Code for this method of processing interest credit will be 4 Z.

(D) Payment status field. The payment status field will not reflect the dollar amount of the interest credit granted. No entry will be made for monthly payment borrowers.

(E) Minimum amount due by date shown field. For annual payment borrowers, the amount of the installment, reduced by the amount of interest credit granted, will be shown. For monthly payment borrowers the word "monthly" will be entered in the space provided.

(2) *Initial and subsequent loans.* (i) *County Office action.* The County Supervisor will:

(A) Determine the borrower's adjusted annual income and document the calculations in the case file running record.

(B) Enter on form FmHA 1940–1 the adjusted annual income, the estimated real estate taxes that will become due and payable during the first and second years of agreement, and the amount of the annual property insurance premium for the dwelling.

(C) For initial loans approved with interest credit and closed under the multiple advance feature of the loan disbursement system outlined in Subpart A of Part 1902 of this Chapter, further review of the borrower's financial status is not required unless the Interest Credit Agreement will be approved more than 90 days after the last "Verification of Employment," or there is evidence which indicates the borrower's financial status has changed significantly. If prior to approval of the Interest Credit Agreement the County Supervisor finds that the adjusted income has increased, interest credit will be granted on the basis of the borrower's new circumstances. Interest credit will not be granted if the borrower's adjusted income exceeds the moderate-income limit indicated in Exhibit C of this subpart.

(D) Complete and submit a corrected Interest Credit Agreement to the Finance Office when the loan is closed, or at the amortization effective date, if the borrower's circumstances have changed so that the amount of interest credit would be increased or decreased by at least $5 monthly or $60 annually.

(ii) *Finance Office actions.* The Finance Office will:

(A) Enter the information concerning adjusted annual income, the estimated real estate taxes, and the insurance premium on Form FmHA 440–57.

(B) Calculate the amount of interest credit to be granted to the borrower. The amount of interest credit will be determined from the information initially shown on Form FmHA 1940–1.

(C) Prepare and mail Form FmHA 1944–A6 to the County Office when the final loan check is issued. Upon receipt, the form will be completed and a copy returned to the Finance Office only when indicated on the form.

(D) Prepare and issue payment cards to the County Office.

(3) *Reamortization, credit sales and transfers.* Interest credit to a borrower whose loan is being reamortized, or a borrower who assumes an RH loan or purchases property from inventory will be calculated by the County Office on Form FmHA 1944–6. A copy of Form FmHA 1944–6 will be forwarded to the Finance Office along with the copy of the Reamortization Agreement, Advice of Mortgaged Real Estate Sold, or Assumption Agreement. The Finance Office will issue payment cards to the County Office.

(4) *Existing loans.* Interest credit granted in accordance with paragraph (f)(5) of this section can be processed at any time in the same manner as interest credit on initial loans, except that the County Office will complete Form FmHA 1944–6 and calculate the amount of interest credit assistance the borrower will receive. A copy of Form FmHA 1944–6 will be used to send interest credit information to the Finance Office. The daily interest accrual will be reduced as of the effective date entered on the form or as of the date the last cash credit was made to the account, whichever is later.

(h) *Interest credit modification.*—(1) *Before expiration.* When approving a change in interest credit assistance before the expiration of a current Interest Credit Agreement in accordance with paragraph (i)(3) of this section, the County Supervisor will again interview the borrower, determine the borrower's adjusted annual income and document the findings in the case file running record. A Form FmHA 1944–6 will be completed in accordance with the FMI and a copy of the form will be forwarded to the Finance Office. The Finance Office will adjust the daily interest accrual as of the date entered on the form or as of the date of the last cash credit made to the account, whichever is later.

(2) *Correction of Interest Credit Agreements.* A corrected Interest Credit Agreement will be prepared if the borrower is still eligible to receive interest credit. The corrected agreement will be submitted to the Finance Office only after the borrower's appeal right has expired or, if the borrower has filed an appeal, after a final decision has been made. In such cases, a Form FmHA 1944–6 showing the proper amount of interest credit which the borrower is entitled to receive, together with written authorization from the State Director to reapply any affected payments, will be submitted to the Finance Office to replace the incorrect agreement. The notation "Corrected in accordance with § 1944.34" will be entered on the face of the form. The Finance Office will cancel the incorrect Interest Credit Agreement as of its effective date. Payments made under the previous agreement will be reversed and reapplied at the adjusted interest rate of the new Interest Credit Agreement.

(3) *Interest credit renewal.*—(i) *Initiation of renewal action.* At the beginning of the annual review period, the Finance Office will mail to the County Office a list of borrowers whose Interest Credit Agreements are to be reviewed, together with a package to be mailed by the County Supervisor to each borrower. The package will contain the following:

(A) A letter of explanation and the instructions for completing the Interest Credit Agreement (Exhibit F of this subpart).

(B) Form FmHA 1944–A6 (3 parts with carbon interleaved). If the renewal Form FmHA 1944–A6 is for the first year review period following the effective date of the agreement, it will contain the following legend:

Subsidy for (*ensuing year*) of $———. Is this correct? ☐

(C) Two Forms FmHA 410–A5, "Request for Verification of Employment." The County Office name and address will be preprinted in the space provided.

(D) Two window envelopes to be used by the employer(s) to mail the Verification of Employment form(s) to the County Office.

(ii) *Borrower responsibility.* Upon receipt of the package, the borrower will give one copy of the Verification of Employment form to the employer or employers of each member of the household who has income to be considered. A window envelope will be provided each employer to facilitate the mailing of the Verification of Employment form directly to the County Office. The borrower will also complete part II of the Interest Credit Agreement form (leaving carbon intact), sign the original form and bring the original and all copies to the County Office.

(iii) *County Office actions.* The County Supervisor, or designee, will:

(A) Maintain the list of borrowers as a record of Interest Credit Agreements processed and sent to the Finance Office.

(B) Conduct an interview with the borrower to review the information on Forms FmHA 1944–A6 and 410–A5 for completeness and accuracy. The interview should, whenever possible, be a personal contact.

(C) Determine the adjusted annual income and document the calculations in the case file running record.

(D) For the first year review period following the effective date of the agreement, place an "X" in the box of the Finance Office legend on the renewal Form FmHA 1944–A6 if there is no change in the amount of interest credit. This will extend the agreement for one year. If there is a change, complete the Interest Credit Agreement and send a copy of the agreement to the Finance Office. For the second review period following the effective date of the agreement, an Interest Credit Agreement will be completed and a copy of the agreement sent to the Finance Office. If an annual note installment borrower is not eligible for interest credit, enter "0" in the blocks which indicate the amount of interest credit and send a copy of the agreement to the Finance Office. For monthly note installment borrowers not eligible for interest credit a copy of the agreement need not be sent to the Finance Office.

(E) If the Form FmHA 1944–A6 is mutilated or unusable, transfer *all* information preprinted on the form to a new Form FmHA 1944–6 to be signed by the borrower and submit the completed form to the Finance Office.

(F) Retain the original of the Interest Credit Agreement and return the other copy to the borrower.

(G) Notify by letter borrowers not eligible for continued interest credit and those whose interest credit has been reduced of the amount of their revised payments. The letter must notify the borrower of the right to appeal as outlined in § 1944.34(1). A new Form FmHA 440–9 will be obtained when needed.

(iv) *Finance Office actions.* The Finance Office will:

(A) Upon receipt of Form FmHA 1944–A6 from the County Office, send the County Office a new set of payment cards.

(B) Before the end of the review period, send the County Office a list of annual installment borrowers for whom a renewal Interest Credit Agreement has not been received. The County Office staff will place a checkmark in the appropriate column of the list to indicate those borrowers who are no longer eligible for interest credit or whose agreements will not be renewed. The original of the completed list will be retained in the County Office and a copy returned to the Finance Office.

(v) *Processing interest credit renewals not received during the review period.* The County Supervisor may approve interest credit renewals not completed during the review period. They will be handled as follows:

(A) The amount of interest credit assistance granted will be based on the borrower's current annual income. The effective date of the Interest Credit Agreement will be as indicated on the FMI for Form FmHA 1944–6.

(B) Payments made by the borrower after the expiration date of the previous Interest Credit Agreement will be applied at the note interest rate until the Finance Office receives a new Form FmHA 1944–6.

(C) Upon receipt of Form FmHA 1944–6, the Finance Office will reduce the daily interest accrual in accordance with the following conditions and limitations:

(*1*) If failure to renew was due to error or oversight by FmHA, the State Director will authorize the Finance Office to reduce the interest accrual as of the effective date entered on the form and reverse and reapply payments processed after the effective date. Such authorization must be in writing.

(*2*) In all other cases the Finance Office will reduce the daily interest accrual as of the effective date entered on the form or as of the date of the last cash credit made to the account, whichever is later.

(i) *Eligibility review.* The eligibility of those borrowers currently receiving interest credit will be reviewed as follows:

(1) *Annual review.* The eligibility of all borrowers will be redetermined annually during the review period.

(i) If the borrower's net worth increases above the applicable eligibility limit, interest credit may nevertheless be renewed unless the increase is sufficient to enable the borrower to graduate to another source of credit.

(ii) Interest credit will not be renewed if:

(A) The amount of interest credit for which the borrower qualifies is less than $5 monthly or $60 annually, or

(B) The borrower's adjusted annual income exceeds the moderate-income limit set forth in Exhibit C of this Subpart.

(iii) Interest credit will not be renewed if the borrower has enlarged or improved the dwelling or added related facilities so that the housing exceeds modest standards for size, design, and cost for previously occupied homes as compared to other housing in the locality for low-and moderate-income families.

(2) *Renewals not completed during the review period.* When the borrower's renewal Interest Credit Agreement is not completed during the review period, it will be processed in accordance with § 1944.34(h)(3)(v).

(3) *Change in borrower's circumstances.* The County Supervisor is not responsible for monitoring whether a borrower's income, family size, real estate taxes, or insurance costs have changed after an Interest Credit Agreement is approved. If, however, it becomes known that the borrower's circumstances have changed significantly, the County Supervisor will take action in accordance with the following:

(i) *Increased adjusted income.* If the County Supervisor determines that the borrower's adjusted income exceeds the moderate-income limit set forth in Exhibit C of this Subpart, the interest credit will be cancelled effective the date the County Supervisor becomes aware of the situation. The borrower

will be notified in accordance with paragraph (l) of this section.

(ii) *Decreased adjusted income.* Changes in interest credit will not be made except in cases where the decrease in income is such that the sum of principal and interest on loans eligible for interest credit computed at 1 percent, amount of annual installments due at the note rate on qualified loans ineligible for interest credit, real estate taxes and insurance exceeds 35 percent of the borrower's adjusted income. If the change is determined within three months prior to the anniversary date of the agreement currently in effect, the change will be effective on the anniversary date.

(j) *Improper interest credit.*—(1) *When to take action.* Servicing under this section will be taken when, at the time of interest credit approval, incorrect information was provided by a borrower or any other person or an error by any FmHA employee results in the borrower receiving improper interest credit of $5 or more per month or $60 or more annually.

(2) *Determining improper interest credit.* Whenever there is a reason to believe a borrower was granted improper interest credit the County Supervisor will immediately reverify the information on which the interest credit was based. The County Supervisor will determine if improper interest credit was granted. If there is reason to believe there may be fraud or fiscal irregularities, the complete case file together with all facts will be submitted to the State Director. If the State Director believes there is indication of fraud or fiscal irregularity, further investigation will be considered as provided in FmHA Instruction 2012–B (available in any FmHA office). If there is no indication of fraud or fiscal irregularity the case will be returned to the County Supervisor for appropriate corrective action.

(3) *Falsification or error by borrower.* The following actions will be taken when it is determined that excessive interest credit was granted because the borrower intentionally or otherwise provided incorrect information.

(i) The County Supervisor will inform the borrower by certified mail (return receipt requested) of the intent to cancel the Interest Credit Agreement and the effective date of such cancellation. The notice to the borrower will include the right to appeal as provided in § 1900.56 of Subpart B of Part 1900 of this Chapter. The borrower will also be informed of the amount of monthly payment required after proper corrections are made. A corrected Interest Credit Agreement will be prepared if the borrower remains eligible for interest credit. The corrected agreement or cancellation will be submitted to the Finance Office only after the borrower's appeal right has expired or if the borrower has filed an appeal and a final decision has been made.

(ii) If the borrower does not appeal, or it is determined that the appeal is not valid, the case will be handled by one of the following methods:

(A) If the Interest Credit Agreement is to be cancelled, the County Supervisor will cancel the Interest Credit Agreement as of the effective date of the current Form FmHA 1944–6, the date of the extension of the agreement, or the earlier Form FmHA 1944–6 as appropriate for the period of review or investigation. The Finance Office will then reapply any affected payments to the account at the note rate of interest and will notify the County Supervisor and borrower of any adjustments made in the account.

(B) If a corrected Interest Credit Agreement is to be prepared, it will be submitted to the Finance Office in accordance with paragraph (h)(2) of this section together with written authorization from the State Director to reapply payments in accordance with the corrected Form FmHA 1944–6. The Finance Office will notify the County Supervisor and borrower of adjustments made in the account.

(C) If the borrower's action appears to have been deliberate and a major error occurred, liquidation may be warranted. For example, such actions may be taken if the information obtained indicates that the borrower was not eligible for an RH loan. Such a borrower will be asked to repay the RH loan by refinancing or otherwise satisfying the account. In other cases, the borrower may already be in default and the fact that the borrower had not correctly reported income may justify liquidation of the loan. The State Director may authorize the account to be repaid under an acceleration agreement if the conditions of § 1872.17(g) of this chapter (FmHA Instruction 465.1, paragraph XVII G) are met.

(D) When falsified information is provided to FmHA in order to qualify the borrower for interest credit (for example, a packager provides information for a borrower), but there is evidence that the borrower is not at fault or definitely did not intend to provide false information, the borrower will be requested to pay the loan in full, including any improper and excessive interest credit that may have been granted. If, however, the borrower is unable to satisfy the account and the State Director determines that the Government's financial interest would not be jeopardized by leaving the loan outstanding, and that it would be inequitable to call it, the loan may be continued.

(E) In cases for which immediate liquidation is not warranted and the State Director determines the loan may be continued, the County Supervisor will make a diligent effort to obtain a lump sum restitution of the improperly advanced interest credit. If the borrower is unable to pay by lump sum payment, Form FmHA 451–37 will be used to establish a new repayment schedule. The borrower will be charged interest on the improperly advanced interest credit at the same rate charged on the principal indebtedness.

(4) *Error by FmHA employee.* (i) When the borrower presented correct information and an FmHA employee erroneously granted excessive interest credit, the following action will be taken:

(A) The County Supervisor will inform the borrower by letter of the action to be taken and of the right to appeal as provided in paragraph (1) of this section. A cancellation of interest credit or a corrected Interest Credit Agreement will be submitted to the Finance Office only after the borrower's appeal right has expired or if the borrower has filed an appeal and a final decision has been made.

(B) If the Interest Credit Agreement is to be cancelled, the County Supervisor will cancel the Interest Credit Agreement effective the date of current Form FmHA 1944–6, the extension of the agreement, or earlier Form FmHA 1944–6 as appropriate for the period of review or investigation. The Finance Office will then reapply any affected payments to the account at the note rate of interest and will notify the County Supervisor and borrower of any adjustments made in the account.

(C) If a corrected Interest Credit Agreement is to be prepared, it will be submitted to the Finance Office in accordance with paragraph (h)(2) of this section together with written authorization from the State Director to reapply payments in accordance with the corrected Form FmHA 1944–6. The Finance Office will notify the County Supervisor and borrower of adjustments made in the account. The amount of improper interest credit will be charged to the borrower's account and become immediately due and payable.

(D) If the Interest Credit Agreement is cancelled, the County Supervisor will make a diligent effort to obtain a lump sum restitution of the improperly advanced interest credit from the borrower. If this cannot be done, the County Supervisor will take one of the following courses of action:

(*1*) If the borrower can repay the improperly advanced interest credit over a reasonable period of time, the County Supervisor will use Form FmHA 451–37 to establish a new repayment schedule. The borrower will be charged interest on the improperly advanced interest credit at the same rate charged on the principal indebtedness.

(*2*) If the County Supervisor determnines that the borrower is unable to repay the improperly granted interest credit, that fact should be documented and the case forwarded to the State Director for review. If the State Director concurs with the findings of the County Supervisor, the case will be forwarded to the National Office with recommendations that the improperly advanced interest credit be forgiven.

(ii) When an error by an FmHA employee results in too little interest credit being granted, a corrected agreement will be prepared effective the date of the error, if the error is $5 or more per month or $60 or more per year.

(k) *Cancellation of interest credit agreements.*—(1) *Reasons for cancellation.* An existing Interest Credit Agreement will be cancelled whenever:

(i) The borrower has never occupied the dwelling and FmHA will not continue with the loan.

(ii) The borrower ceases to occupy the dwelling.

(iii) The borrower sells or conveys the title to the property.

(iv) The borrower has received improper interest credit as outlined in § 1944.34(j) and a corrected Interest Credit Agreement will not be submitted.

(v) The borrower has an increase in income as outlined in § 1944.34(i)(3)(i) and is no longer eligible for interest credit.

(vi) The borrower has enlarged or improved the dwelling or added related facilities so the that housing exceeds modest standards for size, design and cost for previously occupied homes compared to other housing in the locality for low- and moderate-income families.

(2) *Effective date of cancellation.* The effective date of cancellation for paragraph (k)(1)(i) of this section will be date of loan closing. The effective date of cancellation for paragraphs (k)(1) (ii), (iii) and (iv) of this section will be the date on which the earliest action occurs which causes the cancellation. If the date cannot be determined, the date on which the County Supervisor became aware of the situation will be used. The effective date of cancellation for paragraph (k)(1) (v) and (vi) of this section will be the date on which the County Supervisor became aware of the situation. When an account has been accelerated and none of the conditions outlined in paragraph (k)(1) of this section exist, the Interest Credit Agreement will remain in effect until the final foreclosure action is completed. However, if the existing agreement expires before the foreclosure action is completed an interest credit renewal agreement will not be prepared. If foreclosure action is dismissed, withdrawn or terminates without sale of the property or payment of the loan in full a renewal agreement will be prepared with an effective date as of the expiration of the previous agreement.

(3) *Notification to the Finance Office.* The County Supervisor will determine the date of cancellation and notify the Finance Office on Form FmHA 1944–15, "Interest Credit Agreement Cancellation (Section 502 RH Loans)." If there is more than one loan eligible for interest credit represented on the Interest Credit Agreement being cancelled, a separate Form FmHA 1944–15 must be prepared for each loan. The Finance Office will process the cancellation and will accrue interest from the date of cancellation at the rate of interest shown on the promissory note. Prompt notification to the Finance Office, using Form 1944–15, is extremely important, as any transaction affecting the borrower's account subsequent to cancellation will be incorrect if cancellation action has not been completed by the Finance Office.

(l) *Applicant or borrower notice of right to appeal.* All applicants or borrowers who request and are denied interest credit or whose interest credits are reduced, cancelled, or not renewed, will be notified of their appeal rights as required by § 1900.56 of Subpart B of Part 1900 of this Chapter except when:

(1) Interest credit is denied and the borrower acknowledges income is above published limits, or

(2) Interest credit is reduced because of income increases which the borrower acknowledges.

(m) *Submission to National Office.* The State Director may submit to the National Office for determination by the Administrator or a delegate any proposed transaction in which the conditions prescribed in the foregoing paragraphs of this section cannot be met, and it is determined that interest credit is necessary to avoid extreme hardship to the family or prevent foreclosure action. This paragraph is primarily intended to be used for those cases in which the granting of interest credit is necessary for the borrower to retain a dwelling for the borrower's own use, and there are no other means to do so. The State Director will submit to the National Office the County Office files together with full facts, justification, and recommendation.

§§ 1944.35–1944.36 [Reserved]

§ 1944.37 Subsequent Section 502 loans.

Subsequent Section 502 loans may be made to present borrowers for the same purpose and under the same conditions and limitations as initial loans, except as provided in this section.

(a) The subsequent loan will be processed in the same manner as initial loans, except that a new appraisal report will be required in accordance with § 1944.24 only when real estate will be taken as security and at least one of the following conditions exists:

(1) The property was not appraised in connection with the initial loan.

(2) The latest appraisal report of the real estate is over two years old.

(3) The physical characteristics of the property have changed significantly.

(4) The County Supervisor or loan approval official is uncertain of the adequacy of the security and requests a new appraisal report.

(5) The subsequent loan is in connection with a transfer of an existing loan subject to subsidy recapture in accordance with Subpart I of Part 1951 of this chapter.

(b) A subsequent RH loan may be made on a note-only basis, provided the amount of the subsequent loan plus the unpaid principal balance of any prior note—only RH loan or loans does not exceed $2,500. Applicants for such loans must meet the requirements of § 1944.18(b)(1).

(c) When a real estate mortgage is required in connection with a subsequent RH loan, any outstanding RH notes will be described in the mortgage unless an exception can be made in accordance with Exhibit A, paragraph II F, of FmHA Instruction 427.1 (available in any FmHA office).

(d) The subsequent loan will bear interest at a rate determined in accordance with Exhibit B of FmHA Instruction 440.1 (available in any FmHA office).

(e) When necessary to settle a divorce action, a subsequent loan may be made to permit the remaining borrower, if eligible, to purchase the equity of the departing spouse.

(f) When an area designation has been changed from rural to non-rural, subsequent RH loans may be made only in accordance with the provisions of § 1944.10(g)(4).

(g) The loan approval official may authorize reamortization of a prior RH loan at the time a subsequent loan is made in those cases in which it is determined that the borrower cannot reasonably be expected to meet installments due unless the account is reamortized. It will be processed in accordance with Subpart G, § 1951.314, or Subpart A, § 1951.40, of Part 1951 of this chapter.

§ 1944.38 Mutual self-help housing loans.

Applicants who are unable to build modest dwellings by customary methods, because of limited income and repayment ability, may build their homes by participating in a mutual self-help housing project. The County Supervisor will not approve RH loans or proceed in the development of a self-help project without prior authorization of the State Director. If an organization applies for a Technical Assistance (TA) grant, the District Director will submit Form AD–625, "Application for Federal Assistance (Short Form)," and all related information concerning the technical assistance grant to the State Director. If it is determined that the technical assistance grant has been approved for funding, the State Director may issue written authorization for the County Supervisor to approve Mutual Self-Help Housing Loans Exhibit G, "Mutual Self-Help Housing Guildelines," will be used as a guide for developing self-help projects and counseling with participating families. The County Supervisor, in counseling with families participating in self-help housing projects, will determine the anticipated time required for construction.

§ 1944.39 RH loans to FmHA employees and loan closing officials.

FmHA employees, County Committee members, and loan-closing officials, or their spouses may receive a Section 502 RH loan subject to the provisions of this Subpart and the following conditions:

(a) The application will be submitted to the County Office in the usual manner. Written evidence indicating the applicant's inability to obtain the needed credit will be included. The County Office will obtain the verification of employment and credit report and submit the application and related information to the District Director for review. The District Director will forward the applicant's docket, along with written recommendation concerning the applicant's eligibility, to the State Director for eligibility determination.

(b) The State Director will determine the eligibility of the applicant. If eligible, the docket will be returned to the District Director for processing. If the applicant is determined ineligible, the State Director will notify the applicant in writing and will provide the applicant all information required by § 1910.6(b) of Subpart A of Part 1910 of this chapter.

(c) The application will be retained in the County Office and will be processed in the same order as other applications. The District Director will be notified when the application is in order for processing and will be responsible for the complete loan processing.

(d) If the loan applicant works outside the county in which the application is filed, the District Director may permit authorized County Office staff to perform the appraisal function. In all other cases the District Director will appraise the property or have it appraised by a qualified FmHA appraiser from outside the County Office area in which the loan is to be made. The completed loan docket together with the District Director's written recommendation will be submitted to the State Director for consideration of approval.

(e) If the applicant is an employee in the District Office, the State Director will designate another District Director to process the application.

(f) The State Director must, before approving the loan, determine that the applicant has not been and will not be given any advantage because of the FmHA relationship and the making of a loan will not result in a conflict of interest under FmHA Instruction 2045–BB (available in any FmHA office). The dwelling may not exceed the needs of the applicant or be excessive in size, design, or cost when compared to other FmHA financed dwellings in the area.

(g) If the loan is approved, the borrower's case file will not be maintained or serviced in the office where the borrower is or will be employed. If the property is in the area serviced by the office of employment the State Director will designate another District or County Office to service the loan.

(h) If the loan involves any type of construction, the inspections for FmHA will be made by the District Director or another member of the District Director's staff as designated by the District Director. Under no circumstances will the employee receiving the loan make the inspections for FmHA.

(i) Loans, credit sales, or assumption agreements *will not* be approved under this authority for any of the following purposes:

(1) Purchase of inventory property.

(2) Purchase of a dwelling from an RH borrower.

(3) Purchase of FmHA security property being sold at foreclosure sale.

§ 1944.40 Rural housing disaster (RHD) loans.

RHD loans may be made to repair or replace dwellings which were damaged or destroyed by a natural disaster such as earthquake, flood, forest fire, severe windstorm, or lightning.

(a) *Eligibility requirements.*

(1) The applicant must meet the requirements of § 1944.8 and § 1944.9.

(2) Nonfarm applicants must have occupied the dwelling as their permanent residence.

(3) The loss by a nonfarm applicant was not the result of a major disaster designated by the President or a natural disaster designated by the Administrator of the Small Business Administration.

(4) The loss by a farmer was not the result of a major disaster designated by the President or a natural disaster designated by the Secretary of Agriculture.

(5) The loan application must be filed within 12 months after the date the loss occurred.

(6) The applicant must use available assets, including insurance loss payments, and other assistance, to the extent available, to repair or replace the damaged or destroyed buildings.

(b) *Repair or replacement of buildings.* Repair or replacement of any damaged or destroyed building must be consistent with the basic Section 502 loan policies. Changes may be made in the building, but in any case the repaired or replaced building should not be significantly larger or more costly than the original building except as necessary to provide a building which is adequate but modest. Any new dwelling constructed must meet the limitations established by § 1944.16.

(c) *Interest rate and source of funds.*

(1) RHD loans will be made at an interest rate of 5 percent. Interest credit will not be granted for RHD loans.

(2) Insured loan funds will be used for RHD loans

(d) *Approval authorization.* The State Director, County and Assistant County Supervisors are authorized to approve RHD loans in accordance with FmHA Instruction 1901–A (available in any FmHA office) for Section 502 RH loans.

(e) *Deferred payments.* The initial payments of principal and interest, or principal only, may be deferred so as not to become due until as late as the third January 1 for annual payment notes, or the third anniversary date of the note for monthly payment notes, subject to all of the following conditions:

(1) The applicant, as a result of the loss suffered from the disaster, has had a substantial loss of income; or debts, including the proposed RHD loan, have increased substantially as a result of the disaster.

(2) The income loss or increase in debts must be sufficiently great so that the applicant will not likely be able to pay in full the installments that ordinarily would be due during the proposed deferment period and also meet other obligations.

(3) The applicant's other debts must be adjusted by reduction, reamortization, extension, or other means to the extent possible by negotiation with other creditors.

(4) The applicant's income will be sufficient after the deferment period to enable the applicant to meet the payments on the RHD loan and all other obligations.

(f) *Form FmHA 1940–1.* The appropriate assistance code number will be entered in the space provided to indicate the nature of the loss.

§§ 1944.41–1944.43 [Reserved]

§ 1944.44 Borrower graduation.

Borrowers will be requested to apply for refinancing of RH loans if credit may be available from another source at rates and terms prevailing in the area for homeownership loans. The borrower must apply for and, if approved by the lender, accept the refinancing loan. Graduation reviews will be conducted in accordance with Part 1865 of this chapter (FmHA Instruction 451.6).

§ 1944.45 Conditional commitments.

(a) *General.* A conditional commitment is assurance from FmHA to a qualified builder or seller that dwellings to be built or rehabilitated and offered for sale will be acceptable for purchase by qualified RH loan applicants if built in accordance with FmHA approved plans and specifications and priced at not more than a specified maximum amount. The conditional commitment does not reserve funds for a loan nor does it assure that a loan applicant will be available to buy the dwelling.

(b) *Eligibility.* To be eligible for conditional commitments, the builder or seller must:

(1) Be the owner as defined in § 1944.15, before construction is started, of the site on which the dwelling is located or to be built, except as indicated in Subpart G of Part 1822 of this chapter (paragraph VII L of FmHA Instruction 444.8).

(2) Have the experience and ability to complete the type of proposed work in a competent and workmanlike manner.

(3) Be financially responsible and have the ability to finance or obtain financing for the proposed housing or rehabilitation.

(4) Comply with the requirements of Subpart E of Part 1901 of this Chapter and the Equal Credit Opportunity Act as required by § 1910.2 of Subpart A of Part 1910 of this chapter.

(5) Plan to build or rehabilitate dwellings which will qualify for purchase by RH applicants and which will be in compliance with all applicable laws, ordinances, and codes.

(6) Have the legal capacity to enter into the required agreements and the actual capacity to carry them out.

(c) *Limitations.*

(1) Conditional commitments will be issued only in cases where the commitment applicant's selling price does not exceed the commitment price, which will never be more than the appraised value minus customary closing costs.

(2) Conditional commitments will be issued by FmHA only for new homes to be constructed or existing homes to be rehabilitated.

(3) Conditional commitments will not be issued after construction has started.

(4) Number of conditional commitments.

(i) The total number of commitments issued in any locality will not exceed the number of homes for which there is an immediate and ready market in that locality.

(ii) The number of houses on which conditional commitments will be outstanding to a commitment applicant at any time will not exceed 15 in any one county unless authorized by the State Director after the State Director:

(A) Determines that a larger number of commitments must be made to meet the immediate housing needs in the area;

(B) Determines that authorizing more than 15 commitments to one commitment applicant will not reduce the participation of small volume builders in the Rural Housing program; and

(C) Provides guidelines to the County Supervisor to assure that all builders active in the area have equal opportunity to obtain more than 15 conditional commitments.

(iii) The total number of conditional commitments outstanding in the area served by a County Office will not exceed the number on which the County Supervisor can reasonably expect to be able to approve RH loans within 3 months after the houses covered by the commitments are completed, considering the availability of loan funds and the number of applications in the County Office.

(5) The period of the conditional commitment will be for 12 months from the date of issue. The commitment may be extended for an additional 6 months if justified because of (1) unexpected delays in construction caused by such factors as bad weather or materials shortages, or (2) marketing difficulties.

(6) When five or more conditional commitments have been issued during a 12 month period, an affirmative marketing plan will be submitted in accordance with § 1901.203(c) of Subpart E of Part 1901 of this chapter.

(d) *Conditional commitments involving packaging of applications.* A conditional commitment may be made to a builder who packages a Rural Housing application for an applicant to buy the propefty. In cases when the dwelling is presold and is to be constructed for sale only to a specific applicant and the information on the house and the loan applicant is submitted at the same time, all of the following conditions must be met to avoid misunderstanding of FmHA's obligation to either the RH applicant or the conditional commitment applicant:

(1) The conditional commitment will not be approved until the RH loan has been approved.

(2) Construction will not being until the County Office has received notice from the Finance Office that funds are obligated for the RH loan.

(3) The RH loan will be closed only after the dwelling is constructed or the rehabilitation completed and final inspection has been made.

(e) *Fees.* Each commitment applicant will pay an application fee at the time an application is submitted for a conditional commitment. The fee for each dwelling will be:

(1) For proposed construction of new dwellings—$65.

(2) For existing dwellings to be rehabilitated—$50.

(f) *Processing applications.*

(1) Applications for conditional commitments will be submitted on Form FmHA 1944–36, "Application for Conditional Commitment." Attachments as outlined on the form will be included for each individual dwelling for which a conditional commitment is requested.

(2) *Transmittal of fees.* The County Supervisor will transmit application fees on Form FmHA 451–2, "Schedule of Remittances." The payment will be handled with all other payments for the day in accordance with Subpart B of

Part 1951 of this chapter and the FMI for Form FmHA 451–2.

(3) *Evaluation of applications.* The County Supervisor will take the following actions in the order specified:

(i) Determine whether the commitment applicant meets the requirements of paragraphs (b) and (c) of this section.

(ii) Determine whether the dwelling and site meet the requirements of this Subpart and Subpart A of Part 1924 of this chapter and will comply with all local codes and ordinances. The property must meet the requirements of Subpart D of Part 1804 of this chapter (FmHA Instruction 424.5).

(iii) If the commitment applicant and the dwelling and site have qualified, an appraisal will be made in accordance with FmHA Instruction 422.3 (available in any FmHA office).

(4) *Failure of applicant or dwelling to qualify.* In case any commitment applicant or dwelling does not qualify for a conditional commitment, the documents attached to the application will be returned to the commitment applicant with a letter explaining why the application was not approved. If the application is denied for failure to meet the requirements of paragraph (b) (2) or (3) of this Section, notice of appeal rights will be given as required by § 1900.56 of Subpart B of Part 1900 of this chapter.

(i) The application fee will be refunded if for any reason preliminary inspection of the property or investigation of the commitment applicant indicates that a conditional commitment cannot be issued. For example, the property might be located in a nonrural area or the dwellings may not be of a type that the FmHA can appropriately finance. If a refund is required, a memorandum should be sent to the Finance Office indicating the commitment applicant's name together with the date and amount of fees paid. The memorandum should also indicate the number of commitments being denied and amount of fees to be refunded.

(ii) Application fees will not be refunded for any property on which the appraisal has been made.

(5) *Conditional commitment approval.* The State Director, District Director, County and Assistant County Supervisors are authorized to approve conditional commitments provided the commitment price does not exceed the loan approval authority for Section 502 RH loans as outlined in Subpart A of Part 1901 of this chapter (available in any FmHA office). If the application is approved, the County Supervisor will complete and sign Form FmHA 444–11, "Conditional Commitment." When a qualified applicant applies for a loan to buy a dwelling on which a conditional commitment has been issued, the RH loan docket will be transferred to the conditional commitment folder.

(g) *Inspections.* Inspections of work to be done will be performed in accordance with Subpart A of Part 1924 of this chapter. Failure to correct any deficiencies or to complete the work in accordance with plans and specifications approved by FmHA will be a basis for cancelling the conditional commitment.

(h) *Changes in plans, specifications, and/or commitment price.* The County Supervisor is authorized to approve changes in plans and specifications that are consistent with HUD MPS and Exhibit D of Subpart A of part 1924 of this chapter. If the changes are requested after an option has been executed by a rural housing applicant, the change will be approved only after the applicant and the commitment holder submit a written request for approval. If a change will reduce or increase the appraised value of the property, the County Supervisor will revise the commitment price and inform the commitment holder. Also, in cases when the holder of a commitment reports to the County Supervisor that costs associated with the construction or repair of a dwelling have increased, the approval official may increase the commitment price provided the property has not been optioned by an RH applicant, and the County Supervisor determines that the increase is clearly justified, the circumstances causing the price increase were beyond the commitment holder's control, and the value of the property is adequate to permit the increased commitment price. A revised appraisal report will be prepared. The conditional commitment will be revised, initialed, and dated by the person authorizing the change.

(i) *Cancellation of outstanding conditional commitments.*

(1) Conditional commitments may be cancelled when construction of the dwelling is not begun within 60 days after the commitment is issued.

(2) Conditional commitments will be cancelled when construction is not in accordance with all FmHA requirements, approved plans, specifications, or MPS, and the builder refuses to make corrections necessary for compliance.

(j) *Folder maintenance.* Documents prescribed in this Subpart will be filed in accordance with FmHA Instruction 2033–A (available in any FmHA office).

(k) *Builder's warranty.* The builder or seller, as appropriate, will execute Form FmHA 424–10, "Builder's Warranty," or provide a 10-year insured warranty when construction is completed or the loan to buy the dwelling is closed.

§ 1944.46 Construction financing for builders by private credit sources.

(a) The purpose of this section is to provide a method by which a builder may be able to obtain construction credit from commercial sources of credit. It may eliminate the need to use a supervised bank account and also eliminate the need for the borrower to make payments on the loan during construction.

(b) This method may be used under the following conditions:

(1) A conditional commitment has been or will be issued, an RH loan approved, and funds obligated for the applicant in accordance with § 1944.45, or

(2) The applicant owns a building site and will contract the construction or improvement of the building or buildings. In such a case:

(i) The applicant will retain ownership of the site and not convey title to the builder, and

(ii) The lender providing the construction financing will not take a mortgage on the site owned by the applicant or otherwise require the applicant to secure the construction loan.

(c) This method may not be used if the RH loan is made in participation with an FO or an individual SW loan.

(d) Loan docket forms will be prepared in accordance with § 1944.30 of this subpart. Applicants who own the building site will be required to obtain and submit to the County Supervisor preliminary title evidence in accordance with Part 1807 of this chapter (FmHA Instruction 427.1). Satisfactory title or leasehold interest in the property must be confirmed before execution of Form FmHA 424–6, "Construction Contract," and Form FmHA 444–16, "Notice of Loan Approval."

(e) When Form FmHA 440–57 is received from the Finance Office, the County Supervisor will complete and sign an original and one copy of Form FmHA 444–16. The original of Form FmHA 444–16 will be given to the builder and a copy will be retained in the loan docket.

(f) The builder may present Form FmHA 444–16, Form FmHA 444–11, Form FmHA 440–34, or Form FmHA 424–6, as appropriate, to a commercial lender to obtain construction financing. The County Supervisor will make no commitments to the lender except as indicated on the above forms.

(g) The required inspections will be made by FmHA or a firm or company that will provide a 10 year insured warranty. In all cases the final inspection will be made by FmHA. Copies of Form FmHA 424–12, "Inspection Report," will be provided to the builder and, if requested, to the commercial lender.

(h) The lender is responsible for determining the amount that will be advanced to the builder under the construction financing arrangement, and for determining any measures necessary to protect its interest.

(i) When construction is completed, the loan will be closed in accordance with Subpart A of Part 1807 of this Chapter (FmHA Instruction 427.1), usually within 10 days after satisfactory completion of construction.

§§ 1944.47–1944.50 [Reserved]

Exhibit C [Amended]

2. It is proposed to revise Exhibit C to change the area/county maximum moderate-income limits to $3,000 over the area/county maximum low-income limits with no area/county moderate-income limit to be less than $15,600, or greater than $23,000 with the exception of Alaska.

Exhibit D [Amended]

3. Exhibit D, Item 2, as proposed, is revised to change the wording in the second sentence from "The planned income to be received" to "The current income received." Item 9, as proposed, is revised to change the wording in the last line from "every 2 years" to "every year."

(42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70)

Dated: February 23, 1982.

Frank W. Naylor, Jr.,

Under Secretary for Small Community and Rural Development.

[FR Doc. 82-6555 Filed 3-10-82; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 508

Powerplant and Industrial Fuel Use Act of 1978 Electric Utility Conservation Plan; Proposed Rules

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing proposed rules to implement the new section 808 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*, ("FUA"), which was added by section 1023 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, ("OBRA"). Section 808 of FUA requires electric utilities which have used natural gas as a primary energy source to submit conservation plans to DOE. The proposed rules set forth the procedures for submission of conservation plans to DOE and establish the substantive requirements for such plans.

DATE: Comments on the proposed rules must be received no later than April 26, 1982.

ADDRESS: Any person wishing to comment should send 10 copies to: Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, Department of Energy, Room 6114, 2000 M Street, NW., Washington, D.C. 20461. The comments and envelopes in which they are transmitted should be marked, "Proposed Rules—Electric Utility Conservation Plan."

FOR FURTHER INFORMATION CONTACT:

Robert L. Davies, Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, 2000 M Street, NW., Washington, D.C. 20461; (202) 653–3372

Henry Garson, Assistant General Counsel for Coal Regulations (GC–14), Office of the General Counsel, Department of Energy, Room 6B–178, 1000 Independence Ave., SW, Washington, D.C. 20585; (202) 252–2967

SUPPLEMENTARY INFORMATION:

I. Background

Section 1023 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, August 13, 1981, ("OBRA") amended the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA"), by adding a new section 808, entitled "Electric Utility Conservation Plan." The section requires utilities which used natural gas as a primary energy source between August 14, 1980 and August 13, 1981 in any electric powerplant and that plan to use natural gas in any electric powerplant, to develop and submit to DOE for approval a conservation plan to achieve conservation of electric energy. The plan must be designed to achieve conservation at a level equal to ten percent of the electric energy output of the utility which is attributable to natural gas measured against the four calendar quarters ending on June 30, 1981. The plan must be implemented within five years after DOE approves it. The proposed regulations outline the procedures to be followed by utilities in submitting conservation plans to DOE for approval and establish the substantive requirements for the plans.

II. Procedural Matters

A. Written comments. Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to any issues raised by or addressed in this Notice of Proposed Rulemaking. Comments are to be filed with ERA in accordance with the instructions given in the **DATES** section, above, no later than 45 days after publication of this Notice in the **Federal Register**. All comments received will be available for public inspection by contacting the Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, 2000 M Street, NW., Washington, D.C., at (202) 653–3372.

B. Section 102 of the National Environmental Policy Act (NEPA). DOE has determined that these regulations, if finalized, will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of NEPA. Therefore, the preparation of an Environmental Impact Statement for this proposal is not required. Moreover, DOE will to the fullest extent practicable comply with the requirements of NEPA within the 120 day period mandated by section 808 of FUA for final action on a proposed conservation plan. In any event, DOE will evaluate the plans for any potential environmental consequences prior to final action.

C. *Regulatory Flexibility Act.* Section 609 of the Regulatory Flexibility Act, 5 U.S.C. 609, requires the head of an agency proposing a rule that will have a significant economic impact on a substantial number of small entities to prepare an advance Notice of Significant Economic Impact entitled the Initial Regulatory Flexibility Analysis.

For purposes of this rulemaking proceeding, ERA estimates that a very small number of the companies which could be affected by the conservation plan requirement would qualify as "small businesses" under 5 U.S.C. 601. Further, ERA believes that the economic impact of compliance with the regulations, if adopted, would be relatively insignificant for these small concerns. Accordingly, ERA has determined that the publication of an Initial Regulatory Flexibility Analysis is not required for this proceeding but will be pleased to review any comments concerning the impact of these regulations on "small businesses."

D. *Executive Order No. 12291—Regulatory Impact Analysis.* DOE has determined that these proposed regulations are not a major rule under Executive Order 12291, which requires the preparation of a Regulatory Impact Analysis for proposed major regulations. These proposals will not be likely to result in an annual effect on the economy of $100 million or more. DOE foresees no major increase in costs or prices for consumers, industries, geographic regions or Federal, State or local government agencies. DOE does not consider it likely that the proposals will result in significant adverse effects on competition, employment, investment, or productivity. Therefore no Regulatory Impact Analysis is required.

The proposals were submitted to the Office of Management and Budget for review at least 10 days prior to publication in the Federal Register.

E. *Paperwork Reduction Act of 1980.* In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3507, the reporting provisions that are included in this final proposed rule have been or will be submitted for approval to the Office of Management and Budget (OMB). They may not become effective until OMB approval has been obtained and the public notified to that effect through a technical amendment to this regulations.

(Department of Energy Organization Act, Pub. L. 95-91 Stat. 585 (42 U.S.C. 7101 *et seq.*); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, 92 Stat. 3289 (42 U.S.C. 8372); E.O. 12006, 42 FR 46267, September 15, 1977; Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35, August 13, 1981)

Issued in Washington, D.C., on March 3, 1982.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

It is proposed to amend 10 CFR by adding a new Part 508 to read as follows:

PART 508—ELECTRIC UTILITY CONSERVATION

Subpart A—General Provisions

Sec.

508.1 Purpose and scope.
508.2 Applicability.
508.3 Dates for submission of plan.

Subpart B—Procedures

508.4 Procedures for submission of conservation plans to DOE.
508.5 Approval of proposed conservation plan.
508.6 Amendment of approved conservation plan.
508.7 Annual reporting requirement.

Subpart C—Contents of Conservation Plan

Sec.
508.8 Contents of conservation plan.

Authority: Department of Energy Organization Act, Pub. L. 95-91 Stat. 585 (42 U.S.C. 7101 *et seq.*); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620, 92 Stat. 3289 (42 U.S.C. 8372); E.O. 12006, 42 FR 46267, September 15, 1977; Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35, August 13, 1981.

PART 508—ELECTRIC UTILITY CONSERVATION PLAN

Subpart A—General Provisions

§ 508.1 Purpose and scope.

This part establishes the requirements and procedures for submission to DOE of Electric Utility Conservation Plans ("Plan"), pursuant to section 808 of FUA. Section 508.2 establishes the applicability of the requirement for an Electric Utility Conservation Plan which is imposed by section 808 of FUA. Sections 508.4 and 508.5 outline the procedures for submission to and approval by DOE of conservation plans by electric utilities. Section 508.6 provides for the amendment of plans which have received final approval from DOE, and § 508.7 establishes an annual reporting requirement for utilities subject to the conservation plan requirement. Section 508.8 establishes the requirements for the contents of the conservation plans.

§ 508.2 Applicability.

(a) These regulations apply to any electric utility which:

(1) Owns or operates any existing electric powerplant (for definition of "existing electric powerplant" see 10 CFR 500.2) in which natural gas was used as a primary energy source (for definition of "primary energy source" see 10 CFR 500.2) at any time during the one-year period ending on August 13, 1981; and

(2) Plans to use natural gas as a primary energy source in any electric powerplant (for definition of "electric powerplant" see 10 CFR 500.2).

(b) A public utility holding company may file a plan for all of the public utilities under its direct control or may file separate conservation plans for each such public utility.

§ 508.3 Dates for submission of plan.

(a) Each electric utility subject to this Part must, by August 13, 1982, submit to DOE a conservation plan which satisfies the requirements of § 508.8.

(b) The Director of the Fuels Conversion Division of the Office of Fuels Programs of ERA shall approve such plans pursuant to § 508.5 of this part.

(c) Each utility subject to this part must implement the approved conservation plan during the five-year period beginning on the date of the initial approval of the plan.

Subpart B—Procedures

§ 508.4 Procedures for submission of conservation plans to DOE.

(a) *Filing of Proposed Conservation Plans.* Conservation plans are to be filed with DOE at the following address: Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, Washington, D.C. 20461.

(b) *Notice of Receipt of Conservation Plan and Public Comment Period.* Upon receipt of a proposed conservation plan, DOE shall publish in the Federal Register a Notice of Receipt of Proposed Conservation Plan. The publication of such notice shall commence a public comment period of thirty (30) days, during which interested persons may submit written comments concerning the content of the proposed plan. The proposed conservation plan shall be available for public inspection during this period at a place or places announced in the Notice.

§ 508.5 Approval of proposed conservation plan.

(a) The Director of the Fuels Conversion Division of the Office of Fuels Programs shall, within 120 days of the submission of the proposed conservation plan, approve or disapprove any proposed conservation plan submitted by an electric utility pursuant to § 508.4. The Director shall approve the proposed plan unless he finds that the plan does not meet the requirements established by § 508.8. Prior to final approval of a proposed conservation plan, DOE shall evaluate the environmental consequence of such plan.

(b) When the Director approves the proposed plan, DOE will publish a Notice of Approval of Conservation Plan in the Federal Register. Approval of the plan will be effective upon such publication.

(c) If the proposed plan, as originally submitted, fails to meet the requirements for approval, DOE will notify the utility submitting the plan by letter, setting forth the reasons for such disapproval. The Director shall provide a reasonable period of time for submission of a modified conservation plan. Where the modified plan is not submitted within the specified time period, a Notice of Non-approval shall be published in the Federal Register together with the basis for the determination that the proposed plan fails to meet the requirements of § 508.8.

§ 508.6 Amendment of approved conservation plan.

(a) An electric utility may, at any time, propose an amendment to a conservation plan for which final approval has been received pursuant to § 508.5.

(b) The proposed amended plan shall be submitted in accordance with the procedures established in § 508.4, and shall be subject to approval pursuant to § 508.5 *supra.*

§ 508.7 Annual reporting requirement.

Any electric utility required to submit a conservation plan under section 808 of FUA shall annually submit to the Director of the Fuels Conversion Division a report identifying the steps taken during the preceding year to implement such plan.

Subpart C—Contents of Conservation Plan

§ 508.8 Contents of conservation plan.

(a) Conservation plans submitted pursuant to § 508.4 shall set forth the means determined by the utility to achieve the required conservation of electric energy not later than the fifth year after its initial approval. The amount of electric energy to be conserved must be at least equal to 10 percent of the electric energy output of that utility sold within its own system (including electric energy used directly by the utility) which is attributable to natural gas during the 4 calendar quarters ending June 30, 1981 on an annual basis. A conservation plan may include those conservation measures adopted and conservation benefits achieved in response to the National Energy Act of 1978 and its component parts including the Powerplant and Industrial Fuel Use Act of 1978 and the National Energy Conservation Policy Act of 1978.

(b) The conservation plan shall include

(1) All activities required for such utility by part 1 of Title II of the National Energy Conservation Policy Act of 1978; and

(2) An effective public information program for conservation; and

(3) Any such other measures as the utility may consider appropriate.

(c) The proposed conservation plan shall contain procedures to permit the amounts expended by such utility in developing and implementing the plan to be recovered in a manner specified by the appropriate State regulatory authority (or by the utility in the case of a nonregulated utility). A utility may submit an amended plan for approval pursuant to § 508.5 at any time to reflect changes to the plan which will permit such recovery.

[FR Doc. 82-6540 Filed 3-10-82; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Airworthiness Docket No. 82-ASW-9]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale (SNIAS) Model SA330 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) to require an inspection of the three tail rotor transmission attachment bolts for proper installation and possible cracks or for surface damage on Aerospatiale Model SA330 series helicopters. The proposed AD is needed to detect and correct any improper bolt and chamfered washer installation that may result in fatigue cracks and failure of the bolt. Loss of one bolt may cause loss of the tail rotor transmission and tail rotor.

DATES: Comments must be received on or before April 12, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Regional Counsel, Attention: Docket No. 82-ASW-9, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

A copy of the service information may be examined at Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas. A copy of the service information may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support.

FOR FURTHER INFORMATION CONTACT: Chris Christie, Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, or James H. Major, Helicopter Policy and Procedures Staff, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 624-4911, extension 502.

SUPPLEMENTARY INFORMATION: Several cases of improper installations of the tail rotor transmission attachment bolts on Aerospatiale SA330 series helicopters have been reported. The chamfered washers were not fitted properly under the heads of the bolts. The washers reportedly marked or dented the radius under the bolt heads. These marks may result in possible cracks and failure of the bolts. Failure of a bolt may cause loss of the transmission and tail rotor. Three bolts are used to attach the tail rotor transmission to the pylon. Since this condition is likely to exist on other helicopters of the same type designs, the notice proposes to issue an AD that would require removal and inspection of the three tail rotor transmission attachment bolts on Aerospatiale Model SA330 series helicopters. Bolts found with dents under the head or scoring or fretting corrosion on the stem or shank or bolts with cracks would be removed before further flight.

Request for Comment

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Office of Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the docket.

The agency has determined that 20 helicopters could be affected by the proposed AD. It is anticipated that the total expanse of complying with the proposed AD could be $62,750.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Societe Nationale Industrielle Aerospatiale (SNIAS). Applies to all Model 330 series helicopters certified in all categories.

Compliance is required within 100 hours' time in service after the effective date of this AD unless already accomplished.

To detect damaged or cracked tail rotor transmission attachment bolts and to assure proper matching of the bolts and chambered washers, accomplish the following:

a. Remove the tail rotor transmission assembly and remove the three transmission-to-pylon attachment bolts.

b. Inspect the bolts visually for dents under the head, for scores or fretting corrosion on the bolt stem or shank. Inspect the bolts for cracks using a magnetic particle or equivalent inspection method.

c. Remove from further service, bolts having dents under the head or scoring or fretting on the stem or shank, or bolts having a crack.

d. Install bolts and washers and tail rotor transmission assembly in accordance with SA330 Puma Service Bulletin No. 01.34 dated October 19, 1981, Subparagraph C(4)(b), or FAA approved equivalent.

e. Equivalent means of complying with this AD must be approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium. Compliance with Puma Service Bulletin No. 01.34 dated October 19, 1981, satisfies this AD.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85)

Note.—The FAA has determined that this proposed regulation is not considered major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified that this proposed regulation at promulgation will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since 20 helicopters will be affected by the proposal for an anticipated expense of $62,750. A draft regulatory evaluation has been prepared for this proposed regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "For Further Information Contact."

Issued in Fort Worth, Texas, on February 19, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-6516 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ACE-03]

Transition Area, Dodge City, Kansas; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to alter the 700-foot transition area at Dodge City, Kansas, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Dodge City, Kansas, Municipal Airport, utilizing the Dodge City Non-Directional Beacon (NDB) as a navigational aid.

DATE: Comments must be received on or before April 15, 1982.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Don A. Peterson, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181, of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition area at Dodge City, Kansas. To enhance airport usage, an additional instrument approach procedure to the Dodge City Municipal Airport is being established, utilizing the Dodge City NDB as a navigational aid. The establishment of this new instrument approach procedure, based on this navigational aid, entails alteration of the transition area at Dodge City, Kansas, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

The Proposed Amendment

Accordingly, Federal Aviation Administration proposes to amend Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1981 (46 FR 540), by altering the following transition area:

Dodge City, Kansas

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of the Dodge City Municipal Airport (Latitude 37°45'44"N, Longitude 99°57'52"W), within 3.5 miles each side of the Dodge City VORTAC (Latitude 37°51'02"N, Longitude 100°00'18"W) 330° radial extending from the 9.5-mile radius area to 12 miles northwest of the VORTAC and within 5 miles each side of the Dodge City VORTAC 355° radial extending from the 9.5-mile radius area to 12 miles north of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65)).

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on February 25, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-6511 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ACE-02]

Transition Area, Ava, Missouri; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to alter the 700-foot transition area at Ava, Missouri, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Bill Martin Memorial Airport, Ava, Missouri, utilizing a Non-Directional Radio Beacon (NDB) being installed on the airport as a navigational aid.

DATES: Comments must be received on or before April 15, 1982.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dwaine Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408.

Communications must identify the notice of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition area at Ava, Missouri. To enhance airport usage, an additional instrument approach procedure to the Bill Martin Memorial Airport is being established utilizing the Ava NDB as a navigational aid. The establishment of this new instrument approach procedure based on this navigational aid entails alteration of the transition area at Ava, Missouri, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

The Proposed Amendment

Accordingly, Federal Aviation Administration proposes to amend Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1981 (46 FR 540), by altering the following transition area:

Ava, Missouri

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Bill Martin Memorial Airport (Latitude 36°56'19"N, Longitude 92°40'52"W) and within 2 miles each side of the 107° radial of the Dogwood, Missouri VORTAC, extending from the 5-mile radius area to the VORTAC, within 2.5 miles each side of the 133° bearing from the airport extending from the 5-mile radius area to 6 miles southeast and within 3 miles each side of the 142° bearing from the Ava, Missouri NDB (Latitude 36°56'11"N, Longitude 92°40'36"W) extending from the 5-mile radius area to 8.5 miles southeast of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.65, of the Federal Aviation Regulations (14 CFR 11.65))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on February 25, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-6512 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-ACE-19]

Transition Area—Kaiser, Missouri; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM)

SUMMARY: This notice proposes to alter the 700-foot transition area at Kaiser, Missouri, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Camdenton, Missouri, Municipal Airport utilizing the Sunshine, Missouri, VOR as a navigational aid.

DATES: Comments must be received on or before April 15, 1982.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air

Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:
Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181, of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition area at Kaiser, Missouri. To enhance airport usage, an additional intrument approach procedure to the Camdenton, Missouri, Municipal Airport is being established utilizing the Sunshine, Missouri VOR as a navigational aid. The establishment of a new instrument approach procedure, based on this navigational aid, entails alteration of the transition area at Kaiser, Missouri, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

The Proposed Amendment

Accordingly, Federal Aviation Administration proposes to amend Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1981 (46 FR 540), by altering the following transition area:

Kaiser, Missouri

That airspace extending from 700 feet above the surface within a 5-mile radius of the Camdenton Memorial Airport (latitude 37°58'29"N; longitude 92°41'30"W) within a 7-mile radius of Linn Creek-Grand Glaize Memorial Airport (latitude 38°06'36"N; longitude 92°40'50"W), within a 9-mile radius of the Lee C. Fine Memorial Airport (latitude 38°05'44"N; longitude 92°32'56"W), and within 4.5 miles each side of the 133° radial of the Sunshine VOR extending from the 7-mile radius area to 9 miles southeast of the VOR.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on February 25, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-6813 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-ACE-15]

Transition Area—Hugoton, Kansas; Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to designate a 700-foot transition area at Hugoton, Kansas, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Hugoton Municipal Airport, Hugoton, Kansas, utilizing the Hugoton Non-Directional Radio Beacon (NDB) as a navigational aid. This proposed action will change the airport status from VFR to IFR.

DATE: Comments must be received on or before April 15, 1982.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:
Don A. Peterson, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missiouri 64106 or by calling (816) 374-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at Hugoton, Kansas. To enhance airport usage, a new instrument approach procedure is being developed for the Hugoton, Kansas, Municipal Airport, utilizing the Hugoton NDB as a navigational aid. This radio facility will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transition area at Hugoton, Kansas, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and en route environment.

The intended effect of this action is to ensure segregation of aircraft using the approach procedure under IFR and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IRF.

The Proposed Amendment

Accordingly, Federal Aviation Administration proposes to amend Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1981 (46 FR 540), by adding the following new transition area:

Hugoton, Kansas

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Hugoton Municipal Airport (Latitude 37°10'15"N, Longitude 101°22'29"W), and within 3 miles each side of the 190° bearing from the Hugoton NDB (Latitude 37°09'40"N, Longitude 101°22'25"W), extending from the 5.5-mile radius area to 8 miles south of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65).

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on February 25, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-6814 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-13-M

Coast Guard

33 CFR Part 117

[CGD5 81-18R]

Drawbridge Operation Regulations: Chickahominy River, Barrets Ferry, Va.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Commonwealth of Virginia, Department of Highways and Transportation, the Coast Guard is considering amending the operating regulation for the drawbridge across the Chickahominy River, mile 1.5, at Barrets Ferry, Virginia to further restrict the periods when the bridge may open on signal. This proposal is being made in order to reduce costs of operation for those periods when the attendance of the bridgetender is not justified by the volume of waterway traffic. This action will reduce unnecessary costs of operation for the State and still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before April 26, 1982.

ADDRESS: Comments should be mailed to Commander (oan), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705. The comments and any materials referenced in this notice will be available for inspection or copying at the office of Chief, Aids to Navigation Branch, Room 609, Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia. Normal office hours are between 8:00 a.m. and 4:30 p.m. Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT:
W. A. Pratt, Bridge Specialist, Aids to Navigation Branch, Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705, (804) 396-6227.

SUPPLEMENTARY INFORMATION:
Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their name and address, identify this proposed rule by Docket No. or bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The rule may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests are received and it is determined that an opportunity to make oral presentations will aid the rulemaking process.

Discussion of Proposed Rule

The Commonwealth of Virginia Department of Highways and Transportation, owner of this bridge, has requested a change to the existing regulation for the Barrets Ferry Bridge. The current regulation requires that the bridge shall be opened on signal from 7 a.m. to 11 p.m. and shall open on signal from 11 p.m. to 7 a.m. if at least twelve hours notice has been given. The proposed regulation would restrict the bridge to opening on signal for the passage of vessels from 8 a.m. to 8 p.m. every day from April 1 through November 30 and from 9 a.m. to 5 p.m. every day from December 1 through March 31. At all other times the bridge shall open on signal if at least twelve hours notice has been given.

The Commonwealth of Virginia has provided a review of bridge openings which indicates that the proposed reduction in service would affect approximately 4.3 percent of the yearly traffic. Records for the period December 1, 1979 through March 31, 1980 indicate that 3 boats out of a total of 11 vessels would have been affected by the proposed rule to reduce operator

attendance to the hours between 9 a.m. and 5 p.m. For the same period in 1980 and 1981, only 2 vessels out of 14 would have been affected by the requirement for twelve hours notice. A summary of openings for April 1 through November 30, 1979, shows that 5 vessels out of 213 would have been affected by the bridge operator being in attendance only from 6 a.m. to 6 p.m. From April 1 through November 30, 1980, the records show 11 in 254 would have been affected. An operator in attendance when the need for one does not exist or is greatly reduced has not proved cost-effective for the State. The proposed regulation would produce significant savings in operating costs without hindering navigation unreasonably. The proposed regulation reduces operator attendance by four hours a day during the warm months and by eight hours a day during the cooler months when vessel traffic has considerably diminished.

Based on these findings, the Coast Guard proposes to amend the regulation as requested by the Commonwealth of Virginia. It appears that this proposed change may be made without unduly restricting existing water traffic volumes while at the same time relieving the bridge owner of the responsibility of providing operator attendance during the hours of infrequent passage of vessels.

There are no known businesses that will be significantly impacted by the proposed change. The proposed hours of operator attendance include those hours of daylight when the majority of vessels transit the Chickhominy River. Those vessels navigating the Chickhominy after dark and in winter may comply with the 12-hour notice requirement for opening without undue hardship. The Commonwealth of Virginia, Department of Highways and Transportation, will be beneficially affected from an economic standpoint since they will be relieved of providing a salaried operator at times which fail to justify his attendance.

Evaluation

This proposed regulation has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule. In addition, the proposed regulation is considered to be nonsignificant in accordance with guidelines set forth in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation of the proposal has not been conducted because the expected economic impact is so minimal as to not warrant the evaluation. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Proposed Regulation

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations is proposed to be amended as follows:

In 33 CFR 117.245, paragraph (f)(21) is revised to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(f) * * *

(21) Chickahominy River, VA; Virginia Department of Highways bridge at Barrets Ferry. The draw shall open on signal except for the periods specified in the following. Every day from April 1 through November 30 the draw shall not open on signal between the hours of 8:00 p.m. and 8:00 a.m. unless at least twelve hours notice has been given. Every day from December 1 through March 31 the draw shall not open on signal between the hours of 5:00 p.m. and 9:00 a.m. unless at least twelve hours notice has been given.

* * * * *

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2), 49 CFR 1.46(c)(5), 33 CFR 1.05–1(g)(3))

Dated: February 23, 1982.

John D. Costello,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 82-6728 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 7E1949/P214; PH-FRL-2072-7]

Dimethoate; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for the combined residues of the insecticide dimethoate and its oxygen analog in or on cherries. This proposal to establish a maximum permissible level for the combined residues of dimethoate in or on cherries was submitted by the Interregional Research Project No. 4 (IR–4).

DATE: Comments must be received on or before March 26, 1982.

ADDRESS: Written comments to: Donald R. Stubbs, Emergency Response Section, Registration Division (TS–767C), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703) 557–7123.

SUPPLEMENTARY INFORMATION: The Oregon State University Agricultural Experiment Station, Corvallis, OR 97331 originally submitted pesticide petition number 7E1949 to EPA. Later the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, assumed responsibility for this petition on behalf of the Agricultural Experiment Station of Oregon and the IR–4 Technical Committee.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the insecticide dimethoate [*O,O*-dimethyl *S*-(*N*-methylcarbamoylmethyl) phosphorodithioate] and its oxygen analog *O,O*-dimethyl *S*-(*N*-methylcarbamoylmethyl) phosphorothioate in or on the raw agricultural commodity cherries at 2.0 parts per million (ppm).

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include: a hen delayed neurotoxicity study with a no-observed-effect-level (NOEL) of 130 ppm dimethoate and 240 ppm of the dimethoate oxygen analog; a dog 90-day feeding study with a cholinesterase (ChE) inhibition NOEL of 9 ppm dimethoate; a rat 90-day feeding study with a ChE inhibition NOEL 32 ppm dimethoate; a human volunteer feeding study with a ChE inhibition NOEL of 15 mg/day and lowest-effect-level (LEL) of 30 mg/day; a rat two-year feeding study with a NOEL of 1 ppm for brain, blood and plasma ChE inhibition; two teratogenicity studies (cat and rat), each with a NOEL of 2.8 mg/kg/day; and a mouse reproduction study with a NOEL of 50 ppm. A second chronic feeding study in a non-rodent is lacking.

The acceptable daily intake (ADI) is based on a NOEL of 8.00 ppm (0.2 mg/kg) for cholinesterase inhibition in human volunteers. Using a ten-fold safety factor, the ADI is calculated to be 0.02 mg/kg of body weight (bw)/day; thus, the maximum permitted intake (MPI) for a 60 kg human is 1.2 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 0.5106 mg/day; the current action will increase the TMRC by 0.00307 mg/day (0.6 percent). Published and proposed tolerances utilize 42.62 percent of the ADI.

The nature of the residues is adequately understood and an adequate analytical method (gas-liquid chromatography using a flame photometric detector set for the phosphorous mode) is available for enforcement purposes. Residue data are from tests conducted in Oregon. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.204 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, which contains any of the ingredients listed herein, may request on or before March 26, 1982, that this proposed rulemaking be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this proposed regulation. As provided for in the Administrative Procedure Act (5 U.S.C. 553(d)(3)), the comment period time is shortened to less than 30 days because of the necessity to expeditiously provide a means for control of Western cherry fruit fly on cherries. Comments must bear a notation indicating the document control number, "[PP 7E1949/P214]." All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

Dated: March 5, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.204 be amended by reformatting the current entries into alphabetical order and by adding and alphabetically inserting the raw agricultural commodity cherries to read as follows:

§ 180.204 Dimethoate including its oxygen analog; tolerances for residues.

Tolerances are established for total residues of the insecticide dimethoate (*O,O*-dimethyl *S*-(*N*-methylcarbamoylmethyl) phosphorodithioate) including its oxygen analog (*O,O*-dimethyl *S*-(*N*-methylcarbamoylmethyl) phosphorothioate) in or on the following raw agricultural commodities:

Commodities	Parts per million
Alfalfa	2
Apples	2
Beans, dry	2
Beans, lima	2
Beans, snap	2
Broccoli	2
Cabbage	2
Cattle, fat	0.02(N)
Cattle, mbyp	0.02(N)
Cattle, meat	0.02(N)
Cauliflower	2
Celery	2
Cherries	2
Collards	2
Corn, fodder	1
Corn, forage	1
Corn, grain	0.1(N)
Cottonseed	0.1
Eggs	0.02(N)
Endive (escarole)	2
Goats, fat	0.02(N)
Goats, mbyp	0.02(N)
Goats, meat	0.02(N)
Grapefruit	2
Grapes	1
Hogs, fat	0.02(N)
Hogs, mbyp	0.02(N)
Hogs, meat	0.02(N)
Horses, fat	0.02(N)
Horses, mbyp	0.02(N)
Horses, meat	0.02(N)
Kale	2
Lemons	2
Lettuce	2
Melons	1
Milk	0.002(N)
Mustard greens	2
Oranges	2
Pears	2
Peas	2
Pecans	0.1

Commodities	Parts per million
Peppers	2
Potatoes	0.2
Poultry, fat	0.02(N)
Poultry, mbyp	0.02(N)
Poultry, meat	0.02(N)
Safflower seed	0.1
Sheep, fat	0.02(N)
Sheep, mbyp	0.02(N)
Sheep, meat	0.02(N)
Sorghum, forage	0.2
Sorghum, grain	0.1
Soybeans	0.05(N)
Soybeans, forage	2
Soybeans, hay	2
Spinach	2
Swiss chard	2
Tangerines	2
Tomatoes	2
Turnips, roots	2
Turnips, tops	2
Wheat, grain	0.04(N)
Wheat, green fodder	2
Wheat, straw	2

[FR Doc. 82-6756 Filed 3-10-82; 8:45 am]

BILLING CODE 6560-32-M

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40 CFR Part 799

[OPTS 42008A; TSH-FRL-2073-7]

Phenylendiamines; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of proposed rulemaking (ANPR); extension of comment period.

SUMMARY: EPA is extending the comment period for 30 days on the ANPR on Phenylenediamines that was published in the Federal Register of January 8, 1982 (47 FR 973). The extension is in response to requests by members of the public for additional time for comments beyond the original closing date of March 9, 1982.

DATE: Written comments should be submitted in triplicate, on or before April 8, 1982.

ADDRESS: Written comments should be addressed to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room E–401, 401 M St., SW., Washington, D.C. 20460. Comments should bear the identifying notation OPTS 42008A. The administrative record, including comments, is available for public inspection in Rm. E–107 at the address noted above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS–799), Office of Toxic Substances,

Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460; Toll free: (800–424–9065), In Washington, D.C.: (554–1404), Outside the USA: (Operator–202–554–1404).

Dated: March 4, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82-6812 Filed 3-10-82; 8:45 am]

BILLING CODE 6560-31-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Community Services

45 CFR Parts 1050, 1067 and 1068

Close Out of Grants Funded by the Community Services Administration

AGENCY: Community Services Office, HHS.

ACTION: Proposed rule.

SUMMARY: The Office of Community Services (OCS) proposes to amend the regulations applicable to grants funded by the Community Services Administration (CSA). Congress abolished CSA effective October 1, 1981, and OCS is responsible for closing out the programmatic activities of CSA. To facilitate the orderly close-out and final audit of CSA grants which do not contain specific termination dates, the proposed rule provides that these grants will expire at the close of each grantee's program account funding period, and that expenses may not be incurred under a CSA grant subsequent to that date. OCS also proposes to amend the regulations to require non-public grantees to submit final audit reports within 60 days following the funding period, thereby expediting the conclusion of the close-out process.

DATE: Comments on the proposed rule must be received on or before April 12, 1982.

ADDRESS: Comments should be directed to Mr. Robert L. Trachtenberg, Acting Director, Office of Community Services, Department of Health and Human Services, 1200 19th Street, NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Mr. Spencer L. Lott, 202–653–9233.

SUPPLEMENTARY INFORMATION: Until October 1, 1981, CSA administered community services grant programs authorized under the Economic Opportunity Act of 1964 ("EOA"). The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) ("OBRA") repealed most provisions of the EOA, abolished CSA, and created a new Community Services Block Grant Program to be administered by the Secretary of HHS through an Office of Community Services (OCS). Regulations implementing the block grant program, which transfers substantial grant-making authority from the Federal government to the States, were published in the **Federal Register** on October 1, 1981 (46 FR 48587).

In addition to administering the block grant program and certain discretionary community services grants, OCS is responsible for continuing the administration of the otherwise repealed community services programs during the fiscal year 1982 transition period in those states that have requested that direct federal funding of such programs be continued. Through a delegation of authority from the Director of the Office of Management and Budget, OCS must also terminate the affairs of CSA, including transferring or otherwise disposing of CSA grants and grant funds as necessary to effectuate the purposes of the block grant program. Pending audits of completed CSA grants must therefore by concluded, and grants with funding periods extending beyond September 30, 1981, must be closed out and audited. In Pub. L. 97–51, section 133, Congress appropriated funds to be used in Fiscal Year 1982 for the cost of carrying out these close-out functions.

Since 1970, CSA has issued two types of grant documents, those with a definite termination date (Column 12 of CSA Form 314) and those with a planned number of months (Column 13 of CSA Form 314). Current regulations provide that if a grant has a termination date, the grantee may not incur expenses under the grant after that date. Grantees may continue to use grant funds indefinitely until they are fully expended if the grant document does not specify a termination date but instead indicates the planned number of months for which funding is provided. The unspecified duration of such grants posed no significant administrative problem for CSA, because generally carry-over balances remaining after the end of a grantee's program account funding period were simply reprogrammed for the grantee's use under its approved program in the following period. However, the indefinite period during which many grantees may continue to expend grant funds is a major impediment to the orderly completion of CSA close-out activities mandated by section 682(e) of the OBRA.

Federal responsibilities with respect to audits and disposition of grant assets (as set out at 45 CFR 1050.110–113) may not be accomplished until program expenditures under a grant have ended. By extending its expenditures under a CSA grant beyond the program account funding period (*i.e.*, the planned number of months), a grantee may postpone final audit of the grant indefinitely, causing corresponding delays in the conclusion of the entire CSA close-out process. Additionally, the efficient use of OCS audit personnel is impeded because federal audits may not be scheduled in advance with any degree of certainty.

OCS therefore proposes to amend the CSA regulations to provide that program activities will end at the expiration of the program account funding period, which is currently defined as the period extending from the effective date of the grant document through the termination date "or expiration of planned number of months for which funding is provided." 45 CFR 1067.30–2(b). Grants awarded for a planned number of months would therefore be treated in the same way as those with termination dates, thereby facilitating an orderly and expeditious close-out of grant activities.

Additionally, OCS proposes to change the regulations which currently provide that CSA grantees must submit annual audit reports within six months of the end of each program year or grant period (45 CFR 1068.42–8), and that final audit reports must be submitted within 90 days after the completion of a grant when funding is not renewed (45 CFR 1050.112, 1050.113). Uniform federal guidelines issued by the Office of Management and Budget in OMB Circular A–110 also allow 90 days for grantees' submission of final audit reports.

To complete as much of the CSA close-out process as possible during fiscal year 1982, the Inspector General, CSA/OCS, has recommended that CSA grants should be audited on an expedited basis. OCS therefore proposes to amend the regulations to require that all annual audit reports for private CSA grantees be submitted to the Inspector General within 60 days of the end of the grantee's program year, and that private grantees submit final close-out audit reports to the Inspector General within 60 days of the grant's expiration. Accordingly, OMB has agreed to waive the applicable guidelines contained in OMB Circular A–110 with respect to deadlines for submission of audit reports from privately operated CSA grantees. Approximately 10 percent of CSA grantees are public entities, which would have 90 days in which to submit audit reports under the proposed regulation.

These proposed changes are intended to facilitate the orderly close-out of CSA grant activities in the most efficient and expedient way possible. Executive Order 12291, which requires the preparation of a regulatory impact analysis for regulations that have an annual effect on the national economy of $100 million or more, is not applicable to these proposed amendments. They will have no appreciable effect on the national economy and do not constitute a "major rule" as defined in the Executive Order.

Neither do the provisions of the Regulatory Flexibility Act of 1980 (5 U.S.C. Ch. 6) apply to these proposed amendments. That statute requires that for each proposed rule with a "significant economic impact on a substantial number of small entities," an economic analysis must be prepared in an effort to anticipate and reduce the impact of rules and paperwork requirements on small businesses. The proposed regulations will have no significant economic impact upon CSA grantees, but will merely facilitate an orderly close-out and final audit process necessary to carry out the congressionally mandated termination of CSA program activities. Accordingly, the Secretary hereby certifies that an initial regulatory flexibility analysis is not required.

For the reasons set out in the preamble, Parts 1050, 1067, and 1068 of Chapter X, Subtitle B, Title 45 of the Code of Federal Regulations are proposed to be amended as follows:

PART 1050—UNIFORM FEDERAL STANDARDS

1. By revising the authority citation for Part 1050 as follows:

Authority: Sec. 602, 78 Stat. 530 (42 U.S.C. 2942); §§ 1050.112 and 1050.113 also issued under sec. 682(e), Pub. L. 97–35, 95 Stat. 519 (42 U.S.C. 9911).

2. By revising paragraph (c) of § 1050.112 to read as follows:

§ 1050.112 Standards.

* * * * *

(c) Within 60 calendar days after the completion of a grant, the grantee shall submit to the Office of Community Services (OCS) all financial, performance, and other reports required as conditions of the grant, except that public grantees shall submit such required reports within 90 days of the grant's completion. (See references (7), (8), and (13) for procedures)

All audit reports must be addressed to the Office of the Inspector General, CSA/OCS, Department of Health and Human Services, Room 548, 1200 19th Street NW., Washington, D.C. 20506. All other required reports must be addressed to the Office of Community Services, Department of Health and Human Services, 1200 19th Street, NW., Washington, D.C. 20506. The appropriate office may approve such extensions as it deems necessary when requested by a grantee.

* * * * *

3. By revising paragraph (b)(1)(i) of § 1050.113 to read as follows:

§ 1050.113 CSA implementing policies and procedures.

* * * * *

(b) *Closeout Audits.*—(1) *Scope of Audit.* (i) Within 60 days after the date of completion of a CSA grant, the grantee must submit a final audit of grant operations, except that the final audit for public grantees shall be submitted within 90 days after the grant's completion. Audit reports must be directed to the Office of the Inspector General, CSA/OCS, at the address specified in § 1050.112(c). Final audits shall be conducted in accordance with the Accounting System Survey and Audit Guide, CSA Manual 2401–1, except that the scope of the audit shall be adjusted as follows: * * *

* * * * *

PART 1067—FUNDING OF CSA GRANTEES

4. By revising the authority citation for Part 1067 as follows:

Authority: Secs. 213, 602, 604, Economic Opportunity Act of 1964, as amended; 81 Stat. 395; 78 Stat. 528; 81 Stat. 715 (42 U.S.C. 2796, 2942, 2944); § 1067.30–3 also issued under sec. 682(e), Pub. L. 97–35, 95 Stat. 519 (42 U.S.C. 9911).

5. By revising paragraph (c) and adding new paragraphs (c)(1) and (c)(2) in § 1067.30–3, as follows:

§ 1067.30–3 Purpose.

This subpart provides for:

* * * * *

(c) Grantees' use of funds through the program account funding period. A grantee may not incur expenses under its program account after the termination date entered in column 12 of CSA Form 314, or after the expiration of the planned number of months for which funding is provided (column 13 of CSA Form 314). Except as provided in paragraphs (e) (1) and (2) of this section, grant funds that are not expended by the end of the program account funding period must be returned to the Office of Community Services (OCS) in accordance with 45 CFR 1050.112(b).

(1) *Exception.* Under a grant with a planned number of months which expires on or before (enter date of publication of final rule in **Federal Register**, funds may be used until expended or until (enter last day of month following month of publication of final rule), whichever occurs first.

(2) *Extensions and Reprogramming.* If a grantee applies for an extension of time in which to use the funds under its approved work program, OCS may extend the program account funding period under such terms and conditions as it deems appropriate. Alternatively, OCS may reprogram unexpended funds as part of a new grant action if the grantee is awarded an OCS grant pursuant to the block grant transition provisions of 42 U.S.C. 9911.

PART 1068—GRANTEE FINANCIAL MANAGEMENT

6. By revising the authority citation for Subpart 1068.42 as follows:

Authority Sec. 602, 78 Stat. 530 (42 U.S.C. 2942); sec. 1068.42–8 also issued under sec. 682(e), Pub. L. 97–35, 95 Stat. 519 (42 U.S.C. 9911).

7. By adding new paragraph (a)(2) to § 1068.42–8 as follows:

§ 1068.42–8 Required annual audit.

(a) * * *

(2) *Audits for Periods Ending on or After October 1, 1981.* With respect to program years or grant periods ending on or after October 1, 1981, the grantee's auditor must submit five (5) copies of the audit report to the Office of the Inspector General, CSA/OCS, at the address specified in § 1050.112(c), within 60 days after the end of the audited program year or grant period, except that audit reports for public grantees shall be submitted within 90 days after the end of the audited period.

* * * * *

Dated: February 11, 1982.

Robert L. Trachtenberg,

Acting Director, Office of Community Services.

Dated: February 18, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82-6814 Filed 3-10-82; 8:45 am]

BILLING CODE 4150-04-M

FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

[Docket No. 82-14]

Inquiry Into Regulation of the Domestic Offshore Trades

AGENCY: Federal Maritime Commission.

ACTION: Notice of inquiry.

SUMMARY: The Federal Maritime Commission solicits public comment on a number of issues affecting regulation of rates in the domestic offshore trades. Affected interests have contended that the existence of competitive forces in these trades, if freed from regulation, would achieve the goal of efficient and stable transportation underlying the Intercoastal Shipping Act, 1916. Accordingly, comment is sought on legislative proposals and regulatory concepts affecting domestic offshore carriers.

DATES: Comments on or before May 10, 1982.

ADDRESS: Comments to: Secretary, Federal Maritime Commission, Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Room 11101, Washington, D.C. 20573; (202) 523-5725.

SUPPLEMENTARY INFORMATION:

Authority: Intercoastal Shipping Act, 1933; Shipping Act, 1916.

The Commission, pursuant to the Shipping Act, 1916 (46 U.S.C. 801 et seq.), and the Intercoastal Shipping Act, 1933 (46 U.S.C. 843 et seq.), is charged with regulating rates and charges assessed by ocean carriers operating in the U.S. domestic offshore trades, namely: Hawaii, Alaska, Puerto Rico, Guam, Virgin Islands, American Samoa and the Northern Mariana Islands.

The purpose of these statutes is to ensure fair, reasonable, and non-discriminatory transportation rates in these trades. In determining the propriety of these rates, the Commission has traditionally applied the public utility standard and limited the overall revenues of carriers to a reasonable return on investment. In theory, this approach allows the regulated carriers sufficient profit to maintain their financial viability while at the same time ensuring the movement of cargoes at reasonable rates.

Affected interests have contended that the Commission's method of regulation fails to account for efficiency, does not consider the long range viability of the carriers, overly emphasizes cost plus return on investment, discourages entry, and rate competition, and creates unnecessary costs. It is claimed that the existence of competitive forces in the domestic offshore trades would, if freed from regulation, achieve the goal of stable and efficient transportation service underlying the Intercoastal Shipping Act.

Competitive conditions vary substantially in the various domestic offshore trades subject to the Federal Maritime Commission's jurisdiction. However, to the extent there exists substantial competition among carriers serving a given trade, it may well be that the purposes of the Intercoastal Shipping Act could be served by subjecting the rate practices of carriers to competitive forces. A brief synopsis of the number of vessel operators and the existence of market dominance in each trade is presented below.[1]

1. Alaskan Trade

In 1980, 14 carriers in the Alaskan trade filed financial reports with the FMC, none of which accounted for more than 15 percent of FMC regulated traffic gross trade revenues. The Commission does not have jurisdiction over the preponderance of cargo carried by the two largest carriers serving Alaska, both of which publish through rates and are thus subject to the jurisdiction of the Interstate Commerce Commission. There have been a few rate investigations in this trade in the past several years.

2. American Samoa Trade

In 1980, three vessel operators in the American Samoa trade filed final reports with the FMC. Each of the three carriers accounted for approximately one-third of gross trade revenues.

There have been no rate investigations in this trade in the past several years.

3. Guam Trade

In 1980, two vessel operators in the Guam trade filed financial reports with the FMC, one of which accounted for two-thirds of gross trade revenues. There have been few rate investigations in this trade in the past several years.

4. Hawaiian Trade

In 1980, five vessel operators in the Hawaiian trade filed financial reports with the FMC. One operator accounted for over 75 percent of gross trade revenues. There have been a number of rate investigations in this trade in the past several years.

5. Northern Mariana Islands Trade

The Northern Mariana Islands trade is a recent addition to the domestic offshore jurisdiction of the Commission. There is presently no carrier financial data available for this trade. Five vessel operators serve this trade.

6. Puerto Rican Trade

In 1980, five vessel operators in the Puerto Rican trade filed financial reports with the FMC. One operator accounted for over 50 percent of overall gross trade revenues.[2] There have been a number of rate investigations in this trade in the past several years.

7. Virgin Islands Trade

In 1980, the Virgin Islands was served by direct vessel call from ports in Florida and by transhipment from Puerto Rico. Two vessel operations offered direct calls between Florida and the Virgin Islands. One of these carriers accounted for the majority of trade revenues. Gross trade revenues were evenly divided between the two vessel operators offering a transshipment service in the trade. There have been several rate investigations in this trade in the past several years.

The Commission has recently made efforts to reduce or eliminate unnecessary or overly burdensome regulations affecting carriers serving the domestic offshore trades. These include: (1) Eliminating virtually all financial reporting requirements for the 141 non-vessel operating common carriers in these trades; (2) eliminating the filing of annual company-wide financial and operating data of vessel operating carriers; and (3) exempting vessel operating carriers earning less than $10 million annual revenues from filing detailed financial reports concerning domestic offshore operations.

In order to meaningfully evaluate the existing system of regulation, the Commission is seeking comments on a number of issues. The Commission encourages statements on any methodologies or concepts that would enhance the efficiency of regulation of the domestic offshore trades, particularly when accompanied by relevant factual and economic data. After receipt of comments the Commission may schedule public hearings for the presentation and examination of responsible and feasible proposals.

The Commission is not soliciting comments regarding amendments to the provisions of the Jones Act which restrict entry into the domestic offshore trades to U.S. flag vessels. The implementation of that statute is outside the statutory jurisdiction of the Commission.[3] Appropriate issues for comment are:

Legislative Proposals

(1) Should the Commission recommend to Congress that its regulatory authority in the U.S. domestic offshore trades be eliminated or reduced? What would be the impact of a reduction or elimination of regulatory authority in the domestic offshore trades?

(2) Does the reduction of regulation in the domestic offshore trades require amendment or repeal of the Intercoastal Shipping Act, 1933?

(3) If so, what form should such amendments take and should they permit the FMC to distinguish between competitive and non-competitive trades? Should the Commission have the flexibility to exempt from rate regulation particular trades which are served by a number of competing carriers?

Regulatory Proposals

(4) How should competitive uniformity in rates in the domestic trades be considered in Commission rate investigations? What is the impact of such a pricing policy in the domestic trades?

(5) Should the Commission adopt a dominant carrier methodology whereby the dominant carriers in a trade would serve as the basis for determining the reasonableness of rates in that particular trade? How should dominance be defined?

(6) Should the Commission adopt a dominant carrier methodology whereby the most efficient carrier in a trade (defined in terms of lowest costs per unit of output) would serve as the basis for determining the reasonableness of rates in that particular trade? Under this methodology, rate increases of the most efficient carrier in the trade would be subject to intense scrutiny and an appropriate rate of return developed for that carrier. The rate of return deemed appropriate for the most efficient carrier would then serve as the maximum level which other carriers in the trade would be allowed to earn.

(7) If the Commission is given statutory authority to exempt competitive trades from rate regulation, what should be the criteria for determining the number of carriers and their market shares which would allow the exercise of such exemption authority?

(8) Should the Commission adopt a constructed carrier methodology, whereby an average rate of return for the trade would be constructed with carriers limited to earning no more than that average rate?

(9) In evaluating a carrier's revenue requirements, should a methodology other than return on rate base (i.e., either the fixed charges coverage ratio or some other financial ratio) be utilized in assessing a firm that is tax exempt, totally debt financed, and publicly owned?

(10) What other methods could the Commission implement to effectively carry out its responsibility to the public in regulating the domestic offshore trades and yet eliminate ineffective or counter-productive regulatory practices?

An original and 15 copies of each comment should be directed in writing to the Secretary, Federal Maritime Commission, Washington, D.C. 20573.

By the Commission March 5, 1982.

Francis C. Hurney,
Secretary.

[FR Doc. 82-6523 Filed 3-10-82; 8:45 am]
BILLING CODE 6730-01-M

[1] The number of vessel operators serving a trade has been determined on the basis of those carriers filing fiscal year 1980 data with the FMC pursuant to General Order 11. In most trades, the number of carriers maintaining a tariff on file with the FMC exceeds the number of carriers filing financial data with the FMC.

[2] Recently, one of these carriers cancelled its FMC tariffs and filed through rate tariffs with the ICC.

[3] Section 27, Merchant Marine Act, 1920 (46 U.S.C. 883). However, we will accept suggestions and comments which require an explanation of the effects of the U.S. cabotage laws in order to understand the impact of a possible modification of FMC regulatory authority.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-75; RM-3298]

FM Broadcast Station in Columbia, Jamestown, and Smiths Grove, Ky.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action rescinds previous orders denying the assignment of Channel 228A to Smiths Grove, Kentucky, and reinstates the original Notice of Proposed Rulemaking for comments. A letter, not served on petitioners, had been relied on by the Commission in denying the petition to allocate Channel 228A to Smiths Grove in violation of the Commission's *ex parte* rules. The Commission is therefore reopening the comment period on the Notice of Proposed Rulemaking because of petitioners lack of opportunity to respond to this letter. The original Notice of Proposed Rulemaking in attached for that purpose.

DATES: Comments must be filed on or before April 12, 1982, and reply comments must be filed on or before April 27, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Order Rescinding Memorandum Opinion and Order and Reinstating the Notice of Proposed Rule Making

Adopted: February 18, 1982.

Released: February 26, 1982.

1. The Commission has before it the "Petition for Reconsideration" filed by Charles M. Anderson and J. Barry Williams ("petitioners") seeking reversal of the Memorandum Opinion and Order released September 17, 1981,[1] which affirmed the denial of the assignment of Channel 228A to Smiths Grove, Kentucky.

2. In its request, petitioners have called our attention to a procedural irregularity which they allege should be corrected. Petitioners indicate that a comment submitted by John B. Begley, President of Tri-County Broadcasting Corporation, was not served on the petitioners yet the Commission relied on this comment in concluding that Channel 228A should not be allocated to Smiths Grove. As such, the comment was an *ex parte* filing prohibited from consideration by the Commission in a rule making proceeding.

3. We agree with the petitioners and shall rescind our previous orders in this proceeding. An *ex parte* presentation is a written "communication going to the merits or outcome of a proceeding" and not served on the parties to the proceeding, § 1.1201(f) and (g). Such presentations are prohibited, § 1.1229 and improper for Commission consideration. In this case, Tri-County, through its President, submitted two letters concerning the merits of this proceeding. The first letter was served on three named persons (none of which were the named petitioners). However, petitioners state that they were aware of the letter and have responded to it. The second letter does not disclose any

[1] The *Report and Order* in this proceeding can be found at 46 FR 8600, published January 27, 1981. The Memorandum Opinion and Order was not published.

service. Petitioners claim they have not seen the second letter. The proper procedure would have been to reject the latter filing of Tri-County.[2] However, we did rely on this comment. Now that we have learned of petitioners lack of opportunity to respond to this letter, we believe the proper course to take is to recommence this proceeding with the original Notice of Proposed Rule Making. The Notice of Proposed Rule Making is attached for that purpose. Any comments from interested parties must be served on the petitioners as set forth in paragraph 4 of the Appendix to the Notice of Proposed Rule Making. See also paragraph 10 to the Notice of Proposed Rule Making. If service is not provided, the comments cannot be given any consideration. In view of this determination, we have not evaluated the substantive arguments made by petitioners in the petition for reconsideration.[3] Rather we advise petitioners to resubmit these allegations as they pertain to the proposal set forth in the attached Notice of Proposed Rule Making.[4]

4. Authority for the action taken herein is found in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b).

(Secs. 4, 303, 48 stat., as amended, 1066, 1082 (47 U.S.C. 154, 303))

Federal Communications Commission.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

Notice of Proposed Rule Making; Second Release

Adopted: February 20, 1980.

Released: February 26, 1980.

1. The Commission herein considers a petition for rule making[5] file by Charles M. Anderson and J. Barry Williams ("petitioners"), which seeks the assignment of Channel 228A to Smiths Grove, Kentucky, as a first FM assignment to the community. In order to accomplish this, it would be necessary to substitute Channel 285A for Channel 228A (now occupied by Station WAIN–FM) in Columbia, Kentucky, and to substitute Channel 228A for Channel 285A (now occupied by Station WJRS(FM), Jamestown, Kentucky.

2. Smiths Grove (population 767)[6], is located in the northeast corner of Warren County (population 71,828) adjacent to Edmonson County (population 9,962) and approximately 22 kilometers (14 miles) from Bowling Green, Kentucky. There is no local aural broadcast service in Smiths Grove.

3. Petitioners state that Smiths Grove is primarily an agricultural area and includes a number of small businesses. They also assert that the proposed station would provide a first local aural service to parts of Edmonson County as well as Warren County. Petitioners have submitted demographic data in order to demonstrate the need for a first FM assignment to Smiths Grove.

4. In an engineering study petitioners indicate that Channel 228A can be assigned to Smiths Grove in compliance with the minimum distance separation requirements provided the transmitter sites of Station WAIN–FM (Columbia) and Station WJRS(FM) (Jamestown) are relocated to accommodate the proposed substitution of channels. They state that both the Columbia and Jamestown licensees have agreed to the substitution of channels and to the change in their transmitter locations, predicated upon the full reimbursement of costs by the ultimate licensee of the Smiths Grove station. Petitioners state they have effected agreements with the licensees of Stations WAIN–FM and WJRS(FM) to the required changes and submitted signed letters which reflect the agreements to their proposal. Petitioners also state that the proposed Smiths Grove assignment would represent a very efficient use of the FM spectrum since this area is now saturated.

5. In view of the desirable first local aural broadcast service that could be provided to Smiths Grove and its surrounding area, we shall pursue the proposal for comments. The licensees of Stations WAIN–FM, Columbia, and WJRS(FM), Jamestown, are agreeable to the substitution of channels and change in transmitter locations, subject to reimbursement of costs by the ultimate licensee of the Smiths Grove station. We are told in this regard that both stations could effect considerable improvements in coverage and facilities. Under the circumstances, an order to show cause for modification of license will not be issued since the parties involved have already agreed to the modification of their licenses, if the proposed channel is assigned to Smiths Grove, Kentucky. We are, however, sending copies of this Notice of Proposed Rule Making to the affected licensees.

6. Accordingly, the Commission proposes to amend Section 73.202(b) of the Commission's Rules, the FM Table of Assignments, as follows:

City	Channel No.	
	Present	Proposed
Columbia, Kentucky	228A	285A
Jamestown, Kentucky	285A	228A
Smiths Grove, Kentucky		228A

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before April 12, 1982 and reply comments on or before April 27, 1982.

9. It is ordered, That the Secretary of the Commission shall send a copy of this notice by certified mail, return receipt requested, to Tri-County Broadcasting Corp., Radio Station WAIN–FM, Box 77, Columbia, Kentucky 42728, and Lake Cumberland Broadcasters, Radio Station WJRS(FM), Box 263 Jamestown, Kentucky 42629, the parties to whom the Notice is directed.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an ex parte presentation and shall not be considered in the proceeding.

Secs. 4, 303, 48 stat., as amended, 1066, 1082 (47 U.S.C. 154, 303).

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleading, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-6623 Filed 3-10-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82–124; RM–3782]

FM Broadcast Station in Honolulu, Hawaii; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This action proposes to assign three commercial FM channels to Honolulu, Hawaii, in response to a request from KHVH, Inc.

DATES: Comments must be filed on or before April 22, 1982, and reply comments on or before May 7, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Broadcast Bureau, (202) 632–5414.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Honolulu, Hawaii), BC Docket No. 82–124, RM–3782.

Adopted: February 25, 1982.

Released: March 8, 1982.

1. The Commission has before it for consideration a petition [1] filed by KHVH, Inc. ("petitioner") to amend § 73.202(b) of the Commission's rules and regulations to assign Channels 253 and/or Channels 256 and 282 to Honolulu, Hawaii.

2. Subsequent to the filing of the petition, the Commission, in a "Report and Order", Gen. Docket No. 80–710, 87 F.C.C. 2d 962 (1981), reallocated the frequency bands 76–88 MHz (VHF television Channels 5 and 6) and 98–108 MHz (FM Channels 251–300) from the Common Carrier Rural Radio Service in Hawaii, to the Broadcast Services in Hawaii. The local telephone company had used the 22 megahertz of spectrum space for nearly thirty years to provide reliable inter-island telephone service. With the passage of time, however, microwave technology progressed, and the telephone Company gradually replaced its VHF equipment with microwave equipment. The frequency bands 76–88 and 98–108 MHz thus became vacant in Hawaii.

3. The instant petition was incorporated into the proceeding in Gen. Docket No. 80–710 along with another petition filed by Lee M. Holmes to assign VHF Channel 5 or 6 to Honolulu (RM–3467). The Holmes petition is being considered separately. It was stated in Gen. Docket No. 80–710 (paragraph 3, *supra*), that "(t)he purpose of this "Report and Order" (sic) is to reallocate the 76–88 and 98–108 MHz bands after which we may * * * allot a television and FM radio channel to certain Hawaiian markets.

4. We now consider in this proceeding the petitioner's request to assign FM Channels 253 and/or Channels 256 and 282 to Honolulu, Hawaii. Petitioner contends, in pertinent part, that Honolulu is entitled to more than the five commercial FM channels, which were assigned when the population was 294,000. See "Revision of FM Rules" (Docket No. 14185. "Fourth Report and Order"), 3 RR 2d 1571, 29 FR 2385 (1964). Petitioner states that the population of the city of Honolulu has grown to an estimated 372,000.[2] According to petitioner, the public interest would be served by amendments to the rules as

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[1] But see Bastrop and Farmerville, Louisiana, 54 FCC 2d 516 (1975).

[2] Petitioners ask that this proceeding should be reopened and delayed pending the outcome of BC Docket No. 80–90, Modification of FM Broadcast Station Rules to Increase the Availability of Commercial FM Broadcast Assignments. Petitioners allege that a channel would become available to Smiths Grove without substitution elsewhere if the proposals in that proceeding were adopted. Although we have reopened the instant case, we shall not delay its resolution pending action in BC Docket 80–90. See Rhinelander, Wisconsin., et al. 49 R.R. 2d 1113 (1981) at par. 10. However, we note that action in BC Docket No. 80–90 may occur before this case is decided and in that event we would consider any new proposal offered.

[3] The Notice of Proposed Rule Making has been updated for population figures and comment deadlines.

[4] Public Notice of petition was given on January 3, 1979, Rept. No. 1157.

[5] Population figures are taken from the 1980 U.S. Census.

[1] Public Notice of the petition was given on November 10, 1980, Report No. 1256.

[2] "Standard Rate and Data Service," Volume 62, No. 6, "State, County, City, Metro Area Data by State," population estimated by Market Data Division of SRDS as of January 1, 1980.

proposed "to enable Hawaii to obtain its full complement of commercial FM channels pursuant to Section 307(b) of the Communications Act of 1934, as amended, which mandates fair, efficient and equitable distribution of radio services among the several states."

5. Presently Honolulu has five commercial FM stations—KQMQ (Channel 226); KMAI (Channel 230); KUMU–FM (Channel 234); KAIM–FM (Channel 238); KDUK (Channel 248); and two noncommercial educational FM stations—KHPR (construction permit—201C) and KTUH (application pending—Channel 212A).

6. Petitioner states that if Channels 253 and/or 258 and 262 are assigned to Honolulu it will file an application for a construction permit to operate on one of those channels.

7. Windward Broadcasting, Inc. filed comments in support of petitioner's proposal and stated that it would file an application for a construction permit to operate an FM station in Honolulu if additional assignments are made.

8. Island Communications, Inc. filed comments opposing the additional assignments on the ground that the Honolulu market is already "over-radioed."

9. Mauna Kea Broadcasting also filed comments opposing the FM assignments, alleging that there is an adequacy of existing broadcast stations. Mauna Kea suggests that, with all the FM channels which are assigned to Hawaii for broadcast use, there are enough channels available so that it would be unnecessary to continue to also use the lower 20 channels for non-commercial educational purposes. Accordingly, Mauna Kea suggests that 50 percent of Channels 251–300 be reserved for noncommercial educational use, and Channels 201–220 be withdrawn from regular FM broadcast use. They could, Mauna Kea states, be reserved for use only if the other FM frequencies become filled. Mauna Kea concludes that in this way there would be an adequate number of channels available for both commercial and noncommercial educational use, "and the Channel 6 interference problem, which has plagued many areas in the United States, will never become a problem in the State of Hawaii." We stated in the "Report and Order" in Gen. Docket No. 80–710 (paragraph 2, *supra*) that "When we address KHVH's petition for assignment in some future proceeding, it will then be appropriate to evaluate Mauna Kea's suggested allotment scheme." Accordingly, it will be considered herein.

10. We see no need for, or advantage in, Mauna Kea's suggestion. No interference problems between Channel 6 and the lower FM channels (201–220) should obtain inasmuch as there is no consideration being given to the assignment of Channel 6 to Honolulu, where noncommercial educational FM stations are operating on the lower channels, and, if Chennel 6 were assigned elsewhere in Hawaii, where an interference question might arise, there are sufficient FM channels in the 251–300 allocation to accommodate reservations there for noncommercial educational stations.

11. We are not persuaded by the allegation of Island Communications, Inc. that the Honolulu market is already "over-radioed" and that no further FM assignments should be made for that market. The threshold consideration is the public interest. We believe that the public would be benefited by additional broadcast facilities.

12. Two interested parties, *i.e.*, the petitioner and Windward Broadcasting, Inc., have stated their intent to apply for FM stations in Honolulu if channels are made available. We would expect that additional parties would come forth with an exspression of interest with the knowledge that we are prepared to make use of the 50 new channels that have become available throughout Hawaii. Although we have only two interested parties at this point, we are willing to propose as many as three new channels in anticipation of more interest. If there is a need for still additional assignments, appropriate counterproposals should be submitted by the comment deadline.

13. Accordingly, we believe it would be in the public interest to propose an amendment of the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Honolulu, Hawaii	226,230, 234, 238, and 248	226, 230, 234, 238, 248, 253, 258, and 262

14. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

15. Interested parties may file comments on or before April 22, 1982, and reply comments on or before May 7, 1982, and are advised to read the Appendix below for the proper procedures.

16. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

17. For further information concerning this proceeding, contact Philip S. Cross, Broadcast Bureau, (202) 632–5414. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes and *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes and *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082 (47 U.S.C. 154, 303))

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 82–124, RM–3782]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, §73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the "Notice of Proposed Rule Making" to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this "Notice", they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the "Notice of Proposed Rule Making" to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W. Washington, D.C.

[FR Doc. 82-6686 Filed 3-10-82; 8:45am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 651

Atlantic Groundfish (Cod, Haddock, and Yellowtail Flounder); Interim Fishery Management Plan; Initial Approval

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA announces initial approval of the Interim Fishery Management Plan for Atlantic Groundfish (Interim Plan); issues proposed rules to implement the conservation and management measures of the Interim Plan; and requests comments on the Interim Plan and proposed regulations. The Interim Plan is necessary to establish a new management approach for Atlantic groundfish developed by the New England Fishery Management Council (Council). The Interim Plan is intended to reduce regulatory burdens on the fishery and facilitate development of a more reliable data base for making management decisions.

DATES: Comments must be received on or before April 26, 1982.

ADDRESSES: Comments may be mailed to Frank Grice, Chief, Management Division, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930. The Interim Plan and Regulatory Impact Review may be obtained from Mr. Grice. Copies of the "Resource Document for the Interim Groundfish Plan" may be obtained from Douglas Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus, Massachusetts 01906.

FOR FURTHER INFORMATION CONTACT: Mr. Peter D. Colosi, Jr., Groundfish Plan Coordinator, 617–281–3600, ext. 272.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Atlantic Groundfish (Interim Plan) has been developed because the Council recognized the need to manage Atlantic groundfish on a basis that accounts for fishery interactions, rather than by the species-by-species approach of the current Fishery Management Plan for Atlantic Groundfish—Haddock, Cod, and Yellowtail Flounder (FMP). The first several years of groundfish management included annual and quarterly catch quotas for individual species, quota allocations by vessel class, and vessel trip or weekly limits on landings as measures to protect and rebuild cod, haddock, and yellowtail flounder stocks from low abundance levels. This approach led to frequent fishery closures of one or more segments of the fishing fleet, which interrupted the normal activity of the industry, and often imposed economic inefficiencies, if not hardship, upon the industry. The Council, therefore, was faced with the need to make frequent short-term adjustments to the FMP that would avert or lessen the adverse economic consequences of management.

During 1979, the Council concluded that this management environment was unsatisfactory for making informed long-term decisions on groundfish management. Constant preoccupation with FMP adjustment precluded the consideration of issues related to development of a total fisheries management plan for all groundfish species, the Atlantic Demersal Finfish Plan (ADF). A significant problem which arose was a breakdown of the fishing industry's support of the FMP. A sign of this breakdown was an erosion of the accuracy of fishery statistics because of widespread misreporting and non-reporting by the industry, in order to circumvent management measures that it viewed as unreasonably restrictive. The Council recognized that no form of management could be entirely successful under these conditions and elected to develop and implement an interim management system under which the industry would be allowed to operate with minimal regulation. The resultant Interim Plan is expected to foster a renewed spirit of industry support for a management program which collects accurate fishery statistics and, by removing the need for constant change, to provide time for decision makers to direct attention to the long-term issues of the ADF Plan.

The Interim Plan does not retain the quotas, trip limits, and vessel class quota allocations which are the basis of the existing FMP. Instead, the Interim Plan proposes what the Council views as a less restrictive regulatory system by eliminating the restrictions that a quota-based management system imposes on the industry. However, the Interim Plan does provide basic conservation measures for the resources designed to: (1) Reduce the risk of recruitment overfishing; (2) enhance fish spawning activity, and (3) acquire more accurate and reliable fishery data in support of developing the ADF.

The management measures to carry out these goals pertain to all cod, haddock, and yellowtail flounder in the Northwest Atlantic within U.S. jurisdiction. Management also will include fish within the territorial sea since coastal States intend to adopt complementary measures. The management measures include:

1. *Optimum Yield* (OY): The current groundfish FMP specified OY as annual numerical quotas; the Interim Plan defines OY as the amount of fish actually harvested by U.S. fishermen in accordance with the management measures listed below.

2. *Minimum Mesh Size Within a Large Mesh Area:* The Intrim Plan

establishes a "large mesh" area in which all trawlers and gill-netters must use nets with a mesh size no smaller than the prescribed minimum. This measure is designed to reduce the risk of recruitment overfishing by decreasing the harvest of undersized fish. It applies to all trawler and gill net vessels that catch any cod, haddock, or yellowtail flounder, unless the vessels enter the optional settlement program (below).

The "large-mesh" area includes shoreward portions of the Gulf of Maine west of Penobscot Bay and Georges Bank, and is defined in the regulations. It encompasses an area where approximately 90 percent of the cod, haddock, and yellowtail flounder are caught. Within this area, all vessels using otter trawls, pair trawls, beam trawls, Scottish seines, and mid-water trawls must use cod ends with mesh measuring at least 5½ inches during 1982, and 5½ inches thereafter. Vessels using gillnets must use nets with at least 5½ inch mesh. The Regional Director may subsequently include other types of gear in this regulation if he finds that they are taking significant amounts of groundfish.

3. *Optional Settlement:* The Council recognizes that many fisheries within the large-mesh area require the use of small-mesh nets. Therefore, the Council developed an optional settlement program to allow these small-mesh fisheries to continue to operate. A vessel master or owner wishing to participate in the program must call the National Marine Fisheries Service (NMFS) Regional Office or visit a district law enforcement office and obtain a letter from the NMFS Regional Director.

The total catch of cod, haddock, and yellowtail flounder of a vessel participating in the program may not exceed 15% by weight of its total catch, and 50% of the total catch by weight must be comprised of the small-mesh species on a list maintained by the Regional Director. These percentages are determined at the end of a participation period, which may be as long as six months. The list of small-mesh species initially includes redfish, silver hake, red hake, squid, Atlantic herring, mackerel, northern shrimp, and dogfish. The Regional Director may subsequently add species to the list if he finds that small-mesh gear is necessary for taking that species and that such taking will not result in a significant harvest of cod, haddock, or yellowtail flounder.

4. *Minimum Length:* To reduce further the risk of recruitment overfishing, to complement the minimum-mesh size/large-mesh area measures, and to improve enforcement effectiveness, commercially caught cod and haddock which are retained must be at least 17 inches long (longest possible measured length), and cod and haddock caught recreationally and retained must be at least 15 inches long. All yellowtail flounder retained must be at least 11 inches long, regardless of whether they are recreationally or commercially caught.

The established minimum size requirements will be enforced by prohibiting possession of any undersized fish. Dockside monitoring of possession prohibitions eliminates the necessity of burdensome and expensive at-sea enforcement because authorized enforcement officers will not have the burden of proving where undersized groundfish were taken.

The possession prohibition will apply to fishermen, processors, and dealers. Eliminating trade in undersized groundfish has conservation benefits that greatly outweigh any impacts on those affected by the possession prohibition.

5. *Spawning Area Closures:* The three-month closures of haddock spawning areas in the current FMP are continued, with slight modification of the boundaries of area 1. This measure serves one Interim Plan objective, to enhance spawning activity.

6. *Permits and Enforcement:* Permits are required but may be obtained without cost.

7. *Data Collection:* The Interim Plan adopts a voluntary system of data collection from fishermen; fishermen in the optional settlement program must comply with mandatory reporting requirements. Section 651.5(b) is reserved; regulations will be proposed after the Office of Management and Budget approves the reporting forms. The mandatory recordkeeping requirements for dealers and processors specified in the present groundfish regulations are retained.

8. *Time Frame:* The Plan will be implemented for three years, unless amended to extend the time frame. During this time, the Council intends to develop a mechanism that addresses the possible occurrence of overfishing. This mechanism may be incorporated as an amendment to the Interim Plan.

The Council chose this management approach after two years of development and two rounds of public meetings. The first round of public meetings was held during the summer of 1980, and the second during the summer of 1981. The Council believes that this liberal management system will be cost-effective to administer during the interim period, and will permit the natural economic factors of the fishery to operate with minimal influence from regulation. Close observation of economic fluctuations under the quota-free Interim Plan will contribute significantly to development of the ADF.

The Interim Plan acknowledges that the decline of some stocks of groundfish may occur from fishing during the interim period, but not to a degree that irreparable harm will be done to the resources. The Interim Plan has no specific economic goals. Consequently, it does not propose any measure to address redistribution of revenues that may result within the industry from fishing under the Interim Plan. The Plan does not address in detail the effects on recreational fishing or small vessels. The Canadian Government's formal comments on the Plan are not yet available. The Council explicitly recognizes the potential impacts of its action.

Classification: The Administrator has determined, after reviewing the criteria set forth in Section 1(b) of E.O. 12291, that regulations to implement the Interim Plan are non-major; accordingly, preparation of a regulatory impact analysis is not required. However, the regulations are significant under the Regulatory Flexibility Act; that is, they will have a significant economic impact on a substantial number of small entities. Therefore, an initial Regulatory Flexibility Analysis has been prepared and is available to the public as a Regulatory Impact Review/Regulatory Flexibility Analysis (RIR/RFA) at the Regional Director's office (address above). A final Regulatory Flexibility Analysis will be published with the final regulations. The RIR/RFA describes the problems addressed by the amendment and presents an analysis of the proposed and alternative regulatory systems.

The Interim Plan and implementing regulations minimize the reporting requirements for the industry, while providing for acquisition of improved fishery data. There is a minimum amount of mandatory record keeping and data reporting which constitute "collection of information" under the Paperwork Reduction Act. The regulations require fish dealers and processors to maintain records on all transfers, purchases, and receipts of all fish species; the recording form, NOAA Form 88-154, is the same as the vessel record currently used and already approved by the Office of Management and Budget (OMB) (approval number 0648-0013). The 3-tier voluntary data collection system which the Interim Plan intends to adopt should be operational during 1982. NMFS is in the process of obtaining necessary approvals from the Department of Commerce and OMB to implement this system. The Optional Settlement Program requires mandatory reporting, but will utilize NOAA Form 88-153 which has been previously approved by OMB (approval number 0648-0016). Entry into the program requires a telephone or personal application to the Regional Director. The additional information collection requirements associated with program entry will be reviewed by OMB.

A draft Environmental Impact Statement (DEIS) has been prepared under section 102(2)(c) of the National Environmental Policy Act of 1969 and section 702(d) of the Act. The DEIS was filed with the Environmental Protection Agency (EPA) and made available to the public on November 20, 1981. Comments were received until January 4, 1982. Comments received will be reviewed and summarized in the final EIS which will be filed with EPA prior to the promulgation of final rulemaking. Copies of the comments will be open for inspection at the Council's office (address above).

Dated: March 8, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

(16 U.S.C. 1801 *et seq.*)

For reasons set out in the preamble, Part 651 of Chapter 50 of the Code of Federal Regulations is proposed to be amended as set forth below:

1. The authority citation for Part 651 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. 50 CFR is amended by revising Part 651 to read as follows:

PART 651—ATLANTIC GROUNDFISH (COD, HADDOCK, AND YELLOWTAIL FLOUNDER)

Subpart A—General Provisions

Sec.

651.1 Purpose and scope.
651.2 Definitions.
651.3 Relation to other laws.
651.4 Vessel permits.
651.5 Recordkeeping requirements.
651.6 Vessel identification.
651.7 Prohibitions.
651.8 Enforcement.
651.9 Penalties.

Subpart B—Management Measures

651.20 Large-mesh area and gear limitations.
651.21 Closed areas.
651.22 Optional settlement program.
651.23 Minimum fish size.

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General provisions

§651.1 Purpose and scope.

The regulations in this Part govern fishing for groundfish by fishing vessels of the United States within that portion of the Atlantic Ocean over which the United States exercises fishery management authority. These regulations implement the Interim Fishery Management Plan for Atlantic Groundfish prepared and adopted by the New England Fishery Management Council, and approved by the Assistant Administrator.

§651.2 Definitions.

Some definitions in the Act have been repeated here to aid understanding of the regulations. In addition to the terms defined in the Act, the terms used in this Part shall have the following meanings:

Act means the Magnuson Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801–1882.

Areas of custody means any vessels, buildings, vehicles, piers or dock facilities where groundfish may be found.

Assistant Administrator means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, or a designee.

Authorized Officer means: (1) Any commissioned, warrant, or petty officer of the United States Coast Guard;

(2) Any Special Agent of the National Marine Fisheries Service;

(3) Any officer deputized by the head of any Federal or State Agency which has entered into an agreement with the Secretary and the Commandant of the United States Coast Guard to enforce the provisions of the Act; or

(4) Any United States Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (1) of this definition.

Catch, take, or harvest includes, but is not limited to, any activity which results in killing any fish, or bringing any live fish on board a vessel.

Charter and party boats means vessels carrying fishing parties on a per capita basis, or by charter.

Fishery Conservation Zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea is measured.

Fishing means any activity, other than scientific research activity conducted by a scientific research vessel, which involves:

(1) The catching, taking, or harvesting of fish;

(2) The attempted catching, taking, or harvesting of fish;

(3) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(4) Any operations at sea in support of, or in preparation for, any activity described above.

Fishing vessel means any vessel, boat, ship or other craft which is used for, equipped to be used for, or of a type which is normally used for: (1) Fishing; or (2) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Groundfish means any cod (*Gadus morhua*), haddock (*Melanogrammus aeglefinus*), or yellowtail flounder (*Limanda ferruginea*).

Land means to begin offloading fish, to offload fish, or to arrive in port with the intention offloading fish.

Official number the documentation number issued by the United States Coast Guard or the certificate number issued by a State or the Coast Guard for undocumented vessels in accordance with the Federal Boating Safety Act of 1971.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(1) Any person who owns that vessel in whole or in part;

(2) Any charterer of the vessel, whether bareboat, time, or voyage;

(3) Any person who acts in the capacity of a charterer, including, but not limited to, parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function, or operation of the vessel; or

(4) Any agent designated as such by any person in paragraphs (1), (2), or (3) of this definition.

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Recreational fishing means fishing for groundfish for any use except sale.

Recreational fishing vessel means any vessel from which recreational fishing is conducted. Party and charter boats are not considered recreational vessels.

Regional Director means the Regional Director, Northeast Region, National Marine Fisheries Service, NOAA, or a designee.

Secretary means the Secretary of Commerce or a designee.

U.S.-harvested fish means fish caught, taken, or harvested by vessels of the United States within any fishery regulated under the Act.

Vessel of the United States means:

(1) Any vessel officially documented or enrolled and numbered by the U.S. Coast Guard under U.S. law; or

(2) Any vessel under five net tons, which is registered under the laws of any State.

§651.3 Relation to other laws.

Fishing for herring, squid, mackeral and butterfish, which is affected by these regulations, is also governed by other domestic regulations under Chapter VI, Title 50 of the Code of Federal Regulations.

§651.4 Vessel permits.

(a) *General.* Any vessel of the United States fishing for groundfish, except recreational fishing vessels, must have a permit required by this Part on board the vessel.

(b) *Application.* (1) An application for a fishing vessel permit for the groundfish fishery must be submitted and signed by the vessel owner on an appropriate form which may be obtained from the Regional Director. The application must be submitted to the Regional Director prior to the date on which the applicant desires to have the permit made effective.

(2) Applicants must provide all of the following information:

(i) The name, mailing address, and telephone number of the applicant and the vessel's master;

(ii) The name of the vessel;

(iii) The vessel's official number;

(iv) The home port, gross tonnage, and net tonnage of the vessel;

(v) The engine horsepower of the vessel;

(vi) The approximate fish-hold capacity of the vessel in pounds;

(vii) The type and quantity of fishing gear used by the vessel; and

(viii) The size of the crew, which may be stated in terms of a range.

(c) *Issuance.* (1) Upon receipt of a completed application, the Regional Director will issue a permit within 30 days.

(2) Upon receipt of an incomplete or improperly executed application, the Regional Director will notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within ten days following the date of notification, the application will be considered abandoned.

(d) *Expiraton.* A permit expires when the owner or name of the vessel changes.

(e) *Duration.* A permit is valid until it expires or is revoked, suspended, or modified under 50 CFR Part 621.

(f) *Alteration.* Any permit which has been altered, erased, or mutilated is invalid.

(g) *Replacement.* Replacement permits may be issued. An application for replacement permit will not be considered a new application.

(h) *Transfer.* Permits issued under this Part are not transferable or assignable. A permit is valid only for the vessel for which it is issued.

(i) *Display.* Any permit issued under this Part must be carried on board the fishing vessel at all times. The permit must be prominently displayed for inspection in the pilot house of the vessel, or in another appropriate place.

(j) *Revocation.* Subpart D of 50 CFR Part 621 governs the imposition of sanctions against a permit issued under this Part. As specified in Subpart D, a permit may be revoked, modified, or suspended if the vessel for which the permit is issued is used in the commission of an offense prohibited by the Act or by this Part; or if a civil penalty or criminal penalty imposed under the Act is not satisfied.

(k) *Fees.* No fee is required for any permit under this Part.

(l) *Change in application information.* Any change in the information specified in paragraph (b) of this section must be reported to the Regional Director within 15 days of the change.

(m) *Optional settlement program.* Any permit holder may request entry into the optional settlement program (§ 651.22) by telephoning 617–281–3600. The permit holder must give his/her name, permit number, and the starting and ending dates for participation in the program.

§ 651.5 Recordkeeping requirements.

(a) *Fish dealer or processor records.* Any person who receives groundfish for a commercial purpose from a fishing vessel subject to this Part shall:

(1) Maintain records on all transfers, purchases, and receipts of all fish;

(2) Permit an Authorized Officer upon demand to inspect and copy any records of transfers, purchases or receipts of all fish.

(b) *Fishing vessel records.* (Reserved)

§ 651.6 Vessel identification.

(a) *Official number.* Each fishing vessel subject to this Part over 25 feet in length must display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from above.

(b) *Numerals.* The official number must be permanently affixed to each vessel subject to this Part in contrasting block Arabic numerals at least 18 inches in height for vessels over 65 feet, and at least 10 inches in height for all other vessels over 25 feet in length. The length of a vessel, for purposes of this section, shall be that length set forth in U.S. Coast Guard or State records.

(c) *Duties of operator.* The operator of each vessel subject to this Part shall:

(1) Keep the vessel name and official number clearly legible and in good repair; and

(2) Ensure that no part of the vessel, its rigging, its fishing gear, or any other object obstructs the view of the official number from an enforcement vessel or aircraft.

(d) *Nonpermanent markings.* Vessels carrying fishing parties on a per capita basis or by charter must use markings that meet the above requirements, except for the requirement that they be affixed permanently to the vessel. The nonpermanent markings must be displayed in conformity with the above requirements when the vessel is fishing for groundfish.

§ 651.7 Prohibitions.

It is unlawful for any person to:

(a) Fish within the large-mesh area specified in § 651.20(a) with nets smaller than the minimum size specified in § 651.20(b) or (c), unless the vessel is registered in the optional settlement program established under § 651.22;

(b) Fish in either area specified in § 651.21 during a period in which that area is closed, unless allowed by that section;

(c) While fishing in closed areas I or II, employ any modification to any gear that would, in effect, make it possible to fish for groundfish;

(d) Retain on board, land, or possess any groundfish smaller than the minimum sizes specified in § 651.23.

(e) Use any vessel for taking, catching, harvesting, or landing any groundfish unless the vessel has a valid permit required under this Part, and the permit is aboard the vessel;

(f) Fail to report to the Regional Director, within 15 days, any change in the information contained in a permit application for a vessel;

(g) Falsify or fail to make, keep, or maintain any record or report required by this Part;

(h) Refuse to permit an Authorized Officer to make inspections, to inspect or copy any record relating to the taking, catching, harvesting, landing, purchase or sale of any groundfish;

(i) Make any false statement, oral or written, to an Authorized Officer, concerning the taking, catching, harvesting, landing, purchase, sale or transfer of any fish;

(j) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, or export any groundfish taken in violation of the Act, this Part, or any other regulation promulgated under the Act;

(k) Fail to affix and maintain permanent or nonpermanent markings as required by § 651.6;

(l) Refuse to permit an Authorized Officer to board a fishing vessel, or to enter areas of custody, subject to such person's control, for purposes of conducting any search or inspection in connection with the enforcement of this Act, this Part, or any other regulation promulgated under the Act;

(m) Forcibly assault, resist, oppose, impede, intimidate or interfere with any Authorized Officer in the conduct of any inspection or search described in paragraph (1) of this section;

(n) Resist a lawful arrest for any act prohibited by this Part;

(o) Interfere with, delay, or prevent by any means the apprehension or arrest of another person, with the knowledge that such other person has committed any act prohibited by this Part;

(p) Interfere with, obstruct, delay, or prevent by any means the lawful investigation or search in the process of enforcing this Act;

(q) Fail to comply with enforcement and boarding procedures specified in § 651.8;

(r) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested fish to any foreign fishing vessel within the FCZ unless the foreign vessel has been issued a permit which authorizes the receipt by such vessel of U.S.-harvested fish of the species concerned;

(s) Violate any provision of the optional settlement program specified in § 651.22; or

(t) Violate any other provision of this Part, the Act, or any other regulation promulgated under the Act.

§ 651.8 Enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to this Part shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, and catch for purposes of enforcing the Act and this Part.

(b) *Signals.* Upon being approached by a U.S. Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The following signals extracted from the International Code of Signals are among those which may be used:

(1) "L" means "You should stop your vessel instantly,"

(2) "SQ3" means "You should stop or heave to; I am going to board you," and

(3) "AA AA AA etc.," is the call to an unknown station, to which the signaled vessel must respond by illuminating the vessel identification required by § 651.6(a).

(c) *Boarding.* The operator of a vessel signaled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way so as to permit the Authorized Officer and the boarding party to come aboard;

(2) Provide a ladder for the Authorized Officer and the boarding party;

(3) When necessary to facilitate the boarding, provide a man rope, safety line, and illumination for the ladder;

(4) Take such other actions as the Authorized Officer deems necessary to ensure the safety of the Authorized Officer and the boarding party and to facilitate the boarding.

§ 651.9 Penalties.

Any person or fishing vessel found to be in violation of this Part will be subject to the civil and criminal penalty provisions and forfeiture provisions of the Act, and to Parts 620 (Citations) and 621 (Civil Procedures) of this title, and other applicable Federal law.

Subpart B—Management Measures

§ 651.20 Large-mesh area and gear limitations.

(a) The mesh sizes stated in paragraphs (b) and (c) of this section will apply to all vessels fishing within an area, shown in Appendix A, which is bounded by straight lines connecting the following coordinates in the order stated:

The point at which a line drawn on 69° 20' W. longitude intersects the outer boundary of the territorial sea;
(A) 43°40' N. latitude, 69°20' W. longitude;
(B) 43°40' N. latitude, 69°40' W. longitude;
(C) 41°50' N. latitude, 69°40' W. longitude;
(D) 41°30' N. latitude, 69°30' W. longitude;
(E) 41°40' N. latitude, 69°30' W. longitude;
(F) 41°40' N. latitude, 69°20' W. longitude;
(G) 41°30' N. latitude, 69°20' W. longitude;
(H) 41°30' N. latitude, 68°40' W. longitude;
(I) 41°40' N. latitude, 68°40' W. longitude;
(J) 41°40' N. latitude, 68°30' W. longitude;
(K) 41° 50'N.latitude, 68° 30'W.longitude;
(L) 41°50' N. latitude, 68°10' W. longitude;
(M) 42°00' N. latitude, 68°10' W. longitude;
(N) 42°00' N. latitude, 67°40' W. longitude;
(O) 42°10' N. latitude, 67°40' W. longitude;
(P) 42°10' N. latitude, 68°00' W. longitude;
(Q) 41°00' N. latitude, 68°00' W. longitude;
(R) 41°00' N. latitude, 67°00' W. longitude;
(S) 40°50' N. latitude, 67°00' W. longitude;
(T) 40°50' N. latitude, 67°40' W. longitude;
(U) 40°30' N. latitude, 67°40' W. longitude;
(V) 40°30' N. latitude, 70°00' W. longitude;

and the point where a line drawn on 70°00' W. longitude intersects the outer boundary of the territorial sea south of Nantucket Island. The shoreward boundary of the large-mesh area is the outer boundary of the territorial sea.

(b) *Trawl nets.* Except as provided for in § 651.22, the minimum mesh size for any trawl net or scottish seine used by a vessel fishing in the large-mesh area described in paragraph (a) of this section is 5½ inches in the cod end, and 4½ inches in the body of the net until December 31, 1982. Beginning on January 1, 1983, the minimum cod-end mesh size will be 5½ inches and the minimum size for the net body will remain 4½ inches.

(c) *Gill nets.* Except as provided for in § 651.22, the minimum mesh size for any gill net used by a vessel fishing in the large-mesh area described in paragraph (a) of this section is 5½ inches.

(d) *Mesh measurements.* (1) Mesh sizes are measured when wet after use by a wedgeshaped gauge having a taper of two centimeters in eight centimeters and a thickness of 2.3 millimeters, inserted into the meshes under pressure or pull of five kilograms. The mesh size of the body of the net will be the average of the measurements of any series of 20 consecutive meshes. The cod end will be measured in the same manner at least 10 meshes from the lacings, beginning at the after end and running parallel to the long axis.

(2) No fishing vessel may use any device or method which would have the effect of reducing mesh size, except that:

(i) Chafing gear which does not obstruct the meshes of the cod end may be attached, and

(ii) Net strengtheners may be attached to the cod end of trawl nets, providing such net strengtheners consist of mesh similar to the material of the cod end and have a mesh size of at least twice the authorized minimum mesh size.

§ 651.21 Closed areas.

(a) *General.* Except as allowed by paragraph (b) of this section, no person may fish within the following areas

during the months of March, April, and May:

(1) An area known as Closed Area I bounded by straight lines connecting the following coordinates in the order stated:

(A) 41°30' N. latitude, 69°45' W. longitude;
(B) 40°55' N. latitude, 68°55' W. longitude;
(C) 41°35' N. latitude, 68°30' W. longitude;
(D) 41°30' N. latitude, 68°45' W. longitude;
(E) 41°50' N. latitude, 69°45' W. longitude;

(2) An area known as Closed Area II bounded by straight lines connecting the following coordinates in the order stated:

(A) 42°20' N. latitide, 67°00' W. longitude;
(B) 41°15' N. latitide, 67°00' W. longitude;
(C) 41°15' N. latitide, 65°40' W. longitude;
(D) 42°00' N. latitide, 65°40' W. longitude;
(E) 42°20' N. latitide, 66°00' W. longitude;
(F) 42°20' N. latitide, 67°00' W. longitude;

(b) *Exceptions.* Paragraph (a) of this section does not apply to:

(1) Longline vessels that fish in Closed Area I with hooks having a gape of not less than 1.18 inches;

(2) Vessels that fish in Closed Area I or II using only the following fishing gear:

(i) Pot gear designed and used to take lobsters; or

(ii) Dredges designed and used to take scallops.

§ 651.22 Optional settlement program.

(a) *General.* The Regional Director will establish and implement an optional settlement program to allow fishing vessels to engage in legitimate small-mesh fisheries within the large-mesh area defined in §651.20(a). The Regional Director will maintain a list of small-mesh species to which the optional settlement program applies. He may add a species to the list if he finds that fishing for that species requires small-mesh gear and does not result in a significant harvest of groundfish. Notice of addition to the list will be mailed to all permit holders.

(b) *Entry.* (1) Any person holding a valid Federal fishing permit may apply to fish under the optional settlement program by following the procedures set forth in § 651.4(m).

(2) The period of participation must be for at least 30 days, but not longer than six months. There is no limit on the number of times a vessel can apply to participate in the optional settlement program.

(c) *Certification.* (1) The Regional Director may certify in writing the entry of the applicant into the optional settlement program. Entry may be denied to an applicant based upon previous violations of the Act. Any applicant denied entry into the optional settlement program may request a hearing. The hearing will be conducted in accordance with the procedures of 50 CFR §651.56. Mail requests to the Assistant Administrator for Fisheries.

(2) Entry of the applicant into the optional settlement program cannot occur until the applicant receives written certification from the Regional Director.

(d) *Commencement of fishing.* Fishing under the optional settlement program may begin after the applicant has received the certification from the Regional Director, provided that a copy of the certification is retained on board the vessel and displayed for inspection upon the request of any Authorized Officer.

(e) *Limitations.* (1) During the participation period, the total catch of a participating vessel must be at least 50 percent by round weight of the species on the Regional Director's list under § 651.22(a).

(2) During the participation period, a participating vessel may not land groundfish in quantities exceeding 15 percent of its total catch of all other species. This means that the combined total catch of cod, haddock, and yellowtail flounder cannot exceed 15 percent of the vessel's total catch of all other species, regardless of the area of the Northwest Atlantic in which they were caught.

(3) The Regional Director may increase this percentage of combined cod, haddock, and yellowtail flounder by publication in the **Federal Register** if he finds that a different percentage is necessary to conduct the small-mesh fisheries.

(f) *Recordkeeping and reporting.* The participant shall mail or deliver to the Regional Director, a NOAA Form 88–153 "Fishing Vessel Record" listing in pounds, all fish caught during the participation period within one week from the end of each such period. The participant shall maintain landing records throughout this period, and, if requested, shall present such records to any Authorized Officer within a reasonable time, not to exceed two working days.

(g) *Expiration or withdrawal.* Participation in the program expires at the end of the participation period, when the owner or vessel name changes, or when the participant notifies the Regional Director of his/her intent to withdraw from the program. Such withdrawal will become effective upon notice of receipt of a withdrawal from the Regional Director.

(h) *Revocation.* The Regional Director may end the participation of the applicant in the optional settlement program after issuance of a notice of violation and assessment for violating any provisions of the program or the Act. Notification will be in writing and take effect upon receipt by the participant. Any applicant whose certification is revoked may request a hearing. The hearing will be conducted in accordance with the procedures of § 621.56. Mail requests to the Assistant Administrator for Fisheries, NMFS, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

§ 651.23 Minimum fish size.

(a) The minimum size (total length) for any groundfish is:

(1) *Commercial.*

Cod and haddock: 17 inches.
Yellowtail flounder: 11 inches.

(2) *Recreational fishing vessels, charter and party boats.*

Cod and haddock: 15 inches.
Yellowtail flounder: 11 inches.

(b) The minimum lengths allowed by paragraph (a) of this section are measured on a straight line from the tip of the snout to the end of the tail.

[FR Doc. 82-6092 Filed 3-8-82; 3:31 pm]
BILLING CODE 3510-22-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 387–399

[BMCS Docket No. MC–101; Notice No. 82–4]

Regulatory Cost Accounting Program (RCAP); Public Meeting and Request for Comments

Note.—This document originally appeared in the **Federal Register** for Tuesday March 9, 1982. It is reprinted in this issue to meet requirements for publication on the Monday/Thursday schedule assigned to the Department of Transportation.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting and request for comments.

SUMMARY: Comments and information are solicited to assist the FHWA in its effort to access the economic burden placed on the motor carrier industry by the Federal Motor Carrier Safety Regulations (FMCSR). A public meeting will be held on March 18 to receive comments.

DATE: Comments must be received on or before April 8, 1982.

ADDRESS: Submit comments, preferably in triplicate, to BMCS Docket No. MC–101; Notice No. 82–4, Room 3404, Bureau of Motor Carrier Safety (BMCS), 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. James K. O'Steen, Bureau of Motor Carrier Safety, (202) 426–1700; or Mr. Stanley H. Abramson, Office of the Chief Counsel, (202) 426–0762, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA's Bureau of Motor Carrier Safety (BMCS) has been asked by the Office of Management and Budget (OMB) to participate in a pilot program for the purpose of testing the feasibility of a Regulatory Cost Accounting Program (RCAP). The objective of the RCAP is to identify the cost components of each regulatory requirement on the regulated industry, then aggregate those components to determine the total cost burden associated with any part of each agency's regulatory program. These cost data could then be used to identify those regulations that impose particularly costly burdens on the industry.

In order to accomplish a task of this magnitude with an acceptable degree of reliability by the end of August 1982, it is essential to have input from motor carriers, drivers, manufacturers and other interested parties. This notice serves as a request for such input, either in the form of written comments to the docket (address above) or, orally at a public meeting scheduled for March 18, Room 6336, DOT Headquarters, 400 Seventh Street, SW., Washington, D.C., 9:00 a.m. to 4:00 p.m. Such input should assist the BMCS in evaluating the economic burden created by the FMCSR on the affected industry. Advance notification of the public meeting is necessarily short because of the time constraints placed on this project.

The data needed to accomplish this effort should focus on the direct costs incurred as a result of a regulation. The BMCS has structured this evaluation such that four primary types of burden will be considered. For the purpose of this exercise, burden is defined as the "cost borne by the industry to stay in compliance with the FMCSR." The four types of burden to be addressed are:

1. Paperwork burden which includes any paperwork preparation and filings necessitated by the FMCSR;

2. Operational burden which includes any time a qualified driver and/or vehicle, both of which are in compliance with the FMCSR, are restricted totally or in part from a revenue generating activity;

3. Hardware burden which includes capital costs directly attributable (at least in part) to the FMCSR; and

4. Overhead burden which includes costs incurred as a result of the FMCSR and not defined in the other three burdens, e.g., mechanical maintenance, file maintenance, administrative, etc., excluding paperwork.

Certain considerations should be made when attempting to determine costs directly attributable to the FMCSR. For example, Section 393.13 of the FMCSR requires that a truck tractor have two operational headlamps. The question arose: Has this requirement been institutionalized to the extent that industry would continue to install two operational headlamps on vehicles if this requirement did not exist? If so, how much (if any) of the compliance cost is attributable to the FMCSR?

Similar questions, concerning those regulations which have been adopted by some or all of the States, were encountered. In such cases, should the cost burden be attributed to the FMCSR or to the State regulation, or a percentage of the burden to each. If a percentage allocation approach is recommended, what percentage should be allocated to each? Without the FMCSR, would the cost burden decrease or would the nonuniformity of State requirements increase the cost burden.

Many of the FMCSR requirements are based on good accident prevention management principles. Would such practices be used by most motor carriers without the FMCSR requirements?

Comments to these considerations are requested to assist in the development of an approach which is mutually agreeable to both the regulated industry and the BMCS.

Additional comments are requested concerning the RCAP process: Along with comments concerning the scope and methodology of this effort, specific data is needed to identify the cost components of each regulatory requirement on the motor carrier industry. Please provide cost data, if possible, by FMCSR part and section in accordance with the four burden types defined in this notice and estimate the degree of reliability of such data.

All comments submitted will be available, both before and after the closing date, for examination by interested persons in the Docket Room of the BMCS, Room 3404, 400 Seventh Street, SW., Washington, D.C. 20590.

(49 U.S.C. 304; 49 CFR 1.48(b) and 301.60)
(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on March 5, 1982.

Kenneth L. Pierson,
Director, Bureau of Motor Carrier Safety.

[FR Doc. 82-6579 Filed 3-8-82; 8:45 am]
BILLING CODE 4910-22-M

Notices

Federal Register
Vol. 47, No. 48
Thursday, March 11, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Toiyabe National Forest Grazing Advisory Board; Notice of Meeting

The Toiyabe National Forest Grazing Advisory Board will meet at 1:00 p.m. April 22, 1982 in the Lander County Courthouse, Austin, Nevada. The purpose of this meeting is to discuss:

1. Allotment Management Planning.
2. Utilization of Range Betterment Fund.

The meeting will be open to the public. Persons who wish to attend should notify Forest Supervisor, Toiyabe National Forest, 111 N. Virginia St., Room 601, Reno, Nevada 89501. Telephone: (702) 784–5331. Written statements may be filed with the committee before or after the meeting.

Hugh G. Pangman,
Deputy Forest Supervisor.
March 4, 1982.
[FR Doc. 82-6571 Filed 3-10-82; 8:45 am]
BILLING CODE 3410-11-M

CIVIL RIGHTS COMMISSION

North Carolina Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the North Carolina Advisory Committee to the Commission will convene at 1:00 p.m., and will end at 4:00 p.m., on March 30, 1982, at the Hyatt Winston-Salem, 300 West 5th Street, Room 233–234, Winston-Salem, North Carolina 27102. The purpose of this meeting is to discuss voting rights issues, and tax exempt status of North Carolina universities that allegedly discriminate against minorities and program planning for the remaining period of fiscal year 1982.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Tommie Young, 4303 King Arthur Place, Greensboro, North Carolina 27405,(919) 379–7783 or the Southern Regional Office, Citizens Trust Bank Building, 73 Piedmont Avenue, N.E., Room 363, Atlanta, Georgia 30303, (404) 221–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 5, 1982.
John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 82-6532 Filed 3-10-82; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign Trade Zones Board

[Order No. 184]

Approval for Expansion of Foreign-Trade Zone 32, Miami, Fla

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Greater Miami Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone No. 32, has applied to the Board for authority to expand its general-purpose zone, located near Miami International Airport, to include an industrial park site in the City of Homestead, Florida, adjacent to the Miami Customs port of entry;

Whereas, the application was accepted for filing on November 2, 1981, and notice inviting public comment was given in the **Federal Register** on November 9, 1981 (46 FR 55296);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to provide zone services to users whose operations cannot be accommodated within existing zone space; and

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's Regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application field November 2, 1981. The grantee shall notify the Executive Secretarty of the Board for approval prior to the commencement of any manufacturing operations not mentioned in the application. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C. this 3rd day of March 1982.

Malcolm Baldrige,
Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest:
John J. Da Ponte, Jr.,
Executive Secretary.
[FR Doc 82-6548 Filed 3-10-82; 8:45 am]
BILLING CODE 3510-25-M

Foreign-Trade Zones Board

[Docket No. 9–82]

Foreign-Trade Subzone 46B, Union County, Ohio; Application for Expansion

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Cincinnati Foreign-Trade Zone, Inc., a non-profit Ohio corporation, and grantee of Foreign-Trade Subzone 46B, requesting authority to expand the subzone to include an adjacent site for automobile manufacturing operations. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on March 1, 1982. The applicant is authorized to make this proposal under § 1743.11 of the Ohio Revised Code.

On January 12, 1979, the GCFTZ received authority from the Board to establish a foreign-trade zone project with public facilities in the Cincinnati port of entry area and subzone facilities in the Columbus, Ohio, port of entry area at the motorcycle assembly plant of Honda of America Manufacturing, Inc. (Board Order 141, 44 FR 4003, 1/19/79). The Honda subzone covers 214 acres on route 33 near Marysville in Union County, Ohio. Motorcycle assembly operations began in September 1979 and zone procedures were initiated the following March. The facility provides employment for over 500 persons.

The applicant now requests subzone status for an additional 650 acres, immediately adjacent to the motorcycle plant, for Honda's automobile manufacturing and assembly operations, scheduled to begin in late 1982. Operations will involve stamping, welding, painting, plastic injection molding and assembly of automobiles and related parts. The company plans to purchase over 50 percent of the material and parts from domestic sources, including items such as tires, batteries, glass, interior parts, and steel for body parts and exhaust systems. At full production the plant would produce 10,000 cars per month, employing 2,500 persons.

Zone procedures will allow Honda to avoid duty and drawback procedures on its exports. On its domestic sales, the company will be able to take advantage of the same duty rate available to importers of finished autos which is currently 2.9 percent ad valorem. The average duty rate for components is estimated to be about 4.0 percent. Honda has indicated that its experience with the benefits from zone procedures at the motorcycle plant was an important factor in its decision to locate the auto plant in the U.S.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report to the Board. The committee consists of Dennis Puccinelli (Chairman). Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Donald L. Cavanaugh, District Director, U.S. Customs Service, Region IX, 55 Erieview Plaza, Plaza 9 Building, Cleveland, Ohio 44114; and Colonel James H. Higman, District Engineer, U.S. Army Engineer District Huntington, P.O. Box 2127, Huntington, West Virginia 25721.

Comments concerning the proposed subzone expansion are invited in writing from interested persons and organizations. Submissions shall include 12 copies. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before April 5, 1982.

A copy of the application is available for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, Region IX, 85 Marconi Boulevard, 234 New Federal Office Building, Columbus, Ohio 43214

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3721, 14th and Constitution, N.W., Washington, D.C. 20230.

Dated: March 5, 1982.

John J. Da Ponte, Jr.,
Executive Secretary.
[FR Doc. 82-6570 Filed 3-10-82; 8:45 am]
BILLING CODE 3510-25-M

International Trade Administration

Cadmium From Japan; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on cadmium from Japan. The review covers the seven known exporters of this merchandise and the period September 5, 1979 through July 31, 1981.

There were no known exports of cadmium by these seven firms to the United States during the period of review. All seven repeated their request for revocation of the finding. The Department preliminarily determines not to revoke the finding. There is some evidence of likelihood of resumption of sales at less than fair value. We have also preliminarily determined to continue the waiver of cash deposit for the seven firms. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: March 11, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–3614/5289).

SUPPLEMENTARY INFORMATION:

Background

On October 8, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 50615) the final results of its first administrative review of the antidumping finding on cadmium from Japan (37 FR 15760, August 4, 1972) and announced its intent to conduct the next administrative review by the end of August 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

The imports covered by the review are shipments of cadmium, currently classifiable under items 632.1420 and 632.1440 of the Tariff Schedules of the United States Annotated (TSUSA). The Department knows of seven exporters of Japanese cadmium to the United States. The review covers the period September 5, 1979 through July 31, 1981. There were no known shipments to the United States by these seven firms during the period of review. One small shipment that could not be associated with any particular Japanese firm was imported in late 1979 but was inadvertently liquidated by the Customs Service. All seven firms repeated their request for revocation of the finding. There are no know unliquidated entries.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that we will not revoke the finding. On the basis of recent market data presented in the last review, there is some evidence that sales, if they were to occur, would likely be at less than fair value.

Interested parties may submit written comments on these preliminary results on or before April 12, 1982 and may request disclosure and/or a hearing on or before March 22, 1982. Any hearing, if requested, will be held 25 days after publication of this notice or the first workday thereafter. The Department will publish the final results of the administrative review including the results of its anlysis of any such comments or hearing.

As provided for in § 353.48(b) of the Commerce regulations, we preliminarily determine to waive the cash deposit requirement for any entries, or withdrawals from warehouse, for consumption of Japanese cadmium on or after the date of publication of the final results. This waiver shall remain in effect until publication of the final results of the next adminsitrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)

and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration

March 3, 1982.

[FR Doc. 82-6588 Filed 3-10-82; 8:45 am]

BILLING CODE 3510-25-M

Calcium Pantothenate From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On January 28, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on calcium pantothenate from Japan. The review covered two new third-country shippers of Japanese calcium pantothenate to the United States for the period January 1, 1981 through June 30, 1981. Interested parties were given an opportunity to submit written or oral comments on these preliminary results. We received no comments.

EFFECTIVE DATE: March 11, 1982.

FOR FURTHER INFORMATION CONTACT: Susan M. Crawford or Sheila Forbes, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-2209/5255).

SUPPLEMENTARY INFORMATION:

Background

On January 17, 1974, an antidumping finding with respect to calcium pantothenate from Japan was published in the **Federal Register** as Treasury decision 74-34 (39 FR 2068). On January 28, 1982, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its administrative review of the finding (47 FR 4105-06) for two new third-country shippers. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of calcium pantothenate, a member of the B-complex vitamin family which is produced in two grades: D-Cal Pan (USP grade, which is used for human nutrition in the form of multi-vitamin tablets) and DL Cal Pan (feed grade, which is used as a food supplement for swine and poultry). Both grades of calcium pantothenate are currently classifiable under item 437.8225 of the Tariff Schedules of the United States Annotated (TSUSA). The review covered two new third-country shippers of Japanese calcium pantothenate to the United States, Peak International Products, b.v., Netherlands and Kompanie Ultramar Sievers & Co., West Germany, and the period January 1, 1981 through June 30, 1981.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for disclosure or a hearing. Therefore, the final results of our review are the same as those presented in the preliminary results of review. No dumping margin exists for either of the firms for the period January 1, 1981 through June 30, 1981. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Since there is no margin for either firm, the Department shall not require a cash deposit, as provided for in section 353.48(b) of the Commerce Regulations, on any shipment of Japanese calcium pantothenate exported by Peak International or Kompanie Ultramar Sievers & Co. entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This zero deposit rate shall remain in effect until publication of the final results of the next administrative review for these two firms. The Department intends to conduct the next administrative review for these two firms by the end of January 1983. For any shipment from a new exporter not covered in this review or in the final results of the initial administrative review of the finding published on February 3, 1981 (46 FR 10518-10519), unrelated to any covered firm, a cash deposit shall be required at the highest rate for responding firms with shipments during the most recent period covered by the initial review. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

March 8, 1982.

[FR Doc. 82-6589 Filed 3-10-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Allocation of Watch Quotas for Calendar Year 1982 Among Producers Located in the Virgin Islands, Guam, and American Samoa

AGENCY: International Trade Administration, Commerce; Office of the Assistant Secretary for Territorial and International Affairs, Interior.

ACTION: Final annual rules.

SUMMARY: Pursuant to Section 3 of the Department's Codified Watch Quota regulations (15 CFR Part 303), annual rules for calendar year 1982 are being adopted. The Departments are making several changes from the 1981 provisions.

DATE: These rules are effective on March 10, 1982.

FOR ADDITIONAL INFORMATION CONTACT: Mr. Frank W. Creel, who can be reached on 202-377-1660.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12291 dated February 17, 1981, the departments of Commerce and the Interior have determined that these rules do not constitute a "major rule" as defined by Section 1(b) of the Order. They are not likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices in either the public or private sector; or

(3) Significant adverse impact on the domestic economy or on the ability of U.S. enterprises to compete with foreign enterprises.

The General Counsel of the Department of Commerce has certified that this action will not have a significant economic impact on a substantial number of small entities. Finally, the Departments have determined that publication of these rules will impose no change in the information collection burden on the public. That burden is limited solely to those entities receiving the associated federal benefits and the information collection is made on ITA from 334P under OMB approval number 0625-0040. Accordingly, publication of these rules is consistent with the Departments' responsibilities under the Paperwork Reduction Plan Act of 1980.

The Departments published these rules in proposed form on December 10, 1981 (46 FR 60488 (1981)) and invited comments from the public. The only comment received was from the American Watch Association (AWA), a watch industry association of importers, assemblers, manufacturers and their suppliers.

The Departments had proposed to modify the so-called two-tier allocation system, originally adopted in the 1979 rules, by applying the special incentives they contained only to the reallocation of quota. The Departments noted that reliance on largely preassembled components, which the two-tier system was designed to discourage, was not a current problem. We also pointed to the additional safeguards against such "passthrough" operations adopted by the U.S. Customs Service in 1980.

The AWA urged the Departments not to "jettison" the tow-tier system so that it would be "available in future years." The AWA noted that the system "is doing no apparent harm, and, indeed, stands as an important symbol of the Departments' continuing determination to maintain the highest possible standards for local labor contributions."

The Departments' proposal relates to a provision of the annual rules, and the two-tier system could be readopted if a need were shown to exist in future years. We agree, however, with the AWA's points about the harmlessness and symbolic significance of the two-tier system. In view of these points and the fact that no comments favoring the proposed change were received, we have decided to retain the two-tier system.

The AWA also commented on the Departments' proposal to raise their ceiling on creditable wages from $17,000 to $18,000. The AWA suggested that a ceiling of $23,000 would be "much more closely in line with the GNP deflator over the past decade."

Until the 1976 allocation, the Departments credited wages up to the FICA maximum. In that year, the Departments adopted an independent ceiling lower than the FICA maximum in order "to provide an additional incentive for the employment and training of territorial residents in skilled labor and supervisory positions." (40 FR 54274 (1975).) Adoption of a 1982 ceiling of $18,000 would represent an increase since 1976 of 36%. In the same period the FICA maximum has increased by almost 111%. Adoption of AWA's suggestion to increase the 1982 ceiling to $23,000 would result in an increase of 74% over the 1976 ceiling. The ceiling would then be equal to about 77% of the current FICA maximum.

While the additional incentive sought by the Departments since 1976 would clearly be greater with adoption of the proposed ceiling of $18,000, the above analysis shows that adoption of the AWA's suggestion would not mean the effective abandonment of the Departments' policy. The difference between the ceiling and the current FICA maximum would still be substantial enough to encourage producers to consider the availability of territorial residents for positions requiring special skills and supervisory ability. Accordingly, the final rule establishes a new ceiling of $23,000.

The AWA also recommended that the Departments conduct an "examination" of the need to revise their assembly criteria with respect to quartz analog watches and to establish a standard not "less stringent" than the existing standard.

This recommendation was not phrased as a suggestion for revising the 1982 rules but as a project to be undertaken. We agree that there is such a need. The Departments will welcome, during 1982, specific recommendations for a new standard for possible inclusion in the 1983 rules.

No other comments were received. The proposed rules, modified to reflect the foregoing discussions, are adopted in final as shown below.

Section 1. (a) A portion of the 1982 Virgin Islands quota determined in accordance with subsection (c) below will be allocated on the basis of (1) the net dollar amount of economic contributions to the Virgin Islands consisting of the dollar amount of wages, up to a maximum of $23,000 per person, paid by each producer during calendar year 1981 to Virgin Islands residents and attributable to each producer's headnote 3(a) watch and watch movement assembly operations plus the dollar amount of income taxes paid by each producer during calendar year 1981 attributable to its headnote 3(a) watch and watch movement assembly operations (excluding penalty and interest payments and deducting income tax refunds and subsidies paid by the Virgin Islands government during calendar year 1981), and (2) the number of units of watches and watch movements assembled in the Virgin Islands and entered by each producer duty-free into the customs territory of the United States during calendar year 1981.

(b) In making allocations under this formula, a weight of 80 percent will be assigned to the economic contributions factor and a weight of 20 percent will be assigned to the shipments factor. In calculating each producer's economic contributions, the Departments shall deduct from creditable wages any negative tax balances. That is, if the total of a producer's income tax payments during 1981 (excluding penalties and interest charges) is smaller than the total of refunds and subsidies received from the Virgin Islands government during 1981, the difference of the two sums shall be deducted from the producer's creditable wages for allocation purposes.

(c) An amount representing that portion of the 1982 Virgin Islands quota equal to the ratio of general headnote 3(a) shipments of watches and watch movements from the territory during 1981 to the total 1981 Virgin Islands quota will be allocated among the producers in the Virgin Islands, in accordance with the allocation factors and weights specified in (b) above.

Section 2. Sixty percent of the 1982 Guam quota may be allocated, pursuant to § 303.5(a)(4) of Title 15 of the Code of Federal Regulations, to the single Guam producer (see also subsection 3(B) and Section 6, below).

Section 3. (A) The portion of the Virgin Islands quota not allocated pursuant to Section 1, except as specified in Section 4, will be allocated among firms meeting the requirements of paragraphs (1) or (2) of this section. Eligible firms will be allocated quota in accordance with the factors and weights specified in Section 1. Allocation of the portion of the Virgin Islands quota under this Section will be made to firms which: (1) Assembled all watch movements shipped during 1981 from unassembled movements having at least 26 discrete components and all watches (that is, cased movements) during 1981 from at least 29 discrete components, including at least 26 movement components and at least 3 case components; or (2) Made wage payments during 1981 in the territory averaging not less than $.75 per watch movement and $.95 per watch assembled and shipped into the customs territory of the United States. In determining a firm's eligibility under this criterion, the Departments may make appropriate data adjustments to take into account wages paid for the assembly of units not shipped during 1981 and shipments assembled prior to 1981.

(b) Allocation of the portion of the Guam quota not allocated pursuant to Section 2 may be allocated pursuant to § 303.5(b) of Title 15 of the code of Federal Regulations.

Section 4. Quota set aside for new firms in the Virgin Islands under subsection 5(b) shall be subtracted from the quota amount allocable under Section 3, before allocation are made pursuant to that subsection.

Section 5. (a) Applications from new firms are invited for the calendar year 1982 American Samoa quota. Due to the limited size of the American Samoa quota, the Departments will allocate

that quota to the single firm which offers the best prospect of a meaningful long-term contribution to the economy of the territory.

(b) Applications from new firms are invited for 2,000,000 units of the calendar year 1982 Virgin Islands quota.

(c) Applicants for new-entrant quotas must complete applicable sections of Form ITA–334P, copies of which may be obtained from the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Detailed instructions for completing ITA–334P will be provided by the Statutory Import Programs Staff together with copies of the application form.

(d) The Departments will consider new entrant applications only from firms which certify to the Departments that they are able and willing to meet the minimum assembly or wage contribution criteria established in Section 3. Following the Secretaries' determination that a qualifying application has been received, an announcement will be published in the Federal Register establishing a closing date for further applications. The closing date shall be 30 days from the date of such notice. If the Departments do not receive prior to September 1, 1982, a qualifying application for quota set aside by subsection (b) above, that quota may be reallocated among eligible producers pursuant to § 303.5(b) of Title 15 of the Code of Federal Regulations.

Section 6. Reallocation of calendar year 1982 quota that becomes available will be restricted to those firms satisfying the criteria established in subsection 3(a), to any new entrant firms selected pursuant to Section 5 above, and to the new Guam firm, provided its operations at the time of the reallocation satisfy the criteria established in subsection 3(a).

Section 7. As used in Section 3 of these rules:

(a) "Wages" means all wages up to $23,000 per person paid to residents of the territories employed in a firm's headnote 3(a) watch and watch movement assembly operations. Excluded, however, are wages paid (i) accountants, lawyers, or other professional personnel who may render special services to the firm, (ii) persons assembling non-headnote 3(a) watches and watch movements, (iii) persons engaged in the repair of non-headnote 3(a) watches and watch movements, and (iv) persons engaged in the strapping and packaging of watches. Wages paid to persons engaged in both headnote 3(a) and non-headnote 3(a) assembly and repair activities shall be credited proportionately for their headnote 3(a) activities, provided the firm maintains production and payroll records adequate for the Departments' verification of the headnote 3(a) portion.

(b) "Discrete movement components" means screws, parts, components and subassemblies not assembled together with another part, component or subassembly at the time of importation into the territory. (A mainplate containing set jewels or shock devices, together with other parts, would be considerd a single discrete component, as would a barrel bridge subassembly.) Excluded are dials, dial washer, dial screws, hour wheels, hands, automatic mechanisms and related parts, day-date mechanisms and calendar features, and jewels.

Section 8. (a) All firms must, as a condition for receipt of allocations or reallocations based on subsection 3(a) criteria, certify to the Departments that they will not alter assembly operations during calendar year 1982 in a manner which would result in their failure to satisfy the respective criteria.

(b) If the Departments have reason to believe that a producer has not complied with or is not complying with the certification required by subsection (a) of this section, they may issue an order requiring the producer to show cause within 30 days of receipt of the order why the duty-free quota to which it would otherwise be entitled should not be cancelled or reduced by the Departments.

Section 9. (a) The quarterly reporting requirements of § 303.8(a) of the Code of Federal Regulations are suspended for calendar year 1982, and copies of Form ITA–321P will not be forwarded to producers at the times specified by that provision.

(b) Each producer must comply with § 303.8(b) of the Code of Federal Regulations and report any changes in ownership, interest and control which have occurred during any quarter by April 15, July 15 and October 15, respectively, but may do so by letter.

(Pub. L. 89–805, 80 Stat. 1521 (19 U.S.C. 1202) as amended 15 CFR Part 303)

Issued at Washington, D.C. on March 4, 1982.

John L. Evans,

Acting, Deputy Assistant Secretary for Import Administration, Department of Commerce.

Pedro A. Sanjuan,

Assistant Secretary for Territorial and International Affairs, Department of the Interior.

[FR Doc. 82-6546 Filed 3-10-82; 8:45 am]

BILLING CODE 4310-10-M

BILLING CODE 3510-25-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Current Schedule of Reviews of Government Versus Contract Operation of Commercial or Industrial Activities and Service Contracts

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notification of current schedule of reviews.

SUMMARY: Pursuant to Office of Management and Budget (OMB) Circular A–76 and the Department of Commerce Administrative Order 201–41 implementing OMB Circular A–76, notice is hereby given that the National Oceanic and Atmospheric Administration (NOAA) intends to conduct reviews of the feasibility and/or cost of contract operation versus Government operation of commercial and industrial activities listed below under Supplemental Information. Specific invitation for bids or request for proposals will be announced in the Commerce Business Daily. A contract or contracts may or may not result from each feasibility or cost comparison study. Results of each study will be made available to responding bidders or offerors and other interested parties. This partially revised schedule replaces the notice of reviews published in the Federal Register, Volume 45, No. 154, Thursday, August 7, 1980, p. 52438.

DATES: See specific dates in table under Supplemental Information.

FOR FURTHER INFORMATION CONTACT: Samuel A. Lawrence, Assistant Administrator for Management and Budget, 6010 Executive Boulevard, Rockville, Maryland 20852, 443–8134.

SUPPLEMENTARY INFORMATION: Studies to be made are identified in the following tabulation:

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

[Commercial and Industrial Activities]

Name of activity	Location of activity	Review start date	Review end date
Operation of Ship Chapman	Seattle, Washington	July 31, 1985	July 31, 1986.
Imagery Processing Laboratory	Washington, D.C.	July 31, 1980	Sept. 30, 1982.
Central Distribution	Rockville, Maryland	Mar. 1, 1981	Apr. 1, 1982.
Data Entry	Asheville, North Carolina	Oct. 1, 1980	June 1, 1982.
Repair of Weather Equipment	Kansas City, Missouri	Oct. 1, 1980	Dec. 1, 1982.
Airport Obstruction Surveys	Rockville, Maryland	Oct. 31, 1980	Jan. 4, 1983.
Aeronautical Drafting	Silver Spring, Maryland	Dec. 1, 1980	July 30, 1982.
NOAA Logistics Supply Center	Kansas City, Missouri	Dec. 1, 1981	Apr. 4, 1983.
Photography Laboratory	Suitland, Maryland	Mar. 1, 1981	Sept. 1, 1982.
Radiosonde Reconditioning	Kansas City, Missouri	Mar. 1, 1981	Jan. 1, 1983.
NWR Console Maintenance	Nationwide	Feb. 3, 1981	Dec. 15, 1982.
Operation of Computer Facilities	Asheville, North Carolina	Oct. 1, 1981	Dec. 30, 1982.
NOS Distribution Services	Riverdale, Maryland	Oct. 1, 1981	Feb. 28, 1983.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

[Service Contracts]

Description of activity	Location of activity	Contract end date	Option end date	Review start	Review end
Photographic reproduction of imagery from environmental and experimental satellites.	Prince Georges County, MD	Sept. 30, 1982	Sept. 30, 1983	Sept. 30, 1982	Sept. 30, 1983.
Operation and maintenance of the GOES Central Distribution System	Various locations across the United States.	Sept. 30, 1984	Sept. 30, 1985	June 1, 1984	Sept. 30, 1985.
Operation and maintenance of control tide stations	Various parts of Florida	Nov. 1, 1981	Oct. 31, 1982	Oct. 27, 1981	Aug. 19, 1982.
Maintenance of UNIVAC 1100/10 Computer System	Asheville, NC	Sept. 30, 1980	Sept. 30, 1983	June 30, 1982	June 30, 1983.
Calibration of oceanographic instruments	Bellevue, WA	Oct. 31, 1980	Oct. 31, 1984	June 1, 1983	June 1, 1984.
Technical support services for the NOAA Data Buoy Office	Bay St. Louis, MS	Apr. 30, 1981	Mar. 31, 1985	Dec. 31, 1983	Dec. 31, 1984.
Maintenance & repair services for NOAA Weather Radio RF Transmitters.	Nationwide	June 30, 1980	June 30, 1986	June 30, 1984	Mar. 30, 1985.

Dated: March 3, 1982.

Francis J. Balint,

Director, Office of Management and Computer Systems.

[FR Doc. 82-6573 Filed 3-10-82; 8:45 am]

BILLING CODE 3510-08-M

Intent To Discontinue Reviews of Government Versus Contract Operation of Microfilming at the National Geophysical and Solar-Terrestrial Data Center, Boulder, Colorado

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of intent to discontinue reviews.

SUMMARY: Notice is hereby given pursuant to Office of Management and Budget (OMB) Circular A–76 and the Department of Commerce Administrative Order 201–41 implementing OMB Circular A–76 that the National Oceanic and Atmospheric Administration (NOAA) intends to remove the microfilming activity conducted at the National Geophysical and Solar-Terrestrial Data Center (NGSDC), Boulder, Colorado, from the inventory of commercial and industrial activity required by OMB Circular A–76. This action is being taken because less than $100,000 per year is being used for the operation, and activities of this magnitude do not require a cost comparison study prior to contracting under provisions of OMB Circular A–76. Reviews of microfilming at the NGSDC will be discontinued when the activity is removed from the inventory maintained by NOAA.

FOR FURTHER INFORMATION CONTACT: Samuel A. Lawrence, Assistant Administrator for Management and Budget, 6010 Executive Boulevard, Rockville, Maryland 20852, 301/443–8134.

Dated: March 3, 1982.

Francis J. Balint,

Director, Office of Information and Management Services.

[FR Doc. 82-6572 Filed 3-10-82; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB)

Dates of meeting: Tuesday, 30 March 1982; Wednesday, 31 March 1982

Times: 0630–1700 hours, 30 March 1982 (Closed); 0830–1600 hours, 31 March 1982 (Closed)

Place: The Pentagon, Washington, D.C., Room 1A1079 on 30 March; and Rooms 3A486, 3E380, and 1E420 on 31 March.

Agenda

The Army Science Board 1982 Summer Study Group on Science and Engineering Personnel will meet on 30 March to be given observations from the Navy and Air Force on the science and engineering situation in those Services. On 31 March the Group will break up into the three working groups for this effort: (1) Civilian Engineers, (2) Civilian Scientists, and (3) Uniformed Scientists and Engineers. The Summer Study addresses the Army's problem of recruiting, retaining, and maintaining a reasonably balanced age profile of civilian S&E personnel. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for

further information at (202) 695–3039 or 007–9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-6560 Filed 3-10-82; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Management and Administration Review of Advisory Committees

The Department of Energy (DOE) is conducting a comprehensive review of its advisory committees in accordance with Office of Management and Budget Circular No. A–63, Transmittal Memorandum No. 5. Public comment is invited.

All agencies have been directed to conduct this review for each committee which was in existence on December 31, 1981, to determine (a) whether such committee is carrying out its purpose; (b) whether consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised; (c) whether it should be merged with other advisory committees; or (d) whether it should be abolished.

DOE is now in the process of conducting this review for the following advisory committees:

Consumer Affairs Advisory Committee
DOE/NSF Nuclear Science Advisory Committee
Dose Assessment Advisory Group
Energy Research Advisory Board
Environmental Advisory Committee
Fossil Energy Advisory Committee
High Energy Physics Advisory Panel
Minority Advisory Committee on Energy
National Energy Extension Service Advisory Board
National Petroleum Council
Solar Photovoltaic Energy Advisory Committee

The following committees were terminated on the dates indicated below and therefore are not included in this review:

Advisory Committee on Atmospheric Carbon Dioxide—September 30, 1981
Energy Policy Task Force—June 30, 1981
Federal Photovoltaic Utilization Program Advisory Committee—October 1, 1981
Food Industry Advisory Committee—March 16, 1981
State Planning Council on Radioactive Waste Management—August 12, 1981

DOE is required to complete its review and submit its determination to the Committee Management Secretariat, General Services Administration, not later than April 15, 1982. Therefore, any public comments and recommendations should be provided to DOE not later than March 28, 1982. Interested persons should direct their comments to Gloria Decker, Information Management Systems Analysis Branch, MA–241, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (telephone: 202–252–5187).

Issued at Washington, D.C. on March 8, 1982.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 82-6618 Filed 3-10-82; 8:45 am]

BILLING CODE 6450-01-M

Office of the Secretary

Draft National Plan for Siting High-Level Radioactive Waste Repositories and Environmental Assessment

AGENCY: Department of Energy.

ACTION: Notice of availability.

SUMMARY: The Department of Energy's draft National Plan for Siting High-Level Waste Repositories describes the process the Department of Energy is using to find sites suitable for disposal of high-level radioactive waste. This Plan is one element of the Department of Energy's National Waste Terminal Storage (NWTS) Program being conducted to develop the necessary technology and to qualify sites to establish mined geologic repositories for these wastes. The draft Plan describes existing and planned activities for screening successively smaller portions of land within the United States to identify suitable candidate sites and for subsequently selecting one or more of these sites for a licensed, permanent disposal facility. A draft of the Plan is now available for public review and comment prior to adoption by the Department.

An Environmental Assessment (EA) has been prepared as input to the decision to adopt or modify the draft National Plan for Siting High-Level Radioactive Waste Repositories. Environmental effects of the anticipated range of field studies to characterize various land areas and of reasonable alternative siting strategies are assessed. The EA will provide the basis for a finding of whether adoption and implementation of this Plan will result in significant environmental impacts. This finding will be made by DOE after public review of the draft Plan. DOE has prepared this EA in compliance with the Council on Environmental Quality regulations pursuant to the National Environmental Policy Act (NEPA) of 1969 as amended. DOE has published the EA in the same volume as the draft Plan. Site specific environmental impacts of constructing exploratory shafts, test facilities, and repositories will be assessed in subsequent environmental reviews.

The Department will consider timely comments received on the draft Plan and EA prior to a decision to adopt or modify it for the NWTS Program. It is expected that the Plan will continue to evolve, as details of the siting process are further developed. Consequently, the Department anticipates that the Plan and the accompanying EA may be revised as necessary to reflect future program developments. The public would be afforded additional opportunity for review and comment prior to the adoption of any significant changes to the Plan.

Availability

Copies are available from the Office of Nuclear Waste Isolation Library, 505 King Avenue, Columbus, Ohio 43201. Telephone: (614) 424–7697.

DATES: Written comments on the draft Plan and Environmental Assessment are due on or before April 30, 1982.

ADDRESS: Comments should be sent to: Mr. Critz George, Office of Waste Isolation, NE–330, U.S. Department of Energy, Washington, D.C. 20545.

FOR FURTHER INFORMATION CONTACT:

On the NWTS Program: Mr. Critz George at the above address. Phone 301–353–3014

On the DOE, NEPA Process: Ms. Nan Evans, Environmental Compliance Division, EP–33, U.S. Department of Energy, Washington, D.C. 20545. Phone 202–252–4610 or, Mr. Robert Mussler, Office of the General Counsel, GC–33, U.S. Department of Energy, Washington, D.C. 20545. Phone 202–252–6947

For the United States Department of Energy.

William A. Vaughan,

Assistant Secretary for Environmental Protection, Safety and Emergency Preparedness.

Dated: March 1, 1982.

Franklin E. Coffman,

Deputy Assistant Secretary for Nuclear Waste Management and Fuel Cycle Programs, Office of Nuclear Energy.

Dated: February 11, 1982.

[FR Doc. 82-6617 Filed 3-10-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 5981–000]

City of Arcata; Application for Preliminary Permit

March 10, 1982.

Take notice that the City of Arcata (Applicant) filed on February 16, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5981 to be known as the Cannon Creek Water Power Project located on Cannon Creek in Humboldt, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. R. Robinson, City Manager, City of Arcata, 736 F Street, Arcata, California 95521.

Project Description—The proposed project would consist of: (1) a 3-foot high, 15-foot long diversion structure; (2) a 36-inch diameter, 15,000-foot long conduit; (3) a 30-inch diameter, 7,000-foot long penstock; (4) a powerhouse containing a turbine-generating unit with a rated capacity of 700 kW; and (5) a 6.5-mile long 12–kV transmission line connecting to an existing Pacific Gas and Electric Line. The Applicant estimates a 2.1 million kWh annual energy production.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, and geological, environmental and economic feasibility studies. The cost of forementioned activities along with preparation of an environmental impact report, obtaining agreements with Federal, State, and local agencies and preparing a license application is estimated by the Applicant to be $80,000. Power would be sold to Pacific Gas and Electric Company.

Competing Applications.—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 17, 1982, the competing application itself or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 17, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than July 15, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 17, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6604 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5974–000]

City of Arcata; Application for Preliminary Permit

March 10, 1982.

Take notice that the City of Arcata (Applicant) filed on February 12, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5974 to be known as the Maple Creek Water Power Project located on Maple Creek in Humboldt, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. R. Robinson, City Manager, City of Arcata, 736 F Street, Arcata, California 95521.

Project Description.—The proposed project would consist of: (1) a 3-foot high, 15-foot long diversion structure; (2) a 36-inch diameter, 5,000-foot long conduit; (3) a 30-inch diameter, 5,000-foot long penstock; (4) a powerhouse containing a turbine-generating unit with a rated capacity of 750 kW; and (5) a 12,000-foot long, 12–kV transmission line connecting to an existing Pacific Gas and Electric Line. The Applicant estimates a 2.2 million kWh annual energy production.

Proposed Scope of Studies under Permit.—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, and geological, environmental and economic feasibility studies. The cost of forementioned activities along with preparation of an environmental impact report, obtaining agreements with Federal, State, and local agencies and preparing a license application is estimated by the Applicant to be $80,000. Power would be sold to Pacific Gas and Electric Company.

Competing Applications.—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 17, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 17, 1982, and should specify the type of application

forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than July 15, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 17, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS" "NOTICE OF INTENT TO FILE COMPETING APPLICATION" "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6819 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST82-130-000]

Consolidated Gas Resources, Inc.; Application for Approval of Rates

March 8, 1982.

Take notice that on January 13, 1982, Consolidated Gas Resources, Inc. (Applicant), 8561 Long Point Road, Suite 100, Houston, Texas 77055 filed in Docket No. ST82-130-000 an application pursuant to Part 284.123(b)(2)(i) of the Commission's regulations for approval of rates charged for the transportation of natural gas on behalf of United Gas Pipe Line Company (United), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that on November 24, 1981, Applicant and United entered into an agreement whereby Applicant would gather and transport gas for the account of United at the wellsite of each well from which United has purchased natural gas in the West Sinton Field Area of San Patricio County, Texas, to be redelivered to United at the point of interconnection of Applicant's pipeline with United's 24-inch pipeline near the City of Sinton, San Patricio County, Texas. Applicant submits that the aforestated services being rendered by Applicant on behalf of United commenced on December 10, 1981. It is asserted that during the primary term Applicant would gather, transport and redeliver up to 1,000 Mcf per day while the average daily quantity of gas transported during the first year is estimated to be 500 Mcf per day and the initial rate of delivery was 135 Mcf per day.

For said service, Applicant proposes to charge United an initial amount of 18.57 cents per million Btu of gas transported.

Applicant has included its request for Commission approval of the proposed charges in the filing of its Initial Full Report pursuant to Section 284.126 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in a hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6820 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5667-000]

East Coast Engineering; Application for License (5 MW or Less)

March 10, 1982.

Take notice that East Coast Engineering (Applicant) filed on November 17, 1981, an application for license pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r) for construction and operation of a water power project to be known as the Weare Reservior Project No. 5667. The project would be located on the Piscataquog River in the Town of Weare, Hillsborough County, New Hampshire. Correspondence with the Applicant should be directed to: Mr. James M. Rea, East Coast Engineering, P.O. Box 25, Barrington, New Hampshire 03825.

Project Description—The proposed project would consist of: (1) an existing concrete gravity dam, with a total overall length of 340 feet, a maximum height of 34 feet, and a 157-foot long spillway; (2) a pool covering 330 acres with a storage capacity of 6,300 acre-feet; (3) a new 100-foot long, 36-inch diameter penstock connected to an existing 36-inch diameter discharge pipe; (4) a new 12 by 12-foot powerhouse containing one 114-kW turbine/generator unit operating under a head of 30 feet; (5) a new tailrace; (6) a new 140-foot long, 2.3-kV transmission line; and (7) appurtenant facilities.

Purpose of Project—The average annual generation of 500,000 kWh would be sold to the Public Service Company of New Hampshire.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before May 17, 1982, either the competing application itself (See 18 CFR 4.33(a) and (d)) or a notice of intent (See 18 CFR 4.33(b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et. seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 17, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. PLumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6821 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-183-000]

Eastern Shore Natural Gas Co.; Application

March 9, 1982.

Take notice that on January 28, 1982, Eastern Shore Natural Gas Company (Applicant), P.O. Box 615, Dover, Delaware 19901, filed in Docket No. CP82-183-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of additional tap facilities connecting Applicant's existing transmission lines to the Chesapeake Utilities Corporation, Delaware Division, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization herein for the construction and operation of tap facilities to connect its existing transmission lines to the Chesapeake Utilities Corporation. Applicant states that the sole purpose of the tap, which connects Delaware Division transmission lines with Applicant's existing transmission line on West Street in Dover, Delaware, is to remedy a severe pressure problem on a portion of the Delaware Division system that threatened to cause an immediate loss of heat in approximately one hundred residences. Applicant submits that the tap was installed on January 11, 1982, at an approximate cost of $2,600. Such cost, it is asserted, would be financed from funds generated through operations.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6822 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5751-000]

Hydroelectric Development, Inc.; Application for Preliminary Permit

March 10, 1982.

Take notice that Hydroelectric Development, Inc. (Applicant) filed on December 14, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5751 to be known as the Collbran Water Power Project located on Mesa Creek in Mesa County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Allen Mauzy, CH2M Hill, P.O. Box 22508, Denver, Colorado 80222.

Project Description—The proposed project would utilize the Bureau of Reclamation's the existing 32.8-mile long Southside Canal which extends from Vega Reservoir to Mesa Creek and would consist of: (1) a new powerhouse containing one or more generating units with a rated capacity of 1,420 kW; (2) a new 4-mile, 115-kV transmission line; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 4,325,000 kWh. The most likely market for the derived energy would be a local power supplier (i.e., REA, Public Services).

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant

would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $35,000 to $40,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 14, 1982, the competing application itself (see: 18 CFR 4.30 et. seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 17, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 17, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6639 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79-19-003]

Mountain Fuel Supply Co.; Petition To Amend

March 9, 1982.

Take notice that on February 17, 1982, Mountain Fuel Supply Company (Petitioner), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP79-19-003 a petition to amend the order issued June 5, 1979, as amended, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize an additional delivery point for the receipt of gas from Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that by order issued June 5, 1979, Petitioner was authorized to—construct and operate certain facilities and transport natural gas for Panhandle from the Moxa Arch area of Sweetwater County, Wyoming, to a point of interconnection with the system of Colorado Interstate Gas Company (CIG) where such natural gas is delivered to CIG for further transportation and ultimate delivery to Panhandle. It is further stated that the order was amended on October 28, 1980, so as to authorize four new receipt points and to change the point of deliver of the gas to CIG for the account of Panhandle to the Kanda exchange point.

Petitioner proposes herein to add an additional point of receipt of gas from Panhandle, the Nitchie Gulch delivery point in Sweetwater County. Petitioner notes that no increased in the volumes authorized to be transported is proposed.

It is asserted that the only facility required to effectuate the receipt of gas from the additional delivery point would be a tap on Petitioner's existing mainline No. 25. Applicant states that it would construct the proposed tap pursuant to budget-type authorization.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6631 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-192-000]

Northwest Pipeline Corp.; Application

March 9, 1982.

Take notice that on February 5, 1982, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84111, filed in Docket No. CP82-192-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has assigned its gas processing rights under gas purchase contracts covering purchases in the Foundation Creek and Trail Canyon gathering systems to NGL Production Company (NGL). Applicant explains that NGL plans to install a 15 Mcf per day gas processing plant at the site of Applicant's existing Foundation Creek compressor station and that the plant would be designed to recover a single liquid product containing approximately 31 percent of the propane, 61 percent of the butane and 90 percent of the gasoline content of the compressor station discharge stream.

To enable NGL's plant to receive gas from and redeliver processed volumes to Applicant's pipeline facilities, Applicant proposes the construction and operation of a 6-inch automatic diverter valve in its Foundation Creek compressor station discharge line, a 6-inch automatic block valve in both the processing plant inlet line and outline line and associated tie-in piping.

The facilities proposed to be constructed would be located on the site of Applicant's existing Foundation Creek compressor station in Rio Blanco County, Colorado, it is stated. The estimated cost of constructing these facilities is $7,500. It is noted that NGL would reimburse Applicant for the actual cost of construction of the proposed facilities.

It is stated that NGL, or any other party for whom gas may be processed at the plant, would fully compensate Applicant for the processing fuel and shrinkage which would be deducted from Applicant's gas stream.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6632 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-194-000]

Pacific Interstate Offshore Co.; Application

March 9, 1982.

Take notice that on February 5, 1982, Pacific Interstate Offshore Company (Applicant), 720 West Eighth Street, Los Angeles, California 90017, filed in Docket No. CP82-194-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and sale of natural gas to Pacific Lighting Gas Supply Company (PLGS) and construction and operation of natural gas facilities and pipelines, all as more fully set forth in the application which is on file with the commission and open to public inspection.

Applicant specifically proposes to construct and operate a 12-inch diameter pipeline from Texaco Inc.'s (Texaco) Platform Habitat in the Pitas Point Unit, offshore Carpinteria, California, to shore, then extending 530 feet inland. It is stated that the proposed pipeline would connect with a metering and odorization facility to be owned by PLGS and a 12-inch diameter onshore pipeline approximately 1,840 feet in length also to be owned by PLGS.

Applicant submits that the total cost of the proposed facilities is approximately $15,734,000 of which 70 percent would be financed from debt issuance with the remaining costs to be funded through equity investments from Applicant's parent company, Pacific Interstate Company.

Applicant also proposes to transport and sell to its affiliate, PLGS, the natural gas purchased from Texaco and Union Oil Company of California. It is stated that PLGS would be charged a cost-or-service rate under its proposed Rate Schedule C-10 to its proposed FERC Gas Tariff, Original Volume No. 1. Applicant explains that PLGS would sell the natural gas to Southern California Gas Company, an affiliate.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6633 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP77-17-006]

Panhandle Eastern Pipe Line Co., Trunkline Gas Co.; Petition To Amend

March 9, 1982.

Take notice that on January 28, 1982, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, and Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP77-17-006 a petition to amend the orders issued August 29, 1977,[1] and October 28, 1977, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the utilization of 5 additional points of redelivery by Petitioners to Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), all as more fully set forth in the petition to amend

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

which is on file with the Commission and open to public inspection.

It is stated that Petitioners and Northern are parties to a currently effective transportation agreement dated September 24, 1976, which provides that Trunkline would receive up to 175,000 Mcf of natural gas per day for the account of Northern at its Longville, Louisiana, compressor station and redeliver such gas, less fuel, to Panhandle at the interconnection between Petitioners' facilities in Douglas County, Illinois, for further delivery by Panhandle to Northern in Kiowa County, Kansas.

Petitioners propose herein to include five additional points of redelivery for the transportation of natural gas as provided by an amendment to the aforementioned agreement dated October 22, 1981. It is submitted that the additional redelivery points would permit Northern to make certain sales in Texas and Louisiana. Petitioners explain that all five points are existing points of interconnection on Petitioners' pipeline system so no new facilities are required.

Petitioners state that two of the proposed points are Centerville and Olla located in St. Mary Parish, Louisiana, and LaSalle Parish, Louisiana, respectively. It is stated that at these points Trunkline would deliver up to 100,000 Mcf of gas per day to United Gas Pipe Line Company. Petitioners indicate the second pair of points to be Beauregard and Allen located in Beauregard Parish, Louisiana, and Allen Parish, Louisiana, respectively. Petitioners submit that Trunkline would redeliver up to 50,000 Mcf of gas per day to Texas Eastern Transmission Corporation at these points. It is further proposed that at Katy located in Waller County, Texas, Trunkline would redeliver up to 100,000 Mcf of natural gas per day to Houston Pipe Line Company for the account of Northern.

Petitioners assert that the five redelivery points would be provided to Northern at Petitioners' sole discretion. It is also asserted that the total maximum daily obligation of the five proposed redelivery points and two existing redelivery points would remain at 175,000 Mcf per day.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-6834 Filed 3-10-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5885-000]

Springfield Utility Board; Application for Preliminary Permit

March 10, 1982

Take notice that Springfield Utility Board (Applicant) filed on January 18, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5886 to be known as the Wiley Power Project located on Wiley Creek within the Willamette National Forest in Linn County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Steve L. Loveland, Springfield Utility Board, P.O. Box 300, Springfield, Oregon 97477.

Project Description—The proposed project would consist of: (1) a 40-foot high, 200-foot long dam; (2) a reservoir; (3) a 750-foot long penstock; (4) a powerhouse to contain a generating unit with an installed capacity of 1,700 kW operating under a head of 160 feet; and (5) a 7-mile long, 34.5-kV transmission line to connect to an existing line. The average annual energy output is 6,700,000 kWh.

Proposed Scope of Studies under Permit.—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a preliminary permit for a period of 36 months, during which it would conduct engineering, environmental, and economic feasibility studies and prepare an application for an FERC license. No access roads would be required. The estimated cost for conducting these feasibility studies and preparing an application for an FERC license is $80,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 17, 1982, the competing application itself or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 17, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than July 15, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 17, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-6835 Filed 3-10-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5887-000]

Springfield Utility Board; Application for Preliminary Permit

March 10, 1982.

Taken notice that Springfield Utility Board (Applicant) filed on January 18, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5887 to be known as the North Power Project #2 located on North Fork of the Middle Fork of the Willamette River within the Willamette National Forest in Lane County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Steve L. Loveland, Springfield Utility Board, P.O. Box 300, Springfield, Oregon 97477.

Project Description—The proposed project would consist of: (1) an 80-foot high, 1,100-foot long dam; (2) a reservoir; (3) a 700-foot long penstock; (4) a powerhouse to contain a single generating unit with a rated capacity of 5,300 kW operating under a head of 160 feet; and (5) a 10-mile long, 34.5-kV transmission line extending to an existing line. The average annual energy output is 20,900,000 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a preliminary permit for a period of 36 months, during which it would conduct engineering, environmental, and economic feasibility studies and prepare an application for an FERC license. No new roads will be needed. The estimated cost for conducting these feasibility studies and preparing an application for an FERC license is $80,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 17, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 17, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than July 15, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 17, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-6836 Filed 3-10-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5886-000]

Springfield Utility Board; Application for Preliminary Permit

March 10, 1982.

Take notice that Springfield Utility Board (Applicant) filed on January 18, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5886 to be known as the North Power #1 located on North Fork of the Middle Fork of the Willamette River within the Willamette National Forest in Lane County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Steve L. Loveland, Springfield Utility Board, P.O. Box 300, Springfield, Oregon 97477.

Project Description—The proposed project would consist of: (1) an 8-foot high diversion structure; (2) a 7,000-foot long circular penstock; (3) a powerhouse to contain a single generating unit with a rated capacity of 11,400 kW, operating under a head of 320 feet; (4) a 50-foot long tailrace discharging into the river, and (5) an 11.5-mile long, 34.5-kV transmission line extending to an existing line. The average annual energy output is 44,900,000 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a preliminary permit for a period of 36 months, during which it would conduct engineering, environmental, and economic feasibility studies and prepare an application for an FERC license. No new roads will be needed. The estimated cost for conducting these feasibility studies and preparing an application for an FERC license is $200,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 17, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981)); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response

to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 17, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than July 15, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 17, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6637 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5698-000]

Triton Power Co.; Application for License (5 MW or Less)

March 10, 1982.

Take notice that Triton Power Company (Applicant) filed on November 27, 1981, and revised on February 2, 1982, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for construction and operation of a water power project to be known as the High Falls Hydroplant Project No. 5698. The project would be located on the Chateaugay River in Franklin County, New York. Correspondence with the Applicant should be directed to: Mr. Keith F. Corneau, Little Tov Road, P.O. Box 145, Wilmington, New York 12997 and Mr. Peter C. Kissel, O'Connor & Hannan, 1919 Pennsylvania Avenue, NW., Suite 800, Washington, D.C. 20006.

Project Description—The proposed project would consist of: (1) an existing concrete and masonry dam about 90 feet long and 64 feet high owned by the New York State Electric & Gas Corporation; (2) an existing reservoir with negligible storage capacity and water surface elevation at 962.7 feet m.s.l.; (3) a new intake structure; (4) a new 6-foot diameter and 190-foot long penstock; (5) a new buried concrete powerhouse to contain a turbine-generator unit with an installed capacity of 1,750 kW; (6) a new underground transmission line, 80 feet long; and (7) other appurtenances. Applicant estimates an annual generation of 10,500,000 kWh.

Purpose of Project—Project energy would be sold to New York State Electric & Gas Corporation.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Long Lake Energy Corporation's application for Project No. 4332–001 filed on September 16, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing applications for licenses or exemptions, or notices of intent to file competing applications, will be accepted for filing in response to this notice. [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6638 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5624-000]

Zoes J. Dimos and James C. Katsekas; Application for Preliminary Permit

March 10, 1982.

Take notice that Zoes J. Dimos and James C. Katsekas (Applicant) filed on November 2, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5624 to be known as the Cotton Mill Dam Power Project located on the Winnipesaukee River in Belknap and Merrimack Counties, New Hampshire. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Zoes J. Dimos and James C. Katsekas,
c/o Engineering Design Services, Route 102—Londonderry Professional Center, Londonderry, New Hampshire 03053.

Project Description.—The proposed project would be run-of-the river and would consist of: (1) an existing dam, 120 feet long and 10 feet high, constructed of timber A-frames with a breached spillway section—all in need of extensive repair; (2) a reservoir having minimal pondage; (3) a new penstock; (4) a new powerhouse, at the left river bank, containing a generating unit having a total rated capacity of 260 kW; (5) a tailrace; (6) a new transmission line; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 2,000,000 kWh. Project energy would be sold to the Public Service Company of New Hampshire. The Applicant proposes to study an alternative plan whereby Cotton Mill Dam would be removed entirely in favor of an increased height and capacity of the Clement Dam Hydro Project located immediately downstream.

Proposed Scope of Studies Under Permit.—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of one year, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $10,000.

Competing Applications.—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 14, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 15, 1982, and should specify the type of application forthcoming. Applicantions for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene.—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 15, 1982.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6639 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-353-000]

Carolina Power & Light Co.; Filing

March 8, 1982.

Take notice that Carolina Power & Light Company (CP&L) on March 1, 1982, tendered for filing a new Service Schedule E–Term Energy Exchange and a Letter of Agreement between CP&L and TVA revising the Interchange Agreement with Tennessee Valley Authority CP&L FERC No. 95. The Letter of Agreement revises the contract by upgrading the interconnection facilities at the Douglas-Walters interconnection to 161 kV and extending the term of the Interchange Agreement to May 1, 1991. Service Schedule E enables the parties to share cost savings through more efficient use of resources.

According to CP&L copies of this filing have been send to the Tennessee Valley Authority, North Carolina Utilities Commission, and South Carolina Public Service Commission.

CP&L states that the Schedule and Agreement are proposed to become effective sixty days after filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6630 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5954-000]

City of Hood River; Application for Preliminary Permit

March 9, 1982.

Take notice that the City of Hood River (Applicant) filed on February 8, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5954 to be known as the Hood River City Hydro #1 Power Project located on Hood River in Hood River County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Bruce Erickson, City Administrator, P.O. Box 27, Hood River, Oregon 97031.

Project Description—The proposed project would consist of: (1) An intake system consisting of four 6 to 16-inch diameter pipes, 50 to 200-foot long feeding into a 14-foot wide, 10-foot high central collection chamber; (2) a 30-inch diameter, 7.9-mile long penstock; (3) a powerhouse containing a turbine-generating unit with a rated capacity of 2,000 kW; and (4) a 1,400-foot long 7.2-kV transmission line connecting to an existing Pacific Power and Light Company line. The Applicant estimates a 17.768 million kWh annual energy production.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested an 18-month permit to prepare a definitive project report, including preliminary designs, results of geological, environmental and economic feasibility studies. The cost of forementioned activities, along with preparation of an environmental impact report, obtaining agreements with Federal, State, and local agencies, and preparing a license application is estimated by the Applicant to be $35,000. Power will be sold to Pacific Power and Light Company.

Competing Appplications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 24, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 24, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than July 22, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 24, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6653 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5975-000]

City of Northampton; Application for Preliminary Permit

March 9, 1982.

Take notice that City of Northampton (Applicant) filed on February 16, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5975 to be known as the Mill River Project located on the Mill River in the town of Northampton, Hampshire County, Massachusetts. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Jonathan Wright, Energy Resources Commission, City Hall, 210 Main Street, Northampton, Massachusetts 01060.

Project Description—The proposed project would consist of five developments described from downstream to upstream as follows:

(A) The Smith College development would consist of: (1) An existing 15-foot high, 120-foot long concrete and masonry dam; (2) a 15 acre pond at elevation 137 feet m.s.l. with unknown storage capacity; (3) a new 30-foot long penstock of undetermined diameter; (4) a new powerhouse with a single 120 kW turbine-generator; and (5) appurtenant facilities. Smith College would generate up to 570,000 kWh annually.

(B) The Pro Bush development would consist of: (1) An existing 15-foot high, 120 foot long masonry dam; (2) a 500-foot long reservoir at elevation 235 feet m.s.l. with unknown storage capacity; (3) a new 50-foot long penstock of undetermined diameter; (4) a new powerhouse containing a single 200 kW turbine-generator; and (5) appurtenant facilities. Pro Bush would generate up to 845,000 kWh annually.

(C) The Cookes development would consist of: (1) An existing dam, in two sections, joined by a rock outcrop and constructed of masonry, 80 feet long and 20 feet high on the north section and 30 feet long and 6 to 8 feet high on the south section; (2) a reservoir with unknown storage capacity at elevation 300 feet m.s.l.; (3) a new penstock up to 3,000 feet in length of undetermined diameter; (4) a new powerhouse containing a turbine-generator with a rated capacity of up to 380 kW; and (5) appurtenant facilities. Cookes would generate up to 2,080,000 kWh annually.

(D) The Button Shop development would consist of: (1) An existing dam in two sections constructed of masonry, both 80 feet long and 10 feet high, separated by an island; (2) a reservoir with unknown storage capacity at elevation 312 feet m.s.l.; (3) a new 100-foot long penstock of undetermined diameter; (4) a new powerhouse containing a single 65 kW turbine-generator; and (5) appurtenant facilities. Button Shop would generate up to 315,000 kWh annually.

(E) The Chartpak development would consist of: (1) An existing 150-foot long, 28-foot high masonry dam; (2) a reservoir of unknown storage capacity at elevation 355 feet m.s.l.; (3) a new powerhouse containing a single 235 kW turbine-generator; and (4) appurtenant facilities. Chartpak would generate up to 850,000 kWh annually.

The project property is owned by Smith College, Chartpak Company, Massachusetts Electric Company, The Pro Corporation, Meadow Trust Company, Stephen B. Monsein, Gerold B. Jackson and George and Margaret Tobin.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be up to $19,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 14, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 14, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 14, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6654 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-205-000]

Columbia Gas Transmission Corp.; Application

March 9, 1982.

Take notice that on February 18, 1982, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP82–205–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of 30 interconnecting tap facilities to provide additional points of delivery to existing wholesale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the following new points of delivery for the following wholesale customers:

(1) Columbia Gas of Kentucky, Inc, 2 taps for residential service—Estimated annual usage of 300 Mcf.

(2) Columbia Gas of Ohio, Inc, 16 taps for residential service—Estimated annual usage of 2,550 Mcf.

(3) Columbia Gas of Pennsylvania, Inc, 3 taps for residential service—Estimated annual usage of 450 Mcf.

(4) Columbia Gas of West Virginia, Inc, 9 taps for residential service—Estimated annual usage of 1,350 Mcf.

It is estimated that the total cost of the interconnections proposed herein is $9,100 to be financed through internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 30, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6640 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-357-000]

Commonwealth Edison Co.; Proposed Tariff Change

March 8, 1982.

Take notice that on March 1, 1982, Commonwealth Edison Company (CE) tendered for filing proposed changes in its FERC Electric Tariff. The proposed changes amend the Electric Service Contract between CE and the City of Geneva, Illinois, to provide an additional metering installation in an existing point of electric supply to the City by CE.

A copy of the filing has been served upon the City of Geneva, Illinois.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6641 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-342-000]

Connecticut Light & Power Co.; Filing

March 5, 1982.

Take notice that on February 24, 1982, the Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to a Transmission Service Agreement dated as of May 1, 1981 between CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and Taunton Municipal Lighting Plant (TMLP).

CL&P states that the Transmission Service Agreement provides for transmission service to TMLP for the wheeling of TMLP's entitlement in the Vermont Yankee nuclear generating facility during the period commencing May 1, 1981 and terminable upon thirty (30) days written notice by any party.

The transmission charge rate is an annual rate equal to the annual average cost of transmission service on the Northeast Utilities system, determined in accordance with Schedule A and Exhibits I, II and III of the Transmission Service Agreement. The monthly transmission charge is the sum of the transmission charge for each weeks durig such months as determined by the product of (i) the annual transmission charge rate divided by 52 and (ii) the maximum number of kilowatts which TMLP is entitled to receive in any hour during such week during such month. The monthly transmission charges is reduced by 50% to give due recognition for payments made by TMLP to other systems also providing transmission service to TMLP.

CL&P requests an effective date of June 13, 1981, and therefore requests waiver of the Commission's notice requirements.

CL&P states that copies of this filing have been mailed to HELCO, WMECO, and TMLP.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before March 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6642 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-345-000]

Connecticut Light & Power Co.; Filing

March 5, 1982.

Take notice that on February 25, 1982, the Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to a Transmission Service Agreement dated July 1, 1981 between CL&P, the Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO), and Braintree Electric Light Department (BELD).

CL&P states that the Transmission Service Agreement provides for a transmission service to BELD for the wheeling of BELD's entitlement in the Vermont Yankee nuclear generating facility during the period from July 1, 1981 to October 31, 1981 obtained by contractual arrangement with the Village of Lyndonville, Vermont.

The transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities system determined in accordance with Schedule A and Exhibits I, II, and III thereto of the Transmission Service Agreement. The monthly transmission charge is determined by the product of (i) the transmission charge rate ($/kW/month), and (ii) the number of kilowatts of BELD's entitlement in the Vermont Yankee nuclear generating facility during such month. The monthly transmission charge is reduced by 50% to give due recognition for payments made by BELD to intervening systems providing transmission service.

CL&P requests that the Commission waive its customary notice period and permit the Transmission Service Agreement to become effective on July 1, 1981.

CL&P states that copies of this filing have been sent to HELCO, WMECO and BELD.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petifions or protests should be filed on or before March 23, 1982. Protests will be considered by the Commission in determining the appropiate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6643 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-343-000]

Connecticut Light & Power Co.; Filing

March 5, 1982.

Take notice that on February 24, 1982, the Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to a Transmission Service Agreement dated as of May 1, 1981 between CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and Village of Northfield Electric Department (Northfield).

CL&P states that the Transmission Service Agreement provides for transmission service to Northfield for the wheeling of Northfield's entitlement in the Cleary Unit No. 8 generating facility during the period commencing May 1, 1981 and terminable upon thirty (30) days written notice by any party.

CL&P further states that the transmission charge rate is an annual average cost of transmission service on the Northeast Utilities system, determined in accordance with Schedule A and Exibits I, II and III of the Transmission Service Agreement. The monthly transmission charge is the sum of the transmission charges for each week during such month as determined by the product of (i) the annual transmission charge rate divided by 52 and (ii) the maximum number of kilowatts which Northfield is entitled to receive in any hour during such week. The monthly transmission charge is reduce by 50% to give due recognition for payments made by Northfield to other systems also providing transmission service to Northfield.

CL&P requests that the Commission waive its customary notice period and permit the Transmission Agreement to become effective on June 13, 1981.

CL&P states that copies of this rate schedule have been mailed or delivered to HELCO, WMECO and Northfield Village.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6644 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-351-000]

The Dayton Power & Light Co.; Filing

March 8, 1982.

Take notice that on March 1, 1982, the Dayton Power and Light Company (Dayton) tendered for filing a proposed revision to its FERC Electric Tariffs, Original Volume No. 1 and Original Volume No. 2. The proposed revision is to recognize a permanent increase of .25% including recovery of the uncollected portion thereof, a temporary increase of .25% and a temporary surtax of approximately .21% in the excise tax on gross receipts imposed by Section 5727.38 of the Ohio Revised Code pursuant to the Tax Adjustment Clauses contained in Dayton's FERC Electric Tariffs. The proposed revision shall become effective with billings on and after May 1, 1982 and is limited to recognition of the .25% permanent increase and to the recovery of the temporary increases.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1982. Protects will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6645 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-352-000]

The Dayton Power & Light Co.; Filing

March 8, 1982.

Take notice that on March 1, 1982, Dayton Power & Light Company (Dayton) requested authority to recognize a permanent increase of .25% including recovery of the uncollected portion thereof, a temporary increase of .25% and a temporary surtax of approximately .21% in the excise tax on gross receipts imposed by Section 5727.38 of the Ohio Revised Code pursuant to the Tax Adjustment provision contained in Dayton's Rate Schedule FERC No. 34 (City of Piqua, Ohio). The proposed revision shall become effective with billings on and after May 1, 1982 and is limited to recognition of the .25% permanent increase and to the recovery of the temporary increases.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6643 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-350-000]

Florida Power & Light Co.; Filing

March 8, 1982.

Take notice that Florida Power & Light Company (FPL), on March 1, 1982, tendered for filing as an initial rate an executed contract entitled "Contract for Interchange Service Between Florida Power & Light Company and City of Lakeland, Florida." FPL states that under the contract, FPL and the City of Lakeland will engage in the interchange of electric capacity and energy indirectly through the electric transmission systems of other utilities.

FPL respectfully requests that waiver of § 35.3 of the Commission's Regulations be granted and that the proposed Contract be made effective immediately.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests

should be filed on or before March 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6644 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-39-000]

Gulf States Utilities Co.; Application

March 5, 1982.

Take notice that on February 25, 1982, Gulf States Utilities Company (Applicant) filed an application seeking an order under section 204(a) of the Federal Power Act authorizing the Applicant to issue up to 1,000,000 additional shares of Common Stock, without par value, pursuant to its Employee Stock Ownership Plan.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 19, 1982, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6643 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-40-000]

Gulf States Utilities Co.; Application

March 5, 1982.

Take notice that on February 25, 1982, Gulf States Utilities Company (Applicant) filed an application seeking an order under Section 204 of the Federal Power Act authorizing the Applicant to issue up to 2,000,000 additional shares of Common Stock, without par value, pursuant to its Employee Thrift Plan.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 19, 1982, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6658 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-360-000]

Gulf States Utilities Co.; Filing

March 8, 1982.

Take notice that Gulf States Utilities Company (Gulf States) on March 1, 1982, tendered for filing a Letter of Agreement between itself, Sam Rayburn Electric Cooperative, Inc. and the City of Liberty. The Letter of Agreement would cancel Rate Schedule LRS and replace it with Rate Schedule WSM for service by Gulf States at the City of Liberty's National Substation delivery point. The Letter of Agreement would add the National Substation delivery point to other already existing agreements between Gulf States, Sam Rayburn Dam Electric Power Cooperative, Inc., Sam Rayburn G&T, Inc. and Sam Rayburn Municipal Power Agency.

Gulf States states that the changes were requested by the City of Liberty so that the National Substation delivery point can be served from Sam Rayburn owned generation and that Rate Schedule WSM is a standard rate of Gulf States that has previously been approved for such service by the Commission. Gulf States requests an effective date of April 30, 1982.

According to Gulf States, copies of the filing have been served upon the City of Liberty, Sam Rayburn Dam Electric Power Cooperative, Inc., Sam Rayburn G&T, Inc., Sam Rayburn Municipal Power Agency, the Public Utility Commission of Texas and the Louisiana Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before March 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6660 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5994-000]

Hydro Management, Inc.; Application for Preliminary Permit

March 9, 1982.

Take notice that Hydro Management, Incorporated (Applicant) filed on February 18, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5994 to be known as the Sullivan Creek Power Project located on Sullivan Creek, within Kootenai National Forest in Lincoln County, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: W. H. Edelman III, President, Hydro Management, Inc., Route 1, Box 169, Ronan, Montana 59864.

Project Description—The proposed project would consist of: (1) A native rock diversion structure 3 feet high at elevation 4,600; (2) a penstock 12" in diameter and 18,500 feet long; (3) a powerhouse containing a turbine generator with 570 kW capacity and 3,347 MWh annual energy output; and (4) transmission line 5 miles long. The proposed market for power output is the Lincoln Electric Cooperative or Bonneville Power Administration.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a term of 36 months, during which engineering, economic and environmental studies will be conducted to ascertain project feasibility and to support application for a license to construct and operate the project. The estmated cost of permit activities is $6,000.

Competing Applications—This application was filed as a competing application to Homestake Consulting and Investments, Inc.'s application for Project No. 5465 filed on October 13, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 26, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6659 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-345-000]

Indiana & Michigan Electric Co.; Filing

March 8, 1982.

Take notice that American Electric Power Service Corporation (AEP) on February 25, 1982, tendered for filing on behalf of its affiliate Indiana & Michigan Electric Company (I&ME) Modification No. 18 dated January 1, 1982 to the Interconnection Agreement dated November 1, 1961 between Northern Indiana Public Service Company and I&ME, I&ME's Rate Schedule FERC No. 22.

Sections 1 and 2 of Modification No. 18 provide for an increase in the demand charge for Short Term and Limited Term Power to $1.25 per kilowatt per week and $6.50 per kilowatt month respectively, when I&ME is providing the service. Both schedules proposed to become effective January 1, 1982. These demand rates are substantially the same as the recently filed Short Term and Limited Term demand charges between Indiana & Michigan Electric Company and Illinois Power Company (Docket No. ER81-774-000) which has been accepted by the Commission and made effective January 1, 1982 by letter Order dated November 1981.

AEP requests an effective date of January 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Michigan Public Service Commission, the Illinois Commerce Commission, and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 24, 1982.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6646 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-354-000]

Niagara Mohawk Power Corp.; Filing

March 8, 1982.

Take notice that Niagara Mohawk Power Corporation (Niagara), on March 1, 1982, tendered for filing as a rate schedule, an agreement between Niagara and Rochester Gas and Electric Corporation (Rochester) date June 8, 1981.

Concurrently with this filing, Niagara is filing an agreement with Rochester dated July 3, 1980. This agreement is for the transmission of Rochester's share of the Oswego #6 generation unit over Niagara's transmission system to Rochester.

The July 8, 1981 agreement contained in this filing revises the transmission rate for transmitting Oswego Unit #6 power and energy from the Oswego Unit #6 generating station to Rochester as provided for in the terms of the original agreement.

Niagara requests waiver of the Commission's notice requirements in order to allow said agreement to become effective as of July 1, 1981.

Copies of this filing were served upon Rochester Gas and Electric Corporation and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6647 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-344-000]

Niagara Mohawk Power Corp.; Filing

March 5, 1982.

Take notice that Niagara Mohawk Power Corporation (Niagara), on February 24, 1982, tendered for filing as a rate schedule, an agreement between Niagara and Rochester Gas and Electric Corporation (Rochester) dated July 28, 1981.

Niagara presently has on file an agreement with Rochester dated February 14, 1975. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule FERC No. 92. This new agreement is being transmitted as a supplement to the existing agreement.

This supplement revises the transmission rate for transmitting FitzPatrick power and energy from the Power Authority of the State of New York to Rochester as provided for in the terms of the original agreement.

Niagara requests waiver of the Commission's prior notice requirements in order to allow said agreement to become effective as of September 1, 1981.

Copies of this filing were served upon the Rochester Gas and Electric Corporation and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-6661 Filed 3-10-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. EL82-5-000]

Nornev Demonstration Geothermal Co.; Filing

March 8, 1982.

Take notice that on December 28, 1981, Nornev Demonstration Geothermal Company (Nornev) filed a petition requesting the Commission to disclaim jurisdiction over Nornev.

Nornev is a nonprofit cooperative corporation organized under laws of the State of Oregon. The participants in the nonprofit cooperative are Pacific Power & Light Company (Pacific), Sierra Pacific Power Company (Sierra Pacific), Eugene Water & Electric Board (EWEB), and Sacramento Municipal Utility District (SMUD). Nornev proposes to own and operate a 13.5–MW, 10–MW net, binary cycle geothermal electric power production facility to be located at the Beowawe Geothermal Field in northern Nevada. Under optimal conditions, the project could be on line by mid-1983.

Nornev contends the unresolved question of whether Nornev would be subject to Commission economic regulation under Subchapter II of the Federal Power Act has jeopardized both the construction and the long-term financing of the project, thereby hindering the development of both geothermal technology and resources. In addition, Nornev contends, being subject to Commission rate regulation under Subchapter II would threaten certain project tax advantages, thereby increasing project costs and ultimately driving up the cost of power from the project.

Nornev states that it is exempt from Subchapter II regulation because Nornev is a nonprofit cooperative. Nornev contends that because EWEB and SMUD are exempt from Commission economic regulation, and because Pacific and Sierra Pacific are already subject to extensive state and federal economic regulation, no public purpose would be served by the Commission's extension of jurisdiction over Nornev.

Nornev requests an order from the Commission that Nornev would not be subject to the Commission's jurisdiction under Subchapter II of the Federal Power Act.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before April 9, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-6648 Filed 3-10-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-348-000]

Public Service Company of Indiana, Inc.; Filing

March 8, 1982.

Take notice that the Public Service Company of Indiana (PSCI) on March 1, 1982, tendered for filing pursuant to the Interconnection Agreement between PSCI and Cincinnati Gas & Electric Company an Eighth Supplemental Agreement to become effective April 27, 1982.

PSCI states that said Supplemental Agreement increases the demand charge for Short Term Power from 85¢ per kilowatt per week to $1.05 per kilowatt per week.

Copies of the filing were served upon Cincinnati Gas & Electric Company, Public Utilities Commission of Ohio and Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20408, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-6649 Filed 3-10-82; 8:45 am]
BILLING CODE 6717-01

[Project No. 5975-000]

Public Utility District No. 1 of Jefferson County, Wash.; Application for Preliminary Permit

March 9, 1982

Take notice that Public Utility District No. 1 of Jefferson County, Washington (Applicant) filed on February 16, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5976 to be known as the Fulton Creek Hydroelectric Project located on Fulton Creek in Jefferson County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. J. R. Kint, Manager, Public Utility District No. 1 of Jefferson County, Jefferson County Courthouse, Jefferson & Cass Streets, Port Townsend, Washington 98368.

Project Descripton—The proposed project would consist of: (1) A 6-foot high diversion structure on Fulton Creek; (2) a 2,650-foot long, 4.5-foot diameter diversion pipeline; (3) a 1,060-foot long, 2.5-foot diameter penstock; (4) a powerhouse with a total installed capacity of 1.3 MW; and (5) a 660-foot long transmission line from the powerhouse to an existing 12.47-kV transmission line owned by the Mason County Public Utility District. The Applicant estimates that the average annual energy production would be 5.1 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which it would conduct the technical, environmental and economic studies, and also prepare an FERC license applicacion. The Applicant estimates that the cost of undertaking these studies would be $80,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 20, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 20, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et. seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than July 20, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 20, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-6663 Filed 3-10-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5980-000]

Public Utility District No. 1 of Jefferson County, Wash.; Application for Preliminary Permit

March 9, 1982.

Take notice that Public Utility District No. 1 of Jefferson County, Washington (Applicant) filed on February 16, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5980 to be known as the Lena Creek Hydroelectric Project located on Lena Creek in Jefferson and Mason County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. J. R. Kint, Manager, Public Utility District No. 1 of Jefferson County, Jefferson County Courthouse, Jefferson and Cass Streets, Port Townsend, Washington 98368.

Project Description—The proposed project would consist of: (1) A 6-foot high diversion structure on Lena Creek; (2) a 3,725-foot long, 3.3-foot diameter diversion pipeline; (3) a 2,100-foot long, 3.3-foot diameter penstock; (4) a powerhouse with a total installed capacity of 5.7 MW; and (5) a 6-mile long transmission line from the powerhouse to an existing 115-kV transmission line owned by the Bonneville Power Administration. The Applicant estimates that the average annual energy production would be 23.7 million kWh. The project is located on land owned by the U.S. Forest Service.

Proposed Scope of Studies under Permit.—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which it would conduct the technical, environmental and economic studies, and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $150,000.

Competing Applications.—This application was filed as a competing application to Hydro Resource Company's application for Project No. 5549 filed on October 21, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments.—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have not comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 3, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the project Number of this notice. Any of the

above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB, at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6666 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5708-000]

Seaward Development—Chase Island, Inc.; Application for Preliminary Permit

March 9, 1982.

Take notice that Seaward Development—Chase Island, Inc. (Applicant) filed on December 1, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r) for Project No. 5708 to be known as the Chase Island Project located on the Connecticut River in Windsor County Vermont and Sullivan County, New Hampshire. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Gus Garceau, Seaward Construction Company, P.O. Box 1011, Portsmouth, New Hampshire.

Project Description—The proposed project would consist of: (1) The proposed Chase Island Dam, a concrete Dam with earthen dikes and having a height of 24 feet and length of 1,000 feet to 1,500 feet; (2) a reservoir having a surface area of approximately 1,442 acre and storage capacity of 14,420 acre-feet at a normal water surface elevation of 30.2 feet msl; (3) a proposed powerhouse having units with an installed generating capacity of approximately 18,300 kW; (4) a new transmission line approximately 1,500 feet long; and (5) appurtenant facilities. The Applicant estimates the annual energy production would be 109,000 kW–HR. Project energy would be sold to local utilities.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of three years during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates cost of the studies under the permit would be $250,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission on or before May 14, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 14, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than July 12, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 14, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6665 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5735-000]

The Town of Hopkinton, N.H.; Application for Preliminary Permit

March 9, 1982.

Take notice that The Town of Hopkinton, New Hampshire (Applicant) filed on December 10, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5735 to be known as the Hopkinton Power Project located on the Contoocook River in Merrimack County, New Hampshire. The application is on file with Commission and is available for public inspection. Correspondence with the Applicant should be directed to: John Prewitt, Chairman, Hydro Committee, Town of Hopkinton, c/o Selectmen's Office, Hopkinton, New Hampshire 03301.

Project Description—The proposed run-of-river project would consist of: (1) The existing timber crib Contoocook River Dam, 283 feet long and 21 feet high, owned by the Applicant; (2) a new integrated intake and powerhouse with an installed capacity of 740 kW; (3) a new tailrace; (4) a new 200-foot long transmission line; and (5) other appurtenances. Applicant estimates annual generation to be 4,862,000 kWh. Project energy would be sold to the Public Service Company of New Hampshire.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under the permit would be $16,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 21, 1982, the competing application itself [see 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 19, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 19, 1982.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6662 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5969-000]

The Town of Kemmerer, Wyo.; Application for Preliminary Permit

March 9, 1982.

Take notice that the Town of Kemmerer, Wyoming (Applicant) filed on February 11, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5969 to be known as the Viva Naughton Hydroelectric Project located on the Hams Fork in Lincoln County, Wyoming. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Phillip J. Movish, Senior Project Engineer, Daverman Associates, Inc., 500 South Salina Street, Syracuse, New York 13202.

Project Description—The proposed project would consist of: (1) The existing rolled earthfill Viva Naughton Dam which is 3,200 feet long and 90 feet high and is owned by the Utah Power and Light Company; (2) an existing reservoir with a surface area of 2,100 acres at a surface elevation of 7,240 feet m.s.l.; (3) an existing intake structure; (4) an existing 66-inch diameter, 400-foot long penstock; (5) a new powerhouse with an installed capacity of 800 kW; (6) a new 1,200-foot long transmission line; and (7) other appurtenances. The estimated annual generation would average about 3,278,000 kWh. Project energy would be used for municipal purposes.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 3 years during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under the permit would be $25,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 14, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 14, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 14, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's

regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6687 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-349-000]

Tucson Electric Power Co.; Filing

March 8, 1982.

Take notice that Tucson Electric Power Company ("Tucson") on March 1, 1982, tendered for filing a 1982–1984 Power Sale Agreement between Tucson and the Los Angeles Department of Water and Power ("Los Angeles"). The primary purpose of this Agreement is to provide the terms and conditions relating to the sale by Tucson to Los Angeles of 73 megawatts of capacity and associated energy. Tucson states that copies of the filing were served upon Los Angeles.

Any person desiring to be heard or to make any application with reference to said Agreement should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6688 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA82-10-000]

Western Continental Operating Co.; Application for Staff Adjustment

Issued: March 8, 1982.

On February 11, 1982, Western Continental Operating Company (Western) filed an application for staff adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3412(c) (Supp. III 1979), and § 1.41 of the Federal Energy Regulatory Commission (Commission) Rules of Practice and Procedure.

Western claims special hardship, inequity, or unfair distribution of burdens and irreparable injury if unable to retroactively collect from Pacific Gas and Electric Company (PG&E) the difference between the section 102 and section 109 NGPA price on the Nunn #2 Well for the period of February 13, 1981 through July 21, 1981.

Western states that the Nunn #2 Well produces gas from a stratigraphic and structural reservoir identical to that of its Nunn #1 Well, which has been classified by the California Division of Oil and Gas (California) as a section 102 well. Western alleges that it was advised by the Commission Office of Pipeline and Producer Regulation that it would not be required to file for a well category determination to quality for section 102 pricing for the Nunn #2 provided the Nunn #2 produces from the same stratigraphic and structural reservoir as the Nunn #1. Accordingly, Western did not file for a well category determination, but drafted a summary letter dated February 13, 1981 to the purchaser, Natural Gas Corporation of California (NGC), a wholly owned subsidiary of PG&E, detailing the Commission's oral opinion and decision.

Western states that on or about July 7, 1981, the Commission staff advised PG&E that it never rendered an oral opinion instructing Western not to file for a well category determination. Subsequently, NGC began paying the section 109 price for the gas in June 1981. In September 1981, NGC deducted the difference between the section 102 and section 109 price for all Nunn #2 production prior to June 1981. Western then promptly filed for a well category determination by California on July 21, 1981.

Western now maintains that it should be granted an adjustment from the normal operation of 18 CFR 273.204, the retroactive collection requirements. Western states that it would have filed the required application for a well category determination on or about February 13, 1981 if it had not been advised that such a filing was not required by the Commission. Western further maintains that the failure to file for a determination at the proper time was not a result of its shortcomings, but a result of factors beyond its control. Accordingly, Western maintains that it would be inequitable to strictly apply § 273.204 in the instant case, and that it should be allowed to retroactively collect the difference between section 102 and section 109 pricing.

Alternatively, Western urges that it be granted an adjustment relative to 18 CFR 274.202, the filing requirements for section 102 determinations. Western maintains that the failure to timely file for a well category determination is excusable error given the advice from the Commission staff against such a filing. Nevertheless, Western maintains that sending a copy of the February 13, 1981 letter to California along with supporting materials was effectively a constructive filing which should be exempted from technical filing provisions and which met substantive requirements. Western urges further that it should be deemed to have filed all the requisite documents to qualify for section 102 pricing on February 13, 1981. Western therefore requests an adjustment be issued to allow it to collect the difference between the section 102 and section 109 price retroactive to that date.

The procedures applicable to the conduct of this adjustment proceeding are found in 18 CFR 1.41 (44 FR 18961, March 30, 1979). Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before March 26, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6681 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL82-7-000]

Wheelabrator-Frye Inc.; Filing

March 5, 1982.

Take notice that on February 12, 1982, Wheelabrator-Frye Inc., A Delaware corporation (WFI), on behalf of itself, its wholly-owned subsidiary, WESI Westchester Inc., A Delaware corporation (WESI Westchester), and a partnership to be formed by WESI Westchester and certain additional partners (Westchester RESCO), filed a petition for a Declaratory Order that the Commission will not assert jurisdiction under the Federal Power Act (FPA) over WESI Westchester and Westchester RESCO, which will construct, own and operate a solid waste refuse-to-energy facility (the Facility) to be located in Westchester County, New York, when the Facility generates electricity for sale to the Consolidated Edison Company of New York, Inc. (Con Ed), pursuant to a contract (the Energy Purchase Agreement) between WESI Westchester and Con Ed.

According to WFI, its request is necessary because, although the Facility will be a qualifying small power production facility under section 3(17)(C) of the FPA, it will have a capacity greater than 30 MW, and therefore it is not automatically exempted from regulation under the FPA.

If the Commission asserts FPA jurisdiction, WFI petitions for a Declaratory Order holding that the rates for power sales by the Facility will be established under section 210 of PURPA, rather than sections 205 and 206 of the FPA; and that, because it has been established pursuant to a negotiated agreement, the rate set forth in the Energy Purchase Agreement for the sale of electricity is not subject to adjustment by the Commission.

If the Commission concludes that sections 205 and 206 of the FPA apply, WFI requests the Commission to declare that:

(1) The rate set forth in the Energy Purchase Agreement will be accepted for filing;

(2) The Commission will not, on its own motion, subject the rate to investigation; and,

(3) The Commission will not subject changes in the rates pursuant to the formula rate established in the Energy Purchase Agreement to its procedures under section 205 of the FPA.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before April 9, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6686 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-347-000]

Wisconsin Electric Power Co.; Filing

March 8, 1982.

Take notice that Wisconsin Electric Power Company (WEP) on February 26, 1982, tendered for filing proposed changes in its rates and charges for sales for resale to its 10 wholesale customers. The proposed increase is $7,347,326 or 12.9% on a calendar year 1982 (Period II) basis.

The Company requests that the proposed changes become effective on April 27, 1982, and requests waiver of the Commission's notice requirements.

Copies of the filing have been served upon the Company's jurisdictional customers. Copies have also been mailed to the Michigan Public Service Commission and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 24, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6682 Filed 3-10-82; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee on Preparations for the ITU 1982 Region 2 Broadcasting Satellite Service Planning Conference

March 5, 1982.

Meeting

Friday, March 26, 1982, 9:30 A.M., Federal Communications Commission, 1919 M Street, N.W., Room 856, Washington, D.C.

Agenda

(1) Approval of Agenda.

(2) Approval of Minutes of previous meeting.

(3) Presentation of Draft Report, including questions of clarification.

(4) Discussion of Draft Report.

(5) Preview of remaining Committee tasks.

(6) Other Business.

(7) Adjournment.

William J. Tricarico,

Secretary.

[FR Doc. 82-6562 Filed 3-10-82; 8:45 am]

BILLING CODE 6712-01-M

National Industry Advisory Committee, Amateur Radio Service Subcommittee; Meeting

Pursuant to the provisions of Pub. L. 92–463, announcement is made of a public meeting of the Amateur Radio Service Subcommittee of the National Industry Advisory Committee (NIAC) to be held Friday, March 26, 1982. The Subcommittee will meet at the Federal Communications Commission Annex Building, Room A–110, 1229 20th Street, N.W., Washington, D.C. at 9:30 A.M.

Purpose: To consider emergency communications matters.

Agenda: As follows:

Items

1. Opening of meeting by Chairman including introduction of new members and review of minutes of the September 25, 1981 meeting.—Mr. Dunn.
2. Report on NIAC Executive Committee meeting.—Mr. Green.
3. Report of status of emergency plans.—FCC Staff.
4. Report on Citizens Band emergency plan and Amateur coordination.—Mr. Flinn; Mr. Lindholm.
5. Report on status of contacts with the FCC Private Radio Bureau concerning rebroadcast of amateur transmissions during emergencies when the Emergency Broadcast System is activated, and retransmission by Amateurs of the 2-tone EBS alerting signal.—Mr. Imlay; Mr. Payne.
6. Review of FCC Rules requirements for implementation of the Amateur Radio Emergency Plans.—Mr. Imlay.
7. Report on meetings of Subcommittee members with FCC Commissioners.—Mr. Green.
8. Report on the National Traffic Net.—Mr. Lindholm.
9. New business.
10. Adjournment.

Any member of the general public may attend or file a written statement with the Committee either before or after the meeting. Any member of the

public wishing to make an oral statement must consult with the Committee prior to the meeting. Those desiring more specific information about the meeting may telephone the Emergency Communications Division, FCC, (202) 632–7232.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-6661 Filed 3-10-82; 8:45 am]

BILLING CODE 6712-01-M

National Industry Advisory Committee Maritime Communications Services Subcommittee; Meeting

March 4, 1982.

Pursuant to the provisions of Pub. L. 92–463, announcement is made of a public meeting of the Maritime Communications Services Subcommittee of the National Industry Advisory Committee (NIAC) to be held on Wednesday, March 24, 1982. The Subcommittee will meet at the RCA Corporation, located at 1800 K Street, NW., Washington, D.C., in Room 610 at 1:30 P.M.

Purpose: To consider emergency communications matters.

The meeting agenda is as follows:

1. Chairman's opening remarks.
2. Requirements for emergency communications.
   a. Navy.
   b. Maritime Administration.
3. Determination of action to be taken by the Subcommittee to meet emergency requirements.
4. Other business.
5. Adjournment.

Any member of the general public may attend or file a written statement with the Committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the meeting. Those desiring more specific information about the meeting may telephone the Emergency Communications Division, FCC, (202) 632–7232.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82 6663 Filed 3-10-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Agreements Nos. 10435 and 10437]

Availability of Findings of No Significant Impact

Upon completion of environmental assessments, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decisions on Agreements Nos. 10435 and 10437 will not constitute major Federal actions significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of environmental impact statements are not required.

Agreement No. 10435 permits Transconex, Inc., and Tuya International Corp., both Non-Vessel Operating Common Carriers by Water, to jointly load cargo for transportation from ports in Florida to ports in El Salvador, Guatemala, Honduras and Venezuela.

Agreement No. 10437 between Transconex, Inc. and Econocaribe Consolidators, Inc., both Non-Vessel Operating Common Carriers by Water (NVO) provides for joint loading of cargo to be transported from ports in Florida to ports in Aruba, Barbados, Curacao, Dominican Republic, Haiti, Jamaica, Panama, Surinam and Trinidad.

Both agreements also allow one participating NVO carrier, upon authorization of the other, to accept and receipt shipments on behalf of the other for consolidation and forwarding.

These Findings of No Significant Impact (FONSI) will become final on or before March 31, 1982 unless petitions for review are filed pursuant to 46 CFR 547.6(b).

The FONSI's and related environmental assessments are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523–5725.

Francis C. Hurney,

Secretary.

[FR Doc. 82-6544 Filed 3-10-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Cairo Banchshares, Inc.; Formation of Bank Holding Company

Cairo Banchshares, Inc., Cairo, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 90 per cent or more of the voting shares of Cairo Banking Company, Cairo, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6533 Filed 3-10-82; 8:45 am]

BILLING CODE 6210-01-M

First National Bankshares, Inc.; Formation of Bank Holding Company

First National Bankshares, Inc., Houma, Louisiana, has applied for the Board's approval under section 3 (a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of First National Bank of Houma, Houma, Louisiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any commenter wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6534 Filed 3-10-82; 8:45 am]

BILLING CODE 6210-01-M

Gulf Coast Holding Corp.; Formation of Bank Holding Company

Gulf Coast Holding Corp., Panama City, Florida, has applied for the Board's approval under section 3 (a)(1) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank, Panama City, Florida. The factors that are considered in acting on the application are set forth in section 3 (c) of the Act (12 U.S.C. 1842 (c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6535 Filed 3-10-82; 8:45 am]

BILLING CODE 6210-01-M

Hawkeye Bancorporation; Acquisition of Bank

Hawkeye Bancorporation, Des Moines, Iowa, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Ankeny Bancshares, Inc., Ankeny, Iowa, and thereby indirectly to acquire 80.4 percent of the voting shares of Ankeny National Bank, Ankeny, Iowa ("Bank") and to directly acquire up to 19.6 percent of the voting shares of Bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than April 2, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6536 Filed 3-10-82; 8:45 am]

BILLING CODE 6210-01-M

NBC Bank Corp.; Formation of Bank Holding Company

NBC Bank Corp., El Dorado, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of National Bank of Commerce of El Dorado, El Dorado, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6537 Filed 3-10-82; 8:45 am]

BILLING CODE 6210-01-M

Oswego Bancshares, Inc.; Formation of Bank Holding Company

Oswego Bancshares, Inc., Oswego, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent less directors' qualifying shares of the voting shares of the successor by merger to Oswego Community Bank, Oswego, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6538 Filed 3-10-82; 8:45 am]

BILLING CODE 6210-01-M

State National Corp.; Formation of Bank Holding Company

State National Corporation, New Iberia, Louisiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The State National Bank, New Iberia, Louisiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6539 Filed 3-10-82; 8:45 am]

BILLING CODE 6210-01-M

Stockmens Financial Corp.; Formation of Bank Holding Company

Stockmens Financial Corporation, Cotulla, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80

percent or more of the voting shares of Stockmens National Bank in Cotulla, Cotulla, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6540 Filed 3-10-82; 8:45 am]

BILLING CODE 6210-01-M

Victoria Bankshares, Inc.; Acquisition of Bank

Victoria Bankshares, Inc., Victoria, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of The First National Bank of Gonzales, Gonzales, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than April 1, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6542 Filed 3-10-82; 8:45 am]

BILLING CODE 6210-01-M

Williamsburg Holding Co.; Formation of Bank Holding Company

Williamsburg Holding Company, Omaha, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Security Savings Bank, Williamsburg, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6541 Filed 3-10-82; 8:45 am]

BILLING CODE 6210-01-M

Winnsboro Bancshares, Inc.; Formation of Bank Holding Company

Winnsboro Bancshares, Inc., Winnsboro, Louisiana, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Winnsboro State Bank & Trust Company, Winnsboro, Louisiana. The Factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 4, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentaton would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6543 Filed 3-10-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-82-1113]

President's Commission on Housing; Schedule of Meetings

The President's Commission on Housing announces a revised schedule of meetings for the Commission through April 7, 1982 (Appendix A). The Full Commission Meetings, scheduled for March 22–23 and April 14–15 have been cancelled. Due to the possibility of changes, those persons interested in attending the meetings should call the Commission offices to confirm the date, location and time of each meeting. All Commission and Committee meetings are open to the public.

Further information may be obtained by calling Jean M. Freeze, President's Commission on Housing, 730 Jackson Place, N.W., Washington, D.C. 20503, (202) 395–5832.

(Sec. 10(a)(2), Federal Advisory Committee Act, as amended (5 U.S.C. App. I))

Dated: March 4, 1982.

Samuel R. Pierce, Jr.,

Secretary, Department of Housing and Urban Development.

APPENDIX A.—TENTATIVE SCHEDULE OF MEETINGS THRU APRIL 30, 1982[1]

Date	Commission/committee	Place	Time
Tuesday, April 6	Full Commission meeting	NEOB, room 2010, Washington, D.C.	9:00 a.m.
Wednesday, April 7	Full Commission meeting	NEOB, room 2010, Washington, D.C.	9:00 a.m.

[1] Meetings, dates, times, and locations are subject to change. Confirmation of the above information should be obtained prior to attendance at a meeting by calling the Commission offices at (202) 395–5832.

NOTE.—The March 22–23 and the April 15–16 full Commission meetings have been cancelled.

[FR Doc. 82-6559 Filed 3-10-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Citizen Band of Potawatomi Indians of Oklahoma; Ordinance Regulating the Sale and Use of Liquor and Tobacco Products

February 19, 1982.

This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161 (1976). I certify that the following Resolution and Ordinance relating to the application of the Federal Indian tobacco and liquor laws on the tribal trust lands of the Citizen Band of Potawatomi Indians of Oklahoma were adopted on February 2, 1981, by the Citizen Band of Potawatomi Indians of Oklahoma Business Committee which has jurisdiction over the area of Indian country defined in the Ordinance reading as follows:

Kenneth Smith,

Assistant Secretary—Indian Affairs.

Citizen Band Potawatomi Indians of Oklahoma

Shawnee, Oklahoma

February 2, 1981

Resolution 81–19

A Resolution establishing the Citizen Band of Potawatomi Indians of Oklahoma ordinance regulating the distribution and sale of tobacco products and/or liquor and beer products

Whereas, the Citizen Band Potawatomi Indians of Oklahoma Business Committee, as the governing body of the Citizen Band Potawatomi Indians of Oklahoma, is charged by the Tribal Constitution and By-laws to transact business and otherwise speak or act on behalf of the Tribe in all matters on which the Tribe is empowered to act; and,

Whereas, the Citizen Band Potawatomi Indians of Oklahoma Business Committee has the responsibility of protecting the health, security, and general welfare of the Tribe and its members; and,

Whereas, the State of Oklahoma is without jurisdiction on tribal trust lands of the Citizen Band Potawatomi Indians of Oklahoma to regulate and control Indian smoke shops, liquor outlets, or other outlets operated by the Tribe or by tribal members; and,

Whereas, the Citizen Band Potawatomi Indians of Oklahoma Business Committee deems it essential to the health, security, and general welfare of the Citizen Band Potawatomi Indians of Oklahoma and its members to enact a comprehensive tobacco and liquor ordinance relating to the sale and distribution of cigarettes, other tobacco products and liquor products and levying an excise tax upon such sale and distribution on the Tribal Trust Lands of the Citizen Band Potawatomi Indians of Oklahoma; NOW.

Therefore, be it resolved: The Citizen Band Potawatomi Indians of Oklahoma does hereby promulgate the attached ordinance entitled "The Citizen Band Potawatomi Indians of Oklahoma Tobacco and Liquor Regulations."

Certification

We, Wanita R. Clifford, Tribal Chairperson and Christine Gifford, Secretary-Treasurer, of the Citizen Band Potawatomi Indians of Oklahoma do hereby certify that the above resolution POTT # 81–19 is a true and exact copy as approved by the Business Committee, with 3 voting for, 0 opposed and 1 abstention.

Wanita R. Clifford,

Acting Tribal Chairperson.

Mary Lynn Hillmeyer,

Acting Tribal Chairperson, Secretary-Treasurer.

The Citzen Band Potawatomi Indians of Oklahoma

Tobacco and Liquor Regulations

1–1 Title and Purpose.

1–1.01 This document shall be known as the Citizen Band Potawatomi Indians of Oklahoma Tobacco and Liquor Regulations. These regulations are enacted to regulate the sale and distribution of tobacco products and/or liquor and beer products on Tribal Trust Lands of the Citizen Band Potawatomi Indians of Oklahoma, and to generate revenue to fund needed tribal programs and services.

1–2 Definitions.

1–2.01 Unless otherwise required by the context the following words and phrases shall have the designated meanings:

(1) "Tribe" shall mean the Citizen Band Potawatomi Indians of Oklahoma, Route 5, Box 151, Shawnee, OK 74801.

(2) "Business Committee" shall mean the Citizen Band Potawatomi Indians of Oklahoma Business Committee as constituted by Article V of the Constitution and By-laws of the Citizen Band Potawatomi Indians of Oklahoma.

(3) "Tribal Trust Lands" shall mean the lands and waters lying within the boundaries of the property described below:

Tract Numbered 1

The northeast quarter northeast quarter, southeast quarter northeast quarter, southwest quarter northeast quarter section 31, township 10 north, range 4 east, Indian meridian, Pottawatomie County, Oklahoma, containing 120.00 acres, more or less.

Tract Numbered 2

That part of the northwest quarter southeast quarter section 31, township 10 north, range 4 east, Indian meridian, Pottawatomie County, Oklahoma, described as: Beginning at the southwest corner of said northwest quarter southeast quarter; thence east 1,320 feet; thence north 1,320 feet; thence west 1,320 feet to the center of said section; thence south 167 feet; thence east 183 to the intersection with the west line of the Atchison, Topeka, and Santa Fe Railroad right-of-way; thence southwesterly along the west right-of-way line a distance of 856 feet to the intersection with a point in the west line of the northwest quarter southeast quarter, said point being 963 feet south of the center of section 31; thence south along the west line of the northwest quarter southeast quarter, a distance of 337 feet, to the point of beginning; containing 38.29 acres, more or less.

Tract Numbered 3

That part of the southeast quarter northwest quarter section 31, township 10 north, range 4 east, Indian meridian, Pottawatomie County, Oklahoma, described as: Beginning at the northeast corner of said southeast quarter northwest quarter; thence south 1,320 feet to the center of said section 31; thence west along the south line of said southeast quarter northwest quarter a distance of 1,255.4 feet to the intersection with the centerline of Oklahoma State Highway Numbered 18; thence northwesterly along the centerline of the highway a distance of 660.58 feet to a point on the south line of the northwest quarter southeast quarter northwest quarter; thence east 38 feet to the intersection with the east right-of-way line of Oklahoma State Highway Numbered 18; thence northwesterly along the east right-of-way line to a point in the north line of said southeast

quarter northwest quarter, said point being 58 feet east of the northwest corner of said southeast quarter northwest quarter; thence east a distance of 1,262 feet to the point of beginning; containing 38.63 acres more or less.

Tract Numbered 4

That part of the northeast quarter southwest quarter section 31, township 10 north, range 4 east, Indian meridian, Pottawatomie County, Oklahoma, described as: Beginning at the northeast corner of said northeast quarter southwest quarter, said point being the center of section 31; thence south 167 feet; thence west 1,302 feet to the intersection with the west line of the right-of-way of Oklahoma State Highway Numbered 18; thence northeasterly along the west right-of-way line a distance of 167 feet to the north line of said northeast quarter southeast quarter; thence east along said north line a distance of 1,297.4 feet to the point of beginning; containing 4.678 acres, more or less.

Tract Numbered 5

That part of the northeast quarter southwest quarter section 31, township 10 north, range 4 east, Indian meridian, Pottawatomie County, Oklahoma, described as: Beginning at the southeast corner of said northeast quarter southwest quarter; thence north along the east line of said northeast quarter southwest quarter a distance of 337 feet to the intersection with the west right-of-way line of the Atchison, Topeka, and Santa Fe Railroad right-of-way; thence southwesterly along said west right-of-way line a distance of 367 feet to the intersection with the south line of said northeast quarter southwest quarter; thence east along the south line a distance of 129 feet to the point of beginning; containing .498 acre, more or less.

Tract Numbered 7

That part of lot 1 (northwest quarter of northwest quarter) and north half of lot 2 (north half of southwest quarter of northwest quarter) and the part of the north half of the southeast quarter of the northwest quarter lying west of the east right-of-way line of Oklahoma State Highway Numbered 18, all in section 31, township 10 north, range 4 east, Indian meridian, Pottawatomie County, Oklahoma, containing 57.99 acres, more or less, subject to the right of the Absentee Shawnee Tribe of Indians of Oklahoma, the Sac and Fox Tribe of Indians of Oklahoma, the Kickapoo Tribe of Indians of Oklahoma, and the Iowa Tribe of Indians of Oklahoma to use the Pottawatomie community house that may be constructed and maintained thereon.

(4) "Member" shall mean any person whose name appears on the official roll of the Citizen Band Potawatomi Indians of Oklahoma.

(5) "Commercial Sale" shall mean the transfer, exchange or barter, in any or by any means whatsoever for a consideration by any person, association, partnership, or corporation, of cigarettes, tobacco products and/or liquor and beer products.

(6) "Wholesale Price" shall mean the established price for which cigarettes, tobacco products and/or liquor and beer products are sold to the Citizen Band Potawatomi Indians of Oklahoma or any licensed operator by the manufacturer or distributor, exclusive of any discount or other reduction.

(7) "Tobacco Products" shall mean cigars, cheroots, stogies, granulated, plug cut, crim cut, ready rubbed, and other smoking tobacco, snuff, cavendish, snuff flour, plug and twist tobacco, five cut and other chewing tobacco shorts and other kinds and forms of tobacco prepared in such a manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for smoking and chewing. Tobacco products shall include cigarettes.

(8) "Cigarette" shall mean any roll for smoking made wholly or in part of tobacco being flavored, adulterated, or mixed with any other ingredient where such wrapper is wholly or in any part made of paper or any material except where such is wholly or in the greater part made of natural leaf tobacco in its natural state.

(9) "Tobacco Outlet" shall mean a tribally licensed retail sales business selling tobacco products on tribal trust lands of the Citizen Band Potawatomi Indians of Oklahoma.

(10) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance.

(11) "Beer" means any beverage obtained by the alcohol fermentation of an infusion or decoction of pure hops, or pure extract of hops, and malt and sugar in pure water containing not more than 6% of alcohol by weight.

(12) "Liquor Outlet" shall mean a tribally licensed retail sale business selling liquor or beer on tribal trust lands.

(13) "Operator" shall mean all enrolled members of twenty-one years of age and over, of the Citizen Band Potawatomi Indians of Oklahoma or enrolled members of twenty-one years of age and over, of another federally recognized Tribe of American Indians licensed by the Citizen Band Potawatomi Indians of Oklahoma to operate a tobacco and/or liquor and beer outlet.

1.3 Licensing of Tobacco or Liquor and Beer Outlets.

1-3.01 Licensing. The Citizen Band Potawatomi Indians of Oklahoma Business Committee shall be the Citizen Band Potawatomi Indians of Oklahoma Tobacco, Liquor and Beer Control Commission. The Commission is empowered to:

(1) Administer these regulations by exercising general control, management, and supervision of all tobacco and/or liquor and beer sales, places of sale and sales outlets as well as exercising all powers necessary to accomplish the purposes of these regulations.

(2) Adopt and enforce rules and regulations in furtherance of the purpose of these regulations and in the performance of its administrative functions.

1-4 Nature of Outlet.

1-4.01 Nature of Outlet. Each tobacco and/or liquor and beer outlet, license granted by the Commission, hereunder, shall be managed pursuant to a Federal Indian Trader's License provided in Section 1-7 hereof.

1-5 Application for Tobacco Outlet License or Liquor and Beer Outlet License.

1-5.01 Application. Any enrolled member, twenty-one years of age and older, of the Citizen Band Potawatomi Indians of Oklahoma or an enrolled member, twenty-one years of age and older, of a federally recognized Tribe may apply to the Commission for a tobacco outlet license and/or a liquor and beer outlet license.

1-5.02 Processing of Application. The Tribal Secretary-Treasurer shall receive and process applications and be the official representative of the Tribe and Commission in matters relating to tobacco and/or liquor and beer excise tax collections and related matters. The Commission or its authorized representative shall obtain additional information as deemed appropriate. If the Commission or its authorized representative is satisfied that the applicant is a suitable and respectable person, the Commission or its authorized representative may issue a license for the sale of tobacco products and/or liquor and beer products.

1-5.03 Application Fee. Each application shall be accompanied by an application charge or fee of twenty-five dollars ($25.00). An application for both a tobacco outlet license and a liquor and beer outlet license shall be considered to be two applications with an application charge of twenth-five dollars ($25.00) each.

1-6 Tobacco Outlet Licenses. Liquor and Beer Licenses.

1-6.01 Upon approval of an application, the Commission shall issue the applicant a tobacco outlet license and/or a liquor and beer outlet license, whichever the case may be, for one year from the date of issuance, which shall intitle the operator to establish and maintain only the type outlet being permitted. This license shall not be transferable. It shall be renewable at the discretion of the Commission by submission of the licensee of subsequent application form and payment of application fee as provided in Section 1-5.

1-7 Trader's License.

1-7.01 Trader's License. No tobacco outlet license or liquor and beer outlet license shall be issued to any operator unless he/she has obtained a Federal Indian Trader's License from the Superintendent of the Shawnee Agency, Bureau of Indian Affairs. Revocation of the Federal Indian Trader's License shall be grounds for the revocation of their operator's tobacco outlet license and/or liquor and beer outlet license by the Commission.

1-8 Regarding Sales by Liquor Wholesales and transport of Liquors upon Tribal Trust Lands.

1-8.01 Right of Commission Scrutinize Suppliers. The operator of any licensed outlet shall keep the Commission informed in writing of the identity of suppliers and/or wholesalers who supply or are expected to supply tobacco or liquor stocks to the outlet(s). The Commission may, at its discretion, for any reasonable cause limit or prohibit the purchase of said stock from a supplier or wholesaler.

1-8.02 Freedom of Information From Suppliers. Operators shall in their purchase of stock and in their business relations with suppliers cooperate with and assist the free flow of information and data to the Commission from suppliers relating to the sales and business arrangements between the suppliers and operators. The Commission may, at its discretion, require the receipts from the supplies of all invoices, bills of lading, billings or other documentary receits of sales to the operator.

1-9 Sales by Retail Operators.

1-9.01 Commission Regulations. The Commission shall adopt procedures which shall supplement these Regulations and facilitate their enforcement. These procedures shall include limitations on sales to minors, where liquor may be consumed, persons not allowed to purchase alcoholic beverages, hours and days when outlets may be open for business, and other appropriate matters and controls.

1-9.02 Sales to Minors. No Tribal operator shall give, sell, or otherwise supply liquor to any person under twenty-one (21) years of age either for his or her own use or for the use of his or her parents or for the use of any other person.

1-9.03 Consumption of Liquor Upon Licensed Premises. No Tribal operator shall permit any person to open or consume liquor on his or her premises or any premises adjacent thereto and in his or her control; Provided, the Commission will identify specific locations upon Tribal Trust Lands where beer and/or alcohol may be consumed.

1-9.04 Conduct on Licensed Premises.

(1) No Tribal operator shall be disorderly, boisterous or intoxicated on the licensed premises or on any public premises adjacent thereto which are under his or her control, nor shall he or she permit any disorderly, boisterous or intoxicated person to be thereon: nor shall he or she use or allow the use of profane or vulgar language thereon.

(2) No operator shall permit suggestive, lewd, or obscene conduct or acts on his or her premises. For the purpose of this section, suggestive, lewd, or obscene acts or conduct shall be those acts or conduct identified as such by the laws of the State of Oklahoma.

1-9.05 Employment of Minors. No person under the age of twenty-one (21) years of age shall be employed in any service in connection with the sale or handling of liquor, either on a paid or voluntary basis, except as otherwise provided herein. Employees eighteen (18) years or older may sell or handle beer or wine provided that there is direct supervision by an adult twenty-one (21) years of age or older.

1-9.06 Operator's Premises Open to Commission Inspection. The premises of all operators, including vehicles used in connection with liquor sales, shall be open at all times to inspection by the Citizen Band Potawatomi Indians of Oklahoma Tobacco, Liquor and Beer Control Commission or its designated representative.

1-9.07 Operator's Records. The originals or copies of all sales slips, invoices, and other memoranda covering all purchases of liquor by operators shall be kept in file in the retail premises of the operator purchasing the same for at least five (5) years after each purchase, and shall be filed separately and kept apart from all other records, and as nearly as possible shall be filed in consecutive order and each month's records kept separate so as to render the same readily available for inspection and checking. All cancelled checks, band statements and books of accounting covering or involving the purchase of liquor, and all memoranda, if any, showing payment of money for liquor other than by check, shall be likewise preserved for availability for inspection and checking.

1-9.08 Records Confidential. All records of the Citizen Band Potawatomi Indians of Oklahoma Tobacco, Liquor and Beer Control Commission showing purchase of liquor by any individual or group shall be confidential and shall not be inspected except by members of the Commission or its authorized representative.

1-9.09 Conformity With State Law. Operators shall comply with State of Oklahoma liquor standards to the extent required by 18 USC 1161. However, total jurisdiction over the sale of liquor and beer products is reserved to and exercised by the Citizen Band Potawatomi Indians of Oklahoma Tobacco, Liquor and Beer Control Commission within the boundaries of Tribal Trust Lands.

1-10 Tribal Excise Tax Imposed Upon Distribution of Tobacco and Liquor.

1-10.01 Tribal Excise Taxes. The Commission shall by resolution include a provision for the taxing of sales of cigarettes, tobacco and liquor and beer products to the consumer or purchaser. Such tax shall be in amounts equal to at least 5% of all retail sales prices, but the Commission may establish tax rates in excess of that 5% for any given class of merchandise.

1-10.02 Added to Retail Price. The excise tax levied hereunder shall be added to the retail selling price of tobacco products and/or liquor and beer products sold to the ultimate consumer.

1-11 Liability for Bills.

1-11.01 Liability for Bills. The Tribe shall have no legal responsibility for any unpaid bills owed by a tobacco outlet and/or liquor and beer outlet to a wholesale supplier or any other person.

1-12 Other Business By Operator.

1-12.01 Other Business by Operator. An operator may conduct another business simultaneously with managing a tobacco outlet and/or liquor and beer outlet, PROVIDED, such other business must be approved prior to initiation by majority vote of the Citizen Band Potawatomi Indians of Oklahoma Business Committee. Said other business may be conducted on the same

premises as a tobacco outlet and/or liquor and beer outlet, but the operator shall be required to maintain separate books of account for the other business.

1–13 Tribal Liability and Credit.

1–13.01 Operators are forbidden to represent or give the impression to any supplier or person with whom he or she does business that he or she is an official representative of the Tribe or the Commission authorized to pledge tribal credit or financial responsibility for any of the expenses of his or her business operation. The operator shall hold the Citizen Band Potawatomi Indians of Oklahoma harmless from all claims and liability of whatever nature. The Commission shall revoke an operator's outlet license(s) if said outlet(s) is not operated in a businesslike manner or if it does not remain financially solvent or does not pay its operating expenses and bills before they become delinquent.

1–13.02 Insurance. The operator shall maintain at his or her expense adequate insurance covering liability, fire, theft, vandalism, and other insurable risks. The Commission or the Business Committee may establish, as a condition of any license, the required insurance limits and any additional coverages deemed advisable.

1–14 Audit and Inspection.

1–14.01 All of the books and other business records of the outlet shall be available for inspection and audit by the Commission or its authorized representative for any reasonable time.

1–14.02 Bond For Excise Tax. The excise tax together with reports on forms to be supplied by the Commission shall be remitted to the Tribal office monthly unless otherwise specified in writing by the Commission. The operator shall furnish a satisfactory bond to the Tribe in an amount to be specified by the Commission guaranteeing his or her payment of excise taxes.

1–15 Revocation of Operator's License.

1–15.01 Revocation of Operator's License. Failure of an operator to abide by the provision of these regulations and any additional regulations or requirements imposed by the Commission will constitute grounds for revocation of the operator's license as well as enforcement of the penalties provided in 1–16.

1–16 Violation—Penalties.

1–16.01 Any Indian violating these Regulations shall be guilty of an offense and subject to a fine of not less than fifty dollars ($50.00) and not to exceed a maximum of two hundred-fifty dollars ($250.00). Any operator who violates the provisions set forth herein shall forfeit all of the remaining stock in the outlet(s). The Tribe shall be empowered to seize forfeited products.

1–17 Separability.

1–17.01 If any provision of the Regulations in its application to any person or circumstance is held invalid, the remainder of the Regulations and their application to other persons or circumstances is not affected.

[FR Doc. 82–6670 Filed 3–10–82; 8:45 am]

BILLING CODE 4310–42–M

Bureau of Land Management

[AA–6680–B and AA–6680–C]

Alaska Native Claims Selection

On May 3, 1968, the Corps of Engineers, acting on behalf of the United States Air Force, made application for withdrawal of certain lands in the vicinity of Naknek. These lands were selected by Paug-Vik Incorporated, Limited, for the Native village of Naknek, in selection applications AA–6680–B and AA–6680–C, filed December 4, 1974, under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA).

On August 12, 1977, the Corps of Engineers filed a request for an ANCSA Sec. 3(e) determination, which was serialized as AA–19276. The Alaska Native Claims Appeal Board has held that lands under application for withdrawal for defense purposes which are not withdrawn or reserved as of December 18, 1971, are subject to a determination pursuant to Sec. 3(e) of ANCSA which states:

"Public lands" means all Federal lands and interests therein located in Alaska except: (1) The smallest practicable tract, as determined by the Secretary, enclosing land actually used in connection with the administration of any Federal installation * * *

On July 8, 1981 (as amended), the Bureau of Land Management made a determination that the following described lands are the smallest practicable tracts enclosing lands actually used in connection with the administration of this United States Air Force facility:

Seward Meridian, Alaska

T. 17 S., R. 44 W. (Surveyed),
Sec. 33, S½NW¼, N½N½SW¼.
Containing 120 acres.

T. 17 S., R. 45 W. (Partially Surveyed),
Sec. 22, N½NW¼SE¼, N½S½NW¼SE¼;
Sec. 23, NE¼, N½NW¼, SE¼NW¼, N½SE¼.
Containing approximately 390 acres.
Aggregating approximately 510 acres.

The remaining lands in Sec. 3(e) case file AA–19276 have been determined to be public lands and will be approved for conveyance to Paug-Vik, Incorporated, Limited, in this document. No further Sec. 3(e) determination is required for lands within case file AA–19276.

As to the lands described below, applications AA–6680–B and AA–6680–C submitted by Paug-Vik Incorporated, Limited, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating 970.90 acres, is considered proper for acquisition by Paug-Vik Incorporated, Limited, and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Seward Meridian, Alaska (Surveyed)

T. 17 S., R. 44 W.,
Sec. 27, S½SW¼;
Sec. 28, NW¼SW¼, S½S½;
Sec. 29, E½E½SW¼, SE¼;
Sec 30, E½E½NE¼NE¼SW¼, E½NE¼SE¼NE¼SW¼, W½NW¼NW¼SE¼, NW¼SW¼NW¼SE¼;
Sec. 32, lot 8, NE¼, E½NE¼NW¼, N½N½SE¼;
Sec. 33, N½N½;
Sec. 34, N½NW¼.
Containing 970.90 acres.

There are no inland water bodies considered to be navigable within the above-described lands.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement map attached to this document, a copy of which will be found in case file AA–6680–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: Travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

Utility Easement—The uses allowed for a communication cable are those uses associated with the construction, operation, and maintenance of a communication cable.

a. (EIN 12 C3, D1, D9, L) An easement sixty (60) feet in width for an existing road from King Salmon easterly to the Katmai National Monument in Sec. 30, T. 17 S., R. 43 W., Seward Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

b. (EIN 12a C3, D1, D9, L) An easement sixty (60) feet in width for an existing road from EIN 12 C3, D1, D9, L, in Sec. 32, T. 17 S., R. 44 W., Seward Meridian, southerly to a military camp and the Naknek River in Sec. 4, T. 18 S., R. 44 W., Seward Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

c. (EIN 34 K) An easement twenty (20) feet in width for existing communication cable from the Air Force Main Base Area at King Salmon in Sec. 23, T. 17 S., R. 45 W., Seward Meridian, southeasterly to the Air Force Demolition Area in Sec. 33, T. 17 S., R. 44 W., Seward Meridian. The uses allowed are those listed above for a utility easement.

The grant of the above-described lands shall be subject to:

1. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

2. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Paug-Vik Incorporated, Limited is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 105,199 acres of this entitlement have been approved for conveyance. The remaining entitlement of approximately 10,001 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be granted to the Bristol Bay Native Corporation when conveyance is granted to Paug-Vik Incorporated, Limited, for the surface estate, and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, provided, however, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

Appeals should be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until April 12, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

U.S. Department of the Army, Alaska District Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510
State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510
Paug-Vik Incorporated, Limited, P.O. Box 61, Naknek, Alaska 99633
Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576.

Ruth Stockie,
Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–6504 Filed 3–10–82; 8:45 am]

BILLING CODE 4310–84–M

Las Cruces District Advisory Council Meeting

March 2, 1982.

AGENCY: Las Cruces District, Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Agenda.

DATE: April 8, 1982.

ADDRESS: Desert Room, Best Western of Las Cruces, 901 Avenida de Mesilla, Las Cruces, New Mexico.

FOR FURTHER INFORMATION CONTACT: Daniel C. B. Rathbun, District Manager, Las Cruces District, Bureau of Land Management, P.O. Box 1420, Las Cruces, New Mexico 88004, Phone (505) 524–8551 FTS 572–0257.

SUPPLEMENTARY INFORMATION:

Agenda

1. Approval of Minutes
2. Preliminary planning for 1983 improvement projects
3. Briefing on status of monitoring studies
4. Status of Southern Rio Grande grazing decisions

At 2:00 P.M. comments from the public will be received.

Donnie R. Sparks,
Acting District Manager.

[FR Doc. 82–6580 Filed 3–10–82; 8:45 am]

BILLING CODE 4310–84–M

Nevada; Redelegation of Authority

Section 1.1(a)(2) of Bureau Order No. 701 dated July 23, 1964, as amended by notice published at 45 FR 6177 on Friday, January 24, 1980 (FR Doc. 80–2428 filed 1/24/80; 8:35 a.m.) authorizes the Bureau of Land Management State Directors the opportunity to redelegate the authority to grant, renew, reassign or revoke rights-of-way under Title I, Section 28 of the Mineral Leasing Act of 1920, as amended, and under the Federal Land Policy and Management Act of

1976 to Bureau of Land Management District and Area Managers.

That authority is hereby redelegated to the Elko, Winnemucca, Ely and Battle Mountain District Managers.

This notice has no other effect on the provisions of FR Doc. 80-2428.

EFFECTIVE DATE: This redelegation will become effective April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mike Moran, Nevada State Office, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 82-6561 Filed 3-10-82; 8:45 am]

BILLING CODE 4310-84-M

New Mexico; Chaco Management Framework Plan—Additional Surface/Underground Minable Coal Resource

AGENCY: Land Management Bureau, Interior.

ACTION: Notice of intent to amend the Chaco Management Framework Plan.

SUMMARY: This notice is to advise the public that the Albuquerque District of the Bureau of Land Management will amend portions of the Chaco Management Framework Plan (MFP). This action is in response to new data and expressions of coal leasing interest received by the U.S. Geological Survey.

The MFP will be amended to identify additional surface/underground minable federal coal resources available for further consideration for leasing.

SUPPLEMENTARY INFORMATION: The Albuquerque District of the Bureau of Land Management will amend portions of the Chaco Management Framework Plan (MFP), in response to new data and expressions of coal leasing interest received by the U.S. Geological Survey, Albuquerque, New Mexico.

The MFP amendment, planned for completion by May 31, 1982, will incorporate approximately 22,000 acres of surface/underground minable federal coal resources into the land use planning process.

These isolated lands are adjacent to land already carried foward for further consideration for leasing in the Chaco MFP completed in September 1981. Management decisions will be made based on the following criteria: the application of unsuitability criteria, the resolution of conflicts with existing MFP decisions, and an analysis of those values that could additionally be impacted by further consideration of areas for surface/underground coal development. Background standards and procedures for this MFP amendment preparation are contained 43 CFR Part 3400 and 43 CFR Part 1600. The standards for this review are also discussed in the Final Environmental Statement-Federal Coal Management Program describing the Secretary of Interior's preferred coal program and alternatives, released in April 1979.

Anticipated issues include but are not limited to grazing, relocation, cultural resources, geology, socio-economics and soils. During the amendment process an Environmental Assessment (EA) will be conducted by staff specialists of the Albuquerque District Office. Disciplines to be represented include cultural resources, geology, hydrology, land uses, socio-economics, soils, recreation, wildlife, range, visual resource management, paleonotology, and forest products.

This effort will allow for the evaluation of the newly identified resources, along with previously identified surface and underground minable coal, in delineating tracts for further consideration for leasing.

The areas to be addressed for surface/underground minable resources are located in McKinley County, New Mexico and include portions of the following described townships:

New Mexico Principal Meridian, New Mexico

T. 12 N., R. 18 W.
T. 13 N., R. 17 and 18 W.
T. 14 N., R. 19 W.
T. 15 N., R. 6, 7, 8, 10, 17 and 20 W.
T. 16 N., R. 7, 8, 9 and 10 W.
T. 17 N., R. 4, 5 and 10 W.
T. 18 N., R. 13 W.

Public participation opportunities will be provided in the following ways: (1) A **Federal Register** notice will announce initiation of the amendment process; (2) A news release will appear in local newspapers, asking interested parties to identify issues of concern and impacts that should be addressed; (3) A notice of intent to amend the MFP will be sent to federal, state, and local governments that would be concerned with the plan or have land use regulatory authority in the vicinity of the proposed amendment, asking them to identify issues and concerns; (4) At the March 10, 1982 meeting of the San Juan River Regional Coal Team, the need for the amendment will be presented. (5) At the April 20–21, 1982 meeting of the San Juan River Regional Coal Team, the initial Decision of the District Manager will be presented. (6) A **Federal Register** notice will be published explaining the initial Decision of the District Manager. Protests will be received by the State Director for 30 days following that notice. The amendment may be approved after protests are resolved and at least 30 days after public notice.

For further information contact Betty Sladek, Planning Coordinator, Bureau of Land Management, Albuquerque District Office, 3550 Pan American Freeway, NE., P.O. Box 6770, Albuquerque, New Mexico 87107, phone (505) 766–2455. Documents relevant to the planning process are available for public inspection at the above address and/or the Farmington Resource Area Office, P.O. Box 568, 900 La Plata Hwy., Farmington, New Mexico 87401, phone (505) 325–3581, Robert Calkins, Area Manager.

Richard E. Fagan,

Acting District Manager.

March 3, 1982.

[FR Doc. 82-6577 Filed 3-10-82; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf Advisory Board; Gulf of Mexico Regional Technical Working Group Committee; Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92-463. A meeting of the Outer Continental Shelf Advisory Board's Gulf of Mexico Regional Technical Working Group will be held on May 13–14, 1982. The purposes of the meeting are to receive comments on the preliminary draft Gulf of Mexico regional environmental impact statement and to discuss the Fiscal Year 1984 Draft Regional Studies Plan for the Gulf of Mexico.

The meeting will be held in the Killian Room of the International Trade Center Building, at 250 North Water Street, Mobile, Alabama. The session on May 13 will be from 1:00 p.m. to 6:00 p.m. and on May 14 from 8:00 a.m. to 12:00 noon. The meeting is open to the public and interested persons may make oral or written presentations. Such requests should be made not later than May 7 to Sydney H. Verinder, New Orleans OCS Office, 500 Camp Street, Suite 841, New Orleans, Louisiana 70130–3391, telephone number (504) 589–6541.

A taped transcript and complete summary minutes of the meeting will be available for public inspection at the New Orleans OCS Office not later than 60 days after the meeting.

John L. Renkin,

Manager, New Orleans Outer Continental Shelf Office.

March 5, 1982.

[FR Doc. 82-6582 Filed 3-10-82; 8:45 am]

BILLING CODE 4310-84-M

Southern Rio Grande Planning Area Rangeland Program Summary, Availability

AGENCY: Las Cruces District, Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to § 4160.1–1(a) of the Bureau of Land Management (BLM) Grazing Regulations, the BLM has prepared a Rangeland Program Summary (RPS) describing the selected strategy for managing grazing on 2,146,034 acres of public land in the southern Rio Grande Planning Area. The decisions were reached following the completion of the Final Grazing Environmental Impact Statement (FEIS) and the planning system. The RPS describes how these decisions will be implemented. It also describes the monitoring studies that will be initiated to determine the effects of the grazing management program, and the accuracy of the conclusions of the Southern Rio Grande Grazing EIS.

FOR FURTHER INFORMATION CONTACT: Ed Webb, Environmental Coordinator, P.O. Box 1420, Las Cruce, New Mexico 88004, Telephone: (505) 524–8551 or FTS 572–0257.

SUPPLEMENTARY INFORMATION: A limited number of copies of the RPS are available at the Las Cruces District Office, 317 N. Maine, P.O. Box 1420, Las Cruces, New Mexico. Public reading copies are available for review at the BLM State Office, U.S. Federal Building, Santa Fe, New Mexico, and public and university libraries in Las Cruces, Alamogordo, Truth or Consequences, Deming, Silver City, and Albuquerque, New Mexico, and El Paso, Texas.

Daniel C. B. Rathbun,

District Manager.

[FR Doc. 82-6579 Filed 3-10-82; 8:45 am]

BILLING CODE 4310-84-M

Utah; Wilderness Inventory Decision—Link Flats Instant Study Area Protest Decision

AGENCY: Land Management Bureau, Interior.

ACTION: Notice.

SUMMARY: This notice announces the Utah State Director's decision on a protest received on Link Flats Instant Study Area (ISA). On June 18, 1980 a Federal Register notice was published stating that due to a protest the final decision on the wilderness characteristics determination would not become effective until the State Director issued a decision on the protest. The State Director's original decision was that the ISA lacked wilderness characteristics. That original decision, as published in the May 5, 1980 **Federal Register**, is unchanged as a result of the protest and will become effective April 12, 1982 unless an appeal is received. Since the original decision is unchanged, only the protestor may appeal this decision to the Interior Board of Land Appeals (IBLA) by following administrative procedures applicable to formal appeals as published in the Code of Federal Regulations under 43 CFR Part 4.

The protest could not be answered at an earlier date as it involved contiguous land that was under administrative appeal to the IBLA. The IBLA issued their decision on the contiguous lands on February 10, 1982, therefore the protest on Link Flats ISA can now be finalized.

FOR FURTHER INFORMATION CONTACT: Kent Biddulph, Wilderness Coordinator, Utah State Office, BLM, (801)524–5326.

Dated: March 4, 1982.

Robert G. Robison,

State Director.

[FR Doc. 82-6578 Filed 3-10-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that ARCO Oil and Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS–G 4392 and 4758, Blocks 211 and 212, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: March 2, 1982.

Lowell G. Hammons,

Minerals Manager Gulf of Mexico OCS Region.

[FR Doc. 82-6583 Filed 3-10-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Conoco Inc., as designated agent for Texaco Inc., Unit Operator of the Eugene Island Block 205 Federal Unit Agreement No. 14–08–0001–8654, submitted on February 26, 1982, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the Eugene Island Block 205 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: March 5, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-6694 Filed 3-10-82; 8:45 am]

BILLING CODE 4310-31-M

INTERSTATE COMMERCE COMMISSION

[No. AB-55 (Sub-No. 55F)]

Seaboard Coast Line Railroad Co., Abandonment in Martin, Pitt, and Beaufort Counties, N.C.; Findings

March 2, 1982.

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision dated March 2, 1982, a finding, which is administratively final, was made by the Administrative Law Judge stating that the public convenience and necessity permit the abandonment by Seaboard Coast Line Railroad Company of a segment of rail line extending from railroad milepost AAB-134.14 near Parmele, NC to railroad milepost AAB-158.85 at Washington, NC, a distance of 24.71 miles, in Martin, Pitt and Beaufort Counties, NC. Abandonment is subject to the conditions for the protection of employees in *Oregon Short Line Railroad Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). Offers of financial assistance must be made within 10 days of the publication of this notice. Any person who made an offer of financial assistance prior to the publication of the notice must inform the carrier and the Commission of its continued interest or the offer may be considered to have lapsed. A certificate of abandonment will be issued to the Seaboard Coast Line Railroad Company based on the above-described finding, 30 days after publication of this notice, unless within 15 days from the date of publication, the Commission further finds:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued. The offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice; and

(2) it is likely that such proffered assistance would:

(a) cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed. An offer may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of any offer, and no request is made of the Commission to set conditions or amount of compensation, a certificate of abandonment will be issued no later than 50 days after notice is published. Upon notification to the Commission of execution of an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in 49 CFR 1121 as revised by Ex Parte No. 274 (Sub-No. 6), *Abandonment of Railroad Lines and Discontinuance of Service*, 365 I.C.C. 249 (1981) as published at 46 FR 45342 (September 11, 1981). All interested persons are advised to follow the instructions contained therein as well as the instructions in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6600 Filed 3-9-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-95)]

Rail Carriers; Richmond, Fredericksburg & Potomac Railroad Co., Exemption for Contract Tariff ICC-RFP-C-0009

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: Petitioners are granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., or Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: The Richmond, Fredericksburg and Potmac Railroad Company (RF&P) filed a petition on February 26, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). Petitioners request that we permit contract tariff ICC-RFP-C-0009 to become effective on one day's notice. The tariff was filed to become effective on March 29, 1982. The tariff provides for the track storage of paper and paper products at Bryan Park, Virginia, a local station on the RF&P, in equipment carrying RF&P markings.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. Due to the economic downturn, the RF&P has excess equipment, and the paper industry has excess production. The contract allows the shippers to store their shipments in boxcars until needed at destination. This eliminates the need for making a shipment to a storage warehouse and reshipping when the product is needed. It also permits utilization of idle boxcars. One shipper has developed a production problem and requires immediate storage. Advancement of the effective date would permit immediate use of the boxcars. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioner's contract tariff ICC-RFP-C-0009 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505)

Dated: March 5, 1982.

By the Commission, Division 1, Commissioners Clapp, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6595 Filed 3-10-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-97)]

Rail Carriers; Union Pacific Railroad Co. Exemption for Contract Tariff ICC-UP-0015

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: Petitioners are granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., or Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: The Union Pacific Railroad Company (UP) filed a petition on February 25, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). Petitioner requests that we permit contract tariff ICC-UP-C-0015 to become effective on one day's notice. The tariff was filed to become effective on March 27, 1982. The contract establishes rates for the movement of phosphate, and will terminate on May 31, 1982.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving the requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. There is a possibility that without the ability to move the phosphate under the contract rate immediately, the shipper would lose substantial sales and could be forced to close its plant. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioner's contract tariff ICC-UP-C-0015 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505)

Dated: March 5, 1982.

By the Commission, Division 1, Commissioners Clapp, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6634 Filed 3-10-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Redelegation of Authority No. 99.1.1.2]

Assistant Director for Program Operations, and Assistant Director for Resources and Support Office of International Training; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me by Redelegation of Authority No. 99.1, dated May 1, 1973 (38 FR 12836), as amended, I hereby redelegate to the Assistant Director for Program Operations and Assistant Director for Resources and Support, Office of International Training authority to sign:

1. Contracts, and amendments thereto, for participant training (Forms AID 1420-27F (3-74) and AID 1420-27G (3-74)) in an aggregate amount for each contract not to exceed $50,000;

2. Purchase Orders (SF-147), as defined in Section 1-3.600 of the Federal Procurement Regulations, for various participant training expenses;

3. Interpreter services contracts, amendments, and letters of assignment thereto, on CM developed format with daily rates established by the Department of State, regardless of total amount; and

4. Field program manager and exit interviewer services contracts, and amendments thereto, on CM developed format, with daily rates established by the Department of State, regardless of total amount.

The authority herein redelegated to the officers named above may not be further redelegated by such officer, but may be exercised by duly authorized persons who are performing the functions of the Assistant Director for Program Operations, and/or Assistant Director for Resources and Support in an A"Acting" capacity.

The authorities redelegated herein are to be exercised in accordance with regulations, procedures, and policies now or hereafter established or modified and promulgated within the Agency for International Development.

This redelegation of authority shall be effective immediately.

Dated: February 26, 1982.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 82-6674 Filed 3-10-82; 8:45 am]

BILLING CODE 8116-01-M

Housing Guaranty Program; Investment Opportunity

The Agency for International Development (A.I.D.) has authorized guaranties of loans to a number of developing countries (Borrowers) as part of A.I.D.'s overall development assistance program. The proceeds of these loans will be used to finance shelter projects for low income families residing in the countries of the Borrowers. The following addresses of Borrowers and loan amounts indicate new projects that will soon be ready to receive financing and for which the Borrowers are requesting proposals from U.S. lenders or investment bankers:

Zimbabwe

Project: 613-HG-001—$25,000,000

Austin Copeland, Undersecretary of Treasury, Ministry of Finance, Salisbury, Zimbabwe, Telex: 2141

El Salvador

Project: 519-HG-008B—$5,500,000

Atilio Vieytez, Minister of Planning, Casa Presidencial, San Salvador, El Salvador, Telex: 301 20348, or

Renaldo Galdanes, Financiera Nacional de Vivienda, San Salvador, El Salvador, Telex: 301 20272

Assitional projects will be advertised from time to time as they become ready for borrowing.

By this notice of investment opportunity, the above Borrowers are soliciting expressions of interest from U.S. lenders or investment bankers to counsel on loan timing, structure and features, and to manage the loans or underwritings. Interested investment bankers or lenders should contact the Borrowers indicated above. Selection of investment bankers and/or lenders and the terms of the loans are initially subject to the individual discretion of the Borrowers and thereafter subject to approval by A.I.D. The lenders and A.I.D. shall enter into a Contract of Guaranty, covering each of the loans. Disbursements under the loans will be subject to certain conditions required of the Borrowers by A.I.D. as set forth in implementation agreements between A.I.D. and the Borrowers.

The full repayment of the loans will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an A.I.D. guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established from time to time by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from: Director, Office of Housing, Agency for International Development, Room 625, SA/12, Washington, D.C. 20523, Telephone: (202) 632–0837.

Dated: March 4, 1982.

Frederick A. Hansen,

Deputy Director, Office of Housing.

[FR Doc. 82-6675 Filed 3-10-82; 8:45 am]

BILLING CODE 4110-01-M

DEPARTMENT OF JUSTICE

Proposed Amendments to a Clean Air Act and Clean Water Act Consent Decree Involving Wheeling-Pittsburgh Steel Corporation's Pennsylvania, West Virginia and Ohio Steel Facilities

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on February 11, 1982, proposed amendments to a Clean Air Act and Clean Water Act consent decree in *United States of America and Commonwealth of Pennsylvania, State of West Virginia and State of Ohio* v. *Wheeling-Pittsburgh Steel Corporation*, No. 79–1194, was lodged with the United States District Court for the Western District of Pennsylvania. The proposed amendment to the consent decree would allow Wheeling-Pittsburgh additional time to meet some of its Consent Decree obligations, including an extension until 1985 to complete a coke over gas desulfurization control program at its Monessen, Pennsylvania plant (which area is not classified for attainment purposes for sulfur oxides). The amendments also permit Wheeling-Pittsburgh to explore alternative control programs at its sources to control air and water pollution.

The proposed Amendments may be examined at (1) the Office of the United States Attorney, Western District of Pennsylvania, United States Courthouse, 633 U.S. Post Office and Courthouse, 7th Avenue and Grant Street, Pittsburgh, Pennsylvania 15219; (2) the offices of the Environmental Protection Agency, Region V, Office of Regional Counsel, 230 S. Dearborn Street, Chicago, Illinois 60604 and Region III, Office of Regional Counsel, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106; (3) and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1254, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed Amendments may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice upon payment of a copying charge of $2.70 ($.10 per page for reproduction costs).

The Department of Justice will receive comments relating to the proposed Amendments for a period of ten (10) days from the date of this notice. Comments should be directed to the Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530 and should refer to *United States of America and Commonwealth of Pennsylvania, State of West Virginia and State of Ohio* v. *Wheeling-Pittsburgh Steel Corporation*, DOJ Reference #90–5–1–1–1207.

Carol E. Dinkins,

Assistant Attorney General Land and Natural Resources Division.

[FR Doc. 82-6666 Filed 3-10-82; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL SCIENCE FOUNDATION

Committee Management; National Science Foundation Advisory Council; Notice of Renewal

Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, it is hereby determined that the renewal of the National Science Foundation Advisory Council is necessary and is in the public interest in connection with the performance of duties imposed upon the National Science Foundation by the National Science Foundation Act of 1950, as amended, and other applicable law. This determination follows consultation with the Committee Management Secretariat, General Services Administration, as required by the Federal Advisory Committee Act and other applicable regulations.

Authority for the Advisory Council shall expire on March 8, 1984, unless the Director of the National Science Foundation formally determines that continuance is in the public interest.

John B. Slaughter,

Director.

March 8, 1982.

[FR Doc. 82-6611 Filed 3-10-82; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Responses; Availability of Recommendation Responses

Secretary of Transportation: Dec. 22, H–80–67: Establishing task force to study barrier snagging by the front wheels of small front-wheel drive and schoolbus-type vehicles will not substantially supplement current efforts in this areas. *Feb. 22, I–81–8:* No task force has been established; NHTSA and other modal administrations have been working together to develop the Hazardous Materials Information System. *I–81–9:* Using such a form would be impractical for NHTSA's Fatal Accident Reporting System (FARS); supplemental forms are not cost-effective. *I–81–10:* RSPA has a pilot project to crossreference information on hazardous materials accidents with FRA. After evaluation, RSPA plans to study the feasibility of cross-reference projects with other administrations.

Federal Aviation Administration: Dec. 30, A–81–104, 107, –110, and –112: Concurs in intent of recommendations and agrees that further study is desirable. *A–81–105 and –108:* Concurs; DC–9 Flight Standardization Board will review and take action to insure that all established DC–9 training programs require adequate information and training in ground reverse operations. *A–81–106, –109, and –122:* Will initiate study on the effect of reverse thrust as it applies to flight training simulators. *A–81–111:* Concurs. *A–81–123:* Concurs; National Simulator Evaluation Team (AFO–205) is preparing revision of Advisory Circular 121–14C. *Jan. 5, A–81–139 through –143:* Conducting technical review of each project underway related to recommendations. *Jan. 12, A–81–148:* This was isolated case and corrective action recommended would not be cost-effective or enhance safety. *A–81–149:* Review found procedures and actions of repair station to be fully adequate and in compliance with Federal Aviation Regulations. *A–81–96:* Issued AD–81–24–07, effective Nov. 20, 1981, requiring modification of nose landing gear on certain Piper Models PA–32R and PA–32RT series airplanes within 50 hours time in service. *Feb. 22, A–82–6, –7, –8, and–15:* Telegraphic message containing the verbatim recommendations was transmitted Jan. 28 to all FAA facilities; U.S. air carriers; U.S. owners, operators, aircraft and engine manufacturers; foreign authorities of known airplane registration; and other interested groups; advised FAA regional flight standards personnel to contact all air carriers to review the recommendations and each operator's respective cold weather operational procedures, training programs, and operations manual; FAAS regional survey reports indicate that all air carriers have been made aware of the recommendations and icing hazards; and Air Carrier Operations Bulletin (ACOB) emphasizing appropriate use of engine anti-ice will be issued. *A–82–9:* Flightcrews must use the "clear aircraft" concept specified by current rules without regard to specific time intervals; and ongoing R&D study of ethylene glycol mixtures as anti-icing agents has been accelerated and information from the study is expected to exphasize improved procedures to insure that hazardous ice formation does not exist before takeoff. *A–82–10:* A copy of recommendations A–82–6 through –15 was sent to all air traffic facilities in GENOT form Jan. 28; provisions of current gate-hold procedures are adequate. *A–82–13:* Do not concur; pilot is best able to make decisions concerning aircraft operation requirements and air traffic controllers will continue providing service and special handling to aircraft as requested by the pilot. *A–82–14:* In the meteorological portion of Phase II in the basic air traffic training program, in-depth training is conducted to identify the forms of icing and its effects on aircraft performance; will advise present work force via the Air Traffic Service Bulletin of the hazard of aircraft structure and engine icing. *A–82–11– and –12:* Developing new advisory circular (AC) regarding hazards of engine inlet icing, pressure probe icing and blockage, and methods flightcrew can use to recognize these conditions and properly use engine anti-ice system; making a detailed technical analysis to include specific engine instrument reading impacts, cross-check procedures, and performance degradation parameters in this AC; will review AC 91–13c and AC 91–51 to update areas not covered by new AC. *Feb. 23, A–81–83 and –84:* Will issue an airworthiness alert in the April 1982 publication of the General Aviation Airworthiness Alert (AC–43–16). *A–79–85:* With the safety life substantiation of the blades and their extensive service experience, there is no technical basis for requiring additional inspections of the blades; a requirement for ultrasonic inspection would place an undue burden on small operators. *A–81–161:* Concur. *A–81–154:* Will periodically reemphasize to controllers the availability of NASA's Aviation Safety Reporting System (ASRS) to report hazardous conditions; mailing ASRS monthly newsletter to all air traffic control facilities; updating Airman's Information Manual, Basic Flight Information and ATC Procedures, Section 6, Safety, Accident, and Hazard Reports, regarding program status and availability of reporting forms. *A–81–155:* Implementation not feasible during rebuilding effort. *A–81–156:* Presently have an established Technical Appraisal Program (TAP) Over-the-Shoulder Evaluations to be used by first-line supervisors and facility staff specialists at least twice a year.

Federal Railroad Administration: Dec. 28, R–79–61: Will not promulgate additional regulations for supervision of train operations. *Jan. 7, R–81–61:* Does not plan to promulgate regulations requiring trains operating on common trackage to have compatible radio equipment, since railroads are voluntarily installing compatible radio equipment on such trains. *Jan. 11, R–74–36:* Because review of accidents reported by the railroads and accidents investigated by FREA show a decrease of accidents on non-signaled main tracks, FRA does not plan to issue additional regulations for trains operations on main tracks without automatic block signal systems. *R–81–69:* Conducted safety review and corrected inadequate conditions.

Research and Special Programs Administration: Dec. 4, I–81–1: On Sept. 2, 1981, representatives of Bureau of Explosives, Association of American Railroads; National Fire Protection Association; International Association of Fire Chiefs; chemical companies; private consultants; NTSB; DOT; and EPA met to review the 1980 Emergency Response Guidebook. Although DOT cannot compel organizations to issue emergency response information according to DOT guidelines, RSPA will work to insure consistency be contacting other organizations to resolve discrepancies. *Dec. 30, P–20 and –21:* Natural Gas Pipeline Company of America has completed remedial work on the 24-inch, compression-coupled gas pipeline.

National Highway Traffic Safety Administration: Dec. 14, H–81–61: Supports appropriate revisions to the UVC addressing the problem in a reasonable and socially acceptable manner.

U.S. Coast Guard: Feb. 22, M–80–23: Will seek legislation for authority to require satellite EPIRB's on U.S. vessels when an acceptable operational satellite system comes into being. *M–80–26:* Basic instructions for duty officers in Rescue Coordination Centers are contained in Chapters 2 and 3 of the National Search and Rescue Manual. *M–80–27 and –28:* Additional tabulation of specific unsafe practices and preventable hazards in commercial fishing industry is beyond Coast Guard budgetary and manpower constraints. *M–80–29:* Commandant Instruction 3100.5 as amended July 29, 1981 concerns attaching an acoustic pinger to a capized hull.

Federal Communications Commission: Jan. 11, M–81–52: MARTECH has modified its service manual to clarify procedure for reassembling the Whaler EB-20W EPIRB after battery replacement. *M–81–53:* Favors use of satellite EPIRB's which are more effective and will probably have an earlier availability. *M–81–54:* Such a requirement could significantly burden resources of FCC-licensed coast stations, and recommends that the Maritime Administration's U.S. Merchant Vessel Locate Filing System (USMER) be considered for use instead.

U.S. Navy: Jan. 7, M–79–102: Collective reports of heavy weather from Navy ships on classified movement are now being provided to the National Weather Service.

State of Hawaii: Jan. 6, H–81–68: There is no State law, but each county has an ordinance to limit persons riding in the cargo area of a pickup truck. *H–81–69:* County ordinances need to be consolidated into a State law.

American Public Transit Association: Dec. 15, R–79–53: Draft emergency preparedness guidelines should be available Feb. 2, 1982, from Urban Mass Transportation Administration's Office of Safety and Product Qualification; letters from rail transit systems giving information on voluntary corrective actions taken after the BART fire were enclosed.

Association of American Railroads: Dec. 31, R–81–79 and –80: Copies of the Board's recommendation letter will be distributed. *H–81–80:* Will cooperate with the other recommendation addresses and others to eliminate railroad/grade crossing accidents involving trucks transporting bulk hazardous materials.

Radio Technical Commission for Marine Services: Dec. 30, M–72–6 and –7: Final report of Special Committee 65 on specifications for shipboard collision avoidance systems has been completed.

Bay Area Rapid Transit District: Dec. 9, R–80–47: Emergency Plan has been completed.

The Family Lines Rail System Dec. 10, R–80–50: Has not taken the recommended action.

Conrail: Dec. 16, R–76–26: Would not be feasible or cost-effective to attempt to test equipment before each trip. *R–76–29 and –30:* Will expand training to insure that all commuter operating employees receive such instructions annually and that procedures are uniformly applied. *R–76–33:* Have accelerated a program of operating testing to improve compliance with signal rules. *Jan. 8, R–81–55:* By Bulletin Order issued Dec. 2, 1981, which will be incorporated in future Operating Timetables, the Metropolitan Region has promulgated instructions regarding the use of specific radio frequencies in the territory involved. *R–81–56:* Facilities have been reviewed at all train order officers to confirm that operators are able to display train order signals at each location.

Chessie System: Jan. 8, R–80–39: Have conducted educational enforcement efforts system-wide on the operating rules and procedures pertinent to the Orleans Road, West Va. accident on Feb. 12, 1980. *R–80–40:* Responsibility of supervisors to assess the fitness for duty of employees has been stressed. *R–81–70:* Dispatching procedures on the Maryland Division were reinforced to eliminate the communications and recordkeeping failure involved in the Germantown, Md. Accident on Feb. 9, 1981. Dispatching procedures now insure recording of train passage times at Rocks and similar locations. *R–81–71:* Evaluation of the Baltimore dispatchers' workloads did not suggest the need for any change. *R–81–72:* Conducted system-wide study of dispatching offices and took action to control access to these facilities and to improve work environments.

Illinois Central Gulf Railroad: Feb. 19, R–80–22: Modified ICG Rule 883 through a bulletin order.

Note.—In the past, NTSB publications have been mailed free of charge to organizations and individuals who NTSB determined had a transportation interest and could influence transportation safety. However, because of recent personnel and budget reductions, NTSB can no longer provide publications free of charge, beginning with reports adopted in 1982, interested organizations and individuals must order reports from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports call 703–487–4650 and to order subscriptions to reports call 703–487–4630. Single copies of recommendation letters (identified by recommendation number) and responses are free on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

H. Ray Smith, Jr.,
Alternate Federal Reigster Liaison Officer.
March 4, 1982.

[Fr Doc.82-6338 Filed 3-10-82; 8:45 am]
BILLING CODE 4910-58-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Reliability and Probabilistic Assessment; Meeting

The ACRS Subcommittee on Reliability and Probabilistic Assessment will hold a meeting on March 25 and 26, 1982, Room 1046, at 1717 H Street, NW, Washington, DC. The Subcommittee will discuss the Zion probabilistic safety study.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recording will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Thursday, March 25, 1982—6:00 p.m. until the conclusion of business.

Friday, March 26, 1982—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with respresentatives of the NRC Staff, their consultants, and other interested persons regarding the topics to be discussed.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Staff Engineer, Mr. J. Michael Griesmeyer (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., e.s.t. The designated Federal Employee for this meeting is Mr. Gary Quittschreiber.

Dated: March 5, 1982.

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc. 82-6610 Filed 3-10-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50–320]

GPU Nuclear Corp.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 20 to Facility Operating License No. DPR–73, issued to GPU Nuclear Corporation, Metropolitan Edison Company, Jersey Central Power & Light Company, and Pennsylvania Electric Company (the licensee). Operating License No. DPR–73 formerly authorized operation of the Three Mile Island Nuclear Station, Unit 2 (TMI–2) located in Dauphin County, Pennsylvania, but that authorization was limited, by an Order for Modification of License dated July 20, 1979 to maintaining the facility in its present safe shutdown condition. (44 FR 45271 (August 1, 1979)). This amendment effects changes to License No. DPR–73

with respect to the radiological-environmental monitoring program requirements as specified in Appendix B of the Technical Specifications. Specifically, this amendment consists of changes to Appendix B of Operating License No. DPR–73 pertaining to the following: (1) Deleting the actual environmental sampling locations from the technical specifications and in turn replacing them with references to tables in the Offsite Dose Calculation Manual (ODCM); (2) Changing the Lower Limits of Detection (LLD) for gross beta, H-3, Zr-95, Nb-95, I-131 in water, milk and food products and for Cs-134, Cs-137 and Ba-140 in airborne particulates and food products and changing the reporting level of H-3 in water; (3) Requiring sampling and analysis for Sr-90 in milk at least once per 92 days, together with specifications on LLD and reporting level for Sr-90 concentration; and (4) Adding to Section 5.6, reporting requirements which were deleted from § 3.2 of the Environmental Monitoring Program.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this section, see (1) The application for amendment dated October 30, 1981 and amended by letter dated December 3, 1981, (2) Amendment No. 20 to License No. DPR–73 consisting of changes in the radiological environmental monitoring program requirements as specified in Appendix B of the Technical Specifications, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Government Publications Section, State Library of Pennsylvania 17126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Program Director, TMI Program Office, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Md., this 3d day of March 1982.

For the Nuclear Regulatory Commission.

Bernard J. Snyder,
Program Director, TMI Program Office, Office of Nuclear Reactor Regulation.

[FR Doc. 82-6604 Filed 3-10-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50–461A]

Illinois Power Co., Soyland Power Cooperative, Inc. and Western Illinois Power Cooperative, Inc.; Finding of No Significant Antitrust Changes and Time for Filing Requests for Reevaluation

The Director of Nuclear Reactor Regulation has made an initial finding in accordance with Section 105c(2) of the Atomic Energy Act of 1954, as amended, that no significant (antitrust) changes in the licensees' activities or proposed activities have occurred subsequent to the previous construction permit review of Unit 1 of the Clinton Nuclear Power Station by the Attorney General and the Commission. The finding is as follows:

Section 105c(2) of the Atomic Energy Act of 1954, as amended, provides for an antitrust review of an application for an operating license if the Commission determines that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review. The Commission has delegated the authority to make the "significant change" to the Director, Office of Nuclear Reactor Regulation. Based upon an examination of the events since issuance of the Clinton 1 and 2 construction permits to the Illinois Power Company, the staffs of the Antitrust and Economic Analysis Branch, Office of Nuclear Reactor Regulation and the Antitrust Section of the Office of the Executive Legal Director, hereafter referred to as "staff," have jointly concluded, after consultation with the Department of Justice, that the changes that have occurred since the antitrust construction permit review are not of the nature to require a second antitrust review at the operating license stage of the application.

In reaching this conclusion, the staff considered the structure of the electric utility industry in central and southern Illinois, the events relevant to the Clinton construction permit review and the events that have occurred subsequent to the construction permit review.

The conclusion of the staff's analysis is as follows:

The principal applicant, Illinois Power Company, represents the largest power system in the relevant marketing area. Additions of large baseload power plants and increases in accompanying transmission facilities generally tend to increase the oversight or planning role of the larger systems in a particular marketing area, i.e., usually enhancing any existing market power of the system.

By subjecting all nuclear applicants to an antitrust review at the CP stage, the NRC via its Section 105c charge, prevents the economies associated with large baseload nuclear plants from being captured by only the largest power systems throughout the country, thereby thwarting increases in existing market power. During the Clinton CP antitrust review, it became apparent that Illinois Power had been less than cooperative with smaller power systems in its service area and adjacent areas. Consequently, a set of antitrust license conditions was attached to the Clinton construction permit which was designed to implement greater coordination between Illinois Power and smaller municipal and cooperative systems in the relevant area—thereby furthering the competitive process among these same power systems.

The economies associated with the Clinton nuclear plant and those linked to Illinois Power's integrated network of power supply were subsequently made available to smaller systems in the area.

Staff has identified a number of changes that, (1) have occurred since the construction permit antitrust review, and (2) are reasonably attributable to the licensee[s]. However, many of these changes are in conformance with the construction permit antitrust license conditions and have had positive performance effects on the availability of bulk power supply and on competition in the area generally. Other changes which have occurred have not had significant negative antitrust implications that would likely warrant a Commission remedy and therefore do not warrant a significant change finding.

Based upon the successful implementation of CP license conditions and the lack of any detrimental conduct or activity [to the competitive process in central and southern Illinois) on the part of Illinois Power Company, Soyland Power Cooperative or Western Illinois Power Cooperative, staff recommends that no affirmative significant change determination be made pursuant to the application for an operating license for Unit 1 of the Clinton Nuclear Power Station.

Based on the staff's analysis, it is my finding that a formal operating license antitrust review of the Clinton Nuclear Power Station, Unit 1 is not required.

Signed on February 23, 1982 by Harold R. Denton, Director of Office of Nuclear Reactor Regulation.

Any person whose interest may be affected by this finding may file with full particulars a request for reevaluation with the Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 by May 10, 1982.

For the Nuclear Regulatory Commission.

Argil Toalston,

Acting Chief, Antitrust and Economic Analysis Branch, Division of Engineering, Office of Nuclear Reactor Regulation.

[FR Doc. 82-6605 Filed 3-10-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-514 CP; 50-515 CP]

Portland General Electric Co., et al.; (Pebble Springs Nuclear Plant, Units 1 and 2); Evidentiary Hearing

March 5, 1982.

On December 9, 1974, the U.S. Atomic Energy Commission (since superseded by the Nuclear Regulatory Commission) published a Notice of Hearing on application for construction permits (39 FR 42938) with respect to the application filed by Portland General Electric Company (PGE) for construction permits to build two pressurized water nuclear reactors designated as the Pebble Springs Nuclear Plant, Units 1 and 2 to be located near Arlington in Gilliam County, Oregon. The notice set forth the requirements pursuant to the Atomic Energy Act of 1954, as amended, and the National Environmental Policy Act of 1969 to be met prior to the issuance of construction permits. The notice also provided that any person whose interest might be affected by the proceeding could file a petition for leave to intervene, and designated an Atomic Safety and Licensing Board to conduct the hearing in this proceeding.

On January 23, 1976, Pacific Power & Light Company and Puget Sound Power & Light Company entered into an ownership agreement with PGE. An amended notice of hearing was published in the **Federal Register** on February 23, 1976 (41 FR 8002). The amended notice also afforded any person whose interest may be affected by the entry of Puget Sound Power & Light Company and Pacific Power & Light Company as joint applicants the opportunity to participate in this proceeding.

Several petitioners were admitted as intervening parties to this proceeding and the State of Oregon was also permitted to participate. Various evidentiary hearings have been conducted on the issues of this proceeding. The purpose of this notice is to inform the public that another evidentiary hearing on the application for construction permits will soon commence.

Therefore please take notice that the Atomic Safety and Licensing Board designated to preside over this proceeding will begin an evidentiary hearing on April 20, 1982 at 9:00 a.m. at the United States Courthouse, 620 S. W. Main Street, Portland, Oregon. Courtroom information will be available at Room 516. The issue to be heard during the forthcoming evidentiary hearing is whether sufficient consideration under the National Environmental Policy Act has been given to alternate sites for the proposed nuclear energy plant. The public is invited to attend.

Bethesda, Maryland, March 5, 1982.

For the Atomic Safety and Licensing Board.

Ivan W. Smith,

Chairman, Administrative Law Judge.

[FR Doc. 82-6609 Filed 3-10-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 70 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the Licensees), which revised Technical Specifications for operation of Trojan Nuclear Plant (the facility) located in Columbia County, Oregon. The amendment is effective upon entry into Operational Mode 2 (Startup) for Fuel Cycle 5.

The amendment deletes requirements relating to part-length control rod assemblies, thereby allowing their removal from the reactor core.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 10, 1982, (2) Amendment No. 70 to License No. NPF-1 and (3) the Commission's related letter dated March 3, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the local public document room located at the Multnomah County Library, Social Science and Science Department, 801 S.W. 10th Avenue, Portland, Oregon 97205. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of March 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 82-6606 Filed 3-10-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 68 to Operating License No. DPR-59 issued to the Power Authority of the State of New York which revises the Technical Specifications for operation of the James A. FitzPatrick Nuclear Plant (the facility) located in Oswego County, New York. The amendment is effective as of the date of its issuance.

The amendment revises the Technical Specifications to correct the High Pressure Coolant Injection (HPCI) high steam flow trip differential pressure setting.

The application for the Amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated February 24, 1982, (2) Amendment No. 68 to License No. DPR-59, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Penfield Library, State University College at Oswego, Oswego, New York 13126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 4th day of March 1982.

For The Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch #2, Division of Licensing.

[FR Doc. 82-6607 Filed 3-10-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338 and 50-339]

Virginia Electric and Power Co.; Granting of Relief From ASME Code Section XI Inservice Inspection Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to Virginia Electric and Power Company (the licensee), which revised the inservice inspection program for the North Anna Power Station, Unit Nos. 1 and 2 located in Louisa County, Virginia. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The action provides relief from performing visual examination of the reactor vessel closure head cladding and vessel cladding for North Anna, Unit Nos. 1 and 2 pursuant at the stipulations set forth in 10 CFR 50.55a(g)(4)(iv).

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the request for relief dated December 29, 1981 and (2) the letter to the licensee dated March 4, 1982. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia, Charlottesville, Virginia. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 4th day of March 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 82-6608 Filed 3-10-82; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Docket No. A82-7; Order No. 421]

Woolsey, Georgia 30294 (Mr. John B. McLean, Petitioner); Notice and Order of Filing of Appeal

Issued: March 5, 1982.

On March 1, 1982, the Commission received a letter from Mr. John B. McLean, (hereafter "Petitioner") concerning the alleged plans of the United States Postal Service to close the Woolsey, Georgia post office. The letter asserts that Woolsey is a growing community, that its people are very much disturbed over the proposed closing and that the Woolsey community identity would be lost as a result of the Service's proposed action. The petition appears to be a request to keep the Woolsey post office open.

Although the petitioner does not expressly refer to the Postal Reorganization Act [39 U.S.C. 101 *et seq.*] and did not attach a copy of the Postal Service's written determination, we believe that his letter should be construed as a petition for review pursuant to Section 404(b) of the Postal Reorganization Act [39 U.S.C. 404(b)].[1] We do this in order to preserve his right of appeal, in light of the Commission's rules of practice which call for liberal construction in order to secure a just and speedy determination of issues presented.[2]

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing to "insure that such persons will have an opportunity to present their views."[3]

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.[4]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close post offices. The effect on the community is also a mandatory consideration under Section 404(b)(2)(A) of the Act.

The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service has complied with the Act and with its regulations governing the discontinuance of post offices.[5]

Upon preliminary examination, the petitioner appears to have raised the following issues of law:

1. Did the Postal Service consider the effect of this post office closing on the community, in conformity with Section 404(b)(2)(A) of the Act?

2. Did the Postal Service consider whether this closing is consistent with the policy of the Act that the Postal Service provide a maximum degree of effective and regular postal services to rural areas, communities and small towns where post offices are not self-sustaining, in conformity with Section 404(b)(2)(C) of the Act?

Additional issues may emerge when the parties and the Commission review the Service's determination in light of the principles promulgated in *Lane Grove, Texas, et al.*, Docket Nos. A79-1, *et al.* (May 7, 1979), and the subsequent decisions of the Commission dealing

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[1] 39 U.S.C. 404(b)(5). 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94-421, (September 24, 1976), 90 Stat. 1310-11. Our rules of practice governing these cases appear at 39 CFR 3001.110 *et seq.*

[2] 39 CFR 3001.2.

[3] 39 U.S.C. 404(b)(1).

[4] 39 U.S.C. 101(b).

[5] 42 FR 55979-85 (November 17, 1977); the Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).

with appeals of post office closings and consolidations. The determination in the present case may be found to resolve some or all of the issues involved.

In view of the above, and in the interest of expediting this proceeding under the 120-day decisional deadline imposed by Section 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on one or more of the issues described above and/or any further issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary, it will make its request by order, specifying the issues to be addressed. Following issuance of such a request, the memorandum shall be due within 20 days and a copy of the memorandum shall be served on the petitioner by the Service. In briefing the case or in filing any motion to dismiss for want of prosecution, the Service may, in appropriate circumstances, incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in Section 404(b) cases,[6] and none is being appointed.

The Commission's rules of practice require that the Postal Service file the Administrative Record of a case within 15 days after the date on which petition for review is filed with the Commission.[7]

A procedural schedule of the various phases of this docket is set forth as an appendix.

The Commission orders:

(A) That the letter received on March 1, 1982, from Mr. John B. McLean of Woolsey, Georgia, be construed as a petition for review pursuant to Section 404(b) of the Act [39 U.S.C. 404(b)].

(B) That the Secretary of the Commission shall publish this Notice and Order in the **Federal Register**.

(C) That the Postal Service shall file the Administrative Record in this case on/or before March 16, 1982, pursuant to the Commission's rules of practice [39 CFR 3001.113(a)].

By the Commission.

David F. Harris,

Secretary.

March 1, 1982—Filing of Petition
March 5, 1982—Notice and Order of Filing of Appeal
March 16, 1982—Filing of Record by Postal Service [*see* 39 CFR 3001.113(a)].
March 22, 1982—Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].
March 31, 1982—Petitioner's Initial Brief [*see* 3 CFR 3001.115(a)].
April 15, 1982—Postal Service Answering Brief [*see* 39 CFR 3001.115(B)].
April 30, 1982—(1) Petitioner's Reply Brief should petitioner choose to file [*see* 39 CFR 3001.115(c)].
(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument.
June 29, 1982—Expiration of 120 day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 82-6568 Filed 3-10-82; 8:45 am]

BILLING CODE 7715-01-M

[6] In the Matter of Gresham, S.C., Route #1, Docket No. A78-1. (May 11,1978).

[7] 39 CFR 3001.113(a). The Postal Rate Commission informs the Postal Service of its receipt of such an appeal by issuing PRC Form No. 36 to the Postal Service upon receipt of an appeal.

PRESIDENTIAL ADVISORY COMMITTEE ON FEDERALISM

Open Meeting

The Presidential Advisory Committee on Federalism will meet on Monday, March 22, 1982, from 9:30 a.m. to 11:45 a.m. in Conference Room B of the Departmental Auditorium on Constitution Avenue, between 12th and 14th Streets, N.W., Washington, D.C.

The Advisory Committee on Federalism was established by Executive Order 12303 on April 6, 1981. The Chairman of the Full Committee is U.S. Senator Paul Laxalt. The Committee membership includes private citizens, public officials from state and local governments, and members of the Legislative and Executive branches of the federal government. The members serve at the pleasure of the President.

The Committee shall advise the President with respect to the objectives and conduct of the overall federalism policy of the United States.

The meeting will be open to public observation. Written comments or statements may be submitted at any time before or after the meeting and should be related to the substantive matter identified above. Seats will be available for the public on a first come, first served basis.

For further information, call (202) 456-7943.

Alan F. Holmer,

Deputy Assistant to the President for Intergovernmental Affairs.

[FR Doc. 82-6528 Filed 3-10-82; 8:45 am]

BILLING CODE 3195-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-18536; File No. 4-208]

Intermarket Trading System

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendments to national market system plan.

SUMMARY: The Commission is issuing a status report on progress toward implementation of the automated interface between the Intermarket Trading System ("ITS") and the enhanced NASDAQ system of the National Association of Securities Dealers, Inc. ("NASD"). In addition, the Commission is proposing amendments to the plan governing the operation of the ITS that are necessary to include the NASD as an ITS participant. Finally, the Commission is amending its order mandating implementation of an automated interface to defer the implementation date of the interface from March 1, 1982 to May 1, 1982.

DATE: Comments to be received by March 31, 1982.

ADDRESSES: All comments should be submitted in triplicate and addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments should refer to File No. 4-208 and will be available for public inspection at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Michael J. Simon, (202) 272-2889, or Robert Colby, (202) 272-2888, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") announced today that it is issuing a status report on progress toward implementation of an automated interface between the ITS [1] and the NASD's enhanced NASDAQ system, and on industry initiatives toward development of an internalization rule. In addition, the Commission is publishing for comment proposed amendments to the "Plan for the purpose of creating and operating an Intermarket Communication Linkage" filed with and approved by the Commission ("ITS Plan"), that would provide for the inclusion of the NASD in ITS. These amendments, published by the Commission on its own initiative pursuant to Rule 11Aa3-2 [2] under the Securities Exchange Act of 1934 ("Act"), are necessitated by the failure, despite good faith efforts, of the ITS participants and the NASD to submit amendments, and are a prerequisite to implementation of the automated interface previously ordered by the Commission. Finally, to allow time for final technical testing of the interface and for public comment on these amendments, the Commission is deferring the implementation date of the automated interface until May 1, 1982.

[1] The ITS is an intermarket routing system operated jointly by certain national securities exchanges, and authorized by the Commission, on a provisional basis, as a national market system facility pursuant to 11A(a)(3)(B) of the Securities Exchange Act of 1934. The current participants in ITS are the New York Exchange, Inc., the American Stock Exchange, Inc., the Boston Stock Exchange, Inc., the Cincinnati Stock Exchange, Inc., the Midwest Stock Exchange, Inc., the Pacific Stock Exchange, Inc., and the Philadelphia Stock Exchange, Inc.

[2] Rule 11Aa3-2 (17 CFR 240.11Aa3-2) establishes procedures for initiating or approving amendments to national market system plans such as the ITS Plan. Paragraph (b)(2) of Rule 11Aa3-2 states that the Commission may propose amendments to an effective national market system plan by publishing the text thereof together with a statement of the purpose of the amendments. Paragraph (c)(2) requires the Commission to publish notice of any amendments initiated by the Commission and provide interested parties an opportunity to submit written comments.

[3] Securities Exchange Act Release No. 17744 (April 21, 1981), 46 FR 23650.

[4] The NASD's enhanced NASDAQ system is referred to as the Computer Assisted Execution System, or "CAES."

Introduction

On April 21, 1981, the Commission issued an order ("Order") [3] requiring the current participants in the ITS and the NASD to implement, by March 1, 1982, an automated interface between the ITS and the NASD's NASDAQ system, as enhanced to include, among other things, an order routing and automatic execution capability.[4] That Order also required the NASD and the ITS participants to submit to the Commission, on or before November 1, 1981, proposed amendments to the ITS Plan reflecting the inclusion of the NASD as an ITS participant.

The Commission indicated in the Order that it considers the implementation of an automated interface between over-the-counter ("OTC") and exchange markets in listed securities to be a critical event in the development of the national market system. In particular, the Commission indicated that this interface, which will provide for the first time an efficient means of routing orders between exchange and OTC markets, is essential to the full development of the Commission's experiment in trading securities in an environment free from off-board trading restrictions, pursuant to Rule 19c-3 under the Act, which permits exchange members to make off-board markets in most securities newly-listed on an exchange.[5] The Commission noted in the Order that competitive OTC markets have been unable to develop fully in the absence of an interface, and, as a result, the Commission has lacked a meaningful empirical basis on which to evaluate the effects on the markets of removing off-board trading restrictions.[6] The Commission is continuing to monitor the development of Rule 19c-3 trading; but, as noted in the Commission's Monitoring Report on the operation and effects of Rule 19c-3,[7] in the absence of an interface this trading has been limited.

In issuing the Order mandating the automated interface, the Commission considered concerns expressed by the ITS participants regarding equal regulation of markets [8] and the potential effects of internalization [9] of retail-sized customer order flow by exchange member firms. Indeed, at the time the Order was proposed by the Commission, industry commentators argued that the Commission should refrain from issuing the Order until the industry had agreed on a measure addressing internationalization concerns.

While the Commission indicated its support for industry efforts to address internalization concerns, in determining to issue the Order the Commission indicated that, because of the importance of the automated interface, implementation of the interface would not be allowed to wait on industry resolution of these internalization concerns. The Commission noted that it had fully considered the question of internalization at the time of adoption of Rule 19c-3, and concluded that the experimental value of observing the effects of OTC trading in listed securities free from exchange off-board trading restrictions outweighed the concerns about potential internalization by exchange member market makers.

Moreover, the Commission concluded in the Order that the interface would not, as a structural matter, exacerbate internalization concerns previously considered in the Rule 19c-3 context, and consequently determined that implementation of the interface should not be made contingent upon the progress of industry discussions on internalization concerns.[10] In addition, the Commission concluded, with respect to equal regulation concerns, that, in light of the present trading environment, it would not be appropriate to either impose additional regulatory obligations on OTC market makers or alter existing exchange rules which impose "affirmative" and "negative" obligations upon specialists.[11]

As discussed in detail below, the Commission continues to believe that it is essential for the development of the Commission's Rule 19c-3 experiment and for progress toward a national market system that the automated interface be implemented without delay, notwithstanding any lack of progress in industry discussions concerning internalization.

II. Status Report on Progress Toward the Interface

From information provided to the Commission by the ITS participants and the interface between the ITS and CAES has for the most part proceeded

[5] Specifically, Rule 19c-3 (17 CFR 240.19c-3) removed exchange off-board trading restrictions which prohibited exchange member firms from making markets in securities listed on the exchange other than on exchange premises, with respect to any security reported in the consolidated transaction system ("consolidated system"): 1) which was not traded on an exchange prior to April 26, 1979, or 2) which was traded on an exchange on April 26, 1979 but which ceased to be traded on an exchange for any period of time thereafter ("Rule 19c-3 Security"). *See* Securities Exchange Act Release No. 16888 (June 11, 1980), 45 FR 41125 ("Rule 19c-3 Adoption Release").

[6] A more complete discussion of the Commission's previous statements regarding the need for an efficient linkage between the exchange and the OTC markets is contained in Securities Exchange Act Release No. 17516 (February 5, 1981), 46 FR 12379.

[7] U.S. Securities and Exchange Commission. *A Monitoring Report on the Operation and Effects of Rule 19c-3 Under the Securities Exchange Act of 1934* ("Monitoring Report"), at 45. The Commission has stated that it will issue a second monitoring report which will cover the first six months of trading after the commencement of the interface.

[8] "Equal regulation" concerns involve the question whether uniform or substantially similar regulation of all market makers is required to ensure a fair field of competition between market makers in a trading environment free from off-board trading restrictions.

[9] The Commission has defined the term "internationization", when used with respect to a broker-dealer making markets over-the-counter ("OTC"), as referring to the withholding of retail-size customer orders from other market centers for the purpose of executing them in-house, as principal, without exposing those orders to buying and selling interest in other market centers. *See* Rule 19c-3 Adoption Release, *supra* note 5 at 16, note 31, 45 FR 41125, at 41128, note 31.

[10] *See* Securities Exchange Act Release No. 17744 (April 21, 1981) at 23, 46 FR 23650 at 23660.

[11] *Id.* at 24, 46 FR 23650 at 23651.

smoothly, and that the testing of the interface could be completed within a short period after the March 1, 1982 implementation deadline set by the Order.[12] However, as discussed below, no final agreement has been reached in the ITS Plan negotiations underway between the ITS participants and the NASD, and, as a result, none of the parties appears prepared to have the interface become operational. In addition, no agreement has been reached in the internalization discussions conducted concurrently by the parties. Nonetheless, the Commission believes that the parties for some time have had the capacity to reach agreement with respect to a satisfactory means of addressing internalization and acceptable ITS Plan amendments.

A. Internalization Discussions

Subsequent to the Commission's Order mandating the interface, there were renewed discussions between ITS participants and the NASD, seeking to find workable solutions to the internalization issue. These discussions have been assisted by a representative of the Securities Industry Association acting as an intermediary; however, no clear internalization proposal acceptable to all parties has yet resulted from these discussions.

Recently, the ITS participants have prepared a "Statement of Principles" on off-board market making in Rule 19c-3 securities, which expresses their views on an acceptable method of addressing internalization. This statement generally describes a requirement that off-board market makers send their customer orders into a neutral market system, and trade with these orders only on a "blind" basis, without any prior knowledge of the existence, terms, or condition of the orders.

The Commission also understands that recently the internalization discussions have been broadened to include several broker-dealers who are making markets upstairs in Rule 19c-3 securities. Currently, several alternative internalization proposals are apparently being considered by this group.[13] However, at the present time no consensus has been reached on any particular internalization proposal, and the discussions are still being pursued.

B. ITS Plan Amendments

At the same time discussions on an internalization rule have been underway, the ITS participants and the NASD have conducted negotiations over amendments to the ITS Plan providing for inclusion of the NASD in ITS. As noted previously, amendments including the NASD as an ITS participant are necessary before the interface can become operational, and the Commission's Order required the NASD and the ITS participants to submit ITS Plan amendments for its consideration by November 1, 1981. In response to the Order, the ITS participants drafted a restated version of the ITS Plan, on which they have based their subsequent negotiations with the NASD. The restated plan contains numerous structural and substantive changes from the version of the ITS Plan currently in operation, and includes the amendments that the ITS participants believed were necessary to provide for NASD participation in ITS. During the past six months, the parties have reached agreement on most of the provisions of the restated ITS Plan, including:

(i) Definitions applicable to NASD participation in the ITS;

(ii) A general description of the operation of the automated interface;

(iii) The need for the NASD to adopt a trade-through rule comparable to those adopted by each of the exchange ITS participants;

(iv) The manner in which OTC market makers will participate in the proposed preopening application; and

(v) The financial aspects of the interface.

However, the discussions between the ITS participants and the NASD became deadlocked on certain other ITS Plan issues, discussed more fully below. As the final deadline for the implementation of the interface approached, the parties attempted to complete agreement on the ITS Plan elements essential for the operation of the interface. In particular, on March 1, 1982 the ITS participants submitted to the Commission a further Restated Plan deferring the remaining open issues until the end of the interface's pilot phase.[14] While the NASD appears willing to defer many of the open issues, it continues to object to the existing Plan provisions regarding the manner of entry of ITS/CAES commitments after the pilot phase of the Interface. As a result, the parties have not yet agreed to and submitted ITS Plan amendments to the Commission as required by the Order as of November 1, 1981.

III. Discussion

The Commission regards the timely implementation of the interface to be of utmost importance to the progress in creating a national market system. The Commission is deeply concerned that, despite the technical progress in developing the interface and the good faith negotiation by all parties concerned, the ITS participants and the NASD have failed to resolve the remaining ITS Plan issues and thus have precluded the interface from becoming operational on March 1, 1982, as required by the Order. The Commission does not believe the remaining issues are so intractable in nature that the implementation of the interface must be halted awaiting agreement by the parties. Indeed, the Commission believes that the ITS participants' proposal to defer the remaining open issues until the completion of the pilot phase of the interface offers a reasonable compromise to permit the initial operation of the interface. Consequently, the Commission on its own initiative has proposed amendments to the ITS Plan generally consistent with the most recent proposals of the ITS participants, resolving the remaining areas of controversy where resolution is essential to the operation of the interface, so that the interface can be implemented promptly with a minimum of additional delay.

With respect to industry concerns relating to internalization, the Commission is hopeful that the industry participants will, through continued discussions, reach agreement on a means of addressing these concerns. However, the Commission has indicated on several occasions that the development of a means of addressing internalization concerns should be primarily left to the industry, and that this issue is not one on which agreement must be reached prior to implementation of the interface.[15] Accordingly, the Commission does not regard the parties' failure to adopt an internalization rule as a valid justification for refusing to put the interface into operation.

With respect to the ITS Plan negotiations, the ITS participants and the NASD have agreed on the large majority of the outstanding ITS Plan issues which stand in the way of implementation of the interface. However, their failure to reach even a tentative agreement on the few remaining issues, or to permit the deferral of some of those issues, threatens to delay further the implementation of the interface. In response, the Commission is taking the initial step necessary to effect implementation of the automated interface by using its authority under paragraph (b)(2) and (c) of Rule 11Aa3-2, governing the amendment of national market system plans, to propose amendments to the ITS Plan. These proposed amendments (i) contain the provisions of the restated ITS Plan on which the ITS participants and the NASD have agreed, (ii) defer resolution of those provisions of the Plan that the parties have agreed to defer, and (iii) propose resolutions of those issues that have not been agreed upon by the parties.

The significant areas in which the parties have not agreed, including those areas being deferred, include:

1. *Market Maker Commitment Requirements.* The ITS participants and the NASD have failed to reach agreement on whether market maker commitment requirements should be imposed on OTC market makers participating in CAES, in return for providing these CAES market makers with access to exchange markets. The ITS participants proposed a commitment requirement to address their concern that CAES market makers would withdraw from the markets in a security during adverse market conditions. Specifically, the ITS participants would require a CAES market maker to continue making markets for a three month period upon entry, and prohibit reentry into the markets for a three month period after leaving the market. The commitment requirement under discussion would also provide exceptions for the withdrawal from the market required of participants in a distribution by Rule 10b-6 under the Act,[16] and for withdrawals necessitated by an inability to meet the necessary market maker net capital requirements. The NASD recently has taken the position that, at most, it may be willing to accept a requirement that would limit reentry to the market if a market maker dropped its registration; the NASD believes, however, that the three month time period is too severe. In response to the inability of the parties to reach agreement regarding the commitment requirement prior to March 1, the ITS participants proposed deleting that provision for the initial pilot phase while including a commitment in the Plan that the parties would negotiate regarding the inclusion of such a requirement during phase two of the interface.

The Commission does not believe that the theoretical ability of OTC market makers in Rule 19c-3 securities to move in and out of the markets has raised any regulatory concerns to date. Indeed, the Commission's monitoring program with respect to market making in Rule 19c-3 securities has indicated that there have been relatively few instances where a market maker dropped out of the market in a particular security and returned at some later date.[17] Accordingly, the Commission believes that a deferral of this issue during the pilot phase is appropriate. However, the Commission does accept that a limited requirement, imposing a penalty for leaving the markets, may be appropriate in the context of the automated interface, which provides OTC market makers efficient access to exchange markets in a security. Accordingly, the Commission has included in its proposed amendments to the Plan the ITS participants' proposal that the parties negotiate, in good faith, concerning the development of an appropriate commitment rule for phase two of the interface.

2. *ITS Order Entry Procedures.* The ITS participants proposed including a provision in the ITS Plan which would specify the manner in which orders can be entered into the ITS system by CAES market makers, reflecting the manual order entry process presently planned for use by CAES when the interface becomes operational. The ITS participants are apparently concerned that, unless access to ITS is strictly limited to CAES market makers, other broker dealers may use the ITS as an alternative to exchange membership by routing substantial numbers of agency orders through the CAES–ITS interface to the exchange floors of ITS participants, thus avoiding exchange transaction fees and the costs of exchange membership. The ITS participants have proposed language in the amended plan which would commit them to consider the question of whether the ITS Plan should limit the manner in which commitments to trade are originated in the CAES market.

On the other hand, the NASD has objected to limiting narrowly the manner of entering CAES orders into ITS. Although the NASD has not indicated any immediate plans to alter the CAES–ITS order entry process, the NASD is concerned that describing the initial order entry process used by CAES in ITS Plan will make amendment of the Plan necessary before it can enhance this inefficient manual entry process in the future.

The Commission recognizes that, for CAES to operate at maximum efficiency, its manual ITS order entry process must be enhanced so that CAES orders are automatically entered into ITS, without the intervention of a CAES market maker, when an ITS market displays a quotation superior to that available in CAES. An automated order entry process such as this would provide an efficient means of preventing CAES trade-throughs [18] of superior ITS quotations, and of ensuring that orders entered into CAES receive an immediate execution, in CAES or the ITS, at the best available price. In addition, automation of the order entry process may be essential in order for CAES to draw the order flow necessary to attract OTC market making interest, and to compete effectively with exchange markets in listed securities.

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[12] The ITS participants have reported that, although the technical aspects of the interface are for the most part in place, the essential testing of the automated interface between the ITS and CAES has fallen slightly behand schedule, awaiting the conclusion of internal testing by the NASD. Nonetheless, the ITS participants have indicated that they anticipate that the system testing could be completed and the interface become technically operational within several weeks of the end of the NASD's internal tests. The NASD has generally confirmed the statements by the ITS participants and has indicated that it believes it will be technically ready to effect the interface between April 15 and April 30, 1982. *See* Letter from Kenneth I. Rosenblum and John P. Foynes of the ITS Operating Committee, to Richard G. Ketchum, Associate Director, Division of Market Regulation, dated February 25, 1982; Letter from S. William Broka, Secretary, NASD, to George A. Fitzsimmons, Secretary, SEC, dated March 1, 1982.

[13] These discussions appear to have focused on proposals requiring broker-dealers either to send their retail orders away to a neutral mechanism or market before executing these orders in-house as principal, or to "hold out" these orders by bidding them an eighth above that market maker's bid or an eight below his offer, as the case may be.

[14] The interface first is to be implemented on a pilot phase limited to the 30 most activé securities subject to Rule 19c-3; six months after implementation of the pilot phase, the interface is to be expanded to cover all securities subject to Rule 19c-3.

[15] The Commission staff, on November 5, 1981, informed the participants by letter that provisions of the restated ITS Plan which attempted to establish agreement on an internalization rule as a possible condition to participation in the interface were inconsistent with the Order, and accordingly would be subject to disapproval by the Commission. *See* Letter from Douglas Scarff, Director, Division of Market Regulation, to Kenneth I. Rosenblum, Chairman, ITS Operating Committee, dated November 5, 1981.

[16] 17 CFR 240.10b-6.

[17] *See* Monitoring Report, *supra* note 7, at 13.

[18] A "trade-through" occurs when a trade is executed in one market center at a price inferior to that available in another market center, e.g., a broker sells a security for a customer for 19½ on one exchange, when the broker could have sold it for 20 in another market. All ITS participating exchanges already have rules to help ensure that this situation does not arise. *See* Securities Exchange Act Release No. 16857 (July 7, 1980). The NASD and the ITS participants have generally agreed that similar trade-through principles should be applicable to the OTC market in securities traded through the interface. The Commission wishes to emphasize that it expects that NASD to adopt a trade-through rule that contains the basic protections provided by the exchanges' rules. In particular, any such rule should ensure that, when there is a timely complaint of a trade-through, that transaction will either be cancelled and reexecuted at a price which does not result in a trade-through or a commitment shall be sent to the complaining market satisfying the quotation traded-through for the entire size displayed.

In view of the importance to CAES of further automation of the CAES–ITS order entry process, the Commission would oppose any efforts on the part of existing ITS participants to hinder enhancement of this order entry process in the future. In addition, the Commission stands ready to initiate future amendments to the ITS Plan to allow further enhancement of the CAES–ITS interface, if enhancement is blocked by the other ITS participants. However, the Commission does not consider it necessary to resolve, during the pilot phase of the interface the theoretical issue of appropriate future restrictions on ITS order entry, when the NASD has indicated its intention to use its initial manual process during this pilot period. Accordingly, the Commission has retained in its proposed amendments the restrictions on CAES order entry contained in the ITS participants' draft ITS Plan, while adopting the ITS participants' proposal committing the parties to reconsider the question of how the Plan should permit ITS–CAES commitments to be entered into ITS. The Commission emphasizes that the initial retention of the restrictions is not intended to resolve permanently the question of appropriate CAES order entry techniques, and that the Commission will strongly support reconsideration of this question at such time as the NASD has formulated a proposal for enhancing CAES procedures.[19]

3. *OTC Trade Reporting.* As noted above, the ITS Plan requires all ITS participants to adopt trade-through rules which generally set forth a policy against trade-throughs, and establish corrective procedures when a trade-through of a superior ITS quotation occurs. The ITS participants have argued that the NASD's existing third market [20] trade reporting procedures may raise problems in the context of any trade-through rule adopted by the NASD.

Specifically, the ITS participants have argued that the NASD's trade reporting rules [21] are so flexible that OTC market makers could avoid the strictures of the trade-through rule by reporting a trade transacted on a principal basis at a price which makes it appear that no trade-through has occurred, even if it was actually transacted at a price outside the best ITS quotation.[22] The ITS participants are particularly concerned about the reporting of third market block transactions, because the trade-through rule would require a CAES market maker handling a block to satisfy all superior ITS quotations at the price at which the block transaction took place. Attempting to address these concerns, the ITS participants proposed that the NASD's trade-through rule require CAES market makers to state separately in customer confirmations the reported price and the mark-up or mark-down charged in a trade transacted as principal. The rationale underlying this requirement apparently is that institutional customers inspecting the mark-ups charged in their trades would serve as a deterrent to OTC market makers reporting trades inaccurately.[23] The ITS participants have again, however, proposed to defer any such requirement during the pilot phase.

The NASD opposed the confirmation requirement suggested by the ITS participants, arguing that its trade reporting rules are fully adequate to prevent the potential abuse postulated by the ITS participants. The NASD also indicated that it did not foresee any significant trade reporting problems developing as a result of the interface. Moreover, the NASD indicated that the proposed confirmation requirement could have a serious disruptive effect on CAES market makers, drastically altering their existing practices in confirming principal transactions, and the NASD noted that this requirement would go well beyond the requirements for a principal confirmation established by Commission Rule 10b–10 unde the Act, which requires broker-dealer compensation to be identified separately only for agency and riskless principal transactions.

Although the Commission recognizes that the viability of the ITS trade-through rules and the associated national market system objective of price protection for superior quotations depend upon accurate and reliable trade reporting by all parties, the Commission does not believe the customer confirmation requirement proposed by the ITS participants is a particularly useful means of ensuring that blocks transacted as principal in the third market are reported accurately. First, it appears that very few blocks are transacted in the third market on a principal basis; consequently, the proposed confirmation requirements would at most impact a small number of instances of inaccurate reporting. More significantly, the Commission does not believe that the proposed confirmation requirement, hinging as it does on institutional customers monitoring mark-ups, would have the effect anticipated by the ITS participants. The Commission understands that institutional customers for the most part concern themselves with the net price received on a block transaction, giving little heed to how that net price is broken down into reported price and mark-up or mark-downs in subsequent confirmations.

As a result, the Commission believes that the concerns about accurate block trade reporting could be more effectively addressed through a surveillance program which would monitor third market principal transactions in securities traded through the interface.[24] Given the small number of blocks transacted as principal in the third market, a surveillance program similar to the overreaching surveillance

[19] The Commission requests commentators to address, in light of the NASD's arguments noted above, whether the limitation on order entry should be limited to the pilot phase. In addition, the Commission specifically requests comment on whether additional amendments to the ITS Plan should be approved which would add the following language at the end of Section 8(a) of the Plan:

Notwithstanding the above, however, the NASD shall be permitted to develop and implement enhancements to CAES necessary to provide an automated order entry process which would redirect orders routed to CAES to the ITS market displaying a superior bid or offer (as the case may be).

[20] The term "third market" refers to markets made by broker-dealers on a regular basis in exchange-listed securities, other than on the floor or through the facilities of a securities exchange. *See* Rule 11Ac1–1 under the Act, 17 CFR 240.11Ac1–1(a)(1).

[21] Prior to 1980, third market principal transactions were reported to the consolidated system at a "net" price which included the mark-up or mark-down charged the customer on the transaction. To make third market reporting comparable to exchange reporting, which excludes the compensation charged in a transaction from the reported price, in 1980 the NASD adopted a rule requiring third market reporting at a "gross" price, excluding the mark-up or mark-down charged a customer. Specifically, this rule provides that the price reported to the consolidated system: shall be reasonably related to the prevailing market, taking into consideration all relevant circumstances, including, but not limited to: (1) Market conditions with respect to the security, (2) the number of shares involved in the transaction, (3) the published bids and offers with size at the time of execution (including the reporting firm's own quotation), (4) accessibility to market centers publishing bids and offers with size, (5) the cost of execution, and (6) the expenses involved in clearing the transaction.

The Commission approved this rule as consistent with the requirements of the Act, in Securities Exchange Act Release No. 16960 (July 7, 1980), 45 FR 47291.

[22] For instance, in the case of a best ITS quotation of 20 bid, 20¼ offer, the ITS participants are concerned that a CAES market maker, who normally charges a markup of ⅛ per share, might sell a block to a customer at a net price of 20⅛ and yet report the trade at 20¼ to match the best offer quotation, thus avoiding any trade-through liability.

[23] If the CAES market maker were required to state separately the reported price and mark-up in the confirmation, in the example in note 22, *supra*, he would be forced to identify his mark-up as ⅛, which might result in the institution questioning the trade.

[24] This program would, of course, be in addition to existing NASD procedures for the surveillance of excessive mark-ups, pursuant to the NASD's Rules of Fair Practice, Article II, Section 4, and interpretations thereunder.

conducted by the NASD in the context of Rule 19c-3 retail transactions could easily examine, on a regular basis, each principal block trade to determine whether the block was reported at an accurate price.

Accordingly, the NASD should develop and implement a program monitoring third market reporting of principal block transactions to ensure that block trades are reported in a reliable manner and that the flexibility inherent in the NASD's trade reporting rules is not used to circumvent the obligations of the trade-through rules. The Commission, however, has no objection to the ITS participants and the NASD continuing to negotiate regarding a confirmation requirement. Therefore, the Commission has proposed language in the Plan deferring this issue during the pilot phase of the interface.

4. *Minor Issues.* In addition to these primary areas in which the ITS participants and the NASD have been unable to reach agreement, the Commission has proposed resolutions to several other less significant issues that remain outstanding. These remaining issues include:

(a) *Short Sale Commitments.* The existing ITS Plan, in conformity to Commission Rule 10a-1 under the Act,[25] requires that an ITS commitment be designated "short" or "short exempt" whenever a commitment to sell short is involved. The CAES system, however, does not presently have a capability to send or receive orders designated "short." The NASD is in agreement with the ITS participants that CAES must be enhanced to permit short orders to be identified. However, the NASD has indicated that any such technical enhancement would take a number of months to develop and implement. As a result, the ITS participants have proposed that the NASD should enhance CAES, prior to the end of the pilot period, to permit the execution of commitments to sell short routed through the CAES–ITS interface in compliance with the short sale rule. In the interim, the parties have proposed that commitments to sell short not be permitted to be sent through the interface.

The Commission believes that it is essential that the NASD modify CAES to allow the execution of short sales in compliance with the short sale rule by the end of the pilot period, and has included that proposed provision in its proposed amendments. During the pilot period, and before the NASD effects that change, however, the Commission believes that the appropriate manner to address the situation is by an exception from the short designation requirements of the ITS Plan (and, concomitantly, an exception from the designation requirement of Rule 10a–1) with respect to commitments to sell short sent through the ITS–CAES interface. Permitting unmarked short orders to be routed through the interface from an exchange to CAES or from CAES to an exchange would not appear to raise the potential manipulative concerns which Rule 10a–1 was intended to address; the ability to obtain either an automatic execution (through CAES) or a timely execution (through ITS) at the prevailing quotation of the destination market allows brokers to determine, before sending an order, whether the execution they will receive will violate the short sale provisions of Rule 10a–1, except in the rare instance where a CAES market maker changes his quote between the time the order is entered and the time it is executed.[26] Consequently, the Commission has included in its proposed ITS Plan amendments an exception to the Plan's commitment designation requirement for short orders directed to CAES, with the understanding that this exception will be eliminated once the NASD makes the technical changes necessary to permit CAES to receive ITS commitments marked short.

(b) *Locked or Crossed Markets.* The ITS participants and the NASD have also been unable to agree on whether the CAES best bid and offer ("CAES BBO") which the NASD is required to provide the ITS participants for display on their exchange floors should be permitted to be "locked" [27] or "crossed".[28] Specifically, the ITS participants have proposed an amendment to the Plan permitting any ITS participant to not display the CAES quotation anytime it became locked or crossed. The NASD on the other hand, has argued that the CAES BBO should be displayed whether or not it was locked or crossed because, in light of the automatic execution capability of CAES, such quote was absolutely firm.

The Commission believes that it is inappropriate for the NASD to disseminate a locked or crossed CAES quotation. The Commission believes that CAES market makers who wish to lock or cross an existing quotation in CAES should instead by required to satisfy that quotation before disseminating their bid or offer. The dissemination of locked or crossed quotations may result in confusion of both market participants on the floor of the ITS exchanges as well as public investors. As a result, the Commission is proposing an amendment to the Plan regarding locked and crossed markets consistent with the ITS participants proposal.

(c) *Technical Amendments.*[29] (i) The ITS participants have proposed that certain requirements concerning market maker registration, such as the commitment requirement, be included in NASD rules that are acceptable to the ITS Exchange Participants to be adopted by March 1, 1982. The Commission is proposing more general language that would require the NASD only to "specify requirements" on these issues.

(ii) The ITS participants also have included a provision providing that the restated ITS Plan will not become

[25] Rule 10a-1 (17 CFR 240.10a-1) prohibits, with certain exceptions, (1) execution of a short sale in a security listed or admitted to unlisted trading privileges on a national securities exchange, and reported in the consolidated system, and (2) execution of a short sale on an exchange generally, at a price lower than the price at which the last sale was reported, or at the last sale price unless such price was above the next preceding different price reported in that security. In addition, paragraph (c) of Rule 10a-1 requires orders in securities listed or admitted to unlisted trading privileges on an exchange to be designated either "long" or "short."

[26] In light of the above, the Commission has instructed its staff to take a no-action position with respect to inadvertent violations of the short sale rule, involving unmarked commitments routed to CAES from an ITS exchange, which are caused by a CAES quotation change after the order is entered in ITS. Similarly, the Commission's staff is prepared to take a no-action position with respect to inadvertent violations of the short sale rule involving unmarked orders entered into CAES by a CAES order routing firm that are forwarded through the ITS–CAES interface by a CAES market maker, as long as the short sale would have been proper at the time the order was entered into CAES. Finally, the Commission's staff is prepared to take a no-action position with respect to the Rule 10a–1(c) requirement that short orders directed to CAES market makers be identified as short.

[27] A "locked market" occurs when the displayed bid quotation is identical to the displayed offer quotation.

[28] A "crossed market" occurs when the displayed bid quotation is higher then the displayed offer quotation.

[29] While the Commission has attempted to include in its proposed amendments the major substantive provisions contained in the latest draft plan of the ITS participants, due to the late receipt of that draft by the Commission, certain non-substantive drafting changes have not been included. In addition, the NASD has informed the Commission that it has not yet had an opportunity to review a number of relatively minor changes included both in the ITS participants' latest draft and in the Commission's proposed amendments. These changes include (i) references to compliance with actions taken by the ITS Operating Committe since April 14, 1978 in Section 3(b) of the Plan and (ii) reports to participants concerning the pre-opening application in Section 7(g) of the Plan. The NASD also has expressed some reservation concerning the "fair competition" discussion in Section 10(d) of the Plan. Copies of the ITS participant's submission are available for public inspection at the Commission's Public Reference Room, 1100 L Street, N/W, Washington, D.C. 20549.

effective until (1) approved by the Boards of Directors of each participant; (2) approved by the Commission; and (3) CAES market makers begin to use the interface. This provision is inconsistent with the Commission's present intention to initiate amendments to the ITS Plan under its own authority, and has been deleted.

IV. Conclusion and Request for Comments

Although recently the final testing of the interface has fallen slightly behind schedule, in general, the technical development of the interface has proceeded smoothly. The Commission is troubled, however, that the ITS Participants and the NASD have allowed a small number of relatively minor ITS plan issues, and extraneous concerns about internalization in the limited context of the Rule 19c–3 experiment, to impede progress toward agreement on ITS Plan amendments essential to the operation of the interface. The Commission recognizes that the ITS participants, the NASD, and other interested industry participants have not reached an accommodation on the internalization question, but the Commission continues to believe that resolution of internalization concerns is not a prerequisite to implementation of the automated interface.[30]

With respect to the ITS Plan issues, the Commission refrained from interjecting its views during the negotiation process on the ITS Plan amendments, and granted the negotiating parties an extensive period in which to arrive at mutually acceptable amendments, even after the November 1, 1981 deadline for submission of these amendments had passed. However, in view of the parties' failure to submit amendments to the Commission, the Commission now is compelled, as a last resort, the publish for comment its own proposed amendments to the ITS Plan, in order to facilitate the resolution of the few remaining issues, and as the first step toward implementation of the interface.

The Commission's proposed amendments (1) contain amendments agreed upon by the parties, (2) defer resolution of those provisions of the Plan that the parties have agreed to defer, and (3) propose compromise solutions to issues that have not been agreed upon by the parties. The Commission views these amendments as providing an appropriate and acceptable basis for the operation of the automated interface mandated by the Commission's Order.

However, while the Commission has sought to resolve the outstanding ITS Plan issues in a manner both fair to the parties concerned and consistent with the objectives of the national market system, the Commission solicits the views of the NASD, the ITS participants, and other interested parties concerning the Commission's proposed solutions to the issues discussed previously and any other issues in the ITS Plan. In particular, the Commission solicits comment on whether there are other elements latent in the proposed ITS Plan and not specifically addressed by the Commission that might foreseeably raise difficulties in the implementation or operation of the interface or the ITS in the future.

The Commission recognizes that its proposed amendments do not provide the only possible resolution of the remaining ITS Plan issues. Although the Commission has been compelled by the importance of the interface for the development of the national market system to propose its own amendments to the ITS Plan, the Commission strongly prefers that these issues be settled by mutual agreement among the ITS participants and the NASD. The Commission continues to urge the parties to reach agreement and submit their own ITS Plan amendments in a timely fashion, so that the Commission will have an opportunity to consider any amendments proposed by the NASD and the ITS participants by the end of the comment period, and to determine whether to approve these amendments in place of its own proposed amendments to the ITS Plan.

The Commission invites interested persons to comment on these proposed amendments not later than March 31, 1982.

V. Deferral of the Implementation Date of the Interface

The Commission is sensitive to the urgency of implementing the automated interface, and has proposed its own amendments to the ITS Plan in order to minimize the delays likely to result from the deadlock of the NASD and the ITS participants on the ITS Plan issues. However, the Commission notes that the testing of the interface between CAES and ITS has fallen somewhat behind schedule, and as a result the interface will not be technically operational for several weeks after March 1, 1982. In addition, the Commission has established a comment period, ending March 31, 1982, in order to obtain the benefit of public comments on its amendments and to allow the parties to present alternative ITS Plan amendments on their own initiative. In view of the delays in the testing of the interface, and to allow time for the Commission to study the comments received and take final action on these proposed amendments or amendments submitted by the parties, the Commission has determined to postpone the date on which the automated interface must be implemented. Accordingly, the Commission is amending the Order mandating the development and implementation of the automated interface to defer the interface's implementation date to May 1, 1982.

VI. Regulatory Flexibility Act Considerations

The Regulatory Flexibility Act, which became effective on January 1, 1981, imposes new procedural steps applicable to rulemaking which has a "significant economic impact on a substantial number of small entities".[31] The Chairman of the Commission has certified pursuant to the Regulatory Flexibility Act that the proposed amendments to the ITS Plan, if adopted, will not have a significant economic impact on a substantial number of small entities, because, in the first instance, the amendments to the ITS Plan only directly apply to exchange participants in the ITS Plan, all of which are subject to Rule 11Aa3–1 reporting requirements, and the NASD.[32] Although certain of the proposed amendments may have an indirect effect upon broker-dealers participating in CAES as market makers, virtually none of these broker-dealers are small businesses as defined in Rule

[30] Furthermore, the Commission notes that, in order for an intenalization rule agreed upon by the industry to be in effect by the May 1, 1982 commencement date of the interface, the necessary self-regulatory organization rules and ITS Plan amendments providing for such a rule must be submitted to the Commission no later than March 31, 1982, in order to allow the Commission to publish such rules and amendments for public comment.

[31] The Commission has adoped definitions of the term "small entity" for purposes of Commission rulemaking in accordance with the Regulatory Flexibility Act. These definitions, as relevant to this rulemaking, are set forth in Rule 0–10, 17 CFR 240.0–10. *See* Securities Exchange Act Release No. 18452 (January 28, 1982), 47 FR 5215. Under Rule 0–10, an exchange is a "small business" or "small organization" if it is exempt from the reporting requirements of § 240.11Aa3–1. A broker or dealer is a small business or small organization, if, generally, it had total capital of less than $500,000 on the last business day of the preceding fiscal year or in the time it has been in business, if less than a year, and is not affiliated with any person that is not a small entity as defined in Rule 0–10.

[32] The NASD, a self-regulatory organization, and the sole registered securities association, is not a "small business" or "small organization" for purposes of the Regulatory Flexibility Act. *See* Securities Exchange Act Release No. 17645 (March 20, 1981), 46 FR 19251 at 19300, note 30.

0–10, 17 CFR 240.0–10. In addition, the amendments would not have a substantial economic impact upon these broker-dealers, since the amendments provide these broker-dealers with the benefits of access to ITS in certain securities, and the only significant limitation which could affect these broker-dealers, the possible commitment requirement discussed previously, is relatively minor in nature.

VII. Text of Its Plan Amendments

The Securities and Exchange Commission hereby proposes to amend the ITS Plan to provide for the inclusion of the NASD as a participant in ITS, pursuant to Rule 11A3–2(b)(2) and (c)(1) and the Commission's authority under Section 11A(a)(3)(B) of the Act.[33] The text of the amended ITS Plan is as follows:

Agreement made as of the first day of May, 1982, among American Stock Exchange, Inc., Boston Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., Midwest Stock Exchange, Inc., National Association of Securities Dealers, Inc. (the "NASD"), New York Stock Exchange, Inc., Pacific Stock Exchange, Inc. and Philadelphia Stock Exchange, Inc.

Whereas, the undersigned national securities exchanges are parties to the plan submitted to the Securities and Exchange Commission (the "SEC") for the purpose of creating and operating an intermarket communications linkage pursuant to section 11A(a)(3)(B) of the Securities Exchange Act of 1934, as amended, (the "Act"), such plan having been originally approved on an interim basis by order issued by the SEC as evidenced by Release No. 34–14661 (April 14, 1978), which temporary approval was extended through January 31, 1983, by subsequent orders issued by the SEC as evidenced by Releases 34–15058 (August 11, 1978) and 34–16214 (September 21, 1979), and

Whereas, by order issued by the SEC as evidenced by Release No. 34–17744 (the "Linkage Order"), the undersigned national securities exchanges and the NASD are directed to implement an "Automated Interface" between such intermarket communications linkage and "CAES" (defined hereinafter) and in connection therewith to submit to the SEC proposed amendments to such plan reflecting the inclusion of the NASD as an "ITS Participant," all as more fully specified in the Linkage Order.

Now, therefore, in consideration of the premises and the mutual covenants and agreements contained herein, the parties agree to amend and restate such plan as heretofore amended to read in full as follows and to submit this Agreement to the SEC for approval of the amendments contained herein by an order issued pursuant to section 11A(a)(3)(B) of the Act and Rule 11Aa3–2 thereunder.

1. *Definitions.* (1) "Application" means any use of the System to facilitate trades between Participant Markets that is described in the ITS Plan.

(2) "Best" as used with reference to bids (offers) means (a) the bid (offer) that is highest (lowest); (b) if two or more bids (offers) meet criterion (a), the bid (offer) between or among them with which the largest size is associated; or (c) if two or more bids (offers) meet criteria (a) and (b), the bid (offer) between or among them received in the consolidated quotation system first in time.

(3) "CAES" means the "Computer Assisted Execution System," the computerized order routing and execution facility, as from time to time modified or supplemented, that is operated by NASD Market Services, Inc. ("MSI"), a wholly-owned subsidiary of the NASD, and that is supervised and surveilled by the NASD and made available to NASD members by MSI. CAES is not part of the System.

(4) "CAES Supervisory Center" means the premises of the NASD at which is located the ITS supervisory station that monitors the ITS/CAES Third Market as described in section 5(a)(i).

(5) "CAES Switch" means the message routing switch within CAES through which are routed all communications between the System and the ITS/CAES Third Market other than those originating in or destined for the ITS station located in the CAES Supervisory Center.

(6) "CTA Plan" means the plan filed with the SEC pursuant to SEC Rule 17a–15 (subsequently amended and redesignated as Rule 11Aa3–1), approved by the SEC and declared effective as of May 17, 1974, as from time to time amended.

(7) "CTA Plan Processor" means the organization serving as recipient and processor of last sale prices under the CTA Plan.

(8) "Designated Dealer" has the meaning assigned to that term in CSE Rule 11.9 as in effect on January 28, 1981 and applies only to the CSE.

(9) "Eligible Security" has the meaning assigned to that term in the CTA Plan.

(10) "Exchange (Participant's) Market" means the securities trading floor(s) of an Exchange Participant except that, in the case of the CSE, "Exchange (Participant's) Market" means the premises on which NSTS terminals are located, NSTS and the ITS stations located on the CSE floor.

(11) "Exchange Participant" means a Participant that is a national securities exchange.

(12) "Intermarket Trading System" ("ITS") means the Application described in section 6.

(13) "ITS/CAES BBO" has the meaning assigned to that term in section 6(a)(i)(B).

(14) "ITS/CAES Interface" means the automated linkage between the System and the CAES Switch that enables ITS/CAES Market Makers to participate in the Applications.

(15) "ITS/CAES Market Maker" means a NASD member that is registered as a market maker with the NASD for the purposes of the Applications with respect ot one or more specified ITS/CAES securities as more fully described in section 8(f). A NASD member so registered is an ITS/CAES Market Maker only with respect to those one or more specified ITS/CAES securities as to which he is so registered and only during such period as such registration is not suspended.

(16) "ITS/CAES security (stock)" means a security (stock) (a) that is a System security, (b) that is a 19c–3 security and (c) as to which one or more ITS/CAES Market Makers are registered as such with the NASD for the purposes of the Applications. During the NASD Pilot Phase, "ITS/CAES securities (stocks)" include only those 30 of such securities (stocks) that had the largest aggregate share volume as reported in the consolidated transaction reporting system during the fourth quarter of 1981. When used with reference to a particular ITS/CAES Market Maker, "ITS/CAES security" means any such security (stock) as to which the particular ITS/CAES Market Maker is so registered.

(17) "ITS/CAES station" means a CRT terminal (that is, a cathode ray tube and a keyboard) and its associated printer that are located on the premises of an ITS/CAES Market Maker and through which such ITS/CAES Market Maker is authorized and enabled to direct communications to, and receive communications from, the System via the CAES Switch. ITS/CAES stations are part of CAES and therefore not part of the System.

(18) "ITS/CAES Third Market" means the markets of ITS/CAES Market Makers in ITS/CAES securities as to which they are registered as such with the NASD for the purposes of the Applications and, when used in a physical sense, includes the premises on which are located ITS/CAES stations,

[33] 5 U.S.C. 78k–1(a)(3)(B). Section 11A(a)(3)(B) authorizes the Commission, in furtherance of its statutory directive to facilitate the development of a national market system, by rule or order, to authorize or require self-regulatory organizations to act jointly with respect to matters as to which they share authority under the Act in planning, developing, operating, or regulating a national market system (or a subsystem thereof) or one or more of the facilities thereof.

CAES and the CAES Supervisory Center.

(19) "ITS Plan" means the plan amended and restated in this instrument as from time to time amended in accordance with the provisions hereof.

(20) "ITS station" means a CRT terminal (that is, a cathode ray tube and a keyboard) and its associated printer or a card reader and its associated printer that are located on the floor of an Exchange Participant or in the CAES Supervisory Center and are used to enter and receive System communications into and from the System.

(21) "Market Maker" as used with reference to any System security means (a) as applied to an Exchange Participant other than the CSE, a specialist registered in such security; (b) as applied to the CSE, a Designated Dealer registered as such with the CSE in such security; and (c) as applied to the ITS/CAES Third Market, an ITS/CAES Market Maker registered as such with the NASD in such security for the purposes of the Applications.

(22) "Member," "member in the market center," "member on the floor" and "member in the Participant" (and any derivative and comparable phrases) as applied to the CSE each mean one or more NSTS Users in their use of NSTS.

(23) "NASD Pilot Phase" means the pilot phase described in section 10(d).

(24) "19c–3 security" means an Eligible Security that is not a "covered security" as that term is defined in SEC Rule 19c–3 as in effect on February 1, 1982.

(25) "NSTS" means the CSE's "National Securities Trading System."

(26) "NSTS User" has the meaning assigned to the term "User" in CSE Rule 11.9 as in effect on January 26, 1981.

(27) "NYSE UFDC" means the NYSE's "Universal Floor Device Control System," a computerized system that when fully implemented will, to some extent, replace the original ITS stations on the NYSE floor. The NYSE UFDC is not part of the System, but accommodates the routing of communications by means of card readers and their associated printers ("NYSE UFDC stations").

(28) "Participant" means a party to the ITS Plan with respect to which such plan has become effective pursuant to section 13. As applied to the CSE and the NASD, "Participant" does not include within its meaning "Participant('s) Market."

(29) "Participant having responsibility for such Participant Market" (or any derivative phrase) refers to the responsibility stated in section 3(b) and means, with respect to each Exchange Market, the Exchange Participant whose securities trading floor(s) or other facilities comprise the Exchange Market and, with respect to the ITS/CAES Third Market, the NASD.

(30) "Participant('s) Market" means each Exchange Market and the ITS/CAES Third Market.

(31) "Participant Switch" means, as applied to the NYSE, the NYSE UFDD and, as applied to the ITS/CAES Third Market, the CAES Switch.

(32) "Pre-Opening Application" means the Application described in section 7.

(33) "System" means the communications network that links electronically the Exchange Markets to one another and to the CAES Supervisory Center and the CAES Switch. The System includes (a) computers that perform such functions as message validation, processing, logging and switching, (b) high speed communications lines that link such computers with the Exchange Markets, with the CAES Supervisory Center, with the NYSE UFDC and with the CAES Switch and (c) ITS stations other than NYSE UFDC stations.

(34) "System security (stock)" means a security (stock) selected for trading through the Applications in accordance with section 5(b)(II).

(35) "System trade" means any trade made through any Application.

2. *Purpose of ITS Plan.* The purpose of the ITS Plan is to enable the Participants to act jointly in planning, developing, operating and regulating the System and the Applications as may be agreed upon by the Participants and described in the ITS Plan so as to further the objectives of Congress as set forth in section 11A(a) of the Act.

3. *Parties.*—(a) *List of Parties.* The parties to the ITS Plan are as follows:

American Stock Exchange, Inc. ("AMEX"), registered as a national securities exchange under the Act and having its principal place of business at 86 Trinity Place, New York, New York 10006.

Boston Stock Exchange, Inc. ("BSE"), registered as a national securities exchange under the Act and having its principal place of business at One Boston Place, Boston, Massachusetts 02108.

Cincinnati Stock Exchange, Inc. ("CSE"), registered as a national securities exchange under the Act and having its principal place of business at 205 Dixie Terminal Building, Cincinnati, Ohio 45202.

Midwest Stock Exchange, Inc. ("MSE"), registered as a national securities exchange under the Act and having its principal place of business at 120 South LaSalle Street, Chicago, Illinois 60603.

National Association of Securities Dealers, Inc., registered as a national securities association under the Act and having its principal place of business at 1735 K Street, N.W., Washington, D.C. 20006.

New York Stock Exchange, Inc. ("NYSE"), registered as a national securities exchange under the Act and having its principal place of business at 11 Wall Street, New York, New York 10005.

Pacific Stock Exchange, Inc., ("PSE"), registered as a national securities exchange under the Act and having its principal place of business at 618 South Spring Street, Los Angeles, California 90014.

Philadelphia Stock Exchange, Inc. ("PHLX"), registered as a national securities exchange under the Act and having its principal place of business at 1900 Market Street, Philadelphia, Pennsylvania 19103.

(b) *Compliance Undertaking.* By subscribing to and submitting the ITS Plan and become a Participant by agreeing, in an amendment to the ITS Plan for filing with the SEC, each undersigned party agrees to comply to the best of its ability and, absent reasonable justification or excuse, to enforce compliance by its members in their use of the System through its facilities with the provisions of the ITS Plan and with all actions taken by the Operating Committee since April 14, 1976.

(c) *New Participants.* The Participants agree that any other national securities exchange or national securities association may subscribe to the ITS Plan adopted in accordance with its provisions, to comply and to enforce compliance with the provision of the ITS Plan as provided in section 3(b).

4. *Administration of ITS PLan.*—(a) *Operating Committee: Composition, Voting.* Each Participant shall select one individual from its staff to represent such Participant as a member of the Operating Committee under the ITS Plan, together with a substitute for such individual. Such substitute shall participate in the deliberations of the Operating Committee and shall be considered a voting member thereof only in the absence of such individual. Each such individual (and, in his absence, his substitute) shall have one vote on all matters considered by the Operating Committee. Except as may be specifically otherwise provided herein, action taken pursuant to the vote of a majority of the members of the Operating Committee present at a meeting of the committee at which a majority of the full committee is present shall be deemed to be action of the Operating Committee.

(b) *Operating Committee: Authority.* The Operating Committee shall not be a policy making or a rule making body, but shall, either directly or by delegating its functions to individuals, subcommittees established by it from time to time or others, (i) oversee development of the System and the Application in accordance with the specifications therefore agreed upon by each Participant, (ii) monitor the operation of the System and of the Applications and (iii) advise the Participants with respect to any deficiencies, problems or recommendations as the committee may deem appropriate in its administration of the ITS Plan. In this connection, the Operating Committee shall have authority to develop procedures and make administrative decisions necessary to facilitate the operation of the System in accordance with the provisions of the ITS Plan.

In addition to the foregoing, the Operating Committee shall have the specific powers and responsibilities stated in the ITS Plan. Any instance of possible misuse or improper use of the System that may come to the attention of the Operating Committee may, by action of the committee, be referred to the Participant(s) having responsibility for the Participant Market(s) in which such misuse or improper use may have occurred for such action as such Participant(s) may deem appropriate.

(c) *Amendments to ITS Plan.* Any proposed change in, addition to, or deletion from the ITS Plan may be effected only by means of a written amendment to the ITS Plan which sets forth the change, addition or deletion, is executed on behalf of each Participant and is approved by the SEC pursuant to section 11A of the Act and Rule 11Aa3–2.

(d) *Participant's Rights.* No action or inaction by the Operating Committee shall prejudice any Participant's right to present its views to the SEC or any other person with respect to any matter relating to the System or to seek to enforce its views in any other forum it deems appropriate.

5. *The System.*—(a) *System Monitoring.*—(i) *ITS Supervisory Stations.* In each Exchange Market and at the CAES Supervisory Center, there is an ITS supervisory station. Through each Participant's ITS supervisory station, the supervisor appointed by such Participant is able to mechanically (and, in the case of an Exchange Participant, visually) monitor the performance of such Participant's System components and/or of such Participant's facilities linked to the System. Each Exchange Participant's ITS supervisory station is also used as "backup" for its System components. "Commitments to trade," "responses," "administrative messages" and "names later" information (as hereinafter defined) can be entered from and received at such ITS supervisory station when necessary. The ITS station located in the CAES Supervisory Center can only enter and receive administrative messages and enter names, later information.

(ii) *Control Center.* The System also includes a control center, which monitors and controls communications within the System, including the processing of error conditions. The control center staff is able to display and when authorized by any Participant Market, to modify the security and market records of that Participant Market as such records relate to the System. The control center staff is also able to indicate whether or not any Participant Market is open for System trades. In addition, the control center may be used as "backup" for the ITS supervisory stations. The control center staff is, as noted in section 5(c), able to issue "system-wide broadcasts." Finally, the control center staff is able to enter adjustments of any trade based on requests from the supervisors monitoring the Participant Markets in which the buyer and seller were located and to perform data based control after trading hours.

(b) *General Operation.*—(i) *Registered Clearing Corporations.* The Applications accommodate only regular way trading, and all System trades must be compared, cleared and settled through clearing corporations registered with the SEC that maintain facilities through which such transactions may be compared and settled and that agree to supply each Participant with data reasonably requested in order to permit such Participant to enforce compliance by its members with its rules, the provisions of the Act, the rules and regulations thereunder, and the ITS Plan.

(ii) *Selection of System Securities.* The System is designed to accommodate trading in any Eligible Security in the case of Exchange Participants and, in the case of any ITS/CAES Market Maker, trading in the one or more ITS/CAES securities in which he is registered as such with the NASD for the purposes of the Applications. The particular securities that may be traded through the System at any time ("System securities") shall be selected by the Operating Committee. The Operating Committee may add or delete System securities as it deems appropriate and may delay the commencement of trading in any Eligible Security if capacity or other operational considerations shall require such delay. At the expiration of the NASD Pilot Phase, it is contemplated that all 19c–3 securities that are System securities shall automatically become ITS/CAES securities if there are one or more ITS/CAES Market Makers in such securities. ITS/CAES securities may be traded by Exchange Participants and ITS/CAES Market Makers as provided in the ITS Plan and other System securities may be traded by Exchange Participants as provided in the ITS Plan.

(c) *Administrative Messages.* Administrative messages, as distinguished from commitments to trade, responses thereto and trade adjustment inputs (including names later information), may also be sent through the System. In addition to a function designator, administrative messages consist of free form text, up to four lines of 40 characters each, and, depending upon the category of administrative message selected (by the destination information entered), may be sent to one, some or all ITS stations and/or ITS/CAES stations in one, some or all Participant Markets. Administrative messages are designated in accordance with the function they serve.

There are two categories of administrative messages that can be sent by Participant members: Single destination and security broadcast. A single destination administrative message is routed only to one ITS station or ITS/CAES station. A security broadcast administrative message relates to a particular security and is routed to the one or more Participant Markets chosen by the sender, where it is displayed and/or printed at those ITS stations and ITS/CAES stations which have been designated to receive security broadcasts relating to that particular security by the Participant(s) having responsibility for the destination Participant Market(s).

Administrative messages received by the System will be validated as to function designator, destination Participant Market(s), security symbol (if appropriate) and identification of the destination ITS station (if appropriate) before they are transmitted. If the administrative message proves invalid, it will be rejected and an appropriate error message will be sent to the ITS station or Participant Switch through which the message entered the System. All valid administrative messages will be logged and time stamped in the System and will result in an acceptance message being sent to the ITS station or Participant Switch through which the message entered the System.

Another category of administrative message, a "system-wide broadcast," may be sent through the System only from the ITS control center. A system-wide broadcast administrative message is sent to every ITS station and ITS/CAES station.

(d) *Facilities Manager.* The Securities Industry Automation Corporation ("SIAC"), the jointly owned subsidiary of the NYSE and the AMEX formed in 1972, serves as the System's facilities manager and has responsibility for the operation and maintenance of the System. SIAC performs its function as facilities manager in accordance with the provisions of the ITS Plan and subject to the administrative oversight of the Operating Committee.

6. *ITS*—(a) *General Operation*—(i) *Quotations.* ITS facilities trades between members located in different Participant Markets. Through ITS, a member in any Exchange Market may trade any System security provided that continuous two-sided quotations in such security are required to be, and are, furnished under section 6(a)(i)(B) by or on behalf of such Exchange Participant to the other Participants. Similarly, an ITS/CAES Market Maker may trade through ITS any System security as to which he is registered as such with the NASD for the purposes of the Applications so long as he maintains two-sided quotations in such security.

(A) Receipt of Quotations. While a quotation facility is not an Application, ITS presupposes that through the consolidated quotation system, each member in each Exchange Market, each NSTS User and each ITS/CAES Market Maker can easily obtain, for each security that he is permitted to trade through the System, the best bid price and the best offer price from among the bid and offer prices then being furnished to the Participant Market in which such member, NSTS User or ITS/CAES Market Maker is located by or on behalf of each other Participant. For each Exchange Participant, the "best quote" objective requires that, for each System security that it trades through ITS, it display prominently at the location on its trading floor at which that security is traded the best bid price and the best offer price from among the bid and offer prices then being furnished to that Exchange Participant by or on behalf of the other Participants. Each Exchange Participant other than CSE also agrees that there shall be available at the location on its trading floor at which any System security is traded through ITS a quotation service that disseminates the bid price and the offer price of such security then being furnished by or on behalf of each other Participant. In addition, the CSE agrees that, for each System security as to which continuous two-sided quotations are required to be furnished by it under section 6(a)(i)(B), there shall be available at each location at which NSTS terminals are located a quotation service that disseminates the bid price and the offer price then being furnished by or on behalf of each other Participant. Similarly, the NASD agrees that, for each ITS/CAES security in which an ITS/CAES Market Maker is registered as such with the NASD for the purposes of the Applications, there shall be available at each location on the premises of such ITS/CAES Market Maker at which ITS/CAES stations are located a quotation service that disseminates the bid price and the offer price then being furnished by or on behalf of each other Participants.

The obligations of this section 6(a)(i)(A) do not require the display of "locking" or "crossing" bid and offer prices. Any Participant receiving in its market a "locking" or "crossing" quotation from another Participant Market need not display such quotation in its market and may determine not to display thereafter any quotation from such other Participant Market in the affected security until a subsequent quotation not "locked" or "crossed" is received from such other Participant Market.

(B) Furnishing of Quotations. As to each System security that is traded on its floor, each Exchange Participant other than the CSE shall furnish, or cause to be furnished, to each "receiving Participant Market" as defined below, or to a person acting therefor, the current bid-asked quotation emanating from its trading floor. As to each System security that is assigned to one or more Designated Dealers, the CSE shall furnish, or cause to be furnished, to each receiving Participant Market, or to a person acting therefor, the current bid-asked quotation that the CSE makes available as required by SEC Rule 11Ac1-1 under the Act (or, if Rule 11Ac1-1 shall hereafter be amended, as would be required if Rule 11Ac1-1 were in effect in the form that it existed on February 1, 1982) as applied to the CSE in securities that are assigned to one or more Designated Dealers. The NASD, as to each ITS/CAES security, agrees to collect, or cause to be collected, from each ITS/CAES Market Maker registered as such with the NASD for the purposes of the Applications each current bid price and each current offer price as made by such ITS/CAES Market Maker, each such bid and offer to be accompanied by size. For each ITS/CAES security, the NASD or its agent (1) shall select the best bid price and the best offer price from the bid prices and offer prices so collected and (2) shall furnish, or cause to be furnished, to each Receiving Participant, or to a person acting therefor, such best bid price and best offer price, together with the sum of the sizes accompanying the bids and offers at the best bid price and best offer price (the "ITS/CAES BBO"). As to any System security, a Participant Market is a "receiving Participant Market" if (1) it is an Exchange Market in which the security is traded, (2) it is the CSE and the security is assigned to one or more Designated Dealers or (3) it is the ITS/CAES Third Market and the security is an ITS/CAES security in which one or more ITS/CAES Market Makers are registered as such with the NASD for the purposes of the Applications.

Each Participant shall to the best of its ability assure that accurate and timely quotations are furnished to receiving Participants Markets or a person acting therefor as provided in this section 6 (a)(i)(B), and that each such quotation is accompanied by size as required by Rule 11Ac1-1 as in effect on February 1, 1982. Each quotation so furnished, and any size indicated, shall be considered "firm" to the extent herein provided. Any quotation so furnished and not accompanied by size shall be considered firm for one unit of trading in the security quoted. Each bid price included in any quotation furnished by any Participant shall represent the price that shall be received by a member accepting that bid price through the System and each offer price included in any such quotation shall represent the price that shall be paid by a member accepting that offer price through the System.

(ii) *Description of ITS Transactions.* Through ITS, a member located in one Participant Market who wishes to buy (or sell), for example, 100 shares of a particular common stock that is also traded through the System by members in one of more other Participant Markets is able to buy the stock from (or sell the stock to) such member(s). For example, assume that a member firm of the NYSE receives from a customer an order to purchase 100 shares of a given NYSE listed stock that is also traded on the PSE and the PHLX and sends that order to the NYSE floor for execution. There, a NYSE member, acting as agent for the customer, will receive the order and attempt to execute it. We will go to the post at which the stock is traded on the NYSE and inquire as to the market for that stock. He may find that the best bid on the NYSE floor is 39⅞ and that the best offer is 40¼. The continuously updated quotation display at the same trading post will also show the broker the best bid and offer available throughout the System other than on the NYSE floor, identifying the Participant Market with the best bid and the Participant Market with the best offer. Thus, the broker may discover that the best bid for the stock from other Participant Markets is a bid of 39⅞ on the PHLX and the best offer from other Participant Markets is one of 40⅛ on the PSE. Having learned this information, the broker may decided to attempt to buy the 100 shares for his customer from the 40⅛ offer on the PSE. By using an ITS station located on the NYSE trading floor, the broker would send, or cause to be sent, to the PSE a "commitment to trade" (in this case a commitment to buy) 100 shares of the stock at 40⅛. This commitment would be firm and irrevocable for a fixed period of time. If the 40⅛ offer on the PSE is still available when the commitment to buy reaches the PSE, or if a better offer is available, and if the rules of the PSE permit an execution at that price, then the PSE offer would accept the commitment during such time period and an execution at 40⅛ (or at the better price) would take place. The PSE would then report the trade to the CTA Processor for dissemination under the CTA Plan at 40⅛ (or at the better price) with the identifier assigned to the PSE.

If a trade involves the CSE, then, as a consequence of the location on the CSE floor of the ITS stations servicing CSE members, the commitment to trade or response thereto (and, as discussed below, all preopening notifications, responses thereto and other administrative messages) destined for or being sent on behalf of CSE members will leave and enter the System from the CSE floor. In the foregoing example, a trade involving the CSE would occur as follows. Assume that the stock in question is also one of the stocks as to which continuous two-sided quotations are required to be furnished by the CSE under section 6(a)(i)(B). Assume also that the continuously updated quotation display at the appropriate NYSE trading post shows that the best offer from other Participant Markets is one of 40⅛ on the CSE, rather than on the PSE. Having learned this information, the NYSE member may decide to attempt to buy the 100 shares for his customer from the 40⅛ offer on the CSE. By using an ITS station located on the NYSE trading floor, the broker would send, or cause to be sent, to the CSE floor a commitment to buy 100 shares of the stock at 40⅛. Upon receipt of the commitment at an ITS station located on the CSE floor, a CSE employee will determine whether the 40⅛ offer is still the best offer then being furnished by SCE members. If the 40⅛ offer is still available, or if a better offer is available, and if the rules of the CSE permit an execution at that price, then the CSE employee shall enter appropriated acceptances in both NSTS and the System during the applicable time period. As of entry of an acceptance into the System on behalf of the responsible CSE member, an execution at 40⅛ (or at the better price) would take place. The CSE would then report the trade to the CTA Plan Processor for dissemination under the CTA Plan at 40⅛ (or at the better price) with the identifier assigned to the CSE.

If a trade involves the ITS/CAES Third Market, the commitment to trade or response thereto destined for or originating with an ITS/CAES Market Maker will leave and enter the System at the CAES Switch. A trade involving the ITS/CAES Third Market would take place as follows. In the original example, assume that the stock in question is also an ITS/CAES security and that the order is for 300 shares. Assume also that when the NYSE member checks the continuously updated quotation display at the appropriate NYSE trading post, he sees that the best offer is one of 40⅛ for 300 shares from the ITS/CAES Third Market. Having learned this information, the NYSE member may decide to attempt to buy the 300 shares for his customer from the 40⅛ offer. By using an ITS station located on the NYSE trading floor, the broker would send, or cause to be sent, to the ITS/CAES Third Market a commitment to buy 300 shares of the stock at 40⅛.

When the commitment to buy is entered into the System, the System will route the commitment to the CAES Switch, which will in turn route the commitment to CAES. If the 40⅛ offer is still available when the commitment to buy reaches CAES, or if a better offer is available on behalf of an ITS/CAES Market Maker registered as such in the security described in the commitment, and if the rules of the NASD permit an execution at that price, then CAES would generate an acceptance of the commitment on behalf of one or more ITS/CAES Market Makers responsible for the 40⅛ offer (or the better offer) and route it to the CAES Switch. The CAES Switch would in turn route the acceptance to the System. The execution would occur at 40⅛ (or at the better price) if the applicable time period had not expired. CAES would report the trade to the CTA Plan Processor for dissemination under the CTA Plan at 40⅛ (or at the better price) with the same identifier that is assigned to the NASD.

If the example is reversed and an ITS/CAES Market Maker seeks to purchase 300 shares, then the ITS/CAES Market Maker would check the continuously updated quotation service located on his premises. Assume that he sees that the best offer is a 40⅛ offer for 300 shares on the PSE. Having learned this information, the ITS/CAES Market Maker may decide to attempt to buy the 300 shares from the 40⅛ offer. By using an ITS/CAES station located in his office, the market maker would send to the PSE a commitment to buy 300 shares of the stock at 40⅛.

When the commitment to buy is entered into the ITS/CAES station, the CAES Switch will route the commitment to the System, which will in turn route the commitment to the PSE. If the 40⅛ offer is still available when the commitment to buy reaches the PSE, or if a better offer is available, and if the rules of the PSE permit an execution at that price, then the PSE offer would accept the commitment during the applicable time period and an execution at 40⅛ (or at the better price) would take place. The PSE would then report the trade to the CTA Plan Processor for dissemination under the CTA Plan at 40⅛ (or at the better price) with the identifier assigned to the PSE.

(b) *Technical Matters*—(i) *Commitment Information, Expiration.* A commitment to trade shall, at a minimum:

(A) Include the number or symbol which identifies both (1) one clearing member if originating in an Exchange Market or, if originating with an ITS/CAES Market Maker, the ITS/CAES Market Maker or the broker-dealer through whom he clears System trades and (2) the clearing corporation through which the trade shall be settled,

(B) Direct the commitment to a particular Participant Market,

(C) Specify the security which is the subject of the commitment,

(D) Designate the commitment as either a commitment to buy or a commitment to sell,

(E) Specify the amount of the security to be bought or sold, which amount shall be for one unit of trading or any multiple thereof,

(F) Specify (1) a price equal to the offer or bid price then being furnished by the destination Participant Market, which price shall represent the price at or below which the security is to be bought or the price at or above which the security is to be sold, respectively, (2) a price at the clean-up price in the case of a commitment to trade sent in compliance with a Participant's block trade policy adopted pursuant to section 8(d)(iii), or (3) that the commitment is a commitment to trade "at the market,"

(G) Except with respect to commitments sent to or from an ITS/CAES market maker during the NASD Pilot Phase, designate the commitment "short" or "short exempt" whenever it is a commitment to sell short; this will permit the short sale rule as in effect

in the destination Participant Market to apply, and

(H) Specify the time period during which the commitment shall be irrevocable (if the time period is not specified in the commitment, the longer of the two available options shall be assumed by ITS).

The commitment shall be irrevocable for that time period following acceptance by the System as is chosen by the sender of the commitment. ITS provides two time period options, known as "T–1" (one minute) and "T–2" (two minutes). The sender of the commitment may designate which of the two options is to apply. The Operating Committee may from time to time change the length of the time period of either or both options.

(ii) *Quotations Precondition.* Each Exchange Participant shall assure that commitments to trade a particular security are not sent from or accepted at such Exchange Participant unless continuous two-sided quotations in such security are being furnished by such Exchange Participant to other Participant Markets. The NASD shall assure that commitments to trade are not transmitted from or to any ITS/CAES Market Maker except with respect to an ITS/CAES security (A) as to which he is registered as such with the NASD for the purposes of the Applications and (B) in which he is maintaining two-sided quotations.

(iii) *Commitment Pricing, Acceptance.* The rules of each Participant shall require that each commitment to trade sent through ITS (other than a commitment to trade "at the market" or a commitment sent in compliance with a Participant's block trade policy), if a commitment to buy, shall be priced at the offer price then being displayed from the Participant Market to which the commitment is sent and, if a commitment to sell, shall be priced at the bid price then being displayed from such Participant Market. In addition, such rules shall require that if the bid or offer that is sought by a commitment to trade received in such Participant's Market is still available when the commitment is received by the member(s) who made the bid or offer, the commitment shall be accepted by or on behalf of such member(s) up to the amount of such bid or offer unless acceptance is precluded by the rules of such Participant. In the event that the bid or offer that is sought by a commitment to trade is no longer available in the receiving Participant Market, but a new bid or offer is available in that market which would enable the commitment to trade to be executed at a price that, from the standpoint of the sender of the commitment, is at least as favorable as the price specified in the commitment, then, under the rules of such Participant, the commitment shall be accepted by or on behalf of the member(s) who made such new bid or offer at the price and up to the amount of such new bid or offer unless acceptance is precluded by the rules of such Participant. Such rules shall require that the price specified in the commitment (or if, from the standpoint of the sender of the commitment, a better price is received, then such better price) shall be the price reported to the CTA Plan Processor and, when an agency transaction, shall also be the price of the transaction as confirmed by each member participating in the transaction to his customer. The rules of each Participant shall provide that a commitment to trade received in such Participant's Market shall be executed in whole or, if not possible, in part as soon as it reaches the member(s) having the acceptance obligation described above in this paragraph and any portion not so executed shall be cancelled: *Provided, however,* That the commitment shall remain irrevocable for the time period chosen by the sender of the commitment as discussed in section 6(b)(i).

For the purpose of the preceding paragraph, a commitment is received or reaches one or more members (A) in the case of an Exchange Participant other than the CSE, when the commitment is received by such member(s), (B) in the case of the CSE, as provided below in this paragraph, and (C) in the case of the ITS/CAES Third Market, when the commitment is received by CAES. In order to effect the requirements of the preceding paragraph as they apply when a commitment to trade is received in the CSE, the CSE shall require a CSE employee, promptly following receipt of a commitment to trade at an ITS station located on the CSE floor, to ascertain whether the best bid or offer then available in NSTS equals or betters the bid or offer sought by the commitment. If such is the case, and if the CSE rules otherwise permit an execution, the CSE shall require the employee to enter an "immediate or cancel" order in NSTS at the price of such best bid or offer and at the size associated therewith (but not in excess of the size associated with the commitment) and, upon receipt of an execution in NSTS, to accept the commitment at such price in the amount of the size of the NSTS execution and to reject any balance of the commitment. If such is not the case, the CSE shall require the employee to immediately reject the entire commitment.

(iv) *Commitment Validation, Routing.* At the time of transmission, each commitment undergoes validation procedures. If the commitment passes the validation procedures, the System assigns a unique commitment identifier number (a "CID") to the commitment, time stamps it and logs it on a mass storage device (the "daily log"). The System also sends a transmission acceptance message to the Participant Market that originated the commitment. The commitment is then routed to the destination Participant Market. If the commitment is accepted, in whole or in part, in the destination Participant Market, the execution is reported back through the System to the originating and receiving Participant Markets.

If the commitment is not accepted or rejected during the applicable T–1 or T–2 time period (which commences to run upon the time stamping of the commitment when it is accepted by the System), the commitment is automatically canceled by the System at the end of the applicable time period and such cancellation is entered in the daily log and reported to the originating and receiving Participant Markets. A commitment to trade may also be rejected within the applicable T–1 or T–2 time period in the receiving Participant Market. In the case of any such rejection, the commitment shall be canceled and such cancellation shall be reported to the originating Participant Market and confirmed to the receiving Participant Market. The rules of each Exchange Participant shall provide that when a commitment to trade received on its floor is to be rejected, the Participant Market in which such commitment originated shall be notified of such rejection as promptly as possible. The NASD shall assure that a commitment to trade received in CAES shall be processed as if an "immediate or cancel" order.

If the commitment fails the validation procedures, its transmission is rejected by the System and an appropriate error message is sent to the Participant Market that originated the commitment. In the case of a commitment transmission originating in or destined for an Exchange Participant, such transmission is also rejected if either the originating Exchange Participant or destination Exchange Participant is not open for trading. In the case of a commitment transmission destined for the ITS/CAES Third Market, such commitment transmission is rejected if the CAES Switch is not operating.

(v) *Response Validation; Partial Executions.* Each response to a commitment to trade must also be validated by the System when entered. The CID must compare with that of the original commitment. The response, if an execution, must represent the contra side of the original commitment. The response must (A) identify as the contra side one or more clearing members, (B) indicate that all of the one or more clearing members (or the rest of the clearing members, if one or more, but not all, clearing members are identified in the response) will be identified to the System through a subsequent "names later" message or (C) in the case of the CSE, name the CSE itself. The response may report an execution, either in whole or in part, or may report a rejection of the commitment. If an execution is reported, the size executed must be equal to or smaller than the committed size. The execution price must equal or better the committed price. The validation process also assures that the commitment associated with the response has not been previously executed and has not expired through passage of time.

The System rejects the transmission of a response that fails the validation check and sends an appropriate error message to the Participant Market that originated the response. The validation of a response causes the System to retrieve the related commitment from the daily log and update it with appropriate response information. This log forms the basis from which the after-hours reports described in section 9 (a) are produced. Validation also causes the System to send a transmission acceptance message to the Participant Market that originated the response. The System then sends that response to the Participant Market that originated the commitment.

When a commitment is only partially executed, the unexecuted shares are not filled, and the System generates a cancellation for the unexecuted quantity and appends the cancellation to the execution report that it sends to the Participant Market that originated the commitment.

7. *Pre-Opening Application*—(a) *Description of Pre-Opening Application.* The Pre-Opening Application enables a market maker in any Participant Market who wishes to open his market in a System security to obtain through the System any pre-opening interest of other market makers registered in that security in the other Participant Markets. In this way a market maker in a given stock in one Participant Market may be able to participate (as agent and/or principal) in the opening transaction in that stock in another Participant Market and thus may be able to provide an execution for limited price orders left with him that would otherwise go unexecuted.

The Pre-Opening Application operates as follows: whenever a market maker in any Participant Market, in arranging an opening transaction in his market in a System stock, determies that the opening transaction will be at a price which is more than ¼ of a point away from the last price at which a transaction in that stock was reported by the CTA Plan Processor on the last previous day on which transactions in such stock were reported by the CTA Plan processor (the "previous day's closing price"), the rules of the Participant governing such market maker (the "inquiring market maker") will require the inquiring market maker to notify market makers in that stock in the other Participant Markets of such situation by sending a security broadcast administrative message, called a "pre-opening notification," through the System. Thereafter, the inquiring market maker is prohibited from opening the stock in question in his market until not less than five minutes (or such lesser period of time as may be established by the Operating Committee pursuant to section 4(e)) after his transmission of the pre-opening notification.

The pre-opening notification is designated as such, identifies the stock and states the side of the market in which the order imbalance exists, the amount of the imbalance (if any) and the amount paired offer (if any) at the first price that is more than ¼ of a point (or such other fraction of a point as may be established by the Operating Committee pursuant to section 4(e)) away from the previous day's closing price in the same direction as the anticipated opening price. For example, assume the inquiring market maker in XYZ stock holds the following orders:

Buy	Sell
7000 at market	1000 at market.
200 at 40	
800 at 40¼	500 at 40¼.
1500 at 40¼	500 at 40¼.
	1000 at 40¾.
	500 at 40¾.
2000 at 41	

Assume also that the previous day's closing price in XYZ was 40, that the applicable notification parameter is ¼ of a point and that the inquiring market maker, on the basis of the orders he then has, contemplates opening XYZ in his market at a price that is more than ¼ of a point away from the previous day's closing price. The inquiring market maker, under these circumstances, must send a pre-opening notification through the System to each other market maker in XYZ stock in any Participant Market. The pre-opening notification would identify itself as a pre-opening notification, would identify the inquiring market maker and the Participant Market in which he is located, would identify the stock in question as XYZ and would state:

"Buy—6000.....Paired—3000."

This message indicates that the imbalance experienced by the inquiring market maker is on the buy side of the market and that, after pairing orders for 3000 shares of XYZ at the first price higher than 40¼ (i.e., 40⅝), there would remain 6000 shares to buy or, in other words, the inquiring market maker would be required to sell as principal 6000 shares in order to permit an opening transaction at the price of 40⅝. The pre-opening notification would not indicate the opening price contemplated by the inquiring market maker. The market maker(s) receiving the pre-opening notification (the "receiving market maker(s)") would only know that the imbalance stated in the pre-opening notification exists at 40⅝.

If any receiving market maker wishes to respond to the pre-opening notification, he could do so by sending through the System to the inquiring market maker a security broadcast administrative message, known as a "pre-opening response," showing separately at each price level at which the stock might open his interest as principal for his own account and as agent for orders left with him. Assume the following is the order situation in XYZ stock on the PSE with the PSE specialist's interest as principal (reflected on a cumulative share basis) also shown at various price levels:

Sell as agent	Sell as principal
500 at market	
500 at 40¼	
500 at 40½	1,000
500 at 40⅝	3,000
1000 at 41	3,000

The PSE specialist (a "responding market maker") would, if he desired to participate in the inquiring market maker's opening transaction in XYZ, send a pre-opening response. The response would be designated as such, would identify the PSE specialist, the PSE and stock XYZ, and would show his market and limit orders both as agent and as principal on a netted share basis.* The netted amount of shares to

*The pre-opening response from the ITS/CAES Third Market will aggregate the ITS/CAES Third

buy or sell, whichever the case may be, at each indicated price level would be on a cumulative share basis and would include the net amount of shares representing market orders. Alternatively, market orders may be shown separately. Thus, a pre-opening response might be generated as follows:

Price	Sell as agent	Sell as principal
40⅛	1,000	
40¼	1,500	1,000
40⅜	2,000	3,000
41	3,000	3,000

In the above illustration, the 2,000 shares shown in the agency column at 40⅜ take into account the 500 shares to sell at the market, the 500 shares to sell at 40⅛ and the 500 shares to sell at 40¼. In addition, the response shows the principal interest of the PSE specialist on a cumulative basis.

The pre-opening response illustrated consists of four separate obligations to sell by the responding market maker. Upon receiving the obligations to sell from the responding market maker, the inquiring market maker would combine them with the orders he already holds in XYZ and, on the basis of this aggregated information, decide upon the opening transaction in XYZ. If he decided to open XYZ at 40⅜ (and if there had been no change in his order situation other than that which was furnished to him by the responding market maker), the opening transaction at 40⅜ would be for 9,000 shares. 5,000 of the shares would represent paired agency orders held by the inquiring market maker and the responding market maker. The remaining 4,000 shares needed to fill the remaining customer buy interest at 40⅜ would be supplied by the two market makers as principal on an allocated basis that permits the inquiring market maker to supply half the imbalance. In the case illustrated each of the two would supply 2,000 shares as principal. Unexecuted at the opening would be all buy limits below 40⅜ (totaling 2,000 shares), sell limit orders above 40⅜ (totaling 500 shares), and the 1,000 share obligation to sell at 41 received from the PSE specialist.

(b) *Allocation of Imbalances.* Whenever pre-opening responses from one or more responding market makers include obligations to take or supply as principal more than 50 percent of the imbalance at the opening price, an inquiring market maker will be permitted to take or supply as principal 50 ercent of the imbalance at such price, rounded up or down as may be necessary to avoid the allocation of odd-lots. In any such case, where the pre-opening response is from more than one responding market maker, the remaining imbalance (which may be greater than 50 percent if the inquiring market maker elects to take or supply less than 50 percent of the imbalance) will be allocated among them in proportion to the amount each obligated himself to take or supply as principal at the opening price in his pre-opening response, rounded up or down as may be necessary to avoid the allocation of odd-lots. For the purpose of this section 7(b), multiple responding market makers in the same System security in the same Participant Market shall be deemed to be a single responding market maker. (*See* Section 7(f).)

(c) *Subsequent Notifications.* If the order situation in the inquiring market maker's market changes significantly because of new orders received from within the Participant Market in which he is located or because of the pre-opening responses he has received, such Participant's rules will require such inquiring market maker to issue an additional pre-opening notification. These order situations are described below. Except in the case of a "second look" notification made as provided in section 7(c)(iv), the additional pre-opening notification will be a security broadcast administrative message containing the same kind of information as is required in the original pre-opening notification.

(i) *Reversal of Imbalances.* Where a pre-opening notification identifies an imbalance on one side of an inquiring market maker's market and, prior to his opening of the stock in question, the imbalance in his market has reversed so that an imbalance exists on the other side of the market, each Participant's rules will require such inquiring market maker to issue a replacement pre-opening notification (a "reversal" notification) before opening his market in the stock if he contemplates opening the stock at more than ¼ of a point (or such other fraction of a point as may be established by the Operating Committee pursuant to section 4(e)) away from the previous day's closing price. Thereafter, under such rules, the inquiring market maker will be prohibited from opening the stock in question in his market until not less than five minutes (or such lesser period of time as may be established by the Operating Committee pursuant to section 4(e)) after his transmission of the reversal notification.

(ii) *Increase or Decrease in Imbalance.* Where (A) the number of shares represented by paired agency orders plus the imbalance indicated in a pre-opening notification increases or decreases 50 percent or more before the applicable waiting period has elapsed, and (B) the opening transaction is expected to be for 5000 shares or more, each Participant's rules will require the inquiring market maker to issue a replacement pre-opening notification (an "additional" notification) before opening his market in the stock. Thereafter, under such rules, the inquiring market maker must wait either (A) one minute or (B) until the waiting period applicable to the original pre-opening notification expires, whichever is longer, before opening his market (*i.e.*, if more than one minute of the waiting period has not yet expired at the time the alteration notice is sent, the inquiring market maker must wait for the rest of the period to pass before opening his market).

(iii) *Shift to within Price Parameter.* Each Participant's rules will also require the inquiring market maker to notify the receiving market maker(s) prior to opening the stock in question if the imbalance indicated in the pre-opening notification has been reduced, eliminated or reversed so as to indicate an opening price not more than the applicable fraction of a point away from the previous day's closing price. Such a notice (an "altered" notification) will state: "XYZ PRE-OPENING NOTIFICATION ALTERED." Under such circumstances, the inquiring market maker must wait either (A) one minute or (B) until the waiting period applicable to the orginal pre-opening notification expires, whichever is longer, before opening his market (*i.e.*, if more than one minute of the waiting period has not yet expired at the time the alteration notice is sent, the inquiring market maker must wait for the rest of the period to pass before opening his market).

(iv) *Participation as Principal Precluded ("Second Look").* If a responding market maker who has indicated interest as principal in his pre-opening response would be precluded from participation at the contemplated opening price as principal, the rules of each Participant will require the inquiring market maker to send a single destination administrative message notifying such responding market maker of the price and size at which he could participate as principal (a "second look" notification). Thereafter, under such rules, the inquiring market maker would be required to wait either (A) one minute or (B) until the waiting period applicable to the original pre-opening notification expires, whichever is longer, before opening his market.

(d) *Sole Means of Pre-Opening Routing.* The rules of each Participant will also provide that when a pre-opening notification as to any security is received in such Participant's Market, the receiving market maker(s) shall submit any obligations to trade that security as principal for his or their own accounts to an inquiring market maker only through the Pre-Opening Application and shall not send orders to trade that security for his or their own accounts to the inquiring market maker for participation at the opening in the inquiring market maker's market by any other means. The foregoing sentence shall have no application to orders sent by the receiving market maker prior to the issuance of the pre-opening notification. However, prior to the opening of trading in a security in any Participant Market (or prior to the resumption of trading in any Participant Market following a Regulatory Halt in such security as referred to in section X of the CTA Plan), no obligation to trade, commitment to trade or order in such security (as either principal or agent) shall be sent through the System to such Participant Market until a pre-opening notification in such security has been issued from such Participant Market.

(e) *Treatment of Obligations to Trade.* Such rules shall also provide that an inquiring market maker, in receiving a pre-opening response, shall accord to any obligation to trade as agent included in such response the same treatment as he would to an order entrusted to him as agent in his own market at the same time such obligation was received.

(f) *Duration of Obligations to Trade; Aggregation.* Responses to pre-opening notification shall be voluntary, but, under the rules of each Participant, each obligation to trade that is included in any pre-opening response, or in any modification of a pre-opening response, shall remain binding on the responding market maker, and on any person for whom he is acting, until the inquiring market maker has either opened the stock in question or received a cancellation or modification of such obligation. A pre-opening reponse that has the effect of further increasing the imbalance indicated in the pre-opening notification shall not be rejected by an inquiring market maker for that reason alone. In the case of (i) the assignment of a System stock to more than one specialist located on the same floor of any Exchange Participant or to more than one Designated Dealer (in the case of the CSE) or (ii) the registration of more than one ITS/CAES Market Maker as such in any ITS/CAES stock, the Exchange Participant, the CSE or the NASD (as the case may be) shall assure that information pertaining to such stock received from such specialists, Designated Dealers or ITS/CAES Market Makers is aggregated for the purpose of sending pre-opening notifications and responses through the System.

(g) *Reports of Participation.* Promptly following the opening in any stock as to which an inquiring market maker issued a pre-opening notification, the inquiring market maker shall report to each responding market maker (or if, as described in section 7(f), a pre-opening response contained the aggregate interests of more than one responding market maker, to the Participant responsible for the market in which the responding market makers are located) (i) the amount of stock purchased and/or sold, if any, by the responding market maker(s) in the opening transaction and the price thereof or (ii) if the responding market maker(s)'s response included principal interest at the opening price that did not participate in the opening. The Participant responsible for a market from which the aggregate responses of more than one responding market maker were received shall, following its receipt from an inquiring market maker of notice of the participation of such responding market makers at the opening transaction, provide the identity of each such market maker (or the clearing member who settles System trades on his behalf) and his allocated size to the System through the "names later" mechanic described in section 6(b)(v).

(h) *Applicability following Regulatory Halts.* The Pre-Opening Application shall apply prior to any resumption of trading and of the dissemination of quotations in the third market following a Regulatory Halt by any Exchange Participant, as referred to in section X of the CTA Plan, if trading has been halted in all Exchange Markets and, when the affected security is an ITS/CAES security, if the NASC has suspended quotations in the affected security. In such a circumstance, the determination of whether a pre-opening notification must be sent shall be made with reference to the price reported by the CTA Plan Processor that pertains to the last transaction in the affected security prior to the Regulatory Halt. The Pre-Opening Application shall not apply when trading in any Participant Market is resumed following (i) the initiation of a Regulatory Halt on all Participants and, when the affected Security is an ITS/CAES security if the NASD has not suspended quotations in the affected security or (ii) any other type of halt in trading or when quotations in the third market are resumed following their suspension by the NASD for any other reason.

8. *Participants' Implementation Obligations*—(a) *System Access.* Each Exchange Participant shall determine where on its floor ITS stations are to be located, but each Exchange Participant agrees that ITS stations shall be conveniently located on its floor so as to encourage the use, supervision and surveillance of the System and its Applications. Each Exchange Participant other than the CSE shall also determine who shall have access to the ITS stations on its floor. ITS stations located on the CSE floor shall be accessible only to CSE employees. Each ITS/CAES station shall be accessible only to the ITS/CAES Market Maker on whose premises the station is located and to his employees. The ITS station located at the CAES Supervisory Center, and components of CAES and of any other NASD-sponsored facility linked to the System other than those located on the premises of ITS/CAES Market Makers, shall be accessible only to employees of the NASD or its subsidiaries. No commitment to trade any security shall originate in the ITS/CAES Third Market otherwise than as a consequence of an ITS/CAES Market Maker registered as such in the security with the NASD for the purposes of the Applications (or his employee) entering the commitment into the ITS/CAES station located on his premises. Any commitment so originating shall be routed directly to the system through the CAES Switch. Each Participant shall also determine how commitments to trade received in the market for which it has responsibility are to be handled therein and agrees that any procedures it may adopt in this regard shall be consistent with the provisions of the ITS Plan and the efficient operation of the System. Each Participant shall insure that no communication shall be entered into the System through any ITS station located on its floor (or through its Participant Switch if applicable), except (i) on behalf of a member of such Participant who is permitted by the ITS Plan and such Participant's rules to use the System with respect to the security or securities that are the subject of the communication or (ii) by employees of such Participant in performance of such

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Market interests to buy, separately identifying the aggregate interests to buy as agent and the aggretate interest to buy as principal, and will also aggregate the ITS/CAES Third Market interests to sell, separately identifying the aggregate interests to sell as agent and the aggregate interest to sell as principal.

Participant's obligations under the ITS Plan.

(b) *Participant Trading Rules.* The trading rules applicable in destination Participant Markets shall apply to commitments to trade received in such market and executions of commitments therein. For example, if a commitment to sell marked "short" is received in the NYSE, the commitment can result in an execution only in accordance with the short sale rule as in effect on the NYSE. A commitment to sell marked "short" and sent to the BSE can result in an execution only in accordance with the short sale rule as in effect on the BSE.

Each Exchange Participant shall determine the extent to which its trading rules shall apply to members within its market insofar as such members' issuance of commitments to trade from such market and resulting executions are concerned. The NASD shall determine the extent to which its trading rules shall apply to ITS/CAES Market Makers insofar as such market makers' issuance of commitments to trade and resulting executions are concerned.

(c) *Last Sale Information.* System trades shall, when furnished to the CTA Plan Processor, be accompanied by the identifier assigned to the Participant Market in which such trade occurred.

(d) *Order Protection*—(i) *Trade-Throughs: Locked Markets.* Absent reasonable justification or excuse, a member located in an Exchange Market, or an ITS/CAES Market Maker, should not purchase any security that he is permitted to trade through the System at a price that is higher than the price at which that security, at the time of such purchase, is offered in one or more other Participant's Markets that trade the security through ITS as reflected by the offer from such other Participant's Market(s) then being displayed on the trading floor of, or available in the quotation service used by, such Exchange or available in the quotation service used by an ITS/CAES Market Maker. Similarly, absent reasonable justification or excuse, a member located in an Exchange Market, or an ITS/CAES Market Maker, should not sell any such security at a price that is lower than the price at which that security, at the time of such sale, is bid for in one or more other Participant's Markets that trade the security through ITS as reflected by the bid from such other Participant's Market(s) then being displayed on the trading floor of, or available in the quotation service used by such Exchange or available in the quotation service used by an ITS/CAES Market-Maker. The Participants also agree that "locked markets" in System securities should be avoided.

(ii) *Adoption of Trade-Through Rules.* In order to implement the intent of section 8(d)(i), each Exchange Participant has adopted, and obtained SEC approval, of a "trade-through rule" substantially the same as the rule attached hereto as Exhibit A. In order to implement the trade-through rule as so adopted, each Participant that furnishes to other Exchange Participants bid-asked quotations that are generated by an automated quotation tracking system (such as the Autoquote system or the Centramart system currently employed by certain Participants) agrees that no such quotation shall be for more than 100 shares.

(iii) *Block Trade Policy.* The trade-through rule adopted by any Exchange Participant shall not apply to transactions in such Exchange Participant's Market that are, or are a part of, a "block trade", *i.e.*, a trade that (A) involves not less than 10,000 shares of a System security or a quantity of any such security having a market value of $200,000 or more and (B) is effected at a single "clean-up" price, but each Participant has adopted a "block trade" policy as to such trades substantially the same as the policy attached as Exhibit B. The Exchange Participants agree to continue their efforts to define and develop an additional Application that will address the trading of blocks of System securities so as to further enhance protection of public limit orders. Pending the implementation of such an additional Application, the block trade policy of each Exchange Participant shall require any member located in such Exchange Participant's Market who executes in such Exchange Participant's Market a block trade in any security that he is permitted to trade through the System at a clean-up price inferior to the best quotation for such security then being furnished from any other Exchange Participant Market hereunder, upon executing the block trade, to send to each other Exchange Participant furnishing hereunder a bid or offer (as the case may be) superior to the clean-up price a commitment to trade at the clean-up price to satisfy the number of shares included in such other Exchange Participant's bid or offer. A party in an Exchange Participant Market whose bid or offer was not satisfied in violation of another Exchange Participant's block trade policy may report the violation through the system by sending a complaint with respect thereto promptly following the block trade and, in any event, within five minutes from the time the report of the block trade was disseminated over the high speed line of the consolidated last sale reporting system.

(e) *CSE Implementation Obligations.* The CSE shall assure that CSE employees do not end a commitment to trade that is not pursuant to an instruction received from a CSE member through NSTS (or through an alternative method of communication in the case of a malfunction of the NSTS components servicing the instructing member). The CSE shall also arrange for communication between the ITS stations located on the CSE floor and CSE members so that the CSE members can instruct CSE employees to send and receive administrative messages and, in the case of Designated Dealers, pre-opening notifications and responses.

The CSE shall promptly inform each other Participant of any change in the list of System securities that are assigned to one or more Designated Dealers. The CSE agrees also that it shall be liable for any loss incurred by any other Participant, member or member organization thereof, or clearing member or clearing corporation acting on behalf of any such Participant, member or member organization as a consequence of any error or omission made by any CSE employee in facilitating or effecting any communication between such Participant, member or member organization and the CSE floor or a CSE member.

(f) *NASD Implementation Obligations.*—(i) *NASD Identification of Market Makers.* Prior to May 1, 1982, the NASD shall identify to each Exchange Participant in writing (A) each ITS/CAES Market Maker and the one or more ITS/CAES securities in which it has registered as such for the purpose of the Applications, and (B) the clearing corporation through which each ITS/CAES Market Maker shall settle System trades, or, if such ITS/CAES Market Maker elects to settle System trades through another clearing member, the identity of such clearing member and the clearing corporation through which such clearing member shall settle System trades on behalf of such ITS/CAES Market Maker. Thereafter, the NASD shall promptly so notify each Exchange Participant of each change therein or addition thereto.

(ii) *NASD ITS/CAES Market Maker Agreements.* The NASD shall require each ITS/CAES Market Maker to execute an agreement with the NASD (copies of the form of which have been furnished to the Exchange Participants) by which he (A) explicitly undertakes to comply with the ITS Plan and the NASD requirements described in section 8(f)(iii), (B) explicitly agrees to accept and to settle on the regularly scheduled settlement date, or to cause the clearing member acting on his behalf to accept and to settle on the regularly scheduled settlement date, each side of a System trade that the System identifies as constituted by him or by such clearing member (as the case may be), and (C) explicitly recognizes that he may be subject to censure, fine, suspension or any other fitting penalty, and his registration as an ITS/CAES Market Maker may be subject to suspension or revocation, for any failure to comply with the provisions of the ITS Plan or of the agreement required by this section 8(f)(ii). If such ITS/CAES Market Maker elects to settle all his System trades through another clearing member, such other clearing member shall also execute the aforesaid agreement as an additional party thereto, which execution shall evidence such clearing member's explicit agreement to accept and to settle on the regularly scheduled settlement date each side of a System trade that the System identifies as constituted by such clearing member.

(iii) *NASD Implementation Requirements.* Prior to May 1, 1982, the NASD shall specify requirements:

(A) For the registration and reregistration of ITS/CAES Market Makers as such with the NASD in specific ITS/CAES securities and for the suspension, revocation and surrender of ITS/CAES Market Makers' registrations as such in specific ITS/CAES securities, which requirements shall, at a minimum, provide that no such registration or reregistration will be effective except upon two business days' notice to the NASD, the Operating Committee and the System's facilities manager.

Providing that as a condition of registration and reregistration and of continued registration of each ITS/CAES Market Maker he:

(1) Maintain, except during periods of excused withdrawal, throughout each trading day and report to the NASD continuous two-sided quotations with respect to each security in which he is registered as such with the NASD,

(2) Accept and settle on the regularly scheduled settlement date each side of a System trade that the System identifies as constituted by him or, if he determines to settle all his System trades through another clearing member, assure that such clearing member accepts and settles on the regularly scheduled settlement date each side of a System trade that the System identifies as constituted by such clearing member,

(3) Prevent any communication intended for routing to the System from being entered into any ITS/CAES station located on his premises except by him or as authorized by him on his behalf, and

(4) Comply with the ITS Plan.

(C) Applying to the trades of ITS/CAES Market Makers in an appropriate fashion the concepts of the trade-through rule and block trade policy attached as Exhibits A and B.

Prior to May 1, 1982, each Exchange Participant shall adopt, and use its best efforts to cause the SEC to approve, amendments to its trade-through rule and block trade policy agreeable to the NASD that expand such rule and policy to cover the quotations of ITS/CAES Market Makers.

(iv) *NASD Identification of Trade Participants.* As to any System trade involving the post-trade identification of ITS/CAES Market Makers (or the clearing members who settle System trades on their behalf) pursuant to the "names later" feature described in sections 6(b)(v) and 7(g), the NASD shall have the capacity to supply or resupply to the System the identities of the ITS/CAES Market Makers participating in such trade (or the clearing members acting on their behalf) at any time from the time of the trade until its settlement and whether or not such identities have previously been supplied to the System.

(v) *MSI Clearing Corporation Arrangement.* In order to enable the NASD to perform its settlement obligations as provided in section 9(d), MSI shall enter into an arrangement with a registered clearing corporation meeting the criteria of section 5(b)(i) that provides that such clearing corporation shall book to an account of the NASD or its agent each side of a System trade that (A) is identified as attributable to the ITS/CAES Third Market but (B) is not identified as constituted by one or more ITS/CAES Market Makers or clearing members acting on his or their behalf.

(vi) The NASD shall enhance CAES, as promptly as practicable and in any event prior to the end of the NASD Pilot Phase, to permit the execution of commitments to sell short routed through the CAES Switch in compliance with SEC Rule 10a–1.

(vii) *MSI, Inc. Representation.* The NASD represents that MSI, the operator of CAES, is a wholly-owned subsidiary of the NASD. The NASD shall cause MSI to operate CAES in a manner consistent with the ITS Plan.

9. *Comparison and Settlement.* Comparison of a side of a System trade furnished by an Exchange Participant shall be the responsibility of such Exchange Participant. A side of a System trade identified by the System as one or more ITS/CAES Market Makers or clearing members acting on his or their behalf shall be accepted and settled by the ITS/CAES Market Maker(s) or clearing member(s) so identified.

(a) *After Hours Functions.* The functions of the System after the close of trading in all Participant Markets shall consist of the following:

(i) The System's daily log of messages will be put on tape for retention;

(ii) The System will generate four reports:

(A) A commitment/response report that will match commitments to trade with the appropriate responses,

(B) A commitment/cancellation report that will list all commitments to trade that were cancelled,

(C) A trade adjustment report that will list all adjustments made to previously executed System trades, and

(D) A traffic summary report that will indicate the number of commitments to trade, the number of responses and the number of administrative messages entered from each Participant Market during the trading day; and

(iii) The System will generate the clearing tape referred to in section 9(b).

(b) *Clearing Tape.* At the end of each trading day, the System generates a clearing tape as part of after-hours processing. This tape is in CID sequence, includes all of the day's System trades, and shows:

(i) The CID,

(ii) Either (A) the originating Exchange Participant and clearing member(s) or (B) the NASD, the ITS/CAES Market Maker(s) or clearing member(s) acting on his (their) behalf identified by the System as originating the trade, and the clearing corporation(s) through which such market maker(s) or clearing member(s) shall settle the trade,

(iii) Either (A) the destination Exchange Participant and destination clearing member(s) or (B) the NASD, the ITS/CAES Market Maker(s) or clearing member(s) acting on his (their) behalf identified by the System as the market maker(s) or clearing member(s) on whose behalf the trade was accepted by CAES, and the clearing corporation(s) through which such market maker(s) or clearing member(s) shall settle the trade,

(iv) The type of trade action (buy or sell),

(v) The security symbol,

(vi) The executed quantity and price, and

(vii) The date and time of trade.

Adjustments to any System trade made by agreement between both sides of the trade are included in the tape and shown as a separate "trade adjustment record." If a trade has been adjusted, the original trade record is followed by trade adjustment record(s). The trade adjustment record(s) carry the same CID as the original trade record. There are two types of trade adjustments, System trade cancellations and System trade changes. For System trade cancellations, the adjustment record negates the

original trade record. For example, a cancellation of a trade to buy is reflected on the adjustment record as a "negative buy." For System trade changes, there are two adjustment records. The first adjustment record negates the original trade record. The second adjustment record logs the trade data as adjusted for, e.g., a change in action, security, quantity and/or price. The adjustment records are generated from the trade adjustment file that is created during the trading hours and from inputs from the ITS control center pursuant to requests from the Participants' supervisors.

(c) *Comparison of System Trades.* The contra side of each System trade ultimately is (i) if the contra side was entered by an Exchange Participant, the clearing interface account used to identify the clearing corporation through which the comparison of such side is completed or (ii) if the contra side was entered by or on behalf of one or more ITS/CAES Market Makers, the clearing interface account(s) used to identify the clearing corporation(s) through which such ITS/CAES Market Maker(s) or the clearing member(s) acting on his (their) behalf shall settle the trade. If both sides of a System trade are to settle through the same clearing corporation, the clearing corporation may, at its option, either book each side against the clearing member responsible for that side or offset each side against an internal omnibus account (in which case the omnibus account will net to zero). If one or more ITS/CAES Market Makers supplied one side of a System trade, the System's report of that side will be accepted by the clearing corporation(s) through which such side is to be settled as already compared and the member(s) in the Exchange Participant supplying the contra side will not compare the trade with such ITS/CAES Market Maker(s) or the clearing member(s) acting on his (their) behalf.

While sorting and format changes may be required, the various clearing corporations are able to use the System clearing tape as the basic input to their trade comparison operations. The clearing member(s) responsible for an exchange-supplied side of a System trade shall follow routine comparison procedures. In instances where an uncompared transaction cannot be resolved through routine procedures, the exchange-supplied side(s) of the trade discrepancy will be handled in accordance with the rules of the Exchange Participant(s) and clearing corporation(s) involved.

Once comparison has been completed, clearance and settlement can proceed in a routine manner. System trades are processed with all other transactions through established clearing interfaces.

(d) *Participant Settlement Obligations.* The rules of each Exchange Participant shall be designed to assure that if a System trade reported on the clearing tape (as adjusted) at the close of any trading day, as such trade relates to such Exchange Participant, cannot be compared notwithstanding the use of routine comparison procedures, such Exchange Participant shall on the scheduled settlement date honor such uncompared trade: *Provided, however,* That if such a System trade as it relates to such Exchange Participant is rejected or excluded from the settlement operation conducted by the clearing corporation to which it was reported for settlement either because of the insolvency of the member(s) for whose account(s) it was to be settled or for any other reason (other than failure to compare), such Exchange Participant shall not be obligated to honor such trade and such trade shall be returned to such member(s). The rules of the NASD shall provide that the one or more ITS/CAEScase Market Makers or clearing members acting on his or their behalf reported on the clearing tape as (adjusted) at the close of any trading day as constituting a side of a System trade shall honor such trade on the scheduled settlement date. In the event the clearing tape (as adjusted) at the close of the trading day fails to so identify one or more ITS/CAES Market Makers or clearing members acting on his or their behalf as constituting a side of a System trade that is identified as attributable to the ITS/CAES Third Market and no such identification can be established prior to the scheduled settlement date, the NASD shall on the scheduled settlement date honor such trade. In the event that a System trade identified by the System to be settled by one or more ITS/CAES Market Makers or clearing members acting on his or their behalf is rejected or excluded from the settlement operation conducted by the clearing corporation to which it was reported for settlement either because of the insolvency of the member(s) for whose account(s) it was to be settled or for any other reason, the NASD shall not be obligated to honor such trade on behalf of such member(s) and such trade shall be returned to such member(s).

In the event that a System trade as it relates to any Participant is rejected or excluded from the settlement operation conducted by the clearing corporation to which it was reported for settlement for any reason other than failure to compare, neither the Participant from whose market the side of the trade that is rejected or excluded was supplied, the Participant from whose market the contra side of such trade was supplied nor any clearing corporation to which either side of the trade was submitted shall be obligated to honor the trade. Instead, the member(s) constituting the contra side of the rejected or excluded trade (the "contra party") shall, without unnecessary delay after receipt of notice of such rejection or exclusion, close out such trade in the best available market, except insofar as the rules of the clearing corporation to which the contra side was submitted or of the Participant from whose market the contra side was supplied are applicable and provide an alternative method for closing. The rules of each Participant shall state the foregoing closing obligations of the contra party.

10. *Operational Matters*—(a) *Reservation of Authority on Trading Halts.* Each Exchange Participant shall retain its authority as a national securities exchange to halt or suspend trading in its market whenever such Exchange Participant deems such action to be necessary or appropriate. Similarly, the NASD shall retain its authority as a national securities association to suspend the furnishing of third market quotation information whenever it deems such action to be necessary or appropriate.

(b) *Closed Markets: Trading Halts and Suspensions.* Whenever and so long as an Exchange Participant is closed as to a particular security due to a halt in or suspension of trading in that security or because the Exchange Participant is closed generally or has not yet opened for trading in that security, no commitment to trade through ITS with respect to that security may be either issued from or accepted in that Exchange Participant. Similarly, whenever the third market is closed as to a particular security due to a halt in or suspension of trading in that security or whenever the NASD has suspended third market quotations in that security no commitments to trade through ITS with respect to that security may be transmitted through the ITS switch. In addition, whenever an ITS/CAES Market Maker registered as such in that security with the NASD is closed or has not commenced trading in that security, no commitment to trade through ITS with respect to that security may be issued or accepted by or on behalf of such ITS/ CAES Market Maker.

Consequently, if a commitment to trade a particular security is received in a Participant Market and if, before the commitment to trade is executed or cancelled, trading in that security in the destination Participant Market is halted or suspended (or, when the destination is the ITS/CAES Third Market, the furnishing of quotation information with respect to that security is suspended by the NASD), the trading halt will result in the cancellation of the commitment. On the other hand, if, after a commitment to trade a particular security is sent, the Exchange Participant in which such commitment originated halts or suspends trading (or, if such commitment was sent by an ITS/CAES Market Maker, the NASD suspends quotations) in that security but the destination Exchange Participant does not halt or suspend trading (or if such commitment was directed to the ITS/ CAES Third Market, the NASD does not suspend quotations) in that security, the commitment to trade may be accepted and result in an execution in the destination market notwithstanding the trading halt, trading suspension or quotation information suspension in the originating Participant Market.

(c) *Operating Hours: "Additional Period" Defined.* Except as provided in section 7, administrative messages may be sent and received through the System between and among Exchange Participants, ITS/CAES Market Makers and the NASD Supervisory Center whenever the System is operating and whether or not, for example, any one or more of the Exchange Participants is open for trading either generally or as to one or more particular securities. The normal operating hours of the System are 9:30 a.m. to 4:00 p.m. eastern time. At the latter time the System closes down and the various after-hours functions referred to in section 9(a) commence. Any period outside the normal operating hours of the System is herein referred to as an "additional period." The System shall be operable during any additional period requested in writing by any two or more Participants: *Provided,* That such Participants have agreed to pay all costs and expenses attributable to the operation of the System such additional period.

(d) *NASD Pilot Phase.* The Participants agree that the ITS/CAES Market Makers shall commence their use of the System through the NASD Switch with a pilot phase (the "NASD Pilot Phase"), during which commitments to trade, responses thereto and pre-opening notifications and responses may be sent through the NASD Switch from or to ITS/CAES Market Makers only with respect to those Systems securities that are among the 30 19c–3 securities meeting the definition of an "ITS/CAES security" for the purposes of the NASD Pilot Phase as provided in section 1(16). The NASD shall identify those 30 securities to the Exchange Participants thirty days before the commencement of the NASD Pilot Phase.

It is contemplated that the NASD Pilot Phase shall commence on May 1, 1982 and shall continue until the first day of a calendar month that is, or is the first such day after, the 180th day following the date of commencement. During the NASD Pilot Phase, the Exchange Participants and the NASD agree to continue their good faith efforts to examine and revise as necessary the policies and rules of the Exchange Participants, the NASD and the SEC to assure fair competition among brokers and dealers, among exchange markets and between exchange markets and markets other than exchange markets (the "fair competition" task). Among the issues to be addresses in completing the fair competition task are: (1) The price at which over-the-counter principal trades should be reported to the consolidated tapes so as to preserve the integrity of the ITS order protection rules and policies adopted pursuant to section 8(d) and 9(f) (iii); and (ii) the appropriateness of additional registration requirements for ITS/CAES Market Makers. In addition, the Exchange Participants and the NASD will also consider the question of how the ITS Plan should permit commitments to trade to originate in the ITS/CAES Third Market and be routed through the CAES Switch. During the NASD Pilot Phase, the Participants, with the cooperation of the System's facilities manager and the SEC, will analyze and evaluate the participation by the NASD and the ITS/CAES Market Makers under the NASD Pilot Phase and any user comments they may receive, including any problems that may appear or may be anticipated. Following such analysis and evaluation, the Exchange Participants and the NASD will attempt in good faith to agree on a resolution of any such problems and on any necessary amendments to the ITS Plan.

The provisions of this section 10(d) shall govern in lieu of any other provision of the ITS Plan inconsistent with this section 10(d). Upon the termination of the NASD Pilot Phase, the provisions of this section 10(d) shall cease to apply and the balance of the ITS Plan shall govern the participation of ITS/CAES Market Makers in the Applications.

(e) *Automated Electronic Interfaces between Participants' Facilities and the System.* Any proposal that may be developed by any Participant for an automated electronic interface between the facilities of such Participant and the System shall be considered expeditiously by the Operating Committee and by each of the other Participants.

11. *Financial Matters*—(a) *Costs.* The Participants shall share the "development costs," "production costs," and "line costs" of the Applications in accordance with the provisions of this section 11(a).

(i) *Costs Definitions.* (A) "Average line cost" as used with reference to any Participant means (1) the total line costs identifiable to the lines and associated modems linking such Participant (or, in the case of the NASD, the CAES Switch and the CAES Supervisory Center) with the System's control center and facilities manager divided by (2) total number of such lines.

(B) "Computer software" includes all programs or routines developed by or at the direction of the System's facilities manager on or after November 1, 1977 to cause computers to perform tasks required for any one or more Applications and the documentation required to describe and maintain those programs. Computer programs of all classes, for example, operating systems, execution systems, monitors, compilers and translators, assembly routines, and utility programs as well as Application programs are included.

(C) "Development costs" mean all costs incurred after October 31, 1977, by the System's facilities manager in developing and improving the computer software and installing hardware as necessary to facilitate any one or more Applications (including any testing conducted in connection with any one or more Applications).

(D) "Initial development costs" mean the $721,831 in development costs incurred after October 31, 1977, and prior to July 1, 1978.

(E) "Installing hardware as necessary" includes, but is not limited to, installation and maintenance of all installations and computer facilities required to support any one or more Applications.

(F) "Line costs" mean the total of monthly rentals paid to common carriers for lines and associated modems employed in the System's communication network, which link the Exchange Markets, the CAES Supervisory Center and the CAES Switch with the System's control center and facilities manager, plus any federal, state or local taxes applicable to such rentals, and excludes all costs with respect to lines and associated modems (1) linking multiple floors of any

participant, (2) linking the CSE floor with CSE members or (3) linking CAES, the CAES Supervisory Center and ITS/CAES Market Makers with one another.

(G) "network A Eligible Securities" has the meaning assigned to that term in the CTA Plan.

(H) "Network B Eligible Securities" has the meaning assigned to that term in the CTA Plan.

(I) "New Participant" means any national securities exchange or national securities association that becomes a Participant in accordance with section 3(c) after April 14, 1978.

(J) "1977 transactions base" means 8,179,997 transactions, which is the sum of (1) the total transactions reported by the CTA Plan Processor in Network A Eligible Securities during the first ten months of 1977, and (2) the total transactions reported by the AMEX during that same period to the CTA Plan Processor in those ten Network B Eligible Securities in which the greatest number of transactions occurred on the AMEX during that period.

(K) "Production costs" mean all operating expenses (other than line costs) attributable to the period beginning on April 17, 1978 (the date of the commencement of ITS as announced by the Operating Committee) and associated with the operation of any one or more Applications, including all costs and expenses (including appropriate overhead costs and all applicable taxes however designated, exclusive of net income taxes) of the System's facilities manager associated with, relating to, or resulting from its operation or maintenance of any one or more Applications but excluding any cost or expense associated with any Participant's selfregulatory function.

(L) "Share of the 1977 transactions base" of any new Participant means a fraction, the numerator of which shall be the total transactions reported by the new Participant during the first ten months of 1977 to the Processor under the CTA Plan in Network A Eligible Securities and the denominator of which shall be the 1977 transactions base (8,179,997 transactions). For Participants that were new Participants prior to 1983, such shares were:

	Percent
CSE	1.8
MSE	3.1
NASD	1.9

(M) "Share of the transactions base" of any Participant (other than the AMEX or the NYSE) as computed for any calendar quarter means a fraction, the numerator of which is the total transactions reported by the Participant during the calendar quarter to the CTA Plan Processor in Network A Eligible Securities and the denominator of which is the transactions base for the calendar quarter. The AMEX's "share of the transactions base" as computed for any calendar quarter during some or all of which the AMEX was a Participant means a fraction, the numerator of which is the transactions figure reported by the AMEX as required by clause (2) of section 11(a)(i)(N) and the denominator of which is the transactions base for the calendar quarter. The NYSE's "share of the transactions base" as computed for any calendar quarter means the fraction remaining after subtracting from 1 the sum of the fractions assigned in this section 11(a)(i)(M) to other Participants.

(N) "Standardized number of lines" means the sum of the line speeds of the referent lines (expressed in baud) divided by 4800 baud.

(O) "Transactions base" for any calendar quarter means the sum of (1) the total transactions reported by the CTA Processor under the CTA Plan in Network A Eligible Securities after April 17, 1978 and during the calendar quarter for which the transactions base is being computed and (2) if the AMEX was a Participant during some or all of the calendar quarter, the total transactions reported by the AMEX during the calendar quarter to the CTA Plan Processor in those ten Network B Eligible Securities in which the greatest number of transactions occurred on the AMEX during the calendar quarter.

(ii) *Dispute Costs Excluded.* The development costs, production costs and line costs shall not include any cost or expense incurred by any Participant as a result of or in connection with the defense of any claim, suit or proceeding against the Operating Committee or any one or more of the Participants relating to the ITS Plan or the operation of the System and/or any Application. All such costs and expenses incurred by any Participant shall be borne by such Participant without contribution or reimbursement.

(iii) *Development Costs.*—(A) *Initial Development Costs Sharing.* The Participants shared among themselves the $721,631 in initial development costs as set forth below:

AMEX	3.1
BSE	0.6
PHLX	1.3
PSE	5.5
NYSE	89.1

(B) *New Development Costs Sharing.* Development costs shall not be incurred after June 30, 1978 except as agreed to by all Participants. Subject to the last sentence of this section 11(a)(iii)(B), each Participant (1) shall pay the same share of the $755,434 in development costs incurred after June 30, 1978 and prior to January 1, 1980 as it paid of the initial development costs and (2) shall pay a fraction of any development cost incurred after December 30, 1979 equal to its share of the transactions base for the calendar quarter preceding the calendar quarter during which the Participants agree to incur such cost. Except as provided in section 11(a)(iii)(E), any development cost incurred after June 30, 1978 that is incurred for the benefit of less than all Participants shall be shared by the Participant or Participants which benefit therefrom as they shall mutually agree.

(C) *Development Costs Payment.* Development costs will be computed by the System's facilities manager as soon as practicable following the close of the calendar month or, if relatively small, the calendar quarter during which they were incurred. Each Participant's share shall be billed to, and payable by, such Participant promptly thereafter.

(D) *New Participant's Share of Development Costs.* The foregoing methods of sharing development costs may cause the NYSE to pay a share of such costs that is in excess of its share of total transactions reported by the CTA Plan Processor in Network A Eligible securities during the computation periods. At the time any national securities exchange or national securities association becomes a new Participant, such new Participant shall be charged (1) a share of the initial development costs and (2) a share of any development cost incurred after June 30, 1978 and prior to such new Participant becoming a Participant that is determined to benefit such new Participant by the Participants that paid such development cost. Such new Participant's share of the $721,631 in initial development costs and of any development cost that benefits it incurred after June 30, 1978 and prior to January 1, 1980 shall equal its share of the 1977 transactions base. Such new Participant's share of any development costs that benefits it incurred after December 30, 1979 and prior to such new Participant becoming a Participant shall equal the share of such development cost that such new Participant would have paid in accordance with section 11(a)(iii)(B) had it been a Participant during the calendar quarter preceding the calendar quarter during which the Participants agreed to incur such cost. Each new Participant shall, upon becoming a Participant, pay its share of development costs as so computed to the NYSE and, except as provided in the following sentence, the NYSE shall retain the same without any sharing with or among the other Participants. If, in accordance with the last sentence of section 11(a)(iii)(B), the NYSE was not charged a portion of any development cost incurred after June 30, 1978 that benefits such new Participant, the NYSE shall distribute the portion of the new Participant's payment received by the NYSE in accordance with the preceding sentence that is attributable to such development cost to the Participant or Participants that paid such development cost, *pro rata* in accordance with their payments therof. Each new Participant shall share in development costs incurred after it becomes a Participant in accordance with section 11(a)(iii)(B).

(E) *CAES Interface Costs.* Enabling the System to accommodate participation by ITS/CAES Market Makers requires incurring development costs that benefit initially only the NASD and ITS/CAES Market Makers (the "ITS/CAES development costs"). These costs include the costs incurred by the System's facilities manager of (1) creating the automated interface (estimated at $282,173), (2) adding function designators to administrative messages (estimated at $48,762), (3) System programming to accommodate the NASD Supervisory Center (estimated at $13,000), and (4) testing costs incurred after March 1, 1982 (estimated at $45,000–$50,000 per month). The NASD shall pay the difference between (1) the total of the ITS/CAES development costs as finally calculated and (2) $28,09. The subtraction of $28,091 (which is the amount of the development costs incurred in connection with the commencement of the participation of the CSE) reflects the fact that if the NASD's participation was otherwise than by an automated interface, development costs incurred in connection therewith would have been borne by all Participants pursuant to clause (2) of section 11(a)(iii)(B). The $28,091 shall be shared by all Participants (including the NASD) in acordance with said clause (2).

If any Participant in addition to the NASD shall subsequently participate through the automated interface, such Participant shall pay to the NASD a portion of the difference between (1) the ITS/CAES development costs and (2) an amount equal to $28,091. Such Participant's portion shall equal its share of the transactions base.

(F) *Title to Software.* The entire right, title and interest in and to all "computer software" (as defined in section 11(a)(i)(B) developed prior to July 1, 1978 shall be vested in the Participants who share the cost of such computer software as joint owners. The entire right, title and interest in and to all computer software developed after June 30, 1978 shall be vested in the Participants who pay the cost thereof. If more than one Participant shares in the cost of computer software developed after June 30, 1978, then the entire right, title and interest in and to such computer software, the cost of which is so shared, shall be vested in the Participants who share such cost as joint owners. The System's facilities manager shall use computer software solely for the purpose of performing tasks required for the Applications as provided in the ITS Plan.

(iv) *Production Costs.*—(A) Production Costs Sharing. The production costs attributable to any calendar quarter (which averaged $67,000 per month during the first four months of 1981) shall be shared by the persons who were Participants during any portion of the calendar quarter. Each such Participant shall pay a fraction of such production costs equal to its share of the transactions base as computed for the calendar quarter.

(B) *Production Costs Payment.* Production costs will be computed by the System's facilities manager as soon as practicable following the close of each calendar month following April 17, 1978. Each Participant's (or former Participant's) estimated share thereof shall be billed by the System's facilities manager and shall be payable to the System's facilities manager promptly following receipt. Any appropriate adjustment will be made between the System's facilities manager and each Participant promptly following the close of each calendar quarter.

(v) *Line Costs Sharing, Payment.* Line costs attributable to the Applications during any calendar month on or after August 1, 1978, shall be borne by the persons who were Participants during any portion of such month as set forth in this section 11(a)(v).

(A) *Shared Line Costs.* Such Participants shall share 100 percent of the sum of the products of (1) the average line costs incurred during such month for each Participant and (2) the smaller of either 3 or the standardized number of formula lines linking such Participant (or, in the case of the NASD, the CAES Switch and the CAES Supervisory Center) with the System's control-center and facilities manager. Such Participants shall also share 50 percent of the sum of the products of (1) the average line costs incurred for each Participant and (2) the smaller of either 4 or the standardized number of such formula lines in excess of 3. Each such Participant's share shall equal the total of the costs referred to in the two preceding sentences multiplied by a fraction, the numerator of which shall equal the number of messages (whether ITS commitments to trade or responses there, or pre-opening notifications, pre-opening responses or any other administrative messages sent through the System) sent from or received in such Participant's Market (or, in the case of the ITS/CAES Third Market, routed through the CAES Switch or sent from or received in the CAES Supervisory Center) during such month and the denominator of which shall equal the sum of such numerators for each such Participant for such month.

(B) *Unshared Line Costs.* Each such Participant shall also bear 50 percent of the product calculated for such Participant in accordance with the second sentence of section 11(a)(v)(A). In addition, each such Participant shall bear 100 percent of the product, as calculated for such Participant, of (1) the average line cost incurred during such month for such Participant and (2) the standardized number of formula lines in excess of 7 linking such Participant (or, in the case of the NASD, linking the CAES Switch and the CAES Supervisory Center) with the System's control center and facilities manager.

(C) *Line Costs Payment.* Line cost will be computed by the System's facilities manager as soon as practicable following the close of each calendar month and shall be billed in accordance with the provisions hereof. Such bills shall be payable to the System's facilities manager promptly following receipt.

(vi) *Accounts.* The System's facilities manager and the independent public accountants hereinafter referred to shall furnish any information and/or documentation reasonably requested in writing by a majority of the Participants in support of or relating to any of the computations referred to in this section 11(a). All expenses, allocations and computations referred to or required by this section 11(a) shall be reported at least annually to the Participants by a firm of independent public accountants (which may be the firm regularly employed by the NYSE or the System's facilities manager), and such accountants shall render their opinion that such expenses, allocations and computations have been reported in

accordance with the understanding among the Participants as set forth in this section 11(a).

(b) *User Charges.* Each Participant shall be free to determine whether or not to impose a fee or charge on some or all of its members in connection with use of its facilities to access the System and, if so, the amount of such fee or charge. Any fee or charge that may be imposed by any Participant shall not be of such size, and shall not be so structured, as to discourage use of the System or any Application. The Participants may from time to time consider the question of imposing a transaction charge which would be payable by the Participants and would be designed to cover, in whole or in part, the production costs.

(c) *Facilities Manager Liability Limits.* The System's facilities manager shall not be liable to any Participant or to any member of any Participant using or having access to the System or to any other person for any loss or damage resulting from any non-performance, or interruption in the operation, of the System, from any inaccuracies, errors or omissions in any of the information conveyed or received through the System, or from any delays or errors in the transmission of any such information.

12. *Withdrawal From the ITS Plan.* Any Participant may withdraw from the ITS Plan at any time on not less than 30 days' prior written notice to each of the other Participants and to the System's facilities manager. In the case of any such withdrawal, such withdrawing Participant shall remain liable for, and shall pay upon demand, its portion of the costs of developing and operating the System and any other amounts payable by it as determined pursuant to Section 11. Except as to any such payments, the withdrawing Participant shall thereafter have no further rights or obligations whatsoever under the ITS Plan or with respect to the System or any Application.

13. *Effective Date: Transition.* The ITS Plan shall be effective when it has been approved by the SEC pursuant to section 11A of the Act and Rule 11Aa3–2 thereunder. Prior to the effective date of the ITS Plan, the predecessor plan (described in the first "whereas" clause hereof) as heretofore amended shall remain in full force and effect and may be further amended in accordance with its terms by the Exchange Participants without the agreement of the NASD.

14. *Counterparts.* The ITS Plan may be executed in any number of counterparts, no one of which need contain all signatures of all Participants, and as many of such counterparts as shall together contain all such signatures shall constitute one and the same instrument.

Exhibit A—Trade-Through Rule

(a) *Definitions:* (1) A "trade-through," as that term is used in this Rule, occurs whenever a member on the Exchange purchases a common stock traded through ITS (referred to in this Rule as "an ITS Security") on the Exchange at a price which is higher than the price at which the security is being offered (or sells such a security on the Exchange at a price which is lower than the price at which the security is being bid for) at the time of the purchase (or sale) in another ITS participating market center as reflected by the offer (bid) then being displayed on the Floor from such other market center. The member described in the foregoing sentence is referred to in this Rule as the member who initiated a trade-through.

(2) A "locked market," as that term is used in this Rule, occurs whenever a bid for an ITS Security is made in an ITS participating market center at a price which equals or exceeds the price at which that security is being offered (or whenever an offer for such a security in an ITS participating market center is made at a price which equals or is less than the price at which that security is being bid for) at that time in another ITS participating market center as reflected by the offer (bid) then being displayed from such other market center. The bid or offer which results in the locked market is referred to in this Rule as the bid or offer which caused a locked market.

(b) *Trade-Throughs:* (1) When purchasing or selling, either as principal or agent, any ITS Security on the Exchange, members should avoid initiating a trade-through unless one or more of the provisions of paragraph (b)(3) below are applicable.

(2) Except as provided in paragraph (b)(3) below, if a trade-through occurs and a complaint thereof is received by the Exchange through the System from the party whose bid or offer was traded-through ("the aggrieved party"), then:

(A) If the member who initiated the trade-through and the member on the *contra* side of the transaction had each initiated the transaction while on the Floor for his own account or any account in which he has an interest, the transaction shall be deemed void and a cancellation thereof shall be reported through the consolidated last sale reporting system;

(B) If the member who initiated the trade-through, or the member on the *contra* side of the transaction, was, or if both such members were, executing (in whole or in part) an order which originated from off the Floor (an "off-Floor order"), then (i) the member who initiated the trade-through shall satisfy, or cause to be satisfied, the bid or offer traded through in its entirety at the price of such bid or offer, or, if he elects not to do so, then (ii) the price of the transaction which constituted the trade-through shall be corrected to a price at which a trade-through would not have occured and the price correction shall be reported through the consolidated last sale reporting system.

Whenever the provisions of this paragraph (b)(2)(B) apply, the off-Floor order or portion thereof which was executed in the transaction which constituted the trade-through (whether such order or portion thereof was executed by the member who initiated the trade-through or by the member on the *contra* side of the transaction, or both) shall receive the price which caused the trade-through, or the price at which the bid or offer traded-through was satisfied, if it was satisfied, pursuant to clause (i) of this paragraph (b)(2)(B), or the adjusted price, if there was an adjustment, pursuant to clause (ii) of this paragraph (b)(2)(B), whichever price is most beneficial to the order or portion. Money differences resulting from this paragraph (b)(2)(B) shall be the liability of the member who initiated the trade-through.

(3) The provisions of paragraph (b)(2) above shall not apply under the following conditions:

(A) The size of the bid or offer that was traded-through was for 100 shares, or, if such bid or offer was being displayed from the Pacific Stock Exchange, Inc., 200 shares;

(B) The member who initiated the trade-through was unable to avoid the trade-through because of a systems/equipment failure or malfunction;

(C) The transaction which constituted the trade-through was not a "regular way" contract;

(D) The trade-through occurred during a period when, with respect to the ITS Security which was the subject of the trade-through, members on the Exchange were relieved of their obligations under paragraph (c)(2) of Rule 11Ac1–1: *Provided, however,* That, unless the provisions of this paragraph (b)(3) (other than those of this subparagraph (D)) apply, during any such period members shall make every reasonable effort to avoid trading-through any bid or offer displayed on the Floor from another ITS participating market center whose members are not relieved of their obligations under said paragraph (c)(2) with respect to such bid or offer;

(E) The bid or offer that was traded-through was being displayed from a market center whose members were relieved of their obligations under paragraph (c)(2) of Rule 11Ac1–1 with respect to such bid or offer;

(F) The bid or offer that was traded-through had caused a locked market in the ITS Security which was the subject of such bid or offer; or

(G) A complaint with respect to the trade-through was not received by the Exchange through the System from the aggrieved party promptly following the trade-through and, in any event, within five (5) minutes from the time the report of the transaction which constituted the trade-through was disseminated over the high speed line of the consolidated last sale reporting system.

(c) *Responsiblity to Respond Promptly to Trade-Through Complaints.* (1) When a trade-through complaint is received by the Exchange it shall be the duty of the member who initiated the trade-through to respond as promptly as paracticable to the aggrieved party. Such a response shall notify the aggrieved party either

(i) That one of the conditions specified in paragraph (b)(3) of this Rule is applicable (specifying the particular condition), or

(ii) That the complaint is valid and appropriate corrective action is being taken pursuant to paragraph (b)(2) above.

(2) Any member who is an aggrieved party under the trade-through rule of another ITS participating market center may at any time at his discretion take steps to establish and mitigate any loss he might incur as a result of the trade-through of his bid or offer. If so, he shall give prompt notice to such other market center of any such action.

(3) If it is ultimately determined that there was a trade-through, that the action required by either paragraph (b)(2)(A) or (b)(2)(B) above was not taken, and that none of the provisions of paragraph (b)(3) above was applicable, the member who initiated the trade-through shall be liable to the aggrieved party for the lesser of (i) the amount of the actual loss proximately caused by the trade-through and suffered by the aggrieved party, or (ii) the loss proximately caused by the trade-through that would have been suffered by the aggrieved had he purchased or sold the security subject to the trade-through so as to mitigate his loss and had such purchase or sale been effected at the "loss basis price". For purposes of this paragraph the "loss basis price" shall be the price of the next transaction as reported by the high speed line of the consolidated last sale reporting system, in the security in question, after one hour has elapsed from the time the complaint is received by the Exchange (or, if the complaint is so received within the last hour of trading on the Exchange on any day, then the price of the opening transaction in such security on the Exchange on the next day on which the Exchange trades that security).

(d) *Locked Markets* (1) Except as provided in paragraph (d)(2) below, a member who makes a bid for an ITS Security on the Exchange and, in so doing, causes a locked market with another ITS participating market center, shall promptly send a commitment to trade to such other market center seeking the offer he has equaled or exceeded, which commitment shall be for either the number of shares he has bid for or the number of shares offered on the other market center, whichever is less. The same principle shall apply to a member who makes an offer for an ITS Security on the Exchange and causes a locked market with another ITS participating market center.

(2) The Provisions of Paragraph (d)(1) shall not apply when

(A) The bid or offer in the ITS participating market center to which the commitment to trade would be sent pursuant to paragraph (d)(1) above was for 100 shares, or, if such bid or offer was being displayed from the Pacific Stock Exchange, Inc., 200 shares;

(B) The rules of the Exchange would prohibit the issuance of the commitment to trade referred to in paragraph (d)(1) above;

(C) The member who caused a locked market is unable to comply with the provisions of paragraph (d)(1) above because of a systems/equipment failure or malfunction;

(D) The bid or offer that caused the locked market was not for a "regular way" contract;

(E) The bid or offer that caused the locked market occurred during a period when, with respect to the ITS Security which was the subject of the locked market, members on the Exchange were relieved of their obligations under paragraph (c)(2) of Rule 11Ac1–1; or

(F) The locked market occurred at a time when, with respect to the ITS Security which was the subject of the locked market, members of the ITS participating market center to which the commitment to trade would be sent pursuant to paragraph (d)(1) above were relieved of their obligations under paragraph (c)(2) of Rule 11Ac1–1.

(e) The provisions of this Rule shall not apply to (1) purchases and sales effected by members participating in the opening (or re-opening) transaction on the Exchange in an ITS Security, or (2) any block trade involving not less than 10,000 shares of an ITS Security or a quantity of such a security having a market value of $200,000 or more, or any portion of such a block trade, on the Exchange.

Exhibit B—ITS Block Trade Policy on Satisfying Better-Priced Displayed Bids and Offers (Exchange Participant)

A member who executes on the Exchange a block trade in an ITS security at a clean-up price outside the "best" quotation for the security displayed by an ITS Participant, shall, upon executing the block trade on the Exchange, send to each other Participant displaying a bid or offer (as the case may be) superior to the clean-up price, at commitment to trade, at the clean-up price, to satisfy the number of shares displayed in the other Participant's bid or offer.

For purposes of policy, a block trade shall be a trade involving at least 10,000 shares of a quantity of stock having a market value of at least $200,000.

The displayed bid or offer referred to above is the current quotation disseminated by an ITS Participant and does not refer to "away-from-the-market" limit orders.

By the Commission.

George A. Fitzsimmons,

Secretary.

March 4, 1982.

Regulatory Flexibility Act Certification

I, John Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that the amendments to the ITS Plan proposed pursuant to Rule 11Aa3–2 set forth in Securities Exchange Act Release No. 18536, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed amendments do not apply to any small exchanges or small national securities association, and they do not directly apply to broker-dealers. In addition, the amendments will indirectly affect virtually no small broker-dealers, and no significant economic impact will result, since the amendments defer consideration of the only limitation affecting broker-dealers, a market maker requirement. Furthermore, this requirement, if imposed, is minor in nature and should not significantly

burden the operations of broker-dealers.

John S. R. Shad,
Chairman.

Dated: March 3, 1982.

[FR Doc. 82-6567 Filed 3-10-82; 8:45 am]

BILLING CODE 8010-01-M

Cincinnati Stock Exchange; Application for Unlisted Trading Privileges and of Opportunity for Hearing

March 5, 1982.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

MAPCO Inc.

Common Stock, $1 Par Value

This security is listed and registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 26, 1982 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-6566 Filed 3-10-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18537; File No. 4-208]

American Stock Exchange, Inc., et al.; Order Deferring Implementation of an Automated Interface

March 4, 1982.

In the matter of American Stock Exchange, Inc., Boston Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., Midwest Stock Exchange, Inc., National Association of Securities Dealers, Inc., New York Stock Exchange, Inc., Pacific Stock Exchange, Inc., and Philadelphia Stock Exchange Inc.

Due to (i) delays in testing the interface between the Intermarket Trading System ("ITS") and the NASDAQ System, and (ii) the need for the Commission to study the comments received, and take final action, on amendments to the Plan governing operation of the ITS, proposed by the Commission, to provide for the participation in the ITS by the National Association of Securities Dealers, Inc.,[1] the Securities and Exchange Commission hereby issues an order pursuant to its authority under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq., as amended by Pub. L. 94-29 (June 4, 1975) and particularly Sections 2, 3, 6, 10, 11, 11A, 15A, 17 and 23 thereof (15 U.S.C. 78b, 78c, 78f, 78j, 78k, 78k-1, 78o-1, 78o, 78q, 78w(a)) as follows:

It is hereby ordered that the Commission's order dated April 21, 1981 (Securities Exchange Act Release No. 17744, 46 FR 23858) ("the April 1981 Order") requiring, among other things, the American Stock Exchange, Inc., Boston Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., Midwest Stock Exchange, Inc., New York Stock Exchange, Inc., Pacific Stock Exchange, Inc., Philadelphia Stock Exchange, Inc. and any other self-regulatory organization which hereafter becomes a participant in the Intermarket Trading System ("ITS") (collectively, the "Current ITS Participants") and the National Association of Securities Dealers, Inc. ("NASD") to act jointly in planning, developing and operating an automated intermarket communications linkage ("Automated Interface") between the ITS and the NASDAQ electronic interdealer quotation system, as modified by the NASD to permit computer assisted execution ("CAES"), is amended (i) to defer the implementation date of the pilot basis of the Automated Interface, as described in Section I, paragraph B of the April 1981 Order, and the date by which the Current ITS Participants must develop a capability to receive aggregated quotations from CAES market makers and revise quotation displays on their respective floors to reflect aggregated quotations from CAES market makers, as provided in section II of that Order, from March 1, 1982, until May 1, 1982, and (ii) to defer the date on which full operation of the Automated Interface, as described in the Section I, paragraph B of the April 1981 Order, must be implemented from September 1, 1982, until November 1, 1982.

By the Commission.

George A. Fitzsimmons,
Secretary.

March 4, 1982.

[FR Doc. 82-6568 Filed 3-10-82; 8:45 am]

BILLING CODE 8010-01-M

[1] See Securities Exchange Act Release No. 18530 (March 4, 1982).

[Release No. 12273, 812-5083]

Allied Capital Corp. and Allied Investment Corp.; Application Exempting Proposed Transaction

Notice is hereby given that Allied Capital Corporation ("ACC") 1625 Eye Street, N.W.; Washington, D.C. 20006, a closed-end, internally managed investment company registered under the Investment Company Act of 1940 ("Act"), and its wholly-owned subsidiary, Allied Investment Corporation ("AIC"), a closed-end, internally managed investment company registered under the Act, and licensed as a small business investment company under the Small Business Investment Company Act of 1958, filed an application on January 15, 1982 and an amendment thereto on February 16, 1982, requesting an order of the Commission pursuant to section 17(b) of the Act exempting the proposed transaction from Section 17(a) of the Act; and pursuant to section 17(d) of the Act and Rule 17d-1 thereunder to permit AIC to participate to the extent of $400,000 in a $6,250,000 senior notes financing to RQO Holding Company, Inc. ("RQO"), a New York Corporation, combined with warrants to purchase common shares of RQO's parent, Aarque Office Systems, Inc. ("AOS") also a New York Corporation. The RQO senior notes have already been purchased by five other institutional investors, one of which, Teribe, S.A. ("Teribe"), a Panamanian corporation, is the parent of Alcap, Limited ("Alcap"), the holder of 18.9% of ACC's outstanding capital stock; hence Teribe may be deemed an affiliate or an affiliate of an affiliate of ACC pursuant to Section 2(a)(3) of the Act.

Of ACC's outstanding capital stock, 250,000 shares (18.9%) are held by Alcap Limited, ("Alcap"), a British Virgin Islands corporation. Alcap is a wholly-owned subsidiary of Teribe, a second-tier subsidiary of Enterprises Quilmes, S.A. ("EQ"), a Luxembourg holding company listed on the Paris and Luxembourg Stock Exchange. Mr. Willem P.P. de Vogel, a Vice President of Three Cities Research, Inc. ("Three Cities"), a New York corporation affiliated with EQ, is a member of ACC's and AIC's boards of directors. Under an agreement dated October 30, 1980,

pursuant to which Alcap acquired its investment in ACC, Alcap has the right to nominate two persons for election to ACC's board of directors, but to date has chosen to nominate only one person, Mr. de Vogel. As a matter of practice, ACC elects all members of its own board of directors to the board of directors of AIC.

AOS and RQO were organized by R. Quintus Anderson of Jamestown, New York, who is unaffiliated with any other party to the transaction, to effect the "leveraged buyout" from GAF Corporation ("GAF") of GAF's Reprographic Products Divison (the "Business"). GAF is unaffiliated with any other party to the transaction. The Business was purchased from GAF on January 8, 1982, also the closing date for the financial aspects of the transaction. The purchase was actually effected by four operating subsidiaries of RQO, respectively organized in the U.S., the U.K., the Netherlands, and Australia.

Mr Anderson acquired for $1,000,000 cash all the capital stock of AOS. AOS issued to participants in the financing, for $50,000 in the aggregate, warrants to purchase a number of shares of AOS; if all warrants are exercised the holders of the warrants will own 60% and Mr. Anderson will own 40% of AOS' common equity, prior to a maximum expected 5% diluton upon the exercise of incentive stock options ("Stock Options") to be issued to key employees of the Business.

RQO was initially capitalized with capital stock for $990,000, all of which was issued for cash to AOS; junior subordinated notes for $1,750,000, issued for cash to Mr. Anderson; $1,000,000 in 19% subordinated notes, purchased by a European investment group ("European"), unaffiliated with any other party to the transaction; and $6,250,000 in 19% senior notes.

The lenders who participated in the $6,250,000 senior notes financing to RQO include (in addition to Teribe and European) the holding company and the small business investment company affiliate of a U.S. commercial bank ("A") and "SBIC A") and the small business investment company affiliate of another U.S. commercial bank ("SBIC B"), as shown in the following table, which also shows the AOS warrants (as percents of AOS' common equity before dilution by the Stock Options) issued to the senior lenders pro rata to their participation in the senior notes financing:

		Percent
European	$1,550,000	10.91
Teribe	2,100,000	14.78
A	1,000,000	7.04
SBIC A	1,000,000	7.04
SBIC B	500,000	4.23
Total		44.05

Warrants, in addition to those issued to the senior lenders, were issued for 11% of AOS' common equity to European, in its capacity as subordinated lender to RQO, and warrants for 5% of AOS' common equity were issued to a U.K. bank, unaffiliated with any other party to the transaction, in its capacity as a $1,000,000 subordinated lender to RQO's U.K. subsidiary.

A U.S. commercial bank, not otherwise affiliated with any other party to the transaction ("Bank"), acted as financial advisor to Mr. Anderson, AOS, and RQO. Bank and other U.S., European, and Australian commercial banks, also extended substantial credit to the RQO operating subsidiaries.

AOS, RQO, and the subsidiaries paid financing fees aggregating $1,200,000 to the following participants in the transaction:

Bank	$1,000,000
A	75,000
European	50,000
Three Cities	50,000
SBIC B	25,000
Total	1,200,000

Section 17(a) of the Act, in relevant part, provides, in substance, that it is unlawful for an affiliated person or an affiliated person of an affiliated person of a registered investment company, acting as principal, knowingly to sell any security or other property to such registered investment company or to any company controlled by such registered company. The Commission may, pursuant to Section 17(b) of the Act, exempt a transaction from Section 17(a) if it finds that: (1) the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (2) the proposed transaction is consistent with the policy of each registered investment company concerned, and (3) the proposed transaction is consistent with the general purposes of the Act.

Section 17(d) of the Act and Rule 17d-1 thereunder make it unlawful for an affiliated person, or an affiliated person of such affiliated person, of a registered investment company, acting as principal, to effect any transaction in which such registered investment company or a company controlled by such registered investment company, is a joint or a joint and several participant with such person, unless an application with such person, unless an application regarding such joint enterprise has been filed with the Commission and granted by an order entered prior to the submission of such plan to security holders for approval, or prior to adoption, if not submitted to the security holders for approval. In granting such application consideration is given to whether the participation in such joint enterprise is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Applicants submit that participation by AIC in a transaction in which Teribe also participates might be considered a participation by AIC and Teribe in a joint enterprise in contravention of Section 17(d) of the Act and Rule 17d-1 thereunder unless authorized by order of the Commission. Applicants further submit that because of a concern that premature publicity incident to the required application for such an order might have adversely affected the then pending negotiations, the other parties to the transaction proceeded to a closing thereof. Teribe bought for its own account the participation proposed for AIC and has offered, upon issuance of the requested order within a reasonable time, to resell it to AIC at cost plus accrued interest. Such resale would, however, contravene Section 17(a)(1) of the Act unless exempted therefrom by order of the Commission pursuant to Section 17(b).

Applicants submit that the proposed transaction meets the standards for exemption of both Section 17(b) and Rule 17d-1 and that an order of the Commission should therefore be issued authorizing the proposed transaction.

Applicants represent that the boards of directors of ACC and AIC unanimously approved the proposed transaction and that the boards of directors include one representative of Alcap, one representative of another institutional investor not involved in the proposed transaction, and nine others. The ten directors unaffiliated with and not interested in Alcap personally own, in the aggregate, a number of ACC's outstanding voting shares greater than the number owned by Alcap.

Applicants further represent that the terms of the proposed transaction may be presumed to be fair and reasonable because they have been negotiated at arms-length by parties all of whom are or are advised by sophisticated investment professionals, and all of whom are represented by independent and competent legal counsel. According

to Applicants, none of the parties has the economic power or other influence to overreach any of the other parties.

Applicants submit that the terms of AIC's participation in the senior notes financing are identical to the terms of participation by the other senior notes' investors. The sole difference is the financing fees paid to certain of the participants for services rendered in structuring the transaction. Applicants submit that their boards of directors consider the fees fair and reasonable under the circumstances and that the fact that Applicants shall not receive financing fees should not be considered as differentiating the basis of their participation from that of other parties to the transaction.

Applicants submit that the proposed investment is consistent with the fundamental investment policies of AIC and, hence, of ACC, and that the proposed transaction is consistent with the general purposes of the Act.

Notice is further given that any interested person may, not later than March 29, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6668 Filed 3-10-82; 9:45 am]

BILLING CODE 8010-01-M

[Release No. 22413, 70-6868]

American Electric Power Co. Inc.; et al.; Proposal Authorizing Capital Contributions to Subsidiaries

In the Matter of American Electric Power Company, Inc., 180 East Broad Street, Columbus, Ohio 43215; Appalachian Power Company, 40 Franklin Road, S.W., Roanoke, Virginia 24011; Columbus and Southern Ohio Electric Company, 215 North Front Street, Columbus, Ohio 43215; Indiana & Michigan Electric Company, One Summit Square, P.O. Box 60, Fort Wayne, Indiana 46801; Kentucky Power Company, 1701 Central Avenue, Ashland, Kentucky 41101; Kingsport Power Company, 422 Broad Street, Kingsport, Tennessee 37662; Ohio Power Company, 301 Cleveland Avenue, S.W., Canton, Ohio 44701; Wheeling Electric Company, 51 Sixteenth Street, Wheeling, West Virginia 26003.

American Electric Power Company, Inc. ("AEP"), a registered holding company, and Appalachian Power Company ("Appalachian"), Columbus and Southern Ohio Electric Company ("CSOE"), Indiana and Michigan Electric Company ("I&M"), Kentucky Power Company ("Kentucky") and Ohio Power Company ("Ohio"), Kingsport Power Company ("Kingsport") and Wheeling Electric Company ("Wheeling"), electric utility subsidiaries of AEP, have filed with this Commission a post-effective amendment to their application-declaration previously filed and amended pursuant to Sections 9 and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45, 50(a)(2), and 50(a)(5) promulgated thereunder.

By prior order dated December 30, 1981 (HCAR No. 22347), this Commission authorized AEP to issue and sell up to $185,000,000 of notes to banks and commercial paper to a dealer prior to January 1, 1983. AEP was also authorized to make capital contributions of up to aggregate amounts of $20,000,000 in Appalachian, $10,000,000 in CSOE, $30,000,000 in I&M, $50,000,000 in Kentucky and $60,000,000 in Ohio.

By post-effective amendment, AEP seeks authorization to make cash capital contributions from time to time prior to January 1, 1983 to Wheeling and Kingsport in aggregate amounts of up to $3,000,000 and $2,000,000 respectively.

The investment by AEP in its public utility subsidiaries Wheeling and Kingsport, as herein proposed, will be an addition to the general funds of such subsidiaries to enable such subsidiaries to pay their respective general obligations, including expenses incurred in connection with their construction programs, and for other corporate purposes. The estimated cost of Wheeling's construction program for 1982 is approximately $3,500,000, and the estimated cost of Kingsport's construction program for 1982 is approximately $3,000,000.

The application-declaration as amended by the post-effective amendment and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 29, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended by the post-effective amendment or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6669 Filed 3-10-82; 9:45 am]

BILLING CODE 8010-01-M

[Release No. 19526, SR-BSE-82-3]

Boston Stock Exchange, Inc., One Boston Place, Boston, Mass 02108; Filing of Proposed Rule Change and Order Approving Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, notice is hereby given that on March 2, 1982, the Boston Stock Exchange, Inc. ("BSE") filed with the Commission copies of a proposed rule change (SR–BSE–82–3) which would amend Chapter II, Section 33 of the BSE Rules in order to increase from 300 shares to 399 shares the size of orders to be executed under the BSE's Guaranteed Execution System, and to change the basis of such execution to the best quote displayed on the Consolidated Quotation System, rather than the primary market quote. The amended rule will operate on a pilot basis which is scheduled to expire in sixty days.[1]

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, DC 20549. Reference should be made to File No. SR–BSE–82–3.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the amendment to the BSE's Guaranteed Execution System appears necessary to permit the exchange to be competitive with other exchanges which have similar execution systems already in existence. Moreover, as indicated above, the BSE has submitted, in addition to the instant proposal, a proposed rule change to amend its Guaranteed Execution System on a permanent basis. The Commission believes that the BSE's experience under the pilot should assist the Commission in determining whether to approve the amendments on a permanent basis.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

[1] The Commission also has pending before it a proposed rule change submitted by the BSE (SR–BSE–82–2) which proposes to adopt identical amendments to the Guaranteed Execution System, albeit on a permanent basis.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6675 Filed 3-10-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12270, 812–5032]

Connecticut Mutual Financial Services Series Fund I, Inc.; Application Granting Exemptions

Notice is hereby given that Connecticut Mutual Financial Services Series Fund I, Inc. ("Applicant") 140 Garden Street, Hartford, Connecticut 06115, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on December 2, 1981, and an amendment thereto on February 19, 1982, requesting an order of the Commission pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value the assets of its Money Market Portfolio pursuant to the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, Applicant is a corporation organized under the laws of the State of Maryland. Its shares are divided into several series each of which represents a separate portfolio of investments. Applicant's Money Market Portfolio series ("Fund"), has as its investment objective to seek preservation of capital, liquidity and the highest current income consistent with the foregoing objectives by investing in short term money securities.

Applicant represents that the Fund will invest in short term United States government securities, United States government agency securities, bank certificates of deposit and bankers' acceptances, short-term corporate debt securities (such as commercial paper), variable amount master demand notes and repurchase and reverse repurchase agreements, thrift institution obligations, Eurodollar certificates of deposit and time deposits, floating rate notes and documented discount notes.

Applicant states that the Fund's investment adviser and principal underwriter is Connecticut Mutual Financial Services, Inc. All of the outstanding stock of the adviser is owned by Connecticut Mutual Life Insurance Company ("Connecticut Mutual"). According to Applicant, it is currently intended that shares of the Fund will be sold only to Connecticut Mutual and its affiliates. Fund shares will be sold primarily to Connecticut Mutual's Panorama Separate Account (the "Separate Account") as the underlying investment for variable annuity contracts to be issued by Connecticut Mutual.

According to the application, shares of the Fund will be offered to Connecticut Mutual, sold, redeemed and repurchased at a constant net asset value of $1.00 per share. This constant share value will be maintained by declaring daily, as a dividend to shareholders, the Fund's total net income which will include (i) all accrued interest income and discounts earned on its portfolio assets, minus (ii) amortized premiums, plus or minus (iii) all realized gains and losses on its portfolio assets, and minus (iv) all expenses of the Fund. Dividends will be reinvested daily in full and fractional shares of the Fund.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors of the registered investment company. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, repurchase and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1)

Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

The application states that the directors of the Applicant have concluded that it would be in the best interests of the shareholders of the Fund and the contract owners to use "amortized cost" valuation to maintain the constant $1.00 share value. Applicant represents that the money market subaccount of the Separate Account will be more comparable to other money market fund investments if the Fund maintains a constant net asset value per share.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of the rules or regulations thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the issuance of the requested relief is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant represents that its board of directors has determined that, absent unusual circumstances, the amortized cost method of valuing portfolio securities represents the fair value of the Fund's portfolio. Accordingly, Applicant requests that the Commission issue an order pursuant to Section 6(c) of the Act exempting the Fund from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit calculation of the Fund's net asset value per share for the purposes of effecting sales, repurchases and redemptions of its shares, using the amortized cost method of valuing portfolio securities. Applicant agrees that the following conditions may be imposed in any order granting the exemptions requested:

1. In supervising the operations of the Fund and delegating special responsibilities involving portfolio management to the Fund's investment adviser, the board of directors of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and the Fund's investment objective, to stabilize the Fund's net asset value per share, computed for the purpose of distribution, repurchase and redemption, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the Fund's $1.00 amortized cost price per share, and the maintenance of records of such review. To fulfill this condition, the Fund intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board of directors in the exercise of its discretion to be appropriate indicators of value, which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation from the Fund's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) If the board of directors believes the extent of any deviation from the Fund's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the Fund's average portfolio maturity; withholding dividends; redemption of shares in kind; or utilizing a net asset value per share as determined by using available market quotations.

3. The Fund will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that the Fund will not (a) purchase any instrument with a remaining maturity of greater than one year or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, the Fund will invest its available cash in such a manner as to reduce such average maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above; and Applicant will record, maintain, and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. The Fund will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which Applicant's board of directors determines present minimal credit risks, and which are of high quality as determined by any major rating service, or in the case of any instrument that is not rated, of comparable quality as determined by the board of directors.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than March 29, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6870 Filed 3-10-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12272, 812-5092]

INA Investment Securities, Inc., et al.; Application

In the Matter of INA Investment Securities, Inc., INA High Yield Fund, Inc., Three Parkway, Philadelphia, Pennsylvania 19101; INA Annuity Fund, Inc., INA Cash Fund, Inc., INA Tax-Free Reserve Fund, Inc., Springer Building, 3411 Silverside Road, Wilmington, Delaware 19810; Horace Mann Fund, Inc., Horace Mann Investors, Inc., One Horace Mann Plaza, Springfield, Illinois 62715; and INA Capital Management Corporation, Parkway Management Corporation, Three Parkway, Philadelphia, Pennsylvania 19101.

Notice is hereby given that INA Investment Securities, Inc. ("Investment Securities"), INA High Yield Fund, Inc. ("High Yield"), INA Annuity Fund, Inc. ("Annuity Fund"), Horace Mann Fund, Inc. ("Horace Mann Fund"), INA Cash Fund, Inc. ("Cash Fund"), and INA Tax-Free Reserve Fund, Inc. ("Tax-Free Fund") (collectively, the "Funds"), INA Capital Management Corporation ("ICM"), Horace Mann Investors, Inc. ("Investors") and Parkway Management Corporation ("Parkway") (the Funds, ICM, Investors and Parkway herein collectively referred to as the "Applicants") filed an application on January 27, 1982 and an amendment thereto on February 17, 1982, requesting an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicants from the provisions of Section 15(a) of the Act: (i) Investment Securities, High Yield Fund, Annuity Fund and ICM to the extent necessary to permit the implementation, without prior shareholder approval, of new investment advisory agreements for each of the Funds (the "New ICM Agreements") with the same fundamental terms and conditions as the present investment advisory agreements between ICM and each of the Funds (the "Existing ICM Agreements") (ii) Horace Mann Fund, ICM and Investors to the extent necessary to permit the implementation, without prior shareholder approval, of a new investment advisory agreement between ICM and Horace Mann Fund and a new management and marketing agreement between Investors and Horace Mann Fund (collectively, the "New Horace Mann Agreements") with the same fundamental terms and conditions as the present investment advisory agreement and the present management and marketing agreement for the Horace Mann Fund (the "Existing Horace Mann Agreements"); and (iii) Cash Fund, Tax-Free Fund, ICM and Parkway to the extent necessary to permit the implementation of management agreements between Parkway and Cash Fund and Tax-Free Fund, respectively (the "New Management Agreements"), and related Management Service Agreements between Parkway and ICM (the "New Management Service Agreements") (the New Management Agreements and New Management Service Agreements are collectively referred to as the "New Parkway Agreements") with the same fundamental terms and conditions and among the same parties as the present management agreements (the "Existing Management Agreements") and management service agreements (the "Existing Management Service Agreements") (collectively, the "Existing Parkway Agreements").

All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicants state that each of the Funds is registered under the Act as an open-end, diversified management investment company except Investment Securities, which is a closed-end, diversified management investment company. ICM is registered under the Investment Advisers Act of 1940 and is a wholly-owned indirect subsidiary of INA.

Applicants represent that Parkway is registered under the Investment Advisers Act of 1940. Forty percent of its stock is held by ICM. Four other companies, unaffiliated with INA, each own 15% of the stock of Parkway. Each of these companies, or one of its affiliates, is registered as a broker-dealer under the 1934 Act.

The Applicants state that ICM acts as investment adviser and manager to Investment Securities, High Yield Fund and Annuity Fund. ICM also acts as the investment adviser to Horace Mann Fund pursuant to an investment advisory agreement between them. Investors provides Horace Mann Fund with management, administrative and certain distribution services pursuant to a Management and Marketing Agreement between them.

Applicants state that Parkway is the investment adviser to Cash Fund and Tax-Free Fund. It has retained ICM pursuant to the Existing Management Service Agreements to furnish to Cash Fund and Tax-Free Fund investment advisory and administrative services and facilities in connection with the management of these Funds.

Applicants state that the New ICM Agreements, the New Horace Mann Agreements and the New Parkway Agreements (collectively referred to herein as the "New Agreements") would become effective upon the combination (the "Combination") of Connecticut General Corporation ("CGC") a Connecticut corporation and INA Corporation ("INA"), a Pennsylvania corporation and the owner directly or indirectly of the outstanding stock of ICM and Investors. The Combination is expected to occur on or after April 1, 1982; the New Agreements would continue until the shareholders of the Funds at their next annual meetings approve or disapprove the respective New Agreements or approve alternative arrangements.

However, in no event will the New Agreements remain in effect without shareholder approval for longer than 120 days in the case of each of the Funds other than Tax-Free Fund, or 180 days in the case of Tax-Free Fund, because it may not be practicable to hold the annual meeting of that Fund within the 120 day period after the Combination. Applicants state that the date of the annual meetings will be changed, if necessary, to assure that shareholder action is taken within those periods.

On November 6, 1981, CGC and INA entered into an Agreement and Plan of Merger pursuant to which CGC and INA will each be merged with subsidiaries of a newly formed holding corporation tentatively named North American General Corporation ("NAGC"), with the present shareholders of CGC and INA each to receive securities of the new holding company. After the

Combination, CGC and the corporate successor to INA, which will succeed to the assets, liabilities, business and name of INA, will be wholly-owned subsidiaries of NAGC. Assuming conversion, or exercise, of all securities outstanding as of November 6, 1981 which were convertible into or exercisable for INA common shares, and without giving effect either to possible assertions of appraisal rights by the shareholders of CGC or to the repurchase of CGC common stock and INA common shares in connection with the Combination, Shareholders of CGC and INA will receive stock of NAGC representing approximately 51.6% and 48.4%, respectively, of the total voting power of NAGC securities. The presently outstanding equity securities of both CGC and INA are widely held by members of the public. Immediately following the Combination, INA, as a subsidiary of the new holding company, will own all of the outstanding equity securities of ICM and Investors, and ICM will hold 40% of the outstanding stock of Parkway.

Section 15(a) of the Act, in relevant part, provides, in substance, that it is unlawful for any person to act as investment advisor of a registered investment company, except pursuant to a written contract that has been approved by vote of a majority of the outstanding voting securities of such registered company, and provides for its automatic termination in the event of its assignment.

Section 2(a)(4) of the Act defines "assignment" to include any direct or indirect transfer of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor.

Section 2(a)(9) of the Act defines "control" as the power to exercise a controlling influence over the management or policies of a company and creates a presumption that a person controls a company if the person is the beneficial owner of more than 25% of that company's voting securities.

Applicants assert that they are concerned that, if the Combination occurs prior to the annual meetings of the shareholders of the Funds, then, by reason of the provisions of Sections 15(a), 2(a)(4) and 2(a)(9) of the Act, the Combination may be deemed to be an "assignment" which would terminate the Existing ICM Agreements, the Existing Horace Mann Agreements and the Existing Parkway Agreements. In order to protect against such eventuality, Applicants request relief from the provisions of Section 15(a) of the Act so that the directors of each of the Funds may approve, and the Funds may enter into, the applicable New Agreements as of the date of the Combination without shareholder approval at that time, such Agreements to continue until they are approved or disapproved by action of the shareholders of each of the Funds at the next annual meeting of shareholders or replaced by alternative arrangements.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order, upon application, may conditionally or unconditionally exempt any person or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. The application states that in authorizing the filing of this application, the directors of each of the Funds have determined that it is in the best interests of the Funds and their shareholders to continue the present relationship with ICM, Investors and Parkway after the effective date of the Combination by entering into the applicable New Agreements. When considering the advisability of the New Agreements, the boards of directors have complied with or will comply with the requirements of Section 15(c) and, in the case of Horace Mann Fund, Cash Fund and Tax-Free Fund, Section 12(b) of the Act and Rule 12b–1 thereunder. Applicants further represent that there will be no change in the services presently provided by ICM, Investors and Parkway to the Funds, the fees they will receive or in the persons providing such services or in their supervision during the period the New Agreements are in effect prior to the next meetings of shareholders of the Funds and that the Funds will not bear any of the costs of the preparation or filing of this application or of the consideration by shareholders of the , Funds of the New Agreements, except to the extent that such costs also relate to the holding of annual meetings and are in lieu of costs the Funds would have otherwise incurred in connection with such meetings.

Applicants assert that the exemption requested is consistent with the standards set forth in Section 6(c) of the Act and should be granted for the following reasons:

1. *No Changes in Management or Effective Control.* Applicants represent that the Combination will not result in any change in the officers or directors of ICM, Investors or Parkway. No substantial change in such positions or in the services provided by ICM, Investors or Parkway are contemplated during the time period which would be covered by the exemption. Each of the Funds will continue to receive the same services at the same fees, provided in substantially the same manner by the same personnel during the exemption period as prior to the Combination.

2. *Board and Shareholder Approval Will Be Obtained Promptly.* Applicants represent that the Directors of the Funds will consider the questions arising from the Combination and shall have determined whether to enter into the New Agreements at meetings to be held prior to April 1, 1982. Applicants further represent that the regular annual meetings of the Funds are scheduled to be held during the period from April through October, 1982. Applicants state that they contemplate changing scheduled meeting dates, if necessary, to assure that the New Agreements will not continue in effect for more than 120 days for the Funds other than Tax-Free Fund or 180 days for Tax-Free Fund, without shareholder approval. Proxy materials, making appropriate disclosure as to the Combination and the New Agreements, will be circulated to the shareholders of the respective Funds and they will vote on the applicable New Agreements (or alternative arrangements) at their regularly scheduled annual meetings. Thus, the corporate governance objectives of the Act will be fully and expeditiously satisfied. The exemption will facilitate orderly consideration by the Funds' shareholders of the New Agreements in a manner which is consistent with the provisions of Section 15 of the Act. Failure to grant the requested exemption would cause Applicants to incur the unnecessary effort or expense resulting from either scheduling early special meetings of shareholders of the Funds or seeking to persuade CGC and INA to delay the effective date of the Combination until after the regularly scheduled annual meetings' of the Funds' shareholders. Applicants submit that neither alternative is in the best interest of the Funds' shareholders.

3. *The Exemption Would Be Consistent With the Policies of Rule 15a–4.* Although Applicants believe that Rule 15a–4 may not apply to Applicants in this instance, they assert that the exemption sought by them is consistent with the policies of the Act, as interpreted by the Commission and expressed in Rule 15a–4.

4. *The Exemption Would Avoid Certain Adverse Effects on ICM, Investors and Parkway Not Intended by the Act.* Applicants state that although the Combination may technically result in termination by "assignment" of the agreements presently in force, as noted above, there is no intention that there will be any substantial change in the advisory and other services rendered, the personnel rendering them, the fees received or the operations of the Funds during the exemption period.

Applicants assert that failure to issue an order granting the requested exemption would mean that a publicly held parent of an investment adviser would be unable to negotiate a merger or other business combination which would provide for consummation prior to a shareholder vote by all advised investment companies. Such a result appears to the Applicants to be particularly inappropriate where the contemplated transaction is as complex, and involves as many substantial entities and important business considerations unrelated to the investment companies and the investment adviser, as is the case in the Combination. If the exemption is not granted in the case of Parkway, Applicants assert that the owners of 60% of its stock would be penalized for an action over which they had no control.

Notice is further given that any interested person may, not later than March 29, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the addresses stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6671 Filed 3-10-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22412, 70—6708]

Indiana & Michigan Electric Co.; Proposed Issuance and Sale of First Mortgage Bonds and Preferred Stock

Indiana & Michigan Electric Company ("I&M"), One Summit Square, Fort Wayne, Indiana 46801, an electric utility subsidiary of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed an application-declaration with this Commission pursuant to Sections 6(b) and 12(c) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42 and 50 promulgated thereunder.

I&M proposes to issue and sell up to $100,000,000 aggregate principal amount of its first mortgage bonds, in one or more new series, or, in the alternative, up to 1,200,000 shares of Cumulative Preferred Stock, par value $25 per share, and up to $70,000,000 of first mortgage bonds, in one or more series. The bonds will have a maturity of not less than 5 years and no more than 30 years. The terms will be determined by competitive bidding. The bonds will be issued under I&M's Mortgage and Deed of Trust dated as of June 1, 1939, as supplemented and as proposed to be further supplemented. If market conditions should not be propitious for the sale of the bonds on a competitive bidding basis, I&M intends, subject to further authorization by this Commission, either to place the bonds privately with institutional investors or to negotiate with underwriters for the sale of the bonds.

As noted above, I&M also proposes alternatively to issue and sell up to 1,200,000 shares of a new series of its Cumulative Preferred Stock, par value $25 per share. The principal amount of the bonds and par value of the preferred stock will not, in any event, exceed $100,000,000 in the aggregate. The terms of the preferred stock will be determined by competitive bidding. The terms may include a sinking fund provision. If market conditions should not be propitious for the sale of the preferred stock on a competitive bidding basis, I&M intends, subject to further authorization, to provide for their sale on another basis.

The proceeds realized from the sale of the bonds and the preferred stock, together with cash capital contributions by AEP and other funds which become available to I&M, will be applied by I&M to pay maturing long-term obligations, to repay unsecured short-term indebtedness, or both, and for other corporate purposes.

The application-declaration any any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by April 1, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary

[FR Doc. 82-6672 Filed 3-10-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18545, File No. SR-MSRB-82-1]

Filing and Immediate Effectiveness of Proposed Rule Change; Municipal Securities Rulemaking Board

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 24, 1982, the Municipal Securities Rulemaking Board ("MSRB"), 1150 Connecticut Avenue, N.W., Suite 507, Washington, D.C. 20036, filed with the Securities and Exchange Commission a proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The amendment to MSRB Rule A–13 decreases the underwriting assessment payable to the MSRB for the placement of new issue municipal securities from .003% ($.03 per $1,000) to .002% ($.02 per $1,000) of the par value of the municipal security. Any new issue municipal security which a municipal securities broker or a municipal securities dealer has contracted to purchase from an issuer on or after April 1, 1982, is subject

to the .002% ($.02 per $1,000) assessment. The MSRB has adopted the rule change pursuant to Sections 15B(b)(2)(I) and 15B(b)(2)(J) of the Act. Section 15B(b)(2)(J) authorizes the MSRB to adopt rules to assess municipal securities brokers and municipal securities dealers in order to defray the costs and expenses of operating and administering the MSRB. Section 15B(b)(2)(I) authorizes and directs the MSRB to adopt rules providing for the operation and administration of the MSRB. Reduction in the underwriting assessment fee is adopted in light of the MSRB's current fund reserve of $850,000 and its projections of expenses and revenues from future assessment fees.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 under the Act. At any time within 60 days of the filing of the rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission on or before April 1, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–MSRB–82–1.

Copies of the submission, all subsequent amendments, all written statements with respect to the rule change which are filed with the Commission, and all written communications relating to the rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6676 Filed 3-10-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18540, File No. SR-NESDTC-82-1]

Filing and Immediate Effectiveness of Proposed Rule Change by New England Securities Depository Trust Co.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 25, 1982, the New England Securities Depository Trust Company ("NESDTC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

NESDTC has revised portions of its fee schedule pursuant to Section 17A(b)(3)(D) of the Act. NESDTC believes that the revision will cause its fees more accurately to reflect costs.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission on or before April 1, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–NESDTC–82–1.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6677 Filed 3-10-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12276, 812-5023]

The Mutual Life Insurance Co. of New York and the MONY Variable Account-B; Application

Notice is hereby given that The Mutual Life Insurance Company of New York, 1740 Broadway, New York, N.Y. 10019, a mutual life insurance company organized under the laws of New York, ("MONY") and The MONY Variable Account–B, a separate investment account of MONY, ("VA–B") filed an application on November 25, 1981 and an amendment thereto on February 18, 1982 for an order of the Commission exempting MONY and VA–B from provisions of Sections 15(a), 16(a), 17(f), 22(d), 22(e), 27(c)(1), 27(c)(2), 27(d) and 32(a) of the Investment Company Act of 1940 ("Act") and Rule 17f–2 thereunder. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

Applicants state that (i) VA–B was established for the purpose of providing an investment medium, during the accumulation period, for certain variable accumulation (fixed) annuity contracts to be issued by MONY and VA–B ("VA–B contracts"); (ii) VA–B contracts are to be offered to plans qualified under Section 403(b) of the Internal Revenue Code; (iii) VA–B is registered under the Act as an open-end diversified management investment company; and (iv) the assets of VA–B will be held by MONY or in book-entry form. MONY reserves the right to place in VA–B at some future date variable accumulation annuity contracts which are not "tax benefited."

Exemptions for Annual Meeting

Section 15(a), in part, prohibits a person from serving or acting as investment adviser of a registered investment company except pursuant to a contract that has been approved by a vote of the security holders of such company. Section 16(a), generally, prohibits a person from serving as a director of a registered investment company unless elected by the holders of the outstanding voting securities of the company. Section 32(a), among other things, prohibits a registered

management investment company from filing with the Commission any statement signed or certified by an independent public accountant unless the selection of such accountant has been ratified by a vote of the security holders of such company. Applicants have requested an exemption to permit the first annual meeting of VA–B to be held on or about May 15, 1983 (unless the number of VA–B contract holders reaches 1,000 before that date in which case a special meeting will be held within 90 days thereafter). At such time a meeting of contract holders will be scheduled to consider the election of the members of the VA–B committee, approval of the Investment Management Agreement, and ratification of the selection of the independent public accountant.

Exemptions for Custodianship

Rule 17f–2(d), adopted pursuant to Section 17(f) of the Act, provides, generally, that if an investment company maintains its securities and similar investments in its own custody, access to such investments must be limited to not more than five officers or responsible employees of the investment company designated in a resolution of the board of directors of such investment company. Applicants request exemption from the provisions of Rule 17f–2(d) so as to permit access to the vault by the Treasurer and the Vice President (Corporate Actuary) of MONY, seven members of MONY's Treasurer's Department, one Senior Vice President, ten members of MONY's Corporate Finance Department, and the Corporate Secretary. Applicants also request exemption from the provisions of Rule 17f–2(d) so as to permit access to the vault by State Insurance Examiners and other employees of MONY, but only under the close observation of the Controller and Treasurer or their designated representatives. Applicants further request an exemption from Rule 17f–2(d) to permit such persons to be authorized or permitted to have access to the securities held in VA–B by resolutions adopted by the Board of Trustees of MONY, rather than by the Management Committee of VA–B.

Section 27(c)(2) of the Act provides, in substance, that a periodic payment plan certificate company or depositor or underwriter for such a company is prohibited from selling any such certificates unless, among other things, the proceeds of all payments, other than sales load, on such certificates are deposited with a trustee or custodian having the qualifications prescribed in Section 26(a)(1) and are held by such trustee or custodian under an agreement containing, in substance, the trust indenture provisions required by Sections 26(a)(2) and 26(a)(3) of the Act. To the extent that the annuity contracts participating in VA–B are deemed to be periodic payment plan certificates, Applicants request an exemption from the requirements of Section 27(c)(2) of the Act to permit the proceeds of all payments received under such contracts to be held by MONY not under a trusteeship as described in the Act. Also, to the extent that the specific provisions in Section 26(a)(2) of the Act override the statutory and regulatory permission granted to registered management investment companies under Section 17(f) of the Act and Rule 17f–4 thereunder, Applicants respectfully request an exemption to allow MONY to hold securities and similar investments in book-entry form, as permitted by Section 17(f) and Rule 17f–4.

Exemptions for Fees

Section 22(d) of the Act provides, in relevant part, that no registered investment company or principal underwriter thereof shall sell any redeemable security to the public except at a current public offering price described in the prospectus.

Applicants propose to make certain deductions from payments by participants in VA–B for sales and administrative expenses according to the following formula. In cases in which a participant under a VA–B contract is not also a participant under a separate MONY 403(b) fixed-dollar deposit administration group annuity contract issued to the same contract holder and adopted by the participant's employer prior to the effective date of the VA–B registration statement ("eligible fixed-dollar contract") or a participant under a separate MONY 403(b) VA–A group variable annuity contract issued to the same contract holder and adopted by the participant's employer prior to the effective date of the VA–B registration statement ("eligible VA–A contract"), a deduction from each purchase payment for sales and administrative expenses is made under the VA–B contract in an amount equal to the sum of: (a) 2.75% of each purchase payment, allocated between 2.5% for sales and marketing expenses and 0.25% for administrative expenses, until the aggregate amount of such purchase payments equals $10,000, and 0% thereafter; and (b) an amount equal to $1.25 per purchase payment during each contract year, if such purchase payments are being made at the rate of at least 20 purchase payments for a twelve month period, or $2.00 per purchase payment during each contract year, if such purchase payments are being made at the rate of less than 20 purchase payments per twelve month period. Applicants assert that the amount of such flat dollar charges will be allocated by MONY entirely to administrative expenses.

In cases in which a participant under a VA–B contact is also a participant under an eligible fixed-dollar contract or eligible VA–A contract, a deduction from each purchase payment under the VA–B contract will be made for sales and administrative expenses equal to the lesser of: (i) the dueduction described in the preceding paragraph, or (ii) a deduction of 5% of each purchase payment, allocated by MONY between 2.5% for sales and marketing expenses and 2.5% for administrative expenses until the aggregate amount of such purchase payments equals $10,000 and 0% thereafter.

To determine whether the aggregate amount of payments exceeds $10,000 for purposes of determining the applicable sales load in the preceding paragraphs, all purchase payments made on behalf of a participant in VA–B are aggregated with payments made on behalf of the same participant (i) under a separate fixed-dollar contract issued to the same contract holder and adopted by the participant's employer, other than any contributions to such fixed-dollar contract transferred to VA–B from a funding agency other than MONY, and (ii) under a separate VA–A contract issued to the same contract holder and adopted by the participant's employer.

Applicants state that the above-described deductions and the varying circumstances under which they are imposed are fully disclosed in the VA–B prospectus, and any differences therein are based in general on MONY's best estimate of the anticipated costs of its sales and marketing expenses and its administrative expenses, respectively, taking into account certain equitable considerations respecting existing participants in companion 403(b) contracts. Applicants therefore respectfully request an exemption from Section 22(d) to the extent necessary to allow the above-described sales load and administrative expense deductions. Applicants request a further exemption from Section 22(d) to the extent necessary to permit MONY to follow the procedures described in the application to rate the participating group annuity contracts or participants based on the experience of classes of group contracts or participants (and of particular group contracts) and to credit divisible surplus in appropriate cases to holders in such classes (and to particular group

contracts) for the purpose of distributing divisible surplus in the manner described in the application.

Section 27(c)(2) of the Act prohibits a registered investment company or any depositor or underwriter for such company from selling periodic payment plan certificates unless, among other things, the proceeds of all payments other than sales load are held under an agreement containing, in substance, the provisions required by Section 26(a)(2)(C) of the Act. Section 26(a)(2)(C) provides that no payment to the depositor of, or principal underwriter for, a registered unit investment trust (or to any affiliated person or agent of such depositor or principal underwriter) shall be allowed the trustee or custodian as an expense except for payment of a fee, not exceeding such reasonable amount as the Commission may prescribe as compensation for performing bookkeeping and other administrative services of a character normally performed by the trustee or custodian. Applicants respectfully request an exemption from Section 27(c)(2) of the Act to the extent necessary to permit MONY to make the following charges and deductions: (i) the percentage and flat dollar charges for administrative expenses described in the preceding paragraphs of this section and (ii) a daily charge against the assets of VA–B at an annual rate of .50% of the current value of all funds credited to and held in VA–B to be allocated .30% of reinvestment management services, .10% for administrative expenses, .05% for mortality risks, and .05% for expense risks. According to Applicants, the charge for investment management services may not be increased without the approval of VA–B contract holders, but the sum of the charges for administrative expenses and mortality and expense risks may be increased by MONY to a maximum of .70% without such approval.

Applicants consent to the requested exemptions from the provisions of Section 27(c)(2) of the Act being made subject to the following conditions:

(a) That the deductions and charges under the variable accumulation annuity contracts for administrative expenses shall not exceed such reasonable amounts as the Commission shall prescribe, and that the Commission may reserve jurisdiction for such purpose; and

(b) That the payment of sums and charges out of the assets of VA–B shall not be deemed to be exempted from regulation by the Commission, by reason of the requested order, provided that the Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of the assets in VA–B, other than charges for administrative services, and Applicants reserve the right in any proceeding before the Commission or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Exemptions for Texas Optional Retirement Plan

Sections 22(e) and 27(c)(1) of the Act provide, respectively, in pertinent part, (1) that a registered investment company may not suspend the right of redemption or postpone the date of payment upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security for redemption, and (2) that a registered investment company issuing periodic payment plan certificates may not sell such certificates unless such certificates are redeemable securities. Section 27(d) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first eighteen months after the issuance of the certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount from such underwriter or depositor, equal to that part of the excess paid for sales loading which is over 15% of the gross payments made by the certificate holder.

Pursuant to Texas law, all Texas institutions of higher education make available to certain employees an Optional Retirement Program ("Program"), codified as Subchapter G of Chapter 51 of the Texas Education Code (now Subchapter A of Chapter 36), funded through fixed or variable annuity contracts purchased from any insurance or annuity company qualified to do business in Texas. As interpreted in an opinion dated February 18, 1975 by the Attorney General of Texas, certain 1973 amendments to the legislation establishing the Program now prohibit provisions in a fixed or variable annuity contract issued in connection with the Program which provide for making available the redemption value of such contract prior to the occurrence of one of the following conditions: termination of employment, retirement, death or total disability.

Applicants state that MONY will instruct its sales representatives to inform orally prospective investors in the Program of the redemption restrictions. Applicants also state that any prospectuses in respect of VA–B used to offer and sell contracts under the Program will also contain appropriate disclosure of the applicable Texas restrictions. Applicants further agree that a statement describing the restrictions will be placed as a rider to the applicantion signed by a participant at the time the participant completes a participant's enrollment form or application for a VA–B contract. In addition, MONY and VA–B will insure that the substance of this disclosure regarding restrictions on redeemability is included in any sales literature that is to be used in conjunction with the sales of VA–B contracts.

Accordingly, Applicants hereby request exemptions from Sections 22(e), 27(c)(1), and 27(d) of the Act to the extent necessary to permit redemption values under any VA–B contracts which may hereafter be issued to participants in the Program to be paid to such participants (in accordance with the above-mentioned Attorney General's opinion) only upon termination of employment in the Texas public institutions of higher education, retirement, death, or total disability of the participating faculty member.

Section 6(c) authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 30, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally by mail upon the Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following March 30, 1982 unless the Commission therafter orders a hearing upon request or upon the Commission's own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6873 Filed 3-10-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12271, 812-5080]

Variable Annuity Account C of Aetna Life Insurance & Annuity Co. and Aetna Life Insurance & Annuity Co.; Application Exempting Applicants

Notice is hereby given that Variable Annuity Account C of Aetna Life Insurance and Annuity Company ("Account C"), 151 Farmington Avenue, Hartford, Connecticut 06156, registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, and Aetna Life Insurance and Annuity Company ("Company"), the principal underwriter therefor, (hereinafter collectively referred to as "Applicants"), filed an application on January 12, 1982, pursuant to section 6(c) of the Act for an order of the Commission exempting Applicants from Sections 26(a)(2)(C) and 27(c)(2) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

Variable Annuity Account C is a separate account of the Company established pursuant to the insurance laws of Connecticut for the purpose of holding reserves attributable to certain of the Company's variable annuity contracts. The assets of the Account are invested in the shares of Aetna Variable Funds, Inc., Aetna Income Shares, Inc., or Aetna Variable Encore Fund, Inc., (the "Funds"), open-end management investment companies registered under the Act.

By order of the Commission, dated June 18, 1980 (Investment Company Act Release No. 11222), Account C and the Company were exempted, pursuant to Section 6(c) of the Act, from, *inter alia*, Sections 26(a)(2)(C), 27(c)(1) and 27(c)(2) to permit sale of single premium and periodic payment deferred sales charge contracts through the Account, as well as imposition of an annual maintenance fee. The periodic payment contracts are available in two forms: (1) one for individual and small group purchasers ("Small Group Contract"), where individual solicitation of each participation is required; (2) one for large group plans ("Large Group Contract") involving at least $100,000 of annual purchase payment and mass solicitation of plan participants. In the application for these exemptions, it was stated that an annual maintenance fee would be imposed to reimburse the Company for administrative expenses. The fee was $20 per participant under the Small Group Contracts and $15 per participant under the Large Group Contracts. In requesting the exemptions, Applicants agreed to the following conditions: (1) that the charges to variable annuity contract owners for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction beging reserved for such purpose; and (2) that the payments of sums and charges out of the assets of the Account shall not be deemed to be exempted from regulation by the Commission by reason of the requested order, provided that Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payments of sums and charges out of such assets other than charges for administrative services.

Applicants state that the Company plans to modify the annual maintenance fee to be charged with respect to certain periodic payment Small Group Contracts in the H.R. 10 and Section 401(a) corporate qualified plan markets. The fee will become $30 per participant while the fee for all other Small Group Contracts will remain at $20 per participant. Except for the annual maintenance fee referred to above, no charges imposed on contractholders will increase under the Small Group Contracts or the Large Group Contracts.

Sections 26(a)(2)(C) and 27(c)(2)

Section 27(c)(2) prohibits a registered investment company, or a depositor of or underwriter for such company, from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, on such certificates are deposited with a trustee or custodian having the qualifications prescribed in Section 26(a)(1), and are held by such trustee or custodian under an agreement containing substantially the provisions required by Sections 26(a)(2) and 26(a)(3) of the Act. Section 26(a)(2)(C) provides that no payment to the depositor of, or principal underwriter for, a registered unit investment trust shall be allowed the trustee or custodian as an expense except a fee, not exceeding such reasonable amount as the Commission may prescribe, as compensation for performing bookkeeping and other administrative duties normally performed by a trustee or custodian. For purposes of the Act, the Company is the depositor and the principal underwriter with respect to Account C and pursuant to the exemptions referred to above, acts as its own custodian.

Applicants submit that the annual maintenance fee of $30 per participant to be charged on certain Small Group Contracts is reasonable both in relation to industry practice and with respect to anticipated expenses to be incurred by the Company in administering these contracts. Applicants submit that, because of the nature of these contracts, and the more extensive recordkeeping and reporting requirements associated with pension products, the Company's costs are greater than those involved in administering either the Large Group Contracts or the Small Group Contracts.

Applicants have consented to the exemptions requested herein from Sections 26(a) and 27(c)(2) being made subject to the following conditions: (1) the charges to variable annuity contract owners for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved to the Commission for such purpose; and (2) the payments of sums and charges out of the assets of the Account shall not be deemed to be exempted from regulation by the Commission by reason of the requested order, provided that Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payments of sums and charges out of such assets other than charges for administrative services, and Applicants reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payments of such other sums or charges.

Section 6(c)

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any persons, securities or transactions from any provision of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 30, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally by mail upon Applicants at the address stated above. Proof of service (by affidavit or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6074 Filed 3-10-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 09/09/0302]

AMF Financial, Inc.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981)), under the name of AMF Financial, Inc., 2657 Vista Way, Suite 5, Oceanside, California 92054, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and sole shareholder of the Applicant are as follows:

Steven R. Jones, 2657 Vista Way, Suite 5, Oceanside CA 92054; President and Director

William Temple, 2657 Vista Way, Suite 5, Oceanside, CA 92054; Investment Advisor/ General Manager/Vice President

Richard Gant, 707 Broadway, San Diego, CA 92101; Secretary, Treasurer/ Director

Jeffrey Chandler, 1415 S. Pacific St., Oceanside, CA 92054; Director

One hundred percent of the applicant's issued and outstanding common stock will be owned by its parent company, American Mortgage Fund, Inc., a California Corporation.

The applicant, a California Corporation, with its principal place of business at 2657 Vista Way, Suite 5, Oceanside, California 92054 will begin operations with $500,000 of paid-in capital and paid-in surplus.

The applicant will conduct its activities principally in California.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than fifteen (15) days from the date of publication of this Notice, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Oceanside, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: March 8, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-6012 Filed 3-10-82; 8:45 am]

BILLING CODE 8025-01-M

[Proposed Application No. 06/06-0256]

FSA Capital, Ltd.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981)), under the name of FSA Capital, Ltd., 301 West 6th Street, Austin, Texas 78701, for a license to operate as a limited partnership small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The formation and licensing of a limited partnership SBIC is subject to the provisions of § 107.4 of the Regulations. The Application shall provide for a sole general partner, which must be a corporation, organized under State law solely for the purpose of managing the functions and activities of the limited partnership SBIC. There may be any number of limited partners.

The corporate general partner will be FSA Capital Advisors, Inc., 301 West 6th Street, Austin, Texas 78701, and it will own 1.74 percent of the Applicant. The remaining 98.26 percent will be owned by the limited partners, none of whom will own as much as 10 percent.

Applicant will begin operations with an initial private capital of $1,150,000, consisting of $20,000 from the corporate general partner and $1,130,000 from the limited partners. Applicant will be managed by FSA Investments, Inc.

The Applicant will establish a diversified investment policy, and it intends to render management services to small business concerns.

The corporate general partner (FSA Capital Advisors, Inc.) will consist of the following officer, directors, and more-than-10-percent shareholders:

Richard C. Baker, 3102–A Scenic Drive, Austin, Texas 78703—Chairman of the Board

G. Felder Thornhill, 2710 Scenic Drive, Austin, Texas 78703—President

Jon P. Newton, 2601 Wooldridge Drive, Austin, Texas 78703—Vice President, Director

Larry E. Temple, 2606 Escondido Cove, Austin, Texas 78703—Treasurer, Director

William Ward Greenwood, 1701 Norris Drive, Austin, Texas 78704—Secretary

Bradley A. Fowler, 3401 Beartree Circle, Austin, Texas 78732—Assistant Secretary

H. B. Abshier, Jr., 301 W. 6th Street, Austin, Texas 78701—Director

Harold E. Bigler, Jr., 18 Canterbury Lane, Avon, Connecticut 06103—Director

C. Daniel Jones, 2350 Bluebonnet Drive, Houston, Texas 77030—Dirctor

Henry B. Tippie, 7009 Edgefield Drive, Austin, Texas 78731—Director

E. Lee Walker, 6207 Cat Mountain Cover, Austin, Texas 78731—Director

FSA Investment, Inc., 301 W. 6th Street, Austin, Texas 78701—20 percent

Highland Resources, Inc., 800 San Jacinto, Houston, Texas 77002—17 percent

A partnership composed of Messrs. Abshier, Fowler, Greenwood, and Thornhill—12 percent

FSA Capital Advisors, Inc., the corporate general partner of the License Applicant, is authorized to issue a total of 1,100,000 shares of stock: 100,000 shares of $10.00 par value preferred stock and 1,000,000 shares of $1.00 par value common stock.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is hereby given that any person may, on or before March 26, 1982, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Austin, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 8, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-6013 Filed 3-10-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0184]

Grocers Capital Co., Inc.; Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Grocers Capital Company (Grocers) 2601 S. Eastern Avenue, Los Angeles, California 90040, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application with the Small Business Administration pursuant to § 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1981)) for approval of two conflict of interest transactions.

Grocers proposes to loan $75,000 to El Caney Market, 4600 Maplewood, Los Angeles, CA 90004 and $200,000 to Isla Vista Market, 939 Embarcadero Del Mar, Goleta, CA 93117. The proceeds of the loan will be used to purchase equipment of inventory from Grocers Equipment Company (G.E.C.) and/or Certified Grocers of California, Ltd. (Certified), Associates of the Licensee.

All of Grocers' stock is owned by subsidiaries of Certified, a retailer owned grocery cooperative. G.E.C., a subsidiary of Certified, is a 41 percent shareholder of Grocers and is defined as an Associate by Section 107.3 of the SBA Rules and Regulations.

As a result, Grocers' financings to El Caney and Isla Vista fall within the purview of Sections 107.3 and 107.1004(b) (5) of the SBA Regulations. Grocers' loan to El Caney and Isla Vista requires prior written approval of SBA.

Notice is hereby given that any person may on or before March 22, 1982, submit written comments to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A similar Notice shall be published in a newspaper of general circulation in both the Los Angeles and Goleta, California areas.

(Catalog of Federal Domestic Assistance Program No. 95.011, Small Business Investment Companies)

Dated: March 8, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-6014 Filed 3-10-82; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 09/09-0306]

Mariners Capital, Inc.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981)), under the name of Mariners Captial, Inc., 3471 Via Lido, Suite 211, Newport Beach, California 92663, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*) and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and sole shareholder of the Applicant are as follows:

Paul L. Balalis, 1129 E. Balboa Blvd., Balboa, California 92661—Chairman of the Board, Chief Financial Officer

Davis T. Chamberlin, 117 Opal Avenue, Balboa Island, California 92662—President

George S. L. Dunlop, 25101 Via Portola, Laguna Beach, California 92651—Secretary

David A. DeLo, 910 Meadowlark Drive, Laguna Beach, California 92651—Director

William A. Schmidt, 440 Oak Street, Laguna Beach, California 92651—Director

Mariners Bancorp, 3471 Via Lido, #211, Newport Beach, California 92663—Sole Shareholder

Mariners Bancorp, a California corporation is presently owned by fifteen individual founders, none of whom own 10 percent or more of its common stock.

The Applicant has one class of stock authorized: 500,000 shares of common stock with a stated value of $10.00 per share. Initially one hundred ten thousand shares will be issued with a resultant private capital of $1,100,000. Applicant proposes to conduct its operations principally in the State of California.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, on or before March 26, 1982, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Newport Beach, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 8, 1982

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-6015 Filed 3-10-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice PN-796]

Participation of Private-Sector Representatives on U.S. Delegations

As announced in Public Notice no. 623 (43 FR 37783), August 24, 1978, the Department is submitting its January and February 1982 list of U.S. accredited Delegations which included private-sector representatives.

Publication of this list is required by Article IV(c)(4) of the guidelines published in the Federal Register on August 24, 1978.

Dated: March 1, 1982.

John W. Kimball

Director, Office of International Conferences.

United States Delegation To The 23RD Session of the Subcommittee on Containers and Cargoes Intergovernmental Maritime Consultative Organization (IMCO) London, February 8–11, 1982

Representative

Frank Perrini, Office of Merchant Marine Safety, U.S. Coast Guard, Department of Transportation

Alternate Representative

R. L. Storch, Commander, Office of Merchant Marine Safety, U.S. Coast Guard, Department of Transportation

Adviser

John McAnulty, Office of Merchant Marine Safety, U.S. Coast Guard, Department of Transportation

Private Sector Advisers

S. Fraser Sammis, National Cargo Bureau, Inc., New York, New York
Donald L. Monroe, American Bureau of Shipping, New York, New York
Edward H. Middleton, Maritime Institute for Research and Industrial Development, Washington, D.C.

United States Delegation To The Conference on Danish/Icelandic Joint Financing Agreements Fourth International Civil Aviation Organization (ICAO) Montreal, February 16–26, 1982

Delegate

The Honorable John E. Downs, United States Representative to ICAO

Alternate Delegates

Louis N. Cavanaugh, United States Mission to ICAO, Montreal
John Davies, International Aviation Affairs, National Oceanic and Atmospheric Administration, Department of Commerce
Kathleen W. Gorman, International Analysis and Coordination Division, Bureau of Economic and Business Affairs, Department of State
Joan S. Gravatt, Aviation Programs and Policy Division, Bureau of Economic and Business Affairs, Department of State

Private Sector Adviser

Raymond A. Rossman, Pan American World Airways, New York, New York

United States Delegation To The Executive Board International Coffee Organization (Commodities) London, February 22–26, 1982

Representative

Rollinde Prager, Office of the U.S. Trade Representative, Executive Office of the President

Alternate Representative

Paul Pilkauskas, U.S. Embassy, London

Adviser

Ralph Ives, Office of Commodity Policy, Department of Commerce

Private Sector Advisers

George Boecklin, President, National Coffee Association, New York
Andrew Scholtz, President, Scholtz & Company, New York
Marvin Schur, President, J. Aron & Company, New York

United States Delegation To The Codex Alimentarius Committee On Food Hygiene Food And Agriculture Organization/World Health Organization (FAO/WHO) Washington, D.C., February 22–26, 1982

Representative

George J. Jackson, Division of Microbiology, Food and Drug Administration

Alternate Representative

Robert W. Welk, Bureau of Foods, Food and Drug Administration

Advisers

E. Spencer Garrett, National Marine Fisheries Service, Pascagoula, Mississippi
George P. Hoskin, Division of Microbiology, Food and Drug Administration
Joseph W. Lepak, Division of Microbiology, Food and Drug Administration
Joseph M. Madden, Division of Microbiology, Food and Drug Administration
Thomas Mulvaney, Division of Food Technology, Food and Drug Administration
Barry Wentz, Division of Microbiology, Food and Drug Administration

Private Sector Advisers

Cleve B. Denny, Director, Research Services, National Food Processors Association, Washington, D.C.
Nino E. Insalata, Senior Laboratory Manager, General Foods Corporation, White Plains, New York

United States Delegation To The International Tin Council (Commodities) London, January 19–22, 1982

Representative

Marc Santucci, Office of the U.S. Trade Representative, Executive Office of the President

Alternate Representative

David Wilson, Industrial and Strategic Minerals Division, Bureau of Economic and Business Affairs, Department of State

Advisor

Paul Pilkauskas, United States Embassy, London

Private Sector Advisers

George Keagle, General Manager, Purchasing, Materials and Energy, United States Steel Corporation, Pittsburgh, Pennsylvania
Stanley Marx, President, Industrial Smelting, Detroit, Michigan

United States Delegation To The Fifth Session Intergovernmental Working Group Of Experts On International Standards Of Accounting And Reporting United Nations Economic And Social Council (ECOSOC) New York, January 18–29, 1982

Representative

Philip T. Lincoln, Jr., Deputy Director, Office of Investment Affairs, Bureau of Economic and Business Affairs, Department of State

Alternate Representative

Clarence G. Staube, Chief Accountants Office, Securities and Exchange Commission

Adviser

Arnold J. Croddy, Office of Investment Affairs, Bureau of Economic and Business Affairs, Department of State (Jan. 25–29)

Private Sector Adviser

Richard D. Fitzgerald, Price Waterhouse, International, New York

United States Delegation To The Committee On Gas, Twenty-Eighth Session Economic Commission For Europe (ECE) Geneva, January 11–15, 1982

Representative

Lucio D'Andrea, Office of Oil and Natural Gas, Department of Energy

Advisers

George Dempsey, United States Mission, Geneva
James Porter, United States Mission, Geneva

Private Sector Advisers

Robert E. Ebel, Vice President, Ensearch Corporation, Washington, D.C.
Stewart Kean, President, National LP-Gas Association, Washington, D.C.

United States Delegation To The Seventh Inter-American Ministers Of Labor Conference Organization Of American States (OAS) Santo Domingo, January 24–29, 1982

Representative

The Honorable Malcolm R. Lovell, Jr., Under Secretary of Labor

Alternate Representative

The Honorable Robert Searby, Deputy Under Secretary of Labor for International Affairs, Department of Labor

Advisers

Peter Accolla, Area Adviser for Latin America and the Caribbean, Department of Labor
Michael C. Aho, International Economist, Bureau of International Labor Affairs, Department of Labor
Dale M. Provenmire, Labor Adviser, Bureau of Inter-American Affairs, Department of State
John A. Warnock, Special Assistant to the Secretary of State and Coordinator for International Labor Affairs, Department of State

Private Sector Advisers

Michael Boggs, Deputy Director, International Affairs, AFL–CIO, Washington, D.C.

Harry T. Morely, Jr., Attorney-at-Law, St. Louis, Missouri
James S. O'Hanlon, Manager, Labor Relations, Mobil Oil Corporation, New York, New York

United States Delegation To The Diplomatic Conference To Conclude An Atlantic Salmon Convention (Wildlife) Reykjavik, January 18–22, 1982

Representative

Larry L. Snead, Office of Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Advisers

David Allen, Assistant Regional Director for Fisheries, United States Fish and Wildlife Service, Department of Interior
Michael J. Danaher, Office of the Assistant Legal Advisor, Department of State
Allen Peterson, Director, Northeast Region, National Marine Fisheries Service, Department of Commerce
Daniel Reifsnyder, Office of International Fisheries Affairs, National Marine Fisheries Service, Department of Commerce
Frederick Shoup, United States Embassy, Reykjavik

Private Sector Advisers

Richard Buck, Chairman, Restoration of Atlantic Salmon in America, Inc., Hancock, New Hampshire
Frank Carlton, M.D., Chairman, National Coalition for Marine Conservation, Savannah, Georgia
David Egan, President, Connecticut River Salmon Association

United States Delegation To The Intergovernmental Council International Program For Development Of Communications (IPDC) Second Session Acapulco, Mexico, January 18–25, 1982

Representative

William G. Harley, United States National Commission for UNESCO, Department of State

Alternate Representative

John Hughes, Associate Director, International Communication Agency

Advisers

Clifford Block, Associate Director for Development Communications, Bureau for Development Support, Agency for International Development
Martin Jacobs, Officer in Charge of Communications, Bureau of International Organization Affairs, Department of State
Elkin Taylor, United States Deputy Permanent Representative to UNESCO, Paris

Private Sector Advisers

Tahlman Krumm, Jr., OMNICOMM Enterprises, Inc., Columbus, Ohio
Gordon H. Scherer, Attorney-at-Law, Cincinnati, Ohio

United States Delegation To The Working Group On International Plutonium Storage And Safeguards International Atomic Energy Agency (IAEA) Vienna, February 8–12, 1982

Representative

Joerg H. Menzel, Chief, Nuclear Safeguards and Technology Division, Arms Control and Disarmament Agency

Adviser

Stanley K. Fraley, U.S. Mission to the IAEA, Vienna

Private Sector Adviser

Richard Schneider, Safeguard Specialist, Exxon Nuclear Company, Hanford, Washington

[FR Doc. 82-6587 Filed 3-10-82; 8:45 am]
BILLING CODE 4710-15-M

[Public Notice CM-8/497]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting on March 26, 1982, of the Working Group on Accounting Standards of the Advisory Committee on International Investment, Technology, and Development. The Working Group will meet from 10:00 a.m. to 12:00 noon. The meeting will be held in Room 3524 of the State Department, 2201 C Street, NW., Washington, D.C. 20520. The meeting will be open to the public.

The purpose of the meeting will be to discuss the preparations for the Sixth Session of the U.N. Ad Hoc Intergovenmental Working Group of Experts on International Standards of Accounting and Reporting.

Requests for further information on the meeting should be directed to Philip T. Lincoln, Jr., Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632–2726.

Members of the public wishing to attend the meeting must contact Mr. Lincoln's office in order to arrange entrance to the State Department building.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: February 26, 1982.

Philip T. Lincoln, Jr.,

Executive Secretary.

[FR Doc. 82-6588 Filed 3-10-82; 8:45 am]
BILLING CODE 4710-07-M

[Public Notice CM-8/496]

Secretary of State's Advisory Committee on Private International Law; Meeting

There will be a meeting of the subject Advisory Committee at 10:00 A.M. on Friday, April 30, 1982 in Room 1105 (ground floor) of the Department of State. Members of the general public may attend up to the capacity of the meeting room and participate in the discussion subject to instructions of the Chairman.

The meeting agenda will include discussion of implementation in the United States of the 1980 Hague Convention on the Civil Aspects of International Child Abduction, which was signed by the United States on December 23, 1981, with a view to eventual United States ratification of that Convention. A number of other private international law activities and plans will be reviewed.

Entry to the Department of State building is controlled and members of the general public should use the "C" Street ("diplomatic") entrance. As entry will be facilitated by advance arrangements, members of the general public planning to attend should, prior to April 30, notify Ms. Rochelle Renna, Office of the Assistant Legal Adviser for Private International Law, Department of State, Washington, D.C., 20520 (telephone: (202) 632–8134) of their name, affiliation, address and telephone number.

Peter H. Pfund,

Assistant Legal Adviser for Private International Law and Vice-Chairman, Secretary of State's Advisory Committee on Private International Law.

February 17, 1982.

[FR Doc. 82-6589 Filed 3-10-82; 8:45 am]
BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 82-026]

Notice of Qualification of Texasgulf, Inc., as a Citizen of the United States

Notice is given that pursuant to 46 CFR 67.23–7, issued under the provisions of section 27A of the Merchant Marine Act, 1920, as added by the Act of September 2, 1958 (46 U.S.C. 883–1), Texasgulf, Inc. of High Ridge Park, Stamford, Connecticut 06904, incorporated under the laws of the State of Texas, did on February 4, 1982, file with the Commandant, United States Coast Guard, in duplicate, an oath for

qualification as a citizen of the United States following the forms of oath prescribed in Form CG–1260.

The oath shows that:

(a) A majority of the officers and directors of the corporation are citizens of the United States;

(b) Not less than 90 percent of the employees of the corporation are residents of the United States;

(c) The corporation is engaged primarily in a manufacturing or mineral industry in the United States or in a Territory, District, or possession thereof;

(d) The aggregate book value of the vessels owned by the corporation does not exceed 10 percent of the aggregate book value of the assets of the corporation; and

(e) The corporation purchases or produces in the United States its Territories or possessions not less than 75 percent of the raw materials used or sold in its operations.

The Commandant, United States Coast Guard, having found this oath to be in compliance with the law and regulations, on February 22, 1982, issued to Texasgulf, Inc., a certificate of compliance as provided for in 46 CFR 67.23–7. This certificate and any authorization granted thereunder will expire three years from February 22, 1982, unless there first occurs a change in the corporate status requiring a report under 46 CFR 67.23–7.

L. N. Hein,

Captain, Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 82–6616 Filed 3–10–82; 8:45 am]

BILLING CODE 4910–14–M

Federal Highway Administration

Guidance Material for the Preparation of Environmental Documents

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This notice is to advise that the Federal Highway Administration has issued a Technical Advisory entitled, "Guidance Material for the Preparation of Environmental Documents," copies of which are available from the address set forth below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Gatz, Office of Environmental Policy, (202) 426–4093, or Mr. Edward V. A. Kussy, Office of the Chief Counsel, (202) 426–0791, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of "Guidance Material for the Preparation of Environmental Documents" is to provide explanatory guidance to FHWA field offices and project applicants on FHWA's environmental impact and related procedures (23 CFR Part 771) and to provide the public with a further explanation of FHWA internal operating procedures in the development of the reports and documentation required by the National Environmental Policy Act (NEPA) and related Federal statutes. This material also provides the guidance required by 23 U.S.C. 109(h) to assure the full consideration of possible adverse economic, social, and environmental effects of proposed FHWA projects. While the material was developed primarily to provide guidance in the development of environmental impact statements (EIS's), it is also applicable, to the extent appropriate, for environmental assessments and other environmental studies deemed necessary prior to the advancement of a project with a categorical exclusion determination or a finding of no significant impact, and for documentation necessary to comply with section 4(f) of the DOT Act. This material is not regulatory; it was intended to provide uniform an consistent guidance for the development of environmental documents. The material contained in this Technical Advisory was published in draft form for public comment on October 15, 1979 (44 FR 59455). Comments were received in the public docket and were full considered by FHWA in the preparation of the final document.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: February 24, 1982.

L. P. Lamm,

Executive Director, Federal Highway Administration.

[FR Doc. 82–6683 Filed 3–10–82; 8:45 am]

BILLING CODE 4910–22–M

National Highway Traffic Safety Administration

Denial of Petition for Defect Determination; Kerwan

This notice sets forth the reasons for the denial of a petition by Marilyn Kerwan of San Jose, California, asking the agency for a determination that 1975–82 Volkswagen Rabbits contain a defect that relates to motor vehicle safety.

On November 9, 1981, Ms. Kerwan asked the agency to require Volkswagen to install a mirror on the front passenger side door, "to compensate for a dangerous blind spot that interferes with the driver's ability to change lanes safely."

The agency replied that it could find no other owner complaints of field of view obstruction or "blind spots" relating to VW Rabbit vehicles. In a survey of 22 vehicles conducted in 1978 by NHTSA, the two door Rabbit has the least amount of obstruction measured at the right side rear roof pillar, and that the four door Rabbit ranked fifth, well below the average obstruction measured. Body configuration of both Rabbits remain unchanged today. A passenger side rear view mirror is available as an option from the manufacturer and was provided as standard equipment on only one of the 22 vehicles tested. Further, the Rabbit appears to meet the requirments of Federal Motor Vehicle Safety Standard No. 111 *Rearview Mirrors*. As there was no reasonable possibility that an order would be issued at the end of an investigation ordering the manufacturer to notify and remedy, the petition was denied on February 2, 1982.

[Sec. 124, Pub. L. 93–492, 88 Stat 1470 (15 U.S.C. 1410a); delegations of authority at 49 CFR 1.50 and 501.8]

Issued on March 5, 1982.

Lynn L. Bradford,

Associate Administrator for Enforcement.

[FR Doc. 82–6663 Filed 3–10–82; 8:45 am]

BILLING CODE 4910–59–M

Research and Special Programs Administration

Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applicants for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comment period closes on April 9, 1982.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, S.W., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8789–N	Clearweld Products, Inc., Irwindale, CA	49 CFR 178.50–15, 178.50–16, 178.50–17, 178.50–19, 178.50–4.	To manufacture, mark and sell DOT Specification 4B refillable 13 and 16 ounce cylinders for, shipment of propane, exempt from various marking testing and reporting requirements. (Mode 1.)
8790–N	Rose Industries, Inc., Angleton, TX	49 CFR 173.119(a)(17), 173.245(a)(30), 173.245(a)(31), 173.346(a)(12), 178.340–7, 178.342–5, 178.343–5.	To manufacture, mark and sell non-DOT Specification cargo tanks similar to DOT Specification MC–307/312 except for bottom outlet valve variations for shipment of various flammable, corrosive or poison B waste liquids or semi-solids. (Mode 1.)
8791–N	Bignier Schmid-Laurent SA, Ivry-sur-Seine, France.	49 CFR 173.245a, 178.245–1	To manufacture, mark and sell non-DOT Specification 316L stainless steel portable tank similar to DOT Specification 51 except for post weld heat treatment for shipment or ethly chlorothioformate, classed as corrosive material. (Modes 1, 2, 3.)
8792–N	Digital Equipment Corporation, Northborough, MA.	49 CFR 172.200, 172.300, 172.400	To authorize shipment of isopropanol, classed as a flammable liquid contained in a saturated pad, sealed in a plastic coated foil pack, overpacked not to exceed 250 packs per strong outside box, as essentially non-regulated. (Modes 1, 3.)
8793–N	American Chemical & Refining Company, Inc., Waterbury, CT.	49 CFR 173.352(a), 175.3	To authorize shipment of potassium cyanide solution, n.o.s. Class B poison, in DOT Specification 2E one-gallon polyethylene bottles, overpacked 4 to a DOT Specification 12B40 fiberboard box. (Modes 1, 4.)
8794–N	Applied Technology, Inc., Barnwell, SC	49 CFR 172.200(a), 173.392(d)(1)(iv), 173.392(d)(7).	To transport via private carriage unpackaged radioactive materials, low specific activity, n.o.s. in mobile transport vehicles without determining equipment contamination levels, without shipping papers, and without issuing instructions for exclusive use of vehicle. (Mode 1.)
8795–N	The Marleon Company, South Elgin, IL	49 CFR 173.302, 173.304, 173.36, 75.3, 176.36.	To manufacture, mark and sell non-DOT Specification cylinder similar to DOT Specification 3B, made of electric resistance welded tubing with a longitudinal seam for shipment of monobromotrifluoromethane and dry chemical fire extinguishants pressurized with nitrogen. (Modes 1, 2, 3, 4, 5.)
8796–N	Petroplex Acidizing, Inc., Midland, TX	49 CFR 173.263(a)(10)	To authorize shipment of hydrochloric acid, (15% to 28%), a corrosive liquid, in unlined non-DOT specification cargo tanks similar to DOT Specification MC–312. (Mode 1.)

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on March 3, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82–6613 Filed 3–10–82; 8:45 am]

BILLING CODE 4910–60–M

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment closes period on March 25, 1982.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
2981–X	Austin Powder Company, Cleveland, OH.	2981
2981–X	Hercules, Incorporated, Wilmington, DE.	2981
3302–X	Airco Industrial Gases, Murray Hill, NJ.	3302
3565–X	U.S. Department of Energy, Washington, DC.	3565

Application No.	Applicant	Renewal of exemption
3648–X	Airco Industrial Gases, Murray Hill, NJ.	3648
4291–X	United Technologies Corporation, Sunnyvale, CA.	4291
4453–X	Gulf Oil Chemicals Company, Overland Park, KS.	4453
5196–X	Shell Oil Company, Houston, TX	5196
5372–X	Airco Industrial Gases, Murray Hill, NJ.	5372
5372–X	Union Carbide Corporation, Danbury, CT.	5372
5967–X	Rocket Research Corporation, Redmond, WA.	5967
6016–X	O. E. Meyer & Sons, Inc., Sandusky, OH.	6016
6016–X	Strate Welding Supply Co., Inc., Buffalo, NY.	6016
6016–X	Langdon Oxygen Company, Texarkana, TX.	6016
6016–X	Airco, Inc., Murray Hill, NJ	6016
6064–X	Martin Marietta Chemicals (Sidyeco Div.), Charlotte, NC.	6054
6113–X	Providence Gas Company, Providence, RI.	6113
6197–X	New Jersey Natural Gas Company, Asbury Park, NJ.	6197
6205–X	Chicago Bridge and Iron Company, Oak Brook, IL.	6205
6243–X	Liquid Carbonic Corporation, Chicago, IL.	6243
6299–X	Minnesota Valley Engineering, New Prague, MN.	6299
6309–X	Insta-Foam Products, Inc., Joliet, IL.	6309
6309–X	Olin Corporation, Stamford, Ct	6309
6325–X	Austin Powder Company, Cleveland, OH.	6325
6466–X	Ensign Bickford Company, St. Simsbury, CT.	5466
6466–X	Monsanto Company, St. Louis, MO.	5466
6488–X	Luster U.S.A., Limited, Riverside, CA.	6488
6501–X	GOEX, Inc., Cleburne, TX	6501
6704–X	Dow Chemical Company, Midland, MI (see footnote 1).	6704
6746–X	The Firestone Tire and Rubber Company, Akron, OH.	6746
686,–X	Teledyne McCormick Selph, Hollister, CA.	5861
6883–X	Hedwin Corporation, Baltimore, MD.	6883
6895–X	Westinghouse Electric Corporation, Bloomfield, NJ.	6891
6921–X	Cities Service Company, Tulsa, OK.	6921
6921–X	Airco Industrial Gases, Murray Hill, NJ.	6921
6926–X	Union Carbide Corporation, New York, NY.	6926
6984–X	Austin Powder Company, Cleveland, OH.	6984
7011–X	Advanced Chemical Technology, City of Industry, CA.	7011
7014–X	Eurotainer, Paris, France	7014
7052–X	Duracell International, Inc., Tarrytown, NY.	7052
7052–X	Plainview Electronics Corporation, Plainview, NY.	7052
7052–X	Bunker Ramo Corporation, Westlake Village, CA.	7052
7052–X	Magnavox Government & Industrial Electronics Corp., Fort Wayne, IN.	7052
7052–X	Honeywell, Incorporated, Horsham, PA.	7052
7052–X	U.S. Department of Energy, Washington, DC.	7052
7073–X	Ethyl Corporation, Baton Rouge, LA.	7073
7485–X	State of Alaska, Dept. of Transportation, Juneau, AK.	7485
7476–X	Thompson Tank & Manufacturing Co., Inc., Long Beach, CA.	7476
7556–X	Union Carbide Corporation, Danbury, CT.	7556
7507–X	Foxboro Analytical, South Norwalk, CT.	7507
7638–X	Minnesota Valley Engineering, New Prague, NM.	7638
7651–X	Austin Powder Company, Cleveland, OH.	7651
7654–X	Texas Eastman Company, Longview, TX.	7654
7674–X	U.S. Department of Defense, Washington, DC.	7674
7708–X	HTL Industries, Inc., Duarte, CA	7708
7731–X	Minnesota Valley Engineering, Inc., New Prague, MN.	7731
7770–X	Eurotainer, Paris, France	7770
7788–X	Southern Chemical Products Company, Macon, GA.	7788
7835–X	Matheson, Secaucus, NJ	7835
7896–X	U.S. Department of Defense, Washington, DC.	7896
7933–X	Greif Brothers Corporation, Springfield, NJ.	7933
7963–X	Stauffer Chemical Company, Westport, CT.	7963
8077–X	M&T Chemicals, Inc., Sa. San Francisco, CA (see footnote 21).	8077
8133–X	Alpha Chemical Company, Lake Charles, LA.	8133
8162–X	Structural Composites Industries, Inc., Pomona, CA (see footnote 3).	8162
8160–X	M&T Chemicals, Inc., Rahway, NJ (see footnote 4).	8160
8283–X	Allied Corporation, Morristown, NJ.	8283
8284–X	Allied Corporation, Morristown, NJ.	8284
8316–X	Van Camp Sea Food Company, San Diego, CA.	8316
8344–X	Farwest Sports, Inc., Olympia, WA.	8344
8363–X	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE (see footnote 5).	8363
8571–X	Connecticut Bulk Carriers, Inc., Stamford, CT.	8571
8377–X	Teledyne McCormick Selph, Hollister, CA.	8377
8441–X	U.S. Department of Energy, Washington, DC.	8441
8441–X	Duracell International, Inc., Tarrytown, NY.	8441
8568–X	Air Products and Chemicals, Incorporated, Bethlehem, PA (see footnote 6).	8568
8570–X	Snyder Industries, Incorporated, Lincoln, NE (see footnote 7).	8570
8588–X	Bergen Barrel and Drum Company, Demarest, NJ (see footnote 8).	8588
8690	Air Products and Chemicals, Inc., Allentown, PA (see Footnote 9).	8690

[1] To renew and to modify drawing reference allowing new units identical to those presently authorized for replacement purposes.

[2] To convert exemption from manufacture, mark and sell to a shipper oriented exemption, to authorize dichlorosilane and trichlorosilane as additional commodities and to increase container capacity from

[3] To renew, to request modification of the gunfire test required by the exemption and to add oxygen and helium as additional commodities.

[4] To convert exemption from manufacture, mark and sell to a shipper oriented exemption, to authorize dichlorosilane as an additional commodity and to increase container capacity from 55 gallon to 110.

[5] To renew and to modify dimensions of containers (caddies) specified in exemption.

[6] To allow the road relief valves on liquid hydrogen portable tanks set to discharge at 16 psig to remain when transported by vessel.

[7] To renew and to authorize a flammable liquids, n.o.s. (herbicide) as an additional commodity.

[8] To authorize various flammable liquids and Class B poisonous liquids as additional commodities.

[9] To renew exemption, to remove one-time shipment clause and to add water as an additional mode of transportation.

Application No.	Applicant	Parties to exemption
6016–P	Magnolia Welding Supply Company, Houston, TX.	6016
6113–P	Atlanta Gas Light Company, Atlanta, GA.	6113
6197–P	Atlanta Gas Light Company, Atlanta, GA.	6197
6325–P	Mesabi Powder Company, Hibbing, MN.	6325
6603–P	Jones Chemicals, Incorporated, Caledonia, NY.	6603
6614–P	Steelcrete Company, Novi, MI	6614
6614–P	Dietz Pool & Patio Supply, Williamston, MI.	6614
6657–P	Mansfield Oxygen Corporation, Mansfield, OH.	6657
6705–P	Jack B. Kelley, Inc., Amarillo, TX	6705
7015–P	Jack B. Kelley, Inc., Amarillo, TX	7015
7025–P	Jack B. Kelley, Inc., Amarillo, TX	7025
7060–P	Empire Aero Services, Inc., d.b.a. SAIR Aviation, Syracuse, NY.	7060
8129–P	IT Corporation, Wilmington, CA	8129
8441–P	Plainview Electronics Corporation, Plainview, NY.	8441
8453–P	D. C. Guelich Explosive Co., Clearfield, PA.	8453
8486–P	Olin Corporation, Stamford, CT	8486
8526–P	Helena Chemical Company, Memphis, TN.	8526
8732–P	Coastal Chemical Company, Pasadena, TX.	8732
8732–P	Ashland Chemical Company, Dublin, OH.	8732

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on March 3, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-6412 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-60-M

Urban Mass Transportation Administration

Solicitation of Proposals for Grants; Public Transportation Technology; Introduction and Innovative Techniques and Methods Programs

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice.

SUMMARY: The Urban Mass Transportation Administration (UMTA) announces that it will accept proposals for the Section 3(a)(1)(C) program, Technology Introduction, and the Section 4(i) program, Innovative Techniques and Methods in the Management and Operation of Public Transportation, for Fiscal Year 1982.

DATES: Proposals for the Section 3(a)(1)(C) program and the Section 4(i) program are due in the appropriate UMTA Regional Offices within sixty (60) dates of publication of this announcement. (May 10, 1982).

FOR FURTHER INFORMATION CONTACT: Stephen S. Teel, telephone (202) 426–0090, for the Section 3(a)(1)(C) program. Norm Ensrud, telephone (202) 426–4984, for the Section 4(i) program. Both individuals are located at the Urban Mass Transportation Administration, 400 7th Street, SW, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: UMTA intends to publish shortly formal circulars for the implementation of these programs. In the interim, proposals for the Section 3(a)(1)(C) program should follow procedures set forth in the January 19, 1981, **Federal Register** (46 FR 5832). Proposals for the Section 4(i) program should follow adminstrative procedures set forth in the December 1, 1980, **Federal Register** (45 FR 79670). A list of major categories of innovations that should be considered for the Section 4(i) program is being mailed to all transit properties and is available at UMTA headquarters and regional offices.

The Technology Introduction program was initiated to assist in financing the introduction into public transportation service of new innovative technology to span the gap that exists between the technical feasibility stage of research and development and the introduction of new proven equipment into revenue service.

The Innovative Techniques and Methods program was begun to further the national adoption of innovative techniques that will reduce the cost of transportation, increase transit system revenues, and increase opportunites for private sector involvement.

Issued: March 5, 1982.

Arthur E. Teele, Jr.,

Administrator.

[FR Doc. 82-6552 Filed 3-10-82; 8:45 am]

BILLING CODE 4910-57-M

VETERANS ADMINISTRATION

Replacement Maintenance and Storage Building, Illinois State Veterans Cemetery, Quincy, Ill.; Finding of No Significant Impact

The Veterans Administration has assessed the potential environmental impacts which may occur as a result of the State of Illinois building a Replacement Maintenance and Storage Building at the Illinois State Veterans Cemetery, Illinois Veterans Home, Quincy, Illinois.

The proposed project includes the demolition of the existing storage and maintenance shed and the construction of a new 30' x 60' replacement building on state owned land at the State Veterans Cemetery. The project will not result in the loss or gain of grave sites in the cemetery. Funding by the Veterans Administration will amount to fifty percent through the VA Cemetery Grant Program No. 64.203.

No alternatives were considered in this project action as the State desires to build on existing State-owned land. The project will be built on the site of an existing deteriorated maintenance and storage shed that is of inadequate space to renovate for current and future utilization.

Temporary construction related impacts which will exist through project completion include noise, dust, fumes, visual impact and solid waste. These impacts will be minimal. During the construction phase and subsequent operation, all applicable Federal, State, and local environmental regulations will be adhered to.

Findings conclude the proposed project action will not cause significant effect on the physical and human environment and, therefore, does not require preparation of an environmental impact statement.

Mitigation of the temporary impacts associated with construction impacts will include erosion controls, noise controls, air quality controls and approved solid waste disposal measures. The controls will be included within the construction document specifications. The project will comply with all Federal, State and local codes.

The significance of the identified impacts has been evaluated relative to the considerations of both context and intensity, as defined by the Council on Environmental Quality (Title 40 CFR 1508.27).

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P.E., Director, Environmental Affairs Staff (005B), Room 950, Veterans Administration, 1425 K Street, NW., Washington, D.C., (202–389–2528). Questions or requests for single copies of the Environmental Assessment may be addressed to: Director, Environmental Affairs Staff (005B), 810 Vermont Avenue, NW., Washington, D.C. 20420.

Dated: March 5, 1982.

Charles T. Hagel,

Deputy Administrator.

[FR Doc. 82-6571 Filed 3-10-82; 8:45 am]

BILLING CODE 8320-01-M

Clinical Addition, Veterans Administration Medical Center, St. Louis, Mo., Finding of No Significant Impact

The Veterans administration (VA) has assessed the potential environmental impact that may occur as a result of the construction of a Clinical Addition at the Veterans Administration Medical Center, St. Louis, Missouri (John Cochran Division).

Alternatives that were evaluated for this project included the following: (a) Major construction at various locations on the existing site; (b) interior renovation; (c) construction on an adjacent site; and (d) no action.

The agency's preferred alternative is (a). The project alternative (a) will consist of an addition abutting and over the existing ambulatory care wing. The addition will provide space for the mental health and behavioral sciences clinic and expansion space for the intensive care units (surgical, medical and coronary), clinical laboratory, surgery and education. Some existing space will be renovated to facilitate the subsequent moves and changes in functions.

All applicable Federal, State and local laws and regulations will be adhered to in the construction and operational phases. The commitment of resources, energy and labor to implement the project is irreversible and permanent once the project is in place.

There are no anticipated long term environmental impacts which will result from the preferred project action. Short term impacts associated with the construction process include dust, fumes, noise, erosion/sedimentation, traffic and visual impacts.

Construction related mitigative actions will be included in the VA Construction Specifications which include the Environmental Protection Section. Soil erosion control, dust control, noise control and air quality control measures will comply with all Federal, State and local codes.

The significance of the identified impacts has been evaluated relative to the considerations of both context and intensity, as defined by the Council on Environmental Quality (Title 40 CFR 1508.27).

This Environmental Assessment has been performed in accordance with the

requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination in Room A–14, Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC 20420 (202–389–2526). Questions or requests for single copies of the Environmental Assessment should be directed to Mr. Willard Sitler, P.E., Director, Environmental Affairs Staff, at the above address.

Dated: March 3, 1982.

Charles T. Hagel,

Deputy Administrator.

[FR Doc. 82-6529 Filed 3-10-82; 8:45 am]

BILLING CODE 8320-01-M

Veterans' Education; Policies and Procedures

AGENCY: Veterans Administration.

ACTION: Request for public comments.

SUMMARY: The Veterans Administration is publishing for public comment statements of procedures which the agency has adopted. These procedures implement that portion of the Veterans' Health Care, Training, and Small Business Loan Act of 1981 which affects veterans receiving educational assistance allowance under chapter 34, title 38, United States Code. The Veterans Administration will use the procedures in determining if a veteran is entitled to an additional 2 years of eligibility for educational assistance allowance. These statements will better acquaint veterans, educational institutions and the public at large with the way in which decisions will be made in this area.

DATE: Comments must be received on or before April 12, 1982.

ADDRESSES: Interested persons are invited to submit written comments, suggestions or objections regarding the document to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C., 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm, Monday through Friday (except holidays) until April 20, 1982. Anyone visiting the Veterans Administration Central Office in Washington, D.C. for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420 (202–389–2092).

SUPPLEMENTARY INFORMATION: This publication contains DVB Circular 22–81–15. This circular deals with procedures for use in determining whether a veteran may have an additional 2 years of eligibility to use his or her entitlement to education assistance allowance.

This circular has been distributed through normal channels. The Veterans Administration is implementing the procedures contained in the circular. All comments received will be reviewed and used in changing the circular, where necessary.

The Catalog of Federal Domestic Assistance number for the program affected by this circular is 64.111.

Approved: March 1, 1982.

By direction of the Administrator:

Charles T. Hagel,

Deputy Administrator.

[DVB Circular 22–81–15]

Delimiting Date Extensions Under Pub. L. 97–72

December 22, 1982.

1. *Purpose.* This circular provides instructions for extending the delimiting dates of veterans who are in need of training as provided by Pub. L. 97–72, "The Veterans' Health Care, Training, and Business Loan Act of 1981."

2. *General*

a. Public Law 97–72 has amended 38 U.S.C. 1662(a) to provide an extension of delimiting dates under chapter 34 for veterans who do not have a high school diploma, and for those who are found to be in need of vocational or job training because they are unskilled.

b. Payment to affected veterans may be authorized for up to 2 years but not for training pursued beyond December 31, 1983.

c. An application must be made by the veteran for consideration of extending his or her delimiting date; no special review will be made of cases with expired delimiting dates.

d. Following completion of training, the VA will provide the veteran with employment assistance to enable him or her to obtain appropriate employment.

3. *Limitations of Program*

a. The veteran must have had active duty service under conditions other than dishonorable, any part of which occurred during the Vietnam era (August 5, 1964 through May 7, 1975) provided he or she is otherwise eligible.

b. To receive benefits for secondary training beyond his or her delimiting date, the veteran must not have a high school diploma or its equivalent.

c. To receive benefits for vocational, apprenticeship, or other on-the-job training beyond his or her delimiting date, the veteran must be in need of training to achieve a suitable occupational or vocational objective because he or she is unskilled, or unemployed and unskilled.

d. Training with a vocational objective must be residential training in NCD (non-college-degree) courses. Benefits for farm cooperative training may be allowed, but correspondence and flight training are not allowed under the provisions of this program.

e. The length of the extension is governed by the following:

(1) The extension for vocational, apprenticeship, and on-the-job training may not exceed the applicant's unused entitlement, except extensions for vocational training under VAR 11041 (D)(1) and (2); and

(2) The extension cannot begin before January 1, 1982, and cannot end after December 31, 1983.

4. *Applications*

a. Applications for delimiting date extensions under this provision must be made in accordance with the time limits specified in VAR 14131(A). Applications will be made on VA Form 22–1990 or 22–1995, as appropriate. To assist in identifying claims for extensions under this provision, forms should be marked "Extension under Pub. L. 97–72."

b. An application may be received that does not indicate that the person is applying for an extension to his or her delimiting date which has passed. These claims will not be denied if there is any possibility that the applicant may otherwise be qualified for an extension. All such claims will be developed as appropriate.

c. Additional development as described in paragraph 5 will be requested by dictated letter.

5. *Development.* Development must be made on a case-by-case basis since the circumstances in each case will be unique. If the veteran claims to be educationally disadvantaged or unskilled, only the one claimed must be developed. However, if he or she only claims to be unemployed or if he or she does not specify the reason for requesting the extension, the case must be developed for both the possibility of the veteran's being educationally disadvantaged or unskilled.

a. *High Schoold Training—Educationally Disadvantaged.* A veteran who does not have a high school diploma or its equivalent will be considered educationally disadvantaged for purposes of this program. If recent educational background information is not available, the case must be developed to determine if the applicant qualifies for training. If development is necessary, the applicant will be informed at that time that benefits are limited to the amount of tuition and fees for the course, not to exceed the single veteran's rate for the appropriate training time.

b. *Vocational, Apprenticeship, or On-The-Job Training—Unskilled.* There must be a detemination that the veteran is in need of training because he or she is unskilled (whether employed or unemployed) as a prerequisite to payment of benefits for vocational, apprenticeship, or on-the-job training beyond his or her delimiting date. To make this determination, the following information must be obtained to the extent that it is not shown by the evidence of record.

(1) *Educational and Vocational Training.* All educational training received after high school and all vocational training must be indicated to include the following:

(a) Courses or programs pursued at each school.

(b) Whether the courses or programs listed were completed.

(c) Dates of enrollment for each course or program.

(2) *Employment History*

(a) The job title and a brief description of the type of all work performed with all employers.

(b) Dates of employment for each type of work listed.

(3) *Employment Training*

(a) A description of all classroom training provided by employers. The description must include the type of training received, the number of hours of each type of training, and the appropriate dates of such training.

(b) A description of all on-the-job training received while serving as a trainee on the job under the instruction of qualified workers.

6. *Determinations.* Each case will be decided on an individual basis by Adjudication personnel. The applicant may qualify for an extended delimiting date because he or she is educationally disadvantaged or is in need of training because he or she is unskilled. If the veteran requests an extension because of unemployment, evidence must also show that he or she is unskilled.

a. *Educationally Disadvantaged*

(1) If the applicant does not have a high school diploma or its equivalent, he or she will be considered as educationally disadvantaged and will qualify for an extension to pursue a program of secondary education provided all other requirements are met.

(2) If the extension is allowed to pursue a program of secondary education because the veteran is found to be educationally disadvantaged, the claims folder will be annotated "Delimiting date extended—educationally disadvantaged—Pub. L. 97–72."

(3) No formal administrative determination will be required in such cases.

b. *Unskilled (Whether Employed or Unemployed)*

(1) If the veteran has never been employed in other than entry level jobs, he or she will be considered to be unskilled for purposes of this program. Provided all other requirements are met, an extension will be allowed for pursuit of a program of vocational, apprenticeship, or on-the-job training. For the purposes of this program, the following rules will apply:

(a) A job requiring 3 months or less vocational preparation will be considered as entry level.

(b) A person who holds a 2-year degree or who has completed 60 semester hours or the equivalent from an institution of higher learning will not be considered to be unskilled regardless of employment history.

(c) A person who has completed a vocational program which qualifies a person for more than an entry level job will not be unskilled.

(d) Trainee positions, such as management trainee positions, in private industry and government which generally lead to more responsible positions are not considered to be entry level although such jobs may require little specific vocational preparation.

(e) To qualify for a farm cooperative program, a person may not have held higher than an entry level position as described in subparagraph (2) below.

(2) As a guide to determining the skill level of most jobs, refer to the publication *Selected Characteristics of Occupations Defined in the Dictionary of Occupational Titles* which was prepared by the Department of Labor. Copies of this publication are available in the VR&C (Vocational Rehabilitation and Counseling) activity of each regional office. Additional copies may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(a) In part A of the above publication the training length is provided for each job listed. The training length is represented by an SVP (Specific Vocational Preparation) code shown in the right column for each job. (Appendix A of this circular provides additional assistance for locating SVP codes for specific jobs.)

(b) For purposes of this program for delimiting date extensions, jobs represented by SVP codes of 1, 2, or 3, will be considered as entry level. These jobs require 3 months or less in vocational preparation.

(c) In some situations the SVP codes in this publication may not be conclusive. In these cases other evidence of record should be examined. The preparation time indicated by the applicant for a particular job may not coincide with the SVP code for that job. For example, the applicant states that he or she holds a job as an ambulance attendant (DOT code 355.374–010) which has an SVP code 3. However, he or she claims that training for that job has been 9 months combined classroom and on-the-job training. Since his or her training for this job has been much more extensive than represented by the SVP code, this job will not be considered as entry level.

(3) A decision to grant or deny an extension of the applicant's delimiting date for vocational, apprenticeship, or on-the-job training based on need for training because he or she is not shown to be unskilled will be presented in an authorization determination. (See DVB Manual M21–1, par. 14.34.) The formal administrative decision will require two signatures with the second signature being the approval by a section chief. A formal decision will not be necessary if the claim is denied for some other reason, such as no remaining entitlement or program not approved.

(4) The Adjudication Division will not refer cases to VR&C solely for the purpose of making a determination that the veteran needs training because he or she appears to be unskilled. If a veteran requests counseling and VR&C makes the determination that the veteran is unskilled, based on the criteria specified in this circular, the delimiting date extension will be allowed. No further development on skill level of jobs held will be required and a formal administrative decision as discussed in subparagraph (3) above will not be required. The claims folder will be annotated "Delimiting date extended—unskilled per VR&C—Pub. L. 97–72."

7. *Award Procedures*

a. *Beginning and Ending Dates*

(1) *Beginning Date.* The beginning date of any extension under this provision will be the latest of the following dates:

(a) The beginning date of attendance or training as certified by the school;

(b) The veteran's original delimiting date under VAR 11042 or extended delimiting date under 11043; or

(c) January 1, 1982.

(2) *Ending Date.* The ending date (last date of payment) will be the earlier of the following dates:

(a) The last day of attendance or training as certified by the school or training establishment; or

(b) December 31, 1983.

b. *Change of Delimiting Date.* Training under this provision will require an extension to the veteran's delimiting date. For this reason the original delimiting date in the system must be adjusted to allow payment of benefits under the extension. The revised delimiting date under the extension will be the NONE date of the award under the extension, but not later than January 1, 1984.

(1) *Target Processing.* If the award is to be processed in the Target System, the delimiting date will be adjusted on the 310 screen, Chapter 31/32/34 Eligibility, in the DISAB fields.

(a) If the veteran's original delimiting date is earlier than January 1, 1982, enter "1–1–82" in the DATE field. In the MOS and DAYS fields enter the appropriate time to generate the correct extended delimiting date.

(b) If the veteran's original delimiting date is on or after January 1, 1982, but earlier than January 1, 1984, enter the appropriate amount in the MOS and DAYS fields to generate the correct extended delimiting date. Make no entry in the DATE field.

(2) *Non-Target Processing.* Although use of the Target System for award processing is preferable, magnetic diskette or OCR documents may be used.

(a) If OCR processing is used, it is important to ensure that the entry in the DELIMIT BASE field has been processed before the OCR award is submitted.

(b) If magnetic diskette processing is used, the veteran's delimiting date must be extended by using the field DELIMIT BASE (field No. 375). The entry in this field will be:

1. A six-position entry in the month-day-year (MMDDYY) format;

2. A date that is 10 years and 1 day earlier than the NONE date of the award under the extension, or December 31, 1973, whichever is earlier; and

3. Made as a part of an original Certificate of Eligibility or as a master record correction.

c. *Entitlement*

(1) *High School Training.* Entitlement will not be charged for benefits paid for high school training. However, to be entitled to

benefits for such training, the veteran must have remaining entitlement. If entitlement is exhausted, *no* buy-back of entitlement will be allowed.

(2) *Vocational, Apprenticeship, and On-The-Job Training.* Entitlement may be extended for vocational training as provided under VAR 11041(D), but not beyond December 31, 1983. No extension of entitlement is permitted for apprenticeship and on-the-job training. *No* buy-back of entitlement will be allowed if entitlement is exhausted.

d. *Rate of Payment*

(1) *High School Training.* Payment will be limited to the cost of tuition and fees charged, not to exceed the single-veteran institutional rate for the particular training time. There will be no charge to entitlement. (See subpar. c(1) above.)

(2) *Vocational, Apprenticeship, and On-The-Job Training.* The rates of payment will be those as specified in VAR 14136(A) as amended by Pub. L. 96-466.

e. *Folder-Pull Indicator.* In cases where the delimiting date has been extended, the FOLDER PULL REQUIRED field on the Target M24 screen will be set.

8. *Notice to Applicant*

a. *Extension Allowed.* If the veteran's application for an extended delimiting date is approved, he or she will be notified by dictated letter of the extension. In addition to the required information contained in generated award letters, the following must be provided:

(1) If the school certifies a beginning date earlier than January 1, 1982, or an ending date later than December 31, 1983, the veteran must be notified of the reason that the award cannot begin earlier or end later than these dates.

(2) He or she must be informed that the extension is based on evidence which shows that he or she is educationally disadvantaged or unskilled, as appropriate under the provisions of law allowing the delimiting date extension. He or she will also be informed that this determination applies only to the specific course or program for which the extension is approved.

(3) The veteran will be informed that employment assistance will be available upon his or her request when he or she completes the course or program.

b. *Extension Denied.* The veteran will be informed of a denial of the application by dictated letter which gives the reason for the denial.

(1) If the veteran is not shown to be educationally disadvantaged or unskilled, the denial letter will clearly state that the evidence does not show that he or she is educationally disadvantaged or unskilled, whichever is applicable, under the provisions of law permitting an extension of the delimiting date.

(2) If the applicant has requested an extension for training because of unemployment but the determination is that he or she is not unskilled, the request for an extension will be denied. The veteran will be informed that the extension cannot be allowed solely because he or she is unemployed and that evidence must also show that he or she is unskilled which is not shown by the evidence of record.

(3) A statement of appellate and procedural rights will be enclosed.

9. *End Product Code.* An end product code of 220 will be taken for approvals and denials of delimiting date extensions under this provision.

10. *Change of Program*

a. The determination that the veteran is in need of training because he or she is shown to be educationally disadvantaged or unskilled will apply only to the specific course or program for which application is made. Any change of program will require another determination. For example, if a veteran is determined to be unskilled for the purposes of this program, is approved for training in a 12-month automobile mechanics course, and completes 6 months of the course, another formal determination must be made as to whether he or she remains unskilled before an application for further benefits for another program can be approved.

b. The change of program restrictions under 38 U.S.C. 1791 apply to program changes for benefits the veteran received before his or her delimiting date and to changes of program within the extended delimiting period. For example, if the veteran applies for an extended delimiting date but has already received benefits for two different programs before his or her delimiting date, development for a second change of program as specified in DVB Circular 22-80-37 will be accomplished concurrently with any other necessary development as discussed in paragraph 5 above.

11. *Awards Terminating on Delimiting Date.* Situations will occur in which predelimiting date awards for secondary, vocational, apprenticeship, and on-the-job training will end as of the veteran's delimiting date although the enrollment period extends beyond that date. For example, an enrollment is received for vocational training beginning January 11, 1982, and ending January 11, 1983, but the award terminates benefits as of the veteran's delimiting date on June 2, 1982. The veteran in such cases will be notified when the predelimiting date award is processed that benefits for secondary, vocational, apprenticeship, or on-the-job training, as appropriate to the case, may be continued beyond his or her delimiting date if it appears that eligibility may exist.

a. *Secondary Training*

(1) The notice concerning extended benefits must inform the veteran that payments for secondary training will be limited to the cost of tuition and fees. To apply for an extension, he or she will be notified to submit the following no earlier than 60 days before his or her delimiting date:

(a) A statement that he or she requests benefits for further secondary training beyond his or her delimiting date;

(b) A statement as to when he or she received or expects to receive a high school diploma or its equivalent; and

(c) A current enrollment certification which certifies attendance beyond his or her delimiting date.

(2) Benefits may be extended beyond the delimiting date if the evidence received indicates that he or she is continuing in training on or after that date; that he or she has not received a high school diploma or its equivalent; and that all other requirements for an extension are met.

b. *Vocational, Apprenticeship, and On-The-Job Training*

(1) To apply for continued benefits for vocational, apprenticeship, and on-the-job training beyond his or her delimiting date, the veteran will be required to submit the following no earlier than 60 days before his or her delimiting date:

(a) A statement that he or she requests benefits for further vocational, apprenticeship, or on-the-job training, as appropriate in the case;

(b) A statement as to the skills obtained from the beginning of the current course or training program and the information specified in paragraph 5b (if not of record); and

(c) A current enrollment certification that certifies enrollment in training beyond his or her delimiting date.

(2) Benefits may be extended beyond the delimiting date if the evidence shows that the veteran is continuing in training beyond that date; that he or she meets the requirements of being unskilled as of his or her delimiting date as specified in paragraph 6b; and that he or she meets all other requirements for the extension.

12. *Statistics*

a. A report (including a negative report if no extensions are received) will be submitted to the Field Director (722A) on a quarterly basis. The report is designated as RCS 22-28.

b. Regional offices will report the following information:

(1) Number of applications received for delimiting date extensions during the current quarter.

(2) Number of applications approved for delimiting date extensions during the current quarter for the following reasons:

(a) Found to be educationally disadvantaged;

(b) Found to be unskilled.

(3) Number of applications denied for delimiting date extensions during the current quarter for the following reasons:

(a) Not found to be educationally disadvantaged;

(b) Not found to be unskilled;

(c) Other reasons for denial (total number).

Note.—The above statistics will not reflect delimiting date extensions for disability.

c. This report must be received in Central Office no later than the 10th workday following the end of the quarter. The first report will be due the 10th workday of April 1982 (covering the quarter beginning January 1, 1982). The final report will be due the 10th workday of January 1984 (covering the quarter beginning October 1, 1983).

13. *Distribution.* Copies of this circular are being distributed to educational institutions.

Dorothy L. Starbuck,

Chief Benefits Director.

Appendix A—Guide for Locating SVP (Specific Vocational Preparation) Codes for Specific Jobs

1. An SVP code for a job may be located by finding the DOT title for that job in part A of *Selected Characteristics of Occupations Defined in the Dictionary of Occupational Titles*, hereafter referred to as *Selected Characteristics of Occupations.* (App. D of the above publication has a full explanation of the SVP codes.) In part A, jobs are grouped according to related characteristics. For example, the job of a helper in a dry cleaning operation can be located directly by referring to the job grouping "Laundering, Dry Cleaning" (pp. 211-212) in part A. The specific title for that job is "Dry-Cleaner Helper" (DOT code 362.686-010). The SVP code for the job is indicated as "2" in the right column.

2. If it is difficult to find a job in part A of *Selected Characteristics of Occupations*, the job may be located by referring to the "Industry Index" (pp. 1363-1367) in the *Dictionary of Occupational Titles.* (Copies of this publication are located in VR&C and the Liaison activity; additional copies may be obtained from the Superintendent of Documents.) This index lists categories of industries alphabetically and provides a reference to jobs within a specific industry in the section designated "Occupational Titles Arranged by Industry Designation" (pp. 1157-1361). Within each industry designation jobs are listed by DOT title and code.

a. In the example of a helper in a dry cleaning operation, the DOT code can be found by locating the industry title in the "Industry Index." In the "Industry Index" (p. 1363) the "Cleaning, Dyeing, and Pressing Industry" is shown to be located on page 1201. Under this title beginning on page 1201, the listings of jobs within the industry can be found. The title, "Dry-Cleaner Helper," can be located in this group of similarly related jobs. The DOT code of 362.686-010 can then be obtained.

b. Once the DOT code is determined for a specific job, the SVP code can be located by first referring to part B of *Selected Characteristics of Occupations.* This section lists jobs numerically by DOT codes. The DOT code provides a reference of a GOE (Guide for Occupational Exploration) code by which jobs are grouped in part A.

c. In the example of a dry-cleaning helper, DOT code 362.686-010 provides a reference to GOE code 06.04.35 in part B. The listing under that GOE code (06.04.35) in part A indicates that a "Dry-Cleaner Helper" has an SVP code of "2."

[FR Doc. 82-6530 Filed 3-10-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 48
Thursday, March 11, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M-344, Amdt. 7, March 4, 1982]

Deletions and addition to the March 4, 1982 meeting

TIME AND DATE: 10 a.m., March 4, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

Deletion: 3. Docket 34141, Application of Trans-Panama, S.A.—Opinion and Order on Review. (Memo 544–A, OGC)
Deletion: 20. Docket EAS–771, Appeal of 419(b) eligibility determination of Elizabeth City, North Carolina for designation as an eligible point. (Memo 1121, BDA, OGC, OCCCA)
Deletion: 20. Docket 39850, Application of People Express Airlines, Inc. for an exemption and Petition of American Airlines for review and reversal of staff action in Order 81–6–41 granting People Express exemptions from the Board's oversales and denied boarding regulations. (Memo 1028–A, BDA, OCCCA)
Addition: 31a. Dockets 40386 and 40387, Requests for expedited action on two applications from the Air Traffic Conference for approval and antitrust immunity for agreements to amend the Area Settlement Plan to provide a new arrangement for handling passengers holding tickets on a carrier that is in default. (BDA).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary; (202) 673–5068.

[S-373-82 Filed 3-9-82; 3:21 pm]
BILLING CODE 6320-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in subject matter of agency meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, March 8, 1982, the Corporation's Board of Directors determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation regarding First Pennsylvania Bank N.A., Bala-Cynwyd, Pennsylvania, and First Pennsylvania Corporation, Philadelphia, Pennsylvania.
Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:
Memorandum and Resolution re: The Drovers' National Bank of Chicago, Chicago, Illinois
Memorandum re: Estimated Costs to Remodel Office Space.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: March 8, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-369-82 Filed 3-9-82; 12:11 pm]
BILLING CODE 6714-01-M

3

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, March 16, 1982 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Wednesday, March 17, 1982 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Continuation of executive session of March 16, 1982, if necessary.

* * * * *

DATE AND TIME: Thursday, March 18, 1982 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Draft AO 1982–9: Senator Bob Dole, United States Senate
Political Committee contribution record maintenance, 2 U.S.C. 432(c); 11 CFR 102.9(a)
Appropriations and Budget: Budget Execution Report for February
Routine Administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; Telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S-374-82 Filed 3-9-82; 3:51 pm]
BILLING CODE 6715-10-M

4

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., March 16, 1982.

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Monthly report of actions taken pursuant to delegated authority.
2. Docket No. 76–63: Filing of Agreements by Common Carriers and Other Persons Subject to the Shipping Act, 1916—Proposed Final Rules.
3. Informal Docket No. 1120(I): Singer Products, Co., Inc. v. Delta Steamship Lines, Inc.—Review of Settlement Officer's Decision.

Portion closed to the public:

1. Docket No. 81–71: Agreement No. 10405—New York Ocean Freight Forwarder Discussion Group—Motion of Proponents for Suspension of Proceeding.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S-367-82 Filed 3-9-82; 9:05 am]
BILLING CODE 6730-01-M

5

NATIONAL MEDIATION BOARD

TIME AND DATE: 2 p.m., Thursday, April 1, 1982.

PLACE: Board Hearing Room, eighth floor, 1425 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of Board actions taken by notation voting during the month of March 1982.
2. Other priority matters which may come before the Board for which notice will be given at earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary; Tel: (202) 523–5920.

Dated: March 8, 1982.

[S-371-82 Filed 3-9-82; 2:09 pm]
BILLING CODE 7550-01-M

6

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-82-7]

TIME AND DATE: 3 p.m., Monday, March 15, 1982.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Ave., S.W. Washington, D.C. 20594.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

1. Briefing by the Air Line Pilots Association on slippery runways.
2. Implementation plans for the recent interagency agreement on marine investigations.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202)382–6525.

March 5, 1982.

[S-368-82 Filed 3-9-82; 12:10 pm]
BILLING CODE 4910-58-M

7

NUCLEAR REGULATORY COMMISSION

DATE: Wednesday, March 10, 1982 (revised) and Week of March 15, 1982.

PLACE: Commissioners Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

Wednesday, March 10:

9:00 a.m.:
Briefing and Possible Vote on Draft Final Rule Requiring Documentation of Deviations from the Revised Standard Review Plan (approximately 1 hour) (public meeting)
10:00 a.m.:
Discussion of TMI–1 Restart Proceeding (closed meeting) (as announced)
3:00 p.m.:
Discussion of Waste Confidence Proceeding (closed meeting) (as announced)

Tuesday, March 16:

10:00 a.m.:
Staff Briefing on Proposed Addition on 10 CFR 50.73 Establishing the Licensee Event Report (LER) System (public meeting)

Thursday, March 18:

10:00 a.m.:
Affirmation/Discussion Session (public meeting)
Items to be affirmed and/or discussed:
a. Dr. George V. Taplin's Petition (PRM 35–1) Regarding 10 CFR Part 35, "Human Uses of Byproduct Material"
b. Proposed Addition on 10 CFR 50.73 Establishing the Licensee event report (LER) system (tentative)
c. Proposed Rulemaking, "Codes and Standards," 10 CFR 50.55a
d. Devine FOIA Appeal (82–A–1C) Regarding OIA Zimmer Reports

Friday, March 19:

10:00 a.m.:
Briefing on Nuclear Power Plants (public meeting)
2:00 p.m.:
Discussion of Management-Organization and Internal Personnel Matters (closed meeting)

ADDITIONAL INFORMATION:

By a vote of 5–0 on March 8, the Commission determined pursuant to 5 U.S.C. 552b(e) and § 9.107a of the Commission's Rules that Commission business required that Briefing by Executive Branch on Export-Related Matters (Closed Meeting), held that day, be held on less than one week's notice to the public.
Briefing by DOE on Proposals for Nuclear Regulatory Reform (Closed Meeting), scheduled for March 8, has been cancelled.
Affirmation of Export and Import of Nuclear Equipment and Material: Proposed Amendments to NRC's Regulations, scheduled for March 4, has been postponed to affirmation on March 11. Affirmation of Review of ALAB–653, previously scheduled for March 11, has been cancelled.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Dated: March 8, 1982.

Walter Magee,

Office of the Secretary.

[S-72-82 Filed 3-9-82; 3:02 pm]
BILLING CODE 7590-01-M

8

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUCEMENT: 47 FR 9326, March 4, 1982.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, March 1, 1982.

CHANGES IN THE MEETING: Additional items.

The following additional items will be considered at a closed meeting scheduled for Tuesday, March 9, 1981, at 9:30 a.m.:

Regulatory matter bearing enforcement implications.
Access to investigative files by Federal, State, or Self-Regulatory authorities.

The following additional item will be considered at a closed meeting scheduled for Wednesday, March 10, 1982, following the 9:00 a.m. open meeting:

Institution and settlement of administrative proceeding of an enforcement nature.

The following item will be considered at an open meeting scheduled for Thursday, March 18, 1982, at 10:00 a.m.:

Consideration of whether the Commission should issue orders that would extend for an additional eighteen month period the temporary registrations of the eleven active clearing agencies that would otherwise lapse on March 31, 1982; extend until May 31, 1982, the temporary registrations of two other clearing agencies that have ceased doing business as clearing agencies and have requested cancellation of their

registrations; provide an opportunity for public comment until April 30, 1982, regarding the proposed cancellations; and publish an order cancelling the temporary registrations of the two clearing agencies, effective May 31, 1982. For further information, please contact Dan Schneider at (202) 272–2893.

Chairman Shad and Commissioners Loomis, Evans, Thomas, and Longstreth determined by vote that Commission business required consideration of these matters and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have ben added, deleted or postponed, please contact: Jerry Marlatt at (202) 272–2092.

March 8, 1982.

[S-370-82 Filed 3-9-82; 12:34 pm]

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federal register

Thursday
March 11, 1982

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; Topsoil

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 816 and 817

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; Topsoil

AGENCY: Surface Mining Reclamation and Enforcement Office, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining is proposing revisions to the topsoil regulations and requesting public comment. OSM proposes to revise the topsoil handling regulations because of the wide variations in topsoil characteristics and terrain. The revised rules would provide greater flexibility to States to accommodate local conditions and clarify the language and improve the organization of the regulation.

DATES:

Written comments: Accepted until 5 p.m. (eastern time) on April 12, 1982.

Public hearings: Held on request only, on April 6, 1982, at 4:00 p.m. (local), except that the hearing in Washington, D.C., will start at 9:00 a.m.

Public meetings: Scheduled on request only.

ADDRESSES:

Written comments: Hand-deliver to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.22), Room 5315, 1100 L Street, NW., Washington, D.C.; or *mail* to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.22), Room 5315L, 1951 Constitution Avenue, NW., Washington, DC 20240.

Public hearings: Washington, D.C.—Department of the Interior Auditorium, 18th and C Streets, NW.; Lexington, Ky.—Harley Hotel, 2143 North Boradway; and Denver, Colo.—Brooks Tower, 2d Floor Conference Room, 1020 15th Street.

Public meetings: OSM offices in Washington, D.C.; Charleston, W. Va.; Knoxville, Tenn.; Indianapolis, Ind.; and Denver, Colo.

FOR FURTHER INFORMATION CONTACT:

Public hearings and information: LeRoy deMoulin, Soil Scientist, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; 202–343–5954.

Public meetings: Jose del Rio, 202–343–4022.

SUPPLEMENTARY INFORMATION:

Written comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Commenters are requested to submit five copies of their comments (see "Addresses"). Comments received after the time indicated under "Dates" or at locations other than Washington, D.C., will not necessarily be considered or be included in the Administrative Record for the final rulemaking.

Public Hearings

Persons wishing to comment at the public hearings should contact the person listed under "For Further Information Contact" by the close of business *three working days* before the date of the hearing. If no one requests to comment at a public hearing at a particular location by that date, the hearing will not be held. If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

Public hearings will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment, and persons present in the audience who wish to comment, have been heard.

Public Meetings

Persons wishing to meet with OSM representatives to discuss these proposed rules may request a meeting at any of the OSM offices listed in "Addresses" by contacting the person listed under "FOR FURTHER INFORMATION CONTACT."

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record room (1100 L St.). A written summary of each public meeting will be made a part of the Administrative Record.

Pre-Proposed Draft

On June 26, 1981, OSM sent to the States, and made available to the public, copies of draft revisions to these rules. OSM requested interested parties to submit comments on this working draft of the topsoil rules. Comments on the draft were considered by OSM in formulating this proposal. In explaining the proposed rules, OSM has responded to commenters where such a response is helpful to the explanation. OSM will respond to all other comments in a notice of final rulemaking after comments on this proposal are received.

Explanation of Proposed Regulations

Upon reexamination of the topsoil rules, OSM has found that they give inadequate consideration to section 101(f) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201(f) (the Act). In addition, as a result of its inspection and enforcement activities, review of State program submissions and comments from the coal industry, OSM has noted that there are widely divergent interpretations of the existing topsoil regulations. Because of the wide variation in topsoil characteristics and terrain upon which topsoil occurs, OSM proposes to revise the topsoil handling regulations to allow each State more flexibility to develop further its own topsoil protection rules according to local soil, climatic, and topographic conditions.

Proposed Changes to Rules

OSM proposes to change the topsoil rules by presenting two alternatives. In the discussion below, Alternative I is a proposal to make the specific changes in 30 CFR Parts 816 and 817 identical. Alternative II is a deviation from Alternative I that proposes a major change in the topsoil removal requirements for Part 817, based on statutory differences between surface and underground mining operations.

Section 516 of the Act provides performance standards for the surface effects of underground mining. The Secretary is directed to "consider the distinct difference between surface coal mining and underground coal mining" in adopting rules concerning surface effects of underground mining. 30 U.S.C. 1266(a). When promulgating rules related to surface effects not specifically mentioned in section 516, the Secretary is directed to "make such modifications in the requirements imposed by this subparagraph as are necessary to accommodate the distinct differences between surface and underground coal mining." 30 U.S.C. 1266(b)(10). Alternative II would implement these Congressional directives to the Secretary.

Since the facilities associated with an underground mine will exist for a long period to time, removal, segregation and preservation of topsoil in such circumstances may be unnecessary and inappropriate. Alternative II is proposed where a long-term topsoil storage would otherwise be required.

Alternative I

Section 816.21/817.21 General Requirements

The requirement of existing § 816.21(a) to separately remove topsoil would be contained in proposed § 816.22(a). The requirement of existing § 816.21(b) to either immediately redistribute or stockpile the topsoil would be covered by proposed § 816.23(a).

Sections 816.21/817.21 of the existing regulations therefore would be unnecessary and are proposed to be deleted to eliminate redundancy.

Section 816.22/817.22 Topsoil: Removal

In addition to language changes, paragraphs (a), (b) and (c) of the existing rule have been rearranged in the proposed rule to reflect a more logical sequence and now appear in order as (b), (c) and (a) respectively.

Section 816.22(a)/817.22(a) Materials to be Removed

Existing §§ 816.22(b)/817.22(b) would be renumbered as §§ 816.22(a)/817.22(a).

The paragraph implements section 515(b)(5) of the Act which sets forth topsoil removal performance standards. The language in existing paragraph (b), "in accordance with paragraph (e) of this section," would be deleted because it is unnecessary.

There are special circumstances where topsoil substitutes are not used, but under which an operator need not remove existing topsoil. Therefore, this section would provide that the regulatory authority may choose not to require removal of topsoil where light traffic does not destroy existing vegetation or cause erosion, and before construction of small permanent structures. OSM's intent is not to require removal of topsoil from areas receiving minor disturbances that would not increase erosion susceptibility. Examples of such minor disturbances are light traffic by equipment when soils are dry or frozen, or around permanent structures where topsoil loss would be negligible, such as power poles, signs, or fence lines.

Section 816.22(b)/817.22(b) Materials to be Removed in Thin Topsoil Situations

Existing §§ 816.22(c)/817.22(c) would be renumbered as §§ 816.22(b)/817.22(b).

The existing paragraph requires that when the topsoil is less than six inches thick, the topsoil must be supplemented with subjacent material to provide a sufficient rooting medium to support an effective vegetative cover. Problems have developed in the field concerning the feasibility of removing thin topsoil layers, particularly from steep slopes or slopes supporting trees or deep rooted shrubs, and where stones are in or on the soil surface. Topsoil, as mandated by section 515(b)(5) of the Act, must be removed from the land in a separate layer unless it is of insufficient quantity, or of poor quality, or substitute materials are shown to be more suitable. A very thin or discontinuous topsoil layer often occurs on very steep terrain or on stoney surfaces. In some cases, the original topsoil can be more than six inches thick, but is completely removed during the vegetation removal operations and remains as part of tree and shrub root systems or becomes unidentifiable as it is scattered and mixed with the upper subsoil layers. Under such conditions, OSM proposes that the remaining soil material up to a six inch depth is to be removed. Topsoil substitute or supplements may be necessary to achieve the postmining land use. Reference to paragraph (e) would be deleted as being unnecessary and changes in that paragraph are discussed below.

Section 816.22(c)/817.22(c) Timing

Existing §§ 816.22(a)/817.22(a) would be redesignated as §§ 816.22(c)/817.22(c).

The language of the existing rule for underground mining (§ 817.22(a), "from areas to be affected by surface operations or major structures") would be deleted and incorporated into the language of proposed §§ 816.22(a)/817.22(a) because it refers to "place" rather than "time." The two paragraphs on timing in Parts 816 and 817 would then be identical and unchanged from the existing provision on timing.

Section 816.22(d)/817.22(d) Subsoil Segregation

This paragraph discusses segregation of B and C horizon material or other material of comparable quality. This proposed paragraph will be reworded to clarify the scope of the regulation and identify the operator as responsible for segregating subsoil as substitute material where necessary to achieve soil reconstruction standards consistent with the approved postmining land use. The regulatory authority has the option to require subsoil segregation if it is the best available material to substitute for the existing topsoil. The Act requires separation of subsoil horizons only for prime farmland. See section 515(b)(7). However, as detailed in the March 13, 1979 preamble to the existing regulations (44 FR 15140), States should have the necessary authority to require separation of the horizons when necessary to meet the requirements of section 515(b)(6) of the Act.

Section 816.22(e)/817.22(e) Topsoil Substitutes and Supplements

The existing rule contains specific requirements for evaluating topsoil substitutes and supplements to determine whether the resulting medium will be equal to, or more suitable than, the topsoil for sustaining vegetation. Some commenters suggested retaining specific requirements of the existing rule to ensure adequate testing of soil materials. The proposed rule states the minimum analyses required to determine suitability and it would allow the regulatory authority flexibility to require additional field trials, or tests for site specific conditions. The existing requirements of (e)(1) have been condensed and simplified in this proposed rule. The substance of paragraph (e)(2) in the existing rules is found at paragraphs .22(a), .23(a) and .24(a) of these proposed rules and is therefore deleted from this proposed paragraph.

Section 816.22(f)/817.22(f) Limits on Topsoil Removal Area

The existing paragraph (f) places limits on the area of topsoil that should be removed and redistributed. Commenters favored the existing language of this rule as a means of limiting the amount of erosion and fugitive dust. OSM proposes to delete this paragraph because under other regulations, the operator would be required to complete reclamation as contemporaneously as possible (§§ 816.100/817.100 of the existing rules), store and protect topsoil (§§ 816.23/817.23 of the proposed rules), and meet effluent limitations (§§ 816.42 and 817.42 of the existing rules).

If local soil and climatic conditions necessitate it, the regulatory authority may choose to restrict the size of the topsoil removal area. The requirements of pargraph (f)(2) of this rule are contained in proposed §§ 816.24(b) and 817.24(b).

Section 816.23/817.23 Topsoil: Storage

The existing section requires certain storage and protection measures for topsoil and other approved materials. The language of the proposed section would be revised for simplicity.

One commenter suggested adding a requirement that a stockpile may not remain more than thirty days without revegetation procedures being initiated. OSM believes that climatic conditions and the season of the year may not always be favorable for immediate establishment of a protective vegetative cover. Therefore, the regulatory authority may require suitable mulch or other soil stabilizing practices when necessary.

In paragraph (a), OSM proposes to remove reference to § 816.22/817.22. In paragraph (b), OSM proposes to delete unnecessary language and reword the paragraph to more closely follow sections 515(b) (4) and (5) of the Act.

There will be very few, if any, instances when it will be necessary to move topsoil from one stockpile location to another before redistribution. This action could also involve excessive costs. For these reasons OSM has proposed to delete paragraph (b)(2) as unnecessary.

Section 816.24/817.24 Topsoil: Redistribution

The existing section requires treatment of regraded land to eliminate slippage surfaces, and provides guidance on redistribution of topsoil or other materials and protection from erosion. A commenter suggested adding a provision that controls the timing of redistributing topsoil to prevent erosion during the time of year when establishing vegetation may not be possible. OSM recognizes the importance of the timing of soil handling procedures, but believes the regulatory authority must have the flexibility to apply the most appropriate soil stabilizing techniques that fit local landscape features and weather conditions.

Some minor word changes in paragraphs (a) and (b) improve clarity without jeopardizing revegetation success or water quality. An additional paragraph (c) is proposed to allow flexibility in redistribution of topsoil on cut slopes where stability of the topsoil layer may be infeasible. Placing topsoil on such steep slopes can result in loss of topsoil and ground cover by natural slumping. It is not OSM's intention to require placement of topsoil on last-cut embankments where such slopes are incorporated in the post-mining land configuration and loss of the entire unconsolidated top layer would likely occur. In such cases the regulatory authority may wish to consider other methods that assure revegetation.

Section 816.25/817.25 Topsoil: Nutrients and Soil Amendments

The existing rule requires application of nutrients and soil amendments, as determined by soil tests, to the redistributed surface soil layer to support the postmining land use and revegetation requirements. OSM proposes to delete this section as unnecessary since this is a well-recognized best management practice needed to ensure successful revegetation. One commenter opposed the deletion of this section stating that the application of nutrients is important to assure successful revegetation. Although soil analysis may demonstrate the necessity to apply fertilizer and soil amendments in some circumstances on disturbed sites to establish vegetation, OSM does not intend to imply that such augmentation will always be a periodic requirement to sustain a vegetative cover. Deletion of this section would not relieve operators from meeting revegetation performance standards and the approved postmining land use.

Alternative II

As noted above, Alternative II would provide different standards for underground mining activities only. One of the distinct characteristics of underground mines is the very long life of small areas of surface disturbance, which often last ten years and at times for as long as forty years. These surface disturbances usually are permanent, for the life of the mine, and change little, if any. By contrast, surface mining generally involves much larger areas of surface disturbance at any given time, and that area of distrubance is continually changing, both in extent and location. The following discusses how such differences from surface mining would be accounted for in Alternative II of the proposed rules. Commenters are asked to specifically address the relative merits of Alternatives I and II for underground mining activities.

Section 817.21 General Requirements

The requirement of existing § 817.21(a) to separately remove topsoil is contained in proposed § 817.22(a). The requirement of existing § 817.21(b) to either immediately redistribute or stockpile the topsoil would be covered by proposed § 817.23(a).

Section 817.21 of the existing regulations is unnecessary and is proposed to be deleted to eliminate redundancy.

Section 817.22 Topsoil: Removal

Section 817.22(a) as proposed for revision has condensed and incorporated some of the requirements of § 817.22 (a), (b), (c), (d) and (e) that are proposed to be deleted. The suggested language of Alternative II also provides for greater flexibility in developing specific topsoil handling procedures which reflect the differences between underground mining in the Appalachian highlands and that in the flat areas of the Midwest region, as well as the differences between surface and deep mining. New language is proposed in paragraph (a)(1) that provides for the spreading of topsoil on sites approved for later reclamation or current use. Thus, topsoil could be put to use rather than stockpiled, and retrieved as necessary at the end of mining operations. Proposed paragraph (a)(2) provides for the utilization of topsoil or other suitable soil material from borrow areas. Such areas may be desirable when sufficient suitable topsoil is not available, or soil salvage is impractical because of erosion, excessive stoniness and rockiness and steep slopes. Proposed § 817.22(b) would ensure that timely reclamation of surface disturbances was accomplished.

Sections 817.22(a)–(e)

The existing paragraphs describing the steps in topsoil removal, subsoil segregation as substitute material, and required analyses for suitability of subtitute material are proposed to be deleted. Paragraph (a) of the proposed alternative rule contains simplified language for existing paragraphs (a), (b), and (c). The language of existing paragraph (d) is simplified and incorporated in proposed paragraph (a) (2). The proposed paragraph (a) (2) would require identification of substitute materials, rather than discussing when subsoil segregation should occur as in existing paragraph (d). Proposed paragraph (b) incorporates simplified language of existing paragraph (e).

Section 817.22(f) is proposed to be deleted because other regulations adequately provide for erosion control. See the discussion of this paragraph under Alternative I. The requirements of paragraph (f) (2) of the existing rule are contained in the proposed § 817.24(b) of Alternative II.

Sections 817.23–25

The proposed language changes to these sections are the same as proposed for these sections under Alternative I. Also see the preamble discussion for these sections under Alternative I.

Determinations Under Executive Order 12291, the Regulatory Flexibility Act

The Department of the Interior (DOI) has examined these proposed rules according to the criteria of Executive Order 12291 (February 17, 1981). OSM has determined that these are not major rules because they will impose only minor costs on the coal industry and coal consumers. In addition, the proposed regulations emphasize the use of performance standards instead of design criteria, which will allow operators to utilize the most cost-effective means of achieving the performance standards.

DOI has also determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, that these rules will not have a significant economic impact on a substantial number of small entities. The proposed regulations will allow small coal operators increased flexibility in meeting performance standards and should especially ease the regulatory burden on small coal operators in Appalachia.

Literature Cited

All reference materials found at 44 FR 15138–15139, March 13, 1979, are applicable, but are not repeated unless otherwise stated in this notice.

Environmental Impact

OSM has prepared a draft environmental assessment (EA) on this proposed rule and has made an interim finding that it would not significantly affect the quality of the human environment. The draft EA is on file in the OSM Administrative Records Office at the address listed in the "ADDRESSES" section of the preamble. A final EA will be completed and a final conclusion reached on the significance of any resulting impacts before issuance of the final rule. OSM also is preparing an EA of the cumulative impacts on the human environment of this rulemaking and related rulemakings under SMCRA. This cumulative EA also will be completed before this rule is made final.

Accordingly 30 CFR Parts 816 and 817 are proposed to be amended as set forth herein.

Dated: February 10, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

§ 816.21 [Removed]

1. Section 816.21 is removed.

2. Section 816.22 is revised to read as follows:

§ 816.22 Topsoil: Removal.

(a) *Materials to be removed.* Topsoil shall be removed in a separate layer from the areas to be disturbed, unless use of topsoil substitutes is approved by the regulatory authority. If use of topsoil substitutes or supplements is approved, all materials to be redistributed shall be removed. The regulatory authority may choose not to require removal of topsoil where light traffic does not destroy existing vegetation or cause erosion, and before construction of small permanent structures such as power poles, signs or fence lines.

(b) *Materials to be removed in thin topsoil conditions.* Where the topsoil is less than 6 inches thick, all unconsolidated material (including the A horizon) to a depth of 6 inches shall be treated as topsoil.

(c) *Timing.* Topsoil shall be removed after vegetative cover that would interfere with the use of the topsoil is cleared from the areas to be disturbed, but before any drilling, blasting, mining, or other surface disturbance.

(d) *Subsoil segregation.* The B horizon, portions of the C horizon and/or other underlying layers shall be segregated and used as topsoil substitute or supplement: (1) if necessary to support the approved postmining land use; or (2) if required by the regulatory authority as the best material available to support vegetation.

(e) *Topsoil substitutes and supplements.* Selected overburden materials may be substituted for, or used as a supplement to topsoil, if the operator demonstrates to the regulatory authority that the resulting soil medium will be equal to or more suitable for sustaining revegetation than is the available topsoil, and that the substitute material is the best available to support revegetation. This demonstration shall be based upon analysis of the thickness of soil horizons, total depth, texture, percent coarse fragments, pH and areal extent of the different kinds of soils. The regulatory authority may require other chemical and physical analyses, field-site trials or greenhouse tests if determined to be necessary or desirable to demonstrate the suitability of the topsoil substitute or supplement.

3. Section 816.23 is revised to read as follows:

§ 816.23 Topsoil: Storage.

(a) Topsoil and approved topsoil subatitutes or supplements shall be stockpiled only when it is impractical to promptly redistribute such materials on regraded areas

(b) Stockpiled materials shall be selectively placed on a stable area within the permit area, shall not be disturbed, and shall be protected from wind and water erosion and from contaminants and unnecessary compaction through the maintenance of an effective cover of quick growing plants or other measures approved by the regulatory authority.

4. Section 816.24 is revised to read as follows:

§ 816.24 Topsoil: Redistribution

(a) After final grading and before the replacement of topsoil and other segregated materials, the regraded land shall be treated if necessary to eliminate slippage surfaces and to promote root penetration. If the person who conducts the surface mining activities shows, and the regulatory authority approves, that no harm will be caused to the topsoil and vegetation, such treatment may be conducted after topsoil is replaced.

(b) Topsoil and other materials shall be redistributed in a manner that:

(1) Achieves an approximate uniform, stable thickness consistent with the approved postmining land uses, contours, and surface water drainage system;

(2) Prevents excess compaction of the material; and

(3) Protects the material from wind and water erosion before and after it is seeded and planted.

(c) If necessary to prevent erosion and promote revegetation, the regulatory authority may choose to approve the selective placement of topsoil materials.

§ 816.25 [Removed]

5. Section 816.25 is removed.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

§ 817.21 [Removed]

6. Section §§ 817.21 is removed.

Alternative I for §§ 817.22, 817.23 and 817.24

7. Section 817.22 is revised to read as follows:

§ 817.22 Topsoil: Removal.

(a) *Materials to be removed.* Topsoil shall be removed in a separate layer from the areas to be disturbed, unless use of topsoil subatitutes is approved by the regulatory authority. If use of topsoil substitutes or supplements is approved, all materials to be redistributed shall be removed. The regulatory authority may choose not to require removal of topsoil where light traffic does not destroy existing vegetation or cause erosion, and before construction of small permanent structures such as power poles, signs, or fence lines.

(b) *Materials to be removed in thin topsoil conditions.* Where the topsoil is less than 6 inches thick, all unconsolidated material (including the A horizon) to a depth of 6 inches shall be treated as topsoil.

(c) *Timing.* Topsoil shall be removed after vegetative cover that would interfere with the use of the topsoil is cleared from the areas to be disturbed, but before any drilling, blasting, mining, or other surface disturbances.

(d) *Subsoil segregation.* The B horizon, portions of the C horizon and/or other underlying layers shall be segregated and used as topsoil substitute or supplement: (1) If necessary to support the approved postmining land use; or (2) if required by the regulatory authority as the best material available to support vegetation.

(e) *Topsoil substitutes and supplements.* Selected overburden materials may be substituted for, or used as a supplement to topsoil, if the operator demonstrates to the regulatory authority that the resulting soil medium will be equal to or more suitable for sustaining revegetation than is the available topsoil, and that the substitute material is the best available to support revegetation. This demonstration shall be based upon analysis of the thickness of soil horizons, total depth, texture, percent coarse fragments, pH, and areal extent of the different kinds of soils. The regulatory authority may require other chemical and physical analyses, field-site trials or greenhouse tests if determined to be necessary or desirable to demonstrate the suitability of the topsoil substitute or supplement.

8. Section 817.23 is revised to read as follows:

§ 817.23 Topsoil: Storage.

(a) Topsoil and approved topsoil substitutes or supplements shall be stockpiled only when it is impractical to promptly redistribute such materials on regraded areas.

(b) Stockpiled materials shall be selectively placed on a stable area within the permit area, shall not be disturbed, and shall be protected from wind and water erosion and from contaminants and unnecessary compaction through the maintenance of an effective cover of quick growing plants or other measures approved by the regulatory authority.

9. Section 817.24 is revised to read as follows:

§ 817.24 Topsoil: Redistribution.

(a) After final grading and before the replacement of topsoil and other segregated materials, the regraded land shall be treated if necessary to eliminate slippage surfaces and to promote root penetration. If the person who conducts the underground mining activities shows, and the regulatory authority approves, that no harm will be caused to the topsoil and vegetation, such treatment may be conducted after topsoil is replaced.

(b) Topsoil and other materials shall be redistributed in a manner that:

(1) Achieves an approximate uniform, stable thickness consistent with the approved postmining land uses, contours, and surface water drainage system;

(2) Prevents excess compaction of the material; and

(3) Protects the material from wind and water erosion before and after it is seeded and planted.

(c) If necessary to prevent erosion and promote revegetation, the regulatory authority may choose to approve the selective placement of topsoil materials.

Alternative II for §§ 817.22, 817.23, and 817.24

10. Section 817.22 is revised to read as follows:

§ 817.22 Topsoil: Removal.

(a) Topsoil shall be removed after vegetative cover that would interfere with the use of the topsoil is cleared from the areas to be disturbed, but before any drilling, blasting, mining, or other surface disturbance. Where, because of the long-term life of the surface disturbance associated with underground mining activities, separate stockpiling of topsoil material is rendered impracticable, the regulatory authority may choose to:

(1) Require removal of topsoil material and distribution of such material over an approved site for later reclamation or current use; or

(2) Identify borrow areas of topsoil or suitable substitute soil material layers within the permit area for use in future reclamation.

(b) All sites to be disturbed shall be reclaimed in accordance with the requirements of §§ 817.111—817.116 based on soil analyses, and field tests or trials as required by the regulatory authority.

11. Section 817.23 is revised to read as follows:

§ 817.23 Topsoil: Storage.

(a) Topsoil and approved topsoil substitutes or supplements shall be stockpiled only when it is impractical to promptly redistribute such materials on regraded areas.

(b) Stockpiled materials shall be selectively placed on a stable area within the permit area, shall not be disturbed, and shall be protected from wind and water erosion and from contaminants and unnecessary compaction through the maintenance of an effective cover of quick growing plants or other measures approved by the regulatory authority.

12. Section 817.24 is revised to read as follows:

§ 817.24 Topsoil: Redistribution.

(a) After final grading and before the replacement of topsoil or other approved materials, the regraded land shall be treated if necessary to eliminate slippage surfaces and to promote root penetration. If the person who conducts the underground mining activities shows, and the regulatory authority approves, that no harm will be caused to the topsoil and vegetation, such treatment may be conducted after topsoil is replaced.

(b) Topsoil or other approved materials shall be redistributed in a manner that:

(1) Achieves an approximate uniform, stable thickness consistent with the approved postmining land uses, contours, and surface water drainage system;

(2) Prevents excess compaction of the materials; and

(3) Protects the material from wind and water erosion before and after it is seeded and planted.

(c) If necessary to prevent erosion and promote revegetation, the regulatory authority may choose to approve the selective placement of topsoil materials.

§ 817.25 [Removed]

13. Section 817.25 is removed.

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

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federal register

Thursday
March 11, 1982

Part III

Department of Transportation

Federal Aviation Administration

Flight Crewmembers; Flight Time Limitations and Rest Requirements

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121 and 135

[Docket No. 22745; Notice No. 82-4]

Flight Crewmember; Flight Time Limitations and Rest Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to revise the flight time and rest requirements for flight crewmembers utilized by domestic, flag, and supplemental air carriers and commercial operators, and air taxi operators and commercial operators. These proposals result from a reassessment of the Agency's role in regulating flight and duty time in light of current operating conditions and current regulatory philosophy. The proposals would substantially reduce the amount of regulatory material pertaining to crewmember flight time and rest requirements by prescribing only the minimum regulations deemed necessary for safety.

DATES: Initial comments must be received on or before July 9, 1982. Reply comments on these initial comments must be received on or before August 9, 1982.

ADDRESS: Comments on the proposals may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 22745, 800 Independence Avenue, SW., Washington, D.C. 20591 or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591 or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments delivered must be marked: Docket No. 22745. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: E. Wendell Owens, Regulatory Review Branch, (AVS-22), Safety Regulations Staff, Associated Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755-8714.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adoption of the proposals contained in this notice are invited. Comments are also specifically requested concerning the implementation and effective date of the final rule. The FAA proposes to establish an effective date of 180 days after the issue of the final rule. All initial comments received on or before July 9, 1982, and all reply comments received on or before Aug. 9, 1982, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of the NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

Background

The FAA has engaged in extensive efforts to revise flight and duty time regulations in Parts 121 and 135. These regulations, especially those contained in Part 121, have remained unchanged for up to 30 years. During this span of time, there have been dramatic changes in the equipment and operating practices of air carriers. Moreover, the flight and duty time regulations have become a battleground between carriers on the one hand, and employees, particularly employee organizations, on the other hand. The Agency has been involved in litigation over the meaning of certain phrases in these regulations and has issued more than 1,000 pages of interpretations, mostly in response to requests from employees or employee organizations. Of all the provisions in the Federal Aviation Regulations, the flight and duty time requirements have proven to be the most prolific source of requests for interpretations.

Recent efforts by the Agency to clarify and update these regulations commenced with the Operations Review Program in 1975. Concepts were discussed at the Operations Review Conference held in December 1975. Subsequently, two notices of proposed rulemaking were issued proposing to revise and simplify the Part 121 and 135 flight and duty time regulations. Notice No. 77-17 (42 FR 43490; August 29, 1977), which proposed substantial revisions to Part 135, also contained proposals to revise the flight and duty time regulations in that part. It contained concepts which were similar to those proposed for Part 121 early in 1978 in Notice No. 78-3 (43 FR 8070; February 27, 1978). Notice No. 78-3 proposed regulations which reduced the amount of regulatory material in Part 121 flight and duty time regulations.

Comments received in response to Notice No. 78-3 showed that further research and analysis were necessary before that rulemaking action could proceed. Consequently, when a final rule was issued in the Part 135 rulemaking action (43 FR 46742; October 10, 1978), the proposals to revise the Part 135 flight and duty time regulations were deferred for consideration with the Part 121 proposal in Notice No. 78-3.

After extensive analysis of comments received on the proposals in Notice Nos. 78-3 and 77-17, the FAA issued a consolidated supplemental notice of proposed rulemaking No. 78-3B covering Parts 121 and 135 (45 FR 53316; August 11, 1980). This supplemental notice contained numerous changes made in response to the extensive comments received in response to Notice Nos. 78-3 and 77-17. The Agency stated in Notice No. 78-3B that it did not intend to issue a costly regulation unless the benefits achieved would justify the costs. The Agency made a commitment to reconsider the proposal if the estimate of implementation costs could not be substantially reduced or unless greater safety benefits could be quantified.

Numerous comments containing volumes of contradictory information were received in response to Notice No. 78-3B. Air carriers claimed that the proposals would be very expensive both in terms of initial and recurring costs, due in part to the hiring and training of additional flight crewmembers which they contended would be required by the proposed rules. The airlines did not indicate any favorable impacts of the rule. The pilot representatives contended that the proposals were too loosely drawn and would require them to work longer hours, thus affecting flight safety. Commuter airlines, charter, and on-demand carriers objected to being treated like scheduled airlines, however, they favored the basic flight, duty, rest time, and scheduling concepts that are currently available to domestic air carriers under Part 121 rules, with modifications to existing flight hour limitations and rest period requirements. Certain aspects of the proposals were vigorously attacked by helicopter operators who complained the unique characteristics of helicopters and their operations were not considered in the proposals.

It was apparent from the comments that virtually all affected segments of the air transportation community opposed one or more aspects of the proposals and the FAA, in light of comments received, was not able to quantify safety benefits or establish that the proposals were not costly.

In view of the above circumstances, Notice No. 78-3B was withdrawn (46 FR 32413; June 22, 1981). The notice of withdrawal stated that an alternative proposal would be developed which would be less burdensome and would simplify the present regulations, and at the same time would properly fulfill the statutory mandate in Section 601(a)(5) of the Federal Aviation Act. This provision requires the Administrator to issue "reasonable rules and regulations governing, in the interest of safety, the maximum hours or periods of service of airmen and other employees of air carriers."

The Need To Revise the Regulations

The present regulations have been in effect for up to 30 years without substantive change. During this period, the air transportation industry has experienced drastic equipment changes and startling advances in technology. The industry itself has progressed from being highly regulated and surrounded by a cloak of protective government economic regulations such as route and rate protection to the present status of substantial deregulation. At the same time, the piston-engine powered airplane has been almost entirely replaced by the turbo-propeller and turbojet powered airplane. The modern aircraft with turbine engines and other technological advances, provides a more comfortable work environment to the flightdeck crew and more flexibility in selecting operating altitudes and speeds for flight operations. Thus, the industry and the airplane equipment used by the airlines have experienced remarkable progress in the last 30 years.

In sharp contrast, the regulations governing flight time limits have remained unchanged leading to ever increasing confusion over their meaning. The present regulations are enormously complicated and detailed. They delve into virtually every facet of the flight time process. Microscopic distinctions exist which result in wide fluctuations in the result required by the regulation. For example, rest requirements will vary by many hours depending upon a difference of as little as 1 minute in flight time. Many distinctions in the rules are based on crew size. At times in the past, there were wide variations in crew size and such distinctions were necessary. In the interest of simplifying regulations, it is no longer necessary to make distinctions in flight time regulations based on differences in the number of crewmembers. The size of the flightcrew, in isolation from consideration of crew rest facilities, does not ensure the rest needed to extend the allowable flight time limitations between required rest periods. As will be discussed in detail below, the proposed rule would allow extended flight time between required rest periods in specific cases.

The present regulations also contain distinctions in allowable flight times based upon whether the operation is domestic or international air transportation. These distinctions still exist, however, the need for them no longer exists as the same flight crewmembers are flying similar type airplanes, at the same airspeeds, in the same flight controlled environment, and performing the same flight duties. Therefore, one flight time and rest rule should be applicable to all flight crewmembers.

Further, the present situation is one in which the regulations are so complex and outdated that they are confusing to operators and flight crewmembers. As a result, they are the subject of an endless stream of requests for interpretations. Indeed, the FAA has noted that the frequency of interpretation requests during the past 3 years has increased in comparison to requests made in the period 1976-1978. Most cases of interpretation requests involve disputes between an operator and its employees and the FAA has found itself in a position somewhat similar to an arbitrator resolving a dispute over conditions of employment. In addition to extensive interpretative effort, the FAA has been involved in litigation because of the complexity of the regulations and resulting confusion over their meaning. Part 135 operators have requested numerous exemptions of the flight and duty time limitations, thus indicating that the Part 135 regulations may not be responsive to current industry conditions.

The inclusion of Part 135 proposals identical to the Part 121 proposals is consistent with the mandate of the Federal Aviation Act as amended by the Airline Deregulation Act of 1978 (Pub. L. 95-504). Section 419 of the Federal Aviation Act requires the Administrator, among other things, to impose requirements upon commuter air carriers to assure that the level of safety provided to persons traveling on a commuter air carrier is, to the maximum feasible extent, equivalent to the level of safety provided to persons traveling on Part 121 air carriers which provide services pursuant to certificates issued under Section 401 of the Act.

In addition, at the present time, there are approximately 50 Part 135 air taxi operators who also operate airplanes subject to the rules of Part 121. This circumstance arises from the fact that Part 135 regulates the operations of airplanes having a maximum seating capacity of 30 seats or less or a maximum payload capacity of 7,500 pounds or less; Part 121 regulates the operation of air carriers operating larger size aircraft than allowed under Part 135 regulations. Various Part 135 operators have stated they are confused by the difference between the present Part 121 and Part 135 flight and duty time regulations particularly in regard to how these regulations apply to pilots who operate Part 121 type aircraft for one or more flights and then operate Part 135 aircraft or vice versa. This confusion has generated numerous requests for FAA interpretations. Thus, the difference between the present Part 121 and Part 135 flight and duty time regulations have proven burdensome to a significant number of Part 135 operators. This burden would be eliminated by having a similar rule for both Parts 121 and 135.

Regulations which continuously require interpretative efforts and detailed explanation are unduly burdensome on the flight crewmembers, the airlines, and the FAA. In response to this situation, the FAA has reexamined its role in regulating flight time and related matters. It has determined to propose regulations which are the minimum necessary for safety and which leave other issues for resolution between operators and their employees.

Description of Specific Regulatory Proposals

The proposals in this notice are simple, brief, straightforward and are designed to provide the minimum safety regulations while providing the maximum flexibility for operators in utilization of their resources in providing safe and economical public transportation. As these proposed rules are the minimum regulatory requirements deemed necessary for safety, it is expected that air carriers and their employees will continue to negotiate more stringent rest periods or other limitations based on their specific operational requirements. Identical revisions are proposed for Parts 121 and 135 to limit flight time in any 30-day period to 100 hours, prescribe minimum hours of rest in any 24-hour period, require 24 consecutive hours of rest at least once during any 7 consecutive days, and provide necessary basic definitions. Section 121.477 is the only difference between the Part 121 and 135 proposals. Section 121.477 provides for the Director of Flight Operations to establish special limitations when the length of a scheduled single flight (one takeoff and landing) during a 24-hour period makes it impossible to comply with rest period provisions. There is no counterpart proposal for Part 135 operators, as the types of aircraft being utilized by these operators are not capable of long-range operations.

Each Part 121 and 135 proposal is discussed under the Part 121 and 135 section headings listed below:

Section 121.471 Applicability.

Section 135.261 Applicability.

These sections prescribe the applicability of the proposals. All certificate holders and flight crewmembers subject to Parts 121 and 135 would be required to comply with the applicable provisions of proposed Subpart Q of Part 121 or proposed Subpart F of Part 135, respectively.

Section 121.473 Flight time limitations.

Section 135.263 Flight time limitations.

Each of these sections proposes a limitation of 100 hours commercial flight time in any 30 consecutive days. Thus, a uniform limitation is proposed for all Part 121 and 135 operations. This limitation should prevent cumulative fatigue and, at the same time, should provide adequate flexibility to operators. However, the FAA solicits comments on the 100-hour, 30-day period limitation and whether it should be some other limitation. Persons recommending a different figure should provide safety justification and economic impact data. It should be understood that the FAA will consider it within the scope of this notice to adopt a monthly limitation other than 100 hours depending upon justification contained in comments received. The term "commercial flight time" means any flight time for which a flight crewmember receives any form of compensation. Due to comments received from the Department of Defense, and the limited number of flights hours flown by air line flight crewmembers for the military establishment, commercial flight time in this proposal does not inlcude flight time accumulated in military flying. The 30-day limit of 100 hours would be an absolute ceiling. For example, it would prohibit a certificate holder from scheduling Part 91 flying such as ferrying, positioning, maintenance test flights, or receipt or giving of instruction if the 100-hour limit has already been reached.

Section 121.475 Rest periods.

Section 135.265 Rest periods.

These sections would require minimum amounts of rest time to be afforded a flight crewmember before commencement of flight time. Within any 24 consecutive hours, the required rest period must be at least 8 consecutive hours for scheduled flight times within that 24 consecutive hours of 8 hours or less, and 10 consecutive hours in the case of scheduled flight time of more than 8 hours. In each case, the rest period must be given during the 24-hour period preceding the planned completion of the assignment. The required rest period is based upon scheduled flight time, as contrasted with actual flight time. Therefore, even if a flight crewmember scheduled for 8 hours or less flight time exceeds the scheduled amount, there would not be an adjustment in the amount of rest. As an example, if a flightcrew is scheduled to fly for 7.5 hours which would require a rest period of 8 hours and, due to reasons beyond the control of the certificate holder, the flight is extended to more than 8 hours of flight time, the required rest period remains the same as scheduled, but not less than 8 consecutive hours of rest. The operator should not be required to extend the scheduled rest period. To do so would impose a severe burden on the operator and the flying public due to lack of schedule reliability and the difficulty in rescheduling of the required rest period.

The following graph is a hypothetical illustration of a flight schedule which covers three consecutive 24-hour periods. While it does not represent an actual crew pairing, all of these flights are assumed to be flown by the same flight crewmembers.

Schedule "A" complies with the proposed regulations because the flightcrew was given at least 8 consecutive hours of rest during the last 24 hours.

Schedule "B" would violate the regulations at the 15-hour mark as at that point the flightcrew had completed more than 8 hours of scheduled flight in the last 24 hours with only 8.5 consecutive hours of rest during the same period. The more than 8 hours of scheduled flight time was arrived at by counting back 24 hours from the 15-hour mark on Flight "B" to the 15-hour mark on Flight "A." By the 15-hour mark on Flight "B", the flightcrew had accumulated 5 hours of flight time, adding this to the 4 hours flown after the 16-hour mark on Flight "A" for a total of 9 hours in the last 24 hours which requires a 10-hour rest period.

Schedule "C" complies with the proposed regulation as the required rest period was provided.

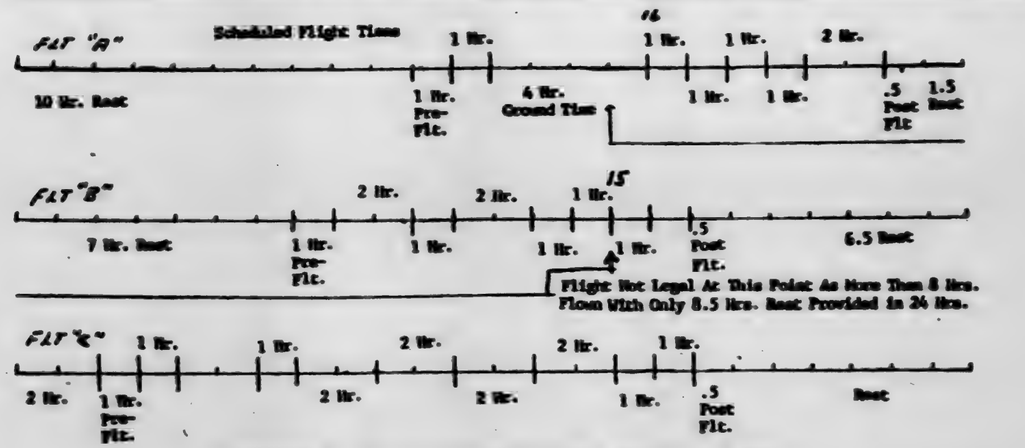

Legal Flight As 8 Hrs. Rest Provided for 8 Hrs. Flight in Last 24 Hrs.

The proposals include a requirement that a certificate holder provide each flight crewmember with a rest period of at least 24 consecutive hours at least once during any 7 consecutive day period. This means that it is possible for a flight crewmember to fly on 7 consecutive days provided the flying is arranged in such a manner that the 24-hour rest period is provided. For example the 24-hour period could extend from noon Wednesday to noon Thursday and could be preceded by flight time on Wednesday and followed by flight time on Thursday. The proposals also provide that the 24-hour rest period may be concurrent with any other required rest period. Thus, a flight crewmember who is receiving the 24 consecutive hour rest period may also be afforded the 8- or 10-hour rest period at the same time.

Under paragraph (d) of each of the proposed rest period sections, a rest period is defined as a continuous period of time during which no required assignment is performed for the certificate holder. The proposal explicitly provides that travel a certificate holder requires to transport a flight crewmember between airports (deadhead transportation) is not part of a rest period. Treatment of deadhead transportation in the context of rest periods has been a troublesome issue. Therefore, the relationship is covered specifically to avoid problems in the future. Under the proposal, deadhead transportation can be by any air or surface means to transport flight crewmembers between airports. In either case, it does not constitute part of a rest period. Proposed paragraph (d) also prohibits the performance of any commercial flying during a required rest period. This is consistent with the Agency's belief that it would jeopardize safety to use a rest period to engage in other flying for remuneration. The last sentence of proposed paragraph (d) provides that the mere receipt, during a rest period, of a communication from the certificate holder for rescheduling of a flight does not interrupt the rest period. Stated another way, such receipt does not constitute a duty assignment. This is proposed because the Agency has received numerous requests for interpretation on this point, which was also involved in litigation.

Section 121.477 Special limitations.

This proposal provides a means for regulating long-range flights conducted by some Part 121 operators. Since long-range flights do not occur under operations governed by the rules of Part 135, due to the type of aircraft being utilized by these operators, there is no counterpart proposal in Part 135. If a certificate holder desires to schedule a single flight, the length of which makes compliance with the rest requirement proposed in § 121.475 impossible, the Director of Flight Operations may specify as appropriate to the particular operation, crew size, inflight rest facilities, flight time, duty time, and crew rest times, as operational limitations in the certificate holder's operations specifications. The term single flight means the time between takeoff and the next landing. It is contemplated that a certificate holder will apply sufficiently far in advance of the operation to permit the orderly processing and development of requirements and limitations by the Director of Flight Operations.

Section 121.479 Crewmember responsibilities.

Section 135.267 Crewmember responsibilities.

These sections would prohibit any person from serving as a flight crewmember unless that person used a required rest period for rest purposes. In response to Notice No. 78-3 (43 FR 8070; February 27, 1978) and Notice No. 78-3B (45 FR 53316; August 11, 1980), there were comments which implied that some flight crewmembers were not using required rest periods for rest. Failure to use a rest period for its intended purpose defeats the result sought by requiring a certificate holder to provide minimum rest periods and

could jeopardize safety. This proposal should help to eliminate that possibility.

Rest is a shared responsibility. The air carrier must provide the required rest period and should make a reasonable effort to assure the crewmember has adequate rest facilities away from the home base. It is the individual crewmember's responsibility to refrain from personal activities during a rest period which may induce fatigue or adversely affect the crewmember's performance of duties.

This proposed rule does not specify that the rest period required by this part be given or taken immediately prior to a flight assignment. The required rest period may be given at any time during the 24-hour period preceding the scheduled completion of the flight assignment.

Regulatory Evaluation

The following summarizes the proposed rule elements as they affect Part 121 and Part 135 operators. The net impact on both types of operators is positive, since the benefits of the regulation are greater than any cost that may be associated with the rule.

Part 121

The basic requirements of 24 consecutive hours off in any 7 consecutive days and a maximum of 100 hours of flight time in 30 days parallel the current regulation for scheduled Part 121 carriers. Only in one instance does the present rule allow operation of more than 100 hours a month. This exception is discussed further below. In addition, the basic minimum rest requirement in the proposal generally parallels present practice. In certain instances, the rest requirements are shortened, which is relaxatory.

Benefits

The proposed rule is relaxatory in two ways. First, present weekly and annual flight time limits are eliminated. These changes will provide Part 121 carriers the potential for improved crew utilization. Second, the rest requirements will be set at a minimum of 8 hours rest for 8 hours or less of flight time, and 10 hours rest for flight time periods of more than 8 hours. Presently, rest must be at least 16 hours, if flight time exceeds 8 hours.

While the changes to allowable flight hours and required rest are basically relaxatory, achieving the benefits potentially associated with such relaxation is beyond the control of FAA. Achieving any benefit will be dependent on the outcome of individual labor-management agreements.

There is only one exception to the relaxatory nature of the proposed rules. Supplemental carriers are today allowed to schedule crews for flight time of 120 hours per month, when the crew is composed of two pilots and one additional airman (§ 121.521). A review of comments to Notice No. 78–3B indicates that supplemental carriers do not currently operate in excess of 100 hours monthly, so there is no cost associated with a lower maximum. One reason that carriers do not utilize the 120-hour per month limit is that crews are required to fly no more than 1,000 hours per year. This averages to a maximum about 83 hours per month in practice (83×12=996). Elimination of the 1,000-hour annual limit clearly balances any minor "opportunities" eliminated by reducing the current supplemental carrier maximum flight hours.

While the potential benefit associated with this proposal cannot be precisely determined, we believe that the potential should approximate $32 million in 1983, the assumed first year of applicability. This benefit will result primarily from improved efficiency. This amount represents a little more than 1 percent of the pilot and copilot expenses of certificated Part 121 carriers for a year. In 1981, about $2.2 billion was spent on pilot and copilot expenses, according to CAB data. Achieving the potential benefit is contingent on development of acceptable labor-management agreements, and is a potential long run benefit.

One final benefit of the proposed rule is less costly administration of the rule. The present regulations have generated numerous requests for interpretation. We believe that this need for interpretation is eliminated in the proposed rule.

There is no assumed safety benefit associated with the proposed rule. There have been no accidents of Part 121 operators in which NTSB has cited fatigue as a factor and where the fatigue was clearly caused by the failure to provide an opportunity for rest.

Cost

Concerning the basic rest rule of requiring 8 or 10 hours of rest within the 24 hour "lookback" period, there is only one question of potential cost which cannot be precisely determined with information available to the Agency. The one element of uncertainty is that the present rule allows one crew scheduling practice which would not be allowed under the proposal. Specifically, two duty periods totaling more than 8 hours of flight time in 24 consecutive hours may be broken by a rest period of less than 10 hours, as long as the second duty period is followed by a rest period equal to twice the flight time of the two duty periods. Under the proposal, the rest period within the 24 hour "lookback" period must be at least 10 hours, if there are more than 8 hours of flight time in that period. There were only a handful of routings in the comments to Notice No. 78–3B which had this characteristic.

It is not possible to determine the economic impact of this one factor in isolation from other aspects of maximizing utilization of crews. There are aspects of the rule, such as the elimination of the need for a 16-hour or more rest (for the crew used in the above example) which balance the potential cost of increasing the rest between the two duty periods. FAA also believes that many of the cases of "conflict" could be eliminated with crew rescheduling changes which involve no cost.

Part 121 Summary

The Part 121 benefits, although they are contingent on carriers achieving better crew utilization in the long run, are real benefits which can be quantified. We believe the potential approximates $27 million in 1981 and $32 million in 1983. The costs, on the other hand are minimal, and the "conflicts" presented by comparing present practice with the proposal can likely be worked out without cost to the carriers.

Part 135

The proposed rule changes have a more obvious impact on Part 135 operators. These operators follow a present rule which is somewhat less restrictive in certain elements and somewhat more restrictive in others, than in the proposal. For example, the present Part 135 rule has no monthly or annual limit on flight time, and does not require 24 hours of consecutive rest once each 7 days. On the other hand, it limits single pilot operations to 8 flight hours in a 24-hour period, and has a minimum rest period of 10 hours, while the proposal requires only 8 hours of rest, unless flight time exceeds 8 hours.

We have analyzed all segments of the Part 135 industry individually for benefits and costs. This analysis is summarized below.

Commuter Air Carriers

Benefits

FAA estimates that the commuter air carriers will have a benefit of over $5 million in 1983. This figure is derived from analysis of a petition of the Regional Airline Association (RAA) (formerly the Commuter Airline Association of America) to the FAA in October 1981, in which they estimated that a grant of an exemption from the 10-hour rest rule of Part 135 to an 8-hour rest rule, would generate a benefit of about $2 million for some 39 commuter air carriers. The 39 commuter responses were from a base RAA sample of 100 carriers, and the $2 million is increased by 10 percent by FAA to adjust for the likelihood that there were a few carriers among the 100 who would also have a benefit but who did not respond. Furthermore, the 100 in the sample was only two-thirds of RAA membership which comprises about 75 percent of the industry. Expanding the sample gives an estimated industry impact of $4.4 million in benefits for 1981, increased to $5.2 million for 1983 to account for inflation.

There are other benefits associated with a change in the minimum rest requirement, which are not readily quantifiable by FAA. For example, the RAA estimate dealt only with expenses associated with overnight lodging of crews. Under current practice, some commuter operators have reduced aircraft utilization as a result of the specific rules for overnighting of crews. The plane that arrives after 10 p.m. cannot practically leave until after 8 a.m. the next morning, if the overnight location is not a crew domicile. Adoption of the proposed rule for commuters will likely create better commercial opportunities and improved utilization of equipment, as a result of reduction in minimum overnight rest from 10 hours to 8 hours.

Cost

FAA's estimate of cost for the commuter industry is based on the substantive comment of the RAA in Docket No. 17669. There are two areas of compliance cost which affect commuter airlines, the cost of recordkeeping and the cost of additional pilots to meet the 100-hour monthly flight hours limitation. The RAA comment indicated that the 24-hour rest period once weekly would not generate costs to the commuter industry. In Docket No. 17669, the RAA estimated a substantial recordkeeping cost of $16,000 per year per carrier for the numerous requirements proposed in Notice No. 78–3B. A more moderate cost of $1,000 per carrier is assumed here on the basis of compliance with a much simpler rule.

The RAA comment estimated a need to hire 60 additional pilots because of the 110-hour maximum rule, at an annual cost of $27,300 each. For the proposed rule, a need to hire 35 percent more, or 108 pilots, is estimated for the industry. The estimated 35-percent increase is based on judgment, reflecting an increase for the use of a higher number of commuter carriers than accounted for in the RAA comments and to account for the more restrictive 100 flight hours per month maximum.

The estimated cost of compliance for commuters is summarized in Table 1. This estimate is for 1980, and the same impact increased for inflation to 1983 is $4.1 million.

TABLE 1.—RECURRING COSTS FOR THE COMMUTER AIRLINES

	Annual cost
Recordkeeping (268 airlines at $1,000)	$268,000
Limitation of 100 hour (108 pilots at $27,300)	2,948,400
Total	3,244,400

In summary, therefore, the commuter air carriers in 1983 have a net benefit of $1.1 million, with costs approximating $4.1 million, and identifiable benefits of approximately $5.2 million.

Air Taxis

Benefit

Air taxi operators should also experience improved operational efficiencies as a result of the proposed rule. Most of the benefit results from efficiencies related to certain types of flightcrew scheduling which are prohibited by the current rule.

For example, one typical flight profile involves a 4½-hour afternoon flight, with an overnight layover and a return flight in the morning of 4½ hours. Under current rules, if the flights occur within a consecutive 24-hour period, a two-pilot crew would be required, because flight time exceeds 8 hours. Under the proposal, a single pilot could perform this trip. There are numerous other times when flight time exceeds 8 hours in 24 and the two pilot requirement will be eliminated.

As a general estimate, the benefit for air taxis may be estimated by assuming that a similarity exists between the benefit per aircraft for commuter air carriers, and the benefit per aircraft for air taxis. We noted above that the commuter air carrier benefit was about $4.4 million. FAA statistics show that there are almost 2,000 aircraft in commuter service. This would equal a benefit of $2,200 per airplane. We noted also that there are approximately 8,400 aircraft in air taxi service. Using these factors, we estimate that there is a potential benefit on some $18.5 million, in 1980 dollars, due to improved air taxi efficiency. This converts to $21.7 million in 1983 dollars.

The air taxi estimate, derived as it must be from analogy, is subject to a lower level of "confidence" than other benefit estimates associated with the proposed rule. The use of an impact per aircraft from commuter air carriers may represent a source of overstatement, because wage rates, for example, are probably higher in commuter service than air taxi. However, the benefit per aircraft may be conservative since it excludes improved aircraft utilization and commercial opportunities. Also, the estimate of 8,400 aircraft involves only aircraft with a primary use in air taxi. There are an unknown number of other aircraft which are used part time in air taxi use. The FAA believes these differences balance out, and make the estimate for air taxi more reasonable than it first appears.

Safety Benefits

In addition to the operational benefit, there is a potential benefit associated with improving the safety record of Part 135 operators. Between 1964 and 1979, there were 43 Part 135 accidents in which NTSB cited fatigue as a contributing factor. There has been an average of almost 3 accidents per year over this period, and the average cost per accident approximates $1 million. Projecting Part 135 activity into the future, and assuming a similar rate of accidents, FAA believes that the maximum safety benefit of the proposed rule is $5.5 million in 1983, and slightly higher levels beyond 1983. To attain this level of benefit, the proposed rule would have to prevent all projected fatigue related accidents. The level of effectiveness of the proposed rule in reducing fatigue related accidents cannot be quantified at this time.

The proposed rule should be beneficial simply in terms of relaxation of present requirements. While FAA believes that a safety benefit will result from the proposal, the assumption of 100 percent effectiveness in not crucial to the benefit/cost justification of the proposal. The maximum safety benefit relates to all Part 135 operations, and is not distributed between commuter and air taxi operators.

Costs

Air taxi costs are related to two rule elements, the required rest and maximum flight hours requirements. After analysis of the comments to Notice No. 78–3B, FAA analyzed three segments of the air taxi industry separately, due to the apparent different levels of economic impact. The three

industry groups are helicopter operators, air taxi in Alaska, and all other air taxis.

Helicopter Operators

The helicopter operator responses to Notice No. 78-3B indicated that they would incur additional costs as a result of enactment of certain rule elements. Although the proposal had several elements which imposed new costs on helicopter operators, the present proposal has only one, the requirement to provide 24 hours off once a week. The rest requirements and monthly limits do not generate costs for these operators.

This cost occurs because of the dominant crew scheduling procedures of a large segment of the helicopter industry, namely the 7 days on/7 days off or 2 weeks on/2 weeks off system. Many helicopter contracts involve service to remote locations, where the crewmembers and aircraft are colocated for long periods. FAA believes that this class of operator will not be notably affected by the proposed rule.

Previous helicopter operator estimates of cost were developed for a very complicated proposal, which included costs associated with limits on the number of landings, and other factors which are not included in the present proposal. Also, in development of costs associated with changing the 7 days on/7 days off pattern, the respondents overlooked options which would not require hiring new pilots. In particular, one option to the dominant present practice would be a scheduling pattern of 6 days on/6 days off, with no necessary increase in the number of pilots.

It is assumed that the helicopter operators could alter practices with negligible cost.

Air Taxis

Air Taxis—Other Than Alaska

The primary source of information for costs of compliance with the flight time and rest rule is a recent survey conducted by The National Air Transportation Association (NATA) of their membership. The results of the survey were provided voluntarily to FAA as general information. The survey was distributed in the summer of 1981 to 609 air taxi members of NATA and had 204 respondents. It is necessary to determine an appropriate factor for expanding the NATA survey to the entire population. We adopt an expansion factor of six, based on the assumptions that NATA members represent about one-half of the impact of the rules, and that there is no particular bias in the survey responses obtained from NATA members. The first assumption is based on an estimate that NATA members operate about one-half of the active air taxi aircraft. The second assumption may actually overstate the cost impact, but is adopted to simplify the analysis and to be conservative.

There are two aspects of the proposed rule which impact air taxis, the requirement to give 24 consecutive hours off in any 7 consecutive days, and the 100 hours per month limit on flight hours.

24 Consecutive Hours Off in Any 7 Consecutive Days

In the NATA survey, 94 of 202 respondents indicated that they would incur some expense due to this element of the proposed rule. The 94 responses were divided into four cost categories and the mid-points of each of the categories were multiplied by the numbers of respondents in each category to obtain an estimate of $600,000 for the sample. Multiplication of the $600,000 estimate for the sample by the expansion factor of six yields an estimated annual cost of $5.4 million for the rule element.

100-Hour Monthly Maximum

In the NATA survey, respondents were requested to quantify the financial impact of a monthly limit on commercial flying. There were 171 responses to the question on the impact of the 100-hour monthly maximum rule, with 95 respondents indicating no impact. Using a methodology similar to that used for the above element, the estimated annual impact of this rule element is $1,285,000 for the sample and $7.6 million on the industry.

Air Taxis in Alaska

There are over 200 air taxi operators in Alaska. The Alaskan carriers would incur additional costs in the proposed rule were enacted because they have an unusual peaking situation and they enter into numerous contracts which require remote operations for long periods during the summer construction season.

It is apparent from review of comments in Docket No. 17669 that the airplane is the dominant mode of transportation in Alaska, and the summer is an unusually busy season. A large number of comments were received from Alaskan operators, and they indicated that costs would result from both the requirement for 24 hours off once weekly and a maximum flight hour limit.

Quantitative cost data was not readily available from Alaskan carriers. To account for the likely heavy impact on Alaskans, the average impact per response from the NATA survey is doubled to obtain an estimate for Alaskan air taxi operators. The general assumption that virtually all Alaskan operators would be more heavily impacted by a rule with elements similar to those in the proposal was verified through discussions with a representative of the Alaska Air Carriers Association, but the specific assumption of doubling the financial impact is a subjective assessment of impact.

The average of the NATA estimates of the cost of the provision requiring 1 day off in 7 was $4,400, so the estimated cost of this provision to Alaskan operators is assumed to be $8,800 each with a total of $1.8 million. The average estimate for the cost of the 100-hour monthly maximum was $6,200 annually, so the impact of all Alaskan operators is estimated at $12,400 each, or a total of $2.6 million. Thus the total estimated cost associated with both rule elements for all Alaskan operators is $4.4 million.

Summary of Benefits and Costs

Benefits and costs are summarized in the following table. The maximum safety benefit is not distributed between air taxi and commuter operations. The benefit/cost ratio for these segments of the industry do not rely on the safety benefit. They are both above 1.0 (benefits exceed cost) on the basis of operational efficiency estimates.

SUMMARY OF BENEFITS AND COSTS

[Millions of 1983 dollars]

Flight and rest rule

	Benefits	Cost	B/C ratio
Part 121	$31.7	Nil	NA
Part 135:			
Commuters	5.2	$4.1	1.27
Air taxi	21.7	20.4	1.06
Undistributed benefit (maximum safety)	5.5		NA

With the maximum safety benefit included, the Part 135 benefit/cost ratio is 1.3. With the potential Part 121 benefit included, the benefit/cost ratio for the total rule is 2.6.

The FAA invites comments on the economic factors discussed above. FAA specifically invites comments on the several assumptions made with respect to costs and benefits. For Part 121 operations, any claims of cost associated with crew utilization should be substantiated with detailed crew data, optimized under the existing rule as well as under the proposal. FAA invites comment also on the beneficial effects of the proposal such as improved utilization of crews and equipment, and improved market opportunities. Specific quantitative information on costs or benefits are particularly requested, including any affects on equipment or pilot utilization, and the number of flightcrews required.

A copy of the draft regulatory evaluation is contained in the regulatory docket. It may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT".

Regulatory Flexibility

FAA has evaluated this proposal in accordance with the Regulatory Flexibility Act of 1980 (RFA). The RFA requires agencies to review rules which have a "significant economic impact on a substantial number of small entities." As the above evaluation indicates, there is no negative economic impact expected to result from the proposed rule as related to Part 121 operators.

Using the Small Business Administration definitions for "small business," almost all Part 135 operators are small entities. FAA evaluation indicates that the RFA requirements are triggered if 100 commuter air carriers (of approximately 300 total) incur an annual net cost increase of $43,000 (1 percent of $4.3 million, the estimated annual cost of the 34th percentile commuter carrier). The RFA requirements are also triggered if approximately 1,000 air taxis (of approximately 3,000 total) incur a net cost increase of $3,000 annually (1 percent of $300,000, the estimated annual cost of the 34th percentile air taxi operator). The evaluation indicates that these conditions are not met for either commuters or air taxi operators.

The Computer Airlines

The commuter airlines would not incur a significant economic impact as a result of the proposal. The net financial effect on the industry is a benefit of $1.1 million in 1983 comprised of $4.1 million in costs, and $5.2 million in benefits. As summarized above, the major cost involved is the estimated cost of additional pilots that may be needed to meet the 100-hour monthly limitation. The only way a firm can exceed $43,000 in cost is by having to hire two pilots. The estimate of total pilots needed for the industry was 106, based on analysis of RAA data. If all 106 pilots were distributed on the basis of two per carrier, then only 54 carriers would be affected. In this, the worst case hypothetical, only 54 of 300 firms, or 18 percent, could be significantly affected. Thus, even if looked at in the sense of cost, rather than the net of costs minus benefits, there is not a significant economic impact on a substantial number of commuter airlines.

The Air Taxi Industry

The air taxi industry presently numbers approximately 3,000 active operators. As discussed above, the annual cost of the proposal for air taxis is expected to be $20.4 million in 1983 dollars, and the direct benefit is expected to be $21.7 million in 1983 dollars, so that net impact to the industry is a benefit of at least $1.3 million in 1983 dollars.

Therefore, using the industry cost of $20.4 million, and the estimated number of firms (3,000), there is an average cost impact per firm of at least $6,800. The average benefit per firm is slightly higher, at $7,200. Thus, only if costs and benefits are distributed very unevenly, could there be significant economic impact on a substantial number of small entities. FAA analysis indicates that the benefits and costs will affect the same firms, generally the larger ones in the industry. Within the air taxi industry, there is a very large number of one airplane, one pilot operators. These operators are not heavily affected by the flight and rest regulations, since they may operate as air taxis only infrequently, and are generally involved in one or more other businesses. The operators most likely to be affected by flight and rest rules are the multiple pilot, multiple aircraft operators, and it is these operators who will incur the bulk of both costs and benefits. Therefore, FAA concludes that the regulatory proposal, at promulgation, would not have a significant economic impact on a substantial number of small entities.

The Proposed Amendments

Accordingly, the Federal Aviation Administration proposes to amend Parts 121 and 135 of the Federal Aviation Regulations (14 CFR Parts 121 and 135) as follows:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. By revising the table of contents of Subparts Q, R, and S of Part 121 to read as follows:

Subpart Q—Flight Crewmember Flight Time and Rest Requirements

Sec.

121.471 Applicability.
121.473 Flight time limitations.
121.475 Rest periods.
121.477 Special Limitations.
121.479 Crewmember Responsibilities.

Subpart R [Reserved]

Subpart S [Reserved]

2. By revising Subpart Q of Part 121, to read as follows:

Subpart Q—Flight Crewmember Flight Time and Rest Requirements

§ 121.471 Applicability.

This subpart prescribes flight time limitations and rest requirements for certificate holders and flight crewmembers under this part.

§ 121.473 Flight time limitations.

No certificate holder may require a flight crewmember to serve, and no flight crewmember may serve more than 100 hours of commercial flight time during any 30 consecutive days.

§ 121.475 Rest periods.

(a) No certificate holder may schedule a flight crewmember for flight time unless that crewmember receives the rest required under paragraph (b) of this section before commencement of flight times.

(b) During any consecutive 24-hour period the certificate holder must provide each flight crewmember at least the following:

(1) A rest period of 8 consecutive hours for scheduled flight times of 8 hours, or less.

(2) A rest period of 10 consecutive hours for scheduled flight time of more than 8 hours.

(c) The certificate holder must provide each flight crewmember a rest period of at least 24 consecutive hours at least once during any 7 consecutive days. This rest period may be concurrent with any other rest period.

(d) "Rest period" means a continuous period of time required by this subpart during which a flight crewmember performs no required assignment for the certificate holder. Travel a certificate holder requires to transport a flight crewmember between airports (deadhead transportation) is not part of a rest period. The receipt of a communication during a rest period from the certificate holder by a flight crewmember for the purpose of rescheduling a flight does not interrupt the rest period.

§ 121.477 Special Limitations.

When the scheduled length of a single flight (one takeoff and landing) during a period of 24 consecutive hours makes compliance with § 121.475 impossible, the Director of Flight Operations may specify rest, flight time, duty time, and operational limitations (including crew

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inflight rest facilities) in the operations specifications.

§ 121.479 Crewmember Responsibilities.

No person may serve as flight crewmember unless that person has used the rest period required by this subpart for rest purposes.

Subparts R and S [Reserved]

3. By removing Subpart R consisting of §§ 121.480 through 121.493, and Subparts, consisting of §§ 121.500 through 121.525, of Part 121 of the Federal Aviation Regulations and marking them reserved.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

4. By revising the table of contents of Subpart F of Part 135 to read as follow:

Subpart F—Flight Crewmember Flight Time and Rest Requirements

Sec.
135.261 Applicability.
135.263 Flight time limitations.
135.265 Rest periods.
135.267 Crewmember Responsibilities.

5. By revising Subpart F of Part 135 to read as follows:

Subpart F—Flight Crewmember Flight Time and Rest Requirements

§ 135.261 Applicability.

This subpart prescribes flight time limitations and rest requirements for certificate holders and flight crewmembers under this part.

§ 135.263 Flight time limitations.

No certificate holder may require a flight crewmember to serve, and no flight crewmember may serve, more than 100 hours of commercial flight time during any 30 consecutive days.

§ 135.265 Rest periods.

(a) No certificate holder may schedule a flight crewmember for flight time unless that crewmember received the rest required under paragraph (b) of this section before commencement of flight times.

(b) During any consecutive 24-hour period the certificate holder must provide each flight crewmember at least the following:

(1) A rest period of 8 consecutive hours for scheduled flight times or 8 hours of less.

(2) A rest period of 10 consecutive hours for scheduled flight times of more than 8 hours.

(c) The certificate holder must provide each flight crewmember a rest period of at least 24 consecutive hours at least once during any 7 consecutive days. This rest period may be concurrent with any other rest period.

(d) "Rest period" means a continuous period of time required by this subpart which a flight crewmember performs no required assignment for the certificate holder. Travel a certificate holder required to transport a flight crewmember between airports (deadhead transportation) is not part of a rest period. The receipt of a communication during a rest period from the certificate holder by a flight crewmember for the purpose of rescheduling a flight does not interrupt the rest period.

§ 135.267 Crewmember responsibilities.

No person may serve as a flight crewmember unless that person has used the rest period required by this subpart for rest purposes.

(Sec. 313, 314, and 601 through 610, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, and 1421 through 1430), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR Part 11.45)

Note.—This notice proposes regulations which would substantially reduce the amount and complexity of regulatory material on flight time limitations by prescribing only the minimum regulations deemed necessary for safety. The FAA's evaluation of both the Part 121 and the Part 135 proposals indicate that the benefits will exceed the costs, primarily because of opportunity for improved crew utilization. The preamble contains a discussion of the benefit/cost relationship. Therefore, the FAA has determined that this notice involves a rulemaking action which: (1) is not a "major rule" under Executive Order 12291, and (2) is not a significant rule" under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, for the reasons stated above, it is certified that the proposals, if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, D.C., on February 18, 1982.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 82-6490 Filed 3-5-82; 4:05 pm]

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Thursday
March 11, 1982

Part IV

Federal Emergency Management Agency

Radiological Emergency Planning and Preparedness; Final Regulations

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 351

[Docket FEMA PP-351]

Radiological Emergency Planning and Preparedness

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final regulation.

SUMMARY: In accordance with a Presidential Directive, this regulation assigns Federal agency responsibilities for assisting State and local governments in emergency planning and preparedness for peacetime nuclear emergencies. Such emergencies include radiological accidents at fixed nuclear facilities and transportation accidents involving radioactive materials. This regulation establishes the Federal Radiological Preparedness Coordinating Committee which coordinates these efforts. The Committee is chaired by the Federal Emergency Management Agency. This regulation was promulgated on October 22, 1980, (45 FR 69904), for public comment and interim use. This final regulation reflects comments received.

DATE: This regulation is effective March 11, 1982.

FOR FURTHER INFORMATION CONTACT: Marshall E. Sanders, Chief, Policy and Guidance Branch, Technological Hazards Division, Office of Natural and Technological Hazards, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0179.

SUPPLEMENTARY INFORMATION: On December 24, 1975, a notice was published in the **Federal Register** by the Federal Preparedness Agency, General Services Administration, entitled, "Radiological Incident Emergency Response Planning; Fixed Facilities and Transportation" (40 FR 59494). The notice outlined Federal agency responsibilities in providing Federal assistance to State and local governments in their radiological emergency response planning activities.

Since December 1975, there have been organizational changes within the Federal executive branch. For example, Reorganization Plan Number 3 of 1978 established the Federal Emergency Management Agency (FEMA) and Executive Orders 12127 and 12148 implemented that plan. The Federal Preparedness Agency, Defense Civil Preparedness Agency and Federal Disaster Assistance Administration, which were among the agencies that were given assignments under the December 24, 1975, notice, are now part of FEMA. In addition, on December 7, 1979, the President directed FEMA to: Assume responsibility for all offsite nuclear emergency planning and response; develop and issue a series of interagency assignments which delineate respective agency capabilities and responsibilities; define procedures for coordination and direction for both emergency planning and response and review State emergency plans.

Consequently, the December 24, 1975, notice has been overtaken by events and should be replaced with new documents which will: Formally establish and describe the functions of the Federal Radiological Preparedness Coordinating Committee (FRPCC), previously known as the Federal Interagency Central Coordinating Committee for Radiological Emergency Response Planning and Preparedness; restate the agreed upon responsibilities of the Federal agencies and carry out the December 7, 1979, Directive of the President to FEMA, both for assisting State and local governments in emergency planning and preparedness and for the Federal response to radiological accidents.

This regulation assigns responsibilities to assure useful, coordinated Federal assistance and guidance for State and local government planning and preparedness. FEMA has published a proposed rule on procedures and criteria for reviewing and approving State and local government radiological emergency plans and preparedness capabilities (45 FR 42341). Federal agency capabilities, responsibilities and coordination procedures related to emergency planning and response by Federal agencies are included in the National Radiological Emergency Preparedness/Response Plan for Commercial Nuclear Power Plant Accidents (Master Plan) and in Federal agency implementing plans. The Master Plan was promulgated by FEMA on December 23, 1980, (45 FR 84910), pursuant to Section 304 of the Nuclear Regulatory Commission Appropriation Authorization (Pub. L. 96–295) and Executive Order 12241, September 29, 1980.[1]

FEMA has examined this regulation pursuant to the following administrative requirements: (1) Executive Order 12291, (February 17, 1981); (2) the Regulatory Flexibility Act, Pub. L. 96–354, (September 19, 1980); (3) the Council on Environmental Quality (CEQ) regulations, "National Environmental Policy Act—Regulations," (40 FR 55978, November 29, 1978) and (4) the FEMA rule, "Environmental Considerations," (44 CFR Part 10, June 18, 1980).

FEMA has determined this regulation does not require a Regulatory Impact Analysis under Executive Order 12291 because the annual effect on the economy of this regulation would be substantially less than $100 million. FEMA has further determined a Regulatory Flexibility Analysis is not required under the Regulatory Flexibility Act as the interim regulation was published before January 1, 1981. Finally, FEMA has determined that the changes from the interim regulation address only administrative, management and non-substantive matters and neither an environmental assessment nor an environmental impact statement is required.

The orientation of this regulation is toward achieving better coordination of Federal resources for assisting State and local governments. The immediate impact of this regulation, therefore, is upon the Federal government and not on State and local governments, the private sector or the environment.

Comments and FEMA's Response.

Ten written responses were received on the interim regulation. The comments were from State governments, nuclear power utilities, Federal agencies and an individual. A number of recommendations were made for changing the regulation. Following is a summary of the significant issues, language change proposals and resulting modifications to the interim regulation.

(1) *Purpose of the regulation. (Section 351.1).* Some of the comments received address response aspects of radiological emergency management. These response-oriented comments are addressed in two other related sources: "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," (NUREG–0654/FEMA–REP–1, Rev. 1, of November 1980) and the "National Radiological Emergency Preparedness/Response Plan for Commercial Nuclear Power Plant Accidents (Master Plan)," (45 FR 84910, December 23, 1980). This regulation is expressly oriented toward planning and preparedness assignments and responsibilities. To stress the planning and preparedness orientation of this regulation and to differentiate it from other related regulations, we have changed the title from "Radiological Emergency Response Planning and Preparedness" to "Radiological Emergency Planning and Preparedness" and have eliminated references to "response" throughout the final regulation.

(2) *Nuclear Regulatory Commission (NRC) responsibilities for emergency planning and preparedness functions related to transportation of radioactive materials accidents. (Section 351.21(h)).* Comments were received stating the interim regulation did not mention NRC's planning and preparedness responsibilities for transportation accidents involving radioactive materials. Because NRC does have such responsibilities as stated in the Memorandum of Understanding of July 2, 1979, between NRC and the Department of Transportation, § 351.21(h) was added to specify this assignment.

(3) *Scenario development. (Section 351.20(j)).* Suggestions were made for clarifying the respective roles of Federal organizations in the development of scenarios. Section 351.20(j) was revised to specify that FEMA, NRC and other Federal agencies are responsible for developing "representative scenarios" that NRC licensed facility operators and State and local governments may, at their discretion, use in developing their scenarios for exercising and testing.

(4) *Radiation-related research. (Section 351.23(m)).* Suggestions were made for specifying the nature of research coordinated by the Interagency Radiation Research Committee (IRRC). Section 351.23(m) was revised, therefore, to identify the type of research coordinated by the IRRC, i.e., research efforts primarily in areas related to "bioeffects of radiation."

(5) *Context for providing services by the Department of Commerce (DOC)/National Oceanic and Atmospheric Administration (NOAA). (Section 351.28(a)).* Suggestions were made for revising § 351.28(a) to specify the context for the provisions of services by the DOC/NOAA to States and local governments. The phrase, "an agreed upon set of needs," was eliminated as no formal agreements exist between DOC/NOAA and the State and local governments. Also, the delivery of services by DOC/NOAA was qualified by the phrase, "within the limits of available resources."

With the publication in the **Federal Register** of the interim regulation, 44 CFR Part 351, (45 FR 69904), the **Federal Register** notice titled, "Radiological Incident Emergency Response Planning; Fixed Facilities and Transportation" issued by the Federal Preparedness Agency, General Services Administration and published December 24, 1975. (40 FR 59494), was revoked.

Part 351 "Radiological Emergency Planning and Preparedness" Subchapter E, Chapter I of Title 44, Code of Federal Regulations is revised to read as follows:

[1] The Master Plan will be supplanted by a new Federal plan for all types of radiological incidents including those associated with commercial nuclear power plants. The tentative title for the new Federal plan is the Federal Radiological Emergency Response Plan.

PART 351—RADIOLOGICAL EMERGENCY PLANNING AND PREPAREDNESS

Subpart A—General

Sec.
351.1 Purpose.
351.2 Scope.
351.3 Limitation of scope.

Subpart B—Federal Radiological Preparedness Coordinating Committee and Regional Assistance Committees

351.10 Establishment of committees.
351.11 Functions of committees.

Subpart C—Interagency Assignments

351.20 The Federal Emergency Management Agency.
351.21 The Nuclear Regulatory Commission.
351.22 The Environmental Protection Agency.
351.23 The Department of Health and Human Services.
351.24 The Department of Energy.
351.25 The Department of Transportation.
351.26 The United States Department of Agriculture.
351.27 The Department of Defense.
351.28 The Department of Commerce.

Authorities: 5 U.S.C. 552; Reorganization Plan No. 3, 1978, 43 FR 41943; Executive Order 12127, March 31, 1979, 44 FR 19367; Executive Order 12148, July 20, 1979, 44 FR 43239; Executive Order 12241, September 29, 1980, 45 FR 64879; President's Directive of December 7, 1979.

Subpart A—General

§ 351.1 Purpose.

This part sets out Federal agency roles and assigns tasks regarding Federal assistance to State and local governments in their radiological emergency planning and preparedness activities. Assignments in this part are applicable to radiological accidents at fixed nuclear facilities and transportation accidents involving radioactive materials.

§ 351.2 Scope.

The emergency planning and preparedness responsibilities covered by this part relate to consequences and activities which extend beyond the boundaries of any fixed nuclear facility with a potential for serious consequences and the area affected by a transportation accident involving radioactive materials.

§ 351.3 Limitation of scope.

(a) This part covers Federal agency assignments and responsibilities in connection with State and local emergency plans and preparedness measures. It does not set forth criteria used in the review and approval of these plans and does not include any of the requirements associated with FEMA findings and determinations on the adequacy of State and local government radiological emergency preparedness. FEMA has published a separate proposed rule on procedures and criteria for reviewing and approving these plans and preparedness capabilities (45 FR 42341). Furthermore, this part does not set forth Federal agency responsibilities or capabilities for *responding to an accident* at a fixed nuclear facility or a transportation accident involving radioactive materials. These responsibilities are addressed in the "Master Plan" as developed by FEMA in coordination with other designated Federal agencies. See "National Radiological Emergency Preparedness/Response Plan for Commercial Nuclear Power Plant Accidents (Master Plan)," (45 FR 84910, December 23, 1980).

(b) Nothing in this part authorizes access to or disclosure of classified information required to be protected in accordance with Federal law or regulation in the interest of national security.

Subpart B—Federal Radiological Preparedness Coordinating Committee

§ 351.10 Establishment of committees.

(a) The Federal Radiological Preparedness Coordinating Committee (FRPCC) consists of the Federal Emergency Management Agency, which chairs the Committee, Nuclear Regulatory Commission, Environmental Protection Agency, Department of Health and Human Services, Department of Energy, Department of Transportation, Department of Defense, United States Department of Agriculture, Department of Commerce and, where appropriate and on an ad hoc basis, other Federal departments and agencies. In chairing the committee, FEMA will be responsible for assuring that all agency assignments described in this rule are coordinated through the Committee and carried out with or on behalf of State and local governments.

(b) The Regional Assistance Committees (RACs), one in each of 10 standard Federal regions,[1] consist of a

[1] I (Boston); II (New York); III (Philadelphia); IV (Atlanta); V (Chicago); VI (Dallas); VII (Kansas

Continued

FEMA Regional Representative who chairs the Committee and representatives from the Nuclear Regulatory Commission, Environmental Protection Agency, Department of Health and Human Services, Department of Energy, Department of Transportation, United States Department of Agriculture, Department of Commerce and other Federal departments and agencies such as the Department of Defense, as appropriate. The FEMA Chairperson of the RACs will provide guidance and orientation to other agency members to assist them in carrying out their functions.

§ 351.11 Functions of committees.

(a) The FRPCC shall assist FEMA in providing policy direction for the program of Federal assistance to State and local governments in their radiological emergency planning and preparedness activities. The FRPCC will establish subcommittees to aid in carrying out its functions; e.g., research, training, emergency instrumentation, transportation, information, education and Federal response. The FRPCC will assist FEMA in resolving issues relating to granting of final FEMA approval of a State plan. The FRPCC will coordinate research and study efforts of its member agencies related to State and local government radiological emergency preparedness to assure minimum duplication and maximum benefits to State and local governments. The FRPCC will also assure that the research efforts of its member agencies are coordinated with the Interagency Radiation Research Committee.

(b) The RACs will assist State and local government officials in the development of their radiological emergency plans and will review these plans and observe exercises to evaluate adequacy of the plans. Each Federal agency member of the RACs will support the functions of these committees by becoming knowledgeable of Federal planning and guidance related to State and local radiological emergency plans, of their counterpart State organizations and personnel, where their agency can assist in improving the preparedness and by participating in RAC meetings.

Subpart C—Interagency Assignments

§ 351.20 The Federal Emergency Management Agency.

(a) Establish policy and provide leadership via the FRPCC in the coordination of all Federal assistance and guidance to State and local governments for developing, reviewing, assessing and testing the State and local radiological emergency plans.

(b) Issue guidance in cooperation with other Federal agencies concerning their responsibilities for providing radiological emergency planning and preparedness assistance to State and local governments.

(c) Foster cooperation of industry, technical societies, Federal agencies and other constituencies in the radiological emergency planning and preparedness of State and local governments.

(d) Develop and promulgate preparedness criteria and guidance to State and local governments, in coordination with other Federal agencies, for the preparation, review and testing of State and local radiological emergency plans.

(e) Provide assistance to State and local governments in the preparation, review and testing of radiological emergency plans.

(f) Assess, with the assistance of other Federal agencies, the adequacy of State and local government emergency plans and the capability of the State and local government officials to implement them (e.g., adequacy and maintenance of equipment, procedures, training, resources, staffing levels and qualifications) and report the findings and determinations to NRC.

(g) Review and approve State radiological emergency plans and preparedness in accordance with FEMA procedures in 44 CFR Part 350.

(h) Develop, implement and maintain a program of public education and information to support State and local radiological emergency plans and preparedness.

(i) Develop and manage a radiological emergency response training program to meet State and local needs, using technical expertise and resources of other involved agencies. Develop and field test exercise materials and coordinate the Federal assistance required by States and localities in conducting exercises, including guidance for Federal observers.

(j) Develop, with NRC and other Federal Agencies, representative scenarios from which NRC licensed facility operators and State and local governments may select for use in testing and exercising radiological emergency plans.

(k) Issue guidance for establishment of State and local emergency instrumentation systems for radiation detection and measurement.

(l) Provide guidance and assistance, in coordination with NRC and HHS, to State and local governments concerning the storage and distribution of radioprotective substances and prophylactic use of drugs (e.g., potassium iodide) to reduce the radiation dose to specific organs as a result of radiological emergencies.

§ 351.21 The Nuclear Regulatory Commission.

(a) Assess NRC nuclear facility (e.g., commercial power plants, fuel processing centers and research reactors) licensee emergency plans for adequacy to protect the health and safety of the public.

(b) Verify that nuclear facility licensee emergency plans can be adequately implemented (e.g., adequacy and maintenance of equipment, procedures, training, resources, staffing levels and qualifications).

(c) Review FEMA's findings and determinations of State and local radiological emergency plans for areas surrounding NRC licensed nuclear facilities.

(d) Take into account the overall state of emergency preparedness in making decisions to issue operating licenses or shut down licensed operating reactors, including the integration of assessments of emergency preparedness onsite by the NRC and offsite by FEMA.

(e) Where not already established, determine, in cooperation with other Federal agencies, the appropriate planning bases for NRC licensed nuclear facilities including distances, times and radiological characteristics.

(f) Assist FEMA in developing and promulgating guidance to State and local governments for the preparation of radiological emergency plans.

(g) Participate with FEMA in assisting State and local governments in developing their radiological emergency plans, evaluating exercises to test plans and evaluating the plans and preparedness.

(h) Assist FEMA and DOT in the preparation and promulgation of guidance to State and local governments for their use in developing the transportation portions of radiological emergency plans.

(i) Provide representation to and support for the FRPCC and the RACs.

(j) Assist FEMA in the development, implementation and maintenance of public information and education programs.

(k) Assist FEMA with other Federal agencies in the development of representative scenarios from which nuclear facility operators and State and local governments may select for use in testing and exercising radiological emergency plans.

(l) Assist FEMA in the development of guidance for State and local governments on emergency instrumentation systems for radiation detection and measurement.

(m) Assist FEMA with the development, implementation and presentation to the extent that resources permit of training programs for Federal, State and local radiological emergency preparedness personnel.

(n) Assist FEMA in providing guidance and assistance to State and local governments concerning the storage and distribution of radioprotective substances and prophylactic use of drugs (e.g., potassium iodide) to reduce the radiation dose to specific organs as a result of radiological emergencies.

§ 351.22 The Environmental Protection Agency.

(a) Establish Protective Action Guides (PAGs) for all aspects of radiological emergency planning in coordination with appropriate Federal agencies.

(b) Prepare guidance for State and local governments on implementing PAGs, including recommendations on protective actions which can be taken to mitigate the potential radiation dose to the population. This guidance will be presented in the Environmental Protection Agency (EPA) "Manual of Protective Action Guides and Protective Actions for Nuclear Incidents." (The preparation of PAGs related to human food and animal feed will be done in coordination with the Department of Health and Human Services (HHS)/ Food and Drug Administration.)

(c) Assist FEMA in developing and promulgating guidance to State and local governments for the preparation of radiological emergency plans.

(d) Assist FEMA with the development, implementation and presentation to the extent that resources permit of technical training for State and local officials regarding PAGs and protective actions, radiation dose assessment and decisionmaking.

(e) Participate with FEMA in assisting State and local governments in developing their radiological emergency plans, evaluating exercises to test plans and evaluating the plans and preparedness.

(f) Assist FEMA in the development of guidance for State and local governments on emergency instrumentation systems for radiation detection and measurement.

(g) Provide representation to and support for the FRPCC and the RACs.

(h) Assist FEMA in developing representative scenarios from which nuclear facility operators and State and local governments may select for use in testing and exercising radiological emergency plans.

(i) Assist FEMA in the development, implementation and maintenance of public information and education programs.

§ 351.23 The Department of Health and Human Services.

(a) Develop and specify protective actions and associated guidance to State and local governments for human food and animal feed (in cooperation with the Environmental Protection Agency).

(b) Provide guidance and assistance to State and local governments in preparing programs related to mental health, behavioral disturbances and epidemiology associated with radiological emergencies.

(c) Assist FEMA in the development, implementation and maintenance of public information and education programs to support State and local government radiological emergency plans and preparedness.

(d) Assist FEMA with the development, implementation and presentation to the extent that resources permit of a radiological emergency training program to support State and local government personnel in accident assessment, protective actions and decisionmaking.

(e) Develop and assist in providing the requisite training programs for State and local health, mental health and social service agencies.

(f) Provide guidance to State and local governments on the use of radioprotective substances and prophylactic use of drugs (e.g., potassium iodide) to reduce the radiation dose to specific organs including dosage and projected radiation exposures at which such drugs should be used.

(g) Assist FEMA in developing and promulgating guidance to State and local governments for the preparation of radiological emergency plans.

(h) Participate with FEMA in assisting State and local governments in developing their radiological emergency plans, evaluating exercises to test plans and evaluating the plans and preparedness.

(i) Provide representation to and support for the FRPCC and the RACs.

(j) Assist FEMA in developing representative scenarios from which nuclear facility operators and State and local governments may select for use in testing and exercising radiological emergency plans.

(k) Assist FEMA in the development of guidance for State and local governments on emergency instrumentation systems for radiation detection and measurement.

(l) Assist, in cooperation with the United States Department of Agriculture (USDA), the State and local governments in the planning for the safe production, during radiological emergencies, of human food and animal feed in the emergency planning zones around fixed nuclear facilities.

(m) Assist FEMA, through the Interagency Radiation Research Committee, chaired by the Department of Health and Human Services, in the coordination of Federal research efforts, primarily in areas related to the bioeffects of radiation, applicable to State and local plans and preparedness.

§ 351.24 The Department of Energy.

(a) Determine the appropriate planning bases for the Department of Energy (DOE) owned and contractor operated nuclear facilities (e.g., research and weapon production facilities) including distances, time and radiological characteristics.

(b) Assess DOE nuclear facility emergency plans for adequacy in contributing to the health and safety of the public.

(c) Verify that DOE nuclear facility emergency plans can be adequately implemented (e.g., adequacy and maintenance of equipment, procedures, training, resources, staffing levels and qualifications).

(d) Assist State and local governments, within the constraints of national security and in coordination with FEMA, in the preparation of those portions of their radiological emergency plans related to DOE owned and contractor operated nuclear facilities and radioactive materials in transit.

(e) Review and assess FEMA's findings and determinations on the adequacy of and capability to implement State and local radiological emergency plans for areas surrounding DOE nuclear facilities. Make independent assessments of the overall state of plans and preparedness.

(f) Serve as the lead agency for coordinating the development and issuance of interagency instructions and guidance to implement the Federal Radiological Monitoring and Assessment Plan (FRMAP), which will replace the Interagency Radiological Assistance Plan. The FRMAP provides the framework through which participating Federal agencies will coordinate their emergency radiological monitoring and assessment activities with those of State and local governments.

City); VIII (Denver); IX (San Francisco) and X (Seattle).

(g) Develop, maintain and improve capability to detect and assess hazardous levels of radiation.

(h) Assist FEMA in developing and promulgating guidance to State and local governments for the preparation of radiological emergency plans.

(i) Assist FEMA with the development, implementation and presentation to the extent that resources permit of training programs for Federal, State and local radiological emergency response personnel.

(j) Participate with FEMA in assisting State and local governments in developing their radiological emergency plans, evaluating exercises to test plans and evaluating the plans and preparedness.

(k) Develop, with FEMA, representative scenarios from which DOE facility operators and State and local governments may select for use in testing and exercising radiological emergency plans.

(l) Provide representation to and support for the FRPCC and the RACs.

(m) Assist FEMA in the development of guidance for State and local governments on emergency instrumentation systems for radiation detection and measurement.

§ 351.25 The Department of Transportation.

(a) Assist FEMA, along with NRC, in the preparation and promulgation of guidance to State and local governments for their use in developing the transportation portions of radiological emergency plans.

(b) Assist FEMA in its review and approval of State and local radiological emergency plans and in the evaluation of exercises to test such plans.

(c) Provide guidance and materials for use in training emergency services and other response personnel for transportation accidents involving radioactive materials and participate in interagency planning for such training.

(d) Provide representation to and support for the FRPCC and the RACs.

§ 351.26 The United States Department of Agriculture.

(a) Assist FEMA in developing and promulgating guidance to State and local governments for the preparation of radiological emergency plans.

(b) Participate with FEMA in assisting State and local governments in developing their radiological emergency plans, evaluating exercises to test plans and reviewing and evaluating the plans and preparedness.

(c) Assist State and local governments in preparing to implement protective actions in food ingestion pathway emergency planning zones around fixed nuclear facilities.

(d) Develop, in coordination with FEMA, the HHS and other Federal agencies, guidance for assisting State and local governments in the production, processing and distribution of food resources under radiological emergency conditions.

(e) Assist FEMA with the development, implementation and presentation to the extent that resources permit of training programs of Federal, State and local radiological emergency personnel.

(f) Provide representation to and support for the FRPCC and the RACs.

§ 351.27 The Department of Defense.

(a) Determine appropriate planning bases for Department of Defense (DOD) nuclear facilities and installations (e.g., missile bases, nuclear submarine facilities and weapon storage sites) including distances, time and radiological characteristics.

(b) Develop, with FEMA, representative scenarios from which DOD nuclear facility commanders and State and local governments may select for use in testing and exercising radiological emergency plans.

(c) Assist State and local governments, within the constraints of national security and in coordination with FEMA, in the development, review and assessment of those portions of their radiological emergency plans related to DOD nuclear facilities and assist State officials with planning for response to accidents involving DOD controlled radioactive materials in transit.

(d) Provide representation to and support for the FRPCC and the RACs when appropriate.

§ 351.28 The Department of Commerce.

(a) Assist State and local governments in determining their requirements for meteorological and hydrological services for radiological emergencies and assist State and local governments in preparing to meet these requirements within the limits of available resources.

(b) Assist FEMA in developing and promulgating guidance to State and local governments for the preparation of radiological emergency plans.

(c) Participate with FEMA in assisting State and local governments in developing their radiological emergency plans, evaluating exercises to test plans and evaluating the plans and preparedness.

(d) Assist FEMA with the development, implementation and presentation to the extent that resources permit of technical training for State and local officials in the use of meterological information in responding to radiological emergencies.

(e) Provide representation to and support for the FRPCC and the RACs.

(f) Assist FEMA in the development of guidance for State and local governments on the exposure and location of emergency instrumentation systems for radiation detection and measurement.

(g) The Federal Coordinator for Meteorological Services and Supporting Research will, consistent with the provisions of the Office of Management and Budget Circular A-62, serve as the coordinating agent for any multiagency meteorological aspects of assisting State and local governments in their radiological emergency planning and preparedness.

Dated: February 17, 1982.

Louis O. Giuffrida,

Director.

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
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DOT/RSPA			DOT/RSPA	
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DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Title 3—

The President

Proclamation 4908 of March 10, 1982

Afghanistan Day

By the President of the United States of America

A Proclamation

In December 1979, the Soviet Union invaded Afghanistan without provocation and with overwhelming force. Since that time, the Soviet Union has sought through every available means, to assert its control over Afghanistan.

The Afghan people have defied the Soviet Union and have resisted with a vigor that has few parallels in modern history. The Afghan people have paid a terrible price in their fight for freedom. Their villages and homes have been destroyed; they have been murdered by bullets, bombs and chemical weapons. One-fifth of the Afghan people have been driven into exile. Yet their fight goes on. The international community, with the United States joining governments around the world, has condemned the invasion of Afghanistan as a violation of every standard of decency and international law and has called for a withdrawal of the Soviet troops from Afghanistan. Every country and every people has a stake in the Afghan resistance, for the freedom fighters of Afghanistan are defending principles of independence and freedom that form the basis of global security and stability.

It is therefore altogether fitting that the European Parliament, the Congress of the United States and parliaments elsewhere in the world have designated March 21, 1982, as Afghanistan Day, to commemorate the valor of the Afghan people and to condemn the continuing Soviet invasion of their country. Afghanistan Day will serve to recall not only these events, but also the principles involved when a people struggles for the freedom to determine its own future, the right to be free of foreign interference and the right to practice religion according to the dictates of conscience.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate March 21, 1982, as Afghanistan Day.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of March, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-6913
Filed 3-10-82; 3:54 pm]
Billing code 3195-01-M

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Presidential Documents

Proclamation 4809 of March 10, 1982

National Energy Education Day, 1982

By the President of the United States of America

A Proclamation

Over its two-hundred-year history, this nation grew and prospered through the abundant production and use of energy. The American people began by using wood for nearly all of their needs, started using coal in large quantities in the mid-1800's, and moved to large-scale oil and gas use in the early part of the twentieth century.

All of these energy sources will continue to have an important role. But new sources are coming along as well: atomic power, now used to generate more than 12 percent of our electricity; solar energy; synthetic fuels; biomass; and a host of other new technologies.

The significant innovations in energy that took place over the past two hundred years were the product of the vision and foresight of citizens working through our free market economy.

Today, with our own precious resources more limited, an important share of our energy supplies is threatened by political uncertainties in oil exporting regions. It is critical that our nation continue to take advantage of the ingenuity and talent of the American people to produce and consume energy efficiently.

Toward this end, my Administration has removed oil price controls and eliminated over 200 burdensome regulations associated with those controls. In so doing, we have provided new incentives for private industry to develop domestic energy resources and produce domestic energy supplies that were not feasible with fuel prices set at an artificially low level. Realistic pricing, of course, has also encouraged consumers to use energy more efficiently.

The decontrol of oil prices has been a success. Despite higher economic growth in 1981 than predicted:

- Oil consumption has fallen by 1.1 million barrels per day.
- Net oil imports have dropped below one-third of consumption for the first time since 1972.
- Oil production began to increase for the first time in a decade.
- Oil prices actually fell in real terms.

The challenge ahead is to create a healthy economy that enables citizens, businesses, and state and local governments to make rational energy production and consumption decisions which reflect the true value of this nation's resources.

Today, more than ever, it is important for all Americans to understand that the United States and its allies are participants in a world energy market. Our effectiveness in that market depends in large measure on our ability to unleash the industrial and economic strengths of this nation.

To focus our attention on energy education for the young—in both public and private schools, and at all grade levels—and in an effort to bring together teachers, school officials, and parent groups to help our children understand

our domestic and international energy situation now and in the future, the 97th Congress has by Senate Joint Resolution 84 proclaimed March 19, 1982, as National Energy Education Day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby call upon all citizens and government officials to observe Friday, March 19, 1982, as National Energy Education Day with appropriate ceremonies and activities. I direct all agencies of the Federal government to cooperate with and participate in the celebration of National Energy Education Day.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of March, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-7011
Filed 3-11-82; 11:22 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 47, No. 49
Friday, March 12, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 285

[Amendment Number 209]

Commonwealth of Puerto Rico Nutrition Assistance Grant

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule; request for comments.

SUMMARY: This rule implements a nutrition assistance grant to replace the Food Stamp Program in the Commonwealth of Puerto Rico in accordance with the 1981 Omnibus Budget Reconciliation Act. As required by that law, this grant is to take effect on July 1, 1982.

DATE: This interim rule is effective March 12, 1982. Comments must be received by April 12, 1982.

ADDRESS: Comments should be submitted to the Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302. All written comments will be open to public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday), at 3101 Park Center Drive, Alexandria, Virginia, Room 708.

FOR FURTHER INFORMATION CONTACT: Thomas O'Connor, Supervisor, Policy and Regulations Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302; (703) 756-3429. The Regulatory Impact Analysis is available on request from Mr. O'Connor.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512-1. The Department has determined that this rule constitutes a major rule due to the size of the grant. The amount of monies authorized to be appropriated for the grant are not to exceed $825 million for each fiscal year through 1984.

In addition, this rule may result in an increase in costs to State (Commonwealth) or local government agencies in the Commonwealth of Puerto Rico; however, the result cannot be determined until after the Commonwealth of Puerto Rico has submitted its plan of operation under the grant. The rule will not result in a major increase in costs or prices for consumers or individuals and will not have a significant adverse effect on competition, employment, productivity, investment, or foreign trade. Further, this rule is unrelated to the ability of United States-based enterprises to compete with foreign-based enterprises. Since this rule constitutes a major rule, a Regulatory Impact Analysis has been written and is available to all interested parties. Moreover, pursuant to section 4(a) of E.O. 12291, the Department has determined that the rule is within the authority delegated by law and consistent with Congressional intent.

The Department of Agriculture has also determined, in accordance with 5 U.S.C. 553(b)(1)(B), that notice of proposed rulemaking and public comment procedures prior to the effective date of this rule are impracticable. In order to receive grant funds this year and in fiscal year 1983, the Commonwealth of Puerto Rico must submit to the Secretary of Agriculture, by April 1, 1982, a plan of operation for the provision of nutrition assistance. Since this rule will specify what must be included in the plan, it is essential that the rule be implemented as quickly as possible to allow the Commonwealth of Puerto Rico ample time to prepare and submit a plan of operation.

Finally, this rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act, Pub. L. 96-354. The Administrator of the Food and Nutrition Service has certified that this action will have a broad but minor economic impact on a substantial number of small entities. The action will implement that provision of the 1981 Omnibus Budget Reconciliation Act which converts the Federal Food Stamp Program in the Commonwealth of Puerto Rico to a nutrition assistance grant. The State and local welfare agencies will be affected to the extent that they administer the current program. The Department has determined that the potential impact on retail food sales will depend on the manner in which the Commonwealth of Puerto Rico chooses to administer the block grant. The government of the Commonwealth of Puerto Rico may choose, among other program options, to replace the present Food Stamp Program in the Commonwealth of Puerto Rico with a cash income-support program, or to retain a local food stamp program similar to the present operation.

Background

Congress has expressed concern regarding the size and expense of the Food Stamp Program in the Commonwealth of Puerto Rico and the dislocating effect the massive flow of food stamps may have on the Puerto Rican economy (Senate Report No. 97-128, 97th Congress, 1st Session, p. 78 (1981)).

In response to these concerns, the Omnibus Budget Reconciliation Act of 1981 (Pub. L. No. 97-35, 95 Stat. 357) provides for the conversion of the Food Stamp Program in the Commonwealth of Puerto Rico to a nutrition assistance grant effective July 1, 1982.

Funding

The Commonwealth of Puerto Rico may receive up to $206.5 million for the last quarter of fiscal year 1982 and up to $825 million for each fiscal year thereafter. The legislative provisions establishing the grant provide funding for 100 percent of food assistance benefit costs and 50 percent of the administrative expenses related to the provision of food assistance. This rule incorporates these statutory limitations and provides that payments will be made to the Commonwealth of Puerto Rico on a monthly basis using a letter of credit; such sums are to be drawn down on an as-needed basis (Treasury Fiscal Requirement Manual, Volume I, Part 6, Section 2030). Payments will be based on estimates of monthly program expenditures contained in a plan of operation submitted for FNS approval by the Commonwealth of Puerto Rico.

Payments cannot exceed the total cost of the program even if that cost is less than the maximum allowable grant. The statute permits adjustment to the payment if the Secretary determines that a prior overpayment or underpayment has been made, and the proposed rule lists funds that may be considered overpayments.

This rule provides that payment may be contingent in whole or in part upon compliance by the Commonwealth of Puerto Rico with the requirements concerning an approved plan of operation, an audit of expenditures, and a fiscal statement.

Plan of Operation

The legislation gives the Commonwealth of Puerto Rico considerable flexibility in designing a food assistance program. However, to receive payments in any fiscal year, the Commonwealth of Puerto Rico must submit a plan of operation for its program. The statute requires that the initial plan, covering the last quarter of Fiscal Year 1982 and Fiscal Year 1983, be submitted to FNS no later than April 1, 1982. Subsequently, a plan must be submitted by July 1 of each year for the program of the following fiscal year, and the Secretary must approve or disapprove the plan by August 1 of the year in which it is submitted.

Under this rule, the plan of operation shall include the following information. (1) The name of the agency which will be responsible for the administration of the nutrition assistance program. (2) A description and an assessment of the food and nutrition needs of needy persons residing in the Commonwealth of Puerto Rico appropriate to demonstrate that the nutrition assistance program is directed at the most needy persons in the Commonwealth of Puerto Rico. (3) A general description of the assistance to be provided, who will receive benefits, and the persons and the agencies that will provide the assistance. (4) A budget and cost estimate of the expenditures necessary for the provision of assistance. (5) Other reasonably related information requested by FNS. (6) The plan of operation must also contain an assurance that the Commonwealth of Puerto Rico agrees to conduct the nutrition assistance program in accordance with the plan of operation and in compliance with all pertinent Federal rules and regulations.

The Conference Report on the Omnibus Budget Reconciliation Act of 1981 provides that "it would be permissible to employ a small proportion of the block grant funds to finance projects that the government of the Commonwealth believes likely to improve or stimulate agriculture, food production, and food distribution (e.g., food cooperatives, local markets, or farming techniques) which will increase the self-sufficiency and nutritional standard of needy citizens residing in the Commonwealth." (H.R. Rep. No. 97-208, 97th Cong., 1st Sess., 656-657 (1981)). Under this rule, should the Commonwealth of Puerto Rico choose to establish such projects, the plan of operation should demonstrate that such projects are indeed directly related to improvements in the nutritional status of the needy.

This rulemaking also provides for the annual updating of the plan of operation and requires the Commonwealth of Puerto Rico to submit any amendments to the plan to FNS for approval.

Approval

Pursuant to provisions of the legislation, this rulemaking allows FNS to approve, approve contingently or disapprove any plan of operation submitted by the Commonwealth of Puerto Rico. FNS approval of the plan of operation will be based on an assessment that the nutrition assistance program, as defined in the plan of operation, is sufficient to permit analysis and review; reasonably targeted to the most needy persons as defined in the plan of operation; supported by an assessment of the food and nutrition needs of needy persons; and reasonable in terms of the funds requested.

Based on the statute, this rule provides that once a plan of operation is approved grant funds will be provided. If a plan of operation is disapproved, the Commonwealth of Puerto Rico will be advised of problem areas and of actions necessary to secure approval, and that payments will not be made until the plan is approved. If a plan of operation is contingently approved, grant funds will be provided only for the part or parts of the plan of operation receiving approval. The Commonwealth of Puerto Rico will be advised of problem areas and of the actions necessary for full plan approval.

Records and Reports

Legislation does not require that the Commonwealth of Puerto Rico provide FNS with any particular systematic program reports. However, the legislation does require that FNS review the program established under the block grant. The specific recordkeeping and reporting requirements will be negotiated between FNS and the Commonwealth of Puerto Rico consistent with the plan of operation. Such reports and records shall be prepared in accordance with Uniform Federal Assistance Regulations (7 CFR Part 3015) published at 46 FR 55636, November 10, 1981.

Audits

Legislation requires the Commonwealth of Puerto Rico to conduct biennial audits of expenditures and report the results of such audits to the Department not later than 120 days after the end of the fiscal year in which the audit is made. This rule provides for an audit once every two years by the Commonwealth of Puerto Rico to be carried out in accordance with the procedures detailed in the Uniform Federal Assistance Regulations. Additionally, in accordance with the statute, this rulemaking requires that the Commonwealth of Puerto Rico annually report to FNS whether grant payments exceeded program expenditures.

Failure To Comply

This rule, in accordance with the legislation, provides that if the Commonwealth of Puerto Rico fails to modify a disapproved plan of operation, comply with the plan of operation, conduct and submit a biennial audit, or submit a yearly fiscal statement, FNS may take action to withhold or deny grant funds. The Secretary may also ask the Attorney General to seek injunctive relief in cases of non-compliance with the plan of operation or failure to conduct and submit the biennial audit or yearly fiscal statement.

Review

The legislation requires the Department to review the Commonwealth of Puerto Rico's nutrition assistance program to ensure that the program is being managed in accordance with the plan of operation and accepted standards of financial management. When the exact design of the nutrition assistance program is decided, the nature and extent of the review will be determined by FNS. This rulemaking, therefore, provides for FNS review in very general terms.

Technical Assistance

The Secretary may provide technical assistance to the Commonwealth of Puerto Rico with respect to the block grant program. This rulemaking states that technical assistance may be provided by FNS to aid the Commonwealth of Puerto Rico in the development of the plan of operation, implementation of the program and management of grant funds.

For the reasons set forth in the preamble, Part 285 is added, to read as follows:

PART 285—PROVISION OF A NUTRITION ASSISTANCE GRANT FOR THE COMMONWEALTH OF PUERTO RICO

Sec.

285.1 General purpose and scope.
285.2 Funding.
285.3 Plan of Operation.
285.4 Approval.
285.5 Records and reports.
285.6 Audits.
285.7 Failure to comply.
285.8 Review.
285.9 Technical assistance.

Authority: 90 Stat. 263-279 (48 U.S.C. 1681 note.) 91 Stat. 958 (7 U.S.C. 2011-2027).

§ 285.1 General purpose and scope.

This part describes the general terms and conditions under which grant funds shall be provided by the Food and Nutrition Service (FNS) to the government of the Commonwealth of Puerto Rico for the purpose of designing and conducting a nutrition assistance program for needy persons. The Commonwealth of Puerto Rico is authorized to establish eligibility and benefit levels for the nutrition assistance program. In addition, with FNS approval, the Commonwealth of Puerto Rico may employ a small proportion of the grant funds to finance projects that the Commonwealth of Puerto Rico believes likely to improve or stimulate agriculture, food production, and food distribution.

§ 285.2 Funding.

(a) FNS shall, consistent with the plan of operation required by § 285.3 of this part, and subject to availability of funds, provide nutrition assistance grant funds to the Commonwealth of Puerto Rico to cover 100 percent of the expenditures related to food assistance provided to needy persons and 50 percent of the administrative expenses related to the food assistance. The amount of the grant funds provided to the Commonwealth of Puerto Rico shall not exceed $825,000,000 for each fiscal year except that the amount payable to Puerto Rico for final quarter of fiscal year 1982 shall be $206,500,000.

(b) FNS shall, subject to the provisions in subsections 285.4 and 285.7 in this part, and limited by the provisions of paragraph (a) of this subsection, pay to the Commonwealth of Puerto Rico for the applicable fiscal year, the amount estimated by the Commonwealth of Puerto Rico pursuant to § 285.3(b)(4). Payments shall be made no less frequently than on a monthly basis prior to the beginning of each month consistent with the Treasury Fiscal Requirement Manual, Volume I, part 6, section 2030; these letters of credit shall be drawn on an as-needed basis. The amount shall be reduced or increased to the extent of any prior overpayment or underpayment which FNS determines has been made and which has not been previously adjusted. The payment(s) received by the Commonwealth of Puerto Rico for a fiscal year shall not exceed the total authorized for the grant, or the total cost for the nutrition assistance program eligible for funding, whichever is less, for that fiscal year.

(c) FNS may recover from the Commonwealth of Puerto Rico, through offsets to funding during any fiscal year, funds previously paid to the Commonwealth of Puerto Rico and later determined by the Secretary to have been overpayments. Funds which may be recovered include, but are not limited to:

(1) Costs not included in the approved plan of operation;

(2) Unallowable costs discovered in audit or investigation findings;

(3) Funds allocated to the Commonwealth of Puerto Rico which exceeded expenditures during the fiscal year for which the funds were authorized; or

(4) Amounts owed to FNS as a result of the nutrition assistance grant which have been billed to the Commonwealth of Puerto Rico and which the Commonwealth of Puerto Rico has failed to pay without cause acceptable to FNS.

(d) Funds for payment of any prior fiscal year expenditures shall be claimed from the funding for that prior year. The payment of funds shall not exceed the authorization for that prior fiscal year.

§ 285.3 Plan of operation.

(a) To receive payments for any fiscal year the Commonwealth of Puerto Rico shall have a plan of operation for that fiscal year approved by FNS. The Commonwealth of Puerto Rico shall submit the initial plan of operation, for fiscal years 1982 and 1983, no later than April 1, 1982. Each subsequent plan of operation shall be submitted for FNS approval by the July 1 preceding the fiscal year for which the plan of operation is to be effective.

(b) The plan of operation shall include the following information:

(1) Designation of a single agency which shall be responsible for administration, or supervision of the administration, of the nutrition assistance program.

(2) A description of the needy persons residing in the Commonwealth of Puerto Rico and an assessment of the food and nutrition needs of these persons. The description and assessment shall demonstrate that the nutrition assistance program is directed toward the most needy persons in the Commonwealth of Puerto Rico.

(3) A description of the program for nutrition assistance including:

(i) a general description of the nutrition assistance to be provided the needy persons who will receive assistance, and any agencies designated to provide such assistance;

(ii) to the extent grant funds are not used for direct nutrition assistance payments to needy persons, the plan of operation must demonstrate that the grant funds will provide nutrition assistance benefiting needy persons in the Commonwealth of Puerto Rico.

(4) A budget and an estimate of the monthly amounts of expenditures necessary for the provision of the nutrition assistance and related administrative expenses up to the monthly amounts provided for payment in § 285.2.

(5) Other reasonably related information which FNS may request.

(6) An agreement signed by the governor or designee of the governor to conduct the nutrition assistance program in accordance with the FNS-approved plan of operation and in compliance with all pertinent Federal rules and regulations.

The Commonwealth of Puerto Rico shall also agree to comply with any changes in Federal law and regulations.

(c) Any amendments to the plan of operation must be submitted to FNS for approval.

§ 285.4 Approval.

(a) FNS shall approve or disapprove the initial plan of operation for fiscal years 1982 and 1983 no later than 30 days from the date the Commonwealth of Puerto Rico submits such plan. Thereafter, FNS shall approve or disapprove any plan of operation no later than August 1 of the year of its submission. FNS approval of the plan of operation shall be based on an assessment that the nutrition assistance program, as defined in the plan of operation, is:

(1) Sufficient to permit analysis and review;

(2) Reasonably targeted to the most needy persons as defined in the plan of operation;

(3) Supported by an assessment of the food and nutrition needs of needy persons;

(4) Reasonable in terms of the funds requested;

(5) Structured to include safeguards to prevent fraud, waste, and abuse in the use of grant funds; and

(6) Consistent with all applicable Federal laws.

(b) FNS shall approve or disapprove any amendments to the plan of operation.

If FNS fails either to approve or deny the amendment, or to request additional information within 30 days, the amendment to the plan of operation is approved. If additional information is requested, the Commonwealth of Puerto Rico shall provide this as soon as possible, and FSN shall approve or deny the amendment to the plan of operation. Payment schedules and other program operations may not be altered until an amendment to the plan of operation is approved.

(c) FNS may approve part of any plan of operation or amendment submitted by the Commonwealth of Puerto Rico contingent on appropriate action by the Commonwealth of Puerto Rico with respect to the problem areas in the plan of operation.

(d) If all or part of the plan of operation is disapproved, FNS shall notify the appropriate agency in the Commonwealth of Puerto Rico of the problem area(s) in the plan of operation and the actions necessary to secure approval.

(e) In accordance with the provisions of § 285.7, funds may be withheld or denied when all or part of a plan of operation is disapproved.

§ 285.5 Records and reports.

The Commonwealth of Puerto Rico shall follow procedures, and maintain and submit to FNS such records and reports, as agreed upon by the Commonwealth of Puerto Rico and FNS, for the nutrition assistance program as outlined in the plan of operation. Such records and reports shall, at a minimum, be prepared in accordance with Part 3015 of this title.

§ 285.6 Audits.

(a) The Commonwealth of Puerto Rico shall provide an audit of expenditures in compliance with the requirements in Part 3015 of this title at least once every two years. The findings of such audit shall be reported to FNS not later than 120 days from the end of each fiscal year in which the audit is made.

(b) Within 120 days of the end of each fiscal year, the Commonwealth of Puerto Rico shall provide FNS with a statement of: (1) whether the grant funds received for that fiscal year exceeded the valid obligations made that year for which payment is authorized, and if so, by how much, and (2) such additional related information as FNS may require.

§ 285.7 Failure to comply.

(a) Grant funds may be withheld in whole or in part, or denied if there is a substantial failure by the Commonwealth of Puerto Rico to comply with the requirements of § 285.6, or to bring into compliance a plan of operation disapproved by FNS, or to comply with program requirements detailed in the plan of operation approved for that fiscal year. (For example, funds shall be paid to the Commonwealth of Puerto Rico to cover only the costs of the part or parts of the plan of operation receiving FNS approval. Withheld payments shall be paid when the unapproved part(s) of the plan are modified and approved.) FNS shall notify the Commonwealth of Puerto Rico that further payments shall not be made until FNS is satisfied that there will no longer be any such failure to comply.

(b) Upon a finding of a substantial failure to comply with the requirements of § 285.6 or the plan of operation, FNS may, in addition to or in lieu of actions taken in accordance with paragraph (a) of this section, refer the matter to the Attorney General with a request that injunctive relief be sought from the appropriate district court of the United States to require compliance with these regulations by the Commonwealth of Puerto Rico.

§ 285.8 Review.

FNS shall provide for the review of the programs for provision of nutrition assistance for which payments are made under Part 285.

§ 285.9 Technical assistance.

FNS may provide technical assistance to the Commonwealth of Puerto Rico to assist in the development of the plan of operation, or in the operation of the program detailed in the plan of operation, or to help provide for responsible management of the funds provided or made available to Puerto Rico for nutrition assistance.

(91 Stat. 958 (7 U.S.C. 2011–2027))

(Catalog of Federal Domestic Assistance Programs, No. 10.551, Food Stamps)

Dated: March 4, 1982.

Mary Jarratt,

Assistant Secretary.

[FR Doc. 82-6861 Filed 3-11-82; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Stabilization and Conservation Service

7 CFR Part 724

Fire-Cured, Dark Air-Cured, Virginia Sun-Cured, Cigar-Binder (Types 51 and 52) Cigar-Filler and Binder (Types 42, 43, 44, 53, 54 and 55) Tobacco Acreage Allotment Regulations; Identification of Kinds of Tobacco

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Interim rule.

SUMMARY: The purpose of this interim rule is to implement the provisions of section 320 of the Agricultural Adjustment Act of 1938, as amended by section 1108 of the Agriculture and Food Act of 1981 (Pub. L. 97–98) with respect to nonquota tobacco. With certain exceptions, nonquota tobacco which is produced in a State where marketing quotas are in effect for a kind of tobacco will be subject to the marketing quota for such kind of tobacco. These provisions are applicable beginning with the 1982 crop of tobacco. This interim rule implements the provisions of section 320 of the Act, as amended, and makes certain other clarifying language changes relating to the identification of tobacco.

EFFECTIVE DATE: March 12, 1982. Comments are due on or before May 11, 1982.

ADDRESS: Send written comments to James M. Davis, Director, Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service (ASCS), P.O. Box 2415, U.S. Department of Agriculture, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Program Specialist, (202) 447–4261. The Final Regulatory Impact Analysis describing the impact of implementing the rule is available upon request from Mr. Millner.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum No. 1521–1 and has been classified as "not major". The provisions of this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, industries, Federal, State or local government, or a geographical region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies as set forth in the Catalog of Federal Domestic Assistance are: Title: Commodity Loan and Purchases, Number: 10.051. This interim rule will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this interim rule.

James M. Davis, Director, Tobacco and Peanuts Division, ASCS, has determined that an emergency exists which warrants publication of this interim rule without prior opportunity for public comment. This interim rule is necessary to implement section 320 of the Agricultural Adjustment Act of 1938 (hereinafter referred to as the "1938 Act") which was amended by the Agriculture and Food Act of 1981 (Pub. L. 97–98) effective with respect to the 1982 and subsequent crops of tobacco.

Producers of tobacco are now in the process of purchasing seed and making other production plans for the 1982 crop year. Because producers of tobacco need to be informed of this interim rule as soon as possible, this interim rule shall become effective upon date of publication in the **Federal Register** without prior public comment. However, the public is invited to comment on this interim rule for a period of 60 days after its publication in the **Federal Register**. A final document discussing comments received and any amendment of this interim rule which may be required will be published in the **Federal Register** as soon as possible.

Section 320 of the 1938 Act was originally enacted in 1974 and is designed to preserve the effectiveness of the tobacco program by discouraging the production of tobacco not under quota in areas of the nation where tobacco farmers have elected to comply with marketing quotas.

Section 320 of the 1938 Act was amended by section 1108 of the Agriculture and Food Act of 1981 to provide that any nonquota tobacco produced in an area where quotas for any kind of tobacco are in effect shall be considered as a quota kind. If marketing quotas are in effect in an area for more than one kind of quota tobacco, nonquota tobacco produced in the area shall be subject to the quota for the kind of tobacco produced in the area having the highest price support under the Agricultural Act of 1949, as amended.

While section 320 refers to tobacco produced in an "area" when identifying different kinds of tobacco, the Conference Report which accompanied S. 884, the bill which became the Agriculture and Food Act of 1981, stated as follows:

"The conferees intend that the Secretary, in implementing section 320, construe the term 'area' to mean the entire State in which any kind of quota tobacco is produced. This construction will avoid the disruption caused by the production of nonquota tobacco in States where producers have approved marketing quotas and will help ensure the effectiveness of the tobacco program in those States." (See Senate Report No. 97–377, 97th Cong., 1st Sess., p. 192 (1981)).

Thus, the regulations at 7 CFR 724.79 relating to the identification of kinds of tobacco have been amended to specify that the term "area" shall mean the entire State in which any kind of quota tobacco is produced.

Also, the amendments made by the 1981 Act specify that certain tobacco is not subject to the provisions of section 320. One example is tobacco which is produced in any State where marketing quotas are in effect when such tobacco is represented to be nonquota tobacco and such tobacco is readily and distinguishably different from all kinds of quota tobacco, as determined through the application of the standards issued by the Secretary for the inspection and identification of tobacco. Other tobaccos which are not subject to the provisions of section 320 include the following: (1) Maryland (type 32) tobacco when it is nonquota tobacco and produced in a quota State on a farm for which a marketing quota for Maryland (type 32) tobacco was established when marketing quotas for that kind of tobacco were last in effect (1965); and (2) certain types of cigar-filler and cigar-wrapper tobaccos that have never been under quota but are produced within a State where marketing quotas for other kinds of tobacco are in effect.

In addition, certain clarifying language changes were made in the regulations at 7 CFR 724.79(a) with respect to the identification of kinds of tobacco subject to quota.

Interim Rule

PART 724—FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52), CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, AND 55) TOBACCO

Accordingly, the regulations at 7 CFR 724.79 are revised to read as follows:

§ 724.79 Identification of tobacco subject to quota.

(a) Except as provided in subsections (b) and (c) of this section, any tobacco which is determined by a representative of the State committee or county committee to have the same appearance and characteristics as a kind of tobacco for which marketing quotas are in effect shall be deemed to be a quota kind of tobacco. Such tobacco shall continue to be deemed a quota kind until it has been certified by the Agricultural Marketing Service, U.S. Department of Agriculture, under the Tobacco Inspection Act (7 U.S.C. 511) and implementing regulations (7 CFR Part 29), prior to removal of the tobacco from the State where it was produced, as a kind of tobacco not subject to marketing quotas.

(b) Effective with respect to the 1982 and subsequent crops of tobacco, any kind of tobacco for which marketing quotas are not in effect that is produced in a State where marketing quotas are in effect for any kind of tobacco shall be subject to the quota for the kind of tobacco for which marketing quotas are in effect in that State. If marketing quotas are in effect in a State for more than one kind of quota tobacco, nonquota tobacco produced in the State shall be subject to the quota for the kind of quota tobacco produced in the State having the highest price support under the Agricultural Act of 1949.

(c) Subsection (b) of this section shall not apply to—(1) Maryland (type 32) tobacco when it is nonquota tobacco and produced on a farm for which a marketing quota for Maryland (type 32) tobacco was established when marketing quotas for such kind of tobacco were last in effect (1965); (2) cigar-filler (type 41) tobacco when it is nonquota tobacco and produced in Pennsylvania; (3) cigar-wrapper (type 61) tobacco when it is nonquota tobacco and produced in Connecticut or Massachusetts, and to cigar-wrapper (type 62) tobacco when it is nonquota tobacco and produced in Georgia or Florida; and (4) tobacco produced in a quota State that is represented to be nonquota tobacco and that is readily and distinguishably different from all kinds of quota tobacco, as determined through the application of the standards

issued by the Secretary for the inspection and identification of tobacco. Such inspection shall be made prior to removal of the tobacco from the State where it was produced.

(Sec. 301, 313, 314, 320, 372, 375, 377, 52 Stat. 38, as amended, 88 Stat. 1089, as amended, (7 U.S.C. 1301, 1313, 1314, 1314(f), 1372–1375).)

Signed in Washington, D.C. on March 9, 1982.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 82-6734 Filed 3-11-82; 8:45 am]

BILLING CODE 3410-05-M

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7 CFR Part 725

Flue-Cured Tobacco Acreage Allotment and Marketing Quota Regulations; Identification of Kinds of Tobacco

AGENCY: Agricultural Stabilization and Conservation Service (USDA).

ACTION: Interim rule.

SUMMARY: The purpose of this interim rule is to implement the provisions of section 320 of the Agricultural Adjustment Act of 1938, as amended by section 1108 of the Agriculture and Food Act of 1981 (Pub. L. 97–98) with respect to nonquota tobacco. With certain exceptions, nonquota tobacco which is produced in a State where marketing quotas are in effect for a kind of tobacco will be subject to the marketing quota for such kind of tobacco. These provisions are applicable beginning with the 1982 crop of tobacco. This interim rule implements the provisions of section 320 of the Act, as amended, and makes certain other clarifying language changes relating to the identification of tobacco.

EFFECTIVE DATE: March 12, 1982. Comments are due May 11, 1982.

ADDRESS: Send written comments to James M. Davis, Director, Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service (ASCS), P.O. Box 2415, U.S. Department of Agriculture, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burgess, Program Specialist, (202) 447–2715. The Final Regulatory Impact Analysis describing the impact of implementing the rule is available upon request from Mr. Burgess.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum No. 1521–1 and has been classified as "not major". The provisions of this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, industries, Federal, State or local government, or a geographical region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies as set forth in the Catalog of Federal Domestic Assistance are: Title: Commodity Loan and Purchases, Number: 10.051. This interim rule will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this interim rule.

James M. Davis, Director, Tobacco and Peanuts Division, ASCS, has determined that an emergency exists which warrants publication of this interim rule without prior opportunity for public comment. This interim rule is necessary to implement section 320 of the Agricultural Adjustment Act of 1938 (hereinafter referred to as the "1938 Act") which was amended by the Agriculture and Food Act of 1981 (Pub. L. 97–98) effective with respect to the 1982 and subsequent crops of tobacco.

Producers of tobacco are now in the process of purchasing seed and making other production plans for the 1982 crop year. Because producers of tobacco need to be informed of this interim rule as soon as possible, this interim rule shall become effective upon date of publication in the **Federal Register** without prior public comment. However, the public is invited to comment on this interim rule for a period of 60 days after its publication in the **Federal Register**. A final document discussing comments received and any amendment of this interim rule which may be required will be published in the **Federal Register** as soon as possible.

Section 320 of the 1938 Act was originally enacted in 1974 and is designed to preserve the effectiveness of the tobacco program by discouraging the production of tobacco not under quota in areas of the nation where tobacco farmers have elected to comply with marketing quotas.

Section 320 of the 1938 Act was amended by section 1108 of the Agriculture and Food Act of 1981 to provide that any nonquota tobacco produced in an area where quotas for any kind of tobacco are in effect shall be considered as a quota kind. If marketing quotas are in effect in an area for more than one kind of quota tobacco, nonquota tobacco produced in the area shall be subject to the quota for the kind of tobacco produced in the area having the highest price support under the Agricultural Act of 1949, as amended.

While Section 320 refers to tobacco produced in an "area" when identifying different kinds of tobacco, the Conference Report which accompanied S. 884, the bill which became the Agriculture and Food Act of 1981, stated as follows:

> "The conferees intend that the Secretary, in implementing section 320, construe the term 'area' to mean the entire State in which any kind of quota tobacco is produced. This construction will avoid the disruption caused by the production of nonquota tobacco in States where producers have approved marketing quotas and will help ensure the effectiveness of the tobacco program in those States." (See Senate Report No. 97–377, 97th Cong., 1st Sess., p. 192 (1981)).

Thus, the regulations at 7 CFR 725.85 relating to the identification of kinds of tobacco have been amended to specify that the term "area" shall mean the entire State in which any kind of quota tobacco is produced.

Also, the amendments made by the 1981 Act specify that certain tobacco is not subject to the provisions of section 320. One example is tobacco which is produced in any State where marketing quotas are in effect when such tobacco is represented to be nonquota tobacco and such tobacco is readily and distinguishably different from all kinds of quota tobacco, as determined through the application of the standards issued by the Secretary for the inspection and identification of tobacco. Other tobaccos which are not subject to the provisions of section 320 include the following: (1) Maryland (type 32) tobacco when it is nonquota tobacco and produced in a quota State on a farm for which a marketing quota for Maryland (type 32) tobacco was established when marketing quotas for that kind of tobacco were last in effect (1965); and (2) certain types of cigar-filler and cigar-wrapper tobaccos that have never been under quota but are produced within a State where marketing quotas for other kinds of tobacco are in effect.

In addition, certain clarifying language changes were made in the regulations at 7 CFR 725.85(a) with respect to the identification of kinds of tobacco subject to quota.

Interim Rule

PART 725—FLUE-CURED TOBACCO

Accordingly, the regulations at 7 CFR 725.85 are revised to read as follows:

§ 725.85 Identification of tobacco subject to quota.

(a) Except as provided in subsections (b) and (c) of this section, any tobacco which is determined by a representative of the State committee or county committee to have the same appearance and characteristics as a kind of tobacco for which marketing quotas are in effect shall be deemed to be a quota kind of tobacco. Such tobacco shall continue to be deemed a quota kind until it has been certified by the Agricultural Marketing Service, U.S. Department of Agriculture, under the Tobacco Inspection Act (7 U.S.C. 511) and implementing regulations (7 CFR Part 29), prior to removal of the tobacco from the State where it was produced, as a kind of tobacco not subject to marketing quotas.

(b) Effective with respect to the 1982 and subsequent crops of tobacco, any kind of tobacco for which marketing quotas are not in effect that is produced in a State where marketing quotas are in effect for any kind of tobacco shall be subject to the quota for the kind of tobacco for which marketing quotas are in effect in that State. If marketing quotas are in effect in a State for more than one kind of quota tobacco, nonquota tobacco produced in the State shall be subject to the quota for the kind of quota tobacco produced in the State having the highest price support under the Agricultural Act of 1949.

(c) Subsection (b) of this section shall not apply to—(1) Maryland (type 32) tobacco when it is nonquota tobacco and produced on a farm for which a marketing quota for Maryland (type 32) tobacco was established when marketing quotas for such kind of tobacco were last in effect (1965); (2) cigar-filler (type 41) tobacco when it is nonquota tobacco and produced in Pennsylvania; (3) cigar-wrapper (type 61) tobacco when it is nonquota tobacco and produced in Connecticut or Massachusetts, and to cigar-wrapper (type 62) tobacco when it is nonquota tobacco and produced in Georgia or Florida; and (4) tobacco produced in a quota State that is represented to be nonquota tobacco and that is readily and distinguishably different from all kinds of quota tobacco, as determined through the application of the standards issued by the Secretary for the inspection and identification of tobacco. Such inspection shall be made prior to removal of the tobacco from the State where it was produced.

(Sec. 301, 313, 314, 320, 317, 372, 375, 377, 52 stat. 38, as amended, 88 stat. 1089, as amended, (7 U.S.C. 1301, 1313, 1314, 1314c, 1314(f), 1372, 1375))

Signed in Washington, D.C. on March 9, 1982.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 82-6722 Filed 3-11-82; 8:45 am]

BILLING CODE 3410-05-M

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7 CFR Part 726

Burley Tobacco Marketing Quota Regulations; Identification of Kinds of Tobacco

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Interim rule.

SUMMARY: The purpose of this interim rule is to implement the provisions of section 320 of the Agricultural Adjustment Act of 1938, as amended by section 1108 of the Agriculture and Food Act of 1981 (Pub. L. 97–98) with respect to nonquota tobacco. With certain exceptions, nonquota tobacco which is produced in a State where marketing quotas are in effect for a kind of tobacco will be subject to the marketing quota for such kind of tobacco. These provisions are applicable beginning with the 1982 crop of tobacco. This interim rule implements the provisions of section 320 of the Act, as amended, and makes certain other clarifying language changes relating to the identification of tobacco.

EFFECTIVE DATE: March 12, 1982. Comments are due May 11, 1982.

ADDRESS: Send written comments to James M. Davis, Director, Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service (ASCS), P.O. Box 2415, U.S. Department of Agriculture, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Program Specialist, (202) 447–4281. The Final Regulatory Impact Analysis describing the impact of implementing the rule is available upon request from Mr. Millner.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum No. 1521–1 and has been classified as "not major." The provisions of this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, industries, Federal, State or local government, or a geographical region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies as set forth in the Catalog of Federal Domestic Assistance are: Title: Commodity Loan and Purchases, Number: 10.051. This interim rule will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this interim rule.

James M. Davis, Director, Tobacco and Peanuts Division, ASCS, has determined that an emergency exists which warrants publication of this interim rule without prior opportunity for public comment. This interim rule is necessary to implement section 320 of the Agricultural Adjustment Act of 1938 (hereinafter referred to as the "1938 Act") which was amended by the Agriculture and Food Act of 1981 (Pub. L. 97–98) effective with respect to the 1982 and subsequent crops of tobacco.

Producers of tobacco are now in the process of purchasing seed and making other production plans for the 1982 crop year. Because producers of tobacco need to be informed of this interim rule as soon as possible, this interim rule shall become effective upon date of publication in the **Federal Register** without prior public comment. However, the public is invited to comment on this interim rule for a period of 60 days after its publication in the **Federal Register**. A final document discussing comments received and any amendment of this interim rule which may be required will be published in the **Federal Register** as soon as possible.

Section 320 of the 1938 Act was originally enacted in 1974 and is designed to preserve the effectiveness of the tobacco program by discouraging the production of tobacco not under quota

in areas of the nation where tobacco farmers have elected to comply with marketing quotas.

Section 320 of the 1938 Act was amended by section 1108 of the Agriculture and Food Act of 1981 to provide that any nonquota tobacco produced in an area where quotas for any kind of tobacco are in effect shall be considered as a quota kind. If marketing quotas are in effect in an area for more than one kind of quota tobacco, nonquota tobacco produced in the area shall be subject to the quota for the kind of tobacco produced in the area having the highest price support under the Agricultural Act of 1949, as amended.

While section 320 refers to tobacco produced in an "area" when identifying different kinds of tobacco, the Conference Report which accompanied S. 884, the bill which became the Agriculture and Food Act of 1981, stated as follows:

"The conferees intend that the Secretary, in implementing section 320, construe the term 'area' to mean the entire State in which any kind of quota tobacco is produced. This construction will avoid the disruption caused by the production of nonquota tobacco in States where producers have approved marketing quotas and will help ensure the effectiveness of the tobacco program in those States." (See Senate Report No. 97–377, 97th Cong., 1st Sess., p. 192 (1981)).

Thus, the regulations at 7 CFR 726.80 relating to the identification of kinds of tobacco have been amended to specify that the term "area" shall mean the entire State in which any kind of quota tobacco is produced.

Also, the amendments made by the 1981 Act specify that certain tobacco is not subject to the provisions of section 320. One example is tobacco which is produced in any State where marketing quotas are in effect when such tobacco is represented to be nonquota tobacco and such tobacco is readily and distinguishably different from all kinds of quota tobacco, as determined through the application of the standards issued by the Secretary for the inspection and identification of tobacco. Other tobaccos which are not subject to the provisions of section 320 include the following: (1) Maryland (type 32) tobacco when it is nonquota tobacco and produced in a quota State on a farm for which a marketing quota for Maryland (type 32) tobacco was established when marketing quotas for that kind of tobacco were last in effect (1965); and (2) certain types of cigar-filler and cigar-wrapper tobaccos that have never been under quota but are produced within a State where marketing quotas for other kinds of tobacco are in effect.

In addition, certain clarifying language changes were made in the regulations at 7 CFR 726.80(a) with respect to the identification of kinds of tobacco subject to quota.

Interim Rule

PART 726—BURLEY TOBACCO

Accordingly, the regulations at 7 CFR 726.80 are revised to read as follows:

§ 726.80 Identification of tobacco subject to quota.

(a) Except as provided in subsections (b) and (c) of this section, any tobacco which is determined by a representative of the State committee or county committee to have the same appearance and characteristics as a kind of tobacco for which marketing quotas are in effect shall be deemed to be a quota kind of tobacco. Such tobacco shall continue to be deemed a quota kind until it has been certified by the Agricultural Marketing Service, U.S. Department of Agriculture, under the Tobacco Inspection Act (7 U.S.C. 511) and implementing regulations (7 CFR Part 29), prior to removal of the tobacco from the State where it was produced, as a kind of tobacco not subject to marketing quotas.

(b) Effective with respect to the 1982 and subsequent crops of tobacco, any kind of tobacco for which marketing quotas are not in effect that is produced in a State where marketing quotas are in effect for any kind of tobacco shall be subject to the quota for the kind of tobacco for which marketing quotas are in effect in that State. If marketing quotas are in effect in a State for more than one kind of quota tobacco, nonquota tobacco produced in the State shall be subject to the quota for the kind of quota tobacco produced in the State having the highest price support under the Agricultural Act of 1949.

(c) Subsection (b) of this section shall not apply to—(1) Maryland (type 32) tobacco when it is nonquota tobacco and produced on a farm for which a marketing quota for Maryland (type 32) tobacco was established when marketing quotas for such kind of tobacco were last in effect (1965); (2) cigar-filler (type 41) tobacco when it is nonquota tobacco and produced in Pennsylvania; (3) cigar-wrapper (type 61) tobacco when it is nonquota tobacco and produced in Connecticut or Massachusetts, and to cigar-wrapper (type 62) tobacco when it is nonquota tobacco and produced in Georgia or Florida; and (4) tobacco produced in a quota State that is represented to be nonquota tobacco and that is readily and distinguishably different from all kinds of quota tobacco, as determined through the application of the standards issued by the Secretary for the inspection and identification of tobacco. Such inspection shall be made prior to removal of the tobacco from the State where it was produced.

(Sec. 301, 313, 314, 320, 372–375, 52 Stat. 38, as amended, 66 Stat. 1089, as amended, (7 U.S.C. 1301, 1313, 1314, 1314c, 1314(f), 1372–1375))

Signed in Washington, D.C. on March 9, 1982.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 82-6723 Filed 3-11-82; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 350 and Lemon Reg. 349, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period March 14–20, 1982, and increases the quantity of lemons that may be shipped during the period March 7–13, 1982. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

EFFECTIVE DATES: The regulation becomes effective March 14, 1982 and the amendment is effective for the period March 7–13, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation and amendment are issued under the marketing agreement, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. The committee met again publicly on March 9, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is active.

It is further found that it is impracticable and contrary to the public interert to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. Section 910.650 is added as follows:

§ 910.650 Lemon regulation 350.

The quantity of lemons grown in California and Arizona which may be handled during the period March 14, 1982, through March 20, 1982, is established at 255,000 cartons.

2. Section 910.649 Lemon Regulation 349 (47 FR 9387) is revised to read as follows:

§ 910.649 Lemon regulation 349.

The quantity of lemons grown in California and Arizona which may be handled during the period the March 7, 1982, through March 13, 1982, is established at 285,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: March 11, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc. 82-7013 Filed 3-11-82; 11:46 am]

BILLING CODE 3410-02-M

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7 CFR Part 928

[Termination of Hawaiian Papaya Reg. 12]

Papayas Grown in Hawaii; Termination of Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule terminates size requirements currently in effect for fresh export shipments of Hawaiian papayas. Recent rains in the production area have altered the supply and demand factors upon which these size requirements are based. This action recognizes the current and prospective marketing situation for Hawaiian papayas.

EFFECTIVE DATE: March 8, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers

This final rule is issued under the marketing agreement and Order No. 928 (7 CFR Part 928) regulating the handling of papayas grown in Hawaii. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Papaya Administrative Committee and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

Hawaiian Papaya Regulation 12 currently in effect requires papayas grown in Hawaii shipped to export markets (points outside of Hawaii) to weigh at least 14 ounces but not more than 25 ounces. This regulation was published February 12, 1982, in the Federal Register (47 FR 6422), to be effective for the period February 15–April 30, 1982.

The committee met on March 3, 1982, to review crop and market conditions and consider recommendations for modification or termination of size requirements for papayas. The committee reports that heavy rains in the production area have reduced the crop size, and that handlers are having difficulty packing to the size requirements currently in effect. It also reports that the production and shipment level is less than earlier anticipated, and that termination of the size requirements would provide additional supplies to consumers consistent with demand. Therefore, the committee recommended that the size requirements be terminated.

It is found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this final rule until 30 days after publication in the Federal Register (5 U.S.C. 553) in that the time intervening between the date when information upon which this final rule is based became available and the time when this final rule must become effective in order to effectuate the declared policy of the act is insufficient. This final rule terminates regulations on the handling of Hawaiian papayas. It is necessary to effectuate the declared purposes of the act to make this termination effective as specified, and handlers have been apprised of the termination and the effective time.

PART 928—PAPAYAS GROWN IN HAWAII

Therefore, the provisions of § 928.312 Hawaiian Papaya Regulation 12 (47 FR 6422) are hereby terminated.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: March 8, 1982, to become effective March 8, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-6794 Filed 3-11-82; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 982

Filberts/Hazelnuts Grown in Oregon and Washington; Revision of Final Free and Restricted Percentages for the 1981–82 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action revises marketing percentages for inshell filberts for the marketing year which began May 1, 1981. The action is taken under the marketing order for filberts/hazelnuts grown in Oregon and Washington to promote orderly marketing conditions for the 1981 crop. It was recommended by the Filbert/Hazelnut Marketing Board which is established under the

marketing order to work with the USDA in administering the program.

EFFECTIVE DATES: May 1, 1981 through April 30, 1982.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated nine handlers.

It is found that a situation exists which makes it impractical, unnecessary, and contrary to the public interest to: (a) Allow an opportunity for written public comment on this final rule; and (b) postpone the effective time of this action until 30 days after publication in the Federal Register (5 U.S.C. 553) because: (1) The percentages revised herein for the 1981–82 marketing year apply to all merchantable filberts handled during that year; (2) this action must be taken promptly to achieve its purpose of making more filberts available for market; (3) handlers are aware of this action as recommended by the Board at an open meeting held February 9, 1982, and require no additional time to comply; and (4) this action relieves restrictions on handlers.

On December 16, 1981, free and restricted percentages of 29 percent and 71 percent were established for the 1981–82 marketing year. These percentages were published in the Federal Register on December 23, 1981 (46 FR 62243). This final rule increases the free percentage to 31 percent and decreases the restricted percentage to 69 percent to make 102 percent of the previously established trade demand of 5,043 tons (46 FR 52087) available to the trade for inshell filbert market needs. The initial percentages released 100 percent of that trade demand.

The authority to establish the trade demand, the final free and restricted percentages, and the revision of those percentages is contained in § 982.40 of the marketing agreement and Order No. 982, both as amended (7 CFR Part 982; 46 FR 26037), regulating the handling of filberts/hazelnuts grown in Oregon and Washington. The marketing agreement and order are collectively referred to as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Pursuant to § 982.40(e), at any time prior to February 15 of the marketing year the Board may recommend to the Secretary revisions in the marketing policy for that year: *Provided*, That in no event shall any revision result in free and restricted percentages which would release more than 110 percent of the inshell trade demand computed for that marketing year. Section 982.40(e) also provides that at any time during the period December 1 through February 10 at the request of two or more handlers who during the preceding marketing year handled at least 10 percent of all filberts handled the Board shall meet to determine whether the marketing policy should be revised.

At the request of two such handlers, the Board met on February 9, 1982. The Board noted that the 1981 crop was less than previously estimated. It also noted that all inshell filberts made available by the current free percentage had been sold to the trade, and that it would be desirable to make an additional quantity of inshell filberts available to handlers. Thus, the Board recommended that 102 percent of the established trade demand be released and that the free and restricted percentages be revised.

In revising the percentages, the Board considered the following supply and demand information for the 1981–82 marketing year:

	Tons	
	Previous estimate Nov. 15, 1982	Revised estimate Feb. 9, 1982
Inshell Supply:		
(1) Total production	15,000	14,330
(2) Less substandard, farm use, etc	1,500	1,433
(3) Merchantable production	13,500	12,897
(4) Plus carryover May 1, 1981, subject to regulation	920	920
(5) Supply subject to regulation (Item 3 plus Item 4)	14,420	13,817
Inshell Requirements:		
(6) Trade demand	5,045	5,144
(7) Less carryover May 1, 1981, not subject to regulation	839	839
(8) Adjusted trade demand	4,204	4,305
Percentages:		
(9) Free percentage (Item 8 divided by Item 5)	29	31
(10) Restricted percentage (100 percent minus 29 percent)	71	69

The free percentage prescribes that portion of the total merchantable supply subject to regulation which may be handled as inshell filberts. The restricted percentage prescribes that portion which must be withheld from such handling. Restricted filberts may be shelled (for domestic or foreign consumption), exported, or disposed of in outlets determined by the Board to be non-competitive with normal market outlets for inshell filberts.

After consideration of all relevant matter presented, the information and recommendation submitted by the Board, and other available information, it is further found that the revision of final free and restricted percentages for the 1981–82 marketing year will tend to effectuate the declared policy of the act.

PART 982—FILBERTS/HAZELNUTS GROWN IN OREGON AND WASHINGTON

Therefore, § 982.231(b) is revised to read as follows: (The following section will not be published in the Code of Federal Regulations).

§ 982.231 Trade demand and final free and restricted percentages—1981–82 marketing year.

* * * * *

(b) The final free and restricted percentages for merchantable filberts/hazelnuts for the 1981–82 marketing year shall be 31 percent and 69 percent, respectively.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: March 9, 1982.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division.

[FR Doc. 82-6827 Filed 3-11-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 316a, 328, 332, 332a, 334, 335, 335b, 336, 339, and 344

Nationality and Naturalization; Revisions Under the Immigration and Nationality Act Amendments; Act of December 29, 1981

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: On December 29, 1981, the President of the United States signed into law the Immigration and Nationality Act Amendments of 1981. The amendments provide streamlined procedures, cancel unnecessary regulations, eliminate character witness requirements for applicants for naturalization, and eliminate the minimum thirty (30) day waiting period for petitions filed in the court before final disposition. Additionally, active state naturalization courts are permitted to retain an increased share of the petition fees paid. The efficiency measures are of significant benefit to the operation of the Immigration and Naturalization Service by enabling better service to the public. The efficiency measures also provide benefits to the alien population by making naturalization a less difficult and more timely process. This final rule implements the necessary revisions to Immigration and Naturalization Service regulations regarding nationality and naturalization procedures.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536, Telephone: (202) 633–3048

For Specific Information: Keith C. Williams, Acting Assistant Commissioner, Naturalization, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, DC 20536, Telephone: (202) 633–3320

SUPPLEMENTARY INFORMATION: The recent amendments made by the Immigration and Nationality Act Amendments of 1981, Pub. L. 97–116, effective December 29, 1981 (95 Stat. 1611 et seq.), are in part applicable to sections 316, 328, 332, 334, 335, 336, 339, 344 of Title III of the I&N Act and the corresponding regulations. As a result of these legislative changes the following sections of the regulations are removed or amended:

Section 316(b) of the Immigration and Nationality Act, 8 U.S.C. 1427(b) formerly provided for preservation of residence and/or physical presence benefits for naturalization purposes to qualified applicants while employed overseas. The amended Act now extends these benefits to the applicant's spouse and dependent children and 8 CFR 316a.21 is amended to include qualified dependents.

Section 334 of the Immigration and Nationality Act, 8 U.S.C. 1445, establishes the procedures and requirements for filing a petition for naturalization in a court of competent jurisdiction. The amended legislation eliminates the requirement for two United States citizen witnesses to testify as to the character of the applicant and all knowledgeable facts affecting the applicant's eligibility. Accordingly, 8 CFR Part 335b, PROOF OF QUALIFICATIONS FOR NATURALIZATION: WITNESSES; DEPOSITIONS, and § 336.17 Substitution of witnesses, are removed in their entirety. Also, the following sections are amended to remove references to the witness requirements:

PART 328—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: PERSONS WITH THREE YEARS SERVICE IN ARMED FORCES OF THE UNITED STATES

Section 328.2 Service not continuous.
Section 328.3 Petition.

PART 332—PRELIMINARY INVESTIGATION OF APPLICANTS FOR NATURALIZATION AND WITNESSES

Section 332.11 Investigation Preliminary to Filing Petition for Naturalization:
(a) *Scope of Investigation.*
(b) *Conduct of Investigation.*

PART 332a—OFFICIAL FORMS

Section 332a.2 Official forms prescribed for use of clerks of naturalization courts.
Section 332a.13 Alteration of forms of petitions or applications for naturalization.
(b) *Exemption from residence or physical presence in the United States or State.*
(e) *Supplemental affidavits filed with petition for naturalization.*

PART 334—PETITION FOR NATURALIZATION

Section 334.2 Oath or affirmation of petitioner (and witnesses).
Section 334.11 Petition for naturalization and preliminary application.
Section 334.21 Verification of petition for naturalization; administration of oath.

PART 335—PRELIMINARY EXAMINATION ON PETITIONS FOR NATURALIZATION

Section 335.11 Preliminary examination pursuant to section 335(b) of the Immigration and Nationality Act.
(a) *When Held.*
(b) *Conduct of Examination.*

PART 336—PROCEEDINGS BEFORE NATURALIZATION COURT

Section 336.11 Personal representation of Government at naturalization proceedings.

PART 339—FUNCTIONS AND DUTIES OF CLERKS OF NATURALIZATION COURTS

Section 339.1 Administration of oath to declarations of intention and petitions for naturalization.

Formerly, under section 336(c) of the Immigration and Nationality Act, 8 U.S.C. 1447(c), petitioners had a waiting period of thirty days from the date the petition was filed until the date of final hearing. The amendment to the Act repeals this waiting period. Accordingly, 8 CFR 336.16 Final hearing; waiver of 30-day period, is repealed in its entirety.

Finally, section 344(c) of the Immigration and Nationality Act, 8 U.S.C. 1455(c), has been amended to increase the amount of fees permitted to be retained by local and state courts. Formerly, this section of the Act permitted the courts to retain one-half of all naturalization fees collected up to $6,000 in any fiscal year. The amended Act now allows these courts to retain one-half of all fees collected up to $40,000; therefore, in 8 CFR Part 344—Fees Collected By Clerks of Courts, § 344.3, fees in other than United States courts; remittances, is amended to reflect this increase in fees to be retained by the courts.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is not necessary and is contrary to the public interest as all revisions to the regulations are required by Pub. L. 97–116 dated December 29, 1981 (95 Stat. 1611 et seq.).

In accordance with 5 U.S.C. 605(b) the Commissioner of the Immigration and Naturalization Service certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This rule is exempt from the procedures prescribed under E.O. 12291 because the revisions are mandated by the amendment to the Immigration and Nationality Act by the Immigration and Nationality Act Amendments of 1981, effective December 29, 1981.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 316a—RESIDENCE, PHYSICAL, PRESENCE AND ABSENCE

1. In § 316a.21, a new paragraph (d) is added to read as follows:

§ 316a.21 Application for benefits with respect to absences; appeal.

* * * * *

(d) Approval of Form N–470 under section 316(b) of the Act shall cover the spouse and unmarried dependents of the applicant who are residing abroad as members of the applicant's household during the period covered by the application. Form N–472 shall be notated to identify those family members so covered.

(Sec. 316 of the I&N Act, as amended; 8 U.S.C. 1426)

PART 328—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: PERSONS WITH THREE YEARS SERVICE IN ARMED FORCES OF THE UNITED STATES

2. Section 328.2 is amended to read as follows:

§ 328.2 Service not continuous.

A person of the class described in section 328(c) of the Act whose service aggregating three years was not continuous shall establish the qualifications prescribed in that section

during the periods when not serving in the armed forces.

3. Section 328.3 is amended to read as follows:

§ 328.3 Petition.

A person of the class described in section 328 of the Act must submit an application to file a petition for naturalization on Form N–400. The duly authenticated copies of the records and the certified statements of the executive departments described in section 328 of the Act shall be requested by the applicant on Form N–426, prepared in triplicate, and submitted to the Service with the Form N–400. Any person of the class described in § 328.1 or § 328.2 of this part may file his/her petition for naturalization in any naturalization court regardless of place of residence. The petition for naturalization must be filed, in duplicate, on Form N–405.

(Sec. 328 of the I&N Act, as amended; 8 U.S.C. 1439)

PART 332—PRELIMINARY INVESTIGATION OF APPLICANTS FOR NATURALIZATION AND WITNESSES

4. In § 332.11 paragraphs (a) and (b) are revised to read as follows:

§ 332.11 Investigation preliminary to filing petition for naturalization.

(a) *Scope of investigation.* Whenever practicable, each applicant for naturalization shall appear in person before an officer of the Service authorized to administer oaths or affirmations, prior to the filing of a petition for naturalization, and give testimony under oath or affirmation concerning the applicant's mental and moral qualifications for citizenship, attachment to the principles of the Constitution, and disposition to the good order and happiness of the United States, and the other qualifications to become a naturalized citizen as required by law. The investigation shall be uniform throughout the United States. During the interrogation of the applicant and at the applicant's request, an attorney or representative who has filed an appearance in accordance with Part 292 of this chapter may be permitted to be present and observe the interrogation and make notes without otherwise participating therein.

(b) *Conduct of investigation.* Prior to the beginning of the investigation, the Service officer shall make known to the applicant the official capacity in which he/she is conducting the investigation. The applicant shall be questioned under oath or affirmation in a separate setting apart from the public. The applicant shall be questioned as to each assertion made by him/her in the application to file a petition and in any supplemental form. Whenever necessary, the written answers in the forms shall be corrected by the officer to conform to the oral statements made under oath or affirmation. The Service officer may have a stenographic transcript made, or prepare an affidavit covering testimony of the applicant. The questions to the applicant shall be repeated in different form and elaborated, if necessary, until the officer conducting the investigation is satisfied that the person being questioned fully understands them. At the conclusion of the investigation all corrections made on the application form and supplements thereto must be consecutively numbered and recorded in the space provided therefor in the applicant's affidavit contained in the form. The affidavit must then be subscribed and sworn to or affirmed by the applicant and signed by the Service officer. Witnesses, if called, shall be questioned to develop their own credibility and competency as well as the extent of their personal knowledge of the applicant's qualifications to become a naturalized citizen. If the applicant is excepted from the requirement of reading and writing, and speaking English, the questioning, including the examination of the applicant's knowledge and understanding of the Constitution, history, and form of Government of the United States, may be conducted through an interpreter.

(Sec. 332 of the I&N Act, as amended; 8 U.S.C. 1443)

PART 332a—OFFICIAL FORMS

§ 332a2. [Amended]

5. In § 332a.2, Official forms prescribed for use of clerks of naturalization courts, the following form is removed: N–451—Affidavits of Witnesses (to Petition for Naturalization).

6. In § 332a.13, paragraph (b) is revised and paragraph (e) is removed.

§ 332a.13 Alteration of forms of petitions or applications for naturalization.

* * * * *

(b) *Exemption from residence or physical presence in the United States or State.* Whenever residence or physical presence in the United States or State for any specified period is not required, by striking out the allegations relating thereto as to the period of United States or State residence or physical presence.

* * * * *

(e) [Removed]

* * * * *

(Sec. 332 of the I&N Act, as amended; 8 U.S.C. 1443)

PART 334—PETITION FOR NATURALIZATION

7. Section 334.2 is revised to read as follows:

§ 334.2 Oath or affirmation of petitioner.

The petition for naturalization shall be executed under the following oath (or affirmation): "You do swear (affirm) that you know the contents of this petition for naturalization subscribed by you, and that the same are true to the best of your knowledge and belief."

8. Section 334.11 is revised to read as follows:

§ 334.11 Petition for naturalization and preliminary application.

A person who desires to apply for naturalization shall, before filing his petition for naturalization, execute and submit preliminary application Form N–400. Former citizens who are applying under section 324(a) or 327 of the Act shall execute supplement Form N–400A. Seamen who are applying under section 330 of the Act shall execute supplement Form N–400B. The Service shall notify the applicant when and where to appear for preliminary investigation and filing his/her petition for naturalization.

9. Section 334.21 is revised to read as follows:

§ 334.21 Verification of petition for naturalization; administration of oath.

Every petition for naturalization must be verified by the petitioner before it is filed. The petitioner shall appear in person either before a designated examiner or before the clerk of the court or authorized deputy, and such officer shall administer the required oath or affirmation to the petitioner.

(Sec. 334 of the I&N Act, as amended; 8 U.S.C. 1445)

PART 335—PRELIMINARY EXAMINATION ON PETITIONS FOR NATURALIZATION

10. In § 335.11, paragraph (a) is revised to read as follows:

§ 335.11 Preliminary examination pursuant to section 336(b) of the Immigration and Nationality Act.

(a) *When held.* Preliminary examinations shall be open to the public, and shall, where practicable, be held immediately after the petition for naturalization is filed with the clerk of court unless, in the opinion of the district director, the interests of good administration would be better served by holding such examinations prior to the filing of the petition in the office of the clerk of court, but in no event shall such examinations be held before the petition has been properly executed by the petitioner.

* * * * *

(Sec. 335 of the I&N Act, as amended; 8 U.S.C. 1446)

PART 335b—PROOF OF QUALIFICATIONS FOR NATURALIZATION: WITNESSES: DEPOSITIONS [REMOVED]

11. Part 335b is removed.

PART 336—PROCEEDINGS BEFORE NATURALIZATION COURT

12. Section 336.11 is revised to read as follows:

§ 336.11 Personal representation of Government at naturalization proceedings.

At least 30 days prior to the holding of any naturalization proceedings referred to in section 336(d) of the Act, the clerk of the naturalization court shall give written notice to the appropriate district director of the time, date, and place of such proceedings. Such notice may be waived by the district director. Final naturalization hearings and other naturalization proceedings shall be attended personally by naturalization examiners or other officers of the Service, who shall interrogate each petitioner or applicant regarding pertinent developments occurring subsequent to the date of filing of the petition or application, and shall, if not affected by the interrogation, present to the court the views and recommendations of the designated examiner and the regional commissioner, as appropriate. If the recommendation of the regional commissioner does not agree with that of the designated examiner, a member of the Service other than the person who conducted the preliminary examination shall, whenever practicable, represent the Service before the court. Such a representative may cross-examine the petitioner and may call other witnesses and produce evidence concerning any matter affecting the petitioner's eligibility for naturalization. When necessary, the representative in attendance shall have a stenographic report made of the testimony.

13. Section 336.16 is removed.

§ 336.16 Final hearing; waiver of 30 day period [Removed].

14. Section 336.16a is revised to read as follows:

§ 336.16a Final hearing; execution of questionnaire.

Immediately prior to the commencement of the final hearing, each person filing a petition for naturalization in his own behalf shall execute the questionnaire on Form N–445; or, if such person is filing a petition for naturalization in behalf of a child pursuant to section 322 of the Immigration and Nationality Act, said child being 13 years of age or older on the date of the final hearing, such person shall execute the questionnaire on Form N–445B.

15. Section 336.17 is removed.

§ 336.17 Substitution of witnesses [Removed].

PART 339—FUNCTIONS AND DUTIES OF CLERKS OF NATURALIZATION COURTS

16. Section 339.1 is revised to read as follows:

§ 339.1 Administration of oath to declarations of intention and petitions for naturalization.

It shall be the duty of every clerk of a naturalization court to administer the required oath or affirmation to each applicant for a declaration of intention. The clerk shall receive and file petitions and administer the required oath or affirmation to each petitioner unless such petitioner has executed the petition before a designated examiner.

(Sec. 339 of the I&N Act, as amended; 8 U.S.C. 1450)

PART 344—FEES COLLECTED BY CLERKS OF COURT

17. Section 344.3 is revised to read as follows:

§ 344.3 Fees in other than United States courts; remittance.

Clerks of courts other than United States courts shall similarly remit to the regional commissioner in the manner provided in § 344.2 one-half of all fees up to the sum of $40,000 and all fees in excess of $40,000, collected for declarations of intention and petitions for naturalization in any fiscal year.

(Sec. 344 of the I&N Act, as amended; 8 U.S.C. 1455)

Dated: February 26, 1982.

Alan C. Nelson,

Commissioner of Immigration and Naturalization.

[FR Doc. 82-6748 Filed 3-11-82; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 318, 319, and 381

[Docket No. 81-010 F]

Meat and Poultry Products; Phosphates and Sodium Hydroxide

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal meat inspection regulations and the Federal Poultry products inspection regulations to permit the use of certain sodium phosphates and potassium phosphates that have been approved for use in food by the Food and Drug Administration (FDA). This final rule also amends the regulations to permit the use of phosphates and sodium hydroxide in a wider range of meat and poultry food products than previously permitted. These actions are being taken in response to petitions from official meat and poultry processing establishments. In addition, this final rule amends the standard for cooked sausages to remove previous restrictions on the use of phosphates in these products. This action is taken in response to comments to the proposal for such action.

EFFECTIVE DATE: April 12, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Hibbert, Director, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6042.

SUPPLEMENTARY INFORMATION.

Executive Order 12291

The Agency has determined in accordance with Executive Order 12291 that this final rule is not a "major rule." It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not have a significant adverse effect on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This docket has been reviewed for cost effectiveness under USDA Secretary's Memorandum 1512–1 implementing Executive Order 12291. The implementation of this regulation

would provide manufacturers of meat food products and poultry products with greater flexibility by expanding the applications and uses of phosphates and sodium hydroxide. The action is not expected to have any adverse impact on industry because the final rule merely expands the application and uses of these substances. It imposes no new requirements on businesses of any size. There are no adverse economic impacts or social costs identified with this action. Consequently, it would have a net benefit to society. The only alternative identified with this action is to retain the status quo and not issue these final changes. This would continue the existing regulations for use of these substances and thus not provide the benefits of less restrictive regulations.

Effects on Small Entities

The Administrator has determined that this action will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Public Law 96–354 (5 U.S.C. 601), because this will impose no new requirements on industry. The implementation of this final rule will expand the permitted uses of potassium phosphates and sodium hydroxide. It is anticipated that this will not result in a significant economic impact.

Comments on Proposal

The Agency published a proposal on phosphates and sodium hydroxide in the **Federal Register** of August 7, 1981 (46 FR 40206). The agency received a total of 48 comments in response to the proposal. Of these, 38 comments supported one or more of the provisions in the proposal and 10 comments opposed the proposal. Several of the supporting comments requested that the Agency approve additional uses for phosphates; or clarify the uses of phosphates not addressed in the proposal.

The additional use of clarification requests include: (1) Amending the sausage standards (9 CFR 319.140 and 319.180) to allow the direct addition of phosphates to sausages; (2) amending the flavor protection entry of sodium tripolyphosphate; (3) changing the sodium hydroxide to phosphate ratio to a limiting ratio rather than a required ratio; (4) approving the use of potassium hydroxide and sodium bicarbonate as pH control agents in meat food products; (5) making the terminology for sodium hexametaphosphate more precise; (6) using dry phosphate powders at the 0.5 percent level in addition to phosphates in solution; (7) eliminating the reference to freezing the meat as a requirement for phosphate addition for items in the table under "flavoring agents, protectors, and developers"; (8) limiting the ultimate pH to which meat can be adjusted; and (9) clarifying the use of phosphates in meat food products for which a definition, standard of identity, or composition has been prescribed by the Secretary in Part 319 of the Federal meat inspection regulations (9 CFR 319). Summaries of the comments and the Agency's response to them appear in the following paragraphs.

1. Nineteen comments requested the Agency to amend the sausage standards (9 CFR 319.140 and 319.180) to allow the direct addition of phosphates to sausages. Such an amendment was not a part of the proposal, which proposed only that the use of phosphates be extended to various meat food products except where otherwise prohibited by Federal meat inspection regulations. Section 319.140 provides for a standard of composition for sausage and prohibits the use of phosphates in sausages, except uncooked pork from cuts cured with phosphates listed in § 318.7(c)(4) of the Federal meat inspection regulations (9 CFR 318.7(c)(4)) may be used in cooked sausage. This refers to the industry practice of using pork trimmings cured with phosphates as a meat ingredient in cooked sausage. The comments argued that the stipulation against direct addition of phosphates to cooked sausage constitutes economic discrimination against small processors who may not have a continuous supply of phosphated pork trimmings available. The comments also indicated that the use of phosphates in cooked sausages would facilitate the use of lower levels of sodium chloride, thus resulting in an overall reduction of sodium levels in cooked sausage.

The Agency recalls that the original intent of the phosphate proscription in cooked sausages was to help control the water and fat content of cooked sausage products. When the use of uncooked cured pork trimmings containing phosphates was originally approved, a limit of 10 percent of the total product weight was established. The 10 percent limitation on the use of these trimmings was subsequently lifted, but the prohibition against the direct addition of phosphates remains. The water and fat contents of cooked sausages are now controlled independently of phosphates, so the original reason for prohibiting the direct addition of phosphates to sausages no longer exists.

The request to permit the direct addition of phosphates to cooked sausages raises the question of the technical effect of phosphates in cooked sausages. The technical effect for which phosphates are listed under the "Phosphates" section of 9 CFR 318.7 is "to decrease amount of cooked out juices." Several comments, however, specifically indicated other technical effects of phosphates in cooked sausages which included antioxidant, emulsion stabilizer, solubilizer for salt soluble proteins, and texturizer. These technical effects, except for solubilizer, were also reported for phosphates in meat and poultry products in the National Academy of Sciences/National Research Council (NAS/NRC) Survey of Food Manufacturers conducted for the Food and Drug Administration (FDA) in 1972. Because the cooked sausages were not listed separately in that survey, the Agency cannot determine whether or not phosphates have these technical effects in cooked sausages. Based on the comments, however, and the NAS/NRC survey, the Agency concludes that phosphates serve valid technical effects other than water binding in cooked sausages, such as decreasing the amount of cooked out juices and increasing flavor protection.

In addition, the Agency views the potential reduction in sodium levels in sausages and the potential reduction of economic discrimination against small processors as positive benefits of using phosphates in cooked sausages. Therefore, this final rule amends the sausage standards to permit the direct addition of phosphates to cooked sausages under the conditions set out in 9 CFR 318.7(c)(4) of the Federal meat inspection regulations.

However, the use of phosphates in sausage, other than cooked sausage, would have no technical effect, and could cause such sausage to become economically adulterated within the meaning of section 1(m)(8) of the Federal Meat Inspection Act (21 U.S.C. 601(m)(8)). Therefore, the Agency will continue to prohibit the use of phosphates in sauage, other than cooked sausage.

2. Ten comments expressed opposition to the use of phosphates and sodium hydroxide in meat and poultry food products. The principal basis of these comments was a general concern about the safety of food additives. One comment indicated the extreme toxicity of organophosphates.

The Agency emphasizes that this rulemaking encompasses only food-grade inorganic phosphates that are approved by the FDA. FSIS acknowledges the extreme toxicity of organophosphates which are sometimes used for pest control. Food-grade phosphates are sharply distinct from organophosphates in terms of chemical structure, chemical properties and biological toxicity. Any meat or poultry food product found to contain demonstrable amounts of organophosphates would be considered to be adulterated within the meaning of section 1(m) of the Federal Meat Inspection Act or section 4(g) of the Poultry Products Inspection Act, and would be subject to appropriate sanctions under the Acts.

Added substances have been used in food, including meat and poultry food products, for many years. When used in accordance with the safety provisions of the Federal Food, Drug and Cosmetic Act, the use of added substances has generally served to promote the technical quality and consumer acceptability of processed foods and to minimize economic losses due to spoilage. The phosphates (and sodium hydroxide) for which new uses are approved in this final rule are either generally recognized as safe (GRAS) by FDA (21 CFR 182) or proposed for affirmation as GRAS by that Agency. The FDA's determination of the safety of these ingredients is based on the conclusions of the Select Committee on GRAS Substances organized by the Federation of American Societies for Experimental Biology (FASEB). The final reports of the Select Committee on the safety of phosphates and sodium hydroxide are available for purchase from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22151. The ordering number for the phosphate report is PB–262–651/AS and the current cost is $4.50; the ordering number for the sodium hydroxide report is PB–285–507/AS and the current cost is $4.00. (These prices are subject to change.) Based on the conclusions of these reports, the FDA proposed to affirm the GRAS status of phosphates in the **Federal Register** of December 18, 1979 (44 FR 74845) and of sodium hyroxide in the **Federal Register** of February 22, 1980 (45 FR 11842). Based on the results of the FDA evaluation concerning the safety of phosphates and sodium hydroxide in food, the Administrator concludes that it is appropriate to approve the use of these ingredients in meat and poultry food products under the conditions specified in the FSIS proposal.

3. Nine comments requested approval of phosphates for the technical effect of "helping to protect flavor" and also requested clarification of the product categories in which phosphates are approved for this technical effect. Several of these comments expressed uncertainty about the meaning of the term "and similar products" under the flavor protection entry for the use of sodium tripolyphosphate in "fresh beef," "beef for further cooking," "cooked beef" and similar products. One comment made reference to a petition submitted previously to FSIS requesting that the flavor protection entry be amended to provide for the use of sodium tripolyphosphate in beef patties and fabricated steak. The comment expanded on this petition by requesting that the flavoring agent provision for approved phosphates be amended to include the product categories "beef patties, meat loaves, meat toppings, and similar products derived from pork, lamb, veal, mutton, and goat meat which are cooked or frozen after processing."

In view of the fact that FDA has proposed to affirm the GRAS status of sodium tripolyphosphate and sodium hexametaphosphate as flavor enhancers in meat and poultry products (44 FR 74845), the Agency sees no problem with such an amendment from a safety standpoint. The comments constitute support for the efficacy of sodium tripolyphosphate and sodium hexametaphosphate as flavor protectors in the meat products in question. Therefore, the Agency concludes that it is appropriate to amend the flavor protection entry for sodium tripolyphosphate and sodium hexametaphosphate to include the additional meat product categories that were requested in the petition and the comments. However, the Agency hastens to add the following caveat; when an added substance, such as a phosphate, is approved for two or more technical effects in the same product, it is not the intent of the Agency to permit use of the substance at a combined level higher than the highest level permitted for any single technical effect. For phosphates, this means that the maximum amount permitted in meat or poultry is 0.5 percent in the product regardless of the intended technical effect or combination thereof. This final rule so amends the table of approved substances.

4. Eight comments expressed support for the use of approved phosphates to reduce the amount of cooked out juices in an expanded array of meat and poultry products.

The Agency agrees with these comments. The approval of phosphates in this final rule is not intended to encompass certain minimally processed standardized products such as ground beef (9 CFR 319.15(a)), hamburger (9 CFR 319.15(b)) and fresh sausage (9 CFR 319.140–145). The use of phosphates is not currently provided for in the regulations for these products and the Agency intends to adhere to this policy. In order to make this policy more explicit, this final rule amends the standards for ground beef and hamburger (9 CFR 319.15 (a) and (b)) to prohibit the addition of phosphates to these products.

The Agency address in Footnote 2 of the table of approved substances is also being changed to reflect recent reorganizations and resulting name changes.

5. Six comments supported the substitution of potassium phosphates for sodium phosphates in meat and poultry food products. Although potassium phosphates are usually more expensive that the corresponding sodium phosphates, they do offer a way to reduce the sodium content of these products without drastically altering their characteristics.

The Agency agrees with these comments. The voluntary reduction of sodium levels in food is a common goal of FSIS and FDA. FDA is in the process of finalizing its 1979 proposal to affirm the GRAS status of several sodium and potassium phosphates. The substitution of potassium phosphates for sodium phosphates, where technically and economically feasible, is one way of effecting a general reduction of sodium levels in foods. FSIS supports the substitution of potassium phosphates for sodium phosphates within the scope of the FDA proposal. Certain potassium phosphates (insoluble potassium metaphosphate, potassium trimetaphosphate, potassium polyphosphates, glassy and potassium acid pyrophosphate) were not proposed for GRAS affirmation by FDA because that Agency has no evidence that they are being used in food. With these exceptions, this final rule amends the table of approved substances to include potassium phosphates that have been proposed to be affirmed as GRAS by FDA.

6. Five comments addressed the use of sodium hydroxide and other basic substances as pH control agents in meat and poultry food products. Four comments requested relaxation of the 4:1 ratio of phosphate to sodium hydroxide in the table of approved substances for use in meat products. The comments agreed that the proposed regulation should be modified to permit the addition of sodium hydroxide in an amount sufficient to adjust the pH to a desired level, but not to exceed a limit of one part of sodium hydroxide to four parts of phosphate. One comment requested the approval of potassium hydroxide as an alternative to sodium hydroxide. Another comment requested

the approval of sodium bicarbonate as an alternative pH control agent to sodium hydroxide.

The technical effect for which sodium hydroxide is currently approved is not pH control, but to decrease the amount of cooked out juices. Furthermore, the only approval of sodium hydroxide for this use is in conjunction with phosphates in the ratio of one part sodium hydroxide to four parts phosphate. Upon review of this approved use and the intent of the regulation, the Agency can see no reason for requiring a sodium hydroxide/phosphate ratio of exactly 1:4 as long as this value is not exceeded. Therefore, this final rule amends the provisions in the "amount" column of the sodium hydroxide entry to read as follows: "May be used only in combination with phosphates in a ratio not to exceed one part sodium hydroxide to four parts phosphate."

The Agency acknowledges the requests for approval of potassium hydroxide and sodium bicarbonate as pH control agents in meat food products. Sodium bicarbonate is already listed as approved for the purposes of neutralizing excess acidity in rendered fats, curing pickles, and cleaning vegetables for soups (9 CFR 318.7(c)(4)). Agency evaluation of the use of sodium bicarbonate as a pH control agent in other meat food products is not within the scope of this rulemaking and it should be the subject of separate notice and comment rulemaking. If meat and poultry processors wish to use these substances as pH control agents in their products they should consider petitioning the Agency for approval of such use.

7. Four comments supported the use of phosphates to retard oxidative rancidity in meat food products. This was considered most important in noncured, precooked processed meat or sausage products to prevent the development of a "warmed over" taste and also in frozen products to retard the development of rancidity.

The Agency agrees with these comments. However, because phosphates do not appear to be as potent antioxidants as the traditional antioxidants (BHT, BHA, TBHQ, etc.), this final rule continues to list the approved phosphates as helping to protect flavor rather than as antioxidants per se.

8. One comment called attention to the ambiguous chemical nomenclature of "hexametaphosphate." It recommended the separation of the so-called "sodium metaphosphates" into three categories: sodium metaphosphate, insoluble; sodium trimetaphosphate and sodium polyphosphates, glassy.

The Agency agrees that the term "sodium hexametaphosphate" may be an ambiguous chemical name. The need for more precise terminology led the Committee on Codex Specifications of the National Research Council to list separately the three substances mentioned above in the 3rd Edition of the *Food Chemicals Codex* (National Academy Press, Washington, D.C., 1981). Communications with FDA indicate that it is considering doing likewise in its final rule on phosphates. Therefore, this final rule deletes the name "sodium hexametaphosphate" from the proposed rule and replaces it with the names "sodium metaphosphate, insoluble," and "sodium polyphosphates, glassy." "Sodium trimetaphosphate" is an approved food additive listed by FDA for use as an esterifying agent with modified food starch (21 CFR 172.892(d)). That use is one primarily within the jurisdiction of FDA and does not require additional listing by this Agency. The corresponding potassium phosphates are not being listed because they are not listed in the *Food Chemicals Codex*, (3rd ed.), and FDA is not considering affirming these compounds as GRAS.

9. One comment supported the proposal but requested that the table of approved substances be further modified to permit the use of dry phosphate powers at the 0.5 percent level in addition to phosphates in solution which would increase the level to 1 percent of the total product. The comment argued that this would permit the use of phosphates in the preparation of frankfurters, bologna, pre-cooked breakfast sausage and similar products.

The Agency, as discussed in item 1 above, is amending the cooked sausage standard to allow the direct addition of phosphates to cooked sausages. Whether the phosphates are added in dry form, or dissolved form, is up to the processor as long as the amount of the phosphate component in the final product does not exceed 0.5 percent of the total product. After reviewing this comment and the manifest need for phosphates in meat food products, the Agency concludes that the commentor has not provided enough information to justify elevation of the maximum allowable amount of phosphates from 0.5 percent to 1.0 percent. The Agency is willing to consider elevation of the permitted phosphate levels in the future if convincing evidence of the need for such action is submitted.

10. One comment supported the proposal but requested in addition that the use of phosphates in uncured beef and pork products not be limited to only those products which are frozen after processing. It specifically requested that the table of approved substances be amended, under the classification "flavoring agents, protectors and developers," to eliminate reference to freezing the meat product as a requirement for phosphate addition.

This final rule will not limit the use of phosphate to frozen products alone. Phosphates will be permitted for use in all meat and poultry products except where otherwise prohibited by regulation. The distinction between frozen and other types of products is therefore not relevant to the question of use but to that of technical effect. For frozen products, the tables specify that flavor protection is a legitimate purpose; for other products the purpose is to decrease the amount of cooked out juices. At the time the flavor protection entry for phosphates was first promulgated, post-process freezing was the primary condition for which flavor protection was sought. It is now apparent that post-process cooking is another condition where the use of phosphates will have the effect of protecting flavor. Therefore, cooked products have been added to this portion of the regulation. In all instances, products containing phosphates will be properly labeled in conformance with the requirements of the Federal Meat Inspection Act or the Poultry Products Inspection Act.

11. One comment suggested that a limitation on the ultimate pH to which meat can be adjusted by the addition of sodium hydroxide be stated as part of the regulation.

The Agency notes that in certain instances it does specify pH limitations as, for example, when a minimum pH is necessary to inhibit microbial growth in a sausage product. However, the Agency is not aware of any special health concern which would dictate the establishment of a pH limitation in products to which sodium hydroxide is added. Furthermore, sodium hydroxide is always added in combination with phosphates. Natural variation in the buffering capacity of different phosphate preparations would greatly complicate the establishment of an enforceable pH limitation. In the absence of data indicating a definite need for a pH limitation, the Agency concludes that a limitation on the ratio of sodium hydroxide to phosphate, as discussed above, is sufficient to assure the use of sodium hydroxide in accordance with good manufacturing practice.

12. One comment supported the proposal and specifically requested approval of the use of phosphates in corned beef and pastrami products. This comment also cited the already approved use of phosphates in turkey pastrami as a serious economic disadvantage to the beef pastrami industry.

The Agency reiterates that it was the intent of the proposal to permit the use of approved phosphates in cured beef products such as corned beef and pastrami. This action should serve to correct the confusing pattern of approvals and lack of approvals which currently exists for the use of phosphates in cured meats. However, it is not the intent of the proposal to change the permitted levels of added substances in these products. Thus, the weight increase due to application of curing solution is still 10 percent for corned beef (9 CFR 319.100) and 20 percent for corned beef brisket (9 CFR 319.101). The Agency expects to adhere to its current policy of not permitting pastrami water-added.

13. One comment supported the proposal and also addressed the issue of phosphate consumption and hyperkinesis in children. The comment referred to the studies by Dr. Herta Hafer of the University of Mainz, West Germany in which a connection between phosphate consumption and hyperactivity in young children was reported. The commenter expressed his belief that the phosphate-hyperactivity hypothesis is without scientific foundation. The comment cited a scientific publication (*Monatsschrifte für Kinderheilkunde*, 128, 382–385, (1980)) in which the authors, B. Walther, E. Dieterich and J. Spranger, are reported to have concluded that their study "* * * yielded no proof that disturbances in child behavior are caused or sustained by phosphate taken orally" (Commenter's translation). The commenter expressed his belief that this lays to rest any concerns regulatory authorities may have that phosphates are in any way related to hyperkinesis in children.

The Agency is aware that other government agencies are involved in the evaluation of the scientific data on a possible link between phosphate consumption and hyperactivity in children. Representatives of FDA have met with Dr. Hafer. Additionally, the National Institutes of Health (NIH) recently held a three-day conference on the subject of hyperactivity. FSIS notes that FDA has not taken steps to curb or restrict the consumption of phosphates in response to the reported connection between phosphates and hyperactivity. While this does not rule out the possibility of future restrictions, if based on sound behavioral toxicology data, the Agency views the current status of FDA's phosphate rulemaking along with the FASEB safety evaluation cited in item 2 above as sufficient reason to proceed with promulgation of its own final rule on phosphates in meat and poultry products.

The Agency is also revising the cross-references to § 318.7(c)(4) provisions which appear elsewhere in the regulations. Accordingly, §§ 319.140 and 319.180 are being revised, to the extent necessary, to accurately reflect the provisions of this regulation.

In addition, the Agency is clarifying the percentage of sodium tripolyphosphate used as a flavoring agent in the chart in § 318.7 to reflect that the percentage of sodium tripolyphosphate is limited to 0.5 percent in the total product.

Therefore, this final rule promulgates the provisions of the proposal as modified and described in the preamble.

Accordingly, the Federal meat inspection regulations are amended as follows:

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

1. The authority citation for Parts 318 and 319 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

2. In § 318.7(c)(4), in that portion of the chart dealing with the class of substance titled "Flavoring agents; protectors and developers" the description of the product substances, and amount is revised, in part, to read as follows:

§ 318.7 Approval of subetances for use in the preparation of products.

* * * * *

(c) * * *

(4) * * *

Class of substance	Substance	Purpose	Products	Amount
•	•	•	•	•
Flavoring agents; protectors and developers.	Sodium tripolyphosphate.	To help protect flavor..	"Fresh Beef," "Beef for Further Cooking," "Cooked Beef," Beef Patties, Meat Loaves, Meat Toppings, and similar products derived from pork, lamb, veal, mutton, and goat meat which are cooked or frozen after processing.	0.5 percent of total product.
	Mixtures of sodium tripolyphosphate and sodium metaphosphate, insoluble; and sodium polyphosphates, glassy.	....do.....	....do.....	Do.
•	•	•	•	•

3. In § 318.7(c)(4), in that portion of the chart dealing with the class of substance "Miscellaneous," the description of the product in which the substance "Sodium Hydroxide" may be used and in what amounts, is revised to read as follows:

Class of substance	Substance	Purpose	Products	Amount
•	•	•	•	•
Miscellaneous.....	Sodium hydroxide.....	To decrease the amount of cooked out juices.	Meat food products containing phosphates.	May be used only in combination with phosphates in a ratio not to exceed one part sodium hydroxide to four parts phosphate; the combination shall not exceed 5 percent in pickle at 10 percent pump level; 0.5 percent in product.
•	•	•	•	•

4. In § 318.7(c)(4), that portion of the chart dealing with the class of substance titled "Phosphates" is revised by removing the word phosphates and including the

information under the "Class of substance" titled "Miscellaneous", and amending the description of the products and substances to read as follows:

Class of substance	Substance	Purpose	Products	Amount
•	•	•	•	•
Miscellaneous	Disodium phosphate	do	Meat food products except where otherwise prohibited by the Federal meat inspection regulations.	5 percent of phosphate in pickle at 10 percent pump level; 0.5 percent of phosphate in product (only clear solution may be injected into product).
	Monosodium phosphate.	do	do	Do.
	Sodium metaphosphate, insoluble.	do	do	Do.
	Sodium polyphosphate, glassy.	do	do	Do.
	Sodium tripolyphosphate.	do	do	Do.
	Sodium pyrophosphate.	do	do	Do.
	Sodium acid pyrophosphate.	do	do	Do.
	Dipotassium phosphate.	do	do	Do.
	Monopotassium phosphate.	do	do	Do.
	Potassium tripolyphosphate.	do	do	Do.
	Potassium pyrophosphate.	do	do	Do.
•	•	•	•	•

4. In § 318.7(c)(4), footnote 2 at the bottom of the table is amended to read "Information as to the specific products for which use of this substance is approved may be obtained upon inquiry addressed to the Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250."

PART 319—DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION

5. The fifth sentence in § 319.140 is revised. The remainder of the section remains unchanged. The new sentence reads as follows:

§ 319.140 Sausage.

* * *. Sausage may not contain phosphates except that phosphates listed in § 318.7(c)(4) of this subchapter may be used in cooked sausage. * * *

6. The fifth sentence in § 319.180(a) is revised. The remainder of the paragraph remains unchanged. The new sentence reads as follows:

§ 319.180 Frankfurter, frank, furter, hotdog, wiener, vienna, bologna, garlic bologna, knockwurst, and similar products.

(a) * * *. These sausage products may contain only phosphates approved under Part 318 of this chapter.* * *

• • • • • • • •

7. The sixth sentence in § 319.180(b) is revised. The remainder of the paragraph remains unchanged. The new sentence reads as follows:

(b) * * *. These sausage products may contain only phosphates approved under Part 318 of this chapter. * * *.

• • • • •

8. The first sentence of § 319.15(a) is amended by inserting the word "phosphates" after "added water" and before "binders."

§ 319.15 Miscellaneous beef products.

(a) Chopped beef, ground beef * * * shall not contain added water, phosphates, binders or extenders.* * *.

• • • • •

9. The first sentence of § 319.15(b) is revised by inserting the word "phosphates" after "added water" and before "binders."

• • • • •

(b) Hamburger * * * shall not contain added water, phosphates, binders or extenders.* * *.

• • • • •

Further, the poultry products inspection regulations are amended as follows:

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

1. The authority citation for part 381 reads as follows:

Authority: Section 14 of the Poultry Products Inspection Act, as amended by the Wholesome Poultry Products Act (21 U.S.C. 451 *et seq.*); the Talmadge-Aiken Act of September 28, 1962 (7 U.S.C. 450); and subsection 21(b) of the Water Pollution Control Act, as amended by Public Law 91-224 and by other laws (33 U.S.C. 1171(b)).

2. Section 381.147(f)(3) of the Federal Poultry products inspection regulations (9 CFR 381.147(f)(3)) is revised to read as follows:

§ 381.147 Restrictions on the use of substances in poultry products.

• • • • •

(f) * * *

(3) The substances specified in the following table are acceptable for use in the processing of poultry products provided they are used within the limits of the amounts stated and under other conditions as prescribed by applicable regulations.

Class of substance	Substance	Purpose	Products	Amount
•	•	•	•	•
Miscellaneous	Sodium hydroxide.	To decrease the amount of cooked out juices.	Poultry food products containing phosphates.	May be used only in combination with phosphate in a ratio not to exceed one part sodium hydroxide to four parts phosphate.
•	•	•	•	•

4. In § 381.147(f)(3), that portion of the chart dealing with the class of substance titled "Phosphates" is revised by deleting the word phosphates and

3. In § 381.147(f)(3) in the portion of the chart dealing with the class of substance "Miscellaneous", the following information is added in the appropriate column in alphabetical order to read as follows:

including the information under the "class of substance" titled "Miscellaneous," and amending the description of the products and substances to read as follows:

Class of substance	Substance	Purpose	Products	Amount
•	•	•	•	•
Miscellaneous	Disodium phosphate	To decrease the amount of cooked out juices.	Poultry food products except where otherwise prohibited by the poultry products inspection regulations.	0.5 percent of total product.
	Monosodium phosphate	do	do	Do.
	Sodium metaphosphate, insoluble	do	do	Do.
	Sodium polyphosphate, glassy	do	do	Do.
	Sodium tripolyphosphate	do	do	Do.
	Sodium pyrophosphate	do	do	Do.
	Sodium acid pyrophosphate	do	do	Do.
	Dipotassium phosphate	do	do	Do.
	Monopotassium phosphate	do	do	Do.
	Potassium tripolyphosphate	do	do	Do.
	Potassium pyrophosphate	do	do	Do.
•	•	•	•	•

Done at Washington, DC, on: February 25, 1982.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 82-6701 Filed 3-11-82; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 545, 555, 561 and 584

[No. 82-162]

Manufactured Home Loans

Dated: March 5, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board has amended the regulations for federal savings and loan associations to liberalize the manufactured home lending rules. The amendments would allow federal associations to become more involved in this lending activity.

EFFECTIVE DATE: April 15, 1982.

FOR FURTHER INFORMATION CONTACT: James C. Stewart ((202) 377-6457), Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: By Resolution No. 81-678 (November 12, 1981), the Federal Home Loan Bank Board proposed to amend the regulations governing mobile home lending by federally-chartered savings and loan associations to: (1) allow associations to finance a broader range of insurance premiums as part of a mobile home loan; (2) eliminate the percentage-of-assets limit on mobile home lending; (3) remove certain restrictions on the purchase of interests in out-of-territory mobile home loans; and (4) effect certain terminology changes (*i.e.* replacing the term "mobile home" with the term "manufactured home"). 46 FR 48341 (December 1, 1981). The Board also solicited comment on whether mobile home loans should be covered by the requirement in Insurance Regulation § 563.35(b) that insured institutions give borrowers notice of their right to freely select the provider of insurance services in connection with loans secured by owner-occupied homes. 12 CFR 563.35(b) (1981).

Forty-two comments were received from the public concerning the proposal, including seventeen letters from thrift institutions. Although the majority were federal associations, several state-chartered associations commented on their mobile home lending experiences. A significant number of comment letters came from insurance companies and insurance agencies, all of which strongly favored the proposal. Favorable comments also were offered by savings and loan association trade groups. A variety of mobile home trade groups expressed their support for the proposal, as did three individuals and a midwest savings and loan service corporation prominent in mobile home loan servicing.

The greatest amount of comment was devoted to the proposed elimination of the restriction on insurance premium financing in connection with mobile home loans. Under current regulations, federal associations are prohibited from financing, as part of a mobile home loan, insurance premiums other than three-year premiums for vendors' single-interest coverage and physical damage insurance. 12 CFR 545.7-8(e)(2)(iv) (1981). As a result of this prohibition, associations may not finance premiums

for credit life and disability insurance. Several commenters argued that this restriction worked to the detriment of mobile home buyers who desire credit life coverage. One commenter submitted that low- and middle-income buyers of mobile homes are not being served adequately by life insurance companies and can only obtain necessary insurance coverage through credit life programs. It was also asserted that associations may be more willing to finance mobile homes when they have the payment assurance provided by credit life policies.

Many associations saw the elimination of the premium financing restriction as making mobile home loans a more attractive investment because of the commisions that would accrue to associations placing credit life policies. The ability to finance credit life premiums would also allow federal associations greater access to mobile home loans originated by dealers. One association noted that its dealer business dropped when the premium financing restriction was adopted in 1979. The dealers reportedly took their business to lenders who could offer a more comprehensive financing package.

A number of respondents offered their views on whether the home-mortgage restrictions on the offering of insurance services should be applied to mobile home loans. Under Insurance Regulation § 563.35(b), insured institutions are required to give borrowers notice of their right to freely select the provider of insurance services in connection with loans secured by an owner-occupied home. 12 CFR 563.35(b). Manufactured home loans are not covered by this rule. Commenters had divided views on this question. Three savings and loan associations endorsed parity between mobile home and real estate lending. Two associations, an insurer, and mobile home trade group opposed any notice requirement for manufactured home loans. It was contended that the laws of many states guarantee borrowers freedom to choose insurance providers when credit life is required by a lender. *See, e.g.,* Cal. Ins. Code § 779.20 (West 1972); Haw. Rev. Stat. ch. 479 (1976). Opponents also suggested that the § 563.35 requirements would overlap with Regulation Z, 12 CFR Part 226 (1981). Under that Regulation, the cost of a credit life or disability premium must be included in the total finance charge and reflected in the annual percentage rate unless, *inter alia*: (1) Coverage is not required by the lender and this fact is disclosed; and (2) the customer signs an affirmative written request for coverage after receiving the disclosures. 12 CFR 226.4(a)(5) (1981); Revised Regulation Z § 226.4(d)(1), 46 FR 20895 (April 7, 1981) (to become mandatory on Oct. 2, 1982). With regard to insurance against loss or damage to financed property, Regulation Z requires inclusion of the premium in the finance charge unless the customer is furnished a statement that he or she may choose the person through which the insurance is to be obtained. 12 CFR 226.4(a)(6); Revised Regulation Z at § 226.4(d)(2). Accordingly and in much the same way as § 563.35(b), Truth-in-Lending provides borrowers with notice of their right to freely select the types of insurance coverage most commonly associated with manufactured home lending. The only instance in which a § 563.35(b)-type notice would not be required under Regulation Z would occur when credit life or disability coverage is required. In this case, however, the premium would be included in the finance charge, at least putting the consumer on notice that his or her cost of credit will be significantly higher at that association. Upon consideration of these factors, the Board has determined that extension of the § 563.35(b) notice requirements to mobile home loans would not significantly benefit consumers and, therefore, has decided not to amend the regulation. The decision not to extend the notice requirement in no way affects the substantive prohibition against tying insurance services which applies to all loans under § 563.35(d).

Little comment was received regarding the other parts of the proposal. Associations favored deletion of the 20%-of-assets limitation on aggregate lending and the prohibition against out-of-territory purchases from non-federally insured institutions, viewing these changes as allowing freer access to the manufactured home lending markets. Although commenters generally saw no detrimental effects from the proposed change in terminology from mobile homes to manufactured homes, there did seem to be some confusion about what is meant by the term "manufactured home". The term includes both stationary and mobile units. Moreover, since it is illegal to sell a manufactured home not meeting the statutory standard under 42 U.S.C. 5409(a)(1), federal associations would have little opportunity to finance a mobile home which is not a "manufactured home". In their comments, the U.S. League of Savings Associations did point out several additional places in which the term "mobile home" is used in the regulations. These references will be changed to "manufactured homes".

Commenters made several additional suggestions regarding mobile home lending. First, clarification was sought regarding the authority of federal associations to make loans on the security of combinations of manufactured homes and lots. When the Board proposed revisions to the mobile home lending regulations in 1979, the preamble to the proposal stated that mobile homes permanently affixed to the borrower's land should be treated as real estate for lending purposes. 44 FR 26892 (May 8, 1979). In the preamble to the final amendments, however, it was stated that mobile homes could not be considered realty if state law still treated them as personalty. 44 FR 45117 (Aug. 1, 1979). The preamble further provided that federal associations could not purchase combination loans when the mobile home was treated as personalty under state law, even if the loan was insured by VA or FHA. *Id.*

It has been noted that it is not always possible to determine the exact status of a mobile home under state law. Manufactured homes are commonly titled as personalty with state motor vehicle departments. Once affixed to realty, the unit may be treated as a real estate improvement for tax purposes, but may be treated as personalty for other purposes.

The Board is of the view that the inconsistency and imprecision in state laws impedes the development of a national manufactured home financing system and that, at least for purposes of determining the lending authority of federally-chartered savings and loan associations, a federal rule is warranted. Accordingly, the Board has amended § 545.7–6 to provide a new subparagraph (e)(3), treating various kinds of combination loans.

The Board has determined that when the wheels and axles are removed and the manufactured home is permanently affixed to a foundation on a lot owned by the borrower (or to a leasehold as described in 12 CFR 541.14), the combination should be treated as residential real estate. A loan by a federal association secured by such a combination may be made on the same terms as other residential real property loans. This treatment would apply regardless of the characterization under state law and regardless of whether a personalty lien is taken against the manufactured home as a precautionary measure. (*See* new § 545.7–6(e)(3)(i)).

Loans secured by mobile home lots and unaffixed mobile homes present a different problem. It is the Board's view generally that the lack of fixture prevents these combinations from being treated wholly as real estate. The Board recognizes, however, that it may not be possible for the borrower to permanently affix the mobile home in all instances. The costs of adding a foundation may be prohibitive for the purchaser of a used mobile home which has not been affixed by the previous owner. An unaffixed mobile home may also be desirable because it is less expensive.

The VA and FHA combination-loan programs do not draw a distinction between affixed and unaffixed mobile homes. The loan amounts for either type of loan are calculated according to the same formulae. *See* 24 CFR 201.1504(a); 38 CFR 36.4204(d) (1981). It is the Board's view that, under existing statutory manufactured home lending authority, federal associations may make loans on VA-guaranteed or FHA-insured unaffixed combination loans on the terms specified by the appropriate agencies. (*See* § 545.7–b(e)(3)(iii)). For non-insured or non-guaranteed loans, investments in loans secured by combinations of lots and unaffixed manufactured homes will be governed by new subparagraph (e)(3)(ii) which will allow loan amounts equivalent to 75% of the appraised value of the lot and 90% of the buyer's total costs of the manufactured home; these limits accord with the lending limits on (improved) building lot real estate loans and manufactured home loans.

It was also pointed out that there is a potential ambiguity in the manufactured home regulations regarding adjustable loans. Under 12 CFR 545.7–6(e)(2)(ii), a federal association may invest in variable rate manufactured home loans if the "loan complies with one of the mortgage plans authorized under §§ 545.6–2(a)(4)(i), 545.6–4, 545.6–4a or 545.6–4b". The use of the term "loan" raises questions as to whether investment in variable rate installment sales contracts is permitted. The Board therefore has changed subparagraph (e)(2)(ii) to refer to "manufactured home chattel paper", now defined to include both loans and credit sales. A federal association may not purchase adjustable manufactured home installment sales contracts unless the required disclosures have been given to the debtor. The notices required by §§ 545.6–2(a)(4)(i), 545.6–4, 545.6–4a, and 545.6–4b may be modified to reflect credit sale terminology (*e.g.* use of "annual percentage rate" for interest rate, "amount financed" for loan balance, and "installment sales contract" for loan).

Finally, the Board was urged to increase the maximum loan term for manufactured home loans from 20 years to 25 years. Commenters cited longer loan terms available under federal guaranty programs as justification; however, 25-year loan terms are available only for insured and guaranteed loans secured by double-wide units and a lot. 12 U.S.C. 1703(b); 37 U.S.C. 1819(d). Since, with fixture, such a loan could be treated as a real estate loan under the Board's interpretation, these loans could be made with maturities greater than 25 years, and there does not appear to be cause for amending the current rule.

The Board is taking this opportunity to amend certain of its regulations to reflect the expanded consumer lending authority available to federal associations. First, the Board has deleted paragraph (b) of Board Ruling § 555.5 (12 CFR 555.5(b)) which prohibited federal associations from making unsecured advances to pay premiums on life insurance policies assigned to the association in connection with real estate loans. This ruling was adopted in 1959 as a precaution to associations that, although permitted to make advances to prevent lapses in assigned policies, federal associations could not use this implied power to generally finance insurance premiums. 24 FR 9415 (Nov. 24, 1959). The consumer lending authority bestowed on federal associations in the Depository Institutions Deregulation and Monetary Control Act empowers associations to make such advances. If added to the balance of a mortgage, however, the advances still would be limited by loan-to-value requirements. *See* 12 CFR 545.8–3(a).

The Board also has amended Federal Regulation § 545.7–9 governing the ability of associations to make loans secured by other loans. Reflecting the traditionally limited lending authority of federal associations, the regulation only allowed loans on the security of *secured* loans. To accommodate the new consumer lending authority, the secured loan restriction has been dropped. In addition, reference is added in § 545.7–6(e) to § 545.6–4b, a recent provision authorizing graduated payment adjustable mortgage loans, as applicable to manufactured home lending and to § 545.6–2(a)(4)(i), the balloon mortgage authority. Finally, the term "mobile home chattel paper" in 12 CFR 545.7–6(a)(2) has been amended to include installment sales contracts as well as loans; the language was dropped inadvertently during an earlier amendment of the section.

Accordingly, the Federal Home Loan Bank Board hereby amends Parts 545 and 555, Subchapter C, Part 561, Subchapter D, and Part 564, Subchapter F, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

1. Amend § 545.7–6 by: amending paragraphs (a) (1) and (2), paragraph (b) and paragraphs (e)(2) (iii) and (iv) thereto; redesignating paragraph (e)(3) thereof as (e)(4), and amending new (e)(4) by removing the phrase "shall be an institution whose accounts or deposits are insured by a Federal agency or a service corporation thereof and the seller"; adding a new paragraph (e)(3) thereto; and removing the phrase "mobile homes(s)" wherever it appears in § 545.7–6 and replacing it with the phrase "manufactured home(s)"; to read as follows:

§ 545.7–6 Manufactured home financing.

(a) *Definitions used in this Part*—

(1) "Manufactured home" shall have the same definition as that contained in the National Manufactured Home Construction and Safety Standards Act, 42 U.S.C. 5402(6).

(2) "Manufactured home chattel paper"—a document evidencing an installment sales contract or a loan or interest in a loan secured by a lien on one or more manufactured homes and equipment installed or to be installed therein.

* * * * *

(b) *General investment authority.* An association may invest in manufactured home chattel paper and interests therein without limitation as to percentage of assets.

* * * * * *

(e) *Retail financing.*

* * * * * *

(2) *Conventional loans.* * * *

* * * * * *

(iii) the manufactured home chattel paper is payable within 20 years, in monthly payments which are substantially equal except to the extent that the financing complies with one of the mortgage plans authorized pursuant to §§ 545.6–2(a)(4)(i), 545.6–4, 545.6–4a or 545.6–4b of this Part; and

(iv) the financed amount (excluding time-price differential or interest, however computed) does not exceed (*a*) 90 percent of buyer's total costs, including freight, itemized set-up charges, sales or other taxes, filing and recording fees imposed by law and premiums for related insurance, or (*b*) 90 percent of the appraised market value or other generally accepted valuation of

the manufactured home in the case of a used manufactured home plus sales and other taxes, filing and recording fees imposed by law, premiums for related insurance, and freight and itemized set-up charges, if any.

* * * * *

(3) *Combination loans.* An association may invest in manufactured home chattel paper secured by combinations of manufactured homes and lots on the following terms:

(i) *Affixed manufactured homes.* If the wheels and axles have been removed and the manufactured home is permanently affixed to a foundation, a loan secured by a combination of manufactured home and lot on which it sits may be treated as a residential real estate loan under § 545.6–2 of this Subchapter.

(ii) *Unaffixed manufactured homes.* If the manufactured home is not affixed in the manner described in subparagraph (e)(3)(i) of this section, an association may make a loan secured by a combination of manufactured home and lot on which it is or is to be located if the financing complies with the requirements of subparagraphs (e)(2)(i), (ii) and (iii) and the loan-to-value ratio does not exceed 75% of the appraised value of the lot and lot improvements and 90% of the buyer's total costs of the manufactured home (or valuation of used manufactured home) as defined in subparagraph (e)(2)(iv).

(iii) *Insured and guaranteed loans.* Notwithstanding the other provisions of this subparagraph, an association may invest in a combination manufactured home and lot chattel paper that is insured or guaranteed as defined in §§ 541.10 or 541.13 of this Subchapter, or that has a commitment for such insurance or guarantee.

* * * * *

§ 545.7–9 [Amended]

2. Amend § 545.7–9 by revising the parenthetical phrase to read "(secured by assignment of loans)".

§ 545.9–1 [Amended]

3. Amend paragraph (c)(1)(i) of § 545.9–1 by deleting the phrase "mobile homes" and replacing it with the phrase "manufactured homes.".

§ 555.5–1 [Amended]

4. Amend § 555.5 by deleting paragraph (b) thereof.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

PART 563—OPERATIONS

§ 561.15 [Amended]

§ 563.43 [Amended]

5. Amend paragraphs (i), (j), & (k) of § 561.15 and paragraph (b)(1)(iii) of § 563.43 by deleting the phrase "mobile home" wherever it appears and substituting the phrase "manufactured home".

SUBCHAPTER F—SAVINGS AND LOAN HOLDING COMPANIES

PART 584—REGULATED ACTIVITIES

§ 584.2–1 [Amended]

6. Amend paragraph (b)(1)(ii) of § 584.2–1 by deleting the phrase "mobile home" and replacing it with the phrase "manufactured home".

(Home Owners' Loan Act section 5(c), 12 U.S.C. 1464(c), as amended by Depository Institutions Deregulation and Monetary Control Act section 401, 94 Stat. 153; National Housing Act section 401–403 & 408, 12 U.S.C. 1724–1726, 1730 & 1730a; Reorg. Plan No. 3 of 1947, 3 CFR 1071 (1943–1948 Comp.))

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-6834 Filed 3-11-82; 8:45 am]

BILLING CODE 6720-01-M

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12 CFR Part 576

[No. 82-160]

Amendment of Regulations Regarding Charter Conversions for Supervisory Purposes

Dated: March 5, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") has amended its regulations concerning conversions of state-chartered mutual savings banks to federal charter and conversions of federal mutual associations to state-chartered mutual institutions. These amendments clarify the Board's authority to waive or deem inapplicable certain regulatory requirements in connection with such conversions that are undertaken for supervisory reasons.

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: James J. McCarthy, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552 ((202) 377–6455).

SUPPLEMENTARY INFORMATION: Board regulations regarding mergers, consolidations, purchases of assets and combinations involving federal associations or institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation contain specific exceptions that permit the Board to waive or deem inapplicable certain procedural requirements in connection with transactions that are instituted for supervisory reasons (12 CFR 546.2(d)(2), 563.22(d) and 46 FR 30488 (1981) (to be codified as 12 CFR 552.13(h)(6))). However, as current economic conditions have required a significant increase in corporate reorganizations of financial institutions, an increasing number of combinations have also involved charter conversions. Therefore, the Board has determined to amend its regulations to provide for waivers of certain procedural requirements applicable to charter conversions where the conversion occurs in connection with a transaction instituted for supervisory reasons. The Board has amended § 546.5 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 546.5) to provide for waiver of any requirement of that section in connection with conversions that are authorized for supervisory reasons. The Board has also amended § 576.1 of the Regulations for Federal Mutual Savings Banks (12 CFR 576.1) to provide for waiver of normal procedural requirements for federal mutual savings bank conversions that are authorized for supervisory reasons.

The Board finds that observance of the notice and comment period of 12 CFR 508.12 and 5 U.S.C. 553(b) and the 30-day delay of effective date of 12 CFR 508.14 and 5 U.S.C. 553(d) are unnecessary because it is in the public interest for the Board to be able to exercise maximum flexibility in resolving supervisory cases.

Accordingly, the Board hereby amends Part 546, Subchapter C, and Part 576, Subchapter E, Chapter V of Title 12, Code of Federal Regulations as set forth below.

SUBCHAPTER C—RULES AND REGULATIONS FOR FEDERAL SAVINGS AND LOAN SYSTEM

PART 546—MERGER, DISSOLUTION, REORGANIZATION, AND CONVERSION

1. Amend § 546.5 by adding new paragraph (f) to read as follows:

§ 546.5 Conversion from Federal mutual to State-charter mutual.

* * * * *

(f) The Board may waive or deem inapplicable any provision of this section in order to facilitate a conversion that is authorized by the Board for supervisory reasons.

SUBCHAPTER E—RULES AND REGULATIONS FOR FEDERAL MUTUAL SAVINGS BANKS

PART 576—APPLICATION, ISSUANCE OF CHARTER AND BYLAWS, ORGANIZATION

2. Amend paragraph (d) of § 576.1 by designating the existing text as paragraph (d)(1) and adding a new paragraph (d)(2), to read as follows:

§ 576.1 Application for conversion to Federal charter.

* * * * *

(d) *Procedure on applications.* * * *

* * * * *

(2) *Supervisory exception.* This paragraph (d) does not apply to conversions authorized by the Board for supervisory reasons.

* * * * *

(Sec. 5, 48 Stat. 132, as amended by title IV, § 408, Pub. L. 96–221, 94 Stat. 160 (12 U.S.C. 1464); Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-6823 Filed 3-11-82; 8:45 am]

BILLING CODE 6720-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB–44]

Staff Accounting Bulletin No. 44

AGENCY: Securities and Exchange Commission.

ACTION: Publication of staff accounting bulletin.

SUMMARY: The interpretations in this staff accounting bulletin indicate the staff's views on certain matters involved in the implementation of Accounting Series Release No. 302, Separate Financial Statements Required by Regulation S–X. It also deletes certain topics published in Staff Accounting Bulletin No. 40, the codification of Staff Accounting Bulletin Nos. 1–38, which are no longer relevant because of amendments to the proxy rules and to Regulation S–X which covers form and content of financial statements filed with the Commission.

EFFECTIVE DATE: March 3, 1982.

FOR FURTHER INFORMATION CONTACT: Marc D. Oken (202–272–2130) or John W. Albert (202–272–2133), Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The statements in Staff Accounting Bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

George A. Fitzsimmons,

Secretary.

March 3, 1982.

Staff Accounting Bulletin No. 44

The staff hereby deletes topics 1–B, 6–B and 6–C of Staff Accounting Bulletin No. 40. Topics 1–B and 6–B relate to the financial statement requirements for parent company only and for consolidated subsidiaries engaged in diverse financial-type activities which were amended by Accounting Series Release No. 302. Topic 6–C relates to the requirements for disclosures of certain relationships with independent accountants which were eliminated by Accounting Series Release No. 304. In addition, Topic 6–K is expanded to provide the staff's interpretation of certain matters involved in the implementation of the requirements of Accounting Series Release No. 302.

Topic 6: Interpretations of Accounting Series Releases

* * * * *

K. Accounting Series Release No. 302—Separate Financial Statements Required by Regulation S–X

* * * * *

2. Parent Company Financial Information.

a. *Computation of Restricted Net Assets of Subsidiaries.*

Facts

The revised rules for parent company disclosures adopted in Accounting Series Release No. 302 require, in certain circumstances, (1) footnote disclosure in the consolidated financial statements about the nature and amount of significant restrictions on the ability of subsidiaries to transfer funds to the parent through intercompany loans, advances or cash dividends [Rule 4–08(e)(3)], and (2) the presentation of condensed parent company financial information and other data in a schedule (Rule 12–04). To determine which disclosures, if any, are required, a registrant must compute its proportionate share of the nets assets of its consolidated and unconsolidated subsidiary companies as of the end of the most recent fiscal year which are restricted as to transfer to the parent company because the consent of a third party (a lender, regulatory agency, foreign government, etc.) is required. If the registrant's proportionate share of the restricted net assets of *consolidated* subsidiaries exceeds 25% of the registrant's consolidated net assets, both the footnote and schedule information are required. If the amount of such restrictions is less than 25%, but the sum of these restrictions plus the amount of the registrant's proportionate share of restricted net assets of *unconsolidated* subsidiaries plus the registrant's equity in the undistributed earnings of 50% or less owned persons (investees) accounted for by the equity method exceed 25% of consolidated net assets, the footnote disclosure is required.

Question 1

How are restricted net assets of subsidiaries computed?

Interpretative Response

The calculation of restricted net assets requires an evaluation of each subsidiary to identify any circumstances where third parties may limit the subsidiary's ability to loan, advance or dividend funds to the parent. This evaluation normally comprises a review of loan agreements, statutory and regulatory requirements, etc., to determine the dollar amount of each subsidiary's *restrictions.* The related amount of the subsidiary's net assets designated as restricted, however, should not exceed the amount of the subsidiary's net assets included in consolidated net assets, since parent company disclosures are triggered when a significant amount of *consolidated* net assets are restricted. The amount of each subsidiary's net assets included in consolidated net assets is determined by allocating (pushing down) to each subsidiary any related consolidation adjustments such as intercompany balances, intercompany profits, and differences between fair value and historical cost arising from a business combination accounted for as a purchase. This amount is referred to as the subsidiary's *adjusted net assets.* If the subsidiary's adjusted net assets are

less than the amount of its restrictions because the push down of consolidating adjustments reduced its net assets, the subsidiary's adjusted net assets is the amount of the subsidiary's *restricted net assets* used in the tests.

Registrants with numerous subsidiaries and investees may wish to develop approaches to facilitate the determination of its parent company disclosure requirements. For example, if the parent company's adjusted net assets (excluding any interest in its subsidiaries) exceed 75% of consolidated net assets, or if the total of all of the registrant's consolidated and unconsolidated subsidiaries' *restrictions* and its equity in investees' earnings is less than 25% of consolidated net assets, then the allocation of consolidating adjustments to the subsidiaries to determine the amount of their adjusted net assets would not be necessary since no parent company disclosures would be required.

Question 2

If a registrant makes a decision that it will permanently reinvest the undistributed earnings of a subsidiary, and thus does not provide for income taxes thereon because it meets the criteria set forth in APB Opinion No. 23, is there considered to be a restriction for purposes of the test?

Interpretative Response

No. The rules require that only third party restrictions be considered. Restrictions on subsidiary net assets imposed by management are not included.

b. Application of Tests for Parent Company Disclosures.

Facts

The balance sheet of the registrant's 100%-owned subsidiary at the most recent fiscal year-end is summarized as follows:

Current assets	$120
Noncurrent assets	45
Subtotal	165
Current liabilities	30
Long-term debt	60
Subtotal	90
Common stock	25
Retained earnings	50
Subtotal	75
Total	165

Net assets of the subsidiary are $75. Assume there are no consolidating adjustments to be allocated to the subsidiary. Restrictive covenants of the subsidiary's debt agreements provide that:

—Net assets, excluding intercompany loans, cannot be less than $35
—80% of accumulated earnings must be maintained

Question

What is the amount of the subsidiary's restricted net assets?

Interpretive Response

Restriction	Computed restrictions
Net assets: currently $75, cannot be less than $35; therefore	$35
Dividends: 80% of accumulated earnings ($50) cannot be paid out; therefore	30

Restricted net assets for purposes of the test are $35. The maximum amount that can be loaned or advanced to the parent without violating the net asset covenant is $40 ($75–35). Alternatively, the subsidiary could pay a dividend of up to $20 ($50–30) without violating the dividend covenant, and loan or advance up to $20, without violating the net asset provision.

Facts

The registrant has one 100%-owned subsidiary. The balance sheet of the subsidiary at the latest fiscal year-end is summarized as follows:

Current assets	$75
Noncurrent assets	90
Subtotal	165
Current liabilities	25
Long-term debt	57
Redeemable preferred stock	10
Common stock	30
Retained earnings	45
Subtotal	75
Total	165

Assume that the registrant's consolidated net assets are $130 and there are no consolidating adjustments to be allocated to the subsidiary. The subsidiary's net assets are $75. The subsidiary's noncurrent assets are comprised of $40 in operating plant and equipment used in the subsidiary's business and a $50 investment in a 30% investee. The subsidiary's equity in this investee's undistributed earnings is $18. Restrictive covenants of the subsidiary's debt agreements are as follows:

1. Net assets, excluding intercompany balances, cannot be less than $20.
2. 80% of accumulated earnings must be reinvested in the subsidiary.
3. Current ratio of 2:1 must be maintained.

Question

Are parent company footnote or schedule disclosures required?

Interpretive Response

Only the parent company footnote disclosures are required. The subsidiary's restricted net assets are computed as follows:

Restriction	Computed restrictions
• Net assets: currently $75, cannot be less than $20; therefore	$20
• Dividends: 80% of accumulated earnings ($45) cannot be paid; therefore	36
• Current ratio: must be at least 2:1 ($46 current assets must be maintained since current liabilities are $23 at fiscal year-end) therefore	46

Restricted net assets for purposes of the test are $20. The amount computed from the dividend restriction ($36) and the current ratio requirement ($46) are not used because net assets may be transferred by the subsidiary up to the limitation imposed by the requirement to maintain net assets of at least $20, without violating the other restrictions. For example, a transfer to the parent of up to $55 of net assets could be accomplished by a combination of dividends of current assets of $9 ($45–36), and loans or advances of current assets of up to $20 and noncurrent assets of up to $26.

Parent company footnote disclosures are required in this example since the restricted net assets of the subsidiary and the registrant's equity in the earnings of its 100%-owned subsidiary's investee exceed 25% of consolidated net assets [($20+18)/$130=29%]. The parent company schedule information is not required since the restricted net assets of the subsidiary are only 15% of consolidated net assets ($20/$130=15%).

Although the subsidiary's noncurrent assets are not in a form which is readily transferable to the parent company, the illiquid nature of the assets is not relevant for purposes of the parent company tests. The objective of the tests is to require parent company disclosures when the parent company does not have control of its subsidiaries' funds because it does not have unrestricted access to their net assets. The tests trigger parent company disclosures only when there are significant *third party* restrictions on transfers by subsidiaries of net assets and the subsidiaries' net assets comprise a significant portion of consolidated net assets. Practical limitations, other than third party restrictions on transferability at the measurement date (most recent fiscal year-end), such as subsidiary illiquidity,

are not considered in computing restricted net assets. However, the potential effect of any limitations other than those imposed by third parties should be considered for inclusion in Management's Discussion and Analysis of liquidity.

Facts

	Net assets
Subsidiary A	$(500)
Subsidiary B	2,000
Consolidated	3,700

Subsidiaries A and B are 100% owned by the registrant. Assume there are no consolidating adjustments to be allocated to the subsidiaries. Subsidiary A has restrictions amounting to $200. Subsidiary B's restrictions are $1,000.

Question

What parent company disclosures are required for the registrant?

Interpretive Response

Since subsidiary A has an excess of liabilities over assets, it has no restricted net assets for purposes of the test. However, both parent company footnote and schedule disclosures are required, since the restricted net assets of subsidiary B exceed 25% of consolidated net assets ($1,000/3,700=27%).

Facts

	Net assets
Subsidiary A	$850
Subsidiary B	300
Consolidated	3,700

The registrant owns 80% of subsidiary A. Subsidiary A owns 100% of subsidiary B. Assume there are no consolidating adjustments to be allocated to the subsidiaries. A may not pay any dividends or make any affiliate loans or advances. B has no restrictions. A's net assets of $850 do not include its investment in B.

Question

Are parent company footnote or schedule disclosures required for this registrant?

Interpretive Response

No. All of the registrant's share of subsidiary A's net assets ($680) are restricted. Although B may pay dividends and loan or advance funds to A, the parent's access to B's funds through A is restricted. However, since there are no limitations on B's ability to loan or advance funds to the parent, none of the parent's share of B's net assets are restricted. Since A's restricted net assets are less than 25% of consolidated net assets ($680/3,700=18%), no parent company disclosures are required.

Facts

The consolidating balance sheet of the registrant at the latest fiscal year-end is summarized as follows:

	Registrant	Subsidiary	Consolidating adjustments	Consolidated
Current assets	$805	$700		$1,500
30% investment in affiliate	175			175
Investment in subsidiary	350		($350)	
Other noncurrent assets	625	300	(100)	825
Total	1,950	1,000	(450)	2,500
Current liabilities	800	400		1,000
Noncurrent liabilities	375	150		525
Redeemable preferred stock	275			275
Common stock	110	1	(1)	110
Paid-in capital	290	48	(48)	290
Retained earnings	300	400	(400)	300
Total	700	450	(450)	700
Grand Total	1,950	1,000	(450)	2,500

The acquisition of the 100%-owned subsidiary was consummated on the last day of the most recent fiscal year. Immediately preceding the acquisition, the registrant had net assets of $700, which included its equity in the undistributed earnings of its 30% investee of $75. Immediately after acquiring the subsidiary's net assets, which had an historical cost of $450 and a fair value of $350, the registrant's net assets were still $700 since debt and preferred stock totaling $350 were issued in the purchase. The subsidiary has debt covenants which permit dividends, loans or advances, to the extent, if any, that net assets exceed an amount which is determined by the sum of $100 plus 75% of the subsidiary's accummulated earnings.

Question

What is the amount of the subsidiary's restricted net assets? Are parent company footnote or schedule disclosures required?

Interpretive Response

Restricted net assets for purposes of the test are $350, and both the parent company footnote and schedule disclosures are required.

The amount of the subsidiary's *restrictions* at year-end is $400 [$100+(75%×$400)]. The subsidiary's *adjusted net assets* after the push down of the consolidation entry to the subsidiary to record the noncurrent assets acquired at their fair value is $350 ($450−$100). Since the subsidairy's adjusted net assets ($350) are less than the amount of its restrictions ($400), *restricted net assets* are $350. The computed percentages applicable to each of the disclosure tests is in excess of 25%. Therefore, both parent company footnote and schedule information are required. The percentage applicable to the footnote disclosure test is 61% [($75+350)/$700]. The computed percentage for the schedule disclosure is 50% ($350/$700).

3. Undistributed Earnings of 50% or Less Owned Persons

Facts

Rule 4–08(e)(2) of Regulation S–X requires footnote disclosure of the amount of consolidated retained earnings which represents undistributed earnings of 50% or less owned persons (investee) accounted for by the equity method. The test adopted in ASR 302 to trigger disclosures about the registrant's restricted net assets [Rule 4–08(e)(3)] includes the parent's equity in the undistributed earnings of investees.

Question

Is the amount required for footnote disclosure the same as the amount included in the test to determine disclosures about restrictions?

Interpretive Response

Yes. The amount used in the test in Rule 4–08(e)(3) should be the same as the amount required to be disclosed by Rule 4–08(e)(2). This is the portion of the registrant's consolidated retained earnings which represents the undistributed earnings of an investee since the date(s) of acquisition. It is computed by determining the registrant's cumulative equity in the investee's earnings, adjusted by any dividends received, related goodwill amortized, and any related income taxes provided.

4. Application of Significant Subsidiary Test to Investees and Unconsolidated Subsidiaries.

a. *Separate Financial Statement Requirements.*

Facts

Rule 3-09 of Regulation S-X requires the presentation of separate financial statements of unconsolidated subsidiaries and of 50% or less owned persons (investee) accounted for by the equity method either by the registrant or by a subsidiary of the registrant in filings with the Commission if any of the tests of a significant subsidiary are met at a 20% level.

Question 1

Are the requirements for separate financial statements also applicable to an investee accounted for by the equity method by an investee of the registrant?

Interpretive Response

Yes. Rule 3-09 is intended to apply to all investees which are material to the financial position or results of operations of the registrant, regardless of whether the investee is held by the registrant, a subsidiary or another investee. Separate financial statements should be provided for any lower tier investee where such an entity is significant to the registrant's consolidated financial statements.

Question 2

How is the significant subsidiary test applied to the lower tier investee in the situation described in Question 1?

Interpretive Response

Since the disclosures provided by separate financial statements of an investee are considered necessary to evaluate the overall financial condition of the registrant, the significant subsidiary test is computed based on the materiality of the lower tier investee to the registrant consolidated. An example of the application of the assets test of the significant subsidiary rules to such an investee situation will illustrate the materiality measurement. A registrant with total consolidated assets of $5,000 owns 50% of Investee A, whose total assets are $3,800. Investee A has a 45% investment in Investee B, whose total assets are $4,600. There are no intercompany eliminations. Separate financial statements are required for Investee A, and they are required for Investee B because the registrant's share of B's total assets exceeds 20% of consolidated assets [(50%×45%×$4,600)/$5,000=22%].

b. Summarized Financial Statement Requirements.

Facts

Rule 4-08(g) of Regulation S-X requires summarized financial information about unconsolidated subsidiaries and 50% or less owned persons (investee) to be included in the footnotes to the financial statements if, in the aggregate, they meet the tests of a significant subsidiary set forth in Rule 1-02(v).

Question 1

Must a registrant which includes separate financial statements or condensed financial statements for unconsolidated subsidiaries or investees in its annual report to shareholders also include in such report the summarized financial information for these entities pursuant to Rule 4-08(g)?

Interpretive Response

No. The purpose of the summarized information is to provide minimum standards of disclosure when the impact of such entities on the consolidated financial statements is significant. If the registrant furnishes more information in the annual report than is required by these minimum disclosure standards, such as condensed financial information or separate audited financial statements, the summarized data can be excluded. The Commission's rules are not intended to conflict with the provisions of APB Opinion No. 18, par. 20 (c) and (d), which provide that either separate financial statements of investees be presented with the financial statements of the reporting entity or that summarized information be included in the reporting entity's financial statement footnotes.

Question 2

Can summarized information be omitted for individual entities as long as the aggregate information for the omitted entity(s) does not exceed 10% under any of the significance tests of Rule 1-02(v)?

Interpretive Response

The 10% measurement level of the significant subsidiary rule was not intended to establish a materiality criteria for omission, and the arbitrary exclusion of summarized information for selected entities up to a 10% level is not appropriate. Rule 4-08(g) requires that the summarized information be included for all unconsolidated subsidiaries and investees. However, the staff recognizes that exclusion of the summarized information for certain entities is appropriate in some circumstances where it is impracticable to accumulate such information and the summarized information to be excluded is de minimis.

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17 CFR Part 241

[Release No. 34-18532]

Analysis of Results of 1981 Proxy Statement Disclosure Monitoring Program

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation of rules.

SUMMARY: The Securities and Exchange Commission today authorized issuance of a release analyzing the results of its 1981 proxy statement disclosure monitoring program and discussing proxy disclosure trends in the areas monitoring since 1979.

FOR FURTHER INFORMATION CONTACT: Gregory H. Mathews, (202) 272-2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: In December 1978, the Commission amended its proxy rules in order to improve the information available to shareholders with respect to: (1) the existence of certain economic or personal relationships between directors or nominees and the issuer or its management ("6(b) relationship");[1] (2) the existence and functioning of the audit, compensation and nominating committees of the board of directors; (3) attendance at board and committee meetings; (4) compensation paid for board or committee service; and (5) director resignations.

In order to monitor operation of the new rules and the nature of resulting disclosures, the Division of Corporation Finance, in conjunction with the Directorate of Economic and Policy Analysis, instituted a three year program to survey proxy statement disclosures about the board of directors beginning with the 1979 proxy season. The results of the 1979 Proxy Monitoring Program were published in September 1980, in the *Staff Report on Corporate Accountability*.[2] Analysis of the results of the 1980 Proxy Monitoring Program were published in February 1981.[3] Thus, this is the final release of the proxy monitoring program.

The results of Commission's proxy monitoring program provide a statistical profile of the boards of directors of over 9,000 issuers which are subject to the periodic reporting requirements of the Securities Exchange Act of 1934. The proxy monitoring program focuses on two key areas of information relating to the corporate accountability process—the composition of the board of directors and the composition and functioning of three major committees of the board (audit, compensation and nominating). The program also generates statistics about the nature of director compensation arrangements. All statistics are stratified according to the market in which the registrant's stock is traded and according to the asset size of the registrant.

Methodology

The sample of 1200 companies was selected in 1978 from the universe of companies subject to the Commission's proxy rules. The following categories of companies were excluded from the sample: (1) Companies which registered with the Commission after January 1, 1979; (2) companies filing 1979 proxy statements which either had a fiscal year that ended before December 31, 1978 or had filed a definitive proxy statement before January 10, 1979; (3) companies with proxy statements relating to proxy contests or to approvals of mergers, acquisitions, or business failures; and (4) investment companies. The sample was divided in four strata representing NYSE companies, AMEX companies, NASDAQ companies, and regional exchange or other non-NASDAQ over-the-counter companies.

The 1979, 1980 and 1981 programs attempted to survey these same 1200 issuers. With each succeeding year, however, the proxy statements of more companies were unavailable, because the proxy material had not been filed by the annual cut-off date of June 1, the company had de-registered or the proxy material filed involved a contested election or related to approval of a merger, acquisition or business failure.

The sample size for 1981 consisted of 961 issuers. The resulting sample stratification indicates an increase between 1979 and 1981 in the proportion of companies (from 41.6 percent to 43.3 percent) that have over $150 million in assets (Table 1). There also was an increase in the percentage of companies that are NYSE companies (from 28.6 percent to 30 percent) and a corresponding decrease in the number of AMEX companies (from 18.9 percent to 17.4 percent). Nevertheless, the sample still is representative of all reporting registrants for each category of company.

For each registrant in the sample, the staff completed a questionnaire eliciting 60 items of information relating to the disclosures about the board of directors contained in the proxy statement. The information obtained was machine processed, edited and cross-tabulated in a two way design, which takes account of trading market and asset size. The statistics include subtotals for each trading market category. The statistics shown for each market/assets category were tabulated directly from the data after adjusting for omissions from proxy statements of information required to be disclosed by Schedule 14A. The subtotal statistics, however, were estimated by taking a weighted average of the appropriate market/asset statistics.

II. Analysis

The analysis of the 1981 results focuses on the changes in board composition and functioning and in director compensation practices which have occurred over the three-year period covered by the proxy monitoring program.

A. Board Composition and Operation

The composition of boards of directors evolved substantially during the study period. The profile of the average board of directors (Table 2) reveals a 12.3 percent decline in the percentage of the board employed by the issuer or a subsidiary—from 35 percent in 1979 to 30.7 percent in 1981. There was a more significant 29 percent reduction in the percentage of directors having 6(b) relationships, from 29.4 percent down to 20.9 percent of the average board.

Table 6 indicates that 51.7 percent of all directors had employee or 6(b) relationships with the companies on whose boards they served, but a minority of all directors of large companies (over $150 million in assets) had such relationships. While the majority of companies had boards on which employee directors and directors with 6(b) relationships together constituted a majority of the board (Table 7), only 37 percent of the large companies had boards with a majority of directors employed by or affiliated with the issuer.

Analysis of the extent of specific types of Item 6(b) affiliations among directors further illuminates the nature of the changes in board composition which have occurred since 1979. Comparison of the 1979 and 1981 results reveals:

1. A 20 percent decline in the number of companies having a board member affiliated with a supplier or creditor (Table 5). 16.3 percent of issuers have such a person on their board in 1981 compared with the 20.6 percent which disclosed such relationships in their 1979 proxy statement. Only 2.6 percent of all directors have such affiliations, down from 3.7 percent in 1979 (Table 6).

2. A 25 percent decrease in the number of companies with retained counsel sitting on the board. While 43.3 percent of issuers still have at least one attorney-director, 57.6 percent reported having such directors in 1979.

3. A 51 percent decline in the number of registrants with an investment banker on the board. Only 9.9 percent of companies now have such directors, considerably reduced from the 20.1 percent who reported having such directors in the first survey, and only 1 percent of all directors are investment bankers compared to 2.4 percent of directors three years ago.

Several additional points may be made about the information presented in Table 5. First, the 1979-1981 decrease in the number of registrants having directors with 6(b) relationships was substantial for companies in all asset and trading market categories. Second, the fact that an increasing number of large issuers have no directors with certain 6(b) relationships appears to be the primary reason why a majority of such companies no longer have boards composed predominantly of employees or persons with 6(b) relationships.[4]

The average board size (11 directors) and average number of meetings per year (7) remained the same throughout the three year monitoring period. However, there was a continuation of the trend noted in last year's analysis

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[1] Generally, Item 6(b) of Schedule 14A requires disclosure of whether each nominee or director is: (1) A former officer or employee; (2) a relative of an executive officer; (3) an officer, director, employee or 1 percent equity owner of an entity that is a significant creditor, supplier or customer of the issuer as defined in the item; (4) a member or employee of a law firm retained by the issuer; (5) a director, partner, officer or employee of an investment banking firm performing services for the issuer other than as a participating underwriter in a syndicate; or (6) a control person of the issuer (other than solely as a director of the issuer).

In February 1981, the Commission proposed amendments to Item 6(b), as well as other items of the proxy rules. These amendments will be considered as part of the Commission's general review of the rules governing proxy solicitations.

[2] Division of Corporation Finance, Securities and Exchange Commission, *Staff Report on Corporate Accountability*, 96th Cong., 2d Sess. (Comm. Print 1980) (Senate Comm. on Banking, Housing and Urban Affairs) (Hereinafter cited as *"Staff Report"*).

[3] Release No. 34-17518 (February 5, 1981) (46 FR 11954, Feb. 12, 1981).

[4] The number of large companies with employee directors actually increased slightly from 90.1 to 90.6 percent from 1979 to 1981, although the number of employee directors at large companies declined during the period from 26.3 percent of all such directors to approximately 25.6 percent.

toward activating previously inactive boards. During the study period, the number of companies that disclosed that their boards did not meet at all during the year declined by 96 percent (from 4.6 percent of all companies to 0.2 percent) (Table 2). Although there also was a 13 percent increase between 1979 and 1981 in the number of boards meeting at least 13 times annually, there was a slight decline between 1980 and 1981 in the number of boards meeting with this frequency.

B. Board Committees

The monitoring program gathers information about the extent to which issuers have established audit, compensation and nominating committees of the board of directors. The survey also indicates the proportion of each committee composed of persons who either are employed by or have a 6(b) relationship with the issuer. In addition, the monitoring program tabulates the functions performed by each committee.

1. *Audit Committee.* The percentage of companies with audit committees (Table 12) reached 88.4 percent in 1981. During the three year study period, the most substantial increase in companies having audit committees was experienced by companies under $60 million in assets (13 percent increase) and by American Stock Exchange companies (11 percent).[5]

The composition of audit committees also has changed considerably over the past three years. The 1979 monitoring program found that on the average 24.8 percent of the audit committee was composed of persons who were either employed by or affiliated with the registrant, but by 1981, this had decreased to 17.8 percent (Table 18.) Tables 15 and 16 provide more detailed information about the percentage of persons on committees who are either employed or affiliated with the issuer. In 1979, 84 percent of all companies had no employee directors serving on the audit committee, and this increased to 87 percent of all companies in 1981. In 1979, 57 percent of companies had no audit committee members with 6(b) relationships, and the proportion of companies in this category increased to 66 percent in 1981. Table 18 also contains information about the average number of times the audit committee met during the last fiscal year and the size of the committee.

Table 21 summarizes the frequency with which certain major functions are performed by audit committees. The 1981 results indicate a decline from 1979 in the percentage of committees that review the audit plan (from 74 percent down to 67.2 percent). The percentage of committees performing other major functions has changed little since 1979. The 1981 monitoring program surveyed, for the first time, the extent to which audit committees review interim financial results. The results indicate that 17.2 percent of audit committees perform this function.

2. *Compensation Committee.* The number of companies with compensation committees increased by 13.4 percent between 1979 and 1981, rising from 63.5 percent to 72 percent of all companies (Table 12). The extent of the increase was greatest among midsized ($50–150 million in assets) companies, which experienced a 21 percent growth in compensation committees during the study period. The average size of the compensation committee (Table 14) and the number of committee meetings per year (Table 13) has not changed measurably since the first survey.

In 1981, on the average, 12.1 percent of the compensation committee was employed by the issuer or its affiliates (Table 17) representing a 23 percent decline in such members from 1979. Fifteen percent of the average compensation committee had a 6(b) relationship, a 25 percent decrease from the 20 percent who had such affiliations in 1979. Table 20 summarizes the functions performed by compensation committees according to the 1981 proxy statements.

3. *Nominating Committee.* The number of nominating committees grew dramatically during the past three years. The 19.4 percent of companies with such committees in 1979 rose to 30.4 percent in 1981 (Table 19). The 1981 results indicate variation among companies with respect to the establishment of nominating committees. For example, while 55 percent of large NYSE listed companies have established such committees, only 14.3 percent of similar sized AMEX companies have done so.

In 1980, the Staff Report recommended that, "if there is not a substantial increase in the percentage of companies with independent nominating committees which consider shareholder nominations, the Commission should authorize the staff to develop a rule requiring companies to adopt a procedure for considering shareholder nominations."[6] The staff now has determined not to recommend such a rule.

Tables 15 and 16 indicate the percentage of committee members who are employed or have 6(b) relationships with the issuer. Table 22 summarizes the functions performed by nominating committees. This data indicates that 78 percent of the nominating committees consider shareholder nominations for director, a slight decline from the percentage that did so in 1979.

C. Director Compensation

This year, the tabulation of information concerning director compensation has been refined in several respects in order to make the data more meaningful. (Tables 9–11). The results indicate that 75.5 percent of the surveyed companies paid their directors an annual retainer for board service (Table 9). The amount of annual retainers increased steadily during the study period. In 1979, 63.5 percent of companies paid annual retainers of less than $6,000, but by 1981, only 50.7 percent of companies did so. This shift in compensation rates resulted in a 400 percent increase in the number of companies providing annual retainers of at least $20,000 (from .7 percent to 2.8 percent of companies); a 150 percent increase in companies paying between $15,000–19,999 (from 2.3 percent to 5.8 percent of companies); and a 55 percent increase in those providing retainers in the $10,000–$14,000 range (from 9.6 to 14.9 percent of companies).

Table 10 indicates the range of fees paid to directors per board meeting attended and reveals that 75 percent of the companies surveyed provide this type of compensation. There have been substantial increases in compensation rates in this category as well. Table 11 summarizes the compensation patterns of companies, including the fact that 58 percent of companies provide both an annual retainer for board service and an additional sum for committee service.

Accordingly, 17 CFR Part 241 is amended by adding reference to this release thereto.

By the Commission.

George A. Fitzsimmons,
Secretary.
March 3, 1982.

[5] In 1977, the New York Stock Exchange adopted a rule requiring each listed company to establish, by June 30, 1978, an audit committee composed solely of directors independent of management and free of any other relationship which would interfere with the exercise of independent judgment. *NYSE Company Manual*, A–29. Thereafter, no further changes were possible for this group of companies. It should be noted that between 1980 and 1981 alone, the number of AMEX companies with audit committees increased by over 9%. This development followed the strong recommendation of the Board of Governors of the Exchange that listed companies establish audit committees composed entirely of independent directors. *See generally* Securities Exchange Act Release No. 16842 (January 24, 1980).

[6] *Staff Report* at 131.

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TABLE 1.—SAMPLE STRATIFICATION

Companies by size and trading market	Actual count	Percent of total sample
All companies	961	100.00
Over $150 million assets	417	43.3
$50 to $150 million assets	206	21.4
0 to $50 million assets	338	35.1
NYSE	289	30.0
Over $150 million assets	211	21.9
$50 to $150 million assets	65	6.7
0 to $50 million assets	13	1.3
AMEX	168	17.4
Over $150 million assets	21	2.1
$50 to $150 million assets	52	5.4
0 to $50 million assets	95	9.8
NASDAQ—Other	504	52.4
Over $150 million assets	185	19.2
$50 to $150 million assets	89	9.2
0 to $50 million assets	230	23.9

TABLE 2.—PROFILE OF BOARDS OF DIRECTORS

[Sample means]

Companies by size and trading market	Size of board	Number of meetings per year	Percent employed by issuer or affiliate	Percent of board having item 6(b) relationships
All companies	10.9	7.2	30.7	26.9
Over $150 million assets	14.1	8.3	25.8	17.9
$50 to $150 million assets	9.6	6.5	35.6	24.5
0 to $50 million assets	7.8	6.3	38.0	25.0
NYSE	12.1	8.0	36.3	29.4
Over $150 million assets	13.1	8.5	28.5	20.1
$50 to $150 million assets	9.5	6.6	36.0	21.7
0 to $50 million assets	7.8	5.8	31.3	21.5
AMEX	8.6	6.2	38.1	25.6
Over $150 million assets	12.5	6.6	37.6	23.1
$50 to $150 million assets	8.6	6.3	36.3	25.1
0 to $50 million assets	7.5	6.0	39.6	26.9
NASDAQ—other	10.9	7.1	29.0	25.0
Over $150 million assets	15.3	8.1	21.7	15.3
$50 to $150 million assets	9.7	6.5	34.9	25.3
0 to $50 million assets	7.9	6.5	37.7	24.4

TABLE 3.—SIZE OF BOARD

[Frequency Distribution Percent]

Companies by size and trading market	Number of individuals				
	1 to 4	5 to 9	10 to 14	15 to 19	20 and above
All companies	1.9	46.3	33.1	11.6	7.2
Over $150 million assets	0.2	17.0	43.9	23.3	15.6
$50 to $150 million assets	1.0	53.9	40.3	3.9	1.0
0 to $50 million assets	4.4	77.8	15.4	1.8	0.6
NYSE	0.0	29.4	49.1	16.8	6.2
Over $150 million assets	0.0	15.2	55.5	21.3	8.1
$50 to $150 million assets	0.0	80.0	25.4	3.1	1.5
0 to $50 million assets	0.0	84.6	15.4	0.0	0.0
AMEX	3.0	64.3	27.4	4.8	0.6
Over $150 million assets	0.0	19.0	52.4	23.8	4.8
$50 to $150 million assets	1.9	51.9	40.4	5.8	0.0
0 to $50 million assets	4.2	81.1	14.7	0.0	0.0
NASDAQ—other	2.6	50.6	25.8	11.1	9.9
Over $150 million assets	0.5	18.9	29.7	25.4	25.4
$50 to $150 million assets	1.1	50.6	43.8	3.4	1.1
0 to $50 million assets	4.8	76.1	15.7	2.6	0.9

TABLE 4.—PERSONS EMPLOYED BY ISSUER OR AFFILIATE AS PERCENT OF BOARD MEMBERSHIP

[Frequency distribution]

Companies by size and trading market	0 percent	1 to 25 percent	26 to 50 percent	51 to 75 percent	76 to 100 percent
All companies	0.9	40.5	43.5	11.6	3.5
Over $150 million assets	0.9	54.5	37.5	4.8	2.1
$50 to $150 million assets	0.9	33.4	46.6	16.0	2.9
0 to $50 million assets	0.6	26.9	49.1	17.4	5.8
NYSE	0.3	44.7	46.8	6.2	1.7
Over $150 million assets	0.4	47.6	46.1	4.2	1.4
$50 to $150 million assets	0.0	36.9	47.6	12.3	3.0
0 to $50 million assets	0.0	38.4	53.8	7.6	0.0
AMEX	1.1	25.5	45.8	23.2	4.1
Over $150 million assets	0.0	33.3	33.3	28.5	4.7
$50 to $150 million assets	1.9	26.8	48.0	19.2	1.9
0 to $50 million assets	1.0	22.1	47.3	24.2	5.2
NASDAQ—other	1.1	42.6	40.8	10.8	4.3
Over $150 million assets	1.0	64.8	28.1	2.7	2.7
$50 to $150 million assets	1.1	33.7	44.9	16.8	3.3
0 to $50 million assets	0.8	26.2	49.5	15.2	8.0

TABLE 5.—PERCENT OF ISSUERS HAVING CERTAIN RELATIONSHIPS WITH A DIRECTOR

[Sample means]

Companies by size and trading market	Employee of issuer or affiliate	Former officer or employee	Relative of executive officer	Supplier or customer	Creditor	Attorney	Investment banker	Control person
All companies	99.8	31.4	22.4	16.3	19.8	43.3	9.0	13.4
Over $150 million assets	99.8	34.5	16.5	22.1	24.7	39.8	9.1	8.9
$50 to $150 million assets	100.0	36.9	26.7	13.1	22.3	44.7	13.1	11.7
0 to $50 million assets	100.0	24.3	26.9	11.2	11.8	46.7	8.9	19.8
NYSE	99.7	37.7	12.6	21.5	29.6	37.7	11.4	8.9
Over $150 million assets	99.5	37.9	11.8	24.6	33.6	36.5	10.9	5.2
$50 to $150 million assets	100.0	40.0	13.8	10.8	21.5	41.5	12.3	7.7
0 to $50 million assets	100.0	23.1	23.1	23.1	7.7	38.5	15.4	7.7
AMEX	100.0	25.6	33.3	12.5	16.7	44.0	8.9	19.8
Over $150 million assets	100.0	23.8	47.6	9.5	23.8	42.9	9.5	14.3
$50 to $150 million assets	100.0	32.7	36.5	11.5	21.2	32.7	9.6	21.2
0 to $50 million assets	100.0	22.1	26.4	13.7	12.6	50.5	8.4	20.0
NASDAQ—other	100.0	29.8	24.2	14.7	16.3	46.2	8.3	15.5
Over $150 million assets	100.0	31.9	18.4	20.5	14.8	45.2	7.0	12.4
$50 to $150 million assets	100.0	37.1	30.3	15.7	25.8	53.9	15.7	9.0
0 to $50 million assets	100.0	25.2	26.5	9.6	11.7	45.7	8.7	20.4

TABLE 6.—PERCENT OF DIRECTORS HAVING CERTAIN RELATIONSHIPS WITH ISSUER

[Sample means]

Companies by size and trading market	Employee of issuer or affiliate	Former officer or employee	Relative of executive officer	Supplier or customer	Creditor	Attorney	Investment banker	Control person	Any 8(b)/employee relationship
All companies	30.8	9.7	3.3	2.6	3.6	4.8	1.0	2.6	51.7
Over $150 million assets	35.8	9.3	2.1	2.9	3.9	3.6	0.7	1.2	43.8
$50 to $150 million assets	35.6	5.2	4.2	2.3	4.1	5.2	1.8	2.1	60.2
0 to $50 million assets	38.0	3.7	5.1	2.2	2.3	6.6	1.2	3.7	63.0
NYSE	30.3	4.6	1.8	3.1	5.8	3.7	1.1	1.0	50.7
Over $150 million assets	28.9	3.8	1.7	3.2	6.3	3.4	0.9	0.8	49.1
$50 to $150 million assets	36.0	4.8	2.1	2.3	4.7	4.8	1.4	1.6	57.7
0 to $50 million assets	31.4	3.9	3.9	3.9	1.0	4.9	2.9	1.0	52.9
AMEX	36.2	4.0	0.1	1.6	3.0	5.9	1.0	3.7	68.9
Over $150 million assets	37.6	3.4	7.2	1.5	4.5	4.2	0.8	1.5	60.8
$50 to $150 million assets	36.3	4.4	6.2	2.0	3.4	4.2	1.0	3.0	61.5
0 to $50 million assets	39.8	4.0	5.6	1.9	2.2	7.6	1.1	3.3	68.6
NASDAQ—other	29.1	3.5	3.5	2.5	2.5	5.2	0.9	2.2	49.1
Over $150 million assets	21.8	2.7	2.1	2.7	1.8	4.1	0.5	1.5	37.1
$50 to $150 million assets	34.9	5.9	4.6	2.5	4.1	6.0	1.7	1.4	61.1
0 to $50 million assets	37.5	3.6	5.0	2.1	2.5	6.5	1.2	3.6	62.2

TABLE 7.—DIRECTORS HAVING AN EMPLOYEE OR 6(B) RELATIONSHIP AS PERCENT OF BOARD

[Frequency distribution]

Companies by size and trading market	0 percent	1 to 25 percent	26 to 50 percent	51 to 75 percent	76 to 100 percent
All companies	0.2	12.9	33.5	26.5	25.8
Over $150 million assets	0.2	21.8	40.5	23.5	13.9
Over $50 to $150 million assets	0.0	8.5	32.0	26.2	31.6
Over 0 to $50 million assets	0.3	7.7	25.7	29.3	37.0
NYSE	0.3	13.1	41.5	28.6	17.6
Over $150 million assets	0.5	13.7	43.6	28.4	13.7
Over $50 to $150 million assets	0.0	9.2	36.5	26.2	28.2
Over 0 to $50 million assets	0.0	23.1	23.1	30.8	23.1
AMEX	0.0	8.5	29.2	25.0	36.3
Over $150 million assets	0.0	14.2	19.0	23.8	42.8
Over $50 to $150 million assets	0.0	5.8	34.6	29.8	32.7
Over 0 to $50 million assets	0.0	5.3	29.4	24.2	42.1
NASDAQ—other	0.2	16.9	30.4	26.2	26.4
Over $150 million assets	0.0	31.5	39.5	17.8	10.8
Over $50 to $150 million assets	0.0	9.0	25.8	30.3	34.8
Over 0 to $50 million assets	0.5	7.8	24.8	31.3	35.7

TABLE 8.—NUMBER OF BOARD MEETINGS PER YEAR

[Frequency distribution percent]

Companies by size and trading market	Number of meetings				
	0	1 to 4	5 to 8	9 to 12	13 and above
All companies	0.2	23.9	46.8	22.4	7.7
Over $150 million assets	0.2	13.9	42.2	32.9	10.8
$50 to $150 million assets	0.5	30.6	49.0	14.6	5.3
0 to $50 million assets	0.5	32.2	46.2	14.2	5.9
NYSE	0.7	13.1	45.7	31.8	8.7
Over $150 million assets	0.5	8.5	42.2	38.4	10.5
$50 to $150 million assets	1.5	24.6	53.8	15.4	4.6
0 to $50 million assets	0.0	30.8	61.5	7.7	0.0
AMEX	0.0	32.7	49.4	15.5	2.4
Over $150 million assets	0.0	23.8	52.4	23.8	0.0
$50 to $500 million assets	0.0	34.6	46.1	15.4	1.9
0 to $50 million assets	0.0	33.7	45.5	13.7	3.2
NASDAQ—other	0.0	27.2	44.6	19.2	8.9
Over $150 million assets	0.0	16.5	41.1	27.6	12.4
$50 to $150 million assets	0.0	32.6	46.1	13.5	7.9
0 to $50 million assets	0.0	31.7	47.0	14.8	6.5

TABLE 9.—RANGE OF DIRECTOR COMPENSATION ON AN ANNUAL RETAINER BASIS

(Frequency distribution, percent)

Companies by size and trading market	Annual compensation						
	Annual retainer	$20,000 and more	$15,000 to $19,999	$10,000 to $14,999	$6,000 to $9,999	$3,000 to $5,999	Less than $3,000
All companies	75.5	2.8	5.8	14.6	25.9	29.6	21.1
Over $150 million assets	84.4	4.5	9.3	22.2	26.7	21.0	15.6
$50 to $150 million assets	80.1	0.6	1.8	11.5	37.6	31.5	17.1
0 to $50 million assets	61.8	1.4	1.9	5.3	15.3	42.6	33.5
NYSE	93.1	5.2	11.9	28.6	34.6	14.9	4.8
Over $150 million assets	95.3	7.6	14.9	33.5	31.8	10.4	2.5
$50 to $150 million assets	87.7	0.0	3.5	14.0	48.1	26.3	7.0
0 to $50 million assets	84.6	0.0	0.0	18.2	9.1	36.4	36.4
AMEX	74.4	0.0	0.8	7.2	27.2	40.8	24.0
Over $150 million assets	85.7	0.0	5.6	16.7	44.4	33.3	0.0
$50 to $150 million assets	75.8	0.0	0.0	7.3	29.3	46.3	17.1
0 to $50 million assets	69.5	0.0	0.0	4.5	21.2	30.4	34.8
NASDAQ—other	65.3	1.8	2.7	6.8	18.4	37.3	33.1
Over $150 million assets	71.9	1.5	3.0	6.0	16.5	35.3	37.8
$50 to $150 million assets	75.3	1.5	1.5	11.8	32.6	26.5	25.4
0 to $50 million assets	57.4	2.3	3.0	4.5	12.9	44.7	32.6

TABLE 10.—RANGE OF DIRECTOR FEES PAID PER BOARD MEETING ATTENDED

[Frequency distribution, percent]

Companies by size and trading market	Fees paid per meeting						
	Directors paid	$1,000 or more	$750 to $999	$500 to $749	$250 to $499	$100 to $249	Less than $100
All companies	75.4	8.3	4.7	32.6	35.4	18.5	2.5
Over $150 million assets	88.7	0.2	1.8	38.9	40.7	11.5	0.9
$50 to $150 million assets	77.7	0.9	0.8	30.0	36.8	13.8	1.9
0 to $50 million assets	65.7	5.4	3.6	23.9	36.3	25.2	3.6
NYSE	79.9	7.4	7.8	55.4	25.1	3.9	0.4
Over $150 million assets	91.0	7.6	5.8	60.2	22.4	2.3	0.6
$50 to $150 million assets	75.4	0.2	14.3	40.8	30.6	8.1	0.0
0 to $50 million assets	84.6	0.0	9.1	45.5	27.3	18.2	0.0
AMEX	72.6	8.2	8.9	34.4	37.7	13.9	0.8
Over $150 million assets	95.2	15.0	0.0	40.0	35.0	10.0	0.0
$50 to $150 million assets	76.9	5.0	10.0	32.5	42.5	10.0	0.0
0 to $50 million assets	65.3	8.1	3.2	33.9	35.5	17.7	1.6
NASDAQ—other	73.8	5.1	2.7	17.7	41.1	28.0	4.3
Over $150 million assets	82.2	4.6	1.3	15.8	41.4	32.9	3.9
$50 to $150 million assets	79.8	7.0	4.2	21.1	42.3	21.1	4.2
0 to $50 million assets	64.8	4.7	3.4	18.1	40.3	28.9	4.7

TABLE 11.—COMPANIES PAYING CERTAIN PATTERNS OF DIRECTOR COMPENSATION

[Percent]

Companies by size and trading market	Annual retainer for board	Annual retainer for board and committee membership	Annual retainer for board and per board meeting	Annual retainer for committee service or per meeting of committee	Annual retainer for board and any compensation for committee service
All companies	75.5	11.1	55.7	66.7	96.3
Over $150 million assets	84.4	14.1	69.8	82.0	72.2
$50 to $100 million assets	80.1	8.7	60.2	71.8	61.2
0 to $50 million assets	61.8	8.9	38.5	50.3	39.3
NYSE	93.1	17.3	74.7	85.5	81.3
Over $150 million assets	95.3	19.0	78.2	89.3	80.4
$50 to $100 million assets	87.7	10.8	64.6	81.5	73.8
0 to $50 million assets	84.6	23.1	69.2	92.3	84.6
AMEX	74.4	13.1	52.4	80.1	48.2
Over $150 million assets	85.7	14.3	81.0	76.2	66.7
$50 to $100 million assets	78.8	9.6	57.7	69.2	53.8
0 to $50 million assets	69.5	14.7	43.2	51.6	41.1
NASDAQ—other	65.9	6.9	47.6	51.9	48.4
Over $150 million assets	71.9	8.6	56.9	77.6	80.0
$50 to $100 million assets	75.3	6.7	58.4	86.3	56.2
0 to $50 million assets	57.4	5.7	34.8	47.4	36.1

TABLE 12.—PERCENT OF COMPANIES HAVING COMMITTEES

[Sample means]

Companies by size and trading market	Audit committee	Compensation committee	Nominating committee
All companies	86.4	72.0	39.4
Over $150 million assets	95.0	81.5	45.5
$50 to $150 million assets	90.3	79.6	22.3
0 to $50 million assets	73.4	65.6	17.2
NYSE	99.0	90.0	48.4
Over $150 million assets	96.1	91.9	55.0
$50 to $150 million assets	96.5	84.6	29.2
0 to $50 million assets	100.0	84.6	38.5
AMEX	86.9	86.7	20.2
Over $150 million assets	95.2	81.0	14.3
$50 to $150 million assets	92.3	82.7	25.9
0 to $50 million assets	82.1	54.7	17.9
NASDAQ—other	79.0	63.5	23.4
Over $150 million assets	90.3	68.7	37.3
$50 to $150 million assets	89.1	74.2	14.6
0 to $50 million assets	68.9	54.3	15.7

TABLE 13.—NUMBER OF COMMITTEE MEETINGS PER YEAR

[Sample means]

Companies by size and trading market	Audit committee	Compensation committee	Nominating committee
All companies	3.0	3.1	2.3
Over $150 million assets	3.4	3.7	2.5
$50 to $150 million assets	2.7	2.8	2.1
0 to $50 million assets	2.4	2.2	1.6
NYSE	3.2	3.9	2.5
Over $150 million assets	3.3	4.1	2.6
$50 to $150 million assets	2.9	3.5	1.5
0 to $50 million assets	2.5	3.0	2.4
AMEX	2.4	2.2	1.7
Over $150 million assets	2.8	2.1	1.0
$50 to $150 million assets	2.5	2.4	2.3
0 to $50 million assets	2.2	2.1	1.4
NASDAQ—other	3.0	2.7	2.2
Over $150 million assets	3.7	3.4	2.3
$50 to $150 million assets	2.7	2.4	2.0
0 to $50 million assets	2.4	2.1	1.7

TABLE 14.—NUMBER OF COMMITTEE MEMBERS

[Sample means]

Companies by size and trading market	Audit committee	Compensation committee	Nominating committee
All companies	3.6	3.9	4.5
Over $150 million assets	4.0	4.3	4.8
$50 to $150 million assets	3.5	3.7	4.2
0 to $50 million assets	3.2	3.6	4.0
NYSE	3.7	4.1	4.4
Over $150 million assets	3.9	4.2	4.5
$50 to $150 million assets	3.2	3.8	4.1
0 to $50 million assets	3.5	3.4	3.0
AMEX	3.3	3.7	4.4
Over $150 million assets	3.9	3.8	5.3
$50 to $150 million assets	3.4	3.8	4.6
0 to $50 million assets	3.2	3.7	4.2
NASDAQ—other	3.6	3.9	4.7
Over $150 million assets	4.1	4.4	5.2
$50 to $150 million assets	3.3	3.7	4.2
0 to $50 million assets	3.2	3.6	4.1

TABLE 15–1.—PERCENT OF PERSONS ON COMMITTEES EMPLOYED BY ISSUER OR ITS AFFILIATES: ALL COMPANIES

Companies by size and trading market	0 percent	1 to 25 percent	26 to 50 percent	51 to 75 percent	76 to 100 percent
Audit	86.9	4.9	6.4	1.2	0.6
Over $150 million assets	91.7	3.0	3.5	1.3	0.5
$50 to $150 million assets	85.5	5.9	7.5	0.5	0.5
0 to $50 million assets	80.2	7.3	10.1	1.8	0.6
Compensation	67.2	12.6	15.9	2.0	1.3
Over $150 million assets	74.4	12.4	9.4	1.8	2.1
$50 to $150 million assets	62.2	12.8	18.5	4.5	0.6
0 to $50 million assets	58.5	12.8	24.5	3.7	0.5
Nominating	48.6	21.9	22.9	5.1	2.1
Over $150 million assets	54.3	25.5	15.4	3.7	1.1
$50 to $150 million assets	41.3	13.0	26.3	10.9	6.5
0 to $50 million assets	36.2	17.2	39.7	5.2	1.7

TABLE 15–2.—PERCENT OF PERSONS ON COMMITTEES EMPLOYED BY ISSUER OR ITS AFFILIATES: NYSE

Companies by size and trading market	0 percent	1 to 25 percent	26 to 50 percent	51 to 75 percent	76 to 100 percent
Audit	93.7	2.4	2.8	0.7	0.3
Over $150 million assets	94.7	1.9	1.9	1.0	0.5
$50 to $150 million assets	90.6	4.7	4.7	0.0	0.0
0 to $50 million assets	92.3	0.0	7.7	0.0	0.0
Compensation	75.1	10.4	9.2	1.5	3.8
Over $150 million assets	81.4	9.8	6.2	1.5	1.0
$50 to $150 million assets	67.2	9.1	21.8	1.8	0.0
0 to $50 million assets	72.7	27.3	0.0	0.0	0.0
Nominating	82.1	32.1	10.8	7.1	0.0
Over $150 million assets	54.3	25.0	14.7	6.0	0.0
$50 to $150 million assets	47.4	5.3	31.6	15.8	0.0
0 to $50 million assets	20.0	20.0	60.0	0.0	0.0

TABLE 15–3.—PERCENT OF PERSONS ON COMMITTEES EMPLOYED BY ISSUER OR ITS AFFILIATES: AMEX

Companies by size and trading market	0 percent	1 to 25 percent	26 to 50 percent	51 to 75 percent	76 to 100 percent
Audit	77.4	6.8	13.0	2.7	0.0
Over $150 million assets	60.0	15.0	20.0	5.0	0.0
$50 to $150 million assets	81.3	6.3	12.5	0.0	0.0
0 to $50 million assets	79.5	5.1	11.5	3.8	0.0
Compensation	55.4	15.2	23.2	6.3	0.0
Over $150 million assets	58.8	17.6	17.6	5.9	0.0
$50 to $150 million assets	60.5	16.3	16.3	7.0	0.0
0 to $50 million assets	50.0	13.5	22.8	5.8	0.0
Nominating	36.2	11.8	35.3	11.8	2.9
Over $150 million assets	33.3	33.3	0.0	0.0	33.3
$50 to $150 million assets	50.0	21.4	14.3	14.3	0.0
0 to $50 million assets	29.4	0.0	58.8	11.8	0.0

TABLE 15–4.—PERCENT OF PERSONS ON COMMITTEES EMPLOYED BY ISSUER OR ITS AFFILIATES: NASDAQ—OTHER

Companies by size and trading market	0 percent	1 to 25 percent	26 to 50 percent	51 to 75 percent	76 to 100 percent
Audit	85.4	6.0	6.5	1.0	1.0
Over $150 million assets	91.6	3.0	3.6	1.2	0.6
$50 to $150 million assets	83.8	6.8	6.8	1.4	1.4
0 to $50 million assets	79.6	8.9	9.6	0.6	1.3
Compensation	65.5	13.4	16.6	3.1	2.2
Over $150 million assets	85.9	16.5	19.2	1.6	3.9
$50 to $150 million assets	59.1	13.6	19.7	6.1	1.5
0 to $50 million assets	60.8	11.2	24.0	3.2	0.8
Nominating	37.5	24.6	22.9	0.8	4.2
Over $150 million assets	55.1	26.1	17.4	0.0	1.4
$50 to $150 million assets	23.1	15.4	38.5	0.0	23.1
0 to $50 million assets	41.7	25.0	27.8	2.8	2.8

TABLE 16–1.—PERCENT OF PERSONS ON COMMITTEES HAVING A 6(b) RELATIONSHIP: ALL COMPANIES

Companies by size and trading market	0 percent	1 to 25 percent	26 to 50 percent	51 to 75 percent	76 to 100 percent
Audit	86.0	9.4	10.2	4.1	2.3
Over $150 million assets	71.0	11.4	12.6	3.8	1.3
$50 to $150 million assets	82.5	7.5	24.2	4.3	1.1
0 to $50 million assets	80.5	7.7	22.8	4.4	4.8
Compensation	61.8	12.2	18.6	5.3	1.7
Over $150 million assets	66.4	12.6	15.9	5.3	1.8
$50 to $150 million assets	54.6	12.8	15.9	4.3	2.4
0 to $50 million assets	54.8	11.7	28.1	6.4	1.1

TABLE 16–1.—PERCENT OF PERSONS ON COMMITTEES HAVING A 6(b) RELATIONSHIP: ALL COMPANIES—Continued

Companies by size and trading market	0 percent	1 to 25 percent	26 to 50 percent	51 to 75 percent	76 to 100 percent
Nominating	59.2	17.8	16.8	4.1	2.1
Over $150 million assets	61.2	19.1	13.3	4.3	2.1
$50 to $150 million assets	69.0	13.0	17.4	4.3	2.2
0 to $50 million assets	50.0	17.2	27.6	3.4	1.7

TABLE 16–2.—PERCENT OF PERSONS ON COMMITTEES HAVING A 6(b) RELATIONSHIP: NYSE

Companies by size and trading market	0 percent	1 to 25 percent	26 to 50 percent	51 to 75 percent	76 to 100 percent
Audit	70.3	8.4	15.7	3.5	1.9
Over $150 million assets	70.8	11.6	13.9	3.3	1.9
$50 to $150 million assets	71.3	4.7	18.8	3.1	1.6
0 to $50 million assets	53.8	7.7	30.8	7.7	0.0
Compensation	68.8	10.0	16.2	4.6	6.4
Over $150 million assets	67.0	11.3	15.5	5.7	0.5
$50 to $150 million assets	76.4	5.5	16.4	1.8	0.0
0 to $50 million assets	63.6	9.1	27.3	0.0	0.0
Nominating	63.6	15.0	13.6	6.4	1.4
Over $150 million assets	62.9	17.2	12.9	6.0	0.9
$50 to $150 million assets	68.4	5.3	15.8	10.5	0.0
0 to $50 million assets	60.0	0.0	20.0	0.0	20.0

TABLE 16–3.—PERCENT OF PERSONS ON COMMITTEES HAVING A 6(b) RELATIONSHIP: AMEX

Companies by size and trading market	0 percent	1 to 25 percent	26 to 50 percent	51 to 75 percent	76 to 100 percent
Audit	82.3	7.5	10.9	5.5	4.8
Over $150 million assets	85.0	15.0	15.0	5.0	0.0
$50 to $150 million assets	66.7	4.2	22.9	4.2	2.1
0 to $50 million assets	59.0	7.7	19.2	6.4	7.7
Compensation	57.1	17.9	14.3	9.8	0.8
Over $150 million assets	52.9	11.8	17.6	11.8	5.9
$50 to $150 million assets	60.5	25.6	7.0	7.0	0.0
0 to $50 million assets	55.8	13.5	19.2	11.5	0.0
Nominating	55.9	23.5	14.7	5.9	0.0
Over $150 million assets	100.0	0.0	0.0	0.0	0.0
$50 to $150 million assets	64.3	25.7	0.0	0.0	0.0
0 to $50 million assets	41.2	17.6	29.4	11.8	0.0

TABLE 16–4—PERCENT OF PERSONS ON COMMITTEES HAVING A 6(b) RELATIONSHIP: NASDAQ—OTHER

Companies by size and trading market	0 percent	1 to 25 percent	26 to 50 percent	51 to 75 percent	76 to 100 percent
Audit	84.9	10.1	10.3	4.0	2.9
Over $150 million assets	71.9	11.4	10.8	4.2	1.8
$50 to $150 million assets	82.7	12.2	29.7	5.4	0.0
0 to $50 million assets	81.8	7.6	23.6	3.2	3.8
Compensation	57.8	12.5	22.2	4.4	3.1
Over $150 million assets	62.0	14.7	16.3	3.9	3.1
$50 to $150 million assets	57.6	10.8	21.2	4.5	5.1
0 to $50 million assets	53.6	11.2	26.8	4.6	1.6
Nominating	55.1	19.5	21.2	0.9	3.4
Over $150 million assets	56.5	23.2	14.5	1.4	4.3
$50 to $150 million assets	53.8	0.0	38.5	0.0	7.7
0 to $50 million assets	52.8	19.4	27.8	0.0	0.0

TABLE 17.—PROFILE: COMPENSATION COMMITTEES

[Sample means]

Companies by size and trading market	Percent having committees	Size	Number of meetings	Percent employed by issuer or affiliate	Percent having 6(b) relationship
All companies	72.0	3.9	3.1	12.1	15.0
Over $150 million assets	81.5	4.3	3.7	9.6	14.2
$50 to $150 million assets	79.6	3.7	2.8	14.1	14.1
0 to $50 million assets	55.6	3.6	2.2	15.8	17.4
NYSE	80.0	4.1	3.9	7.8	12.6

TABLE 17.—PROFILE: COMPENSATION COMMITTEES—Continued

[Sample means]

Companies by size and trading market	Percent having committees	Size	Number of meetings	Percent employed by issuer or affiliate	Percent having 5(b) relationship
Over $150 million assets	91.9	4.2	4.1	6.8	13.4
$50 to $150 million assets	84.6	3.8	3.5	12.0	9.1
0 to $50 million assets	84.6	3.4	3.0	8.1	13.5
AMEX	86.7	3.6	2.2	15.6	16.1
Over $150 million assets	81.0	3.8	2.1	13.6	20.0
$50 to $150 million assets	82.7	3.6	2.4	14.8	13.6
0 to $50 million assets	84.7	3.7	2.1	16.9	16.8
NASDAQ—other	83.5	3.9	2.7	14.3	16.6
Over $150 million assets	89.7	4.4	3.4	13.2	14.7
$50 to $150 million assets	74.2	3.7	2.4	15.3	16.6
0 to $50 million assets	84.3	3.6	2.1	15.1	16.0

TABLE 18.—PROFILE: AUDIT COMMITTEES

[Sample means]

Companies by size and trading market	Percent having committees	Size	Number of meetings	Percent employed by issuer or affiliate	Percent having 5(b) relationship
All companies	90.4	3.6	3.0	4.5	13.1
Over $150 million assets	96.0	4.0	3.4	3.0	10.2
$50 to $150 million assets	90.3	3.3	2.7	4.9	15.1
0 to $50 million assets	73.4	3.2	2.4	7.3	17.3
NYSE	99.0	3.7	3.2	2.3	11.4
Over $150 million assets	99.1	3.9	3.3	2.2	11.1
$50 to $150 million assets	96.5	3.2	2.9	2.6	12.1
0 to $50 million assets	100.0	3.5	2.5	2.2	15.6
AMEX	90.9	3.3	2.4	6.0	16.4
Over $150 million assets	96.2	3.9	2.6	12.8	10.5
$50 to $150 million assets	92.3	3.4	2.5	5.8	14.9
0 to $50 million assets	92.1	3.2	2.2	8.1	19.4
NASDAQ—other	79.0	3.5	3.0	5.0	13.2
Over $150 million assets	90.3	4.1	3.7	2.9	8.2
$50 to $150 million assets	83.1	3.3	2.7	8.1	18.0
0 to $50 million assets	68.3	3.2	2.4	7.3	16.4

TABLE 19.—PROFILE: NOMINATING COMMITTEES

[Sample means]

Companies by size and trading market	Percent having committees	Size	Number of meetings	Percent employed by issuer or affiliate	Percent having 5(b) relationship
All companies	30.4	4.5	2.3	18.5	14.6
Over $150 million assets	45.1	4.6	2.5	15.1	13.7
$50 to $150 million assets	22.3	4.2	2.1	25.6	13.3
0 to $50 million assets	17.2	4.0	1.8	25.4	18.0
NYSE	45.4	4.4	2.5	16.4	14.1
Over $150 million assets	55.0	4.5	2.6	15.2	14.3
$50 to $150 million assets	29.2	4.1	1.5	22.1	11.7
0 to $50 million assets	36.5	3.9	2.4	26.7	20.9
AMEX	30.2	4.4	1.7	27.9	15.2
Over $150 million assets	14.3	5.3	1.9	31.3	0.0
$50 to $150 million assets	26.9	4.6	2.3	20.3	7.8
0 to $50 million assets	17.9	4.2	1.4	33.8	25.4
NASDAQ—other	23.4	4.7	2.2	18.2	15.0
Over $150 million assets	37.3	5.2	2.3	14.2	13.8
$50 to $150 million assets	14.8	4.2	2.8	27.0	22.2
0 to $50 million assets	15.7	4.1	1.7	21.2	15.8

TABLE 20.—COMPENSATION COMMITTEE FUNCTIONS

[Sample means]

Companies by size and trading market	Percent approve or recommend compensation for senior management	Percent adopt compensation plans in which officers may participate	Percent administer stock option plans	Percent review compensation policies	Percent review director compensation	Percent other functions
All companies	92.8	42.9	37.7	63.4	22.1	39.8
Over $150 million assets	92.1	47.9	42.4	67.1	26.8	33.5
$50 to $150 million assets	93.9	42.1	37.1	61.9	17.7	27.4
0 to $50 million assets	93.1	34.6	29.8	59.0	17.6	21.3
NYSE	92.8	50.6	51.2	66.8	25.0	33.1
Over $150 million assets	93.8	52.1	53.1	70.6	27.6	33.5
$50 to $150 million assets	96.4	52.7	45.5	70.9	23.0	30.9
0 to $50 million assets	91.3	18.2	45.5	27.3	9.0	36.4
AMEX	93.8	35.7	26.9	61.6	22.3	21.4
Over $150 million assets	88.2	52.9	41.2	58.8	41.2	17.6
$50 to $150 million assets	93.0	37.2	27.9	48.8	16.3	27.9
0 to $50 million assets	86.2	24.8	21.2	73.1	21.2	17.3
NASDAQ—other	91.8	39.1	30.6	59.7	19.7	27.6
Over $150 million assets	88.9	41.1	26.4	62.6	25.3	25.7
$50 to $150 million assets	82.4	35.4	26.4	60.6	16.7	24.2
0 to $50 million assets	92.8	39.4	32.0	56.0	17.6	21.6

TABLE 21.—AUDIT COMMITTEE FUNCTIONS

[Sample means]

Companies by size and trading market	Percent engage and percent discharge	Percent direct investigations	Percent review	Percent review audit results	Percent approve each professional service	Consider range of audit and non-audit fee	Percent review adequacy of internal control	Percent review form financial
All companies	70.4	10.0	67.2	84.5	53.9	42.8	73.9	17.2
Over $150 million assets	73.6	11.4	69.7	85.9	58.3	46.2	80.1	19.7
$50 to $150 million assets	67.7	7.5	64.5	82.8	55.9	43.5	67.7	16.1
0 to $50 million assets	68.1	8.7	66.3	83.5	43.5	36.3	68.5	14.1
NYSE	75.5	12.6	69.9	86.0	64.8	49.7	81.1	20.3
Over $150 million assets	78.9	13.9	70.8	85.6	66.5	51.2	82.3	22.6
$50 to $150 million assets	64.1	9.4	68.8	87.5	62.5	48.4	73.4	15.6
0 to $50 million assets	70.9	7.7	61.5	84.6	53.8	30.8	84.6	15.4
AMEX	69.2	11.8	66.4	86.6	45.2	34.9	69.9	16.1
Over $150 million assets	65.0	10.0	75.0	90.0	40.0	35.0	85.0	15.0
$50 to $150 million assets	75.0	10.4	62.5	79.2	54.2	33.3	66.7	25.0
0 to $50 million assets	66.7	12.8	66.7	89.5	41.0	35.9	67.9	11.5
NASDAQ—Other	67.1	7.5	65.8	82.9	48.7	40.7	70.1	15.3
Over $150 million assets	86.5	8.4	87.1	85.6	53.9	38.9	75.4	17.4
$50 to $150 million assets	86.2	4.1	82.2	81.1	52.7	45.9	63.5	10.8
0 to $50 million assets	68.2	8.3	65.0	80.9	43.9	48.1	67.5	15.3

TABLE 22.—NOMINATING COMMITTEE FUNCTIONS

[Sample means]

Companies by size and trading market	Percent select or recommended nominees	Percent evaluate incumbent directors	Percent consider shareholder recommendations	Percent develop and/or disclose criteria for selecting nominees	Percent review organization or performance of the board	Percent other functions
All companies	96.9	11.8	78.1	22.6	13.0	37.1
Over $150 million assets	96.8	13.3	83.9	25.8	14.4	29.3
$50 to $150 million assets	97.7	15.2	73.9	21.7	19.6	21.7
0 to $50 million assets	96.6	3.4	85.5	15.5	3.4	24.1
NYSE	97.9	15.0	84.3	27.9	18.6	32.1
Over $150 million assets	97.4	15.5	84.5	29.3	19.0	34.5
$50 to $150 million assets	100.0	15.6	84.2	26.3	21.1	21.1
0 to $50 million assets	100.0	0.0	80.0	0.0	0.0	20.0
AMEX	100.0	5.9	67.6	17.6	8.8	26.5
Over $150 million assets	100.0	33.3	66.7	33.3	33.3	0.0
$50 to $150 million assets	100.0	7.1	71.4	14.3	14.3	14.3
0 to $50 million assets	100.0	0.0	64.7	17.6	0.0	41.2
NASDAQ—other	94.9	9.3	75.7	17.8	7.8	21.2
Over $150 million assets	95.7	8.7	91.3	17.4	8.8	21.7
$50 to $150 million assets	92.3	23.1	61.5	23.1	23.1	30.8
0 to $50 million assets	94.4	5.6	83.9	16.7	5.6	16.7

TABLE 23.—PERCENT OF COMPANIES DISCLOSING DIRECTOR RESIGNATIONS YEAR

[Sample means]

Companies by size and trading market	Percent	Companies by size and trading market	Percent
All companies	10.4	AMEX	11.9
Over $150 million assets	13.0	Over $150 million assets	8.5
$50 to $150 million assets	10.2	$50 to $150 million assets	15.5
0 to $50 million assets	7.4	0 to $50 million assets	11.8
NYSE	13.1	NASDAQ—other	8.3
Over $150 million assets	14.7	Over $150 million assets	11.4
$50 to $150 million assets	7.7	$50 to $150 million assets	10.1
0 to $50 million assets	15.4	0 to $50 million assets	6.2

[FR Doc. 82-6967 Filed 3-11-82; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 20

[Docket No. 82N-0034]

Disclosure of Information to Other Federal Government Departments and Agencies

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting its regulation governing the disclosure of FDA records to other Federal government departments and agencies to make clear that certain trade secret and confidential commerical information may not be, and is not being, disclosed. FDA is taking this action to avert any confusion which may exist between the agency's regulation and practice.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Irene Kelly, Regulatory Operations Section (HFC–22), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3470.

Section 20.85 (21 CFR 20.85) was promulgated as part of FDA's public information regulations, effective December 24, 1974. Subsequently, in 1978, the House Committee on Interstate and Foreign Commerce requested information of the Secretary, some of which consisted of trade secrets falling within the terms of section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331 (j)).

The Secretary sought formal advice from the Attorney General of the United States with respect to the scope of the disclosure provision of 21 U.S.C. 331(j). On August 9, 1978, the Attorney General advised that 21 U.S.C. 331(j) by its express terms forbids disclosure of trade secret information within the section to anyone outside of the Department other than to a court when relevant in a judicial proceeding. A copy of this opinion has been placed in the docket for this regulation and may be seen at the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. Since that time, FDA has interpreted § 20.85 in accordance with the Attorney General's opinion with respect to information within the scope of 21 U.S.C. 331(j) as well as that within the comparable provisions of 21 U.S.C. 360j(c) and the Radiation Control for Health and Safety Act, 42 U.S.C. 263g(d) and 263i(e).

But FDA has not revised § 20.85 to conform to the Attorney General's opinion and FDA's practice. This oversight may have confused some persons. Accordingly, FDA is correcting § 20.85 to clarify the matter. Therefore, FDA determines that good cause exists to find that notice and public procedures are impracticable, unnecessary, and contrary to the public interest. For the same reasons, FDA finds good cause for not delaying the effective date of the changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 201 et seq., 52 Stat. 1040 et seq. (21 U.S.C. 321 et seq.)), the Public Health Service Act (sec. 1 et seq., 58 Stat. 682 et seq., as amended (42 U.S.C. 201 et seq.)) and the Freedom of Information Act (Pub. L. 90–23, 81 Stat. 54–56 as amended by 88 Stat. 1561–1565 (5 U.S.C. 552)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Chapter I of Title 21 of the Code of Federal Regulations is amended by revising § 20.85 to read as follows:

PART 20—PUBLIC INFORMATION

§ 20.85 Disclosure to other Federal government departments and agencies.

Any Food and Drug Administration record otherwise exempt from public disclosure may be disclosed to other Federal government departments and agencies, except that trade secrets and confidential commercial or financial information prohibited from disclosure by 21 U.S.C. 331(j), 21 U.S.C. 360j(c), 42 U.S.C. 263g(d) and 42 U.S.C. 263i(e) may be released only as provided by those sections. Any disclosure under this section shall be pursuant to an agreement that the record shall not be further disclosed by the other department or agency except with the written permission of the Food and Drug Administration.

Effective date. March 12, 1982.

(Sec. 201 et seq., 52 Stat. 1040 et seq., as amended (21 U.S.C. 321 et seq.); sec. 1 et seq., 58 Stat. 682 et seq., as amended (42 U.S.C. 201 et seq.); 81 Stat. 54–56 as amended by 88 Stat. 1561–1565 (5 U.S.C. 552))

Dated: March 8, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-6710 Filed 3-11-82; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Parts 73 and 81

[Docket No. 81C-0023]

Caramel; Color Additive for General Use in Cosmetics; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of August 28, 1981 for a regulation that permanently lists caramel as a color additive for general use in cosmetics. In addition, the agency is making two editorial changes in Part 81 (21 CFR Part 81).

DATE: Effective date confirmed: August 28, 1981.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: A final rule published in the **Federal Register** of July 28, 1981 (46 FR 38500) added caramel for general use in cosmetics under § 73.2085 (21 CFR 73.2085) to Subpart C—Cosmetics of Part 73 (21 CFR Part 73). This final rule also amended § 81.1(g) (21 CFR 81.1(g)), by removing caramel from the provisional list of color additives, and § 81.27 (21 CFR 81.27), by removing paragraph (b) (1), (2), and (3), and redesignating paragraph (d) as paragraph (b).

FDA has not received any objections or requests for a hearing in response to this final rule. Therefore, this document confirms the effective date of August 28, 1981 for the regulation permanently listing caramel as a color additive.

In addition, for editorial clarity, the agency is making two revisions in Part 81. Because caramel was the only color additive listed in § 81.1(g), FDA should have removed the entire paragraph (g) in the July 28, 1981 final rule rather than just "caramel." The agency is now making this revision. Furthermore, the final rule's redesignation of paragraph (d) as paragraph (b) of § 81.27 does not relate to the action on caramel and will not improve editorial clarity. Therefore, the agency is withdrawing that redesignation and reinstating the paragraph (d) designation, but the original paragraph (b) remains removed and is designated as reserved. Because these editorial revisions are merely technical and result in no substantive changes, the agency finds that notice and public procedure are not necessary (5 U.S.C. 553(b)(B)).

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376 (b), (c), and (d))) and the Transitional Provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 21 CFR 5.1; see 46 FR 26052; May 11, 1981)), FDA is giving notice that no objections or requests for a hearing were filed in response to the final rule of July 28, 1981. Accordingly, the agency announces that the final rule listing caramel for general use in cosmetics under § 73.2085 (21 CFR 73.2085) became effective on August 28, 1981. The agency also announces the following editorial changes in Part 81:

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives*, paragraph (g) is removed.

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing*, the text of paragraph (b) is redesignated as paragraph (d) and paragraph (b) is designated as "reserved."

Effective date. March 12, 1982.

(Sec. 706 (b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376 (b), (c), and (d)))

Dated: March 4, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-6382 Filed 3-11-82; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Diethylcarbamazine Citrate Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by International Multifoods providing for safe and effective use of 100- and 300-milligram (mg) diethylcarbamazine citrate tablets for prevention of heartworm disease and control of ascarid infections in dogs and treatment of ascarid infections in dogs and cats.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV–112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: International Multifoods, 1200 Multifoods Building, 8th and Marquette Sts., Minneapolis, MN 55402 filed a supplemental NADA (107–506) providing for use of 100- and 300-mg diethylcarbamazine citrate tablets for the prevention of heartworm disease in dogs caused by *Dirofilaria immitis*, as an aid in the treatment and control of ascarid infections in dogs caused by *Toxocara canis*, and as an aid in the treatment of ascarid infections in cats caused by *Toxocara canis* and *Toxascaris leonina*.

International Multifoods currently holds approval for use of 50-, 200-, and 400-mg tablets. (See Federal Register of August 14, 1981, 46 FR 41038). This supplement adds the 100 and 300 mg sizes. Approval of this supplement does not change the approved condition of use of the drug. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this is a Category II supplemental approval which does not require reevaluation of the safety and effectiveness data in the original application. The supplement is approved and the regulations are amended to reflect the approval.

The Bureau of Veterinary Medicine has determined pursuant to proposed 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.622a [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended in § 520.622a *Diethylcarbamazine citrate tablets* in paragraph (a)(3) by deleting the phrase "50, 200, or 400" and inserting in its place "50, 100, 200, 300, or 400".

Effective date. This amendment is effective March 12, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C.360b(i)))

Dated: March 3, 1982.

Myron C. Rosenberg,

Acting Associate Director for Scientific Evaluation, Bureau of Veterinary Medicine.

[FR Doc. 82-6383 Filed 3-11-82; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Estradiol

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Elanco Products Co. providing for the safe and effective use of an ear implant containing 24 or 45 milligrams (mg) of estradiol as a growth promotant in steers.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: William D. Price, Bureau of Veterinary Medicine (HFV–123), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3442.

SUPPLEMENTARY INFORMATION: Elanco Products Co., a Division of Eli Lilly & Co., 740 South Alabama St., Indianapolis, IN 46206, filed an NADA (118–123) providing for use of an ear implant containing 24 or 45 mg of estradiol for increased rate of weight gain in suckling and pastured growing steers and for improved feed efficiency and increased rate of weight gain in confined steers. Elanco has submitted data based on well-controlled studies that demonstrate the animal safety and effectiveness of the drug for the prescribed conditions of use. The safety of residues of the drug in edible tissue has been demonstrated by available information evaluated by criteria the agency has developed for endogenous substances like estradiol, progesterone, and testosterone. A further discussion of this finding and the applicable criteria will appear in forthcoming **Federal Register** announcements regarding the safety of products containing endogenous hormones. For background information, see 44 FR 1462, 1463 (January 5, 1979) and 46 FR 24694 (May 1, 1981). The NADA is approved and the regulations are amended accordingly.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f)(1)(iv)) may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (address above).

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs, (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83). Part 522 is amended by adding new § 522.840 to read as follows:

§ 522.840 Estradiol.

(a) *Specifications.* Each silicone rubber implant contains 24 or 45 milligrams of estradiol.

(b) *Sponsor.* See 000986 in § 510.600(c) of this chapter.

(c) *Conditions of use.* It is used for implantation in steers as follows:

(1) *Amount.* Insert one 24-milligram implant every 200 days; insert one 45-milligram implant every 400 days.

(2) *Indications for use.* For increased rate of weight gain in suckling and pastured growing steers; for improved feed efficiency and increased rate of weight gain in confined steers.

(3) *Limitations.* For subcutaneous ear implantation in steers only. Remove any existing implant as directed before re-implantation.

Effective date. This regulation is effective March 12, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: March 6, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-6749 Filed 3-11-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs not Subject to Certification; Levamisole Phosphate Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Pitman-Moore, Inc., providing for use of levamisole phosphate injection for treating cattle for stomach, intestinal, and lung worm infections.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: William D. Price, Bureau of Veterinary Medicine (HFV–123), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3442.

SUPPLEMENTARY INFORMATION: Pitman-Moore, Inc., Washington Crossing, NJ 08560, filed an NADA (128–742) providing for safe and effective subcutaneous use of a 13.65 percent levamisole phosphate injection for treatment of cattle for stomach worm, intestinal worm, and lung infections. The product is identical to one in Capri's approved NADA 102–437 which is codified in 21 CFR 522.1244. Capri has authorized the agency to use the data and information in their NADA to support approval of Pitman-Moore's NADA. Pitman-Moore's NADA 128–742 is approved and the regulations are amended to reflect the approval.

The agency has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 522.1244 is amended by revising paragraph (b) to read as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.1244 Levamisole phosphate injection.

* * * * *

(b) *Sponsor.* See No. 011716 in § 510.600 of this chapter for use of 13.65 percent injection, and see No. 043781 for use of 13.65 and 18.2 percent injection.

* * * * *

Effective date. March 12, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: March 5, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-6600 Filed 3-11-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification; Nitrofurazone Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Wendt Laboratories, Inc., providing for over-the-counter (OTC) use of nitrofurazone solution as a topical antibacterial on dogs, cats, and horses, and for veterinary prescription use for genital tract infections and impaired fertility of horses.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: Wendt Laboratories, Inc., 100 Nancy Dr., Belle Plains, MN 56011, is sponsor of an NADA (119–974) providing for use of Fura-Solution containing 0.2 percent nitrofurazone as an OTC topical antibacterial on dogs, cats, and horses, and prescription treatment of equine genital tract infections and impaired fertility. This product is similar to another product codified in 21 CFR 524.1580d (see 46 FR 22359, April 17, 1981). The section provides that since the conditions of use are NAS/NRC reviewed and found effective, applications for these uses need not include effectiveness data as specified by 21 CFR 514.111. The product is intended for topical use; therefore, the requirement for bioequivalency is waived under 21 CFR 320.22(b)(2). The application is approved, and the regulations are amended accordingly.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 524 is amended in § 524.1580d by revising paragraph (b), to read as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 524.1580d Nitrofurazone solution.

* * * * *

(b) *Sponsor.* See 000857 and 015579 in § 510.600(c) of this chapter for use as in paragraph (d) (1) and (2) of this section. See 051259 for use as in paragraph (d)(1) of this section.

* * * * *

Effective date. March 12, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: March 5, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-6599 Filed 3-11-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lincomycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the new animal drug regulation for lincomycin to reflect approval of a supplemental new animal drug application (NADA) filed by the Upjohn Co. providing for administrative waiver of the ministerial requirements of section 512(m) of the Federal Food, Drug, and Cosmetic Act with regard to the manufacture of complete swine feeds from premixes containing lincomycin at concentrations up to and including 20 grams per pound.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV–147), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4317.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, filed a supplemental NADA (97–505) providing for waiver of the requirements of section 512(m) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(m)) for the manufacture of complete swine feeds from premixes containing lincomycin at concentrations up to and including 20 grams per pound. The firm holds a section 512(m) waiver limited to use of the 20-gram-per-pound premix only.

Lincomycin as the sole drug premix meets the uniform criteria set forth in the 1971 Bureau of Veterinary Medicine memorandum for administrative waiver of the ministerial requirements of section 512(m) of the act. The pertinent provisions of the memorandum indicate that waiver is appropriate if:

1. The feeding of 1.5X to 2X level of the product in the finished feed does not have an impact on the tissue residue picture, i.e., an impact on an existing withdrawal period or tolerance.

2. The product is not a known carcinogen or is not classed with a family of known carcinogens.

3. Appropriate documentation covering animal safety is on file. This will not require additional data since this documentation is by definition a part of the NADA.

4. The margin of safety to the animal and the consumer is such that the product label does not have to contain a statement such as "Use as the sole source of * * *."

5. Data are on file to demonstrate that the product is efficacious over the approved range. This data should generally satisfy current standards for the demonstration of efficacy.

6. Except under special circumstances, the product has been used at least 3 years in the target species without significant complaints related to or associated with it. Applications of this criterion require a review of the available Drug Experience Reports.

The 1971 memorandum explains that waiver of the ministerial requirements of section 512(m) of the act is permitted only for specific efficacy claims or at specific levels of the drugs, and that distinct products with corresponding labeling for those claims or levels should exist. This is necessary to cover those premixes that can be made into finished feeds with various concentrations of drugs.

The foregoing criteria established in the 1971 memorandum constitute an interim agency policy. In waiving the ministerial requirements of section 512(m) of the act, the agency has not waived the current good manufacturing practice regulations under Part 225 (21 CFR Part 225) for feed mills mixing such feeds.

In the **Federal Register** of January 9, 1981 (46 FR 2456), the agency published a proposal to revise the current procedures and requirements concerning conditions of approval for the manufacture of animal feeds containing new animal drugs. In that proposal (46 FR 2463), the agency announced that it would no longer grant exemptions from the requirement of an approved medicated feed application because the interim policy would be terminated by publication of a regulation establishing permanent policy. FDA believed at that time that a final rule on the proposed medicated feed regulations could be published within a short time. Because of the length of time that has expired since publication of the proposal, the agency concludes that it would be unfair to continue denying waivers to those drug sponsors whose products meet the criteria set forth in the 1971 memorandum on the basis that the program is to be restructured in the future. Accordingly, the agency is withdrawing its policy, announced in the January 9, 1981 **Federal Register**, terminating the granting of section 512(m) exemptions (based on the 1971 memorandum) and resumes the granting of exemptions on an interim basis.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Approval of this supplement is an administrative action that did not require the generation of new effectiveness or safety data in support of the waiver. Therefore, a freedom of information summary is not required for this action.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 28052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.325 by revising paragraph (e)(3) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.325 Lincomycin.

* * * * *

(e) * * *

(3) Complete swine feeds containing lincomycin as the sole drug, which are processed from premixes containing no more than 20 grams of lincomycin per pound, and which conform to the requirements of paragraph (f)(2) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

* * * * *

Effective date. This regulation is effective March 12, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: March 5, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-6601 Filed 3-11-82; 8:45 am]

BILLING CODE 4110-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin and Sulfamethazine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Micro Blenders, Inc., for use of a tylosin and sulfamethazine premix in the manufacture of swine feeds.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Micro Blenders, Inc., P.O. Box 357, Highway 210 East at 291, Liberty, MO 64068, is sponsor of NADA 128–617 for Tylan 5 Sulfa, a premix containing 5 grams-per-pound each of tylosin (as tylosin phosphate) and sulfamethazine. The NADA provides for safe and effective use of the premix for subsequent manufacture of complete swine feed to be used for (1) maintaining weight gain and feed efficiency in the presence of atrophic rhinitis, (2) lowering the incidence and severity of *Bordetella bronchiseptica* rhinitis, (3) preventing swine dysentery (vibrionic), and (4) controlling swine pneumonias caused by bacterial pathogens (*Pasteurella multocida* and /or *Corynebacterium pyogenes*).

Approval of the application is based on safety and effectiveness data contained in Elanco Products Co.'s approved NADA's 12–491 and 41–275. Elanco has authorized FDA to refer to these applications to support approval of the application. Because this approval does not change the approved use of the drug it poses no increased human risk from exposure to drug residues and does not affect the conditions of safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's policy regarding supplements to NADA's (42 FR 64367; December 23, 1977), approval of this NADA has been treated as a Category II supplement and does not require reevaluation of the safety and effectiveness data contained in NADA's 12–491 and 41–275.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 28052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.630 by revising paragraph (b)(9), to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.630 Tylosin and sulfamethazine.

* * * * *

(b) * * *

(9) To 017790, 022422, 050782: 5 grams per pound each, paragraph (f)(2)(ii) of this section.

* * * * *

Effective date. March 12, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: March 5, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-6602 Filed 3-11-82; 8:45 am]

BILLING CODE 4110-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Order No. 973–82]

Creation of the Office of Information and Privacy

AGENCY: Justice Department.

ACTION: Final rule.

SUMMARY: This order creates the Office of Information and Privacy, within the Office of Legal Policy, to discharge in one consolidated Office the responsibilities of the Office of Privacy and Information Appeals and the Office of Information Law and Policy, which are concurrently abolished. This order also abolishes the Freedom of Information Committee.

EFFECTIVE DATE: March 4, 1982.

FOR FURTHER INFORMATION CONTACT: Daniel J. Metcalfe, Co-Director, Office of Information and Privacy, Department of Justice, Washington, D.C. 20530 (202/633–4082).

SUPPLEMENTARY INFORMATION: This order deals with agency organization and management. Therefore, it is not required to be, and has not been, published in proposed form for comment under 5 U.S.C. 553(b); it is not a rule within the meaning of, or subject to, the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*; and it is not a rule within the meaning of, or subject to, Executive Order 12291.

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Accordingly, by virtue of the authority vested in me as Attorney General by 5 U.S.C. 301 and 28 U.S.C. 510, Part 0 of Title 28, Code of Federal Regulations, is hereby amended as follows:

1. Section 0.23a is revised to read as follows:

§ 0.23a Office of Information and Privacy.

(a) There is established, in the Office of Legal Policy, the Office of Information and Privacy, which, under the general supervision and direction of the Assistant Attorney General, Office of Legal Policy, shall:

(1) Assist in acting on information and privacy appeals under §§ 16.7 and 16.47, respectively, of this chapter, except that in the case of appeals from initial decisions in which the Assistant Attorney General, Office of Legal Policy, participated this assistance shall be provided by the Office of Legal Counsel.

(2) Provide staff support to the Department Review Committee, established by § 17.148 of this chapter.

(3) Advise executive agencies and organizational units of the Department on questions relating to interpretation and application of the Freedom of Information Act and advise the Department on questions relating to interpretation and application of the Privacy Act.

(4) Coordinate the development and implementation of and compliance with Freedom of Information Act policy within the executive agencies and all organizational units of the Department.

(5).Undertake, arrange, or support training and informational programs concerning both acts for the executive agencies and the Department.

(6) Undertake such other responsibilities as may be assigned by the Assistant Attorney General, Office of Legal Policy.

(b) All federal agencies which intend to deny Freedom of Information Act requests raising novel issues should consult with the Office of Information and Privacy to the extent practicable.

§ 0.23b [Removed]

2. Section 0.23b is removed.

§ 0.23c [Removed]

3. Section 0.23c is removed.

Dated: March 4, 1982.

William French Smith,

Attorney General.

[FR Doc. 82-6630 Filed 3-11-82; 8:45 am]

BILLING CODE 4410-01-M

VETERANS ADMINISTRATION

38 CFR Part 17

Health Professional Scholarship Program

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The "Veterans Administration Health Care Amendments of 1980" established the Veterans Administration Health Professional Scholarship Program. The purpose of the Scholarship Program is to assist in providing an adequate supply of trained physicians and nurses for the Veterans Administration and for the Nation and, if needed by the Veterans Administration, certain other health care professionals. Under this program, medical, osteopathic and nursing students could receive up to four years of financial assistance during their training. This assistance would include payment of tuition, other educational expenses and a monthly stipend, all of which would be exempt from Federal taxation. In return for this financial assistance, a scholarship participant would be obligated to serve as a full-time employee in the VA's Department of Medicine and Surgery for a period of time equal to the period of support or two years, whichever is greater. Medical or osteopathic students may request a deferment of obligated service to complete an internship or residency or other advanced clinical training. Such a deferment may, however, obligate the student to an additional period of service.

It is intended that these regulations will set forth the requirements for the award of scholarships under the VA Health Professional Scholarship Program to students receiving academic training in medicine, osteopathy, nursing and, if needed by the Veterans Administration, certain other health care professionals. However, for the 1982–83 school year, scholarships will be awarded only to students pursuing academic training leading to a baccalaureate degree in nursing or a master's degree in nursing in a clinical specialty needed by the Veterans Administration.

EFFECTIVE DATE: February 25, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Dorothy E. Reese, Acting Director, VA Health Professional Scholarship Program (14N), Office of Academic Affairs, Department of Medicine and Surgery, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, Phone (202) 389–5071.

SUPPLEMENTARY INFORMATION: On December 31, 1981 proposed regulations for Part 17, Title 38, Code of Federal Regulations were published in the **Federal Register** on pages 63327 to 63331 to implement provisions of Pub. L. 96–330, enacted August 26, 1980.

Interested persons were given 30 days to submit comments, suggestions, or objections. The Veterans Administration received six letters, two of which expressed support for the award of scholarships to students enrolled in approved programs leading to a nursing degree.

Two writers suggested that the amount of the monthly stipend be stated as being the same as the National Health Service Corps Scholarship Program. The amount of the monthly stipend for participants in the VA Health Professional Scholarship Program is, by law, adjusted annually in accordance with any changes in the rates of pay under the General Schedule. Although the same adjustments are made in the National Health Service Corps Scholarship Program, we do not believe that it is necessary to state this comparability in the regulations.

One writer objected to the exclusion of students enrolled in diploma schools of nursing. The law defines the eligibility of nursing students as those enrolled, or accepted for enrollment, full-time in a course of training leading to a degree in nursing. The Veterans Administration does not have the authority to use the regulations to overturn a provision of the law. For clarification, a graduate of a diploma school who is enrolled or accepted for enrollment full-time in a course of training leading to a baccalaureate degree in nursing would be eligible to apply for a scholarship.

One writer asked whether or not consideration could be given to nursing students requesting a deferment of obligated service to complete further education. The statement in the law authorizing deferments is specific to those disciplines requiring "an internship or residency or other advanced clinical training." In the specified disciplines this additional training is usually required for employment. Graduates of nursing degree programs are not required to have such additional training for service obligation or other employment. Therefore, there is no basis for providing deferments to nursing students.

In addition to consideration of the comments received, one additional point has been added to the final regulations. Provisions have been made for the random selection of qualified applicants in cases in which there are a larger number of equally qualified applicants than there are awards to be made.

Executive Order 12291

The Administrator has determined that these regulations are non-major as that term is defined by Executive Order 1229. The regulations will apply to individuals seeking benefits of the program. The regulations will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumer, individual industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment investment, productivity, innovation, or on the ability of United States-based enterprise to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility

The Administrator hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these regulations are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that this rule will, almost exclusively, be directed to individuals who wish to apply for assistance from the VA Health Professional Scholarship Program.

It will, therefore, have no significant direct impact on small entities (i.e., small business, small private and non-profit organizations, and small governmental jurisdictions.)

Paperwork Reduction Act

Information collection requirements contained in these regulations (38 CFR 17.600–17.612) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, and have been assigned OMB control number 2900–0352.

(Catalog of Federal Domestic Assistance number 64.023)

These new regulations, 38 CFR 17.600–17.612, are hereby adopted.

Approved: February 25, 1982.

By direction of the Administrator.

Charles T. Hagel,

Deputy Administrator.

PART 17—MEDICAL

38 CFR Part 17 is amended by adding §§ 17.600 through 17.612 to read as follows:

* * * * *

VA Health Professional Scholarship Program

Sec.

17.600 Purpose.
17.601 Definitions.
17.602 Eligibility.
17.603 Availability of scholarships.
17.604 Application for the scholarship program.
17.605 Selection of participants.
17.606 Award procedures.
17.607 Obligated service.
17.608 Deferment of obligated service.
17.609 Pay during period of obligated service.
17.610 Failure to comply with terms and conditions of participation.
17.611 Bankruptcy.
17.612 Cancellation, waiver or suspension of obligation.

Authority: 38 U.S.C. 4141–4146.

VA Health Professional Scholarship Program

§ 17.600 Purpose.

The purpose of §§ 17.600 through 612 is to set forth the requirements for the award of scholarships under the Veterans Administration Health Professional Scholarship Program (Pub. L. 96–330; 38 U.S.C. 4141–4146) to students receiving academic training in medicine, osteopathy or nursing to assure an adequate supply of such health professionals for the Veterans Administration and for the Nation.

§ 17.601 Definitions.

For the purpose of these regulations:

(a) "Acceptable level of academic standing" means the level at which a full-time student retains eligibility to continue in attendance in school under the school's standards and practices in the course of study for which the scholarship was awarded.

(b) "Act" means the Veterans Administration Health-Care Amendments of 1980, Pub. L. 96–330, (38 U.S.C. 4141–4146.)

(c) "Affiliation agreement" means a Memorandum of Affiliation between a Veterans Administration health care facility and a school of medicine or osteopathy.

(d) "Advanced clinical training" means those programs of graduate training in medicine including osteopathy which (1) lead to eligibility for board certification or which provide other evidence of completion, and (2) have been approved by the appropriate body as determined by the Administrator.

(e) "Administrator" means the Administrator of Veterans Affairs.

(f) "Chief Medical Director" means the Chief Medical Director of the Department of Medicine and Surgery (DM&S), Veterans Administration.

(g) "Citizen of the United States" means any person born or lawfully naturalized in the United States, subject to its jurisdiction and protection, and owing allegiance thereto.

(h) "Degree in nursing" means a course of study leading to a baccalaureate degree or a master's degree in a clinical specialty needed by the Veterans Administration.

(i) "Full-time student" means an individual pursuing a course of study leading to a degree in medicine, osteopathy or nursing who is enrolled for a sufficient number of credit hours in any academic term to complete the course of study within not more than the number of academic terms normally required by the school, college or university. If an individual is enrolled in a school and is pursuing a course of study which is designed to be completed in more than four years, the individual will be considered a full-time student for only the last four years of the course of study.

(j) "Other educational expenses" means a reasonable amount of funds determined by the Administrator to cover expenses such as books, supplies, required fees and required educational equipment.

(k) "Required educational equipment" means educational equipment which must be rented or purchased by all students pursuing a similar curriculum in the same school.

(l) "Required fees" means those fees which are charged by the school to all students pursuing a similar curriculum in the same school.

(m) "Scholarship Program" or "Scholarship" means the Veterans Administration Health Professional Scholarship Program authorized by Section 201 of the Act.

(n) "Participant" or "Scholarship Program Participant" means an individual whose application to the Scholarship Program has been approved and whose contract has been accepted by the Administrator and who has yet to complete the period of obligated service or otherwise satisfy the obligation or financial liabilities of the Scholarship Contract.

(o) "School" means a school of medicine, osteopathy or nursing which

(1) provides training leading to a degree of doctor of medicine, doctor of osteopathy, a baccalaureate degree in nuring or a master's degree in nursing in a clinical specialty needed by the Veterans Administration, and (2) which is accredited by a body or bodies recognized for accreditation by the Administrator.

(p) "School year" means all or part of the 12-month period from July 1 through June 30 during which an applicant is enrolled in the school as a full-time student.

(q) "State" means one of the several States, Territories and possessions of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

§ 17.602 Eligibility.

(a) To be eligible for a scholarship under this program an applicant must—

(1) Be accepted for enrollment or be enrolled as a full-time student in an accredited school located in a State;

(2) Be pursuing a course of study or program offered by a school leading to a degree in medicine, osteopathy or a degree in nursing;

(3) Be in a discipline or program annually designated by the Administrator for participation in the Scholarship Program;

(4) Be a citizen of the United States; and

(5) Submit an application to participate in the Scholarship Program together with a signed contract. (38 U.S.C. 4142(a)).

(b) Any applicant who, at the time of application, owes a service obligation to another Federal program to perform service after completion of the course of study is ineligible to receive a scholarship under the Veterans Administration Health Professional Scholarship Program. (38 U.S.C. 4142(a)(4)).

§ 17.603 Availability of scholarships.

Scholarships will be awarded only when necessary to assist the Veterans Administration in alleviating shortages or anticipated shortages of personnel in particular health professions. The existence of a shortage of personnel will be determined in accordance with specific criteria for each health profession, promulgated by the Chief Medical Director. If it becomes necessary for the Veterans Administration to award scholarships in any health profession other than medicine, osteopathy or nursing, the Administrator may publish a list of those professions in the Federal Register. (38 U.S.C. 4142(c)(2)).

§ 17.604 Application for the scholarship program.

Each individual desiring a scholarship under this program must submit an accurate and complete application in the form and at the time prescribed by the Administrator. Included with the application will be a signed written contract to accept payment of a scholarship and to serve "a period of obligated service" (as defined in § 17.607) if the application is approved and if the contract is accepted by the Administrator. (38 U.S.C. 4142(e)(1)(B)(iv))

§ 17.605 Selection of participants.

(a) *General.* In deciding which Scholarship Program applications will be approved by the Administrator, priority will be given to applicants who previously received scholarship awards and who meet the conditions of paragraph (d) of this section. Except for continuation awards (see paragraph (d)), applicants will be evaluated under the criteria specified in paragraph (b) of this section. A situation may occur in which there are a larger number of equally qualified applicants than there are awards to be made. In such cases, a random method may be used as the basis for selection. (38 U.S.C. 4142(c)(1))

(b) *Selection.* In evaluating and selecting participants, the Administrator will take into consideration those factors determined necessary to assure effective participation in the Scholarship Program. The factors may include, but not be limited to—

(1) Work experience, including prior medically related employment and Veterans Administration employment;

(2) Faculty and employer recommendations;

(3) Academic performance; and

(4) Career goals. (38 U.S.C. 4142(i))

(c) *Duration of scholarship award.* Subject to the availability of funds for the Scholarship Program, the Administrator will award a participant a scholarship under §§ 17.600–17.612 for a period of from 1 to 4 school years. (38 U.S.C. 4142(e)(1)(A); 4146)

(d) *Continuation awards.* Subject to the availability of funds for the Scholarship Program and selection, the Administrator will award a continuation scholarship if—

(1) The participant requests a continuation;

(2) The award will not extend the total period of Scholarship Program support beyond 4 years; and

(3) The participant remains eligible for continued participation in the Scholarship Program. (38 U.S.C. 4142(c)(1)(i))

V 47 49 MR 12 82

§ 17.606 Award procedures.

(a) *Amount of scholarship.* (1) A scholarship award will consist of (i) tuition, (ii) other educational expenses, including required fees, books, laboratory equipment, and (iii) a monthly stipend for the duration of the scholarship award. All such payments to scholarship participants are exempt from Federal taxation. (38 U.S.C. 4145)

(2) The Administrator may make arrangements with the school in which the participant is enrolled for the direct payment of the amount of tuition and/or reasonable educational expenses on the participant's behalf. (38 U.S.C. 4142(f) (1) and (2); 4145)

(b) *Leave-of-absence, repeated course work.* The Administrator will suspend scholarship payments to or on behalf of a participant if the school (1) approves a leave-of-absence for the participant for health, personal, or other reasons, or (2) requires the participant to repeat course work for which the Administrator previously has made payments under the Scholarship Program. Only if the repeated course work does not delay the participant's graduation date, will scholarship payments continue; however, additional costs relating to the repeated course work will not be paid under this program. Any scholarship payments suspended under this section will be resumed by the Administrator upon notification by the school that the participant has returned from the leave-of-absence or has completed the repeated course work and is proceeding as a full-time student the course of study for which the scholarship was awarded. (38 U.S.C. 4142(i))

§ 17.607 Obligated service.

(a) *General.* Except as provided in paragraph (d) of this section, each participant is obligated to provide service as a Veterans Administration employee in full-time clinical practice in his or her clinical specialty or discipline in an assignment or location determined by the Administrator. (38 U.S.C. 4143(a))

(b) *Beginning of service.* The period of obligated service will begin when the participant is appointed under title 38 United States Code, as a full-time employee of the Department of Medicine and Surgery, Veterans Administration in the clinical field or discipline in which the individual was trained. Except for those participants who receive a deferral under § 17.608, the assignment will be made by the Administrator within 60 days of (1) the completion of the participant's course of study leading to a degree in medicine, osteopathy or nursing or (2) the date upon which the participant becomes licensed to practice medicine, osteopathy, or nursing. (38 U.S.C. 4143(b), (c))

(c) *Duration of service.* Except as provided in paragraph (d) of this section, the period for which the participant is obligated on a full-time basis in the clinical field or discipline in which the individual was trained to serve is equal to 1 year for each school year for which the participant receives a scholarship award under these regulations, or 2 years, whichever is greater. (38 U.S.C. 4142(e)(1)(B)(iv))

(d) *Service by detail.* The Administrator, in cooperation with and with the consent of the heads of other relevant Federal departments and agencies and with the consent of the participant involved, may permit—

(1) Any period of required obligated service to be performed in another Federal department or agency or in the Armed Forces; and

(2) Any period of obligated service required to be performed in another Federal department or agency or in the Armed Forces under another Federal health personnel scholarship program to be performed in the Department of Medicine and Surgery, Veterans Administration. (38 U.S.C. 4144(e))

(e) *Creditability of advanced clinical training.* No period of advanced clinical training will be credited toward satisfying the period of obligated service incurred under the Scholarship Program. (38 U.S.C. 4143(b)(3)(A)(ii))

§ 17.608 Deferment of obligated service.

(a) *Request for deferment.* A participant receiving a degree from a school of medicine or osteopathy may request deferment of obligated service to complete an approved program of advanced clinical training. The Administrator will generally defer the beginning date of the obligated service to allow the participant to complete the the advanced clinical training program. The period of this deferment will be the time designated for the specialty training in which the physician is enrolled as defined by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association. (38 U.S.C. 4142(i); 4143(b)(3)(A)(i))

(d) *Deferment requirements.* Any participant whose period of obligated service is deferred shall be required to take all or part of the advanced clinical training in an accredited program in an educational institution having an Affiliation Agreement with a Veterans Administration health care facility. (38 U.S.C. 4143(b)(4)(A))

(c) *Additional service obligation.* A participant who has requested and received deferment for approved advanced clinical training may, at the time of approval of such deferment and at the discretion of the Administrator and upon the recommendation of the Chief Medical Director, incur an additional period of obligated service—

(1) At the rate of one-half of a calendar year for each year of approved clinical training (or a proportionate ratio thereof) if the training is in a medical specialty determined to be necessary to meet health carp requirements of the Department of Medicine and Surgery, Veterans Administration; or

(2) At the rate of three-quarters of a calendar year for each year of approved graduate training (or a proportionate ratio thereof) if the training is in a medical specialty determined not to be necessary to meet the health care requirements of the Department of Medicine and Surgery. Specialties necessary to meet the health care requirements of the Department of Medicine and Surgery will be prescribed periodically by the Administrator when, and if, this provision for an additional period of obligated service is to be used. (38 U.S.C. 4143(b)(4)(B))

(b) *Altering deferment.* Before altering the length or type of approved advanced clinical training for which the period of obligated service was deferred under paragraph (a) or (b) of this section, the participant must request and obtain the Administrator's written approval of the alteration. (38 U.S.C. 4142(i))

(e) *Additional terms of deferment.* The Administrator may prescribe additional terms and conditions for deferment under paragraphs (a), (b), (c) and (d) of this section as necessary to carry out the purposes of the Scholarship Program. (38 U.S.C. 4142(i))

(f) *Beginning of service after deferment.* Any participant whose period of obligated service has been deferred under paragraph (a) or (b) of this section must begin the obligated service effective on the date of appointment under title 38 in full-time clinical practice in an assignment or location in a Veterans Administration health care facility as determined by the Administrator. The assignment will be made by the Administrator within 120 days prior to or no later than 30 days following the completion of the requested graduate training for which the deferment was granted. Travel and relocation regulations will apply. (38 U.S.C. 4143(b)(2))

§ 17.609 Pay during period of obligated service.

The initial appointment of physicians for obligated service will be made in a grade commensurate with qualifications as determined in section 4107(b)(1) of title 38, United States Code. A physician serving a period of obligated service is not eligible for incentive special pay during the first three years of such obligated service. He or she may be paid primary special pay at the discretion of the Administrator upon the recommendation of the Chief Medical Director. (Pub. L. 96-330, Sec. 202; 38 U.S.C. 4118(h))

§ 17.610 Failure to comply with terms and conditions of participation.

(a) If a participant, other than one described in paragraph (b) of this section fails to accept payment or instructs the school not to accept payment of the scholarship provided by the Administrator, the participant must, in addition to any service or other obligation incurred under the contract, pay to the United States the amount of $1,500 liquidated damages. Payment of this amount must be made within 90 days of the date on which the participant fails to accept payment of the scholarship award or instructs the school not to accept payment. (38 U.S.C. 4144(a))

(b) When a participant fails to maintain an acceptable level of academic standing, is dismissed from the school for disciplinary reasons, voluntarily terminates the course of study or program for which the scholarship was awarded before completing the course of study or program, or fails to become licensed to practice medicine or osteopathy in a State or fails to become licensed as a registered nurse in a State within 1 year from the date such person becomes eligible to apply for State licensure, the participant must, instead of performing any service obligation, pay to the United States an amount equal to all scholarship funds awarded under the written contract executed in accordance with § 17.602. Payment of this amount must be made within 3 years from the date academic training terminates. (38 U.S.C. 4144(b))

(c) Participants who breach their contracts by failing to begin or complete their service obligation (for any reason) other than as provided for under paragraph (b) of this section are liable to repay the amount of all scholarship funds paid to them and to the school on their behalf, plus interest, as determined by the following formula:

$$A = 30\ \frac{t}{(t-s)}$$

in which:

'A' is the amount the United States is entitled to recover;

'0' is the sum of the amounts paid to or on behalf of the applicant and the interest on such amounts which would be payable if, at the time the amounts were paid, they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States;

't' is the total number of months in the applicant's period of obligated service; and

's' is the number of months of the period of obligated service served by the participant.

The amount which the United States is entitled to recover shall be paid within 1 year of the date on which the applicant failed to begin or complete the period of obligated service, as determined by the Administrator. (38 U.S.C. 4144(c))

§ 17.611 Bankruptcy.

Any payment obligation incurred may not be discharged in bankruptcy under title 11 of the United States Code until 5 years after the date on which the payment obligation is due. (38 U.S.C. 4144(d)(3))

§ 17.612 Cancellation, waiver, or suspension of obligation.

(a) Any obligation of a participant for service or payment will be canceled upon the death of the participant. (38 U.S.C. 4144(d)(1))

(b)(1) A participant may seek a waiver or suspension of the service or payment obligation incurred under this program by written request to the Administrator setting forth the basis, circumstances, and causes which support the requested action. The Administrator may approve an initial request for a suspension for a period of up to 1 year. A renewal of this suspension may also be granted.

(2) The Administrator may waive or suspend any service or payment obligation incurred by a participant whenever compliance by the participant (i) is impossible, due to circumstances beyond the control of the participant or (ii) whenever the Administrator concludes that a waiver or suspension of compliance would be in the best interest of the Veterans Administration. (38 U.S.C. 4144(d)(2))

(c) Compliance by a participant with a service or payment obligation will be considered impossible due to circumstances beyond the control of the participant if the Administrator determines, on the basis of such information and documentation as may be required, that the participant suffers from a physical or mental disability resulting in permanent inability to perform the service or other activities which would be necessary to comply with the obligation. (38 U.S.C. 4144(d)(2))

(d) Waivers or suspensions of service or payment obligations, when not related to paragraph (c) of this section, and when considered in the best interest of the Veterans Administration, will be determined by the Administrator on an individual basis. (38 U.S.C. 4144(d)(2))

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-1934-7]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: On June 26, 1979, Indiana submitted as a revision to its State Implementation Plan (SIP) a revised sulfur dioxide (SO_2) regulation, Air Pollution Control 13 (APC 13), and SO_2 control strategies for certain designated nonattainment counties. EPA proposed rulemaking to conditionally approve, in part, these control strategies on March 27, 1980 (45 FR 20432). Indiana recodified its regulations and on October 6, 1980 submitted essentially identical regulations. EPA is taking final action today to conditionally approve, in part, the recodified regulations and the control strategies contained in the submissions. EPA is taking no action on an alternate method of determining compliance within the regulation which permits averaging of SO_2 emissions over 30 days. It is disapproving the plans for Wayne, Dearborn, Porter, and Warrick Counties because those plans do not assure attainment and maintenance of the national ambient air quality standards (NAAQS). On January 27, 1981, EPA disapproved the plan for Jefferson County (46 FR 8473). EPA is proposing rulemaking elsewhere in today's Federal Register on the dates by which Indiana has committed itself to meet the conditions on EPA's approval.

DATES: This action is effective as of March 12, 1982.

ADDRESSES: Copies of Indiana's submissions, EPA's technical support document, and the public comments on this revision to the SIP are available at:

U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460

Indiana State Board of Health, Air Pollution Control Division, 1330 West Michigan Street, Indianapolis, Indiana 46206

Copies of the regulations and commitments are available for review at: The Office of Federal Register, 1100 L Street, S.W., Room 8401, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Robert Miller, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886-6031.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962), and on October 5, 1978 (43 FR 45993), pursuant to the requirements of section 107 of the Clean Air Act (CAA), as amended in 1977, the EPA designated certain areas in each Region V state as not attaining the National Ambient Air Quality standards (NAAQS) for SO_2. Areas in Lake, LaPorte, Marion, Vigo, and Wayne Counties, Indiana were designated as not attaining the primary standard. For lack of sufficient information, Dearborn, Gibson, Jefferson, Porter, and Warrick Counties were designated as unclassifiable.

Part D of the CAA, as added by the 1977 amendments, requires each state to revise its SIP to meet specific requirements for areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary NAAQS as expeditiously as practicable, but for SO_2 not later than December 31, 1982. The requirements for an approvable SIP are described in the April 4, 1979 **Federal Register** (44 FR 20372) and supplements dated July 2, August 28, September 17, and November 23, 1979 (44 FR 38583, 50371, 53761, 67182).

EPA's final determinations take one of three forms: approval, conditional approval, or disapproval. A discussion of conditional approval and its practical effect appears in the July 2, 1979 **Federal Register** (44 FR 38583) and in the November 23, 1979 **Federal Register** (44 FR 67182). Conditional approval requires the state to submit additional materials by specified deadlines negotiated between the state and the EPA. Schedules submitted by Indiana are proposed for public comment elsewhere in today's **Federal Register**. Although public comment is solicited on the deadlines, and the deadlines may be changed in light of the comments, the State remains bound by its commitment to meet the proposed deadlines, unless they are changed. EPA will follow the procedures described below when determining if requirements of conditional approval have been met:

1. When a state submits the required additional documentation, EPA will publish a notice in the **Federal Register** announcing receipt and availability of the materials for public comment. The notice will also announce that the conditional approval is continuing pending EPA's final action on the submission.

2. EPA will evaluate the state's submissions and public comment on the submission to determine if noted deficiencies have been fully corrected. After review is complete, a **Federal Register** notice will either fully approve the plan if all conditions have been met, or withdraw the conditional approval and disapprove the plan. If the plan is disapproved, then the Section 110(a)(2)(I) restrictions on construction will be in effect.

3. If the state fails to submit the required materials according to the negotiated schedule, EPA will publish a **Federal Register** notice shortly after the expiration of the time limit for submission. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved, and Section 110(a)(2)(I) restrictions on growth are in effect.

In response to Part D of the CAA, on June 20, 1979, the State of Indiana submitted, among other items, revised SO_2 control strategies and a revised regulation, APC 13, to EPA. It submitted additional data and comments on the SO_2 plan on June 25, 1980; August 27, 1980; October 15, 1981; and July 16, 1981. The June 20, 1979 submission included control strategies for Lake, LaPorte, Marion, and Vigo Counties that were adopted by the Indiana Air Pollution Control Board (IAPCB). The revised APC 13 was promulgated by the State on June 19, 1979. The Vigo County strategy was withdrawn by the State on October 4, 1979, and an amended strategy for Vigo County was submitted on February 11, 1980. Therefore, rulemaking on Vigo County is being handled in a separate rulemaking. On August 27, 1980, Indiana recodified its regulations and submitted them on October 6, 1980. APC 13 (1979) was recodified as 325 IAC Article 7, Sulfur Dioxide Regulations; 325 IAC 12-5-1 and 2(a), Fossil Fuel Fired Steam Generators; 325 IAC 12-9-1 and 4, Petroleum Refineries; 325 IAC 12-18-1 and 2; Sulfuric Acid Plants; 325 IAC 1.1-61(a)(2) and 2, Stack Height Provisions; and 325 IAC 7-1-8 Appendix A for Lake, LaPorte, and Marion Counties, Source Specific Emission Limitations. Because these provisions are essentially identical to those in 1979 APC 13, EPA is rulemaking today on the recodified regulations.

In response to petitions under section 126 of the Act, EPA is reviewing the SO_2 strategies in Jefferson and Floyd Counties. Because of these petitions, EPA is rulemaking on these two Counties separately from the rulemaking for the remainder of the State. On January 27, 1981 (46 FR 8473), EPA disapproved the strategy for Jefferson County. EPA is taking action today on the SO_2 plan for all counties in Indiana except Floyd, Jefferson, and Vigo.

The measures promulgated today will be in addition to, and not in lieu of, existing SIP regulations. The present emission control regulations for any source will remain applicable and enforceable to prevent a source from operating without controls, or under less stringent controls, while it is moving toward compliance with the new regulations or if it chooses, challenging the new regulations. In some instances, the present emission control regulations contained in the federally-approved SIP are different from the regulations currently being enforced by the State, because the State is presently enforcing the regulations which EPA is conditionally approving today as opposed to the SIP. In these situations, the existing federally-approved SIP will remain applicable and enforceable by the EPA until there is compliance with the newly promulgated and federally-approved regulations. Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, including assessment of noncompliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability of the new regulations, because of a court order or for any other reason, the pre-existing regulations will be applicable and enforceable.

The only exception to this rule is in cases where there is a conflict between the requirements of the new regulations and the requirements of the existing regulations, such that it would be impossible for a source to comply with the pre-existing SIP while moving toward compliance with the new regulations. In these situations, the State may exempt a source from compliance with the pre-existing regulations. Any exemption granted will be reviewed and acted on by EPA.

Background

EPA first fully approved the Indiana SO_2 SIP on May 14, 1973 (38 FR 12699).

This SIP required most sources in Indiana to reduce their SO_2 emissions to between 10.8 and 2.16 grams/megacalorie (g/Mcal) (6.0 and 1.2 pounds/Million British Thermal Units (MMBTU) or 2580 and 516 nanograms/joule (ng/J), depending upon the size of the source. On August 24, 1978, EPA approved, in part, a revised SO_2 strategy for most areas of Indiana, but did not approve the revised strategies for Jefferson, LaPorte, Porter, Vigo, and Warrick Counties. Therefore, the 1973 regulations are the SIP requirements for sources in these 5 counties and the 1978 regulations are the SIP requirements for sources throughout the remainder of the State. The 1978 regulations removed SO_2 emissions limitations from most existing sources in the State but left emission limitations similar to those in the 1973 regulations in effect for new sources throughout the State and for existing sources in Lake, Marion, and Dearborn Counties.

Indiana's June 26, 1979 submission contains a revised APC 13, which includes an Appendix A that lists source specific emission limitations, and area specific technical support. On October 6, 1980, the recodified SO_2 strategy was submitted. The recodified strategy consists of the following parts:

Recodified	Subject	1979
325 IAC 7-1-1	Applicability	APC-13 Sec. 2.
325 IAC 7-1-2	Emissions limitations	APC-13 Sec. 3.
325 IAC 7-1-3	Test methods to determine compliance	APC-13 Sec. 5.
325 IAC 7-1-4	Ambient monitoring	APC-13 Sec. 6.
325 IAC 7-1-5	Control strategies	APC-13 Sec. 6.
325 IAC 7-1-6	Compliance timetables	APC-13 Sec. 7.
325 IAC 7-1-7	SIP Revisions	APC-13 Sec. 9.
325 IAC 7-1-8 App. A	Source specific emissions limitations (Lake, LaPorte, and Marion Co.).	APC-13 App. A.
325 IAC 1.1-6-1(A)(2) and (2)	Stack height provisions	APC 13 Sec. 4.
325 IAC 1.1-7-2	Severability	APC 13 Sec. 11.
325 IAC 1.1 7-4	Force and effect	APC 13 Sec. 10.
325 IAC 12-5-1 and 2(a)	Fossil fuel fired steam generators	APC 13 Sec. 3(f).
325 IAC 12-9-1 and 4	Petroleum refineries	APC 13 Sec. 3(h).
325 IAC 12-18-1 and 2	Sulfuric acid plants	APC 13 Sec. 3(g).

Regulation 325 IAC 7 restricts SO_2 emissions from sources with a potential to emit 22.3 metric tons (Megagrams or Mg) of sulfur dioxide per year (25 tons per year) or 4.5 kilograms of SO_2 per hour (10 lbs. of SO_2 per hour). The emission limitations contained in 325 IAC 7 apply statewide. Most existing fuel burning sources are limited to 10.88 g/Mcal (6.0 pounds/MMBTU or 2580 ng/J). Process sources, unless included in 325 IAC 7-1-6, Appendix A, are not controlled.

Where computer modeling studies showed that specific sources, either process or fuel burning, in nonattainment areas required more stringent controls, site-specific emission limitations were developed by either local industrial task forces or by the Indina Air Pollution Control Division (IAPCD). In either case, they were then adopted by the IAPCB. These emission limitations are contained in Appendix A to Regulation APC 13. Any change in an emission limitation or condition specified in Regulation APC 13 or in Appendix A to Regulation APC 13 must be submitted to EPA as a revision to the federally-approved SIP.

On March 27, 1980, EPA issued a notice of proposed rulemaking (NPR) to conditionally approve, in part, the Indiana SO_2 plan (45 FR 20432). This **Federal Register** notice also proposed various actions on other portions of the Indiana SIP. EPA will rulemake on these other portions in separate final rulemaking notices.

At Indiana's request, on May 7, 1980, EPA extended the public comment period on the NPR until June 27, 1980 (45 FR 30089). At the request of two Indiana sources and with the concurrence of the State, EPA again extended the comment period until August 1, 1980 (45 FR 48168, July 18, 1980).

In the NPR, EPA proposed to:

(a) Approve Sections 3(b) and 8 of Regulation APC 13 if the State submitted certification from the Indiana Attorney General that emission limitations contained in permits will have the force and effect of regulations in Indiana.

(b) Disapprove APC 13, Section 5, Test Methods to Determine Compliance, as it applies to 30 day averaging and approve Section 5 of APC 13 as it applies to stack tests.

(c) Approve Section 7, Compliance Timetables, if the State restored existing compliance schedules for sources that have the same or relaxed emissions limits under the new APC 13.

(d) Conditionally approve the control strategy demonstrations for Marion, Lake, and LaPorte Counties, provided the State committed itself to correct certain minor deficiencies according to a schedule agreed to by EPA.

(e) Disapprove APC 13 as it applies to Dearborn, Jefferson, Porter, Warrick, and Wayne Counties, unless the State submitted adequate attainment demonstrations during the public comment period.

On June 25, 1980, the State submitted comments on the notice of proposed rulemaking including:

(a) An administrative advisory letter from the Attorney General's Office on the force and effect of permit conditions.

(b) A commitment to withdraw the 30 day averaging compliance method from Section 5 (325 IAC 7-1-3) if EPA agrees to a revision of this section that would allow "* * * sources on a case-by-case basis to utilize fuel averaging periods if it can be demonstrated that these averaging periods will still allow for attainment and maintenance of the NAAQS when considered as part of the applicable SO_2 control strategy. Such fuel averaging periods will have to be approved by the Board and will be submitted to EPA as SIP revisions."

(c) A statement reiterating the State's support for the compliance timetables contained in Section 7 (325 IAC 7-1-6).

(d) Timetables for correcting the deficiencies in the control strategies for Lake, LaPorte, and Marion Counties.

(e) A commitment and schedule for the reanalysis of Wayne County, but no additional technical support to demonstrate that APC-13 is adequate to assure the NAAQS in Dearborn, Jefferson, Porter, and Warrick Counties.

The State clarified its comments for the submission of information on Lake, LaPorte, and Marion Counties in an August 27, 1980 letter. A timetable for their submission was given in a July 16, 1981 letter. A discussion of the State's submittals, public comments, and EPA's final action is available in an August 7, 1981 technical support document. A summary of these items is presented below.

(a) Force and Effect of Operating Permit Emission Limitations. In the March 27, 1980 Notice of Proposed Rulemaking (45 FR 20434), EPA reviewed Indiana's scheme for establishing SO_2 and particulate emission limitations through State issued operating permits (APC 19). EPA proposed to approve the scheme if the Attorney General of Indiana would certify that limitations established in the permits have the force and effect of a regulation. Sections 3(b) and 8 of APC 13 (325 IAC 7-1-2(b) and 5) were part of the scheme, and approval of those sections depended on approval of the scheme.

Indiana provided EPA with an administrative advisory letter from the Attorney General's Office. Although this letter disclaimed any status as an

official Attorney General Opinion, the author said that violation of an operating permit condition could be used as "the basis for revoking the permit or proceeding under IC 13–1–1–9, 13–7–5–1(1), 13–7–12–2, 13–7–13–1, or 13–7–13–3" of the Indiana Statutes. The writer concluded that violators of permits were subject to the same legal consequences as violators of the statutes or regulations of the APCB and thus permits had the "force and effect of a rule or regulation under Indiana law."

Appendix A limitations (which are an enforceable part of 325 IAC 7) are superseded as a matter of State law when limitations are incorporated into an operating permit for a given source, and they remain superseded for as long as the permit exists. The State may revoke a permit upon violation of the emission limitations contained therein, and may bring an enforcement action for operating without a valid permit or for violating the underlying State emission limitation. Therfore, the State appears to have an effective enforcement mechanism. Accordingly, EPA will approve the State scheme for establishing emission limitations.

Indiana is required by 325 IAC 7 to submit operating permits to EPA for approval. If a given permit reflects only the emission limitations and conditions already approved in the SIP, EPA will take no further action with respect to the permit and the Federally enforceable emission limitation remains the one approved as a part of the SIP.

Because 325 IAC 7–1–2(b) authorizes the Board to establish emission limitations in an operating permit for a given source that may vary from the Appendix A limitation, submission of such permits will be treated by EPA as SIP revisions and will be approved or disapproved in accordance with Section 110 of the Clean Air Act. These submissions must comply with EPA notice and public hearing requirements and be supported by adequate technical information to assure that the revision will not jeopardize attainment and maintenance of the NAAQS. If the emission limitations are less stringent than the approved SIP limitations, a prevention of significant deterioration analysis with respect to the increment consumed may be required.

If EPA approves the operating permit as a SIP revision, the emission limitations and conditions therein become the new SIP requirements. If these emission limitations and conditions become unenforceable by EPA, then the applicable emission limitations and conditions for the affected source will be the ones originally approved as a part of the SIP.

The State submission did not deal with the issue of maintenance of the ambient standards once they have been attained. Although some allowance for future growth was included in the analyses discussed below, this may not be sufficient to account for all increases in SO_2 emissions in the future. To ensure maintenance of the standards, Indiana will rely on its permit program for both existing and new or modified sources. First, as part of each new source permit review, a complete ambient air quality impact analysis is required. Second, New Source Performance Standards authority has been delegated to Indiana. Third, EPA has partially delegated Prevention of Significant Deterioration authority to Indiana. Thus, new source review requirements will be used to maintain the ambient standards.

(b) Test Methods To Determine Compliance. The Indiana Air Pollution Control Board committed itself to act on 30 day averaging upon EPA final action on the issue. On February 14, 1980 (45 FR 9994), EPA initiated a review of its policies and procedures for regulating coal fired power plant. As a part of this review, EPA is investigating methods that use longer averaging times and at the same time ensure the protection of the NAAQS. Therefore, EPA is not rulemaking today on the 30 day averaging provision of 325 IAC 7–1–3.

Section 3 includes three methods for determining compliance: a stack test performed in accordance with 40 CFR Appendix A Method 6, a 30 day average of the fuel sulfur content, or other methods approved by the IAPCB. EPA is approving the stack test portion of Section 5 but is taking no action on the 30-day averaging provision. All alternate compliance methods approved by the IAPCB must be submitted to EPA for approval as revisions to the SIP.

(c) Compliance Timetables. EPA proposed to approve 325 IAC 7–1–6, Compliance Timetables, if the State modified it to include the timetables included in the present SIP for those sources whose emission limitations are either not changing or being relaxed. The State declined to change this section, however, because it felt that it would be unfair to require immediate compliance for those sources out of compliance with the existing SIP, but in compliance with State law. EPA's policy, as stated earlier in this notice, is that compliance with the existing SIP must be maintained until compliance with the revised SIP is achieved. Therefore, because of the State's continued support of Section 6, EPA has no alternative but to disapprove the extended compliance date for those sources with relaxed or equivalent emission limitations. For these sources, the existing federally approved compliance dates remain in effect.

(d) Part D SO_2 Plans for LaPorte, Lake, and Marion Counties. The proposed control strategy for each county must be adequate to ensure attainment and maintenance of the annual primary, the 24-hour primary, and the 3-hour secondary ambient standards. A review of the control strategies, attainment analyses, and State commitments follows.

LaPorte County

The three major SO_2 sources in LaPorte County are the Beatty Memorial Hospital (Westville), the Indiana State Prison (Michigan City), and the NIPSCO Michigan City Station. The LaPorte County control strategy requires only the Indiana State Prison to meet a more stringent emission limitation than the statewide limit. The prison limitation is 8.01 g/Mcal (4.44 pounds/MMBTU or 1910 ng/J) with its existing 21m stacks or, if it raises its 3 stacks to 30m, it is allowed 9.22 g/Mcal (5.12 pounds/MMBTU or 2203 ng/J). All other sources in the County are subject to the general limit of 10.8 g/Mcal.

On January 12, 1979 (44 FR 2808), EPA proposed stack height regulations to implement Section 123 of the Clean Air Act. These regulations generally allowed sources automatic credit for stack heights up to a good engineering practice height, as determined by an EPA formula. EPA proposed changes to this policy on October 7, 1981 (45 FR 49814). The stack height increase at the Indiana State Prison meets the criteria in the proposed regulations.

To develop its proposed control strategy for LaPorte County, the Air Pollution Control Division of the Indiana State Board of Health performed a modeling analysis. EPA has defined certain computer models as being "reference models" for development of SIPs. The State employed the RAM-rural model in its analysis. RAM-rural was the appropriate reference model for multi-source rural areas at the time the State did the modeling. Since then, however, the reference rural multisource model has become MPTER. Thus, although the State's analysis is acceptable, any future modeling of this county must employ MPTER.

The NWS station at which the meterorological data was collected was not clearly identified in the State's technical support. This minor deficiency was cited in the NPR. Subsequent discussion with the State revealed that the data were from Midway (surface data) and Peoria (upper air data).

Because these NWS stations are appropriate for LaPorte County modeling, this deficiency has been adequately resolved.

The State used a constant background level based on LaPorte County monitoring data to account for all man-made and natural sources which are not in the State's inventory. The State did not provide sufficient data, however, to support its background level, as EPA noted in the NPR. The State subsequently committed itself to submit the justification for the background concentrations for all appropriate averaging periods to EPA. If this documentation is not sufficient, then the State committed itself to investigate and make necessary revisions, including changes to affected regulations, and submit these to EPA by November 1982.

The EPA accepts the State's commitment for resolving this minor deficiency. The November 1982 date is proposed for approval elsewhere in today's Federal Register.

The State's modeling analysis focused on the 24-hour ambient standard. Because the State claimed that this was the constraining standard, it did not submit a 3-hour or an annual modeling analysis. Although the 24-hour standard has been shown to be constraining for some rural counties, this has not been demonstrated for LaPorte County. This deficiency was noted in the NPR. The State of Indiana committed itself to investigate the 3-hour and annual standard further and make necessary changes, including changes to affected regulations and submit this information and any changes to EPA by November 1982. EPA accepts this commitment to resolve this deficiency. EPA proposes to approve the State's schedule elsewhere in today's Federal Register.

EPA is today conditionally approving the LaPorte County SO_2 strategy.

Lake County

The Lake County control strategy was based on reducing emissions from those sources that have the greatest impact on air quality and that can be controlled with the least cost and operating effect on a company. In general, reductions are required for Jones and Laughlin Steel, U.S. Steel, Inland Steel, Amoco, Energy Cooperative, and Commonwealth Edison sources within the County. Two aspects of this strategy should be noted.

First, several U.S. Steel sources are restricted to operation below design capacity. This restriction, identified in the regulations, was used in the modeling with the use of emission parameters for the reduced load conditions.

Second, the control strategy includes a stack height increase at the Northern Indiana Public Service Co. Mitchell Station from 71.9m to 104m. The Mitchell Station is restricted to the existing federally recognized emission limit of 2.16 g/Mcal (1.2 pounds/MMBTU or 516 ng/J).

RAM-urban, the appropriate multi-source reference model for urban areas, was applied in the analysis. In one section of its technical support document, the State characterized dispersion with the NRC Delta-T stability classification scheme. Although this use of a technique which has not been approved by EPA for the development of SIPs was cited in the NPR, this portion of the submission was not used by the State for the development of the actual attainment demonstration but was only used to determine the applicability of RAM-urban to Lake County. In addition, the State removed this section from its technical support document. Because the State has withdrawn this portion of the submittal and because it was not used in the actual attainment demonstration, EPA has determined that this issue should not be part of the conditional approval.

In the NPR, the emissions inventory was cited as being incomplete since the inventory did not appear to include the American Brick Company in Munster. During the public comment, Indiana pointed out that American Brick was included in the area source inventory. As discussed in the technical support document, recent site-specific monitored violations indicate that treatment of this source as an area source is inappropriate. Because its SO_2 emissions are released from a roof monitor running the length of the main shed, American Brick would more properly be treated as a line or volume source

The State also committed itself to submit to EPA corrected emissions inventories for Lake County. If the submittal is not adequate, the State committed itself to investigate and make necessary corrections, including revisions to affected regulations, by November 1982.

EPA accepts this commitment and conditionally approves the emissions inventory for Lake County. Because Indiana removed emission controls from process sources other than those specifically included in Apendix A, the State must utilize emission factors which estimate emissions without controls for these uncontrolled sources in all modeling studies. EPA is proposing to approve the November 1982 date elsewhere in today's Federal Register.

Midway-Argonne surface/Peoria upper air meteorological data were used in the modeling. Argonne wind data were substituted for those hours of reported calm winds in the Midway data set. EPA determined that this substitution was appropriate.

Background levels were derived from 1976 and 1977 monitoring data collected in the Lake County area. Levels were developed for various ranges of wind direction. The State provided insufficient support for these values, as noted in the NPR. The State has committed itself to submit justification for the background concentrations for all appropriate averaging periods. If this documentation is not sufficient, the State committed itself to investigate and make any necessary revisions, including changes to affected regulations, and submit them to EPA by November 1982. This commitment is acceptable, and EPA conditionally approves this portion of the submittal. EPA is proposing to approve the November 1982 date elsewhere in today's Federal Register.

Initially, the theoretical receptor points, where the computer modeling predicts ambient concentrations, were laid out in a 1 km square grid network. Receptors situated on industry-owned property were either discarded or shifted to either public or nonindustrial, off-property locations. In general, the network consisted of 71 receptors in a 4 km wide band parallel to the shoreline stretching from the Illinois border to the Porter County line. EPA has cited several deficiencies with the receptor grid (i.e., inadequate resolution and insufficient support for the dismissal of on-property receptors). Although these issues were not raised in the NPR, they must be resolved in the State's conditional approval submittal.

The State's modeling analysis focused on the 24-hour standard. Although Indiana claimed that this was the constraining standard, no annual analysis and an inadequate 3-hour analysis were provided. Although this issue was cited in general in the NPR, EPA's particular concern with the 3-hour modeling is the unjustified use of a plume rise enhancement factor. Application of a plume rise enhancement factor is not acceptable without adequate on-site supporting data.

The State has committed itself to submit documentation substantiating its belief that the 24-hour standard is the limiting standard. If protection of the three-hour and annual standards cannot be demonstrated, the State committed itself to investigate further and make necessary changes, including changes to

affected regulations, and submit them to EPA by November 1982. EPA accepts this commitment and conditionally approves this portion of the plan. EPA is proposing to approve the November 1982 date elsewhere in today's Federal Register.

The stack height increase in Lake County meets EPA's most recent approvability criteria, which were discussed earlier. Therefore, EPA is approving this portion of the plan.

Based on the State commitments, EPA conditionally approves the Lake County SO_2 plan.

Marion County

The Marion County control strategy, called Scenario V, was submitted by the State and applies only to the industrial portions of southwest Marion County. Scenario V is comprised of the following source specific elements.

(1) Detroit Diesel Allison Plant #8, 2001 S. Tibbs Avenue: Stack height increase (from 16.76 to 38.0m) and use of 1.4% oil (2.52 g/Mcal or 1.4 pounds/MMBTU);
(2) Detroit Diesel Allison Plant #5, 2355 S. Tibbs Avenue: Use of 1.6% sulfur coal (4.41 g/Mcal or 2.45 pounds/MMBTU);
(3) Indianapolis Power & Light (IPALCO) Stout Plant, 3700 S. Harding Street: Stack height increases (from 2@ 76.0m to 2@ 176.0m) and use of 9.54 g/Mcal (5.3 pounds/MMBTU or 2280 ng/J) coal and 0.63 g/Mcal (0.35 pounds/MMBTU or 150 ng/J) oil;
(4) Bridgeport Brass, 1800 S. Holt Road: Use of 4.97g/Mcal (2.76 pounds/MMBTU or 1200 ng/J) coal;
(5) Reilly Tar & Chemical, 1600 S. Tibbs Avenue: Use of 1.69–2.25 g/Mcal (0.94–1.25 pounds/MMBTU or 404–538 ng/J) oil;
(6) National Starch, 1515 Drover: Stack height increases (from 4 short stacks serving Boilers 1, 2, 3, and 5 to one 52.1m stack for Boilers 1, 2, and 3 and one 52.1m stack for Boiler 5), use of 7.18 g/Mcal (3.99 pounds/MMBTU or 1716 ng/J) coal, and specification of standby boiler capacity.

To support the Marion County control strategy, the State submitted RAM-urban modeling. The modeling contained numerous technical deficiencies that were cited in the NPR. The deficiencies include:

(1) The background levels used were not technically supported.

(2) The emissions inventory was incomplete.

(3) The meteorological data base was neither identified nor justified.

(4) No justification was provided for the claim that the 24-hour standard is constraining. (Based on this claim, no annual nor 3-hour analyses were submitted).

(5) The receptor network was neither identified nor justified.

(6) The high and second high 24-hour concentrations were not identified.

During the public comment period, there were three developments related to these deficiencies.

First, several commentors pointed out that EPA had received a copy of the modeling output on microfiche. EPA's review of the microfiche clarified some of the documentation issues (i.e., concentration and meteorological data).

Second, commentors stated that EPA had received the receptor network data in a December 28, 1979 supplemental submittal. EPA has reviewed these data and has determined that improvement in the spatial resolution of the receptor network is necessary to assure that the network is adequate to determine SO_2 hotspots.

Third, in its comments, the State noted that a City of Indianapolis-industry task force has been working directly with EPA to develop an acceptable SIP for the entire County. This recent task force effort is designed to produce an alternative control strategy that the State indicated it will adopt after a public hearing and submit to supersede the submission discussed here. In this reanalysis, the task force is attempting to correct any deficiencies noted in the NPR. EPA will propose rulemaking on this alternative control strategy upon its receipt from the State.

Fourth, the State committed itself to the following:

1. To submit the justification for the background concentrations for all appropriate averaging periods to EPA. If this documentation is not sufficient, the State will investigate and make any necessary revisions, including changes to affected regulations, and submit them to the EPA by November 1982.

2. To submit to EPA corrected emissions inventories for Marion County. If the submittal is not adequate, the State committed itself to investigate and make necessary corrections, including revisions to affected regulations, and submit them to EPA by November 1982.

3. To submit to EPA the corrected receptor network coverage and resolution, including a listing of the high and second high concentrations on critical days. If additional documentation is necessary, it committed itself to investigate and make further revisions, including changes to affected regulations, and submit them to EPA by November 1982.

4. To submit all documentation substantiating the State's belief that (1) the 24 hour standard is the limiting standard and (2) if the 24 hour standard has been attained and will be maintained, then the three hour standard and annual standards are also being met. If protection of the three hour standard and annual standards cannot be justified by protection of the 24 hour standard, then the State committed itself to investigate further and make necessary changes, including changes to affected regulations, and submit them to EPA by November 1982.

EPA finds these four commitments acceptable. Additionally, the stack height increases meet EPA's most recent guidelines which were discussed earlier. Therefore, EPA is conditionally approving the Marion County SO_2 plan based on the four commitments. The November 1982 schedule date for submittal of the conditionally approved items is being proposed for approval elsewhere in today's Federal Register.

(e) SO_2 Plan for Other Indiana Counties.

Floyd and Jefferson Counties

Recent analyses have shown that 325 IAC 7, as it applies to the major SO_2 sources in Floyd and Jefferson Counties, may not be adequate to protect the NAAQS. Sources in these counties, however, are being currently reviewed under Section 126 petitions. These petitions allege that facilities in Floyd and Jefferson Counties may cause violations of the NAAQS in the adjoining Commonwealth of Kentucky.

Floyd and Jefferson Counties are not included in today's rulemaking action on 325 IAC 7. The strategy for Jefferson County was disapproved on January 27, 1981, (46 FR 8473).

Wayne County

No Part D revision was received for Wayne County. The State originally claimed that the County should be redesignated as attaining the SO_2 NAAQS. Therefore, the State believed that no Part D SIP was necessary. No technical support, however, was provided for either the recommended redesignation or the contention that the emission limitations in 325 IAC 7 will assure attainment and maintenance of the NAAQS in the vicinity of the municipally owned electric generating station in Richmond. Furthermore, recent monitored violations reinforce the need for more stringent SO_2 regulations in Wayne County. During the public comment period, the State agreed to revise its designation of Wayne County to nonattainment for SO_2. It also committed itself to develop a control strategy when its redesignation is final. However, without a control strategy and attainment demonstration for Wayne County, EPA must disapprove the SO_2 SIP as it applies to Wayne County.

Dearborn, Porter, and Warrick Counties

Under 325 IAC 7 all sources with the potential to emit 22.3 Mg (25 tons) or more of SO_2 per year in Dearborn, Porter, and Warrick Counties are subject to the general emission limit of 10.8 g/Mcal (2580 ng/J). This represents a relaxation from the existing federally approved emission limits for these counties. Inadequate technical support was provided to demonstrate that this relaxation would protect the NAAQS.

In its public comments, the State argued that since these counties are designated as unclassifiable, no control strategy is necessary. It admitted that the 10.8 g/Mcal limit represents a relaxation, but argued that this is irrelevant since the federally recognized SIP is outdated. The State agreed to develop a control strategy only if the designations are changed to nonattainment. To this end, the State committed itself to assess that attainment status of these counties according to a fixed schedule. The State has recently modeled these counties with computer dispersion models and has submitted ambient monitoring data. These analyses and data are currently under EPA review. Additionally, on June 17, 1981, Indiana submitted as a revision to its SIP new emission limitations for the Tanner's Creek power plant in Dearborn County. EPA will rulemake on this submission in the future. However, based on the evidence currently available to the Agency, EPA must disapprove 325 IAC 7 as it applies to Dearborn, Porter, and Warrick Counties because the State has not demonstrated that a 10.8 g/Mcal emission limitation is sufficient to protect the NAAQS in these three counties.

Public Comments

In response to the March 27, 1980 notice of proposed rulemaking, EPA received many public comments. EPA has carefully considered those comments in reaching today's rulemaking action. EPA discussed earlier in this notice its response to some of these issues and will not repeat its response here. Summaries of the remaining issues raised by the comments and EPA's responses to these issues are as follows:

General Procedural Comments

Issue: One commentor submitted extensive national comments and requested the comments be considered part of the record for each State plan.

Response: Some of the issues raised in the comments are not relevant to provisions in Indiana's submittal. However, EPA notified the public of its response to all of the issues in the February 21, 1980 Federal Register (45 FR 11472).

Issue: Several industrial commenters questioned EPA's authority under the Clean Air Act to review a State's submission in terms of "enforceability," "stringency," "relaxation or revocation," or "continuity."

Response: EPA responded to similar comments from some of the same commenters in the February 21, 1980 Federal Register (45 FR 11472, 11475–76). EPA incorporates its February 21, 1980 response by reference in today's rulemaking.

Issue: Numerous industrial commenters argued that EPA's policy of conditional approval is not sanctioned by the Clean Air Act. Some of the commenters claim that EPA must promulgate a federal SIP and comply with procedural requirements for such promulgation if the Administrator finds a State plan inadequate. The commenter further contends that conditional approval circumvents the procedural safeguards of Section 307 of the Act and coerces State modification of the plan through threat of disapproval.

Response: In the Administrator's view, conditional approval provides procedural safeguards equivalent to those available when the Administrator promulgates a plan. A discussion of conditional approval and its practical effect appears in supplements to the General Preamble published on July 2, 1979 (44 FR 38583) and November 23, 1979 (44 FR 67182). In the case of Indiana, for example, the Administrator has proposed to conditionally approve certain provisions. The commenter has had an opportunity to submit extensive written comments and receive EPA's response. Today's final conditional approval may be challenged in the appropriate United States Court of Appeals within 60 days. The rulemaking and judicial review procedures thus provide opportunities for comment and review similar to those provided for promulgations under Section 307(d).

Conditional approval is also consistent with the Administrator's obligation under Section 110(c)(1)(C). That subsection requires the Administrator to promulgate regulations for a state if "the state fails, within 60 days after notification by the Administrator or such later period as he may prescribe, to revise an implementation plan as required pursuant to a provision of its plan referred to in subsection (a)(2)(II)." When the Administrator proposes conditional approval, he is essentially notifying the state that further revisions are required to make the plan or regulations fully approvable. If the state fails to satisfy the Administrator's conditions, the Administrator will disapprove the plan or regulation and may then promulgate regulations to correct the deficiency. The state is simply offered the option of correcting the inadequacies itself.

Issue: Several industrial commenters allege that their ability to comment was impaired by the absence of a complete record during the comment period. The commenters argue that a complete record is required at the time of the proposed rulemaking by either or both the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) and section 307(d) of the Clean Air Act. The commenters complain that EPA's files relating to the proposed rulemaking did not contain all the materials submitted to it by one of the commenters, documentation to support EPA's positions in the proposed rulemaking, and the entire State hearing record. Consequently, the commenters requested that EPA accept supplementary comments on materials not available during the comment period. Finally, the commenters state that EPA must hold its own public hearings on the proposal if the entire record of the State proceedings was not incorporated into the Federal record.

Response: EPA disagrees with the commenter's assertion that either the Administrative Procedure Act or section 307(d) of the Clean Air Act requires EPA to compile a complete record at the time EPA proposes rulemaking. The procedural requirements of section 307(d) apply only to those actions listed in section 307(d)(1). State-initiated SIP revisions are not included in the list. Therefore, state-initiated SIP revisions are subject to the procedural requirements of the Administrative Procedure Act, which does not require the compilation and availability of a complete record at the time of proposed rulemaking.

Citing *Appalachian Power Company v. Environmental Protection Agency*, 477 F.2d 495 (1973), the commenters state that if EPA does not consider the State record in its entirety, the Agency must conduct full public hearings itself. EPA believes that applicable case law is contained in *Buckeye Power, Inc. v. Environmental Protection Agency*, 481 F.2d 162 (1973), in which the Court determined, among other things, that the

Agency need not supplement the record with transcripts of public hearings held in states in connection with adoption of state plans. EPA conducted this rulemaking in accordance with the holding in that case and with the requirements of the Administrative Procedure Act and the Clean Air Act. Further, in accordance with the regulatory provisions of 40 CFR 51.4 (c) and (d), the State has prepared and retains for inspection by the Administrator upon his request a record of each hearing. The State also submitted with the revision a certification that the required hearings were held after appropriate notice. Therefore, EPA believes that it has satisfied the applicable statutory and regulatory rulemaking requirements.

Finally, EPA declines the commenters' request that it accept supplementary comment on materials not available during the comment period. During the comment period, all State submittals and technical support were available for inspection. Public comments were added to the file on this revision as they were submitted. State hearing records were available from the State Agency. EPA believes that the Notice of Proposed Rulemaking summarized the bases for its positions. Therefore, EPA believes that the commenters had a full and fair opportunity to comment on this SIP revision.

Issue: One industrial commenter expressed its concern that by approving, disapproving, and conditionally approving different portions of a regulation, EPA was rewriting the State's submittal. The commentor believes that EPA has authority only to approve or disapprove the entire SIP for a given area.

Response: Section 110(a)(2) of the Clean Air Act expressly provides that for each SIP submittal, the Administrator must "approve or disapprove such plan or each portion thereof." The section further provides that the Administrator must "approve such plan, or any portion thereof" if he determines that it was adopted after reasonable notice and hearing and that it satisfied specified criteria. Consequently, EPA believes it is authorized by the Clean Air Act to approve, disapprove, and conditionally approve different portions of a SIP for a given area.

Long Range Transport of SO_2 and Sulfates

Issue: New York claims that EPA failed to comply with Sections 110(a)(2)(E) and 126 of the Clean Air Act. The commentor argued that EPA erred by not considering the long-range impacts of SO_2 on sulfate formation, total suspended particulate levels, and acid deposition. New York's comments specifically address the revised limits at IPALCO's Stout Plant (Stout) and NIPSCO's Michigan City Station (Michigan City). The commentor does not contend that the Stout or Michigan City plants, specifically, will interfere with attainment or maintenance of SO_2 standards in New York, or any other state, or that EPA erred in its determination that the plants would have an insignificant impact on SO_2 concentrations in other states. Rather, the commentor argued that EPA was required to calculate the impacts of the SO_2 revisions on sulfate and particulate matter concentrations in other states. Furthermore, the commentor claimed that modeling tools are available and should have been used by EPA to address the long-range transport problem.

Response: EPA's review and approval of the Indiana SO_2 SIP revision is consistent with Sections 110(a)(2)(E) and 126 for several reasons. First, 325 IAC 7 involves only SO_2 emission limitations. Accordingly, the revisions were only modeled for their impact on SO_2 concentrations. Indiana's revisions to its particulate SIP do not relax the particulate matter emission limitations for Stout and Michigan City. Indiana, therefore, was not required to model the effect of its revisions on particulate matter levels.

Second, EPA reference models are only valid out to 50 kilometers (km) from a source. No reference techniques have yet been established for accurately evaluating impacts beyond 50 km. The "state-of-the-art" of long-range transport models is not sufficiently advanced to be used for regulatory purposes. Consequently, contrary to the commentor's claim, there are no EPA-approved regulatory tools currently available to assess long-range impacts.

Third, with respect to interstate impact within the range of EPA's reference models, because there are no SO_2 nonattainment areas within 50 km of either Stout or Michigan City, EPA believes that these sources do not cause or contribute to a violation in any interstate area within 50 km of these sources. Additionally, because these revised emission limits do not differ greatly from the emissions the plants are presently emitting, EPA believes that these facilities will not cause or contribute to violations in these areas in the future. All interaction with other sources within LaPorte and Marion Counties will be analyzed by Indiana in addressing the deficiencies identified by this notice.

EPA has also considered whether revision of the emission limits for the named sources interferes with measures "required to be included in the applicable implementation plan for any other state under Part C to prevent significant deterioration of air quality * * *." There is only one State, Michigan, within 50 km of the named sources, and there are no counties in Michigan within 50 km of the named sources for which the PSD baseline has been triggered. Therefore, EPA has concluded that no such interference will result for those counties which are within the range of EPA's reference models.

Fourth, with respect to the claim that EPA should have modeled the SO_2 emissions for their effect on the particulate matter levels in other states, EPA's currently adopted models are simply not capable of such an analysis. EPA models estimate ground-level SO_2 concentrations caused by a plant's SO_2 emissions. Similary, EPA models estimate ground-level particulate matter concentrations caused by a plant's particulate matter emissions. Models capable of estimating the impact of SO_2 emissions on ground-level particulate matter concentrations have been developed by researchers, and EPA is presently evaluating their predictive accuracy as part of an overall revision to its Modeling Guideline. Application of these models at this time, however, is premature.

Fifth, for the purposes of Section 110(a)(2)(E), it is important to note that the commentor has not shown that the SO_2 emissions from the two named Indiana plants actually contribute materially or at all to particulate pollution in other states. The commentor cites nothing that supports a finding that Stout or Michigan City is responsible for any pollutant concentrations in another state, let alone concentrations that prevent a state from attaining or maintaining particulate matter standards.

New York's comments focus primarily on the aggregate impact of numerous Midwest sources. At New York's request a Section 126 hearing was held on the aggregate impact of SO_2 emissions from Midwest sources. (On June 18 and 19, 1981, in Washington, D.C.) EPA will, if necessary, reevaluate the adequacy of the Indiana plan when the findings on New York's Section 126 petition become available.

Finally, the sulfate question raised by the commentor is a complex one. To date, EPA has not established a national ambient air quality standard for sulfates. However, the sulfate issue is being evaluated as part of EPA's current review, under Section 109(d)(1), 42 U.S.C. 7409(d)(1), of the criteria and national standards for sulfur oxides and particulate matter (see "Second External Review Draft Air Quality Criteria for Particulate Matter and Sulfur Oxides," and notice announcing comment period on draft, 46 FR 15569 (March 6, 1981)). At present, in the absence of a national standard for sulfates, EPA is not required to consider the the impact of the Indiana SO_2 plan on sulfate levels.

Issue: The Province of Ontario, Canada, claimed that emissions from IPALCO's Stout and NIPSCO's Michigan City plants and other sources in the Great Lakes region adversely affect air quality in southern Ontario in contravention of Section 115 of the Clean Air Act, The principles of international law, and the Memorandum of Intent Between the Government of Canada and the Government of the United States of America Concerning Transboundary Air Pollution (August 5, 1980). Ontario argued that the long-range transport of the sulfate derivatives of SO_2 causes acid deposition and decreased visibility in that province.

Response: Ontario's claim that Section 115 prohibits international air pollution is not appropriately raised in the context of this SIP revision. Section 110(a)(2)(E) addresses only interstate pollution; not international pollution. EPA is not required, not would it be appropriate, to consider claims concerning international air pollution as part of this proceeding. Under Section 115 the Administrator may notify a State that a SIP revision is necessary to prevent transboundary air pollution if reports or studies submitted by an international agency lead her to believe that public health or welfare in a foreign county is endangered.[1] 42 U.S.C. 7415. Absent formal notification, however, Section 115 does not require EPA to consider transboundary air pollution in approving a SIP revision.

Ontario also argues that principles of international law prohibit EPA, as an agency of the federal government, from permitting individuals within the U.S. to pollute Canadian territory or property. However, Ontario bases its claim of injury from transboundary air pollution upon the cumulative impacts of total SO_2 emissions from the midwestern and northeastern U.S., and not solely upon emissions from the Indiana plants that are subject of this rulemaking. Ontario has had an opportunity to submit its views on the cumulative interstate effects of SO_2 and sulfates at a hearing held by EPA on June 18 and 19. See 46 FR 24602 (May 6, 1981). Furthermore, transboundary SO_2 emissions are subject of ongoing negotiations between Canada and the U.S. In view of the limited scope of this proceeding and the other fora available in which Ontario may raise issues of aggregate SO_2 emissions and international law, EPA does not believe that it is required to consider these issues here.

Finally, Ontario claims that the Memorandum of Intent (MOI) between the Government of Canada and the United States of America places affirmative obligations upon EPA. In that document Canada and the U.S. stated their intent to "promote vigorous enforcement of existing laws and regulations * * * in a way that is * * * responsive to the problems of transboundary air pollution," pending the conclusion of a formal agreement on air pollution between the two countries. The U.S. has honored the intent of the MOI by controlling its SO_2 emissions to the extent allowed by the provisions of domestic law. In this rulemaking EPA has concluded that the current emission limits are adequate to protect and maintain the NAAQS. Therefore it has met its obligations under the MOI to enforce domestic law.

Comments on Measurement Methods and Enforcement Procedures

Issue: Several comments were received relating to sulfur variability. Specific issues included 30-day averaging, the Expected Exceedance (ExEx) Method for determining emissions limitations, and the effectiveness of stack tests to determine compliance.

Response: EPA recognizes the problem of sulfur variability. Consequently, on February 14, 1980, EPA published a **Federal Register** notice notifying the public that EPA had begun a review of its policies and procedures for regulating large coal-fired boilers. Among the issues under review are: (a) Compliance test methods, (b) sulfur variability, (c) modeling guidelines, and (d) averaging periods for emission limitations. This review will address 30-day averaging, appropriate methods for evaluating 30-day averages, and protection of the NAAQS. Based on its review, EPA will make any necessary modifications in its policies. Until this review is complete, EPA will not rulemake on 30-day averaging in Indiana.

Issue: Commentors stated that until methods are available to address sulfur variability, EPA should have an interim SO_2 enforcement policy similar to the one that EPA approved in Ohio. These commentors believe that the daily cap should be 1.9 times the applicable emission limit.

Response: EPA has discussed with the State the possibility of adopting such a policy. However, any such enforcement policy would not modify the applicable SO_2 SIP emission limitations, but would only be a statement of enforcement priorities. EPA is taking no action today on 30-day averaging.

Issue: A commentor suggested that power plant units that operate only under peak load conditions should not be required to maintain emission controls based on full, continuous load operation.

Response: Units reserved for emergency and stand-by operation were not considered in the development of overall county-wide control strategies. However, sources which operate during peak load periods must be included in all strategies, because peak loads for any one source may occur when other sources are also experiencing peaks.

Compliance Date Comments

Issue: Commentors argued that EPA's proposed disapproval of 325 IAC 7-1-6 (compliance timetables) is not valid, stating that the Clean Air Act (Section 110 and Part D) requires attainment by the statutory date and reasonable further progress in the meantime. Thus, the December 31, 1981 (with possible extensions to December 31, 1982) compliance date in 325 IAC 7 should be acceptable. In addition, the commentors alleged that there should not be a requirement for immediate compliance from sources which are emitting at emission limitations representing a relaxation (i.e., operating out of compliance) of the federally approved SIP because the emission limitations in the federal SIP are outdated and have never been enforced against these sources.

Response: 325 IAC 7 revises some existing emission limitations. As discussed earlier, EPA policy is that the existing emission limits for any source remain in effect to prevent a source from operating uncontrolled, or under less stringent controls, while it is moving toward compliance with the new regulations (44 FR 20373, April 4, 1979). Sources for which the 325 IAC 7 represents a relaxation from the previous federally approved SIP, therefore, cannot be given additional time to achieve compliance with 325 IAC 7. The act requires "reasonable further progress" (RFP) in the interim period prior to attaining the NAAQS. Reasonable further progress does not mean that time is provided for a source

[1] The Secretary of State may also request the Administrator to give such notification to a State.

to do less. Nor does allowing additional time comply with the "* * * implementation of all reasonably available control measures as expeditiously as practicable." (Section 172(b)(2) of the Act). New compliance schedules can only be approved for sources that are subject to more stringent regulations under 325 IAC 7.

Lake County Comments

Issue: Several commentors supported approval of the Lake County SO_2 control strategy. One commentor also noted that the minor deficiencies cited in the NPR have been resolved by the Lake County Industrial Task Force.

Response: During the public comment period, EPA received no formal submissions from the State that resolved the deficiencies cited in the NPR. EPA can consider only official State submissions in its rulemaking. In view of the commitments made by the State to resolve these deficiencies, however, EPA feels that conditional approval of the Lake County Plan is justified.

Issue: A commentor claimed that short-term background concentrations were derived and submitted to EPA in late 1979, and that no estimate of an annual background was necessary because there have been no monitored violations of the annual standard in Lake County over the past few years. Thus, EPA's comment regarding background values is alleged to be inappropriate.

Response: The Agency informed the State and the Lake County Industrial Task Force of the problems with the background levels in a letter dated January 9, 1980 from David Kee, Director, Air and Hazardous Materials Division, Region V, EPA to James Dickerson, Chairman, Lake County Industrial Task Force. As discussed in that letter, additional technical justification (e.g., map of monitor locations, list of concentrations, and computations used to derive the background) is required to support the short-term backgrounds. In addition, a valid attainment demonstration for the annual standard must be provided. Consequently, further support is still required to resolve the background concentration issue. Finally, even if there have been no monitored violations of the annual standard in Lake County, EPA still requires an analysis of the annual standard to assure that no violations of the annual standard take place, perhaps at a location which is not presently being monitored.

Issue: Commentors maintained that a valid attainment demonstration for the 3-hour standard was submitted to EPA in 1979 and that no annual attainment demonstration is needed since there have been no measured annual violations. Thus, EPA's deficiency comment concerning the need for a 3-hour and an annual attainment demonstration is alleged to be in error.

Response: The Agency has previously informed the State and the Lake County Industrial Task Force of problems with the 3-hour and annual attainment demonstration in the January 9, 1980 letter from Kee to Dickerson. As noted in that letter, the 3-hour and annual analyses which we have received do not adequately justify attainment and maintenance of the 3-hour and annual standards. The annual analysis is deficient since it relied solely on monitoring data that is not temporarily and spatially adequate, by itself, for an attainment demonstration. Consequently, valid 3-hour and annual attainment demonstrations must still be provided.

Issue: A commentor submitted various technical papers supporting, in general, the use of a plume rise enhancement factor due to the merging of several individual plumes.

Response: The Agency informed the State and the Lake County Industrial Task Force of the problems with the application of a plume rise enhancement factor in the January 9, 1980 letter from Kee to Dickerson. As noted in that letter, use of such a factor has not been demonstrated to be appropriate because: (a) No site-specific or representative supporting data have been provided, (b) the validity of this factor needs to be examined on a source-by-source basis, and (c) even if the first two points can be shown, then the enhancement factor must be applied uniformly.

Issue: The Lake County Task Force claimed that it has submitted adequate justification for the modeled receptor network.

Response: The Agency informed the State and the Lake County Industrial Task Force of problems with the receptor network in the January 9, 1980 letter from Kee to Dickerson. As noted in that letter, the receptor resolution is inadequate and the dismissal of certain on-land receptors has not been supported. Thus, the modeled receptor network still contains several deficiencies that must be resolved.

Marion County Comments

Issue: Commentors stated that an SO_2 background concentration was not developed for the 3-hour and annual averaging periods in the Marion County SO_2 analysis because the 24-hour averaging period proved to be the limiting factor. The commentors claimed that this was supported by inspection of the 1-hour concentrations. The commentors also asserted that a 24-hour background was applied in the 24-hour analysis. They claimed that this analysis demonstrated attainment and maintenance of the NAAQS.

Response: The documentation submitted by the commentors purporting to demonstrate that the 24-hour standard is constraining is inadequate. Conversion of the second highest 1-hour concentration to a 3-hour average value results in a concentration greater than the 3-hour secondary standard. Thus, it has not been shown the 24-hour standard is constraining. Without this demonstration, 3-hour and annual attainment demonstrations with appropriate background levels are required. Additionally, justification for the 24-hour background concentration is necessary to support the 24-hour attainment demonstration.

Issue: The commentors claimed that a complete emissions inventory consisting of 83 point and 54 area sources was employed. The inventory included: (a) The SO_2 control strategy originally proposed by the State in an October, 1978 study for all sources (except those located in the southwest quadrant of Marion County and (b) the control strategy proposed by an Industrial Task Force for sources located in the Southwest quadrant of Marion County.

Response: EPA believes that the reference SO_2 emissions inventory is deficient. Current SO_2 emissions inventory data collected by the City of Indianapolis Division of Air Pollution Control indicates that 92 point sources and 64 area sources need to be included in a detailed modeling analysis for Marion County. The State must certify that the proposed SO_2 control strategy for Marion County includes all of the sources and their current emissions parameters in the modeling analysis in order to properly assess attainment and maintenance of SO_2 NAAQS.

Issue: In response to the NPR, the commentors pointed out that the SO_2 modeling analysis for Marion County used 1974 Indianapolis surface and Dayton, Ohio upper air observations provided by the National Weather Service (NWS).

Response: EPA believes that the meterological data base cited by the commentors is an appropriate data base for the Marion County modeling analysis. However, all future modeling analyses for Marion County must employ five years of recent representative NWS data, or, for source-specific modeling, at least one year of source-specific data.

Issue: In response to the NPR, the commentors said that documentation showing the specifics of the receptor network used in the Marion County SO_2 analysis are included in a supplemental report submitted to EPA on December 28, 1979. This report established that the receptor network employed in modeling analysis of the preposed control strategy for Marion County includes the original input receptors used in the State's October 1978 modeling analysis for Marion County and an additional 56 receptors chosen around critical "hot spots."

Response: No demonstration has been provided to show that the additional 56 receptors are sufficient to analyze the air quality impacts due to the proposed revised control strategy (e.g., use of GEP stack heights, boiler derating, fuel adjustments, etc.) where it differs from the control strategy originally addressed in the State's October 1978 analysis. The change in control strategy can be expected to shift the location of the "hot spot" areas. Documentation has not been provided to show that "hot spots" due to the proposed control strategy can be adequately assessed with this revised receptor network.

Issue: One commentor advised EPA that caution should be exercised when associating a source either directly or by implication with "potential" or "actual" violations of the NAAQS through multi-source modeling data. The commentor further emphasized that assessing multi-source interaction under varying meteorology often makes it difficult to identify one source as a primary factor without considering other source impacts on other receptors on other days.

Response: EPA agrees that it is often difficult to determine source culpability. Consequently, EPA recommends that source applicability tables be obtained in multi-source situations to assist the State in developing and supporting a control strategy. EPA, however, only determines if a strategy, as submitted, attains and maintains the NAAQS. It does not review the criteria by which the State chooses its strategy.

Comments on Warrick, Dearborn, and Porter Counties

Issue: The commentors claim that dispersion modeling studies prove that a 10.8 g/Mcal (6.0 pound/MMBTU or 2580 ng/J) emission limit is sufficient to attain the annual and 24-hour NAAQS in Warrick County. The commentors claimed that quality assured on-site monitoring data based on a recent one-year record showed no violations of the primary or secondary NAAQS. Therefore, they argue that EPA should approve the 10.8 g/Mcal emission limitation proposed for Warrick County.

Response: The proposed 10.8 g/Mcal emission limitation represents a relaxation of the currently enforceable SIP emission limitation of 2.16 g/Mcal (1.2 pound/MMBTU or 516 ng/J) (36 FR 12898, May 14, 1973). The most recent SO_2 SIP revision submission by the State of Indiana in early 1979 indicates that the 10.8 g/Mcal emission limitation is not sufficient to attain and maintain the NAAQS in Warrick County. In addition, the monitoring network has not been shown to provide adequate spatial coverage to identify and measure SO_2 "hot spots." Thus, a site-specific modeling study employing EPA reference modeling techniques as described in the Guidelines on Air Quality Models must be performed to support the 10.8 g/Mcal emission limitation.

Wayne County Comments

Issue: Commentors claimed that the SO_2 nonattainment designation for Wayne County, Indiana, should be changed to attainment.

Response: The commentors' claim that Wayne County be designated attainment for SO_2 is not sufficiently justified. The nonattainment designation is supported by monitored violations of the short-term SO_2 NAAQS in the years 1976, 1977 and 1980. Furthermore, a downwash modeling analysis performed by the State using emissions data for the municipally owned electric generating station indicated air quality impacts that violate the NAAQS. Therefore, EPA maintains its determination that Wayne County is nonattainment for SO_2, that a control strategy must be developed for Wayne County, and that appropriate Wayne County emission limitations must be included in 325 IAC-7 in order to meet the requirements of section 110 of the Clean Air Act.

Conclusion

EPA is conditionally approving Indiana's revised 325 IAC 7 with the following exceptions: (1) Disapproving the compliance dates in Section 6 for those sources only where emission limitations have either not changed or are numerically higher; (2) disapproving the strategies for Dearborn, Porter, Warrick, and Wayne Counties because the State did not demonstrate that a 10.8 g/Mcal emission limitation is sufficient to attain and maintain the NAAQS; and (3) taking no action on the 30-day averaging compliance concept in Section 3. EPA is approving the SO_2 emission limitations for new Fossil Fuel Fired Steam Generators, Petroleum Refineries and Sulfuric Acid Plants, the stack height provisions for SO_2 sources, and the severability and force and effect regulations as they apply to the SO_2 regulations.

EPA's conditional approval requires the State to determine or submit, with revisions to the regulations as needed, the following by November 1982. The November 1982 date is being proposed for approval elsewhere in today's **Federal Register**.

LaPorte County

(1) Background levels for all appropriate averaging periods (i.e., 3-hour, 24-hour and annual) must be justified and must be applied in the analysis.

(2) The 24-hour standard must be demonstrated to be the constraining standard. In lieu of such a demonstration, 3-hour and annual attainment analyses must be provided.

Lake County

(1) The emissions inventory is incomplete. All process sources must be included within the emissions inventory. In particular, proper treatment of American Brick is necessary.

(2) Background levels for all appropriate averaging periods must be justified and must be applied in the analysis.

(3) The 24-hour standard must be demonstrated to be the constraining standard. In lieu of such a demonstration, 3-hour and annual attainment analyses must be provided.

(4) The analyses must contain adequate receptor resolution.

Marion County

(1) Background levels for all appropriate averaging periods must be justified and must be applied in the analysis.

(2) The emission inventory is incomplete. A comprehensive inventory, including all significant process and fuel burning SO_2 sources, must be applied in the control starategy evaluation.

(3) The 24-hour standard must be demonstrated to be the constraining standard. In lieu of such a demonstration, 3-hour and annual attainment analyses must be provided.

(4) The analyses must contain adequate receptor resolution.

EPA's conditional approval of the SO_2 control strategies for Lake, LaPorte, and Marion Counties removes the SO_2 growth restrictions of Section 110(a)(2)(I) from these counties. Section 110(a)(2)(I) requires that an approved Part D SIP must be in place for a

particular area and pollutant before the restrictions are lifted. One portion of an approved Part D SIP is that an approved new source review (NSR) program, which meets the requirements of Section 173, must be in place. EPA has recently approved Indiana's Part D NSR Plan.

Wayne County's plan is being disapproved today. Therefore, the 110(a)(2)(I) restrictions will continue to apply in Wayne County. The SIP regulations for Wayne County remain those approved by EPA in 1976. Dearborn, Porter, and Warrick Counties are designated unclassifiable. Therefore, the 110(a)(2)(I) restrictions are not in effect in these three counties. The SIP regulations remain those approved by EPA in 1973 for Porter and Warrick Counties and those that were approved in 1976 for Dearborn County.

The conditional approval granted through this notice will remain in effect as long as the State meets its commitments according to the agreed upon schedule. This schedule is being proposed today elsewhere in the **Federal Register.** Failure to submit the necessary material by the scheduled date or inadequate submissions will require SIP disapproval by EPA (44 FR 67162, November 23, 1979). This would result in the imposition of growth restrictions for the disapproved counties. Furthermore, the SIP emission limitations would again become those contained in the regulations approved in 1976 for Lake and Marion Counties and those approved in 1973 for LaPorte County.

The 1980 edition of 40 CFR Part 52 lists in the subpart for each State, the applicable deadlines for attaining ambient standards (attainment dates) required by section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides attainment by the deadlines required by section 172(a) of the Act, the new deadlines will be substituted on the attainment date charts. The earlier attainment dates under section 110(a)(2)(A) will continue to appear in a footnote to charts published earlier. Sources subject to the plan requirements and deadlines established under section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as with the new section 172 plan requirements.

Congress established new deadlines under section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. If these new deadlines were permitted to supersede the deadlines established prior to the 1977 Amendments, sources that failed to comply with pre-1977 plan requirements by the earlier deadlines would improperly receive more time to comply with those requirements. Congress, however, intended that the new deadlines apply only to new, additional control requirements and not to earlier requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

> Section 110(a)(2) of the Act made clear that each source has to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear congressional intent to construe Part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part D.
>
> (123 Cong. Rec., II 11950, daily ed. November 1, 1977)

To comply fully with the intent of Congress that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendment. Such variances would impermissibly relax existing requirements beyond the applicable section 110(a)(2)(A) attainment date under the plan. Therefore, for requirements adopted before the 1977 Amendments, EPA will not approve a compliance date extension beyond pre-existing 110(a)(2)(A) attainment dates, even though a section 172 plan revision with a later attainment date has been approved.

However, in certain exceptional circumstances, extensions beyond a pre-existing attainment date are permitted. For example, if a section 172 plan imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations, the pre-existing requirements and deadlines may be revised if a state makes a case-by-case demonstration that a relaxation or revocation is necessary. Any such exemption granted by a state will be reviewed and acted upon by EPA as a SIP revision. In addition, as discussed in the April 4, 1979 **Federal Register** (44 FR 20373), an extension may be granted if it will not contribute to a violation of an ambient standard or a PSD increment.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This regulation will not be major as defined by Executive Order 12291, because this action either conditionally approves a State action and therefore imposes no new requirements beyond those imposed by the State, or it disapproves a State action and leaves in place a previous State action which also imposes no new requirements beyond those previously imposed by the State.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this SIP action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

The Administrator finds good cause to make this rulemaking effective immediately because such approval imposes no new constraints above those already required by State law and because this rulemaking is a partial step to remove in some areas of Indiana the prohibitions on growth under section 110(a)(2)(I).

Note.—Incorporation by reference of the State Implementation Plan for the State of Indiana was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110 and 172 of the Clean Air Act, as amended)

Dated: March 1, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52, Subpart P–Indiana is amended as follows:

1. Section 52.770 is amended by adding paragraph (c)(19) as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(19) On June 26, 1979, the Governor submitted a revised sulfur dioxide strategy, including regulation APC 13 with appendix, which was promulgated by the State on June 19, 1979 for all areas of the State. This included the Part D sulfur dioxide regulations for Lake, LaPorte, and Marion Counties. On August 27, 1980 and July 16, 1981 the State committed itself to correct conditionally approved items within their strategy. On October 6, 1980, the State submitted a recodified version of APC 13 which was promulgated by the State on August 27, 1980. This included 325 IAC 7, 325 IAC 1.1–6, 325 IAC 1.1–7–2 and 4, 325 IAC 12–5–1 and 2(a), 325 IAC 12–9–1 and 4, and 325 IAC 12–18–1 and 2. EPA is not taking action on 325 IAC 7 as it applies to Floyd and Vigo Counties or on the 30-day averaging compliance method contained in 325 IAC 7–1–3.

2. Section 52.773 is amended by revising paragraph (a) and adding new paragraph (b) as follows:

§ 52.773 Approval status.

(a) With the exceptions set forth in this subpart, the Administrator approves Indiana's plan for attainment and maintenance of the National Ambient Air Quality Standards under Section 110 of the Clean Air Act.

(b) The Administrator finds that the SO_2 strategies for Lake, LaPorte, and Marion County satisfy all requirements of Part D, Title I of the Clean Air Act as amended in 1977, except as noted below.

* * * * *

3. Section 52.795 is amended by adding paragraphs (c), (d) and (e) as follows:

§ 52.795 Control strategy: Sulfur dioxide.

* * * * *

(c) The requirements of section 51.10(d) are not met by Wayne, Dearborn, Jefferson, Porter, and Warrick Counties.

(d) 325 IAC 7 (October 6, 1980 submission) is disapproved insofar as the provisions identified below will interfere with the attainment and maintenance of the sulfur dioxide ambient air quality standards.

(1) The compliance timetables in Section 6 for sources with identical or relaxed emission limitations from those contained in the previously approved SIP.

(e) Part D—Conditional Approval)—The Indiana plan for Lake, LaPorte, and Marion Counties is approved provided that the following conditions are satisfied:

(1) Lake County—The plan must either contain an acceptable demonstration that the 24-hour standard is the constraining standard or 3-hour and annual attainment analyses must be provided. The plan must justify appropriate SO_2 background levels for all averaging periods. These must be used in all analyses. The plan must contain a complete emission inventory, including process sources. This inventory must be appropriately used in all analyses. Adequate receptor resolution must be used in the attainment analyses. If revisions to the limitations are necessary, they must be submitted as revisions to the SIP.

(2) LaPorte County—The plan must either contain an acceptable demonstration that the 24-hour standard is the constraining standard or 3-hour and annual attainment analyses must be provided. The plan must justify appropriate SO_2 background levels for all averaging periods. They must be used in all analyses. If revisions to the emission limitation are necessary, they must be submitted as revisions to the SIP.

(3) Marion County—The plan must either contain an acceptable demonstration that the 24-hour standard is the constraining standard or 3-hour and annual attainment analyses must be provided. The plan must justify appropriate background levels for all averaging periods. These must be used in all analyses. The plan must justify the adequacy of the resolution in a computer modeling receptor network. The plan must contain a complete emission inventory, including process sources. This inventory must be appropriately used in all analyses. If revisions to the emission limitations are necessary, they must be submitted as revisions to the SIP.

[FR Doc. 82-6822 Filed 3-11-82; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6185

[W-71339]

Wyoming; Partial Revocation of Public Land Order No. 648

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a public land order as to 161.00 acres of land which were withdrawn for a Bureau of Land Management administrative site. A portion of the lands have been patented under the recreation and public purposes (R&PP) Act. The remainder are under R&PP lease. Consequently the lands will remain closed to operation of the public land laws, including the mining laws. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT:

W. Scott Gilmer, Wyoming State Office, 307–778–2220, extension 2336.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 648 of June 5, 1950, which withdrew land for use by the Bureau of Land Management as administrative sites, is hereby revoked in part as to the following described lands:

Sixth Principal Meridian

T. 46 N., R. 92 W.,
Sec. 7, lots 9–A, 9–B, 10–A, 10–B, 11–A, 11–B, and 12, (formerly lots 1 to 12 inclusive).

The lands described contains 161.00 acres in Washakie County.

2. The surface estate in 102.28 acres of the above described lands has been conveyed from United States ownership pursuant to the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.), the remaining 58.72 acres are presently leased under that act; therefore, the lands will not be open to location under the United States mining laws. The lands have been and will continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

March 2, 1982

[FR Doc. 82-6781 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-84-M

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43 CFR Public Land Order 6186

[A–16916]

Arizona; Revocation of Secretarial Order of July 26, 1928, Air Navigation Site No. 4

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order creating Air Navigation Site No. 4. This action which involves 640 acres of land is merely record clearing, since both the surface and mineral estates have been patented.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT:
Mario L. Lopez, Arizona State Office, 602–261–4774.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order of July 20, 1928, which withdrew the following described lands for use in connection with the Federal Aviation Administration, is hereby revoked:

Gila and Salt River Meridian

T. 5 S., R. 30 E.,
Sec. 11, NW¼, SW¼, S½SE¼;
Sec. 14, NW¼, N½NE¼.

The area described contains 640 acres in Greenlee County.

2. The surface and mineral estates have been patented and will not be open to operation of the public land laws, including the mining and mineral leasing laws.

Inquiries concerning these lands should be addressed to the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
March 2, 1982.
[FR Doc. 82-6753 Filed 3-11-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6189

[C-12546]

Colorado; Partial Revocation of Powersite Classification 392; DA–455 Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a U.S. Geological Survey Order as to 520 acres of lands withdrawn for a powersite classification. The land remains withdrawn for reclamation purposes.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT:
Richard D. Tate, Colorado State Office, 303–837–2535.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976; 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination of the Federal Power Commission (now Federal Energy Regulatory Commission) by DA–455 Colorado, dated August 17, 1965, it is ordered as follows:

1. The lands described below are hereby relieved of all restrictions of Powersite Classification 392:

Ute Meridian

Powersite Classification No. 392, Colorado River Storage Project

T. 1 S., R. 1 E.,
Sec. 2, NE¼SW¼.

40 acres.

2. The lands described below, are hereby relieved of the restrictions of Powersite Classification No. 392, subject to Section 24 of the Federal Power Act, and to the condition that no improvements shall be placed upon any of the lands lying below the 4,800 foot-contour.

Ute Meridian

Powersite Classification No. 392, Colorado River Storage Project

T. 1 S., R. 1 E.,
Sec. 2, NW¼SW¼, S½S½;
Sec. 3, S½NW¼, NE¼SW¼, SE¼.

480 acres.

The areas described aggregate 520 acres in Mesa County.

3. The entire 520 acres remain withdrawn as part of a first form reclamation withdrawal for the Colorado River Storage Project.

Inquiries concerning this land should be addressed to the Chief, Withdrawal Section, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
March 2, 1982.
[FR Doc. 82-6752 Filed 3-11-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6192

[U-42885]

Utah; Revocation of Stock Driveway Withdrawal No. 94

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes 1,023.50 acres of National Park Service land from a stock driveway withdrawal. These lands are within and remain a part of Bryce Canyon National Park. The purpose of this order is to clear the official land status of a withdrawal no longer needed.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT:
Deen Bowden, Utah State Office, 801–524–4245.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Departmental Order November 22, 1919, which withdrew stock driveway withdrawal No. 94 (Utah No. 4) is hereby revoked as to the following described lands:

Salt Lake Meridian

T. 36 S., R. 3 W.,
Sec. 3, S½SW¼;
Sec. 10, W½;
Sec. 14, W½W½;
Sec. 15, NE¼, N½NW¼, SE¼NW¼, N½SE¼, SE¼SE¼;
Sec. 22, E½NE¼NE¼;
Sec. 23, NW¼NW¼.

The area described contains 1,023.50 acres on Garfield County.

2. The above described public lands continue to be closed to location, settlement or entry under the public land laws, including the mining and mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, 136 E. South Temple, Salt Lake City, Utah 84111.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
March 2, 1982.
[FR Doc. 82-6754 Filed 3-11-82; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6193

[I-12548]

Idaho; Idaho: Public Land Order No. 6020; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This document will correct the land description of Public Land Order 6020 of October 2, 1981, which amended the land description and aggregate acreage of Public Land Order 5844 of February 20, 1981.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT:
Ed Puchalla, Washington D.C., Office, 202–343–8466.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

A description of lands in Public Land Order No. 6020 of October 2, 1981, in FR Doc. 81–28715 appearing at page 48666 in the issue of Friday, October 2, 1981, in the second column under T. 8 S., R. 13 E., the penultimate line reads "Sec. 12, W½NW¼ and T. 8 S., Sec. 7, N½ of lot 6, N½SW¼NE¼." It should be amended to read: "Sec. 12, N½NW¼ and T. 8 S., R. 14 E., sec. 7, N½ of lot 6, N½SW¼NE¼."

Garrey E. Carruthers,
Assistant Secretary of the Interior.
March 2, 1982.
[FR Doc. 82-6415 Filed 3-11-82; 8:45 am]
BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6290]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building—Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Arizona: Navajo	Taylor, town of	040071B	Feb. 3, 1982, suspension withdrawn	May 17, 1974 and Apr. 30, 1976.
Connecticut:				
Tolland	Andover, town of	090161A	do	Apr. 19, 1975.
Litchfield	New Hartford, town of	090046B	do	Sept. 13, 1974 and Feb. 11, 1977.
Windham	Windham, town of	090119C	do	Apr. 12, 1974 and Dec. 24, 1976.
Florida: Osceola	Unincorporated areas	120189B	do	Jan. 3, 1975 and Aug. 12, 1977.
Iowa: Linn	Hiawatha, city of	190441A	do	Apr. 23, 1976.
Massachusetts:				
Bristol	Easton, town of	250052B	do	Sept. 20, 1974 and Nov. 19, 1976.
Middlesex	Framingham, town of	250192B	do	Aug. 2, 1974 and Dec. 13, 1977.
Nebraska: Lancaster	Unincorporated areas	310134B	do	Feb. 20, 1976.
New Jersey:				
Gloucester	Franklin, township of	340282B	do	Sept. 13, 1974 and Aug. 13, 1976.
Hunterdon	Lebanon, borough of	340299B	do	Aug. 16, 1972.
Passaic	Ringwood, borough of	340407B	do	June 28, 1974 and July 16, 1976.
New York:				
Tioga	Newark Valley, town of	360855B	do	Feb. 22, 1974 and Oct. 10, 1975.
Do.	Newark Valley, village of	360836B	do	June 7, 1974 and Apr. 30, 1976.
Niagara	Somerset, town of	360512B	do	Mar. 15, 1974 and June 18, 1976.
North Dakota: Cass	Pleasant, township of	380283A	do	
Oregon: Linn	Harrisburg, city of	410140B	do	Mar. 1, 1974 and June 25, 1976.
Pennsylvania: Fayette	Fayette City, borough of	420464B	do	Feb. 22, 1974 and Apr. 16, 1976.
Pennsylvania:				
Delaware	Lansdowne, borough of	420416B	do	May 31, 1974.
Montgomery	Lower Salford, township of	421170A	do	Nov. 1, 1974.
Do.	Perkiomen, township of	421915B	do	Oct. 25, 1974 and May 28, 1976.
Allegheny	Robinson, township of	421097B	do	Sept. 20, 1974 and Aug. 20, 1976.
Montgomery	Salford, township of	423497A	do	Dec. 6, 1974.
South Dakota: Lawrence	Deadwood, city of	460045A	do	July 11, 1975.
Utah: Weber	Riverdale, city of	490116C	do	Mar. 13, 1970, June 28, 1974 and Nov. 28, 1975.
Virginia: Fairfax	Vienna, town of	510055B	do	Aug. 2, 1974 and Oct. 24, 1975.
Washington: Pierce	Fircrest, town of	530141B	do	June 28, 1974.
Alabama: Jefferson	Unincorporated areas	0102178	February 17, 1982, suspension withdrawn	July 7, 1978.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Connecticut: Litchfield	Harwinton, town of	0901478	do.	June 28, 1974 and Oct. 22, 1976.
Idaho:				
Kootenai	Post Falls, city of	1600888	do.	Jan. 9, 1974 and May 21, 1976.
Bonner	Priest River, city of	1600889	do.	June 28, 1974 and Dec. 5, 1975.
Louisiana: Livingston	Walker, town of	2301218	do.	Oct. 1, 1976.
Maryland: Washington	Hancock, town of	2401068	do.	Aug. 9, 1974 and Dec. 19, 1975.
Michigan: Wayne	Allen Park, city of	2602178	do.	May 3, 1974 and Jan. 16, 1976.
Minnesota: Hennepin	Brooklyn Center, city of	2701618	do.	Nov. 8, 1973 and July 8, 1976.
New Jersey:				
Burlington	Burlington, township of	3406888	do.	June 28, 1974 and Jan. 14, 1977.
Bergen	Tenafly, borough of	3405788	do.	Jan. 16, 1974 and Oct. 24, 1975.
New York:				
Oswego	New Haven, town of	3606888	do.	July 19, 1974 and Apr. 30, 1976.
Tioga	Nichols, town of	3606878	do.	June 28, 1974 and Oct. 3, 1975.
Oswego	Phoenix, village of	3606888	do.	Mar. 22, 1974.
Onondaga	Skaneateles, village of	3606888	do.	May 31, 1974 and June 18, 1976.
Broome	Windsor, village of	3606888	do.	June 18, 1976 and Oct. 24, 1975.
North Carolina: Cumberland	Unincorporated areas	3706788	do.	Dec. 13, 1974 and July 28, 1976.
North Carolina:				
Wayne and Duplin	Mt. Olive, town of	3706888	do.	July 10, 1975 and June 17, 1977.
Wayne	Seven Springs, town of	3706888A	do.	July 18, 1977.
Oklahoma: Tulsa	Jenks, city of	4008888	do.	Jan. 9, 1974 and May 21, 1976.
Oregon: Washington	Tualatin, city of	410277C	do.	May 28, 1977 and May 2, 1978.
Pennsylvania:				
Chester	East Coventry, township of	4214788	do.	Oct. 18, 1974 and Mar. 19, 1976.
Lycoming	Hepburn, township of	4208408	do.	May 10, 1974 and Sept. 24, 1976.
Westmoreland	Lower Burrell, city of	4208888	do.	June 18, 1976 and June 28, 1974.
Do	Murrysville, municipality of	421337A	do.	Nov. 5, 1976.
Washington: Thurston	Olympia, city of	5301618	do.	June 28, 1974 and May 7, 1976.
Wisconsin:				
Brown	Howard, village of	5500888	do.	Dec. 28, 1973 and May 14, 1976.
Kenosha	Unincorporated areas	5505238	do.	Apr. 16, 1976.
Ozaukee	Port Washington, city of	5503188	do.	June 11, 1976 and Oct. 15, 1981.
Vermont: Washington	Montpelier, city of	500518	do.	July 1, 1974.
North Carolina:				
Henderson	Hendersonville, city of	3701888	Apr. 2, 1975, emergency; Jan. 28, 1982, regular; Jan. 28, 1982, suspended; Feb. 1, 1982, reinstated.	July 28, 1977.
Nash	Rocky Mount, city of	370058C	Jan. 17, 1974, emergency; Jan. 28, 1982, regular; Jan. 28, 1982, suspended; Feb. 1, 1982, reinstated.	Mar. 1, 1974, May 21, 1976, and May 1, 1979.
Colorado: Morgan	Fort Morgan, city of	080121A	Feb. 4, 1982, emergency	Feb. 6, 1979 and Oct. 28, 1979.
Florida: Wakulla	Sopchoppy, city of	120680-New	do.	Mar. 8, 1974, Apr. 16, 1976, and Dec. 31, 1976.
Minnesota: Scott	Jordan, city of	270458C	Apr. 16, 1974, emergency; Jan. 6, 1982, regular; Jan. 6, 1982, suspended; Feb. 8, 1982, reinstated.	Oct. 24, 1975 and Feb. 1, 1979.
Alabama: Tuscaloosa	Tuscaloosa, city of	010503A	Apr. 5, 1975, emergency; Feb. 1, 1979, regular; Jan. 6, 1982, suspended; Feb. 8, 1982, reinstated.	Oct. 28, 1979.
Oklahoma: Marshall	Oakland, town of	400819	Feb. 5, 1982, emergency	Oct. 28, 1979.
Illinois: Logan	Elkhart, village of	171010-New	Feb. 12, 1982, emergency	Aug. 28, 1977 and Apr. 15, 1981.
Iowa: Delaware	Hopkinton, city of	190364	do.	Feb. 12, 1982, emergency; Feb. 12, 1982, regular.
Ohio: Preble	Unincorporated areas	3904958	Feb. 12, 1982, emergency	Mar. 1, 1974, Feb. 14, 1975, and Jan. 6, 1982.
Wyoming: Carbon	Riverside, town of	560098-New	May 28, 1975, emergency; Jan. 6, 1982, regular; Jan. 6, 1982, suspended; Feb. 12, 1982, reinstated.	Apr. 25, 1975, Sept. 5, 1979, and Nov. 18, 1981.
Illinois: Rock Island	Hampton, village of	170899B	July 9, 1975, emergency; Nov. 18, 1981, regular; Nov. 18, 1981, suspended; Feb. 11, 1982, reinstated.	
South Dakota: Pennington	Hill City, city of	4601188	Feb. 9, 1982, emergency	
Oklahoma	All State owned land			
Indiana:				
Clark	Utica, town of [1]	180487-New	Feb. 12, 1982, emergency; Feb. 12, 1982, regular.	
Tippecanoe	Dayton, town of	180488	Feb. 12, 1982, emergency; Feb. 12, 1982, regular.	
Michigan: Macomb	Washington, township of	260447	Feb. 12, 1982, emergency; Feb. 12, 1982, regular.	Nov. 5, 1976.
North Carolina: Union	Wingate, town of	370066A	Feb. 12, 1982, emergency; Feb. 12, 1982, regular.	Oct. 3, 1975 and Dec. 1, 1981.
Pennsylvania: Fayette	Perryopolis, borough of	421616B	Feb. 18, 1975, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended; Feb. 16, 1982, reinstated.	Feb. 18, 1976 and July 22, 1977.
New York: Allegany	Ward, town of	361606-New	Feb. 17, 1982, emergency	
Texas: Cooke	Muenster, city of	480787	Feb. 12, 1982, emergency	July 5, 1975.
Virginia	Falls Church, city of	5100548	Apr. 24, 1975, emergency; Feb. 3, 1982, regular; Feb. 3, 1982, suspended; Feb. 16, 1982, reinstated.	May 7, 1976.
Pennsylvania: Allegheny	Pittsburgh, city of	4200928	Apr. 19, 1973, emergency; Dec. 16, 1981, regular; Dec. 16, 1981, suspended; Feb. 16, 1982, reinstated.	Mar. 8, 1974 and Aug. 20, 1976.
North Dakota: Ward	Burlington, township of [2]	380650-New	Feb. 19, 1982, emergency; Feb. 19, 1982, regular.	
South Carolina: Richland	Unincorporated areas	450176C	Sept. 20, 1974, emergency; Nov. 4, 1981, regular; Nov. 4, 1981, suspended; Feb. 26, 1982, reinstated.	July 26, 1977 and May 12, 1978.

[1] This is an incorporated community which was formally contained entirely in Clark County, IN. Since the community was part of a Regular Program community, it is being entered directly into the Regular Program and will use Clark County's map in the interim for insurance and flood plain management purposes. (Hazard Area ID date—Feb. 24, 1975 and Sept. 30, 1980; Eff. Firm: Sept. 30, 1980).

[2] The Township of Burlington will adopt the City of Minot, Ward County, North Dakota's map and study for insurance and flood plain management purposes. Comm. No. 385357A, Hazard Area ID dates: Mar. 16, 1970, July 1, 1974 and Nov. 14, 1975; Eff. Firm: Mar. 17, 1970.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: March 3, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6867 Filed 3-11-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 6256]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended effective the dates listed within this rule because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP) enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date flood insurance is no longer available in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Federal Emergency Management Agency's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood loses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Special flood hazard area identified	Date[1]
Arizona: Mohave	Unincorporated areas	040058B	May 6, 1974, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Feb. 6, 1979	Mar. 15, 1982.
Arkansas:					
Sebastian	Hackett, town of	0501998	Apr. 25, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Oct. 18, 1974 and Dec. 5, 1975.	Do.
Do	Hartford, city of	0502008	Mar. 12, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Mar. 8, 1974	Do.
Do	Lavaca, town of	050201	May 6, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	May 10, 1974 and Nov. 28, 1975.	Do.
Franklin	Ozark, city of	050058A	Feb. 5, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Sept. 26, 1975	Do.
Ashley	Wilmot, city of	0500099	Jan. 14, 1985, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Mar. 15, 1974 and Oct. 3, 1975.	Do.
Florida: St. Lucie	Port St. Lucie, city of	1202578	May 7, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Dec. 13, 1974 and Apr. 9, 1976.	Do.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Special flood hazard area identified	Date[1]
Illinois:					
Jackson	Makanda, village of	170891C	Mar. 17, 1980, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Aug. 23, 1974, Dec. 20, 1975 and Mar. 23, 1979.	Do.
Cook	Westchester, village of	170178B	Feb. 18, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Apr. 15, 1974 and June 4, 1976.	Do.
Indiana:					
Bartholomew	Unincorporated areas	180068B	Jan. 20, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Sept. 20, 1974 and July 30, 1976.	Do.
Lake	Cedar Lake, town of	180127B	July 25, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Dec. 28, 1973 and Mar. 26, 1976.	Do.
Kentucky: Greenup	Raceland, city of	210068B	Jan. 21, 1976, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Feb. 8, 1974 and Apr. 9, 1976.	Do.
Maine: Washington	Baring Plantation	230469	Mar. 18, 1974, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Jan. 31, 1975	Do.
Massachusetts: Worcester	Southbridge, town of	250254B	May 15, 1974, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Mar. 22, 1974 and Oct. 29, 1976.	Do.
Michigan:					
Kalamazoo	Augusta, village of	260312B	May 20, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Mar. 8, 1974 and Feb. 7, 1975.	Do.
Do	Ross, township of	260264A	July 24, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.		Do.
Minnesota:					
Aitkin	Aitkin, city of	270001B	June 7, 1974, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Jan. 9, 1974 and Aug. 13, 1976.	Do.
Do	Unincorporated areas	270029B	Apr. 23, 1974, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Dec. 30, 1977	Do.
Houston	Hokah, city of	270192B	Nov. 29, 1974, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Mar. 8, 1974 and June 4, 1976.	Do.
Montana: Gallatin	Bozeman, city of	300028B	May 15, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Feb. 15, 1974 and Feb. 13, 1976.	Do.
New Jersey: Morris	Harding, township of	340344B	June 10, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Apr. 12, 1974 and Feb. 20, 1976.	Do.
New York: Westchester	Harrison, town of	360912A	Feb. 2, 1973, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Mar. 5, 1976	Do.
Oregon:					
Washington	Forest Grove, city of	410241B	June 4, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Mar. 1, 1974 and Apr. 16, 1976.	Do.
Yamhill	Willamina, city of	410250B	Jan. 21, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Dec. 28, 1973 and Dec. 26, 1975.	Do.
Pennsylvania:					
Allegheny	Collier, township of	421059B	July 7, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	July 19, 1974 and Apr. 30, 1976.	Do.
Berks	Exeter, township of	421060B	Sept. 27, 1974, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Aug. 13, 1974 and July 30, 1976.	Do.
Montgomery	Franconia, township of	423494A	Oct. 24, 1974, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Dec. 6, 1974	Do.
Washington: Jefferson	Port Townsend, city of	530070B	June 11, 1975, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	June 14, 1974 and Jan. 9, 1976.	Do.
Texas: Harris	Jersey Village, city of	480309B	Oct. 9, 1974, emergency; Mar. 15, 1982, regular; Mar. 15, 1982, suspended.	Apr. 5, 1974 and June 27, 1975.	Do.
New York: Oswego	New Haven, town of	360658B	Dec. 23, 1975, emergency; Feb. 17, 1982, regular; Mar. 15, 1982, suspended.	July 19, 1974	Do.
Rhode Island: Kent	Warwick, city of	445405C	Apr. 6, 1973, emergency; Apr. 6, 1973, regular; Mar. 15, 1982, suspended.	Apr. 6, 1973 and June 18, 1976.	Do.
Massachusetts: Plymouth	Marion, city of	250212B	Oct. 6, 1971, emergency; Apr. 6, 1973, regular; Mar. 15, 1982, suspended.	Jan. 2, 1976	Do.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: March 3, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6660 Filed 3-11-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 65

[Docket No. FEMA-6259]

List of Communities With Special Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance to communities on the reduction of property losses by the adoption of appropriate flood plain management or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATES: The effective date shown at the top right of the table or April 12, 1982, whichever is later.

FOR FURTHER INFORMATION CONTACT: Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287-0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234) requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood

hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply in respect to conventional mortgage loans by federally regulated, insured, supervised, or approved lending institutions.

This 30-day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the **Federal Register** or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the **Federal Register** or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 64 of Title 44 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128).

Pursuant to the provisions of 5 U.S.C. 606(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information or regarding the completed stages of engineering tasks in delineating the special flood hazard areas of the specified community This rule imposes no new requirements or regulations on participating communities.

Section 65.3 is amended by adding in alphabetical sequence a new entry to the table:

§ 65.3 List of communities with special hazard areas (FHBMs in effect).

EFFECTIVE DATE March 2, 1982

1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (# AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 60.3 CODE	8 PROGRAM STATUS	9 STATUS OF FHBM	9 STATUS OF FIRM	10 PREVIOUS MAP DATES FHBM	10 PREVIOUS MAP DATES FIRM	11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
MT	300046	Meagher County (Unincorporated Areas) (Index - 0006A, 0010A 0014A, 0015A, 0018A 0019A thru 0021A, 0023A 0024A, 0025A, 0027A, 0028A)		I	FL	B	I	2	1	N/A	N/A	N/A	N/A	N/A	Mr. A. C. Grande, Jr. Chairman Co. Commissioners P. O. Box 309 White Sulphur Springs, M. (406) 547-3612
													EFFECTIVE DATE: March 5, 1982		
OH	390795	Village of Enon Clark County	0001B	I	FL	B	I	3	1	2/17/78	N/A	10	N/A	N/A	Charles E. Koons, Mayor 93 Helen Street Enon, Ohio 45323 513-864-7936
PA	421981	Township of Menno Mifflin County	0001A 0002A	I	FL	B	A	3	1	11/22/74	N/A	2 10 16	N/A	N/A	Richard L. Yoder, Chairman TWP Board of Supervisors R. D. 1, Box 314A Belleville, PA 17004 717-935-2111
WV	540121	Town of Northfork McDowell County	0001B	I	FL	B	I	3	1	5/24/74 5/29/76	N/A	10	N/A	N/A	Paul Miller, Mayor P. O. Box 479 Northfork, WV 24868 304-862-3414
WI	550449	City of Whitehall Tempealeau County	0001B	I	FL	B	I	3	1	12/17/73 5/14/76	N/A	9 10 16	N/A	N/A	William Gardner, Mayor 1631 Main Street P. O. Box 155 Whitehall, WI 54773 715-538-4353
													EFFECTIVE DATE: March 12, 1982		
IL	170057	Village of Barrington Cook & Lake Cos.	0001B	I	FL	B	I	3	1	3/22/74 9/24/76	N/A	10	N/A	N/A	Bruce Irmen, Village Manager 206 S. Hough Street Barrington, IL 60010 312-381-2141

EFFECTIVE DATE March 12, 1982

1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (# AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 60.3 CODE	8 PROGRAM STATUS	9 STATUS OF FHBM	9 STATUS OF FIRM	10 PREVIOUS MAP DATES FHBM	10 PREVIOUS MAP DATES FIRM	11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
WI	550331	Village of Spring Valley (Pierce & Croix Cos.)	0001B	I	FL	B	I	3	1	6/14/74 7/18/75	N/A	9 10 16	N/A	N/A	James Baumgartner Village President P. O. Box 276 Spring Valley, WI 54767 715-778-5635 (Clerk's No.)
													EFFECTIVE DATE: March 19, 1982		
VA	510203	Orange County Unincorporated Areas	0001A thru 0008A	I	FL	B	I	3	1	1/31/75	N/A	9 10 16	N/A	N/A	A. Terrell Baskerville County Administrator Box 111 Orange, VA 22960 703-672-3313
													EFFECTIVE DATE: March 26, 1982		
IL	170652	Village of Morton Tazewell County	0001C 0002C	I	FL	B	I	3	1	5/31/74 11/19/76 7/27/79	N/A	10	N/A	N/A	Robert Hertenstein, President Village Board of Trustees 120 North Main Street Morton, IL 61550 309-266-5361
OH	390261	Village of Scio Harrison County	0001B	I	FL	B	I	3	1	5/3/74 7/30/76	N/A	9 10 16	N/A	N/A	Darreld Snider, Mayor P. O. Box 307 Scio, Ohio 43988 614-945-4824
WI	550433	Village of Gilman Taylor County	0001B	I	FL	B	I	3	1	6/28/74 5/14/75	N/A	9 10 16	N/A	N/A	Gerald DeStaercke Village President P.O. Box 157 Gilman, WI 54433 715-447-5779
OK	400472	Garvin County Uninvorporated Areas (Index - 0025A, 0050A 0075A, 0100A, 0125A 0150A, 0175A, 0200A 0225A, 0250A, 0275A)		I	FL	B	I	2	1	N/A	N/A	N/A	N/A	N/A	Robert Brooks, Chairman Board of County Commissioners Box 237 Pauls Valley, OK 73075

BILLING CODE 6718-03-C

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 26, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: March 3, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-6696 Filed 3-11-82; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 13

Implementation of the Equal Access to Justice Act in Agency Proceedings

AGENCY: Office of the Secretary, HHS.

ACTION: Interim final rule, with subsequent comment period.

SUMMARY: These regulations implement the Equal Access to Justice Act, 5 U.S.C. 504 and 504 note, for the Department of Health and Human Services. They describe the circumstances under which the Department may award attorneys fees and certain other expenses to eligible individuals and entities who prevail over the Department in specified administrative proceedings where the Department's position in the proceeding was not substantially justified.

DATES: This interim final regulation is effective October 1, 1981, except for §§ 13.10, 13.11, and 13.12 which will become effective upon approval by the Office of Management and Budget. The Department will accept comments on these regulations through May 11, 1982, and will revise the regulation, if appropriate, in response to the comments received before issuing a final regulation.

ADDRESS: Comments must be in writing and sent to: Darrel Grinstead, Assistant General Counsel, Business and Administrative Law Division, Room 5362, 330 Independence Avenue, S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Darrel Grinstead, Assistant General Counsel, Business and Administrative Law Division, Room 5362, 330 Independence Ave., S.W., Washington, D.C. 20201, Telephone (202) 245–2151.

SUPPLEMENTARY INFORMATION: These interim final rules are issued to implement section 203 of the Equal Access to Justice Act, Pub. L. 96–481, for the Department of Health and Human Services. That section enacts 5 U.S.C. 504, which provides that the Department shall award attorney fees and certain other expenses which eligible applicants have incurred in certain administrative proceedings, unless the Department's position in the proceeding was substantially justified or unless special circumstances make an award unjust. These rules apply only to "adversary adjudications," which the Act defines as "adjudication[s] under [5 U.S.C. 554] in which the position of the United States is represented by counsel or otherwise," but exclud[ing] adjudication[s] for the purpose of establishing or fixing a rate or for the purpose of granting or renewing a license." Four categories of parties are eligible for fee awards: (1) individuals whose net worth is no more than $1 million; (2) businesses (including sole owners of unincorporated businesses), associations and organizations with a net worth of no more than $5 million and no more than 500 employees; (3) organizations that are tax exempt under section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with no more than 500 employees, regardless of net worth, and (4) agricultural cooperative associations as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) with no more than 500 employees, regardless of net worth.

The Administrative Conference of the United States ("ACUS") published model rules on June 25, 1981 (46 FR 32900) as a guide to agencies in adopting their own rules to implement the Act. ACUS does not take the position that agencies must adopt rules which are identical to the model rules. The differences between these proposed rules and the model rules are discussed in this preamble.

The Department finds that it is impractical and contrary to the public interest to follow notice and comment rulemaking procedures for this regulation and that good cause exists to publish these regulations as an interim final rule. The provisions of the Equal Access to Justice Act became effective on October 1, 1981, at which time eligible applicants could begin to apply for awards. Issuance of these regulations as interim final will permit applicants to have notice of eligibility requirements and application procedures in order to apply for an award. Furthermore, the model rules published by ACUS, on which these interim final rules are substantially based, were the subject of a 45 day comment period before they were issued in their final form.

Notwithstanding the omission of notice and comment procedures, comments will be accepted for a 60-day period. The Department will carefully review all comments received during this period before publishing the final rule.

These interim regulations contain three subparts covering the following subjects: (1) General provisions explaining the rules and their standards, eligibility requirements, and the fees and expenses reimbursable under the rules; (2) the information required of applicants and (3) procedures for considering applications.

Subpart A—General Provisions

Subpart A contains general provisions explaining the interim rules and their coverage and some miscellaneous provisions. Several of these sections are self-explanatory and require no extended explanation: 13.1 states the purpose of the rules; 13.2 sets forth the effective dates of the rules; 13.8 delegates authority to implement the regulations to Department officials. The other provisions discussed below deal with the proceedings covered, eligibility, the standards for awards, and allowable fees and expenses.

Covered proceedings: Section 13.3 identifies the categories of proceedings subject to the rules. The section describes what is meant by an adversary adjudication and states that ratemaking and licensing proceedings, other than proceedings involving the withdrawal of licenses, are not covered by the Act. Specific proceedings which would ordinarily be covered are listed in Appendix A.

In determining which Departmental proceedings are "under section 554", we have included those where the statute specifically provides or has been construed to provide for a decision on the record after an opportunity for hearing. We have not included proceedings where, although the statute does not require a section 554 hearing, the Department voluntarily uses section 554 procedures. This is consistent with the ACUS model rules.

The Department has determined that many of its proceedings are not within the scope of the Act. Adjudications of claims under the Social Security programs are not covered because the Department is not represented. Proceedings involving States are not covered because States would not meet the eligibility requirement for an award. Proceedings related to decertification of providers under the Medicare and Medicaid programs are not proceedings for the withdrawal of licenses and therefore are not covered.

Proceedings which result from FDA's denial of applications for new drugs, new animal drugs and medicated feed, and medical device premarket approval are expressly excluded from coverage by the regulations. This exclusion is based on the statutory exemption for proceedings to grant licenses, since denial of a license is one of the possible results of such a proceeding. However, this exemption does not apply to proceedings to withdraw previously approved applications, which are included in Appendix A as covered proceedings.

The Department has determined that proceedings before the Provider Reimbursement Review Board are not within the scope of the Act, except in those cases where the Department actually acts as the fiscal intermediary in the adjudication. When the Department does not act as intermediary, it has no control over the conduct of the adjudication by the private fiscal intermediary.

The Department has not included proceedings before contract appeals boards or similar bodies. The Act indicates that proceedings of boards of contract appeals are not included within the scope of the Act. Section 204 of the Act, 28 U.S.C. 2412(d)(3), provides that courts shall award fees in actions for judicial review of adversary adjudications as defined in 5 U.S.C. 504 *or* of adversary adjudications subject to the Contract Disputes Act of 1978, thus implying that Congress did not regard the latter category of cases to be "under" section 554 for this purpose.

Eligible parties: Section 13.4 deals with eligibility for awards under the Act. The section recites the categories of parties eligible for awards and the applicable limitations on net worth and number of employees. The rules follow the Act by providing that eligibility should be determined as of the time the adversary adjudication was initiated. The applicant has the burden of demonstrating that it meets the eligibility criteria.

The section also contains two provisions intended to prevent ineligible parties from obtaining fee awards indirectly. Paragraph (f) sets forth the impact on eligibility of the assets of an applicant's affiliates, such as wholly-owned subsidiaries or businesses under common control. The provision requires that assets of affiliates be aggregated to determine an applicant's net worth. Paragraph (g) provides that an applicant is not eligible if the applicant is participating in the proceeding only or primarily on behalf of ineligible applicants.

Standards for awards: Section 13.5 repeats the statutory standard that an applicant may not receive an award for fees and expenses where the Department's position in the proceeding was substantially justified. Neither ACUS's model rules nor the statute define "substantially justified". These interim rules clarify that the mere fact that a party has prevailed in a proceeding creates no presumption that the Department's position was not substantially justified. The Department has the burden of demonstrating that its position was substantially justified, in fact and law, at the time the proceeding was initiated. We believe it is reasonable to evaluate the decision to initiate a proceeding on the basis of the information available to the Department at the time the proceeding was initiated, rather than based on superior hindsight judgment.

The ACUS model rules provide for awards for fees and expenses incurred when an applicant has prevailed in a proceeding "or in a significant and discrete substantive portion of the proceeding". To make it clear that awards will not be made when an applicant prevails on an ancillary matter or on an interlocutory procedural issue, the Department's interim rules allow for an award of fees for a portion of a proceeding only when that portion could have been heard separately from the remainder of the proceeding.

Under paragraph (c) of § 13.5, awards could include fees and expenses incurred before the date a proceeding begins, if they are reasonably necessary to prepare for the proceeding. Paragraph (d) explains the Act's provision that awards may be reduced or denied if applicants unduly protract proceedings, or if special circumstances make an award unjust.

Allowable Fees and Expenses: The interim rules have been drafted to provide that a party which has prevailed over the Department in an adjudicatory proceeding covered by the Act, in which the Department's position was not substantially justified, may be reimbursed for its actual reasonable expenses to the extent permitted by the Act. These interim rules differ from the model rules in that ACUS would allow an award based on rates customarily charged by persons engaged in the business of acting as attorneys, agents and expert witnesses even if the services were made available free or at a reduced rate.

The Department believes that its approach is consistent with the clear language of the Act. Section 504(a)(1) of title 5 provides for awards of "fees and other expenses *incurred*" by a prevailing party (emphasis added). Section 504(b)(1)(A) defines "fees and other expenses" to include reasonable attorney or agent fees based upon prevailing market rates. Thus, based on section 504(a)(1), read in conjunction with section 504(b)(1)(A), the Department's rules provide that (1) fee awards can be made as reimbursement for reasonable expenses actually incurred by entitled prevailing parties; and that (2) the reasonableness of such expenses shall be determined on the basis of prevailing market rates. The model rules adopted by ACUS, by making awards on the basis of rates customarily charged, render meaningless the word "incurred."

These interim rules provide that any award under the Act shall be reduced by any reimbursement the party has already received, or is eligible to receive, from the government under any other statute, regulation or program. The purpose of this provision is to avoid providing a party with a windfall by reimbursing the same expenditure twice. ACUS agrees that applicants shoud not be entitled to double payment, but believes an explicit provision is not necesary in its model rules. We believe, however, that an explicit provision would be useful to avoid confusion.

These interim rules also clarify that parties may not be reimbursed for studies, analyses, engineering reports, tests and projects which are necessary to satisfy statutory or regulatory requirements or which would ordinarily be conducted as part of the party's business irrespective of the administative proceeding. For example, there are statutory requirements that sponsors of new drug applications, new animal drug applications, and medical device premarket approval applications utilize studies to show the safety and effectiveness of their products (21 U.S.C. 355, 360b, 360e), and sponsors may rely on such studies in a proceeding to withdraw an approved application. In adopting these statutory requirements, however, Congress has chosen to place the burden of testing for safety and effectiveness on the sponsor, which will profit from the sale of its product, and not on the government. The Department believes that awards for such testing, when relied on in proceedings for the withdrawal of approved applications, would not be "reasonable" because the testing is necessary to meet statutory requirements rather than to prepare for the party's case.

The Department believes that the provision in the ACUS model rules

allowing rulemaking on hourly rates for attorneys is unnecessary and has not adopted it. The Act provides that an agency can by regulation increase the $75 an hour statutory maximum. The component agencies and offices of the Department are free to entertain requests to raise the statutory amount under their individual procedures.

The Department also has not adopted the provision in the model rules on proceedings involving two agencies, as we do not believe this situation will arise within the Department.

Subpart B—Information Required From Applicants

Subpart B identifies the information to be included in an application for an award of fees and expenses. The Act itself requires submission of "an application which shows that the party is a prevailing party and is eligible to receive an award under this section, and the amount sought, including an itemized statement from any attorney, agent, or expert witness representing or appearing on behalf of the party stating the actual time expended and the rate at which fees and other expenses were computed." 5 U.S.C. 504(a)(2). The Act also requires the applicant to assert that the position of the agency was not substantially justified.

The goal of the regulatory provisions is to elicit sufficient information on these subjects for the adjudicative officer to make an informed determination on the application without unduly burdening the applicant. The provisions follow closely the model rules and divide the application into three parts: the application (§ 13.10), the net worth exhibit (§ 13.11), and statements of fees and expenses (§ 13.12). The Department is required to and will submit to the Office of Management and Budget for review and approval the reporting requirements in these sections. These provisions will not become effective until approved by OMB.

In the basic application, the applicant is to identify itself, the proceeding, and the issues on which it believes it has prevailed and as to which the agency's position was not substantially justified at the time of the initiation of the proceeding. The applicant then provides basic information on eligibility: the number of employees where applicable; a description of affiliated individuals or entities, if any; a statement that the applicant's net worth when the proceeding began did not exceed the ceiling for its category (for all applicants except tax exempt organizations and agricultural cooperatives); and a statement of the amount of fees and expenses for which an award is sought. The only item we have added to the provisions in the model rules is that the applicant must indicate whether it has or will apply for reimbursement of its expenses under another program or statute. The application is to be signed by the applicant or a responsible officer or attorney of the applicant, accompanied by a written verification under oath or penalty of perjury.

The applicant would not be required to include documentary proof of its statements as to the number of employees, affiliated individuals or entities, or tax-exempt status. However, the Department may request documentation if there is any reason to question the accuracy of the statements made.

All applicants except tax exempt organizations and agricultural cooperatives would also have to file a net worth exhibit under § 13.11. The statement would list the applicant's and its affiliates' assets and liabilities, in any form convenient for the applicant.

An applicant can request confidential treatment for its statement of net worth by submitting it in a sealed envelope, accompanied by a motion to withhold the information from public disclosure explaining why the information falls within one of the exemptions from disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(1)–(9), and why disclosure is not required in the public interest. If the adjudicative officer finds the information should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, it will be kept confidential, and any request to inspect or copy the exhibit shall be disposed of in accordance with the Department's procedures for confidential records under the Freedom of Information Act.

The third section in the subpart explains what must be included to document fees and expenses. The provision requires a separate itemized statement of work performed, and fees and expenses claimed, for each attorney, witness, or agent for whose services an award is requested. The statement must be verified by the person (or representative of the firm) who performed the services. Unlike the model rules, these regulations require that the itemized statements indicate the allocation of fees and expenses between covered and excluded proceedings when the adversary adjudication included both, and between two or more separable matters where the applicant did not prevail on all matters in the proceeding which could have been heard separately. The purpose of requiring this allocation of fees and expenses is to assure that the Department reimburses the applicant only for "reasonable" fees and expenses as required by the Act. The applicant should not be able to receive a windfall by charging most or all of its expenses in a proceeding to those matters for which reimbursement is available under these rules while undervaluing the expenses and fees incurred for work on ineligible or excluded matters or proceedings. The application would not have to include documentation of expenses incurred, but the adjudicative officer may request verification in appropriate cases.

Subpart C—Procedures for Considering Applications

Subpart C contains the procedures governing the consideration of applications for awards. The proceedings on the fee applications are designed to be as brief and simple as possible. Each party has a full and fair opportunity to challenge the other party's assertions and to present opposing evidence, while allowing the applicant to receive any award to which it is entitled within a reasonable period of time.

The pleadings involved in award proceedings include the application, an answer by the agency, a reply by the applicant, and comments by other parties. As in the ACUS model rules, these pleadings are to be filed and served in the same manner as other pleadings in the proceeding except for confidential statements of net worth, the service of which is covered by § 13.11(c).

The interim rules require that an application for an award be filed no later than 30 days after the agency issues a final decision making the applicant the prevailing party. An applicant can be a prevailing party only if the agency takes final action favorable to the applicant on any matter which could have been heard as a separate adversary adjudication, whether or not that matter was in fact joined with other allegations for hearing. Action favorable to a party on a interlocutory matter does not qualify that party for an award.

The interim rules require the agency's litigating party to file an answer to the application within 30 days, unless an extension is granted. Unlike the ACUS rules, the Department's rules do not provide that failure to file an answer will be treated as consent to the award requested. They require that an answer either expressly consent to the award or explain in detail the objections to the award. The Department has not adopted the ACUS provision that the parties may file a statement of intent to negotiate a settlement, for we believe this is unnecessary. The rules provide for the granting of extensions of the deadline for filing an answer if in fact the parties are negotiating. As in the ACUS model rules, any other participant in the hearing may file comments on the application within 30 days or on the answer within fifteen days, but, unlike the ACUS rules, the Department's regulations do not prohibit the commenting party from further participation in the proceeding. Responsive pleadings that rely on facts not in the record would have to be accompanied by affidavits or by requests for further proceedings to develop the necessary evidence.

The Department's § 13.24 requires that all settlements be approved by the adjudicative officer and by the head of the agency or office or his or her designee before becoming final. The Department believes that review of settlements is a necessary check on the amount and consistency of settlements made by attorneys who may not be aware of budgetary constraints within the Department.

The Department has adopted the provisions of the ACUS rules concerning further proceedings—informal conferences, oral argument, orders for additional written submissions, and evidentiary hearings, although the rules encourage a decision on the written record whenever possible. On request or on his or her own initiative, the adjudicative officer could order such proceedings when necessary to provide an adequate record for decision. However, the Department believes that adjudicative officers must be able to impose certain sanctions for failure to comply with their orders. Therefore, the proposal includes a provision for the adjudicative officer to impose sanctions on either the applicant or the Department, including but not limited to diminution of awards and dismissal of the application.

The interim rules direct adjudicative officers to issue their decisions as promptly as possible, and to include in the decision written findings and conclusions on the applicant's eligibility and status as a prevailing party. The section departs from the model rules in that it requires the adjudicative officer to make an express finding on the applicant's net worth. The Department believes that without such a finding, effective review might be impossible. If the net worth information is to be kept confidential under § 13.11, then this finding shall also be kept confidential.

Consistent with the Department's view that the agency head or his or her designee should review any award, the rules provide for automatic review of the adjudicative officer's initial decision whether or not exceptions are made.

The proposed rule follows the ACUS rules in providing for judicial review of final agency decisions on the award under 5 U.S.C. 504(c)(2).

Impact of Regulations

The Secretary certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, that this regulation will not have a significant economic impact on a substantial number of small entities. The reason for the Secretary's certification is that, although small entities are eligible to apply for awards, the regulation applies only to a small number of the proceedings held by the Department each year, and in many of those proceedings the Department's position will be substantially justified.

The Secretary has also determined, in accordance with Executive Order 12291, that the proposed rule does not constitute a "major rule" because it will not have an annual effect on the economy of $100 million or more; result in a major increase in costs or prices for consumers, any industries, any governmental agencies or geographic regions; or have significant and adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. A regulatory analysis is not required.

Dated: February 12, 1982.

Richard S. Schweiker,

Secretary.

Title 45 of the Code of Federal Regulations is amended by adding a new Part 13 to read as follows:

PART 13—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

Subpart A—General Provisions

Sec.
13.1 Purpose of these rules.
13.2 When these rules apply.
13.3 Proceedings covered.
13.4 Eligibility of applicants.
13.5 Standards for awards.
13.6 Allowable fees and expenses.
13.7 Studies, exhibits, analyses, engineering reports, tests and projects.
13.8 Delegations of authority.

Subpart B—Information Required From Applicants

13.10 Contents of application.
13.11 Net Worth exhibits.
13.12 Documentation of fees and expenses.

Subpart C—Procedures for Considering Applications

13.21 Filing and service of pleadings.
13.22 When an application may be filed.
13.23 Responsive pleadings.
13.24 Settlements.
13.25 Further proceedings.
13.26 Decisions.
13.27 Agency review.
13.28 Judicial review.
13.29 Payment of award.
13.30 Designation of adjudicative officer.

Authority: Sec. 203(a)(1), Pub. L. 96–481, 94 Stat. 2325 (5 U.S.C. 504(c)(1)).

Subpart A—General Provisions

§ 13.1 Purpose of these rules.

These rules implement section 203 of the Equal Access to Justice Act, 5 U.S.C. 504 and 504 note, for the Department of Health and Human Services. They describe the circumstances under which the Department may award attorney fees and certain other expenses to eligible individuals and entities who prevail over the Department in certain administrative proceedings (called "adversary adjudications"). The Department may reimburse parties for expenses incurred in adversary adjudications if the party prevails in the proceeding and if the Department's position in the proceeding was not substantially justified. These rules explain how to apply for an award. They also describe what proceedings constitute adversary adjudications covered by the Act, what types of persons and entities may be eligible for an award, and what procedures and standards the Department will use to make a determination as to whether a party may receive an award.

§ 13.2 When these rules apply.

These rules apply to adversary adjudications pending before the Department between October 1, 1981 and September 30, 1984.

§ 13.3 Proceedings covered.

(a) These rules apply only to adversary adjudications. For the purpose of these rules, only an adjudication required to be under 5 U.S.C. 554, in which the position of the Department or one of its components is represented by an attorney or other representative ("the agency's litigating party") who enters an appearance and participates in the proceeding, constitutes an adversary adjudication. These rules do not apply to proceedings for the purpose of establishing or fixing a rate or for the purpose of granting, denying, or renewing a license. Department proceedings covered by

these rules, if the agency's litigating party enters an appearance and participates, are listed in Appendix A. However, if a party to a proceeding believes that a proceeding not listed in Appendix A is covered by these rules, the party may file an application; whether the proceeding is covered will then be an issue for resolution in the proceedings on the application.

(b) If a proceeding is covered by these rules, but also involves issues excluded under paragraph (a) of this section from the coverage of these rules, reimbursement is available only for fees and expenses resulting from covered issues.

§ 13.4 Eligibility of applicants.

(a) To be eligible for an award of attorney fees and other expenses under these regulations, the applicant must be a party, as defined in 5 U.S.C. 551(3), to the adversary adjudication for which it seeks an award. An applicant must show that it meets all conditions of eligibility set out in this subpart and in subpart B.

(b) The categories of eligible applicants are as follows:

(1) Individuals with a net worth of not more than $1 million;

(2) Sole owners of unincorporated businesses if the owner has a net worth of not more than $5 million, including both personal and business interests, and not more than 500 employees;

(3) Charitable or other tax-exempt organizations described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with not more than 500 employees;

(4) Cooperative associations as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) with not more than 500 employees, and

(5) All other partnerships, corporations, associations or public or private organizations with a net worth of not more than $5 million and with not more than 500 employees.

(c) For the purpose of determining eligibility, the net worth and number of employees of an applicant is calculated as of the date the proceeding was initiated. The net worth of an applicant is determined by generally accepted accounting principles.

(d) Whether an applicant who owns an unincorporated business will be considered as an "individual" or a "sole owner of an unincorporated business" will be determined by whether the applicant's participation in the proceeding is related primarily to individual interests or to business interests.

(e) The employees of an applicant include all those persons regularly providing services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this part, unless the adjudicative officer determines that such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, the adjudicative officer may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(g) An applicant is not eligible if it appears from the facts and circumstances that it has participated in the proceedings only or primarily on behalf of other persons or entities that are ineligible.

§ 13.5 Standards for awards.

(a) Awards will not be made for fees and expenses where the Department's position in the proceeding was substantially justified at the time the proceeding was initiated. The fact that a party has prevailed in a proceeding does not create a presumption that the Department's position was not substantially justified. The burden of proof that an award should not be made to an eligible prevailing applicant is on the agency's litigating party, which may avoid an award by showing that its position was reasonable in law and fact.

(b) When two or more matters are joined together for one hearing, each of which could have been heard separately, and an applicant has prevailed with respect to one or several of the matters, an eligible applicant may receive an award for expenses associated only with the matters on which it prevailed if the Department's position on those matters was not substantially justified.

(c) Awards for fees and expenses incurred before the date on which a proceeding was initiated will be made only if the applicant can demonstrate that they were reasonably incurred in preparation for the proceeding.

(d) Awards will be reduced or denied if the applicant has unduly or unreasonably protracted the proceeding or if other special circumstances make an award unjust.

§ 13.6 Allowable fees and expenses.

(a) Awards will be limited to the rates customarily charged by persons engaged in the business of acting as attorneys, agents and expert witnesses. Awards will not be made for more than the applicant's actual expenses. If a party has already received, or is eligible to receive, reimbursement for any expenses under another statutory provision or another program allowing reimbursement, its award under these rules must be reduced by the amount the prevailing party has already received, or is eligible to receive, from the government.

(b) An award for the fees of an attorney or agent may not exceed $75.00 per hour, regardless of the actual rate charged by the attorney or agent. An award for the fees of an expert witness may not exceed the highest rate at which the Department pays expert witnesses, which is $24.09 per hour, regardless of the actual rates charged by the witness. These limits apply only to fees; an award may include the reasonable expenses of the attorney, agent, or witness as a separate item, if the attorney, agent or witness ordinarily charges separately for such expenses.

(c) In determining the reasonableness of the fees sought for attorneys, agents or expert witnesses, the adjudicative officer must consider factors bearing on the request, which include, but are not limited to:

(1) If the attorney, agent or witness is in private practice, his or her customary fee for like services; if the attorney, agent or witness is an employee of the applicant, the fully allocated cost of services;

(2) The prevailing rate for similar services in the community in which the attorney, agent or witness ordinarily performs services;

(3) The time actually spent in the representation of the applicant;

(4) The time reasonably spent in light of the difficulty or complexity of the issues in the proceeding; and

(5) Such other factors as may bear on the value of the services provided.

§ 13.7 Studies, exhibits, analyses, engineering reports, tests and projects.

The reasonable cost (or the reasonable portion of the cost) for any study, exhibit, analysis, engineering report, test, project or similar matter prepared on behalf of a party may be awarded to the extent that:

(a) The charge for the service does not exceed the prevailing rate payable for similar services,

(b) The study or other matter was necessary to the preparation for the administrative proceeding, and

(c) The study or other matter was prepared for use in connection with the administrative proceeding. No award will be made for a study or other matter which was necessary to satisfy statutory or regulatory requirements, or which would ordinarily be conducted as part of the party's business irrespective of the administrative proceeding.

§ 13.8 Delegations of authority.

Authority to take final action on matters pertaining to section 203 of the Equal Access to Justice Act, 5 U.S.C. 504, is hereby delegated to the heads of the component agencies and offices of the Department or their designees as follows: With respect to the Social Security Administration, to the Commissioner; with respect to the Health Care Financing Administration, to the Administrator; with respect to the Office of Human Development Services, to the Assistant Secretary for Human Development Services; with respect to the Public Health Service, to the Assistant Secretary for Health; with respect to the Food and Drug Administration, to the Commissioner; with respect to the office of Civil Rights, to the Director. These office and agency heads or their designees may develop procedures and regulations where necessary to supplement these regulations.

Subpart B—Information Required From Applicants

§ 13.10 Contents of application.

(a) Applications for an award of fees and expenses must include:

(1) The name of the applicant and the identification of the proceeding;

(2) A declaration that the applicant believes it has prevailed, and an identification of the position of the Department that the applicant alleges was not substantially justified at the time of the initiation of the proceeding;

(3) Unless the applicant is an individual, a statement of the number of its employees on the date on which the proceeding was initiated, and a brief description of the type and purpose of its organization or business;

(4) A description of any affiliated individuals or entities, as the term "affiliate" is defined in § 13.4(f), or a statement that none exist;

(5) A statement that the applicant's net worth as of the date on which the proceeding was initiated did not exceed $1 million (if an individual) or $5 million (for all other applicants, including their affiliates). However, an applicant may omit this statement if:

(i) It attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) or, in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualified under such section; or

(ii) It states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a));

(6) A statement of the amount of fees and expenses for which an award is sought;

(7) A declaration that the applicant has not received, has not applied for, and does not intend to apply for reimbursement of the cost of items listed in the Statement of Fees and Expenses under any other program or statute; or, if the applicant has received or applied for or will receive or apply for reimbursement of those expenses under another program or statute, a statement of the amount of reimbursement received or applied for or intended to be applied for; and

(8) Any other matters the applicant wishes the Department to consider in determining whether and in what amount an award should be made.

(b) All applications must be signed by the applicant or by an authorized officer or attorney of the applicant. It shall also contain or be accompanied by a written verification under oath or under penalty of perjury that the information provided in the application is true and correct.

§ 13.11 Net worth exhibits.

(a) Each applicant except a qualified tax-exempt organization or cooperative association must provide with its application a detailed exhibit showing the net worth of the applicant and any affiliates (as defined in § 13.4(f) of this part) when the proceeding was initiated. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this part. The adjudicative officer may require an applicant to file additional information to determine its eligibility for an award.

(b) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure may submit that portion of the exhibit directly to the adjudicative officer in a sealed envelope labeled "Confidential Financial Information," accompanied by a motion to withhold the information from public disclosure. The motion shall describe the information sought to be withheld and explain, in detail, why it falls within one or more of the specific exemptions from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(1)–(9), why public disclosure of the information would adversely affect the applicant, and why disclosure is not required in the public interest. The material in question shall be served on counsel representing the agency against which the applicant seeks an award, but need not be served on any other party to the proceeding. If the adjudicative officer finds that the information should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, any request to inspect or copy the exhibit shall be disposed of in accordance with the Department's procedures for confidential records under the Freedom of Information Act.

§ 13.12 Documentation of fees and expenses.

(a) All applications must be accompanied by full documentation of the fees and expenses, including the cost of any study, exhibit, analysis, report, test or other similar item, for which the applicant seeks reimbursement.

(b) A separate itemized statement shall be submitted for each professional firm or individual or other entity for which the applicant seeks reimbursement, indicating the hours spent in connection with the proceeding by each individual, a description of the specific services performed, the rate at which fees were computed, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided. Where the adversary adjudication includes covered proceedings (as described in § 13.3) as well as excluded proceedings, or two or more matters, each of which could have been heard separately, the fees and expenses shall be itemized separately for each proceeding or matter, and the basis for allocating expenses among the proceedings or matters shall be indicated.

(c) Each separate statement must be verified by the person, firm or other entity performing services for which reimbursement is sought, in accordance with the requirements set forth in paragraph (b) of § 13.10.

(d) The adjudicative officer may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

Subpart C—Procedures for Considering Applications

§ 13.21 Filing and service of pleadings.

All pleadings, including applications for an award of fees, answers, comments, and other pleadings related to the applications, shall be filed in the same manner as other pleadings in the proceeding and served on all other parties and participants, except as provided in § 13.11(b) of this part concerning confidential financial information.

§ 13.22 When an application may be filed.

(a) The applicant must file and serve its application no later than 30 calendar days after the Department's final disposition of the proceeding which makes the applicant a prevailing party.

(b) For purposes of this rule, final disposition means the later of (1) the date on which an initial decision or other recommended disposition of the merits of the proceeding by an adjudicative officer or intermediate review board becomes administratively final; (2) issuance of an order disposing of any petitions for reconsideration of the Department's final order in the proceeding; (3) if no petition for reconsideration is filed, the last date on which such a petition could have been filed; or (4) issuance of a final order or any other final resolution of a proceeding, such as a settlement or voluntary dismissal, which is not subject to a petition for reconsideration.

(c) For purposes of this rule, an applicant has prevailed when the agency has made a final disposition favorable to the applicant with respect to any matter which could have been heard as a separate proceeding, regardless of whether it was joined with other matters for hearing.

(d) If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy.

§ 13.23 Responsive pleadings.

(a) Within 30 calendar days after service of the application, the agency's litigating party shall file an answer either consenting to the award or explaining in detail any objections to the award requested, and identifying the facts relied on in support of its position. The adjudicative officer may for good cause grant an extension of time for filing an answer.

(b) Within 15 calendar days after service of an answer, the applicant may file a reply. If the reply is based on any alleged facts not already in the record of the proceeding, the applicant shall include with the reply either supporting affidavits or a request for further proceedings under § 13.25.

(c) Any party to or participant in a proceeding may file comments on an application within 30 calendar days, or on an answer within 15 calendar days after service of the application or answer.

§ 13.24 Settlements.

The applicant and the agency's litigating party may agree on a proposed settlement of the award at any time prior to final action on the application. If the parties agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement. All settlements must be approved by the adjudicative officer and the head of the agency or office or his or her designee before becoming final.

§ 13.25 Further proceedings.

(a) Ordinarily, a decision on an application will be made on the basis of the hearing record and pleadings related to the application. However, at the request of either the applicant or the agency's litigating party, or on his or her own initiative, the adjudicative officer may order further proceedings, including an informal conference, oral argument, additional written submissions, or an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application, and shall be conducted as promptly as possible.

(b) A request that the adjudicative officer order additional written submissions or oral testimony shall identify the information sought and shall explain why the information is necessary to decide the issues.

(c) The adjudicative officer may impose sanctions for failure to comply with his or her order to produce documents and/or present witnesses for oral examination. These sanctions may include but are not limited to a diminution of the award granted or dismissal of the application.

§ 13.26 Decisions.

The adjudicative officer shall issue an initial decision on the application as promptly as possible after the filing of the last document or conclusion of the hearing. The decision must include written findings and conclusions on the applicant's eligibility and status as a prevailing party, including a finding on the net worth of the applicant. Where the adjudicative officer has determined under § 13.11(b) that the applicant's net worth information is exempted from disclosure under the Freedom of Information Act, the finding on net worth shall be kept confidential. The decision shall also include, if at issue, findings on whether the agency's position was substantially justified, whether the applicant unduly protracted the proceedings, an explanation of any difference between the amount requested and the amount awarded, and whether any special circumstances make the award unjust.

§ 13.27 Agency review.

(a) The head of the agency or office, or his or her designee, shall review any award granted under this part whether or not the parties request such review, and issue a final decision. No award shall be made under this subpart without approval of the head of the agency or office or his or her designee.

(b) If either the applicant or the agency's litigating party seeks review of the ajudicative officer's decision on the fee application, it shall file and serve exceptions within 30 days after issuance of the initial decision. The head of the agency or office or his or her designee shall issue a final decision on the application as soon as possible or remand the application to the adjudicative officer for further proceedings. If no review is sought the initial decision becomes final 30 days after it is issued.

§ 13.28 Judicial review.

Judicial review of final agency decisions on awards may be obtained as provided in 5 U.S.C. 504(c)(2).

§ 13.29 Payment of award.

The notification to an applicant of a final decision that an award will be made shall contain the name and address of the appropriate Departmental finance office that will pay the award. An applicant seeking payment of an award shall submit to that finance officer a copy of the final decision granting the award, accompanied by a statement that the applicant will not seek review of the decision in the United States courts. The Department will pay the amount awarded to the applicant within 60 days, unless judicial review of the award or of the underlying decision of the adversary adjudication has been sought by the applicant or any other party to the proceedings.

§ 13.30 Designation of adjudicative officer.

Upon the filing of an application pursuant to § 13.11(a), the officer who presided over the taking of evidence in the proceeding which gave rise to the application will be automatically designated as the adjudicative officer for the handling of the application.

APPENDIX A

Proceedings covered	Statutory authority	Applicable regulations
Health Care Financing Administration		
Proceedings to impose civil monetary penalties or assessments for fraudulent claims submitted under Medicare, Medicaid, and Title V.	42 U.S.C. 1320a-7a	
Proceedings to suspend or revoke licenses of clinical laboratories	42 U.S.C. 263a(i), (j)	
Proceedings provided to a fiscal intermediary before assigning or reassigning Medicare providers to a different fiscal intermediary.	42 U.S.C. 1395h	
Proceedings before the Provider Reimbursement Review Board when HCFA acts as fiscal intermediary	42 U.S.C. 1395oo	42 CFR Part 405, Subpart R.
Food and Drug Administration		
Proceedings to withdraw approval of new drug applications	21 U.S.C. 355(e), (n)	21 CFR Part 12, 21 CFR 314.200.
Proceedings to withdraw approval of new animal drug applications and medicated feed applications	21 U.S.C. 360b(e), (n), (m)	21 CFR Part 12, 21 CFR Part 514, Subpart B.
Proceedings to withdraw approval of medical device premarket approval applications	21 U.S.C. 360e(d), (e), (g)	21 CFR Part 12.
Office of Civil Rights		
Proceedings to enforce Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin by recipients of Federal financial assistance.	42 U.S.C. 2000d-1	45 CFR 80.8.
Proceedings to enforce Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of handicap by recipients of Federal financial assistance.	29 U.S.C. 794	45 CFR 84.61.
Proceedings to enforce the Age Discrimination Act of 1975, which prohibits discrimination on the basis of age by recipients of Federal financial assistance.	42 U.S.C. 6101, 6104(a)	45 CFR 90.47.
Proceedings to enforce Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in certain education programs by recipients of Federal financial assistance.	20 U.S.C. 1681, 1682	45 CFR 86.71.

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Social Security Administration

45 CFR Parts 400 and 401

Refugee Resettlement Program and Cuban/Haitian Entrant Program; Cash and Medical Assistance Policies

AGENCY: Social Security Administration (SSA), HHS.

ACTION: Interim final rule.

SUMMARY: This interim final regulation amends the refugee resettlement program regulations (45 CFR Part 400) and establishes new policies on cash and medical assistance available to refugees and Cuban and Haitian entrants who are ineligible for Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), adult assistance (OAA, AB, APTD, and AABD) in the Territories and Medicaid. The Refugee Resettlement Program (RRP) provides Federal reimbursement to States for 100 percent of the costs of cash and medical assistance provided, during the first 36 months after entry into the United States, to such refugees in accordance with applicable program rules and requirements and the administrative costs of providing such assistance. Cash assistance provided to such refugees under the RRP is termed "refugee cash assistance" (RCA); and medical assistance provided to such refugees under the RRP is termed "refugee medical assistance" (RMA). This regulation permits 100 percent Federal reimbursement for RCA and RMA for an eligible refugee for the first 18 months that a refugee is in the United States. For a refugee who has been in the U.S. more than 18 months but less than 36 months, the regulation permits a State, at its option, to seek RRP reimbursement for the cost of General Assistance (GA) provided to such a refugee.

EFFECTIVE DATE: April 1, 1982. Public comments will be considered if received on or before June 10, 1982.

ADDRESS: Please submit written comments in duplicate to: Ellen McGovern, Office of Refugee Resettlement, Room 1229, Switzer Building, 330 C Street, SW., Washington, D.C. 20201. Comments will be available approximately two weeks after publication in Room 1319, 330 C Street, SW., on Monday through Friday of each week from 9:30 a.m. to 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Ellen McGovern, (202) 472-6510.

SUPPLEMENTARY INFORMATION: Notice of proposed rulemaking (NPRM) was published on December 11, 1981, in the **Federal Register** (46 FR 60629) setting forth proposed revisions in cash and medical assistance policies for the Refugee Resettlement Program and the Cuban and Haitian Entrant Program. This interim final regulation, amending Part 400, revises policy relating to the provision of cash and medical assistance to refugees under chapter 2 of title IV of the Immigration and Nationality Act, as amended by the Refugee Act of 1980 (henceforth the Refugee Act), 8 U.S.C. 1531 *et seq.*

The new Part 401 addresses the Cuban and Haitian Entrant Program, which is authorized under title V of the Refugee Education Assistance Act of 1980, Pub. L. 96-422. Section 501(a) of the Refugee Education Assistance Act directs the President of the United States to "exercise authorities with respect to Cuban and Haitian entrants which are identical to the authorities which are exercised under chapter 2 of title IV of the Immigration and Nationality Act." These authorities, which the Department has interpreted to include the administration of a program of reimbursement to States for cash and medical assistance provided to Cuban and Haitian entrants as defined by the Refugee Education Assistance Act, have been delegated to the Secretary of Health and Human Services by Executive Order 12341 (January 21, 1982).

The new regulation supports several major objectives: (1) To reduce the likelihood of unnecessary welfare dependency resulting from extended

periods of special support; (2) to reduce the degree of special treatment afforded to refugees, which results in unequal treatment among low-income populations; and (3) to reduce total refugee welfare costs while continuing to relieve States of refugee cash and medical assistance costs during a refugee's first 36 months in this country.

We believe the changes represent the best method of targeting program expenditures according to these objectives and the provisions and the purposes of the Refugee Act. The Refugee Act permits, but does not require, HHS to provide up to 100 percent Federal reimbursement for expenditures that States incur on behalf of a refugee during the first 36 months after the refugee arrives in this country. The House Report on the Act includes discussion of the Congress' intent that States and local governments "will not be unduly burdened by Federal decisions to admit refugees." H. Rep. No. 96-608, 96th Cong., 1st Sess. 6 (1979). Although the Department considered options which would have reduced both the level and duration of Federal reimbursement, the regulation continues 100 percent reimbursement for 36 months to States for cash and medical assistance costs which State and local governments are required to incur under their AFDC, SSI or adult assistance, Medicaid, and GA programs.

Also as reflected in the House Report, the Congress believed that greater benefits should be available at the beginning of the refugee's presence in the United States in order to reduce long-term welfare dependency. *Id.* at 24. Similarly, our consultations with voluntary resettlement agencies have suggested that the period immediately following entry is the time of refugees' greatest vulnerability and need. The regulation responds to this concern by concentrating on the first 18 months a refugee is in the United States. During that period, the policy provides for RCA and RMA benefits which are equal to AFDC level benefits but which are generally greater than GA benefits.

We also believe that after a refugee's transitional 18-month period, assistance should be available to the refugee on the same basis as to a non-refugee. After that period, we believe refugees ineligible for AFDC, SSI, adult assistance programs, or Medicaid should receive aid, if eligible, under programs generally available to other residents in a State or locality. Although we considered not allowing reimbursement for costs incurred to assist refugees under such programs, we opted for a policy which does not shift costs to the States and localities. Therefore, when the 18-month period of RCA and RMA ends, this regulation permits States to claim reimbursement for assistance provided to refugees under GA programs administered and funded by the State or a county, municipality, or other local government unit within the State, and for the administrative costs of providing such assistance.

Implementing the regulation at this time will enable the Department to operate the RRP within the anticipated FY 1982 budget. Section 414 of the Immigration and Nationality Act (the Act) (8 U.S.C. 1524) authorizes appropriations for the purpose of providing cash and medical assistance under section 412 of the Act (8 U.S.C. 1522). The Act does not mandate that refugees receive an established level of benefits. Section 412(a) expressly limits the Director of ORR's authority to provide assistance, including cash and medical assistance, under the Act "to the extent of available appropriations." The interim final rule will become effective April 1, 1982.

By separate **Federal Register** notice appearing elsewhere in this issue the Department is announcing today a proposed new program of flexible, targeted assistance through which a State may apply for project grants to assist its refugee/entrant population in areas where specific needs exist for supplementation of currently available resources.

Current policy

Under current RRP policy, when a refugee applies for cash and/or medical assistance, a State must first determine eligibility under the AFDC, SSI or adult assistance programs and/or Medicaid. States must comply with all regulations operative in the State regarding applications, determinations of eligibility, and furnishing of assistance under these federally aided programs. If the refugee is determined eligible, a State must provide assistance or services to that refugee under the appropriate program or programs. For refugees eligible for such programs, the RRP reimburses States for the State share of costs during a refugee's first 36 months in this country and the applicable program budget funds the Federal share.

If a refugee does not meet categorical requirements of AFDC, SSI, or adult assistance programs (i.e., family composition, the presence of children, age, disability, etc.), the State must determine eligibility for refugee cash assistance (RCA). The term "refugee cash assistance" refers specifically to cash assistance to refugees who do not meet all eligibility requirements for AFDC, SSI, or adult assistance programs, but who meet the AFDC need standard in their State of residence, after consideration of income and resources in accordance with standards and criteria set forth at 45 CFR 233.20(a)(3) through (11). RCA currently is provided during the first 36 months after a refugee enters the United States, and payments are made at the appropriate AFDC payment level in the State.

If a refugee does not meet categorical requirements of the Medicaid program, the State must determine eligibility for refugee medical assistance (RMA). The term "refugee medical assistance" refers specifically to medical assistance to refugees who do not meet all eligibility requirements for Medicaid, but who meet financial eligibility requirements as follows: In States with a medically needy program, the State applies the medically needy financial eligibility standards established for the Medicaid program in regulations at 42 CFR Part 435, Subpart I. In States without a Medicaid medically needy program, the State applies the financial need standard used in the State's AFDC program, after consideration of income and resources in accordance with standards and criteria set forth at 45 CFR 233.20(a)(3) through (11). RMA currently is provided for the refugee's first 36 months in the United States, and covers the same services which are provided under the State's Medicaid program or which are generally available to destitute residents of the State or locality through public facilities.

Changes Contained in This Regulation

In developing policy to target the anticipated appropriation as effectively and efficiently as possible, we attempted to balance such factors as comparability between the assistance available to refugees and non-refugees; reimbursement to States for the costs of providing assistance; refugee need and incentives for employment and self-sufficiency; and administrative burden on States. As indicated above, we considered several options in doing so. For example, some options would not have continued 100 percent Federal reimbursement for 36 months. Some would have shortened further the period for RCA and RMA. Some would not have permitted reimbursement of State and local GA costs. Others would have required percentage phasedown in level of benefits and increased the complexity of program administration.

We believe the new regulation represents a fair balance of essential

program concerns and provides support to refugees during the transitional period when they have the greatest need. The policy is intended to promote self-sufficiency and strengthen employment incentives by reducing the period of special assistance. The regulation shortens the period of special assistance to refugees to an initial 18-month period after which assistance would be available to refugees and non-refugees on the same basis. The policy offsets burdens to States and localities by continuing to permit Federal funding of the costs they would otherwise incur for refugees under GA programs during a refugee's second 18 months in this country. Also, by using AFDC standards instead of imposing new standards for eligibility determinations, the policy minimizes the administrative burden on States.

Under this regulation, a State must continue to determine eligibility and calculate the RCA payment according to the State's AFDC need standard and payment level during the 18-month period which begins with the month the refugee entered the United States. However, under section 400.62(c) of this regulation, a $30 plus one-third disregard shall not be applied in determining the eligibility of refugees for RCA. (The $30 plus one-third or other applicable disregards would continue to apply in determining benefits to refugees receiving AFDC.)

Eliminating the $30 plus one-third disregard in determining RCA eligibility reduces the special treatment previously afforded to refugees not eligible for AFDC, SSI, or adult assistance. A $30 plus one-third disregard is not generally applied in State or local GA programs on which non-refugees must often depend when they are ineligible for federally funded programs. While we do not believe that only general assistance should be available to non-categorically eligible refugees during their first 18 months in this country, we do not believe that all of the special disregards must apply in the RCA program to maximize effective resettlement.

With respect to RMA, this rule does not change current eligibility policy during a refugee's first 18 months in the United States, except with respect to application of the $30 plus one-third disregard as explained above.

The Regulation makes the duration of RCA and RMA coincide, and, after a refugee's first 18 months in the United States, provides for cash and medical assistance to refugees on the same basis as to other State residents.

During the refugee's second 18 month period in the United States, the State will not provide RCA or RMA. However, during the refugee's second 18 months, the State will have the option of seeking reimbursement under the RRP for financial or medical assistance provided under a State or locally administered and funded GA program to any refugee who is eligible for and receives aid under such a program. A State can seek reimbursement for all or any part of State or local GA program expenditures resulting from provision of assistance to an eligible refugee. A State could not establish a GA program which limits eligibility to refugees, but otherwise would have discretion on whether to claim allowable State or local GA program expenses from RRP funds.

The regulation also establishes the rules for federally reimbursable assistance to Cuban and Haitian entrants under the Cuban and Haitian entrant program (CHEP). Pursuant to legislative intent in the enactment of the Refugee Education Assistance Act, the rule will provide federally reimbursed cash and medical assistance and services to Cuban and Haitian entrants under the same conditions and to the same extent as such assistance and services are made available to refugees. (See comments of Congressman Fascell in the House of Representatives on September 30, 1980, 125 Cong. Rec. No 153 Part II at p. H10122.)

The regulation pertaining to CHEP also provides that procedures and requirements identical to those applicable under the Refugee Program for Federal Reimbursement of State costs, including those relating to the submission and approval of State plans, are also applicable in CHEP.

The regulation also establishes the period of time for which the Federal Government will reimburse cash and medical assistance costs incurred on behalf of a Cuban and Haitian entrant. Under CHEP, reimbursement starts from the date on which the entrant first was granted parole status under the Immigration and Nationality Act or on which an individual meeting the definition of "Cuban and Haitian entrant" set forth in the Refugee Education Assistance Act otherwise began residing in an American community. The basis for this policy is that the Cuban and Haitian entrants are not all considered to have "entered" the United States within the meaning of the Immigration and Nationality Act. Therefore, it is not possible in all cases to reimburse States for cash and medical assistance provided during a prescribed period of months after initial "entry" into the country, as is done for refugees in the Refugee program. For other Cuban and Haitian entrants it is impossible to verify their actual date of entry to the U.S. The Department has determined that, for CHEP purposes, the point in time at which a Cuban and Haitian entrant residing in an American community was first granted parole or otherwise issued documentation by the Immigration and Naturalization Service is the most reasonable and appropriate point from which to count the period of assistance authorized by Congress.

Regulatory Procedures

Executive Order 12291: We have reviewed whether these regulations meet the criteria for a "major" rule under Executive Order 12291. The budgetary savings involved will exceed $100 million this fiscal year. However, these regulations are not major because the reduction results not from these regulations but from the budgetary process. That is, regardless of what regulations are in place, the continuing resolution governing obligations under these programs provides for only $669.7 million in FY 1982. These regulations implement this reduced program level with minimal adverse impact and as equitably as possible. Notwithstanding this conclusion, we believe that the discussion of comments which follows largely accomplishes the analysis which might have been required if this were a major rule.

Regulatory Flexibility Act: We certify that these regulations will not have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act because the regulations affect individuals only.

Paperwork Reduction Act: ORR is proposing modifications in its financial estimate and report forms. These modifications will be submitted to OMB for approval and will not be applicable until such approval is obtained. Certain reporting and recordkeeping requirements for the Cuban/Haitian Entrant Program under section 401.12(b) require OMB approval and will not be applicable until such approval is obtained.

Discussion of Comments

We received 216 letters, signed by 353 persons, from State and local government agencies, national and local voluntary refugee resettlement agencies, service providers, refugee advisory boards, coalitions and forums concerned with refugee resettlement, refugee mutal assistance associations, refugees, and other individuals.

The following sections address specific points commenters raised:

Effect on States

Comment: A number of commentators opposed reducing special refugee cash assistance (RCA) and special refugee medical assistance (RMA) to 18 months. Some stated that the new rules would undercut Federal-State partnership in refugee resettlement and would represent a retreat from Federal responsibility and commitment to the States relating to refugee resettlement.

Response: The Department does not regard the new RCA and RMA policies to represent or imply a retreat from Federal recognition of responsibility in the area of refugee resettlement or from long-standing commitments to States and concepts of Federal-State partnership in dealing with refugee-related problems. On the contrary, the Department's specific policy decisions reflected in these regulations were very much influenced by a recognition of continued responsibility to the States. It is for this reason that the rules continue to provide for 100% reimbursement for State cash and medical assistance costs during a full 36 month period with respect to refugees and entrants who qualify for benefits under jointly administered Federal/State programs such as AFDC and Medicaid. Moreover, the rules provide, at State option, for the continued Federal reimbursement of State assistance costs associated with a refugee under a State or locally administered general assistance program after that refugee's first 18 months in the United States. Thus, the rules continue to reflect a Federal willingness to accept responsibility for costs of assistance actually incurred by States on behalf of refugees during their first three years in this country. The Federal reimbursement to States which is discontinued under these rules after an 18 month period only relates to assistance costs which the States are under no legal obligation to incur in the absence of coverage under the federally funded RCA and RMA programs.

Comment: Many commenters believe that refugees without income would become a burden on States and localities, thereby shifting substantial costs from the Federal government to the States and localities.

Response: The new policy would continue 100 percent reimbursement for 36 months for cash and medical assistance costs which States and local governments are required to incur under their AFDC, SSI or adult assistance, Medicaid and GA programs. Although the Department considered options which would have reduced both the level and duration of Federal reimbursement, the new policy would do neither. Thus, it does not transfer costs to the States or localities. We believe that the changes we have adopted are essential to reduce the likelihood of unnecessary welfare dependency among refugees resulting from extended periods of special support.

Comment: Many commenters remarked that the new policy would cause refugee migration to States and localities with more generous cash and medical assistance programs and higher payment levels.

Response: The Department's experience in administering the refugee and AFDC programs is that recipients do not change locations solely because of benefit levels. Major impacts predicted as a result of the statutory 36-month limit, which became effective in April 1981, did not materialize.

Comment: Some commenters recommended an impact aid program or increased social services for States and local governments to offset the effect of the proposed policy.

Response: We recognize that in certain geographic areas where refugees and entrants are highly concentrated, there may be special need for supplementation of currently available resources. Therefore, the Department has established a special project grant program to provide additional services to refugees and entrants in areas where resources have been unusually strained. Although funds for such projects currently are only available in the entrant program, we will fund such projects for refugees in the future should funds become available. Funds for these projects are not intended to replace cash and medical assistance funds, but rather are intended for projects which promote early self-sufficiency or meet urgent needs of refugees and entrants. Regular social services funds also are intended to assist the refugee to become self-sufficient and are not to be used for cash and medical assistance.

Duration of Assistance

Comment: The majority of responses opposing the 18-month period of assistance commented that the period is too short to permit refugees to attain self-sufficiency and to complete employability plans.

Response: Overall experience with the refugee program does not support the contention that more than 18 months are required before a refugee can be expected to become employed. Employment does not preclude continuing training or education during non-work hours.

Comment: Some commenters believe that the 18-month period for assistance will provide incentives for employment; others disagreed. A few respondents commented that there is no evidence that reducing the length of assistance would strengthen employment incentives.

Response: Based on experience with the 36-month statutory limitation, which went into effect in April 1981, we believe that a time limitation on assistance does provide an employment incentive. In fact, one commenter noted that the refugee clientele of an employment training project perceives that it is their "right" to receive 36 months of assistance and will not take jobs or participate in English language or job training classes, while on assistance.

Comment: Some commenters felt that terminating the 36-month period of RCA and RMA would make it more difficult to obtain sponsorships for refugees and establish voluntary networks to assist refugees.

Response: The 18-month policy would continue to provide cash and medical assistance during a refugee's most critical initial period in the United States, providing a transition period adequate for additional English training and for identifying and treating most pressing health problems. Many resettlement workers have advised us that they believe a shorter eligibility period will be beneficial to the voluntary resettlement agencies, sponsors, and refugees by providing an earlier incentive for employment and self-support.

Comment: Several commenters proposed alternative durations of assistance, ranging from 12 to 36 months (e.g. 12, 15, 24, 27 or 36 months).

Response: No given period of assistance will be optimal for all refugees. Based on our consultation with the resettlement agencies, we concluded that 18-months generally provides the most reasonable period of special cash and medical assistance eligibility for most refugees.

Comment: A few commenters recommended different durations of eligibility depending on family characteristics. (e.g., aid to families for 36 months; single adults for 6 months; no assistance to single adults; etc.) or an ethnic group (e.g., special assistance for Hmong).

Response: Although only a few commenters recommended different periods of eligibility based on family characteristics, their recommendations varied as to what characteristics merited longer or shorter periods of eligibility. Sufficient data do not exist which would support unequal eligibility periods for RCA and RMA based on such characteristics.

Comment: Several commenters raised concern about the duration of RMA, contending that, under many State public assistance programs, medical assistance would not be available to refugees.

Response: Since most health problems specific to refugees can be met during the first 18 months, the Department does not believe it is appropriate to provide refugees with subsequent special eligibility for medical assistance that is not available to U.S. citizens and other permanent residents of the United States.

Comment: Several commenters opposed terminating RMA after 18 months, contending that the availability of such assistance enables refugees who are unable to afford medical insurance to take jobs without fear of losing medical assistance coverage.

Response: Medical assistance coverage and the availability of public health services vary by State and locality. Many low-income refugees will continue to be eligible for medical assistance under regular programs after 18 months. We do not believe that a continued special program of assistance for refugees, as compared with citizens in similar circumstances, is appropriate after the initial transition period.

Comment: One commenter suggested that the 18 month period of RCA and RMA be counted from the date a refugee is determined eligible for assistance instead of 18 months from the refugee's date of arrival.

Response: The special eligibility of refugees for cash and medical assistance is intended to help them during their initial period of adjustment to U.S. society. There is no rationale for according refugees special assistance of a type unavailable to citizens in similar circumstances when refugees may reasonably be expected to have had adequate time to adjust and be assimilated into American society.

Comment: Some commenters recommended that the period for RMA be longer than the period for RCA.

Response: We are not aware of any substantial data which support the need for, or justify, a longer period of special eligibility for medical assistance than for cash assistance. In addition, as noted previously, refugees will continue to be eligible on the same basis as non-refugees for publicly-funded medical assistance and health care after the 18-month period.

Comment: A few commenters requested clarification on whether the 18-month period of RCA and RMA applies to unaccompanied minors.

Response: The regulations of not affect the duration of assistance to unaccompanied minors. Section 412(d)(2) of the Immigration and Nationality Act provides that in the case of a refugee child who is unaccompanied by a parent or other close relative, assistance may be provided until the month after the child attains 18 years of age (or such higher age as provided in the State's child welfare services plan). Such assistance is not limited to the minor's first thirty-six months in this country. Unaccompanied minors may be affected by the new RCA and RMA rules only in those cases where minors reach the age of majority within less than a 36-month period following their initial entry into the United States. In such cases, individuals would be affected by these rules only at the point in time that they are no longer minors under the laws of their States of residence.

Payment Levels

Comment: In some instances, commenters recommended payment levels lower than the AFDC level during the 18 month period of cash assistance.

Response: The Department believes that in general, refugees do have special problems and needs during their initial transitional period of months in this country. In order to facilitate an effective adjustment to their new country, the Department believes that a level of assistance adequate to fulfill refugees basic needs should be made available to them during an initial period in which they can seek employment and obtain skills necessary to self-support. Because a State's AFDC need level represents a State estimate of the amount of money needed to cover an individual's basic costs of food, clothing, and shelter in that State, the Department believes that this is a reasonable and appropriate assistance payment standard to adopt in the special refugee cash assistance program. A lower level of assistance during a refugee's initial months of residence in the United States might leave him without the means of obtaining basic needs during a period when he cannot reasonably be assumed to have had adequate time to establish a means of self-support.

In addition, the use of AFDC payment levels is advantageous from an administrative standpoint, since eligibility determination procedures and payment structures already in place in the AFDC program can be utilized in the Refugee Program.

Comment: One commenter recommended that a uniform, nation-wide payment level be established as a disincentive to secondary migration to States which have higher AFDC payment levels.

Response: There is no evidence that the varying levels of AFDC payments in the States is related to patterns of secondary migration among refugees. Also, as explained in the response to the comment above, one rationale behind the use of AFDC payment levels in the refugee cash assistance program is the fact that these levels are related to the basic costs of living, which vary significantly from State to State. A uniform payment level would undercut this rationale. Establishment of a uniform payment level could result in payment levels to refugees being higher in some States than assistance payments to the welfare recipients among the State's general population. We think this type of situation could foster feelings among low-income groups that would hamper the refugee's adjustment into American communities.

Comment: Two commenters proposed that a household concept be adopted, under which all persons in a household would be considered as a single assistance case, resulting in a lower payment than if a household were divided into separate assistance units.

Response: Use of a household concept for determination of RCA eligibility and amount of assistance is permissible under current policy and will continue to be permissible under the 18-month policy. A State may adopt the family unit concept for RCA if it wishes to do so.

General Assistance

Comment: As an alternative to Federal reimbursement of GA, one commenter recommended providing block grants to States for the purpose of providing assistance to refugees during their second 18-month period in the United States, and permitting States to determine funding levels for cash and medical assistance to refugees.

Response: As is indicated in the Department's responses to many of the comments, the primary purpose of providing reimbursement of State GA costs during a refugee's second 18 month period in the country is to continue to assume at the Federal level the financial burden of assistance provided by States to refugees during a full 36 month period following their entry into the United States. The Department also believes that an 18 month period of special assistance should be an adequate time period to permit a refugee who is neither aged, blind, disabled, a minor, or responsible for dependent children to substantially adjust to life in America and establish a means of self-support.

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After this initial 18 month period, the Department believes that a refugee who is not disadvantaged by age, physical handicaps or responsibilities for minor dependents should be expected to live in the community with no more public assistance than the State considers it appropriate to afford other State citizens and residents in similar circumstances.

For these reasons, the policy of providing optional Federal reimbursement of State GA costs incurred during a refugee's second 18 months in the United States was determined to be more consistent with the Department's current goals and views relative to refugee resettlement than a block-grant approach to funding of State assistance to refugees. However, the use of block grants in the Refugee Resettlement Program is an option that may well be examined and considered at a future date, if such a funding approach seems appropriate in the light of relevant facts and legal authorities.

Comment: Some commenters pointed out that aid would not be available to refugees in States and localities where GA does not exist or where the program is highly restrictive.

Response: After the initial 18-month transition when refugees are most in need, we believe that refugees should receive assistance on the same basis as other groups. The problem identified in the comment is one which affects indigent citizens as well as refugees in certain States. Thus, it is a problem which needs to be addressed through measures at various levels of government in a context broader than the refugee program.

Comment: Several respondents commented that counties will not want to seek reimbursement for GA provided to refugees because of administrative burden and that States will have difficulty verifying local claims for GA reimbursement.

Response: We have revised the regulation to make clear that reimbursement of GA costs includes the administrative costs of providing such assistance to refugees. Also, in order to provide maximum flexibility, States could, but would not be required, to claim reimbursement for State or local GA costs.

Comment: Instead of providing aid through GA programs during the refugee's second 18-month period, some commenters suggested providing RCA at a reduced payment level.

Response: Earlier consultations with States indicated strenuous objection to such a provision because of the administrative complexity. We believe that providing RCA at a reduced payment level would create greater administrative burdens for the States than the policy implemented in these rules. We believe that 18 months of RCA eligibility and funding for GA during a refugee's second 18 months will encourage early employment, avoid prolonged dependence on cash assistance, and avoid placing an undue administrative burden on the States.

Reimbursement

Comment: One commenter recommended that reimbursement to States be limited to 75% of RCA cost during a refugee's first 18 months and 75% of GA costs during the second 18 months.

Response: We considered this and other options which would reduce the level of Federal reimbursement. We rejected all such options because they would have the effect of transferring refugee assistance costs to the States and localities. The policy we selected offsets burdens to States and localities by continuing to permit Federal funding of the costs they would otherwise incur for assisting refugees during their first 36 months in this country.

Comment: In order to reduce administrative costs, some commenters recommended that GA to refugees not be reimbursed.

Response: Several of the options we considered in developing the assistance policy changes would not have provided reimbursement for State and local GA costs. Consistent with our view that the Federal government should assume the financial burden of costs to States and localities during the initial 36 month period of assistance to refugees, we decided against recommendations not to permit reimbursement for GA.

Comment: Several commenters recommended that the regulations specify whether GA administrative costs would be reimbursable, and, if so, within what timeframe.

Response: We have revised the regulation to clarify that reimbursement for assistance provided to refugees under GA programs includes reimbursement for the administrative costs of providing such assistance.

Comment: A few commenters recommended that the Federal Government reimburse localities directly instead of through the States.

Response: The refugee program has since its inception reimbursed all State and local cash and medical assistance costs through a single grant made to each State or territory.

We do not believe that this practice should be altered by the new regulations. While the new rule allows the Federal government to reimburse local general assistance which is often administered by counties, we believe States are in the best position to coordinate and consolidate county reimbursement claims.

Moreover, the Office of Refugee Resettlement does not have staff resources to provide direct grants in a timely manner to each of the possible hundreds of local jurisdictions which administer the general assistance programs.

State costs associated with consolidating these claims and distributing Federal funds to the counties may be claimed as a reimbursable expense under the Refugee Act of 1980.

Conditions of Eligibility

Comment: A few commenters suggested denying assistance to any refugee who is not enrolled in an English language or job training class or who is not making progress in such a class. Others recommended requiring one year of English training as a condition of receiving assistance.

Response: Existing policy provides that an employable refugee is required to accept appropriate employment or training as a condition for receipt of assistance. We do not believe it is essential to require participation in English language classes as a condition of eligibility. Not all refugees require such training. Also, we have found that those who do generally make use of available programs.

Comment: Some commenters suggested strengthening job search and job acceptance requirements.

Response: We believe that this recommendation has merit and are considering this question in connection with the development of overall regulations for the refugee program.

$30 Plus 1/3 Disregard

Comment: Many commenters urged retaining a $30 plus 1/3 disregard to provide a work incentive and to provide uniformity between RCA and AFDC.

Response: We do not believe it is essential to make the RCA and AFDC programs uniform. The $30 plus 1/3 disregard is authorized in statute specifically for the AFDC program. We gave careful consideration to continuing application of the $30 plus 1/3 disregard in the RCA program, but concluded that not applying such a disregard would not necessarily result in reduced work incentives among refugees. Assistance should be targeted to those most in need and not be viewed as a supplement to earnings. Also, we do not believe that all of the special AFDC disregards must apply in the RCA program to maximize effective resettlement.

Comment: Instead of eliminating the $30 plus 1/3 disregard, one commenter recommended that RCA be limited to cases where the refugee is employed less than 100 hours per month, as in the AFDC-Unemployed Parent program.

Response: The 100 hour rule is another provision authorized in statute specifically for the AFDC program. As indicated above, we do not believe that the same provisions must apply in RCA and AFDC.

Effect on Refugees

Comment: A few commenters believed that the shorter duration of assistance to refugees not eligible for AFDC on the basis of family composition would cause such families to break up so they could qualify for AFDC.

Response: While some believe the policy could cause refugee households to break up, others believe the policy could lead to household consolidations to share resources. There is no research evidence to suggest that the shorter duration of assistance would alter the composition of refugee families in any way.

Comment: A few commenters said that the new policy would increase physical and mental illness, and suicide among refugees. Others opposed the shorter duration of Medicaid-level assistance, believing it would affect the health status of refugees who have chronic or severe health problems.

Response: Most of the health problems specific to refugees can be met during their first 18 months in this country. There is no evidence to show that after 18 months in the U.S. refugees have more severe health problems than non-refugees. Refugees who are eligible for SSI and AFDC continue to receive Medicaid benefits after 18 months. The medical assistance that States or localities provide to refugees under GA programs is reimbursable during a refugee's second 18 months in this country.

Assistance to Cuban and Haitian Entrants

The new regulations continue in effect the policy of reimbursing the provision of cash and medical assistance to Cuban and Haitian entrants at the same levels and to the same extent that Federal reimbursement is provided for assistance to refugees. Several commenters argued in favor of establishing different cash and medical assistance reimbursement policies in the entrant and refugee programs. Specifically, several commenters suggested that the proposed changes relating to cash and medical assistance for individuals not meeting eligibility requirements of Social Security Act programs for cash and medical assistance to the needy should not be made applicable to the entrant program.

Although the Department is sensitive to the fact that some of the specific circumstances and needs of Cuban and Haitian entrants may differ from those of refugees, we interpret current law to require implementation of the same cash and medical assistance policies in the refugee and entrant programs. Section 501(a) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522, note) charges the responsible Federal agency to exercise "identical" authorities with respect to entrants as are exercised in providing cash and medical assistance to refugees under the Refugee Act of 1980. The Department has interpreted this charge in light of the legislative history of section 501(a), particularly analysis of the provision by one of its authors, Congressman Fascell.

On September 30, 1980, on the floor of the House of Representatives, Congressman Fascell stated with reference to § 501(a) that,

"* * * it is the intent of Congress that services provided pursuant to this section shall be provided to Cuban and Haitian entrants by the same agencies *under the same conditions, and to the same extent,* that assistance is provided to persons determined to be refugees in accordance with the terms of the Refugee Act of 1980." (emphasis added) 125 Cong. Rec. No. 153 Part II at p. H10122 (96th Cong. 2nd Sess, September 30, 1980)."

Thus, the Department believes that it is directly following the intent of the Congress in implementing the same cash and medical assistance rules in both the entrant and refugee programs.

Concerns raised by commenters regarding the specific effects of application of the new cash and medical assistance rules to the Cuban and Haitian entrant program are discussed below:

Comment: Some comments received expressed apprehension that the sudden termination of assistance to entrants could have disruptive effects on communities with high concentrations of entrants.

Response: It is unavoidable that the effects of changes in Federal policy relating to assistance for Cuban and Haitian entrants will be felt most keenly in communities with higher concentrations of entrants. However, as indicated by the explanation of Departmental reasoning as set forth in the NPRM, the specific changes in policy upon which by the Department decided are designed to cause as little disruption as possible and at the same time, stay within budgetary limitations and promote desirable programmatic goals. For these reasons, the new rules reduce the period of federally-reimbursed cash and medical assistance primarily for entrants who, if they were American citizens, would not qualify for cash or medical benefits under existing Federal or State programs. Thus, in general, the circumstances of entrants whose receipt of assistance may be terminated by these rules are comparable to the circumstances of American citizens who, in the judgment of Federal and State legislators as reflected in existing social welfare legislation, are expected to be capable of sustaining themselves without public assistance. Because of their acknowledged special needs upon coming to the United States, however, entrants and refugees are afforded a significant period of special assistance, i.e., 18 months, even if their circumstances would fail to qualify a citizen for any publicly funded aid.

Moreover, the Department hopes that projects designed to minimize possible disruptive effects on communities with high entrant concentrations will be established under the proposed new program of targeted assistance grants, of which notice is given today in the Federal Register.

Comment: Some commenters expressed concern that the new cash and medical assistance rules would have a greater effect on entrants than refugees because some entrants are ineligible for AFDC, SSI or Medicaid due to their immigration status.

Response: Only a small percentage of the entrants whose period of receipt of federally funded cash and medical assistance will be reduced upon implementation of the new rules are over sixty five years of age, blind, disabled, or members of families with dependant children in the United States. Therefore, the Department does not expect that these new rules will have significantly greater effect upon the entrant population than the refugee population as a result of differences in immigration status within the Cuban and Haitian entrant groups.

Comment: One commenter asserted that the new assistance policies would result in serious cost increases for public hospitals because of the unavailability of Federal reimbursement for costs of care to indigent entrants.

Response: Unavoidably, there may be some needs of Cuban and Haitian entrants that cannot be provided within the framework of federally funded cash and medical assistance programs. The

same is true, of course, in relation to any other financially or otherwise disadvantaged group in the United States. Necessary medical care for entrants not covered under the cash and medical assistance program implemented by these regulations, however, would be a permissible purpose for which project grant funds awarded under the proposed new targeted assistance program, announced today in the **Federal Register**, could be used. Thus, the Department hopes that potential problems of the type anticipated in this comment can be minimized through the effective use of project grant funds.

Comment: Some commenters predicted that the new assistance policies would hamper efforts to place entrants because some States would be unwilling to accept within their borders entrants no longer eligible for federally funded cash and medical assistance.

Response: The Department does not think that the new rules will have a substantial effect upon the success of placement and resettlement efforts. First, we are aware of no legally sanctioned mechanism through which a State could "refuse to accept" an entrant's placement or resettlement in that State based upon the unavailability of federally funded assistance. In addition, there should be little motivation for such action on the part of a State, since the regulations continue to provide for Federal reimbursement during a full 36-month period for assistance costs which a State is legally obligated to incur on behalf of a refugee or entrant. Finally, we point out that the regulations specifically provide for the 18-month period of special refugee assistance to run from the date of an entrant's parole rather than his physical entry into the United States. Therefore, most entrant placements will occur at a time when the entrant has at least an 18-month transition period of fully federally funded cash and medical assistance before him, and during which he may become adjusted to American society and establish a basis for self-support.

Comment: Some commenters suggested that an "impact aid" program should be put into effect prior to implementation of the new rules.

Response: Although the Department does not plan to implement an "impact-aid" program as such, the proposed new program of targeted assistance project grants, described in the notice published today in the **Federal Register**, is expected to serve a number of similar purposes. The Department is acting to put the new grant program into effect as soon as possible within constraints resulting from the limited availability of funds, the desirability of affording the public an opportunity to comment on the new program, and statutory requirements relating to applications for grants under the Refugee Act of 1980 and the Refugee Education Assistance Act of 1980.

Comment: One comment stated that the proposed rules were unclear as to whether an arrival date before October 10, 1980 is still of significance in determining an entrant's eligibility under the AFDC program.

Response: The NPRM did not address this issue because the subject matter of the proposed rules did not include eligibility criteria applicable in determination of eligibility for the AFDC program. The date of October 10, 1980 *per se* is of no significance to determinations of AFDC eligibility. However, the immigration status that has generally been accorded by the Immigration and Naturalization Service (INS) to entrants who were known by the INS to have arrived physically in this country on or before that date is of significance to AFDC eligibility, as well as to determinations of eligibility under the Medicaid and SSI programs. That status, i.e., "Cuban/Haitian entrant (status pending)" has been characterized by the INS in a manner indicating that aliens with this status are persons "permanently residing in the United States under color of law" within the meaning of AFDC regulations appearing at 45 CFR 233.50. Accordingly, entrants with this status may qualify for AFDC benefits, while the different immigration status accorded other entrants fails to establish that their residence in the United States is of a sufficiently "permanent" character to permit AFDC eligibility under existing regulatory standards. Because a similar eligibility standard relating to permanent residence is applicable in the SSI and Medicaid programs (see section 1614(a)(1)(B)(ii) of the Social Security Act, and Medicaid regulations at 42 CFR 435.402), the INS status that has been accorded most pre-October 11 entrant arrivals is also of significance in those programs.

Comment: One commenter indicated concern that the provision of § 401.12 of the new rules would require that each and every innovative program established for refugees be established for entrants as well.

Response: Section 401.12 is not intended to require precise duplication in the entrant program of each and every measure taken or project established to assist refugees. As is explained above, however, the Department interprets section 501(a) of the Refugee Education Assistance Act of 1980 to require that federally funded cash and medical assistance be provided to entrants to the same extent, in terms of the duration and levels of assistance, as such assistance is provided to refugees, and based upon essentially the same standards for determination of eligibility as are applied in the Refugee Program.

Implementation Date

Comments: Many commenters advised against implementing the proposed policy on February 1, 1982, most frequently citing operational problems and advance notice requirements as the basis for opposition.

Response: We recognized the operational difficulties which could have been inherent in a February 1, 1982 implementation date. After careful consideration, we decided to set an effective date of April 1, 1982 to permit more administrative lead time to ensure proper implementation. In view of the limitations in the FY 1982 budget for the refugee and entrant programs, we are unable to delay the effective date beyond April 1, 1982.

Other Comments

Comment: A few comments were received expressing the view that the new rules violate the legislative intent in the Refugee Act of 1980 that refugees be afforded "special treatment." Some of these comments specifically questioned the legitimacy of the Department's view that it is a desirable goal in the refugee resettlement program to promote comparable treatment of refugees and other low-income groups.

Response: The Department does not assert, nor do the new rules reflect a view, that refugees should be treated in precisely the same manner as citizens with respect to federally funded assistance. The Department agrees that the Refugee Act of 1980 represents a legislative recognition of the fact that refugees have special needs and are likely to require some special assistance in order to effectively resettle in a new country. Accordingly, these new rules continue to provide for a significant period of federally funded cash and medical assistance to refugees, even in the cases of refugees whose circumstances would not satisfy eligibility requirements of assistance programs generally available to citizens and residents of the United States. Moreover, the program administered for the benefit of refugees under the Refugee Act of 1980 continues to provide for numerous types of special resettlement services for refugees, including social services and English language training. At the same time, the Department believes that community acceptance is an important aspect of effective resettlement of refugees in this country. Resentment against refugees on the part of other low-income groups could delay this acceptance. Thus, particularly in a time when publicly funded benefits received by American citizens are being reduced, we believe that widely disparate treatment of refugees and other United States residents under federally funded assistance programs would be counter-productive to the goal of refugee resettlement. For this reason, the Department has made a major effort in these rules to strike an appropriate balance between providing needed "special treatment" for refugees and avoiding refugee assistance policies that could be perceived as unfair or inequitable in relation to the federally funded assistance made available to American citizens or other United States residents with low income.

Comment: A few commenters stated that they felt Congress should have been consulted prior to implementation of the new policies.

Response: Although a formal consultation with Congress was not conducted in regard to the proposed cash and medical assistance policy changes, several interested members of the Congress were informed of the proposed policies prior to their publication in the **Federal Register** as an NPRM. Moreover, contact and dialogue between the Department and members of the Congress pertaining to the new rules have been extensive during the comment period following publication of the NPRM. The Department has received approximately sixty letters from members of the Congress regarding these rules, and has carefully considered their comments and views prior to final publication and implementation of these interim final regulations.

Comment: One commenter proposed that HHS seek a supplemental appropriation instead of implementing the policy proposed in the NPRM.

Response: The Department has long been considering ways to make the assistance available to refugees more comparable to the aid available to other low-income groups. The FY 1982 budget which the Administration submitted to the Congress assumed that HHS would implement assistance policy modifications for those refugees and entrants who are ineligible for AFDC, SSI, adult assistance or Medicaid.

We strongly believe that program changes are essential to reduce the likelihood of unnecessary welfare dependency resulting from extended periods of special support for refugees and entrants. We also want to reduce the degree of special treatment for refugees and entrants, which results in unequal treatment among low-income populations. Thus we have not chosen to seek a supplemental appropriation to continue current policy.

The policy in this interim final rule represents a fair balance of program concerns and provides support to refugees and entrants during the transitional period when they have the greatest need. Because the Refugee Act expressly limits our authority to provide assistance to the extent of available appropriations, we have scheduled the effective date accordingly.

Several commenters addressed their concerns to the refugee programs in general rather than specifically the new cash and medical assistance policy. We have not discussed those comments in the preamble since they do not relate directly to cash and medical assistance. However, we are studying these comments and will consider adopting or testing those with merit.

PART 400—REFUGEE RESETTLEMENT PROGRAM

45 CFR Part 400 is amended as follows:

(1) Sections 400.12 through 400.61 are added and reserved.

§ 400.12–400.61 [Reserved]

(2) A new § 400.62 is added to read as follows:

§ 400.62 Refugee cash and medical assistance: Need standards; consideration of income and resources; payment levels, and duration of eligibility.

(a) *Definitions.* For purposes of this section—

(1) "Filing unit" means an individual or individuals whose needs are taken into account in determining eligibility for, and the amount of, assistance for which Federal reimbursement is claimed under this part.

(2) "General Assistance program" means a financial and/or medical assistance program existing in a State or local jurisdiction and which: (i) Is funded entirely by State and/or local funds; (ii) is generally available to needy persons residing in the State or locality who meet specified income and resource requirements; (iii) consists of one-time, emergency, or ongoing assistance intended to meet basic needs of recipients, such as for food, clothing, shelter, medical care or other essentials of living.

(3) "Refugee cash assistance" means cash assistance provided under section 412(e) of the Act to refugees who are ineligible for AFDC, the adult assistance programs (OAA, AB, APTD, AABD), or SSI, and who have resided in the United States for less than an 18-month period from their initial entry to the country.

(4) "Refugee medical assistance" means medical assistance provided under section 412(e) of the Act to refugees who are ineligible for Medicaid benefits and who have resided in the United States for less than an 18-month period following their initial entry to the country.

(b) *Need standards.* In determining need for refugee cash assistance, a State must use the State's AFDC need standards established under regulations at § 233.20(a) (1) and (2) of this title.

(c) *Consideration of income and resources.* In considering the income and resources of applicants for and recipients of refugee cash assistance, the State agency must apply standards and criteria identical to those provided for in regulations at § 233.20(a)(3) through (11) of this title for considering income and resources of AFDC applicants and recipients, except that the State agency shall not apply an earned income disregard of $30 plus one-third of the remainder of the earnings as is provided for in § 233.20(a)(11)(ii) of this title.

(d) *Payment levels.* In determining the amount of the refugee cash assistance payment to an eligible refugee who meets the need standards in paragraph (b) of this section, and applying the consideration of income and resources in paragraph (c) of this section, a State must pay 100 percent of the payment level which would be appropriate for an eligible filing unit of the same size under the AFDC program.

(e) *Duration of eligibility.* Refugee cash assistance and refugee medical assistance are not available to refugees after the conclusion of the 18-month period following their initial entry into the United States.

(f) *Reimbursement to States.* (1) During the 36-month period beginning with the month a refugee entered the United States, Federal financial participation is available to States, subject to availability of funds, for—

(i) The non-Federal share of assistance provided to a refugee who is determined eligible for AFDC, adult assistance programs, or Medicaid; and

(ii) A State supplementary payment provided by the State to a refugee who is determined eligible for SSI.

(iii) The identifiable and reasonable non-Federal administrative costs of providing the assistance described in paragraph (f)(1)(i) and (ii) of this section.

(2) During the 18-month period beginning with the month a refugee

entered the United States, reimbursement is available to States, subject to availability of funds, for refugee cash assistance and refugee medical assistance provided to a refugee who is determined eligible under this section, and for the identifiable and reasonable administrative costs of providing such refugee cash and refugee medical assistance.

(e) During the second 18-month period a refugee is in the United States, Federal financial participation is available to States, subject to availability of funds, for financial and/or medical assistance under a State or local General Assistance program provided to a refugee who is determined eligible for the General Assistance program and for the identifiable and reasonable administrative costs of providing such financial and/or medical assistance.

(Secs. 412(a)(9) and 412(e), Immigration and Nationality Act (8 U.S.C. 1522(a)(9) and 1522(e))

45 CFR Chapter IV is amended by adding a new Part 401 to read as follows:

PART 401—CUBAN/HAITIAN ENTRANT PROGRAM

Sec.
401.1 [Reserved]
401.2 Definitions.
401.3–401.11 [Reserved]
401.12 Cuban and Haitian entrant cash and medical assistance.

Authority: Sec. 501(a), Pub. L. 96–422, 94 Stat. 1810 (8 U.S.C. 1522 note); Executive Order 12341 (January 21, 1982).

(1) Section 401.1 is reserved.

§ 401.1 [Reserved]

(2) A new § 401.2 is added to read as follows:

§ 401.2 Definitions.

For purposes of this Part a "Cuban and Haitian entrant" or "entrant" is defined as:

(a) Any individual granted parole status as a Cuban/Haitian Entrant (Status Pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided; and

(b) Any other national of Cuba or Haiti

(1) Who—

(i) Was paroled into the United States and has not acquired any other status under the Immigration and Nationality Act;

(ii) Is the subject of exclusion or deportation proceedings under the Immigration and Nationality Act; or

(iii) Has an application for asylum pending with the Immigration and Naturalization Service; and

(2) With respect to whom a final, nonappealable, and legally enforceable order of deportation or exclusion has not been entered.

(3) Sections 401.3 through 401.11 are reserved and § 401.12 is added.

§ 401.3–401.11 [Reserved]

§ 401.12 Cuban and Haitian entrant cash and medical assistance.

Except as may be otherwise provided in this section, cash and medical assistance shall be provided to Cuban and Haitian entrants by the same agencies, under the same conditions, and to the same extent as such assistance is provided to refugees under Part 400 of this title.

(a) For purposes of determining the eligibility of Cuban and Haitian entrants for cash and medical assistance under this section and the amount of assistance for which they are eligible under this section, the same standards and critieria shall be applied as are applied in the determination of eligibility for an amount of cash and medical assistance for refugees under § 400.62 of this title.

(b) Federal reimbursement will be provided to States for the costs of providing cash and medical assistance (and related administrative costs) to Cuban and Haitian entrants according to procedures and requirements, including procedures and requirements relating to the submission and approval of a State plan, identical to those applicable to the Refugee Program and set forth in Part 400 of this title.

(c) The number of months during which an entrant may be eligible for cash and medical assistance for which Federal reimbursement is available under this section shall be counted starting with the first month in which an individual meeting the definition of a Cuban and Haitian entrant in § 401.2 was first issued documentation by the Immigration and Naturalization Service indicating:

(1) That the entrant has been granted parole by the Attorney General under the Immigration and Nationality Act,

(2) That the entrant is in a voluntary departure status, or

(3) That the entrant's residence in a United States community is known to the Immigration and Naturalization Service.

The amendments are to be issued under the authority contained in § 412(a)(9), Immigration and Nationality Act (8 U.S.C. 1522(a)(9)).

(Catalog of Federal Domestic Assistance Programs, Nos. 13.814 and 13.817)

Dated: February 4, 1982.

John A. Svahn,
Commissioner of the Social Security Administration.

Approved: February 8, 1982.

Richard S. Schweiker,
Secretary of the Department of Health and Human Services.

[FR Doc. 82-6808 Filed 3-11-82; 8:45 am]
BILLING CODE 4190-11-M

FOREIGN CLAIMS SETTLEMENT COMMISSION

Czechoslovakian Claims Program

45 CFR Part 500

AGENCY: Foreign Claims Settlement Commission.

ACTION: Amendment of regulations.

SUMMARY: Pursuant to Public Law 97–127, the "Czechoslovakian Claims Settlement Act of 1981", approved December 29, 1981, the Foreign Claims Settlement Commission is authorized to receive and determine claims against the Government of Czechoslovakia for losses resulting from the nationalization or other taking of property owned by United States nationals. The administration of this new program, known as the Second Czechoslovakian Claims Program, requires certain changes in the Regulations of the Foreign Claims Settlement Commission to bring this new class of claims within their ambit.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: David H. Rogers, General Counsel, (Acting), Foreign Claims Settlement Commission, Room 400, 1111 20th Street, N.W., Washington, DC 20579, Phone (202) 653–5883.

PART 500—APPEARANCE AND PRACTICE BEFORE THE COMMISSION

1. Section 500.3(c) of the Commission's regulations is hereby amended by inserting after: "... of the International Claims Settlement Act ..." the words "or under Public Law 97–127, the Czechoslovakian Claims Settlement Act of 1981, approved December 29, 1981," so that paragraph (c) is revised to read as follows:

§ 500.3 Fees.

* * * * *

(c) The total remuneratain on account of services rendered or to be rendered to or on behalf of any claimant in connection with any claim failing

within Title I, Title IV, Title VI, or Title VII of the International Claims Settlement Act or under Public Law 97–127, the Czechoslovakian Claims Settlement Act of 1981, approved December 29, 1981, shall not exceed ten per centum of the total amount paid on account of such claim.

PART 531—FILING OF CLAIMS AND PROCEDURES THEREFOR

(2) Section 531.1 of the Commission's regulations is hereby amended by adding paragraph (k) which reads as follows:

§ 531.1 Time for filing.

* * * * *

(k) Claims under Section 5(a) of Public Law 97–127, the Czechoslovakian Claims Act of 1981, must be filed on or before October 31, 1982.

3. Section 531.2 of the Commission's regulations is hereby amended by redesignating paragraphs (k) and (l) as paragraphs (l) and (m) respectively and by adding a new paragraph (k) which reads as follows:

§ 531.2 Form, content and filing of claims.

* * * * *

(k) FCSC Form 127-Statement of Claim against Czechoslovakia for losses arising after August 8, 1958 (Second Czechoslovakian Claims Program).

These amendments are effective March 12, 1982.

Dated at Washington D.C. on February 4, 1982.

J. Raymond Bell,
Chairman.

[FR Doc. 82-6810 Filed 3-11-82; 8:45 am]
BILLING CODE 4410-01-M

FEDERAL MARITIME COMMISSION

46 CFR Part 530

[Docket No. 80–70]

Interpretations and Statements of Policy Status of Bulk Commodities With Respect to the Tariff Filing Requirements of Section 18(b)(1) of the Shipping Act, 1916

AGENCY: Federal Maritime Commission.

ACTION: Final interpretative rule.

SUMMARY: This makes the transportation of bulk commodities loaded and carried in containers, trailers, rail cars, or similar intermodal equipment (with the exception of LASH or Seabee barges) moving in the foreign commerce of the United States subject to the tariff filing requirements of the Shipping Act, 1916.

EFFECTIVE DATE: Effective date of this interpretation is stayed until further order.

FOR FURTHER INFORMATION CONTACT: Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION: On October 14, 1980, the Commission issued a proposed interpretative rule (45 FR 67711), making bulk type cargo loaded in containers, trailers, rail cars, LASH or Seabee barges or similar types of intermodal equipment subject to the tariff filing requirements of section 18(b) of the Shipping Act, 1916, (46 U.S.C. 817), because, once so loaded, such cargo is carried with mark or count.

Several persons commented on the proposed rule. While most agreed with the rule to the extent that it is applied to bulk commodities loaded and carried in containers, trailers, rail cars or similar intermodal equipment, some objected to its application to LASH or Seabee barges. The objections were based upon the contention that such barges are "vessels" as provided by section 1 of the Shipping Act (46 U.S.C. 801) and not some form of intermodal equipment. Consequently, it was suggested that bulk type cargo transported in such vessels is "cargo loaded and carried in bulk without mark or count" and is therefore exempt from the tariff filing requirements of section 18(b)(1). The Commission agrees with this contention and thus finds that the exclusion of LASH/Seabee barges from its proposed interpretative rule is warranted.

The Commission therefore concludes that bulk type cargo loaded in containers, trailers, rail cars, or similar types of intermodal equipment (with the exception of LASH or Seabee barges) is subject to being loaded and carried with mark or count, and is, therefore, subject to the tariff filing requirements of section 18(b) of the Shipping Act, 1916.

Other commenting parties opposed the proposed rule on the ground that carriers of bulk commodities need complete flexibility in the quotation of freight rates and that bringing such cargo under the Commission's tariff filing regulations could result in higher costs to shippers. They therefore argued that all bulk cargo carried in intermodal equipment should be exempt from the tariff filing requirements regardless of the type of equipment employed.

The Commission agrees that there may be some merit to exempting certain types of bulk commodities from the tariff filing requirements of section 18(b)(1). However, such an exemption is beyond the scope of this proceeding. Therefore, by separate Notice issued this date, the Commission is instituting a rulemaking proceeding to consider the exemption of certain bulk commodities under section 35 of the Shipping Act, 1916 (46 U.S.C. 833a). Pending completion of this new rulemaking and to avoid potentially unnecessary tariff filings, the Commission is staying the effective date of the Interpretative Rule issued in this proceeding.

PART 530—INTERPRETATIONS AND STATEMENTS OF POLICY

Therefore, Part 530 of the Code of Federal Regulations is amended by adding § 530.15 as follows:

§ 530.15 Further interpretation of the Shipping Act.

Section 18(b)(1) of the Shipping Act, 1916, provides, in part, that:

* * * Every common carrier by water in foreign commerce and every conference of such carriers shall file with the Commission and keep open to public inspection tariffs showing all the rates and charges of such carrier or conference of carriers for transportation to and from United States ports and foreign ports between all points on its own route and on any through route which has been established * * * The requirements of this section shall not be applicable to cargo loaded and carried in bulk without mark or count * * *

The Federal Maritime Commission interprets this provision to mean that bulk cargo which is loaded in containers, trailers, rail cars, or similar types of intermodal equipment is subject to being loaded and carried with mark or count and is therefore subject to the tariff filing requirements of section 18(b)(1) of the Shipping Act, 1916. This interpretation does not apply to bulk cargo loaded and carried in LASH or Seabee barges. For the purposes of this section "bulk cargo" means those commodities which are in a loose, unpackaged form and have homogeneous characteristics.

By the Commission.

Francis C. Hurney,
Secretary.

[FR Doc. 82-6711 Filed 3-11-82; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 43

[CC Docket No. 82-85; FCC 82-77]

Amendment of Annual Report of Licensee in Public Mobile Radio Services (FCC Form L); Temporary Suspension of Reporting Requirements.

AGENCY: Federal Communications Commission.

ACTION: Final rule; Temporary suspension of reporting requirements.

SUMMARY: This document notifies the public that the Commission temporarily suspended the existing Form L reporting requirements for 1981 for public mobile radio services until a related rulemaking is completed. Published in the Proposed Rules section of this issue, a Notice of proposed rulemaking (CC Docket No. 82-85; FCC 82-77) proposes to simplify or eliminate reporting requirements for Public Mobile Radio Service licensees.

DATES: Effective February 11, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Alan Feldman, Economics Division, (202) 632-7084.

In CC Docket No. 82-85, FCC 82-77, the Commission is seeking to simplify or eliminate reporting requirements for Public Mobile Radio Service (PMRS) licensees. In light of the burden the current Form L requirement places on PMRS licensees, the Commission in the above referenced docket temporarily suspended the Form L reporting requirement for 1981 (47 CFR 1.785(a)(2) and 43.21) until such time as the rulemaking proceeding is completed.

William J. Tricarico,
Secretary, Federal Communications Commission.

[FR Doc. 82-6710 Filed 3-11-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Parts 21, 22, 23, 25, 73, 78, 87, 90 and 94

Editorial Amendment of the Commission's Rules To Reflect Changes in the Coordination Contact for the Protection of the Table Mountain Quiet Zone

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: An editorial order is being issued by request of the Department of Commerce to change the coordination contact for the protection of the Table Mountain quiet zone. Also corrections are made of errors existing in the field strength table for domestic public fixed radio services and public mobile radio services (Parts 21 and 22 respectively).

EFFECTIVE DATE: March 10, 1982.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Harding Chism, Office of Science and Technology, Washington, D.C. 20554, (202) 653-8166—Room 7310.

Order

Adopted: February 22, 1982.

Released: February 24, 1982.

In the matter of editorial amendment Parts 21, 22, 23, 25, 73, 78, 87, 90 and 94 of the Federal Communications Commission rules and regulations.

1. We are editorially amending Parts 21, 22, 23, 25, 73, 78, 87, 90 and 94 of the Commission's Rules to reflect changes in the coordination contact for the protection of the Table Mountain quiet zone. These changes are the result of new postal regulations and recent telephone number changes at the U.S. Department of Commerce's Boulder Laboratories. The affected sections of the Parts cited are, §§ 21.113(b)(2), 22.113(b)(2), 23.20(d)(2), 25.203(f)(3), 73.103(b)(2), 78.19(e)(2), 87.31(f)(2), 90.177(c)(2) and 94.25(f)(2).

2. We are further editorially amending Parts 21 and 22 of the Commission's Rules to correct typographical errors that exist in the field strength tables in §§ 21.113(b) and 22.113(b).

3. Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's Rules. Since the amendment is editorial in nature, the public notice procedure and effective date provisions of 5 U.S.C. 553 do not apply.

4. For questions regarding matters covered in this document, contact Harding Chism, telephone number (202) 653-8166.

5. In view of the above, it is ordered that the Rules are Amended as set forth in the attached Appendix and are adopted effective March 10, 1982.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.
Alan R. McKie,
Deputy Managing Director.

Appendix

For the reasons set out in the preamble, Parts 21, 22, 23, 25, 73, 78, 87, 90 and 94 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

1. In § 21.113, the table in paragraph (b) is corrected and paragraph (b)(2) is revised as follows:

§ 21.113 Quiet zones.

* * * * *

(b) * * *

	Field strength (mV/m) in authorized bandwidth of service	Power flux density [1] (dBW/m²) in authorized bandwidth of service
Below 540 MHz	10	−65.8
540 to 1600 MHz	20	−59.8
1.6 to 470 MHz	10	[2] −65.8
470 to 890 MHz	30	[2] −59.2
Above 890 MHz	1	[2] −65.8

[1] Equivalent values of power flux density are calculated assuming free space characteristic impedance of 376.7 = 120πohms.

[2] Space stations shall conform to the power flux density limits at the earth's surface specified in appropriate parts of the FCC rules, but in no case should exceed the above levels in any 4 kHz band for all angles of arrival.

* * * * *

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, U.S. Department of Commerce, Boulder Laboratories—NOAA/R5X3, 325 Broadway, Boulder, Colorado 80303; telephone (303) 497-6549, in advance of filing their applications with the Commission.

* * * * *

PART 22—PUBLIC MOBILE RADIO SERVICES

2. In § 22.113, the table in paragraph (b) is corrected and paragraph (b)(2) is revised as follows:

§ 22.113 Quiet zones.

* * * * *

(b) * * *

	Field strength (mV/m) in authorized bandwidth of service	Power flux density [1] (dBW/m²) in authorized bandwidth of service
Below 540 MHz	10	−65.8
540 to 1600 MHz	20	−59.8
1.6 to 470 MHz	10	[2] −65.8
470 to 890 MHz	30	[2] −59.2
Above 890 MHz	1	[2] −65.8

* * * * *

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, U.S. Department of Commerce, Boulder Laboratories—NOAA/R5X3, 325 Broadway, Boulder, Colorado 80303; telephone (303) 497-6549, in advance of filing their applications with the Commission.

* * * * *

PART 23—INTERNATIONAL FIXED PUBLIC RADIO COMMUNICATIONS SERVICES

3. In § 23.20 paragraph (d)(2) is revised as follows:

§ 23.20 Assignment of frequencies.

* * * * *

(d) * * *

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, U.S. Department of Commerce, Boulder Laboratories—NOAA/R5X3, 325 Broadway, Boulder, Colorado 80303; telephone (303) 497-6549 or 497-6549, in advance of filing their applications with the Commission.

* * * * *

PART 25—SATELLITE COMMUNICATIONS

4. In § 25.203 paragraph (f)(3) is revised as follows:

§ 25.203 Choice of sites and frequencies.

* * * * *

(f) * * *

(3) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, U.S. Department of Commerce, Boulder Laboratories—NOAA/R5X3, 325 Broadway, Boulder, Colorado 80303; telephone (303) 497-6548 or 497-6549, in advance of filing their applications with the Commission.

* * * * *

PART 73—RADIO BROADCAST SERVICES

5. In § 73.1030 paragraph (b)(2) is revised as follows:

§ 73.1030 Notifications concerning interference to Radio Astronomy, Research and Receiving Installations.

* * * * *

(b) * * *

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, U.S. Department of Commerce, Boulder Laboratories—NOAA/R5X3, 325 Broadway, Boulder, Colorado 80303; telephone (303) 497-6548 or 497-6549, in advance of filing their applications with the Commission.

* * * * *

PART 78—CABLE TELEVISION RELAY SERVICES

6. In § 78.19 paragraph (e)(2) is revised as follows:

§ 78.19 Interference.

* * * * *

(e) * * *

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, U.S. Department of Commerce, Boulder Laboratories—NOAA/R5X3, 325 Broadway, Boulder, Colorado 80303; telephone (303) 497-6548 or 497-6549, in advance of filing their applications with the Commission.

* * * * *

PART 87—AVIATION SERVICES

7. In § 87.31 paragraph (f)(2) is revised as follows:

§ 87.31 Application for ground station authorization.

* * * * *

(f) * * *

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, U.S. Department of Commerce, Boulder Laboratories—NOAA/R5X3, 325 Broadway, Boulder, Colorado 80303; telephone (303) 497-6548 or 497-6549, in advance of filing their applications with the Commission.

* * * * *

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

8. In § 90.177 paragraph (c)(2) is revised as follows:

§ 90.177 Protection of certain radio receiving locations.

* * * * *

(c) * * *

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, U.S. Department of Commerce, Boulder Laboratories—NOAA/R5X3, 325 Broadway, Boulder, Colorado 80303; telephone (303) 497-6548 or 497-6549, in advance of filing their applications with the Commission.

* * * * *

PART 94—PRIVATE OPERATIONAL FIXED MICROWAVE SERVICES

9. In § 94.25 paragraph (g)(2) is revised as follows:

§ 94.25 Filing of applications.

* * * * *

(g) * * *

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, U.S. Department of Commerce, Boulder Laboratories—NOAA/R5X3, 325 Broadway, Boulder, Colorado 80303; telephone (303) 497-6548 or 497-6549, in advance of filing their applications with the Commission.

* * * * *

[FR Doc. 82-6710 Filed 3-11-82; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

Tanner Crab Off Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, National Marine Fisheries Service, has determined that the desired harvest level of Tanner crab for the Eastside Section of the Kodiak District in Registration Area J will be achieved on March 9, 1982, and that early closure of the fishery is necessary to protect Tanner crab stocks. The Secretary of Commerce, therefore, issues this notice of closure of the Eastside Section to fishing for Tanner crab by vessels of the United States on March 9, 1982, thereby adjusting the previous closing date of April 30, 1982, in order to prevent overfishing of Tanner crab stocks in the Eastside Section.

DATE: This notice is effective from 12:00 noon, Alaska Standard Time (AST), March 9, 1982, until 12:00 noon Alaska, Daylight Time (ADT), April 30, 1982. This notice of closure was filed for public inspection with the Office of the Federal Register on March 9, 1982, at 4:15 p.m. Public comments on this notice of closure are invited until March 25, 1982.

ADDRESS: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, 907-586-7221.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Commercial Tanner Crab Fishery Off

the Coast of Alaska (FMP), governing this fishery in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act, provides for inseason adjustments, by field order, to season and area openings and closures. Implementing rules at 50 CFR 671.27(b) specify that these orders will be issued by the Secretary of Commerce under the criteria set out in that section.

50 CFR 671.26(f) establishes five districts within Registration Area J in order to prevent overfishing of individual Tanner crab stocks by allowing closure of partial closure of a particular district when the desired harvest level is reached. One of these districts is the Kodiak District, for which an overall optimum yield of 35 million pounds has been set.

One section in the Kodiak District is the Eastside Section. The State of Alaska's 1981 Tanner crab index survey indicates the desired harvest level during the 1982 season to be 1,200,000 pounds for this section. That level is based on the relative abundance of legal male crabs observed in the crab indexing surveys conducted in 1981 as compared to 1980. During the 1982 fishing season, which began February 10 (the opening date was delayed from January 22 to February 10, see 46 FR 56699), catch per unit of effort (CPUE) has declined from an average of 26 crabs per pot to 15 crabs per pot over the area. This declining CPUE substantiates the results of the 1981 survey. Further fishing could result in harm to the resource.

As of March 5, about 1,000,000 pounds have been harvested in the Eastside Section by 38 vessels. It is estimated that the desired harvest of 1,200,000 pounds of crab from this section will be achieved on March 9, 1982.

In light of this information, the Regional Director, National Marine Fisheries Service, in accordance with 50 CFR 671.27(b), has determined that:

1. The actual condition of Tanner crab stocks in the Eastside Section is substantially different from the condition that was previously anticipated; and

2. This difference reasonably supports the need to protect those Tanner crab stocks by closing the Eastside Section to further fishing for Tanner crab during the current fishing year after 12:00 noon, AST, on March 9, 1982.

For these reasons, the Eastside Section of the Kodiak District in Registration Area J, as defined in 50 CFR 671.26(f)(1)(i), is closed to all fishing for Tanner crab from 12:00 noon, AST, March 9, 1982, until 12:00 noon ADT, April 30, 1982, at which time the closure of this section prescribed in 50 CFR 671.26(f)(2)(i) will begin.

This closure will not be effective prior to filing this notice for public inspection with the Office of the Federal Register and publicizing the closure for 48 hours through ADF&G procedures, under 50 CFR 671.27(a)(2). Under 50 CFR 671.27(b)(4), public comments on this notice of closure may be submitted to the Regional Director at the address stated above for 15 days following the effective date. During the 15-day comment period, the data upon which this notice is based will be available for public inspection during business hours (8:00 a.m. to 4:30 p.m.) at (1) the NMFS Kodiak Field Office, ADF&G Building, at Kashevaroff and Mission Roads, Kodiak, Alaska 99615, and (2) the NMFS Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802. If comments are received, the necessity of this closure will be reconsidered and a subsequent notice will be published in the **Federal Register**, either confirming this field order's continued effect, modifying it, or rescinding it.

Other Matters

The Tanner crab stock in the Eastside Section will be subject to damage by overfishing unless this order takes effect promptly. I therefore find for good cause that advance notice and public comment on this order is contrary to the public interest, and that there should be no delay in its effective date.

This action is taken under the authority of regulations specified at 50 CFR 671.27, and is taken in compliance with Executive Order 12291. It is not subject to the requirements of the Regulatory Flexibility Act. In addition, it does not contain any collection of information request, as defined in the Paperwork Reduction Act of 1980.

(16 U.S.C. 1801 et seq.)

Dated: March 9, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-6829 Filed 3-9-82; 4:15 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 49
Friday, March 12, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 410

Employee Training Agreements

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: This document proposes changes in the regulations implementing the Government Employees Training Act in relation to the administration of employee agreements to continue in service after being assigned to training in a non-Government facility. The law (5 U.S.C. 4108(a)) establishes the Government's right to require an agreement from employees that they will continue in the service of the Government for a specified period before they are assigned to training in a non-Government facility. The proposed regulations would clearly state that a written agreement must be obtained before an employee is assigned to non-Government training. Service in a nonpay status (except for furloughs) would no longer be countable toward the completion of the continued service obligation.

DATE: Comments must be received on or before May 11, 1982.

ADDRESS: Send or deliver written documents to: Office of Personnel Management, Training Policy Division—Room 2007C, Attn: Mr. Masterson, P.O. Box 7230, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Ms. Constance Guitian, (202) 653–6171.

SUPPLEMENTARY INFORMATION: The proposed regulations enumerate the consequences of the failure to fulfill a continued service agreement. If the employee voluntarily leaves the service of the Government, he or she must make at most a proportional repayment of the non-salary expenses of the training. Also, the employee must be provided the right to a reconsideration of the amount to be collected and an opportunity to request a waiver of the agency's right to recover.

A new procedure for transferring the obligation is proposed when the employee transfers to another agency. If the losing agency does not object, the gaining agency becomes responsible for the fulfillment of the obligation. If the losing agency finds that the employee would not use the training in the new position, it must notify the employee of its intention to recover a proportional payment of the additional expenses and provide due process procedures for an employee's response before making recovery.

Under the proposed rulemaking, an agency may waive its right of recovery from an employee who fails to fulfill a continued service agreement if: (1) The employee has completed most of the obligation; (2) the employee resigns because of personal illness or serious illness of a member of his/her family; or (3) the repayment would cause a severe financial hardship. The agency must provide due process procedures for an employee's response or appeal for a waiver of the agency's right to recover. With the adoption of these specific criteria for waiving the right of recovery, there would be no need for the constraint on internal agency delegations of authority to grant such waivers (5 CFR 410.509(b)(2)). This would be revoked.

E.O. 12291, Federal Regulations

OPM has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulations, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to complete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small governmental jurisdictions.

Office of Personnel Management.

Donald J. Devine,

Director.

PART 410—TRAINING

Accordingly, the Office of Personnel Management proposes to amend 5 CFR Part 410 as follows:

1. Section 410.508 is revised to read as follows:

§ 410.508 Agreements to continue in service.

(a) For the purpose of administering section 4108 of title 5, United States Code:

(1) There must be a written continued service agreement before assignment to training by, in, or through a non-Government facility unless the training meets the conditions of paragraphs (b) or (c) of this section;

(2) The period of time an employee is required to agree to continue in the service of the agency begins on the first workday after the end of the training covered by the agreement and does not include any service in nonpay status except for furloughs; and

(3) "Additional expenses incurred by the Government in connection with his training" means expenses of training paid under section 4109(a)(2) of title 5, United States Code, but not salary, pay, or compensation.

(b) An employee selected for training by, in, or through a non-Government facility that involves no expense to the Government other than his or her pay is excepted from the requirement in section 4108(a) of title 5, United States Code, for entering into a written agreement.

(c) The head of the agency may except from the requirement in section 4108(a) of title 5, United States Code, for entering into a written agreement:

(1) An employee selected for training provided by a manufacturer as a part of the normal service incident to initial purchase or lease of a product under a procurement contract;

(2) An employee selected for training by, in, or through a non-Government facility that does not exceed 80 hours within a single program; and

(3) An employee selected for training which is given through a correspondence course.

(d) When an agency pays only the expenses of an employee's training that are authorized by section 4109(a)(2) of

title 5, United States Code, the head of the agency may reduce to 1 month or to a period equal to the length of the training period covered by the payment, whichever is greater, the period of time the employee is required by section 4108(a) of title 5, United States Code, to agree to continue in the service of his or her agency.

2. Section 410.509 is revised to read as follows:

§ 410.509 Failure to fulfill agreements to continue in service.

(a)(1) Each written agreement required under section 4108(a) of title 5, United States Code, shall specify that the employee must repay the additional expenses if he or she voluntarily separates from the Government. The percentage of the additional expenses to be repayed may not exceed the proportion of the agreement not completed. The agency shall provide procedures to enable the employee to obtain a reconsideration of the amount to be recovered or to appeal for a waiver of the agency's right to recover.

(2) Except as provided in subparagraph (3) of this paragraph, when the employing agency receives a request for transfer to another Government agency of an employee subject to an agreement, it will notify the gaining agency that the employee is still subject to a continued service agreement and transfer the agreement to the gaining agency. The gaining agency must then assure that the agreement is fulfilled.

(3) If the employing agency finds that the employee would not use the training in the new position, it must give the employee notification of its intention to recover the additional expenses before the effective date of the transfer. The percentage of the additional expenses recovered cannot exceed the proportion of the agreement not completed. The agency must provide due process procedures, including an opportunity for the employee to rebut the agency findings that he or she would not use the training in the new position, before it can proceed to recover the appropriate amount of training expenses. The completion of recovery relieves the employee of the obligation to continue in the service of the Government.

(b) The head of an agency, or a representative especially designated by him or her for this purpose, must provide due process procedures for an employee's response to an agency request for repayment of the additional expenses and for an employee's appeal for a waiver of the agency's right of recovery under section 4108(c) of title 5, United States Code, before the agency can recover the appropriate payment and may waive, in whole or in part, the right of the agency to recover when he or she finds that:

(1) The employee has completed most, but not all, of the required period of service;

(2) The employee resigned because of his or her own illness or the serious illness of a member of his or her immediate family; or

(3) The employee is unable to make payment because of severe financial hardship.

(5 U.S.C. 4101 *et seq.*)

[FR Doc. 82-6880 Filed 3-11-82; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 309 and 381

[Docket Number 81-041P]

Meat and Poultry Products; Expanded Use of Microbiological Screening Procedures

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would amend the Federal meat and poultry products inspection regulations to provide for inplant screening of livestock and poultry suspected of being contaminated by biological residues. Presently, suspect livestock and poultry carcasses and parts of carcasses are retained until tissue sample test results are obtained from USDA laboratories. A swab test has been developed which permits the use of inplant screening procedures to reduce the number of carcasses and parts that must be retained for additional testing by USDA laboratories. These procedures are currently in use in testing cull dairy cattle. Implementation of these procedures for cull dairy cattle has resulted in more expeditious determinations regarding suspect carcasses and parts.

DATE: Comments must be received on or before May 11, 1982.

ADDRESS: Written comments should be sent in duplicate to the Regulations Office, Attn: Annie Johnson, FSIS Hearing Clerk, Room 2637, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. Oral comments concerning the poultry products inspection regulations may be directed to Dr. John E. Spaulding, (202) 447-2807. (See also "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT:
Dr. John E. Spaulding, Director, Residue Evaluation and Surveillance Division, Science Program, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-2807.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined, in accordance with Executive Order 12291, that this proposal is not a "major rule". It will not result in an annual effect on the economy of $100 million or more. It will not result in a major increase in costs or prices for consumers; individual industries; Federal, State or local government agencies; or geographic regions. It will not have a significant adverse effect on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The only alternative to this proposal would be the continuation of current procedures, which require retention of all suspect carcasses and parts while appropriate testing for antibiotic residues is being conducted by USDA laboratories. While continuation of this system would eliminate the expense of establishing inplant testing, it is anticipated that the long term savings of a Swab Test on Premises (STOP) operation would outweigh the expense of establishing it. Expansion of STOP would result in more expeditious determinations regarding suspect carcasses and parts. FSIS scientists have been able to reduce the cost of adopting this program by developing a microbiological test plate which is stable at room temperatures for at least 6–9 months. Previously the test plates were not stable this long.

Effect on Small Entities

The Administrator has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it would place no new requirements on industry. It would affect only USDA inplant operating procedures.

Comments

Interested persons are invited to submit written comments concerning this proposal. Written comments should be sent in duplicate to the Regulations Office. Comments should reference the docket number which appears in the heading of this document. Any person desiring an opportunity for oral presentation of views on this proposal must make such request to Dr. Spaulding so that arrangements may be made for all views to be presented. A transcript will be made of all oral presentations. All comments submitted pursuant to this notice will be made available for public inspection in the Regulations Office between 8:00 a.m. and 4:30 p.m., Monday through Friday.

Background

Pursuant to section 4 of the Federal Meat Inspection Act (FMIA) (21 U.S.C. 604) and section 6 of the Poultry Products Inspection Act (PPIA) (21 U.S.C. 455(b)), the Department of Agriculture conducts post-mortem inspection of carcasses and parts of carcasses of cattle, sheep, swine, goats, horses, and other equines; and chickens, turkeys, ducks, geese and guineas, respectively. The purpose of the inspection is to detect adulterated carcasses and parts and prevent their use as human food.

One phase of the post-mortem inspection is to detect the presence of unlawful levels of antibiotic residues in animal tissues which would render the carcasses and parts adulterated. Until recently all tissue samples from suspect carcasses and parts were tested and analyzed by USDA laboratories. The sample testing required that the carcasses and parts be retained pending the receipt of the test results. Despite various efforts to expedite the process, the use of such procedures was often costly and time-consuming. In order to improve these procedures, the Agency developed a more expeditious means for the inplant screening of product. These procedures can be employed at the time of inspection to identify carcasses and parts that are suspected of being adulterated and should therefore be retained pending further laboratory testing, and those that should be inspected and passed.

On August 3, 1979, the Food Safety and Inspection Service (FSIS), formerly the Food Safety and Quality Service, published a final rule in the **Federal Register** (44 FR 45605–45606) which established these inplant screening procedures for cull dairy cattle (9 CFR 309.16(a)). The STOP program was initiated after an extensive educational program had been conducted by producer cooperatives and extension services. It has not resulted in any disruption of normal marketing practices. In fact, since the program's inception the number of animals screened by the inplant inspectors has increased by ten-fold over the previous rate, with a 50 percent reduction of residue violations from antibiotics in all cows and a 33 percent reduction in the number of cows presented showing evidence of mastitis, the most critical disease condition in cull dairy cattle.

Because FSIS has been using this test in its laboratories to screen tissues from all species for the past 6 years and it is equally reliable in species other than cattle, the Agency believes it is time to make this procedure available at all slaughter plants. Implementation of the procedure was designed to benefit the meatpacking and poultry industries, and the public by improving and making more expeditious the procedures for detecting and eliminating illegal antibiotic residues from the meat and poultry supply.

Therefore, the Agency is proposing to revise section 309.16(a) of the Federal meat inspection regulations (9 CFR 309.16(a)) and section 381.74 of the Federal poultry products inspection regulations (9 CFR 381.74). The regulations would be revised to permit inplant screening procedures to detect the presence of unlawful levels of antibiotic residues in any species of livestock and poultry.

Accordingly, Part 309 of the Federal meat inspection regulations and Part 381 of the Federal poultry products inspection regulations would be revised to read as follows:

PART 309—ANTE-MORTEM INSPECTION

1. The authority citation for Part 309 reads as follows:

Authority: Sections 4 and 21, 34 Stat. 1260, 1284, as amended, 21 U.S.C. 603, 604, 621; 81 Stat. 584, 588, 592, 593, 42 FR 35625, 35626, 35631.

2. Section 309.16(a) would be revised to read as follows:

§ 309.16 Livestock suspected of having biological residues.

(a) Except as provided by paragraph (c) of this section, livestock suspected of having been treated with or exposed to any substance that may impart a biological residue that would make the edible tissues unfit for human food or otherwise adulterated, shall be handled in compliance with the provisions of this paragraph. They shall be identified at official establishments as "U.S. Condemned." These livestock may be held under the custody of a Program employee, or other official designated by the Administrator, until metabolic processes have reduced the residue sufficiently to make the tissues fit for human food and otherwise not adulterated. When the required time has elapsed, the livestock, if returned for slaughter, must be re-examined on ante-mortem inspection. To aid in determining the amount of residue present in the tissues, officials of the Program may permit the slaughter of any such livestock for the purpose of collecting tissues for analysis for the residue. Such analysis may include the use of inplant screening procedures designed to detect the presence of antibiotic residues in any species of livestock.

* * * * *

PART 381—MANDATORY POULTRY PRODUCTS INSPECTION

3. The authority citation for Part 381 reads as follows:

Authority: Section 14 of the Poultry Products Inspection Act, as amended by the Wholesome Poultry Products Act (21 U.S.C. 451 *et seq.*); the Talmadge-Aiken Act of September 28, 1962, (7 U.S.C. 450); and Subsection 21(b) of the Federal Water Pollution Control Act, as amended by Public Law 91-224 and by other laws (33 U.S.C. 1171(b)).

4. Section 381.74 would be revised to read as follows:

§ 381.74 Poultry suspected of having biological residues.

When any poultry at an official establishment is suspected of having been treated with or exposed to any substance that may impart a biological residue that would make their edible tissues adulterated, they shall, at the option of the operator of the establishment, be processed at the establishment and the carcasses and all parts thereof retained under U.S. Retained tags, pending final disposition in accordance with § 381.80 and other provisions in Subpart K; or they shall be slaughtered at the establishment and buried or incinerated in a manner satisfactory to the inspector. Alternatively, such poultry may be returned to the grower, if further holding is likely to result in their not being adulterated by reason of any residue. The Inspection Service will notify the other Federal and State agencies concerned of such action. To aid in determining the amount of residue present in the poultry, officials of the Inspection Service may permit the slaughter of any such poultry for the purpose of collecting tissues for analysis of the residue. Such analysis may include the use of inplant screening procedures designed to detect the presence of antibiotic residues in any species of poultry.

V 4 7 / 4 9 M R 1 2 8 2

Done at Washington, D.C., on February 25, 1982.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 82-6760 Filed 3-11-82; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 561 and 564

[No. 82-161]

FSLIC Insurance Coverage of Deferred Compensation Plans

Dated: March 5, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board proposes to amend its regulations governing insurance of accounts to provide $100,000 insurance coverage for the interest of each participant in a deferred compensation plan the funds of which are invested in an institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation.

DATE: Comments must be received by April 10, 1982.

ADDRESS: Send comments to the Public Information Officer, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

FOR FURTHER INFORMATION, PLEASE CONTACT:

Kenneth F. Hall, Office of General Counsel (202)–377–6466), at the above address.

SUPPLEMENTARY INFORMATION: Section 401(b) of the National Housing Act ("Act") provides in relevant part that "funds held in fiduciary capacity . . . shall be insured in an amount not to exceed $100,000 for each trust estate . . . " (12 U.S.C. 1724(b)). Section 405(a) of the Act (12 U.S.C. 1728(a)) authorizes the Board, for purposes of defining the extent of insurance coverage, to define the terms used in section 401(b). Pursuant to this statutory authority, the Board proposes to amend its regulatory definition of "trust estate" (12 CFR 561.4 (1981)) to include the interest of each participant in a deferred compensation plan.

Generally, under a deferred compensation plan, an employer and employee agree in advance that a specified amount of the employee's salary or other compensation shall be deferred over the course of the latter's employment. During the period of deferral, the deferred or a like amount of funds are invested, and typically may be invaded for the employee's benefit where an emergency beyond the employee's control has occurred. Upon an employee's retirement or separation from employment, the benefits accumulated under the plan (deferred income, and gains, losses and income from investments) are distributed, normally in regular payments over a period of years. The great majority of deferred compensation plans are sponsored by state or local governmental units.

Currently, the interests of participants in non-trusteed deferred compensation plans are not separately insured. Sections 564.2(c) and 564.10 of the Board's regulations (12 CFR 564.2(c), 564.10 (1981)) provide insurance coverage to the interests of participants in employee benefit plans only if the plans are trusteed. However, for purposes of determining the extent of insurance coverage, there appears to be no substantive difference between the interest of a participant in a deferred compensation plan and the interest of a beneficiary in a trusteed employee pension plan.

Both plans are intended to provide retirement income for participants. Although the funds in a deferred compensation plan typically remain the sole property of the employer, this is primarily to satisfy the provisions of section 451 and 457 of the Internal Revenue Code (I.R.C. sections 451, 457) to ensure the postponement of taxes on deferred income until the year in which such income is paid to a plan participant. Retention of ownership by the employer does not alter the fact that, as with a trusteed pension plan, the funds must be used for the participant's benefit unless the employer becomes insolvent and the funds are thereby depleted. Participants in a trusteed pension plan face a similar risk with regard to the trust assets.

Because of the similarities between deferred compensation plans and trusteed employee benefit plans, the Board proposes to extend insurance coverage to the interest of each participant in a deferred compensation plan by amending its definition of "trust estate" (12 CFR 561.4 (1981)) to include such interests. Section 561.4 currently defines "trust estate" to include only the interest of a beneficiary in an irrevocable express trust. In addition, the Board proposes to amend paragraph (c) of § 564.2 to provide that the trust estate of each participant in a deferred compensation plan shall be evaluated as if the participant were a beneficiary of an irrevocable trust and the interest of the participant had fully vested as of the date of default of the insured institution.

The Board requests comment on all issues raised by the proposal, including whether the extension of insurance coverage should be limited to any particular types of deferred compensation plans. The Board notes that, as the proposed amendments are drafted, insurance coverage would be extended to all deferred compensation plans, whether or not they comply with the various provisions of the Internal Revenue Code and regulations promulgated thereunder addressing the tax treatment of such plans.

Initial Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (September 19, 1980), the Board is providing the following regulatory flexibility analysis:

1. *Reasons, objective and legal basis underlying the proposed rule.* These elements are incorporated above in the supplementary information regarding the proposal.

2. *Small entities to which the proposed rule would apply.* The proposed rule would apply equally to all institutions whose accounts are insured by the FSLIC, regardless of size.

3. *Overlapping or conflicting Federal rules.* There are no known Federal rules that may duplicate, overlap or conflict with the proposal.

4. *Alternatives to the proposed rule.* There is no alternative method of insuring the individual interest of participants in deferred compensation plans.

Comments on this proposal will be accepted for a period of thirty days, until April 10, 1982. The Board believes a thirty-day comment period is appropriate because it is in the public interest to clarify the extent of insurance coverage of interests in employee retirement plans.

Accordingly, the Board hereby proposes to amend Parts 561 and 564 of Subchapter D, Chapter V of Title 12, Code of Federal Regulations, to read as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

1. Revise § 561.4, to read as follows:

§ 561.4 Trust estate.

The term "trust estate" means (a) the interest of a beneficiary in an irrevocable express trust, whether created by trust instrument or statute, but does not include any interest retained by the settlor, or (b) the interest of a participant in a deferred compensation plan, which plan shall be considered a trust for purposes of applying § 564.10 of this Part.

PART 564—SETTLEMENT OF INSURANCE

2. Revise paragraph (c)(1) of § 564.2, to read as follows:

§ 564.2 General principles applicable in determining insurance of accounts.

* * * * *

(c) *Valuation of trust interests.* (1) Trust estates (as defined in § 561.4 of this Subchapter) in the same trust invested in the same account will be separately insured if the value of the trust estate is capable of determination, as of the date of default, without evaluation of contingencies except for those covered by the present worth tables and rules of calculation for their use set forth in § 20.2031–10 of the Federal Estate Tax Regulations (26 CFR 20.2031–10): *Provided,* that (i) in connection with pension and other trusteed employee benefit funds (including those qualifying under section 401(d) or section 408(a) of the Internal Revenue Code of 1954), the trust estate of each participant shall be evaluated as if the trust were irrevocable and the interest of the participant had fully vested as of the date of default of the insured institution, and (ii) in connection with deferred compensation plans, the trust estate of each participant shall be evaluated as if the participant were the beneficiary of an irrevocable trust and the interest of the participant had fully vested as of the date of default of the insured institution.

* * * * *

(Secs. 401, 402, 403, 405; 48 Stat. 1255, 1256, 1257, 1259, as amended; 12 U.S.C. 1724, 1725, 1726, 1728. Reorg. Plan No. 3 of 1947, 12 F.R 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-6822 Filed 3-11-82; 8:45 am]

BILLING CODE 6720-01-M

POSTAL SERVICE

39 CFR Part 775

National Environmental Policy Act (NEPA); Amendment of Public Notice Provisions

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes to relax certain provisions of its environmental impact procedures, inasmuch as those procedures unnecessarily require, rather than permit, the mailing of notices of local actions to potentially interested community organizations and to owners and occupants of nearby or affected property. The relaxed procedures would be substantially similar to comparable permissive provisions of the NEPA regulations of the Council on Environmental Quality.

DATE: Comments must be received on or before Arpil 12, 1982.

ADDRESS: Written comments should be sent to the Director, Office of Program Planning, Real Estate and Buildings Department, U.S. Postal Service, Washington, D.C. 20260–6400. Copies of all written comments will be available for public inspection and photocopying between 9:00 AM and 4:00 PM, Monday through Friday, in Room 4141, U.S. Postal Service Headquarters, 475 L'Enfant Plaza West, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Royal Rasmussen, (202) 245–4354.

SUPPLEMENTARY INFORMATION: On November 5, 1979, the Postal Service adopted procedures (39 CFR Part 775) effectuating the regulations of the Council on Environmental Quality (40 CFR Parts 1500–1508, November 29, 1978) under the procedural requirements of the National Environmental Policy Act (42 U.S.C. 4332 (1976)). Certain of the Postal Service's procedures regarding notice to the public of environmental actions, which are more stringent than the comparable regulations of the Council on Environmental Quality, have been found in practice to be impractical.

In particular, the Postal Service's procedures require that notices of proposed actions having environmental effects primarily of local concern be mailed to potentially interested community organizations and to owners and occupants of nearby and affected property. Such mailings are permissive under the regulations of the Council on Environmental Quality. (See 40 CFR 1506.6(b)(3)). The present proposed amendment would make them permissive under the Postal Service's procedures.

In practice, the Postal Service has found that adequate notice generally is given through the publication of notices in local newspapers, the posting of notices on and near sites affected by proposed actions, and the invoking of state and local government processes by mailing notices to A–95 Clearinghouses, all of which would continue to be required. In addition, the difficulty of identifying and locating all potentially interested community organizations and all owners and occupants of nearby and affected property could result in inadvertent technical violations of the mandatory requirements for the mailing of notices to such organizations and owners and occupants. The presently proposed amendments relax those particular mailing requirements, while keeping the remaining requirements mandatory in order to ensure a continued high level of public involvement in Postal Service facility actions. While notices in newspapers, notices posted at sites, and notices mailed to A–95 Clearinghouses are permissive under the Council on Environmental Quality's regulations, those notices will remain mandatory under the Postal Service's procedures.

Several minor language changes are also proposed to clarify procedures for Postal Service managers. In addition, we are publishing existing § 775.10(a)(4), because this section is referenced in proposed § 775.10(a)(2).

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comments on the following proposed revisions of Title 39, Code of Federal Regulations:

PART 775—ENVIRONMENTAL PROCEDURES

In § 775.10, revise paragraph (a) to read as follows:

§ 775.10 Public notice and information.

(a) Public notice is given of NEPA-related hearings, intent to undertake environmental assessments and environmental impact statements, and the availability of environmental documents (that is, environmental assessments, findings of no significant impact, and environmental impact statements), as follows:

(1) Notices must be mailed to those who have requested them.

(2) Notices concerning a proposal of national concern must be mailed to national organizations reasonably expected to be interested. Any such notice must be published in the **Federal Register.** (See paragraph (a)(4) of this section).

(3) Notices of any proposed action having effects primarily of local concern are given as follows:

(i) Any such notice, including a copy of any pertinent environmental document, must be mailed to state, areawide, and local A–95 clearinghouses listed in OMB Circular A–95 (Revised) for the geographic area involved, to the State Historic

Preservation Officer, and to local public officials.

(ii) Any such notice must be published in one or more local newspapers.

(iii) Any such notice must be posted on and near any proposed and alternate sites for an action.

(iv) Any such notice may be mailed to potentially interested community organizations, including small business associations.

(v) Any such notice may be mailed to owners and occupants of nearby or affected property.

(4) A copy of every notice of intent to prepare an environmental impact statement must be furnished to the Assistant General Counsel, Legislative Division, Law Department, who will have it published in the Federal Register.

(39 U.S.C. 401)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 82-6829 Filed 3-11-82; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 1933-2]

Approval and Promulgation of Implementations Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: EPA announced elsewhere in today's Federal Register final rulemaking on parts of the Indiana sulfur dioxide (SO_2) State Implementation Plan (SIP). Indiana submitted these revisions to partially satisfy the requirements of Part D of the Clean Air Act, as amended in 1977. In the final rulemaking, EPA conditionally approved certain revisions to the Indiana SO_2 SIP. This notice solicits public comment on the deadline by which the State of Indiana has committed itself to remedy the conditionally approved portions of SO_2 SIP.

DATES: Comments must be received on or before April 12, 1982.

ADDRESSES: Comments should be sent to the following address:

Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Copies of the materials submitted by the State and the public during the comment period announced in this notice of proposed rulemaking are available for review during normal business hours at the following addresses:

USEPA, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Air Pollution Control Division, 1330 W. Michigan Street, Indianapolis, Indiana 46206.

USEPA, Public Information Reference Unit, 401 M Street SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6031.

SUPPLEMENTARY INFORMATION: In final rulemaking action published in today's Federal Register, EPA approved, conditionally approved, and disapproved portions of Indiana's SO_2 control strategies. A discussion of conditional approval and its practical effects appears in the July 2, 1979 and the November 23, 1979 Federal Registers (44 FR 38583 and 67182). A conditional approval requires the State to remedy identified deficiencies by specified deadlines. Although public comment is solicited on the deadlines, the State remains bound by its commitments unless the schedules are disapproved by EPA in its final rulemaking action. A conditional approval means that the restriction on new source construction in designated nonattainment areas will not apply unless the State fails to submit the corrections by the specified date, or unless the corrections are ultimately determined to be inadequate.

In today's final rulemaking, EPA also identified the conditions which must be satisfied by the State of Indiana to correct the specified deficiencies in the SO_2 revision to the Part D Indiana SIP. The State of Indiana has provided assurances in letters dated August 27, 1980 and July 16, 1981 that it will satisfy these conditions on a specific schedule.

EPA proposes to approve the following schedule for Indiana to correct the remaining minor deficiencies in the Lake, LaPorte and Marion Counties SO_2 SIP.

Schedules

1. The State of Indiana believes that the twenty-four hour standard is the limiting standard, and if a demonstration is made that it has been attained and will be maintained, the three hour standard and annual standards will also be met. The State of Indiana committed itself to submit documentation substantiating this belief. If protection of the three hour and annual standard cannot be justified, the State committed itself to investigate further and make necessary changes, including changes to affected regulations, and submit the same to EPA by November 1982.

2. The State of Indiana committed itself to submit the justification for the background concentrations for all appropriate averaging periods to EPA. If this documentation is not sufficient, the State of Indiana committed itself to investigate and make any necessary revisions, including changes to affected regulations, and submit the same to EPA by November 1982.

3. The State of Indiana committed itself to submit to EPA the corrected emission inventories for Marion and Lake Counties. If the submission is not adequate, the State committed itself to investigate and make necessary corrections, including changes to regulations, and submit the same to EPA by November 1982.

4. The State of Indiana committed itself to submit to EPA the corrected receptor network coverage and resolution, including a listing of the high and second high concentrations on critical days. If additional documentation is necessary, the State committed itself to investigate and make further revisions, including changes to affected regulations, and submit the same to EPA by November 1982.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator certified on January 27, 1981 (46 FR 8709) that regulatory actions approving revisions to SIP's under Sections 110 and 172 of the Act will not have a significant economic impact on a substantial number of small entities. This action, if promulgated, only approves State actions. It will impose no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This regulation, if promulgated, will not be major as defined by Executive Order 12291, because this action only approves a State action. This action only proposes for public comment those dates by which Indiana has committed itself to submit technical support and/or revisions to the SO_2 SIP which was conditionally approved elsewhere in today's Federal Register. This action should have no economic costs involved above those necessary to perform the revised analyses.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

(Sec. 110, 172, and 301(a) of the Clean Air Act, as amended)

Dated: March 5, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 82-6821 Filed 3-11-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 123

[SW-4-FRL-2073-3]

Georgia's Application for Interim Authorization, Phase II, Components A and B, Hazardous Waste Program; Public Hearing and Comment Period

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Notice of public hearing and public comment period.

SUMMARY: Regulations to protect human health and the environment from the improper management of hazardous waste were published in the Federal Register on May 19, 1980, (45 FR 33063). The hazardous waste management program regulations include provisions for authorization of State programs to operate in lieu of the Federal program and for a transitional stage in which States can be granted interim program authorization. This document announces the availability for public review of the Georgia application for Phase II, Components A and B Interim Authorization, invites public comment, and gives notice of a public hearing held on the application.

DATE: Written comments on Georgia Interim Authorization application must be received by the close of business on April 19, 1982.

Public hearing: EPA will conduct a public hearing on the Georgia Interim Authorization application at 7:00 p.m. on Monday, April 12, 1982. The State of Georgia will participate in the public hearing held by EPA on this subject.

ADDRESSES: Copies of the Georgia Interim Authorization application are available at the following addresses for inspection and copying by the public:

Land Protection Branch, Environmental Protection Division, Georgia Department of Natural Resources, 270 Washington Street, SW., Room 824, Atlanta, Georgia 30334, Telephone: 404/656-2833;

Environmental Protection Agency, Regional Office Library, Room 121, 345 Courtland Street NE., Atlanta, Georgia 30365, Telephone: 404/881-3016;

Environmental Protection Agency, Headquarters Library, 401 M Street, SW., Washington, D.C. 20460, 202/755-0308.

Written comments should be sent to: James H. Scarbrough, Chief, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365, Telephone: 404/881-3016.

The public hearing will be held at: Environmental Protection Agency, First Floor Conference Room, 345 Courtland Street NE., Atlanta, Georgia 30365, Telephone: 404/881-3016.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. Telephone: 404/881-3016.

SUPPLEMENTARY INFORMATION: In the May 19, 1980, Federal Register (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended, to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted Interim Authorization. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. The State of Georgia received Interim Authoxiation for Phase I on February 3, 1981.

In the January 26, 1981, Federal Register (46 FR 7965), the Environmental Protection Agency announced the availability of portions or components of Phase II of Interim Authorization. Component A, published in the Federal Register January 12, 1981, (46 FR 2802) contains standards for permitting containers, tanks, surface impoundments, and waste piles. Component B published in the Federal Register January 23, 1981, (46 FR 7066) contains standards for permitting hazardous waste incinerators.

A full description of the requirements and procedures for State Interim Authorization is included in 40 CFR Part 123 Subpart F (45 FR 33479). As noted in the May 19, 1980, Federal Register copies of complete State submittals for Phase II Interim Authorization will be made available for public inspection and comment. In addition, a public hearing will be held on the submittal.

The purpose of this notice is to announce the availability of the Georgia submittal for Phase II Interim Authorization, Component A and Component B; to invite public comment; and to give notice of a public hearing to be held on Georgia's application.

In addition, Georgia has applied for delegation from EPA of its authority under the temporary regulations promulgated as the Interim Land Disposal Permitting Program (40 CFR Part 207).

Dated: March 5, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 82-6883 Filed 3-11-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 123

[WH-5-FRL-2073-2]

Illinois Department of Mines and Minerals Underground Injection Control Primacy Application; Cancellation of Public Hearing

AGENCY: Environmental Protection Agency.

ACTION: Notice of cancellation of public hearing.

SUMMARY: The public hearing on the Illinois Department of Mines and Minerals Underground Injection Control Primacy Application, scheduled for March 16, 1982, has been cancelled. The public hearing had been announced in the Friday, February 12, 1982 Federal Register (47 FR 6445). No requests for a public hearing have been received.

FOR FURTHER INFORMATION CONTACT: James Mayka, Ground Water Section (5WD-26), Environmental Protection Agency, Region 5, 230 S. Dearborn Street, Chicago, Illinois 60604, (312) 886-6194.

Dated: March 5, 1982.

Bruce R. Barrett,

Acting Assistant Administrator for Water.

[FR Doc. 82-6814 Filed 3-11-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Parts 122, 123, 124, 146

[WH-FRL-2073-1]

Oklahoma State Department of Public Health Underground Injection Control Primacy Application; Correction

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; correction.

SUMMARY: The Environmental Protection Agency on March 2, 1982, in 47 FR 8792 gave notice of intent to hold a public hearing on the Oklahoma Underground

Injection Control (UIC) Program. This document corrects the heading of the notice which referenced the Oklahoma Department of Natural Resources as the sponsoring agency. This was incorrect; the Oklahoma State Department of Health is the Agency applying for primacy.

FOR FURTHER INFORMATION CONTACT: Susan Stark, Ground Water Protection Section, Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2774.

Dated: March 5, 1982.

Victor J. Kimm,

Director, Office of Drinking Water.

[FR Doc. 82-6827 Filed 3-11-82; 8:45 am]

BILLING CODE 6560-20-M

40 CFR Part 123

[W-9-FRL 2073-5]

Wyoming Oil and gas Conservation Commission and Department of Environmental Quality; Underground Injection Control; Primacy Applications

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has received complete applications from the Wyoming Department of Oil and Gas Conservation Commission and the Wyoming Department of Environmental Quality requesting primary enforcement responsibility for the Underground Injection Control program; (2) the applications are available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

This notice is required by the Safe Drinking Water Act as a part of the response to the States complying with the statutory requirement that there be an Underground Injection Control program in designated States.

The proposed comment period and public hearing will provide EPA the breadth of information and public opinion necessary to approve, disapprove, or approve in part the application from the Wyoming Oil and Gas Conservation Commission to regulate Class II injection wells and the application of the Department of Environmental Quality to regulate Classes I, III, IV and V injection wells.

DATES: Requests to present oral testimony should be filed by April 6, 1982; the public hearing will be held on April 13, 1982, in two sessions: 10:00 a.m. and 7:00 p.m. Comments must be received by April 20, 1982.

ADDRESSES: Comments and requests to testify should be mailed to Wilma Martin, Drinking Water Branch, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295. Copies of the applications and pertinent materials are available between 8:30 a.m. and 4:00 p.m., Monday through Friday at the following locations:

Environmental Protection Agency, Region VIII, Drinking Water Branch, 6th Floor, 1860 Lincoln Street, Denver, CO 80295, PH: (303) 837–2731, (*Entire Application*)

Oil and Gas Conservation Commission, State Oil and Gas Supervisor, 123 South Durbin, P.O. Box 2640, Casper, WY 82602, (*Class III Portion Only*)

Department of Environmental Quality, Equality State Bank Building, 401 West 19th Street, Cheyenne, WY 82002, PH: (307) 777–7937, (*Entire Application*)

The Hearing will be held in Room CE203 (Victorian Room), College Center, Casper College, 125 College Drive, Casper, Wyoming.

FOR FURTHER INFORMATION CONTACT: Patrick Crotty, Chief, Colorado/North Dakota/Wyoming Section, Drinking Water Branch, Environmental Protection Agency, Region VIII, 1860 Lincoln St., Denver, Colorado 80295, (303) 837–2731.

SUPPLEMENTARY INFORMATION: The application from the Wyoming and Gas Conservation Commission is for the regulation of all Class II injection wells in the State. The application from the Wyoming Department of Environmental Quality is for the regulation of all Classes I, III, IV and V injection wells in the State. The applications include program descriptions, copies of all applicable rules and forms, a statement of legal authority and appropriate memoranda of agreement.

Dated: March 5, 1982.

Bruce E. Bazrell,

Acting Assistant Administrator for Water.

[FR Doc. 82-6828 Filed 3-11-82; 8:45 am]

BILLING CODE 6560-50-M

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1510

National Oil and Hazardous Substances Pollution Contingency Plan

Cross Reference: For a document issued by the Environmental Protection Agency, regarding the proposed transfer of Council on Environmental Quality regulations on national oil and hazardous substances pollution contingency plan to the Environmental Protection Agency, see FR Doc. 82-6315 published in the Proposed Rules section of this issue. Refer to the table of contents under "Environmental Protection Agency" to determine the appropriate page number.

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

46 CFR Part 536

[General Order 13 Revised; Docket No. 82-13]

Exemption of Bulk Cargo Moving in the Foreign Commerce of the United States From the Tariff Filing Requirements of Section 18(b) of the Shipping Act, 1916

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This would exempt certain bulk commodities loaded and carried by liner operators in containers, trailers, rail cars or similar intermodal equipment from the tariff filing requirements of the Shipping Act, 1916. Such exemption appears warranted because identical cargoes when carried by tramp operators are not subject to such requirements. The Commission is also soliciting comments on alternative proposals to exempt other or all bulk commodities from such tariff filing requirements.

DATE: Comments must be submitted on or before April 12, 1982.

ADDRESS: Comments (original and 15 copies) to: Francis C. Hurney, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION: By separate Notice served this date, the Commission is issuing an Interpretative Rule which provides that bulk cargo loaded into a container or similar intermodal equipment (except LASH or Seabee barges) is "loaded with mark or count" and therefore subject to the tariff filing requirements of the section 18(b)(1) of the Shipping Act, 1916 (46 U.S.C. 817(b)(1)). Docket 80–70, *Proposed Interpretative Rule, Status of Bulk Commodities.* However, the Commission stayed the effective date of this Interpretative Rule until a review of the feasibility of exempting all or some bulk commodities from section 18(b)(1) requirements could be completed pursuant to section 35 of the Act (46 U.S.C. 833a). This proceeding is intended to provide that review.

Comments received in response to Docket No. 80–70 indicated that certain types of bulk commodities are carried both by liner operators, in containers, and by non-liner, tramp operators. These commodities, which are generally unprocessed and have homogenous characteristics, are used by liner operators to fill unbooked space which might otherwise remain empty. Because liner operators must compete with tramps for such cargoes, they could be adversely affected if they were required to file rates in their tariffs for the carriage of such commodities or otherwise meet the requirements of section 18(b). The Commission is now proposing a rule which would exempt this type of bulk commodity from the tariff filing requirements of section 18(b).

However, this proposed rule would not apply to such commodities as wine or spirits, metal or textile scrap, chemicals, oils, animal food, or fertilizer, since they are processed and do not generally appear to be carried by tramp operators. Under the proposed rule, they would thus continue to be subject to the tariff filing requirements of section 18(b). However, the Commission is not precluding the exemption of this type of bulk commodity loaded in containers or similar intermodal equipment, if comments persuade it that such action is warranted.

Commenting parties are therefore invited to also address this matter in their submissions.

This proposed exemption would eliminate the tariff filing requirements for ocean common carriers which transport certain bulk commodities in intermodal equipment. The primary beneficiaries of this exemption are vessel operating common carriers who are generally not "small entities" within the meaning of 5 U.S.C. 601. Small entities, *i.e.*, certain shippers, may enjoy a secondary benefit from the proposed rule. However, it is not foreseen that this will amount to a significant economic impact on these interests.

PART 536—PUBLISHING AND FILING TARIFFS BY COMMON CARRIERS IN THE FOREIGN COMMERCE OF THE UNITED STATES

Therefore, pursuant to sections 18(b) and 35 of the Shipping Act, 1916 (46 U.S.C. 817 and 833a) and 5 U.S.C. 553, the Commission proposes to amend 46 CFR Part 536 by the addition of the following exemption.

Section 536.1 is amended by adding new paragraph (a)(8) to read as follows:

§ 536.1 [Amended]

(a) • • •

(8) Transportation of bulk cargo moving by water in the foreign commerce of the United States which is loaded and carried aboard liner vessels in containers, trailers, rail cars or similar intermodal equipment. For the purposes of this section "bulk cargo" means those commodities which are in a loose, unpackaged form, have homogeneous characteristics and are unprocessed from their natural state or not further manufactured.

• • • • •

Alternatively, the Commission will consider the exemption of other or all bulk cargo carried aboard vessels in containers, trailers, rail cars, or similar intermodal equipment.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-6712 Filed 3-11-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 82-122; FCC 82-102]

Interconnection Arrangements Between and Among the Domestic and International Record Carriers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This Notice of Proposed Rulemaking requests public comment on Commission imposition of interconnection arrangements between Western Union and U.S. international record carriers for the purpose of promoting fully competitive markets for domestic and international record communications services. It is issued pursuant to the Commission's responsibilities under the Record Carrier Competition Act of 1981.

DATES: Comments shall be filed on or before March 10, 1982, and reply comments on or before March 17, 1982.

ADDRESS: Comments and replies should be submitted to: The Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: James L. Ball/Stuart Chiron, International Facilities Authorization & Licensing Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, (202) 632–7285.

SUPPLEMENTARY INFORMATION:

Adopted: February 25, 1982.

Released: March 3, 1982.

In the matter of interconnection arrangements between and among the domestic and international record carriers, CC Docket No. 82–122.

I. The Legislation

1. The Record Carrier Competition Act of 1981 (the Act) became law on December 29, 1981.[1] The Act amends Section 222 of the Communications Act of 1934 to eliminate the statutory bar on the provision of international record services by the Western Union Telegraph Company (WU). In addition to setting aside a long standing barrier to increased competition in the international record market, the Act generally requires the Commission to promote the development of fully competitive domestic and international markets in the provision of communications services and prohibits record carriers from imposing on users of any regulated record communications services the costs of any other services.[2]

2. Section 222(c)(1)(A)(i) directs the Commission to "require each record carrier to make available to any other record carrier, upon reasonable request, full interconnection with any facility operated by such record carrier, and used primarily to provide record communications service. Such facility shall be made available, through written agreement, upon terms and conditions which are just, fair, and reasonable, and which are otherwise consistent with the purpose of this section." To this end section 222(c)(3)(A) requires the Commission to convene, monitor and preside over interconnection negotiations between and among the domestic and international record carriers (IRCs).[3]

3. The legislation requires the Commission to convene a meeting between the "primary existing IRCs" and the domestic "record carrier" within

[1] Pub. L. 97–130, 95 Stat. 1687 (1981). The Act, which totally amends section 222, appears as Appendix A. (Filed as a part of the original document.)

[2] See sections 222 (b)(1) and (b)(2) as revised by the Act.

[3] The primary existing IRCs participating in these negotiations are: RCA Global Communications, Inc. (RCAG), ITT World Communications Inc. (ITTWC), Western Union International, Inc. (WUI), TRT Telecommunications Corporations (TRT) and FTC Communications, Inc. (FTC). Graphnet Systems, Inc. (Graphnet) and WU are participating as domestic record carriers.

15 days of enactment for the purpose of negotiating an interconnection agreement. The Act provides that if the domestic record carrier subject to the interconnection requirement (WU) and a majority of the primary existing IRCs do not reach an agreement within 45 days of the first meeting date, then the Commission is to prescribe an interconnection agreement no later than 90 days after the initial interconnection meeting. However, if the domestic record carrier and a majority of the primary existing IRCs subsequently reach agreement before the issuance of an interconnection order by the Commission, then the Commission need not issue its order and the parties' agreement would take effect. Most of the provisions of revised section 222 concerning interconnection "sunset" after three years. Any extension of the interconnection arrangements after three years would be evaluated by the Commission under section 201 of the Communications Act.

4. The initial meeting was held on January 8, 1982.[4] The 45 day period for a carrier agreement will expire on February 22, 1982. The 90 day period for a Commission prescribed agreement will expire on April 8, 1982. This Notice of Proposed Rulemaking is issued pursuant to the Act and as a result of the parties' inability to reach an interconnection accord. We strongly urge the parties to continue to negotiate and reach an agreement prior to the issuance of an interconnection order by the Commission.

5. During the negotiations the parties presented proposals relating to interconnection costs, rates, locations, technical requirements, billing procedures and access schemes. These proposals appear generally in File No. I–S–P–82–002.[5] The parties also offered various interpretations of the Act, discussed the issue of inherent cost savings involved with carrier-to-carrier interconnection and made proposals as to the allocation of revenues for domestic and international inter-network (interconnected) transmissions. To assist all interested entities in submitting comments on the various issues presented in this proceeding, the existing networks, rates and interconnection arrangements, as well as proposed interconnection arrangements, are described below.

II. Existing Networks, Rates, Interconnection Arrangements and Access

6. WU currently offers domestic telex and TWX (sometimes referred to as telex II) service over an integrated switched network.[6] The IRCs currently provide the U.S. portion of international record service between various points in the continental United States and overseas points. WU's telex customers pay a distance insensitive (postalized) rate of 34.75¢ per minute for an intra-network (non-interconnected) transmission. WU's TWX customers pay a postalized rate of 43¢ per minute for an intra-network transmission. Customers connected to an IRC network are charged a postalized rate for outbound international transmissions which varies for each overseas destination. Inter-network (interconnected) transmissions currently result in the payment of two postalized charges, usually referred to as an end-on-end rate. Thus, a WU telex or TWX customer accessing an IRC switch for an outbound international transmission pays the WU domestic postalized rate plus the IRC international postalized rate. An IRC customer directly accessing the IRC switch pays only the IRC postalized rate. For inbound international telex traffic the foreign correspondent sets the collection rate, collects this amount from its customer and pays the interconnecting IRC pursuant to settlement and accounting agreements.[7] The IRC then delivers the call to its customer (no charge involved) or hands the call off to a domestic carrier for delivery to its customer at that carrier's domestic transmission rate (34.75¢ for WU) which is paid by the IRC.

7. Currently, WU offers only domestic service and the IRCs offer only international service. [8] WU and the IRCs interconnect ony for the delivery/acceptance of international inbound/outbound traffic.There is no WU–IRC interconnection for domestic service. There are interconnection and transiting arrangements among the IRCs for the handing-off of outbound international traffic in cases where an IRC lacks an operating agreement to serve a particular overseas point. Graphnet provides a limited domestic service and has contracted with the IRCs to deliver international inbound telegam massages. Graphnet also interconnects with both Western Union and the IRCs for the provision of domestic and international services.

8. WU and IRC intra-network calls can be completed employing a single stage dialing (access) procedure. A customer is already "plugged in" to a carrier's network and reaches another party on the same network by dialing that customer's number. Inter-network calls between the WU and IRC systems require coordination between two distinct networks and generally require a two stage dialing procedure. In the first stage the customer would access the second network by dialing the second network's access code. In the second stage the customer would transmit the called party's number to the second carrier and that carrier would route the call to the desired party. Thus, for an outbound international call, a WU customer would access an IRC (a three digit number, 10X, would be dialed) as the first stage and then transmit to the IRC as the second stage the country code, the number of the called party and any special transmission instructions.

III. IRC's Proposals [9]

9. At the outset of the interconnection negotiations the IRCs reached a general consensus on several points and endorsed in principle an interconnection agreement recently entered into by RCAG and ITTIWC as the model for interconnection with WU. The IRCs also supported an allocation of revenues proposal presented by RCAG. The major points of the IRCs' initial position are summarized below.

(a) Discussion of the terms and conditions of domestic interconnection should precede discussion of international interconnection matters.

(b) Technical and engineering factors such as interconnection at particular hierarchies of WU's network, locations for interconnection and cost and type of interfacing facilities for interconnection are secondary and therefore primary attention should be focused on allocation of revenue issues.

(c) The end-on-end rate concept is unacceptable because, in a direct competitive environment, inter-network service would rarely be priced below intra-network services. WU cannot be permited to exploit its 140,000 teleprinter advantage and its previous monopoly position to maintain and acquire market shares.

(d) For domestic telex interconnection the IRCs support a 20¢ accounting rate and a 50/50 settlement rate. Under this proposal the originating carrier would set the tariff rate and the terminating carrier would receive 10¢ (20¢/2). In addition to establishing the collection rate, the originating carrier would bill the customer, collect from the customer and pay the terminating domestic carrier.[10]

(e) For international outbound telex traffic employing more than one U.S. carrier, RCAG proposes that the U.S. carrier over whose network or facilities the transmission is initiated receive 25¢ per minute, the amount equal to that retained by the originating carrier for a domestic interconnection. The carrier to whom the transmission is handed-off for international carriage and delivery to a foreign correspondent would be the originating carrier and establish the collection rate, bill the customer and particiate in the accounting/settlement procedures with the overseas entity. Interconnection between U.S. carriers for the transmission of outbound telex traffic would occur if the customer desired the second carrier to be responsible for the international segment of the transmission or it the initiating carrier lacked an operating agreement with the foreign correspondent involved.

(f) For international inbound telex traffic employing more than one U.S. carrier, RCAG proposes that the U.S. carrier receiving the traffic from the overseas entity participate in the international accounting/settlement procedures. The carrier delivering the traffic would receive 10¢, the amount allocated to the terminating carrier for a domestic interconnection transmission. Interconnection between U.S. carriers for the transmission of inbound telex traffic would occur if the foreign customer desired the second carrier to be responsible for the domestic segment of the transmission or if the transmission recipient was not on the first carrier's network.

(g) Interconnection should promote conscious customer selection without financial disincentives. Hence, the determination of which carrier is the originating carrier for international outbound transmissions and authorized to share in the larger revenue pot established by international accounting rates should be a function of customer selection. An international outbound telex call should be considered to originate from the carrier making overseas delivery regardless of which carrier provided the teleprinter or tie-line.

(h) Telex access codes are business addresses and must be preserved. Universal dial-up access from any one terminal is essential and hence a standardized code format must be maintained. Interconnected customers need not receive the same type of access as tie-line (intra-network) customers.

IV. WU's Proposal

10. WU's initial position is that equal interconnection and universal access must include international as well as domestic features with no presumed negotiation preference for domestic matters first; that the originating carrier should establish and tariff the rate for both domestic and international traffic originating on its network; and that the terminating carrier should receive revenues fully compensating it for carriage services. The major points of WU's counter-proposal as to division of revenues are outlined below.

(a) In an interconnection situation the originating carrier establishes the collection rate, bills the customer and collects from the customer.

(b) In an interconnection situation the terminating carrier is entitled to recoup its costs through revenue settlements with the originating carrier.

(c) The originating carrier must pay the terminating carrier that carrier's costs and may recover its own costs by setting a sufficiently high rate to the public.

(d) The initiation of a telex transmission by a customer employing a particular carrier's terminal or tie-line would establish that carrier as the originating carrier.

(e) WU's costs: WU claims that 34.75¢ per minute covers its cost to: (1) route a domestic telex transmission entirely over its own network; (2) terminate on its network a domestic telex transmission originating on another network; (3) originate a domestic telex transmission terminating on another network; (4) deliver an outbound international telex transmission from a customer on its network to an IRC; and (5) deliver an inbound international telex transmission to a customer on its network from an IRC. (Thus, WU maintains that no appreciable or identifiable cost savings exist for transmissions that do not both originate and terminate on its domestic network.)

(f) Domestic competition: For an interconnected domestic transmission the originating carrier would establish the collection rate, bill the customer, collect the rate from the customer and pay the terminating carrier that carrier's costs. Competition would be provided by the originating carrier setting its collection rate at or near what another originating carrier would charge. Any carrier able to reduce its costs would make its network more marketable.

(g) International competitor: For an interconnected international transmission the originating carrier (the first U.S. carrier) would establish the entire collection rate, bill the customer, collect the rate from the customer and pay the international carrier (the second U.S. carrier) that carrier's costs. The carrier providing the overseas segment would include in its costs all sums payable to the foreign correspondant as a result of international accounting and settlement agreements. The amount, if any, of the collection rate added on by the originating carrier to cover its own costs (the amount by which the

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[4] Subsequent meetings between the parties were held on January 20, 25, and 29 and February 4, 8, 12, 18, 22, and 23, 1982. All meetings were presided over and monitored by the Commission. Additionally, a technical committee was established by the parties to resolve various engineering problems.

[5] The negotiating parties raised several questions regarding the statute's meaning and Congress' intent. Areas of conflicting or uncertain interpretation include: (1) the type of traffic which would be subject to the "pro rata share" language of section 222(c)(1)(A)(ii); (2) whether a domestic carrier is entitled to share bearer circuits with an IRC under section 222(c)(1)(A)(ii); (3) whether the interconnection required in section 222(c)(1)(B) should be interpreted to mandate absolute or general equality; (4) whether FTC has a significant market share under section 222(c)(1)(B); and (5) the establishment of a nondiscriminatory formula for the equitable allocation of revenues and the determination of who is the originating carrier for an international outbound transmission under section 222(c)(2).

[6] Telex and TWX are both switched network services. A telex subscriber has the a bility to dial any other subscriber on the telex network to establish direct, real time, two-way communications in the typewritten or data mode. A TWX subscriber has a similar ability to dial any other TWX subscriber. Although the two services employ different codes and are transmitted at different speeds, telex and TWX subscribers may "talk" to each other via WU's Informaster computer. Telex is available worldwide and is oriented toward message use. TWX is available only in Canada and the U.S. and is well suited for low speed data transmission.

[7] Before a U.S. carrier can operate a direct international service to a particular overseas point, it must enter into an operating agreement with the foreign telecommunications administration. The agreement indicates the terms and conditions under which the carrier may interconnect and gain access to the foreign nation's domestic telecommunications network. The parties establish an accounting rate (a figure for each unit of service which the carriers use to pay for the other's service) and a settlement rate (division of the accounting rate, ordinarily 50/50). After inbound and outbound traffic volumes are totalled, the carriers calculate the net traffic yields and the amount due or owed pursuant to the accounting and settlement rates. The settlement rate includes specific currency conversion levels to facilitate a final accounting. While a U.S. carriers's rate to the public (the collection rate) is established by that carrier and may vary, all carriers providing service to the same overseas point have identical accounting and settlement rates with the foreign administration to prevent "whipsawing" by that foreign administration. See *Uniform Settlement Rates on Parallel International Communications Routes*, 66 F.C.C. 2d 359, (1977), 64 F.C.C. 2d 121 (1980).

[8] The five primary existing IRCs were authorized to provide wholly domestic non-voice services on December 17, 1981. *RCA Global Communica-tions, Inc. et al.*, FCC Order 81–577 (released January 11, 1982) however, their tariffs for these services have not yet gone into effect.

[9] The on-going nature of the negotiations and the lead time needed to prepare, release and publish an NPRM precludes the full presentation here of any party's position other than its initial proposal.

[10] WU's approximate current rate and the rate proposed by IRCs in their recently filed domestic telex tariffs is 35¢ per minute. Utilizing a collection rate of 35¢, a 20¢ accounting rate and a 50/50 settlement rate, the originating carrier would receive 25¢ (35¢ − 20¢ + 20¢/2) and the terminating carrier would receive 10¢ (20¢/2).

collection rate exceeds the interconnected international carrier's costs) on a particular route would be the same (non-discriminatory) for all interconnecting international carriers. Competition among originating carriers would be provided by an originating carrier reducing the portion of the collection rate allocated to domestic carriage to a level at or near what other carriers charge for domestic carriage. Competition among the international carriers would be provided by an international carrier reducing its rates for the international carriage segment. Any such reduction by an international carrier would be reflected in the originating carrier's tariff for service through that particular international carrier to a particular overseas point. Thus, the originating carrier would have a distinct through rate to a particular overseas point for each interconnected international carrier consisting of a domestic and an international component. The domestic carrier would bill the customer for the total number of minutes its system was used.

V. Discussion

A. Introduction

11. At the outset, we emphasize that any interconnection order we impose will include interconnection guidelines for both domestic and international record communications. We also emphasize that any interconnection order will attempt to preserve service quality to the public, maximize the ability of market forces to govern the variety and price of available services and facilities, and create incentives for the entry of the IRCs into the domestic market and of WU into the international market. Below we analyze the Act, indicate how our statutory interpretations effect the various technical and financial issues, and reach several tentative conclusions.

B. The Act

12. While several key sections of the Act were interpreted differently by the negotiating parties, there was little dispute over most provisions. The parties generally accepted a number of concepts as being Congress' intent, encompassed in the legislation and reflected in the Energy and Commerce Committee Report of the House of Representatives: [11] reliance on competition (section 222(b)(1)); an explicit ban on cross-subsidization (section 222(b)(2)); full interconnection on terms and conditions which are just, fair, and reasonable (section 222(c)(1)(A)(i)); pro rata distributions of inbound traffic to interconnected carriers initiating outbound traffic to facilitate market entry (section 222(c)(1)(A)(ii)); the unbundling of domestic and international carriage as if the domestic and international operations of a carrier were being provided by two separate entities (section 222(c)(1)(B)); equitable allocation of revenues for interconnected transmissions based on costs of services and facilities employed on the terminating carrier's network (section 222(c)(2)); mandated interconnection negotiations (section 222(c)(3)); and a moratorium on the Commission's authority to take any final action on a WU application to provide international service (section 222(c)(5)).

13. In addition, the parties generally agreed that for a domestic inter-network transmission the "originating carrier", the carrier on whose network the calling party initiates the call, would tariff the rate, bill the calling party, collect the entire through rate from the calling party and pay the "terminating carrier" that carrier's costs. It was also accepted by the parties that for an international inbound transmission requiring interconnection by two U.S. carriers to effectuate delivery, the U.S. carrier receiving the transmission from the overseas administration would participate in the international settlement and accounting procedure, hand-off the transmission to a second U.S. carrier for domestic delivery, and pay the domestic carrier its terminating costs. The parties also agreed that inbound international traffic, in cases where a called party in the U.S. had more than one terminal, should generally be handed-off to the domestic carrier selected by the overseas party. The parties reached no general consensus regarding the handling of international soutbound traffic, the determination of an interconnected carrier's costs, and the resolution of several technical interconnection issues.

14. During the negotiations the discussions focused on four major areas of disagreement. First, the carriers could not agree whether the language of sections 222(c)(1)(B) (ii) and (iii), requiring any interconnection between a carrier's separate domestic and international segments to be "equal in type and quality" with the interconnection furnished to other domestic or international service providers, mandated general or absolute equality in all dialing and technical access features. Second, no agreement was reached regarding which U.S. carrier would act as the originating carrier for outbound international transmissions. WU proposed that each domestic service provider would tariff several through rates composed of a variable international component set by each international carrier and a nondiscriminatory domestic component set by the domestic carrier on whose network the calling party was located. The domestic carrier would bill the calling party and pay the international carrier its costs. The IRCs proposed that the international service provider should tariff the through rate, bill the calling party and pay the domestic service provider its initiating costs. Third, while all the negotiating parties agreed that the terminating carrier would be entitled to recoup its interconnection costs from the originating carrier, they could not agree on a particular fixed cost figure or a costing methodology which could determine such a figure. Finally, the carriers could not agree as to exactly what traffic categories should be included in the pro rata allocation of inbound traffic required by section 222(c)(1)(A)(ii), how that allocation would be made, and whether a domestic carrier had a statutory right under this section to share bearer circuits with an international carrier to overseas points.

15. Set forth below are our tentative conclusions and proposals in each of these four areas.

1. *Equal in Type and Quality.*

16. Section 222(c)(1)(B) provides as follows:

(B) The Commission shall require that—

(i) If any record carrier engages both in the offering for hire of domestic record communications services and in the offering for hire of international record communications services, then such record carrier shall be treated as a separate domestic record carrier and a separate international record carrier for purposes of administering interconnection requirements;

(ii) In any case in which such separate domestic record carrier furnishes interconnection to such separate international record carrier, any interconnection which such separate domestic record carrier furnishes to other international record carriers shall be (I) *equal in type and quality;* and (II) made available at the same rates and upon the same terms and conditions; and

(iii) In any case in which such separate international record carrier furnishes interconnection to such separate domestic record carrier, any interconnection which such separate international record carriar furnishes to other domestic record carriers shall be (I) *equal in type and quality;* and (II) made available at the same rates and upon the same terms and conditions.

The requirements of clauses (i), (ii), and (iii) shall not apply to a record carrier if such record carrier does not have a significant share of the market for record communications services (emphasis added).[12]

17. The issue raised by the parties regarding section 222(c)(1)(B) is whether it requires absolute equality in the type and quality of access (customer dialing and network engineering) between a carrier's domestic and international segments, on the one hand, and between one carrier's domestic or international segment and another and another carrier's international or domestic segment, on the other hand. For example, must ITTWC's domestic segment interconnect with RCAG's international segment in exactly the same manner as it interconnects with its own international segment. For the reasons found below we tentatively conclude that section 222(c)(1)(B) requires general but not absolute equality in the type and quality of interconnection provided.

18. As described in paragraphs 6 through 8 above, both domestic and international intra-network transmissions presently employ single stage dialing while inter-network transmissions generally require two dialing stages. Thus, a WU customer initiating a call to another WU customer merely dials the called party's number in one stage. Similarly, an IRC customer reaches an overseas party by dialing a country code and the number of the called party all in one stage. Any interconnection between networks, WU–IRC, now requires two stage dialing. A reading of the separate carrier lanquage of the section to require absolute equality in dialing access would require a customer on an IRC network desiring to make an intra-network international call to reach the called party in exactly the same number of dialing stages that an inter-network international call would require. This could effectively terminate single stage dialing for international transmissions if the carriers do not now possess the technology or equipment to initiate single stage dialing for all inter-network international calls. As a corollary, universal two stage dialing could require customers making intra-network international calls to dial unnecessary dummy digits and perhaps have their transmissions routed through additional switches. From the negotiations it appears that both intra-network and inter-network domestic transmissions can be completed in one stage with an equal number of digits dialed.

19. The WU domestic network provides approximately half of its telex and all of its TWX service through a digital exchange system (DES) which can be described as the positioning of four fully interconnected, multi-level switching centers with traffic routed through one of the four main DES switching sites. Employing computers and programmable front end (PFE) equipment, a transmission from the telex or TWX subscriber is routed over a number of concentration, multiplexing and modem devices to a PFE at a DES site. The transmission is then routed to the called party through the same PFE, a PFE within the same DES site or to a PFE at a different DES site. The IRCs' systems, which directly serve a much smaller number of customers than WU's system, utilize a single major switching center which performs all the necessary conversion and routing functions. These networks are not identical and possess different switching and routing capabilities and characteristics. Absolute equality of type and quality of interconnection could require modification of existing systems to satisfy a statutory argument rather than significantly improve service. WU has proposed to route all of its intra-network traffic, both domestic and international, through its DES sites. WU has also proposed, for system capacity reasons, to limit access to the DES network for some types of inter-carrier traffic. Unless such a routing lessens the quality of service to the customer we would view it as providing general equality in type and quality of interconnection.

20. We tentatively conclude that a statutory interpretation of section 222 (c)(1)(B) which would require the inclusion of unnecessary dialing stages or digits, the discontinuance of a convenient and desirable service and the routing of messages in more ciruitous routes or through unnecessary switches, is not required by the Act. Requiring absolute equality in type and quality of interconnection for different systems would inhibit rather than promote competition, would degrade rather than improve service, would promote inefficiency rather than efficiency, would cause customer confusion, and would be contrary to the public interest and our goal of making available adequate facilities to all users at reasonable rates. We therefore read section 222 (c)(1)(B) to require general rather than absolute equality in the type and quality of interconnection. However, we expect carriers to interconnect in the most efficient manner reasonably available to decrease the number of required dialing stages, digits and equipment,[13] and to interconnect at the same rates and upon the same terms and conditions as with their intra-network segments. We emphasize that general equality requires parity except in those cases where: (1) parity could only be achieved through an unreasonably expensive system modification; (2) parity could not be achieved due to technological or equipment availability impossibilities; or (3) parity could only be obtained through an unreasonable degradation of service.

2. *Originating/Terminating Carrier Determination*

21. Section 222(c)(2) calls for the establishment of a non-discriminatory formula for the equitable allocation of revenues derived from inter-carrier services. This provision has generated two major controversies among the negotiating parties. First, which carrier should, for outbound international interconnected traffic, set the tariffed rate, bill and collect from the customer, and make an equitable allocation of revenues with the other participating U.S. carrier. Second, what are the network costs for terminating or initiating a through service transmission, i.e., what are the costs which the non-originating carrier is entitled to recoup? We address these issues below.

22. For a non-interconnected (intra-network) domestic transmission a carrier both originates and terminates the call. The carrier provides all the facilities, exercises full control over the service, calculates the costs, establishes the tariffed rate, bills its customer and collects the rate from that customer. For an interconnected (inter-network) domestic transmission the carrier providing direct service and access to the calling party is the originating carrier and, in addition to performing the originating carrier functions described above, pays the terminating carrier that carrier's costs. For an inbound international transmission the foreign correspondent acts as the originating carrier. If only one U.S.

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[11] Report No. 97-338, 97th Cong. 1st Sess. (Dec. 3, 1981) (Hereinafter cited as Commitee Report).

[12] We note that all domestic intra-network transmissions fall outside this section of the Act. All international transmissions, both inter-network and intra-network, have domestic and international segments and are within section 222(c)(1)(B). All inter-network transmissions are within section 222(c)(1)(A)(i). We tentatively conclude that WU and all five primary existing international record carriers have significant market shares and must comply with the separate carrier segment requirement.

[13] During the mid-February negotiating sessions the technical feasibility of one stage IRC–WU inter-network access was discussed.

carrier is involved in accepting and delivering an inbound international transmission then no interconnection occurs between U.S. carriers and the accepting carrier will settle with the foreign correspondent. If two U.S. carriers are required to effectuate delivery to the called party, then the U.S. international carrier will interconnect with a U.S. domestic carrier. The U.S. international carrier settles with the foreign correspondent and pays the other U.S. carrier that carrier's costs. We tentatively conclude that the above arrangements which are currently practiced by the negotiating parties, to be reasonable and worthy of continuance.

23. For interconnected outbound international transmissions, two U.S. carriers' networks are employed. At present an interconnected outbound international transmission (WU–IRC) is treated as having distinct domestic and international segments. The domestic and international carrier each tariffs its service, bills the customer for its service and collects for its service. With the complete unbundling of domestic carriage by the parties pursuant to section 222(c)(1)(B) [14] and the future development of additional through service options and competition, the negotiating parties viewed the carrier entitled to tariff the through outbound service, bill, collect, and settle with the foreign correspondent as obtaining a marketing advantage over the interconnected U.S. carrier. As described in the parties' proposals, WU and the IRCs each presented detailed plans in which the domestic (WU's proposal) or international (the IRCs' proposal) carrier would act as the outbound "originating carrier." Three approaches were explored by the negotiating parties. First, permit separate domestic and international tariffs and billings as now exist. Second, permit the domestic carrier to tariff and bill the through rates as recommended by WU. In this proposal the interconnected IRC would receive its costs, including the settlement amount, from the domestic carrier. Third, permit the U.S. international carrier to tariff and bill the through rates as recommended by the IRCs. In this proposal the domestic carrier would receive its costs from the international carrier.

24. We tentatively conclude that the third option would best serve the public interest. We reject the first option, the status quo proposal, as being inconsistent with the intent of the Act and as imposing duplicative administrative costs on carriers and inconveniences on users. Our preference for the third approach is based on the important role played by the IRCs in the international record market as the procurers of operating agreements, the perception of users that they are generally selecting an IRC rather than WU for outbound service, and certain technical and billing problems which may arise if WU is the originating carrier. Traditionally, the international carrier for outbound traffic has been the entity which possesses an operating agreement with a foreign administration setting out the terms and conditions for international interconnection. The foreign administration negotiates settlement and accounting rates with the IRCs, looks to the IRCs to settle any disputes, and coordinates with the IRCs in the establishment of internationally acceptable operating standards and tariff procedures.[15] Secondly, users view international traffic as the responsibility of the international service provider of their choice. Thus, in a sense, users perceive WU as the necessary conduit for the domestic haul to their chosen IRC. Thirdly, certain problems seemed to surround WU's proposal as to its ability to serve as the IRCs' collection and billing agent. Questions arose as to whether WU: (1) could correctly bill a customer's non-real time store-and-forward traffic, multiple transmissions and some specially routed/instructed calls; (2) should introduce additional switches into a network to merely duplicate existing monitoring functions; and (3) should be given access to arguably proprietary IRC customer information.[16] These problems apparently would not exist if the billing was done by the IRCs as is presently the practice.

3. *Cost Allocation.*

25. Both section 222(c)(2) and the Committee Report indicate that Congress sought to insure that: (1) the terminating carrier would recoup its costs through the allocation of revenues; and (2) the originating carrier would be free to recover its costs by setting a rate to the public that is sufficient to pay the terminating carrier that carrier's costs plus cover its own costs.[17] There are three interconnection situations in which a carrier would be entitled to recoup its costs from another carrier: (1) the terminating carrier for a domestic inter-network transmission; (2) the second or delivering U.S. carrier for an international inbound inter-network transmission; and (3) the domestic carrier for an international outbound inter-network transmission. Although the negotiating parties failed to reach an agreement as to a fixed cost figure or to a costing methodology, it was generally accepted that all three costs described above would be approximately the same.

26. The determination of carrier costs was and remains the major unresolved issue in the negotiations. WU states that its current postalized rate covers its fully averaged and allocated costs for any originating, terminating, or originating and terminating transmission. The IRCs, pointing to language in the Committee Report, argue that "there are certain cost savings which are inherent in carrier-to-carrier interconnection (as opposed to customer-to-customer interconnections), and that some suitable discount for carrier-to-carrier interconnection will become part of the agreement." [18] However, the Committee Report neither identifies the areas of cost savings nor quantifies the amount saved. The IRCs also indicate, like WU, that their tariffs are cost-based.

27. The IRCs argue that entering the WU network at the top of that system's switching hierarchy should result in a class of calls for which WU's costs of carriage to the called parties are less than its current average cost. WU now routes a transmission from a calling party up its network hierarchy to a PFE and then back down its network hierarchy to the called party. The IRCs propose to interconnect at the PFEs. Thus, WU would accept the transmission at the PFE and route the message to the called party. The IRCs argue that by not employing one transmission leg WU's costs are reduced and that this inherent savings or discount must be passed on to them. The IRCs also allege lower administrative, marketing, maintenance, conversion and switching costs.

28. The question of whether there are cost savings resulting from WU–RIC interconnection which justify a discount below WU's publicly tariffed rate of 34.75 cents per minute for telex calls and 43 cents per minute for TWX calls is the subject of the current evidentiary hearing in Docket No. 78–97.[19] In initiating Docket No. 78–97, we indicated that it appears the costs for intra-network (WU) telex and TWX services are essentially the same as the costs for inter-network (WU–IRC) telex and TWX services. (68 F.C.C. 2d at 116.) We stated that the only cost differences which can be shown to exist "are minor from an overall system point of view * * *" (68 F.C.C. 2d at 116). We noted that the aggregation of trunk engineering, switching configuration and call routing within a consolidated WU network tends to obscure the exact cost of any particular call or type of calls. We stated:

> It is the basic switched network, comprised principally of trunks, switches, access lines, and terminal equipment, which accounts for the preponderance of the capital costs of providing this service. Other than the normal customer-to-customer differences in community of interest or calling patterns, geographical dispersion, and the like, we find no basis for concluding that a call which transits the domestic switched network for ultimate connection with an overseas terminal has cost functions inherently different from those which are destined to points within the contiguous forty-eight states. (68 F.C.C. 2d at 116.)

The Common Carrier Bureau's separated trial staff also appears to have come to this conclusion based on its analysis of the record established in Docket No. 78–97. The trial staff concludes in its Proposed Findings of Fact and Conclusions of Law that "[t]here is no credible evidence of record that there are significant cost differences between the service provided to the IRCs and that provided to domestic Telex users." (At page 70.)

29. In addition, the aggregation of engineering, switching and routing factors in WU's network, and the manner in which WU averages its costs to develop its current distance insensitive (postalized) rate scheme may further obscure any savings that may result from carrier-to-carrier interconnection. This question will be the subject of further proceedings in Docket No. 78–97.[20]

30. In view of the pendency of Docket No. 78–97, we seek an interim solution to the issue of a discount rate for WU–IRC interconnected services in this proceeding.[21] We believe that a final decision on this issue should be made on the basis of the record that is being developed in Docket No. 78–97. In this proceeding we will consider whether the concept of carrier-to-carrier interconnected services will result in savings that justify a discount. As in Docket No. 78–97, we will maintain the presumption that WU's public tariff is lawful. The parties, of course, have the opportunity in this proceeding to demonstrate that a discount should be prescribed on an interim basis. To do so, they have the burden of production to show specific areas of cost savings that justify deviation from WU's publicly tariffed rate.[22] In addition, they must provide cost data upon which the Commission can determine that discount. Absent such information, we will not be in a position to conclude in this proceeding that an interim discount is justified.

4. *Pro Rata Traffic Distribution and Shared Bearer Circuits.*

31. Section 222(c)(1)(A)(ii)(I) recognizes that a foreign administration may decide not to enter into operating agreements with all U.S. carriers desiring to provide through international service. Thus, this section requires a carrier receiving international outbound traffic from another carrier to route a pro rata share of its international inbound traffic to that carrier for domestic delivery. As stated in the Committee Report:

> In other words, if a carrier's level of return traffic is increased due to an increased level of outbound traffic generated by another U.S. international carrier, then this benefit should be passed along to the carrier that generated the increased level of traffic.[23]

32. The purposes of this section are to facilitate entry into the domestic and international marketplaces and to decrease the competitive disadvantage a carrier without operating agreements has with respect to a carrier with operating agreements. We therefore tentatively conclude that this section should be interpreted to include all types of record communications services except as excluded by section 222 (c)(1)(A)(ii)(II) and to require an allocation system to be established which fully rewards the carrier generating the handed-off traffic. We make no conclusions at this time as to the details of such a traffic allocation arrangement.[24]

33. Graphnet, in order to expand the availability of its international record services, invokes section 222 (c)(1)(A)(ii)

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[14] In our *Gateways* and *Telex Unbundling* Orders we unbundled terminal equipment and the local loop but not carriage from a point of operation to a point of exit from the United States. See *International Record Carriers' Scope of Operations (Gateways)*, 76 F.C.C. 2d 115 (1980) *aff'd sub nom. Western Union Telegraph Company v. FCC*, No. 79-2494, slip op. (D.C. Cir. Sept. 3, 1981) and *Interface of the International Telex Service with the Domestic Telex and TWX Services (Telex Unbundling)*, 76 F.C.C. 2d 61 (1980) *aff'd sub nom. Western Union Telegraph Company v. FCC*, No. 79-2494, slip op. (D.C. Cir. Sept. 3, 1981).

[15] As an example, the IRCs actively participate in establishing the U.S. positions in various international organizations such as CCITT and CCIR.

[16] Of course, at some future date we anticipate that WU will provide international carriage as an IRC and the IRCs will originate additional domestic traffic.

[17] Committee Report, page 11.

[18] Committee Report, page 11.

[19] See *Western Union Telegraph Company*, 67 F.C.C. 2d 1430 (1978), (Public Telex/TWX Order), 68 F.C.C. 2d 98 (1978) (IRC Telex/TWX Order.)

[20] During the hearing process in Docket No. 78–97, WU acquired authorization to tariff "postalized rates" for service. *Western Union Telegraph Company*, Mimeo No. 000522 (released April 30, 1981). *Applications for Review pending.* The institution of these uniform distance insensitive rates prompted the Presiding Officer to bifurcate the proceeding into Phase I which investigates the lawfullness of rates filed in 1977, and Phase II in which the ALJ will hear evidence on the newly effective postalized rate. The Phase II proceeding has been suspended pending conclusion of the interconnection negotiations required by section 222. See *Western Union Telegraph Company*, FCC Order 82–91. (Adopted February 17, 1982).

[21] The Act clearly contemplates an interim solution. Section 222(c)(3)(B) requires the Commission to "issue an interim or final order" should the parties fail to reach an agreement among themselves which is consistent with the purposes of the Act. We would expect that any prescribed interim agreement would establish basic terms for interconnection and a non-discriminatory formula for the equitable allocation of revenues. Such a formula could provide for the filing of carrier-initiated interconnection tariffs with rates supported by cost justification, although we might also accept temporary rates (in order to avoid service delays) and defer the filing of cost and other support information.

[22] In the Commission's IRC Telex/TWX order, we indicated that the ALJ "may require WU to come forth with IRC (services) data if it is needed to rebut a threshold showing by the IRCs of substantial cost differences between public and IRC Telex/TWX service." 68 F.C.C. 2d at 123 (1978). The Commission took note that WU has acknowledged the possible existence of cost differences in previous contracts with the IRCs which offered discounts from public rates. Without absolving WU of its ultimate burden of proving the lawfulness of any tariff rate, the Commission refrained from requiring WU at the outset of the proceeding to disaggregate its costs to develop separate cost data for IRC services. It recognized the onerousness of this task and public interest considerations which may favor a degree of cost averaging. Hence the Commission held "it is reasonable to have the IRCs first demonstrate a likelihood of substantial cost differences * * *" *id.* at n. 41.

[23] Committee Report, page 11.

[24] Telegraph traffic was discussed by the parties as a type of traffic, generated by a domestic carrier and handed-off to an international carrier, that would be included in any pro rata traffic allocation. Telegraph traffic is also the subject of another provision of the Act. Section 3 of the Act provides that the Commission "shall exercise its authority under the Communications Act of 1934 to continue its oversight of the establishment of just and reasonable distribution formulas for unrouted outbound telegraph traffic and the allocation of revenues with respect to such traffic," for a period of one year from the date of enactment. The Committee Report explains that the requirement of a Commission-approved or prescribed formula is to be continued temporarily "in order to accomplish an orderly transition." (Committee Report, p. 13). The current formula for distributing unrouted outbound telegraph traffic was adopted by the Commission in 1976 and remains in effect. In view of the sunsetting of Commission authority over this traffic at the end of this year, we tentatively conclude that the present formula should be maintained. See *IRCs' Scope of Operations*, 57 F.C.C. 2d 180 (1976). The interim prescription in that order was made final in *IRCs' Scope of Operations*, 67 F.C.C. 2d 877 (1978), *aff'd sub nom. RCA Global Communications, Inc. v. FCC*, 574 F.2d 727 (2d Cir. 1978). See also *Regulatory Policies Concerning the Provision of Domestic Public Message Service*, 75 F.C.C. 2d 345 (1980) *aff'd sub nom. Western Union Telegraph Company v. FCC*, No. 79-2495 *et al.*, (D.C. Cir. Sept. 2, 1981) *modified in Regulation of Domestic Public Message Service*, 84 F.C.C. 2d 690 (1981).

of the Act to justify its access to IRC bearer circuits on a shared basis.[25] Bearer circuits are voice-grade lines, the channels of which are shared by two or more IRCs for convenience, cost savings, or efficiency. Carriers sharing bearer circuits route traffic through their own switches to a multiplexor which consolidates separate channels without interfering with the carrier's ability to provide direct service to overseas points. Graphnet claims that its access to bearer ciruits is a necessity in order for it to enter the competitive international marketplace as envisioned by Congress.

34. Noting its inability to acquire essential foreign operating agreements which would permit it to interconnect its own lines with foreign correspondents, Graphnet proposes to "piggyback" its channels onto actively working circuits of carriers already operating under agreements with foreign administrations. Through this arrangement, Graphnet and other similarly situated carriers or new market entrants, could overcome the refusal of the foreign correspondents to deal directly with them while allegedly not interfering with or jeopardizing the arrangements already secured by the existing IRCs.

35. The IRCs objected to Graphnet's position that the right of mandatory facilities interconnection includes the right to share access in overseas transmission lines. The IRCs expressed a willingness to interconnect with Graphnet and other carriers at the IRC switching centers and at rates which are presently tariffed. The IRCs stated that interconnection at their switches would be the only way to properly monitor and account for all transmissions and prevent inbound IRC traffic from being unnecessarily routed to Graphnet over the bearer circuit. More than one IRC claimed that foreign correspondents would object to any new carrier participation. Others indicated that the foreign correspondent would likely be indifferent to which carrier participates on the U.S. side of the traffic flow so long as it did not impede or complicate the foreign carrier's traffic management functions or increase its costs.

36. It is clear that the intent of Congress is to increase competition in the international marketplace and to prevent operating agreements with foreign correspondents from "restrict(ing) the ability of other United States carriers to send or receive traffic with that administration on a non-discriminatory basis," or "to impede competition among United States record carriers".[26] However, we note that part of Graphnet's statutory justification is based on a section that was eliminated in the Act's final form. We make no tentative conclusion in this notice as to Graphnet's statutory right to share international facilities with a carrier possessing overseas circuits.[27] We seek comments on Graphnet's interpretation of the Act, the technical limitations the IRCs claim would pervent them from monitoring the extent of Graphnet's channel usage, methods to verify unused IRC circuits and future allocation of unused circuits among carriers.[28]

VI. Procedures

37. We recognize complex legal, business and technical issues confront the parties. Nevertheless, we urge the negotiating parties to reach a negotiated settlement which would be subject to Commission review as required by section 222 (c)(4) of the Act. We anticipate that any agreement would lead to a series of tariff filings rather than carrier contracts. We intend to carefully analyze all the pleadings submitted in response to this Notice and to prescribe, if necessary, an interconnection agreement as required by the Act. To this end, we invite all interested entities to submit comprehensive filings on the issues identified above and on all other related matters within the scope of this rulemaking. Our initial analysis pursuant ot the Regulatory Flexibility Act, Pub. L. 96-354, is that this statute does not apply to the matters under consideration here which center on rates, prices and financial issues.

38. For purposes of this notice and comment rulemaking proceeding, members of the public are advised that restrictive *ex parte* rulemaking provisions will apply. See generally, §§ 1.1207, 1.1209 and 1.1229. 47 CFR 1.1207, 1.1209 and 1.1229. We take this step to permit the negotiations to continue under the aegis of the Commission and in response to such a request from all of the negotiating parties. We emphasize that the atypical procedure adopted here results from our statutory obligation to prescribe an interconnection agreement for certain record carriers while participating in multiparty negotiations with these same record carriers. We also note that restrictive *ex parte* rules have been employed voluntarily by the interested carriers since the inception of their interconnection negotiations.

39. Accordingly, it is ordered that, pursuant to Sections 4(i), 4(j), 201, 202, 205, 222 and 403 of the Communications Act of 1934, as amended, and Section 553(b) of the Administrative Procedure Act, a proposed rulemaking in this matter is instituted.

40. It is further ordered that, interested entities shall file comments concerning interconnection arrangements between and among the domestic and international record carries on or before March 10, 1982. Replies shall be filed on or before March 17, 1982. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

41. It is further ordered that, in accordance with the provisions of § 1.419 of the Commission's rules and regulations, all participants in the proceeding ordered herein shall file with the Commission an original and five (5) copies of all comments and reply comments. Copies of comments and reply comments filed in this proceeding shall be available for public inspection during regular business hours in the Commission's reference room at its headquarters at 1919 M Street, NW., Washington, D.C.

42. It is further ordered that, if the parties reach an agreement at any time prior to the issuance of a final or interim interconnection order by the Commission, then the parties' agreement shall, pursuant to the Act, take effect. Since the Commission has the authority to modify or vacate an agreement entered into by any of the negotiating parties, all interested parties and entities may submit comments as to the parties' agreement at anytime during its duration.

43. It is further ordered that the Commission's Secretary shall mail a copy of this Notice of Proposed Rulemaking to the Chief for Advocacy of the Small Business Administration.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-6560 Filed 3-11-82; 8:45 am]

BILLING CODE 6712-01-M

[25] Graphnet had acquired authorizations to provide domestic and international record services. Its inability, for one reason or another, to acquire foreign operating agreements has stymied the development of its international services.

[26] Committee Report at 12-13.

[27] Since we do not foreclose a Commission prescription ordering bearer circuit access, we recognize that we may have to assess whether ownership, leasing or indefeasible right of user (IRU) line acquisition options exist. The IRU concept is designed, in part, to permit telecommunications enterprises in foreign and interior nations the opportunity to make capital investments in submarine cables without investing in facility ownership before circuit activation. The IRU purchaser obtains a right to use the facility and to treat its investments as a capital cost rather than expense. An IRU acquisition does not confer the power to manage or control the facility. The IRU concept has been expanded to permit the conveyance of circuitry from one U.S. carrier to another.

[28] Graphnet has also argued that in cases where U.S. carriers or entities act as the overseas correspondent, or possess sole control over the lines and facilities for access to an overseas point, our ordering bearer circuit access would be consistent with the purpose of the Communications Act. We invite comments on this Graphnet position. Where a foreign correspondent indicates a willingness to directly interface through bearer circuits with a U.S. domestic carrier with or without a formal operating agreement, we would expect a U.S. international carrier to share bearer circuits with the U.S. domestic carrier if excess capacity exists or can be obtained.

47 CFR Part 1

[Gen. Docket No. 79-144; FCC 82-47]

Biological Effects of Radiofrequency Radiation When Authorizing Devices and Potential Effects of a Reduction in the Allowable Level of Radio Frequency Radiation

Correction

In FR Doc. 82-5032, published at page 8214, on Thursday, February 25, 1982, on page 8216, in the second column, in footnote 15, the formula should have read as follows:

$$d=\frac{\sqrt{EIRP}}{5.4024}$$

BILLING CODE 1505-01-M

47 CFR Parts 1 and 43

[CC Docket No. 82-85; FCC 82-77]

Amendment of Annual Report of Licensee in Public Mobile Radio Services (FCC Form L)

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: In response to a petition from Mobilfone Service, Inc., the Commission proposes to simplify its Form L (Annual Report of Licensees in the Domestic Public Land Mobile Radio Service). The proposed new Form L will impose a much smaller burden on the carriers than the old Form L.

DATES: Comments must be received on or before March 26, 1982, and Reply Comments must be received on or before April 9, 1982.

ADDRESS: Secretary, Rm. 222, Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Alan Feldman, (202) 632-7084.

Adopted: February 11, 1982.

Released: February 23, 1982.

By the Commission: Commissioner Fogarty absent.

In the matter of amendment of Annual Report of Licensee in Public Mobile Radio Services (FCC Form L), CC Docket No 82-85.

Introduction

1. Pursuant to §§ 1.785 and 43.21 of the Commission's rules, all licensees in the Public Mobile Radio Service (PMRS) are required to file FCC Form L (Annual Report of Licensee) (See Attachment A) with the Commission not later than three months after the close of the calendar year.[1] A consolidated Form L is required to be filed for each licensee, and a separate Form L is required for every station. The form is divided into five sections. The first section contains information by types of service offered. Information is requested on the numbers of subscribers, base stations, mobile stations and fixed stations associated with each class of service. The second section contains data dealing with the number of employees, wages and salaries. Section III contains revenue and message data for the classes of service listed in the first section. Section IV is a condensed balance sheet (six items from the assets side and six from the liabilities side), and Section V is a highly condensed (10 items) income statement. Telephone companies providing DPLMRS and reporting annually to the Commission on Form M are not required to file Form L.[2] In response to a Petition from one of the DPLMRS licensees, we are by this Notice proposing to eliminate or to substantially reduce the amount of information required in Form L.

Summary of Petition and Comments

2. On November 4, 1980, Mobilfone Service, Inc., (Mobilfone), a DPLMRS licensee, petitioned the Commission to institute a rulemaking proceeding looking toward the modification and simplification of FCC Form L. On April 17, 1981, the Commission put Mobilfone's petition out for public comment. Telocator Network of America (Telocator), national council of the independent, non-wireline radio common carrier (RCC) industry, submitted comments agreeing with and supporting Mobilfone's petition.

3. Mobilfone and Telocator suggest that the detailed financial and service data, which are currently required on the existing Form L, be replaced with very basic service and revenue data. While recognizing that there is a legitimate function in collecting some of the existing Form L information, Mobilfone and Telecator argue that the Form L should be substantially simplified because of several factors. First, they argue that the collection and compilation of the extensive financial information necessary for the completion of the Form L places a substantial burden on PMRS licensees.[3] Second, they argue that it does not appear that the Commission makes significant use of the detailed Form L financial date since this information is not utilized to monitor the financial qualifications [4] or the tariff filings of PMRS licensees.[5] Finally, they argue that the detailed financial information that is collected has questionable statistical validity since there are no standardized accounting or reporting procedures, and since most wireline carriers that are licensed in the PMRS are not required to file a Form L.[6] They suggest, therefore, that the Form L be simplifed so that the Commission will be able to compile statistics relating to the size and growth of this industry, while placing a minimal burden on licensees. Mobilfone also suggests that the Commission should consider requiring the detailed financial data on an as-needed basis, rather than on an annual basis.

Discussion

4. Upon review and consideration of the parties' contentions, the Commission agrees that the Form L should be

[1] While on their face, the above-mentioned rules literally only apply to the licensees of Domestic Public Land Mobile Radio Service (DPLMRS), it has been customary for all licensees in the PMRS, who do not file a Form M, to file a Form L. Accordingly, we propose to apply the new Form L reporting requirements to all services in the PMRS, including the new Cellular Communications Service.

[2] Approximately 600 telephone companies filed Form L reports in 1980. Only the 22 Bell operating companies and 24 large independent telephone companies providing DPLMRS were not required to submit Form L. These carriers file information in Form M. The data requested in that form are not strictly comparable to the data in Form L.

[3] They note that since many DPLMRS licensees are small firms, the Regulatory Flexibility Act, Pub. L. 96-354, 5 U.S.C. 603, 604 (1980), which requires that each government agency periodically review its rules that significantly affect small business entities, is applicable.

[4] *See* Elimination of Financial Qualifications, 82 FCC 2d 153 (1980), which eliminates the financial qualifications requirement for all non-cellular mobile services.

[5] *See* Mobile Tariff Filings, 1 FCC 2d 920 (1965) *reissued* 69 FCC 2d 879 (1978).

[6] See, however, footnote 2, *supra*.

substantially simplified. The Commission has always believed that its licensees should be required to file only such information as is necessary to enable us to fulfill our regulatory responsibilities. In evaluating our reporting requirements, we believe that any requirement must be explicitly tied to the effectuation of our regulatory responsibilities under the Communications Act. We will not engage in information-gathering for its own sake, nor will we serve as an information source for private interests. Thus, we will seriously consider eliminating the Form L reporting requirement entirely. Elimination or revision of the Form L should go a long way toward meeting this goal and toward correcting many of the existing problems. We feel that there is little need for detailed financial, employee and service data from each PMRS licensee, as the Commission exerts only limited regulation of these carriers. However, our spectrum allocation responsibility and our desire to promote competition where feasible in this area may necessitate our continuing to impose a reporting requirement on this industry. We, therefore, propose and issue for public comment a new Form L (see Attachment B).

5. The proposed form will have two parts. Part A requests service and revenue data at the company level, and Part B breaks down the summary service data by call sign.[7]

6. We believe that this proposed form represents a significant improvement over the existing Form L. The detailed financial and employee data have been eliminated. All data that have been retained should be readily available to our licensees, and should be able to be produced without great effort or expense. Thus, these modifications will substantially reduce the reporting burden on our carriers while still providing the Commission with sufficient data to support the execution of our regulatory responsibilities. This information is used for several purposes. First, this information is useful for planning and policy analysis. When the data are summarized by market and industry segments, they have provided a picture of the structure and economic status of the industry.[8] Second, the service data that we are requesting assists us in our enforcement functions. Finally, and most importantly, the Form L information has been extremely useful in connection with several frequency allocation proceedings.[9]

7. The difference between our proposed Form L and the format suggested by Mobilfone is in the reporting of revenue data.[10] Mobilfone recommends reporting only gross annual revenues, whereas we propose to include company wide revenues by class of service. These few additional items will provide us with the necessary data to monitor the effects of technological advancements on the different types of service and maintain a perspective on the structure of the industry. These data may be especially crucial in helping the Commission analyze the effect of the new cellular service on the common carrier mobile radio industry. This information, which should be readily available to all licensees, will assist us in our policy analysis and spectrum allocation functions. *See* paragraph 6, *supra*. Accordingly, we have included basic revenue data in our proposed Form L.

8. We propose that telephone companies submitting Form M also be required to submit the information called for on the new Form L. Currently, Schedule 57C in Form M requires total company service data and data by service area where priorities have been invoked due to held orders for service. The new reporting requirement would replace these data with those called for in paragraph 5. These additional data, which should be readily available, would impose a small burden on the 57 telephone companies submitting Form M and offering PMRS, while providing the Commission with useful data comparable to the data submitted by the remaining PMRS licensees.

9. We solicit comments on the question of how often this Form L report should be filed. Currently, it is filed every year. Mobilfone has suggested that detailed financial data should only be filed on an as-needed basis. We tentatively reject Mobilfone's suggestion since we have significantly reduced the financial data to be reported. We have also considered whether the simplified Form L should be filed on an as-needed basis. However, we tentatively reject that option also. While some of the Form L information could be obtained on an *ad hoc* basis, it would take a great deal of time to solicit, collect, and analyze. As a practical matter, if this reduced amount of information is not readily accessible, in most instances the decision must be made without the information, which we believe would result in more speculative decisionmaking. In addition, in such a dynamic industry as PMRS, we believe that industry trends are useful in evaluating public demand for these services with regard to both our frequency allocation and frequency assignment regulatory responsibilities. The formulation of such trends depends on the regular submission of data. Accordingly, we propose to continue requiring annual reports from our licensees. However, we solicit comments on whether less frequent reporting requirements would be more desirable (*e.g.*, submits reports every two or three years instead of annually).

10. Regulatory Flexibility Act—Initial Analysis.

Reason for Action and Objective

The Commission is seeking a cost effective procedure that would facilitate the collection of the minimum amount of data required to fulfill our regulatory responsibilities. The policy options under consideration will either significantly reduce the amount of data supplied by PMRS licensees each year or eliminate such collection altogether. The objectives are to collect information useful in policy analysis, enforcement functions and frequency allocation proceedings.

Legal Basis

The authority for this proposed rulemaking is contained in Section 219 of the Communications Act of 1934, as amended, and §§ 1.785 and 43.21 of the Commission's rules.

Small Entities Affected and Potential Impact

The impact of the proposed change will be on all providers of PMRS. Existing and potential applicants for this service range in size from single individuals and small partnerships to large multi-million dollar corporations. The proposed alternative will either eliminate or greatly reduce the amount of paperwork associated with providing the Commission with revenue and service data which licensees have to submit. Only large telephone companies, those with over a million dollars in annual operating revenues, and licensees should not file the 1981 Form L until an Order specifying the reporting requirements and filing deadline is released.

Conclusion

13. Accordingly, it is ordered, that, pursuant to the provisions contained in 47 U.S.C. 154(i)–(j), 303, 307, and 403, there is hereby instituted a notice of proposed rulemaking into the foregoing matters.

14. It is further ordered, that interested persons should therefore file comments on our proposal on or before March 12, 1982. Reply comments will be due on or before March 26, 1982. Pursuant to the procedures set forth in 47 CFR 1.419(b), an original and five copies of all comments filed in this proceeding shall be furnished to the Commission. All comments received in response to this Notice will be made available for public inspection in the Commission's offices in Washington, D.C. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

15. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of the presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

16. It is further ordered, that the Form L reporting requirement covering calendar year 1982 is temporarily suspended pending the issuance in this proceeding of an order specifying the reporting requirements and filing deadline.

17. It is further ordered, that the Secretary shall cause this notice of proposed rulemaking to be published in the Federal Register.

Federal Communications Commission.

William J. Tricarico,

Secretary.

BILLING CODE 6712-01-M

[7] Consequently, each licensee will only have to file one Form L report.

[8] For example, the Commission utilized this data in its decision to eliminate financial qualifications for DPLMRS. *See* Elimination of Financial Qualifications, *supra* at note 3. We also note that while financial qualifications have been eliminated for DPLMRS, there is a financial qualifications requirement for cellular applicants. *See* Cellular Communications Systems, 86 FCC 2d 469, 501 (1981).

[9] For example, this data was used in 900 MHz Paging, General Docket No. 80-183, FCC 80-231, released May 8, 1980, Cellular Communications Systems, 86 FCC 2d 469 (1981), and Land Mobile Communications, Docket No. 21075, 77 FCC 2d 201 (1980).

[10] Telocator suggests also eliminating the revenue data, but asserts that it would not object to a Commission decision to require the reporting of gross revenue data.

Relevant Federal Rules Which Overlap, Duplicate or Conflict

There are no other federal rules that overlap, duplicate or conflict with this action to our knowledge.

Specific Alternatives That Could Accomplish the Same Objectives

There are no significant alternatives minimizing impact on small entities that are consistent with the stated objectives.

Reporting, Recordkeeping and Compliance Requirements

This action will not create any new reporting or recordkeeping requirements for licesees.

11. Our proposed Form L is a tentative version. We invite comments on our proposal from all licensees who would be required to complete the form and from any other interested parties. Specifically, we ask whether or not the reporting requirement is needed at all. If a revised Form L is adopted, we inquire as to whether or not the instructions and definitions included in attachment B are sufficiently clear, and if not we invite comments on how they can be improved. We also solicit comments from present and prospective users of the information provided by Form L.

12. The Form L for the calendar year 1981 would normally be due on March 31, 1982. in light of the burden the Form L reporting requirement places on DPLMRS licensees and our proposed simplification of the form, we will suspend the Form L requirement for 1981 until such time as the instant rulemaking proceeding is completed. DPLMRS

FCC FORM L (Revision of 1974)

Attachment A

Approved by GAO
B-180227(R0018)
Expires 82/6/30

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

ANNUAL REPORT OF LICENSEE IN DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

FOR THE YEAR ENDED DECEMBER 31, 19____

(NAME OF LICENSEE AND CALL LETTERS ASSIGNED)

(PRINCIPAL BUSINESS-OFFICE ADDRESS)

INSTRUCTIONS

1. This report is prescribed under authority of Sections 4(i), 219, 303(i), 303(r), and 308(b) of the Communications Act of 1934, as amended. It shall be filed in duplicate with the Federal Communications Commission, Washington, D. C. 20554 not later than 90 days after the close of the calendar year by each licensee engaged in Domestic Public Land Mobile Radio Service (D P L M R S) who does not file appropriate data with respect to such service in telephone annual report Form M. Companies furnishing public landline message telephone service as well as mobile service who are required to file this report form may omit reporting data called for in Section III, and, in lieu of filing data called for in Sections IV and V, may file copies of their balance sheet and income statements prepared for other purposes. Each licensee who operates more than one system (base station plus associated mobile stations) shall file, in addition to a combined report for all systems, a separate report (also in duplicate) applicable to the operations of each such system showing data for each item except 25 through 33 and 41, 42 and 43.

2. The following definitions apply to the classes of service listed in column(s) (a) and (k):

Rural subscriber Service—A service by which a subscriber at a fixed station in the Rural Radio Service communicates with a central office station or a base station.

Message relay service—A service by which messages to or from mobile stations are relayed orally by dispatchers of the licensee.

Direct dispatching service—A service by which the subscriber is able to operate the base station from a fixed point and is thus able to talk directly to his mobile stations.

Signaling or paging service—A one-way service whereby a radio signal is transmitted only from the base station to the mobile station receivers.

General service—A service by which calls may be made between mobile stations and the exchange and message toll facilities of a general landline telephone system, or by which two mobile stations may hold a direct conversation through the base station facilities. (This is not a combination of other classes of service.)

Other—Services not described above including short haul toll telephone.

3. Show in columns(c), (e) and (g), all base stations, mobile stations and fixed stations that are authorized, including those in service. "Mobile Stations" includes one-way signaling receivers whether or not they are installed in a vehicle.

4. All amounts of money may be shown to the nearest dollar.

5. Report in column (j) all amounts billed to subscribers on the bases of fixed periodic charges, including minimum message service charges or guarantees, equipment rentals, and flat-rate charges for maintenance of subscribers' equipment. Omit from columns (j) through (m) and from item 34, excise taxes payable by customers.

6. Show in column (q) the number of messages sent and in column (r) the computed value of communication services rendered for the benefit of other activities of the licensee at the rates that would be applicable to such services, when no revenue therefrom is reflected in column (m).

7. Condensed balance sheet and income statements, reflecting the licensee's other activities as well as D P L M R S, are required by Sections IV and V. When it is necessary to allocate amounts between D P L M R S and other activities, such allocations shall made in a reasonable and appropriate manner. If a balance sheet and income statement showing substantially the same data required by Sections IV and V have been prepared as at the end of the year, copies thereof may be attached in lieu of completing these Sections.

I. SERVICE DATA

ITEM NO.	CLASS OF SERVICE (See instruction 2) (a)	SUBSCRIBERS (b)	NUMBER AT END OF THE YEAR: BASE STATIONS AUTHORIZED (c)	BASE STATIONS IN SERVICE (d)	MOBILE STATIONS (See instruction 3) AUTHORIZED (e)	MOBILE STATIONS SERVED (f)	FIXED STATIONS AUTHORIZED (g)	FIXED STATIONS SERVED (h)
1	Rural subscriber				XX	XX		
2	Message relay							
3	Direct dispatching				XX	XX		
4	Signaling or paging				XX			
5	General							
6	Other							
7	Totals							

8 *Indicate total number of mobile stations served by licensee*_____. *How many of these stations are operated by persons directly or indirectly controlling, controlled by, or under direct or indirect common control with, the licensee?* _____stations.

II. EMPLOYEE DATA

ITEM NO.		
9	Number of persons devoting full time to DPLMRS at end of year, including licensee and family	
10	Number of persons devoting part time to DPLMRS at end of year, including licensee and family	
11	Total salaries and wages applicable to DPLMRS during the year	$
12	Is service rendered by another party pursuant to an agreement with the licensee? ☐ YES ☐ NO (If "yes", disclose under "Remarks" the terms thereof and consideration paid thereunder.)	

Page 2-FCC Report Form L of_____ Year ended December 31, 19____

III. REVENUE FROM DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE AND RELATED DATA

ITEM NO.	CLASS OF SERVICE (See instruction 2) (i)	REVENUE EARNED DURING THE YEAR: MINIMUM CHARGES & GUARANTIES (j)	ADDITIONAL MESSAGE CHARGES (k)	INSTALLATION, MOVE AND SPECIAL CHARGES (l)	TOTAL (m)	NUMBER OF REVENUE MESSAGES DURING YEAR (From station log): COVERED BY MINIMUM (n)	BILLED AS EXTRA (o)	TOTAL (p)	NONREVENUE MESSAGES DURING YEAR (See instruction 6) (From station log): NUMBER (q)	COMPUTED VALUE (r)
13	Rural subscriber	$	$	$	$					$
14	Message relay									
15	Direct dispatching									
16	Signaling or paging									
17	General									
18	Other									
19	Totals									

IV. CONDENSED BALANCE SHEET (See instruction 7)

ITEM NO.	ASSET SIDE	BALANCE AT END OF YEAR	ITEM NO.	LIABILITY SIDE	BALANCE AT END OF YEAR
20	Investment in plant used in DPLMRS	$	27	Current liabilities	$
21	Related depreciation reserve		28	Bonds, mortgages & other long-term debt	
22	Balance (Item 20 minus 21)		29	Operating reserves and deferred credits	
23	Other physical property-Less depr. (Net)		30	Capital stock outst. or proprietary capital	
24	Other investments		31	Premium on cap. stock & other cap. items	
25	Current assets and deferred charges		32	Earned surplus (including amount reserved)	
26	Total-Asset Side		33	Total-Liability Side	

V. CONDENSED INCOME STATEMENT (See instruction 7)

ITEM NO.	PARTICULARS	AMOUNT FOR THE YEAR
34	Revenue from DPLMRS (explain in a note any difference from amount reported for item 19, col. (m) of section III)	$
35	Direct expenses applicable to DPLMRS	
36	Depreciation accruals for current year applicable to plant used in DPLMRS	
37	Taxes applicable to DPLMRS (exclude income taxes and excise taxes billed to customers)	
38	Other expenses assignable to DPLMRS	
39	Total expenses applicable to DPLMRS (items 35 through 38)	
40	Net income from DPLMRS (Item 34 minus item 39) (Show loss in parentheses)	
41	Net income (before income taxes) from all other sources	
42	Taxes on income	
43	Net income for the year from all sources (items 40 and 41 minus item 42)	

REMARKS (Attach supplemental sheet, if necessary)

(Explain here (1) any significant difference between figures shown above and those in respondent's application for license; and (2) any difference between the name and address of licensee shown on this form and that shown on the license.)

I certify that to the best of my knowledge and belief this is a true and correct report:

(Date)_____, 19____ (Signed)_____

(Title)_____

(Licensee or officer of licensee)

V 47 49 M MR 12 82 M

FCC Form L

Attachment B

FEDERAL COMMUNICATIONS COMMISSION

Annual Report of Licensee in Public Mobile Radio Service
for the year ended December 31, 19__

Name of Licensee and Call letters assigned

_____

Principal Business-Office Address

_____

_____

Instructions

Part A

Service and Revenue Data
(Data at the company level)

Class of Service	Mobile Units / Fixed Stations number in service at end of year	PMRS Revenue amount for the year
1. Rural Subscriber.....		
2. General and Dispatch..		
3. Signaling or Paging...		
4. Cellular.....		
5. Other.....		
6. Total (above lines)..		

Part B

Service Data by Call Sign
(Continue on additional sheets if necessary)
(Number in service at end of year)

Mobile Units / Fixed Stations

Class of Service	Call Sign _____ Main Service Area (City, State)	Call Sign _____ Main Service Area (City, State)	Call Sign _____ Main Service Area (City, State)
Rural Subscriber.....			
General and Dispatch...			
Signaling or Paging....			
Cellular.....			
Other.....			
Total (above lines)..			

Class of Service	Call Sign _____ Main Service Area (City, State)	Call Sign _____ Main Service Area (City, State)	Call Sign _____ Main Service Area (City, State)
Rural Subscriber.....			
General and Dispatch...			
Signaling or Paging....			
Cellular.....			
Other.....			
Total (above lines)..			

Class of Service	Call Sign _____ Main Service Area (City, State)	Call Sign _____ Main Service Area (City, State)	Call Sign _____ Main Service Area (City, State)
Rural Subscriber.....			
General and Dispatch...			
Signaling or Paging....			
Cellular.....			
Other.....			
Total (above lines)..			

I certify that to the best of my knowledge and belief this report is true and correct:
(Date)_____,19__ (Signed)_____
(Title) _____

BILLING CODE 4712-01-C

Instruction for Form L

1. This report is prescribed under authority of Section 4(i), 219, 303(j), 303(r), and 308(b) of the Communications Act of 1934, as amended. Each licensee engaged in Public Mobile Radio Service (PMRS) is required to file this report, in duplicate, with the Federal Communications Commission, Washington, DC 20554 not later than three months after the close of the calendar year. Form L is needed to provide the Commission with data necessary to fulfill its regulatory responsibilities with respect to radio communications among mobile stations and between mobile stations and fixed stations. Information from the form is used in analyzing requests for frequency, and selected data are tabulated to monitor the growth of the industry.

2. All amounts of money may be shown to the nearest dollar. When it is necessary to allocate amounts between PMRS and other activities, such allocations shall be made using generally accepted accounting principles in a reasonable and appropriate manner.

3. The following definitions apply to the various classes of services:

Rural Subscriber Service—A service by which a subscriber at a fixed station in the Rural Radio Service communications with a central office station or a base station.

General Service—A service by which calls may be made between mobile units and the exchange and message toll facilities of a general land line telephone system, or by which two mobile units may hold a direct conversation through the base station facilities.

Dispatch Service—A service by which the subscriber is able to operate the base station from a fixed point to talk directly to his mobile unit.

Signaling or Paging Service—A one-way service whereby a radio signal is transmitted only from the base station to the mobile unit receivers.

Cellular Service—A service by which mobile radio systems maintain a high capacity to serve subscriber units through coordinated reuse of groups of radio channels. In such systems, each radio channel can be used many times in separate zones or cells within the service area.

Other—Services not described above.

[FR Doc. 82-6731 Filed 3-11-82; 8:45 am]
BILLING CODE 6712-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Part 32

Contract Financing; Availability and Request for Comment on Draft Federal Acquisition Regulations

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of availability and request for comment on draft Federal Acquisition Regulations.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment a segment of the draft Federal Acquisition Regulation (FAR).[1] Availability of additional segments for comment will be announced on later dates. The FAR is being developed to replace the current system of procurement regulations.

DATE: Comments must be received on or before April 27, 1982.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William Maraist, Assistant Administrator for Regulations, Office of Federal Procurement Policy, 726 Jackson Place, NW., Room 9025, Washington, D.C. 20503. Federal agency requests must be directed to the FAR Agency Contact Point (see **Federal Register**, Vol. 46, No. 50, March 16, 1981, p. 16818 for list).

FOR FURTHER INFORMATION CONTACT: William Maraist, (202) 395–3300.

SUPPLEMENTARY INFORMATION: The fundamental purposes of the FAR are to reduce proliferation of regulations; eliminate conflicts and redundancies; and to provide an acquisition regulation that is simple, clear and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, the notice of availability of draft regulations will summarize the section or part available for review and describe any new policies therein.

The following parts of the draft Federal Acquisition Regulation are available upon request for public and Government agency review and comment.

PART 32—CONTRACT FINANCING

Subpart 32.1—General

This subpart provides policies and procedures applicable to the general subject of contract financing and payment. It covers prompt payments, provision of contract financing, termination financing, financial consultation, response to adverse developments concerning a contractor who has been provided contract financing, and contract performance in foreign countries.

Subpart 32.4—Advance Payments

This subpart prescribes policies and procedures for advance payments on prime contracts and subcontracts. It covers the application for advance payments, contracting officer actions, application of Pub. L. 85–804 to advance payments under formally advertised contracts, interest, letters of credit, and agreement for special bank account.

Dated: March 4, 1982.

LeRoy J. Haugh,

Associate Administrator for Regulatory Policies and Practices.

[FR Doc. 82-6639 Filed 3-11-82; 8:45 am]
BILLING CODE 3110-01-M

[1] Filed as a part of the original document.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 640

Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, has approved the fishery management plan for the spiny lobster fishery of the Gulf of Mexico and South Atlantic. NOAA announces that copies of the fishery management plan are available, issues this proposed rulemaking to implement the plan, and requests comments on the plan and implementing regulations. The intended effect of these regulations is to prevent overfishing; increase the yield from the fishery; reduce user-group conflicts; and obtain the basic information required for improved management of the fishery.

DATES: Written comments must be received on or before April 26, 1982.

ADDRESSES: Comments and requests for copies of the fishery management plan and the regulatory impact review should be sent to: Mr. Harold B. Allen, Acting Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

FOR FURTHER INFORMATION CONTACT: Mr. Harold B. Allen, 813–893–3141.

SUPPLEMENTARY INFORMATION: The Assistant Administrator for Fisheries approved the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic (FMP) on February 2, 1982 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). These proposed regulations implement the FMP, which was prepared jointly by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils).

The FMP addresses the spiny lobster, *Panulirus argus*, fishery throughout the fishery conservation zone (FCZ) in the Gulf of Mexico and Atlantic Ocean. Within this management area, the fishery is located primarily in the south Florida region, where approximately 65 percent of the landings are taken from the FCZ. Currently, the spiny lobster fishery is the second most valuable commercial fishery in Florida and also supports an important recreational harvest.

The commercial catch is taken almost exclusively with wooden traps; the use of "shorts" (lobsters with a carapace length (CL) less than Florida's minimum legal size of "more than 3.0 inches") as attractants is a common practice. Recreational participants employ both scuba gear and free diving to pursue lobsters, but generally restrict their activities to relatively shallow water (i.e., less than 40 feet).

Reported commercial catches during 1970–79 averaged approximately 5.4 million pounds annually; in addition, there are substantial unreported catches. Estimates of unreported commercial and recreational catches range as high as 1.6 and 1.0 million pounds, respectively.

At present, the spiny lobster fishery is managed by the State of Florida through regulations enforced in the territorial sea; however, there is no effective enforcement in the FCZ. Enforcement efforts, particularly in the FCZ, have been hampered by insufficient penalties, the inability to control out-of-State vessels, and Florida's uncertainty about its authority to enforce its laws in the FCZ due to a recent State-court ruling.

The main purpose of the FMP and implementing regulations is to establish a cooperative State/Federal management regime for the spiny lobster fishery to resolve these problems in the most cost-effective manner. Under the cooperative approach, the State of Florida will provide the primary enforcement effort, with Federal enforcement support as resources are available. Implementation of these proposed regulations will enhance the effectiveness of Florida's enforcement by providing increased penalties, simultaneous closed seasons in the territorial sea and FCZ, and, most importantly, the clear authority to regulate all aspects of the fishery in the FCZ. The FMP indicates that implementation of these proposed regulations will prevent overfishing and result in an increase in landings of approximately 1.5 million pounds valued at $3.3 million (ex-vessel).

Optimum Yield (OY)

The Councils established an OY of all lobsters more than 3.0-inch CL or not less than 5.5-inch tail length that can be harvested by commercial and recreational fishermen given existing technology and prevailing economic conditions. This descriptive OY, which incorporates a minimum size, will avoid the risk of overfishing. The OY for 1982 is estimated to be 9.5 million pounds. Since domestic fishermen have the capacity and intent to harvest all of the OY, there will be no surplus available to foreign fishermen.

Gear Limitations

All traps will be required to have a degradable surface of sufficient size to allow escapement of lobsters from lost traps. Wooden traps are considered degradable and require no alteration.

In addition, the FMP prohibits the use of spears, hooks, and similar devices for the taking of spiny lobsters. Use of poisons or explosives for such a purpose is also prohibited. These restrictions are intended to minimize injury and mortality of small, sexually immature lobsters and to prevent damage to the coral reef habitat.

The use of spiny lobster traps during the two-day special recreational season is prohibited.

Harvest Restrictions

The FMP establishes a minimum harvestable size of more than 3.0-inch CL or not less than 5.5-inch tail length. This minimum size, coupled with an effective closed season, is intended to allow a sufficient number of lobsters to attain sexual maturity and spawn, thereby avoiding recruitment overfishing. A smaller minimum size (2.75-inch CL) was considered and rejected, because very few lobsters less than 3.0-inch CL are capable of reproducing. Although larger size limits would, theoretically, result in slight increases in long-term yield, they were rejected by the Councils because of unacceptable social and economic impacts, e.g., severe reductions in short-term landings and lower price per pound.

All spiny lobsters smaller than the minimum size ("shorts") must be returned to the water unharmed, except for those used as attractants in traps. No more than three live "shorts" per trap on the boat or 200 "shorts," whichever is greater, may be carried at any one time. The Councils acknowledge that the use of "shorts" as attractants results in some mortality, but the catch per unit of effort attained by using "shorts" has been shown to be 350 percent greater than by using cowhide bait, the only practical alternative currently available. The allowance for the limited use of shorts as attractants places a reasonable restriction on the extent of this practice but also allows for fishery efficiency.

The FMP prohibits the retention of "berried" (egg-bearing) spiny lobsters and requires that such lobsters be returned immediately to the water unharmed. Stripping or molesting "berried" lobsters is also prohibited. These measures are designed to aid recruitment by providing additional protection to the spawning stock.

The FMP also states that traps may be worked only during daylight hours and that no person shall molest or work another person's trap without written permission. These measures are intended to aid enforcement and reduce poaching and theft.

Fishing Season

A closed season will be established from April 1 through July 23. A five-day "soak period" for placement of traps is provided prior to the opening of the fishing season, and a five-day grace period is provided for retrieval of traps after the close of the fishing season. Traps can be placed in the water on or after July 21, but lobsters may not be harvested from the traps until July 23. During the five-day grace period (April 1 through April 5), traps may be retrieved, but all lobsters must be returned to the water free and unharmed. Lobster traps remaining in the management area from April 6 through July 20 will be considered abandoned and may be disposed of by any Authorized Officer. Owners of such traps are subject to civil penalties.

The proposed closed season corresponds with the peak period of spiny lobster mating and spawning. This will provide essential protection to the spawning population and will help ensure sufficient recruitment to avoid overfishing. The proposed closure in the FCZ is consistent with the State of Florida's closed season in the territorial sea and will not disrupt the historical fishing practices of most fishermen. Concurrent closures of the territorial sea and FCZ will facilitate dockside enforcement of the closed season, thereby increasing effectiveness and reducing costs. Prohibiting the possession of spiny lobsters in the FCZ during the closed season (except by non-trap recreational fishermen during the special recreational season and by importers with a proper bill of lading) is

necessary for proper enforcement of the closed season. Enforcement of the closed season will also be enhanced by the provision that allows enforcement agents to dispose of abandoned traps that would otherwise continue to fish.

A special two-day season for recreational fishermen not using traps will be established within the closed season during the first full weekend preceding the trap-soak period (July 21 through 25). The purpose of this measure is to segregate the special recreational season and the commercial trap-soak period, thereby reducing congestion and user-group conflicts.

Markings

All lobster traps fished within the FCZ must be identified by a number and color code issued through the National Marine Fisheries Service (NMFS). Each vessel using such traps must also be clearly marked with the same color code and identification number. The color code and number assigned to vessels by the State of Florida are adequate to meet these requirements. The NMFS Regional Director will issue the necessary number and color code to non-Florida-licensed vessels fishing in the FCZ. These marking requirements are necessary to aid enforcement and reduce poaching and theft.

Statistical Reporting

Better information is needed for effective management of the spiny lobster fishery. Currently, statistics on commercial landings are based only on data obtained through fish houses. This method understates actual landings, because it fails to account for that portion of the catch that is sold directly by fishermen and bypasses the fish houses. Another weakness of the present system is that effort data are collected by point of landing and do not identify areas fished. This makes it difficult to assess accurately the catch per unit of effort and the maximum sustainable yield (MSY) for the U.S. fishery, because some fishing is conducted in foreign waters.

Obtaining complete, detailed biological, social, and economic data from each user would be prohibitively expensive. Therefore, NMFS is developing a mandatory reporting system that utilizes sampling methods whenever a sample will provide adequate information. The Center Director will determine the number of individuals selected, the reporting interval, and the duration of reporting based on the data required for specific management needs.

Because this system has not been completely developed and forms not yet prepared, the proposed regulations reserve § 640.5. It is anticipated that the mandatory reporting system will be proposed as soon as sampling procedures and reporting forms are developed and approved. The forms will be submitted to the Office of Management and Budget for clearance under section 3507 of the Paperwork Reduction Act, Pub. L. 96–511.

Classification

The Assistant Administrator has determined that the FMP complies with the national standards, other provisions of the Magnuson Act, and other applicable law.

The adoption and implementation of the FMP is a major Federal action that will have a significant impact on the quality of the human environment. Under the National Environmental Policy Act and NOAA Directive 02–10, a draft environmental impact statement was filed with the Environmental Protection Agency. The notice of availability was published on January 23, 1981 (46 FR 7433).

The NOAA Administrator has determined that these proposed regulations are non-major under Executive Order 12291. A Regulatory Impact Review (RIR) has been prepared which analyzes the expected benefits and costs of the regulatory action. The review provides the basis for the Administrator's determination. The RIR indicates that the proposed regulations will result in benefits to fishermen and the economy which substantially exceed the total costs incurred by government and the private sector. Benefits expected to accrue during the first year of plan implementation include a $3.3 million increase in industry revenue, increased recreational participation, and a substantial reduction of user-group conflicts. The regulations are designed to prevent overfishing and increase the landings of spiny lobsters without unduly burdening any user groups. These regulations will be enforced via a State/Federal cooperative agreement that will maximize cost effectiveness. Enforcement will be accomplished with existing resources. Compliance with the regulation requiring vessel and gear markings will impose a minimal burden on new participants; virtually all current participants have complied with this requirement by adopting the markings required by the State of Florida.

The FMP and implementing regulations will not increase the Federal paperwork burden as defined by the Paperwork Reduction Act for individuals, small businesses, or other persons, since the data collection system will not be implemented at this time. Prior to implementation of the data collection system, forms will be submitted to the Office of Management and Budget for approval.

These regulations will have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act. An initial regulatory flexibility analysis has been prepared in compliance with the Regulatory Flexibility Act and has been combined with the RIR which is summarized above.

The Department of the Interior and the National Marine Fisheries Service have determined that the FMP is not likely to have an adverse impact on endangered species or on habitat that may be critical to these species.

The FMP has been determined to be consistent with the approved coastal zone management programs of all States within the management area. Florida's coastal zone program was only recently approved, and the Councils requested a determination on consistency on October 16, 1981. Since no response or request for extension of the comment period was received within 45 days (December 1, 1981), the FMP is assumed to be consistent with Florida's program.

Date: March 8, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

50 CFR is proposed to be amended by adding a new part to read as follows:

PART 640—SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Subpart A—General Provisions

Sec.

640.1 Purpose and scope.
640.2 Definitions.
640.3 Relation to other laws.
640.4 Vessels, permits, and fees.
640.5 Recordkeeping and reporting.
640.6 Gear and vessel identification.
640.7 General prohibitions.
640.8 Enforcement.
640.9 Penalties.

Subpart B—Management Measures

640.20 Seasons.
640.21 Harvest limitations.
640.22 Size limitations.
640.23 Gear limitations.
640.24 Authorized activities.

Authority: 16 U.S.C. 1801 et seq.

Subpart A—General Provisions

§ 640.1 Purpose and scope.

The purpose of this part is to implement the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic developed by the South Atlantic and Gulf of Mexico Fishery Management Councils under the Magnuson Act.

The regulations in this Part govern fishing for spiny lobster by vessels of the United States within that portion of the Atlantic Ocean and Gulf of Mexico adjacent to the territorial sea, along the coast of the South Atlantic states from the Virginia/North Carolina border south and through the Gulf of Mexico, over which the United States exercises exclusive fishery management authority.

§ 640.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this Part have the following meanings:

Authorized Officer means:

(a) Any commissioned, warrant, or petty officer of the United States Coast Guard;

(b) Any certified enforcement officer or special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the Coast Guard to enforce the provisions of the Magnuson Act; or

(d) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Carapace length means a head-length measurement taken from the orbital notch inside the orbital spine, in a line parallel to the lateral rostral sulcus, to the posterior margin of the cephalothorax (Figure 1).

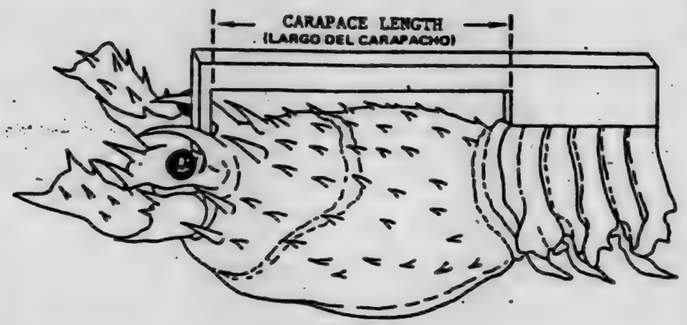

Figure 1

Center Director means the Center Director, Southeast Fisheries Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, Florida 33149; telephone 305–361–5761.

Commercial fisherman means a fisherman who sells any part of his catch.

Degradable panel means a panel constructed of wood, cotton or other material that will degrade.

Fish includes the spiny lobster, *Panulirus argus*.

Fishery conservation zone (FCZ) means that area adjacent to the territorial sea of the constituent States of the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any acitivity, other than scientific research conducted by a scientific research vessel, which involves:

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraph (a), (b), or (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for:

(a) Fishing; or

(b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Live box means a container used for holding live lobsters aboard a vessel.

Magnuson Act means the Magnuson Fishery Conservation and Management Act. (16 U.S.C. 1801 *et seq.*).

Management area means that area of the FCZ adjacent to the territorial sea off the coasts of the States adjacent to the Gulf of Mexico and off the Atlantic coast south of the Virginia-North Carolina border.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel means:

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time or voyage;

(c) Any person who acts in the capacity of a charterer, including, but not limited to, parties to a management agreement, operating agreement, or other similiar arrangement that bestows control over the destination, function, or operation of the vessel; or

(d) Any agent designated as such by any person described in paragraph (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Recreational fisherman means a fisherman who does not sell any part of his catch.

Regional Director means the Regional Director, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702; telephone 813–893–3141, or his designee.

Secretary means the Secretary of Commerce or a designee.

Spiny lobster means the species *Panulirus argus*.

Tail length means the measurement of the tail segment, with the tail in a straight, flat position, from the anterior end of the exoskeleton ("shell") of the first abdominal (tail) segment to the tip of the closed tail.

U.S.-harvested fish means fish caught, taken, or harvested by vessels of the United States within any foreign or domestic fishery regulated under the Magnuson Act.

Vessel of the United States means:

(a) A vessel documented or numbered by the U.S. Coast Guard under U.S. law; or

(b) A vessel under five net tons which is registered under the laws of any State.

§ 640.3 Relation to other laws.

(a) Persons affected by these regulations should be aware that other Federal and State statutes and regulations may apply to their activities.

(b) The regulations in this Part are intended to be compatible with, and do not supersede similar regulations in effect for:

(1) Everglades National Park (36 CFR 7.45).

(2) Fort Jefferson National Monument (36 CFR 7.27).

(3) Biscayne National Park (16 U8C 410gg).

(4) Looe Key National Sanctuary (15 CFR 937).

(c) Certain responsibilities relating to data collection and enforcement may be performed by authorized State personnel under a cooperative agreement entered into by the State, the U.S. Coast Guard, and the Secretary.

§ 640.4 Vessel permits and fees.

No permits are required for fishing vessels engaged in fishing for spiny lobsters within the FCZ (but see vessel identification requirements in § 640.6(a)).

§ 640.5 Recordkeeping and reporting. [Reserved]

§ 640.6 Gear and vessel identification.

(a) Vessels, traps, and buoys must be identified by the number and color code issued by the Regional Director or a designee, or through Florida's identification system.

(b) An application for a Federal number and color code must be submitted and signed by the owner or operator of the vessel on a form obtained from the Regional Director. The application must be submitted to the Regional Director 45 days prior to the date on which the applicant desires receipt of the number and color code.

(c) Vessels and boats must permanently and conspicuously display the Federal or Florida color code and number in a manner as to be readily identifiable from the air and water; such color representation must be in the form of a circle at least 20 inches in diameter and the identification number must be at least 10 inches high.

(d) Buoys must be of such color as to be easily distinguished, seen, and located; the identification number must be legible and at least 3 inches high on each buoy.

(e) Each trap, can, drum, or similar device must have a legible identification number at least 3 inches high permanently attached as in the case of buoys.

(f) All spiny lobster traps fished in the FCZ will be presumed to be the property of the most recently documented owner.

(g) Upon the sale or transfer of all or part of an owner's interest in spiny lobster traps which are fished in the FCZ, that owner must report the sale or transfer within 15 days to the Regional Director if the identification number and color code for those traps were issued by the Regional Director.

(h) Unmarked spiny lobster traps fished in the FCZ at any time are illegal gear and may be disposed of in any appropriate manner by the Secretary or the Secretary's designee (including an Authorized Officer). Lines and buoys are considered part of the trap. If owners of these unmarked traps can be ascertained, those owners remain subject to appropriate civil penalties.

§ 640.7 General prohibitions.

It is unlawful for any person to:

(a) Fish for spiny lobster without a vessel number, or falsify or fail to affix and maintain vessel and gear markings, as required by § 640.6;

(b) Fail to comply immediately with enforcement and boarding procedures specified in § 640.8;

(c) Place traps in the water or harvest spiny lobsters from traps before or after the dates specified in § 640.20(a);

(d) Harvest spiny lobster by methods other than traps during the closed season specified in § 640.20 (b) and (c);

(e) Retain on board or possess on land any berried lobster taken in the FCZ;

(f) Strip eggs from or otherwise molest any berried lobster;

(g) Pull or tend traps except during the hours specified in § 640.21(b);

(h) Willfully tend, open, pull, or otherwise molest another person's traps, except as provided in § 640.21(b);

(i) Catch or retain more lobsters during the special non-trap recreational fishery than are specified in § 640.21(c);

(j) Retain lobsters smaller than the minimum size, except as specified in § 640.22;

(k) Use traps without degradable panels, or use prohibited gear or methods, as specified in § 640.23;

(l) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import without a proper bill of lading, land or export any spiny lobster or parts thereof taken or retained in violation of the Magnuson Act, this Part, or any other regulation promulgated under the Magnuson Act;

(m) Refuse to permit an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this Part, or any other regulation or permit issued under the Magnuson Act;

(n) Forcibly assault, resist, oppose, impede, intimidate or interfere with any Authorized Officer in the conduct of any search or inspection described in paragraph (m) of this section;

(o) Resist a lawful arrest for any act prohibited by this Part;

(p) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this Part;

(q) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested fish to any foreign fishing vessel while such foreign vessel is within the FCZ, unless the foreign fishing vessel has been issued a permit under Section 204 of the Magnuson Act which authorizes the receipt by such vessel of the U.S.-harvested fish of the species concerned; or

(r) Violate any other provision of this Part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

§ 640.8 Enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to this Part shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, logbook and catch for purposes of enforcing the Magnuson Act and this Part.

(b) *Signals.* Upon being approached by a Coast Guard cutter or aircraft, or any other vessel or aircraft authorized to enforce the Magnuson Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The following signals extracted from the International Code of Signals are among those which may be used:

(1) "L" means "You should stop your vessel instantly."

(2) "SQ3" means "You should stop or heave to; I am going to board you," and

(3) "AA AA AA etc." is the call to an unknown station, to which the signaled vessel should respond by illuminating the vessel identification required by § 640.6 (a) and (b).

(c) *Boarding.* A vessel signaled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way as to permit the Authorized Officer and his party aboard;

(2) Provide a safe ladder for the Authorized Officer and his party if necessary;

(3) When necessary to facilitate the boarding, provide a man rope, safety line and illumination for the ladder; and

(4) Take such other actions as necessary to ensure the safety of the Authorized Officer and his party and to facilitate the boarding.

§ 640.9 Penalties.

Any person or fishing vessel found to be in violation of this Part is subject to the civil and criminal penalty provisions and forfeiture provisions of the Magnuson Act, and to 50 CFR Parts 620 (Citations) and 621 (Civil Procedures) and other applicable law.

Subpart B—Management Measures

§ 640.20 Seasons.

(a) *Trap fishery.* (1) The season for spiny lobster with traps begins on July 26, one hour before official sunrise, and ends March 31, one hour after official sunset. Traps may be placed in the water on or after July 21, but spiny lobsters may not be harvested until the beginning of the season. Traps must be removed prior to April 6; any spiny lobsters taken between April 1 and 6 must be returned to the water unharmed.

(2) Traps in the management area during the period between 0001 hours April 6 and 2400 hours July 20 will be considered unclaimed or abandoned property and may be disposed of in any manner considered appropriate by the Secretary or the Secretary's designee (including an Authorized Officer). Lines and buoys are considered part of the trap. Owners of these spiny lobster traps remain subject to appropriate civil penalties.

(b) *Non-trap fishery.* The fishing season for other harvesting methods begins 0001 hours July 26 and ends 2400 hours March 31.

(c) *Special non-trap recreational fishery.* There is a special non-trap recreational fishing season the first full weekend preceding July 21 from 0001 hours Saturday until 2400 hours Sunday.

§ 640.21 Harvest limitations.

(a) *Berried lobsters.* All berried (egg-bearing) lobsters must be returned to the water unharmed. Berried lobsters may not be stripped of their eggs or otherwise molested. If found in a trap, a berried lobster may be retained in the trap if it is immediately returned to the water.

(b) *Pulling traps.* Traps may be pulled or tended only during the period beginning one hour before official sunrise and ending one hour after official sunset.

(2) Traps may be pulled or tended only by the owner's vessel, unless the boat tending another person's trap has on board written consent of the trap owner.

(c) *Recreational catch.* During the two-day season described in § 640.20(c), the catch is limited to six lobsters per person per day, up to a maximum of 24 lobsters per boat per day.

§ 640.22 Size limitations.

(a) *Carapace length.* Except as provided in paragraph (b) of this section, spiny lobsters with a carapace length of 3.0 inches or less, or with a tail length of 5.5 inches or less, must be returned immediately to the water unharmed.

(b) *Attractants.* Live lobsters under the minimum size may be held in a shaded live box aboard a vessel for use as attractants in traps. No more than 3 undersized lobsters for each trap carried on board, or 200 undersized lobsters, whichever is greater, may be retained.

§ 640.23 Gear limitations.

(a) *Degradable panel.* Traps constructed of material other than wood must have a panel constructed of wood, cotton, or other degradable material located in the upper half of the sides or on top of the trap, that, when removed, will leave an opening in the trap no smaller than the diameter found at the throat or entrance of the trap.

(b) *Prohibited gear and methods.* (1) Spiny lobster may not be taken with spears, hooks, or similar devices or gear containing such devices. In the FCZ, the possession of speared, pierced, or punctured lobsters is prima-facie evidence that prohibited gear was used to take such lobsters.

(2) Spiny lobsters may not be taken with poisons or explosives.

§ 640.24 Authorized activities.

The Secretary may authorize, for the acquisition of information and data, activities otherwise prohibited by these regulations.

[FR Doc. 82-6821 Filed 3-11-82; 8:45 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 47, No. 49
Friday, March 12, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Rulemaking Meetings

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–163), notice is hereby given of meetings of the Committee on Rulemaking of the Administrative Conference of the United States, to be held at 10:30 a.m., on Monday, March 29, 1982, and, also at 10:30 a.m., on Monday, April 12, 1982, in the Library of the Administrative Conference, 2120 L Street, N.W., Suite 500, Washington, D.C.

At the March 29 meeting, the Committee will consider developing recommendations, for full Conference consideration, on the subject of requiring procedures in informal rulemaking in addition to those now required by 5 U.S.C. 553. The Committee expects to continue its deliberation of informal rulemaking procedure on April 12. At that meeting, the Committee also will consider a report by Professor Stephen Wood on procedures for amending or revoking rules adopted under "hybrid" rulemaking statutes.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meetings; any member of the public may file a written statement with the Committee before, during or after the meetings.

For further information concerning these meetings, contact Michael W. Bowers (202–254–7065). Minutes of the meetings will be available on request.

Richard K. Berg,
General Counsel.
March 5, 1982.
[FR Doc. 82-6700 Filed 3-11-82; 8:45 am]
BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Agriculture Research Service

National Arboretum Advisory Council; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92–463, 86 Stat. 770–776), the Agricultural Research Service announces the following meeting:

Name: National Arboretum Advisory Council
Date: April 6, 7, and 8, 1982
Place: U.S. National Arboretum, 24th & R Streets, NE, Washington, DC 20002
Type of meeting: Open to the public. Persons may participate in the meeting as time and space permit.
Comments: The public may file written comments before or after the meeting with the contact person below.
Purpose: To review and make recommendations on: Research Programs, Exploration Plans, Education Programs, Maintenance Needs, Budget/Personnel, and Attend Demonstrations and Tour of Grounds/Gardens.
Contact person: Dr. Anson E. Thompson, Executive Secretary, National Arboretum Advisory Council, Room 305, Building 005, BARC-West, Beltsville, MD 20705, telephone (301) 344–2710.

Done at Beltsville, Maryland this 8th day of March 1982.

Anson E. Thompson,
Executive Secretary, National Arboretum Advisory Council.
[FR Doc. 82-6795 Filed 3-11-82; 8:45 am]
BILLING CODE 3410-03-M

Commodity Credit Corporation

1982-Crop Honey Price Support Program; Proposed Determinations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of proposed determinations.

SUMMARY: The Secretary of Agriculture is preparing to make determinations with respect to the price support program for 1982-crop honey. These determinations are to be made pursuant to the Agricultural Act of 1949, as amended. The program will enable producers to obtain price support on 1982-crop honey. Written comments are invited from interested persons.

DATE: Comments must be received by March 24 in order to be assured of consideration.

ADDRESS: Mail comments to Dr. Howard C. Williams, Director, Analysis Division, ASCS, USDA, 3741 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Harry A. Sullivan, Agricultural Economist, Analysis Division, USDA-ASCS, P.O. Box 2415, Washington, D.C. 20013 (202)–447–6758. The Preliminary Regulatory Impact Analysis describing the options considered in developing these proposed determinations and the impact of implementing each option is available from the above-named individual.

SUPPLEMENTARY INFORMATION: These proposed determinations have been reviewed under USDA procedures established in accordance with Secretary's Memorandum No. 1512–1 and Executive Order 12291 and have been classified "not major". It has been determined that these proposed determinations will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the federal assistance program that these proposed determinations applies to are: Title—Commodity Loans and Purchases; Number—10.051 as found in the catalog of Federal Domestic Assistance.

These proposed determinations will not have a significant impact specifically on area and community development. Therefore, review as established under OMB Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of proposed determinations since Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

In order that a price support program for the 1982 crop of honey can be implemented by April 1, 1982, the beginning of the marketing season, I have determined that it is impractical and contrary to the public interest to comply with the public rulemaking requirement of 5 U.S.C. 553 and Executive Order 12291. Accordingly, comments must be received by March 24 in order to be assured of consideration.

Price Support Program, Color Differentials and Discounts for Quality

Section 201(b) of the Agricultural Act of 1949, as amended, requires the Secretary to make available through loans, purchases, or other operations, price support to producers of honey at a level which is not in excess of 90 percent nor less than 60 percent of the parity price thereof. Loan and purchase rates will be based on color, class and grade and will reflect market differentials under which honey is merchandised. Section 401(b) of the Agricultural Act of 1949, as amended, requires that, in determining a price support rate in excess of the minimum prescribed, consideration must be given to the supply of the commodity in relation to the demand therefor, the price levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired under a price support program, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

Honey production during the 1955 to 1963 period averaged 250 million pounds annually. During that period, a decline in colony numbers was offset by an uptrend in yield per colony. After 1963, production trended downward, reaching a 1976–80 average of about 200 million pounds as a result of low yields, declining colony numbers, or both. The long term decline in colony numbers bottomed in 1972 when a modest upturn appeared to begin. However, colony numbers declined again in 1978 to 4,090,000 colonies. The current projection for 1982 production of 215 million pounds (from 4,300,000 colonies) is 35 million pounds above anticipated 1981 production and above most recent years.

The decline in domestic honey production has been partially offset by an increase in honey imports. While the U.S. was a net exporter of honey until the mid-sixties, it has been a net importer in recent years. Imports reached record or near record levels in each of the last four years. Imports in 1981 are estimated at around 77.3 million pounds, 28.3 million pounds above the quantity imported in 1980 and 10.8 million pounds above the previous record of 66.5 million pounds. Imports in 1982 are projected at 67 million pounds.

Total supply remained below 300 million pounds (the norm during the 1960's) until 1976 when it reached an estimated 316 million pounds. Total supply for 1982 is expected to reach 348 million pounds due to increased production and continued high imports.

Domestic disappearance trended down from a peak average of 285 million pounds in the 1950–53 period to 225 million pounds in the 1973–75 period. Disappearance is now running close to the 250 million pound level. The timing of reports on stock levels makes the disappearance for 1981 appear to be unusually low. Disappearance for the 1982–83 marketing year is expected to recover to a more normal level of about 264.5 million pounds.

Honey prices rose strongly during the 1970–74 period reaching 47.7 cents per pound on a bulk, extracted, wholesale, unprocessed basis in 1974. Prices then declined for 2 years reaching 45 cents in 1976. Market prices then progressively increased to the present level of about 56 cents per pound.

The level of price support for the 1981 crop of honey was established at 60 percent of parity or 57.4 cents per pound. The level of support for honey has been established annually at this 60 percent level since 1973. While CCC has not acquired stocks of honey during the period 1970 through 1979, 6 million pounds of 1980-crop honey were acquired by the Corporation. In addition, it is anticipated that CCC will acquire 10 million pounds of 1981-crop honey. Accordingly, it is proposed that the level of support for the 1982 crop of honey be established at 60 percent. Establishing a level of support in excess of 60 percent of parity would result in support prices well above projected market prices thus increasing the likelihood of CCC acquisitions of honey stocks.

Proposed Determinations

The Secretary of Agriculture is considering the following determinations and comments are requested thereon for the 1982 crop honey:

A. Level of support at 60% of parity, the minimum statutory level.

B. Loan rates with differentials based on color, class, and grade.

Signed at Washington, D.C. on March 9, 1982.

Everett Rank,
Executive Vice President, Commodity Credit Corporation.
[FR Doc. 82-6635 Filed 3-11-82; 8:45 am]
BILLING CODE 3410-05-M

Forest Service

Uinta National Forest Grazing Advisory Board; Meeting

The Uinta National Forest Grazing Advisory Board will meet at 9 a.m. on Thursday, April 1, 1982, at the Rodeway Inn at 1292 South University Avenue, Provo, Utah.

The purpose of this meeting is to receive recommendations on the utilization of range betterment funds and the development of range allotment management plans.

The meeting will be open to the public. Persons who wish to attend should notify W. Frank Savage, Uinta National Forest Supervisor's Office, P.O. Box 1428, Provo, Utah 84603, phone 801–377–5780. Written statements may be filed with the Board before or after the meeting.

Dated: March 3, 1982.

Don Nebeker,
Forest Supervisor.
[FR Doc. 82-6716 Filed 3-11-82; 8:45 am]
BILLING CODE 3410-11-M

Packers and Stockyards Administration

Posted Stockyards; Dundee Community Auction, Dundee, Michigan, et al.

Correction

In FR Doc. 82–6094, published at page 9488, on Friday, March 5, 1982, on page 9489, in the first column, in the second entry of the table, "MI–166" should be corrected to read "SD–166".

BILLING CODE 4165-01-M

Office of the Secretary

Members of Performance Review Boards

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: This document amends the list of Performance Review Board members published April 20, 1981, 46 FR 22629 and 22630, as amended July 15, 1981, 46 FR 36733, September 25, 1981, 46 FR 47244, and October 27, 1981, 46 FR 52404 and 52405.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Earl C. Hadlock, Chief, Executive Resources, Performance Appraisal, and Merit Pay Staff, Office of Personnel, Department of Agriculture, 14th Street and Independence Avenue, S.W., Washington, D.C. 20250 (202–447–2830).

The membership of the Department of Agriculture's Performance Review Boards is amended by deleting the names of G. William Hoagland and Robert Drummond and adding those of John E. Carson, Frank Gearde, Jr., Glenn Haney, Billy H. Jones, Doris Thompson, and Samuel Cornelius.

John R. Block,

Secretary of Agriculture.

March 8, 1982.

[FR Doc. 82-6738 Filed 3-11-82; 8:45 am]

BILLING CODE 3410-01-M

Watershed Protection and Flood Prevention Program (Pub. L. 83–566) Payments; Determination of Primary Purpose for Amounts That May Be Excluded From Income Under Section 126 of the Internal Revenue Code of 1954, as Amended

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of determination.

SUMMARY: The purpose of this notice is to announce the determination by the Secretary of Agriculture that certain Federal payments made to landowners, operators or occupiers under the Watershed Protection and Flood Prevention Program (Pub. L. 83–566, 16 U.S.C. 1001 et seq.) are deemed to have been and are made primarily for purposes of conserving soil and water resources, protecting or restoring the environment, or providing a habitat for wildlife. This determination is in accordance with Section 126(b) of the Internal Revenue Code of 1954 as amended by Section 543 of the Revenue Act of 1978 and the Technical Corrections Act of 1979, and is applicable to payments made after September 30, 1979. The effect of this determination makes it possible for recipients of these payments to exclude from gross income, to the extent allowed by the Internal Revenue Service, all or part of these payments.

FOR FURTHER INFORMATION CONTACT: Director, Project Development and Maintenance, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013, (202) 447–3527.

SUPPLEMENTARY INFORMATION: This action has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified as "non-major." It has been determined that these program provisions will not result in an annual effect on the economy of $100 million or more; would not cause a major increase in costs or prices for consumers, individuals, industries, Federal, State or local Government agencies or geographic regions; and would not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

Section 126 of the Internal Revenue Code of 1954 (26 U.S.C. 126), as amended by the Revenue Act of 1978 and the Technical Corrections Act of 1979, contains provisions which allow certain cost-sharing Federal payments to be excluded from gross income for Federal income tax purposes. Section 126 requires that the Secretary of Agriculture determine whether certain payments, or portions thereof, issued to persons with respect to conservation programs listed in Section 126(a) are "made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife * * *" Pursuant to criteria set forth in 7 CFR Part 14, the Secretary of Agriculture must evaluate each of these conservation programs and make a "primary purpose" determination with respect to the payments made under each program. In addition, before there may be an exclusion the Secretary of the Treasury must make a determination that any payment made to a person under these conservation programs does not increase substantially the annual income derived from the property benefited by the payments.

In accordance with Section 126(a)(9) the Secretary of the Treasury has determined that the Watershed Protection and Flood Prevention Program authorized by Pub. L. 83–566; 68 Stat. 666, as amended, 16 U.S.C. 1001 et seq., is a program under which payments may be considered for exclusion eligibility (26 CFR Part 16A; 46 FR 27636; May 21, 1981). The Watershed Protection and Flood Prevention Program provides technical and financial assistance to landowners, occupiers and operators for installing works of improvement for flood prevention, the conservation, development, utilization and disposal of water, or the conservation and proper utilization of land in watershed or subwatershed areas not exceeding two hundred and fifty thousand acres. Financial assistance is provided through locally managed soil and water conservation district, agreements with landowners, occupiers and operators individually or collectively. The agreements are based on conservation plans which are developed with and approved by the soil and water conservation district. The agreement provides for installing the complete conservation plan within a period not to exceed 10 years. The plan typically provides for changes in cropping systems and land use and for the installation of soil and water conservation practices and measures needed to conserve and develop the soil, water, woodland, and wildlife resources of lands covered by the agreement.

"A Watershed Protection and Flood Prevention Program Determination for Federal Tax Purposes" has been prepared and is available upon request from the Director, Land Treatment Program, SCS, P.O. Box 2890, Washington, D.C. 20013.

Notice of Determination

The Watershed Protection and Flood Prevention Program authorizing legislation, regulations, and operating procedures has been examined using the criteria established by the Department of Agriculture for determining the "primary purpose" of certain payments made with respect to various conservation programs as required by Section 126 of the Internal Revenue Code of 1954, as amended. This review indicates that the primary purpose of the payments made to landowners and operators under the Watershed Protection and Flood Prevention Program is to achieve flood prevention, conservation, development, utilization and disposal of water or the conservation and proper utilization of land in watersheds and subwatersheds.

Therefore, the Secretary of Agriculture hereby gives notice that in accordance with the criteria set out in 7 CFR Part 14, all payments to landowners, operators, and occupiers made under the Watershed Protection and Flood Prevention Program are determined to be primarily for the purpose of conserving soil and water resources or protecting or restoring the environment.

Subject to further determination by the Secretary of the Treasury, this determination will permit payment recipients to exclude from gross income all or part of such payments under the Watershed Protection and Flood Prevention Program made after September 30, 1979.

Signed at Washington, D.C., on March 8, 1982.

John R. Block,

Secretary.

Watershed Protection and Flood Prevention Program—Record of Decision, Primary Purpose Determinations for Federal Tax Purposes

Introduction: The Secretary of Agriculture is authorized by Section 126 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 126), to determine the primary purpose for which payments are made under certain Federal and State cost-sharing programs. The determination will identify the payments which are eligible for exclusion from the recipient's gross income for Federal tax purposes to the extent allowed by the Internal Revenue Service.

In accordance with Section 126(a)(9), the Secretary of the Treasury has determined that the Watershed Protection and Flood Prevention Program is eligible for Section 126 coverage (26 CFR Part 16A; 46 FR 27636; May 21, 1981).

Basis for Determination: U.S. Department of Agriculture (USDA) determinations are made in accordance with 7 CFR Part 14 by reviewing authorizing legislation, regulations, and operating policy to identify the purposes for which cost-share payments are made. Final determinations are made on the basis of program, category of practices or individual practices and are published in the **Federal Register.**

Statement of Findings: The Watershed Protection and Flood Prevention Program is authorized by Pub. L. 83–566, as amended (16 U.S.C. 1001 et seq.). The authorizing legislation states that the purpose of the program is to prevent floods, further the conservation, development, utilization and disposal of water, and the conservation and utilization of land. These objectives are achieved through project activities which include planning and installation of structural, nonstructural and land treatment measures.

Structural measures are broadly defined as those works of improvement that affect two or more beneficiaries and are too large for installation by a single landowner. Examples includes dams, leeves and stream channel modification. Nonstructural examples include flood proofing, flood plain regulations and flood warning systems. Land treatment practices are those measures normally installed by individual land users, such as terrances and waterways.

Technical assistance is provided through local sponsoring organizations that are duly organized under State law. Financial assistance for installing structural and nonstructural measures is provided to sponsors in accordance with Pub. L. 83–566 and the policy of the Secretary of Agriculture. Land treatement measures are cost shared with individual land users. In accordance with the law, cost share may not exceed the rate provided under other similar national cost sharing programs. Current SCS policy (Part 504.01(a)3b of the National Watershed Manual) states that measures installed primarily for the purpose of increasing agricultural production are ineligible for cost-sharing assistance.

Pub. L. 83–566 funds may be used to provide technical and financial assistance for planning and installing land treatment necessary to achieve project goals. Pub. L. 83–566 financial assistance can be used only to supplement funds available from other USDA programs and State and local sources. Land treatment eligible for assistance must meet any of the following conditions:

(1) Be effective in reducing soil erosion or sedimentation hazards or * * *

(2) Have measurable physical effects in reducing floodwater damages; providing for water conservation; enhancing fish and wildlife habitat; improving water quality or producing other environmental benefits or * * *

(3) Be necessary to ensure realization of benefits used in the economic justification of structural measures and in the watershed plan and * * *

(4) Not be intended pirmarily for increasing annual income and agricultural production and * * *

(5) Be an economically and environmentally defensible plan.

The Secretary of Agriculture has delegated responsibility for administration of Pub. L. 83–566 to the Chief, Soil Conservation Service. The U.S. Forest Service and the Farmers Home Administration have also been delegated those responsibilities that respectively relate to forest lands and loan features of the program.

Summary

The purpose of the program is to preserve and protect the Nation's water and related land resources. Cost sharing is limited by law or policy and is consistent with other similar programs. Measures installed primarily for the purpose of increasing agricultural production are ineligible for cost sharing assistance. Assistance is limited to watersheds where other programs are not able to solve water and related land resource problems in a timely manner.

Determination

Therefore, it is determined that all cost-share payments for land treatment made to landowners, occupiers and operators under the Watershed Protection and Flood Prevention Program are for the purpose of conserving soil and water resources or protecting or restorting the environment.

[FR Doc. 82-6739 Filed 3-11-82; 8:45 am]

BILLING CODE 3410-01-M

Soil Conservation Service

Mansfield Township Elementary School RC&D Measure, New Jersey; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Plater T. Campbell, State Conservationist, Soil Conservation Service, 1370 Hamilton Street, Somerset, New Jersey 08873, telephone 201–246–1205.

Notice.—Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Mansfield Township Elementary School Critical Area Treatment RC&D Measure, Warren County, New Jersey.

The environmental assessment of this federally assisted action indicates that the project will not cause significant adverse impacts on the human environment. As a result of this finding, Plater T. Campbell, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the stabilization of critically eroding areas on the Manfield Township Elementary School grounds. The planned works of improvement include both vegetative and concrete block-lined waterways and the enlargement of an existing culvert.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Plater T. Campbell, State Conservationist, 1370 Hamilton Street, Somerset, New Jersey 08873, telephone 201–246–1205. An environmental impact appraisal has been prepared and sent to various Federal, State and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until April 12, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Plater T. Campbell,
State Conservationist.
March 5, 1982.
[FR Doc. 82-6738 Filed 3-11-82; 8:45 am]
BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations; Week Ended March 5, 1982

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings. (See 14 CFR 302.1701 et seq.).

Date filed	Docket No.	Description
March 5, 1982	40607	EOA, Inc., c/o Walter E. Collier, P.O. Box 943, Leesburg, Virginia 22075. Application of EOA, Inc., pursuant to section 401(d)(1)(A), of the Act and Subpart Q of the Board's Procedural Regulations, requests permanent authority to engage in scheduled air transportation of persons, property and mail between any point in any State in the United States or the District of Columbia, or any territory or possession of the United States and any other point in any state of the United States or the District of Columbia, or any territory or possession of the United States. Conforming Applications, motions to modify scope, and Answers may be filed by April 2, 1982.

Phyllis T. Kaylor,
Secretary.
[FR Doc. 82-6708 Filed 3-11-82; 8:45 am]
BILLING CODE 6320-01-M

[82-3-53; Docket 40412]

Application of Midwestern Airlines, Inc., for a Certificate of Public Convenience and Necessity

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting a Fitness Investigation of Midwestern Airlines, Inc., 82–3–53 Docket 40412.

SUMMARY: The Board is issuing an order instituting a fitness investigation of Midwestern Airlines, Inc.

DATES: Persons wishing to file petitions to intervene in the *Midwestern Airlines Fitness Investigation* shall file their petitions in Docket 40412 by March 22, 1982 and serve such filings on all persons listed below.

ADDRESSES: Petitions to intervene should be filed in Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 40412, application of Midwestern Airlines, Inc. for (1) a determination of fitness, (2) a certificate of public convenience and necessity, and (3) a disclaimer of jurisdiction or, in the alternative, approval of interlocking relationships.

In addition, copies of such filings should be served on: Midwestern Airlines, Inc., the Mayors of Chicago, Illinois; Cleveland, Ohio; Flint, Lansing, Midland, Bay City, Saginaw, Grand Rapids, Muskegon and Kalamazoo, Michigan; the managers of these cities' airports; the Michigan Aeronautics Commission; the Illinois Department of Transportation; the Ohio Department of Transportation; the Federal Aviation Administration; and the American Association of Airport Executives.

Service will also be required on any other person filing petitions.

FOR FURTHER INFORMATION CONTACT: Carol A. Szekely, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673–5328.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–3–53 is available from our Distribution Section, Room 100, 1825 Connecticut Ave., NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 82–3–53 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: March 8, 1982.
Phyllis T. Kaylor,
Secretary.
[FR Doc. 82-6770 Filed 3-11-82; 8:45 am]
BILLING CODE 6320-01-M

Commuter Fitness Determination

The Board is proposing to find the following carriers fit willing and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that aircraft used in this service conform to applicable safety standards.

Order	Applicant	Response date
82-3-26	Barken International, Inc	Mar. 25, 1982.
82-3-27	Pieros, Inc	Mar. 25, 1982.
82-3-28	Midwest Aviation Division of Southwest Aviation, Inc.	Mar. 25, 1982.
82-3-37	Mid-South Airlines, Inc	Mar. 25, 1982.
82-3-58	Ross Aviation, Inc	Mar. 29, 1982.

All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed in Attachment A of the respective orders and file response or additional data for Orders 82–3–26, 82–3–27, 82–3–28, and 82–3–58 with the Special Authorities Division, Room 915; for Order 82–3–37 with the Essential Air Services Division, Room 921, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

The complete text of the orders is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request to the above address.

FOR FURTHER INFORMATION CONTACT: For Order 82–3–26: Mr. John McCamant, (202) 673–5082; for Order 82–3–27: Mr. James Lawyer, (202) 673–5088; for Order 82–3–28: Mr. J. Kevin Kennedy, (202) 673–5918; for Order 82–3–37: Corinne Grant, (202) 673–5002; and for Order 82–3–58: Mr. Raymond H. Nadonley, (202) 673–5820, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428.

By the Civil Aeronautics Board: March 9, 1982.
Phyllis T. Kaylor,
Secretary.
[FR Doc. 82-6709 Filed 3-11-82; 8:45 am]
BILLING CODE 6320-01-M

[Docket 40338]

Norfolk and Western Railway Co.—Piedmont Aviation Show-Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Norfolk and Western Railway Company-Piedmont Aviation, Inc. Show-Cause Proceeding.

SUMMARY: The Board has tentatively decided to approve the potential acquisition of Piedmont Aviation, Inc. by Norfolk and Western Railway Company under section 408 of the Federal Aviation Act. The parties are not substantial, potential or actual competitors. Interested persons may file objections to this tentative decision, together with specific evidence relied upon, within 15 days of service of the order. Answers thereto are due within 20 days of service of the order. If no objections are filed, this decision will become final and effective without further order.

DATES: Objections to this order shall be filed no later than March 24, 1982, and answers should be filed no later than April 13, 1982.

ADDRESSES: Documents should be filed in Docket 40338, Docket Section, Room 714, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Paul Samuel Smith, Competition Maintenance Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–6075.

SUPPLEMENTARY INFORMATION: A complete text of Order 82–3–50, is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 82–3–50 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: March 8, 1982.
Phyllis T. Kaylor,
Secretary.
[FR Doc. 82-6771 Filed 3-11-82; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Management-Labor Textile Advisory Committee; Rescheduled Public Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Management-Labor Textile Advisory Committee was established by the Secretary of Commerce on October 18, 1961 to advise U.S. Government officials on problems and conditions in the textile and apparel industry and furnish information on world trade in textiles and apparel.

TIME AND PLACE: March 31, 1982, 1:00 p.m. to 2:00 p.m. The meeting will take place at the Main Commerce Building, Room 4830, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. (Public entrance to the building is on 14th Street between Constitution Avenue and E Streets, NW.)

AGENDA: (1) Review of import trends, (2) Implementation of textile agreements, (3) Report on conditions in the domestic market, (4) Other business.

PUBLIC PARTICIPATION: The meeting will be open to public participation to the extent time is available. The public may file written statements with the Committee before or after the meetings. Approximately 30 seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, Office of the Deputy Assitant Secretary for Textiles and Apparel, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202/377–3737.

Dated: March 9, 1982.
Paul T. O'Day,
Deputy Assistant Secretary for Textiles and Apparel.
[FR Doc. 82-6825 Filed 3-11-82; 8:45 am]
BILLING CODE 3510-25-M

Minority Business Development Agency

Financial Assistance Application Announcement

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications for a Cooperative Agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning September 1, 1982 in the Norfolk, Virginia SMSA. The cost of the project is estimated to be $250,000. The maximum federal participation amount is $225,000. The minimum amount required for non-federal participation is $25,000. The project number is 03–10–82004–01.

Applicants shall be required to contribute at least 10% of the total program costs through non-federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

CLOSING DATE: April 16, 1982.

Applications should be submitted in triplicate and mailed to the following address: Washington Regional Office, Minority Business Development Agency, 1730 K Street N.W., Suite 420, Washington, D.C. 20006, Phone (202) 634–7883.

FOR FURTHER INFORMATION AND/OR AN APPLICATION KIT CONTACT: Ms. Beverly Ivery at (202) 634–7883.

SUPPLEMENTARY INFORMATION:

A. *Scope and Purpose of this Announcement.* Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The BDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA offers Cooperative Agreements that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer

them a full range of management and technical assistance; and serve as a conduit—through which and from which information and assistance to and about minority businesses are funneled.

B. *Eligible Applicants.* Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. *Evaluation Process.* All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. *Evaluation Criteria for Business Development Center Application.* The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. *Capability and Experience of Firm/Staff.* Provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

—The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)

—Background credentials and references for the owners of the organization and a capability statement of what the organization can do.

—Knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local public and private entities—that can possibly enhance the BDC program effort—i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

—List personnel to be used. Indicate their salaries, educational level and previous experiences. Provide resumes for all professional staff personnel.

—Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.

—Provide organization chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.

—If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contacting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A-110 or A-102.

II. *Techniques and Methodology.* Specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the BDC responsibilities as guides and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; developing and maintaining the profile inventory of minority business; and brokering of new business ownership, market and capital opportunities. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. *Resources.* Address technical and administrative resources, i.e. computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 10% cost sharing requirement to include a fee for services for assistance provided clients. The fee for services will be 10% for firms with gross sales of $500,000 or less and 25% for firms with gross sales of over $500,000.

Cost sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order of priority: (1). cash contributions; (2). fee for services; and (3). in-kind contributions.

A. *Cash contributions.* Means cash that is contributed or donated by the recipient, by other non-federal, public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services.* Are charges to the client for assistance provided by BDC.

C. In-Kind contribution. Represent the value of non-cash contributions provided by the recipient and non-federal parties. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution.

IV. *Costs.* Demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost sharing plan information in terms of methodology and format for billing the cost of management and technical assistance to clients.

Total project costs will be evaluated in terms of:

—Clear explanations of all expenditures proposed, and

—The extent to which the applicant can leverage federal program funds and operate with *economy* and *efficiency.*

In conclusion, the applicant's schedule for start of BDC operation should be included in Part Two. Part Two will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement award.

A detailed justification of all proposed costs is required for Part Four and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered non-responsive and consequently, dropped from competition.

All information submitted is subject to verification by MBDA.

E. *Disposition of Proposals.* Notification of awards will be made by the Grants Officer. Organization whose proposals are unsuccessful will be advised by the Regional Director.

F. *Proposal Instructions and Forms. Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.*

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants. The program is subject to OMB Circular A-95 requirements.

G. A Pre-Application conference to assist all interested applicants will be held at the following address on Wednesday, March 24, 1982 at 10:00 A.M.: U.S. Department of Commerce, 14th and Constitution Ave. N.W., Room 6802, Washington, D.C. 20230.

Dated: March 8, 1982.

Luis G. Encinias,

Regional Director.

[FR Doc. 82-6772 Filed 3-11-82; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcement

The Minority Business Development Agency announces that it is seeking applications under its Indian Program to operate three San Francisco Region projects for a 12-month period. The aggregate total costs of the projects are $523,880.

Funding Instrument: It is anticipated that the funding instruments as defined by the Federal Grant and Cooperative Agreement Act of 1977 will be Cooperative Agreements.

Program Descriptions: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible minority clients in areas related to the establishment and operation of businesses. These proposed projects are specifically designed to provide business information counseling, financial packaging assistance, and assistance in identifying and exploiting business opportunities and new/or expanding markets.

Summary of Project Locations

Alaska, Arizona, Washington/Oregon

One Cooperative Agreement Under the Indian Business Development Center (IBDC) Program to operate a pilot project for a 12-month period beginning August 1, 1982 in the State of Washington/Oregon. This pilot project will operate at a cost not to exceed $170,000 and the Project I.D. Number is 10-10-82024-01. Closing Date: April 12, 1982.

One Cooperative Agreement Under the Indian Business Development Center (IBDC) Program to operate a pilot project for a 12-month period beginning October 1, 1982 in the State of Alaska. This pilot project will operate at a cost not to exceed $163,880 and the Project I.D. Number is 10-10-82025-01. Closing Date: June 22, 1982.

One Cooperative Agreement Under the Indian Business Development Center (IBDC) Program to operate a pilot project for a 12-month period beginning September 1, 1982 in the State of Arizona. This pilot project will operate at a cost not to exceed $170,000 and the Project I.D. Number is 09-10-82026-01. Closing Date: May 25, 1982.

An application kit is available upon written request.

The pre-application conference to assist all interested applicants will be held at 450 Golden Gate Avenue, San Francisco, California 94102, Room 13020, (13th Floor) on March 22, 1982, at 10 a.m.

Applicants are limited to Indian-owned firms, Indian Tribes, and Indian individuals, profit or non-profit.

—To provide management and technical assistance to qualified Indian firms,

—To develop and maintain an inventory of existing Indian businesses and prospective entrepreneurs, and

—To provide brokering service that will foster and promote new business ownership, business expansions, market opportunities and new capital sources.

Legal services are excluded.

Applicants shall be required to contribute at least 10% of the total program costs through non-federal funds. A fee for services for assistance provided clients will be charged. The fee for services will be 10% for firms with gross sales of $500,000 or less and 25% for the firms with gross sales of over $500,000. Cost sharing contributions can be in the form of cash contributions, fee or services, or in-kind contributions.

The program is subject to OMB Circular A-95 requirements.

Proposals are to be mailed to the following address: Minority Business Development Agency, U.S. Department of Commerce, San Francisco Regional Office, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102.

For further information contact Mr. Mikel Cook at 415/556-6733.

(11.800 Minority Business Development. Catalog of Federal Domestic Assistance)

Dated: March 3, 1982.

R. V. Romero,

Regional Director.

[FR Doc. 82-6768 Filed 3-11-82; 8:45 am]

BILLING CODE 3510-21-M

National Bureau of Standards

Approval of Federal Information Processing Standard 91, Magnetic Tape Cassettes for Information Interchange, Dual Track Complementary Return-to-Bias (CRB) Four-States Recording on 3.81-mm (0.150-in) Tape

Under the provisions of Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, May 11, 1973), the Secretary of Commerce (Secretary) is authorized to establish uniform Federal automatic data processing standards. On September 25, 1980, notice was published in the Federal Register (45 FR 63542-63543) that a standard for Magnetic Tape Cassette for Information Interchange, Dual Track Complementary Return-to-Bias Four States Recording (CRB) on 3.81 mm (0.150 in) Tape was being proposed for Federal use. Interested parties were invited to submit written comments concerning this proposed standard to the National Bureau of Standards (NBS).

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NBS. On the basis of this review, NBS recommended to the Secretary his approval of the standard as a Federal Information Processing Standard (FIPS), and prepared a detailed justification document for the Secretary's review in support of that recommendation. The purpose of this notice is to announce that the Secretary has approved the standard as a FIPS, and that the standard shall be published as FIPS Publication 91. The provisions of this standard are effective on the date of publication of this notice in the Federal Register.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 5617, Main Commerce Building, 14th Street between Constitution Avenue and E Street, N.W., Washington, D.C. 20230.

The approved FIPS contains two portions: (1) An announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard and (2) a specifications portion which deals with the technical requirements of the standard. Only the announcement portion of the standard is provided in

this notice. This FIPS incorporates by reference the technical specifications of American National Standard X3.59–1981, Magnetic Tape Cassettes for Information Interchange, Dual Track Complementary Return-to-Bias (CRB) Four-States Recording on 3.61-mm (0.150-in) Tape.

By arrangement with the American National Standards Institute, interested parties may purchase copies of this standard, including the specifications portion, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies section of the announcement portion of the standard.

Persons desiring further information about this standard may contact Mr. Michael Hogan, System Components Division, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (301) 921–3723.

Dated: March 8, 1982.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication 91—Announcing the Standard for Magnetic Tape Cassettes for Information Interchange, Dual Track Complementary Return-to-Bias (CRB) Four-States Recording on 3.81-mm (0.150-in) Tape

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89–306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Magnetic Tape Cassettes for Information Interchange, Dual Track Complementary Return-to-Bias (CRB) Four-States Recording on 3.81-mm (0.150-in) Tape (FIPS PUB 91).

Category of Standard. Hardware Standard, Interchange Codes and Media.

Explanation. This standard specifies the recorded characteristics for a 3.81 mm (0.150 in) wide magnetic tape cassette with data recorded on two tracks using complementary recordings and a return-to-bias method of encoding in order to provide for digital data interchange between information processing systems. This standard is one of a series of Federal Information Processing Standards implementing the Federal Standard Code for Information Interchange (FIPS 1–1) on magnetic tape media.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index. American National Standard Magnetic Tape Cassettes for Information Interchange, Dual Track Complementary Return-to-Bias (CRB) Four-States Recording on 3.81-mm (0.150-in) Tape, X3.59–1981.

Related Documents

a. American National Standard Code for Information Interchange (ASCII), X3.4–1977, FIPS PUBS 1–1 and 7.

b. American National Standard Code Extension Techniques for Use with the 7-Bit Coded Character Set of American National Standard Code for Information Interchange, X3.41–1974, FIPS PUB 35.

c. American National Standard Magnetic Tape Cassettes for Information Interchange, (3.810-mm (0.150-in) at 32 bpmm (800 bpi), PE), X3.48–1977, FIPS PUB 51.

d. American National Standard Additional Controls for Use with American National Standard Code for Information Interchange, X3.64–1979, FIPS PUB 86.

Applicability. This standard is applicable to the acquisition and use of all magnetic tape cassette recording and reproducing equipment employing 3.81 mm (0.150 in) wide magnetic tape with data recorded on two tracks with complementary recordings using a return-to-bias method of encoding. Federal information processing systems employing such equipment, including associated software, shall provide the capability to accept and generate recorded magnetic tape cassettes in compliance with the requirements set forth in this standard.

Specifications. This standard incorporates by reference the technical specifications of American National Standard Magnetic Tape Cassettes for Information Interchange, Dual Track Complementary Return-to-Bias (CRB) Four-States Recording on 3.81-mm (0.150-in) Tape, X3.59–1981.

Qualifications. None.

Implementation Schedule. All applicable equipment ordered on or after the date of the publication of this approved FIPS PUB in the Federal Register must be in conformance with this standard unless a waiver has been obtained in accordance with the procedure described below. Exceptions to this standard are made in the following cases:

a. For equipment installed or on order prior to the date of this FIPS PUB.

b. Where procurement actions are into the solicitation phase (i.e., Request for Proposals or Invitation for Bids has been issued) on the date of this FIPS PUB.

Waivers. Heads of agencies may request that the requirements of this standard be waived in instances where it can be clearly demonstrated that there are appreciable performance or cost advantages to be gained and that the overall interests of the Federal Government are best served by granting the requested waiver. Such waiver requests will be reviewed by and are subject to the approval of the Secretary of Commerce. The waiver request must address the criteria stated above as the justification for the waiver.

Forty-five days should be allowed for review and response by the Secretary of Commerce. Waiver requests shall be submitted to the Secretary of Commerce, Washington, D.C. 20230, and labeled as a Request for a Waiver to a Federal Information Processing Standard. No agency shall take any action to deviate from the standard prior to the receipt of a waiver approval from the Secretary of Commerce. No agency shall begin any process of implementation or acquisition of non-conforming equipment unless it has already obtained such approval.

Special Information. Federal standards and/or specifications for unrecorded magnetic tape cassettes will be developed and issued by the General Services Administration. Until such time as these are available, American National Standard X3.48–1977, Magnetic Tape Cassettes for Information Interchange (3.810-mm (0.150-in) Tape at 32 bpmm (800 bpi), PE), should be cited in Federal procurements.

Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 91 (FIPS–PUB–91), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 82-6720 Filed 3-11-82; 8:45 am]

BILLING CODE 3510-CH-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Issuance of Permit

On February 1, 1982, Notice was published in the Federal Register (46 FR 4549) that an application had been filed with the National Marine Fisheries Service by Mr. Randall S. Wells and Mr. Michael D. Scott for a Scientific Research Permit to take Atlantic bottlenose dolphins by potential harassment.

Notice is hereby given that on March 5, 1982, the National Marine Fisheries Service issued a Scientific Research Permit as authoirized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), to Mr. Randall S. Wells and Mr. Michael D. Scott, subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;
Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: March 5, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-6637 Filed 3-11-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

New Official Authorized To Issue Export Visas and Certifications for Exempt Textile Products From the Republic of Korea

March 8, 1982

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Authorizing Jang Wooh Noh (Noh, J. W.) to issue visas and certifications for exempt cotton, wool and man-made fiber textile products exported from the Republic of Korea to the United States, replacing Hong Geon Choe.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926)).

SUMMARY: On May 25, 1972, a letter dated May 19, 1972 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs was published in the Federal Register (37 FR 10805), prohibiting entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea and exported to the United States, for which the Government of the Republic of Korea had not issued a visa. A further letter, dated August 22, 1973, was published in the Federal Register on August 29, 1973 (38 FR 23357), which established an administrative mechanism to exempt from the limitations of the bilateral agreement between the Governments of the United States and the Republic of Korea certain textile products which have been certified for exemption by the Government of the Republic of Korea.

One of the requirements is that the visas and certifications for exemption include the signature of an official designated by the Government of the Republic of Korea. The Government of the Republic of Korea has informed the Government of the United States that, effective on November 4, 1981, Jang Wooh Noh (Noh, J. W.) of the Ministry of Commerce and Industry, is the official authorized to issue export visas and certifications for exempt items, replacing Hong Geon Choe. Goods covered by visas and certifications issued by Hong Geon Choe before November 4, 1981 will not be denied entry.

EFFECTIVE DATE: November 4, 1981.

FOR FURTHER INFORMATION CONTACT: William J. Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

March 8, 1982

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This letter further amends, but does not cancel, the directive of May 19, 1972 from the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit, effective 30 days after publication of notice in the Federal Register, entry into the United States for consumption and withdrawal from the warehouse for consumption of cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea for which the Republic of Korea had not issued a visa. It also further amends, but does not cancel, the directive of August 22, 1973, which established a mechanism to exempt from the levels of the bilateral agreement between the Governments of the United States and the Republic of Korea, certain textile products which have been certified for exemption by the Government of the Republic of Korea.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977, and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, the directives of May 19, 1972 and August 22, 1973, as previously amended, are hereby further amended to authorize Jang Wooh Noh (Noh, J. W.) to issue visas and certifications for exempt cotton, wool and man-made fiber textile products exported from the Republic of Korea, effective on November 4, 1981, replacing Hong Geon Choe. Goods covered by visas and certifications issued by Hong Geon Choe before November 4, 1981 shall not be denied entry.

The action taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool and man-made fiber textile products from the Republic of Korea has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-6641 Filed 3-11-82; 8:45 am]

BILLING CODE 3510-25-M

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[Docket No. CRT 80-4]

1979 Cable Royalty Distribution Determination

Correction

In FR Doc. 82-6102 appearing on page 9879 in the issue of Monday, March 8, 1982, make the following correction.

On page 9897, second column, in the table "Distribution of Cable Royalty Fees", the entry for "Approximate CRT administrative costs" reading "451,000.00" should read "45,000".

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 82-02-NG]

Natural Gas Imports, Northwest Pipeline Co.; Application To Increase Maximum Daily Volumes of Natural Gas Authorized for Import From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy gives notice of receipt on January 26, 1982, of an application from Northwest Pipeline Company ("Northwest") for authorization to import natural gas from Canada. Northwest seeks an increase in its daily import authorization from 809,000 Mcf per day to 869,000 Mcf per day from Westcoast Transmission Company Limited ("Westcoast") at the international boundary near Sumas, Washington. Northwest also seeks authorization to shift the point of import for certain volumes of natural gas from Sumas, Washington, to Kingsgate, British Columbia.

The application is filed with ERA pursuant to section 3 of the Natural Gas Act and the Secretary of Energy's Delegation Order No. 0204-54. Protests or petitions to intervene are invited.

DATES: Protests or petitions to intervene are to be filed no later than 4:30 p.m., April 12, 1982.

FOR FURTHER INFORMATION CONTACT:

Robert A. Archer (Oil and Gas Imports Division), Economic Regulatory Administration, Room 6304, RG-631, 2000 M Street NW., Washington, D.C. 20461, (202) 653-3623

Sue D. Sheridan (Office of General Counsel, Natural Gas and Mineral Leasing), 1000 Independence Avenue SW., Forrestal Building, Room 6E-042, Washington, D.C. 20585, (202) 252-6667

SUPPLEMENTARY INFORMATION: The application before ERA seeks authorization to increase the daily import limit 60,000 Mcf per day from 809,000 Mcf per day to 869,000 Mcf per day effective November 1, 1982 through October 31, 1989. Northwest has also requested authorization to shift the place of entry to Kingsgate, British Columbia, for a certain amount of natural gas currently imported through Sumas, Washington. Jurisdiction over approval of the place of entry was specifically delegated by the Secretary of Energy to the Federal Energy Regulatory Commission (FERC) in Delegation Order No. 0204-55. Northwest has, however, submitted an identical application to the FERC and that agency will consider Northwest's request with respect to the place of entry.

A series of import authorizations precedes the current request from Northwest. The Sumas importation was initiated by Pacific Northwest Pipeline Company ("Pacific Northwest") in 1955 under authority granted by the Federal Power Commission (FPC) in Docket No. G-8932 (14 FPC 157). Upon merger of Pacific Northwest into El Paso Natural Gas Company ("El Paso"), the import was continued by El Paso under authority granted in Docket No. G-13019 (22 FPC 1091 and 28 FPC 7), and subsequently continued by Northwest after it acquired El Paso's Northwest System Division. Northwest's application states that prior to this acquisition the Sumas importation was authorized by the Federal Power Commission (FPC) in Docket No. CP70-138, as amended (43 FPC 723 and 45 FPC 252).

The gas imported at Sumas was delivered and sold by Westcoast to El Paso under an agreement dated October 10, 1969, as amended by agreements dated October 1, 1970, and November 27, 1970. Westcoast is authorized to export this gas under its Canadian National Energy Board (NEB) Export License GL-41. When Northwest acquired El Paso's Northwest System Division in 1974, Northwest continued the purchase of natural gas from Westcoast at the Sumas import point pursuant to the October 10, 1969 agreement, as amended.

The current Northwest application to ERA for increased daily imports derives from an agreement entered into by Westcoast and El Paso on July 20, 1979 (El Paso Agreement), for Westcoast to sell El Paso up to 60,000 Mcf per day at the Sumas import point. In order for this to occur, the NEB's Order No. AO-22-GL-41 of December 6, 1979, amended License GL-41 to authorize Westcoast an increase in export volumes from 809,000 Mcf per day to 869,000 Mcf per day. Westcoast states that the amendment did not increase the annual volumes previously authorized for export beyond the amount initially authorized by license GL-41.

El Paso's right to purchase the 60,000 Mcf per day passed to Northwest on December 1, 1981, when Northwest, Westcoast, and El Paso entered into a three-party agreement. The agreement gives Northwest the sole right to purchase the additional 60,000 Mcf per day available at the Sumas import point.

Northwest and Westcoast have also entered into two Letter Agreements creating additional terms for importation of the natural gas. First, the El Paso Agreement would be consolidated into the October 10, 1969 agreement and raise the daily volume to 869,000 Mcf per day from 809,000 Mcf per day. Second, Northwest will be required to purchase from Westcoast, or nevertheless, pay for, a minimum annual volume (MAV) calculated each year by the following formula:

$$MAV = \frac{65\% \times \text{Authorized annual GL-41 volume for next 5 years}}{5}$$

(GL-41 is the relevant Canadian export authorization approved by the NED for Westcoast). The MAV is subject to adjustment under certain circumstances such as inability to deliver. Third, the point of importation of certain amounts of natural gas would shift from Sumas, Washington, to Kingsgate, British Columbia. Finally, Northwest will pay to Westcoast a proportionate share of the cost of delivering the gas at the international border. These costs will include both fixed and the incremental fuel costs incurred by Westcoast to raise the compression of the delivered gas from 500 psia to 600 psia during 1983, 1984 and 1985.

The price to be paid for the proposed import is the currently authorized price of U.S. $4.94 per MMBtu for Canadian natural gas.

According to the application, the additional 60,000 Mcf per day import is required to support a proposed sale of up to 325,000 Mcf per day by Northwest to either Texas Eastern Transmission Company (Texas Eastern), or Transwestern Pipeline Corporation (Transwestern), or to both firms. An application has been filed with the FERC by Northwest seeking authorization for both the sale and the construction of facilities needed to carry out the sale to these firms.

Northwest cites three factors in support of the importation: the import will support the proposed sales to Texas Eastern and Transwestern; the import will help assure long-term supply in the Pacific Northwest through increased purchases from British Columbia and encouragement of the development of British Columbia's reserves; and the increased sales will relieve British Columbia's need to find other U.S. or foreign markets for its gas reserves.

Other Information: Any person wishing to become a party to the proceeding or to participate as a party in any conference or hearing which might be convened must file a petition to intervene. Any person may file a protest with respect to this application. The filing of a protest will not serve to make the protestant a party to the proceeding. Protests will be considered in determining the appropriate action to be taken on the application.

All protests and petitions to intervene must meet the requirements specified in 18 CFR 1.8. and 1.10. They should be filed with the Natural Gas Branch, Economic Regulatory Administration, Room 6304, RG-631, 2000 M Street NW., Washington, D.C. 20461. All protests and petitions to intervene must be filed no later than 4:30 p.m., April 12, 1982.

A hearing will not be held unless a motion for a hearing is made by a party or person seeking intervention and granted by ERA, or if ERA on its own motion believes that a hearing is necessary or required. A person filing a motion for hearing should demonstrate how a hearing will advance the proceedings. If a hearing is scheduled, ERA will provide notice to all parties and persons whose petitions to intervene are pending.

A copy of Northwest's application is available for public inspection and copying in the Natural Gas Branch Docket Room, Room 6013, 2000 M Street NW., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. on March 8, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-6782 Filed 3-11-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Oil Pipeline; Tentative Valuation

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to section 19a of the Interstate Commerce Act.

Notice is hereby given that a tentative valuation is under consideration for the common carrier listed below:

1978, 1979, 1980 Consolidated Report (March 11, 1982)

Valuation Docket No. PV-1458-000;
Pogo Offshore Pipeline Company, P.O. Box 2504, Houston, TX 77001

On or before April 18, 1982, persons other than those specifically designated in section 19a(h) of the Interstate Commerce Act having an interest in this valuation may file, pursuant to rule 70 of the Interstate Commerce Commission's "General Rules of Practice" (49 CFR 1100.70), an original and three copies of a petition for leave to intervene in this proceeding.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the company at its address shown above and an appropriate certificate of service must be attached to the petition. Persons specifically designated in section 19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 82-6781 Filed 3-11-82; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of February 5 through February 12, 1982

During the week of February 5 through February 12, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

March 5, 1982.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Feb. 5 through Feb. 12, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Feb. 5, 1982	Economic Regulatory Administration (Office of the Solicitor), Washington, DC.	HRD-0030	Motion for Discovery. If granted: Murphy Oil Corporation would provide additional answers and documents in connection with the Motion for Discovery granted to the Economic Regulatory Administration (Case No. BRD-0057).
Feb. 5, 1982	Economic Regulatory Administration (Office of the Solicitor), Washington, DC.	HRD-0031	Motion for Discovery. If granted: Marathon Oil Company would provide additional answers and documents in connection with the Motion for Discovery granted to the Economic Regulatory Administration (Case No. BRD-0064).
Feb. 5, 1982	Mobil Oil Corp., New York, NY	HRD-0029	Motion for Discovery. If granted: The Proposed Order of Disallowance issued by the DOE to Mobil Oil Corporation would be dismissed and the Office of Hearings and Appeals would issue additional answers and documents in connection with the Motion for Discovery granted to Mobil (Case No. BRD-1148).
Feb. 5, 1982	Spruce Oil Corporation, Denver, CO	HRD and HRH-0028	Motion for Discovery and Motion for Evidentiary Hearing. If granted: Discovery would be granted and an Evidentiary Hearing would be convened in connection with the Statement of Objections submitted in response to the Sept. 30, 1981, Proposed Remedial Order (Case No. HRO-0008) issued to Spruce Oil Corporation.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Feb. 5 through Feb. 12, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Feb. 9, 1982	Bracewell & Patterson, Washington, DC	HFA-0036 and HFA-0035	Appeal of Information Request Denials. If granted: The Jan. 7, 1982, Information Request Denial issued by the Office of Fuels Programs would be rescinded, and Bracewell & Patterson would receive access to certain DOE information, regarding crude oil reseller regulations.
Feb. 8, 1982	Holmes & Narver, Inc., Los Angeles, CA	HFA-0037	Appeal of an Information Request Denial. If granted: The Jan. 8, 1982, Information Request Denial issued by the Albuquerque Operations Office would be rescinded, and Holmes & Narver, Inc. would receive access to certain DOE information regarding contract evaluation materials.
Feb. 8, 1982	Kentucky Oil & Refining Company, Betsey Lane, KY	HYX-0013	Supplemental Order. If granted: The DOE would review the entitlements exception relief granted to Kentucky Oil & Refining Company during its fiscal year ended Dec. 31, 1980, to determine whether the level of relief accorded the firm was appropriate.
Feb. 8, 1982	Marathon Oil Company, Washington, DC	HRD-0082	Motion for Discovery. If granted: The Economic Regulatory Administration would provide additional answers and documents in connection with the Motion for Discovery granted to Marathon Oil Company (Case No. BRD-0983).
Feb. 8, 1982	Murphy Oil Company, Washington, DC	HRD-0083	Motion for Discovery. If granted: The Economic Regulatory Administration would provide additional answers and documents in connection with the Motion for Discovery granted to Murphy Oil Corporation (Case No. BRD-0084).
Feb. 8, 1982	Paul Lamberth & Associates, Inc., Aurora, CO	HFA-0038	Appeal of an Information Request Denial. If granted: The Jan. 12, 1982, Information Request Denial issued by the Inspector General's Office of the Department of Energy would be rescinded, and the firm would receive access to the drafts of a document prepared by the DOE in connection with an enforcement matter.
Feb. 8, 1982	Taylor & Stauffer, McLean, VA	HFA-0034 and HFA-0035	Appeals of Information Request Denials. If granted: The Jan. 29, 1982, Information Request Denials issued by the Director of the Kansas City Office, Economic Regulatory Administration would be rescinded, and Taylor & Stauffer would receive access to certain DOE information regarding the separate inventory rule and unrecouped increased product costs.
Feb. 8, 1982	Teledyne Laars and Rappak, Inc., Covina, CA	HXE-0012 and HXE-0013	Exception from the Energy Conservation Program for Consumer Products. If granted: Teledyne Laars and Rappak, Inc. would receive an exception from the provisions of 10 CFR Part 430 which would permit the firm to modify the energy efficiency test procedures applicable to FLT boilers.
Feb. 11, 1982	Little America Refining Company, Washington, DC	HYX-0014	Supplemental Order. If granted: The DOE would review the entitlements exception relief granted to Little America Refining Company during its fiscal year ended June 30, 1979, to determine whether the level of relief accorded the firm was appropriate.
Feb. 11, 1982	OSC/Texaco, Inc., Washington, DC	HRZ-0017	Interlocutory Order. If granted: The Jan. 29, 1982, Decision and Order (Case No. HRD-0019) issued to Texaco, Inc. by the Office of Hearings and Appeals would be modified.
Feb. 12, 1982	BPM, Inc., Washington, DC	HFA-0040	Appeal of an Information Request Denial. If granted: The Feb. 2, 1981, Information Request Denial issued by the Office of General Counsel would be rescinded and BPM, Inc. would receive access to certain DOE information.
Feb. 12, 1982	Stoudnour Atlantic Inc., Saxton, PA	HEE-0014	Exception to the Reporting Requirements. If granted: Stoudnour Atlantic Inc. would not be required to file form EIA-9A No. 2 Distillate Price Monitoring Report.

[FR Doc. 82-6799 Filed 3-11-82; 8:45 am]
BILLING CODE 6450-01-M

Cases Filed; Week of February 12 Through February 19, 1982

During the week of February 12 through February 19, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

March 5, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Feb. 12 through Feb. 19, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Feb. 16, 1982	Ashland Oil Inc./Tosco Corporation, Ashland, KY	HEJ-0073	Motion for Protective Order. If granted: Ashland Oil Inc. would enter into a protective order with Tosco Corporation regarding the confidentiality of materials in connection with Ashland's Motion for Discovery (Case No. HED-0020).
Feb. 16, 1982	Rogers Fuels, Inc., Middlebury, VT	HEE-0015	Exception from reporting requirements. If granted: Rogers Fuels, Inc. would not be required to file Form EIA-9A ("No. 2 Distillate Price Monitoring Report").
Feb. 17, 1982	Gulf Oil Corporation and Office of Solicitor, Washington, DC.	HRJ-0004	Motion for Protective Order. If granted: The Office of Hearings and Appeals would issue a Protective Order between Gulf and the Office of Solicitor indicating the conditions governing Gulf's use of certain privileged information released to the firm.
Feb. 17, 1982	Premier Oil Company, Wilmington, DE	HEE-0016	Exception from reporting requirements. If granted: Premier Oil Company would not be required to file Form EIA-9A ("No. 2 Distillate Price Monitoring Report").

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Feb. 12 through Feb. 19, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Feb. 17, 1982	Thompson Oil Company, Waynesboro, PA	HEE-0017	Exception from reporting requirements. If granted: Thompson Oil Company would not be required to file Form EIA-9A ("No. 2 Distillate Price Monitoring Report").
Feb. 18, 1982	Memphis Aero Corporation, Washington, DC	HRR-0022, HRS-0022, and HRT-0022.	Request for Modification/Rescission; Request for Stay and Temporary Stay. If granted: The refund provisions contained in the Nov. 20, 1981 Remedial Order issued to Memphis Aero Corporation by the Office of Hearings and Appeals would be modified. Memphis Aero Corporation would also receive a stay and a temporary stay of the provisions of the Remedial Order pending a final determination on its application for modification.

[FR Doc. 82-6794 Filed 3-11-82; 8:45 am]
BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangements

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation Between the Government of the United States of America and the Government of the Arab Republic of Egypt Concerning Peaceful Uses of Atomic Energy.

The subsequent arrangements to be carried out under the above mentioned agreement involve approval for the supply of fuel for nuclear power units 3 and 4, each of which has a planned generating capacity of between 900 and 1,000 gross megawatts. Contract numbers DE–SC05–82UBBG 102 and 108 have been assigned to these proposed subsequent arrangements.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than March 29, 1982.

For the Department of Energy.

Dated: March 9, 1982.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-6793 Filed 3-11-82; 8:45 am]
BILLING CODE 6450-01-M

Proposed Subsequent Arrangements

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of American and the Government of Australia Concerning Peaceful Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the supply of 29.35 grams of natural uranium and 4.4 grams of thorium to the Occupational Health and Radiation Control Section, South Australian Health Commission, for use as standard reference materials, under Contract Number S–AU–113.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than March 29, 1982.

For the Department of Energy.

Dated: March 9, 1982.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-6792 Filed 3-11-82; 8:45 am]
BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale: Contract Number S–CA–320, to Eldorado Nuclear Ltd., Ontario, Canada, 104 grams of natural uranium, in the form of metal, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than March 29, 1982.

For the Department of Energy.

Dated: March 9, 1982.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-6795 Filed 3-11-82; 8:45 am]
BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the supply following material: Contract Number WC–EU–223, to the Universite De Leige, Belgium, 20 milligrams of plutonium-242, to be used for the study of thermodynamic and magnetic susceptibility of compounds.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than March 29, 1982.

For the Department of Energy.

Dated: March 9, 1982.
Harold D. Bengelsdorf,
Director, Office of International Nuclear and Non-Proliferation Policy.
[FR Doc. 82-6785 Filed 3-11-82; 8:45 am]
BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract Number S–EU–720, to the Comitato Nazionale Energia Nucleare, Milan, Italy, 2 grams of depleted uranium, 423.84 grams of natural uranium, and 26 grams of uranium enriched to an average of 43.6% in U-235, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than March 29, 1982.

For the Department of Energy.
Dated: March 9, 1982.
Harold D. Bengelsdorf,
Director, Office of International Nuclear and Non-Proliferation Policy.
[FR Doc. 82-6786 Filed 3-11-82; 8:45 am]
BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Norway Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer: RTD/EU(NO)–37, from Norway to the Netherlands, one irradiated test fuel assembly for post-irradiation examinations. Final disposition of any waste will be carried out by the Netherlands Energy Research Foundation. The irradiated fuel assembly contains 10.213 kilograms of uranium, 462.6 grams of U–235 (4.54% enrichment) and 91 grams of plutonium.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that approval of this retransfer will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than March 29, 1982.

For the Department of Energy.
Dated: March 9, 1982.
Harold D. Bengelsdorf,
Director, Office of International Nuclear and Non-Proliferation Policy.
[FR Doc. 82-6787 Filed 3-11-82; 8:45 am]
BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Indonesia Concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for supply of the following material: Contract Number S–IE–6, to the Research Center for Nuclear Materials and Instrumentation, Yogyakarta, Indonesia, 51 grams of natural uranium, 1 gram of depleted uranium, 13.1 grams of uranium enriched to an average of 50.76% U–235, 0.005 grams of U–233, and 0.75 grams of plutonium, for use as standard reference materials.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

This subsequent arrangment will take effect no sooner than March 29, 1982.

For the Department of Energy.
Dated: March 9, 1982.
Harold D. Bengelsdorf,
Director, Office of International Nuclear and Non-Proliferation Policy.
[FR Doc. 82-6788 Filed 3-11-82; 8:45 am]
BILLING CODE 6450-01-M

Proposed Subsequent Arrangements

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreement involve approval of the following sales:

Contract Number S–JA–306, to the Power Reactor and Nuclear Fuel Development Corporation, Tokyo, Japan, 20 grams of plutonium-239 for use as standard reference material. License XSNM1617 has been issued by the U.S. Nuclear Regulatory Commission for export of this material.

Contract Number S–JA–309, to Nuclear Fuel Industries, Ltd., Tokyo, Japan, 5 grams of uranium containing 5.01% U–235, 5 grams of uranium containing 2.0% U–235, 5 grams of uranium containing 3.0% U–235, and 5 grams of uranium containing 0.5% U–235 for use as standard reference material.

Contract Number S–JA–310, to Japan Nuclear Fuel Conversion Co., Inc., Tokyo, Japan, 4 grams of uranium containing 5.01% U–235, for use as standard reference material.

Contract Number S–JA–313, to the Power Reactor and Nuclear Fuel Development Corp., Tokyo, Japan, 6 grams of plutonium-239, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These susequent arrangements will take effect no sooner than March 29, 1982.

For the Department of Energy.
Dated: March 9, 1982.
Harold D. Bengelsdorf,
Director, Office of International Nuclear and Non-Proliferation Policy.
[FR Doc. 82-6789 Filed 3-11-82; 8:45 am]
BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale: Contract Number S–JA–311, to the Japan Atomic Energy Research Institute, one gram of plutonium–238, to be used for the evaluation testing of irradiation effects on vitrified high level radioactive waste at the waste testing facility WASTEF.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than March 29, 1982.

For the Department.
Dated: March 9, 1982.
Harold D. Bengelsdorf,
Director, Office of International Nuclear and Non-Proliferation Policy.
[FR Doc. 82-6791 Filed 3-11-82; 8:45 am]
BILLING CODE 6450-01-M

Western Area Power Administration

Pick-Sloan Missouri Basin Program; Proposed Power Rate Adjustment

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of an amendment to the proposed rate adjustment—Pick-Sloan Missouri Basin Program.

SUMMARY: The notice of the proposed power rate adjustment for the Pick-Sloan Missouri Basin Program which was published at 47 FR 6705 (February 16, 1982) is hereby amended as follows:

Persons planning to speak at the comment forums should send their names and affiliation to the address noted below by March 19, 1982, so that a speaker list may be developed.

ADDRESS: Mr. James D. Davies, Area Manager, Billings Area Office, Western Area Power Administration, P.O. Box EGY, Billings, MT 59101, Telephone: (406) 657–6532.

Other persons will be allowed to comment at the comment forums. Written comments may be submitted to the above address throughout the consultation and comment period.

Documents used in developing the proposed rates are available for inspection and/or copying at the above address.

Issued at Golden, Colorado, March 4, 1982.
William H. Clagett,
Deputy Administrator.
[FR Doc. 82-6790 Filed 3-11-82; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59083; TSH-FRL-2073-8]

Certain Chemicals; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the Federal Register of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by March 29, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–59083]" and the specific TME number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E–401, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street, SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Effective with this notice a nonsubstantive change in format is being initiated for information published under sections 5(d)(2) and 5(h)(6) of the Toxic Substances Control Act (TSCA). The notices will contain essentially the same information but in an abbreviated form. Included in the modified format is the use of the letters "S" (specific) and "G" (generic) to denote specific and generic chemical identity and use. In addition, the Close of Review Period will appear before the Comment Period in the summary. The following are summaries of information provided by the manufacturer on the TMEs received by the EPA:

TME 82-6

Manufacturer. Confidential.
Chemical. (G) Disubstituted glycine.
Use/Production. (G) Site-limited intermediate. Prod. range. Max. 5,000 kg/yr.
Toxicity Data. Acute oral LD_{50}—2,300 to 2,500 mg/kg; Acute dermal LD_{50}—>1,000 mg/kg; Skin irritant—Slight; Eye irritant—Strong; Ames test—Negative; Skin sensitization—Low.
Exposure. Manufacture: 10 people, dermal and inhalation, 2 hrs/da, 3 da/yr. Use and processing: 10 people, dermal and inhalation 2 hrs/da, 16 da/yr.

Processing: 10 people, dermal, 2 hrs/da, 16 da/yr.

Environmental Release/Disposal. Water—34 kg max. Disposal by incineration or publicly owned treatment works (POTW).

TME 82-7

Importer. Confidential.

Chemical. (G) 4,4'Thio diether dianhydride.

Use/Import. (G) Specialty adhesives. Import range. Max. 500 lbs.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

Dated: March 8, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-6736 Filed 3-11-82; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51404; TSH-FRL-2074-1]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of nine PMNs and provides a summary of each.

DATES: Close of Review Period: PMN 82-166—May 26, 1982. PMN 82-167—May 30, 1982. PMN 82-168, 82-169 and 82-170—May 31, 1982. PMN 82-171 and 82-174—June 1, 1982. PMN 82-172 and 82-173—June 2, 1982.

Written comments by: PMN 82-166—April 26, 1982. PMN 82-167—April 30, 1982. PMN 82-168, 82-169 and 82-170—May 1, 1982. PMN 82-171 and 82-174—May 2, 1982. PMN 82-172 and 82-173—May 3, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51404]" and the specific PMN number should be sent to: Document Control Officer (TS-798), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460 (202-382-3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460 (202-382-3729).

SUPPLEMENTARY INFORMATION: Effective with this notice, a nonsubstantive change in format is being initiated for information published under sections 5(d)(2) and 5(h)(6) of the Toxic Substances Control Act (TSCA). The notices will contain essentially the same information but in an abbreviated form. Included in the modified format is the use of letters "S" (specific) and "G" (generic) to denote specific and generic chemical identity and use. In addition, the Close of Review Period will appear before the Comment Period in the summary. The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 82-166

Manufacturer. Confidential.

Chemical. (G) Disubstituted-6,13-dichloro-4, 11-triphenodioxazine disulfonic acid.

Use/Production. Confidential. Prod. range. Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg, Skin: Non-irritant, Eye: Mild/moderate irritant.

Exposure. None anticipated.

Environmental Release/Disposal. Non anticipated.

PMN 82-167

Manufacturer. Confidential.

Chemical. (G) Disubstituted benzene.

Use/Production. (G) Site-limited chemical intermediate. Prod. range. 12,000-16,000 kg/yr.

Toxicity Data. Acute oral: 1,600 to 1,900 mg/kg, Acute dermal: >1,000 mg/kg, Skin: Slight, Eye: Moderate.

Exposure. Manufacturer and use: dermal and inhalation, up to 150 workers, up to 2 hrs/da, 5 da/yr.

Environmental Release/Disposal. No release. Disposal: Incineration and biological treatment system.

PMN 82-168

Manufacturer. Confidential.

Chemical. (G) Polyurethane of substituted alkanols and a diisocyanate.

Use/Production. (G) Open use. Prod. range. 0-1,000,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacturer, processing and use: a total of 174 workers, dermal and eye, up to 6 hrs/da, 250 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr to air and water, 10-10,000 kg/yr to land. Disposal: Incineration.

PMN 82-169

Manufacturer. E. I. du Pont de Nemours and Company, Inc.

Chemical. (G) Polymer of alkyl and polyfluoroalkyl acrylates.

Use/Production. (S) Synthetic fiber finish. Prod. range. Confidential.

Toxicity Data. Acute oral: 25,000 mg/kg, Skin: Mild irritant, Eye: Slight irritant, Human patch test: Non-sensitizing.

Exposure. Manufacturer: Dermal, inhalation and ingestion 4 hrs/wk, 30 wk.

Environmental Release/Disposal. Disposal: Approved landfill.

PMN 82-170

Manufacturer. Confidential.

Chemical. (S) 1,6-hexanedioic acid, polymer with 1,2-ethanediol, 1,3-benzenedicarboxylic acid, 1,4-benzenedicarboxylic acid, and 1,6-hexanediol.

Use/Production. (G) Open use. Prod. range. 1,500-100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing and use: 12 workers, dermal, up to 8 hrs/da, up to 280 da/yr.

Environmental Release/Disposal. Land. Disposal: Approved landfill.

PMN 82-171

Importer. Confidential.

Chemical. (G) Aromatic substituted triazine disazo dye, tetrasodium salt.

Use/Production. (G) Textile dye. Prod. range. 500-5,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing, use and disposal: 80 workers, dermal and inhalation, up to 4 hrs/da, up to 120 da/yr.

Environmental Release/Disposal. 10 kg/yr to air ⅛ hr/da, 120 da/yr, 100-1,000 kg/yr to water. Disposal: Publicly owned treatment works (POTW) and incineration.

PMN 82-172

Manufacturer. Milliken and Company.

Chemical. (G) Chromophore substituted poly(oxyalkylene).

Use/Production. (G) Colorant. Prod. range. Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 82-173

Manufacturer. Confidential.

Chemical. (G) Borate esters-mixture.

Use/Production. (G) Contained system. Prod. range. Confidential.

Toxicity Data. Acute oral: >5 g/kg, Acute dermal: >2 g/kg, Skin: 1.6/8.0, Eye: 7.3/110 @ 24 hrs decreasing to 0.3/110 @ 72 hrs, Ames Test: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 82-174

Manufacturer. American Cyanamid Company.

Chemical. (G) Substituted acrylamide polymer.

Use/Production. (S) Mineral processing agent in recovery of mineral values from ores. Prod. range. Confidential.

Toxicity Data. Acute oral: >5 g/kg, Acute dermal: >2 g/kg, Eye: Minimal, Ames Test: Negative.

Exposure. Manufacture, processing, and use: a total of 37 workers, up to 24 hrs/da, up to 300 da/yr.

Environmental Release/Disposal. Release is negligible. Disposal: POTW.

Dated: March 8, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-6737 Filed 3-11-82; 8:45 am]

BILLING CODE 6560-31-M

[A-6-FRL-2071-5]

Delegation of Authority to the State of Texas for Prevention of Significant Deterioration (PSD)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Information notice.

SUMMARY: EPA Region 6 has delegated the authority for technical and administrative review of the Prevention of Significant Deterioration (PSD) program to the Texas Air Control Board (TACB). The TACB will receive, conduct technical review, and process the PSD applications; however, since the TACB did not request full delegation of authority, EPA Region 6 will continue to have responsibility to issue or deny the PSD permits.

EFFECTIVE DATE: April 23, 1981.

ADDRESS: Copies of the State request and State-EPA agreement for delegation of authority are available for public inspection at the Air Branch, Environmental Protection Agency, Region 6, First International Building, 28th Floor, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: William H. Taylor, Air Branch, Environmental Protection Agency, Region 6, First International Building, 28th Floor, 1201 Elm Street, Dallas, Texas 75270; (214) 767-1594 or (FTS) 729-1594.

SUPPLEMENTARY INFORMATION: On November 10, 1980, the Texas Air Control Board submitted to the EPA Region 6 office a request for EPA to delegate to them the responsibility for technical and administrative review authority of sources regulated under the EPA PSD program. After a thorough review of the request and information submitted, the Regional Administrator determined that the State's procedures for PSD review are adequate and effective. Thus, on April 23, 1981, and pursuant to 40 CFR 52.21 (1980), the Regional Administrator delegated the authority for technical and administrative review portions of the Federal PSD program to the State of Texas. The conditions of the delegation are delineated in the Regional Administrator's letter to the State dated April 23, 1981.

Effective immediately, all applications and other information pursuant to 40 CFR 52.21 by sources locating in the State of Texas should be submitted to the State agency at the following address: Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

(Secs. 101, 301, Clean Air Act, as amended (42 U.S.C. 7401, 7601))

Dated: March 1, 1982.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 82-6738 Filed 3-11-82; 8:45 am]

BILLING CODE 6560-38-M

[ER-FRL-2074-3]

Availability of Environmental Impact Statements Filed March 1 through 5, 1982, Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, Ms. Kathi Wilson, (202) 245-3006.

Corps of Engineers:

EIS No. 820113, Draft, COE, KS, Main Branch Chisholm Creek Flood Control Project, Sedgwick County, Due: Apr. 26, 1982

EIS No. 820105, Draft, COE, SEV, MS-LA Yazoo Backwater Area Pump/Flood Control Project, Due: Apr. 26, 1982

EIS No. 820115, Draft, COE, SD, Gregory Hydroelectric Pumped Storage Facility, Gregory County, Due: Apr. 26, 1982

EIS No. 820106, F Suppl, COE, CA, San Luis Rey River Flood Control Project, San Diego County, Due: Apr. 12, 1982

Department of Energy:

EIS No. 820114, Final, DOE, SC, Savannah River Plant, Waste Processing Faicity, Due: Apr. 12, 1982

Department of Transportation:

EIS No. 8201111, Draft, FHW, MD, I-370 Construction, I-270 to Shady Grove Station, Montgomery County, Due: Apr. 30, 1982

EIS No. 820112, Draft, FHW, OH, Buckeye Basin Greenbelt Parkway Construction, Lucas County, Due: Apr. 26, 1982

EIS No. 820108, Final, FHW, CA, I-101, Santa Barbara Crosstown Freeway, Santa Barbara County, Due: Apr. 12, 1982

Department of Housing and Urban Development:

EIS No. 820107, Final, HUD, PR, Monte Brisas V Housing Project, Mortgage Insurance, Due: Apr. 12, 1982

EIS No. 820110, Draft, CDB, CA, Valley Boulevard Redevelopment Project, Los Angeles County, CDBG, Due: Apr. 26, 1982

Department of Agriculture:

EIS No. 820109, Draft, SCS, PA, Upper Tioga River Watershed Flood Protection Plan, Tioga County, Due: Apr. 26, 1982

Amended Notice:

EIS No. 820048, Draft, CGD, NY, South Bronx-Oak Point Link Railroad Improvement, Permit, Published FR 2-12-82—Review Extended, Due: May 3, 1982

Dated: March 8, 1982.

Louis J. Cardin,

Acting Director, Office of Federal Activities.

[FR Doc. 82-6739 Filed 3-11-82; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the justification offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10327; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, Chicago, Illinois, and San Juan, Puerto Rico. Interested parties may submit comments on the agreement, including request for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 22, 1982. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United

States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreement and the statement should indicate that this has been done.

Agreement No. T-3971-1.

Filing party: Donald J. Brunner, Esq., Ragan & Mason, The Farragut Building, 900 Seventeenth Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. T-3971-1, between Tropical Shipping and Construction Company, Ltd. (Tropical) and Birdsall, Inc. (Birdsall), modifies the basic agreement between the parties which provides for the appointment of Birdsall as U.S. agent for Tropical to supervise and manage its business activities in the United States. The purpose of the modification is to delete from the agreement the specified charges which Birdsall will assess Tropical for services rendered. Tropical agrees to submit to the Commission a schedule of whatever charges might be made prior to their effective date.

Dated: March 9, 1982.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-6773 Filed 3-11-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Open Committee Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, April 1, 1982
Thursday, April 8, 1982
Thursday, April 15, 1982
Thursday, April 22, 1982
Thursday, April 29, 1982

These meetings will convene at 10 a.m., and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Committee Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW, Washington, D.C. 20415 (202-632-9710).

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

March 5, 1982.

[FR Doc. 82-6739 Filed 3-11-82; 8:45 am]

BILLING CODE 3325-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than April 1, 1982.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

Correction

1. *Barclays Bank Limited* and its subsidiary, *Barclays Bank International, Limited*, each a bank holding company whose principal office is in London, England (secured business lending, primarily real estate Louisville, Kentucky): This notice corrects a previous **Federal Register** document (FR Doc. 82-5344) published at page 8678 of the issue for March 1, 1982. The proposed activity would be conducted from an existing Barclays/American Mortgage, Inc. office located at 1930 Bishop Lane, Waterson Towers, Suite 720, Louisville, Kentucky 40218.

2. *Citicorp*, New York, New York (export finance company activities; foreign countries): To engage through a *de novo* subsidiary, Citicorp Export Credit Corporation ("CECC"), in the making of loans to foreign importers to finance purchases of goods and services of United States manufacture or origin and/or costs incidental thereto. Foreign importers seeking loans would be referred to CECC by Citibank overseas branch offices or other financial institutions, and such loans would be made or acquired by CECC from an office located in New York, New York.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

Barnett Banks of Florida, Inc., Jacksonville, Florida (check verification services; Mississippi and Tennessee): To engage through its subsidiary, Verifications, Inc., in offering from three additional offices, check verification services, including authorizing subscribing merchants to accept certain personal purchase money checks and obligating Verifications, Inc. to purchase properly verified checks which are subsequently dishonored. These activities would be conducted from an office located in Jackson, Mississippi, an office located in Knoxville, Tennessee and an office located in Nashville, Tennessee, as well as from the principal office of Verifications, Inc., located at 4160 Woodcock Drive, Suite 100, Jacksonville, Florida 32207, and would serve the States of Mississippi and Tennessee.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *DetroitBank Corporation*, Detroit, Michigan, (investment advisory activities; United States): To engage, through its subsidiary DBT Investment Advisers, Inc., in the activity of acting as an investment and financial adviser as defined in section 2(a)(20) of the Investment Company Act of 1940, to one or more investment companies registered under that Act. These activities will be conducted from an office in Detroit, Michigan, serving the continental United States. Comments on this application must be received not later than March 27, 1982.

2. *Northern Trust Corporation* Chicago, Illinois (banking, trust business, Illinois, Florida, Arizona): To engage, through its subsidiary, Nortrust Farm Management, Inc., in activities of an agricultural nature, including managing farms and purchasing, arranging for the feeding of and selling livestock, as agent for any one of the following organizations, each of which is a wholly-owned (except in some cases for directors' qualifying shares) subsidiary of Northern Trust Corporation, when such subsidiary is acting as a trustee, executor, personal representative, guardian or conservator: The Northern Trust Company of Arizona, the principal office of which is located in Phoenix, Arizona; Security Trust Company of Miami, Florida; Security Trust Company of Sarasota N.A., of Sarasota, Florida; Security Trust Company of Naples, of Naples, Florida; and Security Trust Company of Palm Beach, of Palm Beach, Florida. Such activities will be performed at offices at 1900 Spring Road, Suite 102, Oak Brook, Illinois 60521; 6061 Northwest Expressway, Suite 425, San Antonio, Texas 78201; 5050 Poplar Avenue, Memphis, Tennessee 38157; and 2520 North Monroe Street, Suite 105, Tallahassee, Florida 32302. The business of Nortrust Farm Management, Inc. is to be derived solely from the above subsidiaries of Northern Trust Corporation and will not be solicited from the public. The geographic area to be served consists of the 50 States of the United States.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Seafirst Corporation*, Seattle, Washington (commercial finance activities; Louisiana and California): To engage through Seafirst Commercial Corporation in making or acquiring loans and other extensions of credit including commercial loans secured by a borrower's inventory, accounts receivable, capital equipment or other assets; servicing loans and leasing personal property. These activities would be conducted from offices in New Orleans, Louisiana, serving the State of Louisiana, and Sacramento, California, serving the State of California.

2. *Security Pacific Corporation*, Los Angeles, California (commercial financing and factoring activities; United States): To engage through its subsidiary, Security Pacific Business Credit Inc. in making or acquiring for its own account or for the account of others, asset based business loans and other commercial or industrial loans and extension of credit such as would be made by a factoring, rediscount or commercial finance company and engaging generally in the factoring business. These activities would be conducted from offices of Security Pacific Business Credit Inc. in Newport Beach, California; San Francisco, California; San Jose, California; and Dallas, Texas; serving the United States.

3. *U.S. Bancorp*, Portland, Oregon (financing and insurance activities; Utah): To engage through its subsidiary, U.S. Thrift & Loan, in making, acquiring and servicing of loans and other extensions of credit, either secured or unsecured, for its own acount or the account of others, including, but not limited to commercial, rediscount and installment sales contracts; to issue thrift certificates and passbooks; and, to act as insurance agent with regard to credit life and disability insurance solely in connection with extensions of credit in conformance with Regulation Y. These activities would be conducted from an office in Brigham City, Utah, serving Box Elder County, Utah.

E. **Other Federal Reserve Bank.** None.

Board of Governors of the Federal Reserve System, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6085 Filed 3-11-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than April 9, 1982.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106

Industrial National Corporation, Providence, Rhode Island (commercial mortgage lending activities; Rhode Island): To engage, through its indirect subsidiary, Mortgage Associates, Inc., in commercial mortgage lending activities including the origination and purchase of commercial mortgage loans. These activities would be conducted from a new office to be located in Providence, Rhode Island serving the State of Rhode Island.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Barclays Bank Limited* and its subsidiary, *Barclays Bank International Limited,* London, England (relocation of consumer finance activity; Idaho): To engage through their subsidiary, BarclaysAmerican/Financial, Inc., in making direct consumer loans, including loans secured by real estate, and purchasing sales finance contracts representing extensions of credit such as would be made or acquired by a consumer finance company, and wholesale financing (floor planning); and acting as agent for the sale of related credit life, credit accident and health and credit property insurance. Credit life and credit accident and health insurance sold as agent may be underwritten or reinsured by BAC's insurance underwriting subsidiaries. This activity would be conducted from an office of BAC located at 803 Main Street, Lewiston, Idaho, serving customers in Lewiston and surrounding areas in Idaho. This notification is for the relocation of an existing office located at 118 East Third Street, Moscow, Idaho.

2. *The Chase Manhattan Corporation,* New York, New York (finance, servicing, and leasing activities; Northeastern U.S.): To engage through its indirect subsidiary, Chase Commercial Corporation, in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a commercial finance, equipment finance or factoring company, including factoring accounts receivable, making advances and over-advances on receivables and inventory and business installment lending as well as unsecured commercial loans; servicing loans and other extensions of credit; leasing personal property on a full payout basis and in accordance with the Board's Regulation Y, or acting as agent, broker or advisor in so leasing such property, including the leasing of motor vehicles. These activities would be conducted from an office in Holyoke, Massachusetts serving the States of Connecticut, Maine, New Hampshire, Rhode Island, Massachusetts, and Vermont.

3. *Manufacturers Hanover Corporation,* New York, New York (consumer finance and insurance activities; South Carolina): To relocate an office of its subsidiary, Finance One of South Carolina, Inc., in Anderson, South Carolina. The subsidiary is authorized to engage in consumer finance, sales finance, home equity lending, and credit related insurance activities. The office will continue to serve customers in Anderson, southern Oconee, southern Pickens, southwestern Greenville, western Laurens, northern Abbeville, and northern Greenwood counties. Comments on this application must be received not later than March 29, 1982.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *FirstBank Holding Company of Colorado,* Lakewood, Colorado (issuance of travelers checks; Colorado): To engage in the issuance of travelers checks. This activity will be conducted from Applicant's principal office and will serve those areas served by Applicant's banking subsidiaries. Comments on this application must be received not later than March 29, 1982.

2. *Midland Capital Co.,* Oklahoma City, Oklahoma (leasing of personal property; United States): to engage through a *de novo* subsidiary, Midland Leasing Co., in leasing personal property to businesses, individuals, and government entities, through non-operating leases that serve as the functional equivalent of extensions of credit. This activity will be conducted from offices of the subsidiary in Oklahoma City, Oklahoma, and will be conducted through lease brokers in Oklahoma that serve the entire United States. Comments on this application must be received not later than April 2, 1982.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BSD Bancorp, Inc.,* San Diego, California (data processing and related courier activities; San Diego County, California): To engage through its subsidiary, BSD Datacorp, Inc., a California corporation, in the activities of data processing and transmission services. Such activities will include, but not be limited to: proof; data capture, balancing and transmission to an independent data processor; check filing, statement preparation and mailing; and provision of pick-up and delivery of items processed to and from the client banks. Such activities, conducted from a *de novo* office in San Diego, California, serving the county of San Diego, will be available to BSD Bancorp, Inc.'s subsidiary banks and non-subsidiary banks who are users of City National Bank's computer services.

2. *BankAmerica Corporation,* San Francisco, California (financing and servicing activities; *de novo* commercial loans office; all fifty (50) States and the District of Columbia): To engage, through its indirect subsidiary, BA Commercial Corporation, a Pennsylvania corporation, in the activities of making loans and other extensions of credit and acquiring loans, participations in loans and other extensions of credit such as would be made or acquired by a finance company. Such activities will include, but not be limited to, inventory and accounts receivable financing; equipment financing; insurance premium financing; making loans to non-affiliated finance and leasing companies secured by pledges of accounts receivable of such companies; making loans secured by real or personal property; and purchasing retail installment sales contracts. In addition BA Commercial Corporation proposes to engage in the activities of servicing loans, participations of loans and other extensions of credit for itself and others in connection with extensions of credit made or acquired by BA Commercial Corporation. Credit-related insurance will not be offered by BA Commercial Corporation in connection with its lending activities. These activities will be conducted from a *de novo* office located in Orange, California, serving all fifty (50) States and the District of Columbia.

3. *Security Pacific Corporation,* Los Angeles, California (industrial loan, financing and credit-related insurance activities; California): To engage, through its subsidiary, Security Pacific Finance Money Center Inc., in financing and industrial loans corporation activities, including making, acquiring and servicing loans and other extensions of credits; selling and issuing investment certificates; and acting as agent for the sale of credit-related life, credit-related accident and health, and credit-related property insurance, as authorized by California law. These activities would be conducted from offices of the subsidiary in Fullerton and Walnut Creek, California, serving the State of California. Comments on this application must be received not later than April 2, 1982.

E. **Other Federal Reserve Banks:** None.

Board of Governors of the Federal Reserve System, March 8, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6894 Filed 3-11-82; 8:45 am]

BILLING CODE 6210-01-M

Taylor County Bancshares, Inc.; Formation of Bank Holding Company

Taylor County Bancshares, Inc., Campbellsville, Kentucky, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent of the voting shares of Taylor County Bank, Campbellsville, Kentucky. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Taylor County Bancshares, Inc., Campbellsville, Kentucky, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Taylor County Insurance Agency, Inc., Campbellsville, Kentucky.

Applicant states that the proposed subsidiary would engage in credit-related insurance agency activities. These activities would be performed from offices of Applicant's subsidiary in Campbellsville, Kentucky, and the geographic areas served are those to be served by Applicant's banking subsidiary. Such activities have been specified by the Board in §225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than April 4, 1982.

Board of Governors of the Federal Reserve System, March 5, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6896 Filed 3-11-82; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Office of the Administrator

General Services Administration Advisory Board; Meeting

Notice is hereby given that the GSA Advisory Board will meet on March 29, 1982, from 8:00 a.m. to 4:00 p.m. in Room 6120, 18th and F Streets, NW., Washington, D.C. 20405. The meeting will be devoted to several Subcommittee sessions, discussion of Subcommittee issues, and related matters of concern to the operations of the General Services Administration. This meeting will be open to the public.

For further information or an agenda, contact Roger C. Dierman, Deputy Associate Administrator—(202) 523-1141.

Dated: March 11, 1982.

Charles S. Davis III,

Associate Administrator.

[FR Doc. 82-6899 Filed 3-11-82; 10:21 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel

Date, time and place. April 15, and 16, 9 a.m., Rms. 703-727A, 200 Independence Ave. SW., Washington, DC.

Type of meeting and excutive secretary. Open public hearing, April 15, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 5 p.m.; open public hearing, April 16, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 5 p.m.; George C. Murray, Bureau of Medical Devices (HFK-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the executive secretary before April 1, 1982, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On April 15 the committee will discuss premarket approval applications (PMA's) and statistical/epidemiological questions pertaining to intraocular lenses (IOL's), and may discuss PMA's for other ophthalmic products. If discussion of all pertinent IOL issues is not completed, discussion will be continued the following day. On April 16 the committee may discuss PMA's or general issues relating to contact lens products.

Closed committee deliberations. On April 15 and 16 the committee will conduct reviews of PMA's for intraocular lens applications. These portions of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Section 10.210 (21 CFR 10.210) of FDA's procedural regulations requires FDA to give notice of the availability of reimbursement for participation and certain FDA proceedings including advisory committee meetings. However, on November 27, 1981, the United States Court of Appeals for the Fourth Circuit held that FDA does not have authority to reimburse public participants in its administrative proceedings. *Pacific Legal Foundation* v. *Goyan*, No. 80–1854 (4th Cir. November 27, 1981). Accordingly, reimbursement will not be available for participation in the proceedings described in this notice.

Dated: March 8, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82-6710 Filed 3-11-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F–0027]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of tris(2,4-di-*tert*-butylphenyl)phosphite as an antioxidant and/or stabilizer for olefin polymers intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3619) has been filed by the Ciba-Geigy Corp., Ardsley, NY 10502, proposing that § 178.2010 (21 CFR 178.2010) be amended to provide for the safe use of tris(2,4-di-*tert*-butylphenyl)phosphite as an antioxidant and/or stabilizer for olefin polymers complying with § 177.1520(c) (21 CFR 177.1520(c)), without use of temperature limitations, intended for food-contact applications.

The agency has carefully considered the potential environmental effects of this proposed action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement, therefore, will not be prepared. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 3, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-6714 Filed 3-11-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F–0033]

Mobil Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Mobil Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of poly(*p*-methylstyrene) and rubber-modified poly(*p*-methylstyrene) in food-contact applications.

FOR FURTHER INFORMATION CONTACT: Garnett R. Higginbotham, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3617) has been filed by Mobil Chemical Co., Edison, NJ 08817, proposing that the food additive regulations be amended to provide for the safe use of poly(*p*-methylstyrene) and rubber-modified poly(*p*-methylstyrene) in food-contact applications.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: March 3, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-6713 Filed 3-11-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81F–0405]

Ralston Purina Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Ralston Purina Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of phthalate modified hydrolyzed soy isolate as a component of coatings for paper and paperboard that will contact food.

FOR FURTHER INFORMATION CONTACT: James B. Lamb, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP QB3531) has been filed by the Ralston Purina Co., Checkerboard Sq., St. Louis, MO 63188, proposing that the food additive regulations be amended to provide for the safe use of phthalate modified hydrolyzed soy isolate as a binder-adhesive component of coating for paper and paperboard used in the packaging of food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: March 3, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-6715 Filed 3-11-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81N–0397]

Revisions of Certain Food Chemicals Codex, 3d Edition, Monographs; Opportunity for Public Comment

Correction

In FR Doc. 82–2861 appearing on page 5467 in the issue of Friday, February 5, 1982, make the following correction.

On page 5467, second column, under "For Further Information Contact:", the phone number in the last line for John W. Gordon should read "(202) 426–9463".

BILLING CODE 1505-01-M

National Institutes of Health

National Arthritis Advisory Board; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Arthritis Advisory Board on March 30, 1982, 9:00 a.m. to 5:00 p.m., in the Sea Pines Room, Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland, 20814. The meeting, which will be open to the public, is being held to discuss the Board's activities and to continue the evaluation of the implementation of the long-range plan to combat arthritis. Attendance by the public will be limited to space available.

Certain Subcommittees of the Board will meet the day before March 29. Further information, times and meeting locations of the Subcommittee may be obtained by contacting Mr. William Plunkett, Executive Director, National Arthritis Advisory Board, P.O. Box 30286, Bethesda, Maryland 20205, (301) 496–1991. The agenda and rosters of the members can also be obtained from his office. Summaries of the meeting may be obtained by contacting Carole A. Peters, Committee Management Office, NIADDK, National Institutes of Health, Room 9A46, Building 31, Bethesda, Maryland 20205, (301) 496–5765.

Dated: March 3, 1982.

Betty J. Beveridge,

National Institutes of Health, Committee Management Officer.

[FR Doc. 82-6699 Filed 3-11-82; 8:45 am]

BILLING CODE 4140-01-M

National Digestive Diseases Advisory Board; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Digestive Diseases Advisory Board on April 15–16, 1982, 11 a.m. to 5 p.m. on April 15 from 8:30 a.m. to 1 p.m. on April 16, in Conference Room, Building 31, C Wing, 6th Floor, Bethesda, Maryland. The Meeting, which will be open to the public, is being held to discuss the Board's activities and to continue the evaluation of the implementation of the current digestive diseases plan. Attendance by the public will be limited to space available.

Dr. Ralph Bain, Executive Director, National Digestive Advisory Board, P.O. Box 30377, Bethesda, Maryland 20084, (301) 496–2232, will provide an agenda and roster of members. Summaries of the meeting may be obtained by contacting Carole A. Peters, Committee Management Office, NIADDK, National Institutes of Health, Room 9A46, Building 31, Bethesda, Maryland 20205, (301) 496–5765.

Dated: March 3, 1982.

Betty J. Beveridge,

National Institutes of Health, Committee Management Officer.

[FR Doc. 82-6907 Filed 3-11-82; 8:45 am]

BILLING CODE 4160-01-M

Social Security Administration

Availability of Funding for Entrant Services Grants in High-Impact Areas

AGENCY: Office of Refugee Resettlement (ORR), SSA, HHS.

ACTION: Notice of availability of funding for entrant services grants in high-impact areas.

SUMMARY: This notice announces the availability of funds and award procedures for project grants for services to Cuban and Haitian entrants (hereafter, "entrants") under the Cuban/Haitian Entrant Program (CHEP) in States and localities where specific needs exist for supplementation of currently available resources because of factors such as a high concentration of entrants.

APPLICATION DEADLINE: Applications for grants under this notice must be received by ORR no later than April 26, 1982, or be mailed by first class mail and postmarked no later than that date. Applications not meeting this requirement will not be considered and will be returned to the sending agency.

FOR FURTHER INFORMATION CONTACT: Robert L. Robins, Office of Refugee Resettlement, Room 1229, Switzer Building, 330 C Street, SW., Washington, D.C. 20201, Telephone (202) 472-4440.

SUPPLEMENTARY INFORMATION:

I. Purpose and Scope

This notice announces the availability of funds for special project grants for services to Cuban and Haitian entrants in areas where, because of factors such as an unusually high concentration of entrants, there exists and can be demonstrated a specific need for supplementation of currently available resources for services to these populations.

Notice of proposed availability of funding was published in the Federal Register for public comment on December 31, 1981 (46 FR 63303). That notice applied to both refugees and entrants, and stated that the Department expected no funds to be available for this prupose for refugee assistance in FY 1982 but that funds were expected to be available for entrant assistance. Because we expect no funds to be available for this purpose for refugees in FY 1982, this notice applies only to entrants. If funds for this purpose become available for refugees, we will publish a separate similar notice.

No significant changes have been made in this notice from the previously published proposal. We have made clarifications and minor changes in response to comments, and other technical changes.

The Department currently expects $35,000,000 in fiscal year 1982 to be available with respect to Cuban and Haitian entrants.

The purpose of the grants is to provide additional services to entrants in areas where resources for these purposes have been unusually strained due to factors such as especially large concentrations of entrants. Funding of these special projects is intended to promote effective resettlement and to provide needed services to entrants while at the same time helping to offset extraordinary impacts or burdens on State and local resources.

The amount of funding awarded to an applicant generally will be related to the extent of the specific needs to be addressed and the degree of concentration and number of entrants in the geographic area to be served by a proposed project, as documented in applications. Before examining all applications received, we cannot state the number of awards which will be made. All applications will be reviewed for demonstration of need and the strength of the proposal. We will attempt to target the limited funds to those areas which demonstrate greatest need if appropriate proposals to meet those needs are submitted for use of the funds in those areas.

II. Discussion of Comments Received

Twenty-six comments were received in response to the notice of proposed availability of funding. The comments overwhelmingly supported the concept of funding for service projects to refugees and entrants.

Other significant comments, together with the Department's responses, are summarized below.

Eligible Service/Use of Funds

Comment: Some commenters suggested that funds should be available for services to refugees as well as entrants. Others thought services rendered under these projects should not be limited to those now being provided to entrants.

Response: Funds for such projects currently are available only in the entrant program. HHS intends to fund such projects for refugees in the future, however, should funds become available. Funds from the entrant program may not be used for services and projects for refugees. Funds for these projects are not limited to services currently being provided. In fact, the projects are not intended to replace or duplicate cash and medical assistance or existing social services funds. Any service authorized by Section 412(c) of the INA may be provided, but we are particularly concerned about meeting emergency or extraordinary needs that cannot be or are not being met by other aspects of the entrant program.

Comment: Some commenters requested clarification regarding health services eligible for reimbursement under the targeted assistance program.

Response: In order to provide for flexibility to consider various factors in the States' medical assistance programs for entrants, any health service which a State feels appropriate and for which the State can show a specific need can be described in its application. Project funds can be used for a variety of health needs of entrants and which do not duplicate other reimbursable medical assistance.

Comment: One commenter recommended that the definition of "early self-support" include the vocational rehabilitation needs of refugees with disabilities.

Response: By placing a priority on activities promoting "early self-support", HHS does not intend to exclude vocational rehabilitation services. If a State can demonstrate a substantial need, such services could be covered under the targeted assistance program.

Comment: Some commenters recommended that activities other than services to entrants should also be eligible for funding, such as costs relating to the arrest and prosecution of entrants for criminal conduct. These commenters requested that aid be provided for impacts on a community which do not relate to direct services to entrants.

Response: The statutory authority for the award of federal grant funds under this program is section 412(c) of the Immigration and Nationality Act, as amended by the Refugee Act of 1980, as expressly defined in section 412(c). The range of service and assistance activities which the Department considers permissible under this grant program is that defined by statute as the purposes and activities which projects funded by grants under section 412(c) may be designed to accomplish. The Department does not read the Refugee Act of 1980 to authorize the Director to award grant funds for purposes not related to assisting or serving refugees or entrants—such as for the arrest, prosecution, or penal incarceration of refugees or entrants.

Comment: Provisions for retroactive reimbursement should be available in cases where emergency conditions have required immediate State or local expenditures for health care, food, and shelter services.

Response: The grant program announced in this notice is designed to provide funding for projects rendering services on an essentially prospective basis. However, expenditures which States or localities may have incurred in the past on an emergency basis may be explained in applications for grant funds, and will be taken into consideration in assessing the level of need for additional service and assistance funds demonstrated in State applications.

Eligibility Criteria

Comment: Several commenters recommended that a State should be eligible for assistance if only a portion of the State is highly impacted. Others thought that the ratio should be modified and that additional impact criteria should be considered and more clearly defined.

Response: This grant program will permit assistance to States that have high impact in only a portion of the State. The 1:200 ratio we have proposed may be considered merely a strong evidence of need and is only *one* of the factors we will review. The Department will consider various forms of impact and need and will permit States to explain the nature and degree of such impact. If, for instance, a State believes that it has an extraordinary percentage of entrants on aid compared to the area's total population on aid, it may include such information in its application. Thus States will have the opportunity to describe for HHS review all factors they believe relevant.

Comment: One commenter thought that by providing funds only to impacted areas we would be encouraging secondary migration to that area.

Response: This Department's experience in administering the refugee, entrant, and AFDC programs is that recipients do not change locations solely because of the availability of benefits and services. In addition, the targeted assistance funds are intended for use by areas already experiencing heavy impacts. We anticipate that the funds will be used to provide clearly needed services and will not be a magnet for further migration.

Application Procedure/Administration

Comment: Various commenters suggested that either counties, local governments within counties, or individual service providers should be permitted to apply directly for grants.

Response: The proposal is designed to enable the State, which has major programmatic responsibility and accountability under the State plans for entrant and refugee assistance, to plan the use of the funds and to have maximum flexibility to target funds as needed. Each State will decide which areas and services require funding, taking into account the assistance and services already being provided with other funds. As stated in the announcement, a State may subgrant or subcontract with other entities in the State if the State provides a detailed description and cost estimate of those activities which would be performed for the State under subcontract or subgrant. The subcontractors or subgrantees need not be listed.

Comment: Several commenters thought that the application procedure was too burdensome and that detailed proposals and budgets ought not to be provided with the application.

Response: The application procedure requires the basic information necessary to determine need, impact, and use of funds. We are not requiring changes in normal State procedures for subcontracts and subgrants of Federal funds. The application should describe the purposes, activities, and costs for which funds will be used, but need not go into extensive detail on all operational and budgetary aspects of proposed service projects.

Comment: Some respondents commented that the proposal gives the appearance of creating a new administrative mechanism to deliver services already being provided in CHEP. They believe this would be counterproductive to effective State management of entrant services.

Response: The Department does not intend to create a new mechanism for delivery of services. Our grant making process permits each State wide latitude in its proposal for use of these funds. They are intended to meet emergency and extraordinary needs of entrants which are not being or cannot be met by other ongoing programs.

Comment: Some commenters suggested that States should be given approval authority for all subcontracts with usual ORR prior approval of sole source contracts and prior review of requests for proposals used for State bidding purposes. The program announcement does not specify who would have approval authority.

Response: Normal ORR procedures for prior approvals and prior reviews will apply.

Comment: Some commenters criticized the proposed requirement that applications must describe how the activities proposed in the application would supplement and be coordinated with ongoing activities under the State's plan for entrant assistance and services. They perceived this requirement to limit allowable services to those now being provided in the entrant program.

Response: Targeted assistance project funds are intended for needs which are not now being met by social service funds or cash and medical assistance. The notice does not require services to be provided in the same manner as those now being provided. However, it does require States to explain how services provided under this program and services currently being provided will be coordinated in order to avoid duplication or fragmentation of services. In addition, States must show how the services provided by this program will supplement or meet objectives different from those now being achieved through current funding.

Comment: It was suggested that an amount of assistance be allocated to a State which it could distribute however it chooses without having to justify in advance specific expenditures or service.

Response: The Department does not believe that section 412(c) of the Immigration and Nationality Act, which provides the legal authority for the grant program, contemplates the award of refugee program funds on terms such as those suggested by this comment. The relevant language of the authorizing legislation specifies types of refugee needs which may be met and services which can be provided through projects funded under the grant program. Moreover, the Act specifically prohibits the award of grants such as the targeted assistance grants without the submission of an "appropriate proposal and application"; and suggests that specific description of the services to be performed is expected to be part of such proposal and application (see section 412(a)(4) of the INA as amended by the Refugee Act of 1980). Finally, in view of the limited resources available for this program, we believe that it is preferable from a policy perspective to require sufficient description of the proposed uses of grant funds to enable the Director to evaluate the relative levels of need for these funds in various geographic areas.

Miscellaneous

Comment: Many respondents commented that the $30,000,000

available is insufficient to meet entrant impact needs.

Response: HHS currently estimates that approximately $35,000,000 will be available for the entrant targeted assistance program in FY '82. Because the Refugee Act of 1980 expressely limits our authority to provide assistance to the extent of available appropriations, we cannot increase the amount available for targeted assistance.

Comment: Some commented that, due to the impact of the proposed change in refugee and entrant cash and medical assistance policy, the targeted assistance program should be implemented concurrently with that change.

Response: This announcement of availability of funds for entrant services grants is being published on the same day as the interim final regulations on cash and medical assistance policy for refugees and entrants, and we intend to make these programs effective at the same time. Awards in the targeted assistance program which are intended for purposes different than cash and medical assistance funds will be made as soon as possible after the deadline for the receipt of all applications.

III. Authorization

Entrant projects will be funded under the authority of section 412(c) of the Immigration and Nationality Act (INA), as amended by the Refugee Act of 1980 (Pub. L. 96–212), 8 U.S.C. section 1522(c), as made applicable to the Cuban and Haitian entrant program by section 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422), 8 U.S.C. section 1522 note.

IV. Eligible Grantees

The Department is limiting eligible grantees to those agencies of State governments designated as responsible for CHEP (under the new section 45 CFR 401.12 and 45 CFR 400.5 as applied to CHEP). State governments must participate in CHEP to be eligible.

States may subgrant or subcontract with other entities in the State. States must submit a detailed description and cost estimate of those activities, if any, which would be performed under subgrant or subcontract. States need not list the subgrantees or subcontractors.

In assessing the adequacy of a State agency's demonstration of need for supplementation of existing resources, the Director of ORR will take into consideration the ratio of entrants to the total population of the State. A ratio of 1:200 or greater will be considered strong evidence of need. Where a State agency can satisfactorily demonstrate a high level of concentration in one or more local areas within the State, even though the State's total entrant population ratio does not meet the above criterion, such concentration will also be considered strong evidence of need.

Applications submitted in response to this notice are not subject to review by State and areawide clearinghouses under the procedures in Part I of Office of Management and Budget Circular No. A–95.

V. Eligible Projects

An applying State agency is required to set forth in detail: (1) The proposed use(s) of a project grant; (2) the local area(s) where the activities would be carried out; (3) a detailed description and cost estimate of those activities, if any, which would be performed under subgrant or subcontract (the subgrantees or subcontractors need not be listed); and (4) the specific group(s) of entrants who would be served.

Explicit justification would be required in the application for each specific activity proposed for each specific local area to be served, together with detailed proposed budgets.

The applicant is required to justify in the application why additional Federal funds are needed beyond those currently available for entrant social services, and how the activities proposed in the application would supplement and be coordinated with ongoing activities under the State's plan for the entrant cash and medical assistance and social service programs.

Permissible activities would include the broad range allowed under section 412(c) of the INA, subject to the demonstration of need for a particular activity, as indicated above. Permissible activities could include adult English language training, employment services, emergency food and shelter, health services, certain types of educational services, relocation services to less impacted areas, and other types of services where specific needs for supplementation of State, local, or other resources for the provision of services to entrants could be documented.

The grant period will be 12 months, and grant funds must be obligated by the grantee within that period. Funds must be expended in accordance with the approved application.

VI. Criteria for Evaluating Applications

An applying State agency must demonstrate a specific need for the supplementation of currently available resources for the provision of needed services to entrants in one or more local areas within the State. A ratio of refugees or entrants to total population in a State or locality exceeding 1:200 will be considered strong evidence of such need.

The application must spell out clearly the relationship between the requested special project funds and the State's activities being carried out with other Federal entrant funds.

Highest priority would be given to those service projects which are intended to result in early self-support of entrants, to meet urgent needs of individuals and families within the entrant populations, and to avoid major impacts or burdens on State or local resources which may result in an incapacity of those States or localities to serve entrants effectively and to promote their effective resettlement or integration in communities.

Project grant applications will be evaluated on the following criteria:

1. Documentation of high concentration of entrants.

2. Demonstration of special need for supplementation of other available resources in order to serve this population.

3. Documentation of extraordinary impact on State or local resources meriting special project grant.

4. Adequacy of justification for each specific activity proposed for each specific local area.

5. Adequacy of description of how proposed activities would supplement and be coordinated with a State's plan for entrant cash and medical assistance and social service programs.

6. Extent to which activities would be targeted to specific areas of greatest entrant concentrations and needs.

7. Assurance that services will be provided by qualified agencies or individuals.

8. Reasonableness of estimated costs in relation to anticipated results.

VII. Application Procedure

Applications are to be submitted on Form SSA–96 to: Robert L. Robins, Office of Refugee Resettlement, Room 1229, Switzer Building, 330 C Street, SW., Washington, D.C. 20201, Telephone (202) 472–4440. Forms and further information may be obtained from the same office.

VIII. Selection Procedure

Applicants will be competitively evaluated according to the criteria by a review panel of experts in accordance with the HHS Grants Administration Manual (chapter 1–55).

The panel will make recommendations to the Director of ORR. Selection of grantees will be at the discretion of the Director.

We estimate that approximately 30 days after the deadline for receipt of applications will be sufficient time to complete the selection procedure.

IX. HHS Regulations That Apply

The following HHS regulations apply to grants under this Notice:

42 CFR Part 441 Subparts E and F Services: Requirements and limits applicable to specific services—Abortions and Sterilizations.

45 CFR Part 16 Department grant appeals process.

45 CFR Part 74 Administration of grants.

45 CFR Part 75 Informal grant appeals procedures.

45 CFR Part 80 Nondiscrimination under programs receiving Federal assistance through the Department of Health, Education, and Welfare effectuation of Title VI of the Civil Rights Act of 1964.

45 CFR Part 81 Practice and procedure for hearings under part 80 of this title.

45 CFR Part 84 Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.

X. Paperwork Reduction Act Information

This notice relates only to applications for project grants on behalf of Cuban and Haitian entrants. OMB review and approval of the application form is not required under the Paperwork Reduction Act of 1980. ORR will utilize Form SSA–96 which has current OMB approval (0960–0184) for applications for non-construction discretionary ORR grant programs.

(Catalog of Federal Domestic Assistance No. 13.817, Refugee Assistance Cuban and Haitian Entrants)

Dated: March 3, 1982.

John A. Svahn,

Commissioner of Social Security.

[FR Doc. 82-6907 Filed 3-11-82; 8:45 am]

BILLING CODE 4190-11-M

St. Lucia; Finding Regarding Foreign Social Insurance or Pension System—St. Lucia

Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly benefits to aliens, subject to the exceptions described in section 202(t)(2) through 202(t)(5) of the Social Security Act (42 U.S.C. 402(t)(2) through 402(t)(5)), for any month after they have been outside the United States for 6 consecutive calendar months.

Section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)) provides that section 202(t)(1) shall not apply to any individual who is a citizen of a foreign country which the Secretary of Health and Human Services finds has in effect a social insurance or pension system which is of general application in such country and under which (A) periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, retirement, or death, and (B) individuals who are citizens of the United States but not citizens of such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

Pursuant to authority duly vested in the Commissioner of Social Security by the Secretary of Health and Human Services, and redelegated to him, the Director of the Office of International Policy has approved a finding that St. Lucia does not have a social insurance or pension system which pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death.

Accordingly, it is hereby determined and found that St. Lucia does not have in effect a social insurance or pension system which meets the requirements of section 202(t)(2)(A) of the Social Security Act (42 U.S.C. 402(t)(2)(A)).

Subparagraphs (A) and (B) of section 202(t)(4) of the Social Security Act (42 U.S.C. 402(t)(4) (A) and (B)) provide that section 202(t)(1) shall not be applicable to benefits payable on the earnings record of an individual who has 40 quarters of coverage under Social Security or who has resided in the United States for a period or periods aggregating 10 years or more. However, the provisions of subparagraphs (A) and (B) of section 202(t)(4) shall not apply to an individual who is a citizen of a foreign country that has in effect a social insurance or pension system which is of general application in such country and which satisfies the provisions of subparagraph (A) of section 202(t)(2) but not the provisions of subparagraph (B) of section 202(t)(2).

By virtue of the finding herein, the limitation on payment of monthly benefits to aliens included in section 202(t)(1) does not apply to citizens of St. Lucia receiving benefits on the earnings records of individuals who have 40 quarters of coverage under Social Security or who have resided in the United States for a period or periods aggregating 10 years or more.

Dated: March 1, 1982.

Andrew J. Young,

Director, Office of International Policy.

[FR Doc. 82-6775 Filed 3-11-82; 8:45 am]

BILLING CODE 4190-11-M

St. Vincent and the Grenadines; Finding Regarding Foreign Social Insurance or Pension System—St. Vincent and the Grenadines

Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly benefits to aliens, subject to the exceptions described in sections 202(t)(2) through 202(t)(5) of the Social Security Act (42 U.S.C. 402(t)(2) through 402(t)(5)), for any month after they have been outside the United States for 6 consecutive calendar months.

Section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)) provides that section 202(t)(1) shall not apply to any individual who is a citizen of a foreign country which the Secretary of Health and Human Services finds has in effect a social insurance or pension system which is of general application in such country and under which (A) periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, retirement, on death, and (B) individuals who are citizens of the United States but not citizens of such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

Pursuant to authority duly vested in the Commissioner of Social Security by the Secretary of Health and Human Services, and redelegated to him, the Directory of the Office of International Policy had approved a finding that St. Vincent and the Grenadines does not have a social insurance or pension system which pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death.

Accordingly, it is hereby determined and found that St. Vincent and the Grenadines does not have in effect a social insurance or pension system which meets the requirements of section 202(t)(2)(A) of the Social Security Act (42 U.S.C. 402(t)(2)(A)).

Subparagraphs (A) and (B) of section 202(t)(4) of the Social Security Act (42 U.S.C 402(t)(4)(A) and (B)) provide that section 202(t)(1) shall not be applicable to benefits payable on the earnings record of an individual who has 40 quarters of coverage under Social Security or who has resided in the United States for a period or periods

aggregating 10 years or more. However, the provisions of subparagraphs (A) and (B) of section 202(t)(4) shall not apply to an individual who is a citizen of a foreign country that has in effect a social insurance or pension system which is of general application in such country and which satisfies the provisions of subparagraph (A) of section 202(t)(2) but not the provisions of subparagraph (B) of section 202(t)(2).

By virtue of the finding herein, the limitation on payment of monthly benefits to aliens included in section 202(t)(1) does not apply to citizens of St. Vincent and the Grenadines receiving benefits on the earnings records of individuals who have 40 quarters of coverage under Social Security or who have resided in the United States for a period or periods aggregating 10 years or more.

Dated: March 1, 1982.

Andrew J. Young,

Director, Office of International Policy.

[FR Doc. 82-6774 Filed 3-11-82; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Finding for Federal Acknowledgment of the Death Valley Timbi-Sha Shoshone Band

March 2, 1982.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 54.9(f) notice is hereby given that the Assistant Secretary proposes to acknowledge the Death Valley Timbi-Sha Shoshoe Band, c/o Mrs. Madeline Esteves, Post Office Box 106, Death Valley, California 92328, exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the group satisfies the criteria set forth in 25 CFR 54.7 and, therefore meets the requirements necessary for a government-to-government relationship with the United States.

Under § 54.9(f) of the Federal regulations, a report summarizing the evidence for the proposed decision is available to the petitioner and interested parties upon written request.

Section 54.9(g) of the regulations provides that any individual or organization wishing to challenge the proposed findings may submit factual or legal arguments and evidence to rebut the evidence relied upon. This material must be submitted on or before July 12, 1982. Comments and requests for a copy of the report should be addressed to the Office of the Assistant Secretary—Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20245, Attention: Branch of Federal Acknowledgment.

After consideration of the written arguments and evidence rebutting the proposed findings and within 60 days after the expiration of the response period, the Assistant Secretary will publish his determination regarding the petitioner's status in the Federal Register as provided in § 54.9(h).

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82-6776 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-02-M

Proposed Finding Against Federal Acknowledgment of the Munsee-Thames River Delaware Indian Nation

February 25, 1982.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 54.9(f) notice is hereby given that the Assistant Secretary proposes to decline to acknowledge the Munsee-Thames River Delaware Indian Nation, c/o Mr. William Lee Little Soldier, Post Office Box 567, Manitou Springs, Colorado 80911, exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the group does not meet four of the criteria set forth in 25 CFR 54.7 and, therefore, does not meet the requirements necessary for a government-to-government relationship with the United States.

Under § 54.9(f) of the Federal regulations, a report summarizing the evidence for the proposed decision is available to the petitioner and interested parties upon written request.

Section 54.9(g) of the regulations provides that any individual or organization wishing to challenge the proposed findings may submit factual or legal arguments and evidence to rebut the evidence relied upon. This material must be submitted on or before July 12, 1982. Comments and requests for a copy of the report should be addressed to the Office of the Assistant Secretary—Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20245, Attention: Branch of Federal Acknowledgment.

After consideration of the written arguments and evidence rebutting the proposed findings and within 60 days after the expiration of the response period, the Assistant Secretary will publish his determination regarding the petitioner's status in the Federal Register as provided in § 54.9(h).

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82-6777 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Alabama; Meeting of Southern Appalachian Regional Coal Team

AGENCY: Bureau of Land Management, Eastern States Office, Interior.

ACTION: Meeting notice.

SUMMARY: Pursuant to the responsibilities set forth in 43 CFR 3400, the Regional Coal Team for the Southern Appalachian Federal Coal Production Region, Alabama Subregion, will meet on April 15, 1982, to select tracts which may be offered in a third coal lease sale.

Public attendance is welcome, and time will be provided at the meeting for public comment prior to finalization of Regional Coal Team recommendations.

DATE: The Southern Appalachian Regional Coal Team meeting will begin at 10:00 a.m. on Thursday, April 15, 1982.

ADDRESS: The meeting will be held in Ballroom 1A of the Stafford Inn, 2209 9th Street, Tuscaloosa, Alabama 35401.

FOR FURTHER INFORMATION CONTACT: Monte Jordan, Regional Coal Team Chairman, Bureau of Land Management (540), 18th and C Streets, N.W., Washington, D.C. 20240, (202) 343-4636.

Rolla E. Chandler,

Acting Eastern States Director.

[FR Doc. 82-6695 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-84-M

Baker and Vale Districts; Meeting

Notice is hereby given of a public meeting to be held at 7:30 P.M., March 30, 1982, 5-J School District Office Building, 2090 4th Street, Baker, Oregon 97814. Purpose of meeting will be to review for comment the study of combining the Baker and Vale Districts of the Bureau of Land Management which would replace the current Baker District Office with a Detached Resource Area Office of the Vale District.

Gordon R. Staker,

District Manager.

March 3, 1982.

[FR Doc. 82-6696 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-84-M

Idaho; Cadastral Survey; Redelegation of Authority

Pursuant to the authority contained in Part 1, Sec. 1.1(a)(1) of the Bureau Order No. 701, dated July 23, 1964, I hereby redelegate to the Chief, Division of Operations the following authorities:

1. The authority to approve the Special Instructions for Cadastral Surveys as contained in Part 1, Sec. 1.4(a)(1) of Bureau Order No. 701.

2. The authority to approve plats and field notes of Mineral Surveys and certification as to expenditures pursuant to 43 CFR 3861.2-3 as contained in Part 1, Sec. 1.4(a)(3) of Bureau Order No. 701.

This redelegation of authority will become effective March 12, 1982.

Dated: March 3, 1982.

Clair M. Whitlock,

State Director, BLM, Idaho.

[FR Doc. 82-6705 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-17974]

Idaho; Conveyance of Public Lands; Madison County

Notice is hereby given that pursuant to section 203 of the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), the following-described public land has been sold by direct non-competitive sale to Harold L. Rigby and Ray W. Rigby, Route 1, Rexburg, Idaho 83440.

Boise Meridian, Idaho

T. 6 N., R. 39 E.
Sec. 17, lots 11, 12, and 14 comprising 29.11 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to the Rigbys.

The fair market value of the public land was appraised at $1,600 and payment in this amount was received by the United States.

Dated: March 3, 1982.

Louis B. Bellesi,

Chief, Division of Technical Services.

[FR Doc. 82-6703 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-84-M

[M 39629]

Montana, Conveyance; Opening of Lands

March 3, 1982.

Notice is hereby given that pursuant to Sec. 206 of the Act of October 21, 1976 (90 Stat. 2756; 43 U.S.C. 1716), a patent issued to Ross C. Childers and Kelly Childers for the following described lands:

Principal Meridian, Montana

T. 20 N., R. 33 E.,
Sec. 20, SE¼SE¼; and
Sec. 29, NE¼.
Containing 200 acres.

A warranty deed issued to the United States for the surface estate in the following land:

Principal Meridian, Montana

T. 20 N., R. 33 E.,
Sec. 21, S½S½.
Containing 160 acres.

The land conveyed to the United States by the Childers shall be open on March 15, 1982, to the operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operation, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-6704 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-84-M

Montana; Conveyance of Public Lands; Carter County

March 5, 1982.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), the following described lands have been sold by noncompetitive sale to Vernon W. Knipfer, Mill Iron, Montana:

Principal Meridian, Montana

T. 1 N., R. 61 E.,
Sec. 11, NW¼NW¼.
Containing 40 acres.

The purpose of this notice is to inform the public and interested state and local governmental officials of the issuance of the conveyance documents to Vernon W. Knipfer.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-6707 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-84-M

Rock Springs District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Rock Springs District Grazing Advisory Board.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the Rock Springs District Grazing Advisory Board. Notice of this meeting is required under Pub. L. 92-463.

DATE: April 29, 1982, 9:30 a.m. until 4:00 p.m.

ADDRESS: Hilton Inn, Jim Bridger Room, 2518 Foothill Boulevard, Rock Springs, Wyoming.

FOR FURTHER INFORMATION CONTACT: Donald H. Sweep, District Manager, Rock Springs District, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82901 (307-382-5350).

The agenda for the meeting will include:

1. Election of a Chairman and Vice Chairman.
2. Review of minutes from November 19, 1981 meeting.
3. Presentation and discussion of the Bureau's Unauthorized Use Regulations.
4. Discussion of the utilization and responsibility for Range Betterment (8100) funds.
5. Presentation of preliminary range improvement projects planned for Fiscal Year 1983.
6. Presentation of progress on the Kemmerer and Salt Wells Resource Areas Environmental Statement and Rangeland Management Policy Programs.
7. Update of the Red Desert Allotment Management Plans in the Sandy Environmental Statement area.
8. Review of the District's Budget and Program for Fiscal Year 1982.
9. Public comment period.
10. Arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:00-3:30 p.m., or file written statements for the Board's consideration. Anyone wishing to make an oral statement should notify the District Manager Bureau of Land Management, Highway 191 North, P.O. Box 1869, Rock Springs, Wyoming 82901, by April 28, 1982. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Jerry K. Ostrom,

Assistant District Manager.

[FR Doc. 82-6706 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-84-M

[M 53205-B(SD)]

South Dakota; Proposed Classification of Public Lands for State Indemnity Selection

March 5, 1982.

1. The South Dakota State Commissioner of School and Public Lands has filed a petition for classification and an application to acquire the public lands including the mineral estate described in paragraph 5 below, under the provisions of sections 2275 and 2276 of the Revised Statutes, as amended, 43 U.S.C. 851, 852 (1976), in lieu of certain school lands granted to the State under the Act of February 26, 1889, 25 Stat. 676, that were encumbered by other rights or reservations before the State's title could attach. The application has been assigned serial No. M 53205-B(SD).

2. The Bureau of Land Management will examine these lands for evidence of prior valid rights or other statutory constraints that would bar transfer. Those lands found suitable for transfer are hereby proposed for classification as requested by the State Commissioner. Classification will be in accordance with section 7 of the Act of June 28, 1934, as amended (43 U.S.C. 315f), and under the provisions of Subpart 2400 of Title 43 of the Code of Federal Regulations.

3. Information concerning these lands and the proposed transfer to the State of South Dakota may be obtained from the District Manager, Miles City District Office, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301, (406-232-4331) or the South Dakota Resource Area Manager, Bureau of Land Management, 310 Roundup Street, Belle Fourche, South Dakota 57717, (605-892-2526).

4. On or before April 12, 1982, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107. A public hearing will be scheduled if sufficient public interest exists to warrant the time and expense of a hearing.

5. The lands included in this proposed classification are located in Custer, Harding, Jackson, Lawrence, Lyman, and Perkins Counties, South Dakota, and are described as follows: (Footnotes correspond to numbered authorized users or applicants listed in Paragraph 6).

Black Hills Meridan

T. 4 N., R. 3 E.,
Sec. 5, Tract 43. 1
T. 16 N., R. 7 E.,
Sec. 17, S½N½ and NW¼SW¼. 2,3
Sec. 19, NE¼NE¼; 2,3
Sec. 20, NW¼NW¼; 2,3
Sec. 22, SW¼NW¼. 2,3
T. 20 N., R. 7 E.,
Sec. 1, Lot 2. 4
T. 20 N., R. 10 E.,
Sec. 6, Lot 4; 5, 7
Sec. 35, NE¼NW¼. 6,7
T. 17 N., R. 11 E.,
Sec. 6, Lot 5. 8,9
T. 20 N., R. 11 E.,
Sec. 25, NW¼SE¼; 10,11
Sec. 34, SE¼SE¼. 10,12
T. 14 N., R. 12 E.,
Sec. 14, NE¼SE¼; 15,16
Sec. 19, SE¼NE¼ and NE¼SE¼; 13,15
Sec. 24, SW¼SE¼. 14,15
T. 15 N., R. 12 E.,
Sec. 25, W½SW¼; 17,18
Sec. 26, NW¼SE¼; 17,18
Sec. 35, E½SE¼. 17,19
T. 16 N., R. 12 E.,
Sec. 4, NW¼SE¼. 20,21
T. 16 N., R. 13 E.,
Sec. 35, SW¼SW¼. 22,23
T. 17 N., R. 13 E.,
Sec. 35, NW¼NW¼. 24,25
T. 16 N., R. 14 E.,
Sec 13, NE¼NE¼; 26,28,30
Sec. 34, NW¼NE¼; 27,30
Sec. 35, NE¼SE¼. 28,31
T. 16 N., R. 15 E.,
Sec. 3, SE¼SW¼. 32,33
T. 19 N., R. 17 E.,
Sec. 2, Lots 1 and 2; 34, 35
Sec. 10, NW¼SW¼ and SW¼SE¼. 34,35
T. 2 S., R. 7 E.,
Sec. 29, E½W½NE¼ and W½SE¼NW¼.
T. 3S., R. 7 E.,
Sec. 2, Lot 3.
T. 4 S., R. 7 E.,
Sec. 34, NE¼SE¼. 36
T. 4 S., R. 8 E.,
Sec. 26, SE¼NE¼. 37
T. 3 S., R. 22 E.,
Sec. 12, E½NE¼; 38,40
Sec. 17, SW¼NW¼; 39,40
Sec. 29, NW¼NW¼. 39,40
T. 2 S., R., 23 E.,
Sec. 33, S½SE¼. 41,42
T. 3 S., R. 23 E.,
Sec. 2, SE¼SW¼. 43,44
Sec., 3, SE¼SE¼. 43,44
T. 2 S., R. 24 E.,
Sec. 25, S½SE¼. 45,46
Total—1,901.25 acres.

Fifth Principal Meridian

T. 103 N., R. 73 W.,
Sec. 5, Lot 1 and S½NE¼.
T. 104 N., R. 73 W.,
Sec. 32, SE¼SE¼.
T. 103 N., R. 75 W.,
Sec. 22, Lot 4.
Total—186.70 acres.
Total M 53205-B(SD)—2,060.95 acres.

6. The following is a listing of holders of applications, leases, permits, and/or rights-of-way on the public lands described above:

Oil and Gas Leases

3. Century Oil and Gas Corporation, Suite 1145, Energy Center One, 717 17th Street, Denver, CO 80202—M 23779(SD)
4. R. K. Cramer, Suite 1340, 410 17th Street, Denver, CO 80202—M42028(SD)
7. Northern Michigan Exploration Company, One Jackson Square, Jackson, Michigan 49204; Sohio Petroleum Company, 50 Penn Place, Suite 1100, Oklahoma City, OK 73116—M 26570(SD)
9. Northern Michigan Exploration Company; Sohio Petroleum Company—M 26572(SD)
11. Texas Pacific Oil Co., Inc., 1700 One Main Place, Dallas, TX 75250 M 26280(SD)
12. Northern Michigan Exploration Company; Sohio Petroleum Company—M 26594 (SD)
15. Evelyn Chambers, 7800 E. Union Avenue, Suite 1100, Denver, CO 80237 M 29368(SD)
16. Northern Michigan Exploration Company; Sohio Petroleum Company—M 26573(SD)
19. Nola Grace Ptasynski, P.O. Box 43, Casper, WY 82601—M 42031(SD)
21. Northern Michigan Exploration Company; Sohio Petroleum Company—M 26574(SD)
23. Northern Michigan Exploration Company; Sohio Petroleum Company—M 26577(SD)
25. Northern Michigan Exploration Company; Sohio Petroleum Company—M 26578(SD)
30. Northern Michigan Exploration Company; Sohio Petroleum Company—M 26586(SD)
31. Beard Oil Co., 2000 Classen Blvd., 200 South, Oklahoma City, OK 73106 M 26812(SD)
33. Northern Michigan Exploration Company; Sohio Petroleum Company—M 26581(SD)
36. Thomas M. Robinson, 1040 Denver Club Building, Denver, CO 80202—M 48568(SD)
40. Asamera Oil (U.S.) Inc., Box 118, Denver, CO 80201—M 28667(SD)
42. Raymond T. Duncan, Colorado Center, Penthouse One, 1777 S. Harrison Street, Denver, CO 80210—M 42349(SD)
44. Raymond T. Duncan—M 43249(SD)
46. Raymond T. Duncan—M 42350(SD)

Oil and Gas Lease Applications

35. Lorraine L. Tidwell, P.O. Box 1473, Anchorage, AK 99510—M 52573(SD)
37. Ray M. Dewey, 4084 Working Way, Los Angeles, CA 90027—M 51466(SD)

Grazing Lessees

2. South Dakota State University, Agricultural Research and Extension Center, 801 San Francisco, Rapid City, SD 57701
5. George Abelseith, Ralph, SD 57650
6. Simpson Bros., Prairie City, SD 57649
8. Quaal Ranch, Inc., Prairie City, SD 57649
10. George Jesfjeld, Prairie City, SD 57649
13. Edgar Johnson, Sorum, SD 57654
14. Jerry Wells, Bison, SD 57620
17. Walter Hukill, Bison, SD 57620
20. Craig Solvie, Prairie City, SD 57649
22. Burdine & Sons, Inc., Bison, SD 57620
24. Wayne Besler, Bison, SD 57620
26. Raymond Saunders, Meadow, SD 57644
27. Cora Patterson, Bison, SD 57620
28. John Lewton, Meadow, SD 57644
32. Veal & Sons, Inc., Meadow, SD 57644
34. Hay Hill Grazing Association, c/o Norman Miles, Meadow, SD 57644
38. John W. Dunn, Box 1357, Woodward, OK 73801
39. Daniel Stout, Kadoka, SD 57543
41. Walter Dennis, Kadoka, SD 57543
43. Walter Dennis, Kadoka, SD 57543
45. Donald Perault, Belvidere, SD 57521

Temporary Use Permit

1. South Dakota Division of Forestry, Star Route, Box 604, Lead, SD 57754 MT-020-TUP-30 Parking Lot

Special Use Permit

16. Lester Blomberg, Faith, SD 57626

Range Improvement

29. Raymond Saunders; Fence, M3-15-2013; Raymond Saunders; Reservoir, M3-15-0457

7. Rights-of-way granted by the Bureau of Land Management on the above lands will transfer with the land or may be reserved to the United States. Where mineral rights will transfer to the State existing oil and gas leases will remain in effect under the terms and conditions of the leases. The State Commissioner has agreed to give BLM's grazing permittees a preference right for grazing privileges on lands transferred to the State. The State leases will contain the same terms and conditions included in the present leases to the fullest extent allowed by their laws. However, the State and the lessees may agree to enter into other tenure arrangements.

Ray Brubaker,

District Manager for the State Director.

[FR Doc. 82-6700 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-84-M

[M 53205-A(SD)]

South Dakota; Proposed Classification of Public Lands for State Indemnity Selection

March 5, 1982.

1. The South Dakota State Commissioner of School and Public Lands has filed a petition for classification and an application to acquire the public lands described in paragraph 5 below, under the provisions of section, 2275 and 2276 of the Revised Statutes, as amended, 43 U.S.C. 851, 852 (1976), based on entitlement rights due to natural deficiencies and short surveys. The application has been assigned serial No. M 53205-A(SD).

2. The Bureau of Land Management will examine these lands for evidence of prior valid rights or other statutory constraints that would bar transfer. Those lands found suitable for transfer are hereby proposed for classification as requested by the State Commissioner. Classification will be in accordance with section 7 of the Act of June 28, 1934, as amended (43 U.S.C. 315f), and under the provisions of Subpart 2400 of Title 43 of the Code of Federal Regulations.

3. Information concerning these lands and the proposed transfer to the State of South Dakota may be obtained from the District Manager, Miles City District Office, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301, (406-232-4331) or the South Dakota Resourcé Area Manager, Bureau of Land Management, 310 Roundup Street, Belle Fourche, South Dakota 57717, (605-892-2526).

4. On or before April 12, 1982, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107. A public hearing will be scheduled if sufficient public interest exists to warrant the time and expense of a hearing.

5. The lands included in this proposed classification are located in Brule, Buffalo, Campbell, Charles Mix, Codington, Gregory, Hughes, Jones, Lincoln, Marshall, Potter, Roberts, and Sully Counties, South Dakota, and are described as follows: (Footnotes correspond to numbered authorized users or applicants listed in Paragraph 6).

Black Hills Meridian

T. 2 N., R. 29 E.,
Sec. 18, W½SE¼, 1,4.
Total—80 acres.

Fifth Principal Meridian

T. 122 N., R. 46 W.,
Sec. 31, Lot 5.
T. 100 N., R. 49 W.,
Sec. 26, Lots 2 and 3.
T. 125 N., R. 52 W.,
Sec. 21, SE¼SW¼.
T. 117 N., R. 54 W.,
Sec. 11, Lot 8.
T. 125 N., R. 56 W.,
Sec. 30, Lot 2.
T. 95 N., R. 65 W.,
Sec. 20, NE¼SW¼, 2,3,4.
T. 95 N., R. 66 W.,
Sec. 11, SE¼SE¼, 5,6.
T. 97 N., R. 66. W.,
Sec. 30, Lot 2.
T. 97 N., R. 67 W.,
Sec. 33, SE¼SE¼.
T. 96 N., R. 68 W.,
Sec. 7, SW¼SE¼.
T. 105 N., R. 68 W.,
Sec. 6, Lots 8 and 9;
Sec. 7, S½ of Lot 6.
T. 106 N., R. 68 W.,
Sec. 31, Lot 6.
T. 97 N., R. 69 W.,
Sec. 23, NW¼NE¼.
T. 100 N., R. 71 W.,
Sec. 28, NW¼NW¼.
T. 109 N., R. 75 W.,
Sec. 8, SE¼SE¼. 7,8
T. 110 N., R. 77 W.,
Sec. 11, Lot 7.
T. 120 N., R. 78 W.,
Sec. 2, SE¼SW¼. 9
T. 116 N., R. 79 W.,
Sec. 5, Lot 3. 10
T. 125 N., R. 79 W.,
Sec. 14, SW¼NE¼ and NE¼SE¼. 11,12
T. 128 N., R. 79 W.,
Sec. 24, W½NW¼. 13,14
T. 114 N., R. 81 W.,
Sec. 3, Lot 1;
Sec. 10, Lots 1 and 2;
Sec. 22, Lot 1.
Total—752.73 acres.
Total M 53205-A(SD)—832.73 acres.

6. The following is a listing of holders of applications, leases, permits, and/or rights-of-way on the public lands described above:

Oil and Gas Leases

1. Stephen Smith, P.O. Box 3720, Casper, WY 82602; Kenneth K. Farmer, P.O. Box 3402, Casper, WY 82602; Exxon Corporation, P.O. Box 2305, Houston, TX 77001; The Taurus Corporation, P.O. Box 1460, Casper, WY 82602—M 39596(SD)
9. Robert K. Wonneberger, 1614 Colonial Terrace, Arlington, VA 22209 M 51462(SD)
13. Universal Fuels Co., 518 17th Street, Suite 238, Denver, CO 80202 M 50564(SD)

Oil and Gas Lease Applications

10. Liberty Petroleum Corporation, 500 Fifth Avenue, Suite 1425, New York, NY 10110—M 52754(SD)

11. Nordic Petroleums, Inc., 9745 E. Hampden Avenue, Suite 410, Denver, CO 80231—M 52755(SD)

Rights-of-Way

2. U.S. Army, Corps of Engineers, 6014 U.S. Post Office and Courthouse, Omaha, NE 68102—M 44070(SD); Department of the Interior, Bureau of Reclamation, P.O. Box 280, Casper, WY 82602—BLM 026190

Grazing Lessees

3. Thomas Donlin, Route 1, Spearfish, SD 57783
5. Gus Adam Estate, Route 1, Bristow, SD 57219
7. C. L. Swanson, Pierre, SD 57501
12. N. E. Amundson, Mobridge, SD 57601
14. Everett Van Beck, Pollock, SD 57648

Range Improvements

4. Thomas Donlin; Fence, M3–15–2111
6. Gus Adam Estate; Fence, M3–15–2112
8. C. L. Swanson; Fence, M3–15–2113

7. Rights-of-way granted by the Bureau of Land Management on the above lands will transfer with the land or may be reserved to the United States. Oil and gas leases will remain in effect under existing terms and conditions. The State Commissioner has agreed to give BLM's grazing permittees a preference right for grazing privileges on lands transferred to the State. The State leases will contain the same terms and conditions included in the present leases to the fullest extent allowed by their laws. However, the State and the lessees may agree to enter into other tenure arrangements.

Ray Brubaker,

District Manager, for the State Director.

[FR Doc. 82-6701 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-84-M

[Ut-060-2-1L]

Agriculture Lease; Public Lands in Duchesne County, Utah

The following described lands have been determined to be suitable for agriculture lease under section 302 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1732:

T8S, R17E, SLM,
Sec. 19: W½ SE¼.

The purpose of the lease is to develop the public lands into agriculture producing lands. The lands presently adjoining the proposed lease lands are high quality alfalfa and small grain producers. The lease is consistent with the Bureau's Planning System and county zoning.

The terms and conditions applicable to the lease are:

1. The lands would be leased to Evan Probst and John Price.
2. The lease would be issued for five years with the right to renew.
3. The lands would be used for production of alfalfa hay and other small grains.
4. Rental will be determined by fair market value.

Detailed information concerning the lease, including the environmental assessment, is available for review at the Vernal District Office, 170 South 500 East, Vernal, Utah 84078.

On or before April 12, 1982, interested parties may submit comments to the Vernal District Manager, 170 South 500 East, Vernal, Utah 84078. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department.

Ronald S. Trogstad,

Acting District Manager.

March 4, 1982.

[FR Doc. 82-6702 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-84-M

Colorado; LaSal Pipeline Co.; Application for Right-of-Way

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185) LaSal Pipeline Co. filed an application for a right-of-way to construct a 16 inch shale oil pipeline (the project includes a 12 inch lateral pipeline from the main truckline to Rangely, Colorado) across the following described public lands:

Sixth Principal Meridian, Colorado (C–30969)

Garfield County

T. 5S., R. 96W.,
Sec. 2, 3, 11.
T. 4S., R. 96W.,
Sec. 3, 10, 11, 15, 22, 27, 34.

Rio Blanco County

T. 3S., R. 96W.,
Sec. 4, 5, 9, 15, 16, 22, 27, 34.
T. 2S., R. 96W.,
Sec. 5, 8, 9, 16, 17, 20, 21, 28, 29, 32.
T. 1S., R. 96W.,
Sec. 16, 19, 29, 30, 32.
T. 1S., R. 97W.,
Sec. 1, 2, 12, 13.
T. 1N., R. 97W.,
Sec. 3, 4, 9, 10, 15, 22, 26, 27, 35.
T. 2N., R. 97W.,
Sec. 2, 11, 13, 14, 23, 24, 26, 34, 35.
T. 3N., R. 97W.,
Sec. 23, 26, 35.

Moffat County

T. 3N., R. 97W.,
Sec. 2, 11, 14.
T. 4N., R. 97W.,
Sec. 12, 13, 23, 24, 25, 26, 35.
T. 5N., R. 96W.,
Sec. 3, 4, 9, 10, 20, 21, 29, 30, 31.
T. 6N., R. 95W.,
Sec. 4, 8, 9, 17, 18, 19.
T. 6N., R. 96W.,
Sec. 24, 25, 26, 34, 35.
T. 7N., R. 95W.,
Sec. 2, 10, 11, 15, 22, 27, 28, 33.
T. 8N., R. 95W.,
Sec. 12, 13, 24, 25, 26, 35.
T. 8N., R. 94W.,
Sec. 6, 7.
T. 9N., R. 94W.,
Sec. 2, 3, 9, 10, 16, 20, 21, 29, 30, 31.
T. 10N., R. 94W.,
Sec. 25, 35, 36.
T. 10N., R. 93W.,
Sec. 17, 19, 20, 30.
T. 10N., R. 93W.,
Sec. 3, 4, 9, 10.
T. 11N., R. 92W.,
Sec. 5, 7, 8, 18.
T. 11N., R. 93W.,
Sec. 1, 12, 13, 24, 25, 26, 34, 35.
T. 12N., R. 92W.,
Sec. 16, 21, 28, 32, 33.

Rangely Lateral

Rio Blanco County

T. 2S., R. 96W.,
Sec. 6, 7, 8.
T. 2S., R. 97W.,
Sec. 1, 2.
T. 1S., R. 97W.,
Sec. 26, 29, 31, 32, 33, 34, 35.
T. 1S., R. 96W.,
Sec. 6, 7, 17, 18, 20, 28, 29, 33, 34, 35, 36.
T. 1S., R. 99W.,
Sec. 1.
T. 1N., R. 99W.,
Sec. 19, 20, 27, 28, 29, 34, 35, 36.
T. 1N., R. 100W.,
Sec. 17, 18, 19, 21, 22, 23, 24.
T. 1N., R. 101W.,
Sec. 5, 7, 8, 9, 10, 13, 14, 15.
T. 1N., R. 102W.,
Sec. 3, 4, 10, 11, 12.

Sixth Principal Meridian, Wyoming (W–77812)

Carbon County

T. 12N., R. 92W.,
Sec. 2, 11, 14, 23.
T. 13N., R. 91W.,
Sec. 4, 5, 9, 15, 21, 22, 28, 32.
T. 14N., R. 91W.,
Sec. 7, 18, 19, 29, 30, 32.
T. 14N., R. 92W.,
Sec. 1, 12.
T. 15N., R. 92W.,
Sec. 3, 4, 10, 14, 15, 23, 25, 26.
T. 16N., R. 92W.,
Sec. 5, 17, 20, 21, 28, 33.
T. 17N., R. 92W.,
Sec. 4, 16, 22, 28.
T. 18N., R. 91W.,
Sec. 6.
T. 18N., R. 92W.,
Sec. 2, 10, 22, 28.
T. 19N., R. 91W.,
Sec. 10, 16, 28, 32.
T. 22N., R. 89W.,
Sec. 6, 18.

T. 23N., R. 89W.,
Sec. 8, 20, 32.
T. 24N., R. 88W.,
Sec. 4, 8, 16.
T. 24N., R. 89W.,
Sec. 24, 26, 34.
T. 25N., R. 87W.,
Sec. 1, 2, 9, 10, 11, 17, 19.
T. 25N., R. 88W.,
Sec. 25, 34, 35.
T. 26N., R. 86W.,
Sec. 17, 19, 20.
T. 27N., R. 86W.,
Sec. 2, 3, 10, 15, 22, 27.
T. 28N., R. 85W.,
Sec. 6, 7, 18, 19.
T. 28N., R. 86W.,
Sec. 24, 25, 26, 35.

Sweetwater County

T. 20N., R. 90W.,
Sec. 6, 18.
T. 20N., R. 91W.,
Sec. 24, 26, 34.
T. 21N., R. 90W.,
Sec. 2, 14, 22, 34.
T. 22N., R. 90W.,
Sec. 24.

Natrona County

T. 29N., R. 85W.,
Sec. 5, 29.
T. 30N., R. 85W.,
Sec. 29, 32.
T. 31N., R. 83W.,
Sec. 1, 2, 3, 9, 10, 17, 18, 19.
T. 31N., R. 84W.,
Sec. 21, 22, 28, 29.
T. 32N., R. 82W.,
Sec. 2, 10,11.
T. 33N., R. 81W.,
Sec. 9.

The pipeline will transport upgraded shale oil from the Piceance Basin to existing crude oil transportation facilities at Rangely, Colorado, and Casper, Wyoming.

The purpose of this notice is inform the public that the Bureau of Land Management will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested person desiring to express their views on this matter should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager concerned at the following locations.

Colorado (C–30969):
Bureau of Land Management, Craig District Office, P.O. Box 248, 455 Emerson Street, Craig, CO 81626

Wyoming (W–77812):
Bureau of Land Management, P.O. Box 670, Rawlins, WY 83301

Dated: March 4, 1982.

Francis E. Noll,

Acting District Manager.

[FR Doc. 82-6770 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-84-M

Colorado Off-Road Vehicle Designations; Emergency Designation Order CO–030–8201

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of emergency off-road vehicle designations.

SUMMARY: Notice is hereby given, relating to the use of motorized vehicles on public lands in the Gunnison Forks Habitat Management Area; T. 15 S., R. 93 W., Sec. 6, 6th P.M., that portion of Lot 4 lying northwesterly of the North Fork of the Gunnison River and northeasterly of the Gunnison River. Motorized vehicle use in the described area is limited to designated routes. This notice is in accordance with the authority and regulations contained in 43 CFR 8341.2.

To control damage resulting from unconfined off-road vehicle activity, control measures are being implemented on lands acquired for wildlife mitigation at Gunnison Forks, as outlined in the Gunnison Forks Wildlife Habitat Management Plan. The management plan was written in consultation with the Colorado Division of Wildlife, U.S. Bureau of Reclamation, and U.S. Fish and Wildlife Service. This decision is published as final today. Under 43 CFR 4.21, an appeal may be filed on or before April 12, 1982 with the Interior Board of Land Appeals.

Designation: Approximately 1,610 feet of roadway will remain open to vehicle use. The designation will result in a reduction of about 1,920 feet of roadway in the subject area. This will reduce damage to wildlife habitat, watershed values and visual quality.

For further information about this designation, contact either of the following Bureau of Land Management offices:

Montrose District Manager, 2465 South Townsend, P.O. Box 1269, Montrose, Colorado 81402

Uncompahgre Basin Resource Area Manager, 336 South 10th Street, P.O. Box 1269, Montrose, Colorado 81402

Dated: March 4, 1982.

Marlyn V. Jones,

District Manager.

[FR Doc. 82-6778 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Anadarko Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on leases OCS–G 2750 and 2754, Blocks A–365 and A–376, High Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147 Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: March 3, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-6800 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that McMoRan Offshore Exploration Co. has submitted a development and Production Plan describing the activities it proposes to conduct on Leases OCS–G 2112 and 2912, Blocks 315 and 329, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978,

that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 228.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, exectives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: March 3, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-6671 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Badlands National Park; Availability for the Master Plan and Development Concept Plan; Final Environmental Statement

AGENCY: National Park Service, Interior.

ACTION: Notice of availability for the master plan and development concept plan, final environmental statement.

SUMMARY: The approved Final Environmental Statement for the Master Plan and Development Concept Plan for Badlands National Park is available for public distribution. The final environmental statement will serve as the general management plan for the park; therefore, as per the date of this Federal Register publication, the master plan is approved.

The master plan and development concepts provide the basis for long range management and development of the park. The plan identifies those developments and service necessary to facilitate all phases of recreation and administrative related activities. The document also contains a description of the physical and socioeconomic environment of the area, the physical and cultural resources therein, and the present and proposed management of such elements.

A copy of the final environmental statement may be obtained from the Superintendent, Badlands National Park, Post Office Box 72, Interior, South Dakota, 57750 or Regional Director, Rocky Mountain Region, National Park Service, 655 Parfet Street, Post Office Box 25287, Denver, Colorado, 80225. Copies of the document are also available for review at the locations noted above.

Dated: February 23, 1982.

James B. Thompson,

Regional Director, Rocky Mountain Region.

[FR Doc. 82-6708 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-70-M

Cuyahoga Valley National Recreation Area Advisory Commission; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Cuyahoga Valley National Recreation Area Advisory Commission will be held beginning 7:30 p.m. (EST), on Thursday, March 25, 1982, at the Happy Days Visitor Center located on West Streetsboro Road (State Route 303) 1 mile west of State Route 8 or 2 miles east of Peninsula, in Boston Township.

The Commission was established by the Act of December 27, 1974, 88 Stat. 1788, 16 U.S.C. 460ff-4, to meet and consult with the Secretary of the Interior on matters relating to the administration and development of the Cuyahoga Valley National Recreation Area.

The members of the Commission are are as follows:

Mrs. Tommie Patty (Chairperson)
Mr. John Craig
Mr. Norman A. Godwin
Mr. William Hutchison
Mr. James S. Jackson
Mrs. George Klein
Mr. Stanley Mottershead
Mr. C. W. Eliot Paine
Mr. Melvin J. Rebholz
Mr. F. Eugene Smith
Ms. Robbie Stillman
Mr. Barry K. Sugden
Dr. Robert W. Teater

Matters to be discussed at this meeting include:

1. A proposal to ban open containers of alcoholic beverages.
2. The first phase construction contract for the Oak Hill Day Use area.
3. Update on transportation planning process.
4. Update on park operations.

The meeting will be open to the public. It is expected that about 100 persons, in addition to members of the Commission, will be able to attend this meeting. Interested persons may submit written statements. Such statements should be submitted to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from Lewis S. Albert, Superintendent, Cuyahoga Valley National Recreation Area, P.O. Box 158, Peninsula, Ohio 44264, telephone (216) 650–4414. Minutes of the meeting will be available for public inspection 3 weeks after the meeting, at the office of Cuyahoga Valley National Recreation Area, located at 501 West Streetsboro Road (State Route 303), 2 miles east of Peninsula, Ohio.

Dated: March 1, 1982.

J. L. Dunning,

Regional Director, Midwest Region.

[FR Doc. 82-6706 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-70-M

Gateway National Recreation Area; Gateway Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Gateway National Recreation Advisory Commission will be held commencing at 3:00 p.m., Tuesday, April 6, 1982, at Federal Hall, 28 Wall Street, Lower Level, New York, New York.

The Commission was established by Pub. L. 92–952 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Gateway National Recreation Area.

The matters to be discussed at this meeting include:

1. Spring/Summer Programs.
2. Sandy Hook Rehabilitation Status.
3. Report: Gateway Tour by Senior Staff Member, House Interior and Insular Affairs Sub-Committee.
4. Recruitment Drive for Minority and Women Surf-lifeguards.
5. Report: Floyd Bennett Field Development Public Input.
6. Transportation: B–6, B–46 Status and Promotion. Discussion of Bridge Toll Increase.
7. Job Corps Presentation.
8. Superintendent's Report.
9. Regional Director's Report.
10. Set Date and Place for Next Meeting.

The meeting will be open to the public. The facility at which the meeting will be held is considered physically accessible. If interpretive services are requested by deaf or hearing impaired individuals to this agency within five working days before the meeting, it will be provided. However, facilities and space to accommodate members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who wish to submit written statements, may contact John Guthrie, Acting Superintendent, Gateway National Recreation Area, Headquarters, Building No. 69, Floyd Bennett Field, Brooklyn, New York 11234, (212) 630–0363.

Minutes of the meeting will be available for inspection four weeks after the meeting at the Gateway National Recreation Area Headquarters Building in Brooklyn.

Dated: March 1, 1982.

John Guthrie,

Acting Superintendent, Gateway National Recreation Area.

[FR Doc. 82-6767 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-35-M

Bureau of Reclamation

Downstream Riverbank Stabilization Program, Grand Coulee Dam; Columbia Basin Project, Washington; Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement on the proposed Riverbank Stabilization Program on the Columbia River below Grand Coulee Dam in Washington. The proposed program would include those actions necessary to prevent the riverbanks from sliding as a result of the operation of the Third Powerplant at Grand Coulee Dam.

Copies are available for inspection at the following locations:

Department of the Interior, Office of Environmental Affairs, Bureau of Reclamation, Room 7622, Washington, DC 20240, Telephone (202) 343–4991

Division of Management Support, Library Branch, Room 450, Building 67, Denver Federal Center, Denver, CO 80225, Telephone (303) 234–3019

Office of the Regional Director, Bureau of Reclamation, Box 043, 550 West Fort Street, Boise, ID 83724, Telephone (208) 334–1208

Grand Coulee Project Office, Bureau of Reclamation, P.O. Box 620, Grand Coulee, WA 99133, Telephone (509) 633–1360

Single copies of the final environmental statement may be obtained on request to the Commissioner, Bureau of Reclamation, or the Regional Director. Copies will also be available for inspection in libraries in the project vicinity. Please refer to the statement number above.

Dated: March 8, 1982.

R. N. Broadbent,

Commissioner of Reclamation.

[FR Doc. 82-6693 Filed 3-11-82; 8:45 am]

BILLING CODE 4310-09-M

INTERNATIONAL COMMUNICATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459) and Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), I hereby determine that five paintings imported from the Soviet Union to be included in the exhibit, "Jacob van Ruisdael" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. I also determine that the temporary exhibition or display of the listed exhibit objects at the Fogg Art Museum, Cambridge, Massachusetts, beginning on or about March 13, 1982, to on or about April 11, 1982, is in the national interest.

Public notice of this determination is ordered to be published in the Federal Register.

Dated: March 11, 1982.

Gilbert A. Robinson,

Acting Director.

[FR Doc. 82-6693 Filed 3-11-82; 10:13 am]

BILLING CODE 8230-01-M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized by 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: The American Original Corporation, P.O. Box 789, 215 High Street, Seaford, DE 19973.

2. Wholly-owned subsidiary which will participate in the operations and address: National Seafood Distributors, Inc., a Delaware corporation, P.O. Box 789, 215 High Street, Seaford, DE 19973.

1. Parent corporation and address of principal office: Bigelow-Sanford, Inc., P.O. Box 3089, Greenville, SC 29602.

2. Wholly-owned subsidiary which will participate in the operations, and address of the respective principal office: Bigelow Transportation Company, Inc., P.O. Box 3089, Greenville, SC 29602.

1. Parent corporation and address of principal office: Campbell Soup Company, Campbell Place, Camden, New Jersey 08101.

2. Wholly-owned subsidiaries which will participate in the operations and States of incorporation:

Corporate Name and State of Incorporation

Campbell Finance Corp., Delaware.
Campbell Foods Distributing Corp., New Jersey
Campbell Foreign Sales Corp., Delaware.
Campbell Sales Company, New Jersey.
Campbell Soup Company (Sumter Plant) Inc., South Carolina.
Campbell Soup (Texas) Inc., Texas.
Campbell's Soups Inter-America, Inc., New Jersey.
Camsco Mushroom Company, Inc., Ohio.
Capistrana Finance Corp. Delaware.
Capistrana Products Corp., New Jersey.
Champion Valley Farms, Inc., New Jersey.
Clark's Restaurant Enterprises, Inc., Washington.
Dixon Canning Corp., California.
Domsea Farms, Inc., Washington.
Fine Oven Products Inc., New York.
German Village Products, Inc., Ohio.
Godiva Chocolatier, Inc., New Jersey.
Hanover Trail of Maryland, Inc., Maryland.
Hanover Trail, Inc., Pennsylvania.
Herider Farms, Inc., Texas.
Joseph Campbell Company, New Jersey.
Lexington Gardens, Inc., Connecticut.
MB Bakery, Inc., California.
Martino's Bakery, Inc., California.
Pepperidge Farm, Incorporated, Connecticut.
Pepperidge Farm Mail Order Company, Inc., Connecticut.
Pietro's Corp., Washington.
Seattle Restaurant Food Supply, Inc., Washington.

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

Snow King Frozen Foods, Inc., Pennsylvania.
Southeastern Wisconsin Products Company, Inc., Wisconsin.
Technological Resources, Inc., New Jersey.
Valley Tomato Products, Inc., California.
Vlasic Foods, Inc., Michigan.
(1) Parent corporation and address of principal office: General Foods Corporation (a Delaware corporation), 250 North Street, White Plains, New York 10625.
(2) Wholly-owned subsidiaries which will participate in the operations, and states of incorporation:
(a) Birds Eye, Inc. (Delaware).
(b) Brisk Transportation Inc. (Delaware).
(c) Don's Prize, Inc. (Ohio).
(d) General Foods Caribbean Manufacturing Corporation (Delaware).
(e) General Foods, Domestic International Sales Company, Inc. (Delaware).
(f) General Foods Inc. (Puerto Rico).
(g) General Foods Manufacturing Corporation (Delaware).
(h) General Pectin Manufacturing Corporation (Delaware).
(i) General Foods Overseas Development Corporation (Delaware).
(j) General Foods Trade Funding Corporation (Delaware).
(k) General Foods Trading Company (Delaware).
(l) Hudson Commercial Corporation (Delaware).
(m) Italsalumi, Inc. (Illinois).
(n) Kohrs Packing Company (Illinois).
(o) Oscar Mayer & Co. Inc. (Delaware).
(p) Oscar Mayer Export, Ltd. (Wisconsin).
(q) Oscar Mayer Foods Corporation (Delaware).
(r) Maxwell House, Inc. (Delaware).
(s) Meriwether's Restaurants, Inc. (Delaware).
(t) Quality Industrial Plastics, Co., Inc. (Delaware).
(u) Scientific Protein Laboratories, Inc. (Illinois).
(v) Birds Eye de Mexico, S.A. de C.V. (Mexico).
(w) Canterbury Foods (Alberta) Ltd. (Alberta, Canada).
(x) Franklin Baker Company of the Philippines (Philippines)
(y) General Foods, Inc. (Canada).
(z) Hostess Food Products Limited (Ontario, Canada).
(aa) ICL Food Services, Ltd. (Brit. Col., Canada).
(bb) White Spot Limited (Ontario, Canada).
1. Parent corporation and address of principal office: Northwest Transfer and Warehouse, Inc., 301 North 7th Street, Minneapolis, Minnesota 55403.
2. Wholly-owned subsidiaries which will participate in the operations, and state of incorporation: RAP Lines, Inc., a Minnesota corporation.
1. *Parent Corporation* and address of principal office: Rapid-American Corporation, 888 Seventh Avenue, New York, New York 10106.
2. *Wholly-Owned Subsidiaries:*
(a) McCrory Corporation, 888 Seventh Avenue, New York, New York 10106.
(b) J. J. Newberry Co., 888 Seventh Avenue, New York, New York 10106.
(c) Otasco, Inc., 11333 East Pine, Tulsa, Oklahoma 74116.
(d) Lerner Stores Corporation, 460 West 33rd Street, New York, New York 10001.
(e) Schenley Distillers, Inc., 36 East Fourth Street, Cincinnati, Ohio 45202.
(f) Schenley Affiliated Brands Corp., 888 Seventh Avenue, New York, New York 10106.
(g) Tennessee Dickel Distilling Co., Tullahoma, Tennessee 37388.
(h) Anvil Brand, Incorporated, 866 Seventh Avenue, New York, New York 10106.
(i) The Botany Shirt Company, Inc., 1290 Avenue of the Americas, New York, New York 10104.
(j) McGregor-Doniger, Inc., 888 Seventh Avenue, New York, New York 10106.

Divisions

Cross Country Clothes, Northampton, Pennsylvania.
Anvil Knitwear, Mullins, South Carolina, Kings Mt., North Carolina, McColl, South Carolina.
Botany '500', Philadelphia, Pennsylvania.
Beau Brummell, Cincinnati, Ohio.
The Bert Pulitzer Co., West Haven, Connecticut.
(k) Gilead Manufacturing Corporation, 200 Madison Avenue, New York, New York 10016.
(l) Wonderknit Corporation, 350 Fifth Avenue, New York, New York 10001.
(m) Rapid Distribution Service, Inc., 2392 N. DuPont Highway, Dover, Delaware 19901.
(n) Melville Knitwear Co., Inc., 8 Freer Street (P.O. Box 887), Lynbrook, New York 11563.
(o) Shenandoah Corporation, P.O. Box 551, Charles Town, West Virginia 25414.
(p) Charles Town Turf Club, Inc., P.O. Box 551, Charles Town, West Virginia 25414.
(q) Plastic Toy and Novelty Corp., 5801 Second Avenue, Brooklyn, New York 11220.
(r) American Recreation Group, Inc., 77 Modular Avenue, Commack, New York 11725.

Divisions

Cycle Products, 77 Modular Avenue, Commack, New York 11725.
Service Cycle, 77 Modular Avenue, Commack, New York 11725.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-6742 Filed 3-11-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. MC-82]

Motor Carriers; Provisions for Foreseeable Future Costs and Requirements for Additional Data

AGENCY: Interstate Commerce Commission.

ACTION: Notice to amend final procedures.

SUMMARY: The Commission amends the procedures adopted in its order served December 24, 1981, applicable to unscheduled non-labor expense increases to include fuel and fuel related expenses. The action is the result of the implementation of provisions contained in Ex Parte No. 311 (Sub-No. 4) served October 8, 1981.

EFFECTIVE DATE: April 14, 1982.

FOR FURTHER INFORMATION CONTACT: Paul R. Meder, (202) 275-7457.

SUPPLEMENTARY INFORMATION: By decision served December 24, 1981, 365 I.C.C. 410 (46 FR 02554, December 24, 1981), the Commission adopted procedures in accordance with the Motor Carrier Act of 1980, section 13(a), to permit motor carriers of property to recover reasonable foreseeable future costs in their general increase filings. It was determined at that time that fuel costs increases would be treated separately and excluded from the procedures adopted for unscheduled non-labor expense increases. This determination resulted from the action taken by the United States Court of Appeals for the Fifth Circuit in No. 81-4437 *Central Forwarding, Inc., et al.* v. *Interstate Commerce Commission* staying the Commission's October 8, 1981 order in Ex Parte No. 311 (Sub-No. 4), *Modification—Motor Carrier Fuel Surcharge Program*, 365 I.C.C. 311 (1981). The Commission's October 8, 1981 order provides for the fold-in of the fuel surcharge. As a result of the Court action it was decided that fuel increases would be excluded from consideration until the above matter was resolved.

On January 18, 1982, the Court lifted the stay pending review. By order served January 27, 1982, the mileage based fuel compensation plan was impemented. The Commission set a new 60-day period, beginning February 12, 1982 and ending April 13, 1982 to allow the carriers to fold-in the existing fuel surcharges.

As a result of the fuel surcharge fold-in, the procedures previously adopted in the order served December 24, 1981, applicable to unscheduled non-labor increases, require amendment. Effective April 14, 1982, procedures for unscheduled non-labor expense increases are amended to include fuel and fuel related expenses. The motor carrier non-labor index has the capacity for measuring fuel cost increases and may be used to monitor and update fuel and fuel related expenses.

This action is taken without further notice and comment because the decision adopted in December was procedural in nature and the Notice of Proposed Procedure in this matter gave adequate notice that fuel and fuel related expenses might be included in the procedures for unscheduled non-labor expenses in the event the surcharge program was discontinued.

The decision will not significantly affect the quality of the human environment or conservation of energy resources.

Decided: March 5, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, Clapp, and Sterrett.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-6740 Filed 3-11-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 410]

Motor Carriers; Study of Loading and Unloading Practices in the Motor Carrier of Property Industry

AGENCY: Interstate Commerce Commission.

ACTION: Availability of study.

SUMMARY: Section 15 of the Motor Carrier Act of 1980 (94 Stat. 808) required the Commission to study and report to Congress on the loading and unloading practices in the motor carrier of property industry. The Commission has completed its study and transmitted it to Congress.

The Commission's study indicated that most loading and unloading takes place without any problems that would be of concern to the government. Some problem areas were identified, particularly the unloading of fresh produce. The report concluded that the anti-lumping provisions of the Motor Carrier Act were partially effective, but that the section had yet to be established as a fully effective enforcement remedy. The report recommends cooperative interagency enforcement in areas where problems are pronounced, and it also suggests the reconsideration of apparently inequitable taxing regulations affecting owner-operators.

Copies: The report was made available to appropriate members of Congress on March 12, 1982. Copies of this study are now available on request made to the Office of the Secretary. Requests for copies may be made by calling the Commission's toll-free number (800-424-5403) or by writing to the Office of the Secretary, Room 2227, Interstate Commerce Commission, 12th and Constitution Avenue, NW, Washington, DC 20423.

Decided: February 23, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, Clapp and Sterrett. Commissioner Sterrett did not participate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-6741 Filed 3-11-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 96)]

Rail Carriers; Boston and Maine Exemption for Contract Tariff

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioners are granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are field within 15 days of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., or Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: The Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacey, Trustees (BM), filed a petition on February 26, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). Petitioners request that we permit contract tariff ICC-BM-C-0011 to become effective on one day's notice. The Tariff was filed to become effective on March 28, 1982. The tariff provides for an allowance to load BM cars with plastic products.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The shipper is now penalized for using BM equipment on shipments to the West Coast because of tariff rate restrictions on such cars. Granting the petition will eliminate the penalty by providing an allowance to equalize the charges accruing to the shipper and will put idle BM boxcars to productive use. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioner's contract tariff ICC-BM-C-0011 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505)

Dated: March 8, 1982.

By the Commission, Division 2, Commissioners Gresham, Gilliam, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-6744 Filed 3-11-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-55; (Sub-No. 58)A]

Rail Carriers; Seaboard Coast Line Railroad Co.—Abandonment—Between Milepost AVC 838.5 and Milepost AVC 832.0 in Polk County, Fla.; Findings

The Commission has issued a certificate authorizing Seaboard Coast Line Railroad Company to abandon its 6.5-mile rail line between Waverly (milepost AVC 838.5) and Prine (Milepost AVC 832.0) in Polk County, FL. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-6747 Filed 3-11-82; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29853]

Rail Carriers; Seaboard Coast Line Railroad Co.; Exemption

March 8, 1982.

The Seaboard Coast Line Railroad Company (SCL) and its wholly-owned subsidiaries Tampa Southern Railroad Company (Tampa) and Atlantic Land and Improvement Company (AL&I), have notified the Commission that they will dissolve Tampa as a corporate entity. Upon dissolution, AL&I will purchase all Tampa's non-operating real property and SCL will acquire all remaining property and assume all liabilities and obligations.

The transaction is within a single corporate family and comes within the exemption provisions set forth at 49 CFR 1111.5(c)(3). It will not result in any adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition to the exemption, any Tampa employee affected by the dissolution shall be protected pursuant to *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979). This will satisfy the statutory requirements of 49 U.S.C. 10505(g)(2).

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-6745 Filed 3-11-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-12 (Sub-No. 69)]

Rail Carriers; Southern Pacific Transportation Co.—Abandonment—Between Searles and Lone Pine, Calif.; Findings

The Commission has found that the public convenience and necessity permit Southern Pacific Transportation Company to abandon its 89.34 mile line of railroad between Searles, CA (milepost 430.00) and Lone Pine, CA (milepost 519.34), in Kern and Inyo Counties, CA. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail services are contained in 49 U.S.C. 10950 and 49 CFR 1121.38.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-6746 Filed 3-11-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-82 (Sub 17F)]

Atchison, Topeka and the Santa Fe Railway Co.—Abandonment Between Shawnee and Ada, OK; Findings

The Commission has issued a certificate authorizing the Atchison, Topeka and the Santa Fe Railway Company to abandon its line of railroad known as the OCAA District of the Middle Division, extending from milepost 38 + 3665 feet at Shawnee to milepost 86 + 4032 feet at Ada, a total distance of 48.1 miles, in Pottawatomie, Seminole and Pontotoc Counties, subject to certain conditions. The abandonment certificate will become effective 30 days after publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Elaine Sehrt, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than March 22, 1982.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96-448) and 49 CFR 1121.38.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Clapp, and Sterrett.

Dated: March 9, 1982.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-6916 Filed 3-11-82; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29809]

Atchison, Topeka and the Santa Fe Railway Co. and Burlington Northern Railroad Co.—Exemption of Sales and Acquisition of Trackage at Ada, Arkmore, and Blackwell, OK, and Arkansas City, KS

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Commission exempts the proposed acquisition by the Burlington Northern Railroad Company of certain trackage belonging to the Atchison, Topeka and Santa Fe Railway Company at Ada, OK and the proposed acquisition by Santa Fe of certain BN trackage at Ardmore and Blackwell, OK and Arkansas City, KS from the prior approval requirements of 11343. The acquisitions are part of a coordination project between the two railroads under 49 U.S.C. 1054(d).

DATES: Exemptions effective April 12, 1982. Petitions to stay the Commission's decision must be filed no later than March 22, 1982 and petitions to reopen must be filed on or before April 1, 1982.

ADDRESS: Send pleadings to: Interstate Commerce Commission, Section of Finance, Room 5414, 12th and Constitution Ave., NW., Washington, D.C. 20423.

Petitioner's representatives: Michael W. Blaszak for Santa Fe, 80 East Jackson Blvd., Chicago, IL 60604; or Douglas J. Babb for BN, 176 East Fifth St., St. Paul, MN 55101.

For copies of Docket No. AB-6 (Sub-No. 110F) contact: Office of the Secretary, Room 2227, Interstate Commerce Commission, Washington, DC 20423; or call toll-free: 800-424-5403.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: See Commission decision in Docket No. AB-6 (Sub-No. 110F), *Burlington Northern Railroad Company—Abandonment Between Steen, OK and Winfield, KS, ET AL.* served March 12, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Clapp, and Sterrett.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-6915 Filed 3-11-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub 111F)]

Burlington Northern Railroad Co.—Abandonment Between Madill and Ardmore, OK; Findings

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its line between milepost 604.60 near Madill, OK and milepost 626.90 at the end of the line near Ardmore in Marshall and Carter Counties, OK, a total distance of 24.40 miles, subject to certain conditions. The abandonment certificate will become effective 30 days after publication unless the Commission also finds that: (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Elaine Sehrt, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than March 22, 1982.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96-448) and 49 CFR 1121.38.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Clapp, and Sterrett.

Dated: March 9, 1982.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-6917 Filed 3-11-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub 110F)]

Burlington Northern Railroad Co.—Abandonment Between Steen, OK, and Winfield, KS; Findings

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its line between milepost 582.40 near Steen, OK and milepost 500.25 at the end of the line near Winfield, KS, a total distance of 82.15 miles, subject to certain conditions. The abandonment certificate will become effective 30 days after publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Elaine Sehrt, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than March 22, 1982.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96-448) and 49 CFR 1121.38.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Clapp, and Sterrett.

Dated: March 8, 1982.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-6914 Filed 3-11-82; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Additions to Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce additions to the annual list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: James W. Higgins, Assistant Chief, Division of Labor Market Information, 601 D Street, NW., Attn: TPPL, Washington, D.C. 20213, Telephone: 202-376-7192.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Procurement Regulations Temporary Regulation 57 (41 CFR Chapter 1, Appendix), issued by the General Services Administration on January 15, 1981 (46 FR 3519), implements Executive Order 12260. Executive agencies should refer to Temporary Regulation 57 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor's regulations implementing Executive Order 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor published the annual list of labor surplus areas on June 9, 1981 (46 FR 30594).

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The areas described below have been classified by the Assistant Secretary of Labor as labor surplus areas pursuant to 20 CFR 654.5(c) and are added to the annual list of labor surplus areas.

DATE: The additions to the annual list are effective on February 1, 1982.

effective February 1, 1982. The following additions to the annual list of labor surplus areas are published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, D.C. on March 4, 1982.

Albert Angrisani,

Assistant Secretary of Labor.

ADDITIONS TO THE ANNUAL LIST OF LABOR SURPLUS AREAS, FEBRUARY 1, 1982

Labor surplus area	Civil jurisdiction included
Alabama:	
Coffee County	Coffee County.
Dale County	Dale County.
Florida:	
Putnam County	Putnam County.
New York:	
Wayne County	Wayne County.
Ohio:	
Springfield City	Springfield City in Clark County.
Balance of Clark County	Clark County less Springfield City.
South Carolina:	
Florence County	Florence County.

[FR Doc. 82-6847 Filed 3-11-82; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; New Extended Benefit Periods in the States of Michigan, Minnesota, New Jersey, Utah, and Vermont

This notice announces the beginning of new Extended Benefit Periods in the States of Michigan, Minnesota, New Jersey, Utah, and Vermont, effective on February 28, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular employment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, each State unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determinations of "on" Indicator

The heads of the employment security agencies of the States named above have determined that the rate of insured unemployment in each State, for the period consisting of the week ending on February 13, 1982, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rates, so that for that week there was an "on" indicator in each State.

Therefore, new Extended Benefit Periods commenced in these States with the week beginning on February 28, 1982.

Information for Claimants

The duration of extended benefits payable in a new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the States named above, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on March 8, 1982.

Albert Angrisani,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 82-6838 Filed 3-11-82; 8:45 am]

BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 82-48; Exemption Application Nos. D-2477, 2478, and 2479]

Exemption From Prohibitions for Certain Transactions Involving the Bale Non-Salaried Employees Profit Sharing Plan, et al., Little Rock, Ark.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This exemption permits the Bale Non-Salaried Employees Profit Sharing Plan, the Bale Employees Retirement Plan and the Bale Finance Company, Inc., Retirement Plan (collectively, the Plans) to purchase customer notes from the Bale Finance Company (Bale Finance) which receives such notes in the ordinary course of its business affiliation with Bale Chevrolet Company (Bale Chevrolet). The notes are collateralized by security agreements on the property purchased by Bale Chevrolet customers.

EFFECTIVE DATE: January 1, 1975 until June 30, 1975 for those transactions covered by section III of the exemption, otherwise from the date the exemption grant is published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Paul R. Antsen of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523-6915. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 16, 1981, notice was published in the **Federal Register** (46 FR 61750) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406 (b)(1) and (b)(2) and 407(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the transactions described in the applications for exemptive relief. The notice set forth a summary of facts and representations contained in the applications for exemption and referred interested persons to the applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of notification to interested parties as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975),

Section I. Definition of Customer Notes

For purposes of this exemption a customer note is a two-party instrument, executed along with a security agreement for tangible personal property, which is accepted in connection with and in the normal course of Bale Finance's primary business activity—the financing of that property purchased from Bale Chevrolet. A two-party instrument is a promissory instrument used in connection with the extension of credit in which one party (the maker) promises to pay a second party (the payee) a sum of money.

Section II. General Exemption

Effective March 12, 1982, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply until July 1, 1984, to the purchase and holding by the Plans of customer notes (as defined in Section I) acquired from Bale Finance and the repurchase of such notes by Bale Chevrolet and /or Bale Finance in accordance with paragraph E, below, provided that the following conditions are met:

A. Within seven months after the close of a plan year during which the Plans engage in a transaction in reliance on this exemption, the Trustees or other appropriate fiduciary of the Plans shall submit the following information to the U.S. Department of Labor, Pension and Welfare Benefit Programs, 200 Constitution Avenue, N.W., Washington, D.C. 20216 (Attention: Customer Notes):

1. Name and address of employer;
2. Employer's identification number;
3. Name and address of plan administrator;
4. Plan administrator's identification number; and
5. Plan name and number.

B. Upon request by the Department, the Trustee or other appropriate fiduciary of the Plans which engaged in a transaction in reliance on this exemption shall submit to the Department such additional information regarding transactions subject to this exemption as may be requested. All requests for additional information shall be in writing.

C. Any sale of customer notes to the Plan is on terms at least as favorable to the Plans as an arm's-length transaction with an unrelated third party would be.

D. The acquisition of a customer note from Bale Finance shall not cause any one of the Plans to hold: (i) More than 50 percent of the current value (as the term is defined in section 3(26) of the Act) of plan assets in customer notes of the employer, and (ii) more than 10 percent of plan assets (as defined above) in customer notes of any one customer.

E. Bale Chevrolet and Bale Finance guarantee in writing the immediate repayment of the outstanding balance and accrued interest due on any customer note in the event such note is more than 60 days in arrears, or the obligor on such note fails to comply with any terms or conditions thereof; or in the event the obligor shall become insolvent, commit an act of bankruptcy, make an assignment for the benefit of creditors or a liquidating agent, offer a composition or extension to creditors, make a bulk sale; or in the event any proceeding; suit or action at law, in equity or under any of the provisions of the Bankruptcy Act or of amendments thereto for reorganization, composition, extension, arrangements, receivership, liquidation, or dissolution shall be begun by or against the obligor; or in the event of the appointment under any jurisdiction at law or in equity of any receiver of any property or the obligor; or in the event the condition of affairs of the obligor shall so change as to; in the opinion of the Trustees or other appropriate fiduciaries, impair its security or increase its credit risk; or should the obligor fail to take proper care of the goods or abandon the same.

F. The Plans receive adequate security for the customer note. For purposes of this exemption, the term adequate security means that the customer note is secured by a perfected security interest in the property purchased by the obligor on such note so that if the security is foreclosed upon, or otherwise disposed of, in default of repayment of the loan, the value and liquidity of the security is such that it may reasonably be anticipated that loss of principal or interest will not result. In no event shall adequate security mean an interest in intangible personal property, such as, but not limited to, accounts, contract rights, documents, instruments, chattel paper, and general intangibles.

G. Insurance against loss or damage to the collateral from fire or other hazards will be procured and maintained by the obligor until the customer note is repaid or repurchased by Bale Chevrolet and/or Bale Finance, and the proceeds from such insurance will be assigned to whichever of the Plans holds the customer note involved.

H. Repayment must be provided for in the following manner:

1. Where the customer note is secured by heavy equipment, the term shall in no event exceed 60 months. For purposes of this exemption heavy equipment shall include trucks (cab and chassis only) over 10,000 pounds but shall not include such equipment which has been specifically designed, manufactured or modified to a user's specifications and which cannot reasonably be expected to be resold in the ordinary course of the equipment distribution business.

2. Where the customer note is secured by passenger automobiles and light-duty highway motor vehicles, the term of repayment shall in no event exceed 48 months. For purposes of this exemption, passenger automobiles and light-duty highway motor vehicles are defined as vehicles which have a gross weight of 10,000 pounds or less, are propelled by means of their own motor and are a type used for highway transportation.

I. The Plans relying upon this exemption shall maintain or cause to be maintained for a period of six years from the date of such transaction such records as are necessary to enable the Department to determine whether the conditions of this exemption have been met, except that:

1. A prohibited transaction will not be deemed to have occurred if due to circumstances beyond the control of the Trustees or other appropriate fiduciary of the Plans, such records are lost or destroyed prior to the end of such six-year periods; and

2. Bale Chevrolet and Bale Finance shall not be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if such records are not maintained, or are not available for examination as required by paragraph J below; and

J. Notwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph I above are unconditionally available at their customary location for examination during normal business hours by:

1. The Internal Revenue Service;

2. The Department of Labor;

3. Participants and beneficiaries of the Plans;

4. Any employer of plan participants;

5. Any employee organization any of whose members are covered by the Plans; or

6. Any duly authorized employee or representative of a person described in subparagraph (1) through (5) of this paragraph.

Section III. Special Exemption

A. The restrictions of sections 406(a), 406 (b)(1) and (b)(2), and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the purchase and holding by the Plans of customer notes purchased on or before June 30, 1975, from Bale Finance provided that the following conditions are met:

1. The terms of the purchase of the customer notes by the Plans were at least as favorable to the Plans as an arm's-length transaction with an unrelated third party would have been;

2. The Plans received adequate security as defined in Section II F above; and

3. Such purchases were ordinarily and customarily made by the Plans prior to January 1, 1975.

B. The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and section 4975(c)(1) (A) through (E) of the Code shall not apply until 180 days after the grant of this exemption to the sale, exchange or other disposition of customer notes which are owned by the Plans on December 18, 1981 to a disqualified person or party in interest if:

1. Such sale is made in order to comply with the conditions of this exemption; and

2. The Plans receive not less than adequate consideration.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions which are the subject of this exemption.

Signed at Washington, D.C., this 5th day of March 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-6831 Filed 3-11-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3074]

Proposed Exemption for Certain Transactions Involving the Goel Medical Corp., Defined Contribution Pension Plan, Merrillville, Ind.

ACTION: Office of Pension and Welfare Benefit Programs, Labor.

AGENCY: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of 20 limited partnership interests by the Goel Medical Corporation Defined Contribution Pension Plan (the Plan) to Arun Goel, M.D., (Dr. Goel), a disqualified person with respect to the Plan. Since Dr. Goel and his wife, Sarla Goel, M.D., are the only shareholders of the employer maintaining the Plan and the only participants in the Plan, there is no jurisdiction under Title I of the Employee Retirement Income Security Act (the Act), pursuant to 29 CFR 2510.3-3(c). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code. The proposed exemption, if granted, would affect the Plan, Dr. Goel, and Sarla Goel, M.D.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before April 12, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-3074. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton of the Department of Labor, telephone (202) 523-7462. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plan and Dr. Goel, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a defined contribution plan. The Plan participants are Dr. Goel and Sarla Goel, M.D. They are the trustees of the Plan.

2. The applicants request an exemption to permit the sale of 20 limited partnership interest, in JMB Income Properties, LTD-VII, an Illinois Limited Partnership (the Partnership Interests) by the Plan to Dr. Goel.

3. The Partnership Interests were purchased in 1980 by the Plan as an investment for $20,000 ($1,000 per Partnership Interest) pursuant to a specific public offering. Dr. Goel now proposes to purchase the Partnership Interests from the Plan for cash at the fair market value of the Partnership Interests on the date of sale.

4. The fair market value of the Partnership Interests for purposes of the proposed sale will be taken as the most recent trading price for independent sales of such interests, or, if there are no current independent sales, the mean between the current independent bid and asked prices.

5. In a letter dated November 6, 1981, Merrill Lynch, Pierce, Fenner and Smith, Inc., determined that as of November 5, 1981 the average transfer price per Partnership Interest was $1,000.

6. In summary, the applicants represent that the proposed transaction satisfies the criteria of section 4975(c)(2) of the Code because:

(1) It would be a one-time, cash transaction;

(2) The Plan would be able to dispose of relatively non-productive assets;

(3) The Plan will receive fair market value for its assets;

(4) The trustees of the Plan represent that the proposed transaction is in the interests of and protective of the Plan; and

(5) The Goels, who are the only participants in the Plan and the only persons affected by the transaction, have approved the proposed transaction and desire that it be consummated.

Notice to Interested Persons

Because the Goels are the only participants in the Plan, it has been determined that there is no need to distribute the notice of pendency to interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Code, including any prohibited transaction provisions to which the exemption does not apply; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the sale of 20 Partnership Interests by the Plan to Dr. Goel, provided that the amount received by the Plan is not less than the fair market value of the Partnership Interests at the time of the sale.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 5th day of March 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-6832 Filed 3-11-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3098]

Proposed Exemption for Certain Transactions Involving Impact Sales, Inc., Employees Retirement Plan, Newport Beach, Calif.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department)

of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt a loan of $420,000 by the Impact Sales, Inc. Employees Retirement Plan (the Plan) to the 40th Street Investors Company (Investors), a party in interest with respect to the Plan; and the guarantee of repayment by Impact Sales, Inc. (the Employer). The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan, Investors and the Employer.

DATES: Written comments and requests for a public hearing must be received by the Department on or before April 21, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-3098. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department, telephone (202) 523-8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by legal counsel for the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 30, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined benefit plan which had 71 participants as of April 23, 1981. Its assets as of March 31, 1981 were valued at $1,565,404. The Plan trustee is the Security Pacific National Bank (Trustee).

2. The Employer is a holding company whose subsidiary companies are involved in the food brokerage business. As of December 31, 1980, the Employer had net assets in excess of $5.5 million.

3. Investors is a limited partnership consisting of eleven partners, all of whom are officers or directors of the Employer or one of its subsidiaries. The function of the partnership is to acquire and lease an office building to Ken Sewell Company, a subsidiary of the Employer.

4. The Plan proposes to loan Investors $420,000 which will serve as permanent mortgage financing for an office building constructed by investors on property located at lot 16, Eaton 40th Street Business Park, Phoenix, Arizona (the Property). In return the Plan will receive a promissory note and a first deed of trust on the Property. The proposed loan will be used to retire the construction loan made to Investors by the Valley National Bank in Phoenix, Arizona.

5. The loan will be for a ten year term, with monthly payments of principal and interest based on a 25 year amortization schedule. Investors will pay the Plan a loan fee equivalent to 2 points or $8,400. The interest rate on the loan for the first five years will be 15½ percent. For the second five years, the interest rate would be the greater of 15½ percent or ¼ of one percent above the prevailing interest rate for comparable mortgages in the Phoenix, Arizona area.

The loan will be secured by a first trust deed on the Property, by the guarantee of the Employer and by the assignment of rent received on the Property to the Plan. The first deed of trust will be recorded in the public records.

6. On January 18, 1982 the Property was appraised by R. Veldon Naylor, M.A.I., an independent appraiser, as having a fair market value of $630,000. Thus the loan would represent about 67% of the value of the Property and less than 27% of the Plan's assets. Investors represents that it will add any additional collateral that may be required during the life of the loan to assure that the value of the collateral is at all times equal to at least 150 percent of the outstanding balance of the loan. During the life of the loan, Investors will keep the Property fully insured, and any insurance proceeds collected as a result of damage to or the destruction of the Property will first be applied to make any outstanding payments due to the Plan.

7. The Sutter Trust Company of Phoenix, Arizona (the Bank) by letter dated January 7, 1981, has represented that it would lend Investors $400,000 for a 10 year period with the Property as collateral for the loan. The Bank's letter states that it would charge between 14% and 14¼ percent interest for the first five years of the loan and the amortization schedule for the loan would be based on a 28 to 30 year period. The Bank would also charge a fee of 2 points.

8. The applicant represents that the Trustee is an independent fiduciary with respect to the Plan and has no relationship with the Employer or any other party in interest other than being trustee of the Plan.

The Trustee has examined the terms of the proposed loan and determined that such a loan is appropriate and suitable for the Plan. The Trustee will be empowered and directed as holder of the promissory note and the beneficiary of the deed of trust to enforce the terms of such instruments, including making demand for timely payment, bringing suit or other appropriate process in the event of default, keeping accurate records and reporting at least annually on the performance of the loan, specifically including whether the value of the collateral securing the loan remains equal to at least 150 percent of the outstanding balance of the loan. The Trustee will be entitled to such information from the parties in interest as may be necessary to fulfill its responsibilities, and shall be paid reasonable compensation including reimbursement of expenses.

9. In summary, the applicant represents that the proposed transactions meet the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The Plan will receive 15½ percent on its investment, which is greater than the rate which would be charged Investors by an unrelated party;

(b) Investors will insure the Property and add additional collateral so that the value of the collateral securing the loan is always at least 150 percent of the outstanding balance of the loan;

(c) The loan will be administered by an independent fiduciary;

(d) The loan will be guaranteed by the Employer; and

(e) The independent fiduciary has determined that the transactions are appropriate and suitable for the Plan.

Notice to Interested Person

Notice of the proposed exemption will be delivered or mailed to all present participants in and beneficiaries of the Plan within 10 days of publication in the Federal Register. Such notice will also be posted on appropriate employee bulletin boards within such 10 day period. Such notice will include a copy of the notice of pendency as published in the Federal Register and will inform interested persons of their right to comment and request a hearing within the time period set forth in the notice of pendency.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before and exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above.

All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed loan of $420,000 by the Plan to Investors provided that the terms and conditions of the transaction are at least as favorable to the Plan as those it could obtain from an unrelated party; and the guarantee of repayment by the Employer.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 5th day of March 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-6633 Filed 3-11-82; 8:45 am]

BILLING CODE 4510-29-M

[Application Nos. D-3014 and 3015]

Proposed Exemption for Certain Transactions Involving the Michael Merkley Ranch, Inc. Defined Benefit Retirement Plan and the Michael Merkley Ranch, Inc. Profit Sharing Plan, Sacramento, Calif.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed leasing (the Proposed Lease) by the Michael Merkley Ranch, Inc. Defined Benefit Retirement Plan (the Defined Benefit Plan) and the Michael Merkley Ranch, Inc. Profit Sharing Plan (the Profit Sharing Plan collectively, the Plans) of certain real property (the Property) to Michael Merkley Ranch, Inc. (the Employer), the sponsor of the Plan. The proposed exemption, if granted, would affect the Employer, the participants and beneficiaries of the Plan and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before April 21, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application Nos. D-3014 and D-3015. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department, telephone (202) 523-8881. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of

the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Defined Benefit Plan, as of June 30, 1981, had 15 participants and assets of $149,365. The Profit Sharing Plan, as of June 30, 1981, had 15 participants and assets of $132,104. The Plans jointly own an undivided one- half interest in the Property. The owner of the remaining one-half interest in the Property is the Cooley Enterprises Inc. Retirement Plan which is an unrelated entity. The Property consists of 160 acres of agricultural property located in Yolo County, California. The Property has a house on it, which is rented to an unrelated party (the Tenant) for $500 per month. In addition, the Tenant has a crop-sharing lease (the Existing Lease) with the Plans. The Existing Lease contains payout ratios (the Payout Ratios) whereby the Plans are to receive 17% of the tomato crop and 40% of the wheat crop that are grown on the Property.

2. The applicant is requesting an exemption that will permit the Employer to enter into the Proposed Lease with the Plans for the purpose of crop-sharing the Property. Under the Proposed Lease arrangement, the house on the Property would remain rented to the Tenant for $500 per month and the Payout Ratios on the Proposed Lease will be identical to those of the Existing Lease. The Proposed Lease will be for a maximum period of five years and each party would be allowed to terminate the Proposed Lease on a yearly basis.

3. The applicant represents that the Employer is engaged in farming agricultural land on a large scale, and has the equipment and expertise to farm the Property more efficiently than it is presently being farmed. The applicant represents that because of the Employer's more efficient farming techniques the yield per acre will be greatly increased thus increasing the return to the Plan. As an example, the applicant cites that for 1980, under the Existing Lease, the Property had a wheat yield of 1.59 tons per acre and a tomato yield of 24.4438 tons per acre. By comparison, in 1980, on comparable land that the Employer farmed, the yield was 2.5928 tons per acre of wheat and 29.3587 tons per acre of tomatoes.

4. Landucci, Richter & Bick (LR & B), a certified public accounting firm which is independent of the Plan and the Employer, will examine the proposed transaction. The applicant represents that LR & B has experience with pension plans and agricultural leases. Prior to the Plan entering into the Proposed Lease LR & B: (1) Must certify that the Proposed Lease is in the best interests of the participants and beneficiaries of the Plans; (2) must certify that the terms and conditions of the Proposed Lease are at least as favorable to the Plans as those which the Plans could receive in a similar transaction with an unrelated party; and (3) monitor the terms and conditions of the Proposed Lease on behalf of the Plans. In addition, prior to the Plans entering into the Proposed Lease, Mr. Michael Merkley, the trustee of the Plans, must certify that the transaction will be in the best interest of the participants and beneficiaries of the Plans.

5. The applicant represents that the proposed transaction satisfies the requirements of section 408(a) of the Act because: (1) The trustee of the Plans will represent that the transaction is in the best interests of the participants and beneficiaries of the Plans; (2) the transaction will be approved and monitored by an independent fiduciary; and (3) the Plans will recieve a higher rate of return on their investment than they are presently receiving.

Notice to Interested Persons

Within ten days of its publication in the Federal Register a copy of the notice of pendency and a statement advising participants and beneficiaries of the Plans of their right to comment or request a hearing will be mailed to all participants and beneficiaries of the Plans.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, that fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the Proposed Lease of the Property by the Plans to the Employer provided that the terms and conditions of the Proposed Lease are at least as favorable to the Plans as those which the Plans could receive in a similar transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 5th day of March, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-6834 Filed 3-11-82; 8:45 am]

BILLING CODE 4510-29-M

[ORPS Application No. P-2114V]

Employee Benefit Plans; Reporting Exemption for the Employees Benefit Fund, Munising Mill of Kimberly-Clark Corporation

AGENCY: Office of Pension and Welfare Benefit Program.

ACTION: Notice of final exemption.

SUMMARY: The Department of Labor (the Department) hereby grants an exemption for the Employees Benefit Fund, Munising Mill of Kimberly Clark Corporation (the Fund) from the requirements to engage an independent qualified public accountant and to include an opinion rendered by such an accountant in the annual report of the Fund, as prescribed by section 103(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (the Act).

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. John A. Malagrin of the Department (202) 523–8684. (This is not a toll free number).

SUPPLEMENTARY INFORMATION: On September 8, 1981, notice was published in the Federal Register (46 FR 44917) of the pendency before the Department of an exemption from certain annual reporting requirements of the Act for the Fund. The exemption was requested in a petition filed by William Kimunen, Jr., Chairman of the Employees' Benefit Fund Committee, pursuant to section 104(a)(3) of the Act.[1]

The notice set forth a summary of the facts and representations contained in the petition for an exemption and referred interested persons to the petition on file with the Department for a complete statement of the facts and representations. The petition has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department and the petitioner has represented that it has complied with the procedure for notification to interested persons as set forth in the Notice of Pendency.

No public comments were received by the Department on the notice, and the Department has decided to grant the proposed exemption request. The Department cautions, however, that the exemption does not extend to any reporting and disclosure requirements other than the audit requirement of section 103(a)(3)(A) of the Act.

Reporting and Disclosure Exemption

In accordance with section 104(a)(3) of the Act and based upon the entire record, the Department finds that the audit requirements of section 103(a)(3)(A) of the Act are inappropriate as applied to the Fund.

Accordingly, the Fund is relieved from the requirement in section 103(a)(3)(A) to engage an independent qualified accountant and to include an opinion rendered by such an accountant in the annual report of the Fund.

The availability of this exemption is subject to the express conditions that (1) the Fund continues to be operated and funded in the same manner as described in the petition, (2) the material facts and representations contained in the petition are true and complete and the petition accurately describes all factors material to the granting of the exemption, and (3) the Fund continues to meet all other applicable reporting and disclosure requirements under Title I of the Act.

Signed at Washington, D.C., this 1st day of March 1982.

Jeffrey N. Clayton,

Administrator, Pension and Welfare Benefit Program, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-6410 Filed 3-11-82; 8:45 am]

BILLING CODE 4510-29-M

[1] Under section 104(a)(3) the Secretary may exempt a welfare benefit plan from all or part of the reporting and disclosure requirements of Title I of the Act, or may provide for simplified reporting and disclosure if he finds that such requirements are inappropriate as applied to welfare benefit plans.

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Fisheries Panel; Meeting

March 5, 1982.

Pursuant to Section 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. App (1976), notice is hereby given that the Fisheries Panel of the National Advisory Committee on Oceans and Atmosphere (NACOA) will meet Monday and Tuesday, March 29–30, 1982. The Fisheries Panel will meet in Room 418, Page Building #1, 2001 Wisconsin Avenue, NW., Washington, DC.

The Panel will use this session to review the draft text of its report prior to presentation of the report for consideration by the full Committee at the April 13–14, 1982 meeting.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairperson of the Panel on Fisheries, Jay G. Lanzillo in advance of the meeting. The Chairperson retains the prerogative to impose limits on the duration of oral statements and discussion. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the NACOA Executive Director, Mr. Steven N. Anastasion, or Clarence P. Idyll, the Staff Member for the Fisheries panel.

The mailing address is: NACOA, 3300 Whitehaven Street, NW. (Suite 438, Page Building #1), Washington, DC 20235.

Dated: March 9, 1982.

Steven N. Anastasion,

Executive Director.

[FR Doc. 82-6760 Filed 3-11-82; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[82-14]

NASA Advisory Council, Space Systems and Technical Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Informal Advisory Subcommittee on Materials and Structures.

DATE AND TIME: April 1, 1982, 8:30 a.m. to 4 p.m.; April 2, 1982, 8:30 a.m. to 4 p.m.

ADDRESS: National Aeronautics and Space Administration, 600 Independence Ave., SW., Room 625T, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. D. J. Weidman, National Aeronautics and Space Administration, Code RTM-6, Washington, DC 20546 (202/755-2364).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Materials and Structures was established to assist the NASA in assessing the current adequacy of Materials, Structures, and Structural Dynamics technology for space research and recommend actions to reduce deficiencies through modification of the planned NASA research and technology program. The Subcommittee, chaired by Dr. John Hedgepeth, is comprised of eleven members. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including the Subcommittee members and participants).

Type of meeting: Open.

Agenda:

April 1, 1982

8:30 a.m.—Introduction.
8:45 a.m.—Review of Materials and Structures Program.
10:15 a.m.—Discussion of Space Platform Research.
2:15 p.m.—Discussion of Structures/Materials Flight Experiments.
4 p.m.—Adjourn.

April 2, 1982

8:30 a.m.—Discussion of Space Structure/Controls Activity.
11 a.m.—Committee Review of Issues.
1 p.m.—Develop Committee Recommendations.
4 p.m.—Adjourn.

Dated: March 8, 1982.

Robert F. Allnutt,

Acting Associate Administrator for External Relations.

[FR Doc. 82-6717 Filed 3-11-82; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Artists-in-Education Panel to the National Council on the Arts to be held March 31-April 2, 1982 from 9:00 a.m.-6:00 p.m. in room 1426 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

A portion of this meeting will be open to the public on April 1, from 12 noon-6:00 p.m. and on April 2, from 9:00 a.m.-6:00 p.m. to discuss policy.

The remaining sessions of this meeting on March 31, from 9:00 a.m.-6:00 p.m. and April 1, from 9:00 a.m.-12 noon are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

March 8, 1982.

[FR Doc. 82-6710 Filed 3-11-82; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL RAILROAD PASSENGER CORPORATION

Corporation Bylaws Amendment; Meeting

Pursuant to an amendment to the Bylaws of the Corporation adopted by the Board of Directors on February 24, 1982, the Corporation will no longer publish notices of meetings in the **Federal Register.**

Section 4(e) of Appendix A to the Corporation's Bylaws now provides that "upon the written request of any member of the public for notices of meetings of the Board of Directors, the Secretary will include the name and mailing address of any such member of the public on the mailing list maintained by the Corporation." Members of the public wishing to receive notices of Board meetings may address their requests to Sandra Spence; Corporate Secretary, National Railroad Passenger Corporation, 400 North Capitol Street NW., Washington, D.C. 20001.

Sandra Spence,

Corporate Secretary.

March 9, 1982.

[FR Doc. 82-6805 Filed 3-11-82; 8:45 am]

BILLING CODE 820-25-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Structural Engineering; Meeting Change

The ACRS Subcommittee on Structural Engineering scheduled for March 22, 1982 at the AMFAC Hotel, 2910 Yale Blvd., Albuquerque, NM topic for discussion includes a review of Sandia's containment integrity program and *not* a visit to the Sandia structural laboratory. All other items regarding this meeting remain the same.

Dated: March 8, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-6804 Filed 3-11-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-348]

Alabama Power Co.; Issuance of Amendment and Negative Declaration to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 26 to Facility Operating License No. NPF-2 issued to Alabama Power Company (the licensee), which revised Technical Specifications for Operation of the Joseph M. Farley Nuclear Plant, Unit No. 1 (the facility) located in Houston County, Alabama. The amendment is effective as of the date of issuance.

The amendment consists of clarifications and wording changes of the present Unit 1 Technical Specifications to conform, to the extent appropriate, with the recently issued Unit 2 Technical Specifications. Units 1 and 2 are essentially identical units. In some instances, these changes involve improvements in surveillance requirements and some added restrictions on Limiting Conditions for Operation (LCO) consistent with the Unit 2 Technical Specifications. In addition, Technical Specifications associated with resolved generic issues and plant-specific items are included. Among the more significant of these issues are: Radiological Environmental Reporting of Appendix I; hydraulic and mechanical snubbers; degraded grid voltage; definition of operability of safety related equipment; decay heat removal surveillance; auxiliary feedwater system; containment air-lock testing; containment purge and venting; organizational changes; fire protection equipment; F_0 change to allow steam generator tube plugging of the first row tubes; and improvements in diesel generator operation and surveillance. The amendment also incorporates (as Appendix B to the Technical Specifications) the Environmental Protection Plan (EPP) for Farley Unit 1.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Environmental Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated July 1972.

For further details with respect to this action, see (1) the application for amendment dated December 15, 1980, supplemented by letters dated May 28 and September 22, 1981. In addition, the amendment is responsive to the applications dated June 20, October 10 and 15, 1979, and January 8, February 28, March 28, May 19 and June 2, 1980 and February 2, October 28 and November 16, 1981; supplemented by letters dated March 1 and 20, April 16 and July 11, 1979, April 7, July 14 and 17, August 7, September 2 and 10 (2 letters), 1980, and July 13, October 14, October 23, November 6, 18 and 23, and December 4 and 8, 1981, (2) Amendment No. 26 to License No. NPF-2, (3) the Commission's related Safety Evaluation, and (4) the Commission's related Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the George S. Houston Memorial Library, 212 Burdeshaw Street, Dothan, Alabama 36303. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 1st day of March 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-6707 Filed 3-11-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-325 and 50-324]

Carolina Power & Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 46 and 69 to Facility Operating License Nos. DPR-71 and DPR-62 issued to Carolina Power & Light Company (the licensee) which revised the Technical Specifications for operation of the Brunswick Steam Electric Plant, Unit 1 and revised the license for Brunswick Steam Electric Plant, Unit 2. The units are located in Brunswick County, North Carolina. The amendments are effective as of the date of issuance.

The amendments revised the Technical Specifications for Brunswick Unit 1 and the license for Brunswick Unit 2 to provide a one-time extension of certain surveillance intervals to allow the required testing to be performed during a Brunswick Unit 2 outage scheduled for spring 1982.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendments dated February 3, 1982 and a supplemental submittal dated February 25, 1982, (2) Amendment Nos. 46 and 69 to License Nos. DPR-71 and DPR-62, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Southport-Brunswick County Library, 109 West Moore Street, Southport, North Carolina 28461. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of March 1982.

For the Nuclear Regulatory Commission.

Vernon L. Rooney,

Acting Chief, Operating Reactors Branch #2, Division of Licensing.

[FR Doc. 82-6708 Filed 3-11-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

Florida Power and Light Co.; Issuance of Amendments to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 79 to Facility Operating License No. DPR-31, and Amendment No. 73 to Facility Operating License No. DPR-41 issued to Florida Power and Light Company (the licensee), which revised Technical Specifications for operation of Turkey Point Plant, Unit Nos. 3 and 4 (the facilities) located in Dade County, Florida. The amendments are effective as of the date of issuance.

The amendments change the Technical Specifications to define the Reactor Coolant System Pressure Boundary integrity and to provide an alternate means of increasing assurance of proper valve position. In addition, certain administrative corrections have

been made to the Technical Specifications.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated March 10, 1981, (2) Amendment Nos. 79 and 73 to License Nos. DPR–31 and DPR–41, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 8th day of March 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-6799 Filed 3-11-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light & Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 72 to Facility Operating License No. DPR–49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revises the Technical Specifications for operation of the Duane Arnold Energy Center (DAEC), located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications to incorporate organizational changes to reflect (1) changes to the DAEC nuclear plant staffing organization and (2) revisions to the Safety Committee appointment and reporting requirements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect ot this action, see (1) the application for amendment dated December 23, 1981, (2) Amendment No. 72 to License No. DPR–49, and (3) the Commission's letter to Iowa Electric Light and Power Company dated March 5, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, SE., Cedar Rapids, Iowa 52401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of March 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch #2, Division of Licensing.

[FR Doc. 82-6800 Filed 3-11-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-298]

Nebraska Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 77 to Facility Operating License No. DPR–46, issued to Nebraska Public Power District (the licensee), which revised the Technical Specifications for operation of the Cooper Nuclear Station, located in Nemaha County, Nebraska. The amendment is effective as of the date of issuance.

The amendment modifies the Technical Specifications regarding the Scram Discharge Volume (SDV) and include: SDV vent and drain value surveillance, the addition of a SDV control rod block and surveillance requirement, and clarifications of an administrative nature pertaining to the minimum number of APRM operable instrument changes required for the rod block monitors.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 21, 1980, (2) Amendment No. 77 to License No. DPR–46 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Auburn Public Library, 118 15th Street, Auburn, Nebraska 68304. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 4th day of March 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-6801 Filed 3-11-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-206]

Southern California Edison Co. and San Diego Gas and Electric Co., San Onofre Nuclear Generating Station Unit 1; Exemption

I

The Southern California Edison Company (the licensee) is a holder of Provisional Operating License No. DPR–13 which authorizes operation of the San Onofre Nuclear Generating Station Unit 1 (the facility). The license provides, among other things, that the San Onofre Nuclear Generating Station Unit 1 (San Onofre 1) is subject to all rules, regulations and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility is a pressurized water reactor located in San Diego County, California.

II

Section III.J of Appendix R to 10 CFR Part 50 requires that emergency lighting units with at least an eight hour battery power supply be provided in all areas needed for operation of safe shutdown equipment and in access and egress routes thereto. By application dated December 22, 1981, the licensee requested an exemption from the requirements for installation of battery-powered emergency lighting inside containment at San Onofre Unit 1.

The licensee's December 22, 1981 submittal states that present emergency shutdown procedures for certain worst case fires outside of the containment would require shutdown operations to be performed inside the containment 8–10 hours after the initiation of the fire. These operations involve the initiation of the Residual Heat Removal (RHR) System. The licensee is considering other shutdown approaches which would eliminate the need for the operator to enter the containment. The licensee is concerned that: (1) That corrosive electrolyte is subject to introduction into the containment atmosphere on rupture of the battery, (2) radiation degradation of the battery enclosure may lead to leakage of the electrolytes, (3) the battery may explode when exposed to loss-of-coolant or steam-line break environments, and (4) the hydrogen emitted during charging has not been accounted for in previous safety evaluations.

Based on our review of the licensee's submittal, the staff has concluded that fire damage of concern which occurs outside the containment, should not damage lighting circuits inside the containment, so that simple repair procedures should be sufficient to restore power to such lighting circuits in the 8–10 hours time available. In addition, Appendix R to 10 CFR Part 50 allows up to 72 hours to make repairs needed and attain cold shutdown so that should a fire occur inside containment that damages the lighting circuits, the licensee has ample time to repair lighting circuits or install portable lighting.

Any emergency battery-powered lighting that might be installed inside containment prior to the fire would probably be exhausted in the 8–10 hours needed to reach primary system conditions where operation of equipment necessary to reach cold shutdown could be initiated; therefore, portable lighting would have to be installed.

Based on our evaluation, we conclude that the installation of battery-powered lighting within the containment will not significantly enhance the level of post-fire shutdown capability and its omission will not endanger the health and safety of the public. Accordingly, we conclude that the licensee's request to be exempted from Section III.J of Appendix R to 10 CFR Part 50, to the extent that it requires the installation of battery-power emergency lighting within the containment, should be granted.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security, is otherwise in the public interest, and is hereby granted.

The Commission has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 5th day of March 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-6802 Filed 3-11-82; 8:45 am]

BILLING CODE 7590-01-M

Regional State Liaison Officers' Meeting

On March 31 and April 1, 1982, the Nuclear Regulatory Commission (NRC) will sponsor a regional meeting with the Governor-appointed State Liaison Officers from Alaska, Arizona, California, Hawaii, Nevada, Oregon and Washington. The subjects which will be discussed include emergency planning, waste management, spent fuel shipments and notification, regionalization as well as other items of mutual regulatory interest.

The meeting will be conducted at the NRC Region V Office, 1450 Maria Lane, Walnut Creek, California. The meeting is open to the public for attendance and observation and will take place from 9:00 a.m. until 5:15 p.m. on Wednesday, March 31, and from 8:30 a.m. until 12:15 p.m. on Thursday, April 1, 1982.

Questions regarding this meeting should be directed to Sue Weissberg at (301) 492–9877.

Dated at Bethesda, Maryland this 5th day of March 1982.

For The Nuclear Regulatory Commission.

G. Wayne Kerr,

Director, Office of State Programs.

[FR Doc. 82-6803 Filed 3-11-82; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-18547; File No. SR-BSE-82-3]

Boston Stock Exchange, Inc.; Self-Regulatory Organizations; Proposed Changes; Relating to an Amendment to the Guaranteed Execution Rule, Chapter II, Section 33

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 1, 1982, the Boston Stock Exchange, Inc., filed with the Securities and Exchange Commission the proposed changes as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement on the Terms of Substance of the Proposed Rule Change

The Boston Stock Exchange, Inc., proposes to amend Chapter II, Section 33 of its Rules relating to increasing the size of orders to be excecuted under its Guaranteed Execution System from 399 shares to 599 shares, and to change the basis of such execution to the best bid or offer displayed on the Consolidated Quotation System rather than the primary market quote.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis For, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements governing the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

(a) The proposed amendment to the Guaranteed Execution System is composed of two significant changes. The first would provide for guaranteed execution of all orders up to 599 shares in those issues traded through the Intermarket Trading System (ITS), increased from 399 shares, and secondly, it establishes as the basis of execution the best bid or offer displayed on the Consolidated Quotation System in lieu of the primary market quote. The amendment was necessary to remain competitive with execution systems in existence on other Exchanges and will enable the Exchange to effectively compete for small order business which, in turn, will enhance the depth and liquidity of the Exchange markets for the investing public.

(b) The basis under the Act for the proposed Rule change is Section 6(b)(5) and 11(b) since the Rule change will work towards a more competitive national market system by increasing the ability of Boston specialists to make in depth markets in securities in which they are registered.

(B) *Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe the proposed amendment imposes any burden on competition.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others*

No comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before April 16, 1982, or within such longer period (i) as the Commission may designate up to 90 days of such date if if finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications, relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before April 2, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 8, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6732 Filed 3-11-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0439]

Transworld Ventures, Ltd., Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981)), under the name of Transworld Ventures, Ltd. (Applicant), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant is incorporated under the laws of the State of New York, and it will commence operations with a capitalization of $517,000.

The Applicant will have its place of business at 501 Fifth Avenue, New York, New York 10017, and it intends to conduct operations primarily in the State of New York. Applicant intends to conduct research to evaluate and determine which investment possibilities are best suited to further its investment philosophy which is toward recently formed enterprises which appear to show prospects for growth and which offer needed products and services.

The officers, directors and proposed ten percent (10%) or more stockholders of the Applicant will be:

Daniel G. Donelli, Via Castausio, 22, 6900 Lugano, Switzerland, Chairman of Board
Jack H. Berger, 65 E. 80th Street, New York, N.Y. 10021, President, Chief Executive Officer, Director
Seymour Deutsch, 300 Edwards Street, Roslyn Heights, N.Y. 14619, Secretary, Treasurer, Director
Renee Berger, 65 E. 80th Street, New York, N.Y. 10023, Director
William B. May, Jr., Ardsley Avenue, Irvington, N.J. 08109, Director
Rolando Ghedini, 314 W. 77th Street, New York, N.Y. 10022, Director
Lawrence J. Levy, 8720 Azalea Court, Tamarac, FL 33320, Director
Interholding Inc., Ltd., Craigmuir, Chambers Road, Town Tortola, British Virgin Islands, 50%
Multinational Financial Services, Ltd., 501 Fifth Avenue, New York, N.Y. 10075, 20%
DeMatteis Development Corp., 820 Elmont Road, Elmont, N.Y. 11402, 10%
William B. May Company Real Estate, Inc., 3 West 57th Street, New York, N.Y. 10019, 10%
Peter Ordway, 1 Pelican Lane, Palm Beach FL 33408, 10%

Matters involved in SBA's consideration of the application include the general business reputation of the owner and management, and the probability of successful operation of the new company, in accordance with the Act and Regulations.

Notice is further given that any person may, on or before March 22, 1982, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communication should be addressed to: Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 8, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-6836 Filed 3-11-82; 8:45 am]

BILLING CODE 8025-01-M

Dated: March 4, 1982.

Diego C. Asencio,

Assistant Secretary for Consular Affairs.

[FR Doc. 82-6811 Filed 3-11-82; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF STATE

[Public Notice 797]

Border Crossing Cards

Notice is hereby given that, effective April 1, 1982, the Unites States Consulate General at Tijuana, Mexico, will be authorized to issue border-crossing cards to nationals of Mexico as specified in 22 CFR 41.128(b).

This authorization constitutes an extension of the testing of this procedure described in the Supplementary Information of the Department's regulatory publication of November 4, 1981 (46 FR 54729).

VETERANS ADMINISTRATION

Geriatrics and Gerontology Advisory Committee; Meeting

The Veterans Administration, in accordance with Pub. L. 92-463, gives notice that a meeting if the Geriatrics and Gerontology Advisory Committee will be held at the Veterans Administration Medical Center, St. Louis, Missouri, on March 25, 1982.

The purpose of the meeting is to evaluate the research, education and clinical service being provided through the Geriartic Research Education and Clinical Centers as required by Pub. L. 96-330. The meeting will be closed since it involves discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of research protocols, and similar documents. The discussion and recommendations will deal with qualifications of personnel conducting these studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action regarding such research projects. Closure of the meeting is in accordance with subsection 10(d) of Pub. L. 92-463, as amended by Pub. L. 94-409, and as cited in 5 U.S.C. 552b(c)(6) and (9)(B).

Dated: March 8, 1982.

Charles T. Hagel,

Deputy Administrator.

[FR Doc. 82-6734 Filed 3-11-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 49
Friday, March 12, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, March 16, 1982.

PLACE: Commission Conference Room 5240, Fifth Floor, Columbia Plaza Office Building, 2401 E. Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Freedom of Information Act Appeal No. 82-2-FOIA-10-SL, concerning a request for all records in a closed file in which the issue investigated was alleged retaliation against the requestor.
2. Freedom of Information Act Appeal No. 81-12-FOIA-075-MK, concerning a request for materials relative to the Commission's investigation of a sex discrimination charge under Title VII presently in litigation.
3. Freedom of Information Act Appeal No. 82-1-FOIA-11-HDO, concerning a request for fifteen draft memoranda regarding a report to the Commissioners on the requestor's time and attendance and use of copying material.
4. Freedom of Information Act Appeal No. 81-12-FOIA-72-PA, concerning a request for access to all documents contained in an Equal Pay Act Compliant file.
5. Freedom of Information Act Appeal No. 81-12-FOIA-68-NO, concerning a request for documents from an open charge file.
6. Recommended FY-82 contracts for Age Discrimination Charge Processing.
7. Recommended FY-82 contracts for Tribal Employment Rights Offices (TEROS).
8. Report on Commission Operations by the Executive Director.

Closed:

Litigation Authorization; General Counsel Recommendations

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Officer, at (202) 634-6748.

This Notice Issued March 9, 1982.

[S-375-82 Filed 3-10-82; 10:53 am]

BILLING CODE 6570-06-M

2

FEDERAL RESERVE SYSTEM
(Board of Governors).

TIME AND DATE: 10 a.m., Wednesday, March 17, 1982.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Publication for comment of proposed amendments to Regulation E (Electronic Fund Transfers) to exempt certain small institutions, relax requirements for foreign-initiated and interchange-system transfers, and eliminate duplicate periodic statements for certain intrastitutional transfers.
*2. Proposal to adopt 1982 fee schedule for wire transfer and net settlement services.
3. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: March 9, 1982.

James McAfee,
Assistant Secretary of the Board.

[S-377-82 Filed 3-10-82; 11:28 am]

BILLING CODE 6210-01-M

3

FEDERAL RESERVE SYSTEM
(Board of Governors)

TIME AND DATE: Approximately 11:30 a.m., Wednesday, March 17, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

*Anyone planning to attend specifically for Item 2 should contact the office below on Tuesday, March 16, 1982, to assure that it has not been postponed to a future meeting.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed statement to the Consumer Affairs Subcommittee of the Senate Banking, Housing and Urban Affairs Committee regarding electronic funds transfers.
2. Automated Clearing House (ACH) pricing.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: March 9, 1982.

James McAfee,
Assistant Secretary of the Board.

[S-376-82 Filed 3-10-82; 11:28 am]

BILLING CODE 6210-01-M

4

INTERNATIONAL TRADE COMMISSION

[USITC SE-82-11]

TIME AND DATE: 10 a.m., Tuesday, March 23, 1982.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigation 751-TA-5 (Salmon Gill Fish Netting)—briefing and vote.
6. Investigation 731-TA-44 [Final] (Sorbitol from France)—briefing and vote.
7. Any items left over from previous agenda: Investigation 731-TA-3 (Sugar from Canada)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-378-82 Filed 3-10-82; 10:33 am]

BILLING CODE 7020-02-M

5

NATIONAL SCIENCE BOARD

DATE AND TIME:

March 17, 1982, 7 p.m., open session
March 18, 1982, 9:30 a.m., closed session
March 19, 1982, 8 a.m., open session; 10 a.m., closed session

PLACE: National Science Foundation, 1800 G Street, N.W., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPEN SESSIONS: Wednesday, March 18, 7:00 p.m.:

1. Minutes—Open Session—233rd Meeting.
2. Chairman's Items.
3. Director's Report:
a. Report on Grant and Contract Activities—2/17-3/16/82.
b. Organizational and Staff Changes.
c. Congressional and Legislative Matters.
d. NSF Budget for Fiscal Year 1983.
e. Commercial Involvement with NSF-Supported Research Facilities and Equipment.
f. Regulations on the Handicapped under the Rehabilitation Act of 1973.
g. Other Items.
4. Program Review—Scientific Ocean Drilling.

Friday, March 19, 8 a.m. (conclusion of open session):

5. Grants, Contracts, and Programs.
6. Reports on Meetings of Board Committees.
7. Board Representation at Site Visits and Annual Reviews.
8. Other Business.
9. Next Meeting—National Science Board—May 20-21, 1982.

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION: Thursday, March 18, 9:00 a.m.:

A. Minutes—Closed Session—233rd Meeting.
B. NSB Annual Reports.
C. NSB and NSF Staff Nominees.
D. Alan T. Waterman Award.
E. Report of 1982 Ad Hoc Nominating Committee for Board Officers.

Friday, March 19, 10 a.m.:

F. Grants, Contracts, and Programs.
G. NSF Budgets for Fiscal Year 1984 and Subsequent Years.

CONTACT PERSON FOR MORE INFORMATION: Ms. Margaret L. Windus, Executive Officer, NSB, 202/357-9582.

[S-379-82 Filed 3-10-82; 1:38 pm]

BILLING CODE 7555-01-M

6

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1285]

TIME AND DATE: 10:15 a.m. (e.s.t.), Wednesday, March 17, 1982.

PLACE: Conference Room B-32, West Tower, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

ACTION ITEMS:

Old Business

1. Proposed form agreements amending Home Insulation Program and Heat Pump Financing Plan agreements to cover interim changes in financing arrangements.

New Business

B—Purchase Awards
1. Amendment to Contract No. 79P66-143178 with General Electric Company for Reload Fuel for Browns Ferry Nuclear Plant.

C—Power Items
1. Arrangements establishing emergency interconnection points with East Kentucky Power Cooperative and conveyance to East Kentucky and Glasgow of portions of TVA's deenergized Summer Shade-Oakland 69-kV Transmission Line.
2. Letter agreement with East Kentucky Power Cooperative providing for TVA to transmit up to 100 MW of power and energy across TVA's system from East Kentucky to Mississippi Power and Light Company.
*3. Letter agreement with Cities Service Company providing for a one-week extension of power supply for operation of its Copperhill, Tennessee, plant.
4. Letter agreement with Memphis Light, Gas and Water Division covering arrangements for establishment of a 161-kV delivery point at TVA's New Shelby 500-kV Substation.
5. Letter agreement with Central Electric Power Association, Carthage, Mississippi, covering arrangements for service to distributor's Langford Substation.
6. Supplement to contract with Department of Energy for coal cleaning studies.
7. Supplement to contract with the University of Tennessee at Knoxville for coal feeding and fluidization studies in a fluidized bed.

D—Personnel Actions
1. Supplement to personal services contract with Nuclear Support Services, Inc., Woodbridge, Virginia, for services of health physics technicians, requested by the Division of Occupational Health and Safety.

E—Real Property Transactions
1. Grant and conveyance of easements and highway rights of way to Marion County, Alabama, for highway adjustments due to the construction and operation of Upper Bear Creek Dam and Reservoir.
2. Grant of permanent easement to the State of Alabama for the construction, operation, and maintenance of a highway, affecting 7.22 acres of Guntersville Reservoir land—Tract No. XTGR-141H.
3. Grant of permanent easement for sewerage system facilities to Guntersville Water and Sewer Board, affecting approximately 6.5 acres of Guntersville Reservoir land—Tract Nos. XTGR-136S, XTGR-137PS, XTGR-138PS, XTGR-139PS, and XTGR-140PS.

F—Unclassified
*1. Contract for economic development assistance to Kiamichi Economic Development District of Oklahoma.
2. Retention of net power proceeds and nonpower proceeds pursuant to Section 26 of the TVA Act.

*Item approved by individual Board members. This would give formal ratification to Board's action.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington, Office (202) 245-0101.

Dated: March 10, 1982.

[S-380-82 Filed 3-10-82; 2:48 pm]

BILLING CODE 8120-01-M

V.47/49 MR 12 82

federal register

Friday
March 12, 1982

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources; the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications To General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Colorado: CO82-5105	Feb. 12, 1982.
Georgia:	
GA82-1006	Feb. 19, 1982.
GA82-1007	Feb. 19, 1982.
Iowa: IA81-4068	Nov. 13, 1981.
Montana: MT81-5138	Aug. 7, 1981.
New Jersey:	
NJ81-3059	Oct. 9, 1981.
NJ81-3063	Dec. 25, 1981.
Pennsylvania:	
PA81-3044	Aug. 7, 1981.
PA82-3007	Feb. 26, 1982.

Supersedeas Decisions to General Wage Determination Decision

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Florida: FL81-1247 (FL82-1019)	June 12, 1981.
Hawaii: HI81-5183 (HI82-5106)	Sept. 25, 1981.
Ohio: OH80-2071 (OH82-2019)	Aug. 6, 1980.
Oregon: OR81-5127 (OR82-5100)	July 6, 1981.
Pennsylvania: PA80-3031 (PA82-3011)	Aug. 29, 1980.
Wisconsin:	
WI80-3014(WI82-3015)	April 4, 1980.
WI80-3040(WI82-3016)	May 30, 1980.
Wyoming: WY81-5108 (WY82-5108)	April 3, 1981.

Signed at Washington, D.C. this 5th day of March 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

Modification Page 2

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Apprt. Tr.
DECISION NO. IA81-4089 - Mod. #4 (46 FR 56122 - November 13, 1981) Clinton County, Iowa					
CHANGE: Building, water treatment plants & sewage disposal plants construction: Plumbers & steamfitters	$15.25	.81	1.24		.15
DECISION NO. MT81-5138 - Mod. #4 (46 FR 40439 - August 7, 1981) Statewide, Montana					
Change: Electricians: Area 4 Line Construction: Flathead, Lake and Lincoln Counties: All work for power utilities, all highway lighting, street lighting and motor traffic controlling:	$16.70	.70	3%+.50		1/2%
Lineman	15.59	.45	3%+.50		1/2%
Cable Splicers	17.35	.45	3%+.50		1/2%
Pole Sprayer	13.85	.45	3%+.50		1/2%
Line Equipment Operators	13.29	.45	3%+.50		1/2%
Powderman, Jackhammer, Compressorman	11.52	.45	3%+.50		1/2%
Groundman "A"	10.81	.45	3%+.50		1/2%
Tree Trimmer	14.37	.45	3%+.50		1/2%
Truck Drivers: Statewide - attached					

Modification Page 1

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Apprt. Tr.
DECISION NO. CO82-5103 - Mod. #1 (47 - FR 6549 - February 12, 1982) Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit and Weld Counties, Colorado					
Change: Bricklayers; Stonemasons: Remaining Counties	$14.49	.85	$1.10		.06
Carpenters: Area 4: Zone 1	12.22	1.10	1.00	1.00	.10
Zone 2	12.72	1.10	1.00	1.00	.10
Zone 3	12.97	1.10	1.00	1.00	.10
DECISION #GA82-1006 - Mod. #1 (47 FR 7597 - February 19, 1982) DeKalb & Fulton Counties, Georgia					
CHANGE: Electricians	$14.45	7%	13%		½ of 1%
DECISION #GA82-1007 - Mod. #1 (47 FR 7597 - February 19, 1982) Clayton, DeKalb, & Fulton Counties, Georgia					
CHANGE: Boilermakers	$14.50	1.475	1.50		.04
Electricians: Wiremen	14.45	7%	13%		½ of 1%
Cable splicers	15.35	7%	13%		½ of 1%

Modification Page 3

DECISION NO. MT81-5138 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
COMBINATION TRUCK; Concrete Mixer and Transit Mixer:					
To & including 4 cu. yds.	$11.85	$1.23	.84		
Over 4 cu. yds. to and including 6 cu. yds.	11.93	1.23	.84		
Over 6 cu .yds. to and including 8 cu. yds.	12.01	1.23	.84		
Over 8 cu. yds. to and including 10 cu. yds.	12.09	1.23	.84		
Over 10 cu. yds.-additional $.08 per hour each additional 2 cu. yds. increment					
DISTRIBUTOR DRIVER	11.53	1.23	.84		
DRY BATCH TRUCKS:					
2 Batch or under	11.68	1.23	.84		
Over 2 Batch to and including 5 Batch	11.73	1.23	.84		
Over 5 Batch to and including 10 Batch	11.89	1.23	.84		
Over 10 Batch to and including 15 Batch	12.05	1.23	.84		
Over 15 Batch-additional $.16 per hour each additional 5 Batch increment					
PICKUP DRIVER, HAULING MATERIALS	11.70	1.23	.84		
DUMPMAN, GRAVEL SPREADER BOX OPERATOR; Pilot Car Driver, Teamsters	11.60	1.23	.84		

Modification Page 4

DECISION NO. MT81-5138 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS And SIMILAR EQUIPMENT, DW 20, DW 21, or EUCLID TRACTORS, Pulling P.R. 21 or similar Dump Wagons:					
Water Level Capacity, including Sideboards:					
7 cu. yds. or less	$11.60	$1.23	.84		
Over 7 cu. yds. to and including 10 cu. yds.	11.73	1.23	.84		
Over 10 cu. yds. to and including 15 cu. yds.	11.89	1.23	.84		
Over 15 cu. yds. to and including 20 cu. yds.	12.03	1.23	.84		
Over 20 cu. yds. to and including 25 cu. yds.	12.09	1.23	.84		
Over 25 cu. yds. to and including 30 cu. yds.	12.15	1.23	.84		
Over 30 cu. yds. to and including 35 cu. yds.	12.21	1.23	.84		
over 35 cu. yds. to and including 40 cu. yds.	12.27	1.23	.84		
Over 40 cu. yds. to and including 45 cu. yds.	12.33	1.23	.84		
Over 45 cu. yds.-additional $.10 per hour each additional 5 cu. yds. increment					
DUMPSTERS	11.73	1.23	.84		
POWER TRUCK DRIVER (bulk unloader type)	11.78	1.23	.84		
FLAT TRUCKS:					
To and including 3 tons	11.75	1.23	.84		
Over 3 tons factory rating	11.95	1.23	.84		

Modification Page 5

DECISION NO. MT81-5138 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
FUEL TRUCK DRIVERS; TIREMEN	$12.19	$1.23	.84		
LOWBOYS; FOUR-WHEEL TRAILER, FLOAT SEMI-TRAILER	11.95	1.23	.84		
LUMBER CARRIERS, LIFT TRUCK and FORK LIFTS	11.85	1.23	.84		
POWER BROOM	11.69	1.23	.84		
WATER TANK DRIVERS, PETROLEUM PRODUCTS DRIVERS:					
2,500 gallons and under	11.60	1.23	.84		
Over 2,500 gallons to and including 4,500 gallons	11.89	1.23	.84		
Over 4,500 gallons to and including 6,000 gallons	12.09	1.23	.84		
Over 6,000 gallons to and including 8,000 gallons	12.15	1.23	.84		
Over 8,000 gallons to and including 10,000 gallons	12.33	1.23	.84		
Over 10,000 gallons - additional $.10 per hour each additional 2,000 gallons increment					
TRUCK MECHANIC	12.59	1.23	.84		

Modification Page 6

DECISION NO. NJ81-3053 - MOD. #7 (46 FR 50243 - October 9, 1981) BERGEN, ESSEX, HUDSON, HUNTERDON, MIDDLESEX, MORRIS, PASSAIC, SOMERSET SUSSEX, UNION AND WARREN COUNTIES, NEW JERSEY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					

LABORERS BUILDING CONSTRUCTION ZONES

ZONE 1
PASSAIC (Twps. of Boroughs Passaic, Garfield, Lodi, Wallington, Delawanna, Allwood, Athenia and Clifton to Piaget Avenue; Paterson, and the Boroughs and Townships of Albion Place, Little Falls, Totowa Borough, West Paterson, Wayne, Hawthorne, Pompton, Haledon, Clifton to Piaget Avenue, West Milford, Ringwood, Bloomingdale, New Jersey and East Paterson to the Garfield boundary line) County.

ZONE 2
BERGEN (CLIFFSIDE: Borough of Cliffside Park; Borough of Fort Lee, south of Central Boulevard; Borough of Palisades Park, south of Central Boulevard; Borough of Ridgefield; Borough of Edgewater, and Borough of Fairview; HACKENSACK: City of Hackensack; Hasbrouck Heights; Little Ferry; South Hackensack; Ridgefield Park; Bogota; Teaneck Township, west of Teaneck Road and South of Fort Lee Road; Maywood; Saddle Brook Township; Borough of Paramus, east of Sprout Brook; and the Borough of River Edge; New Milford; Teterboro; Bendix; and Rochelle Park; ENGLEWOOD: City of Englewood; Borough of Dumont; Borough of Bergenfield; Borough of Palisades Park, north of Central Boulevard to Edgewater; Fort Lee, to the Hudson River; Borough of Fort Lee, north of Central Boulevard; Township of Teaneck, east of Teaneck Road and north of Fort Lee Road; Borough of Leonia; Borough of Englewood Cliffs; Borough of Tenafly; Borough of Cresskill; Borough of Demarest; Borough of Closter; Borough of Oradell; Borough of Montvale; Borough of Woodcliff Lake; Borough of Park Ridge; Borough of Hillsdale; Township of Washington; Borough of Westwood; Borough of Emerson; Borough of Haworth; Borough of Alpine; Borough of Rockleigh; Borough of Norwood; Borough of Harrington Park; Borough of Old Tappan; Borough of Northvale; and Township of Rivervale; LYNDHURST: Rutherford; East Rutherford; Wood-Ridge; Carlton; Carlstadt; North Arlington and Moonachie; RIDGEWOOD: Village of Ridgewood; Borough of Fair Lawn; Borough of Glen Rock; Borough of HoHoKus; Borough of Saddle River; Borough of Upper Saddle River; Borough of Allendale; Borough of Ramsey; Borough of Waldwick; Borough of Midland Park; Borough of Oakland; Borough of Franklin Lakes; Township of Wykoff; Township of HoHoKus; and the Borough of Paramus with the exception of portion of Paramus, east of Sprout Brook and Borough of Mahwah) County.

Modification Page 7

DECISION NO. NJ81-3063 - MOD. 14 (46 FR 62746 - December 28, 1981) ATLANTIC, BURLINGTON, CAMDEN, CAPE MAY, CUMBERLAND, GLOUCESTER, MERCER, MONMOUTH, OCEAN AND SALEM COUNTIES, NEW JERSEY	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS: ZONE 1	15.92	1.10	1.35		.08
LABORERS, BUILDING CONSTRUCTION: ZONE 5					
Laborers,	9.40	.90	1.45		.10
Jackhammers	9.65	.90	1.45		.10
DECISION NO. PA81-3044 MOD. NO. 10 (46 FR 40477 - August 7, 1981) Bedford, Cambria, Cameron, Clarion, Clearfield, Jefferson, Crawford & Venango Counties, Pennsylvania					
CHANGE:					
Carpenters & Soft floor layers Zone 3	$12.65	6½	8%	10%	
Glaziers Zone 2	13.84	.60	.80		.02
DECISION NO. PA81-3097 MOD. NO. 1 (47 FR 0529, Feb. 26, 1982) Bucks, Chester, Delaware, Montgomery & Philadelphia Cos., Pennsylvania					
CHANGE: DECISION REFERENCE TO READ: "Supersedes Decision No. PA80-3085, dated October 3, 1980, in 45 FR 65902" NOT "Decision No. PA81-3060".					

SUPERSEDEAS DECISION

STATE: FLORIDA COUNTY: *See Below
DECISION NUMBER: FL82-1019 DATE: Date of Publication
Supersedes Decision No.: FL81-1247 dated June 12, 1981 in 46 FR 31187.
DESCRIPTION OF WORK: Building Construction Projects (excluding single family homes and apartments of 4 stories or less).

*Volusia (except Cape Kennedy Space Flight Center and Cape Canaveral Air Force Station, Florida)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$14.26	.65	1.10		.08
BOILERMAKERS	14.50	1.375	1.50		.04
BRICKLAYERS	8.40	.50	.20		.05
CARPENTERS	9.25	.55	.80		.12
ELECTRICIANS:					
a. Base Zone - (within 40 Miles of Daytona Beach)					
Electricians	11.63	.50	3% +1.00		.05
Cable Splicers	11.88	.50	3% +1.00		.05
b. Zone I - (all work beyond 40 miles of Daytona Beach and not accessible by public roads-Industrial work in excess of 300,000 electrical or 3,000,000 total permit-power generation plants)					
Electricians	13.70	.50	3% +1.00		.05
Cable Splicers	13.95	.50	3% +1.00		.05
ELEVATOR CONSTRUCTORS:					
Mechanic	12.19	1.345	1.085	a	.035
Helper	8.53	1.345	1.085	a	.035
IRONWORKERS	12.58	.90	.90	.65	.05
LABORERS:					
a. Air Tool Operators, Mason Tenders, Mortar Mixers, Pipelayers (clay & concrete), Plasterers Tenders	8.15	.25	.30		
b. Unskilled	8.00	.25	.30		
LATHERS	8.85	.35	.25		.15
MARBLE SETTERS	8.40	.50	.20		.05
MILLWRIGHTS	13.17	.70	.70		.10
PILEDRIVERMEN	9.75	.55	.80		.12
PAINTERS:					
Brush & Roller Paperhangers, SandBlasters, & Spray	9.65	.50	.50		.06
	10.15	.50	.50		.06

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS, PIPEFITTERS, & STEAMFITTERS					
a. Commercial	$12.22	.70	.70		.10
b. Industrial	15.45	.98	.99		.10
ROOFERS:					
a. Roofers	10.50	.45	.25		.10
b. Kettlemen	9.05	.45	.25		.10
SHEET METAL WORKERS	10.96	3%+.55	.44		.08
SOFT FLOOR LAYERS	9.25	.55	.80		.12
SPRINKLER FITTERS	14.15	.85	1.20		.13
TILE & TERRAZZO WORKERS	8.40	.50	.20		.05
WELDERS - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
Group I	12.18	.55	.50		.06
Group II	11.00	.55	.50		.06
Group III	8.80	.55	.50		.06

Group I - Crane or Derrick Oper., Clam Shell Oper., Dragline Oper., Piledriver Oper. including Auger & Boring Machine Oper. for Drilling in Piling, Backhoe Oper., Hydra Crane Oper., Gradall Oper., Shovel Oper., Patrol, Cable Ways Oper., Tugboat Captain (150 H.P. or more) Multi-Bowl Oper. (similar to R.G. LaTourneau Model L-60-2 or 3 twenty cubic yard scrapers), Side Boom Cat Oper., Multi-Drum Hoist Oper. for Rigging Work, Mechanic (heavy equipment), Tower Crane Oper. (stationary, climbing, & traveling), Gantry Crane Oper., Locomotive Crane Oper., Bridge Crane Oper. (over 20 tons capacity), Concrete Pump w/boom (mobile) Oper., Highlift or Forklift Oper. (10' or higher), Locomotive Engineer (for job use that does not infringe upon the rights of Railroad Unions).

Group II - Bulldozer Oper., Bridge Crane Oper. (20 tons & under), Highlift or Forklift Oper. (less than 10'), Straddle Buggy Oper., Hoist Oper. (other than rigging work) including Winch Truck Oper. where Winch Truck is not mobile and used as a Hoist, Trenching Machine Oper. (ladder & wheel type) over 6' cut & over 24" in width, Concrete Paver Oper., Scraper Oper., Front End Loader Oper., Fireman-Floating Equipment, Mobile Winch Truck Oper., Self-Propelled Sub-Grader Oper., Asphalt Paving Machine Oper., Lubricating Engineer (mobile plant), Pavement Breaker Oper..

Group III - Tractor Operated Sweeper Oper., Trenching Machine Oper. (ladder & wheel type) maximum cut 6' and maximum width 24", Fireman, Self-Propelled Roller Oper., Wellpoint pump Oper. & Supervise Installation (one oper. for 3 pumps, not including standby units, within 300 ft. radius), Aphalt Distributor Oper., Water Truck Driver, Motor Boat Oper., Oiler, Pumpman (other than wellpoint) up to & including Pumps within 300 ft. radius, Conveyors Oper. (motor operated), Welding Machine Oper. (3 or more combustion type), Pulver Mixer Oper., Compressor Oper. (from 1 up to and including 3 compressors within 300 ft. radius, Self-Propelled Sweeper Oper., Combination Pump, Compressor & Combustion Type Welding Machine Oper. (any group of 3 units) w/300 ft. radius, Concrete Mixer Oper., Concrete Pump Oper., Tractor Oper., Street Sweeping Mach., Oper.

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FOOTNOTES:
a. Six Paid Holidays - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years, 4% of regular hourly rate for employee who has worked in business less than 5 years.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Hawaii COUNTIES: Statewide
DECISION NUMBER: HI82-5105 DATE: Date of Publication
Supersedes Decision No. HI81-5153 dated September 25, 1981, in 46 FR 47394
DESCRIPTION OF WORK: Building Projects; Residential Projects (consisting of single family homes and apartments up to and including 4 stories); Heavy and Highway Projects and Dredging

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.53	.90	$ 2.90	$1.30	.06
BOILERMAKERS	13.90	.53	1.25	1.00	.03
BRICKLAYERS; Stonemasons	13.48	1.45	3.00	.80	.20
CARPENTERS:					
Carpenters; Hardwood Floor-layers; Patent Scaffold Erectors; Pneumatic Nailer; Shinglers	11.00	1.44	1.95	1.00	.06
Power Saw Operator (2 HP and over)	11.15	1.44	1.95	1.00	.06
Millwrights	11.25	1.44	1.95	1.00	.06
CEMENT MASONS:					
Cement Masons	13.43	1.45	2.15	.70	.20
Troweling Machine Operators	13.58	1.45	2.25	.80	.20
DRAPERY INSTALLERS	6.45	.50	.40	b	
DRYWALL APPLICATOR	11.10	1.44	1.95	1.00	.07
ELECTRICIANS:					
Electricians; Linemen	13.44	1.22	15%+1.9%	11.6%	.55
Technicians	14.05	1.22	15%+1.9%	11.6%	.55
Cable Splicers	15.00	1.22	15%+1.9%	11.6%	.55
ELEVATOR MECHANICS	16.685	1.345	1.085	a	.035
HELPERS	11.68	1.345	1.085	a	.035
PROBATIONARY HELPER	8.34				
FENCE ERECTORS:					
Chain Link	5.39	.23	.29	.10	.03
GLAZIERS	11.10	1.20	1.37	.97	.15
IRONWORKERS:					
Bridge; Ornamental; Reinforcing; Structural	13.00	1.25	1.45	1.85	.12
LINE CONSTRUCTION:					
Electricians; Linemen	13.64	1.22	15%+1.9%	11.6%	.55
Technicians	14.05	1.22	15%+1.9%	11.6%	.55
Heavy Equipment Operator	12.28	1.22	15%+1.9%	11.6%	.55
Groundmen	10.23	1.22	15%+1.9%	11.6%	.55
Cable Splicers	15.00	1.22	15%+1.9%	11.6%	.55
MARBLE SETTERS	14.28	1.45	2.25		.20
PAINTERS:					
Brush	14.05	.84	3.00	1.00	.10
Tapers	14.30	.84	3.00	1.00	.10
Spray; Sandblaster	14.55	.84	3.00	1.00	.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	$13.81	$1.45	$2.70	.80	.21
PLUMBERS; Steamfitters	14.00	1.05	2.05	15%	.15
ROOFERS	13.30	1.25	1.80	.85	.15
SHEET METAL WORKERS	13.50	1.96	3.01	1.22	.44
SOFT FLOOR LAYERS	12.00	.75	1.75	.55	.29
SPRINKLER FITTERS	15.80	.95	1.40		.08
TERRAZZO WORKERS and TILE SETTERS:					
Terrazzo Base Grinder	12.77	1.45	2.25		.20
Terrazzo Floor Grinder and Finisher	11.42	1.45	2.25		.20
Terrazzo Workers and Tile Setters	14.28	1.45	2.25		.20

RIGGERS; WELDERS: Receive rate prescribed for craft performing operation to which rigging or welding is incidental

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six Paid Holidays: New year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day

b. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; plus Kamehaha Day. In order to be eligible for a Paid Holiday, employees must work the last working day before the Holiday and the first working day following the Holiday. If the employee did not work either of these two days due to illness or layoff, he shall be entitled to Holiday Pay. In case of illness, the Company may require proof of illness.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DREDGING Hydraulic Suction Dredges; Clamshell Dredges; Boat Operators; Derrick:					
Group 1	$15.15	$1.70	$2.45	$1.00	.05
Group 2	14.64	1.70	2.45	1.00	.05
Group 3	14.09	1.70	2.45	1.00	.05
Group 4	12.43	1.70	2.45	1.00	.05
Group 5	12.43	1.70	2.45	1.00	.05
Group 6	12.43	1.70	2.45	1.00	.05
Group 7	14.90	1.70	2.45	1.00	.05
Group 8	13.98	1.70	2.45	1.00	.05
Group 9	14.60	1.70	2.45	1.00	.05
Group 10	12.43	1.70	2.45	1.00	.05

Group 1: Clamshell or Dipper Operator; Operators (Derricks, Piledrivers and Cranes)

Group 2: Mechanic or Welder; Assistant Engineer; Assistant Engineer (steam or electric)

Group 3: Deckmate; Barge Mate (Seagoing)

Group 4: Fireman

Group 5: Oiler; Deckhand (can operate Anchor Scow under direction of Deck Mate)

Group 6: Bargeman; Leveeman

Group 7: Leverman; Master Boat Operator

Group 8: Winchman (Stern Winch on Dredge)

Group 9: Boat Operator

Group 10: Boat Deckhand

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Group 1	$8.61	$1.09	$1.56	.60	.08
Group 1-A	8.66	1.09	1.56	.60	.08
Group 1-B	9.01	1.09	1.56	.60	.08
Group 1-C	9.21	1.09	1.56	.60	.08
Group 1-D	9.06	1.09	1.56	.60	.08
Group 1-E	9.31	1.09	1.56	.60	.08
Group 1-F	9.36	1.09	1.56	.60	.08
Group 1-G	9.56	1.09	1.56	.60	.08
Group 2	8.86	1.09	1.56	.60	.08
Group 3	9.06	1.09	1.56	.60	.08

Group 1: All clean-up work of debris, grounds, buildings; Bridge Laborers; Construction Laborers; Dumpman; General Laborers; Limbers, Brush Loaders and Filers

Group 1-A: Plaster Laborers

Group 1-B: Plaster Hod Carrier

Group 1-C: Plaster Mortar Mixer

Group 1-D: Mason Tender

Group 1-E: High Scaler

Group 1-F: Gunnite Operator

Group 1-G: Powderman

LABORERS (Cont'd)

Group 2: Asphalt Shovelers; Cement Dumpers; Choke-setter and Rigger (clearing work); Concrete Chipping; Driller's Tender, Chuck Tender, Outside Nipper; Guinea Chaser (Stakeman); High Pressure Nozzleman-hydraulic Monitor (over 1000# pressure) excluding levee work; Loading and unloading, carrying and handling of all rods and materials for use in reinforcing concrete construction; Sloper; All pneumatic, gas and electric tools not listed in Group 1

Group 3: Asphalt Ironers, Rakers and Hand Rollers; Barko and similar type Tampers; Buggymobile; Chainsaw, Faller, Logloader and Bucker; Concrete and Magnesite Mixer under 1/2 yard; Concrete Grinder; Concrete Pan Work; Concrete Saw (walking or hand type); Cribbers; Cut Granite Curb Setters; Form Raisers; Header Board; Mortar Mixers (block-brick-masonry); Jackhammer Operator Jackson and similar type Compactors; Lagging, Sheeting, Whaling, Bracing, Trench-jacking, Hand-guided Lagging Hammer; Magnesite and Mastic Workers (wet or dry); Mechanical Drillers not covered elsewhere; Pavement Breakers; Pipelayers, Caulkers, Bander; Pipewrappers, Kettlemen, Potmen and men applying asphalt, Lay-Kold, Creosote and similar type materials; Post Hole Diggers (hand held-gas, air and electric); Riprap, Stonepaver and Rockslinger, including placing of sacked concrete (wet or dry); Rotary Scarifier; Roto-tiller; Sandblasters; Tank Cleaners; Tree Climbers; Vibra-screed (Bull Float in connection with Laborers' work); Vibrator; Burning, welding, signaling and rigging in connection with Laborers' work; Concrete Pump Machine; Joy Drill Model TWM-2A, Gardner Denver DH-143 and similar type drills; Tract Drillers, Diamond, Core and Wagon Drillers; Davis Trencher T-66 or similar types; Concrete Laborers (wet or dry), including Bucket Tender for concrete

LANDSCAPE and IRRIGATION LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$7.75	$1.09	.80	.60	
Group 2	7.25	1.09	.80	.60	
Group 3	5.50	1.09	.80	.60	

Group 1: Install all Valves, Vacuum Breakers, Copper; Galvanized, P.V.C., make tie-in to all main lines; Layout and installation of low voltage electrical lines; Install Heads, Risers, Valve Boxes; Install drinking fountains and all other portable water systems and tie-ins to main lines; Installing hydraulic or electrical Controller, make pressure test; All soldering with Torch or Soldering Iron; Shoot Grader Elevations; Check all plants and shrubs for proper size, caliber and condition; Rock and stone Setter; Concrete Chipping; Choke Setting, Signalling and Rigging for equipment Operators on job site; Concrete Laborers (wet and dry) including Bucket Tender for concrete; Vibrator, Concrete Grinder, Saw Cutter (hand or walking type), Concrete Pump Machine Operator; Concrete Mixer under 1/2 yard; Handheld gas, air and electric tools (i.e., Jackhammer, Buster, Mud Gun, Jumping Jack, Jackson and similar Compactor, etc.); Chain Saw Tree Trimmers, Tree Climbers; Riding Trencher, Davis Trencher T-66 or similar type Work Lift; Operation of Flatbed Truck up to and including 2½ tons; Hydro-mulching Machine Operator; Sit-down Mower; Operation of Hop-toe, Backhoe; John Deere or Case Light Dozer and similar types; Bantam or Grove 18 ton and under Cranes and similar types; Light Loaders or Rollers; Trucks requiring type seven and P.U.C. licenses and similar type sit-down driven machines not covered in Group 2

Group 2: Planting of trees, shrubs, ground covers, sprigging, hand-seeding, fertilizing, chemical spraying, raking, grubbing, guy-wiring, staking, propping, supporting trees, hand excavation (pick and shovel), hand rolling or tamping; Handheld gas, air or electric weed-eater; Cleaning and gluing pipe and fittings; Adjust Heads and Risers, staking and clamping Risers; Hand watering, watering by sprinkler system; Weeding, trimming and pruning

Group 3: Horticultural related work; Gardening and Yardman work; Maintenance of trees, shrubs, ground covers, and lawns; Fertilizing, chemical spraying, raking, guywiring, staking, propping, supporting trees; Cleaning and gluing pipe and fittings; Adjust Heads and Risers, staking and clamping Risers; Hand watering, watering by sprinkler system, weeding, trimming and prunning

POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$12.15	$1.70	$2.45	$1.00	.05
Group 2	12.26	1.70	2.45	1.00	.05
Group 3	12.43	1.70	2.45	1.00	.05
Group 4	12.70	1.70	2.45	1.00	.05
Group 5	13.01	1.70	2.45	1.00	.05
Group 6	13.66	1.70	2.45	1.00	.05
Group 7	13.98	1.70	2.45	1.00	.05
Group 8	14.09	1.70	2.45	1.00	.05
Group 9	14.20	1.70	2.45	1.00	.05
Group 9-A	14.43	1.70	2.45	1.00	.05
Group 10	14.49	1.70	2.45	1.00	.05
Group 10-A	14.64	1.70	2.45	1.00	.05
Group 11	14.79	1.70	2.45	1.00	.05
Group 12	15.15	1.70	2.45	1.00	.05
HELICOPTER WORK:					
Pilot of Helicopter	15.62	1.70	2.45	.95	.05
Copilot of Helicopter	15.45	1.70	2.45	.95	.05
Airborne Hoist Operator for helicopter	15.31	1.70	2.45	.95	.05
DIVER (Aqua Lung)	16.76	1.70	2.45	.95	.05
ASPHALT PAVING GROUP:					
Asphalt Raker	12.70	1.70	2.40	a	
Asphalt Spreader Operator	13.98	1.70	2.40	a	
Roller Operator:					
Over 5 tons	13.66	1.70	2.40	a	
5 tons and under	12.43	1.70	2.40	a	
Screed Man	13.01	1.70	2.40	a	
Hand Roller	12.20	1.70	2.40	a	

FOOTNOTE:

a. Employee who has completed two to five years' service shall receive a vacation of one week with pay; each additional year an additional one day vacation with pay; ten or more years, a vacation for two weeks each year; for each year of completed service thereafter to and including fifteen years' service, an addition of one day vacation with pay; fifteen or more years of service, a vacation of three weeks each year with pay.

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 1: Partsman (heavy duty repair shop parts room when needed); Repairman Tender

Group 2: Compressor, electrically, diesel or gas powered etc.; Hydraulic Monitor; Material Loader and/or Conveyor Operator (handling building material); Mixer Box Operator (concrete plant); Pump Operator; Spreader Boxman (with screeds); Tar Pot Fireman (power agitated)

Group 3: Oiler; Fireman; Switchman; Brakeman; Deckhand; Tar Pot Fireman; Box Operator (bunker); Locomotive (up to and including 30 tons); Roller (5 tons and under); Screedman (except asphalt concrete paving); Self-propelled, automatically applied concrete Curing Machine (on streets, highways, airports and canals); Tugger Hoist, single drum

Group 4: Boom Truck or Dual Purpose "A" Frame Truck; Dinky Operator; Fork Lift or Lumber Stacker (construction job site); Material Hoist (1 drum); Straddle Truck; Ross Carrier and similar (job site)

Group 5: Agri-Cat (mini-cat); Concrete Mixer (up to 2 yards); Concrete Pumps or Pumpcrete Guns; Generators, gasoline or diesel driven (100 K.W.); Lubrication and Service Engineer (mobile and grease rack); Towermobile; Welding Machine (gasoline diesel)

Group 6: Combination Loader and Backhoe including Hopto (up to and including 1/2 yard); Concrete Batch Plants (wet or dry); Concrete Saws and/or Grinder (self-propelled unit on streets, highways, airports, and canals); Drilling Machinery not to apply to Waterliners, Wagon Drills or Jackhammers); Highline Cableway Signalman; Loader (up to and including 2½ cu. yds.); Lull High Lift; Maginnis Internal Full Slab Vibrator (on airports, highways, canals, and warehouses); Mechanical Finishers (concrete) (large Clary, Johnson Bidwell Bridge Deck or similar types); Mobile Crane Driver; Pavement Breakers; Portable Crushers; Power Jumbo Operator (setting slip forms, etc. in tunnels); Rollers (over 5 tons); Self-propelled Compactor (single engine); Slip Form Pumps (power driven hydraulic, electric, air, gas, etc. lifting device for concrete forms); Small Rubber-tired Tractors; Trenchers (up to and including 6 feet)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection) (Cont'd)

Group 7: Crusher Plant; Dual Drum Mixer; Gradesetter (mechanical or otherwise); Hoist (2 drums); Loader (over 2½ cu. yds. up to and including 5 cu. yds.); Mechanical Finishers or Spreader Machine, Asphalt (Barber Greene and similar); Mine or Shaft Hoist; Mixermobile (over 5 tons); Pavement Breaker, truck mounted, with compressor combination; Pavement Breaker with compressor combination (operates 1 or 2); Pipe Cleaning Machine (tractor propelled and supported); Pipe Wrapping Machine (tractor propelled and supported); Pipe Bending Machine (pipe lines only); Self-propelled Elevating Grade Plane; Slusher Operator; Small Tractor (with boom D-6 or similar); Trencher (over 6 ft.); Water Tanker (pulled by Euclids, T-Pulls, DW-10, 20, 21 or similar)

Group 8: Boring Machine; Cast-in-place Pipe Laying Machine; Concrete Batch Plant (multiple units); Combination Loader and Hydraulic Backhoe (over 1/2 yd. up to and including 3/4 yd.); Conveyor (tunnel); Engineer, Locomotive (over 30 tons up to and including 100 tons); Finishing Machine Operator (airports and highways); Hydraulic Backhoe (over 1/2 yd. to and including 3/4 yard); Kolman Loader; Mechanic Trench Shield; Mucking Machine; No-joint Pipe Laying Machine; Portable Crushing and Screening Plants; Saurman type Dragline (under 5 yards); Self-propelled Boom type Lifting Device; Stationary Pipe Wrapping, Cleaning and Bending Machine; Surface Heater and Planer; Tunnel Badger; Tri-batch Paver

Group 9: Boom type Backfilling Machine; Combination Mixer and Compressor (gunite); Do-more Loader and Adams Elegrader; Lull Hi-lift (40' or over); Rubber-tired Earthmoving Equipment (up to 12 cu. yds.); Wheel Trencher (over 6')

Group 9-A: Dozers; Heavy Duty Repairman or Welder; Push Cats; Scrapers; Self-propelled Compactor with Dozer; Sheep Foot; Tractors; Tractors (with boom, larger than D-6 and similar)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection) (Con'td)

Group 10: Chicago Boom; Hoist (3 drums); Koehring Skooper; Loader (over 5 yards up to and including 12 yards); Locomotive (over 100 tons)(single or multiple units); Power Blade Operator; Rubber-tired Earthmoving Equipment (up to and including 35 cu. yds., Euclid, T-Pulls, DW-10, 20, 21 and similar); Saurman type Dragline (5 yards or over); Soil Stabilizer (P & H equal); Sub-grader (Gurries or other automatic type); Track-laying type earthmoving Machine (single engine with Tandem Scraper); Tractor, Compressor, Drill, Combination; Tractor (tandem Scraper); Tractors (D-9 or equivalent)

Group 10A: Cranes (not over 25 tons); Power Shovels, Clamshells, Draglines, Backhoes, Gradealls (up to and including 1 cu. yd.)

Group 11: Automatic Slip Form Paver (concrete or asphalt); Cranes (over 25 tons); DW-10, 20, etc. (Tandem); Earthmoving Machine (multiple propulsion power units and two or more scrapers)(up to and including 35 cu. yds. struck MRC); Highline Cableway; Lift Slab Machine; Loader (over 12 yds.); Power Shovels, Clamshells, Draglines, Backhoes, Gradealls (over 1 yd. and up to 7 yds.); Power Blade Operator (16 or over); Prestress Wire Wrapping Machine; Self-propelled Compactor (with multiple propulsion power units); Single Engine Rubber Tired Earth Moving Machine (with tandem scraper); Tandem Cats; Tower Cranes, mobile; Trencher (pulling attached shield); Universal, Liebher, Linden and similar types of tower cranes; Wheel Excavator (up to and including 750 cu. yds. per hour)

Group 12: Band Wagon (in conjunction with wheel excavator); Derricks; Drill Rigs; Multi-propulsion Earth Moving Machines (2 or more scrapers) (over 35 cu. yds. "struck" MRC); Power Shovels and Draglines (7 cu. yds. M.R.C. and over); Rubber-tired Earthmoving Equipment (over 35 cu. yds., Euclids, T-Pulls, DW-10, 20, 21 and similar); Wheel Excavator (over 750 cu. yds.)

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$11.73	$1.70	$2.45	.95	.05
Group 2	12.00	1.70	2.45	.95	.05
Group 3	12.31	1.70	2.45	.95	.05
Group 4	12.96	1.70	2.45	.95	.05
Group 5	13.28	1.70	2.45	.95	.05
Group 6	13.39	1.70	2.45	.95	.05

Group 1: Flatbed

Group 2: Dump, 8 yards and under; Water Truck (up to and including 2,000 gallons)

Group 3: Water Truck (over 2,000 gallons)

Group 4: Semi-trailer or Semi-dump

Group 5: Slip-in or Pup

Group 6: End Dumps, unlicensed (Euclid, Mack, Caterpillar or similar); Tractor Trailer (hauling equipment); Trucks (hooked up to trailer hauling equipment)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: OHIO COUNTIES: BELMONT, MONROE, & NOBLE
DECISION NO.: OH82-2019 DATE: Date of Publication
Supersedes Decision No.: OH80-2071, dated August 8, 1980 in 45 FR 53053
DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$6.75				
BRICKLAYERS	9.00				
CARPENTERS	8.20				
CEMENT MASONS	7.87				
DRYWALL FINISHERS/TAPERS	7.50				
DRYWALL HANGERS	7.23				
ELECTRICIANS	7.00	.50	3%	.75	.04
LABORERS	6.18				
PAINTERS	6.75				
PLUMBERS & PIPEFITTERS	7.40				
ROOFERS	6.75				
SHEET METAL WORKERS	6.75				
SOFT FLOOR LAYERS/CARPET LAYERS	6.75				
TILE SETTERS	6.75				
TRUCK DRIVERS	6.33				
POWER EQUIPMENT OPERATORS:					
Backhoe	6.75				
Bulldozer	7.40				
Front End Loader	7.38				
Grader	6.75				
Roller	6.75				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Oregon COUNTIES: Statewide
DECISION NUMBER: ORS2-5100 DATE: Date of Publication
Supersedes Decision No. ORS1-5127 dated July 6, 1981, in 46 FR 35019
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects and Dredging.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.48	.	$ 1.49		.14
BOILERMAKERS	18.01	1.30	1.25	1.00	.04
BRICKLAYERS; Stonemasons:*					
Area 1	17.11	1.10	1.50		.25
Area 2	17.13	1.00	1.15		.12
CARPENTERS:					
Acoustical and Drywall Applicator; Automatic Nailing Machine; Carpenters; Form Strippers; Manhole Builders	15.12	1.00	1.30	.65	.10
Floor Layers and Finishers; Stationary Power Saw Operators	15.27	1.00	1.30	.65	.10
Millwrights and Machine Erectors	15.37	1.00	1.30	.65	.10
Certified Welders	15.52	1.00	1.30	.65	.10
Piledrivermen; Bridge, dock and wharf builders	15.22	1.00	1.30	.65	.10
Boom Men	15.32	1.00	1.30	.65	.10
CEMENT MASONS:					
Cement Masons	14.42	1.10	1.45	1.00	.20
Composition Workers; Power Machinery Operator	14.68	1.10	1.45	1.00	.20
ELECTRICIANS:*					
Area 1:					
Electricians	14.55	1.00	3%+1.00		1%
Cable Splicers	15.94	1.00	3%+1.00		1%
Area 2:					
Electricians	19.82	.95	3%+1.30		.10
Lead Cable Splicers	20.81	.95	3%+1.30		.10
Area 3:					
Electricians	19.05	1.25	3%+1.00		.10
Cable Splicers	20.95	1.25	3%+1.00		.10
Area 4:					
Electricians	22.00	1.25	3%+1.00		.17
Lead Cable Splicers	24.20	1.25	3%+1.00		.17

*See AREA Descriptions - Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:* (Cont'd)					
Area 5:					
Electricians	$20.80	$1.25	3%+2.25		.13
Cable Splicers	21.60	1.25	3%+2.25		.13
Area 6:					
Electricians	18.72	1.25	3%+2.00		.17
Cable Splicers	20.59	1.25	3%+2.00		.17
ELEVATOR CONSTRUCTION:					
Mechanics	19.82	1.345	1.085	a	.035
Helpers	70% JR	1.345	1.085	a	.035
Probationary Helpers	50% JR				
GLAZIERS	16.24	.81	1.00		.03
IRONWORKERS:					
Structural; Reinforcing; Ornamental; Riggers; Fence Erectors; Signal Men	17.04	1.00	2.15		.15
LATHERS:*					
Area 1	15.87	1.10	2.00		.06
MARBLE SETTERS:*					
Area 1	17.11	1.10	1.50		.25
MASON TENDERS:					
(including tenders of plasterers, bricklayers, tile setters, marble setters and terrazzo worker; Topping for cement finishers and mortar mixer)	14.22	1.10	1.40		.10
PAINTERS:*					
Area 1:					
Painters and Tapers	12.25	.78	.60		.03
Area 2:					
Brush	13.73	1.05	1.25	.60	.09
Spray	14.28	1.05	1.25	.60	.09
Bridges, High work over 50' (brush)	14.63	1.05	1.25	.60	.09
Bridges, High work over 50' (spray)	15.18	1.05	1.25	.60	.09
Drywall Tapers	15.48	1.05	1.00		.06

*See AREA Descriptions - Page 3

AREA DESCRIPTIONS

BRICKLAYERS; Stonemasons:
Area 1: Baker, Clackamas, Clatsop, Columbia, Gilliam, and Hood River; Malheur County (north half); Marion, Morrow, Multnomah, Polk, Sherman, and Tillamook Counties; Umatilla, Union, Wallowa, and Wasco Counties (north of the City of Maupin); Washington and Yamhill Counties
Area 2: Benton, Crook, Coos, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, and Linn Counties; Malheur County (south half); Wasco County (including the City of Maupin and south thereof); Wheeler County

ELECTRICIANS:
Area 1: Malheur County
Area 2: Baker, Gilliam, Grant, Morrow, Umatilla, Union, Wallowa, and Wheeler Counties
Area 3: Coos, Curry, and Lincoln Counties; Douglas and Lane Counties (those portions lying west of a line north and south from the NW corner of Coos County to the SE corner of Lincoln County)
Area 4: Benton, Crook, Deschutes, and Jefferson Counties; Lane County (eastern portion); Linn, Marion, and Polk Counties; Yamhill County (south half)
Area 5: Clackamas, Clatsop, Columbia, Hood River, Multnomah, Sherman, Tillamook, Wasco, and Washington Counties; Yamhill County (north half)
Area 6: Harney, Jackson, Josephine, Klamath, and Lake Counties; Douglas County (that portion lying east of a line running north and south from the NE corner of Coos County to the SE corner of Lincoln County)

LATHERS:
Area 1: Clackamas, Clatsop, Columbia, Gilliam, Harney, Hood River, Morrow, Multnomah, Sherman, and Yamhill Counties

MARBLE SETTERS:
Area 1: Baker, Clackamas, Clatsop, Columbia, Gilliam, and Hood River Counties; Malheur County (north half); Multnomah, Morrow, Sherman, and Tillamook Counties; Union, Umatilla, and Wallowa Counties; Wasco County (north of the City of Maupin); Washington County; Yamhill County (north half)

PAINTERS:
Area 1: Malheur County
Area 2: Remaining Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:*					
Area 1	$15.23	$1.15	$ 2.00		.01
Area 2	15.07	1.15	2.00		.06
PLUMBERS:*					
Area 1	14.67	1.24	2.40		.10
Area 2	18.18	1.37	1.95	2.50	.16
Area 3	19.89	1.09	1.65	1.75	.12
Area 4	20.08	1.55	1.85		.20
Area 5	18.24	1.00	1.85		.10
Area 6	19.58	1.54	2.40		.21
Area 7	19.94	1.25	1.80		.07
Area 8	16.51	1.00	1.80	1.20	.05
ROOFERS:*					
Area 1:					
Roofers	16.85	.80	1.40		.10
Handling of irritating material (coal tar or epoxy)	17.10	.80	1.40		.10
Handling of irritating material (coal tar or epoxy) in confined area	17.35	.80	1.40		.10
Area 2:					
Roofers	14.75	.96	.50		
Spray and/or application of irritating materials in a confined area	15.75	.96	.50		
Area 3	13.80	.95	.45		.10
Area 4	14.51	.95	1.65		.10
SHEET METAL WORKERS:*					
Area 1	17.95	3%+1.08	1.93	1.00	.12
Area 2	15.61	.83	.96		.16
Area 3	18.26	3%+.83	1.70		.20
Area 4	15.705	.73	1.28		.10
SOFT FLOOR LAYERS:*					
Area 1	13.74	.85	1.15	b	.13
Area 2	12.37	.69	.50		
SPRINKLER FITTERS	16.44	.95	1.40		.08

*See AREA Descriptions - Page 5.

AREA DESCRIPTIONS

PLASTERERS:
Area 1: Benton, Coos, Crook, Curry, Douglas, Deschutes, Harney, and Jefferson Counties; Klamath County (northern one-third); Lane County; Lincoln, Linn, Wasco, and Wheeler Counties (south half)
Area 2: Remaining Counties

PLUMBERS:
Area 1: Baker County; Harney (except NW portion); Malheur County
Area 2: Grant County (except SW corner); Morrow, Umatilla, Wallowa, and Union Counties
Area 3: Benton, Lincoln, and Linn Counties (north half); Marion and Polk Counties; Tillamook and Yamhill Counties (south half)
Area 4: Clackamas, Clatsop, Columbia, Gilliam, Hood River, Jefferson, Multnomah, Sherman, Wasco, Wheeler, and Washington Counties; Tillamook and Yamhill Counties (north half)
Area 5: Coos and Curry Counties; Douglas County (West Coast portion); Lane County (including the City of Florence)
Area 6: Benton County (south half); Crook and Deschutes Counties; Douglas County (except Coast portion); Grant County (SW corner); Harney County (NW portion); Jefferson County (south half); Klamath and Lake Counties (northern portion); Lane County (except the City of Florence); Lincoln and Linn Counties (south half)
Area 7: Remainder of Klamath and Lake Counties
Area 8: Jackson and Josephine Counties

ROOFERS:
Area 1: Baker, Clackamas, Clatsop, Columbia, Grant, Gillian, Hood River, Morrow, Multnomah, Sherman, Tillamook, Wasco, Washington, and Wheeler Counties
Area 2: Benton, Coos, Crook, Curry, Deschutes, Douglas, Harney, Jackson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Marion, Polk, and Yamhill Counties
Area 3: Malheur County
Area 4: Umatilla, Union, and Wallowa Counties

SHEET METAL WORKERS:
Area 1: Benton, Clackamas, Clatsop, Columbia, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Lincoln, Linn, Marion, Multnomah, Polk, Sherman, Tillamook, Wasco, Washington, Wheeler, and Yamhill Counties
Area 2: Baker and Malheur Counties
Area 3: Morrow, Umatilla, Union, and Wallowa Counties
Area 4: Coos, Curry, Douglas, Klamath, Lake, Lane, and Josephine Counties

SOFT FLOOR LAYERS:
Area 1: All Counties except Malheur County
Area 2: Malheur County

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
TILE SETTERS:*					
Area 1	$16.38	$1.00	$ 1.45		.35
Area 2	15.43	1.10	.95		.10
TILE and TERRAZZO HELPERS:*					
Area 1	14.80	1.00	.55		

*See AREA Descriptions - below

WELDERS; RIGGERS: Receive rate prescribed for craft performing operation to which welding and rigging are incidental.

FOOTNOTES:
a. Employer credits 8% of basic hourly rate for employees with more than 5 years' service; 6% basic hourly rate for 6 months' to 5 years' service to Vacation Plan. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; and Christmas Day
b. 4% of all gross wages to be placed to the credit of employees with less than one year's service. 6% of all gross wages to be placed to the credit of employees with more than one year of service. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; and Christmas Day

AREA DESCRIPTIONS

TILE SETTERS:
Area 1: Baker, Clackamas, Clatsop, Columbia, Gilliam, and Hood River Counties, Malheur County (north half); Morrow, Multnomah, Sherman, Tillamook, Umatilla, Union, and Wallow Counties; Wasco County (north of Maupin); Washington County; Yamhill County (north half)
Area 2: Benton, Coos, Crook, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Josephine, Klamath, Lake, Lane, Lincoln, and Linn Counties; Malheur County (south half); Wasco County (Maupin and south thereof); Wheeler County (south half)

TILE and TERRAZZO HELPERS:
Area 1: Baker, Clackamas, Clatsop, Columbia, Gilliam, and Hood River Counties; Malheur County (north half); Marrow, Multnomah, Sherman, Tillamook, Umatilla, Union, and Wallow Counties; Wasco County (north of Maupin); Washington County; Yamhill County (north half)

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LINE CONSTRUCTION (AREA 1)
(All Counties Except Malheur)

	BASE ZONE	ZONE 1	ZONE 2	ZONE 3	ZONE 4
Group 1: Cable Splicer, Leadman Pole Sprayer	$19.30	$21.30	$22.05	$22.80	$24.05
Group 2: Lineman, Pole Sprayer, Heavy Line Equipment Man, Certified Lineman Welder	17.44	19.44	20.19	20.94	22.19
Group 3: Tree Trimmer	15.74	--	--	--	--
Group 4: Line Equipmunt Man	15.02	17.02	17.77	18.52	19.77
Group 5: Head Groundman Powderman, Jackhammer Man	13.13	15.13	15.88	16.63	17.88
Group 6: Head Groundman (Chipper)	13.13	--	--	--	--
Group 7: Groundman	12.34	14.34	15.09	15.84	17.09

FRINGE BENEFITS PAYMENTS:	Groups 1 to 3	Groups 4 to 7
Health and Welfare	$.45	$.45
Pension	3%+2.00	3%+1.30
Vacation	.10	.10
Apprenticeship Training	1/2%	1/2%

ZONE DESCRIPTIONS:
*BASE ZONE 0 to 3 miles radius from the geographical center of the Cities listed below
ZONE 1 3 to 20 miles radius
ZONE 2 20 to 35 miles radius
ZONE 3 35 to 50 miles radius
ZONE 4 Over 50 miles radius

Spokane	Ellensburg	Astoria	Medford
Tacoma	Ephrata	Baker	Portland
Walla Walla	Everett	Burns	Pendleton
Wenatchee	Kennewick	Bend	Salem
Yakima	Longview	Eugene	Roseburg
Wilbur	Olympia	Seattle	Lakeview
Klamath Falls	Bellingham	Umatilla	Sand Point
Corvallis	Coeur d'Alene	Kellog	Lewiston
Orofino	The Dalles		

*BASE ZONE Rate is paid when working out of employer's permanent Shop.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION: (Cont'd) Malheur County: (AREA 2)					
Cable Splicer	$15.92	.45	3%+.75		1%
Journeyman Lineman	14.42	.45	3%+.75		1%
Line Equipment Mechanic (right of way)	13.63	.45	3%+.75		1%
Line Equipment Mechanic (base shop)	12.73	.45	3%+.75		1%
Line Equipment Serviceman	12.73	.45	3%+.75		1%
Line Equipment Operator	12.95	.45	3%+.75		1%
Groundman	10.58	.45	3%+.75		1%
DREDGING:					
Leverman:					
Dipper	16.00	1.30	1.47	1.00	.10
Hydraulic	16.67	1.30	1.47	1.00	.10
Assistant Engineer (including Watch Engineer, Welder, Mechanic and Machinist); Mate	15.80	1.30	1.47	1.00	.10
Tenderman (Boatman, attending Dredge Plant); Fireman	15.11	1.30	1.47	1.00	.10
Assistant Mate (Deckhand); Oiler	14.78	1.30	1.47	1.00	.10
TIMBER SALES ROADS:					
Operating Engineer	11.71	1.30	1.47	.50	.10
Operating Engineer Assistant (Oiler)	10.65	1.30	1.47	.50	.10
Teamster	11.49	1.18	1.26		.08
Laborer	9.90	1.40	1.50	1.00	.10
Power Saw, Driller, Powderman	10.67	1.40	1.50	1.00	.10

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LABORERS*

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	$11.97	$12.57	$13.02	$13.52	$14.67	$15.22
2	12.32	12.92	13.37	13.87	14.82	15.57
3	12.62	13.22	13.67	14.17	15.12	15.87
4	12.87	13.47	13.92	14.42	15.37	16.12

FRINGE BENEFITS:

Health and Welfare	$ 1.40
Pension	1.50
Vacation	1.00
Apprenticeship Tr.	.10

*See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

LABORERS

Group 1: Asphalt Plant Laborers; Asphalt Spreaders; Batch Weighman; Broomers; Brush Burners and Cutters; Car and Truck Loaders; Carpenter Tender; Change-house Man or Dry Shack Man; Choke Setter; Clean-up Laborers; Concrete Laborers; Culvert hand labor; Curing, concrete; Demolition, wrecking, and moving Laborers; Driller Tenders; Dumpers, road oiling crew; Dumpmen (for grading crew); Elevator Feeders; Fence Builder (including Guard Rail, Median Rail, Reference Post, Right-of-way Marker); Fine Graders; Form Strippers (not swinging stages); General Laborers; Landscaping or Planting Laborers; Leverman or Aggregate Spreader (Flaherty and Loading Spotters and similar types); Material Yard Man (including electrical); Powderman Tender; Pittsburgh Chipper Operator or similar types; Ribbon Setters (including Steel Forms); Rip Rap Man (hand placed); Road Pump Tender; Sewer Labor; Signalman; Skipman; Slopers; Sprayren; Stake Chaser; Stockpiler; Timber Faller and Bucker (hand labor); Toolroom Man (at job site); Tunnel Bullgang (above ground); Weightman, Crusher (aggregate when used); Railroad Track Laborers

Group 2: Applicator (including Pot Tender for same), applying protective material by hand or nozzle on utility lines or storage tanks on project; Brush Cutters (power saw); Burners; Choker Splicer; Clary Power Spreader and similar types; Clean-up Nozzleman, Green Cutter (concrete, rock, etc.); Concrete Power Buggyman; Crusher Feeder; Demolition and wrecking Charred materials; Grade Checker; Granite Nozzleman Tender; Gunite or Sand Blasting Pot Tender; Handlers or Mixers of all materials of an irritating nature (including cement and lime); Power Tool Operators, includes but not limited to: Dry Pack Machine; Jackhammer; Chipping Guns; Paving Breakers; Vibrators (less than 4" in diameter); Post Hole Digger, air, gas or electric; Vibrating Screed; Tampers; Sand Blasting (wet); Stake-setter; Tunnel - Muckers, Brakemen, Concrete Crew, Bull Gang (underground)

Group 3: Asphalt Rakers; Bit Grinder; Drill Doctor; Drill Operators, Air Tracks, Cat Drills, Wagon Drills, Rubber-mounted Drills, and other similar types; Concrete Saw Operator; Gunite Nozzleman; High Scalers, Strippers and Drillers (covers work in swinging stages, chairs or belts, under extreme conditions unusual to normal drilling, blasting, barring-down, or sloping and stripping); Laser Beam (pipe laying)(applicable when employee assigned to move, set up, align Laser Beam); Manhole Builder; Powdermen; Power Saw Operators (bucking and falling); Pumpcrete Nozzlemen; Sand Blasting (dry); Sewer Pipe Layers; Sewer Timberman; Track Liners, Anchor Machines, Ballast Regulators, Multiple Tampers, Power Jacks; Tugger Operator; Tunnel - Chuck Tenders, Nippers, and Timbermen; Vibrators (4" and larger); Water Blaster; Welder

Group 4 Laser Beam (tunnel) - applicable when employee assigned to move, set up, align Laser Beam; Tunnel Miners; Tunnel Powderman

POWER EQUIPMENT OPERATORS*

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	$14.15	$14.75	$15.20	$15.70	$16.65	$17.40
2	14.32	14.92	15.37	15.87	16.82	17.57
3	14.46	15.06	15.51	16.01	16.96	17.71
4	14.65	15.25	15.70	16.20	17.15	17.90
5	14.68	15.28	15.73	16.23	17.18	17.93
6	14.78	15.38	15.83	16.33	17.28	18.03
7	14.85	15.45	15.90	16.40	17.35	18.10
8	14.97	15.57	16.02	16.52	17.47	18.22
9	15.05	15.65	16.10	16.60	17.55	18.30
10	15.13	15.73	16.18	16.68	17.63	18.38
11	15.15	15.75	16.20	16.70	17.65	18.40
12	15.23	15.83	16.28	16.78	17.73	18.48
13	15.33	15.93	16.38	16.88	17.83	18.58
14	15.52	16.12	16.57	17.07	18.02	18.77
15	15.72	16.32	16.77	17.27	18.22	18.97
16	15.95	16.55	17.00	17.50	18.45	19.20
17	16.13	16.73	17.18	17.68	18.63	19.38
18	16.35	16.95	17.40	17.90	18.85	19.60
19	16.52	17.12	17.57	18.07	19.02	19.77

FRINGE BENEFITS:

Health and Welfare	$1.30
Pension	1.47
Vacation	1.00
Apprenticeship Training	.10

*See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications.

POWER EQUIPMENT OPERATORS

Group 1: Oiler, including Plant, Crane, Crusher, Guardrail equipment, and Trenching Machine; Assistant Conveyor Operator; Crusher Feederman; Deckhand; Self-propelled Scaffolding Operator; Guardrail Punch Oiler; Pump Operator, under 4"; Brakeman; Switchman; Parts Man (tool room)

Group 2: Blade Operator, pulled type; Truck Crane Oiler - Driver, 25 ton capacity or over; Crane Fireman (all equipment except floating); A-Frame Truck Operator, single drum; Tugger or Coffin type Hoist Operator; Driller Tender; Auger; Oiler; Boatman; Fork Lift or Lumber Stacker Operator (on job site); Oiler, combination Guardrail Machines; Temporary Heating Plant Operator; Grade Oiler, required to check grade; Grade Checker; Tar Pot Fireman; Tar Pot Fireman (power agitated); H.D. Repairman Tender; Welder's Tender; Helicopter Radioman (ground); Roller Operator, grading of base rock (not asphalt)

Group 3: Asphalt Plant Fireman; Pugmill Operator (any type); Truck mounted Asphalt Spreader, with Screed; Compressor Operator (any power), under 1,250 cu. ft. total capacity; Conveyor Operator; Mixer Box Operator (C.T.B., Dry Batch, etc.); Cement Hog; Concrete Saw; Concrete Curing Machine (riding type); Wire Mat or Brooming Machine; Ross Carrier Operator (on job site); Bucket Elevator Loader, Barber Greene and similar types; Hydraulic Pipe Press; Pump Operator (any power), 4" and over; Hydrostatic Pump; Motorman; Ballast Jack Tamper; Bell Boy, phones, etc; Tamping Machine, mechanical self-propelled; Hydrographic Seeder Machine, straw, pulp or seed; Broom Operator, self-propelled (on job site); Air Filtration Equipment; Welding Machine Operator

Group 4: Screed Operator; Compactor, including Vibratory; Compressor (any power) over 1,250 cu. ft. total capacity; Combination Mixer and Compressor, Gunnite Work; Concrete Mixer Operator, single drum, under five bag capacity; Helicopter Hoist Operator; Floating Equipment Fireman; Lull Hi-lift Operator or similar type; Fork Lift, over 5 ton; Service Oiler (Greaser); Hydra Hammer or similar types; Pavement Breaker; Pump Operator, more than 5 (any size); Locomotive, under 40 tons; Roller Operator, Oiling, C.T.B.

Group 5: Extrusion Machine; Wagner Pactor or similar type (without blade); Concrete Batch Plant Quality Control Operator; Power Jumbo, Setting Slip Forms, etc. in tunnels; Slip Form Pumps, Power driven Hydraulic Lifting Device for concrete forms; Hoist, single drum; Elevator Operator; Pulva-mixer or similar types; Chip Spreading Machine Operator; Lime Spreading (on job site); Sweeper (Wayne type) Self-propelled (on job site); Tractor, rubber-tired 50 H.P. flywheel and under; Trenching Machine, maximum digging capacity 3 ft. depth

POWER EQUIPMENT OPERATORS (Cont'd)

Group 6: Asphalt Burner and Reconditioner; Pavement Grinder and/or Grooving Machine (riding type); Cast-in-place Pipe Laying Machine; Maginnis Internal Full Slab Vibrator; Concrete Finishing Machine, Clary, Johnson, Bidwell, Burgess Bridge Deck or similar type; Curb Machine, Mechanical Berm, Curb and/or Curb and Gutter; Concrete Joint Machine; Concrete Planer; Concete Paving Machine; Concrete Spreader; Loaders, rubber-tired type, 2¼ cu. yds. and under; Rock Spreaders, self-propelled

Group 7: Roller (any asphalt mix); Beltcrete; Pumpcrete Operator (any type); Fuller-Kenyon and similar; Concrete Pump; Grouting machine; Concrete Mixer, single drum, five bag capacity and over; Tower Mobile Operator; A-Frame Truck, double drum; Boom Truck; Churn Drill and Earth Boring Machine; Hydraulic Backhoe, wheel type 3/8 cu. yds. and under with or without Front End attachments 2¼ cu. yds. and under (Ford, John Deer, Case type); Elevating Grader, Tractor towed requiring Operator or Grader; Pot Rammer; Ballast Regulator; Ballast Tamper, Multiple-purpose; Track Liner; Tie Spacer; Shuttle Car; Locomotive, 40 tons and over

Group 8: Diesel-electric Engineer, Plant, Crusher, Generator, Floating; Batch Plant and/or wet mix, one and two drum; Generator Operator; Belt Loader, Kolman and Ko Cal types; Asphalt Paver Operator

Group 9: Bulldozer; Drill Cat Operator; Side-boom Cat; Compactor, with blade; Concrete Cooling Machine; Chicago Boom and similar types; Lift Slab Machine; Boom type lifting device, 5 ton capacity or less; Cherry Picker or similar type Crane-hoist, 5 ton capacity or less; Grizzley Crusher; Crusher Plant; Drill Doctor; Boring Machine; Guardrail Punch and Auger (all types); Surface Heater and Planer; Hydraulic Backhoe, track type 3/8 cu. yds.; Loader, Front End and Overhead, 2¼ cu. yds. and under 4 cu. yds.; Hammer Operator; Pipe Cleaning, Doping, Bending and Wrapping Machines; Bolt-threading Machine; Drill Doctor (Bit Grinder); H.D. Mechanic and Welder; Machine Tool Operator; Stationary Drag Scraper; Tractor, rubber-tired over 50 H.P. flywheel; Tractor with boom attachment; Trench Machine, maximum digging capacity over 3 ft. depth; Asphalt Plant Operator

Group 10: Bulldozer, twin engine (TC 12 and similar); Cable Plow (any type); Compactor, multi-engine; Jack Operator, Elevating Barges; Barge Operator, self-unloading; Combination H.D. Mechanic - Welder, with dispatcher and/or when required to do both; Rubber-tired Dozers and Pushers (Michigan, Cat, Hough type); Driller - Percussion, Diamond, Core, Cable, Rotary and similar type

Group 11: Mixer Mobile; Concrete Breaker; Crane Operator, 25 tons and under; Combination Guardrail Machines, i.e., Punch, Auger, etc.; Shovel; Dragline; Clamshell, Hoe, etc., under 1 cu. yd.; Grade-alls, under 1 cu. yd.; Mucking Machine (tunnel)

POWER EQUIPMENT OPERATORS (Cont'd)

Group 12: Blade Operator; Batch Plant and/or Wet Mix, 3 units or more; Reinforced Tank Banding Machine (K-17 or similar); Hoist, two or more drums; Elevating Loader, Athey and similar; Piledriver (not crane type); Rubber-tired Scraper, single and twin engine; Single Scraper, with Push-pull attachments, self-loader; Paddle Wheel, auger type; Blade mounted Spreaders, Ulrich and similar types; Shield Operator

Group 13: Blade Operator, finish; Blade, externally controlled by electronic, mechanical hydraulic means; Blade, multi-engine; Concrete Paving Road Mixer; Derrick, under 100 tons; Hoist, Stiff Leg, Guy Derrick or similar, 50 tons and over; Cableway Operator 25 ton and over; Crane, over 25 ton and including 40 tons; Piledriver Operator; Floating Clamshell, etc., under 3 cu .yds.; Floating Crane (Derrick Barge), less than 30 ton; Elevating Grader operated by Tractor Operator, Sierra, Euclid, or similar; Back Filling Machine; Shovel, etc. 1 cu. yd. and less than 3 cu. yds.; Grade-all, 1 cu. yd. and over; Bridge Crane Operator, Locomotive Crane, Gantry and Overhead

Group 14: Tower Crane Operator; Rubber-tired Scraper, with Tandem Scrapers, self-loading, Paddle Wheel, auger type, finish and/or 2 or more units

Group 15: Rock Hound Operator; Loader, 4 cu. yds., but less than 6 cu. yds.

Group 16: Autograder or "Trimmer"; Tandem Bulldozer, Quad-nine and similar; Automatic Concrete Slip Form Paver; Concrete Canal Line; Cableway, 25 ton and over; Crane, over 40 ton and including 100 ton; Whirley, 80 ton and under; Floating Clamshell, etc., 3 cu. yds. and over; Floating Crane (Derrick Barge) 30 ton but less than 80 ton; Loader, 6 cu. yds., but less than 12 cu. yds.; Rubber-tired Scraper, with Tandem Scrapers, multi-engine; Shovel, etc., 3 cu. yds. but less than 5 cu. yds.; Wheel Excavator, under 750 cu. yds. per hour

Group 17: Crane over 100 ton and including 200 ton; Whirley, over 80 ton and including 150 ton; Floating Crane (Derrick Barge), 80 ton, but less than 150 ton; Loader, 12 cu. yds. and over; Shovel, etc., 5 cu. yds. and over; Canal Trimmer

Group 18: Crane, over 200 ton; Whirley, 150 ton and over; Floating Crane, 150 ton but less than 250 ton; Wheel Excavator, over 750 cu. yds. per hour; Band Wagons, in conjunction with Wheel Excavator

Group 19: Helicopter, when used in erecting work; Floating Crane, 250 ton and over; Remote controlled earth moving equipment; Underwater equipment, remote or otherwise

TRUCK DRIVERS*

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	$13.80	$14.40	$14.85	$15.35	$16.30	$17.05
2	13.85	14.45	14.90	15.40	16.35	17.10
3	13.90	14.50	14.95	15.45	16.40	17.15
4	13.95	14.55	15.00	15.50	16.45	17.20
5	14.00	14.60	15.05	15.55	16.50	17.25
6	14.10	14.70	15.15	15.65	16.60	17.35
7	14.20	14.80	15.25	15.75	16.70	17.45
8	14.30	14.90	15.35	15.85	16.80	17.55
9	14.40	15.00	15.45	15.95	16.90	17.65
10	14.57	15.17	15.62	16.12	17.07	17.82
11	14.67	15.27	15.72	16.22	17.17	17.92
12	14.77	15.37	15.82	16.32	17.27	18.02
13	14.87	15.47	15.92	16.42	17.37	18.12
14	14.97	15.57	16.02	16.52	17.47	18.22

FRINGE BENEFITS:	
Health and Welfare	$1.18
Pension	1.26
Vacation	1.00
Apprenticeship Training	0.08

*See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

TRUCK DRIVERS

Group 1: Battery Rebuilders; Bus or Manhaul Driver; Concrete Buggies (power operated); Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: 6 cu. yds. and under; Lift Jitneys, Fork Lifts (all sizes in loading, unloading and transporting material on job site); Loader and/or Leverman on Concrete Dry Batch Plant (manually operated); Pilot Car; Solo Flat Bed and misc. Body Trucks, 0-10 tons; Truck Tender; Truck Mechanic Tender; Water Wagons (rated capacity) - up to 1,600 gallons

Group 2: "A" Frame or Hydra-lift Truck with load bearing surface; Lubrication Man, Fuel Truck Driver, Tireman, Wash Rack, Steam Cleaner or combinations; Team Drivers

Group 3: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 6 cu. yds. and including 10 cu. yds.; Slurry Truck Driver or Leverman; Transit Mix, and Wet or Dry Mix Trucks: 5 cu. yds. and under; Tireman Water Wagons (rated capacity) - 1,600 to 3,000 gallons

Group 4: Flaherty Spreader Driver or Leverman; Lowbed Equipment, Flat Bed Semi-trailer, Truck and Trailers or doubles transporting equipment or wet or dry materials; Lumber Carrier Driver - Stadddle Carrier (used in loading, unloading and transporting of materials on job site); Oil Distributor Driver or Leverman; Water Wagons (rated capacity) - 3,000 to 5,000 gallons

Group 5: Dumpsters or similar equipment, all sizes; Transit Mix and Wet or Dry Trucks, over 5 cu. yds. and including 7 cu. yds.

Group 6: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 10 cu. yds. including 20 cu. yds.; Transit Mix and Wet or Dry Mix Truck, over 7 cu. yds. including 9 cu. yds.; Truck Mechanic - Welder - Body Repairman; Water Wagons (rated capacity) -5,000 to 7,000 gallons

Group 7: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains of combinations thereof: over 20 cu. yds. including 30 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 9 cu. yds. including 11 cu. yds.; Water Wagons (rated capacity) over 7,000 gallons to 10,000 gallons

TRUCK DRIVERS (Cont'd)

Group 8: Dump Trucks, side, end and bottom dump including Semi Trucks and Trains or combinations thereof: over 30 cu. yds. including 40 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 11 cu. yds. including 15 cu. yds.; Water Wagon (rated capacity) over 10,000 gallons to 15,000 gallons

Group 9: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: Over 40 cu. yds. including 50 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 13 cu. yds. including 15 cu. yds.

Group 10: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 50 cu. yds. including 60 cu. yds.

Group 11: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trians or combinations thereof: over 60 cu. yds. including 70 cu. yds.

Group 12: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 70 cu. yds. including 80 cu. yds.

Group 13: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 80 cu. yds. including 90 cu. yds.

Group 14: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 90 cu. yds. including 100 cu. yds.

Drivers and Tenders (handling Sacked cement - add $0.15 per hour)

Winch Truck - takes classification of Truck on which Winch is mounted.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses 29 CFR, 5.5 (a)(1)(ii))

ZONE DESCRIPTIONS
for
LABORERS
POWER EQUIPMENT OPERATORS
and
TRUCK DRIVERS

CITIES:

Albany	Hood River	Newport
Astoria	Klamath Falls	Ontario
Baker	La Grande	Pendleton
Bend	Lakeview	Port Orford
Brookings	Longview	Reedsport
Burns	Madras	Roseburg
Coos Bay	Medford	The Dalles
Corvallis	McMinnville	Tillamook
Goldendale	Vancouver	
Grants Pass		

ZONE 1 - All jobs or projects located within 10 miles of the respective City Hall

ZONE 2 - More than 10 miles but less than 25 miles form the respective City Hall

ZONE 3 - More than 25 miles but less than 35 miles from the respective City Hall

ZONE 4 - More than 35 miles but less than 45 miles from the respective City Hall

ZONE 5 - More than 45 miles but less than 75 miles from the respective City Hall

ZONE 6 - More than 75 miles from the respective City Hall

Portland, Eugene and Salem ONLY

ZONE 1 - All jobs or projects located within 20 miles of the respective City Hall

ZONE 2 - More than 20 miles but less than 25 miles from the respective City Hall

ZONE 3 - More than 25 miles but less than 35 miles from the respective City Hall

ZONE 4 - More than 35 miles but less than 45 miles from the respective City Hall

ZONE 5 - More than 45 miles but less than 75 miles from the respective City Hall

ZONE 6 - More than 75 miles from the respective City Hall

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTIES: Bradford, Tioga & Union
DECISION NO.: PA82-3011
SUPERSEDES DECISION NO. PA80-3031, dated August 29, 1980, in 45 FR 59747.
DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (Does not include single family homes or type apartments up to and including 4 stories). Excluding Sewage and Water Treatment Plant Projects).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$13.83	.80	.90		.01
Boilermakers	16.67	1.275	1.00		.02
Bricklayers & Stonemasons	11.55	1.15	.90		.015
Carpenters	12.72	.70	.90		.05
Cement Masons	11.10				
Electricians:					
Tioga County in its entirety; Remainder of Union and Bradrord Counties	11.50	.65	3%+1.60	1.00	.02
Townships of E. Buffalo, Union & Lewisburg in Union County Bradford County, Town of Towanda, that portion of the County West of the Susquehanna River South of Tuwanda and West of U. S. Highway 309, North of Towanda	13.65	.60	3%+.40		.05
Elevator Constructors	12.95	.90	3%+.60	1.00	.10
Elevator Constructors Helpers	12.84	1.345	1.085	a+b	.035
Elevator Constructors Helpers (Prob.)	70%JR	1.345	1.085	a+b	.035
Glaziers:	50%JR				
Bradford & Tioga Counties	11.85	.75	1.20		
Union County	11.71	.70	.65		.01
Ironworkers:					
Structural, Ornamental & Reinforcing Union County	14.265	1.49	1.46		.045
Bradford & Tioga Counties	12.90	.85	1.30		.05
Laborers:					
General Laborers	8.35	.70	.80		
Operator of jackhammer, paving and other pneumatic electrical and mechinical tools, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe & the making of joints for same, wagon drill operator, cofferdam (below 10'), tunnel free air, handling and using cutting or burning torches in the wrecking of buildings, blasters, plasterer tenders,					

DECISION NO. PA82-3011 PAGE 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS(CONT'D)					
Mason tenders, scaffold builders and removal of power buggies	$8.50	.70	.60		
Lead Burners	10.75	.40	.25	c	.01
Lathers	12.72	.70	.90		.05
Line Construction:					
Lineman, dynamite man, heavy equipment operator	13.37	.55	3%		3/8%
Winch truck operator	9.38	.55	3%		3/8%
Groundman	8.97	.55	3%		3/8%
Millwrights	14.42	.70	.90		.05
Painters:					
Brush	10.85	.75	.60		.10
Tapers	11.51	.75	.60		.10
Hazardous	12.51	.75	.60		.10
Piledrivermen	12.97	3.13	1.40	d	.13
Plasterers:					
East of Susquehanna Rivar in Bradford County	11.88	.75	1.20		
Tioga, Union and Remainder of Bradford County	10.69				
Plumbers & Steamfitters:					
Tioga & Union Counties and Eastern half of Bradford Co.	14.26	.94	.95		.05
Western half of Bradford Co.	13.59	.95	1.35		.10
Roofers, Composition & Kettleman	12.05	1.00	1.10		
Sheet metal workers	13.31	.80	.86		.04
Soft floor layers	10.98	.70	.90		.05
Sprinkler Fitters	15.56	.95	1.40		.08
Truck Drivers:					
Union County	8.35				
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. PA82-3011 PAGE 3

PAID HOLIDAYS (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F- Christmas Day.

FOOTNOTES:

a. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. Six paid Holidays: A through F, plus the Friday after Thanksgiving.

c. Nine Paid Holidays: A through F and Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceeding and following the holiday.

d. Paid Holidays: Washington's Birthday, Good Friday, Memorial Day; Labor Day, Presidential Election Day, Veterans' Day and Thanksgiving Day.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii))."

DECISION NO. PA82-3011 PAGE 4

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$14.27	10%	10.3%	a	1.3%
GROUP 2	13.98	10%	10.3%	a	1.3%
GROUP 3	13.11	10%	10.3%	a	1.3%
GROUP 4	12.34	10%	10.3%	a	1.3%
GROUP 5	11.87	10%	10.3%	a	1.3%
GROUP 6	10.96	10%	10.3%	a	1.3%
GROUP 7	14.52	10%	10.3%	a	1.3%
GROUP 7-A	14.77	10%	10.3%	a	1.3%
GROUP 7-B	15.01	10%	10.3%	a	1.3%

CLASSIFICATIONS DEFINITIONS

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2 : All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-¼ c.y. and over, tandem scrapers, pippin type bachoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps well drillers, bulldozers and tractors, asphalt paint engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-¼ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, fireman (for power equipment) machines similar to above

GROUP 5: - Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc): 100 ft. and over

GROUP 7-A: 150 ft. and over
GROUP 7-B: 200 ft. and over

FOOTNOTES:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

SUPERSEDEAS DECISION

STATE: Wisconsin COUNTIES: Chippewa, Eau Claire & Pepin

DECISION NUMBER: WI82-2015 DATE: Date of Publication

Supersedes Decision No. WI80-2014 dated April 4, 1980 in 45 FR 23285

DESCRIPTION OF WORK: Building Construction including Residential

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$16.03	.60	1.50		.15
BOILERMAKERS	14.97	1.375	1.15		.05
BRICKLAYERS & STONEMASONS	12.90	.90	.90		.05
CARPENTERS	12.27	.60	1.00		.05
Residential	7.67	.60	.50		.05
CEMENT MASONS	12.90	.90	.60		.10
ELECTRICIANS	14.91	5%	3%		½ of 1%
Residential	7.97	.68	3%		½ of 1%
ELEVATOR CONSTRUCTORS	14.77	1.345	.95	a+b	.035
Helpers	10.34	1.345	.95	a+b	.035
Probationary Helpers	7.385				
IRONWORKERS:					
Structural, Ornamental, & Reinforcing	14.80	.95	.90		.04
LABORERS:					
Laborers, Common	10.67	.65	.55		.03
Mason Tenders	10.92	.65	.55		.03
Mortar Mixer & Plaster Laborer, Air, Gas, Electric Equipment & Vibrator Operators, Kettlemen Dumpmen & Pitmen, Burner on Wrecking, Scaffold Builder & Washing Walls on Swinging Scaffold	10.82	.65	.55		.03
Jackhammer	10.97	.65	.55		.03
LATHERS	12.27	.60	1.00		.05
LINE CONSTRUCTION:					
Linemen	14.40	.45	9%		1½
Heavy Equipment Operators	12.96	.45	9%		1½
Light Equipment Operators	11.52	.45	9%		1½
Heavy Groundman - Truck Drivers	10.08	.45	9%		1½
Light Groundman - Truck Drivers	9.36	.45	9%		1½
Groundman	7.92	.45	9%		1½
MILLWRIGHTS & PILEDRIVERMEN	12.67	.60	1.00		.05
PAINTERS:					
Brush	12.00		.15	5%	
Structural Steel & Iron Painting	13.00		.15	5%	
Spray & Sandblaster	12.50		.15	5%	
PLUMBERS & STEAMFITTERS	13.67	.75	.85	1.70	
Residential	11.94	.75	.85	1.70	
ROOFER	13.32			3%	

DECISION NO. WI82-2015 Page 2

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS	$14.79	.75	.60		.06
Residential	8.87	.75	.60		.06
TRUCK DRIVERS:					
Two Axles	11.10	d	e	.20	
Three or more Axles	11.20	d	e	.20	
POWER EQUIPMENT OPERATORS:					
GROUP I	14.12	1.35	1.00		.05
GROUP II	13.85	1.35	1.00		.05
GROUP III	13.52	1.35	1.00		.05
GROUP IV	13.41	1.35	1.00		.05
GROUP V	12.90	1.35	1.00		.05
GROUP VI	12.47	1.35	1.00		.05

GROUP I - Cranes; Shovels; Draglines; Backhoes; Clamshells; Derricks; Caisson Rigs; Dredge Operator & Traveling Crane (Bridge Type); Concrete Paver (Over 27E); Concrete Spreader & Distributor.

GROUP II - Material Hoists; Stack Hoists; Tracer or Truck Mounted Hydraulic Backhoe; Tractor Truck Mounted Hydraulic Cranes (5 tons or under); Manhoist; Tractor, Bulldozer, Endloader (Over 40 H.P.); Forklift (25' & Over); Motor Patrol; Scraper Operator; Sideboom; Straddle Carrier; Mechanic & Welder; Bituminous Plant & Paver; Roller (Over 5 Tons); Rotary Drill & Blaster; Trencher (Wheel Type Chain Type Having Over 8-Inch Bucket); Elevator.

GROUP III - Concrete & Grout Pumps; Backfiller; Concrete Auto Breaker (Large); Concrete Finishing Machines (Road Type); Roller Rubber Tire); Concrete Batch Hopper; Concrete Conveyor Systems; Concrete Mixers (14S or Over); Screw Type & Gypsum Pumps; Tractor; Bulldozer, Endloader (Under 40 H.P.); Pumps (Well Points); Trencher (Chain Type Having Bucket 8-Inch & Under); Industrial Locomotives; Roller (Under 5 Tons) & Firemen (Pile Drivers & Derricks).

GROUP IV - Hoists (Automatic); Forklift (12' to 25'); Tampers-Compactors (Riding Type); Assistant Engineer; "A" Frames & Winch Trucks; Concrete Auto Breakor; Hydrohammers (Small); Brooms & Sweepers; Hoists (Tuggers); Stump Chipper (Large); Boats (Tug, Safety, Work Barges & Launch).

GROUP V - Shouldering Machine Operator; Screed Operator; Farm or Industrial Tractor Mounted Equipment; Post Hole Digger; Stone Crusher & Screening Plants; Fireman (Asphalt Plants); Air Compressor (300 CFM or Over); Augers (Vertical and Horizontal); Air, Electric, Hydraulic Jacks (Slip Form); Prestress Machines' Bobcats; Boiler Operator(Temporary Heat); Forklift (12' and Under).

GROUP VI - Generators Over 150 KW; Pumps Over 3"; Combination Small Equipment Operator; Compressors (Under 300 CFM); Welding Machines; Heaters (Mechanical); Generators (Under 150 KW); Pumps (3" & Under); Winches (Small Electric); Oiler & Greaser; Rotary Drill Helper, Conveyor.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 8% of regular hourly rate to Vacation Pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay credit for employee who has worked in business less than 5 years.
b. Holidays: A through F.
d. $21.45 per week for each employee.
e. $27.00 per week for each employee

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: WISCONSIN COUNTY: Green & Rock
DECISION NUMBER: WI82-2016 DATE: Date of Publication
Supersedes Decision No. WI80-2040 dated May 30, 1980 in 45 FR 36701
DESCRIPTION OF WORK: Building construction (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$14.38	1.20	1.35	1.50	.12
BOILERMAKERS	14.97	1.375	1.15		.05
BRICKLAYERS & STONEMASONS	13.28	.90	.90	.25	.02
CARPENTERS & SOFT FLOOR LAYER	14.36	.60	1.00		.12
Millwrights	14.96	.60	1.00		.12
Piledrivermen	14.51	.60	1.00		.12
CEMENT MASONS	12.50	.90	1.20		
ELECTRICIANS	14.22	.58	6%	7%	4%
ELEVATOR CONSTRUCTORS:					
Southern Portion of Cos.	15.265	1.345	.55	a+b	.035
Northern Portion of Cos.	13.76	1.345	.95	a+b	.035
ELEVATOR CONSTRUCTORS' HELPERS:					
Southern Portion of Cos.	10.685	1.345	.95	a+b	.03
Northern Portion of Cos.	9.63	1.345	.95	a+b	.03
GLAZIERS:					
Northern 2/3 of Counties	14.50	.73			.03
Southern 1/3 of Counties	12.73	.47	.50	1.50	.02
IRONWORKERS (all):					
Vic. of Edgerton, Milton, Poolville & Evansville	13.11	1.30	1.00		.07
Vic.of Janesville, Shopier	15.85	1.30	.375		.10
LABORERS:					
General	11.17	.65	.55		.03
Plaster tenders	11.42	.65	.55		.03
Mortar Mixer, Jackhammer & Air Hammer Operator	11.42	.65	.55		.03
LINE CONSTRUCTION:					
Linemen	14.40	.45	9%		4%
Heavy Equipment Operator	12.96	.45	9%		4%
Light Equipment Operator	11.52	.45	9%		4%
Heavy Groundman - Truck Driver	10.08	.45	5%		4%
Light Groundman - Truck Driver	9.36	.45	9%		4%
Groundman	7.92	.45	9%		4%
PAINTERS:					
Brush	12.10	1.05	.60		.08
Structural Steel (Brush)	12.10	1.05	.60		.08
Spray	13.10	1.05	.60		.08
Swing Stage	12.35	1.05	.60		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	$12.35	.90	1.20		
PLUMBERS & STEAMFITTERS	16.85	.90	1.15		.06
ROOFERS	16.17	.90			.03
SHEET METAL WORKERS	16.20	1.00	.96		.06
TILE SETTERS	13.28	.90	.90	.25	.07
WELDERS-Receive rate prescribed for craft performing operation to which welding is incidental					
POWER EQUIPMENT OPERATORS:					
GROUP I	14.12	1.35	1.00		.05
GROUP II	13.85	1.35	1.00		.05
GROUP III	13.52	1.35	1.00		.05
GROUP IV	13.41	1.35	1.00		.05
GROUP V	12.90	1.35	1.00		.05
GROUP VI	12.47	1.35	1.00		.05

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Derrick Operators & Traveling Cranes (Bridge Type), concrete Paver (over 27E), Concrete Spreader & Distributor
GROUP II - Material Hoists, Tractor or Truck Mounted Hydraulic Backhoe, Tractor or Truck Mounted Hydraulic Crane (5 Tons or Under), Manhoist, Tractor (over 40 H.P.), Bulldozer H.P.), Endloader (over 40 H.P.), Forklift (25' & over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic & Welder, Bituminous Plant & Paver Operator, Roller (over 5 tons), Rotary Drill Operator & Blaster, Trencher (wheel type or chain type having over 8-inch bucket)
GROUP III - Concrete & Grout Pumps, Backfiller, Concrete Auto Breaker (large), Concrete Finishing Machine (Road Type), Roller (Rubber Tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw Type Pumps, & Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (well Points), Trencher (chain type having bucket 8-inch & under), Industrial Locomotives, Roller (under 5 tons) & Firemen (pile drivers & Derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors riding type), Assistant Engineer, "A" Frame & Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms & Sweeper, Hoists (tuggers) Stump Chipper (large), Boats, Safety, Work, Barges & Launch)
GROUP V - Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor Mounted Equipment, Post Hole Diggers, Stone Crushers & Screening Plants, Firemen (asphalt plants), Air Compressor (300 CFM or over)
GROUP VI - Generators over 150KW Pumps over 3", Augers (vertical and horizontal), Combination Small Equipment Operator; Air, Electric Hydraulic Jacks (Slip Form), Compressors (under 300 CFM); Welding Machines, Heaters (mechanical), Prestress Machines, Bobcats, Generators (under 150 KW), Pumps (3" & under); Winches (small electric), Oiler and Greaser, Boiler Operators (temporary heat), Rotary Drill Helpers, Conveyors.

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Six Paid Holidays: A through F

b. Employer contributes 8% of regular hourly rate for vacation pay credit for employee who has worked in business more than 5 years and 6% for employee who has worked in the business less than 5 years

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Wyoming

COUNTIES: Converse, Goshen, Laramie, Natrona, Niobrara and Platte

DECISION NUMBER: WY82-5106

DATE: Date of Publication

Supersedeas Decision No. WY81-5108 dated April 3, 1981, in 46 FR 20477

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and or Appr. Tr.
ASBESTOS WORKERS	$15.39	.75	$ 1.49		
BOILERMAKERS	14.97	1.375	1.15		.05
BRICKLAYERS; Stonemasons:*					
Area 1	13.64	.70	.50		.07
Area 2	12.90	.60	.50		.15
CARPENTERS:					
Carpenters	12.75	.85	.75	.75	.22
Piledrivermen	13.00	.85	.75	.75	.22
CEMENT MASONS:					
Cement Masons	13.15	.60			.15
Working on Swinging Stage or temporary platform over 20 ft. high	13.65	.60			.15
Composition material, epoxy	13.65	.60			.15
ELECTRICIANS:*					
Area 1:					
Electricians	16.00	.75	3%+.50		3/4of 1%
Cable Splicers	16.25	.75	3%+.50		3/4of 1%
Area 2:					
Contracts $250,000 and under:					
Electricians	14.75	1.00	3%+.75		3/4of 1%
Contracts over $250,000:					
Electricians	15.70	.75	3%+.75		3/4of 1%
ELEVATOR CONSTRUCTORS	14.88	1.345	.95	a	.035
ELEVATOR CONSTRUCTORS' HELPER	10.42	1.345	.95	a	.035
ELEVATOR CONSTRUCTORS' HELPER (Prob.)	7.44				
IRONWORKERS:					
Structural; Ornamental; Reinforcing	14.15	1.05	1.60		.15
MARBLE, TILE and TERRAZZO WORKERS:*					
Area 1	11.10	.45	.30		
MILLWRIGHTS	14.66	1.10	1.00		.29

*See AREA Descriptions - Page 3

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and or Appr. Tr.
PAINTERS:					
Brush and Roller	$13.31	.95	$1.15		.08
Spray, Swing Stage and Hazardous	13.91	.95	1.15		.08
Sandblaster (interior)	15.23	.95	1.15		.08
Paperhanger	13.91	.95	1.15		.08
Drywall Finisher	13.56	.95	1.15		.08
Finishers (machine)	13.91	.95	1.15		.08
PLUMBERS; Steamfitters:*					
Area 1	13.32	1.00	.90	1.50	.18
Area 1-A	16.32	1.00	.90	1.50	.18
Area 2:					
Zone 1	15.03	1.00	1.10	2.00+b	.50
Zone 2	15.90	1.00	1.10	2.00+b	.50
Zone 3	16.75	1.00	1.10	2.00+b	.50
Zone 4	18.06	1.00	1.10	2.00+b	.50
Zone 5	19.05	1.00	1.10	2.00+b	.50
ROOFERS	11.44				
SHEET METAL WORKERS:*					
Area 1	14.43	.63	1.32		.23
Area 2	10.92	.51	1.10		.08
SPRINKLER FITTERS	14.57	.95	1.40		.08
WELDERS; RIGGERS: Receive rate prescribed for craft performing operation to which welding or rigging is incidental.					

*See AREA and ZONE Descriptions - Page 3

FOOTNOTES:

a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; and Christmas Day.

b. Paid Holiday: Labor Day

AREA DESCRIPTIONS

BRICKLAYERS; Stonemasons:
Area 1: Goshen, Laramie and Platte Counties
Area 2: Converse, Natrona and Niobrara Counties

ELECTRICIANS:
Area 1: Goshen, Laramie, Niobrara and Platte Counties
Area 2: Converse and Natrona Counties

MARBLE, TILE and TERRAZZO WORKERS:
Area 1: Converse, Natrona and Niobrara Counties

PLUMBERS; Steamfitters:
Area 1: Cheyenne only
Area 1A: Goshen, Platte and Laramie Counties, excluding Cheyenne
Area 2: Converse, Natrona and Niobrara Counties:

Zone 1: 10 miles radius from Post Office in Casper
Zone 2: 10 miles radius beyond Zone 1
Zone 3: 20 miles radius beyond Zone 2
Zone 4: 40 miles radius beyond Zone 3
Zone 5: Jurisdiction beyond Zone 4

SHEET METAL WORKERS:
Area 1: Converse, Natrona and Niobrara Counties
Area 2: Goshen, Laramie and Platte Counties

LABORERS BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and or Appr. Tr.
Group 1	$ 8.79	$1.00	.50	$1.00	.05
Group 2	9.03	1.00	.50	1.00	.05
Group 3	9.28	1.00	.50	1.00	.05
Group 4	9.28	1.00	.50	1.00	.05
Group 5	9.33	1.00	.50	1.00	.05
Group 6	9.18	1.00	.50	1.00	.05
Group 7	9.08	1.00	.50	1.00	.05
Group 8	8.93	1.00	.50	1.00	.05
Group 9	9.68	1.00	.50	1.00	.05

Group 1: General Laborers: All work pertaining to pre-watering, pre-irrigation, and pre-wetting); Axeman and Hand Faller; Bin Wall Installer; Bituminous Curb Builder; Burner (Cutting Torch); Car and Truck Loader; Carpenter Tender; Cement Mason Tender; Chuck Tender; Concrete Saw; Concrete Worker (wet or dry) (curing and drying); Creosote Material Handler (corrosive enamel or its equal); Dumpman; Erector and Installer (includes the installation of all fences, right of way, median fences, snow fences, etc., guard rails, section rails, reference posts, guide posts, signs and right of way markers); Form Setter (paving); Form Setter Tender (paving); Form Stripper; General Laborer; Gunnite Tender; Hand Operated Vibrator Roller; Jackhammer and Pavement Breaker; Landscaper; Landscaper Tender; Material Handler (lumber, rods, cement, concrete); Mechanical Form Cleaner; Mortar Man on Stone Riprap; Nozzleman (air and water); Operator on pnuematic, electric, gas tamper and similar mechanical tools; Pipe Setter (corrugated, culvert pipe multi-plate, sectional plate and similar type); Pipe Setter Tender (corrugated); Pipe Setter Tender (non-metallic); Pipe Wrapper; Powderman Tender; Power Saw Operator (clearing); Power type Concrete Buggy (push); Power type Concrete Buggy (ride); Riprap Man; Rodman; Sandblaster Pot Tender; Shoring and Lagging Open Ditch; Signalman, grade, concrete, etc.; Scissorman or Hopper Man; Stake Jumper for equipment; Tar and asphalt Pot Tender; Unloading and packing of steel rods and mesh (reinforcing); Vibrator - concrete; Wrecking and Demolition Crews; Heat Tender and Pilot Car Operator;

LABORERS (Cont'd)
BUILDING CONSTRUCTION (Cont'd)

Group 2: Semi-skilled Laborers: Asphalt Raker and tamper; Gunnite Nozzleman; High Scaler (using air tool from bos'n chair, swing stage life belt, or block and tackle, shall receive 20¢ per hour more than the classified rate); Sandblaster Nozzleman; Sewer Pipe Installer (non-metallic, Caulker, Collarman, Jointer, Mortarman, Rigger, Jacker);

Group 3: Drilling - Blasting: Powderman and Blaster; Wagon Drill, Air Track, Diamond and other drills for blasting powder or grouting

Group 4: Tenders: Fork Lift Operator (masonry work); Hodcarriers; Mason Tenders; Plasterer Tenders; Scaffold Builders; Terazzo Tenders; Tile Setter Tenders

Group 5: Tunnel - underground: Drill Doctors; Finishers; Form Setters and Movers; Jackhammer Man; Machine Man; Miners (Drillers); Piling and/or Caisson Workers; Rebar Man; Spaders; Steelman; Timberman; Tuggers

Group 6: Chuck Tender; Nipper; Top Man or Top Lander

Group 7: Brakeman; Vibrator Man

Group 8: Bull Gang Laborer; Mucker

Group 9: Shifter

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

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federal register

Friday
March 12, 1982

Part III

Environmental Protection Agency

Hazardous Substances; National Oil and Hazardous Substances Pollution Contingency Plan; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[SWH-FRL 1906-4]

Hazardous Substances; National Oil and Hazardous Substances Pollution Contingency Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) requires revision of the National Contingency Plan originally published pursuant to section 311 of the Federal Water Pollution Control Act. In compliance with section 105, this proposed revision modifies the Plan to include the new responsibilities and authorities for responding to releases into the environment of hazardous substances and other pollutants and contaminants. This revision is intended to reflect and effectuate the responsibilities and powers created by CERCLA.

DATES: Comments must be submitted on or before April 12, 1982.

ADDRESSES: Comments may be mailed to William N. Hedeman, Jr., Director, Office of Emergency and Remedial Response (WH-548), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Sylvia Lowrance, Office of Emergency and Remedial Response (WH-548), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Phone (202) 382-2235.

SUPPLEMENTARY INFORMATION:

I. INTRODUCTION

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510 ("CERCLA" or "the Act"), enacted on December 11, 1980, establishes broad Federal authority to respond to releases or threats of releases of hazardous substances, pullutants or contaminants from vessels and facilities. The government may take response action under circumstances prescribed by the Act whenever there is a release or a substantial threat of a release of a hazardous substance, or there is a release or a substantial threat of a release of other pollutants or contaminants which may present an imminent and substantial danger to public health or welfare (section 104). Depending on the nature of the release or threat of release, the government may undertake short-term cleanup actions, long-term actions consistent with permanent remedy, or both.

The Act's authorization for government response is conditioned by section 104(a)(1), which states in pertinent part:

> • • • the President is authorized to act, consistent with the national contingency plan, to remove or arrange for the removal of, and provide for remedial action relating to such hazardous substance, pollutant, or contaminant at any time (including its removal from any contaminated natural resource), or take any other response measure consistent with the national contingency plan which the President deems necessary to protect the public health or welfare or the environment, unless the President determines that such removal and remedial action will be done properly by the owner or operator of the vessel or facility from which the release or threat of release emanates, or by any other responsible party.

Section 105 of the Act requires that modifications be made to the National Contingency Plan originally mandated by section 311(c)(2) of the Clean Water Act (CWA), 33 U.S.C. 1321(c)(2). This Plan originally was prepared by the Council on Environmental Quality (CEQ) and is located at 40 CFR Part 1510. Executive Order 12316, 46 FR 42237, delegates the responsibility to amend the National Contingency Plan to the Environmental Protection Agency. As a consequence, Part 1510 is proposed to be moved from 40 CFR Chapter V to 40 CFR Chapter I and redesignated Part 300. The CEQ Plan, which remains in effect until superseded by the revisions required by CERCLA, was last revised on March 19, 1980 (45 FR 17832). Specific requirements under the CWA are detailed in Subpart A of this proposal, along with the new requirements for the Plan specified by CERCLA.

Section 105 states that the revisions shall include a section to be known as the "national hazardous substance response plan." EPA has included in the revision a new Subpart F entitled "Hazardous Substance Response." This section includes new material applicable to actions taken pursuant to CERCLA. Subparts A-D, G and H, however, also contain material that generally is applicable to responses under CERCLA, as well as the CWA. While the new Subpart F contains most materials required to be in the section entitled "national hazardous substance response plan," EPA believes that response actions pursuant to CERCLA must be taken consistent with the entire NCP and has, therefore, not designated any single section as the national hazardous substance response plan.

CERCLA requires the addition of elements to the Plan which may be construed as regulatory in nature and provides for their adoption after opportunity for public comment. EPA has not included in the Plan material which is best described as "ministerial" by nature, and which is not required by statute or Executive Order. These ministerial portions will, in part, be included as guidance in a general CERCLA operating manual of which this Plan will be one part.

The development of the proposed revised Plan was guided by an analysis of the statutory and Executive Order requirements for the Plan. Inclusion of material beyond that required by statute or Executive Order was limited to material: (1) Not available in existing publications and (2) necessary to an understanding of the Plan's philosophy, purpose and/or operations. In all cases, care was used to ensure that the Plan accurately reflects actual Agency practices.

As presented in the proposed revision, the National Contingency Plan contains the basic policies to direct the Federal response to releases or threatened releases of oil and hazardous substances. It is a document which is designed to make Federal action reasonably predictable by both the regulated community and the general public which the statutes are intended to protect. In the explanation of the individual Subparts which follow, the more extensive or apparent changes to the current Plan are noted.

Major Revisions to the Existing NCP

A. Annexes

The nine annexes in the current Plan have been eliminated in this proposal. Material from the existing annexes has been included in the body of the proposed revised Plan as appropriate.

Annex I of the existing Plan details the entities to which the Plan would be distributed. The same entities will receive the proposed Plan but the distribution list is not made part of the Plan.

Annex II of the existing Plan provides a very detailed outline of the formats for Regional and local contingency plans. The proposed revision provides in Subpart D basic requirements for those plans including a provision that those plans shall follow the format of the national Plan as closely as possible.

Annex III of the existing Plan provides a listing of the addresses and telephone numbers of regional and local EPA and Coast Guard offices and a map of the standard EPA Federal regions. Given the wide availability of current information in this regard, Annex III is eliminated in the proposed revision.

Annex IV lists Federal statutes and international agreements relative to control of pollution by oil and hazardous substances. This information has been eliminated from the proposed revision as being unnecessary as a part of the Plan.

Annex V provides a listing of communications services available in the National Response Center. This detailed listing has been eliminated as being of little practical value, available elsewhere, and subject to change. Information on contacting the NRC is included in Subpart C.

Annex VI details sample collection procedures to be followed by the On-Scene Coordinator. EPA believes this information should more appropriately be included in the general operating manual that it is preparing to supplement the Plan. Annex VI has therefore been eliminated from the Plan and will be reestablished in this supplemental guidance.

Annex VII of the current Plan provides a detailed listing of reference documents to be maintained in the National Response Center and in each Regional Response Center. Because the list of appropriate publications will change as new publications appear, this list has been eliminated in the proposed revision and the contents of the reference libraries has been left to the National Response Team to specify on a continuing basis.

Annex VIII contains definitions of terms used in the Plan. In the proposed revision, necessary definitions have been moved to Subpart A.

Annex IX is "reserved for future use" and therefore has been eliminated in the proposed revision.

Annex X which addresses the statutory requirement for a schedule of chemicals and other additives to remove oil and hazardous substances discharges has been rewritten and is addressed in Subpart H of the revised Plan.

B. Subparts

Subparts A through D of the proposed revision deal with the same general subject matter as the corresponding subparts of the existing Plan. Subpart E, now titled "Operational Response Phases" is retitled "Operational Response Phases for Oil Removal" while a new Subpart F, "Hazardous Substance Response" has been developed to reflect the new authorities of CERCLA. Under the proposed revision, some elements of the current Subpart F are incorporated into Subpart C. Two new Subparts, G and H, are included in the proposed revision. A detailed discussion of the new subparts is included below. The following details changes made to material in the existing Plan:

1. *Subpart A.* Subpart A details the satatutory and Executive Order base on which the Plan rests. This section also sets out with appropriate statutory citations those items which the Plan is required to address and provides an explanation of abbreviations and terms used throughout the Plan. Definitions have been taken from the appropriate statute without modification wherever possible and their source cited. Other definitions are constructs of the Plan used to refer to concepts more fully defined in the Plan. Principal among these are:

Coastal Zone which is used to distinguish the areas of United States Coast Guard responsibility under the Plan from that of EPA. This distinction in no way expands or limits overall Federal jurisdiction.

Fund or Trust Fund is used as a shorthand reference to the CERCLA Hazardous Substance Response Trust Fund.

Inland Zone also serves to delineate lead agency responsibility. It includes the environment inland of the coastal zone excluding the Great Lakes and specified ports and harbors of inland rivers as specifically identified in Federal regional contingency plans.

Lead Agency is used to refer to the agency that appoints the On-Scene Coordinator.

Oil Pollution Fund is used as a shorthand reference to that Fund created by section 311(k) of the Clean Water Act.

On-Scene Coordinator is used to refer to the Federal official designated to coordinate and direct a Federal response under the Plan. The designation of the On-Scene Coordinator, his duties, responsibilities, and authority are spelled out in the Plan.

Trustee is used to refer to the Federal agencies that shall act as trustees for natural resources pursuant to section 111 of CERCLA. The role of a trustee is explained in Subpart G.

United States and State are given their customary definition.

Volunteer is given a specific meaning in the context of the Plan. As used in the Plan volunteer means an individual accepted to perform services by an agency with authority to accept volunteer services.

Subpart A as proposed in this revision also reflects the following changes in the existing Plan:

—Redrafting of the *Purpose and Objectives* section to reflect the purpose and objectives of the CERCLA. (§ 510.1 of the existing Plan).

—Redrafting of the *Authority* section to reflect the passage of CERCLA and transfer of the listing of Plan contents from this section to the *Scope* section where it is more appropraite.

—Elimination from the *Scope* section of a recitation of limited geographic jurisdiction of the Plan which was rendered obsolete by CERCLA.

Two items ((9) and (10)) of the scope section were removed from the listing in the proposed revised Plan because they are not required by statute or Executive Order. First, the Plan continues to include provision for a Scientific Support Coordinator, but has deleted specific procedures for coordinating scientific support of cleanup operations, assessment of damage after a spill, and research efforts as not required or a necessary element of the Plan. Second, EPA has left to the National Response Team the opportunity to develop a system of referral and appeal for the Regional Response Teams and On-Scene Coordinators to the National Response Team.

The section of the existing Plan on abbreviations was amended in the proposed Plan in the following respects:

—The reference to the Department of Health, Education and Welfare (DHEW) was replaced by a reference to the Department of Health and Human Services (HHS) reflecting the changed Federal organization.

—The following new abbreviations were added to reflect new language introduced as a result of CERCLA additions to the Plan:

NIOSH—National Institute for Occupational Safety and Health
OSHA—Occupational Safety and Health Administration
NSF—National Strike Force
PIAT—Public Information Assist Team

2. *Subpart B.* Subpart B assigns Federal responsibilities under the Plan to various Federal Agencies and Departments and also outlines State and local, and non-government participation in actions taken under the Plan, as required by section 311(c)(2)(A) of CWA and sections 105(4), 105(6), and 105(9) of CERCLA.

Principal Federal assignments of responsibility were made in two Executive Orders (11735 and 12316) and those delegations are incorporated in the Plan. In addition, Federal agencies which may from time to time e called upon to provide assistance in actions taken under the Plan are identified.

State and local participation in Plan activities are provided through Regional Response Teams and contracts or cooperative agreements. Finally,

guidelines are provided for participation of non-government entities in plan activities.

This subpart amends § 1510.22 *Duties of Federal Agencies* and § 1510.23 *Non-Federal Participation*, of the existing Plan. The major change is the incorporation of Executive Order delegations in the Plan and a shortening of the description of individual agency activities.

3. *Subpart C.* This Subpart explains the administrative organization of the response program, delineates the authorities and responsibilities of participants and meets the requirements of sections 311(c)(2)(B) and 311(c)(2)(E) of CWA, as well as section 105(5) of CERCLA. The proposal does not change the basic organizational scheme of the Plan, but it discusses organizational components in the context of the principal categories of activities in which they engage: Planning and Coordination (§ 300.32), Response Operations (§ 300.33), and Communications (§ 300.35).

The role, responsibilities and authorities of the On-Scene Coordinator (OSC) under CERCLA will vary somewhat from that under section 311 of the Clean Water Act. Under section 311 the OSC's responsibilities and authorities have been very broad. The NRT and EPA believe that the OSC's duties should remain the same in the current Plan during emergency actions. Broad powers are critical in emergencies since time is of the essence, and immediate response by other officials or organizations often is impracticable.

The new authorities in CERCLA, however, contemplate response in situations other than classic emergencies such as response at hazardous waste sites with chronic low level releases. More time for planning, greater coordination with other government officials, larger Fund expenditures and a greater range of expertise may be required in managing these problems. Such nonemergency response includes planned removal and remedial actions, which are discussed in Subpart F of the proposed revised Plan. The revised description of the role of the OSC in Subpart C reflects not only the traditional responsibilities of the OSC, but also the changes in OSC responsibilities required by the new CERCLA authorities.

Subpart C also describes the circumstances under which each of the two major Fund-financed response agencies, EPA and the USCG, is responsible for designating the OSC for response action. For any particular release, the Agency making this designation is characterized throughout the proposal as the "lead agency". The Plan specifies that the USCG shall provide OSCs for Federally managed responses involving oil discharges and immediate removal of hazardous substance releases into the coastal zone, and that EPA shall provide OSCs for Federally managed responses involving oil discharges and immediate removal of hazardous substance releases into or threatening the inland zone. Unless otherwise provided, EPA shall designate the OSC for all Federally managed planned removal and remedial actions regardless of location.

4. *Subpart D.* Section 311(j)(1)(B) of the CWA requires that regulations be issued, consistent with the NCP, which establish criteria for the development and implementation of local and regional oil and hazardous substance removal contingency plans. Subpart D sets forth the required contents of Federal local and Federal regional contingency plans. Annex II of the existing NCP has been substantially incorporated in this Subpart by requiring that all Federal local and Federal regional contingency plans will follow the format of the NCP. The discussion of response and support equipment from Subpart D of the existing Plan is now included in Subpart C.

5. *Subpart E.* Subpart E addresses the operational phases for responding to discharges of oil into the waters of the United States. Phase I, § 300.51, provides a system of surveillance and notice designed to insure the earliest possible notice of discharges to the appropriate State and Federal agencies as required by section 311(c)(2)(D) of the CWA.

Sections 300.52 through 300.57 set forth procedures and techniques to be employed in identifying, containing, dispersing and removing oil as required by section 311(c)(2)(F) of the CWA, including procedures for documentation of cost recovery and required content for pollution reports. Section 300.58 entitled "Funding" has been added to the existing plan to identify controls on section 311(k) Oil Pollution Fund expenditures. Subsection 300.58(h) describes the system required by section 311(c)(2)(H) of the CWA whereby the States can act to remove a discharge and be reimbursed from the Fund established under section 311(k) of the CWA for reasonable costs.

The USCG, which has primary responsibility for responding to discharges of oil in the coastal area was directly involved in the revision of Subpart E and recommended only minor changes to the current Plan. Thus, Subpart E, as published today, remains substantially similar to Subpart E of the existing Plan.

III. Major Additions to the NCP

A. Subpart F

Subpart F establishes procedures and standards for responding to releases of hazardous substances, pollutants, and contaminants through the development of seven operational phases. Like Subpart E, it is organized by operational response phases. Phase I, entitled Discovery and Notification, sets forth the means by which a release may be discovered and reported to the National Response Center (NRC). Phase II, § 300.63, provides for a preliminary assessment of a release. The assessment may be undertaken by the lead agency for the purpose of gathering pertinent information as listed and for an evaluation of the magnitude of the hazard.

Phases III, IV, V and VI address the requirement of 105(3) of CERCLA that the Plan include methods and criteria for determining the appropriate extent of removal, remedy and other measures authorized by the Act. Section 101(23) of CERCLA defines removal as those response actions that should, to the extent possible, be taken relatively quickly after discovery to protect or prevent actual or potential injury to public health, welfare or the environment. Removal actions are limited to a Fund obligation of $1 million or six months duration unless a finding is made that: (1) Continued response actions are immediately required to prevent, limit, or mitigate an emergency, (2) there is an immediate risk to public health or welfare or the environment, and (3) response will not otherwise be provided on a timely basis (section 104(c)).

The Plan divides the statutory concept of removal into two categories "immediate" removal (Phase III) and "planned" removal (Phase V). The purpose of the division is to clearly delineate those circumstances when removal actions may be taken, thereby preventing the unchecked use of Trust Fund monies for all possible removal actions which could result in depletion of the Fund and an inability to fund remedial actions. It also serves to establish the appropriate extent of response in that immediate removal actions are terminated when the criteria for taking such action no longer are met.

1. *Immediate Removal.* Phase III, § 300.64, of the Plan provides that immediate removal actions may be taken when the OSC determines that prompt response may prevent immediate and significant harm or endangerment to human life, health or the environment. Immediate removal would, therefore, be appropriate to avert or mitigate fires or explosions; human, animal or food-chain exposure to acutely toxic substances; contamination of a drinking water supply; or other similarly acute situations. The pattern of response outlined for this type of release is similar to the pattern of response used in the current Plan, Subpart E, for oil and hazardous substance removal. Immediate removal actions will be terminated after six months or $1 million is expended, unless findings required by section 104(c)(1) of the statute are made. Immediate removal will be terminated at any time prior to reaching these limitations when it is determined that the criteria in § 300.64(a)(1) are no longer present.

2. *Planned Removal.* Section 300.66 of Subpart F allows a planned removal at a release that is listed as a priority or at an unranked release to abate a threat that may result in a need to take immediate removal. Planned removals are appropriate when an expedited, but not necessarily immediate, response should be taken.

Planned removal is intended to conserve Fund monies by allowing timely response to releases which, if addressed expeditiously, will result in substantial cost savings while effectively minimizing and mitigating increases in damage or exposure that otherwise would occur if response were delayed. No planned removal may be taken, however, unless it will result in a self contained unit, the State agrees to share in at least 10 percent of the project expenses, and, in the case of an unranked site, the State assures the release will be submitted as a priority in the next revision of the National Priorities List. A self-contained component is one that (1) is a discrete activity which can be completed within the relevant time and funding constraints; (2) should not require future expenses on operation and maintenance; and (3) effectively contributes to lessening damages or exposure or increases in damages or exposure. Funding of such a component does not commit the Fund to taking any further action. Planned removal may not exceed the six months or $1 million limitation of section 104(c)(1) of CERCLA unless findings required by section 104(c)(1) of CERCLA are made. The six months or $1 million limitation does not include expenses incurred under section 104(b) of CERCLA.

3. *Remedial Response.* (a) *Establishment of National Priorities.* Releases that may be considered for remedial actions must be identified on the National Priority List. Section 300.65(d) sets forth the criteria and methodology contained in a Hazard Ranking System that the States and EPA will use to determine priorities for response among releases of hazardous substances. These proposed criteria have been used to establish an interim priority list of 115 releases or threatened releases which will be used to make initial funding decisions. EPA will use this interim ranking and any public comments received on the proposed revisions to the NCP to reexamine the Hazard Ranking System, and make any necessary modifications. The final criteria will be used to assign priority ranking to at least 400 of the highest priority releases. These will be published as the National Priority List. This list will be used to allocate funds for remedial and planned removal activities.

(i) *Hazard Ranking System.* The criteria and methodology to be used in ranking releases are referenced in § 300.65(d) as the Hazard Ranking System (HRS). The HRS is designed to provide an estimate of the relative severity of hazardous substance releases by considering: (1) The relative potential of substances to cause hazardous situations, (2) the likelihood and rate at which the substances may affect human and environmental receptors, and (3) the severity and magnitude of the potential effects.

The HRS identifies five major pathways of exposure to determine the relative hazard of each release or potential release. The five pathways of exposure are: (1) Ground water, (2) surface water, (3) air, (4) direct contact, and (5) fire and explosion. The first three pathways define the types of chronic harm which may be associated with releases to be addressed by remedial actions while the latter two define types of situations which normally are addressed by removal actions.

The probability of exposure to releases through each pathway is related to such factors as the geology of the location of the release, the kinds of engineering controls practiced at the facility, and the physical characteristics of the hazardous substances.

The degree of harm or endangerment, assuming exposure through one or more of the pathways, is considered to be a function of a number of factors, including the population exposed, the dangerous properties of the hazardous substances, and the value of the resources affected by the release.

In combining the two factors, probability and magnitude, the following equation is used to represent risks:

$R = (P)(M)$

where R = Risk

P = Probability (of adverse event)

M = Magnitude (of adverse event)

This approach is used in the HRS with modifications to reflect the uncertainties often present during investigations at hazardous substance releases. These uncertainties are a result of the inability of investigators to accurately quantify the probability (except where pollution is observed) or the magnitude of a threat without completing lengthy and expensive studies. Therefore, while the HRS can be used to discriminate relative risk among various facilities, it does not present absolute risks.

In order to calculate the hazard ranking score for a given release, one must assign a numerical value, for most factors on a scale of 0 to 3, for each pathway characteristic. Where releases have been observed, one assigns scores for observed pollution levels rather than estimating factors related to the probability of a release. For example, if ground water pollution has been verified through sampling and analysis, the probability of occurrence is known to be 100 percent and one assigns the highest score possible for those factors related to the probability of ground water pollution. These values are added or multiplied as appropriate to calculate a score for each pathway. The scores for the ground water, surface water, and air pathways are then aggregated to obtain the total score using the following formula:

The overall rating value = $R_1^2 + R_2^2 + R_3^2$

where:

R_1 = the rating value for ground water

R_2 = the rating value for surface water

R_3 = the rating value for air

The other two pathways, fire and explosion and direct contact, are evaluated using the model, but the scores are not incorporated into the overall rating value. Rather, these scores are used to assess the need for possible removal actions at the facility. Section 300.65 references "A Model for Determining Priorities Among Hazardous Substance Releases" which provides detailed information on the Hazard Ranking System. It can be obtained from the Hazardous Site Control Division (WH-548-E), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

In developing the HRS, EPA reviewed several other models which have been developed for rating the relative hazard to public health and the environment posed by hazardous substance releases.

Among those models considered were: (1) The LeGrand model, (2) the Surface Impoundment Assessment (SIA) model, (3) EPA's Solid and Hazardous Waste Research Program Predictive Method (SPM), and (4) the Rating Methodology model developed by EPA to set priorities for investigation of hazardous waste sites. Each of these alternative models were determined to have weaknesses which rendered them inadequate for the purposes of the present program.

The LeGrand model evaluates the potential for ground water (primary wells) contamination by waste disposal sources. The final rating reflects the potential hazard of the wastes, the likelihood of the wastes reaching ground water, and the vulnerability of the ground water to contamination. However, the LeGrand model, appropriate only for ground water pollution, is not applicable because it does not address the spectrum of environmental routes, damage mechanisms, or target organisms that are covered under CERCLA.

The SIA model expands the scope of the LeGrand model to evaluate the potential threat of contamination to ground water itself, rather than the potential threat of contamination of wells. However, the model does not take into account hazards posed by other potential routes or damage mechanisms and, therefore, EPA rejected this model.

SPM involves the application of multivariate analysis to evaluate the relative importance of various rating factors in predicting ground water effects and classifies releases into three categories representing high, medium and low potential for ground water contamination. EPA believes multivariate analysis may be useful in refining weights given to pathways of exposure when complete data are available. This method, however, is not directly applicable to ranking of releases over many pathways of exposure, nor for classifying the releases into more than just a few categories.

The Rating Methodology Model was developed to assess landfills, surface impoundments and other types of land-based storage and disposal facilities for the purpose of allocating resources for site investigations. To accomplish that objective, a model was designed to require only readily available information, instead of making use of the results of field observations. After approximately one year of use in rating releases, EPA has decided that results based on this model are too imprecise to warrant its use in setting priorities.

Consequently, EPA initiated an effort to develop a system for setting priorities. The result of this effort is the HRS described in § 300.65(d) of this Plan. Like the Rating Methodology Model, each pathway is evaluated independently of the others. Also, where appropriate, factors are multiplicative rather than additive. This approach minimizes the likelihood that factors irrelevant to the risk at a given facility will significantly contribute to the hazard ranking score.

During the development of the HRS, issues were raised concerning: (1) The weighting factors given to the information considered by the system, (2) the apparent use of conservative assumptions when observed data are unavailable; and (3) the consideration of risks as being additive.

Concerning the weighting factors used in the HRS, EPA has verified the HRS, using empirical data to modify, where necessary, the weights and the selection of variables.

Concerning the apparent equal weights given to all pathways, the HRS does allow the maximum possible scores, representing worst case incidents, to be equal for all pathways. We do not believe we can discriminate the very serious hazard which would be presented to the public and environment in the worst case situation in one pathway from the hazard presenting the worst case in any other pathway. However, the HRS is structured so that high scores will be assigned to some pathways more frequently than to others, approximately the frequency distributions of problems in the various pathways.

With regard to the issue that the HRS apparently uses estimates or conservative assumptions when observed data are unavailable, the HRS makes no provision for estimates or conservative assumptions. The HRS is to be applied only where adequate data exist. It is possible that the comments referenced address the characteristics of the HRS where the user does not necessarily need to have observations demonstrating that a release has already occurred. Rather, it is possible to substitute factors which relate to the probability of the occurrence of a release. The Agency selected this approach, consistent with CERCLA section 105(8)(A), to allow the evaluation of threatened releases. In most cases, all other factors being equal, scores obtained using the capability of the HRS to predict that a release might occur will be lower than those obtained if a release has been observed. Only where all predictive factors are scored at the maximum, indicative of an extremely high probability of a release, would the scores of predicted and observed releases be similar.

Some reviewers stated that the HRS assumed that risks associated with the various pathways are additive. Those reviewers disagreed with the additive approach in combining the scores of the various pathways. The Agency agrees, and has not used an additive approach to combine pathway scores. The Agency has selected a formula for aggregating the pathway scores which has the following characteristics: (1) Ground water, surface water and air pathway scores are taken into account; (2) secondary pathway scores contribute significantly to the total only if they approach the maximum possible score; (3) if all pathway scores are low, the total score is low; and (4) even if only one pathway is rated with a high score, the total score will be sufficiently high so that the facility will be included among the highest priorities. This is accomplished by taking the square root of the sum of the squares of the score for the three major pathways to arrive at a total score. The other pathways (fire or explosion and direct contact) are also scored, and those scores are taken into account for planning removal actions.

(ii) *State Priority Submissions.* Section 300.65(d)(3)(B) provides that each State shall use the HRS to evaluate the threat posed by releases in the State, and to assign priorities to such releases for response activities. Each State is to develop a list of candidate releases which includes: (1) A summary of data pertinent to establishing the seriousness of the threat of the hight priority releases; (2) the availability of a financially viable, liable party and the status of any planned enforcement and/or response actions; (3) the next response phase needed and its estimated cost; and (4) an indication of the State's ability to make the assurances required by section 104(c)(3) of CERCLA. EPA will, from time to time, provide States with additional guidance on procedures for formulating and submitting candidates for the National Priority List.

(iii) *National Priorities.* The State candidates for the National Priority List will be submitted to the EPA Regional Offices for review to ensure uniform application of the Hazard Ranking System. EPA may, in consultation with the State and appropriate Federal agencies, add additional priority releases to the list submitted by the State. The State Priority Lists will be consolidated by EPA Headquarters into a National Priority List consisting of an estimated 400 highest priority releases. To the extent practicable, each State will have at least one site ranked among the 100 highest priority releases. The National Priority List will then be published with releases categorized into priority groups.

The Agency believes that several purposes will be served by deferring publication of the National Priorities List at this time. First, priorities would be based on a larger and better pool of information, including that received pursuant to the hazardous waste site reports required under section 103(c) of the Act. Second, priorities would be based on the criteria in the final HRS adopted after notice and comment. Finally, if State Priority submissions are timely, EPA will have the benefit of additional valuable State input before publishing the National Priorities List. In the interim, EPA will continue to respond to those releases which it believes are most urgent.

(b) *Remedial Actions.* Phase VI Remedial Actions may be taken where response generally will require long-term and more costly action to prevent, contain, or cleanup releases. These actions are subject to the requirements for State participation pursuant to section 104(c)(3) of CERCLA. Before any remedial action is taken, States must assue that they will conduct all future maintenance for the expected life of such action and agree to pay 10 percent of the cost of the remedial action (or at least 50 percent of all response costs if the facility was owned by the State or political subdivision thereof at the time the hazardous substance was disposed of) including all future maintenance (section 104(c)(3)).

Phase VI addresses the methods and criteria for determining the appropriate extent of response for remedial actions. The remedial scheme presented in Phase VI focuses on the decision making process used during a remedial investigation and feasibility study to determine the most cost-effective remedy which will effectively minimize and mitigate the danger posed by the release and provide adequate protection of public health, welfare, or the environment. The process consists of the following steps:

(i) *Determine whether the release is ranked.* Remedial response will be taken only at releases on the National Priority List. If a release is not ranked, no remedial action will be taken by the Fund.

(ii) *Review and update of data to determine whether threat to public health, welfare, or the environment still exists.* This step entails a review of existing data and an update of that data, if necessary, to determine whether a threat to public health, welfare, or the environment still exists. This step primarily serves the purpose of assuring that conditions at releases have not changed such that the release no longer requires a response.

(iii) *Scoping.* This step requires careful assessment of the type of problem presented by the release and an initial determination of the type or types of remedial action that may be appropriate. In order to facilitate flexible decision-making and to provide a critical management tool for conserving Fund monies, the Plan provides for three types of remedial actions. Each is tailored to a particular type of problem. These actions may be taken alone or in combination, depending on the conditions at the particular release.

(A) *Initial Remedial Measures*—Section 300.67(e) allows such measures when EPA determines it is feasible and necessary to limit exposure or threat of exposure to a significant health or environmental hazard. These measures are intended to be limited in scope, require a minimum of planning and to be accomplished within a short period of time. These actions generally will run on a "fast track" and be accomplished separately from the remainder of the remedial action. Section 300.67(e) details criteria for taking such actions.

(B) *Source Control Remedial Action*—Section 300.67(f)(1) establishes criteria for determining whether source control actions may be necessary. Such actions would include those taken at or near the area where the hazardous substance was originally located in order to control the migration of such substances into the environment. These actions may include control of hazardous substances at or near the location of the release or transport of the substances off-site.

The creation of this category of remedial action reflects the belief that where the hazardous substance that was the cause of the original release is inadequately controlled, the first objective of a response should be to achieve a level of control that will prevent, minimize and mitigate any significant threat of harm from migration of the source material.

(C) *Off-site remedial actions*—Section 300.67(f)(2) contains criteria for determining whether action is needed to minimize and mitigate the migration of substances and the effects of this migration. These actions only are appropriate when EPA determines that source control actions are inadequate to effectively minimize and mitigate the threat posed by the release.

The distinction drawn between off-site and source control actions is designed to accommodate the diversity of conditions found at releases. The identification of source control actions as those taken at or near the area where the hazardous substances originally were located, provides the lead agency the necessary flexibility to determine the boundaries of the area which must be controlled in order to remedy the area where the hazardous substance originally was located. The off-site remedial action category also allows the lead agency the flexibility to remedy areas to which substances have migrated. Although there may be some overlap in these categories, the overlap is necessary given diverse conditions at releases and the need to develop cost-effective remedies.

(iv) *Collect and analyze data and develop limited number of alternatives.* After scoping the type or types of remedial action needed, more extensive data collection and analysis will be undertaken. This analysis will be used to develop a limited number of alternatives that may be feasible for remedying the release.

(v) *Initial screening of alternatives.* Section 300.67(h) requires that alternatives be screened using cost, environmental, health and engineering criteria. This screening entails a "macro" analysis of alternatives to reject those that fail to meet the criteria.

(vi) *Refine alternatives and perform detailed analysis.* Section 300.67(i) requires refinement of remaining alternatives and a detailed analysis of those alternatives in terms of cost, implementation and engineering feasibility, adequacy and reliability and potential adverse impacts on health or the environment.

(vii) *Selection of cost-effective alternative.* Section 300.67(j) requires the lead agency to choose the most cost-effective remedial alternative which effectively minimizes and mitigates the danger and provides adequate protection of public health, welfare, and the environment.

(vii) *Fund-balancing.* In the case of Fund-financed response, section 104(c)(4) of CERCLA requires that the need for protection of public health, welfare, or the environment be balanced against the amount of money available in the Fund to respond to other releases. Therefore, § 300.67(k) requires that the lead agency also apply this balancing requirement in determining the appropriate extent of remedy.

When the appropriate extent of remedy is determined, the project will be designed and constructed.

Each release presents a unique situation because of its diverse characteristics. This diversity, along with the fact that there is limited experience in remedying releases,

makes it imperative that flexibility be preserved throughout the remedial planning process. The remedial response scheme established in § 300.67 provides the lead agency with this important flexibility.

The need for this flexibility is demonstrated by EPA's prior experiences. Prior to the passage of CERCLA, the Agency's primary vehicles for releases from addressing releases from hazardous waste management facilities, other than the somewhat limited authority and funds of section 311 of the Clean Water Act, was enforcement action pursuant to various statutory emergency power provisions. The Federal Government has filed over 60 judicial enforcement actions as of October 1981 pursuant to these emergency power provisions, primarily under section 7003 of the Resource Conservation and Recovery Act.

In these enforcement actions, the Agency has, on a case-by-case basis, made a combined scientific and legal judgment as to the appropriate extent of remedy, based on the extent of hazard, existing Federal and State standards and criteria, available technologies and their relative costs, the financial capabilities of prospective defendants, the culpability of prospective defendants and relevant court precedents.

This has resulted in settlements and initial court decisions calling for remedial activity in individual circumstances ranging from complete elimination or cleanup of contaminants to nondetectable levels to installation of containment and/or treatment alternatives in addition to or in lieu of rehabiliation of the contaminated environment. EPA's experience from these enforcement actions has demonstrated that the appropriate extent of remedy will probably differ depending on the individual release. Based on this experience, the Agency has decided that a flexible standard for determining the appropriate extent of remedy is the best standard at this time. As the Agency gains greater knowledge regarding cleaning up releases of hazardous substances, more specific standards may be appropriate.

In developing this section, EPA considered a variety of options:

One option was to require cleanup to levels that met Federal and State standards or water quality criteria. The Agency has decided that such a rigid requirement would impose the use of potentially inappropriate levels of cleanup that would not allow consideration of individual circumstances at each release. Any appropriate standard or criteria will be considered in determining the cleanup level of a particular release, along with other technological and environmental factors. Additionally, CERCLA itself imposes a balancing test on the selection of remedies—that response at any particular release be weighed against need for response at other releases.

EPA also considered the suggestion to require a formal cost-benefit analysis for each remedial action. EPA believes that its selection of the appropriate extent of remedy will adequately consider the costs and benefits of the different remedial alternatives at each release. A requirement to conduct a formal cost-benefit analysis would inevitably be dependent on the data used in such an analysis and merely result in rigid calculations that would foreclose any flexibility in the ultimate decision-making. Such an analysis would not further the Agency's goal of selecting the most appropriate remedy for each release.

(c) *Other Response Considerations.* (i) Section 300.68, Documentation and Cost Recovery, provides that all actions taken under the Plan are documented, collected, and maintained to form the basis of cost recovery.

(ii) Section 300.69 lists those methods of remedying releases that should be considered when taking response action. This list is not intended to be exhaustive but to give an indication of the types of remedies that the NRT considers to be appropriate and demonstrated methods. This list will be modified and/or expanded from time to time as new technologies are developed.

(iii) Section 300.70 discusses special considerations such as worker health and safety, and allocation of funds from the Disaster Relief Act for certain emergency response activities. Section 300.70(b) discusses the eligibility of non-Federal costs of implementing the Plan for payment from the Fund. EPA will not pay for any non-Federal response unless the response and associated costs have been preauthorized.

B. *Subpart G.* This subpart designates the heads of Federal agencies to act as trustees for natural resources and assigns responsibilities to the agencies as trustees. The designation is in accord with section 111(h)(1) of CERCLA and section 311(f)(5) of CWA and Executive Order 12316.

C. *Subpart H.* In response to the statutory mandate that the Plan include a schedule identifying dispersants and how and where they may be used, the current Plan created a complex and expensive system for registering dispersants. The statute envisioned development of a schedule identifying dispersants, describing the parameters of proper usage and case-by-case decisions on the use of other dispersants. The current system has resulted in no schedule of approved dispersants and virtually no approval of dispersants on a case-by-case basis. The revised Plan seeks to simplify case-by-case approvals until there is sufficient information to promulgate a schedule of dispersants.

III. Regulatory Impact Analysis

An analysis of the economic impacts of the revisions to the NCP was conducted to determine whether they qualified as a major rule under Executive Order 12291. The results of the analysis, based on the approaches examined in developing the current proposed form of the Plan, indicate that the revisions to the Plan constitute a major rule, because they are likely to result in an annual effect on the economy of $100 million or more. The analysis is available for inspection at Room G-200, (WH-548-D), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

IV. Regulatory Flexibility Act

As required by the Regulatory Flexibility Act of 1980, the Agency has reviewed the impact of the revised NCP on small entities. EPA certifies that the NCP will not have a significant impact on a substantial number of small entities.

V. Enforcement Actions

Consistent with the Plan, EPA will continue to pursue enforcement actions as an alternative or complement to Fund-financed response activities. It is EPA policy that the same factors used to determine the appropriate extent of remedy for Fund-financed cleanup be considered to evaluate the adequacy of or determine the level of cleanup to be sought through enforcement efforts. Section 300.67(c) explicitly reflects this policy by providing that the criteria in § 300.67 (e) through (j) will be used to determine the appropriate extent of remedy for private party cleanup.

VI. Period for Public Comment

The Agency is providing 30 days for public comment pursuant to an order of the United States District Court for the District of Columbia in the case of Environmental Defense Fund, et al. v. Gorsuch, et al. (Nos. 81-2083 and 81-2269, February 12, 1982). The Agency intends to request the Court to amend its order and allow more than 30 days for public comment. The Agency will publish a notice in the Federal Register if the Court amends its order and allows more than 30 days for public comment.

Dated: March 3, 1982.

Anne M. Gorsuch,

Administrator.

Part 1510, Title 40 of the Code of Federal Regulations is proposed to be redesignated as Part 300, Title 40 and revised to read as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

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300.31 Organizational concepts.
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Subpart F—Hazardous Substance Response

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300.62 Phase I—Discovery or notification.
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300.65 Phase IV—Evaluation and determination of appropriate response—planned removal and remedial action.
300.66 Phase V—Planned removal.
300.67 Phase VI—Remedial action.
300.68 Phase VII—Documentation and cost recovery.
300.69 Methods of remedying releases.
300.70 Special considerations.

Subpart G—Destination and Responsibilities of Federal Trustees of Natural Resources

300.71 Designation of trustees.
300.72 Responsibilities of trustees.

Subpart H—Use of Dispersants and Other Chemicals

300.81 General.

Authority: Sec. 105, Pub. L. 96-510, 94 Stat. 2764, 42 U.S.C. 9605 and sec. 311(c)(2), Pub. L. 92-500, as amended; 86 Stat. 865, 33 U.S.C. 1321(c)(2); Executive Order 12316, 46 FR 42237 (August 20, 1981); Executive Order 11735, 38 FR 21243 (August 1973).

Subpart A—Introduction

§ 300.1 Purpose and objectives.

The purpose of the National Oil and Hazardous Substances Pollution Contingency Plan (Plan) is to effectuate the response powers and responsibilities created by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and the authorities established by section 311 of the Clean Water Act (CWA), as amended.

§ 300.2 Authority.

The Plan is required by section 105 of CERCLA, 42 U.S.C. 9605, and by section 311(c)(2) of the Clean Water Act (CWA), as amended, 33 U.S.C. 1321(c)(2). In Executive Order 12316 (46 FR 42237) the President delegated to the Environmental Protection Agency the authority and responsibility to prepare, publish, revise, and amend the Plan in coordination with the National Response Team and Federal Emergency Management Agency.

§ 300.3 Scope.

(a) The scope of the Plan is specified by the statutes requiring their promulgation. The Clean Water Act requires that the Plan "shall provide for efficient, coordinated, and effective action to minimize damage" from oil and hazardous substance discharges, and provides further that the Plan shall include:

(1) Assignment of duties and responsibilities among Federal agencies in coordination with State and local agencies (33 U.S.C. 1321(c)(2)(A)).

(2) Availability of response equipment and supplies (33 U.S.C. 1321(c)(2)(B)).

(3) Establishment of a strike force to carry out the Plan and establishment at major ports of emergency task forces and prevention and removal plans (33 U.S.C. 1321(c)(2)(C)).

(4) A system for surveillance and notice of discharges (33 U.S.C. 1321(c)(2)(D)).

(5) Establishment of a national center to ensure coordinated response (33 U.S.C. 1321(c)(2)(E)).

(6) Procedures and techniques for identifying, containing, dispersing, and cleaning up oil and hazardous substances (33 U.S.C. 1321(c)(2)(F)).

(7) A schedule developed in cooperation with States identifying dispersants, if any, that may be used in carrying out the Plan (33 U.S.C. 1321(c)(2)(G)).

(8) A system whereby the States can act to remove a discharge and be reimbursed from the Fund established under section 311(k) (33 U.S.C. 1321(c)(2)(H)).

(b) Section 105 of CERCLA requires that the NCP "shall establish procedures and standards for responding to releases of hazardous substances, pollutants, and contaminants." This requirement for establishing response procedures and standards is accompanied by ten enumerated provisions that the revised NCP "shall include." In summary, the ten provisions require:

(1) Methods for discovering and investigatng facilities where hazardous substances may be disposed of or otherwise come to be located or stored (42 U.S.C. 9605(1)).

(2) Methods for evaluating, including analysis of relative costs, and remedying releases that pose a substantial danger to public health or the environment (42 U.S.C. 9605(2)).

(3) Methods and criteria for determining the appropriate extent of response (42 U.S.C. 9605(3)).

(4) Roles and responsibilities for Federal, State and local governments and nongovernmental entities (42 U.S.C. 9605(4)).

(5) Availability of response equipment and supplies (42 U.S.C. 9605(5)).

(6) Assignment of responsibility for reporting releases on Federally owned or controlled properties (42 U.S.C. 9605(6)).

(7) Means of assuring that remedial actions are cost-effective (42 U.S.C. 9605(7)).

(8) Criteria for determining priorities among releases. Criteria and priorities shall be based upon EPA's judgment of relative risk or danger to public health or welfare or the environment (42 U.S.C. 9605(8)(a)).

(9) Listing of priorities among releases (42 U.S.C. 9605(8)(b)).

(10) Specifying roles for private organizations (42 U.S.C. 9605(9)).

(c) In addition to the enumerated provisions summarized above, section 105 also references requirements in sections 311(c)(2) (F) and (G) and 311(j)(1) of the CWA for which comparable "procedures, techniques, materials, equipment, and methods for identifying, removing, or remedying

releases of hazardous substances" are to be included in the revised Plan. Therefore, additional requirements for identifying, removing or remedying releases include:

(1) Procedures for identifying, containing, dispersing, and removing hazardous substances.

(2) A schedule for dispersants of hazardous substances and how and where they may be used.

(3) Methods for removal of hazardous substances.

(4) Criteria for development and implementation of Federal regional and Federal local contingency plans for responding to releases of hazardous substances.

(5) Procedures and equipment to contain releases of hazardous substances.

(d) In implementing this Plan, consideration should be given to the Joint U.S./Canadian Contingency Plan (including the annexes pertaining to the Great Lakes, and the Eastern and Western Coastal Areas); the Joint U.S./Mexican Contingency Plan and international assistance plans and agreements, security regulations, and responsibilities based on international agreements, Federal statutes and Executive orders. Actions taken pursuant to this Plan shall conform to the provisions of international joint contingency Plans, where they are applicable. This Plan shall be utilized to coordinate U.S. involvement in pollution incidents occurring in waters not under the management jurisdiction of the United States. The Department of State should be consulted prior to taking any action which may affect its activities. Nothing in any of the foregoing treaties or plans shall limit the application of any provision of this Plan.

§ 300.4 Application.

The Plan is applicable to response taken pursuant to the authorities under CERCLA and section 311 of the CWA.

§ 300.5 Abbreviations.

(a) *Department and Agency Title Abbreviations:*

DOC—Department of Commerce
DOD—Department of Defense
DOE—Department of Energy
DOI—Department of the Interior
DOJ—Department of Justice
DOL—Department of Labor
DOT—Department of Transportation
DOS—Department of State
EPA—Environmental Protection Agency
FEMA—Federal Emergency Management Agency
HHS—Department of Health and Human Services
NIOSH—National Institute for Occupational Safety and Health
NOAA—National Oceanic and Atmospheric Administration
OSHA—Occupational Safety and Health Administration
USCG—U.S. Coast Guard
USDA—U.S. Department of Agriculture
USGS—U.S. Geological Survey

(b) *Operational Title Abbreviations:*

ERT—Environmental Response Team
NRC—National Response Center
NRT—National Response Team
NSF—National Strike Force
OSC—On-Scene Coordinator
PAAT—Public Affairs Assist Team
PIAT—Public Information Assist Team
RRC—Regional Response Center
RRT—Regional Response Team
SSC—Scientific Support Coordinator

§ 300.6 Definitions.

Terms not defined in this section have the meaning given by CERCLA or the CWA.

Claim, as defined by section 101(4) of CERCLA, means a demand in writing for a sum certain.

Claimant, as defined by section 101(5) of CERCLA, means any person who presents a claim for compensation under CERCLA.

Coastal zone, as defined for the purpose of this Plan, means all U.S. waters subject to the tide, U.S. waters of the Great Lakes, specified ports and harbors on the inland rivers, waters of the contiguous zone, other waters of the high seas subject to this Plan, and the land substrata, ground waters, and ambient air proximal to those waters. The term coastal zone delineates an area of Federal responsibility for response action. Precise boundaries are determined by EPA/USCG agreements and identified in Federal regional contingency plans.

Contiguous zone means the zone of the high seas, established by the United States under Article 24 of the Convention on the Territorial Sea and Contiguous Zone, which is contiguous to the territorial sea and which extends 9 miles seaward from the outer limit of the territorial sea.

Discharge, as defined by section 311(a)(2) of CWA, includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping of oil. For purposes of this Plan, discharge shall also mean substantial threat of discharge.

Drinking water supply, as defined by section 101(7) of CERCLA, means any raw or finished water source that is or may be used by a public water system (as defined in the Safe Drinking Water Act) or as drinking water by one or more individuals.

Environment, as defined by section 101(8) of CERCLA, means (a) the navigable waters of the United States, the waters of the contiguous zone, and the ocean waters of which the natural resources are under the exclusive management authority of the U.S. under the Fishery Conservation and Management Act of 1976, and (b) any other surface water, ground water, drinking water supply, land surface and subsurface strata, or ambient air within the United States or under the jurisdiction of the United States.

Facility, as defined by section 101(9) of CERCLA, means (a) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft, or (b) any site or area where a hazardous substance has been deposited, stored, disposed of, placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel.

Federally permitted release, as defined by section 101(10) of CERCLA, means (a) discharges in compliance with a permit under section 402 of the Federal Water Pollution Control Act, (b) discharges resulting from circumstances identified and reviewed and made part of the public record with respect to a permit issued or modified under section 402 of the Federal Water Pollution Control Act and subject to a condition of such permit, (c) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of the Federal Water Pollution Control Act, which are caused by events occurring within the scope of relevant operating or treatment systems, (d) discharges in compliance with a legally enforceable permit under section 404 of the Federal Water Pollution Control Act, (e) releases in compliance with a legally enforceable final permit issued pursuant to section 3005 (a) through (d) of the Solid Waste Disposal Act from a hazardous waste treatment, storage, or disposal facility when such permit specifically identifies the hazardous substances and makes such substances subject to a standard of practice, control procedure or bioassay limitation or condition, or other control on the hazardous substances in such releases, (f) any release in compliance with a legally enforceable permit issued under section 102 or section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972, (g) any injection of fluids authorized under Federal underground injection control programs (and not disapproved by the Administrator of EPA) pursuant to part C of the Safe Drinking Water Act, (h) any emission into the air subject to a permit or control regulation under section 111, section 112, title 1, part C, title 1 part D, or State implementation plans submitted in accordance with section 110 of the Clean Air Act (and not disapproved by the Administrator of EPA), including any schedule or waiver granted, promulgated, or approved under these sections, (i) any injection of fluids or other materials authorized under applicable State law (1) for the purpose of stimulating or treating wells for the production of crude oil, natural gas, or water, (2) for the purpose of secondary, tertiary, or other enhanced recovery of crude oil or natural gas, or (3) which are brought to the surface in conjunction with the production of crude oil or natural gas and which are reinjected, (j) the introduction of any pollutant into a publicly owned treatment works when such pollutant is specified in and in compliance with applicable pretreatment standards of section 307 (b) or (c) of the CWA and enforceable requirements in a pretreatment program submitted by a State or municipality for Federal approval under section 402 of such Act, and (k) any release of source, special nuclear, or byproduct material, as those terms are defined in the Atomic Energy Act of 1954, in compliance with a legally enforceable license, permit, regulation, or order issue pursuant to the Atomic Energy Act of 1954.

Fund or Trust Fund means the Hazardous Substance Response Trust Fund established by section 221 of CERCLA.

Ground water, as defined by section 101(12) of CERCLA, means water in a saturated zone or stratum beneath the surface of land or water.

Hazardous substance, as defined by section 101(14) of CERCLA, means (a) any substance designated pursuant to section 311(b)(2)(A) of the CWA, (b) any element, compound, mixture, solution, or substance designated pursuant to section 102 of CERCLA, (c) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress), (d) any toxic pollutant listed under section 307(a) of the CWA, (e) any hazardous air pollutant listed under section 112 of the Clean Air Act, and (f) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act. The terms do not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under paragraphs (a) through (f) of this paragraph, and the term does not include natural gas, natural gas liquids, liquified natural gas or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

Inland zone means the environment inland of the coastal zone excluding the Great Lakes and specified ports and harbors of inland rivers. The term inland zone delineates the area of Federal responsibility for response action. Precise boundaries are determined by EPA/USCG agreement and identified in Federal regional contingency plans.

Lead agency means the agency that provides the On-Scene Coordinator.

Natural resources, as defined by section 101(16) of CERCLA, means land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of fishery conservation zones established by the Fishery Conservation and Management Act of 1976), any State or local government or any foreign government.

Offshore facility, as defined by section 101(17) of CERCLA and section 311(a)(11) of the CWA, means any facility of any kind located in, on, or under any of the navigable waters of the U.S. and any facility of any kind which is subject to the jurisdiction of the U.S. and is located in, on, or under any other waters, other than a vessel or a public vessel.

Oil, as defined by section 311(a)(1) of CWA, means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuses, and oil mixed with wastes other than dredged spoil.

Oil pollution fund means the fund established by section 311(k) of the CWA.

Onshore facility (a) as defined by section 101(18) of CERCLA means any facility (including but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under any land or non-navigable waters within the United States; and (b) as defined by section 311(a)(10) of CWA means any facility (including but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under any land within the United States other than submerged land.

On-Scene Coordinator means the Federal official predesignated by the EPA or the USCG to coordinate and direct Federal responses under this Plan.

Plan means the National Oil and Hazardous Substances Pollution Contingency Plan published under section 311(c) of the CWA and revised pursuant to section 105 of CERCLA.

Pollutant or *contaminant*, as defined by section 104(a)(2) of CERCLA, shall include, but not be limited to, any element, substance, compound, or mixture, including disease causing agents, which, after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformation, in such organisms or their offspring. The term does not include petroleum, including crude oil and any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under sections 101(14) (A) through (F) of CERCLA, nor does it include natural gas, liquified natural gas, or synthetic gas of pipeline quality (or mixtures of natural gas and synthetic gas).

Release, as defined by section 101(22) of CERCLA, means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, but excludes: (a) Any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons, (b) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine, (c) release of source, by-product or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under section 170 of such act, or, for the purposes of section 104 of CERCLA or any other response action, any release of source, by-product, or special nuclear material from any processing site designated under section 102(a)(1) or 302(a) of the Uranium Mill Tailings Radiation Control Act of 1978, and (d) the normal application of fertilizer. For the purposes

of this Plan, release also means substantial threat of release.

Remove or *removal*, as defined by section 311(a)(8) of CWA refers to removal of oil or hazardous substances from the water and shorelines or the taking of necessary actions to minimize or mitigate damage to the public health or welfare. As defined by section 101(23) of CERCLA, means the cleanup or removal of released hazardous substances from the environment, such actions as may be necessary in the event of the threat of release of hazardous substances into the environment, such actions as may be necessary to monitor, assess, and evaluate the release or threat of release of hazardous substances, the disposal of removed material, or the taking of such other actions as may be necessary to prevent, minimize, or mitigate damage to the public health or welfare or the environment, which may otherwise result from such release or threat of release. The term includes, in addition, without being limited to, security fencing or other measures to limit access, provision of alternative water supplies, temporary evacuation and housing of threatened individuals not otherwise provided for, action taken under section 104(b) of CERCLA, and any emergency assistance which may be provided under the Disaster Relief Act of 1974.

Remedy or *remedial action*, as defined by section 101(24) of CERCLA, means those actions consistent with permanent remedy taken instead of, or in addition to removal action in the event of a release or threatened release of a hazardous substance into the environment, to prevent or minimize the release of hazardous substances so that they do not migrate to cause substantial danger to present or future public health or welfare or the environment. The term includes, but is not limited to, such actions at the location of the release as storage, confinement, perimeter protection using dikes, trenches, or ditches, clay cover, neutralization, cleanup of released hazardous substances or contaminated materials, recycling or reuse, diversion, destruction, segregation of reactive wastes, dredging or excavations, repair or replacement of leaking containers, collection of leachate and runoff, onsite treatment or incineration, provision of alternative water supplies, and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment. The term includes the costs of permanent relocation of residents and businesses and community facilities where the President determines that, alone or in combination with other measures, such relocation is more cost-effective than and environmentally preferable to the transportation, storage, treatment, destruction, or secure disposition offsite of such hazardous substances or may otherwise be necessary to protect the public health or welfare. The term does not include offsite transport of hazardous substances, or the storage, treatment, destruction, or secure disposition offsite of such hazardous substances or contaminated materials unless the President determines that such actions: (a) Are more cost-effective than other remedial actions, (b) will create new capacity to manage, in compliance with subtitle C of the Solid Waste Disposal Act, hazardous substances in addition to those located at the affected facility, or (c) are necessary to protect public health or welfare or the environment from a present or potential risk which may be created by further exposure to the continued presence of such substances or materials.

Respond or *response*, as defined by section 101(25) of CERCLA, means remove, removal, remedy, or remedial action, as appropriate.

Size classes of discharges refers to the following size classes of discharges which are provided as guidance to the OSC and serve as the criteria for the actions delineated in Subpart E. They are not meant to imply associated degrees of hazard to public health or welfare, nor are they a measure of environmental damage. Any pollution that poses a substantial threat to the public health or welfare or results in critical public concern shall be classified as a major pollution incident regardless of the following quantitative measures:

(a) *Minor discharge* means a discharge to the inland zone of less than 1,000 gallons of oil or a discharge to the coastal zone of less than 10,000 gallons of oil.

(b) *Medium discharge* means a discharge of 1,000 to 10,000 gallons of oil to the inland zone or a discharge of 10,000 to 100,000 gallons of oil to the coastal zone.

(c) *Major discharge* means a discharge of more than 10,000 gallons of oil to the inland zone or more than 100,000 gallons of oil to the coastal zone.

Trustee means any Federal natural resources management agency designated in Subpart G of this plan, and any State agency which may prosecute claims for damages under section 107(f) of CERCLA.

United States and *State* includes the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Somoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas and any other territory or possession over which the U.S. has jurisdiction.

Volunteer means any individual recruited, trained and accepted to perform services by a Federal agency which has authority to accept volunteer services (example: *See* 16 U.S.C. 7421(c)). A volunteer is subject to the provisions of the authorizing statute.

Subpart B—Responsibility

§ 300.21 Duties of President delegated to Federal agencies.

(a) In Executive Order 11735 and Executive Order 12316 the President delegated certain functions and responsibilities vested in him by the CWA and CERCLA, respectively. Responsibilities so delegated shall be responsibilities of Federal agencies under this Plan unless:

(1) Responsibility is redelegated pursuant to section 8(f) of Executive Order 12316, or

(2) Executive Order 11735 or Executive Order 12316 is amended or revoked.

§ 300.22 Coordination among and by Federal agencies.

(a) Federal agencies should coordinate their planning and response activities through the mechanisms described in Subpart C of this plan and other means as may be appropriate.

(b) Federal agencies should coordinate planning and response actions with affected State and local governments and private entities to the extent circumstances may permit.

(c) Federal agencies with facilities or other resources which may be useful in a Federal response situation should make those facilities or resources available consistent with agency capabilities.

(d) When the head of the lead agency determines:

(1) That there is an imminent and substantial threat to the public health or welfare or the environment because of a discharge of oil from any offshore or onshore facility, or

(2) That there may be an imminent and substantial endangerment to the public health or welfare or the environment because of a release or threatened release of a hazardous substance, pollutant or contaminant from a facility; he may request the Attorney General to secure the relief necessary to abate the threat. The NRT may recommend that EPA or the USCG

exercise this authority. The action described here is in addition to any actions taken by a State or local government for the same purpose.

(e) In accordance with section 311(d) of CWA, whenever a marine disaster in or upon the navigable waters of the United States has created a substantial threat of a pollution hazard to the public health or welfare, because of a discharge or an imminent discharge from a vessel of large quantities of oil or hazardous substances designated pursuant to section 311(b)(2)(A) of CWA, the United States may:

(1) Coordinate and direct all public and private efforts to abate the threat;

(2) Summarily remove and, if necessary, destroy the vessel by whatever means are available without regard to any provisions of law governing the employment of personnel or the expenditure of appropriated funds. The authority for these actions has been delegated under Executive Order 11735 to the Administrator of EPA and the Secretary of the Department in which the Coast Guard is operating, respectively, for the waters for which each designates the OSC under this Plan.

(f) Response actions to remove discharges originating from the Outer Continental Shelf Lands Act operations shall be in accordance with the August 1971 Memorandum of Understanding between DOI and DOT concerning respective responsibilities under this Plan.

(g) Where appropriate, discharges of radioactive materials shall be handled pursuant to the Interagency Radiological Assistance Plan.

§ 300.23 Other assistance by Federal agencies.

(a) Each of the participating Federal agencies has duties established by statute, Executive order, or Presidential directive which may be relevant to Federal response action following or in prevention of a discharge of oil or a release of a hazardous substance, pollutant or contaminant. These duties may also be relevant to the rehabilitation, restoration, and replacement of damaged or lost natural resources. Federal regional contingency plans should call upon agencies to carry out these duties in a coordinated manner.

(b) The following Federal agencies may be called upon by an OSC during the planning or implementation of a response to provide assistance in their respective areas of expertise, consistent with their capabilities:

(1) Department of Agriculture.
(2) Department of Commerce.
(3) Department of Defense.
(4) Department of Energy.
(5) Federal Emergency Management Agency.
(6) Department of Health and Human Services.
(7) Department of the Interior.
(8) Department of Justice.
(9) Department of Labor.
(10) Department of State.
(11) Department of Housing and Urban Development.
(12) The Small Business Administration.
(13) Department of Transportation.
(14) Environmental Protection Agency.

(c) In addition to their general responsibilities under paragraph (a) of this section, participating agencies should:

(1) Make necessary information available to the NRT, RRTs, and OSCs.

(2) Inform the NRT and RRTs (consistent with national security considerations) of changes in the availability of resources that would affect the operations of the plan.

(d) All Federal agencies are responsible for reporting the existence of facilities which may be located on Federally owned or controlled properties and any releases of hazardous substances from facilities which are under their jurisdiction or control in accordance with procedures outlined in Subparts E and F.

§ 300.24 State and local participation.

(a) Each State governor is requested to assign an office or agency to represent the State on the appropriate RRT. Local governments are invited to participate in RRT activities as may be provided by State law or arranged by the State's representative. The State's representative may participate fully in all facets of RRT activities and is encouraged to designate the element of the State government that will direct State supervised response operations.

(b) State and local government agencies are encouraged to include contingency planning for response, consistent with this Plan and Regional Contingency Plans, in all emergency and disaster planning.

(c) States are encouraged to use State authorities to compel potentially responsible parties to undertake response actions, or to themselves undertake response actions which are not eligible for Federal funding.

(d) States may enter into contracts or cooperative agreements pursuant to section 104 (c)(3) and (d) of CERCLA, to undertake actions authorized under section 1510.63 of this Plan. Prior to taking any remedial action pursuant to sections 104 (c)(3) and (d) of CERCLA, States shall enter into a cooperative agreement which meets the minimum requirements under sections 104 (c)(3) and (d) of the Act, and other requirements deemed necessary by appropriate Federal agencies.

(e) States are responsible for applying priority criteria in accordance with Subpart F and submitting State priorities for establishment of response priorities in accordance with Subpart F and applicable State guidlines.

(f) Where a State has assumed responsibility for response actions pursuant to Subpart F of this plan, the State is responsible for designating an individual to fulfill such responsibilities as the executing agency deems necessary.

§ 300.25 Non-Government participation.

(a) Industry groups, academic organizations, and others are encouraged to commit resources for response operations. Specific commitments should be listed in Federal regional, and Federal local contingency plans.

(b) It is particularly important to use the valuable technical and scientific information generated by the non-government local community along with those from Federal and State governments to assist the OSC in devising cleanup strategies where effective standard techniques are unavailable, to assist in the performance of damage assessments, and to ensure that pertinent research will be undertaken to meet national needs.

(c) Federal local contingency plans should establish procedures to allow for well-organized, worthwhile, and safe use of volunteers. Local plans should provide for the direction of volunteers by the OSC, or by other Federal, State or local officials knowledgeable in contingency operations and capable of providing leadership. If, in the judgment of the OSC or an appropriate participating agency, dangerous conditions exist, volunteers shall be restricted from on-scene operations.

(d) If any person other than the Federal Government or a State or person operating under contract or cooperative agreement with the United States, takes removal or remedial action and intends to seek reimbursement from the Fund, such actions to be in conformity with this Plan for purposes of section 111(b) of CERCLA may only be undertaken:

(1) After prior written notice to the Administrator of EPA of intention to undertake a removal (notice must be given at least thirty (30) days prior to initiation of removal, unless

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circumstances require shorter notice to protect public health and welfare or the environment); and

(2) After prior consent and approval by the assigned OSC of plans, procedures, and costs to be incurred pursuant to CERCLA section 111(a), including recommendations for the protection of cleanup crews.

(e) A person that does not intend to seek reimbursement from the Fund for removal or remedial costs does not need to obtain preauthorization pursuant to § 1510.25(d) (1) and (2) to act consistent with this Plan.

(f) Fund compensation to claimants for response costs shall be subject to the provisions of CERCLA section 104(c), or CWA section 311(i) and must be consistent with all other provisions and requirements of the Plan and the CERCLA.

Subpart C—Organization

§ 300.31 Organizational concepts.

Three fundamental kinds of activity are performed pursuant to the Plan: Planning and coordination, communications, and operations at the scene of a discharge, release, or threat of release. The organizational elements created to perform these activities are discussed below in the context of their roles in these activities.

§ 300.32 Planning and coordination.

(a) National planning and coordination is accomplished through the National Response Team (NRT).

(1) The NRT consists of representatives from the participating agencies. Each participating agency shall designate a member to the team and sufficient alternates to ensure representation, as agency resources permit.

(2) Except for periods of activation because of a response action, the representative of EPA shall be the chairman and the representative of USCG shall be vice chairman of the NRT. The vice chairman shall maintain records of NRT activities along with national, regional, and local plans for response actions. When the NRT is activated for response action, the chairman shall be the representative of the lead agency.

(3) While the NRT desires to achieve a consensus on all matters brought before it, certain matters may prove unresolvable by this means. In such cases, each cabinet department or agency serving as a participating agency on the NRT may be accorded one vote in NRT proceedings.

(4) The NRT may establish such bylaws and committees as it deems appropriate to further the purposes for which it is established.

(5) When the NRT is not activated for a response action, it shall serve as a standing committee to evaluate methods of responding to discharges or releases, to recommend needed changes in the response organization, and to recommend revisions to this Plan.

(6) The NRT may consider and make recommendations to appropriate agencies on the training, equipping and protection of response teams and necessary research, development, demonstration, and evaluation to improve response capabilities as the need arises.

(7) Direct planning and preparedness responsibilities of the NRT include:

(i) Maintaining readiness to respond to a nationally significant discharge of oil or release of a hazardous substance or pollutant or contaminant.

(ii) monitoring incoming reports from all RRTs and responding when necessary.

(iii) Reviewing regional responses to oil discharges and hazardous substance releases, including an evaluation of equipment readiness and coordination among responsible public agencies and private organizations.

(iv) Developing procedures to ensure the coordination of Federal, State, and local governments and private response to oil discharges and hazardous substance releases.

(b) The RRT serves as the regional body for planning and preparedness actions before a response action is taken and for coordination and advice during such action. The RRT consists of regional representatives of the participating agencies, and representatives of State and local governments, as appropriate.

(1) Except when the RRT is activated for a removal incident, the representatives of EPA and USCG shall act as co-chairmen.

(2) Each participating agency should designate one member and at least one alternate member to the RRT. Participating State and local governments may also designate one member and at least one alternate member to the Team. All agencies may also provide additional representatives as observers to meetings of the RRT.

(3) RRT members should designate representatives from their agencies to work with OSCs in developing local contingency plans, providing for the use of agency resources, and in responding to discharges and releases (see § 300.43).

(4) Federal regional and Federal local plans should adequately provide the OSC with assistance from the Federal agencies commensurate with agencies' resources, capabilities, and responsibilities within the region. During a response action the members of the RRT should seek to make available the resources of their agencies to the OSC as specified in the Federal regional and Federal local contingency plans.

(5) Affected States are encouraged to participate actively in all RRT activities (see § 300.23(a)), to designate representatives to work with the RRT and OSCs in developing Federal regional and Federal local plans, to plan for and make available State resources, and to serve as the contact point for coordination of response with local government agencies whether or not represented on the RRT.

(6) The RRT serves as a standing committee to recommend changes in the regional response organization as needed, to revise the regional plan as needed, and to evaluate the preparedness of the agencies and the effectiveness of local plans for the Federal response to discharges and releases. The RRT should:

(i) Make continuing review of regional and local responses to discharges or releases, considering available legal remedies, equipment readiness and coordination among responsible public agencies and private organizations.

(ii) Based on observations of response operations, recommend revisions of the National Contigency Plan to the NRT.

(iii) Consider and recommend necessary changes based on continuing review of response actions in the region.

(iv) Review OSC actions to help ensure that Federal regional and Federal local contingency plans are developed satisfactorily.

(v) Be prepared to respond to major discharges or releases outside its region.

(vi) Meet at least semiannually to review response actions carried out during the preceding period, and consider changes in Federal regional and Federal local contingency plans.

(vii) Provide latter reports on their activities to the NRT twice a year, no later than January 31 and July 31. At a minimum, reports should summarize recent activities, organizational changes, operational concerns, and efforts to improve State and local coordination.

(c) The OSC is responsible for developing any Federal local contingency plans for the Federal response in the area of the OSC's responsibility. This may be accomplished in cooperation with the RRT and designated State and local representatives (see § 300.43). Boundaries for Federal regional contingency plans shall follow those of the Standard Regions for Federal

Administration. Boundaries for Federal local contingency plans shall coincide with those agreed upon between EPA, DOD and the USCG to determine OSC areas of responsibility and should be clearly indicated in the regional contingency plan.

(d) Scientific support for the development of regional and local plans is organized by appropriate agencies to provide special expertise and assistance. Generally, the Scientific Support Coordinator (SSC) for plans encompassing the coastal area will be provided by NOAA and those for the inland area will be provided by EPA or DOI. This delineation of responsibility may be modified within a region by agreement between DOC, DOI, and EPA representatives to the RRT. SSCs may be obtained from other agencies if determined to be appropriate by the RRT.

§ 300.33. Response operations.

(a) EPA and USCG shall designate OSCs for all areas in each region, subject to Executive Order 12316. The USCG will furnish or provide OSCs for oil discharges and for the immediate removal of hazardous substances, pollutants, or contaminants into or threatening the coastal zone except that the USCG will not provide predesignated OSCs for discharges and releases from hazardous waste management facilities or in similarly chronic incidents. EPA shall furnish or provide OSCs for oil discharges and hazardous substances releases into or threatening the inland zone and, unless otherwise agreed, for all planned removals and remedial actions.

(b) The OSC directs Federal Fund-financed response efforts and coordinates all other Federal efforts at the scene of a discharge or release. As part of the planning and preparation for response to pollution incidents, the OSCs shall be predesignated by the regional or district head of the lead agency.

(1) The first official from an agency with responsibility under this plan to arrive at the scene of the discharge or release should coordinate activities under this plan until the OSC arrives.

(2) The OSC shall to the extent practicable under the circumstances collect pertinent facts about the discharge or release, such as its source and cause; the existence of potentially responsible parties; the nature, amount, and location of discharged or released materials; the probable direction and time of travel of discharged or released materials; the pathways to human exposure, potential impact on human health, welfare and safety; the potential impact on natural resources and property which may be affected; priorities for protecting human health, welfare and the environment; and appropriate cost documentation.

(3) The OSC will direct response operatons (see Subparts E and F for descriptive details). The OSC's effort shall be coordinated with other appropriate Federal, State, local, and private response agencies.

(4) The OSC will consult regularly with the RRT in carrying out this Plan and will keep the RRT informed of activities under the Plan.

(5) The OSC shall advise the appropriate State agency (as agreed upon with each State) as promptly as possible of discharges and releases.

(6) The OSC shall evaluate incoming information and immediately advise FEMA of potential major disaster situations.

(7) In those instances where a possible public health emergency exists, the OSC should notify the HHS representative to the RRT.

(8) All Federal agencies are required by Executive Orders 11735 and 12048 to develop emergency plans and procedures for dealing with oil discharges and releases of hazardous substances (designated under section 311(b)(2) of the CWA) from vessels and facilities under their jurisdiction. All Federal agencies, therefore, are responsible for designating the offices that can coordinate such incidents in accordance with this Plan and applicable Federal regulations and guidelines. If, in the opinion of the OSC, the responsible Federal agency does not act promptly or take appropriate action to respond to a discharge or release caused by a facility or vessels under its jurisdiction, the appropriate OSC (depending on the area where the discharge or release occurs) may conduct appropriate response activities. With respect to incidents on Department of Defense (DOD) facilities, the OSC shall be furnished by the DOD.

(9) In the event of a major disaster or emergency, under the Disaster Relief Act of 1974 (Pub. L. 93–288), the OSC will coordinate any response activities with the Federal Coordinating Officer designated by the President.

(10) The OSC is responsible for addressing worker safety concerns at a response scene.

(c) The National Strike Force (NSF) consists of the Strike Teams established by the USCG on the East, West and Gulf coasts and includes emergency task forces to provide assistance to the OSC.

(1) The Strike Teams can provide communication support, advice, and assistance for oil and hazardous substances removal. These teams also have knowledge of ship salvage, damage control, and diving. Additionally, they are equipped with specialized containment and removal equipment, and have rapid transportation available. When possible, the Strike Teams will train the emergency task forces and assist in the development of regional and local contingency plans.

(2) The Strike Teams provide assistance to the OSCs on request. Requests for a team may be made directly to the Commanding Officer of the appropriate team, the USCG member of the RRT, the appropriate USCG Area Commander, or Commandant of the USCG through the NRC.

(3) Emergency task forces consist of personnel trained to evaluate, monitor, and supervise pollution responses. Additionally, they have limited "first aid" response capability to deploy equipment prior to the arrival of a cleanup contractor.

(d) The ERT is established by EPA in accordance with its disaster and emergency responsibilities. The ERT includes expertise in biology, chemistry, hydrology, geology and engineering. It can provide access to special contamination equipment for chemical releases and advice to the OSC in hazard evaluation; risk assessment; multimedia sampling and analysis program; on-site safety, including development and implementation plans; cleanup techniques and priorities; water supply contamination and protection; application of dispersants; damage assessment and restoration of natural resources; degree of cleanup required; and disposal of contaminated material.

(1) The ERT also provides both introductory and intermediate level training courses to prepare response personnel.

(2) OSC or RRT requests for ERT support should be made to the EPA representative on the RRT, the EPA Headquarters, Director, Hazardous Response Support Division, or the appropriate EPA regional emergency coordinator.

(e) When requested by the OSC, the SSC shall serve as a member of the OSC's staff and assist the OSC in fulfilling responsibilities regarding damage assessment. The extent and nature of SSC involvement in the operational mode shall be determined by the OSC. The SSC may:

(1) Coordinate response from the scientific community to OSC requests for assistance and to requests from the OSC or trustees of the affected natural resources, as appropriate, for

performance of damage assessment investigation.

(2) Serve as the principal liaison for scientific advice from the scientific community to the OSC. The SSC shall ensure that differing scientific views within the scientific community are communicated to the OSC in a timely manner.

(3) The SSC will assist in responding to requests for assistance from State and Federal agencies regarding scientific studies, damage assessments, and natural resource restoration. Details on provision of access to scientific support shall be included in regional contingency plans.

(f)(1) The RRT may be activated by the Chairman as an emergency response team when a discharge or release:

(i) Exceeds the response capability available to the OSC in the place where it occurs;

(ii) Transects regional boundaries; or

(iii) May pose a substantial threat to the public health or welfare or to regionally significant amounts of property. Regional contingency plans shall specify detailed criteria for activation of RRTs.

(2) When the RRT is activated for an immediate removal action, the chairman shall be the representative of the lead agency. When the RRT is activated for a planned removal or remedial action, the chairman shall be the representative of EPA.

(3) The RRT is activated in the event of a major discharge or a major release. The RRT may be activated during any other pollution emergency by a request from any RRT representative to the chairman of the Team. Request for Team activation shall later be confirmed in writing. Each representative, or an appropriate alternate, should be notified immediately when the RRT is activated.

(4) During prolonged removal or remedial action, the RRT may not need to be activated or may need to be activated only in a limited sense during such actions, or have available only those members of the RRT who are directly affected by or can provide direct response assistance. When activated for a discharge or release, agency representatives should meet at the call of the chairman and may:

(i) Monitor and evaluate reports from the OSC. The RRT may advise the OSC on the duration and extent of Federal response and may recommend to the OSC specific actions to respond to the discharge or release.

(ii) Request other Federal, State or local governments, or private agencies to provide resources under their existing authorities to respond to a discharge or release or to monitor response operations.

(iii) Help the OSC prepare information releases for the public and for communication with the NRT.

(iv) If the circumstances warrant, advise the regional or district head of the agency providing the OSC that a different OSC should be designated.

(v) Submit Pollution Reports (POLREPS) to the NRC as significant developments occur.

(5) When the RRT is activated, affected States may participate in all RRT deliberations. State or local government representatives participating in the RRT have the same status as any Federal member of the RRT.

(6) The RRT can be deactivated by agreement between the EPA and USCG team members. The time of deactivation should be included in the POLREPS.

(g) The NRT may be activated as a emergency response team when an oil discharge or hazardous substance release:

(1) Exceeds the response capability of the region in which it occurs;

(2) Transects regional boundaries; or

(3) Involves significant population hazards or national policy issues, substantial amounts of property, or substantial threats to natural resources.

Also, when requested by any team representatives, the NRT may act as an emergency response team.

(h) When activated for a response action, the NRT shall meet at the call of the chairman and may:

(1) Monitor and evaluate reports from the OSC. The NRT may recommend to the OSC, through the RRT or otherwise, actions to combat the discharge or release.

(2) Request other Federal, State and local governments, or private agencies to provide resources under their existing authorities to combat a discharge or release or to monitor response operations.

(3) Coordinate the supply of equipment, personnel, or technical advice to the affected region from other regions or districts.

§ 300.34 Multi-regional responses.

(a) If a discharge or release or a substantial threat of a discharge or release moves from the area covered by one Federal local or Federal regional contingency plan into another area, the authority for pollution control actions should likewise shift. If a discharge or release or substantial threat of discharge or release affects areas covered by two or more regional plans, the response mechanism of both plans may be activated. In this case, pollution control actions of all regions concerned shall be fully coordinated as detailed in the regional plans.

(b) There should be only one OSC at any time during the course of a response operation. Should a discharge or release affect two or more areas, the EPA, USCG and DOD, as appropriate, should give prime consideration to the area vulnerable to the greatest damage. The RRT shall designate the OSC if EPA and USCG members are unable to agree on a designation. The NRT shall designate the OSC if members of one RRT or of two adjacent RRTs are unable to agree on the designation.

(c) Where the USCG has provided the OSC for emergency response to a release from a waste site located in the coastal zone, the responsibility for response action following the immediate removal action shall shift to EPA, in accordance with EPA/USCG agreements.

§ 300.35 Communications.

(a) The NRC is the national communications center for activities related to response actions. It is located at USCG Headquarters in Washington, D.C. The NRC receives and relays notices of discharges or releases to the appropriate OSC, disseminates OSC and RRT reports to the NRT when appropriate, and provides facilities for the NRT to use in coordinating a national response action when required.

(b) The Commandant, USCG, will provide the necessary communications, plotting facilities, and equipment.

(c) Notice of an oil discharge or a release of a hazardous substance or pollutant or contaminant should be made immediately in accordance with 33 CFR Part 153, Subpart B. Means of satisfying this requirement includes notification of the NRC Duty Officer, HQ USCG, Washington, D.C., telephone (800) 424–8802 (or current local telephone number), or notification to the predesignated OSC. All notices of discharges or releases received at the NRC should be relayed immediately by telephone to the OSC and State.

(d) Pollution Reports (POLREPS) Should be submitted by the RRT to the NRC as significant developments occur during response actions.

(e) Each regional plan will specify the location for the RRC. The RRC provides facilities and personnel for communications, information storage, and other requirements for coordinating response.

(f) The USCG Public Information Assist Team (PIAT) and the EPA Public Affairs Assist Team (PAAT), may help OSCs and regional or district offices meet the demands for public information and participation during major responses.

§ 300.36 Response equipment.

The Spill Cleanup Inventory (SKIM) system is available to help OSCs and RRTs gain rapid information as to the location of response and support equipment. This inventory is accessible through the National Response Center (NRC) and USCG's OSCs. The inventory includes private and commercial equipment, as well as government resources. The RRTs and OSCs shall ensure that data in the system are current and accurate. The USCG is responsible for maintaining and updating the system with RRT and OSC input.

Subpart D—Plans

§ 300.41 Regional and local plans.

(a) In addition to the National Contingency Plan (NCP), a Federal regional plan shall be developed for each standard Federal region and a Federal local plan shall be developed for each area in which an On-Scene Coordinator (OSC) deems it necessary. In areas in which the USCG designates the OSC, such plans shall be developed in all cases.

(b) These plans will be available for inspection at EPA Regional Offices or USCG District Offices. Addresses and telephone numbers for these offices may be found in the United States Government Manual (issued annually) or in local telephone directories.

§ 300.42 Regional contingency plans.

(a) The RRTs, working with the States, should develop Federal regional plans for each standard Federal region. The purpose of these plans is coordination of a timely, effective response by various Federal agencies and other organizations to discharges of oil and releases of hazardous substances and releases of pollutants or contaminants in order to protect public health or welfare and the environment. Regional contingency plans should include information on all useful facilities and resources in the region, from government, commercial, academic and other sources. To the greatest extent possible, regional plans will follow the format of the National Contigency Plan.

(b) Regional Scientific Support Coordinators (SSCs) shall organize and coordinate the contributions of scientists of each region to the response activities of the OSC and RRT to the greatest extent possible. SSCs, with advice from RRT members, shall also develop the parts of the regional plan that relate to scientific support.

(c) Regional plans shall contain lines of demarcation between the inland and coastal zones, as mutually agreed upon by USCG and EPA.

§ 300.43 Local contingency plans.

(a) Each OSC shall maintain a Federal local plan for response in his or her area of responsibility, where practicable. In areas in which the USCG provides the OSC such plans shall be developed in all cases. The plan should provide for a well-coordinated response that is integrated and compatible with the pollution response, fire, emergency and disaster plans of local, State and other non-Federal entities. The plan should identify the probable locations of discharges or releases, the resources to respond to multi-media incidents, where such resources can be obtained, waste disposal methods and facilities consistent with local and State plans developed under the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), and a local structure for responding to discharge or releases. To the extent possible, Federal local plans will follow the format of the NCP.

(b) While the OSC is responsible for developing Federal local plans, a successful planning effort will depend upon the full cooperation of all the agencies' representatives and includes the development of local capabilities to respond to discharges or releases. Particular attention must be given, during the planning process, to developing a multi-agency local response team for coordinating on-scene efforts. The RRT should ensure proper liaison between the OSC and local representatives of RRT members.

Subpart E—Operational—Response Phases for Oil Removal

§ 300.51 Phase I—Discovery and notification.

(a) A discharge of oil may be discovered through:

(1) A report submitted by the responsible party in accordance with statutory requirements;

(2) Deliberate search by patrols; and

(3) Random or incidental observation by government agencies or the public.

(b) Reports of discharges should be made to the NRC or the nearest USCG or EPA office. All reports shall be promptly relayed to the NRC if not previously reported. Federal regional and Federal local plans shall provide for prompt reporting to the NRC, RRC, appropriate State agency (as agreed upon with the State), and the affected land manager or owner.

(c) Upon receipt of a notification of discharge the NRC shall promptly notify the OSC through the appropriate RRC. The OSC shall proceed with the following phases as outlined in Federal regional, and Federal local plans.

§ 300.52 Phase II—Preliminary assessment and initiation of action.

(a) The agency providing the OSC for a particular area is responsible for initiating an immediate preliminary assessment.

(b) The preliminary assessment shall be conducted using available information, supplemented where necessary and possible by an on-scene inspection. The OSC shall undertake actions to:

(1) Evaluate the magnitude and severity of the discharge or threat to public health and welfare and the environment;

(2) Assess the feasibility of removal; and

(3) Determine the existence of potential responsible parties.

(c) Oil pollution Fund-financed response shall not be initiated when:

(1) There is no discharge or threat of discharge; or

(2) A responsible person, or any other person (except a State), is providing appropriate response.

(d) The OSC in consultation with appropriate legal authorities shall make a reasonable effort to have the responsible party voluntarily and promptly perform removal actions. The OSC shall ensure adequate surveillance over whatever actions are initiated. If effective actions are not being taken to eliminate the threat, or if removal is not being properly done, the OSC will so advise the responsible party. If the responsible party does not take proper removal actions, or is unknown, or is otherwise unavailable, the OSC shall, pursuant to section 311(c)(1) of the CWA, determine whether authority for a Federal response exists, and, if so, take appropriate response actions. Where practicable, continuing efforts should be made to encourage response by responsible parties.

(e) The OSC shall ensure that the trustees of affected natural resources are notified, in order that the trustees may initiate appropriate actions, when natural resources have been or are likely to be damaged (see Subpart G).

§300.53 Phase III—Containment, countermeasure, cleanup, and disposal.

(a) Defensive actions should begin as soon as possible to prevent, minimize, or mitigate damage to the public health or welfare or the environment. Actions

may include: Analyzing water samples to determine the source and spread of the pollutant; controlling the source of discharge; measuring and sampling; damage control or salvage operations; placement of physical barriers to deter the spread of pollution or to protect endangered species; control of the water discharged from upstream impoundment; and the use of chemicals and other materials in accordance with Subpart H, to restrain the spread of the pollutant and mitigate its effects.

(b) Appropriate actions should be taken to recover the pollutant or mitigate its effects. Of the numerous chemical and physical methods that may be used, the chosen methods should be the most consistent with protecting the public health and welfare and the environment.

(c) Pollutants and contaminated materials recovered in cleanup operations shall be disposed of in accordance with Federal regional and Federal local contingency plans.

§ 300.54 Phase IV—Documentation and Cost Recovery.

(a) Documentation shall be collected and maintained to support all actions taken under the CWA and to form the basis for cost recovery. In general, documentation should be sufficient to prove the source and circumstances of the incident, the responsible party or parties, and impacts and potential impacts to the public health and welfare and the environment. When appropriate, documentation should also be collected for scientific understanding of the environment and for the research and development of improved response methods and technology. Damages to private citizens (including loss of earnings) are not addressed by this Plan. Evidentiary and cost documentation procedures and requirements are specified in the USCG directive CG–495 and 33 CFR Part 153.

(b) The OSC shall ensure the necessary collection and safeguarding of information, samples, and reports. Samples and information must be gathered expeditiously during the response to ensure an accurate record of the impacts incurred. Documentation materials shall be made available to the trustees of affected natural resources where practicable.

(c) Information and reports obtained by the OSC shall be transmitted to the RRC which will forward copies to the NRC, RRT members, and others as appropriate.

§ 300.55 General pattern of response.

(a) When the OSC receives a report of a discharge, actions normally should be taken in the following sequence:

(1) Immediately notify the RRC and NRC when the reported incident is an actual or potential major incident.

(2) Investigate the report to determine pertinent information such as the threat posed to public health or welfare, or the environment, the type and quantity of polluting material, and the source of the discharge.

(3) Notify RRT members, Scientific Support Coordinator, and the trustees of affected natural resources, in accordance with the applicable regional plan.

(4) Determine whether the "responsible party" is properly carrying out removal. Removal is being done properly when:

(i) The cleanup is fully sufficient to minimize or mitigate damage to the public welfare (removal efforts are "improper" to the extent that Federal efforts are necessary to prevent further damage).

(ii) The removal efforts are in accordance with applicable regulations and guidelines, including this Plan.

(5) Officially classify the size of the incident and determine the course of action to be followed.

(6) Determine whether a State or political subdivision has the capability to carry out response actions and a contract or cooperative agreement has been established with the appropriate fund administrator for this purpose.

(b) The preliminary inquiry will probably show that the situation falls into one of five classes. These classes and the appropriate response to each are outlined below:

(1) If the investigation shows that no discharge exists, the case shall be considered a false alarm and should be closed.

(2) If the investigation shows a minor discharge with the responsible party taking appropriate removal action, contact should be established with the party. The removal action should be monitored to ensure continued proper action.

(3) If the investigation shows a minor discharge with improper removal action being taken, the following measures shall be taken;

(i) An immediate effort should be made to stop further pollution.

(ii) The responsible party shall be so advised of what action will be considered appropriate.

(iii) If the responsible party does not properly respond, he shall be notified of his potential liability for Federal response performed under the Act. This liability includes all costs of removal and may include the costs of assessing and restoring damaged natural resources and other actual or necessary costs of a Federal response.

(iv) The OSC shall notify appropriate State and local officials, keep the RRT advised and initiate Phase III operations as conditions warrant.

(v) Information shall be collected for possible recovery of response costs in accordance with § 300.54.

(4) When the investigation shows that an actual or potential medium pollution incident exists, the OSC shall follow the same general procedures as for a minor discharge. If appropriate, the OSC shall recommend activation of the Regional Response Team.

(5) When the investigation shows an actual or potential major pollution incident, the OSC shall follow the same procedures as for minor and medium discharges and, in addition, shall immediately notify the RRC and NRC.

§ 300.56 Pollution reports.

(a) Within 60 days after the conclusion of a major pollution incident and when requested by the RRT, the OSC shall submit to the RRT a complete report on the response operation and the actions taken. The OSC shall at the same time send a copy of the report to the NRT. The RRT shall review the OSC's report and prepare an endorsement to the NRT for review. This shall be accomplished within 30 days after the report has been received.

(b) The OSC's report shall accurately record the situation as it developed, the actions taken, the resources committed and the problems encountered. The OSC's recommendations are a source for new procedures and policy.

(c) The format for the OSC's report will be as follows:

(1) Summary of Events—A chronological narrative of all events, including:

(i) The cause of the incident;

(ii) The initial situation;

(iii) Efforts to obtain response by response by responsible parties;

(iv) The organization of the response; and

(v) The resources committed.

(vi) The location (water body, State, city, latitude and longitude) of the oil spill; whether the discharge was in connection with activities regulated under the Outer Continental Shelf Lands Act (OCSLA), the Trans-Alaska Pipeline Authority Act or Deepwater Port Act; or whether it might have or actually did affect natural resources under the exclusive management authority of the United States.

(vii) Comments on Federal or State efforts to replace or restore damaged natural resources and damage assessment activities.

(viii) Details of any threat abatement actions taken under sections 311(c) or (d) of the CWA.

(2) Effectiveness of Removal Actions—A candid and thorough analysis of the effectiveness of removal actions taken by:

(i) The responsible party;

(ii) State and local forces;

(iii) Federal agencies and special forces; and

(iv) (if applicable) contractors, private groups and volunteers.

(3) Problems Encountered—A list of problems affecting response with particular attention to problems of intergovernmental coordination.

(4) Recommendations—OSC recommendations, including at a minimum:

(i) Means to prevent a recurrence of the incident;

(ii) Improvement of response actions;

(iii) Any recommended changes in the National Contingency Plan or Federal regional plan.

§ 300.57 Special considerations.

(a) Safety of Personnel—The OSC should be aware of threats to human health and safety and shall ensure that persons entering the response area use proper precautions, procedures, and equipment and that they posses proper training. Federal local plans shall identify sources of information on anticipated hazards, precautions, and requirements to protect personnel during response operations. Names and phone numbers of people with relevant information shall be included. Responsibility for the safety of all Federal employees rests with the heads of their agencies. Accordingly, each Federal employee on the scene must be apprised of and conform with OSHA regulations and others deemed necessary by the OSC. All private contractors who are working on-site must be fully informed of applicable provisons of the Occupational Safety and Health Act and standards deemed necessary by the OSC, and be required to conform with them.

(b) Waterfowl Conservation—The DOI representative and the State liaison to the RRT shall arrange for the coordination of professional and volunteer groups permitted and trained to participate in waterfowl dispersal, collection, cleaning, rehabilitation and recovery activities. Federal regional and Federal local plans will, to the extent practicable, identify organizations or institutions that are permitted to participate in such activities and operate such facilities. Waterfowl conservation activities will normally be included in Phase III response actions § 300.53 of this subpart).

§ 300.58 Funding.

(a) If the person responsible for the discharge does not act promptly or take proper removal actions, or if the person responsible for the discharge is unknown, Federal discharge removal actions may begin under section 311(c)(1) of the CWA. The discharger, if known, is liable for the costs of Federal removal in accordance with section 311(f) of the CWA and other Federal law.

(b) Actions undertaken by the participating agencies in response to pollution shall be carried out under existing programs and authorities when available. This Plan intends that Federal agencies will make resources available, expend funds, or participate in response to oil discharges under their existing authority. Authority to expend resources will be in accordance with agencies' basic statutes and, if required, through interagency agreements. Specific interagency reimbursement agreements may be signed when necessary to ensure that the Federal resources will be available for a timely response to a discharge of oil. The ultimate decison as to the appropriateness of expending funds rests with the agency that is held accountable for such expenditures.

(c) The oil pollution fund, administered by Commandant, USCG, has been established pursuant to section 311(k) of the CWA. Regulations governing the administration and use of the fund are contained in 33 CFR Part 153. The OSC shall exercise sufficient control over removal operations to be able to certify that reimbursement from the fund is appropriate.

(d) Response actions, other than removal, such as scientific investigations not in support of removal actions or law enforcement, shall be provided by the agency with legal responsibility for those specific actions.

(e) The funding of a response to a discharge from a Federally operated or supervised facility or vessel is the responsibility of the operating or supervising agency.

(f) The following agencies have funds available for certain discharge removal actions:

(1) The EPA may provide funds to begin timely discharge removal actions when the OSC is an EPA representative.

(2) The USCG pollution control efforts are funded under "operating expenses." These funds are used in accordance with agency directives.

(3) The Department of Defense has two specific sources of funds which may be applicable to an oil discharge under appropriate circumstances. (This does not consider military resources which might be made available under specific conditions.)

(i) Funds required for removal of a sunken vessel or similar obstruction of navigation are available to the Corps of Engineers through Civil Functions Appropriations, Operations and Maintenance, General.

(ii) The U.S. Navy has funds available on a reimbursable basis to conduct salvage operations.

(4) Certain emergency response activities of State and local governments under this Plan may qualify for reimbursement as a "major disaster" or an "emergency." The President may allocate funds from the Disaster Relief Act (Pub. L. 93–288, as amended), managed by FEMA. FEMA may make financial assistance available to State and local governments and certain private, non-profit organizations for debris removal, emergency protective measures, and repairs and restoration of public facilities. The Director of FEMA may also direct and reimburse Federal agencies to perform disaster-related work for State and local governments which do not have the capability to respond on their own. (See 44 CFR Part 205.)

(5) Pursuant to section 311(c)(2)(H) of the CWA, the State or States affected by a discharge of oil, may act where necessary to remove such discharge and may, pursuant to 33 CFR Part 153, be reimbursed from the pollution revolving fund for the reasonable costs incurred in such a removal.

(i) Removal by a State is necessary within the meaning of section 311(c)(2)(H) of the Act when the OSC determines that the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs cannot effect removal properly and that:

(A) State action is required to minimize or mitigate significant damage to the public health or welfare which Federal action cannot minimize or mitigate, or

(B) Removal or partial removal can be done by the State at a cost which is less than or not significantly greater than the cost which would be incurred by the Federal departments or agencies.

(ii) State removal actions must be in compliance with the Plan in order to qualify for reimbursement.

(iii) State removal actions are considered to be Phase III actions, under

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the same definitions applicable to Federal agencies.

(iv) Actions taken by local government in support of Federal discharge removal operations are considered to be actions of the State for purpose of this section. Federal regional and Federal local plans shall show what funds and resources are available from participating agencies under various conditions and cost arrangements. Interagency agreements may be necessary to specify when reimbursement is required.

Subpart F—Hazardous Substance Response

§ 300.61 General.

(a) This subpart establishes methods and criteria for determining the appropriate extent of response authorized by CERCLA when any hazardous substance is released or there is a substantial threat of such a release into the environment, or there is a release or substantial threat of a release into the environment of any pollutant or contaminant which may present an imminent and substantial danger to the public health, welfare, or the environment.

(b) Section 104(a)(1) of CERCLA authorizes removal or remedial action unless it is determined that such removal and remedial action will be done properly by the owner or operator of the vessel or facility from which the release or threat of release emanates, or by any other responsible party.

(c) In determining the need for and in planning or undertaking Fund-financed action, response personnel should, to the extent practicable, consider the following:

(1) Encourage State participation in response actions.

(2) Conserve Fund monies by encouraging private party cleanup.

(3) Keep the local community informed.

(4) Rely on established technology when feasible and cost-effective.

(5) Encourage the participation and sharing of technology by industry and other experts.

§ 300.62 Phase I—Discovery or notification.

(a) A release may be discovered through:

(1) Notification in accordance with sections 103(a), (b) or (c) of CERCLA;

(2) Investigation by government authorities conducted in accordance with section 104(e) of CERCLA or other statutory authority;

(3) Notification of a release by a Federal or State permit holder when required by its permit;

(4) Inventory efforts or random or incidental observation by government agencies or the public;

(5) Other sources.

(b) If not reported previously, a release should be promptly reported to the NRC. The NRC shall convey the notification expeditiously to appropriate government agencies, and in the case of notices received pursuant to section 103(a) the NRC shall notify the Governor of any affected State and the appropriate State agency as agreed upon by the State.

(c) Upon receipt of a notification of a release, the NRC shall promptly notify the appropriate OSC.

§ 300.63 Phase II—Preliminary assessment.

(a) A preliminary assessment of a release identified for possible CERCLA response should be undertaken by the lead agency. If the reported release potentially requires immediate removal, the preliminary assessment should be done as promptly as possible. Other releases shall be assessed as oon as practicable considering priorities. The lead agency should base its assessment on readily available information. This assessment may include:

(1) Evaluation of the magnitude of the hazard;

(2) Identification of the source and nature of the release;

(3) Determination of the existence of a non-Federal party or parties ready, willing, and able to undertake a proper response; and

(4) Evaluation of factors necessary to make the determination of whether immediate removal is necessary.

(b) A preliminary assessment of releases from hazardous waste management facilities may include data such as site management practices, information from generators, photographs, analysis of historical photographs, literature searches, and personal interviews conducted as appropriate. In addition, a perimeter (off-site) inspection may be necessary to determine the potential for a release. Finally, if more information is needed, and if sophisticated safety equipment is not needed, a site visit may be performed.

(c) A preliminary assessment should be terminated when the OSC determines:

(1) There is no release;

(2) The source is neither a vessel nor a facility;

(3) The release involves neither a hazardous substance, nor a pollutant or contaminant that may pose an imminent and substantial danger to public health or welfare;

(4) The amount released does not warrant Federal response;

(5) A party responsible for the release, or any other person, is providing appropriate response, and on-scene monitoring by the government is not recommended or approved by the lead agency; or

(6) The assessment is completed.

§ 300.64 Phase III—Immediate removal.

(a) In determining the appropriate extent of action to be taken at a given release the lead agency shall first review the preliminary assessment to determine if immediate removal action is appropriate. Immediate removal action shall be deemed appropriate in those cases in which the lead agency determines that the initiation of immediate removal action will prevent or mitigate immediate and significant risk of harm to human life or health or to the environment from such situations as:

(1) Human, animal, or food chain exposure to accutely toxic substances.

(2) Contamination of a drinking water supply;

(3) Fire and/or explosion; or

(4) Similarly acute situations.

(b) If the lead agency determines that immediate removal is appropriate, defensive actions should begin as soon as possible to prevent or mitigate danger to the public health, welfare, or the environment. Actions may include, but are not limited to:

(1) Collecting and analyzing samples to determine the source and dispersion of the hazardous substance and documenting those samples for possible evidentiary use.

(2) Providing alternative water supplies.

(3) Installing security fencing or other measures to limit access.

(4) Controlling the source of release.

(5) Measuring and sampling.

(6) Moving hazardous substances off-site for storage, destruction, treatment, or disposal provided that the substances are moved to a facility that is in compliance with subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

(7) Placing physical barriers to deter the spread of the release.

(8) Controlling the water discharge from an upstream impoundment.

(9) Temporarily evacuating threatened individuals not otherwise provided for.

(10) Using chemicals and other materials in accordance with Subpart H to restrain the spread of the pollutant and to mitigate its effects.

(11) Executing damage control or salvage operations.

(c) Immediate removal actions are complete when, in the opinion of the lead agency, the criteria in subsection (a) of § 300.64 are no longer met and any contaminated waste materials have been treated or disposed of properly.

(d) If the lead agency determines that the release still may require planned removal or remedial action, the lead agency or a State may initiate, either simultaneously or sequentially, Phase IV or V, as appropriate.

§ 300.65 Phase IV—Evaluation and determination of appropriate response—planned removal and remedial action.

(a) The purpose of this phase is to determine the appropriate action when the preliminary assessment indicates that planned removal or remedial action may be necessary or when the OSC requests and the lead agency concurs that planned removal or remedial action should follow an immediate removal action.

(b) Pursuant to sections 104(b) and (e) of CERCLA, the responsible official may undertake investigations, monitoring, surveys, testing and other information gathering as appropriate. These efforts shall be undertaken jointly by the Federal or State officials responsible for providing Fund-financed response and those responsible for enforcing legal requirements. These coordination procedures shall be specified as appropriate in any contract or cooperative agreement with States.

(c) As soon as practicable, an inspection will be undertaken to assess the nature and extent of the release and its priority for Fund-financed response. A major objective of an inspection is to determine if there is any immediate danger to persons living or working near the facility. In general, the collection of samples should be minimized during inspection activities; however, situations in which there is an apparent risk to the public should be treated as exceptions to that practice. Examples of apparent risk include use of nearby wells for drinking water, citizen complaints of unusual taste or odor in drinking water, or chemical odors or unusual health problems in the vicinity of the release. Under those circumstances, a sampling protocol should be developed for the inspection to allow for the earliest possible detection of any human exposure to hazardous substances. The site inspection may also address:

(1) Determining the need for immediate removal or other emergency measures;

(2) Assessing amounts, types, and locations of hazardous substances stored;

(3) Assessing potential for substances to migrate from areas where they were originally located;

(4) Determining or documenting immediate threats to the public or environment.

(d) Methods for Listing Priorities—States that wish to have their priority lists considered for inclusion in the National Priority List must use the Hazard Ranking System to establish State priorities for adequately investigated, known, or potential releases and must furnish EPA with the scores. Detailed methods and criteria for ranking hazardous substance releases are included in "A Model for Determining Priorities Among Hazardous Substance Releases." The publication contains detailed direction for assigning value to ranking factors, worksheets, and the rationale behind the model. The model is available upon request from the Hazardous Site Control Division (WH–548–E), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

(e) State Priority Submissions—States that wish to have their priority candidates considered for inclusion in the National Priority List must furnish a list of these releases to the appropriate EPA Regional Office. The list will include a listing of the most serious releases located in the State in order of priority and a summary of all data pertinent to establishing the seriousness of threat among high priority facilities. In addition, the list will indicate, for each release ranked: Whether a responsible party exists; whether the State intends to take enforcement action against the responsible party; the next response phase to be undertaken; an estimate of the cost of that phase; and an estimate of the total cost of the response. As part of the list, the State will indicate in a letter of intent either its ability to make the assurances required by section 104(c)(3) of the Act or its intention to make those assurances at the appropriate time. Briefly, the State will:

(1) Assure the future maintenance of the response actions provided;

(2) Assure the availability of a hazardous waste disposal facility in compliance with Subtitle C of the Solid Waste Disposal Act for any necessary off-site disposal of hazardous waste; and

(3) Assure payment or pay 10 percent of the costs of the remedial action (or at least 50 percent, if the facility was owned at the time of release by the State or by a political subdivision). The letter of intent should also contain the State's schedule for entering into a cooperative agreement or contract with EPA for responses at any or all releases in the priority plan. Finally, the State may, at its discretion, designate in its priority plan the highest ranked release which the State believes requires federally funded remedial action and which should be included on the national priority list of one hundred.

(f) National Priority List—(1) Consolidation of State and Regional Lists—The EPA Regional Offices will review State hazard rankings to ensure uniform application of the hazard ranking system and will add, in consultation with the States, any additional priority releases known to EPA. The State priorities will be reviewed and consolidated by EPA Headquarters into a National Priority List.

(2) Grouping of Releases—Similar scores cannot accurately differentiate risks at their associated releases. Thus, in order to avoid misleading the public that real differences in risk exist, similar scores may be grouped. Releases within any group will be listed alphabetically. The EPA may treat all releases listed within a group as identical in risk when considering response activities.

(3) The EPA will submit the recommended National Priority List to the NRT for review and comment.

§ 300.66 Phase V—Planned removal.

(a) With the lead agency's approval, planned removal may be undertaken when a release is listed as a national prirority pursuant to the Hazard Ranking System or at an unranked release when there are conditions that may result in a release requiring immediate removal.

(b) Planned removals may be taken only if the lead agency determines that:

(1) There will be a substantial cost-savings by proceeding with the planned removal in lieu of remedial action;

(2) A limited action is needed to minimize and mitigate damages and exposure that otherwise would occur;

(3) The State provides adequate assurance that it will provide at least 10 percent of project expenses and that the release will be submitted as a priority by the State for inclusion in the next revision of the National Priority List; and

(4) The action will minimize and mitigate damages without relying on future response actions.

(c) A planned removal should emphasize actions which are consistent with any subsequent remedial activities that may be necessary to further mitigate or eliminate the release of substances in question.

(d) Responsible officials may undertake or request (consistent with delegations in Executive Order 12316) any actions authorized under section 104(b) of CERCLA when taking a planned removal action.

(e) Pollution reports (POLREPS) for planned removal releases of hazardous substances shall be submitted in accordance with requirements established for discharges of oil under § 300.56.

(f) Planned removal shall be terminated after $1,000,000 has been obligated for the action or six months has elasped from the date of initial response to a release or threatened release of hazardous substances unless it is determined that:

(1) Continued response actions are immediately-required to prevent, limit, or mitigate an emergency,

(2) There is an immediate risk to public health or welfare or the environment, and

(3) Such assistance will not otherwise be provided on a timely basis.

§ 300.67 Phase IV—Remedial action.

(a) Remedial actions are those reponses to releases on the National Priority List that require longer-term and possibly more expensive efforts to prevent or mitigate the migration of a release of hazardous substances.

(b) Pursuant to section 104(c)(3) of CERLCA, before any Fund-financed remedial action may be taken, the affected State(s) must enter into a contract or cooperative agreement with the Federal Government. EPA also shall consult with the affected State or States in determining an appropriate remedial action.

(c) As an alternative or in addition to Fund-financed remedial action, the lead agency may seek, through voluntary agreement or administrative or judicial process, to have those persons responsible for the release clean up in a manner that effectively mitigates and minimizes damage to and provides adequate protection of public health, welfare, and the environment. The lead agency shall evaluate the adequacy of cleanup proposals submitted by responsible parties or determine the level of cleanup to be sought through enforcement efforts, by consideration of the factors discussed in paragraphs (e) through (j) below. The lead agency will not, however, apply the cost balancing considerations discussed in (k) of this section to determine the appropriate extent of responsible party cleanup.

(d) A remedial investigation should be undertaken by the lead agency (or responsible party if the responsible party will be developing a cleanup proposal) to determine the nature and extent of the problem presented by the release. This includes sampling and monitoring, as necessary, and includes the gathering of sufficient information to determine the necessity for and proposed scope of remedial action.

(e) In some instances, initial remedial measures can and should begin before final selection of an appropriate remedial action if such measures are determined to be feasible and necessary to limit exposure or threat of exposure to a significant health or environmental hazard and if such measures are cost-effective. Compliance with § 300.67(b) is a prerequisite to taking initial remedial measures. The following factors should be used in determining whether initial remedial measures are appropriate:

(1) Actual or potential direct contact with hazardous substances by nearby population. (Measures might include fences and other security precautions.)

(2) Absence of an effective drainage control system (with an emphasis on run-on control). (Measures might include drainage ditches.)

(3) Severely contaminated drinking water at the tap. (Measures might include the temporary provision of an alternative water supply.)

(4) Hazardous substances in drums, barrels, tanks, or other bulk storage containers, above surface. (Measures might include transport of drums off-site.)

(5) Highly contaminated soils largely at or near surface, posing a serious threat to public health. (Measures might include temporary capping or removal of highly contaminated soils from drainage areas.)

(6) Substantial threat of fire or explosion or of serious public health hazard. (Measures might include security or drum removal.)

(7) Weather conditions that may cause substances to migrate posing serious health hazards. (Measures might include stabilization of berms, dikes or impoundments.)

(f) Identification of Appropriate Type of Remedy. Based on information gathered during the remedial investigation, the lead agency shall determine the nature of the threat to public health, welfare, or the environment and assess whether the threat can be mitigated and minimized by controlling the source of the contamination at or near the area where the hazardous substances were originally located (source control remedial actions) or whether additional actions will be necessary because the hazardous substances have migrated from the area of their original location (off-site remedial actions).

(1) Source control remedial actions may be appropriate if a substantial concentration of hazardous substances remain at or near the area where they were originally located and inadequate barriers exist to retard migration of substances into the environment. Source control remedial actions are not appropriate if all substances have migrated from the area where originally located or if the lead aency determines that the substances are adequately contained. Source control remedial actions may include alternatives to contain the hazardous substances where they are located or eliminate potential contamination by transporting the hazardous substances to a new location. The following criteria should be assessed in determining whether and what type of source control remedial actions should be considered:

(i) The extent to which substances pose a danger to public health, welfare, or the environment. Factors which should be considered in assessing this danger include:

(A) Population at risk;

(B) Amount and form of the subatance present;

(C) Hazardous properties of the substances;

(D) Hdydrogeological factors (e.g. soil permeability depth to saturated zone, hydrologic gradients, proximity to a drinking water aquifer); and

(E) Climate (rainfall, etc.).

(ii) The extent to which substances have migrated or are contained by either natural or man-made barriers.

(iii) The experiences and approaches used in similar situations by State and Federal agencies and private parties.

(iv) Environmental effects and welfare concerns.

(2) In some situations it may be appropriate to take action (referred to as off-site remedial actions) to minimize and mitigate the migration of hazardous substances and the effects of such migration. These actions may be taken when the lead agency determines that source control remedial actions may not effectively mitigate and minimize the threat and there is a significant threat to public health, welfare, or the environment. These situations typically will result from contamination that has migrated beyond the area where the hazardous substances were originally located. Off-site measures may include provision of permanent alternative water supplies, management of a drinking water aquifer plume or treatment of drinking water aquifers. The following criteria should be used in determining whether and what type of off-site remedial actions should be considered:

(i) Contribution of the contamination to an air, land or water pollution problem.

(ii) The extent to which the substances have migrated or are expected to migrate from the area of their original location and whether continued migration may pose a danger to public health, welfare or environment.

(iii) The extent to which natural or man-made barriers currently contain the hazardous substances and the adequacy of the barriers.

(iv) The factors listed in paragraph (f)(1)(i).

(v) The experiences and approaches used in similar situations by State and Federal agencies and by private parties.

(vi) Environmental effects and welfare concerns.

(g) Development of Alternatives. A limited number of alternatives should be developed for either source control or off-site remedial actions (or both) depending upon the type of response that has been identified under paragraph (f) as being appropriate. Where appropriate, one alternative should be a no-action alternative. No action alternatives are appropriate, for example, when action may cause a greater environmental or health danger than no action or when there is no appropriate engineering solution. These alternatives should be developed based upon the assessment conducted under paragraph (f) and reflect the types of source control or off-site remedial actions determined to be appropriate under paragraph (f).

(h) Initial Screening of Alternatives. The alternatives developed under paragraph (g) will be subjected to an initial screening to narrow the list of potential remedial actions or further detailed analysis. Three broad criteria should be used in the initial screening of alternatives:

(1) Cost. For each alternative, the cost of installing or implementing the remedial action must be considered, including operation and maintenance costs. An alternative that far exceeds (e.g. by an order of magnitude) the costs of other alternatives evaluated should usually be excluded from further consideration.

(2) Effects of the Alternative. The effects of each alternative should be evaluated in two ways: (i) Whether the alternative itself or its implementation has any adverse enviromental effects; and (ii) for source control remedial actions, whether the alternative is likely to achieve adequate control of source material, or for off-site remedial actions, whether the alternative is likely to effectively mitigate and minimize the threat of harm to public health, welfare or the environment. If an alternative has significant adverse environmental effects, it should be excluded from further consideration. Only those alternatives that effectively contribute to protection of public health, welfare, or the environment should be considered further.

(3) Acceptable Engineering Practices. Alternatives must be feasible for the location and conditions of the release, applicable to the problem, and represent a reliable means of addressing the problem.

(i) Detailed Analysis of Alternatives.

(1) A more detailed evaluation will be conducted of the limited number of alternatives that remain after the initial screening in (h).

(2) The detailed analysis of each alternative should include:

(i) Refinement and specification of alternatives in detail, with emphasis on use of established technology;

(ii) Detailed cost estimation, including distribution of costs over time;

(iii) Evaluation in terms of engineering implementation, or constructability; and

(iv) An analysis of any adverse environmental impacts, methods for mitigating these impacts, and costs of mitigation.

(3) In performing the detailed analysis of alternatives, it may be necessary to gather additional data in order to complete the analysis.

(j) The appropriate extent of remedy shall be determined by the lead agency's selection of the remedial alternative which the agency determines is cost-effective (i.e. the lowest cost alternative that is technologically feasible and reliable) and which effectively mitigates and minimizes damage to and provides adequate protection of public health, welfare, or the environment.

(k) Section 104(c)(4) of CERCLA requires that the need for protection of public health, welfare and the environment, be balanced against the amount of money available in the Fund to respond to releases under consideration and the need to respond to other releases. Accordingly, in determining the appropriate extent of remedy for Fund-financed response the lead agency also must consider the need to respond to other releases with Fund monies.

§ 300.68 Phase VII—Documentation and cost recovery.

(a) During all phases, documentation shall be collected and maintained to support all actions taken under this plan, and to form the basis for cost recovery. In general, documentation should be sufficient to provide the source and circumstances of the condition, the identity of responsible parties, accurate accounting of Federal costs incurred, and impacts and potential impacts to the public health, welfare, and environment.

(b) The information and reports obtained by the lead agency should be transmitted to the RRC. Copies can then be forwarded to the NRT, members of the RRT, and others as appropriate.

§ 300.69 Methods of remedying releases.

(a) The following section lists methods for remedying releases that may be considered by the lead agency in taking response action. This list of methods should not be considered inclusive of all possible methods of remedying releases.

(b) Engineering Methods for On-site Actions.

(1) Control and containment actions.

(i) Air emissions control—The control of volatile gaseous compounds should address both lateral movement and atmospheric emissions. Before gas migration controls can be properly installed, field measurements to determine gas concentrations, pressures, and soil permeabilities should be used to establish optimum design for control. In addition, the types of hazardous substances present, the depth to which they extend the nature of the gas and the subsurface geology of the release area should, if possible, be determined. Typical emission control techniques include the following:

(A) Pipe vents;

(B) Trench vents;

(C) Gas barriers;

(D) Gas collection systems.

(ii) Surface water controls—These are remedial techniques designed to reduce waste infiltration and to control runoff at release areas. They also serve to reduce erosion and to stabilize the surface of covered sites. These types of control technologies are usually implemented in conjunction with other types of controls such as the elimination of ground water infiltration and/or waste stabilization, etc. Technologies applicable to surface water control include the following:

(A) Surface seals;

(B) Surface water diversion and collection systems;

(*1*) Dikes and berms;

(2) Ditches, diversions, waterways;
(3) Chutes and downpipes;
(4) Levees;
(5) Seepage basins and ditches;
(6) Sedimentation basins and ponds;
(7) Terraces and benches;
(C) Grading;
(D) Revegetation.

(iii) Ground water controls—Ground water pollution is a particularly serious problem because once an aquifer has been contaminated, the resource cannot usually be cleaned without the expenditure of great time, effort and resources. Techniques that can be applied to the problem with varying degrees of success are as follows:

(A) Impermeable barriers;
(1) Slurry walls;
(2) Grout curtains;
(3) Sheet pilings;
(B) Permeable treatment beds;
(C) Ground water pumping;
(1) Water table adjustment;
(2) Plume containment.

(D) Leachate control—Leachate control systems are applicable to control of surface seeps and seepage of leachate to ground water. Leathate collection systems consist of a series of drains which intercept the leachate and channel it to a sump, wetwall, treatment system, or appropriate surface discharge point. Technologies applicable to leachate control include the following:

(1) Subsurface drains;
(2) Drainage ditches;
(3) Liners.

(iv) Contaminated water and sewer lines—Sanitary sewers and municipal water mains located down gradient from hazardous waste disposal sites may become contaminated by infiltration of leachate or polluted ground water through cracks, ruptures, or poorly sealed joints in piping. Technologies applicable to the control of such contamination to water and sewer lines include:

(A) Grouting;
(B) Pipe relining and sleeving;
(2) Treatment Technologies.

(i) Gaseous emissions treatment—Gases from waste disposal sites frequently contain malodorous and toxic substances, and thus require treatment before release to the atmosphere. There are two basic types of gas treatment systems:

(A) Adsorption by vapor phase carbon;
(B) Thermal oxidation.

(ii) Direct waste treatment methods—In most cases, these techniques can be considered long-term permanent solutions. Many of these direct treatment methods are not fully developed and the applications and process reliability are not well demonstrated. Use of these techniques for waste treatment may require considerable pilot plant work. Technologies applicable to the direct treatment of wastes are:

(A) Biological methods;
(1) Treatment via modified conventional wastewater treatment techniques;
(2) Anaerobic, aerated and facultative lagoons;
(3) Rotating biological disks;
(B) Chemical methods;
(1) Chlorination;
(2) Precipatation, flocculation, sedimentation;
(3) Neutralization;
(4) Equalization;
(C) Physical methods;
(1) Air stripping;
(2) Carbon adsorption;
(3) Ion exchange;
(4) Reverse osmosis;
(5) Permeable bed treatment;
(6) Wet air oxidation;
(7) Incineration.

(iii) Contaminated soils and sediments—In some cases where it can be shown to be cost-effective, contaminated sediments and soils will be treated on the site. Technologies available include:

(A) Incineration;
(B) Wet air oxidation;
(C) Solidification;
(D) Encapsulation;
(E) In situ treatment;
(1) Solution mining, (soil washing or soil flushing);
(2) Neutralization / detoxification;
(3) Microbiological degradation;

(c) Off-site Transport for Storage, Treatment, Destruction or Secure Disposition.

(1) General—Offsite transport or storage, treatment, destruction, or secure disposition offsite may be provided in cases where EPA determines that such actions:

(i) Are more cost-effective than other forms of remedial action,

(ii) Will create new capacity to manage, in compliance with Subtitle C of the Solid Waste Disposal Act, hazardous substances in addition to those located at the affected facility, or

(iii) Are necessary to protect public health, welfare, or the environment from a present or potential risk which may be created by further exposure to the continued presence of such substances or materials.

(2) Contaminated soils and sediments may be removed from the site. Technologies used to remove contaminated sediments on soils:

(i) Excavation;
(ii) Hydraulic dredging;
(iii) Mechanical dredging.

(d) Provision of Alternate Water Supplies. Alternative water supplies can be provided in several ways:

(1) Provision of individual treatment units;
(2) Provision of water distribution system;
(3) Provisions of new wells in a new location or deeper wells;
(4) Provision of cisterns;
(5) Provision of bottled water;
(6) Provision of upgraded treatment for existing distribution systems.

(e) Relocation—Permanent relocation of residents, businesses, and community facilities may be provided where it is determined that human health is in danger and that, alone or in combination with other measures, relocation would be cost effective and environmentally preferable to other remedial response.

§ 300.70 Special considerations.

(a) Worker health and safety. (1) Lead agency personnel should be aware of hazards due to release of hazardous material to human health and safety and exercise great caution in allowing civilian or government personnel into an affected area until the nature of the discharge or release has been ascertained. In accord with section 301(f) of CERCLA, which requires a study of provisions for the protection of the health and safety of employees involved in response actions, the OSC shall provide EPA, DOT (USCG), OSHA, and NIOSH with an assessment of the effectiveness of measures taken to protect the health and welfare of workers at any removal or remedial operation. This assessment will be provided in accord with applicable Agency directive and should include recommendations for protective actions to be taken at subsequent removal or remedial operations. These recommendations will be considered by EPA, USCG, OSHA, and NIOSH in drafting modifications to this Plan. In the interim, OSCs shall use the Interim Standard Operating Safety Procedures issued by EPA as guidance.

(2) Local contingency plans may identify sources of information on anticipated hazards, precautions, and requirements to protect personnel during removal and remedial operations. Names and phone numbers of people with relevant information should be included.

(b) Non-Federal costs. (1) Non-Federal costs of implementing this Plan are eligible for payment from the Fund to the extent such costs are incurred related to releases for which response action has been specifically approved in advance by EPA. In most cases, costs will be preauthorized pursuant to a cooperative agreement or contract.

(2) The following types of non-Federal response costs may be eligible as direct response costs except as excluded by paragraph (b)(4) of this section and any related guidance when they are incurred under, pursuant to this subpart, a cooperative agreement or contract.

(i) Technical review and management of a subagreement for response activities by the State OSC or project officer.

(ii) Salary and wages of State employees directly involved with the response activities and the portion of the time their first level supervisor devotes to on-site management of their work on the project.

(iii) Cost of materials and supplies necessary for carrying out response actions.

(iv) Cost of equipment used in the response action less its residual value.

(v) Any necessary travel of the OSC, project officer or other State employees working directly on response actions associated with carrying out a response action.

(3) Eligible indirect non-Federal governmental costs are subject to the requirements of OMB Circular A–87.

(4) Ineligible non-Federal costs include, but are not limited to:

(i) State and local costs of complying with section 104(c)(3) of CERCLA; and

(ii) All costs of other preparations for response leading to ranking of a release and prior to a decision to take enforcement action.

(c) Certain emergency response activities of State and local governments under this Plan may qualify for reimbursement as a "major disaster" or an "emergency." The President may allocate funds from the Disaster Relief Act (PL 93–288, as amended), managed by FEMA. FEMA may make financial assistance available to State and local governments and certain private, non-profit organizations for debris removal, emergency protective measures, and repairs and restoration of public facilities. The Director of FEMA may also direct and reimburse Federal agencies to perform disaster-related work for State and local governments which do not have the capability to respond on their own. (See 44 CFR Part 205.)

Subpart G—Designation and Responsibilities of Federal Trustees of Natural Resources

§ 300.71 Designation of trustee.

When natural resources are lost or damaged as a result of a discharge of oil or release of a hazardous substance or pollutant or containment, the following Federal officials are designated to act as trustees of those natural resources specified below:

(a)(1) *Natural Resource Loss.* Damage to resource of any kind located on, over or under land subject to the management of a Federal land managing agency, other than land in or under United States waters that are navigable by deep draft vessels, including waters of the continguous zone and parts of the high seas to which the National Contingency Plan is applicable and other waters subject to tidal influence.

(2) *Trustee.* The head of the Federal land managing agency, or the head of any other single entity designated by it to act as trustee for a specific resource.

(b)(1) *Natural Resource Loss.* Damage to resources of any kind lying in or under United States waters that are navigable by deep draft vessels, including waters of the contiguous zone and parts of the high seas to which the National Contingency Plan is applicable and other waters subject to tidal influence, and upland areas serving as habitat for marine mammals and other species subject to the protective jurisdiction of NOAA.

(2) *Trustee.* The Secretary of Commerce or the head of any other single Federal entity designated by it to act as trustee for a specific resource. Where migratory birds, marine mammals, or endangered or threatened species or their habitats subject to the protective jurisdiction of the Secretary of the Interior are lost or damaged, the Secretary of Commerce shall obtain the concurrence of the Secretary of the Department of the Interior with respect to assessments, claims and restoration plans pertaining to such resources.

(c)(1) *Natural Resource Loss.* Damages to resources located on lands held by the United States in trust for an Indian tribe or individual Indians within the boundaries of an Indian Reservation lands and held by the United States in trust for an Indian tribe or individual Indians outside of the boundary of an Indian reservation.

(2) *Trustee.* The Secretary of the Department of the Interior, or the head of any other single Federal entity designated by it to act as trustee for specific resources.

§ 300.72 Responsibilities of trustees.

The Federal trustees for natural resources shall be responsible for assessing damages to the resources, seeking recovery for the losses from the person responsible or from the Fund, and devising and carrying out restoration, rehabilitation and replacement plans pursuant to CERCLA.

Subpart H—Use of Dispersants and Other Chemicals

§ 300.81 General.

(a) Section 311(c)(2)(G) of the Clean Water Act requires that EPA prepare a schedule of dispersants and other chemicals, *if any*, that may be used in carrying out the plan.

(b) EPA has determined that its experience with dispersants and other chemicals in oil spills is not yet sufficient to support preparation of a schedule to permit routine usage.

(c) EPA will continue to authorize use of dispersants and other chemicals on a case-by-case basis and may, after additional field experience, choose to propose a schedule which would permit routine usage. Case-by-case approvals will be made by the Administrator or her designee.

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Part IV

Environmental Protection Agency

National Primary Drinking Water Regulations; Amendments; Correction

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[Docket No. WH-FRL-2074-2]

National Primary Drinking Water Regulations; Amendments; Correction

February 12, 1982.

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: This document corrects typographical errors and errors in citations in the amendments to the National Interim Primary Drinking Water Regulations and supplementary information that accompanied those amendments published on August 27, 1980 (45 FR 57332).

DATES: These corrections are effective March 12, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Cotruvo, Director, Criteria and Standards Division, Office of Drinking Water (WH-550), Environmental Protection Agency, Washington, D.C. 20460 (202/472-5016).

SUPPLEMENTARY INFORMATION: On August 27, 1980, EPA promulgated amendments to the National Interim Primary Drinking Water Regulations (NIPDWR) (45 FR 57332). Through the process of implementing those amendments, the Agency has identified a number of typographical errors and errors in citations in the Supplementary Information section of the August 27, 1980, Notice and the promulgated amendments. The following two corrections are being made to the Supplementary Information section in order to avoid any further confusion that may have been created by the two errors.

1. On page 57332, column 3, eighteenth line in section titled, "Summary of Major Changes," the word "nitrite" should be corrected to read "nitrate".

2. On page 57341, column 1, footnote to Table 1, the word "not" was deleted and should be corrected to read, "As noted previously, indices may not be an appropriate measure of corrosive characteristics in all cases."

The remainder of the corrections are to the amendments. Correction number three rectifies an error that resulted in the deletion of the fluoride maximum contaminant level (MCL) from the Code of Federal Regulations. In the July 19, 1979, proposed amendments, EPA proposed to add a new § 141.11(d) that stated: "Fluoride at optimum levels in drinking water has been shown to have beneficial effects in reducing the occurrence of tooth decay." EPA made the decision after public comment to promulgate the new section "(d)" as proposed. The summary of the amendments stated that one amendment was to "add a statement to the NIPDWR clarifying the apparent contradiction between setting an MCL for fluoride and the beneficial effects of fluoride." 45 FR 57332. However, there was a typographical error, and the new section was lettered "c" instead of "d".

The fluoride MCL is at § 141.11(c). The effect of the typographical error was to replace the fluoride MCL with the statement regarding beneficial effects rather than including the statement as an addition to the fluoride MCL. A review of the preamble clearly shows there was no intent to delete the fluoride MCL. This notice corrects that error.

To avoid confusion, instead of adding a new section "(d)," this correction notice adds the statement regarding beneficial effects of fluoride at the end of a section "(c)" that includes the fluoride MCL.

Because this notice only includes corrections to typographical errors and errors in citations, these corrections shall become effective immediately.

This correction is not related to EPA's commitment to reexamine the fluoride standard, on which work is continuing, per EPA's response to the petition from the State of South Carolina (46 FR 58345, December 1, 1981).

Dated: March 2, 1982.

Bruce R. Barrett,

Acting Assistant Administrator for Water.

PART 141—NATIONAL INTERIM PRIMARY DRINKING WATER REGULATIONS

Accordingly, the following corrections are made in FR Doc. 80-26105 appearing at page 57342 in the issue of August 27, 1980:

1. On page 57342, column 3, § 141.6(c), line 2, "(c) and (d)" should be corrected to read "(d) and (e)". In line 3, "141.14(b)(1)(c)" should be corrected to read "141.14(b)(1)(i)." Omit "(c)," from line 8.

2. On page 57342, column 3, § 141.11(a), line 5, "organic" should be corrected to read "inorganic".

3. On page 57343, column 1, § 141.11(c) should be corrected to read as follows:

(c) When the annual average of the maximum daily air temperatures for the location in which the community water system is situated is the following, the maximum contaminant levels for fluoride are:

Temperature degrees Fahrenheit	Degrees Celsius	Level, milligrams per liter
53.7 and below	12.0 and below	2.4
53.8 to 58.3	12.1 to 14.6	2.2
58.4 to 63.8	14.7 to 17.6	2.0
63.9 to 70.6	17.7 to 21.4	1.8
70.7 to 79.2	21.5 to 26.2	1.6
79.3 to 90.5	26.3 to 32.5	1.4

Fluoride at optimum levels in drinking water has been shown to have beneficial effects in reducing the occurrence of tooth decay.

4. On page 57344, column 2, § 141.22(a), last line, "Nephrometric" should be corrected to read "Nephelometric".

5. On page 57344, column 2, § 141.23(f)(1), line three, "D-2972-78A" should be corrected to read "D-2972-78B".

6. On page 57344, column 2, § 141.23(f)(1), footnote 4, "1976, Race Street" should be corrected to read, "1916 Race Street".

7. On page 57344, column 3, § 141.23(f)(3), line two, "3557-78A or B" should be corrected to read, "D3557-78A or B".

8. On page 57344, column 3, § 141.23(f)(8), line two, "Absorption Technique" should be corrected to read "Absorption Furnace Technique".

9. On page 57344, column 3, § 141.23(f)(9), line two, insert "pp. 148-151," preceding "Atomic Absorption"; "Atomic Absorption Techniques Furnace Technique" should be corrected to read "Atomic Absorption Furnace Technique".

10. On page 57344, column 3, § 141.23(f)(10) should be deleted and replaced with the following: "(10) Fluoride—Method [1] 340.1, Method [2] 414-A and 414-C, or Method [4] D-1179-72A, Colorimetric Method with Preliminary Distillation; or Method [1] 340.2, Method [2] 414-B, or Method [4] D-1179-72B, Potentiometric Ion Selective Electrode; or Method [3] I-3325-78, pp. 365-367, Colorimetric Eriochrome Cyanine R Method; or Method [1] 340.3, Method [2] 603, Automated Complexone Method (Alizarin Fluoride Blue), pp. 614-616; or Industrial Method #129-71W, Fluoride in Water and Wastewater, Technicon Industrial Systems, Tarrytown, NY 10591, Dec. 1972; or Industrial Method #380-75WE, Automated Electrode Method, Fluoride in Water and Wastewater, Technicon Industrial Systems, Tarrytown, NY, February 1976."

11. On page 57345, column 1, § 141.24(e), line ten, delete "1977"; line twelve, "D3066" should be corrected to read "D-3086-79"; line sixteen, "A-5" should be corrected to read "A-3".

12. On page 57345, column 1, § 141.24(f), line ten, delete "1977"; line twelve, "D3478" should be corrected to read "D-3478-79"; line thirteen, "555-5692" should be corrected to read "565-569".

13. On page 57345, column 2, § 141.28(a), line three, after "§ 141.27," insert the following: "§§ 141.41 and 141.42".

14. On page 57346, column 3, § 141.42(c)(5) should be deleted and replaced with the following:

"(5) Calcium—EDTA titrimetric method 'Standard Methods for the Examination of Water and Wastewater,' 14th Edition. Method 306C, pp. 189-191; or 'Annual Book of ASTM Standards,' Method D-1126-67B; 'Methods for Chemical Analysis of Water and Wastes,' Method 215.2."

15. On page 57346, column 3, § 141.42(c)(6), lines one and two, "and paint" should be corrected to read "end point".

16. On page 57346, column 3, § 141.42(c)(7), bottom line "D-129378A or B" should be corrected to read, "D-1293-78A or B".

17. On page 57346, column 3, § 141.42(c)(9), lines 7 and 8, delete "13th Edition, pp. 334-335,".

(Safe Drinking Water Act, Sections 1401, 1412, 1414, 1416, 1445 and 1450 of Pub. L. 93-523, as amended by Pub. L. 95-190, 96-63 and 96-502 (42 U.S.C. 300f *et seq.*)

[FR Doc. 82-6819 Filed 3-11-82; 8:45 am]

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S.J. Res. 142/Pub. L. 97–151 To authorize and request the President to issue a proclamation designating March 21, 1982, as Afghanistan Day, a day to commemorate the struggle of the people of Afghanistan against the occupation of their country by Soviet forces. (Mar. 10, 1982; 96 Stat. 9) Price: $1.50.

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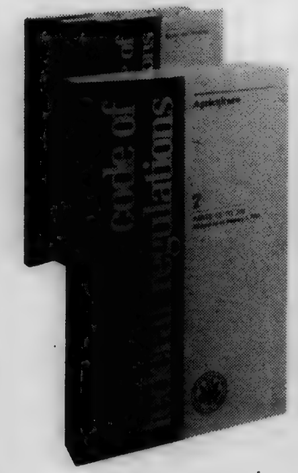

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March 15, 1982

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Rules and Regulations

Federal Register
Vol. 47, No 50
Monday, March 15, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 72

[Docket No. 81-068]

Texas (Splenetic) Fever in Cattle

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations concerning the approval of dips permitted by the Department in official dipping for interstate movement of livestock affected with ticks. This action is necessary to provide information on a pesticide which is safe and effective for such treatment of livestock. The effect of this action is to identify in the regulations an additional "permitted dip" as effective for the treatment of animals affected with ticks.

EFFECTIVE DATE: April 14, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. R. L. Rissler, USDA, APHIS, VS, Sheep, Goat, Equine, and Ectoparasites Staff, Room 734, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8321. An environmental impact analysis has been prepared on the use of Prolate and is available by contacting Dr. G. O. Schubert, Chief Staff Veterinarian, USDA, APHIS, VS, Room 737, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–5930.

SUPPLEMENTARY INFORMATION: This final action has been reviewed in conformance with Executive Order 12291 and has been classified as not a "major rule."

Based on information compiled by the Department, it has been determined that this rule will have no appreciable effect on the economy; that this rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and that this rule will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Additionally, Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because this action only provides for the use of an additional "permitted dip" as an option for treatment of animals affected with ticks.

Permitted dips must be listed in § 72.13(b) before they are permitted for treatment of livestock affected with ticks. The only alternative considered was of making no change to the present regulations. This alternative was rejected because trials conducted in connection with organophosphorous insecticides (Prolate®) against ticks have been successful, and the dip is registered for such use by the Environmental Protection Agency. Therefore, this action would provide an additional dip for the treatment of livestock affected with ticks. This action involves no cost increase to the public because it is not a mandatory action, further it relieves restrictions on the public.

On Tuesday, April 28, 1981, there was published in the Federal Register (46 FR 23754–23755) a document which proposed to identify proprietary brands of organophosphorous insecticides (Prolate®) in the regulations as an additional "permitted dip" effective for the treatment of animals affected with ticks and to prescribe the concentrations of such dip to be used.

A period of 60 days was provided for receipt of comments. One comment, which was in agreement with the proposal, was received.

Part 72 regulates the interstate movement of animals infested with ticks or exposed to tick infestation. Existing § 72.13(b) of the regulations provides a list of the approved brands of pesticides permitted by the Department for the treatment of livestock affected with ticks. The "permitted dips" are approved proprietary brands of specific pesticides at prescribed concentrations.

Proprietary brands of "permitted dips" in existing § 72.13(b) are permitted to be used for purposes of this part under § 72.13(c) only when approved in specific cases by the Deputy Administrator, Veterinary Services. Before a "permitted dip" is specifically approved for such use, Veterinary Services requires that, among other things, the product be registered for such use under the provisions of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) as amended (7 U.S.C. 135 et seq.).

In addition, before a dip will be specifically approved as a "permitted dip," its efficacy and stability must have been demonstrated and trials must have been conducted to determine that its concentration can be maintained and that under actual field conditions the dipping of cattle in a bath of definite strength will effectively eradicate ticks without injury to the animals dipped.

Veterinary Services of APHIS has been requested to grant "permitted dip" status to approved proprietary brands of organophosphorous insecticides (Prolate®), which have been registered under the provisions of FIFRA.

Since September 11, 1975, Prolate® has been permitted by APHIS in the treatment of cattle for scabies mites (40 FR 42179). Prolate® is an organophosphorous product which is biodegradable and has been registered by the Environmental Protection Agency (EPA) for some time for use against grubs, lice, hornflies, cattle ticks, and southern cattle ticks.

The efficacy and stability of Prolate® has been demonstrated. Trials were conducted in connection with its proposed approval by the Department to determine that its concentration can be maintained. In addition, extensive field trials have been conducted to demonstrate that dipping cattle in a Prolate-water mixture of 0.15 with a refill mixture of 0.25 percent concentration is effective for eradicating ticks without injury to the animals dipped. Such trials also demonstrate that Prolate® is effective against ticks so long as the Prolate-water mixture does not fall below a 0.15 percent concentration level.

The instructions on the EPA approved label prescribes that Prolate be mixed with water at an initial concentration

rate of 1 gallon of Prolate to each 60 gallons of water, and at a refill concentration rate of 1 gallon of Prolate for each 50 gallons of water. Mathematically, this translates into an initial Prolate-water mixture at a 0.193 percent concentration level and a refill concentration level of 0.237 percent. The language of the proposed amendment provided for a Prolate-water mixture of 0.15 percent to 0.25 percent concentration level. As mentioned above, Prolate has been proven effective so long as the concentration level does not fall below 0.15 percent and safe so long as it does not exceed a 0.25 percent concentration level. To avoid possible confusion to users of Prolate that the Department is approving the use of Prolate in excess of the EPA-approved label, the language of the amendment is being changed to reflect the Department's policy that Prolate be used in conformance with the instructions of the EPA approved label. The Department feels that if Prolate is used in conformance with the label's instructions and if the concentration level is not allowed to fall below 0.15 percent, it will be effective for treating livestock affected with ticks. This is not a substantive change from the proposed amendment and is merely being done to clarify the Department's intent to approve Prolate as a safe and effective dip for livestock affected with ticks when used in accordance with its approved label.

After due consideration of the comment received, the Department is amending § 72.13(b) to specify that approved proprietary brands of organophosphorous insecticide (Prolate®), which are determined to be effective in the treatment of ticks by EPA and which are registered by EPA under FIFRA, will be permitted by the Department in official dipping for the interstate movement of livestock affected with ticks if used in a Prolate-water bath where the concentration level is at least 0.15 percent and if used in accordance with the instructions on the EPA approved label.

PART 72—TEXAS (SPLENETIC) FEVER IN CATTLE

Accordingly, Part 72, Title 9, Code of Federal Regulations, is amended by adding a new paragraph (b)(4) to § 72.13 to read as follows:

§ 72.13 Permitted dips and procedures.

* * * * *

(b) * * *

(4) Approved proprietary brands of organophosphorous insecticides (Prolate®) if used in a Prolate-water bath where the concentration level is at least 0.15 percent and if used in accordance with the EPA approved label.

(Secs. 1, 2, 32 Stat. 791–792, as amended, secs. 4–7, 23 Stat. 32, as amended, secs. 1–4, 33 Stat. 1264, 1265; 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126; 37 FR 28464, 28477; 38 FR 19141)

Done at Washington, D.C., this 9th day of March 1982.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 82-6618 Filed 3-12-82; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Airworthiness Docket No. 81-ASW-58; Amdt. 39-4340]

Airworthiness Directives; Bell Helicopter Textron Model 214B Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires a magnetic particle inspection of the tail rotor yokes on U.S. Registered Bell Helicopter Model 214B series helicopters, Serial Numbers 28001 through 28060. This magnetic particle inspection is needed to detect possible inclusions which could lead to a fatigue failure of the yoke. Failure of the yoke would result in loss of the helicopter.

DATES: Effective April 12, 1982. Compliance required as prescribed in body of AD.

ADDRESSES: The applicable service information may be obtained from Bell Helicopter Textron, P.O. Box 482, Fort Worth Texas 76101, ATTN: Product Support Department.

These documents may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas, or Rules Docket in Room 916, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: H. A. Armstrong, Airframe Branch, Aircraft Certification Division, ASW-120, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 624-4911, extension 517.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring a magnetic particle inspection of the tail rotor yokes on U.S. Registered Model 214B series helicopters was published in the **Federal Register** on December 24, 1981, (46 FR 62469). The proposal was prompted because during recent machining of new tail rotor yokes, surface pits were detected. These pits had been subsurface inclusions, and they were exposed during the machining process. Thirty-seven additional yokes were inspected using a magnetic-particle inspection process. Four of these yokes were found to have subsurface inclusions. Prior to this time, the yokes had been penetrant inspected only. The magnetic particle inspection process is now also being employed. The presence of an inclusion causes stress concentrations which could lead to a failure of the tail rotor yoke and loss of a helicopter. Helicopters Serial Number 28061 and subsequent will have the appropriate inspections performed prior to delivery as new aircraft.

Interested persons were afforded an opportunity to participate in the making of the amendment. No comments were received. Although no comments were received, the airworthiness directive is being changed to make the mandatory compliance date July 12, 1982, instead of February 1, 1982, as was proposed in the NPRM. This change was made to afford operators the opportunity to schedule the inspection during normal maintenance periods rather than having to remove the aircraft from service specifically for compliance with the airworthiness directive.

If the magnetic particle inspection is accomplished during normal bearing replacement, only one additional man-hour per aircraft is required. Twelve man-hours are required if a disassembly specifically for magnetic particle inspection is required.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Bell Helicopter Textron (BHT): Applies to Model 214B series helicopters, Serial Numbers 28001 through 28060, certificated in all categories (Airworthiness Docket No. 81-ASW-58).

a. To prevent fatigue failure of tail rotor yokes, Part Numbers 214-010-702-001, -105, and -107, accomplish the following:

(1) Inspect the tail rotor yoke by magnetic particle inspection in accordance with the Bell Helicopter Textron Alert Service Bulletin No. 214-81-16 dated September 18, 1981, or FAA approved equivalent, at the next flapping/pitch change bearing replacement following the effective date of this AD or, in any case not later than July 12, 1982. (The inspection is not required if the applicable Bell Helicopter Textron Alert Service Bulletin has previously been complied with.)

(2) If any inclusions are detected, the yoke shall be rejected and replaced with a like serviceable part.

b. Any equivalent method of compliance with this AD must be approved by the chief, Aircraft Certification Division, Southwest Region, Federal Aviation Administration.

c. In accordance with FAR 21.197, flight is permitted to a base where the inspection required by this AD may be accomplished.

This amendment becomes effective April 12, 1982.

(Secs. 313(a) 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be major under the provisions of Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and it is certified that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves a relatively low cost per aircraft. A final regulatory evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Tex., on February 26, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-6615 Filed 3-12-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-01-AD; Amdt. 39-4347]

Airworthiness Directives; Canadair Model CL-600 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires a visual inspection of the main landing gear side stay attachment pins for missing or cracked locking pins, eventual replacement of the pins, and repetitive visual inspections of the replacement pins on all Canadair CL-600 (Challenger) airplanes. These actions are necessary to ensure the locking pins are not cracked or missing. If the locking pins are missing and the retaining nut backs off, the landing gear could collapse.

DATES: Effective date March 22, 1982.

ADDRESSES: The service information specified in this Airworthiness Directive may be obtained upon request to Canadair Ltd., Commercial Aircraft Technical Services, Box 6087, Station A, Montreal, Canada PQ H3C3G9, or may be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, ANM-150S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, 98108, telephone (206) 767-2530.

SUPPLEMENTARY INFORMATION: The Canadian Department of Transport (DOT) has issued an Airworthiness Directive which requires a visual inspection of the main landing gear side stay attachment pins for missing or cracked locking pins within the next 10 hours time in service on all Canadair CL-600 (Challenger) airplanes. Any missing or cracked pins must be replaced prior to further flight. Within the next 50 hours time in service, the pins must be replaced with a standard head drilled shank pin. Repetitive visual inspections of the replacement pins must also be made at daily intervals. For instances of cracked or missing pins have been reported on two different airplanes. In order to prevent this from occurring, the DOT, which is the Civil Air Authority of Canada, is requiring an inspection and replacement of the pins in accordance with the above schedule.

This airplane model is manufactured in Canada and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is being issued which requires a visual inspection of the main landing gear side stay attachment locking pins, the eventual replacement of the pins with standard head drilled shank pins, and repetitive visual inspections of the replacement pins at intervals not to exceed 150 hours time in service.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Canadair: Applies to Canadair CL-600-1A11 airplanes, Serial Numbers 1002 and on, certificated in all categories. To prevent collapse of the landing gear caused by loss of the side stay strut reaction point, accomplish the following:

1. Within the next 10 hours time in service after the effective date of this AD, unless already accomplished, visually inspect the right and left hand main landing gear side stay attachment pins for cracked or missing locking pins Dowty Rotol part number 200800689. Cracked or missing locking pins must be replaced with MS20392-1C41 Pin, Straight, Headed-Drilled Shank; MS24665-132 Pin, Cotter (Split); and AN960-6L Washer, prior to further flight.

2. Within the next 50 hours time in service after the effective date of this AD, Dowty Rotol part number 200800689 locking pins in the right and left hand main landing gear side stay attachment must be replaced with MS20392-1C41 Pin, Straight, Headed-Drilled Shank; MS24665-132 Pin, Cotter (Split); and AN960-6L Washer. After replacement, these locking pins must be visually inspected for cracks at intervals not to exceed 150 hours time in service.

3. The repetitive inspections of paragraph 2 may be discontinued upon the incorporation of an installation approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

4. Equivalent inspections and parts must be approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

5. Airplanes may be flown in accordance with FAR 21.197 to a maintenance base for the accomplishment of the inspections required by this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the addresses listed above. These documents may also be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective March 22, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a),

1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington, on March 2, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-6690 Filed 3-12-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-15-AD; Amdt. 39-4345]

Airworthiness Directives; Canadair Model CL-600 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires an inspection and modification of the landing gear manual release control system on certain Canadair CL-600 airplanes. At specific ambient temperatures the landing gear manual release control system does not have sufficient travel to effect the release of the landing gear. If this should occur when the landing gear hydraulic system is inoperative, it could result in a gear up landing.

DATES: Effective date March 22, 1982.

ADDRESSES: The service bulletin specified in this Airworthiness Directive may be obtained upon request to Canadair Ltd., Commercial Aircraft Technical Services, Box 6087, Station A, Montreal, Canada PQ H3C3G9, or may be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, ANM-150S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2530.

SUPPLEMENTARY INFORMATION: The Canadian Department of Transport (DOT) has issued an Airworthiness Directive which requires an inspection and eventual modification to ensure the landing gear manual release control system is functioning correctly on Canadair CL-600 airplanes. At certain ambient temperatures the release system does not have sufficient travel to allow the gear to be released and locked. If the hydraulic system driving the landing gear should fail, it may not be possible to lower the landing gear using manual procedures. In order to prevent this from occurring, the DOT, which is the Civil Air Authority of Canada, is requiring an inspection of the landing gear manual release system and an eventual modification of the system in accordance with Canadair Alert Service Bulletin A600-0076, Revision 1, dated October 22, 1981.

This airplane model is manufactured in Canada and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is being issued which requires an inspection and modification of the landing gear manual release system on certain Canadair CL-600 airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Canadair: Applies to Model CL-600 airplanes serial numbers 1006 through 1008 and 1010 through 1023 certificated in all categories. To ensure correct functioning of the landing gear manual release control system, accomplish the following, unless already accomplished.

1. Within the next 50 hours time in service after the effective date of this AD determine the manual release handle travel required for full extension and down locking of the nose and main gears. If full extension and down locking of the gear requires moving the handle to the fourth hole position, modify the system is accordance with paragraph 2B of Canadair Alert Service Bulletin A600-0076, Revision 1, dated October 22, 1981, prior to further flight.

2. If full extension and down locking of the gear is achieved by moving the handle to less than the fourth hole position, modify the system in accordance with paragraph 2B of the service bulletin within the next 150 hours time in service.

3. Airplanes may be flown in accordance with FAR 21.197 to a maintenance base for accomplishment of the inspection required by this AD.

4. Alternate methods of compliance with this AD may be used when they provide an equivalent level of safety and are approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

This amendment becomes effective March 22, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington, on March 2, 1982.

John Wichels, Jr.,

Acting Director, Northwest Mountain Region

[FR Doc. 82-6689 Filed 3-12-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-14-AD; Amdt. 39-4346]

Airworthiness Directives: Canadair Model CL-600 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires repetitive inspections and an eventual modification to the left and right hand flap drive shafts on Canadair CL-600 airplanes. The inspection is necessary to determine if the flap drive shafts are physically bearing against adjacent wing structure. If there is contact between the flap drive shaft and wing structure, the structural integrity of the drive shaft could be compromised which, in turn, could eventually lead to unsymmetrical flap deployment.

DATES: Effective date March 22, 1982.

ADDRESSES: The service bulletin specified in this Airworthiness Directive may be obtained upon request to Canadair Ltd., Commercial Aircraft Technical Services, Box 6087, Station A, Montreal, Canada PQ H3C3G9, or may be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, ANM-150S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2530.

SUPPLEMENTARY INFORMATION: The Canadian Department of Transport (DOT) has issued an Airworthiness Directive which requires a repetitive inspection and an eventual modification of the left and right hand flap drive shafts on Canadair CL-600 airplanes S/N 1012 thru 1024. Inspection reports revealed at least one instance of the flap drive shaft contacting adjacent fixed wing structure as the shaft rotated. If this situation is allowed to continue, the shaft eventually will suffer severe damage, resulting in the loss of its structural load carrying capability. This could result in unsymmetrical flap deployment. In order to prevent this from occurring, the DOT, which is the Civil Air Authority of Canada, is requiring an inspection of the right and left hand flap drive shafts and modification of the drive shaft support system in accordance with Canadair Service Bulletin A-600-003, Revision 1, dated October 28, 1981.

This airplane model is manufactured in Canada and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is being issued which requires repetitive inspections of the flap drive shaft and the modification mentioned above on certain Canadair CL-600 airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Canadair: Applies to Model CL-600 airplanes serial numbers 1012 through 1024 certificated in all categories. To prevent damage to the flap drive shafts, accomplish the following:

1. Within the next 50 hours time in service after the effective date of this AD, unless already accomplished within the last 100 hours time in service, and thereafter at intervals not to exceed 150 hours time in service, inspect the left and right flap drive shafts for damage between WS220 and WS284, in accordance with paragraphs 2.A and 2.B of Canadair Alert Service Bulletin No. A600-0037, Revision 1, dated October 28, 1981. If either drive shaft is damaged beyond the service bulletin limits, replace the shaft prior to further flight.

2. Before the accumulation of 550 hours time in service or within the next 50 hours time in service, whichever occurs later, unless already accomplished, install clamp supports for the left and right flap drive shafts at WS237.10, in accordance with paragraph 2.D of the Canadair Alert Service Bulletin.

3. The inspections required by paragraph (1) are terminated by incorporation of the clamp support in accordance with paragraph (2) of this AD.

4. Airplanes may be flown in accordance with FAR 21.197 to a maintenance base for accomplishment of the inspection required by this AD.

5. Alternate methods of compliance with this AD may be used when they provide an equivalent level of safety and are approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

This amendment becomes effective March 22, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington, on March 2, 1982.

John Wichels, Jr.,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-6687 Filed 3-12-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 81-NW-51-AD; Amdt. 39-4344]

Airworthiness Directives; Canadair Model CL-600 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires an entry door handle operational check and a modification to the entry door to improve the unlatching sequence on Canadair CL-600 airplanes. This is necessary to correct deficiencies in the opening sequence of the door which may cause the door to jam and be unavailable for egress in the event of an emergency.

DATE: Effective date March 22, 1982.

ADDRESSES: The service bulletin specified in this Airworthiness Directive may be obtained upon request to Canadair Ltd., Commercial Aircraft Technical Services, Box 6087, Station A, Montreal, Canada PQ H3C3G9, or may be examined at the FAA Northwest

Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT:
Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, ANM–150S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767–2530.

SUPPLEMENTARY INFORMATION: The Canadian Department of Transport (DOT) has issued an Airworthiness Directive which requires an operational check and adjustment of the main entry door handle on certain CL–600 airplanes. In addition, the door is modified by replacing the existing clear plastic handle guard P/N 600–31710–1 with handle guard assembly P/N 600–31772–1. The operational check and modification are necessary in order to improve the main entry door unlatching sequence by preventing the latching system from jamming during emergency operation. At least one such instance of system jamming occurred during ground testing.

In order to prevent this from occurring, the DOT, which is the Civil Air Authority of Canada, is requiring an operational check of the main entry door handle in accordance with the Canadair Service Bulletin A600–0077 dated July 27, 1981, and a modification to the door in accordance with Canadair Alert Service Bulletin A600–0074 dated July 20, 1981.

This airplane model is manufactured in Canada and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is being issued which requires an operational check of the main entry door handle and a modification to the door.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Canadair: Applies to Model CL–600 airplanes serial numbers 1005, 1007, 1011 through 1013, and 1016 thru 1019, certificated in all categories. To prevent jamming of the main entry door unlatching system, accomplish the following, unless already accomplished.

1. Within the next 25 hours time in service after the effective date of this AD perform the door handle operation check and handle adjustments described in paragraph 2 of Canadair Alert Service Bulletin A600–0077 dated July 27, 1981.

2. Replace the existing clear plastic handle guard, Part Number 600–31710–1, with guard assembly, Part Number 600–31772–1, in accordance with paragraph 2 of Canadair Alert Service Bulletin A600–0074 dated July 20, 1981.

3. Ensure that the internal door "Emergency Exit" placard located to the left hand side of the inner door handle is an approved placard reading as follows:

EMERGENCY EXIT
PULL AND TURN
HANDLE TO "OPEN"
PUSH DOOR

4. Airplanes may be flown in accordance with FAR 21.197 to a maintenance base for accomplishment of the inspection required by this AD.

5. Alternate methods of compliance with this AD may be used when they provide an equivalent level of safety and are approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

This amendment becomes effective March 22, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington, on March 2, 1982.

John Wichels, Jr.,
Acting Director, Northwest Mountain Region.

[FR Doc. 82–6666 Filed 3–12–82; 8:45 am]
BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 82–NM–13–AD; Amdt. 39–4343]

Airworthiness Directives: Canadair CL–600 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires a modification to the antiskid system on certain Canadair CL–600 airplanes. Antiskid control units currently in service have been found to be susceptible to power interruptions and electromagnetic interference. In addition, they may not function properly on rough or wet runways. If uncorrected, this could result in a loss of normal breaking capability.

DATES: Effective date March 22, 1982.

ADDRESSES: The service bulletin specified in this Airworthiness Directive may be obtained upon request to Canadair Ltd., Commercial Aircraft Technical Services, Box 6087, Station A, Montreal, Canada PQ H3C3G9, or may be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT:
Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, ANM–150S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767–2530.

SUPPLEMENTARY INFORMATION: The Canadian Department of Transport (DOT) has issued an Airworthiness Directive which requires modification of the antiskid system on certain Canadair CL–600 airplanes. The modification improves antiskid performance with respect to power interruptions, susceptibility to electromagnetic interference, and operation on wet or rough runways. There have been two reported cases in which system operation contributed to abnormal landing incidents. In one case the entire runway was used for landing; in the other case, the airplane went off the end of the runway. Both incidents were due to an antiskid system malfunction which caused a loss of normal braking. In order to prevent this from occurring, the DOT, which is the Civil Air Authority of Canada, is requiring modification of the antiskid system in accordance with Canadair Alert Service Bulletin A600–0094 dated November 20, 1981.

This airplane model is manufactured in Canada and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is being issued which requires the modification of the antiskid system on certain Canadair CL–600 airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Canadair: Applies to Canadair Model CL–600–1A11 airplanes, serial numbers 1005 through 1008 and 1010 through 1037 certificated in all categories. Compliance is required as indicated unless already accomplished:

1. Within the next 25 hours time in service after the effective date of this AD replace the antiskid control unit P/N 600–87000–23 with P/N 600–87000–27 in accordance with paragraph 2A of Canadair Alert Service Bulletin A600–0094 dated November 20, 1981. Within the next 75 hours time in service after the effective date of this AD perform wiring system modifications to introduce a second power source for the antiskid system per paragraph 2B of the service bulletin.

2. Until such time as both the above requirements are accomplished, the takeoff distances derived from Section 4, page 4–44, or Supplement No. 2, page S2–73, and the landing distances derived from Section 4, page 4–63, or Supplement No. 2, page S2–94 of the FAA approved Airplane Flight Manual, shall be increased by 50 percent for all operations. If any suspected braking deficiency occurs during the brake operation, immediately switch off the antiskid system and control the brakes manually as described in paragraph 35.3 of Section 2 of the Airplane Flight Manual.

3. Airplanes may be flown in accordance with FAR 21.197 to a maintenance base for accomplishment of the inspection required by this AD.

4. Alternate methods of compliance with this AD may be used when they provide an equivalent level of safety and are approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the addresses listed above. These documents may also be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective March 22, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington, on March 2, 1982

John Wichels, Jr.,
Acting Director, Northwest Mountain Region.

[FR Doc. 82–6665 Filed 3–13–82; 8:45 am]
BILLING CODE 4910–13–M

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14 CFR Part 39

[Airworthiness Docket No. 79–GL–06; Amdt. 39–4342]

Airworthiness Directives; Enstrom Models F–28C and 280C Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, revision of existing Airworthiness Directive (AD).

SUMMARY: This amendment revises Airworthiness Directive (AD) 79–10–06 (Amendment 39–3465), applicable to Enstrom Models F–28C and 280C helicopters. It provides instructions for installation of higher strength Tail Rotor Grips which eliminates the need for the daily preflight inspection currently required by AD 79–10–06. This action is being taken to provide relief to owners/operators of those helicopters, so modified, and will maintain or increase the existing level of safety in the operation of Models F–28C and 280C helicopters.

DATES: Effective March 19, 1982. Compliance required as prescribed in the body of the AD.

ADDRESSES: The applicable service information, Enstrom Helicopter Corporation Service Directives 0048, dated April 5, 1979, and 0048, Revision A, dated September 8, 1980, may be obtained from Enstrom Helicopter Corporation, P.O. Box 277, Menominee, Michigan 49858. Copies of these Service Directives are also contained in the Rules Docket, Office of the Regional Counsel, Great Lakes Region, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, or Rules Docket in Room 916, Federal Aviation Administration, 600 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:
Joseph H. McGarvey, ACE–120C, Aircraft Certification Office, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018; telephone (312) 694–7136.

SUPPLEMENTARY INFORMATION: AD 79–10–06, Amendment 39–3465 (44 FR 27380), applicable to Enstrom Models F–28C and 280C helicopters requires preflight and repetitive inspections of the P/N 28–150013–1 tail rotor blade grips for cracks and replacement thereof if cracks are found. Subsequent to the issuance of AD 79–10–06, Enstrom Helicopter Corporation developed a new higher-strength grip (P/N 28–150044–1). Preflight inspection of the higher strength grip is not necessary. Since existing AD 79–10–06 offers no relief (discontinuance of preflight inspections) with the installation of the stronger grip, the FAA is revising the AD to incorporate instructions for the installation of this grip and to relieve owners/operators of those helicopters so modified from the preflight inspection. The FAA has determined that this action will maintain or increase the existing level of safety on Enstrom Models F–28C and 280C helicopters.

Since this amendment is relieving in nature and imposes no additional burden on any person, notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than thirty

(30) days after the date of publication in the Federal Register.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Amendment 39–3465 (44 FR 27380), AD 79–10–06, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended as follows:

1. Replace existing paragraph (B) with a new paragraph (B) as follows:

(B) Prior to the next 50 hours' time in service after the effective date of this AD, unless already accomplished, remove the tail rotor blades from the blade grips and examine the grips in the vicinity of the blade retention bolt holes using standard dye penetrant inspection methods. Caution—care must be taken not to intermix blades and grips as they are match drilled sets. If any cracks are found, before further flight, remove the blade-and-grip unit and replace with a serviceable unit having either P/N 28–150013–1 or 28–150044–1 grips. Install replacement grips in accordance with paragraph (C) of this AD.

2. Replace existing paragraph (C) with a new paragraph (C) as follows:

(C) Install serviceable replacement P/N 28–150013–1 or P/N 28–150044–1 grips in accordance with applicable Enstrom Service Directive 0048, dated April 5, 1979, or 0048, Revision A, dated September 8, 1980, as outlined below:

(1) Install P/N 28–150013–1 grips, in accordance with Enstrom Service Directive 0048, dated April 5, 1979, as follows:

(a) By hand with the use of a 100 degrees—½" back countersink (#AT4021–4) and a $^{3}/_{16}$" pilot (#AT404–4), or equivalent tools, chamfer the edges (3 per grip) of the retention bolt holes in the blade grip .015x40 degrees. Repeat the same operation on each tail rotor blade retention bolt hole (4 places). After chamfering, thoroughly inspect the grips and blades for any nicks, burrs, or sharp edges. If any are found, they should be blended out by crocus cloth.

(b) Replace the close tolerance bolts using a lubriplate compound and retorque to 50–75 in. lbs.

(2) Install P/N 28–150044–1 grips in accordance with Enstrom Service Directive 0048, Revision A, dated September 8, 1980, as follows:

(a) Tail rotor assemblies incorporating Spindle P/N 28–150014–13 only are eligible for this alternate means of compliance. The part number is etched on the side of each spindle. Spindle P/N 28–150014–13 may be further identified by their shoulder-to-shoulder dimension and the rotor assembly's overall Tip-to-Tip length which are 3.46±.01 and $56^{3}/_{16}$ inches, respectively.

(b) Installation of Tail Rotor Blades on Tail Rotor Blade Grips P/N 28–150044–1 to comprise Blade and Grip Assemblies, P/N 28–150001–5 must be accomplished by Enstrom Customer Service.

(c) Operators must send the old Tail Rotor Blade and Grip Assemblies P/N 28–150001–3 to Enstrom Customer Service Center for rework.

3. Add a new paragraph (E) which reads as follows:

(E) Preflight inspections required by paragraph (A) of this AD may be discontinued after the installation of P/N 28–150044–1 grips.

This amendment becomes effective March 19, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this document involves a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and certifies that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since the action prescribed herein is estimated to cost less than 1 percent of the value of any affected aircraft which may be owned by small entities. A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas, on March 1, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 82-6670 Filed 3-12-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 81-WE-21-AD; Amdt. 39-4341]

Airworthiness Directives; Varga Aircraft Corporation Model 2150A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective to all persons, an amendment adopting a new Airworthiness Directive (AD) which was previously made effective on Varga Aircraft Corporation Model 2150A airplanes. All known United States operators were notified by priority mail of Emergency AD 81–20–02, dated September 28, 1981. The AD requires, prior to further flight, inspection of fuel vent tube assemblies for free airflow between all branches of the vent tubes. The AD is prompted by a report of engine fuel starvation which resulted in an accident. It has been determined that some vent tube assemblies were manufactured with blocked vent tubes.

DATES: Effective March 15, 1982, and was effective upon receipt for recipients of Emergency AD 81–20–02, dated September 28, 1981. Compliance: Prior to further flight, unless already accomplished.

ADDRESSES: Varga Service Bulletin SB–13 entitled Fuel Vent Drain Inspection may be obtained from Varga Aircraft Corporation, 12250 East Queen Creek Road, Chandler, Arizona 85224. A copy of this Service Bulletin is also contained in the Federal Aviation Administration, Western Aircraft Certification Office, Northwest Mountain Region, Rules Docket, Room 6W14, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT:

Jack Acampora, Supervisory Propulsion Engineer, Federal Aviation Administration, Northwest Mountain Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009; telephone (213) 536–6382.

SUPPLEMENTARY INFORMATION:

Emergency AD 81–20–02, dated September 28, 1981, was issued and distributed by priority mail. It was made effective immediately upon receipt to all known United States operators of Varga Aircraft Corporation Model 2150A airplanes because of engine fuel starvation which resulted in an accident. This condition was caused by a fuel system vent tube blockage. It has been determined that the blockage resulted from a manufacturing oversight, in that the interior passages of certain vent tube assemblies had not been drilled in accordance with the type design.

Because the unsafe condition described herein may still exist on other affected Varga Model 2150A airplanes described herein, Emergency AD 81–20–02 is being published in the Federal Register without substantial change as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the emergency letter notification.

Since the FAA has determined that there is an immediate need for this regulation to correct an unsafe condition and assure safe operation of the affected airplanes, notice and public procedure under 5 U.S.C. 553(b) is considered impractical and contrary to the public interest, and good cause exists for making the amendment effective in less than thirty (30) days after the publication in the Federal Register.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Varga Aircraft Corporation (Morrisey): Applies to Model 2150A, certified in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent engine fuel starvation due to obstruction of the fuel vent system, prior to further flight, accomplish the following:

(a) Inspect vent tube assemblies, P/N 26016–62 and –66, for free airflow between all branches of the vent tubes.

(b) Replace obstructed vent tube assemblies with a serviceable part of the same part number prior to return to service.

(c) Special flight permits may be issued in accordance with FAR 21.197 to operate aircraft a to base for the accomplishment of inspections required by this AD.

(d) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Western Aircraft Certification Field Office, Northwest Mountain Region, Federal Aviation Administration, 15000 Aviation Boulevard, Hawthorne, California 90261; telephone (213) 536–6352.

Varga Service Bulletin SB–13, entitled Fuel Vent Drain Inspection, refers to the subject matter of this AD.

This amendment becomes effective March 15, 1982, to all persons except those to whom it was made immediately effective by priority mail as Emergency AD 81–20–02, dated September 28, 1981.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this regulation involves an emergency regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and certifies that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves inspection and possible repair of only a few aircraft owned by small entities. If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket; otherwise an evaluation is not required. A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the Courts of Appeals of the United States or the United States Court of Appeals for the District of Columbia.

Issued in Kansas City, Missouri, on March 1, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-6671 Filed 3-12-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-ASO-67]

Alteration of Gulf of Mexico and South Florida Additional Control Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters the Gulf of Mexico Additional Control Area and the South Florida Additional Control Area by redefining the area boundaries. This action provides for more efficient use of the airspace by reducing coordination and increasing radar service to users.

EFFECTIVE DATE: May 13, 1982.

FOR FURTHER INFORMATION CONTACT:

Robert Maxey, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

History

On January 18, 1982, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to redefine the boundaries of the South Florida and Gulf of Mexico Additional Control Areas as published in the Federal Register (47 FR 2489). Traffic along J–58 and J–86 west of St. Petersburg requesting either direct routing to Ft. Myers or deviations south of the course due to weather requires coordination with nonradar sectors under Miami Oceanic Control. Redefining the boundaries to coincide with a realignment of the Miami/Jacksonville Air Route Traffic Control Center (ARTCC) boundary will transfer control of the affected airspace to a radar sector within Jacksonville ARTCC. This action provides for more efficient use of the airspace by increasing radar service to users and reducing coordination. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.163 was republished on January 2, 1981 (46 FR 449).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) redefines the boundaries of the Gulf of Mexico and the South Florida Additional Control Areas to coincide with the realignment of the Miami/Jacksonville ARTCC boundary. This action allows more efficient use of the affected airspace by reducing coordination and increasing radar service to users.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 449), is amended, effective 0901 G.m.t., May 13, 1982, as follows:

Gulf of Mexico and South Florida Additional Control Areas—[Amended]

Under Gulf of Mexico Additional Control Area, between "to lat. 27°35'00" N., long. 83°45'00" W.;" and the words "thence west * * *;" add "to lat. 27°30'00" N., long. 84°30'00" W.; to lat. 27°30'58" N., long. 85°02'51" W.; to lat. 27°33'46" N., long. 87°42'39" W.; to lat. 28°08'30" N., long. 88°00'00" W.;"

Under South Florida Additional Control Area, between "to lat. 24°00'00" N., long. 83°10'00" W.;" and "to lat. 27°35'00" N., long. 83°45'00" W.;" add "to lat. 24°38'30" N., long. 83°14'26" W.; to lat. 27°30'00" N., long. 84°30'00" W.; to lat. 27°35'00" N., long. 83°45'00" W.;"

(Secs. 307(a), and 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on March 9, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-6681 Filed 3-12-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 73

[Airspace Docket No. 81-AWE-15]

Alteration of Restricted Areas R-4816N and R-4816S, Dixie Valley, Nev.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the times of designation of Restricted Areas R-4816N and R-4816S, Dixie Valley, NV, by adding the period of 0700 to 2400 local time Sunday to the present times of designation. This change is necessary to accommodate essential training requirements of fleet squadrons located at NAS Fallon.

EFFECTIVE DATE: May 13, 1982.

FOR FURTHER INFORMATION CONTACT:

Robert Maxey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenues, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On January 18, 1982, the FAA proposed to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to alter the times of designation for Restricted Areas R-4816N and R-4816S by adding the period of 0700 to 2400 local time Sunday to the present times of designation (47 FR 2490). Because of limited range space available to fleet squadrons and the great number of squadrons requiring range time, fleet squadrons at NAS Fallon are unable to complete essential training during the 6-day availability of the restricted areas. Extension of the times of designation to include Sunday will provide for maximum training by allowing use of the restricted areas for the entire training period. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 73.48 was republished on January 2, 1981 (46 FR 610).

The Rule

This amendment to Part 73 of the Federal Aviation Regulations amends the times of designation for Restricted Areas R-4816N and R-4816S, Dixie Valley, NV, from 0700 to 2400 local time, Monday through Saturday, to 0700 to 2400 local time, Monday through Sunday.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 73.48 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (46 FR 610), is amended, effective 0901 G.m.t., May 13, 1982, as follows:

Restricted Areas R-4816N and R-4816S, Dixie Valley, NV [Amended]

Under times of designation by deleting the words "0700 to 2400 local time, Monday through Saturday." and substituting for them the words "0700 to 2400 local time, Monday through Sunday."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on March 9, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-6682 Filed 3-12-82; 8:45 am]

BILLING CODE 4910-13-M

Coast Guard

33 CFR Part 117

[CGD7 82-07]

Drawbridge Operation Regulations: St. Lucie Canal (Okeechobee Waterway), Fla., Ashepoo River, S.C., Oconee River, Ga.

AGENCY: Coast Guard, DOT.

ACTION: Final rule; revocation.

SUMMARY: This amendment revokes the regulations for the drawbridges across the St. Lucie Canal (Okeechobee Waterway), mile 17.1, Ashepoo River, mile 15.0, and the Oconee River, mile 106.6, because the drawbridges have been replaced by fixed bridges. Notice and public procedure have been omitted from this action due to removal of the bridges concerned.

EFFECTIVE DATE: This amendment is effective on April 14, 1982.

FOR FURTHER INFORMATION CONTACT:

James R. Kretschmer, Bridge Administrator, Bridge Section (oan), Room 1006, Federal Building, 51 Southwest First Avenue, Miami, Florida 33130, telephone (305) 350-4108.

SUPPLEMENTARY INFORMATION: This action has no economic consequences. It merely revokes regulations that are now meaningless because they pertain to drawbridges that no longer exist. Consequently, this action cannot be considered a major rule under Executive Order 12291. Furthermore, it has been found nonsignificant under the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80), and does not warrant preparation of an economic evaluation. Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (94 Stat. 1164). However, the requirements of the Act were taken into consideration, and this action will not have a significant effect on small entities.

Drafting Information

The principal persons involved in drafting this proposal are: James Davis, Bridge Administration Specialist, Office of Aids to Navigation, Bridge Section and Lieutenant William J. Peterson, Office of Commander, Seventh Coast Guard District, Legal Office.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.430a [Removed]

§ 117.245 [Amended]

In consideration of the above facts, Part 117 of Title 33 of the Code of Federal Regulations is amended by removing § 117.430a, § 117.245(h)(3), and § 117.245(h)(17).

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5))

Dated: March 1, 1982.

B. L. Stabile,

Rear Admiral, U.S. Coast Guard, Seventh Coast Guard District.

[FR Doc. 82-6680 Filed 3-12-82; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 143

[CGD 78-160]

Outer Continental Shelf Activities

Correction

In FR Doc. 82-5850, appearing at page 9365, as the Part VI of the issue of Thursday, March 4, 1982, on page 9384, in § 143.201, the date "April 5, 1983" appearing in the last line should have read "April 4, 1982". For the convenience of the reader the section is corrected and is republished to read as follows:

§ 143.201 Existing MODUs exempted from new design requirements.

Any mobile offshore drilling unit built before, under construction on, or contracted for prior to April 5, 1982 is not required to meet the design requirements of this subpart until the unit is rebuilt. Until rebuilt, the unit must continue to comply with the design requirements applicable to the unit on April 4, 1982.

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Fire Island National Seashore, New York; Seaplane Regulations

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: On August 28, 1981, the National Park Service published in the Federal Register (46 FR 43471) a proposal to regulate the use of seaplanes and amphibious aircraft. The regulations are needed to control seaplane and amphibious aircraft operations within Fire Island National Seashore. Unregulated use of surface waters by seaplanes and amphibious aircraft has resulted in aircraft accidents, near collisions with small boats, and complaints of extremely low overflights and trespassing. It is the objective of these regulations to promote public safety, minimize the conflicts among the various users and to protect the resources of the seashore.

EFFECTIVE DATE: April 14, 1982.

FOR FURTHER INFORMATION CONTACT:

Don Weir, Chief Ranger, Fire Island National Seashore, Patchoque, New York 11772, Telephone (516) 289-4810.

SUPPLEMENTARY INFORMATION:

Background

On July 30, 1979, the National Park Service promulgated final regulations to control seaplane and amphibious aircraft operations within Fire Island National Seashore (44 FR 44492). This rule established zones for take-offs and landings, and designated areas where taxing could take place. These regulations were developed to promote public safety, to minimize the conflicts among the various users, and to protect the resources of the seashore.

The designation of these taxi routes was based on public comment received during the public involvement phase of the rulemaking process. Twelve island communities indicated a desire to permit seaplane and amphibious aircraft access.

After the promulgation of this regulation in July, 1979, there continued to be a conflict between the property owners and visitors in three of the island communities—Fair Harbor, Ocean Bay Park, and Cherry Grove. Due to the fact that these three communities have bayside swimming beaches and mooring access, interaction between seaplanes and those pursuing water recreation activities continued and created numerous public safety problems. From July 22 to September 9, 1979, 50 complaints were filed with the National Park Service. These complaints cited such incidents as near collisions between seaplanes and boats, and seaplanes taxiing among swimmers.

As a result of these complaints and the potential threat to life and property indicated, the representatives of the Fair Harbor, Ocean Bay Park and Cherry Grove communities approached the National Park Service and asked that their communities no longer be designated as access points for seaplane use. Notarized letters to this effect have been received by the Superintendent of Fire Island National Seashore indicating that community referendums were held and a majority favored the removal of seaplane access designation. Regulations published July 25, 1980, removed the three communities from the designation as seaplane access points, as requested by the community leaders.

During the past summer season, the residents and visitors in the communities of Dunewood and Point O' Woods experienced similar problems and likewise forwarded notarized letters indicating the need for greater protection from seaplane use and showing the results of referenda indicating the majority desire to restrict seaplane access from the lands and waters within their community boundaries.

At the time these seaplane and amphibious aircraft regulations were initially proposed in 1978 (43 FR 35070), an environmental assessment was prepared as required by the National Environmental Policy Act (83 Stat. 852, 42 U.S.C. 4321 *et seq.*). This assessment is on file at the park headquarters listed above.

On August 28, 1981, this rule was published as a proposed rule (46 FR 43471) and a period of 30 days for public comment was set. No comments have been received on this regulation. The rule promulgated here, is the same as that proposed.

Drafting Information

The author of this regulation is Donald H. Weir, Fire Island National Seashore.

Compliance With Other Laws

The National Park Service has determined that this rulemaking is not a "major rule" with the meaning of Executive Order 12291, 46 FR 13193 (February 19, 1981), nor will it have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, 94 Stat. 1164. This rulemaking contains no provisions that would entail the collection of information or require compliance with the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, 94 Stat. 2812. In addition, the Service has determined that this regulation is not a major Federal action significantly affecting the quality of the human environment, which would require preparation of an environmental impact statement.

Authority

(Sec. 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; (16 U.S.C. 3))

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

In consideration of the foregoing, 36 CFR Part 7 is amended by revising § 7.20(b)(3) as follows:

§ 7.20 Fire Island National Seashore.

* * * * *

(b) * * *

(3) Aircraft may taxi on routes perpendicular to the shoreline to and from docking facilities at the following locations:

(i) Kismet—located at approximate longitude 73° 12½' and approximate latitude 40° 38½'.

(ii) Lonelyville—located at approximate longitude 73° 11' and approximate latitude 40° 38½'.

(iii) Atlantique—located at approximate longitude 73° 10½' and approximate latitude 40° 38½'.
(iv) Robbins Rest—located at approximate longitude 73° 10' and approximate latitude 40° 38½'.
(v) Fire Island Pines—located at approximate longitude 73° 04½' and approximate latitude 40° 40'.
(vi) Water Island—located at approximate longitude 73° 02' and approximate latitude 40° 40½'.
(vii) Davis Park—located at approximate longitude 73° 00½' and approximate latitude 40° 41'.

G. Ray Arnett,
Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-6900 Filed 3-12-82; 8:45 am]
BILLING CODE 4310-70-M

VETERANS ADMINISTRATION

38 CFR Part 3

Veterans Benefits; Burial Allowance

AGENCY: Veterans Administration.
ACTION: Final regulations.

SUMMARY: The Veterans Administration has amended its adjudication regulations to implement certain changes made by a new law, the Omnibus Budget Reconciliation Act of 1981. The new law restricts payment of the nonservice-connected death burial allowance to veterans who at time of death were in receipt of pension or compensation (or would have been in receipt of compensation but for receipt of military retired pay).

EFFECTIVE DATE: These changes are effective for deaths occurring after September 30, 1981, the effective date specified in the new law, designated as Pub. L. 97–35.

FOR FURTHER INFORMATION CONTACT:
T. H. Spindle, Jr. (202–389–3005).

SUPPLEMENTARY INFORMATION: On pages 51406–51407 of the Federal Register of October 20, 1981 the Veterans Administration published a proposed amendment of 38 CFR 3.1600 to implement certain changes made by Pub. L. 97–35 in the entitlement requirements to the nonservice-connected death burial allowance. Interested persons were given until November 19, 1981, to submit comments, objections, or suggestions to the proposed change to § 3.1600.

We received a number of comments. All of the commentators objected to the provisions of Pub. L. 97–35 which restrict payment of the nonservice-connected death burial allowance to veterans in receipt of compensation or pension at time of death. They want entitlement to the nonservice-connected death burial allowance to continue to be determined under the law in effect prior to enactment of Pub. L. 97–35. Two commentators also argue that the regulation will have a significant economic impact on counties, since it may require them to raise taxes, and on funeral homes, since they can no longer tell immediately if the burial allowance will be payable. Our views on these points follow.

The Veterans Administration has no discretion in this matter. We must follow the new law. This regulation conforms strictly to Pub. L. 97–35, and adds no regulatory burdens not already imposed by that law. Consequently, the amendment of § 3.1600 is adopted as proposed.

The Administrator hereby certifies that this regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that this regulation simply implements a legislative enactment and has no independent impact or requirement. Pursuant to 5 U.S.C. 605(b), this regulation is therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The Veterans Administration has determined in accordance with Executive Order 12291 that this regulation is nonmajor because it simply implements statutory requirements and would have little or no economic impact, in itself.

(Catalog of Federal Domestic Assistance Program number is 64.101)

Approved: February 19, 1982.

Robert P. Nimmo,
Administrator.

PART 3—ADJUDICATION

The Veterans Administration amends Part 3, Title 38, Code of Federal Regulations as follows:

Section 3.1600 is amended to read as follows:

(a) By removing the citation "(Pub. L. 89–360)" in the first sentence of the introductory portion preceding paragraph (a).

(b) By revising paragraphs (a), (b), (c) and (f) as follows:

§ 3.1600 Payment of burial expenses of deceased veterans.

* * * * *

(a) *Service-connected death burial allowance.* If a veteran dies as a result of a service-connected disability or disabilities, an amount not to exceed $1,100 (or if entitlement is under § 3.8 (c) or (d), a rate in Philippine pesos equivalent to $550) may be paid toward the veteran's funeral and burial expenses including the cost of transporting the body to the place of burial. Entitlement to this benefit is subject to the applicable further provisions of this section and §§ 3.1601 through 3.1610. Payment of the service-connected death burial allowance is in lieu of payment of any benefit authorized under paragraph (b), (c) or (f) of this section. (38 U.S.C. 907)

(b) *Nonservice-connected death burial allowance.* If a veteran's death is not service connected, an amount not to exceed $300 (or if entitlement is under § 3.8 (c) or (d), a rate in Philippine pesos equivalent to $150) may be paid toward the veteran's funeral and burial expenses including the cost of transporting the body to the place of burial. Entitlement is subject to the following conditions:

(1) At the time of death the veteran was in receipt of pension or compensation (or but for the receipt of military retirement pay would have been in receipt of compensation); or

(2) The veteran has an original or reopened claim for either benefit pending at the time of the veteran's death, and

(i) In the case of an original claim there is sufficient evidence of record on the date of the veteran's death to have supported an award of compensation or pension effective prior to the date of the veteran's death, or

(ii) In the case of a reopened claim, there is sufficient prima facie evidence of record on the date of the veteran's death to indicate that the deceased would have been entitled to compensation or pension prior to date of death. If the Veterans Administration determines that additional evidence is needed to confirm that the deceased would have been entitled prior to death, it shall be submitted within 1 year from date of request to the burial allowance claimant for submission of the confirming evidence. If the confirming evidence is not received by the Veterans Administration within 1 year from date of request, the burial allowance claim shall be disallowed; and

(3) The applicable further provisions of this section and §§ 3.1601 through 3.1610. (38 U.S.C. 210(c), 962)

(c) *Death while properly hospitalized.* If a person dies from nonservice-connected causes while properly hospitalized by the Veterans Administration, there is payable an allowance not to exceed $300 for the actual cost of the person's funeral and burial, and an additional amount for transportation of the body to the place of burial. (38 U.S.C. 903(a)). (If the hospitalized person's death is service connected, entitlement to burial benefits falls under paragraph (a) of this section instead of this paragraph.)

* * * * *

(f) *Plot or interment allowance.* When a veteran dies from non-service-connected causes, $150 (or where entitlement is based on § 3.8(c) or (d), a rate in Philippine pesos equivalent to $75) may be paid as a plot or interment allowance. The plot or interment allowance is payable to the person or entity who incurred the expenses. (For payment to a State or political subdivision thereof, see § 3.1604(c).) Entitlement is subject to the following conditions:

(1) The deceased veteran is eligible for the burial allowance under paragraph (b) or (c) of this section; or

(2) The veteran either served during a period of war or was discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty (or at time of discharge has such a disability, shown by official service records, which in medical judgment would have justified a discharge for disability; the official service department record showing that the veteran was discharged or released from service for disability incurred in line of duty will be accepted for determining entitlement to the plot or interment allowance notwithstanding that the Veterans Administration has determined, in connection with a claim for monetary benefits, that the disability was not incurred in line of duty); and

(3) The veteran is not buried in a national cemetery or other cemetery under the jurisdiction of the United States; and

(4) The applicable further provisions of this section and §§ 3.1601 through 3.1610. (38 U.S.C. 903(b))

* * * * *

[FR Doc. 82-6902 Filed 3-12-82; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL-2042-2]

Approval of Revision of the Delaware State Implementation Plan

AGENCY: Environmental Protection Agency.
ACTION: Final rule and clarification.

SUMMARY: The State of Delaware submitted regulations pertaining to prevention of significant deterioration (PSD). These regulations are generally equivalent to the federal requirements contained in 40 CFR 51.24. EPA approves the State-submitted regulations as a revision of the Delaware State Implementation Plan (SIP). With certain minor exceptions, the State-submitted amendments meet the requirements of the Clean Air Act and 40 CFR Part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans).

Certain provisions pertaining to notifying Federal Land Managers and obtaining written approval of the Administrator to modify or substitute a modeling procedure were not included in the Delaware regulations. These provisions are covered by EPA regulations promulgated previously, which will remain in effect.

This notice also serves to clarify a prior approval action with regard to the Delaware SIP.

EFFECTIVE DATE: April 14, 1982.

ADDRESSES: Copies of the PSD regulations submitted by Delaware are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Media & Energy Branch, 6th & Walnut Streets, Curtis Building, Philadelphia, PA 19106, ATTN: Harold A. Frankford (3AH12).
Delaware Department of Natural Resources & Environmental Control, Air Resources Section, Tatnall Building, Capitol Complex, Dover, Delware 19901, ATTN: Robert R. French.
Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW. (Waterside Mall), Washington, D.C. 20460.
The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT:
Harold A. Frankford (3AW12), MD–DE–DC Metro Section at the above-mentioned address. Phone: 215/597–8392, Ref: AH012DE.

SUPPLEMENTARY INFORMATION:

Background

On December 29, 1980, the State of Delaware submitted to the Environmental Protection Agency amendments to Regulations I (Definitions) and XXV (Requirements for Preconstruction Review) of the State's Regulations Governing the Control of Air Pollution and requested that they be reviewed and processed as a revision of the Delaware State Implementation Plan (SIP). The amendments consist of changes to Regulations XXV pertaining to the Prevention of Significant Deterioration (PSD) program and Regulation I pertaining to the definition of the term "CAA." In addition, the State has requested that the definition of the terms "allowable emissions," "best available control technology," and "potential to emit" be deleted in Regulation I and replaced by the definition of these terms that would now be listed in Regulation XXV.

These regulations are designed to replace EPA's disapproval and promulgation action of June 19, 1978, 43 FR 26410. In this notice, EPA promulgated general PSD regulations applicable to all States and territories (40 CFR 52.21(b) through (v)) and one regulation specifically pertaining to Delaware (40 CFR 52.432).

The State conducted public hearings pertaining to these regulations in Wilmington on October 31, 1980, as required by 40 CFR 51.4.

Notice of Proposed Rulemaking

On October 29, 1981, 46 FR 53460, EPA proposed the amendments as a revision of the Delaware State Implementation Plan (SIP), but noted that there were differences between Delaware's PSD regulations and the federally promulgated regulations found in 40 CFR 51.24. These differences were explained in detail in the aforementioned notice.

There are two Clean Air Act requirements that were not addressed in the State regulations. One requirement pertains to notifying the Federal Land Manager of all PSD sources which are to be located within 100 kilometers (km) of a Class I PSD area (40 CFR 51.24(p)). The other pertains to the federal requirement that any modification or substitution of a modeling procedure requires written approval of the Administrator in addition to approval by the State (40 CFR 51.24(e)(2)). Therefore, EPA proposed to revise 40 CFR 52.432(b) to retain the provisions of 40 CFR 52.21(1)(2) and 52.21(p) as a part of the applicable Delaware SIP.

EPA also proposed for inclusion into the SIP, a February 27, 1981 letter from the State of Delaware to EPA providing a commitment by the State to notify EPA of any applicable facility that is planning to locate within 100 kilometers of a Class I area. This letter also constitutes an interpretation of Regulation XXV, Section 3.10C so that it incorporates the criteria found in 40 CFR

Part 58. (See "EPA Evaluation/Actions").

Summary of Public Comments

During the 30-day public comment period, no comments were received.

EPA Evaluation/Actions

In addition to the above-discussed distinctions, Delaware's PSD regulations contain two other significant distinctions from the federal provisions:

(1) The phrase "Quality Assurance Requirements for PSD Air Monitoring as pre-approved by the Department" (Section 3.10C) does not specify the use of the criteria contained in 40 CFR Part 58, Appendix B. The State has agreed in its February 27, 1981 letter that, as a minimum, it will ensure that the requirements of 40 CFR Part 58, Appendix B are specified.

(2) The State PSD regulations contain references only to Delaware Regulations XX (NSPS) and XXI (NESHAPS). Delaware has been delegated full NESHAPS authority and its NESHAPS regulations are considered equivalent to 40 CFR Part 61. However, while Delaware's NSPS regulation (Regulation XX) is considered equivalent for those NSPS categories which are contained in 40 CFR Part 60, Delaware has only requested and been delegated NSPS authority for a limited number of source types. Nevertheless, any source not covered by Regulation XX but covered under 40 CFR Part 60 must still meet all applicable Federal requirements. Therefore, no applicable source will be unregulated.

Because of these assurances, EPA believes that disapproval action regarding these provisions is not warranted. Therefore, Section 3.10C of Regulation XXV and the provisions referring to State Regulations XX and XXI are included as part of the approved Delaware SIP.

Except as mentioned above, the State's PSD regulations meet the requirements of the Clean Air Act and 40 CFR Part 52, and therefore are approved as a revision of the Delaware SIP. Accordingly, 40 CFR 52.420 (Identification of Plan) of Subpart I (Delaware) is amended to incorporate Delaware PSD regulations into the approved Delaware SIP. At the same time, 40 CFR 52.432(b) (Significant Deterioration of Air Quality) of Subpart I is amended so that only two provisions of EPA's June 19, 1978 promulgation of PSD regulations, 43 FR 26410, remain as part of the applicable Delaware SIP. These provisions pertain to the notifying of the Federal Land Manager of all PSD sources that would affect a Class I PSD area (Section 52.21 (p)) and the provision that permits only the EPA Administrator to approve in writing any modification or substitution of a diffusion modeling procedure (Section 52.21(1)(2)). EPA also approves for inclusion into the SIP, the February 27, 1981 letter submitted by Delaware to EPA containing the procedures for notifying EPA of PSD sources that may locate within 100 km of a Class I PSD area and ensuring EPA that the State will follow the 40 CFR Part 58 requirements during all PSD monitoring activities.

The State has been advised of EPA's action to approve Delaware's PSD regulations, but to retain portions of 40 CFR 52.432 and has expressed no objections.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981). This action constitutes a SIP approval under sections 110 and 172 within the terms of the January 27 certification. This action only approves State actions. It imposes no new requirements.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Clarification of Prior EPA Action

On October, 30, 1981, 46 FR 53662, EPA approved an amended Delaware Regulation (Section 4.2 of Regulation II) as a revision of the Delaware SIP. In the preamble, EPA erroneously stated that all gasoline storage tanks with a capacity of "2,000 gallons or more" would no longer be exempt from Regulation II's requirements. EPA wishes to clarify this point. In actuality, Delaware's regulation specifically exempts gasoline storage tanks with a capacity equal to 2,000 gallons from the Regulation II requirements, but no longer exempts gasoline storage tanks with a capacity *greater than* 2,000 gallons.

(42 U.S.C. 7401–642)

Dated: March 9, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the Implementation Plan for the State of Delaware was approved by the Director of the Office of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Part 52, Subpart I of the Code of Federal Regulations is amended to read as follows:

Subpart I—Delaware

1. Section 52.420 is amended by adding paragraphs (c)(28) and (c)(29) to read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) * * *

(28) Amendments to Regulations I (Definitions) and XXV Section (Requirements for Preconstruction Review) pertaining to prevention of significant deterioration submitted on December 29, 1980 by the Secretary, Delaware Department of Natural Resources and Environmental Control.

(29) A February 27, 1981 letter from the Delaware Department of Natural Resources and Environmental Control to EPA pertaining to procedures of notifying EPA of any PSD application for sources locating within 100 kilometers of a Class I PSD area, as well as ensuring EPA in any monitoring procedure, that the requirements of 40 CFR Part 58 will be specified.

2. In § 52.432, paragraph (b) is revised to read as follows:

§ 52.432 Significant deterioration of air quality.

* * * * *

(b) *Regulation for preventing significant deterioration of air quality.* The provisions of §§ 52.21(1)(2) and 52.21(p) are hereby incorporated and made a part of the applicable State plan for the State of Delaware.

[FR Doc. 82-6933 Filed 3-12-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 81

[A-5-FRL 2011-8]

Designations of Areas for Air Quality Planning Purposes; Attainment Status Designations; Indiana, Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On August 8, 1980 (45 FR 52841), the EPA proposed approval of a revision to the ozone (O_3) attainment status designation of Vanderburgh County, Indiana, and on July 27, 1981 (46 FR 38386), the EPA proposed approval of revisions to the total suspended particulates (TSP) and sulfur dioxide (SO_2) attainment designations of Lake County, Ohio. The EPA is revising these designations at the States' requests. This notice responds to the public comments and announces EPA's decision to revise the designations.

EFFECTIVE DATE: April 14, 1982.

FOR FURTHER INFORMATION CONTACT: Sharon Reinders at (312) 886-6034.

SUPPLEMENTARY INFORMATION:

1. Vanderburgh County, Indiana

On September 5, 1979, the Indiana Air Pollution Control Board (IAPCB) changed Vanderburgh County's O_3 attainment designation in Indiana regulation 325 IAC 1.1-3 (formerly APC-22) from nonattainment to attainment/unclassifiable. The IAPCB based its designation change on monitoring data gathered at the Evansville Civic Center site in Vanderburgh County which showed no violation of the 0.12 part per million (ppm) O_3 standard in 1977 and 1978. At that time, the EPA criteria for redesignation specified that eight quarters of ambient air quality monitoring data showing no violations were generally required before a redesignation could be approved. Although Indiana relied on eight quarters of data showing no violation at the City of Evansville site in Vanderburgh County, data collected in 1977 and 1978 in nearby Henderson County, Kentucky, contained recorded violations of the O_3 standard in 1977. In EPA's judgment, Henderson County monitoring data must be considered in any redesignation of Vanderburgh County because of its proximity. Therefore, Indiana deferred submittal of its redesignation request to the EPA until the 1979 monitoring data from both the Vanderburgh and Henderson County monitoring sites had been collected and analyzed.

On February 11, 1980, the State of Indiana submitted its request for redesignation of Vanderburgh County to the EPA. Technical data accompanying the submittal demonstrated that there were no violations of the 0.12 ppm O_3 standard recorded at the Evansville Civic Center in Vanderburgh County, in the three years from 1977 through 1979 or in Henderson County in 1978 and 1979. On August 8, 1980 (45 FR 52841), the EPA proposed approval of a revision of Vanderburgh County's O_3 attainment designation (40 CFR 81.315) from "Does Not Meet Primary Standards" to "Cannot Be Classified or Better Than National Standards" and solicited public comment as to the appropriate attainment designation. The proposed redesignation was contingent upon a lack of O_3 violations in Vanderburgh or Henderson Counties during 1980. The EPA imposed the contingency because, in May, 1980, the State of Indiana terminated monitoring at the Evansville Civic Center and relocated the O_3 monitor to a new site in Vanderburgh County approximately 13 kilometers north of the previous years' monitoring location. Since the publication of the proposed rulemaking, ambient O_3 data collected at the new site in Vanderburgh County and at Henderson County have been collected and analyzed for 1980 and 1981. The data show one one-hour average concentration exceeding 0.12 ppm at each site.

A local air pollution agency submitted two comments on EPA's proposed redesignation. The following section addresses the comments and EPA's response to the comments.

Public Comment

The City of Evansville EPA submitted two comments. First, the commentor questions why the EPA is proposing to classify Vanderburgh County as both attainment and unclassifiable even though sufficient data for the 1977 through 1979 period exist to support a full attainment designation.

Second, the commentor is opposed to the EPA considering the Henderson data when determining the appropriate designation for Vanderburgh County. The commentor considers the Henderson monitor to be too close to a major source of oxides of nitrogen (NO_x), and, therefore, not representative of the Vanderburgh County air quality.

EPA Response

It is EPA's policy to codify the O_3 attainment designation of an area as either "does not meet primary standards" or "cannot be classified or better than national standards". In other words, areas designated as "cannot be classified" or "better than the national standards" are codified together because the surveillance and control requirements for both are identical. Such a joint codification is compatible with the requirements of section 107 of the Clean Air Act.

Second, data from O_3 sites in the vicinity of major urban areas, as well as chemical kinetics studies, indicate that O_3 concentrations generally peak approximately 15 to 30 kilometers downwind of the urban areas. Because the Henderson County site is located approximately 13 kilometers from Evansville, it can be expected that volatile organic compound emissions from Evansville may have a significant impact on ambient O_3 levels at the Henderson County site. Therefore, Henderson data should be considered when determining the attainment status of Vanderburgh County. The presence of a significant NO_x source near the Henderson monitor would act to scavenge (eliminate) O_3 in the vicinity of the monitor and would not lead to overestimation of O_3 concentrations.

Final Determination

After reviewing the State's recommendation, the monitoring data gathered at the new monitoring location and the public comments, the EPA is proceeding with a redesignation of Vanderburgh County to "Cannot Be Classified or Better Than National Standards" for O_3. This redesignation is based on EPA's present policy on redesignation for O_3 as outlined in the "Guideline for the Interpretation of Ozone Air Quality Standards" (EPA 450/4-79-003). The Guideline suggests the use of the most recent three years of quality assured data for the assessment of attainment/nonattainment status. The Guideline also allows the use of as little as one O_3 season of ambient data if these are the only data available. Finally, the Guidelines specifies the number of allowable expected standard exceedances for a one to three year period. Attainment of the standard is achieved when the average number of expected exceedances at each site is equal to or less than one per year.

Assessment of attainment of the O_3 standard in Vanderburgh County is based on the results of EPA's analysis of ambient monitoring data collected at Scott Grade School, in Vanderburgh County, and in Henderson County during 1980 and 1981 and on data collected at the Evansville Civic Center from 1977 through 1979 submitted by the IAPCB. The results indicate that there were no monitored exceedances of the standard at the Evansville Civic Center site from 1977 through 1979 and only one exceedance of the standard monitored at the Scott Grade School site and at the Henderson County site during 1980 and 1981. The Agency's conclusion is that the data indicate the average number of expected exceedances at all three sites are less than one and, thus, adequately support the redesignation of Vanderburgh County.

2. Lake County, Ohio

On April 9, 1981, the Ohio EPA submitted a revision of the TSP and SO_2 attainment status designations of Lake County. The redesignation request involved revising certain areas from primary nonattainment to secondary nonattainment for TSP and revising portions from primary nonattainment to attainment for SO_2. The revision is supported by adequate TSP and SO_2 air quality monitoring data submitted by the State of Ohio.

The EPA published a notice of proposed approval of the revision on July 27, 1981 (46 FR 38386). A 30 day comment period was provided until August 26, 1981, and subsequently extended to September 15, 1981, at the State's request (46 FR 45162). Comments received on the revision from the State and local industry generally supported the EPA proposal. The commentors also brought to EPA's attention that, relative to TSP, the area northwest of Fairport Harbor and Grand River in Painesville Township should be designated to attainment rather than secondary nonattainment because there are eight quarters of air quality data which show attainment in this area. The EPA agrees with the State that there are sufficient representative monitoring data to support this modification of the original request. Relative to SO_2, the State commented that the City of Mentor north of U.S. 20 and west of S.R. 306, rather than east of S.R. 306 as stated in the original request, should be designated primary nonattainment. The EPA agrees that eight quarters of monitoring data support this modification of the original request.

The final TSP nonattainment boundaries for Lake County are:

Primary nonattainment: The City of Painesville.

Secondary nonattainment: (a) Leroy Township, (b) the area bounded on the north and west by the county line, on the south by I–90 and on the east by S.R. 306, excluding the Town of Willowick, and (c) Painesville Township excluding Fairport Harbor and Grand River *and* the area within Painesville Township north and west to Fairport Harbor and Grand River.

The SO_2 nonattainment area boundaries are:

Primary nonattainment: Cities of Eastlake, Timberlake, Lakeline, Willoughby (north of U.S. 20), and Mentor (north of U.S. 20, *west* of S.R. 306).

These actions were exempted from review by the Office of Management and Budget under section 3 of Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that the attainment significant economic impact on a substantial number of small entities. These actions constitute attainment status redesignations under section 107(d) of the Clean Air Act.

Under section 307(d)(1) of the Clean Air Act, judicial review of these final actions is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

(Sec. 107 of the Clean Air Act, as amended (42 U.S.C. 7407))

Dated: March 9, 1982.

Anne M. Gorsuch,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart C of Part 81 of Chapter 1, Title 40, Code of Federal Regulations is amended as follows:

1. Within the "Indiana O_3" portions of § 81.315, Vanderburgh County should be revised as follows:

§ 81.315 Indiana.

* * * * *

INDIANA O_3

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
* * * * *		
Vanderburgh County	X	
* * * * *		

2. Within the "Ohio—TSP" portions of § 81.336, Lake County should be revised as follows:

§ 81.336 Ohio

* * * * *

OHIO—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
* * * * *				
Lake:				
The City of Painesville	X			
(a) Leroy Township, (b) the area bounded on the north and west by the county line, on the south by I–90 and on the east by S.R. 306, excluding the Town of Willowick, and (c) Painesville Township excluding Fairport Harbor and Grand River *and* the area within Painesville Township north and west of Fairport Harbor and Grand River.		X		
Remainder of Lake County				X
* * * * *				

3. Within the "Ohio SO_2" portions of § 81.336, Lake County should be revised as follows:

* * * * * * *

OHIO—SO_2

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
* * * * *				
Lake:				
The Cities of Eastlake, Timberlake, Lakeline, Willoughby (north of U.S. 20), an Mentor (north of U.S. 20 west of S.R. 306).	X			
The remainder of Lake County				X
* * * * *				

[FR Doc. 82-6668 Filed 3-12-82; 8:45 am]

BILLING CODE 6560-38-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 5–53, 5A–53

Contract Administration

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration Procurement Regulations, Chapter 5, are amended to transfer policies and procedures regarding Contract Administration from Chapter 5A. This transfer is part of the action to incorporate appropriate material in Chapter 5A into Chapter 5. The intended effect is to have a single GSA-wide procurement regulation.

EFFECTIVE DATE: March 26, 1982.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (703–523–4755).

SUPPLEMENTARY INFORMATION: Outstanding Procurement Letters remain in effect until canceled.

CHAPTER 5—GENERAL SERVICES ADMINISTRATION

[APD 2800.2 CHGE 19]

1. The Table of Parts is amended by adding the following entry:

TABLE OF PARTS

Part 5–53—Contract Administration

2. The Contents of Part for Part 5–53 is added as follows:

PART 5–53—CONTRACT ADMINISTRATION

Sec.
5–53.000 Scope of part.

Subpart 5–53.1—General

5–53.101 Definition.

Subpart 5–53.2—Classified Information Involved in GSA Contracts

5–53.201 General.
5–53.202 Requests for release of classified information.
5–53.202–1 Authorization for release.
5–53.202–2 Termination of authorization for release.
5–53.203 Security Requirements Clause information.
5–53.204 Processing security requirements checklist (DD Form 254).
5–53.205 Periodic review.
5–53.206 Recurring procurement.
5–53.207 Control of classified information.
5–53.207–1 Records.
5–53.207–2 Markings.
5–53.208 Return of classified information to GSA.
5–53.208–1 Return from prospective contractors.
5–53.208–2 Return from contractors.
5–53.208–3 Termination, revocation, or inactivation of facility security clearance.
5–53.209 Breaches of security.

Authority: Sec. 205(c), 63 Stat. (40 U.S.C. 486(c))

3. Part 5–53 Contract Administration is added as follows:

PART 5–53—CONTRACT ADMINISTRATION

§ 5–53.000 Scope of part.

This Part 5–53 prescribes contract administration responsibilities and establishes policies and procedures for the administration of GSA contracts.

Subpart 5–53.1—General

§ 5–53.101 Definition.

Contract administration is defined as the performance and coordination of all actions subsequent to the award of a contract that the Government must take to obtain compliance with all contract requirements, including timely delivery of supplies or services, acceptance, payment, and closing of the contract. These actions also include all technical, financial, audit, legal, administrative, and managerial services in support of the contracting officer.

Subpart 5–53.2—Classified Information Involved in GSA Contracts

§ 5–53.201 General.

(a) This subpart prescribes procedures for safeguarding classified information required to be disclosed to contractors in connection with the solicitation of bids and offers, and the award, performance, and termination of contracts. As used in this subpart, the term "contractor(s)" includes prospective contractors, contractors, subcontractors, vendors, and suppliers of any tier.

(b) The provisions of this subpart implement the requirements of the Department of Defense Industrial Security Regulations and the Department of Defense Industrial Security Manual for Safeguarding Classified Information. By agreement, the Department of Defense will act for and in behalf of GSA in rendering security services required for safeguarding classified information released by GSA to United States (U.S.) industry.

(c) As used in this subpart, the term "U.S. industry" pertains to those industries (including educational and research institutions) located within the United States, its possessions, and the Commonwealth of Puerto Rico.

§ 5–53.202 Requests for release of classified information.

Prior to entering into discussion, negotiation, or solicitation of bids for contracts involving the disclosure of classified information, the contracting officer shall prepare, in duplicate, Section I of GSA Form 1720, Request for Release of Classified Information to U.S. Industry (illustrated in § 5–16.950–1720). After signing as requesting officer and obtaining approval from his immediate supervisor, the contracting officer shall forward both copies to the Security Division, Office of Security and Occupational Safety and Health (HSS).

§ 5–53.202–1 Authorization for release.

HSS, after determining that the contractor has been issued a Department of Defense facility security clearance, shall complete the appropriate parts of Section II, of GSA Form 1720, and return one copy to the contracting officer. Under no circumstances shall classified information be disclosed or made accessible to any contractor until the completed form has been received from HSS. Where only Item 14b, Section II, of the form has been checked, the contracting officer shall be guided in his actions by the instructions on the reverse side of the form. In the event that a contractor is found to be ineligible for a security clearance, HSS shall advise the contracting officer.

§ 5–53.202–2 Termination of authorization for release.

When it develops that a clearance should be withdrawn or revoked, HSS shall advise the contracting officer of the termination of authorization to release classified information. This shall include instructions concerning actions required to safeguard, withhold, or obtain the return of classified information. Reasons for such termination may include:

(a) Failure of the contractor to maintain the physical standards required by the Industrial Security Manual for Safeguarding Classified Information.

(b) Information indicating the contractor should no longer be eligible for clearance.

(c) The contractor no longer requires access to classified information.

§ 5–53.203 Security requirements clause information.

(a) All fixed-price supply contracts involving the release of classified information shall include the clause in § 5–7.103–80.

(b) All cost reimbursement type contracts shall include the clause in § 5–

7.103–50 with the changes mentioned in paragraph (b) of that regulation.

§ 5–53.204 Processing security requirements checklist (DD Form 254).

(a) Contracts involving access to classified information by the contractor require preparation of DD Form 254, Contract Security Classification Specification (illustrated in § 5–16.951–254), to identify and indicate to DOD and contractors the areas of classified information involved. In the case of contracts for research, consultant services, graphic arts services, or other procurements of services, written notice of classification may be used in lieu thereof.

(b) Below are instructions for completing each item on the DD Form 254. The GSA contracting officer is responsible only for the preparation of DD Forms 254 that are issued to the prime contractor. Those issued to subcontractors are the responsibility of the prime contractor. Since GSA has the review and distribution responsibility for DD Forms 254 that are issued to subcontractors, instructions for completing those items on the DD Form 254 as they apply to subcontractors are also included. Each item of the DD Form 254 is to be completed; N/A should be shown for items that are not applicable.

(1) Item 1: Enter the appropriate clearance: Top Secret, Secret, or Confidential.

(2) Item 2: Check item 2a, 2b, or 2c, as applicable.

(3) Item 3: Enter the complete identifying number and the completion date in 3a or 3b. If item 3c is used, enter the appropriate data identifying the type of solicitation (i.e., Request for Proposal (RFP), Request for Quotation (RFQ), or Invitation for Bid (IFB)).

(4) Item 4: Furnish date in block 4a, 4b, or 4c, as applicable.

(5) Item 5: If the DD Form 254 is not for a follow-on contract, annotate block "Does Not Apply." If the DD Form 254 is for a follow-on contract, enter the preceding contract identification number from which this contract evolved and its completion date.

(6) Item 6: If there is a prime contract, complete items 6a and 6b, showing the complete name and address of the prime contractor's facility that will receive classified information in the performance of the prime contract identified in item 3a along with the cognizant security office of that facility. If there is no prime contract and item 3c is completed, enter instead in items 6a and 6b the name and address of the contractor's facility to which the DD Form 254 is to be sent in connection with the RFP, RFQ, or IFB, or GSA program as described in § 5–53.201, and the cognizant security office of that facility. The identity of the cognizant security office is obtainable from Section II of the GSA Form 1720.

(7) Item 7: If there is a first tier subcontract, complete items 7a and 7b showing the complete name and address of the subcontractor's facility that will receive classified information in performance of the subcontract listed in item 3b. If there is no first tier subcontract and item 3c is completed, enter instead the name and address of the subcontractor's facility to which the DD Form 254 is to be sent in connection with the RFP, RFQ, IFB, and the cognizant security office of that facility.

(8) Item 8: List in the proper order of succession beginning with the second tier, the subcontract's identification number and the complete name and address of the subcontractor of each successive tier, down to and including the subcontractor's facility for which the DD Form 254 is being provided, and the cognizant security office of such last facility. If item 3c is completed, the last entry should be the name and address of the subcontractor's facility to which the particular DD Form 254 is to be sent in connection with the RFP, RFQ, or IFB, and the cognizant security office of such facility.

(9) Item 9: Under item 9a, include a brief unclassified statement or notation of sufficient information to identify the nature of the procurement or program. If an unclassified notation cannot be made, enter the word "classified." Usually, item 9b is checked "no." If a case arises where the contracting officer believes item 9b should be checked "yes," the Director, Security Division should be contacted for further guidance.

(10) Item 10: Check the appropriate box for each item listed. Use the "Remarks" column to elaborate as necessary. When either the Restricted Data, Cryptographic Information, or Communication Analysis Information block is checked "yes," identify the applicable classification guide(s) pertinent to the contract or attach them to the DD Form 254. If these extracts are classified, forward them by separate correspondence. If it is necessary to check "yes" to the Defense Documentation Center or Defense Information Analysis Center services, coordination should be effected with the GSA Security Division, Office of Security and Occupational Safety and Health (HSS).

(11) Item 11: Enter the name, address, telephone number, and office symbol of the GSA official to whom inquiries pertaining to classification guidance determinations or interpretations for this contract or program are to be directed. (This item must be completed even if the official is the same as the official identified in item 14.) In first tier subcontracting situations, show the name, address, and telephone number of the responsible official in the facility of the prime contractor listed in item 6a. In subcontracting situations beyond the first tier, show the name, address, and telephone number of the responsible official in the subcontractor's facility listed in item 3b or item 8, as appropriate, to whom inquiries pertaining to classification guidance determinations or interpretations for the subcontract are to be directed.

(12) Item 12: Strike through "Direct" and "Through" boxes and enter "To: Director, Security Division (HSS), General Services Administration, Washington, DC 20405."

(13) Item 13:

(i) This item provides the necessary security classification specifications for the contract. The specification must elaborate and explain sufficiently to clearly identify the areas and specific information within those areas that require classification. The guidance must be accompanied by either of the following statements: "Subject to General Declassification Schedule" or "Exempt from General Declassification Schedule." When all the specific information is not subject to the General Declassification Schedule or when all the information is not exempt from the Schedule, then the applicable identifying statement must appear next to each item of information.

(ii) Classified contracts in GSA are awarded for reasons that fall into the following broad categories: Release of classified information to the contractor; services by the contractor at classified or sensitive locations; and guard service contracts.

(c) In addition to the distribution set forth on the DD Form 254, the GSA Security Division, Office of Security and Occupational Safety and Health (HSS), shall receive two copies.

§ 5–53.205 Periodic review.

Contracting officers shall review DD Form 254 whenever a change in the phase of performance occurs or at their own discretion, but in any event at least once a year, to determine whether the classified information can be downgraded or declassified. The contractor shall be informed of the results of the review by issuance of a revised specification, or by written instructions in lieu of DD Form 254 (where authorized), or if the review results in no change in the classification specifications, by written notification to that effect. Upon termination or completion of the contract, a final checklist shall be prepared.

§ 5–53.206 Recurring procurement.

When procurement is of a recurring nature, a new DD Form 254 is not required if the end item is not changed and there is no change from the previous security classification.

§ 5–53.207 Control of classified information.

(a) Classified information shall be transmitted to the contractor in the manner required by the HB, Document Security, Chapter 1–4 (ADM P 1025.2A).

(b) Classified information shall be addressed and delivered to the contractor so that it may be secured and recorded at the control stations established at the contractor's facility in accordance with the requirements of the Industrial Security Manual for Safeguarding Classified Information. Classified material may be delivered or made available to an employee of the contractor if the employee has security clearance for access to classified information at the required level and the contractor has given GSA advance written notification of the name (in full) of the employee, his official position, and his current clearance status.

(c) The "need to know" principle must be enforced at all times. "Need to know" means that the knowledge or the possession of classified material is permitted only to persons whose official duties require such access in the interests of promoting national security. The contracting officer is responsible for determining who is permitted access to classified material.

(d) When classified information is originated by another agency, the consent of the originating agency shall be obtained prior to releasing the classified information to the contractor.

§ 5–53.207–1 Records.

Contracting officers shall ensure that a record is maintained of classified information released to contractors.

§ 5–53.207–2 Markings.

Classified material furnished to a contractor shall be marked in accordance with the provisions of the HB, Document Security, Chapter 1–2 (ADM P 1025.2A).

§ 5–53.208 Return of classified information to GSA.

Unless the classified information has been destroyed as provided in paragraph 19 of the Industrial Security Manual for Safeguarding Classified Information, the contracting officer shall obtain the return of this information. Where classified information is furnished to a GSA contractor by another Government agency, the return of such information is the responsibility of that agency.

§ 5–53.208–1 Return from prospective contractors.

When a bid or proposal is not to be submitted, any classified information furnished shall be required to be returned prior to or immediately after the time set for bid opening or the closing date for receipt of proposals. For unsuccessful bidders or offerors, any classified information shall be required to be returned within 15 days after contracts have been awarded.

§ 5–53.208–2 Return from contractors.

All classified information furnished a contractor shall be required to be returned at the termination or completion of the contract or when otherwise directed by the contracting officer.

§ 5–53.208–3 Termination, revocation, or inactivation of facility security clearance.

(a) When a contracting officer has been advised by the GSA Security Division that authorization to release classified information has been withdrawn, or by the cognizant security officer that the facility's security clearances have been revoked or inactivated, immediate action shall be taken to obtain the return of classified information.

(b) If the contracting officer is advised that a facility does not have adequate means for safeguarding classified information in its possession, additional classified information shall not be furnished. Any classified information previously furnished shall be required to be returned as in paragraph (a) of this section, until the facility meets the standards required by the Industrial Security Manual for Safeguarding Classified Information.

§ 5–53.209 Breaches of security.

When an unauthorized disclosure of classified information is discovered, which apparently emanated from an industrial source, the GSA contracting officer or other GSA employee responsible for the information shall promptly refer the facts of such breach or compromise to the GSA Security Division for appropriate remedial action.

CHAPTER 5A—OFFICE OF ACQUISITION POLICY, GENERAL SERVICES ADMINISTRATION

[APD 2800.3 CHGE 29]

1. The Table of Parts for GSPR 5A is amended to remove Part 5A–53—Contract Administration as follows: Part 5A–53—[Removed]

PART 5A–53—CONTRACT ADMINISTRATION

2. Part 5A–53 is removed in its entirety as follows: Part 5A–53—[Removed]

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Dated: February 24, 1982.

William B. Ferguson,

Acting Assistant Administrator for Acquisition Policy.

[FR Doc. 82–6810 Filed 3–12–82; 8:45 am]

BILLING CODE 6820–61–M

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41 CFR Parts 5–63, 5A–53, 5B–15, and 5B–53

Audit of Contractors' Records

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration Procurement Regulations, Chapter 5, are amended to transfer policies and procedures regarding audit of contractors' records from Chapters 5A and 5B, and to delete obsolete material regarding renegotiation from Chapter 5B. This transfer is part of the action to incorporate appropriate material in Chapters 5A and 5B into Chapter 5, GSPR. The intended effect is to have a single GSA-wide procurement regulation.

EFFECTIVE DATE: March 22, 1982.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy, (202) 523–4755.

SUPPLEMENTARY INFORMATION:

CHAPTER 5—GENERAL SERVICES ADMINISTRATION

[APD 2800.2 CHGE 18]

1. Part 5–63 is added as follows:

PART 5–63—AUDITS

Subpart 5–63.1—Audit of Contractors' Records

Sec.

5–63.101 General.
5–63.102 Purpose of audit.
5–63.103 Types of contracts subject to audit.
5–63.104 Contract clause.

Sec.
5-63.105 Payments under contracts subject to audit.
5-63.105-1 General.
5-63.105-2 Submission and processing of invoices or vouchers.
5-63.105-3 Action upon receipt of an audit report.
5-63.105-4 Suspensions and disapprovals of amounts claimed.
5-63.106 Additional internal controls.
5-63.107 Limitation.
5-63.108 Releasing or withholding of audit reports.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 5-63.1—Audit of Contractors' Records

§ 5-63.101 General.

The Assistant Inspector General—Auditing and the Field Audit Offices conduct contract audits of contractors' records to the extent that such audits are required by law, regulation, or sound business judgment. These audits include the conduct of periodic or special request audits of contractors deemed warranted because of such matters as the financial condition, integrity, and reliability of the contractor and prior audit experience, adequacy of the accounting system, and the amount of unaudited claims. So that the Government can benefit to the maximum extent from these audits, a coordinated and cooperative effort shall be made by contracting officers, technical specialists, and finance and audit personnel (see §§ 1-3.801 and 5-63.102). It is the responsibility of the contracting officer to have an audit clause inserted in all contracts subject to audit pursuant to § 5-63.103.

§ 5-63.102 Purpose of audit.

In addition to the provisions of § 1-3.809, Contract audit as a pricing aid, audits are conducted to advise and make recommendations to the contracting officer concerning the following:

(a) Propriety of amounts paid, or to be paid, by GSA to contractors where such amounts are based on a cost or time determination or on variable features related to the results of contractors' operations;

(b) Adequacy of measures taken by contractors regarding the use and safeguarding of Government assets under their custody or control;

(c) Compliance by contractors with contractual provisions having financial implications such as progress payments, advance payments, guaranteed loans, cash return provisions, and price adjustments. The adequacy of a contractor's accounting system and controls shall be evaluated by contract audit before inclusion of a Progress Payments clause (see §§ 1-30.506 and 5-30.550(b)(3)). A similar evaluation shall be made prior to the making of any advance payments or guaranteed loans pursuant to Parts 1-30 and 5-30;

(d) Reasonableness of contractors' settlement proposals in termination of contracts (see § 1-8.207);

(e) Compliance with contract provisions; and

(f) Contractors' financial condition and ability to perform or to continue to perform under Government contracts.

§ 5-63.103 Types of contracts subject to audit.

(a) The following types of contracts in excess of $10,000 shall include the Examination of Records by GSA clause in § 5-63.104:

(1) Cost-reimbursement type contracts (see § 1-3.405);

(2) Advertised or negotiated contracts involving the use or disposition of Government-furnished property;

(3) When advance payments, progress payments based on costs, or guaranteed loans are to be made;

(4) Contracts for supplies or services containing a price warranty or price reductions clause;

(5) Contracts or leases involving income to the Government when the income is based on operations that are under the control of the contractor or lessee;

(6) Fixed-price contracts with escalation (see §§ 1-2.104-3 and 1-3.404-3), with incentives (see §§ 1-3.404-4 and 1-3.407), and with redetermination (see §§ 1-3.404-5 and 1-3.404-7);

(7) Requirements and indefinite quantity (call-type) contracts (see §§ 1-2.104-4 and 1-3.409);

(8) Time and materials and labor-hour contracts (see §§ 1-3.406-1 and 1-3.406-2); and

(9) Leases (i) when the rental is subject to adjustment (e.g., a change in the real estate taxes or service costs), or (ii) when the rental is dependent upon actual or estimated costs of construction, alteration, improvements, or repairs.

(b) In some of the contracts listed in paragraph (a) of this Section, it may be appropriate to define the specific area of audit such as (1) the use or disposition of Government-furnished property, or (2) variable or other special features of the contract, e.g., price escalation and compliance with the price warranty or price reductions clauses. In these cases, the contract clause in § 5-63.104 may be appropriately modified with the concurrence of the Office of General Counsel or Regional Counsel and the Assistant Inspector General—Auditing, or the Field Audit Office, as appropriate.

(c) Inclusion of the contract clause in § 5-63.104 (whether or not modified) in contracts does not affect in any way the requirements for use of the Examination of Records clause permitting review of contractor books and records by the Comptroller General or the clauses on audit and records pertaining to the verification of cost or pricing data.

(d) A copy of each contract or modification of the types described in § 5-63.105-1(a) subject to audit shall be furnished to the Assistant Inspector General for Auditing (JA), General Services Administration, Washington, DC 20405, or to the Field Audit Office, as appropriate, simultaneously with distribution of other copies of the contract.

§ 5-63.104 Contract clause.

The following contract clause is prescribed for use as provided in § 5-63.103:

Examination of Records by GSA

The Contractor agrees that the Administrator of General Services or any of his duly authorized representatives shall, until the expiration of 3 years after final payment under this contract, or of the time periods for the particular records specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of the Contractor involving transactions related to this contract or compliance with any clauses thereunder.

The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Administrator of General Services or any of his duly authorized representatives shall, until the expiration of 3 years after final payment under the subcontract, or of the time periods for the particular records specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract or compliance with any clauses thereunder. This term "subcontract" as used in this clause excludes (a) purchase orders not exceeding $10,000 and (b) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

(End of Clause)

§ 5-63.105 Payments under contracts subject to audit.

§ 5-63.105-1 General.

(a) The contracting officer shall not approve the initial payment invoice or voucher until he has consulted with the Assistant Inspector General—Auditing, or the Field Audit Office regarding cost or other supporting data as required under:

(1) Cost-reimbursement type contracts;

(2) The cost-reimbursement portion of fixed-price type contracts;

(3) Time and materials or labor-hour contracts; or

(4) Fixed-price contracts providing for (i) progress payments based on costs, (ii) advance payments, (iii) guaranteed loans, or (iv) incentives or redetermination.

(b) The contracting officer shall not approve the final payment invoice or voucher for such contracts, nor for the final payment or settlement of other contracts subject to audit (see § 5-63.103) prior to the (1) receipt and review of the contract audit report or (2) consultation with the Contract Audits Division or the Field Audit Office if no audit is to be conducted; provided, that this paragraph (b) shall not apply to fixed-price contracts with escalation where no price revision (upward or downward) is to be made.

§ 5-63.105-2 Submission and processing of invoices or vouchers.

(a) Contractors shall be required to submit invoices or vouchers to the contracting officer. The processing of invoices or vouchers prior to payment for work or services rendered shall include a review by the contracting officer, or his designated representative, to determine that the nature of items and amounts claimed are in consonance with the contract terms, represent prudent business transactions, and are within any stipulated contractual limitations. The contracting officer must ensure that these payments are commensurate with physical and technical progress under the contract. If the contractor has not deducted from his claim amounts which are questionable or which are required to be withheld, the contracting officer shall make the required deduction, except as provided in § 5-63.105-3.

(b) Subject to the provisions of § 5-63.105-1, approval by the contracting officer of any payment, including any specific approval as to the nature or amount of the cost, shall be noted on (or attached to) the invoice or voucher. The invoice or voucher shall be forwarded to the appropriate accounting center and retained therein after certification and scheduling for payment to a disbursing office.

§ 5-63.105-3 Action upon receipt of an audit report.

Audit reports shall be furnished to the contracting officer, with a copy to the appropriate accounting center. Upon receipt of an audit report, the contracting officer shall, pursuant to contract terms, determine the allowability of all costs covered by audit, giving full consideration to the auditor's recommendations. When the contracting officer is in doubt or questions the recommendations of the auditor, deductions need not be made from invoices or vouchers for provisional payments. In these cases, the contracting officer shall confer with the auditor and other appropriate Government personnel (such as a price specialist or legal counsel) to determine what further action should be taken regarding the items of cost in question. If the contracting officer disagrees with the auditor's recommendations, the contracting officer shall prepare a statement for the contract file to support and justify his decision and shall furnish the auditor with a copy of the statement.

§ 5-63.105-4 Suspensions and disapprovals of amounts claimed.

The contracting officer shall notify the appropriate accounting center in writing when amounts claimed for payment are (a) suspended, (b) disapproved as not being allowable according to contract terms, or (c) not reasonably incident or allocable to performance of the contract. This notice by the contracting officer shall be the basis for the issuance by the accounting center of GSA Form 533, Administrative Difference Statement. A copy of GSA Form 533 shall be attached to each copy of the invoice or voucher from which the deduction has been made, including an explanation of the deduction. Control over the issuance of GSA Form 533 shall be maintained by the accounting center.

§ 5-63.106 Additional internal controls.

As a supplement to the contractual right to audit contractor records in cost-reimbursement type, time and materials, labor-hour, requirements and indefinite quantity (call-type) contracts, the contracting officer (with the assistance of the Assistant Inspector General—Auditing or the Field Audit Office) shall establish appropriate internal controls or procedures prior to the performance of those contracts with respect to any flexible or variable features. For example, if a time and materials or labor-hour contract is performed (on a Government facility or elsewhere) subject to observation or overall supervision by Government personnel (see § 1-3.406-1(b)), approval of time records may be provided for as incidental to the Government supervision. Any reasonable and reliable method or procedure may be established to account for such matters as the time spent on the job and materials or supplies received which will assist the contract auditor and the contracting officer to determine the correctness of the charges to the contract.

§ 5-63.107 Limitation.

The contracting officer and the Assistant Inspector General—Auditing, the Director, Field Audit Office, may agree to limit the application of specific contract audit requirements in individual cases, i.e., when the possible cost-benefits of the audit do not warrant the assignment of audit resources or when audit resources are unavailable; provided, that the stated urgency of a proposed procurement or other contract action alone shall not be adequate justification for such a waiver (see §§ 1-3.801-3 and 1-3.809).

§ 5-63.108 Releasing or withholding of audit reports.

The Freedom of Information Act generally requires the disclosure of Government records subject to certain exceptions. It may be to the benefit or detriment of the Government to release contract audit reports or portions of them depending upon the circumstances. However, because of the complexity of the matter, contracting officers shall consult with both the Assistant Inspector General—Auditing and the Office of General Counsel, prior to the release or withholding of such information.

CHAPTER 5A—GENERAL SERVICES ADMINISTRATION

[APD 2800.3 CHGE 28]

PART 5A-53—CONTRACT ADMINISTRATION

Subpart 5A-53.3 [Removed]

1. Part 5A-53 is amended by removing Subpart 5A-53.3—Audit of Contractors' Records.

CHAPTER 5B—GENERAL SERVICES ADMINISTRATION

[APD 2800.4 CHGE 11]

PART 5B-15—CONTRACT COST PRINCIPLES AND PROCEDURES [REMOVED]

PART 5B-63—AUDITS [REMOVED]

2. 41 CFR is amended by removing Part 5B-15—Contract Cost Principles and Procedures, and Part 5B-63, Audits.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: February 18, 1982.

William B. Ferguson,

Acting Assistant Administrator for Acquisition Policy.

[FR Doc. 82-6670 Filed 3-12-82; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6127

[AA-6139, A-062024]

Alaska; Withdrawal of Lands; Partial Revocation of Public Land Order No. 5; Total Revocation of Public Land Order No. 3677

Correction

In FR Doc. 82-3721, appearing on page 6277, in the issue of Thursday, February 11, 1982, make the following change:

In the third column, the Seward Meridian, Sec. 3, the first line should read "Sec. 3, S½N½NE¼NE¼, S½NE¼NE¼,".

BILLING CODE 1505-01-M

43 CFR Public Land Order 6197

[A-5942]

Arizona; Public Land Order No. 5992; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This document will correct a typographical error in the land description of Public Land Order No. 5992 of September 1, 1981. Public Land Order No. 5992 revoked several Executive Orders and one Departmental order which withdrew certain lands in Arizona for primary transmission line right-of-way purposes.

EFFECTIVE DATE: March 15, 1982.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office, 602-261-4774.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The description of lands in Public Land Order No. 5992 of September 1, 1981, in FR Doc. 81-26406 appearing at pages 45132-45137 in the issue of Thursday, September 10, 1981, is hereby corrected as follows:

1. Page 45134, column one, the nineteenth line from the end of the page should read "Section 19, lot 2 SE¼NW¼, SW¼NE¼".

2. Page 45136, column two, the sixteenth line from the end of the page should read "Section 19, SW¼NE¼, SE¼NW¼".

March 4, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-6669 Filed 3-12-82; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 90 and 99

[Gen. Docket No. 80-7; RM-3059; RM-2726; RM-2101]

Establishment of a Disaster Radio Response Program in the Local Government Radio Service for States, Territories, and Possessions; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document clarifies and corrects the text of rule changes adopted in General Docket No. 80-7 regarding amendment of the Commission's rules establishing a disaster radio response program. It is necessary because without it the Code of Federal Regulations would be in error due to omission and error in the prior publication in this proceeding.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Keith Plourd, Private Radio Bureau, Washington, DC 20554; (202 632-6497; Room 5120.

SUPPLEMENTARY INFORMATION: In the matter of amendment of Parts 2, 90 and 99 of the Commission's rules to establish a disaster radio response program in the Local Government Radio Service for States, Territories, and Possessions, Gen. Docket No. 80-7; RM-3059, RM-2726, RM-2101.

The Report and Order, FCC 81-389, in the above entitled matter, released October 13, 1981, (46 FR 52367) is corrected as follows:

1. Appendix B, instruction No. 1; the title of column 11 of the Table of Frequency Allocations, which reads:

"Nature of services of stations"

is corrected by capitalizing the letters in the words, "of services," by placing the words, "of stations" below the words, "OF SERVICES," and by inserting brackets as follows:

"Nature { OF SERVICES / of stations"

2. Appendix B, instruction No. 7; the parenthetical expression in the "power" table which states:

"(millihertz)"

is corrected to read:

"(Megahertz)"

3. Appendix B, instruction No. 11; the amended "Frequency Tolerance" table should be set out in full, so as to avoid improper renumbering of the footnotes in the table. The table is revised to read as follows:

FREQUENCY TOLERANCE

Frequency range	Fixed and base stations		Mobile stations	
	Over 200 W output power	200 W or less output power	Over 2W output power	2W or less output power
Below 25	[1] [2] [4].005	.01	.01	.02
25 to 50	.002	.002	.002	.005
50 to 450	[3] [5].0005	[3] [5].0005	[5].0005	[7].005
450 to 470	[3] [5] [6].00025	[3] [5] [6].00025	.0005	.0005
470 to 512	[5].00025	[5].00025	.0005	.0005
806 to 821	[5].00015	[5].00015	.00025	.00025
821 to 866	.00015	.00015	.00025	.00025
1427 to 1435	[8].03	[8].03	.03	.03
Above 2450	([9] [10])	([9] [10])	([9] [10])	([9] [10])

. . . . . .

4. Appendix B, instruction No. 11, C; the text of new footnote 4 was omitted. Instruction 11, C, should read as follows:

"C. Add new footnote 4 between footnote 3 and new footnote 5 to read as follows:

[4] For disaster communications operations according to § 90.284, transmitters exceeding 200 W peak envelope power shall maintain the carrier frequency to within 20 Hz of the authorized carrier frequency."

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-6668 Filed 3-12-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-576; RM-3824]

FM Broadcast Station in Blakely, Ga.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 228A to Blakely, Georgia, in response to a petition filed by Radio Blakely, Inc. The assigned channel could provide a first FM service to Blakely.

DATE: Effective May 3, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations (Blakely, Georgia), BC Docket No. 81-576, RM-3824.

Report and Order Proceeding Terminated

Adopted: February 24, 1982.

Released: March 3, 1982.

1. The Commission has under consideration a Notice of Proposed Rule Making, 46 FR 43215, published August 27, 1981, proposing the assignment of Channel 228A to Blakely, Georgia, as that community's first FM assignment, in response to a petition filed by Radio Blakely, Inc. ("petitioner").[1] Comments in support of the proposal were filed by the petitioner. No oppositions to the proposal were received.

2. Blakely (population 5,880),[2] seat of Early County (population 13,158) is located approximately 284 kilometers (165 miles) south of Atlanta, Georgia. It is served locally by daytime-only AM Station WBBK (licensed to the petitioner).

3. In its comments, the petitioner restated the need for an FM assignment to Blakely and urged the Commission to adopt its proposal. As requested by the Notice, petitioner submitted information indicating that it could provide the required 70 dBu contour over Blakely, from a restricted site of 7 miles southeast of Blakely. It also stated its intent to apply for Channel 228A, if assigned.

4. The Commission has determined that the public interest would be served by assigning Channel 228A to Blakely, Georgia, since it would provide the community with an opportunity for its first local FM broadcast service. The transmitter site is restricted to 11.5 kilometers (7.2 miles) southeast of Blakely, to meet spacing requirements.

5. Accordingly, pursuant to the authority contained in §§ 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's rules, it is ordered, That effective May 3, 1982, § 73.202(b) of the Commission's rules, is amended with regard to the following community.

City	Channel No.
Blakely, Ga	228A

6. It is further ordered, That this proceeding it terminated.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-6667 Filed 3-12-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Radio Blakely, Inc. is the licensee of AM Station WBBK, Blakely, Georgia.

[2] Population figures are taken from the 1980 U.S. Census.

Proposed Rules

Federal Register
Vol. 47, No. 50
Monday, March 15, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Ch. III

Federal Regulation of Cancer-Causing Chemicals; Procedures for Negotiating Proposed Regulations

AGENCY: Administrative Conference of the United States.

ACTION: Request for public comments.

SUMMARY: The Administrative Conference's Committee on Interagency Coordination has under consideration draft recommendations on the following topics: (i) federal regulation of cancer-causing chemicals, and (ii) procedures for negotiating proposed regulations. Interested persons are invited to comment on the draft recommendations.

DATE: Comments by April 12, 1982.

ADDRESS: Send comments to: David M. Pritzker, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: David M. Pritzker, 202–254–7065.

SUPPLEMENTARY INFORMATION: (I) The Administrative Conference's Committee on Interagency Coordination has under consideration a draft recommendation on federal regulation of cancer-causing chemicals, based on a study by Dean Richard A. Merrill of the University of Virginia School of Law. The study encompassed various regulatory programs of the Food and Drug Administration, the Consumer Product Safety Commission, the Occupational Safety and Health Administration, and the Environmental Protection Agency.

The draft recommendation is addressed primarily to federal agencies that regulate carcinogens, although certain parts concern legislative considerations. It deals with agency procedures relevant to the following subjects:

I. Priority Setting
II. Interagency Coordination
III. Chemical Selection and Guidelines for Testing and Evaluation
IV. Advisory Panels
V. Generic Rulemaking
VI. Quantitative Assessment of Risk
VII. Incremental Regulation
VIII. Public Participation

Because the draft recommendation is quite long, it is not being reproduced in the Federal Register. Copies are available upon request from the Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037 (Telephone: 202–254–7065).

Dean Merrill's report to the Conference is not yet completed. The final report will contain an introductory chapter describing the system of federal regulation of chemical carcinogens, and a chapter in which the author evaluates the existing legal and institutional mechanisms for regulating chemical carcinogens and offers recommendations for their improvement. These chapters are currently in draft form. Revised versions are expected to be available soon after April 1, 1982. The report also contains extensive case studies of the Food and Drug Administration and the Consumer Product Safety Commission. These studies have already been published, and may be found at 66 Virginia Law Review 1357 (1980) and 67 Virginia Law Review 1261 (1981), respectively. Copies of these studies will be made available on request.

II. The committee also has under consideration a draft recommendation on procedures for negotiating proposed regulations, based on a study by Philip J. Harter, Esq. The draft recommendation is set out below in its entirety. Copies of Mr. Harter's report to the Conference are also available from the Office of the Chairman.

III. The committee invites comments on each of the proposed recommendations, and requests that they be submitted no later than Monday, April 12, 1982. Comments pertaining to either proposed recommendation should be sent to David M. Pritzker at the address given above. The committee will meet in late April 1982 to reconsider both recommendations in the light of the comments received.

Proposed Recommendation Procedures for Negotiating Proposed Regulations

Introduction

The complexity of government regulation has increased greatly compared to that which existed when the Administrative Procedure Act was enacted, and this complexity has been accompanied by a formalization of the rulemaking process beyond the brief, expeditious notice and comment procedures envisioned by Section 553 of the APA. Procedures in addition to notice and comment may, in some instances, provide important safeguards against arbitrary or capricious decisions by agencies and help ensure that agencies develop sound factual bases for the exercise of the discretion entrusted them by Congress, but the increased formalization of the rulemaking process has also had adverse consequences. The participants, including the agency, tend to develop adversarial relationships with each other causing them to take extreme positions, to withhold information from one another, and to attack the legitimacy of opposing positions. Because of the adversarial relationships, participants often do not focus on creative solutions to problems, ranking of the issues involved in a rulemaking, or the important details involved in a rule. Extensive factual records are often developed beyond what is necessary. Long periods of delay result and participation in rulemaking proceedings can become needlessly expensive. Moreover, many participants remain dissatisfied with the policy judgments made at the outcome of rulemaking proceedings, as evidenced by the frequency of judicial review.

Participants in rulemaking rarely meet as a group with each other and with the agency to communicate their respective views so that each can react directly to the concerns and positions of the others in an effort to resolve conflicts. Experience indicates that if the parties in interest were to get together to negotiate a proposed rule, they might be able in some circumstances to identify the major issues, gauge their importance to the respective parties, identify the information and data necessary to resolve the issues, and develop a rule that is acceptable to the respective interests, all within the contours of the substantive statute. For example, highly technical standards are negotiated that have extensive health, safety, and economic effects; lawsuits challenging rules are regularly settled by agreement on a negotiated rule; public law litigation involves sensitive negotiation over rule-like issues; and many environmental disputes and policies have been successfully negotiated. These experiences can be drawn upon in the rulemaking context to provide procedures by which affected interests and the agency participate directly in the development of a rule through negotiation and mediation, leading to a consensus on a proposed rule.

The procedures suggested in this recommendation provide a mechanism by which the benefits of negotiation could be achieved while providing appropriate safeguards to ensure that affected interests have the opportunity to participate, that a rule is within the discretion delegated by Congress, and that it is not arbitrary or capricious. The premise of the recommendation is that the use of negotiation and mediation can, in appropriate cases, result in rules that are developed in less time and at less cost than under traditional rulemaking procedures. Such rules would likely be more acceptable to affected interests because of their participation in the negotiations. The purpose of this recommendation is to establish an alternative rulemaking procedure that can be used in appropriate circumstances to permit the direct participation of affected interests in the development of rules.

Recommendation

1. Agencies should consider using regulatory negotiation as a means of developing agency regulations where appropriate. In particular instances, negotiation techniques may be useful to draft a proposal for agency consideration as a regulation. A proposal to set up a regulatory negotiating group could originate in a petition for rulemaking or in an agency's notice (or advance notice) of proposed rulemaking.

2. Congress should facilitate the regulatory negotiation process by passing legislation explicitly authorizing regulatory agencies to conduct rulemaking proceedings in the manner described in this recommendation. This authority, to the extent that it enlarges existing agency rulemaking authority, should be viewed as an experiment in improving rulemaking procedures to be reviewed by Congress after a reasonable period of time. The legislation should provide substantial flexibility for agencies to adapt negotiation techniques to the circumstances of individual proceedings. In particular, authority should be granted to agencies to waive the application of the Federal Advisory Committee Act and any *ex parte* restrictions for regulatory negotiating groups as contemplated in this recommendation. Information tendered to such groups, operating in the manner proposed, should not be considered an agency record under the Freedom of Information Act.

3. In legislation authorizing regulatory negotiation, Congress should authorize regulatory agencies to designate a "convenor" to organize the negotiations in a particular proceeding. The convenor may be a neutral individual, government agency, or private organization. If the agency chooses an individual who is an employee of the agency itself, that person should not be associated with either the rulemaking or enforcement staff. The convenor would be responsible for (i) advising the agency as to whether, in a given proceeding, regulatory negotiation is feasible and is likely to be conducive to the fairer and more efficient conduct of the agency's regulatory program, and (ii) determining, in consultation with the agency, who should participate in the negotiations.

4. An agency considering use of regulatory negotiation should consult with convenor at the earliest practicable time about the feasibility of its use. The convenor should conduct a preliminary inquiry to determine whether a regulatory negotiating group should be empanelled to develop a proposed rule relating to the particular topic. Factors bearing on this decision include the following:

(a) The issues to be raised in the proceeding should be mature and ripe for decision. Ideally, there should be some deadline for issuing the rule, so that a decision on a rule is inevitable within a relatively fixed time frame.

(b) The resolution of issues should not be such as to require participants in negotiations to compromise their fundamental tenets, since it is unlikely that agreement will be reached in such circumstances. Rather, issues involving such fundamental tenets should already have been determined, or not be raised in the negotiating phase of the proceeding.

(c) The interests significantly affected should be such that individuals can be selected who will adequately represent those interests. Since negotiations cannot generally be conducted with a large number of participants, there should be a limited number of interests that will be significantly affected by the rule and therefore represented in the negotiations. A rule of thumb might be that negotiations should ordinarily involve no more than 15 participants.

(d) There should be a number of diverse issues that the participants can rank according to their own priorities and on which they might reach agreement by attempting to optimize the return to all the participants.

(e) No single interest should be able to dominate the negotiations. The agency's representative in the negotiations will not be deemed to possess this power solely by virtue of the agency's ultimate power to promulgate the final rule.

(f) The participants in the negotiations should be willing to commit to negotiate in good faith to draft a proposed rule.

(g) The agency should be willing to use the negotiation procedure for the development of a proposed rule, as opposed to some other process, and it must be willing to designate a senior staff member to negotiate on behalf of the agency.

5. If the convenor determines that regulatory negotiation would be appropriate, it would recommend this procedure to the agency. If the agency and the convenor agree that regulatory negotiation is appropriate, the convenor should be responsible for determining the interests that will likely be substantially affected by a proposed rule, the individuals to represent those interests, the preliminary scope of issue to be addressed, and a tentative schedule for completing the work. It will be important for potential participants to agree among themselves as to these matters, and their agreement can be facilitated by either the convenor or a possible participant conducting a discreet preliminary inquiry among identified interests. Reasonable efforts should be made to secure a balanced group in which no interest has more than a third of the members and each representative is technically qualified to address the issues presented, or at least has access to individuals who are.

6. The subject matter of the proposed regulation may be within the jurisdiction of an existing committee of a non-governmental standards writing organization that has procedure to ensure the fair representation of the respective interests and a process for determining whether the decision actually reflects a consensus among them. If such a committee exists and appears to enjoy the support and confidence of the affected interests, the convenor should consider recommending that negotiations be conducted under that committee's auspices instead of establishing an entirely new framework for negotiation.

In such a case, the existing committee could be regarded as a regulatory negotiation group for purposes of this recommendation. (Alternatively, the product of the committee could be used as the basis of a proposed regulation pursuant to ACUS Recommendation 78–4.)

7. To ensure that the appropriate interests have been identified and have had the opportunity to be represented in the negotiating group, the agency should publish in the **Federal Register** a notice that is contemplating developing a rule by negotiation and identify in the notice the issues involved and the participants and interests already selected. If an additional person or interest petitions for membership or representation in the negotiating group, the convenor, in consultation with the agency, should determine (i) whether that interest would be substantially affected by the rule, (ii) if so, whether it would be represented by an individual already in the negotiating group, and (iii) whether in any event the petitioner should be added to the negotiating group, or whether interests can be consolidated and still provide adequate representation.

8. The agency should designate a senior official to represent it in the negotiations and should identify that official in the **Federal Register** notice.

9. It may be that, in particular proceedings, certain affected interests will require funding assistance to be able to participate at a level that will foster broadly-based, successful negotiations. Since the negotiating group will be performing a function normally performed within the agency, the agency should consider reimbursing the expenses of such participants. The agency should also provide financial or other support for the convenor and the negotiating group.

10. The convenor and the agency might consider whether selection of a mediator is likely to facilitate the negotiation process. Where participants are inexperienced at negotiating rules, a mediator may be of significant help in making them comfortable with the process and in resolving impasses.

11. The goal of the negotiating group should be to arrive at a consensus on a proposed rule. Consensus in this context means that each interest represented in the negotiating group concurs in the result, unless the group itself decides at the outset on another definition. Following consensus, the negotiating group should prepare a report to the agency that would contain its proposed rule and a concise general statement of its basis and purpose. The report should also describe the factual materials on which the group relied in preparing its proposed regulation, for inclusion in the agency's record of the proceeding. The participants may, of course, be unable to reach a consensus on a proposed rule, and, in that event, they should identify in the report both the areas in which they are agreed and the areas in which consensus could not be achieved. This could serve to narrow the issues in dispute, identify information necessary to resolve issues, rank priorities, and identify potentially acceptable solutions.

12. The negotiating group should be authorized to close its meetings to the public only when, in the judgment of the participants, the likelihood of achieving consensus would be significantly enhanced.

13. The agency should be committed to publishing the proposal rule developed by the negotiation group in a notice of proposed rulemaking, unless there is good cause for not doing so, and in that event the agency should explain its reasons for not publishing the proposed rule. The agency may wish to propose amendments or modifications to the negotiated proposed rule, but it should do so in such a manner that the public at large can identify the work of the agency and of the negotiating group.

14. The negotiating group should be afforded an opportunity to review any comments that are received in response to the notice of proposed rulemaking so that the participants can determine whether their recommendations should be modified. The final responsibility for issuing the rule would remain the agency. The negotiating group, however, should be given the opportunity to insert comments in the preamble to the final rule.

Richard K. Berg,

General Counsel.

March 10, 1982.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Docket No. 22692; Petition Notice PR 82-3]

National Association of Flight Instructors; Student Recreational, Recreational, Student Other Than Recreational and Private Pilot Certificates

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Petition for rulemaking.

SUMMARY: This notice publishes for public comment the petition of the National Association of Flight Instructors dated February 9, 1982. The petitioner proposes to amend the regulations to establish a new concept in pilot certification and to change the recent flight experience requirements for pilots with less than 400 hours of flight time. The petitioner states:

that its blue ribbon committee of highly respected industry persons who are involved in pilot training "is of the opinion that these changes to the regulations will bring about some very meaningful concepts in carrying out the mission of teaching people to use aircraft safely".

DATE: Comments must be received on or before June 15, 1982.

ADDRESS: Send comments on this petition in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Docket No. 22692, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Edward D. Eisele, General Aviation and Commercial Division, Office of Flight Operations, 800 Independece Avenue, SW., Washington, D.C. 20591, telephone (202) 426–8212.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to submit such written data, views, or arguments on the petition as they may desire. Communications should identify the docket or petition notice number and be submitted in duplicate to the address indicated above. All communications received on or before the closing date will be considered before taking action on the petition. All comments submitted will be available for examination in the FAA docket. Persons wishing the FAA to acknowledge receipt of comments received in response to this notice should submit a self-addressed, stamped postcard which states "Comments to Docket No. 22692." The postcard will be date/time stamped and returned to the commenter.

Background

The President of the National Association of Flight Instructors formed and chaired a blue ribbon committee of highly respected industry persons to review the requirement for student and private pilot airman certification. The committee developed a new concept and has petitioned the Administrator of the Federal Aviation Administration for rulemaking under the provisions of Part 11 of the Federal Aviation Regulations.

The Petition

Accordingly, the Federal Aviation Administration publishes verbatim for public comment the following petition for rulemaking of the National Association for Flight Instructors dated February 9, 1982.

Issued in Washington, D.C., on March 9, 1982.

Bernard A. Geier,

Acting Director of Flight Operations.

National Association of Flight Instructors
Ohio State University Airport
Box 20204, Columbus, Ohio 43220
(614) 459–0204
February 9, 1982

Honorable J. Lynn Helms
Administrator
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, D.C. 20591

Dear Mr. Helms:

As President, National Association of Flight Instructors, I formed and chaired a blue ribbon committee of highly respected industry persons who are involved in pilot training. The committee, formed in September 1981, has reviewed the requirements for the issuance of student and private pilot certificates. We have held three meetings with work assignments between meetings. The committee has developed a proposed rule change that addresses the needs of the general aviation community.

In accordance with Section 11.25 of Federal Aviation Regulation Part 11, I hereby petition the Administrator for rule making and request that the attached document be published verbatim in the **Federal Register** for public comment.

As you know, the regulations become the standard for flight training no matter what we say or do. Our committee is of the opinion that these changes to the regulations will bring about some very meaningful concepts in carrying out the mission of teaching people to use aircraft safely. As such, your early action on this petition would be appreciated.

Sincerely,

Jack. J. Eggspuehler,

President.

14 CFR Part 61—Certification: Pilots and Flight Instructors

Proposed Regulations for Student Recreational, Recreational, Student other than Recreational and Private Pilot Certificates.

Summary:

This notice proposes to establish a new concept in the certification of pilots. If adopted as proposed the new rule would permit the issuance of a Student Recreational, a Recreational, a Student other than recreational and a Private Pilot Certificate. Each class of certificate would have its own minimum requirements and limitations. It also proposes requirements for the pilot with less than 400 hours of flight time.

Background:

The last major change to the pilot certification rules in Federal Aviation Regulations (FAR) Part 61 was completed in 1973 when amendment 61–69 was adopted. This change, the result of over 7 years of development, provided new requirements for the issuance of student, private, commercial and flight instructor certificates. Additionally, changes were made to the recency requirements as they apply to certificate holders. Changes were also made to the ratings that could be added to pilot certificates. One of the new recency requirements was the Biennial Flight Review, a procedure wherein all pilots who are not required by other operating rules to take proficiency flight checks, are required to fly with a flight instructor every 2 years. This flight provides the opportunity for the flight instructor to comment on the pilot's flying and to determine if the pilot is knowledgeable of the general operating flight rules and that he/she is competent to safely operate the aircraft.

The adoption of revised Part 61, with its requirements for instrument training, flights into airports with operating control towers and the use of radio for VFR navigation, virtually eliminated the use of airplanes, such as the Piper J–3, Aeronca 7AC, Taylorcraft BC–12D or a homebuilt airplane as a trainer. These rules, therefore, required the individual to learn to fly in a more expensive, more complicated airplane even though his/her ultimate goal was to fly and carry a passenger in a noncomplex airplane. The added time in flight necessary to acquire the aeronautical knowledge and skills to pass the flight test has placed the private pilot certificate out of the financial reach of many persons who have the mental and physical ability to be a safe pilot. While the minimum required flight time for the issuance of a private pilot certificate has remained at the 40-hour level (a flight time that was established in the '30s), by the late '70s, the average flight time to acquire the certificate exceeded 68 hours because of the added requirements.

There is a need to provide a level of pilot certificate for those persons who desire to fly and carry a passenger in a relatively simple class of airplane and who would not object to certain limitations as the holder of such certificate. This proposal therefore describes a new class of certificate for the student recreational and the recreational pilot.

Need for a regulation change

As discussed in the background, there is a need for various levels of pilot certificate. These needs may be seen as economical needs, aviation promotional needs or safety needs. This proposal would allow a beginner, if he/she desired, to take training and receive a pilot certificate using a "simple" airplane as was permitted in the '40s, '50s and '60s. Such a pilot would be permitted to carry a passenger but would have specific operating limitations on where and when he/she could fly. If desired the pilot could take additional training at a later date and upgrade to the less restrictive private pilot certificate.

There is also a need to amend the regulations to provide guidance to flight instructors in the training of students. A recent review of student and private pilot fatal and nonfatal aircraft accidents has indicated that there are weaknesses in operational skills in takeoff and landing directional control, go-around procedures, stall recognition and recovery, emergency procedures and a general lack of flight precision and proficiency.

In this proposal, specific minimum flight times are not described nor are arbitrary mileages specified for cross-country legs. The instructor will be required to provide training in specific maneuvers and procedures and the student will be required to demonstrate proficiency to a specific performance level. There is also a requirement for the student to pass a pre-solo written test administered and graded by the flight instructor. It will be necessary, prior to implementation of the new rules, to develop and publish Advisory Circulars for the guidance of students and flight instructors.

Proposed new pilot certificates

This proposal contains the requirements and limitations for two new certificates referred to as Student Recreational and Recreational pilot certificates. The authors of this proposal considered many different names for these certificates, such as, Limited, Restricted, Provisional, Personal and Amateur student and private pilot. None of these names were believed to be as appropriate as the name recreational. Comments are requested on the preferred name for the certificate with the reasons for the selection.

Discussion of the proposed rules

Subpart C—Student Recreational Pilots

Proposed 61.83 Eligibility requirements.

This section specifies the minimum requirements for the issuance of a student recreational pilot certificate. It proposes a minimum age of 14 years the age that has been permitted for the issuance of a student pilot certificate limited to glider operations. The proposal would also permit the applicant to certify that he/she had no known medical defect that would make him/her unable to safely pilot an airplane. This concept has been utilized for many years for the operation of gliders and there has been no evidence of problems. As proposed, the Student Recreational Pilot certificate would limit the holder to flying one or two place single engine airplanes with a powerplant of not more than 200 horsepower.

Proposed 61.87 Requirements for solo flight.

Paragraph (b) of this section contains a requirement that the student must satisfactorily complete a written examination administered and graded by the flight instructor who is to endorse the student's certificate for solo flight. There is a need to have the student complete such an examination to assure that he/she has the basic knowledge of the flight rules and the operating parameters of the airplane. Prior to adoption of this rule, an Advisory Circular must be developed and published to provide guidance to flight instructors in the

development and administration of the pre-solo test.

Paragraph (c) prescribes the maneuvers and procedures that the instructor must teach the student before authorizing solo flight and that the student must demonstrate proficiency to an acceptable performance level as judged by the instructor. An Advisory Circular must be developed and published to provide guidance to flight instructors so that they can properly evaluate the student's performance. Specific minimum maneuvers and procedures are proposed as the result of reviewing aircraft accidents involving student and private pilots. This increased emphasis will help to reduce the number of accidents.

Proposed 61.89 Cross-country flight requirements.

Basic minimum cross-country requirements have been specified. Since there is no requirement for instrument flight instruction, or the use of radio for navigation or communications for the recreational pilot, the training requirements can be less than for the less restricted student pilot.

The new recreational pilot would be permitted and be capable of flying an airplane from one uncontrolled airport to another and therefore appropriate cross-country training and practice is required. A new item, recognition of operational problems associated with the terrain features in the geographical area, has been added to alert instructors of the need to assure that students are aware of local conditions that can cause an accident.

Proposed 61.91 Limitations.

The student recreational pilot, as with other student pilots, would not be permitted to carry a passenger or operate an airplane for compensation or hire. A student recreational pilot would not be permitted to operate an airplane at night, at an airport with an operating control tower, at an altitude of more than 10,000 feet MSL or 2,000 feet AGL, whichever is higher, on an international flight or when the flight or surface visibility is less than three statute miles.

Subpart D—Recreational Pilots

Proposed 61.103 Eligibility requirements.

The minimum age for a recreational pilot certificate has been set at 16 years. In most states, this is the minimum age for a license to operate a motor vehicle. This age should also be appropriate for the recreational pilot. As with the student recreational pilot, a medical certificate is not required as long as the pilot certifies that he/she has no known medical defect that would make him/her unable to safely operate the airplane. This pilot certificate would limit the holder to the operation of airplanes. An FAA written test of aeronautical knowledge appropriate to a recreational pilot would be required as would a certification oral and flight test.

61.107 Operational experience.

This section, referred to in the current regulations as Aeronautical experience, presents a new concept for the certification of pilots. There has been no effort made to specify a minimum number of flight-hours but rather, a minimum number of flights to gain operational experience are required. The student would be required to receive dual instruction and solo flights during which maneuvers and procedures as specified would be demonstrated and practiced. The proposal recognizes the advances made in recent years in airplane simulation. There is no prohibition against the use of a simulator or training device in teaching or in evaluating a student's performance. The limit of the use is only dictated by the sophistication of the device and the ingenuity of the instructor. The proposed cross-country training would also be different from the FAA's historical method of regulating. The proposal would not specify a minimum number of hours or minimum distances for each leg, but would specify the number of flights, the number of legs for each flight and the number of airports/landing areas that must be visited. A review of recent accidents indicates that the enroute phase, other than adverse weather encounters is not the accident producing phase of flight for the new pilot but rather takeoffs and landings, both at the home airport/landing area and at other airports/landing areas. More emphasis will be placed on the proper procedures when arriving and departing airports.

It is estimated that it will require an average student at least 40 hours to complete a course of instruction and solo practice and satisfactorily demonstrate the ability to safely operate the airplane. The regulation will continue to require the logging of flight time for recency and for recording the number of flights for certification eligibility.

61.109 Recreational pilot privileges and limitations.

This class of pilot certificate, as the name implies, is for the pilot who desires to fly a small factory or homebuilt airplane. It may also be appropriate for the person who wishes to fly an ultralight. The proposal would limit the holder to airplanes certificated for not more than two occupants with a powerplant of not more than 200 horsepower. The certificate holder may carry a passenger and may share the expenses of the flight with that passenger. He/she may not act as pilot in command of another category of aircraft, such as a rotorcraft, nor act as a pilot in command of an airplane with more than one engine. The holder may not carry passengers for compensation or hire nor may he/she be compensated for flying an airplane. The recreational pilot may not use the airplane in connection with any business or employment nor may he/she demonstrate the airplane to a prospective buyer. The recreational pilot may not carry a passenger in an airlift operation sponsored by a charitable organization for which the passenger has made a donation to the organization.

There is no requirement for night training and since many airplanes that would be flown by this class of pilot will not have an electrical system or navigation lights, the rule would prohibit night flying. For the same reason, the recreational pilot would not be given instruction in the use of radio for two-way communication and would be prohibited from operating at an airport with an operating control tower.

A review of student and private pilot accidents shows that flight into adverse weather conditions constitutes a large percentage of the accidents involving this class of pilot. This rule would specify a minimum flight or surface visibility requirement of not less than three statute miles. The term surface and landing area is used in this proposal as there is no prohibition against a recreational pilot flying either a land or a sea plane. Because of the limited experience requirement for the recreational pilot, international flight would not be permitted.

Subpart E—Student pilots other than student recreational pilots

This pilot certificate is for the individual who desires to progress toward a private pilot certificate so that he/she may fly airplanes certificated for more than two occupants or with an engine of more than 200 horsepower. It would also be for the person who wishes to fly other categories of aircraft such as rotorcraft or gliders. The recreational pilot may, at a later date, desire to upgrade his/her certificate to a private pilot certificate. Before such a person flies solo in an airplane certificated for more than two occupants, with an engine of more than 200 horsepower at night or at an airport with a control tower, he/she must have a medical certificate and a student pilot certificate. He/she could then be endorsed for solo flight by an authorized instructor. Upon completion of all the requirements for a private pilot certificate, the applicant would surrender the recreational pilot certificate, the student pilot certificate and be issued a private pilot certificate.

61.113 Eligibility requirements.

This section specifies that the minimum age for a student pilot certificate issuance would be 15 years. The student pilot certificate is the counterpart of the learner's permit issued in many states to operate a motor vehicle. The student pilot certificate carries many of the same limitations as a learner's permit. The student pilot must remain under the supervision of a flight instructor, thus minimizing the risks in reducing the minimum age.

61.115 Application.

There are no changes proposed from that specified in existing section 61.85.

61.117 Requirements for solo flight.

Proposed paragraph (a) is identical to that contained in current Section 61.87(a).

Proposed paragraph (b) has been amended to require the satisfactory completion of a written examination administered and graded by the flight instructor who is to endorse the certificate for solo. A pre-solo written is not required by the current rule.

Paragraph (c) of current section 61.87, Flight Proficiency Training, describes the training that students are to receive but there is no requirement for the student to demonstrate proficiency. In proposed paragraph (c), the title has been changed to Pre-solo Flight Training to better describe the intention of the paragraph. The listing of maneuvers and procedures has been upgraded to place emphasis on the areas of flight training in need of improvement to reduce accidents. The lead-in sentence of the new paragraph requires that the student

demonstrate proficiency to an acceptable performance level as judged by the flight instructor. Prior to adoption, an Advisory Circular mut be developed and published to provide guidance to instructors in evaluating student performance.

Proposed paragraph (d) contains only a minor change from existing paragraph (d) of 61.87 in that it is made clear that only an instructor who has flown with the student may sign the certificate for solo flight.

61.119 Cross-country flight requirements.

Proposed paragraph (a) has been reworded from that found in current paragraph (a) of 61.93, to simplify the language and to eliminate the minimum distance requirements. The student is required to demonstrate proficiency to an acceptable performance level. The instructor is responsible to provide instruction and evaluate the student's performance. This can only be accomplished by flying a distance from the local practice area. The cruising speed differences between aircraft currently used in flight training makes an arbitrary minimum distance requirement to describe a cross-country no longer valid. For simplicity the maneuvers and procedures that are appropriate to all categories of aircraft are contained in paragraph (b)(1) followed by the maneuvers and procedures unique to the particular category and class being used. The wording to describe the manuevers and procedures that must be accomplished has been changed. For example, current Section 61.93 requires the recognition of critical weather situations but does not require the procurement and analysis of aeronautical reports and forecasts. This lack of knowledge has been a factor in a number of accidents that have occurred following flight into adverse weather. In like manner, the current regulations do not discuss aircraft cross-country performance or limitations or the recognition of operational problems associated with terrain features in the geographical area in which the flight is to be flown.

Paragraph (c) Flight Instructor Endorsements, contains minor corrections for clarity and the last sentence has been changed to delete the mileage limitations for repeated solo cross-country flights. It is the instructor's responsibility to evaluate the student's performance level before authorizing repeated solo cross-country flights.

61.121 Limitations.

Proposed section 61.121(a) has been changed from that contained in 61.89 by adding a new (5) to specify a flight or surface visibility minimum for day and for night. Accidents involving student pilots as the result of involvement in adverse weather requires that visibility minimums be established.

61.123 Aircraft limitations: Pilot in command.

Proposed section 61.123 is identical to existing 61.91.

Subpart F—Private Pilots.

61.127 Eligibility requirements.

Proposed 61.127(a) has been changed from existing 61.103(a) in that the minimum age to be eligible for a private pilot certificate has been lowered from 17 years to 16 years. Most states permit 16 year olds to receive a driver's license to operate a private vehicle and there is no accident data that would justify not allowing a 16 year old to operate a private aircraft.

There are no changes in paragraph (b), (c), (d), (e) or (f) from the existing sections of 61.103.

61.129 Aeronautical knowledge.

Proposed 61.129 introductory sentence has been changed from existing 61.105. Applicants for a private pilot certificate must receive instruction from an authorized instructor in the specified areas of aeronautical knowledge and successfully complete a written examination. The wording in the proposal has been changed to be more specific as to the scope of the knowledge for all aircraft and for specific aircraft.

61.131 Operational experience

Proposed 61.131 replaces existing 61.108, 61.113, 61.115, and 61.117, all currently called aeronautical experience. the new concept as discussed under the recreational pilot certification has been applied here. The flight hours to acquire the knowledge and skill necessary to pass the oral and flight test for certification will exceed the time currently specified for certification. The cross-country requirements are designed to provide the student with more experience in landing area arrival and departure, where a high frequency of accidents occur, rather than the enroute phrase. The minimum distances described in the current rules requires the student to fly excessively long cross-country flights, sometimes causing pilot fatigue.

61.133 Cross-country flights: Pilots based on small islands.

Proposed 61.133 is identical to existing 61.111.

61.135 Private pilot privileges and limitations: Pilot in command.

Proposed 61.135, currently 61.118, has been amended to correct problems with the existing rule.

Proposed paragraph (a) has been added to require that a private pilot must receive flight instruction and a log book endorsement prior to acting as pilot in command of an airplane that has a powerplant of more than 200 horsepower, or one with retractable gear or controllable pitch propeller. The instruction is to be required in each make and model of this category of airplane. Private pilots have been involved in accidents in high performance airplanes and their knowledge and skill has been questioned.

Proposed paragraph (b) has been included in this section to specify new requirements for the private pilot with less than 400 hours of flight time. A review of private pilot accidents has shown that there has been an inordinate number of accidents by pilots who have logged less than 400 hours. The proposal would require that a pilot, who has less than 400 hours and who had not flown an aircraft as pilot in command within the preceding 180 days, may not act as pilot in command until he/she has received flight instruction and a log book endorsement that he/she is competent to pilot the aircraft.

Proposed paragraph (c) has been taken from the recency requirements of section 61.57 and it again addresses the private pilot with less than 400 hours. Such pilots would be required to complete a flight review each 12 months. After logging 400 hours, the pilot would be required to meet the biennial flight review requirements of section 61.57.

Proposed paragraph (d) is a rewrite of the flush paragraph contained in current section 61.118.

Proposed paragraph (e) provides for a flight or surface visibility minimum for the private pilot who has logged less than 400 hours.

Proposed paragraphs (f) and (g) are identical to existing paragraphs (a) and (b) of section 61.118.

Proposed paragraph (h) states that a private pilot may not act as a salesperson if he/she has logged less than 400 hours of flight time.

Proposed paragraph (i) has been amended from that contained in paragraph (d) of section 61.118 to require the private pilot used in a passenger carrying airlift to have logged in excess of 400 flight hours.

The remaining paragraphs have been taken from existing Part 61. Your comments and rationale for recommended changes, including recommended language for the change is solicited.

The Proposed Amendments

Accordingly, we petition the Administrator to amend Part 61 of the Federal Aviation Regulation (14 CFR Part 61) as follows:

Subpart C—Student Recreational Pilots

61.81 Applicability.

This subpart prescribes the requirements for the issuance of student recreational pilot certificates, the conditions under which those certificates are necessary, and the operating rules and limitations for the holders of those certificates.

61.83 Eligibility Requirements.

To be eligible for a student recreational pilot certificate, a person must:

(a) Be at least 14 years of age; and

(b) Hold at least a current third-class medical certificate issued under Part 67 of this chapter, or certify that he/she has no known medical defect that makes him/her unable to safely pilot an airplane.

61.85 Application.

An application for a student recreational pilot certificate is made on a form and in a manner provided by the Administrator and is submitted to an FAA operations inspector or designated pilot examiner, accompanied by a valid medical certificate or a certification by the applicant that he/she has no known defect that makes him/her unable to safely pilot an airplane.

61.87 Requirements for Solo Flight.

(a) General. A student recreational pilot may not operate an airplane in solo flight until he/she has complied with the requirements of this section. As used in this section, the term solo flight means that flight times during which the student pilot is the sole occupant of the airplane.

(b) Aeronautical knowledge. The student must demonstrate satisfactory knowledge of the appropriate portions of Parts 61 and 91 of this chapter that are applicable to student recreational pilots. This demonstration must include the satisfactory completion of a written examination that is administered and

graded by the flight instructor who is to endorse the student's pilot certificate for solo flight. The written examination must include questions on the applicable regulations and the flight characteristics and operational limitations of the make and model airplane to be flown.

(c) Pre-solo flight training. The student must have received and logged instruction in at least the following maneuvers and procedures and must demonstrate proficiency to an acceptable performance level as judged by the instructor who endorses the student's pilot certificate. The maneuvers and procedures must include—

(1) Flight preparation procedures;
(2) Taxiing or surface operations;
(3) Takeoffs including normal and crosswind;
(4) Climbing turns;
(5) Level flight shallow, medium and steep banked turns;
(6) Flight at various airspeeds from cruising speed to minimum controllable speed;
(7) Stall entries from various flight attitudes with recovery initiated at the first indication of a stall and immediately following the stall;
(8) Descents in straight flight and in turns;
(9) Ground reference maneuvers;
(10) Landing traffic patterns;
(11) Approaches to the landing area with engine power off and with partial power;
(12) Landings including normal and crosswind;
(13) Go-arounds from final approach and from the landing flare;
(14) Forced landing procedures initiated on takeoff, during initial climb, cruise, descents and in the landing pattern; and
(15) Appropriate emergency procedures.

The required instruction must be given and the log book endorsed by a flight instructor who is authorized to give flight instruction in airplanes. When instruction is given in a simulator or training device, such training shall be given and the log book endorsed by a flight or ground instructor.

(d) Flight instructor endorsements. A student recreational pilot may not operate an airplane in solo flight unless his/her student pilot certificate is endorsed for the specific make and model airplane to be flown. Additionally, his/her log book must have been endorsed for solo flight within the preceding 90 days. These endorsements must be made by the flight instructor who has flown with the student and the instructor's endorsement certifies that he/she—

(1) Has given the student instruction in the make and model of airplane in which solo flight is to be made;
(2) Finds that the student has met the flight training requirements of this section; and,
(3) Finds that the student is competent to make safe solo flights in that airplane.

61.89 Cross-country flight requirements.

(a) A student recreational pilot may not operate an airplane in solo cross-country flight unless his/her student pilot certificate has been endorsed for solo cross-country. By an endorsement in the student's log book, an instructor may authorize a student to practice takeoffs and landings at airports other than the home airport.

(b) Flight training. In addition to the pre-solo flight training maneuvers and procedures, a student recreational pilot must have received and logged instruction from an authorized instructor in at least the following items prior to being endorsed for solo cross country flight. The student must demonstrate proficiency to an acceptable performance level as judged by the instructor who is to endorse the student's pilot certificate. The maneuvers and procedures must include—

(1) The use of aeronautical charts for VFR navigation using pilotage and dead reckoning with the aid of a magnetic compass;
(2) Airplane cross-country performance and limitations;
(3) The procurement and analysis of aeronautical weather reports and forecasts including the recognition of critical weather situations;
(4) Short field and soft field takeoff, approach, and landing procedures;
(5) Cross-county emergency procedures including lost procedures, adverse weather encounters, and precautionary off airport approach and landing procedures;
(6) Normal landing area arrival and departure traffic pattern procedures; and,
(7) Recognition of operational problems associated with terrain features in the geographical area where the cross-country flight is to be made.

(c) Flight instructor endorsements. No student recreational pilot may conduct a solo cross-country flight unless—

(1) His/her student certificate contains an endorsement stating that he/she has received instruction in cross-country flight and the applicable training requirements of this section and has been found competent to make solo cross-country flights in the make and model airplane involved; and,
(2) His/her log book is endorsed certifying that the instructor has reviewed the flight planning and preparation for the specific cross-country. Such endorsement may contain the circumstances and conditions that the instructor believes are necessary for the student to conduct the cross-country safely. An instructor may endorse a student's log book for repeated solo cross-country flights and specify minimum requirements that must be met by the student.

61.91 Limitations.

(a) A student recreational pilot may not act as pilot in command of an airplane—

(1) Certificated for more than two occupants;
(2) With a powerplant of more than 200 horsepower;
(3) That is carrying a passenger;
(4) That is carrying property for compensation of hire;
(5) For compensation or hire;
(6) In furtherance of a business;
(7) At night;
(8) At an airport or landing area with an operating control tower;
(9) At an altitude of more than 10,000 feet MSL or 2,000 feet AGL, whichever is higher;
(10) With a flight or surface visibility of less than 3 statute miles; or
(11) On an international flight.

Subpart D—Recreational Pilots

61.101 Applicability.

This subpart prescribes the requirements for the issuance of a recreational pilot certificate, the conditions under which the certificate is necessary, and the operating rules and limitations for the holders of these certificates.

61.103 Eligibility Requirements.

To be eligible for a recreational pilot certificate, a person must—

(a) Be at least 16 years of age;
(b) Hold at least a current third-class medical certificate issued under Part 67 of this chapter or certify that he/she has no known medical defect that would make him/her unable to safely pilot an airplane;
(c) Pass a written test on the subject areas on which instruction is required by 61.105; and
(d) Pass an oral and flight test on maneuvers and procedures selected by the FAA inspector or designated examiner to determine the applicant's competency in the flight training maneuvers and procedures of sections 61.87(c) and 61.89(b).

61.105 Aeronautical Knowledge.

(a) An applicant for a recreational pilot certificate must have received instruction from an authorized instructor and must demonstrate satisfactory knowledge by successfully completing a written examination covering at least the following areas of aeronautical knowledge—

(1) The Federal Aviation Regulations applicable to recreational privileges, limitations and flight operations;
(2) The accident reporting requirements of the National Transportation Safety Board;
(3) The information contained in applicable Advisory Circulars;
(4) The use of aeronautical charts for VFR navigation;
(5) The procurement and analysis of aeronautical weather report and forecasts;
(6) The effects of density altitude on takeoff and climb performance; and,
(7) Collision avoidance and wake turbulence precautions.

61.107 Operational experience.

An applicant for a recreational pilot certificate must have logged flight instruction and solo flight as follows:

(a) Dual instruction—

(1) At least ten flights during which the maneuvers and procedures described in section 61.87(c) are performed;
(2) At least three flights following the first solo cross-country in preparation for the flight test; and,
(3) At least two cross-country flights each containing four legs with landings at three or more airports/landing areas, in addition to the departure (home) airport/land area, and during which the maneuvers and procedures of 61.89(b) are performed.

(b) As sole occupant—

(1) At least ten flights during which the maneuvers and procedures as authorized by the instructor and as described in section 61.87(c) are performed; and,
(2) At least three solo cross-country flights, each containing four legs with landings at three or more airports/landing areas, in addition to the departure (home) airport/landing area.

61.109 Recreational pilot privileges and limitations.

(a) A recreational pilot may act as pilot in command of a single-engine airplane that is certificated for not more than two occupants and that has a powerplant of not more than 200 horsepower and he/she may—

(1) Carry a passenger; and,
(2) Share the operating expenses of the flight with that passenger.

(b) A recreational pilot may not act as pilot in command of an airplane

(1) With more than one engine;
(2) Certificated to carry more than two occupants;
(3) With a power plant of more than 200 hourspower;
(4) That is carrying passengers or property for compensation or hire;
(5) For compensation or hire;
(6) In furtherance of a business;
(7) As a salesperson nor may he/she demonstrate an airplane to a prospective buyer;
(8) Used in a passenger carrying airlift sponsored by a charitable organization and for which the passenger made a donation to the organization;
(9) At night;
(10) At an airport or landing area with an operating control tower;
(11) At an altitude of more than 10,000 feet MSL or 2,000 feet AGL whichever is higher;
(12) When the flight or surface visibility is less than 3 statute miles; or,
(13) On an international flight.

(c) A recreational pilot may not act as pilot in command of an airplane carrying a passenger unless he/she has made three takeoffs and landings as sole manipulator of the controls within the preceding 90 days.

(d) A recreational pilot who has logged less than 400 flight hours and who has exceeded 180 days without having made at least 3 takeoffs and landings in an airplane, shall not act as a pilot in command until he/she received flight instruction from an authorized flight instructor and that instructor certifies that he/she is competent to pilot the airplane.

(e) A recreational pilot who has logged less than 400 flight hours may not act as pilot in command of an airplane unless

(1) Within the preceding 12 calendar months he/she accomplishes a flight review given to him/her in an airplane by an appropriately certificated flight instructor or other person designated by the Administrator; and,
(2) The pilot's log book has been endorsed by that instructor certifying that he/she has satisfactorily accomplished the flight review.

A recreational pilot who has logged more than 400 flight-hours need not comply with the requirements of (d) and (e) of this section but shall meet the requirements of section 61.57 of this part.

Subpart E—Student Pilots—Other than student recreational pilots.

61.111 Applicability.

This subpart prescribes the requirements for the issuance of a student pilot certificate for other than student recreational pilot, the conditions under which those certificates are necessary, and the operating rules and limitations for the holders of those certificates.

61.113 Eligibility requirements.

To be eligible for a student pilot certificate for other than a student recreational pilot certificate, a person must—

(a) Be at least 15 years of age, or at least 14 years of age for a student pilot certificate limited to the operation of a glider or free balloon;
(b) Be able to read, speak, and understand the English language, or have such operating limitations placed on his/her pilot certificate as are necessary for the safe operation of the aircraft, to be removed when he/she shows that he/she can read, speak and understand the English language; and,
(c) Hold at least a current third-class medical certificate issued under Part 67 of this chapter, or in the case of glider or free balloon operations, certify that he/she has no known medical defect that makes him/her unable to safely pilot a glider or free balloon.

61.115 Application.

An application for a student pilot certificate for other than student recreational pilot certificate is made on a form and in a manner provided by the Administrator and is submitted to—

(a) A designated aviation medical examiner when applying for an FAA medical certificate; or,
(b) An FAA operations inspector or designated pilot examiner, accompanied by a current FAA medical certificate, or in the case of an application for a student pilot certificate limited to gliders or free balloons, accompanied by a certification by the applicant that he/she has no known medical defect that makes him/her unable to safely pilot a glider or free balloon.

61.117 Requirements for solo flight.

(a) General. A student pilot may not operate an aircraft in solo flight until he/she has complied with the requirements of this section. As used in this subpart, the term solo flight means that flight time during which a student pilot is the sole occupant of the aircraft or that flight time during which a student pilot acts as pilot in command of an airship requiring more than one flight crewmember.

(b) Aeronautical knowledge. The student must demonstrate satisfactory knowledge of the appropriate portions of Parts 61 and 91 that are applicable to student pilots. This demonstration must include the satisfactory completion of a written examination to be administered and graded by the instructor who is to endorse the student's pilot certificate for solo flight. The written examination must include questions on the applicable regulations and the flight characteristics and operational limitations of the make and model of aircraft to be flown.

(c) Pre-solo flight training. The student must have received and logged instruction in at least the following maneuvers and procedures and must have demonstrated proficiency to an acceptable performance level as judged by the instructor who endorses the student pilot's certificate. These maneuvers and procedures must include—

(1) For all aircraft (As appropriate to the aircraft being flown)
(i) Flight preparation procedures;
(ii) Taxiing or surface operations;
(iii) Takeoffs including normal and crosswind;
(iv) Climbing turns;
(v) Level flight shallow, medium and steep banked turns;
(vi) Stall entries from various flight attitudes with recovery initiated at the first indication of a stall and immediately following the stall;
(vii) Descents in straight flight and in turns;
(viii) Flight at various airspeeds from cruising to minimum controllable airspeed;
(ix) Proper use of the radio for two-way communication when solo flight is to be conducted at an airport with an operating control tower.

(2) For airplanes. In addition to (1)—
(i) Ground reference maneuvers;
(ii) Landing traffic patterns;
(iii) Approaches to the landing area with power off and with partial power;
(iv) Landings including normal and crosswind;
(v) Go-arounds from final approach and from the landing flare;
(vi) Forced landing procedures initiated on takeoff and during climb, cruise, descents and in the landing pattern; and,
(vii) Emergency procedures appropriate to the airplane being flown.

(3) For rotorcraft. In addition to (1)—
(i) Hovering and air taxiing;
(ii) Landing area traffic patterns;
(iii) Maneuvering by ground reference;
(iv) Autorotational descents initiated from hover, takeoff, climb, cruise and descent;
(v) Go-arounds from landing hover and from final approach; and,
(vi) Emergency procedures appropriate to the rotorcraft being flown.

(4) For single place gyroplanes. In addition to the appropriate items in (1) that can be performed in gyroplanes—
(i) At least three successful flights in a gyroplane towed from the ground under the observation of the instructor who is to endorse the student's pilot certificate.

(5) For gliders. In addition to (1)—
(i) Preflight of the towline, principles of glider disassembly and assembly, review of signals and release procedures to be used;
(ii) Aero or ground tow procedures;
(iii) Procedures and techniques for thermalling, convergency lift or ridge lift as appropriate to the training area;
(iv) Landings including normal, cross-wind and downwind; and
(v) Emergency operations including towline break conditions.

(6) For airships. In addition to the appropriate items in (1)—
(i) Rigging, ballasting, controlling pressure in balloonet and superheating;
(ii) Landings with positive and negative static balance;
(iii) Normal approaches to landing; and,
(iv) Emergency procedures.

(7) For free balloons. In addition to the appropriate items of (1)—
(i) Operation of hot air or gas source, ballast, valves and rip panels as appropriate;
(ii) Liftoffs and ascents;
(iii) Descents, landings and emergency use of rip panels;
(iv) The effects of wind on climb and approach angles; and
(v) Normal landing procedures.

The required instruction must be given and the log book endorsed by a flight instructor who is authorized to give instruction in the particular category and class of aircraft used. When instruction is given in a simulator or training device, such training shall be given and the log book endorsed by a flight or ground instructor. In free balloons, the holder of a commercial pilot certificate with a lighter-than-air category and free balloon class rating may give the appropriate instruction.

(d) Flight instructor endorsements. A student pilot may not operate an aircraft in solo flight unless his/her student pilot certificate is endorsed for the specific make and model of aircraft to be flown. Additionally, his/her log book must have been endorsed for solo flight within the preceding 90 days. These endorsements must be made by the flight instructor who has flown with the student and the instructor's endorsement certifies that he/she—

(1) Has given the student instruction in the make and model aircraft in which the solo flight is to be made;

(2) Finds that the student has met the flight training requirements of this section; and,

(3) Finds that the student is competent to make safe solo flights in the aircraft.

61.119 Cross-country flight requirements.

(a) General. A student pilot may not operate an aircraft in solo cross-country flight unless his/her student pilot certificate has been endorsed for solo cross-country. By log book endorsement, the instructor may authorize a student to practice takeoffs and landings at airports other than the home airport.

(b) Flight training. In addition to the pre-solo flight training maneuvers and procedures, a student pilot must have received and logged instruction from an authorized instructor in at least the following prior to being endorsed for solo cross-country flights. The student must demonstrate proficiency to an acceptable performance level as judged by the instructor who is to endorse the certificate. The maneuvers and procedures for solo cross-country must include—

(1) For all aircraft—(As appropriate to the aircraft flown)

(i) The use of aeronautical charts for VFR navigation using pilotage and dead reckoning with the aid of a magnetic compass;

(ii) Procurement and analysis of aeronautical weather reports and forecast including recognition of critical weather situations;

(iii) Aircraft cross-country performance and limitations;

(iv) Cross-country emergency procedures including lost procedures, adverse weather encounters and precautionary off airport approaches and landing procedures;

(v) Normal landing area arrival and departure traffic pattern procedures; and,

(vi) Recognition of operational problems associated with terrain features in the geographical area in which the cross-country is to be flown.

(2) For airplanes. In addition to (1)—

(i) Short and soft field takeoff, approach and landing procedures;

(ii) Takeoff climbs at best angle and best rate;

(iii) Control and maneuvering solely by reference to flight instruments including climbs and descents and the use of radio aids or radar directives;

(iv) Use of radio for VFR navigation and for two-way communication; and,

(v) Night flying including takeoffs, landings, go-arounds and VFR navigation.

(3) For rotorcraft. In addition to (1)—

(i) High altitude takeoff and landing procedures;

(ii) Steep and shallow approaches to a landing hover;

(iii) Rapid decelerations; and,

(iv) Use of radio for VFR navigation and two-way communication.

(4) For gliders. In addition to the appropriate items of (1)—

(i) At least one off airport landing at a site away from the airport of takeoff;

(ii) Principles of the use of a radio for two-way communication;

(iii) Recognition of weather conditions for cross-country soaring; and,

(iv) Landings accomplished without the use of the altimeter from at least 2,000 feet above the surface.

(5) For airships. In addition to the appropriate items of (1)—

(i) Control of the airship solely by reference to flight instruments; and,

(ii) Control of gas pressure with regard to superheating and altitude changes.

(c) Flight instructor endorsements. No student pilot shall conduct a solo cross-country flight unless—

(1) His/her student pilot certificate contains an endorsement stating that he/she has received instruction in cross-country flying and the applicable training requirements of this section and has been found competent to make solo cross-country flights in the aircraft involved; and,

(2) His/her log book contains an endorsement certifying that the instructor has reviewed the flight planning and preparation for the particular solo cross-country flight. Such endorsement may contain the circumstances and conditions that the instructor believes are necessary for the student to conduct the cross-country safely. The instructor may endorse the student's log book authorizing repeated specific solo cross-country flights and specify minimum requirements that must be met by the student.

61.121 Limitation.

(a) A student pilot may not act as pilot in command of an aircraft—

(1) That is carrying a passenger;

(2) That is carrying property for compensation or hire;

(3) For compensation or hire;

(4) In the furtherance of a business;

(5) With a flight or surface visibility of less than 3 statute miles during daylight hours or 5 statute miles at night; or

(6) On an international flight, except that a student pilot may make solo training flights from Haines, Gustavus, or Juneau, Alaska to White Horse or Yukon, Canada and return, over the province of British Columbia.

(b) A student pilot may not act as a required pilot flight crewmember on any aircraft for which more than one pilot is required, except when receiving flight instruction from an authorized instructor to board an airship and no person other than a required flight crewmember is carried on the aircraft.

61.123 Aircraft limitations. Pilot in command.

A student pilot may not serve as pilot in command of any airship requiring more than one flight crewmember unless he has met the pertinent requirements prescribed in Sections 61.117(c)(1) and (c)(6).

Subpart F—Private Pilots

61.125 Applicability.

This subpart prescribes the requirements for the issuance of private pilot certificates and ratings, the conditions under which those certificates and ratings are necessary and the operating rules and limitations for the holders of those certificates and ratings.

61.127 Eligibility requirements.

To be eligible for a private pilot certificate, a person must—

(a) Be at least 16 years of age;

(b) Be able to read, speak, and understand the English language, or have such operating limitations placed on his/her pilot certificate as are necessary for the safe operation of aircraft, to be removed when he/she shows that he/she can read, speak and understand the English language;

(c) Hold at least a current third-class medical certificate issued under Part 67 of this chapter, or, in the case of a glider or free balloon, certify that he/she has no known medical defect that makes him/her unable to safely pilot a glider or free balloon, as appropriate;

(d) Pass a written test on the subject areas on which instruction is required by Section 61.129;

(e) Pass an oral and flight test on maneuvers and procedures selected by the FAA inspector or designated pilot examiner to determine the applicant's competency in the flight training maneuvers and procedures of Sections 61.117(c) and 61.119(b); and,

(f) Comply with the sections of this part that apply to the rating(s) he/she seeks.

61.129 Aeronautical knowledge.

An applicant for a private pilot certificate must have instruction from an authorized instructor and must demonstrate satisfactory knowledge by successfully completing a written examination covering at least the following area of aeronautical knowledge appropriate to the category and class of aircraft for which a rating is sought—

(a) For all aircraft—

(1) Federal Aviation Regulations applicable to private pilot privileges, limitations and flight operations;

(2) Accident reporting requirements of the National Transportation Safety Board;

(3) The information contained in applicable Advisory Circulars;

(4) The use of aeronautical charts for VFR navigation using pilotage and dead reckoning with the aid of a magnetic compass;

(5) The use of radio for VFR navigation and two-way communication;

(6) The procurement and analysis of aeronautical weather reports and forecasts and recognition of critical weather situations;

(7) The safe and efficient operation of aircraft including high density airport

operations and collision avoidance and wake turbulence precautions; and,

(8) Elementary principles of aerodynamics.

(b) For gliders. In addition to (a)—

(1) Principles of air mass lift generation;

(2) Glider performance in various air masses;

(3) Cross-country techniques and safety considerations;

(4) Ground handling techniques; and,

(5) Glider instrumentation and their proper use.

(c) For airships and balloons. In addition to (a)—

(1) The effects of superheating and positive and negative lift; and,

(2) Operating principles and procedures of balloon operations, including gas and hot-air inflation systems.

61.131 Operational experience.

An applicant for a private pilot certificate must have logged the minimum number of flights as specified under this section and as applicable to the category and class of aircraft.

(a) For airplanes—

(1) Dual instruction—

(i) At least fifteen flights during which the maneuvers and procedures described in Section 61.117 (c)(1) and (c)(2) are performed;

(ii) At least two cross-country flights, each containing four legs with landings at three or more airports/landing areas in addition to the departure/arrival airport/landing area during which the maneuvers and procedures in Section 61.119 (b)(1) and (b)(2) are performed;

(iii) At least three flights following the first solo cross-country in preparation for the flight test.

(2) As sole occupant—

(i) At least ten flights during which the maneuvers and procedures authorized by the instructor for solo flight and as described in Section 61.117 (c)(1) and (c)(2) are performed; and,

(ii) At least four solo cross-country flights, each containing four legs with landings at three or more airports/landing areas in addition to the departure/arrival airport/landing area.

(b) For rotorcraft-helicopter—

(1) Dual instruction—

(i) At least fifteen flights during which the maneuvers and procedures described in Sections 61.117 (c)(1) and (c)(3) are performed;

(ii) At least two cross-country flights, each containing four legs with landings at three or more airports/heliports in addition to the departure/arrival airport/heliport and during which the maneuvers and procedures described in Sections 61.119 (b)(1) and (b)(3) are performed;

(iii) At least three flights following the first solo cross-country in preparation for the flight test.

(2)As sole occupant—

(i) At least ten flights during which the maneuvers and procedures authorized by the instructor and as described in Sections 61.117 (c)(1) and (c)(3) are performed; and

(ii) At least four solo cross-country flights, each containing four legs with landings at three or more airports/heliports in addition to the departure/arrival airport/heliport.

(c) For rotorcraft-gyroplane—

(1) Dual instruction—

(i) At least ten flights during which the appropriate maneuvers of 61.117 (c)(1) and (c)(4) are performed;

(ii) At least two cross-country flights, each containing four legs with landings at three or more airports in addition to the departure/arrival airport and during which the maneuvers and procedures described in 61.119 (b)(1) and (b)(3) are performed; and,

(iii) At least three flights in preparation for the flight test.

(2) As sole occupant—

(i) At least ten flights during which the maneuvers and procedures authorized by the instructor and as described in Section 61.117 (c)(1) and (c)(4) are performed; and,

(ii) At least four solo cross-country flights, each containing four legs with landings at three or more airports other than the departure/arrival airport.

(d) For gliders—

(1) Dual instruction—

(i) At least 25 flights during which the maneuvers and procedures described in Sections 61.117(c)(1) and (c)(5) and 61.119(b)(1) and (b)(4) are performed; and

(ii) At least three flights in preparation for the flight test.

(2) As sole occupant—

(i) At least 25 flights (aero tow) with 20 or more having a release point at least 2,000 feet AGL during which the maneuvers and procedures authorized by the instructor and as described in 61.117(c)(1) and (c)(5) are performed; or:

(ii) At least 50 flights (ground tow) with 40 or more having a release point at least 500 feet AGL during which the maneuvers and procedures authorized by the instructor and as described in 61.117(c)(1) and (c)(5) are performed; and

(iii) At least one soaring flight (duration as permitted by conditions) after release from the tow.

(e) For airships—

(1) Dual instruction—

(i) At least 25 flights during which the maneuvers and procedures described in Section 61.117(c)(1) and (c)(6) are performed; and,

(ii) At least two cross-country flights during which the maneuvers and procedures described in 61.119(b)(1) and (b)(5) are performed.

(2) As sole occupant or performing the functions of the pilot in command of an airship for which more than one pilot is required—

(i) At least five flights during which maneuvers and procedures authorized by the instructor and as described in 61.117(c)(1) and (c)(6) are performed; and,

(ii) At least two cross-country flights, each containing at least four legs.

(f) For free balloons—

(1) Dual instruction—

(i) At least 6 flights under the supervision of a person holding at least a commercial pilot certificate with a free ballon rating and during which the maneuvers and procedures described in Section 61.117(c)(1) and (c)(7) are performed; and

(ii) At least one cross-country flight during which the maneuvers and procedures described in Section 61.119(b)(1) are performed.

(2) As sole occupant—

(i) At least two flights with a least one flight to an altitude of at least 3,000 feet AGL.

61.133 Cross-country flight: Pilots based on small islands.

(a) An applicant who shows that he is located on an island from which the required cross-country flights cannot be accomplished without flying over water more than 10 nautical miles from the nearest shoreline need not comply with the cross-country requirements of Section 61.131. However, if other airports that permit civil operations are available to which a flight may be made without flying over water more than 10 nautical miles from the nearest shoreline, he/she must show that he/she has completed two round trips in solo flights between those two airports that are farthest apart, including a landing at each airport on each flight.

(b) The pilot certificate issued to a person under paragraph (a) of this section contains an endorsement with the following limitation which may be subsequently amended to include another island if the applicant complies with paragraph (a) of this section with respect to that island: "Passenger carrying prohibited on flight more than 10 nautical miles from [appropriate island]".

(c) If an applicant for a private pilot certificate under paragraph (a) of this section does not have at least the solo cross-country requirements of 61.131 appropriate to the category of aircraft being flown, his/her pilot certificate is also endorsed as follows: "Holder does not meet the cross-country flight requirements."

(d) The holder of a private pilot certificate with an endorsement described in paragraph (b) or (c) of this section is entitled to removal of the endorsement, if he/she presents satisfactory evidence to an FAA inspector or designated pilot examiner that he/she has complied with the applicable solo cross-country requirements and has passed a practical test on cross-country flying.

61.135 Private pilot privileges and limitations: Pilot in command.

(a) A private pilot may not act as pilot in command of an airplane that has more than 200 horsepower or that has a retractable landing gear and/or a controllable pitch propeller unless he/she has received flight instruction in that particular make and model of airplane from an authorized flight instructor and that instructor has certified in his/her log book that he/she is competent to pilot that airplane.

(b) A private pilot may not act as pilot in command of an aircraft carrying passengers unless within the preceding 90 days he/she has made three takeoffs and landings as sole manipulator of the flight controls in an aircraft of the same category and class and if a type rating is required, in that type. If the pilot is to act as pilot in command of an aircraft in daylight hours, the takeoffs and landings must have been made during daylight hours. If he/she is to act as pilot in command during nighttime hours the takeoffs and landings must have been made at night. If the flight is to be made in a tailwheel airplane, the takeoffs and landings must have been made to a full stop in a tailwheel airplane.

(c) A private pilot who has logged less than 400 flight hours and who has not flown as pilot in command of an aircraft within the preceding 180 days, may not act as pilot in command of an aircraft until he/she has received flight instruction in an aircraft for which he/she is rated. Such instruction must have been given by an authorized instructor and that instructor must certify in the pilot's log book that he/she is competent to pilot an aircraft.

(d) A private pilot who has logged less than 400 flight-hours may not act as pilot in command of an aircraft unless—

(1) Within the preceding twelve calendar months, he/she accomplishes a flight review given to him/her in an aircraft for which he/she is rated by an appropriately rated flight instructor or other person designated by the Administrator; and

(2) The pilot's log book has been endorsed by that instructor certifying that he/she has satisfactorily accomplished the flight review. A private pilot who has logged more than 400 flight-hours need not comply with the requirements of (c) and (d) of this section but must meet the requirements of Section 61.57. of this Part.

As used in this section, a flight review shall have the same meaning as contained in Section 61.57 of this Part.

(e) Except as provided in paragraph (g) through (j) of this section, a private pilot may not act as pilot in command of an aircraft that is carrying passengers or property for compensation or hire; nor may he/she for compensation or hire, act as pilot in command of an aircraft.

(f) A private pilot who has logged less than 400 flight hours may not act as pilot in command of an aircraft when the flight or surface visibility is less than 3 statute miles during daylight hours or 5 statute miles at night, except that a private pilot who holds an instrument rating and who is conducting a flight under an instrument flight plan need not comply with this section.

(g) A private pilot may, for compensation or hire, act as pilot in command of an aircraft in connection with any business or employment if the flight is only incidental to that business or employment and the aircraft does not carry passengers or property for compensation or hire.

(h) A private pilot may share the operating expenses of a flight with his passengers.

(i) A private pilot who is an aircraft salesperson and who has more than 400 hours of logged flight time may demonstrate an aircraft in flight to a prospective buyer.

(j) A private pilot may act as pilot in command of an aircraft used in passenger carrying airlifts sponsored by a charitable organization and for which the passengers make a donation to the organization, if—

(1) The sponsor of the airlift notifies the FAA district office having jurisdiction over the area concerned, at least 7 days before the flight, and furnishes any essential information that the office requests;

(2) The flights are conducted from a public airport adequate for the aircraft used, or from another airport that has been approved for the operation by an FAA inspector;

(3) The pilot has logged at least 400 hours of flight time;

(4) No aerobatic or formation flights are conducted;

(5) Each aircraft used is certificated in the standard category and complies with the 100-hour inspection requirements of Section 91.169 of this chapter; and,

(6) The flights are made under VFR conditions during the daylight hours.

For the purpose of paragraph (j) of this section, a "charitable organization" means an organization listed in Publication No. 78 of the Department of the Treasury called the "Cumulative List of Organization described in Section 170(c) of the Internal Revenue Code of 1954", as amended from time to time by published supplemental lists.

61.137 Free balloon rating: Limitations.

(a) If the applicant for a free balloon rating takes the flight test in a hot air balloon with an airborne heater, his/her pilot certificate contains an endorsement restricting the exercise of the privileges of that rating to hot air balloons with airborne heaters. The restriction may be deleted when the holder of the certificate obtains the pilot experience required for the rating on a gas balloon.

(b) If the applicant for a free balloon rating takes the flight test in a hot air balloon without an airborne heater, his/her pilot certificate contains an endorsement restricting the exercise of the privileges of that rating to hot air balloons without airborne heaters. The restriction may be deleted when the holder of the certificate obtains the pilot experience and passes the tests required for a rating on a free balloon with an airborne heater or a gas balloon.

61.139 Private pilot privileges and limitations: Second in command of aircraft requiring more than one required pilot.

Except as provided in paragraphs (g) through (j) of Section 61.135, a private pilot may not, for compensation or hire act as second in command of an aircraft that is type certificated for more than one required pilot, nor may he/she act as second in command of such an aircraft that is carrying passengers or property for compensation or hire.

Amend 61.57 as follows:

61.57 Recent flight experience: Pilot in command, except private and recreational pilots with less than 400 flight-hours.

(a) Flight review. No person may act as pilot in command of an aircraft unless, within the preceding 24 calendar months, he/she has—

(The remaining portions of existing 61.57 to continue as written.)

Amend Subparts E, F, and G to redesignate them as Subparts G, H and I and renumber all Sections in these Subparts.

[FR Doc. 82-7012 Filed 3-12-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 81-NE-20]

Airworthiness Directives; Pratt & Whitney Aircraft JT9D-20 Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that requires installation of riveted segmented strengthening plates and improved attachment hardware on the rear face of the fan exit case front flange ("B" flange) on JT9D-20 engines installed in wing positions on DC-10-40 aircraft. Separation of the fan case assembly from the front fan exit case, at the "B" flange attachment area, can result under certain aerodynamic loads following a fan blade fracture.

DATES: Comments must be received on or before May 15, 1982. Proposed effective date—May 28, 1982.

ADDRESS: Send comments on the proposal in duplicate to: Federal Aviation Administration, New England Region, Office of Regional Counsel, Attn: Rules Docket No. 81-NE-20, 12 New England Executive Park, Burlington, Massachusetts 01803.

The applicable service bulletins may be obtained from: Pratt & Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108.

A copy of the service bulletins are contained in the Rules Docket, Federal Aviation Administration, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Gordon Vertescher, Transport Engine Section (ANE-141), Engine Certification Branch, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; tel. (617) 273-7347.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Information on the economic, environmental, and energy impact that might result because of adoption of the proposed rule is requested. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There have been seven fan blade failures on JT9D-20 engines resulting from arc burn, foreign object damage (FOD), and manufacturing defects. Each failure caused secondary damage to "B" flange and attachment hardware. "B" flange provides attachment of the fan case and front fan exit case. A recent fan blade failure resulted in separation of the nose cowl assembly and fan case from a wing engine. The fan case separated at "B" flange.

A subsequent analysis of the capability of "B" flange indicates that under certain conditions "B" flange load capability becomes marginal for wing engines. As a consequence, it is the intent of this AD to require modification of the flange and fasteners to improve "B" flange capability under adverse conditions.

The Proposed Amendment

Accordingly, the FAA proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD:

Pratt & Whitney Aircraft.

Applies to all JT9D-20 engines installed in wing positions on DC-10-40 aircraft.

Compliance required on installed engines prior to March 31, 1984, unless already accomplished.

To preclude "B" flange separation under adverse conditions, rework fan exit case assembly, incorporate riveted segmented strengthening plates along with improved "B" flange attachment hardware, and reidentify components, in accordance with Pratt & Whitney JT9D-20 Service Bulletin No. 5335, dated September 3, 1981, or later revision approved by the Chief, Engine Certification Branch, FAA, New England Region.

Note.—Rework, replacement and addition of various airframe brackets is necessary to ensure compatibility with the flange modifications specified in Pratt & Whitney Aircraft Service Bulletin No. 5335.

All persons affected by this directive who have not already received the referenced service bulletin from the manufacturer may obtain copies upon request to Pratt & Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108. This document may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. A historical file on this AD which includes the material in full is maintained by the FAA at its Headquarters in Washington, D.C., and at the New England Region Office.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85)

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act because the rule will affect only domestic air carriers using DC-10-40 aircraft in which the JT9D engines are installed in wing positions, none of which are small entities. A draft regulatory evaluation prepared for this document is contained in the public docket, and a copy may be obtained in writing to Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket No. 81-NE-20, 12 New England Executive Park, Burlington, Massachusetts.

Issued in Burlington, Massachusetts, on March 4, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82-6940 Filed 3-12-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-ANE-07]

Airworthiness Directives; Pratt & Whitney Aircraft JT3D Turbofan Engine, All Models

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an Airworthiness Directive (AD) which would require eddy current inspection for cracks in bolt holes, counterweight holes, and snap diameters on all JT3D third stage turbine disks. The proposed AD is needed to detect cracks which could result in an uncontained third stage turbine disk failure.

DATES: Comments must be received on or before April 15, 1982. Proposed effective date May 10, 1982.

ADDRESSES: Send comments on the proposed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket No., 12 New England Executive Park, Burlington, MA 01803.

The applicable alert service bulletin may be obtained from Pratt & Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108. A copy of the Alert Service Bulletin is contained in the Rules Docket at the above FAA address.

FOR FURTHER INFORMATION CONTACT: Ralph S. Hawkins, (ANE-142), Engine Certification Branch, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7347.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Information on the economic, environmental, and energy impact that might result because of adoption of the proposed rule is requested. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Recently, a JT3D engine installed in a DC-8 aircraft experienced an uncontained third stage turbine disk failure during takeoff roll. The failure was caused by a low cycle fatigue crack which originated in the bore of a tierod bolt hole in the third stage tubine disk. Subsequent inspection, under the cognizance of the engine manufacturer, of 101 used JT3D third stage turbine disks, has shown that 56 of those disks exhibit cracks originating at the bolt holes. An eddy current inspection technique has been used to detect these cracks which initiate below the surface of the wall of the bolt hole. Since this condition is likely to exist or develop on other engines of the same type design, the proposed AD would require a repetitive eddy current inspection of third stage turbine disks, in accordance with Pratt & Whitney Aircraft Alert Service Bulletin No. 5358, "Engine, disk, 3rd stage turbine, eddy-current inspection and rework," for cracks in the bolt holes, counterweight holes, and spacer snap diameter fillet radii. Part number 416903 is an earlier third stage turbine disk design which is believed to be no longer in service. This AD proposes to remove this earlier design

from use because it is more prone to fatigue cracking than the present design.

The Proposed Amendment

Accordingly, the FAA proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD:

Pratt & Whitney Aircraft:
Applies to all Pratt & Whitney Aircraft JT3D turbofan engines.

Compliance required as indicated, unless already accomplished.

To detect cracks in third stage turbine disks, P/Ns 416903, 436903, and 675803, which could result in fracture of the third stage turbine disk and an uncontained third stage turbine disk failure, inspect third stage turbine disks, P/Ns 436903 and 675803, for cracks in the tierod holes, counterweight holes, and spacer snap diameter fillet radii. Inspect in accordance with Pratt & Whitney Aircraft Alert Service Bulletin No. 5358, dated February 5, 1982, or later FAA approved revision, or equivalent means approved by the Chief, Engine Certification Branch, New England Region, per the following schedule:

a. Disks with less than 4,500 cycles on the effective date of this AD shall be inspected before 5,500 cycles.

b. Disks with between 4,500 and 4,999 cycles on the effective date of this AD shall be inspected within 1,000 cycles.

c. Disks with between 5,000 and 5,500 cycles on the effective date of this AD shall be inspected before 6,000 cycles.

d. Disks with more than 5,500 cycles on the effective date of this AD shall be inspected within 500 cycles.

Cracked third stage turbine disks must be removed prior to further flight. Any third stage turbine disks which has a crack which is within the allowable crack repair limit(s) specified in the above referenced Pratt & Whitney Aircraft Alert Service Bulletin may be returned to service if it is repaired in accordance with this service bulletin. Any third stage turbine disk which has had all of the tierod holes and all of the counterweight holes repaired in accordance with this service bulletin must be reinspected in accordance with the service bulletin prior to the accumulation of 4,000 additional cycles after inspection. All other third stage turbine disks which are suitable for continued usage per this service bulletin must be reinspected in accordance with this service bulletin prior to the accumulation of 2,500 additional cycles after inspection. These repetitive inspections must be repeated throughout the service life of the third stage turbine disk.

Third stage turbine disks, P/N 416903, shall be removed from service within 500 cycles from the effective date of this AD or by December 31, 1982, whichever comes first. The inspection and rework provisions of Pratt & Whitney Aircraft Alert Service Bulletin No. 5358 do not apply to P/N 416903 third stage turbine disks.

Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of Chief, Engine Certification Branch, FAA, New England Region, may adjust the inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

All persons affected by this directive who have not already received the referenced alert service bulletin from the manufacturer may obtain copies upon request to Pratt & Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108. This document may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA Headquarters, 800 Independence Avenue, SW., Washington, D.C. 20591. A historical file on this AD which includes the material in full is maintained by the FAA at its Headquarters in Washington, D.C., and at the New England Region Office.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85)

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities under the criteria of the regulatory flexibility act because the rule will affect only domestic air carriers of B–707 and DC–8 aircraft in which the JT3D engines are installed (none of which are believed to be small entities). A draft regulatory evaluation prepared for this document is contained in the public docket, and a copy may be obtained in writing to Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket No. 82–ANE–0, 712 New England Executive Park, Burlington, Massachusetts.

Issued in Burlington, Massachussetts, on March 2, 1982.

Robert E. Whittington,
Director, New England Region.

[FR Doc. 82-6660 Filed 3-12-82; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82–ANE–06]

Airworthiness Directives; Rolls-Royce, Ltd., RB211–22B and –524 Series Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an Airworthiness Directive (AD) that would require incorporation of fan retention modifications on all Rolls-Royce, Ltd., RB211–22B and –524 series turbofan engines. The proposed AD is needed to prevent possible loss of the fan module following a fan shaft location bearing failure (low pressure (LP) location bearing) which could result in significant aircraft damage. There have been two previous LP location bearing failures which have resulted in loss of the fan module.

DATES: Comments must be received on or before May 3, 1982. Proposed effective date June 7, 1982.

ADDRESSES: Send comments on the proposed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket No. 82–ANE–06, 12 New England Executive Park, Burlington, MA 01803.

The applicable Service Bulletins may be obtained from Technical Publications Department, Rolls-Royce, Ltd., Derby, England DE2 8BJ.

Copies of the Service Bulletins are contained in the Rules Docket at the above FAA address.

FOR FURTHER INFORMATION CONTACT:
John E. Tigue Engine and Propeller Standards Staff, ANE–110, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7330.

SUPPLEMENTARY INFORMATION:
Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Information on the economic, environmental, and energy impact that might result because of adoption of the proposed rule is requested. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

The FAA has determined that failures of LP location bearings in RB211–22B and –524 engines may result in fan shaft failure and subsequent loss of the fan module which may cause significant aircraft damage. Since this condition is likely to exist or develop on other engines of the same type design, the proposed AD would require incorporation of a fan retention device in Rolls-Royce RB211–22B and –524 model turbofan engines.

The Proposed Amendment

Accordingly, the FAA proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 30.13) by adding the following new AD:

Rolls-Royce, Ltd. Applies to Rolls-Royce, Ltd., RB211–22B and –524 turbofan model engines.

Compliance required as indicated unless already accomplished.

To preclude possible loss of fan assembly, install the Rolls-Royce axial fan retention modification as specified in Rolls-Royce Service Bulletin 72–6574, dated February 19, 1982, or later revision approved by the FAA, applicable to RB211–22B, –524B–02, –524B2–19, –524B2–39, and –524C2–19 engines and as specified in Rolls-Royce Service Bulletin 72–6576, dated February 19, 1982, or later revision approved by the FAA, applicable to RB211–524B3–02, –524–B4–02, and –524D4–19 engines in accordance with the following schedule:

1. Center (fuselage mounted) engines on Lockheed L1011 aircraft by August 31, 1982.

2. Wing mounted engines on Lockheed L1011 and Boeing B747 aircraft by November 30, 1982.

All persons affected by this directive who have not already received the referenced service bulletins from the manufacturer may obtain copies upon request to Technical Publications Department, Rolls-Royce, Ltd., Derby, England DE2 8BJ. This document may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803 and at FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C. 20591. A historical file on this AD is maintained by the FAA at its Headquarters in Washington, D.C., and at the New England Regional Office.

Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Chief, Aircraft Certification Division, FAA, New England Region, may adjust the compliance date(s) specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(Secs. 313(a) 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85)

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policy and Procedures (44 FR 11034; February 26, 1979). It is certified that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities because the rule will affect only domestic air carriers of B–747 and L–1011 aircraft in which the RB211 engines are installed, none of which are believe to be small entities. A draft regulatory evaluation prepared for this document is contained in the public docket, and a copy may be obtained by writing to Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket No. 82–ANE–06, 12 New England Executive Park, Burlington, Massachusetts.

Issued in Burlington, Massachusetts, on March 1, 1982.

Robert E. Whittington,
Director, New England Region.

[FR Doc. 82-6646 Filed 3-12-82; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 39

[Airworthiness Docket No. 82–ASW–6]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale (SNIAS) Models SA341 and SA342 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice contains a proposal to adopt an airworthiness directive (AD) that would require an inspection for proper bolts and shackles and repetitive inspections for cracked bolts in the upper shackles of front and rear main gearbox A-frames on Aerospatiale Models SA341 and SA342 series helicopters. Bolt failure as a result of cracks or from corrosion would result in separation of the main rotor gearbox from the helicopter. The AD is necessary to detect cracked bolts and prevent failure of a shackle attachment bolt and loss of the helicopter.

DATES: Comments must be received on or before April 19, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Regional Counsel, Attention: Docket No. 82–ASW–6, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

A copy of the service information may be examined at Office of the Regional Counsel, Southwest region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas. A copy of the service information may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support.

FOR FURTHER INFORMATION CONTACT:
Chris Christie, Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, or James H. Major, Helicopter Policy and Procedures Staff, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 624–4911, extension 502.

SUPPLEMENTARY INFORMATION:
Corroded and cracked shackle attachment bolts have been detected at the upper shackles of the main gearbox front and rear A-frames on Aerospatiale Models SA341 and SA342 series helicopters. It is possible that certain of these bolts may be improperly matched with certain shackles. Failure of the bolts due to cracks occurring from corrosion or due to improper matching of the shackles may result in separation of the main gearbox from the helicopter.

SNIAS Gazelle Service Bulletin No. 01.16 amended December 10, 1979, was issued to inspect for proper bolts and shackles and inspect the bolts for corrosion and cracks. Voluntary compliance has been satisfactory. Aerospatiale Helicopter Corporation recently advised the agency that 66 sets of new design nitrided bolts have been sold to U.S. operators. To assure that properly matched bolts and shackles are installed, that nitrided bolts are inspected at 300 hour intervals, and that non-nitrided bolts are inspected for cracks at 50-hour intervals, the FAA is proposing to adopt a new AD for Aerospatiale Model SA341 and SA342 series helicopters. Since approximately eighteen aircraft may not have nitrided bolts installed and matched with proper shackles as described in the service bulletin, the estimated cost impact for matching bolts and shackles, or for repetitive inspection of the bolts, and for installation of the new design nitrided bolts is $5,940.

Request for Comments

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. Comments that provide the factual basis supporting the views and suggestions presented are particularly

helpful in evaluating the effects of the proposed rule. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule.

All comments submitted will be available, both before and after the closing date for comments, in the Office of Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the AD, will be filed in the docket.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Societe Nationale Industrielle Aerospatiale (SNIAS): Applies to all Model SA341 and SA342 series helicopters certificated in all categories.

Compliance is required as indicated.

To detect possible cracked main gearbox front or rear A-frame upper shackle attachment bolts and to prevent failure of these bolts, accomplish the following:

(a) Within the next 50 hours' time in service after the effective date of this AD, and thereafter at intervals not to exceed 50 hours' time in service from the last inspection, remove the bolts, P/N 341A.31.4169.20, if installed, and inspect for cracks using a magnetic particle or equivalent inspection method as specified in SNIAS Gazelle Service Bulletin No. 01.06 amended December 10, 1979, subparagraph 1C(1)(b), or FAA approved equivalent as noted in paragraph (e) of this AD.

(b) Within the next 50 hours' time in service after the effective date of this AD determine that bolts P/N 341A.31.4169.20, if installed, are fitted with shackles P/N 341A.36.1017.00 or .01 or shackles P/N 341A.36.1079.00 or .01 and that nitrided bolts P/N 341A.31.4263.21, if installed, are fitted with shackles having bushings P/N 341A.36.1067.01 to .07 in accordance with Gazelle Service Bulletin No. 01.06 amended December 10, 1979, subparagraphs 1C(1)(a) and 1C(2)(a), or FAA approved equivalent as noted in paragraph (e) of this AD.

(c) Within 300 hours' time in service after the effective date of this AD and thereafter at intervals not to exceed 300 hours from the last inspection, remove nitrided bolts, P/N 341A.31.4263.21 and inspect for cracks using a magnetic particle or equivalent inspection method as specified in Gazelle Service Bulletin No. 01.06 amended December 10, 1979, subparagraph 1C(2)(b), or FAA approved equivalent as noted in paragraph (e) of this AD.

(d) Cracked bolts must be removed from service before further flight.

(e) Equivalent means of compliance with the AD may be approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium.

(f) On request of the operator, an FAA maintenance inspector may extend the inspection intervals contained in this AD, subject to prior approval of the Chief Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, if the operator justifies the increase.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85))

Note.—The FAA has determined that this proposed regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and it is certified that at promulgation it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it will affect eighteen aircraft for an estimated cost impact of $5,940. A draft evaluation has been prepared for this proposed regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Fort Worth, Texas, on February 26, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-6068 Filed 3-12-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AWA-15]

Proposed Alteration of VOR Federal Airways

Correction

In FR Doc. 82-5034 appearing on page 8206 in the issue of Thursday, February 25, 1982, make the following correction:

On page 8207, second column, the fifth line of the paragraph *"2. V-506 [New]"* should read "210° T(203° M) radials; Springfield; INT Springfield."

BILLING CODE 1505-01-M

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14 CFR Part 71

[Airspace Docket No. 82-NE-03]

Proposed Amendment to Description of the Auburn, Maine, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to amend the Auburn, Maine Transition Area so as to provide additional airspace for aircraft executing the VOR/DME Runway 22 original standard instrument approach procedure (SIAP) serving Auburn-Lewiston Municipal Airport, Auburn-Lewiston, Maine.

DATES: Comments must be received on or before April 15, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Operations, Procedures and Airspace Branch, ANE-530, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. The docket may be examined at the following location: Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT:

David Hurley, Operations, Procedures and Airspace Branch, ANE-530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7285.

Comments Invited

Interested person may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the New England Region, Attention: Chief, Operations, Procedures and Airspace Branch, ANE-530, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before April 15, 1982, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comment submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8065. Communications must identify the number of this NPRM.

Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 with describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of Federal Aviation Regulations (14 CFR Part 71) to amend the Auburn, Maine Transition Area to provide additional airspace for aircraft executing the SIAP for Auburn Lewiston Municipal Airport.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71, Federal Aviation Regulations by revising the Auburn, Maine 700-foot transition area as follows:

Add after northeast of the NDB on line five:

And within 2.5 miles each side of the Augusta, Maine VORTC (251° magnetic) (234° true) radial extending from the 5-mile radius area to 23 miles southwest of the VORTC.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c) and 14 CFR 11.69))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, is certified not to have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Massachusetts, on March 4, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82-6067 Filed 3-12-82; 8:45 am]

BILLING CODE 4910-13-M

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

Penalties for Violations of Seaway Regulations and Assessment, Mitigation or Remission of Penalties

AGENCY: Saint Lawrence Seaway Development Corporation.

ACTION: Proposed rule.

SUMMARY: The Saint Lawrence Seaway Development Corporation proposes to amend Subpart B—Penalties—Violations of Seaway Regulations, and Subpart C—Assessment, Mitigation or Remission of Penalties, to reflect changes necessitated by the enactment of the Port and Tanker Safety Act of 1978 and the subsequent delegation of authority to the Administrator of the Saint Lawrence Seaway Development Corporation.

DATES: Comments received by April 29, 1982 will be considered.

ADDRESSES: Interested parties may submit written comments to the Saint Lawrence Seaway Development Corporation, P.O. Box 520, Massena, New York 13662 (Attn: General Counsel).

FOR FURTHER INFORMATION CONTACT:

Frederick A. Bush, General Counsel, (315 764-3245).

SUPPLEMENTARY INFORMATION: On October 17, 1978, the Port and Tanker Safety Act of 1978 was enacted, amending the Ports and Waterways Safety Act of 1972. On July 21, 1980, a Delegation of Authority to the Administrator of the Saint Lawrence Seaway Development Corporation from the Secretary of Transportation was published in the **Federal Register** (45 FR 48630). This delegated certain procedural functions vested in the Secretary of Transportation by the Port and Tanker Safety Act of 1978, and related to the power to issue and enforce regulations and conduct investigations under the Act with respect to the Saint Lawrence Seaway. As a result, § 401.101, Criminal Penalty, and § 401.102, Civil Penalty of Subpart B, will be amended to reflect that a find of not less than $5,000 is eliminated as a criminal penalty for violation of a Seaway Regulation. Provision is also made for penalties for any person who uses a dangerous weapon or engages in conduct that causes or threatens bodily injury to any officer authorized to enforce the provisions of this Act or the regulations issued hereunder. The civil penalty for violation of a Seaway Regulation is increased from $10,000 to $25,000. Also, § 401.201 (a) and § 401.202 of Subpart C are amended to reflect the new delegation of authority under the Port and Tanker Safety Act.

It has been determined that under the criteria of the Regulatory Flexibility Act that this proposed rule will not have a significant effect on a substantial number of small entities. Further, it is not a major rule under Executive Order 12291, as noted in the DOT Semi-Annual Regulations Agenda and Review List published in the **Federal Register**, October 1, 1981, nor a significant rule under DOT Regulatory Policies and Procedures, 44 FR 11034, for the same reason. The anticipated economic impact is so minimal that it does not warrant preparation of a regulatory evaluation. Finally, DOT has determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act and therefore an environmental impact statement is not required.

Accordingly, the Saint Lawrence Seaway Development Corporation proposes to amend Title 33 of the Code of Federal Regulations as follows:

PART 401—SEAWAY REGULATIONS AND RULES

Subpart B—Penalties—Violations of Seaway Regulations

1. Section 401.101 is amended by revising paragraph (a) to read as follows:

§ 401.101 Criminal penalty.

(a) A person who willfully and knowingly violates a regulation shall be fined not more than $50,000 for each violation or imprisoned for not more than five years, or both, and any person who, in the willful and knowing violation of this Act or of any regulation issued hereunder, uses a dangerous weapon, or engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce the provisions of this Act or the regulations issued hereunder, shall, in lieu of the penalties prescribed in this paragraph be fined not more than $100,000 or imprisoned for not more than ten years, or both.

* * * * *

2. Section 401.102 is amended by revising paragraph (a) to read as follows:

§ 401.102 Civil penalty.

(a) A person, as described in § 401.101(b), who violates a regulation is liable to a civil penalty of not more than $25,000.

* * * * *

Subpart C—Assessment, Mitigation or Remission of Penalties

3. Section 401.201 is amended by revising paragraph (a) to read as follows:

§ 401.201 Delegation of Authority.

(a) The Secretary of Transportation, by 49 CFR 1.52(a) has delegated to the Administrator of the Saint Lawrence Seaway Development Corporation the authority vested in him under sections 4, 5, 6, 7, 8, 12 and 13 of Sec. 2 of the Port and Tanker Safety Act of 1978, Pub. L.

95-474 (92 Stat. 1471), as it pertains to the operation of the Saint Lawrence Seaway.

* * * * *

4. Section 401.202 is revised to read as follows:

§ 401.202 Statute providing for assessment, mitigation or remission of civil penalties.

Section 13 of Sec. 2 of the Port and Tanker Safety Act of 1978 authorizes the assessment and collection of a civil penalty of not more than $25,000 from anyone who violates a regulation issued under that section.

(68 Stat. 93-96, 33 U.S.C. 981-990, as amended, and secs. 12 and 13 of sec. 2 of Pub. L. 95-474, 92 Stat. 1471)

Issued at Washington, D.C. on January 22, 1982.

Saint Lawrence Seaway Development Corporation.

D. W. Oberlin,

Administrator.

[FR Doc. 82-6815 Filed 3-12-82; 8:45 am]

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DEPARTMENT OF INTERIOR

National Park Service

36 CFR Part 7

Acadia National Park, Maine; Snowmobile Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The proposed regulation set forth below is necessary to designate the locations in Acadia National Park where snowmobiles may be used as a mode of transportation to provide the opportunity for visitors to see, sense, and enjoy the special qualities of the park in the winter. Allowed locations will consist of designated portions of the park motor roads closed to normal motor vehicular traffic by snow and ice. In addition, two sections of the park's historic carriage road network normally closed to motorized travel will be open to snowmobiles as follows: (1) A portion 0.6 miles in length from Wildwood Stable to the Lower Mountain Road. This routing is required in order to bypass a section of plowed roadway and permit a complete circuit of the park's 18-mile scenic loop road. (2) A portion 1.8 miles in length necessary to provide safe travel down the east side of Eagle Lake during those periods when the frozen surface of the lake may be unsafe for snowmobile travel. It is the objective of this proposed regulation to provide for the preservation and enjoyment of the park in a way that is consistent with both the snowmobile policy of the National Park Service and the off-road vehicle policy of the Department of the Interior.

DATE: Written comments, suggestions or objections will be accepted until April 14, 1982.

ADDRESS: Comments should be directed to: Superintendent, Acadia National Park, R.F.D. #1, Box 1, Bar Harbor, Maine 04609.

FOR FURTHER INFORMATION CONTACT: Ronald N. Wrye, Superintendent, Acadia National Park; Telephone: (207) 288-3338.

SUPPLEMENTARY INFORMATION:

Background

Executive Order 11644 (Use of Off-Road Vehicles on Public Lands) issued in 1972, directed Federal land managing agencies to develop unified regulations and to designate areas of use for off-road vehicles. Such areas must meet criteria which minimize resource damage, harassment of wildlife, disruption of wildlife habitat, and, in the case of national parks, not adversely affect scenic, natural and aesthetic values.

In response to Executive Order 11644, the Secretary of the Interior issued a Departmental memorandum on May 5, 1972, to assure full compliance with the Order and to provide policies and procedures for its implementation. The National Park Service, as required by the above directive, promulgated 36 CFR 2.34 on April 11, 1974, which closed all National Park System areas to snowmobile use except those specifically designated as open by Federal Register notice or special regulation.

In order to comply with the requirements of Executive Order 11644 and 36 CFR 2.34, the National Park Service developed a Servicewide policy revision which was published in the Federal Register on August 13, 1979, (44 FR 47412). This policy provides for the use of snowmobiles in units of the National Park System as a mode of transportation to provide the opportunity for visitors to see, sense, and enjoy the special qualities of the parks in the winter. The snowmobiles must be consistent with the park's natural, cultural, scenic and aesthetic values; considerations of safety; park management objectives; and not disturb the wildlife or damage other park resources.

The policy further provides that, where permitted, snowmobiles shall be confined to properly designated routes and water surfaces which are used by motorized vehicles or motorboats during other seasons. The September 3, 1979 policy implementation memorandum sent to all National Park Service Regional Directors stated that: "In those very limited places where unique local conditions prevail, snowmobiling for limited distances on abandoned roads, fire breaks or trails may continue only if necessary as connectors between routes or areas that are otherwise in accord with the policy." This exemption will apply at Acadia National Park in those two locations where snowmobiles will be permitted on short sections of the historic carriage road system normally closed to motorized travel. This is necessary to bypass a section of plowed roadway on the main loop road and to permit safe travel around a lake during those periods when there may be insufficient ice on the lake to safety support snowmobiles. Routes and water surfaces to be designated for snowmobile use shall be promulgated as special regulations in the Code of Federal Regulations.

Snowmobiles have been used for transportation and recreation in Acadia National Park since they first became generally available to the public in the early 1960's. Levels of snowmobile use in the park have varied markedly from winter to winter due to the great variance in snow cover from year to year. This situation is typical of coastal areas in Maine. Snowmobiling grew rapidly in popularity in the park through the sixties and reached a peak in the early seventies. Since the early seventies snowmobiling has diminished significantly in popularity. This is due, presumably, to the higher costs associated with buying and operating the machines today. Undoubtedly the "newness" or novelty of the sport which caused the rapid growth of the sixties is now diminished, and in turn this circumstance is accounting for a slower rate of recruitment into this form of recreation.

A companion development to the decline of snowmobiling has been the tremendous increase in popularity of cross-country skiing. During the past several winters skiers have increasingly outnumbered snowmobilers in the park. This trend is expected to continue for the immediate future due to the relatively low expense of skiing and the present rapid recruitment into the sport which can be attributed at least in part to the same "novelty" attraction that snowmobiling enjoyed in the sixties.

Snowmobiles and cross-country skiers have historically shared many of the same routes on the roadways of the park. There have been no serious conflicts or incidents resulting from this mixing of motorized and non-motorized sport. A significant proportion of cross-country skiers do have a definite preference to ski in areas where there are no snowmobiles.

Acadia National Park offers an ideal opportunity to meet the desires of both snowmobiles and those skiers who prefer to go where there are no snowmobiles. This opportunity is presented to the 46-mile network of well-maintained historic carriage roads. With the exception of the two sections mentioned earlier amounting to 3.4 miles, this road system is closed to all motorized travel and available for the quieter pursuits of skiing, snowshoeing, and hiking. In summary, under the proposed regulation, there will be a total of 57 miles of roads available for both snowmobiling and skiing and an additional 43 miles of road for skiers from which snowmobiles are excluded. Public reaction to this arrangement indicates that it is a circumstance which is satisfatory to both the skiing and snowmobiling communities.

The use and impact of snowmobiles in Acadia National Park have been monitored by rangers in the field for approximately twenty years. During this period there have been no recorded instances of disturbance of wildlife by snowmobiles traveling on designated routes. In some instances there has been minor injury to small trees and shrubs growing on or near the road shoulders. This vegetative damage has been deemed to be insignificant and infrequent.

Snowmobiles are widely used on both public and private lands surrounding the park. They may be driven both on and off roads, and in the case of private lands, permission must be obtained from the landowner. Snowmobiles may not be operated on plowed public roads except to cross or to bypass bridges and culverts. Most of the snowmobile use outside the park is off-road use with some special trails maintained for this purpose.

This proposed regulation is necessary to comply with Servicewide policy. Its promulgation also responds to public interest in the continuation of the use of snowmobiles as a means of viewing and enjoying Acadia National Park when weather conditions are such that the motor roads are closed to public automobile travel.

Information on designated routes will be available to the public by handouts and maps available at park headquarters and on a large wooden map layout erected in the Visitor Center Parking Area.

Public Participation

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding this proposed regulation to the address noted at the beginning of this rulemaking.

Drafting Information

The following persons participated in the writing of this regulation: Warner M. Forsell and Norman H. Dodge, Acadia National Park; W. Lowell White, former Superintendent, Acadia National Park.

Compliance With Other Laws

The National Park has determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (February 19, 1981). The Service has further determined that this regulation will not have a significant economic effect on a substantial number of small entities nor will it require the preparation of a regulatory analysis within the meaning of the Regulatory Flexibility Act, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*

In accordance with the National Environmental Policy Act 42 U.S.C. 4332, the National Park Service has prepared an environmental assessment on this issue. Copies of the assessment and the analysis of public comments received on it, are available at the address noted above.

This rulemaking contains no provisions that would entail the collection of information in such a manner as would be subject to the Paperwork Reduction Act, 94 Stat. 2812, 44 U.S.C. 3501 *et seq.*

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

(Sec. 3 of the Act of August 25, 1916, 39 Stat. 535, as amended (16 U.S.C. 3))

In consideration of the foregoing, it is proposed to amend Part 7 of Title 36, Code of Federal Regulations, by the establishment of a new section as follows:

§ 7.55 Acadia National Park.

(a) *Designated Snowmobile Routes.* The designated routes for snowmobile use shall be:

(1) Park Loop Road (except section from Stanley Brook intersection north to the gate at Penobscot Mountain Parking Area) and connecting roads as follows: Paradise Hill Road (Visitor Center to junction Park Loop Road); Stanley Brook Road; Ledgelawn Extension Road; Sieur de Monts (gate to Loop Road); West Street; Cadillac Mountain Summit Road; entrance roads to Wildwood Stable.

(2) Portions of Carriage Paths as follows: A section of Carriage Path 1.8 miles in length from the parking area at the north end of Eagle Lake down the east side of the lake to connection with Park Loop Road at Bubble Pond Rest Area. A section of Carriage Path 0.6 miles in length from Wildwood Stable to connection with Park Lopp Road south of the entrance road to Penobscot Mountain Parking Area.

(3) Hio Truck Road from Seawall Campground north to State Route 102.

(4) The paved camper access roads within Seawall Campground

(5) Marshall Brook Truck Road from Seal Cove Road to Marshall Brook.

(6) Seal Cove Road from Park Boundary in Southwest Harbor to State Route 102 in Seal Cove.

(7) Western Mountain Road from Park Boundary west of Worcester Landfill to Seal Cove Pond.

(8) The two crossroads connecting Western Mountain Road and Seal Cove Road.

(9) Long Pond Truck Road including Spur Road to Pine Hill.

(10) Lurvey Spring Road from junction with Long Pond Road in Southwest Harbor to intersection with Echo Lake Beach Road.

(11) The Echo Lake Entrance Road from State Route 102 to Echo Lake Beach Parking Area.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-6880 Filed 3-13-82; 8:45 am]

BILLING CODE 4310-70-M

VETERANS ADMINISTRATION

DEPARTMENT OF DEFENSE

38 CFR Part 21

Education Benefit Payments; Flight Training

AGENCY: Veterans Administration and Department of Defense.

ACTION: Proposed regulation.

SUMMARY: This proposed regulation, issued jointly by the Veterans Administration and the Department of Defense, implements some of the provisions of the Omnibus Budget Reconciliation Act of 1981 which affect people receiving educational assistance under VEAP (the Post-Vietnam Era Veterans' Educational Assistance Program).

The proposal places restrictions upon payments made to people in flight training. It should eventually result in the elimination of flight training from VEAP. This proposal implements changes in the law.

DATES: Comments must be received on or before April 14, 1982. In accordance with Pub. L. 97–35, it is proposed that this regulation be made effective October 1, 1981.

ADDRESSES: Interested persons are invited to submit written comments, suggestions or objections regarding this proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), until April 26, 1982. Persons visiting the Veterans Administration Central Office in Washington, D.C. for the purpose of inspecting comments will be received by the Central Office Veterans Services Unit in room 132 of the above address. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, Washington, D.C. 20420 (202 389–2092).

SUPPLEMENTARY INFORMATION: Section 21.5137 is added to implement portions of the Omnibus Budget Reconciliation Act of 1981. This policy change is required by law.

The agencies have determined that this proposed regulation is not a major rule as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. It will not result in any major increases in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans Affairs and the Secretary of Defense hereby certify that this proposed regulation will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this regulation therefore is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that the proposed regulation will regulate recipients of educational assistance under VEAP. It will have no significant direct impact on small entities (i.e. small businesses, small private and nonprofit organizations, and small governmental jurisdictions.)

(Catalog of Federal Domestic Assistance number for the program affected by this proposed regulation is 64.120)

Approved: February 1, 1982.

Robert P. Nimmo,

Administrator of Veterans Affairs.

Approved: February 24, 1982.

R. Dean Tice,

Deputy Assistant Secretary of Defense.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration proposes to amend 38 CFR Part 21 as follows: Section 21.5137 is revised as follows:

§ 21.5137 Benefit payments—flight training.

(a) *Payments to individuals who enroll in flight training before September 1, 1981.* (1) The Veterans Administration will pay benefits to an individual who enrolls in an approved program of flight training before September 1, 1981, provided—

(i) The individual incurs no changes of program after August 31, 1981, and

(ii) The continuity of the enrollment is not broken.

(2) If after September 30, 1981, an individual, who enrolled in a program of flight training before September 1, 1981, breaks the continuity of his or her enrollment, the Veterans Administration will not pay for flight training which occurs after the date the continuity of enrollment was broken.

(3) The Veterans Administration will consider the continuity of an enrollment to be broken any time the individual receives no flight training for a period of six or more consecutive months. (Pub. L. 97–35, secs. 2003 and 2006)

(b) *Payments to individuals who enroll in flight training during September 1981.* If an individual enrolls in a flight course during September 1981 and this does not form part of a continuous enrollment begun before September 1, 1981, the Veterans Administration will make payment only for that portion of the course completed during September 1981. The Veterans Administration will make no payment for any portion of the course completed after September 30, 1981. (Pub. L. 97–35, secs. 2003 and 2006)

(c) *Payments to individuals who enroll in flight training after September 30, 1981.* The Veterans Administration will make no payment for flight training an individual receives if the individual enrolls in flight training for the first time after September 30, 1981. (Pub. L. 97–35, secs. 2003 and 2006).

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-1994-2]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: Part D of the Clean Air Act requires that each State revise its State Implementation Plan (SIP) for all areas that have not attained the national ambient air quality standards (NAAQS). As part of Indiana's control strategy for attainment of the NAAQS for ozone, the State has revised its SIP to require additional control of volatile organic compounds (VOC) from stationary sources in areas which are nonattainment for ozone.

This notice proposes conditional approval of these revisions which are an integral part of the State's control strategy for ozone. Final approval of this control strategy is necessary to remove the current restrictions on construction of new major VOC sources in the State. The EPA invites public comments on these revisions, the identified deficiencies, the suggested corrections, and the regulatory action proposed herein, particularly with respect to the requirements of Part D of the Clean Air Act (CAA).

DATE: Comments on this proposed rulemaking must be received on or before April 14, 1982.

ADDRESSES: Comments should be sent, in triplicate if possible, to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the regulation are available for review at the above address and at: Indiana State Board of Health, Air Pollution Control Division, 1330 W. Michigan Street, Indianapolis, Indiana 42606.

FOR FURTHER INFORMATION CONTACT: Barry A. Perlmutter, Technical Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604 (313) 886–6049.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978 (43 FR 8962), and on October 5, 1978 (43 FR 45993), pursuant to the requirements of Section 107 of the Act, the EPA designated certain areas in Indiana as not attaining the NAAQS for photochemical oxidants (subsequently changed to ozone).

Part D of the Act requires each State to revise its SIP to meet specific requirements for areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary NAAQS as expeditiously as practicable, but not later than December 31, 1982. Under certain circumstances, dates for attainment of the NAAQS for ozone and/or carbon monoxide may be extended through 1987. The requirements for an approvable SIP are described in the April 4, 1979 Federal Register (44 FR 20372) and supplements dated July 2, August 28, September 17, and November 23, 1979 (44 FR 38563, 50371, 53761, 67182).

An adequate SIP for ozone is one which provides for sufficient control of VOC from stationary and mobile sources to provide for attainment of the standards. For stationary sources, the plan must include, as a minimum, legally enforceable requirements reflecting the application of reasonably available control technology (RACT) for those stationary sources for which EPA has published a control technique guideline (CTG) by January 1978. In general, where the State regulations are not supported by the information in the CTGs, the State must provide an adequate demonstration that its regulations represent RACT, or amend the regulations to be consistent with the information in the CTGs. In addition, by each subsequent January, RACT requirements for sources covered by the CTGs published by the preceding January must be adopted and submitted to EPA. The submittal date for the first set of additional RACT regulations was revised from January 1, 1980 to July 1, 1980 in the August 28, 1979 Federal Register (44 FR 50371). Subsequently, because the States' regulatory processes are taking longer than anticipated and because good faith efforts are being made in most cases to adopt the necessary regulations, EPA revised the July 1, 1980 deadline to January 1, 1981 (45 FR 78121).

Summary of Indiana's Action

In response to the requirements of Part D of the Act, the State of Indiana submitted a revised SIP on February 11, 1980. The SIP included a revised Regulation APC 15, Volatile Organic Compound Emission Limitations, which affects stationary VOC sources. This regulation is an intergral part of Indiana's plan for attaining the NAAQS for ozone and is the subject of this proposed rulemaking notice. EPA's analysis of the regulation is contained in a technical memorandum which is available for review at the EPA Region V office listed above. The conclusions of that memorandum are summarized in this notice.

SIP Continuity Requirements

The current Federally enforceable APC 15 was adopted by Indiana on September 14, 1972 and approved by EPA on May 14, 1973 (38 FR 12696). This version is hereafter referred to as "existing APC 15." It requires controls on existing VOC sources in the Indiana portions of Louisville, Cincinnati, Indianapolis, and Chicago Air Quality Control Region (AQCR) and on new sources throughout the State. Gasoline marketing sources in Marion County are subject to 40 CFR 52.787. On October 7, 1974 the Indiana Air Pollution Control Board (IAPCB) adopted a revised version of existing APC 15. EPA disapproved this regulation on August 24, 1976 (45 FR 35677) and it is not part of the current Federally approved and enforceable SIP for Indiana. Therefore, since only the 1972 version of APC–15 is presently included in the Federally approved SIP, the 1974 revision of APC 15 will not be discussed in the remainder of this notice.

To comply with existing APC 15, affected sources must emit no more than 3 lbs./hr or 15 lbs./day of organics unless emissions are reduced at least by 85 percent from emissions before application of any control equipment or process. The final compliance date of existing APC 15 is April 1, 1975. In general, compliance with these regulations was intended to be achieved with add-on controls. Examples of these control methods include incineration, carbon adsorption, refrigeration and chemical oxidation.

Revised APC 15 (submitted February 11, 1980) includes source category-specific emission limitations that were developed using the information provided in the (CTGs). For certain surface coating sources, revised APC 15 specifies emission limitations on the basis of pounds of VOC per gallon of coating (less water) as applied. Thus, in addition to add-on controls, compliance may be achieved using such control options as the use of higher solids coatings, water-based coatings, or improvements in transfer efficiency. As discussed later in this notice, revised APC 15 also permits the use of a "bubble" to achieve compliance. The final compliance date in revised APC 15 is December 31, 1982.

In general, when new requirements are being added to a SIP, the existing SIP requirements may not ordinarily be relaxed or revoked. Specifically, the existing SIP regulations for any source will normally remain applicable and enforceable to prevent a source from operating without controls, or under less stringent controls, while it is moving toward compliance with the new regulations. However, for surface coating operations in Indiana, strict adherence to this requirement would make it impractical for sources to comply with the old regulations while moving toward compliance with the new regulations. This is because continued compliance with existing APC 15 would require surface coating operations to install and operate add-on control devices rather than consider potentially more economic and energy efficent control alternatives such as coating reformulation or process modification.

Therefore, EPA is proposing that Section 3 of revised APC 15 (Surface Coating Emission Limitations) replace the current Federally enforceable SIP requirements for affected surface coating sources. For all other existing VOC sources, the requirements of existing APC 15 will remain in effect and Federally enforceable until compliance with the revised APC 15 requirementrs is achieved. EPA believes that this action is appropriate because the requirements for nonsurface coating VOC sources, particularly gasoline marketing and petroleum refining, have not been changed significantly. Where there is a conflict between the requirements of revised APC 15 and the requirements of existing APC 15, such that it would be impractical for a source to comply with the existing APC 15 while moving toward compliance with the revised regulation, then the State may grant an exemption. Any exemption granted, however, must be reviewed and acted upon by EPA either as part of the State adopted regulation or as a future SIP revision. Futhermore, if there is any delay or lapse in the applicability or enforceability of revised APC 15, because of a court order or for any other reason, the existing APC 15 regulation will be applicable and Federally enforceable.

Description of Revised Regulation APC 15

The revised regulation is divided into the following major sections:

Indiana Regulation APC 15

Volatile Organic Compound Emission Limitations

Section 1—Definitions
Section 2—Applicability
Section 3—Surface Coating Emission Limitations

Source Category Subsections

(a) Automobile and Light Duty Trucks
(b) Can Coating
(c) Coil Coating
(d) Paper Coating
(e) Fabric and Vinyl Coating
(f) Metal Furniture
(g) Large Appliances
(h) Magnet Wire
Section 4—Solvent Metal Cleaning
(a) Cold Cleaners
(b) Open Top Vapor Degreasers
(c) Conveyorized Degreasers
Section 5—Petroleum
(a) Petroleum Refining Sources
(b) Fixed Roof Storage Tanks for Petroleum Liquid
(c) Bulk Gasoline Terminal
(d) Bulk Gasoline Plant
(e) Gasoline Dispensing Stations
Section 6—Miscellaneous Operations
(a) Asphalt Paving
Section 7—Emissions of Organic Solvents
Section 8—Compliance
(a) Method of Compliance
Section 9—Compliance Schedules
Section 10—Test Methods and Procedures
Section 11—Repealer
Section 12—Force and Effect
Section 13—Saving Clause
Section 14—Severability

Summary of EPA's Review:

Based on the results of EPA's analysis of revised APC 15, the requirements for RACT appear to be satisfied and EPA proposes approval of the regulation except as noted below.

Technical and Statutory Deficiencies

The following Sections of APC 15 have technical and statutory deficiencies that are described below. The State and EPA have discussed these deficiencies and the State has indicated a willingness to make necessary modifications. Therefore, EPA proposes to approve conditionally the following rules provided the State commits to make the necessary corrections to APC 15 and submit all remedies to EPA by a specified date.

Section 3—Surface Coating Emission Limitations—Indiana has included a transfer efficiency (TE) provision in the surface coating regulations as an alternative compliance method for automobile and light duty truck, large appliance, and metal furniture coating operations. While EPA agrees that transfer efficiency improvements are a valid way to reduce emissions, the TE equations have the following deficiencies:

a. The TE equations are not correct for waterborne coatings. The regulation is not clear that the equations are only applicable when solvent-based coatings are used. EPA cannot approve the equation for waterborne coating applications.

b. The TE equations were derived assuming an average solvent density of 7.36 lbs./gal. If the calculated average solvent density of actual coatings differed, the formulas would not be correct. EPA cannot approve the equations in their current form.

c. A baseline transfer efficiency of 50 percent is assumed for the metal furniture category. EPA has generally utilized a baseline transfer efficiency of 50 percent for this source category. The State should provide detailed justification for their lower transfer efficiency or revise this rule to reflect a 60 percent transfer efficiency.

d. The equations do not specify an averaging time for determining the percent solids when several coatings are used. As a minimum, a daily averaging time should be utilized.

Rules affecting fabric and vinyl coating sources (Section 3(e)) include two deficiencies. First, the regulations assume that 75 percent capture efficiency constitutes RACT. Other States have typically utilized 90 percent efficiency as RACT in their regulation development. Therefore, the State should justify its lower capture efficiency or revise this rule appropriately.

Secondly, Section 3(e) allows source-specific emission limitations, but it does not require the sources to provide necessary technical data supporting each limit. This provision is needed to ensure that the SIP meets the requirements of the Act for RACT. Any source specific limitations must be Federally enforceable.

Section 5—Petroleum

Section 5(e) exempts gasoline dispensing facilities, including service stations, which are filled by transports and which have a monthly throughput of less than 20,000 gallons from requirement for vapor balance systems. The EPA has previously promulgated rules for Marion County, Indiana, under Section 110(c) of the Act (see 40 CFR 52.787) that require vapor balance systems on all existing gasoline dispensing storage tanks of 2000-gallon capacity or more regardless of throughput. The widespread implementation of vapor balance on tanks of 2000-gallons and greater capacity demonstrates that this control is reasonably available. However, the Agency has determined that State regulations which exempt tanks with up to 10,000 gallon/month throughput are within approximately 5 percent of the emissions that result from a regulation requiring control of 2000-gallon capacity tanks. On this basis, EPA has accepted other State regulations that control 10,000 gallons per month or more throughput and would approve a similar regulation in Indiana. The State should provide justification for its 20,000 gallons/month exemption demonstrating that this rule reflects RACT or revise the regulation.

Section 10—Test Methods and Procedures

Section 10 contains test methods for determining the density, VOC content, and water content of coatings. These methods can be used for compliance determinations with Section 3 limitations. Indiana has not specified the procedures to be used for determining VOC emissions and for calculating mass emission rates and/or control efficiency for bulk gasoline terminals (Section 5(c)). This test method is needed to make the regulation for this source enforceable. The technically supported procedures that can be adopted by the State can be found in the appropriate CTG document.

Other Issues

Compliance Dates—Regulations promulgated by EPA as part of the current Federally approved Indiana SIP require compliance no later than May 31, 1977 dates for gasoline transfer operations in Marion County (40 CFR 52.787).

Sections 5 (c), (d), (e), and (f) of revised APC 15 refer to the requirements for bulk gasoline terminals, bulk gasoline plants, gasoline dispensing facilities, and transports and tank wagons, respectively. The compliance date for sections 5 (c) through (f) is December 31, 1982. The EPA is proposing to approve the 1982 compliance date only for those existing sources which were not covered by the 40 CFR 52.787 requirements. EPA cannot approve the 1982 compliance date for existing sources in Marion County subject to 40 CFR 52.787 and proposes to exclude them in the Agency's final rulemaking action.

Bubble Policy

Indiana has incorporated a "bubble" provision, Section 8(a)(2), into its rule. EPA proposes approval of these provisions with the understanding that Indiana will adhere to the EPA "bubble policy" published in the **Federal Register** (44 FR 71780) and therefore will submit each bubble as a SIP revision. Alternatively, Indiana can submit a generic bubble rule as described in an EPA policy statement published in the **Federal Register** (46 FR 20551).

Proposed Actions

1. EPA proposes to approve the revised regulation APC 15 with the exceptions described in this notice and incorporate it into the Indiana SIP. EPA proposes that Section 3 (surface coating emission limitations) of revised APC 15 replace the current Federally enforceable SIP requirements for the affected sources. For all other existing VOC sources, the requirements of existing APC 15 will remain a part of the SIP and Federally enforceable until compliance with the revised APC 15 requirements is achieved. Accordingly, EPA proposes to approve the December 31, 1982 compliance date provided in revised APC 15 only for those sources covered by Section 3 and those existing sources that were not previously regulated under the current Federally enforceable SIP.

2. EPA proposes to approve conditionally the Part D requirement for Group I CTG regulations in the ozone nonattainment areas of Indiana covered by revised APC 15. The regulation deficiencies in Sections 3(a)(2), 3(f)(2), 3(g)(2), 3(e), 5(e), and Section 10 that must be corrected to satisfy this conditional approval are described earlier in this notice. EPA proposes to accept up to a six-month completion date (from final rulemaking) for these corrections.

3. Finally, the State's revised APC 15 eliminates control requirements on sources in attainment/unclassifiable areas (except where Section 7 is applicable). The removal of these requirements will not have an adverse impact on air quality. Therefore, EPA proposes to remove provisions affecting sources in these areas from the current Federally approved SIP.

EPA solicits comments from all interested parties on the regulatory action proposed above and on any interstate air quality issues involved in the proposed rule.

Under Executive Order 12291, EPA must judge whether a regulation is a "major rule" and, therefore, subject to the requirement of a regulatory impact analysis. This rule, if promulgated, will not be "major" as defined by Executive Order 12291, because this action only either approves a State action or continues present requirements.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. section 605(b), the Administrator has certified that SIP revisions under Section 110 of the Clean Air Act will not have a significant economic effect on substantial number of entities. (46 FR 8709). The attached rules, if promulgated constitute a revision SIP within the terms of the certification.

(Secs. 110, 172, and 301(a) of the Clean Air Act, as amended)

Dated: August 28, 1981.

Valdas V. Adamkus,
Acting Regional Administrator.

[FR Doc. 82-6824 Filed 3-12-82; 8:45 am]
BILLING CODE 6560-38-M

40 CFR Part 52

[A-5-FRL-1915-3]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: On May 22, 1980 the United States Environmental Protection Agency (USEPA) announced final rulemaking to conditionally approve certain revisions to Michigan's State Implementation Plan (SIP) (46 FR 27923). Michigan submitted these revisions pursuant to Part D of the Clean Air Act, as amended in 1977, as its control strategy for attainment of the total suspended particulates (TSP) standards in its nonattainment area containing iron and steel sources. A conditional approval requires the State to remedy identified deficiencies by specified deadlines. This notice solicits public comment on the deadlines by which the State of Michigan has committed itself to remedy conditionally approved portions of its SIP. Although public comment is solicited on the deadlines, the State remains bound by its commitments unless the schedules are disapproved by USEPA in its Final Rulemaking action. A conditional approval means that the restriction on new source construction in this nonattainment area will not apply unless the State fails to submit the corrections by the specified date, or unless the corrections are ultimately determined to be inadequate.

DATE: Comments must be received on or before April 14, 1982.

ADDRESSES: Comments should be sent to the following addresses: Carol Wilmowski, Enforcement Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

Copies of the materials submitted by the State and by the public during the comment period announced in this notice of proposed rulemaking are available for review during normal business hours at the following addresses:

U.S. Environmental Protection Agency, Region V, Air Enforcement Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Carol Wilmowski, Air Enforcement Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-4254.

SUPPLEMENTARY INFORMATION: Pursuant to Part D of the Clean Air Act, as amended in 1977, the State was required to submit a revised control strategy to attain national ambient air quality standards for TSP in designated nonattainment areas by December 31, 1982. On September 9, 1980, the U.S. Environmental Protection Agency (U.S. EPA) published a notice of proposed rulemaking (NPR) on that portion of Michigan's Part D Plan for attainment of TSP standards which specifically addressed iron and steel sources. In the NPR USEPA identified certain deficiencies and therefore proposed to conditionally approve certain regulatory provisions and to conditionally approve the overall control strategy for the State's nonattainment area containing iron and steel sources. A discussion of conditional approval and its practical effect appears in the July 2, 1979 **Federal Register** (45 FR 38583) and the November 23, 1979 **Federal Register** (45 FR 67182). A conditional approval requires the State to remedy identified deficiencies by specified deadlines. On November 26, 1980, USEPA received from Michigan a commitment to remedy the deficiencies identified in the NPR by additional state rulemaking according to a specified schedule. On March 31, 1981, Michigan submitted a revised schedule. On May 22, 1981, pursuant to the State's commitment, to remedy the Plan deficiencies, the USEPA announced in the **Federal Register** final rulemaking conditionally approving the State's Part

D Plan for the TSP nonattainment area coantaining iron and steel sources (46 FR 27923). The State committed itself to submit regulations to the Joint Legislative Committee on Administrative Rules by a date certain.

The State cannot legally prejudge the outcome of its complex, statutorily mandated rulemaking proceedings for adoption and approval of air pollution control regulations. As a result, the State cannot commit to USEPA that the regulations will ultimately be promulgated. However, the State has agreed to submit those regulations which are approved and enacted into State law to the USEPA by the deadline in the Clean Air Act for attaining the TSP standards.

Proposed regulations were developed and submitted to the Michigan Air Pollution Control Commission in July 1981. Public hearings on the proposed regulations were held during September 1981. Because of the extensive comments on the proposed regulations, the regulations are being revised and will be resubmitted to the Commission. Consent orders containing increments of progress for individual steel companies were submitted to EPA during January 1982.

USEPA proposes to approve the following schedule for the State's correction of deficiencies in its Part D Plan for attainment of the TSP air quality standards in its nonattainment area containing iron and steel sources:

1. Revised proposed regulations developed and submitted to the Michigan Air Pollution Control Commission for purposes of public hearings—April 30, 1982;
2. Public hearings held on revised proposed regulations—May 31, 1982;
3. Regulations formally submitted to the Joint Committee on Administrative Rules—October 1, 1982;
4. Regulations filed with the Secretary of State and submitted to USEPA for approval—December 31, 1982.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified on January 27, 1981 (46 FR 8709) that regulatory actions approving revisions of State Implementation Plans under Sections 110 and 172 of the Act will not, if promulgated, have a significant economic impact on a substantial number of small entities. This action only approves the conditional approval schedule submitted by the State as a part of its overall Part D Plan for the TSP nonattainment area containing iron and steel sources.

Note.—The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Dated: January 29, 1982.

David Kee,

Acting Regional Administrator.

[FR Doc. 82-6606 Filed 3-12-82; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 10

[CGD 77-204]

Second Class Operator of Uninspected Towing Vessels

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of proposed rule.

SUMMARY: This action withdraws the notice of proposed rulemaking, Docket Number 77-204, published in the **Federal Register** on May 25, 1978 (43 FR 22853). The proposed notice invited public participation in the development of regulations which would have permitted service on other than towing vessels to be creditable toward qualifying for a license as second class operator.

FOR FURTHER INFORMATION CONTACT: Commander Daniel E. Struck, Merchant Vessel Personnel Division (G-MVP), Room 1400, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426-2240.

SUPPLEMENTARY INFORMATION: The regulations in 46 CFR 10.16-23 do not provide for service on vessels other than towing vessels to be creditable toward qualifying an applicant for a license as second class operator of uninspected towing vessels. However, the applicant's overall service and training on all classes of vessels should be taken into consideration for at least part of the qualification requirements for license as second class operator of uninspected towing vessels.

The proposed regulations would have allowed an applicant's overall service to be used for qualification if the applicant had obtained a level of qualification as "Able Seaman-Any Waters-Unlimited." This would have permitted an applicant who had experience on large ocean-going vessels to qualify for a license as second class operator of uninspected towing vessels based on less service on towing vessels than would be required if the applicant had no previous experience. In addition, a Coast Guard approved training course for towboat operator would have been acceptable in lieu of part of the required service on towing vessels.

A final rule was withheld pending anticipated legislative action addressing specific experience requirements for second class operator of uninspected towing vessels. The resulting legislative action was Pub. L. 96-378 (Oct. 6, 1980) which did not address this specific issue; however, it did amend 46 U.S.C. 224 in part by stating, "In classifying licensed officers under this section, the Secretary shall, where possible, establish suitable career patterns, and service and other qualifying requirements, appropriate to the particular service or industry in which the officers are engaged."

Fifteen comments were received concerning the notice of proposed rulemaking. Eleven of the commenters agreed with the proposal, three felt that alternate experience methods should be considered and eleven of the above commenters provided specific suggestions concerning alternate experience requirements.

The Coast Guard is in the process of revising the entire structure of merchant marine licenses, pursuant to Pub. L. 96-378. It has been determined that it would be more appropriate to address the acceptance of alternative experience for a license as second class operator of uninspected towing vessels as part of a comprehensive review and realignment of the structure of merchant marine licenses. Any relevant comments that were received under CGD 77-204 will be considered in the rulemaking process.

The Notice of Proposed Rulemaking, docket number 77-204, published in the **Federal Register** on May 25, 1978 (43 FR 22653), is hereby withdrawn.

Dated: March 9, 1982.

L. N. Hein,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 82-6619 Filed 3-12-82; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-123; RM-3976]

FM Broadcast Station in Prescott Valley, Ariz.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of Channel 292A to Prescott Valley, Arizona, as its first FM assignment, in response to a petition filed by Yavapai Broadcasting Company.

DATES: Comments must be received on or before April 19, 1982, and reply comments must be received on or before May 14, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: February 24, 1982.

Released: March 3, 1982.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Prescott Valley, Arizona), BC Docket No. 82-123, RM-3976.

1. The Commission has before it a petition for rulemaking [1] filed by Yavapai Broadcasting Company ("petitioner"), requesting the assignment of FM Channel 292A to Prescott Valley, Arizona, as that community's first FM assignment. The proposed channel can be assigned to the community in conformity with the minimum distance separation requirements. Petitioner states that it will apply for the channel, if assigned. Supporting comments were filed by petitioner. No comments in opposition to the proposal were received.

2. Prescott Valley (population 2,284)[2] is located in Yavapai County (population 68,145) approximately 128 kilometers (80 miles) northwest of Phoenix, Arizona, and 14 kilometers (9 miles) northeast of Prescott, the county seat. It presently has no local aural service.

3. In support of the proposal, petitioner notes that the population of Prescott Valley increased approximately 836 percent between 1970 and 1980. As a further indication of growth, petitioner states that retail sales have increased approximately 50 percent over the past year.

4. Since Prescott Valley is located within 320 kilometers (199 miles) of the U.S.-Mexican border, the proposed assignment of Channel 292A to Prescott Valley, Arizona, requires coordination with the Mexican Government.

5. In view of the fact that the assignment would provide a first local aural service to Prescott Valley, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, for the community listed as follows:

City	Channel No.	
	Present	Proposed
Prescott Valley, Arizona		292A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before April 19, 1982, and reply comments on or before May 4, 1982, and are advised to read the Appendix below for the proper procedures.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))

Federal Communications Commission.

Rodolick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 82-123 RM-3976]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of

[1] Public Notice of the petition was given on September 21, 1981, Report No. 1309.

[2] Population figures are taken from the 1980 U.S. Census.

service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, and original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-6869 Filed 3-12-82; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 47, No. 50
Monday, March 15, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Land and Resource Management; Status of Current Planning Documents and Projected New Planning Starts

AGENCY: Forest Service, USDA; Bureau of Land Management, Interior.

ACTION: Plan status and major planning actions in Fiscal Year 1982 and projected planning starts for the next 3 fiscal years.

SUMMARY: The USDA Forest Service and the USDI Bureau of Land Management have elected to jointly announce land and resource management planning schedules for lands each agency administers. The purpose of publishing joint planning schedules is to provide interested agencies and publics information about the planning activities of each agency and the opportunity to study the relationships between the two agencies' current and projected planning activities. The plans of the Forest Service and the Bureau of Land Management are frequently in adjoining areas and share common resource issues and management concerns requiring continuous and close interagency coordination.

For the convenience of the public, the notice is divided into Part A—covering the Forest Service and Part B—covering the Bureau of Land Management.

Comments on projected new plans should be directed to the appropriate agency.

Part A—Forest Service

Regulations to guide land and resource management in the National Forest System were published September 17, 1979, in Part IV, Vol. 44, No. 181 of the **Federal Register** (44 FR 53928). The rules set forth a process for developing and revising land and resource management plans as required by the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA), as amended by the National Forest Management Act of 1976 (NFMA). These rules require development of regional and forest level plans. Each plan will include all management planning for resources and be supported by an environmental impact statement.

NFMA allows the Forest Service until 1985 to develop the required forest plans. The Forest Service's objective is to have forest planning data available in 1983 for the RPA Program analysis. Completion of planning documents, however, for some national forests may be carried over until fiscal year 1984. The Program, mandated by RPA, is updated every 5 years. It takes 2 or more years to develop a forest plan.

Draft and final regional and forest plans and their associated environmental impact statements will be filed with the Environmental Protection Agency and made available to the public. A list is included showing the fiscal year in which draft and final documents will be available. Also given are the addresses of the Forest Service's 9 Regional Offices and National Forests headquartered in each Region for which plans are to be prepared.

All Regions and Forests have initiated development of the required plans, but some are further along in the process than others. Readers interested in the progress and status of a particular plan should contact the appropriate Regional Forester or Forest Supervisor.

DATES: Comments on the schedule will be accepted until April 30, 1982.

ADDRESS: Comments should be sent to: Chief, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013, (202) 447-6697.

FOR FURTHER INFORMATION CONTACT:
Joyce P. Parker, Land Management Planning, P.O. Box 2417, Washington, D.C. 20013 (202) 447-6697.

NATIONAL FOREST SYSTEM FIELD OFFICES [1] AND FISCAL YEAR FILING DATES OF REGIONAL AND FOREST PLANS WITH ENVIRONMENTAL PROTECTION AGENCY

		Fiscal year to be completed	
		DEIS [2]	FEIS
Northern Region Federal Building Missoula, Montana 59807			
Regional Plan		[4] 1981	[4] 1982
Idaho:			
Clearwater	Orofin 83544	1982	1983
Idaho Panhandle National Forests [3]	Coeur d' Alene 83814.	1982	1983
Coeur d' Alene			
Kaniksu			
St. Joe			
Nezperce	Grangeville 83530	1982	1983
Montana:			
Beaverhead	Dillon 59725	1982	1983
Bitterroot	Hamilton 59840	1982	1983
Custer	Billings 59103	1982	1983
Deerlodge	Butte 59701	1982	1983
Flathead	Kalispell 59901	1982	1983
Gallatin	Bozeman 59715	1982	1983
Helena	Helena 59601	1982	1983
Kootenai	Libby 59923	1982	1983
Lewis and Clark	Great Falls 59403	1982	1983
Lolo	Missoula 59801	1982	1982
Rocky Mountain Region 11177 W. 8th Ave., Box 25127 Lakewood, Colorado 80225			
Regional Plan		[4] 1981	1982
Colorado:			
Arapaho-Roosevelt [3]	Ft. Collins 80521	[4] 1982	1982
Grand Mesa, Uncompahgre, and Gunnison [3].	Delta 81416	1982	1983
Pike and San Isabel [3].	Pueblo 81008	1982	1982
Rio Grande	Monte Vista 81144.	1982	1983
Routt	Steamboat Springs 80477.	1982	1983
San Juan	Durango 81301	1982	1983
White River	Glenwood Springs 81601.	1982	1983
Nebraska:			
Nebraska-Samuel R. McKelvie [3].	Chadron 69337	[4] 1982	1982
South Dakota:			
Black Hills	Custer 57730	[4] 1981	1982
Wyoming:			
Bighorn	Sheridan 82801	1982	1983
Medicine Bow	Laramie 82070	1982	1983
Shoshone	Cody 82414	1982	1983
Southwestern Region 517 Gold Ave. SW, Albuquerque, New Mexico 87102			
Regional Plan		[4] 1981	1982
Arizona:			
Apache-Sitgreaves [3]	Springerville 85938.	1983	1983
Coconino	Flagstaff 86001	1983	1983
Coronado	Tucson 85702	1982	1982
Kaibab	Williams 86046	1983	1983
Prescott	Prescott 86301	1983	1983
Tonto	Phoenix 85034	1983	1983
New Mexico:			
Carson	Taos 87571	1983	1983
Cibola	Albuquerque 87112.	1983	1983
Gila	Silver City 88061	1983	1983
Lincoln	Alamogordo 88310.	1983	1983

NATIONAL FOREST SYSTEM FIELD OFFICES [1] AND FISCAL YEAR FILING DATES OF REGIONAL AND FOREST PLANS WITH ENVIRONMENTAL PROTECTION AGENCY—Continued

		Fiscal year to be completed	
		DEIS [2]	FEIS
Santa Fe	Santa Fe 87501	1982	1982
Intermountain Region 324 25th Street Ogden, Utah 84401			
Regional Plan		[4] 1981	1982
Idaho:			
Boise	Boise 83706	1983	1984
Caribou	Pocatello 83201	1982	1983
Challis	Challis 83226	1983	1984
Payette	McCall 83638	1982	1983
Salmon	Salmon 83467	1983	1983
Sawtooth	Twin Falls 83301	1983	1984
Targhee	St. Anthony 83445.	[4] 1982	1982
Nevada:			
Humboldt	Elko 89801	1983	1984
Toiyabe	Reno 89501	1983	1984
Utah:			
Ashley	Vernal 84078	1983	1984
Dixie	Cedar City 84720	1983	1984
Fishlake	Richfield 84701	1983	1984
Manti-LaSal	Price 84501	1983	1984
Uinta	Provo 84601	[4] 1982	1982
Wasatch-Cache [3]	Salt Lake City 84138.	1983	1984
Wyoming:			
Bridger-Teton [3]	Jackson 83001	1983	1983
Pacific Southwest 630 Sansome Street San Francisco, California 94111			
Regional Plan		[4] 1981	1982
California:			
Angeles	Pasadena 91101	1983	1983
Cleveland	San Diego 92188	1983	1983
Eldorado	Placerville 95667	1982	1983
Inyo	Bishop 93514	1983	1983
Klamath	Yreka 96097	1982	1982
Lassen	Susanville 96130	1983	1984
Los Padres	Goleta 93107	1983	1983
Mendocino	Willows 95988	1983	1984
Modoc	Alturas 96101	1983	1984
Plumas	Quincy 95971	1983	1984
San Bernardino	San Bernardino 92408.	1983	1983
Sequoia	Porterville 93257	1983	1983
Shasta-Trinity [3]	Redding 96001	1982	1982
Sierra	Fresno 93721	[4] 1982	1982
Six Rivers	Eureka 95501	1982	1983
Stanislaus-Calaveras, Big Tree [3].	Sonora 95370	1982	1983
Tahoe	Nevada City 95958.	1982	1983
Pacific Northwest Region 319 SW Pine Street P.O. Box 3623 Portland, Oregon 97208			
Regional Plan		[4] 1981	1982
Oregon:			
Deschutes	Bend 97701	1982	1982
Fremont	Lakeview 97630	1983	1984
Malheur	John Day 97845	1982	1982
Mt. Hood	Portland 97233	1982	1983
Ochoco	Prineville 97754	1983	1984
Rogue River	Medford 97501	1982	1983
Siskiyou	Grants Pass 97526.	1982	1982
Umatilla	Pendleton 97801	1983	1984
Umpqua	Roseburg 97470	1982	1983
Wallowa-Whitman [3]	Baker 97814	1982	1983
Willamette	Eugene 97440	1983	1984
Winema	Klamath Falls 97601.	1983	1983
Siuslaw	Corvallis 97330	1983	1984
Washington:			
Colville	Colville 99114	1983	1984
Gifford Pinchot	Vancouver 98660	1983	1983
Mt. Baker-Snoqualmie [3].	Seattle 98101	1982	1983
Okanogan	Okanogan 98840	1982	1983
Olympic	Olympia 98501	1982	1983
Wenatchee	Wenatchee 98801	1982	1983

NATIONAL FOREST SYSTEM FIELD OFFICES [1] AND FISCAL YEAR FILING DATES OF REGIONAL AND FOREST PLANS WITH ENVIRONMENTAL PROTECTION AGENCY—Continued

		Fiscal year to be completed	
		DEIS [2]	FEIS
Southern Region 1720 Peachtree Road, NW Atlanta, Georgia 30309			
Regional Plan		[4] 1981	1982
Alabama:			
National Forests in Alabama [3]	Montgomery 36101.	1982	1983
William B. Bankhead			
Conecuh			
Talladega			
Tuskegee			
Arkansas:			
Ouachita	Hot Springs National Park 71101.	1982	1983
Ozark-St. Francis [3]	Russellville 72801	1982	1983
Florida:			
National Forests in Florida [3]	Tallahassee 32301.	1982	1983
Apalachicola			
Ocala			
Osceola			
Georgia:			
Chattahoochee-Oconee [3].	Gainesville 30501	1982	1982
Kentucky:			
Daniel Boone	Winchester 40391	1982	1983
Louisiana:			
Kisatchie	Pineville 71360	1982	1983
Mississippi:			
National Forests in Mississippi [3]	Jackson 39205	1982	1983
Bienville			
Delta			
DeSoto			
Holly Springs			
Homochitto			
Tombigbee			
North Carolina:			
National Forests in North Carolina [3]	Asheville 28802		
Nantahala, and Pisgah.		1982	1983
Uwharrie, and Croatan.		1983	1984
Puerto Rico:			
Caribbean	Rio Piedras 00928.	1982	1983
South Carolina:			
Francis Marion and Sumter [3]	Columbia 29202	1983 1982	1984 1983
Tennessee:			
Cherokee	Cleveland 37311	1983	1983
Texas:			
National Forests in Texas [3]	Lufkin 75901	1983	1984
Angelina			
Davy Crockett			
Sabine			
Sam Houston			
Virginia:			
George Washington	Harrisonburg 22801.	1984	1985
Jefferson	Roanoke 24011	1984	1984
Eastern Region 633 West Wisconsin Avenue Milwaukee, Wisconsin 53203			
Regional Plan		[4] 1981	1982
Illinois:			
Shawnee	Harrisburg 62946	1983	1983
Indiana and Ohio:			
Wayne-Hoosier [3]	Bedford 47421		
Wayne		1982	1982
Hoosier		1983	1984
Michigan:			
Hiawatha	Escanaba 49829	1983	1984
Huron-Manistee [3]	Cadillac 49601	1983	1983
Ottawa	Ironwood 49938	1983	1983

NATIONAL FOREST SYSTEM FIELD OFFICES [1] AND FISCAL YEAR FILING DATES OF REGIONAL AND FOREST PLANS WITH ENVIRONMENTAL PROTECTION AGENCY—Continued

		Fiscal year to be completed	
		DEIS [2]	FEIS
Minnesota:			
Chippewa	Cass Lake 56633	1983	1984
Superior	Duluth 55801	1982	1982
Missouri:			
Mark Twain	Rolla 65401	1983	1984
New Hampshire and Maine:			
White Mountain	Laconia 03246	1982	1983
Pennsylvania:			
Allegheny	Warren 16365	1983	1983
Vermont:			
Green Mountain	Rutland 05701	1983	1984
West Virginia:			
Monongahela	Elkins 26241	1983	1983
Wisconsin:			
Chequamegon	Park Falls 54552	1983	1983
Nicolet	Rhinelander 54501.	1983	1983
Alaska Region Federal Office Building P.O. Box 1628 Juneau, Alaska 99802			
Regional Plan		[4] 1981	1982
Alaska:			
Chugach	Anchorage 99502	1982	1986
Tongass-Chatham	Sitka 99835	1984	1985
Tongass-Ketchikan	Ketchikan 99901	1984	1985
Tongass-Stikine	Petersburg 99833	1984	1985

[1] Headquarters locations opposite National Forests.
[2] Two or more separately proclaimed National Forests under one Forest Supervisor.
[3] DEIS and FEIS mean Draft and Final Environmental Impact Statement.
[4] Document has been filed with EPA.
[5] Decision to adopt appealed and reconsidered as per 36 CFR 291.9(c)(3)(iii). Plan not to be implemented pending revision of 36 CFR Part 219.

Dated: March 2, 1982.

Gary E. Cargill,

Associate Deputy Chief, National Forest System.

Part B—Bureau of Land Management

Regulations governing resource management planning for Bureau of Land Management administered public lands were published in the **Federal Register** on Tuesday, August 7, 1979 (44 FR 46385) Section 1601.3 of those regulations require that:

The Director shall, early in each fiscal year, publish a planning schedule which shall advise the public of the status of each plan in process or to be started during that fiscal year, the major action on each plan during that fiscal year and projected new planning starts for the three succeeding fiscal years. The notice shall call for comments on planning priorities for those three fiscal years so that such comments can be considered in refining priorities for those fiscal years.

The schedule below complies with this requirement.

The management framework plans (MFPs) mentioned below were in progress when the planning regulations were published. The **Federal Register** notice of December 3, 1979, (44 FR 69374) describes the use of planning regulation provisions in management framework plans in progress.

DATES: Comments or suggestions on the projected new resource management plan starts will be accepted until April 30, 1982.

ADDRESS: Comments or suggestions should be sent to: Director (202), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Paul Kimberling, (202) 653–8824.

SUPPLEMENTARY INFORMATION: Projected New Planning Starts—Comments from the public, local and State government, and other Federal agencies are invited on the priorities reflected in the projected new planning starts. Questions may be addressed to the Field Support staff in Washington (202) 653–8824. All of the new starts fully comply with the Bureau planning regulations. Exceptions will be granted, where necessary, to deviate from using Resource Areas as the planning base. Preplanning activities in connection with Fiscal Years 1983, 1984, and 1985 new starts will take place in the year preceding each new start. This activity may involve review of existing inventories, baseline data gathering, and, in some instances, public meetings.

BUREAU OF LAND MANAGEMENT PLAN STATUS AND PROJECTED NEW STARTS

State and district	Resource Area	Plan name (major resource issues)	Fiscal year 1982	Fiscal year 1983	Fiscal year 1984	Fiscal year 1985
ALASKA						
Anchorage	McGrath	Southwest MFP (oil and gas, minerals, wildlife, lands)	MFP 3			
	Peninsula	Bristol Bay Coop. plan (easement ID and mgmt., resource allocation, lands, exchanges).	Issue identification, planning criteria.			
Fairbanks	Artic-Kobuk	Northwest MFP (oil and gas, wildlife, rangeland)	MFP 3			
	Yukon	Steese RMP (recreation, minerals, wildlife)	Issue identification, planning criteria, MSA.			
Fairbanks	Yukon	White Mountain RMP (recreation, wildlife)	Issue identification, planning criteria, MSA.			
	Yukon	Central Yukon RMP (oil and gas, lands)			New start	
ARIZONA						
Phoenix	Lower Gila	Lower Gila South RMP (rangeland, wilderness)	MSA, alternative formulation.			
	Phoenix	Middle Gila/Silver Bell MFPA (rangeland, wilderness)		New start		
	Phoenix	Black Canyon MFPA (rangeland, wilderness)			New start	
	Kingman	Cerbat Black MFPA (wilderness)		New start		
	Kingman	Hualapai-Aquarius MFP (rangeland)	MFP 3			
	Lower Gila and Kingman	Lower Gila North and Hualapai Aquarius MFP (wilderness)	DEIS			
Arizona Strip	Shivwits	Grand Wash MFP (wilderness)	MFP 3			
Arizona Strip	Vermillion	Vermillion MFPA (wilderness)	Issue identification, planning criteria.			
Safford	San Simon	Black Hills/San Simon MFPA (wilderness)	Issue identification, planning criteria.			
	San Simon	Winkel/Geronimo MFPA (wilderness)		New start		
Yuma	Yuma	Yuma MFPA (wilderness)			New start	
	Hassayampa	Hassayampa RMP (rangeland, wilderness, recreation)	Issue identification, planning criteria, MSA.			
CALIFORNIA						
Bakersfield	Bishop	Benton/Owens Valley MFP (rangeland, recreation)	MFP 3			
	Bishop	Benton/Owens Valley MFPA		New start		
	Bishop	Bodie/Coleville MFP (rangeland, recreation)	DEIS, FEIS			
Bakersfield	Bishop	Bodie/Coleville MFPA (wilderness)		New start		
	Folsom	Sierra MFP (rangeland, forestry, recreation	DEIS, FEIS			
	Folsom	Sierra MFPA (wilderness)	FEIS			
	Caliente	Southern Sierra Foothills MFP (rangeland, recreation)	MSA, alternative formulation.			
	Caliente	Coast/Valley RMP (rangeland, recreation, oil and gas)	Issue identification, planning criteria.			
	Caliente	Coast/Valley MFPA (wilderness)	FEIS			
	Hollister	Coast RMP (rangeland, recreation)	Issue identification, planning criteria.			
	Hollister	Coast MFPA (wilderness)	FEIS			
Susanville	Eagle Lake	Cal-Neva MFP (rangeland)	MFP 3			
Susanville	Eagle Lake	Cal-Neva MFPA (wilderness)		New start		
	Eagle Lake	Willow Creek MFP (rangeland)	DEIS, FEIS			
	Eagle Lake	Honey Lake/Bedkowurth MFPA (rangeland, geothermal)	Issue identification planning criteria.			
	Alturas	Alturas RMP (rangeland, wilderness)	MSA alternative formulation.			
Redding	Four Rivers	Four Rivers MFPA (rangeland, forestry, recreation, wilderness).	MSA, alternative formulation.			
	Four Rivers	Mountain Dome MFP (rangeland)	MFP			
	Siskiyou	Siskiyou MFPA (rangeland, forestry, recreation, wilderness)	MSA alternative formulation.			
	Ishi	Ishi MFPA (rangeland, forestry, recreation, wilderness)	MSA, alternative formulation.			
Ukiah	Clear Lake	Clear Lake MFP (wilderness, rangeland, geothermal)	MSA, alternative formulation.			

BUREAU OF LAND MANAGEMENT PLAN STATUS AND PROJECTED NEW STARTS—Continued

State and district	Resource Area	Plan name (major resource issues)	Fiscal year 1982	Fiscal year 1983	Fiscal year 1984	Fiscal year 1985
Desert	Needles, Indio, Barstow, El Centro, Ridgecrest.	California Desert conservation area plan	Plan amendment			
El Centro		West San Diego County (wilderness)	FEIS			
COLORADO						
Craig	Kremmling	Kremmling RMP (rangeland, coal, wilderness)	MSA, alternative formulation.			
	Little Snake	Little Snake RMP (rangeland, coal, wilderness)			New start	
	Little Snake	Great Divide and Vermillion MFPA (wilderness)	DEIS, FEIS			
	Little Snake	Williams Fork MFPA (coal)	MSA, alternative formulation selection of preferred alternative.			
	White River	White River MFPA (oil shale)	Inventory			
	White River	White River MFPA (coal)	EA			
	White River	White River MFPA (wilderness)	DEIS, FEIS			
Montrose	San Juan and part of Uncompahgre	San Juan-San Miguel RMP (cultural, energy, coal, rangeland, wilderness).				
	Uncompahgre	Uncompahgre Basin RMP (coal, wilderness)				New start.
	Gunnison basin	Gunnison Basin and American Flats—Silverjone Wilderness MFPA (wilderness).	DEIS, FEIS			
Cannon City	Northeast and Royal Gorge	Northeast RMP (coal, oil and gas, lands)	MSA			
	Royal Gorge and San Luis Valley	Royal Gorge MFPA, San Luis Valley MFPA, and Saguache MFPA (wilderness).	Alternative formulation, DEIS.			
Grand Junction	Glenwood Springs	Glenwood Springs RMP (multiple resources)	DEIS			
	Grand Junction	Grand Junction RMP (multiple resources)			New start	
IDAHO						
Boise	Brunsau	Brunsau MFP (rangeland)	FEIS			
	Brunsau	Kuna MFP (rangeland)	FEIS			
	Cascade	Cascade RMP (rangeland)				New start.
	Jarbridge	Jarbridge RMP (rangeland)	Inventory			
Burley	Magic	Twin Falls MFP (rangeland)	FEIS, MFP 3			
	Magic and Raft River	Cassia RMP (rangeland)	Inventory, MSA			
Idaho Falls	Big Butte	Big Desert MFP (rangeland)	MFP 3			
	Big Butte	Big Lost MFP (rangeland)	MFP 1 and 2			
	Medicine Lodge	Medicine Lodge RMP (rangeland)	Inventory			
	Soda Springs	Caribou RMP (rangeland)				New start.
Salmon	Pashimerol	Ellis-Pashimerol (rangeland)	FEIS MFP 3			
	Lemhi	Lemhi RMP (rangeland)			New start	
	Challis and Mackay	Mackay MFP (rangeland)				
Shoshone	Monument	Sun Valley MFP (rangeland)	MFP 3			
	Monument	Monument RMP (rangeland)	Inventory			
Coeur d'Alene	Emerald Empire	Emerald Empire MFP (timber, rangeland)	MFP 3			
Coeur d'Alene	Cottonwood	Cottonwood MFP (rangeland)	MFP 3			
MONTANA						
Miles City	Big Dry	Jordan-North Rosebud MFP (coal, rangeland)	DEIS			
	Big Dry	New Prairie MFP (coal, rangeland)	DEIS			
	Big Dry	Big Dry RMP (coal, rangeland)				New start.
	Powder River	Powder River RMP (coal, rangeland)	MSA			
	South Dakota	South Dakota RMP (rangeland, lands)	Issue identification.			
Dickinson	East and West River	Southwest RMP (coal)	URA			
	East and West River	William-McKenzie MFP (coal)	URA			
	East and West River	West Central MFPA (coal)			New Start	
Lewiston	Billings	Billings RMP (coal, rangeland, wild horses)	MSA			
	Valley	Valley RMP (coal, rangeland	Pre-planning			
Lewiston	Havre	Havre RMP (rangeland)				New start.
Butte	Headwaters	Headwaters RMP (coal, rangeland)	MSA, Alternative formulation.			
	Garnet	Garnet RMP (timber, rangeland)	Planning criteria			
NEVADA						
Winnemucca	Paradise-Denio	Paradise-Denio MFP (rangeland)	MFP 3			
	Sonoma-Gerlach	Sonoma-Gerlach MFP (rangeland)	MFP 3			
Las Vegas	Esmeralda/Stateline	Esmeralda RMP (rangeland)			New start	
	Esmeralda/Stateline	Clark MFP (rangeland)	DEIS, FEIS			
Ely	Schell	Schell RMP (rangeland)	DEIS, FEIS			
	Egan	Egan RMP (rangeland)(	Issue identification, planning criteria.			
Battle Mountain	Shoshone-Eureka	Shoshone-Eureka RMP (rangeland)	MSA, alternative formulation.			
Battle Mountain	Tonopah	Tonopah MFPA (wilderness)	DEIS, FEIS			
Carson City	Lahontan	Lahontan RMP (rangeland)	Issue identification, planning criteria.			
	Lahontan/Walker	Reno MFP (rangeland)	DEIS, FEIS			
	Walker	Walker RMP (wilderness, lands)			New start	
Elko	Wells	Wells RMP (rangeland)	MSA, alternative formulation.			
	Elko	Elko RMP (rangeland)			New start	
New MEXICO						
Las Cruces	Las Cruces/Lordsburg	Las Cruces/Lordsburg MFPA (rangeland, wilderness, energy).	Planning criteria, MSA.			
	White Sands	White Sands MFPA (wilderness)	Planning criteria, MSA.			
	White Sands	White Sands MFPA (rangeland)			New start	

BUREAU OF LAND MANAGEMENT PLAN STATUS AND PROJECTED NEW STARTS—Continued

State and district	Resource Area	Plan name (major resource issues)	Fiscal year 1982	Fiscal year 1983	Fiscal year 1984	Fiscal year 1985
Albuquerque	Rio Puerco	Rio Puerco MFPA (wilderness)	Planning criteria, MSA.			
Albuquerque	Taos	Taos MFPA (wilderness)	Planning criteria, MSA.			
	Farmington	Farmington MFPA (rangeland)				New start.
Socorro	Jornado	Jornado MFPA (wilderness)	Planning criteria, MSA.			
	Jornado	Jornada MFPA (rangeland)			New start	
	San Augustine	Divide MFP (coal, rangeland, recreation, wilderness)	DEIS, FEIS			
Roswell	Roswell	Roswell MFPA (wilderness)	Planning criteria, MSA.			
	Roswell	Roswell MFPA (rangeland)	Planning criteria.			
	Carlsbad	Carlsbad MFPA (rangeland)				New start.
	Carlsbad	Carlsbad MFPA (wilderness)	Planning criteria, MSA.			
OREGON						
Lakeview	High Desert	High Desert MFPA (wilderness)	MFP 2			
	Warner Lakes	Warner Lakes MFPA (wilderness)	MFP 2			
Burns	Andrews	Andrews MFPA (rangeland, wilderness)	DEIS			
	Riley	Riley MFPA (rangeland)	DEIS			
	Riley	Drewsey MFPA (wilderness)	MFP 2			
	John Day	John Day MFPA (rangeland, wilderness, ACECs)	MFP 2			
Vale	Southern Malheur	Southern Malheur MFP (rangeland, wilderness)	MFP 2			
	Northern Malheur	Northern Malheur MFPA (rangeland, wilderness)	MFP 3			
Prineville	Deschutes/central Oregon	Brothers MFP (rangeland, wilderness)	MFP 3			
	Deschutes/central Oregon	Two Rivers MFP (rangeland)	Inventory			
	Deschutes/central Oregon	John Day River MFPA (wilderness)	MFP 2			
Baker	Grande Ronde	Grande Ronde RMP (rangeland)			New start	
	Baker	Baker MFPA (wilderness)	MFP 3			
Spokane	Border	Upper Columbia/San Juan MFPA (wilderness)	MFP 3			
Salem	Alsea, Yamhill and Tillamook	Westside MFP (timber)	FEIS			
	Clackamas and Santiam	Eastside MFP (timber)	FEIS			
Eugene	Noti, Lorane, Dorene and Mohawk	Eugene MFP (timber)	DEIS			
Roseburg	Drain, Dillard North Umpqua, South Umpqua.	Roseburg MFP (timber)	DEIS			
Medford	Butte Falls, Klamath, Grants Pass, Rogue River, Galice, Glendale.	Jackson-Klamath/Josephine MFPA (rangeland, wilderness, ACECs).	MFP 2			
Coos Bay	Myrtlewood	South Coast MFPA (wilderness)	MFP 3			
UTAH						
Vernal	Diamond Mountain	Ashley Creek/Duchesne MFP (rangeland, oil shale)	DEIS, FEIS			
Vernal	Book Cliffs	Book Cliffs RMP (rangeland, oil shale, tar sand, wilderness).	Inventory			
	Diamond Mountain	Diamond Mountain RMP (rangeland, oil and gas, oil shale, recreation, tar sand).				New start.
Moab	Price River	Price River MFP (grazing, tar sand, coal)	DEIS			
	Grand	Grand RMP (rangeland, wilderness, coal)	MSA, alternative formulation.			
	San Juan	San Juan RMP (wilderness, rangeland)	Issue identification, planning criteria.			
	San Rafael	San Rafael RMP (rangeland, coal, oil and gas, recreation, wilderness, uranium).				New start.
Cedar City	Beaver River	Pinyon MFP (rangeland)	DEIS, FEIS			
	Beaver River/Kanab	Cedar, Beaver RMP (rangeland, coal)	Inventory			
Cedar City	Dixie	Dixie RMP (rangeland, oil and gas, recreation, wilderness, uranium).				New start.
Richfield	House Range	House Range MFP (rangeland, wilderness)	Inventory			
	Henry Mountain	Henry Mountain MFP (rangeland, coal, wilderness)	DEIS, FEIS			
	Warm Springs	Warm Springs RMP (rangeland, wilderness)			New start	
Salt Lake	Beer River	Box Elder RMP (rangeland)	Inventory			
	Pony Express/Bear River	Wasatch RMP (rangeland)			New start	
	Pony Express	Tooele MFP (rangeland, wilderness)	MFP 2			
WYOMING						
Worland	Washakie	Washakie RMP (rangeland, coal, oil and gas)			New start	
	Cody	Cody RMP (rangeland, oil and gas, wilderness, coal)				New start.
	Cody	Cody MFPA (wilderness, ORV)				New start.
Rawlins	Divide	Divide, Basin MFP (rangeland, coal, wilderness, oil and gas, uranium).	MFP 2			
	Divide	Divide RMP (rangeland, coal, oil and gas, uranium)				New start.
	Overland	Overland MFP (rangeland, coal, oil and gas, wilderness, uranium).	MFP 3			
	Medicine Bow	Medicine Bow RMP (rangeland, coal, oil and gas, uranium)			New start	
	Lander	Lander RMP (rangeland, coal, oil and gas, wilderness, uranium).	Planning criteria			
Rock Springs	Salt Wells	Salt Wells RMP (rangeland, coal, oil and gas, wild horses)				New start.
	Kemmerer	Kemmerer RMP (rangeland)	Issue identification.			
	Pinedale	Pinedale RMP (rangeland, coal, oil and gas, oil shale, wilderness).			New start	
Casper	Buffalo	Buffalo MFPA (coal)	MFP 3			
	Buffalo	Buffalo RMP (rangeland, coal, oil and gas, uranium)	Issue identification, planning criteria, MSA.			
	Platte River	Platte River RMP (rangeland, coal, oil and gas, wilderness, uranium).	MSA			
	Newcastle	Newcastle RMP (rangeland, coal, oil and gas, uranium)			New start	
	Newcastle	Nebraska RMP (oil and gas)				New start.

BUREAU OF LAND MANAGEMENT PLAN STATUS AND PROJECTED NEW STARTS—Continued

State and district	Resource Area	Plan name (major resource issues)	Fiscal year 1982	Fiscal year 1983	Fiscal year 1984	Fiscal year 1985
	Newcastle	Kansas RMP (oil and gas)				New start.
EASTERN STATES						
Tuscaloosa	Alabama (3 county area)	Alabama land use analysis update (coal)	Issue identification, planning criteria.			
	Pine Island Sound/Sanibel	Pine Island Sound/Sanibel area plan (lands disposal)	DEA, FEA			
	Alabama (statewide)	Alabama plan (coal, lands disposal)	DEA, FEA			
	Florida (statewide)	Florida plan (phosphates/lands disposal)			New start	
Duluth field office	Wisconsin (statewide)	Wisconsin plan (lands disposal)	DEA, FEA			
	Michigan (statewide)	Michigan plan (minerals, lands disposal)		New start		
	Minnesota	Minnesota RMP (lands disposal)	Plan completion			
Mississippi Valley	Louisiana (statewide)	Louisiana plan (oil, gas, minerals, lands disposal)		New start		
	Mississippi (statewide)	Mississippi plan (lignite, lands, disposal)		New start		
Eastern States	Kentucky (statewide)	Kentucky plan (coal, lands)		New start		
	Missouri (statewide)	Missouri plan (coal, disposal)			New start	
	Illinois	Illinois plan (minerals, lands)			New start	
	Arkansas (statewide)	Arkansas plan (coal/disposal)				New start.
	Pennsylvania	Pennsylvania plan (coal)	Inventory			
	Ohio	Ohio plan (minerals, lands)				New start.
	Virginia	Virginia plan (minerals, lands)				New start.

KEY TO ABBREVIATIONS
RMP—Resource management plan.
MFP—Management framework plan.
MFPA—Management framework plan amendment.
URA—Unit Resource analysis.
MSA—Management situation analysis.
ORV—Off road vehicle.
ACEC—Area of critical environmental concern.
DEIS—Draft environmental impact statement.
FEIS—Final environmental impact statement.
DEA—Draft environmental assessment.
FEA—Final environmental assessment.

Dated: March 5, 1982.

James M. Parker,

Acting Director, Bureau of Land Management.

[FR Doc. 82-6551 Filed 3-12-82; 8:45 am]

BILLING CODE 4310-84-M

COMMISSION ON CIVIL RIGHTS

North Dakota Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the North Dakota Advisory Committee to the Commission will convene at 2:00 p.m., and will end at 5:00 p.m., on April 3, 1982, at the Towne House, 301 Third Street, in the Windsor Room, Fargo, North Dakota. The purpose of this meeting will be to review and approve the housing study report and plan when to release it.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Robert A. Feder, Post Office Box 1637, Fargo, North Dakota, 58107, (701) 235–5515 or the Rocky Mountain Regional Office, Brook Towers, 1020 Fifteenth Street, Suite 2235, Denver, Colorado, 80202, (303) 837–2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 9, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-6809 Filed 3-12-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Minority Business Development Agency

New York Region; Application Solicitation; Correction

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: This is in reference to document published March 8, 1982, 47 FR 9875.

Please make the following correction:

"One cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning October 1, 1982 in the *Hartford, Connecticut SMSA"* should be corrected to read as follows:

"One cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning October 1, 1982 in the *State of Connecticut.* The cost of the project is estimated to be $170,000. The maximum federal participation amount is $153,000. The minimum amount required for non-federal participation is $17,000. The project number is 01–10–82011–01."

CLOSING DATE: April 16, 1982.

ADDRESS: New York Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 26 Federal Plaza, Room 36–116, New York, New York 10278.

Dated: March 8, 1982.

Ralph J. Perez,

Regional Director.

[FR Doc. 82-6884 Filed 3-12-82; 8:45 am]

BILLING CODE 3510-21-M

National Telecommunications and Information Administration

Public Telecommunications Facilities Program; Closing Date for Applications

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Public Telecommunications Facilities Program; notice of closing date for applications.

SUMMARY: The National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce, announces that applications for planning and construction grants for public telecommunications facilities are invited under the Public Telecommunications Facilities Program (PTFP) of NTIA. At the present time, NTIA expects that the total amount of funds available for grants under the PTFP will be $16,000,000. Applicants for grants under the PTFP must file their applications on or before May 7, 1982. NTIA anticipates making grant awards in early September 1982.

(Public Telecommunications Financing Act of 1978, 47 U.S.C. 390, *et seq.* (Act), as amended by the Public Broadcasting Amendments of 1981, Pub. L. 97–35 (1981 Amendments))

FURTHER INFORMATION: Persons desiring further information should contact Stuart W. Hallock, Acting Program Director, PTFP/NTIA/DOC, Room 4076, Washington, DC 20230. Telephone (202) 377–5802.

SUPPLEMENTARY INFORMATION:

I. Program Goals

The goals of this program, as stated in section 390 of the Act, are:

(T)o assist, through matching grants, in the planning and construction of public telecommunications facilities in order to achieve the following objectives: (1) extend delivery of public telecommunications services to as many citizens of the United States as possible by the most efficient and economical means, including the use of broadcast and nonbroadcast technologies; (2) increase public telecommunications services and facilities available to, operated by, and owned by minorities and women; and (3) strengthen the capability of existing public television and radio stations to provide public telecommunications services to the public.

To accomplish these goals NTIA has adopted a list of priorities, which is being published as Appendix A to NTIA's Interim Rules and Policy Statement. This list is effective on an interim basis only and is subject to change prior to the final award of grants. (Applicants should, therefore, develop their applications independent of the priorities expressed in this list. Applications should be based on the applicants' need for facilities and not NTIA's priorities for awarding grants.)

II. Closing Date

Pursuant to § 2301.10 of the Interim Rules for the RTFP, the Administrator of NTIA hereby establishes the closing date for the filing of applications for grants under the PTFP. The date selected as the closing date for the submission of applications is May 7, 1982.

III. Eligibility

To be eligible to apply for or receive a grant under the PTFP, an applicant must be: (A) A public broadcast station; (B) a noncommercial telecommunications entity; (C) a system of public telecommunications entities; (D) a nonprofit foundation, corporation, institution, or association organized primarily for educational or cultural purposes; or (E) a State or local government, or a political or special purpose subdivision of a State.

IV. Application Forms and Regulations

To apply for a PTFP grant, an applicant must file a *timely* and *complete* application on a current form approved by the Agency. NTIA has made minor revisions to the application form used in the last three fiscal years, and applicants for funding consideration in fiscal year 1982 *must* use this revised form.[1] All persons and organizations on PTFP's mailing list will receive a copy of the current application form and Interim Rules and Policy Statement as soon as they are available. Those not on the mailing list or lacking any of the current PTFP materials may obtain copies by contacting the PTFP at the address above.

NTIA's Interim Rules and Policy Statement, which will govern the 1982 grant competition, are being published simultaneously with this Notice. Prospective applicants are advised to read the Interim Rules and Policy Statement carefully before submitting their applications. Applicants, whose applications for funding in fiscal year 1981 had been deferred, will receive pertinent PTFP materials and instructions for requesting reactivation of their application.

Applicants are also advised that they must comply with the provisions of OMB Circular A–95. This circular requires that any applicant for Federal financial assistance must file a Notification of Intent (NOI) to file such application, or file a complete application with the appropriate State and areawide clearinghouses. NTIA's Interim Regulations require applicants to serve a copy of their completed applications on the appropriate clearinghouse(s) on or before May 7, 1982. Applicants are encouraged to contact the appropriate clearinghouse(s) as early as possible before the NTIA closing date.

V. Filing Applications

Applicants may deliver applications either by mail or by hand. Applications delivered by mail must be postmarked no later than midnight, May 7, 1982, and must be addressed to: Public Telecommunications Facilities Program, NTIA/DOC, Room 4078, 14th Street and Constitution Avenue, NW., Washington, DC 20230. As a proof of mailing, NTIA will accept a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of the mailing stamped by the U.S. Postal Service. (Applicants should note that not all U.S. Postal Service offices uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method. Applicants are encouraged to use registered or at least first class mail.) Applications delivered by hand must be delivered to the above address between 8:00 a.m. and 4:30 p.m. (Eastern Time) daily, except Saturdays, Sundays and Federal holidays, through May 7, 1982. Appliants whose applications are postmarked after midnight, May 7, 1982, or are delivered by hand after 4:30 p.m., May 7, 1982, will be notified that their applications will not be considered in the current competition and will be returned.

NTIA requires that all applicants, whose proposed projects need authorization from the Federal Communications Commission (FCC), must tender an application to the FCC for such authority on or before May 7, 1982. (An application is tendered to the FCC when it has been received by the Secretary of the FCC.) NTIA will return the applications of any applicant which fails to tender an application to the FCC for any necessary authority on or before May 7, 1982.

(Catalog of Federal Domestic Assistance No. 11.550)

Dated: March 8, 1982.

Bernard J. Wunder, Jr.,

Administrator.

[FR Doc. 82-6912 Filed 3-13-82; 8:45 am]

BILLING CODE 3510-60-M

[1] The Office of Management and Budget (OMB) has approved the information collection and reporting requirements contained in NTIA's application as required under the Paperwork Reduction Act of 1980. (OMB Approval No. 0660–0003.)

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee On Women In The Services (DACOWITS) Meeting

Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of the Defense Advisory Committee on

Women in the Services (DACOWITS) will be held April 25–29, 1982 at the Hotel del Coronado, Coronado, California.

The purpose of the DACOWITS Committee is to assist and advise the Secretary of Defense on matters relating to women in the Services. The Committee meets semiannually.

Sessions will be conducted daily as indicated and will be open to the public. The agenda will include the following meeting and discussions:

Sunday, April 25, 1982—Hotel del Coronado

12 noon–9 p.m.—Registration
3 p.m.—Executive Committee Meeting
4–5 p.m.—Briefing for all DACOWITS Members, Former Members, and Military Representatives
5–6 p.m.—Subcommittee Meetings
7–8:30 p.m.—"No-Host" Cocktail Buffet

Monday, April 26, 1982—Hotel del Coronado

8 a.m.–12 noon—Registration
9–9:45 a.m.—Official Opening
10 a.m.–12:30 p.m.—OSD/Service Briefings
12:30–2 p.m.—Official Department of Defense Luncheon (By invitation only)
2–3 p.m.—OSD/Service Briefings
3–5:30 p.m.—Subcommittee Meetings
7–10:30 p.m.—Official Department of Defense Reception and Dinner (By invitation only)

Tuesday, April 27, 1982—Hotel del Coronado/San Diego

8–11 a.m.—OSD/Service Briefings
11:30 a.m.–1 p.m.—"No Host" Luncheon
1–6:30 p.m.—Field Trip to Naval Air Station, Miramar

Wednesday, April 28, 1982—San Diego/Hotel del Coronado

8 a.m.–1:30 p.m.—Field Trip to Naval Station, San Diego
2–5:30 p.m.—Subcommittee Meetings

Thursday, April 29, 1982—Hotel del Coronado

8–9:45 a.m.—General Business Session —Adjourn

Members of the public will not be permitted to go on the field trips or attend the social functions.

The following rules and regulations will govern the participation by members of the public at the meeting:

(1) All business sessions, to include the Executive Committee sessions, will be open to the public.
(2) Interested persons may submit a written statement and/or make an oral presentation for consideration by the Committee during the meeting.
(3) Persons desiring to make an oral presentation or submit a written statement to the Committee must notify Captain Mary J. Mayer, USAF, DACOWITS Executive Secretary, OASD (Manpower, Reserve Affairs and Logistics), Room 3D769, the Pentagon, Washington, D.C. 20301, (202) 697–5655 by 15 April 1982.
(4) Length and number of oral presentations to be made will depend on the number of requests received from the members of the public.
(5) Oral presentations by members of the public will be permitted only from 8:00 a.m. to 8:30 a.m. on Thursday, 29 April 1982, before the full Committee.
(6) Each person desiring to make an oral presentation or submit a written statement must provide the DACOWITS Secretariat with 55 copies of the presentation/statement by 15 April 1982.
(7) Persons submitting a written statement only for inclusion in the minutes of the meeting must submit one (1) copy either before or during the meeting or within five (5) days after the close of the meeting.
(8) Members of the public will not be permitted to enter into oral discussion conducted by the Committee members at any of the sessions; however, they will be permitted to reply to questions directed to them by the members of the Committee.
(9) Members of the public will be permitted to orally question the scheduled speakers if time allows after the official participants have asked questions and/or made comments.
(10) Questions from the public will not be accepted during the subcommittee sessions, the Executive Committee sessions, or the Business Session on Thursday, 29 April 1982.

Additional information regarding the Committee and/or this meeting may be obtained by contacting the DACOWITS Executive Secretary, OASD (MRA&L), the Pentagon, Room 3D769, Washington, D.C. 20301.

M. S. Healy,
OSD Federal Register Liaison Officer, Department of Defense.

March 10, 1982.

[FR Doc. 82-6801 Filed 3-12-82; 8:45 am]
BILLING CODE 3810-01-M

Corps of Engineers, Department of the Army

Chief of Engineers Enviromental Advisory Board Meeting

AGENCY: Corps of Engineers, Army Department, DOD.

ACTION: Notice of open meeting.

SUMMARY: Under Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), this notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Chief of Engineers Environmental Advisory Board (EAB) meeting. The meeting is to be jointly chaired by Dean Gerald J. McLindon, Chairman, EAB, and Lieutenant General J. K. Bratton, Chief of Engineers, U.S. Army. The meeting is open to the public.

DATE: The meeting will be held from 8:30 a.m. Monday, April 5, 1982 to 10:15 a.m. Wednesday, April 7, 1982. Place: The meeting will be held at the Office of the Chief of Engineers, Pulaski Building, Room 8222C, 20 Massachusetts Avenue, NW., Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Thomas H. Magness, III, Assistant Director of Civil Works for Environmental Programs, Office of the Chief of Engineers, Washington, D.C. 20314, (202) 272–0103.

SUPPLEMENTARY INFORMATION: The schedule and proposed agenda of the Environmental Advisory Board meeting is:

April 5,—Monday A.M. Session

8:30—Meeting convened—opening remarks
9:05—Changing times—an update on Innovative Financing and Cost Sharing, Principles and Standards, and Regulatory Programs
10:05—Discussion

P.M. Session

1:15—Military Environmental Programs
2:15—Discussion
3:30—Reservoir Water Quality
4:00—Discussion
4:30—Public Comment
5:00—Meeting Recesses

April 6,—Tuesday A.M. Session

8:30—MX Program
9:30—Superfund
10:15—Mobilization
10:30—Division/District Perspectives

P.M. Session

1:30—Old Business
Public Involvement
Natural—Recreation Resources Mitigation
Water Supply and Conservation
Research and Development
Education/Publication
4:15—Comments from the Public

April 7,—Wednesday A.M. Session

8:00—Report to Chief of Engineers
9:45—Comments from the Public
10:15—Meeting Adjourned

Seating in the meeting room is limited to approximately 20 persons. Written statements to be made part of the minutes may be submitted prior or up to 10 days following the meeting.

John O. Roach,
Army Liaison Officer for the Federal Register.

[FR Doc. 82-7100 Filed 3-12-82; 10:08 am]
BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs; Deadline for Submitting Appeals and Average Program Expenditure

AGENCY: Education Department.

ACTION: Notice of Deadline for Submitting Appeals for Funds and Notice of Average Program Expenditure by Type of Institution.

The Secretary gives notice to institutions of higher education of the deadline date for filing an appeal for filing an appeal for additional funds under the National Direct Student Loan (NDSL), College Work-Study (CWS), and Supplemental Educational Opportunity Grant (SEOG) programs. Under these programs, the Secretary allocates funds to institutions for students who need financial aid to meet the cost of postsecondary education. Procedures for calculating an institution's award and for appealing an award were proposed and published in the **Federal Register** on January 7, 1982 (47 FR 908–914).

The Secretary also announces the average 1980–81 expenditure of funds per enrolled student for NDSL, CWS, and SEOG programs by type of institution. These average expenditures are used in calculating the NDSL, CWS, or SEOG award of an institution that is participating in that program for the first or second time.

The NDSL, CWS, and SEOG programs are authorized by Parts E, C, and Subpart A–2, respectively, of title IV of the Higher Education Act of 1965.

(20 U.S.C 1087aa–1087ii, 42 U.S.C 2751–2756b; and 20 U.S.C. 1070b–1070–3)

Deadline Date for Submitting an Appeal

The deadline date for submitting an appeal by an institution of higher education of its tentative NDSL, CWS, or SEOG award is April 16, 1982. However, since the appeal procedures are based on a proposed rule, the deadline date will be extended if the final rule differs substantially. This extension will enable institutions to appeal, or modify their appeal, on the basis of the revised final rule.

Appeals Delivered By Mail

An appeal sent by mail must be addressed to Appeals, NDSL/CWS/SEOG, Post Office Box 23914, L'Enfant Plaza, Washington, D.C. 20024.

An institution must show proof of mailing its appeal by the deadline date. Proof of mailing consists of one of the following: 1) a legible mail receipt with the date of mailing stamped by the U.S. Postal Service, 2) a legibly dated U.S. Postal Service postmark; or 3) any other proof of mailing acceptable to the Secretary of Education.

If an appeal is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: 1) a private metered postmark, or 2) a mail receipt that is not dated by the U.S. Postal Service. An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office. An institution is encouraged to use certified or at least first-class mail.

Appeals Delivered By Hand

An appeal that is hand-delivered must be taken to the Department of Education, Office of Student Financial Assistance, Division of Program Operations, Campus and State Grant Branch, 7th and D Streets, SW., Room 4621, Regional Office Building 3, Washington, D.C. The Campus and State Grant Branch will accept hand-delivered appeals between 8:00 a.m. and 4:30 p.m. daily (Washington, D.C. time), except Saturdays, Sundays, and Federal holidays.

An appeal that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Average 1980–81 Expenditures of Funds Per Enrolled Student for NDSL, CWS, and SEOG Programs by Type of Institution

Listed below are the types of institutions and that type of institution's average program expenditure per enrolled student. This information is used in calculating the award of an institution that is participating in a program for the first or second time.

Type of institution	NDSL level of expenditure	SEOG	CWS Federal share
Cosmetology	$134	$78	$25
Business schools	196	78	39
Trade and technical	130	61	61
Art schools	106	47	106
Other proprietary	126	43	93
Other nonproprietary	60	17	56

Applicable Regulations

The following proposed regulations were published in the **Federal Register** on January 7, 1982 (47 FR 908–914), and will apply to this process when they are published in final and take effect:

- NDSL in 34 CFR 674.6 and 674.7;
- CWS in 34 CFR 675.6 and 675.7; and
- SEOG in 34 CFR 676.6 and 676.7.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Coates, Chief, Campus and State Grant Branch, Division of Program Operations, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 4621, ROB–3), Washington, D.C. 20202–3446. Telephone (202) 245–2432.

Dated: March 10, 1982.

(Catalog of Federal Domestic Assistance Nos. 84.038, National Direct Student Loan Program; 84.033, College Work-Study Program; and 84.007, Supplemental Educational Opportunity Grant Program)

[FR Doc. 82-7115 Filed 3-12-82; 11:18 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Allied Materials Corp. and Excel Corp.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Allied Materials Corporation and Excel Corporation and provides an opportunity for public comment on the terms and conditions of the proposed Consent Order.

DATE: Comments by: April 14, 1982.

ADDRESS: Send comments to: John W. Sturges, Director, Tulsa Office, Economic Regulatory Administration, U.S. Department of Energy, 440 South Houston, Room 306, Tulsa, Oklahoma 74127.

FOR FURTHER INFORMATION CONTACT: John W. Sturges, Director, Tulsa Office, Economic Regulatory Administration, U.S. Department of Energy, 440 South Houston, Room 306, Tulsa, Oklahoma 74127, (918) 581–7781. Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On January 25, 1982, the ERA executed a proposed Consent Order with Allied Materials Corporation and Excel Corporation of Oklahoma City, Oklahoma. Under 10 CFR 205.199J(b), a proposed Consent Order which involves the sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the Federal Register requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. The Consent Order

Allied Materials Corporation and Excel Corporation, with home offices located in Oklahoma City, Oklahoma, are firms engaged in the refining, reselling, and retailing of petroleum products, and were subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212 during the period covered by this Consent Order. To resolve certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Parts 205, 210, 211, and 212, in connection with Allied's and Excel's transactions involving covered products and the Domestic Crude Oil Entitlements Program during the period September 1, 1973 through January 27, 1981 ("the period covered by this Consent Order"), the ERA and Allied Materials Corporation and Excel Corporation entered into a Consent Order, the significant terms of which are as follows:

A. The DOE has alleged that during the period covered by this Consent Order the consenting firms sold certain covered products at prices in excess of the applicable ceiling or maximum lawful selling prices and that Allied incorrectly filed certain reports required by DOE's regulations for refiners; and that as a refiner Allied was required to participate in the Domestic Crude Oil Entitlements Program, 10 CFR Part 211, Subpart C.

B. The DOE has identified the following firms as having been overcharged or otherwise injured as a result of the alleged violations: St. Louis-San Francisco R.R. (Burlington), Amis Construction Company, Arkhola Sand and Gravel, Arrowhead Asphalt, Inc., C & J Trucks, Inc., Cummings Construction Company, Evergreen Mills, Hodges Trucking Company, J & M Leasing, Leeway Motor Freight, M & W Propane, Missouri Public Service Company, Mistletoe Express, Ralston Purina-Lancaster, Ohio, Ralston Purina-Louisville, Kentucky, Ralston Purina-Madisonville, Texas, Ralston-Purina-Memphis, Tennessee, Ralston Purina-Union City, Georgia, Ralston Purina-Zellwood, Florida, Shawnee Paving Company, Southwestern Bell Telephone, Time D.C., Trojan Transport, Tulia Power and Light, Breeding (Hugh), International Harvester, Quapaw Company, Defense Fuel Supply Agency, St. Clair Lime, and L & M Construction Company.

C. Solely for the purpose of concluding these compliance actions through operation of this Consent Order, and without admitting liability in any way or receding from any position they have taken, Allied and Excel have agreed jointly to enter into this Consent Order.

D. The provisions of 10 CFR 205.199J, including those regarding the publication of this Notice, are applicable to the Consent Order.

II. Refunds

Under this Consent Order, Allied Materials Corporation and Excel Corporation will refund the sum of $561,767.54 to the firms listed in I.B. of this Notice within 30 days of the effective date of the Consent Order; and because of the difficulty in determining the extent to which any possible overcharges may have been passed through the distribution chain by customers which were not ultimate consumers, and the resulting uncertainty as to what amounts, if any might be due to any particular person, refunds with respect to sales to other than ultimate consumers should appropriately be distributed by DOE to achieve restitution. The Consenting Firms will pay the sum of $848,232.46 to DOE for deposit in a suitable account for ultimate disposition by DOE. If payment of the amounts provided for in the Consent Order have not been made within 30 days of the effective date of this Consent Order, the Consenting Firms will pay interest on any such unpaid amounts at the greater of 20.31% per annum, compounded quarterly, or the average prime rate for the then current calendar quarter and for each subsequent calendar quarter. Upon full satisfaction of the terms and conditions of this Consent Order by Allied and Excel, the DOE releases Allied and Excel from any civil claims that the DOE may have arising out of the specified transactions during the period covered by this Consent Order.

III. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation, "Comments on the Allied Materials Corporation and Excel Corporation Consent Order." The ERA will consider all comments it receives by 4:30 p.m., local time, April 14, 1982. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures in 10 CFR 205.9(f).

Issued in Tulsa, Oklahoma on the 12th day of February, 1982.

John W. Sturges,

Director, Tulsa Office, Economic Regulatory Administration.

[FR Doc. 82-6660 Filed 3-12-82; 8:45 am]
BILLING CODE 6450-01-M

Whitaker Oil Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Whitaker Oil Company, 1557 Marietta Road, P.O. Box 93487, Atlanta, Georgia 30318. This Proposed Remedial Order charges Whitaker Oil Company with pricing violations in the amount of $924,440.56, connected with sales, transfers or exchanges of motor gasoline and other refined petroleum products during the period November 1, 1973 through March 31, 1974.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Mr. William R. Gibson, Deputy Director, Atlanta Office, Economic Regulatory Administration, 1655 Peachtree Street, NW, Atlanta, Georgia 30367, Telephone (404) 881-2861. On or before March 30, 1982, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th & Penn. Ave. NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Atlanta, Ga., on the 29th day of February 1982.

William R. Gibson,

Deputy Director, Atlanta Office, Economic Regulatory Administration.

Concurrence:

Susan P. Tate,

Deputy Regional Counsel.

[FR Doc. 82-6665 Filed 3-12-82; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER81-179-000]

Arizona Public Service Co.; Refund Report

March 9, 1982.

The filing company submits the following:

Take notice that on March 1, 1982, Arizona Public Service Company filed a refund report pursuant to the Commission's letter dated January 19, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 26, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6661 Filed 3-12-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. GP82-5-000]

Arkansas Louisiana Gas Co.; Petition for Declaratory Order

March 11,1982.

On November 10, 1981, Arkansas Louisiana Gas Company, P.O. Box 21734, Shreveport, Louisiana 71151 (Petitioner) filed a petition pursuant to § 1.7(c) of the Federal Energy Regulatory Commission's rules of practice and procedure (Commission rules). Petitioner requests an order of the Commission declaring that a February 5, 1979, gas purchase contract between Key Production Company, Inc., *et al.* and Petitioner, which is attached to its petition as Exhibit "A", does not contain a "negotiated price" as required by applicable Commission regulations under section 107 of the Natural Gas Policy Act of 1978 (NGPA) respecting new tight formation gas which were issued August 15, 1980, in Order No. 99, Docket No. RM79-76 and clarified in Order No. 99-A (October 21, 1980). Petitioner also requests that the Commission declare that Petitioner is not required to execute an amendment to this contract in order to add a "negotiated contract price" to the contract.

Any person desiring to be heard or to protest this request should, on or before April 14, 1982, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered but will not make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6667 Filed 3-12-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. EL82-6-000]

Borough of Central City, Pa.; Filing

March 10, 1982.

In the matter of Borough of Central City, Pennsylvania as holder of Preliminary Permit Issued by Order September 25, 1961; Borough of Central City, Pennsylvania, *et al.*, Project Nos. 3752, 3973, and 4865.

Take notice that on February 23, 1982, Allegheny County, Pennsylvania (complainant) filed a complaint pursuant to § 1.6 of the Commission's Rules of Practice and Procedure (18 CFR 1.6) against the Borough of Central City, Pennsylvania (Central City). The complainant requests that the Commission initiate an investigation, set matters alleged for a formal hearing, and cancel the Preliminary Permit issued to Central City for good cause under authority of section 5 of the Act if such allegations are ultimately established as true; and to issue such further orders deemed necessary and appropriate under the circumstances.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before April 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6651 Filed 3-12-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER76-819-000]

Central Illinois Light Co.; Refund

March 11, 1982.

The filing Company submits the following:

Take notice that on March 3, 1982, Central Illinois Light Company filed a refund report pursuant to the Commission's letter order issued February 1, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 26, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6666 Filed 3-12-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. ER81-168-000 and ER82-155-000]

Central Maine Power Co.; Refund

March 10, 1982.

The filing company submits the following:

Take notice that on March 5, 1982, Central Maine Power Company filed a refund report pursuant to the Commission's order dated February 12, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 29, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filng are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6886 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-369-000]

Central Telephone & Utilities Corp.; Filing

March 10, 1982.

The filing Company submits the following:

Take notice that on March 4, 1982, Central Telephone & Utilities Corporation (Central Telephone) tendered for filing an addendum to its Rate Schedule FPC No. 82, with Sumner-Cowley Electric Cooperative, Inc., providing for changes in the contract demand at two points of delivery.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6867 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-65-000]

Chevron USA, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

March 10, 1982.

On January 25, 1982, Chevron USA, Inc., P.O. Box 8200, Concord, California 94524 filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located near Taft, California. The primary energy source will be natural gas. The facility will consist of four cogeneration units, each capable of producing 2500 kilowatts and 54,000 lbs./hr. of saturated steam. Installation of the facility was scheduled to have begun February 1, 1982. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before April 14, 1982, and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6863 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-66-000]

Chevron, USA, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

March 10, 1982.

On January 25, 1982, Chevron USA, Inc., P.O. Box 8200, Concord, California 94524 filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located near McKittrick, California. The primary energy source will be natural gas. The facility will consist of three cogeneration units, each capable of producing 2500 kilowatts and 54,000 lbs./hr. of saturated steam. Installation of the facility is scheduled to begin April 1, 1982. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before April 14, 1982, and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6853 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-67-000]

Chevron, USA, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

March 10, 1982.

On January 25, 1982, Chevron USA, Inc., P.O. Box 8200, Concord, California 94524 filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located near McKittrick, California. The primary energy source will be natural gas. The facility will consist of one cogeneration unit capable of producing 2500 kilowatts and 54,000 lbs./hr. of saturated steam. Installation of the facility was scheduled to have begun February 1, 1982. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before April 14, 1982, and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6854 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP81-78-000]

Cities Service Gas Co.; Change in Date for Informal Settlement Conference

March 9, 1982.

Take notice that the informal settlement conference in the above-captioned docket originally scheduled for March 16, 1982, has been rescheduled for March 30, 1982, at 10:00 a.m. The meeting place for the conference will be at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene in this matter by order of the Commission, attendance will not be deemed to authorize intervention as a party in these proceedings.

All parties will be expected to come fully prepared to discuss the merits of the issues arising in these proceedings and to make commitments with respect to such issues and to any offers of settlement or stipulation discussed at the conference.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6852 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3190-001]

City of Santa Clara, Calif.; Application for License (Over 5 MW)

March 11, 1982.

Take notice that the City of Santa Clara, California (Applicant) filed on September 30, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as the Black Butte Hydroelectric Project No. 3190. The project would be located at the existing Corps of Engineer's Black Butte Dam on Stony Creek in Tehama County, California. Correspondence with the Applicant should be directed to: Mr. Barry R. Flynn, Director of Electric Utility, City of Santa Clara, 1500 Warburton Ave., Santa Clara, California 95050.

Project Description—The proposed project would consist of: (1) An intake structure within the Black Butte Reservoir near the southern abutment of the Balck Butte Dam; (2) a 12.5-foot diameter, 1,000-foot long penstock tunnel through the southern abutment of the dam; (3) a powerhouse containing two generating units with a combined rated capacity of 6,800 kW, located 350 feet downstream of the existing outlet works of the dam; (4) a switchyard adjacent to the north side of the powerhouse; and (5) appurtenant facilities. Applicant estimates the total cost of the project at $16.4 million. Project power would be used in the Applicant's municipal utility system to reduce energy purchases.

Competing applications—Anyone desiring to file a competing application must submit to the commission, on or before May 20, 1982, either the competing application itself, [See 18 CFR 4.33(a) and (d)] or a notice of intent [See 18 CFR 4.33(b) and (c)] to file a competing application. Submission of a timely notice allows an interested party to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et. seq. (1981)).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In dertermining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 20, 1982

Filling and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INVERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C, 20426. An additional copy must be sent to: Fred E. Springer Chief, Applications Branch, Division of Hydropower Licensing; Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb

Secretary.

[FR DOC. 0955 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-363-000]

Commonwealth Edison Co.; Filing

March 10, 1982.

The filing Company submits the following:

Take notice that Commonwealth Edison Company (CE) on March 2, 1982, tendered for filing proposed changes in its FERC Electric Service Tariff No. 16, an Interconnection Agreement, dated March 1, 1975, between CE and Wisconsin Power & Light Company.

CE states that the proposed change, which the parties have agreed to, revises certain maintenance responsibilities indicated in Appendix A to the Interconnection Agreement.

According to CE copies of the proposed rate schedule changes were served upon the Illinois Commerce Commission, Springfield, Illinois, the Public Service Commission of Wisconsin, Madison, Wisconsin and Wisconsin Power & Light Company, Madison, Wisconsin.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 10.10). All such petitions or protests should be filed on or before March 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6866 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-205-002]

Delhi Gas Pipeline Corp.; Amendment

March 10, 1982.

Take notice that on February 11, 1982, Delhi Gas Pipeline Corporation (Applicant), Fidelity Union Tower, Dallas, Texas 75201, filed in Docket No.

CP81-205-002 an amendment to its request filed in the instant docket on November 19, 1981, pursuant to § 284.127 of the Commission's Regulations so as to permit Applicant to transport up to 75,000 Mcf of natural gas per day by March 1, 1982, for United Gas Pipe Line Company (United), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection

Applicant states that on July 16, 1979, it entered into a transportation agreement with United which provided that Applicant would receive natural gas at points of delivery provided in gas purchase agreements between United and certain producers and would transport and deliver such gas at points of redelivery all within the state of Texas.

Applicant indicates that in its application filed in Docket No. CP81-205-000 on November 19, 1981, it requested authorization to transport up to 120,000 Mcf of natural gas per day by March 1981, up to 160,000 Mcf per day by March 1982, and up to 200,000 Mcf per day by March 1983. Applicant asserts that said figures were over-estimated in that they reflected the maximum obligation of gas to be tendered by Texas Oil and Gas Corporation (TXO) to United and represented the maximum obligation of Applicant if all gas tendered by TXO was transported for United by Applicant. Applicant explains that in actuality not all gas tendered by TXO to United has been transported by Applicant.

Applicant therefore requests the Commission to amend the authorization granted in Docket No. CP81-205-000 which continued the effect of Applicant's aforesaid transportation agreement for a period of twenty years commencing July 16, 1981.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before March 31, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participant as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6823 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5972-000]

Dundee Water Power & Land Co.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

March 11, 1982.

Take notice that on February 12, 1982, Dundee Water Power and Land Company (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed Dundee small hydroelectric project (Project No. 5972) would be located on the Passaic River near the towns of Garfield and Clifton, Bergen and Passaic Counties, New Jersey. Correspondence with the Applicant should be directed to: John Paul Halvorsen, Dundee Water Power and Land Company, 200 Old Hook Road, Harrington, New Jersey 07640.

Project Description—The proposed project would consist of: (1) An existing 14-foot high curved concrete spillway dam with the addition of 2-foot high flashboards; (2) a 267 acre reservoir with usable storage capacity of 850 acre-feet at elevation 27.4 feet M.S.L.; (3) a new powerhouse containing three turbine-generators with a total rated capacity of 1.8 MW located 200 feet downstream of the dam and drawing water from the existing Dundee Canal System; (4) an 80-foot long tailrace; (5) a 0.4-mile long transmission line and switchyard; and (6) appurtenant facilities. The project would produce up to 7,000,000 kWh annually to be sold to the local public utility. The project is owned by the Applicant. This application competes with an application for a preliminary permit filed on September 16, 1981, by Synergics, Inc. as FERC Project No. 5378.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the New Jersey Department of Environmental Protection are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 29, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 29, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6848 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER77-488-000 and ER78-520-000 (Phase II)]

El Paso Electric Co.; Supplemental Compliance Filing

March 11, 1982.

The filing Company submits the following:

Take notice that on February 16, 1982, El Paso Electric Company (El Paso) filed a supplemental refund compliance filing pursuant to the Commission's letter dated December 1, 1981.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 26, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6850 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4727-003]

Lawrence A. Gamble; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

March 11, 1982.

Take notice that on February 26, 1982, Lawrence A. Gamble (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed Grist Mill small hyhroelectric project (Project No. 4727) would be located on Souadabsacook Stream in the town of Hampden, Penobscot County, Maine. Correspondence with the Applicant should be directed to: Lawrence A. Gamble, 20 Western Avenue, Hampden, Maine 04444.

Project Description—The proposed project would consist of: (1) An existing 10-foot high, 60-foot long, concrete and stone spillway dam; (2) an existing 8 acre reservoir with no usable storage capacity at elevation 17.5 feet m.s.l.; (3) a new intake structure and 60-foot long, 84-inch diameter, steel penstock; (4) a new powerhouse containing a single 200 kW turbine-generator; (5) a 150-foot long, 440 volt transmission line; and (6) appurtenant facilities. The project would be located at a bridge carrying U.S. Route 1A over the Souadabsacook Stream. The project is located on property owned by the Maine Department of Transportation for which the Applicant has an easement. The Applicant intends to carry out a trap and truck system to carry alewives over the dam and to construct a fishway within five years after commencement of operation. Energy produced at the project would be sold to Bangor Hydro-Electric Company. The proposed project would generate up to 1,000,000 kWh annually.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Maine Department of Inland Fisheries and Wildlife and Department of Marine Resources are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 30, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATIONS", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An

additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6969 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-83-000]

Hooker Chemicals & Plastics Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

March 10, 1982.

On February 25, 1982, Hooker Chemicals and Plastics Corp., 1980 South Post Oak Road, Post Office Box 4289, Houston, Texas 77210, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The facility is located in the city of Niagara Falls, New York. The facility is a topping-cycle cogeneration unit, which will supply steam and electricity to Hooker's Niagara Falls manufacturing plant. The facility's primary energy source will be biomass, in the form of processed municipal waste, with natural gas as the primary backup fuel. The power production capacity is 42,400 kilowatts. Steam will comprise more than 5% of the total energy output of the unit. Construction of the facility began in April 1978. No electric utility, electric utility holding company, or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before April 14, 1982, and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6934 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-362-000]

Idaho Power Co.; Filing

March 9, 1982.

The filing Company submits the following:

Take notice that on March 2, 1982, the Idaho Power Company (Idaho) tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during January, 1982, along with cost justification for the rate charged.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6936 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2375-001]

International Paper Co., Inc., Application for Amendment of License

March 11, 1982.

Take notice that on February 25, 1982, International Paper Company (Licensee) filed an application [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for amendment of its license for the Otis-Livermore Project No. 2375 located on the Androscoggin River near the towns of Jay, Chisholm and Livermore Falls, in Oxford, Franklin and Androscoggin Counties, Maine. Correspondence with the Applicant should be directed to: Mr. Charles F. Ritzi, Kleinschmidt and Dutting, Consulting Engineers, 75 Main Street, Pittsfield, Maine 04967-0076, Telephone (207) 487-3328.

Licensee proposes changes to its Jay, Otis and Livermore Falls Powerplants to more fully utilize the available flows of the Androscoggin River as follows:

(A) The existing Jay Power Plant would undergo an intensive rehabilitation of the existing gates, turbines, generators and the forebay and tailrace would be dredged of accumulated debris. In addition, the existing sixth turbine, presently inoperative, would be connected to a rebuilt 500 kW generator, thus increasing the total rated capacity at the Jay Facility to 3 MW;

(B) The existing Otis Power Plant located on the east bank of the river will be decommissioned and the powerhouse gates and intake will be permanently sealed. The existing forebay gates will be maintained as part of the James River Mill process water system. A new powerhouse would be constructed on the west bank of the river including a new intake, trash racks, headgates, two new turbine-generators with a total rated capacity of 10 MW, a 90-foot wide, 300-foot long tailrace and a new adjacent substation;

(C) The existing Livermore Power Plant located on the east bank of the river would be demolished. A new powerhouse would be constructed in its place utilizing the existing forebay, which will be dredged of accumulated debris, and would include new headworks, trash racks, and two new turbine-generators with a total rated capacity of 12.5 MW. The existing tailrace would be dredged and excavated to accommodate the larger turbines and the existing 800-foot long training wall would be reshaped and rip-rapped. A new substation would also be constructed.

A new 3.3-mile long, 13.8-kV transmission line would be constructed between the Jay Power and Otis Power Plants and the James River and Androscoggin Paper Mills along the existing right-of-way. The redevelopment of the three powerplants would result in an increase in total output from 41,300,000 kWh to 95,200,000 kWh annually. The project would continue to operate run-of-the-river and no change is proposed to the existing impoundment levels or dam heights.

Anyone desiring to be heard or make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980).

Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protest, or petition to intervene must be received on or before May 3, 1982. The Commission's address is 825 North Capitol Street NE, Washington, D.C. 20426. The Application is on filed with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6937 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-41-000]

Iowa-Illinois Gas & Electric Co.; Application

March 11, 1982.

Take notice that on March 3, 1982, Iowa-Illinois Gas and Electric Company (Applicant) filed an application seeking authority pursuant to Section 204 of the Federal Power Act to issue not more than $60 million of short-term debt on or before June 30, 1983, with a final maturity date of not later than June 30, 1984.

Any person desiring to be heard or to make any protest with reference to the application should on or before April 2, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6870 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-356-000]

Iowa-Illinois Gas & Electric Co.; Filing

March 9, 1982.

The filing Company submits the following:

Take notice that Iowa-Illinois Gas and Electric Company (Iowa-Illinois), on March 1, 1982, filed a Service Schedule C addendum, Facilities Schedule No. 1 (Substation 54 at 69 kV) dated February 22, 1982, pursuant to a Facilities Agreement of September 4, 1981, with Interstate Power Company (Interstate), proposed to become effective not later than the in-service condition of Iowa-Illinois' new Substation 54 and associated line tap at Camanche, Iowa, and related completion of approximately one mile of 161 kV circuit to be constructed, owned, and operated (initially at 69 kV) by Interstate, utilizing its new and existing triple circuit facilities. Iowa-Illinois proposes an effective date of June 1, 1982.

Upon completion of the facilities, for which Iowa-Illinois will pay Interstate a lump sum contribution for installed costs, and annually, as billed, associated operation and maintenance costs, the power and energy necessary for Substation 54 will be provided by Iowa-Illinois through an existing 69 kV interconnection of facilities with Interstate for which there will be no charge during the operation of the facilities at 69 kV. Iowa-Illinois states the effectuation of Facilities Schedule No. 1 will provide greater reliability for existing retail electric service in Camanche, Iowa.

Iowa-Illinois states a copy of the filing has been mailed to Interstate, the Iowa State Commerce Commission, the Illinois Commerce Commission, and the Minnesota Public Utilities Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with 1§§ .8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6935 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-190-000]

Lone Star Gas Co., a Division of Enserch Corporation; Application

March 10, 1982.

Take notice that on February 4, 1982, Lone Star Gas Company, a Division of Enserch Corporation (Applicant), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP82-190-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of three tap, regulating and measuring facilities for the delivery of natural gas to mainline customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate tap, regulating, and measuring facilities for delivery of natural gas as follows:

Customer	Operation	Location
Gainesville Machining, Inc.	Heat treating	Cooke, Tex.
Dunn Boring Company	Commercial heating	Cooke, Tex.
Shelby's Industries, Inc.	Commercial heating	Stephens, Okla.

Applicant estimates that the cost of the proposed facilities would be approximately $6,836.00 which cost would be financed from Applicant's working capital.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 31, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this applicaton if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is

required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6936 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-358-000]

Louisville Gas & Electric Co.; Filing

March 9, 1982.

The filing Company submits the following:

Take notice that Louisville Gas and Electric Company (LG&E), on March 1, 1982, tendered for filing proposed changes in its Interconnection Agreement between LG&E and East Kentucky Power Cooperative (East Ky.) designated Louisville Gas and Electric Company FPC Rate Schedule No. 25.

LG&E states that the purpose of this filing is to increase the demand charge as set forth under Article VI of the Interconnection Agreement from $0.14 per kilowatt per weekday (Monday through Saturday) to $0.175 per kilowatt per weekday (Monday through Saturday). This proposed revision reflects a desire on the part of both parties to attain the optimum benefit from the interconnection of their systems.

Copies of the filing were served upon East Ky. and the Public Service Commission of Kentucky.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6937 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5435-001]

L. J. McMurtrey; Application for Preliminary Permit

March 11, 1982.

Take notice that L. J. McMurtrey (Applicant) filed on January 19, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5435 to be known as the Upper Foss River Project located on Upper Foss River within Snoqualmie-Mt. Baker National Forest in King County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. L. J. McMurtrey, 12122 196th NE., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) five 36-inch wide, 6-inch high, 20-foot long diversion structures; (2) five 12 to 48-inch diameter, 3,000 to 9,500-foot long conduits; (3) a 24-inch diameter, 4,000-foot long penstock; (4) a powerhouse containing a turbine-generating unit with a rated capacity of 9.6 MW; and (5) a 4.5-mile long transmission line connecting to an existing Puget Sound Power and Light line. The Applicant estimates a 24.2 GWh annual energy production.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, and geological, environmental and economic feasibility studies. The cost of the forementioned activities along with preparation of an environmental impact report, obtaining agreements with Federal, State and local agencies, and preparing a license application is estimated by the Applicant to be $20,000. Power would be sold to Puget Sound Power and Light Company.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 20, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No., RM81–15, issued October 20, 1981, 46 FR 55245, November 9, 1981].

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 20, 1982, and should specify the type of application forthcoming. Any application for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or § 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than July 20, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 20, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION" "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6938 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP82-185-000, CP77-274, CP76-254, and CP78-270]

Michigan Consolidated Gas Company—Interstate Storage Division; Application

March 10, 1982.

Take notice that on January 28, 1982, Michigan Consolidated Gas Company (Mich Con), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket Nos.CP82–185–000, CX 76–254, [1]CP77–274,[1] and CP78–270 an application pursuant to Section 7(c) of the Natural Gas Act to amend the orders of September 14, 1979, December 9, 1977, and September 6, 1978, issuing certificates of public convenience and necessity in Docket Nos. CP76–254, CP77–274, and CP78–270 so as to authorize the transportation of gas by Mich Con's Interstate Storage Division (ISD) to the Taggart Storage Field by displacement and for a certificate of public convenience and necessity in Docket CP82–185–000 authorizing ISD to transport gas for Mich Con's Utility Division (UD) and ANR Storage Company (ANR) and to operate certain existing facilities necessary therefor. Mich Con also requests that the Commission declare that certain production, gathering, transmission, and storage facilities would not be subject to the Commission's jurisdiction by virtue of the transportation service proposed herein and that certain gas reserves would not be made subject to regulation under Natural Gas Act, nor have their status under the Natural Gas Policy Act of 1978 (NGPA) affected in any way as a result of the certificate authorizations sought herein. Mich Con's proposals are more fully set forth in the application which is on file with the Commission and open to public inspection.

It is submitted that Mich Con is a public utility subject to the jurisdiction of the Michigan Public Service Commission and is engaged through its UD in the distribution and sale of natural gas at retail to consumers in the state of Michigan and in operation of storage, transmission, and distribution facilities in Michigan. It is further submitted that Mich Con through its ISD also renders gas storage and transportation services in interstate commerce.

Mich Con states that ISD receives its customers' storage gas during the summer period (April 1–October 31) from Michigan Wisconsin Pipe Line Company (Mich Wis) at the interconnection of the facilities of ISD and Mich Wis in Austin Township, Mecosta County, Michigan (Woolfolk compressor station), and Ypsilanti Township, Washtenaw County, Michigan (Willow Run meter station), and that ISD also receives storage gas from Panhandle Eastern Pipe Line Company (Panhandle) by displacement through UD at the interconnection of the facilities of UD and Panhandle in Melvindale, Michigan (River Rouge meter station). Gas so received, it is explained, is transported by ISD through its pipeline facilities to the Taggart Storage Field in Mecosta and Montcalm Counties, Michigan.

Mich Con proposes to change the method by which gas is transported to the Taggart Storage Field so that said gas would be transported by ISD only as far as the interconnection of the facilities of ISD and UD in Milford Township, Oakland County, Michigan (Milford Junction), at which point it would be delivered to UD for storage and ultimate consumption in the Detroit metropolitan area. Mich Con states that this interstate storage gas would displace an equivalent volume of locally produced gas from northern Michigan which would instead be injected into the Taggart Storage Field.

Since the above-proposed change would result in interstate storage gas' being transported to the Taggart Storage Field in part by displacement which is not currently the case, Mich Con requests that the orders issuing certificates in Docket Nos. CP76–245, CP77–274, and CP78–270 be amended accordingly. Mich Con asserts that the above-described displacement of gas during the summer period would result in a savings of compressor fuel for UD's and ISD's customers.

Mich Con states that the locally produced gas from northern Michigan, which would be injected into the Taggart Storage Field as part of the displacement, would be transported from producing areas near Kalkaska, Michigan, through approximately 100 miles of pipeline currently operated by UD to the Taggart Storage Field. It is further stated that during the winter period (November 1–March 31) this locally produced gas commingled with interstate gas would be withdrawn from the Taggart Storage Field, transported out of the state of Michigan, and redelivered to ISD's storage service customers in accordance with current agreements. Accordingly, inasmuch as the aforementioned pipeline facilities currently operated by UD would be used to transport gas which would eventually leave the state of Michigan, Mich Con proposes to transfer the following facilities from UD to ISD for operation by ISD in interstate commerce.

(1) A 77.3-mile 30-inch pipeline (the Kalkaska-Woolfolk pipline) between a point of interconnection of said pipeline with other UD pipeline facilities in Boardman Township, Kalkaska County, Michigan, and Woolfolk compressor station;

(2) A 16.6-mile 24-inch pipeline between the Woolfolk compressor station and Taggart Junction; and

(3) A 2.4-mile 24-inch pipeline between Taggart Junction and the Taggart compressor station.

Mich Con asserts that with the transfer of the above-described pipeline facilities to its ISD system it would be able to transport gas for others between the Willow Run meter station, Washtenaw County, Michigan, and the interconnection of its pipeline facilities with those of UD in Kalkaska County, Michigan, a total distance of approximately 200 miles. Consequently, Mich Con states, ISD has entered into two long-term arrangements to transport gas through these pipeline facilities for UD and ANR.

Mich Con proposes to transport gas for UD within the State of Michigan up to 126,000,000 Mcf of natural gas per year to and from various delivery and redelivery points along ISD's current and proposed pipeline facilities. In order to render such gas transportation service for UD and to realize fully the expected compressor fuel savings that would result from the commingling proposal, Mich Con proposes to utilize, in addition to its previously certificated facilities and those described above the following facilities which Mich Con proposes to transfer from UD to ISD:

(1) A 100.8-mile 24-inch pipeline between Taggart Junction and Milford Junction;

(2) A 2.4-mile 24-inch pipeline between Taggart Junction and the Taggart compressor station;

(3) A total of 9,000 horsepower of compression at the Taggart compressor station; and

(4) Tie-in facilities at Milford Junction.

Mich Con states that for such transportation service ISD would charge UD a rate of $377,030 per month.

Mich Con further proposes to transport gas for ANR to and from points of delivery and redelivery in Kalkaska, Washtenaw, and Mecosta Counties, Michigan. For such transportation service, it is stated, Mich Con would charge ANR a rate based on the cost of providing the service and determined in the manner approved by the Commission from time to time in

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

setting ISD's transportation service rates.

Mich Con further requests that the Commission declare that notwithstanding the commingling and the transportation services proposed herein, certain existing non-jurisdictional gathering, processing, transmission, and storage facilities remain free of Commission jurisdiction. Such non-jurisdictional facilities include the intrastate production and gathering facilities known as the "Wet Header System", which is owned by Mich Con, another Michigan gas distribution company and their intrastate suppliers, and consists of a gathering pipeline extending in a southwesterly direction along a gas bearing reef from Carlton Township, Otsego County, Michigan, to Brown Township, Manistee County, Michigan, and numerous laterals connecting this pipeline with various production fields. It is stated that the entire system and associated gas processing facilities are in turn connected to the 30-inch Kalkaska-to-Woolfolk pipeline near Kalkaska, Michigan, and that they would continue to be used exclusively for the purpose of gathering and processing gas which would, by displacement, be distributed by UD within the State of Michigan and would continue to be regulated by the Michigan Public Service Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 31, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6939 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-181-000]

Michigan Wisconsin Pipe Line Co.; Withdrawal of Notice

March 11, 1982.

Take notice that on March 2, 1982, the Commission inadvertently issued a Notice of Application by Michigan Wisconsin Pipe Line Company in Docket No. CP82-181-000 (47 FR 9055, March 3, 1982). An order rejecting the above-captioned application had been issued on February 19, 1982.

This notice serves to withdraw the notice issued on March 2, 1982, in the above-captioned docket.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6940 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-17370-000]

Montana Power Co.; Petition To Amend

March 10, 1982.

Take notice that on February 18, 1982, The Montana Power Company (Petitioner), 40 East Broadway, Butte, Montana 59701, filed in Docket No. G-17370-000 a petition to amend the order issued August 5, 1980, in the instant docket pursuant to Section 3 of the Natural Gas Act so as to authorize the importation of natural gas at an additional delivery point located near Kingsgate, British Columbia, Canada, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued August 5, 1980, Petitioner was authorized to import up to 80,000 Mcf of natural gas per day from Canada at a point near Carway, Alberta, Canada.

Petitioner proposes to sell natural gas to Transwestern Pipeline Company. Therefore, Petitioner requests that its import authorization granted by the order issued August 5, 1980, be amended so as to include an additional delivery point at Kingsgate, British Columbia, Canada. It is stated that Petitioner would import approximately 15,000 to 30,000 Mcf of natural gas per day at the proposed delivery point until June 30, 1982, and 9,800 Mcf of natural gas per day from July 1, 1982, to December 17, 1983.

It is stated that the gas would be imported at Kingsgate using existing facilities and that the total quantities and price of the natural gas presently authorized for importation would not be affected by the addition of the Kingsgate delivery point.

Petitioner notes that the importation of natural gas at the Kingsgate delivery point would not impair its ability to serve its customers in Montana because the gas it proposes to sell to Transwestern is gas which Anaconda Minerals Company can no longer take from Petitioner because of a shut-down of its copper smelting and refining operations.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 31, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6939 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-370-000]

Montaup Electric Co.; Filing

March 11, 1982.

The filing Company submits the following:

Take notice that on March 8, 1982, Montaup Electric Company (Montaup) tendered for filing executed agreements between Montaup and Fitchburg Gas & Electric Light Company ("Fitchburg"). The agreements both dated February 1, 1982, provide for the purchase of 10 MW of Montaup's entitlement to Cleary Unit No. 9 by Fitchburg and for the associated transmission service by Montaup. The agreements provide for an effective period from February 1, 1982 through February 14, 1982.

Montaup requests waiver of the Commission's notice requirements to allow for an effective date of February 1, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6971 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-199-000]

National Fuel Gas Supply Corp.; Application

March 10, 1982.

Take notice that on February 11, 1982, National Fuel Gas Supply Corporation (Applicant), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP82-199-000 an application as amended on February 18, 1982, in Docket No. CP82-199-001 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to certain customers and their affiliates, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to sell on an interruptible basis up to 8,366,257 Mcf of natural gas to the following customers:

Customers and affiliates	Maximum total volumes	Maximum daily volume
Berkshire Gas Company	100,000	500
Bay State Gas Company	1,850,000	9,250
Connecticut Natural Gas Corporation	1,350,000	6,750
Delmarva Power & Light Company	750,000	3,750
Elizabethtown Gas Company	3,000,000	15,000
Fitchburg Gas & Electric Light Company	136,257	681
Haverhill Gas Company	360,000	1,750
Northern Utilities, Inc	350,000	1,750
Lowell Gas Company	500,000	2,500
Total	8,366,257	41,931

Applicant states that the volumes would be sold during the 1982 storage injection season either for storage with Penn-York Energy Corporation (Penn-York) or for delivery to purchasers' retail markets. It is further stated that gas purchased by customers and their affiliates served through transportation facilities of Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), would be used for service in their respective local distribution markets while corresponding volumes purchased from Tennessee would be injected into storage during the summer injection period. It is noted that gas purchased by Delmarva would be retained for storage by Penn-York and that approximately one-half of the gas purchased by Elizabethtown would be stored by Penn-York and the remainder would be delivered to Elizabethtown's service territory.

Applicant projects having ample gas available in the 12 months ending March 31, 1983, to sell the proposed volumes of gas. Applicant notes that if it is unable to eliminate part of its surplus through these sales of gas it might have to reduce its takes from its pipeline suppliers.

Applicant proposes to make the subject sales on an interruptible basis pursuant to its Rate Schedule I-1. It is further asserted that all volumes would be delivered to customers during the period, April 1, 1982, through October 31, 1982.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 31, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6940 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-355-000]

Niagara Mohawk Power Corp.; Filing

March 9, 1982.

The filing Company submits the following:

Take notice that Niagara Mohawk Power Corporation (Niagara) on March 1, 1982, tendered for filing as a rate schedule an agreement between Niagara and Rochester Gas and Electric Corporation (Rochester) dated July 3, 1980.

The agreement provides for the transmission of Rochester's share of Oswego Unit No. 6 generation from Oswego, New York, to Rochester's system. Niagara is requesting an effective date of January 19, 1980.

Copies of the filing were served upon the Rochester Gas and Electric Corporation and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 25, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6841 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-50-000]

Northwest Pipeline Corp.; Tariff Filing

March 9, 1982.

Take notice that on March 1, 1982, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance the following tariff sheet to its Original Volume No. 2 Tariff:

First Revised Sheet No. 2-B

Pursuant to the provision contained on Sheet Nos. 2 and 2-B of Northwest's Volume No. 2 Tariff and Section 7.3 of Rate Schedule T-1 in its First Revised Volume No. 1 Tariff, Northwest is filing to reflect new Fuel Reimbursement Percentages to be effective April 1, 1982 based on the calendar year ending December 31, 1981.

The proposed effective date of the tendered tariff sheet is April 1, 1982.

A copy of this filing has been served on Pacific Interstate Transmission Company, Northwest's jurisdictional customers, and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1982. Protests will be considered by the Commission in determing the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6842 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-368-000]

Otter Tail Power Co.; Filing

March 10, 1982.

The filing Company submits the following:

Take notice that on March 4, 1982, Otter Tail Power Company (Otter Tail) tendered for filing rate schedules covering scheduling and dispatching service provided to Cooperative Power Association (Association) and Central Power Electric Cooperative (Central). An effective date of April 1, 1982, is requested for the increase, estimated at approximately $6,818 per year, in rates to be charged the Association per Supplement No. 3 to Otter Tail's Rate Schedule FERC No. 154. An effective date of March 20, 1982, is requested for the increase estimated at approximately $6,671 in rates to be charged Central per Supplement No. 3 to Otter Tail's Rate Schedule FERC No. 171.

Otter Tail requests waiver of the Commission's notice requirements to allow these two Schedules to become effective on April 1, 1982, and March 20, 1982, respectively.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6843 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-358-000]

Philadelphia Electric Co.; Proposed Tariff Change

March 9, 1982.

The filing Company submits the following:

Take notice that Philadelphia Electric Company (Philadelphia) on March 1, 1982, tendered for filing a Supplement to its Borderline Interchange Agreement with Conowingo Power Company, designating FPC Electric Rate Schedule No. 17 of Philadelphia and FPC Electric rate charges. The proposed changes would increase revenues under the Borderline Agreement by $3,074.98 based upon estimated sales for the twelve-month period ending December 1982.

Philadelphia states that the foregoing tariff changes are being filed so that it can achieve revenues adequate to cover its costs of providing service.

Philadelphia proposes an effective date of April 28,1982.

Copies of the filing were served upon the Maryland Public Service Commission, and the Pennsylvania Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6845 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-365-000]

Portland General Electric Co.; Filing

March 10, 1982.

The filing Company submits the following:

Take notice that Portland General Electric Company (PGE) on March 3, 1982, tendered for filing an Agreement and rate schedule whereunder PGE has agreed to supply 100 MW of firm peaking capacity to the City of Seattle for a period beginning December 1, 1981 and ending December 31, 1981 and 50 MW of firm peaking capacity for the period beginning January 1, 1982 and ending March 31, 1982. The capacity to be supplied is not to exceed 6000 MWh during any seven day period in December, 1981, nor 3000 MWh during any seven day period in January, February, or March, 1982. For such capacity, the City of Seattle will pay PGE $750,000, payable in four installments: $300,000 on December 10, 1981, $150,000 on January 1, 1982, February 1, 1982 and March 1, 1982. Any energy delivered by PGE to the City of Seattle under the Agreement is to be returned within seven days of delivery unless otherwise designated by PGE. Energy not returned shall be purchased by the City of Seattle at PGE's incremental cost.

PGE requests an effective date of December 1, 1981, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the City of Seattle—City Light Department.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6973 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-361-000]

Public Service Co. of Indiana, Inc.; Filing

March 9, 1982.

The filing Company submits the following:

Take notice that Public Service Company of Indiana, Inc. (PSI), on March 2, 1982, tendered for filing a Rate Schedule entitled 'Terms and Conditions Applicable for Providing Electric Service by Public Service Company of Indiana, Inc. to Wabash Valley Power Association, Inc.' (WVPA). WVPA is currently being served pursuant to PSI's FERC Electric Tariff Original Volume No. 2 (4th Revision). The new Rate Schedule has been developed to reflect the purchase by WVPA of certain transmission and distribution facilities of PSI.

Pursuant to authority granted by FERC on November 5, 1981, in Docket No. EC81-17-000, PSI has sold certain transmission and distribution facilities to WVPA. As a result to such purchase, the development of a new rate was required to reflect this difference in investment. Accordingly, PSI has developed such rate which results in a rate decrease of approximately 15.74%.

PSI requests an effective date of January 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon WVPA and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 26, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6944 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-38-000]

Ringwood Gathering Co.; Filing of Revised Tariff Sheets

March 9, 1982.

Take notice that on March 1, 1982, Ringwood Gathering Company (formerly Oklahoma Natural Gas Gathering Corporation) tendered for filing Twenty-sixth Revised Sheet PGA-1. Ringwood Gathering Company states that Twenty-sixth Revised Sheet PGA-1 will become effective on April 1, 1982, and revised its Base Tariff Rate to flow through the increase in the system cost of purchased gas and recover the balance accumulated in its unrecovered purchased gas cost account.

Ringwood Gathering Company further states that the projected cost of purchased gas, as computed in said filing, is based on the applicable NGPA rates for April, 1982.

Ringwood Gathering Company states that copies of this filing were served upon Cities Service Gas Company, as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 19, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6945 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-364-000]

San Diego Gas & Electric Co.; Filing

March 10, 1982.

The filing Company submits the following:

Take notice that San Diego Gas & Electric Company (SDG&E); on March 3, 1982, tendered for filing an Interruptible Optional Purchase and Layoff Energy Agreement (Agreement) between SDG&E and the Colorado River Commission (CRC). This Agreement provides for the sale to and purchase by CRC, on an interruptible basis, of up to 30 MWH/HR, not including losses, of energy at Four Corners. The Agreement also provides that CRC will concurrently sell a like amount of energy to SDG&E at Mead.

Copies of the filing were served on CRC, the California Public Utilities Commission, and the Public Service Company of New Mexico.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6974 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL82-9-000]

South Carolina Industrial Committee v. South Carolina Public Service Authority; Filing

March 10, 1982.

Take notice that on March 1, 1982, the South Carolina Industrial Committee (SCIC) filed a complaint pursuant to sections 19 and 20 of the Federal Power Act against the South Carolina Public Service Authority (the Authority). SCIC requests that the Commission (1) regulate and control the Authority's securities issuances pursuant to §§ 20.1(b) and 20.2 of the Commission's regulations; (2) regulate and control the Authority's services and rates and ensure that the rates are reasonable, just, and non-discriminatory in the manner provided in § 35.21 of the Commission's regulations; (3) set the matter of the Authority's service and rates to SCIC for hearing as quickly as possible; and (4) grant such other and further relief as the Commission deems appropriate.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before April 14, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6869 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-357-000]

Southern California Edison Co.; Filing

March 10, 1982.

The filing company submits the following:

Take notice that on March 4, 1982, Southern California Edison Company ("Edison") tendered for filing an agreement entitled "Edison-San Diego Interruptible Transmission Service Agreement (Matrix)" which has been executed by Edison and San Diego Gas & Electric Company ("San Diego").

Under the terms and conditions of the agreement, Edison will make available to San Diego interruptible transmission service between several points of receipt and points of delivery.

The Agreement is proposed to become effective when executed by the Parties and accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and San Diego Gas & Electric Company.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with § 1.8 and § 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6870 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP81-105-012, et al.]

Southern Natural Gas Company, et al.; Filing of Pipeline Refund Reports and Refund Plans

March 10, 1982.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mail to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before March 25, 1982. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
Jan. 27, 1982	Southern Natural Gas Co	RP-81-105-012	LFUT report.
Feb. 1, 1982	Equitable Gas Co	RP-82-49-000	LFUT report.
February 19, 1982	Alabama-Tennessee Natural Gas Co	RP-73-77-019	Report.
Feb. 22, 1982	Michigan Wisconsin Pipe Line Co	RP-80-100-004	Report.
Feb. 25, 1982	Kansas-Nebraska Natural Gas Co	RP-82-44-000	LFUT report.
Mar. 2, 1982	Southwest Gas Corp	RP-81-3-004	Report.

[FR Doc. 82-6875 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79-490-002]

Southwest Gas Storage Co. and Panhandle Eastern Pipe Line Co.; Petition To Amend

March 10, 1982.

Take notice that on February 8, 1982, Southwest Gas Storage Company (Southwest), P.O. Box 1348, Kansas City, Missouri 64141, and Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP79-490-002 a joint petition pursuant to section 7(c) of the Natural Gas Act to amend the order issued May 7, 1980, in the instant docket, as amended, so as to authorize Petitioners to increase Panhandle's storage capacity from 30,000,000 Mcf to 35,000,000 Mcf in the Borchers North Field in Meade County, Kansas, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is submitted that by order issued May 7, 1980, in the instant docket Southwest was authorized to construct, operate and develop a natural gas storage field in Meade County, Kansas, the Borchers North Field, and further, to store a maximum inventory of natural gas of 70,100,000 Mcf with a total top working storage of 35,000,000 Mcf. Petitioners state that pursuant to an agreement dated June 11, 1979, as amended January 29, 1980, Southwest rendered to Panhandle a storage service of 30,000,000 Mcf of working storage annually with the remaining 5,000,000 Mcf of working storage uncommitted at that time.

Petitioners now propose pursuant to a November 12,1981, amendment to their agreement to provide for Panhandle to purchase the remaining 5,000,000 Mcf of storage service available from the Borchers North Field commencing April 1, 1982, giving Panhandle the total working storage capacity of 35,000,000 Mcf in the Borchers North Field and committing to long-term contract the remaining 5,000,000 Mcf of storage capacity in that field.

It is asserted that Panhandle has determined that the additional 5,000,000 Mcf of storage service is required to enhance the reliability of its winter service.

Petitioners state that the amendment requires Panhandle to provide an additional 4,500,000 Mcf of recoverable base gas which is the underlying base gas associated with the additional 5,000,000 Mcf of working storage so as to provide a total of 31,700,000 Mcf of recoverable base gas the amount required for 35,000,000 Mcf of working storage.

For such service, it is submitted, Panhandle would pay Southwest a monthly charge of $1,485,458 based on the previously authorized unit charge of 50.93 cents. Panhandle further proposed to record the additional volume of base gas in Account 117 for inclusion in Panhandle's rate base under the provisions of the Commission's Regulations in effect from time to time for Account 117 or any other superseding regulations.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 31, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6868 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-75-000]

Steamco, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

March 10, 1982.

On February 19, 1982, Steamco, Inc., 125 High Street, Boston, Massachusetts 02110, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The proposed topping-cycle cogeneration facility will be located in Lakeville, Massachusetts. The primary energy source will be coal. Electric power capacity of the facility will be 1600 kilowatts and 40,000 lbs/hr. of high pressure steam will be sold for use in a nearby food processing plant. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before April 14, 1982, and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6866 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. G-17481-000, et al.]

Sun Exploration and Production Co. (Formerly Sun Oil Company), et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

March 10, 1982.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before March 25, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
G-17401-000, D, Feb. 25, 1982	Sun Exploration and Production Company, (formerly Sun Oil Company), P.O. Box 20, Dallas, Texas 75221.	United Gas Pipe Line Company, N. W. Corpus Channel Field, Nueces and San Patricio Counties, Texas.	(1)	
C163-597-001, D, Feb. 22, 1982	Texaco Inc., P.O. Box 2420, Tulsa, Oklahoma 74102.	Lone Star Gas Co., Slate Stand S.E. Field, Stephens County, Oklahoma.	(2)	
C173-495-000, D, Feb. 18, 1982	CIG Exploration, Inc., The Coastal Tower, Nine Greenway Plaza, Houston, Texas 77046.	Colorado Interstate Gas Company, West Panhandle Field, Moore, Potter, Hartley, Hutchinson, Carson and Oldham Counties, Texas.	(3)	
C173-496-001, D, Feb. 18, 1982	....do	Colorado Interstate Gas Company Keyes Field, Cimarron County, Oklahoma.	(4)	
C163-160-000, F, Feb. 18, 1982	Sun Exploration and Production Company, (Par. Succ. to Lee Brothers Oil Company), P.O. Box 20, Dallas, Texas 75221.	Transcontinental Gas Pipe Line Corporation, White Kitchen Field, La Salle County, Texas.	(5)	14.65
C163-181-000 (C166-230), B, Feb. 18, 1982.	Texaco Inc., P.O. Box 60252, New Orleans, Louisiana 70160.	United Gas Pipe Line Company, Arnaudville Field, St. Martin Parish, Louisiana.	(6)	
C162-162-000 (C178-819), B, Feb. 22, 1982.	Exxon Corporation, P.O. Box 2180, Houston, Texas 77001.	Columbia Gas Transmission Corporation, Pecan Island Field, Vermilion Parish, Louisiana.	(7)	
C162-163-000 (C178-314), B, Feb. 22, 1982.	....do	Columbia Gas Transmission Corporation, Pecan Island Field, Vermilion Parish, Louisiana.	(7)	
C162-184-000 (G-17841), B, Feb. 22, 1982.	Sun Exploration and Production Company, (formerly Sun Oil Company), P.O. Box 20, Dallas, Texas 75221.	Colorado Interstate Gas Company, Greenwood (Sparks) Field, Stanton County, Kansas.	(8)	
C162-185-000, A, Feb. 22, 1982	Texoma Production Company, P.O. Box 60696, Houston, Texas 77060.	Natural Gas Pipeline Company of America, East Cameron Block 347 Field, Offshore Louisiana.	(9)	15.025
C163-186-000, B, Feb. 22, 1982	Horizon Oil & Gas Co. of Texas, Hartford Building, Dallas, Texas 75201.	Northern Natural Gas Company, Friesen Lease; S. E. Shere (Upper Morrow) Field, Ochiltree County, Texas.	(9)	
G-4616-000, D, Mar. 1, 1982	Texaco Inc., P.O. Box 2420, Tulsa, Oklahoma 74102.	Kansas-Nebraska Natural Gas Co. Inc., Guymon-Hugoton Field, Texas County, Oklahoma.	(10)	
G-5339-002, D, Feb. 25, 1982	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	United Gas Pipe Line Company, Mathews A Lease located in the Wm. McFadden Survey, Carthage Field, Panola County, Texas.	(11)	
G-13758-001, C, Mar. 1, 1982	Conoco Inc., P.O. Box 2197, Houston, Texas 77252.	Transcontinental Gas Pipe Line Corporation, Ship Shoal Block 72 Field, Offshore Louisiana.	(12)	15.025
G-15892-000, D, Feb. 26, 1982	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Texas Gas Transmission Company, Northwest Carthage Field, Panola County, Texas.	(11)	
C160-142-000, D, Feb. 26, 1982	....do	United Gas Pipe Line Company, Bastian Bay Field, Plaquemines Parish, Louisiana.	(11)	
C164-594-000, D, Mar. 1, 1982	Shell Oil Company, One Shell Plaza, P.O. Box 2463, Houston, Texas 77001.	Northern Natural Gas Co., Follett Area, Lipscomb County, Texas and Beaver County, Oklahoma.	(13)	
C161-228-001, Feb. 22, 1982 [14]	Union Texas Petroleum Corporation, P.O. Box 2120, Houston, Texas 77001.	Southern Natural Gas Company and Florida Gas Transmission Company, Mustang Island Block 758 Field, Federal Offshore, Texas.		14.65
C162-197-000, A, Feb. 26, 1982	Texas Gulf Inc., 1100 Milam Building, Suite 3050, Houston, Texas 77002.	Southern Natural Gas Company, Matagorda Island Area, Block 668, Offshore Texas.	(15)	14.65
C162-198-000, E, Feb. 26, 1982 [16].	Phillips Petroleum Company (Succ. to True Oil Company), 336 HS&L Building, Bartlesville, Oklahoma 74004.	Montana-Dakota Utilities Company, True Oil Company's Williston Plant, SW, Sec. 28, 154N, 102W, Williams County, North Dakota.	(16 24)	14.73
C162-199-000, B, Mar. 1, 1982	Service Drilling Co., 1800 Fourth Natl. Bank Bldg., Tulsa, Oklahoma 74119.	Cities Service Gas Company, Osage County, Oklahoma.	(17)	
C163-190-000, A, Mar. 1, 1982	Houston Oil & Minerals Corporation, P.O. Box 2511, Houston, Texas 77001.	El Paso Natural Gas Company, Matagorda Island Block 525 Field, Offshore Texas.	(15)	14.65
C162-191-000 (C163-278), B, Mar. 1, 1982.	Shell Oil Company, One Shell Plaza, P.O. Box 2463, Houston, Texas 77001.	Northern Natural Gas Company, Bechtold et al Fields, Lipscomb County, Texas, Beaver County, Oklahoma.	(18)	
C163-192-000 (C176-295), B, Mar. 1, 1982.	Conoco Inc., P.O. Box 2197, Houston, Texas 77252.	Panhandle Eastern Pipe Line Company, Guymon-Hugoton Field, Texas County, Oklahoma.	(19)	
C162-193-000 (G-12910), B, Mar. 1, 1982.	....do	Cities Service Gas Company, Eureka and various fields, Alfalfa and Grant Counties, Oklahoma.	(21)	
C162-194-000 (G-3668), B, Mar. 1, 1982.	....do	Texas Eastern Transmission Corporation, Big Hill Field, Jefferson County, Texas.	(22)	

[1] Sun released rights to this lease because all economically recoverable reserves had been depleted.
[2] Acreage was acquired through a pooling agreement, and due to the unit well being dry and abandoned, we no longer have an interest in this particular acreage.
[3] CIG Exploration, Inc. has conveyed to Colorado Gas Company acreage in the six counties which is all that covered by CIG's Gas Rate Schedule No. 1.
[4] CIG Exploration, Inc. has conveyed to Colorado Interstate Gas Company all acreage under Gas Rate Schedule No. 3.
[5] Applicant is filing as partial successor in interest to Lee Brothers Oil Company under a Rollover Gas Purchase Contract dated April 1, 1981. The reference field has previously been covered by a Small Producers Certificate under Docket No. CS79-549 issued to Lee Brothers Oil Company.
[6] Well depleted.
[7] The available supply of gas is depleted, and the contract has been cancelled.
[8] Applicant is filing under Gas Sales Contract dated February 4, 1982.
[9] Production ceased to be commercial.
[10] Leases were released or expired.
[11] Uneconomical.
[12] Applicant is filing under Gas Purchase and Sales Agreement dated September 18, 1957, amended by Amendment dated December 7, 1981.
[13] Shell Oil Company is no longer able to render service from the acreage involved in this application because it has no interest in the acreage.
[14] By assignment dated as of November 12, 1981, Southern Natural Gas Company assigned 50% of the gas to be purchased from UTPC under Gas Sales Contract dated October 1, 1981 to Florida Gas Transmission Company.
[15] Applicant is filing under Gas Purchase Contract dated June 4, 1981.
[16] Applicant it filing under Gas Purchase Agreement dated October 20, 1977.
[17] Due to rearrangement of its system, Cities is no longer able to accept the gas tendered by Service. Cities has relinquished its rights to the gas and Service has entered into a new contract to sell the gas to Phillips Petroleum Company upon receipt of the requested abandonment authority.
[18] Applicant is filing under Gas Purchase and Sales Agreement dated February 18, 1982, amended by Letter Agreement dated February 23, 1982.
[19] All dedicated acreage has either been assigned on depleted of gas well reserves.
[20] Conoco has no gas production from the zone covered by Contract No. 5056 (RS 423).
[21] Remaining leasehold interest subject to Conoco Contract No. 4278 (RS 148) is restricted to nonproductive acreage.
[22] Conoco retains no leasehold interest subject to RS 248.
[24] By assignment dated January 1, 1981, True Oil Company assigned to Phillips Petroleum Company all of its right, title and interest in said October 20, 1977 agreement.
[25] The new delivery point will be at the tailgate of Phillips' Williston Plant instead of the inoperative True's Williston Plant.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 82-6881 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST82-138-000]

Tejas Gas Corp.; Application for Approval of Rates

March 12, 1982.

Take notice that on January 18, 1982, Tejas Gas Corporation (Applicant), P.O. Box 2806, Corpus Christi, Texas 78401, filed in Docket No. ST82-138-000 an application pursuant to Section 284.123(b)(2) of the Commission's regulations for approval of rates charged for the transportation of natural gas on behalf of United Gas Pipe Line Company (United), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that on November 3, 1980, Applicant and United entered into an agreement whereby Applicant would transport for the account of United up to 25,000 Mcf of natural gas per day in Applicant's pipeline system located in Ellis County, Oklahoma (the Red Bluff System). Applicant asserts that the initial contract rate to be charged for such transportation service was 12.0 cents per Mcf which rate was approved by the Commission at Docket No. ST81-113-000. Applicant's Petition for Approval of Transportation Rate which was filed with the Commission on December 17, 1980, in Docket No. ST81-113-000 and the cost of service analysis filed therewith supported a transportation rate of 21.5 cents per Mcf.

Applicant hereby petitions the Commission for an order approving as fair and equitable the proposed rate of 36.0 cents per Mcf for its transportation of natural gas in the Red Bluff System on behalf of United. Applicant asserts that the proposed increase in the rate is necessary to enable Applicant to recoup fully its costs of service, given the decline in projected volumes of gas to be made available by United for transportation in the Red Bluff System.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 31, 1982, filed with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6877 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-83-000]

Urban-Refergy Skokie Partnership; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

March 10, 1982.

On February 23, 1982, Urban Skokie Partnership c/o Refregy, Inc., 318 West Randolph St., Chicago, Illinois 60607 filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be a biomass small power production facility located in Skokie, Illinois. The primary energy source of the facility will be biomass in the form of municipal solid waste. Capacity of the facility will be 5.5 megawatts. No small power production facility using the same energy source, owned by the applicant, is located within on mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protest must be filed on or before April 14, 1982, and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6882 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-356-000]

Utah Power & Light Co.; Filing

March 10, 1982.

The filing Company submits the following:

Take notice that Utah Power & Light Company (Utah), on March 4, 1982, tendered for filing up-dated (1981) fixed steam production costs for Utah's Service Schedule UTAH-1B and new Service Schedule UTAH 1C, both included in Volume 2 to its F.E.R.C. Electric Tariff under which Uath sells and delivers non-firm energy to any electric utility for resale in accordance with the two Service Schedules.

Utah states that the proposed new rate (UTAH-1C) provides for three classifications of service:

C-1—Share-savings
C-2—Exchange
C-3—Emergency Breakdown Service

Utah requests an effective date of April 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served on all customers of Utah who might be interested in purchasing non-firm energy, and on the State Regulatory Commissions of Utah, Idaho and Wyoming.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6878 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5993-000]

White Chuck Water Co.; Application for Preliminary Permit

March 11, 1982.

Take notice that The White Chuck Water Company (Applicant) filed on February 17, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5993 to be known as the Lime Creek Hydroelectric Power Project located on Lime Creek within Mt. Baker National Forest, near Darrington in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Keith B. Ronnholm, Project Manager, The White Chuck Water Company, 6233 39th Avenue, NE., Seattle, Washington 98115.

Project Description—The proposed project would consist of: (1) An 8-foot high, 80-foot long diversion structure on Lime Creek; (2) a 5-foot high, 40-foot long diversion structure on Meadow Creek; (3) a 5-foot high, 50-foot long diversion structure on Indigo Creek; (4) a 3.2-mile long low pressure pipeline; (5) a headwork; (6) a 5,900-foot long penstock; (7) a powerhouse with a total installed capacity of 6,500 kW; and (8) a 14-mile long, 57-kV transmission line interconnecting with existing transmission line interconnecting with existing transmission line owned by Seattle City Light or Snohomish PUD. The Applicant estimates that the average annual energy output would be 37.2 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant is seeking a preliminary permit for a duration of 24 months during which it would conduct geological, hydrological, environmental, engineering and economic studies and prepare an FERC license application. The studies are estimated to cost $125,000 by the Applicant.

Competing Applications—This application was filed as a competing application to City of Darrington, Washington's application for Project No. 5395 filed on September 22, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or § 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before April 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6880 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-80-000]

Windfarms Ltd.; Application for Commission Certification of Qualifying Status of a Small Power Production Facilities

March 10, 1982.

On February 19, 1982, Windfarms Ltd., located at 639 Front Street, San Francisco, California 94111, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of facilities as qualifying small power production facilities pursuant to § 292.207 of the Commission's rules.

The proposed small power production facilities will be wind turbine generators located in Solano County, California. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facilities. The wind systems will have nameplate capacities of 2.5 and 5.0 megawatts each. The 21 wind turbine generators will be located within one mile of each other; however Windfarms distinguishes nine separate facility "sites", defined by topographical ridges. Generating capacities of the sites will be 12.5, 5.0, 10.0, 15.0, 5.0, 5.0, 10.0, 5.0 and 25.0 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 or 1.10 of the Commission's rules of practice and procedure. All such petitions or protests must be filed on or before April 14, 1982, and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6879 Filed 3-13-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5805-000]

Woodbridge Irrigation District; Application for Preliminary Permit

March 11, 1982.

Take notice that Woodbridge Irrigation District (Applicant) filed on November 4, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5805 to be known as the Woodbridge Hydroelectric Project located on the Mokelumne River in San Joaquin County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. James C. Hanson, 921 Eleventh Street, Suite 400, Sacramento, California 95814.

Project Description—The proposed project would consist of: (1) the existing 25-foot high Woodbridge Diversion Dam and 475-acre Lodi Lake; (2) a powerhouse at the dam containing 2 to 4 generating units with a total rated capacity of 600 kW; (3) a switchyard adjacent to the powerhouse; and (4) a 500-foot long, 12-kV transmission line. The project would have an average annual energy output of 2 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report, including geological, environmental and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with Federal, State and local agencies, conducting final field surveys, and preparing designs and license application is estimated by the Applicant to be between $30,000 and $45,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 21, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before May 20, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 20, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6881 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-GRAHAM-MICHAELIS CORP				RECEIVED:	02/16/82	JA: KS			
8218916	K80-1075	1509300000		108-ER		GILMORE #1		0.0	NORTHERN NATURAL
-WOOLSEY PETROLEUM CORP				RECEIVED:	02/16/82	JA: KS			
8218915	K 81-0757	1505520333		108-ER		MORRIS #1	HUGOTON	0.0	KANSAS NEBRASKA N
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
-ADOBE OIL & GAS CORP				RECEIVED:	02/12/82	JA: PA			
8218781	10226	3706325882		103		JOHN ALWINE #1-C	BRUSH VALLEY	24.0	COLUMBIA GAS CO
-ADOBE OIL & GAS CORPORATION				RECEIVED:	02/12/82	JA: PA			
8218782	10227	3706326033		103		JOHN ALWINE #1-D	BRUSH VALLEY	22.0	COLUMBIA GAS CO
-ASHTOLA PRODUCTION CO				RECEIVED:	02/12/82	JA: PA			
8218764	10138	3751202730		103		CHARLES J YOCUM #1	WALTERSBURG	25.0	
8218763	10137	3751202820		103		DONALD L COTTOM #1	WALTERSBURG	50.0	
8218765	10141	3705120287		103		HENRY MCCRACKEN #1	WALTERSBURG	22.0	
-BETA 79-S T JOINT VENTURE				RECEIVED:	02/12/82	JA: PA			
8218743	7458	3706522096		108		MAUK #2	NONE	25.0	NATIONAL FUEL GAS
-CARDINAL OIL CO				RECEIVED:	02/12/82	JA: PA			
8218755	10100	3703921094		107-TF		BUBNA-PROPER #80-49 PA CRA-21094	CONNEAUT	0.0	COLUMBIA GAS TRAN
8218749	10094	3703920863		107-TF		CHESTER TAU #80-25 PA PER CRA-20863	CONNEAUT	0.0	COLUMBIA GAS TRAN
8218752	10097	3703920939		107-TF		GEORGE PETRUS #80-46 PA CRA-20939	CONNEAUT	0.0	COLUMBIA GAS TRAN
8218754	10099	3704921223		107-TF		GREGORY PETRUS #80-48 PA ERI-21223	CONNEAUT	0.0	COLUMBIA GAS TRAN
8218757	10103	3704921583		107-TF		JULIA EATON #81-41 PA PER ERI-21583	CONNEAUT	0.0	NATIONAL FUEL GAS
8218753	10098	3703920912		107-TF		M LANNY BUNTING 80-43 PA CRA-20912	CONNEAUT	0.0	COLUMBIA GAS TRAN
8218756	10102	3704921576		107-TF		R N COPE #81-40 PA PER ERI-21576	CONNEAUT	0.0	NATIONAL FUEL GAS
8218750	10095	3703920879		107-TF		WALTER BAYUS #80-36 PA CRA-20879	CONNEAUT	0.0	COLUMBIA GAS TRAN
8218751	10096	3703920627		107-TF		WILBUR M WHEELER 80-14 PA CRA-20824	CONNEAUT	0.0	COLUMBIA GAS TRAN
-CASTLE GAS CO INC				RECEIVED:	02/12/82	JA: PA			
8218786	10231	3712921851		103		A J MIRKO #2 (C-716) WES-21851	DERRY TOWNSHIP	55.0	PEOPLES NATURAL G
8218788	10235	3706325577		103		C GREEN #2 (C-635) IND-25577	GREEN TOWNSHIP	60.0	COLUMBIA GAS TRAN
8218787	10234	3706325563		103		C GREEN #3 (C-636) IND-25563	GREEN TOWNSHIP	55.0	COLUMBIA GAS TRAN
8218785	10230	3706326285		103		C LEZANIC HRS #1 (C-612) IND-26285	RAYNE TOWNSHIP	50.0	COLUMBIA GAS TRAN
8218784	10229	3706326286		103		C LEZANIC HRS #2 (C-613) IND-26286	RAYNE TOWNSHIP	60.0	COLUMBIA GAS TRAN
8218789	10236	3706325697		103		P BORUCH #8 (C-700) IND-25697	GREEN TOWNSHIP	50.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	02/12/82	JA: PA			
8218744	8197	3712921358		108		FRANCIS P CASORIO WN-1699	HEMPFIELD TOWNSHIP	0.7	GENERAL SYSTEM PU
-DOE-NCC SERVICE CO				RECEIVED:	02/12/82	JA: PA			
8218790	10237	3712921847		103		FRED W STREET JR 1229-1		30.0	TEXAS EASTERN TRA
-DORAN & ASSOCIATES INC				RECEIVED:	02/12/82	JA: PA			
8218759	10110	3706325083		108		A BUTERBAUGH #1 KA-25	UPPER DEVONIAN SANDS	30.0	COLUMBIA GAS TRAN
8218762	10115	3706325029		108		ALBERT C HICKOK #1 KA-38	UPPER DEVONIAN SANDS	30.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8218760	10111	3706322488		108		EVELYN J CONNER #1 KA-18			
8218761	10112	3706325046		108		HELEN STOUT #1 KA-35			
8218758	10109	3706325044		108		HERMAN A DISHONG #2 KA-26			
-GOE PRO INC				RECEIVED:	02/12/82	JA: PA			
8218796	10269	3704921378		107-TF		ERNEST T BABCOCK			
8218797	10270	3704921378		103		ERNEST T BABCOCK			
8218806	10279	3703921234		103		HARTENBACH #1			
8218807	10280	3703921234		107-TF		HARTENBACH #1			
8218808	10281	3703921235		103		HITCHCOCK #1			
8218809	10282	3703921235		107-TF		HITCHCOCK #1			
8218804	10277	3704921397		103		J YEAGER #1			
8218805	10278	3704921397		107-TF		J YEAGER #1			
8218798	10271	3704921351		103		JOHN E MEGET #1			
8218799	10272	3704921351		107-TF		JOHN E MEGET #1			
8218810	10283	3704721328		107-TF		JOSEPH POPOWICH #1			
8218811	10284	3704721328		103		JOSEPH POPOWICH #1			
8218812	10285	3704921348		103		M FRONTERA #1			
8218813	10286	3704921348		107-TF		M FRONTERA #1			
8218800	10273	3704921352		103		ROBERT CRANDALL #1			
8218801	10274	3704921352		107-TF		ROBERT CRANDALL #1			
8218802	10275	3704721443		103		WILLIAM SNYDER #1			
8218803	10276	3704721443		107-TF		WILLIAM SNYDER #1			
-HARRY M MEETER				RECEIVED:	02/12/82	JA: PA			
8218747	9808	3700500000		108		WHITACRE #1	BARARD	11.7	APOLLO GAS CO
-JAMES F SCOTT				RECEIVED:	02/12/82	JA: PA			
8218791	10238	3706522586		103		JOSEPH TORRELL PS-374	WINSLOW	29.8	CONSOLIDATED GAS
8218793	10240	3706326456		103		MERVIN JORDAN #3 PS-384	NORTH MAHONING	57.0	CONSOLIDATED GAS
8218792	10239	3706326457		103		MERVIN JORDAN #4 PS-385	NORTH MAHONING	62.0	CONSOLIDATED GAS
-KRIEBEL WELLS #1				RECEIVED:	02/12/82	JA: PA			
8218795	10256	3706326534		103		KINTER #3	ROCHESTER MILLS	30.5	
8218794	10255	3706326556		103		WELLEN #1		29.7	PEOPLES NATURAL G
-MERIDIAN EXPLORATION CORP				RECEIVED:	02/12/82	JA: PA			
8218774	10215	3704921249		107-TF		C MCCLEARY #556-1	EDINBORO NORTH	0.0	COLUMBIA GAS TRAN
8218770	10211	3704921219		107-TF		D KLIE #552-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8218771	10212	3704921258		107-TF		E HALL #553-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8218769	10210	3704921266		107-TF		E SANDERS #551-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8218776	10217	3704921257		107-TF		EDINBORO GRAVEL #559-1	EDINBORO NORTH	0.0	NATIONAL FUEL GAS
8218778	10219	3704921256		107-TF		EDINBORO GRAVEL #561-2	EDINBORO NORTH	0.0	NATIONAL FUEL GAS
8218775	10214	3704921254		107-TF		G WRIGHT #555-1	EDINBORO NORTH	0.0	NATIONAL FUEL GAS
8218777	10218	3704921255		107-TF		HOBBS #560-1	EDINBORO NORTH	0.0	NATIONAL FUEL GAS
8218767	10207	3704921217		107-TF		L SKELTON #548-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8218772	10213	3704921251		107-TF		M PAVKOV #554-1	EDINBORO NORTH	0.0	COLUMBIA GAS TRAN
8218766	10202	3704921212		107-TF		N SMITH #542-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8218775	10216	3704921253		107-TF		O REED #558-1	EDINBORO NORTH	0.0	NATIONAL FUEL GAS
8218768	10208	3704921218		107-TF		R BATCHELOR #549-1	EDINBORO NORTH	30.0	COLUMBIA GAS TRAN
8218779	10220	3704921252		107-TF		REED #563-2	EDINBORO NORTH	0.0	NATIONAL FUEL GAS
-MITCHELL ENERGY CORPORATION				RECEIVED:	02/12/82	JA: PA			
8218745	9056	3708520224		103		SROCK #1-73	JAMESTOWN-MEDINA SAND	35.0	
-MITCHELL HEARD BROWN				RECEIVED:	02/12/82	JA: PA			
8218746	9777	3704921314		102-2		MITCHELL HEARD BROWN #1	MILL VILLAGE	45.0	COLUMBIA GAS TRAN
-MONROE RESOURCES LTD				RECEIVED:	02/12/82	JA: PA			
8218783	10228	3712330025		102-2		J R WINANS #1	FREEHOLD	20.0	COLUMBIA GAS TRAN
8218780	10223	3712330025		107-TF		J R WINANS #1	FREEHOLD	20.0	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-VENTURE GAS CO				RECEIVED:	02/12/82	JA: PA			
8218748	10016	3700521582		108		BAIN #1	ALLEGHENY PLATEAU	1.8	COLUMBIA GAS TRAN
WYOMING OIL & GAS CONSERVATION COMMISSION									
-AMOCO PRODUCTION CO				RECEIVED:	02/17/82	JA: WY			
8218880	NG 125-81	4900720429		107-RT		CHAMPLIN 226 AMOCO "E" #1	STANDARD DRAW	19.0	CITIES SERVICE GA
8218884	NG 141-81	4903721274		107-RT		CHAMPLIN 242 AMOCO "G" #1	ECHO SPRINGS	521.0	CITIES SERVICE GA
8218881	NG 130-81	4900720437		107-RT		CHAMPLIN 242 AMOCO "H" #1	ECHO SPRINGS	330.0	CITIES SERVICE GA
8218882	NG 134-81	4903721173		107-RT		CHAMPLIN 270 AMOCO "B" #1	SENTINEL RIDGE	55.0	CITIES SERVICE GA
8218883	NG 139-81	4903721255		107-RT		CHAMPLIN 276 AMOCO "C" #1	ECHO SPRINGS	223.3	CITIES SERVICE GA
8218885	NG 155-81	4900720422		107-RT		CHAMPLIN 278 AMOCO "D" #1	STANDARD DRAW	141.0	CITIES SERVICE GA
8218886	NG 163-81	4903721167		107-RT		CHAMPLIN 292 AMOCO "B" #1	WILD ROSE	43.0	CITIES SERVICE GA
8218879	NG 164-81	4903721311		107-RT		CHAMPLIN 443 AMOCO "B" #1	WILD ROSE	84.0	CITIES SERVICE GA
8218878	NG 156-81	4900720446		107-RT		COAL GULCH UNIT "C" #1	COAL GULCH	600.0	CITIES SERVICE GA
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM									
-AMOCO PRODUCTION CO				RECEIVED:	02/11/82	JA: NM 4			
8218819	NM-0599-81	3001523381		102-4		GREENWOOD PREGRA "F" COM #1	SHUGART PENN	835.5	GAS CO OF NEW MEX
8218825	NM-0140-81	3001523388		102-4		GREENWOOD PREGRA UNIT FED D COM #1	SHUGART-PENN	500.0	GAS CO OF NEW MEX
8218815	NM-1380-81	3004506631		108		P O PIPKIN #2 (3RD) (DEFERRED)	BASIN-DAKOTA	21.0	EL PASO NATURAL G
-ARAPAHOE DRILLING CO				RECEIVED:	02/11/82	JA: NM 4			
8218869	NM-0082-81PB	3003920592		108-PB		SCHALK 62 #1	BASIN DAKOTA	0.0	NORTHWEST PIPELIN
-ARCO OIL AND GAS COMPANY				RECEIVED:	02/11/82	JA: NM 4			
8218848	NM0056-81-PB	3004511576		108-PB		NAVAJO ALLOTTED COM A #1	BASIN DAKOTA	686.7	GAS CO OF NEW MEX
-BLACKWOOD & NICHOLS CO LTD				RECEIVED:	02/11/82	JA: NM 4			
8218844	NM0047-81PB	3004522528		108-PB		NORTHEAST BLANCO UNIT #65	BLANCO MESAVERDE NE/4	20.0	EL PASO NATURAL G
8218845	NM0046-81-PB	3004510589		108-PB		NORTHEAST BLANCO UNIT 59-24	SAN JUAN CO.	18.0	EL PASO NATURAL G
-CONOCO INC				RECEIVED:	02/11/82	JA: NM 4			
8218828	NM-1756-81	3802527142		103		VAUGHN B-1 NO 9	NMFU - LANGLIE MATTIX	99.0	EL PASO NATURAL G
-DEPCO INC				RECEIVED:	02/11/82	JA: NM 4			
8218868	NM-1619-81	3003906615		108		MKL #13	S BLANCO-PICTURED CLI	12.4	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	02/11/82	JA: NM 4			
8218831	NM1821-81	3004506373		108		ANGEL PEAK #2	BASIN DAKOTA	19.0	EL PASO NATURAL G
8218872	NM-1708-81	3003905563		108		CANYON LARGO UNIT #116	BASIN-DAKOTA	24.0	EL PASO NATURAL G
8218834	NM-1799-81	3004520812		108		DAY A #12	BLANCO PICTURED CLIFF	20.0	EL PASO NATURAL G
8218835	NM-1795-81	3004507289		108		LACKEY B #13	BASIN-DAKOTA	20.0	EL PASO NATURAL G
8218833	NM-1818-81	3003920142		108		SAN JUAN 27-4 UNIT #48	BASIN/DAKOTA	24.0	EL PASO NATURAL G
8218857	NM0069-81-PB	3003906770		108-PB		SAN JUAN 27-4 UNIT #6	TAPACITO PICTURED CLI	12.0	EL PASO NATURAL G
8218854	NM0062-81-PB	3003920404		108-PB		SAN JUAN 27-4 UNIT #60	BASIN DAKOTA	17.0	EL PASO NATURAL G
8218853	NM0065-81-PB	3003920732		108-PB		SAN JUAN 27-4 UNIT #62	TAPACITO-PICTURED CLI	15.0	EL PASO NATURAL G
8218851	NM0059-81-PB	3003920719		108-PB		SAN JUAN 27-4 UNIT #70	BASIN-DAKOTA GAS	21.0	EL PASO NATURAL G
8218860	NM0071-81-PB	3003920886		108-PB		SAN JUAN 27-4 UNIT #77	TAPACITO PICTURED CLI	20.0	EL PASO NATURAL G
8218842	NM0055-81-PB	3003906914		108-PB		SAN JUAN 27-5 UNIT #11	BLANCO-MESAVERDE	15.0	EL PASO NATURAL G
8218867	NM0077-81-PB	3003906964		108-PB		SAN JUAN 27-5 UNIT #16	BLANCO-MESAVERDE	14.0	EL PASO NATURAL G
8218847	NM0057-81-PB	3003920849		108-PB		SAN JUAN 27-5 UNIT #173	TAPACITO-PICTURED CLI	14.0	EL PASO NATURAL G
8218864	NM0074-81-PB	3003920812		108-PB		SAN JUAN 27-5 UNIT #176	TAPACITO PICTURED CLI	20.0	EL PASO NATURAL G
8218850	NM0068-81-PB	3003920818		108-PB		SAN JUAN 27-5 UNIT #179	TAPACITO-PICTURED CLI	20.0	EL PASO NATURAL G
8218846	NM0058-81PB	3003920816		108-PB		SAN JUAN 27-5 UNIT #183	TAPACITO-PICTURED CLI	8.0	EL PASO NATURAL G
8218858	NM0068-81-PB	3003907141		108-PB		SAN JUAN 27-5 UNIT #2	BLANCO-MESAVERDE GAS	1.2	EL PASO NATURAL G
8218861	NM0072-81-PB	3003920674		108-PB		SAN JUAN 28-4 UNIT #36	BASIN DAKOTA	14.0	EL PASO NATURAL G
8218832	NM-1820-81	3039074320		108		SAN JUAN 28-5 UNIT #31	BLANCO - MESAVERDE	20.0	EL PASO NATURAL G

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8218863	NM0075-81-PB	3003907298		108-PB		SAN JUAN 28-5 UNIT NP #3	BLANCO MESAVERDE	26.0	EL PASO NATURAL G
8218852	NM0066-81-PB	3003920603		108-PB		SAN JUAN 28-6 UNIT #174	BLANCO SOUTH-PICTURED	16.0	EL PASO NATURAL G
8218855	NM0064-81-PB	3003920858		108-PB		SAN JUAN 28-6 UNIT #187	BLANCO SOUTH-PICTURED	15.3	EL PASO NATURAL G
8218856	NM0070-81PB	3003920872		108-PB		SAN JUAN 28-6 UNIT #192	BLANCO SOUTH PICTURED	23.0	EL PASO NAT GAS C
8218871	NM 0060-81PB	3003907167		108-PB		SAN JUAN 28-6 UNIT #226	BLANCO-MESAVERDE GAS	16.0	EL PASO NATURAL G
8218866	NM-0078-81PB	3003907197		108-PB		SAN JUAN 28-6 UNIT #38	BLANCO-MESAVERDE	18.0	EL PASO NATURAL G
8218874	NM-1670-81	3003920997		108		SAN JUAN 28-7 UNIT #226	BASIN DAKOTA	18.0	EL PASO NATURAL G
8218873	NM 1679-81	3003908118		108		SAN JUAN 29-7 UNIT #100	BASIN-DAKOTA	22.0	EL PASO NATURAL G
8218817	NM 1847-81-A	3003922425		103		SAN JUAN 29-7 UNIT #114M	BASIN DAKOTA	150.0	EL PASO NATURAL G
8218824	NM1847-81-B	3003922425		103		SAN JUAN 29-7 UNIT #114M	BLANCO MESAVERDE	35.0	EL PASO NATURAL G
8218865	NM0079-81-PB	3003907858		108-PB		SAN JUAN 30-6 UNIT #39	BLANCO-MESAVERDE GAS	9.5	EL PASO NATURAL G
8218859	NM0073-81-PB	3003920602		108-PB		SJ 27-5 UNIT #149	TAPACITO-PICTURED CLI	20.0	EL PASO NATURAL G
8218843	NM0054-81-PB	3003907191		108-PB		SJ 27-5 UNIT #61	BLANCO-MESAVERDE GAS	12.0	EL PASO NATURAL G
8218849	NM0061-81-PB	3004511314		108-PB		SJ 27-5 UNIT #9	BLANCO-MESAVERDE GAS	4.0	EL PASO NATURAL G
8218870	NM-0081-PB	3003907262		108-PB		SJ 28-6 UNIT #33	BLANCO-MESAVERDE GAS	8.8	EL PASO NATURAL G
8218862	NM0076-81-PB	3004507461		108-PB		TAPP #2	BLANCO-MESAVERDE	22.0	EL PASO NATURAL G
-ENERGY RESERVES GROUP INC				RECEIVED:	02/11/82	JA: NM 4			
8218875	NM-1792-81	3004522237		108		GALLEGOS CANYON UNIT PC #271	KUTZ WEST PICTURED CL	17.0	EL PASO NATURAL G
-EXXON CORPORATION				RECEIVED:	02/11/82	JA: NM 4			
8218820	NM-3253-81	3002926485		102-4		LAGUNA GRANDE UNIT #3	LAGUNA GRANDE UNIT	265.0	EL PASO NATURAL G
-GETTY OIL COMPANY				RECEIVED:	02/11/82	JA: NM 4			
8218822	NM-3126-81	3001523348		102-4		GETTY FEDERAL "24" #1	UNDESIGNATED ATOKA	912.5	TRANSWESTERN PIPE
-HARVEY E YATES COMPANY				RECEIVED:	02/11/82	JA: NM 4			
8218876	NM-1719-81	3002527300		102-4		YOUNG DEEP UNIT #4	UND BONE SPRINGS	0.0	EL PASO NATURAL G
-INTERNORTH INC				RECEIVED:	02/11/82	JA: NM 4			
8218814	NM0068-81	3001520621		102-4		VANDAGRIFF FEDERAL #1	WILDCAT (ATOKA)	5.5	INTERNORTH INC
-JEROME P MCHUGH				RECEIVED:	02/11/82	JA: NM 4			
8218818	NM-0062-81	3003922543		102-4		BIG HIT #12	GAVILAN PICTURED CLIF	100.0	EL PASO NATURAL G
-KENAI OIL AND GAS INC				RECEIVED:	02/11/82	JA: NM 4			
8218824	NM1503-83	3003922129		102-4		FEDERAL 31-12	BLANCO PICTURED CLIFF	108.0	EL PASO NAT'L GAS
-KOCH INDUSTRIES INC				RECEIVED:	02/11/82	JA: NM 4			
8218838	NM-1828-81	3004508504		108		WRIGHT #2	AZTEC PICTURED CLIFFS	20.6	EL PASO NATURAL G
-MESA PETROLEUM CO				RECEIVED:	02/11/82	JA: NM 4			
8218839	NM184181102	3000560678		102-2	107-TF	ROCK FEDERAL #4	UNDESIGNATED ABO	36.0	TRANSWESTERN PIPE
8218838	NM184281102	3000560981		102-2	107-TF	SALT FEDERAL #4	UNDESIGNATED ABO	138.0	TRANSWESTERN PIPE
8218837	NM184381102	3000561058		102-2	107-TF	SALT FEDERAL #5	UNDESIGNATED ABO	36.0	TRANSWESTERN PIPE
-MTS LTD PARTNERSHIP				RECEIVED:	02/11/82	JA: NM 4			
8218836	NM184481187	3000561066		102-2	107-TF	SPRING FEDERAL #2	UNDESIGNATED ABO	500.0	TRANSWESTERN PIPE
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	02/11/82	JA: NM 4			
8218877	NM-1773-81	3004521163		108		COX CANYON UNIT #11	AZTEC PICTURED CLIFFS	21.0	NORTHWEST PIPELIN
-SOUTHLAND ROYALTY CO				RECEIVED:	02/11/82	JA: NM 4			
8218829	NM 1740-81	3001523223		103		DEXTER FEDERAL #2	GRAYBURG JACKSON	9.0	PHILLIPS PETROLEU
-SUPRON ENERGY CORPORATION				RECEIVED:	02/11/82	JA: NM 4			
8218816	NM 1852-81	3004525947		103		HELMS FEDERAL 1-E	BASIN DAKOTA	607.0	EL PASO NATURAL G
-TENNECO OIL COMPANY				RECEIVED:	02/11/82	JA: NM 4			
8218841	NM 1832-81	3003922582		103		JICARILLA "A" #3E	BASIN DAKOTA	500.0	NORTHWEST PIPELIN
-UMC TEXAS INC				RECEIVED:	02/11/82	JA: NM 4			
8218840	NM-1836	3003922634		103		BETTY "C" 2-31	LYBROOK-GALLUP	20.0	MESA PETROLEUM CO
-YATES PETROLEUM CORP				RECEIVED:	02/11/82	JA: NM 4			
8218823	NM-8218-81	3001523272		102-4		DIXON YATES "LM" FEDERAL #1	WILDCAT	0.0	TRANSWESTERN PIPE
8218827	NM-1234-81	3000560872		102-4		LONG ARROYO "OW" FED #1	UND MORROW	0.0	TRANSWESTERN PIPE
8218821	NM-0157-81	3001522983		102-4		NO CROOKED CREEK KG FED COM #1	WILDCAT	0.0	EL PASO NATURAL G
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, CASPER,WY									
-KOCH INDUSTRIES INC				RECEIVED:	02/16/82	JA: ND 5			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8218987	ND 458-1	3300700536		102-2		FEDERAL #16-14	BIG STICK	18.3	MONTANA-DAKOTA UT
-MTS LTD PARTNERSHIP				RECEIVED:	02/16/82	JA: ND 5			
8218983	ND 463-1	3302500210		102-2		FEDERAL 18 #1	WILDCAT	183.0	UNDETERMINED
-SHELL OIL CO				RECEIVED:	02/16/82	JA: ND 5			
8218988	ND 455-1	3305301804		102-4		USA 33-22-78	MONDAK	6.6	MONTANA DAKOTA UT
-AMOCO PRODUCTION CO				RECEIVED:	02/16/82	JA: WY 5			
8218898	W 431-1	49037218B4		103		LOST SOLDIER UNIT #102 (DARWIN)	LOST SOLDIER-DARWIN	18.4	NORTHERN GAS CO
8218995	W 432-1	49037218B4		103		LOST SOLDIER UNIT #182 (MADISON)	LOST SOLDIER-MADISON	18.4	NORTHERN GAS CO
-COLUMBINE EXPLORATION CORP				RECEIVED:	02/16/82	JA: WY 5			
8218897	W 464-1	4903721947		103		FEDERAL MTN FUEL #1-20	SIX MILE SPRING	100.0	MOUNTAIN FUEL SUP
8218964	W 465-1	4903721941		103		TENNECO FEDERAL #1-36	SIX MILE SPRING	100.0	MOUNTAIN FUEL SUP
-CORONADO OIL CO				RECEIVED:	02/16/82	JA: WY 5			
8218895	W 424-1	4901720280		102-A		BROWN-GOVT #2	ENOS CREEK	80.0	MONTANA-DAKOTA UT
-COTTON PETROLEUM CORPORATION				RECEIVED:	02/16/82	JA: WY 5			
8218891	W 409-1	4903721812		107-TF		FUKUZAKI FEDERAL #1-18	WILDCAT	75.0	CITIES SERVICE GA
8218889	W 396-1	4903721925		107-TF		HAMMOND FEDERAL 18-1	SIBERIA RIDGE	350.0	CITIES SERVICE GA
-DAVIS OIL COMPANY				RECEIVED:	02/16/82	JA: WY 5			
8218888	W 385-1	4900525518		103		APPLETON FEDERAL #2	E HILIGHT	5.4	PHILLIPS PETROLEU
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	02/16/82	JA: WY 5			
8218890	W 408-1	4900921866		103		WELL DRAW FEDERAL 32-3	WELL DRAW	4.0	PHILLIPS PETROLEU
-ENERGETICS INC				RECEIVED:	02/16/82	JA: WY 5			
8218899	W-1117-9	4903520512	D	107-RT		FEDERAL 18-29	BIRD CANYON	1328.8	NORTHWEST PIPELIN
8218906	W 450-1	4903721758		107-RT		FEDERAL 32-26	MONUMENT BUTTE IV	82.0	NORTHWEST PIPELIN
-MWJ PRODUCING CO				RECEIVED:	02/16/82	JA: WY 5			
8218894	W 423-1	4900921974		153		SMITH FEDERAL A COM 27-15	MANNING	0.0	
8218893	W 422-1	4900921973		103		SMITH FEDERAL 27-13	MANNING	8.0	
8218892	W 421-1	4900921936		103		SPRACKLEN 3-8	MANNING	0.0	
-NATURAL GAS CORPORATION OF CALIF				RECEIVED:	02/16/82	JA: WY 5			
8218902	W 461-1	4902320487		103		FEDERAL 32-31	FONTENELLE	14.0	PACIFIC GAS TRANS
8218896	W 462-1	4902320434		103		FEDERAL 43-22	FONTENELLE	50.0	PACIFIC GAS TRANS
-NORTEX GAS & OIL CO				RECEIVED:	02/16/82	JA: WY 5			
8218908	W460-1	4901321067		103		FEDERAL 221 #9-18	FULLER RESERVOIR	360.0	INTERNORTH INC
8218901	W 459-1	4901321066		103		FEDERAL 720 #1-13	FULLER RESERVOIR	14.6	INTERNORTH INC
-ST MICHAEL EXPLORATION CO				RECEIVED:	02/16/82	JA: WY 5			
8218887	W 188-1	4903721508		102-A		EXXON-FEDERAL 1-2	WEST STAGE STOP	73.0	PANHANDLE EASTERN

**** BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA,OK**

-OKANCO PETROLEUM CO INC				RECEIVED:	02/16/82	JA: OK 8			
8218911		3511309B80		103		DOOLITTLE #1B	1B WYNONA 330 FSL 990	36.5	PHILLIPS PETROLEU
8218912		3511300006		103		DOOLITTLE #2B	2B WYNONA 990 ENL 165	9.5	PHILLIPS PETROLEU
-PAUL R LOOP OIL & GAS				RECEIVED:	02/16/82	JA: OK 8			
8218910		3511300000		133		BOCKIUS	ALEMEDA	0.0	NATIONAL ZINC CO
8218909		3511300000		103		MAHIN	ALEMEDA	0.0	NATIONAL ZINC CO
-THOR ENERGY CORP				RECEIVED:	02/16/82	JA: OK 8			
8218913		3511300000		103		MCKINLEY 1-D	NORTH HERD	180.0	AJAX OIL & GAS CO
-TOMAHAWK ENERGY CO INC				RECEIVED:	02/16/82	JA: OK 8			
8218914		3511300000		103		CANEY RIVER #1403	CANEY RIVER	180.0	AJAX OIL & GAS CO

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6881 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-C

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: March 10, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OKLAHOMA CORPORATION COMMISSION									
-AMAREX INC				RECEIVED:	02/16/82	JA: OK			
8219013	12868	3515321187		103		SELMAN #1-15	SOUTH EDITH (LOVEDALE	30.0	DELHI GAS PIPELIN
-ANCANA OIL CORP				RECEIVED:	02/16/82	JA: OK			
8218996	12699	3500320802		103		FRECH #2-3	RINGWOOD	110.0	PANHANDLE EASTERN
-AMOCO PRODUCTION CO				RECEIVED:	02/16/82	JA: OK			
8218966	15688	3503920194		102-2		ROOF UNIT #1	SE THOMAS	365.0	WESTERN FARMERS E
-AMSTAR OIL INC				RECEIVED:	02/16/82	JA: OK			
8219007	12701	3510900000		102-4 103		ROGERS #1		175.0	EL PASO NATURAL G
-ANDOVER OIL COMPANY				RECEIVED:	02/16/82	JA: OK			
8219042	15810	3503920442		102-2 103		RAINEY #12-1		6.0	DELHI GAS PIPELIN
8218980	15697	3501722128		102-2 103		ROTHER #11-2		180.0	DELHI GAS PIPELIN
-APACHE CORP				RECEIVED:	02/16/82	JA: OK			
8218978	15643	3512920659		102-2		SPROWLS 1-33		602.0	EL PASO NATURAL G
-APACHE CORPORATION				RECEIVED:	02/16/82	JA: OK			
8218962	15513	3503920499		102-2		J P THURMOND 1-31	NE CARPENTER	171.0	
-ARCO OIL AND GAS COMPANY				RECEIVED:	02/16/82	JA: OK			
8218976	12676	3500721947		103		HATTIE B EYER UNIT #4	WEST CLEAR LAKE	18.8	EL PASO NATURAL G
8218934	15651	3504722583		102-4		ROBERT BUTTS #1	SOUTH DOUGLAS	36.5	
8218961	15495	3511921747		102-4		W I C #1	N W STILLWATER AIRPOR	36.5	
-B R CARTER				RECEIVED:	02/16/82	JA: OK			
8218997	15523	3513122653		102-2		VINITA CARROLL #1	UNNAMED	30.0	DIAMOND S GAS SYS
-BARUCH-FOSTER CORP				RECEIVED:	02/16/82	JA: OK			
8219017	15722	3508121507		102-A		JOHN MARION #1	RAVENDALE	20.0	CITIES SERVICE GA
-BEARD OIL COMPANY				RECEIVED:	02/16/82	JA: OK			
8219014	12891	3511921492		103		SCHNEIDER "A" #2	SOUTHEAST PARADISE	30.0	CITIES SERVICE GA
-BLUE QUAIL ENERGY INC				RECEIVED:	02/16/82	JA: OK			
8219048	12611	3501721871		103		FOLK #1	BANNER	188.0	PHILLIPS PETROLEU
-BOATMAN & HARDGRAVES				RECEIVED:	02/16/82	JA: OK			
8218937	12211	3514320921		103		JUANITA	SOUTH WEKIWA	0.0	COLORADO GAS COMP
-BONRAY ENERGY CORP				RECEIVED:	02/16/82	JA: OK			
8218995	12691	3510321317		103		POMMITT #1	WEST POLO AREA	18.0	AMINOIL USA INC
-CANEY VALLEY OIL & GAS CO				RECEIVED:	02/16/82	JA: OK			
8219021	15802	3514732169		102-2		COLPITT #2		0.0	DIAMOND "S" GAS S
8219023	15958	3514732174		102-2		COLPITT #3		55.0	DIAMOND "S" GAS S
8219022	15957	3514732174		102-2		COLPITT #4		55.0	DIAMOND "S" GAS S
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	02/16/82	JA: OK			
8218989	11975	3504721288		108		FRANK BIRD A-3	N E ENID	20.0	CHAMPLIN PETROLEU
-CHASE EXPLORATION CORP				RECEIVED:	02/16/82	JA: OK			
8218985	12479	3507121335		108		HARKIN 3-17	UNNAMED	1.2	CITIES SERVICE GA
8218984	12474	3507121273		108		HONICK #2-3	UNNAMED	7.0	CITIES SERVICE GA
8218983	12468	3507121608		108		JANTZ 2-20	UNNAMED	7.0	CITIES SERVICE GA

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8218982	12462	3507121048		108		KLEIN #2-19	UNNAMED	8.5	CITIES SERVICE GA
8218986	12464	3507120886		108		RIGDON #1-21	UNNAMED	0.5	CITIES SERVICE GA
8218981	12467	3507121688		108		ROUSEY 2-26	UNNAMED	3.0	CITIES SERVICE GA
8218991	12510	3507121325		108		SCHMIDT #2-26	UNNAMED	1.1	CITIES SERVICE GA
8218993	12516	3507120958		108		TAYLOR #1-22	UNNAMED	4.6	CITIES SERVICE GA
8218992	12515	3507120912		108		THAIN #2-26	UNNAMED	5.0	CITIES SERVICE GA
-CHOCTAW GAS CO				RECEIVED:	02/16/82	JA: OK			
8219004	12425	3512121761		103		WOODY #3	HARTSHORNE	180.0	SE TRANSMISSION &
-CITIES SERVICE COMPANY				RECEIVED:	02/16/82	JA: OK			
8218973	12606	3504900000		108		HATCHER D #1	W PAULS VALLEY	6.5	WARREN PETROLEUM
-CLIFFORD RESOURCES INC				RECEIVED:	02/16/82	JA: OK			
*8219003	12817	3509300000		103		CAMPBELL #1-14	N W AMES	55.0	PHILLIPS PETROLEU
-COMPADRE DRLG & EXPLORATION CORP				RECEIVED:	02/16/82	JA: OK			
8219026	15716	3513722714		102-4		DENNIS #1		365.0	ENSERCH CORP
-CONOCO INC				RECEIVED:	02/16/82	JA: OK			
8219016	12897	3501922176		103		S E VELMA SIMS UNIT #157	S E VELMA	27.0	GETTY OIL CO
-CUMMINGS OIL CO				RECEIVED:	02/16/82	JA: OK			
8218935	11312	3507322554		103		CORBIN #1-14	SOONER TREND	0.0	CITIES SERVICE GA
-DEMCO OIL & GAS COMPANY				RECEIVED:	02/16/82	JA: OK			
8218919	09518	3507122132		108		KAHLE #1-2	UNNAMED	8.8	CITIES SERVICE GA
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	02/16/82	JA: OK			
8218999	14942	3512920636		102-2		STRANAHAN #1		0.0	TRANSWESTERN PIPE
-DLB ENERGY CORP				RECEIVED:	02/16/82	JA: OK			
8219051	12634	3501722087		103		CYPERT #1	NORTH PIEDMONT	200.0	CONOCO INC
-ELDER & VAUGHN				RECEIVED:	02/16/82	JA: OK			
8219030	12711	3500722010		103		CALHOON #1	UNALLOCATED	100.0	NORTHERN NATURAL
-ENSERCH EXPLORATION INC				RECEIVED:	02/16/82	JA: OK			
8218971	10373	3514920127		103		D R SCHNEBERGER #1	BURNS FLAT	644.0	NATURAL GAS PIPEL
8218969	09031	3514920081		103		LESLIE MINDS #1-24	BURNS FLAT	273.0	NATURAL GAS PIPEL
-ESTORIL PRODUCING CORP				RECEIVED:	02/16/82	JA: OK			
8218940	15565	3512521182		102-2		HENRY #2	NE TECUMSEH	45.6	BETHEL GAS CO
8218941	15566	3512521269		102-2	103	PARSONS NO 1-A	NE TECUMSEH	18.2	BETHEL GAS CO
-EXXON CORPORATION				RECEIVED:	02/16/82	JA: OK			
8219043	10385	3514920135		107-DP		RUDOLPH D PANKRATZ #1	WILDCAT	436.8	EL PASO NATURAL G
-F C D OIL CORP				RECEIVED:	02/16/82	JA: OK			
8218979	15657	3504722732		102-4		ROBERT #1-8	KREMLIN	18.8	C R A INC
-FAIN-PORTER PRODUCTION CO INC				RECEIVED:	02/16/82	JA: OK			
8218998	12253	3510321170		102-4		BELLMON #1-29	S TONKAWA	36.5	ARCO OIL & GAS CO
-FUNK EXPLORATION INC				RECEIVED:	02/16/82	JA: OK			
8218975	12670	3500722069		103		JESSIE ADAMS #1	NE HATTON	200.0	NORTHERN NATURAL
-GRACE PETROLEUM CORPORATION				RECEIVED:	02/16/82	JA: OK			
8218939	12292	3509321437		103		HAWORTH 3-4	N E AMES	144.0	PIONEER GAS PRODU
-GULFSTREAM PETROLEUM CORP				RECEIVED:	02/16/82	JA: OK			
8219031	12730	3504722436		103		MARION E LEE #1-31	UNALLOCATED	0.0	PANHANDLE EASTERN
-HADSON PETROLEUM CORP				RECEIVED:	02/16/82	JA: OK			
8218933	15653	3507920436		102-4		BLAYLOCK "C" #1	KINTA (TUCKER)	365.0	ARKANSAS LOUISIAN
8218932	15647	3505120469		102-2		BONHAM "B" 1-1	KINTA	365.0	ARKANSAS LOUISIAN
8218922	12735	3505121013		103		BRITTON ESTATE 1-10	NORTH HINCO	365.0	TRANSOK PIPE LINE
8218923	12736	3505121013		103		STORY 1-18	PLEASANT VIEW	700.0	TRANSOK PIPELINE
-HAMILTON BROTHERS OIL CO				RECEIVED:	02/16/82	JA: OK			
8218964	15433	3514920200		102-2		SEGER INDIAN SCHOOL #1-15	SEGER	547.5	MICHIGAN WISCONSI
-HAWKINS OIL & GAS INC				RECEIVED:	02/16/82	JA: OK			
8219008	12706	3515121164		103		LAMBERT #3-14	OAKDALE	365.0	DELHI GAS PIPELIN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8219041	12705	3505920903		103		WHITENECK #1-28	S W KIBBY	18.3	DELHI GAS PIPELIN
-HB OIL & GAS INC				RECEIVED:	02/16/82	JA: OK			
8218958	15391	3503722592		102-4		SPENCER #1	OLIVE	158.0	MP&R PRODUCTION C
-HOLDEN ENERGY CORP				RECEIVED:	02/16/82	JA: OK			
8218945	15540	3506700000		102-4	103	ACREE 36-1		128.5	AMINOIL USA INC
8218930	15512	3506720425		103		EUBANKS 26-1		0.0	AMINOIL USA INC
8219005	14497	3506720425		102-4		EUBANKS 26-1		115.0	AMINOIL USA INC
8218942	15581	3506700000		102-4	103	FORD 36-1		105.0	AMINOIL USA INC
-JET OIL COMPANY				RECEIVED:	02/16/82	JA: OK			
8218921	12734	3508321719		103		FERGUSON #1	SOUTH LUCIEN	7.0	EASON OIL CO
-JOHN A KIENZLE				RECEIVED:	02/16/82	JA: OK			
8219036	12789	3511100000		103		C B NICHOLSON #1	HOFFMAN	17.0	PHILLIPS PETROLEU
-JOHN T RIETZ & CO INC				RECEIVED:	02/16/82	JA: OK			
8219055	14846	3508321862		102-2		SHE-SHE #1	EVANSVILLE	0.0	WILSON GAS PROCES
-JON R WITHROW				RECEIVED:	02/16/82	JA: OK			
8218951	12622	3509321303		103		D J MARTENS #1	SECTION 23-T21N-R12W	4.6	PANHANDLE EASTERN
8218954	12619	3509321455		103		ECK #1	SECTION 17-T21N-R12W	75.8	PANHANDLE EASTERN
8218953	12620	3509321345		103		FAST #1	SECTION 10-T21N-R12W	1.7	PANHANDLE EASTERN
8218952	12621	3509321420		103		FLAMING #1	SECTION 12-T21N-R13W	15.7	PANHANDLE EASTERN
8218949	12624	3509321282		103		NIGHTENGALE #1	SECTION 13-T21N-R12W	13.1	PANHANDLE EASTERN
8218950	12623	3509321375		103		P C MARTENS #1	SECTION 22-T21N-R12W	22.5	PANHANDLE EASTERN
8218948	12625	3509321415		103		RIGG #1	SECTION 16-T21N-R12W	10.6	PANHANDLE EASTERN
8218947	12626	3509321311		103		SCHMIDT #1	SECTION 23-T21N-R12W	29.8	PANHANDLE EASTERN
8218946	12627	3509321438		103		SCHROEDER #1	SECTION 21-T21N-R12W	11.5	PANHANDLE EASTERN
8218945	12629	3509321349		103		WAHL "C" #1	SECTION 15-T21N-R12W	51.0	PANHANDLE EASTERN
8218944	12630	3509321439		103		YOUNG #1	SECTION 8-T21N-R12W	21.7	PANHANDLE EASTERN
-JONES & PELLOW OIL CO				RECEIVED:	02/16/82	JA: OK			
8219033	12744	3507323056		103		BENDA 10-2	SOONER TREND	3.0	CONOCO INC
8219034	12746	3501922017		103		BLODGETT 28-2	S E JOINER	36.0	OKLAHOMA NATURAL
8218927	12747	3506320973		103		COSPER 7-1	SOUTH GERDY	360.0	ARKANSAS LOUISIAN
8218926	12745	3501922029		103		HULL 20-2	JOINER CITY	48.0	OKLAHOMA NATURAL
-JORDAN OIL & GAS COMPANY				RECEIVED:	02/16/82	JA: OK			
8219045	10118	3504520833		102-4	103	SMITH #1-27	SOUTH HIGGINS	98.0	NORTHERN NATURAL
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	02/16/82	JA: OK			
8218972	10787	3515320454		108		WILLIAM EVERSOLE #1-20	N QUINLAN	25.0	DELHI GAS PIPELIN
-KEITH F WALKER				RECEIVED:	02/16/82	JA: OK			
8219050	12631	3501961154		103		BOGGESS-BLANTON	OIL CITY	0.0	AMINOIL USA INC
-KENNEDY & MITCHELL INC				RECEIVED:	02/16/82	JA: OK			
8218918	12710	3505920909		103		MAYBERRY #26-130	UNDESIGNATED (C NW CH	126.0	NORTHERN NATURAL
8219056	10723	3504321057		103		MOORE #29-460	UNDESIGNATED (C SE 25	0.0	PANHANDLE EASTERN
8218917	12708	3505920747		103		PARKER #19-313	UNDESIGNATED (31-26N-	56.0	NORTHERN NATURAL
-KIRBY EXPLORATION CO				RECEIVED:	02/16/82	JA: OK			
8219044	16398	3501521155		107-DP		THOMAS 1-31	NORTHEAST FLETCHER FI	1200.0	PANHANDLE EASTERN
-L & N EXPLORATION INC				RECEIVED:	02/16/82	JA: OK			
8219052	12637	3508321597		103		FAGAN #1-13	N ABELL	91.0	EASON OIL CO
-LEASE VENTURES LTD				RECEIVED:	02/16/82	JA: OK			
8218956	15346	3506100000		102-4	103	ROYE #1-19	LEQUIRE	0.0	
-LONG ROYALTY CO				RECEIVED:	02/16/82	JA: OK			
8219028	12231	3501700000		103		ALLEN #1	SOUTH BANNER	6.0	PHILLIPS PETROLEU
-LUBELL OIL CO				RECEIVED:	02/16/82	JA: OK			
8219002	15444	3509100000		102-4		LUBELL #1-30 ADAMS	NORTH RAIFORD	55.0	WELLHEAD ENTERPRI
-MAPCO PRODUCTION COMPANY				RECEIVED:	02/16/82	JA: OK			
8218955	15298	3501922261		102-4	103	WESTHEIMER-NEUSTADT C 1-20	WEST HEWITT	8.4	AMINOIL USA INC

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-MONIL OIL CORP				RECEIVED:	02/16/82	JA: OK
8219061	12654	3513921355		103		HOVEY MORROW UNIT #22-3
8219060	12653	3513921352		103		HOVEY MORROW UNIT #32-3
-MONSANTO COMPANY				RECEIVED:	02/16/82	JA: OK
8219012	12794	3502720491		103		WHEATLAND UNIT 3-2
-MORAN EXPLORATION INC				RECEIVED:	02/16/82	JA: OK
8219058	11884	3501721804		103		FRY #1
8219057	11878	3501721805		103		LAWSON #1
-MUSHROOM OIL CO				RECEIVED:	02/16/82	JA: OK
8219019	15760	3514723000		102-2		MOORE "E" 17 14723000
-NFC PETROLEUM CORP				RECEIVED:	02/16/82	JA: OK
8218974	12651	3505120928		103		WALTERS #3-25
-NIXON-DAVIS ENERGY CO INC				RECEIVED:	02/16/82	JA: OK
8219027	12330	3508300000		103		COX #1
8219038	12339	3508321620		103		SIMPSON #1
8219037	12329	3508300000		103		WARD #1
-NOBLE OPERATING INC				RECEIVED:	02/16/82	JA: OK
8218998	14608	3509322319		102-2		ELEANOR #1
8219010	12389	3509322269		102-2		FRAZER #2-24
8219009	12388	3509322186		102-2		KEETON #1
8219011	13127	3509322287		102-2		KEETON #2
-NORTHERN LEASING CO				RECEIVED:	02/16/82	JA: OK
8218960	15488	3510524263		102-2		COFFEYVILLE RE-CON INC #1
-ONG EXPLORATION INC				RECEIVED:	02/16/82	JA: OK
8218968	15717	3503920589		102-2		OAKS #1-4
-P-T LTD #1				RECEIVED:	02/16/82	JA: OK
8219049	12615	3504722605		103		TEFFT 13-1
-PAUL BOGIE				RECEIVED:	02/16/82	JA: OK
8218924	12739	3511122784		103		GALE #2
8218925	12740	3511122863		103		GALE #3
-PCX CORP				RECEIVED:	02/16/82	JA: OK
8218965	15438	3512920624		102-2		WALKER #1
-PETRO-ENERGY EXPLORATION INC				RECEIVED:	02/16/82	JA: OK
8218994	12693	3504722573		103		KING #1-21
-PETRO-LEWIS CORPORATION				RECEIVED:	02/16/82	JA: OK
8219029	12767	3509322678		103		SLACK #5-2
-PORTS OF CALL OIL CO				RECEIVED:	02/16/82	JA: OK
8218929	12864	3501721880		103		HILLCREST #21-1
8218928	12863	3501721841		103		NASON #21-1
-PROEX ENERGY CORP				RECEIVED:	02/16/82	JA: OK
8218920	12694	3508321528		103		WAGGENER 28-2
-RALPH E PLOTNER OIL & GAS INVEST IN				RECEIVED:	02/16/82	JA: OK
8219032	12737	3508321488		103		WASWO #1-32
-RANKIN PRODUCTION CO INC				RECEIVED:	02/16/82	JA: OK
8219040	15635	3511921698		102-2	103	YATES #2
-RICHARD W THOMPSON INC				RECEIVED:	02/16/82	JA: OK
8218957	15360	3508321772		102-4		SARTAIN #2
-RIVIERA OIL CO				RECEIVED:	02/16/82	JA: OK
8218938	12212	3514321175		103		ROC #1
-ROBERT A MASON PRODUCTION CO				RECEIVED:	02/16/82	JA: OK
8219020	15761	3502720529		103		FULKERSON #1
-RON GRUBB				RECEIVED:	02/16/82	JA: OK
8219006	15188	3508321076		102-4		W A OWEN #1

FIELD NAME	PROD	PURCHASER
POSTLE	20.0	PANHANDLE EASTERN
POSTLE	46.0	PANHANDLE EASTERN
S E WHEATLAND	180.0	SUN GAS CO
YUKON AREA	0.0	PHILLIPS PETROLEU
YUKON AREA	0.0	PHILLIPS PETROLEU
BARTLESVILLE-DEWEY	10.8	CITIES SERVICE GA
CHICKASHA FIELD	1.1	TRANSOK PIPE LINE
	0.0	EASON OIL CO
	0.0	EASON OIL CO
	0.0	EASON OIL CO
S BADO	0.0	PHILLIPS PETROLEU
S BADO	0.0	PHILLIPS PETROLEU
S BADO	0.0	PHILLIPS PETROLEU
S BADO	0.0	PHILLIPS PETROLEU
SOUTH COFFEYVILLE	54.0	PELICAN PIPELINE
NORTHEAST CARPENTER	500.0	PRODUCER'S GAS CO
SOONER TREND	180.0	UNION TEXAS PETRO
EAST MORRIS	0.0	PHILLIPS PETROLEU
EAST MORRIS	0.0	PHILLIPS PETROLEU
	0.0	
NORTHEAST ENID	100.0	CHAMPLIN PETROLEU
RINGWOOD FIELD	525.2	PIONEER GAS PRODU
YUKON	25.0	PHILLIPS PETROLEU
YUKON	75.0	PHILLIPS PETROLEU
	135.0	CONOCO INC
CUSHION	36.5	CONOCO INC
	250.0	EASON OIL CO
LAKE GUTHRIE SOUTH	200.0	WESTERN STATES GA
SOUTH WEKIWA	0.0	COLORADO GAS COMP
FULKERSON	445.0	SUN GAS CO
WILDCAT	360.0	WILSON GAS PROCES

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-S K TUTHILL & B J BARBEE				RECEIVED:	02/16/82	JA: OK
8219354	12645	3515121185		103		OSBORN #1-24
-SAMEDAN OIL CORPORATION				RECEIVED:	02/16/82	JA: OK
8219025	15698	3508520464		102-2		BOLES #2
-SENECA OIL COMPANY				RECEIVED:	02/16/82	JA: OK
8219015	12896	3513921384		103		CAMPBELL #1-14
8219046	10152	3513921335		102-2	103	CHAIN #1-21
-SHELL OIL CO				RECEIVED:	02/16/82	JA: OK
8218977	12697	3500700000		108		SIZELOVE #1-35
-SHEMEN PRODUCTION INC				RECEIVED:	02/16/82	JA: OK
8218959	15431	3514300000		102-2		AGAPE #4
-SHEPHERD ENERGY INC				RECEIVED:	02/16/82	JA: OK
8219001	15289	3514321711		102-2		RISLEY LAMB #1
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	02/16/82	JA: OK
8219047	11252	3505923829		103		S SHELINBARGER UNIT #2
-TENNECO OIL COMPANY				RECEIVED:	02/16/82	JA: OK
8218970	09716	3509320515		108		RUTH POLLOCK #1-28
-TEXACO INC				RECEIVED:	02/16/82	JA: OK
8219853	12644	3507321945		103		ROLLIN DREW #2
-TEXAS OIL & GAS CORP				RECEIVED:	02/16/82	JA: OK
8218988	10774	3513921451		103		DUCKETT "A" #1
-THE GHK COMPANY				RECEIVED:	02/16/82	JA: OK
8218987	15386	3503920512		102-2		ELLIOTT 1-16
-TRIGG DRILLING COMPANY INC				RECEIVED:	02/16/82	JA: OK
8219035	12758	3501120906		103		COOPER 1-19
-UNION OIL COMPANY OF CALIF				RECEIVED:	02/16/82	JA: OK
8218931	15692	3501900000		102-4		HAMPTON #1-32
-UNION TEXAS PETROLEUM				RECEIVED:	02/16/82	JA: OK
8219000	15156	3500920338		102-4		CECIL SIMPSON 1-1
-UNIT DRILLING & EXPLORATION CO				RECEIVED:	02/16/82	JA: OK
8219062	12657	3505100000		103		HURD #1
-UNIVERSAL OIL & GAS INC				RECEIVED:	02/16/82	JA: OK
8219018	15751	3508321751		102-2		NIVENS #3
-UNIVERSAL OIL & GAS SYSTEMS				RECEIVED:	02/16/82	JA: OK
8218963	15573	3508360000		102-2		NIVENS #2
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	02/16/82	JA: OK
8218936	11430	3507322955		103		PAUL 1-16
-VIERSEN & COCHRAN				RECEIVED:	02/16/82	JA: OK
8219059	12640	3507323180		103		HLADIK 1-2
-WAGNER & BROWN				RECEIVED:	02/16/82	JA: OK
8219024	16656	3501521108		107-DP		SCHENK #1-22
-WHITMAR EXPLORATION CO				RECEIVED:	02/16/82	JA: OK
8219039	15615	3504921414		102-4		FERGUSON #2-8
-WOODS PETROLEUM CORPORATION				RECEIVED:	02/16/82	JA: OK
8218967	15677	3512920656		102-2		GLAESMAN #29-1
**********						
WEST VIRGINIA DEPARTMENT OF MINES						
**********						
-ANGERMAN ASSOCIATES INC				RECEIVED:	02/17/82	JA: WV
8219083		4701702843		103		CARL HINTER #2 #47-017-2843
-BERG PETROLEUM INC				RECEIVED:	02/17/82	JA: WV
8219080		4707301115		103		STATE FARM #14-88
-DKK PROSPECTING LTD				RECEIVED:	02/17/82	JA: WV

FIELD NAME	PROD	PURCHASER
WEST AVARD	65.0	DELHI GAS PIPELIN
NO NAME	6.0	AMINOIL USA INC
S W DOMBEY	798.0	PANHANDLE EASTERN
OAKWOOD	0.0	DELHI GAS PIPELIN
MOCANE-LAVERNE	11.5	EL PASO NATURAL G
N COLLINSVILLE (AGAPE	6.0	DIAMOND "S" GAS S
	72.0	DIAMOND "S" GAS S
MOCANE-LAVERNE	53.0	MICHIGAN-WISCONSI
RINGWOOD	13.0	PUBLIC SERVICE CO
SOONER TREND	26.0	EASON OIL CO
N W DOMBY	493.0	
NORTH ELK CITY	1.1	PANHANDLE EASTERN
WATONGA TREND	0.0	OKLA GAS & ELEC C
COTTONWOOD CREEK	300.0	LONE STAR GAS CO
CARTER AREA SECTION 1	182.5	ARKANSAS LOUISIAN
N E BRADLEY	560.0	ARKANSAS LOUISIAN
	0.0	EASON OIL CO
	0.0	EASON OIL CO
SOONER TREND	0.0	CITIES SERVICE GA
SOONER TREND	50.0	EASON OIL CO
VERDEN	1000.0	TENNESSEE GAS PIP
ANTIOCH	0.0	WARREN PETROLEUM
S W LEEDEY	0.0	DELHI GAS PIPELIN
NEW MILTON DISTRICT P	20.0	COLUMBIA GAS TRAN
OHIO RIVER	50.0	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8219064		4707301224		107-DV		CASTO B K #2	DONALD & SHARON CASTO	54.0	COLUMBIA GAS TRAN
8219063		4707301236		107-DV		EARNEST LAMP BRK #12	EARNEST LAMP BRK #12	54.0	COLUMBIA GAS TRAN
8219072		4707301201		107-DV		HOWARD A RENNER #7	HOWARD A RENNER #7	54.0	COLUMBIA GAS TRAN
8219071		4707300880		107-DV		HOWARD RENNER #3	HOWARD A RENNER #3	50.0	COLUMBIA GAS TRAN
-SABOT OIL & GAS CORP				RECEIVED:	02/17/82	JAS WV	UNION	48.0	TENNESSEE GAS PIP
8219082		4707901001		107-DV		J L MCLEAN A-58			
-CARSON PETROLEUM CORP				RECEIVED:	02/17/82	JAS WV	LITTLE KANAWHA RIVER	0.0	COLUMBIA GAS TRAN
8219086		4702103739		107-DV		BRANNON #1			
-CHASE PETROLEUM				RECEIVED:	02/17/82	JAS WV	CLAY DISTRICT	39.0	UNDEDICATED
8219074		4708504801		102-2		WEEKLEY #1			
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	02/17/82	JAS WV			
8219078		4708100533		107-TF		BEAVER COAL CO 820185	WEST VA FIELD AREA C	42.0	COLUMBIA GAS TRAN
8219075		4709901728		107-DV		WAYNE CO LAND & MIN 820290	WEST VA FIELD AREA B	32.3	COLUMBIA GAS TRAN
-HARRY C BOGGS				RECEIVED:	02/17/82	JAS WV			
8219084		4708701635		103		H A EDGELL #2	NICUT	12.0	COLUMBIA GAS TRAN
8219085		4708701636		103		H A EDGELL #3	NICUT	12.0	COLUMBIA GAS TRAN
-JAMES F SCOTT				RECEIVED:	02/17/82	JAS WV			
8219076		4701702996		103		BILLY DEVERICKS 8-345	GREENBRIER	39.0	CONSOLIDATED GAS
-PETROLEUM RESOURCES INC				RECEIVED:	02/17/82	JAS WV			
8219067		4708101682		108		C B MEATH #1	INDIAN FORK	2.0	CONSOLIDATED GAS
8219073		4708101670		108		ELEANOR LINGER #2	OIL CREEK	4.0	CONSOLIDATED GAS
8219068		4708101615		108		ELIAS MEATH #1	INDIAN FORK	2.0	CONSOLIDATED GAS
8219066		4708101684		108		OAT GOLDSMITH #1	INDIAN FORK	4.0	CONSOLIDATED GAS
8219065		4708101567		108		OTTIE GOLDSMITH #1	INDIAN FORK	2.0	CONSOLIDATED GAS
8219070		4708101443		108		RUSSELL POSEY #3	INDIAN FORK	4.0	CONSOLIDATED GAS
8219069		4708101368		108		T P DUVALL #3	CANOE RUN	6.0	CONSOLIDATED GAS
-SENECA-UPSHUR PETROLEUM CO				RECEIVED:	02/17/82	JAS WV			
8219077		4705900961		107-DV		C-4	HARDEE	35.0	COLUMBIA GAS TRAN
8219081		4709702268		103		J M HUBER 871	WASHINGTON	13.0	EQUITABLE GAS CO
-STONESTREET LANDS CO				RECEIVED:	02/17/82	JAS WV			
8219079		4701303226	D	103		MACE ROYALTY 81-S-123	ELMIRA	33.0	COLUMBIA GAS TRAN

OTHER PURCHASERS VOLUME NO 2437

8219083 PIONEER GAS PRODUCTS CO

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons' objecting to any to these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before March 30, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
103–SA: Seasonally affected
103–ER: Enhanced recovery
103–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-6982 Filed 3-12-82; 8:45 am]
BILLING CODE 6717-01-M

Section 107–DP: 15,000 feet of deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT; Recompletion tight formation
Section 108: Stripper well

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
********** OHIO DEPARTMENT OF NATURAL RESOURCES **********									
-ALSID OIL & GAS DEVELOPMENT CO				RECEIVED:	02/18/82	JA: OH			
8219087		3405922784		103	107-TF	CRAIGO UNIT #1	SPENCER	15.0	
-ALTEX INC				RECEIVED:	02/18/82	JA: OH			
8219088		3411925827		103	107-TF	NETHERS #1	JACKSON TWP	9.0	COLUMBIA GAS TRAN
-AMERICAN WELL MANAGEMENT COMPANY				RECEIVED:	02/18/82	JA: OH			
8219089		3408924233		103		ROBERT PALMER #1	BOWLING GREEN	18.0	
-APPALACHIAN ENERGY INC				RECEIVED:	02/18/82	JA: OH			
8219090		3401320341		103		A POLIVKA #1 AA-3	PULTNEY	20.0	COLUMBIA GAS TRAN
8219091		3401320343		103		DAVID WISE #1 AA-4	PULTNEY	30.0	COLUMBIA GAS TRAN
8219092		3401320410		103		RONALD RICE #3 AA-5	EAST RICHLAND	38.0	COLUMBIA GAS TRAN
-APPALACHIAN EXPLORATION INC				RECEIVED:	02/18/82	JA: OH			
8219093		3403123746		107-TF		GARY & MARILYN STEYSKAL #1	BEDFORD	1.8	COLUMBIA GAS TRAN
-ATWOOD RESOURCES INC				RECEIVED:	02/18/82	JA: OH			
8219095		3415723636		103	107-TF	GLENN & UNICE WARDELL #1	NEW PHILA	36.0	
-BERWELL ENERGY INC				RECEIVED:	02/18/82	JA: OH			
8219097		3408322976		103		BERWELL ENERGY #1	UNION	24.0	COLUMBIA GAS TRAN
-BILL D VAUGHT DBA VAUGHT OIL CO				RECEIVED:	02/18/82	JA: OH			
8219299		3403123876		107-TF		ED COLLINS #1	MILL CREEK	1.8	COLUMBUS GAS TRAN
8219298		3403123821		107-TF		FAITH E HARRAH #1	BEDFORD	1.5	COLUMBIA GAS TRAN
8219297		3403123758		107-TF		GRAY-HOLMES LIMESTONE CO #1	BEDFORD	1.5	COLUMBIA GAS TRAN
8219301		3403123984		107-TF		OCLEE SAMMONS #1	KEENE	50.0	COLUMBIA GAS TRAN
8219300		3403123983		107-TF		WAYNE A ROBERTS #1	KEENE	1.8	COLUMBIA GAS TRAN
-BLAUSER WELL SERVICE INC				RECEIVED:	02/18/82	JA: OH			
8219098		3410522237		103		ROY E FICK #1	CHESTER	9.0	COLUMBIA GAS TRAN
-BUCKHORN OIL COMPANY INC				RECEIVED:	02/18/82	JA: OH			
8219103		3416922943		107-TF		BARKMAN #1	FRANKLIN	8.0	COLUMBIA GAS TRAN
8219104		3416922944		107-TF		FLUHART #1	SALT CREEK	10.0	COLUMBIA GAS TRAN
8219102		3407522545		107-TF		FRANK BRUMME #1	KILLBUCK	1.8	COLUMBIA GAS TRAN
8219105		3416922945		107-TF		FRANKS #1	FRANKLIN	8.0	COLUMBIA GAS TRAN
8219106		3416922946		107-TF		SHETLER #1	FRANKLIN	9.0	COLUMBIA GAS TRAN
-C-D OIL & GAS PARTNERSHIP				RECEIVED:	02/18/82	JA: OH			
8219121		3415123650		103		WEISEL COMM #1	HARTVILLE	18.0	EAST OHIO GAS CO
-CARLTON OIL CORP				RECEIVED:	02/18/82	JA: OH			
8219108		3411122626		103		ANTILL #1	BENTON	50.0	
8219109		3411122627		103		ROUSE #1	RINARD MILLS	50.0	
-CENTRAL OIL FIELD SUPPLY CO				RECEIVED:	02/18/82	JA: OH			
8219110		3412724824		103	107-TF	LEWIS-IMLER 3	SALT LICK	8.0	COLUMBIA GAS TRAN
-CLOVER OIL CO				RECEIVED:	02/18/82	JA: OH			
8219111		3410322272		107-TF		F & M KOSTECKI #1	SPENCER	8.0	COLUMBIA GAS TRAN
-DANNY ARTZ				RECEIVED:	02/18/82	JA: OH			
8219094		3408922254	D	103		ARTZ #2	MARY ANN	50.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-DERBY OIL & GAS CORP				RECEIVED:	02/18/82	JA: OH			
8219113		3405922927		103	107-TF	THOMAS NEPTUNE #1	WESTLAND	12.0	EAST OHIO GAS CO
-DIAMOND OIL CO				RECEIVED:	02/18/82	JA: OH			
8219114		3407322587		103		PARKIN-STARR #2	FALLS GORE	0.0	COLUMBIA GAS TRAN
-DUSTY DRILLING COMPANY INC				RECEIVED:	02/18/82	JA: OH			
8219115		3411522309		103	107-TF	HILL #1-C	DEERFIELD	0.0	COLUMBIA GAS TRAN
-EDCO DRILLING & PRODUCING INC				RECEIVED:	02/18/82	JA: OH			
8219116		3407523512		103		WB-2A DICKENS	BRINKHAVEN	18.0	
-ENERGY UNLIMITED INC				RECEIVED:	02/18/82	JA: OH			
8219117		3400922412		103		6080 #2	LODI TOWNSHIP	0.0	COLUMBIA GAS TRAN
-ESTATE OF BARTON A HOLL				RECEIVED:	02/18/82	JA: OH			
8219142		3407322369		103		CLARK-KENNARD/SCHOOL BOARD #1	STARR	7.2	GREEN FALLS GAS C
8219143		3407322387		103		GEORGE W DONAHUE #2	GREEN	3.4	GREEN FALLS GAS C
8219141		3407322043		103		RICHARD NIELSEN JR #2	MARION	0.5	PARAMOUNT TRANSMI
-FRANK A CSAPO JR				RECEIVED:	02/18/82	JA: OH			
8219118		3416922835		107-TF		GLADYS LANCE #1	MILTON	12.0	COLUMBIA GAS TRAN
-GEORGE W SHARP				RECEIVED:	02/18/82	JA: OH			
8219285		3412725352		103		C C BEACHAM #3	FULTONHAM	10.0	NATIONAL GAS & OI
-GLACIER ENERGY CORP				RECEIVED:	02/18/82	JA: OH			
8219139		3400922474		103		MORRIS-WARNER #4	AMESVILLE	11.0	COLUMBIA GAS TRAN
-GNC ENERGY CORP				RECEIVED:	02/18/82	JA: OH			
8219133		3411522496		103		DALE & MARGARET WOODYARD #1	UNION	15.0	COLUMBIA GAS TRAN
8219132		3411522492		103		DAVID & EVELYN GERSPER #1	UNION	15.0	TENNESSEE GAS PIP
8219136		3411522563		103		DAVID & EVELYN GERSPER #2	UNION	15.0	TENNESSEE GAS PIP
8219125		3411522374		103		DAVID & PATRICIA SHANER #1	UNION	15.0	TENNESSEE GAS PIP
8219138		3411522566		103		EDGAR & WINIFRED DAVIS #1	UNION	15.0	TENNESSEE GAS PIP
8219137		3411522564		103		GEORGE & FLORENCE ECHELBARGER #1	MALTA	15.0	TENNESSEE GAS PIP
8219129		3411522433		103		HERBERT & GLORIA SCOTT #2	UNION	15.0	TENNESSEE GAS PIP
8219130		3411522461		103		JAMES & JANICE MCCONKEY #6	UNION	15.0	TENNESSEE GAS PIP
8219126		3411522422		103		M L & CAROL GLADDEN "A" #1	UNION	15.0	TENNESSEE GAS PIP
8219127		3411522423		103		M L & CAROL GLADDEN "A" #2	UNION	15.0	TENNESSEE GAS PIP
8219122		3411522323		103		MARGARET YERIAN #4A	MALTA	15.0	TENNESSEE GAS PIP
8219128		3411522428		103		MARY MCCONKEY #5	UNION	15.0	TENNESSEE GAS PIP
8219131		3411522481		103		MYRON & MARY JANES #1	PENN	15.0	COLUMBIA GAS TRAN
8219134		3411522541		103		RALPH W KENNEY #1	DEERFIELD	15.0	TENNESSEE GAS PIP
8219135		3411522543		103		ROBERT & ADA BLACKBURN #2	MALTA	15.0	TENNESSEE GAS PIP
8219124		3411522367		103		SHIRLEY SANDS #1	UNION	15.0	TENNESSEE GAS PIP
8219123		3411522363		103		SHIRLEY SANDS #2	MALTA	15.0	TENNESSEE GAS PIP
-GREEN GAS COMPANY				RECEIVED:	02/18/82	JA: OH			
8219140		3403521129		103	107-TF	POERTNER #2	OLMSTEAD	1.0	COLUMBIA GAS OF O
-HOPEWELL OIL & GAS				RECEIVED:	02/18/82	JA: OH			
8219145		3411121914		107-DV		B SMITH #1	WAYNE	1.5	COLUMBIA GAS TRAN
8219150		3411121954		107-DV		CLAUDE N MC GARRY #1	CENTER	10.0	COLUMBIA GAS TRAN
8219149		3411121949		107-DV		DENBOW #2	WAYNE	3.0	COLUMBIA GAS TRAN
8219144		3411121911		107-DV		DONALD HOGUE #1	WAYNE	10.0	COLUMBIA GAS TRAN
8219148		3411121944		107-DV		EARL ANDERSON # 2	SUMMIT	12.0	COLUMBIA GAS TRAN
8219151		3411120990		107-DV		FOEHERENBACH #1	SENECA	5.0	RIVER GAS CO
8219147		3411121930		107-DV		GENE HANSON # 1	FRANKLIN	0.0	COLUMBIA GAS TRAN
8219146		3411121927		107-DV		LEROY HANSON #1	FRANKLIN	0.0	COLUMBIA GAS TRAN
8219153		3411122275		107-DV		ROTH # 1	GREEN	10.0	RIVER GAS CO
8219152		3411122267		107-DV		YONTZ # 1	GREEN	5.0	COLUMBIA GAS TRAN
-I R D CORP				RECEIVED:	02/18/82	JA: OH			
8219154		3400922250		103		DVORAK-MARTIN/LINSCOTT # 1	CANAAN	36.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	VOLUME 608 FIELD NAME	PAGE 003 PROD	PURCHASER
-JAMES R BERNHARDT				RECEIVED: 02/18/82 JA: OH					
8219096		3410322660		103	107-TF	LUCHT WELL #2	GRANGER	7.0	COLUMBIA GAS TRAN
-JOHN G FORAKER				RECEIVED: 02/18/82 JA: OH					
8219118		3400922081		103		DOCIE #1	CANAAN	0.5	COLUMBIA GAS TRAN
8219119		3400922083		103		DOCIE #2	CANAAN	0.5	COLUMBIA GAS TRAN
8219120		3400922272		103		TRI COUNTY #8	BERN	0.5	COLUMBIA GAS TRAN
-K S T OIL & GAS CO INC				RECEIVED: 02/18/82 JA: OH					
8219161		3415320849		103	107-TF	ALLAMAN # 1	NORTHAMPTON	0.0	REPUBLIC STEEL CO
8219175		3415321019		103	107-TF	BALL #1	NORTHAMPTON	0.0	
8219174		3415321015		103	107-TF	CERECKE-SLAWTER #1	NORTHAMPTON	0.0	
8219166		3415320864		103	107-TF	CUNNINGHAM # 3	HUDSON	0.0	SUPERIOR FOODS IN
8219173		3415321006		103	107-TF	FREE INDEED FARMS #1	TWINSBURG	0.0	
8219176		3415321330		103	107-TF	GRAND VALLEY #4	BLOOMFIELD	0.0	REPUBLIC STEEL CO
8219168		3415320885		103	107-TF	GRETHER UNIT #1	NORTHAMPTON	0.0	REPUBLIC STEEL CO
8219165		3415320861		103	107-TF	GUENTHER # 1	NORTHAMPTON	0.0	
8219160		3415320840		103	107-TF	HIMELRIGHT # 1	NORTHAMPTON	0.0	REPUBLIC STEEL CO
8219169		3415320886		103	107-TF	HUDKINS #1	NORTHAMPTON	0.0	REPUBLIC STEEL CO
8219170		3415320887		103	107-TF	HUDKINS #2	NORTHAMPTON	0.0	REPUBLIC STEEL CO
8219171		3415320888		103	107-TF	HUDKINS #3	NORTHAMPTON	0.0	REPUBLIC STEEL CO
8219177		3415321849		103	107-TF	MULLENAX #1	BLOOMFIELD	0.0	REPUBLIC STEEL CO
8219172		3415320963		103	107-TF	NEWSOM UNIT #1	NORTHAMPTON	0.0	
8219167		3415320865		103	107-TF	NORTHAMPTON BOARD OF TRUSTEES #1	NORTHAMPTON	0.0	REPUBLIC STEEL CO
8219158		3415320811		103	107-TF	RIESE # 1	NORTHAMPTON	0.0	REPUBLIC STEEL CO
8219162		3415320851		103	107-TF	SOMMA-BUERGLER # 1	NORTHAMPTON	0.0	REPUBLIC STEEL CO
8219163		3415320852		103	107-TF	SOMMA-BUERGLER # 2	NORTHAMPTON	0.0	REPUBLIC STEEL CO
8219164		3415320853		103	107-TF	SOMMA-BUERGLER # 3	NORTHAMPTON	0.0	REPUBLIC STEEL CO
8219159		3415320812		103	107-TF	SOMMERS # 1	NORTHAMPTON	0.0	REPUBLIC STEEL CO
8219155		3415320791		103	107-TF	SWAIN # 1	NORTHAMPTON	0.0	REPUBLIC STEEL CO
8219157		3415320808		103	107-TF	SWAIN # 3	NORTHAMPTON	0.0	REPUBLIC STEEL CO
8219156		3415320795		103	107-TF	WOLFE # 1	STOW	0.0	SUPERIOR FOODS IN
-KEN-TRAK III				RECEIVED: 02/18/82 JA: OH					
8219178		3410522248		103		SHOEMAKER #2 SOUTH	2ND BEREA (LOWER MISS	0.0	ASHLAND OIL CO
-KENOIL				RECEIVED: 02/18/82 JA: OH					
8219180		3416922841		103		R DWIGHT MCKEE #1	PLAIN	12.0	COLUMBIA GAS TRAN
8219179		3416922888		107-TF		WILLIAM MCKEE #1	CLINTON	6.0	COLUMBIA GAS TRAN
-KRAMER EXPLORATION CO				RECEIVED: 02/18/82 JA: OH					
8219181		3410522243		103		BRICKLES #1	POMEROY	12.0	COLUMBIA GAS TRAN
8219182		3410522280		103		ROBINSON #1	POMEROY	12.0	COLUMBIA GAS TRAN
-L & M OPERATING INC				RECEIVED: 02/18/82 JA: OH					
8219183		3407523530		103		CLYDE LOWE #1	SPRING MOUNTAIN	16.0	COLUMBIA GAS TRAN
-LAUDERMAN OIL & GAS DRILLING				RECEIVED: 02/18/82 JA: OH					
8219184		3416723961		103		CRADDICK #2	TUNNEL	21.9	COLUMBIA GAS TRAN
-LIBERTY OIL & GAS CORP				RECEIVED: 02/18/82 JA: OH					
8219186		3400922173		103		MILLS #1C	CARTHAGE	18.0	COLUMBIA GAS TRAN
8219185		3400922161		103		ROBINSON #1A	CARTHAGE	18.0	COLUMBIA GAS TRAN
8219187		3400922176		103		WALTER BOGGS #2	CARTHAGE	18.0	COLUMBIA GAS TRAN
-LOMAK PETROLEUM INC				RECEIVED: 02/18/82 JA: OH					
8219189		3411925901		103		E DEARINGER #1	HARRISON	6.0	COLUMBIA GAS TRAN
8219194		3413522732		107-TF		G SZILAGYI #1	HIRAM	15.0	EAST OHIO GAS CO
8219188		3411924713		107-TF		K THOMAS #1	HARRISON	15.0	COLUMBIA GAS TRAN
8219191		3411925940		107-TF		M REECE #1	HARRISON	5.0	COLUMBIA GAS TRAN
8219193		3413322729		107-TF		O C C BROTHERHOOD OF ST JOHN UNIT #	HIRAM	15.0	EAST OHIO GAS CO
8219192		3411925984		107-TF		R FINNEY #2	BLUE ROCK	15.0	WILLISTON OIL COR

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	VOLUME 608 FIELD NAME	PAGE 004 PROD	PURCHASER
8219190		3411925902		103		THOMAS #2	HARRISON	6.0	COLUMBIA GAS TRAN
-RAJ				RECEIVED: 02/18/82 JA: OH					
8219196		3413120055		107-DV		CARL D SALISBURY #1	UNION	2.3	
8219200		3413120067		107-DV		CHARLES A NICKELL #1	LUCASVILLE	2.1	
8219198		3413120064		107-DV		JOHN & DORRIS HARTER #1	WAVERLY S	1.6	
8219197		3413120062		107-DV		LATRELLE HAMMON #1	WAVERLY S	2.6	
8219199		3413120066		107-DV		PAUL & AMY BAPST #2	WAVERLY S	2.8	
-RARAM ENERGY COO				RECEIVED: 02/18/82 JA: OH					
8219201		3408322565		100		SPEELMAN #1		2.3	COLUMBIA GAS TRAN
-RCCLAIN OIL CO				RECEIVED: 02/18/82 JA: OH					
8219202		3408924221		103		MCCLAIN LEASE #1	MADISON	0.5	NATIONAL GAS & OI
-RILLER OIL & GAS CO				RECEIVED: 02/18/82 JA: OH					
8219203		3416920047		107-TF		MILLER #1	PAINT	6.0	COLUMBIA GAS TRAN
-RITCHELL ENERGY CORPORATION				RECEIVED: 02/18/82 JA: OH					
8219204		3406720427		103	107-TF	B ARBAUGH #1	NEW RUMLEY-CLINTON SA	20.0	
-RATIONAL PETROLEUM CORP				RECEIVED: 02/18/82 JA: OH					
8219214		3400721520		103	107-TF	CHILDERS #1	LENOX	15.0	OHIO GAS CO
8219221		3408924276		103		CUNNINGHAM #2	MADISON	6.0	NATIONAL GAS & OI
8219212		3400721412		103	107-TF	H SMITH #2	LENOX	15.0	OHIO GAS CO
8219219		3400722783		103	107-TF	HEWITT #2	DENMARK	15.0	OHIO GAS CO
8219210		3400721250		103	107-TF	HEWITT #3	DENMARK	15.0	OHIO GAS CO
8219213		3400721496		103	107-TF	HICKORY GROVE #1	LENOX	15.0	OHIO GAS CO
8219220		3411122454		107-DV		J PABST & M ADAMS #1	CENTER	15.0	TEXAS EASTERN TRA
8219218		3400721572		103	107-TF	NEWMAN #1	JEFFERSON	15.0	OHIO GAS CO
8219209		3400720953		103	107-TF	OHIO LAND & TIMBER #2	LENOX	15.0	OHIO GAS CO
8219222		3412122706		103	107-TF	VILLAGE OF CALDWELL #1	CALDWELL NORTH	20.0	COLUMBIA GAS TRAN
8219217		3400721559		103	107-TF	W SMITH #4	LENOX	15.0	OHIO GAS CO
8219215		3400721535		103	107-TF	WOLF #3	LENOX	15.0	OHIO GAS CO
8219216		3400721536		103	107-TF	WOLF #4	LENOX	15.0	OHIO GAS CO
8219211		3400721252		103	107-TF	ZORMAN #2	LENOX	15.0	OHIO GAS CO
-NEW FRONTIER EXPLORATION INC				RECEIVED: 02/18/82 JA: OH					
8219224		3416923045		103	107-TF	FLOYD MILLER #1	CHIPPEWA	20.0	AMERICAN ENERGY S
8219226		3416923076		103	107-TF	FLOYD MILLER #6	CHIPPEWA	20.0	AMERICAN ENERGY S
8219225		3416923046		103	107-TF	FLOYD MILLER UNIT #2	CHIPPEWA	20.0	AMERICAN ENERGY S
8219223		3415723648		103	107-TF	ROBERT CARLISLE #3	MILL	22.0	AMERICAN ENERGY S
-OHIO PARTNERS OIL CO				RECEIVED: 02/18/82 JA: OH					
8219227		3411521343		107-RT		COTTON #1	MEIGSVILLE	0.0	COLUMBIA GAS TRAN
-OILTECH INC				RECEIVED: 02/18/82 JA: OH					
8219228		3407522190		107-RT		PAUL MORITZ #1	MECHANIC	0.0	COLUMBIA GAS TRAN
8219230 2212		3407522190		107-RT		PAUL MORITZ #2-A	MECHANIC	400.0	COLUMBIA GAS TRAN
8219229		3407522191		107-RT		PAUL MORITZ #3-A	MECHANIC	750.0	COLUMBIA GAS TRAN
-OPEX INC				RECEIVED: 02/18/82 JA: OH					
8219231		3400922429		103		LAURENCE #1	AMESVILLE	0.5	COLUMBIA GAS TRAN
8219233		3400922445		103		ROOT #2	STEWART	0.6	COLUMBIA GAS TRAN
8219232		3400922446		103		ROOT #3	ROME	0.5	COLUMBIA GAS TRAN
8219234A		3412725459		103		SPAULDING #3	FULTONHAM	3.6	FORAKER GAS CO IN
8219234B		3412725459	D	107-TF		SPAULDING #3	FULTONHAM	3.6	FORAKER GAS CO IN
-OXFORD OIL CO				RECEIVED: 02/18/82 JA: OH					
8219235		3407523172		103	107-TF	RICHARD STEELE #3	KILLBUCK	11.0	
8219236A		3407523307		103		RONALD KLEPATZKI #1	MONROE	11.0	
8219236B		3407523307	D	107-TF		RONALD KLEPATZKI #1	MONROE	11.0	
8219237		3408923198		103		SMELLING UNIT #1	HOPEWELL	16.0	
-PARADOX INC				RECEIVED: 02/18/82 JA: OH					

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8219238		3411926029		103		GAUNDER UNIT #1	GRATIOT	6.0	NATIONAL GAS & OI
-POI ENERGY INC				RECEIVED:	02/18/82	JA: OH			
8219239		3413321937		107-RT		SWARTZ #1	STREETSBORO	35.0	EAST OHIO GAS CO
-POMINEX INC				RECEIVED:	02/18/82	JA: OH			
8219241		3409921415		103	107-TF	RENKENBERGER #1	COLUMBIANA	180.0	COLUMBIA GAS TRAN
8219242		3409921431		103	107-TF	RENKENBERGER #2	COLUMBIANA	180.0	COLUMBIA GAS TRAN
-PREMIER ENERGY CORP				RECEIVED:	02/18/82	JA: OH			
8219247		3407522759		107-TF		ALMA LOVER #2	MECHANIC	10.0	COLUMBIA GAS TRAN
8219246		3407522497		107-TF		ELLIS DUFF #1	MECHANIC	26.0	COLUMBIA GAS TRAN
8219244		3407522368		107-TF		FRANK BOBEY #1	HARDY	3.0	COLUMBIA GAS TRAN
8219245		3407522387		107-TF		HAROLD MULLET #1	MECHANIC	14.0	COLUMBIA GAS TRAN
8219243		3407522161		107-TF		THOMAS BIRD #1	HARDY	11.0	COLUMBIA GAS TRAN
-QUADRANT EXPLORATION				RECEIVED:	02/18/82	JA: OH			
8219250		3416726881		103		ELKINS #1-2	MARIETTA TOWNSHIP	18.2	EAST OHIO GAS CO
8219248		3416726750		103		HELDMAN #2-1	LIBERTY TOWNSHIP	2.9	EAST OHIO GAS CO
8219249		3416726777		103		MATTHEWS #3-25	LAWRENCE TOWNSHIP	10.9	EAST OHIO GAS CO
-R GENE BRASEL DBA BRASEL & BRASEL				RECEIVED:	02/18/82	JA: OH			
8219099		3405320257		103		MARLIN A RIFE #1	CHESHIRE	0.0	COLUMBIA GAS TRAN
8219100		3405320706		103		R O J 2-A	CHESHIRE	2.0	COLUMBIA GAS TRAN
8219101		3405320714		103		R O J 3-C	ADDISON	2.0	COLUMBIA GAS TRAN
-REPUBLIC STEEL CORP				RECEIVED:	02/18/82	JA: OH			
8219253		3411925822		103		CONSOLIDATION COAL - CR #8	WASHINGTON	10.0	COLUMBIA GAS TRAN
-RICHARD C POLING				RECEIVED:	02/18/82	JA: OH			
8219240		3412733982		107-TF		SANDS #1	MADISON	10.0	
-RIMCO OPERATING INC				RECEIVED:	02/18/82	JA: OH			
8219260		3416922846		103	107-TF	AMSTUTZ #4	CHESTER	12.0	COLUMBIA GAS TRAN
8219261		3416922847		103	107-TF	AMSTUTZ #5	CHESTER	12.0	COLUMBIA GAS TRAN
8219269		3416922899		103	107-TF	BECKER #2	PLAIN	12.0	COLUMBIA GAS TRAN
8219256A		3416922483		103		BRICKER #5	FRANKLIN	12.0	COLUMBIA GAS TRAN
8219256B		3416922483	D	107-TF		BRICKER #5	FRANKLIN	12.0	COLUMBIA GAS TRAN
8219268A		3416922896		103		BRICKER #6	FRANKLIN	12.0	COLUMBIA GAS TRAN
8219268B		3416922896	D	107-TF		BRICKER #6	FRANKLIN	12.0	COLUMBIA GAS TRAN
8219270A		3416922897		103		BRICKER #8	FRANKLIN	12.0	COLUMBIA GAS TRAN
8219270B		3416922897	D	107-TF		BRICKER #8	FRANKLIN	12.0	COLUMBIA GAS TRAN
8219265		3416922884		103	107-TF	D BECKER #3	CHESTER	12.0	COLUMBIA GAS TRAN
8219266		3416922885		103	107-TF	D BECKER #4	CHESTER	12.0	COLUMBIA GAS TRAN
8219271		3416922902		103	107-TF	MANN #5	FRANKLIN	12.0	COLUMBIA GAS TRAN
8219274		3416923088		103	107-TF	MURPHY #1	PLAIN	12.0	COLUMBIA GAS TRAN
8219262		3416922858		103	107-TF	PEACOCK #1	CHESTER	12.0	COLUMBIA GAS TRAN
8219263		3416922859		103	107-TF	PEACOCK #2	CHESTER	12.0	COLUMBIA GAS TRAN
8219264		3416922860		103	107-TF	PEACOCK #3	CHESTER	12.0	COLUMBIA GAS TRAN
8219258		3416922598		103	107-TF	R MARTIN #1	CHESTER	12.0	COLUMBIA GAS TRAN
8219273		3416922928		103	107-TF	R MOWREN #3	CHESTER	12.0	COLUMBIA GAS TRAN
8219259		3416922617		103	107-TF	RICE #5	FRANKLIN	12.0	COLUMBIA GAS TRAN
8219267		3416922889		103	107-TF	SPECK #4	CHESTER	12.0	COLUMBIA GAS TRAN
8219257		3416922571		103	107-TF	STAUFFER #1	PLAIN	12.0	COLUMBIA GAS TRAN
8219272		3416922910		103	107-TF	THORLEY #5	CHESTER	12.0	COLUMBIA GAS TRAN
8219254		3416922220		103	107-TF	WAYNEDALE STOCK FARM #4	WOOSTER	12.0	COLUMBIA GAS TRAN
8219255		3416922252		103	107-TF	ZIMMERMAN #1	WAYNE	12.0	COLUMBIA GAS TRAN
-RIVERLAND - KRABILL #10				RECEIVED:	02/18/82	JA: OH			
8219275		3416922390		107-TF		RALPH & HAROLD KRABILL #2	CANAAN - WAYNE	0.0	COLUMBIA GAS TRAN
-RIVERLAND - KRABILL #9				RECEIVED:	02/18/82	JA: OH			
8219276		3416922391		107-TF		RALPH & HAROLD KRABILL #4	CANAAN - WAYNE	0.0	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-ROBERT WOODYARD				RECEIVED:	02/18/82	JA: OH			
8219309		3411522642		103		J NEWTON #1	STOCKPORT	10.0	COLUMBIA GAS TRAN
-RPJ ENERGY FUND MANAGEMENT INC				RECEIVED:	02/18/82	JA: OH			
8219252		3407322574		103		GRIFFITH #1	NEW PLYMOUTH	50.0	
8219251		3407322560		103		HOWARD-RALSTON UNIT #1	LOGAN	0.0	
-SANDHILL ENERGY INC (OH)				RECEIVED:	02/18/82	JA: OH			
8219278		3411122189		107-DV		DALLAS RANDOLPH #1	WASHINGTON	7.5	
8219277		3411122652		107-DV		K R & DONNA TAYLOR #2	NEW MATAMORAS	18.8	
8219279		3416726610		107-DV		LEWIS MACKATHORN #2	NEW MATAMORAS	18.8	
-SCHRIMSHER OIL & GAS EXPLORATION				RECEIVED:	02/18/82	JA: OH			
8219284		3415723340		103	107-TF	CARL E FIVECOAT #1	CLAY	20.0	EAST OHIO GAS CO
8219283		3415723339		103	107-TF	CARL E FIVECOAT #2	CLAY	20.0	EAST OHIO GAS CO
8219281		3415320990		103	107-TF	DELMORO #1	HUDSON	28.8	
8219280		3415320982		103	107-TF	HUDSON ESTATES #4	HUDSON	20.8	
8219282		3415321042		103	107-TF	STRIBRNY #1	HUDSON	20.0	AMER ENERGY SERVI
-SMITH SHAFER SMITH (A PARTNERSHIP)				RECEIVED:	02/18/82	JA: OH			
8219288		3416923082		107-TF		CHERRY UNIT #2	CONGRESS	7.5	COLUMBIA GAS TRAN
-SOUTHERN OHIO PETROLEUM CO INC				RECEIVED:	02/18/82	JA: OH			
8219289		3411122693		107-DV		K E SINGER #1A	FRANKLIN	180.0	COLUMBIA GAS TRAN
-TATCO PETROLEUM OPERATIONS INC				RECEIVED:	02/18/82	JA: OH			
8219290		3407522176	D	107-RT		FINK-SMITH-TREECE UNIT #1	HARDY	60.0	AMERICAN ENERGY S
-THE MUTUAL OIL & GAS COMPANY				RECEIVED:	02/18/82	JA: OH			
8219205		3412122628		107-DV		ORANGE COAL #3-A	ELK	50.0	
8219207		3412122707		107-DV		ORANGE COAL #6-A	ELK	45.0	
8219208		3412122714		107-DV		ORANGE COAL #7-A	ELK	50.0	
8219206		3412122629		107-DV		ORANGE COAL 5-A	ELK	50.0	
-THE WISER OIL COMPANY				RECEIVED:	02/18/82	JA: OH			
8219307		3413320047	D	108		P DROTAR #1 3364		1.0	EAST OHIO GAS CO
8219308		3415120867	D	108		R WANNER #1 3069		0.0	EAST OHIO GAS CO
-TOWNER PETROLEUM CO				RECEIVED:	02/18/82	JA: OH			
8219296		3405923129		103		CRISLIP #3	GUERNSEY	0.0	TENNESSEE GAS PIP
8219294		3405923116		103		E KEEFER #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8219292		3405923090		103		L BOND #2	GUERNSEY	0.0	TENNESSEE GAS PIP
8219291		3405923061		103		R GRAY #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8219293		3405923102		103		R STOCKDALE #1	GUERNSEY	0.0	TENNESSEE GAS PIP
8219295		3405923120		103		RICHTER/WARNER #1	GUERNSEY	0.0	TENNESSEE GAS PIP
-VICTOR PETROLEUM CORP				RECEIVED:	02/18/82	JA: OH			
8219302		3407523106		103		COLE-KAESGEN #2	KILLBUCK	10.0	COLUMBIA GAS TRAN
8219306		3407523566		103		COLE-KAESGEN #4	KILLBUCK	10.0	COLUMBIA GAS TRAN
8219304		3407523557		103		MOORE #1	KILLBUCK FIELD	10.0	COLUMBIA GAS TRAN
8219305		3407523558		103		MOORE #2	KILLBUCK FIELD	10.0	COLUMBIA GAS TRAN
8219303		3407523289		103		RENFREW-COLE-KAESGEN UNIT #1	KILLBUCK	12.0	COLUMBIA GAS TRAN
-W E SHRIDER CO				RECEIVED:	02/18/82	JA: OH			
8219286		3403120727	D	103		AMERICAN GROWERS #1	JEFFERSON	3.0	NATIONAL GAS & OI
8219287		3403124483		103		AMERICAN GROWERS #2	JEFFERSON	3.0	NATIONAL GAS & OI
-W J LYDIC INC				RECEIVED:	02/18/82	JA: OH			
8219195		3407522953		103	107-TF	MILLER #1-16	MECHANIC	25.0	COLUMBIA GAS TRAN
-WILLIAM V CANTLIN				RECEIVED:	02/18/82	JA: OH			
8219187		3408924201		103		RUBECK #1	MADISON	8.0	NATIONAL GAS & OI

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-6889 Filed 3-12-82; 8:45 am]

BILLING CODE 6717-01-C

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-AMERADA HESS CORPORATION				RECEIVED:	02/17/82	JA: LA			
8219577	81-2273	1711321054		107-DP		J B LANDRY #1	ANDREW	1095.0	TENNESSEE GAS PIP
-AMOCO PRODUCTION CO				RECEIVED:	02/17/82	JA: LA			
8219576	81-2272	1707720251		107-DP		DOROTHY C BROWN #2 17,988 TUSC RA	MORGANZA	4161.0	COLUMBIA GAS TRAN
8219575	81-2271	1707720247		107-DP		RAVENSWOOD CO INC B #1 17,906 TUSC	MORGANZA	2920.0	COLUMBIA GAS TRAN
-CHEVRON U S A INC				RECEIVED:	02/17/82	JA: LA			
8219571	81-2275	1707120033		107-DP		RIGOLETS CLUB #1 TUSC RA SUU	FORT PIKE	1716.0	NONE AT PRESENT T
-CITIES SERVICE COMPANY				RECEIVED:	02/17/82	JA: LA			
8219569	81-2281	1702720981		102-A		LEWIS "E" #1 PACK SMK RA SU	PANTHER CREEK 7203	425.0	
-CLOVELLY OIL CO INC				RECEIVED:	02/17/82	JA: LA			
8219578	81-2274	1703720024		107-DP		I DELEE #1 15408 TUSC RA SUN	FREELAND	730.0	TRANSCONTINENTAL
-CRYSTAL OIL COMPANY				RECEIVED:	02/17/82	JA: LA			
8219568	81-2279	1706120017		108		RESER #1	MIDDLEFORK	17.6	UNITED GAS PIPELI
-DYCO PETROLEUM CORPORATION				RECEIVED:	02/17/82	JA: LA			
8219558	81-2263	1701120266		103		STOMA #2	NORTH STARKS	116.0	TRANSCONTINENTAL
-ERGON INC				RECEIVED:	02/17/82	JA: LA			
8219594	81-2250	1711123206		103	107-TF	F O PLATT #1 VUE	MONROE (6824)	10.9	TEXAS GAS TRANSMI
8219593	81-2249	1711123182		103	107-TF	MAURENE BARRON #1	MONROE (6824)	12.7	TEXAS GAS TRANSMI
-EXCALIBUR RESOURCES INC				RECEIVED:	02/17/82	JA: LA			
8219551	81-2291	1703121484		103		HARRIS HEIRS #1 HOSS RA SUA	BENSON	408.0	LOUISIANA INTRAST
-GOLDKING PRODUCTION COMPANY				RECEIVED:	02/17/82	JA: LA			
8219578	82-0348	1710121225		107-DP		W MCKERALL O'NIELL #1	BALDWIN	730.0	UNITED GAS PIPELI
-GULF OIL CORPORATION				RECEIVED:	02/17/82	JA: LA			
8219552	81-2292	1707522751		103		S L 195 OB #99 S-1 RA SUI	WEST BLACK BAY	11.2	SOUTHERN NATURAL
-INC EXPLORATION COMPANY				RECEIVED:	02/17/82	JA: LA			
8219595	81-2251	1707321569		108		ABC ARENT #5	MONROE	18.0	INC PIPELINE CO
8219592	81-2252	1711122915		108		CHAPMAN #3	MONROE	15.0	PETRO-LEWIS CORP
8219557	81-2248	1707321784		103		COLE HEIRS A #16	MONROE	15.0	INC PIPELINE CO I
8219590	81-2255	1707321706		108		COLE T #35	MONROE	9.0	INC PIPELINE CO
8219591	81-2253	1711123041		108		EXXON 31 #7	MONROE	17.0	INC PIPELINE CO
8219585	81-2256	1707321712		108		PACE LANE #6	MONROE	12.0	INC PIPELINE CO
8219589	81-2254	1707321788		108		UNION PRODUCING CO T #13	MONROE	14.0	INC PIPELINE CO
-MARATHON OIL COMPANY				RECEIVED:	02/17/82	JA: LA			
8219580	81-2262	1711920283		103		MOC GLEASON #2 CV JRS SU	COTTON VALLEY	118.6	UNITED GAS PIPE L
-MARSHALL EXPLORATION INC				RECEIVED:	02/17/82	JA: LA			
8219584	81-2247	1703120672		108		R MCMILLAN #1 HOSS SUB	BETHANY-LONGSTREET	12.0	ARKANSAS LOUISIAN
-MITCHELL ENERGY CORPORATION				RECEIVED:	02/17/82	JA: LA			
8219562	81-2284	1704920168		103		HEARD #1 CV DAVIS PA SUE	KELLYS	192.0	LOUISIANA GAS PUR
-MURPHY OIL CORPORATION				RECEIVED:	02/17/82	JA: LA			
8219560	81-2289	1706100000		108		CLAY COLVIN B-2 & B-2-D SERIAL #'S*	HUSTON	12.0	MISSISSIPPI RIVER
8219559	81-2288	1706100000		108		SHERRARD #2 & 2-D SERIAL #'S 4614#*	SIMSBORO	16.0	ARKANSAS LOUISIAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-NICHOLS OIL & GAS CORPORATION				RECEIVED:	02/17/82	JA: LA			
8219554	81-2294	1702720543		103		HOUGH #1 #161809 HOSS B RA SU UU	LEATHERMAN CREEK	0.0	LOUISIANA GAS INT
-PENNZOIL PRODUCING COMPANY				RECEIVED:	02/17/82	JA: LA			
8219564	81-2283	1701521540		103		SECTION 20 #2 HOSS TP SU BB	SLIGO	868.0	UNITED GAS PIPE L
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	02/17/82	JA: LA			
8219555	81-2290	1703121410		102-A		COLVIN A #2 HOSS SU M	SPIDER	700.0	SOUTHERN NATURAL
-SOUTH LOUISIANA PRODUCTION CO INC				RECEIVED:	02/17/82	JA: LA			
8219581	81-2276	1703320092		107-DP		LELAND COL #1 17,600 TUSC RA SUC	IRENE	2920.0	TRANSCONTINENTAL
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	02/17/82	JA: LA			
8219567	81-2278	1710100000		108		BI N VUA #1-55	BELLE ISLE	0.0	UNITED GAS PIPE L
-SUPERIOR OIL CO				RECEIVED:	02/17/82	JA: LA			
8219574	81-2273	1710422460		107-DP		LLSE UNIT 12 #17 VUA	FOUR ISLE DOME	1000.0	UNITED GAS PIPELI
-TAHOE CORP				RECEIVED:	02/17/82	JA: LA			
8219582	81-2245	1711120715		108		KATIE SMITH #1	MONROE	2.0	CENTRAL TRANSMISS
8219583	81-2246	1711120732		108		KATIE SMITH #2	MONROE	0.5	CENTRAL TRANSMISS
-TEXACO INC				RECEIVED:	02/17/82	JA: LA			
8219563	81-2286	1705721697		102-A		LAFOURCHE RLTY #16 MCGOWAN RC SUA	BAYOU PER BLANC	458.0	KAISER ALUMINUM &
8219572	81-2277	1710922036		102-A		SL 188 #685 CI L25 R020 SU	CAILLOU ISLAND	8.0	KAISER ALUMINUM &
8219588	81-2260	1710120739		103		SL 341 WKL U-1 3-D BAL SU	BATEMAN LAKE	1825.0	CITY OF MORGAN CI
8219587	81-2259	1710121051		103		WAX BAYOU CO INC 58 BAL SU	BATEMAN LAKE	550.0	CITY OF MORGAN CI
8219586	81-2258	1710121119		103		WAX BAYOU CO INC 59 BAL SU	BATEMAN LAKE	1925.0	CITY OF MORGAN CI
8219579	81-2261	1710121067		103		WKL #47 BAL SU	BATEMAN LAKE	730.0	CITY OF MORGAN CI
-TEXAS OIL & GAS CORP				RECEIVED:	02/17/82	JA: LA			
8219553	81-2293	1703121576		103		DIXON "G" #1 HOSS RA SUH	GRAND CANE	346.8	DELHI GAS PIPELIN
8219561	81-2290	1703121551		103		GILDEMEISTER #1 HOSS SU39	BETHANY-LONGSTREET	273.8	ARKANSAS-LOUISIAN
8219564	81-2287	1703121613		103		LUNDAY #2 PSU-V	BETHANY LONGSTREET 14	547.5	ARKANSAS-LOUISIAN
-TEXOMA PRODUCTION CO				RECEIVED:	02/17/82	JA: LA			
8219556	81-2355	1709920699		107-DP		WILLIAMS #1 (16,180)	WEST LAKE VERRETT	1500.0	SOUTHERN NATURAL
-WOODS & DEAS				RECEIVED:	02/17/82	JA: LA			
8219565	81-2282	1711232410		102-A		ELLIOTT B #1 SMK A RA SUF #175226	CORNEY BAYOU	100.0	MISSISSIPPI RIVER
TEXAS RAILROAD COMMISSION									
-A G HILL				RECEIVED:	02/18/82	JA: TX			
8219338	F-08-039772	4237132922		102-3		BRANDENBURG #1	A G H (BRANDENBURG)	91.0	WARREN PETROLEUM
-ALPS OIL CO				RECEIVED:	02/18/82	JA: TX			
8219449	F-08-045832	4210332721		103		M B MCKNIGHT "B" #4	SAND HILLS (MCKNIGHT)	20.8	WARREN PETROLEUM
-AMERADA HESS CORPORATION				RECEIVED:	02/18/82	JA: TX			
8219389	F-08-044349	4232930958		103		B K BOONE #1	SPRABERRY	18.9	PHILLIPS PETROLEU
8219390	F-08-044389	4232732117		103		C M DEVANEY #1	COAHOMA MISS	8.8	PHILLIPS PETROLEU
-AMOCO PRODUCTION CO				RECEIVED:	02/18/82	JA: TX			
8219322	F-06-034989	4220330635		107-TF		B J MUDMAN GAS UNIT #1	LONGVIEW EAST/COTTON	135.0	UNITED GAS PIPE L
8219315	F-06-034982	4236530794		107-TF		CARTHAGE GAS UNIT 16 #2	CARTHAGE/COTTON VALLE	168.0	UNITED GAS PIPE L
8219325	F-06-035522	4236530793		107-TF		CARTHAGE GAS UNIT 17 #2	CARTHAGE/COTTON VALLE	130.0	UNITED GAS PIPE L
8219323	F-06-034990	4220330627		107-TF		FINDLEY GAS UNIT/B/ #2	WOODLAWN/COTTON VALLE	166.0	EAST TEXAS INDUST
8219317	F-06-034984	4220330649		107-TF		G C KNACKSTEDT GAS UNIT #1	BLOCKER/COTTON VALLEY	478.0	UNITED GAS PIPE L
8219319	F-06-034986	4231530513		107-TF		GEORGE BEAIRD GAS UNIT #1	WOODLAWN NE/COTTON VA	55.0	EAST TEXAS INDUST
8219463	F-08-046063	4213533774		103		GOLDSMITH LANDRETH/DEEP/ UNIT #235	GOLDSMITH (CLEARFORK)	448.9	PHILLIPS PETROLEU
8219329	F-05-037846	4234930871		107-TF		INA K CARROLL OIL UNIT /A/ #1	CHENEYBORO/COTTON VAL	133.0	LONE STAR GAS CO
8219328	F-06-034987	4220330588		107-TF		J A BREWSTER #1	BLOCKER/COTTON VALLEY	188.0	UNITED GAS PIPE L
8219467	F-10-046196	4239330788		103		J C VOLLMERT #3	MENDOTA NW (GRANITE W	150.0	PANHANDLE EASTERN
8219468	F-10-046197	4221131224		103		J C VOLLMERT #4U	MENDOTA NW (DOUGLAS L	24.0	PANHANDLE EASTERN
8219326	F-06-035686	4240130794		107-TF		JOHN M GRANT ESTATE GAS UNIT #1	DIRGIN/COTTON VALLEY/	260.0	LONE STAR GAS CO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8219318	F-06-034985	4231530508		107-TF		O D BROOKS GAS UNIT #1	WOODLAWN NE/COTTON VA	25.0	EAST TEXAS INDUST
8219316	F-06-034983	4236530795		107-TF		ROGERS GAS UNIT #2	CARTHAGE/COTTON VALLE	400.0	UNITED GAS PIPE L
8219321	F-06-034988	4220330547		107-TF		T W GEORGE GAS UNIT /A/ #1	BLOCKER/COTTON VALLEY	170.0	UNITED GAS PIPE L
-ASTIN CORP				RECEIVED:	02/18/82	JA: TX			
8219393	F-78-044470	4208332510		102-4		HEMPHILL "B" #7 (96537)	ASTIN (GARDNER)	26.0	ODESSA NATURAL CO
-CARTER EXPLORATION CO				RECEIVED:	02/18/82	JA: TX			
8219384	F-02-044152	4223900080		102-4	103	C S VANCE #1	CARMICHAEL (4680) FIE	12.5	DELHI GAS PIPELIN
8219420	F-02-045412	4223900000		102-4	103	T P HEYNE #1	SANDY CREEK (5200)	0.0	
-CHAMPLIN EXPLORATION INC				RECEIVED:	02/18/82	JA: TX			
8219424	F-03-045506	4214931108		102-2		ERWIN ZOCH "B" #1 (RRC ID #14655)	GIDDINGS (AUSTIN CHAL	6.0	PHILLIPS PETROLEU
8219392	F-03-044442	4228730797		102-2		GARWOOD GERDES "C" #1 (RRC #12519)	GIDDINGS (AUSTIN CHAL	182.5	PGP GAS PRODUCTS
8219410	F-03-043317	4205131022		102-2		STEGMUELLER #10 (RRC ID #13284)	GIDDINGS (AUSTIN CHAL	166.0	CLAJON GAS CO
8219475	F-03-046232	4214930764		102-2		WILLIM LEHMANN "A" #1 (RRC #13688)	GIDDINGS (AUSTIN CHAL	60.0	PHILLIPS PETROLEU
-CHAS F DOMINY				RECEIVED:	02/18/82	JA: TX			
8219372	F-78-043449	4208300000		108		J E MCCLURE #2 RRC #13996	SANTA ANNA (MARBLE FA	3.0	LONE STAR GAS CO
8219371	F-78-043448	4208300000		108		J E MCCLURE #4 RRC #12284	SANTA ANNA (MARBLE FA	7.0	LONE STAR GAS CO
-CIRCLE SEVEN PRODUCTION CO				RECEIVED:	02/18/82	JA: TX			
8219395	F-09-044686	4207732058		103		BEAKLEY #1	CLAY COUNTY REGULAR	0.0	AUSANKA OIL OPERA
-CITIES SERVICE COMPANY				RECEIVED:	02/18/82	JA: TX			
8219439	F-04-045704	4235531723		102-2		MUSTANG ISL ST PARK TR 2 #1 (96286)	SHELL POINT (6-1)	1377.0	
-CLAYTON W WILLIAMS JR				RECEIVED:	02/18/82	JA: TX			
8219339	F-03-039899	4228700000		102-2		ELLFORD BIGON #1	GIDDINGS (AUSTIN CHAL	6.0	VALERO TRANSMISSI
-COASTAL OIL & GAS CORP				RECEIVED:	02/18/82	JA: TX			
8219369	F-04-043392	4235508080		107-PE		CITY OF CORPUS CHRISTI #1	CORPUS CHRISTI W (GRI	285.0	VALERO TRANSMISSI
8219465	F-10-046192	4237530862		103		MASTERSON "B" 8370P	PANHANDLE (RED CAVE)	2.0	COLORADO INTERSTA
-CONOCO INC				RECEIVED:	02/18/82	JA: TX			
8219418	F-10-045396	4276500282		108		BURNETT #104 A	WEST PANHANDLE	18.0	CITIES SERVICE GA
8219417	F-10-045397	4206500000		108		FUQUA #8	WEST PANHANDLE	15.0	CITIES SERVICE GA
8219416	F-10-045396	4217900000		108		J E MONGOLE #1	WEST PANHANDLE	16.0	CITIES SERVICE GA
-COTTON PETROLEUM CORPORATION				RECEIVED:	02/18/82	JA: TX			
8219368	F-08-043357	4231732255		103		MADISON #1	SPRAYBERRY (TREND ARE	0.0	ADOBE OIL & GAS C
-D & J OPERATING INC				RECEIVED:	02/18/82	JA: TX			
*8219469	F-7C-046207	4239932099		102-4		ALFOR JANSA "A" RRC #96178	JANSA (GARDNER)	369.0	EL PASO NATURAL G
-DALLAS PRODUCTION INC				RECEIVED:	02/18/82	JA: TX			
8219382	F-78-044043	4241733677		103		CLOUD #1 RRC ID #-NEW	CLOUD (MISS)	261.0	DELHI GAS PIPELIN
-DELTA DRILLING CO				RECEIVED:	02/18/82	JA: TX			
8219318	F-7C-0C7754	4210500000		108-ER		HENDERSON A #1	OZONA (CANYON)	19.0	NORTHERN NATURAL
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	02/18/82	JA: TX			
8219442	F-11-045769	4229530947		103		CHRIST PEIL #2	MAMMOTH CREEK NORTH	0.0	
-DIVERSE ENERGY INC				RECEIVED:	02/18/82	JA: TX			
8219403	F-78-045260	4236332692		102-4		TOMERLIN #1A	TOMERLIN (CONGL)	35.5	SOUTHWESTERN GAS
-E J PORTER				RECEIVED:	02/18/82	JA: TX			
8219482	F-78-046259	4214300000		108		G C MILLER #1 (33215)	X-RAY (RANGER 3130)	9.0	LONE STAR GAS CO
8219483	F-78-046260	4214300000		108		G L SWANSON #1 (18625)	X-RAY (MARBLE FALLS)	9.0	LONE STAR GAS CO
8219484	F-78-046261	4214300000		108		G L SWANSON #2 (18626)	X-RAY (MARBLE FALLS)	17.0	LONE STAR GAS CO
8219480	F-78-046257	4214300000		108		ROSS HEIRS #1 (18623)	X-RAY MARBLE FALLS)	5.0	LONE STAR GAS CO
8219481	F-78-046258	4214300000		108		ROSS HEIRS #2 (18624)	X-RAY (MARBLE FALLS)	8.0	LONE STAR GAS CO
-EDWIN L COX				RECEIVED:	02/18/82	JA: TX			
8219357	F-10-042269	4229531994		102-4		BONK #1	HIGGINS NW (ATOKA LIM	182.5	
-EMERALD PETROLEUM CORP				RECEIVED:	02/18/82	JA: TX			
8219397	F-09-044747	4207700000		103		DAVID #1	BLUE GROVE (CADDO)	7.3	FAGADAU ENERGY CO
-ENSOURCE INC				RECEIVED:	02/18/82	JA: TX			
8219365	F-7C-043681	4246130000		103		LONG #2	SPRAGERRY (TREND AREA	0.0	PHILLIPS PETROLEU

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-ESTATE OIL & GAS CORP				RECEIVED:	02/18/82	JA: TX			
8219437	F-06-045679	4228330764		102-4		ELLIS TAYLOR HEIRS #2 94976	LANSING NORTH (TRAVIS	365.0	TEJAS GAS CORP
-EXXON CORPORATION				RECEIVED:	02/18/82	JA: TX			
8219450	F-08-045868	4237133479		103		FORT STOCKTON UNIT #1127	FORT STOCKTON (YATES	149.0	NUECES CO
8219452	F-08-045873	4237138609		103		FORT STOCKTON UNIT #512	FORT STOCKTON (YATES	34.0	NUECES CO
8219453	F-7C-045882	4208332965		103		FULLERTON CLEARFORK UNIT #2635	FULLERTON	15.0	PHILLIPS PETROLEU
*8219518	F-04-046356	4227331567		103		K R MORGAN P-15 (08672)	STRATTON (W-39 W)	35.0	ARMCO STEEL CORP
*8219516	F-04-046354	4227331562		103		K R RANCHO PLOMO 24 (95511)	BORREGOS (ZONE P-6 E)	488.0	ARMCO STEEL CORP
*8219517	F-04-046355	4227331553		102-4		K R STRATTON T-44 (09857)	STRATTON (P-3 SW)	18.0	ARMCO STEEL CORP
8219451	F-08-045869	4200332855		103		MEANS SAN ANDRES UNIT #1760	MEANS	15.0	PHILLIPS PETROLEU
8219412	F-08-045338	4200332857		103		MEANS/SAN ANDRES/UNIT #1048	MEANS	15.0	PHILLIPS PETROLEU
8219413	F-08-045345	4200332786		103		MEANS/SAN ANDRES/UNIT #1258	MEANS	15.0	PHILLIPS PETROLEU
8219383	F-8A-044104	4216532082		103		ROBERTSON CLFK UNIT #6003	ROBERTSON N (CLFK 710	15.0	PHILLIPS PETROLEU
8219438	F-04-045684	4248930632		103		SAUZ RANCH-MULATOS PAST 164 (04289)	WILLAMAR (GRABEN C-1	18.0	NATURAL GAS PIPEL
8219514	F-03-046333	4252100000		108		TRUITT & GRAVIER 1	SUGAR VALLEY (TRUITT)	0.0	NATURAL GAS PL CO
-FRANK CASS				RECEIVED:	02/18/82	JA: TX			
8219454	F-7C-045882	4238300000		108		J F NUNN 29-1 05923	CALVIN (DEAN)	2.0	EL PASO NATURAL G
8219455	F-7C-045883	4238300000		108		KEHEW 08025	SPRAYBERRY (TREND ARE	6.0	PHILLIPS PETROLEU
8219476	F-7C-046245	4238331851		103		UNIVERSITY #30-1 RRC NO	SPRABERRY (TREND AREA	1.2	EL PASO NATURAL G
-GETTY OIL COMPANY				RECEIVED:	02/18/82	JA: TX			
8219525	F-78-046399	4243331251		103		FLOWERS CANYON SAND UNIT #194	FLOWERS (CANYON SAND)	2.0	CITIES SERVICE CO
8219524	F-78-046398	4243331252		103		FLOWERS CANYON SAND UNIT #195	FLOWERS (CANYON SAND)	1.0	CITIES SERVICE CO
8219523	F-78-046395	4243331275		103		FLOWERS CANYON SAND UNIT #198	FLOWERS (CANYON SAND)	1.0	CITIES SERVICE CO
8219464	F-78-046190	4235331136		103		LAKE TRAMMEL UNIT #103	LAKE TRAMMEL W (CANYO	16.0	WEST LAKE NATURAL
-GLACIER ENERGY CORP				RECEIVED:	02/18/82	JA: TX			
8219334	F-03-038968	4238931194		102-4		CHAVIS #1	E ENGLEHART (FRIO 375	0.0	HYDROCARBON GATHE
-GOLDKING PRODUCTION COMPANY				RECEIVED:	02/18/82	JA: TX			
8219361	F-02-042590	4259100000		102-4		HYNES NO 1	PAPALOTE E (5950*)	62.1	HOUSTON PIPE LINE
-GUADALUPE EXPLORATION CORP				RECEIVED:	02/18/82	JA: TX			
8219331	F-10-038532	4208730157		108		BRUTON C #1	EAST PANHANDLE	16.0	EL PASO NATURAL G
-GULF OIL CORPORATION				RECEIVED:	02/18/82	JA: TX			
8219388	F-10-044320	4259330740		102-4		FANNY SCOTT #2A L	KILLIBREW/LOWER MORRO	0.0	NORTHERN NATURAL
8219448	F-08-045823	4213533717		103		GOLDSMITH SAN ANDRES UNIT #2-174	GOLDSMITH	75.9	PHILLIPS PETROLEU
8219471	F-08-046216	4247532363		103		HUTCHINGS STOCK ASSN #1112	WAGON WHEEL (PENN)	93.0	CABOT CORP
8219328	F-09-037417	4218130740		102-4		R H PICKENS #2	SOUTHMAYD NE (DAVIS)	36.0	LONE STAR GAS CO
8219404	F-08-045264	4210332577		103		W N WADDELL #1189	SAND HILLS (JUDKINS)	55.0	H & T GATHERING
-H C W EXPLORATION INC				RECEIVED:	02/18/82	JA: TX			
8219374	F-78-043627	4210332686		103		SYNDICATE FEE "A" #3	COSTA (CLEARFORK)	146.0	PERRY PIPELINE CO
-H L HAWKINS JR				RECEIVED:	02/18/82	JA: TX			
8219354	F-04-041774	4235531655		102-4		S M SCARBOROUGH EST 1-T	ROBSTOWN 5500*	246.0	HOUSTON PIPELINE
-H P PINNELL TRUSTEE				RECEIVED:	02/18/82	JA: TX			
8219379	F-04-043935	4248930595		103		EL SAUZ RANCH NOPAL #2	ARROYO COLORADO (E-5)	54.0	NATURAL GAS PIPEL
-HAMILTON BROTHERS OIL CO				RECEIVED:	02/18/82	JA: TX			
8219373	F-01-043585	4217730649		102-2		COLE #1	COST (AUSTIN CHALK)	120.0	VALERO TRANSMISSI
8219429	F-01-045574	4217703099		102-2		MANFORD-COLE #1	COST (AUSTIN CHALK)	0.0	VALERO TRANSMISSI
-HANOVER MANAGEMENT CO				RECEIVED:	02/18/82	JA: TX			
8219337	F-06-039268	4240131081		102-2		HMC-MARY PITTS BAUGHMAN #1	MINDEN W (TRAVIS PEAK	365.0	TEXAS UTILITIES F
-HARRISON INTERESTS LTD				RECEIVED:	02/18/82	JA: TX			
8219360	F-7C-042579	4210533547		102-4	103	JOE WILEY MCMULLAN "A" #6	LIVE OAK DRAW N (STRA	185.0	INTRATEX GAS CO
-HELMERICH & PAYNE INC				RECEIVED:	02/18/82	JA: TX			
8219362	F-10-042676	4240330719		107-DP		MILLS RANCH #1-98	UNNAMED	3650.0	EL PASO NATURAL G
-HENRY ENERGY CORP				RECEIVED:	02/18/82	JA: TX			
8219376	F-09-043654	4250300000		102-4		ROSIE STEELE #2	WILEY (BUTTRAM)	30.0	LONE STAR GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-HOUSTON OIL & MINERALS CORPORATION			RECEIVED:	02/18/82	JA: TX	
8219411	F-03-045332	4228730316		103		EDWARD D JOHNSON TRACT 1 #1
8219405	F-03-045278	4228730089		103		G P PROSKE #1
8219415	F-03-045383	4228730325		103		IRMA SCHULTZ #3
8219406	F-03-045279	4228730205		103		PAUL MEDACK #1
8219485	F-03-046275	4228731297		103		PAUL MEDACK #3R
8219407	F-03-045280	4228730481		103		VICTOR A SYMM #1
8219408	F-03-045281	4228730361		103		W DROEMER - TOWNSITE #1
8219486	F-03-046277	4228730291		103		WALTER DROEMER #2
-HOWELL DRILLING INC			RECEIVED:	02/18/82	JA: TX	
8219361	F-02-043979	4228500000		135	107-TF	ULCAK EDWARDS GAS UNIT #1
8219428	F-02-045572	4228500000		102-4		WALTER KOEHN GAS UNIT #1
-HUGHES & HUGHES			RECEIVED:	02/18/82	JA: TX	
8219477	F-04-046246	4235531724		102-4		BESSIE MARIE WARE UNIT #1-T
-INVESTEK INC			RECEIVED:	02/18/82	JA: TX	
8219394	F-09-044582	4223700000		103		W A COOK
-J A LEONARD			RECEIVED:	02/18/82	JA: TX	
8219409	F-03-045303	4205100000		102-4		COFFIELD-SMITH "E" 1
8219414	F-03-045366	4205100000		102-4		COFFIELD-SMITH # 1
-J CLEO THOMPSON & JAMES CLEO THOMPS			RECEIVED:	02/18/82	JA: TX	
8219398	F-7C-044766	4210530000		138		THOMPSON #5
-J E JERNIGAN DRILLING CO INC			RECEIVED:	02/18/82	JA: TX	
8219473	F-10-046227	4229530899		103		GRAVES #3
8219472	F-10-046224	4229520960		103		GRAVES #4
-JACKSON EXPLORATION INC			RECEIVED:	02/18/82	JA: TX	
8219336	F-03-039158	4215731209		102-4	103	H M STARTZMAN G U #2 #1
-JAMES E RUSSELL PETROLEUM INC			RECEIVED:	02/18/82	JA: TX	
8219521	F-7B-046388	4213300000		108		ALMA DUNNING #1-A (66458)
8219522	F-7B-046389	4240131783		102-4		M S #1-A (17747)
-JOHN R THOMPSON OPERATING INC			RECEIVED:	02/18/82	JA: TX	
8219478	F-7B-046209	4208300000		103		WILLIAMS #1
-KAISER-FRANCIS OIL COMPANY			RECEIVED:	02/18/82	JA: TX	
8219529	F-10-046422	4229500000		103		SLOUGH #1-8
-KATIE PETROLEUM CO			RECEIVED:	02/18/82	JA: TX	
8219421	F-09-045440	4249732190		103		W D RAWLE #2
-KEITH O GRAHAM			RECEIVED:	02/18/82	JA: TX	
8219353	F-03-041735	4205131569		102-2		SANTA FE "A" #1
-KIN PETROLEUM CO INC			RECEIVED:	02/18/82	JA: TX	
8219479	F-10-046255	4217930998		103		ANDY #1
8219476	F-10-046254	4217930999		103		ANDY #2 04915
-LAYTON ENTERPRISES INC			RECEIVED:	02/18/82	JA: TX	
8219444	F-8A-045774	4207931407		103		REED WRIGHT #27
8219443	F-8A-045773	4207931405		103		REED WRIGHT #29
8219461	F-8A-046031	4207931406		103		REED WRIGHT #30
8219462	F-8A-046032	4207931477		103		REED WRIGHT #32
-LIVELY ENERGY CO			RECEIVED:	02/18/82	JA: TX	
8219515	F-7C-046335	4243532474		103		ALDWELL RANCH #11-2/963-22
-MARALO INC			RECEIVED:	02/18/82	JA: TX	
*8219488	F-08-046287	4200332892		103		DEEPROCK "A" #8-S
-MARSHALL EXPLORATION INC			RECEIVED:	02/18/82	JA: TX	
8219324	F-06-035314	4218330479		103		DICKSON #1
-MCMORAN EXPLORATION CO			RECEIVED:	02/18/82	JA: TX	
8219330	F-04-038494	4221531050		102-4	103	JONES #1L

FIELD NAME	PROD	PURCHASER
GIDDINGS (AUSTIN CHAL	8.0	PGP GAS PRODUCTS
GIDDINGS (AUSTIN CHAL	0.0	PGP GAS PRODUCTS
GIDDINGS (AUSTIN CHAL	0.0	PGP GAS PRODUCTS
GIDDINGS (AUSTIN CHAL	0.0	PGP GAS PRODUCTS
GIDDINGS	0.0	PGP GAS PRODUCTS
GIDDINGS (AUSTIN CHAL	0.0	PGP GAS PRODUCTS
GIDDINGS (AUSTIN CHAL	0.0	PGP GAS PRODUCTS
GIDDINGS	0.0	PGP GAS PRODUCTS
WORD N	0.0	VALERO TRANSMISSI
KINKLER	0.0	NONE
CALALLEN WEST (7450)	292.0	HOUSTON PIPE LINE
JACK COUNTY REGULAR	35.6	SOUTHWESTERN GAS
INEZ JAMESON (NAVARRO	40.0	FERGUSON CROSSING
INEZ JAMESON (NAVARRO	33.0	FERGUSON CROSSING
OZONA (CANYON SAND)	11.0	EL PASO NATURAL G
LIPSCOMB	0.0	PHILLIPS PETROLEU
LIPSCOMB	0.0	PHILLIPS PETROLEU
KATY S (FIRST WILCOX)	730.0	HOUSTON PIPE LINE
NIMROD NE (LAKE SAND)	15.0	VALERO TRANSMISSI
LAKE ABILENE (4080')	17.0	FORT CHADBOURNE C
	0.0	UNION TEXAS PETRO
BECHTOLD	20.0	NORTHERN NATURAL
BOONSVILLE (BEND CONG	88.0	NATURAL GAS PIPEL
GIDDINGS (AUSTIN CHAL	266.4	FERGUSON CROSSING
PANHANDLE GRAY COUNTY	132.8	CABOT PIPELINE CO
PANHANDLE GRAY COUNTY	172.8	CABOT PIPELINE CO
LEVELLAND	7.7	CITIES SERVICE CO
LEVELLAND	6.6	CITIES SERVICE CO
LEVELLAND	9.4	CITIES SERVICE CO
LEVELLAND	8.1	CITIES SERVICE CO
WHITEHEAD (STRAWN)	182.5	NORTHERN NATURAL
SHAFTER LAKE (SAN AND	54.0	PHILLIPS PETROLEU
WILDCAT	350.0	LONE STAR GAS CO
MCALLEN SOUTH	535.0	TRANSCONTINENTAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-MCZ INC			RECEIVED:	02/18/82	JA: TX	
8219487	F-03-046281	42041000000		102-2		PATRANELLA OIL UNIT #1
-MITCHELL ENERGY CORPORATION			RECEIVED:	02/18/82	JA: TX	
8219447	F-09-045812	4249732065		103		A E ALBRIGHT #2
8219314	F-09-034514	4249700000		108-ER		B B MCCLURE #2
8219332	F-7C-038768	4243532566		103	107-TF	GENINI 31 #2
8219342	F-7C-040493	4243532570		103	107-TF	GENINI 4-39
8219378	F-03-043868	4214931063		102-2	103	HOLMES #1
8219386	F-09-044225	4250334887		102-4		OLIVER LOVING B #1
8219356	F-09-042229	4249700000		108		RUPERT C GREEN #1C 28663
8219433	F-7B-045639	4236732136		103		THOMAS C HASON #1
-MOBIL PRDG TEXAS & NEW MEXICO INC			RECEIVED:	02/18/82	JA: TX	
8219423	F-08-045461	4237133435		103		CHARLES B ATHEY "C" #5
8219396	F-08-044707	4210332532		103		SAND HILLS JUDKINS UNIT #11
*8219520	F-08-046385	4247532362		103		STATE AN #4
-MONSANTO COMPANY			RECEIVED:	02/18/82	JA: TX	
8219456	F-08-045907	4249531368		103		BLAKE #1
-MORMAC ENERGY CORP			RECEIVED:	02/18/82	JA: TX	
8219367	F-02-043260	4229732634		103		L A MEAGAN 1 C
-NORTH AMERICAN ROYALTIES INC			RECEIVED:	02/18/82	JA: TX	
8219432	F-08-045611	4232131045		108		TXL #1-5 (#51371)
-NORTH RIDGE CORP			RECEIVED:	02/18/82	JA: TX	
*8219359	F-7B-042489	4213300000		102-4		J E BARNES #2
*8219358	F-7B-042488	4213300000		102-4		J E BARNES #3
-ORIGINALA PETROLEUM CORP			RECEIVED:	02/18/82	JA: TX	
8219387	F-09-044276	4223733791		103		WILLIE RUTH RICHARDS #22-94263
-PALO PETROLEUM INC			RECEIVED:	02/18/82	JA: TX	
8219351	F-7B-041578	4213332411		102-4		FLEMING #1
8219311	F-7B-029675	4213300000		102-4	103	J NUNNALLY #2
8219347	F-7B-041246	4234931941		102-4	103	STEEL F #2
-PARAFFINE OIL CORP			RECEIVED:	02/18/82	JA: TX	
8219350	F-02-041495	4246931780		102-4		KEERAN "B" #2-C
-PED OIL CORP			RECEIVED:	02/18/82	JA: TX	
8219399	F-08-044831	4222700000		102-2		FLANAGAN B-1
-PENINSULA RESOURCES CORPORATION			RECEIVED:	02/18/82	JA: TX	
8219446	F-02-045791	4205731031		102-4		MELBOURNE GAS UNIT #1
-PETROLEUM CORPORATION OF TEXAS			RECEIVED:	02/18/82	JA: TX	
8219441	F-10-045715	4242108800		138		A L ROSS #1
-PHILLIPS PETROLEUM COMPANY			RECEIVED:	02/18/82	JA: TX	
8219527	F-04-046409	4213504420		108		BLAKENEY #3
8219526	F-04-046408	4213504488		108		GOLDSMITH ADOBE UNIT #6 02
8219333	F-10-038935	42179C0000		103		HUSTED #2
*8219335	F-10-039051	4223300000		108		JOHNSON-AK #1
*8219346	F-10-041201	4234130692		103		MAKEIG #2
8219528	F-08-046412	4232732500		103		OTHELLA A #2
*8219312	F-10-030947	4234130619		103		OZARK #2
8219538	F-10-046429	4242100000		108		TEXHOMA #1
-PITTS OIL CO & DALLAS PROD INC			RECEIVED:	02/18/82	JA: TX	
8219401	F-05-044889	4216130647		103	107-TF	BONNER #2
-R A W ENERGY CORP			RECEIVED:	02/18/82	JA: TX	
8219436	F-7B-045562	4236332744		102-4		CASADOR #1 RRC #96395
-RANGER OPERATING CO			RECEIVED:	02/18/82	JA: TX	
8219348	F-09-041418	4223733468		103		H F LEWIS #1 #93648

FIELD NAME	PROD	PURCHASER
KURTEN (WOODBINE)	88.0	FERGUSON CROSSING
WISE COUNTY REGULAR	20.0	NATURAL GAS PIPEL
BOONSVILLE	0.0	NATURAL GAS P L C
SHURLEY RANCH (CANYON	65.0	VALERO TRANSMISSI
SHURLEY RANCH (CANYON	50.0	VALERO TRANSMISSI
GIDDINGS (AUSTIN CHAL	7.2	SOUTH CEN-TEX GAS
JERMYN WEST (MISS)	7.5	
BOONSVILLE (BEND CONG	8.0	NATURAL GAS PIPEL
SPRINGTOWN (CADDO)	6.0	
COYANOSA N (DELAWARE)	32.5	EL PASO NATURAL G
SAND HILLS (JUDKINS)	38.3	EL PASO NATURAL G
CAPRITO (DELAWARE MID	8.0	LONE STAR GAS CO
MONAHANS NE (PENN DET	15.0	EL PASO NATURAL G
OAKVILLE-WILCOX (LULI	182.0	TRANSCONTINENTAL
AZALEA/DEVONIAN	20.0	EL PASO NATURAL G
RANGER NW (MARBLE FAL	10.8	PRISM ENTERPRISES
RANGER NW (MARBLE FAL	10.8	PRISM ENTERPRISES
CARY MAG (CONGLOMERAT	380.0	TEXAS UTILITIES F
BLIND HOG (RANGER)	36.5	ODESSA NATURAL CO
BLIND HOG (RANGER)	31.9	ODESSA NATURAL CO
BLIND HOG (RANGER)	98.6	ODESSA NATURAL CO
KEERAN E (6170)	253.0	FLORIDA GAS TRANS
RED DRAW (FUSSELMAN)	0.0	PHILLIPS PETROLEU
MAGNOLIA BEACH	365.0	VALERO TRANSMISSI
TEXAS HUGOTON	19.7	DIAMOND SHAMROCK
GOLDSMITH (CLEARFORK)	0.0	EL PASO NATURAL G
GOLDSMITH (5600)	2.0	EL PASO NATURAL G
PANHANDLE GRAY	0.0	
PANHANDLE WEST RED CA	0.0	EL PASO NATURAL G
WEST PANHANDLE	6.0	EL PASO NATURAL G
BIG SPRING (FUSSELMAN	18.6	GETTY OIL CO
WEST PANHANDLE	0.0	EL PASO NATURAL G
TEXAS HUGOTON	0.0	PANHANDLE EASTERN
REED N (COTTON VALLEY	138.0	UNITED TEXAS TRAN
CASADOR	0.0	SOUTHWESTERN GAS
JACK COUNTY REG (GAS)	250.0	LONE STAR GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8219349	F-09-041464	4223733137		103		RALPH TIPTON #1 #2C257
8219352	F-09-041610	4223733437		103		RALPH TIPTON A-1 #92064
-S R G OIL CORP				RECEIVED:	02/18/82	JA: TX
8219378	F-78-043595	4208300000		103		R G BROOKSHIRE #1-B
-SABER PETROLEUM CORP				RECEIVED:	02/18/82	JA: TX
8219343	F-03-040994	4248132110		102-4		L R BUBLETT
-SAGE ENERGY CO				RECEIVED:	02/18/82	JA: TX
8219434	F-03-045645	4214931132		102-2		RIPPER UNIT A-1 RRC #14961
8219435	F-03-045	4214931106		102-2		RYZA UNIT #1 RRC #-14962
-SANCHEZ-OBRIEN OIL & GAS CORP				RECEIVED:	02/18/82	JA: TX
8219340	F-04-040163	4235531662		102-4		STATE TRACT 6 #1 API 42 355 31662
-SAXON OIL COMPANY				RECEIVED:	02/18/82	JA: TX
8219422	F-8A-045053	4211531580		103		BECKMEYER #1
8219419	F-7C-045399	4238331931		103		UNIVERSITY "14-2" #1
-SEATEX ENERGY CORP				RECEIVED:	02/18/82	JA: TX
8219408	F-78-044881	4236332765		103		D L HART #5
-SHANE OIL CORP				RECEIVED:	02/18/82	JA: TX
8219364	F-09-042993	4223733663		102-2		ALMON SMITH #1
-STEERE BROTHERS & BROWN INC				RECEIVED:	02/18/82	JA: TX
8219430	F-78-045585	4213333524		102-4		BAR-H-BAR RANCH #2 (96535)
-SUBURBAN PROPANE GAS CORP				RECEIVED:	02/18/82	JA: TX
8219474	F-7C-046230	4210500000		108		MEYBIN "34" #1
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	02/18/82	JA: TX
8219494	F-8A-046301	4250132132		103		BENNETT RANCH UNIT #326
8219493	F-8A-046300	4250132131		103		BENNETT RANCH UNIT #328
8219498	F-01-046305	4212732185		103		BIG WELLS (SAN MIGUEL) UNIT #1909
8219502	F-01-046309	4212732183		103		BIG WELLS (SAN MIGUEL) UNIT #1910
8219501	F-01-046308	4212732187		103		BIG WELLS (SAN MIGUEL) UNIT #2022
8219497	F-01-046304	4212732476		103		BIG WELLS (SAN MIGUEL) UNIT #2131
8219499	F-01-046306	4212732205		103		BIG WELLS (SAN MIGUEL) UNIT #5507
8219508	F-01-046307	4212732208		103		BIG WELLS (SAN MIGUEL) UNIT #5508
8219445	F-01-045783	4251131518		102-4		E Y MCDOWELL #4
8219496	F-03-046303	4207131889		103		FELIX JACKSON #65
8219490	F-01-046297	4249330967		103		GLORIANA POTH-A UNIT #2-12
8219495	F-04-046302	4213133863		103		L WIEDERKEHR #194
*8219489	F-8A-046294	4207931372		103		LEAGUE 91 PROJECT #3-11
8219491	F-8A-046298	4213533622		103		NORTH LAWSON UNIT #6-7
*8219492	F-8A-046299	4221933198		103		SOUTHEAST LEVELLAND UNIT #269
-SUPERIOR OIL CO				RECEIVED:	02/18/82	JA: TX
8219341	F-03-040256	4205131526		102-2	103	E L MOORE #1
8219366	F-03-043203	4205131789		102-2	103	F MATCEK #2
-SUPRON ENERGY CORPORATION				RECEIVED:	02/18/82	JA: TX
8219402	F-7C-045258	4245130441		103		TURNER #2
-TAMARACK PETROLEUM CO INC				RECEIVED:	02/18/82	JA: TX
8219512	F-7C-046324	4246100000		103		STUMHOFFER #2 (08937)
8219363	F-7C-042054	4210533187		103		SUTTON 14 #3
8219513	F-08-046325	4231732331		103		TOM "A" (26640)
8219511	F-08-046323	4231732329		103		TOM "45" #1 (26567)
-TEE OPERATING CO				RECEIVED:	02/18/82	JA: TX
8219345	F-03-041058	4224531440		102-4	103	PIPKIN GAS UNIT ID#95067
-TEXACO INC				RECEIVED:	02/18/82	JA: TX
8219391	F-8A-044410	4221933118		103		IRA P DELOACHE #15
8219425	F-8A-045548	4221933310		103		IRA P DELOACHE #33

FIELD NAME	PROD	PURCHASER
TIPTON (ATOKA CONGL)	36.0	LONE STAR GAS CO
TIPTON (ATOKA CONGL)	55.0	LONE STAR GAS CO
COLEMAN COUNTY REGULA	165.0	CEN-TEX GATHERING
HILLJE (FRIO 7216')	100.0	VALERO TRANSMISSI
GIDDINGS (AUSTIN CHAL	20.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	50.0	PHILLIPS PETROLEU
INDIAN POINT WEST (CO	500.0	UNITED TEXAS TRAN
ACKERLY (DEAN SAND)	26.0	ADOBE OIL & GAS C
SPRABERRY (TREND AREA	50.0	PHILLIPS PETROLEU
GRAFORD S CONGL	36.5	SOUTHWESTERN GAS
BOONESVILLE BEND (CON	0.0	LONE STAR GAS CO
HARRISON RANCH (STRAW	81.0	LONE STAR GAS CO
DAVIDSON RANCH/PENN 7	16.2	NORTHERN NATURAL
WASSON	7.6	SHELL OIL CO
WASSON	1.5	SHELL OIL CO
BIG WELLS	2.0	HOUSTON PIPE LINE
BIG WELLS	2.0	HOUSTON PIPE LINE
BIG WELLS	12.0	HOUSTON PIPE LINE
BIG WELLS	4.0	HOUSTON PIPE LINE
BIG WELLS	21.0	HOUSTON PIPE LINE
BIG WELLS	13.0	HOUSTON PIPE LINE
S CAMPANA (9600 SAND)	94.0	HOUSTON PIPE LINE
OYSTER BAYOU	24.0	UNITED TEXAS TRAN
GLORIANA (POTH-A)	0.4	
SLAUGHTER	1.0	VALERO TRANSMISSI
LAWSON (SAN ANDRES)	0.4	AMOCO PRODUCTION
LEVELLAND	12.0	PHILLIPS PETROLEU
	3.0	AMOCO PRODUCTION
GIDDINGS (AUSTIN CHAL	0.0	
GIDDINGS (AUSTIN CHAL	0.0	
PERCY TURNER (WOLFCAM	125.0	ESPERANZA PIPELIN
SPRABERRY (TREND AREA	4.0	EL PASO NATURAL G
OZONA (CANYON SAND)	142.0	NORTHERN NATURAL
SPRABERRY (TREND AREA	22.0	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	13.0	PHILLIPS PETROLEU
ANGELINA (12,900)	0.0	WINNIE PIPELINE C
LEVELLAND	6.9	AMOCO PRODUCTION
LEVELLAND	0.0	AMOCO PETROLEUM C

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8219385	F-8A-044191	4221933309		103		IRA P DELOACHE #34
-TEXAS OIL & GAS CORP				RECEIVED:	02/18/82	JA: TX
8219355	F-06-042171	4207300000		102-4		CURRY "B" #1-2
8219327	F-7C-036905	4246131679		103		DAMRON "D" #1
-TOMLINSON INTERESTS INC				RECEIVED:	02/18/82	JA: TX
8219466	F-06-046194	4220330608		107-TF		HAZEL R BYRNE G U 2 #1
8219426	F-06-045549	4240130770		107-TF		NAOMI WILLIAMSON #1
-TXO PRODUCTION CORP				RECEIVED:	02/18/82	JA: TX
8219431	F-7C-045590	4210533598		107-TF		ROBERTSON "C" #3
8219375	F-7B-043641	4235331184		103		SEARS #1
8219344	F-7C-041019	4223531749		103		WINTERBOTHAM "F" #3
-WAGNER & BROWN				RECEIVED:	02/18/82	JA: TX
8219505	F-08-046316	4243100000		103		FLINT A 3-30
8219509	F-08-046321	4243100000		103		FLINT B #7-2
8219504	F-08-046314	4243100000		103		FLINT B #8-2
8219503	F-08-046313	4243100000		103		FLINT B #9-26
8219506	F-08-046317	4243100000		103		GLASS I 5-36
8219507	F-08-046318	4243100000		103		GLASS I 6-36
8219510	F-08-046322	4243100000		103		GRIGSBY #5-14
8219508	F-08-046319	4243100000		103		GRIGSBY #6-14
8219427	F-08-045565	4243130611		103		HILDEBRAND #21-20
-WAINOCO OIL & GAS COMPANY				RECEIVED:	02/18/82	JA: TX
8219313	F-04-034077	4240931196		102-4		J R C BRANNON GAS UNIT #1
-WARREN PETR CO A DIV OF GULF OIL			CO	RECEIVED:	02/18/82	JA: TX
8219519	F-08-046359	4210332597		103		W N WADDELL #1150
-WINDSOR PRODUCING CO				RECEIVED:	02/18/82	JA: TX
8219460	F-03-045995	4228731007		102-2	103	ARNOLD #1
8219459	F-03-045994	4228731041		102-2	103	DELTA "P" #2
8219457	F-03-045991	4228731066		103		ERWIN #2
8219458	F-03-045992	4228731027		103		HIRSCH YOUNG UNIT
8219380	F-03-043942	4235131792		102-2	103	SCHLUMBERGER #1
8219377	F-03-043789	4228730902		102-2	103	WOLF-SIMPSON UNIT #1
-WOLSEY OIL INC				RECEIVED:	02/18/82	JA: TX
8219440	F-03-045705	4208900000		108		PEARL M WOOTEN #3 035297

WEST VIRGINIA DEPARTMENT OF MINES

-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED:	02/17/82	JA: WV
8219539		4708300502		103		A - 1020
8219540		4708300457		103		A-1908
8219542		4708502546		108		A-181
8219541		4704100546		108		A-87
-FRANKLIN ADKINS				RECEIVED:	02/17/82	JA: WV
8219549		4709921435		108		BOOTH #1
8219531		4709921448		108		LAURA ATKINS #1
8219550		4709914360		108		NILE BARTROM #1
8219534		4709921468		108		QUEEN #1
8219532		4709921451		108		YORK #1
8219545		4709921344		108		YORK #1
8219546		4709921379		108		YORK #2
8219547		4709921403		108		YORK #3
8219548		4709921411		108		YORK #4
8219533		4709921465		108		YORK #5

FIELD NAME	PROD	PURCHASER
LEVELLAND	0.0	AMOCO PETROLEUM C
WHITE OAK CREEK (TRAV	0.0	
HELUMA SE (DEVONIAN)	40.0	DELHI GAS PIPELIN
DARCO SE (COTTON VALL	120.0	UNITED GAS PIPELI
PONE SE (COTTON VALLE	45.0	LONE STAR GAS CO
OZONA (CANYON SAND)	150.0	DELHI GAS PIPELIN
NEILL S (ODOM LIME)	75.0	PALO DURO PIPELIN
DOVE CREEK (CANYON D)	100.0	COLUMBIA GAS TRAN
CONGER (PENN)	865.0	VALERO TRANSMISSI
CONGER (PENN)	684.0	VALERO TRANSMISSI
CONGER (PENN)	0.0	VALERO TRANSMISSI
CONGER (PENN)	170.0	VALERO TRANSMISSI
CONGER (PENN)	297.0	VALERO TRANSMISSI
CONGER (PENN)	164.0	TEXAS UTILITIES F
CONGER (PENN	145.0	VALERO TRANSMISSI
CONGER (PENN)	207.0	VALERO TRANSMISSI
CONGER (PENN)	41.0	VALERO TRANSMISSI
BRANNON GUEDIN LO	188.0	TEXAS EASTERN TRA
DUNE	3.8	EL PASO NATURAL G
GIDDINGS (AUSTIN CHAL	36.5	PERRY PIPELINE CO
GIDDINGS (AUSTIN CHAL	8.0	PERRY PIPELINE CO
GIDDINGS (AUSTIN CHAL	36.5	PERRY PIPELINE CO
GIDDINGS (BUDA)	36.5	PERRY PIPELINE CO
GIDDINGS AUSTIN CHALK	730.0	PERRY PIPELINE CO
GIDDINGS (AUSTIN CHAL	109.5	PGP GAS PRODUCTS
CECIL NOBLE (WOOTEN)	21.0	TENNESSEE GAS PIP
MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
MURPHY DIST	1.5	CONSOLIDATED GAS
FREEMANS CREEK DISTRI	2.4	CONSOLIDATED GAS
LINCOLN DISTRICT	3.6	INDUSTRIAL GAS CO
LINCOLN DISTRICT	3.6	INDUSTRIAL GAS CO
LINCOLN DISTRICT	3.6	INDUSTRIAL GAS CO
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LINCOLN DISTRICT	3.6	INDUSTRIAL GAS CO

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JD NO	JA DKT	API NO	D SEC(1) SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-J C BAKER & SONS INC			* RECEIVED:	02/17/82	SALT LICK DISTRICT	15.0	CONSOLIDATED GAS
8219343		4700700166	108	ROBERT REGAN & WOOD			
-JAMES F SCOTT			RECEIVED:	02/17/82	GREENBRIER	64.0	CONSOLIDATED GAS
8219344		4701702646	103	ROGER ZINN S-392			
-UNION DRILLING INC			RECEIVED:	02/17/82	MEADE DISTRICT	0.0	COLUMBIA GAS TRAN
8219335		4709702197	103	J D MINKLE III #1 1691	WASHINGTON	0.0	COLUMBIA GAS TRAN
8219336		4709702195	103	L & F INVESTMENTS #1 1654	MEADE DISTRICT	0.0	COLUMBIA GAS TRAN
8219337		4709702172	103	NELLIE PHILLIPS #1 1618	MEADE DISTRICT	0.0	COLUMBIA GAS TRAN
8219338		4709702143	103	R S SMALLRIDGE #1 1604			

OTHER PURCHASERS VOLUME NO 2609

8219312	PANHANDLE EASTERN P L CO
8219335	PANHANDLE EASTERN P L CO
8219336	PANHANDLE EASTERN P L CO
8219358	LONE STAR GAS CO
8219359	LONE STAR GAS CO
8219469	UNION TEXAS PETROLEUM
8219488	NORTHERN NATURAL GAS CO
8219489	EL PASO NATURAL GAS CO
8219492	EL PASO NATURAL GAS CO
8219316	E I DUPONT DENEMOURS & CO INC
8219317	E I DUPONT DENEMOURS & CO INC
8219318	E I DUPONT DENEMOURS & CO INC
8219320	INTRATEX GAS CO

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before March 30, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 mile rule)
102-3: New well (1000 ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease
Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal seams
107-DV: Devonian shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

BILLING CODE 6717-01-M

CORRECTIONS TO PREVIOUS NOTICES OF DETERMINATION

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	Cl	Correction to prior Fed. Register notice
80-07519	USGS	Welser-Brown Oil Co.	ES 15176 #1-5C & #1-5T	126	12-30-79	C1	Both C & T units approved for Section 103
80-56634	PA	H & W Energy Co.	V Adams #2-02	295	10-14-80	C1	Well name
82-08373	TX	Mitchell Energy Corp.	D J Wilson #2	565	01-05-82	C1	108 & 108-ER approved
82-09651	OK	Mid-Atlantic Oil Corp.	Buck #9 Unit	570	01-05-82	C1	103 & 107-TF approved
82-11652	OK	Andover Oil Company	Rotner #2-3	579	01-22-82	C1	102-2 & 103 approved
82-11707-82-11720	AL	U.S. Steel	Oak Grove Coal Degas	580	01-22-82	C1	107-CS approved; not 107-TF
82-11727-82-11735	AL	U.S. Steel	Oak Grove Coal Degas	580	01-22-82	C1	107-CS approved; not 107-TF
82-12139	USGS	Pennzoil Oil & Gas Co.	OCS-G 2416 #A-3	581	01-27-82	C1	Well Name
82-12142	USGS	Pennzoil Oil & Gas Inc.	OCS-G 2416 #A-1 ST	581	01-27-82	C1	Well Name
82-12144	USGS	Pennzoil Producing Co.	OCS-G 2416 #A-5	581	01-27-82	C1	Well Name
82-12546	TX	Amoco Production Co.	Frank Cowden B/A "E" #18	583	02-01-82	C1	Well (Lease) Name
82-12604	NM	Mitchell Energy Corp.	State 36 #1	584	02-01-82	C1	Well Name
82-130458	OH	HOCO Resources Inc.	Shelly #1	585	02-04-82	C1	107-TF Denied by JA
82-13073	OH	L & M Petroleum Inc.	Wilbur Bohlen Unit #2	585	02-04-82	C1	107-DV approved, not 107-TF
82-13189	OK	Jones & Pellow Oil Co.	McGaw B-2	585	02-04-82	C1	Well Name
82-13351	MS	Exxon Corporation	Rob Gas Unit 13 #1	586	02-04-82	C1	103 approved; not 102-4
82-13355	MS	American Natural Gas Prod.	Grinville Gas Unit #203	586	02-04-82	C1	107-TF approved, not 107-DP
82-13513	USGS	Perry R. Bass	Big Eddy Unit #85	586	02-04-82	C1	103 approved; not 102-4
82-13514	USGS	Mesa Petroleum Co.	Bedford Federal #2	586	02-04-82	C1	102-2 & 107-TF approved
82-13515	USGS	Mesa Petroleum Co.	Bass Federal #4	586	02-04-82	C1	102-2 & 107-TF approved
82-13516	USGS	Mesa Petroleum Co.	Rock Federal #3	586	02-04-82	C1	102-2 & 107-TF approved
82-14017	TX	RNE Company	D. J. Friedrichs #1	589	02-11-82	C1	102-4 approved; 103 withdrawn
82-14068	TX	R L Burns Corp.	Middleton 25 #2	589	02-11-82	C1	Well Name
82-14306	TX	Texaco Inc.	C W Lawlin MCU-2 #1	589	02-11-82	C1	Well Name

[FR Doc. 82-6666 Filed 3-12-82; 8:45 am]
BILLING CODE 6717-01-C

ENVIRONMENTAL PROTECTION AGENCY

[A-6-FRL-2073-4]

Delegation of Additional Authority to the State of Louisiana for Prevention of Significant Deterioration (PSD)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Information notice.

SUMMARY: EPA, Region 6, has delegated the authority under the Prevention of Significant Deterioration (PSD) program for source inspections and compliance reviews to the Louisiana Department of Natural Resources (LDNR), Air Quality Division. The LDNR is now authorized to conduct PSD source inspections and compliance reviews, and the PSD permits shall be cosigned by EPA, Region 6, and the State of Louisiana.

DATE: February 8, 1982.

ADDRESS: Copies of the amendment to the State-EPA agreement for delegation of additional authority are available for public inspection at the Air Branch, Environmental Protection Agency, Region 6, First International Building, 28th Floor, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: William H. Taylor, Jr., Air Branch, Environmental Protection Agency, Region 6, First International Building, 28th Floor, 1201 Elm Street, Dallas, Texas 75270; (214) 767-1594 or (FTS) 729-1594.

SUPPLEMENTARY INFORMATION: On September 1, 1981, EPA, Region 6, delegated to the LDNR the authority for technical and administrative review of the PSD program. An information notice of this delegation was published in the **Federal Register** on January 6, 1982 (47 FR 670). The LDNR has been delegated additional PSD responsibility for performing PSD inspections of and reviewing PSD compliance reports for sources located in the State of Louisiana. Pursuant to 40 CFR 52.21, EPA, Region 6, delegated this additional PSD authority to the State of Louisiana for performing source inspections and reviewing compliance reports on February 8, 1982.

Effective immediately, all of the information related to PSD source inspections and compliance reports for sources located in the State of Louisiana should be submitted to the State agency at the following address: Louisiana Department of Natural Resources, Air Quality Division, P.O. Box 44066, Baton Rouge, Louisiana 70804.

(Sec. 101 and 301 of the Clean Air Act, as amended (42 U.S.C. 7401 and 7601))

Dated: March 4, 1982.

Frances E. Phillips,
Acting Regional Administrator.

[FR Doc. 82-6807 Filed 3-12-82; 8:45 am]
BILLING CODE 6560-38-M

FEDERAL COMMUNICATIONS COMMISSION

Telecommunications Industry Advisory Group; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group scheduled to meet on Tuesday, March 30, 1982, at 9:30 a.m. in Room 856 of the Commission's offices at 1919 M St., NW., Washington, D.C. (Based on the outcome of the March 16 Steering Committee meeting, this meeting may be subject to cancellation.) This meeting will be open to the public. The preliminary agenda is as follows:

I. General Administrative Matters
II. Steering Committee Proposals
III. General Discussion
IV. Task Proposals and Assignments
V. Other Business
VI. Presentation of Oral Statements
VII. Adjournment

With prior approval of the Chairman, Gerald P. Vaughan, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of TIAG objectives. Anyone not a member of the TIAG and wishing to make an oral presentation should contact Stephen T. Duffy, Vice-Chairman (202/634-1509), at least five days prior to the meeting date.

William J. Tricarico,
Secretary, Federal Communications Commission.

[FR Doc. 82-6859 Filed 3-12-82; 8:45 am]
BILLING CODE 6712-01-M

National Industry Advisory Committee Amateur Radio Service Subcommittee; Meeting

March 8, 1982.

Pursuant to the provisions of Pub. L. 92-463, announcement is made of a public meeting of the Amateur Radio Service Subcommittee of the National Industry Advisory Committee (NIAC) to be held Friday, March 26, 1982. The Subcommittee will meet at the Federal Communications Commission Annex Building, Room A-110, 1229 20th Street, NE., Washington, D.C. at 9:30 A.M.

Purpose: To consider emergency communications matters.

Agenda: As follows:

Items:

1. Opening of meeting by Chairman including introduction of new members and review of minutes of the September 25, 1981 meeting; Mr. Dunn.
2. Report on NIAC Executive Committee meeting; Mr. Green.
3. Report of status of emergency plans; FCC Staff.
4. Report on Citizens Band emergency plan and Amateur coordination; Mr. Flinn and Mr. Lindholm.
5. Report on status of contacts with the FCC Private Radio Bureau concerning rebroadcast of amateur transmissions during emergencies when the Emergency Broadcast System is activated, and retransmission by Amateurs of the 2-tone EBS alerting signal; Mr. Imlay and Mr. Payne.
6. Review of FCC Rules requirements for implementation of the Amateur Radio Emergency Plans; Mr. Imlay.
7. Report on meetings of Subcommittee members with FCC Commissioners; Mr. Green.
8. Report on the National Traffic Net; Mr. Lindholm.
9. New business.
10. Adjournment.

Any member of the general public may attend or file a written statement with the Committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the meeting. Those desiring more specific information about the meeting may telephone the Emergency Communications Division, FCC, (202) 632-7232.

William J. Tricarico,
Secretary, Federal Communications Commission.

[FR Doc. 82-6860 Filed 3-12-82; 8:45 am]
BILLING CODE 6712-01-M

National Industry Advisory Committee Establishes a Public Safety Services Subcommittee

Recognizing the role of civil defense, police, fire, and emergency medical service and their significant contribution to the public good, the Charter of the National Industry Advisory Committee (NIAC) is amended to include a Public Safety Services Subcommittee of the NIAC.

Several years ago the Public Safety Subcommittee was disbanded due to an emphasis on higher priority items and limited staff. With recent emphasis on assistance, development and refinement of emergency communications plans and operations in the Public Safety, particularly involving adjacent jurisdictions during times of disaster,

there is a need for an advisory body within NIAC that could effectively provide the Commission with the necessary expertise and advice from user groups.

The Federal Communications Commission is required by Executive Order 11490 (October 28, 1969) to prepare national emergency plans, develop preparedness programs, and to attain an appropriate state of readiness. These requirements have been expanded to include provision of plans for communications support during natural and man-made emergencies at the regional, state, and local levels. Licensees participating in planning for and providing the emergency communications services required are in the areas of common carrier, broadcasting, and private radio services. The function of NIAC is to study and submit recommendations for emergency communications policies, plans, systems and procedures for all FCC-licensed and regulated services in order to provide essential communications systems during emergency situations that pose a threat to the safety of life and property.

Parties in Civil Defense, police, fire, emergency medical, public works and related services interested in becoming members of the Subcommittee may contact the NIAC Executive Secretary in the FCC Emergency Communications Division at (202) 632-7232.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-6881 Filed 3-12-82; 8:45 am]

BILLING CODE 6712-01-M

Advisory Committee on Preparations for the ITU 1983 Region 2 Broadcasting Satellite Service Planning Conference

March 8, 1982.

Meeting: Friday, March 26, 1982, 9:30 a.m., Federal Communications Commission, 1919 M Street, NW., Room 856, Washington, D.C.

Agenda:

(1) Approval of Agenda.
(2) Approval of Minutes of previous meeting.
(3) Presentation of Draft Report, including questions of clarification.
(4) Discussion of Draft Report.
(5) Preview of remaining Committee tasks.
(6) Other Business.
(7) Adjournment.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-6882 Filed 3-12-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket FEMA-REP-2-NJ-1]

New Jersey Radiological Emergency Plan

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of receipt of plan.

SUMMARY: For continued operation of nuclear power plants, the Nuclear Regulatory Commission requires approved licensee and State and local governments' radiological emergency response plans. Since FEMA has a responsibility for reviewing the State and local government plans, the State of New Jersey has submitted its radiological emergency plans to the FEMA Regional office. These plans support nulcear power plants which impact on New Jersey and include those of local governments near the Salem Nuclear Generating Station, located on Artificial Island in Lower Alloways Creek Township, Salem County, New Jersey.

DATE PLANS RECEIVED: February 18, 1982.

FOR FURTHER INFORMATION CONTACT: Natural and Technological Hazards, Division, FEMA, Region II, 26 Federal Plaza, New York, NY 10278; Telephone (212) 264-4734.

Notice: In support of the Federal requirement for emergency response plans, FEMA has proposed a Rule describing its procedures for review and approval of State and local government's radiological emergency response plans. Pursuant to this proposed FEMA Rule (44 CFR 350.8), "Review and Approval of State Radiological Emergency Plan for the State of New Jersey," was received by the Federal Emergency Management Agency, Region II office.

Included are plans for the State of New Jersey and the following political subdivisions which are partially within the plume exposure pathway emergency planning zone: Salem County, consisting of Elsinboro Township, Lower Alloways Creek Township, Mannington Township, Pennsville Township, Quinton Township and Salem City; Cumberland County, consisting of Greenwich Township and Stow Creek Township.

Copies of the Plan are available for review at the FEMA Region II office, or they will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act requests, as set out in Subpart C of 44 CFR Part 5. There are approximately 1,200 pages in the document: reproduction fees are $2.00 for the first 8 pages, and $.10 per page, thereafter, payable with the request for copy.

Comments on the Plan may be submitted in writing to the Regional Director at the above address on or before March 31, 1982.

FEMA Proposed Rule 44 CFR 350.10 also calls for a public meeting prior to the submission of plans by the Regional Office to Headquarters for approval determination. Details of this meeting will be announced in the *Philadelphia Inquirer, Atlantic City Press, Bridgeton Evening News,* and *Today's Sunbeam,* at least two weeks prior to the scheduled meeting. Local radio and television stations will be requested to announce the meeting.

Frank P. Petrone,

Regional Director.

March 3, 1982.

[FR Doc. 82-6883 Filed 3-12-82; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL RESERVE SYSTEM

City Bancorp of Norman, Inc.; Formation of Bank Holding Company

City Bancorp of Norman, Inc., Norman, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 85.36 per cent of the voting shares of City National Bank and Trust Company, Norman, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 7, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 8, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6876 Filed 3-12-82; 8:45 am]

BILLING CODE 6210-01-M

Citizens Bancorp; Formation of Bank Holding Company

Citizens Bancorp, Riverdale, Maryland, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of the successor by merger of The Bank of Riverdale, Riverdale, Maryland, a *de novo* bank, and Citizens Bank and Trust Company of Maryland, Riverdale, Maryland. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 7, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 8, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6877 Filed 3-12-82; 8:45 am]

BILLING CODE 6210-01-M

Collinsville Bancorp., Inc.; Formation of Bank Holding Company

Collinsville Bancorp., Inc., Collinsville, Oklahoma, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 52 percent or more of the voting shares of American Exchange Bank, Collinsville, Oklahoma. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and Section 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire a 99 percent interest in F & M Insurance Agency, Collinsville, Oklahoma.

Applicant states that the proposed subsidiary would engage in the activity of selling credit life and credit accident and health insurance related to extensions of credit by the subsidiary bank. These activities would be performed from offices of Applicant's subsidiary in Collinsville, Oklahoma, and the geographic area to be served is the city of Collinsville, Oklahoma. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweighs possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than April 1, 1982.

Board of Governors of the Federal Reserve System, March 8, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6875 Filed 3-12-82; 8:45 am]

BILLING CODE 6210-01-M

Jeffersonville Bancorp; Formation of Bank Holding Company

Jeffersonville Bancorp, Jeffersonville, New York, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The First National Bank of Jeffersonville, Jeffersonville, New York. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 8, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 8, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6874 Filed 3-12-82; 8:45 am]

BILLING CODE 6210-01-M

Mercantile Bancorp, Inc.; Formation of Bank Holding Company

Mercantile Bancorp, Inc., Moore, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Mercantile Bank, N.A., Moore, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 7, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 8, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6873 Filed 3-12-82; 8:45 am]

BILLING CODE 6210-01-M

Midland California Holdings Ltd.; Formation of Bank Holding Company

Midland California Holdings Limited, London, England, a subsidiary of Midland Public Limited Company (formerly Midland Bank Limited), London, England, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 57 per cent or more of the voting shares of Crocker National Corporation and its wholly-owned subsidiary, Crocker

National Bank, San Francisco, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Midland California Holdings Limited has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire indirectly voting shares of the following subsidiaries of Crocker National Corporation: (1) Bishop Building Co., Inc., Honolulu, Hawaii, which owns and operates the Bishop Trust Building in Honolulu and leases it to subsidiaries of Crocker National Corporation and other tenants; (2) Bishop Trust Company, Ltd., Honolulu, Hawaii, which conducts a full-service trust business and provides limited data processing services to other Crocker National Corporation subsidiaries from an office in Honolulu, Hawaii, serving the state of Hawaii, and an office in Hilo, Hawaii, serving the Commonwealth of Guam; (3) Hawaii Finance Company Ltd., Honolulu, Hawaii which operates as an industrial loan company making secured and unsecured loans to individuals from offices in Honolulu and Hilo, Hawaii, serving the State of Hawaii; (4) Miles Crossing Ltd., Honolulu, Hawaii, which owns real estate mortgages and other real estate receivables, and serves the State of Hawaii from an office in Honolulu, Hawaii, (5) CNC Insurance Agency Inc., San Francisco, California, which engages in the activity of acting as agent for credit life and credit accident and health insurance directly related to extensions of credit by Crocker National Corporation's subsidiaries, and serves the State of California from its office in San Francisco, California; (6) Crocker Investment Management Corp., San Francisco, California, which engages in the activity of providing portfolio investment advice and general economic and financial information and advice, and serves customers throughout the United States from its offices in Los Angeles, and San Francisco, California; (7) Crocker Mortgage Investment Company Inc., Los Angeles, California, which engages in the activities of originating, purchasing and servicing loans secured by real estate and servicing loans and other extensions of credit for any person throughout the United States from offices in Los Angeles, San Francisco, Century City, and Orange County, California; Phoenix, Arizona; Salt Lake City, Utah; Atlanta, Georgia; Indianapolis, Indiana; and Chicago, Illinois; (8) Western Bradford Trust Company, San Francisco, California, a trust company which furnishes services to security holders, brokers, dealers and issuers; provides data processing services to Crocker National Corporation and its subsidiaries; and provides computer software services to Crocker National Corporation and its subsidiaries, throughout the western part of the United States from offices in San Francisco and Los Angeles, California; and (9) Crocker Holdings Inc., Germantown, Tennessee, which holds real estate related assets of Crocker National Corporation that are in the process of liquidation, and serves the southeastern part of the United States from its office in Germantown, Tennessee. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Midland California Holdings Limited, London, England, has also given notice that it will do business indirectly under section 25(a) of the Federal Reserve Act by acquiring indirectly the shares of two Edge Corporation subsidiaries owned by Crocker National Bank, Crocker Bank International, New York, New York, and Crocker International Investment Corporation, San Francisco, California.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than April 3, 1982.

Board of Governors of the Federal Reserve System, March 8, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-6972 Filed 3-12-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Institute Board of Scientific Counselors, May 6 and 7, 1982, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, Building 10, Room 7N214. This meeting will be open to the public from 9:30 a.m. to 4:00 p.m. May 6 and from 9:30 a.m. to 12 noon on May 7 for discussion of the general trends in research relating to cardiovascular, pulmonary and certain hematologic diseases. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 12 noon to adjournment May 7 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the Board members. Substantive program information may be obtained from Dr. Jack Orloff, Director, Division of Intramural Research, NHLBI, NIH, Building 10, Room 7N214, phone (301) 496-2116.

Dated: March 9, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82-6954 Filed 3-12-82; 8:45 am]

BILLING CODE 4140-01-M

Board of Scientific Counselors, National Institute of Dental Research; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Dental Research, on April 28-30, 1982. On April 28 and 30 the meeting will be held in Conference Room 117, Building 30, National Institutes of Health, Bethesda, Maryland. On April 29 the meeting will be held in Conference Room 451A, PARK Building, 12420 Parklawn Drive, Rockville, Maryland. This meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on April 28, and from 9:00 a.m. to 3:00 p.m. on April 29, to discuss program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 3:00 p.m. to adjournment on April 29, and from 9:00 a.m. to adjournment on April 30 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institute of Dental Research, NIH, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Marie U. Nylen, Director of Intramural Research, National Institute of Dental Research, National Institutes of Health, Building 30, Room 132, Bethesda, MD 20205, (telephone 301 496-1483) will provide summaries of meeting, rosters of committee members, and substantive program information.

Dated: March 9, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82-6953 Filed 3-12-82; 8:45 am]

BILLING CODE 4140-01-M

Board of Scientific Counselors, National Institute of Neurological and Communicative Disorders and Stroke; Meeting

Pursuant to the Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Neurological and Communicative Disorders and Stroke, National Institutes of Health, May 20 and 21, 1982, in Conference Room 1B07, Building 36, Bethesda, MD 20205. This meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on May 20 to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 9:00 a.m. until the conclusion of the meeting on May 21 for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performances, the competence of individual investigators and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personnel privacy.

The Freedom of Information Coordinator, Mr. Edward M. Donohue, Federal Building, Rm. 1004, 7550 Wisconsin Avenue, Bethesda, MD 20205, telephone 301/496-8231, will furnish summaries of the meeting and rosters of committee members.

The Executive Secretary from whom substantive program information may be obtained is Dr. Thomas N. Chase, Director, of Intramural Research Program, NINCDS, Building 36, Room 5A05, NIH, Bethesda, MD 20205, telephone 301/496-4297.

(Catalog of Federal Domestic Assistance Program No. 13,356, National Institutes of Health)

Dated: March 9, 1982.

Thomas E. Malone,

Acting Director, National Institutes of Health.

[FR Doc. 82-6955 Filed 3-12-82; 8:45 am]

BILLING CODE 4140-01-M

Environmental Health Sciences Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Environmental Health Sciences Review Committee, on April 28-29, 1982 in Building 101 Conference Room, Research Triangle Park, North Carolina. This meeting will be open to the public from 8:30 a.m. to approximately 10:30 a.m. on April 28, 1982, for general discussions. Attendance by the public is limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 10:30 a.m., April 28, to adjournment on April 29, 1982, for the review, discussion and evaluation of individual grant applications and contract proposals. These applications and proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Carol Shreffler, Executive Secretary, Environmental Health Sciences Review Committee, National Institute of Environmental Health Sciences, National Institutes of Health, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (telephone 919-541-7826), will provide summaries of meeting, rosters of committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.892, Prediction, Detection and Assessment of Environmental Caused Diseases and Disorders; 13.893, Mechanisms of Environmental Diseases and Disorders; 13.894, Environmental Health Research and Manpower Development Resources, National Institutes of Health)

NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: March 9, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82-6957 Filed 3-12-82; 8:45 am]

BILLING CODE 4140-01-M

Transplantation Biology and Immunology Subcommittee of the Allergy, Immunology, and Transportation Research Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Transplantation Biology and Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee, National Institute of Allergy and Infectious Diseases, on April 5-6, 1982, at the National Institutes of Health, Building 31C, Conference Room 6, Bethesda, Maryland 20205. The meeting will be open to the public on April 5 from 8:30 a.m. until 9:30 a.m. to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the meeting of the AITRC Transportation Biology and Immunology Subcommittee will be closed to the public for review, evaluation, and discussion of individual grant applications and contracts proposals from 10:15 a.m. to approximately 5:30 p.m. on April 5 and

from 8:30 a.m. until adjournment on April 6.

These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A–32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–5717, will provide summaries of the meetings and rosters of the Committee members as requested.

Dr. Nirmal K. Das, Executive Secretary, Allergy, Immunology and Transplantation Research Committee, NIAID, NIH, Westwood Building, Room 706, telephone (301) 496–7966, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in sections 8(b) (4) and (5) of that Circular.

Dated: March 9, 1982.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 82-6666 Filed 3-12-82; 8:45 am]

BILLING CODE 4140-01-M

Office of Human Development Services

Native American Programs; Amendment to Program Announcement 13612–821

AGENCY: Office of Human Development Services, DHHS.

SUBJECT: Amendment to Announcement of Availability of FY 1982 Financial Assistance for Native American Projects.

SUMMARY: The Administration for Native Americans (ANA) is amending the list of Fical Year 1981 grantees eligible to apply for funding under Program Announcement 13612–821, Financial Assistance for Native American Projects (46 FR 28306, May 26, 1981). The following list includes Fiscal Year 1981 grantees who were not included in the May 1981 announcement as well as the grantees whose budget period has been changed.

(Catalog of Federal Domestic Assistance Program Number 13.612 Native American Programs)

Dated: February 12, 1982.

A. David Lester,

Commissioner, Administration for Native Americans.

Approved: March 8, 1982.

Dennis R. Hardy,

Assistant Secretary for Human Development Services.

Administration for Native Americans

[Budget Period End Date/Application Due Date]

	Budget period end date (BPE)	Application due date
Leech Lake Reservation Business Committee, MN	5/31/82	1/1/82
Lummi Tribe, WA		
Oneida Tribe of Indians of Wisconsin, WI		
The Business Committee of the Chippewa Cree, MT		
Menominee Indian Tribe of Wisconsin, WI		
California Inter-Tribal Council, Inc., CA		
Eight Norther Pueblos Council, Inc., NM		
Indian Center of Topeka, Inc., KS		
Native Americans for Community Action, Inc., AZ		
Seminole Nation of Oklahoma, OK		
Quechan Tribe, AZ	4/30/82	1/31/82
Santee Sioux Tribe of Nebraska, NE		
Swinomish Tribe, WA		
Crow Creek Sioux Tribe, SD		
Hualapai Tribe, AZ		
White Mountain Apache Tribe, AZ		
Association of Village Council Presidents, AK		
Miccosukee Tribe of Florida, FL		
Tanana Chiefs Conference, AK		
Mid-American All Indian Center, Inc., KS		
Cocopah Tribe, AZ	5/31/82	3/3/82
Havasupai Tribal Council, AZ		
Metlakatla Indian Community, AK		
Yankton Sioux Tribe, SD		
Makah Indian Tribal Council, WA		
Small Tribes Organization of Western Washington, WA		
Trenton Indian Service Area Corporation, ND		
Sioux City American Indian Center, Inc., IA		
Indian Human Resource, Inc., CA		
Michigan Indian Benefit Association, MI	6/29/82	4/1/82
Hopi Tribal Council, AZ	5/30/82	4/2/82
Turtle Mountain Band of Chippewa Indians, ND		
Seminole Tribe of Florida, FL		
Colorado River Indian Tribes, AZ		
Kickapoo Tribe in Kansas, KS	6/30/82	4/2/82
Coushatta Alliance, LA		
Chitimacha Tribe of Louisiana, LA		
Penobscot Nation, ME		
Passamaquoddy Tribe, Pleasant Point Reservation, ME		
Passamaquoddy Tribe, Indian Township Reservation, ME		
Three Affiliated Tribal Business Council, ND		
Navajo Tribal Council, AZ		
Seneca Nation of Indians, NY		
Indian Action of Northwestern California, Inc., CA		
United Tribes of Kansas and Southeast Nebraska, KS		
Association of Aroostook Indians, Inc., ME		
WCO Enterprises, Inc., OK		
Plains Apache, OK		
Pawnee Tribe of Oklahoma, OK		
Comanche Indian Tribe, OK		
Minneapolis American Indian Center, Inc., MN		

Administration for Native Americans—Continued

[Budget Period End Date/Application Due Date]

	Budget period end date (BPE)	Application due date
Kaw Tribe, OK		
Otoe-Missouri Tribe, OK		
Tonkawa Tribe, OK		
Boston Indian Council, Inc., MA		
American Indian Community, Inc., NY		
Buffalo North American Indian Culture Center, Inc., NY		
Native American Cultural Center, Inc., NY		
North American Indian Club of Syracuse and Vicinity, Inc., NY		
Baltimore American Indian Center, Inc., MD		
Council of Three Rivers American Indian Center, Inc., PA		
United American Indians of Delaware Valley, Inc., PA		
Grand Rapids Inter-Tribal Council, Inc., MI		
North American Indian Association of Detroit, Inc., MI		
St. Paul American Indian Center, Inc., MN		
Native American Committee, Inc., IL		
Albuquerque Urban Indian Center, Inc., NM		
Native American Center, Inc., OK		
Native American Coalition of Tulsa, Inc., OK		
Denver Native American United, Inc., CO		
Montana United Indian Association, Inc., MT		
Dakota Association of Native Americans, Inc., ND		
Rapid City Indian Service Council, Inc., SD		
Utah Native American Consortium, Inc., UT		
American Indian Association of Tucson, Inc., AZ		
Phoenix Indian Center, Inc., AZ		
Inter-Tribal Friendship House, Inc., CA		
South Bay Indian Services, Inc., CA		
Central Council of Tlingit and Haida Indians of Alaska, AK		
Meunelelu Association, Inc., AK		
Seattle Indian Center, Inc., WA		
Tacoma Indian Center, Inc., WA		
American Indian Community Center, Inc., WA		
United Indian Association of Central Washington, Inc., WA		
Urban Indian Council, Inc., OR		
Guilford Native American Association, Inc., NC	5/31/82	5/3/82
Metrolina Native American Association, Inc., NC		
South Eastern Michigan Indians, Inc., MI		
American Indian Fellowship Association, Inc., MN		
Farmington Inter-Tribal Indian Organization, Inc., NM		
Gallup Indian Community Center, NM		
American Indian Center of Dallas, Inc., TX		
Indian Centers, Inc., CA		
Hawaii Council of American Indian Nations, Inc., HI		
Fairbanks Native Association, Inc., AK		
Haliwa Indian Tribe, SC		
Powhatan Renape Nation, NJ		
Waccamaw Siouan Development Association, NC		
Tri-County Indian Center, MI		
Pee Dee Indian Association, SC		
Creek Nation East of the Mississippi, AL		
South Puget Inter-Tribal Planning Agency, WA		
United Rappahannock Tribal Office, VA	9/30/82	7/3/82

Administration for Native Americans—Continued

[Budget Period End Date/Application Due Date]

	Budget period end date (BPE)	Application due date
Saginaw Inter-Tribal Association, Inc., MI		
North Pacific Rim, AK		
Kawerak, Inc., AK		
Couer d'Alene Tribe of Idaho, ID	10/31/82	8/3/82
St. Regis Mohawk Tribe, NY		
Cherokee Nation, OK		
Chickasaw Nation, OK		
Choctaw Nation, OK		
Devils Lake Sioux Tribe, ND		
Sisseton-Wahpeton Sioux Tribe, SD		
Gila River Indian Community, AZ		
Minnesota Sioux Tribe, MN	11/30/82	9/2/82
Grand Traverse Band of Ottawa and Chippewa Indians, MI		
Omaha Tribe, NB		
Jemez Pueblo, NM		
Confederated Tribes of Grand Ronde, OR		
Klamath Tribe, OR		
Nez Perce Tribe, ID		
Northern Cheyenne Tribe, MT		
Osage Tribe, OK		
Citizens Band of Potawatomi, OK		
Winnebago Tribe, NB		
Great Lakes Inter-Tribal Council, WI		
Umatilla Tribe, NB		
Ute Indian Tribe, UT		
Jicarilla Apache Tribe, NM		
Assiniboine & Sioux Tribes, MT		
Central Tribes of Shawnee Area, Inc., OK		
Oklahoma Inter-Tribal Council, Inc., OK		
Five Sandoval Indian Pueblos, Inc., NM	12/31/82	10/3/82
Organization of the Forgotten American, OK		
Spokane Tribe of Indians, WA		
American Indian Center of Omaha, NB		
Lumbee Regional Development Association, Inc., NC		
Ute Mountain Ute Tribe, CO		
Cheyenne & Arapaho Tribe of Oklahoma, OK		
Cumberland County Association for Indian People, NC		
Kiowa Tribe, OK		
Mississippi Band of Choctaw Indians, MS		
Zuni Pueblo, NM		
Colville Confederated Tribes, WA		
Salt River Indian Community, AZ		
Southern Ute Indian Tribe, CO	1/31/83	11/2/82
Cheyenne River Sioux Tribe, SD		
San Carlos Apache Tribe, AZ		
Fond du Lac Reservation Business Council, MN		
Oglala Sioux Tribe, SD		
Quileute Tribe, WA		
Tulalip Tribe, WA		
Yakima Nation, WA		
Pueblo of Isleta, NM		
Rosebud Sioux Tribe, SD		
Abenaki Self-Help Association, VT		
American Indians for Development, CT		
Wampanoag Tribal Council of Gayhead, Inc., MA		
Narragansett Tribal Education Project, RI		
White Earth Reservation Business Committee, MN	2/28/83	12/1/82
Blackfeet Tribe, MT		
Pueblo of Laguna, NM		
Shoshone-Arapaho Joint Council, WY		
Lincoln Indian Center, Inc., NB		

[FR Doc. 82-6662 Filed 3-12-82; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. AA-23139]

Alaska; Termination of Proposed Withdrawal and Reservation of Lands

January 18, 1982.

The U.S. Department of Agriculture, filed application AA–23139 for the withdrawal of lands from location and entry under the general mining laws 30 U.S.C. Ch. 2., and from selection, location, and entry under section 6 of the Alaska Statehood Act, 72 Stat. 339, subject to valid existing rights. Notice was published in the Federal Register on December 5, 1978 (43 FR 57134 as FR Doc. No. 78–34051). An amendment thereto was published in the Federal Register on June 8, 1979 (44 FR 33155 as FR Doc. No. 79–17803).

The purpose of the proposed withdrawal was to protect the scenic, historical, scientific, and/or primitive attributes of the area and in aid of possible legislation. Congress enacted legislation on the proposed withdrawal within the two year period called for in section 204(b)(1)(c) of the Federal Land Policy and Management Act of October 21, 1976. Therefore, the segregative effect of the proposed withdrawal terminated with the passage of the Alaska National Interest Lands Conservation Act on December 2, 1980.

This order does not otherwise affect the status of these lands and they remain subject to other withdrawals of record.

Curtis V. McVee,

State Director.

[FR Doc. 82-6665 Filed 3-12-82; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. AA-045553]

Alaska; Proposed Withdrawal and Reservation of Lands; Tongass National Forest

Correction

In FR Doc. 81–35141, appearing at page 60274, in the issue of Wednesday, December 9, 1981, make the following change:

On page 60274, in the third column, the second paragraph, the tenth line should read "sought is the minimum essential to meet the applicant's needs providing for the concurrent".

BILLING CODE 1505-01-M

[NM 51343 OK]

Oklahoma; Exploration of Coal Deposits

Correction

In FR Doc. 82–4431 appearing at page 7505 in the issue of Friday, February 19, 1982, on page 7505 middle column,

N½NW¼N½SW¼NW¼;

should be changed to read:

"N½NW¼, N½SW¼NW¼".

BILLING CODE 1505-01-M

Fish and Wildlife Service

Endangered Species Permit; Applications

The applicants listed below wish to conduct certain activities with endangered species:

Applicant: Donald P. Wells, Lake Forest, IL, PRT 2–8832

The applicant requests a permit to purchase in interstate commerce two (2) captive-bred Nene geese (*Branta sandvicensis*) from Allen Humphry, Litchfield, CT, for enhancement of propagation.

Applicant: David Garcelon, Institute for Wildlife Studies, Arcata, CA PRT 2–8094

The applicant requests a permit to take bald eagle (*Haliaeetus leucocephalus*) nestlings from Oregon, Washington, or California to relocate to Santa Cruz Island, California, for enhancement of survival and research purposes.

Applicant: Peter G. Yamamota, Tacoma, WA PTR 2–8886

The applicant requests a permit to export one (1) captive-bred gray wolf (*Canis lupus*) to the Okanagan Game Farm, British Columbia, Canada, for enhancement of propagation and survival.

Applicant: University of North Carolina, Institute of Marine Science, Morehead City, NC, PRT 2–3208.

The applicant request a permit to take threatened and endangered sea turtles native to North America. Activities will include capture, measure, tag, mark and release; collect eggs for incubation and research in a laboratory; collect hatchlings after August to assure survival; and to relocate imperiled nests, for enhancement of survival and scientific research.

Applicant: Southeastern Forest Experiment Station, U.S. Forest Service, Clemson, SC, PRT 2–8685

The applicant request a permit to take (capture) red-cockaded woodpeckers

(*Picoides borealis*) in Georgia and South Carolina for banding and radio-telemetry purposes for scientific research and enhancement of survival.

Applicant: Los Angeles Zoo, Los Angeles, CA PRT 2-8881

The applicant requests a permit to import four (4) male captive-bred yellow-footed rock wallabies (*Petrogale xanthopus*) from the Adelaide Zoo, Adeliade, Australia, for enhancement of propagation.

Applicant: Steve Martin, Acton, CA PRT 2-0791

The applicant requests a permit to import one (1) male captive-bred orangutan (*Pongo pygmaeus*) from the Ruhr Zoo, Gelsenkirchen, West Germany.

Applicant: Yale University School of Medicine, New Haven, CT PRT 2-8857

The applicant request a permit to export in foreign commerce 18 captive-born cotton-top marmosets (*Saguinus oedipus*) from New Haven, CT to the University of Bristol, Bristol, England, for enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications by April 14, 1982, by submitting written data, views, or agruments to the above address. Please refer to the file number when submitting comments.

Dated: March 10, 1982.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-6820 Filed 3-12-82; 8:45 am]

BILLING CODE 4310-55-M

Receipt of Marine Mammal Application for Permit; Ronald O. Skoog

Notice is hereby given that an applicant has applied in due form for a permit to take walrus as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the regulations governing the taking and importing of Marine Mammals (50 CFR Part 18).

1. Applicant:

a. Name: Dr. Ronald O. Skoog, Commissioner, Alaska Department of Fish and Game.

b. Address: Game Division, Subport Building, Juneau, AK.

2. Type of permit: Scientific Research.

3. Name and number of animals: Walrus (*Odobenus rosmarus divergens*)—60.

4. Type of Activity: Take.

5. Location of Activity: Bering, Chukchi, and Beaufort Seas.

6. Period of Activity: Now through December 31, 1983.

The purpose of this application is to determine feeding habits of walrus.

Concurrent with the publication of this notice in the **Federal Register** the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

The application has been assigned file number PRT 2-8354. Written data or views, or requests for copies of the complete application or for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203, on or before April 14, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice are summaries of those of the applicant and do not necessarily reflect the views of the United States Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review during normal business hours in Room 605, 1000 North Glebe Road, Arlington, Virginia.

Dated: March 10, 1982.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-6827 Filed 3-12-82; 8:45 am]

BILLING CODE 4310-55-M

Office of the Secretary

Record of Decision on Proposed Disposition and Administration of Lands Declared Excess by U.S. Navy on the Islands of Culebra and Culebrita in Puerto Rico.

AGENCY: Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: This Notice advises the public that a final decision on the proposed disposition and administration of lands declared excess by the U.S. Navy on the Islands of Culebra and Culebrita, Puerto Rico, has been made by the Secretary, U.S. Department of the Interior.

The Senate Committee on Interior and Insular Affairs passed a resolution in June 1971 directing the Secretary of the U.S. Department of the Interior (DOI), in consultation with representatives of the Commonwealth of Puerto Rico (Commonwealth), to conduct studies and develop plans for the best use of the lands on Culebra and Culebrita Islands in Puerto Rico declared excess by the U.S. Navy. Representatives of DOI and the Commonwealth identified the natural and cultural resources of these lands and developed six alternatives to be considered in disposing of and managing the excess lands. The final decision rendered along with a brief description of the six alternatives considered follow:

Decision

Alternative 3 is hereby approved. It provides for:

A. *Disposition of Excess Lands on Culebra Island:* Approximately 936 acres will be deeded to the Commonwealth and 776 acres will be transferred to the U.S. Fish and Wildlife Service (Service).

B. *Disposition of Excess Lands on Culebrita Island:* Approximately 262 acres will be kept in the Service's National Wildlife Refuge System.

Cooperative management agreements between the Commonwealth and the Service relating to conservation and development of the natural and cultural resources on lands to be deeded and transferred will be developed and executed.

Alternatives Considered

Alternative 1. This is the "Joint Report Alternative." Approximately 936 acres of excess Navy lands on Culebra Island and 262 acres of National Wildlife Refuge land on Culebrita Island would be deeded to the Commonwealth and approximately 776 acres of excess land on Culebra Island would be transferred to the Service. Strict conveyance restrictions for lands proposed for transfer to the Commonwealth would be developed to protect the wildlife and cultural resources and enhance local economic and social conditions.

Alternative 2. This is the "No Action Alternative" in which the Service would not accept transfer of any of the 1,712 acres of excess Navy lands on Culebra. Under this alternative, these lands would probably be transferred to other governmental agencies or be sold to private interests. Culebrita would remain in the National Wildlife Refuge System. Adverse environmental impacts would likely occur on Culebra. Short-term economic benefits could be realized under this alternative.

Alternative 3. (This alternative will be initiated.) This alternative is similar to the "Joint Report Alternative" (Alternative 1) with the exception of the Culebrita Island excess lands that will be kept in the National Wildlife Refuge System. The wildlife-related resources on Culebra will be protected while allowing for enhancement of local economic and social conditions.

Alternative 4. This "Essential Habitat Alternative" is basically the same as Alternative 3, except that those excessed lands on Culebra currently designated or proposed as Critical Habitat in accordance with the endangered Species Act of 1973 (as amended) would also be transferred to the Service. Although no Cooperative Management Agreement would be involved, the wildlife-related resources would be protected while allowing for some enhancement of local economic and social conditions.

Alternative 5. This "Economic Development Alternative" would be to deed to the Commonwealth all 1,712 acres of excess Navy lands on Culebra and to leave Culebrita in the National Wildlife Refuge System. Severe adverse environmental impacts, especially on nesting marine turtles, could be expected. Local economic conditions are likely to improve on a short-term basis.

Alternative 6. This "Wildlife Refuge System Alternative" would be to transfer all 1,712 acres of excess Navy lands on Culebra to the Service and leave Culebrita in the National Wildlife Refuge System. Maximum protection of the wildlife-related resource would be afforded, but enhancement of short-term economic conditions could be limited.

I have determined all practicable means to avoid or minimize environmental harm from the alternative selected will be carried out. The administration and development activities to be carried out by the respective entities will be monitored to insure compliance with cooperative agreements.

Dated: February 1, 1982.

James G. Watt,

Secretary, Department of the Interior.

[FR Doc. 82-6869 Filed 3-12-82; 8:45 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-195

The following applications were filed in region I. Send protests to Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501 Boston, MA 02114.

MC 111506 (Sub-1-1TA), filed March 4, 1982. Applicant: ACKER BUS LINE, INC. Box 194, RFD 1, Kingston, NY 12401. Representative: Sidney J. Leshin, Esq. 3 East 54th Street, New York, NY 10022. *Passengers and their baggage, in charter operations* beginning and ending in the Counties of Ulster, Dutchess, Columbia and Green, NY, and extending to points in NY, NJ, ME, VT, NH, MA, CT, PA, MD, DC, DE, VA and TN. Supporting shipper: There are 12 statements in support of this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 160790 (Sub-1-1TA), filed March 1, 1982. Applicant: C & M EXPRESS, INC., 766 W. Broadway, Gardner, MA 01440. Representative: James F. Martin, Jr., 8 W. Morse Road, Bellingham, MA 02019. *Contract carrier:* irregular routes: *Pulp paper and related products* from Gardner, MA to points in ME, NH, VT, RI, CT, NY, NJ and PA, under continuing contract(s) with Mead Corp., Gardner, MA. Supporting shipper: Mead Corp., 75 Logan Street, Gardner, MA 01440.

MC 160791 (Sub-1-1TA), filed March 1, 1982. Applicant: JP'S HAULING, INC., 17A Hillcrest Drive, Glen Head, NY 11545. Representative: Jack L. Schiller, 123-60 83rd Avenue, Kew Gardens, NY 11415. *Contract carrier:* irregular routes: *Scrap metal* between the facilities of Cousins Metal Industries, Inc., located at Oceanside, NY, on the one hand, and, on the other, Claymont, DE; Chicago, IL; Detroit, MI; Cleveland, OH; Burnham and Contesville, PA; and Mt. Holly, SC, under continuing contract with Cousins Metal Industries, Inc. of Oceanside, NY. Supporting shipper: Cousins Metal Industries, Inc., 460 Brown Court, Oceanside, NY 11572.

MC 151193 (Sub-1-29TA), filed March 5, 1982. Applicant: PAULS TRUCKING CORPORATION, 286 Homestead Avenue, P.O. Drawer D, Avenel, NJ 07001. Representative: Michael A. Beam (same as applicant). *Contract carrier:* irregular routes: *Edible fats, shortening, meat renderings and by-products and equipment, materials and supplies used in the manufacture, sale and distribution of such commodities (except in bulk),* between points in CO, IL, IN, KY, KS, MN, MO, MI, NB, OH and TX under continuing contract(s) with Interstate Foods Corporation, Chicago, IL. Supporting shipper: Interstate Foods Corporation, Chicago, IL 60609.

MC 147242 (Sub-1-7TA), filed March 5, 1982. Applicant: PLAZA FREIGHT TRANSPORT, INC., 12-90 Plaza Road, Fair Lawn, NJ 07410. Representative: Arthur Liberstein, P.C., 888 Seventh Avenue, New York, NY 10106. *Contract carrier:* Irregular routes: *Foam rubber and related products, except commodities in bulk* between all points in the U.S., under continuing contract(s) with Crest Foam Corporation, Moonachie, NJ. Supporting shipper: Crest Foam Corporation, 100 Carol Place, Moonachie, NJ 07074.

MC 160434 (Sub-1-1TA), filed March 5, 1982. Applicant: R.S. LIQUID WASTE DISPOSAL, INC., 163 Pinnery Avenue, Warwick, RI 02886. Representative: David F. Sweeney, Esq., 10 Jefferson Blvd., Warwick, RI 02888. *Chemicals and related products, hazardous materials, and hazardous wastes,* from points in ME, NH, VT, MA, RI, and CT

to disposal and recycling/reclaiming facilities at Bayshore and Niagara, NY, Willamsbury, OH, and Union, ME. Supporting shippers: Union Chemical Co., Inc., P.O. Box 423, Union, ME 04862; Amtrol, Inc., 1400 Division Road, West Warwick, RI 02893; C. M. Laboratories, Inc., 731 Broadway, South Portland, ME 04106; Arkwright Incorporated, Main Street, Fiskeville, RI 02823.

MC 127905 (Sub-1-3TA), filed March 1, 1982. Applicant: LYNN H. SCOTT, INC., 8532 Blossvale Road Blossvale, NY 13308. Representative: Edward L. Nehez, 6 Becker Farm Road P.O. Box Y, Roseland, NJ 07068. *Foundry materials,* (1) from points in AL, GA, IL, NJ, OH, WA and WI to points in NY; (2) From Liverpool, NY to points in NY and PA. Supporting shipper(s): G. W. Bryant Core Sands, Inc., 281 Bryant Road, McConnellsville, NY 13401; Foundry Materials, Inc., 100 Cleveland St., Liverpool, NY 13088; Oberdorfer Foundries, Inc., P. O. Box 4811, E. Syracuse, NY 13221; The Black Clawson Co., 46 North First St., Fulton, NY 13069.

MC 146463 (Sub-1-2TA), filed March 3, 1982. Applicant: SLACK TRANSPORT LIMITED Box 479 Caledonia, Ontario, CD N0A 1A0. Representative: William J. Hirsch P.C. 1125 Convention Tower 43 Court Street Buffalo, NY 14202. *Contract carrier:* irregular routes: *Tractor rims, tractor cabs and hitches, cultivators, air compressors, wood saws, tillages, grain huller or picker machines, fertilizer luggers, high power lights for tractors, high pressure washers and parts related to tractors and cultivators, triple-walled corrugated board, special corrugated paper materials and wooden wire-bound containers* between all points in AR, IA, IL, IN, KS, MI, MN, NY, OH, PA, SD and WI, under continuing contract(s) with Robert H. Laning & Sons Ltd., Waterford, Ontario, CD; Trican Packaging, Inc., Cayuga, Ontario, CD. Supporting shippers: Robert H. Laning & Sons Ltd., 289 Leamon Street, Waterford, Ontario, CD; Trican Packaging Inc., P.O. Box 158, Cayuga, Ontario, CD N0A 1E0.

MC 59457 (Sub-1-6TA), filed March 1, 1982. Applicant: SORENSEN TRANSPORTATION COMPANY, INC., 6 Old Amity Road, Bethany, CT 06525. Representative: Gerald A. Joseloff, 410 Asylum Street, Hartford, CT 06103. *Food and related products* between Lake County, FL, on the one hand, and, on the other, points in CT. Supporting shipper: Kraft, Inc., 255 Homestead Avenue, Hartford, CT 06111.

MC 156029 (Sub-1-1TA), filed March 5, 1982. Applicant: TRANSPORT ENTERPRISES, INC., 400 Broadway, Freehold, NJ 07728. Representative: A. David Millner, Esq., 7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068. *Contract carrier:* irregular routes: *Drugs, toiletries and pet products,* from Cranbury and Lakewood, NJ to points in GA, FL, NC and SC, under continuing contract(s) with Carter Wallace, Inc., Cranbury, NJ. Supporting shipper: Carter Wallace, Inc., Half Acre Road, Cranbury, NJ 08512.

MC 154368 (Sub-1-1TA), filed March 1, 1982. Applicant: TRUC-WAY, INC., P.O. Box 8, Collingswood, NJ 08108. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. *Food and related products, materials, equipment and supplies used in the manufacture and distribution of food and related products* between points in Gloucester, Salem and Middlesex counties, NJ on the one hand, and, on the other, points in MD, NJ, NY, and PA. Supporting shipper: Del Monte Corporation, One Market Plaza, San Francisco, CA 94119.

MC 152320 (Sub-1-3TA), filed March 5, 1982. Applicant: VERSPEETEN CARTAGE, LIMITED, 67 Dalton Road, Delhi, Ontario CD N4B 1B4. Representative: Neill T. Riddell, 900 Guardian Building, Detroit, MI 48226. *Contract carrier:* irregular routes: *Clay, concrete, glass or stone products, metal products, and machinery* between all points in the U.S., under continuing contract(s) with Flo-Con Canada, Inc., of Tillsonburg, Ontario, CD. Supporting shipper: Flo-Con Canada, Inc., 8 Rouse Street, Tillsonburg, Ontario, CD N4G 4J1.

MC 157842 (Sub-1-3TA), filed March 2, 1982. Applicant: WEBBER PETROLEUM COMPANY, 93 Kensington Street, Portland, ME 04101. Representative: Robert E. Sutcliffe, Esq., Rudman & Winchell, 84 Harlow Street, P.O. Box 1401, Bangor, ME 04401. *Contract carrier:* irregular routes: *Petroleum and its products (STCC Code 13, 29)* between points in ME and points in NH under continuing contract(s) with Sunmark Industries of Framingham, MA. Supporting shipper: Sunmark Industries, Division of Sun Oil Company of Pennsylvania, 240 Lee Burbank Highway, Revere, MA 02151.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 145058 (Sub-3-2TA), filed March 3, 1982. Applicant: THOMAS PRODUCE COMPANY OF MOUNT AIRY, INC., P.O. Box 16707, Greensboro, NC 27406. Representative: Michael F. Morrone, 1150 17th Street, N.W., Suite 1000, Washington, D.C. 20036. *General commodities (except Class A and B explosives, commodities in bulk in tank vehicles, household goods and hazardous materials)* from the facilities of Westinghouse Electric Corporation, Athens, GA to points in MN, IA, MO, AR, LA, ND, SD, NE, KS, OK, MT, WY, CO, NM, TX, ID, UT, AZ, WA, OR, NV and CA. Supporting shipper: Westinghouse Electric Corporation, 1651 Westinghouse Building, Pittsburgh, PA 15222.

MC 160860 (Sub-3-1TA), filed March 5, 1982. Applicant: AMBERG & ROPER TRUCKING, Route 1, Box 60, Hickman, KY 42050. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103. (1) *Lighting fixtures* from facilities of National Ceramics, Inc. at or near Cunningham, KY, to points in the US in and east of ND, SD, NE, KS, OK and TX, and materials and supplies used in the manufacture of lighting fixtures from points in the US in and east of ND, SD, NE, KS, OK and TX to facilities of National Ceramics, Inc. at or near Cunningham, KY; and (2) *Lighting fixtures and shades* from facilities of Deena Products, Inc. at or near Arlington, KY, to points in GA, NC, SC, VA, WV, TN, IN, and TX, and materials and supplies used in the manufacture of lighting fixtures and shades from points in GA, NC, SC, VA, WV, TN, IN, and TX, to facilities of Deena Products, Inc. at or near Arlington, TX. Supporting shippers: Deena Products, Inc., Highway 51 North, Arlington, KY 42021; and National Ceramics, Inc., P.O. Box 471, Cunningham, KY 42035.

MC 154861 (Sub-3-5TA), filed March 5, 1982. Applicant: CAROLINA MOTOR EXPRESS, INC., P.O. Box 550, Forest City, NC 28043. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, N.W., Washington, D.C. 20005. *Fiberboard,* between the facilities of Plum Creek, Inc., at or near Columbia Falls, MT, on the one hand, and, on the other, points in VA and TN. Supporting shipper(s): Plum Creek, Inc., P.O. Box 160, Columbia Falls, MT 59912.

MC 160766 (Sub-3-1TA), filed March 5, 1982. Applicant: ALVIN E. JOYNER, d.b.a. JOYNER INLAND GARAGE, 3715 Crawfordville Road, Tallahassee, FL 32301. Representative: Thomas F. Panebianco, Post Office Box 1200, Tallahassee, FL 32302. *Vehicles,* between points in Mitchell, Baker, Brooks, Miller, Decatur, Seminole, Grady, Thomas, Colquitt and Early Counties, GA; Suwannee, Leon, Madison, Gadsden, Taylor, Jackson, Calhoun, Jefferson, Wakulla, Liberty, Hamilton and Lafayette Counties, FL; and Houston County, AL, on the one hand, and, on the other, points in FL, GA, AL, LA, MS, SC and NC. Supporting

shipper: General Motors Acceptance Corporation, 325 John Knox Road, Tallahassee, FL 32303.

The following applications were filed in Region 4. Send protest to: Interstate Commerce Commission, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 54855 (Sub-4-3TA), filed February 25, 1982. Applicant: LOUISVILLE, NEW ALBANY, & CORYDON RAILROAD COMPANY, d.b.a. LOUISVILLE AND CORYDON TRANSFER, 210 Walnut St., Corydon, IN 47112. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *General commodities* (except class A and B explosives and Household goods) between Corydon, IN on the one hand, and, on the other points in Belvidere, Cairo, Dunn, Henkel, and Hillcrest, IL; Austin, Boonville, Evansville, Ferdinand, Griffin, Jasper, and Vicennes, IN; Ashland, Benton, Fulton, Hopkinsville, Jensen, LaGrange, Louisville and Owensboro, KY; and Blue Ash, Fremont, Homer, McDowell, and Warsaw, OH. Supporting shippers: there are five (5).

MC 142449 (Sub-4-7-TA), filed February 26, 1982. Applicant: SPEEDWAY HAULERS, INC., P.O. Box 1463, South Bend, IN 46624. Representative: Jo Ann Sawyer (same as applicant). *Transporting: Plastic Articles (N.O.I)* between points in AL, AR, CO, CT, FL, GA, IL, IN, IA, KS, KY, MD, MA, MI, MN, MO, NE, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VA, WV, WI, and WY. Supporting shipper: CPR Division, the Upjohn Company, P.O. Box 2978, Torrance, CA 90509.

MC 144121 (Sub-4-12TA), filed February 26, 1982. Applicant: LARRY'S EXPRESS, INC., 720 Lake St., Tomah, WI 54660. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Lawn fertilizer, clay products, ice control materials, and materials, equipment and supplies* used in the manufacture, sale and distribution of such commodities, between Viroqua, WI, on the one hand and, on the other, points within IN, IL, MI, MO, NJ, NY, OH, and PA. An underlying ETA seeks 120 days authority. Supporting shipper: Howard Johnson's Enterprises, Inc., Box 67, RR Avenue, Viroqua, WI 54665.

MC 144323 (Sub-4-6TA), filed March 2, 1982. Applicant: RICHARD P. CHARAPATA, d.b.a. CHARAPATA TRUCKING, N30 W28466 Peterson Drive, Pewaukee, WI 53072. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Contract irregular, food and related products,* between the facilities of Max Bauer Meat Packer, Inc., at Miami, FL, on the one hand, and, on the other, points in WI, under continuing contracts with Max Bauer Meat Packer, Inc., of Miami, FL. Supporting shipper: Max Bauer Meat Packer, Inc., 151 N.W. 5th Street, Miami, FL 33128.

MC 144927 (Sub-4-15TA), filed February 25, 1982. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 West, Remington, IN 47977. Representative: Jack Luck (address same as applicant). *Bakery food ingredients* (except in bulk) *and materials and supplies used in the manufacture of bakery food ingredients* (except in bulk) between the facilities of Caravan Products, its subsidiaries and its suppliers at Totowa, NJ; Philadelphia, PA; Atlanta, GA; Decatur and Chicago, IL; Cedar Rapids, IA; St. Paul, MN; Cleveland, OH; Detroit, MI; Dallas, TX; Denver, CO; Buffalo, NY; Los Angeles, CA; Phoenix, AZ; Miami, FL; Seattle, WA; Portland, OR; and Gantt's Quarry, AL. An underlying ETA seeks 120 days authority. Supporting shipper: Caravan Products Co., Inc., 100 Adams Driver, P.O. Box 147, Totowa, NJ 07511.

MC 144927 (Sub-4-16TA), filed February 25, 1982. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 West, Remington, IN 47977. Representative: Jack Luck, (address same as applicant). *Drugs, medicines, and related printed advertising matter* in dry van trailers (except in bulk) from the plant site of Merck Sharp & Dohme at West Point, PA, to the facilities of Merck & Co. at St. Louis, MO. An underlying ETA seeks 120 days authority. Supporting shipper: Merck Sharp & Dohme, Sumneytown Pike, West Point, PA 19486.

MC 146314 (Sub-4-8TA), filed March 1, 1982. Applicant: G & T TRUCKING CO., County Road 2 and I-35, Elko, Minnesota 55020. Representative: Thomas Zwiers, (same as above). *Chemical and related products.* from Scott County, MN and Will County, IL on the one hand, and, on the other, points in the United States. Supporting shipper: Conklin Company, Valley Industrial Park, Shakipee, MN 55379.

MC 146758 (Sub-4-8), filed March 1, 1982. Applicant: LADLIE TRANSPORTATION, INC., 1701 Margaretha, Albert Lea, MN 56007. Representative: Phillip H. Ladlie, (same as applicant). Meat and meat by-products from the facilities of Monfort of CO, located in the U.S., on the one hand, and on the other, points in the U.S. An underlying ETA seeks a 120 days. Supporting shipper: Monfort of Colorado, Inc., 555 South Stuhr Road, Grand Island, NE 68801.

MC 147879 (Sub-4-4TA), filed March 1, 1982. Applicant: MURRAY & SONS TRANSPORTATION, INC., 212 North Jefferson St., Cuba City, WI 53807. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. *Metal products* from (1) Neillsville and Milwaukee, WI to Rockford, IL; Tulsa, OK; Cassville, MO; and Americus, KS; and (2) Rockford IL; Cassville, MO; and Americus, KS to Tulsa, OK. Underlying ETA seeks authority for 120 days. Supporting shipper: Arrow Specialty Company, a Division of Masco Corp., 2301 East Independence Avenue, Tulsa, OK 74110.

MC 155411 (Sub-4-2TA), filed March 1, 1982. Applicant: S & C TRANSPORT, INC., 16657 Kennebec, Southgate, Michigan 48195. Representative: Neill T. Riddell, 900 Guardian Building, Detroit, Michigan 48226. Contract irregular: *Petroleum and petroleum products and hazardous material* between all points in the United States under continuing contracts with General Oil Company, Inc., 12660 Beech Daly Road, Redford Township, MI 48239. Supporting shipper: General Oil Company, Inc., 12660 Beech Daly Road, Redford Township, MI 48239.

MC 156133 (Sub-4-6TA), filed February 26, 1982. Applicant: TRI STATE TIRES & RUBBER, INC. d.b.a. TANDEM TRANSPORT, 322 U.S. Highway 20 West, Michigan City, IN 46360. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312. *Refractories products, building board, wallboard, and materials and supplies used in the manufacturing and installation of these commodities,* between points in IL, IN, IA, KY, KS, MD, MI, MN, MO, NE, NJ, NY, OH, PA, TN, WV and WI, restricted to traffic originating at or destined to the facilities of General Refractories Company. Supporting shipper(s): General Refractories Company, 225 City Avenue, Bala Cynwyd, PA 19004.

MC 156148 (Sub-4-2TA), filed February 26, 1982. Applicant: IMPERIAL CARRIERS, INC., P.O. Box 268, Dale, WI 54931. Representative: William F. Mix, 21 A Muzzey Street, Lexington, MA 02173. *Contract* irregular: *Meat, meat products, meat by-products,* and articles dealt in by meat packing houses between points in IA, IL, MI, MN, MO, NE, and SD and Los Angeles, CA; San Francisco, CA; Seattle, WA; Houston, TX; New Orleans, LA; Jacksonville, FL; Miami, FL; Savannah, GA; Charleston, SC; Wilmington, NC; Norfolk, VA; Baltimore, MD; Newark, NJ; and Elizabeth, NJ. Restricted to traffic moving under continuing contract with A.J.C. International Inc. An underlying

ETA seeks 120 days authority. Supporting Shipper: A.J.C. International, Inc., 6065 Roswell Road NE, Atlanta, GA 30328.

MC 159843 (Sub-4-2TA), filed March 1, 1982. Applicant: R. MIRR ENTERPRISES, INC., 202 North Fulton Street, Princeton, WI 54941. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. *Metal products* from Youngstown, OH to points in IL, MI, MN, and WI. Applicant seeks authority for 270 days. Supporting shipper: Compco Metal Products Company, 85 E. Hylda St., Youngstown, OH 44507.

MC 159886 (Sub-4-2TA), filed March 2, 1982. Applicant: AMAZON INDEPENDENT TRANSPORTATION, INC., 12480-24th Ave., Marne, MI 49435. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. *Furniture fixtures, tilting or revolving; furniture bases; and machine parts (except in bulk, Classes A and B explosives, and household goods as defined by the Commission)* between Kent County, MI, on the one hand, and, on the other, points in AL, AR, CA, FL, GA, MO, NJ, and TX. Supporting shipper: Gordon Manufacturing, 5250-52nd St., Grand Rapids, MI 49508.

MC 160742 (Sub-4-1TA), filed February 24, 1982. Applicant: METZ CHRISTMAN, 318 East Worden Avenue, Ladysmith, WI 54848. Representative: Michael J. Collins, TOMLINSON, GILLMAN & TRAVERS, S.C., 330 East Wilson Street, P.O. Box 2075, Madison, WI 53701. *Contract,* irregular: *Malt beverages and related articles* between Chicago, IL and Rice Lake, WI. Restricted to traffic moving under a continuing contract(s) with Decker Distributing, Inc. Supporting shipper: Decker Distributing, Inc., 211 West Coleman Street, Rice Lake, WI 54868.

MC 160760 (Sub-4-1TA), filed February 26, 1982. Applicant: STATE WIDE TRANSPORTATION, INC., 9500 Collinsville Road, Collinsville, IL 62234. Representative: James Schaffer Same Address. *General commodities (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk),* between points in the St. Louis, MO Commercial Zone, on the one hand, and, on the other, points in AR, IL, IN, IA, KY, MO, OH, OK, TN, and TX. Restricted to traffic having a prior or subsequent movement by rail. Supporting shipper(s): Lan Chem Corporation, 2904 MO Ave., E. St. Louis, IL 62205; Gateway Food Products Company, 1728 N. Main, Dupo, IL; Lomax Consolidators, Inc., 58 Brenda, Ed-Wardsville, IL 62024; and Superior Electric Products Corp., P.O. Box 10, Airport Road, Cape Girardeau, MO 63701.

MC 160784 (Sub-4-1TA), filed February 28, 1982. Applicant: A.T.L., INC., 3885 West Wells St., Milwaukee, Wisconsin 53208. Representative: Lawrence P. Kahn, 633 West Wisconsin Ave., Milwaukee, Wisconsin 53203. *Contract* irregular: *(1) Automotive parts, accessories and supplies; and (2) magazines, periodicals and other dated material* from points in WI to points in the Northern Peninsula of MI. Supporting shippers: SEEWHY, INC., 5380 North 66th Street, Milwaukee, WI 53218; and NAPA Distribution Center, 5555 Coye Drive, P.O. Box 807, Stevens Point, WI 54481.

MC 160820 (Sub-4-1TA), filed March 2, 1982. Applicant: C. D. HAUGEN, INC., Route #7, Box 358, Bemidji, MN 56601. Representative: Kip B. H. Erickson, 502 First National Bank Building, Fargo, ND 58126. *Wafer Board sheets, flat, flaked with added resin binder, compressed,* not further finished, from Beltrami, County, MN, to points in the U.S. (except AK and HI). Supporting shippers: Mead Corporation, Courthouse Plaza, N.E., Dayton, Ohio 45463.

MC 15735 (Sub-4-6TA), filed March 3, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *household goods* between points in the U.S. (except AK and HI) under continuing contracts with the Control Data Corporation of Minneapolis, MN. Supporting shipper: Control Data Corporation of Minneapolis, MN.

MC 116838 (Sub-4-14TA), filed March 5, 1982. Applicant: GABOR TRUCKING, INC., P.O. Box 687, Detroit Lakes, MN 56501. Representative: Robert D. Gisvold 1600 TCF Tower, Minneapolis, MN 55402. *Lumber and wood products and forest products,* between Kalamazoo County, MI, on the one hand, and, on the other, points in IN, OH and PA. Supporting shipper: Clearwater Commodities Corp., P.O. Box 1016, Lewiston, ID 83501.

MC 136635 (Sub-4-25TA), filed March 3, 1982. Applicant: WHITEFORD TRUCK LINES, INC., 640 West Ireland Road, South Bend, IN 46680. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Pulp, paper and allied products,* between points in the U.S. in and east of ND, SD, NE, CO and NM. Supporting shipper: Bowater Southern Paper Company, Calhoun, TN 37309.

MC 143410 (Sub-4-1TA), filed March 5, 1982. Applicant: Elmer Tiesler d.b.a., TIESLER TRUCKING CO., 108 E. Front St., Box 341, Fulda, MN 56131. Representative: Robert D. Gisvold, 1600 TCF Tower, Minneapolis, MN 55402. *Meat and meat products,* (1) between Scottsbluff, NE, on the one hand, and, on the other, Sioux Falls and Milbank, SD, and (2) Between Sioux Falls, SD, on the one hand, and, on the other, Chicago, IL and Milwaukee, WI. Supporting shipper: Flanery Foods, P.O. Box 1225, Scottsbluff, NE 69361.

MC 144121 (Sub-4-13TA), filed March 4, 1982. Applicant: LARRY'S EXPRESS, INC., 720 Lake Street, Tomah, WI 54660. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Contract;* irregular; *malt beverages* between Columbus, OH, on the one hand, and, on the other hand, Long Lake, MN. Restriction: restricted to transportation performed under continuing contract(s) with Thorpe Distributing Company. An underlying ETA seeks 120 days authority. Supporting shipper: Thorpe Distributing Company, 2225 Daniels Street, Long Lake, MN 55356.

MC 147015 (Sub-4-2TA), filed March 3, 1982. Applicant: JAMES P. TAYLOR d.b.a. JAMES TAYLOR TRUCKING, 3718 Gass Lake Rd., Manitowoc, WI 54220. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *Contract Irregular* (1) *Cement* (a) from York, PA to IA, MN and MO; (b) from Milwaukee, WI to IL, IN, IA, MN, and MO; and (c) from Manitowoc, WI to MI and MN; and (2) *Such commodities as are used in the manufacture, sale and distribution of cement* from points in OH to Manitowoc and Milwaukee, WI, under continuing contract(s) with Medusa Cement Company, a subsidiary of Medusa Corporation. An underlying ETA seeks 120 days authority. Supporting shipper: Medusa Cement Company, a subsidiary of Medusa Corporation P.O. Box 5668, Cleveland, OH 44101.

MC 154127 (Sub-4-4TA), filed March 4, 1982. Applicant: A. LUURTSEMA PRODUCE, INC., 5367 School Street, P.O. Box 67, Hudsonville, MI 49426. Representative: Michael D. McCormick, SCOPELITIS & GARVIN, 1301 Merchants Plaza, Indianapolis, IN 46204. *Contract,* irregular, *Food and related products,* From Chicago, IL to Detroit, MI, and its commercial zone, and Kent County, MI, under a contract or continuing contract(s) with Fearn International, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Fearn International, Inc., 9353 Belmont Avenue, Chicago, IL 60131.

MC 160847 (Sub-4-1TA), filed March 4, 1982. Applicant: SCOTT CARTAGE CO., INC., P.O. Box 716, Midlothian, IL 60445. Representative: Richard A. Kerwin, 180 North La Salle Street, Chicago, IL 60601. *Plastic products.* Between Cook County, IL, on the one hand, and, on the other, Baltimore, MD; Kansas City, KS and points in OH, MI, MN, MO, PA, TX and WI. Supporting shippers: Ethyl Products Company, 3750 West 131st, Alsip, IL 60658; Clear-View Plastics, Inc., 1650 E. 95th Street, Chicago, IL 60617.

MC 160848 (Sub-4-1TA), filed March 4, 1982. Applicant: EDWARD SLESZYNSKI, d.b.a. EPS TRUCKING, 535 Army Trail Road, Addison, IL 60101. Representative: Ellen A. Fredel, 30 North LaSalle Street, Suite 3100, Chicago, IL 60602. *Contract* irregular: *metals and metal articles* between Lincolnwood, IL and points in CA, IN, MI, MN, OH, OK and TX. Restricted to traffic moving under continuing contracts with Stanley Machining & Tool Corp. and Autonetics, Inc. Supporting shippers: Stanley Machining & Tool Corp., 3701 West Touhy Avenue, Lincolnwood, IL, and Autonetics, Inc., 3665 West Lunt, Lincolnwood, IL.

The following applications were filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 34027 (Sub-5-7TA), filed March 1, 1982. Applicant: GETTINGS, INC., P.O. Box 82, Pella, IA 50219. Representative: Larry D. Knox, Myers, Knox & Hart, Des Moines, IA 50309. *Rubber tires and inner tubes,* between the facilities of K. B. Tire, Inc., at Pella, IA, on the one hand, and, on the other, pts in the U.S. Supporting shipper: K. B. Tire, Inc., 201 Franklin Street, Pella, IA 50219.

MC 98187 (Sub-5-1TA), filed March 1, 1982. Applicant: WALDRON TRUCK LINES, INC., 443 North 47th Street, Fort Smith, AR 72903. Representative: Max G. Morgan, P.O. Box 2850, Edmond, OK 73083. Common, Regular; *General commodities (with usual exceptions)* between Fort Smith and Danville, AR. From Fort Smith over U.S. Hwy 71 to function at AR Hwy 10, then over AR Hwy 10 to Danville, and returning over the same route, serving all intermediate points with right to tack and interline. Supporting shippers: There are five.

MC 124056 (Sub-5-1TA), filed March 1, 1982. Applicant: JAMES BRUNSEN, d.b.a. JIM'S FREIGHT LINE, Box 334, Britt, IA 50423. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309. Contract; Irregular. *(1) Non-explosive chemicals (except in bulk) and high pressure washers, and (2) materials and supplies used in the manufacture and distribution of the commodities in (1) above.* Between Britt, IA, on the one hand, and, on the other pts in IL, IN, KS, MN, MO, NE, and WI. Supporting shipper: Britt Tech Corporation, Box 216, Britt, IA 50423.

MC 124813 (Sub-5-33TA), filed March 1, 1982. Applicant: UMTHUM TRUCKING CO., 910 South Jackson Street, Eagle Grove, IA 50533. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309. *Scrap paper* from Anamosa, IA to St. Louis, MO. Supporting shipper: Stickle Salvage & Transfer, Inc., Old Dubuque Road, Anamosa, IA 52205.

MC 125951 (Sub-5-6TA), filed March 1, 1982. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 3035 South 72nd Street, Suite 200, Omaha, NE 68124. Representative: Robert M. Cimino (same as applicant). *Paper, paper products, and materials, equipment and supplies used in the manufacture thereof,* between Omaha, NE, on the one hand, and on the other, all pts in the U.S., restricted to traffic originating at or destined to the facilities of St. Regis Paper Company. Supporting shipper: St. Regis Paper Company, West Nyack, NY 10994.

MC 128449 (Sub-5-1TA), filed March 1, 1982. Applicant: JIMMIE TUCKER TRUCKING, INC., P.O. Box 428, Broken Bow, OK 74728. Representative: Willian P. Parker, P.O. Box 54657, Oklahoma City, OK 73154. *Metal products,* from Idabel, OK to points in AS. Supporting shipper: Fabral, Alcan Building Products Division of Alcan Aluminum Corp., 3449 Hempland Road, Lancaster, PA 17601.

MC 141914 (Sub-5-22TA), filed March 1, 1982. Applicant: FRANKS AND SON, INC., Route 1, box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks (same as applicant). *Transportation equipment, materials and supplies used in the manufacture thereof,* between Los Angeles County CA, Mercer County, OH and Kay County, OK, on the one hand, and, on the other, points in the U.S. Supporting shipper: Huffy Corp, 2500 Huffy Rd., Ponca City, OK 74601.

MC 145935 (Sub-5-1TA), filed March 2, 1982. Applicant: ALL STATES TRANSPORTATION, INC., Rt. 1, Box 27, Fort Worth, TX 76179. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. *Insulators and parts thereof, and wiring,* from Washington County, GA to points in U.S. Supporting shipper: Lapp Insulator Div. of Interpace Corp., P.O. Box 776, Sandersville, GA 31082.

MC 146553 (Sub-5-20-TA), filed March 1, 1982. Applicant: ADRIAN CARRIERS, INC., 1822 Rockingham Road, Davenport, IA 52808. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. (1) *Malt beverages* from Pabst, GA to Rock Island and Galesburg, IL, and (2) *Candy and confectionery items* between the facilities of Lusk Fresh Pak at Davenport, IA on the one hand, and on the other, Pts in the U.S. Supporting shipper(s): Lusk Fresh Pak, 2525 Rockingham Road, Davenport, IA 52802; Saelens Beverages, Inc., 7819 42nd Street West, Rock Island, IL 61201.

MC 149147 (Sub-5-3-TA), filed March 1, 1982. Applicant: DECKERT TRANSPORT, INC., 10104 South 197th East Avenue Broken Arrow, OK 74012. Representative: Jack R. Anderson, 9 East Fourth Street, Suite 305, Tulsa, OK 74103. *Foodstuffs,* from Los Angeles, Modesto, San Jose and Watsonville, CA, American Falls, Burley and Nampa, ID, Boardman and Hermiston, OR, Connell, Pasco and Walla Walla, WA to Okmulgee and Oklahoma City, OK. Supporting shippers: Randy's Frozen Meats, Inc., 705 W. 6th Street Okmulgee, OK 74447; K & G Fish Company, 2313 S. Villa, Oklahoma City, OK 73108.

MC 150981 (Sub-5-3-TA), filed March 1, 1982. Applicant: EDWARD L. PARKER, d.b.a. ED PARKER TRUCKING, Box 368 Monona, IA 52159. Representative: Carl E. Munson, P.O. Box 798, Dubuque, IA 52001. *Cheese and cheese products,* from pts in WI to pts in Maricopa County, AZ. Supporting shipper: Wisconsin Pride Cheese Inc., 110 East Division Street, Dodgeville, WI 53533.

MC 151065 (Sub-5-2-TA), filed March 1, 1982. Applicant: KANSAS CITY PIGGYBACK, INC. 3600 Great Midwest Drive Kansas City, MO 64161. Representative: Patricia F. Scott, P.O. Box 258, Liberty, MO 64068. *General commodities, with the usual exceptions,* between Springfield, MO on the one hand, and, on the other hand, points in AR, IA, KS, MO, NE, OK and the St. Louis commercial zone. Supporting shippers: Terminal Consolidation Co., Kansas City, MO; White Laboratories Inc., Springfield, MO; Western Auto Supply Co., Kansas City, MO.

MC 153414 (Sub-5-5-TA), filed March 1, 1982. Applicant: U.S. POLLUTION CONTROL, INCORPORATED 2000 Classen Center, Suite 320 South Oklahoma City, OK 73106. Representative: Wilburn L. Williamson, Suite 107, 50 Classen Center, 5101 North

Classen Blvd., Oklahoma City, OK 73118. *Sulfuric Acid Solution* from Tulsa, OK to Golden, CO. Supporting shipper(s): Ozark Mahoning Company, 5101 West 21st St., Tulsa, OK 74107.

MC 153414 (Sub-5-6-TA), filed March 1, 1982. Applicant: U.S. POLLUTION CONTROL, INC., 2000 Classen Center, Suite 310 South, Oklahoma City, OK 73106. Representative: Wilburn L. Williamson, Suite 107, 50 Classen Center, 5101 North Classen Boulevard, Oklahoma City, OK 73118. *Anhydrous hydrofluoric acid,* from Tulsa, OK to St. Paul, MN. Supporting shipper(s): Ozark Mahoning Company, 5101 West 21st Street, Tulsa, OK 74107.

MC 153886 (Sub-5-2TA), filed March 1, 1982. Applicant: GEORGE N. THARPE TRUCKING CO., P.O. Box 285, Sibley, LA 71073. Representative: George N. Tharpe (same as applicant). *(1) battery parts, batteries, black and revert lead and revert slag (except liquid commodities in bulk); and (2) electric storage batteries and parts, and (3) spent batteries* between the facilities of Dixie Metal Plant, Heflin, LA on the one hand, and, on the other, points in AR, IL, MO, TN, TX, OK, KS, and PA. Supporting shipper: Dixie Metal Company, Heflin, LA.

MC 154586 (Sub-5-3TA), filed March 1, 1982. Applicant: MOO TRUCK LINES, INC., 1175 St. Patrice, Florissant, MO 63031. Representative: Roger R. Morris, P.O. Box 11134, St. Louis, MO 63135. Contract, irregular; *Pet Food (Except in bulk, in tank vehicles)* from Red Bay, AL and Tupelo, MS to all points in AL, AR, FL, GA, IA, IN, KS, KY, LA, MI, MN, MO, MS, NE, OH, OK, PA, TN, TX, and WI. Supporting shipper: Sunshine Mills, Inc., Red Bay, AL.

MC 160156 (Sub-5-1TA), filed March 1, 1982. Applicant: THE BELL LINES, 2448 Highway 60 East, Mesquite, TX 75149. Representative: Jim McHargue, P.O. Box 470148, Dallas, TX 75247. *Materials, equipment and supplies used in the manufacture, sale, and distribution of floor covering* between points in GA and the commercial zones of Houston-Beaumont, TX. Supporting shippers: 13.

MC 160801 (Sub-5-1TA), filed March 2, 1982. Applicant: DONALD J. McCLEARY; 733 E. McKinney, Neosho, MO 64850. Representative: Donald J. McCleary (same address as applicant). *Motorcycles and motorcycle parts,* from Chicago, IL, Lincoln, NE, and points in the Dallas-Ft. Worth, TX commercial zones to points in AR, KS, MO, and OK. Supporting shippers: (1) Unit Distribution/American Honda, Bedford Park, IL 60638; (2) Smith's Cycle Center, Inc., Pittsburg, KS 66762; (3) McAlester Motor Sports, Inc.; McAlester, OK 74501; (4) Corky's Suzuki & Kawasaki, Inc., N. Miami, OK 74358; (5) Springfield Kawasaki, Springfield, MO 65807.

MC 127253 (Sub-5-3TA), filed March 3, 1982. Applicant: STEWCO, Inc., P.O. Box 728, Waskom, TX 75692. Representative: Fredrick S. Wetzel, III, 2500 McCain Blvd., Suite 103, North Little Rock, AR 72116. *Liquid commodities in bulk (crude and refined bean oil)* from Arkansas County, on the one hand, and, on the other, points in the U.S. Supporting shipper: Riceland Foods, Inc., P.O. Box 927, Stuttgart, AR 72160.

MC 140635 (Sub-5-14TA), filed March 5, 1982. Applicant: ADAMS LINES, INC., 2619 N Street, Omaha, NE 68107. Representative: John L. Hornung, President (same address as above). *Drugs, medicines, toilet preparations and articles dealt in or sold by drug and department stores,* from Cranford, NJ, to pts in the states of IL, IN, OH, PA, KS, MN, MO, NE, WI, AR, SD, ND, TX, MI, TN, and IA. Supporting shipper: The J. B. Williams Company, Inc., Cranford, NJ.

MC 145622 (Sub-5-1TA), filed March 4, 1982. Applicant: S & H TRANSPORTATION, INC. P.O. Box 137, Wright City, MO 63390. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105-1961. *General commodities (except classes A and B explosives and household goods as defined by the Commission)* between Kansas City, KS, on the one hand, and, on the other, all points in IL, IN, IA and MO pursuant to contract with Aldi, Inc. Supporting shipper: Aldi, Inc., 1200 North Kirk Road, Batavia, IL 60510.

MC 146553 (Sub-5-21TA), filed March 4, 1982. Applicant: ADRIAN CARRIERS, INC., 1622 Rockingham Road, Davenport, IA 52808. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. *Malt Beverages,* from St. Louis, MO and Columbus, OH to the facilities of (1) Jack's Distributing Co. at Davenport, IA; (2) A.D. Huesing Corporation at Rock Island, IL; and (3) Kirchhoff Distributing Co. at Clinton and Dubuque, IA. Supporting shipper(s): Jack's Distributing Co., Inc., 6717 Northwest Boulevard, Davenport, IA 52809; A.H. Huesing Corporation, 527-37th Avenue, Rock Island, IL 61201; Kirchhoff Distributing Co., 1425 13th Avenue South, Clinton, IA 52732.

MC 148045 (Sub-5-2TA), filed March 4, 1982. Applicant: QUAD CITY SPOTTING SERVICE, INC., P.O. Box 4168, Davenport, IA 52808. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. *Pet foods, cereals, bakery goods, and canned tuna,* from the facilities of Ralston Purina Company at or near Clinton and Davenport, IA, to St. Louis, MO and Chicago, IL and their commercial zones. Supporting shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188.

MC 160807 (Sub-5-1TA), filed March 5, 1982. Applicant: OZARK SEAFOODS & MEATS INC., 2100 Green Acres Rd., Suite B, Fayetteville, AR 72701. Representative: Bill Carpenter, 1330 Edgehill Dr., Fayetteville, AR 72701. Contract, Irregular: *Seafoods and other processed food products* between Fayetteville, AR, on the one hand, and, on the other, points in OK, MO, KS, IL, KY, TN, AL, GA, SC, TX, MS, and LA. Supporting shipper: Process Technology Corp. 301 E. County Line Rd., Springdale, AR.

MC 158741 (Sub-5-1TA), filed March 3, 1982. Applicant: CHEMICAL LIME, INC., FM 2802, P.O. Box 473, Clifton, TX 76634. Representative: Gary Don Waller (same as applicant). Contract; Irregular. *Potash, in bulk in pneumatic tank trailers* from potash mines near Carlsbad, Eddy County, NM; to Celeste, TX; Frisco, TX; Hillsboro, TX; Honeygrove, TX; Sanger, TX; Pearsall, TX; Taylor, TX; Waco, TX; and Wharton, TX. Supporting shipper: Riverside Chemical Company, 601 Texas Central Parkway, Waco, TX 76710.

MC 159630 (Sub-5-1TA), filed March 5, 1982. Applicant: FLA-TEX, INC., P.O. Box 631, Pharr, TX 78577. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Electronic Equipment and Parts Thereof* between points located at the international border between Canada and the U.S. in the states of NY and MI on the one hand, and, on the other, Dallas, TX. Supporting shipper: Transport Packaging, Inc., P.O. Box 3171, Irving, TX 75061.

MC 160572 (Sub-5-2TA), filed March 3, 1982. Applicant: APEX SERVICES, INC., 121 Bremen, St. Louis, MO 63147. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102. *Meat products, meat byproducts, and articles distributed by meat-packing houses, as described in Sections A and C of Appendix I to the report in Descriptions and Motor Carrier Certificates, 60 M.C.C. 209 and 766,* between St. Louis, MO, on the one hand, and, on the other, points in AR, IL, IN, IA, TN, and WI. Supporting shipper: Holton Meat, Inc., St. Louis, MO.

MC 160852 (Sub-5-1TA), filed March 5, 1982. Applicant: FISHER FREIGHT SERVICES, INC., P.O. Box 47062, Dallas, TX 75247. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *General Commodities (except classes A and B explosives or hazardous materials)* between points in the U.S. under continuous contract(s) with Polygram Distribution, Inc., of New York, NY. Supporting shipper: Polygram Distribution, Inc., 810 Seventh Ave., New York, NY 10019.

MC 160859 (Sub-5-1TA), filed March 5, 1982. Applicant: ABBOTT BROTHERS TRUCKING, INC., Route 8, Palm Street, Paragould, AR 72450. Representative: James M. Duckett, 221 W. Second, Suite 411, Little Rock, AR 72201. *Wooden Pallets,* from the facilities of Angelo Manufacturing Co., Inc., at Jonesboro, AR, to Aliance, Cozad and McCook, NE, Brownfield and Olney, TX, Springfield, MO, Herrin, IL, Jackson, MS and Ocala, FL.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 148018 (Sub-6-7TA), filed March 1, 1982. Applicant: JAMES S. BATT, d.b.a. BATT TRUCKING, P.O. Box 921, Caldwell, ID 83605. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701. *Contract carrier,* Irregular routes: *Chemicals, (except classes A and B explosives),* between points in the U.S., on the one hand and, on the other, facilities of Great Western Chemical, Division of McCall Oil and Chemical Company, located at or near Portland and Tigard, OR; Spokane, Seattle, Tacoma and Pasco, WA; Stockton, Richmond, Fresno and Milpatis, CA; Salt Lake City, UT; Dallas and El Paso, TX; Wichita and Lawrence, KS; Whiting, IN; Chicago, IL; Trenton, MI and Nampa, ID, for the account of Great Western Chemical, Division of McCall Oil and Chemical Company for 270 days. Supporting shipper: Great Western Chemical, Division of McCall Oil and Chemical Company, 808 S.W. 15th Avenue, Portland, Oregon 97205.

MC 148018 (Sub-6-6TA), filed March 3, 1982. Applicant: JAMES S. BATT, d.b.a. BATT TRUCKING, P.O. Box 921, Caldwell, ID 83605. Representative: Timothy R. Strivers P.O. Box 1576 Boise, ID 83701. *Contract carrier,* Irregular routes: *General commodities, (except classes A and B explosives and used household goods),* restricted to shipments having a prior or subsequent movement via rail, between Ada and Canyon Counties, ID, on the one hand, and points and places within ID, OR, and NV on the other hand, for the account of ITOFCA, Inc, for 270 days. Supporting shipper: ITOFCA, Inc., P.O. Box 1518, 1001 W. 31st St., Downers Grove, IL 60515.

MC 52793 (Sub-6-20TA), filed March 3, 1982. Applicant: BEKINS VAN LINES CO., 333 S. Center St., Hillside, IL 60162. Representative: Ronald L. Hartman, Ernest E. Gallego, 777 Flower Street, Glendale, CA 91201. *Contract carrier,* irregular routes, *general commodities,* excluding household goods and explosives, between points in the U.S. under continuing contracts with Eastman Kodak Company of Rochester, NY, for 270 days. Supporting shipper: Eastman Kodak Company, 2400 Mt. Read Blvd., Rochester, NY 14650.

MC 129414 (Sub-6-3TA), filed March 1, 1982. Applicant: BELL & MOONEY, INC., P.O. Box 9, Evans, CO 80620. Representative: Steven K. Kuhlmann, 717 17th Street, Suite 2600, Denver, CO 80202. *Contract carriage,* irregular routes: *Alcoholic beverages,* from St. Louis, MO and its commercial zone to Greeley, Ft. Collins, and Longmont, CO, restricted to a transportation service to be provided under continuing contract(s) with Nor-Colo Distributing Co., for 270 days. Supporting shipper: Nor-Colo Distributing Co., P.O. Box 848, Greeley, CO 80631.

MC 160614 (Sub-6-1TA), filed March 1, 1982. Applicant: DMF TRUCKING, 548 Main St., Highgrove, CA 92507. Representative: Frederick J. Coffman, P.O. Box 1455, Upland, CA 91786. *Contract carrier,* irregular routes, *Windows, doors, moulding and related building material,* between points in AZ, CA, CO, NM, NV, OR, UT, TX, and WA, under continuing contract with the T.M. Cobb Company, for 270 days. An underlying ETA application seeks 120 days authority. Supporting shipper: T.M. Cobb Company, 90 Transit, Riverside, CA 92507.

MC 160804 (Sub-6-1TA), filed March 1, 1982. Applicant: EXPRESS FREIGHT SERVICE, INC., 2639 South Soto, Los Angeles, CA 90023. Representative: Scott T. Robertson, P.O. Box 94748, Lincoln, NE 68509. *Contract Carrier,* irregular routes: *meats, meat products, meat by-products and articles distributed by meat packing houses* from York, NE, Downs, KS, Brush, CO, and Sioux Center, IA to Los Angeles, CA for 270 days, under continuing contract with Hoffman Bros., Pkg., Inc. Supporting shipper: Hoffman Bros. Pkg. Co., Inc., 2731 S. Soto, Vernon, CA 90023.

MC 145880 (Sub-6-4TA), filed March 1, 1982. Applicant: JAMES MILTON HOWLETT, d.b.a. HOWLETT'S TRUCKING COMPANY, 3521 Medina Dr., San Bruno, CA 94066. Representative: James Milton Howlett (same address as applicant). *Contract Carrier:* Irregular route: *Machinery, equipment, supplies, used in the distribution & manufacture of products, water NOI, carbonated, mineral, distilled and non-distilled beverages, alcoholic and non alcoholic, liquors, in boxes, containers, in bottle carrier with or without caps, or plastic containers,* from points in CA, & CO, to points and between CA, AZ, UT, CO, TX, OK, & NV, for the account of Manitou Corp. & Standford Wine Company for 270 days. An underlying ETA application seeks 120 days authority. Supporting shipper: Manitou Corporation, 1310 Manitou Ave., Manitou Springs, CO 80829.

MC 141205 (Sub-6-7TA), filed March 1, 1982. Applicant: HUSKY OIL TRANSPORTATION COMPANY, 600 S. Cherry St., Denver, CO 80222. Representative: F. Robert Reader, Box 11898, Salt Lake City, UT 84147. *Contract carrier:* irregular routes, *petroleum and petroleum products,* between points in MT, WY, UT, AZ, NM, ND, SD, OK, NE, KS, CO, CA, ID and NV, for 270 days. An underlying ETA application seeks 120 days authority. Supporting shipper: P&O Falco, Inc., 1444 Wazee #310, Denver, CO 80202.

MC 147933 (Sub-6-2TA), filed March 3, 1982. Applicant: JOHN H. BRYANT, d.b.a. J. B. TRANSPORTATION, 714 Pine Court, Martinez, CA 94553. Representative: Richard E. Macey, 2111 W. March Lane, A-3, Stockton, CA 95207. *Contract Carrier:* Irregular routes: *petroleum products hot wax* from Rodeo, Richmond, or Vernon, CA to Phoenix, AZ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Nelson Candles, Inc., 2115 West Mountain View Rd., Phoenix, AZ 85021.

MC 106360 (Sub-6-7TA), filed March 1, 1982. Applicant: JOHNSTON'S FUEL LINERS, INC., 808 Birch St., Newcastle, WY 82701. Representative: Manuel Andrade, Jr., 770 Grant St., Suite 244, Denver, CO 80203. (1) *Bentonite, bagged and in bulk, additives, chemicals and equipment, materials and supplies used in the processing, production and distribution thereof* between all points in and west of MN, IA, MO, OK, and TX, (2) *Machinery, equipment, metal, metal products, and building materials* between points in KY, NC, NV, NM, AZ, OR, OK, SD, TN, TX, and WA; (3) *Metal, iron and steel articles used in the processing, construction and design of oil and gas processing equipment,* between all states in and west of AL, NC, VA, WV and PA, for 270 days.

Supporting shippers: Diamond International Corporation, 205 Canyon Blvd., P.O. Box 2100, Boulder, CO 80306; Darenco, Inc., Box 3320, Casper, WY 82602; and David Brown, Box 1979, Billings, MT 59103.

MC 141597 (Sub-6-3TA), filed March 3, 1982. Applicant: RIVERSIDE TRUCK LINE, INC., P.O. Box 320, Talent, OR 97450. Representative: John A. Anderson, Suite 801, The 1515 Building, 1515 S.W. 5th Ave., Portland, OR 97201. *General commodities* (except class A and B explosives, household goods, commodities in bulk, size and weight commodities and hazardous waste), between the facilities of Harry and David at or near Medford, OR, on the one hand, and, on the other, points in U.S. (except AK and HI), for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Harry and David, P.O. Box 712, Medford, OR 97501.

MC 160612 (Sub-6-1TA), filed March 3, 1982. Applicant: SCHEALL DRIVEAWAY, 9485 W Colfax, Suite 100, Lakewood, CO 80215. Representative: C. Jack Pearce, 1000 Connecticut Ave., NW., Suite 1200, Washington, D.C. 20036. *Used passenger automobiles and used small trucks and vans in secondary movements in driveaway service*, between points in ND, SD, NE, KS, TX, OK, CA, OR, WA, MT, ID, NV, AZ, UT, WY, CO, NM, on the one hand, and, on the other, points in the U.S., for 270 days. An underlying ETA application seeks 120 days authority. Supporting shippers: There are 19 supporting shippers. Their statements may be examined in the regional office listed above.

MC 158830 (Sub-6-4TA), filed March 2, 1982. Applicant: U.S. TRANSPORTATION, INC., 585 Valley Blvd., Bloomington, CA 92316. Representative: Frederick J. Coffman, P.O. Box 1455, Upland, CA 91786. (a) *adhesives, rubber stripping and gaskets, machinery and tools* between points in Allegheny County, PA and Knox County, KY on the one hand, and, on the other, points in the U.S. in and west of CO, MT, NM, TX and WY; and (b) *fabricated metal products, adhesives, rubber stripping and gaskets and tools*, between San Joaquin County, CA on the one hand, and, on the other, points in AZ, CO, ID, MT, NM, NV, OR, UT, WA, and WY for 270 days. An underlying ETA application seeks 120 days authority. Supporting shipper: Ductmate Industries, Inc., 1603 Lebanon Church Rd., Pittsburgh, PA 15236.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6629 Filed 3-12-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 53N)]

Rail Carriers; Conrail Abandonment Between New York/New Jersey State Line and Franklin, N.J.; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between New York/New Jersey State Line and Franklin in the County of Sussex, NJ, a total distance of 10.9 miles effective on January 6, 1982.

The net liquidation value of this line is $692,419. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-6628 Filed 3-12-82; 8:45 am]

BILLING CODE 7035-01-M

MOTOR CARRIER RATEMAKING STUDY COMMISSION

Collective Ratemaking; Public Hearing

DATE: Friday, April 2, 1982.

PLACE: Hyatt-Orlando, Key Largo Room, 6375 Spacecoast Parkway, Kissimmee, Florida.

TIME: 9:00 a.m.

PURPOSE: To receive testimony from various parties on collective ratemaking.

The Motor Carrier Act of 1980, Pub. L. 96-296, directs the Motor Carrier Ratemaking Study Commission (Commission) to make a full and complete investigation and study of the collective ratemaking process for all rates of motor common carriers and of the need or lack of need for continued antitrust immunity thereof. The Commission is specifically directed to estimate the impact of the elimination of such immunity upon the rate levels and rate structures and to describe the impact of such on the Interstate Commerce Commission and its staff. Also, the Commission has been directed to give special consideration to the impact of the elimination of such immunity upon rural areas and small communities. The Commission shall, not later than January 1, 1983, submit to the President and the Congress its final report including its findings and recommendations.

The Commission, through its Hearings Committee, calls this regional hearing for the purpose of receiving testimony on rate and service developments in Florida since motor carriers ceased to be regulated intrastate, related developments in other states, and shippers' views regarding the need for collective ratemaking.

Anyone who is interested in submitting written testimony for the record of the Commission may do so by sending same to: Larry F. Darby, Executive Director, Motor Carrier Ratemaking Study Commission, 214 Massachusetts Avenue, NE., Washington, D.C. 20002.

FOR FURTHER INFORMATION CONTACT: Name: J. Kent Jarrell, Title: General Counsel, Phone No.: (202) 724-0600.

Submitted this, the 10th day of March, 1982.

Larry F. Darby,

Executive Director.

[FR Doc. 82-6604 Filed 3-12-82; 8:45 am]

BILLING CODE 6820-BC-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-329A and 50-330A]

Consumers Power Co.; Receipt of Antitrust Information

The Consumer Power Company as owner of the Midland Plant, Units 1 and 2, has submitted antitrust information in connection with its plans to operate two pressurized water reactors located in Midland County, Michigan. The data submitted contain antitrust information for review pursuant to NRC Regulatory Guide 9.3 necessary to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage.

On completion of staff antitrust review of the above-named application, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the Act. A copy of this finding will be published in the **Federal Register** and will be sent to the Washington and local public document rooms and to those persons providing comments or information in response to this notice. If

the initial finding concludes that there have not been any significant changes, request for reevaluation may be submitted for a period of 60 days after the date of the **Federal Register** notice. The results of any reevaluation that is requested will also be published in the **Federal Register** and copies sent to the Washington and local public document rooms.

A copy of the general information portion of the application for operating licenses and the antitrust information submitted is available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the local public document room at the Grace Dow Memorial Library, 1710 W. St. Andrews Road, Midland, Michigan 48640.

Any person who desires additional information regarding the matter covered by this notice or who wishes to have his views considered with respect to significant changes related to antitrust matters which have occurred in the licensee's activities since the construction permit antitrust review for the above-named plant should submit such requests for information or views of the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Antitrust and Economic Analysis Branch, Nuclear Reactor Regulation, on or before April 5, 1982.

Dated at Bethesda, Md., this 25th day of January 1982.

For the Nuclear Regulatory Commission.

Calvin W. Moon,

Acting Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 82-5410 Filed 3-28-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on AC/DC Power Systems; Meeting

The ACRS Subcommittee on AC/DC Power Systems will hold a meeting on March 30, 1982, Room 762, 1717 H Street, NW., Washington, DC. The Subcommittee will review the status of the work related to Task Action Plan A-44, "Station Blackout", and the status of the NRC implementation of the recommendations of NUREG-0660, "A Probabilistic Safety Analysis of DC Power Supply Requirements for Nuclear Power Plants". Notice of this meeting was published February 17.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary information. One or more closed sessions may be necessary to discuss such information. (Sunshine Act Exemption 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Tuesday, March 30, 1982—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding the topics to be discussed.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close portions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: March 9, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-6600 Filed 3-12-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Clinch River Breeder Reactor; Meeting

The ACRS Subcommittee on Clinch River Breeder Reactor (CRBR) will hold a meeting on March 30 and 31, 1982, Room 1046, 1717 H Street, N.W., Washington, DC. The Subcommittee will discuss the CRBR Plant Principal Design Criteria. Notice of this meeting was published February 17.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary and Industrial Security information. One or more closed sessions may be necessary to discuss such information. (Sunshine Act Exemption 4.) To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Tuesday, March 30, 1982—1:00 p.m. until the conclusion of business.

Wednesday, March 31, 1982—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, Project Management Corporation, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting too protect proprietary and Industrial Security information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: March 9, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-6990 Filed 3-12-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittees on Electrical Systems and Emergency Core Cooling Systems; Meeting

The ACRS Joint Subcommittees on Electrical Systems and Emergency Core Cooling Systems will hold a meeting on March 31, 1982 in Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittees will continue to review the NRC- and Industry-sponsored research on core water level indicator instruments and the NRC and Industry implementation of core water level indicator installation requirements. Notice of this meeting was published February 17.

In accordance with the procedures outlined in the Federal Register on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Wednesday, March 31, 1982—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close portions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: March 9, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-6991 Filed 3-12-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-368]

Arkansas Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Facility Operating License No. NPF-6 issued to Arkansas Power and Light Company (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Unit No. 2, located in Pope County, Arkansas. The amendment is effective as of its date of issuance.

The amendment modifies the body of the license and the ANO-2 Appendix A and B Technical Specifications dealing with the reactor building/containment cooler surveillance requirements, the health physics section organization, the main feedwater isolation valve, the emergency feedwater pump response time, decay heat removal capability, secondary coolant activity and several miscellaneous corrections.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the licensee's applications dated September 22, 1981; October 8, 1981; July 24, 1979 as supplemented August 1, 1980 and May 6, 1981; October 31, 1980; and March 5, 1981 as supplemented May 6, 1982, (2) Amendment No. 29 to License No. NPF-6, and (3) the Commission's related Safety Evaluation. All of these items are avaiable for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Arkansas Tech University, Russellville, Arkansas. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 4th day of March 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-6986 Filed 3-12-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-336]

Northeast Nuclear Energy Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 73 to Facility Operating License No. DPR-65, issued to Northeast Nuclear Energy Company, the Connecticut Light and Power Company, the Hartford Electric Light Company, and the Western Massachusetts Electric Company (the licensee), which revised Technical Specifications for operation of the Millstone Nuclear Power Station, Unit No. 2 (the facility) located in the Town of Waterford, Connecticut. The amendment is effective as of the date of issuance.

The amendment changes the Technical Specifications to allow reactor heatup for Cycle 5 operation with less than 100 percent inspection of the tubes in each steam generator based on the results of the tube inspection program reported in the application and additional reporting requirements on primary-to-secondary steam generator leakage rates. The Cycle 5 reload amendment will be issued under separate cover.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated January 12 and March 4, 1982 as modified by letters dated January 22, February 2, 12 and March 1, 1982, (2) Amendment No. 73 to License No. DPR-65, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of March 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch, No. 3, Division of Licensing.

[FR Doc. 82-6988 Filed 3-12-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-336]

Northeast Nuclear Energy Co., et al.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 74 to Facility Operating License No. DPR-65, issued to Northeast Nuclear Energy Company, the Connecticut Light and Power Company, the Hartford Electric Light Company, and the Western Massachusetts Electric Company (the licensee), which revised Technical Specifications for operation of the Millstone Nuclear Power Station, Unit No. 2 (the facility) located in the Town of Waterford, Connecticut. The amendment is effective as of the date of issuance.

The amendment changes the Technical Specifications to authorize Cycle 5 operation at 2700 MWt with a mixed core with two-thirds Westinghouse fuel and one-third Combustion Engineering fuel and modified (sleeved, reduced flow and insert) guide tubes for the control element assemblies. The amendment also incorporates changes resulting from the analysis of the Cycle 5 reload with Westinghouse fuel, removes the requirements for mid-cycle moderator temperature coefficient determination, redefines the fully withdrawn position of the regulating control rods, and modifies the pressurizer level operational band.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated December 17, 1981 and January 14, 1982, as supplemented, (2) Amendment No. 74 to License No. DPR-65, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of March, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch, No. 3, Division of Licensing.

[FR Doc. 82-6987 Filed 3-12-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-29]

Yankee Atomic Electric Co., Yankee Nuclear Power Station; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 72 to Facility Operating License No. DPR-3, issued to Yankee Atomic Electric Company (the licensee), which revised the Technical Specifications for operation of the Yankee Nuclear Power Station (Yankee-Rowe) (the facility) located in Franklin County, Massachusetts. The amendment is effective as of its date of issuance.

The amendment revised the Technical Specification requirements regarding the minimum number of operable incore neutron detector thimbles for the remainder of Cycle XV power operation.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 9, 1982, and the revision dated February 25, 1982, (2) Amendment No. 72 to License No. DPR-3 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301. A copy of items (2) and (3) may be obtained upon

request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 8th day of March, 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82-6666 Filed 3-12-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

March 8, 1982.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available).

The office of the agency issuing this form.

The title of the form.

The agency form number, if applicable.

How often the form must be filled out.

Who will be required or asked to report.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

Whether small businesses or organizations are affected.

A description of the Federal budget functional category that covers the information collection.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

An estimate of the cost to the Federal Government.

An estimate of the cost to the public.

The number of forms in the request for approval.

An indication of whether section 3504(h) of Pub. L. 96-511 applies.

The name and telephone number of the person or office responsible for OMB review and an abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the Federal Register, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—382-447-6201

New

- Food and Nutrition Service

7 CFR Part 215—Special Milk Program for Children
Reporting
On occasion monthly quarterly annually
State of local governments/businesses or other institutions
State edu. agen., public school districts, nonprof., etc.
SIC: 821, 835, 832
Food and nutrition assistance: 332,736 responses; 212,668 hours; $0 Federal cost; $2,128,680 public cost; 1 form; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202-426-5030

Section 3 of the Child Nutrition Act of 1966 (Pub. L. 89-642, as amended, 42 U.S.C. 1773) authorizes the special milk program for children.

The regulations submitted with this proposal set forth (a) policies for the administration of the program by State agencies and for its operation by local level organizations, and (b) reporting requirements necessary to retain program funds and notify USDA of the results of program operation.

- Food and Nutrition Service

7 CFR Part 215—Special Milk Program for Children—Applications and Agreements
Annually
State or local governments/businesses or other institutions
State educ. agen., pub. school districts, nonprof., etc.
SIC: 821, 836, 832
Small businesses or organizations
Food and nutrition assistance: 48,615 responses; 14,570 hours; $0 Federal cost; $145,700 public cost; 1 form; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202-426-5030

Section 3 of the Child Nutrition Act of 1966 (Pub. L. 89-642, as amended 42 U.S.C. 1773) authorizes the special milk program for children. The regulations submitted with this proposal set forth: (a) policies for the administration of the program by State agencies and for its operation by local level organizations, and (b) requirements governing recipient organizations' application for the initiation of program operations and the receipt of program funds.

Revisions

- Farmers Home Administration

7 CFR 1944-A, Section 502 Rural Housing Loan Policies, Procedures and Authorizations
FMHA 431-3 440-34 1944-6, A6 1944-12 36
On occasion
Individuals or households/businesses or other institutions head of hshlds & empl. in rural areas, banks, savings, etc.
SIC: 602, 611, 612, 616
Small businesses or organizations
Mortgage credit and thrift insurance: 696,250 responses; 348,725 hours; $933,040 Federal cost; $2,235,500 public cost; 5 forms; not applicable under 3504(h)
Neil Minow, 202-395-7340

Title V of the Housing Act of 1949, as amended, authorizes rural housing loans to low and moderate-income applicants. Information collected is used to process applicants' and borrowers' requests for services.

Reinstatements

- Agricultural Marketing Service

Federal Seed Act & Rules & Regulations
On occasion
State or local governments/businesses or other institutions
State seed certifi. agen., seed retailers, whslrs & growers
SIC: 011, 013, 018, 019, 072
Small businesses or organizations
Agricultural research and services: 15,625 responses; 1,609 hours; $17,000 Federal cost; $23,395 public cost; 1 form; not applicable under 3504(h)
Charles A. Ellett, 202-395-7340

Regulation issued under Federal Seed Act (7 U.S.C. 201-202) provided business transaction safeguards that are necessary to protect the interest of seed buyers.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202-377-3827

New

- National Oceanic and Atmospheric Administration

Survey of User Reaction to Chart Price Change
Nonrecurring
Individuals or households
Aircraft pilots
Other natural resources: 5,000 responses; 250 hours; $9,000 Federal cost; $9,000 public cost; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202-395-4814

The National Ocean Survey must raise chart prices to shift the cost of production from the government to the user. It is necessary to determine the effect of price change on demand to determine required production.

- National Oceanic and Atmospheric Administration

Coastal Zone Management Program Administrative Grants
CD-292
Annually
State of local governments
State planning, managements, natural resource/energy agcys.
SIC: 951, 963
Conservation and land management: 28 responses; 1,700 hours; $100,000 Federal cost; 2 forms; not applicable under 3504(h)
Phillip T. Balazs, 202-395-4814

Provides funds to States and territories to implement federally approved coastal zone management plans. Information is used to determine if activities will help achieve national coastal management objectives, and if State is adhering to its approved plan.

- National Oceanic and Atmospheric Administration

Coastal energy impact program (construction grants)
NOAA 36-28, CO 290
On occasion
State or local governments
State planning, natural resource, community development agency
SIC: 951, 963
Area and regional development: 26 responses; 200 hours; $20,000 Federal cost; 3 forms; not applicable under 3504(h)
Phillip T. Balazs, 202-395-4814

Awards grants to construct needed public facilities required as a result of coastal energy activity, to acquire land to mitigate losses of valuable environmental or recreational resources due to energy activity. Information gathered is used to determine whether project is eligible for funding and if cost estimates are accurate.

- National Oceanic and Atmospheric Administration

Estuarine sanctuary program (preacquisition, acquisition, operations, and management grants)
CD-292
On occasion
State or local governments
State planning, management, natural resource agencies
SIC: 951
Conservation and land management: 15 responses; 120 hours; $50,000 Federal cost; 2 forms; not applicable under 3504(h)
Phillip T. Balazs, 202-395-4814

Information is necessary to provide funds to States for the preacquisition, acquisition, operations, and management of estuarine sanctuaries. Information required is cost estimates, EIS preparation, and development of management plan.

- National Oceanic and Atmospheric Administration

Coastal energy impact program (non-construction grants)
NOAA 36-25, CD 292
On occasion
State or local governments
State planning, natural resource, community devel. agencys
SIC: 951, 963
Area and regional development: 40 responses; 240 hours; $50,000 Federal cost; 3 forms; not applicable under 3504(h)
Phillip T. Balazs, 202-395-4814

Awards grants to plan for the social, economic, or environmental consequences of coastal energy activity, and to plan for needed facilities. Information needed to determine eligibility.

- National Oceanic and Atmospheric Administration

Cooperative education student recruitment
On occasion
Businesses or other institutions
Colleges and universities
SIC: 822
Other advancement and regulation of commerce: 30 responses; 90 hours; $20,000 Federal cost; 1 form not applicable under 3504(h)
Federal education data acquisition council—202-426-5030

To establish cooperative education agreements with colleges/universities which supply applications for consideration in the program.

Extensions (Burden Change)

- National Oceanic and Atmospheric Administration

Report of transmitting antenna construction alteration and/or removal
NOAA 76-10
On occasion
Businesses or other institutions
Operators of FCC licensed radio transmitting stations
SIC: 179
Small businesses or organizations
Other natural resources: 780 responses; 195 hours; $39,000 Federal cost; 1 form; $3,900 Public cost; not applicable under 3504(h)
Phillip T. Balazs, 202-395-4814

The purpose of this form is to provide radio tower information promptly, for use on aeronautical charts and related publications in the interest of safety in air navigation and to comply with the provisions of § 17.57 of the FCC rules and regulations.

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wonderoth—703–697–1195

New

• Department of the Navy
Navy advertising effectiveness study (NAES)
Semiannually
Individuals or households
Non-prior military service males in U.S.A. 17–21 years old
Department of Defense—Military: 2,000 responses; 1,000 hours; $61,500 Federal cost; 1 form; not applicable under 3504(h)
Edward C. Springer, 202–395–4814

The purpose of NAES is to measure the effectiveness of Navy advertising, over time, relative to the other military services. This will be accomplished by monitoring key measure such as military service ad recall, service preference, perception of benefits available in the military and propensity to enlist. These results will be utilized in the evaluation of the advertising, marketing and recruiting strategies.

Extensions (Burden Change)

• Departmental of Others
DOD Property Record
DD 1342
On occasion
Businesses or other institutions
Defense contractors
SIC: Multiple
Small businesses or organizations
Department of Defense—Military: 63,000 responses; 60,984 hours; $1,095,769 Federal cost; 1 form; not applicable under 3504(h)
Kenneth B. Allen, 202–395–3785

Information regarding inventory of DOD industrial plant equipment (IPE) in possession of contractors. Contractor must provide status as to whether the IPE is an initial acquisition, transfer, or an active or idle status according to defense acquisition regulation (DAR).

Reinstatements

• Departmental and Others
Subcontract Report of Foreign Purchases
DD 2139
Quarterly/Other—See SF83
Businesses or other institutions
Firms obtaining a DOD prime contract
SIC: Multiple
Small businesses or organizations
Department of Defense—Military: 5,000 responses; 417 hours; $30,000 Federal cost; 1 form; not applicable under 3504(h)
Kenneth B. Allen, 202–395–3785

If DOD increases its contractor procurements in MOUS/MOA signatory nations, facilitating the mutual flow of defense procurements, DOD must be aware of the dollar value of these expenditures. These expenditures should be considered by foreign governments and by our Congress in any assessment or comparison of defense purchases between the U.S. and other nations. A subcontract reporting system covering international subcontracts would provide this information.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488

New

• Social Security Administration
Winter State Survey of FY 82 Low-Income Home Energy Assistance Program
SSA–4904
Nonrecurring
State or local governments
States (including D.C.) admin. the FY 82 low-income home, etc.
SIC: 944
Public assistance and other income supplements: 51 responses; 153 hours; $1,850 Federal cost; 1 form; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

The data are needed to establish a national picture of the most basic State program characteristics of LIHEAP. The data will be primarily used to respond to congressional questions during testimony on the FY 1982 program and the FY 1983 LIHEAP budget proposals. At the same time, the data will assist the Secretary in reporting uniform data on the plans and programs of each State to permit the house committee, etc.

• Office of Assistant Secretary for Health
Survey of Employer Experience with Health Maintenance Organizations (HMO's)
Nonrecurring
Businesses or other Institutions
Private and pub. sector empl. who have off. the HMO opt., etc.
SIC: Multiple
Health: 366 responses; 863 hours; $34,007 Federal cost; $8,830 public cost; 1 form; not applicable under 3504(h)
Fay S. Iudicello, 202–395–3090

This administration is supporting the development of HMO's by the private sector. The Secretary, DHHS, has convened meetings to encourage private investment in the establishment and ongoing development operation of HMO's. To encourage HMO formation, employer experience with HMO's must be obtained to determine the potential marketability and the potential viability of HMO's.

Extensions (No Change)

• Social Security Administration
Statement of Marital Relationship
SSA–754
On occasion
Individuals or households
Applicants who allege common law marriages
General retirement and disability insurance; 30,000 responses; 15,000 hours; $53,425 Federal cost; 1 form; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

This form is used to elicit information that will prove, or disprove, the existance of a valid common-law marriage. This form is completed by each surviving party of the alleged marriage.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—202–755–5184

New

• Housing Programs
Supplement to Manager's Report of Collections-Analysis of Tenant Balances
Monthly
Businesses or other institutions
Real estate brokers managing HUD-acquired properties
SIC: 651
Small businesses or organizations
Mortgage credit and thrift insurance: 7,440 responses; 1,860 hours; $15,000 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

This information is required by the departmental debt collection task force to assess and monitor the debts owed to HUD as also to comply with treasury requirements.

• Housing Programs
Cash reconciliation
HUD–2751
Monthly
Businesses or other institutions
Real estate management firms
SIC: 651
Small businesses or organizations
Mortgage credit and thrift insurance: 8,400 responses; 4,200 hours; $4,536 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

A broker contracting with HUD to manage a HUD-held property is requred to maintain a separate bank account for the property. A reconciliation of the monthly bank statement is required in connection with each accounting report. Compliance with this provision and use of this standardized form assures that all cash transactions are property reported.

Extensions (No Change)

• Housing Programs
Requisition for Partial Payments of Operating Subsidy, Public Housing Urban Initiatives Program (PHUIP)
HUD–53120
Quarterly
State or local governments
Public housing agencies (PHA's)
SIC: 953
Public Assistance and other income supplements: 268 responses; 536 hours; $6,852 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

Authorization title No. HDC 1974, Pub. L. 93–383, 88 Stat 633. Submitted by PHA's and will be used to obtain partial payments for actual and proposed expenditures for the PHUIP.

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Larry E. Miesse—202–633–4312

New

• Legal Activities
Elementary and Secondary School Civil Rights Survey
AS/CR 101 & AS/CR 102
Biennially
Businesses or other institutions
Local Edu. Agencies (school Districts)
SIC: 941
Federal law enforcement activities: 29,700 responses; 214,500 hours; $700,000 Federal cost; 2 forms; $1,722,600 Public Cost; not applicable under 3504(h)
Federal Education Data Acquistion Council, 202–426–5030

This form is used by the office for civil rights to make determinations on compliance with civil rights statutes and court orders by public school districts.

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Christine Scoby—202–382–2742

New

• Data on Chemical Removal Agents (325)
On Occasion
Businesses or other institutions
Chemical and biological agent manufacturers
SIC: 999
Small businesses or organizations
Pollution control and abatement: 5 responses; 1,200 hours; $3,390 Federal cost; 1 form; not applicable under 3540(b)
Robert Shelton, 202–395–7340

Any chemical or additives used to mitigate hazardous substances releases are subject to acceptance by the EPA. Technical product data shall be maintained by the EPA to provide technical guidance to on-scene coordinators.

• Control Technology Assess/Exposure Profile For Workers—Hazards in Electronic Components Industry (551)
551
Nonrecurring
Individuals or households
Electronics mfg. workers and their households
Pollution control and abatement: 300 responses; 4,944 hours; $480,000 Federal cost; 5 forms not applicable under 3504(h)
Robert Shelton, 202–395–7340

An air quality characterization study will be made of the environments to which a set of electronic production workers is exposed throughout the 24-hour day. The information will be used to evaluate the adequacy of EPA's current ambient air regulations and NIOSH-recommended workplace regulations in totally protecting persons from air pollutants.

• Applications for Reference and Equivalent Method Determinations—40 CFR Part 53 (559)
Nonrecurring
State or local governments/businesses or other institutions
State and air pollution control agencies
SIC: multiple
Small businesses or organizations
Pollution control and abatement: 8 responses; 3,200 hours; $25,000 Federal cost; 8 forms; not applicable under 3504(h)
Robert Shelton, 202–395–7340

Applications for reference or equivalent method designations are submitted to EPA by manufacturers of air monitoring analyzers under the provisions of 40 CFR part 53. These applications include the results of analyzer performance tests conducted by the manufacturer and other pertinent information. If approved, the analyzer is acceptable for use in state and local surveillance systems under 40 CFR part 58.

Receipt for Pesticide Samples (0964)
3540–3, 0964
On occasion
State or local governments/businesses or other institutions
Places of business where pesticides or devices are held
SIC: 281, 286, 287, 519, 734, 951
Small businesses or organizations
Pollution control and abatement: 10,000 responses; 200 hours; $2,400 Federal cost; 1 form; not applicable under 3504 (h)
Robert Shelton, 202–395–7340

The owner, operator, or agent in charge of premises must be given receipt for any pesticide samples taken during inspection. Receipt may be signed voluntarily. EPA uses form to satisfy above legal requirement and as documentary evidence in enforcement cases.

• Receipt for Pesticide use/Misuse Samples (0967)
35–40, 0967
On occasion
Individuals or households/State or local governments/farms/businesses or other institutions
Owners, agents, persons-in-charge etc., of sites where pest.
SIC: 019, 072, 281, 286, 287, 519, 734, 881, 951
Small businesses or organizations
Pollution control and abatement: 9,000 responses; 180 hours; $2,200 Federal cost; 1 form; not applicable under 3540(b)
Robert Shelton, 202–395–7340

The owner, operator or agent in charge of premises must be given receipt for any pesticide samples taken during use/misuse inspection. Receipt may be signed voluntarily. EPA uses form to satisfy above legal requirement and as documentary evidence in enforcement cases.

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Clearance Officer—Panos Konstas—202–389–4481

Revisions

• Consolidated Report of Conditions
Consolidated Report of Income (State Banks not Members of the Federal Reserve)
8040/01, 01A, 02, 03, 11, 12, 13, 17
Quarterly, semiannually
Businesses or other institutions
Insured State nonmember commercial banks
SIC: 602
Small businesses or organizations
Mortgage credit and thrift insurance: 55,576 responses; 417,685 hours; $2,407,000 Federal cost; $3,759,165 public cost; 9 forms; not applicable under 3504(h)
Richard Sheppard, 202–395–6880

Reports are filed in accordance with section 7 of the FDI Act (12 U.S.C. 1817) and § 304.2 of the FDIC rules and regulations. Data is used to monitor the financial condition and earnings performance of individual banks as well

as the entire banking industry. Data is also used for research, insurance assessments and for FDIC publications.

FEDERAL HOME LOAN BANK BOARD

Agency Clearance Officer—Frank J. Crowne—202–377–6025

Extensions (No Change)

• Thrice-Monthly Survey of Deposit Balances by type
Other-see SF83
Businesses or other institutions
FSLIC-insured savings and loan association
SIC: 612
Mortgage credit and thrift insurance: 8,640 responses; 6,480 hours; $20,752 Federal cost; 1 form; not applicable under 3504(h)
Robert Neal, 202–395–6880

The means of monitoring volume and structure of deposit flows at associations between monthly report. Used for determining and projecting deposit trends that may require changes in FHLE credit and regulatory policy. Used by FRB for preliminary estimates of the monetary aggregates used in establishing monetary policy.

INTERNATIONAL COMMUNICATION AGENCY

Agency Clearance Officer—Mary Jane Winnett—202–523–4306

New

• Fulbright Teacher Exchange Program Application Package
356, 356–1, 356–2, 356–3
Annually
Individuals or household
Indv. U.S. teachers and educators at all levels
Foreign information and exchange activities: 2,100 responses; 1,575 hours; $203,000 Federal cost; $12,600 public cost; 4 forms; not applicable under 3540(h)
Federal education data acquistion council, 202–426–5030

To be used by applications under the Fulbright teacher exchange program which provides opportunities for U.S. teachers to exchange positions for an academic year with foreign counterparts or to attend a one of a number of short-term seminars abroad on a variety of topics.

INTERNATIONAL DEVELOPMENT ASSISTANCE

Agency Clearance Officer—Ms. Melita Yearwood—202–632–0064

New

• Survey on the Additionality of OPIC's Programs
OPIC–79
Nonrecurring
Businesses or other institutions
Companies making investments in countries of the dev. world
SIC: Multiple
Small businesses or organizations
Foreign economic and financial assistance: 175 responses; $145,085 Federal cost; 350 hours; 1 form; not applicable under 3504(h)
Phillip T. Balaza, 202–395–4814

This project will fulfill requirements mandated by Congress in section 9(b) of the Overseas Private Investment Corporation Amendments Act of 1981. The survey will provide data to analyze methods for estimating the "additionality" of OPIC's portfolio. No previous survey has attempted to gather similar data outside the Fortune 1,000 largest manufacturing firms. Survey date 3/26 through 4/23/82.

NUCLEAR REGULATORY COMMISSION

Agency Clearnce Officer—Stephen Scott—301–492–8585

Revisions

• 10 CFR Part 73 Amendment (73.37)
On occasion
Individuals or households
NBC licensees
Energy information, policy and regulation: 364 responses; 675 hours; $18,000 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

NRC is amending its 10 CFR Part 73 regulation to require advance notification to States for transport of nuclear waste.

RAILROAD RETIREMENT BOARD

Agency Clearance officer—Pauline Lohens—312–751–4692

New

• Protected Employee Benefits
UI–131, UI–132, UI–133
On occasion
Individuals or households
Unemployed Conrail workers
Unemployment compensation: 30,600 responses; 7,800 hours; $1 Federal cost; 3 forms; not applicable under 3504(h)
Richard Eisinger, 202–395–6880

Title VII, article 4 of the Regional Rail Reorganization Act provides subsistance allowances, new career training assistance and reimbursement for moving expenses for Conrail employees deprived of employment. The applications obtain the information needed to pay these benefits.

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt (004A2)—202–389–2146

Revisions

• Application for Reinstatement (Medical)
29–352
On occasion
Individuals or households
Insured
Income security for veterans: 975 responses; $6,337 Federal cost; $14,620 public cost; 1,462 hours; 1 form; not applicable under 3504(h)
Gwendolyn Pia, 202–395–6880

The completed application is required by law (38 CFR 6.80 and 8.24). The information collected is used to process the insured's request to reinstate a lapsed insurance policy.

Reinstatements

• Application for Change of Permanent Plan (Nonmedical)
29–1550
On occasion
Individuals or households
Insured veteran or authorized representative
Income security for veterans: 500 responses; $1,445 Federal cost; $1,660 public cost; 166 hours; 1 form; not applicable under 3504(h)
Gwendolyn Pia, 202–395–6880

The form is required by law, 38 U.S.C. 704 and 742. The information collected is used to determine the insured's eligibility to change his/her plan of insurance and process the request.

• Application for Reduction, Government Life Insurance
29–330
On occasion
Individuals or households
Insured veteran or authorized representative
Income security for veterans: 500 responses; $1,445 Federal cost; $1,250 public cost; 125 hours; 1 form; not applicable under 3504(h)
Gwendolyn Pia, 202–395–6880

The completed form is required by law, 38 U.S.C. 706 and 744. The information is used to process the insured's request to reduce the amount of his/her insurance in force.

• Trainee Interview Sheet
22–6662
On occasion
Individuals or households
Consenting veterans, non-veterans, service persons
Veterans Education, Training, and Rehabilitation: 20,000 responses; 56,000 Federal cost; $50,000 public cost; 5,000 hours; 1 form; not applicable under 3504(h)
Federal Education Data Acquistion Council, 202–426–5030

This form is necessary to secure information by interview as required by compliance survey procedures (title 38, U.S.C.). The information secured helps to establish that the student is receiving training as authorized by 38 U.S.C. 219, also benefit payments and training schedules are verified.

Nathaniel Scurry,
Chief, Reports Management.

[FR Doc. 82-6629 Filed 3-12-82; 8:45 am]
BILLING CODE 3116-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12278; 812-5040]

The George Putnam Fund of Boston et. al.; Filing of an Application

March 8, 1982.

Notice is hereby given that The George Putnam Fund of Boston, The Putnam Growth Fund, The Putnam Income Fund, Inc., Putnam Investors Fund, Inc., Putnam Convertible Fund, Inc., Putnam International Equities Fund, Inc., Putnam Vista Fund, Inc., Putnam Voyager Fund, Inc., Putnam Option Income Trust, Putnam Daily Dividend Trust, Putnam Tax Exempt Income Fund, Putnam Qualified Accumulation Trust, Putnam High Yield Trust, Putnam Health Sciences Trust and Putnam Duofund, Inc. (collectively, "The Funds"), each of which is a diversified, open-end, management investment company (with the exception of Putnam Duofund, Inc., which is a closed-end, dual-purpose fund) registered under the Investment Company Act of 1940 ("Act"), The Putnam Management Company, Inc. ("Manager"), the investment adviser to the Funds, and Putnam Fund Distributors, Inc. ("Distributor"), principal underwriter of the Funds (collectively, "Applicants"), filed an application on December 10, 1981, and an amendment thereto on February 11, 1982, pursuant to Section 6(c) of the Act, for an order declaring that Hans H. Estin, director or trustee of the Funds, shall not be deemed an "interested person" of Applicants within the meaning of Section 2(a)(19) of the Act solely by reason of his being a director of The Boston Company, Inc. ("TBC") and Boston Safe Deposit and Trust Company ("Boston Safe"), and pursuant to Section 10(f) of the Act exempting Applicants from the provisions of Section 10(f) so as to permit the Funds to purchase securities in public offerings in which Shearson Loeb Rhoades, Inc. ("Shearson"), or a Shearson subsidiary which may be deemed to be an affiliated person of Mr. Estin participates as a principal underwriter. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state in the application that Mr. Estin presently serves as a non-interested director or trustee of all the Funds except Putnam Duofund, Inc., and Putnam Health Sciences Trust as so declared by various orders previously granted by the Commission. *Scudder, Stevens & Clark Common Stock Fund, Inc. et. al.*, Investment Company Act Release No. 9284 (May 10, 1976); *Putnam Tax Exempt Income Fund*, Investment Company Act Release No. 9610 (January 17, 1977); *Putnam Option Income Trust*, Investment Company Act Release No. 9934 (September 15, 1977); *Putnam Qualified Accumulation Trust, et al.*, Investment Company Act Release No. 12011 (October 29, 1981). The applications for such orders and the facts and representations contained therein are incorporated by reference into this application. Applicants state that the facts and representations set forth in the above applications are still correct except that the broker-dealer subsidiary registered under the Securities Exchange Act of 1934 ("1934 Act"), that was first named TBCFS, Inc. and was a subsidiary of a subsidiary of TBC, The Boston Company Financial Strategies, Inc., and was named later, The Boston Company Investment Creation, Inc., is now named The Boston Company Capital Group, Inc. ("Capital") and is now a direct subsidiary of TBC. Further, Applicants state that Mr. Estin may in the future be elected as a director or trustee of Putnam Duofund, Inc. and Putnam Health Sciences Trust and any or all additional investment companies which the Manager may organize and register under the Act.

Applicants state that on April 21, 1981, Shearson, a broker-dealer registered under the 1934 Act, and American Express Company ("American Express") announced the proposed acquisition of Shearson by American Express and that the Shearson/American Express transaction was consummated on June 29, 1981. Thereafter, on July 24, 1981, Shearson and TBC entered into a definitive agreement providing for the merger of a subsidiary of Shearson into TBC. Pursuant to that merger, TBC has become an indirect wholly-owned subsidiary of Shearson which in turn is an indirect, wholly-owned subsidiary of American Express. The merger transaction was subject to approval by TBC's shareholders. Applicants state that such approval was obtained and the TBC/Shearson merger transaction occurred on September 23, 1981.

Applicants state that there are certain other subsidiaries of American Express which are registered broker-dealers. Amfire, Inc., ("Amfire"), a Delaware corporation, is an indirect, wholly-owned subsidiary of American Express but is not part of the Shearson/American Express group of companies. Rather, it is a subsidiary of Fireman's Fund Insurance Company, another major subsidiary of American Express. Amfire was registered as broker-dealer in the fall of 1980 for the purpose of marketing deferred variable annuities, but has not yet commenced operation. Once it does commence operation, it is not anticipated that Amfire will engage in the business of acting as a broker or dealer on any stock exchange or in the over-the-counter market. In addition, W.H. Morton Company ("Morton"), an affiliate of American Express Company, is registered as a broker-dealer to sell municipal securities. In addition, American Express may in the future organize additional direct or indirect subsidiaries and register them as broker-dealer ("future American Express broker-dealer").

Sections 2(a)(19) (A)(v) and (B)(v) of the Act define an "interested person" of an investment company, an investment adviser or a principal underwriter to include any broker or dealer registered under the 1934 Act or any affiliated person of such broker or dealer. Section 2(a)(3) of the Act includes in its definition of an "affiliated person" any person directly or indirectly controlling, controlled by or under common control with such other person. Applicants state that since Mr. Estin is a director of TBC which controls Capital, and which will be under common control with Shearson, Amfire and Morton as a result of the TBC/Shearson merger transaction, he could be deemed to be an "interested person" of Applicants. However, Applicants note that Mr. Estin states unequivocally that his position as one of the directors of TBC does not permit him to control Capital and that he is not a part of management of TBC and, thus, does not control Capital. Mr. Estin further states that in fact he is not a shareholder in Shearson, American Express, Morton or Amfire. Mr. Estin further states that he does not now and never has had any material relationship with Shearson, American Express, Amfire or Morton, and he is not as a result of the TBC/Shearson merger

transaction directly or indirectly controlled by Shearson or American Express. Section 2(a)(9) of the Act provides that a natural person shall be presumed not to be a controlled person.

Section 10(a) of the Act prohibits the Funds from having boards of directors or trustees more than 60% of which are interested persons of the Funds. Section 10(b)(2) of the Act requires that a majority of Funds' boards of directors or trustees not be persons who are interested persons of Applicants" principal underwriter. Although the composition of the Funds' boards presently complies with Section 10, Applicants state that the application has been filed to avoid a potential violation of Section 10(a) and (b) of the Act and to maintain the composition of the boards consistent with prior Commission orders and with the policy of the investment companies in The Putnam Group of having a high proportion of trustees or directors who are not deemed interested persons.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant request that an order be issued, pursuant to Section 6(c) of the Act, declaring that Mr. Estin shall not be deemed to be an interested person of the Funds or any additional funds organized by the Manager, or the Manager or the Underwriter within the meaning of Section 2(a)(19) of the Act solely by reason of his being a director of TBC and Boston Safe the his resulting affiliation with Capital, Shearson, Amfire, Morton or any future affiliated broker-dealers of American Express with whom the Funds do not transact business. In support of their request, the Funds state that none of them is in any way affiliated with Shearson. Mr. Estin is not now, and will not become, a director or officer of Shearson, American Express, Amfire or Morton and will not have any authority or responsibility for the management or operations of Shearson, American Express, Amfire or Morton. In previous applications incorporated by reference here, the Funds have represented that Mr. Estin will not be a director or officer of Capital and will have no authority or responsibility for the management or operation of Capital. In addition, in those applications, the Funds have represented that they do not intend to transact any business with Capital and, in this application, as a condition to the order request, undertake not to transact any business with Amfire or Morton.

Section 10(f) of the Act prohibits a registered investment company from purchasing, during the existence of any underwriting or selling syndicate, any security a principal underwriter of which is an officer, director, member of an advisory board, investment adviser or employee of such registered company or is a person of which such officer, director, member of an advisory board, investment adviser or employee is an affiliated person unless the Commission has exempted the transaction or class of transactions from the provisions of Section 10(f) to the extent that such exemption is consistent with the protection of investors.

Applicants do not believe it appropriate, however, to impose as a condition to granting an order hereunder that the Funds or any additional Funds organized by the Manager not effect securities transactions with Shearson. Applicants believe that Shearson is an important factor in the broker-dealer community and a significant resource for broker-dealer services. The Funds consider it not to be in their best interest or in the best interest of any additional Funds to foreclose themselves from this important resource. Applicants represent that amount of brokerage commissions paid to and dealer's markup earned by Shearson from the Funds has been over the past three years and is currently *de minimis* in relation to Shearson's gross revenues.

Applicants also agree that, as a condition to the order requested, Mr. Estin will not vote on, or participate in board discussions on the allocation of any portfolio brokerage by the Funds, the selection of broker-dealers with which the funds effect portfolio transactions as principal, the purchase, during the existence of any underwriting or selling syndicate, of any security with respect to which Shearson or any broker-dealer subsidiary of Shearson is a principal underwriter, or on matters involving any relationship between the Funds and Shearson or any of the broker-dealer subsidiaries of Shearson, Amfire or Morton; provided, however, that for the purpose of determining the number of votes of interested as well as non-interested directors/trustees required to take action on any matters referred to above, Mr. Estin will be counted as a director/trustee in determining the total number of directors/trustees and will be counted as a non-interested director/trustee in counting the number of non-interested directors/trustees, and provided, further, that nothing contained above is intended to limit or prohibit Mr. Estin from voting and acting upon any matters relating to the approval or continuation of investment advisory contracts.

Section 10(f) provides that the Commission by rules or regulations upon its own motion may, conditionally or unconditionally, exempt any transaction or classes of transactions from the restrictions contained therein to the extent such exemption is consistent with the protection of investors.

Notice is further given that any interested person may, not later than April 2, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on an application accompanied by a statement as to the nature of his/her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Security and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter order a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6887 Filed 3-12-82; 9:45 am]

BILLING CODE 8010-01-M

[Release No. 12282; 812-5074]

Renaissance Ready Assets Trust; Filing of an Application

March 9, 1982.

Notice is hereby given that Renaissance Ready Assets Trust ("Applicant"), 2 Wall Street, New York, NY 10005, registered under the Investment Company Act of 1940 ("Act") as an openend, diversified, management investment company, filed an application on January 8, 1982, and amendments thereto on February 9 and 12, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit the net asset value per share of each of the Applicant's two authorized series of shares of beneficial interest to be computed using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, the Applicant was organized as a business trust under the laws of the Commonwealth of Massachusetts on December 16, 1981. Applicant states that the Declaration of Trust authorizes its Trustees to issue shares of beneficial interest of the Applicant in separate series, the proceeds of any series being held as a separate fund for the benefit of that series. Applicant represents that its Trustees have authorized two such series, The Renaissance Government Fund ("Government Fund") and The Renaissance Money Market Fund ("Money Market Fund") (collectively, the "Funds").

Applicant further represents that the investment objective of each Fund is the providing of the highest level of current income consistent with the preservation of capital and maximum liquidity. The Government Fund proposes to invest in money market securities issued or guaranteed by the United States Government, its agencies and instrumentalities. The Money Market Fund proposes to invest in a separate portfolio of money market securities consisting of United States Government securities, certificates of deposit, banker's acceptances, commercial paper, including variable rate master demand notes, corporate bonds and other debt obligations. The Funds may also enter into repurchase agreements, including those with broker-dealers and commercial banks, and reverse repurchase agreements. In addition, either Fund may lend its portfolio securities to brokers, dealers and financial institutions provided that cash or cash equivalent collateral; or letters of credit, equal to at least 100% of the market value of the securities loaned is maintained by the borrower with the Fund. Applicant represents that any loans of portfolio securities will be made according to guidelines established by the Commission and Applicant's board of trustees. Applicant further represents that the variable rate master demand notes will only be purchased if the instrument (a) has a demand feature which allows the Applicant unconditionally to obtain the amount due from the issuer upon notice of seven days or less, (b) has either a floating rate of interest or a variable rate of interest that is readjusted to no less frequently than once per year, where, in the case of a variable rate instrument, Applicant's Trustees have determined that whenever a new rate will be established it will cause the instrument to have a current market value which approximates its par value and in the case of a floating rate instrument the Trustees have determined that such floating rate feature will ensure that the market value of such instrument will always approximate its par value, and (c) will be reevaluated by the Trustees at least quarterly to ensure that the instrument is of high quality.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) With respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 states further that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a–4 requires that portfolio instruments of "money market" funds to be valued with reference to market factors and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments with over sixty-day maturities on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977). In view of the foregoing, Applicant requests an exemption from Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value the portfolio securities of each Fund using the amortized cost method of valuation.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the requested order would permit transactions which are both appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant expressly consents to issuance of the requested order upon the following conditions:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to the Applicant's investment adviser. Applicant's trustees undertake, as a particular responsibility within the overall duty of care owed to its shareholders, to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize the net asset value per share of each Fund, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the trustees shall be the following:

(a) Review by Applicant's trustees, as they deem appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from

the $1.00 amortized cost price per share of each Fund, and maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1% for either Fund, Applicant's trustees will promptly consider what action, if any, should be initiated.

(c) Where Applicant's trustees believe that the extent of any deviation from the Applicant's $1.00 amortized cost price per share for either Fund may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind, the sale of portfolio securities prior to maturity to realize capital gains or losses or to shorten the average portfolio maturity for that Fund; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity for each Fund appropriate to its objective of maintaining a stable net asset value per share; the Applicant will not (a) purchase for either Fund any instrument with a remaining maturity at the date of purchase of greater than one year, or (b) maintain a dollar-weighted average portfolio in excess of 120 days for either Fund.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve permanently for a period of not less than six years (the first two years in an easily accessible place) a written record of Applicant's trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the trustees' meeting. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments in each Fund, including repurchase agreements, if any, to those United States dollar-denominated instruments which Applicant's trustees determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determine by Applicant's trustees.

6. Applicant will include in each quarterly report, in an attachment to Form N–1Q, a statement as to whether any action pursuant to conditions 2(c) above was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than April 5, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6888 Filed 3-12-82; 8:45 am]

BILLING CODE 8010-01-M

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions selected by its trustees in the exercise of their discretion to be appropriate indicators of value, which may include, *inter alia*, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments furnished by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days for a Fund, Applicant will invest its available cash in that Fund in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

March 9, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Houston Oil Royalty Trust, Units of Beneficial Interest, No Par Value (File No. 7–6186)

Marcade Group, Inc., Common Stock, $.10 Par Value (File No. 7–6187)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 30, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6884 Filed 3-12-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–18538; File No. SR–DTC–82–1]

Self-Regulatory Organizations; Proposed Rule Change; Depository Trust Co.

In the matter relating to The Depository Trust Company's ("DTC") announcement that the Federal Reserve Bank of New York has become a Pledgee in DTC's book-entry system for pledges of collateral security. Comments requested on or before April 5, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 19, 1982 The Depository Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change, by which the Federal Reserve Bank of New York ("FRBNY") has become a Pledgee in The Depository Trust Company's ("DTC") book-entry system for pledges of collateral security, consists of DTC Participant Operating Procedures (Exhibit 5 to DTC's filing on Form 19b–4, File No. SR–DTC–82–1) and a letter agreement between FRBNY and DTC modifying and supplementing the standard DTC form of Pledgee's Agreement, which both parties had executed (the "Letter Agreement," reproduced in the text of Item 1.(a) of DTC's filing on Form 19b–4, File No. SR–DTC–82–1).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Bank Participants of DTC in the regular course of their business pledge securities to FRBNY as collateral for Treasury Tax and Loan account balances, as collateral for deposits of public money, or as collateral for advances by FRBNY to the Participant. Such pledges are now effected by physical delivery of securities certificates to FRBNY itself or to a FRBNY custodian other than DTC. The proposed rule change will enable Participants to effect such pledges to FRBNY through DTC's book entry system, which is consistent with and in furtherance of the nationwide commitment expressed in the Securities Exchange Act of 1934 (the "Act") to end physical movement of securities certificates and facilitate the prompt and accurate clearance and settlement of securities transactions, without any effect on DTC's safeguards for securities and funds. DTC does not know of any significant compliance problems for affected DTC Participants or any inconsistencies with the Act or rules or regulations thereunder applicable to DTC which could be attributed to the proposed rule change.

B. DTC perceives no impact on competition by reason of the proposed rule change.

C. DTC has not received any written comments; comments were not and are not to be solicited by DTC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capital Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before April 5, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 5, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6889 Filed 3-12-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–18550; File No. SR–MCC–82–3]

Self-Regulatory Organizations; Proposed Rule Change; Midwest Clearing Corp.

In the matter relating to proposed Price Revision Schedule. Comments requested on or before April 5, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 18, 1982 the Midwest Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached as Exhibit A is the Price Revision Schedule effective March 1, 1982.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statement.

(A) *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.* The proposed price modifications, effective March 1, 1982, reflect cost savings experienced through automation in 1981 in conjunction with growth in activity. This has enabled MCC to retain almost all existing 1981 fees despite the impact of inflation on its overall operations and those of its participants. MCC, however, has increased fees for monthly fixed services and several labor intensive

functions to more accurately reflect the expense associated with providing the particular service. In addition, trade recording services will be subject to a variable rate schedule to reflect economies of scale and to encourage growth of one account settlement firms with MCC. This will provide an overall reduction in fees for a significant number of current participants.

The proposed fee schedule is consistent with Section 17A of the Act in that the fee schedule will help remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transaction. In addition, the price changes provide for the equitable allocation of reasonable dues, fees and other charges among MCC's participants.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* The proposed change in fees will have an impact on competition but such impact will not impose any burden on competition, but, rather, will relieve a burden on or otherwise promote competition between clearing agencies. The proposed fee schedule will enable MCC to become more competitive with other major clearing/depository organizations in providing comprehensive and cost effective trade recording, settlement, custodial/safekeeping and related services to those organizations utilizing one account settlement services with MCC.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.* Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 1100 L Street, N.W. Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office or the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submittee on or before April 5, 1982.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

Dated: March 8, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6660 Filed 3-12-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18549; File No. SR-MSTC-82-2]

Self-Regulatory Organizations; Proposed Rule Change; Midwest Securities Trust Co.

In the matter of relating to proposed Price Revisions Schedule. Comments requested on or before April 5, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) notice is hereby given that on February 18, the Midwest Securities Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached as Exhibit A is the Price Revision Schedule effective March 1, 1982.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.* The proposed price modifications, effective March 1, 1982, reflect cost savings experienced through automation in 1981 in conjunction with growth in activity. This has enabled MSTC to retain almost all existing 1981 fees despite the impact of inflation on its overall operations and those of its participants. MSTC, however, has increased fees for monthly fixed services and several labor intensive functions to more accurately reflect the expense associated with providing the particular service. In addition, interactivity movement services will be subject to a variable rate schedule to reflect economies of scale and to encourage growth of one account settlement firms with MSTC. This will provide an overall reduction in fees for a significant number of current participants.

The proposed fee schedule is consistent with Section 17A of the Act in that the fee schedule will help remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions. In addition, the price changes provide for the equitable allocation of reasonable dues, fees and other charges among MSTC's participants.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* The proposed change in fees will have an impact on competition but such impact will not impose any burdens on competition, but, rather, will relieve a burden on or otherwise promote competition between clearing agencies. The proposed fee schedule will enable MSTC to become more competitive with other major clearing/depository organizations in providing comprehensive and cost effective settlement, custodial/safekeeping and related services to those organizations utilizing one account settlement services with MSTC.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.* Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary of the Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before April 5, 1982.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.

Dated: March 8, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6661 Filed 3-12-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18548; File No. SR-NASD-82-2]

Self-Regulatory Organizations; Proposed Rule Change; National Association of Securities Dealers, Inc.

In the matter of relating to Transaction Reporting Rules for NASDAQ/NMS Securities. Comments requested on or before April 5, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 24, 1982, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The rules provide transaction reporting procedures for securities designated as NASDAQ/National Market System securities pursuant to Commission Rule 11Aa2–1. Also included in the filing are enabling amendments to the Association's By-laws.

II. Self-Regulatory Organization's Statements Regarding Proposed Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspect of such statements.

A. *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.* These rules are being submitted in response to the Commission's decision to require real-time reporting of transactions in certain NASDAQ securities. These rules are similar to those already contained in Schedule G of the Association's By-laws regarding transaction reporting in listed securities.

The statutory basis for these rules is contained in Section 15A(b)(6) of the Securities Exchange Act of 1934, as well as Rule 11Aa3–1 thereunder.

B. *Self-Regulatory Organization's Statement on Burden on Competition.* The Association believes these rules will present no impacts on competition other than those considered by the Commission in adopting Rule 11Aa2–1.

C. *Self-Regulatory Organization's Statement on comments on the Proposed Rule Change Received from Members, Participants or Others.* A total of 6 comments were received. Two addressed the general problems of transaction reporting in NASDAQ securities. Another requested permission to report several transactions of a security in a single trade report ("bunching"); this will be addressed by the Association in another rule file. The other letters addressed technical aspects of the reporting procedures; after review thereof, the Board of Governors determined that no changes were warranted.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before April 19, 1982 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before April 5, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 8, 1982.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-6662 Filed 3-12-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 18552; SR-PSE-81-25]

Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

March 9, 1982.

The Pacific Stock Exchange, Inc. ("PSE"), 301 Pine Street, San Francisco CA 94104, submitted on January 11, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to require that admission to the PSE's San Francisco Equities Trading Floor be by badge only. Repeated failures by members or member firm personnel to wear badges would be grounds for fines ranging up to $50.00. Special arrangements would be made for the admission of visitors, who would be issued temporary badges. The access of any visitor to the trading floor, however, could be restricted if such visitor interferes with orderly floor procedure. The PSE's stated purpose in adopting this proposal is to enhance trading floor security and in the PSE's opinion the proposal is consistent with Section 6(b) of the Act.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18410, January 11, 1982) and by publication in the **Federal Register** (47 FR 4793, February 2, 1982). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-6663 Filed 3-12-82; 8:45 am]
BILLING CODE 8010-01-M

[File No. 22-11530]

Conoco Inc.; Application and Opportunity for Hearing

March 9, 1982.

Notice is hereby given that Conoco Inc., a Delaware corporation (the "Applicant") has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission that the trusteeships of Bankers Trust Company ("Bankers") under certain indentures of the Applicant which are qualified under the Act and certain indentures of the Applicant not qualified under the Act, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers from acting as trustee under any of such indentures.

The Applicant alleges that:

1. The Applicant has issued and outstanding (as of February 1, 1982) (i) $2,921,000 principal amount of its 3% Debentures Due 1964, under an Indenture dated as of November 1, 1954 (the "1954 Indenture"), between the Applicant and Morgan Guaranty Trust Company of New York, as Trustee (the "Resigning Trustee"), which was filed as an exhibit to the Registration Statement (No. 2-11199) under the Securities Act of 1933 (the "1933 Act") registering such Debentures; (ii) $38,470,000 principal amount of its 4⅛% Debentures Due 1981, under an Indenture dated as of May 1, 1961 (the "1961 Indenture"), between the Applicant and the Resigning Trustee, which was filed as an exhibit to the Registration Statement (No. 2-17922) under the 1933 Act registering such Debentures; (iii) $78,720,000 principal amount of its 7⅛% Debentures Due 1999, under an Indenture dated as of July 15, 1969, between the Applicant and the Resigning Trustee, which was filed as an exhibit to the Registration Statement (No. 2-33539) under the 1933 Act registering such Debentures; (iv) $150,000,000 principal amount of its 9¼% Debentures Due 1999, under an Indenture dated as of November 1, 1974, between the Applicant and the Resigning Trustee, which was filed as an exhibit to the Registration Statement (No. 2-52142) under the 1933 Act registering such Debentures; (v) $200,000,000 principal amount of its 8⅞% Debentures Due 2001, under an Indenture dated as of June 1, 1976, between the Applicant and the Resigning Trustee, which was filed as an exhibit to the Registration Statement (No. 2-56213) under the 1933 Act registering such Debentures; (vi) $200,000,000 principal amount of its 9⅛% Debentures Due 2009, under an Indenture dated as of April 1, 1979, between the Applicant and the Resigning Trustee, which was filed as an exhibit to the Registration Statement (No. 2-63888) under the 1933 Act registering such Debentures; and (vii) $300,000,000 principal amount of its 13¼% Debentures Due 2011, under an Indenture dated as of January 15, 1981, (the "1981 Indenture"), between the Applicant and the Resigning Trustee, which was filed as an exhibit to the Registration Statement (No. 2-70481) under the 1933 Act registering such Debentures. The foregoing Indentures are hereafter collectively called the "Qualified Indentures" and the foregoing Debentures are hereafter collectively called the "Registered Securities". Each of the Qualified Indentures has been qualified under the Act.

The Events of Default under each of the Qualified Indentures are (1) default in any payment of principal or premium, if any; (2) continuance for 30 days of default in any payment of interest or a required sinking fund payment, if any; (3) continuance for 90 days after notice to the Applicant of a default in performance of any other covenant; (4) except in the 1954 Indenture the 1961 Indenture and the 1981 Indenture, default under any debt instrument of the Applicant under which more than $10,000,000 in principal amount is outstanding; and (5) certain bankruptcy of similar proceedings. The material covenants of the Applicant in each Qualified Indenture are (1) to pay the amounts due on the respective Registered Securities; (2) not to subject any of its producing, refining or manufacturing property to a security interest for any debt (with certain exceptions), unless the respective Registered Securities are equally and ratably secured (the "Negative Pledge"); and (3) not to sell and lease back any producing, refining of manufacturing property unless the proceeds are at least equal to the fair value of such property and, (a) in the case of the 1954 Indenture and the 1961 Indenture, the Applicant redeems or repurchases a principal amount of the related Registered Securities equal to the proceeds of the sale and (b) in the case of the remaining Qualified Indentures, the Applicant either (i) would be entitled under the Negative Pledge to enter into a debt secured by such property in an amount equal to the present value of the rent under such lease (the "Attributable Debt") or (ii) redeems an amount of long-term debt equal to the Attributable Debt. The sale and leaseback provision of the 1981 Indenture also permits the Applicant to sell and lease back if it expends an amount equal to the proceeds of the sale on producing, refining or manufacturing property.

2. (a) E. I. du Pont de Nemours and Company, a Delaware corporation (the "Guarantor"), owns all the outstanding capital stock of the Applicant and proposes to guarantee the obligations of the Applicant under each of the Qualified Indentures and Registered Securities. The Guarantor would then be an "obligor" on the Qualified Indentures and Registered Debentures, and, because three directors of the Guarantor are also directors of the Resigning Trustee, the Resigning Trustee would be required to resign as trustee by the provision in each Qualified Indenture required by Section 310(b)(4) of the Act. The Resigning Trustee proposes to resign as trustee under each Qualified Indenture, and the Applicant proposes to appoint Bankers as successor trustee thereunder.

(b) Bankers is Trustee under an Indenture dated as of November 30, 1970 (the "Del West Indenture"), among Delaware Western Properties, Inc., a Delaware corporation ("Del West"), Bankers, as Escrow Agent, and Bankers and R. I. Landau, as Trustees (the "Del West Trustees"), providing for the 9% Notes Due 2000 of Del West (the "Del West Notes"). The Del West Notes are secured by (i) the pledge of all outstanding capital stock of Del West and (ii) the assignment of Del West's rights under a Lease and Agreement among Del West, as Lessor, COMAP, Inc., a Delaware corporation ("COMAP"), and a wholly owned subsidiary of the Applicant, as Lessee, Bankers, as Escrow Agent, and the Del West Trustees. The Applicant has guaranteed the obligations of COMAP on the Del West Lease. Because the Del West Notes may be deemed to be a secured obligation of the Applicant, Bankers has undertaken to resign as Trustee and Escrow Agent under the Del West Indenture, effective within 90 days of the appointment of Bankers as trustee under the Qualified Indentures.

3. Bankers is currently trustee under the following indentures or agreements which are not qualified under the Act and with respect to which the Applicant may be deemed to be an "obligor":

(a) Bankers is trustee under an Indenture dated as of February 15, 1971, among the Applicant, Conoco Eurofinance N.V., a Netherlands Antilles corporation ("NV") and a wholly owned subsidiary of the Applicant, and Bankers (the "NV Indenture"), under which there are outstanding (as of February 15, 1982) $19,000,000 principal amount of 8% Guaranteed Debentures Due 1986 of NV (the "NV Debentures"), guaranteed as to principal, premium, if any, and interest by the Applicant. The Events of Default under the NV Indenture are substantially the same as the Events of Default under the Qualified Indenture except that a default on another debt instrument is not an Event of Default unless there is more than $10,000,000 outstanding under such instrument and such debt has been accelerated. The only material covenant of the Applicant is to guarantee payment on the NV Debentures.

(b) Bankers is trustee under an Indenture of Trust dated as of July 1, 1978, between the Industrial Development Board of the Parish of Calcasieu, Inc. ("IDB") and Bankers (the "IDB Indenture"), under which there are outstanding (as of February 1, 1982) $7,300,000 principal amount of Pollution Control Revenue Bonds (Conoco Westlake VCM Project), 1978 Series A of IDB (the "IDB Bonds"). The IDB Bonds are secured by (1) the pledge of a note of the Applicant (the "IDB Note") of an equal principal amount, issued to IDB under an Agreement of Sale (the "IDB Agreement") dated as of July 1, 1978, between the Applicant and IDB, and (2) the assignment of the rights of IDB under the Agreement. In the IDB Agreement, the Applicant agreed to transfer to IDB title to the property to be installed in the project, and IDB agreed to transfer back to the Applicant title to the project or any unit thereof on the request of the Applicant. The Applicant's obligations under the IDB Note and the IDB Agreement are unsecured, and in Sections 7.4 and 7.5 of the IDB Agreement expressly waives any liens (including vendor's liens) against the Applicant. Events of Default under the IDB Indenture and IDB Agreement (as they relate to the Applicant) are substantially the same as for the Qualified Indentures, except that (1) there is a 10-day grace period for defaults in interest and (2) if the Applicant is unable to perform a covenant (other than payment) because of *force majeure* (as defined therein), defaults are suspended for the duration of the event of *force majeure*. The only material covenants are (1) to pay on the IDB Notes and (2) to prepay the IDB Notes if a holder of IDB Bonds is issued a notice of deficiency by the Internal Revenue Service.

(c) Bankers is trustee under an Indenture of Trust dated as of January 15, 1982, between Lake Charles Harbor and Terminal District (the "District") and Bankers (the "District Indenture"), under which there are outstanding (as of February 1, 1982) $18,200,000 principal amount of Port Facilities Revenue Bonds (Conoco Inc. Project), Series 1982 of the District (the "District Bonds"). The District Bonds are secured by (1) the pledge of a note of the Applicant (the "District Note") of an equal principal amount, issued to the District under an Agreement of Sale (the "District Agreement") dated as of January 15, 1982, between the Applicant and the District, and (2) the assignment of the District's rights under the District Agreement. In the District Agreement, the Applicant agreed to transfer to the District title to the project and any additions thereto, and the District agreed immediately to convey such title back to the Applicant. The Applicant's obligations under The District Note and the District Agreement are unsecured, and in section 3.7 of the District Agreement the District expressly waives any liens (including vendor's liens) against the Applicant. The Applicant has guaranteed the District Bonds on an unsecured basis. Events of Default relating to the Applicant on the District Agreement and District Indenture are substantially the same as for the Qualified Indentures, except that default on another debt is not an Event of Default. The material covenants of the Applicant on the District Agreement and the District Indenture are (1) to pay on the District Note and (2) to prepay the District Note in full upon a final determination that the District Bonds are taxable.

(d) Bankers is trustee under a Trust Agreement dated as of July 1, 1982, among Triangle Facilities, Inc., a Delaware corporation ("Triangle"), Bankers and certian institutional investors (the "Triangle Indenture"), under which there are outstanding (as of February 1, 1982) $19,080,000 principal amount of 4¾% Secured Notes due December 1, 1987, of Triangle (the "Triangle Notes"). The Triangle Notes are secured by (1) the pledge by the Corporation Trust Company of all the outstanding capital stock of Triangle and (2) the assignment of Triangle's rights under a Lease (the "Triangle Lease") between Triangle and the Applicant. Triangle was formed for the

purpose of this transaction. The Corporation Trust Company holds all the outstanding capital stock of Triangle subject to the pledge thereof to secure the Triangle Notes. Under the Triangle Lease, the Applicant leased from Triangle, at a rent sufficient to make all required payments on the Triangle Notes, certain real properties previously sold to Triangle by the Applicant. The Applicant has the right to purchase any or all properties at their book value, plus a premium. The Applicant also agreed, in an Agreement dated June 1, 1962, among the Applicant, Triangle and Bankers (the "Triangle Agreement"), to perform the Triangle Lease and to pay Triangle a sufficient amount to discharge all its obligations. The Triangle Lease and all the Applicant's interest in the properties terminates on (1) failure by the Applicant to pay required rent, (2) default on any other lease between Triangle and the Applicant, (3) failure to cure any other default on Triangle Lease for 25 days after notice, and (4) acceleration of any substantial debt of the Applicant. Under the Note Purchase Agreement dated July 23, 1962 (the "Triangle Note Agreement"), among Triangle and the purchasers of the Triangle Notes, the holders of a majority of the principal amount of the Triangle Notes, and not Bankers, have the right to declare an event of default, to accelerate the Triangle Notes and to institute any proceedings relating thereto. Under the Triangle Indenture, Bankers is the holder of the collateral only and acts upon the request of the holders of a majority in principal amount of the Triangle Notes. Bankers, as trustee for various pension funds, purchased approximately 20% of the principal amount of the Triangle Notes in the original issuance thereof.

(e) Bankers is trustee under an Indenture dated as of July 15, 1961, as supplemented, between Dixie Pipeline Company, a Delaware corporation ("Dixie"), and Bankers (the "Dixie Indenture"), under which there are outstanding (as of February 1, 1982) $28,900,000 principal amount of three series of notes of Dixie ("Dixie Notes"). The Dixie Notes and Dixie Indenture are secured by the assignment of Dixie's rights under a Through-Put Agreement dated as of July 15, 1961, as amended (the "Dixie Through-Put Agreement") among Dixie and 13 oil companies, including the Applicant, that own all its stock. The Applicant owns 4.05% of the outstanding stock of Dixie. In the Dixie Through-Put Agreement each oil company agreed, severally and not jointly, to ship through the pipeline a stated percentage of an amount of petroleum products that will, when taken with shipments by others, at the tariff rates, provide Dixie with sufficient cash to pay all its obligations including the Dixie Notes. If shipments through the pipeline are insufficient for any reason to provide for Dixie's obligations, each oil company agreed to make a cash advance against its future shipping costs based on its proportionate share of the through-put obligations. The obligations of the Applicant under the Dixie Through-Put Agreement are unsecured. The events of default on the Dixie Indenture are (1) default on any payment of principal or premium; (2) continuance for 30 days of any default in any payment of interest; (3) continuence for 30 days after notice to Dixie of a default in the performance of any other covenant; (4) certain bankruptcy or similar proceedings; or (5) condemnation of substantially all the assets of Dixie.

(f) Bankers is trustee under an Indenture dated as of June 15, 1962, as supplemented, between Colonial Pipeline Company, a Delaware corporation ("Colonial"), and Bankers (the "Colonial Indenture"), under which there are outstanding (as of February 1, 1982) $506,866,000 principal amount of nine series of notes, of Colonial (the "Colonial Notes). The Colonial Notes and Colonial Indenture are secured by the assignment of Colonial's rights under a Through-Put Agreement dated as of June 15, 1962, as amended (the "Colonial Through-Put Agreement"), among Colonial and 13 oil companies, including the Applicant, that own all its stock. The Applicant owns 5.20% of the outstanding stock of Colonial. In the Colonial Through-Put Agreement each oil company agreed, severally and not jointly, to ship through the pipeline a stated percentage of an amount of petroleum products that will, when taken with shipments by others, at the tariff rates, provide Colonial with sufficient cash to pay all its obligations, including the Colonial Notes. If shipments through the pipeline are insufficient for any reason to provide for Colonial's obligations, each oil company agreed to make a cash advance against its future shipping costs based on its proportionate share of the through-put obligations. The obligations of the Applicant under the Colonial Through-Put Agreement are unsecured. The events of default on the Colonial Indenture are (1) default on any payment of principal or premium; (2) continuance for 30 days of any default in any payment of interest; (3) continuance for 30 days after notice to Colonial of a default in the performance of any other covenant; (4) certain bankruptcy or similar proceedings; or (5) condemnation of substantially all the assets of Colonial.

(g) Bankers is owner trustee under a Trust Agreement dated as of October 1, 1975 (the "GECC Agreement"), with General Electric Credit Corporation ("GECC"), which owns the equity interest in a "tax-leveraged" lease of certain coal mining equipment to Consolidation Coal Company, a Delaware corporation ("Consol") and a wholly owned subsidiary of the Applicant, pursuant to a Lease Agreement dated as of October 1, 1975 (the "Consol Lease"). To finance all but $8,400,000 of the $24,000,000 original purchase price of the equipment, GECC and Bankers entered into a Trust Indenture and Mortgage dated as of October 1, 1975, with Mercantile-Safe Deposit and Trust Company, as loan trustee; providing for $15,600,000 original principal amount of 9¾% Loan Certificates (the "Loan Certificates") issued by Bankers, as owner trustee under the GECC Agreement, and held by institutional holders which are not affiliated with GECC. The Loan Certificates are secured by (a) an assignment of the Consol Lease and (b) a mortgage on the equipment subject to the Consol Lease. Consol is obligated to pay rent under the Consol Lease sufficient to pay all amounts due on the Loan Certificates, plus a predetermined amount of rent to GECC as owner of the leased equipment. The Applicant has guaranteed, on an unsecured basis, all Consol's obligations under the Consol Lease.

(h) None of the NV Indenture, the IDB Indenture, the IDB Agreement, the District Indenture, the District Agreement, the Triangle Indenture, the Triangle Lease, the Triangle Agreement, the Triangle Note Agreement, the Dixie Indenture, the Colonial Indenture, the GECC Agreement or the Consol Lease and related guarantee by the Applicant (collectively the "Unqualified Indentures") were qualified under the Act, and none of the related securities or obligations thereunder (the "unregistered Securities") were registered under the 1933 Act.

4. As required by section 310(b)(1)(ii) of the Act, the 1954 Indenture provides in part as follows:

"Section 8.08. *Qualification of Trustee; Conflicting Interests.* (a) If the Trustee has or shall acquire any conflicting interest, as defined in this Section, it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign in the manner and with the effect specified in Section 8.10

* * *

"(c) For the purposes of this Section the Trustee shall be deemed to have a conflicting interest if

"(1) the Trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the Company, are outstanding . . .; provided that there shall be excluded from the operation of this paragraph any other indenture or indentures under which other securities, or certificates of interest or participation in other securities, of the Company are outstanding if . . . the Company shall have sustained the burden of proving, on application to the Securities and Exchange Commission and after opportunity for hearing thereon, that the trusteeship under this Indenture and such other indenture or indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one of such indentures."

Each other Qualified Indenture contains a substantially similar provision.

5. Under the provisions of the qualified Indentures described in Paragraph 4 above, Bankers may be deemed to have a conflicting interest because it is acting as trustee under the Qualified Indentures and the Unqualified Indentures, unless it is deemed not to have such a conflicting interest by reason of a finding by the Commission after an opportunity for a hearing that its acting as trustee under such Indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers from so acting.

6. No default has at any time existed under any Qualified Indenture or Unqualified Indenture.

Such differences as exist between the Qualified Indentures and the Unqualified Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers from acting as trustee under any of such Indentures.

The obligations in respect of the NV Debentures, the IDB Bonds, the District Bonds, the Dixie Notes and the Colonial Notes and the related indentures and agreements (described in subparagraphs (a), (b), (c), (e), and (f) of Paragraph 3 above) are wholly unsecured.

Although Bankers is denominated a "trustee" in the Triangle Indenture (as described in subparagraph (d) of Paragraph 3 above), its rights and obligations are to hold the collateral, to act as paying agent and otherwise to act only on the direction of the holders of the Triangle Notes. The holders of the Triangle Notes, and not Bankers, have the right to accelerate the Triangle Notes and to direct proceedings with respect to the Triangle Notes and the collateral.

The Applicant has waived (a) notice of hearing, (b) hearing on the issues raised by this Application and (c) all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street, N.W. Washington, D.C.

Notice is further given that any interested person may, not later than April 5, 1982, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue a order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6823 Filed 3-12-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2025]

Massachusetts, Declaration of Disaster Loan Area

The areas surrounding (1) the Masonic Temple and National Guard Armory, (2) the Power Block Building, and (3) St. Anne's Church in the City of Salem, State of Massachusetts, constitute a disaster area as a result of damage caused by fires which occurred on February 8, 20 and 22, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on May 6, 1982, and for economic injury until December 6, 1982, at:

Small Business Administration, District Office, 150 Causeway Street, 10th Floor, Boston, MA 02114

or other locally announced locations.

The insurance proceeds or any other compensation received by the applicant for damage to real or personal property shall be assigned to SBA to reduce the amount of the loan.

Interest rates for applicants filing for assistance under this declaration are as follows:

Homeowners with Credit Available Elsewhere—15.25%
Homeowners without Credit Available Elsewhere—7.625%
Businesses with Credit Available Elsewhere—10.50%
Businesses without Credit Available Elsewhere—8.0%
Businesses (EIDL) without Credit Available Elsewhere—8.0%
Other (Non-Profit Organizations including Charitable and Religious Organizations)—11.50%

Information on recent statutory changes (Pub. L. 97-35, approved August 13, 1981) is available at the above-mentioned office.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: March 5, 1982.

Donald R. Templeman,

Acting Administrator.

[FR Doc. 82-6830 Filed 3-12-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 798]

Herbicide Spraying on Marijuana in Western Countries Other Than United States; Intent To Prepare Environmental Impact Statement

AGENCY: State Department.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Department plans to prepare a programmatic draft environmental impact statement (DEIS) on the possible health implications in the United States associated with herbicide spraying on marijuana in Western Hemisphere countries other than the United States. The purpose of the program under consideration would be to eradicate marijuana cultivation at the source of production. It was anticipated that the eradication action will eliminate or significantly reduce marijuana importation from Western Hemisphere countries to the United States.

The draft environmental impact statement will review alternatives to

spraying and alternative herbicides and methods of application, as well as health effects in the U.S. associated with spraying.

Interested agencies, organizations, and the members of the general public desiring to submit comments or suggestions for consideration in connection with the preparation of the DEIS are invited to attend a scoping session which will be held in Room 1105 of the Department of State on March 30, 1982 from 2:00 to 4:00 p.m.

Copies of the DEIS will be made available for agency and public comment upon publication. Requests for copies of the DEIS and summaries of the public meeting should be addressed to Ms. Irene Friedrichs, Office of Environment and Health, Department of State, Room 7820, Washington, D.C. 20520 (202–632–2311).

Dated: March 9, 1982.

Donald R. King,

Acting Deputy Assistant Secretary for Environment, Health and Natural Resources.

[FR Doc. 82-6864 Filed 3-12-82; 8:45 am]

BILLING CODE 4710-09-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 81-ASW-8AC]

Bell Model 214ST Helicopter; Certification and Availability of Documents

The formal type certification process of the Bell Helicopter Textron Model 214ST has been completed. Helicopter Type Certificate No. H10SW has been issued for the Model 214ST.

The Director of the FAA Southwest Region has conducted a review of the issues involved in the Model 214ST type certification program and the findings of the FAA certification team. He has also reviewed and discussed with his staff a document entitled "Decision Basis for Type Certification of the Bell Model 214ST Helicopter." Based on this review, the Director approved the issuance of Type Certificate No. H10SW for the Model 214ST.

A copy of the "Decision Basis for Type Certification of the Bell Model 214ST Helicopter" is on file in the FAA Rules Docket. The "Decision Basis" reviews the purpose, structure, conduct, and significant highlights of the certification program wherein the manufacturer demonstrated compliance with the certification basis for the Model 214ST. Appendices pertaining to the Model 214ST type certification program are also included in the document.

The document is available for examination and copying at the Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. Copies of the document may be obtained from the Office of the Director, Southwest Region, P.O. Box 1689, Fort Worth, Texas 76101, at a cost of $1.50.

Issued in Fort Worth, Texas, on February 24, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 82-6862 Filed 3-12-82; 8:45 am]

BILLING CODE 4910-13-M

Closing of Rocky Mountain Headquarters at Aurora, Colo., and Establishment of Airport and Security Field Offices

Notice is hereby given that on or about April 4, 1982, the Rocky Mountain Region Headquarters, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010, will be closed. Headquarters services to the public, formerly provided by this office, will be provided by the Northwest Mountain Region Headquarters, 17900 Pacific Highway South, Seattle, Washington. On or about March 21, 1982, an Airports District Office will be established at Aurora to administer FAA airport matters for the states of Colorado, Utah and Wyoming. The address of this office will be: Airports District Office, DEN–ADO, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010. The Seattle Headquarters will administer airport programs for the state of Montana. The Chief of the Airports District Office will also serve as the coordinator for FAA activities in the Denver area. The office phone number will be (303) 340–5538.

In addition, a Civil Aviation Security Field Office will be established on or about March 21, 1982, to administer FAA civil aviation security programs for the states of Colorado, Utah, and Wyoming, and, to the extent of FAA authority, a portion of the Province of Saskatchewan, Canada. The address of this office will be Civil Aviation Security Office, CASFO, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010. The Seattle Headquarters office will administer FAA security programs for the state of Montana.

This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; (49 U.S.C. 1354))

Issued in Seattle, Washington on March 1, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-6743 Filed 3-12-82; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 136—Installation of Emergency Locator Transmitters (ELT) in Aircraft; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of Special Committee 136 on Installation of Emergency Locator Transmitters (ELT) in Aircraft to be held on April 7–9, 1982 in Conference Rooms 9A–B, Federal Aviation Administration Building, 800 Independence Avenue, SW., Washington, D.C. commencing at 1:00 p.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Twelfth Meeting Held on January 14–15, 1982; (3) Consideration of Penetration and Crush Test Recommendation; (4) Review of Draft Committee Report on Minimum Operational Performance Standards for Emergency Locator Transmitters; (5) Discussion of ELT Transition Plan; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the Approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, NW., Washington, D.C. 20006; (202) 296–0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on March 8, 1982.

Karl F. Bierach,

Designated Officer.

[FR Doc. 82-6865 Filed 3-12-82; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Washington County, Tennessee; Environmental Impact Statement

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be

prepared for a proposed project in Washington County, Tennessee.

FOR FURTHER INFORMATION CONTACT: Mr. E. G. Oakley, Division Administrator, Federal Highway Administration, Federal Building, U.S. Courthouse, 801 Broadway, Suite A–926, Nashville, Tennessee 37203, telephone (615) 251–5394.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Tennessee Department of Transportation will prepare an environmental impact statement (EIS) on a proposal to construct a bypass around the west side of Johnson City, Tennessee. The proposed project would involve the construction of a four-traffic lane facility with the majority of its alignment on new location and a short segment along an existing city street. The project will begin at existing State Route 34 west of Johnson City and extend in a northwesterly direction to connect with the State Route 137 interchange at West Oakland Avenue. The proposed project will have a length of approximately 3.4 miles. This project will tie into the western terminus point of a recently approved EIS. The recently approved EIS covered a section from the east side of the interchange with West Oakland Avenue and State Route 137 and extends to existing State Route 34 and then proceeds along State Route 34 to the Bluff City Bypass in Sullivan County, Tennessee.

Alternatives under consideration include (1) Taking no action; (2) using alternative travel modes; (3) postponement; (4) reduced facility design; and (5) constructing a four-lane partial access roadway on new location.

A public meeting will be scheduled in the near future and will be held in Johnson City. Letters describing the proposed action and soliciting comments were sent to appropriate federal, state, and local agencies and officials in January of 1982. In addition, a formal public hearing will be held. Public notice will be given of the time and place of the public meeting and public hearing. The draft EIS will be available for public and agency review and comment. These activities are providing input regarding the scope of the EIS.

To insure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and suggestions concerning the proposed action and the EIS should be directed to the FHWA at the address provided above

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A–95 regarding state and local clearinghouse review of federal and federally assisted programs and projects apply to this program)

Issued on March 5, 1982.

Edward G. Oakley,

Division Administrator, Tennessee Division, Nashville, Tennessee.

[FR Doc. 82-6862 Filed 3-12-82; 8:45 am]

BILLING CODE 4910-22-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 50
Monday, March 15, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Wednesday, March 17, 1982.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the Public.

1. Power Mower Petitions: CP 81-6, 81-7, 81-8.

MATTERS TO BE CONSIDERED: The Commission will consider the following petitions: CP 81-6 from Mr. A. J. Wildy, CP 81-7 from Polynovus Industries, Inc., and CP 81-8 from Mr. Lewis C. Ely. The petitions request exemptions from the safety standard for walk-behind power lawn mowers.

2. Rule to Transfer Regulation of Certain Stuffed Toys from FHSA and CPSA
The Commission will consider a final rule to transfer regulation of any hazard which may be presented by certain stuffed toys with attached loop cords from the Federal Hazardous Substances Act to the Consumer Product Safety Act under provisions of section 30(d) of the CPSA. The rule was proposed on December 3, 1981.

Closed to the Public:

3. Enforcement Matter OS# 2009
The staff will brief the Commission on issues related to enforcement matter OS# 2009.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 342, 5401 Westbard Ave., Bethesda, MD 20207; Telephone (301) 492-6800.

[S-380-82 Filed 3-11-82; 3:10 pm]
BILLING CODE 6355-01-M

2

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 10706, March 11, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., March 16, 1982.

CHANGE IN THE MEETING: Addition of the following item to the open session:

4. Agreement No. 10128-4: Modification of the Florida/Curacao, Aruba & Bonaire Rate Agreement to extend its coverage to all member lines' services and to effect various administrative changes.

[S-386-82 Filed 3-11-82; 3:46 pm]
BILLING CODE 6730-01-M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

March 3, 1982.

TIME AND DATE: 10 a.m., Thursday, March 11, 1982.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Secretary of Labor on behalf of George Logan v. Bright Coal Co., Inc., and Jack Collins, Docket No. KENT 81-162-D; Petition for Interlocutory Review. (Issues include whether judge erred in interpretation and application of Commission Rule 59 concerning disclosure of identity of informants).

2. Cleveland Cliffs Iron Company, Docket No. LAKE 80-295-RM, etc.; Petition for Discretionary Review. (Issues include whether judge erred in interpretation and application of 30 CFR 55.15-6).

3. Todilto Exploration and Development Corporation, Docket No. CENT 79-91-RM, etc. (Issues include interpretation and application of 30 CFR 57.5-50—noise standard).

4. Callanan Industries, Inc., Docket No. YORK 79-69-M. (Issues include interpretation and application of 30 CFR 56.5-50—noise standard).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5632.

[S-381-82 Filed 3-11-82; 9:42 am]
BILLING CODE 6820-12-M

4

PAROLE COMMISSION

[2P0401]

National Commissioners (the Commissioners presently maintaining offices at Bethesda, Maryland, Headquarters)

TIME AND DATE: 9:30 a.m., Tuesday, March 16, 1982.

PLACE: Room 420-F, One North Park Building, 5550 Friendship Boulevard, Bethesda, Maryland 20015.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 6 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission, (301) 492-5987.

[S-385-82 Filed 3-11-82 3:46 pm]
BILLING CODE 4410-01-M

5

POSTAL RATE COMMISSION

TIME AND DATE:

(1) 10:30 a.m., Tuesday, March 16, 1982.
(2) 2:00 p.m., Tuesday, March 16, 1982.

PLACE: Conference Room, Room 500, 2000 L St., NW., Washington, D.C.

STATUS:

(1) Open.
(2) Closed.

MATTERS TO BE CONSIDERED:

Meeting (1):
(a) Proposed rule changes regarding computer generated studies.
(b) Commission Pay Policy.
Meeting (2): Docket MC 76-5.
(Meeting 2 closed pursuant to 5 U.S.C. 552b(c)(10))

CONTACT PERSON FOR MORE INFORMATION: Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, NW., Washington, D.C. 20268; Telephone (202) 254-5614.

[S-382-82 Filed 3-11-82; 2:01 pm]
BILLING CODE 7715-01-M

6

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 9326, March 4, 1982.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, March 1, 1982.

CHANGES IN THE MEETING: Additional item.

The following additional item was considered at a closed meeting scheduled for Wednesday, March 10, 1981, following the 9:00 a.m. open meeting.

Freedom of Information Act appeal.

Chairman Shad and Commissioners Loomis, Evans, and Longstreth determined by vote that Commission business required consideration of this matter and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jerry Marlatt at (202) 272-2002.

March 11, 1982.

[S-384-82 Filed 3-11-82; 3:32 pm]
BILLING CODE 8010-01-M

[FR Doc. 82-6550 Filed 3-12-82; 8:45 am]
BILLING CODE 3410-34-M

V 47/50 MR 15 82

federal register

Monday
March 15, 1982

Part II

Department of Agriculture

Animal and Plant Health Inspection Service

Animal Welfare; List of Registered Research Facilities

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Animal Welfare; List of Registered Research Facilities

The following list is being published to give notice to the public of research facilities currently registered under the Animal Welfare Act (7 U.S.C. 2131 et seq.). Such notice does not come under E.O. 12291, since it is not a rule. Therefore, pursuant to the provisions of the Animal Welfare Act and the regulations thereunder (9 CFR Part 2), notice is hereby given that the research facilities listed below are registered under said Act (Section 6, 80 Stat 351, as amended (7 U.S.C. 2136)).

Done at Washington, D.C., this 4th day of March 1982.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

ALABAMA

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	645	AUBURN UNIVERSITY			AUBURN	36830
A	641	SOUTHERN RESEARCH INSTITUTE		2000 NINTH AVE. S.	BIRMINGHAM	35205
A	6410	THE JIM DANDY CO., INC.		P.O. BOX 10687	BIRMINGHAM	35202
A	649	THE UNIVERSITY OF ALABAMA		PO BOX 2946	UNIVERSITY	35486
A	642	TUSKEGEE INSTITUTE			TUSKEGEE	36088
A	644	UNIV. OF AL. IN BIRMINGHAM		1919 7TH AVE SOUTH	BIRMINGHAM	35233
A	648	UNIVERSITY OF SOUTH ALABAMA		307 GAILLARD BLVD.	MOBILE	36688

ALASKA

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	9601	UNIVERSITY OF ALASKA			COLLEGE	99701

ARIZONA

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	662	ARIZONA STATE UNIVERSITY			TEMPE	85281
A	9513	ARMOUR AND COMPANY	ARMOUR RESEARCH CENTER	15101 N SCOTTSDALE ROAD	SCOTTSDALE	85260
A	9611	CARDIOVASULAR RESEARCH PROGRAM.		421 NORTH 18TH ST SUITE 115	PHOENIX	85006
A	9614	CENTRAL ARIZONA VETERINARY LAB., INC..		P.O. BOX 1296	CASA GRANDE	85222
A	665	NORTHERN ARIZONA UNIVERSITY			FLAGSTAFF	86001
A	9612	SAMARITAN HEALTH SERVICES	DESERT SAMARITAN HOSPITAL	1419 NORTH 3RD STREET	PHOENIX	85006
A	666	ST. JOSEPH'S HOSP & MED. CTR		350 W. THOMAS RD.	PHOENIX	85013
A	9610	ST. LUKE'S HOSPITAL MED CTR		1920 E. POLK	PHOENIX	85006
A	663	UNIVERSITY OF ARIZONA			TUCSON	85721
A	669	W. L. GORE & ASSOCIATES, INC.		1505 N. FOURTH STR. BOX 1269	FLAGSTAFF	86002

ARKANSAS

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	713	ANIMAL BEHAVIOR ENTERPRISES, INC.		4600 ALBERT PIKE	HOT SPRINGS	71901
A	711	UNIVERSITY OF ARKANSAS			FAYETTEVILLE	72701

CALIFORNIA

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	9367	ALLERGAN PHARMACEUTICALS		2525 DUPONT DR.	IRVINE	92664
A	9367	ALPHA GAMMA LABS		160 E. MONTACITO AVE	SIERRA MADRE	91024
A	93158	ALPHA THERAPEUTIC CORP		5555 VALLEY BLVD	LOS ANGELES	90032
A	9368	ALZA CORPORATION		950 PAGE MILL RD.	PALO ALTO	94304
A	93121	AMERICAN EDWARDS LABORATORIES.		17221 RED HILL AVE	SANTA ANA	92705
A	9371	AMERICAN MCGAW		2525 MCGAW AVE	IRVINE	92711
A	9363	AMERICAN PHARMASEAL		4401 FOXDALE AVE.	IRWINDALE	91706
A	93158	ANTIBODIES INCORPORATED		BOX 442	DAVIS	95616
A	9362	APPLIED BIO. SCI. LAB., INC		5353 SAN FERNANDO RD.	GLENDALE	91201
A	9362	BARNES-HIND PHARMACY, INC.		895 KIFER RD.	SUNNYVALE	94086
A	9374	BECKMAN INSTRUMENTS, INC.		2041 E. LAMBERT RD.	LA HABRA	90631
A	9369	BENTLEY LABORATORIES, INC.		17502 ARMSTRONG AVE	IRVINE	92705
A	93141	BIO-RAD LABORATORIES		2200 WRIGHT AVE.	RICHMOND	94804
A	9372	BIO-SCIENCE LABORATORIES		7600 TYRONE AVE.	VAN NUYS	91405
A	9395	BIO-TECHNICS LABS., INC.		1133 CRENSHAW BLVD	LOS ANGELES	90019
A	91139	BUREAU OF PUBLIC HEALTH LAB.		313 N. FIGUEROA ST.	LOS ANGELES	90012
A	9399	C.R. DREW POST-GRAD MED. SCH		1621 E. 120TH ST.	LOS ANGELES	90059
A	93123	CALBIOCHEM-BEHRING CORP	SARGEANT FARMS	10933 NORTH TORREY PINES	LA JOLLA	92037
A	9328	CALIFORNIA INSTITUTE OF TECH		1201 E CALIFL BLVD.	PASADENA	91125
A	9339	CALIFORNIA STATE COLLEGES		5670 WILSHIRE BLVD.	LOS ANGELES	90036
A	9332	CEDARS-SINAI MEDICAL CENTER		8730 BEVERLY BLVD.	LOS ANGELES	90048
A	9330	CHILDREN'S HOSP MEDICAL CTR		51ST & GROVE STREETS	OAKLAND	94609
A	9334	CHILDREN'S HOSPITAL OF SAN FRANCISCO.		P.O. BOX 3805	SAN FRANCISCO	94119

CALIFORNIA—Continued

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	9311	CHILDRENS HOSPITAL OF LOS ANGELES.		4650 SUNSET BLVD.	LOS ANGELES	90027
A	967	CITY OF HOPE MEDICAL CENTER		1500 E. DUARTE RD.	DUARTE	91010
A	96126	CLAREMONT MEN'S COLLEGE		11TH & DARTHMOUTH AVENUES	CLAREMONT	91711
A	93144	CLINICAL IMMUNO-DIAGNOSTICS, INC.		1979-D LOGAN AVE.	COSTA MESA	92626
X	96111	CLMG, INC.		3232 OCEAN VIEW AVENUE	LOS ANGELES	90057
A	93187	COLLEGE OF OSTEOPATHIC MEDICINE OF THE PACIFIC.		309 POMONA MALL	EAST POMONA	91766
A	92119	COMPTON COMMUNITY COLLEGE		1111 E. ARTESIA BLVD.	COMPTON	90221
A	9360	CONSUMNES RIVER COLLEGE		8401 CENTER PARKWAY	SACRAMENTO	95823
A	93147	COOPERVISION INC.		465 EAST MIDDLEFIELD RD.	MOUNTAIN VIEW	94043
A	93133	COUNTY OF SAN DIEGO		5555 OVERLAND AVE BLDG. 4	SAN DIEGO	92123
A	93148	CRYOVITA LABORATORIES, INC.		UNIT #304 4030 N. PALM ST.	FULLERTON	92242
A	9318	CUTTER LABORATORIES, INC.		4TH & PARKER STS.	BERKELEY	94710
A	93104	DIAGNOSTIC DATE, INC.		516 LOGUE AVE.	MOUNTAIN VIEW	94043
A	93161	E-Y LABS, INC		127 N AMPHLETT	SAN MATEO	94401
A	9394	ENDOCRINE SCIENCES		18418 OXNARD ST.	TARZANA	91356
A	93101	ESTELLE DOHENY EYE FOUNDATION		1355 SAN PABLO ST.	LOS ANGELES	90033
A	93136	FOOTHILL COLLEGE		12345 EL MONTE RD.	LOS ALTOS HILLS	94022
A	93153	GIBBONS & GALLINACEOUS BD CTR		BOX 80	SAUGUS	91350
A	93138	GROSSMONT COMMUNITY COLLEGE		8800 GROSSMONT COLLEGE DR.	EL CAJON	92020
X	9355	HOAG MEMORIAL HOSPITAL PRESBYTERIAN.		301 NEWPORT BLVD.	NEWPORT BEACH	92660
A	93163	HUBBS/SEA WORLD RESEARCH INST.		1700 SOUTH SHORES RD.	SAN DIEGO	92109
A	93169	HUMAN/DOLPHIN FOUNDATION	MARINE WORLD	BOX 4172	MALIBU	90265
A	9336	HUNTINGTON INSTITUTE OF APPLIED MEDICAL RES.		734 FAIRMOUNT AVE.	PASADENA	91105
A	93164	HUTTON, D.	CLONAL RESEARCH LTD.	1602 MONROVIA AVE.	NEWPORT BEACH	92663
A	9335	INST MED/RES SANTA CLARA CO.		751 S. BASCOM AVE.	SAN JOSE	95128
A	9317	INSTITUTE OF MEDICAL SCIENCES		2200 WEBSTER ST., RM 310	SAN FRANCISCO	94115
A	93113	INTER SCIENCE INST.		2000 COTNER AVE.	LOS ANGELES	90025
A	9366	INTERNATIONAL MED SYSTEMS LTD.		1886 SANTA ANITA AVE.	SOUTH EL MONTE	91733
A	93132	JANUS LABS		1250 PIONEER WAY	EL CAJON	92020
A	93135	KAISER FOUNDATION HOSPITALS		ORDWAY BLDG.	OAKLAND	94666
A	93109	KEARLEY, D.V.M., EDWARD O.		890 CLINCY RD.	TURLOCK	95380
A	93122	L. PAULING INST. OF SCI & MED.		2700 SAND HILL RD.	MENLO PARK	94025
A	93165	LA JOLLA CANCER RESEARCH FOUND		2945 SCIENCE PARD RD.	LA JOLLA	92037
A	9389	LA VERNE COLLEGE		1950 THIRD ST.	LA VERNE	91750
A	9348	LEE PHARMACEUTICALS		1444 SANTA ANITA AV.	SOUTH EL MONTE	91733
A	93152	LITTLE, JF.	FELINE HOME STUDIES	4640 OLNEY ST.	SAN DIEGO	92109
A	936	LOMA LINDA UNIVERSITY			LOMA LINDA	92354
A	9353	LOS ANGELES PIERCE COLLEGE		6201 WINNETKA BLVD.	WOODLAND HILLS	56413
A	9362	LOYOLA UNIVERSITY		7101 W 80TH ST.	LOS ANGELES	90045
A	93174	MAURRY BIOLOGICAL CO., INC.		5109 S. WESTERN AVE.	LOS ANGELES	90047
A	9328	MEDI-PHYSICS, INC.		5855 CHRISTIE AVE.	EMERYSVILLE	94608
A	9343	MEMORIAL HOSP. OF LONG BEACH		2801 ATLANTIC AVE.	LONG BEACH	90806
X	9360	MERCY SAN JUAN HOSPITAL		6501 COYLE AVE.	CARMICHAEL	95608
A	939	MOUNT ZION HOSPITAL AND MEDICAL CENTER.		1600 DIVISADERO ST.	SAN FRANCISCO	94115
A	93117	MT. SAN ANTONIO COLLEGE		1100 N. GRAND AVE.	WALNUT	91789
A	93110	MURPHY, HOWARD F.		401 N. LA COSTA DR.	CARLSBAD	92008
A	9369	NEWPORT PHARM. INTL., INC.		1580 MONROVIA BLVD.	NEWPORT BEACH	92660
X	9352	NICHOLS INST./ENDOCRINOLOGY		1200 S. BEACON ST.	SAN PEDRO	90731
A	93145	NORTH AMERICAN SCIENCE ASSOC. OF CA., INC.		1582 DERRE AVE.	IRVINE	92714
A	93106	OCCIDENTAL COLLEGE		1600 CAMPUS RD.	LOS ANGELES	90041
A	9345	OLIVE VIEW MEDICAL CENTER		14445 OLIVE VIEW DRIVE	SYLMAR	91342
A	93149	ORANGE COAST COLL./AMIMA HLTH. TECHNOLOGOY PROG.		2701 FAIRVIEW RD.	COSTA MESA	92626
A	93159	ORTHOPAEDIC HOSPITAL		2400 SO FLOWER ST.	LOS ANGELES	90007
A	93155	OSMETRIC INC.		1212 TERRA BELLA AVE.	MOUNTAIN VIEW	94043
A	9341	PALO ALTO MED. RES. FOUND.		860 BRYANT ST.	PALO ALTO	94301
A	93175	PANTEX DIVISION OF BIO-ANALYSIS		1737 21ST STREET	SANTA MONICA	90404
A	93103	PASADENA CITY COLLEGE		1570 E. COLORADO BLVD.	PASADENA	91106
A	9324	PASADENA FOUND./MEDICAL RES.		99 N. EL MOLINO AVE.	PASADENA	91101
A	93160	POINT LOMA COLLEGE	ANNEX LABORATORY	3900 LOMALAND DRIVE	SAN DIEGO	92106
A	9364	POMONA COLLEGE			CLAREMONT	91711
A	9396	RADIOASSAY SYSTEMS LAB., INC.		1511 E. DEL AMO BLVD.	CARSON	90745
A	9337	RANCHO LOS AMIGOS HOSP. INC.		7413 GOLONDRINAS ST.	DOWNEY	90242
A	93107	RANCHO SANTIAGO COMM COL DIST.		17TH ST AT BRISTOL	SANTA ANA	92706
X	9361	REDIKEN LABORATORIES, INC.		14721 CALIFA ST.	VAN NUYS	91401
A	9316	RES. & EDU. INST., INC./HARBOR-UCLA MEDICAL CNTR.		1000 W. CARSON ST.	TORRANCE	90509
A	9366	SALK INST. FOR BIO. STUDIES		PO BOX 1809	SAN DIEGO	92112
A	93108	SAN BERNARDINO VALLEY COLLEGE		701 SO. MT. VERNON AVE.	SAN BERNARDINO	92403
X	9363	SAN DIEGO BIO-MED. RES. INST.		2802-1ST AVE. RM 104	SAN DIEGO	92103
A	93134	SAN DIEGO MESA COLLEGE		7250 MESA COLLEGE DR.	SAN DIEGO	92111
A	93143	SAN DIEGUITO ANIMAL CARE CTR.		PO BOX 64	RANCHO SANTE FE	92067
A	9347	SANSUM CLINIC RES. FOUND.		2219 BATH ST.	SANTA BARBARA	93102
X	93114	SANTA BARBARA CITY COLLEGE		721 CLIFF DR.	SANTA BARBARA	93109
A	93169	SCIENCE APPLICATIONS, INC.		464 PROSPECT ST P.O. BOX 1464	LAJOLLA	92038
A	9315	SCRIPPS CLINIC & RES. FOUND.		476 PROSPECT ST.	LA JOLLA	92037
A	9313	SHELL DEVELOPMENT COMPANY		P.O. BOX 4248	MODESTO	95353
A	93140	SMITH KLINE INSTRUMENTS, INC.		495 POTRERO AVE.	SUNNYVALE	94086
A	93150	SOCIETY OF SCIENTIFIC CARE, INC.		PO BOX 7535	SAN DIEGO	92107
A	931	SONOMA STATE HOSPITAL			ELDRIDGE	95431
A	93127	SOUTHERN CA COLL OF OPTOMETRY		2001 ASSOCIATED RD.	FULLERTON	92681
A	93130	SOUTHWESTERN COLLEGE		900 OTAY LAKES RD.	CHULA VISTA	92010
A	93118	ST. JOHN'S HOSP. & HEALTH CTR.		1328 22ND ST.	SANTA MONICA	90404
A	9342	ST. MARY'S HOSP. MEDICAL CTR.		2200 HAYES ST.	SAN FRANCISCO	94117
A	9366	STANDARD OIL COMP. OF CA.		576 STANDARD AVE., RM S801	RICHMOND	94802
A	9326	STANFORD RESEARCH INSTITUTE		333 RAWENSWOOD AVE.	MENLO PARK	94025

CALIFORNIA—Continued

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	9304	STANFORD UNIVERSITY		STANFORD MEDICAL CTR. LOC3D	STANFORD	94305
A	9364	STAR-KIST FOODS, INC.		582 TUNA ST.	TERMINAL ISLANDS	90731
A	9325	STATE OF CA/DEPT. OF HEALTH		2151 BERKELEY WAY	BERKELEY	94704
A	9331	STAUFFER CHEMICAL COMPANY		1200 SOUTH 47TH ST.	RICHMOND	94804
A	93172	SULLIVAN, ARTHUR		9525 N. SULTANA AVE., APT B	TEMPLE CITY	91780
A	93134	SUMMERS, JOHN E		4100 HOLLISTER AVE.	CARMICHAEL	95608
A	933	SUTTER COM HOSP OF SACRAMENTO		52ND & F STS.	SACRAMENTO	95816
A	93120	SYLVAN CORNERS VET. HOSPITAL		7548 OLD AUBURN BLVD	CITRUS HEIGHTS	95610
A	9329	SYNTEX (U.S.A.) INC.		3401 HILLVIEW AVE.	PALO ALTO	94304
A	9391	SYVA CORPORATION		3151 PASTEUR DR.	PALO ALTO	94304
A	9373	TERA PHARMACEUTICALS, INC.		5920 STANTON AVE.	BUENA PARK	90621
A	93162	THE GORILLA FOUNDATION		PO BOX 3002	STANFORD	94305
X	936	THE HINE LABORATORIES, INC.		TEHAMA ST.	SAN FRANCISCO	94103
A	9344	THE REGENTS OF THE UNIV OF CA		UNIVERSITY HALL	BERKELEY	94720
A	93171	THORNTSC LABORATORIES CORP.		2023 EIGHTH STREET	BERKELEY	94710
E	93154	UNILAB RESEARCH	E-S UNILAB RESEARCH, INC.	2500 SEVENTH ST.	BERKELEY	94710
A	93131	UNIVERSITY OF SAN DIEGO		ALCALA PARK	SAN DIEGO	92110
A	9377	UNIVERSITY OF SAN FRANCISCO			SAN FRANCISCO	94117
A	9339	UNIVERSITY OF SOUTHERN CA		2011 ZONAL AVE.	LOS ANGELES	90033
A	9350	UNIVERSITY OF THE PACIFIC		751 BROOKSIDE RD.	STOCKTON	95207
A	9364	VALLEY CHILDRE HOSP & GUID CTR.		9151 N. MILLBROOK	FRESNO	93703
X	93129	VASCOR		4633 E. LA PALMA AVE.	ANAHEIM	92807
A	9941	VICTOR VALLEY COLLEGE			VICTORVILLE	92392
A	9349	VITAMINERALS, INC.		1915 FLOWER ST.	GLENDALE	91201
A	9316	WESTERN COLLEGE OF ALLIED HEALTH CAREERS.		4000 EL CAMINO AVE	SACRAMENTO	95821
A	9340	WHITE MEMORIAL MEDICAL CENTER		1720 BROOKLYN AVE	LOS ANGELES	90033
A	9397	WHITTIER COLLEGE			WHITTIER	90608
A	9379	YUBA COLLEGE		LINDA & BEALE ROADS	MARYSVILLE	95901
A	93191	ZOOLOGICAL SOCIETY OF SAN DIEGO		PO BOX 551	SAN DIEGO	92112

COLORADO

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	8432	AMC CANCER RESEARCH CENTER AND HOSPITAL		8401 WEST COLFAX AVE	LAKEWOOD	80214
A	8418	ARAPAHOE COMMUNITY COLLEGE		5900 S. SANTA FE DR.	LITTLETON	80120
A	8413	BBL R&E INSTITUTE		9870 E. ALAMEDA AVE.	DENVER	80231
A	8427	CHILDREN'S HOSPITAL		1056 EAST 19TH AVE.	DENVER	80218
A	848	CHILDRS ASTHMA RES INST & HOSP		3401 W. 19TH AVE.	DENVER	80204
A	8404	CORE LAB./ANIMAL LABORATORIES		1201 OAK ST.	LAKEWOOD	80215
R	8412	COLORADO MOUNTAIN COLLEGE			GLENWOOD SPRINGS	81601
A	847	COLORADO SERUM COMP.		4950 YORK ST.	DENVER	80216
A	848	COLORADO STATE UNIVERSITY			FORT COLLINS	80521
A	8416	DENVER DEPT OF HEALTH & HOSP		WEST 8TH AVE. & CHEROKEE ST.	DENVER	80204
A	8429	ELARS BIO RESEARCH LAB.		225 COMMERCE DR.	FORT COLLINS	80521
A	8401	FORT LEWIS COLLEGE			DURANGO	81301
A	8410	MERIDIAN BIO-MEDICAL, INC.		3279 S. WADSWORTH	DENVER	80227
A	841	NATL JEWISH HOSP		3800 EAST COLFAX AVE.	DENVER	80206
R	8423	OTERO JUNIOR COLLEGE		18TH & COLORADO AVE.	LA JUNTA	81050
A	8415	PENROSE HOSPITAL		2215 N. CASCADE AVE.	COLORADO SPRINGS	80903
A	8420	REGIS COLLEGE		WEST 80TH & LOWELL BLVD.	DENVER	80221
A	845	ST. JOSEPH HOSPITAL		1835 FRANKLIN ST.	DENVER	80218
A	8414	THE COLORADO COLLEGE			COLORADO SPRINGS	80903
A	848	UNIV OF NORTHERN COLORADO			GREELEY	80631
A	846	UNIVERSITY OF COLORADO			BOULDER	80302
A	8431	VALLEYLAB INC.		5800 LONGBOW DR	BOULDER	80301
A	8433	VIPONT CHEMICAL CO.		220 EAST OLIVE	FORT COLLINS	80524
A	8429	WESTERN RESEARCH CORP.		2300 N. HWY 287, PO BOX 1255	FORT COLLINS	80522
A	8411	WESTERN STATE COLLEGE OF COLORADO			GUNNISON	81230

CONNECTICUT

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	1629	BOEHRINGER INGELHEIM LTD.		90 EAST RIDGE, P.O. BOX 368	RIDGEFIELD	06877
A	1630	CRIMM RESEARCH FACILITY		PARKER BRIDGE ROAD	CENTERTY	06238
A	1616	CT. STATE DEPT. OF HEALTH		PO BOX 1689	HARTFORD	06101
A	1632	ENVIRONMENTAL HEALTH CNTR./ STAUFFER CHEMICAL CO.		400 FARMINGTON AVE	FARMINGTON	06032
A	1623	FAIRFIELD UNIVERSITY			FAIRFIELD	06430
A	167	HARTFORD HOSPITAL		80 SEYMOUR ST.	HARTFORD	06115
A	184	JOHN G. PIERCE FOUNDATION LABORATTRY.		290 CONGRESS	NEW HAVEN	06519
A	1624	NEW ENGLAND INST., INC.		80 GROVE ST.	RIDGEFIELD	06877
A	1625	QUINNIPIAC COLLEGE		555 NEW ROAD	HAMDEN	06518
A	1631	SEA RESEARCH FOUNDATION, INC.	MYSTIC MARINELIFE AQUARIUM		MYSTIC	06355
A	162	ST. FRANCIS HOSP. RES. LAB.		114 WOODLAND ST.	HARTFORD	06105
A	1619	ST. MARY'S HOSPITAL		56 FRANKLIN ST.	WATERBURY	06702
A	186	THE UNIVERSITY OF CONNECTICUT			STORRS	06268
A	1628	UNITED STATES SURGICAL CORP.		150 GLOVER AVE.	NORWALK	06850
R	1625	UNIV OF CT HEALTH CENTER		CENTER FOR LAB ANIMAL CARE	FARMINGTON	06032
A	1611	UNIVERSITY OF HARTFORD		200 BLOOMFIELD AVE.	W. HARTFORD	06117
A	181	YALE UNIVERSITY		333 CEDAR ST.	NEW HAVEN	06510

DELAWARE

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	509	ALFRED I. DU PONT INSTITUTE		ROCKLAND RD.	WILMINGTON	19803
A	50R7	DU PONT CLINICAL SYSTEMS		BLDG. 300 ROUTE 896	GLASGOW	19702
A	509	DU PONT EXPERIMENTAL STATION		NEW MURPHY RD.	WILMINGTON	19898
A	501	E.I. DUPONT DE NEMOURS & CO.		PO BOX 30	NEWARK	19711
A	503	ICI AMERICAS, INC.		CONCORD PIKE & NEW MURPHY RD.	WILMINGTON	19897
X	505	STERWIN LABORATORIES, INC.		DUPONT HWY.	MILLSBORO	19966
A	504	UNIVERSITY OF DELAWARE			NEWARK	19711
X	506	WILMINGTON MEDICAL CTR., INC.		14TH & WASHINGTON STS.	WILMINGTON	19899

DISTRICT OF COLUMBIA

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	DC7	AMERICAN UNIVERSITY		MASSACHUSETTS & NEBRASKA AVES.	WASHINGTON	20016
A	DC3	CHILDREN'S HOSP. OF THE D.C.		2125-13TH ST., NW.	WASHINGTON	20009
A	DC5	GEORGE WASHINGTON UNIVERSITY			WASHINGTON	20006
A	DC4	GEORGETOWN UNIVERSITY		3900 RESERVOIR RD. N.W.	WASHINGTON	20007
A	DC9	HOWARD UNIVERSITY/COLLEGE OF MEDICINE.		520 W STREET N.W.	WASHINGTON	20059
A	DC2	JACKSON LABORATORIES, INC.		2812-25TH ST NE PO BOX 10236	WASHINGTON	20018
A	DC8	NATIONAL FOOD PROCESSORS ASSOCIATION.		1133-20TH ST., N.W.	WASHINGTON	20036
A	DC1	WASHINGTON HOSPITAL CENTER		GEORGE HYMAN MEMORIAL RESEARCH.	WASHINGTON	20010

FLORIDA

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	5843	ALL CHILDREN'S HOSPITAL		801 4TH STREET SOUTH	ST PETERSBURG	33701
A	5832	BARRY LABORATORIES, INC.		461 N.E. 27TH ST.	POMPANO BEACH	33064
X	584	BIGGER'S SMALL ANIMAL HOSP.		2633 S. 4 ST.	FORT PIERCE	33450
A	5824	CHEMIE HAUS, INC.		160 CONCORD DR.	CASSELBERRY	32707
A	5844	CLEARWATER MARINE SCIENCE CENTER.		249 WINDWARD PASSAGE	CLEARWATER	33515
A	5819	CORDIS CORP.		PO BOX 370428	MIAMI	33137
A	5846	CRITIKON, INC.		1410 NORTH WESTSHORE BOULEVARD.	TAMPA	33607
A	5829	DADE DIV AM HOSP SUPPLY CORP		PO BOX 520672	MIAMI	33152
A	582	DAWSON RESEARCH CORP.		PO BOX 6272	ORLANDO	32809
A	5810	ECKERD COLLEGE		PO BOX 12560	ST. PETERSBURG	33733
A	5826	FL INJURED WILDLIFE SANC. INC.		BOX 280,RT. 1	MELBOURNE	32935
A	5812	FLORIDA A&M UNIVERSITY			TALLAHASSEE	32307
A	5835	FLORIDA ATLANTIC UNIVERSITY			BOCA RATON	33431
A	5820	FLORIDA INST. OF TECHNOLOGY			MELBOURNE	32901
A	5836	FLORIDA INTERNATIONAL UNIV.		BOX 1150 COUNTRY CLUB ROAD	MIAMI	33199
A	5817	FLORIDA MED. ENTOMOLOGY LAB.		TAMIAMI TRAIL	VERO BEACH	32960
A	581	FLORIDA STATE UNIVERSITY		PO BOX 530-OSLO RD.	TALLAHASSEE	32306
A	5845	INSTITUTE FOR DELPHINID RES.			MARATHON SHORES	33052
A	5831	JACKSON VETERINARY PRACTICE		P.O. BOX DOLPHIN	ST. AUGUSTINE	32084
A	5830	KNOWLES ANIMAL CLINIC		RFD 6 BOX 9	MIAMI	33125
A	5837	LEO GOODWIN INST FOR CANC RES		1000 NW 27TH AVE	FT. LAUDERDALE	33314
A	5847	LIFE SCIENCES, INC.		3301 COLLEGE	ST PETERSBURG	33707
A	5821	MANNHEIMER PRIMATE FOUND.		1509 40TH STREET SOUTH	HOMESTEAD	33039
A	5848	MEDICAL RESEARCH FOUNDATION OF ST. PETERSBURG, INC.		20255 S.W. 360TH ST.	ST PETERSBURG	33705
A	586	MIAMI HEART INSTITUTE		501 11TH ST. N.		
A	5841	MOTE MARINE LABORATORY, INC.		4701 N. MERIDIAN AVE.	MIAMI BEACH	33140
A	585	MT. SINAI HOSPITAL RES. LAB.		1600 CITY ISLAND PARK	SARASOTA	33577
A	5839	N. AMERICAN BIOLOGICALS, INC.		4300 ALTON RD.	MIAMI BEACH	33140
A	5840	NATIONAL BIOLOGICALS, INC.		16500 NW 15 AVE.	MIAMI	33169
A	5833	PAPANICOLAOU CANCER RES INST		13710 49TH STREET NORTH	CLEARWATER	33520
A	5822	ROLLINS COLLEGE		1155 NW 14TH ST PO BOX 25618	MIAMI	33125
A	5834	SANDERS MED. RES. FOUND. INC.			WINTER PARK	32789
A	5825	SERALC CORPORATION		33 SE 3RD ST.	BOCA RATON	33432
A	5842	SHANK, J.		15960 N.W. 15 AVE.	MIAMI	33169
A	5814	SHERWOOD MEDICAL INDUSTRIES INC.		2225 NO ANDREWS AVE.	FT LAUDERDALE	33309
A	5823	ST. PETERSBURG JR. COLLEGE		PO BOX 2078	DELAND	32720
A	5830	STATE OF FL, DIV. OF HEALTH		PO BOX 13486	ST. PETERSBURG	33733
A	5816	UNIV. OF CENTRAL FLORIDA		4000 W. BUFFALO AVE.	TAMPA	33614
A	583	UNIVERSITY OF FLORIDA		PO BOX 25000,ALAFAYA TRAIL	ORLANDO	32816
A	587	UNIVERSITY OF MIAMI		OFFICE OF THE PRESIDENT	GAINESVILLE	32601
A	5815	UNIVERSITY OF SOUTH FLORIDA			CORAL GABLES	33124
				4202 FOWLER AVE.	TAMPA	33620

GEORGIA

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	5719	ALTANTA UNIV. CENTER		360 WESTVIEW DR. SW.	ALTANTA	30314
A	573	EMORY UNIVERSITY			ATLANTA	30322
X	579	GEORGIA COLLEGE			MILLEDGEVILLE	31061
A	5710	GEORGIA INST. OF TECHNOLOGY			ATLANTA	30332
A	5718	GEORGIA STATE UNIVERSITY		UNIVERSITY PLAZA	ATLANTA	30303
A	574	MERCER UNIVERSITY SYSTEM			MACON	31207

GEORGIA—Continued

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	5711	OXFORD CHEMICALS	DIVISION OF CONSOLIDATED FOODS.	PO BOX 80202	ATLANTA	30366
A	676	PALMER CHEM. & EQUIP. CO. INC		PO BOX 667	DOUGLASVILLE	30134
A	575	UNIVERSITY OF GEORGIA SYSTEM			ATHENS	30601

HAWAII

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	9512	HAWAII DEPT. OF AGRICULTURE		1428 S. KING ST.	HONOLULU	96814
A	953	QUEEN'S MEDICAL CENTER		PO BOX 861	HONOLULU	96808
A	9511	RES. CORP. OF THE UNIV OF HI.		1110 UNIVERSITY AVE.	HONOLULU	96817
A	957	ST. FRANCIS HOSP RES LAB		2260 ULIKA ST.	HONOLULU	96817
A	952	UNIVERSITY OF HAWAII/LABORATORY ANIMAL SERVICE.		2538 THE MALL, SNYDER HALL	HONOLULU	96822

IDAHO

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	8201	IDAHO STATE UNIVERSITY			ROCATELLO	83201
A	8208	LONG, CD		101 N. GARDEN ST.	BOISE	83704
A	8204	NORTHWEST NAZARENE COLLEGE			NAMPA	83651
A	8202	UNIVERSITY OF IDAHO			MOSCOW	83843

ILLINOIS

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	3358	A.E. STALEY MFG. CO.		22ND & ELDORADO BLDG # 60	DECATUR	62525
A	3325	ABBOTT LABORATORIES		1400 SHERIDAN RD.	NORTH CHICAGO	60064
A	3369	AMERICAN DENTAL ASSOCIATION		211 EAST CHICAGO AVE.	CHICAGO	60611
A	3320	ARGONNE NATIONAL LABORATORY		9700 SOUTH CASS AVE.	ARGONNE	60439
A	3333	ARMOUR PHARMACEUTICAL CO.		US ROUTE 54	BRADLEY	60915
A	3334	ARNAR-STONE LAB.		1600 WAUKEGAN RD.	MCGAW PARK	60085
A	3378	BIOLABS, INC.		2910 MACARTHUR BLVD.	NORTHBROOK	60062
A	3352	BLACKBURN COLLEGE			CARLINVILLE	62626
A	3386	BORDEN INC.		RR 1	ELGIN	60120
A	3359	BRADLEY UNIVERSITY			PEORIA	61606
A	3372	CHICAGO BOARD OF HEALTH		CHICAGO CIVIC CENTER	CHICAGO	60602
A	3310	CHICAGO COLLEGE OF OSTEOPATHY		1122 E. 53 ST.	CHICAGO	60615
A	3327	CHICAGO MEDICAL SCHOOL		3333 GREEN BAY ROAD	NORTH CHICAGO	60064
A	336	CHILDREN'S MEMORIAL HOSPITAL		2300 CHILDREN'S PLAZA	CHICAGO	60614
A	3341	COOK CO. GRAD. SCHOOL OF MED.		707 S. WOOD ST.	CHICAGO	60612
A	3363	DE PAUL UNIVERSITY		1036 W. BELDEN AVE.	CHICAGO	60614
A	3364	EUREKA COLLEGE		300 E. COLLEGE	EUREKA	61530
A	3313	EVANSTON HOSPITAL		2650 RIDGE AVE.	EVANSTON	60201
A	3326	G.D. SEARLE & CO.		BOX 5110	CHICAGO	60680
A	3331	GENERAL FOODS CORP.		C/O GAINES RES. KENNELS RR 2	ST. ANNE	60964
A	3335	HEKOTOEN INST./COOK CO. HOSP.		627 E. WOOD ST.	CHICAGO	60612
A	338	IIT RESEARCH INSTITUTE		10 WEST 35 ST.	CHICAGO	60616
A	3356	IL. STATE PSYCHIATRIC INST.		1601 W. TAYLOR ST.	CHICAGO 606L	62302
A	3345	ILLINOIS INST. OF TECHNOLOGY		3300 S. FEDERAL ST.	CHICAGO	60616
A	333	ILLINOIS STATE UNIVERSITY			NORMAL	61761
A	3353	ILLINOIS WESLEYAN UNIV.			BLOOMINGTON	61701
A	3343	KENDALL RESEARCH CENTER		411 LAKE ZURICH ROAD	BARRINGTON	60010
A	3389	KNOX COLLEGE			GALESBURG	61401
A	3344	KRAFT INC.		501 WAUKEGAN RD.	GLENVIEW	60025
A	3349	LAKE FOREST COLLEGE			LAKE FOREST	60045
A	3384	LARABIDA UNIV OF CHICAGO INST		5801 SOUTH ELLIS AVE.	CHICAGO	60637
A	3324	LOYOLA UNIVERSITY		1400 S. FIRST AVE.	HINES	60141
A	3387	MEDI-PHYSICS, INC.		2350 NORTH RIDGE AVE.	ARLINGTON HEIGHTS	60004
A	3377	MEMORIAL HOSPITAL		4501 NORTH PARK DR.	BELLEVIEW	62221
A	3347	MERCY HOSPITAL & MEDICAL CTR.		STEVENSON EXPRESS. AT KING DR.	CHICAGO	60616
A	339	MICHAEL REESE HOSPITAL & MEDICAL CENTER.		29 & ELLIS	CHICAGO	60616
A	3326	MOUNT SINAI HOSPITAL MEDICAL CENTER.		CALIFORNIA AVE. AT 15TH ST.	CHICAGO	60608
A	3379	NORTHEASTERN ILLINOIS UNIV.		BRYN MAWR AT ST. LOUIS	CHICAGO	60625
A	3367	NORTHERN ILLINOIS UNIVERSITY			DEKALB	60115
A	3340	NORTHWESTERN UNIVERSITY		619 CLARK ST.	EVANSTON	60201
A	3394	PHARMACHEM TESTING SEVICES		17501 WEST DUVAN DR.	TINLEY PARK	60477
A	3322	PRESBYTERIAN-ST. LUKE'S HOSP.		1753 W. CONGRESS PARKWAY	CHICAGO	60612
A	3391	QUAKER OATS CO.		617 W. MAIN ST.	BARRINGTON	60010
A	3354	QUINCY COLLEGE			QUINCY	62301
A	3351	SANGAMON STATE UNIVERSITY			SPRINGFIELD	62703
X	3383	SHERMAN HOSPITAL		934 CENTER ST.	ELGIN	60120
A	3375	SLEEPY HOLLOW KENNEL/CATTERY		ROUTE 2, BOX 73	MUNDELEIN	60060
A	3314	SOUTHERN ILLINOIS UNIV.			CARBONDALE	62901
A	3368	SOUTHERN ILLINOIS UNIVERSITY AT EDWARDSVILLE.			EDWARDSVILLE	62025
A	3338	ST. FRANCIS HOSPITAL		355 RIDGE AVE.	EVANSTON	60202
A	3348	ST. FRANCIS HOSPITAL-MEDICAL CENTER.		530 NE GLEN OAK AVE.	PEORIA	61603
A	3388	TECHNAD, INC.		2405 BOND STREET	PARK FOREST SOUTH	60387
A	3380	TOX MONITOR LAB., INC.		112 N 10TH AVE.	MELROSE PARK	60160
A	3391	TOXIGENICS INC.		1500 EAST PERSHING RD.	DECATUR	62526

ILLINOIS—Continued

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	3323	TRAVENOL LABORATORIES, INC.		6301 LINCOLN AVE.	MORTON GROVE	60053
A	3336	UNIV OF IL AT CHICAGO CIRCLE		2630 UNIVERSITY HALL	CHICAGO	60680
A	3330	UNIVERSITY OF CHICAGO		5801 S. ELLIS AVE.	CHICAGO	60637
A	3318	UNIVERSITY OF ILLINOIS		833 S. WOOD ST.	CHICAGO	60612
A	3329	UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN.			URBANA	61801
A	3362	WESTERN ILLINOIS UNIVERSITY			MACOMB	61455
A	3398	WHEATON COLLEGE			WHEATON	60187

INDIANA

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	3221	AMERICAN MONITOR, INC.		5425 W. 84TH ST.	INDIANAPOLIS	46268
A	3211	BALL STATE UNIVERSITY			MUNCIE	47306
A	3210	BUTLER UNIVERSITY		4500 SUNSET	INDIANAPOLIS	46208
A	322	CENTRAL SOYA COMPANY, INC.			DECATUR	46733
X	324	EARLHAM COLLEGE			RICHMOND	47374
A	323	ELI LILLY & CO.		740 S. ALABAMA	INDIANAPOLIS	46206
A	3212	FT. WAYNE SURGICAL ASSOC. INC.		3124 E. STATE BLVD.	FT. WAYNE	46805
A	3223	IMC CHEMICAL GROUP, INC.		PO BOX 207,1331 S. FIRST ST.	TERRE HAUTE	47808
A	3219	INDIANA STATE UNIVERSITY			TERRE HAUTE	47809
A	326	INDIANA UNIVERSITY			BLOOMINGTON	47401
A	3224	LAFAYETTE PHARMACAL, INC.		526 N. EARL AVE.	LAFAYETTE	47902
A	325	MEAD, JOHNSON & COMPANY		2404 PENNSYLVANIA AVE.	EVANSVILLE	47721
A	329	METHODIST HOSP. OF INDIANA INC.		1604 N. CAPITAL AVE.	INDIANAPOLIS	46202
A	3215	MICHIGAN ROAD ANIMAL HOSP.		7720 N. MICHIGAN RD.	INDIANAPOLIS	46268
A	321	MILES LABORATORIES, INC.			ELKHART	46514
A	327	PURDUE UNIVERSITY			LAFAYETTE	47907
A	328	ROSE-MULMAN INC. OF TECH		5500 WABASH AVE.	TERRE HAUTE	47803
A	3222	ST. VINCENT HOSPITAL		2001 W. 86TH ST.	INDIANAPOLIS	46268
A	3220	TOXICOLOGY/PATHOLOGY SER. INC.		PO BOX 333	MT. VERNON	47620
A	3216	UNIVERSITY OF NOTRE DAME			NOTRE DAME	46556
A	3214	VALPARAISO UNIVERSITY			VALPARAISO	46383
A	3217	WABASH COLLEGE			CRAWFORDSVILLE	47933

IOWA

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	4215	AMBICO, INC.		PO BOX M ROUTE 2	DALLAS CENTER	50063
A	4202	COL OF OSTEOPATHIC MED & SURG		3200 GRAND AVE.	DES MOINES	50312
A	4205	DRAKE UNIVERSITY			DES MOINES	50311
A	4209	FORT DODGE LAB., INC.		800 FIRST ST., N.W.	FORT DODGE	50501
A	4203	IOWA STATE UNIVERSITY			AMES	50010
A	4211	LUTHER COLLEGE			DECORAH	52101
A	4216	MARIAN HEALTH CENTER		BOX 3168	SIOUX CITY	51102
A	4212	SALISBURY LABORATORIES		2000 ROCKFORD RD.	CHARLES CITY	50616
A	4213	ST. LUKE'S METHODIST HOSP.		1026 A AVENUE NE	CEDAR RAPIDS	52402
A	1201	SYNTEX (U.S.A.), INC.		PO BOX 863	DES MOINES	50304
A	4204	UNIVERSITY OF IOWA			IOWA CITY	52240

KANSAS

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	485	BAYVET CORP.		PO BOX 350	SHAWNEE MISSION	66201
A	4820	BETHEL COLLEGE			NORTH NEWTON	67117
A	4819	CEVA LABORATORIES, INC.		10580 BARKLEY	OVERLAND PARK	66212
A	4811	DOUGLAS INDUSTRIES, INC.		8008 ROSEHILL RD.	LENEXA	66215
A	4815	EMPORIA STATE UNIVERSITY		1200 COMMERCIAL ST.	EMPORIA	66801
A	4817	FORT HAYS STATE UNIV.			HAYS	67601
A	4822	JACKSON BIOLOGICS, INC.		1101 W. 56 HIGHWAY	OLATHE	66061
A	481	KANSAS STATE UNIVERSITY			MANHATTAN	66502
A	4813	KRUCKENBERG, S.M.		2651 OREGON LANE	MANHATTAN	66502
A	484	MOBAY CHEMICAL CORP.		PO BOX 1930	STILWELL	66085
A	489	PARSONS STATE HOSPITAL			PARSONS	67357
A	4818	PITTSBURG STATE UNIVERSITY		1701 SOUTH BROADWAY	PITTSBURG	66762
A	483	UNIV. OF KANSAS MED. CTR.		RAINBOW BLVD. AT 39TH ST.	KANSAS CITY	66103
A	482	UNIVERSITY OF KANSAS			LAWRENCE	66044
A	4821	WASHBURN UNIVERSITY OF TOPEKA		1700 COLLEGE	TOPEKA	66621
A	4814	WITCHITA STATE UNIVERSITY		1845 FAIRMOUNT	WICHITA	67208

KENTUCKY

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	616	ENVIRONMENT HEALTH RESEARCH & TESTING.		2514 REGENCY RD. SUITE 105	LEXINGTON	40503
A	615	GOODWILL KENNELS		RS BOX 189	CYNTHIANA	41031
X	613	HARLAN APPALACHIAN REG. HOSP.			HARLAN	40831
A	614	MOREHEAD STATE UNIVERSITY			MOREHEAD	40351
A	612	UNIVERSITY OF KENTUCKY			LEXINGTON	40506
A	611	UNIVERSITY OF LOUISVILLE		101 CHESTNUT	LOUISVILLE	40202

LOUISIANA

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	721	ALTON OCHSNER MEDICAL FOUND		1520 JEFFERSON HWY	NEW ORLEANS	70121
A	726	GULF SOUTH RES. INSTITUTE		PO BOX 1177	NEW IBERIA	70560
A	723	LOUISIANA STATE UNIV. SYSTEM			BATON ROUGE	70803
A	7210	LOUISIANA TECH. UNIVERSITY			RUSTON	71270
A	7216	LOYLA UNIVERSITY		6363 SO. CHARLES AVE	NEW ORLEANS	70118
A	7213	NICHOLLS STATE UNIVERSITY		BOX 3031 UNIVERSITY STA.	THIBODAUX	70301
A	729	NORTHEAST LOUISIANA UNIV.		4001 DESIARD	MONROE	71201
A	726	NW STATE UNIV. OF LA.			NATCHITOCHES	71457
A	722	TULANE UNIVERSITY			NEW ORLEANS	70118
A	727	UNIVERSITY OF SW LOUISIANA			LAFAYETTE	70501
A	7211	XAVIER UNIVERSITY			NEW ORLEANS	70125

MAINE

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	1111	ATLANTIC ANTIBODIES		P.O. BOX 1032	SCARBOROUGH	04074
A	118	BATES COLLEGE			LEWISTON	04240
A	119	BOOM, SCHMIDT-NIELSEN		MT. DESERT ISLAND BIOLOGICAL L.	SALSBURY COVE	04672
A	113	BOWDOIN COLLEGE			BRUNSWICK	04011
A	1118	DYNATECH DIAGNOSTICS, INC		RR 1 INLAND FARM DR	SO WINDHAM	04082
A	112	MAINE MEDICAL CENTER		22 BRAINHALL ST	PORTLAND	04102
A	115	NASSON COLLEGE			SPRINGVALE	04083
A	1110	NEW ENGLAND COL OF OSTEOP MED		605 POOL ROAD	BIDDEFORD	04005
A	1114	PRESIDENT & TRUSTEES OF COLBY COLLEGE			WATERVILLE	04901
A	111	THE JACKSON LABORATORY			BAR HARBOR	04609
A	116	UNIVERSITY OF MAINE			ORONO	04473
A	1113	VENTREX LABS INC		217 READ ST	PORTLAND	04103

MARYLAND

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	5128	AM. TYPE CULTURE COLLECTION		12301 PARKLAWN DR	ROCKVILLE	20852
A	5121	AMERICAN RED CROSS		6312 OLD GEORGETOWN RD	BETHESDA	20814
A	MDR32	BIOCON, INC.		649 LOFSTRAND LANE	ROCKVILLE	20850
A	5124	BIOTECH RESEARCH LABS., INC		12301 TWINBROOK PKWY	ROCKVILLE	20852
A	5127	BORRISTON RESEARCH LABS, INC		5050 BEECH PL	TEMPLE HILLS	20031
A	5129	BURTON, PARSONS & CO., INC.		120 WESTHAMPTON AVE	SEAT PLEASANT	20027
A	MDR33	CARNEGIE INST. OF WASHINGTON		115 W UNIVERSITY PARKWAY	BALTIMORE	21210
X	5123	COPPIN STATE COLLEGE			BALTIMORE	21216
A	51520	ESSEX COMMUNITY COLLEGE		7201 ROSSVILLE BLVD	BALTIMORE	21237
A	511	FLOW LABORATORIES, INC.		1710 CHAPMAN AVE	ROCKVILLE	20852
A	5116	FRIENDS MED. SCI. RES CTR INC		23 BLOOMSBURY AVE	BALTIMORE	21228
A	51534	GENEX CORPORATION		12300 WASHINGTON AVE	ROCKVILLE	20852
A	5125	GILLETTE COMP. RESEARCH INST		1413 RESEARCH BLVD	ROCKVILLE	20850
X	5119	HARFORD COMMUNITY COLLEGE		401 THOMAS RUN ROAD	BEL AIR	21014
X	5118	HITTMAN ASSOCIATES, INC.		PO BOX 610	COLUMBIA	21043
A	5120	HYNSON, WESTCOTT/DUNNING INC		CHARLES & CHASE STS	BALTIMORE	21201
A	5130	INST. FOR BEHAVORAL RES. INC		2429 LINDEN LANE	SILVER SPRING	20910
A	510	JOHN HOPKINS UNIVERSITY		34TH & CHARLES ST	BALTIMORE	21218
A	5122	LITTON BIONETICS, INC.		5516 NICHOLSON LN	KENSINGTON	20795
A	5115	MD. PSYCHIATRIC RESEARCH CTR		PO BOX 3235	BALTIMORE	21228
A	513	MICROBIOLOGICAL ASSOC., INC		5221 RIVER ROAD	BETHESDA	20816
X	5117	PENINSULA GENERAL HOSPITAL		E. DIVISION & W. LOCUST STS	SALISBURY	21601
A	5115	PHARMACOPATHICS RES. LAB. INC		1261 N. WASHINGTON BLVD	LAUREL	20810
X	517	SACRED HEART HOSPITAL		900 SETON DR	CUMBERLAND	21502
A	5111	SINAI HOSPITAL OF BALTIMORE		BELVEDERE & GREENSPRING AVES.	BALTIMORE	21215
A	5112	ST. JOSEPH HOSPITAL		7620 YORK RD	BALTIMORE	21204
A	MDR27	THE UNION MEMORIAL HOSPITAL		201 E UNIV. PKWY	BALTIMORE	21218
X	5120	TOWSON STATE COLLEGE			BALTIMORE	21204
A	5114	UNIVERSITY OF MARYLAND		C/O DR GERALD M WARD, DIR	COLLEGE PARK	20742

MASSACHUSETTS

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	145	ARTHUR D. LITTLE, INC.		25 ACORN PARK	CAMBRIDGE	02140
A	141	ASTRA PHARMACEUTICAL PROD INC		7 NEPONSET ST	WORCESTER	01606
A	1426	AVCO EVERETT RESEARCH LAB.		2385 REVERE BEACH PKWY	EVERETT	02149
A	1473	BECKER JUNIOR COLLEGE		1003 MAIN ST	LEICESTER	01524
A	1415	BETH ISRAEL HOSPITAL		330 BROOKLINE AVE	BOSTON	02215
A	1454	BIO-RESEARCH INSTITUTE, INC.		9 COMMERCIAL AVE	CAMBRIDGE	02141
A	1483	BIOASSAY SYSTEMS CORP		225 WILDWOOD AVENUE	WOBURN	01801
A	1485	BIOMEASURE INCORPORATED		11-15 'E' AVE	HOPKINTON	01748
A	1489	BIOTEK, INC.		21-C OLYMPIA AVE	WOBURN	01801
A	1459	BOSTON BIOMEDICAL RES. INST., INC.		20 STANIFORD ST	BOSTON	02114
A	1433	BOSTON CITY HOSPITAL		818 HARRISON AVE	BOSTON	02118
A	1450	BOSTON COLLEGE		140 COMMONWEALTH AVE	CHESTNUT HILL	02167
A	1417	BOSTON UNIVERSITY		705 COMMONWEALTH AVE	BOSTON	02215
A	1430	BRANDEIS UNIVERSITY			WALTHAM	02154
A	1492	BRIGHAM AND WOMEN'S HOSPITAL		75 FRANCIS STREET	BOSTON	02115
A	1493	CAMBRIDGE DIAGNOSTICS, INC.		350 ALLSTON STREET	CAMBRIDGE	02139
A	1486	CAMBRIDGE NUCLEAR RADIOPHARMACEUTICAL CENTER.		575 MIDDLESEX TURNPIKE	BILLERICA	01821

MASSACHUSETTS—Continued

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	1420	CHILDREN'S HOSP. MEDICAL CTR		300 LONGWOOD AVE	BOSTON	02115
A	1429	CLARK UNIVERSITY		950 MAIN ST	WORCESTER	01610
A	1475	COLLABORATIVE RESEARCH, INC		1365 MAIN ST	WALTHAM	02154
A	148	EG&G MASON RESEARCH INSTITUTE		57 UNION ST	WORCESTER	01608
A	1419	EYE RESEARCH INST./RETINA FOUNDATION.		20 STANIFORD ST	BOSTON	02114
A	1489	FINDLEY RESEARCH INC.		PO BOX 375	AUBURNET	02702
A	1457	FORSYTH DENTAL CENTER		140 THE FENWAY	BOSTON	02115
A	1476	GAMMA DIAGNOSTIC LABS., INC		66 WALTON ST	ATTLEBORO	02703
A	1472	GTE LABORATORIES, INC.		40 SYLVAN ROAD	WALTHAM	02154
A	1419	HARVARD MEDICAL SCHOOL		25 SHATTUCK ST	BOSTON	02115
A	1425	HOLYOKE COMMUNITY COLLEGE		303 HOMESTEAD AVE	HOLYOKE	01040
A	1471	JOSLIN DIABETES FOUND., INC		1 JOSLIN PL	BOSTON	02215
A	1418	LAHEY CLINIC FOUNDATION		605 COMMONWEALTH AVE	BOSTON	02215
A	144	LEMUEL SHATTUCK HOSPITAL		170 MORTON ST	JAMAICA PLAIN	02130
A	1457	LIBERTY MUTUAL RESEARCH CT		71 FRANKLAND RD	HOPKINTON	01748
A	147	MASS. COLLEGE OF PHARMACY & ALLIED HEALTH SCIENCES.		179 LONGWOOD AVE	BOSTON	02115
A	1422	MASS. EYE & EAR INFIRMARY		243 CHARLES ST	BOSTON	02114
A	1418	MASS. INSTITUTE OF TECHNOLOGY		77 MASSACHUSETTS AVE	CAMBRIDGE	02139
A	1414	MASSACHUSETTS GENERAL HOSP.			BOSTON	02114
A	1454	MILLIPORE CORPORATION		ASHBY ROAD	BEDFORD	01730
A	1426	MOUNT IDA JUNIOR COLLEGE		777 DEDHAM STREET	NEWTON CENTER	02195
A	1424	MT. HOLYOKE COLLEGE			SOUTH HADLEY	01075
A	1444	NEW ENGLAND DEACONESS HOSP.		185 PILGRIM RD	BOSTON	02215
A	1423	NEW ENGLAND NUCLEAR CORPORATION.		501 TREBLE COVE RD	NORTH BILLERICA	01862
A	1474	NEWBURY JUNIOR COLLEGE		150 SUMMER ST	HOLLISTON	01746
A	1421	NORTHEASTERN UNIVERSITY		360 HUNTINGTON AVE	BOSTON	02115
A	1432	SHRINERS BURNS INSTITUTE		50 BLOSSOM ST	BOSTON	02114
A	1476	SHRIVER CTR., MENT RETARD INC.		200 TRAPELO ROAD	WALTHAM	02154
A	143	SIDNEY FARBER CANCER INSTITUTE		44 BINNEY ST	BOSTON	02115
A	1466	SIMMONS COLLEGE	PARK SCIENCE CENTER	300 THE FENWAY	BOSTON	02115
A	1461	SMITH COLLEGE			NORTHAMPTON	01060
A	1413	ST. ELIZABETH'S HOSPITAL		736 CAMBRIDGE ST	BRIGHTON	02135
A	1451	ST. MARGARET'S HOSP FOR WOMEN		90 CUSHING AVE	DORCHESTER	02125
A	1411	ST. VINCENT HOSPITAL		25 WINTHROP ST	WORCESTER	01604
A	1453	STATE LABORATORY INSTITUTE/ MASS. DEPT. OF PUBLIC HEALTH.		375 SOUTH ST	JAMAICA PLAIN	02130
A	1439	STONEHILL COLLEGE			NORTH EASTON	02356
A	1491	SYNCOR INTERNATIONAL CORP		5 DEANGELO DRIVE	BEDFORD	01730
A	1477	THE MEMORIAL HOSPITAL		119 BELMONT ST	WORCESTER	01605
A	148	TOXICOLOGY&A, INC.		7630 CONCORD AVE	CAMBRIDGE	02138
A	1445	TRUSTEES OF HAMPSHIRE COLLEGE			AMHERST	01002
A	1484	TUFTS UNIVERSITY		BALLOU HALL	MEDFORD	02155
A	1452	TUFTS-NEW ENG MED CTR., INC		BOX 237-171 HARRISON AVE	BOSTON	02111
A	1481	UNIVERSITY OF LOWELL		450 AIKEN ST	LOWELL	01854
A	1436	UNIVERSITY OF MASSACHUSETTS			AMHERST	01002
A	1484	WELLESLEY COLLEGE		WELLESLEY COLLEGE SCIENCE CNTR.	WELLESLEY	02181
A	1435	WILLIAMS COLLEGE			WILLIAMSTOWN	01267
A	1458	WORCESTER POLYTECHNIC INST		WEST ST	WORCESTER	01609
A	1412	WORCHESTER FOUND FOR EXP. BIO		222 MAPLE AVE	SHREWSBURY	01545

MICHIGAN

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	3429	ALBION COLLEGE			ALBION	49224
A	347	BLODGETT MEMORIAL HOSPITAL		1940 WEALTHY, S.E.	GRAND RAPIDS	49506
A	3446	C.S. MOTT COMMUNITY COLLEGE		1401 E. COURT ST	FLINT	48503
A	3444	CENTRAL MICHIGAN UNIVERSITY			MT. PLEASANT	48858
A	3436	CHILDREN'S HOSP. OF MICHIGAN		3901 BEAUBIEN	DETROIT	48201
A	3445	DELTA COLLEGE		UNIVERSITY CENTER, R STA	BAY CITY	48710
A	3428	DETROIT-MACOMB HOSP. ASSN		7815 E. JEFFERSON	DETROIT	48214
A	3449	DORNER LABORATORIES		3203 W. COLUMBIA	BATTLE CREEK	49017
A	348	DOW CHEMICAL CO			MIDLAND	48640
A	3432	DOW CORNING CORPORATION		SOUTH SAGINAW RD	MIDLAND	48640
A	3419	FERRIS STATE COLLEGE			BIG RAPIDS	49307
A	3450	FOUNDATION FOR BEHAVIORAL RESEARCH		BOX 248, 630 CHERRY ST	AUGUSTA	49012
A	3452	GENERAL MOTORS RESEARCH LABS		12 MILE & MOUND RDS	WARREN	48090
A	3440	GRAND VALLEY STATE COLLEGE		COLLEGE LANDING	ALLENDALE	49401
A	3410	HENRY FORD HOSPITAL & EDSEL B. FORD INSTITUTE FOR MEDICA.		2799 W. GRAND BLVD	DETROIT	48202
A	3435	HOPE COLLEGE			HOLLAND	49423
A	3447	HUTZEL HOSPITAL		432 E. HANCOCK	DETROIT	48201
A	3476	INGHAM MEDICAL HOSPITAL		401 W. GREENLAWN	LANSING	48910
A	343	INTERNATIONAL RES. & DEV CORP		900 MAIN ST	MATTAWAN	49071
A	3441	JAFFEE, MARTIN D.		2110-15TH ST	BAY CITY	48708
A	3468	KERR HOSPITAL		21230 DEQUINDRE	WARREN	48091
A	3434	LABORATORY RES. ENTERP. INC.		6251 SOUTH 6TH ST	KALAMAZOO	49001
A	3411	LAFAYETTE CLINIC		951 E. LAFAYETTE	DETROIT	48207
A	3443	LAKE SUPERIOR STATE COLLEGE			SAULT STE. MARIE	49783
A	3455	LOWE, HENRY E.	RESEARCH & PRODUCT DEVELOPMENT CT.	21725 ALLEGHENY STREET	CASSOPOLIS	49031
A	3453	MARQUETTE GENERAL HOSPITAL			MARQUETTE	49855
A	3451	MCLAREN GENERAL HOSPITAL		401 S. BALLENGER HWY	FLINT	48502
A	3427	MI. DEPT OF PUBLIC HEALTH		3500 N. LOGAN	LANSING	48914
A	3439	MICHIGAN CANCER FOUNDATION		110 EAST WARREN AVE	DETROIT	48201

MICHIGAN—Continued

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	3417	MICHIGAN STATE UNIVERSITY			EAST LANSING	48823
A	3442	MICHIGAN TECHNOLOGICAL UNIV.			HOUGHTON	49931
A	3412	MT. CARMEL MERCY HOSPITAL		0071 W. OUTER DRIVE	DETROIT	48235
A	3421	NORTHERN MICHIGAN UNIVERSITY			MARQUETTE	49855
A	3438	OAKLAND UNIVERSITY			ROCHESTER	48063
A	349	PROVIDENCE HOSPITAL		16001 NINE MILE RD.	SOUTHFIELD	48075
A	346	SINAI HOSPITAL OF DETROIT		6767 W. OUTER DR.	DETROIT	48235
A	3454	TOXICITY RESEARCH LAB.		510 WEST HACKLEY	MUSKEGON	49444
A	3424	UNIVERSITY OF DETROIT		4001 W. MCNICHOLS RD.	DETROIT	48221
A	341	UNIVERSITY OF MICHIGAN			ANN ARBOR	48104
A	3416	UPJOHN COMPANY		301 HENRIETTA ST.	KALAMAZOO	49001
A	345	WARNER-LAMBERT/PARK-DAVIS		GPO BOX 1047	ANN ARBOR	48106
A	3418	WAYNE COUNTY GENERAL HOSPITAL			ELOISE	48132
A	3414	WAYNE STATE UNIVERSITY			DETROIT	48202
A	3433	WESTERN MICHIGAN UNIVERSITY			KALAMAZOO	49001
A	3437	WILLIAM BEAUMONT HOSPITAL		3601 W. 13 MILE RD.	ROYAL OAK	48073

MINNESOTA

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	4121	APPLIED CARDIOPULMONARY RESEARCH FOUNDATION.		2545 CHICAGO AVE SUITE 111	MINNEAPOLIS	55404
A	4116	AUSTIN COMMUNITY COLLEGE		1600-8TH AVE., N.W.	AUSTIN	55912
A	4120	BIO-MEDICUS, INC.		15307 MINNETONKA INDUSTRIAL RD.	MINNETONKA	55343
A	4122	CARDIAC PACEMAKERS, INC		4100 N HAMLINE AVE	ST PAUL	55108
A	4123	DAIG CORPORATION		14901 INDUSTRIAL RD	MINNETONKA	55343
A	4119	KALLESTAD LABORATORIES		1000 LAKE HAZELTINE DR.	CHASKA	55318
A	4114	MANKATO STATE UNIVERSITY			MANKATO	56001
A	418	MAYO FOUNDATION		200 FIRST ST. S.W.	ROCHESTER	55901
A	4115	MEDTRONIC, INC.		1500 NORTHDALE BLVD NW	MINNEAPOLIS	55433
A	417	MINNEAPOLIS MED RES FOUND INC		619 S. 5TH ST.	MINNEAPOLIS	55415
A	4118	NORTHWESTERN HOSPITAL		910 E. 27TH ST.	MINNEAPOLIS	55407
A	416	PIKER LAB., INC./SUBSIDIARY 3M CO		3M CENTER, BLDG. 216-3	ST PAUL	55101
A	4112	SOUTHWEST STATE UNIVERSITY			MARSHALL	56258
A	4111	ST. JOHN'S UNIVERSITY			COLLEGEVILLE	56321
A	413	ST. PAUL-RAMSEY HOSPITAL		640 JACKSON ST.	ST. PAUL	55101
A	415	UNIVERSITY OF MINNESOTA			MINNEAPOLIS	55455

MISSISSIPPI

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	652	MISSISSIPPI STATE UNIVERSITY		DRAWER O	STATE COLLEGE	39762
A	651	UNIVERSITY OF MISSISSIPPI		OFFICE OF THE CHANCELLOR	UNIVERSITY	38677
A	654	UNIVERSITY OF SOUTHERN MISSISSIPPI		SOUTHERN STATION	HATTIESBURG	39401

MISSOURI

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	4310	CURATORS OF THE UNIV. OF MO.			COLUMBIA	65201
A	4336	FARMLAND INDUSTRIES, INC.		P.O. BOX 7305	KANSAS CITY	64116
A	431	INST. OF MED. EDUCATION & RES.		1605 S. 14TH ST.	ST. LOUIS	63104
A	427	JEWISH HOSPITAL OF ST. LOUIS		216 S. KINGSHIGHWAY BLVD.	ST. LOUIS	63110
A	4331	JR COLL. DIST OF JEFFERSON CO			HILLSBORO	63050
A	4321	KANSAS CITY COLL/OSTEOP. MED.		2105 INDEPENDENCE BLVD.	KANSAS CITY	64124
A	4312	KIRKSVILLE COLL/OSTEOP & SURG			KIRKSVILLE	63501
A	4332	LOGAN COLLEGE OF CHIROPRACTIC		1851 SCHOETTLER RD.	CHESTERFIELD	63017
A	438	MALLINCKRODT CHEMICAL WORKS		2ND & MALLINCKRODT STS.	ST. LOUIS	63160
A	4329	MAPLE WOODS COMMUNITY COLLEGE		2601 NE BARRY RD.	KANSAS CITY	64156
A	4324	MARION LABORATORIES, INC.		10236 BUNKER RIDGE RD.	KANSAS CITY	64137
A	438	MIDWEST RESEARCH INSTITUTE		425 VOLKER BLVD.	KANSAS CITY	64114
A	4323	MISSOURI ANALYTICAL LAB. INC.			ST. LOUIS	63103
A	4333	MONSANTO COMPANY		800 N LINDBERGH BLVD.	ST LOUIS	63166
A	4330	NORTHEAST MISSOURI STATE UNIV.			KIRKSVILLE	63501
A	4314	PHILIPS ROXANE, INC.		2621 N. BELT HIGHWAY	ST. JOSEPH	64502
A	436	RALSTON PURINA CO.		CHECKERBOARD SQUARE	ST LOUIS	63188
A	432	SCIENTIFIC ASSOCIATES, INC.		6200 S. LINDBERGH	ST. LOUIS	63123
A	4325	SIGMA INTERNATIONAL, LTD.		3500 DEKALB ST.	ST. LOUIS	63129
A	4316	ST. JOHN'S MERCY HOSPITAL		621 S. NEW BALLAS ROAD	ST. LOUIS	63141
A	433	ST. LOUIS COLLEGE OF PHARMACY		4588 PARKVIEW PLACE	ST. LOUIS	63310
A	4311	ST. LOUIS UNIVERSITY		1402 S. GRAND AVE.	ST. LOUIS	63104
X	4327	ST. MARY'S HOSPITAL		101 MEMORIAL DR.	KANSAS CITY	64108
A	436	WASHINGTON UNIVERSITY		LINDELL & SKINKER BLVDS.	ST. LOUIS	63130
A	4322	WILLIAM JEWELL COLLEGE			LIBERTY	64068
A	4326	YOUNGER LABORATORIES, INC.		123 CLIFF CAVE RD.	ST. LOUIS	63129

MONTANA

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	812	MONTANA STATE UNIVERSITY			BOZEMAN	59715
A	814	RIBI IMMUNOCHEM RESEARCH, INC.		P.O. BOX 1409	HAMILTON	59840
A	811	UNIVERSITY OF MONTANA			MISSOULA	59801

NEBRASKA

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	4710	BURNS-BIOTEC LABS INC		220 & WEST CENTER RD	ELKHORN	68022
A	4712	CENTRAL BIOLOGICAL CO.		9935 J ST.	OMAHA	68127
A	4702	CREIGHTON UNIV/SCHOOL OF MED.		629 N. 27TH ST	OMAHA	68131
A	4708	DANA COLLEGE			BLAIR	68009
A	4705	DELLEN, INC.		77TH & BERUM AVE	RALSTON	67127
A	4709	FATHER FLANAGAN'S BOYS' HOME			BOYS TOWN	68010
X	4703	HARRIS LABORATORIES, INC.		PO BOX 427, 624 PEACH ST.	LINCOLN	68501
A	4711	MIDLAND LUTHERAN COLLEGE		720 E. 9TH	FREMONT	68025
A	4707	NEBRASKA WESLEYAN UNIVERSITY		50TH & ST. PAUL AVE.	LINCOLN	68504
A	4716	OMAHA COLLEGE OF HEALTH CAREERS.		1052 PARK AVE.	OMAHA	68105
A	4704	UNIVERSITY OF NEBRASKA		3835 HOLDREGE	LINCOLN	68583

NEVADA

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	881	UNIVERSITY OF NEVADA			RENO	89557

NEW HAMPSHIRE

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	121	DARTMOUTH COLLEGE		PO BOX 432	HANOVER	03755
A	126	IMMUNOGENETICS, INC.		50 CHESTNUT ST.	DOVER	03820
A	122	KEENE STATE COLLEGE			KEENE	03431
A	123	UNIVERSITY OF NEW HAMPSHIRE		SPAULDING BLDG.	DURHAM	03824

NEW JERSEY

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	2274	ALLIED CHEMICAL CORP.		PO BOX 1057R	MORRISTOWN	07960
A	2213	AMR BIOLOGICAL RESEARCH INC.		629 SOUTH CLINTON AVE	TRENTON	08611
A	2241	BECTON, DICKINSON & COMPANY		MACK CENTRE DRIVE	PARAMUS	07652
A	2280	BEPLEX LABORATORIES INC		110 E HANOVER AVE	CEDAR KNOLLS	07927
A	2263	BIO-SAFETY RESEARCH LABS.		MILK & BROAD STS.	BRANCHVILLE	07826
A	2233	BIO/DYNAMICS INC		METTLERS RD.	EAST MILLSTONE	08873
A	2261	BIOLOGICAL CORP OF AMERICA		40 MARKLEY ST.	PORT READING	07064
A	2253	BLOOMFIELD COLLEGE	DEPT. OF BEHAV. BIOLOGY/ PHARMACOLOGY.		BLOOMFIELD	07003
A	2221	BRISTOL-MYERS PRODUCTS		225 LONG AVE.	HILLSIDE	07205
A	2276	CAMDEN COUNTY COLLEGE		PO BOX 200	BLACKWOOD	08012
X	2223	CAMPBELL SOUP COMPANY		CAMPBELL PLACE	CAMDEN	08101
A	2274	CIBA PHARMACEUTICAL CO.		556 MORRIS AVE.	SUMMIT	07901
A	2260	CLINICAL SCIENCES, INC.		30 TROY RD.	WHIPPANY	07981
A	2266	COLL. OF MED & DENISTRY OF NJ		PO BOX 101	PISCATAWAY	08854
A	2220	COLLEGE OF MEDICINE & DENTISTRY OF N. J.		100 BERGEN ST.	NEWARK	07103
A	2269	CONSUMER PROD. TESTING CO, INC.		1275 BLOOMFIELD AVE. BLDG. #2	FAIRFIELD	07006
A	2273	COSMOPOLITAN SAFETY EVALUATION, INC.		MUD CUT RD. & RT. 15	LAFAYETTE	07848
A	2272	COUNTY COLLEGE OF MORRIS		RT #10 & CENTER GROVE RD	DOVER	07801
A	2210	CYANAMID FNDN. FOR AGRL DEV.		PO BOX 400	PRINCETON	08540
A	2212	ETHICON RESEARCH FOUNDATION		U.S. HIGHWAY 22	SOMERVILLE	08876
A	2229	FAIRLEIGH DICKINSON UNIV.		1000 RIVER ROAD	TEANECK	07666
A	2266	FMC CORP./ENVIRONMENTAL & HEALTH LAB.		76 FOURTH ST.	SOMERVILLE	08876
A	2258	FOOD & DRUG RES. LAB., INC.		60 EVERGREEN PLACE	EAST ORANGE	07018
A	2259	GENERAL FOODS CORPORATION		250 NORTH STREET	WHITE PLAINS	10625
A	2276	GIBRALTAR BIO LAB, INC.		23 JUST RD	FAIRFIELD	07006
A	2270	HAZLETON/PRIME LABS, INC.		PO BOX 648	FARMINGDALE	07727
A	2277	HILLSIDE ACRES INC.		GREEN POND RD BOX 52	BUTTZVILLE	07829
A	2242	HOECHST-ROUSSEL PHARMACEUT.		RT. 202-206 NORTH	SOMERVILLE	08876
A	2232	HOFFMAN-LA ROCHE, INC.		340 KINGSLAND ST.	NUTLEY	07110
A	2237	INSTITUTE FOR MEDICAL RES.		COPEWOOD ST.	CAMDEN	08103
A	2267	JOHNSON & JOHNSON BABY PRODUCTS COMPANY.		220 CENTENNIAL AVE.	PISCATAWAY	08854
A	2216	JOHNSON & JOHNSON RES. FNDN.		ROUTE 1	N. BRUNSWICK	08903
A	224	LEDERCO LABORATORIES		123 HAWTHORNE ST.	ST ROSELLE PARK	07204
A	2271	LEVER BROTHERS COMPANY		45 RIVER RD.	EDGEWATER	07020
X	2240	MANZIANO, DR. CLARENCE F.		603 WESTSIDE AVE.	JERSEY CITY	07304
A	2230	MERCK & CO., INC.		126 E. LINCOLN AVE	RAHWAY	07065
X	2235	MONMOUTH MEDICAL CENTER		3RD & PAVILION AVE.	LONG BRANCH	07740
A	225	N.J. STATE DEPT. OF HEALTH		BOX 1540	TRENTON	08625
A	2266	NABISCO, INC.		RIVER ROAD	EAST HANOVER	07936
A	2231	NEWARK BETH ISRAEL HOSPITAL		201 LYONS AVE.	NEWARK	07112
A	2262	NUTRITION INTERNATIONAL	PRODUCT SAFETYLABS	725 CRANBURY ROAD	EAST BRUNSWICK	08816
A	2255	ORGANON, INC.		375 MT. PLEASANT AVE	WEST ORANGE	07052
A	2264	ORTHO DIAGNOSTIC SYSTEMS INC.		ROUTE 202	RARITAN	08869
A	226	ORTHO RESEARCH INSTITUTE		U.S. HIGHWAY 202	RARITAN	08869
A	2278	PHARMACIA INC		800 CENTENNIAL AVE.	PISCATAWAY	08854
A	2244	PITMAN-MOORE, INC.		PO BOX 344	WASHINGTON CROSSING	08560
A	2249	REED & CARNRICK		20 BORIGHT AVE.	KENILWORTH	07033
A	2225	RUTGERS, THE STATE UNIVERSITY			NEW BRUNSWICK	08903
A	2248	S. MOUNTAIN LIFE SCIENCES, INC.		1102 INDUSTRIAL PKWY.	BRICKTOWN	08723
A	229	SANDOZ PHARMACEUTICALS			HANOVER	07936
A	2236	SCHERING CORP		60 ORANGE ST.	BLOOMFIELD	07003

NEW JERSEY—Continued

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	2245	SETON HALL UNIVERSITY			SOUTH ORANGE	07079
A	2226	SOUTH MOUNTAIN LABS, INC.		350 LACKAWANNA PL	S ORANGE	07079
A	2229	SQUIBB AGRL RESEARCH CNTR		3 BRIDGES RD.	THREE BRIDGES	08887
A	2215	ST. BARNABAS MEDICAL CENTER		OLD SHORT HILLS ROAD	LIVINGSTON	07039
X	227	ST. MICHAEL'S HOSPITAL		206 HIGH ST	NEWARK	07102
A	2222	TRUSTEES OF PRINCETON UNIV.		NEW SOUTH BLDG	PRINCETON	08540
A	2250	U.S. TESTING CO., INC.		1415 PARK AVE	HOBOKEN	07070
A	2239	UNIVERSITY LABORATORIES, INC.		910 N. SECOND AVE	HIGHLAND PARK	08904
A	2287	VINELAND LABORATORIES, INC.			VINELAND	08360
A	222	WARNER-LAMBERT RESEARCH INST.		170 TABOR RD.	MORRIS PLAINS	07950
A	2211	WELLS LABS., INC.		25-27 LEWIS AVE.	JERSEY CITY	07306
A	2286	WILLIAM PATERSON COLLEGE		300 POMPTON RD.	WAYNE	07470
A	2266	WOOD, SUZANNE		6 E LAKE CIRCLE DRIVE	MARLTON	08053

NEW MEXICO

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	8511	COULSTON INTERNATIONAL, INC.		2512 CHRISTINA PLACE	ALMOGORDO	88310
A	858	EASTERN NEW MEXICO UNIVERSITY			PORTALES	88130
A	8510	GRUENEWALD, W.		1020 HOLLY SUGAR BLDG.	COLORADO SPRINGS	80903
A	851	LOS ALAMOS SCIENTIFIC LAB.		PO BOX 1663	LOS ALAMOS	87545
A	853	LOVELACE BIOMEDICAL & ENVIROMENTAL RES. INST.		P.O. BOX 5890	ALBUQUERQUE	87185
A	857	N.M. INST. OF MINING & TECH.			SOCORRO	87801
A	859	REGENTS OF NM STATE UNIV.		BOX 3695	LAS CRUCES	88003
A	852	UNIVERSITY OF NEW MEXICO			ALBUQUERQUE	87106

NEW YORK

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	21121	ADWAY RESEARCH LABORATORY		777 WARREN RD.	ITHACA	14850
A	2169	ALBANY COLLEGE OF PHARMACY		106 N. SCOTLAND AVE	ALBANY	12208
A	21103	ALBANY MEDICAL COLLEGE		47 NEW SCOTLAND AVE	ALBANY	12208
A	2163	ALFRED UNIVERSITY			ALFRED	14802
A	21109	AM STANDARDS TESTING BUR. INC.		40 WATER ST.	NEW YORK	10004
A	2154	AM MUSEUM OF NATURAL HISTORY		CENTRAL PARK WEST AT 79 ST.	NEW YORK	10024
A	2124	AMERICAN CYANAMID CO.		N. MIDDLETOWN RD.	PEARL RIVER	10965
A	21146	AMERICAN HEALTH FOUNDATION		320 EAST 43RD ST.	NEW YORK	10017
X	2164	ANIMAL MEDICAL CENTER		510 E. 62ND ST.	NEW YORK	10021
A	2139	ARNOT-OGDEN MEMORIAL HOSPITAL		ROE AVE.	ELMIRA	14901
A	2115	ASSOCIATED UNIVERSITIES, INC.			UPTON	11973
A	2160	AVON PRODUCTS, INC./TOXICOLOGY DEPT.		DIVISION STREET	SUFERN	10901
A	21139	AYERST RESEARCH LABORATORIES			CHAZY	12921
A	21152	BARBARA KOPP GERIATRIC RES CT		109 THORNTON AVE	AUBURN	13021
A	2133	BETH ISRAEL MEDICAL CENTER		10 NATHAN D. PERLMAN PL	NEW YORK	10003
A	21105	BIOSAFE SYSTEMS, INC.		1804 PLAZA AVE.	NEW HYDE PARK	11040
A	21150	BIOSPHERE RESEARCH CENTER, INC.		216 CONGERS ROAD	NEW CITY	10956
X	21120	BOOTH MEMORIAL HOSPITAL		MAIN ST. AT BOOTH MEMORIAL AVE.	FLUSHING	11355
A	2141	BOYCE THOMPSON INSTITUTE		TOWER ROAD	ITHACA	14853
A	2148	BRISTOL LABORATORIES		PO BOX 657	SYRACUSE	13201
A	2145	BRONX-LEBANON HOSPITAL CENTER		1276 FULTON AVE.	BRONX	10456
A	2159	BROOKDALE HOSPITAL CENTER		BROOKDALE PLAZA	BROOKLYN	11212
A	21116	BUFFALO GENERAL HOSPITAL		100 HIGH ST.	BUFFALO	14203
X	21150	BUFFALO TESTING LABS., INC.		902 KENMORE AVENUE	BUFFALO	14216
A	21134	BUREAU OF LABS., CITY OF NY		455 FIRST AVENUE	NEW YORK	10018
A	2146	CANISIUS COLLEGE		2001 MAIN ST.	BUFFALO	14208
A	21127	CARTER-WALLACE, INC.		HALF ACRE RD.	CRANBURY	08512
A	2147	CATTARAUGUS COUNTY LABORATORY.		302 LAURENE ST.	OLEAN	14760
A	21162	CHARLES RIVER RESEARCH PRIMATES CORP.		P.O. BOX 416	PORT WASHINGTON	11050
A	21136	CHILDRENS HOSP. OF BUFFALO		219 BRYANT ST.	BUFFALO	14222
A	2142	CITY UNIVERSITY OF N.Y.		1616 BROADWAY	NEW YORK	10036
A	21115	COLD SPRINGS HARBOR LAB		P.O. BOX 100	COLD SPRINGS HARBOR	11724
A	218	COLGATE UNIVERSITY			HAMILTON	13346
A	21154	COLGATE-PALMOLIVE COMPANY		300 PARK AVE.	NEW YORK	10022
A	21114	CORNELL UNIV. MEDICAL COLLEGE		1300 YORK AVE.	NEW YORK	10021
A	21119	CORNELL UNIVERSITY			ITHACA	14850
A	2162	CORNING GLASS WORKS		SULLIVAN PARK	CORNING	14830
A	21161	CSH2 TOXICOLOGY RESEARCH, INC.		903 RIVER STREET	ROCHESTER	14612
X	2158	D'YOUVILLE COLLEGE		320 PORTER AVE.	BUFFALO	14201
A	21158	DAVID J. KELMAN RESEARCH FOUND.		150 EAST 58TH ST.	NEW YORK CITY	10022
A	2152	EASTMAN DENTAL CENTER		625 ELMWOOD AVE.	ROCHESTER	14620
A	2167	EASTMAN KODAK CO.		KODAK PARK	ROCHESTER	14650
A	2155	ELMIRA COLLEGE		COLLEGE AVENUE	ELMIRA	14901
A	21164	EM INDUSTRIES, INC.		35 CHANNEL DRIVE	PORT WASHINGTON	11050
A	21115	ENDO LABORATORIES, INC.		1000 STEWART AVE.	GARDEN CITY	11530
A	2110	ERIE COMMUNITY COLLEGE		4140 S WESTERN BLVD.	ORCHARD PARK	14127
A	2165	ERIE COUNTY MEDICAL CTR		462 GRIDER ST.	BUFFALO	14215
A	21148	FORDHAM UNIVERSITY		E. FORDHAM RD.	BRONX	10458
A	2173	GENESEE HOSPITAL		224 ALEXANDER ST.	ROCHESTER	14607
A	21160	GUERRA, LADISLAO A.	LAG BIOLOGICALS, INC.	725 W 172ND STREET	NEW YORK	10032
A	21126	HEALTH RESEARCH, INC.		EMPIRE STATE PLAZA TOWER BLDG.	ALBANY	12208
A	2181	HOBARTH & WM. SMITH COLLEGES		ST. CLAIR ST.	GENEVA	14456

NEW YORK—Continued

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	2186	HOFSTRA UNIVERSITY		HEMPSTEAD TPK	HEMPSTEAD	11550
A	21166	HOSPITAL FOR JOINT DISEASES ORTHOPAEDIC INSTITUTE	BETH ISRAEL MEDICAL CENTER	301 EAST 17TH STREET	NEW YORK	10003
A	21151	HOUGHTON COLLEGE			HOUGHTON	14744
A	2193	HUDSON VALLEY COMM. COLLEGE		80 VANDENBURGH AVE	TROY	12180
A	2184	JAMESTOWN COMMUNITY COLLEGE		525 FALCONER ST.	JAMESTOWN	14701
A	21129	JEWISH HOSP/MED CTR/BROOKLYN		555 PROSPECT PLACE	BROOKLYN	11238
A	2196	KINGSBROOK JEWISH MED. CNTR.		66 E. 49TH ST.	BROOKLYN	11203
A	2181	LENOX HILL HOSPITAL		100 E. 77TH ST.	NEW YORK	10021
A	21157	LINCOLN MEDICAL MENTAL HLTH CT		234 EAST 149ST.	BRONX	10451
A	21117	LONG ISLAND COLLEGE HOSPITAL		340 HENRY ST.	BROOKLYN	11201
A	21137	LONG ISLAND JEWISH MED. CNTR.		270-05 76 AVE.	NEW HYDE PARK	11040
A	21122	LONG ISLAND UNIVERSITY		UNIVERSITY CENTER	BROOKVILLE	11548
A	2176	MAIMONIDES MEDICAL CENTER		4802 TENTH AVE.	BROOKLYN	11219
A	21112	MARY IMOGENE BASSET HOSPITAL		ATWELL RD.	COOPERSTOWN	13326
A	2117	MASONIC MEDICAL RESEARCH LAB.		BLEECKER ST.	UTICA	13501
A	2167	MEDICAL FOUNDATION OF BUFFALO		73 HIGH ST.	BUFFALO	14203
A	2142	METHODIST HOSP. OF BROOKLYN		506 SIXTH ST.	BROOKLYN	11215
A	211	MILLARD FILLMORE HOSPITAL		3 GATES CIRCLE	BUFFALO	14267
A	21153	MOBIL OIL CORP	ENVIRON. & TOXICOL. DPT.	150 EAST 42 ST.	NEW YORK	10017
A	2161	MONTEFIORE HOSP. & MED. CNTR.		111 E. 210 ST.	BRONX	10467
A	2140	MT. SINAI SCHOOL OF MEDICINE		100 ST. & 5TH AVE	NEW YORK	10029
A	21133	N.Y. DEPT. OF MENTAL HYGIENE		44 HOLLAND AVE.	ALBANY	12229
A	2138	N.Y.C. HEALTH & HOSP. CORP.		125 WORTH ST.	NEW YORK	10013
A	2179	NACC TESTING & RESEARCH LAB.		80 HANSON PL.	BROOKLYN	11217
A	2174	NASSAU COUNTY MEDICAL CTR.		2201 HEMPSTEAD TURNPIKE	EAST MEADOW	11554
X	2149	NASSAU HOSPITAL		259 FIRST ST.	MINEOLA	11501
A	2150	NEW YORK MEDICAL COLLEGE		FIFTH AVENUE AT 106 ST.	NEW YORK	10029
A	21118	NEW YORK UNIVERSITY		WASHINGTON SQUARE	NEW YORK	10003
A	21107	NORTH SHORE HOSPITAL		300 COMMUNITY DR.	MANHASSET LONG IS.	11030
A	2122	NORWICH PHARMACAL CO.	PRODUCT SAFETY LABS.	PO BOX 191	NORWICH	13815
A	21124	NYS DEPARTMENT OF HEALTH		EMPIRE STATE PLAZA	ALBANY	12237
A	2166	PFIZER, INC.		235 E. 42ND ST.	NEW YORK	10017
X	2123	POLYTECHNIC INST. OF BROOKLYN		333 JAY ST.	BROOKLYN	11201
A	21135	PUBLIC HEALTH RESEARCH INST. OF NYC.		455 FIRST AVENUE	NEW YORK	10016
A	21155	QUEENS CHILDREN PSYCHIATRIC CT		74-03 COMMONWEALTH BLVD.	BELLEROSE	11426
A	21106	QUEENS HOSPITAL CENTER		82-68 164TH ST.	JAMICA	11432
A	21130	RENSSELAER POLYTECHNIC INST.			TROY	12181
A	2143	REVLON RESEARCH CENTER, INC.		945 ZEREGA AVE.	BRONX	10473
A	21140	ROCHESTER GENERAL HOSPITAL		1425 PORTLAND AVE	ROCHESTER	14621
A	21126	ROCHESTER INSTITUTE OF TECH.		1 LOMB MEMORIAL DR.	ROCHESTER	14623
A	2136	ROCKEFELLER UNIVERSITY		YORK AVE. AT 66TH ST.	NEW YORK	10021
A	2158	SCHWARTZ COLL. OF PHARMACY		75 DEKALB AVE.	BROOKLYN	11201
A	21100	SKIDMORE COLLEGE			SARATOGA SPRINGS	38861
A	2172	SLOAN-KETTERING INST./CANCER		410 E. 68TH ST.	NEW YORK	10021
X	2178	ST. BARNABAS HOSPITAL		183RD & THIRD STS.	BRONX	10457
A	2106	ST. BONAVENTURE UNIVERSITY			ST. BONAVENTURE	14778
A	2157	ST. JOHN FISHER COLLEGE		3690 EAST AVE.	ROCHESTER	14618
A	2112	ST. JOHN'S UNIVERSITY		GRAND CENTRAL UTOPIA PARKWAYS.	JAMAICA	11432
X	2116	ST. JOSEPH'S HOSP. HEALTH CTR.		301 PROSPECT AVE.	SYRACUSE	13203
A	21141	ST. LAWRENCE UNIVERSITY			CANTON	13617
A	2171	ST. LUKE'S HOSPITAL CENTER		AMSTERDAM AT W. 114TH ST.	NEW YORK	10025
A	2125	ST. MARY'S HOSPITAL		89 GENESEE ST.	ROCHESTER	14611
A	2164	ST. VINCENT'S HOSP & MED CNTR.		153 W. 11TH ST.	NEW YORK	10011
A	2137	STANDARD BRANDS, INC.		625 MADISON AVE.	NEW YORK	10022
X	2114	STARK, DR. DM		ROCKEFELLER UNIV. 66TH ST & YO.	NEW YORK	10021
A	21136	STATE UNIVERSITY OF NEW YORK		UNIVERSITY PLAZA RM. 415-S	ALBANY	12201
A	2111	STERLING DRUG, INC.		COLUMBIA TURNPIKE	RENSSELAER	12144
A	21159	SURGICAL DESIGN CORP		24-05 JACKSON AVE.	LONG ISLAND CITY	11101
A	21128	SYRACUSE UNIVERSITY		130 COLLEGE PL.	SYRACUSE	13210
A	21123	THE N.Y. SOCEITY FOR THE RELIEF OF THE RUPTURED & THE CR.		541 E 71ST	NEW YORK	10021
A	216	THE NEW BLOOD CENTER		310 E. 67 ST.	NEW YORK	10021
A	217	TISSUE CULTURE ASSOC., INC.	W. ALTON JONES CELL SCIENCE CT., INC.	7611 KNOX AVE. S NO.	LAKE PLACID	12946
A	2170	TRUDEAU INSTITUTE, INC.		ALGONQUIN AVE.	SARANAC LAKE	12983
A	21104	TRUSTEES OF COLUMBIA UNIV.		BOX 20, LOW MEMORIAL LIBRARY.	NEW YORK	10023
A	21148	UNION CARBIDE CORP.		401 THEODORE FREMD AVE.	RYE	10580
A	21109	UNIVERSITY OF ROCHESTER		RIVER BLVD.	ROCHESTER	14627
A	213	USV PHARMACEUTICAL CORP.		1 SCARSDALE RD.	TUCKAHOE	10707
A	2134	WESTWOOD PHARMACEUTICALS, INC.		468 DEWITT ST.	BUFFALO	14213
A	2188	WILSON MEM HOSP HEART-LUNG LB.			JOHNSON CITY	13790
A	21132	YESHIVA UNIVERSITY		55 FIFTH AVE.	NEW YORK	10003

NORTH CAROLINA

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	5520	AJINOMOTO U.S.A., INC.		4020 AJINOMOTO DRIVE	RALEIGH	27609
A	5515	APPALACHIAN STATE UNIVERSITY			BOONE	28608
A	559	BURROUGHS WELLCOME CO.		3030 CORNWALLIS RD.	RES. TRIANGLE PARK	27709
A	5514	CARNIVORE EVOLUTIONARY RESEARCH INSTITUTE.		ROUTE 3 BOX 160	PITTSBORO	27311
A	5519	CENTRAL CAROLINA TECH INST		1105 KELLY DR	SANFORD	27330
A	5517	CHEMICAL INDUSTRY INST. OF TOXICOLOGY (CIIT).		PO BOX 12137	RES. TRIANGLE PARK	27709
A	553	DUKE UNIVERSITY			DURHAM	27706

NORTH CAROLINA—Continued

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	5513	GREER LABORATORIES, INC.		BOX 800	LENOIR	28645
A	5518	HEINEMAN MED. RES. CNTR.		CHARLOTTE MEMORIAL HOSP.	CHARLOTTE	28234
A	5511	LORILLARD RESEARCH CENTER		420 ENGLISH ST.	GREENSBORO	27420
A	556	N. CAROLINA STATE UNIVERSITY		P.O. BOX 5356	RALEIGH	27607
A	552	RESEARCH TRIANGLE INSTITUTE		PO BOX 12194	RES. TRIANGLE PARK	27709
A	5510	SCHOOL OF MED./EAST CAROLINA UNIV.		ANIMAL RESOURCES CENTER	GREENVILLE	27834
A	557	UNIV. OF N.C. AT CHARLOTTE			CHARLOTTE	28205
A	5512	UNIV. OF N.C. AT WILMINGTON		7205 WRIGHTSVILLE AVE	WILMINGTON	28401
A	554	UNIVERSITY OF NORTH CAROLINA			CHAPEL HILL	27514
A	551	WAKE FOREST UNIVERSITY			WINSTON-SALEM	27109
A	5516	WESTERN CAROLINA UNIVERSITY			CULLOWHEE	28723

NORTH DAKOTA

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	453	MINOT STATE COLLEGE			MINOT	58701
A	452	NORTH DAKOTA STATE UNIVERSITY			FARGO	58102
A	451	UNIVERSITY OF NORTH DAKOTA		SCHOOL OF MEDICINE	GRAND FORKS	58201

OHIO

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	31R60	ADRIA LABORATORIES, INC.		6071 ST. RT. 161 E.	PLAIN CITY	43064
A	31R20	AKRON CITY HOSPITAL		525 E. MARKET ST.	AKRON	44309
X	3151	AKRON GENERAL MEDICAL CENTER		400 WABASH AVE.	AKRON	44307
A	31R72	ALLERGY LABS. OF OHIO, INC.		823 E. 11 AVE.	COLUMBUS	43211
X	31R74	BALDWIN-WALLACE COLLEGE			BEREA	44017
A	31R21	BATELLE MEMORIAL INSTITUTE		505 KING AVE.	COLUMBUS	43201
A	31R47	BEN VENUE LABS. INC.		270 NORTHFIELD RD	BEDFORD	44146
A	31R26	BOWLING GREEN STATE UNIV.			BOWLING GREEN	43402
X	31R39	CAPITAL UNIVERSITY			COLUMBUS	43209
A	31R25	CASE WESTERN RESERVE UNIVERSITY		UNIVERSITY CIRCLE	CLEVELAND	44106
A	31R55	CENTRAL STATE UNIVERSITY		BANNEKER SCIENCE HALL	WILBERFORCE	45384
A	31R73	CHARLES F. KETTERING RES. LAB.		150 E. SOUTH COLLEGE ST.	YELLOW SPRINGS	45387
A	31R11	CHILDREN'S HOSPITAL		ELLAND AVE. & BETHESDA	CINCINNATI	45229
A	31R13	CHILDREN'S HOSPITAL		561 S 17TH ST.	COLUMBUS	43205
A	31R36	CHILDREN'S HOSPITAL OF AKRON		BUCHTEL AVE. AT BOWERY ST.	AKRON	44308
A	31R07	CHRIST HOSP. INST. OF MED RES		2141 AUBURN AVE.	CINCINNATI	45219
A	31R59	CINCINNATI MILACRON, INC.		4701 MARBURG AVE.	CINCINNATI	45209
A	31R17	CLEVELAND CLINIC FOUNDATION		2020 E. 93RD ST.	CLEVELAND	44120
A	31R01	CLEVELAND RES. INST. AT ST. VINCENT'S CHARITY HOSP.		2351 E. 22ND ST.	CLEVELAND	44115
A	31R58	CLEVELAND STATE UNIVERSITY		1983 E. 24TH ST.	CLEVELAND	44115
A	31R54	COLLEGE OF WOOSTER			WOOSTER	44691
A	31R66	COLUMBUS TECHNICAL INSTITUTE		550 E. SPRING ST.	COLUMBUS	43215
X	31R55	CREATIVE BIOLOGY LAB., INC.		3570 CLEVELAND-MASSILON RD.	BARBERTON	44203
X	31R67	CUYAHOGA COMMUNITY COLLEGE		700 CARNEGIE AVE.	CLEVELAND	44115
A	31R42	DENISON UNIVERSITY			GRANVILLE	43023
A	31R91	DIAMOND SHAMROCK CORP.		PO BOX 348	PAINESVILLE	44077
A	31R44	ELYRIA MEMORIAL HOSPITAL		630 E. RIVER ST.	ELYRIA	44035
A	31R33	FAIRVIEW GENERAL HOSPITAL		18101 LORAIN AVE.	CLEVELAND	44111
A	31R48	GIBCO DIVISION		P.O. BOX 300	CHAGRIN FALLS	44022
A	31R23	GOOD SAMARITAN HOSPITAL		3217 CLIFTON AVE.	CINCINNATI	45220
A	31R57	GRADY INVESTMENTS, INC.		9211 WINTON RD.	CINCINNATI	45231
A	31R09	HILL TOP RESEARCH, INC.			MIAMIVILLE	45147
A	31R53	HIRAM COLLEGE BIOLOGICAL STA.		PO BOX 1839	HIRAM	44234
A	31R85	HURON ROAD HOSPITAL		13951 TERRACE ROAD	CLEVELAND	44112
A	31R50	JOHN CARROLL UNIVERSITY			CLEVELAND	44118
A	31R30	KENT STATE UNIVERSITY			KENT	44240
A	31R70	LAKELAND COMMUNITY COLLEGE			MENTOR	44060
X	31R62	MARIETTA COLLEGE			MARIETTA	45750
A	31R43	MEDICAL COLLEGE OF OHIO		PO BOX 6190	TOLEDO	43614
A	31R84	MERRELL DOW PHARMACEUTICALS INC.		110 E. AMITY RD.	CINCINNATI	45215
A	31R29	MIAMI UNIVERSITY		OFFICE OF THE PRESIDENT	OXFORD	45056
A	31R60	MIAMI VALLEY HOSPITAL		1 WYOMING ST.	DAYTON	45409
A	31R25	MT. SINAI HOSPITAL		UNIVERSITY CIRCLE	CLEVELAND	44106
A	31R78	MUSKINGUM COLLEGE			NEW CONCORD	43762
A	31R88	NORTH AM. SCIENCE ASSOC., INC.		2261 TRACY RD.	NORTHWOOD	43605
A	31R92	NORTHEASTERN OHIO UNIV.		RT 44	ROOTSTOWN	44272
A	31R35	OBERLIN COLLEGE			OBERLIN	44704
A	31R10	OHIO AGRICULTURAL RES. & DEVELOPMENT CNTR.			WOOSTER	44691
A	31R86	OHIO DEPARTMENT OF HEALTH		1571 PERRY ST., PO BOX 2568	COLUMBUS	43216
A	31R40	OHIO NORTHERN UNIVERSITY			ADA	45810
A	31R14	OHIO STATE UNIVERSITY		190 N OVAL DR	COLUMBUS	43210
A	31R62	OHIO UNIVERSITY			ATHENS	45701
A	31R40	OHIO WESLEYAN UNIVERSITY			DELAWARE	43015
A	31R71	OTTERBEIN COLLEGE			WESTERVILLE	43081
A	31R48	PHONE-POULENC INC.		ROUTE 999	ASHLAND	44805
A	31R18	PROCTOR & GAMBLE CO.		PO BOX 39175	CINCINNATI	45239
A	31R94	SHADRACK BIOLOGICALS		7560 CHAGRIN RD.	CHAGRIN	44022
A	31R16	SPRINGBORN INST. FOR BIORESEARCH, INC.		969 N. BROADWAY ST.	SPENCERVILLE	45887
A	31R31	ST. LUKE'S HOSPITAL		11311 SHAKER BLVD.	CLEVELAND	44104

OHIO—Continued

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	31R82	ST. THOMAS HOSPITAL OF AKRON, OHIO		444 NORTH MAIN ST.	AKRON	44310
A	31R61	ST. VINCENT HOSPITAL & MEDICAL CENTER		2213 CHERRY ST.	TOLEDO	43608
A	31R19	UNIVERSITY OF AKRON			AKRON	44304
A	31R27	UNIVERSITY OF CINCINNATI		CLIFTON AVE.	CINCINNATI	45221
A	31R79	UNIVERSITY OF DAYTON		300 COLLEGE PARK	DAYTON	45469
A	31R06	UNIVERSITY OF TOLEDO		2801 W. BANCROFT ST.	TOLEDO	43606
A	31R89	W.I.L. RESEARCH LABS., INC.		3154 EXON AVE.	CINCINNATI	45241
A	31R81	WITTENBERG UNIVERSITY			SPRINGFIELD	45501
A	31R55	WRIGHT STATE UNIVERSITY		COL. GLENN HIGHWAY	45435	45435
A	31R85	XAVIER UNIVERSITY		VICTORY PARKWAY	CINCINNATI	45207
A	31R66	YOUNGSTOWN STATE UNIVERSITY		410 WICK AVE.	YOUNGSTOWN	44503

OKLAHOMA

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	736	BAPTIST MEMORIAL HOSPITAL		3500 NW GRAND BLVD.	OKLAHOMA CITY	73112
A	7312	DEAN MCGEE EYE INST.		608 STANTON YOUNG DR.	OKLA CITY	73104
A	7313	IMMUNO-MYCOLOGICS, INC.		P.O. BOX 1151	NORMAN	73070
A	736	OK STATE DEPT. OF HEALTH		3400 N. EASTERN	OKLAHOMA CITY	73105
A	731	OK STATE UNIV/AGRL & APP. SCI.			STILLWATER	74074
A	734	OKLAHOMA CITY UNIVERSITY		2501 N. BLACKWELDER	OKLAHOMA CITY	73106
A	7310	OKLAHOMA COLLEGE OF OSTEOPATHIC MED. & SURGERY.		1111 W. 17TH ST.	TULSA	74101
A	732	OKLAHOMA MEDICAL RESEARCH FOUNDATION.		825 NE 13TH ST.	OKLAHOMA CITY	73104
A	7311	ORAL ROBERTS UNIVERSITY	BIOMEDICAL RESEACH CTR	7777 S LEWIS	TULSA	74171
A	733	SOUTHWESTERN OKLAHOMA ST. UNIV.		SCHOOL OF PHARMACY	WEATHERFORD	73096
A	737	UNIVERSITY OF OKLAHOMA		660 PARRINGTON OVAL	NORMAN	73069

OREGON

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	9219	ANIMAL FOUNDATION INC.		821 RIVER AVENUE	EUGENE	97404
A	9216	ANIMAL HEALTH LABORATORY		635 CAPITOL ST NE	SALEM	97310
A	9215	BIOPRODUCTS, INC.		BOX 429	WARRENTON	97146
A	922	GOOD SAMARITAN HOSP & MED CTR.		1015 NW 22ND AVE.	PORTLAND	97210
A	9220	LINFIELD COLLEGE			MCMINNVILLE	97128
A	9210	OR REGIONAL PRIMATE RES. CTR.		505 NW 185TH AVE.	BEAVERTON	97005
A	925	OREGON STATE UNIVERSITY			CORVALLIS	97331
A	923	PACIFIC UNIVERSITY			FOREST GROVE	97116
A	9213	PCL-RIA, INC.		10700 N.E. SANDY BLVD.	PORTAND	97220
A	927	PORTLAND STATE UNIVERSITY		PO BOX 751	PORTLAND	97207
A	9212	PROVIDENCE MEDICAL CENTER		700 N.E. 47TH AVE.	PORTLAND	97213
A	9218	REED COLLEGE		3203 S.E. WOODSTOCK BLVD.	PORTLAND	97202
A	926	UNIV. OF OREGON DENTAL SCHOOL		611 SW CAMPUS DR.	PORTLAND	97201
A	921	UNIV/OREGON MED SCHOOL		3181 SW SAM JACKSON PK RD.	PORTLAND	97201
A	928	UNIVERSITY OF OREGON			EUGENE	97403
A	9214	WESTERN OREGON STATE COLLEGE		345 MONMOUTH AVE.	MONMOUTH	97361
A	9217	WILLAMETTE LABORATORIES		2450 NE FREMONT	PORTLAND	97212

PENNSYLVANIA

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	2312	ALBERT EINSTEIN MEDICAL CNTR.		YORK & TABOR RDS.	PHILADELPHIA	19141
A	2322	ALLEGHENY-SINGER RESEARCH CORP.		320 E. NORTH AVE.	PITTSBURGH	15212
A	2305	ALLEN PRODUCTS CO., INC.		PO BOX 2187,RD #3	ALLENTOWN	18001
A	23102	ALLENTOWN AND SACRED HEART HOSPT. CT.		1200 SOUTH CEDAR CREST BLVD.	ALLENTOWN	18105
A	2301	ARCO MEDICAL PRODUCTS CO.		RT 05 & RIVER RD.	LEECHBURG	15656
A	2309	ARGUS RESEARCH LABORATORIES, INC.		2025 RIDGE RD	PERKASIE	18934
A	23105	BIOLOGICAL CORPORATION OF AMERICA.		1250 WILSON DRIVE	WEST CHESTER	19380
A	2302	BIOSEARCH, INC.		PO BOX 8506	PHILDELPHIA	19101
A	2346	BUCKNELL UNIVERSITY			LEWISBURG	17837
A	2379	BUCKSHIRE CORPORATION		2025 RIDGE RD.	PERKASIE	18944
A	2352	CALIFORNIA STATE COLLEGE			CALIFORNIA	15419
A	2342	CANNON LABORATORIES		PO BOX 9627	READING	19605
A	2324	CARNEGIE-MELLON UNIVERSITY		5000 FORBES AVE.	PITTSBURGH	15213
A	2356	CDC RESEARCH, INC.		PO BOX 958	CLARKS SUMMIT	18411
A	2353	CENTRE SQUARE VETERINARY CLINIC		1030 DEKALB PIKE	CENTRE SQUARE	19422
A	2333	CHILDREN'S HOSP OF PHILA.		1 CHILDRENS CENTER	PHILADELPHIA	19104
A	2321	CHILDREN'S HOSP. OF PITT.		125 DESOTO ST.	PITTSBURGH	15213
A	2363	COLLEGE MISERICORDIA			DALLAS	18612
A	2364	CONNAUGHT LABORATORIES, INC.		RT. 611	SWIFTWATER	18370
A	2329	CONTRIBUTORS TO THE PA HOSP.		8TH & SPRUCE STS.	PHILADELPHIA	19107
A	2370	CORIATOMIC, INC.		PO BOX 434	INDIANA	15701
A	2341	DALMATIAN RESEARCH FOUND.		720 WOODBURY RD.	YORK	17405
A	2304	DEBORAH HOSPITAL FOUNDATION	DEBORAH HEART & LUNG CTR.	1715 ARCH STREET	PHILADELPHIA	19103
X	2316	DONALD GUTHRIE FND. FOR MEDICAL RES., INC.		200 S. WILBUR AVE.	SAYRE	18840

PENNSYLVANIA—Continued

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	2328	DREXEL UNIVERSITY		32ND & CHESTNUT ST.	PHILADELPHIA	19104
A	2313	DUQUESNE UNIVERSITY			PITTSBURGH	15219
X	2310	EASTERN PA PSYCHIATRIC INST.		HENRY AVE. & ABBOTTSFORD	PHILADELPHIA	19129
A	2396	EYE AND EAR HOSPITAL		230 LOTHROP STREET	PITTSBURGH	15213
A	2367	FEDERATED MEDICAL RESOURCES		RD 2	HONEY BROOK	19344
A	2367	FISHER SCIENTIFIC CO.		711 FORBES AVE.	PITTSBURGH	15219
A	2377	GENERAL ELECTRIC CO.		VALLEY FORGE SPACE CENTER	KING OF PRUSSIA	19406
A	2331	HAHNEMANN MED. COLLEGE & HOSP.		230 N. BROAD ST.	PHILADELPHIA	19102
A	23104	HALLORAN, W. ROBERT & ELIZABETH		RT. 29, P.O. BOX 111	SOUTH MONTROSE	18843
A	2378	HARCUM JUNIOR COLLEGE		MORRIS & MONTGOMERY AVE.	BRYN MAWR	19010
A	2376	INDIANA UNIV. OF PENNSYLVANIA			INDIANA	15701
A	2358	INSTITUTE FOR CANCER RESEARCH		7701 BURHOLME AVE.	PHILADELPHIA	19111
A	236	INSTITUTE, GEISINGER MEDICAL CNTR.		THE GEISINGER MEDICAL CNTR.	DANVILLE	17821
A	233	LANKENAU HOSPITAL		LANCASTER & CITY LINE AVES.	PHILADELPHIA	19151
A	2364	LEHIGH UNIVERSITY			BETHLEHEM	18015
X	2371	LINCOLN UNIVERSITY			LINCOLN UNIVERSITY	19352
A	23105	LORD CORPORATION		2101 PENISULA DRIVE	ERIE	16512
A	2350	LYCOMING COLLEGE			WILLIAMSPORT	17701
A	2389	M.B. RESEARCH LAB INC.		PO BOX 178 STEINBERG WENTZ RD.	SPINNERSTOWN	18968
A	2361	M.B. RESEARCH LABS., INC.		STEINSBURG & WENTZ ROADS	SPINNERSTOWN	18968
A	2360	MAGEE-WOMENS HOSPITAL		FORBES & HALKET STS.	PITTSBURGH	15213
A	2315	MCNEIL LABORATORIES, INC.		CAMP HILL RD.	FT. WASHINGTON	19034
A	2275	MEDIAN SCH. OF ALLIED HEALTH CAREERS.		121 6TH ST.	PITTSBURGH	15222
A	235	MEDICAL COLLEGE OF PENNA.		3300 HENRY AVE.	PHILADELPHIA	19129
A	2336	MERCY CATHOLIC MEDICAL CENTER		LANSDOWNE AVE.	DARBY	19023
A	2356	MONELL CHEMICAL SENSES CTR.		3500 MARKET ST.	PHILADELPHIA	19104
A	2362	MONTEFIORE HOSPT. ASSOC/WSTN. PA.		3459 FIFTH AVE.	PITTSBURGH	15213
A	2357	MORAVIAN COLLEGE		MAIN & ELIZABETH AVE.	BETHLEHEM	18018
A	2369	PA COLLEGE OF PODIATRIC MED.		8TH AT RACE ST.	PHILADELPHIA	19107
A	23100	PENN COLLEGE OF OPTOMETRY		1200 WEST GODFREY AVE.	PHILADELPHIA	19141
A	2364	PENNSYLVANIA DEPT. OF HEALTH		PICKERING WAY & WELSH POOL RD.	LIONVILLE	19353
A	2321	PENNSYLVANIA STATE UNIVERSITY		207 OLD MAIN	UNIVERSITY PARK	16802
A	2335	PENNWALT CORPORATION		3 PENN CENTER	PHILADELPHIA	19102
A	2356	PENROSE RESEARCH LABORATORY		34TH ST. & GIRARD AVE.	PHILADELPHIA	19104
A	2360	PHARMACHEM CORP.		BOX 1035 719 ETEPKO BLVD.	BETHLEHEM	18018
A	2366	PHARMACOLOGY RESEARCH, INC.		21 MAIN ST.	DARBY	19023
A	2345	PHARMAKON LABORATORIES		1140 QUINCY AVE.	SCRANTON	18510
A	23107	PHARMAKON RESEARCH INTERNATION, INC.			WAVERLY	18471
A	2325	PHILA. COLL. OF OSTEOP. MED.		4150 CITY LINE AVE.	PHILADELPHIA	19130
A	231	PHILADELPHIA COL. OF PHARMACY & SCIENCE.		43RD ST. & KINGSESSING AVE.	PHILADELPHIA	19104
A	2319	PRESBYTERIAN-UNIVERSITY OF PA		51 N. 39TH ST.	PHILADELPHIA	19104
A	2397	PRODUCT INVESTIGATIONS, INC.	HALLOWELL LABORATORIES	151 EAST TENTH AVE.	CONSHOHOCKEN	19428
A	2347	RACHELWOOD WILDLIFE PRESERVE		RD 1	NEW FLORENCE	15944
A	2337	ROHM & HAAS COMPANY		NORRISTOWN & MCKEAN RDS.	SPRINGHOUSE	19477
A	2305	SACKS, I.	SACKS FARM	RD3	EVANS	16029
A	2312	SMITHKLINE CORPORATION		1500 SPRING GARDEN ST.	PHILADELPHIA	19101
A	2358	ST. VINCENT COLLEGE			LATROBE	15650
A	2348	SUSQUEHANNA UNIVERSITY			SELINSGROVE	17870
X	2362	SYNDOT LABORATORIES		1075 NEW DEHAVEN RD.	W. CONSHOHOCKEN	19428
A	2327	TEMPLE UNIVERSITY		BROAD & MONTGOMERY STS.	PHILADELPHIA	19122
A	2366	THE GRADUATE HOSPITAL		19TH & LOMBARD STS.	PHILADELPHIA	19146
A	236	THE MERCY HOSPITAL OF PITTSBURGH.		1400 LOCUST ST.	PITTSBURGH	15219
A	2311	THOMAS JEFFERSON UNIVERSITY		1025 WALNUT ST.	PHILADELPHIA	19107
A	2316	UNIV. HEALTH CENTER OF PITTSBURGH.		TERRACE & DESOTO STS.	PITTSBURGH	15213
A	2322	UNIVERSITY OF PENNSYLVANIA		101 COLLEGE HALL	PHILADELPHIA	19104
A	23103	VILLANOVA UNIVERSITY		MENDEL HALL ROOM G -11	VILLANOVA	19085
A	2349	W. L. CARPEL LABS., INC.		THUD RIDGE FARM	COCHRANVILLE	19330
A	2328	WESTINGHOUSE CORP.		1310 BEULAH RD.	PITTSBUGH	15235
A	23101	WHITE EAGLE LABORATORIES, INC.		3003 LOWER STATE RD.	DOYLESTOWN	18901
A	230	WILLIAM H. RORER, INC.		500 VIRGINIA DR.	FORT WASHINGTON	19034
A	2355	WISTAR INSTITUTE		36TH & SPRUCE STS.	PHILADELPHIA	19104
A	2316	WYETH LABORATORIES, INC.		PO BOX 8299	PHILADELPHIA	19101

PUERTO RICO

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	94R6	DADE DIAGNOSTICS INC.		RD 11 5 KM 22.8	AGUADA	00602
A	94R2	ELI-LILLY INDUSTRIES, INC.		PO BOX 71325	SAN JUAN	00936
A	94R4	EX-LAX, INC.		CALL BOX 1020	HUMACAO	00661
X	94R3	INSTITUTE OF HEALTH LABS.		PO BOX 10427, CAPARRA HEIGHTS.	SAN JUAN	00922
A	94R6	OMNI RESEARCH, INC.		PO BOX 1158	SAN GERMAN	00753
A	94R10	PONCE SCHOOL OF MEDICINE		AVENIDA UNIVERSIDAD	PONCE	00731
A	94R9	UNIVERSIDAD CENTRAL DEL CARIBE		SCHOOL OF MEDICINE, BOX 906	CAYEY	00633
A	94R1	UNIVERSITY OF PUERTO RICO			RIO PIEDRAS	00931

RHODE ISLAND

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	163	BROWN UNIVERSITY		79 WATERMAN ST. BROWN STA.	PROVIDENCE	02912
A	1511	CURRAN, ALTON J. M.D.		314 ANGELL ST.	PROVIDENCE	02906
A	166	MEMORIAL HOSPITAL		PROSPECT ST.	PAWTUCKET	02860
A	155	MIRIAM HOSPITAL		164 SUMMIT AVENUE	PROVIDENCE	02906
A	1513	PROVIDENCE COLLEGE			PROVIDENCE	02916
A	1510	RHODE ISLAND COLLEGE			PROVIDENCE	02908
A	162	RHODE ISLAND HOSPITAL		593 EDDY ST.	PROVIDENCE	02903
A	167	ROGER WILLIAMS GENERAL HOSP.		825 CHALKSTONE AVE.	PROVIDENCE	02908
A	154	UNIVERSITY OF RHODE ISLAND			KINGSTON	02881

SOUTH CAROLINA

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	562	CLEMSON UNIVERSITY			CLEMSON	29631
A	561	MEDICAL COLLEGE OF S. CAROLINA		171 ASHLEY AVE.	CHARLESTON	29403
A	566	SAVANNAH RIVER LABORATORY			AIKEN	29808
A	564	TRI-COUNTY TECHNICAL COLLEGE		BOX 87	PENDLETON	29670
A	563	UNIVERSITY OF SOUTH CAROLINA			COLUMBIA	29208
A	565	WINTHROP COLLEGE			ROCK HILL	29730

SOUTH DAKOTA

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	462	SOUTH DAKOTA STATE UNIVERSITY			BROOKINGS	57006
A	461	UNIVERSITY OF SOUTH DAKOTA			VERMILLION	57069

TENNESSEE

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	638	BAPTIST MEMORIAL HOSPITAL		899 MADISON AVE.	MEMPHIS	38103
A	631	BEECHAM LABORATORIES		501 FIFTH ST.	BRISTOL	37620
A	6311	EAST TENNESSEE STATE UNIV.			JOHNSON CITY	37601
A	632	MEHARRY MEDICAL COLLEGE		1005 16TH AVE. NORTH	NASHVILLE	37208
A	636	MEMPHIS STATE UNIVERSITY			MEMPHIS	38111
A	633	OAK RIDGE ASSOC. UNIVERSITIES		PO BOX 117	OAK RIDGE	37830
A	6310	PLOWSH, INC.		3030 JACKSON AVE.	MEMPHIS	38112
A	637	ST. JUDE CHILDREN'S RES HOSP.		PO BOX 318	MEMPHIS	38101
A	634	UNIVERSITY OF TENNESSEE			KNOXVILLE	37916
A	635	VANDERBILT UNIVERSITY			NASHVILLE	37203

TEXAS

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	7409	ACORN RESEARCH LAB.		3410 OWEN	AUSTIN	78705
A	7411	ALCON LABORATORIES, INC.		PO BOX 1959	FORT WORTH	76101
A	7402	AM BIOTECHNOLOGY, INC.		212 EAST CENTRAL	BELTON	76513
A	7442	AMF/BIOLOGICAL & DIAGNOSTIC PRODUCTS CO.		1015 N. AUSTIN	SEGUIN	78155
A	7439	BAYLOR COLLEGE OF DENTISTRY		800 HALL ST.	DALLAS	75235
A	7428	BAYLOR UNIVERSITY			WACO	76703
A	7418	BAYLOR UNIVERSITY COLLEGE OF MEDICINE.		1200 MOURSUND AVE.	HOUSTON	77025
A	7434	BROWNSVILLE ANIMAL RES. CNTR.		1810 CENTRAL AVE.	BROWNSVILLE	78520
A	7438	CARDIOVASCULAR RESEARCH LAB.		P.O. BOX 225099	DALLAS	75265
A	7444	CARVILLE, SVM, INF	BETHYL LABS INC.	P.O. BOX 821	MONTGOMERY	77356
A	7454	DALLAS CO. COMM. COLLEGE DIST.		701 ELM	DALLAS	75202
A	7443	FRANKLIN LABORATORIES		PO BOX 699	AMARILLO	79105
A	7403	GAMMA BIOLOGICALS, INC.		3700 MANGUM RD.	HOUSTON	77092
A	7436	HELSIM LABORATORIES		1520 LINDBERGH DR.	BEAUMONT	77704
A	7451	IMMUNO-MODULATORS LABORATORIES LTD.		P.O. BOX 1279	STAFFORD	77477
A	7457	INTERMEDICS, INC.		PO BOX 617	FREEPORT	77541
A	7423	JOHN H. SWEETS, M.D., ASSOC.		PO BOX 7016	ODESSA	79760
A	7429	KALLESTAD	KALLESTAD LABORATORIES, INC.	2000 AUSTIN NAT'L BANK TOWER	AUSTIN	78701
A	7405	LAMAR UNIVERSITY		BOX 10037 BIOLOGY DEPT.	BEAUMONT	77710
A	7433	NORTH TEXAS STATE UNIVERSITY		BOX 5218 NT STATION	DENTON	76203
A	7402	PAN AMERICAN UNIVERSITY			EDINBURG	78539
A	7431	RICE UNIVERSITY		PO BOX 1892	HOUSTON	77001
A	7466	SCOTT & WHITE MEMORIAL HOSP.		2401 S. 31ST ST.	TEMPLE	76501
A	7432	SOUTHERN METHODIST UNIVERSITY			DALLAS	75222
A	7469	SOUTHWEST FOUNDATION FOR RES. & ED.		P.O. BOX 28147	SAN ANTONIO	78284
A	7465	SOUTHWEST RESEARCH INSTITUTE		8500 CULEBRA RD.	SAN ANTONIO	78206
A	7440	SOUTHWEST TEXAS STATE UNIV.			SAN MARCOS	78666
A	7467	ST JOSEPH HOSPITAL	SURGICAL TRAINING LAB.	1600 CALHOUN	HOUSTON	77002
A	7468	ST. JOSEPH'S HOSPITAL		1919 LA BRANCH	HOUSTON	77002
A	7446	ST. PAUL HOSPITAL		5909 HARRY HINES	DALLAS	75235
A	7449	STILLMEADOW, INC.		3223 LACOSTA DR.	MISSOURI CITY	77459
A	7467	TECHNOLOGY, INC.		511 WEST RAPSODY	SAN ANTONIO	78216
A	7412	TEXAS A&M UNIVERSITY		LARR FACILITY	COLLEGE STATION	77843
A	7448	TEXAS CHRISTIAN UNIVERSITY			FT. WORTH	76129
A	7437	TEXAS HEART INSTITUTE			HOUSTON	77002

TEXAS—Continued

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	7401	TEXAS RESEARCH INSTITUTE OF MENTAL SCIENCES		1300 MOURSUND	HOUSTON	77025
A	7445	TEXAS STATE TECHNICAL INST.		JAMES CONNALLY CAMPUS	WACO	76705
A	7447	TEXAS TECH UNIVERSITY			LUBBOCK	79409
A	7440	TEXAS WOMAN'S UNIVERSITY		BOX 23971, TWU STATION	DENTON	76204
A	7427	TRINITY UNIVERSITY		715 STADIUM DR.	SAN ANTONIO	78212
A	7450	TX TECH. UNIV HEALTH SCI CNTR		PO BOX 4569	LUBBOCK	79409
A	7420	UNIVERSITY OF HOUSTON		3801 CULLEN BLVD	HOUSTON	77004
A	7429	UNIVERSITY OF TEXAS SYSTEM		PO BOX 7999	AUSTIN	78712
A	7458	VACCINES, INC.		2114 SO. 1ST	TEMPLE	76501
A	7438	WADLEY INSTS OF MOLECULAR MED		9000 HARRY HINES	DALLAS	75235
A	7435	ZOECON INDUSTRIES, INC.		12200 DENTON DR.	DALLAS	75234

UTAH

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	873	BRIGHAM YOUNG UNIVERSITY		RM 679 WIDTSOE BLDG.	PROVO	84601
A	875	INTERMOUNTAIN LABORATORIES		870 E. 7250 SOUTH	MIDVALE	84047
A	874	LATTER-DAY SAINTS HOSPITAL		325-8TH AVE.	SALT LAKE CITY	84103
A	879	MIDECO		391 CHIPETA WAY SUITE B	SALT LAKE CITY	84108
A	876	PRIMARY CHILDREN'S HOSPITAL		320 TWELFTH AVE.	SALT LAKE CITY	84103
A	871	UNIVERSITY OF UTAH		309 PARK BLDG.	SALT LAKE CITY	84112
A	8710	UNIVERSITY OF UTAH RES. INSTITUTE		520 WAKARA WAY	SALT LAKE CITY	84108
A	872	UTAH STATE UNIVERSITY			LOGAN	84321
A	878	WEBER STATE COLLEGE		3750 HARRISON BLVD	OGDEN	84408

VERMONT

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	135	INST FOR MED RES/BENNINGTON		DEWEY ST.	BENNINGTON	05201
A	139	MIDDLEBURY COLLEGE			MIDDLEBURY	05753
A	131	UNIV OF VT & STATE AGRI. COLL			BURLINGTON	05401
A	136	VERMONT TECHNICAL COLLEGE		RANDOLPH CTR.	VERMONT	05061

VIRGINIA

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	527	A.H. ROBINS CO. INC.		1211 SHERWOOD AVE.	RICHMOND	23220
A	5217	BLUE RIDGE COMMUNITY COLLEGE		PO BOX 80	WEYERS CAVE	24486
A	5214	COLLEGE OF WILLIAM AND MARY			WILLIAMSBURG	23185
A	529	EASTERN VA MEDICAL AUTHORITY		P.O. BOX 1980 OLNEY RD.	NORFOLK	23501
A	VAR20	ENVIRONMENTAL CONSULTANTS INC		1022 W 24TH ST.	NORFOLK	23517
A	VAR31	FLOW LABORATORIES, INC.		7655 OLD SPRINGHOUSE ROAD	MCLEAN	22102
A	5219	GEORGE MASON UNIVERSITY		4400 UNIVERSITY DR.	FAIRFAX	22030
A	5218	GLENN H. SHEPARD, M.D. INC.		314 MAIN ST.	NEWPORT NEWS	23601
A	VAR6	HAZELTON LAB., INC.		9200 LEESBURG TURNPIKE	VIENNA	22180
A	52R22	HAZLETON/PRIMELABS, INC.		MONMOUTH COUNTY AIRPORT	FARMINGDALE	07727
X	5216	LYNCHBURG COLLEGE			LYNCHBURG	24504
A	5316	MELOY LABS., INC.		6715 ELECTRONIC DR.	SPRINGFIELD	22151
A	5213	OLD DOMINION UNIVERSITY		PO BOX 6173	NORFOLK	23508
A	VAR23	UNIVERSITY OF RICHMOND		DEPT. OF BIOLOGY	UNIVERSITY OF RICHMOND	23173
A	VAR11	UNIVERSITY OF VIRGINIA	VIVARIUM FARM	MEDICAL CNTR/P.O. BOX 459	CHARLOTTESVILLE	22908
A	VAR7	VA COMMONWEALTH UNIV.		12TH & BROAD STS.	RICHMOND	23219
A	525	VIRGINIA POLYTECHNIC INST.			BLACKSBURG	24061
A	5211	WASHINGTON AND LEE UNIVERSITY			LEXINGTON	24450

WASHINGTON

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	9120	BIO MEDICAL RESEARCH LABS.		1115 E. PIKE ST.	SEATTLE	98122
A	9123	CENTRAL WASHINGTON UNIVERSITY			ELLENSBURG	98926
A	919	EASTERN WASHINGTON STATE COLLEGE			CHENEY	99004
A	9118	FORT STEILACOOM COMMUNITY COLLEGE		BOX 99166	TACOMA	98499
A	9111	HOLLISTER-STIER LABORATORIES		BOX 3145 TERMINAL ANNEX	SPOKANE	99220
A	9122	LOWER COLUMBIA COLLEGE		1600 MAPLE ST.	LONGVIEW	98632
A	916	PACIFIC NORTHWEST LABS.		PO BOX 999	RICHLAND	99352
A	915	PACIFIC NW RESEARCH FNDN.		1102 COLUMBIA ST.	SEATTLE	98104
A	9121	PHYSIO-CONTROL CORPORATION	EVERGREEN VET HOSPITAL	11811 WILLOWS RD	REDMOND	98052
A	913	PROVIDENCE HOSPITAL RES. CTR.		528 16TH AVE.	SEATTLE	98122
A	9115	PUGET SOUND BLOOD CENTER		TERRY AT MADISON	SEATTLE	98104
A	9114	SEATTLE-KING CO. HEALTH DEPT.		1303 PUBLIC SAFETY BLDG.	SEATTLE	98104
A	9112	ST. JOSEPH HOSPITAL			TACOMA	98405
A	911	UNIVERSITY OF WASHINGTON			SEATTLE	98101
A	917	VIRGINIA MASON RESEARCH CNTR.		1000 SENECA ST.	SEATTLE	98101
A	912	WASHINGTON STATE UNIVERSITY			PULLMAN	99163
A	9117	WESTERN WASH. UNIV.			BELLINGHAM	98225
A	9110	WEYERHAEUSER COMPANY		PO BOX 420	CENTRALIA	98531

WEST VIRGINIA

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	54R3	FAIRMONT STATE COLLEGE		103 HUNT HAUGHT HALL	FAIRMONT	26554
A	54R4	MARSHALL UNIVERSITY			HUNTINGTON	25701
A	541	WEST VIRGINIA UNIVERSITY		MEDICAL CENTER	MORGANTOWN	26506
A	542	WV SCHOOL OF OSTEOP. MEDICINE		400 N. LEE ST.	LEWISBURG	24901

WISCONSIN

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	3515	ALTECH LABORATORIES		RT. 4 SYENE RD.	MADISON	53711
A	3523	APPLETON MEMORIAL HOSP. ASSOC		1818 N. MEADE ST.	APPLETON	54911
A	3519	BELLIN MEMORIAL HOSPITAL		744 S. WEBSTER AVE.	GREEN BAY	54301
A	3521	BELOIT COLLEGE			BELOIT	53511
A	354	CENT. WI CT FOR DEVEL. DISABLED		317 KNUTSON DR.	MADISON	53704
A	3512	FROMM LABORATORIES, INC.			GRAFTON	53024
A	3511	MARQUETTE UNIVERSITY		1217 W. WISCONSIN AVE.	MILWAUKEE	53233
A	358	MARSHFIELD MEDICAL FOUND.		630 S. CENTRAL AVE.	MARSHFIELD	54449
A	3529	MEDICAL COLLEGE OF WISCONSIN, INC.		8701 WATERTOWN PLANK RD.	MILWAUKEE	53226
A	3526	MILWAUKEE CHILDREN'S HOSPITAL		1700 W. WISCONSIN AVE.	MILWAUKEE	53233
A	359	MT. SINAI HOSPITAL		948 N. 12TH ST.	MILWAUKEE	53233
A	351	REGENTS OF THE UNIV. OF WISC.		750 UNIVERSITY AVE.	MADISON	53706
A	3527	S.C. JOHNSON & SON, INC.		1525 HOWE ST.	RACINE	53403
A	3524	ST. JOSEPH'S HOSPITAL-LAB.		5000 W. CHAMBERS ST.	MILWAUKEE	53210
A	3516	VOC., TECH., & ADULT EDUC.		211 N. CARROLL ST.	MADISON	53703
A	3525	WAUSAU HOSPITAL CENTER			MAPLE HILL	54401
A	3520	WISCONSIN DEPT. OF AGRICULTURE		801 W. BADGER RD.	MADISON	53713

WYOMING

STATUS	REGISTRATION NUMBER	NAME	DOING BUSINESS AS	ADDRESS	CITY	ZIP CODE
A	832	CASPER COLLEGE		125 COLLEGE DR.	CASPER	82601
A	834	EASTERN WYOMING COLLEGE			TORRINGTON	82240
A	833	LARAMIE CO. COMMUNITY COLLEGE		1400 EAST COLLEGE DR.	CHEYENNE	82001
A	831	UNIVERSITY OF WYOMING			LARAMIE	82070

[FR Doc. 82-6560 Filed 3-12-82; 8:45 am]

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federal register

Monday
March 15, 1982

Part III

Department of Energy

Economic Regulatory Administration

Annual Reports From States and Nonregulated Utilities on Progress in Considering the Ratemaking and Other Regulatory Standards Under the Public Utility Regulatory Policies Act of 1978

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 463

[Docket No. ERA-R-79-19]

Annual Reports From States and Nonregulated Utilities on Progress in Considering the Ratemaking and Other Regulatory Standards.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed rulemaking and publication of revised Form ERA–166.

SUMMARY: Sections 116 and 309 of the Public Utility Regulatory Policies Act of 1978 (PURPA) require State regulatory authorities and certain nonregulated utilities to submit, to the Department of Energy (DOE), annual reports on their progress in considering ratemaking and other regulatory standards established by Titles I and III of PURPA. Under the present DOE regulations (10 CFR Part 463), each of the reporting entities must file an annual report on Form ERA-166 by November 9, covering a reporting period that runs from July 1 of the preceding year to June 30 of the year in which the report is filed.

DOE is proposing to amend its regulations to require the submission of reports by December 31 of each year, covering a 12 month reporting period through November 9; except that the 1981 annual report would be required to be submitted within 30 days of publication of the final rulemaking, and to cover a reporting period of July 1, 1980 through November 9, 1981. DOE is seeking comments on this proposal. All reports are to be made on revised Form ERA-166, a copy of which is appended to this Notice.

DATE: Comments by April 14, 1982.

ADDRESS: All comments should be addressed to: The Office of Fuel Programs, Economic Regulatory Administration, Department of Energy, Room 6114, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Ron D. White, Fuels Conversion Division, Economic Regulatory Administration, U.S. Department of Energy, 2000 M Street, NW., Room 6212–E, Washington, D.C. 20461 (202) 653–3459.

Arthur Perry Bruder, Office of General Counsel, U.S. Department of the Energy, 1000 Independence Avenue, NW., Room 6B–144, Washington, D.C. 20585 (202) 252–9516.

SUPPLEMENTARY INFORMATION:

I. Background

On August 1, 1979 (44 FR 47264, August 13, 1979), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) issued a rule (10 CFR Part 463) setting forth the manner in which State regulatory authorities and certain nonregulated gas and electric utilities are required to report on their consideration of the ratemaking and other regulatory standards established by sections 111(d), 113(b), and 303(b) of the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95–617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*). These regulations require each reporting entity to submit an annual report to DOE on or before November 9, through 1986. The regulations also require that the report cover a reporting period that runs from July 1 of the preceding year through June 30 of the year in which the report is filed. The reports must be submitted on Form ERA–166, as it may be revised from time to time.

DOE has identified the following three problems with the operation of the rules. First, since the reporting period ends June 30, the data are already at least four months old when they are received by DOE on the November 9 submission date. Second, since DOE's annual PURPA report, to the President and the Congress is due no earlier than May 9 of each year, the information from these reports is then at least ten months old. Finally, since PURPA requires completion of certain activities by November 9, 1981, DOE and the Congress under the current regulations would not have information regarding which entities had met the deadlines until November 1982 and May 1983, respectively. As a result of these delays, DOE believes that the purpose of the reporting requirements of PURPA (to allow DOE, the President, and Congress to monitor the State regulatory entities' implementation of PURPA) is not being adequately met under the current reporting timetable.

II. Proposed Amendments

In order to remedy these problems, ERA is proposing to amend 10 CFR Part 463 as follows:

(1) The submission date for the annual report established in § 463.3(a) would be changed from November 9 to December 31. Since December 31, 1981, has already passed, the amendment would require that the first report rendered under the amended rule shall be received within 30 days of publication of the final rulemaking.

(2) The annual reporting period established in § 463.3(c) would be changed from July 1–June 30 to November 10–November 9. In order to avoid a reporting gap which would otherwise be caused by this proposed change, the amendment would require that the first report required by the amended rule shall cover the period July 1, 1980–November 9, 1981.

The net effect of these changes would reduce the delay between the actions taken, or failed to be taken, under PURPA deadlines and the reports, both to DOE and Congress, as to implementation of PURPA. While DOE recognizes that there will be less time afforded for preparing reports on activities occurring between July and November 1981, this one-time burden would be significantly alleviated by the substantial reduction in the reporting requirements of revised Form ERA–166, which is discussed below. With regard to future years, the reporting burden should be much less, since the reporting entities would most likely have completed the activities on which they are required to report.

III. The Revised Report Form

DOE has shortened and simplified Form ERA–166 in order to reduce the burden of reporting. The revised Form ERA–166 which, after opportunity for public comment, was approved by the Office of Management and Budget, is being published today as an appendix to this Notice. This is being done to provide reporting entities with the earliest opportunity to prepare their reports for the period from July 1, 1980 through November 9, 1981, since the 1981 annual report is required to be submitted within 30 days of publication of the final rule.

IV. Other Matters

Environmental Impact Statement

Pursuant to its responsibilities under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the DOE has reviewed the proposal to amend 10 CFR Part 463. The proposed amendments, which would change the reporting period and submission dates, are administrative in nature and are not expected to have any environmental impacts. Therefore, the DOE has determined that the proposal is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA and that an environmental impact statement is not required.

Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. No. 96–354) requires, in part, that an agency prepare an initial regulatory flexibility analysis of any proposed rule unless it determines that the rule "will not have a significant economic impact on a substantial number of small entities." In the event that such an analysis is not required for a particular rule, the agency must publish a certification and explanation of that determination in the **Federal Register**.

The proposed amendments to Part 463 will affect only the State regulatory authorities and certain nonregulated utilities which are covered by PURPA. Moreover, the changes involve only the reporting date and the reporting period, and require no additional compilation or reporting of information. (In fact, the revisions in the form substantially lighten the reporting burden.) For these reasons, DOE certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities, pursuant to section 605(b) of the Regulatory Flexibility Act.

Regulatory Impact Analysis

Section 3(c)(2) of Executive Order (E.O.) 12291 generally requires that for "major rules" an agency shall prepare a preliminary Regulatory Impact Analysis to accompany any notice of proposed rulemaking. Section 1(b) of E.O. 12291 defines "major rule" as any regulation that is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local governmental agencies, or geographical regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For the reasons discussed above regarding the Regulatory Flexibility Act, DOE hereby determines, as provided in Section 3(b) of E.O. 12291, that this rulemaking is not a "major rule" as that term is defined in section 1(b) (as set forth above) and that, therefore, no Regulatory Impact Analysis need be prepared.

V. Comment Procedures

(1) *Written Comments.* The public is invited to participate in this proceeding by submitting information, views or arguments with respect to the proposed amendments set forth in this Notice. Comments should be submitted by 4:30 p.m. e.s.t. April 14, 1982, to the address indicated in the "ADDRESSES" section of this Notice and should be identified on the outside envelope and on documents submitted with the designation: "PURPA Annual Reports, Docket No. ERA–R–79–19." Five copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, 1E– 190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

(2) *Public Hearing.* DOE believes that the amendments proposed in this Notice presents no substantial issue of fact or law and are unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Accordingly, DOE is not scheduling a public hearing as provided by section 501(c) of the Department of Energy Organization Act (DOE Act) (Pub. L. 95–91) and 5 U.S.C. 553 (Administrative Procedure Act). If a significant number of persons should request an opportunity for oral presentation of views, data, and arguments, a public hearing could be held after public notice.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*) Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7101 *et seq*)

In consideration of the foregoing, the Department of Energy proposes to amend Part 463 to Chapter II, Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C. on March 4, 1982.

Rayburn Hamzik,

Administrator, Economic Regulatory Administration.

PART 463—ANNUAL REPORTS FROM STATES AND NONREGULATED UTILITIES ON PROGRESS IN CONSIDERING THE RATEMAKING AND OTHER REGULATORY STANDARDS UNDER THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

10 CFR Part 463 is amended by revising § 463.3 (a) and (c) to read as follows:

§ 463.31 [Amended]

(a) Each State regulatory authority, with respect to each covered electric and gas utility for which it has ratemaking authority, and each covered nonregulated electric and gas utility shall report to DOE within 30 days of publication of the final rulemaking, and by December 31 of each year from 1982 through 1986, on its progress in considering the ratemaking and other regulatory standards established by sections 111(d), 113(b) and 303(b) of PURPA.

* * * * *

(c) The reporting period for the reports required by paragraph (a) shall be the 12 month period ending November 9 of the year in which the report is due, except that the reporting period for the report due within 30 days of publication of the final rulemaking, shall be July 1, 1980 to November 9, 1981.

* * * * *

Appendix

Revised Form ERA–166 is reproduced below to provide notice of the revisions and its availability.

BILLING CODE 6450-01-M

[FR Doc. 82-6625 Filed 3-12-82; 8:45 am]

Form Approved
OMB No. 1903-0060
(Expires 9-30-84)

PURPA ANNUAL REPORT OF ELECTRIC AND GAS UTILITIES

This report is mandatory under the Public Utilities Regulatory Policies Act of 1978 (P.L. 95-617) sections 116 and 309. Late filing or failure to report may result in criminal fines, civil penalties, and other sanctions as provided by law. See instructions regarding confidentiality.

Blue Section: Instructions

White Section: Questions to be Answered

Name of Regulatory Authority (or covered Nonregulated Utility)	Date (Mo, Da, Yr)

ERA-166 (1-82)

Form Approved
OMB No. 1903-0060
(Expires 9-30-84)

PURPA ANNUAL REPORT OF ELECTRIC AND GAS UTILITIES

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PURPA ANNUAL REPORT ON ELECTRIC AND GAS UTILITIES

SECTION I
PART I

INSTRUCTIONS

GENERAL INFORMATION

I. Purpose

The PURPA Annual Report on Electric and Gas Utilities, Form ERA-166, will be used by the Economic Regulatory Administration (ERA) for annual reporting to the President and Congress on the progress of State regulatory authorities and certain nonregulated electric and gas utilities in considering and making determinations with respect to the standards established by PURPA.

II. When to Submit

A. Submit this report no later than March 29, 1982.

B. This report covers the period of July 1, 1980 to November, 9, 1981.

III. What and Where to Submit

A. Submit pages:

27
28
30
31
35 (duplicated for each utility)
36 (duplicated for each utility)
43 (duplicated for each utility)

To:

PURPA Annual Report on Electric and Gas Utilities
Office of Fuels Program
Economic Regulatory Administration
Department of Energy
2000 M Street, N. W., Room 6114
Washington, D. C. 20461

B. ERA reserves the right to request any supplementary information from the State regulatory authority or covered nonregulatory utility as needed to fully understand the report.

C. ERA reserves the right to return any incorrectly completed reports. The official submission date will be assigned upon receipt of the correctly completed form.

For information concerning this report call
Ron White
(202) 653-3459.

IV. Who must Submit

A. Each State regulatory authority (with respect to each covered electric and gas utility for which it has rate making authority) and each covered nonregulated electric and gas utility must submit this report.

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GENERAL INFORMATION (CONTINUED)

B. Covered Utilities

(1) Electric Utilities. The regulated and nonregulated electric utilities covered by this report are those whose total sales of electric energy (for purposes other than resale) exceeded 500 million kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediate preceding calendar year.

(2) Gas Utilities. The regulated and nonregulated utilities covered by this report are those whose total sales of natural gas (for purposes other than resale) exceeded 10 billion cubic feet during any calendar year beginning after December 31, 1975, and before the immediate preceding calendar year.

(3) Exclusion of Wholesale Sales. When determining eligibility, do not include regulating sales of electric energy or natural gas for purposes of resale.

(4) Published List. ERA published in the Federal Register a list of utilities covered under PURPA for each reporting year. The inclusion or exclusion of any utility on the list does not affect the legal obligation to report by such utility or the responsible State regulatory authority under PURPA.

V. Provisions of Confidentiality of Information

The information contained on these forms may be (i) information which is exempt from disclosure to the public under the exemption for trade secrets and confidential commercial information specified in the Freedom of Information Act of 5 USC 552(b)(4)(FOIA) or (ii) prohibited from public release by 18 USC 1905. However, before a determination can be made that particular information is within the coverage of either of these statutory provisions, the person submitting the information must make a showing satisfactory to the Department concerning its confidential nature.

Therefore, respondents should state briefly and specifically (on an element-by-element basis, if possible), in a letter accompanying submission of the form, why they consider the information concerned to be a trade secret or other proprietary information, whether such information is customarily treated as confidential information by their companies and the industry, and the type of competitive hardship that would result from disclosure of the information. In accordance with the provisions of 10 CFR 1004.11 of DOE's FOIA regulations, DOE will determine whether any information submitted should be withheld from public disclosure.

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GENERAL INFORMATION (CONTINUED)

If DOE receives a response and does not receive a request, with substantive justification, that the information submitted should be withheld from the public, DOE will assume that the respondent does not object to disclosure to the public of any information submitted on the form.

A new written justification need not be submitted each time the ERA-166 is submitted if:

a. views concerning information items identified as privileged or confidential have not changed; and

b. a written justification setting forth respondent's views in this regard was previously submitted.

In accordance with the cited statutes and other applicable authority, the information must be made available, upon request, to the Congress or any Committee of Congress, and to the General Accounting Office.

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GENERAL INSTRUCTIONS

I. The PUMPA Annual Report on Electric and Gas Utilities consists of 3 parts (these are included in Section II):

Part I: General Information on the State Regulatory Authority or Covered Nonregulated Utility

Part II: Questions Pertaining to Each of the Eleven Standards

Part III: Standard Specific Questions

II. In Section II, complete Parts II and III for each electric utility listed in Part I. Complete only questions pertaining to the termination of service (TOS) and advertising (ADV) standards for each gas utility listed in Part I. Enter NA for questions that are not applicable to either the electric or gas utility, or state regulatory authority.

III. Enter the utility name in the top right corner of each returned answer sheet from Parts II and III and designate whether the utility provides gas or electric service. If the utility provides both services, submit two answer sheets for the utility and designate on the answer sheet whether the responses are for the gas or electric portion of the utility's business.

IV. Information regarding the consideration process for each standard must, to the extent practical, be summarized from the written determination and orders issued.

28 51 RM 05174V

DEFINITIONS

(A) Class-With respect to electric and gas consumers, any group of such consumers who have similar characteristics of electric or gas energy use.

(B) Consideration Process-With respect to any of the standards established by sections 111, 113, or 303 of PURPA, the set of appropriate procedures carried out by a State regulatory authority or nonregulated utility culminating in a decision to adopt or reject such standard or in a determination required by PURPA. (See Section I on regulations).

(C) Electric Consumer-Any person, State agency, or Federal Agency to which electric energy is sold other than for purposes of resale.

(D) Electric Utility-Any person, State agency, or Federal agency that sells electric energy.

(E) Evidence-Any testimony, data, staff reports, technical analyses, briefs, or any other statements, documents, or information admitted into the record of the proceedings respecting the consideration of the standards.

(F) Federal Agency-An executive agency (as defined in section 105 of the United States Code).

(G) Gas Consumer-Any person, State agency, or Federal agency to which natural gas is sold other than for purposes of resale.

(H) Gas Utility-Any person, State agency, or Federal agency engaged in the local distribution of the sale of natural gas.

(I) Load Management Technique-Any technique (other than a time-of-day or seasonal rate) to reduce the maximum kilowatt demand on the electric utility, including (but not limited to): ripple, radio, or automatic control mechanisms; other types of interruptible electric service, energy storage devices; and load-limiting devices.

(J) Nonregulated Electric Utility-Any electric utility with respect to which no State regulatory authority has rate making authority.

(K) Nonregulated Gas Utility-Any gas utility with respect to which no State regulatory authority has ratemaking authority.

(L) Person-An individual, partnership, corporation, unincorporated association or any group, organization, or entity.

(M) Rate- (1) Any price, rate, charge, or classification made, demanded, observed, or received with respect to the sale of electric energy by an electric utility to an electric consumer or the sale of natural gas to a gas consumer;

(2) Any rule, regulation, or practice respecting any such rate, charge, or classification; and

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DEFINITIONS (CONTINUED)

(3) Any contract pertaining to the sale of electric energy to an electric consumer or the sale of natural gas to a gas consumer.

(N) Ratemaking Authority-Authority to fix, modify, approve, or disapprove rates.

(O) Sale-A transfer to a purchaser for consideration and, when used with respect to electric energy, includes any exchange of electric energy; or, when used with respect to natural gas, includes any exchange of natural gas.

(P) Standard-Refers to either the six ratemaking standards or the five regulatory standards.

The six ratemaking standards and their abbreviations as employed in this report include:

Cost-Of-Service standard	COS
Declining Block rate standard	DBR
Time-Of-Day rate standard	TOD
Seasonal Rate standard	SLR
INTerruptible rate standard	INT
Load Management Techniques standard	LMT

The five regulatory standards and their abbreviations as employed in this report include:

Master-Metering standard	MM
Automatic Adjustment Clause standard	AAC
Information To Consumers standard	ITC
Termination Of Service standard	TOS
ADVertising standard	ADV

(Q) State-A State, the District of Columbia, and Puerto Rico.

(R) State Agency-A State, political subdivision thereof, and any agency or instrumentality of either.

(S) State Regulatory Authority-Any State agency that has ratemaking authority with repsect to: the sale of electric energy by an electric utility other than by such State agency (in the case of an electric utility with respect to which the TVA has ratemaking authority, such term means the TVA); or the sale of gas by any gas utility (other than by such State agency).

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REGULATIONS APPLICABLE TO THE 6 RATEMAKING STANDARDS: COS, DBR, TOD, SLR, INT, LMT

Section 111(a-c) of PURPA requires consideration of six ratemaking standards, as follows:

"Sec. 111. CONSIDERATION AND DETERMINATION RESPECTING CERTAIN RATEMAKING STANDARDS.

(a) CONSIDERATION AND DETERMINATION - Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each non-regulated electric utility shall consider each standard established by subsection (d) and make a determination concerning whether or not it is appropriate to implement such standard to carry out the purposes of this title. For purposes of such consideration and determination in accordance with subsections (b) and (c), and for purposes of any review of such consideration and determination in any court in accordance with section 123, the purposes of this title supplement otherwise applicable state law. Nothing in this subsection prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to implement any such standard, pursuant to its authority under otherwise applicable State law.

(b) PROCEDURAL REQUIREMENTS FOR CONSIDERATION AND DETERMINATION.

(1) The consideration referred to in subsection (a) shall be made after public notice and hearing. The determination referred to in subsection (a) shall be:

(A) in writing

(B) based upon findings included in such determination and upon the evidence presented at the hearing, and

(C) available to the public.

(2) Except as otherwise provided in paragraph (1), in the second sentence of section 112(a), and in sections 121 and 122, the procedures for the consideration and determination referred to in sub-sections (a) shall be those established by the State regulatory authority or the nonregulated electric utility.

(c) IMPLEMENTATION.

(1) The State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or non regulated electric utility may, to the extent consistent with otherwise applicable State law:

(A) Implement any such standard determined under subsection (a) to be appropriate to carry out the purposes of this title, or

(B) decline to implement any such standard.

(2) If a State regulatory authority (with respect to such electric utility for which it has ratemaking authority) or nonregulated electric utility declines to implement any standard established by subsection (d) which is determined under subsection (a) to be appropriate to carry out the purposes of this title, such authority or nonregulated electric utility shall state in writing the reasons therefore. Such statement of reasons shall be available to the public.

Sections 112, 121, and 122 of PURPA also establish requirements for this standard.

For the purpose of this report, for consistency with the joint committee managers report, and for consistency with terminology used in the regulatory community, the term "adopt" will be used throughout in the following questions as a synonym for the term "implement".

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REGULATIONS APPLICABLE TO THE COS STANDARD

Section 111(d)(1) of PURPA establishes the cost-of-service standard (COS) which states:

"Rates charged by any electric utility for providing electric service to each class of electric consumers shall be designed to the maximum extent practicable, to reflect the costs of providing electric service to such class, as determined under section 115(a)."

Section 115(a) states:

"In undertaking the consideration and making the determination under section 111 with respect to the standard concerning cost of service established by section 111(d)(1), the costs of providing electric service to each class of electric consumers shall, to the maximum extent practicable, be determined on the basis of methods prescribed by the State regulatory authority (in the case of a State regulated electric utility) or by the electric utility (in the case of a nonregulated utility). Such methods shall to the maximum extent practicable:

(1) permit identification of differences in cost-incurrence, for each such class of electric consumers, attributable to daily and seasonal time of use of service and

(2) permit identification of differences in cost-incurrence attributable to differences in customer, demand, and energy components of costs. In prescribing such methods, such State regulatory authority and nonregulated electric

(continued on next page)

FOR PURPOSES OF ANSWERING COS RELATED QUESTIONS

The cost-of-service standard (COS) has been:

A. Adopted by a State regulatory authority, when such authority has:

1. specified methods for a utility covered by the standard to use to determine cost of service, in accordance with section 115(a) above;

2. issued a written policy (or order) that a utility covered by the standard shall provide cost-of-service data or studies in accordance with these methods with each rate application or rate processing, or on a specified regular basis, or both; and

3. issued a written policy that rates charged by a utility covered by the standard for each consumer class shall be designed, to the maximum extent practicable, to reflect the costs of service to such class, as provided in section 111(d)(1).

B. Adopted by a nonregulated utility, when such nonregulated utility has:

1. specified methods that it will use for determining cost of service, in accordance with section 115(a) above;

(continued on next page)

COST-OF-SERVICE STANDARD (COS) (CONTINUED)

REGULATIONS APPLICABLE TO THE COS STANDARD (CONTINUED)

utility shall take into account the extent to which total costs to an electric utility are likely to change if:

(A) additional capacity is added to meet peak demand relative to base demand; and

(B) additional kilowatt-hours of electric energy are delivered to electric consumers."

FOR PURPOSES OF ANSWERING COS RELATED QUESTIONS (CONT)

2. issued a written policy that it will develop cost-of-service data in accordance with these methods with each rate proceeding or on a specified regular basis, or both; and

3. issued a written policy that rates charged for each consumer class will be designed, to the maximum extent practicable, to reflect the costs of service to each class, as provided in section 111(d)(1).

C. Rejected by a State regulatory authority or nonregulated utility when it has issued written policies (or orders) declining to adopt.

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DECLINING BLOCK RATES STANDARD (DBR)

REGULATIONS APPLICABLE TO THE DBR STANDARD

Section 111(d)(2) of PURPA establishes the declining block rates standard (DBR) which states:

"The energy component of a rate, or the amount attributable to the energy component in a rate, charged by any electric utility for providing electric service during any period to any class of eletric consumers may not decrease as kilowatt-hour consumption by such class increases during such period except to the extent that such utility demonstrates that the costs to such utility of providing electric service to such class, which costs are attributable to such energy component, decrease as such consumption increases during such period."

FOR PURPOSES OF ANSWERING DBR RELATED QUESTIONS

The declining block rates standard (DBR) has been:

A. Adopted by a State regulatory authority, when such authority had issued written policies (or orders) providing:

1. that rates charged by utility covered by the standard shall not have declining block energy charges except to the extent that the utility has made the required demonstration (as defined in section 111(b)(2)); and

2. that the State regulatory authority will make a written determination of whether the utility has made the required demonstration.

B. Adopted by a nonregulated utility when such nonregulated authority had issued a written policy (or order) that its rates shall not have declining block energy charges except to the extent that it has made in writing the required demonstration, as defined in section 111(b)(2).

C. Rejected by a State regulatory or nonregulated utility when it had issued written policies (or orders) declining to adopt.

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TIME-OF-DAY RATES STANDARD (TOD)

REGULATIONS APPLICABLE TO THE TOD STANDARD

Section 111(d)(3) of PURPA establishes the time-of-day rates standard (TOD), which states:

"The rates charged by an electric utility for providing electric service to each class of electric consumers shall be on a time-of-day basis which reflects the costs of providing electric service to such class of electric consumers at different times of the day unless such rates are not cost-effective with respect to such class, as determined under section 115(b)."

Section 115(b) states:

"In undertaking the consideration and making the determination required under section 111 with respect to the standard for time-of-day rates established by section 111(d)(3), a time-of-day rate changed by an electric utility for providing electric service to each class if the long-run benefits of such rate to the electric utility and its electric consumers in the class concerned are likely to exceed the metering costs and other costs associated with the use of such rates."

For the purpose of answering the questions in this schedule, the term "time-of-day rate" means a rate that is on a time-of-day basis and that reflects the costs of providing electric service at different times of the day to the consumer class to whom it is charged.

FOR PURPOSES OF ANSWERING TOD RELATED QUESTIONS

The time-of-day rates standard (TOD) has been:

A. Implemented by a State regulatory authority, when it had issued written policies for orders providing:

1. that a utility covered by the standard shall charge time-of-day rates (as defined above) to each consumer class unless such rates are not cost-effective with respect to such class; and

2. that the State regulatory authority will make a written determination of the cost-effectiveness of such rates in accordance with section 115(b).

B. Implemented by a nonregulated utility when it had issued written policies (or orders) providing:

1. that it shall charge time-of-day rates (as defined above) to each consumer class unless such rates are not cost-effective with respect to such class; and

2. that it will make a written determination of the cost-effectiveness of such rates in accordance with section 115(b).

C. Rejected by State regulatory authority or nonregulated utility when it has issued written policies (or orders) declining to adopt this standard.

SEASONAL RATES STANDARD (SLR)

REGULATIONS APPLICABLE TO THE SLR STANDARD

Section 111(d)(4) of PURPA establishes the seasonal rates standard (SLR) which states:

"The rates charged by an electric utility for providing electric service to each class of electric consumers shall be on a seasonal basis which reflects the costs of providing service to such class for such utility."

For the purpose of answering the questions in this schedule, the term "seasonal rate" means a rate that varies by season and that reflects the costs of providing electric service at different seasons of the year to the consumer class to whom it is charged.

FOR PURPOSES OF ANSWERING SLR RELATED QUESTIONS

The seasonal rates standard (SLR) has been:

A. Adopted by a state regulatory authority when such authority has issued written policies (or orders) providing:

1. that it will determine the costs of providing electric service to each consumer class at different seasons of the year for each utility covered by the standard; and

2. that a utility covered by the standard shall charge seasonal rates (as defined above) to each consumer class to the extent that such costs vary seasonally.

B. Adopted by a nonregulated utility, when such nonregulated utility has issued written policies (or orders) providing:

1. that it will determine the costs of providing electric service to each consumer class at different seasons of the year; and

2. that it shall charge seasonal rates (as defined above) to each consumer class to the extent that such costs vary seasonally.

C. Rejected by a State regulatory authority or nonregulated utility when it had issued written policies (or orders) declining to adopt this standard.

INTERRUPTIBLE RATES STANDARD (INT)

REGULATIONS APPLICABLE TO THE INT STANDARD

Section 111(d)(5) of PURPA establishes the interruptible rates standard (INT) , which states:

"Each electric utility shall offer each industrial and commercial electric consumer an interruptible rate which reflects the cost of providing interruptible service to the class of which such consumer is a member."

For the purpose of answering the questions in this schedule, the term "interruptible rate" means an interruptible rate that reflects the cost of providing interruptible service to the consumer class to whom it is charged.

FOR PURPOSES OF ANSWERING INT RELATED QUESTIONS

The interruptible rates standard (INT) has been:

A. Adopted by a state regulatory authority when such authority has issued written policies (or orders) providing:

1. that a utility covered by the standard shall offer each industrial and commercial electric consumer an interruptible rate; and

2. that the state regulatory authority will determine the costs of providing interruptible electric service to each consumer class that includes industrial or commercial consumers.

B. Adopted by a nonregulated utility, when such nonregulated utility has issued written policies (or orders) providing that it shall offer each industrial and commercial consumer an interruptible rate that reflects its determination of the costs of providing interruptable service to each consumer class that includes industrial or commercial consumers.

C. Rejected by a State regulatory authority or nonregulated utility when it has issued written policies (or orders) declining to adopt this standard.

LOAD MANAGEMENT TECHNIQUES STANDARD (LMT)

REGULATIONS APPLICABLE TO THE LMT STANDARD

Section 111(d)(6) of PURPA establishes the load management techniques standard (LMT) which states:

"Each electric utility shall offer to its electric consumers such load management techniques as the state regulatory authority (or the nonregulated electric utility) has determined will:

(A) be practicable and cost-effective, as determined under section 115(c),

(B) be reliable, and

(C) provide useful energy or capacity management advantages to the electric utility."

Section 115(c) states:

"In undertaking the consideration and making the determination required under section 111 with respect to the standard for load management techniques established by section 111(d)(6), a load management technique shall be determined, by the State regulatory authority or nonregulated eletric utility, to be cost-effective if:

(1) such technique is likely to reduce maximum kilowatt demand on the electric utility, and

(continued on next page)

FOR PURPOSES OF ANSWERING LMT RELATED QUESTIONS

The load management techniques standard (LMT) has been:

A. Adopted by a State regulatory authority, when such authority has issued written policies (or orders) providing:

1. that it will make a written determination of the cost-effectiveness of load management techniques relevant to each utility covered by the standard, in accordance with section 115(c);

2. that it will make a written determination of whether each technique will be practicable and cost-effective (as defined above), be reliable, and provide useful energy or capacity management advantages to the electric utility; and

3. that a utility covered by the standard shall offer its electric consumers those load management techniques that the state regulatory authority has determined will meet the criteria above (in A.2).

B. Adopted by a nonregulated utility, when such nonregulated utility had issued written policies (or orders) providing:

1. that it will make a written determination of the cost-effectiveness of relevant load management techniques, in accordance with section 115(c);

(Continued on next page)

REGULATIONS APPLICABLE TO THE LMT STANDARD (CONTINUED)

(2) the long-run cost-savings to the utility of such reduction are likely to exceed the long-run costs to the utility associated with implementation of such technique."

For the purpose of answering the questions in this schedule, the term "load management techniques" means any technique (other than a time-of-day rate or seasonal rate) to reduce the maximum kilowatt demand on the electric utility, including (but not limited to): ripple, radio or automatic control mechanisms; other types of interruptible electric service; energy storage devices; and load-limiting devices.

FOR PURPOSES OF ANSWERING LMT RELATED QUESTIONS (CONT)

2. that it will make a written determination of whether each such technique will be practicable and cost-effective (as defined above), be reliable, and provide useful energy or capacity management advantages to the electric utility; and

3. that it will offer its electric consumers those load management techniques that it has determined will meet the criteria above (in B.2.)

C. Rejected by State regulatory authority or nonregulated utility when it has issued written policies (or orders) declining to adopt this standard.

SECTION I
PART III

REGULATIONS APPLICABLE TO THE FIVE REGULATORY STANDARDS: MM, AAC, ITC, TOS, ADV

Section 113(a) of PURPA requires public notice, hearing(s), and other actions respecting five regulatory standards established for electric utilities covered under Title I of PURPA, and Section 303(a) requires similar actions respecting two of these regulatory standards for gas utilities covered under Title III. With respect to the master metering (MM), automatic adjustment clause (AAC), information to consumer (ITC), termination of service (TOS), and advertising (ADV) standards, these sections establish the following requirements:

"Section 113/303. ADOPTION OF CERTAIN STANDARDS.

(a) Adoption of Standards--Not later than 2 years after the date of the enactment of this Act, each State regulatory authority (with respect to each electric (gas) utility for which it has ratemaking authority), and each nonregulated electric (gas) utility shall provide public notice and conduct a hearing respecting the standards established by subsection (b) and, on the basis of such hearing, shall:

(1) adopt the standards established by subsection (b) (other than paragraph (4) thereof) if, and to the extent, such authority or nonregulated electric utility determines that such adoption is appropriate to carry out the purposes of this title, is otherwise appropriate, and is consistent with otherwise applicable State law, and

(2) adopt the standard established by subsection (b)(4) if, and to the extent, such authority or nonregulated electric (gas) utility determines that such adoption is appropriate and consistent with otherwise applicable State law.

For purposes of any determination under paragraphs (1) or (2) and any review of such determination in any court in accordance with section 123(307), the purposes of this title supplement otherwise applicable State law. Nothing in this subsection prohibits any State regulatory or nonregulatory electric (gas) utility from making any determination that it is not appropriate to adopt any such standard, pursuant to its authority under otherwise applicable State law."

Sections 121 and 122 of PURPA establish specific procedural requirements for this process with respect to electric utilities, and sections 121 and 305 establish the authority of the Secretary to intervene in appropriate proceedings for electric and gas utilities.

For the purposes of answering the questions on the advertising standard, the term "sufficient criteria" refers to the criteria established in section 113(a)(1), above: "appropriate to carry out the purposes of this title[1], otherwise appropriate, and consistent with otherwise applicable state law."

For the purposes of answering the questions on the termination of service standard the term "sufficient criteria" refers to the criteria established in section 113(a)(2), above: "appropriate and consistent with otherwise applicable State law."

[1] That is, to encourage: the conservation of energy supplied by electric and gas utilities; the optimization of the efficiency of use of facilities and resources by electric and gas utilities; and equitable rates to electric consumers.

MASTER METERING STANDARD (MM)

REGULATIONS APPLICABLE TO THE MM STANDARD

Section 113(a)(1) states:

"Separate metering shall be determined appropriate for any new building for purposes of section 113(b)(1) if:

(1) there is more than one unit in such building,

(2) the occupant of each such unit has control over a portion of the electric energy used in such unit, and

(3) with respect to such portion of electric energy in such unit, the long-run benefits to the electric consumers in such building exceed the costs of purchasing and installing separate meters in such building."

For the purpose of answering the questions in this schedule:

(A) The term "master metering" (MM) applies to all cases where:

(1) There is more than one unit in the building and the electric metering does not permit identification of the energy consumption in individual units; or

(Continued on next page)

FOR PURPOSES OF ANSWERING MM RELATED QUESTIONS

The master metering standard (MM) has been:

A. Adopted by a State regulatory authority, when such authority has:

1. specified methods and procedures to be used by a utility covered by the standard in evaluating benefits versus costs of separate metering, in accordance with section 115(d)(3), and in determining whether separate metering is appropriate for a new building, in accordance with section 115(d); and

2. issued a written order that a utility covered by the standard shall not provide master metered service to new buildings except to the extent determined appropriate under those methods and procedures specified above.

B. Adopted by a nonregulated utility, when such nonregulated utility has:

1. specified methods and procedures that it will use in evaluating benefits versus costs of separate metering, in accordance with section 115(d)(3), and in determining whether separate metering is appropriate for a new building, in accordance with section 115(d); and

(Continued on next page)

MASTER METERING STANDARD (MM) (CONTINUED)

REGULATIONS APPLICABLE TO THE MM STANDARD (CONTINUED)

(2) More than one such unit is treated as a single account for billing purposes.

(B) The term "separate metering" applies to all other cases.

FOR PURPOSES OF ANSWERING MM RELATED QUESTIONS (CONT)

2. issued a written policy that it will not provide master metered service to new buildings except to the extent determined appropriate under those methods and procedures specified above.

C. Rejected by a State regulatory authority or nonregulated utility when it has issued written policies (or orders) stating that it has determined not to adopt the standard.

AUTOMATIC ADJUSTMENT CLAUSES STANDARD (AAC)

REGULATIONS APPLICABLE TO THE AAC STANDARD

Section 13(b)(2) of PURPA establishes the automatic adjustment clauses standard (AAC), which states: "No electric utility may increase any rate pursuant to an automatic adjustment clause unless such clause meets the requirements of section 115(e)."

Section 115(a) states:

"(1) An automatic adjustment clause of an electric utility meets the requirements of this subsection if:

(A) such clause is determined, not less often than every four years, by the State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or by the electric utility (in the case of a nonregulated electric utility), after an evidentiary hearing, to provide incentives for efficient use of resources (including incentives for economical purchase and use of fuel and electric energy) by such electric utility, and

(B) such clause is reviewed not less often than every two years, in the manner described in paragraph (2), by the State regulatory authority having ratemaking authority with respect to each utility (or by the electric utility in the case of a nonregulated electric utility), to insure the maximum economics in those operations and purchases which affect the rates to which such clause applies.

(Continued on next page)

FOR PURPOSES OF ANSWERING AAC RELATED QUESTIONS

The automatic adjustment clauses standard (AAC) has been:

A. Adopted by a State regulatory authority or nonregulated utility when it has issued written policies (or orders) providing that every automatic adjustment clause in effect at a utility covered by the standard must undergo the quadrennial determination and biannual review specified in section 115(e)(1) and (2) of PURPA.

B. Rejected by a State regulatory authority or non regulated utility when it has issued written policies (or orders) stating that it has determined not to adopt the standard.

AUTOMATIC ADJUSTMENT CLAUSES STANDARD (AAC) (CONTINUED)

REGULATIONS APPLICABLE TO THE AAC STANDARD (CONTINUED)

(2) In making a review under subparagraph (B) of paragraph (1) with respect to an electric utility, the reviewing authority shall examine and, if appropriate, cause to be audited the practices of such electric utility relating to costs subject to an automatic adjustment clause, and shall require such reports as may be necessary to carry out such review (including a disclosure of any ownership or corporate relationship between such electric utility and the seller to such utility of fuel, electric energy, or other item(s).

(3) As used in this subsection and section 113(b), the term 'automatic adjustment clause' means a provision of a rate schedule which provides for increases or decreases (or both), without prior hearing. In rates reflecting increases or decreases (or both) in costs incurred by an electric utility. Such term does not include an interim rate which takes effect subject to a later determination of the appropriate amount of the rate."

INFORMATION TO CONSUMERS STANDARD (ITC)

REGULATIONS APPLICABLE TO THE ITC STANDARD

Section 113(b)(3) of PURPA establishes the information to consumers standard (ITC) which states: "Each electric utility shall transmit to each of its electric consumers information regarding rate schedules in accordance with the requirements of section 115(f)."

Section 115(f) states:

"(1) For purposes of the standard for information to consumers established by section 113(b)(3), each electric utility shall transmit to each of its electric consumers a clear and concise explanation of the existing rate schedule and any rate schedule applied for (or proposed by a nonregulated electric utility) applicable to such consumer. Such statement shall be transmitted to each such consumer:

(A) not later than sixty days after the date of commencement of service to such consumer or ninety days after the standard established by section 113(b)(3) is adopted with respect to such electric utility, whichever last occurs, and

(2) For purposes of the standard for information to consumers established by section 113(b)(3), each electric utility shall transmit to each of its electric consumers not less frequently than once each year:

(Continued on next page)

FOR PURPOSES OF ANSWERING ITC RELATED QUESTIONS

The information to consumers standard (ITC) has been:

A. Adopted by a State regulatory authority when such authority has:

1. ordered that a utility covered by the standard shall transmit rate information to its electric consumers according to certain time requirements, in accordance with sections 115(f)(1) and (2) of PURPA; and

2. specified consumption data to be transmitted upon consumer request, and the conditions under which such data shall be considered to be not reasonably ascertainable by the utility, in accordance with section 115(f)(3) of PURPA.

B. Adopted by a nonregulated utility when such nonregulated utility has:

1. issued a written policy statement that it will transmit rate information to its electric consumers according to certain time requirements, in accordance with sections 115(f)(1) and (2) of PURPA; and

2. specified consumption data to be transmitted upon consumer request, and the conditions under which such data shall be considered to be not reasonably ascertainable by the utility, in accordance with section 115(f)(3) of PURPA.

(Continued on next page)

INFORMATION TO CONSUMERS STANDARD (ITC) (CONTINUED)

REGULATIONS APPLICABLE TO THE ITC STANDARD (CONTINUED)

(A) a clear and concise summary of the existing rate schedules applicable to each of the major classes of its electric consumers for which there is a separate rate, and

(B) An identification of any classes whose rates are not summarized. Such summary may be transmitted together with such consumer's billing or in such other manner as the State regulatory authority or nonregulatory electric utility deems appropriate.

(3) For purposes of the standard for information to consumers established by section 113(b)(3), each electric utility, on request of an electric consumer of such utility, shall transmit to such consumer a clear and concise statement of the actual consumption for degree-day adjusted consumption of electric energy by such consumer for each billing period during the prior year (unless such consumption data is not reasonably ascertainable by the utility)."

FOR PURPOSES OF ANSWERING ITC RELATED QUESTIONS

C. Rejected by a State regulatory authority or nonregulated utility when it has issued written policies (or orders) declining to adopt this standard.

TERMINATION OF SERVICE STANDARD (TOS)

REGULATIONS APPLICABLE TO THE TOS STANDARD

Section 113(b)(4) of PURPA establishes the termination of service standard (TOS) for electric utilities, and section 303(b)(1) establishes the same standard for gas utilities, stating: "No electric (gas) utility may terminate electric (natural gas) service to any electric (gas) consumer except pursuant to procedures described in section 115(g)/304(a)."

Section 115(g)/304(a) state:

"The procedures for termination of service referred to in section 113 (d)(4)/303(b)(1) are procedures prescribed by the State regulatory authority (with respect to electric (gas) utilities for which it has ratemaking authority) or by the nonregulated utility which provide that:

(1) no electric (gas) service to an electric (gas) consumer may be terminated unless reasonable prior notice (including notice of rights and remedies) is given to such consumer and such consumer has a reasonable opportunity to dispute the reasons for such termination, and

(2) during any period when termination of service to an electric (gas) consumer would be especially dangerous to health, as determined by the State regulatory authority (with respect to an electric (gas) utility for which it has ratemaking authority) or nonregulated electric (gas) utility, and such consumer establishes that:

(Continued on next page)

FOR PURPOSES OF ANSWERING TOS RELATED QUESTIONS

The termination of service standard (TOS) has been:

A. Adopted by a State regulatory authority when such authority has:

1. prescribed specific procedures, in accordance with sections 115(g)/304(a) of PURPA;

2. ordered that a utility covered by the standard shall not terminate electric (gas) service to any electric (gas) consumer except pursuant to such procedures.

B. Adopted by a nonregulated utility when such nonregulated utility has:

1. prescribed specific procedures, in accordance with sections 115(g)/304(a) of PURPA;

2. issued a written policy that it shall not terminate electric (gas) service to any electric (gas) consumer except pursuant to such procedures.

C. Rejected by a State regulatory authority or nonregulated utility when it had issued written policies (or orders) stating that it has determined not to adopt the standard.

TERMINATION OF SERVICE STANDARD (TOS)

REGULATIONS APPLICABLE TO THE TOS STANDARD (CONTINUED)

(a) he is unable to pay for such service in accordance with the requirements of the utility's billing, or

(b) he is able to pay for such service but only in installments,

such service may not be terminated.

Such procedures shall take into account the need to include reasonable provisions for elderly and handicapped consumers."

ADVERTISING STANDARD (ADV)

REGULATIONS APPLICABLE TO THE ADV STANDARD

Section 113(b)(5) of PURPA establishes the advertising standard (ADV) for electric utilities, and section 303(b)(2) establishes the same standard for gas utilities, stating: "No electric (gas) utility may recover from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising as defined in section 115(h)/304(b)."

Sections 115(h)/304(b) state:

"(1) For purposes of this section and section 113(b)(5)/303(b)(2):

(A) The term "advertising" means the commercial use, by an electric (gas) utility, of any media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to such utility's electric (gas) consumers.

(B) The term "political advertising" means any advertising for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance.

(Continued on next page)

FOR THE PURPOSES OF ANSWERING ADV RELATED QUESTIONS

The advertising standard (ADV) has been:

A. Adopted by a State regulatory authority when such authority has issued a written policy (or order) that it will disallow (for ratemaking purposes) any direct or indirect expenditure by a utility covered by the standard for promotional or political advertising, as defined in accordance with section 115(h)/304(b).

B. Adopted by a nonregulated utility when such nonregulated utility had issued a written policy that it will not recover from any person other than the stockholders (or other owners) any direct or indirect expenditures for promotional or political advertising, as defined in accordance with section 115(h)/304(b).

C. Rejected by a State regulatory authority or nonregulatory utility when it has issued written policies (or orders) stating that it has determined not to adopt the standard.

ADVERTISING STANDARD (ADV) (CONTINUED)

REGULATIONS APPLICABLE TO THE ADV STANDARD (CONTINUED)

(C) The term "promotional advertising" means any advertising for the purpose of encouraging any person to select or use the service or additional service of an electric (gas) utility or the selection or installation of an appliance or equipment designed to use such utility's service.

(2) For the purposes of this subsection and section 113(b)(5)/303(b)(2), the terms "political advertising" and "promotional advertising" do not include:

(A) advertising which informs electric (natural gas) consumers how they can conserve energy (natural gas) or can reduce peak demand for electric (natural gas) energy.

(B) advertising required by law or regulation, including advertising required under part I of title II of the National Energy Conservation Policy Act.

(C) advertising regarding service interruptions, safety measures, or emergency conditions,

(D) advertising concerning employment opportunities with such utility.

(E) advertising which promotes the use of energy efficient appliances, equipment or services, or

(F) any explanation or justification of existing or proposed rate schedules, or notifications of hearings thereon.

PURPA ANNUAL REPORT ON ELECTRIC AND GAS UTILITIES
SECTION II
PART I
General Information on State Regulatory Authority
or Covered Nonregulated Utility

IDENTIFICATION DATA

1.1 State Regulatory Authority (or Covered Nonregulated Utility)

(a)Name

(b)Street

(c)City (d)State (e)Zip Code

1.2 Designated Point(s) of Contact for the Electric Utility Portion of this Report:

(a)Name	(f)Name
(b)Title	(g)Title
(c)City, State	(h)City, State
(d)Zip (e)Phone ( )	(i)Zip (j)Phone ( )

1.3 Designated point(s) of contact for the gas utility portion of this report: (If same as 1.2, enter "SAME".)

(a)Name	(f)Name
(b)Title	(g)Title
(c)City, State	(h)City, State
(d)Zip (e)Phone ( )	(i)Zip (j)Phone ( )

CERTIFICATION

I certify that I am the chairman of this State regulatory authority or the chief executive officer of this nonregulated utility or another commissioner or officer authorized to file an official report on behalf of this authority or utility. I further certify that the data presented in this report (Section II, Parts I through III and attachments) are true, accurate, and complete to the best of my knowledge, and I hereby authorize its release as an official report on behalf of this authority or utility for the purpose of complying with sections 116 and 309 of the Public Utility Regulatory Policies Act (P.L. 95-617).

1.4 Name 1.5 Title

1.6 Signature 1.7 Date

18 USC 1001 makes it a crime for any person knowingly and willfully to make to any Agency or Department of the United States any false, fictitious, or fraudulent statements as to any matter within his or her jurisdiction.

[THIS SHEET IS TO BE RETURNED]

ERA-166 (1-82)

PURPA IMPLEMENTATION PLAN

FOR ANSWERING 1.8 to 1.10:

Which of the following steps have you taken regarding the requirements of sections 121 and 122 of PURPA?

(If your consideration process for all of the standards was completed before November 9, 1978, check NA. Otherwise, check Yes or No.)

1.8 Established a written policy or order, consistent with section 121 of PURPA, that covers the consideration proceedings and provides for intervention, participation, and access to information.

☐ Yes ☐ No ☐ NA

1.9 Adopted a procedure for compensation to certain intervenors that is consistent with section 112(a)(2) of PURPA.

☐ Yes ☐ No ☐ NA

1.10 Provided an alternative means for providing adequate compensation to certain intervenors that is consistent with section 112(b) of PURPA.

☐ Yes ☐ No ☐ NA

[THIS SHEET IS TO BE RETURNED]

ERA-166 (1-82)

IDENTIFICATION OF UTILITIES

INSTRUCTIONS

I. On pages 30 and 31, column "a", list the covered utilities for which you have ratemaking authority; if none, write "NONE". (For nonregulated utilities, list name.)

For Electric Utilities: Answer question 1.11 on page 30.

For Gas Utilities: Answer question 1.12 on page 31.

II. In the case of utilities that sell both electricity and gas (for regulated and nonregulated utilities), list the utility twice; once in 1.11 and once in 1.12.

III. List all investor-owned utilities first, followed by all publicly-owned utilities, and then by all cooperatively-owned utilities. List utilities alphabetically within each category.

IV. In the space provided next to the utility name, indicate the total number of retail customers, as of November 9, 1981, by: residential class, commercial and industrial class, and all others.

V. In the space provided next to the utility name, indicate total consumption by retail consumers in the 1980 calendar year in GWHR or MMCF by: residential class, commercial and industrial class, and all others.

VI. If more space is required, duplicate the form provided and renumber the lines accordingly (for example, E1 will become E16 and G1 will become G16).

IDENTIFICATION OF UTILITIES (CONTINUED)

1.11 Electric Utility Name (a)	Number of Customers			Consumption (GWH)		
	Residential (b)	Commercial & Industrial (c)	Other (d)	Residential (e)	Commerical & Industrial (f)	Other (g)
(E1)						
(E2)						
(E3)						
(E4)						
(E5)						
(E6)						
(E7)						
(E8)						
(E9)						
(E10)						
(E11)						
(E12)						
(E13)						
(E14)						
(E15)						

[THIS SHEET IS TO BE RETURNED]

IDENTIFICATION OF UTILITIES (CONTINUED)

1.12 Gas Utility Name (a)	Number of Customers			Consumption (GWH)		
	Residential (b)	Commercial & Industrial (c)	Other (d)	Residential (e)	Commerical & Industrial (f)	Other (g)
(G1)						
(G2)						
(G3)						
(G4)						
(G5)						
(G6)						
(G7)						
(G8)						
(G9)						
(G10)						
(G11)						
(G12)						
(G13)						
(G14)						
(G15)						

[THIS SHEET IS TO BE RETURNED]

ERA-166 (1-82)

PURPA ANNUAL REPORT ON ELECTRIC AND GAS UTILITIES
SECTION II
PART II
Questions Pertaining to each of
the Eleven Standards

INSTRUCTIONS

I. (1) For Electric Utilities: Duplicate the answer sheet on page 35. Prepare one sheet for each electric utility named on page 30.

(2) For Gas Utilities: Duplicate the answer sheet on page 36. Prepare one sheet for each gas utility named on page 31.

II. Enter the utility name in the space provided on the answer sheet. Prepare one answer sheet per utility. For utilities providing both electricity and gas service, you will have one answer sheet for the electric portion of the utility's business and one for the gas portion of the utility's business.

III. (1) For Electric Utilities: Answer all questions for each of the eleven standards.

(2) For Gas Utilities: Answer all questions for only the TOS and AIV standards.

Place all responses on the answer sheets under the abbreviation for that standard and corresponding to the question number.

IV. If the answer box on the answer sheet is shaded, do not answer that question. If instructed to skip a question, leave that answer box blank.

V. Include comments pertaining to a specific utility on the back of that utility's answer sheet. General comments are encouraged and should be included on a separate sheet (with appropriate identification).

ERA-166 (1-82)

QUESTIONS (CONTINUED)

QUESTION 2.1

2.1 What was the status of the STANDARD as of November 9, 1981?

STATUS CODES

0 - Consideration process has not begun

1 - Hearing has been scheduled or review process has begun

2 - Consideration process has started but hearing has not been completed

3 - Hearing has been completed

4 - Official determination has been made regarding whether or not it is appropriate to adopt this standard to encourage conservation of electric energy, utility efficiency and equitable rates to consumers, but decision regarding adoption or rejection of this standard has not been made for this utility

5 - Standard has been adopted (i.e., put into effect) as defined in the Purpa regulations (pages 7-26)

6 - Standard has been rejected as defined in the Purpa regulations (pages 7-26)

7 - State law has mandated standard

8 - State law has prohibited standard

BEFORE CONTINUING TO ANSWER THIS REPORT READ THE FOLLOWING:

For each utility whose status code in Question 2.1 is:

STATUS CODES

0,1,2,3,8 - Do not complete remaining questions in Parts II or III.

5 - Complete all questions in Parts II and III.

4 or 6 - Answer only questions 2.2 through 2.5 in Part II. Answer all questions in Part III.

7 - Answer only questions 2.6 through 2.12 in Part II and all questions in Part III.

QUESTIONS (CONTINUED)

QUESTION 2.2

2.2 Have your proceedings and actions conformed to the requirements of Title I and/or Title III of PURPA for the STANDARD, as defined in the regulations applicable to each standard detailed in pages 7 through 26.

[Enter: Y (Yes)
N (No)]

QUESTIONS 2.3 through 2.5

In your consideration process, have you made written determination that it is (or is not) appropriate to adopt the STANDARD to carry out:

[Enter: Y (Yes it is appropriate);
N (No it is not appropriate;
O (Other, no written determination was made or no conclusions resulted from consideration process).]

2.3 Conservation of energy?
2.4 Optimization of efficiency?
2.5 Equitable rates?

QUESTION 2.6

2.6 Are all consumers in all classes covered by the STANDARD?

[Enter: Y (Yes), if Yes, Skip to Part III.
N (No), if no answer 2.7 through 2.12.]

QUESTIONS 2.7 through 2.9

How many retail consumers who are covered by the STANDARD are billed under rate schedules that conform to the adopted or mandated standards? Report as of November 9, 1981 for the following "rate schedules":

2.7 Residential class?
2.8 Commercial and industrial class?
2.9 All others?

QUESTIONS 2.10 through 2.12

What were the sales (GWH) to retail consumers who are covered by the STANDARD and are billed under rate schedules that conform to the adopted or mandated standards? Report for the 1980 calendar year for the following rate schedules:

2.10 Residential class?
2.11 Commercial and industrial class?
2.12 All others?

ANSWER SHEET FOR PART II

ELECTRIC
UTILITY NAME _____

QUESTIONS	(a) COS	(b) DBR	(c) TOD	(d) SLR	(e) INT	(f) LMT	(g) MM	(h) AAC	(i) ITC	(j) TOS	(k) ADV
2.1 (Status Code:0-8)											
2.2 (Y or N)											
2.3 (Y, N or O)											
2.4 (Y, N or O)											
2.5 (Y, N or O)											
2.6 (Y or N)											
2.7 (Number of Customers)											
2.8 (Number of Customers)											
2.9 (Number of Customers)											
2.10 (GWH)											
2.11 (GWH)											
2.12 (GWH)											

COS:Cost of service standard
DBR:Declining block rate standard
TOD:Time of day rates standard
SLR:Seasonal rates standard
INT:Interruptible rate standard
LMT:Load management technique standard
MM: Master metering standard
AAC:Automatic adjustment clause standard
ITC:Information to consumers standard
TOS:Termination of service standard
ADV:Advertising standard

[THIS SHEET IS TO BE DUPLICATED AND RETURNED]

ERA-166 (1-82)

ANSWER SHEET FOR PART II

GAS
UTILITY Name _____

QUESTIONS	(j) TOS	(k) ADV
2.1 (Status Code:0-8)		
2.2 (Y or N)		
2.3 (Y, N or O)		
2.4 (Y, N or O)		
2.5 (Y, N or O)		
2.6 (Y or N)		

TOS: Termination of Service Standard
ADV: Advertising Standard

[THIS SHEET IS TO BE DUPLICATED AND RETURNED]

ERA-166 (1-82)

PURPA ANNUAL REPORT ON ELECTRIC AND GAS UTILITIES

SECTION II
PART III
Standard Specific Questions

INSTRUCTIONS

I. Prepare duplicates of the answer sheet on page 43, as necessary, for each gas utility and electric utility named on pages 30 and 31.

II. Enter the name of each utility in the space provided on the answer sheet.

III. Designate whether the utility provides gas or electric service by circling "gas" or "electric" on the answer sheet. If the utility provides both services, prepare two answer sheets for the utility, one for the gas service and one for the electric service.

IV. Answer questions 3.1 through 3.34 for each utility and place all responses on the answer sheet for that utility.

V. Include comments pertaining to a specific utility on the back of that utility answer sheet. General comments are encouraged and should be included on a separate sheet.

QUESTIONS (CONTINUED)

QUESTIONS 3.1 through 3.5: COS Standard

Answer questions 3.1 through 3.5 only if the status code of question 2.1 for the COS standard was 4, 5, 6, or 7 (in Part II); otherwise skip to questions 3.6 through 3.7.

Does your cost of service standard address the following methods, or, if the standard was not adopted, did you consider the use of the following methods in your consideration process:

[Enter: R (Methods are required by standard)
A (Methods are allowed by standard)
F (Methods are forbidden by standard)
NC (Methods are not covered by standard)
Y (Methods were considered)
N (Methods were not considered)]

3.1 Methods that permit identification of customer demand and energy-related cost of service for each class of customer?

3.2 Methods that take into account the change in total costs resulting from adding capacity to meet peak demand?

3.3 Methods that take into account the change in total costs resulting from delivery of additional kWh?

3.4 Methods that permit the use of embedded cost data in setting rates?

3.5 Methods that permit the use of marginal cost data in setting rates?

QUESTIONS 3.6 through 3.7: DBR Standard

Answer questions 3.6 through 3.7 only if the status code of question 2.1 (in Part II) for the DBR standard was 4, 5, 6, or 7; otherwise skip to questions 3.8 through 3.11.

Does your declining block rates standard address the following methods:

[Enter: R (Required by standard)
A (Allowed by standard)
F (Forbidden by standard)
NC (Not covered (addressed) by standard)
NA (Not applicable, standard not adopted)]

3.6 The use of methods for determining the costs attributable to the energy component of a declining block rate?

3.7 Energy (i.e. KWH) charges that decline only to the extent that energy-related costs of service decline with increases in consumption?

QUESTIONS (CONTINUED)

QUESTIONS 3.8 through 3.11: TOD Standard

Answer questions 3.8 through 3.11 only if the status code of question 2.1 (in Part II) for the TOD standard was 4, 5, 6, or 7; otherwise skip to questions 3.12.

Does your time-of-day rate standard address the following methods, or, if the standard was not adopted, did you consider the use of the following methods in your consideration process:

[Enter: R (Methods are required by standard)
A (Methods are allowed by standard)
F (Methods are forbidden by standard)
NC (Methods are not covered by standard)
Y (Methods were considered)
N (Methods were not considered)]

3.8 Methods for determining costs of providing electric service at different times of day?

3.9 Methods that take into account the change in total costs resulting from adding capacity to meet peak demand?

3.10 Methods that take into account the change in total costs resulting from delivery of additional KWH?

3.11 Methods that permit the determination of the cost-effectiveness of time-of-day rates?

QUESTION 3.12: SLR Standard

Answer question 3.12 only if the status code of question 2.1 (in Part II) for the SLR standard was 4, 5, 6, or 7; otherwise skip to questions 3.13 through 3.17.

3.12 Does your seasonal rate standard address the use of methods prescribed by you for determining cost incurrence by season of the year for each class of customer?

[Enter: R (Required by standard)
A (Allowed by standard)
F (Forbidden by standard)
NC (Not covered (addressed) by standard)
NA (Not applicable, standard not adopted)]

QUESTIONS 3.13 through 3.17: INT Standard

Answer questions 3.13 through 3.17 only if the status code of question 2.1 (in Part II) for the INT standard was 4, 5, 6, or 7; otherwise skip to questions 3.18 through 3.21.

Does your interruptible rate standard address the following methods, or, if you have not adopted the standard, in your consideration process did you consider the use of the following methods for determining costs of providing interruptible electric service to the industrial and commercial class:

[Enter: R (Methods are required by standard)
A (Methods are allowed by standard)
F (Methods are forbidden by standard)
NC (Methods are not covered by standard)
Y (Methods were considered)
N (Methods were not considered)]

QUESTIONS (CONTINUED)

[Enter: Y (Methods were considered)
N (Methods were not considered)]

3.12 Methods that take into account the change in total costs resulting from adding capacity to meet peak demand?

3.13 Methods that take into account the change in total costs resulting from the delivery of additional kWh?

For rate schedules in effect as of November 9, 1981 and that complied with your interruptible rates standard:

3.15 How many commercial consumers were eligible to be billed under interruptible rates?

3.16 How many consumers were actually billed under interruptible rates?

3.17 How many megawatts of interruptible load were available from such interruptible consumers?

QUESTIONS 3.18 through 3.21 LMT Standard

Answer questions 3.18 through 3.21 only if the status code of question 2.1 (in Part II) for the LMT standard was 4, 5, 6, or 7; otherwise skip to questions 3.22 through 3.23.

Does your load management techniques standard address the following methods, or, if the standard was not adopted, did you consider the use of the following methods in your consideration process:

[Enter: R (Methods are required by standard)
A (Methods are allowed by standard)
F (Methods are forbidden by standard)
NC (Methods are not covered by standard)
Y (Methods were considered)
N (Methods were not considered)]

3.18 Methods that take into account the change in total costs resulting from adding capacity to meet peak demand?

3.19 Methods that permit a determination of a likely reduction in maximum kilowatt demand on the electric utility from utilization of available load management techniques?

3.20 Methods that permit a determination of likely long run cost savings to the utility of reductions in maximum KW demand?

3.21 Methods that permit a determination of whether an available technique is practicable, cost-effective, reliable, and provides useful energy or capacity management advantages to the electric utility?

QUESTIONS (CONTINUED)

QUESTIONS 3.22 through 3.23: MM Standard

Answer questions 3.22 through 3.23 only if the status code of question 2.1 (in Part II) for the MM standard was 4, 5, 6, or 7; otherwise skip to questions 3.24 through 3.25.

Does your master metering standard require specific criteria for separate metering, including:

[Enter: Y (Criteria required)
N (Criteria not required)
NA (Not applicable, standard not adopted)]

3.22 The occupant of each unit having control over a portion of the electric energy used in such unit?

3.23 The long-run benefits to the electric consumer in the building exceeding the costs of purchasing and installing separate meters?

QUESTIONS 3.24 through 3.25: AAC Standard

Answer questions 3.24 through 3.25 only if the status code of question 2.1 (in Part II) for the AAC standard was 4, 5, 6, or 7; otherwise skip to questions 3.26 through 3.28.

Does your automatic adjustment clauses standard require the following or, if the standard was not adopted, did you consider the following in your hearing process:

[Enter: Y (Yes)
N (No)]

3.24 Evidentiary hearings to be held not less often than every 4 years to determine whether each clause covered by the standard provides incentives for efficient use of resources by the electric utility?

3.25 Is your review of each covered clause not less often than every 2 years to ensure maximum economies in operations and purchases that affect automatic adjustment clause rates?

QUESTIONS 3.26 through 3.28: ITC Standard

Answer questions 3.26 through 3.28 only if the status code of question 2.1 (in Part II) for the ITC standard was 4, 5, 6, or 7; otherwise skip to questions 3.29 through 3.32.

Does your information to consumers standard require the following:

[Enter: Y (Yes)
N (No)
NA (Not applicable, standard not adopted)]

3.26 Transmittal of information to consumers of existing rate schedule and any rate schedule applied for as specified in PURPA?

PART III

QUESTIONS (CONTINUED)

3.27 Transmittal of a summary of the existing rate schedules applicable to each of the major consumer classes for which there is a separate rate to consumers, not less frequently than once each year?

3.28 Transmittal of the identification of any classes whose rates are not summarized, not less frequently than once each year?

QUESTIONS 3.29 through 3.32: TOS Standard

Answer questions 3.29 through 3.32 only if the status code of question 2.1 (in Part II) for the TOS standard was 4, 5, 6, or 7; otherwise skip to questions 3.33 through 3.34.

Does your termination of service standard require the following:

[Enter: Y (Yes)
N (No)
NA (Not applicable, standard not adopted)]

3.29 Prior notice of termination?

3.30 Prior notice to include third party notification, or other special procedures for notifying elderly and handicapped consumers?

3.31 A notice of rights and remedies to be provided to the consumer with all termination notices?

3.32 Service not to be terminated when consumer is unable to pay in accordance with requirements of utility's billing, or consumer can only afford to pay in installments?

QUESTIONS 3.33 through 3.34: ADV Standard

Answer questions 3.33 through 3.34 only if the status code of question 2.1 for the ADV standard was 4, 5, 6, or 7.

Does your advertising standard require the following:

[Enter: Y (Yes)
N (No)
NA (Not applicable, standard not adopted)]

3.33 Definitions of political and promotional advertising which conform to those given in sections 115(h)(1) and (2) or 304(b)(1) and (2) of PURPA (see pages 25 and 26)?

3.34 Prohibitions on the recovery of political and promotional advertising expenses from rate-payers or any persons other than shareholdes (or other owners)?

ANSWER SHEET FOR PART III

UTILITY NAME _____

Electric
Gas

3.1	3.12	3.23
3.2	3.13	3.24
3.3	3.14	3.25
3.4	3.15	3.26
3.5	3.16	3.27
3.6	3.17	3.28
3.7	3.18	3.29
3.8	3.19	3.30
3.9	3.20	3.31
3.10	3.21	3.32
3.11	3.22	3.33
		3.34

[THIS SHEET IS TO BE DUPLICATED AND RETURNED]

ERA-166 (1-82)

RETURN THE FOLLOWING PAGES:

27
28
30
31
35 (duplicated for each utility)
36 (duplicated for each utility)
43 (duplicated for each utility)

RETURN THEM TO:

PURPA Annual Report on Electric and Gas Utilities
Office of Fuels Programs
Economic Regulatory Administration
Department of Energy, Forrestal Building
1000 Independence Avenue, S.W., Room GA-093
Washington, D.C. 20585

RETURN THEM BY:

You are not required to submit this report until 30 days after the proposed rulemaking is finalized. However, we would appreciate submission of this report by April 15, 1982

IF YOU HAVE ANY QUESTIONS CALL:

Ron White
(202) 252-5000

ERA-166 (1-82)

BILLING CODE 6450-01-C

V 47 / 50 MR 15 82

federal register

Monday
March 15, 1982

Part IV

Department of Commerce

National Telecommunications and Information Administration

Public Telecommunications Facilities Program; Interim Revision

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

15 CFR Part 2301

Public Telecommunications Facilities Program; Interim Revision of Regulations

AGENCY: National Telecommunications and Information Administration (NTIA), Commerce.

ACTION: Interim Rules and Policy Statement.

SUMMARY: The National Telecommunications and Information Administration (NTIA) is announcing an interim revision of its regulations which govern the Public Telecommunications Facilities Program. The revision is necessary to implement amendments contained in the Public Broadcasting Amendments Act of 1981. An important change in the rules regards the use of federally funded equipment by grant recipients. The change requires recipients to use federally funded equipment "primarily" for public telecommunication purposes and for other than public telecommunication purposes as long as it does not interfere with the public telecommunication service as required by the Act. This allows grant recipients greater freedom in the use of equipment purchased with PTFP funds, and brings the statute essentially in line with the policy of the Administration as authorized by former section 392(g)(2) of the 1978 Act. In addition, the NTIA is amending its list of Priorities applicable to the PTFP by subordinating the activation and/or expansion of facilities for significantly different additional services in order to improve and augment existing public broadcast stations.

The National Telecommunications and Information Administration intends to issue Final Regulations and a Final Statement on Priorities after it has received and evaluated public comments. Organizations desiring to file applications with NTIA should develop their applications according to the rules and priorities set out herein.

DATES: In order to give applicants for grants during 1982 sufficient time to prepare their applications, the Interim Rules and Policy Statement will become effective on March 15, 1982.

Comments must be filed no later than April 14, 1982. Reply comments (if any) must be filed no later than May 14, 1982.

ADDRESS: Persons interested in commenting on the Interim Rules and Policy Statement must send seven copies of any comments to: Office of Chief Counsel, NTIA/DOC, Room 4892, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Persons desiring further information regarding the rules or policy statement should contact Robert M. Hunter, Office of Chief Counsel, NTIA/DOC, Room 4892, Washington, DC 20230. Telephone (202) 377-1816.

SUPPLEMENTARY INFORMATION:

I. Interim Rules

For the past several years NTIA has operated a grant-in-aid program for the planning and/or construction of public telecommunications facilities authorized under the Public Telecommunications Financing Act of 1978, Pub. L. No. 95-567, 92 Stat. 2405, 47 U.S.C. 390, *et seq.* (1978) [1978 Act]. Since NTIA's adoption of implementing rules in 1979, Congress has amended the 1978 Act to allow grant recipients greater freedom in the use of equipment purchased with PTFP funds. Formerly, under sections 392(a)(4) and (g)(2) of the 1978 Act, grant recipients could use PTFP funded equipment "only" for the provision of public telecommunications services. Section 1223 of the Public Broadcasting Amendments Act of 1981, Pub. L. No. 97-35 [1981 Amendments], amended sections 392(a)(4) and (g)(2) to require grant recipients to use PTFP funded equipment "primarily" for public telecommunications purposes, and to allow recipients to use the equipment for other than public telecommunications purposes, as long as it does not "interfere with the provision of such public telecommunications services as required by this part."

These changes in NTIA's underlying statutory authority require NTIA to amend 15 CFR former §§ 2301.6(c), 2301.31 and 2301.32 by deleting the term "only" and replacing it with "primarily" and other appropriate language. Toward that end former §§ 2301.6(c), 2301.31 and 2301.32 have been rewritten. Sections 2301.5(a)(2)(i)(D) and (I) and §§ 2301.24(a)(13) and 2301.29 of the Interim Rules now require grant recipients to use PTFP funded equipment primarily for public telecommunications purposes and allow grantees to use PTFP equipment for other than public telecommunications purposes as long as that use does not interfere with the provision of public telecommunications services.

In this context, the question arises as to what Congress intended by the term "interfere". Prior to the adoption of the 1981 Amendments, NTIA had issued a policy statement, 45 FR 64430, October 21, 1980, in which we stated that grant recipients could use PTFP funded facilities for other than public telecommunications purposes, but only when such use would not "interfere" with the simultaneous use of the equipment by the grantee for public telecommunications purposes.[1] Congress was aware of our policy when it enacted the 1981 Amendments and, therefore, it could be argued that Congress intended to continue NTIA's policy of allowing the use of PTFP funded equipment for other than public telecommunications purposes when it would not "interfere" with the simultaneous use of the equipment by the grantee. However, we believe the intent of Congress in passing the 1981 Amendments was to allow public telecommunications entities to use PTFP funded facilities to generate income and thereby become financially more self-sufficient. (This intent is evinced by Congress' creation of a Temporary Commission to study alternative methods of financing for public telecommunications activities.) To interpret the language of the 1981 Amendments as requiring the simultaneous use of facilities would be inconsistent with the intent of Congress to aid public telecommunications entities to become more self-supporting, because such an interpretation would effectively limit recipients' ability to generate income to two types of equipment—*i.e.*, towers and satellite earth stations. We are, therefore, interpreting the term "interfere" to allow grantees the use of PTFP funded equipment for other than public telecommunications purposes only when the equipment is not otherwise needed for public telecommunications purposes.

In this regard, Congress did not intend to allow, nor will we allow, a grantee to generate income from the use of PTFP funded facilities for other than public telecommunications purposes by abandoning or significantly diminishing its service to the public (*i.e.*, by reducing the amount of time the grantee uses PTFP funded equipment for public telecommunications purposes). A grantee may use PTFP funded equipment for other than public telecommunications purposes *only* when those facilities are not needed for public telecommunications purposes. Consequently, grant recipients *must* use

[1] Former section 392(g)(2) of the 1978 Act authorized the Administrator for good cause to waive the requirement that grantees use the equipment for "only" public telecommunications purposes. The 1981 Amendments deleted this language and replaced it with the requirement that the use of Federally funded equipment for other than public telecommunications not interfere with the provision of public telecommunications services by the grantees.

PTFP funded equipment "primarily" for public telecommunications purposes and *may* use or allow the use of PTFP funded equipment for other than public telecommunications purposes when not otherwise needed for public telecommunications purposes—*i.e.*, on a preemptible basis. (By "preemptible" we mean that in negotiating leases or other agreements for the use of PTFP funded equipment for other than public telecommunications purposes grantees must retain the right to cancel any such arrangement on reasonable notice (*e.g.*, one week), when it appears that the grantee will need the equipment for public telecommunications purposes.

As an ancillary matter, the question arises how much may (or must) grantees charge for the use of PTFP funded equipment for other than public telecommunications services. In our policy statement concerning the use of satellite earth stations, we stated it would be grossly unfair for grantees to charge less than the fair market value for the services which they offer to the public. 45 FR 69430, October 21, 1980. Since we are requiring grantees to lease PTFP funded equipment on a preemptible basis, they will not be able to obtain "fair market value" for the use of the equipment for other than public telecommunications purposes. Therefore, it is unnecessary for NTIA to require grantees to charge fair market value for the services they offer with PTFP funded equipment.

NTIA believes it would be sufficient for us to rely on a complaint process to deal with grantee noncompliance with the terms and conditions of the grant. Nevertheless, grantees would be well advised to maintain sufficient records on the use of PTFP funded facilities and the use of income generated from the use of those facilities to answer any complaints received by NTIA.

In addition, 15 CFR former § 2301.6(d)(3) required that grantees use all funds generated through the use of PTFP funded equipment "solely for noncommercial public telecommunications purposes, as proposed in the application." NTIA believes it would be consistent with the intent of Congress to allow grantees to use some part of the income they will derive from other than public telecommunications use to generate more income for the stations. NTIA has, therefore, rewritten former § 2301.6(d)(3) of its rules to require grantees to use the funds generated from the use of PTFP equipment "primarily" for public telecommunications purposes.

Since we must amend the rules to conform them to the 1981 Amendments to the 1978 Act, we have taken this opportunity to simplify the rules. In doing so, we have amended former §§ 2301.5 and 2301.13 (in §§ 2301.6 and 2301.13 of the Interim Rules) to provide that the Agency will return applications which are incomplete or untimely. Applicants may submit minor amendments (amendments which do not change the nature or scope of the application) within 45 calendar days after the closing date. After this period, NTIA will eliminate from consideration any applications which it finds are incomplete or untimely, and the applicants may not appeal the Agency's decisions.

Each applicant will be responsible for making sure its application is complete and contains the necessary materials. To aid the applicants in developing complete applications, NTIA has enumerated in § 2301.5 of the Interim Rules the items necessary for an application to be complete. The Agency encourages applicants to contact the PTFP staff directly during the time allotted for the preparation of applications after the notice of closing date is published in the Federal Register. NTIA will continue to request additional information when it feels such information is necessary to clarify an application or to aid the Agency in evaluating an application. As stated in § 2301.5 of the Interim Rules, applicants are required to promptly submit any additional information requested by NTIA. The Agency will return the application of any applicant which fails to promptly supply the additional information requested. The time within which an applicant must respond to an NTIA request for additional information will be stated in the Agency's request for the information. Ordinarily, the Agency will make these requests within 45 days after the closing date.

NTIA has also amended former §§ 2301.11, 2301.12 and 2301.13 to enable the Agency to focus on the application at one point in time (namely, at the end of the time for filing amendments). NTIA now requires in §§ 2301.5 and 2301.9 of the Interim Rules that an applicant publish a notice of its filing of an application with NTIA *on or before the closing date* and attach to its application two copies of the notice as it is to appear in the local newspaper. Former § 2301.11 had required the applicant to publish this notice after the filing of the application. Similarly, §§ 2301.5 and 2301.8 of the Interim Rules now require that *on or before the closing date* an applicant must serve copies of its application on: any State telecommunications agency having jurisdiction over the community or communities which the applicant proposes to serve in its application; the Federal Communications Commission (Commission), if the applicant's proposal requires any authorization from the Commission; the State telecommunications entity (if any); and any State clearinghouse, required to be served under Office of Management and Budget (OMB) Circular A-95. (During prior years, applications filed for grants under the PTFP were not subject to the requirements of OMB Circular A-95. OMB has determined that NTIA applicants must from now on comply with the requirements of MB Circular A-95. This circular requires that any appliant for Federal financial assistance file a copy of its Federal financial assistance application or a notice of intent to file such an application with a State clearinghouse.) An applicant now must attach to its application a statement certifying that it has served the organizations listed in § 2301.9 *on or before the closing date.*

NTIA has also amended former § 2301.13 (now § 2301.12 of the Interim Rules) to require, as a condition for the Agency's acceptance for filing of an application, that the applicant tender for filing its application to the Commission for any necessary authority. Section 2301.13 formerly provided that NTIA would not accept for filing any application requiring Commission authorization until the Commission had accepted the application for filing. Since the Commission might not accept an application for filing for several months, NTIA believes it would be sufficient for us to rely on the applicant's documentation that it has tender an application with the Commission *on or before the closing date.* If an applicant fails to tendered an application to the Commission *on or before the closing date,* NTIA will not consider the applicant's application for PTFP funding during the current funding cycle. (Applicants should be aware that an application is "tendered" to the Commission on the date that it is *received and stamped* by the Secretary of the Commission.)

In simplifying the rules, NTIA has reorganized the PTFP Rules to clearly set out in § 2301.28 of the Interim Rules what conditions are attached to the grants and in § 2301.30 what actions the Agency may take, if a grantee fails to continue to meet the conditions. In addition, NTIA has deleted the portion of the rules concerning consolidated procurement, 15 CFR former § 2301.26. While NTIA will encourage grant recipients to engage in consolidated procurement of facilities by grantees, we believe the specific provision for such

procurement, as in former § 2301.26, is unecessary. In deleting this section, we must caution grantees that they must continue to meet the requirements of OMB Circulars A–110 and A–102. As was stated in subsection (a) of former § 2301.26 the "[r]esponsibility for the proper disbursement of program funds and title to and control of facilities purchased through [consolidated procurement] must remain with the individual grantee."

Furthermore, we have made a number of minor changes in the regulations which should be noted. First, we have deleted former § 2301.15 which provided for an equitable distribution of the funds among the States. Since the primary objective of the Act is to extend public telecommunications services to unserved areas, it would be inconsistent with the reaching of that objective for the Agency to insist on an equitable distribution of the funds among the States. Second, NTIA has eliminated from the list of evaluative criteria those elements which would involve the Agency in an evaluation of the proposed or actual programming of an applicant (except to the extent sectarian programming is involved) or which would require an applicant to perform ascertainment studies of the service area. *See* § 2301.17 and 2301.18. Third, we have added language to specify the time at which the Agency will add to the list of ineligible equipment. *See* § 2301.24. Finally, we have amended the language of § 2301.22 to encourage the grantee to spend Federal funds efficienctly. Section 2301.22 now provides that if the actual costs of the project are less than the projected costs, the Agency will reduce the amount of the final grant in proportion to the amount of costs saved.

Over the past several years, NTIA has issued a number of opinions concerning the eligibility of organizations for PTFP grants (and other legal questions). To the extent these precedents have not been overruled by changes in the 1978 Act, NTIA intends to continue to follow these precedents. An exception to this policy concerns our statements on the necessity of an applicant having or proposing to have some means of electronic distribution for the project to be eligible. In the PTFP Report and Order, we indicated that possession of a means of electronic distribution is an essential element for projects seeking PTFP grants. We stated we would "normally expect this arrangement to be in the form of a ten (10) year lease, a contract that cannot unilaterally be cancelled, or a similar legal commitment." 44 FR 30,900 (1979). Nevertheless, we have considered other arrangements on a case-by-case basis, and in several letters to applicants and grantees indicated that we would accept leases or other contracts with a minimum term of three years. We selected three years as an appropriate minimum contract term because the Communications Act of 1934, as amended, limited broadcast licenses to three year terms. Since we adopted that policy, Congress has amended the Communications Act to extend the term of broadcast licenses to five years (for television) and seven years (for radio). We believe, therefore, it is appropriate for us to require applicants without a means of electronic distribution to obtain contracts or leases for an electronic means of distribution for a minimum period of five years.

In our *Report and Order*, 44 FR 30,898 (1979), we created the NTIA Grant Appeals Board (Board) to deal with grant disputes arising under the PTFP. The Department of Commerce is now planning to consolidate its post-grant administrative activities. NTIA has, therefore, deleted former § 2301.33 and will no longer use the Board. *Before* the award of a grant, an applicant may appeal an Agency denial of eligibility to the applicant or a project, or the completeness of an application, to the Administrator under § 2301.13. During the pendency of an appeal, NTIA will continue to evaluate the application.

The Interim Rules described above are not "major" rules within the meaning of section 1 of Executive Order 12291 (1981). E.O. 12291 provides that a major rule is one which is "likely to result in: (1) An annual effect on the economy of $100 million or more; (2) A major increase in costs or prices for consumers, individual industries, * * *; or (3) Significant adverse effects on competition, employment, investment, productivity [or] innovation. * * *" NTIA believes it would be very unlikely for grantees to generate $100 million in annual income from the part-time use of the federally funded equipment for other than public telecommunications purposes. NTIA is, therefore, not required to perform a regulatory impact analysis as required of "major" rules.

In addition, NTIA has reviewed the Interim Rules in light of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601, *et seq.* (1980), and determined it need not perform a regulatory flexibility analysis, as described in 5 U.S.C. 603, because the Interim Rules concern a Federal grant-in-aid program and, therefore, are not subject to the notice and comment requirements of 5 U.S.C. 553. Nevertheless, NTIA has attempted in this document to provide the public with sufficient information as described in section 603 of the Regulatory Flexibility Act.

As a final matter, pursuant to the Paperwork Reduction Act of 1980, OMB reviewed the information collection and record keeping requirements contained in NTIA's rules as set out in the PTFP Report and Order, 44 FR 30,898 (1979). The amendments of NTIA's regulations contained in the Interim Rules do not alter the Agency's already approved information collection or record keeping requirements. [OMB Approval No. 0660–0003.]

II. Policy Statement

A. Priorities

In Appendix B to the PTFP Report and Order, 44 FR 30,898, 30920–21, May 29, 1979, NTIA set out a list of prorities which would govern the Agency's evaluation of grant applications for the planning and construction of public telecommunications facilities. The list, as amended in 45 FR 1988, 1991–2 (1980), contains five basic priorities:

- Priority I—Provision of Telecommunications Facilities for First Service to a Geographic Area.
- Priority II—Activation or Expansion of Telecommunications Facilities for Significantly Different Additional Service.
- Priority III—Improvement of Existing Broadcast Station Facilities.
- Priority IV—Augmentation of Existing Broadcast Station Facilities.
- Other Cases.

NTIA derived these priorities from the list of criteria enumerated in section 393(b) of the 1978 Act. However, NTIA's experience with this list of priorities has indicated that to effectively accomplish the primary purpose of the 1978 Act—namely, to "extend the delivery of public telecommunications services to as many citizens of the United States as possible by the most efficient and economical means * * *," 47 U.S.C. 390(1)—it must amend Priority I to explicitly state that only projects to plan or construct new facilities to bring public telecommunications services to presently unserved geographic areas will be considered under Priority I.

As set out at 45 FR 1991, Priority I includes two subcategories:

(A) Projects to establish telecommunications facilities which include local origination capacity. This category includes the activation of new facilities which can provide a full range of radio and/or television programs including material that is locally produced. Eligible projects include new radio or television broadcast stations, new cable systems, or first public telecommunications service to existing cable systems, provided that such projects include local origination capacity.

(B) Projects to extend existing telecommunications delivery systems. This category includes projects such as increase in tower height and/or power of existing stations and construction of translators, cable networks and repeater transmitters. No local origination capacity is required.

Priority I and its subcategories only apply to grant applicants proposing to plan or construct new facilities to bring public telecommunications services to geographic areas which are presently unserved—*i.e.*, areas which *do not receive any* public telecommunications services whatsoever. (It should be noted that television and radio are considered separately for the purposes of determining coverage.) Nevertheless, during the past several years many applicants have sought to obtain Priority I consideration for applications proposing to plan to construct new facilities with local origination capacity to serve areas which already receive some public telecommunications services from distant sources through cable systems, translators or repeater transmitters.

We are, therefore, amending Priority I to explicitly provide that NTIA will only consider proposals to plan or construct new or expanded facilities to extend public telecommunications services to geographic areas not presently receiving any such services. This change is being affected by: deleting the word "Service" from the phrase "Facilities for First Service to a Geographic Area" and inserting in lieu thereof the words "Radio and Television Signals"; deleting the phrase "to establish public telecommunications facilities" from subcategory A of Priority I; deleting the term "activation" from subcategory A of Priority I and inserting in lieu thereof the words "planning or construction"; deleting the phrase "to extend existing telecommunications delivery systems" from subcategory B of Priority I and inserting in lieu thereof the phrase "which do not include local origination capacity"; inserting the phrase "which will result in providing public telecommunications services to previously unserved areas" after the words "repeater transmitter"; and deleting from subcategory B of Priority I the last sentence "No local origination capacity is required." As amended herein, Priority I will read as follows:

Priority I—*Provision of Public Telecommunications Facilities for First Radio and Television Signals to a Geographic Area.* Within this category, we establish two subcategories:

A. *Projects which include local origination capacity.* This category includes the planning or construction of new facilities which can provide a full range of radio and/or television programs including material that is locally produced. Eligible projects include new radio or television broadcast stations, new cable systems, or first public telecommunications service to existing cable systems, provided that such projects include local origination capacity.

B. *Projects which do not include local origination capacity.* This category includes projects such as increase in tower height and/or power of existing stations and construction of translators, cable networks and repeater transmitters which will result in providing public telecommunications services to previously unserved areas.

Under this priority, we will consider an area served when it receives a public television signal from a distant source through a cable system which has a penetration rate of 50 percent. (An applicant proposing to plan or construct a facility to serve a geographical area, which is presently unserved, should indicate the number of persons who would receive a *first* public telecommunications signal as a result of the proposed project.) As a general rule, the greater the number of persons who would receive a *first* public telecommunications signal through a particular project, the greater the probability NTIA will fund the project.

In addition, as a part of its primary obligation to "extend" public telecommunications services to unserved areas, NTIA believes it must maintain public telecommunications services where they presently exist. This is especially true when a station provides the only public telecommunications services to an area and is in danger of going off the air through the loss of a transmitter, tower or other essential facilities. NTIA believes it is more important and economical to "maintain" (or "improve") and augment such a facility than to plan or construct additional facilities to serve an area. Consequently, NTIA is amending its list of priorities by subordinating the activation or expansion of telecommunications facilities for significantly different additional service to the improvement and augmentation of existing broadcast station facilities.

To accomplish this, NTIA is amending the list of priorities by creating several more narrowly defined categories. Priority II, as amended, now provides for:

Replacement of Basic Equipment of Existing Essential Broadcast Facilities. Projects eligible for consideration under this category include the replacement of obsolete or worn out equipment in existing broadcast facilities which provide either the only public telecommunications signal or the only locally originated public telecommunications signal to a geographical area.

In order to show that the replacement of equipment is necessary, applicants must provide evidence indicating excessive down time, or a high incidence of repair. Additionally, applicants must show that the facility is the only public telecommunications facility providing a signal to a geographical area or the only facility with local origination capacity in a geographical area. Applicants must also show that they have been unable to obtain the necessary funds from the local community.

In the new Priority III, NTIA has combined elements of former Priorities II and III. Priority III now provides for:

Establishment of First Local Origination Capacity in a Geographical Area. Projects in this category include the planning or construction of facilities to bring the first local origination capacity to an area already receiving public telecommunications services from distant sources through translators, repeaters and cable systems.

Applicants seeking funds to bring the first local origination capacity to an area already receiving some public telecommunications services may do so, either by establishing a new (and additional) public telecommunications facility, or by adding local origination capacity to an existing facility. (A source of a public telecommunications signal is distant when the geographical area to which the source is brought is beyond the grade B contour of the originating facility.)

Under the new Priority IV, NTIA provides for:

Replacement or Improvement of Basic Equipment for Existing Broadcast Facilities. Projects eligible for consideration under this category include the replacement of obsolete or worn out equipment and the upgrading of existing origination or delivery capacity to current industry performance standards (*e.g.*, conversions to color, stereo, etc.; improvements to signal quality and significant improvements in equipment flexibility or reliability).

This category broadens subcategory B of former Priority III to include the replacement or improvement of all types of equipment not included within Priority II. The distinction between Priority II and Priority IV is that Priority II is only for the replacement of basic equipment for essential facilities. Where an applicant seeks to "improve" basic equipment in its facility (*i.e.*, where the equipment is not "worn out"), or where the applicant is not an essential facility, NTIA would consider the applicant's project under Priority IV. As under the new Priority II, applicants seeking to

replace or improve basic equipment under Priority IV should show that the replacement of the equipment is necessary by including in their applications data indicating excessive downtime, or a high incidence of repair.

Under the new Priority V, NTIA has incorporated former Priorities IV without any change in the former wording. NTIA has also deleted former Priority II (Activation or Expansion of Telecommunications Facilities for Significantly Different Additional Services) as a separate Priority. Rather, NTIA will consider applications proposing to plan or construct significantly different additional services under the category of "Other". NTIA will retain the discretion to fund applications in this category without regard to its consideration of applications within other Priorities. Toward this end, NTIA is amending the category of "Other" to include meritorious projects which do not fall within any of the categories described above. The text of these priorities may be found in Appendix A.

During prior funding cycles, NTIA had evaluated all applications (new and deferred) and made all grant awards concurrently. In order to speed up the grant process and eliminate unnecessary duplication of staff effort, NTIA will no longer perform detailed evaluations of applications which the Agency has already evaluated and deferred in the prior year's grant cycle. Rather, NTIA will retain the evaluations of applications performed by the staff during the prior year and make awards on the basis of that evaluation. (If the applicant has substantially amended its deferred application, NTIA will treat the application as a new application and perform a new evaluation of the application.)

Furthermore, the Administrator retains the discretion to award grants to such deferred applications at any time after the time specified for amending applications under § 2301.7 has expired, where the Administrator can determine with reasonable certainty that the particular project is exceptionally meritorious (on the basis of the Agency's preliminary evaluation of all other applications within the priority) and that the Agency would fund the project after completing the evaluation of all the applications in the priority (on the basis of the Agency's prior experience in making grants). Under this process, the Agency will be able to fund applications that the Agency had deferred in the prior year because of technical problems (such as an inability to obtain the necessary Commission authorization) which have since been eliminated. We are adopting these new procedures to enable us to more efficiently achieve our primary goal of extending the delivery of public telecommunications services to unserved areas.

In the PTFP Report and Order, 44 FR 30,898, 30,904 (1979), we stated:

> NTIA will amend the list of priorities only after a public notice of the anticipated changes has been published in the Federal Register and the public has been given an opportunity to comment. Nevertheless, the priorities list remains a statement of NTIA policy rather than a rule and we retain discretion over whether full Administrative Procedure Act-type procedures will be employed in any particular case.

Because of the relatively short period of time within which we must process the applications for the 1982 grant cycle, NTIA must exercise its discretion to amend the list of priorities *on an interim basis* without public comment. Nevertheless, we desire to obtain public comment on our amendment of the priorities before we issue a final list of priorities. After reviewing any comments (and reply comments, if any) received in response to this Policy Statement, NTIA will issue a Report and Order summarizing the comments and detailing our responses to the issues raised.

B. Special Consideration

Under section 392(f) of the 1978 Act, as amended, NTIA is required to give special consideration to applications which "would increase women's and minorities' ownership of, operation of, and participation in public telecommunications entities." Toward this end, NTIA issued a policy statement on special consideration, 44 FR 33,032 (1979). NTIA stated:

> [W]e view Section 392(f) as a modifier of the statutory priorities listed in section 393(b) of the Act and the list of funding priorities * * * Thus, if all other relevant factors were equal (for example, priority listing, cost efficiency, etc.) and we were able to award only one grant, we would fund the application that best fosters the role of minorities and women.

While the criteria listed in section 393(b) of the Act are not, in fact, priorities, we will continue to accord special consideration to minorities and women. For the purposes of special consideration, NTIA has adopted the definition of "minority" contained in the Senate Report accompanying the 1978 Act. As we stated in our earlier policy statement: "Under this program, the following groups of citizens will be considered to be minorities: 'American Indians or Alaska Native; Asian or Pacific Islander; Hispanic; and Blacks, not of Hispanic Origin.' Sen. Rep. No. 95-858, 95th Cong., 2nd Sess. 11 (1978)."

NTIA will continue to interpret the words "ownership" and "owned" as meaning "control" of an entity "through the possession or exercise of the normal incidents of ownership, participation on the governing board, holding of corporate offices, etc.," and to accord special consideration only "where women and/or minorities are in either legal (*i.e.*, more than 50 percent) or actual control of the entity. We will consider the applicant's reported composition of its governing body and the individuals who hold management-level and policymaking positions." 44 FR 33032.

Dated: March 8, 1982.

Bernard J. Wunder, Jr.,
Administrator.

List of Subjects in 15 CFR Part 2301

Administrative procedure
Grant programs—communications
Reporting requirements and
Telecommunications

(Catalogue of Federal Domestic Assistance No. 11.550)

Title 15 of the Code of Federal Regulations is amended by revising Part 2301 on an interim basis to read as follows:

PART 2301—PUBLIC TELECOMMUNICATIONS FACILITIES PROGRAM

Subpart A—General

Sec.
2301.1 Purpose and scope.
2301.2 Other pertinent rules and regulations.
2301.3 Definitions.

Subpart B—Eligibility and Application Procedures

2301.4 Who can get a PTFP grant and what can they use it for?
2301.5 How do I file an application?
2301.6 What happens if my application is incomplete or untimely?
2301.7 What if I want to change some of the information in my application?
2301.8 Service of applications.
2301.9 Publication of filing.
2301.10 Closing date.
2301.11 Federal Communications Commission authorization.
2301.12 What happens after I file an application?
2301.13 How can I appeal the Agency's return of an application?
2301.14 Can members of the public comment on applications?
2301.15 What does the Agency do with these comments?

Sec.
2301.16 Coordination with interested agencies and organizations.
2301.17 Funding criteria for construction applications.
2301.18 Funding criteria for planning applications.
2301.19 Action on applications.

Subpart C—Priorities Among Applications and the Role of Minorities and Women

2301.20 Program priorities.
2301.21 Special consideration.

Subpart D—Federal Financial Participation

2301.22 Amount of the Federal grant.
2301.23 Payment of the Federal grant.
2301.24 Items and costs ineligible for Federal funding.

Subpart E—Accountability for Federal Funds

2301.25 Retention of records.
2301.26 Copies of planning studies; Final certification of construction projects.
2301.27 Annual status report for construction grants.

Subpart F—Control and Use of Equipment

2301.28 What conditions are attached to the Federal grant?
2301.29 Nondiscrimination; Rules incorporated by reference.
2301.30 What happens if a grantee fails to meet the conditions of the grant?
2301.31 Equipment.
2301.32 Waiver.

Authority: Public Telecommunications Financing Act of 1978, 47 U.S.C. 390, et seq.; as amended by the Public Broadcasting Amendments Act of 1981.

Subpart A—General

§ 2301.1 Purpose and scope.

These regulations prescribe policies and procedures to insure the fair, equitable and uniform treatment of applications for planning and construction grants for public telecommunications facilities. They implement the provisions of Part IV of Title III of the Communications Act of 1934, as amended by the Public Telecommunications Financing Act of 1978, 47 U.S.C. 390–94 and 397–99, and section 1223 of the Public Broadcasting Amendments Act of 1981, Pub. L. No. 97–35.

§ 2301.2 Other pertinent rules and regulations.

Other rules and regulations pertinent to applications for the operation of noncommercial educational broadcast stations and public broadcast stations are contained in the rules and regulations of the Federal Communications Commission, 47 CFR Part 1 (Practice and Procedure); Part 2 (Frequency Allocations and Radio Treaty Matters; General Rules and Regulations); Part 17 (Construction, Marking, and Lighting of Antenna Structures); Part 3, Subpart E (Television Broadcasting Stations); Part 73 (Radio Broadcast Services); and Part 74 (Experimental Auxiliary and Special Broadcast and Other Program Distribution and Services).

§ 2301.3 Definitions.

"Act" means Part IV of Title III of the Communications Act of 1934, 47 U.S.C. 390–94 and 397–99, as amended by Pub. L. No. 95–567, and as further amended by Pub. L. No. 97–35.

"Administrator" means the Assistant Secretary for Communications and Information of the Department.

"Agency" means the U.S. Department of Commerce or the National Telecommunications and Information Administration of the Department.

"Commission" means the Federal Communications Commission.

"Construction" (as applied to public telecommunications facilities) means acquisition (including acquisition by lease), installation, and improvement of public telecommunications facilities and planning and preparatory steps incidental to any such acquisition, installation or improvement.

"Federal interest" means the interest which the Federal Government retains in all facilities constructed with Federal grant funds for ten (10) years after the completion of the project.

"Noncommercial educational and cultural radio and television programs" means educational, community service, public service, public affairs and cultural programs of benefit to the area or community to be served by a public telecommunications entity.

"Noncommercial educational broadcast station" and "public broadcast station" mean a television or radio broadcast station: Which is eligible to be licensed by the Commission as a noncommercial educational radio or television broadcast station under the rules and regulations of the Commission in effect on the effective date of enactment of the Act; and which is owned (controlled) and operated by a nonprofit private foundation, corporation or association, or owned (controlled) and operated by a municipality and transmits only noncommercial programs for educational purposes.

"Noncommercial telecommunications entity" means any enterprise: Which is owned (controlled) and operated by a State, a political or special purpose subdivision of a State, a public agency, or a nonprofit private foundation, corporation or association; and which has been organized primarily for the purpose of disseminating audio or video noncommercial educational and cultural programs to the public by means other than a primary television or radio broadcast station, including but not limited to, coaxial cable, optical fiber, broadcast translators, cassettes, discs, microwave or laser transmission through the atmosphere.

"Nonprofit" (as applied to any foundation, corporation, or association) means a foundation, corporation, or association, no part of the net earning of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"Person" means an individual, corporation, foundation, association or institution.

"Preoperational expenses" means all nonconstruction costs incurred by new telecommunications entities before the date on which they began providing service to the public, and all nonconstruction costs associated with the expansion of existing entities before the date on which such expanded capacity is activated, except that such expenses shall not include any portion of the salaries of any personnel employed by an operating public telecommunications entity.

"PTFP" means the Public Telecommunications Facilities Program.

"PTFP Program Director" means the Agency employee who recommends final action on public telecommunications facilities grants to the Administrator.

"Public broadcasting entity" means the Corporation for Public Broadcasting, any licensee or permittee of a public broadcasting station, or any nonprofit institution engaged primarily in the production, acquisition, distribution or dissemination of educational and cultural television or radio programs.

"Public telecommunications entity" means any enterprise which is a public broadcast station or noncommercial telecommunications entity and which disseminates public telecommunications services to the public.

"Public telecommunications facilities" means apparatus necessary for production, interconnection, captioning, broadcast or other distribution of programming, including but not limited to, studio equipment, cameras, microphones, audio, and video storage or reproduction equipment, or both, signal processors and switches, towers, antennas, transmitters, translators, microwave equipment, mobile equipment, satellite communications equipment, instructional television fixed service equipment, subsidiary communications authorization transmitting and receiving equipment, cable television equipment, video and audio cassettes and discs, optical fiber

communications equipment and other means of transmitting, emitting, storing and receiving images and sounds or intelligence, except that such term does not include the buildings to house such apparatus (other than small equipment shelters which are part of satellite earth stations, translators, microwave interconnection facilities and similar facilities).

"Public telecommunications services" means noncommercial educational and cultural radio and television programs, and related noncommercial instructional or informational material that may be transmitted by means of electronic communications.

"Secretary" means the Secretary of the U.S. Department of Commerce.

"State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"System of public telecommunications entities" means any combination of public telecommunications entities acting cooperatively to produce, acquire or distribute programs, or to undertake related activities.

Subpart B—Eligibility and Application Procedures

§ 2301.4 Who can get a PTFP grant and what can they use it for?

(a) Eligibility of applicants—In order to apply for and receive a PTFP grant, an applicant must be:

(1) A public or noncommercial educational broadcast station;

(2) A noncommercial telecommunications entity;

(3) A system of public telecommunications entities;

(4) A nonprofit foundation, corporation, institution or association organized primarily for educational or cultural purposes; or

(5) A State or local government or agency or a political or special purpose subdivision of a State.

(b) Eligibility of projects—An applicant which is eligible under paragraph (a) of this section, may file an application with the Agency for a planning or construction grant to achieve the following:

(1) The provision of new public telecommunications facilities to extend service to areas currently not receiving public telecommunications services;

(2) The expansion of the service areas of existing public telecommunications entities into areas not currently receiving public telecommunications services;

(3) The development of public telecommunications facilities owned by, operated by, or available to minorities and women; and

(4) The improvement of the capabilities of existing public broadcast stations to provide public telecommunications services.

(c) In addition any applicant, whose proposal requires an authorization from the Commission, must be eligible to receive such authorization.

(d)(1) If a prospective applicant is unsure whether it is eligible to receive a PTFP grant or whether its proposed project is eligible for PTFP funding, the prospective applicant may seek a determination from the Agency at any time, except during the period between the closing date for the filing of applications and the publication by the Agency of the list of applications which the Agency has accepted for filing.

(2)(i) To obtain an eligibility determination from the Agency a prospective applicant must send a letter requesting an eligibility determination to the PTFP Program Director, NTIA/DOC, Room 4078, Washington, DC 20230.

(ii) In this letter the prospective applicant must:

(A) Describe the proposed project;

(B) Include a copy of the organization's articles of incorporation, or other similar documentation, which specifies the nature and powers of the prospective applicant; and

(C) If the prospective applicant is a nonprofit foundation, corporation, institution or association, provide a copy of a letter from the Internal Revenue Service granting the prospective applicant tax exempt status under section 501(c)(3), of the Internal Revenue Code, or other similar documentation.

(3) A favorable eligibility determination does not guarantee that the Agency will accept an application for filing or award a grant.

(4) An applicant may appeal an unfavorable eligibility determination to the Administrator under § 2301.13.

§ 2301.5 How do I file an application?

(a) New applications. To apply for a PTFP grant an applicant must file a *timely* and *complete* application on a form approved by the Agency. A prospective applicant may obtain an approved Agency application form from the Public Telecommunications Facilities Program, NTIA/DOC, Room 4078, Washington, DC 20230.

(1) To file a *timely* application an applicant must file an application on or before the closing date set for the filing of applications by the Administrator under § 2301.10 of this part. The application must:

(i) Be addressed to the Public Telecommunications Facilities Program, NTIA/DOC, Room 4078, Washington, DC 20230;

(ii) If mailed, be postmarked no later than midnight of the closing date; and

(iii) If hand delivered, be received no later than 4:30 p.m. on the closing date.

(2) To file a *complete* application the applicant must submit an original and one copy of the assurances and other information described below:

(i) Assurances—

(A) The applicant is an eligible entity as described in section 2301.4 of the rules;

(B) The applicant will control the operation of, and maintain, any public telecommunications facilities obtained with PTFP funds;

(C) The applicant will have when needed the necessary funds to construct any public telecommunications facilities for which the Agency has granted matching funds, and to operate and maintain those facilities once constructed;

(D) The applicant will use PTFP funds and any monies generated through the use of PTFP funded equipment primarily for public telecommunications purposes;

(E) The applicant has participated (or, in the case of a planning grant, will participate) in comprehensive planning for such public telecommunications facilities, including community involvement, an evaluation of alternate technologies and coordination with State telecommunications agencies, if any;

(F) The applicant has taken into account all non-Federal financial sources available for the project and the non-Federal share stated by the applicant as being available for use in this project is the maximum amount available from such sources;

(G) The applicant will make the most economic and efficient use of the grant;

(H) The applicant will hold appropriate title or lease to the site on which apparatus proposed in the project will be operated, including the right to construct, maintain, operate, inspect and remove such apparatus, sufficient to assure the continuity of operation for a period of ten (10) years following the completion of the project; and

(I) The applicant will not use or allow the use of any PTFP funded facilities for other than public telecommunications purposes when such uses would interfere with the use of the facilities for the provision of public telecommunications services;

(ii) Other information—

(A) The original signature of an officer of the applicant, who is legally authorized to sign for the applicant;

(B) A brief narrative statement (of not more than four (4) pages) describing the proposed project;

(C) A copy of the applicant's articles of incorporation, by-laws and other similar documentation specifying the nature and powers of the applicant;

(D) If the applicant is a nonprofit foundation, corporation, institution or association, a copy of a letter from the Internal Revenue Service granting the applicant tax exempt status under section 501(c)(3) of the Internal Revenue Code, or other similar documentation of nonprofit status;

(E) A copy of any environmental impact or narrative statement required to be filed in connection with the proposed project by any Federal, State or local law or regulation;

(F) If the application is for a construction project, a five (5) year plan outlining the applicant's projected facilities requirements and the projected costs of those facilities;

(G) If the application is for a construction project, information relating to the applicant's evaluation of alternate technologies available in the service area and the extent to which there is no duplication of services;

(H) An inventory of all public telecommunications facilities (if any) currently owned by the applicant;

(I) If special consideration is requested under section 392(f) of the Act, information detailing the basis for the request;

(J) A statement by the applicant certifying that the applicant has served copies of its application on each of the entities required under § 2301.8 of this part;

(K) A statement by the applicant certifying that the applicant is causing to be published in a newspaper of general circulation in the community to be served the notice required in § 2301.9 of this part and two copies of the notice as it is to appear in the newspaper with notations of the dates on which the notice is to be published;

(L) An opinion letter from the applicant's attorney stating that the applicant has fee simple title or a long term lease (*e.g.*, a ten year lease) to any real property necessary for the installation of major fixed equipment (such as a broadcast transmitter or tower);

(M) Meaningful documentation supporting the applicant's request for equipment to render the proposed service (*e.g.*, if an applicant seeks a grant for local production equipment, the applicant should supply documentation indicating its intent to engage in local production); and

(N) Current information concerning any discrimination complaints filed against it before any governmental agency.

(b) Deferred applications—

(1) An applicant may reactivate an application deferred by the Agency during the prior year under § 2301.19 of this part, if the applicant has not substantially changed the stated purpose of the application.

(2) To reactivate a deferred application, the applicant must file a written request with the Public Telecommunications Facilities Program, NTIA/DOC, Room 4078, Washington, DC 20230. The request must be *timely* and *complete*.

(i) To file a *timely* request, an applicant must file the request on or before the date established as the closing date for the filing of applications under § 2301.10 of the rules. The request must:

(A) Be addressed to the Public Telecommunications Facilities Program, NTIA/DOC, Room 4078, Washington, DC 20230;

(B) If mailed, be postmarked no later than midnight of the closing date; and

(C) If hand delivered, be received no later than 4:30 p.m. of the closing date.

(ii) To file a *complete* request the applicant must submit an original and one copy of the following:

(A) Sections I, II, III and IV of Part I of the approved Agency application form with the original signature of an officer of the applicant, who is legally authorized to sign for the applicant, a notation of the file number of the earlier application and the current filing date of the amendment;

(B) A brief narrative statement (not more than four (4) pages) describing the proposed project submitted on the current application form;

(C) An update of availability of operating funds and the necessary non-Federal share of the project;

(D) A revised listing of current eligible project costs, if necessary;

(E) A revised inventory of all public telecommunications facilities currently owned by the applicant (applicants having previously submitted an inventory need only submit updating information);

(F) If the application is for a construction project, a revised five (5) year plan outlining the applicant's projected facilities requirements, and the projected costs of such facilities (applicants having previously submitted a five (5) year plan may submit any approved amendments, including updating the dates to include the current year);

(G) Current information relating to the applicant's evaluation of alternate technologies available in the service area and the extent to which there is duplication of services;

(H) If special consideration is requested under section 392(f) of the Act, current information detailing the basis for the request;

(I) A statement by the applicant certifying that the applicant has served copies of its reactivated application on each of the entities required under § 2301.8 of this part with a copy of the letters transmitting the application to the entity served; and

(J) Current information concerning any discrimination complaints filed against it before any governmental agency.

(c) Additional information—

(1) The Agency may request from the applicant any additional information which the Agency deems necessary or pertinent.

(2) Applicants must promptly provide any additional information which the Agency requests as being necessary or pertinent.

§ 2301.6 What happens if my application is incomplete or untimely?

(a) Incomplete applications—Under § 2301.7 of this part, applicants have 45 calendar days after the closing date to amend their applications. At the end of that period, the Agency will return any application which it has found to be incomplete.

(b) Untimely applications—The Agency will return any application, substantial amendment to an application or request to reactivate a deferred application which is filed after the closing date.

(c) Applicants, whose applications the Agency returns as being incomplete, may appeal the action to the Administrator under § 2301.13 of this part. Applicants, whose applications the Agency returns as being untimely, may not appeal the Agency's action.

§ 2301.7 What if I want to change some of the information in my application?

(a) An applicant, which has filed a timely, but incomplete, application (or request seeking renewed consideration of a deferred application), *may* submit minor amendments to its application (or request) or submit additional information at any time up to 45 calendar days after the closing date for the filing of applications.

(b) An applicant, which has filed a timely application (or request), *must*

amend its application to update information concerning any discrimination complaints filed against it before any governmental agency.

(c) To amend its application, an applicant must submit an original and one copy of the following to the address specified in § 2301.5(a)(1) of this part:

(1) A letter describing in detail the amendment which the applicant is making to its application;

(2) Any new material or altered material; and

(3) A certification that it has filed a copy of the notice on each of the entities required under § 2301.8 of this part.

(d) Applicants may not submit substantial amendments to their applications (amendments which substantially change the nature or scope of the proposed project) after the closing date.

(e) Applicants, which have deferred applications on file with the Agency may submit substantial amendments to their deferred applications at any time after the publication of the notice of closing date in the **Federal Register** and before the closing date. These applicants must comply with the service and publication requirements of §§ 2301.8 and 2301.9, respectively.

§ 2301.8 Service of applications.

On or before the closing date, an applicant, which files an application, a request seeking renewed consideration of a deferred application or a substantial amendment to an application with the PTFP, must serve a copy of its application, request or substantial amendment of the application on:

(a) The State of local agency (if any) having jurisdiction over the development of broadcast and/or nonbroadcast telecommunications in the State and the community to be served by the proposed projects;

(b) In the case of an application for a construction grant for which Commission authorization is necessary, the Secretary, Federal Communications Commission, Washington, DC 20554;

(c) The State telecommunications agency (if any) in the State in which the channel associated with the project is assigned by the Commission, or if the channel in question is assigned jointly to communities in different States, the State agency (if any) in each of the States concerned;

(d) The State telecommunications agency (if any) in any State, any part of which is located within the service area of the proposed facility; and

(e) The State clearinghouse(s) required to to be served under Office of Management and Budget Circular A–95.

§ 2301.9 Publication of filing.

On or before the closing date, an applicant, which files an application or a substantial amendment to a deferred application with the PTFP, must cause to be published in a newspaper of general circulation in the community(ies) to be served, a notice that it has filed an application or a substantial amendment to a deferred application which has been reactivated. (Applicants seeking to reactivate a deferred application under § 2301.5(b) of this part, need not publish the notice required under this section.)

(a) The notice must contain:

(1) The name of the applicant;

(2) The address of applicant's office where a copy of the application is available to the public;

(3) A brief description of the proposed project; and

(4) The address to which commenting parties should send their comments: Public Telecommunications Facilities Program, NTIA/DOC, Room 4078, Washington, DC 20230.

(b) The notice must be published once a week for two consecutive weeks.

(c) The applicant must submit two copies of the notice as it is to appear in the newspaper to the Agency (at the address provided in paragraph (a)(4) of this section) with notations of the dates on which the notice is to be published.

§ 2301.10 Closing date.

The Administrator shall select and publish in the **Federal Register** a date by which applications for funding in a current fiscal year are to be filed.

§ 2301.11 Federal Communications Commission authorization.

(a) Each applicant whose project requires Commission authorization must file an application for that authorization on or before the closing date for filing of PTFP applications.

(b) Any Commission authorization required for the project must be in the name of the applicant for the PTFP grant.

(c) If the project is to be associated with an existing station, Commission operating authority for that station must be current and valid.

(d) For any project requiring a new authorization or authorizations from the Commission, the applicant must file with the Agency a copy of each Commission application and any amendments thereto.

(e) If the applicant fails to file the required Commission application or applications by the closing date established pursuant to § 2301.10 of this Part, or if the Commission returns, dismisses or denies an application required for the project or any part thereof, or for the operation of the station with which the project is associated, the Agency may return the application for Federal financial assistance to the applicant.

(f) No grant will be awarded until confirmation has been received from the Commission that any necessary authorization will be issued.

§ 2301.12 What happens after I file an application?

(a) After the closing date, the Agency will examine each application for timeliness, completeness, eligibility and Commission authorization.

(1) If the Agency finds that an application is untimely, it will return the application to the applicant and inform the applicant that its application was untimely and will not be considered during the present cycle.

(2)(i) If the Agency finds that an application is incomplete, it will hold the application for 45 calendar days after the closing date to allow the applicant to complete the application.

(ii) If, after 45 calendar days the application is still incomplete, the Agency will return the application to the applicant and inform the applicant that its application is incomplete and will not be considered during the present grant cycle.

(3) When the Agency finds that either the applicant or the project is ineligible, it will promptly return the application to the applicant and inform the applicant that it or its proposed project is ineligible.

(4) If the Agency finds that a proposed project requires authorization from the Commission and that the applicant did not tender its application for Commission authorization *on or before the closing date*, the Agency will return the application. In returning an application under this subsection, the Agency will inform the applicant that the Agency cannot consider the applicant's application for a grant during the present grant cycle, because the applicant did not file an application for authority with the Commission *on or before the closing date*.

(5) The Agency will accept for filing all other applications by publishing a notice in the **Federal Register** listing each application and substantial amendment to an application. (Since the Agency has accepted deferred applications in the prior year, it will not include requests to reactivate deferred applications in its acceptance for filing list.) Acceptance of an application for filing does not preclude subsequent return or disapproval of an application, if it is found to be not in accordance with the provisions of this part, or if the applicant fails to file any additional information requested by the Agency. Acceptance for filing does not assure that any particular application will be funded, but merely qualifies that application to compete for funding with other applications accepted for filing.

(b) If the Agency returns an application under paragraph (a) of this section, the applicant may not appeal the Agency's action to the Administrator, unless the Agency has returned the application based on a finding that either the applicant or the project is ineligible for PTFP funds. To appeal an Agency decision to return an application based on the denial of eligibility to an applicant or a project, an applicant must file a written notice of appeal within 15 calendar days of the date of the Agency's return of the application, as provided in § 2301.13 of this part.

§ 2301.13 How can I appeal the Agency's return of an application?

(a) Within 15 calendar days after the date on which the Agency sends a written notice to applicant denying the eligibility of the applicant or the applicant's project, or returning an incomplete application, the applicant may file a written notice of appeal with the Administrator. The notice of appeal must contain a statement by the applicant showing its basis for appealing the Agency's action—*i.e.*, showing that the denial of eligibility or return of an application is factually or legally incorrect. (If the applicant relies on any written documents or other materials to refute the PTFP Program Director's action, the applicant should list each item and attach a copy of each item or indicate that the Agency has a copy of the item in its possession.)

(b) Upon receipt of the notice of appeal, the Administrator will review the appeal in consultation with the Chief Counsel and the PTFP Program Director and will render a decision within 30 calendar days.

(c) All decisions of the Administrator made under paragraph (b) of this section are final.

§ 2301.14 Can members of the public comment on applications?

(a) Any interested party may file comments with the Agency supporting or opposing an application or substantial amendment to an application, setting forth the grounds for support or opposition, accompanied by a certification that a copy of the comments has been mailed (or otherwise provided) to the applicant. Persons commenting on applications must send their comments to: Public Telecommunications Facilities Program, NTIA/DOC, Room 4078, Washington, DC 20230.

(b) Persons filing comments on applications must do so:

(1) After the applicant files its application with the PTFP; and

(2) Within 15 calendar days after the Agency publishes a notice of acceptance of applications in the **Federal Register**, as described in § 2301.12(a)(5).

(c) Within 45 calendar days after the Agency publishes a notice of acceptance of applications in the **Federal Register** an applicant may file a reply to any comments opposing its application or its substantial amendment to an application.

(d) The time periods referred to in paragraphs (a) and (b) of this section may be extended by the Administrator if good cause is shown.

§ 2301.15 What does the Agency do with these comments?

(a) The Agency will incorporate all comments from the public and any replies to those comments from an applicant in the application official file.

(b) An applicant or an objecting party may not appeal to the Administrator the determination of the Agency to grant or not grant a particular application.

§ 2301.16 Coordination with interested agencies and organizations.

In acting on applications and carrying out other responsibilities under the Act, the Agency shall consult with:

(a) The Commission, with respect to functions which are of interest to or affect functions of the Commission;

(b) The Corporation for Public Broadcasting, with respect to functions which are of interest to or affect the functions of the Corporation;

(c) Other agencies, organizations and institutions administering programs which may be coordinated effectively with Federal assistance provide under the Act; and

(d) State clearinghouse(s) described in Office of Management and Budget Circular A–95.

§ 2301.17 Funding criteria for construction applications.

In determining whether to approve a construction grant application, in whole or in part, and the amount of such grant, or whether to defer action on such an application, the Agency will evaluate all the information in the application file and consider the following factors (the order of listing implies no priority):

(a) How well the applicant has satisfied the assurances required in §2301.5 of this part;

(b) The priorities set forth in § 2301.20 of this part;

(c) The adequacy and continuity of financial resources for long-term operational support, which assures the applicant's continual service to the communities within the service area; and the availability of necessary funds for capital expenditures;

(d) The extent to which non-Federal funds will be used to meet the total cost of the project;

(e) The extent to which the applicant has:

(1) Evaluated alternate technologies, the bases upon which decisions were made as to the technology to be utilized and the extent to which the proposed service will not duplicate service already available,

(2) Provided meaningful documentation of the applicant's equipment requirements,

(3) Provided meaningful documentation of community support for the service to be provided (such as letters from agencies for whom the applicant produces or will produce programs or other materials and from key elected/appointed policy-making officials);

(f) The extent to which the evidence supplied in the application reasonably assures an increase public telecommunications services and facilities available to, operated by, and owned (or controlled) by minorities and women;

(g) The extent to which the various items of eligible apparatus proposed are necessary to, and capable of, achieving the objectives of the project and will permit the most efficient use of the grant funds;

(h) The extent to which the eligible equipment requested meets current telecommunications industry performance standards;

(i) The extent to which the applicant will have available sufficient qualified staff to operate and maintain the facility and provide services of professional quality;

(j) The extent to which the applicant has planned and coordinated the proposed services with other telecommunications entities in the service area;

(k) The extent to which the project implements local, Statewide or regional public telecommunications systems plans, if any;

(l) The extent to which the applicant's proposed five (5) year facilities plan required by section 392(a) of the Act is practical, financially affordable and consistent with the intent of the Act and Regulations; and

(m) The readiness of the Commission to grant any necessary authorization.

§ 2301.18 Funding criteria for planning applications.

In determining whether to approve a planning grant application, in whole or in part, and the amount of such grant, or whether to defer action on such an application, the Agency will evaluate all the information in the application file and consider the following factors (the order of listing implies no priority):

(a) How well the applicant has satisfied the assurances required in § 2301.5 of this part;

(b) The extent to which the applicant's interests and purposes are consistent with the purposes of the Act and the priorities of the Agency;

(c) The qualifications of the proposed planner to provide a public telecommunications facilities plan;

(d) The extent to which the planning project's proposed procedural design assures that the applicant would obtain adequate:

(1) Financial, human and support resources necesary to conduct the plan,

(2) Coordination with other telecommunications entities at the local, State, regional and national levels,

(3) Evaluation of alternate technologies and existing services, and

(4) Participation by public to be served (and by minorities and women in particular) in the planning of the project;

(e) The extent to which the applicant has engaged in pre-planning studies to determine the technical feasibility of the proposed planning project (such as the availability of a frequency assignment, if necessary for the project); and

(f) The extent to which the proposed procedure and timetable are feasible and can achieve the expected results.

§ 2301.19 Action on all applications.

(a) After consideration of an application which the Agency has accepted for filing, any comments and replies filed by interested parties and any other relevant information, the Agency will take one of the following actions:

(1) Select the application for funding, in whole or in part;

(2) Defer the application for subsequent consideration pursuant to § 2301.5 of this part; or

(3) Return the application to the applicant with a notice of the grounds and reasons therefor.

(b) Upon the Agency's approval or deferral, in whole or in part, of an application, the Agency will inform:

(1) The applicant;

(2) Each State educational television, radio or telecommunications agency, if any, in any State, any part of which lies within the service area of the applicant's facility;

(3) The Commission; and

(4) The Corporation for Public Broadcasting.

(c) If the Agency awards a grant, the grant award document will include grant terms and conditions set forth in Subpart D of the Rules and whatever other provisions are required by Federal law or regulations, or may be deemed necessary or desirable for the achievement of the purposes of the program.

Subpart C—Priorities Among Applications and the Role of Minorities and Women

§ 2301.20 Program priorities.

(a) The following criteria, listed in order of priority, shall govern the Agency's determination to fund an application and the amount of the grant awarded:

(1) Whether the application will provide new public telecommunications facilities to extend service to areas not currently receiving such services.

(2) Whether the application will result in the expansion of the service areas of existing public telecommunications entities.

(3) Whether the application will result in the improvement of the capabilities of existing public broadcast stations to provide public telecommunications services.

(b) Notwithstanding the priorities among applications listed in paragraph (a) of this section, the Agency may utilize appropriated funds to award grants to applicants who are otherwise eligible for funding, but do not fall within any of the priorities listed in paragraph (a) of this section. Grants made pursuant to this subsection must fulfill the overall objectives of the Act.

§ 2301.21 Special consideration.

In assessing applications, the Agency will give special consideration to applications which foster control of, operation of, and participation in public telecommunications entities by minorities and women.

Subpart D—Federal Financial Participation

§ 2301.22 Amount of the Federal grant.

(a) Planning grants—A Federal grant award for the planning of a public telecommunications facility shall be in an amount determined by the Agency and set forth in the grant award document and the attachments thereto. The Agency may provide up to 100 percent of the funds necessary for the planning of a public telecommunications facility which is eligible for construction grant funding.

(b) Construction grants—(1) A Federal grant award for the construction of a public telecommunications facility shall be an amount determined by the Agency and set forth in the grant award document, except that such amount shall not exceed 75 percent of the amount determined by the Agency to be the reasonable and necessary cost of such project.

(2) No part of the grantee's matching share of the eligible project costs may be met with funds paid by the Federal Government, except where the use of such funds to meet a Federal matching requirement is specifically and expressly authorized by Federal statute.

(3) Funds supplied to an applicant by the Corporation for Public Broadcasting may not be used for the required non-Federal matching purposes, except upon a clear compelling showing of need.

(c) If the actual costs incurred in completing the planning or construction project are less than the estimated project costs, which were the basis for the Agency's determination of the initial grant award, the Agency shall reduce the amount of the final grant award so that the final grant award bears the same ratio to the actual cost of the project as the initial grant award bore to the estimated total project costs. In no case will the final grant award exceed the initial grant award.

(d) Project costs do not include the value of eligible apparatus owned or acquired by the applicant prior to the effective date of acceptance for filing of the application, and services related thereto. NTIA will specify the effective date of the acceptance for filing in the **Federal Register** notice required under § 2301.12 of this part. This date will not be earlier than the date on which the applicant first filed the application with the Agency.

§ 2301.23 Payment of the Federal grant.

(a) The Agency will not make any payment under an award, unless and until the recipient complies with all relevant requirements imposed by this part. Additionally, with regard to a public telecommunications entity requiring Commission authorization, the Agency will not make any payment until it receives confirmation from the Commission that the Commission has granted any necessary authorization.

(b) After the conditions indicated in paragraph (a) of this section have been satisfied, the Agency will make payment to the grantee in such installments consistent with the percentage of project completion, as the Agency may determine. (As a general matter, the Agency expects grantees to expend local matching funds at a rate at least equal to the ratio of the local match to the Federal grant as stipulated in the grant award.)

(c) When an applicant completes a construction project, the Agency will assign a completion date which the Agency will use to calculate the ten (10) year period of Federal interest. (The completion date will be the date on which the grantee certifies that the project is complete and in accord with the terms and conditions of the grant, as required under § 2301.26 of this part. If the PTFP Program Director determines that the grantee improperly certified the project to be complete, the PTFP Program Director will amend the completion date accordingly.)

§ 2301.24 Items and costs ineligible for Federal funding.

The following items and costs are ineligible for funding under the Act:

(a) Equipment and supplies:

(1) Vehicles, including those in which mobile equipment is mounted or carried;

(2) Receiving equipment (except as required by good engineering practices for monitoring the origination or transmission of signals; vertical interval or subcarrier receivers and decoders; or satellite receivers);

(3) Modifying or strengthening the applicant's tower to accommodate antennas of commercial entities;

(4) Equipment for motion picture or still photography or processing;

(5) Manual film or tape editing equipment, film, recording tape, reels, film or tape cleaning equipment;

(6) Scenery and props, art supplies and equipment;

(7) Sound insulation devices, cycloramas, draperies, studio clocks, blackboards, intercoms, telephones, furniture, and the like;

(8) Production devices such as prompting systems, background projection systems, sound effects, and the like;

(9) Office equipment, printing and duplication supplies; except for planning projects under section 392(c) of the Act;

(10) Maintenance equipment such as hand and power tools, storage cabinets and maintenance services;

(11) Air conditioning for control or equipment rooms, studios, transmitter buildings, mobile units and other operational rooms and offices (except that the cost to provide ventilation of project apparatus as is required by good engineering practice is an eligible installation cost);

(12) Equipment providing power to the facility, including transformers, regulators, generators, and related equipment;

(13) Expendable items, including spare recording heads, spare lenses, spare circuit components and other kits normally considered spares except for transmitters; and

(14) Such other equipment and supplies as the Agency may determine prior to the award of a grant.

(b) Other expenses:

(1) Buildings and modifications to buildings to house eligible equipment are not themselves eligible for funding under this program, except, that small equipment shelters which are part of satellite earth stations, translators, microwave interconnection facilities and similar facilities are eligible for funding.

(2) Land and land improvements;

(3) Salaries and personnel employed by an operating public telecommunications entity, except for planning projects under section 392(c) of the Act, and for construction-related activities as defined in section 397(1) of the Act and § 2301.3 of this part;

(4) Moving costs required by relocation; and

(5) Such other expenses as the Agency may determine prior to the award of a grant.

Subpart E—Accountability for Federal Funds

§ 2301.25 Retention of records.

(a) Each recipient of assistance under this program shall keep intact and accessible the following records:

(1) A complete and itemized inventory of all public telecommunications facilites under the control of the grantee, whether or not financed, in whole or in part, with Federal funds;

(2) Complete, current and accessible financial records which fully disclose the total amount of the project; the amount of the grant; the disposition of the grant proceeds; and the amount, nature and source of non-Federal funds associated with the project;

(3) All records specified in Office of Management and Budget Circulars A–102 (for State and local governments) and A–110 (educational institutions, hospitals and nonprofit organizations).

(b) The grantee shall mark project apparatus in a permanent manner in order to assure easy and accurate identification and reference to inventory records.

§ 2301.26 Copies of planning studies; Final certification of construction projects.

(a) Upon the completion of a planning project, the grantee must promptly provide to the Administrator two copies of any study conducted in whole or in part with funds provided under this program by sending the copies to the Public Telecommunications Facilities Program, NTIA/DOC, Room 4078, Washington, D.C. 20230.

(b) Upon completion of a construction project, the grantee must:

(1) Certify that the grantee has completed the acquisition and installation of the project equipment in accordance with the project as approved by the Agency;

(2) Certify that the grantee has obtained any necessary Commission authorizations to operate the project apparatus following the acquisition and installation of the apparatus;

(3) Certify that the facilities are in operating order and that the grantee is using the facilities to provide public telecommunications services in accordance with the project as approved by the Agency; and

(4) Certify that the grantee has obtained adequate insurance to protect the Federal interest in the project in the event of loss through casualty.

§ 2301.27 Annual status report for construction grants.

For construction projects, the grantee must file with the Agency during the ten (10) year period commencing with the date of completion of a project, an annual status report on or before each April 1 following completion of the project, certifying that:

(a) The grantee continues to be an eligible entity, institution, foundation, corporation, association or municipality as described in § 2301.4 of this part;

(b) There has been no change in ownership or use of the project apparatus during the reporting period, or describing any change during such period;

(c) Project apparatus owned by the grantee as of that date is being used primarily for the delivery of public telecommunications services and the use of the apparatus for other than public telecommunications purposes does not interfere with the use of the apparatus for public telecommunications purposes; and

(d) The requirements of § 2301.26 of this part continue to be met.

Subpart F—Control and Use of Facilities

§ 2301.26 What conditions are attached to the Federal grant?

When an applicant is awarded a Federal grant under the PTFP, the applicant (now the grantee) takes the grant subject to certain conditions concerning the use of the Federal monies and the equipment obtained with those monies. These conditions are:

(a) During the period of the Federal interest, the grantee must:

(1) Continue to be an eligible organization as described in § 2301.4 of this part;

(2) Use the Federal grant funds for the purposes for which the grant was made and for the items of apparatus and other expenditure items specified in the application for inclusion in the project, except that the grantee may substitute other items where necessary or desirable to carry out the purpose of the project as approved in advance by the Agency;

(3) Promptly complete the project and place the public telecommunications facility into operation;

(4) Maintain, during construction of the project and for ten (10) years after completion of the project, protection against common hazards through adequate insurance coverage or other equivalent undertakings, except that, to the extent the applicant follows a different policy of protection with respect to its other property, the applicant may extend such policy to apparatus acquired and installed under the project;

(5) Permit the Agency and the Comptroller General of the United States or their duly authorized representatives access for the purpose of audit and examination to any books, documents, papers and records of any grantee that are pertinent to assistance received under this program.

(6) Permit inspections during normal working hours by the Agency and the Comptroller General of the United States or their duly authorized representatives, of the public telecommunications facilities acquired with Federal financial assistance at the time of completion of the project and at any other reasonable time within ten (10) years after completion of the project.

(7) Comply with the provision of the Office of Management and Budget Circulars A–102 (for State and local governments) and A–110 (for institutions of higher education, hospitals and other nonprofit organizations) for the procurement of equipment and services funded in whole or in part with Federal monies;

(8) In advertising for bids for the purchase of apparatus, shall state that the Federal Government has a continuing ten (10) year interest in facilities purchased with Federal funds under this program;

(9) Hold appropriate title or lease to the site or sites on which apparatus proposed in the project will be operated, including the right to construct, maintain, operate, inspect and remove such apparatus, sufficient to assure continuity of operation of the facility for a period of ten (10) years following completion of the project;

(10) Ensure that no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of or otherwise be subjected to discrimination under any program or activity for which the applicant receives funding under this Act (Title VI of the Civil Rights Act of 1964 as implemented by Department regulations, 15 CFR Subtitle A, Part 8);

(11) Ensure that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any educational program or activity for which the applicant receives funding under the Act (Title IX of the Education Amendments of 1972, as amended);

(12) Ensure that no otherwise qualified individual shall, solely by reason of handicap, be excluded from the participation in, be denied the benefits of or be subjected to discrimination under any program or activity for which the applicant receives funding under this Act (section 504 of the Rehabilitation Act of 1973, as amended);

(13) Use the facilities primarily for the provision of public telecommunications services and ensure that the use of the facilities for other than public telecommunications purposes does not interfere with the provision of the public telecommunications services for which the grant was made; and

(14)(i) Execute and record a document establishing that the Federal Government has a priority lien on any facilities purchased with funds under the Act during the ten (10) year period of Federal interest; and

(ii) File a certified copy of the recorded lien with the Agency.

(b) During the period in which the grantee possesses or uses the Federally funded facilities (whether or not this period extends beyond the ten (10) year period of Federal interest), the grantee may not use or allow the use of the Federally funded equipment for purposes the essential thrust of which are sectarian.

§ 2301.29 Nondiscrimination.

(a) The Agency shall enforce Title VI of the Civil Rights Act of 1964, as implemented by Department regulations, 15 CFR Subtitle A, Part 8.

(b) The Agency shall enforce Title IX of the Education Amendments of 1972, as amended. Department implementing regulations have not yet been adopted but will be enforced upon their adoption.

(c) The Agency shall enforce section 504 of the Rehabilitation Act of 1973, as amended. Department implementing regulations have been proposed, 43 FR 53765, published November 17, 1978. Final regulations will be enforced when adopted.

§ 2301.30 What happens if a grantee fails to meet the conditions of the grant?

If a grantee fails to meet any condition attached to the grant, as specified in § 2301.26 of this part, the Agency may take any appropriate action including, but not limited to:

(a) Requiring the grantee to reissue a bid solicitation;

(b) Suspending the payments under a particular grant, until the grantee complies with the condition (or conditions) attached to the grant;

(c) Where the grantee cannot (or will not) comply with the condition (or conditions) attached to a particular grant, terminating the grant and requiring the grantee to repay the Federal Government an amount bearing the same ratio to the value of the facilities as the Federal grant bore to the project;

(d) Where the condition (or conditions) is also attached to other grants which the grantee has received from the Agency, suspending payments under all these other grants; and

(e) Where the condition (or conditions) is also attached to other grants which the grantee has received from the Agency, terminating all these other grants and requiring the grantee to repay the Federal Government an amount bearing the same ratio to the value of the facilities as the Federal grants bore to the projects for which they were granted.

§ 2301.31 Equipment.

All equipment, which a grantee acquires under this program, shall be of professional quality. An applicant proposing to utilize non-broadcast technology shall propose and purchase equipment which is compatible with

broadcast equipment wherever the two types of apparatus interface.

§ 2301.32 Waiver.

For good cause shown, the Administrator may waive the regulations adopted pursuant to section 392(e) of the Act.

Appendix A

Note.—Appendix A will not appear in the Code of Federal Regulations.

Priority I—*Provision of Public Telecommunications Facilities for First Radio and Television Signals to a Geographic Area.* Within this category, we establish two subcategories:

A. *Projects which include local origination capacity.* This category includes the planning or construction of new facilities which can provide a full range of radio and/or television programs including material that is locally produced. Eligible projects include new radio or television broadcast stations, new cable systems, or first public telecommunications service to existing cable systems, provided that such projects include local origination capacity.

B. *Projects which do not include local origination capacity.* This category includes projects such as increase in tower height and/or power of existing stations and construction of translators, cable networks and repeater transmitters which will result in providing public telecommunications services to previously unserved areas.

Priority II—*Replacement of Basic Equipment of Existing Essential Broadcast Facilities.* Projects eligible for consideration under this category include the replacement of obsolete or worn out equipment in existing broadcast facilities which provide either the only public telecommunications signal or the only locally originated public telecommunications signal to a geographical area.

Priority III—*Establishment of First Local Origination Capacity in a Geographical Area.* Projects in this category include the planning or construction of facilities to bring the first local origination capacity to an area already receiving public telecommunications services from distant sources through translators, repeaters and cable systems.

Priority IV—*Replacement and Improvement of Basic Equipment for Existing Broadcast Facilities.* Projects eligible for consideration under this category include the replacement of obsolete or worn out equipment and the upgrading of existing origination or delivery capacity to current industry performance standards (*e.g.*, conversions to color, stereo, etc.; improvements to signal quality and significant improvements in equipment flexibility or reliability).

Priority V—*Augmentation of Existing Broadcast Station Facilities.* Projects under this priority would equip an existing station beyond a basic capacity to broadcast programming from distant sources and to originate local programming.

A. *Projects to equip auxiliary studios at remote locations, or to provide mobile origination facilities.* An applicant must demonstrate that significant expansion in public participation in programming will result. This category includes neighborhood production studios or facilities in other locations within a station's service area which would make participation in local programming accessible to additional segments of the population.

B. *Projects to augment production capacity beyond basic level in order to provide programming or related materials for other than local distribution.* This category would provide equipment for the production of programming for regional or national use. Need beyond existing capacity must be justified.

Other Cases. In any fiscal year, NTIA possesses the discretionary authority to award grants to eligible applicants whose proposals do not clearly fall within any of the listed priorities but whose applications, by virtue of their unique or innovative nature, would further the overall objectives of the Act. Such projects include, among other things, the planning and construction of facilities to provide significantly different additional services for which a clear and substantial community need can be demonstrated (*e.g.*, first in-State facility with local origination capacity, service to identifiable ethnic or linguistic minority audiences, services to the blind or deaf, instructional service or electronic text).

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
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DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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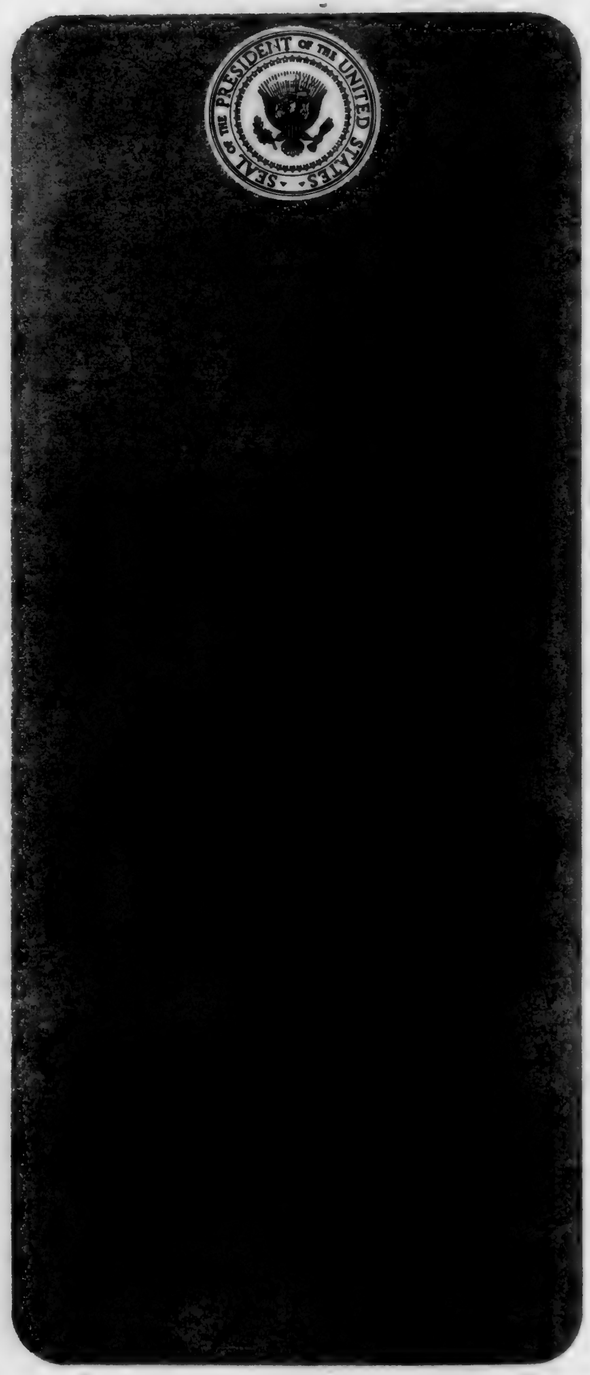

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federal register

Tuesday
March 16, 1982

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Part 2430

Equal Access to Justice Act; Implementation

AGENCY: Federal Labor Relations Authority and General Counsel of the Federal Labor Relations Authority.

ACTION: Interim rules and regulations; extension of expiration date.

SUMMARY: The interim rules and regulations of the Federal Labor Relations Authority and General Counsel of the Federal Labor Relations Authority governing awards of attorney fees and other expenses (46 FR 48623 (1981)) (to be codified as 5 CFR 2430) will expire no later than July 15, 1982.

EFFECTIVE DATE: March 12, 1982.

FOR FURTHER INFORMATION CONTACT: William A. Michie, Labor Relations Specialist, Operations and Technical Assistance, Federal Labor Relations Authority, 500 C Street, SW., Room 201 Washington, D.C. 20424, (202) 382–0891.

SUPPLEMENTARY INFORMATION: The summary comments that accompanied the interim rules and regulations of Part 2430, Chapter XIV of Title 5 of the Code of Federal Regulations when published in the Federal Register on Friday, October 2, 1981 (46 FR 48623), stated the interim rules and regulations would expire no later than March 15, 1982. The expiration date for these interim rules and regulations is amended to be no later than July 15, 1982.

Dated: March 11, 1982.
For the Authority:
James J. Shepard,
Executive Director.

For the General Counsel:
S. Jesse Reuben,
Deputy General Counsel.

[FR Doc. 82-7036 Filed 3-15-82; 8:45 am]
BILLING CODE 6727-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 82

Exotic Newcastle Disease; Banding and Documentation Requirements for Interstate Movement From Calif. of Certain Psittacine Birds.

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document establishes banding and documentation requirements for the interstate movement from California of certain psittacine birds. These requirements appear to be necessary as an emergency measure to help prevent the interstate movement from California of certain illegally imported psittacine birds, and thereby to help prevent the spread of exotic Newcastle disease (viscerotropic velogenic Newcastle disease).

DATES: The effective date of this document is March 16, 1982. Written comments concerning this interim rule must be received on or before May 17, 1982.

ADDRESS: Written comments concerning this interim rule should be submitted to the Deputy Administrator, Veterinary Services, APHIS, USDA, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 870 of the Federal Building, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: K. A. Hand, staff veterinarian, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, Federal Building, Room 743, Hyattsville, MD 20782, 301–436–8065.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Emergency Action

This interim rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been determined to be not a "major rule." The Department has determined that this rule will not cause a significant increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The emergency nature of this action makes it impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule.

Dr. J. K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this interim rule. Due to the possibility that exotic Newcastle disease (viscerotropic velogenic Newcastle disease) could be spread interstate from California by the movement of certain psittacine birds, a situation exists requiring immediate action to restrict such movements of these birds.

Further, pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective less than 30 days after publication of this document in the Federal Register. Comments have been solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the Federal Register as soon as possible.

Regulatory Flexibility Act

The interim rule amends 9 CFR Part 82 by establishing banding and documentation requirements for the

interstate movement from California of certain psittacine birds. Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

The interim rule provides that certain psittacine birds shall not be moved interstate from California unless banded with a legband issued pursuant to provisions of 9 CFR Part 92, or unless banded with a legband issued pursuant to § 82.6(b) of the interim rule.

The interim rule also provides that each bird requiring a legband must also be accompanied by a waybill, an invoice, or a similar document, signed and dated by a federal inspector in accordance with procedures in § 82.6(b) of the interim rule, stating:

(1) The point in California from which the bird is intended to be moved interstate,

(2) The destination of the bird,

(3) The species and common names, and the number of birds covered by the document,

(4) The name and address of the owner or shipper of the bird, and

(5) The identifying legband number on the bird.

Section 82.6(b) of the interim rule further provides that a legband shall be issued by a federal inspector, and that a waybill, an invoice, or a similar document shall be signed and dated by a federal inspector, if, based on the inspector's examination of the bird, there is no evidence that the bird is exposed to or infected with VVND, and if there is no substantial evidence that the bird was imported contrary to the provisions of 9 CFR Part 92. The interim rule provides that the legbands and the services of the inspector during regularly assigned hours of duty will be furnished without cost to the public.

The interim rule for the most part utilizes a banding system that is already in use. Under the provisions of 9 CFR Part 92, psittacine birds imported into the United States, with certain exceptions, are required to be quarantined at the time of importation, and at the quarantine facility each psittacine bird is required to be individually identified by the Department with a legband. Approximately 95 percent of all the psittacine birds (not including illegally imported psittacine birds) moved interstate from California are already meeting the banding requirements of the interim rule since they are being banded under 9 CFR Part 92 as a result of being held at quarantine facilities at the time of importation. These bands are not customarily removed from the birds by the importers. Further, it appears that there would be no significant costs involved in obtaining legbands under § 82.6(b) of the interim rule for the interstate movement of birds from California.

It appears that the documentation requirements would not impose significant burdens on persons moving psittacine birds interstate from California. Almost all of the shipments subject to the interim rule would be commercial shipments. It is standard business practice for waybills, invoices, or other similar documents to contain most of the required information and to accompany commercial shipments of birds.

Further, most shipments of birds subject to the requirements of the interim rule would be moved interstate directly from quarantine facilities or major holding facilities. Federal inspectors are readily available to issue legbands, or sign and date documents at these facilities. Further, federal inspectors will be made available to perform the necessary services for the interstate movement from California of any birds not originating from such quarantine or holding facilities and meeting the requirements of this interim rule.

Background

Viscerotropic velogenic Newcastle disease (VVND), or exotic Newcastle disease, is a contagious viral disease which affects poultry and birds. VVND is fatal to a large percentage of poultry and birds that become infected. When it does not cause death in poultry, drastic decreases in production capacity result.

Although VVND is not established in the United States, it is established in most foreign countries. Since 1950, when exotic Newcastle disease first appeared in the United States, there have been numerous cases of VVND. When a positive case of VVND is diagnosed, action is taken to prevent its further spread and to eradicate the disease. In the period from 1974 through August 1980, fewer than 75 positive VVND cases were diagnosed in the United States. Recently there has been a drastic increase in positive cases: 105 have occurred since September 1, 1980. Illegally imported psittacine birds have been determined to be the vector responsible for these recent VVND cases.

Since 1972 it has cost approximately $72 million to eradicate outbreaks of VVND. It is estimated that if the eradication efforts were not successful, losses caused by VVND could exceed $400 million annually.

To help prevent the introduction into the United States of VVND, the Department has established regulations in 9 CFR Part 92 designed, among other things, to restrict the importation of psittacine birds. These regulations require psittacine birds imported into the United States, with certain exceptions, to be quarantined at the time of importation. Pursuant to § 92.11(e), each psittacine bird at the quarantine facility is required to be individually identified by the Department with a legband. The band must bear a serial number which has been coded to the quarantine facility, or must bear other suitable means of identification. In accordance with the regulations, those psittacine brids found to have VVND are refused entry into the United States. Those found not to be infected with VVND or certain other communicable diseases of poultry are allowed to be imported. Accordingly, for those birds allowed entry into the United States, the legband represents that at the time of release from the bird quarantine facility the bird was determined to be free of certain diseases, including VVND.

Many psittacine birds are illegally imported each year. One reason for the illegal importation is to avoid the restrictions imposed by 9 CFR Part 92, including the quarantine requirements. However, certain psittacine birds are also listed as endangered or threatened species under the endangered species laws, and it appears that they are also illegally imported to avoid restrictions under those laws. Further, there is a lucrative market for illegally imported psittacine birds. The retail value of legally imported psittacine birds ranges from approximately $150 per bird to more than $2500 for a rare bird.

California appears to be unique with respect to the illegal importation of psittacine birds. A substantial portion of illegally imported psittacine birds is initially imported into California. Further, there appears to be a ready market in California for these illegally imported birds, and California appears to be the major distribution center for these illegally imported birds that are moved interstate. All of the VVND cases diagnosed in the United States since January 1, 1981, have been traced to psittacine birds illegally imported into California. Illegally imported psittacine birds shipped interstate from California have been the source of VVND outbreaks in Nevada, Arizona, Colorado, and Florida during the past ten months.

In addition to the restrictions in 9 CFR Part 92 designed to help prevent the introduction of VVND into the United States, the Department has also established regulations designed to prevent the interstate spread of the disease. In this connection, regulations in 9 CFR Part 82 provide, among other things, that psittacine birds from areas quarantined because of VVND may not be moved interstate except under specified conditions.

Under the circumstances described above concerning California, it is necessary, on an emergency basis, to amend 9 CFR Part 82 by establishing an interim rule imposing banding and documentation requirements on the interstate movement from California of certain psittacine birds. Accordingly, 9 CFR Part 82 is amended by adding a new § 82.6 providing that psittacine birds, other than budgerigars, lovebirds, or cockatiels, and other than two or fewer pet birds accompanied by the owner, may not be moved interstate from California unless banded with a legband. It is provided that legbands are to be issued pursuant to the provisions of 9 CFR Part 92, or issued by a federal inspector based on procedures in § 82.6(b) of the interim rule. The interim rule also provides that each bird required to be banded with a legband must also be accompanied by a waybill, an invoice, or a similar document, signed and dated by a federal inspector in accordance with procedures in § 82.6(b) of the interim rule, stating:

(1) The point in California from which the bird is intended to be moved interstate,

(2) The destination of the bird,

(3) The species and common names, and number of birds covered by the document,

(4) The name and address of the owner or shipper of the bird, and

(5) The identifying legband number on the bird.

The interim rule provides the same procedures for the issuance of legbands for birds that do not have legbands issued under 9 CFR Part 92, and for obtaining the signature and date for the documentation. In this connection § 82.6(b) of the interim rule provides that a legband shall be issued by a federal inspector, and that a waybill, an invoice, or a similar document shall be signed and dated by a federal inspector, if, based on the inspector's examination of the bird, there is no evidence that the bird is exposed to or infected with VVND, and if the inspector determines that there is no substantial evidence that the bird was imported contrary to the provisions of 9 CFR Part 92.

The banding and documentation requirements are designed to help prevent the interstate movement from California of illegally imported psittacine birds, and thereby to help prevent the interstate spread of VVND.

Under the interim rule, it is unlawful for any person to move the specified birds interstate from California unless the birds are banded with an authorized legband and accompanied by specified documentation. The term "person" is defined in 9 CFR Part 82 (See § 82.1(d)) as "any person, company, or corporation." This includes commercial carriers. Most of the psittacine birds, including illegally imported birds, that have been moved interstate from California have been moved by commercial carriers. Prior to the establishment of the interim rule there was no prescribed method to help determine whether a bird had been illegally imported, and commercial carriers had no basis for refusing to carry illegally imported birds. It appears that the rule would be effective in eliminating a major portion of the interstate movement from California of illegally imported psittacine birds by commercial carriers. Illegally imported psittacine birds would not be banded or accompanied by a document signed and dated by a federal inspector and thereby could be easily distinguished from psittacine birds which were legally imported into California or raised domestically. It further appears that the rule would tend to increase the cost of shipping illegally imported psittacine birds since more costly alternatives would have to be used. Consequently, it is anticipated that the increased costs would help reduce markets for the illegally imported birds, and thereby reduce the risk of spread of VVND.

Further, the banding and documentation requirements will provide inspectors with a system under which they can better determine whether birds moving interstate from California are illegally imported psittacine birds presenting a risk of spreading VVND.

Budgerigars, lovebirds, and cockatiels are excluded from the new requirements. These birds are bred domestically in great numbers and are available at prices that eliminate incentive for illegal importations.

Further, pet birds in a lot of two or fewer which are accompanied by the owner and moved for other than sale are excluded from the new requirements. This is because it has been determined, based on Departmental expertise, that under these circumstances such birds would not present a significant risk of spreading VVND. Generally, pet birds remain caged in the home of the owner and are thereby isolated from all other birds and poultry. The Department is reasonably certain that lots of two or fewer birds which are accompanied by the owner are in fact pet birds and not intended for sale.

To clarify the meaning of the term "pet bird", this interim rule amends 9 CFR Part 82 to add a new § 82.1(q) in which the term "pet bird" is defined.

As noted above, § 82.6 of the interim rule provides procedures for obtaining legbands for birds that do not have legbands issued under 9 CFR Part 92. Most of the birds that would be eligible to be banded under such procedures would be domestically raised birds.

Also, § 82.6(c) of the interim rule provides that the legbands issued under § 82.6(b) of the interim rule and the services performed under the interim rule by the inspector during regularly assigned hours of duty shall be furnished without cost to the person moving the birds interstate from California. In addition, a footnote is added to provide that information about obtaining legbands, and signatures and dates is available from federal Veterinary Services personnel, and that the local offices are listed in the telephone directory. Further, the interim rule also provides for procedural requirements when a federal inspector denies the issuance of a legband or withholds a signature and date.

PART 82—EXOTIC NEWCASTLE DISEASE IN ALL BIRDS AND POULTRY; PSITTACOSIS AND ORNITHOSIS IN POULTRY

Accordingly, 9 CFR Part 82, is amended as follows:

1. In § 82.1 a new paragraph (q) is added to read as follows:

§ 82.1 Definitions

* * * * *

(q) *Pet bird.* Any bird which is kept for personal pleasure and is not for sale.

2. In Part 82, a new § 82.6 is added to read as follows:

§ 82.6 Restrictions on interstate movement of certain psittacine birds from California.

(a) No person shall move interstate from California a psittacine bird, other than a budgerigar, lovebird, or cockatiel, and other than each pet bird in a lot of two are fewer pet birds accompanied by the owner, unless:

(1) The bird is banded with a legband issued pursuant to § 92.11(e) of this chapter or issued pursuant to paragraph (b) of this section,[1] and

[1] Information about obtaining legbands, or signatures and dates is available from federal Veterinary Services personnel. Local offices are listed in the telephone directories.

(2) The bird is accompanied by a waybill, an invoice, or a similar document, signed and dated by a federal inspector,' stating:

(i) The point in California from which the bird is intended to be moved interstate,

(ii) The destination of the bird,

(iii) The species and common names, and number of birds covered by the document,

(iv) The name and address of the owner or shipper of the bird, and

(v) The identifying legband number on the bird.

(b) For compliance with provisions of paragraph (a) of this section, a legband shall be issued by a federal inspector for a psittacine bird, or a document shall be signed and dated by a federal inspector for the interstate movement of a psittacine bird from California, if, based on the federal inspector's examination of the bird, there is no evidence that the bird is exposed to or infected with exotic Newcastle disease, and if the inspector determines that there is no substantial evidence that the bird was imported contrary to the provisions of Part 92 of this chapter. Such a legband may be denied, or the signature and date may be withheld, upon a finding that the bird is exposed to or infected with exotic Newcastle disease or that there is substantial evidence to establish that the bird was imported contrary to the provisions of Part 92 of this chapter. The reasons for the denial or withholding shall be confirmed in writing as promptly as circumstances allow. Any person who has been denied the issuance of a legband or had a signature and date withheld may appeal the decision in writing to the Deputy Administrator within twenty days after receiving a written confirmation of such action. The appeal shall state all of the facts and reasons upon which the person relies to show that the legband was wrongfully denied or that the signature and date were wrongfully withheld. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for the decision as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict.

(c) The legbands issued pursuant to paragraph (b) of this section and the services performed pursuant to paragraph (b) of this section by federal inspectors during regularly assigned hours of duty shall be furnished without cost.

(Sec. 2, 32 Stat. 792, as amended (21 U.S.C. 111); 37 FR 28464, 28477; 38 FR 19141)

Done at Washington, D.C., this 11th day of March 1982.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 82-7089 Filed 3-15-82; 8:45 am]

BILLING CODE 3410-34-M

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

12 CFR Part 1204

[Docket No. D-0018]

Interest on Deposits, Premiums, Finders Fees, and the Payment of Interest

AGENCY: Depository Institutions Deregulation Committee

ACTION: Final rule.

SUMMARY: The Depository Institutions Deregulation Committee ("Committee") is adopting in final form a temporary amendment to its rule concerning the use of premiums by depository institutions (12 CFR 1204.109). This temporary amendment of the premium rule was published for comment on February 26, 1981 (46 FR 15131); it prohibits depository institutions from soliciting the opening of multiple accounts from a depositor in order to provide for more than one premium at a time to such depositor. The purpose of the rule is to eliminate the circumvention of the objectives of the premium rule by depository institutions that advertise premium programs in which lump sum deposits brought in by a depositor would be broken up by the institution and placed in multiple accounts for the purpose of enabling the institution to give a premium for each account.

EFFECTIVE DATE: April 15, 1982.

FOR FURTHER INFORMATION CONTACT: Rebecca Laird, Senior Associate General Counsel, Federal Home Loan Bank Board (202/377-6446), David Ansell, Attorney, Office of the Comptroller of the Currency (202/447-1880), F. Douglas Birdzell, Counsel, Federal Deposit Insurance Corporation (202/389-4281), Veryl V. Miles, Attorney, Board of Governors of the Federal Reserve System (202/452-3611), or Allan Schott, Attorney-Advisor, Treasury Department (202/566-6798).

SUPPLEMENTARY INFORMATION: The Committee's rule concerning the use of premiums (12 CFR 1204.109), effective December 31, 1980, provides that premiums, whether in the form of merchandise, credit or cash, will not be regarded as a payment of interest if: (1) The premium is given to a depositor only when a new account is opened, an existing account is renewed, or funds are added to an existing account; (2) no more than two premiums *per account* are given in any 12-month period; and (3) the value of the premium, or, if merchandise is given, its total cost to the institution, is no more than $10 for deposits of less than $5,000 or $20 for deposits of $5,000 or more. After the rule was adopted, an increasing number of depository institutions advertised programs in which a lump sum brought in by a depositor could be broken up by the institution and placed in multiple accounts for the purpose of enabling the institution to give a premium for each account. These programs made it possible for the depository institutions to provide more premiums than would otherwise be permitted if the funds had been placed in one account. These programs had the capacity for undermining and circumventing the objectives of the Committee in adopting the rule.

In its efforts to curtail the practice of opening multiple accounts for a depositor in order to receive multiple premiums and to clarify its original intent in adopting the premium rule, the Committee adopted a temporary amendment, effective February 26, 1981, prohibiting depository institutions from soliciting or promoting deposits from customers on the basis that the funds would be divided into more than one account by the institution for the purpose of providing more than two premiums per deposit within a 12-month period. The Committee also asked for public comments by April 1, 1981, on the temporary amendment and on alternative methods to deal with this problem on a permanent basis.

The Committee received 215 comments: 92 commentators were in favor of the amendment and 29 were in opposition to the amendment. The remaining 94 commentators did not express definitive positions in favor of the amendment or in opposition to the amendment. Their comments were included in the specific comments considered by the Committee regarding alternative methods to achieve compliance with the premium rule and general comments made regarding premiums.

Many of the commentators in favor of the temporary amendment also expressed the opinion that it would not be sufficient in curtailing the opening of multiple accounts by those depositors who are aware that multiple premiums can be obtained by opening multiple accounts. Others in favor of the amendment indicated that such an amendment was not objectionable, so long as it did not prohibit depository institutions from giving multiple premiums if the depositor independently decides to open multiple accounts.

With respect to the request for alternative methods of preventing the circumvention of premiums rules, 73 institutions suggested that premiums be banned completely. Another alternative recommended by 53 institutions was that premiums be permitted on a per depositor/per household basis instead of a per account basis. In addition to the recommendation that premiums be permitted on a per depositor/per household basis, 41 institutions pointed out that this alternative would be too costly and too difficult to monitor and administer. Several of these institutions also expressed the opinion that this alternative would create depositor disloyalty, prompting depositors to deposit their funds at several different depository institutions in order to obtain additional premiums. It was also suggested that premiums be limited to branch openings, bank openings, anniversaries, mergers and consolidations; 20 institutions recommended this alternative.

Based upon the comments received and the Committee's experience with the temporary rule, the Committee concluded that the final adoption of the rule would be the most effective means of curtailing the circumvention of the premium rule and would enable depository institutions to provide premiums to customers in the manner the Committee intended. With respect to the alternatives suggested by the commentators to prevent further abuses of the objectives of the premium rule, the Committee believes that making the temporary rule permanent would be more effective in advancing its objectives. This is based on the view that adoption of a per depositor/per household rule would be both a financial and administrative burden for depository institutions to implement and would not directly address the immediate problem of soliciting the opening of multiple accounts by depository institutions.

PART 1204—INTEREST ON DEPOSIT

Pursuant to its authority under the Depository Institutions Deregulation Act (12 U.S.C. 3501 *et seq.*), the Committee amends Part 1204 (Interest on Deposits) by adding the following sentence to § 1204.109(a):

§1204.109 Premiums not considered payment of interest.

(a) * * * A depository institution is not permitted directly or indirectly to solicit or promote deposits from customers on the basis that the funds will be divided into more than one account by the institution for the purpose of providing more than two premiums per deposit within a 12-month period.

* * * * *

By order of the Committee.

Steven Skancke,

Executive Secretary.

March 9, 1982.

[FR Doc. 82-7090 Filed 3-15-82; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 370, 371, 373, 376, 379, 385, 386, and 399

Expansion of Foreign Policy Export Controls Affecting Libya

AGENCY: Office of Export Administration International Trade Administration, Commerce.

ACTION: Interim rule.

SUMMARY: The President has directed that additional measures be taken to restrict a U.S. contribution to, and thereby to limit, Libyan capacity to engage in activities detrimental to the foreign policy of the United States. This issuance revises the Export Administration Regulations to place Libya in Country Group S and make other related changes.

DATES: These rules are effective March 12, 1982. Comments must be received by the Department by May 11, 1982.

ADDRESS: Written comments (six copies when possible) should be sent to: Richard J. Isadore, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Mr. Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377-5247 or 377-4811).

SUPPLEMENTARY INFORMATION:

Regulatory Changes

Pursuant to the authority granted by section 6 of the Export Administration Act of 1979, the President has determined that foreign policy controls affecting exports to Libya should be expanded. Libya has been placed in Country Group S, with a validated export license now required for all technical data and commodities except:

1. Medicine and medical supplies;

2. Food and other agricultural commodities;

3. Items permitted under certain special purpose general licenses (including technical data freely available to the public); and

4. The export to Libya of nonstrategic foreign-produced direct product of U.S. origin technical data.

Existing controls for Libya affecting off-highway wheel tractors and aircraft continue in effect, as do existing controls for anti-terrorism purposes. Commodities and related technical data controlled for national security purposes, and oil and gas equipment and technical data not readily available abroad, will generally be denied except, on a case by case basis, for:

1. Export under existing contracts, where failure to obtain a license would not excuse performance under the contract;

2. Reexports of goods or technology not controlled for national security purposes which are already outside the United States on the effective date or exports of foreign products incorporating such items as components;

3. The use of 20 percent or less, by value, of U.S. origin components in foreign origin equipment.

Also, authorizations may be considered favorably for the reexport of goods and technical data controlled for national security purposes and exported prior to March 12, 1982, and other unusual situations such as transactions involving preexisting contractual commitments entered into prior to the effective date.

Validated export licenses issued prior to the effective date of these revisions are not affected. Exporters of items subject to the above denial policy, who have contracts entered into prior to the effective date of these revisions should, where appropriate, include certified copies of the contracts with their export license applications. In addition, exporters of oil and gas equipment and data should include any available evidence of foreign availability. Parties requesting authorization for reexport of national security controlled goods or data or of oil and gas equipment or data, should include with their requests shipping documents establishing the date of export from the United States. Disclosure of information obtained in connection with license applications or reexport request is subject to the confidentiality provisions contained in

section 12(c) of the Export Administration Act of 1979, as amended.

Parties who have exported commodities to Libya under General License GTE are notified that this general license may not be used for exports to Country Group S. Such commodities must be removed from Libya immediately, unless authorization for retention in Libya is received from the Office of Export Administration. Exporters holding Distribution Licenses are advised that these licenses are no longer valid for exports to Libya. Existing Project Licenses will not be affected by this change. Requests for amendments or extentions of Project Licenses will be reviewed on a case by case basis.

Saving Clause

This rule places a validated license requirement on certain commodities and technical data that previously could be exported under a general license. In addition it prohibits the use of Distribution Licenses for Libya. Therefore, shipments of commodities or technical data removed from general license or Distribution License, as a result of changes set forth in this rule that were on dock for lading, on lighter laden aboard an exporting carrier, or in transit to a port of export pursuant to actual orders for export prior to 8:00 a.m., E.S.T., March 12, 1982, may be exported under the existing applicable license provision up to and including March 26, 1982. Any such shipments not laden aboard the exporting carrier on or before March 26, 1982 require an individual validated license for export.

Statutory Requirements

Pursuant to section 6 of the Export Administration Act of 1979 and following consultation with the Department of State, it has been determined that this rule is necessary to further significantly, the foreign policy of the United States. Appropriate persons in industry and the Congress have been consulted, and the criteria set forth in section 6(b) of the Act have been considered.

Pursuant to section 4(c), it has been determined that, notwithstanding foreign availability, failure to take this action would be detrimental to the foreign policy of the United States.

Pursuant to section 6(d), it has been determined that there are no feasible alternative means of achieving the purpose of this action. As provided in section 6(g) efforts have been made to obtain cooperation of countries that produce comparable items.

Rulemaking Requirements

The Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (50 U.S.C. app. 2401 *et seq.* (Supp. III 1979) ("the Act")), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act.

However, because of the importance of the issues raised by these regulations and the intent of Congress set forth in section 13(b) of the Act, these regulations are issued in interim form and comments will be considered in developing any final regulations. These regulations may be revised before the end of the comment period. Accordingly, interested persons who desire to comment are encouraged to do so at the earliest possible time to permit the fullest consideration of their views.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 3501 *et seq.*

4. This rule is exempt from the requirements of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation," because it relates to a foreign affairs function of the United States.

The period for submission of comments will close on May 11, 1982. Comments received after the close of the comment period cannot be assured consideration in the development of the final regulations. Public comments that are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature, or for any other reason, will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of the final regulations. All public comments to be considered in any revision to these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda that will also be a matter of public record and will be available for public review. Communications from agencies of the United States Government or foreign governments and proprietary information received during industry consultations will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration, Freedom of Information Records Inspection Facility, Room 3102, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230

Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the International Trade Administration, Freedom of Information Officer, at the above address or by calling (202) 377-3031.

Accordingly, the Export Administration Regulations (15 CFR Parts 368-399) are amended as follows:

PART 370—EXPORT LICENSING GENERAL POLICY AND RELATED INFORMATION

Supplement No. 1 to Part 370 [Amended]

1. Supplement No. 1 to Part 370 is amended by inserting "Libya" under "Country Group S, " which previously had been reserved.

PART 371—GENERAL LICENSES

§ 371.15 [Amended]

2. Paragraph 371.15(b) is amended by removing the phrase "S or".

PART 373—SPECIAL LICENSING PROCEDURES

3. Paragraph 373.2(b) is amended by removing the "or" at the end of § 373.2(b) (6), removing the period at the end of § 373.2(b) (7) and replacing it with a semicolon followed by the word "or", and adding a new § 373.2(b) (8) to read as follows:

§ 373.2 [Amended]

* * * * *

(b) * * *

(8) The project involves shipments to Libya.

PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

§ 376.16 [Amended]

4. Section 376.16 is amended by removing the semicolon and the word "and" at the end of § 376.16(a) and inserting a period, and by removing §§ 376.16(b) and 376.16(c).

PART 379—TECHNICAL DATA

§ 379.4 [Amended]

5. Section 379.4(f) is amended by inserting "S," between "Q," and "W," each time they appear in the series "P, Q, W, Y, or Afghanistan" or "P, Q, W, Y, or Z or Afghanistan" (nine insertions).

PART 385—SPECIAL COUNTRY POLICIES AND PROVISIONS

§ 385.4 [Amended]

6. Section 385.4(d) is amended by removing "Libya," once in the title and once in the first sentence, and adding a footnote to the title to read: "Although not in Country Group V, the provisions of this paragraph remain applicable to Libya.".

7. Section 385.4(e) is removed and reserved.

8. A new § 385.7 is added to read as follows:

§ 385.7 Country Group S; Libya.

As authorized by section 6 of the Export Administration Act of 1979, the following special policies and procedures for commodities and technical data are in effect for Libya for foreign policy purposes.

(a) Except as stated below, a validated license or reexport authorization is required for all U.S.-orgin commodities or technical data, as well as foreign produced products of U.S. technical data exported from the United States after March 12, 1982 subject to national security controls for which written assurances against shipments to Libya are required under § 379.4 of the Export Administration Regulations. Excepted from this licensing requirement are medicines and medical supplies, food and other agricultural commodities, and commodities and data exported pursuant to special general licenses described in Parts 371 and 379. License applications and reexport requests will be reviewed in accordance with the licensing policies stated below.

(1) Licenses will generally be denied for:

(i) Items controlled for national security purposes and related technical data, including controlled foreign produced products of U.S. technical data exported from the United States after March 12, 1982; and

(ii) Oil and gas equipment and technical data, if determined by the Office of Export Administration not to be readily available from sources outside the United States.

(2) Notwithstanding the presumptions of denial in paragraph (a)(1) of this section:

(i) Licenses and authorizations generally will be issued when the transaction involves:

(A) The export or reexport of commodities or technical data under a contract in effect prior to March 12, 1982, where failure to obtain a license would not excuse performance under the contract;

(B) Reexport of goods or technical data not controlled for national security purposes that had been exported from the United States prior to March 12, 1982, or exports of foreign products incorporating such items as components; or

(C) Use of U.S. origin parts, components, or materials in foreign origin products destined for Libya, where the U.S. content is 20 percent or less by value.

(ii) Licenses and authorizations will generally be considered favorably on a case-by-case basis when the transaction involves:

(A) Reexports of goods or technical data subject to national security controls that were exported prior to March 12, 1982 and exports of foreign products incorporating such U.S.-origin components, where the particular authorization would not be contrary to specific foreign policy objectives of the United States; or

(B) Other unusual situations such as transactions involving firms with contractual commitments in effect before March 12, 1982.

(3) All other exports and reexports will generally be approved, subject to any other licensing policies applicable to a particular transaction.

(b) Libya has been designated by the Secretary of State as a nation repeatedly supporting acts of international terrorism. For licensing requirements relating to Anti-Terrorism Controls see 15 CFR 385.4(d).

(c) A validated license is required for the export to Libya of off-highway wheel tractors of carriage capacity of 10 tons or more, as defined in CCL entry 6490F. Applications for validated licenses will generally be considered favorably on a case-by-case basis for the export of such tractors in reasonable quantities if for civil use.

(d) A validated license is required for foreign policy purposes for the export or reexport to Libya of any aircraft (including helicopters) and any parts and accessories controlled under ECCN's 1460A, 4460B, 5460F, 6460F, 1485A, and 1501A(a), (b)(1) and (c)(1). This control includes any such aircraft parts intended for use in the manufacture, overhaul, or rehabilitation in any third country of aircraft that will be exported or reexported to Libya or Libyan nationals. Applications for validated licenses will generally be approved on a case-by-case basis for aircraft unlikely to be diverted to military use because they are destined to a priority civil use. Applications will generally be denied for exports that would constitute a high risk of increasing Libyan capabilities to carry military cargo or troops or to conduct military reconnaissance or observation missions.

(e) In appropriate cases, applications for licenses and requests for extensions of licenses under paragraph (a) of this section must be accompanied by a certified true copy of a contract entered into prior to March 12, 1982. Where the custom in an industry is to rely upon agreements other than contracts, substitute documentation will be considered on a case-by-case basis. Requests for authorization to reexport must be accompanied by shipping documents establishing the date of export from the United States.

(f) Commodities and technical data subject to more than one type of control (e.g., national security, anti-terrorism, regional stability, nuclear nonproliferation) will be reviewed under all applicable standards. The most restrictive standard will be applied.

PART 386—EXPORT CLEARANCE

§ 386.6 [Amended]

9. Sections 386.6(d)(2)(i)(*b*) and 386.6(d)(3) are amended by inserting "Libya," between "Republic of China," and "North Korea" in each place.

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

Supplement No. 1 to § 399.1 [Amended]

10. Supplement No. 1 to § 399.1 is amended by adding a new footnote to ECCN 6999G, in the "Validated License Required" column, to read as follows:

Food, agricultural commodities, and medicines and medical supplies may be exported to Country Group S under General License G-Dest.

(Secs. 4, 6, 13, 15, and 21, Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*; Executive Order No. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10-3 (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Orders 41-1 (45 FR 11862, February 22, 1980) and 41-4 (45 FR 65003, October 1, 1980))

V 47 51 MR 16 82

Dated: March 11, 1982.

Bohdan Denzyzyk,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 82-7113 Filed 3-15-82; 10:40 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 155

Execution of Discretionary Orders by Floor Brokers; Exception to the Hand-Off Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION: Interpretation.

SUMMARY: The Commodity Futures Trading Commission is issuing an interpretation of its regulation § 155.2(c). The regulation requires each contract market to adopt rules which prevent a floor broker who has discretionary authority over a customer's account from executing an order for that account without the prior specific consent of the customer. Under the regulation the floor broker is required to hand off orders he originates to another floor broker for execution. In a previous interpretation of regulation § 155.2(c) the Commission stated that orders which give a floor broker discretion as to the time and price of a futures transaction need not be handed off to another floor broker. In a recent rule submission a contract market requested Commission approval of a rule which would permit a broker to have discretion as to time, price and contract month in a futures transaction without handing off the order to another floor broker. The Commission has approved this rule and is notifying the public of the change in the Commission's interpretation of regulation § 155.2(c).

EFFECTIVE DATE: This interpretation is effective March 10, 1982.

FOR FURTHER INFORMATION CONTACT: Stephen Braverman, Futures Trading Specialist, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone (202) 254-8955.

SUPPLEMENTARY INFORMATION: Commission regulation § 155.2, 17 CFR 155.2 (1981), states:

> Each contract market shall adopt and submit to the Commission for approval pursuant to section 5a(12) of the (Commodity Exchange) Act and § 1.41 of the regulations, a set of rules which shall, at a minimum, with respect to each member of the contract market acting as a floor broker:
>
> • • • • •
>
> (c) Prohibit such member from executing any transaction for any account of another person for which buying and/or selling orders can be placed or originated, or for which transactions can be executed, by such member without the prior specific consent of the account owner, regardless of whether the general authorization for such orders or transactions is pursuant to a written agreement, except that orders for such an account may be placed with another member for execution.

When the Commission adopted this regulation it stated:

> Regulation § 155.2(c) is designed to prevent floor brokers from placing their personal trading interests ahead of their customers' interests when exercising trading discretion over such customers' accounts. Effective surveillance over such discretionary trading necessitates the requirement that all orders for an account for which a floor broker can place an order without first obtaining the account owner's specific consent to place that particular order be placed with another floor broker for execution. However, the newly adopted regulation makes it clear that a contract market need only prohibit its members form executing orders for accounts over which they have discretionary authority where that discretionary authority is such that the floor broker may originate orders for those accounts. This prohibition need not extend to accounts where the floor broker's discretion is limited to such things as the selection of the precise time and price at which an order originated by a customer is executed.[1]

The Commission also stated in a subsequent interpretive statement on regulation § 155.2(c):

> A question has arisen as to whether a floor broker may execute any . . . type of discretionary order [other than for time and price] and still be in compliance with § 155.2(c). The reason for the Commission's determination regarding price and time discretion orders was that the customer has limited the floor broker's discretion when he gives the broker only time and price discretion.
>
> In these situations the customer actually originates the order, not the floor broker. However, the more details of the order the broker decides the greater his exercise of discretion and the greater the potential for abuse that regulation § 155.2(c) is designed to prevent. Therefore, as interpreted by the Commission, regulation § 155.2(c) requires that discretionary orders giving the broker more latitude than price and time discretion must be handed off for execution.[2]

In a recent submission of a rule for Commission approval pursuant to section 5a(12) of the Commodity Exchange Act [3] the Board of Trade of the City of Chicago ("CBT") petitioned the Commission for a partial exemption from the requirements of regulation § 155.2(c).[4] The CBT requested that the Commission approve a rule which permits a floor broker to have discretion as to contract month, in addition to time and price, without handing off an order. The Commission gave careful consideration to the CBT's request and, notwithstanding its previous interpretive statement, now believes that contract month discretion also should be permitted under regulation § 155.2(c).

Regulation § 155.2(c) recognizes the significant conflicts of interest which arise from permitting a floor broker to trade both in his own account and for the accounts of customers and was designed to prevent such floor brokers from allocating profitable trades to their personal trading account or accounts of favored customers to the detriment of orders for customers' discretionary accounts. However, upon reconsidering its previous position, the Commission does not believe that allowing a floor broker to execute a customer-originated order which gives him contract month discretion in addition to time and price discretion is any more likely to result in the abuses regulation § 155.2(c) seeks to prevent than if the floor broker has only time and price discretion. In both cases the orders would be executable at the market price and, under exchange rules required by regulations § 155.2 (a) and (b), 17 CFR 155.2 (a) and (b) (1981),[5] the floor broker would be required to execute these customers' orders before his personal trades. Given the current scope of floor brokers' authority to handle customers' orders while trading for their own accounts, the Commission sees no relevant distinction between trades executed by a floor broker which allow only time and price discretion and those which permit the broker the additional latitude to select the contract month.

Indeed, a customer may be placed at a competitive disadvantage if he gives his floor broker contract month discretion and the broker is required to hand off that order once he selects the contract month.[6] For example, a hedging customer may wish to offset a cash position in either of a number of months, and may instruct his broker to sell the month in which he can get the best price. If the floor broker is required to hand off this order after he has selected the most advantageous month for his customer, the chance of the order being filled at the best price may be decreased by the delay resulting from the hand off. In addition, there is the risk of the customer not being filled at all, leaving him unhedged.

Another example occurs when all the contract months in a commodity are limit up and a customer desires to buy a certain quantity, regardless of month. If the floor broker is required to hand off the customer's order after seeing a month begin to trade, the broker's customer runs the unnecessary risk of missing the offers available. Moreover, in a locked-limit situation such as this, it is quite likely that a broker could encounter some difficulty in attempting to hand off such an order.

For the foregoing reasons the Commission is amending its interpretive statement on the types of discretionary orders that a floor broker may execute under § 155.2(c). The Commission believes it is not inconsistent with § 155.2(c) for exchanges to adopt rules which allow floor brokers to execute orders where the broker has discretion as to contract month, as well as time and price, without handing off the order to another broker.

Issued in Washington, D.C. on March 10, 1982, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-7015 Filed 3-15-82; 8:45 am]

BILLING CODE 6351-01-M

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[1] 41 FR 56124, 56126 (December 23, 1976).

[2] 42 FR 35004 (July 7, 1977).

[3] 7 U.S.C. 7a(12) (1978).

[4] The petition was submitted pursuant to Commission regulation § 155.10, 17 CFR 155.10 (1981).

[5] Regulations § 155.2 (a) and (b) provide:

> Each contract market shall adopt and submit to the Commission for approval pursuant to section 5a(12) of the Act and § 1.41 of the regulations, a set of rules which shall, at a minimum, with respect to each member of the contract market acting as floor broker:
>
> (a) Prohibit such member from purchasing any commodity for future delivery for his own account, or for any account in which he has an interest, while holding an order of another person for the purchase of the same commodity which is executable at the market price or at the price at which such purchase can be made for the member's own account or the account in which he has an interest.
>
> (b) Prohibit such member from selling any commodity for future delivery for his own account, or for any account in which he has an interest, while holding an order of another person for the sale of the same commodity which is executable at the market price or at the price at which such sale can be made for the member's own account or the account in which he has an interest.

[6] The floor broker must select the contract month *prior* to handing off the order for execution; otherwise, the floor broker would merely be giving the executing broker the same discretion that the regulation was designed to prohibit.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230 and 239

[Release No. 33-6339]

Revision of Certain Exemptions From Registration for Transactions Involving Limited Offers and Sales

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of final rules, rule amendments, and form, and rescission of rules and forms.

SUMMARY: The Commission announces the adoption of a new regulation governing certain offers and sales of securities without registration under the Securities Act of 1933 and a uniform notice of sales form to be used for all offerings under the regulation. The regulation replaces three exemptions and four forms, all of which are being rescinded. The new regulation is designed to simplify and clarify existing exemptions, to expand their availability, and to achieve uniformity between Federal and state exemptions in order to facilitate capital formation consistent with the protection of investors.

EFFECTIVE DATES: Regulation D, rule 215, Form D and amendments to rules 144 and 148 will be effective and Form 4(6) will be rescinded on April 15, 1982. Rules 146, 240, and 242, and Forms 146, 240, and 242 will be rescinded on June 30, 1982. For those offerings made in compliance with the terms of Rules 146, 240 and 242 which commence prior to the effective date of regulation D (April 15, 1982) and which continue past June 30, 1982, the Commission takes the administrative position that no registration is required under the Securities Act of 1933.

FOR FURTHER INFORMATION CONTACT: Prior to effective date, Paul A. Belvin (202) 272-2644, Office of Small Business Policy, and after effective date, David B. H. Martin, Jr. (202) 272-2573, Office of Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is adopting regulation D (17 CFR 230.501-230.506), Rule 215 (17 CFR 230.215), Form D (17 CFR 230.500), and conforming amendments to rule 144 (17 CFR 230.144) and rule 148 (17 CFR 230.148) under the Securities Act of 1933 (the "Securities Act") (15 U.S.C. 77a *et seq.*, as amended). The Commission is rescinding Rules 146, 240 and 242 (17 CFR 230.146, 230.240, and 230.242) and Forms 146, 240, 242, and 4(6) (17 CFR 239.146, 239.240, 239.242, and 239.246).

The Commission published proposed regulation D for comment in Release No. 33-6339 (August 7, 1981) (46 FR 41791). Commentators generally supported the proposal. Many letters contained helpful analysis of and comment on specific sections in the proposed regulation. As adopted, regulation D is substantially similar to the proposal with certain changes made in response to comments received.

This release contains a general background of regulation D, an overview of its provisions, a discussion of the uniform federal-state exemptive framework, and a section-by-section synopsis of the final regulation.

I. Background

Regulation D is the product of the Commission's evaluation of the impact of its rules and regulations on the ability of small businesses to raise capital.[1] This study has revealed a particular concern that the registration requirements and the exemptive scheme of the Securities Act impose disproportionate restraints on small issuers. In response to this concern, the Commission has taken a number of actions, including a relaxation of certain aspects of regulation A (17 CFR 230.251-230.264), the adoption of Rule 242, and the introduction of Form S-18 (17 CFR 239.28), a simplified registration statement for certain first time issuers.[2]

Coincident with the Commission's small business program, Congress enacted the Small Business Investment Incentive Act of 1980 (the "Incentive Act") (94 Stat. 2275 (codified in scattered sections of 15 U.S.C.)). The Incentive Act included three changes to the Securities Act: the addition of an exemption in Section 4(6) for offers and sales solely to accredited investors,[3] the

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[1] This evaluation began in April and May of 1978 when the Commission conducted 21 days of public hearings in six different cities for the purpose of determining the extent to which the burdens imposed on small businesses by the federal securities law could be alleviated consistent with the protection of investors. These hearings were recommended by the Advisory Committee on Corporate Disclosure. Report of the Advisory Committee on Corporate Disclosure to the Securities and Exchange Commission, House Comm. on Interstate and Foreign Commerce, 95th Cong., 1st Sess. 511 (Comm. Print No. 95-29, 1977).

[2] For a summary of these and other actions, see Release No. 33-6330; Release No. 34-16606 (June 2, 1980) (45 FR 39145); and Release No. 33-6049 (April 3, 1979 (45 FR 21822).

[3] The Incentive Act also added Section 2(15) to the Securities Act which defined "accredited investor" as one of five enumerated institutional entities or any person who, on the basis of such factors as financial sophistication, net worth,

Continued

increase in the ceiling of Section 3(b) from $2,000,000 to $5,000,000, and the addition of Section 19(c) which, among other things, authorized "the development of a uniform exemption from registration for small issuers which can be agreed upon among several States or between the States and the Federal Government."

As a result of the Commission's reevaluation of the impact that its rules and regulations have on small businesses and the provisions of the Incentive Act, the Commission undertook a general examination of the exemptive scheme under the Securities Act. In December 1980, it announced that it was considering the relationship among certain exemptions from the registration provisions of the Securities Act and the efficacy of those exemptions as they relate to the capital formation needs of small businesses.[4] The Commission requested comments on the interrelationships between Section 4(6) and rules 146 and 242, as well as on the adequacy of the ceiling limitations in exemptions under Section 3(b).

Commentary to the Commission criticized the complexity of the exemptive scheme as it relates to all issuers. Recommendations for solutions varied considerably. Based on certain recommendations and its own analysis, the Commission issued proposed regulation D, which provides exemptions for certain offerings by small and other businesses.[5]

The Commission received 88 letters of comment on proposed regulation D.[6] Commentators generally supported adoption of the regulation but offered detailed and constructive suggestions as to specific provisions in the rules.[7]

II. Discussion

A. Overview

Regulation D is a series of six rules, designated rules 501–506, that establishes three exemptions from the registration requirements of the Securities Act and replaces exemptions that currently exist under rules 146, 240, and 242. The regulation is designed to simplify existing rules and regulations, to eliminate any unnecessary restrictions that those rules and regulations place on issuers, particularly small businesses, and to achieve uniformity between state and federal exemptions in order to facilitate capital formation consistent with the protection of investors.

Rules 501–503 set forth definitions, terms, and conditions that apply generally throughout the regulation. The exemptions of regulation D are contained in rules 504–506. Rules 504 and 505 replace rules 240 and 242, respectively, and provide exemptions from registration under Section 3(b) of the Securities Act. Rule 506 succeeds rule 146 and relates to transactions that are deemed to be exempt from registration under Section 4(2) of the Securities Act.

Rule 504 generally expands rule 240 by increasing the amount of securities sold in a 12 month period from $100,000 to $500,000, eliminating the ceiling on the number of investors, and removing the prohibition on payment of commissions or similar remuneration. Rule 504 also removes restrictions on the manner of offering and on resale if an offering is conducted exclusively in states where it is registered and where a disclosure document is delivered under the applicable state law. Like rule 240, rule 504 does not prescribe specific disclosure requirements. Rule 504 is an effort by the Commission to set aside a clear and workable exemption for small offerings by small issuers to be regulated by state "Blue Sky" requirements and to be subject to federal antifraud provisions and civil liability provisions such as section 12(2). Therefore, the exemption is not available to issuers that are subject to the reporting obligations of the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a *et seq.*) or are investment companies as defined under the Investment Company Act of 1940 (the "Investment Company Act") (15 U.S.C. 80a–1 *et seq.*).

Rule 505 replaces rule 242. Its offering limit is $5,000,000 in a 6-month period, an increase from the $2,000,000 in 6 months ceiling in rule 242. Like its predecessor, rule 505 permits sales to 35 purchasers that are not accredited investors and to an unlimited number of accredited investors. However, the class of accredited investors has now been expanded. The exemption is available to all non-investment company issuers,[8] an expansion of the restriction in rule 242 that limited the exemption's availability to certain corporate entities. An issuer under rule 505 may not use any general solicitation or general advertising. The informational requirements under rule 505 are substantially similar to those in rule 242.

Rule 506 takes the place of rule 146. As under its predecessor, rule 506 is available to all issuers for offerings sold to not more than 35 purchasers. Accredited investors, however, do not count toward that limit. Rule 506 requires an issuer to make a subjective determination that each purchaser meets certain sophistication standards, a provision that narrows a similar requirement as to all offerees under rule 146. The new exemption retains the concept of the purchaser representative so that unsophisticated purchasers may participate in the offering if a purchaser representative is present. Like rule 146, rule 506 prohibits any general solicitation or general advertising.

B. Uniform Federal-State Limited Offering Exemptions

In conjunction with the proposal and adoption of regulation D, the Commission, through its Division of Corporation Finance, has coordinated with the North American Securities Administrators Association ("NASAA"),[9] through its Subcommittee on Small Business Financing ("NASAA Subcommittee"), under the authorization of Section 19(c)(3) of the Securities Act. The objective of this process has been to develop a basic framework of limited offering exemptions that can apply uniformly at the federal and state levels. Regulation D is intended to be the principal element of this framework. Under rule 504, offerings below $500,000 by a non-reporting company will not be required to be registered at the federal level. Moreover, if such offerings are registered in states requiring the delivery of a disclosure document, the manner of offering limitations and the restrictions on resale will not apply. Because of the small amount of the offering and the likelihood that sales will occur in a limited geographic area, the Commission and NASAA believe that greater reliance on state securities laws is appropriate. Rules 505 and 506, and applicable definitions, terms and conditions in rules 501–503, are intended to be uniform federal-state exemptions.

In October 1981, NASAA formally adopted a uniform limited offering exemption as an official policy guideline.[10] This exemption, which had two alternatives, was based on proposed Rule 505 of regulation D but differed from that provision in certain respects. Subsequent to the endorsement of the uniform exemption and considering the public comment received, the NASAA Subcommittee and the Division of Corporation Finance coordinated to minimize differences in the NASAA policy guideline and regulation D. The Commission understands that, following its adoption of regulation D, the NASAA Subcommittee will recommend adoption by NASAA of modifications to its uniform limited offering exemption to provide for a uniform exemptive system. This system will endorse rule 505 with certain additional terms as one option, and rules 505 and 506 with no changes as a second option.

The additional terms that NASAA is expected to consider involve the following: (1) Restriction on transaction related remuneration; (2) Disqualification of issuers and other persons associated with offerings on the basis of state administrative orders or judgments; (3) Qualification of investors based on the suitability of the investment; and (4) Requirements for filing of the notices of sales.

The Commission and NASAA do not believe that these additional terms detract from the goal of increased federal-state uniformity. Because of differences between federal and state securities regulation, complete uniformity may not be an attainable objective. Certain additional terms, for instance, relate to valid state interests of jurisdiction which are not appropriately addressed in a federal regulation. Similarly, certain additional terms relate to the mechanics of regulating limited offering exemptions at the state level which cannot be included effectively in a federal rule.

The Commission commends NASAA and the members of the NASAA Subcommittee for their cooperation and effort in the development of regulation D and anticipates continued coordination to achieve a uniform system of federal-state limited offering exemptions that facilitates capital formation consistent with the protection of investors.

III. Synopsis

The following section-by-section discussion of the provisions of regulation D, the significant commentary on the proposals, and the revisions made to the proposed regulation is included to assist in understanding the regulation as adopted. Attention is directed to the text of regulation D for a more complete understanding. Attention is also directed to the chart following the synopsis which compares the provisions of regulation D exemptions to those of predecessor exemptions.

A. Preliminary Notes

Regulation D contains six preliminary notes. The first preliminary note reminds issuers that regulation D offerings, although exempt from Section 5 of the Securities Act, are not exempt from antifraud or civil liability provisions of the federal securities laws. The note also reminds issuers conducting regulation D offerings of their obligation to furnish whatever material information may be needed to make the required disclosure not misleading.

Note 2 underscores an issuer's obligation to comply with applicable state law and highlights certain areas of anticipated differences between regulation D at the federal and state levels. (*See* section II.B. of this release for further discussion of these differences.)

Note 3 makes clear that reliance on any particular exemption in regulation D does not act as an election. An issuer may always claim the availability of any other applicable exemption. Several commentators believed this note should address specifically the availability of an exemption under section 4(2) of the Securities Act. The Commission has reworded the note by including language that appeared in proposed rule 506(a) and clarified the specific availability of section 4(2).

The fourth note specifies that regulation D is available only to the issuer of the securities and not to its affiliates or others for resales of the issuer's securities. The note further provides that regulation D exemptions are only transactional. Several commentators pointed out that the proposed note in some respects duplicated rule 502(d), the provision governing resale limitations. That redundancy has been eliminated.

Preliminary Note 5, which confirms the availability of regulation D for business combinations, clarifies a question raised by commentators.

The sixth note provides that the regulation is not available for use in a plan or scheme to evade the registration requirements of the Securities Act.

B. Rule 501—Definitions and Terms Used in Regulation D

Rule 501 sets forth, alphabetically, definitions that apply to the entire regulation. The definitions generally represent distillations of concepts in rules 146, 240, and 242. The definition of "accredited investor," however, is an expansion of the term "accredited person" in rule 242.

The Commission has deleted two definitions, "predecessor" and "securities of the issuer," that appeared in the proposed regulation. The effect of these definitions was principally to expand the measurement of proceeds which would be included in the aggregate offering price of an offering under rules 504 and 505. The expansion would have required an issuer to add to the aggregate offering price of its regulation D offering the proceeds of certain offerings by predecessors and affiliates. As commentators observed, this would thus have included, by virtue of the "predecessor" definition, sales of securities by a substantially larger issuer from which the regulation D issuer had acquired the major portion of its assets. Further, by virtue of the "affiliate" definition, sales by limited partnerships with the same general partners as the Regulation D issuer would have been aggregated. Although there may be instances where such results would be appropriate, the Commission has determined to address those cases through general principles of integration, rather than through specific but overly inclusive rules in the regulation. Predecessor and affiliate relationships would be relevant to any consideration of whether prior offerings should be integrated with a proposed offering under regulation D.

1. *Accredited investor.* In proposing the definition of accredited investor,[11] the Commission specifically requested comments regarding three of the seven categories included in the definition. Although commentators generally supported the concept, many suggested changes to particular aspects of the definition.

The introductory language to the proposed definition provided that investors were accredited only if "the

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knowledge, and experience in financial matters, or amount of assets under management qualifies as an accredited investor under rules and regulations which the Commission shall prescribe.

The "accredited investor" concept had originally appeared in rule 242. *See* Release No. 33–6180 [January 17, 1980] (45 FR 6361); Release No. 33–6121 (September 11, 1979) (44 FR 54238).

[4] Release No. 33–6274 (December 23, 1980) (46 FR 2831).

[5] Release No. 33–6339 (August 7, 1981).

[6] These letters are available for inspection and copying in public File No. S7–681. A summary of the comments, prepared by the staff of the Commission's Division of Corporation Finance, has been placed in the public file.

[7] For additional and more detailed background information on Regulation D, see Release No. 33–6339 (August 7, 1981); Release No. 33–6274 (December 23, 1980).

[8] Like rule 242, rule 505 is not available to issuers that are subject to the disqualifications of regulation A.

[9] NASAA is a voluntary organization composed of securities regulatory agencies of 49 states, the Commonwealth of Puerto Rico, and Guam, as well as Mexico and 13 provinces of Canada.

[10] An official policy guideline of NASAA represents endorsement of a principle which NASAA believes has general application. NASAA has no power to enact legislation, promulgate regulations, or otherwise bind the legislatures or administrative agencies of its members.

[11] The Commission has adopted a uniform definition applicable to section 4(6) and regulation D. In this regard, the definition in rule 501(a) is identical to the combined provisions of section 2(15) and rule 215 thereunder. The definition of accredited investor contained in section 2(15) of the Securities Act and rule 215 has been reprinted in Regulation D for ease of reference.

issuer and any person acting on the issuer's behalf with respect to such investors have reasonable grounds to believe and do believe, after reasonable inquiry" that the investors came within one of the categories in the definition. It was pointed out that this formulation appeared to bar from the definition someone who actually was accredited but in whom the issuer did not have the requisite belief. The regulation as adopted permits accreditation for investors who are qualified in fact.

The following subsections review the eight categories of accredited investors in rule 501(a).

a. Rule 501(a)(1)—Institutional Investors. Rule 501(a)(1) repeats the listing of institutional investors included in section 2(15)(i) of the Securities Act. One such investor is an employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974 ("ERISA") (codified in scattered sections of 26, 29 U.S.C.), the investment decisions for which are made by a bank, insurance company, or registered investment adviser. The Commission recognizes, and several commentators noted, that many plans have internalized the function of the plan fiduciary and thus could not qualify under the proposed category. For this reason the Commission believes it is appropriate to extend accredited investor status to any ERISA plan with total assets in excess of $5,000,000.

b. Rule 501(a)(2)—Private Business Development Companies. This category applies to private business development companies as defined in section 202(a)(22) of the Investment Advisers Act of 1940 (the "Advisers Act") (15 U.S.C. 80b–1 *et seq.*). As proposed, the category referred to sections 55(a)(1) through (3) and 2(a)(47) of the Investment Company Act. The proposal was intended to include business development companies that had not made an election under section 2(a)(48)(C) of the Investment Company Act. Several commentators noted, however, that the intent of the category could be more accurately accomplished by referring to the definition of private business development company in section 202(a)(22) of the Advisers Act. Although the new reference expands the class of private business development companies that may be qualified as accredited investors, it still delimits the class by the obligation of its members to provide "significant managerial assistance" as defined in Section 2(a)(47) of the Investment Company Act.[12]

[12] Section 202(a)(22) of the Advisers Act refers to Section 2(a)(48) of the Investment Company Act for the core of its meaning. Section 2(a)(48) defines a business development company as a company that, among other things, "makes available significant managerial assistance," a phrase that is defined in Section 2(a)(47) of the Investment Company Act.

c. Rule 501(a)(3)—Tax Exempt Organizations. Proposed rule 501(a)(3) created a category of accredited investor for college or university endowment funds with assets in excess of $25 million. Upon further consideration and based on commentary the Commission has determined that this category can be expanded to all organizations that are described as exempt organizations in Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)). Additionally, the Commission has lowered the asset level to $5 million.

d. Rule 501(a)(4)—Directors, Executive Officers and General Partners. Rule 501(a)(4) provides that certain insiders of the issuer are accredited investors. As proposed, the category pertained only to directors and executive officers. A number of comment letters recommended that the provision be modifed to cover general partners of limited partnerships. The category thus has been revised to include general partners of issuers, as well as directors, executive officers and general partners of those general partners.

e. Rule 501(a)(5)—$150,000 Purchasers. This category represents the combination of a similar category in Rule 242(a)(1)(ii), an analogous provision in rule 146(g)(2)(i)(d), and the recommendations of many commentators. Under this provision a person is an accredited investor upon the purchase of at least $150,000 of the securities if the total purchase price does not exceed 20 percent of the investor's net worth at the time of sale. For natural persons, the joint net worth of the investor and the investor's spouse may be used in measuring the ratio of purchase to net worth. The purchase may be made by one or a combination of four specified methods: cash; marketable securities; an unconditional obligation to pay cash or marketable securities within five years of sale; or a cancellation of indebtedness.

Four significant changes were made to the proposed category: an increase of the purchase amount from $100,000 to $150,000; the addition of a 20 percent of net worth limitation on the total purchase price; the addition of marketable securities as a means of payment; and a modification of the installment provision to allow payments over five years with no specified collateral.

Most commentary focused on the proposed installment provision which required an unconditional obligation to pay within two years of the first issuance of securities secured by a letter of credit.[13] Commentators pointed out that two years was too short a period for the economics of many business ventures, especially the tax shelter transactions that frequently utilize limited offering exemptions, *e.g.*, real estate and oil and gas partnerships. Additionally, some commentators noted that the two year limitation would have put the investor in a weaker bargaining position if the venture did not proceed satisfactorily. Finally, commentators also viewed the requirement that the installment obligation be collateralized with a letter of credit as an administrative and financial burden for an investor.

The basic premise of proposed Rule 501(a)(5) was that a person capable of investing a large amount of capital (i.e. $100,000 or more) in an offering ought to be considered an accredited investor. However, the Commission noted that, where the purchase price was spread over an extended period of time, the present value of the investment may have been reduced to a level where the investor was no longer investing sufficient amounts to merit accredited investor status.

In addressing the concerns of commentators, the Commission revised the rule to permit a payment period of five years with no specified collateral. In view of the extension of the installment period and in order to ensure that the investor in this category is capable of investing a sufficiently large amount of capital to warrant accredited investor status, the Commission also has increased the purchase price to $150,000 and revised the rule to provide that the total purchase price be limited to no more than 20 percent of the investor's net worth. The latter restriction does not, of course, require a commitment of 20 percent of the investor's net worth in the offering.

Lastly, in response to certain comments, the Commission has supplemented the available methods of payment with securities that have a readily available market quotation.

[13] Commentators questioned measuring the installment time period from "the first issuance of the securities." The Commission has changed the point from which the installment period is to be measured to "the sale of the securities to the purchaser." A sale takes place when the purchaser enters into a commitment to pay for the securities. Thus, in the case of a limited partnership, the sale takes place upon the issuer's acceptance of the subscription agreement or similar commitment by the investor.

Various aspects of this category may be demonstrated by the following examples. An investor whose net worth at the time of sale is $750,000 and who purchases $150,000 of the offering in cash on the day of sale is accredited. The same investor maintains that status if his payment is spread out over five years, so long as on the date of purchase he enters into an unconditional obligation to pay within that period. If, however, that investor agrees to purchase $200,000 of securities in installments, $150,000 to be paid on the date of sale and the balance in four years, he will not qualify under this category of accredited investor because his total purchase of $200,000 is more than 20 percent of his $750,000 net worth. A final case involves the investor with a net worth of $900,000 who agrees to purchase $180,000 of securities over six years, the first $150,000 of that purchase coming in the first five years. That investor is accredited because he is purchasing at least $150,000 within a five-year period and because the total purchase of $180,000 does not exceed 20 percent of his net worth.

f. Rule 501(a)(6)—$1,000,000 Net Worth Test. This category extends accredited investor status to any natural person whose net worth at the time of purchase is $1,000,000. Net worth may be either the individual worth of the investor or the joint net worth of the investor and the investor's spouse.[14] The Commission proposed a level of $750,000 for this test. Some commentators, however, recommended excluding certain assets such as principal residences and automobiles from the computation of net worth. For simplicity, the Commission has determined that it is appropriate to increase the level to $1,000,000 without exclusions.

g. Rule 501(a)(7)—$200,000 Income Test. A natural person who has an income in excess of $200,000 in each of the last two years and who reasonably expects an income in excess of $200,000 in the current year is an accredited investor.

As proposed, this category was based on individual adjusted gross income of $100,000 as reported for federal income tax purposes in the most recent tax year. Commentators objected to that formulation for three reasons.

First, reliance on the federal income tax return presented several problems. Foreign investors may not be required to file or to report all income on the United States tax return. Also, individual adjusted gross income may not be a useful figure for an investor who files a joint tax return or who resides in a community property state. Second, in measuring income only in the most recent tax year, the category included investors who had a nonrecurring peak in income for that year. Thirdly, commentators expressed concern about the general concept of adjusted gross income which does not include certain deductions or exempt income and may thus exclude from accredited investor status many sophisticated investors who can reduce their gross income below $100,000 through legitimate tax planning measures.

The category as adopted is intended to address these concerns. The test is no longer keyed to the federal income tax return. Further, the requisite income level must have been sustained over the two most recent years and the investor must reasonably expect continuation of an adequate level in the year of the investment.[15] Also, the term "adjusted gross income" has been changed to "income". Use of the term "income" will permit the inclusion of certain deductions and additional items of income which, as noted above, were excluded in the proposed concept of adjusted gross income. Accordingly, the appropriate income level has been raised to $200,000.

The rule as adopted does not define the term "income". Rather than adopting a definition, the Commission has determined to utilize a flexible approach, thereby avoiding the issues raised by inclusion in the rule of federal tax law concepts. However, the Commission is concerned that the decision not to define "income" may be misconstrued. The determination of what is and is not "income" is important in establishing the type of investor intended to be included in this category of accredited investor. Note that the term "income", and not "revenues", has been selected as the appropriate term. For example, the revenues of a sole proprietorship would not give an accurate picture of the income of a self-employed person without deducting the operating expenses of the proprietorship. On the other hand, an employee's salary could be a useful figure in determining whether the employee meets the requisite income level provided the employee has not incurred significant expenses in connection with earning that salary.

One possible method of computing income is as follows: individual adjusted gross income (assuming that had been reported on a federal tax return) increased by any deduction for long term capital gains under section 1202 of the Internal Revenue Code (the "Code"), any deduction for depletion under section 611 *et seq.* of the Code, any exclusion for interest under section 103 of the Code, and any losses of a partnership allocated to the individual limited partner as reported on Schedule E of Form 1040 (or any successor report).

h. Rule 501(a)(8)—Entities Made Up of Certain Accredited Investors. The proposed definition of accredited investor did not take into account an entity owned entirely by accredited investors. Rule 501(a)(8) of the final regulation extends accredited investor status to entities in which all the equity owners are accredited investors under rule 501(a) (1), (2), (3), (4), (8), or (7).

2. *Affiliate.* The definition of affiliate in rule 501(b) is the same as that contained in rule 405 of regulation C (17 CFR 230.405).

3. *Aggregate offering price.* Rule 501(c) defines the method for calculating the aggregate offering price. With the exception of certain changes to add clarity, the substance of this provision is similar to that in proposed rule 501.

4. *Business combination.* The definition of business combination in rule 501(d) has undergone only technical revision.

5. *Calculation of number of purchasers.* Rule 501(e) sets forth principles that govern the calculation of the number of purchasers in offerings under rules 505 and 506. These principles represent a consolidation of those in rule 146(g)(2)(i) and rule 242(e)(2) with some modifications. Only technical changes were made to the proposal.[16]

6. *Executive officer.* The definition of executive officer in rule 501(f) has been modified to conform with the definition of that term set forth in rule 405 of Regulation C.

7. *Issuer.* The term "issuer", as set forth in rule 501(g), has been revised to conform with the terminology in the Federal Bankruptcy Code (11 U.S.C. 101 *et seq.*).

8. *Purchaser representative.* In response to comments, the definition of purchaser representative in rule 501(h)

[14] Commentators noted that the proposed rule, which limited net worth to that of the individual investor, presented numerous problems for investors in community property states or for investors with assets held in joint name with a spouse. Recognizing these problems, the Commission has modified the net worth test to include joint net worth.

[15] For an investor purchasing securities in June 1982, income in calendar years 1980 and 1981 and reasonably expected income in 1982 would be used in determining accreditation under this category.

[16] The Commission is proposing to exclude non-U.S. citizens or residents from the calculation of number of purchasers. *See* Release No. 33–6300 (November 20, 1981) (46 FR 56511).

has been revised in three respects. First, the introductory language to the paragraph has been reformulated. As adopted, the definition includes any person who satisfies the conditions of the term in fact, as well as any person the issuer reasonably believes falls within the category. A second change incorporated the categories set forth in rule 501(e)(1) (ii) and (iii) into subparagraphs (ii) and (iii). Thirdly, paragraph (2) was revised to permit the purchaser representative to make the requisite evaluation of the prospective investment "with the purchaser."

C. Rule 502—General Conditions To Be Met

Rule 502 sets forth general conditions that relate to all offerings under Rules 504 through 506. These cover guidelines for determining whether separate offers and sales constitute part of the same offering under principles of integration, requirements as to specific disclosure requirements in regulation D offerings, and limitations on the manner of conducting the offering and on the resale of securities acquired in the offering.

As proposed, Rule 502 contained a provision developed in conjunction with the NASAA Subcommittee that prohibited the payment of commissions or similar remuneration to other than registered broker-dealers. The Commission received significant adverse comment on the provision and upon reconsideration has deleted it from the final regulation. As indicated in section II.B. above, the Commission believes, based on variations in state law regarding registration of broker-dealers and other persons receiving transaction related remuneration, that the operation of state registration provision in the federal regulation would create significant complications. Because of valid state jurisdictional concerns, it is likely that NASAA will recommend the addition of a provision similar to proposed rule 502(e) in the uniform state exemptions. This is highlighted in Preliminary Note 2.

1. *Integration.* Rule 502(a) provides that all sales that are part of the same regulation D offering must be integrated.[17] The rule provides a safe harbor for all offers and sales that take place at least six months before the start of or six months after the termination of the regulation D offering, so long as there are no offers and sales, excluding those to employee benefit plans, of the same securities within either of these six-month periods.[18]

Along with several technical revisions, the Commission changed the word "issue" to "offering" throughout the provision. This change makes the language of the rule consistent with the principle of integration.[19]

2. *Information Requirements.* Rule 502(b) provides when and what type of disclosure must be furnished in regulation D offerings. If an issuer sells securities under Rule 504 or only to accredited investors, the regulation D does not mandate any specific disclosure.[20] If securities are sold under rule 505 or 506 to any investors that are not accredited, then rule 502(b)(1)(ii) requires delivery of the information specified in rule 502(b)(2) to all purchasers. The type of information to be furnished varies depending on the size of the offering and the nature of the issuer.

As proposed, rule 502(b)(1)(ii) contained a special rule for disclosure when 60 percent or more of the total offering was purchased by certain institutional accredited investors. Under the 60 percent test, an issuer was not required to furnish disclosure documents unless specifically asked by an investor that was not accredited. The concept of the test was that the accredited investors, negotiating in their own interest, could be relied upon to assure the fairness of the transaction to remaining investors and that for this reason a disclosure document need not be mandated.

The Commission specifically requested comments on the 60 percent test and a number of commentators responded. Opinions varied but a majority of those commenting did not believe the test achieved any practical results. The test put the issuer in the position of having to speculate up until an offering was complete as to whether the 60 percent ratio would be met or as to whether an investor would make a demand for certain disclosure. According to commentators, an issuer faced with that uncertainty would prepare a full disclosure package for use from the beginning of the offering, thus negating any possible savings the rule may have provided. Finally, some commentators questioned whether the presence of institutional accredited investors would reduce the risk or the need for disclosure for other investors. Having considered these comments, the Commission has decided not to adopt the 60 percent test.

The specific disclosure requirements are as follows.

a. Non-reporting companies. Disclosure requirements for companies that are not subject to the reporting obligations of the Exchange Act are set forth in rule 502(b)(2)(i). These requirements are keyed to the size of the offering.

In offerings up to $5,000,000 an issuer must provide the same kind of information as required in Part I of Form S–18, or, for an issuer that is not qualified to use Form S–18, the same kind of information as required in Part I of a registration form available to the issuer.[21] The issuer need only provide two years of financial statements and only the most recent year need be audited. For issuers that are not limited partnerships, only a balance sheet dated within 120 days of the offering must be audited if obtaining an audit of the other financial statements would constitute an unreasonable effort or expense. Limited partnerships may furnish tax basis financial statements if the basic requirements are an unreasonable effort or expense.[22]

For offerings over $5,000,000 issuers must furnish the same kind of information as specified in Part I of an available form of registration. Where the audited financials cannot be obtained without unreasonable effort or expense, the issuer is given options similar to those in offerings up to $5,000,000.

[17] For a general discussion of the concept of integration, *see* Release No. 33–4552 (November 6, 1962) (27 FR 11316).

[18] As proposed, this exclusion applied to employee benefit plans meeting the requirements of rule 16b–3 under the Exchange Act. That reference has been changed to the definition of employee benefit plan in rule 405 of regulation C.

[19] The Commission is proposing to expand the note to rule 502(a) to state that exempt offerings will not be integrated with certain foreign offerings. *See* Release No. 33–6360 (November 20, 1981).

[20] In response to the Commission's request, several commentators addressed the question of whether, in offerings only to accredited investors, issuers should be required to deliver specific disclosure documents to accredited investors who are natural persons. Commentary was divided on the question. The Commission has determined that it is neither necessary nor appropriate to make distinctions of this type within the class of accredited investor.

[21] Currently, Form S–18 is available for an offering up to $5,000,000 but not for an issuer that, among other things, is subject to Exchange Act reporting obligations, is offering limited partnership interests, is an investment company, or is engaging or will engage in oil and gas related operations. The Commission is proposing to delete the limited partnership and oil and gas restrictions. *See* Release No. 33–6388 (March 3, 1982). *See also* Release No. 33–6360 (November 20, 1981) in which the Commission is proposing specific disclosure requirements for non-North American foreign private issuers.

[22] The option of tax basis financials for limited partnerships is an addition in response to comments on the proposed rule that criticized the expense to some limited partnerships of having financial statements prepared in accordance with generally accepted accounting principles.

In the proposed regulation, the Commission set forth another category of offerings, those up to $1,500,000, in which disclosure requirements related to regulation A. Upon review, this category appeared to complicate the structure of tiered disclosure requirements with little significant benefit. Accordingly, that category was combined with offerings from $1,500,000 to $5,000,000.

b. *Reporting companies.* Companies that are subject to Exchange Act reporting obligations must furnish the same kind of disclosure regardless of the size of the offering. These issuers, however, have an option as to the form that this disclosure may take. Under rule 502(b)(2)(ii)(A), a reporting company may provide its most recent annual report to shareholders, assuming it is in accordance with rule 14a–3 or 14c–3 (17 CFR 240.14a–3 or 240.14c–3) under the Exchange Act, the definitive proxy statement filed in connection with that annual report, and, if requested in writing, the most recent Form 10–K (17 CFR 249.310). Alternatively, those issuers may elect under rule 502(b)(2)(ii)(B) to provide the information contained in the most recent of its Form 10–K or a Form S–1 (17 CFR 239.11) registration statement under the Securities Act or a Form 10 (17 CFR 249.10) registration statement under the Exchange Act. Although the requirement under subparagraph (B) refers to specific forms, it does not mandate delivery of the actual reference documents. An issuer, for instance, may choose to prepare and deliver a separate document that contains the necessary information.

Regardless of the issuer's choice of disclosure in subparagraph (A) or (B), rule 502(b)(2)(ii)(C) requires the basic information to be supplemented by information contained in certain Exchange Act reports filed after the distribution or filing of the report or registration statement in question. Further, the issuer must provide certain information regarding the offering and any material changes in the issuer's affairs that are not disclosed in the basic documents.

The disclosure requirements for reporting companies represent a modification of the proposal which would have required an issuer to furnish basic disclosure in the form of its annual report to shareholders along with the information contained in the associated definitive proxy statement. The only exception to the proposal applied to an issuer that did not have an annual report meeting the requirements of rule 14a–3 or 14c–3. That issuer could provide the information contained in its Form 10–K or a registration statement. Commentators believed it was more appropriate to permit issuers the option of preparing a current composite document for the exempt offering. The Commission has reformulated the information requirements for reporting companies to address those concerns.

c. Other information requirements. The balance of rule 502(b)(2) provides for the treatment of exhibits, the right of purchasers that are not accredited to receive information which was furnished to accredited investors, and, in offerings involving nonaccredited investors, the right of all purchasers to ask questions of the issuer concerning the offering, and a specific obligation by the issuer to disclose all material differences in terms or arrangements as between security holders in a business combination or exchange offer. These provisions have undergone some technical revision and have been reformulated to accommodate the deletion of the 60 percent provision in rule 502(b)(1)(ii).

3. *Manner of offering.* Rule 502(c) prohibits the use of general solicitation or general advertising in connection with regulation D offerings, except in certain cases under rule 504. The prohibition follows a similar restriction in rule 146(c), except that both as proposed and as adopted the limitation in regulation D alters those aspects of rule 146(c) that related to qualified offerees.[23]

4. *Limitations on resale.* Securities acquired in a regulation D offering, with the exception of certain offerings under rule 504, have the status of securities acquired in a transaction under section 4(2) of the Securities Act.[24] As further provided in rule 502(d), the issuer shall exercise reasonable care to assure that purchasers of securities are not underwriters, which reasonable care will include certain inquiry as to investment purpose, disclosure of resale limitations and placement of a legend on the certificate. Apart from technical drafting changes, the rule is similar to the proposal.

D. Rule 503—Filings of Notice of Sales

The Commission is adopting a uniform notice of sales form for use in offerings under both regulation D and section 4(6) of the Securities Act. The form is an adaptation of Form 242 and Form 4(6) to the regulation D context.[25] As with the predecessor forms, issuers will furnish information on Form D mainly by checking appropriate boxes. The form requires an indication of the exemptions being claimed.

Rule 503 sets forth the filing requirements for Form D. The notice is due 15 days [26] after the first sale of securities in an offering under regulation D.[27] Subsequent notices are due every six months after first sale and 30 days after the last sale. One copy of each notice must be manually signed by a person duly authorized by the issuer.[28]

Rule503(d) requires an undertaking in Form D to furnish the staff, upon its written request, with the information provided to purchasers that are not accredited in a rule 505 offering. This is similar to the undertaking required by rule 242(h)(2). In the proposed regulation, that undertaking was broader and covered similar requests by state authorities. The Commission has decided, however, not to include the state undertaking in the final regulation. Many states may elect to require such an undertaking and the Commission appreciates the interests that such an undertaking serves. The Commission, nevertheless, was concerned about the effects of including the state feature in the federal rule since this would have raised a question as to the meaning of the undertaking in states that had not adopted regulation D.

E. Rule 504—Exemption for Offers and Sales Not Exceeding $500,000

Rule 504, which replaces rule 240, provides an exemption under section 3(b) of the Securities Act for certain offers and sales not exceeding an aggregate offering price of $500,000. Rule 240 permits sales up to $100,000 to 100 investors. Proceeds from securities sold within the preceding 12 months in all transactions exempt under section

[23] Several commentators were concerned with the proposed wording of rule 502(c)(2), believing that its use of the word "mailing" was an absolute prohibition on mail as a means of inviting persons to seminars. The Commission has revised the language to eliminate that implication.

[24] Rule 144 and rule 145 are being amended to conform their definitions of "restricted securities" with regulation D.

[25] One change which has been made in response to the recommendation of commentators involves the listing of persons receiving commissions or similar remuneration. That requirement has been modified to permit the listing of firm names in certain cases.

[26] Notices under rule 146 are due at the time of first sale; those under rule 242 must be filed 10 days after first sale; and rule 240 notices are required 10 days after the close of the first month in which a sale is made. As proposed, notice under regulation D was due 30 days after first sale.

[27] In response to commentators, the Commission notes that generally the acceptance of subscription funds into an escrow account pending receipt of minimum subscriptions would trigger the filing requirements.

[28] As proposed, the signature was to have been by a duly authorized officer.

3(b) [30] or in violation of section 5(a) of the Securities Act must be included in computing the aggregate offering price under rule 504.[30] The exemption is not available to investment companies or issuers subject to Exchange Act reporting obligations. Commissions or similar transaction related remuneration may be paid.

As under rule 240, the exemption under rule 504 does not mandate specific disclosure requirements. However, the issuer remains subject to the antifraud and civil liability provisions of the Federal securities laws and must also comply with state requirements.

Offers and sales under rule 504 must be made in accordance with all the general terms and conditions in rules 501 through 503. However, if the entire offering is made exclusively in states that require registration and the delivery of a disclosure document, and if the offering is in compliance with those requirements, then the general limitations on the manner of offering and on resale will not apply.

With the exception of its format, which has been reorganized along with that of rules 505 and 506 for purposes of clarity, rule 504 is identical to the proposal. Most commentators supported the exemption. A few opposed the bar to reporting companies while others recommended retaining the exclusions from aggregation in rule 240. In view of the overall support for the exemption, however, and noting the emphasis in this rule on state regulation and the increase in aggregate offering price from rule 240, the Commission has concluded that the exemption's parameters are appropriate.

F. Rule 505—Exemption for Offers and Sales Not Exceeding $5,000,000

Rule 505 replaces rule 242. The rule provides an exemption under section 3(b) of the Securities Act for offers and sales to no more than 35 purchasers that are not accredited where the aggregate offering price over 12 months does not exceed $5,000,000. As with rule 504, the aggregate offering price includes proceeds from offers and sales under section 3(b) or in violation of section 5(a) of the Securities Act.[31] Rule 242 permits up to $2,000,000 in sales, aggregated over six months, to no more than 35 purchasers that are not accredited.[32]

Rule 505 is available to any issuer that is not an investment company. This is an expansion of the availability of rule 242 which follows the eligibility criteria of Form S-18 and is currently not available to non-corporate issuers, to foreign issuers, and to issuers engaged in oil and gas activities. As proposed, rule 505 barred from its use issuers that had been subject to Exchange Act reporting obligations for more than 36 months preceding the offering. Questioning that limitation, commentators observed that issuers that had been reporting for 36 months were not, in the context of a rule 505 offering, necessarily more seasoned or substantial than non-reporting companies. The limitation, thus, did not presumptively work in favor of small businesses. Accordingly, the Commission has not retained any restrictions on the use of rule 505 based on Exchange Act reporting obligations.

Finally, rule 505 is not available to issuers that are subject to any of the disqualification provisions contained in rule 252 (c), (d), (e) or (f) of regulation A. The Commission has deleted proposed state related disabilities based on a false filing with a state, on a felony conviction for fraud or deceit, and on a state administrative cease and desist order for certain state securities violations. As discussed in section II.B. of this release, these disqualifications are of valid concern to states. Their inclusion in the federal exemption, however, presented significant complications based on different degrees of state administrative actions and procedures required for review of waiver requests.

G. Rule 506—Exemption for Offers and Sales Without Regard to Dollar Amount

Rule 506 relates to transactions that are deemed to be exempt under section 4(2) of the Securities Act. It modifies and replaces rule 146. Like its predecessor, rule 506 exempts offers and sales to no more than 35 purchasers. Whereas rule 146 excludes certain purchasers from the count, rule 506 excludes accredited investors in computing the number of purchasers. More significantly, rule 506 modifies the offeree qualification principles of rule 146 in two ways. First, rule 506 requires that only purchasers meet the sophistication standard. Second, the rule eliminates the economic risk test. Commentators endorsed both modifications.

The Commission has redrafted rule 506 so that it parallels the form of rules 504 and 505. In the process, two proposed provisions have been eliminated. One, regarding business combinations in proposed rule 506(b)(2), has been removed on the ground that, in view of other general rules in the regulation, its principle does not require specific recitation. Another, regarding purchaser representatives in proposed rule 506(c), has been eliminated because of overlapping coverage in the definition of purchaser representative in rule 501(h)(4).[33]

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[30] Exemptions under section 3(b) include rule 240, Rule 242, regulation A, and rules 504 and 506 of regulation D. The proposed rule listed all but rules 240 and 242. The final version, by referring generally to section 3(b), is more concise. Further, it covers the transition period where issuers may have offerings under both regulation D and its predecessor exemptions.

[31] Aggregation under rule 240 requires inclusion of all sales made without registration but permits exclusion from that calculation of certain non-convertible notes or similar evidences of indebtedness issued to certain institutions and securities sold to promoters, directors, executive officers and full time employees.

[32] Based on its experience with rule 242, the Commission is aware that in computing the aggregate offering price issuers frequently misunderstand the interaction of the concepts of aggregation and integration as applicable under rules 502(b)(2)(i) and 502(b)(2)(v). Aggregation is the principle by which an issuer determines the dollar worth of exempt sales available directly under section 3(b) of the Securities Act. Integration is a principle under which an issuer determines overall characteristics of its offering. The following examples illustrate the application of these concepts. An issuer that has conducted an offering under rule 506 in May 1982 must aggregate the proceeds from that offering with the proceeds of a rule 505 offering conducted in December 1982. If the May offering had been under Rule 505, however, it would not need to be aggregated with the December offering. In either case, the May offering should be exempt from principles of integration by virtue of the safe harbor provision in rule 502(a). If a rule 506 offering had been conducted in July 1982, the integration safe harbor would not be available as to a subsequent rule 505 offering in December. Although the proceeds from the July 506 offering would not be added to the December 505 aggregate offering price under aggregation principles, they would have to be included if the two offerings could be integrated. Assuming the two offerings were integrated, then the issuer would have to evaluate all characteristics of the combined transactions, e.g., number of investors, aggregate offering price, etc., when determining the availability of exemption.

[33] Rule 242 does not aggregate proceeds from securities sold in violation of section 5(a) or under regulation A pursuant to an employee plan defined in rule 16b-3 under the Exchange Act.

[33] Commentators expressed concern that this exemption was not clearly designated as a safe harbor rule under section 4(2) of the Securities Act. Such a connection is important, they noted, for purposes of exemption from Regulation T (12 CFR 220.1-220.8) of the Federal Reserve Board, exemption from the definition of "investment company" under section 3(c)(1) of the Investment Company Act, and exemption from registration under certain state laws. The final language of rule 506 responds to this concern. In addition, the Commission's Division of Corporation Finance has conferred with and has been assured by the staff of the Federal Reserve Board that transactions under rule 506 will be exempt from the operation of Regulation T. Finally, the Commission regards rule 506 transactions as non-public offerings for purposes of the definition of "investment company" in section 3(c)(1) of the Investment Company Act and as section 4 transactions for purposes of section 304(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77 *aaa et seq.*, as amended).

Comparative Chart of Securities Act Limited Offering Exemptions

Comparison Item	Rule 240 Rule 504	Rule 242 Rule 505	Rule 146 Rule 506	Section 4(6)
Aggregate Offering Price Limitation	$100,000 $500,000	$2,000,000 (6 mos.) $5,000,000 (12 mos.)	Unlimited Unlimited	$5,000,000
Number of Investors	100 (total shareholders) Unlimited	35 plus unlimited accredited	35 plus those purchasing in excess of $150,000	Unlimited accredited only
		35 plus unlimited accredited		
Investor Qualification	None required None required	Accredited or none required Accredited or none required	Offeree and purchaser must be sophisticated or wealthy (with representative) Purchaser must be sophisticated (alone or with representative) Accredited presumed to be qualified	Accredited
Commissions	Prohibited Permitted	Permitted Permitted		Permitted
Limitations on Manner of Offering	No general solicitation permitted No general solicitation unless registered in states that require delivery of a disclosure document.	No general solicitation permitted No general solicitation permitted		No general solicitation permitted
Limitations on Resale	Restricted Restricted unless registered in states that require delivery of a disclosure document	Restricted Restricted		Restricted
Issuer Qualifications	No companies having more than 100 shareholders at completion of offering No reporting or investment companies	No non-North American issuers, investment companies, oil and gas companies, or issuers disqualified under Regulation A No investment companies or issuers disqualified under Regulation A	None None	None
Notice of Sales	Form 240 required as a condition of rule except for first $100,000 under rule- 3 copies filed in Regional Office within 10 days after end of month in which sale made	Form 242 required as a condition of rule- 5 copies filed with Commission 10 days after first sale, every six months after first sale, 10 days after completion	Form 146 required as condition of rule- 3 copies filed in Regional Office at time of first sale, except for offerings below $50,000 in 12 months	Form 4(6) required as condition of exemption - 5 copies filed with Commission 10 days after first sale, every 6 months after first sale, 10 days after completion
	Form D required as a condition of exemption - 5 copies filed with Commission 15 days after first sale, every 6 months after first sale, 30 days after last sale			

Comparison Item	Rule 240 Rule 504	Rule 242 Rule 505	Rule 146 Rule 506	Section 4(6)
Information Requirements	No information specified No information specified	1. If purchased solely by accredited no information specified 2. If purchased by any non-accredited, must furnish (a)(non-reporting companies)information in Part I of Form S-18 with 1 year audited financials (b)(reporting companies)most recent annual report, def. proxy statement and recent periodic reports	Must furnish (unless offeree has access via economic bargaining power) 1. Below $1,500,000 - information may be limited to Part II, Form 1-A of Reg A 2. Other offerings (a)(non reporting) information in registration available to issuer - Unaudited financials if audit requirements unreasonable effort or expense (b)(reporting companies)recent Form S-1 or Form 10, def. proxy statement and periodic reports	No information specified No information specified

1. If purchased solely by accredited, no information specified
2. If purchased by non-accredited,
   a. non-reporting companies must furnish
   i. offerings up to $5,000,000-information in Part I of Form S-18 or available registration, 2 yr. financials, 1 year audited-if undue effort or expense, issuers other than limited partnerships only balance sheet as of 120 days before offering must be audited-if limited partnership and undue effort or expense, financials may be tax basis
   ii. offerings over $5,000,000-information in Part I of available registration-if undue effort or expense, issuers other than limited partnerships only balance sheet as of 120 days before offering must be audited-if limited partnership and undue effort or expense, financials may be tax basis
   b. reporting companies must furnish
   i. Rule 14a-3 annual report to shareholders, definitive proxy statement and 10-K, if requested, plus subsequent reports and other updating information or
   ii. information in most recent Form S-1 or Form 10 or Form 10-K plus subsequent reports and other updating information
   c. Issuers must make available prior to sale
   i. exhibits
   ii. written information given to accredited investors
   iii. opportunity to ask questions and receive answers

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IV. Effective Date and Operation of Regulation D

Regulation D, rule 215, Form D, and related amendments to rules 144 and 146 will be effective and Form 4(6) will be rescinded on April 15, 1982. Rules 146, 240, and 242 and Forms 146, 240, and 242 will be rescinded on June 30, 1982. For those offerings made in compliance with the terms of rules 146, 240 and 242 which commence prior to the effective date of regulation D (April 15, 1982) and which continue past June 30, 1982, the Commission takes the administrative position that no registration is required under the Securities Act.

The staff will issue interpretive letters to assist persons in complying with regulation D, but the staff will not issue no-action letters as to whether a transaction satisfies the requirements of the regulation. With respect to resales of securities, the staff will continue its present policy of not expressing an opinion on inquiries regarding the following: (1) Hypothetical situations; (2) The removal of restrictive legends from securities; (3) Whether a person is an affiliate; or (4) Requests for no-action positions regarding securities acquired on or after April 15, 1972, as set forth in Release No. 33-6099 (August 2, 1979) (44 FR 46752).

V. Final Regulatory Flexibility Analysis

The Commission has prepared a Final Regulatory Flexibility Analysis regarding regulation D, Form D and rule 215 in accordance with 5 U.S.C. 604.

A copy of this analysis may be obtained by contacting David B. H. Martin, Jr., Office of Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 272-2573.

Text of Rules

17 CFR Chapter II is amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. By revising paragraph (a)(3) of § 230.144 as follows:

§ 230.144 Persons deemed not to be engaged in a distribution and therefore not underwriters.

* * * * *

(a) * * *

(3) The term "restricted securities" means securities that are acquired directly or indirectly from the issuer, or from an affiliate of the issuer, in a transaction or chain of transactions not involving any public offering, or securities acquired from the issuer that are subject to the resale limitations of regulation D under the Act, or securities that are subject to the resale limitations of regulation D and are acquired in a transaction or chain of transactions not involving any public offering.

* * * * *

§ 230.146 [Removed]

2. By removing § 230.146.

3. By revising paragraph (a)(5) of § 230.148 as follows:

§ 230.148 Persons deemed not to be underwriters of securities issued or sold in connection with bankruptcy proceedings.

* * * * *

(a) * * *

(5) The term "restricted securities" means securities that are acquired directly or indirectly from the issuer, or from an affiliate of the issuer in a transaction or chain of transactions not involving any public offering, or securities acquired from the issuer that are subject to the resale limitations of regulation D under the Securities Act of 1933, or securities that are subject to the resale limitations of regulation D and are acquired in a transaction or chain of transactions not involving any public offering.

* * * * *

4. By adding a new § 230.215 to read as follows:

§ 230.215 Accredited investor.

The term "accredited investor" as used in section 2(15)(ii) of the Securities Act of 1933 (15 U.S.C. 77b(15)(ii)) shall include the following persons:

(a) Any employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974 with total assets in excess of $5,000,000;

(b) Any private business development company as defined in section 202(a)(22) of the Investment Advisers Act of 1940;

(c) Any organization described in section 501(c)(3) of the Internal Revenue Code with total assets in excess of $5,000,000;

(d) Any director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer;

(e) Any person who purchases at least $150,000 of the securities being offered, where the purchaser's total purchase price does not exceed 20 percent of the purchaser's net worth at the time of sale, or joint net worth with that person's spouse, for one or any combination of the following: (1) cash, (2) securities for which market quotations are readily

available, (3) an unconditional obligation to pay cash or securities for which market quotations are readily available which obligation is to be discharged within five years of the sale of the securities to the purchaser, or (4) the cancellation of any indebtedness owed by the issuer to the purchaser;

(f) Any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of his purchase exceeds $1,000,000;

(g) Any natural person who had an individual income in excess of $200,000 in each of the two most recent years and who reasonably expects an income in excess of $200,000 in the current year; and

(h) Any entity in which all of the equity owners are accredited investors under paragraph (a), (b), (c), (d), (f) or (g) of this § 230.215.

§ 230.240 [Removed]

5. By removing § 230.240.

§ 230.242 [Removed]

6. By removing § 230.242.

7. By adding a new regulation D, §§ 230.501 through 230.506, to read as follows:

Regulation D—Rules Governing the Limited Offer and Sale of Securities Without Registration Under the Securities Act of 1933

Preliminary Notes

1. The following rules relate to transactions exempted from the registration requirements of section 5 of the Securities Act of 1933 (the "Act") (15 U.S.C. 77a et seq., as amended). Such transactions are not exempt from the antifraud, civil liability, or other provisions of the federal securities laws. Issuers are reminded of their obligation to provide such further material information, if any, as may be necessary to make the information required under this regulation, in light of the circumstances under which it is furnished, not misleading.

2. Nothing in these rules obviates the need to comply with any applicable state law relating to the offer and sale of securities. Regulation D is intended to be a basic element in a uniform system of federal-state limited offering exemptions consistent with the provisions of sections 18 and 19(c) of the Act. In those states that have adopted Regulation D, or any version of Regulation D, special attention should be directed to the applicable state laws and regulations, including those relating to registration of person who receive remuneration in connection with the offer and sale of securities, to disqualification of issuers and other persons associated with offerings based on state administrative orders or judgments, and to requirements for filings of notices of sales.

3. Attempted compliance with any rule in Regulation D does not act as an exclusive election; the issuer can also claim the availability of any other applicable exemption. For instance, an issuer's failure to satisfy all the terms and conditions of Rule 506 shall not raise any presumption that the exemption provided by section 4(2) of the Act is not available.

4. These rules are available only to the issuer of the securities and not to any affiliate of that issuer or to any other person for resales of the issuer's securities. The rules provide an exemption only for the transactions in which the securities are offered or sold by the issuer, not for the securities themselves.

5. These rules may be used for business combinations that involve sales by virtue of rule 145(a) (17 CFR 230.145(a)) or otherwise.

6. In view of the objectives of these rules and the policies underlying the Act, regulation D is not available to any issuer for any transaction or chain of transactions that, although in technical compliance with these rules, is part of a plan or scheme to evade the registration provisions of the Act. In such cases, registration under the Act is required.

§ 230.501 Definitions and terms used in Regulation D.

As used in regulation D, the following terms shall have the meaning indicated:

(a) *Accredited investor.* "Accredited investor" shall mean any person who comes within any of the following categories, or who the issuer reasonably believes comes within any of the following categories, at the time of the sale of the securities to that person:

(1) Any bank as defined in section 3(a)(2) of the Act whether acting in its individual or fiduciary capacity; insurance company as defined in section 2(13) of the Act; investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2(a)(48) of that Act; Small Business Investment Company licensed by the U.S. Small Business Administration under section 301 (c) or (d) of the Small Business Investment Act of 1958; employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974, if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such Act, which is either a bank, insurance company, or registered investment adviser, or if the employee benefit plan has total assets in excess of $5,000,000;

(2) Any private business development company as defined in section 202(a)(22) of the Investment Advisers Act of 1940;

(3) Any organization described in Section 501(c)(3) of the Internal Revenue Code with total assets in excess of $5,000,000;

(4) Any director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer;

(5) Any person who purchases at least $150,000 of the securities being offered, where the purchaser's total purchase price does not exceed 20 percent of the purchaser's net worth at the time of sale, or joint net worth with that person's spouse, for one or any combination of the following: (i) cash, (ii) securities for which market quotations are readily available, (iii) an unconditional obligation to pay cash or securities for which market quotations are readily available which obligation is to be discharged within five years of the sale of the securities to the purchaser, or (iv) the cancellation of any indebtedness owed by the issuer to the purchaser;

(6) Any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of his purchase exceeds $1,000,000;

(7) Any natural person who had an individual income in excess of $200,000 in each of the two most recent years and who reasonably expects an income in excess of $200,000 in the current year; and

(8) Any entity in which all of the equity owners are accredited investors under paragraphs (a) (1), (2), (3), (4), (6), or (7) of this section.

(b) *Affiliate.* An "affiliate" of, or person "affiliated" with, a specified person shall mean a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified.

(c) *Aggregate offering price.* "Aggregate offering price" shall mean the sum of all cash, services, property, notes, cancellation of debt, or other consideration received by an issuer for issuance of its securities. Where securities are being offered for both cash and non-cash consideration, the aggregate offering price shall be based on the price at which the securities are offered for cash. If securities are not offered for cash, the aggregate offering price shall be based on the value of the consideration as established by bona fide sales of that consideration made within a reasonable time, or, in the absence of sales, on the fair value as determined by an accepted standard.

(d) *Business combination.* "Business combination" shall mean any transaction of the type specified in paragraph (a) of rule 145 under the Act (17 CFR 230.145) and any transaction involving the acquisition by one issuer, in exchange for all or a part of its own or its parent's stock, of stock of another issuer if, immediately after the acquisition, the acquiring issuer has control of the other issuer (whether or not it had control before the acquisition).

(e) *Calculation of number of purchasers.* For purposes of calculating the number of purchasers under §§ 230.505(b) and 230.506(b) only, the following shall apply:

(1) The following purchasers shall be excluded:

(i) Any relative, spouse or relative of the spouse of a purchaser who has the same principal residence as the purchaser;

(ii) Any trust or estate in which a purchaser and any of the persons related to him as specified in paragraph (e)(1)(i) or (e)(1)(iii) of this section collectively have more than 50 percent of the beneficial interest (excluding contingent interests);

(iii) Any corporation or other organization of which a purchaser and any of the persons related to him as specified in paragraph (e)(1)(i) or (e)(1)(ii) of this section collectively are beneficial owners of more than 50 percent of the equity securities (excluding directors' qualifying shares) or equity interests; and

(iv) Any accredited investor.

(2) A corporation, partnership or other entity shall be counted as one purchaser. If, however, that entity is organized for the specific purpose of acquiring the securities offered and is not an accredited investor under paragraph (a)(8) of this section, then each beneficial owner of equity securities or equity interests in the entity shall count as a separate purchaser for all provisions of regulation D.

Note.—The issuer must satisfy all the other provisions of Regulation D for all purchasers whether or not they are included in calculating the number of purchasers. Clients of an investment adviser or customers of a broker or dealer shall be considered the "purchasers" under Regulation D regardless of the amount of discretion given to the investment adviser or broker or dealer to act on behalf of the client or customer.

(f) *Executive officer.* "Executive officer" shall mean the president, any vice president in charge of a principal business unit, division or function (such as sales, administration orfinance), any other officer who performs a policy making function, or any other person who performs similar policy making functions for the issuer. Executive officers of subsidiaries may be deemed executive officers of the issuer if they perform such policy making functions for the issuer.

(g) *Issuer.* The definition of the term "issuer" in section 2(4) of the Act shall apply, except that in the case of a

proceeding under the Federal Bankruptcy Code (11 U.S.C. 101 *et seq.*), the trustee or debtor in possession shall be considered the issuer in an offering under a plan or reorganization, if the securities are to be issued under the plan.

(h) *Purchaser representative.* "Purchaser representative" shall mean any person who satisfies all of the following conditions or who the issuer reasonably believes satisfies all of the following conditions:

(1) Is not an affiliate, director, officer or other employee of the issuer, or beneficial owner of 10 percent or more of any class of the equity securities or 10 percent or more of the equity interest in the issuer, except where the purchaser is:

(i) A relative of the purchaser representative by blood, marriage or adoption and not more remote than a first cousin;

(ii) A trust or estate in which the purchaser representative and any persons related to him as specified in paragraph (h)(1)(i) or (h)(1)(iii) of this section collectively have more than 50 percent of the beneficial interest (excluding contingent interest) or of which the purchaser representative serves as trustee, executor, or in any similar capacity; or

(iii) A corporation or other organization of which the purchaser representative and any persons related to him as specified in paragraph (h)(1)(i) or (h)(1)(ii) of this section collectively are the beneficial owners of more than 50 percent of the equity securities (excluding directors' qualifying shares) or equity interests;

(2) Has such knowledge and experience in financial and business matters that he is capable of evaluating, alone, or together with other purchaser representatives of the purchaser, or together with the purchaser, the merits and risks of the prospective investment;

(3) Is acknowledged by the purchaser in writing, during the course of the transaction, to be his purchaser representative in connection with evaluating the merits and risks of the prospective investment; and

(4) Discloses to the purchaser in writing prior to the acknowledgment specified in paragraph (h)(3) of this section any material relationship between himself or his affiliates and the issuer or its affiliates that then exists, that is mutually understood to be contemplated, or that has existed at any time during the previous two years, and any compensation received or to be received as a result of such relationship.

Note 1.—A person acting as a purchaser representative should consider the applicability of the registration and antifraud provisions relating to brokers and dealers under the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended) and relating to investment advisers under the Investment Advisers Act of 1940.

Note 2.—The acknowledgment required by paragraph (h)(3) and the disclosure required by paragraph (h)(4) of this section must be made with specific reference to each prospective investment. Advance blanket acknowledgment, such as for "all securities transactions" or "all private placements," is not sufficient.

Note 3.—Disclosure of any material relationships between the purchaser representative or his affiliates and the issuer or its affiliates does not relieve the purchaser representative of his obligation to act in the interest of the purchaser.

§ 230.502 General conditions to be met.

The following conditions shall be applicable to offers and sales made under regulation D:

(a) *Integration.* All sales that are part of the same regulation D offering must meet all of the terms and conditions of regulation D. Offers and sales that are made more than six months before the start of a regulation D offering or are made more than six months after completion of a regulation D offering will not be considered part of that regulation D offering, so long as during those six month periods there are no offers or sales of securities by or for the issuer that are of the same or a similar class as those offered or sold under regulation D, other than those offers or sales of securities under an employee benefit plan as defined in rule 405 under the Act (17 CFR 230.405).

Note.—The term "offering" is not defined in the Act or in Regulation D. If the issuer offers or sells securities for which the safe harbor rule in paragraph (a) of this section is unavailable, the determination as to whether separate sales of securities are part of the same offering (*i.e.* are considered "integrated") depends on the particular facts and circumstances.

The following factors should be considered in determining whether offers and sales should be integrated for purposes of the exemptions under Regulation D:

(a) Whether the sales are part of a single plan of financing;

(b) Whether the sales involve issuance of the same class of securities;

(c) Whether the sales have been made at or about the same time;

(d) Whether the same type of consideration is received; and

(e) Whether the sales are made for the same general purpose. *See* Release No. 33-6552 (November 6, 1982) (27 FR 11316).

(b) *Information requirements.*—(1) *When information must be furnished.*

(i) If the issuer sells securities either under § 230.504 or only to accredited investors, paragraph (b) of this § 230.502 does not require that specific information be furnished to purchasers.

(ii) If the issuer sells securities under § 230.505 or 230.506 to any purchaser that is not an accredited investor, the issuer shall furnish the information specified in paragraph (b)(2) of this section to all purchasers during the course of the offering and prior to sale.

(2) *Type of information to be furnished.* (i) If the issuer is not subject to the reporting requirements of section 13 or 15(d) of the Exchange Act, the issuer shall furnish the following information, to the extent material to an understanding of the issuer, its business, and the securities being offered:

(A) *Offerings up to $5,000,000.* The same kind of information as would be required in Part I of Form S-18 (17 CFR 239.28), except that only the financial statements for the issuer's most recent fiscal year must be certified by an independent public or certified accountant. If Form S-18 is not available to an issuer, then the issuer shall furnish the same kind of information as would be required in Part I of a registration statement filed under the Act on the form that the issuer would be entitled to use, except that only the financial statements for the most recent two fiscal years prepared in accordance with generally accepted accounting principles shall be furnished and only the financial statements for the issuer's most recent fiscal year shall be certified by an independent public or certified accountant. If an issuer, other than a limited partnership, cannot obtain audited financial statements without unreasonable effort or expense, then only the issuer's balance sheet, which shall be dated within 120 days of the start of the offering, must be audited. If the issuer is a limited partnership and cannot obtain the required financial statements without unreasonable effort or expense, it may furnish financial statements that have been prepared on the basis of federal income tax requirements and examined and reported on in accordance with generally accepted auditing standards by an independent public or certified accountant.

(B) *Offerings over $5,000,000.* The same kind of information as would be required in Part I of a registration statement filed under the Act on the form that the issuer would be entitled to use. If an issuer, other than a limited partnership, cannot obtain audited financial statements without unreasonable effort or expense, then only the issuer's balance sheet, which shall be dated within 120 days of the start of the offering, must be audited. If the issuer is a limited partnership and cannot obtain the required financial statements without unreasonable effort or expense, it may furnish financial statements that have been prepared on the basis of federal income tax requirements and examined and reported on in accordance with generally accepted auditing standards by an independent public or certified accountant.

(ii) If the issuer is subject to the reporting requirements of section 13 or 15(d) of the Exchange Act, the issuer shall furnish the information specified in paragraph (b)(2)(ii)(A) or (b)(2)(ii)(B) of this section, and in either event the information specified in paragraph (b)(2)(ii)(C) of this section:

(A) The issuer's annual report to shareholders for the most recent fiscal year, if such annual report meets the requirements of § 240.14a-3 or 240.14c-3 under the Exchange Act, the definitive proxy statement filed in connection with that annual report, and, if requested by the purchaser in writing, a copy of the issuer's most recent Form 10-K (17 CFR 249.310) under the Exchange Act.

(B) The information contained in an annual report on Form 10-K under the Exchange Act or in a registration statement on Form S-1 (17 CFR 239.11) under the Act or on Form 10 (17 CFR 249.210) under the Exchange Act, whichever filing is the most recent required to be filed.

(C) The information contained in any reports or documents required to be filed by the issuer under sections 13(a), 14(a), 14(c), and 15(d) of the Exchange Act since the distribution or filing of the report or registration statement specified in paragraph (A) or (B), and a brief description of the securities being offered, the use of the proceeds from the offering, and any material changes in the issuer's affairs that are not disclosed in the documents furnished.

(iii) Exhibits required to be filed with the Commission as part of a registration statement or report, other than an annual report to shareholders or parts of that report incorporated by reference in a Form 10-K report, need not be furnished to each purchaser if the contents of the exhibits are identified and the exhibits are made available to the purchaser, upon his written request, prior to his purchase.

(iv) At a reasonable time prior to the purchase of securities by any purchaser that is not an accredited investor in a transaction under § 230.505 or 230.506, the issuer shall furnish the purchaser a brief description in writing of any written information concerning the offering that has been provided by the issuer to any accredited investor. The issuer shall furnish any portion or all of this information to the purchaser, upon his written request, prior to his purchase.

(v) The issuer shall also make available to each purchaser at a reasonable time prior to his purchase of securities in a transaction under § 230.505 or 230.506 the opportunity to ask questions and receive answers concerning the terms and conditions of the offering and to obtain any additional information which the issuer possesses or can acquire without unreasonable effort or expense that is necessary to verify the accuracy of information furnished under paragraph (b)(2) (i) or (ii) of this section.

(vi) For business combinations, in addition to information required by paragraph (b)(2) of this section, the issuer shall provide to each purchaser at the time the plan is submitted to security holders, or, with an exchange, during the course of the transaction and prior to sale, written information about any terms or arrangements of the proposed transaction that are materially different from those for all other security holders.

(c) *Limitation on manner of offering.* Except as provided in § 230.504(b)(1), neither the issuer nor any person acting on its behalf shall offer or sell the securities by any form of general solicitation or general advertising, including, but not limited to, the following:

(1) Any advertisement, article, notice or other communication published in any newspaper, magazine, or similar media or broadcast over televison or radio; and

(2) Any seminar or meeting whose attendees have been invited by any general solicitation or general advertising.

(d) *Limitations on resale.* Except as provided in § 230.504(b)(1), securities acquired in a transaction under regulation D shall have the status of securities acquired in a transaction under section 4(2) of the Act and cannot be resold without registration under the Act or an exemption therefrom. The issuer shall exercise reasonable care to assure that the purchasers of the securities are not underwriters within the meaning of section 2(11) of the Act, which reasonable care shall include, but not be limited to, the following:

(1) Reasonable inquiry to determine if the purchaser is acquiring the securities for himself or for other persons;

(2) Written disclosure to each purchaser prior to sale that the securities have not been registered under the Act and, therefore, cannot be resold unless they are registered under the Act or unless an exemption from registration is available; and

(3) Placement of a legend on the certificate or other document that evidences the securities stating that the securities have not been registered under the Act and setting forth or referring to the restrictions on transferability and sale of the securities.

§ 230.503 Filing of notice of sales.

(a) The issuer shall file with the Commission five copies of a notice on Form D (17 CFR 239.500) at the following times:

(1) No later than 15 days after the first sale of securities in an offering under regulation D;

(2) Every six months after the first sale of securities in an offering under regulation D, unless the final notice required by paragraph (a)(3) of this Section has been filed; and

(3) No later than 30 days after the last sale of securities in an offering under regulation D.

(b) If the offering is completed within the 15 day period described in paragraph (a)(1) of this Section and if the notice is filed no later than the end of that period but after the completion of the offering, then only one notice need be filed to comply with paragraphs (a) (1) and (3) of this Section.

(c) One copy of every notice on Form D shall be manually signed by a person duly authorized by the issuer.

(d) If sales are made under § 230.506, the notice shall contain an undertaking by the issuer to furnish to the Commission, upon the written request of its staff, the information furnished by the issuer under § 230.502(b)(2) to any purchaser that is not an accredited investor.

(e) If more than one notice for an offering is required to be filed under paragraph (a) of this Section, notices after the first notice need only report the issuer's name and the information required by Part C and any material change in the facts from those set forth in Parts A and B of the first notice.

(f) A notice on Form D shall be considered filed with the Commission under paragraph (a) of this Section:

(1) As of the date on which it is received at the Commission's principal office in Washington, D.C.; or

(2) As of the date on which the notice is mailed by means of United States registered or certified mail to the Commission's Office of Small Business Policy, Division of Corporation Finance, at the Commission's principal office in Washington, D.C., if the notice is delivered to such office after the date on which it is required to be filed.

§ 230.504 Exemption for limited offers and sales of securities not exceeding $500,000.

(a) *Exemption.* Offers and sales of securities that satisfy the conditions in paragraph (b) of this Section by an issuer that is not subject to the reporting requirements of section 13 or 15(d) of the Exchange Act and that is not an investment company shall be exempt from the provisions of section 5 of the Act under section 3(b) of the Act.

(b) *Conditions to be met.*—(1) *General conditions.* To qualify for exemption under this Section offers and sales must satisfy the terms and conditions of §§ 230.501 through 230.503, except that the provisions of §§ 230.502 (c) and (d) shall not apply to offers and sales of securities under this Section that are made exclusively in one or more states each of which provides for the registration of the securities and requires the delivery of a disclosure document before sale and that are made in accordance with those state provisions.

(2) *Specific condition.*—(i) *Limitation on aggregate offering price.* The aggregate offering price for an offering of securities under this § 230.504, as defined in § 230.501(c), shall not exceed $500,000, less the aggregate offering price for all securities sold within the twelve months before the start of and during the offering of securities under this Section in reliance on any exemption under Section 3(b) of the Act or in violation of Section 5(a) of the Act.

Note 1.—The calculation of the aggregate offering price is illustrated as follows:

Example 1. If an issuer sold $200,000 of its securities on June 1, 1982 under this § 230.504 and an additional $100,000 on September 1, 1982, the issuer would be permitted to sell only $200,000 more under this § 230.504 until June 1, 1983. Until that date the issuer must count both prior sales toward the $500,000 limit. However, if the issuer made its third sale on June 1, 1983, the issuer could then sell $400,000 of its securities because the June 1, 1982 sale would not be within the preceding twelve months.

Example 2. If an issuer sold $100,000 of its securities on June 1, 1982 under this § 230.504 and an additional $4,500,000 on December 1, 1982 under § 230.506, the issuer could not sell any of its securities under this § 230.504 until December 1, 1983. Until then the issuer must count the December 1, 1982 sale towards the limit of $500,000 within the preceding twelve months.

Note 2.—If a transaction under this section fails to meet the limitation on the aggregate offering price, it does not affect the availability of this Section for the other transactions considered in applying such limitation. For example, if the issuer in *Example 1* made its third sale on May 31, 1983, in the amount of $250,000, this § 230.504 would not be available for that sale, but the exemption for the prior two sales would be unaffected.

§ 230.505 Exemption for limited offers and sales of securities not exceeding $5,000,000.

(a) *Exemption.* Offers and sales of securities that satisfy the conditions in paragraph (b) of this section by an issuer that is not an investment company shall be exempt from the provisions of section 5 of the Act under section 3(b) of the Act.

(b) *Conditions to be met.*—(1) *General conditions.* To qualify for exemption under this section, offers and sales must satisfy the terms and conditions of §§ 230.501 through 230.503.

(2) *Specific conditions.*—(i) *Limitation on aggregate offering price.* The aggregate offering price for an offering of securities under this § 230.505, as defined in § 203.501(c), shall not exceed $5,000,000, less the aggregate offering price for all securities sold within the twelve months before the start of and during the offering of securities under this section in reliance on any exemption under section 3(b) of the Act or in violation of section 5(a) of the Act.

Note.—The calculation of the aggregate offering price is illustrated as follows:

Example 1.—If an issuer sold $2,000,000 of its securities on June 1, 1982 under this § 230.505 and an additional $1,000,000 on September 1, 1982, the issuer would be permitted to sell only $2,000,000 more under this § 230.505 until June 1, 1983. Until that date the issuer must count both prior sales towards the $5,000,000 limit. However, if the issuer made its third sale on June 1, 1983, the issuer could then sell $4,000,000 of its securities because the June 1, 1982 sale would not be within the preceding twelve months.

Example 2. If an issuer sold $600,000 of its securities on June 1, 1982 under § 230.504 and an additional $4,500,000 on December 1, 1982 under this section, then the issuer could not sell any of its securities under this section until June 1, 1983. At that time it could sell an additional $500,000 of its securities.

(ii) *Limitation on number of purchasers.* The issuer shall reasonably believe that there are no more than 35 purchasers of securities from the issuer in any offering under this section.

Note.—See § 230.501(e) for the calculation of the number of purchasers and § 230.502(a) for what may or may not constitute an offering under this section.

(iii) *Disqualifications.* No exemption under this § 230.505 shall be available for the securities of any issuer described in § 230.252(c), (d), (e), or (f) of regulation A, except that for purposes of this section only:

(A) The term "filing of the notification required by § 230.255" as used in § 230.252(c), (d), (e) and (f) shall mean the first sale of securities under this section;

(B) The term "underwriter" as used in § 230.252(d) and (e) shall mean a person that has been or will be paid directly or indirectly remuneration for solicitation of purchasers in connection with sales of securities under this § 230.505; and

(C) Paragraph (b)(2)(iii) of this section shall not apply to any issuer if the Commission determines, upon a showing of good cause, that it is not necessary under the circumstances that the exemption be denied. Any such determination shall be without prejudice to any other action by the Commission in any other proceeding or matter with respect to the issuer or any other person.

§ 230.506 Exemption for limited offers and sales without regard to dollar amount of offering.

(a) *Exemption.* Offers and sales of securities by an issuer that satisfy the conditions in paragraph (b) of this section shall be deemed to be transactions not involving any public offering within the meaning of section 4(2) of the Act.

(b) *Conditions to be met.*—(1) *General conditions.* To qualify for exemption under this section, offers and sales must satisfy all the terms and conditions of §§ 230.501 through 230.503.

(2) *Specific conditions.*—(i) *Limitation on number of purchasers.* The issuer shall reasonably believe that there are no more than 35 purchasers of securities from the issuer in any offering under this section.

Note.—See § 230.501(e) for the calculation of the number of purchasers and § 230.502(a) for what may or may not constitute an offering under this section.

(ii) *Nature of purchasers.* The issuer shall reasonably believe immediately prior to making any sale that each purchaser who is not an accredited investor either alone or with his purchaser representative(s) has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

§ 239.146 [Removed]

8. By removing § 239.146.

§ 239.240 [Removed]

9. By removing § 239.240.

§ 239.242 [Removed]

10. By removing § 239.242.

§ 239.246 [Removed]

11. By removing § 239.246.

12. By adding a new § 239.500 to read as follows:

§ 239.500 Form D, notice of sales of securities under Regulation D and section 4(6) of the Securities Act of 1933.

(a) Five copies of a notice on this form shall be filed with the Commission at the following times:

(1) No later than 15 days after the first sale of securities in an offering under Regulation D (§§ 230.501–230.506 of this chapter) or under section 4(6) of the Securities Act of 1933;

(2) Every six months after the first sale of securities in an offering under Regulation D or under section 4(6), unless the final notice required by paragraph (a)(3) of this section has been filed; and

(3) No later than 30 days after the last sale of securities in an offering under Regulation D or under section 4(6).

(b) If the offering is completed within the 15 day period described in paragraph (a)(1) of this section and if the notice is filed no later than the end of that period but after the completion of the offering, then only one notice need be filed to comply with paragraphs (a)(1) and (3) of this section.

(c) One copy of every notice on Form D shall be manually signed by a person duly authorized by the issuer.

(d) If more than one notice for an offering is required to be filed under paragraph (a) of this section, notices after the first notice need only report the issuer's name and the information required by Part C and any material change in the facts from those set forth in Parts A and B of the first notice.

(e) A notice on Form D shall be considered filed with the Commission under paragraph (a) of this section:

(1) As of the date on which it is received at the Commission's principal office in Washington, D.C.; or

(2) As of the date on which the notice is mailed by means of United States registered or certified mail to the Commission's Office of Small Business Policy, Division of Corporation Finance, at the Commission's principal office in Washington, D.C., if the notice is delivered to such office after the date on which it is required to be filed.

Statutory Authority

The foregoing amendments are adopted under section 19(a) and 19(c) of the Securities Act of 1933 (15 U.S.C. 77s(a) and 77s(c)). Additionally, the Commission adopts Rule 215 (17 CFR 230.215) under section 2(15), Rules 504 and 505 (17 CFR 230.504 and 230.505) under section 3(b), amendments to Rules 144 and 148 (17 CFR 230.144 and 230.148) under section 4(1), Rule 506 (17 CFR 230.506) under section 4(2), Form D (17 CFR 239.500) under section 4(6) of the Securities Act of 1933 (15 U.S.C. 77b(15), 77c(b), 77d(1), 77d(2), 77d(6)).

(Secs. 2(15), 3(b), 4(1), 4(2), 4(6), 19(a), 19(c), 48 Stat. 74, 75, 77, 85; sec. 209, 48 Stat. 908; c.122, 59 Stat. 167; sec. 12, 78 Stat. 580; 84 Stat. 1480; sec. 308(a)(2), 90 Stat. 57; sec. 18, 92 Stat. 275; sec. 2, 92 Stat. 962; secs. 505, 622, 701, 94 Stat. 2291, 2292, 2294 15 U.S.C. 77b(15), 77c(b), 77d(1), 77d(2), 77d(6), 77s(a), 77s(c))

By the Commission.

George A. Fitzsimmons,

Secretary.

March 8, 1982.

[FR Doc. 82-6821 Filed 3-15-82; 8:45 am]

BILLING CODE 8010-01-M

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17 CFR Part 240

[Release No. 34-18556, File No. S7-914]

Inspection of Newly Registered Brokers and Dealers by Self-Regulatory Organizations

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting a rule that authorizes and directs self-regulatory organizations to conduct an inspection of every new broker-dealer member within six months of the firm's registration with the Commission. The purposes of this rule are to avoid duplicative Commission and self-regulatory organization inspections of broker-dealers and to use the Commission's resources more efficiently.

EFFECTIVE DATE: April 26, 1982.

FOR FURTHER INFORMATION CONTACT: Robert A. Love, Esq., Division of Market Regulation (202–272–2781).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced that it is authorizing and directing self-regulatory organizations ("SROs") with examination responsibility under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (the "Act") with respect to newly registered broker and dealer members to conduct the inspections required under section 15(b)(2)(C) (15 U.S.C. 78o(b)(2)(C)) of the Act. In a November 1981 release [1] the Commission announced the proposal, adopted today, which requires SROs to conduct a financial and operational inspection of a broker or dealer member within six months of the date of such member's registration with the Commission. It also allows SROs to delay, for a period not to exceed six months, inspections for compliance with other applicable provisions of the Act and rules thereunder. In response to comments received, the rule as adopted today differs in one minor respect from the proposal, insofar as SROs are not expressly required pursuant to rule 15b2–2 to inspect members for compliance with SRO rules.

Discussion

Congress added section 15(b)(2)(C) to the Act as part of the Securities Acts Amendments of 1975 [Pub. L. 94–29] primarily because of its concern over the financial and operational difficulties which new broker-dealer firms may encounter in their early months of operation. The section generally requires that brokers and dealers be inspected by the Commission for compliance with the Act and rules within six months of registration with the Commission. It also authorizes the Commission to delay the inspection of any class of broker or dealer for up to six months, and further provides that, upon the Commissions's "authorization and direction," an appropriate SRO shall conduct these first year inspections.

Although the Commission has not previously authorized and directed ("assigned") SROs to conduct inspections under section 15(b)(2)(C), SROs generally have included within their member firm inspection programs early inspections of newly registered brokers and dealers. Such inspections appear to be substantially consistent with the kind of inspection contemplated by Congress when it enacted section 15(b)(2)(C). In addition, pursuant to the requirements of that section, the Commission's regional offices also have conducted an examination program with respect to newly registered brokers and dealers.

It is the Commission's view that assigning to SROs responsibility for inspections under section 15(b)(2)(C) is consistent with the Act's scheme of self-regulation,[2] and permits more efficient use of the Commission's resources. The Commission also believes that this assignment imposes minimal, if any, additional burdens upon the SROs.

The concerns that gave rise to enactment of section 15(b)(2)(C) centered upon the potentially large losses which could result from the operations of an inexperienced broker or dealer.[3] Accordingly, and as

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[1] Securities Exchange Act Release No. 18246 (November 10, 1981), 46 FR 56428 (November 16, 1981).

[2] *See generally* section 19 of the Act (15 U.S.C. 78s).

[3] *See* Study of the Securities Industry: Hearings Before the Subcomm. on Commerce & Finance of the

Continued

indicated in paragraph (b) of the rule, the Commission does not believe it is appropriate to exercise its authority under the section to delay financial and operational inspections of any class of new brokers and dealers that have started operating. The Commission believes that the potential for loss of customers' funds and securities if brokers and dealers are not inspected for compliance with applicable financial responsibility rules during their first six months of operations outweighs any marginal benefits of delaying those inspections.

Although Congress was primarily concerned with the financial and operational condition of brokers and dealers, section 15(b)(2)(C), clearly encompasses inspections for compliance with the entire Act.[4] To satisfy the requirements of section 15(b)(2)(C), inspections must therefore include, in addition to an inspection for compliance with applicable financial responsibility rules (as defined in paragraph (a) of the rule), a complete compliance review for all other applicable provisions of the Act and rules thereunder.

However, since weeks or even months may pass after a firm's registration before it starts conducting an active business, there may not be sufficient records within the first six months to permit a thorough, meaningful review for compliance with all other applicable provisions of the Act and rules thereunder, particularly those relating to sales practices. Therefore, under the assignment, SROs have the option of completing this review at the time of the financial and operational inspection or, pursuant to paragraph (c) of the rule, delaying it for an additional period, which must, however, be within one year of the date of the firm's registration with the Commission. Of course, if the review of books and records of the member during the initial financial and operational inspection, or any other information of which the SRO is aware, indicates that there may be violations of the securities laws, then the SRO should complete a full examination.

Paragraph (d) of the rule postpones, until the second six month period from registration, inspections of broker-dealer members that have not yet initiated operations. SROs are to determine through financial reporting and other communications with a member whether it has commenced business. This postponement should result in a more meaningful inspection under the section.

In addition, paragraph (e) of the rule provides that an SRO is not obligated to inspect a member where, for example, due to the lapse of time prior to the firm's membership in the SRO, either another SRO has conducted an inspection of the firm pursuant to this rule or the Commission has conducted the inspection pursuant to section 15(b)(2)(C).

Public Comments

The New York Stock Exchange, Inc. ("NYSE") and the staff of the National Association of Securities Dealers, Inc. ("NASD") submitted comments concerning the rule as originally proposed. The NASD fully supports adoption of the rule. The NYSE commented on several aspects of the rule, which we discuss below.

The NYSE questioned whether section 15(b)(2)(C) supports a requirement that the examining SRO inspect for compliance with any SRO rules. The NYSE noted that the section "refers *only* to the Act and its rules (and not to the rules of any SRO)" (emphasis in original). After consideration, the Commission believes that there is a legitimate question as to whether section 15(b)(2)(C) supports a requirement that SROs inspect members for compliance with SRO rules. More importantly, the absence of such a requirement in rule 15b2–2 would not, in practice, result in a failure of SROs to inspect members for compliance with SRO rules. This is true because SROs have an *independent* responsibility under the Act to ensure members' compliance with their own rules. Sections 6(b), 15A(b) and 19(g) of the Act require SROs to enforce their own rules. It follows, therefore, that the Commission would ordinarily expect SROs to schedule a separate inspection to review members' compliance with SRO rules if they did not include such a review within the inspection pursuant to rule 15b2–2. This being the case, the rule proposal assumed that SRO's would not want to schedule two separate examinations for what could be accomplished in one. As revised, however, the rule omits references to SRO rules in order to make clear that SRO's have the option of conducting one inspection for members' compliance with the Act pursuant to rule 15b2–2 and a separate inspection to ensure compliance with SRO rules.

The NYSE also noted that, under the rule as proposed for comment, "applicable financial responsibility rules" would include the rules of "any" SRO relating to capital, margin, recordkeeping, hypothecation, lending requirements or to the protection of funds or securities. The Exchange noted that read literally this language would require the examining SRO to inspect new members for compliance with the rules of all SROs, including other SROs with which the examining SRO had no rule 17d–2 agreement,[5] and even if the broker-dealer were not a member of those other SROs. Ordinarily, however, an examining SRO would be responsible only for ensuring a member's compliance with the Act and the rules promulgated thereunder, its own rules and the rules of any SRO with which it had a relevant rule 17d–2 agreement. The Commission considers this comment to be moot in view of its decision to delete from rule 15b2–2 any reference to SRO rules.

Finally, the Exchange commented that the legislative history of section 15(b)(2)(C) principally reflects a concern with broker-dealers that conduct business with the public. It is the Exchange's view that the concerns underlying the section "are not realistically prevalent with respect to floor brokers whose basic capital requirements may be met by the value of the Exchange membership of the member." The Exchange's comment letter stated that "the rule should have no application to SRO member organizations who transact no public business." It is the Commission's view that, notwithstanding the focus of the Congress on the capital and recordkeeping provisions most applicable to broker-dealers with a public business, the section neither distinguishes nor provides for an exemption from inspection of broker-dealers that do not conduct a public business. Moreover, inspections of newly registered broker-dealers that do not conduct a public business, such as floor brokers, clearly further the section's aims of strengthening the overall integrity of the marketplace and preventing failures of fledgling broker-dealers. Net capital, operational, and other problems of inexperienced floor brokers have the potential of adversely affecting the businesses of other market professionals and, ultimately, the entire investing public. The Commission also believes that due to the relatively small number of newly registered exhange floor brokers, no significant additional burden would be imposed on an exchange by virtue of inspecting those brokers pursuant to rule 15b2–2. The Commission has therefore concluded that it would not be appropriate to modify the rule in response to this comment by the NYSE.

In conclusion, the Commission believes that this action will permit it to utilize its limited resources more efficiently by eliminating its own somewhat duplicative inspections of newly registered brokers and dealers and at the same time provide adequate flexibility to the SROs in designing and conducting their inspection programs without diminishing investor protections under the Act.

Regulatory Flexibility Act Certification

Pursuant to 5 U.S.C. 605(b), the Chairman has certified that the proposed rule would not, if promulgated, have a significant economic impact on a substantial number of small entities. The Commission has not received any comments concerning the Chairman's certification.

Text of Rule

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

In accordance with the foregoing, Part 240 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding § 240.15b2–2 to read as follows:

§ 240.15b2–2 Inspection of newly registered brokers and dealers.

(a) *Definition.* For the purpose of this section the term "applicable financial responsibility rules" shall include: (1) Any rule adopted by the Commission pursuant to sections 8, 15(c)(3), 17(a) or 17(e)(1)(A) of the Act; (2) any rule adopted by the Commission relating to hypothecation or lending of customer securities; and (3) any other rule adopted by the Commission relating to the protection of funds or securities.

(b) Each self-regulatory organization that has responsibility for examining a broker or dealer member for compliance with applicable financial responsibility rules is authorized and directed to conduct an inspection of the member, within six months of the member's registration with the Commission, to determine whether the member is operating in conformity with applicable financial responsibility rules.

(c) The examining self-regulatory organization is further authorized and directed to conduct an inspection of the member no later than twelve months from the member's registration with the Commission, to determine whether the member is operating in conformity with all other applicable provisions of the Act and rules thereunder.

(d) In each case where the examining self-regulatory organization determines that a broker or dealer member has not commenced actual operations within six months of the member's registration with the Commission, it shall delay the inspection pursuant to this section until the second six month period from the member's registration with the Commission.

(e) No inspection need be conducted as provided for in paragraphs (b) and (c) of this section if: (1) The member was registered with the Commission prior to April 26, 1982; (2) an inspection of the member has already been conducted by another self-regulatory organization pursuant to this section; or (3) an inspection of the member has already been conducted by the Commission pursuant to section 15(b)(2)(C) of the Act.

Statutory Authority

The Securities and Exchange Commission, acting pursuant to the Act, and particularly sections 2, 15 and 23 thereof (15 U.S.C. 78b, 78o and 78w), hereby adopts § 240.15b2–2. The Commission finds that there will be no burden upon competition imposed by the amendment.

By the Commission.

George A. Fitzsimmons,

Secretary.

March 10, 1982.

[FR Doc. 82-7042 Filed 3-15-82; 8:45 am]
BILLING CODE 8010-01-M

House Comm. on Interstate & Foreign Commerce, 92d Cong., 1st Sess. 129 (Comm. Print, 1971).

[4] The section requires "an inspection of the broker or dealer to determine whether it is operating in conformity with the provisions of (the Act) and the rules and regulations thereunder. * * *."

[5] Rule 17d–2 provides for the allocation among SROs of regulatory responsibility for dual members, including examination for compliance with those SROs' rules.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Revised Organization; Correction

ACTION: Final rule; correction.

SUMMARY: In FR Doc. 82–4892 appearing at page 8761 in the issue for Tuesday, March 2, 1982, the following change is made: in § 5.100 *Headquarters* in the mailing address for the Bureau of Biologics, under footnote 2, change the zip code from "20014" to read "20205."

EFFECTIVE DATE: March 2, 1982.

FOR FURTHER INFORMATION CONTACT: Agnes Black, Federal Register Writer (HFC–11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

Dated: March 12, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-7231 Filed 3-15-82; 10:41 am]
BILLING CODE 4160-01-M

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21 CFR Part 5

Delegations of Authority and Organization; Certification of True Copies

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority regarding certification of true copies and use of the Department of Health and Human Services seal as it relates to Bureau of Biologics and field officials. The action will redelegate the authority to staff personnel who were assigned freedom of information functions for the Bureau of Biologics in a recent reorganization and to regional laboratory directors.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: The responsibility for freedom of information functions has been reassigned from the compliance area of the Bureau of Biologics to the Office of the Director of that Bureau. The delegation of authority in § 5.22(a)(10) (21 CFR 5.22(a)(10)) is being amended to redelegate the authority to certify true copies and to have the Department seal affixed to such certifications. Officials of the Planning, Financial Management, and Information Staff have been redelegated this responsibility.

§ 5.22(a) (17) and (18) (21 CFR 5.22(a) (17) and (18)) are being added to redelegate the authority to the Director, New York Laboratory Division and the Director, Science Division in Atlanta.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11,

1981)), Part 5 is amended by revising § 5.22(a)(10) and adding § 5.22(a) (17) and (18) to read as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

§ 5.22 Certification of true copies and use of Department seal.

(a) * * *

(10) The Director and the Deputy Director of the Bureau of Biologics, the Executive Officer, the Chief of the Planning, Financial Management, and Information Staff, and the Chief of the Information Services Section of that Bureau.

* * * * *

(17) Director, New York Laboratory Division, Region II.

(18) Director, Science Division, Region IV.

* * * * *

Effective date. This regulation shall be effective March 16, 1982.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: March 9, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-7010 Filed 3-15-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 131

[Docket No. 76N-0175]

Stabilizers and Emulsifiers in Lowfat Milk and Skim Milk; Stay of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; stay of effective date.

SUMMARY: The Food and Drug Administration (FDA) is staying the effective date of the provisions of the standards of identity for lowfat milk and skim milk that would have required the phrase "with added milk solids not fat" to accompany the name of the food when either food is made to contain not less than 10 percent milk-derived nonfat solids. This stay has the effect of continuing the earlier requirement of the use of the terms "protein fortified" or "fortified with protein" until this labeling issue is resolved through a public hearing or other procedures. This stay is in response to objections filed on the December 12, 1980 final rule.

EFFECTIVE DATE: The stay is effective March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Eugene T. McGarrahan, Bureau of Foods (HFF-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 10, 1973 (38 FR 27924), FDA published a final rule establishing standards of identity for lowfat milk and skim milk (21 CFR 18.10 and 18.20, subsequently recodified as 21 CFR 131.135 and 131.145, respectively) that permitted the use of emulsifiers, stabilizers, or a combination of both, in an amount not more than 2 percent by weight of the solids in the milk-derived ingredients added. (Section 131.145 was redesignated as § 131.143 in the **Federal Register** of January 30, 1981 (46 FR 9924)). Objections were filed to this limitation. In the **Federal Register** of December 5, 1974 (39 FR 42351), FDA stayed those portions of §§ 131.135(c)(3) and 131.143(c)(3) that prohibit the use of stabilizers and emulsifiers in lowfat and skim milk at greater than 2 percent of the optional milk-derived ingredients added.

As a result of the objections to the October 10, 1973 final rule, FDA published a proposal in the **Federal Register** of October 26, 1976 (41 FR 46873) to (1) allow the use of stabilizers, with or without emulsifiers, to increase the viscosity of lowfat milk and skim milk; (2) provide for the terms "nonfat milk solids," "nonfat milk-derived solids," or "with added thickeners," whichever is appropriate, as part of the name of the food when viscosity-increasing ingredients are used; and (3) establish definitions for "nonfat milk solids" and "nonfat milk-derived solids." However, based on the comments received on the October 26, 1976 proposal, FDA published a final rule in the **Federal Register** of December 12, 1980 (45 FR 81734) terminating the rulemaking proceedings on these provisions. In addition, FDA required, in lieu of the terms "nonfat milk solids" and "nonfat milk-derived solids," the use of the phrase "with added milk solids not fat" when lowfat milk or skim milk were made to contain not less than 10 percent milk-derived nonfat solids, and discontinued use of the terms "protein fortified" and "fortified with protein." Written objections and requests for hearing were to be filed on or before January 12, 1981.

Two objections and requests for hearings were received. One objection and request for hearing concerned the discontinuance of the use of the terms "protein fortified" and "fortified with protein." The objection stated that the terms had been in use for 7 years, that consumers recognize the meaning of the terms, and that lowfat milk and skim milk bearing this labeling also bear nutrition labeling, enabling consumers to compare easily the differences between these products and products that are not protein fortified. The objection contended that the nutritional value of lowfat milk and skim milk should be determined on a daily basis (i.e., consumption of 3 one-cup servings) rather than on a single-serving basis because that is the usual pattern of consumption. The objection further contended that FDA's statement "nutritional differences between lowfat milk and skim milk thickened with stabilizers and emulsifiers, and those thickened with added milk-derived ingredients could be sufficiently important, particularly in the case of children * * *" indicates the nutritional importance of added milk solids not fat and justifies continued use of the protein fortification terms.

Regarding FDA's position that "protein fortified" labeling is inconsistent with a general food fortification policy statement, the objection stressed that the "protein fortified" labeling provisions resulted from an extensive rulemaking proceeding carried out in compliance with the Federal Food, Drug, and Cosmetic Act. Furthermore, the fortification policy statement would not become effective for 3 years. Therefore, the objection maintained that the policy statement must defer to the standard of identity and not vice versa.

The second objection and request for hearing concerned the "with added milk solids not fat" labeling that was to replace the "protein fortifed" and "fortified with protein" labeling. This objection asserted that the phrase is not informative, is potentially misleading to consumers, and will not convey meaningful, factual product information.

The filing of proper objections stays the effective date of §§ 131.135(e)(1)(iv) and 131.143(e)(1)(iii), which would have required that the phrase "with added milk solids not fat" accompany the name of the food when lowfat milk or skim milk is made to contain not less than 10 percent milk-derived nonfat solids, until this issue is resolved. This stay means that the terms "protein fortified" and "fortified with protein" shall continue to be used on the labels of lowfat milk and skim milk until this labeling issue is resolved through a public hearing or other procedures. FDA concludes that the objections filed may raise genuine and substantial issues of fact for resolution at a hearing as provided for under 21 CFR 12.24. If a hearing is to be held, a notice announcing the hearing date, time, and location will be published in the **Federal Register** at a later date.

As stated earlier, the December 12, 1980 final rule terminated rulemaking on

provisions that would have permitted the use of stabilizers, with or without emulsifiers, as viscosity-increasing ingredients, and the December 5, 1974 stay of the effective date of those portions of §§ 131.135(c)(3) and 131.143(c)(3) that limited the use of stabilizers and emulsifiers remains in effect until this matter is resolved. FDA advises that the issue of whether to permit the use of stabilizers, with or without emulsifiers, in lieu of milk-derived nonfat solids to increase the viscosity of lowfat milk and skim milk will be resolved at the same time that FDA resolves the protein fortification labeling issue, through a public hearing or other procedure.

PART 131—MILK AND CREAM

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), the effective dates of §§ 131.135(e)(1)(iv) and 131.143(e)(1)(iii) are stayed until further notice.

Effective date. The stay is effective March 16, 1982.

(Secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: March 11, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-7186 Filed 3-12-82; 2:20 pm]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7814]

Income Tax; Taxable Years Beginning After December 31, 1953; Dollar-Value LIFO Inventories—Use of Government Price Indexes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the valuation of dollar-value last-in, first-out (LIFO) inventories. These regulations provide the public with guidance regarding a method of valuing dollar-value LIFO inventories and would affect taxpayers required to maintain inventories.

DATES: The amendments are to be effective for taxable years beginning after December 31, 1981.

FOR FURTHER INFORMATION CONTACT: Philip R. Bosco of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3288, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Final Regulatory Flexibility Analysis

Background

This document contains final amendments to the Income Tax Regulations (26 CFR Part 1) under section 472 of the Internal Revenue Code of 1954. These amendments conform the existing regulations under section 472 to that Code section as amended by Pub. L. 97-34 and are issued under the authority contained in sections 472 and 7805 of the Internal Revenue Code of 1954 (68A Stat. 159, 917; 26 U.S.C. 472, 7805).

On January 16, 1981, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 472 of the Internal Revenue Code of 1954, 46 FR 3912. The amendments were proposed to simplify the use of the dollar-value LIFO method by providing that taxpayers may establish inventory pools under special rules and may compute an inventory price index for valuing a pool by referring to a stated percentage of the percent change in selected consumer or producer price indexes prepared by the Bureau of Labor Statistics and published in the *CPI Detailed Report* or *Producers Prices and Price Indexes*, which are monthly reports on consumer and producer price movements. A public hearing on the proposed amendments was requested and was held on June 30, 1981. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision. The preamble to the notice of proposed rulemaking summarizes and explains the proposed amendments. The remainder of this preamble discusses the major comments from the public and changes to the proposed regulations.

Public Comments and Changes to the Proposed Regulations

The proposed regulations provided that the regulations would be applicable for taxable years beginning after they were adopted. Several commentators suggested that the regulations should be made applicable to taxable years beginning after the date the regulations become final. The Treasury decision modifies the effective date of the regulations to be applicable for taxable years beginning after December 31, 1981.

In developing the proposed regulations, it was determined that the consumer and producer price indexes prepared by the Bureau of Labor Statistics would overstate the movement of inventory prices experienced by some taxpayers and would understate the movement of inventory prices experienced by other taxpayers. Taxpayers experiencing a rate of inventory price inflation lower than the published rate would tend to choose the use of the published consumer and producer price indexes. Taxpayers experiencing a rate of inventory price inflation higher than the published rate would tend to choose to use a price index based on their own inventory price inflation experience. It was decided that the use of the consumer and producer price indexes prepared by the Bureau of Labor Statistics should not depend on whether a taxpayer's actual rate of inventory price inflation was relatively high or low. However, it was also decided that the use of overstated inflation rates to value LIFO inventory pools should be reduced to the extent possible consistent with the purposes of simplifying the use of the dollar-value LIFO method. Therefore, the proposed regulations provided that a taxpayer would be limited to 80 percent of the percent change in the applicable CPI or PPI indexes. Several commentators argued for use of 100 percent of the applicable indexes. The 80 percent limitation is intended to be an alternative to computing an inventory price index based on the taxpayer's own inflation rate and is intended to be an appropriately conservative estimate that the taxpayer can use without regard to the inflation rate actually experienced by the taxpayer. However, since small businesses, as a practical matter, are unable to compute their own inflation experience and therefore do not have the opportunity to choose to use their own inflation experience, the Treasury decision modifies the 80 percent limitation and allows an eligible small business, as defined by section 474 (b) of the Code, to use 100% of the percent change in the applicable indexes. All other taxpayers would be limited to 80 percent of the percent change in the applicable indexes.

The proposed regulations provided that a taxpayer must use the most detailed CPI or PPI indexes available for the goods in its various LIFO pools. Several commentators argued that such a requirement would necessitate

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inventory records at a level of detail beyond the needs and capabilities of the majority of taxpayers who would benefit most from the use of published indexes. The Treasury decision modifies that requirement. A taxpayer will be required to use the most detailed index only when 10 percent or more of the value of the taxpayer's inventory falls within such an index category. If 10 percent of inventory value does not fall within an index category, the next less detailed index category that does include 10 percent of the inventory value will be used. The index for that 10 percent separate index category will be a weighted average of the detailed indexes for the category items comprising the 10 percent separate index category that are actually present in the taxpayer's inventory. For purposes of calculating this separate index, the detailed items will be weighted according to the weights used by BLS.

The use of BLS weights is limited only to the determination of the appropriate index for a separate index category. In computing the overall index for a particular pool, the taxpayer will weight the appropriate indexes for the separate index categories comprising the pool according to the taxpayer's actual inventory weights for such index categories. The Internal Revenue Service intends to publish the BLS weights as well as illustrations of the various computations.

An issue left undecided in the proposed regulations was how the 80 percent limitation should be applied to the inflation rate for a period of more than one taxable year; that is, should it be applied to the annual inflation rate or to the cumulative inflation rate. The Treasury decision provides that the limitation should be applied to the cumulative published inflation rate.

Other comments were received suggesting that additional dollar-value LIFO issues should be addressed. It was decided that the resolution of such issues in these regulations would unduly lengthen and complicate the regulations.

Additional Information

Evaluation of the effectiveness of the regulations after issuance will be based on comments received from offices within the Internal Revenue Service and the Treasury Department, other governmental agencies, state and local governments, and the public.

These regulations will affect any small business that is required under section 471 of the Internal Revenue Code to maintain inventories, elects to use the LIFO method in valuing such inventories, and wishes to use the rules provided by the proposed amendments. No taxpayer will be required to use the method provided by the proposed amendments.

These regulations require any small business wishing to use the rules provided by the proposed amendments to report for the first year the method used, the inventory pools used, the type of goods included in each pool, and the consumer or producer price index or indexes selected for each pool. In addition, for each year in which the inventory price index computation method is used, the taxpayer will be required to maintain adequate books and records showing how inventory pools were established, how the consumer and producer price indexes were selected, and how the inventory price indexes and the change in such indexes were computed. Professional accounting skills may be desirable in the initial year of using the method provided by the proposed rules, although information disseminated by various industry groups may provide small businesses with adequate assistance. Otherwise, the rules prescribed in the proposed amendments do not require any professional skills in addition to those already needed to keep inventory accounting records for a small business.

These regulations are being proposed to reduce the economic impact on small businesses of the rules relating to the use of the LIFO method by simplifying the computations required under such method, thereby enabling more small entities to avail themselves of the tax reduction benefits of the use of the LIFO method and reducing the computational and recordkeeping costs of taxpayers using the LIFO method.

Drafting Information

The principal author of these regulations is Philip R. Bosco of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of amendments to the regulations

The following amendments to 26 CFR Part 1 are adopted:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph (e) of § 1.472–8 is amended by adding new paragraph (e)(3) to read as set forth below:

§ 1.472–8 Dollar-value method of pricing LIFO inventories.

* * * * *

(e) *Methods of computation of the LIFO value of a dollar-value pool.* * * *

(3) *Use of inventory price index computed with reference to consumer or producer price indexes*—(i) *In general.* For purposes of paragraph (e)(1) of this section, for taxable years beginning after December 31, 1981, an inventory price index computed in the manner provided by paragraph (e)(3) will be accepted by the Commissioner as an appropriate method of computing an index, and the use of such inventory price index to compute the LIFO value of a dollar-value inventory pool will be accepted as accurate, reliable, and suitable. A taxpayer using the inventory price index computation method provided by paragraph (e)(3) must use such method in determing the value of all goods for which the taxpayer has elected to use the LIFO method. However, the inventory price index computation method provided by paragraph (e)(3) may not be used by a taxpayer eligible to use inventory price indexes prepared by the United States Bureau of Labor Statistics for the purpose of valuing the LIFO inventories of a specific industry. Thus, a taxpayer eligible to use the retail price indexes prepared by the Bureau of Labor Statistics and published in *Department Store Inventory Price Indexes* may not use the inventory price index computation method provided by paragraph (e)(3). An inventory price index computed as provided by paragraph (e)(3) is computed in the manner provided by paragraph (e)(3)(ii) with reference to consumer or producer price indexes selected in the manner provided by paragraph (e)(3)(iii). Special rules for establishing inventory pools to be valued by an inventory price index computed in the manner provided by paragraph (e)(3) are in paragraph (e)(3)(iv). Rules relating to the adoption of, or change to, the method of computing an inventory price index in the manner provided by paragraph (e)(3) are in paragraph (e)(3) (v) and (vi).

(ii) *Computation of index.* An inventory price index computed in the manner provided by this (ii) shall be a stated percentage of the percent change in the selected consumer or producer price index or indexes for a specific category or categories of goods. The stated percentage for a taxpayer in a taxable year in which it is an eligible small business, as defined by section 474(b) of the Code, shall be 100 percent of the percent change in the selected price indexes. The stated percentage for all other taxpayers shall be 80 percent of the percent change in the selected price indexes.

See paragraph (e)(3)(iii) of this section for rules relating to the selection of appropriate consumer or producer price indexes. Thus, if the selected consumer or producer price index for a specific category of goods increased 10 percent for the period December 1981 to December 1982, an inventory price index computed in the manner provided by this (ii) with reference to such consumer or producer price index will reflect an increase of either 10 percent for an eligible small business or 8 percent (80 percent of 10 percent) for all other taxpayers. If the selected consumer or producer price index for a specific category of goods increased 10 percent per year for the period December 1981 to December 1983, an inventory price index computed in the manner provided by this (ii) with reference to such consumer or producer price index will reflect an increase of either 21 percent for an eligible small business or 16.8 percent (80 percent of 21 percent) for all other taxpayers. If under paragraph (e)(3)(iii) it is necessary to select more than one specific consumer or producer price index for an inventory pool, the stated percentage of the percent change in such indexes is the stated percentage of the weighted average percent change for such indexes. Such weighted average is computed with reference to the relative amounts of costs in the inventory pool for each index category of goods. The costs to be used in computing such weighted average must be the relative current-year costs in ending inventory.

(iii) *Selection of consumer or producer price indexes*—(A) *In general.* An inventory price index computed as provided by paragraph (e)(3) of this section is computed with reference to the consumer or producer price indexes for specific categories of inventory items in the *CPI Detailed Report* or *Producer Prices and Price Indexes* published by the United States Bureau of Labor Statistics.

(B) *Selection of indexes by category of inventory items.* The selection of consumer or producer price indexes for an inventory pool is accomplished via a two-step process. First, the inventory items in each pool should be classified according to the detailed listings in the appropriate tables of the *CPI Detailed Report* or in *Producer Prices and Price Indexes* and assigned an index category. Second, an appropriate consumer or producer price index must be determined for each index category to which inventory items have been assigned. The assignment of index categories to the taxpayer's inventory items is accomplished by a process of elimination as follows:

(*1*) Whenever a specific inventory item in the taxpayer's inventory comprises 10 percent or more of total inventory value, such an inventory item must be placed in it's own, separate index category. The index category selected must be the most detailed index category which includes that specific inventory item. In addition, any other inventory item that is included in such most detailed index category must also be included in such index category.

(*2*) If there are inventory items still remaining in the pool that have not been included in an index category, the taxpayer, beginning with the most detailed index categories for such remaining inventory items, must investigate successively less detailed index category levels and select the first index category that contains remaining inventory items which in the aggregate comprise 10 percent or more of total inventory value. The index category so selected must be the separate index category for the included inventory items. This procedure must be repeated either until all inventory items in the pool have been included in an index category, or until the remaining inventory items in the aggregate comprise less than 10 percent of total inventory value, or until it has been determined that no appropriate index category exists for the aggregate of such remaining inventory items.

(*3*) If there are inventory items remaining in the pool that comprise less than 10 percent of total inventory value, the index category to be selected for these inventory items must be the most detailed index category that includes such inventory items. If it has been determined that no appropriate index category exists for such remaining inventory items, such remaining inventory items must be combined in a miscellaneous index category created by the taxpayer.

In no event shall an index category be selected that is less detailed than either the 11 general categories of consumer goods described in Tables 3 and 5 of the *CPI Detailed Report* (see paragraph (e)(3)(iv) of this section), or the 15 general categories of producer goods described in Table 6 of the *Producer Prices and Price Indexes*. The determination of the appropriate index for an index category is accomplished as follows:

(*4*) Whenever an index category has been selected pursuant to paragraph (e)(3)(iii)(B)(*1*) of this section the appropriate index must be the published index for that index category.

(*5*) Whenever an index category has been selected pursuant to paragraph (e)(3)(iii)(B) (*2*) or (*3*) of this section, the appropriate index must be a weighted average of the published indexes of the index category items actually present in the taxpayer's inventory, excluding any index category items that have been placed in any other separate index category, weighted according to the weights used by BLS. Thus, if a taxpayer's inventory contains every inventory item that comprises the selected index category and none of these inventory items have been placed in any other separate index category, the appropriate index must be the published index for that index category. In the case of a miscellaneous index category created by the taxpayer, the appropriate index must be a weighted average of the published indexes for the index category items, weighted according to the weights used by BLS.

The use of BLS weights is limited only to the determination of the appropriate index for an index category. In computing the index for a pool, the taxpayer will weight the appropriate indexes for the separate index categories comprising the pool according to the taxpayer's actual inventory weights for such separate index categories. Whether the selection of the consumer or producer price indexes to be used to compute an inventory price index is appropriate, and the propriety of all computations incidental to the use of such consumer or producer price indexes, will be determined in connection with the examination of the taxpayer's income tax return. The selection of a consumer or producer price index for a specific good to compute an inventory price index under paragraph (e)(3) is a method of accounting. A taxpayer desiring to change the selection of such a consumer or producer price index must secure the consent of the Commissioner as provided in § 1.446–1(e). In the case of such a change, any layers of inventory increments previously determined and the LIFO value of such increments shall be retained. Instead of using the earliest taxable year for which the taxpayer adopted the LIFO method for any items in the inventory pool, the year of such change shall be used as the base year in determining the LIFO value of the inventory pool for the year of change and later taxable years. The base year costs of layers of increments in the pool at the beginning of the year of change shall be restated in terms of new base

year costs using the year of change as the new base year.

(C) *Other selection requirements.* Manufacturers, processors, wholesalers, jobbers, and distributors may select indexes from only *Producer Prices and Price Indexes.* Retailers may select indexes from either the *CPI Detailed Report* or *Producer Prices and Price Indexes,* but if equally appropriate indexes could be selected from either publication, a retailer using the retail inventory method must select the index from the *CPI Detailed Report* and a retailer not using the retail inventory method must select the index from *Producer Prices and Price Indexes.* If a retailer using the retail inventory method selects a price index from *Producer Prices and Price Indexes,* the selected index must be converted into a retail price index. If a retailer not using the retail inventory method selects an index from the *CPI Detailed Report,* the selected index must be converted into a cost price index. Manufacturers, processors, wholesalers, jobbers, and distributors, must convert selected indexes into cost price indexes. In the case of the *CPI Detailed Report,* indexes may be selected only from Table 3 (Consumer Price Index for All Urban Consumers: Food expenditure categories, U.S. city average) and Table 5 (Consumer Price Index for All Urban Consumers: Nonfood expenditure categories, U.S. city average). In the case of the *Producer Prices and Price Indexes,* indexes may be selected only from Table 6 (Producer prices and price indexes for commodity groupings and individual items), unless the taxpayer can demonstrate that the selection of an index from another *Producer Prices and Price Indexes* table would be more appropriate. In the case of a taxpayer using the retail inventory method, the selected index must be the index as of the last month of the taxpayer's taxable year. Taxpayers that do not use the retail inventory method must select indexes as of the month or months most appropriate to the taxpayer's method of determining the current-year cost of the inventory pool under paragraph (e)(2)(ii) of this section, or make a one-time binding election of an appropriate representative month during the taxable year. The election must be clearly set forth on Form 970 (see paragraph (e)(3)(v) of this section).

(iv) *Special rules for pools.* A retailer, wholesaler, jobber, or distributor computing an inventory price index in the manner provided by paragraph (e)(3) of this section may, at the option of the taxpayer, establish an inventory pool for any group of goods included within one of eleven general categories of consumer goods described in the *CPI Detailed Report.* The eleven categories are food and beverages, housing maintenance and repair commodities, fuels (other than gasoline), house furnishings and housekeeping supplies, apparel commodities, private transportation (including gasoline), medical care commodities, entertainment commodities, tobacco products, toilet goods and personal care appliances, and school books and supplies. Inventory pools that comprise less than 5 percent of inventory value may be combined to form a single miscellaneous inventory pool. If the resulting miscellaneous inventory pool itself comprises less than 5 percent of inventory value, such pool may be combined only with the largest inventory pool. See paragraphs (b), (c) and (d) of this section for additional rules relating to the establishment of pools. See also section 474 of the Code for rules relating to the use of a single pool by an eligible small business. Except as provided in paragraph (e)(3)(v) of this section, relating to the adoption or change of method of computing an inventory price index, the rules of paragraph (g)(1) and (2) of this section apply to a change in method of pooling.

(v) *Adoption or change of method.* The use of an inventory price index computed in the manner provided by paragraph (e)(3) of this section is considered a method of accounting. A taxpayer permitted to adopt or change to the dollar-value LIFO inventory method without first securing the consent of the Commissioner may also adopt the inventory price index computation method prescribed by paragraph (e)(3) incident to such adoption or change without first securing the consent of the Commissioner. In all other cases, a taxpayer may adopt or change to the inventory price index computation method prescribed by paragraph (e)(3) only after first securing the consent of the Commissioner as provided in § 1.446–1(e). However, in the case of a taxpayer not using the inventory price index computation method prescribed by paragraph (e)(3), the taxpayer may adopt or change to such method for the taxpayer's first or second taxable year beginning after December 31, 1981, without requesting the Commissioner's consent to such adoption or change. In addition, in such a case the taxpayer is not required to request the Commissioner's consent to a change in method of pooling incident to such adoption or change if the taxpayer is changing to a method of pooling authorized by paragraph (e)(3)(iv). In this case the rules of § 1.472–8(g) will apply. The inventory price index computation method provided by paragraph (e)(3) may be adopted and used only if the taxpayer indicates on a Form 970, or in such other manner as may be acceptable to the Commissioner, a listing of each inventory pool, the type of goods included in each pool, and the consumer or producer price index or indexes selected for each inventory pool. In the case of a taxpayer permitted to adopt or change to the inventory price index computation method without requesting the Commissioner's consent, the Form 970 shall be attached to the taxpayer's income tax return for the taxable year of such adoption or change. In other cases, the Form 970 shall be attached to a Form 3115 filed in accordance with § 1.446–1(e). Taxpayers must maintain adequate books and records of the use and computation of the inventory price index method in order to satisfy the requirements of § 1.472–2(h). Notwithstanding the rules in paragraph (e)(1) of this section, a taxpayer adopting or changing to the use of an inventory price index computed in the manner provided by paragraph (e)(3) is not required to demonstrate that the use of the double-extension method is impractical.

(vi) *Requirement incident to change.* In the case of a taxpayer using a method other than an inventory price index computed as prescribed by paragraph (e)(3) of this section to determine the LIFO value of a dollar-value inventory pool, any layers of inventory increments previously determined by such method and the LIFO value of such layers shall be retained if the taxpayer changes to the use of a price index computed as prescribed by paragraph (e)(3). Instead of using the earliest taxable year for which the taxpayer adopted the LIFO method for any items in the pool, the year of such change shall be used as the base year in determining the LIFO value of the inventory pool for the year of change and later taxable years. The base year costs of layers of increments in the pool at the beginning of the year of change shall be restated in terms of new base year cost, using the year of change as the new base year. See paragraph (f)(2) of this section for rules relating to a change to the dollar-value method from another method of pricing LIFO inventories.

* * * * *

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

James I. Owens,

Acting Commissioner of Internal Revenue.

Approved: March 1, 1982.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 82-7089 Filed 3-15-82; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Parts 31 and 35

[T.D. 7813]

Employment Taxes; Voluntary Withholding From Sick Pay

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final Employment Tax Regulations (26 CFR Part 31) relating to voluntary withholding of income tax from sick pay. Changes to the applicable tax law were made by the Act of December 24, 1980 (Pub. L. 96–601). These regulations provide guidance to third party payors of sick pay, payees of sick pay, and employers of payees.

DATE: The regulations apply to sick pay payments made on or after May 1, 1981, by someone other than the employer for whom the payee performs services.

FOR FURTHER INFORMATION CONTACT: Barry L. Wold of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention CC:LR:T) (202–566–3828).

SUPPLEMENTARY INFORMATION:

Background

On May 1, 1981, the **Federal Register** published proposed amendments to the Employment Tax Regulations (26 CFR Part 31) under sections 3402(o) and 6051(f) of the Internal Revenue Code of 1954 (46 FR 24595). On the same date, the **Federal Register** also published Temporary Employment Tax Regulations Under the Act of December 24, 1980 (Pub. L. 96–601) under sections 3402(o) and 6051(f) of the Internal Revenue Code of 1954 (46 FR 24553). A public hearing was held on August 11, 1981. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

Response to Major Comments

Several comments requested that the deposit requirements of the regulations be clarified. Section 31.3402(o)–3(f) provides that the payor deposit amounts withheld under his own name and Employer Identification Number along with whatever amounts the payor withholds from his own employees. Employers report these amounts to employees on Forms W–2 that bear the employer's name and EIN. Concern was expressed about how these amounts would be reconciled. The final Form 941 of the year will contain details of the reconciliation procedure.

Another aspect of the regulations about which concern was expressed is the problems the statutory scheme presents to multiemployer plans under collective bargaining agreements. Two provisions have been added to the final regulations to ameliorate these problems. First, guidance has been provided as to the employer to whom these plans should provide the information reports. Second, an optional rule has been included to permit employers to designate the payor as the employer's agent for purposes of the reporting requirements of these regulations. Although primarily employers and plans in the collectively bargained multiemployer area were concerned about this issue, the regulation provides that any employer and payor may elect this treatment.

Some comments expressed the view that the standards for permanent and total disability are insufficiently clear. Section 31.3402(o)–3(h)(1)(i) of the final regulations states that if all amounts paid under a plan are described in the first sentence of section 105(d)(4), no amounts paid under that plan will be considered sick pay for purposes of these regulations. This narrower definition will lessen the burden upon payors—and thereby reduce their costs compared to complying with the definition in the temporary regulations—in determining whether amounts paid are sick pay or not, since payors will not need to make case-by-case determinations as to whether amounts paid are sick pay. Because withholding under these provisions is voluntary, a payee who determines that he is eligible for the partial exclusion of section 105(d) can reduce or eliminate withholding as his individual tax situation demands. A payee whose payments are subject to mandatory withholding under the terms of a collective bargaining agreement may stop that withholding if he is eligible for the partial exclusion under section 105(d). Because, however, some payors may have already acted in reliance upon the standards of the temporary regulations, the final regulations provide that a payor may, for 1981 only, opt to follow the standards of the temporary regulations.

Evaluation of the effectiveness of these regulations will be based on comments received from offices within the Treasury and the Internal Revenue Service, other governmental agencies, and the public.

Drafting Information

The principal author of these regulations in Barry L. Wold of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

Adoption of Amendments to the Regulations

Accordingly, the Temporary Employment Tax Regulations Under the Act of December 24, 1980 (Pub. L. 96–601) (26 CFR Part 35) are deleted from the Code of Federal Regulations, and the following amendments are made to the Employment Tax Regulations (26 CFR Part 31):

PART 31—EMPLOYMENT TAXES; APPLICABLE ON OR AFTER JANUARY 1, 1955

Paragraph 1. A new § 31.3402(o)–3 is added and is inserted after § 31.3402(o)–2. New § 31.3402(o)–3 reads as follows:

§ 31.3402(o)–3 Extension of withholding to sick pay.

(a) *In general.* Under section 3402(o) of the Internal Revenue Code of 1954 and this section, the payee (as defined in paragraph (h)(2) of this section) of sick pay (as defined in paragraph (h)(1) of this section) may request the payor (as defined in paragraph (h)(3) of this section) of the sick pay to withhold income tax with respect to payments of sick pay made on or after May 1, 1981. If such a request is made, the payor must deduct and withhold as requested.

(b) *Manner of making request.* A payee who wishes a payor to deduct and withhold income tax from sick pay shall file a written request with the payor to deduct and withhold a specific whole dollar amount (subject to the limitations of paragraph (c) of this section) from each sick pay payment. The request shall be made on Form W–4P in accordance with the instructions applicable thereto, and shall set forth fully and clearly the data therein called for. In lieu of Form W–4P, payors may prepare and use a form the provisions of which are identical to those of Form W–

4P. The payee must include his social security account number in the request.

(c) *Amount requested to be withheld.* The payee shall request that the payor withhold a specific whole dollar amount. The specific whole dollar amount shall be at least $20 per weekly payment of sick pay. If the payee is paid sick pay computed on a daily basis, the specific whole dollar amount shall be at least $4 per daily payment of sick pay. If the payee is paid sick pay on a biweekly basis, the specific whole dollar amount shall be at least $40 per 2 week payment of sick pay. If the payee is paid sick pay on a semimonthly basis, the specific whole dollar amount shall be at least $44 per semimonthly payment of sick pay. If the payee is paid sick pay on a monthly basis, the specific whole dollar amount shall be at least $88 per monthly payment of sick pay. If the payee is paid sick pay on a basis other than weekly, daily, biweekly, semimonthly, or monthly, the specific whole dollar amount shall be the equivalent of at least $4 per day, assuming a 5 day work week of 8 hours per day (40 hours total) in each 7 day calendar week. In the case of a payment which is greater or less than a full payment, the amount withheld is to bear the same relation to the specific whole dollar amount requested to be withheld as such payment bears to a full payment. For example, assume an individual receives sick pay of $100 per week and requests that $25 per week be withheld for taxes. After 4 full weeks of absence, the individual returns to work on a Wednesday (having been absent on sick leave Monday and Tuesday). For the week the individual returns to work, the individual would be entitled to $40 of sick pay, $10 of which would be withheld for taxes. The payor may, at his option, permit the payee to request that the payor withhold a specific percentage from each payment. The specific percentage shall be at least 10 percent. If the payor so opts, the payor must also accept requests under the whole dollar method. If the amount requested to be withheld under either the whole dollar method or the optional percentage method reduces the net amount of a sick pay payment received by the payee to below $10, no income tax shall be withheld from that payment by the payor.

(d) *When request takes effect.* The payor must deduct and withhold the amount specified in the request with respect to payments made more than 7 days after the date on which the request is received by the payor. At the election of the payor, the request may take effect before this deadline.

(e) *Duration and termination of request.* A request under this section shall continue in effect until changed or terminated. The payee may change the request by filing a new written request that meets all of the requirements of paragraphs (b) and (c) of this section. The new request shall take effect as specified in paragraph (d) of this section and the old request shall be deemed terminated when the new request takes effect. The payee may terminate the request by furnishing the payor a signed written notice of termination containing both a request to terminate withholding and all the information contained in the request to withhold. This written notice of termination shall take effect with respect to payments made more than 7 days after the date on which the notice of termination is received by the payor. At the election of the payor, the request may take effect before this deadline.

(f) *Special rules.* For purposes of chapter 24 on subtitle C of the Internal Revenue Code of 1954 (relating to collection of income tax at source on wages) and of subtitle F of the Code (relating to procedure and administration), and the regulations thereunder—

(1) An amount which is requested to be withheld pursuant to this section shall be deemed a tax required to be deducted and withheld under section 3402.

(2) An amount deducted and withheld pursuant to this section shall be deemed an amount deducted and withheld under section 3402.

(3) The term "wages" includes the gross amount of a sick pay payment with respect to which there is in effect a request for withholding under this section. However, references to the definition of wages in section 3401(a) which are made in section 6014 (relating to election by the taxpayer not to compute the tax on his annual return) and section 6015(a) (relating to declaration of estimated tax by individuals) shall not be deemed to include any portion of such a sick pay payment.

(4) The term "employer" includes a payor with respect to whom a request for withholding is in effect under this section.

(5) The term "employee" includes a payee with respect to whom a request for withholding is in effect under this section.

(6) The term "payroll period" includes the period of accrual with respect to which payments of sick pay which are subject to withholding under this section are ordinarily made.

(g) *Statements required to be furnished to payees.* See section 6051(f) and the regulations thereunder for requirements relating to statements required to be furnished to payees.

(h) *Definitions.* (1)(i) The term "sick pay" means any payment made to an individual which does not constitute wages (determined without regard to section 3402(o) and this section), which is paid to an employee pursuant to a plan to which the employer is a party, and which constitutes remuneration or a payment in lieu of remuneration for any period during which the employee is temporarily absent from work on account of personal injuries or sickness. The term "personal injuries or sickness" shall have the same meaning as ascribed thereto by section 105(a) and the regulations thereunder. The term "sick pay" does not include any amounts either excludable from gross income under section 104(a) (1), (2), (4) or (5) or section 105(b) or (c) or paid under section 3402(o)(1)(B). The term "sick pay" does not include amounts paid under a plan if all amounts paid under the plan are paid to individuals who are described in the first sentence of section 105(d)(4) (relating to the definition of permanent and total disability) and the regulations thereunder. Amounts paid under any other plan shall be deemed to be paid for a period during which the employee is temporarily absent from work. For sick pay paid in 1981 only, however, the payor may opt not to follow the rules of the two preceding sentences but to follow instead the rule that an employee is temporarily absent if his absence is not described in section 105(d)(4) (relating to the definition of permanent and total disability) and the regulations thereunder. An employer is not a party to the plan if the plan is a contract between only employees and a third party payor or the employer makes no contributions to provide sick pay benefits under the plan, even if the employer withholds amounts from the employees' salaries and pays the amounts over to the third party payor.

(ii) This subparagraph (1) may be illustrated by the following examples:

Example (1). Employee A works for P Company and Employee B works for Q Company. P Company has contracted with R Insurance Company for R to pay P's employees the equivalent of their normal wages when they are temporarily absent from work because of sickness or personal injury. Q Company has neither entered into such a contract, nor will it make such payments directly from it own funds. B consequently goes to S Insurance Company and purchases directly an insurance policy which will pay him the equivalent of his normal wages when he is unable to work because of sickness or personal injury. Both A and B are subsequently temporarily absent from work on account of sickness or personal injuries. A receives payments from R and B receives payments from S. Neither the payments made by R to A nor the payments made by S to B constitute wages (determined without regard to section 3402(o) and this section). A may request that R withhold income taxes under section 3402(o) and this section from the payments he receives because the payments are sick pay as defined in section 3402(o) and this section. B may not request that S withhold income taxes under section 3402(o) and this section from the payments he receives because the payments are not paid pursuant to a plan to which Q Company is a party and thus are not sick pay as defined in section 3402(o) and this section.

Example (2). Employees C and D both work for T Company , which has contracted with U Insurance Company for U to pay T's employees for all sickness or injury claims Employee C is sick and out from work for a month. U pays C the equivalent of C's regular pay. Employee D loses his arm in an accident and U pays D $10,000. C may request that U withhold income taxes under section 3402(o) and this section from the payments he receives because the payments constitute remuneration or a payment in lieu of remuneration for any period during which the employee is temporarily absent from work on account of sickness or personal injuries. D may not request that U withhold income taxes from the payments he receives because the payments do not constitute remuneration or a payment in lieu of remuneration for any period during which the employee is temporarily absent from work on account of sickness or personal injuries.

(2) The term "payee" means an individual who is a citizen or resident of the United States and who receives a sick pay payment.

(3)(i) The term "payor" means any person making a sick pay payment who is not the employer (as defined in section 3401 and in § 31.3401(d)–1 (except paragraph (f) thereof)) of the payee. If however the person making the payment is acting solely as an agent for another person, the term "payor" shall mean the other person and not the person actually making the payment.

(ii) This subparagraph (3) may be illustrated by the following examples:

Example (1). X Company contracts with Y Insurance Company for Y to pay X's employees the equivalent of their normal wages when they are temporarily absent from work because of sickness or personal injury. Y computes the amount to be paid and determines the date payment is to be made for each of X's employees. Y then instructs Z Bank to issue a check for that amount on that date. Y reimburses Z for the amount of the check plus Z's administrative costs. Under these circumstances, Z is the agent of Y and Y is the payor under section 3402(o) and this section.

Example (2). V Company contracts with W Company for W to pay V's employees the equivalent of their normal wages when they are temporarily absent from work on account of sickness or personal injury. Under the contractual arrangement, V advises W of the wages normally paid to each of V's employees. V tells W when an employee of V is temporarily absent from work on account of sickness or personal injury, and W computes the amount to be paid the employee and makes payments of sick pay to the employee during the period of the employee's absence. V subsequently reimburses W for the amount of those payments and pays W a fee for W's services. Under these circumstances, W is acting solely as the agent of V, and a payee may not request under section 3402(o) and these regulations that W withhold income taxes from his payments. However, see section 3401 and the regulations thereunder for the obligation of V to withhold income taxes from the payments that W makes as the agent of V, which are not excluded from income under section 105 and the regulations thereunder and which are wages under section 3401 and the regulations thereunder. See also § 31.3402(g)–1 (relating to supplemental wage payments) for the conditions under which a flat percentage rate of withholding may be used.

Example (3). Assume the same facts as in Example (2), except that the consideration for W's services is a set insurance premium rather than reimbursement for costs plus a fee. Under these circumstances W is the payor and is not acting solely as the agent of V. An employee of V to whom W makes payments under the agreement may request under section 3402(o) and the regulations thereunder that W withhold income taxes from those payments.

(i) *Special rules for sick pay paid pursuant to certain collective-bargaining agreements.* (1) Special rules (enumerated in subparagraph (2)) apply to sick pay where all of the following tests are met.

(i) The sick pay must be paid pursuant to a collective-bargaining agreement between employee representatives and one or more employers.

(ii) The agreement must contain a provision that section 3402(o)(5) is to apply to sick pay paid pursuant to the agreement.

(iii) The agreement must contain a provision for determining the amount to be deducted and withheld from each payment of sick pay.

(iv) The social security number of the payee must be furnished to the payor. The agreement may provide that the employer will furnish this or the payee may furnish his social security number directly to the payor.

(v) The payor must be furnished with information that is necessary for the payor to determine whether the payment is pursuant to the agreement and to determine the amount to be deducted and withheld. The agreement may provide that the employer will furnish this information directly to the payor.

(2) The following special rules apply to sick pay where all of the tests of subparagraph (1) are met.

(i) The requirement of section 3402(o)(1)(c) and this section that a request for withholding be in effect does not apply.

(ii) The amount to be deducted and withheld from the sick pay shall be determined according to the provisions of the agreement and not according to this section. This rule shall not however apply—

(A) To payments enumerated in section 3402(n) (relating to employees incurring no income tax liability) and the regulations thereunder, or

(B) To payments made to a payee more than 7 days after the date that the payor receives a statement from the payee that the payee expects to claim an exclusion from gross income under section 105(d). Such statement must include adequate verification of disability. A certificate from a qualified physician attesting that the employee is permanently and totally disabled (within the meaning of section 105(d)) shall be deemed to constitute adequate verification. If the payor receives such a statement, the payor shall not withhold any income tax from the payments made to the payee, regardless of the provisions of the collective bargaining agreement. This exception from withholding does not affect the requirements of § 31.6051–3.

Par. 2. A new § 31.6051–3 is added and is inserted after § 31.6051–2. New § 31.6051–3 reads as follows:

§ 31.6051–3 Statements required in case of sick pay paid by third parties.

(a) *Statements required from payor.* (1) Every payor of sick pay shall furnish to the employer of the payee of the sick pay a written statement. The written statement must contain the following information:

(i) The name and, if there is withholding from sick pay under section 3402(o) and the regulations thereunder, the social security account number of the payee,

(ii) The total amount of sick pay paid to the payee during the calendar year, and

(iii) The total amount (if any) deducted and withheld from sick pay under section 3402(o) and the regulations thereunder.

The statement must be furnished to the employer on or before January 15 of the year following the calendar year in which any sick pay was paid. (2) These reporting requirements are in lieu of the requirements of sections 6051(a) (relating to written statements for

employees) and 6041 (relating to information returns). Statements required to be furnished by this paragraph shall be treated as statements required under section 6051 to be furnished to employees for purposes of sections 6674 (relating to fraudulent statement or failure to furnish statement to employee) and 7204 (relating to fraudulent statement or failure to make statement to employees).

(3) A multiemployer plan paying sick pay pursuant to a collectively bargained agreement may furnish the statement required to be furnished by this paragraph, which shall include the total amount of sick pay paid to the employee under the plan regardless of the identity or number of employers for whom the employee worked during the calendar year under the plan, to one of the following:

(i) The employer for whom the employee worked the most hours during the calendar year for which the statement is to be furnished,

(ii) The employer for whom the employee first worked during such year,

(iii) The employer for whom the employee last worked during such year,

(iv) The employer for whom the employee worked immediately preceding his absence for which sick pay was paid,

(v) The employer for whom the employee worked immediately following his absence for which sick pay was paid,

(vi) The employer designated through the operation of a specific clause of the collective bargaining agreement, or

(vii) The employer designated through the operation of a specific system of designation chosen by the payor.

(b) *Information required to be furnished by employer.* Every employer of a payee of sick pay who receives a statement under paragraph (a) from a payor of sick pay shall furnish to each payee of sick pay a written statement, which must be furnished on Form W–2. The written statement must contain the following information:

(1) All of the information required to be furnished under paragraph (a),

(2) The name, the address, and the Employer Identification Number (EIN) of the employer,

(3) The words "sick pay", which shall be written in the box labelled "Employer's use", and

(4) If any portion of the sick pay is excludable from gross income under section 104(a)(3), the amount of the portion which is not so excludable and of the portion which is so excludable. Only sick pay payments includable in gross income shall be reported in the box labelled "Wages, tips, other compensation" on Form W–2. Any amount excludable from gross income under section 104(a)(3) shall be reported in the box labelled "Employer's use" on Form W–2 and any amount so reported shall be described as "Nontaxable". The information required to be furnished by this paragraph may be furnished either on the same Form W–2 that is required to be furnished under section 6051(a) or on a separate Form W–2. To the extent practicable, this statement should be furnished to the payee along with the statement (if any) required under section 6051(a) (relating to written statements for employees). The statement must be furnished to the payee on or before January 31 of the year following the calendar year in which any sick pay was paid. The employer shall file copy A of Form W–2 and Form W–3 with the Social Security Administration in accordance with section 6051(d) (relating to statements to constitute information returns) and the regulations thereunder.

(c) *Optional rule.* The payor and the employer may at their option enter into an agency agreement valid under local law whereby the employer designates the payor to be the employer's agent for purposes of fulfilling the requirements of this section. This agreement must specify what portion, if any, of the sick pay is excludable from gross income under section 104(a)(3). If they enter into such an agreement, the payor shall not provide the statement required by paragraph (a) but shall instead furnish statements that meet all of the requirements of paragraph (b), except that the agreement must provide that the payor will furnish the statements with the payor's, rather than the employer's name, address, and Employer Identification Number (EIN) if "Sick Pay Statement Furnished under an Agency Agreement with Your Employer" appears in the box labelled "Employer's Use" on Form W–2. Paragraph (a)(2) remains applicable to statements furnished under this paragraph. In the case of sick pay paid under a multiemployer plan pursuant to a collectively bargained agreement, an amendment to either the multiemployer plan or the collectively bargained agreement designating the payor to be the employers' agent for purposes of fulfilling the requirements of this section shall be deemed an agency agreement that fulfills the requirements of the first sentence of this paragraph.

(d) *Definitions.* For purposes of this section, the terms "payor", "payee", and "sick pay" shall have the same meaning as ascribed thereto in section 3402(o) and the regulations thereunder. For purposes of this section, the term "employer" shall have the same meaning as ascribed thereto in section 3401(d) and the regulations thereunder, except that the term "employer" shall not include the payor for purposes of this section.

(e) *Additional requirements.* (1) Statements furnished to payees under this section must also comply with all requirements of section 6051 (c) and (d) and the regulations thereunder.

(2) The provisions of § 1.9101–1 (relating to permission to submit information required by certain returns and statements on magnetic tape) shall be applicable to the information required by this section to be furnished on Form W–2 if the employer properly complies with those provisions.

(3) The provisions of section 6109 (relating to identifying numbers) and the regulations thereunder shall be applicable to Form W–2 and to any payee of sick pay to whom a statement on Form W–2 is required by this section to be furnished. Thus the employer must include the social security account number of the payee on all Forms W–2.

(f) *Effective date.* The provisions of this section shall apply to payments of sick pay made on or after May 1, 1981.

(g) *Transitional rule.* Payors may report all sick pay paid to a payee after December 31, 1980, and before May 1, 1981, on the same statement required to be furnished under paragraph (a) as is used to report sick pay paid to a payee on or after May 1, 1981. If the payor reports on the statement required to be furnished under paragraph (a), he shall not report sick pay paid after December 31, 1980, and before May 1, 1981, on Form 1099, if otherwise required to do so. If no sick pay is paid on or after May 1, 1981, the payor may report all sick pay paid to a payee after December 31, 1980, and before May 1, 1981, on the statement required to be furnished under paragraph (a). If he reports on the statement required to be furnished under paragraph (a), he shall not report sick pay paid on Form 1099, if otherwise required to do so.

PART 35—TEMPORARY EMPLOYMENT TAX REGULATIONS UNDER THE ACT OF DECEMBER 24, 1980 (Pub. L. 96–601)

§§ 35.1 and 35.2 [Removed]

Par. 3. Sections 35.1 and 35.2 and Part 35 are hereby removed.

(Secs. 3402(o), 7805, Internal Revenue Code of 1954 (94 Stat. 3495, (26 U.S.C. 3402(o)); 68A Stat. 917 (26 U.S.C. 7805)))

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: March 8, 1982.

John E. Chapoton,
Assistant Secretary of the Treasury.

[FR Doc. 82-7100 3-15-82; 8:45 am]
BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

38 CFR Part 1

Disclosure of Loan Guaranty Information

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is amending its regulation which governs the release of information from loan guaranty files. The revised regulation is designed to assure compliance with the Freedom of Information Act, the Privacy Act, and the Veterans' Rehabilitation and Education Amendments of 1980.

EFFECTIVE DATE: March 10, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. George Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, 202–389–3042.

SUPPLEMENTARY INFORMATION: On September 15, 1981, the VA published for comment in the **Federal Register** (46 FR 45785), a proposed revision of § 1.512, relating to the release of information from loan guaranty files.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulation. No written comments have been received. The proposed regulation is hereby adopted without change and is set forth below.

The Administrator hereby certifies that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this regulation is therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The regulation should have no effect upon small government jurisdictions, small organizations, or small businesses. The regulation is designed to assure VA compliance with existing statutory provisions relating to the release of information from loan guaranty files. Any person who desires additional information concerning the reasons for this revision should review the Supplementary Information contained in the Proposed Regulation published on September 15, 1981 (46 FR 45785).

The regulation has been reviewed pursuant to Executive Order 12291, and has been found to be a nonmajor regulation. The regulation is for internal agency guidance and should have a nonmajor impact on the public and private sectors protected by the Executive Order.

These amendments are promulgated under authority granted to the Administrator by sections 210(c), 1819(g), 1820(a) and 3301(c), (e), and (h) of title 38, United States Code. The official program numbers and titles of the VA programs affected by this action as set forth in OMB Circular A–89, Catalog of Federal Domestic Assistance, are: (1) 64.106, Specially Adapted Housing for Disabled Veterans; (2) 64.113, Veterans Housing—Direct Loans and Advances; (3) 64.114, Veterans Housing—Guaranteed and Insured Loans; (4) 64.116, Veterans Housing—Direct Loans for Disabled Veterans, and (5) 64.119, Veterans Housing—Mobile Home Loans.

The proposed changes to § 1.512 are deemed proper and are hereby approved.

Approved: March 10, 1982.

By direction of the Administrator.

Charles T. Hagel,
Deputy Administrator.

PART 1—GENERAL PROVISIONS

38 CFR 1.512 is revised to read as follows:

§ 1.512. Disclosure of loan guaranty information.

(a) The disclosure of records or information contained in loan guaranty files is governed by the Freedom of Information Act, 5 U.S.C. 552; the Privacy Act, 5 U.S.C. 552a; the confidentiality provisions of 38 U.S.C. 3301, and the provisions of 38 CFR 1.500–1.584. In addition, the release of names and addresses and the release of certificates of reasonable value, appraisal reports, property inspection reports, or reports of inspection on individual water supply and sewage disposal systems shall be governed by paragraphs (b), (c), (d), and (e) of this section.

(b)(1) Upon request, any person is entitled to obtain copies of certificates of reasonable value, appraisal reports, property inspection reports, or reports of inspection on individual water supply and sewage disposal systems provided that the individual identifiers of the veteran-purchaser(s) or dependents are deleted prior to release of such documents. However, individual identifiers may be disclosed in accordance with paragraph (b)(2) of this section. The address of the property being appraised or inspected shall not be considered an individual identifier. (38 U.S.C. 3301(a), (c))

(2) Individual identifiers of veteran purchasers or dependents may be disclosed when disclosure is made to the following:

(i) The individual purchasing the property;

(ii) The current owner of the property;

(iii) The individual that requested the appraisal or report;

(iv) A person or entity which is considering making a loan to an individual with respect to the property concerned; or

(v) An attorney, real estate broker, or any other agent representing any of these persons. (38 U.S.C. 3301(c), (b)(2)(D).)

(c)(1) The Administrator may release the name, address, or both, and may release other information relating to the identity of an applicant for or recipient of a Veteran's Administration-guaranteed, insured, or direct loan, specially adapted housing grant, loan to finance acquisition of Veterans' Administration-owned property, release of liability, or substitution of entitlement to credit reporting agencies, companies or individuals extending credit, depository institutions, insurance companies, investors, lenders, employers, landlords, utility companies and governmental agencies for any of the purposes specified in paragraph (c)(2) of this section.

(2) A release may be made under paragraph (c)(1) of this section:

(i) To enable such parties to provide the Veterans' Administration with data which assists in determining the creditworthiness, credit capacity, income or financial resources of the applicant for or recipient of loan guaranty administered benefits, or verifying whether any such data previously received is accurate; or

(ii) To enable the Administrator to offer for sale or other disposition any loan or installment sale contract. (38 U.S.C. 3301(h)(2)(A), (B), (C).)

(d) Upon request, the Administrator may release information relating to the individual's loan transaction to credit reporting agencies, companies or individuals extending credit, depository institutions, insurance companies, investors, lenders, employers, landlords,

utility companies and governmental agencies where necessary in connection with a transfer of information on the status of a Veterans' Administration loan account to persons or organizations proposing to extend credit or render services or other benefits to the borrower in order that the person or organization may determine whether to extend credit or render services or other benefits to the borrower. Such releases shall be made only if the person or organization seeking the information furnishes the individual's name, address or other information necessary to identify the individual. (38 U.S.C. 3301(e), (h)(2)(A) and (D).)

(c) The Administrator shall maintain information in the loan guaranty file consisting of the date, notice and purpose of each disclosure, and the name and address of the person to whom the disclosure is made from the loan guaranty files. (38 U.S.C. 3301(h)(2)(D), 5 U.S.C. 552a(c).)

[FR Doc. 82-7062 Filed 3-15-82; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. AH300gWV; A-3-FRL-2045-1]

Approval of Revision to the West Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval of a revision to the West Virginia State Implementation Plan (SIP). The revision consists of West Virginia's plans for attaining the secondary National Ambient Air Quality Standard (NAAQS) for total suspended particulate (TSP).

EFFECTIVE DATE: April 15, 1982.

ADDRESSES: Copies of the West Virginia plans for attaining the secondary NAAQS for TSP, as well as accompanying documents, are available for public inspection at the following locations:

U.S. Environmental Protection Agency, Region III, Air Media & Energy Branch (3AW13), Curtis Building, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: Mr. Raymond D. Chalmers

West Virginia Air Pollution Control Commission, 1558 Washington Street, East, Charleston, West Virginia 25311, Attn: Mr. Carl Beard

Public Information Reference Unit, EPA Library, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

The Office of the Federal Register, 1100 L Street NW., Room 6401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: Mr. Raymond D. Chalmers at the address for EPA Region III above or telephone (215) 597-8309.

SUPPLEMENTARY INFORMATION: Governor J. D. Rockefeller IV of West Virginia submitted these plans for attaining the secondary NAAQS for TSP to EPA on November 14, 1980 and requested that EPA approve the incorporation of the plans into the West Virginia SIP. The plans provide for attaining the secondary NAAQS for TSP in the Steubenville-Weirton-Wheeling Interstate Air Quality Control Region (AQCR), the Tygart Magisterial District in Parkersburg, and in Kanawha County and Valley Magisterial District in Fayette County.

West Virginia's plans for these areas are similar in several respects. West Virginia states in all three plans that it believes it is not yet appropriate to include in its SIP new regulations for bringing about attainment of the secondary NAAQS for TSP. The State believes it must do additional studies to identify the sources causing its nonattainment problems and to establish what control measures these sources should be required to implement. West Virginia states that the need for further study has arisen because its nonattainment problems appear to be caused mainly by fugitive sources, sources for which little data are available.

West Virginia now has a regulation in effect, Regulation XVII, which permits the State to selectively control fugitive sources. West Virginia intends to use Regulation XVII as its authority for controlling fugitive sources that its studies indicate are contributing to the State's TSP nonattainment problems. However, West Virginia has not submitted Regulation XVII to EPA for inclusion in the West Virginia SIP. At this time, West Virginia intends to use this regulation only for experimental purposes in conjunction with the overall TSP study.

West Virginia states in its plan for the Steubenville-Weirton-Wheeling AQCR that it will bring the AQCR into attainment with the secondary NAAQS for TSP by December 31, 1986, by requiring additional control of fugitive emissions. The State says that it will determine what new control measures are needed using the findings of a recently completed report entitled "Interregional TSP Study for the Steubenville-Weirton-Wheeling Interstate Air Quality Control Region." EPA Region III can supply copies of this report.

West Virginia's plan for attaining the secondary NAAQS for TSP in the Steubenville-Weirton-Wheeling AQCR is actually an expanded version of its plan for attaining the primary NAAQS. West Virginia modified some of the data contained in its primary plan when it submitted its secondary plan. The modified data consists of information on TSP concentrations and emissions. West Virginia modified this data to correct certain errors. EPA has noted that West Virginia corrected data on TSP air quality and emissions in the main text of its plan but not in its appendices. West Virginia has agreed to review the appendices and revise them where necessary.

West Virginia states in its plans for the Tygart Magisterial District and for Kanawha County and Valley Magisterial District in Fayette County that it will bring these areas into attainment with the secondary NAAQS for TSP by December 31, 1985. The State says that it will adopt and implement by July 1, 1984 all new requirements needed to bring about attainment. The State commits to carry out studies to determine what additional emission controls are needed.

When EPA approved West Virginia's plans for attaining primary TSP standards at 45 FR 54042, August 14, 1980, EPA established certain conditions West Virginia had to meet in order to keep the approval of its primary TSP plans in effect. Those conditions remain in effect and are unchanged by this rulemaking action.

EPA has reviewed West Virginia's revision and has determined that it meets the requirements for approval contained in Section 110 of the Clean Air Act and 40 CFR Part 51. EPA proposed approval of the revision in the Federal Register of November 6, 1981 (46 FR 55123) and subsequently received no comments regarding it. Accordingly, EPA is approving the revision.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Pursuant to the provision of 5 U.S.C. Section 605(b), I hereby certify that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. This action only approves State actions. It imposes no new requirements.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(42 U.S.C. 7401-642)

Dated: March 9, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of West Virginia was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart XX—West Virginia

1. In § 52.2520 Identification of Plan is amended by adding § 52.2520(c)(17).

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

(17) West Virginia's plans for attaining the secondary National Ambient Air Quality Standard for total suspended particulate submitted by the Governor of West Virginia on November 14, 1980.

[FR Doc. 82-7072 Filed 3-15-82; 8:45 am]
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GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

41 CFR Part 101-11

[FPRM Amendment B-49]

Disposition of Federal Records; Transfer of Records to a Federal Records Center

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration is amending its regulations to lengthen certain deadlines in the procedures relating to the accessioning of records by the Federal records centers. The requirement that agencies transfer records to a records center within 30 calendar days after return of the Standard Form 135 to the agency has caused some problems. For Shipments not received within that timeframe, the centers normally would return the Standard Form 135, asking the agency to resubmit before shipping the records. For overseas shipments as well as for those in the Washington metropolitan area for which a records pickup service is provided, this 30-day deadline was not realisitc and caused additional paperwork for both the agencies and records centers. Extension of the deadline to 90 calendar days will alleviate these problems.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. George N. Scaboo, Acting Assistant Archivist for Federal Records Centers (202-724-1614).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purpose of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the lease net cost to society.

PART 101-11—RECORDS MANAGEMENT

Section 101-11.410-2(f) is revised to read as follows:

§ 101.11.410-2 Procedures for transfers to Federal records centers.

* * * * *

(f) The physical transfer of records to a records center should be accomplished as soon as possible after the agency has received the annotated copy of the Standard Form 135. If NARS has not received the shipment within 90 days, it will return the SF 135 to the agency. The agency will then have to resubmit the accessioning paperwork.

* * * * *

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: February 24, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82-7001 Filed 3-15-82; 8:45 am]
BILLING CODE 6820-26-M

41 CFR Part 101-41

[FPMR Amdt. G-55]

Transportation Documentation and Audit; Quantity (Bulk) Ticket Purchases

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation amends the Federal Property Management Regulations to revise the current dollar limitations on quantity (bulk) ticket purchases. These revised procedures increase the dollar limit for bulk ticket purchases and will permit Government agencies to make greater use of reduced fares when purchased in bulk quantities. The cost of preparing U.S. Government Transportation Requests for repetitive regular fare travel will also be reduced.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Reports and Procedures Branch, Office of Transportation Audits (202-275-0064).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweighs the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

Background

A notice of proposed rulemaking was published in the Federal Register of September 28, 1981 (46 FR 47472), inviting comments for 30 days ending October 28, 1981. No comments were received.

PART 101-41—TRANSPORTATION DOCUMENTATION AND AUDIT

Section 101-41.203-3(b)(2) is revised to read as follows:

§ 101-41.203-3 Quantity (bulk) ticket purchases.

* * * * *

(b) * * *

V 4 7 / 5 1 M R 1 6 8 2

(2) Each one-way or round trip single fare for transportation does not exceed $250 exclusive of Federal transportation tax; and

* * * * *

(31 U.S.C. 244 and 40 U.S.C. 486(c))

Dated: February 24, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82-7002 Filed 3-15-82; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6198

[ORE-013683]

Oregon; Partial Revocation of Reclamation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes Public Land Order No. 4448 in part as to 40 acres of land withdrawn for reclamation purposes. This action will restore the land to operation of the mining laws. The land remains withdrawn from disposition under the public land laws for multiple use management.

EFFECTIVE DATE: April 13, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 4448 of June 14, 1968, which withdrew the following described land for use by the Bureau of Reclamation for reclamation purposes in connection with the Umpqua River Project, is hereby revoked insofar as it affects the following described land:

Willamette Meridian

Umpqua River Project

T. 29 S., R. 7 W.,
Sec. 20, NW¼NE¼.

The area described contains 40 acres in Douglas County.

2. At 10 a.m. on April 13, 1982, the land will be open to location under the United States mining laws. The land has been and continues to be open to applications and offers under the mineral leasing laws.

3. The land is withdrawn for multiple use management by Public Land Order No. 5490 of February 12, 1975, and therefore remains segregated from operation of the public land laws generally.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

March 8, 1982.

[FR Doc. 82-7035 Filed 3-15-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6200

[NM-51669-OKLA]

Oklahoma; Restoration of Lands to Ownership of Wichita and Affiliated Bands of Indians (Caddo Tribe and the Absentee Band of Delaware Indians of Caddo County)

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This public land order will terminate the withdrawal of 58.13 acres of ceded public land and restore the lands to the ownership of the Wichita and Affiliated Bands of Indians.

EFFECTIVE DATE: March 10, 1982.

FOR FURTHER INFORMATION CONTACT: Fred O'Ferrall, New Mexico State Office, 505-988-6110.

SUPPLEMENTARY INFORMATION: By virtue of the authority contained in Section 3 of the Act of June 18, 1934, 25 U.S.C. 463 (1970), and pursuant to recommendations of the Tribal Council and the Deputy Assistant Secretary of Indian Affairs, and a finding of the Secretary of the Interior that such action is in the public interest, it is ordered as follows:

The following described land, ceded by the Wichita and Affiliated Bands of Indians (Caddo Tribe and the Absentee Band of Delaware Indians of Caddo County, Okla.), to the United States pursuant to agreement of June 4, 1891, ratified by the Act of March 2, 1895, 28 Stat. 876, 894-896, having been reserved for use by the Bureau of Indian Affairs for school purposes for the Riverside Indian School and being now not needed for such use, is hereby restored to tribal ownership for use and benefit of the Wichita and Affiliated Bands of Indians (Caddo Tribe and the Absentee Band of Delaware Indians of Caddo County, Okla.), subject to valid existing rights:

Indian Meridian

Township 7 North, Range 10 West,
Sec. 9, a portion of Lot 2, more particularly described as: Beginning at a point 340.69 feet South of the East ¼ corner of said Section 9; thence S. 88°04'50" W., a distance of 320.00 feet; thence South 400.50 feet; thence West 822.94 feet; thence S. 29°22' E., a distance of 264.00 feet; thence S. 14°53' E., a distance of 331.97 feet; thence N. 89°57' E., a distance of 917.73 feet;thence N. 00°01'02" E., a distance of 979.31 feet; to the point of beginning, 16.16 acres.
A portion of Lot 3, more particularly described as: Beginning at a point which is S 00°01'02" W., 340.69 feet and S. 88°04'50" W., 2035.90 feet from the East ¼ corner of said Section 9; thence S. 88°04'50" W., a distance of 607.13 feet; thence S. 00°02'43" W., a distance of 1373.46 feet; thence N. 48°30'08" E., a distance of 336.87 feet; thence N. 40°40' E., a distance of 300.19 feet; thence N. 25°40' E., a distance of 280.09 feet; thence N. 06°53' E., a distance of 240.06 feet; thence N. 33°13'05" E., a distance of 219.26 feet; thence North 136.12 feet to the point of beginning, 16.24 acres.
Sec. 10, that part of the N½ N½ SW¼ and N½ S½ N½ SW¼ of section 10 lying West of the West right-of-way line of U.S. Highway 281 (less 5.25 acres described by metes and bounds heretofore restored to tribal ownership pursuant to 34 FR 16065), 25.73 acres.

The area described aggregates 58.13 acres in Caddo County.

This order is subject to the following reservation for access and utility easement purposes:

A strip of land, 30.30 feet in width, being 9.39 feet to the left and 30 feet to the right of a centerline described as: Beginning at a point which is S. 00°01'02" W., 310.69 feet from the West ¼ corner of Section 10, T. 7 N., R. 10 W.: thence N. 86°41'47" E., a distance of approximately 1569 feet to a point of ending, said point being U.S. Highway 281.
Also, subject to any rights-of-way and/or easements of record necessary for the maintenance, service, repair and reconstruction of sewer, telephone, and other utility lines.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

March 8, 1982.

[FR Doc. 82-7041 Filed 3-15-82; 8:45 am]

BILLING CODE 4310-84-M

Proposed Rules

Federal Register
Vol. 47, No. 51
Tuesday, March 16, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1030

[Docket No. AO-361-A19]

Milk in the Chicago Regional Marketing Area; Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: The hearing is being held to consider changes in the Chicago Regional order that have been proposed by fourteen dairy farmer cooperative associations. The proposals would revise the performance standards under which supply plants qualify for pooling. The cooperative associations contend that the requested order changes are needed to reflect changed marketing conditions and to insure orderly marketing in the Chicago Regional area.

DATE: The hearing will convene March 30, 1982.

ADDRESS: The hearing will be held at the Quality Inn, 4916 East Broadway, Madison, Wisconsin 53716.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202/447-7311.

SUPPLEMENTARY INFORMATION: This action is exempt from the requirements set forth in Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Quality Inn, 4916 East Broadway, Madison, Wisconsin 53716 beginning at 9:30 a.m. (local time) on March 30, 1982, with respect to proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Chicago Regional marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Beginning January 1, 1981, actions under the Federal milk order program became subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR Part 900.12(d)) with respect to the proposals.

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Central Milk Producers Cooperative

Proposal No. 1

PART 1030—MILK IN CHICAGO REGIONAL MARKETING AREA

Revise § 1030.7(b) to read as follows:

§ 1030.7 Pool plant.

* * * * *

(b) A supply plant or unit of supply plants described in paragraph (b)(6) of this section from which the quantity of fluid milk products (except filled milk) and condensed skim milk shipped or transshipped and physically unloaded into plants described in paragraph (b)(2) as a percent of the Grade A milk received at the plant(s) from dairy farmers (except dairy farmers described in § 1030.12(b)) and handlers described in § 1030.9(c), including producer milk diverted pursuant to § 1030.13 but excluding packaged fluid milk products that are disposed of from such plant(s) as route disposition, is not less than 25 percent for September, 30 percent for each of the months of October and November, and 20 percent for all other months, subject to the following additional conditions:

* * * * *

Proposal No. 2

Evidence will be presented pursuant to § 1030.7(b)(5) to establish that the supply plant shipping percentages and diversion allowances should be adjusted in an amount up to 10 percentage points to prevent uneconomic shipments.

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 3

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be obtained from the Market Administrator, Robert G. Thomas, Building A, Suite 200, 800 Roosevelt Road, Glen Ellyn, Illinois 60137 or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be inspected there.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington Office only)

Office of the Market Administrator, Chicago Regional marketing area

Procedural matters are not subject to the above prohibition and may be discussed at any time.,

Signed at Washington, D.C., on March 10, 1982.

William T. Manley,

Deputy Administrator Marketing Program Operations.

[FR Doc. 82-7097 Filed 3-15-82; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1425

[Amdt. No. 8]

Cooperative Marketing Associations; Eligibility Requirements for Price Support

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Credit Corporation (CCC) is proposing an amendment to the regulations governing cooperative marketing associations eligibility requirements for price support with which cooperative marketing associations must comply in order to participate in authorized CCC price support programs. The proposed amendment would change the amount of capital interest in the cooperative that must be owned by its active producer members and its member cooperatives which are owned and controlled by their active producer members from an amount constituting more than 50 percent of the capital of the cooperative to an amount constituting more than 50 percent of the allocated capital of the cooperative.

DATES: Written comments must be received on or before May 14, 1982 in order to be assured of consideration.

ADDRESS: Send comments to Director, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Richard M. Ackley, Cooperative Section, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447-7874. A draft Regulatory Impact Analysis is available from Richard M. Ackley.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures established in accordance with Secretary's Memorandum 1512-1 and Executive Order 12291, and has been classified "not major". It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program to which this proposed rule applies is: Title—Commodity Loans and Purchases: Number 10.051; as found in the Catalog of Federal Domestic Assistance.

This proposed action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local government are informed of this action.

The regulations governing the eligibility of cooperative marketing associations to receive requirements price support presently require that an approved cooperative be owned and controlled by its active producer members and its member cooperatives which are owned and controlled by their active producer members. This requirement is partially met when a cooperative establishes that the active members own more than 50 percent of the capital interest in the cooperative (i.e., stock, revolving fund certificates, book credits, or other equity interest).

Such a requirement was designed to ensure that approved cooperatives act in the best interest of its active members in relation to other equity owners, such as inactive members and nonmembers.

Many cooperatives routinely add to retained earnings or other unallocated reserve accounts due to requirements of their bylaws or decisions of their board of directors. To the extent that unallocated reserve account grow, it becomes increasingly difficult for cooperatives to meet the equity ownership requirement of CCC's price support regulations. However, there is no significant change in active membership representation in a cooperative's decisionmaking because the reserve accounts are unallocated and do not represent the ownership of members, nonmembers, or others. In addition, membership voting on cooperative matters is normally based on the one member-one vote concept and is not based on equity ownership. Therefore, the present equity ownership requirement in the regulations, while becoming increasingly stringent, does not contribute to the desired objectives of the price support program.

Thus, it is proposed that the CCC price support regulations governing cooperative marketing associations be amended to change the amount of capital interest in a cooperative which must be owned by its active producer members and its member cooperatives which are owned or controlled by their active producer members.

Proposed Rule

PART 1425—COOPERATIVE MARKETING ASSOCIATION

Accordingly, it is proposed that the regulations at 7 CFR 1425.4(a) be revised to read as follows:

§ 1425.4 Ownership and control.

* * * * *

(a) *Ownership.* The cooperative must establish that its active producer members and its member cooperatives which are owned and controlled by their active producer members, own a capital interest in the cooperative (i.e., stock, revolving fund certificates, book credits, or other equity interest) constituting more than 50 percent of the allocated capital of the cooperative. Ownership of a member cooperative by its active members shall also be determined in accordance with the provisions of this paragraph (a). In determining the requisite capital interest of active producer members and member cooperatives, the following shall be disregarded:

(1) The capital interest of any such member in excess of 10 percent of the capital of the cooperative; and

(2) The capital interest acquired by any such member as a result of a loan unless such member is obligated to repay the loan within a reasonable period of time.

(Secs. 4, and 5, 62 Stat. 1070, as amended, (15 U.S.C. 714b and c); secs. 101, 103, 105A, 107A, 201, 301, 401, 63 Stat. 1051, as amended, (7 U.S.C. 1441, 1444(f), 1444c, 1445b, 1446, 1447, 1421))

Signed at Washington, D.C. on March 9, 1982.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 82-7103 Filed 3-15-82; 8:45 am]

BILLING CODE 3410-05-M

Rural Electrification Administration

7 CFR Part 1701

Advance Notice of Proposed Revision of REA Bulletin 120-1, "Development, Approval, and Use of Power Requirements Studies"

AGENCY: Rural Electrification Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: REA is reviewing Bulletin 120-1, "Development, Approval, and Use of Power Requirements Studies," to consider revised procedures and guidelines for the development and maintenance of up-to-date forecasts. Public comments are invited.

DATE: Public comments must be received by REA no later than April 15, 1982.

ADDRESS: Submit written comments to Mr. Joseph R. Binder, Director, Environmental and Energy Requirements Division, Rural Electrification Administration, Room 2861, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald O. Stephens, Chief, Energy Forecasting Branch, Environmental and Energy Requirements Division, Room 2863, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382-8446.

SUPPLEMENTARY INFORMATION: REA has been studying various methodologies currently used for load forecasting in the electric industry. REA has also been working with the Electric Power Research Institute (EPRI), Oak Ridge National Laboratory, and others in the development of methods and better use of information for rural electric system load forecasting.

This program is listed in the Catalog of Federal Domestic Assistance as *10.850—Rural Electrification Loans and Loan Guarantees.* Further public comment will be solicited when the proposed rule is published.

Dated: March 9, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-6888 Filed 3-15-82; 8:45 am]

BILLING CODE 3410-15-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 811 0194]

Broward County Medical Association; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a Florida medical association, among other things, to cease inhibiting competition among health care providers by restricting its members from soliciting patients; advertising fees and services; and by declaring such activities unethical. The association would be required to remove from its code of ethics, constitution and bylaws, any provision which is inconsistent with the prohibitions contained in the order; and publish revised versions of these documents. The order would also require that the association take no formal action against a party charged with violating an ethical standard without first providing that party with reasonable notice of the allegations and a hearing, as well as written findings and conclusions concerning the allegations. Further, for a period of ten years, the association would be required to provide each new member with a copy of the order.

DATE: Comments must be received on or before May 14, 1982.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/CS-8, Arthur N. Lerner, Washington, D.C., (202) 724-1303.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[File No. 811 0194]

The Federal Trade Commission having initiated an investigation of certain acts and practices of the Broward County Medical Association (BCMA), a corporation, and it now appearing that BCMA is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between BCMA, by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. BCMA is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its mailing address at 2200 South Andrews Avenue, Fort Lauderdale, Florida 33316.

2. BCMA admits all of the jurisdictional facts set forth in the draft of complaint here attached.

3. BCMA waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify BCMA, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by BCMA that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the

Commission's rules, the Commission may, without further notice to BCMA, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to BCMA's address stated in this agreement shall constitute service. BCMA waives any right it may have to any other manner of service. The complaint attached hereto and the Commission's Opinion in "American Medical Association," 94 F.T.C. 701 (1980) (hereinafter *"AMA"*), may be used in construing the terms of the order. No agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. The parties understand that "AMA" is presently before the United States Supreme Court on writ of certiorari, and that one of the questions presented to the Supreme Court in "AMA" is whether the Commission properly determined the American Medical Association and respondent constituent state and county medical societies to be "corporations" as that term is defined in Section 4 of the Federal Trade Commission Act. It is agreed that in the event the Supreme Court finds that the Commission did not properly determine the "AMA" respondents to be "corporations" and that the Commission thereafter issues a Final Order dismissing the complaint in "AMA" on the ground that the respondents are not "corporations," then the Commission shall dismiss the complaint in this proceeding, without prejudice, and withdraw this consent agreement and order. As used herein, the term "Final Order" means an order or opinion of the Federal Trade Commission which has become final in accordance with Section 5(g)–(k) of the Federal Trade Commission Act, 15 U.S.C. 45 (g)–(k).

8. BCMA has read the proposed complaint and order contemplated hereby. It understands that when the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. BCMA further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after the order becomes final.

Order

I

For purposes of this order, the following definition shall apply:

A. "BCMA" means respondent Broward County Medical Association, its delegates, trustees, councils, committees, Board of Censors, officers, representatives, agents, employees, successors and assigns.

II

It is ordered, That BCMA shall cease and desist from, directly or indirectly, or through any corporate or other device:

A. Restricting, regulating, impending, declaring unethical, interfering with, or advising against the advertising or publishing by any person of the prices, terms or conditions of sale of physicians' services, or of information about physicians' services, facilities or equipment which are offered for sale or made available by physicians or by any organization with which physicians are affiliated;

B. Restricting, regulating, impending, declaring unethical, interfering with, or advising against the solicitation, though advertising or by any other means, including but not limited to bidding practices, of patients, patronage, or contracts to supply physicians' services, by any physician or by any organization with which physicians are affiliated; and

C. Inducing, urging, encouraging, or assisting any physician, or any medical association, group of physicians, hospital, insurance carrier, telephone company or any other non-governmental organization to take any of the actions prohibited by this part.

Nothing contained in this part shall prohibit respondent from formulating, adopting, disseminating to its members, and enforcing reasonable ethical guidelines governing the conduct of its members with respect to representations, including unsubstantiated representations, that would be false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act, or with respect to uninvited, in-person solicitation of actual or potential patients, who, because of their particular circumstances, are vulnerable to undue influence.

III

It is further ordered, that BCMA shall cease and desist from taking any formal action against a person alleged to have violated any ethical standard promulgated in conformity with this Order without first providing such person with:

A. Reasonable written notice of the allegations against him or her;

B. A hearing wherein such person or a person retained by him or her may seek to rebut such allegations; and

C. The written findings or conclusions of respondent with respect to such allegations.

IV

It is further ordered, That BCMA shall:

A. For a period of ten years, provide each new member of BCMA with a copy of the complaint and this Order at the time the member is accepted into membership;

B. Within sixty (60) days after the Order becomes final, publish a copy of the complaint and this Order with such prominence as feature articles are regularly published in the BCMA "Record" or in any successor publications;

C. Within ninety (90) days after this Order becomes final remove from its "Code of Ethics," its constitution and bylaws, and any other existing policy statements or guidelines of respondent, any provision, interpretation or policy statement which is inconsistent with Part II of this Order, and within one hundred and twenty (120) days after this Order becomes final, publish in the BCMA "Record" or in any successor publications the revised versions of such documents, statements, or guidelines;

D. Within one hundred and twenty (120) days after this Order becomes final, file a writtten report with the Federal Trade Commission setting forth in detail the manner and form in which it has complied with this Order;

E. For a period of five (5) years after this Order becomes final, maintain and make available to the Commission staff for inspection and copying upon reasonable notice, records adequate to describe in detail any action taken in connection with the activities covered by Part II of this Order, including but not limited to any advice or interpretations rendered with respect to advertising or solicitation involving any of its members; and

F. Within one year after this Order becomes final, and annually thereafter for a period of five (5) years, file a written report with the Federal Trade Commission setting forth in detail any action taken in connection with the activities covered by Part II of this Order, including but not limited to any advice or interpretations rendered with respect to advertising, or solicitation involving any of its members.

V

It is further ordered, That BCMA shall notify the Commission at least thirty (30) days prior to any proposed change in the respondent, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation or association, or any other change in the corporation of association which may affect compliance obligations arising out ot this Order.

Broward County Medical Association, Docket No. 811 0194

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from the Broward County Medical Association ("BCMA").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will determine whether it should withdraw the agreement or make final the agreement's proposed order.

The Complaint. A complaint prepared for issuance by the Commission along with the proposed order alleges that BCMA has acted as a combination of at least some of its members or has conspired with at least some of its members to restrain competition among medical doctors in Broward County, Florida, by prohibiting its members from truthfully advertising their fees and services to the public and from otherwise soliciting patients' business, and by coercing individual members into abandoning their efforts to truthfully advertise and to otherwise solicit patients' business. These activities are alleged to be unfair methods of competition or unfair or deceptive acts or practices in violation of Section 5 of the Federal Trade Commission Act.

According to the complaint, BCMA is a professional association formed to represent the interests of physicians who practice in Broward County. It further asserts that BCMA has approximately 1500 members, constituting a substantial majority of the physicians in Broward County. The complaint further asserts that members of BCMA are engaged in the business of providing medical health care services for a fee and that, except to the extent that competition has been restrained as alleged in the complaint, BCMA members have been and are now in competition among themselves and with other physicians.

The complaint alleges that, in furtherance of the combination or conspiracy, BCMA adopted and implemented written and unwritten codes of ethics that prohibit efforts by its members to truthfully advertise their services in the Yellow Pages or in other media or to otherwise distribute to the public truthful information, including, among other things, their fees, whether they accept Medicare assignment of benefits or credit cards, their professional training and experience, their business hours and office locations, and their knowledge of languages other than English. Furthermore, BCMA allegedly published statements by some of its officials advising members that advertising was unethical and threatening disciplinary action and other sanctions against members who advertise. BCMA also allegedly intimidated members who seek to truthfully advertise and solicit patients by engaging in a concerted effort to obtain the names of those members and by threatening to publish their names and thereby subject them to ridicule. The complaint further asserts that BCMA sent letters to members who truthfully advertise or otherwise solicit their patients' business that pressured them to abandon such activities and that it summoned members to certain BCMA meetings at which disciplinary actions were threatened against these members in order to compel them to cease truthfully advertising or otherwise soliciting patients' business.

The complaint alleges that, as a result of BCMA's actions, its members have agreed not to, and do not, advertise their services or otherwise solicit patients' business, and members have been coerced into abandoning efforts to advertise or otherwise solicit patients' business. It further alleges that truthful advertising and solicitation enable physicians to compete on the basis of price, quality, and convenience and enable individual patients to choose among physicians on the basis of price, quality, or convenience. Consequently, it is alleged, competition among physicians for patients has been foreclosed, frustrated, and eliminated, and consumers have been deprived of truthful information about physicians' fees and services and the benefits of competition among physicians.

The Proposed Consent Order. The proposed order would prohibit BCMA from restricting, regulating, impeding, declaring unethical, interfering with, or advising against the advertising of physicians' services or the solicitation by physicians of patients, patronage, or contracts. It would further prohibit BCMA from inducing, urging, encouraging, or assisting others to take any of the actions prohibited by the order. It also contains a proviso which permits BCMA to formulate, adopt, disseminate to its members, and enforce reasonable ethical guidelines governing representations which would be false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act or uninvited, in-person solicitation of patients who, because of their particular circumstances, are vulnerable to undue influence.

The proposed order would require that BCMA remove from its code of ethics, constitution, bylaws, policy statements, and guidelines any provision or statement which is inconsistent with the prohibitions of the order and thereafter publish revised versions of such documents, statements, or guidelines. BCMA would also be prohibited from taking any formal action against a person alleged to have violated any ethical standard without first providing such person with reasonable written notice of the allegations against him, a hearing at which the person or a person retained by him may seek to rebut such allegations, and BCMA's written findings or conclusions with respect to such allegations.

The proposed order would require that BCMA for ten years provide each new BCMA member with a copy of the complaint and order and, sixty days after the order becomes final, publish a copy of the complaint and order in its official publication. To ensure that the proposed order is obeyed, BCMA would be required within 120 days after the order becomes final to file a a written report with the Commission setting forth the manner and form of its compliance. BCMA would also be required, for a period of five years, to make its records available to the Commission staff and, annually for a period of five years, to file a written report with the Commission setting forth any action taken in connection with the activities covered by the order.

The proposed order may be affected

by the pending Supreme Court decision in the appeal of "American Medical Association," 94 F.T.C. 701 (1979), *aff'd*, 638 F.2d 443 (3d Cir. 1980), *cert. granted*, —— U.S. —— (1981) ("AMA"). The complaint in "AMA" alleged, among other things, that the respondent American Medical Association and certain state and county medical societies engaged in unfair methods of competition and unfair acts in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. 41 et seq., by prohibiting advertising or solicition of patients by their members. The "AMA" respondents argued that they are not "corporations" within the meaning of the jurisdictional provisions of Sections 4 and 5 of the Federal Trade Commission Act and therefore that the Commission has no jurisdiction over them. In "AMA", the Commission held, in relevant part, that the respondents are "corporations" within the meaning of Section 4 and that respondents' prohibitions on advertising and solicitation violated Section 5 of the Act. The Commission opinion was affirmed by the Court of Appeals, and the respondents have appealed to the Supreme Court. The settlement agreement with BCMA provides that if the Supreme Court in "AMA" finds that the Commission did not properly determine the "AMA" respondents to be "corporations" within the meaning of Section 4 of the Act and the Commission thereafter issues a Final Order in "AMA" dismissing the "AMA" complaint on the ground that the respondents are not "corporations," then the BCMA complaint will be dismissed, without prejudice, and the consent order will be withdrawn. However, BCMA would be bound by the proposed order in the interim, that is, pending the Supreme Court's "AMA" decision. And, should the Supreme Court hold that the "AMA" respondents are "corporations" within the meaning of Section 4 of the Act but decide, for whatever reason, that no relief is appropriate in that case, the Commission would retain jurisdiction over BCMA and the proposed order would remain binding.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or modify in any way their terms.

Carol M. Thomas,

Secretary.

[FR Doc. 82-7000 Filed 3-15-82; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 239

[Release No. 33-6386; File No. S7-924]

Proposed Revisions to the Optional Form for the Registration of Securities to be Sold to the Public by the Issuer for an Aggregate Cash Price not to Exceed $5,000,000

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendments.

SUMMARY: The Commission is publishing for public comment proposed amendments to Form S–18, a simplified registration form under the Securities Act of 1933, which would: expand the Form's availability to non-corporate registrants and registrants engaged, or to be engaged, in oil and gas related operations; amend several disclosure items to conform with the adoption of the integrated disclosure system; and modify the financial statement requirements to reflect recent final and proposed revisions to the financial information requirements in Commission filings.

DATE: Comments must be received on or before April 15, 1982.

ADDRESSES: All communications on the matters discussed in the release should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comments should refer to File No. S7–924 and will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Daniel Abdun-Nabi, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 at (202) 272–2644.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today published proposed amendments to Form S–18 (17 CFR 239.28), a simplified registration form, which, if adopted, would expand the availability of the Form to non-corporate registrants, and registrants engaged, or to be engaged, in oil and gas related operations. In addition, in view of the adoption of the integrated disclosure system [1] (the "Integration Release") which eliminates the Securities Act Registration Guides for the Preparation and Filing of Registration Statements and Reports ("Guides"), other than certain Industry Guides, and revises Regulation S–K (17 CFR 229.1) and Regulation C (17 CFR 230.400), the Commission is proposing numerous conforming amendments to the Form. Specifically, several disclosure items of the Form are proposed to be amended to reference items in Regulation S–K, the repository of uniform content requirements for filings under both the Securities Act of 1933 (the "Securities Act") and the Securities Exchange Act of 1934 (the "Exchange Act"). The proposed financial statement requirements of Form S–18 reflect recent final and proposed modifications to the financial information requirements in Commission filings.

[1] Securities Act Release Nos. 6383–6385 (March 3, 1982) [Published elsewhere in this issue].

I. Discussion

A. Availability of Form S–18

The Commission has for some time been taking steps to facilitate small business capital formation and to reduce the burdens imposed by the federal securities laws as applied to small business, to the extent consistent with the protection of investors.[2] The adoption of Form S–18 in April 1979, represented a significant initiative in this regard.[3] As adopted, noncorporate registrants and registrants who engaged, or intended to engage, in significant mining or oil and gas related operations, among others, were precluded from the use of the Form. Although several commentators and witnesses who appeared at the Commission's Small Business Hearings opposed these exclusions,[4] the Commission determined to proceed cautiously in connection with the adoption of Form S–18 in view of its experimental nature and the initiation of regional processing of registration statements.

The Commission did express its intent to monitor the use of the Form for an appropriate period and to consider whether the conditions as to its availability should be expanded. The Office of Small Business Policy in the Division of Corporation Finance has undertaken an ongoing monitoring program regarding Form S–18. In addition, the Commission's Directorate of Economic and Policy Analysis has published two studies concerning the use of Form S–18.[5] In March 1981, the Commission amended Form S–18 to expand its availability to certain registrants engaged in mining operations, and to include a new disclosure item applicable to such registrants, noting the relatively widespread acceptance of the Form and the absence of any significant disclosure or enforcement problems.[6]

On the basis of its monitoring program and its experience with Form S–18, the Commission today is announcing proposed revisions to Form S–18 which, among other things, would expand the availability of the Form to non-corporate registrants, and to corporate or non-corporate registrants which are engaged, or intend to engage, in oil and gas operations. In view of the retention of several Industry Guides as part of the Integration Release, the Commission is not proposing new disclosure items for these registrants. Specifically, Industry Guide 5 (Preparation of Registration Statements Relating to Interests in Real Estate Limited Partnerships) specifies disclosure requirements applicable to real estate limited partnerships and provides a useful reference with respect to material information in the context of limited partnerships generally.[7] Additionally, Industry Guide 2 specifies disclosure requirements applicable to registrants engaged in oil and gas related operations.

B. The Commission's Integrated Disclosure System

The revisions to Regulation S–K adopted in the integrated disclosure system represent the evolution of that regulation into a repository of uniform disclosure provisions under the Securities Act and the Exchange Act. The disclosure requirements contained in Regulation S–K are applicable to Securities Act registration statements only to the extent provided in the forms to be used for registration under the Securities Act. Form S–18, when adopted, did not make specific reference to the items within Regulation S–K since, at that time, Regulation S–K had but a few disclosure items which were either substantially longer and more burdensome than the corresponding items developed for Form S–18, or inapplicable in several respects to offerings of $5,000,000 or less by small issuers. Since Regulation S–K now contains disclosure requirements previously included in the Guides, in the Securities Act registration forms, and in Regulation C, the Commission believes that it is appropriate to reference certain items of that Regulation for the content requirements applicable to Form S–18 registration statements. It should be emphasized that these revisions represent merely a reformatting of the disclosure requirements currently applicable to the Form, and are not intended to significantly expand the nature or extent of the information currently required of registrants.[8]

C. Changes to Financial Disclosure Requirements

In September 1980, the Commission announced the adoption of amendments to Regulation S–X establishing uniform instructions as to periods to be covered by financial statements included in most Securities Act registrations filed with the Commission.[9] These revisions, among other things, established requirements with respect to the age of the financial statements at the dates of filing and effectiveness of the registration statement. The new rules regarding age of financials at date of effectiveness superseded standards previously prescribed in Guide 23, which were applicable to the financial statements to be included in all registration statements, including Form S–18. The Commission is now proposing to include in Form S–18 financial statement updating requirements which track the provisions of Regulation S–X. This revision should not result in additional disclosure burdens since it represents a codification of current staff policy.

Further, in view of the proposed expanded availability of Form S–18 to additional categories of registrants, accounting standards and financial statement disclosure requirements applicable to such registrants are similarly being proposed. The proposed revisions track the financial statement requirements applicable to these registrants when registering their securities on currently available forms.

Finally, the Commission recognizes that occasionally there may be highly unusual circumstances where the waiver of required financial statements may be appropriate. Accordingly, a new paragraph is being proposed which provides that the Commission may permit, upon written request and where consistent with the protection of investors, the omission of or substitution for prescribed financial statements. The Commission's intention is that the request for waiver would be used sparingly and that a waiver would be granted only in highly unusual circumstances. In addition, this paragraph advises registrants that the Commission may require, upon written notice, the filing of additional or substituted financial statements where necessary for an adequate presentation of financial condition or for the protection of investors.

II. Synopsis

The following discussion of the proposed revisions to Form S–18 is included to assist interested persons in their understanding of the substantive proposed revisions. However, attention is directed to the text of the proposals for a more complete understanding.

A. General Instructions

The General Instructions are proposed to be amended as follows: (1) To expand the availablility of the Form, as discussed above, General Instruction A (Rule as to Use of Form S–18), which would be redesignated General Instruction I, would be revised to eliminate the references to the term "corporation" in paragraphs (a) and (a)(1), to delete the exclusion regarding

[2] *See, e.g.*, Securities Act Release No. 6049 (April 3, 1979) (45 FR 21562) and Securities Exchange Act Release No. 16666 (June 2, 1980) (45 FR 40145) (summaries of prior actions); Securities Act Release No. 6299 (March 19, 1981) (46 FR 18947) (expansion of availability of Form S–18 to mining companies); Securities Act Release No. 6321 (June 11, 1981) (46 FR 31660) (expansion of availability of Rule 242 to mining companies); Securities Act Release No. 6339 (August 7, 1981) (46 FR 41791) (Regulation D, a proposed new regulation which would coordinate and streamline existing requirements applicable to private offers and sales of securities and which is intended to serve as a basis for a uniform state-federal limited offering exemption); and Securities Exchange Act Release No. 18189 (October 20, 1981) (46 FR 52362) (a proposed system of classification of smaller issuers for the purpose of exempting them from the registration and certain reporting provisions of the Exchange Act to the extent possible consistent with the public interest and the protection of investors).

[3] Securities Act Release No. 6049 (April 3, 1979) (44 FR 21562). During fiscal year 1981, there were 336 Form S–18 filings registering approximately $965 million of securities.

[4] In Securities Act Release No. 33–5914 (March 6, 1978) (43 FR 10378) the Commission announced its intention to hold a series of small business hearings. The full text of the comments received can be found in Commission File No. S7–734.

[5] Form S–18, A Monitoring Report on Its Use in 1979, U.S. Securities and Exchange Commission, Directorate of Economic and Policy Analysis, March 1980; Form S–18, A Monitoring Report on the First 18 Months of Its Use, U.S. Securities and Exchange Commission, Directorate of Economic and Policy Analysis, March 1981.

[6] Securities Act Release No. 6299 (March 19, 1981) (46 FR 18947).

[7] This guide is the subject of a proposed revision as set forth in Securities Act Release No. 6354 (October 7, 1981) (46 FR 50553).

[8] *See* Securities Act Release No. 6332 (August 6, 1981) (46 FR 41925) and Securities Act Release No. 6333 (August 6, 1981) (46 FR 41971) for a full discussion of the development of those Regulation S–K items which are proposed to be incorporated into Form S–18.

[9] Securities Act Release No. 6234 (September 2, 1980) (45 FR 63662).

Continued

the offering of limited partnership interests in paragraph (a)(3), and to delete the reference to registrants engaged or to be engaged in oil and gas activites in paragraph (a)(5). Additionally, the "securities of the issuer" definition currently in General Instruction A(c) would be deleted in proposed General Instruction I.C. However, the proposed instruction would continue to require the aggregation of certain sales of securities in calculating the $5 million offering ceiling, including offerings which would be deemed integrated under general principles of integration.[10]

Finally, new proposed General Instruction I.E. provides that Form S–18 is available for delayed or continuous offerings only with respect to the registration of securities which are to be issued upon the exercise of outstanding options, warrants, or rights, as provided in rule 415(a)(1)(iv). Since Form S–18 was not designed for the registration of securities to be offered on a delayed or continuous basis, the form will be unavailable for any other rule 415 type offering.

(2) In response to numerous inquiries, General Instruction B (Place of Filing), which would be redesignated as General Instruction II, is proposed to be amended to inform registrants that all post-effective amendments to Form S–18 shall be filed in the same office as the initial Form S–18 was declared effective.

(3) General Instruction C (Application of General Rules and Regulations), which would be redesignated as General Instruction III, is proposed to include new General Instruction III.C. which directs attention to the disclosure provisions of Regulation S–K and to specifically reference the Commission's policy on projections and policy on securities ratings outlined in § 229.001(c) and (d) of Regulation S–K, respectively. Further, new instruction III.D. is being proposed in order to direct attention to the Industry Guides listed in § 229.800 of Regulation S–K.

[10] *See* Securities Act Release No. 4551 (November 6, 1962) (27 FR 11316).

[11] For a discussion of the development of the Regulation S–K items which would be cross-referenced in Form S–18, see the Integration Release and Securities Act Release No. 6332 (August 6, 1981) (46 FR 41928).

B. Part I—Narrative Information Required in Prospectus, Part II—Information Not Required in Prospectus, and Undertakings

In vew of the amendments adopted to Regulation S–K and Regulation C, and the elimination of the Guides as part of the integrated disclosure system, the Commission is proposing technical conforming amendments to: (1) The non-financial informational requirements of Part I to Form S–18; (2) the disclosure items within Part II to Form S–18; and (3) the undertaking requirements of the Form. With the exception of proposed Item 19 (Certain Market Information), discussed below, these revisions merely reformat the current Form S–18 content requirements by cross references to Regulation S–K,[11] and would not impose any significant additional disclosure burdens on registrants.

The chart below reflects where the current disclosure repurements of Form S–18 are proposed to be relocated in Regulation S–K. The other Regulation S–K items proposed to be referenced in form S–18 contain content requirements previously appearing in the Guides and Regulation C.

PROPOSED REVISIONS TO FORM S–18

Current Item	Proposed Item	Commentary
Item 1 (Distribution spread)	Item 1 (Forepart of registration statement and outside front cover page of prospectus).	Proposed Item 1 references Item 501 of regulation S–K. The disclosure requirements of current Item 1 appear in Item 501(a), and Instructions 1 and 2 to Item 501.
Item 2(Plan of distribution)	Item 2 (Plan of distribution)	Proposed Item 2 references Item 508 of regulation S–K. The disclosure requirements of current Item 2 appear in Item 508 (a), (c)(2), (e) and (f). The disclosure requirements of current Item 2(d) would not be retained.
Item 3 (Use of proceeds to the registrant))	Item 4 (Use of proceeds)	Proposed Item 4 references Item 504 of regulation S–K. The disclosure requirements of current Item 3 appear in Item 504, and Instructions 2, 3, 4, and 5.
Item 4 (Organization within 5 years)	Item 15 (Organization within 5 years)	Current Item 4 would be redesignated as Item 15 with no textual changes.
Item 5 (Capital structure)	Proposed to be deleted	The information required by current Item 5 is proposed to be deleted since it calls for information which is duplicative of that presented in the financial statements.
Item 6 (Description of business)	Item 16 (Description of business)	Current Item 6 would be redesignated Item 16 with no textual changes.
Item 7 (Description of property)	Item 17 (Description of property)	Current Item 7 would be redesignated Item 17 with no textual changes.
Item 7A (Description of property—Issuers engaged or to be engaged in significant).	Item 17A (Description of property—Registrants engaged or to be engaged in significant mining operations).	Current instruction (3) to Item 7A(b) is proposed to be revised.
Item 8 (Legal proceedings)	Item 8 (Legal proceedings)	Proposed Item 8 references Item 103 of regulation S–K. The disclosure requirements of current Item 8 appear in Item 103, and Instructions thereto.
Item 9 (Director and executive officers)	Item 10 (Directors and executive officers)	Proposed Item 10 references Item 401 of regulation S–K. The disclosure requirements of current Item 9 appear in Item 401(b), and Instructions 1 and 2 thereto, Item 401(c), Item 401(d) and Instructions thereto, Item 401(e), Item 401(f) and Instructions 1, 2, and 3, thereto.
Item 10 (Remuneration of directors and officers)	Item 20 (Remuneration of directors and officers)	Existing Item 10 is proposed to be redesignated as Item 20 with one textual change relating to options held by directors and executive officers. This requirement is substantially indentical to that required by current Item 11(c).
Item 11 (Options to purchase securities)		The disclosure requirements of current Items 11 (a) and (b) are proposed to be deleted. Item 11(c) is proposed to be relocated in substance in proposed Item 20.
Item 12 (Security ownership of certain beneficial owners and management).	Item 11 (Security ownership of certain beneficial owners and management).	Proposed Item 11 references Item 403 of regulation S–K. The disclosure requirements of current Item 12 appear in Item 403 and Instructions 1, 2, 4, 5, 6, and 7. Existing Item 12, Instruction 3 would not be retained.
Item 13 (Interest of management and others in certain transactions).	Item 18 (Interest of management and others in certain transactions).	Current Item 13 would be redesignated Item 18 with no textual changes.
Item 14 (Securities being registered)	Item 12 (Description of securities being registered)	Proposed Item 12 references Item 202 of regulation S–K. The disclosure requirements of current Item 14 appear in Item 202(a) (1)–(4), Item 202(b) (1), (2), (4), (5), (6), and (10), Item 202(c) and Item 202(d).
Item 15 (Financial statements and instructions)	Item 21 (Financial statements)	Current Item 15 is proposed to be redesignated Item 21 with textual changes.

PROPOSED REVISIONS TO FORM S–18—Continued

Current Item	Proposed Item	Commentary
Item 16 (Marketing arrangements)	Proposed to be deleted.	
Item 17 (Other expenses of issuance and distribution).	Item 23 (Other expenses of issuance and distribution)	Proposed Item 23 references Item 511 of regulation S–K. The disclosure requirements of current Item 17 appear in Item 511 and the instruction thereto.
Item 18 (Relationship with registrant of experts named in registration statement).	Item 13 (Interest of named experts and counsel)	Proposed Item 13 references Item 509 of regulation S–K. The disclosure requirements of current Item 18 appear in Item 509. The existing instructions to Item 18 would not be retained. The disclosure would be required in Part I to the registration statement.
Item 19 (Recent sales of unregistered securities).	Item 24 (Recent sales of unregistered securities)	Proposed Item 24 references Item 701 of regulation S–K. The disclosure requirements of current Item 19 are substantially identical to Item 701.
Item 20 (Exhibits) and instructions as to exhibits.	Item 25 (Exhibits)	Proposed Item 25 references Item 601 of regulation S–K. The disclosure requirements of current Item 20 appear in Item 601(a) (1), (3), (4), (5), (6), (7), (8), (9), (10), (14), and (15). Existing instructions as to exhibit (11) is proposed to be deleted.

As noted above, the Commission is proposing to add a new disclosure item, Item 19 (Market Information), to Part I of the Form. This new item references Regulation S–K, Item 201(a)(2), which requires disclosure concerning common equity: (1) that is issuable pursuant to outstanding options, warrants or convertible securities; (2) that could be sold pursuant to Rule 144, or that the registrant has agreed to register under the Securities Act for sale by security holders; or (3) that is being, or has been publicly proposed to be, publicly offered by the registrant, the offering of which could have a material effect on the market price of the registrant's common equity securities. The Commission believes these are the significant sources of common equity that generally would not have been able to be freely traded prior to the public offering because of a lack of an established public trading market, and therefore could be expected to be sold when and as such market developed. If proposed Item 19 is adopted, Item 201(a)(2) of Regulation S–K will be amended to specifically reference Form S–18 registrations.

Additionally, current Item 7A (Description of Property-Issuers Engaged or to be Engaged in Significant Mining Operations), which would be redesignated Item 17A (Description of Property-Registrants Engaged or to be Engaged in Significant Mining Operations), is proposed to be amended to include a new instruction regarding disclosure of estimates of reserves of lesser assurance than proven or probable.

Finally, it should be noted that if proposed Item 25 (Exhibits) is adopted, a Form S–18 column will be added to the Item 601 table of Regulation S–K to designate the exhibits required to be filed with the Form.

C. Part I—Financial Information Required in Prospectus

The Commission is proposing a new financial statement item. It would revise current Item 15 in the following manner.

(1) *General Requirements.*—Proposed Item 21(a) will contain two provisions not previously contained in Form S–18. First, registrants engaged in oil and gas producing activities would be required to follow the financial and accounting reporting standards specified in Article 4–10 of Regulation S–X. This reference is being proposed in view of the proposed expanded availability of the Form. Second, the item would advise registrants that the Commission may permit, upon written request and where consistent with the protection of investors, the omission of, or substitution for, financial statements required by the Form. This proposal is intended to codify existing administrative practice.

(2) *Balance Sheet.*—Proposed Item 21(b) would modify the existing standards by replacing the requirements that the balance sheet be as of a date within 90 days of the original date of filing with a 135 day rule.

(3) *Consolidated Statements of Income.*—Proposed Item 21(c), relating to consolidated statements of income, changes in financial condition and stockholders equity, contains specific language which exempts development stage companies (as defined by generally accepted accounting principles) from the requirement that comparative interim period income statements be presented. This provision is intended merely to codify existing administrative practice.

(4) *Requirements for Financial Statements of Companies Acquired or to be Acquired.*—Proposed new Items 21 (d) and (e) set forth the financial statement requirements for businesses acquired and to be acquired. These provisions track the standards prescribed in proposed Rules 3–07 and 3–08 of Regulation S–X,[12] with certain modifications. Any final revisions to these Regulation S–X rules would be considered by the staff when adopting the final amendments to Form S–18.

(5) *Age of Financial Statements at Effective Date.*—Proposed Item 21(f) would prescribe the financial statement updating requirements with respect to the date the registration statement is declared effective. In general, the financial statements would be required to be as of a date within 135 days of the anticipated effective date of the registration statement. If the effective date is subsequent to 45 days after the close of the registrant's fiscal year, audited financial statements for the most current fiscal year would be required.

(6) *Special Instruction for Real Estate Operations.*—Proposed Item 21(g) is designed to provide disclosure standards for real estate operations to be acquired by, among other entities, limited partnerships. This item is being proposed in view of the proposed expanded availability of the Form.

(7) *Special Instructions for Limited Partnerships.*—Proposed Item 21(h) sets forth instructions regarding the financial statements of the general partner that are required to be furnished. This item is being proposed in view of the proposed expanded availability of the Form.

D. Signatures

The current signature requirements are proposed to be modified in order to specify the signature requirements applicable to limited partnerships, and to obtain a certification from the registrant that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S–18.

Summary of Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in

[12] Securities Act Release No. 6350 (September 24, 1981) (46 FR 46943).

accordance with 5 U.S.C. 603 regarding the revisions to Form S–18 proposed herein.

The analysis notes that the Commission adopted Form S–18 to be used by certain smaller companies in an effort to alleviate some of the cost and compliance burdens traditionally associated with registration on Form S–1, the standard registration form. The Commission took this step in recognition of its statutory authority to vary disclosure requirements depending upon the issuer and other considerations, and with the designated purpose of facilitating small business capital formation.

Specifically, as compared to Form S–1, Form S–18 provides for reduced narrative disclosure requirements, reduced and less burdensome financial statement requirements, and permits regional filing and processing of the registration statement, all of which result in a more timely and less expensive registration process for small issuers seeking access to the public capital markets.

In order to further reduce the expense incurred by small issuers registering their securities under the Securities Act, the Commission permits registrants which filed on Form S–18, and thereby became subject to section 15(d) of the Exchange Act, to include the Form's simplified financial statements and narrative disclosures in their initial annual report filed with the Commission.

The Commission believes these steps have served to alleviate the burdens on small business consistent with its statutory mandate to protect investors and foster continued confidence in the securities markets.

The amendments being proposed herein are designed to extend the benefits associated with Form S–18 registration to new categories of issuers, and to provide updating and conforming amendments to the disclosure items of the Form to reflect recent final and proposed Commission actions.

A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting Daniel J. Abdun-Nabi, Office of Small Business Policy, Division of Corporation Finance, U.S. Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 at (202) 272–2644.

Text of Proposed Form

17 CFR Chapter II is proposed to be amended as follows:

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

By proposing amendments to the registration statement on Form S–18 as set forth below:

§ 239.28 Form S–18, Optional Form For The Registration of Securities To Be Sold To The Public By The Issuer For An Aggregate Cash Price Not To Exceed $5,000,000. [Amended]

Proposed Revision 1

The Cover Page of, and General Instructions to, Form S–18 are proposed to be amended to read as follows:

SECURITIES AND EXCHANGE COMMISSION

Form S–18

Registration Statement Under the Securities Act of 1933

(Exact name of registrant as specified in its charter)

(State or other jurisdiction of incorporation or organization)

(Primary Standard Industrial Classification Code Number)

(I.R.S. Employer Identification No.)

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

(Address of principal place of business or intended principal place of business)

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Approximate date of commencement of proposed sale to the public——

CALCULATION OF REGISTRATION FEE

Title of each class securities to be registered	Amount to be registered	Proposed maximum offering price per unit	Proposed maximum aggregate offering price	Amount of registration fee

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.*

GENERAL INSTRUCTIONS

I. Rule as to Use of Form S–18

A. This form is to be used for the registration of securities not to exceed an aggregate offering price of $5 million which are to be sold for cash by the registrant, or for the account of security holders in accordance with paragraph B, provided such registrant:

(1) Is organized under the laws of the United States or Canada or any State or Province thereof, and has or proposes to have its principal business operations in the United States, if a domestic issuer, or Canada or the United States if a Canadian issuer;

(2) Is not subject to the reporting provisions of the Securities Exchange Act of 1934 pursuant to Sections 12 or 15(d) of that Act;

(3) Is not an investment company;

(4) Is not an insurance company which is exempt from the provisions of Section 12 of the Securities Exchange Act of 1934 in reliance upon Section 12(g)(2)(G) thereof; and

(5) Is not a majority owned subsidiary of a registrant which does not meet the qualifications for use of the form, as specified herein.

B. This form may be used for the registration of securities to be sold for the account of any person other than the registrant, provided: (i) the aggregate offering price of such securities does not exceed $1.5 million and (ii) the aggregate offering price of such securities together with the aggregate offering price of any securities to be sold by the registrant does not exceed $5 million.

C. For purposes of computing the $5 million ceiling specified above, there shall be included in the aggregate offering price of the securities registered herein, the aggregate offering price of all securities sold: (i) by the registrant within one year prior to the commencement of the proposed offering in violation of Section 5(a) of the Securities Act; (ii) by the registrant within one year prior to the commencement of the proposed offering pursuant to a registration statement filed on Form S–18; and (iii) which would be deemed integrated with the proposed offering. (*See;* Securities Act Release No. 4552 (November 6, 1962) [27 FR 11316].) In computing the $5 million ceiling, the aggregate price of all securities sold which fall in more than one of the above described categories need be counted only once.

D. Notwithstanding the provisions of paragraph (A)(2), a registrant which has had a prior offering on Form S–18 may, during the remainder of the fiscal year in which the prior registration statement was made effective, use the form to register additional securities until the offering limit as computed in paragraph C has been met.

E. This form is available for delayed or continuous offerings only with respect to the registration of securities to be issued upon the exercise of options, warrants, or rights, as provided for in Rule 415(a)(1)(iv) [17 CFR 230.415(a)(1)(iv)].

II. Place of Filing

A. At the election of the registrant, all registration statements on Form S–18 and related papers filed with the Commission shall be filed either at its principal office in Washington D.C. or in the Regional Office for the region in which the registrant's principal business operations are conducted, or are proposed to be conducted. The registration statement of any registrant having or proposing to have its principal business operations in Canada may be filed with the Regional Office nearest the place where the registrant's principal business operations are conducted, or are proposed to be conducted; *Provided, however,* That if the offering is to be made through a principal underwriter located in the United States, the offering statement may be filed with the Regional Office for the region in which such underwriter has its principal office. Such material may be filed by delivery to the Commission through the mails or otherwise. Questions concerning the appropriate place of filing may be directed to the Commission's Regional Offices.

B. The Commission will endeavor to process Form S–18 registration statements at the place of filing. However, due to workload or other special consideration, the Commission may refer processing to a different Commission office.

C. All post-effective amendments to the Form S–18 registration statement shall be filed in the office where the corresponding Form S–18 registration statement was declared effective.

III. Application of General Rules and Regulations

A. Attention is directed to the General Rules and Regulations under the Act, particularly those comprising Regulation C [17 CFR 230.400 to 230.494], which contains general requirements regarding the preparation and filing of a registration statement.

B. Attention is directed to Rule 463 [17 CFR 230.463] and Form SR [17 CFR 239.61] which is required to be filed by first-time registrants under the Securities Act showing sales of registered securities and the use of proceeds therefrom. Form SR shall be filed at the same office where the registration statement was declared effective.

C. Attention is directed to Regulation S–K [17 CFR §§ 229.001–229.800] for the requirements relating to registration statement content. Where this form specifically references an item within that Regulation, the information need only be furnished to the extent appropriate. Special attention also is directed to paragraphs (c) and (d) of § 229.001 of Regulation S–K which outline the Commission's policies on projections and securities ratings, respectively.

D. Attention is directed to disclosure provisions set forth in the Industry Guides which are listed in § 229.800 of Regulation S–K [17 CFR 229.800]. These Industry Guides represent Division practices with respect to the disclosure to be provided by the affected industries in registration statements.

E. Attention is directed to Rule 15c2–8 [17 CFR 240.15c2–8] regarding prior delivery of preliminary prospectuses by registrants not subject to the reporting requirements of the Exchange Act.

Proposed Revision 2

Part I of Form S–18 is proposed to be amended by deleting existing Item 1 (Distribution Spread), Item 2 (Plan of Distribution), Item 3 (Use of Proceeds to Registrant), Item 5 (Capital Structure), Item 8 (Legal Proceedings), Item 9 (Directors and Officers), Item 12 (Security Ownership of Certain Beneficial Owners and Management) and Item 14 (Securities Being Registered) and by replacing such items with the following disclosure requirements:

PART I—INFORMATION REQUIRED IN PROSPECTUS

Item 1. Forepart of the Registration Statement and Outside Front Cover Page of Prospectus. Set forth in the forepart of the registration statement and on the outside front cover page of the prospectus the information required by Item 501 of Regulation S–K (17 CFR 229.501).

Item 2. Inside Front and Outside Back Cover Pages of Prospectus. Set forth in the inside front cover page of this prospectus or, where permitted, on the outside back cover page, the information required by Item 502 of Regulation S–K (17 CFR 229.502).

Item 3. Summary Information and Risk Factors. Furnish the information required by Item 503(a), (b), and (c) of Regulation S–K (17 CFR 229.503(a), (b) and (c)).

Item 4. Use of Proceeds. Furnish the information required by Item 504 of Regulation S–K (17 CFR 229.504).

Item 5. Determination of Offering Price. Furnish the information required by Item 505 of Regulation S–K (17 CFR 229.505).

Item 6. Dilution. Furnish the information required by Item 506 of Regulation S–K (17 CFR 229.506).

Item 7. Selling Security Holders. Furnish the information required by Item 507 of Regulation S–K (17 CFR 229.507).

Item 8. Plan of Distribution. Furnish the information required by Item 508 of Regulation S–K (17 CFR 229.508), except the information specified in Item 508(c)(1), (3), and (d).

Item 9. Legal Proceedings. Furnish the information required by Item 103 of Regulation S–K (17 CFR 229.103).

Item 10. Directors and Executive Officers. Furnish the information required by Item 401 of Regulation S–K (17 CFR 229.401).

Item 11. Security Ownership of Certain Beneficial Owners and Management. Furnish the information required by Item 403 of Regulation S–K (17 CFR 229.403).

Item 12. Description of the Securities To Be Registered. Furnish the information required by Item 202 of Regulation S–K (17 CFR 229.202).

Proposed Revision 3

Part I of Form S–18 is proposed to be amended by adding new disclosure Items 13 and 14, as follows:

Item 13. Interest of Named Experts and Counsel. Furnish the information required by Item 509 of Regulation S–K (17 CFR 229.509).

Item 14. Statement as to Indemnification. Furnish the information required by Item 510 of Regulation S–K (17 CFR 229.510).

Proposed Revision 4

Part I of Form S–18 is proposed to be amended by redesignating existing Item 4 (Organization Within 5 Years), Item 6 (Description of Business), Item 7 (Description of Property), and Item 13 (Interest of Management and Others in Certain Transactions) as Items 15, 16, 17, and 18, respectively, with no textual changes.

Proposed Revision 5

Part I to Form S–18 is proposed to be amended by redesignating existing Item 7A (Description of Property-Issuers Engaged or to be Engaged in Significant Mining Operations) as Item 17A and by modifying current Instruction (3) to Item 7A(b) to read as follows.

Item 17A (Description of Property-Registrants Engaged or To Be Engaged in Significant Mining Operations)

* * * * *

(b) * * *.

Instructions * * *.

(3) Estimates other than proved or probable reserves, and any estimated values of such reserves shall not be disclosed unless such information is required to be disclosed by foreign or state law; provided, however, that where such estimates previously have been provided to a person (or any of its affiliates) that is offering to acquire, merge, or consolidate with, the registrant or otherwise to acquire the registrant's securities, such estimates may be included.

Proposed Revision 6

Part I of Form S–18 is proposed to be amended by deleting existing Item 11 (Options to Purchase Securities), and by adding the following disclosure item:

Item 18. Certain Market Information. Furnish the information required by Item 201(a)(2) of Regulation S–K (17 CFR 229.201(a)(2)).

Proposed Revision 7

Part I of Form S–18 is proposed to be amended by redesignating existing Item 10 (Remuneration of Directors and Officers) as Item 20 and by adding the following additional paragraph.

Item 20. Remuneration of Directors and Officers.

* * * * *

(c) Furnish the following information as to options to purchase securities from the

*Inclusion of this paragraph is optional. See Rule 473. (Each page of this document, including exhibits and attachments, shall be numbered sequentially from this page, as page 1, through the last page of the document.)

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registrant or any of its subsidiaries which are outstanding as of a specified date not more than 30 days prior to the date of filing of the registration statement held by (1) each director and executive officer named in answer to paragraph (a), above, naming each such person, and (2) all directors and officers as a group without naming them:

(i) The title and amount of the securities called for by such options;

(ii) The purchase price of the securities called for and the expiration dates of such options; and

(iii) The market value of the securities called for by such options as of the latest practicable date.

Instructions. 1. The term "options" as used in this item includes all options, warrants and rights other than those issued to security holders on a pro rata basis.

2. The extension of options shall be deemed the granting of options within the meaning of this item.

3. Where the total market value of securities called for by all outstanding options as of the specified date referred to in this item does not exceed $10,000 for any director or executive officer named in answer to paragraph (a), above, or $50,000 for all officers and directors as a group this item need not be answered with respect to options held by such person or group.

4. In case a number of options are outstanding having different prices and expiration dates, the options may be grouped by prices and date. If this produces more than five separate groups, then there may be shown only the range of the expiration dates and the average purchase prices, i.e., the aggregate purchase price of all securities of the same class called for by all outstanding options to purchase securities of that class divided by the number of securities of such class so called for.

Proposed Revision 8

Part I of Form S–18 is proposed to be amended by deleting existing Item 15 (Financial Statements and Instructions) and by replacing such item with the following disclosure requirements:

Item 21. Financial Statements.

(a) General.

(1) The financial statements of the registrant, or the registrant and its predecessors or any businesses to which the registrant is a successor, which are to be filed as part of the registration statement shall be prepared in accordance with generally accepted accounting principles (GAAP) in the United States or in the case of a Canadian registrant, a reconciliation to such U.S. GAAP shall be included in a note or schedule to the financial statements.

(2) Regulation S–X [17 CFR 210.1–210.12], Form and Content of and Requirements for Financial Statements, shall not apply to the preparation of such financial statements, except that the report and qualifications of the independent accountant shall comply with the requirements of Article 2 of Regulation S–X, and registrants engaged in oil and gas producing activities shall follow the financial accounting and reporting standards specified in Article 4–10 of Regulation S–X with respect to such activities.

(3) The Commission may, upon the informal written request of the registrant, and where consistent with the protection of investors, permit the omission of one or more of the financial statements herein required or the filing in substitution therefore of appropriate statements of comparable character. The Commission may also by informal written notice require the filing of other financial statements in addition to, or in substitution for, the statements herein required in any case where such statements are necessary or appropriate for an adequate presentation of the financial condition of any person whose financial statements are required, or whose statements are otherwise necessary for the protection of investors.

(b) Consolidated balance sheets.

(1) The registrant and its subsidiaries consolidated shall file an audited balance sheet as of the end of the most recent fiscal year, or as of a date within 90 days of the date of filing the registration statement if the registrant (including predecessors) existed for a period less than one fiscal year.

(2) When the filing date of the registration statement falls after 134 days subsequent to the end of the registrant's most recent fiscal year a balance sheet as of an interim date within 135 days of the filing date also shall be included in the registration statement. Such balance sheet need not be audited.

(c) Consolidated statements of income, changes in financial condition and stockholder's equity.

(1) There shall be filed for the registrant and its subsidiaries consolidated, statements of income, changes in financial position and stockholders equity for each of the two fiscal years preceding the date of the most recent audited balance sheet being filed (or for such shorter period as the registrant has been in business), and for the interim period, if any, between the end of the most recent fiscal year and the date of the most recent balance sheet being filed. These statements should be audited to the date of the most recent audited balance sheet being filed.

(2) If an income statement is filed for an interim period there shall also be filed, except for registrants in the development stage as defined by GAAP, an income statement for a comparable period of the prior year.

(3) In connection with any unaudited statement for an interim period a statement shall be made that all adjustments necessary to a fair statement of the results for such period have been included. If all such adjustments are of a normal recurring nature, a statement to that effect shall be made; otherwise, there shall be furnished information describing in appropriate detail the nature and amount of any adjustments other than normal recurring adjustments entering into the determination of the results shown.

(d) Requirements for income statements of businesses acquired before the date of the most recent balance sheet.

(1) If, before the date of the most recent balance sheet filed pursuant to paragraph (b) the registrant has acquired by the purchase method of accounting one or more businesses, or interests in one or more businesses, the investment in which is accounted for by the equity method, and such business(es) or investment(s), singly or in the aggregate, are significant to the registrant, audited income statements for such business(es) shall be filed for such periods prior to the transaction date as may be necessary when added to the time, if any, for which audited income statements after the transaction date are filed to cover the equivalent of the period specified in paragraph (c)(1) or such fewer periods as the business(es) may have been in existence.

(2)(a) The test of significance shall be based on tests used in the term "significant subsidiaries" in Rule 405 [17 CFR 230.405].

(b) The test shall be made for the latest annual consolidated financial statements of the registrant with substituted percentages to be used as follows:

(i) If the transaction was consummated during the most recent fiscal year or during the subsequent period, no substitution.

(ii) If the transaction was consummated during the fiscal year prior to the most recent fiscal year reported upon, 25 percent. If financial statements of an acquired business are not required in the year of acquisition, they would not be required subsequently.

(c) See Securities Act Release No. 4950 with regard to audit requirements for financial statements of acquired businesses.

(3) If more than one business has been acquired or more than one investment has been made, the required income statements may be presented on a combined basis, if appropriate.

(4) If the transaction was effected during the most recent fiscal year or in the subsequent interim period, pro forma statements of income, in columnar form reflecting the combined operations of the entities shall be filed for the latest fiscal year and interim period.

(5) This paragraph (d) shall not apply with respect to the registrant's succession to the business of any totally held subsidiary.

(e) Requirements for financial statements of businesses acquired after the date of the most recent balance sheet or of businesses to be acquired.

(1) If, after the date of the most recent balance sheet filed pursuant to paragraph (b) the registrant has succeeded to or plans to succeed to one or more businesses or has acquired or plans to acquire interests in one or more businesses, the investment in which is to be accounted for by the equity method, and such business(es) or investment(s) singly or in the aggregate are significant to the registrant, financial statements combined, if appropriate, shall be filed for such business which would be required if they were registering securities on Form S–18 under the Securities Act. A business or investment is significant based on the tests in paragraph (d)(2).

(2) In addition, to reflect the succession to any businesses there shall be filed a pro forma balance sheet in columnar form as of the date of the most recent balance sheet required by paragraph (b) giving effect to the combination of the entities. There shall also be filed pro forma statements of income in columnar form for the periods for which the results of operations of the acquired business would have been included in the registrant's income statement for a pooling of interests or would have been presented on a pro forma basis for a purchase had the succession occurred on the date of the latest balance sheet filed pursuant to paragraph (b).

(3) This paragraph (e) shall not apply with respect to the registrants succession to the business of any totally held subsidiary.

(f) Age of financial statements at effective date of registration statement.

(1) If the financial statements are as of a date 135 days or more prior to the date the registration statement is expected to become effective the financial statements shall be updated with a balance sheet as of an interim date within 135 days and with statements of income and changes in financial position for the interim period between the end of the most recent fiscal year and the date of the interim balance sheet. There shall also be filed, except for registrants in the development stage, and income statement for a corresponding period of the preceding fiscal year. Such interim financial statements need not be audited.

(2) When the anticipated effective date of the registration statement falls within 45 days subsequent to the end of the fiscal year, the registration statement need not include financial statements more current than as of the end of the third fiscal quarter of the most recently completed fiscal year: *Provided, however,* That if the audited financial statements for such fiscal year are available they must be included in the registration statement. If the anticipated effective date falls after 45 days subsequent to the end of the fiscal year the registration statement must include audited financial statements for the most recently completed fiscal year.

(3) When the filing date of the registration is near the end of a fiscal year and the audited financial statements for that fiscal year are not included in the registration statement, the registration statement shall be updated with such financial statements if they become available prior to anticipated effective date.

(g) Special instructions for real estate operations to be acquired.

If, during the period for which income statements are required, the registrant (a) has acquired one or more properties which in the aggregate are significant, or (b) since the date of the latest balance sheet required, has acquired or proposes to acquire one or more properties which in the aggregate are significant, the following shall be furnished with respect to such properties.

(1) Audited income statements (not including earnings per unit) for the two most recent fiscal years, which shall exclude items not comparable to the proposed future operations of the property such as mortgage interest, leasehold rental, depreciation, corporate expenses and Federal and state income taxes: *Provided, however,* That such audited statements need be presented for only the most recent fiscal year if (i) the property is not acquired from a related party; (ii) material factors considered by the registrant in assessing the property are described with specificity in the prospectus with the regard to the property, including sources of revenue (including, but not limited to, competition in the rental market, comparative rents, occupancy rates) and expense (including, but not limited to, utility rates, *ad valorem* tax rates, maintenance expenses, capital improvements anticipated); and (iii) the registrant indicates in the filing that, after reasonable inquiry, the registrant is not aware of any material factors relating to that specific property other than those discussed in response to paragraph (1)(ii) of this section that would cause the reported financial information not to be necessarily indicative of future operating results.

(2) If the property is to be operated by the registrant there shall be furnished a statement showing the estimated taxable operating results of the registrant based on the most recent twelve month period including such adjustments as can be factually supported. If the property is to be acquired subject to a net lease the estimated taxable operating results shall be based on the rent to be paid for the first year of the lease. In either case, the estimated amount of cash to be made available by operations shall be shown. There shall be stated in an introductory paragraph the principal assumptions which have been made in preparing the statements of estimated taxable operating results and cash to be made available by operations.

(3) If appropriate under the circumstances, there shall be given in tabular form for a limited number of years the estimated cash distribution per unit showing the portion thereof reportable as taxable income and the portion representing a return of capital together with an explanation of annual variations, if any. If taxable net income per unit will become greater than the cash available for distribution per unit, that fact and approximate year of occurrence shall be stated, if significant.

(h) Special instructions for limited partnerships.

(1) In addition to the financial reporting requirements in paragraphs (a) through (g), registrants which are limited partnerships are required also to file the balance sheets of the general partners as described in subparagraphs (2) through (4), below.

(2) Where a general partner of the limited partnership is a corporation there shall be filed an audited balance sheet of such corporation as of the end of its most recently completed fiscal year. Receivables from the parent or affiliate of the general partner (including notes receivable, but excluding trade receivables), should be presented as deductions from the shareholders' equity of the general partner. Where a parent or affiliate of the general partner has committed itself to increase or maintain the general partner's capital then there shall also be filed an audited balance sheet of such parent or affiliate as of the end of its most recently completed fiscal year.

(3) Where a general partner of the limited partnership is a partnership there shall be filed an audited balance sheet of such partnership as of the end of its most recently completed fiscal year.

(4) Where a general partner of the limited partnership is a natural person there shall be filed, as supplemental information, a balance sheet of such natural person as of a recent date. Such balance sheet need not be audited. The assets on such balance sheet should be carried at estimated fair market value, with provisions for estimated income taxes on unrealized gains. The net worth of such general partner(s), singly or in the aggregate, shall be disclosed in the text of the prospectus.

(i) Special instructions for registrants engaged in mining operations.

With respect to companies engaged or to be engaged in the mining business, attention is directed to the instruction to Item 17A concerning the appropriate classification of issuers engaged in the exploratory, development and production stage of mining.

Proposed Revision 9.

Part II of Form S–18 is proposed to be amended by deleting existing Item 16 (Marketing Arrangements), Item 17 (Other Expenses of Issuance and Distribution), Item 18 (Relationship with Registrant of Experts Named in Registration Statement), Item 19 (Recent Sales of Unregistered Securities) and Item 20 (Exhibits), and by adding the following disclosure requirements:

Part II.—Information Not Required in Prospectus

Item 22. Indemnification of Directors and Officers. Furnish the information called for by Item 702 of Regulation S–K (17 CFR 229.702).

Item 23. Other Expenses of Issuance and Distribution. Furnish the information called for by Item 511 of Regulation S–K (17 CFR 229.511).

Item 24. Recent Sales of Unregistered Securities. Furnish the information called for by Item 701 of Regulation S–K (17 CFR 229.701).

Item 25. Exhibits. Furnish the exhibits as required by Item 601 of Regulation S–K (17 CFR 229.601).

Proposed Revision 10.

Part II of Form S–18 is proposed to be amended by removing the existing undertaking requirements and replacing them with the following:

Item 26. Undertakings. Furnish the undertakings required by Item 512 of Regulations S–K (17 CFR 229.512).

Proposed Revision 11.

The signature requirements of Form S–18 are proposed to be amended to read as follows:

Signatures.

Pursuant to the requirements of the

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Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-18 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of ———, State of ———, on ———, 19—.

(Registrant) ———

By (Signature and Title) ———

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

(Signature) ———

(Title) ———

(Date) ———

Instructions 1. The registration statement shall be signed by the registrant, its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer and by at least a majority of the board of directors or persons performing similar functions. If the registrant is a Canadian person, the registration statement shall also be signed by its authorized representative in the United States. Where the registrant is a limited partnership, the registration statement shall be signed by a majority of the board of directors of any corporate general partner signing the registration statement.

2. The name of each person who signs the registration statement shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the registration statement. Attention is directed to Rule 402 concerning manual signatures and to the exhibit requirements concerning signatures pursuant to powers of attorney.

Proposed Revision 12.

Part II to Form S-18 is proposed to be amended by deleting existing Instructions as to Exhibits.

Proposed Revision 13.

Part II to Form S-18 is proposed to be amended by deleting the existing Appendix to the Form.

Statutory Authority.

The Commission is proposing the revisions to Form S-18 pursuant to sections 6, 7, 8, 10, and 19(a) of the Securities Act of 1933.

(Secs. 6, 7, 8, 10, and 19(a), 48 Stat. 78, 79, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 6, 68 Stat. 685; sec. 1, 79 Stat. 1051; sec. 308(a)(2), 90 Stat. 57; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a))

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6603 Filed 3-12-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-125-78]

Accumulated Earnings Tax; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the application of the accumulated earnings tax to corporations accumulating earnings and profits to avoid the income tax on distributions by the corporation to certain foreign corporate shareholders.

DATES: The public hearing will be held on May 6, 1982, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by April 22, 1982.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-125-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, 202-566-4091, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 532, 533, and 537 of the Internal Revenue Code of 1954. The proposed regulations appeared in the Federal Register for Monday, December 22, 1980 (45 FR 84084).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by April 22, 1982. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive for improving government regulations appearing in the Federal Register for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

David E. Dickinson,

Director, Legislation and Regulations Division.

[FR Doc. 82-7080 Filed 3-15-82; 8:45 am]

BILLING CODE 4830-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-41

Refunds From Carriers for Unused Transportation Services; Extension of Comment Period

AGENCY: General Services Administration.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On February 2, 1982, the General Services Administration published a proposed rule in the Federal Register (47 FR 4707) concerning refunds from carriers for unused transportation services. The period for commenting on that proposed rule has been extended until April 2, 1982. This extension is the result of a request from the Air Transport Association of America on behalf of a number of their member carriers. The carriers have requested additional time to more thoroughly analyze the proposed rulemaking to allow for a more detailed response.

DATE: Comments must be received by April 2, 1982.

ADDRESS: Written comments should be sent to the General Services Administration (TACP), Washington, DC 20406.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Reports and Procedures Branch, Office of Transportation Audits (202-275-0664).

(31 U.S.C. 244 and 40 U.S.C. 486(c))

Dated: March 4, 1982.

Allan W. Beres,

Commissioner of Transportation and Public Utilities Services.

[FR Doc. 82-7040 Filed 3-15-82; 8:45 am]

BILLING CODE 6320-AM-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 312

[Docket FEMA-P-312]

Use of Civil Defense Personnel, Materials and Facilities for Natural Disaster Purposes

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: FEMA is proposing to add a regulation which authorizes the use for natural disaster purposes of civil defense personnel, materials, and facilities supported with contributions under the Federal Civil Defense Act of 1950, as amended, and provides terms and conditions for such use. This regulation is necessary to implement section 803 of the Department of Defense Authorization Act of 1982.

DATES: Comment on this proposed rule is due on or before May 17, 1982.

ADDRESS: Rules Docket Clerk, Federal Emergency Management Agency, Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: John E. Bokel, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-3843.

SUPPLEMENTARY INFORMATION: Section 803 of the Department of Defense Authorization Act of 1982 added a new section 207 to the Federal Civil Defense Act of 1950, as amended. That section clarified the "dual-use" policy regarding use of resources funded under the Federal Civil Defense Act for preparedness to cope with natural disasters. The amendment makes explicit in the statute, authority for State and their political subdivisions to use funds and resources for preparation for and response to both attack-related and natural disaster-related events. However, use of attack-preparedness resources for natural disaster response purposes is allowed only if such use is consistent with, contributes to, and does not detract from attack related preparedness.

The Act directed the issuance of regulations to implement this policy.

As federal funding to which these regulations will be applicable is less than $100,000,000 annually, the regulation is not considered to be a major regulation requiring a regulatory analysis under Executive Order 12291. The regulation also is applicable to States to whom the funding is made available, and thus is not subject to the requirements of the Regulatory Flexibility Act which is concerned with small entities. No regulatory flexibility analysis will be prepard. An environmental assessment is being prepared in accordance with part 10 of the regulations in this Title.

Accordingly, it is proposed to amend Title 44, The Code of Federal Regulations by adding a new part 312 to Subchapter E, Chapter 1, as follows:

PART 312—USE OF CIVIL DEFENSE PERSONNEL, MATERIALS, AND FACILITIES

Sec.
312.1 Purpose.
312.2 Definitions.
312.3 Policy.
312.4 General.
312.5 Personnel.
312.6 Materials and Facilities.

Authority: Section 803(a)(3) Pub. L. 97-86; Section 401 of the Federal Civil Defense Act of 1950, as amended, 50 U.S.C. App. 2253; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp. p. 329; and Executive Order 12148 of July 20, 1979, 44 FR 43239.

§ 312.1 Purpose.

The purpose of the regulations in this part is to prescribe the terms and conditions under which civil defense personnel, materials, and facilities, supported in whole or in part through contributions under the Federal Civil Defense Act of 1950, as amended, 50 U.S.C. App. 2251 *et seq.*, hereinafter referred to as "the Act", may be used for natural disasters, to the extent that such usage is consistent with, contributes to, and does not detract from attack-related civil defense preparedness.

§ 312.2 Definitions.

Except as otherwise stated, when used in the regulations in this part, the meaning of the listed terms are as follows:

(a) The term "attack" means any attack or series of attacks by an enemy of the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner by sabotage or by use of bombs, shellfire, or atomic radiological, chemical, bacteriological, or biological means or other weapons or processes;

(b) The term "natural disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, or other catastrophe in any part of the United States which causes, or which may cause, substantial damage or injury to civilian property or persons and, for the purposes of the Act, any explosion, civil disturbance, or any other manmade catastrophe shall be deemed to be a natural disaster;

(c) The term "civil defense" means all those activities and measures designed or undertaken (1) to minimize the effects upon the civilian population caused, or which would be caused, by an attack upon the United States, or by natural disaster, (2) to deal with the immediate emergency conditions which would be created by any such attack, or natural disaster, and (3) to effectuate emergency repairs to, or the emergency restoration of vital utilities and facilities destroyed or damaged by any such attack or natural disaster. Such term shall include, but shall not be limited to, (A) measures to be taken in preparation for anticipated attack or natural disaster (including the establishment of appropriate organizations, operational plans, and supporting agreements; the recruitment and training of personnel; the conduct of research; the procurement and stockpiling of necessary materials and supplies; the provision of suitable warning systems; the construction of preparation of shelter areas, and control centers; and, when appropriate, the non-military evacuation of civil population); (B) measures to be taken during attack or natural disaster (including the enforcement of passive defense regulations prescribed by duly established military or civil authorities; the evacuation of personnel to shelter areas; the control of traffic and panic; and the control and use of lighting and civil communications); and (C) measures to be taken following attack or natural disaster (including activities for fire fighting; rescue, emergency medical, health and sanitation services; monitoring for specific hazards of special weapons; unexploded bomb reconnaissance; essential debris clearance; emergency welfare measures; and immediately essential emergency repair or restoration of damaged vital facilities);

(d) The word "materials" shall include raw materials, supplies, medicines, equipment, component parts and technical information and processes necessary for civil defense;

(e) The word "facilities", except as otherwise provided herein, shall include buildings, shelters, utilities, and land;

(f) The term "United States" or "States" shall include the several States,

the District of Columbia, the Territories, and the possessions of the United States;

(g) The term "political subdivisions" shall include local governments, including but not limited to cities, towns, incorporated communities, counties, parishes, and townships; and

(h) The term "CPG 1–3" refers to FEMA's "Federal Assistance Handbook" promulgated as Civil Preparedness Guide (CPG) 1–3, as amended by numbered changes thereto and by Civil Preparedness Circulars (CPC) as provided in 44 CFR 310.20. CPG 1–3 sets forth detailed guidance on procedures which a State and, where applicable, its political subdivisions must follow in order to request financial assistance from FEMA. It also sets forth detailed requirements, terms, and conditions upon which financial assistance is granted.

§ 312.3 Policy.

(a) It is the policy of FEMA to provide a means of assistance to States and their political subdivisions in their carrying out responsibilities to alleviate the suffering and damage from attack-related or natural disasters by:

(1) Providing contributions for personnel, equipment, materials and facilities that may be used in preparing for or responding to disasters, provided that the use of such funds for natural disasters is consistent with, contributes to, and does not detract from attack-related civil defense preparedness.

(2) Encouraging the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the State and its political subdivisions.

(3) Assisting in achieving greater coordination of disaster preparation and response programs.

(4) Providing technical advice and guidance to States and their political subdivisions for organizing and preparing to meet the effects of disasters.

(b) These regulations are not to be interpreted as authorizing States and their political subdivisions to request or receive additional assistance relating to particular disaster incidents.

§ 312.4 General.

(a) The Director, FEMA, will provide statements to States and their political subdivisions concerning Agency mission and goals, Annual Program Emphasis, and other directions, instructions, and technical guidance which together specify preparedness and response activities for both attack-related and natural disasters.

(b) States and their political subdivisions may apply to FEMA for financial assistance under the Act in a manner prescribed by Federal Regulations governing grants and cooperative agreements. Such applications must be compatible with FEMA's goals and requirements described in paragraph (a) of this section.

(c) Financial contributions to States and their political subdivisions are made by FEMA based on approval of the activities and projects described in the Annual Program Paper, and/or Comprehensive Cooperative Agreement, and which are in conformance with provisions of CPG 1–3, and applicable FEMA regulations set forth in Chapter 1 of this Title 44, Chapter 1, Subchapter E, of the Code of Federal Regulations. Financial contributions will not be made unless substantive activities and projects in preparations for and response to attack-related disasters are identified, and progress is indicated in the submissions, and recorded in program reporting systems.

(d) State and local officials may use personnel, equipment, and facilities for natural disasters outside the physical boundaries of the jurisdiction to which these personnel, materials, and facilities were provided, under the conditions stated within this Regulation.

(e) Specific criteria relating to the preparedness and response activities are given in sections 5 and 6 of this part.

§ 312.5 Personnel.

FEMA contributes to the development and support of emergency management organizations in the States and their political subdivisions, and to the development, operation, and maintenance of specific programs, through payment of salaries and benefits of State and local civil defense staff, and the payment of administrative expenses and travel, not to exceed 50%. FEMA also provides contributions for training and education expenses. The following use of such personnel for natural disaster purposes is allowable provided that such usage is consistent with, contributes to, and does not detract from civil defense preparedness:

(a) In developing, maintaining, testing and exercising plans, systems, and procedures for the protection of people and property from the effects of attack-related disasters. States and their political subdivisions may include and provide for natural disasters.

(b) Personnel supported in part through contributions under the Act may be assigned responsibilities for preparation for and response to natural disasters in any specific emergency occurring in a State or its political subdivisions as determined by the responsible State or local officials respectively.

(c) Personnel supported in whole under the Act, such as Nuclear Civil Protection Planners, Radiological Defense Officers, and so on, may be assigned to response operations in natural disasters for a period not to exceed ten (10 working days, provided that prior authorization of the FEMA Regional Director is obtained. An extension to work in excess of ten (10) working days must be requested of the respective FEMA Regional Director by a separate action; the length of time must be specified in the request.

(d) In the event of an emergency or major disaster declared under the Disaster Relief Act of 1974, as amended, personnel will not be provided overtime compensation and expenses under the Act.

§ 312.6 Material and facilities.

FEMA also contributes to the development and support of emergency management in the States and their political subdivisions, and to the development, operation, and maintenance of specific programs, through providing certain materials and facilities. The following may be used for natural disaster purposes provided that such usage is consistent with, contributes to, and does not detract from attack-related civil defense preparedness:

(a) Materials provided and maintained through contributions under the Act.

(b) Technical information, guidance through which technical assistance is provided, and training courses, may contain examples, illustrations, discussion, suggested applications and uses of material.

(c) Equipment loaned under provisions of the Contributions Project Loan Program.

(d) Facilities, such as Emergency Operating Centers, provided and maintained through contributions under the Act.

Dated: March 9, 1982.

Lee M. Thomas,

Associate Direction, State and Local Programs and Support.

[FR Doc. 82-7014 Filed 3-15-82; 8:45 am]

BILLING CODE 6718-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Foreign Fishing

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: The NOAA proposes to withdraw an appendix to one of the foreign fishing regulations that shows the joint venture processing (JVP) capacity and the total allowable level of foreign fishing (TALFF) in the various United States fisheries. Instead, NOAA proposes to announce redistributions of fish among foreign and domestic fishermen and processors by publishing a notice. Timely announcements of redistributions will facilitate the attainment of optimum yield from the Nation's fishery resources.

DATES: Comments on the proposed rule must be received on or before April 15, 1982.

ADDRESS: Comments should be addressed to: Alfred J. Bilik, Permits and Regulations Division, National Marine Fisheries Service, 3300 Whitehaven Street N.W., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Susan Jelley (Permits and Regulations Division), Telephone: 202 634–7432.

SUPPLEMENTARY INFORMATION: Since their inception, the foreign fishing regulations (50 CFR Part 611) have included a table that shows the optimum yield of all fisheries under management plans, as well as the distribution of the optimum yield among domestic harvest, domestic and joint venture processing amounts, "reserve," and the total allowable level of foreign fishing (TALFF). The TALFF table, which shows current distributions of the optimum yields, is codified as an Appendix to section 611.20, "Total Allowable Level of Foreign Fishing." Since amounts of fish are redistributed continuously throughout the year as the fisheries progress, NMFS has been required to amend the TALFF table, to reflect those adjustments through the rulemaking process. In the past that process of amending the TALFF table posed few difficulties, and it had the advantage that foreign nations and U.S. joint venture operators maintained their copies of the foreign fishing regulations. Any changes in the distributions of optimum yields among TALFF, domestic annual harvest, domestic processing capacity, and joint venture processing (JVP) amounts were easily referenced.

The NMFS has reviewed its practice of publicizing the distributions of the optimum yields of the various fisheries by means of an appendix to a regulation, in light of the requirements imposed upon rulemaking by current regulatory reform measures. The lengthy delays that have resulted from compliance with those requirements have created ill-will with U.S. fishermen seeking to deliver increasing quantities of fish to foreign processors at sea, since they could not exceed JVP until a release from "reserves" was reflected in the TALFF table. These delays also have a negative effect on our foreign relations; to ease tensions, the State Department is allowing foreigners to fish on the basis of "anticipated, preliminary reallocations" of the reserves. For example, § 611.70 requires the Pacific whiting reserve release to have a 15-day public comment period. Because it has to go as a rulemaking, the final release was not made until five months after the date specified in the regulations. Therefore, NMFS proposes to withdraw the TALFF table from the Code of Federal Regulations, and to publish both initial JVPs and TALFFs, (JVPs and TALFFs at the start of the fishing year) and in-season adjustments to JVPs and TALFFs required by the fishery management plans as "notices" in the Federal Register. Interested parties will also be directed to contact the Office of Resource Conservation and Management or the appropriate Regional Director for up-to-date tables. This proposal will ensure that all interested parties have notice of the JVP and TALFF for a fishery. At the same time, this proposal will reduce delay.

The removal of the TALFF table from the appendix to 50 CFR 611.20 requires that references to the appendix in other portions of Part 611 be deleted. Thus amendments are proposed for §§ 611.20, 611.50, 611.52, 611.60, 611.70, 611.80, 611.81, 611.91, 611.92, 611.93, and 611.94, to reflect the proposed change. In addition, parts of § 611.81 are consolidated to avoid redundancy, and part of § 611.92 is revised to delete obsolete textual material.

Classification

This action seeks to simplify the process of publicizing information contained in the TALFF table. As a change in the manner of publicizing that information, this action does not constitute a "major" rule under the criteria specified in E.O. 12291. For the same reason, this action will not have a significant economic impact upon a substantial number of small entities for purposes of the Regulatory Flexibility Act. The General Counsel of the Department of Commerce has certified that this action will not have a significant economic impact upon a substantial number of small entities.

This action has no potential for significant environmental impacts, and thus is "categorically excluded" from requirements of the National Environmental Policy Act. This action involves no collection of information for purposes of the Paperwork Reduction Act of 1980.

Dated: March 9, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

PART 611—FOREIGN FISHING

For reasons set forth in the preamble, it is proposed to amend 50 CFR Part 611 as follows:

1. The authority citation for Part 611 reads as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1361 *et seq.*; 16 U.S.C. 1821 and 1855.

2. Section 611.20 is revised to read as follows:

§ 611.20 Total allowable level of foreign fishing.

(a) The total allowable level of foreign fishing (TALFF), if any, with respect to any fishery subject to the exclusive fishery management authority of the United States is that portion of the optimum yield (OY) of such fishery which will not be harvested by vessels of the United States.

(b) Each specification of OY and each assessment of the anticipated U.S. harvest will be reviewed during each fishing season. Adjustments to TALFFs will be made based on updated information relating to status of stocks, estimated and actual performance of domestic and foreign fleets, and other relevant factors.

(c) Specifications of OY and the initial estimates of U.S. harvests and TALFFs at the beginning of the relevant fishing year will be published in the Federal Register. Adjustments to those numbers will be published as notices in the Federal Register upon occasion or as directed by regulations implementing fishery management plans. For current apportionments, contact the appropriate Regional Director or the Office of Resource Conservation and Management, F/CM, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235.

3. Section 611.50 is amended by revising paragraph (b)(3) to read as follows:

§ 611.50 Northwest Atlantic Ocean fishery.

* * * * *

(b) * * *

(3) *TALFF.* The TALFFs for the Northwest Atlantic Ocean fishery are published in the Federal Register. Current TALFFs are also available from the Regional Director.

* * * * *

4. Section 611.52 is amended by revising paragraph (b) to read as follows:

§ 611.52 Mackerel fishery.

* * * * *

(b) *Allocation of reserve.* If the projected amount of mackerel to be harvested by U.S. fishermen exceeds the initial level of harvest specified as DAH at the beginning of each fishing year, the Regional Director will leave the excess in the reserve to allow the U.S. fishery to continue without closure throughout the year. The Regional Director will allocate the rest of the reserve to the total allowable level of foreign fishing (TALFF). If the projected amount of mackerel to be harvested by U.S. fishermen does not exceed the initial level of harvest specified as DAH, the Regional Director will allocate the entire reserve to TALFF.

* * * * *

5. Section 611.60 is amended by revising paragraph (b)(2) to read as follows:

§ 611.60 General provisions.

* * * * *

(b) * * *

(2) *TALFF.* The TALFFs are published in the Federal Register. Current TALFFs are also available from the Regional Director.

* * * * *

6. Section 611.70 is amended by revising paragraph (b)(1)(i) to read as follows:

§ 611.70 Washington, Oregon, and California trawl fishery.

* * * * *

(b) * * *

(1)(i) *Initial TALFF.* The total allowable levels of foreign fishing (TALFF), the amounts of fish set aside as reserves, and the estimated domestic annual harvest (DAH) are published in the Federal Register. Current TALFFs are also available from the Regional Director.

* * * * *

7. Section 611.80 is amended by revising paragraph (b)(2) to read as follows:

§ 611.80 Seamount groundfish fishery.

* * * * *

(b) * * *

(2) *TALFF.* The TALFFs for the seamount groundfish fisheries are published in the Federal Register. Current TALFFs are also available from the Regional Director.

* * * * *

8. Section 611.81 is amended by removing paragraphs (b)(4)(ii)(A) and (b)(4)(iii), by redesignating paragraph (b)(4)(i)(A) as paragraph (b)(4)(ii)(A) and revising it, by redesignating paragraphs (b)(4)(i)(B), (b)(4)(ii)(B) and (b)(4)(ii)(C) as paragraphs (b)(4)(ii)(B), (b)(4)(iii)(A) and (b)(4)(iii)(B), respectively, and by adding a new paragraph (b)(4)(i), to read as follows:

§ 611.81 Pacific billfish, oceanic sharks, wahoo, and mahi mahi fishery.

* * * * *

(b) * * *

(4) * * *

(i) *TALFF, reserve, and JVP amounts.* The TALFFs, amounts of fish held in reserve, and amounts of JVP are published in the Federal Register. Current TALFFs, reserves and JVP are also available from the Regional Director.

(ii) *TALFF and national allocations.* (A) The total amount of each species of billfish, oceanic sharks, wahoo, and mahi mahi which may be caught and retained in each regulatory area by foreign vessels subject to this section is limited to the TALFF for each applicable regulatory area, and to the amount of the applicable national allocation.

* * * * *

9. Section 611.91 is amended by revising paragraph (b)(2) to read as follows:

§ 611.91 Tanner crab fishery.

* * * * *

(b) * * *

(2) *TALFF.* The total allowable level of foreign fishing (TALFF) for Tanner crab is published in the Federal Register. Current TALFFs are also available from the Regional Director.

* * * * *

10. Section 611.92 is amended by removing paragraph (a)(3) and by revising paragraph (c)(1)(i) to read as follows:

§ 611.92 Gulf of Alaska groundfish fishery.

* * * * *

(c)(1) *OYs, TALFFs and Reserves.* (i) The specifications of optimum yield (OY), estimates of domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), and TALFFs and Reserves are published in Federal Register. Current amounts are also available from the Regional Director. Species listed in paragraph (b)(1) and Table I of this section as "unallocated species," or species for which the TALFF is zero, shall be treated as prohibited species in accordance with 50 CFR 611.13.

* * * * *

11. Section 611.93 is amended by revising paragraphs (b)(1)(i) and (b)(2) to read as follows:

§ 611.93 Bering Sea and Aleutian Islands groundfish fishery.

* * * * *

(b) * * *

(1) *TALFFs and Reserves.* (i) The OY, DAH, TALFF, and reserve for target species and other species taken in the fishery are specified and published in the Federal Register. Current amounts are also available from the Regional Director. The TALFF for nonspecified species is any amount of such species taken incidentally to the harvest of the specified TALFF, and of such amounts of the specified reserve and DAH as may be apportioned to TALFF.

* * * * *

(2) *Apportionment to TALFF of Reserves and Initial DAH.* (i) *Apportionment of Reserves.* As soon as practicable after each of the following dates, and after consultation with the North Pacific Fishery Management Council, the Secretary shall apportion to TALFF up to one-fourth (¼) of each of the initial reserve amounts, in accordance with paragraph (b)(2)(iii) of this section: February 2, April 2, June 2, and August 2.

(ii) *Apportionment of Initial DAH.* As soon as practicable after each of the following dates, and after consultation with the North Pacific Fishery Management Council, the Secretary shall reassess each DAH amount and shall apportion to TALFF such parts thereof as he or she determines to be appropriate in accordance with paragraph (b)(2)(iii) of this section: June 2 and August 2.

* * * * *

12. Section 611.94 is amended by revising paragraph (b)(2) to read as follows:

§ 611.94 Snail fishery.

* * * * *

(b) * * *

(2) *TALFF, DAH, DAP, JVP, Reserve.* The annual total allowable level of foreign fishing (TALFF), domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), and reserve for snails for each calendar year are published in the Federal Register. Current amounts are also available from the Regional Director.

* * * * *

[FR Doc. 82-7058 Filed 3-15-82; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 47, No. 51
Tuesday, March 16, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

National Voluntary Service Advisory Council; Meeting

AGENCY: ACTION.

ACTION: National Voluntary Service Advisory Council; Meeting.

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the National Voluntary Service Advisory Council (Council) will be held on April 1, 1982 from 8:30 a.m.–5:30 p.m. in Washington, D.C. For further details concerning location contact Mark Blitz, Assistant Director of ACTION for Policy and Planning, at (202) 254–8501.

The purpose of this meeting is to enable the Council members to review the nominees submitted for a Volunteer Action Award and to compile a final list of recommended individuals for such an award for the Director of ACTION to submit to the President. In accordance with the determination of the Director of ACTION, the meeting will be closed to the public pursuant to subsection (c)(9)(B) of section 552b of Title 5, United States Code. The determination of the Director of ACTION is available to the public at 806 Connecticut Avenue, NW., Washington, D.C. 20525 during the regular working hours of 8:30 a.m. to 5:15 p.m.

Signed this 11th day of March 1982 in Washington, D.C.

Thomas W. Pauken,

Director, ACTION.

[FR Doc. 82-7076 Filed 3-15-82; 8:45 am]

BILLING CODE 6325-01-M

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Public Access and Information; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–163), notice is hereby given of a meeting of the Committee on Public Access and Information of the Administrative Conference of the United States, to be held at 9:30 a.m., Thursday, March 18, 1982, in the Library of the Administrative Conference, 2120 L Street, NW., Suite 500, Washington, D.C.

The Committee will meet to discuss further the scope and substance of comments by the Committee on proposed recommendations of the ACUS Committee on Regulation of Business on the subject of the treatment of confidential business information under the FOIA. At meetings on February 17, and March 11, 1982, the Committee reached general agreement on the issues of (1) the appropriate coverage of Exemption (b)(4) of the FOIA, (2) agency discretion to release information covered by the exemption, (3) and certain aspects of agency procedure for handling such information.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least one day in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting, contact Michael W. Bowers (202–254–7065). Minutes of the Committee meetings are available on request.

Richard K. Berg,

General Counsel.

March 11, 1982.

[FR Doc. 82-7044 Filed 3-15-82; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Central Electric Power Cooperative, Inc.; Finding of No Significant Impact

The Rural Electrification Administrtation (REA) has prepared a Finding of No Significant Impact which concludes that there is no need for REA to prepare an environmental impact statement in connection with possible financing assistance to Central Electric Power Cooperative (Central) of Jefferson City, Missouri, for the construction of 51.8 km (32.4 miles) of 161 kV transmission line from Truman Dam to Gravois and associated substation facilities. The project is located in Benton and Morgan Counties, Missouri.

Central has prepared a Borrower's Environmental Report (BER) concerning the proposed project. An Environmental Assessment (EA) was prepared by REA. Threatened and endangered species, important farmlands and forestlands, archeological and historic sites, wetlands and floodplains, and other potential impacts of the proposed project are adequately considered in the EA.

The floodplain of Cole Camp Creek will be crossed by the proposed project. REA determined there are no practicable alternatives to crossing this floodplain. The transmission structures, however, are designed to mitigate potential effects arising from the placement of the transmission line within the floodplain.

Based on REA's independent evaluation, the EA and a review of Central's BER and other documents, a Finding of No Significant Impact was reached in accordance with REA Bulletin 20–21:320–21.

Alternatives evaluated include no action and alternate routes. The proposed transmission line is acceptable for Central to provide a second outlet for the Truman Dam hydroelectric plant.

Copies of the Finding of No Significant Impact, the EA and Central's BER may be reviewed at or obtained from the office of the Director, Power Supply Division, Room 0230, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250,

or reviewed at the office of Central Electric Power Cooperative, P.O. Box 269, Highway 54 South, Jefferson City, Missouri 65102.

This Program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 9th day of March, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-6822 Filed 3-15-82; 8:45 am]

BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

[Docket No. 40432]

Bergt-Ala-Western-Wien Acquisition and Control Case; Hearing

Notice is hereby given pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-titled proceeding will be held on April 19, 1982, at 10:00 a.m. (local time), in Room 1003, Hearing Room A, 1875 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge William A. Kane, Jr.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to Board Order 82-2-86 adopted February 17, 1982, the prehearing conference report served on March 9, 1982, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., March 11, 1982.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 82-7045 Filed 3-15-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 35918]

Deutsche Lufthansa Aktiengesellschaft, Respondent; Enforcement Proceeding; Reassignment

This proceeding has been reassigned to Chief Administrative Law Judge Elias C. Rodriguez. Future communications should be addressed to him.

Dated at Washington, D.C., March 10, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc 82-7046 Filed 3-15-82; 8:45 am]

BILLING CODE 6320-01-M

[Order No. 82-2-128; 82-2-130]

Orders Concerning North Atlantic and North/Central Pacific Fares

The Board has adopted orders approving, subject to conditions, agreements adopted by the International Air Transport Association (IATA) relative to the North Atlantic passenger fare structure (Order 82-2-128), and to North/Central Pacific fare matters (Order 82-2-130). The changes would generally take effect on April 1, 1982.

Copies of these orders are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

By the Civil Aeronautics Board: February 26, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-7047 Filed 3-15-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket Nos. 37818, 37976; Order 82-3-62]

Order Concerning Mail Rates

Order 82-3-62, March 9, 1982, Dockets 37818 and 37976, establishes increased intra-Hawaii final service mail rates for the periods July 1 through December 31, 1981, and January 1 through June 30, 1982.

Copies of this order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-7048 Filed 3-15-82; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Connecticut Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Connecticut Advisory Committee to the Commission will convene at 7:00 p.m., and will end at 9:00 p.m., on April 15, 1982, at the Lord Cromwell Inn, Exit 21 off I-9, Cromwell, Connecticut. The purpose of this meeting is to discuss program plans for fiscal year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, John Rose, Jr., Post Office Box 3216, Hartford, Connecticut, 06103, (203) 525-4700 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110, (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 10, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-7008 Filed 3-15-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Fund Availability for Planning Grant Funds to Economic Development Districts; Redevelopment Areas and Indian Tribes

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Notice. Catalog of Federal Domestic Assistance: 11.302 Economic Development—Support for Planning Organizations.

SUMMARY: The EDA Office of Planning, Technical Assistance, Research and Evaluation announces that grant funds are available to defray administrative expenses in support of the economic development planning efforts of Economic Development Districts (Districts), Redevelopment Areas (Areas) and Indian Tribes under the authority of section 301(b) of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3121, *et seq.*, (PWEDA). Eligible applicants are Districts, Areas and Indian Tribes (including Alaskan Native Villages).

GRANT OBJECTIVE: The objective of these section 301(b) grants is to support the formulation and implementation of economic development programs designed to create or retain full-time permanent jobs and income particularly in designated Redevelopment Areas.

FUNDING AVAILABILITY: EDA will give funding consideration in accordance with the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35). Funds are presently available in two categories: Districts and Areas (Category A); and Indian Tribes (Category B).

A. As of December 31, 1981, a total of $7,000,000 is available for Districts and Areas. For renewal applicants (applicants currently participating in the program), maximum assistance is limited to 50 percent of their previous annual grants. For new applicants, assistance is limited to $25,000.

B. As of December 31, 1981, a total of $1,500,000 is available for Indian Tribes currently participating in the program. No new applicants will be considered for grants in this category.

FUNDING INSTRUMENT: Assistance will be provided in the form of direct grants or grant amendments for up to 75 percent of project costs for Category A grants. Under Category A, the applicant will be required to cover the remaining costs through cash or in-kind contributions. Category B assistance will be provided in the form of grant amendments for up to 100 percent of project costs.

GRANT DURATION: Under Category A, amended grants will be extended for six months, generally through June 30, 1982.

Successful Category A applicants not currently participating in the program may receive up to one year from the date of grant award to accomplish project activities. Under Category B, amended grants will be extended for six months, generally through June 30, 1982. No amendment may extend beyond September 30, 1982.

SELECTION CRITERIA: For renewal applicants under both Categories A and B, selection will be based upon past performance and receipt of the special report assessing past, present and future economic development efforts that was required by their grants providing assistance through December 31, 1981. For applicants with unresolved audits or outstanding financial obligations from previous grants, consideration of further funding may be delayed. Renewal applicants performing satisfactorily will receive priority consideration for available funds.

For new applicants under Category A, selection will be based upon meeting eligibility criteria for authorized Districts or Redevelopment Areas and the responsiveness of their proposals to the following program requirements: (1) That the grant will be administered by the Economic Development District, or in the case of Areas, the delegate agency responsible for the comprehensive economic development planning process; (2) that an ongoing economic development planning process exists or will be established; (3) that the planning process will be coordinated with the State, cities, other political subdivisions and economic development organizations; and (4) that the results of the planning process will be incorporated into the executive decision making process of the District or Redevelopment Area. New applicants must present a strong case supporting the logic for this one-time funding of an on-going economic planning process.

PRE-APPLICATION PROCEDURES: Renewal applicants under both Categories A and B should begin the application process by submitting a letter signed by the chief elected official (Chairman of the Board, Tribal Chairman) of the District, Area or Indian Tribe indicating a desire to continue receiving funds to carry out the types of planning activities eligible under the 301(b) program. New applicants under Category A should submit a brief (no more than 5 pages) proposal outlining the specific activities to be carried out with the requested funds and indicating how the proposed activity will be part of a continuous planning process. The proposal must be submitted by the chief elected official (Chairman of the Board) of the District or Area. Priority consideration for funding will be given to letters and proposals postmarked no later than two weeks after the date of this notice.

FORMAL APPLICATION PROCEDURES: Following review of the pre-application materials, EDA will notify applicants selected for funding to submit formal applications for specific amounts.

In the case of renewal applicants, this will consist of a revised budget document, while new applicants will be asked to complete the following forms: ED-430 Planning Grant Application; ED-503 Assurance of Civil Rights Compliance; and ED-524 Certification of Compliance with Clean Air Act and Federal Water Pollution Control Act.

A-95 APPLICABILITY: Applicants not participating in the programs as of December 31, 1981, must comply with the provisions of OMB Circular A-95, which require review and comment by appropriate State and Areawide Clearinghouses.

SUBMISSION INFORMATION: Requests for assistance under this program should be addressed to the appropriate EDA Regional Office as identified below.

John E. Corrigan, Director, Philadelphia Regional Office, Economic Development Administration, Federal Reserve Bank Building, 105 North Seventh Street, Room 600, Philadelphia, Pennsylvania 19106, (215) 597-4603, Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virginia Virgin Islands, and West Virginia;

Wilbur J. Hattendorf, Acting Director, Atlanta Regional Office, Economic Development Administration, Suite 700, 1365 Peachtree Street, N.E., Atlanta, Georgia 30309, (404) 881-7401, Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee;

Craig M. Smith, Director, Denver Regional Office, Economic Development Administration, Tremont Center, 333 West Colfax Avenue, Denver, Colorado 80206, (303) 837-4714, Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming

Edward G. Jeep, Director, Chicago Regional Office, Economic Development Administration, 175 W. Jackson Boulevard, Suite A-1630, Chicago, Illinois 60604, (312) 353-7706, Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin;

Phyllis Lamphere, Director, Seattle Regional Office, Economic Development Administration, Lake Union Building, Suite 500, 1700 Westlake Avenue North, Seattle, Washington 98109, (206) 442-0596, Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, and Washington;

Joseph B. Swanner, Director, Austin Regional Office, Economic Development Administration, American Bank Tower, Suite 600, 221 West Sixth Street, Austin, Texas 78701, (512) 397-5461, Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

For further information, contact Henry Glaser on (202) 377-3027 at EDA Headquarters in Washington, D.C.

Dated: March 9, 1982.

Carlos C. Campbell,

Assistant Secretary for Economic Development.

[FR Doc. 82-7060 Filed 3-15-82; 8:45 am]

BILLING CODE 3510-24-M

Fund Availability for State Planning Grants

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Notice. Catalog of Federal Domestic Assistance: 11.305 Economic Development—State and Local Economic Development Planning.

SUMMARY: This notice provides information on the availability of grant funds under the State Planning Grant Program authorized by section 302(a) of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3121, *et seq.*, (PWEDA). The program is administered by EDA's Office of Planning, Technical Assistance, Research and Evaluation.

ELIGIBILITY: Eligible applicants under this program are the governor of a State

or an agency designated by him, and the Chief Executive Officer of the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. Otherwise eligible applicants currently receiving assistance for economic development planning under section 301(b) of PWEDA will not be considered for funding under section 302(a).

GRANT OBJECTIVE: The primary objective of a planning grant under section 302(a) is to strengthen the economic development planning capability of States and other eligible entities to ensure a more productive use of available resources in reducing the effects of economic problems, particularly those resulting in high unemployment and low income. Planning conducted under these grants must be part of a continuous process involving public officials and private citizens.

FUNDING AVAILABILITY: EDA will give funding consideration in accordance with the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35). As of December 31, 1981, a total of $1,450,000 is available for this program in Fiscal Year 1982. For renewal applicants (applicants currently participating in this program), maximum assistance is limited to the precentage of their annual grant level to total program levels in the past multiplied by the amount of presently available funds. For new applicants (applicants not currently participating in the program), assistance is limited to $30,000.

FUNDING INSTRUMENT: Assistance will be provided in the form of a direct grant for up to 75 percent of project costs. The applicant is required to cover the remaining costs through cash or in-kind contributions. Successful renewal applicants currently participating in the program will have this assistance provided in the form of an amendment to their existing grant to increase project costs, continue the existing scope of work, and extend the duration of the project.

SELECTION CRITERIA: For renewal applicants, selection will be based upon past performance and receipt of the special report assessing past, present and future economic development efforts that was reqired by their grants providing assistance through December 31, 1981.

For new applicants, selection will be based upon the responsiveness of their proposals to the following program requirements: (1) That the grant will be administered by the Governor or an agency designated by him as responsible for the comprehensive economic development planning process; (2) that an ongoing economic development planning process exists or will be established; (3) that the planning process will be conducted cooperatively by the State, cities, other political subdivisions and economic development organizations; (4) that the results of the planning process will be incorporated into the executive decision making process; and (5) that the planning process will be coordinated with energy conservation planning efforts to ensure that energy conservation principles, activities and measures are reflected in State economic development plans, programs and projects. New applicants must present a strong case supporting the logic for this one-time funding of an on-going economic planning process.

For applicants with unresolved audits or outstanding financial obligations from previous grants, consideration of further funding may be delayed.

GRANT DURATION: Project activities funded under this program for renewal applicants may extend no later than September 30, 1982. Project activities funded under this program for new applicants may extend no longer than one year beyond the grant award date.

PRE-APPLICATION PROCEDURES: Renewal applicants should begin the application process by submitting a letter signed by the head of the grantee organization indicating a desire to continue receiving funds to carry out the types of planning activities eligible under the 302(a) program. New applicants should submit a brief (no more than 5 pages) proposal outlining the specific activities to be carried out with the requested funds and indicating how the proposed activity will be part of a continuous planning process. The proposal must be submitted by the Governor in the case of States and the Chief Executive Officer in the case of other eligible applicants. Priority consideration for funding will be given to letters and proposals postmarked no later than two weeks after the date of this notice.

FORMAL APPLICATION PROCEDURES: Following review of the pre-application materials, EDA will notify applicants selected for funding to submit formal applications for specific amounts. In the case of renewal applicants, this will consist of a revised budget document, while new applicants, will be asked to complete the following forms: ED–430 Planning Grant Application; ED–503 Assurance of Civil Rights Compliance; and ED–524 Certification of Compliance with Clean Air Act and Federal Water Pollution Control Act.

A–95 APPLICABILITY: All new applicants must comply with the provisions of OMB Circular A–95, which require that applications be cleared by the State Clearinghouse.

SUBMISSION INFORMATION: Requests for assistance under this program should be addressed to Beverly L. Milkman, Director, Office of Planning, Technical Assistance, Research and Evaluation, Economic Development Administration, Room 7844, U.S. Department of Commerce, Washington, D.C. 20230. Further information can be obtained from Tony Meyer or Beatrice Montague in EDA Headquarters on (202) 377–3027.

Dated: March 3, 1982.

Carlos C. Campbell,

Assistant Secretary for Economic Development.

[FR Doc. 82-7082 Filed 3-15-82; 8:45 am]

BILLING CODE 3510-24-M

Fund Availability for University Center Grants

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Notice. Catalog of Federal Domestic Assistance: 11.303 Economic Development—Technical Assistance.

SUMMARY: The EDA Office of Planning, Technical Assistance, Research and Evaluation announces that grant funds are available to continue the University Center Program operated under the authority of section 301(a) of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3121, *et seq.*, (PWEDA). Eligible applicants under this program are the 31 colleges and universities currently participating in the program.

FUNDING AVAILABILITY: EDA will give funding consideration in accordance with the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35). As of December 31, 1981, a total of $1,160,000 is available in Fiscal Year 1982 for continuation grants ranging from $25,000 to $65,000. The grants will be of six months' duration.

FUNDING INSTRUMENT: EDA will extend grant amendments to successful applicants for up to 75 per cent of the project's cost to increase project costs, continue the existing scope of work, and extend the project duration for six months. The grantee is required to cover the remaining costs of the project through cash or in-kind contributions.

SELECTION CRITERIA: Consideration of applications will be based on an assessment of a grantee's past performance and conformance of the program structure and scope of work with the following guidelines which govern the University Center program:

1. The center must be a significant semi-autonomous component of a university's outreach program with high level policy guidance and administrative support.
2. The center must offer a comprehensive range of business and engineering technical assistance services primarily through one-to-one counseling techniques.
3. The centers should assemble a small full-time staff comprised of a director and three or more professionals who are generalists in such fields as economics, marketing, accounting, industrial engineering and community development. The Center must also mobilize the specialized resources of the University.
4. The center must fill a significant gap in the range of institutional assistance available to support economic development in the service area, and must complement and reinforce this other assistance.
5. The center must serve an area of substantial economic need.
6. The center must demonstrate that it will be capable of generating the resources needed to carry on the program of activity after EDA funding expires.

For applicants with unresolved audits or outstanding financial obligations from previous grants, consideration of further funding may be delayed.

PRE-APPLICATION PROCEDURES: Following publication of this notice, EDA Regional Office staff will contact each University Center which EDA is currently supporting to ascertain its interest in continuing in the program and to advise it of the level of funding EDA will consider providing through a continuing grant amendment.

FORMAL APPLICATION PROCEDURES: Universities and colleges which meet the selection criteria and elect to continue in the program will be advised to complete an application for EDA assistance which should consist of the following forms: ED–357 NG, Technical Assistance Application; ED–503, Civil Rights Compliance Form; ED–612, Current and Project Permanent Employees Form; ED–524, Clean Air and Water Compliance Form.

A–95 APPLICABILITY: All eligible applicants have previously complied with the provisions of OMB Circular A–95.

SUBMISSION INFORMATION: Applications should be submitted to the appropriate EDA Regional Office. Addresses are:

John E. Corrigan, Director, Philadelphia Regional Office, Economic Development Administration, Federal Building, 105 North Seventh Street, Room 600, Philadelphia, Pennsylvania 19106, (215) 597–4603;

Wilbur J. Hattendorf, Acting Director, Atlanta Regional Office, Economic Development Administration, Suite 700, 1365 Peachtree Street, N.E., Atlanta, Georgia 30309, (404) 881–7401;

Edward G. Jeep, Director, Chicago Regional Office, Economic Development Administration, 175 W. Jackson Boulevard, Suite A–1630, Chicago, Illinois 60604, (312) 353–7706;

Craig M. Smith, Director, Denver Regional Office, Economic Development Administration, Tremont Center, 333 West Colfax Avenue, Denver, Colorado 80206, (303) 837–4714;

Phyllis Lamphere, Director, Seattle Regional Office, Economic Development Administration, 1700 Westlake Avenue North, Lake Union Building, Suite 500, Seattle, Washington 98109, (206) 442–0596;

Joseph B. Swanner, Director, Austin Regional Office, Economic Development Administration, American Bank Tower, Suite 600, 221 West Sixth Street, Austin, Texas 78701, (512) 397–5461.

For further information, contact Scott V. Rutherford, (202) 377–2812 at EDA Headquarters in Washington, D.C.

Dated: March 3, 1982.

Carlos C. Campbell,

Assistant Secretary for Economic Development.

[FR Doc. 82-7081 Filed 3-15-82; 8:45 am]

BILLING CODE 3510-24-M

Fund Availability for Urban Planning Grants

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Notice. Catalog of Federal Domestic Assistance: 11.305 Economic Development—State and Local Economic Development Planning.

SUMMARY: The EDA Office of Planning, Technical Assistance, Research and Evaluation announces that grant funds are available to continue the Urban Planning Program operated under the authority of section 302(a) of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3121, *et seq.*, (PWEDA). Eligible applicants under this program are the 93 cities and urban counties currently participating in the program.

GRANT OBJECTIVE: The primary objective of a planning grant under section 302(a) is to strengthen the economic development planning capability of cities and urban counties to ensure a more productive use of available resources in reducing the effects of economic problems, particularly those resulting in high unemployment and low incomes. Planning conducted under these grants must be part of a continuous process involving public officials and private citizens.

FUNDING AVAILABILITY: EDA will give funding consideration in accordance with the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35). As of December 31, 1981, a total of $2,300,000 is available for this program in Fiscal Year 1982 for continuation grants, which will be approximately the percentage of each applicant's annual grant level to total grant levels in the past multiplied by the amount of currently available funds.

FUNDING INSTRUMENT: EDA will extend grant amendments to successful applicants for up to 75 percent of project costs. The applicant will be required to cover the remaining costs through cash or in-kind contributions.

SELECTION CRITERIA: Consideration of applications will be based upon past performance and receipt of the special report assessing past, present, and future economic development efforts that was required by the grants providing assistance through December 31, 1981. For applicants with unresolved audits or outstanding financial obligations from previous grants, consideration of further funding may be delayed.

GRANT DURATION: Project activities funded under this program may extend no later than September 30, 1982.

APPLICATION PROCEDURES: Applicants for section 302(a) planning grants should begin the application process by submitting a letter signed by the head of the grantee organization indicating a desire to continue receiving funds to carry out the types of planning activities eligible under the 302(a) program. Priority consideration for funding will be given to letters and proposals postmarked no later than two weeks after the date of this notice.

FORMAL APPLICATION PROCEDURES: Following review of the letters, EDA will notify applicants which meet the selection criteria and elect to continue in the program to submit a revised budget document.

A–95 APPLICABILITY: All eligible applicants for this program have already complied with the provisions of OMB Circular A–95.

V 4 7 / 5 1 M R 16 82

SUBMISSION INFORMATION: Requests for assistance under this program should be addressed to Beverly L. Milkman, Director, Office of Planning, Technical Assistance, Research, and Evaluation, Economic Development Administration, Room 7844, U.S. Department of Commerce, Washington, D.C. 20230. Further information can be obtained from Tony Meyer and Beatrice Montague in EDA Headquarters on (202) 377–3027.

Dated: March 3, 1982.

Carlos C. Campbell,

Assistant Secretary for Economic Development.

[FR Doc. 82-7088 Filed 3-15-82; 8:45 am]

BILLING CODE 3510-24-M

International Trade Administration

Titanium Sponge From the U.S.S.R.; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On December 8, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on titanium sponge from the U.S.S.R. The review covered the only known exporter of this merchandise to the United States, Techsnabexport, and the period March 1, 1979 through July 31, 1980. Interested parties were given an opportunity to submit oral or written comments on the preliminary results. The Department received no comments objecting to those results.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT:

Dennis U. Askey or David R. Chapman, office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–4793/2657).

SUPPLEMENTARY INFORMATION:

Background

On August 26, 1968, a dumping finding with respect to titanium sponge from the U.S.S.R. was published in the Federal Register as Treasury Decision 68–212 (33 FR 12138). On December 8, 1981, the Department of Commerce ("the Department") published in the Federal Register the preliminary results of its administrative review of the finding (46 FR 60048). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of titanium sponge. Titanium sponge, which is used in the manufacture of aerospace vehicles, is currently classifiable under item number 629.1420 of the Tariff Schedules of the United States Annotated (TSUSA). The Department knows of only one exporter of titanium sponge from the U.S.S.R. to the United States, Techsnabexport. This review covers the period from March 1, 1979 through July 31, 1980. The Treasury Department reviewed all prior periods.

Final Results of the Review

Interested parties were invited to comment on the Department's preliminary results. The Department received only one comment, which did not object to our results but did suggest that overproduction may lead to sales at less than fair value in the future.

An allegation of possible sales at less than fair value in the future, without more, is an insufficient basis for a change in the conclusion reached in the preliminary review. If future imports enter at less than fair value, they will be the subject of a subsequent review under section 751. Therefore, the final results of our review are the same as those presented in the preliminary results.

Since there were no margins, the Department shall not require cash deposits, as provided for in § 353.48(b) of the Commerce regulations, on shipments of titanium sponge entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This zero deposit rate shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of August 1982.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: March 9, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-7019 Filed 3-15-82; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Proposed Changes Pertaining to the Interface Standards Exclusion List

In a notice published in the Federal Register on March 19, 1979 (44 FR 16466), the National Bureau of Standards (NBS) announced the establishment of exclusion criteria and procedures for developing and maintaining an exclusion list pertaining to Federal Information Processing Standards Publication 60 (which has since been redesignated as 60–1), Input/Output (I/O) Channel Interface; Federal Information Processing Standards Publication 61, Channel Level Power Control Interface; and Federal Information Processing Standards Publication 62, Operational Specifications for Magnetic Tape Subsystems. The approval of the Secretary of Commerce (Secretary) of those three Federal Information Processing Standards was previously announced in the Federal Register on February 16, 1979 (44 FR 10098-10101). The exclusion list also pertains to Federal Information Processing Standards Publication 63, Operational Specifications for Rotating Mass Storage Subsystems, approval of which by the Secretary of Commerce was announced in the Federal Register on August 27, 1979 (44 FR 50078).

The March 19, 1979, notice stated that once the exclusion list was established, interested parties could obtain a copy of that list and would be invited to submit to the Director, Institute for Computer Sciences and Technology (ICST), comments or recommendations regarding additions to or removals from that list. The notice also advised that information regarding any proposed changes in the exclusion list would be published in the Federal Register.

Announcement of the establishment of the initial exclusion list and its availability from NBS upon request appeared in the Federal Register on June 29, 1979 (44 FR 37968). Numerous changes to that exclusion list have since been made and announced in the Federal Register.

Comments from interested parties specifically identifying candidate systems which should be added to or removed from the exclusion list have been and continue to be especially encouraged.

As a result of a review and analysis of comments and recommendations received recently, NBS is proposing the following additions to the exclusion list:

Manufacturer	Model
IBM Corp.	IBM 4321.
WICAT Systems	System 100.
WICAT Systems	System 100DT.
WICAT Systems	System 150 IT, SST, MF, FS, WS.

Interested parties will be allowed until April 30, 1982, to submit written comments regarding the proposed changes. Such written comments should be submitted to the Director, ICST, Attention: Interface Standards Exclusion List, National Bureau of Standards, Washington, D.C. 20234. Following review of comments received in response to this notice, NBS will make a determination on the proposed changes and will announce that determination in a subsequent notice published in the Federal Register.

NBS maintains a mailing list of vendors, Federal agencies, and other interested parties to whom copies of the current exclusion list are sent on a regular basis. Parties on the mailing list will also be sent copies of the proposed changes and the announcement of the determination on the proposed changes. Those who wish to be included on the mailing list should send a written request to the address noted above for submission of comments in response to this notice.

The exclusion list will be used in conjunction with the applicability provisions of the Federal I/O channel level interface standards. This list and the exclusion criteria are not a part of the standards themselves, but are provided for in the standards.

Dated: March 11, 1982.

Ernest Ambler,

Director.

[FR Doc. 82-7020 Filed 3-15-82; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

State/Federal Cooperation in Fisheries Management—Adjusting to "New Federalism"; Public Meeting

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

SUMMARY: State Fish and Wildlife Directors from the Coastal and Great Lakes States and Territories, and officials from the National Oceanic and Atmospheric Administration, will meet to discuss "State/Federal Cooperation in Fisheries Management—Adjusting to 'New Federalism.'" The Conference format provides for panel presentations, regional workgroup sessions, and discussion forums to identify critical issues, to recommend actions, and to develop a strategy for maintaining an effective State/Federal partnership in the 1980's.

DATES: The Conference will convene on Tuesday, April 27, 1982, at 1:00 p.m.; Wednesday, April 28, 1982, at 8:30 a.m.; and Thursday, April 29, 1982, at 8:30 a.m. Conference adjournment is 3:00 p.m., Thursday, April 29, 1982.

ADDRESS: The Conference will take place at the Holiday Inn at 1501 Rhode Island Avenue, NW., Washington, D.C. The Conference is open to the public. Limited seating will be available on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT:

Richard H. Schaefer, Chief, State/Federal Division, Office of Resource Conservation and Management, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: (202) 634–7454.

Dated: March 10, 1982.

E. Craig Felber,

Chief, Management Services Staff, National Marine Fisheries Service.

[FR Doc. 82-7086 Filed 3-15-82; 8:45 am]

BILLING CODE 3510-22-M

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), will meet to review status reports on the development of fishery management plans; consider foreign fishing applications, if any, and conduct other fishery management business.

DATES: The public meetings will convene on Wednesday, April 7, 1982, at approximately 8:30 a.m., and will adjourn at approximately 5 p.m.; reconvene on Thursday, April 8, 1982, at approximately 8:30 a.m., and will adjourn at approximately noon.

ADDRESS: The public meetings will take place at the Fort Brown Motor Hotel, Aztec/Conference A, 1900 E. Elizabeth Street, Brownsville, Texas.

FOR FURTHER INFORMATION CONTACT:

Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228–2815.

Dated: March 11, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-7085 Filed 3-15-82; 8:45 am]

BILLING CODE 3510-22-M

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Determination

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of Determination.

SUMMARY: The Assistant Administrator for Fisheries has determined that the following nations remain in conformance with U.S. regulations regarding the protection of porpoises and accordingly may continue to export yellowfin tuna to the United States until December 31, 1982 provided prohibitions are not imposed under other U.S. statutes. These nations are: Bermuda, Canada, Cayman Islands, Costa Rica, Ecquador, Korea, Netherlands, Antilles, New Zealand, Panama, and Venezuela. the following nations remain under a Marine Mammal Protection Act prohibition to export yellowfin tuna to the U.S.: Mexico and Peru. The prohibitions against Senegal and the Congo are hereby rescinded since neither nation has been pursuing for yellowfin tuna in the eastern tropical Pacific for at least one year.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT:

Mr. R. B. Brumsted, Acting Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235. (Telephone: 202/634–7529).

SUPPLEMENTARY INFORMATION: The National Marine Fisheries Service (NMFS) published regulations in the Federal Register on December 23, 1977, (42 FR 64548–64560) governing the taking of marine mammals incidental to commercial fishing operations. These regulations were repromulgated on October 31, 1980 (45 FR 72178–72198). Included in these regulations are provisions concerning the importation of yellowfin tuna and tuna products from nations known to be involved in the yellowfin tuna purse seine fishery in the eastern tropical Pacific Ocean (ETP). Effective January 1, 1978, these importation provisions made the importation of yellowfin tuna and tuna products from nations known to be involved in the ETP fishery contingent upon certain findings by the Assistant Administrator for Fisheries. The Assistant Administrator must find (a) that the fishing operations of the nation concerned "* * * are conducted in conformance with U.S. regulations and standards * * *", or (b) that, "although not in conformity with these regulations, such fishing is accomplished in a manner which does not result in an incidental mortality and serious injury in excess of that which results from U.S. fishing operations under these regulations" (see 50 CFR 216.24(e)(5)).

These findings would then be subject to an annual review in which the information items listed in § 216.24(e)(5)(ii) are updated for the previous calendar year.

In 1981, the NMFS requested these information items for the 1980 calendar year from the following nations known to be actively pursuing in the ETP: Bermuda, the Cayman Islands, Costa Rica, Ecuador, Korea, Netherlands Antilles, New Zealand, Panama, and Venezuela. All nations have now responded and have been determined to be fishing in accordance with the requirements of § 216.24 except Panama, which must submit additional information prior to July 1, 1982. Canada's single remaining purse seiner is a vessel smaller than those known to effectively fish on porpoise and therefore that nation is not required to submit an annual report.

The following nations have been prohibited from exporting yellowfin tuna to the United States under the Marine Mammal Protection Act and during 1981 did not submit information requesting a new finding of conformance: Mexico, Peru, Congo, and Senegal. Spain remains under an embarbo imposed by the Tuna Conventions Act and may not export ETP yellowfin tuna to the United States. Ecuador, Mexico, and Peru are currently prohibited from exporting tuna to the United States under Section 205 of the Magnuson Fishery Conservation and Management Act.

The prohibition against the importation of yellowfin tuna into the United States from the Congo and Senegal was imposed in February 1980 after these nations failed to respond to a NMFS request for an annual update. However, during the 1980, the Congo moved its two vessels from the ETP to the Atlantic Ocean and Senegal sold its three vessels. These latter three vessels are currently fishing under Mexican flag. Since neither nation has had any purse seining operating in the ETP for the past year, they are no longer required to comply with the provisions of 50 CFR 216.24(e) and may, effective on the date of this notice, resume the exportation of yellowfin tuna to the United States.

Dated: March 12, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-7067 Filed 3-15-82; 8:45 am]

BILLING CODE 3510-22-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade; Proposed Amendments Relating to the GNMA-CDR and GNMA-CD Futures Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule change.

SUMMARY: The Chicago Board of Trade ("CBOT" or "Exchange") has submitted a proposal to amend its GNMA-CDR and GNMA-CD futures contracts in order to exclude GNMA "buy-down" mortgage pools from the standard grade deliverable on the GNMA contracts. The Commodity Futures Trading Commission ("Commission") has determined that the proposal is of major economic significance and that, accordingly, publication of that provision is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before April 15, 1982.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the Chicago Board of Trade Rules 1736.01B and 2036.01B.

FOR FURTHER INFORMATION CONTACT: Ronald Hobson, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C., (202) 254-7303.

SUPPLEMENTARY INFORMATION: The Chicago Board of Trade is proposing Rules 1736.01B and 2036.01B pertaining to its GNMA-CDR and GNMA-CD futures contracts, respectively. The CBOT's proposed rules exclude GNMA "buy-down" mortgage pools from the deliverable grade in the GNMA futures contracts. The Exchange states that the exclusion of GNMA "buy-down" mortgage pools is necessary to insure a consistent pricing mechanism in the GNMA futures contracts. Specifically, the Exchange believes the inclusion of GNMA "buy-down" mortgage pools would result in increased basis risk, distortion of the contract's pricing mechanism, and reduction of the hedging utility of the GNMA contracts because of significant price differentials between "buy-down" and standard GNMA certificates.

In accordance with Section 5a(12) of the Commodity Exchange Act (the "Act"), 7 U.S.C. 7a(12) (Supp. III 1979), the Commission has determined that the proposals submitted by the CBOT concerning its GNMA-CDR and GNMA-CD futures contracts are of major economic significance. Accordingly, the CBOT's proposed Rules 1736.01B and 2036.01B are printed below, using italics to indicate additions:

1736.01B Deliverable Grade—Resolved, that the Board hereby interprets Regulation 1736.01 not to include GNMA Buy-Down Mortgage Pools.

Further resolved, that pursuant to said interpretation, the Board hereby directs that GNMA certificates issued in connection with Buy-Down Mortgage Pools may not be delivered in satisfaction of a GNMA-CDE contract.

And further resolved, that the Board directs that upon tender of GNMA certificates, the seller shall be deemed to warrant that such GNMA certificates comply with the standards set forth in the regulation.

2036.01B Deliverable Grade—Resolved, the the Board hereby interprets Regulation 2036.01 not to include GNMA Buy-Down Mortgage Pools.

Further resolved, that pursuant to said interpretation, the Board hereby directs that GNMA certificates issued in connection with Buy-Down Mortgage Pools may not be delivered in satisfaction of a GNMA-CD contract.

And further resolved, that the Board directs that upon tender of GNMA certificates, the seller shall be deemed to warrant that such GNMA certificates comply with the standards set forth in the regulation.

Other materials submitted by the CBOT in support of the proposed rules may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1981)). Requests for copies of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by April 15, 1982. Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on March 10, 1982.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-6997 Filed 3-15-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Defense Intelligence Agency

Privacy Act of 1974; Amendment to the Notice for a System of Records

AGENCY: Defense Intelligence Agency.

ACTION: Amendment to the notice for a system of records.

SUMMARY: The Defense Intelligence Agency proposes to amend the notice for a system of records subject to the Privacy Act of 1974. These amendments followed by a complete system notice as amended are set forth below.

DATES: This amendment shall be effective April 15, 1982.

ADDRESSES: Address all comments to the system manager named in the system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Helen E. Shuford; Chief, Administrative Management Branch (RTS-1C), Defense Intelligence Agency, B-112 Cafritz Building, Washington, D.C. 20301. Telephone: (202) 695-1040.

SUPPLEMENTARY INFORMATION: The Defense Intelligence Agency notices of systems of records subject to the Privacy Act of 1974, Title 5 United States Code section 552a (Pub. Law 93-579; 88 Stat. 1896 *et seq.*) were published in the **Federal Register** at 46 FR 2544 (FR Doc. 82-674), January 18, 1982.

The proposed amendments do not require an altered system report in accordance with 5 U.S.C. 552a(o).

M. S. Healy,

OSD Federal Registerr Liaison Officer, Department of Defense.

March 5, 1982.

Changes

Proposed Amendments

LDIA 0335

System Name:

Alcohol and Drug Abuse Reporting Program.

Changes:

Categories of Individuals Covered by the System:

Delete current entry and insert:

"Any civilian employee of the Defense Intelligency Agency (DIA) who has been diagnosed as an alcohol/drug abuser by a physician and subsequently enroled in an alcohol/drug abuse treatment program. Former employees who were undergoing treatment at time of termination are retained in the file for two years and other former employees who were enrolled in a program less than two years before their termination may also be included."

Authority for Maintenance of the System:

Delete the current entry and insert:

"Pursuant to the authority contained in the National Security Act of 1947, (10 U.S.C. 133d) the Secretary of Defense issued Department of Defense Directive 5105.21 creating DIA as a separate agency of the Department of Defense under his direction and herein charged the Director, DIA, with the responsibility for the maintenance of necessary and appropriate records."

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses:

Delete the current entry and insert:

"Blanket routine uses" for DIA systems of records do not apply to this system of records.

Records concerning the identity, medical diagnosis, prognosis, or treatment of any person irrespective of whether or when the individual ceased treatment, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, are confidential and may be disclosed only for the purposes and under the circumstances expressly authorized in Title 21 U.S.C., section 1175, (as amended) and Title 42 U.S.C., section 4582 (as amended). Therefore, the record in the system may be disclosed outside DIA:

To government personnel for the purpose of conducting scientific research, management or financial audits, or program evaluation;

To appropriate elements within the Department of State, Department of Justice and Office of Personnel Management when required for actions relative to the employees employment, access to classified material or areas;

To a court of competent jurisdiction upon authorization by an appropriate order. Any safeguards against unauthorized disclosure imposed by the court in its order shall be honored."

Safeguards:

Delete current entry and insert:

"Records are maintained in a building protected by security guards and are stored in vaults, safes, or locked cabinets and are accessible only to personnel who are properly screened, cleared and trained in the protection of this information and have a need for access in connection with their official duties."

L-DIA 0335

SYSTEM NAME:

Alcohol and Drug Abuse Reporting Program.

SYSTEM LOCATION:

Defense Intelligence Agency, Washington, D.C. 20301.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any civilian employee of the Defense Intelligence Agency (DIA) who has been diagnosed as an alcohol/drug abuser by a physician and subsequently enrolled in an alcohol/drug abuse treatment program. Former employees who were undergoing treatment at time of termination are retained in the file for two years and other former employees who were enrolled in a program less than two years before their termination may also be included.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains employee intake and follow-up records, initial interview forms, counselor observations and impressions of employee's behavior and rehabilitation progress, copies of medical consultation and procedures performed, results of bio-chemical urinalysis for drug abuse, and similar or related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pursuant to the authority contained in the National Security Act of 1947, (10 U.S.C. 133d) the Secretary of Defense issued Department of Defense Directive 5105.21 creating DIA as a separate agency of the Department of Defense under his direction and herein charged the Director, DIA, with the responsibility for the maintenance of necessary and appropriate records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Blanket "routine uses" for DIA systems of records do not apply to this system of records.

Records concerning the identity, medical diagnosis, prognosis, or treatment of any person irrespective of whether or when the individual ceased treatment, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or

directly or indirectly assisted by any department or agency of the United States, are confidential and may be disclosed only for the purposes and under the circumstances expressly authorized in Title 21 U.S.C. section 1175, (as amended) and Title 42 U.S.C., section 4582 (as amended). Therefore, the record in the system may be disclosed outside DIA:

To government personnel for the purpose of obtaining benefits to which the person undergoing treatment is entitled;

To qualified personnel for the purpose of conducting scientific research, management or financial audits, or program evaluation;

To appropriate elements within the Department of State, Department of Justice and Office of Personnel Management when required for actions relative to the employees employment, access to classified material or areas;

To a court of competent jurisdiction upon authorization by an appropriate order. Any safeguards against unauthorized disclosure imposed by the court in its order shall be honored.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders. (manual).

RETRIEVABILITY:

By name and social security number.

SAFEGUARDS:

Records are maintained in a building protected by security guards and are stored in vaults, safes, or locked cabinets and are accessible only to personnel who are properly screened, cleared and trained in the protection of this information and have a need for access in connection with their official duties.

RETENTION AND DISPOSAL:

Records are maintained in the DIA personnel office, and destroyed two years after the individual leaves the treatment program or the case is terminated.

SYSTEM MANAGER(S) AND ADDRESS:

Special Assistant for Equal Employment Opportunity, Defense Intelligence Agency, Washington, D.C. 20301.

NOTIFICATION PROCEDURES:

To obtain information as to whether this system of records contains information pertaining to you, submit a written request to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301. Include in your request your full name, current address, telephone number and social security account number or date of birth. You may hand-carry your requests addressed as above to Room 3E–233, Pentagon, Washington, D.C.

RECORD ACCESS PROCEDURES:

All requests for copies of records must be in writing; and must include in your request your full name, current address, telephone number and social security account number or date of birth. State whatever cost is acceptable or acceptable up to a specified limit. Mail requests to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally deliver them to Room 3E–223, Pentagon, Washington, D.C.

CONTESTING RECORD PROCEDURES:

An individual who disagrees with the initial determination of DIA, with respect to his or her request, may file a request for administrative review of that determination. Requests must be in writing and made within 30 days of the date of notificaton to the individual of the initial determination. The requester must provide a statement setting forth in reasons for his or her disagreement with the initial determination and provide material or information to support the appeal. Mail your requests to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally deliver them to Room 3E–223, Pentagon, Washington, D.C.

RECORD SOURCE CATEGORIES:

Personal interviews, personal history statements, abstracts or copies of pertinent medical records, abstracts from personnel records, results of tests, physician's notes, observations from employee's behavior, related notes, papers, and counselor and/or clinical director.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82-7027 Filed 3-15-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Metropolitan Petroleum Company, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Metropolitan Petroleum Company, Inc., 3675 N.W. 58th Street, Miami, Florida 33142. This Proposed Remedial Order charges Metropolitan Petroleum Company with pricing violations in the amount of $173,259.09, connected with sales of motor gasoline during the period March 1, 1979 through July 31, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Mr. William R. Gibson, Deputy Director, Atlanta Office, Economic Regulatory Administration, 1655 Peachtree Street, N.W., Atlanta, Georgia 30367, telephone (404) 881–2661. On or before March 31, 1982, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th & Penn. Ave. NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Atlanta, Georgia on the 26th day of February 1982.

William R. Gibson,

Deputy Director, Atlanta Office, Economic Regulatory Administration.

Concurrence.

Susan P. Tate,

Deputy Regional Counsel.

[FR Doc. 82-7004 Filed 3-15-82; 8:45 am]

BILLING CODE 6450-01-M

Anchor Distributors, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Anchor Distributors, Incorporated, 7950 N.W. 58th Street, Miami, Florida 33166. This Proposed Remedial Order charges Anchor Distributors with pricing violations in the amount of $164,845.01, connected with sales of motor gasoline during the period January 1, 1980 through March 31, 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Mr. William R. Gibson, Deputy Director, Atlanta Office, Economic Regulatory Administration, 1655 Peachtree Street, N.W., Atlanta, Georgia 30367, telephone (404) 881–2661. On or before March 31, 1982, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th & Penn. Ave. NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Atlanta, Georgia on the 26th day of February 1982.

William R. Gibson,

Deputy Director, Atlanta Office, Economic Regulatory Administration.

Concurrence.

Susan P. Tate,

Deputy Regional Counsel.

[FR Doc. 82-7003 Filed 3-15-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER82–211–000]

Utah Power & Light Co.; Order Denying Motion to Reject, Accepting for Filing and Suspending Revised Rates Under Section 205, Accepting for Filing and Ordering a Hearing on Revised Rates Under Section 206, Granting Summary Dispositions, Granting Interventions, and Establishing Price Squeeze and Hearing Procedures

Issued March 10, 1982

On January 8, 1982, Utah Power & Light Company (UP&L) tendered for filing revised rates for service to UP&L's firm tariff resale customers.[1] These rates would provide for an increase in jurisdictional revenues of approximately $23,600,000 for the twelve-month period ending December 31, 1982. UP&L proposes an effective date of March 11, 1982, with respect to service to all of its customers but one; with respect to the City of Manti, Utah. UP&L proposes to make the rates effective prospectively from the issuance of a final Commission order pursuant to section 206 of the Federal Power Act.

Notice of the filing was issued on January 13, 1982, with responses due on or before February 2, 1982. On February 2, 1982, the Sierra Pacific Power Company (Sierra Pacific) filed a petition to intervene. Sierra Pacific states that it has as yet been unable to review the filing in detail because of a lack of supporting data; Sierra Pacific does note several cost of service and rate design matters which it believes may be improper and so asks for a hearing at which it may pursue these and other matters.

On February 2, 1982, the City of Manti, Utah (Manti) filed a proteat and petition to intervene. Manti requests the Commission to order a hearing on the proposed rates but raises no substantive issues.

On February 2, 1982, the Tri-State Intervention Group (Tri-State)[2] filed a protest and petition to intervene. Tri-State contends that the filing should be rejected because it fails to comply with the requirements of § 35.13 of the Commission's regulations in that it provides insufficient support for the Period II estimates and adjustments. In the alternative, Tri-State states that UP&L's failure to provide such support and other cost of service matters as well as the excessive requested return on common equity, the possibility of a price squeeze, and the hardship that would result from a shorter suspension require suspension for the maximum five months.

On February 17, 1982, UP&L filed a response. UP&L urges that its filing not be rejected as its filing is in substantial compliance with the regulations, the volume and cost of providing the documents sought by Tri-State would make the production burdensome, these materials will be made available for discovery, and the Company has made a good faith effort to comply with the regulations. UP&L further contends that its treatment of the various cost of service matters is appropriate and that a five month suspension would be unjust and inequitable. UP&L also challenges the allegations of price squeeze.

Discussion

Initially, the Commission finds that participation in this proceeding by the intervenors is in the public interest. Therefore, the petitions to intervene will be granted.

With respect to the motion to reject the filing, inasmuch as UP&L's submittal substantially complies with the Commission's filing requirements, Tri-State's motion to reject will be denied.[3]

Our analysis indicates that UP&L's revised rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend them as ordered below.

We have recently addressed the considerations underlying the Commission's policy regarding rate suspensions. *West Texas Utilities Company*, Docket No. ER82–23–000, (February 26, 1982). As explained there, where our preliminary analysis indicates that the increased rates may be unjust and unreasonable, but may not be substantially excessive, as described in *West Texas*, we shall suspend the rates for one day. Where, however, as here, our preliminary analysis indicates that the rates may be substantially excessive, we shall suspend the rates for the maximum period. Accordingly, we shall suspend the rates for service other than to Manti for a period of five months to become effective, subject to refund, on August 11, 1982. We note that revised rates for service to Manti will not become effective until the issuance of a Commission order determining a just and reasonable rate.

In Opinion No. 113,[4] the Commission affirmed the Presiding Judge's finding in that proceeding that Moon Lake, due to its load characteristics, should not have been included in the RS–3 customer class but rather should have been included in the RS–4 customer class. UP&L, in the instant filing, has again placed Moon Lake in the RS–3 customer class without demonstrating any changed circumstances which would require its reclassification. Accordingly, summary disposition is appropriate and we shall require UP&L to file revised rates and a revised cost of service reflecting the inclusion of Moon Lake in the RS–4 customer class.

We note that UP&L has functionalized general plant on a basis other than labor ratios. We have held that general plant should be allocated on the basis of labor ratios but we also have indicated that labor ratios need not be used if the company meets its burden of demonstrating that labor ratios are unreasonable when applied to that company, not merely that the company's alternative method might be reasonable.[5] UP&L bears this same burden.

In accordance with the Commission's policy established in *Arkansas Power and Light Company*, Docket No. ER79–339, (August 6, 1979), we shall phase the price squeeze issue raised by Tri-State. As we have noted in prior orders, this procedure will allow a decision first to be reached on the cost of service, capitalization, and rate of return issues. If, in the view of any of the intervenors or staff, a price squeeze persists, a second phase of the proceeding may follow.

[1] *See* Attachment A for customers and rate schedule designations.

[2] The Tri-State Intervention Group consists of Deseret Generation & Transmission Co-operative of Sandy, Utah on its own behalf and on behalf of its members; Mexican Hat Association of Mexican Hat, Utah; Strawberry Water Users of Payson, Utah; the cities of Blanding, Brigham, Levan, Nephi, Price, and St George, Utah; and the cities of Dubois and Soda Springs, Idaho.

[3] *See Municipal Light Boards of Readings and Wakefield, Massachusetts* v. *FERC*, 450 F.2d 1341 (D.C. Cir. 1971).

[4] *Utah Power & Light Co.*, Docket No. ER–79–121 (February 23, 1981) (Opinion No. 113), *order on reh.*, (April 24, 1981) (Opinion No. 113–A).

[5] *Southern California Edison Co.*, Docket No. ER81–177–000 (February 13, 1981); *Duke Power Co.*, Docket No. ER80–473 (August 19, 1980); *Lockhart Power Co.*, Docket No. ER80–490 (August 19, 1980). *See Minnesota Power & Light Company*, Docket Nos. E–9499, *et al.* (August 3, 1978) (Opinion No. 20), *order on reh.*, (October 30, 1978) (Opinion No. 20–A).

The Commission orders

(A) Tri-State's motion to reject the filing is hereby denied.

(B) UP&L's revised rates for service to customers other than the city of Manti, Utah are hereby accepted for filing, as modified by summary disposition, and are suspended for five months from sixty days after filing to become effective, subject to refund, on August 11, 1982. UP&L's revised rates for service to the city of Manti, Utah are hereby accepted for filing and set for hearing to be effective prospectively pursuant to a Commission order determining a just and reasonable rate.

(C) Summary disposition is hereby ordered, as noted in the body of this order, with respect to the classification of Moon Lake as an R–3 customer. Within thirty (30) days of the issuance of this order, UP&L shall refile its rates and supporting cost data to reflect this determination.

(D) UP&L must meet a burden of demonstrating that the use of labor ratios is an unreasonable method of functionalizing general plant.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of UP&L's rates.

(F) The petitions to intervene in this proceeding are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(G) The Commission staff shall serve top sheets in this proceeding on or before March 24, 1982.

(H) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(I) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration or price squeeze, would be just and reasonable. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(J) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

UTAH POWER & LIGHT COMPANY

[Docket No. ER82–211–000]

Dated: January 7, 1982; Filed: January 8, 1982

Designation	Supersedes sheets[1]
FPC Electric Tariff Original Volume No. 1	
Schedule RS–1:	
Thirty-First Revised Sheet No. 1.	Thirtieth Revised Sheet No. 1.
Tenth Revised Sheet No. 4.1.	Ninth Revised Sheet No. 4.1.
Tenth Revised Sheet No. 4.2.	Ninth Revised Sheet No. 4.2.
Schedule RS–2:	
Tenth Revised Sheet No. 5.1.	Ninth Revised Sheet No. 5.1.
Tenth Revised Sheet No. 5.2.	Ninth Revised Sheet No. 5.2.
Schedule RS–3:	
Ninth Revised Sheet No. 5A.1.	Eighth Revised Sheet No. 5A.1.
Ninth Revised Sheet No. 5A.2.	Eighth Revised Sheet No. 5A.2.
Schedule RS–4:	
Second Revised Sheet No. 5A.3.	First Revised Sheet No. 5A.3.
Second Revised Sheet No. 5A.4.	First Revised Sheet No. 5A.4.

[1] These sheets were filed January 8, 1982, in compliance with *UP&L* Opinion No. 113, ordering paragraph (B) in Docket No. ER79–121 issued February 23, 1981.

[FR Doc. 82–6899 Filed 3–15–82; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for filing Applications for Refund from funds obtained from the Pennzoil Company in settlement of enforcement proceedings brought by the DOE's Office of Special Counsel.

DATES AND ADDRESSES: Applications for refund must be postmarked within 90 calendar days following publication of this notice in the Federal Register, and should be addressed to Pennzoil Company Consent Order Refund Proceeding, Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, Department of Energy, 12th St. and Pennsylvania Ave., NW., Washington, D.C. 20461, (202) 633–8377.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the decision and order set out below. The decision and order relates to a consent order between the Pennzoil Company, a producer and refiner of crude oil, and the Office of Special Counsel of the DOE's Economic Regulatory Administration. *See* 46 FR 36927 (1981). The consent order settles nearly all disputes between the DOE and the firm with regard to pennzoil's compliance with the DOE price and allocation regulations. Under the terms of the consent order, Pennzoil has deposited $3,000,000 into an escrow account. It is stipulated in the consent order that the refund amount is in settlement of possible enforcement actions based upon allegations that Pennzoil violated the DOE regulations during the period March 6, 1973, through December 31, 1980.

The Office of Hearings and Appeals previously issued a proposed decision and order which tentatively established a two-stage refund procedure and solicited comments from interested parties concerning the proper disposition of the consent order fund. The proposed decision and order discussing the distribution of funds obtained through the Pennzoil consent order was issued on December 29, 1981. 47 FR 329 (1982).

The final decision and order, published concurrently with this Notice, reflects our analysis of comments received from interested parties. As we indicate in the decision, applications for refund from the escrow fund may now be filed. Applications will be accepted provided they are postmarked no later

then June 8, 1982. *See* 10 CFR 205.283. We will accept applications from all persons who claim that they have been injured by Pennzoil's alleged regulatory violations during the period covered by the consent order. In order to establish entitlement to a portion of the consent order fund, a purchaser must establish, in addition to proof of purchase of the volume claimed, that the purchaser did not pass through price increases to its own customers. A party that wishes to file an application for refund based on an alleged allocation violation must have previously made a complaint about the alleged violation and must furnish information to support its claim of injury. The specific information required in an application for refund is set forth in the decision and order.

The decision does not establish mechanical standards for the proper allocation of funds among successful claimants such as the *pro rata* volumetric distribution used in a number of previous refund cases. Instead, the decision discusses a number of equitable factors which will be considered in the process of allocating funds among successful claimants. The decision and order also reserves the question of the proper disposition of any remaining consent order funds during the second stage of the refund process until completion of the first stage claims procedure.

Dated: March 10, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

March 10, 1982.

Decision and Order of the Department of Energy

Special Refund Procedures

Name of Petitioner: Office of Special Counsel: In the Matter of Pennzoil Company.
Date of Filing: August 11, 1981.
Case Number: BEF–0072.

Under the procedural regulations of the Department of Energy, the Economic Regulatory Administration's Office of Special Counsel (OSC) may request the Office of Hearings and Appeals (OHA) to formulate and implement special procedures to make refunds in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V.

In accordance with these regulatory provisions, on August 11, 1981, the OSC filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with the Pennzoil Company (Pennzoil). The refunds which Pennzoil agreed to make under the consent order to compensate for its alleged violations of the DOE regulations were in the following amounts: (i) $3 million to be distributed in accordance with the directives of the OHA pursuant to special refund proceedings; (ii) $3.5 million to certain electric utilities whose rates are subject to fuel adjustment clauses, provided that such entities agreed to execute an appropriate release and waiver of claims against Pennzoil; and (iii) $3.5 million to the Defense Fuel Supply Center. *See* Consent Order §§ 402–03. The consent order further provided that to the extent any funds remained from category (ii), all residual funds would be deposited with the category (i) funds for distribution through the special refund proceedings. All category (ii) funds were distributed by Pennzoil. Consequently, the sum of $3 million plus interest is now being held in an escrow account under the jurisdiction of the DOE pending receipt of instructions from the Office of Hearings and Appeals regarding its final distribution.

Pennzoil is a "refiner" and a crude oil "producer" as those terms were defined in 10 CFR 212.31. During the relevant time periods, Pennzoil was subject to the Mandatory Petroleum Price Regulations set forth in 10 CFR Part 212, Subparts D and E. Those Subparts governed the maximum prices that could lawfully be charged by Pennzoil in the sale of crude oil, fuel oil, motor gasoline and other covered products. In addition, Pennzoil was subject to the Mandatory Petroleum Allocation Regulations set forth in 10 CFR Part 211.

In connection with its compliance activities, the OSC conducted an extensive audit of Pennzoil's pricing and allocation practices, including the manner in which the firm applied the federal petroleum price and allocation regulations with respect to its importation, refining, and sale of crude oil and covered petroleum products during the period March 6, 1973 through December 31, 1980. Following extensive negotiations, the DOE and Pennzoil entered into a consent order in order to resolve, with certain exceptions, all of the issues raised during the OSC's audit.(1) The proposed consent order was executed on January 28, 1981 and comments were requested. *See* 46 FR 6101 (1981). The OSC received comments from two parties.(2) After the regulatory comment period had expired and the OSC had considered all of the comments which it had received, a slightly modified consent order was adopted as a final order on July 9, 1981. *See* 46 FR 36927 (1981).(3)

On December 29, 1981, we issued a proposed decision and order in this proceeding which tentatively established a two-stage process to be used in adjudicating claims to the Pennzoil settlement fund. *See* 47 FR 329 (January 5, 1982). In the first stage, those firms who claim that they have been adversely affected by Pennzoil's alleged violations would be permitted to file Applications for Refund. Firms claiming that they were injured by Pennzoil's alleged allocation violations could file refund applications in the same manner as firms who claimed to be overcharged as a result of alleged pricing violations. Each application would be analyzed, and determinations on the merits of each would be made. All meritorious claims would then be paid. We suggested that refunds to persons who establish an entitlement to a refund would be made on a volumetric basis, *i.e.* in the same proportion as the volume of their purchases corresponded to the total volume of Pennzoil sales during the consent order period. We also proposed as the second stage of the refund process that additional refunds might be made to rate-regulated utilities or to states in which the products associated with the alleged overcharges by Pennzoil were marketed. In the alternative, we suggested that in the event that distribution schemes for the second stage prove to be inappropriate because of administrative costs or the lack of accurate information, the portion of the settlement fund which would go undistributed after the payment of claims be deposited in the United States Treasury. Finally, we stated that comments concerning the Proposed Decision should be submitted within 30 days of its publication in the Federal Register. *See* 47 FR at 329.

The purpose of this decision is to establish the mechanism by which firms wishing to make a claim against the Pennzoil consent order fund may file applications for refund. We will first discuss the comments which we received concerning the first-stage refund procedure which we suggested proposed in the December 29 Proposed Decision and Order. Then we will discuss in detail the application for refund procedures that we have decided to adopt. We will not, however, determine procedures for the second stage of the refund process in this decision. Our determination concerning the final disposition of any residual funds will necessarily depend on the size of the fund. *Office of Enforcement,* 9 DOE ¶ 82,508 (1981) (hereinafter cited as *Coline*). It is therefore premature for us to reach the issues raised by commenters concerning the proposed disposition of funds remaining after all meritorious claims have been paid. (4)

Jurisdiction and Authority to Fashion Refund Procedures

In our December 29 proposed determination and in other recent Decisions, we have discussed at length our jurisdiction and authority to fashion refund procedures. *See* 47 FR at 329; *Coline; Office of Enforcement,* 9 DOE ¶ 82,521 (1982), 47 FR 2196 (January 14, 1982) (hereinafter cited as *Alkek*). We tentatively decided in the proposed decision to exercise jurisdiction over the funds received by the DOE in settlement of the enforcement proceedings underlying the Petition for the Implementation of Special Refund Procedures in the case of Pennzoil. None of the commenters has challenged the jurisdiction or authority of the Office of Hearings and Appeals to fashion refund procedures in this case. We will therefore grant the OSC's Petition and for the reasons stated in the proposed determination assume jurisdiction over the distribution of the Pennzoil consent order funds.

Comments on the Merits of the Proposed Two Stage Distribution

In our initial consideration of this matter, we found that "[B]ased upon our experience with Subpart V cases, we believe that the distribution of funds to overcharged persons should generally take place in two stages." 47 FR at 331. In several comments it was noted that the Pennzoil case is different from Subpart V cases which we have previously

decided. This case involves a "global" consent order which encompasses Pennzoil's sales and allocation of crude oil as well as a full slate of refined products over a seven year period. *Compare Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*) (involving only motor gasoline sold at non-company operated locations) *with Office of Special Counsel*, 9 DOE ¶ ——— Case No. BEF–0073 (February 18, 1982) (hereinafter cited as *Tenneco*). These commenters therefore suggested that the distribution of money in the Pennzoil case should be handled in a manner different from that proposed in the December 29 determination.

After careful consideration of the positions advanced by the commenters, we have concluded that our original proposal should be modified. In this section we will discuss the pros and cons of the various alternative refund plans which have been advocated by the commenters. Following our discussion of all of the comments which we received, we will outline the modified two-staged procedure which we have decided to adopt.

Comments were filed on behalf of three states: New York, Oregon, and Minnesota. The State of New York was in favor of the proposed two stage procedure as set out in the December 29 decision. The New York comments, which will not be discussed at this time, addressed proposals regarding the ways in which the states should utilize the funds in the event of a second-stage distribution. The State of Oregon suggests a one-stage distribution in which the Pennzoil fund would be divided among the states in proportion to Pennzoil's sales of refined products in those states. In support of its proposal, Oregon contends that an individual citizen filing for an application for refund would have great difficulty in establishing that he or she was actually injured by the alleged violations. Oregon maintains that the proposed first stage should be abandoned because it is unlikely to further the objectives of the Pennzoil Subpart V proceeding. Minnesota, on the other hand, generally supports the two stage process suggested in the Proposed Decision. However, the Minnesota comments suggests that a portion of the funds should be set aside at the first stage to ensure restitution to small consumers of Pennzoil products.

We have carefully considered the states' comments and have concluded that we should nevertheless adopt a two stage distribution process commencing with a first stage which will permit parties to file applications for refund. The special refund process is designed to refund money to persons who were injured by actual or alleged regulatory violations. *Coline*, 9 DOE at 85,451. Thus, we cannot accept Oregon's assertion that the first stage should be eliminated merely because purchasers of Pennzoil products may find it difficult to establish valid claims to a portion of the consent order funds. Injured parties should be accorded the opportunity to make claims against the Pennzoil fund, and we decline to conclude summarily without an examination of the merits of each claim that there are none which are meritorious as a matter of law. We are also rejecting Minnesota's suggestion that we set aside a portion of the fund for small consumers. The consent order which Pennzoil and OSC signed does not contain a provision for setting aside any portion of its funds especially for the benefit of a certain class of consumers, and it is well recognized that the scope of a consent order must be discerned within its four corners. *United States v. Armour & Co.*, 402 U.S. 673 (1971). Although we will not adopt Minnesota's specific suggestion, we are prepared to accept refund applications submitted on behalf of a class of consumers.

Comments Concerning Eligible Claimants

Several of the commenters requested that we specifically identify which parties are eligible to file applications for refund in the first stage of the Pennzoil special refund proceedings. In addition, some commenting parties suggested that certain parties should be excluded from eligibility.

Many of the commenters pointed out that in our prior discussion of eligible claimants we referred primarily to Pennzoil customers who were claiming injury due to alleged overcharges in sales of petroleum products. We did not intend to exclude claims based on alleged allocation violations. Our major intent in adopting the final procedures for the first stage is that *all* parties, with only the limited exceptions set out below, who wish to file *any* claim for a portion of the Pennzoil consent order should file an Application for Refund on or before June 14, 1982. Potential claimants may include, for example, firms who claim injury as purchasers of any type of covered or allocated products from Pennzoil during the period covered by the consent order, whether those parties are direct purchasers or downstream purchasers. Parties claiming injury due to alleged violations by Pennzoil of the DOE allocation regulations, including those governing the Domestic Crude Oil Entitlements Program, 10 CFR 211.67, may also file. No party will have a priority claim on the fund. As indicated in our discussions of the Minnesota comments, we will accept applications filed on behalf of groups of Pennzoil customers as well.

In our December 29 discussion of eligible claimants, we stated that "[A]bsent special circumstances, those parties which already received refunds will not be eligible for further refunds." 47 FR at 331. In response to the inquiries we have received concerning this statement, we specify that only parties who have already received refunds pursuant to the July 9, 1981 consent order that underlies this proceeding will be presumed to be ineligible to file, and this ineligibility will extend only to the products to which their refunds related. For example, a firm which received a refund as a residual fuel oil customer pursuant to section 403 of the consent order could still file an application for refund with respect to its purchases of some other product provided it has not signed an applicable waiver.

In addition, we have determined here as in previous cases that there is an additional class of potential claimants who may be presumed to have suffered no injury from Pennzoil's regulatory practices. Those parties are firms who made spot purchases of Pennzoil crude oil or petroleum products. As we stated in *Vickers*: These customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of Vickers motor gasoline at increased prices unless they were able to pass through the full amount of Vickers' quoted selling price at the time of purchase to their own customers.

Vickers, 8 DOE at 85,396–97. We believe that the same rationale holds true in the present case. Consequently, we will not consider applications for refund from firms who made only spot purchases from Pennzoil.

In *Tenneco* it was suggested that we exclude from eligibility any party claiming injury due to alleged allocation violations who had not previously filed a complaint with the DOE concerning the alleged violation. *See Tenneco*, 9 DOE ¶ ———, Case No. BEF–0073, *slip op.* at 8. We found in that case that this limitation on such allocation claims was reasonable because any firm that was injured by an allocation violation would have experienced some direct effect and have been more immediately aware of its injury than a firm whose purported injury was due to alleged overcharges whose effect could be marginal. We would expect that a party who was injured by a interruption of its supply of an allocated product would immediately seek redress by notifying the appropriate agency officials, *see* 10 CFR 205.201(a)(d), or by filing a private lawsuit under section 210 of the Economic Stabilization Act. Thus, we have concluded that while imposing a "prior complaint" limitation on allocation claims would tend to prevent spurious claims and promote speed and efficiency in processing applications for refund, this limitation would present no danger to parties who were actually injured by Pennzoil's alleged allocation violations. Accordingly, as in *Tenneco* we will presume that a party who had not complained of alleged allocation violations by Pennzoil prior to the date of the consent order does not have a meritorious claim. *See* 10 CFR 205.282(e).

Finally, we are urged by one commenter to exclude regulated firms in general and commercial airlines in particular from eligibility to file an application. The commenter maintained that due to the deregulation of many of these firms it is not clear that refunds to those parties would be passed through to their customers in the form of rate reductions. In addition, the commenter maintained that in the case of certain airlines that are currently experiencing operating losses, any refund amount would only be used to reduce those losses rather than to reduce ticket prices.

While we believe that the factors mentioned should be included in our consideration of particular applications for refund and in structuring any mechanism for refunds, we will not exclude this group of claimants without an examination of the merits of each case. We are confident that after an examination of the circumstances in a particular case, appropriate conditions and monitoring mechanisms can be established to insure a passthrough of benefits. Consequently, regulated firms will be eligible to file applications for refund.

To summarize our discussion above, we do not intend to exclude *any* party who believes itself eligible for a refund from filing an application. An applicant may, by demonstrating special circumstances, overcome any presumption that we have discussed above. We believe that a liberal approach to eligibility will best serve the purpose of refunding money to persons who may have been adversely affected by Pennzoil's alleged regulatory violations.

Comments on Required Standard of Proof for Overcharge Claims

We proposed in our December 29 determination that claimants who are resellers or who are involved in the production or distribution of goods or services be required to demonstrate that, during the period covered by the consent order, they would have kept their prices for petroleum products or goods and services at the same level had the alleged overcharges not occurred. In other words, we stated that a claimant should demonstrate that at the time it purchased covered products from its supplier, market conditions would not permit it to pass through the additional costs associated with the alleged overcharges. In addition, we suggested that a reseller of petroleum products must have maintained until January 28, 1981, the date on which the President decontrolled all remaining covered products, a "bank" of unrecovered product costs in order to demonstrate that it did not subsequently recover these costs by increasing its prices. Finally, we stated that a purchaser who is an ultimate consumer and is not engaged in the sale of goods or services would not have to make a showing that it absorbed any unlawful price increases.

Some parties who submitted comments suggested certain additional classes of claimants that might be excused from showing injury at all. In addition, we received comments regarding the proposed standard of proof which ranged from assertions that the standard was too lenient to assertions that the standard would be too difficult to meet. We continue to believe that "this inquiry into whether a claimant was injured in fact is most appropriate in a proceeding of this type where refunding moneys obtained through DOE enforcement proceedings is the primary focus." *Coline*, 9 DOE at 85,051. In establishing the standard of proof that a claimant must meet, we must strike a balance between a level so low that it would grant windfall benefits to firms who had suffered no injury and a level so high that only a few large firms would have the resources necessary to prepare an application. With that principle in mind we turn to the comments concerning what particular kind of proof of injury should be required of claimants.

Three potential claimants ask to be added to the class of claimants who would not be required to offer any proof that they absorbed the alleged overcharges. Those potential claimants are The Transportation Group, and *ad hoc* organization of trade associations whose members are regulated transportation companies; Systems Fuels, Inc., a nonprofit corporation which acts as a fuel purchasing agent for several public utilities; and the National Council of Farmer Cooperatives. Those parties contend that any overcharges which they had suffered would have been channeled to their customers by the regulatory bodies or the private contractual agreements that control the prices they may charge. They also noted that any refunds which they receive would automatically be passed through to their customers. They therefore contend that they should be included with the class of ultimate purchaser claimants, who need only demonstrate that they purchased a specific quantity of product which was sold by Pennzoil during the relevant time period in order to qualify for refunds. In addition, Systems Fuels suggested that we substitute for the showing of injury a provision requiring a regulated refund recipient to notify the particular regulatory agency or agencies concerned of the refund. *See Office of Special Counsel*, 4 DOE ¶ 82,511 (1979).

We have decided that the regulated firms' proposal is meritorious because it will assist us in distributing refunds in an efficient, cost-effective and equitable manner. *See* 10 CFR 205.282. The OSC has reviewed the operation of the agencies which regulate transportation companies and utilities and has determined that refunds are indeed factored into their rate making systems. 46 FR at 29500–01. Although there are not independent regulatory bodies which oversee cooperatives' price setting, we believe that refunds to any agricultural cooperative will likewise directly influence the prices charged to its member customers. These cooperatives are owned by their customers, and the ultimate consumers of the petroleum products purchased by the cooperative will therefore receive the benefit of the refund either as a price reduction or as a distribution at the close of the cooperative's fiscal year. *See Tenneco*, slip op. at 11.

Consequently, we have concluded that refund applications from firms whose prices for goods or services are regulated by a government agency or by the terms of a cooperative agreement will not be required to show that they absorbed the alleged Pennzoil overcharges. Instead, those applicants should supply us with a full explanation of the manner in which refunds will be passed through to their customers in the form of lower prices or better service. In addition, these applicants' receipt of refund money will be conditioned on notice to the appropriate regulatory body or membership group.

We suggested in our proposed decision a further group of purchasers that might be excused from having to document more than the fact that they purchased products from Pennzoil during the relevant period of time. We stated that we would consider establishing a threshold level of purchases under which applicants, primarily small firms and individuals, would not be required to make a detailed showing of actual injury. For example, in *Vickers* we set a purchase threshold of 50,000 gallons of motor gasoline per month. Firms with purchases below that level were permitted to claim a refund based upon that level of purchases without having to submit evidence concerning their banks of unrecouped product cost increases or prevailing market conditions which had prevented them from passing through the alleged overcharges. In addition, firms in the *Vickers* case who had purchased more than an average of 50,000 gallons per month were excused from the requirement of showing that the effects of the alleged violations were not passed through, provided that they were willing to limit their claims to the 50,000 gallons per month level.

After careful consideration we have concluded that it is in the best interests of efficient resolution of these proceedings to establish a threshold level of purchases below which a claimant need not demonstrate injury. If we were to adopt a requirement that every applicant supply full documentation of its injuries, it would discourage small applicants since the expense of preparing such an application could well exceed the refund to be eventually gained. For this reason we have concluded that a similar threshold figure should be established in this refund proceeding as well.

Based on our experience in the *Vickers* proceeding we have decided to set the threshold figure at 50,000 gallons per month or 600,000 gallons annually. Businesses of this size will generally be individual retailers or large consumer accounts. We continue to believe that a requirement that relatively small purchasers of covered products such as motor gasoline establish that they did not pass through price increases would prove so great a burden on those firms' recordkeeping and accounting capabilities that they might be precluded from seeking any refunds. *See Vickers*, 8 DOE at 85,396. Consequently, in the interest of fostering the restitutionary objectives of the Subpart V process, we will establish the threshold figure discussed above.

Now that we have enumerated those types of Pennzoil customers that will not be required to demonstrate that they absorbed unwarranted price increases, we will focus upon what type of proof those parties who *are* required to make that showing will be obliged to make. As we stated in the proposed decision, larger firms are more likely to have maintained more detailed records which could be marshalled to reflect how their pricing decisions were made. Furthermore those larger firms have greater resources and will likely be claiming larger refund amounts. Therefore we have concluded that we will retain as an element of the refund process a requirement that firms seeking sizeable refunds demonstrate that they did not pass through the effects of Pennzoil's alleged regulatory violations to their customers.

Standard of Proof for Entitlement and Allocation Claimants

Several comments noted that although we stated in the proposed decision that any party who wished to make a claim against the Pennzoil settlement fund would be permitted to file an Application for Refund, we failed to establish proposed guidelines for deciding claims submitted by parties claiming injury due to alleged violations of the entitlements program regulations or the allocation regulations.

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With regard to the entitlements program, 10 CFR 211.67, the consent order expressly covers Pennzoil's compliance with those regulations without making any provision for any particular remedial action to be taken. Firms claiming injury due to Pennzoil's alleged violations of the entitlements regulations may therefore file applications for refund. However, we doubt that an individual participant in the entitlements program can demonstrate a particularized injury to itself upon which it could base a claim to the consent order funds. If any entitlements violations by Pennzoil took place, their effect would have been spread equally among all participants in the program and ultimately, to all consumers in the form of higher prices for all refined products. *See Alkek*, 47 FR at 2197–98. Therefore at this stage we are unable to specify a standard of proof for claims based on alleged entitlement violations other than to state that a claimant must affirmatively demonstrate that it has been injured by the alleged violation.

The standards which we are adopting for deciding claims filed by injured Pennzoil allocation customers will be considerably more flexible than those used in issuing a Remedial Order under 10 CFR Part 205, Subpart O. We have determined that an applicant should submit enough information to demonstrate that its claim is not spurious, including the best available evidence of injury which was sustained as a result of an alleged allocation violation. An application should contain the best possible evidence concerning the proportion of the claimant's supply which the withheld crude oil or petrolem product represented, the availability of substitute product at the time of the alleged violation and the impact on the claimant's business such as decreased sales volumes or loss of customers. In addition, a claimant must also show that the injury was not passed on to its customers. Although we will not engage in a time-consuming legal and factual analysis leading to a precise measure of damages, we wish to emphasize that the burden of establishing eligibility for a refund rests on the claimant. As we discuss in greater detail below, our determination concerning the amount to be paid an allocation applicant may be affected by a consideration of equitable factors such as, for example, whether the alleged violation had a significant adverse impact on the claimant, and whether the applicant had the ability to protect itself by obtaining a replacement supply of the allocated product or by taking other appropriate action to enforce its rights.

Comments Concerning Overall Procedures to Be Adopted

Pennzoil has also filed comments that will now be addressed. Pennzoil objects to our proposal that the claims of all successful applicants would be paid on a volumetric basis, *i.e* based on the proportion of the product purchased by the applicant to the total amount of products (whether motor gasoline, diesel fuel, No. 2 fuel oil, natural gas liquids or NGL products, crude oil or condensate) sold by Pennzoil during the relevant period. Pennzoil asserts that such a result in this case would not be a practical or sensible approach due to the "global" nature of the settlement and consent order involved. Pennzoil states that this approach would constitute a deterrent for potential claimants because the potential recovery could well be less than the cost of asserting and substantiating the claim. It is Pennzoil's position that it cannot be in the interest of restitution to impose a "predetermined artificially low volumetric limitation on the ability of an individual customer to recover against the fund." *See* Pennzoil's Comments at 6. Pennzoil believes that to the maximum extent possible, all claims made should be paid in full. According to the firm, if by following this approach the fund becomes exhausted and leaves no residual funds for subsequent distributon, the true intent of the consent order will be effectuated.

We have previously used a volumetric method of allocating funds to claimants because it is an administratively efficient method for determining what portion of a settlement fund shall be alloted to each particular claimant. Moreover, it is a useful approximation of injury in the treatment of overchange claimants because it offers an easy method of calculation for firms who are unable to quantify their alleged injury. However, with the exception of *Tenneco*, no previous case in which we have employed this method has involved a "global" consent order such as the one underlying this proceeding, which settles alleged violations of many different aspects of the Mandatory Petroleum Price and Allocation Regulations.

This is the second Subpart V proceeding that involves allocation claims. In addition, in the previous cases the fund has been large enough in proportion to the total volume of the particular products involved in the consent order to yield a significant per gallon refund. For example, in *Vickers* we estimated that a successful applicant would receive approximately $.002002 per gallon of purchase made during its consent order period. The actual figure used was $.002184 per gallon. *See Uban Oil Co.*, 9 DOE ¶ ——, Case No. HEX–0006, slip op. at 7 (February 25, 1982). In contrast, our preliminary estimates show that based on Pennzoil's sales for the period covered by the consent order and assuming all of the $3 million of the fund is available for volumetric distribution, an applicant's possible recovery could at most be $.000375 per gallon, or approximately 17% of the Vickers pro rata refund amount. We have therefore concluded that the adoption of a "*pure*" volumetric plan of distribution as set out in *Vickers* would not necessarily be the best mechanism for accomplishing the restitutionary goals of the special refund process and the Pennzoil consent order.

As in all Subpart V cases, the primary goal of the Pennzoil refund process is to distribute the funds to those firms and individuals who were injured by the alleged violations which were settled in the underlying consent order. In recent decisions we have discussed the nature of the settlement process as it relates to the amount of consent order funds ultimately distributed to the intended beneficiaries of the Subpart V refund process. In *Alkek*, we noted that: The terms contained in each consent order, including the amount of the monetary settlement, were arrived at through negotiation. Although the amount of money remitted to the DOE can be viewed as based in part upon the magnitude of the violations alleged by the government, additional factors—such as each party's views as to the probable length, expense, and success of litigation—would normally influence the size of the monetary settlement. *Alkek*, 47 FR at 2197. Since any consent order is the result of compromise, the monetary amount of the settlement funds to be distributed is in all likelihood considerably less than the total amount of the economic injury suffered by the customers of the firm involved. *See Uban*, slip op. at 6. In addition, due to the difficulty of keeping records for the entire seven year period covered by the consent order, and the requirement that claimants provide evidence that the effects of the alleged violations were not passed through to their downstream customers, the total refund for which meritorious claims are submitted may be far less than the full amount of the settlement fund available for distribution. Therefore, we believe that it is fully consistent with the restitutionary objectives of the present proceedings to distribute more than a "pure" volumetric share of available funds to successful claimants.

Consequently, we will adopt an alternative mechanism. This mechanism will incorporate a modified version of the volumetric distribution scheme used in *Vickers*. We will multiply the number of gallons of Pennzoil products purchased by a qualified applicant by a factor computed using the total amount of money available for distribution as the numerator, and using Pennzoil's total sales (in gallons) of all covered products including crude oil minus the number of gallons attributed to the funds distributed pursuant to Section 402 of the consent order, as the denominator, to determine the claimant's minimum refund amount:

$$\text{no. of gallons purchased by claimant} \times \frac{\$3 \text{ million}}{\text{Pennzoil's Total Sales (gallons)} - \S\ 402 \text{ funds (gallons)}} = \text{claimant's minimum by refund by amount}$$

Since this factor will be used to establish a "floor" or minimum amount a successful claimant could receive, it can assist a potential applicant in deciding whether or not to apply for a refund. In order to determine the final amount a claimant will receive, however, other factors will be taken into consideration as well in deciding the amount of a particular claimant's refund.

Because this is an equitable proceeding intended to make restitution to the Pennzoil purchasers who were injured by the alleged overcharges underlying the consent order, these other factors are so important that they should be considered in this case. *See generally Citronelle-Mobile Gathering, Inc. v. Edwards*, —— F. 2d ——, No. 5–60 (Temp. Emer. Ct. App. January 21, 1982) slip op. at 12. As noted above, the size of the fund available for distribution is likely to be less than the amount needed to make full restitution to the injured Pennzoil purchasers. The use of a "pure" volumetric mechanism would have the undesirable effect of placing a further artificial limitation on the amount of the refunds that are eventually received by successful claimants. Consequently, a consideration of the factors set forth below will result in a refund process that more fully achieves the restitutionary objectives of this proceeding. These factors include the following: (i) The amount of interest accumulated in the escrow account since the DOE received the $3 million from Pennzoil; (ii) the number of qualified claimants, and the aggregate volume of their purchases from Pennzoil compared to the amount of products sold by Pennzoil during the consent order period; (iii) the impact of the alleged violations on the claimant's business; (iv) market conditions prevalent during the consent order period; (v) the claimant's position in the distribution chain, *i.e.*, whether it is a refiner, reseller or ultimate consumer; and (vi) the manner in which the claimant's business is governed by federal, state or local regulatory agencies, or other relevant private contractual agreements such as those affecting agricultural cooperatives. As TECA stated in the Citronelle decision, the purpose of restitution is "to make the victims whole, 'so far as possible, and restored to a position where they would have been had it not been for' the unlawful violations " " "." *Id.*, slip op. at 10. Only by weighing and balancing the factors enumerated above will we be able to make the best possible restitution to those persons who can establish that they were injured by the alleged Pennzoil violations.

Pennzoil also suggested that OHA require potential claimants to sign disclaimer provisions to insure that any record, finding or conclusion which was made during the refund proceeding could not be used in either an administrative or judicial proceeding for the purpose of demonstrating liability on the part of Pennzoil for alleged violations of the DOE price or allocation violations. We believe that our previous discussion of the nature of the special refund process makes it clear that we will not permit the present Subpart V proceeding to be used to adjudicate Pennzoil's compliance with the DOE regulations. *See Tenneco*, slip op. at 19–20. Since our inquiry will be limited to whether an applicant's claim is valid under the standards discussed above, and since claims apparently will not be contested by Pennzoil, any record or finding which we shall make would not be sufficient to sustain a claim at law. However in order to emphasize the limited scope of this proceeding, we intend to incorporate in any order concerning an application for refund the following language: This order operates to distribute funds pursuant to Subpart V of the Department of Energy's procedural regulations, 10 CFR Part 205, and related to the Consent Order between the Pennzoil Company and the Department of Energy, effective July 8, 1981. It does not constitute an adjudication or determination of liability on the part of Pennzoil for alleged violations of DOE price or allocation regulations.

Application for Refund Procedures

After having considered all the comments received concerning the first stage proceedings tentatively adopted in our Proposed Decision and Order, we have concluded that Applications for Refund should now be accepted from parties who purchased crude oil and refined petroleum products from Pennzoil. We shall now discuss the specific requirements for Applications for Refund that we have decided to adopt.

Applications for Refund of a portion of the Pennzoil consent order fund must be filed on or before June 14, 1982. *See* 10 CFR 205.283. We will consider all applications, although we may later impose a minimum dollar limit on claims. *See* 10 CFR 205.286(b). Applications made on behalf of a class of claimants will be considered on a case-by-case basis. An application must be in writing, signed by the applicant, and specify that it pertains to the Pennzoil consent order fund, Case Number BEF–0072. If the applicant is not a direct purchaser from Pennzoil, it should indicate from whom the crude oil or product was purchased and indicate what basis the applicant has for its belief that the product which it purchased originated from Pennzoil.

All applications for refund will be deemed to be for an amount in excess of $100 and therefore must be filed in duplicate. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, 12th Street & Pennsylvania Avenue, NW., Washington, D.C. 20461. Any applicant who believes that his application contains confidential information must so indicate on the first page of his application and submit two additional copies of his application from which the information that the applicant claims is confidential has been deleted, together with a statement specifying why any such information is privileged or confidential. Each application shall indicate whether the applicant or any person acting on his instructions has filed or intends to file any other application or claim of whatever nature regarding the matters at issue in the underlying enforcement proceeding. Each application shall also include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name, position title, and telephone number of a person who may be contacted by the OHA for additional information concerning the application. All applications should be sent to: Pennzoil Consent Order Refund Proceeding, Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. All applications for refund received within the time limit specified will be processed pursuant to 10 CFR 205.284.

In order to assist applicants in establishing eligibility for a portion of the consent order funds, the following information should be included in each application filed by a purchaser of Pennzoil products:

A. Each appliant should report its volume of purchases by calendar quarter for the period of time for which it is claiming it was injured by the alleged overcharges, if any.

B. Each applicant should specify how it used or would have used the Pennzoil product, *e.g.*, as a petrochemical producer, refiner, reseller or ultimate consumer.

C. If the applicant is a refiner or reseller, it should state whether it maintained banks of unrecouped product cost increases from the date of the alleged violation through January 27, 1981.[5] It should furnish the OHA with quarterly bank calculations for the entire period.

D. The applicant must state whether it or any of its affiliates have filed any other Applications for Refunds which might affect its level of banks.

E. The applicant must submit evidence to establish that it did not pass on the alleged injury to its customers. For example, a firm may submit market surveys to show that price increases to recover alleged overcharges were infeasible.

F. An allocation claimant should specify the volume of product which it claims it was entitled to purchase from Pennzoil, and submit any other evidence available to document its claim. The material submitted should consist of the best available evidence to document the amount of profits lost as a result of the alleged violation, and should discuss the actions taken by the applicant to (i) obtain a replacement supply of the allocated product; and (ii) seek relief from or against Pennzoil. Allocation claimants will also be required to show that the effects of the alleged injury were not passed through to their customers or dissipated through the operation of regulatory mechanisms such as the entitlements program, 10 CFR 211.67.

G. The applicant should report whether it is or has been involved as a party in DOE or private, section 210 enforcement actions. If these actions have terminated, the applicant should furnish a copy of any final order issued in the matter. If the action is ongoing, the applicant should briefly describe the action and its current status. Of course, the applicant is under a continuing obligation to keep the OHA informed of any change in status during the pendency of its application for refund. *See* 10 CFR 205.9(d).

It Is Therefore Ordered That:

The refund amount provided by the Pennzoil Company will be distributed in the manner set forth in the foregoing Decision.

Dated: March 10, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Footnotes

(*1*) The matters excluded from the scope of the consent order were: (i) the matters involved in the case of *Pennzoil Co. v. DOE*, 480 F. Supp. 1128 (D. Del. 1979); (ii) Pennzoil's compliance with the entitlements regulations with respect to certain transactions occurring during the period July 1976 through December 1977 between Pennzoil and certain small refiners as part of a general industry investigation by DOE; and (iii) Pennzoil's compliance with DOE's regulations regarding "marginal" and "newly discovered" crude oil.

(*2*) The parties who submitted comments were The Transportation Group and the National Consumer Law Center. These parties have been included on the service list for this proceeding.

(*3*) The sole modification adopted by the parties was the elimination of provisions concerning Pennzoil's treatment of its banks of unrecouped product cost increases. See 46 Fed. Reg. 38927 (1981).

(*4*) See, however, the discussion of similar comments in Office of Enforcement, 8 DOE ¶ 82,597 (1981).

(*5*) Those resellers who did not elect to maintain bank calculations for the period May 1, 1980 through January 27, 1981, do not, of course, have to supply bank calculations for that period. *See* FR 27540 (1980).

[FR Doc. 82-7106 Filed 3-15-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Minority Economic Impact

Acceptance of Loan Applications

Notice is hereby given that pursuant to the authority contained in Section 211(e) of the Department of Energy (DOE) Organization Act, Pub. L. 95–91, Title II, as amended by Public Law 95–619, Title VI, Section 641, November 9, 1978, 92 Stat. 3284, classified to 42 U.S.C.A. 7141, the Office of Minority Economic Impact (OMEI) is now accepting applications for direct loans to minority business enterprises to assist such enterprises in financing bid or proposal preparation costs incurred in attempting to obtain Department of Energy (DOE) contracts, other agreements (such as a procurement contract, cooperative agreement, grant, loan or loan guarantee) or first-tier subcontracts with DOE operating contractors.

Information and application forms may be obtained from either U.S. Department of Energy, OMEI, MI–1, Room 5B–110, 1000 Independence Avenue S.W., Washington, D.C. (20585). Telephone (202)252–8383. Attention: Loan Program; or,

U.S. Department of Energy, San Francisco Operations Office, 1333 Broadway, Oakland, California (94612). Telephone (415)273–7151. Attention: Minority business bid or Proposal Preparation Loan Program.

Provisions have been made in the application form to allow an applicant to submit certain information for preliminary review in advance of a specific loan request. This information must be updated at the time of loan request to reflect substantial changes. This procedure will facilitate the processing of loan applications and should result in a more expeditious decision on a loan application.

An eligible minority business enterprise is a firm including a sole proprietorship, corporation, association, or partnership which is at least 50 percent owned or controlled by a member of a minority or group of members of a minority. An individual who is a citizen of the United States and who is a Negro, Puerto Rican, American Indian, Eskimo, Oriental, or Aleut, or is a Spanish speaking individual of Spanish descent, is a member of a "minority" for purposes of eligibility under this program.

The maximum amount of money that can be borrowed for any one loan is $50,000. The duration of a loan will depend on the amount of money borrowed. For loans up to $5,000, maximum duration is 3 years 3 months; for loans from $5,001 to $25,000, maximum duration is 5 years 3 months; for loans in excess of $25,000, maximum duration is 8 years 3 months. Repayment of principal and interest will begin within 90 days following the first loan payout, usually.

The rate of interest charged for a loan will be fixed for the life of a loan and is established at the time of signature of a loan agreement The rate will take into account what the United States pays for money which it borrows.

The available funding for this program for Fiscal Year 1982 is approximately $2.225 million.

Additional information can be found in the final regulation for this program (10 CFR Part 800) at 46 FR 44686, September 4, 1981.

(Catalog of Federal Domestic Assistance Number 81.063; Office of Minority Economic Impact Loans)

Issued in Washington, D.C., March 9, 1982.

Rossiee G. Douglas,

Director, Office of Minority Economic Impact.

[FR Doc. 82-7108 Filed 3-15-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[A-6-FRL-2075-5]

Delegation of Authority to the State of New Mexico for Prevention of Significant Deterioration (PSD)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Information Notice.

SUMMARY: EPA Region 6 has delegated the authority for technical and administrative review of the Prevention of Significant Deterioration (PSD) program, the authority for source inspections for compliance under 40 CFR 52.21 and review of all compliance test reports submitted for sources permitted under the PSD regulations to the New Mexico Environmental Improvement Division (EID). The New Mexico EID will receive, conduct technical review, and process the PSD applications; however, since the New Mexico EID did not request full delegation of authority, EPA Region 6 will have dual responsibility to issue or deny PSD permits since permits shall be cosigned by the State and EPA for final issuance.

EFFECTIVE DATE: February 16, 1982.

ADDRESS: Copies of the State request and State-EPA agreement for delegation of authority are available for public inspection at the Air Branch, Environmental Protection Agency, Region 6, First International Building, 28th Floor, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: William H. Taylor, Air Branch, Environmental Protection Agency, Region 6, First International Building, 28th Floor, 1201 Elm Street, Dallas, Texas 75270; (214) 767–1594 or (FTS) 729–1594.

SUPPLEMENTARY INFORMATION: On December 20, 1980, the New Mexico Environmental Improvement Division submitted to the EPA Region 6 office a request for EPA to delegate to them the responsibility for technical and administrative review authority of sources regulated under the EPA PSD program. The State has also agreed to accept the additional PSD responsibilities for source inspections and review of compliance test reports under the PSD regulations. After a thorough review of their request and information submitted, the Regional Administrator determined that the State's procedures for these portions of the PSD program are adequate and effective. Thus, on February 16, 1982, and pursuant to 40 CFR 52.21 (1980), the Regional Administrator delegated the authority for technical and administrative review of the Federal PSD program, the authority for source inspections for compliance under 52.21, and the authority for review of all compliance test reports to the State of New Mexico. The conditions of the delegation are delineated in the Regional Administrator's letter to the State dated February 16, 1982.

Effective immediately, all applications and other information pursuant to 40 CFR 52.21 by sources locating in the State of New Mexico should be submitted to the State agency at the following address: New Mexico Environmental Improvement Division, Air Quality Bureau, P.O. Box 968, Crown Building, Santa Fe, New Mexico 87503.

(Secs. 101 and 301 of the Clean Air Act, as amended (42 U.S.C. 7401 and 7601))

Dated: March 4, 1982.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 82-7021 Filed 3-15-82; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before April 5, 1982. Comments should inlcude facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T–3705–2.

Filing Party: William E. Emick, Jr., Offices of the City Attorney of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

Summary: Agreement No. T–3705–2, between the City of Long Beach and Cooper Stevedoring, Co., Inc., modifies the basic agreement between the parties which provides for the nonexclusive preferential assignment of certain premises located at Berths 9, 10 and 201 at Pier A in the Port of Long Beach. The purpose of the modification is to adjust the boundaries of the premises to accommodate construction and port development in the areas.

Agreement No.: T–3813–2.

Filing Party: Ryokichi Higashionna, Ph. D., Director of Transportation, State of Hawaii, Department of Transportation, 869 Punchbowl Street, Honolulu, Hawaii 96813.

Summary: Agreement No. T–3813–2, between the State of Hawaii and Matson Terminals, Inc., amends approved Agreement No. T–3813 which provided for the lease of land and facilities by Matson, at Sand Island, Honolulu, Hawaii, and for the financing of the construction of a new Special Terminal at the island. Amendment No. T–3813–2 amends the basic agreement by providing that monies in the Construction Fund may be used for the payment of interest on the notes to and including the completion date of the construction.

Agreement No.: T–4029.

Filing Party: Mr. Robert W. Goethe, Assistant Executive Director, Georgia Ports Authority, Post Office Box 2406, Savannah, Georgia 31402.

Summary: Agreement No. T–4029, between the Georgia Ports Authority (Port) and Mid-South Feeds, Inc. (Mid-South), provides for (1) the lease by Port to Mid-South of 1600 square feet of land adjacent to Transit Shed A in the Port of Brunswick, Georgia, and (2) preferential volume incentive rates for the use of Port's grain handling facilities. Mid-South agrees to handle no less than 75,000 tons of cargo through Port's Brunswick Terminal during the first year of the agreement, and no less than 100,000 tons of cargo for each year thereafter. The term of the agreement is for three years, with one three-year renewal option.

Agreement No.: T–4030.

Filing Party: Randall V. Adams, Accounting/Traffic, Port of Palm Beach, P.O. Box 9935, Riviera Beach, Florida 33404.

Summary: Agreement No. T–4030 is a terminal lease agreement between the Port of Palm Beach (Port) and the First National Bank in Palm Beach (lessee) which provides that the Port will lease to lessee office space in the Port's (soon to be completed) Maritime Office Building. Lessee will use the premises as offices in which to conduct banking services. Lessee will pay the Port an annual base rental of ten thousand, two hundred eighty-five dollars ($10,285.00). The term of the lease is five (5) years with renewal options.

Agreement No.: T–4031.

Filing Party: Randall V. Adams, Accounting/Traffic, Port of Palm Beach, P.O. Box 9935, Riviera Beach, Florida 33404.

Summary: Agreement No. T–4031 is a terminal lease agreement between the Port of Palm Beach (Port) and Zenga and Blank, P.A. (lessee) which provides that the Port will lease to lessee office space in the Port's (soon to be completed)

Maritime Office Building. Lessee will use the premises as offices in which to conduct their law practice. Lessee will pay the Port an annual base rental of eleven thousand, two hundred seventy-five dollars ($11,275.00). The term of the lease is five (5) years with renewal options.

Agreement No.: 10439.

Filing Party: Ms. Cindra G.. Sargeant, Hub Shipping Company, Inc., Box 232, Cohasset, Massachusetts 02025.

Summary: Agreement No. 10439 is a cooperative working agreement between Hub Shipping Company, Inc. (Hub) and W. G. Carroll & Co., Inc. (Carroll), and provides that Hub, acting in its capacity as a cargo broker, will secure ocean transportation arrangements for shippers exporting granite. Carroll (FMC Forwarder, License No. 90) will act as the freight forwarder for such shippers of granite. Hub and Carroll are to exchange the necessary technical information with each other to effect such shipment. As compensation, Hub will pay Carroll a commission of 1.25 percent over the base ocean freight for each shipment Carroll dispatches under this agreement. The term of the agreement is a minimum of one year and continues thereafter until cancelled.

Dated March 10, 1982.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-7007 Filed 3-15-82; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Air Marine International Cargo Services, Inc. d.b.a. M.A.C. Cargo Services, 9260 N.W. 12th St., Miami, FL 33172

Officers: Carlos del Corral, President/Director; Lourdes Goldman, Vice President

M. E. Dey Export, Inc., 759 North Milwaukee Street, Milwaukee, WI 53202

Officers: R. W. Gardenier, President; James Biers, Vice President; Norman Little, Vice President

SCAC Texas, Inc., 15734 Lee Road, Houston, TX 77025

Officers: Paul Lanoe, President/Director; Gerard Lemasson, Vice President/Director; Bernard Martineau, Vice President/Director; Richard Bernstein, Secretary; Manfred Lorenzen, Executive Vice President; Jean-Claude Mouton, Director/Secretary/Treasurer

Branko Forwarding Corp., c/o Lardi & Rosenberg, Esqs., 10 Cutter Mill Road, Great Neck, NY 11021

Officers: Branko Solaric, President/Director; Florence Solaric, Secretary/Director

Pizarro Forwarders, Inc., 3105 S.W. Third Avenue (Coral Way), Suite 2, Miami, FL 33129

Officer: Jimmy Pizarro, Sole Officer

International Export Packers, Inc., 4600 Eisenhower Avenue, Alexandria, VA 22304

Officers: David W. McCreight, Executive Vice President; Mary M. Martin, Secretary; Dora A. Hawkins, Treasurer; Jack Kagan, President

Dated: March 10, 1982.

By the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-7007 Filed 3-15-82; 8:45 am]

BILLING CODE 6730-01-M

Sea-Land Service, Inc. and Port of Houston Authority Terminal Lease Agreement; Cancellation

Filing party: F. William Colburn, Director of Administration, Port of Houston Authority, P.O. Box 2562, Houston, Texas 77001.

Agreement No. T-3701.

Summary: On February 22, 1982, the Commission received notice of the termination of Agreement No. T-3701 by the signatory parties thereto, Sea-Land Service, Inc. and the Port of Houston Authority. The agreement will be cancelled effective January 31, 1982, the date specified by the parties.

Dated: March 10, 1982.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-7008 Filed 3-15-82; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 82O-0018]

Olin Chemicals; Withdrawal of Petition for GRAS Affirmation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal without prejudice of the petition (GRASP 3G0019) proposing affirmation that calcium hypochlorite for use in sanitizing barley is generally recognized as safe (GRAS).

FOR FURTHER INFORMATION CONTACT: John Dawson, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-8950.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1785-1788 (21 U.S.C. 348(b))), the following notice is issued: In accordance with § 171.7 *Withdrawal of petition without prejudice* (21 CFR 171.7) of the procedural food additive regulations, Olin Chemicals, 120 Long Ridge Rd., Stamford, CT 06904, has withdrawn its petition (GRASP 3G0019), notice of which was published in the **Federal Register** of March 23, 1973 (38 FR 7578) proposing that calcium hypochlorite for use in sanitizing barley is generally recognized as safe (GRAS).

Dated: March 5, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-6944 Filed 3-15-82; 8:45 am]

BILLING CODE 4160-01-M

Office of Human Development Services

White House Conference on the Aging; Notice of Annual Report on File

Notice of Annual Report on File Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 95-463, 5 U.S.C. App. 1, Sec. 10, 1976) that the annual report for the White House Conference on the Aging has been prepared and is on file at the Department's Library and the Library of Congress's Exchange & Gift Division.

Further information on the Committee may be obtained form Ms. Jo Harris, White House Conference on the Aging, Room 4513, 330 Independence Avenue, SW., Washington, D.C. 20201, Telephone (202) 245-1904.

Dated: March 8, 1982.

Mamie Welborne,

Human Development Services, Committee Management Officer.

[FR Doc. 82-7018 Filed 3-15-82; 8:45 am]

BILLING CODE 4130-01-M

Public Health Service

National Toxicology Program

The National Academy of Sciences-National Research Council (NAS-NRC) is conducting a study for the National Toxicology Program (NTP) to determine, in part, an estimate of what percentage of chemicals to which man and his environment may be exposed and thereby have the potential for public health implications, may be of interest. This contract also calls for the enumeration of those data characteristics to be used in these evaluations.

The NAS-NRC initial report, "Strategies to Determine Needs and Priorities for Toxicity Testing, Volume 1, Design," may be obtained from the National Academy Press, Publications Office, 2101 Constitution Ave., NW., Washington, D.C. 20418, for the sum of $11.39 per copy.

This report outlines the procedure and then executes it to obtain a *random* sample of 100 chemicals selected from a larger population of pesticides, cosmetics, drugs, food additives and other chemicals in commerce. For each of these 100 *randomly*-selected chemicals there is some toxicity information available. An in-depth assessment of the quality of these individual data bases will be conducted. While the NAS-NCR has undertaken the search of conventional data bases, the NTP is reenforcing this search by seeking via this **Federal Register** announcement any available data on the physicochemical characteristics, manufacturing process, production volume, use chemical fate exposure and toxicity of any of the 100 chemicals in the random sample. Of these 100 chemicals, 85 of them are listed in the NAS-NRC report; 15 were subsequently added. The 100 chemicals are listed below in order of ascending CAS Registry No.:

Chemical	CAS registry No.
Norethindrone acetate	51-98-9
Spironolactone	52-01-7
(2,2,2-Trichloro-1-hydroxyethyl) dimethyl phosphonate	52-68-6
Pyridoxine hydrochloride	58-56-0
Calcium acetate	62-54-4
Lactose	63-42-3
Tetrasodium EDTA	64-02-8
Citric acid, trisodium salt	68-04-2
DM Hydantoin	77-71-4
Propanal, 2-methyl-	78-84-2
4,4'-Isopropylidenediphenol	80-05-7
1,4-dihydroxy-8,10-anthraquinone	81-64-1
Phytonadione	84-80-0
Bicyclo(7.2.0)undec-4-ene, 4,11,11-trimethyl-8-methylene-, 1R (1R*,4E,9S*))	87-44-5
Isoquinoline, 1,2,3,4-tetrahydro-	91-21-4
Ethylene thiourea	96-45-7
Dichlorophen	97-23-4
Benzenesulfinic acid, 4-chloro-	100-03-8
Ferrocene	102-54-5
2,5-Cyclohexadiene-1,4-dione, dioxime	105-11-3
p-Cresol	106-44-5
p-Benzoquinone	106-51-4
Acetaldehyde, chloro-	107-20-0
Maleic acid	110-16-7
Nitrous acid, 3-methylbutyl ester	110-46-3
Cobalt chloride, compound with pyridine	110-86-1
2,6,10,14,18,22-Tetracosahexaene, 2,6,10,15,19,23-hexamethyl-, (all-E)-	111-02-4
Diethylene glycol	111-46-6
Di(2-methoxyethyl) phthalate	117-82-8
1-Monostearin	123-94-4
Sodium acetate	127-09-03
1-Penten-3-one, 1-(2,6,6-trimethyl-2-cyclohexen-1-yl)-	127-42-4
Trisodium EDTA	150-38-9
Sodium lauryl sulfate	151-21-3
Acenaphthylene	208-96-8
Norharman	244-63-3
Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester	297-97-2
Methamphetamine hydrochloride	300-42-5
Butanedioic acid, tetrafluoro-	377-38-8
Ethane, (2,2,2-trifluoroethoxy)-	406-90-6
Dehydroacetic acid	520-45-6
Benzene, 1,2,3,5-tetramethyl-	527-53-7
2H-1,3,5-Thiadiazine-2-thione, tetrahydro-3,5-dimethyl-	533-74-4
Guanidine carbonate	593-85-1
Lithium, (1-methylpropyl)-	598-30-1
9H-Fluorene, 2-nitro-	607-57-8
Acetylcysteine	616-91-1
Benzenesulfonamide, N,4-dimethyl-	640-61-9
Amantadine hydrochloride	665-66-7
Phosphorodithioic acid, O,O-dimethyl ester, S-ester with N-(mercaptomethyl)phthalimide	732-11-6
Benzene, 1,1'-oxybis-2,3,4,5,6-pentabromo	1163-19-5
Ethyl linolenate	1191-41-9
C.I. Pigment Green 7	1328-53-6
Calcium stearate	1592-23-0
Benzoic acid, 2-hydroxy-5-[(4-nitrophenyl)azo]-, monosodium salt	1718-34-9
4,4'-Bipyridinium, 1,1'-dimethyl-, dichloride	1910-42-5
1-Propanaminium, N,N,N-tripropyl-, bromide	1941-30-6
Ethanol, 2-[(2-[(2-aminoethyl)amino]ethyl]amino]	1965-29-3
Carbamic acid, (4-chlorophenyl)-, 1-methylethyl ester	2239-82-1
2,8,9-Trioxa-5-aza-1-silabicyclo(3.3.3)undecane, 1-methyl-	2286-13-3
1,2,4-Thiadiazole, 5-ethoxy-3-(trichloromethyl)-	2593-15-9
Cyclohexane, 1-ethenyl-	2622-21-1
1,3-Propanediol, 2-methyl-2-[(nitrooxy)methyl]-, dinitrate ester	3032-55-1
Diphenidol hydrochloride	3254-89-5
Carbonic acid, nickel (2+) salt (1:1)	3333-67-3
Stannane, difluorodimethyl-	3582-17-0
Pentanamide, N,N-dimethyl-	6225-06-3
Phenol, 4-(di-2-propenylamino)-3,5,-dimethyl-, methylcarbamate (ester)	6392-46-7
Methylergonovine maleate	7054-07-1
Germanium	7440-56-4
Acetic acid, chloro-, 2-phenylethyl ester	7476-81-7
Silica	7631-86-9
Potassium iodate	7758-05-6
Cupric sulfate, anhydrous	7758-98-7
Sodium bromate	7789-38-0
Hydrazine hydrate	7803-57-8
Linseed oil	8001-26-1
Cottonseed oil	8001-29-4
Alkyldimethylbenzylammonium chloride	8001-54-5
Peanut oil	8002-03-7
Ichthammol	8029-68-3
Jasmine absolute	8031-01-4
Oleth-15	9004-98-2
PEG-100 stearate	9004-99-3
Carboxypolymethylene	9007-20-9
Silane, dichlorodiphenylethyl-	10138-21-3
2-Furanmethanol, tetrahydro-, phosphate (3:1)	10437-00-6
Vanadic acid, ammonium salt	11115-67-6
Terbium oxide	12036-15-4
Sodium laureth-3 sulfate	13150-00-0
Zinc, bis(2,4-pentanedionato-O,O')- (T-4)-	14024-63-6
tert-Dodecanethiol	25103-58-6
PEG-200	25322-68-3
2-Propenoic acid, 2-methyl-, 2-hydroxypropyl ester, homopolymer	25703-79-1
FD&C Red No. 40	25956-17-6
2,3,5-Trichloro-4-(propylsulfonyl)pyridine	38627-35-9
Distillates [petroleum], solvent-dewaxed light paraffinic	64742-56-9
Zeolites, calcium-iron-magnesium-vanadium-containing	68918-02-5
Insulin suspension, isophane, purified pork	None
Riboflavin supplement	None

Information should be sent no later than close of business April 15, 1982, to: Dr. Scott Baker, National Academy of Sciences, (WC-1008), 2101 Constitution Ave., N.W., Washington, D.C. 20418.

Dated: March 9, 1982.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 82-6980 Filed 3-15-82; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Alaska Outer Continental Shelf; Dates and Locations of Public Hearings Regarding Environmental Impact Statement for Proposed Outer Continental Shelf (OCS) Oil and Gas Lease Sale No. 70

In accordance with 43 CFR 3314.1, public hearings will be held in order to receive comments and suggestions relating to the Draft Environmental Impact Statement prepared for a proposed Outer Continental Shelf oil and gas lease sale of 479 tracts of submerged Federal lands in the St. George Basin region of Alaska. The hearings will be held on the following dates at the locations and times indicated.

March 30, 1982

Cold Bay School, Meeting Room, Cold Bay, Alaska, 4:00-6:00 p.m., 7:00-10:00 p.m.

Telephone Tie-in to: False Pass, Nelson Lagoon, Sand Point, King Cove, 7:30-9:00 p.m.

March 31, 1982

Community Service Facility, Unalaska, Alaska, 6:00-10:00 p.m.

Telephone Tie-in to: Nikolski, Akutan, Atka, 7:30-9:00 p.m.

April 1, 1982

St. Paul Civic Center, St. Paul, Alaska, 7:00-10:00 p.m.

Telephone Tie-in to: St. George, 7:00-10:00 p.m.

April 2, 1982

Anchorage Historical and Fine Arts Museum, Anchorage, Alaska, 1:00-5:00 p.m., 7:00-10:00 p.m.

The hearings will provide the Secretary of the Interior with information from government agencies and the public which will help in the

evaluation of the potential effects of the proposed lease sale.

The Draft Environmental Impact Statement concerning proposed OCS Lease Sale No. 70 was made available to the public on October 30, 1981. Copies of this statement can be obtained from the Alaska Outer Continental Shelf Office, P.O. Box 1159, Anchorage, Alaska 99510, (907) 276–2955. Copies of the Draft Environmental Impact Statement are also available for review in public libraries throughout Alaska.

Interested individuals, representatives of organizations, and public officials wishing to testify at the hearings are asked to contact Nancy Hendrix, Alaska Outer Continental Shelf Office, at the address and telephone number above by 4:00 p.m. (Alaska Daylight Time), Friday, March 26, 1982. Time limitations make it necessary to limit the length of oral presentations to ten (10) minutes. An oral statement may be supplemented by a more complete written statement which may be submitted to a hearing official at the time of oral presentations or by mail until April 9, 1982. This will allow those unable to testify at a public hearing an opportunity to make their views known and for those presenting oral testimony to submit supplemental information and comments. Written comments should be addressed to the Manager, Alaska Outer Continental Shelf Office, P.O. Box 1159, Anchorage, Alaska 99510.

The Bureau of Land Management recognizes the distances involved and the travel difficulties faced by those in the more remote areas who may be affected by this proposal and may wish to participate in the public hearing process. Accordingly, telephone tie-ins to some of the public hearings have been arranged for the villages indicated in the hearing schedule above. All comments, whether provided at the formal public hearings, through telephone tie-in, or in writing, are given equal weight in preparation of the Final Environmental Impact Statement.

Robert F. Burford,

Director, Bureau of Land Management.

March 11, 1982.

[FR Doc. 82–7022 Filed 3–15–82; 8:45 am]

BILLING CODE 4310–84–M

District Grazing Advisory Board, Susanville, California; Meeting

Notice is hereby given in accordance with Pub. L. 94–579 (FLPMA) that a meeting of the Susanville District Grazing Advisory Board will be held on April 12, 1982.

The meeting will begin at 10:00 a.m. at the Cal Pines Lodge, Alturas, California.

The agenda for the meeting will include:

1. Continuation of Discussion on Allocation of Funds to the Districts.
2. Other Items as Appropriate.
3. Public Comments.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:30 p.m. and 4:30 p.m., or file a written statement for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 1090, Susanville, California, 96130–1090, by April 2, 1982. Depending upon the number of persons wishing to make oral statements, a per person list limit may be established.

Summary minutes of the Board Meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

C. Rex Cleary,

District Manager.

[FR Doc. 82–7050 Filed 3–15–82; 8:45 am]

BILLING CODE 4310–84–M

Final Coal Management Decisions for Kemmerer Resource Area Rock Springs District, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of final coal management decisions for Kemmerer Resource Area, Rock Springs District.

SUMMARY: The Rock Springs, Wyoming District Office of the Bureau of Land Management has reviewed the Pioneer Trails Management Framework Plan (MFP) and made final decisions for federal coal management in the Kemmerer Resource Area. The purpose for the review was to amend the MFP to assure that it reflects current statutory requirements and policies of section 522 of the Surface Mining Control and Reclamation Act of 1977 and the regulations contained in 43 CFR 3400. The decisions affect the Kemmerer Known Recoverable Coal Resource Area (KRCRA) which is located in Southwestern Wyoming in Lincoln and Uinta Counties.

Public participation opportunities were provided by **Federal Register** notice of November 9, 1981; an open house conducted in Kemmerer on November 24, 1981, to discuss proposed coal decisions; a public hearing on the evening of November 24 in Kemmerer; public review of the proposed decisions brochure of November 9, 1981; and informal public contacts in the process of reviewing the coal area. Public comments were carefully considered and the final coal decisions contained in the MFP amendment reflect those considerations.

Specific adjustments in the final decisions as a result of public comment include: one portion of a historic trail has been determined to be acceptable for coal development pending further study rather than unsuitable (two other historic trail segments remain unsuitable); all other cultural sites and sage grouse breeding/nesting areas that were unsuitable have been determined to be acceptable with specified stipulations and mitigation requirements; about 1500 acres were determined to be unsuitable due to big game critical winter habitat; floodplain areas were determined to be acceptable pending further study rather than unsuitable; and alluvial valley floor areas were determined to be acceptable pending final determinations by Wyoming State government at the time of mine permitting rather than unsuitable. In addition, surface owner consultations determined that about 0.2 million ton of federal coal unavailable for leasing in 1984; and the decisions now better accommodate potential producing oil/gas fields in the coal area.

A brochure summarizing these final coal decisions will be available about March 26, 1982 in the Rock Springs District Office and the Kemmerer Resource Area Office. Those who attended the public hearing or requested that their name be placed on the coal mailing list will be mailed a copy of the brochure. Since the protest period for this planning amendment will begin before the brochures will be available to the public limited copies of the printing material can be made available upon request. Such requests should be submitted to the BLM Rock Springs District Office or the Kemmerer Resource Area Office at the addresses and phone numbers listed below.

A 30-day protest period begins from the date of publication of this notice. During that time, any person who participated in the planning process and has an interest which may be adversely affected by the decisions may protest the approval of the planning amendment. In accordance with 43 CFR 1601.6–1(d), a protest may raise only those issues which were submitted for the record to the District Manager during the planning process. Protests must be submitted in accordance with 43 CFR 1601.6–1 (d) and (e).

DATES: The brochure will be available about March 26, 1982. The protest period begins on the date of this notice and ends in 30 days.

ADDRESSES: (1) BLM, Rock Springs District Office, Highway 191 North, P.O. Box 1869, Rock Springs, Wyoming 82901 (307) 382–5350; (2) BLM, Kemmerer Resource Area, U.S. 30, Across from Port of Entry, P.O. Box 632, Kemmerer, Wyoming (307) 877–3933.

FOR FURTHER INFORMATION CONTACT: Steve Howard, Area Manager, at the above address or phone number for the Kemmerer Resource Area Office.

Jerry K. Ostrom,

Assistant District Manager.

[FR Doc. 82–7023 Filed 3–15–82; 8:45 am]

BILLING CODE 4310–84–M

Utah; Intensive Wilderness Inventory Decisions in Effect

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: On February 10, 1982 the Interior Board of Land Appeals (IBLA) affirmed the Utah State Director's decision on four wilderness inventory units, (UT–050–233, UT–060–007, 011 & 012). The decisions as originally published in the September 20, 1979 and May 25, 1979 **Federal Register** notices (44 FR 54554, 44 FR 30450) are therefore final. In those decisions a 31,360 acre portion of UT–060–007 was designated as a Wilderness Study Area (WASA); the other portions of that unit were excluded from further wilderness review, along with units UT–050–233, UT–060–011 & 012. That portion of UT–060–007 designated as a WSA will remain under management restrictions iposed by section 603 of Pub. L. 94–579. The remainder of that unit and those excluded (UT–050–233, UT–060–011 & 012) from further wilderness review will no longer be subject to management restrictions imposed by section 603 of Pub. L. 94–579.

FOR FURTHER INFORMATION CONTACT: Kent Biddulph, Utah BLM Wilderness Coordinator (801) 524–5326.

Dated: March 4, 1982.

Ronald G. Robison, Jr.,

State Director.

[FR Doc. 82–7051 Filed 3–15–82; 8:45 am]

BILLING CODE 4310–84–M

[OR 1294 (Wash)]

Washington; Proposed Withdrawal and Reservation of Lands; Amendment; Correction

In FR Doc. 82–3699 appearing on page 6382, in the issue of Thursday, February 11, 1982, change the first line to read "(OR 1294 (WASH))" and the first word of the second line to read "Washington".

Dated: March 9, 1982.

Leland D. Morrison,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82–7052 Filed 3–15–82; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

Correction

In FR Doc. 82–6085 appearing at page 9579 in the issue of Friday, March 5, 1982, make the following change:

On page 9579, middle column, the sentence, "The applicant requests a permit to export in foreign commerce 18 captive-born cotton-top marmosets (*Saguinus oedipus*) from New Haven, CT to the University of Bristol, Bristol, England, for enhancement of propagation.", should be inserted to appear immediately following, "Applicant: Yale University School of Medicine, New Haven, CT, PRT 2–8857" and before, "Applicant: New York Zoological Society, Bronx, NY, PRT 2–8859"

BILLING CODE 1505–01–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 5, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by March 31, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

CALIFORNIA

Alameda County

Oakland, *Madison Park Apartments*, 100 9th St.

Santa Clara County

Gilroy, *Christian Church of Gilroy*, 160 5th St.

Tulare County

Visalia, *Bank of Italy Building*, 128 E. Main St.

DELAWARE

Kent County

Magnolia, *Lowber, Matthew, House*, N. Main St. (moved)

New Castle County

Middletown vicinity, *Hanson, B. F., House*, W of Middletown

Odessa, *Old St. Paul's Methodist Episcopal Church*, High St.

DISTRICT OF COLUMBIA

Washington

Potomac *Palisades Site*, Off Foxhall Rd., and MacArther Blvd.

MASSACHUSETTS

Berkshire County

Adams, *Armory Block*, 39—45 Park St.
Adams, *Barrett, P. J., Block*, 70—76 Park St.
Adams, *Berkshire Mill No. 1*, Hoosac St.
Adams, *Jones Block*, 49—53 Park St.
Adams, *Mauser Block*, 19—27 Park St.
Adams, *Pittsfield and North Adams Passenger Station and Baggage and Express House*, 10 Pleasant St.
Adams, *Simmons Block*, 86—90 Park St.
Stockbridge, *Glendale Power House*, MA 183
Stockbridge vicinity, *Wheatleigh*, W. Hawthorne Rd.

Essex County

Lawrence, *American Woolen Mill Housing Distict*, 300—328 Market St.
Peabody, *Felton, Nathaniel, Houses*, 43 Felton St. (Jr.) and 47 Felton St. (Sr.)

Hampden County

Westfield, *Octagon House*, 28 King St.

Middlesex County

Melrose, *Melrose Town Center Historic District*, Main St.

Norfolk County

Milton, *Belcher-Rowe House*, 26 Governor Belcher Lane
Needham, *Lewis, Joshua, House*, 178 South St.
Needham, *Mills, Davis, House*, 945 Central Ave.
Needham, *Townsend House*, 980 Central Ave.
Weymouth, *Old South Union Church*, 25 Columbian St.

Worcester County

Webster, *Main Street Historic District*, 175—299 and 228—274 Main St.

MINNESOTA

BENTON COUNTY MULTIPLE RESOURCE AREA. This area includes: Gilman, *Saints Peter and Paul Catholic Church Complex*, State St.; Gilman vicinity, *Esselman Brothers General Store*, NW of Gilman; Ronneby vicinity, *Ronneby Charcoal Kiln*, W of Ronneby; Royalton vicinity, *Posch Site*, S of Royalton (previously listed in the National Register 10–3–73); St. Cloud, *Ice Service Company Building*, 3rd Ave. (submitted as individual nomination December 1981); St. Cloud vicinity, *Cota Round Barns*, SR 48; and Sauk Rapids, *Robinson, Leonard, House*, 202 2nd Ave. S

Houston County

HOUSTON COUNTY MULTIPLE RESOURCE AREA. This area includes: Brownsville, *Emanuel Evangelical Lutheran Church,* Main St.; (previously listed in the National Register 6–2–1970); Caledonia, *Houston County Courthouse, Jail, and Municipal Garage,* Courthouse Sq.; *Sprague, Ellsworth Ara and Robert David, Houses,* 204 and 224 W. Main St.; *Williams, Spafford, Hotel (Barnes House)* E. Main St.; Caledonia vicinity, *Houston County Poor Home,* SR 12; Eitzen, *Bunge, Christian Jr., Store,* Iowa Ave.; Eitzen vicinity, *Eitzen Stone Barn,* S of Eitzen; *Johnson, Charles, Flour Mill (Upper Mill)* NE of Eitzen; *Portland Prairie Methodist Episcopal Church,* Off MN 76; LaCrescent, *Cameron, Daniel, House,* 429–435 S. 7th St. and Sheldon vicinity, *Schech's Mill,* Beaver Creek Valley State Park (previously listed 1–31–76)

Rice County

RICE COUNTY MULTIPLE RESOURCE AREA. This area includes: Faribault, *Faribault Historic Commercial District,* Central Ave. between 2nd and 3rd Sts.; *Shattuck Historic District,* Off MN 299; Northfield, *Northfield Historic District,* Roughly bounded by Water, Division, 3rd and 5th Sts. (previously listed in the National Register 6–11–79); Dundas, *Archibald-Dundas Mill Site* (previously listed in the National Register 10–6–76); *Archibald, E. T., House,* Off MN 218 (previously listed in the National Register 6–17–76); *Ault Store,* 2nd St.; *Church of the Holy Cross,* 2nd St.; *Martin House,* Bridge and 1st St.; Faribault, *Buck, Cassius, House,* 124 1st Ave., SW.; *Buckham, Thomas Scott, Memorial Library,* Central Ave. and Division St.; *Cathedral of Our Merciful Saviour,* 515 NW. 2nd Ave. (previously listed in the National Register 6–10–79); *Cathedral of Our Merciful Saviour and Guild House,* 515 NW. 2nd Ave. (boundary increase approved 2–10–82); *Chapel of the Good Shepherd,* Shattuck School (previously listed in the National Register 4–4–75); *Congregational Church of Faribault,* 227 NW. 3rd St. (previously listed in the National Register 5–12–77); *Faribault, Alexander, House,* 12 NE. 1st Ave. (previously listed in the National Register 9–22–70); *Faribault City Hall,* 208 1st Ave., NW.; *Faribault Water Works,* 7th St., NW.; *Farmer Seed and Nursery Company,* 818 NW. 4th St.; *Hospital,* Faribault State Hospital; *Hutchinson, John, House,* 305 2nd St., NW.; *Seabury Divinity School (Johnston Hall)* District No. 1 Hospital (previously listed in the National Register 3–31–75); *Noyes Hall,* Minnesota School for the Deaf campus (previously listed in the National Register 5–12–75); *Old Phelps Library,* Shattuck School (previously listed in the National Register 4–4–75); *Rice County Courthouse and Jail,* 3rd St. and 2nd Ave., NW.; *Rock Island Depot,* Off MN 60; *St. Mary's Hall,* Off MN 299; *Shumway Hall and Morgan Refectory,* Shattuck School (previously listed in the National Register 4–4–75); *Theopold Mercantile Company Wholsale Grocery Building,* 1st Ave. and 3rd St., NE.; *Wilson, Hudson, House,* 104 1st Ave., NW.; Lonsdale, *Lonsdale Public School,* 3rd Ave., SW. (previously listed in the National Register 8–30–79); Nerstrand, *Nerstrand City Hall,* Main St.; *Osmundson, Osmund, House,* Off MN 246; Nerstrand vicinity, *Bonde Farmhouse,* SR 27 and MN 246; *Valley Grove,* SR 20 and MN 246; *Veblen, Thomas, Farmstead,* NE of Nerstrand off MN 246 (previously listed in the National Register 6–30–75); Northfield, *All Saints Church,* Washington and 5th Sts.; *Baker, Laura, School,* 211 Oak St. (previously listed in the National Register 3–29–76); *Goodsell Observatory (New Observatory)* Carleton College campus (previously listed in the National Register 5–12–75); *Lord, Drew H., House,* 201 E. 3rd St.; *Nutting House,* 217 Union St.; *Old Main-St. Olaf College,* St. Olaf College campus (previously listed in the National Register 6–3–76); *Rolvaag, O.E., House,* 311 Manitou St. (previously listed in the National Register 8–4–69); *Scoville Memorial Library,* 1st St. E. and College St.; *Scriver Block Building,* Bridge Sq. and Division St. (previously listed in the National Register 5–5–76); *Skinner Memorial Chapel,* 1st St.; *Steensland Library,* St. Olaf College campus; *Willis Hall (New Hall)* Carleton College campus (previously listed in the National Register 6–13–75); Northfield vicinity, *Drake Farmhouse,* SR 22 and 1; Shieldsville, *St. Patrick's Catholic Church and Parsonage,* SR 10; Webster vicinity, *Annunciation Church of Hazelwood,* SR 46

Roseau County

Warroad, *Warroad Canadian National Railway Depot,* Main St.

NEW MEXICO

Bernalillo County

Albuquerque, *Employees' New Dormitory and Club,* Albuquerque Indian School campus
Albuquerque, *Gymnasium-Auditorium Building,* 1000 Menaul Blvd., NW.
Albuquerque, *Sewing, Home Economics and Laundry Building,* Albuquerque Indian School campus
Albuquerque, *University of New Mexico Lodge, Building 218,* Albuquerque Indian School campus

NEW YORK

Kings County

Brooklyn, *83rd Precinct Police Station and Stable,* 179 Wilson Ave.

OHIO

CIVIL WAR ERA SANDSTONE HOUSES IN LORAIN COUNTY THEMATIC RESOURCES. Reference—see individual listings under Lorain County.

Allen County

Delphos, *Marks Family House,* 233 N. Franklin St.

Belmont County

Belmont, *Schooley, Dr. Lindley, House and Office,* Main St.

Clark County

Springfield vicinity, *Donnel, Jonathan, House,* Lower Valley Pike

South Charleston vicinity, *Green Plain Monthly Meetinghouse,* S. Charleston-Clifton Rd.

Clermont County

Williamsburg vicinity, *McKever, Lewis, Farmhouse,* 4475 McKeever Rd.

Clinton County

Sabina, *Haines, Frank, House,* 140 W. Elm St.

Coshocton County

Plainfield, *Johnson, Thomas, House,* OH 541

Cuyahoga County

Cleveland, *Variety Store Building and Theatre,* 11601–11625 Lorain Ave.

Darke County

New Madison vicinity, *Walker, Christopher C., House and Farm,* 1 mi. SW of Madison on OH 121

Franklin County

Columbus, *Jefferson Avenue Historic District,* Roughly bounded by I–71, E. Broad, 11th St., and Long Sts.
Columbus, *North Market Historic District,* Roughly bounded by W. Goodale, Park, High, Front and Vine Sts.

Greene County

Yellow Springs, *Yellow Springs Historic District,* Roughly bounded by RR tracks, Yellow Springs-Fairfield Rd., High and Herman Sts.

Hamilton County

Cincinnati, *Bramble, Ayres L., House,* 4416 Homer Ave.
Cincinnati, *St. Rosa Church,* 2501 Eastern Ave.
Loveland, *Shield's Edwin M., House (William Johnston House)* 220 Riverside Ave.

Highland County

Hillsboro vicinity, *Trop Farm,* 6250 Mad River Rd.

Holmes County

Lakeville vicinity, *DeYarmon, Joseph L., House,* SR 179 and SR 273

Lorain County

Amherst, *Nichols, James, House (Civil War Era Sandstone Houses in Lorain County Thematic Resources)* N. Ridge Rd.
Amherst, *Quigley, G. W., House (Civil War Era Sandstone Houses in Lorain County Thematic Resources)* Milan Ave. and Lake St.
Amherst, *Streator, E. P., House (Civil War Era Sandstone Houses in Lorain County Thematic Resources)* Milan Ave. and Lake St.
Amherst vicinity, *Bryant, Nathaniel, House (Civil War Era Sandstone Houses in Lorain County Thematic Resources)* Pyle-S. Amherst Rd.
Amherst vicinity, *Perry, Bushrod, House Civil War Era Sandstone Houses in Lorain County Thematic Resources)* Middle Ridge Rd. and
Avon, *Hurst, William E., House (Civil War Era Sandstone Houses in Lorain County Thematic Resources)* 33065 Detroit Ave.

(previously listed in the National Register 9–11–74)
Avon, *Jelling, J., House (Civil War Era Sandstone Houses in Lorain County Thematic Resources)* Detroit Rd.
Avon, *Lewis House (Civil War Era Sandstone Houses in Lorain County Thematic Resources)* Avon-Belden Rd.
Avon, *Nagel House (Civil War Era Sandstone Houses in Lorain County Thematic Resources)* Nagel and Schwartz Rds.
Avon, *Robinson-Fitch House (Civil War Era Sandstone Houses in Lorain County Thematic Resources)* SR 83
Avon, *Wilson, Ebenezer, House (Civil War Era Sandstone Houses in Lorain County Thematic Resources)* Kinzel Rd. and SR 83
Avon Lake, *Sotter, Michael, House (Civil War Era Sandstone Houses in Lorain County Thematic Resources)* Walker and Jaycox Rds.
Elyria vicinity, *Webster, William, House (Civil War Era Sandstone Houses in Lorain County Thematic Resources)* Indian Hollow Rd.
Lorain, *St. Ladislaus Roman Catholic Church,* 2908 Wood Ave.
Oberlin, *Stone House (Civil War Era Sandstone Houses in Lorain County Thematic Resources)* N. Park St.
Oberlin vicinity, *Banks, J., House (Civil War Era Sandstone Houses in Lorain County Thematic Resources)* Parsons Rd.
Oberlin vicinity, *Blakeslee House (Civil War Era Sandstone Houses in Lorain County Thematic Resources)* Grafton Rd.
South Amherst vicinity, *Jenne House (Civil War Era Sandstone Houses in Lorain County Thematic Resources)* Oberlin Rd.
Vermilion vicinity, *Cable, O. A., House (Civil War Era Sandstone Houses in Lorain County Thematic Resources)* Middle Ridge and Baumhart Rds.
Vermilion vicinity, *Morse-Zunt House (Civil War Era Sandstone Houses in Lorain County Thematic Resources)* St. and N. Ridge Rd.

Montgomery County

Dayton, *Huffman Historic District,* Roughly bounded by E. 3rd, Hamilton, VanLear and Beckel Sts.

Pickaway County

Circleville vicinity, *Redlands,* 1960 N. Court St.

Richland County

Butler vicinity, *Rummell Mill,* NE of Butler on SR 149
Mansfield vicinity, *Lewis, Samuel, House,* 291 N. Stewart Rd.
Perrysville vicinity, *Shambaugh, George, House,* Frontz Rd.
Shelby, *Shelby Center Historic District,* E. and W. Main St.

Van Wert County

Delphos, *Bredeick-Lang House,* 506 W. 2nd St.

TENNESSEE

NINETEENTH CENTURY CHURCHES IN CLARKSVILLE THEMATIC RESOURCES. Reference—see individual listings under Montgomery County.

Knox County

Knoxville, *Burwell Building-Tennessee Theater (Knoxville Banking and Trust Company Building)* 600 S. Gay St.

Montgomery County

Clarksville, *Catholic Church and Rectory (Nineteenth Century Churches in Clarksville Thematic Resources)* 716 Franklin St.
Clarksville, *Clarksville Methodist Church (Nineteenth Century Churches in Clarksville Thematic Resources)* 334 Main St.
Clarksville, *First Presbyterian Church (Nineteenth Century Churches in Clarksville Thematic Resources)* 213 Main St. (previously listed in he National Register 4–30–76)
Clarksville, *Madison Street Methodist Church (Nineteenth Century Churches in Clarksville Thematic Resources)* 319 Madison St. (previously listed in the National Register 5–13–76
Clarksville, *St. Peter African Methodist Church (Nineteenth Century Churches in Clarksville Thematic Resources)* 518 Franklin St.
Clarksville, *Trinity Church and Rectory (Nineteenth Century Churches in Clarksville Thematic Resources)* 317 Franklin St.

WISCONSIN

Walworth County

Delavan vicinity, *Mile Long Site (47 WL–110)* (boundary decrease)

WEST VIRGINIA

Brooke County

Bethany, *Bethany Historic District,* WV 67
Wellsburg, *Wellsburg Historic District,* WV2

[FR Doc. 82-7033 Filed 3-15-82; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP3–041

Decided: March 4, 1982.

By the Commission, Review Board No. 2. Members Carleton, Fisher, and Williams.

MC 15735 (Sub-40), filed February 25, 1982. Applicant: ALLIED VAN LINES,

INC., P.O. Box 4403, Chicago, IL 60680. Representative: Richard V. Merrill (same address as applicant), (312) 681–8378. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with the Bendix Corporation, of Southfield, MI.

MC 16334 (Sub-15), filed February 26, 1982. Applicant: DEBRICK TRUCK LINE COMPANY, P.O. Box 421, Paola, KS 66071. Representative: John T. Pruitt, 9832 Connell, Overland Park, KS 66212, (913) 888–3386. Transporting *insulating materials and related products*, between points in Franklin County, KS, Hennepin County, MN, and Adams County, CO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 67234 (Sub-49), filed February 26, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with The Bendix Corporation, and its subsidiaries, of Southfield, MI.

MC 69224 (Sub-56), filed February 26, 1982. Applicant: H & W MOTOR EXPRESS COMPANY, 3000 Elm Street, Dubuque, IA 52001. Representative: Carl L. Steiner, 29 South LaSalle Street, Chicago, IL 60603, (319) 583–7391. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in IA, IL, IN, MN, MO, WI, Lancaster, Douglas, Sarpy, Saunders, Washington, Dodge and Cass Counties, NE, and Douglas, Jefferson, Wyandotte, Johnson, Leavenworth and Shawnee Counties, KS.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 109634 (Sub-12), filed February 25, 1982. Applicant: TRAILER CONVOYS, INC., 1248 Highway 31, Jeffersonville, IN 47130. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Wal-Mart Stores, Inc., of Bentonville, AR.

MC 117184 (Sub-11), filed February 23, 1982. Applicant: APEX TRUCKING CO., INC., 120 Seaview Dr., Secaucus, NJ 07094. Representative: Edward L. Nehez, 7 Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with International Business Machines Corporation, of Armonk, NY.

MC 125535 (Sub-37), filed February 26, 1982. Applicant: NATIONAL SERVICE LINES, INC. OF NEW JERSEY, 2275 Schuetz Road, St. Louis, MO 63141. Representative: (same as above), (314) 569–1161. Transporting *metal products* (except commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Jackson Iron and Metal, Inc., of Jackson, MS.

MC 140174 (Sub-9), filed February 26, 1982. Applicant: BROOKS TRUCKING, INC., E. North St., P.O. Box 187, Vanlue, OH 45890. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *general commodities* (except classes A and B explosives and household goods), between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141084 (Sub-23), filed February 26, 1982. Applicant: NATIONAL FREIGHT LINES, INC., 13023 Arroyo St., P.O. Box 1031, San Fernando, CA 91341. Representative: Bill D. Gardner (same address as applicant), (213) 361–8647. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with SCS Industries, Inc., of Sylmar, CA.

MC 142504 (Sub-2), filed February 22, 1982. Applicant: JACK T. MOOREHEAD, d.b.a. JACK MOOREHEAD TRUCKING, Niagara Road , Plesant Valley, NY 12569. Representative: Neil D. Breslin, 11 North Pearl Street, Albany, NY 12207. Transporting *lumber and building material*, between points in NC and SC, on the one hand, and, on the other, points in CT, NY and PA.

MC 144265 (Sub-2), filed February 22, 1982. Applicant: A.I.D., INC., Air Freight Terminal Building, "D" Street, Ryan Airport (P.O. Box 53154), Baton Rouge, LA 70805. Representative: Glyn J. Godwin, 3133 Perkins Road, Baton Rouge, LA 70808, (504) 383–0040. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Baton Rouge, LA, and points within 75 miles thereof, on the one hand, and, on the other, points in TX, AL, FL, GA, MS, AR and TN.

MC 145384 (Sub-60), filed March 1, 1982. Applicant: ROSE-WAY, INC., P.O. Box 4644, Des Moines, IA 50306. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274–4985. Transporting *metal products*, between Los Angeles, CA, on the one hand, and, on the other, points in AZ, IA, IL, IN, KY, MO, NM, OH, OK, and TX.

MC 145704 (Sub-4), filed February 22, 1982. Applicant: G. P. BOURROUS TRUCKING COMPANY, INC., 508 Burke St., Diboll, TX 75941. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768–2207, (512) 476–6391. Transporting *lumber and wood products*, between points in Polk and Angelina Counties, TX, on the one hand, and, on the other, points in TX and LA.

MC 146974 (Sub-11), filed February 26, 1982. Applicant: WILLIAM V. THOMAS, 9700 Second St., N.W., Albuquerque, NM 87114. Representative: John P. Jennings (same address as applicant), (505) 897–3560. Transporting (1) *lumber and wood products*, (2) *clay, concrete, glass or stone products*, (3) *metal products*, (4) *machinery*, (5) *transportation equipment*, (6) *building materials, and* (7) *Mercer commodities*, between points in the U.S. in and west of PA, MD, VA, NC, SC, GA, and FL (including AK).

MC 152544 (Sub-13), filed February 24, 1982. Applicant: CYPRESS TRUCK LINES, INC., 1746 E. Adams St., Jacksonville, FL 32202. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, (904) 632–2300. Transporting *building and construction materials*, between points in York County, PA, Tarrant County, TX, Solano County, CA and Kane County, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152744 (Sub-4), filed February 24, 1982. Applicant: CITADEL TRANSPORT, INC., 180 N. Michigan Ave., Chicago, IL 60601. Representative: Thomas M. O'Brien, 10 S. LaSalle St., Chicago, IL 60603, (312) 263–1600. Transporting *such commodities* as are dealt in or used by processors and distributors of food and related products, between points in the U.S. (except AK and HI), under continuing contract(s) with the Campbell Soup Company of Camden, NJ.

MC 154624 (Sub-1), filed February 23, 1982. Applicant: ACE LIQUID WASTE HAULERS, INC., 3715 Beechmont Court, Cincinnati, OH 45226. Representative: Robert G. Nichols (same address as applicant), (513) 871–6397. Transporting *toxic and hazardous wastes*, between points in OH, MI, IN, IL, WI, KY, TN, WV, VA, PA, TX, AL, GA, and NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—The certificate in this proceeding to the extent it authorizes the transportation of hazardous wastes shall expire 5 years from the date of issuance.

MC 156345, filed February 25, 1982. Applicant: ELK EXPRESS LINES, LTD., 5542 Angling Rd., Portage, MI 49002. Representative: Ms. Vicki J. Elkins (same address as applicant), (616) 343–1450. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IN, IA, KY, MD, MI, MN, MO, NY, OH, PA, TN, WV, and WI.

MC 159775, filed February 26, 1982. Applicant: DODSON TRUCKING, INC., 219 A Superior, Evanston, WY 82930. Representative: James E. Phillips, 822 Main St., Evanston, WY 82930, (307) 789–9370. Transporting *oilfield equipment and supplies*, between Evanston, WY, on the one hand, and, on the other, points in CO, UT, NV, MT, and ID.

MC 160154, filed February 26, 1982. Applicant: DOUGLAS NORD, 1401 Texas Ave., St. Louis Park, MN 55426. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *lumber and wood products*, between points in Sonoma, Humboldt, and Mendocino Counties, CA, on the one hand, and, on the other, points in IA, MN, ND, SD, and WI.

MC 160425, filed February 24, 1982. Applicant: BETTY JENSEN d.b.a. HUSKY HAULERS, P.O. Box 60488, Fairbanks, AK 99706. Representative: Everett L. Jensen (same address as applicant), (907) 456–3758. Transporting *general commodities* (except classes A and B explosives, household goods and hazardous waste materials), between points in the U.S. (except HI).

MC 160725, filed February 24, 1982. Applicant: A. & S. TRUCKING COMPANY, INC., 404 Cross St., Cleveland, MS 38732. Representative: Ajax J. Morris, Jr., P.O. Box 782, Cleveland, MS 38732, (601) 843–2555. Transporting *iron and steel articles*, between points in the U.S. (except AK and HI).

MC 160764, filed February 25, 1982. Applicant: HAROLD WINDSOR AND TEDDIE WRIGHT, d.b.a. FLYING "W", 18435 2nd Ave., S., Seattle, WA 98148. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009, (206) 453–0312. Transporting (1) *machinery*, (2) *those commodities* which because of their size or weight require the use of special handling or equipment, and (3) *lumber*, between points in the U.S. (except AK and HI).

MC 160765, filed February 25, 1982. Applicant: STEWARD TOURS, 3923 Avera Ave., Winston-Salem, NC 27106. Representative: Polly Stewart (same address as applicant), (919) 924–2802. As a *broker*, at Winston-Salem, NC, in arranging for the transportation of *passengers and their baggage*, between points in NC, on the one hand, and, on the other, points in the U.S.

MC 160775, filed February 26, 1982. Applicant: HILKE E. GRANT AND MARCEL TROTTIER, d.b.a. T.L.C. TOURS, 4734 Topanga Canyon Blvd., Woodland Hills, CA 91364. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667–8107. Transporting *passengers and their baggage* in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in Los Angeles County, CA, and extending to points in NV, AZ, UT, and WA, under continuing contract(s) with Golden Tours for Senior Citizens Corporation, of Alhambra, CA.

Vol. No. OP4–80

Decided: March 10, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 129537 (Sub-67), filed February 26, 1982. Applicant: REEVES TRANSPORTATION CO., Rt. 5, Dew's Pond Rd., Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 N. Morgan St., Tampa, FL 33602, (813) 229–6165. Transporting (1) *paper and paper products*, (2) *plastic and plastic products*, and (3) *chemicals*, between points in the U.S. (except AK and HI).

MC 136816 (Sub-15), filed March 1, 1982. Applicant: THE UNIVERSE COMPANY, INC., 3523 L St., Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, (402) 397–7033. Transporting *food and related products*, between Chicago, IL, on the one hand, and, on the other, points in SD, NE, KS, OK, MN, IA, MO, AR, WI, and IN.

MC 148107 (Sub-10), filed February 26, 1982. Applicant: JESSE J. MESA, d.b.a MESA TRUCKING CO., 1500 S. Zarzamora St., San Antonio, TX 78207. Representative: Kenneth R. Hoffman, 1600 W. 38th St., Suite 410, Austin, TX 78731, (512) 451–7409. Transporting *drysalted and greensalted hides*, between points in TX, CA and CO.

MC 156077 (Sub-1), filed February 26, 1982. Applicant: MAXIE JAMES HUFFMAN, d.b.a. HUFFMAN TRUCKING, 11048 Roswell Ave., Pomona, CA 91768. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93308, (805) 872–1108. Transporting *transportation equipment*, (1) between points in CA, on the one hand, and, on the other, points in AZ, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY, and (2) between points in Canyon County, ID, on the one hand, and, on the other, points in AZ, CA and NV.

MC 158457 (Sub-1), filed March 1, 1982. Applicant: HARRY JUDGE, d.b.a. JUDGE TRUCKING COMPANY, East Side Dr., Chincoteague, VA 23336. Representative: Blair P. Wakefield, Suite 1001, First and Merchants National Bank Bldg., Norfolk, VA 23510, (804) 627–0070. Transporting *foodstuffs*, between points in Sussex County, DE and Accomack County, VA, on the one hand, and, on the other, points in AL, CA, CO, CT, DE, FL, GA, IL, IN, KS, KY, LA, MA, MD, ME, MI, MO, MS, NC, NH, NJ, NV, NY, OH, OR, PA, RI, SC, TN, UT, VA, VT, WA, WI, WV, and DC.

Volume No OP5–54

Decided: March 4, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 29848 (Sub-4), filed February 24, 1982. Applicant: RONALD L. CLOUTIER, INC., 250 Brownell Lane, Portsmouth, RI 02871. Representative: Russell B. Curnett, P.O. Box 366, 826 Orleans Rd., Harwich, MA 02545, (617) 432–0907. Transporting *building materials, forest products, lumber and wood products, and such commodities* as are dealt in by wholesale lumber companies, between points in the U.S. (except AK and HI), under continuing contract(s) with Limber Sales Management Corp., of Needham, MA, and Weyerhaeuser Company, of Tacoma, WA.

MC 40978 (Sub-92), filed February 23, 1982. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, 3321 So. Business Drive, Sheboygan,WI 53081. Representative: Daniel R. Dineen, 710 No. Plankinton Ave., Milwaukee, WI 53203, (414) 273–7410. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between Chicago, IL, on the one hand, and, on the other, points in IA, IL, IN, KY, MI, MN, MO, OH, and WI.

MC 124579 (Sub-34), filed February 24, 1982. Applicant: WIKEL BULK EXPRESS, INC., Rt. 2, Huron, OH 44839. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *bulk commodities* between those points in

the U.S. in and east of ND, SD, NE, CO, OK, and TX.

MC 143908 (Sub-3), filed February 24, 1982. Applicant: GEORGE F. GREEN TRANSPORT, INC., 701 Hardeman Avenue, Ft. Valley, GA 31030. Representative: Kim G. Meyer, 235 Peachtree St., NE, Atlanta, GA 303, (404) 522–2322. Transporting *minerals, chemicals and related products,* between points in AL, FL, GA, TN, and SC, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MO, MS, NC, OK, SC, TN, and TX.

MC 151789, filed February 24, 1982. Applicant: EASTERN CARRIERS, INC., P.O. Box 8492, Sta. A, Greenville, SC 29604. Representative: Mitchell King, Jr., P.O. Box 5711, Greenville, SC 29606, 803–288–6000. Transporting *iron and steel articles,* between points in the U.S. (except AK and HI) under continuing contract(s) with Jersey Shore Steel Company of Jersey Shore, PA.

MC 152849 (Sub-10), filed February 22, 1982. Applicant: RIVERLAND TRUCKING CO., INC., Post Office Drawer BC, Reserve, LA 70084. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, (414) 722–2848. Transporting (1) *packaging products and packaging materials and supplies,* between points in AL, AR, FL, GA, IL, KY, LA, MI, MS, NC, SC, TN, and TX, and (2) *food and related products,* between points in St. Charles Parish, LA, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, KY, MS, NC, NE, OH, OK, SC, TN, TX, VA, and WI.

MC 155749, filed February 22, 1982. Applicant: HWD CARRIERS, INC., 1 Shore Road, Glenwood Landing, NY 11547. Representative: George Carl Pezold, 120 Main St., Huntington, NY 11743, (516) 427–0100. Transporting *hazardous waste materials,* (except radioactive waste), between points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the eastern boundary of Itasca County, MN, thence northward along the eastern boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada. Condition: Any certificate issued in this proceeding to the extent it authorizes transportation of hazardous waste materials shall be limited in point of time to a period expiring 5 years from the date of issuance of the certificate.

MC 158859, filed February 24, 1982. Applicant: O. DEAN TRANSPORTATION, INC., 406 W. Williamsburg Rd., Sandston, VA 23150. Representative: P. Owen Dean (same address as applicant), (804) 737–7838. Transporting (1) *machinery,* under continuing contract(s) with Safeguard Engines, Inc., of Nashville, TN, and (2) *food and related products,* under continuing contract(s) with Interbake Foods, Inc., of Richmond, VA, between points in the U.S. (except AK and HI).

MC 159959, filed February 25, 1982. Applicant: ROWE & LONG TRANSPORT COMPANY, INC., P.O. Box 67, Nichols, GA 31554. Representative: Kim G. Meyer, 235 Peachtree St. N.E. Suite 1200, Atlanta, GA 30303, 404–522–2322. Transporting *building materials,* between points in GA, FL, SC, NC, TN, KY, AL, MS, AR, WV and LA.

MC 160488 (Sub-1), filed February 26, 1982. Applicant: BADGER TRANSPORT, INC., Route 2, Box 75, Clintonville, WI 54929. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5068, Madison, WI 53705–0068, 608–238–3119. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Peterson Built Products, Inc., of Clintonville, WI.

MC 160708, filed February 23, 1982. Applicant: BARDEN ENTERPRISES, INC., d.b.a. VITO'S TOWING SERVICE, 936 Cranston St., Cranston, RI 03920. Representative: Charles R. Reilly, 391 Davisville Rd., North Kingstown, RI 02852, 401–884–0989. Transporting *New, used, wrecked and/or disabled vehicles,* between points in CT, MA, NY, and RI.

MC 160709 (Sub-1), filed February 23, 1982. Applicant: JAPAN TRAVELERS SERVICE, INC., 1100 Seventeenth St., N.W., Suite 311, Washington, DC 20036. Representative: Barry R. Diamond, 805 King St., 4th Floor, Alexandria, VA 22314, 703–549–8010. As a *broker* at Washington, DC, in arranging the transportation of passengers and their baggage in the same vehicle with passengers, beginning and ending at points in VA, MD, and DC, and extending to points in the U.S. (except AK and HI).

MC 160768, filed February 26, 1982. Applicant: ALVIN E. JOYNER, d.b.a. JOINER INLAND GARAGE, 3517 Crawfordsville Rd., Tallahassee, FL 32301. Representative: Thomas F. Panebianco, P.O. Box 1200, Tallahassee, FL 32302, 904–576–1221. Transporting *motor vehicles,* between points in FL, GA, and AL, on the one hand, and, on the other, points in FL, GA, AL, LA, MS, SC, and NC.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-7034 Filed 3-15-82; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Advisory Committee on Voluntary Foreign Aid; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), Pub. L. 92–463, Federal Advisory Committee Act, notice is hereby given of the meeting of the Advisory Committee on Voluntary Foreign Aid, which will be held on March 25 (from 9:00 a.m. to 5:00 p.m.), at the Prince George Hotel, 14 East 28th Street, New York, New York 10016, and on March 26 (from 9:00 a.m. to 12:00 noon), 1982, in the Dag Hammarskjold Library Auditorium in the United Nations Building, New York, New York 10017.

Most of the two-day meeting will be devoted to a program built around the subject of non-profit/American corporate collaboration in Third World development. A combination of panels, discussion, and informal work groups have been designed for a substantive exchange of experience and points of view regarding this collaboration.

The second major area of discussion will address the AID–PVO policy statement. AID officials will be available, PVOs will give testimony, and the Advisory Committee will comment.

The meeting will be open to the public. Any interested person may attend, request to appear before, or file statements with the Committee in accordance with procedures established by the Committee. Written statements should be filed prior to the meeting and should be available in twenty copies.

Dr. Toye Brown Byrd will be the AID representative at the meeting. It is suggested that those desiring further information contact Dr. Byrd at 703/235–2708, or by mail c/o the Advisory Committee on Voluntary Foreign Aid, Agency for International Development, Washington, D.C. 20523.

Dated: March 5, 1982.

Julia Chang Bloch,
Assistant Administrator, Bureau for Food for Peace and Voluntary Assistance.

[FR Doc. 82-7008 Filed 3-15-82; 8:45 am]
BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-117]

Certain Automatic Visors; Erratum to Notice of Investigation

In the Notice of Investigation published in this matter at 47 FR 9296 (March 4, 1982), the address of respondent Toyota Motor Sales Co., Ltd. of Japan was incorrectly listed. The correct address is as follows: Toyota Motor Sales Co., Ltd., 23–22 Izumi, 1-Chome, Higashi-Ku, Nagoya-shi, Aichi, 461 Japan.

It is requested that a copy of this notice be published in the **Federal Register.**

Respectfully submitted,

Oreste Russ Pirfo,
Commission Investigative Attorney, International Trade Commission, Washington, D.C. 20436.

[FR Doc. 82-7084 Filed 3-15-82; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-105]

Certain Coin-Operated Audiovisual Games and Components Thereof (Viz., Pac-Man and Rally-X); Issuance of Temporary Cease and Desist Orders

AGENCY: International Trade Commission.

ACTION: Issuance of temporary cease and desist orders.

SUMMARY: Notice is hereby given that the Commission has issued temporary cease and desist orders in the above-captioned investigation. Pursuant to the orders, the named respondents are directed to cease and desist from the importation and sale of coin-operated audiovisual games which there is reason to believe infringe complaints Midway Manufacturing Co.'s copyright in the Pac-Man audiovisual work and common law trademark in the term "Pac-Man."

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, International Trade Commission, telephone 202–523–0350.

SUPPLEMENTARY INFORMATION:

Background

The Commission instituted this investigation to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation or sale of certain coin-operated audiovisual games and components thereof which are alleged to infringe Midway's copyrights and common law trademarks. Notice thereof was published in the **Federal Register** of July 1, 1981 (46 FR 34436).

On January 4, 1982, the Commission determined (Commissioner Stern dissenting) that there is reason to believe that a violation of section 337 exists with regard to the Pac-Man game and that there is no reason to believe that a violation exists with regard to the Rally-X game. The Commission determined that the appropriate remedy is the issuance of cease and desist orders to be in force and effect for the remaining term of the investigation. Pursuant to the orders, the named respondents may not import, except under bond, or sell any coin-operated audiovisual game or certain components thereof which display a work substantially similar to Pac-Man. In addition, the named respondents may not import audiovisual game machines which display the term Pac-Man or confusingly similar terms, except into the Hawaiian market under written authorization of K & K Industrial Services.

Respondents

The following persons are directed to cease and desist: Artic International, Inc.; Carlin Tiger Shokai, Ltd.; Ferncrest Distributors, Inc.; Formosa Products Industrial Corp.; Friend Spring Industrial Co., Ltd.; International Scientific Co., Ltd.; Jay's Industries; K & K Industrial Services; Kyugo Co., Ltd.; Loson Electrical Co.; Morrison Enterprises Corp.; Nippon Semicon, Inc.; Omni Video Games, Inc.; Stan Rousso, Inc.; Seagull Industries Co., Ltd.; Sepac Co., Ltd.; Shoei Co., Ltd.; and SP-World-Amusement Co., Ltd.

Public Inspection

Copies of the Commission's Action and Order, the Cease and Desist Orders, and all other public documents on the record of the investigation are available for inspection during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 161, Washington, D.C. 20436, telephone 202–523–0161.

By order of the Commission.

Issued: January 15, 1982.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-7085 Filed 3-15-82; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-112]

Certain Cube Puzzles; Amendment of Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Amendment of notice of investigation to add 16 new respondents pursuant to § 210.22(a) of the Commission's Rules of Practice and Procedure.

SUMMARY: On March 10, 1982, the Commission granted a motion (Motion No. 112–1) to amend the notice of investigation in this investigation to add 16 additional persons as respondents. These persons are alleged to be engaged in the unfair acts of infringing complainant Ideal Toy Co.'s common-law trademark, false designation of origin, and passing off of certain cube puzzles.

The Commission has instructed the presiding officer not to schedule an expedited final hearing unless she determines that the rights of the new respondents will not be prejudiced thereby.

SUPPLEMENTARY INFORMATION: On January 22, 1982, complainant moved (Motion No. 112–1) to amend the notice of investigation to add 16 new respondents, all of which are alleged to be engaged in the unfair acts of common-law trademark infringement, false designation of origin, and passing off of the cube puzzles in controversy. On February 8, 1982, the presiding officer issued a recommended determination that the motion be granted (Order No. 4). After consideration of Motion No. 112–1, the response thereto by the Commission investigative attorney, and the presiding officer's recommended determination, the Commission determined to amend its notice of investigation by the joinder of the following respondents:

Chadwick Miller, Inc., Pequot Industrial Park, 300 Turnpike Street, Canton, Mass. 02021;
Dajare, Inc., 19 West 24th Street, New York, N.Y. 10010;
Eurasia Merchandise, Inc., 41 West 42d Street, New York, N.Y. 10036;
Imperial Merchandise, Inc., 19 East 21st Street, New York, N.Y. 10010;
Kingstone International, 225 W. 134th Street, Los Angles, Calif. 90061;
Robert S. Koons and Associates, 332 W. Jackson Road, Webster Groves, Mo. 63119;
E. J. Korvettes, Inc., 1293 Broadway, New York, N.Y. 10001;
Mecca Electronic Industries, Inc., 1167 Broadway, New York, N.Y. 10001

Mark Metzner, Inc., 650 Anthony Trail, Northbrook, Ill. 60062;
Neat Things Importing Ltd., Suite 3111, 910 Mainland Street, Vancouver, B.C., Canada;
Price King, Inc., 890 Broadway, New York, N.Y. 10003;
Sajra Distributors (a division of Sajra Discount Department Stores, Inc.), 757 East Tremont Avenue, Bronx, N.Y. 10457;
Sears, Roebuck & Co., 10 S. Canal, Sears Tower, Chicago, Ill. 60684;
Supreme Import-Export, D–M Sale Corp., 911 Broadway, New York, N.Y. 10010;
F. W. Woolworth Co., 233 Broadway, Woolworth Building, New York, N.Y. 10279;
Rick Zofkie, P.O. Box 54, Wapakoneta, Ohio 45895.

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, telephone 202–523–0359.

By order of the Commission.

Issued: March 11, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-7077 Filed 3-15-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-119]

Certain High-Precision Solenoids and Components Thereof; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 8, 1982, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Ledex, Inc., 801 Scholz Drive, Vandalia, Ohio 45377. An amendment to the complaint was filed on February 22, 1982. The amended complaint (hereinafter the complaint) alleges unfair methods of competition and unfair acts in the importation of certain high-precision solenoids into the United States, or in their sale, by reason of alleged (1) tortious interference with contractual relationships, (2) misappropriation of trade secrets and confidential business information, (3) infringement of complainant's copyrights, (4) infringement of complainant's common law trademarks, and (5) false designation of origin. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests the Commission to institute an investigation and, after a full investigation, to issue both a permanent exclusion order and a permanent cease and desist order.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on March 9, 1982, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain high-precision solenoids and components thereof into the United States, or in their sale, by reason of alleged (1) tortious interference with contractual relationships, (2) misappropriation of trade secrets and confidential business information, (3) infringement of complainant's copyrights, (4) infringement of complainant's common law trademarks, and (5) false designation of origin, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is Ledex, Inc., 801 Scholz Drive, Vandalia, Ohio 45377

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Shindengen Electric Manufacturing Co., Ltd., New Ohtemachi Bldg., 2–1, 2-chome Ohtemachi, Chiyoda-ku, Tokyo 100, Japan;
Densitron Corp., Daini-Hasegawa Bldg., 4th Floor, 1–12–4 Hamamatsucho, Minato-ku, Tokyo 105, Japan;
Photo Chemical Products of California, Inc., 1715 Berkeley Street, Santa Monica, California 90404;
EM Devices, Inc., P.O. Box 158, Troy, Ohio 45373;
Taylor Marketing and Sales Co., 4328 N. Woodburn Ave., Milwaukee, Wisconsin 53211;
Zaslow Sales Co., Inc., 105 Old Windsor Road, Bloomfield, Connecticut 06002;
Dynel Co., 270 Regency Ridge, Suite 119, Dayton, Ohio 45458;

(c) Ralph Elsas-Patrick, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 132, Washington, D.C. 20436, shall be the Commission Investigative Attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

FOR FURTHER INFORMATION CONTACT: Ralph Elsas-Patrick, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202–523–0440.

By order of the Commission.

Issued: March 10, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-7066 Filed 3-15-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-87 (Preliminary)]

Certain Seamless Steel Pipes and Tubes From Japan

Determination

On the basis of the record [1] developed in investigation No. 731–TA–87 (Preliminary), the Commission determines that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury by reason of imports from Japan of the following seamless steel pipe and tube products which are alleged to be sold in the United States at less than fair value (LTFV):

Seamless heat-resisting steel pipes and tubes provided for in items 610.5209, 610.5229, and 610.5234 of the Tariff Schedules of the United States Annotated (TSUSA); and seamless stainless steel pipes and tubes, provided for in TSUSA items 610.5205, 610.5229, or 610.5230.[2]

The Commission [3] determines that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reasons of imports from Japan of seamless alloy steel (other than stainless or heat-resisting steel) pressure [4] pipes and tubes, provided for in items 610.5209 of the TSUSA, which are alleged to be sold in the United States at LTFV.

Background

On January 20, 1982, the U.S. International Trade Commission and the U.S. Department of Commerce received a petition from counsel on behalf of Babcock & Wilcox Co., a U.S. producer of seamless steel pipes and tubes, alleging that an industry in the United States was being injured by imports of certain seamless steel pipes and tubes from Japan which were alleged to be sold at LTFV. Accordingly, the Commission instituted this preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury or the establishment of an industry in the United States is materially retarded by reason of the imports of such merchandise into the United States. The statute directs that the Commission make its determination within 45 days after its receipt of a petition, or in this case by March 8, 1982.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C. and by publishing the notice in the Federal Register on January 28, 1982 (47 FR 4164). The public conference was held in Washington, D.C. on February 10, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of Chairman Bill Alberger, Vice Chairman Michael J. Calhoun, Commissioner Paula Stern and Commissioner Alfred Eckes

Summary

The Commission unanimously finds that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of heat-resisting steel pipes and tubes from Japan which are allegedly sold at less than fair value (LTFV). A Commission majority finds that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of seamless stainless steel pipes and tubes from Japan.[5] A Commission majority also finds that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of seamless alloy pressure pipes and tubes from Japan.[6]

Introduction

This is the second investigation of steel pipes and tubes from Japan by the Commission under the antidumping provisions of the Tariff Act of 1930. In the first investigation, which was filed by the same petitioner as in the current case, LTFV sales were alleged with respect to several products, including welded, seamless, carbon, and noncarbon pipes and tubes. These products were described by their use, e.g., "boiler tubes" and "process pipes."

The Commission's determinations as to material injury or threat in that preliminary case were appealed to the U.S. Court of International Trade, which remanded the case to the Commission. Judge Richardson of the Court took issue with the factors used by the Commission to define the domestic industry. He also instructed the Commission to attempt to collect profit and loss data on the narrowest range of products for which information is available.

On September 4, 1980, the Commission and Babcock & Wilcox reached an agreement to move to vacate the order and opinion of Judge Richardson upon acceptance of a new petition for pipes and tubes by the Department of Commerce. This new petition (the subject of the current investigation) named a different set of products, which included only noncarbon, seamless pipes and tubes and was not limited to pipes and tubes for boiler use.

The Domestic Industry

In any antidumping investigation, the Commission must determine whether a domestic industry is materially injured or threatened with material injury by reason of the allegedly dumped imports. The first element of this task is to determine the scope of the industry to be examined. In this investigation, the definition of the industry is particularly complex. We emphasize that our definition of industry at this preliminary stage is based on the information now available, and it may change in any resulting final investigation.

The industry is defined by the statute as the domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.[7] Like product is defined as a product which is like or, in the absence of like, most similar in characteristics and uses with the article under investigation.[8]

In this investigation the products allegedly being imported at LTFV consist of seamless stainless steel pipes and tubes, seamless heat-resisting steel pipes and tubes, and seamless alloy pressure steel pipes and tubes, in varying lengths, widths, and thicknesses. The petitioner maintains that there are three like products and, in turn, there are three industries experiencing injury from allegedly dumped imports: seamless alloy

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[1] The record is defined in § 207.2(j) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(j)).

[2] Commissioners Alberger and Stern dissenting.

[3] Commissioner Frank dissenting.

[4] Suitable for use in boilers, superheaters, heat exchangers, condensers, refining furnaces, and feedwater heaters.

[5] Chairman Alberger and Commissioner Stern make their affirmative determinations only with regard to heat-resisting pipes and tubes.

[6] Commissioner Frank makes an affirmative determination with regard to seamless alloy steel pressure pipes and tubes from Japan.

[7] 19 U.S.C. 1677(4)(A).

[8] 19 U.S.C. 1677(10).

pressure pipes and tubes,[9] seamless heat-resisting steel pipes and tubes, and seamless stainless steel pipes and tubes. We find that the petitioner has presented sufficient information for a preliminary determination that there are three separate industries in the United States manufacturing products like the imported goods.[10] However, there are a number of issues bearing on the definitions of "like product" and "domestic industry" which must be examined further in any final determination.

The key to the petitioner's industry definition is the chromium content of the steel used for the pipes and tubes. Pipes and tubes are defined as "alloy" if they contain from .2 percent up to 4 percent chromium, "heat-resisting" if they contain more than 4 percent but less than 10 percent chromium, and "stainless steel" if the chromium content is 10 percent or more. These divisions based on chromium content correspond to categories listed by the American Iron and Steel Institute, and are close to those now in use in the Tariff Schedules of the United States Annotated (TSUSA).[11]

Until 1980, the TSUSA combined import data for seamless heat-resisting and stainless steel pipes and tubes. These two categories also were combined by the petitioner in the earlier investigation. On the other hand, individual company price lists from companies included in this investigation combine prices for seamless heat-resisting and alloy pressure steel pipes and tubes on a single list; none of the prices lists submitted provide separate headings for heat-resisting products.

The chromium content of pipes and tubes has a direct bearing on their use. Heat resistance and resistance to corrosion increase as chromium is added to the steel mix. However, there appears to be no commonly recognized division between these three types of pipes and tubes on a use basis. At the margins, choices may be made by engineers based on such factors as economy or availability.

Production process is another factor to be examined in assessing the like product and industry scope because it may reveal certain distinguishing characteristics of the products. In this case, a division on the basis of production process is found only with regard to stainless steel pipes and tubes, 80 percent of which are extruded rather than pierced and are produced in separate facilities. Emphasis on production then, could result in a finding of two industries.

The petitioner and other domestic producers were able to supply profit and loss data for each of the three industries named. In fact, the petitioner could provide data for every individual order because of its accounting methods.

Material Injury by Reason of LTFV Imports

Section 771(7) of the Tariff Act of 1930 directs the Commission to consider in making its determination, among other factors, (1) the volume of imports of the merchandise under investigation, (2) their impact on price, and (3) the consequent impact of the imports on the domestic industry.[12] In assessing the impact on the domestic industry we are further directed by section 771(7)(c)(iii) to evaluate all relevant economic factors which have a bearing on the state of the industry, including, but not limited to: production, sales, market share, profits, productivity, return on investments, capacity utilization, cash flow, inventories, employment, wages, growth, ability to raise capital, and investment.

In this investigation, we have been able to obtain limited, if any, data on some of the economic factors listed above. For other factors, the data which we have collected have certain inherent weaknesses that limit their relevance and utility to our determination. In particular, the information submitted to the Commission by domestic producers concerning capacity and capacity utilization was not considered reliable for specific products because of the reported ability of producers to shift easily from making one product to another on the same equipment, particularly with regard to the heat-resisting and alloy pressure products, which are generally produced on the same piercing mills. Similar limitations exist with respect to data concerning employment, investment, and return on investment. As is discussed in detail in the accompanying report,[13] the reported profit-and-loss data are limited in their use as an absolute measure of profitability. They are based on inherently arbitrary, although internally consistent, methods of allocation. Nevertheless, we have more complete coverage of profitability data [14] for each of the three like products than in the prior investigation, and the information can provide useful indications of profit patterns for each product. In addition, we were unable to obtain pricing data from U.S. producers and importers on their sales of comparable products.[15]

Seamless Heat-Resisting Pipes and Tubes.—From 1979 to 1981, the imports of seamless heat-resisting steel pipes and tubes from Japan increased dramatically, both in tonnage and as a share of apparent U.S. consumption. Japanese import tonnage in the heat-resisting category almost tripled from 1980 to 1981, and import penetration almost doubled.

The dramatic increase in imports of seamless heat-resisting products from 1980 to 1981 affected the performance of the domestic industry. Production and domestic shipments of the heat-resisting product both fell significantly from 1980 to 1981 and the profitability of the seamless heat-resisting pipe and tube industry which had already dropped substantially from 1979 to 1980 fell again in 1981. The steady decline in the condition of the industry since 1979 and the concomitant growth of imports from Japan, admittedly underselling the U.S. product,[16] lead us to conclude that there is a reasonable indication that the domestic seamless heat-resisting steel pipe and tube industry is being materially injured or threatened with material injury [17] by reason of imports of the product from Japan.

Seamless Alloy Pressure Pipes and Tubes.—During the period of this investigation, imports from Japan declined and the Japanese share of the U.S. market fell slightly. Domestic production and shipments of alloy pressure products fell from 1979 to 1980, but recovered somewhat in 1981.

The profitability picture of the alloy pressure industry was very good during the period examined. Although profits dropped from 1979 to 1980, they remained at a healthy level. During the interim 1981 period, profits increased substantially above the 1979 level. With this strong financial performance and the recently declining role of imports from Japan, we conclude that, despite underselling, there is not a reasonable indication that an industry in the U.S. is materially injured or threatened with material injury by reason of imports of the product from Japan.

Views of Vice Chairman Michael J. Calhoun and Commissioner Alfred Eckes on Seamless Stainless Steel Pipes and Tubes

We find that there is a reasonable indication that the domestic industry producing stainless steel pipes and tubes is materially injured or threatened with material injury by reason of imports from Japan of these products which are allegedly sold at less than fair value (LTFV).

In reaching this conclusion, we focused primarily on the large share of the domestic market held by allegedly LTFV imports and the 28 percent rise in the volume of Japanese stainless pipe and tube imports entering the U.S. between 1980 and 1981. This increase in imports outpaced the increase in U.S. consumption of stainless steel pipes and tubes during the same period.[18] The share of the domestic market for this product, already substantial in 1980, increased in 1981. Such a large market share held by allegedly LTFV imports is hard to ignore in a preliminary investigation. Given this level of market penetration, we must assume these imports have a significant impact on the pricing practices of the domestic industry, absent information to the contrary.

Indeed, there is evidence that Japanese imports may well be having some effect on prices in this industry. Information on pricing and lost sales is understandably sparse in a 45-day preliminary investigation, but it is evident that underselling by Japanese imports has occurred. Sumitomo, the major importer of pipes and tubes admitted such underselling. Although domestic *list* prices for stainless pipes and tubes increased almost 39 percent between 1979 and 1981, at least one domestic company indicated that it had been forced to offer discounts to meet Japanese competition.

Large increases in import volume, the capture of a substantial share of the market by imports, and the price depression suggested by our data can be expected to result in material injury to domestic producers. In this connection, certain data obtained in this investigation do point to a reasonable indication of material injury or the threat thereof. Domestic production in 1981, although it exceeded that in 1980, was still below 1979 levels. Capacity utilization also rose in 1981, but remained substantially below the rate for 1979. Employment and total hours worked decreased steadily from 1979 to 1981. Earlier in this report, we discussed the problems encountered in judging data (particularly employment data) in this case. However, these statistics should not be ignored completely.

Chairman Alberger and Commissioner Stern stress profitability in determining that there is no reasonable indication of material injury or threat to the industry. They point to the profit in the interim period of 1981. However, in 1980 there was a loss in the corresponding period; and 1979, a relatively small positive return for the year.

We are not prepared to conclude in a preliminary investigation that a profit *per se* precludes a finding of a reasonable indication of material injury. Nor do we believe that one year of profit upturn is a sufficient basis for a negative finding in this case. A capital-intensive industry such as this one must show a positive trend in profits over a longer period to generate and attract necessary funds for modernization and for research and development. Further investigation may reveal there is such a trend. At this preliminary stage, however, we do not find that the profit figures prevent a finding of reasonable indication of material injury to the industry or the threat thereof.

Views of Chairman Bill Alberger and Commissioner Paula Stern on Seamless Stainless Steel Pipe and Tubes

Our rationale for a negative determination on seamless stainless pipes and tubes is similar to our views on seamless alloy pressure pipes and tubes. In both instances the condition of the U.S. industry is good and, despite the existence of underselling, the pattern of import penetration from Japan provides no reasonable indication of material injury or of real and imminent threat of material injury by reason of alleged LTFV imports.

Key trends for industry performance for seamless stainless pipe and tube producers parallel those for the seamless alloy pressure pipe and tube industry and contrast sharply with those for the seamless heat-resisting pipe and tube industry. Shipments and profitability for the seamless heat resisting pipe and tub industry fell regularly since 1979. The 1980–81 decline in the heat-resisting industry was concomitant with a near doubling of market penetration by alleged LTFV imports from Japan. On the other hand, shipments and profitability data for seamless stainless pipe and tube, like those for the seamless alloy pressure pipe and tube, declined in 1980 from 1979 levels but rebounded in 1981. From 1980–81 penetration by the alleged LTFV imports of seamless stainless pipes and tubes was basically steady.

The rebound in the profit level of the industry in 1981 is particularly significant. Financial performance in 1981 was well above the 1979 level and substantially greater than the 1980 level. The aggregate industry loss in 1980 took place during a decline in the market and when one company experienced a six-week strike.[19] Moreover, during the entire period of the investigation only one of the five U.S. producers reported losses. The other producers all had very good profits throughout the period.

Between 1980 and 1981 there was a significant increase in producitivity in the industry; the number of hours worked in the production of seamless stainless steel pipes and tubes decreased substantially while production of these products increased substantially.[20][21] Since data on imports from Japan do not demonstrate significant increased competitive pressure on domestic producers, the industry should continue to benefit from these productivity increases.

Views of Commissioner Eugene J. Frank

Introduction

I find that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Japan of seamless alloy steel pressure pipes and tubes, seamless heat-resisting steel pipes and tubes, and seamless stainless pipes and tubes, which are allegedly sold at less than fair value.[22]

First, I would note the following: the statute and legislative history of Title VII investigations require the Commission in its preliminary determinations for both antidumping and countervailing duty investigations

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[9] The petitioner alleges that only the "pressure" type of alloy pipe and tube is being imported in such quantities as to materially injury or threaten the domestic industry. Structural and mechanical pipes were included by the petitioner in addition to pressure pipes under the heat-resisting and stainless categories. This categorization raises the question of whether the stainless and heat-resisting categories should be examined in any final investigation as separate "like products" in terms of their pressure, mechanical, or structural uses.

[10] Chairman Alberger and Commissioner Stern point out that this division was advantageous to the petitioner, as a finding of one or two industries would have led then to negative determinations and the possible termination of this entire investigation. Given the unusual complexity of the industry issue in this case, they are not willing to discard any of the suggested definitions at this preliminary stage.

[11] The TSUSA defines stainless steel as having more than 11.5 percent chromium content.

[12] 19 U.S.C. 1677(7).

[13] See p. A–22 of the Report.

[14] Nine companies in this investigation provided the Commission with profitability data.

[15] Report, p. A–29.

[16] An economist for ICF, Inc., a consulting firm appearing on behalf of Sumitomo, acknowledged that underselling of the products under investigation ranged up to 25 percent.

[17] Chairman Alberger finds a reasonable indication that the alleged LTFV imports of seamless heat-resisting steel pipes and tubes are a cause of present material injury and therefore does not reach the issue of threat of material injury.

[18] Because much of the data considered have been granted confidential treatment, we are unable to discuss in this opinion the specific numbers before us.

[19] In addition, Report, p. A–14.

[20] See Report, p. A–19.

[21] Productivity reported varied significantly by company and may explain the divergent financial performance of the single unprofitable firm. The divergence may also relate to the extent to which each company is participating in the open market.

[22] This is the second investigation of steel pipes and tubes from Japan by the Commission under the antidumping provisions of the Tariff Act of 1930. The chronology of events with respect to the previous investigtion involving the same petitioner in which I did not participate leading up to the current investigation, is set forth in the majority's opinion on this case.

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to exercise only a low threshold test based upon the best information available to it at the time of such determination that the fact reasonably indicate an industry in the United States could *possibly* be suffering material injury, threat thereof, or material retardation.[23] This less rigorous standard in my view was intended by Congress to screen those petitions where it was readily apparent, notwithstanding a necessarily incomplete record compiled in a compressed 45-day time period, that there was no indication of possibly establishing injury even with adequate time, a thorough and full developed investigation and record and a detailed hearing before the Commission.

For the sake of brevity and as appropriate background, I refer to the reader to my views on the recently concluded Commission preliminary antidumping and countervailing duty investigations on the 92 steel cases. In these views, the structural framework and context from which I maintain the Commission should review and analyze the information and record developed in these preliminary investigations, and render its determination accordingly, pursuant to this less rigorous low threshold standard (within the bounds of a focus on the "conditions of trade, competition, and development regarding the industry concerned") is more fully articulated.[24]

Domestic Industry

The industry is defined by the statute as the domestic producers as a whole of a like product or those producers whose collective output of the like product comprises a major proportion of the total domestic production of that product.[25] Like product is defined as a product which is like or in the absence of like, most similar in characteristics and uses with the article under investigation.[26]

In this investigation, the issue of industry definition from which determinations of "reasonable indication" of material injury must be rendered and whether the requisite causal linkage "by reason of" alleged unfairly traded imports is ascertained to exist in the context of the "low threshold" standard set forth hereinabove, is complex and controversial. Petitioner has alleged that there are three domestic industries being affected by imports—the seamless alloy steel pressure pipe and tube industry, the seamless heat-resisting steel pipe and tube industry, and the seamless stainless steel pipe and tube industry. Petitioner maintains that three "like products" which respectively define the aforesaid three industries, are distinguishable from the standpoint of product description (including chemical composition), American Society for Testing and Materials (ASTM) specifications, major applications, U.S. Tariff classification and other distinctions, including differences in distribution, marketing and production processes employed, and "reasonable" availability of separate profitability data according to generally accepted accounting principles.[27]

On the other hand, one of the respondents (Sumitomo Metal Industries, Ltd.) claims the petitioner's delineation of these three separate industries per se and vis-a-vis other segments of the steel pipe and tube industry are "arbitrary, insignificant, and legally irrelevant", claiming among other things, substitutability and interchangeability exists among certain steel materials depending upon metallurgical content and diameter specifications (according to engineering design considerations); the inconsistency of this delineation of "like products" with petitioner's "like product" delineation in the prior petition; contradiction of the categorization of "like products" with petitioner's sales literature; and states that the "* * * products addressed in the petition are all produced by the same industry, and that industry also produces many products not mentioned in the petition."[28]

There also appear to be "value" considerations tied to end-uses that can be grounds for differentiation among the spectrum of products comprising the three "like product" and industry groupings submitted to be applicable by the petitioner.

I have taken under advisement and considered the various arguments submitted both for and against petitioner's "like product" and industry definitions and the discussion of pertinent issues arising therefrom as set forth in the views of Chairman Alberger, Vice Chairman Calhoun, and Commissioners Stern and Eckes. I concur with their determination that petitioner has presented sufficient information for the record to support a preliminary determination that there are three separate industries in the United States manufacturing products like the imported goods subject to this preliminary investigation, and also agree that a number of issues which have arisen in this respect bear further scrutiny in any final determination.

I would emphasize that such determination was not based on any one proportedly distinguishing factor such as production process, separate profitability, etc., but on a preponderance of several criteria I deemed relevant that point to rational distinctions *at this time* on a "like product" basis. The statute and legislative history do not provide an all inclusive listing of pertinent criteria (note the plural), but cite certain factors such as production process or producer's profits.[29] I believe the intent is clear that sufficient discretion is to be exercised by the Commission in arriving at appropriate determinations in this respect on a rational, factually-based, common-sense and consistent fashion. I would point out that further information developed in any final investigation in this regard will be carefully considered in any final determination I might render in this respect.

Section 771(7)(A) of the Act defines "material injury" to mean harm "which is not inconsequential, immaterial, or unimportant."[30]

Section 771(7) of the Act directs the Commission to consider, in making its determination, among other factors, (1) the volume of imports of the merchandise under investigation, (2) their impact on price, and (3) the consequent impact of imports on the domestic industry.[31] I would add that the statute and pertinent legislative history make it clear with respect to volume of imports, the Commission would consider whether the volume of imports is *significant*, with the disjunctive "or" whether there is any significant increase in that volume absolutely or relative to U.S. production or consumption.[32]

Specific factors to be examined in consideration of material injury are detailed in Section 771(7)(C) and are not all-inclusive as the legislative history emphasized.[33] The statute and legislative history also makes clear that the presence of absence of any of the specific factors which the Commission examines would not necessarily provide decisive guidance with respect to determinations regarding injury.[34]

Although there are inherent limitations in certain "economic" data submitted to the Commission by domestic producers and perhaps questionable reliability with regard to capacity and capacity utilization, employment, investment, etc., I beleive such data cannot be dismissed and discarded in entirety inasmuch as perhaps trends can be ascertained which are germane to injury considerations under a "low threshold" standard applicable in preliminary investigations. One of the concerns I think is relevant to any application of the "like product" industry definition approach in determining injury pursuant to the statute, employed in a "universe" comprised by multi-product integrated operations, is an inherent degree of arbitrariness in allocation of economic factors *exclusively* to various product-lines. One can become mired in a quagmire of assumptions as to e.g. there reasonability and consistency of application in a narrow-focused product-line analysis, yet face the dilemma of taking into consideration extraneous and perhaps inappropriate data if an industry definition were expanded, based on necessarily available data. I would expect a final investigation if conducted, to discuss thoroughly these underlying assumptions and their application for such data.

However, I have extreme misgivings about the advisability of using profit-and-loss data reported in this case. As was pointed out in the report, the data (reported by 9 U.S. producers) as developed are limited in their use as a measure of profitability.[35] It was disclosed five producers used a standard cost system of accounting, while others used a process cost, direct cost, or job order cost system, to account for the accumulation of cost data with all general, selling, and administrative expenses for each product allocated. It is indicated that such data should reflect a "reasonable profit trend on each product line" if each producer were "consistent from year to year in its use of its respective allocation base (and there is no evidence to the contrary) * * *" [36] Aside from the fact even granting the assumption of consistent year to year cost application by respective producers which there is no evidence evidently to corroborate either, the data might be reliable in terms of "trends" but *invalid* nevertheless. Consequently, I have discounted all profitability data from my analyses in this preliminary investigation in the expectation that the staff would be in a position in a final investigation, to obtain such data on a uniform, consistent cost-allocation basis for all domestic producers.

Seamless Heat-Resisting Pipes and Tubes

I concur in general with the analysis, except for profitability considerations, of the Commission majority as articulated in the Views of Chairman Alberger, Vice Chairman Calhoun, and Commissioners Stern and Eckes, that leads me to the determination that there is a reasonable indication that the domestic seamless heat-resisting steel pipe and tube industry is being materially injured by reason of allegedly LTFV imports from Japan.[37]

Seamless Stainless Steel Pipes and Tubes

I concur in general with the analysis, except for profitability considerations, set forth in the views of Vice Chairman Calhoun and Commissioner Eckes on seamless stainless steel pipes and tubes that leads me to the determination there is a reasonable indication that the domestic seamless stainless steel pipe and tube industry is being materially injured by reason of allegedly LTFV imports from Japan.[38]

Seamless Alloy Pressure Pipes and Tubes[39]

Production, capacity, and capacity utilization showed declines in 1981 from 1979 levels, though increasing somewhat from 1980 figures, with U.S. shipments following the same trends, though captive domestic shipments increased substantially from 1979 levels as a percentage of total shipments. Employment and hours worked similarly showed declines in 1981 from 1979 levels.[40] During this period imports from Japan (the largest exporter of seamless alloy steel pressure pipes and tubes) of the articles in question decreased in 1980 from 1979 levels, though maintaining the same penetration levels in terms of domestic consumption, but increased slightly in 1981 from 1980 levels with penetration dropping somewhat in 1981, but still representing significant levels of market penetration in 1981.[41] It is important to note that imports of seamless alloy steel oil and gas well tubing and drill pipe entered under the same TSUSA item as seamless alloy steel pressure pipes and tubes in 1980–81 (beginning on January 1, 1982, these oil country tubular goods conforming to A.P.I. specifications enter under separate TSUSA items). Total imports under this item from Japan increased substantially in volume from 1980–81. The report states that questionnaire data indicate that the "bulk of this increase from Japan can be attributed to imports of oil country tubular goods," and that the staff verified this by examination of Special Summary of Steel invoices (SSSIs) at the Department of Commerce.[42] [43] We were advised that on the basis of this examination, the articles in question comprised a certain percentage of the TSUSA "basket", but questionnaire data reflected slightly higher levels which were used in the Report. About 30 percent of SSSI's have been examined by staff, which is considered to be a "representative" sample that essentially confirms the conclusions drawn to date regarding the aggregated data. We also have been advised that quarterly data for imports of the articles in question were not available (although they were for the seamless heat-resisting pipes and tubes and seamless stainless steel pipes and tubes) that might more clearly show trends in import levels, in view of the aggregation with oil country tubular goods. I believe, however, that a more thorough and comprehensive examination of these data would have been prudent if this investigation for this industry would have been continued.

The report indicates that data requested by unit values (proxies for prices) from importers and domestic producers for specific ranges of pipes and tubes in each of the three product categories and that obtained reflect the fact that the product categories used in the questionnaires were too broad and that unit values may not be a satisfactory means of comparing transaction prices of imported and domestic products "either across sources of supply or over time".[44]

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[23] H.R. Report No. 96–317, 96th Cong., 1st Sess., p. 52 (1979).

[24] *Certain Steel Products from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West Germany*, USITC Publication 1221, February 1982, pp. 121–185.

[25] 19 U.S.C. 1677(4)(A).

[26] 19 U.S.C. 1677(10).

[27] Petition of Babcock & Wilcox Company, dated 1/20/82, pp. 11–20; Post-Conference Brief of Babcock & Wilcox, 2/12/82, pp. 1–12.

[28] Brief of Coudert Brothers dated February 12, 1982, on Behalf of Respondent Sumitomo Metal Industries, Ltd., pp. 4–9, which sets forth its argument in detail opposing Petitioner's "like product" and industry delineation.

[29] 19 U.S.C. 1677(4)(D); Report of the Committee on Finance, U.S. Senate on H.R. 4537, pp. 82–84.

[30] 19 U.S.C. 1677(7)(A).

[31] 19 U.S.C. 1677(7).

[32] Senate Report, pp. 56–57.

[33] 19 U.S.C. 1677(7)(C); Senate Report, p. 57.

[34] 19 U.S.C. 1677(7)(C); Senate Report, p.57.

[35] Report at A–22.

[36] Id.

[37] Having reached a determination of reasonable indication of material injury for this industry, I did not reach the issue of threat of material injury.

[38] Having reached a determination of reasonable indication of material injury for this industry, I did not reach the issue of threat of material injury.

[39] In view of the fact that much of the data considered have been granted confidential treatment, the discussion here by necessity focuses on generalized trends.

[40] Report at A–18 through A–20.

[41] Report at A–25 through A–27.

[42] Report at A–23.

[43] Note, the Report by ICF Inc. dated February 12, 1982, consultants to Sumitomo Metals Ltd. in analyzing Petitioner's data evidently did not discount QCTG's from import data of Petitioner

Nevertheless, there was a considerable amount of testimony attesting to underselling of such products by imports from Japan, including an admission to that effect from a consultant to Sumitomo (ICF Inc.), the major importer of pipes and tubes.[46]

In view of the discernible industry trends, the still significant presence of imports from Japan and evidence of underselling developed to date, I have determined that there is a reasonable indication that the domestic industry has suffered material injury by reason of allegedly LTFV imports from Japan.[46] Although additional data need to be obtained as stated herein, I believe the petitioner has presented, under the prescribed "low threshold" standard for preliminary cases, a sufficiently meritorious case justifying continuation of the investigation by the administering authority (Commerce) and the Commission, if called upon to do so.

By order of the Commission:

Issued: March 6, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-7078 Filed 3-15-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-118]

Certain Sneakers With Fabric Uppers and Rubber Soles; Order

Pursuant to my authority as Chief Administration Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation with the understanding that a Recommended Determination as to temporary relief will be rendered by May 10, 1982, if consistent with due process.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register**.

Issued: March 8, 1982.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 82-7081 Filed 3-15-82; 8:45 am]

BILLING CODE 7020-02-M

with Census data. Staff evidently attributed much of the increase and discounted accordingly for oil country tubular goods (OCTG) as also claimed by Coudert Brothers, counsel for Sumitomo, in its February 12 brief. We have been advised petitioner also by amendment to its petition requested exclusion of OCTG but did not have access to the figures to make adjustments.

[46] Report at A-30.

[46] Report at A-30 and A-32; also see February 1, 1982 ICF Report, p. 30.

[46] Having reached a determination of reasonable indication of material injury for this industry, I did not reach the issue of threat of material injury.

[Investigation No. 701-TA-145 (Preliminary)]

Certain Steel Wire Nails From Korea

Determination

On the basis of the record [1] developed in investigation No. 701-TA-145 (Preliminary), the Commission determines that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury [2] by reason of imports from Korea of steel wire nails [3] provided for in items 646.25 and 646.26 of the Tariff Schedules of the United States (TSUS) upon which bounties or grants are allegedly being paid.[4]

Background

On January 19, 1982, the U.S. International Trade Commission and the U.S. Department of Commerce received a petition from counsel on behalf of Atlantic Steel Co., Florida Wire and Nail Co., New York Wire Mills Corp., Virginia Wire and Fabric Co., Tree Island Steel, Inc. and Armco Inc., U.S. producers of steel wire nails, alleging that they were being injured by imports of steel wire nails from Korea upon which bounties or grants are allegedly being paid. Accordingly, the Commission instituted this preliminary countervailing duty investigation under section 703(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury or the establishment of an industry in the United States is materially retarded by reason of the imports of such merchandise into the United States. The statute directs that the Commission make its determination within 45 days of the receipt of such advice or in this case by March 5, 1982.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC and by publishing the notice in the **Federal Register** on January 27, 1982 (47 FR 3896). The public conference was held in Washington, D.C. on February 12, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of the Commission

We have found that there is a reasonable indication that a domestic industry is materially injured or is threatened with material injury [5] [6] [7] by reason of allegedly subsidized imports of certain steel wire nails from Korea. Our determination in the present case is based on the considerations set forth below.

Domestic Industry

In order to make a determination that there is a reasonable indication that a domestic industry is materially injured or is threatened with material injury, we must first define the domestic industry. Section 771(4)(A) of the Tariff Act of 1930 provides that the domestic industry consists of the domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product. A like product is in turn defined as a product which is like or in the absence of like, most similar in characteristics and uses with the article under investigation.

For purposes of this preliminary determination we adopt the like product analysis of our earlier investigations, *Certain Steel Wire Nails from Japan, the Republic of Korea and Yugoslavia,*[8] and *Certain Steel Wire Nails from Korea.*[9] We find that there are seven like products, which correspond precisely with each of the seven distinct types of nails being imported, and are characterized by different nail coatings. These seven like products are electrogalvanized nails, bright nails, vinyl-coated, cement-coated, hot-galvanized, phosphate-coated and blued-nails.

There are approximately 50 U.S. firms which manufacture some or all of these seven categories of steel wire nails. It has been suggested that there are other classifications of nails which may be appropriate for purposes of defining the domestic industry or that a continuum principle [10] be applied. The continuum principle applies when the like product candidates consist of a group of products only slightly distinguishable from each other and where no clear dividing lines can be drawn based on characteristics and uses. While we do not adopt such an analysis here, we do not preclude the use of such an analysis in a final determination. No matter what approach is used, the end result in this preliminary investigation would be identical due to the limited data which we have been able to collect. When data on separate like products are unavailable, the effect of the dumped imports must be assessed in terms of the narrowest group of products for which information is available.[11] This has been the case in the two prior investigations on certain steel wire nails from Korea.[12] The narrowest group we can analyze then is the producers of one or more of the seven like products. This is, therefore, the production against which we assess the impact of allegedly subsidized imports of nails from Korea.[13]

In this preliminary determination, we find a reasonable indication of material injury or threat of material injury on a national basis. We therefore do not make a determination on a regional industry basis at this time. This does not preclude use of the regional industry analysis in the final investigation.

Reasonable Indication of Material Injury

In making a determination of whether there is a reasonable indication of material injury to the domestic industry by reason of imports of the allegedly subsidized product, we are required by statute to consider among other relevant factors the volume of imports, the impact of the imports on domestic prices, and the consequent impact on the domestic industry.[14]

Volume of Imports

The volume of steel wire nails imported from Korea into the United States has increased irregularly from 1973 through 1981. These imports increased from 1,000 short tons or less than 0.5 percent of apparent domestic consumption in 1973 to 109,000 short tons or 12 percent of consumption in 1978. The volume of imports declined, however, to 92,000 short tons in 1979 with an additional drop to 76,000 short tons in 1980. Although the absolute volume of imports declined from 1979 to 1980, imports from Korea as a percent of consumption remained stable at 11 percent as consumption declined sharply in these years. In 1981, however, the volume of imports of steel wire nails from Korea increased to 115,000 short tons, an increase of 51 percent over 1980, while U.S. consumption continued to drop. Thus, imports from Korea as a percent of U.S. consumption increased to 19 percent in 1981.

Effect of Imports on Prices.—U.S. producers have alleged that Korean nails are the price leaders in the U.S. market and that there has been "destructive" price cutting in an effort to maintain sales.[15] The information gathered in this preliminary investigation provides support for this allegation. Since the second quarter of 1979, imported steel wire nails of the one type for which data were gathered [16] have undersold the domestic product by weighted average margins ranging from 0.4 percent (July–December 1981), to 6.9 percent (January–March 1980).[17]

The margin of underselling dropped to its lowest level in almost two years in July-September of 1981, which was shortly after the initiation of the preliminary dumping investigation of *Steel Wire Nails from Japan, the Republic of Korea and Yugoslavia,* Inv. Nos. 731-TA-45, 46 and 47 (Preliminary).[18]

In addition, the price of the Korean nails has actually declined from January-March 1979 to October-December 1981. This decline occurred at a time when the trigger price index for nails increased by 10 percent and the Bureau of Labor Statistics indexed price for nails increased by 31 percent.

There is a clear indication that there are price suppressing factors at work in the market. The imported product has been underselling the domestic product in every quarter since April of 1979. The price of the domestically-produced nail increased at a slower rate than did the producer price index for nails. At the same time, the price of the Korean nails actually decreased slightly during the period for which data were collected. As pointed out in prior investigations on nails, suppliers of steel wire nails regard price as the most important competitive sales factor.[19] Although our data are not complete at this time, these preliminary indications of price suppression or depression merit further investigation.

Impact of Imports on The Domestic Industry.[20]—While the condtion of the domestic industry deteriorated from 1979–81, Korean market penetration increased from 11 percent to 19 percent during this same period. Domestic production of steel wire nails declined by 76,000 pounds or 27 percent and shipments followed a similarly declining trend. The ratio of inventories to production increased steadily throughout the period while the ratio of production to capacity declined from 52 percent in 1979 to 48 percent in 1981. The average number of employees declined from 1,946 workers in 1979 to 1,300 workers in 1981, a drop of 33 percent.

[1] The record is defined in § 207.2(j) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(j)).

[2] Chairman Alberger and Commissioner Frank determine that an industry in the United States is materially injured by reason of imports from Korea of steel wire nails provided for in items 646.25 and 646.26 of the Tariff Schedules of the United States upon which bounties or grants are allegedly being paid.

[3] For purposes of this investigation, brads, spikes, staples, and tacks are not included.

[4] Reasonable indication that the establishment of an industry in the United States is materially retarded is not an issue in this investigation.

[5] Retardation of establishment of an industry is not an issue in this investigation and will not be further discussed.

[6] Chairman Alberger and Commissioner Frank find a reasonable indication of material injury by reason of these allegedly subsidized imports and therefore do not reach the issue of reasonable indication of threat of material injury.

[7] Commissioner Frank notes that the Statute and Legislative History require the Commission in its preliminary determinations in both antidumping and countervailing duty investigations to exercise only a low threshold test based upon the best information available to it at the time of such determination that the facts reasonably indicate that an industry in the United States could possibly be suffering material injury threat thereof, or material retardation. H.R. Rept. No. 96-317, 96th Cong., 1st Sess., p. 52 (1979).

[8] USITC investigation Nos. 731-TA-45, 46 and 47 (Preliminary), USITC Pub. No. 1175.

[9] USITC investigation No. 731-TA-26 (Final), USITC Pub. No. 1066.

[10] USITC investigation No. 731-TA-30 (Preliminary), USITC Pub. No. 1198 Stainless Clad Steel Plate from Japan.

[11] 19 U.S.C. 1677(4)(D) (Supp III 1980).

[12] Commissioners Frank and Eckes did not participate in these investigations.

[13] Commissioner Frank believes the Statute and Legislative History with regard to Section 771(4) of the Tariff Act of 1930 as amended by Section 101 of the Trade Agreements Act of 1979 is clear that this analytical approach, used when separate identification of relevant economic factors and other data on separate like products is not available in determining effects of subsidized or less-than-fair-value imports, is to be deployed in a careful well-reasoned fashion to satisfy the requirement of the Statute of defining the domestic industry. The Act mandates an examination of the impact of alleged unfairly traded imports on the domestic producers comprising the domestic industry. However, he recognizes the Statute and Legislative History provide for this approach to be applied to assess the impact of the imports " ° ° ° as they relate to the *production of* the narrowest group or range of products which includes the like product and for which available data permits separate consideration." (Emphasis added.) But it is important to keep in mind this approach is part of an overall framework of criteria set forth to satisfy the requirement of defining the domestic industry. (*See* 19 U.S.C. 1677(4)(D); Report of the Senate Committee on Finance on H.R. 4537, pp. 52–54.) Commissioner Frank therefore determines that the domestic industry consists of the producers of one or more of the like products. This industry determination is consistent with that rendered by the Commission in Inv. No. 731-TA-46 and 47 (Preliminary) Certain Steel Wire Nails From the Republic of Korea and Yugoslavia (USITC Pub. 1175, Aug. 1981), and he believes such an industry determination needs to be explicitly set forth here.

[14] 19 U.S.C. 1671.

[15] Conference Feb. 12, 1982, p. 8.

[16] Of the seven categories of nails in this investigation, 16-bright penny nails are the most commonly produced by the domestic producers.

[17] Staff report p. A-30.

[18] USITC investigation Nos. 731-TA-45, 46, and 47 (Preliminary), USITC Pub. No. 1175.

[19] Report, A-23.

[20] Vice Chairman Calhoun and Commissioner Stern note that there are also several non-import related problems faced by the domestic nail industry at this time, including the decline in housing starts and over-capacity problems created by a number of new producers which have entered the market in a short period of time. *See 19 CFR 207.27.*

Furthermore, profit and loss information submitted to the Commission reveals a declining trend from 1979 to 1981. Of the 15 firms supplying profit-and-loss information, representing 96 percent of reported production in 1981, four firms reported losses in 1979, and seven in 1980. In 1981, five firms reported losses and overall gross profit for the 15 firms had declined. In addition, eight U.S. nail producing plants have closed or have filed for reorganization under Chapter 11 of the Federal Bankruptcy Act, since 1979.[31] [32]

Reasonable Indication of Threat of Material Injury

In 1981 the volume and market penetration of exports from Korea increased substantially over 1980. The volume of imports increased from 76,000 tons in 1980 to 115,000 tons in 1981 or by 52 percent. Market penetration increased from 11 percent in 1980 to 19 percent in 1981. This is an indicatio of Korea's ability to increase exports to the United States in a short period of time. Consequently, we find that there is a reasonable indication that the domestic industry is threatened with material injury.[33]

Motion To Dismiss Petition

A motion was made at the conference by counsel for the Korean Metal Industry to dismiss the petition for failure to comply with statutory and regulatory requirements. We have denied this motion because, in our view, we are without authority to rule on the sufficiency of petitions. Reliance on Commission rule 207.11 (19 CFR 207.11) in this regard is, therefore, misplaced.

Congress has given the administering authority, (Department of Commerce) not the Commission, the power to determine the sufficiency of petitions. Section 702(c) is clear on this matter:

> Within 20 days after the date on which a petition is filed under subsection (b), the *administering authority* shall—(emphasis added)
>
> (1) Determine whether the petition alleges the elements necessary for the imposition of a duty under section 701(a) and contains information reasonably available to the petitioner supporting the allegations,

Those who believe that a petition does not present injury data reasonably available to the petitioner may request that the Commission raise the question of sufficiency of the petition with the administering authority prior to initiation by the administering authority.[34] In the past, the Commission has given advice to Commerce concerning the sufficiency of a petition. In *Latchet Hook Kits from the United Kingdom*,[35] the Commerce Department did dismiss an antidumping petition based upon such advice. However, in that case, advice from the Commission was submitted prior to initiation by the administering authority and before the expiration of the 20-day period.

Furthermore, in relying on Commission rule 207.11 as the basis for dismissal by the Commission, counsel has misinterpreted the purpose for this provision. Rule 207.11 simply establishes the responsibility of petitioners to present the kind of data the Commission uses for reaching determinations under section 701.[36] To this extent, then, the rule establishes the terms under which the Commission can assess whether petitioners have met their burden of coming forward with information reasonably available.[37]

Counsel for the Korean Metal Industry raised the question as to whether the standards of rule 207.11 are satisfied by data which are several months old and has been updated by the petitioner in only a limited fashion. We will not consider this issue because it was not raised within the 20-day deadline.

Additional Views of Commissioner Paula Stern

Causation in Countervailing Duty Cases

A very important question has been raised in this investigation as to what the Commission should look to in determining causation in countervailing duty cases. Discussion has focused on two interpretations of the phrase, "the effects of the subsidized imports":[38] (1) Judging the full impact of the subject imports, which happen to benefit from a subsidy: and (2) judging the effects of the subsidy in causing the injury through the subject imports.

The conceptual difference between these two approaches cannot be underestimated. The first alternative would attach no weight to whether the subsidy was 0.5 percent or 50 percent. Any imports benefiting from a subsidy—no matter how insignificant—would be equally tainted for purposes of causality analysis under the first formulation. By contrast, the second formulation would require the causality analysis to trace, to whatever extent possible, the actual effects of the subsidies on the domestic industry.

The statute in section 771(7)(C)(ii) mandates that the Commission consider certain factors in "evaluating the effect of imports of such merchandise." But how these factors should be evaluated is not explicit in this phrase. I believe that the statute, the legislative history, and the relevant international agreements taken together clearly demonstrate that the second alternative is the proper basis for assessing causality in the Commission's countervailing duty investigations and is true to the intended meaning of the phrase "the effects of the subsidized imports."

A review of the drafting of the Subsidies Code contains direction on what should be used to determine causation for material injury. According to Rivers and Greenwald, two American negotiators of the Codes on the effects language,

> [t]he language finally agreed upon provided that: "[i]t must be demonstrated that subsidized imports are, through the effects of the subsidy, causing injury within the meaning of this Agreement."[39]

The Director-General of GATT in April of 1979 described the negotiations at the Tokyo Round on this same issue:

> Many participants took the firm position that * * * [t]he existence of a significant material injury must be proven and the causal link between injury and the particular subsidy established.[39]

[31] Commissioner Frank notes that data on general, selling, and administrative expenses were not collected. Had such data been collected, it is possible that more firms would have shown losses in 1980 and 1981.

[32] Commissioner Frank notes that, although data in this regard is incomplete to draw any definitive determination, there is some indication that the domestic industry having operations in the ten-state Western Region as disclosed in the Report may be experiencing even greater economic distress, and suggests in a final investigation, should one be conducted, more data be obtained both on imports and domestic industry and related economic factors pertinent to this region. This in no way obviates his determinations in the present preliminary investigation on a national industry basis, nor does he believe necessarily a regional analysis approach is mandatory in a final investigation; rather, he believes such data in a final investigation may be helpful to the Commission in its deliberations in the context of whatever industry approach is deemed to be appropriate at that time.

[34] 19 U.S.C. 1671(a).

[35] F.R. Vo. 45, No. 238, Dec. 10, 1980.

[36] Rule 207.11 incorporates by reference from rule 207.26 an illustrative list of facts on which reasonably available data shall be submitted to facilitate the Commission's assessment of existence of a "reasonable indication of material injury."

[37] Senate Committee on Finance, Trade Agreements Act of 1979, S. Rept. No. 96-249, 96th Cong. 1st. Sess. 1979, p. 60; House Committee on Finance, Trade Agreements Act of 1979, H.R. No. 96-153, 96th Cong. 1st. Sess. 1979, p. 60; Inv. No. 731-TA-04, Countertop Micro-Wave Ovens from Japan, p. 8.

[38] *E. g.*, section 771(4)(D) uses this phrase.

[39] Richard Rivers and John Greenwald, The Negotiation of a Code on Subsidies and Countervailing Measures: Bridging Fundamental Policy Differences, 14 L. & Pol'y Int'l Bus. 1447, 1457, (1979).

[39] Director-General of GATT, the Tokyo Round of Multilateral Trade Negotiations 30. *See also* U.S. Office of Special Trade Representative, Background Papers on MTN Subsidies and Countervailing Duties [May 2, 1979].

Most importantly, the Senate Finance Committee's "Report on the Trade Agreements Act" directs the Commission to continue to look to the effects of the net subsidy in its determinations:

> In determining whether injury is "by reason of" subsidized imports, the ITC now looks at the effects of such imports on the domestic industry. The ITC investigates the conditions of trade and competition and the general condition and structure of the relevant industry. It also considers, among other factors, the quantity, nature, and rate of importation of the imports subject to the investigation, and *how the effects of the net bounty or grant relate to the injury*, if any, to the domestic industry. Current ITC practice with respect to which imports will be considered in determining the impact on the U.S. industry is continued under the bill. (Emphasis added)[31]

The "by reason of imports" language of the Trade Agreements Act[32] tracks similar language in the Antidumping Act, 1921. The Commission's longstanding practice under the 1921 Act was to link the dumping margin to the injury. This precedent was repeated in the first countervailing duty investigation conducted by the Commission under section 303(b) of the Tariff Act.[33] When the net subsidy accounted for only a small portion of the margin of underselling, the Commission reasoned in general that the injury could not be remedied by a countervailing duty and found in the negative.

In preliminary investigations the Commission is usually unable to assess precisely the effects of the subsidy because at this stage the exact subsidy margin is unknown.[34] Thus, in judging causation in a preliminary case, the focus is of necessity on the subject imports without substantial analysis of the alleged subsidy.[35] If this case returns for a final investigation, the Commission will have the benefit of the final subsidy margin from Commerce and, as usual, I will take another look at causation.[36]

Additional Views of Vice Chairman Michael J. Calhoun

In her additional views, Commissioner Stern raises an issue which has rather significant implications for the way in which we reach our determinations under Title VII of the Trade Agreements Act of 1979. It is my view that this issue was not pertinent to our findings in this investigation and need not necessarily be relevant in reaching a determination in the final investigation. However, since the issue has been aired and to the extent Commissioner Stern suggests that Title VII requires us in each case to establish a causal relationship between the actual subsidy (or the LTFV margin in dumping cases for that matter) and material injury, I wish to offer an additional perspective.

As a matter of policy underlying the discharge of our responsibilities in countervailing duty and antidumping cases, the notion that Title VII requires us to trace a specific subsidy (or LTFV margin) through to a particular quantum of harm, though posing practical difficulties, has a certain appeal. If the impact of Title VII is to remedy harm associated with specific subsidized products (or products sold at LTFV) it is certainly sound to expect that a finding resulting in the imposition of remedy for that behavior ought to be based upon a showing that such behavior actually caused the requisite measure of harm. In this regard, provisions in the GATT Code and in the literature related to it may well establish that the relevant Code provisions are premised on this policy.

The merits of this policy notwithstanding, the problem for me is that the plain language of Title VII is unambiguous in requiring of us a somewhat different approach than that alluded to by Commissioner Stern. Section 701(a), providing for the general rule under which countervailing duties shall be imposed, establishes that the ITC shall determine whether a domestic industry is materially injured, threatened with material injury, or whether the establishment of a domestic industry is materially retarded "by reason of *imports of that merchandise*". Section 703(a), providing for preliminary determinations, establishes that we shall find material injury, etc., "by reason of *imports of the merchandise* which is the subject of the investigation * * *" Section 705(b), providing for final determinations, establishes that material injury must be caused "by reason of *imports of merchandise* with respect to which the administering authority has made an affirmative determination * * *" Provisions relating to dumping investigations, in relevant part, use identical language.

In each of these directory provisions, statutory language does not compel us to establish a nexus between material injury and the subsidy (or LTFV margin) found by Commerce. Nor is the statute unclear in what it does require. Rather, in each provision the language plainly directs that the appropriate causal relationship is between harm and the *imports* which are under investigation. Moreover, section 771(7), which details the factors we are to consider in reaching a determination on the question of material injury establishes a nexus standard which is completly consistent. In each of the subparagraphs addressing the specific factors for us to consider, the language, without fail, directs us to relate the effect of the enumerated factors to "imports of merchandise."

It has alway been my understanding that where the language of the statute is plain and unambiguous of its face, reference to interpretative aids is inappropriate. Thus, neither the writings of former GATT negotiators and officials nor language in the legislative history are appropriate sources for attributing meaning to words used in the statute which are not confusing. Furthermore, there is no mandate that Title VII has to be consistent with the GATT Code. In this connection, section 3(a) of the Trade Agreements Act of 1979 specifically provides that provisions of trade agreements which conflict with any statute of the United States shall not be given effect.

In addition, even though irrelevant because there is no statutory ambiguity, the Senate Report language relied upon by Commissioner Stern is not the least bit compelling as support for what I understand to be her construction of the statute. That language simply observes that in determining causality we consider, among other enumerated and unenumerated factors, how the effect on the subsidy (or LTFV margin) relates to the injury. Nothing in this report or the House report declares or suggests that a determination of material injury ought to be based upon a tracing of specific

[31] Senate Comm. on Finance, Trade Agreements Act of 1979, S. Rept. No. 96-249, 96th Cong., 1st Sess. (1979) (hereinafter cited as Senate Report).

[32] 19 U.S.C. 1671(b).

[33] Certain Zoris from the Republic of China (Taiwan), Inv. No. 303-TA-1, USITC Pub. No. 787 [1976].

[34] The only available information on margins usually consists of allegations by the petitioner.

[35] In Hot-Rolled Carbon Steel Sheet from France, Inv. No. 701-TA-85 (Preliminary), USITC Pub. No, 1208, January 1982, I did analyze subsidy information in coming to the conclusion that "[t]here is no reasonable basis for denying the potential impact such subsidies could be having * * *" However, that case was initiated by Commerce, which is responsible for determining the extent of subsidies. The information provided by Commerce was a good deal more substantial than allegations by an interested party. *See* "Views of Commissioner Paula Stern," at 27.

[36] There is a dumping investigation (731-TA-46) underway on the same products that we are considering in this investigation. If Commerce finds a preliminary subsidy margin, bond would be posted. However, there would be no adjustment of the dumping margin. If a final subsidy is found, an adjustment of the dumping margin will be made by Customs as directed by the Department of Commerce. Thus, there are potential problems in the bonding process over which the Commission has little control.

subsidies (or LTFV margins) through to a specific quantum of injury.

The Senate language relied upon simply recognizes the obvious, that in establishing a nexus between material harm and subsidized imports the strongest case for causality arises when the effect of a subsidy can, in fact, be tied to a measure of harm. Because causality is so strongly established in such a circumstance, it is not surprising that the Senate language would observe with approval that such a nexus has been considered by us in the past. To be sure, in establishing causality the relation between a particular proscribed practice and material harm ought to be a consideration of the first order. But an observation by one branch of Congress that we do consider this matter in our assessment of causality is a far cry from establishing that the intent of the Congress is that a material injury determination shall rely upon such a tracing. Further, it should not go unnoted that the cited Senate language also observes, at the very outset, that in establishing "by reason of" the ITC looks at "the effect of such *imports* * * *"

There is a sound and unoffensive reason for the statutory scheme under Title VII expressly requiring only that imports and not subsidy (or LTFV margin) be the cause of material injury. First, Title VII is not punitive, it is a limited remedy statute. Under the scheme, the amount of the advantage enjoyed by the imports is offset by a corresponding duty. Imports are still permitted full access to the U.S. market. It would seem somewhat self-defeating to make this rather restrained remedy contingent upon a detailed tracking of these sometimes narrow practices through the complexities of the manufacturing, pricing and marketing patterns of foreign producers to an impact in the U.S. market. In light of the statutory detail under section 771, if such a substantial investigative undertaking were intended to be the cornerstone of causality under Title VII, certainly Congress would have been equally explicit in delineating the standards for applying it.

Second, the system provided for in the language of the statute affords a rather simple remedial format. Once imports are found to enjoy a subsidy (or LTFV margin) and we determine whether their presence is materially injuring a domestic industry, just the extent of their proscribed advantage is offset. By permitting us to relate the impact of the imports rather than trace the specific advantage they enjoy to a measure of harm, Congress has obviated the need in every case for close and detailed analysis of the nature and operation of a specific foreign practice and for following its effects through the marketplace. Avoiding such an investigation is a major simplification that goes not just to administrative ease, but also implicates the extent to which the domestic industry has a greater or lesser chance of receiving remedy.

With regard to the administrative ease of the statutory format as provided in the language, Congress must have recognized the unavoidable difficulties attending an effort to relate a specific foreign subsidy to a specific domestic harm. Relating harm to the imports presents a more manageable task. Under the alternative scheme, at the minimum, either Commerce or we would have to investigate the financial, manufacturing and management practices of foreign companies in order to determine how the subsidy is used so we can determine its impact in the U.S. market. To simplify the task it would be tempting, for example, to assume that a subsidy will usually reveal itself in pricing practices and, therefore, we should assess the impact by examining the effect of price on the market.

Such an approach, however, is simplistic, if not naive. Subsidies may be used in numerous ways that have little or no easily discernible relationship to price in the market. Such uses include imporvement in manufacturing technology, increased return to shareholders, more aggressive advertising, higher salaries, accelerated debt retirement, and greater allocations to research and development. How are we to quantify their impact on the U.S. industry? Why is there no Congressional guidance on such an important matter if Commissioner Stern's construction were intended? Title VII and the legislative history do provide great detail on similar complicated but important aspects of this legislation.

It needs little more than to observe that, currently, Commerce does not normally apprise us of how subsidies are employed by individual companies nor do we attempt such factfinding. Nevertheless, factfinding by both agencies can be formidable. From the difficulties that arise in simply establishing the fact of a subsidy and the fact of material injury, it should be apparent that the task of discovering how a subsidy is exploited by a foreign company can be substantial, a fact we cannot assume Congress did not appreciate in drafting the statute as it did.

Regarding the impact of the statute's relative simplicity on the outcome of investigations, as the statute is now, the Commission's task is not further complicated by doing this kind of analysis. Thus, the ability of an industry to obtain redress in not obstructed by significant factfinding barriers. However, relying on the establishment of a nexus between subsidy and harm makes needed, though limited, redress for demonstrated harm unnecessarily burdensome. It is axiomatic that the greater the difficulty of establishing relevant fact, the lower the likelihood of rendering remedy. The scheme as provided in the language of Title VII quite clearly carries less difficulty in establishing nexus than does Commissioner Stern's approach. This difference in level of difficulty grows not from a policy preference, rather it is simply a function of the relevant facts being more difficult to collect. Even the most narrow reading of the origins of the 1979 Act and the legislation transferring countervailing duty and antidumping responsibilities from the Treasury Department to the Commerce Department must acknowledge that the Congressional interest here is in advancing rather than reducing the predictability of remedy to domestic industries confronted with the injurious behavior of subsidies (or LTFV imports).

As a final matter, Commissioner Stern accurately observes that preliminary cases are not likely to afford us sufficient information to relate material injury to subsidy practices. This results in there being different standards, *de facto*, for finding material injury in preliminary and final cases. Nothing in the statute or in any of the accompanying literature seems to anticipate such a double standard. While we are to reach preliminary decisions on the basis of the best information available, we are expected to apply the same standards in all investigations whether they may be preliminary or final. If the basis of causality is to be the effect of the subsidy and it is predictable that information on how the subsidy is used is unlikely to be available, the decisionmaking that occurs results in a decision based upon a completely different standard of causality. A finding of material injury in such a circumstance is based upon a theory other than tracing the effect of the subsidy or upon assumption. The statute simply cannot be read to permit preliminary decisionmaking using a standard different from that required in final cases or based upon conjecture.

It is, therefore, my belief that for sound policy reasons, the language of Title VII means exactly what it says. In order for countervailing duty or antidumping duties to issue, material injury must be found to be caused by the imports in question not by the operation of the subsidy (or the LTFV margin). Any other reading of the statute distorts its plain language though it may well be based upon very sound policy.

Issued: March 5, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-7080 Filed 3-15-82; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 104-TAA-9]

Michelin X-Radial Steel Belted Tires From Canada

AGENCY: International Trade Commission.

ACTION: Institution of countervailing duty investigation.

SUMMARY: On January 8, 1973 in T.D. 73-10, the Department of the Treasury (Treasury) imposed countervailing duties, under section 303 of the Tariff Act of 1930 (19 U.S.C. 1303), on Michelin X-radial steel belted tires from Canada. Imports of X-radial steel belted tires from Canada are currently provided for under item 772.51 of the Tariff Schedules of the United States.

On January 1, 1980, the provisions of the Trade Agreements Act of 1979 became effective, and on January 2, 1980, the authority for administering the countervailing duty statute was transferred from Treasury to the Department of Commerce (Commerce). On May 13, 1980, Commerce published a notice in the **Federal Register** (44 FR 31455) of intent to conduct an annual administrative review of all outstanding countervailing duty orders.

On January 2, 1980, the International Trade Commission received a request from Michelin Tire Corporation for an investigation under section 104(b)(1) of the Trade Agreements Act of 1979 (19 U.S.C. 1971 note), with respect to X-radial steel belted tires from Canada. In accordance with section 104(b)(3) of the act, the Commission notified the Department of Commerce of its receipt of the request for this investigation.

As required by section 751(a)(1) of the Tariff Act of 1930, Commerce has conducted its first annual administrative review of the countervailing duty order on Michelin X-radial steel belted tires from Canada. As a result, on October 2, 1981, Commerce published in the **Federal Register** (46 FR 48737), its final determination that there were net subsidies of 2.91 and 1.60 percent ad valorem for 1978 and 1979 respectively, on Michelin X-radial steel belted tires from Canada. The review covers the period January 1, 1978 through December 31, 1979. In addition, the Department of Commerce will be publishing shortly its preliminary (administrative review) determination for the period of January 1, 1980 on through December 31, 1980. Pursuant to section 104(b)(2) of the Trade Agreements Act, the U.S. International Trade Commission is instituting this countervailing duty investigation to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of Michelin X-radial steel belted tires from Canada provided for under item 772.51 of the Tariff Schedules of the United States, covered by the countervailing duty order, if the order were to be revoked. The investigation will be subject to the provisions of Part 207 of the Commission's Rules of Practice and Procedure (19 CFR Part 207, 44 FR 76457 and 47 FR 6190), and particularly Subpart B thereof.

EFFECTIVE DATE: March 11, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. William Schechter, U.S. International Trade Commission, Washington, D.C. 20436 (202-523-0300).

SUPPLEMENTARY INFORMATION:

Public Hearing

The Commission will hold a public hearing in connection with this investigation on May 13, 1982, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington D.C. 20436, beginning at 10 a.m. Requests to appear at the hearing should be filed with the Office of the Secretary, U.S. International Trade Commission, Washington, D.C. 20436, not later than the close of business (5:15 p.m.) on April 27, 1982. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 10 a.m., on April 30, 1982, in room 117 of the U.S. International Trade Commission Building. Prehearing briefs must be filed with the Commission on or before May 10, 1982.

A staff report containing preliminary findings of fact in this investigation will be available to all interested parties on April 29, 1982.

Testimony at the public hearing is governed by § 207.23 of the Commission's Rules of Practice and Procedure (47 FR 6191, February 10, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing statements and to new information. Not more than five doubled-spaced pages of supplementary material, other than remarks read into the record, will be accepted for the record at the hearing. Supplementary material is defined in § 207.13(f) (47 FR 6189, February 10, 1982). All legal arguments, economic analysis, and factural materials relevant to the public hearing should be included in prehearing briefs in accordance with rule 207.22 (47 FR 6191, February 10, 1982). Posthearing briefs shoud be filed with the Commission by no later than the close of business, May 25, 1982.

Written submission.—Any person may submit to the Commission on or before May 25, 1982, written statements of information pertinent to the subject matter of the investigation. A signed original and fourteen true copies of such statements must be submitted in accordance with § 201.8(d) of the Commission's Rules of Practice and Procedure (47 FR 6188, February 10, 1982). All written submissions, except confidential business data, will be available for public inspection.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data". Confidential submissions must conform with the requirements of § 201.6 of the Rules of Practice and Procedure (19 CFR 201.6), and the filing requirements of § 201.7(d) of the Rules (47 FR 6188, February 10, 1982).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and C (47 FR 6190, February 10, 1982), and part 201, subparts A through E (19 CFR 201 (1981) as amended by 47 FR 6190, February 10, 1982).

This notice is published pursuant to § 207.20 of the Commission's Rules of Practice and Procedure (47 FR 6190, February 10, 1982).

By order of the Commission.

Issued: March 11, 1982

Kenneth R. Mason,

Secretary.

[FR Doc. 82-7079 Filed 3-15-82; 8:45 am]
BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-152 and 153 (Preliminary) and Investigation No. 731-TA-89 (Preliminary)]

Prestressed Concrete Steel Wire Strand From Brazil, France, and the United Kingdom

AGENCY: International Trade Commission.

ACTION: Institution of preliminary countervailing duty investigations and an antidumping investigation and scheduling of a conference to be held in connection with the investigations.

SUMMARY: The International Trade Commission hereby gives notice of the institution of investigations Nos. 701-TA-152 and 153 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil and France of wire strand of steel for prestressing concrete, provided for in item 642.11 of the Tariff Schedules of the United States (TSUS) (1982), upon which bounties or grants are alleged to be paid.

The Commission also gives notice of the institution of investigation No. 731-TA-89 (Preliminary) under section 733(a) of the Tariff Act (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with materially injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the United Kingdom of wire strand of steel for prestressing concrete, provided for in item 642.11 of the TSUS, which are alleged to be sold in the United States at less than fair value.

EFFECTIVE DATE: March 4, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Abigail Eltzroth, Office of Investigations, International Trade Commission; telephone 202-523-0289.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted following receipt of petitions filed by counsel for American Spring Wire Corp., Armco Inc., Bethlehem Steel Corp., Florida Wire & Cable Co., Pan American Ropes, Inc., and Shinko Wire America, Inc. The Commission must make its determinations in these investigations within 45 days after the date of the filing of the petitions, or by April 19, 1982 (19 CFR 207.17). These investigations will be subject to the provisions of Part 207 of the Commission's Rules of Practice and Procedure (19 CFR Part 207, 44 FR 76457 and 47 FR 6190), and particularly subpart B thereof.

Written submissions.—Any person may submit to the Commission on or before March 29, 1982, a written statement of information pertinent to the subject matter of these investigations. A signed original and fourteen copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m., on March 25, 1982 at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the investigator for the investigation, Ms. Abigail Eltzroth, telephone 202-523-0289, not later than March 18, 1982, to arrange for their appearance. Parties in support of the imposition of antidumping or countervailing duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's rules of Practice and Procedure, part 207, subparts A and B (19 CFR 207), and part 201, subparts A through E (19 CFR 201). Further information concerning the conduct of the conference will be provided by Ms. Eltzroth.

This notice is published pursuant to § 207.12 of the Commission's Rules of Practice and Procedure (19 CFR 207.12).

By order of the Commission.

Issued: March 9, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-7082 Filed 3-15-82; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period March 1, 1982-March 5, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-12,647; Young Timers, Inc., New York, NY
TA-W-12,197; Christenson Brothers Shake, Inc., Mt. Vernon, WA
TA-W-12,048; Advent Corp., Cambridge, MA
TA-W-12,049; Advent Corp., Nogales, AZ
TA-W-12,050; Advent Corp., Orange, CA
TA-W-12,051; Advent Corp., Portsmouth, NH
TA-W-12,052; Advent Corp., Clinton, MA
TA-W-11,569; Brown Shoe Co., Piggott, AR
TA-W-12,177; Electromech, Inc., Hoboken, NJ
TA-W-12,476; P.D.A. Coat Corp., New Jersey, NJ
TA-W-11,750; Butler Furniture Industries, Inc., Carrollton, KY
TA-W-11,924; Standard Plastic Products, Inc., South Plainfield, NJ
TA-W-11,925; Standard Plastic, Inc., Edison, NJ
TA-W-11,707; General Electric Co., Pitney Glass Plant, Cleveland, OH
TA-W-12,167; Garrison Stove Works, Inc., Claremont, NH
TA-W-12,475; Michael Coat, Inc., Jersey City, NJ

TA-W-12,473; Grace Coat Co., Hoboken, NJ
TA-W-11,237; The Florsheim Shoe Co., Mexico, MO
TA-W-12,279; Sensors, Inc., a Div. of Dekalb Agresearch, Inc., Ann Arbor, MI
TA-W-12,316; Talon, Inc. (Formerly Textron, Inc., Talon Div.), Meadville, PA
TA-W-12,234; Q and T Coat Corp., Paterson, NJ
TA-W-12,685; Libbey-Owens-Ford Co., Lathrop, CA
TA-W-12,615; Sue Brett, Inc., New York, NY
TA-W-12,340; Essex Group, Inc., Power Conductor Div., Marion, IN

In the following case the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-12,792; Advanced Technology & Testing, Livonia, MI

In each of the following cases the investigation revealed that criterion (3) has not been met for the reason(s) specified.

TA-W-12,407; Fairview Tubular Products, Inc., Fairview, MI

Aggregate U.S. imports of brake lines and fuel lines did not increase as required for certification

TA-W-12,409; Proto Tube, Inc., Luzerne, MI

Aggregate U.S. imports of brake lines and fuel lines did not increase as required for certification.

TA-W-12,712; The Upson Co., Lockport, NY

Aggregate U.S. imports of wall board are negligible.

TA-W-12,632; Bird & Son, Inc., Rumford, RI

Aggregate U.S. imports of roofing products did not increase as required for certification.

TA-W-13,085; Bird & Son, Inc., Perth Amboy, NJ

Aggregate U.S. imports of roofing products did not increase as required for certification.

Affirmative Determinations

TA-W-12,810; U.S. Steel Corp., USS Fabrication Div., Shiffler Plant, Pittsburgh, PA

The investigation revealed that all criteria have been met. All workers separated on or after September 1, 1980 are certified eligible to apply for adjustment assistance.

TA-W-11,191; Munsingwear, Inc., Eastland, TX

A certification was issued in response to a petition received on September 29, 1980 covering all workers separated on or after September 24, 1979.

I hereby certify that the aforementioned determinations were issued during the period March 1-5, 1982. Copies of these determinations are available for inspection in Room 10332, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: March 9, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-7000 Filed 3-15-82; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-82-4-C]

Bethlehem Mines Corp.; Petition for Modification of Application of Mandatory Safety Standard

Bethlehem Mines Corporation, Room 1871, Martin Tower, Bethlehem, Pennsylvania 18016, has filed a petition to modify the application of 30 CFR 75.303 (preshift examination) to its Mine No. 31 (I.D. No. 46-01268) located in Boone County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that preshift examptions of the approaches to the abandoned areas of 1, 2, 3, 4, 5, 6, 7, and 8 Right Off East Mains be made by a certified person within three hours immediately preceding the beginning of any shift.

2. The roof in this area has become hazardous for travel due to weathering of the slate roof, and many roof falls have also occurred which make certain areas impassable. The approaches cannot be rehabilitated without many years of extremely hazardous work.

3. There are three evacuation stations which have been established at 8 Right. These stations are not being examined and will continue to be examined as required, including preshift requirements. The evaluation stations have been located in areas where they can effectively monitor the quality of the air that has passed by the approaches in question.

4. As an alternative method, petitioner proposes to establish and maintain specified safe monitoring stations at which examinations for air quality can be conducted, as well as for compliance with mandatory health or safety standards. Tests for air quality and air readings will be made at these stations on a preshift basis as required. The location of the stations and the preshift examinations conducted at such stations will insure that proper air quality will be maintained. A date board or book will be located at the measuring stations, and the air quality will be measured and recorded showing the certified person's initials, date and time. Comparisons will be made with previously posted readings. Any decrease in air quality, or a marked variation in air quality will warrant immediate action to determine the cause, and appropriate action will be taken as required. In addition to the underground readings, the daily reading will also be posted in a record book kept on the surface for this purpose and will be made available to all interested persons.

5. Petitioner states that the proposed alternative method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 15, 1982. Copies of the petition are available for inspection at that address.

Dated: March 5, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-7081 Filed 3-15-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-1-C]

Big J Coal Company, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Big J Coal Company, Inc., Pathfork, Kentucky 40863, has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 24 Mine (I.D. No. 15-08801) located in Harlan County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's shuttle cars.

2. The overall mining height ranges from 41 to 57 inches with rolls and undulations in the coal seam.

3. Petitioner states that installation of cabs or canopies on the shuttle cars would result in a diminution of safety for the miners affected because the canopies could strike and dislodge the roof support system. Canopies also cause a very cramped operator compartment, forcing the operator to lean out from the canopy, exposing certain body parts to potential injury. This cramped operator compartment also causes operator fatigue, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington,Virginia 22203. All comments must be postmarked or received in that office on or before April 15, 1982. Copies of the petition are available for inspection at that address.

Dated: March 5, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-7082 Filed 3-15-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-1-M]

Martin Marietta Alumina; Petition for Modification of Application of Mandatory Safety Standard

Martin Marietta Alumina, P.O. Box 165, Kingshill Post Office, St. Croix, Virgin Islands 00850, has filed a petition to modify the application of 30 CFR 55.12-68 (transformer enclosures) to its Martin Marietta Operation (I.D. No. 55-00005) located in Estate Anguilla, St. Croix, Virgin Islands. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that transformer enclosures be kept locked against unauthorized entry.

2. The existing plant transformers are industrial type units designed and described as totally enclosed. The transformer bushings and stubs are totally enclosed in metal ducts. The metal ducts which enclose the high voltage bushings and the low voltage stubs serve as a barrier to contact with energized parts making these parts inaccessible to unauthorized entry. The transformer by design is equipped with its own enclosure such that the necessity for locks is not applicable.

3. Petitioner believes that the facts stated above are an adequate basis for a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 15, 1982. Copies of the petition are available for inspection at that address.

Dated: March 5, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc 82-7080 Filed 3-15-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-3-C]

North American Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

North American Coal Corporation, Powhatan Point, Ohio 43942, has filed a petition to modify the application of 30 CFR 75.1100-2(e)(2) (quantity and location of fire-fighting equipment) to the following mines:

a. Powhatan No. 1 (I.D. No. 33-00038); Powhatan No. 3 (I.D. No. 33-00039); Powhatan No. 5 (I.D. No. 33-00037); and Powhatan No. 6 (I.D. No. 33-01159), all located in Belmont County, Ohio and

b. Powhatan No. 4 (I.D. No. 33-01157) and Powhatan No. 7 (I.D. No. 33-02824), both located in Monroe County, Ohio.

The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that one portable fire extinguisher and 240 pounds of rock dust be provided at each temporary electrical installation.

2. As an alternative method, petitioner proposes to provide two portable fire extinguishers or one extinguisher having at least twice the minimum capacity.

3. Petitioner states that the proposed alternative method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 15, 1982. Copies of the petition are available for inspection at that address.

Dated: March 5, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-7084 Filed 3-15-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-81-163-C]

T.A.G. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

T.A.G. Coal Company, 836 West Spruce Street, Shamokin, Pennsylvania 17872, has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity and velocity) to its Slope No. 11 Mine located in Shamokin County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Air sample analysis history reveals that harmful quantities of methane are non-existent in the mine.

2. Ignition, explosion and mine fire history are non-existent for the mine.

3. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

4. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

5. Extremely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

6. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines.

7. As an alternative method, petitioner proposes that:

a. The minimum quantityof air reaching each working face be 1,500 cubic feet per minute;

b. The minimum quantity of air reaching the last open crosscut in any

pair or set of developing entries be 5,000 cubic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

8. Petitioner states that the alternative method proposed will at all times provide the same measure of protection for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 15, 1982. Copies of the petition are available for inspection at that address.

Dated: March 5, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-7085 Filed 3-15-82; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Meeting

Notice is hereby given that the National Advisory Committee on Occupational Safety and Health will meet in Washington, D.C. on March 31, April 1 and April 2, 1982. The meeting will begin at 9:00 a.m. on Wednesday, March 31 in room N-5437 of the Frances Perkins Department of Labor Building, Third Street and Constitution Avenue N.W., Washington, D.C. The public is invited to attend.

The National Advisory Committee was established under Section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act.

The agenda will include updates on OSHA activities; updates on the activities of the National Institute for Occupational Safety and Health; reports on and discussions of matters pertaining to OSHA standards and OSHA state program activities.

Written data or views concerning these agenda items may be submitted to the Division of Consumer Affairs. Such documents which are received before the scheduled meeting dates, preferably with 20 copies, will be presented to the Committee and included in the official record of the proceedings.

Anyone who wishes to make an oral presentation should notify the Division of Consumer Affairs before the meeting date. The request should include the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the Chairman of the Committee to the extent which time permits.

For additional information contact Clarence Page, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N-3635, Third Street and Constitution Avenue, NW., Washington, D.C. 20210, Telephone 202-523-8024.

Official records of the meetings will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, D.C. this 9th day of March 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82-7086 Filed 3-15-82; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL SCIENCE FOUNDATION

Subpanel on Metabolic Biology of the Advisory Panel for Physiology, Cellular and Molecular Biology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subpanel on Metabolic Biology of the Advisory Panel for Physiology, Cellular and Molecular Biology

Date and time: April 1, 1982 (9:00 am to 6:00 pm); April 2, 1982 (9:00 am to 6:00 pm); April 3, 1982 (9:00 am until finished)

Place: Conference Room 523, National Science Foundation; 1800 G Street, NW; Washington, D.C. 20550

Type of meeting: Closed

Contact person: Dr. Elijah B. Romanoff, Program Director, Metabolic Biology, Room 325, National Science Foundation, Washington, D.C. 20550, 202/357-7987

Purpose of subcommittee: To provide advice and recommendations concerning support for research in metabolic biology

Agenda: To review research proposals and advise the program staff as part of the selection process for awards

Reason for: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552b(c), Government in the Sunshine Act

Authority to close meeting: This determination was made by the Committee Management officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer delegated the authority to make such determinations by the Director, National Science Foundation, on July 6, 1979

M. Rebecca Winkler,

Committee Management Coordinator.

March 11, 1982.

[FR Doc. 82-7010 Filed 3-15-82; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Nuclear Safety Research Program; Meeting

The ACRS Subcommittee on the Nuclear Safety Research Program will hold a meeting on March 31, 1982, in Room 1167 at 1717 H Street NW., Washington, DC. The Subcommittee will continue its discussion of the proposed NRC long range research plan for FY 1984 through FY 1988. Notice of this meeting was published Feb. 17.

In accordance with the procedures outlined in the Federal Register on September 30, 1981 (45 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, March 31, 1982—8:30 a.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this matter.

Further information regarding topics to be discussed, whether the meeting

has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Sam Duraiswamy (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: March 9, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-7005 Filed 3-15-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 51 to Facility Operating License No. DPR-6, issued to Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Big Rock Point Plant (the facility) located in Charlevoix County, Michigan. The amendment is effective as of its date of issuance.

The amendment approves Technical Specification changes which pertain to (1) degraded grid protection for Class 1E power systems and (2) the scram discharge system.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated October 3, 1980, and October 27, 1981, (2) Amendment No. 51 to License No. DPR-6, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 9th day of March, 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch #5, Division of Licensing.

[FR Doc. 82-7003 Filed 3-15-82; 8:45 am]

BILLING CODE 7590-01-M

State of Washington; Discontinuance of Certain Regulatory Authority and Responsibility Within the State

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of amended agreement with state of Washington.

SUMMARY: Notice is hereby given that on January 7, 1982, the Honorable Nunzio J. Palladino, Chairman of the Nuclear Regulatory Commission, and that on February 19, 1982, the Honorable John Spellman, Governor of the State of Washington, signed an Amendment to the existing section 274b. Agreement between NRC and the State of Washington pursuant to Section 274 of the Atomic Energy Act of 1954, as amended. The amendment permits the State to continue to regulate byproduct material as defined in section 11e.(2) of the Act (uranium mill tailings) in conformance with the requirements of section 274o. of the Act.

The proposed Amendment to the existing section 274b. Agreement was published in the Federal Register for public comment for four consecutive weeks beginning September 17, 1981 (46 FR 46241-46245). A minor change to the introductory text was made to conform the Amendment to the requirements of the "Stratton-Schmitt" amendment (Pub. L. 97-88). The amended agreement was modified to delete the following paragraph:

"Whereas, it is necessary to enter into this amendment in order to implement new requirements of section 274 of the Act which become fully effective on November 8, 1981; and".

Public Law 97-88 makes it clear that such an amended agreement is not "necessary" for the State to continue to regulate uranium mill tailings after November 8, 1981. The following was inserted in its place:

"Whereas, the Governor of the State has requested this amendment in accordance with section 274 of the Act; and".

The Amendment is published in accordance with the requirements of Pub. L. 86-373. A copy of the consolidated version of the Agreement is available at the Office of State Programs.

FOR FURTHER INFORMATION CONTACT: Craig Z. Gordon, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Phone: (301) 492-9886.

SUPPLEMENTARY INFORMATION:

Amendment to Agreement Between the United States Nuclear Regulatory Commission and the State of Washington for Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended

Whereas, the United States Atomic Energy Commission [1] (hereinafter referred to as the Commission) entered into an Agreement (hereinafter referred to as the Agreement of December 6, 1966) with the State of Washington under section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), which Agreement became effective on December 31, 1966 and provided for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to byproduce materials as defined in section 11e.(1) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas, the Governor of the State has requested this amendment on accordance with section 274 of the Act; and

Whereas, the Commission found on January 7, 1982, that the program of the State for the regulation of materials covered by this amendment is in accordance with the requirements of section 274o. of the Act and in all other respects compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

Whereas, this amendment is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now, therefore, it is hereby agreed between the Commission and the Governor of the State, acting on behalf of the State, as follows:

[1] Under the provisions of the Energy Reorganization Act of 1974, the regulatory functions formerly carried out by the Atomic Energy Commission are now carried out by the Nuclear Regulatory Commission as of January 19, 1975.

Section 1. Article I of the Agreement of December 6, 1966, is amended by adding "as defined in section 11e.(1) of the Act;" after the words "byproduct materials" in paragraph A., by redesignating paragraphs B. and C. as paragraphs C. and D., and by inserting the following new paragraph immediately after paragraph A.:

"B. Byproduct materials as defined in section 11e.(2) of the Act;".

Section 2. Article II of the Agreement of December 6, 1966, is amended by inserting "A." before the words "This Agreement," by redesignating paragraphs A. through D. as subparagraphs 1. through 4., and by adding the following at the end thereof:

"B. Notwithstanding this Agreement, the Commission retains the following authorities pertaining to byproduct materials as defined in section 11e.(2) of the Act:

"1. Prior to the termination of a State license for such byproduct material, or for any activity that results in the production of such material, the Commission shall have made a determination that all applicable standards and requirements pertaining to such material have been met.

"2. The Commission reserves the authority to establish minimum standards governing reclamation, long term surveillance or maintenance, and ownership of such byproduct material. Such reserved authority includes:

"a. The authority to establish terms and conditions as the Commission determines necessary to assure that, prior to termination of any license for such byproduct material, or for any activity that results in the production of such material, the licensee shall comply with decontamination, decommissioning, and reclamation standards prescribed by the Commission; and with ownership requirements for such materials and its disposal site;

"b. The authority to require that prior to termination of any license for such byproduct material or for any activity that results in the production of such material, title to such byproduct material and its disposal site be transferred to the United States or the State at the option of the State (provided such option is exercised prior to termination of the license);

"c. The authority to permit use of surface or subsurface estates, or both, of the land transferred to the United States or the State pursuant to subparagraph B.2.b. of this Article;

"d. The authority to require the Secretary of the Department of Energy, other Federal agency, or State, whichever has custody of such byproduct material and its disposal site, to undertake such monitoring, maintenance, and emergency measures as are necessary to protect the public health and safety, and other actions as the Commission deems necessary; and

"e. The authority to enter into arrangements as may be appropriate to assure Federal long term surveillance or maintenance of such byproduct material and its disposal site on land held in trust by the United States for any Indian tribe or land owned by an Indian tribe and subject to a restriction against alienation imposed by the United States.".

Section 3. Article III of the Agreement of December 6, 1966, is amended by inserting "otherwise licensable by the State under Article I of this Agreement" after the words "special nuclear material."

Section 4. Article VII of the Agreement of December 6, 1966, is amended by inserting "all or part of" after the words "terminate or suspend," by inserting "(1)" after the words "finds that," and by adding at the end before the period the following: ", or (2) the State has not complied with one or more of the requirements of section 274 of the Act. The Commission shall periodically review this Agreement and actions taken by the State under this Agreement to ensure compliance with the provisions of section 274 of the Act.".

Section 5. Article VIII of the Agreement of December 6, 1966, is amended by redesignating it Article IX and by inserting a new Article VIII as follows:

"In the licensing and regulation of byproduct material as defined in section 11e.(2) of the Act, or of any activity which results in production of such material, the State shall comply with the provisions of section 274o. of the Act. If, in such licensing and regulation, the State requires financial surety arrangements for the reclamation or long-term surveillance or maintenance of such material.

"A. The total amount of funds the State collects for such purposes shall be transferred to the United States if custody of such material and its disposal site is transferred to the United States upon termination of the State license for such material or any activity which results in the production of such material. Such funds include, but are not limited to, sums collected for long term surveillance or maintenance. Such funds do not, however, include monies held as surety where no default has occurred and the reclamation or other bonded activity has been performed; and

"B. Such State surety or other financial requirements must be sufficient to ensure compliance with those standards established by the Commission pertaining to bonds, sureties, and financial arrangements to ensure adequate reclamation and long term management of such byproduct material and its disposal site.".

This amendment shall become effective on February 10, 1982.

Done at Olympia, State of Washington, in triplicate, this 19th day of February 1982.

For the State of Washington.

John Spellman,

Governor.

Done at Washington, District of Columbia, in triplicate, this 7th day of January 1982.

For the United States Nuclear Regulatory Commission.

Nunzio J. Palladino,

Chairman.

Dated at Bethesda, Maryland, this 9th day of March 1982.

For the United States Nuclear Regulatory Commission.

Donald A. Nussbaumer,

Acting Director, Office of State Programs.

[FR Doc. 82-7004 Filed 3-15-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Nos. 301-27-31]

Hearing

Upon request of the petitioner a public hearing has been scheduled for April 14, 1982 to consider the issues raised in the petition with respect to the allegations concerning Austria, France, Italy, Sweden and the United Kingdom. The hearing is to be held at the New Executive Office Building, Room 2010, beginning at 10:00 a.m.

Requests to present oral testimony and accompanying briefs must be received on or before April 8, 1982 and should be addressed to the Chairman of the section 301 Committee. Written briefs from those persons not wishing to present oral testimony should be received on or before April 14, 1982. Requests to present oral testimony as well as written submissions should conform to the requirements set forth in 15 CFR 2006.8 and 2006.9.

In order to assure parties an opportunity to contest information provided by other interested parties in the written briefs and oral testimony.

rebuttal briefs may be filed by any party no later than April 30, 1982.

Joanne S. Archibald,

Chairman, Section 301 Committee.

[FR Doc. 82-7029 Filed 3-15-82; 8:45 am]

BILLING CODE 3190-01-M

POSTAL RATE COMMISSION

Mailmen, Inc. and Doubleday Publishing Co.; Visits

March 11, 1982.

Notice is hereby given that Commissioners Bright, Crutcher, and Folsom, and one staff person will visit the facilities of Mailmen, Inc., in Hauppauge, Long Island, New York, and Doubleday Publishing Company in Garden City, L.I., N.Y., Friday, March 19, 1982, for the purpose of acquiring general knowledge of third-class mailing and publishing operations.

A report of the visits will be on file in the Commission's docket room.

David F. Harris,

Secretary.

[FR Doc. 82-7053 Filed 3-15-82; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 18557; SR-AMEX-81-25]

American Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment Thereto

March 10, 1982.

The American Stock Exchange, Inc., 86 Trinity Place, New York, NY 10006, submitted on January 7, 1982, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, relating to the establishment of a plan for issuing fixed income security options trading permits. On February 26, 1982, the Exchange submitted an amendment to that filing which reflected that its membership had approved the proposed plan.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change and amendment thereto on or before April 6, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-Amex-81-25.

Copies of the proposed rule change and amendment thereto all subsequent amendments, all written statements with respect to the submissions which are filed with the Commission and all written communications relating to the filings between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of the filings and of any subsequent amendments also will be available at the principal office of the above-mentioned self-regulatory organization.

The Commission finds good cause for approving the proposed rule change and amendment thereto prior to the thirtieth day after the date of publication of notice of filing of the amendment, in that notice of the proposed rule change previously had been published for comment over thirty days ago.[1] No comments on the proposed rule change were received. The amendment was needed only to reflect exchange membership approval of the proposed plan. Accordingly, additional notice and further opportunity for public comment is unnecessary.

The Commission finds that the proposed rule change and amendment thereto are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of Section 6 of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change and amendment thereto referenced above be, and hereby are, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-7038 Filed 3-15-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 12283; 812-5046]

AAA U.S. Government Money Market Account, Inc.; Filing of Application

March 9, 1982.

Notice is hereby given that AAA U.S. Government Money Market Account, Inc. ("Applicant"), 3102 Farnam Street, Omaha, Nebraska 68131, registered under the Investment Company Act of 1940 ("Act") as an open-end, management investment company, filed an application on December 17, 1981, requesting an order of the Commission, pursuant to section 6(c) of the Act exempting the Applicant from the provisions of section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit the Applicant to value its assets using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was organized as a Nebraska corporation on September 18, 1981, and registered under the Act on December 17, 1981. Applicant further states that its investment adviser is Mutual of Omaha Fund Management Company. Applicant represents that its investment objective is to seek as high a level of current income as is consistent with preservation of capital and maintenance of liquidity by investing in a variety of United States Government securities maturing in one year or less. According to the application, Applicant will invest in debt securities issued by the United States Treasury or guaranteed by the United States Government or its agencies, authorities or instrumentalities. In addition, Applicant may enter into repurchase agreements with respect to United States Government securities, reverse repurchase agreements and participation interests in United States Government securities. Applicant further states that it may purchase certificates of deposit provided they are fully insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

As here pertinent, section 2(a)(41) of the Act defines value to mean: (1) With respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by an investment company's board of directors.

Rule 22c-1 provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security.

Rule 2a-4 provides, as here relevant, that the current net asset value of a redeemable security issued by a register

[1] *See* Securities Exchange Act Release No. 18415 (January 12, 1982).

investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of the application, the Commission expressed its view that, among other things, Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and it would be inconsistent generally with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments with over 60-day maturities on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Applicant requests an exemption from the provisions of section 2(a)(41) of the Act, and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit it to value its portfolio securities using the amortized cost method of valuation. In support of its request, Applicant represents that its board of directors has determined that, absent unusual circumstances, amortized cost value represents fair value of its portfolio securities and that the amortized cost method of valuation will benefit both the Applicant and its shareholders. Applicant states that by using the amortized cost method of valuing its shares, investors would have the convenience of being able to value their holdings simply by knowing the number of shares which they own. Furthermore, Applicant states that by using the amortized cost method of valuation its net asset value per share would not vary as a result of realized and unrealized capital gains and losses.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant asserts that its application meets the standards of section 6(c) of the Act in light of its management policies, and consents to the imposition of the following conditions to any order granting the requested relief:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of directors of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors of the Applicant shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) in the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated by it.

(c) Where the board of directors believes the extent of any deviation from the $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of directors determines present minimal credit risks, and which are of "high quality" as determines by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its board of directors.

6. Applicant will include in each of its quarterly reports, as an attachment to Form N-1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than April 5, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest available cash in such a manner as to reduce the dollar-weighted average portfolio maturity in 120 days or less as soon as reasonably practicable.

Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-7034 Filed 3-15-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 12287; 812-5082]

First Investors Tax Exempt Fund, Inc.; Filing of Application

March 10, 1982.

Notice is hereby given that First Investors Tax Exempt Fund, Inc. ("Applicant"), 120 Wall Street, New York, New York 10005, registered under the Investment Company Act of 1940 (the "Act") as an open-end, diversified, management investment company, filed an application on January 15, 1982, for an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 22(d) of the Act to the extent necessary to permit the sale of shares of Applicant at a reduced sales charge to participants in a reinvestment program to be offered to unitholders of California Quality Tax Exempt Trust Series 1 and Subsequent Series ("Trusts"), registered under the Act as a unit investment trust. All interested persons are referred to the application on file with the Commission for statement of the representations contained therein, which are summarized below.

Applicant states that its investment objective is to provide a high level of tax exempt income by investing in a managed portfolio of debt obligations, the interest on which is exempt from federal income tax, and the principal and interest payments on which are insured by an independent insurance company. First Investors Management Company, Inc. ("Adviser") is the investment adviser of the Applicant. Applicant states that the Trusts are sponsored by Van Kampen Filkin & Merritt Inc., a broker-dealer registered under the Securities and Exchange Act of 1934, and the Trustee of the Trusts is Bradford Trust Company. According to the application, the Trusts seek to obtain income which is exempt from federal income taxation and from state and local taxes when held by California residents, and to conserve capital through investment by each series of the Trusts in interest bearing obligations which, in the opinion of bond counsel, are exempt from federal income taxes and from state and local income taxes.

Applicant states that its shares are offered for sale to the public at net asset value plus a sales charge which varies from 7.25% to 1.25% of the offering price based upon the amount invested. The minimum initial investment in Applicant is $2,000 and subsequent investments must be made in amounts of $500 or more. Shareholders of Applicant may reinvest dividends declared on shares of Applicant at the net asset value in effect at the close of business on the dividend reinvestment date.

Applicant proposes to permit unitholders of the Trusts to reinvest their distributions of interest, capital gains and principal on units of the Trusts in shares of the Applicant at net asset value plus a sales charge of 0.4%, a purchase price which is less than the current public offering price described in Applicant's prospectus, without regard to Applicant's minimum initial investment requirements. The application states that all unitholders of the Trusts will be eligible to participate in the reinvestment programs, but will be required to reinvest the entire amount of all future semi-annual, quarterly or monthly distributions from any series of the Trusts. The application further states that unitholders of the Trust will be provided with a prospectus of Applicant prior to becoming participants in the reinvestment plans. Applicant states that each prospectus of future series of the Trusts will disclose the existence of the reinvestment privilege and provide a means for unitholders to indicate interest in reinvesting distributions in shares of the Applicant. Unitholders who have elected to participate in the reinvestment program will be entitled to virtually all rights of any shareholders of Applicant but will not be entitled to a reduced sales charge for quantity purchases of Applicant's shares and will not have the right to exchange shares of Applicant acquired pursuant to the reinvestment program for shares of other companies managed by the Adviser. The application states that any participant wishing to purchase shares of Applicant outside the reinvestment program will be required to satisfy Applicant's minimum investment requirements.

According to the application: (1) On each distribution date, or immediately thereafter, the trustee for the Trusts will forward funds representing participants' distributions of interest income, capital gains and principal to Applicant's co-underwriters who will purchase shares of Applicant for each participant at the net asset value per share next determined after receipt of the purchase order, plus a sales charge of 0.4% and (2) the transfer agent will maintain separate accounts for each participant in the reinvestment program and will mail confirmations concerning transactions to each participant. The application further states that a participant may elect to terminate participation in the reinvestment program and receive future distributions in cash by notifying the trustee for the Trusts in writing at least five days prior to the distribution date.

Applicant states that its prospectus will be amended to state that unitholders of the Trusts will be permitted to invest their distributions in shares of Applicant at net asset value per share plus a reduced sales charge of 0.4% of the offering price, and states that the Adviser will retain the entire 0.4% sales charge and will bear the distribution expenses associated with the reinvestment programs.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it except either to or through a principal underwriter for distribution or at a public offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person except at a current public offering price described in the prospectus. Accordingly, Applicant requests an exemption from the provisions of section 22(d) of the Act to permit the sale of its shares at a reduced sales charge to participants in the reinvestment programs proposed to be offered by the Trusts.

Section 6(c) of the Act, provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that section 22(d) of the Act is intended to ensure that all investors purchase investment company securities on an equal basis and to prevent dilution of existing shareholders' equity. It asserts that because participants in the reinvestment program will be required to purchase shares at current net asset value plus a sales charge, the equity of existing shareholders will not be diluted. Applicant further asserts that the reduced sales charge is fair and equitable and in the best interests of Applicant's shareholders. In support of these assertions Applicant states that it believes that the sales costs associated with sales made pursuant to the reinvestment program will be lower than the costs associated with other sales of its shares. Applicant submits that such savings should be passed on to investors in the form of lower sales charges, and states that it believes the 0.4% sales charge to be sufficient to cover the increase in distribution expenses arising from the program. Applicant further states that its shareholders will benefit from the reinvestment program because an increase in Applicant's cash flow will enable it to meet redemptions without liquidating investments in its portfolio and will enable it to diversify further its securities holdings. Therefore, Applicant submits that the exemption it requests is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than April 5, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-7035 Filed 3-15-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 12290; 812-4990]

North River Securities Co., Inc. and North Oceanic Securities Co., Inc.; Filing of Application

March 11, 1982.

Notice is hereby given that North River Securities Co., Inc. ("North River"), 595 Madison Avenue, New York, New York 10022, a closed-end investment company registered under the Investment Company Act of 1940 ("Act"), and North Oceanic Securities Co., Inc. (the "New Corporation") 595 Madison Avenue, New York, New York 10022, filed an application on October 9, 1981, and an amendment thereto on February 11, 1982, for an order of the Commission pursuant to sections 17(d) and 23(c) of the Act and Rules 17d–1 and 23c–1(c) thereunder, approving the proposed merger of North River into the New Corporation, a privately owned corporation which will be an affiliate of North River. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that North River is a New York corporation with an authorized capital consisting of 1,000,000 shares of common stock, $1.00 par value, of which 776,835 shares are issued and outstanding. Applicants represent that these shares are traded in the over-the-counter market but are not listed on NASDAQ, and are held of record by approximately 330 shareholders. Applicants state that as of August 31, 1981, 97.00 percent of North River's outstanding common stock was owned of record by the following persons in the amounts indicated: Ira Guilden, 41.05% (318,905 shares); AIDC Corp., 31.66% (246,140 shares); Frazier & Co., 15.80% (122,746 shares); Paul Guilden, 7.77% (60,341 shares); IG Insurance Trust, .70% (5,403 shares) (collectively, the "North River majority shareholders").

Applicants represent that the remaining 23,300 shares of the outstanding common stock of North River, totalling 3.00 percent of the total outstanding shares, are owned by approximately 325 shareholders (collectively, the "North River minority shareholders").

Applicants state that Ira Guilden is Director, Chairman of the Board of Directors, President and Treasurer of North River and that he and Paul Guilden (his son) own 56.04 percent and 41.57 percent, respectively, of the outstanding capital stock of AIDC Corp., a Delaware corporation. Applicants state further that Frazier & Co. is wholly-owned by Paul Guilden and that IG Insurance Trust is a trust having less than ten beneficiaries established by Ira Guilden for the benefit of members of his family.

Applicants state that during the fiscal year ended February 28, 1981, the common stock of North River was traded in the over the counter market at a range of $9.00 to $9.50 and that as of the close of business on August 31, 1981, the bid price of such common stock was $9.50 per share and there was no asked price. Applicants state that the value of the total net assets of North River, as shown in the Annual report for the fiscal year ended February 28, 1981, was $11,930,234 and that based on such value, the net asset value per share of the common stock of North River was $15.36. Applicants state that there has been no substantial change in the value of the total net assets of North River since February 28, 1981.

Applicants represent that, as indicated in the Annual Report, North River's assets consist of common and preferred stocks, real estate and real estate loans, a vessel operated by a managing agent under a charter hire agreement, cash and cash items. Applicants state that the stocks owned by North River include 417,404 shares of the common stock of Baldwin Securities Corporation ("Baldwin"), a registered closed-end investment company of which Ira Guilden is the chairman of the board and of which he owns beneficially 25.66% of the outstanding shares. As of February 28, 1981, the stock of Baldwin owned by North River constituted approximately 11% of the outstanding shares of Baldwin, had a market value

of $3,234,881 and constituted 23.68% of the total assets of North River.

Applicants represent that at a meeting held on June 9, 1981, the Board of Directors of North River, including the two directors who are not "interested persons" of North River for purposes of the Act, unanimously approved a plan whereby North River would be merged into the New Corporation, a company incorporated in October, 1981, which has not yet issued any stock and which at the time of the merger will be wholly-owned by the North River majority shareholders. The plan provides that the North River minority shareholders will receive cash equal to the fair value of their stock of North River.

Applicants submit that pursuant to such plan, the Board designated the two directors who are not "interested persons" of North River as a valuation committee (the "Valuation Committee") to make recommendations to the Board with respect to the fair value to be attributed to the shares held by the North River minority shareholders in connection with the proposed merger of North River into the New Corporation. Applicants state that the Valuation Committee determined that in order to insure that the minority shareholders recieve a fair value for their shares, the value to be attributed to those shares should be based on the fair value of the assets which constitute the portfolio of North River rather than on the quoted market price of the shares. The Valuation Committee also determined that the sole material assets of North River for which the quoted market values as shown in North River's financial statements might not provide an appropriate value were the stock of Baldwin, the wholly-owned real estate and the vessel and appointed independent appraisers of those assets.

Applicants state that the net asset value per share to be paid to the minority shareholders pursuant to the proposed merger will be determined in the manner employed by North River in its Annual Report as of February 28, 1981, with the exception that the assets for which appraisals were obtained will be valued as follows. Applicants maintain that those appraisals resulted in a valuation of $3,078,355 for the Baldwin stock (as compared to $3,234,881 shown in North River's Annual Report as of February 28, 1981), $1,197,000 for the wholly-owned real estate (as compared to $1,190,604 shown in said Annual Report) and $1,865,000 for the vessel (as compared to $1,500,000 shown in said Annual Report. Applicants submit that subsequent to obtaining the foregoing appraisals, North River, at the request of the staff of the Commission, obtained two additional appraisals of the vessel and the wholly-owned real estate. Applicants submit further that these additional appraisals where considered by the Board of Directors of North River during the meeting on February 8, 1982, and that after considering all of such appraisals, the Board unanimously confirmed its decision to accept the first appraisal as the basis for determining the fair value of the vessel and unanimously voted to use the highest of the three appraisals, or $1,327,700, for purposes of determining the fair value of the wholly-owned real estate.

Applicants state that when the order of the Commission requested in the application has been granted, the merger of North River into the New Corporation will be consummated and the North River minority shareholders will receive cash for their North River shares on the basis of the net asset value per share computed as set forth above; provided, however, that said net asset value per share will be adjusted for changes in the quoted market value of the portfolio assets of North River other than the Baldwin stock, the wholly-owned real estate and the vessel occurring up to three business days before the date on which the notice of merger is mailed to the shareholders; and provided, further, that the appraisers giving the appraisals for the Baldwin stock, the wholly-owned real estate and the vessel will be asked to update such appraisals by reflecting any changes in the value of such assets occurring up to three business days prior to the date on which such notice of the merger is given.

Applicants propose that following receipt of the order requested in the application, all of the outstanding stock of the New Corporation will be issued to the North River majority shareholders, in consideration for the transfer to the New Corporation of all the shares of North River common stock owned by such shareholders. Applicants state that as a result of such transfer, the New Corporation will own 753,535 (of 97.00 percent) of the outstanding common stock of North River and will be deemed to be an "affiliate" of North River under the terms of the Act. Applicants state that, in addition, the North River majority shareholders at that time will be deemed to be affiliates of the New Corporation and North River.

Applicants state that, promptly thereafter, North River will mail to the North River minority shareholders a notice of the proposed merger and a copy of the Plan of Merger. Applicants state further that the notice and plan of merger will set forth the method by which the shares of common stock of North River have been valued for purposes of the merger. Approximately thirty days following the mailing of the notice and plan of merger to the shareholders of North River, the New Corporation will cause a Certificate of Merger to be filed with the office of the New York Secretary of State, thereby merging North River into the New Corporation, with the New Corporation being the surviving corporation. Applicants maintain that the North River minority shareholders will be notified of the consummation of the merger and advised that upon the submission of their stock certificate or certificates to North River, they will receive a check for the value of their shares.

Applicants claim that, even though the effect of the proposed merger will be to reduce the number of record shareholders of North River to below 300, the transaction will not be subject to the requirements of Rule 13e–3 under the Securities Exchange Act of 1934 (the "Exchange Act") because North River is not "an issuer subject to section 12(g) or section 15(d)" of the Exchange Act. Nevertheless, Applicants state that, while North River will not comply with the requirements of Rule 13e–3 under the Exchange Act, they believe that the purposes of the Rule will be substantially accomplished by the filing of the application and by the procedures to be followed in connection with the proposed merger. Applicants submit that the Plan of Merger and Notice of Merger required by the New York Business Corporation Law to be provided to the North River minority shareholders will substantially fulfill the disclosure purposes of the Rule by providing the shareholders with certain information which North River would be required to disclose under the Rule.

Applicants submit that the New Corporation will not be deemed to be an "investment company" subject to the registration requirements of the Act by virtue of section 3(c)(1) thereof, inasmuch as it will not be making or proposing to make a public offering of its securities and its outstanding securities will be beneficially owned by not more than 100 persons. After consummation of the merger, an application will be filed with the Commission for an order pursuant to section 8(f) of the Act declaring that North River has ceased to be an investment company. Applicants state that the North River majority shareholders have no current intention to liquidate the New Corporation following the merger and that the North River majority shareholders know of no current intention on the part of the management of Baldwin to liquidate Baldwin.

Section 17(d) of the Act prohibits any affiliated person of a registered investment company, acting as principal, to effect any transaction in which such registered company is a joint or a joint and several participant with such person. Rule 17d–1 under the Act provides, in part, that no affiliated person of any registered investment company, acting as principal, shall participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement in which any such registered company is a participant, unless an application regarding such joint enterprise has been granted by an order entered prior to its adoption. In passing upon such applications, the Commission will consider whether the participation of such registered company in such joint enterprise on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Applicants state that since following the transfer of the North River stock owned by the North River majority shareholders to the New Corporation, the New Corporation will own approximately 97 percent of the outstanding shares of North River, the New Corporation will be deemed to be an "affiliate" of North River and the proposed merger will involve a transaction between a registered investment company (North River) and its affiliates (the New Corporation and the North River majority shareholders).

Section 23(c) of the Act prohibits registered closed-end companies from purchasing any securities of any class of which it is the issuer except under such circumstances as the Commission may permit by rules and regulations or orders for the protection of investors in order to insure that such purchases are made in a manner or on a basis which does not unfairly discriminate against any holders of the class or classes of securities to be purchased. Rule 23c–1(a) under the Act is a safe harbor provision that permits the purchase, subject to certain conditions, by a registered closed-end investment company of securities of which it is the issuer. Applicants contend that the proposed merger does not involve a purchase by a registered closed-investment company of its securities and thus that Rule 23c–1(a) is not applicable to the proposed transaction. Nevertheless, it is claimed that the proposed merger will be in compliance with all of the conditions of Rule 23c–1(a) except paragraphs 2, 6, 10 and 11 of such Rule. In addition, the proposed transaction will not be consistent with paragraph 4 of Rule 23c–1(a) by reason of the fact that one of the North River minority shareholders (owning less than 500 shares) may be deemed to be an affiliate of North River.

Rule 23c–1(c) provides that a registered closed-end investment company may file an application with the Commission for an order under section 23(c)(3) of the Act permitting the purchase of any security of which it is the issuer which does not meet the conditions of the Rule 23c–1 and which is not made pursuant to section 23(c) (1) or (2) of the Act. Accordingly, the application states that in the event that the proposed merger should be deemed to be an indirect repurchase by North River of its security, North River also requests an exemption from section 23(c) of the Act to the extent necessary to permit the proposed merger without compliance with the conditions set forth in paragraphs (2), (4), (6), (10) and (11) of Rule 23c–1. North River contends that those conditions are of no significance to the minority shareholders in connection with the transaction contemplated.

In support of the exemptive relief requested, Applicants state that the Board of Directors of North River believes that the proposed merger is consistent with the provisions, policies and purposes of the Act. According to the Applicants, the nature of North River's investments and its relatively small size, as well as the small percentage of North River's common stock owned by the North River minority shareholders, make continued existence by North River as a public company under the Act inappropriate and unduly burdensome and expensive. Applicants contend that participation by the North River majority shareholders in the proposed merger will not be on a more advantageous basis than that of the North River minority shareholders. In accordance with the proposed manner of valuation of the shares of North River described above, each of the North River minority shareholders will receive an amount for his shares based on the value of the assets of North River which is likely to be well in excess of the current public trading price of such stock. Accordingly, it is asserted that the proposed transaction will afford the North River minority shareholders an opportunity to receive a price for their shares substantially in excess of their market value. In addition, Applicants contend that the Board of Directors has considered the difficulty of obtaining full value for all of the assets of North River on any liquidation or merger with another registered investment company (even if such merger could be arranged) and the substantial adverse tax impact such liquidation or merger would have on the North River majority shareholders. Applicants contend further that the Board also considered the relatively high cost of regulatory compliance required as a result of North River's status as a registered investment company, which can be avoided once the proposed merger into the New Corporation is consummated. Finally, Applicants state that any shareholder who objects to the plan of merger will be entitled to the dissenters' rights set forth in section 623 of the New York Business Corporation Law.

Notice is further given that any interested person may, not later than April 5, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–7073 Filed 3–15–82; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 12284; 812-4985]

Savings Industry Primary Liquidity Fund, Inc.; Filing of Application

March 9, 1982.

Notice is hereby given that Savings Industry Primary Liquidity Fund, Inc. ("Applicant"), 12900 Preston Road, Dallas, Texas 75230, an open-end, non-diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on October 6, 1981, and an amendment thereto on December 17, 1981, requesting an order of the Commission, pursuant to section 6(c) of the Act, exempting Applicant from the provisions of section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicant to value its assets using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was incorporated under the Texas Business Corporation Act on April 22, 1981. Applicant further states that Liquidity Assets Management, Inc., a Corporation registered under the Texas Securities Act, is its investment adviser.

Applicant states that its investment objective is to maximize current income while preserving capital and maintaining portfolio liquidity. Applicant states that it intends to offer its shares for sale only to members of the Federal Home Loan Bank System ("Bank System"). In order for its shares to qualify as short-term liquidity investments for Bank System members, Applicant's portfolio must be restricted to those securities that qualify as short-term liquid assets ("Eligible Investments") under § 523.10(h) of the Regulations of the Federal Home Loan Bank Board. Such Eligible Investments currently include: (i) Time deposits in a Federal Home Loan Bank, the Bank for Savings and Loan Associations, Chicago, Illinois, and the Savings Banks Trust Company, New York, New York; (ii) obligations issued or fully guaranteed the U.S. Government and obligations issued or fully guaranteed by certain U.S. Government agencies and instrumentalities; (iii) certain negotiable and non-negotiable time and savings deposits, including deposits subject to repurchase agreements and loans of day(s) funds, in commercial banks insured by the Federal Deposit Insurance Corporation; (iv) certain banker's acceptances of commercial banks insured by the Federal Deposit Insurance Corporation; and (v) certain general obligations issued by public housing agencies of any state, territory or possession of the United States or political subdivision thereof having the full faith and credit of the United States. The maturities of such securities and obligations vary and are limited pursuant to said § 523.10(h), but all such maturities are 1 year or less from the date of acquisition by the Fund. Applicant states that it may enter into repurchase agreements, reverse repurchase agreements and portfolio lending transactions involving Eligible Investments.

In support of the relief requested Applicant submits that as a result of the experience of others in managing "money-market" mutual funds similar to Applicant, it is apparent that two qualities are particularly important to investors: (1) Stability of principal, and (2) a steady flow of investment income. Applicant believes that its policy of investing in high quality "money market" instruments of short maturities, combined with a stable net asset value of $1.00 per share will provide those features to investors.

Applicant states that its management believes that, given the nature of its investment policies and restrictions, there normally will not be a material discrepancy between the market value and the amortized cost value of its portfolio securities.

Applicant represents that its board of directors has determined in good faith that the amortized cost method of valuing portfolio securities is appropriate and preferable for the Applicant and reflects fair value of such securities.

Applicant has agreed that each of the following may be made a condition to the granting of the exemptive relief requested:

(a) In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's board of directors undertakes, as a particular responsibility within the overall duty of care owed to its shareholders, to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

(b) Included among the procedures to be adopted by Applicant's board of directors shall be the following:

(i) Review by the board of directors as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share, as determined by using available market quotations, from the $1.00 amortized cost price per share, and maintenance of records of such review. To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value, which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money-market instruments published by reputable sources.

(ii) In the event such deviation from the $1.00 amortized cost price per share exceeds 1/2 of 1%, the board of directors will promptly consider what action, if any, should be initiated.

(iii) Where the board of directors believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce, to the extent reasonably practicable, such dilution or other unfair results, which action may include redemption of shares in kind, selling of portfolio instruments prior to maturity to realize capital gains or losses, shortening Applicant's average portfolio maturity, withholding of dividends, or utilization of a net asset value per share as determined by using available market quotations.

(c) Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

(d) Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition (b) above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents so preserved shall be subject to inspection by the Commission in accordance with section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under section 31(a) of the Act.

(e) Applicant will limit its portfolio investments, including repurchase agreements, to those U.S. dollar-denominated instruments which the board of directors determines present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by Applicant's board of directors. In this regard reference is made to the special purpose of the Fund as a short-term liquidity vehicle for members of the Bank System, and to the investments to which the Fund's portfolio is limited by its investment policy, all as described in the Registration Statement.

(f) In determining whether to lend securities to a particular broker, dealer or financial institution, Applicant's investment adviser will consider all relevant facts and circumstances, including the credit-worthiness of the broker, dealer or institution.

(g) Applicant will not enter into any securities lending agreement having a duration of greater than one year.

(h) Any securities with maturities in excess of one year that Applicant may receive as collateral for a particular loan will not become part of Applicant's portfolio either at the time of such loan or in the event the borrower defaults on its obligation to return the loaned securities.

(i) If at any time, by reason of changes in Applicant's portfolio or otherwise, investments in non-negotiable time deposits, including non-negotiable certificates of deposit, having more than one but less than seven days remaining to maturity, and other securities or obligations which are restricted as to disposition or for which market quotes are not readily available, constitute more than 10% of its portfolio, Applicant shall promptly take such action as may be necessary or appropriate to reduce its holdings of such investments to 10% or less of its portfolio, other than by liquidation of such investments, and will compute its net asset value per share on a mark-to market basis until its holding of such investments is so reduced.

(j) Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition (b)(iii) above was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

Applicant further represents that the granting of the requested exemptions is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than April 5, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reason for such request, and the issues, if any, of fact or law proposed to controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-7089 Filed 3-15-82; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 12286; 812-5077]

Security First Money Market Fund, Inc.; Filing of Application

March 10, 1982.

Notice is hereby given that Security First Money Market fund, Inc. ("Applicant"), 1800 Avenue of the Stars, Los Angeles, California 90067, an open-end, diversified management investment company, filed an applicaton on January 11, 1982, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting the Applicant from the provisions of Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit the Applicant to compute its price per share to the nearest one cent on a share value of one dollar. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund whose investment objective is maximum current income consistent with preservation of capital and the maintenance of liquidity. Applicant states that it will seek to obtain its objective through investment in high quality money market instruments maturing in one year or less. The Applicant represents that its portfolio may be invested in direct obligations of the U.S. government; securities issued or guaranteed by U.S. government sponsored enterprises, Federal agencies and international institutions; certificates of deposit, bankers' acceptances and other short-term debt obligations of commercial banks meeting certain criteria; commercial paper meeting certain quality criteria; repurchase agreements; negotiable certificates of deposit and other short-term debt obligations of certain savings and loan associations; and securities issued or guaranteed by the government of Canada, a province of Canada, or an instrumentality or political subdivision thereof.

Applicant states that it was organized under the laws of the State of Maryland in September, 1980. Applicant submits that stabilizing its net asset value per share at $1.00 by use of the penny rounding method of valuation would benefit Applicant and its shareholders because (1) shareholders would have the convenience of being able to determine the value of their holdings simply by knowing the number of shares that they own, (2) Applicant could be competitive with the increasing number of money market mutual funds that attempt to maintain a $1.00 net asset value per share, (3) shareholders and potential shareholders are not concerned with the minor differences which might occur between yield achieved through "market" pricing and the yield computed by using the "penny rounding" valuation method, and (4) maintaining net asset

value per share at a constant price means that there would be no realization of nominal capital gains and losses that might otherwise occur with a "floating" net asset value.

Applicant states that securities in its portfolio for which representative market quotations are readily available will be valued at the most recent bid price or yield equivalent as quoted by one or more dealers who make markets in such securities. Securities originally purchased with remaining maturities of 60 days or less will be valued at their amortized cost value. Other securities will be appraised at values deemed best to reflect their fair value as determined in good faith by or under the supervision of officers of the Applicant in a manner specifically authorized by the Board of Directors.

Rule 22c–1 under the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption and repurchase all be determined with reference to (1) current market value for portfolio securities with respect to which market quotations are readily available and (2) for other securities and assets fair value as determined in good faith by the board of directors of the registered company. In Investment Company Act release No. 9786 (May 31, 1977) the Commission issued an interpretation of Rule 2a–4 expressing its view that (1) it is inconsistent with Rule 2a–4 for money market funds to value their assets on an amortized cost basis except with respect to portfolio securities with remaining maturities of 60 days or less and provided that such valuation method is determined to be appropriate by each respective fund's board of directors, and (2) it is inconsistent with Rule 2a–4 for money market funds to "round off" calculations of their net asset value per share to the nearest one cent on a share value of $1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" its portfolio valuation as required by Rule 2a–4.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant agrees that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested:

1. Applicant's Board of Directors, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, undertakes—as a particular responsibility within its overall duty or care owed to Applicant's shareholders—to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objectives, that Applicant's net asset value per share as computed for the purposes of effecting sales, redemptions and repurchases, rounded to the nearest one cent, will not deviate from one dollar.

2. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share. Applicant will not purchase a portfolio instrument with a remaining maturity of greater than one year, nor will it maintain a dollar-weighted average portfolio maturity in excess of 120 days.

3. Applicant will limit its portfolio investments, including repurchase agreements, to those instruments which are denominated in U.S. dollars and which the Board of Directors determines present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board.

Notice is further given that any interested person may, not later than March 31, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-7027 Filed 3-15-82 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12290; (813–51)]

Merrill Lynch Kecalp Ventures Limited Partnership 1982, Kecalp Inc.; Filing of Application Pursuant to Section 6(b) of the Act for Exemption From All Provisions of the Act

March 11, 1982.

Notice is hereby given that Merrill Lynch Kecalp Ventures Limited Partnership 1982 (the "Initial Partnership"), registered under the Investment Company Act of 1940 ("Act") as a closed-end, non-diversified management investment company, and Kecalp, Inc. (the "General Partner", hereinafter referred to with the Initial Partnership as the "Applicants"), One Liberty Plaza, 165 Broadway, New York, New York 10080, filed an application on July 13, 1981, and amendments thereto on January 25, February 19, and March 9, 1982, pursuant to section 6(b) of the Act for an order exempting the Initial Partnership and subsequent similar limited partnerships (the "Subsequent Partnerships") which may be offered to certain employees of Merrill Lynch & Co., Inc. ("Merrill Lynch") and its subsidiaries, from all provisions of the Act or, alternatively, from certain provisions of sections 8(b), 10(a), (b) and (f), 14(a), 15(a), 16(a), 17(a), (d), (f) and (g), 18(a)(1) and (i), 19(b), 20(a), 23(c), 30(a), (b) and (d) and 32(a) of the Act. The application further requests an order pursuant to section 45(a) of the Act granting confidential treatment to the extent periodic reports are filed with the Commission under section 30 of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Initial Partnership, a limited partnership formed under the laws of the State of Delaware, was initiated by employees of Merrill Lynch, a publicly-owned holding company, and its subsidiaries, which provide a wide range of securities and other financial services to individuals, corporations, institutions and governments. Applicants further state that the Initial Partnership is one of a series of investment limited partnerships which Merrill Lynch proposes to establish in order to enable directors and certain officers and other employees to pool their investment resources and to receive the benefit of certain investment opportunities which come to the attention of Merrill Lynch or its subsidiaries without the necessity of each investor identifying and analyzing the investment merit of such opportunities.

Applicants represent that although the Initial Partnership and Subsequent Partnerships (collectively, the "Partnerships") may vary from each other in terms of specific investment objectives (the Initial Partnership, for example, expected to invest primarily in venture capital investments and a Subsequent Partnership in 1982 expected to invest primarily in tax-oriented investments), structurally and operationally they will be similar. The Partnerships will operate as closed-end investment companies of the management type within the meaning of the Act. Participation in each of the Partnerships will be limited to directors of Merrill Lynch and key officers and other employees of Merrill Lynch and its subsidiaries who, in the case of officers and employees, earned a gross income for the most recent calendar year which exceeds the minimum amount specified by the General Partner for each Partnership. In the case of the Initial Partnership, participation will be limited to non-employee directors of Merrill Lynch and to certain officers and other employees of Merrill Lynch and its subsidiaries who earned at least $75,000 during the 1981 calendar year or whose annualized salary for such period was at least $75,000. As a condition to the issuance of the order requested herein, the Applicants further agree that Subsequent Partnerships will not be offered to officers and other employees of Merrill Lynch and its subsidiaries who earned (or whose annualized salary was) less than $60,000 with respect to the most recent calendar year.

Applicants further represent that each prospective limited partner of the Partnerships (the "Limited Partners") shall be required to subscribe for limited capital contribution specified for the particular Partnership by the General Partner (i.e., $5,000 or five Units at $1,000 per Unit for the Initial Partnership). In addition, investments by Limited Partners who are officers or employees of Merrill Lynch or one of its subsidiaries will be limited to a specified percentage of such person's income earned (or annualized salary) from Merrill Lynch or its subsidiaries with respect to the most recent calendar year. Moreover, investments by non-employee directors of Merrill Lynch will be limited to a specified multiple of the annual fee received by them for serving as a director of Merrill Lynch. The Applicants anticipate that one or more Partnerships will be formed annually with the offering of Units to commence in the early spring of each year. At present the General Partner believes approximately 2,500 directors, officers, and employees, which constitutes less than 10% of the total directors, officers, and employees of Merrill Lynch and its subsidiaries, will be eligible to become Limited Partners of the Initial Partnership.

As provided in the Agreement and Certificate of Limited Partnership of the Initial Partnership, Units are non-transferable except with the express consent of the General Partner and, in any event, are not transferable to persons who do not meet the eligibility criteria stated above, except Units may be transferred to members of a Limited Partner's immediate family or, by operation of law, to the estate or heirs of a deceased Limited Partner or to the committee, guardian, or conservator of a Limited Partner upon adjudication of incompetance. Applicants contemplate that the partnership agreements for the Subsequent Partnerships will contain substantially identical provisions.

Applicants state that the management of the Partnerships will be exclusively vested in the General Partner, a wholly-owned subsidiary of Merrill Lynch. Applicants further state that at all times the directors and officers of the General Partner must be officers or employees of Merrill Lynch or its subsidiaries (and may also, but need not, be Limited Partners). The Applicants represent that the General Partner will be allocated and receive 1% of each item of income, profit, loss, credit, expense, and deduction of the Partnerships. Although the General Partner will make no cash contribution to the Partnerships, other than a nominal contribution upon the formation of the Partnerships, it is anticipated that the General Partner will assume all operating expenses of the Partnerships, including brokerage expenses not borne by other affiliates of Merrill Lynch. Applicants further represent that no compansation will be paid by the Partnerships to the General Partner or to the General Partner's directors or officers for their services to the General Partner or the Partnerships.

Applicants state that the Partnerships will send the Limited Partners annual reports regarding the operations and investment assets of the Partnerships. The reports will contain financial statements of the Partnerships and will disclose, together with other information, any outstanding borrowings of the Partnerships during the period covered. In addition, as soon as practicable after end of the fiscal year, reports will be transmitted to each Limited Partner setting forth information with respect to his income, gain, deduction, credit, profit and loss for federal income tax purposes, resulting from the operation of the Partnership during such fiscal year, and an appraisal of the value of such Limited Partner's Units.

Section 2(a)(13) of the Act provides that an "employees' securities company" means any investment company or similar issuer all of the outstanding securities of which (other than short-term paper) are beneficially owned (A) by the employees or persons on retainer of a single employer or of two or more employers each of which is an affiliated company of the other, (B) by former employees of such employer or employers, (C) by members of the immediate family of such employees, persons on retainer, or former employees, (D) by any two or more of the foregoing classes of persons, or (E) by such employer or employers together with any one or more of the foregoing classes of persons".

Section 6(b) of the Act provides that, "Upon application by any employees' security (sic) company, the Commission shall by order exempt such company from the provisions of the Act and of the rules thereunder, if and to the extent that such exemption is consistent with the protection of investors. In determining the provisions to which such an order shall apply, the Commission shall give due weight,

among other things, to the form or organization and the capital structure of such company, the persons by whom its voting securities, evidences of indebtedness, and other securities are owned and controlled, the prices at which securities issued by such company are sold and the sales load thereon, the disposition of the proceeds of such sales, the character of the securities in which such proceeds are invested, and any relationship between such company and the issuer of any such security."

The Applicants assert that each Partnership meets the definition of an "employees' securities company" contained in section 2(a)(13) of the Act and should, as such, be exempted from all provisions of the Act. Alternatively, the Applicants request that the Commission issue an order pursuant to sections 6(b) and 45(a) of the Act exempting the Partnerships, to the extent noted below, from the following specific provisions of the Act:

(a) Section 8(b) of the Act and Rule 8b–16 thereunder would require the Partnerships to submit annual amendments to their Registration Statements on Form N–2 filed with the Commission under the Act. The Applicants assert that the filing of annual amendments to such Registration Statements is not necessary for the protection of investors, because the Partnerships are closed-end management companies which intend to have only one offering of limited partnership interests, for which there will by no trading market. In addition, the Applicants state that the Limited Partners will receive annual reports and accountings.

(b) Section 10(a) of the Act provides that no registered investment company shall have a board of directors more than 60 percent of the members of which are interested persons of such registered company. The Applicants request an exemption from section 10(a) to permit the Partnerships to include as the sole General Partner a subsidiary of Merrill Lynch and to permit all the directors and officers of the General Partner to be persons who are employees of Merrill Lynch or its subsidiaries.

(c) Secton 10(b)(1) of the Act provides that no registered investment company shall employ as regular broker any director, officer, or employee of such registered company, or any person of which any such director, officer, or employee is an affiliated person, unless a majority of the board of directors of such registered company shall be persons who are not such brokers or affiliated persons of any of such brokers. Section 10(b)(2) of the Act further makes it unlawful for a registered investment company to use as a principal underwriter of securities issued by it any director, officer, employee of such registered company or any person of which any such director, officer or employee is an interested person, unless a majority of the board of directors of such registered company shall be persons who are not such principal underwriters or interested persons of any of such principal underwriters. The Applicants request an exemption from section 10(b) of the Act to permit the Partnerships to employ as broker and principal underwriter a subsidiary of Merrill Lynch affiliated with the General Partner.

(d) Section 10(f) of the Act provides, in relevant part, that no registered investment company shall knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security (except a security of which such company is the issuer) a principal underwriter of which is an officer, director, member of an advisory board, investment adviser, or employee of such registered company, or is a person of which any such officer, director, member of an advisory board, investment adviser, or employee is an affiliated person. Rule 10f–3 promulgated under the Act provides an exemption from the prohibition of section 10(f) provided that certain specified conditions are met. The Applicants request an exemption from section 10(f) of the Act to permit the Partnerships to purchase securities through an underwriting or selling syndicate of which a Merrill Lynch subsidiary acts as principal underwriter. The Applicants assert that they are unable to avail themselves of the conditional relief from section 10(f) of the Act provided by Rule 10f–3 because the Partnerships lack any disinterested directors to perform the tasks required by paragraph (h) of Rule 10f–3. Nevertheless, for purposes of the exemption requested, the Applicants undertake to otherwise comply with all the remaining provisions of Rule 10f–3.

(e) Section 14(a) of the Act provides, in pertinent part, that no registered investment company shall make an initial public offering of its securities unless it has a net worth of $100,000. The Applicants request an exemption from section 14(a) to permit the Partnerships to offer limited partnership interests to participants prior to the time such Partnership has a net worth of $100,000.

(f) Section 15(a) of the Act provides, among other things, that no person shall act as an investment adviser of a registered investment company except pursuant to a written contract which has been approved by the vote of a majority of the outstanding voting securities of such registered investment company and which may be terminated at any time without penalty by the board of directors of such investment company, or by vote of a majority of the outstanding voting securities of such company.

The Applicants request an exemption from section 15(a) of the Act to permit Merrill Lynch subsidiaries to act from time to time as an investment adviser to a Partnership without a written contract and without the approval of the Limited Partners. Applicants assert that a written contract is not necessary because all investment decisions will be made by the General Partner, which will not be compensated therefor. Moreover, if any fees are paid to any person, they will be paid by Merrill Lynch or a subsidiary of Merrill Lynch and will not be charged, in whole or in part, to the Partnerships.

(g) Section 16(a) of the Act provides, among other things, that no person shall serve as a director of a registered investment company unless elected to that office by the holders of the outstanding voting securities of such company at an annual or special meeting duly called for such purpose. The Applicants request an exemption from section 16(a) of the Act to permit Merrill Lynch to appoint and replace directors of the General Partner without the approval of the Limited Partners. The Applicants assert that since it is a requirement that all directors and officers of the General Partner be employees of Merrill Lynch or its subsidiaries, this exemption is necessary to maintain the requisite community of interest.

(h) Section 17(a) of the Act, in pertinent part, prohibits an affiliated person of a registered investment company or any affiliated person of such an affiliated person, acting as principal, from knowingly purchasing or selling any security or other property from or to such registered company, subject to certain exceptions. The Applicants request an exemption from section 17(a) of the Act to permit the Partnerships to (i) invest, as appropriate, in partnerships or other investment vehicles offered by Merrill Lynch subsidiaries on a principal basis or to purchase securities from such vehicles, (ii) purchase interests in a company where the Partnerships or other Merrill Lynch affiliates already own 5% or more of the voting securities of the company or where such company is otherwise affiliated with the Partnerships, (iii) participate as a selling stockholder in a public offering that is underwritten by a subsidiary of Merrill Lynch or in which a subsidiary of Merrill Lynch acts as a member of the underwriting group, and (iv) acquire real property interests from Merrill Lynch or its affiliates. Applicants represent that these transactions will only be effected upon determination by the board of directors of the General Partner that the terms of the transactions are reasonable and fair to the Limited Partners of the Partnership involved in such transaction and do not involve overreaching of such Partnership or its Limited Partners on the part of any person concerned. In addition, the Parthership propose to make money market fund or other short-term investments at times when it may be desirable. It is contemplated that such short-term investments will be purchased from, and sold to, subsidiaries or affiliates of Merrill Lynch at market value without payment of fees by the Partnerships. In connection with investment in funds advised by Merrill Lynch subsidiaries, the Applicants further state that invested assets will be subject to a management fee, but on the same basis as those charged to and paid by unaffiliated persons participating in the same fund or transaction. The Applicants represent that the Limited Partners will have been fully informed of the possible extent of the Partnerships' dealings with affiliates and, as successful professionals in the securities business will be well situated, it is contended, to evaluate the attendant risks. The Applicants further represent that they recognize that any types of transactions otherwise subject to Section 17(a) of the Act for which exemptive relief has not been requested would require specific approval by the Commission.

(i) Section 17(d) of the Act and Rule 17d–1 thereunder provide, in pertinent part, that it shall be unlawful for any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, to participate in or effect any transaction in connection with any joint enterprise or other joint arrangement in which such registered company, or company controlled by such registered company, is a participant unless an application regarding such joint enterprise or arrangement has been filed with the Commission and an order granting such application has been issued. The Applicants request an exemption from section 17(d) of the Act to permit the Partnerships to engage in transactions in which certain affiliated persons of the Partnerships may also be participants. The Applicants assert that, due to the number and sophistication of the potential Limited Partners of the Partnerships and affiliated persons of such Limited Partners, strict compliance with the requirements of section 17(d) of the Act may force the Partnerships to be precluded from many otherwise attractive investment opportunities simply because a Limited Partner or other affiliated person of Merrill Lynch also had, or contemplated making, a similar investment.

The application states that the Partnerships may invest in investment opportunities offered to, or which come to the attention of, Merrill Lynch and its subsidiaries or officers thereof, that are unsuitable for Merrill Lynch or its subsidiaries for various reasons. The Applicants undertake that the Partnerships will not make any investment in which Merrill Lynch or any of its subsidiaries, or any officer, director or employee of the General Partner is a participant or plans concurrently or otherwise directly or indirectly to become a participant, except that this undertaking shall not be applicable to (i) investments by the Partnerships in any other partnership or other investment vehicle which is sponsored or managed by Merrill Lynch or its affiliates or (ii) investments by the Partnerships in which a partnership described in clause (i) is a participant or plans to become a participant and which would not be prohibited investments for the Partnerships except that Meriil Lynch or any of its subsidiaries, or one or more officers, directors or employees of the General Partner, have a partnership interest in, or compensation arrangement with the partnership described in clause (i). Applicants state that any investments which are made concurrently with affiliates of Merrill Lynch will be made by the Partnerships on the same basis as such affiliates. The Applicants represent that they recognize that any types of transactions otherwise subject to section 17(d) of the Act for which exemptive relief has not been requested would require specific approval by the Commission.

The Applicants further have represented, with reference to the exemptions requested from sections 17 (a) and (d), that the directors of the General Partner will maintain the records required by 57(f)(3) of the Act and will comply with the provisions of section 57(h) of the Act. Finally, officers and directors of the General Partner will review each investment situation described in clauses (i) and (ii) above and make a determination that any such investment by an affiliate would not disadvantage the Partnership in making such investment, maintaining its investment position or disposing of such position. In this regard, all minutes of meetings of the board of directors of the General Partner, including all procedures adopted by the General Partner in connection with its evaluation of investment, will be available for inspection by Limited Partners.

(j) Section 17(f) of the Act and Rule 17f–1 thereunder provide, in pertinent part, that no registered management investment company shall place or maintain any of its securities or similar investments in the custody of a company which is a member of a national securities exchange as defined in the Securities Exchange Act of 1934 except pursuant to a written contract which shall have been approved by a majority of the board of directors or such investment company. The Applicants request an exemption from section 17(f) of the Act to the extent necessary to permit Merrill Lynch or its subsidiaries, one of which is a member of a national securities exchange, to act as custodian without a written contract. The Applicants assert that, with the exception of a written contract, it will otherwise comply with all the remaining provisions of Rule 17f–1.

(k) Section 17(g) of the Act and Rule 17g–1 thereunder provide, as relevant here, that the fidelity bond protecting investors of a registered management investment company against larceny and embezzlement of its officers and employees be approved by a majority of the board of directors who are not "interested persons" of the investment company. The Applicants seek an exemption from section 17(g) of the Act to the extent necessary to permit the Partnerships to comply with Rule 17g–1 without the necessity of having a majority of the board of directors of the General Partner who are not "interested persons" take such action and make such approvals as set forth in the rule. Except as stated above, the Partnerships will otherwise comply with the provisions of Rule 17g–1.

(l) The Applicants further request an exemption from section 18(a)(1) of the Act which provides, in pertinent part, that it shall be unlawful for any registered closed-end company to issue or sell any class of senior security which represents indebtedness unless (A) immediately after issuance or sale, it will have an asset coverage of at least 300 per centum; (B) the declaration of any dividend or any other distribution upon any class of the capital stock, or the purchase of any such capital stock is

prohibited unless the senior security has at the time an asset coverage of at least 300 per centum after deducting the amount of such dividend, distribution or purchase; (C) the holders of such senior securities can elect a majority of the directors of the company where the asset coverage is less than 100 per centum for twelve consecutive calendar months, and a provision is made for the recognition of a default where the asset coverage is less than 100 per centum for 24 consecutive months. The Partnerships propose to issue senior securities representing indebtedness for the purpose of acquiring real estate interests or other property not constituting securities. The Applicants assert that inasmuch as such borrowings will only be effected on a nonrecourse basis, neither the Partnerships nor any General Partner or any Limited Partner of the Partnerships will have any personal liability to pay the principal of, or any interest on, such borrowings, and, therefore, any such lender would be precluded from looking beyond the property securing the indebtedness to the assets of the Partnerships or of any General Partner or any Limited Partner. The Applicant further represents that to the extent that Partnerships otherwise issue senior securities, the Partnerships will only do so where the issuance of the senior securities is in compliance with the provisions of section 18(a)(1) of the Act. In addition, the potential borrowings will be disclosed to investors in the prospectuses of the Partnerships.

(m) Section 18(i) of the Act provides, in pertinent part, that every share of stock issued by a registered management company shall be a voting stock and have equal voting rights with every other outstanding voting stock. In requesting relief from section 18(i) of the Act, the Applicants assert that in order to maintain the status of each Partnership as a limited partnership with limited liability and not either a general partner with unlimited liability or an association taxable as a corporation, Limited Partners may not vote on certain matters that are customarily voted upon by shareholders in corporations organized under state business corporation acts.

(n) Section 19(b) of the Act provides, in pertinent part, that it shall be unlawful in contravention of such rules, regulations or orders as the Commission may prescribe for any registered investment company to distribute long-term capital gains more frequently than once every 12 months. Rule 19b–1(b) under the Act provides, as herein relevant, that no registered investment company which is not a "regulated investment company" as defined by Section 851 of the Internal Revenue Code shall make more than one distribution of capital gains in any one taxable year of such investment company. The Applicants request an exemption from section 19(b) of the Act to permit the Partnerships to distribute their portfolio securities, or the proceeds of such liquidated portfolio securities, to the Limited Partners more than once a year, a part of which could reflect long-term capital gains. The Partnerships may hold each investment only until it becomes liquid and then to distribute either the investment or the proceeds thereof to its Limited Partners. Accordingly, the Applicants contend that compliance with section 19(b) of the Act might seriously interfere with its proposed operations and that such a restriction would be contrary to the best interests of investors.

(o) Section 20(a) of the Act and Rule 20a–1 thereunder generally require that every registered investment company in soliciting proxies comply with the requirements of section 14(a) of the Securities Exchange Act of 1934 relating to such proxy material. The Applicants request an exemption from the requirements of section 20(a) of the Act in connection with the Limited Partners' right to remove the General Partner, to approve significant amendments to the respective Partnership Agreements, and to grant the General Partner their power of attorney to execute and file certain documents on behalf of the Partnerships and to amend the respective Partnership Agreements in minor respects. In seeking such relief, the Applicants assert that compliance with the requirements of section 20(a) of the Act could involve difficult questions of interpretation likely to make the process of preparing and filing proxy statements unusually costly and prolonged. The Applicants further assert that such costs seem unnecessary in view of the limited number and sophisticated nature of the Limited Partners. As a condition of its exemption from the provisions of section 20(a) and the rules and regulations thereunder, the Applicants agree that any solicitation of proxies of the Limited Partners will be conducted in accordance with the provisions of section 14(a) of the Securities Exchange Act of 1934 and the rules and regulations thereunder.

(p) Section 23(c)(3) of the Act permits a closed-end investment company to purchase its own securities under such circumstances as the Commission may permit by rules and regulations or orders for the protection of investors in order to insure that such purchases are made in a manner or on a basis which does not unfairly discriminate against any holders of the class or classes of securities to be purchased. Rule 23c–1(a) under the Act recites the conditions under which a registered closed-end company may purchase for cash securities of which it is the issuer other than on a securities exchange or pursuant to tenders. The Applicants seek an exemption from section 23(c)(3) to permit the Partnerships to repurchase limited partnership interests in the Partnerships upon the death of a Limited Partner. The Partnerships will not be able to satisfy the condition set forth in Rule 23c–1(a)(4) because in each repurchase the seller of the limited partnership interest (i.e., the Limited Partner) would be an affiliated person of the Partnership. Nevertheless, for purposes of the exemption, the Partnerships will otherwise comply with the conditions set forth in paragraphs (5), (6), (7), (8), (9) and (11) of the rule.

(q) Sections 30(a), 30(b) and 30(d) of the Act and the rules thereunder generally require that registered investment companies prepare and file with the Commission and prepare and mail to their shareholders certain periodic reports and financial statements. The Applicants seek exemptions from Sections 30 (a), (b) and (d) of the Act to the extent necessary to exempt the Partnerships from filing quarterly and annual reports with the Commission, and to permit it to report only annually to the Limited Partners concerning its portfolio securities in the manner prescribed by the Partnership Agreement. The Applicant's state that, pursuant to the terms of the Partnership Agreements, all the information contained in such filings must be sent to the Limited Partners, the only class of people truly interested in such material. The Applicants further anticipate that a substantial portion of the Partnerships' investments may require a sophisticated and complex valuation. In view of this fact and the lack of trading or public market for the Partnerships' Units, the Applicants submit that to allow annual rather than semi-annual reports would be consistent with the protection of investors and the policy fairly intended by the Act.

The Applicants further request that to the extent filings under section 30 are made by the Partnerships, such filings be afforded confidential treatment under section 45(a) of the Act which provides in pertinent part that information filed with the Commission shall be made available to the public, unless and except insofar as the Commission by order upon application, finds that public disclosure is neither necessary nor appropriate in the public interest and for the protection of investors. The Applicants assert that the investment situations in which the Partnerships would be investing might not be generally available to the public and if made public may create an impression or expectation not warranted in Merrill Lynch's industry. The Applicants further state that there is to be no public trading in the Units and the only persons possibly interested in such information will have all such data sent directly to them.

(r) Section 32 of the Act provides, among other things, that the selection of independent public accountants must be ratified by the shareholders of the investment company. The Applicants request an exemption from section 32(a) of the Act to permit the General Partner to select independent certified public accountants for the Partnerships without submitting such selection to the Limited Partners of each Partnership for rejection or ratification.

The Applicants state that the above exemptions are necessary or relevant to the operations of the Partnerships as an investment program uniquely adopted to the needs of directors, officers and employees of Merrill Lynch and its subsidiaries. The Applicants further state that these exemptions are necessary to control the investment activities of the Partnerships to insure that the community of interest among all participants is maintained and to operate the Partnerships as contemplated. On the basis of the foregoing, the Applicants submit that the protections provided in the sections of the Act from which exemptions have been requested are not necessary, appropriate or consistent with the protection of investors provided by the Act in view of the substantial community of interest among all the parties and the fact that each Partnership will be an "employees' securities company" as defined in section 2(a)(13) of the Act.

Notice is further given that any interested person may, not later than April 2, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-7074 Filed 3-15-82; 8:45 am]

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[File Nos. 2-33723 and 22-11514]

PepsiCo, Inc.; Application and Opportunity for Hearing

March 11, 1982.

Notice is hereby given that PepsiCo, Inc. (the "Applicant") has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of J. Henry Schroder Bank & Trust Company ("Schroder") under an indenture of the New York City Industrial Development Agency (the "Bond Indentured"), which is not qualified under the Act and under which the Applicant is also an obligor, and the successor trusteeship of Schroder under an indenture of the Applicant which is qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Schroder from acting as trustee under the Bond Indenture.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall, within 90 days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of such section provides, in effect, that with certain exceptions, a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there shall be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing, that the trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicant alleges that:

1. The Applicant had outstanding as of January 15, 1982, $606,000 of 6½% Convertible Subordinated Debentures due 1994 (the "Debentures"), which were originally issued by Rheingold Corp. ("Rheingold"), a New York corporation which was merged into the Applicant. The Debentures were issued under an Indenture, dated as of August 1, 1969, (the "Original Indenture"), between Rheingold and Manufacturers Hanover Trust Company ("MHTC") as trustee, which indenture was amended by a Supplemental Indenture, dated as of December 7, 1973 (the "First Supplemental Indenture"), between Rheingold and MHTC, and a Supplemental Indenture, dated as of December 27, 1975 (the "Second Supplemental Indenture"), among United Beverages, Inc. (successor to Rheingold), the Applicant and MHTC. (The Original Indenture, as so supplemented, being hereinafter referred to as the "Debenture Indenture".) Pursuant to the Second Supplemental Indenture, the Applicant assumed the obligations of Rheingold under the Debenture Indenture. At the time of issuance, the Debentures were registered under the Securities Act of 1933, as amended (Registration No. 2–33723), and the Debenture Indenture was qualified under the Act. By an Instrument of Resignation, Appointment and Acceptance, dated as of September 11, 1981, MHTC resigned as trustee under the Debenture Indenture and Schroder accepted its appointment as successor trustee.

2. The New York City Industrial Development Agency, a corporate governmental agency constituting a body corporate and politic of the State of New York (the "Agency") had outstanding as of January 15, 1982, $700,000 of its Industrial Development Revenue Bonds (1981 PepsiCo, Inc. Project) (the "Bonds") issued under an Indenture of Mortgage and Trust, dated as of November 1, 1981 (the "Bond Indenture"). Schroder is the indenture trustee under the Bond Indenture. The Bonds were not required to be and were not registered under the Securities Act of 1933 and the Bond Indenture was not required to be and was not qualified under the Act.

3. The Applicant is not the issuer of the Bonds. However, the Applicant has unconditionally guaranteed the payment of the principal of and interest on the Bonds. Accordingly, the Bond Indenture may, for the purposes of section 310(b) of the Act and section 606 of the Debenture Indenture be "another indenture under which any other securities or certificates of interest or participation in any other securities of an Obligor [i.e., the Applicant] * * * are outstanding * * *" with the result that there could be a conflicting interest if the same institution were to serve as trustee under the Debenture Indenture and the Bond Indenture.

4. Neither the Applicant nor the Agency are in default under the Bond Indenture and the Applicant is not in default under the Debenture Indenture.

5. The Applicant's obligations with respect to the Debentures are, by the terms thereof and of the Debenture Indenture, subordinate to the rights to payment of "Superior Indebtedness" (as defined in section 14–2 of the Debenture Indenture), including Applicant's guarantee of the Bonds. The Debentures are unsecured direct obligations of the Applicant, while the Bonds are secured by a mortgage on the facilities financed thereby (the "Project") and the Applicant's guarantee of the Bonds.

6. Other than as specified in paragraph 5 hereof, the only material differences between the Debenture Indenture and the Bond Indenture, and among the rights of the holders of the securities issued thereunder, relate to dates of issue, aggregate principal amounts, interest rates, maturity and payment dates, redemption features (prices, dates and procedures), sinking fund provisions, procedures and approvals for action by certificate and bond holders, grace periods relating to events of default and certain covenants and provisions relating to merger and consolidation of the Applicant, the conduct of Applicant's business and financial affairs and the operation and maintenance of Applicant's property, including the Project. In addition, there are differences between the two Indentures related to the fact that the Applicant is not the primary obligor under the Bond Indenture. Certain provisions required by the Act are not contained in the Bond Indenture.

7. In the opinion of the Applicant, the provisions of the aforementioned indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Schroder from acting as trustee under the Bond Indenture.

The Applicant has waived notice of hearing, any right to a hearing on the issues raised by its application, and all rights to specify procedures under the Rules of Practice of the Commission with respect to its application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than April 5, 1982, submit to the Commission his views of any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such requests, and the issues of fact and law raised by the application which he desires to controvert. Persons who request the hearing or advice as to whether the hearing is ordered will receive all notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after such date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-7075 Filed 3-15-82; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/501]

Integrated Services Digital Network (ISDN) Working Party of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the ISDN Working Party of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on April 14 at 9:00 a.m. in Room 1105 of the Department of State, 2201 C Street, N.W., Washington, D.C. This Working Party deals with the evolution of ISDN as it is being considered by CCITT Study Group XVIII.

The agenda for the April 14 meeting will include consideration of the following:

1. Report of Study Group XVIII ISDN Group of Experts meeting, Munich, February 1982.
2. Consideration of U.S. positions with respect to Draft Recommendations Lxxx and Lxxy.
3. Consideration of ISDN related contributions of Study Groups (VII and XI).
4. Any other Business.

This meeting is scheduled for all day and may last to 5:30 p.m. The report on the Munich meeting will include a semi-tutorial presentation and explanation of the results of that meeting.

Selected documents from the Munich meeting will be distributed to members of the ISDN Working Party in advance of this meeting.

Members of the general public may attend the meeting and join in the discussion subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is therefore requested that prior to April 14, 1982 members of the general public who plan to attend the meeting inform Mr. Richard Howarth, Office of International Communications Policy, Department of State, telephone (202) 632–1007, of their intention. All non-Governmental attendees must use the C Street entrance to the building.

Dated: March 5, 1982.

Richard H. Howarth,
Chairman, U.S. CCITT National Committee.

[FR Doc. 82-7070 Filed 3-15-82; 8:45 am]
BILLING CODE 4710-07-M

[Public Notice CM-8/498]

Presidential Commission on Broadcasting to Cuba; Partially Closed Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) as amended by Pub. L. 94–409 section 5(c), notice is hereby given that the Presidential Commission on Broadcasting to Cuba will meet in open and closed sessions on Tuesday, March 30, 1982.

The open session will convene on March 30 at 2:00 p.m. in Room 1406, N.S., Department of State, Washington, D.C.

The open session of the Commission meeting will allow public discussion of programming, technical, and other aspects of radio broadcasting to Cuba. The general public attending the open session may participate in the discussion or submit statements subject to instructions of the Chairman.

The purpose of the closed session is to discuss aspects of radio broadcasting to Cuba that should not be prematurely disclosed to the public. Documents classified under the provisions of Executive Order 12065 will also be discussed. Accordingly, it has been determined that it is in the public interest to close this meeting pursuant to 5 U.S.C. 552b(1) and 5 U.S.C. b(c)(9).

Because entry to the State Department is controlled, members of the public who wish to attend the open session should contact Mr. Peter P. Lord in advance in order to provide their names and affiliation and to facilitate their attendance. His telephone number is (202) 632–7482. Attendees should use the Diplomatic Entrance located on C Street N.W. between 21st and 23rd Streets.

Ambassador George W. Landau,
Executive Director, Presidential Commission on Broadcasting to Cuba

March 5, 1982.

[FR Doc. 82-7087 Filed 3-15-82; 8:45 am]
BILLING CODE 4710-25-M

[Public Notice CM-8/499]

Presidential Commission on Broadcasting To Cuba; Partially Closed Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) as amended by Pub. L. 94–409, section 5(c), notice is hereby given that the Presidential Commission on Broadcasting to Cuba will meet in open and closed sessions on Friday, April 16, 1982.

The open session will convene on April 16 at 2:00 p.m. in Room 1406, N.S. Department of State, Washington, D.C.

The open session of the Commission meeting will allow public discussion of programming, technical, and other aspects of radio broadcasting to Cuba. The general public attending the open session may participate in the discussion or submit statements subject to instructions of the Chairman.

The purpose of the closed session is to discuss aspects of radio broadcasting to Cuba that should not be prematurely disclosed to the public. Documents classified under the provisions of Executive Order 12065 will also be discussed. Accordingly, it has been determined that it is in the public interest to close this meeting pursuant to 5 U.S.C. 552b(1) and 5 U.S.C. b(c)(9).

Because entry to the State Department is controlled, members of the public who wish to attend the open session should contact Mr. Peter P. Lord in advance in order to provide their names and affiliation and to facilitate their attendance. His telephone number is (202) 632–7482. Attendees should use the Diplomatic Entrance located on C Street N.W. between 21st and 23rd Streets.

Ambassador George W. Landau,
Executive Director, Presidential Commission on Broadcasting to Cuba.

March 5, 1982.

[FR Doc. 82-7088 Filed 3-15-82; 8:45 am]
BILLING CODE 4710-25-M

[Public Notice CM-8/500]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The Panel on Bulk Cargoes under the SOLAS Subcommittee Working Group on Containers and Cargoes will conduct an open meeting at 10:00 a.m. on March 31, 1982 in Room 6200, 02 and 04 of the Nassif Building, 7th and D Sts., S.W., Washington, D.C. 20590.

The purpose of the meeting will be to discuss the results of the Twenty-third Session of the Subcommittee on Containers and Cargoes, held at IMCO Headquarters, London, February 8–12, 1982. Particular comments will be directed to the Code of Safe Practice of Bulk Cargoes including the Appendix B entries for Ammonium Nitrate, Coal, Grains (Cereals) Direct Reduced Iron (DRI), Ferrosilicon, Charcoal and Seed Cake.

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. John F. McAnulty, USCG (G–MHM), Wash., D.C. 20593. Tel: (202) 426–1577 or Capt. S. Fraser Sammis, National Cargo Bureau, Inc., Suite 2757, One World Trade Center, New York, N.Y. 10048. Tel: (202)-432–1280.

John Todd Stewart,
Chairman, Shipping Coordinating Committee.

March 8, 1982.

[FR Doc. 82-7090 Filed 3-15-82; 8:45 am]
BILLING CODE 4710-07-M

[Public Notice CM-8/502]

Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on April 15, 1982 at 10:00 a.m. in Room 1205 of the Department of State, 2201 C Street, N.W., Washington, D.C. This Study Group deals with matters in telecommunications relating to the development of international digital data transmission.

The agenda for the April 15 meeting will include consideration of the following:

1. Report of the November 1981 meeting of Study Group XVII.
2. Report of the December 1981 meeting of Study Group VII Working Parties 1 and 2 of ISDN subjects.
3. Report of February 1982 meeting of Study Group XVIII Meeting of Experts on ISDN.
4. Consideration of delayed contributions for the meeting of Study Group VII Working Parties 1, 2 (non-ISDN), and 4.
5. Any other business.

Members of the general public may attend the meeting and join in the discussion subject to the instruction of the Chair. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is therefore requested that prior to April 15, 1982 members of the general public who plan to attend the meeting inform Mr. Richard Howarth, Office of International Communications Policy, Department of State, telephone (202) 632–1007, of their intention. All non-Governmental attendees must use the C Street entrance to the building.

V.4.71.51 MAR 16 1982

Dated: March 5, 1982.
Richard H. Howarth,
Chairman, U.S. CCITT National Committee.
[FR Doc. 82-7071 Filed 3-15-82; 8:45 am]
BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circular; Public Debt Series No. 7-82]

March 11, 1982.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $5,250,000,000 of United States securities, designated Treasury Notes of March 31, 1984, Series Q-1984 (CUSIP No. 912827 MZ 2). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserves Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

1.2. If the interest rate determined in accordance with this circular is identical to the rate on an outstanding issue of United States notes, and the terms and conditions of such outstanding issue are otherwise identical to terms and conditions of the securities offered by this circular, this shall be considered an invitation for an additional amount of the outstanding securities and this circular will be amended accordingly. Payment for the securities in that event will be calculated on the basis of the auction price determined in accordance with this circular.

2. Description of Securities

2.1. The securities will be dated March 31, 1982, and will bear interest from that date, payable on a semiannual basis on September 30, 1982, and each subsequent 6 months on March 31 and September 30 until the principal becomes payable. They will mature March 31, 1984, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable in secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, March 17, 1982. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, March 16, 1982, and received no later than Wednesday, March 31, 1982.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notifed if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Wednesday, March 31, 1982. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, March 29, 1982.

When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registration or assignments of the securities surrenderd. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignement should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,
Fiscal Assistant Secretary.
[FR Doc. 82-7132 Filed 3-12-82; 2:44 pm]
BILLING CODE 4810-40-M

V 47 51 M R 16 82

Sunshine Act Meetings

Federal Register
Vol. 47, No. 51
Tuesday, March 16, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

March 10, 1982.

TIME AND DATE: 10 a.m., Wednesday, March 17, 1982.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Valley Limestone Company, Docket No. LAKE 81-87-M: Petition for Discretionary Review (Issues include whether the judge erred in finding a violation of 30 CFR 56.9-37).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5632.

[S-380-82 Filed 3-13-82; 2:43 pm]

BILLING CODE 6820-12-M

2

FEDERAL TRADE COMMISSION

TIME AND DATE: 2 p.m., Monday, March 15, 1982.

PLACE: Room 532 (open); Room 540 (closed); Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the Public.

MATTERS TO BE CONSIDERED: The Portions Open to Public:

(1) Oral Argument in Massachusetts Furniture and Piano Movers Association, Inc., Docket 9137.

Portions closed to the Public:

(2) Executive Session to follow Oral Argument in Massachusetts Furniture and Piano Movers Association, Inc., Docket 9137.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523-1892; Recorded Message: (202) 523-3806.

[S-387-82 Filed 3-12-82; 9:15 am]

BILLING CODE 6750-01-M

3

LEGAL SERVICES CORPORATION

(Presidential Search Committee of the Board of Directors)

TIME AND DATE: 2 p.m.-5 p.m., Thursday, March 25, 1982.

PLACE: Legal Services Corporation, 733 15th Street, NW., eighth floor conference room 2, Washington, D.C.

STATUS OF MEETING: Open (Portion of the meeting will be closed to discuss a personnel matter under 45 CFR 1622.5(a)).

MATTERS TO BE CONSIDERED:

1. Procedures for Presidential Search.
2. Criteria for Presidential Search.
3. Personnel Matters (Closed).

CONTACT PERSON FOR MORE INFORMATION: LeeAnne Bernstein, Office of the President; (202) 272-4040.

Date Issued: March 12, 1982.

Dan J. Bradley,
President.

[S-380-82 Filed 3-12-82; 3:55 pm]

BILLING CODE 6820-26-M

4

LEGAL SERVICES CORPORATION

(Board of Directors)

TIME AND DATE: 10 a.m.-5 p.m., Friday, March 26, 1982

PLACE: Legal Services Corporation, 733 15th Street, NW., eighth floor conference rooms 2 and 3, Washington, D.C.

STATUS OF MEETING: Open (Portion of the meeting will be closed to discuss a litigation matter under 45 CFR 1622.5(h)).

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda.
2. Approval of Minutes of March 4-5, 1982 Meeting.
3. Announcement of Committees.
4. Report on Congressional Activities.
5. Individual Committee Meetings for Organization and Orientation Purposes.
6. Staff Briefings:
   a. Budget/Financing Policy Overview;
   b. 1983 Budget Options;
   c. Detailed Financial Report Including Statement of Funds Available for fiscal year 1982—Antone G. Singsen;
   d. Office of Field Services—Clint Lyons.
7. Other Business.
8. Future Meeting Dates.
9. Adjournment.

CONTACT PERSON FOR MORE INFORMATION: John Meyer, Office of the President, (202) 272-4040.

Date issued: March 12, 1982.

Dan J. Bradley,
President.

[S-371-82 Filed 3-12-82; 9:45 am]

BILLING CODE 6820-26-M

5

POSTAL RATE COMMISSION

AGENCY HOLDING THE MEETING: Postal Rate Commission.

TIME AND DATE: 10 a.m., Wednesday, March 17, 1982.

PLACE: Conference Room 500, 2000 L Street, NW., Washington, D.C. 20268.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Commission staff compensation policy. (Closed pursuant to 5 U.S.C. 552(b)(2)(6).)

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, NW., Washington, D.C. 20268; Telephone (202) 254-5614.

[S-389-82 Filed 3-12-82; 12:36 pm]

BILLING CODE 7715-01-M

federal register

Tuesday
March 16, 1982

Part II

Department of Labor

Mine Safety and Health Administration

Electric Cap Lamps; Telephones and Signaling Devices; Electrical Components and Headlights for Mobile Diesel-Powered Transportation Equipment

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 19

Electric Cap Lamps

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Final rule and correction.

SUMMARY: This final rule amends the Mine Safety and Health Administration's (MSHA) regulations governing approval of electric cap lamps for use in underground mines. The rule permits MSHA to modify its cap lamp approval requirements so that MSHA can investigate cap lamps which have new features not addressed in the previous regulations. After investigating such lamps, MSHA will issue an approval only for those lamps that provide the same degree of protection as lamps meeting the previous requirements. In addition, the rule sets forth an alternative to the requirement that there be a safety device in cap lamps for preventing ignition of explosive atmospheres in the event the bulb is broken by permitting the lamp to be designed and constructed to prevent ignition if the bulb is broken. Further, this document corrects a printing error in the regulation.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: John J. Mulhern, Assistant Director for Safety, Office of Technical Support, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203, (703) 235–1590.

SUPPLEMENTARY INFORMATION:

I. Rulemaking Background

On May 16, 1980, MSHA published in the **Federal Register** (45 FR 32557) a proposed rule to amend the requirements for Electric Cap Lamps at 30 CFR 19.1(b). In the notice of proposed rulemaking, MSHA requested that written comments be submitted by July 15, 1980. Five commenters responded, none of whom requested a hearing.

II. Discussion of the Final Rule

Prior to this amendment, MSHA was limited to investigating and approving cap lamps which met the design, construction and test requirements specifically set forth in the previous regulations. As a result, the regulations restricted MSHA approval of cap lamps incorporating new technology. Under the final rule, MSHA may modify the design, construction or test requirements of the regulation to allow investigation of devices which have new features not previously considered. Based on this investigation, if a new cap lamp design is safe for the intended use and provides at least the same degree of protection as lamps currently approved under the regulation, MSHA will issue an approval.

The final rule also amends the regulation to allow MSHA to investigate for approval cap lamps designed and constructed to prevent an ignition when the bulb is broken. Breakage of the lamp bulb and exposure of the filament can result in the ignition of explosive mixtures of methane and air in mines. The former regulation required that the cap lamp headpiece be provided with a safety device to prevent the ignition of explosive atmospheres in the event of bulb breakage. This amendment was not part of the proposal but is responsive to comments received. This final rule, therefore, provides manufacturers with increased flexibility in the construction and design of cap lamps and also provides an alternative for addressing the hazard related to bulb breakage.

The final rule has no effect on the devices which previously could be or have been approved under the regulation.

III. Discussion of the Comments

Four commenters supported the amendment as proposed. One commenter, however, raised several objections to the proposal. The commenter primarily objected that the proposal was subjective because it did not specify performance requirements and criteria to which manufacturers could design cap lamps. As a result, the commenter stated, there would be no safeguards to assure consistency in the performance and reliability of cap lamps investigated for approval. This commenter also suggested that user confidence could thus be adversely affected.

MSHA has carefully considered these objections, as well as all the other comments on the proposal. Based on these comments and MSHA's experience under its other approval and certification regulations, MSHA has retained in the final rule, with minor revision, the provisions of the proposal related to the design, construction and testing of newly developed cap lamps. However, in response to the objection to the proposal, the final rule also includes an alternative general requirement which reflects cap lamp technology that MSHA is aware of at this time.

As discussed in the preamble to the proposed rule, an essential purpose of this rule is to allow MSHA to investigate, test and approve cap lamps which incorporate technological improvements or new designs which could result in increased health and safety for miners. MSHA does not believe that this purpose can be fully accomplished only by adding new specific requirements and criteria to the regulations. While additional specific requirements and criteria would be applicable to some cap lamps, they may not be appropriate for others, particularly as technology continues to advance. As a result, MSHA could be prevented from investigating new cap lamps with innovative design or construction. A recent example illustates this principle.

Before this amendment, § 19.7(a) required that the headpiece of a cap lamp be provided with a safety device to prevent the ignition of explosive mixtures of methane and air when the bulb glass surrounding the filament is broken. Generally, cap lamp designs have met this requirement with a device that ejects the bulb from its socket when the cap lamp lens is broken. In the past few years, cap lamps have been constructed with material resistant to breakage and designed to prevent exposure of the filament which could cause an ignition. In the event the bulb is broken, the filament would also be broken or deenergized. This new design addresses the hazard of ignition without the use of a safety device to prevent ignition when the bulb is broken. However, because the regulation did not previously take into account this type of design and construction, MSHA was not able to investigate these cap lamps for approval. The final rule removes this restriction. MSHA believes that this revision gives manufacturers notice of an additional requirement which they may use in the design and construction of cap lamps. At the same time, the revision is general enough to allow flexibility in developing the materials and designs which may satisfy the requirement.

As stated earlier, the commenter who raised objections to the proposal was concerned that this rule could result in a loss of user confidence in MSHA-approved cap lamps since it permits MSHA to modify its approval requirements. Based upon experience under other approval regulations, MSHA does not anticipate such a result, nor any problems with respect to inconsistency in performance. When investigating cap lamps under this provision, MSHA will use the previous requirements to develop appropriate new requirements or tests for the new lamps. MSHA will also use the previous requirements as a basis for evaluating whether a new cap lamp design is as safe as designs which are currently approved.

The purpose of this final rule is to assure that safe, modern equipment is available for use in underground mines, which will enhance the safety and health of the miners. Upon the effective date of this rule, MSHA will investigate applications for approval of newly designed cap lamps so that, if they meet MSHA requirements, they can be approved for use as soon as reasonably possible.

This publication also corrects a printing error in the regulation at § 19.9(b) (Bulb life). Section 19.9(b), as originally published, required that at least 92 percent of the bulbs tested have a life of at least 150 hours and that the average life of all bulbs tested be at least 200 hours. The requirement of 150 hours remained correctly published until the 1977 edition of the Code of Federal Regulations (CFR) which misstated the minimum bulb life requirement as 250 hours. The Approval and Certification Center has been testing bulbs using the original, correct figure of 150 hours. This document makes the technical change of reinstating the correct figure of 150 hours in the next edition of the CFR.

IV. Regulatory Impact Analysis

MSHA has determined that this rule does not meet any of the criteria for a major rule under Executive Order 12291, 46 FR 13193 (February 19, 1981), and therefore a Regulatory Impact Analysis is not necessary. The rule removes restrictions in MSHA's Approval and Certification requirements for cap lamps. It includes no new requirements and will result in no additional costs.

V. Regulatory Flexibility Analysis

This rule is exempt from the requirements of the Regulatory Flexibility Act (Act) because it was proposed prior to January 1, 1981. However, consistent with the purposes of that Act, MSHA has evaluated whether this action will have a significant economic impact on a substantial number of small entities. MSHA has determined that no economic impact will result from this action because this rule removes certain restrictions in the current regulation and thereby lessens the regulatory burden on the affected public.

VI. Paperwork Reduction Act

This rule does not contain an information collection requirement.

VII. Drafting Information

The principal persons responsible for the preparation of this final regulation are: Salwa El Bassioni and Kenneth Sproul, Technical Support, MSHA; Herbert P. LeVan, Office of Standards, Regulations, and Variances, MSHA; and Barry F. Wisor, Office of the Solicitor, Department of Labor.

Dated: March 11, 1982.

Ford B. Ford,

Assistant Secretary for Mine Safety and Health.

PART 19—ELECTRIC CAP LAMPS

30 CFR Part 19 is amended as follows:

1. Section 19.1(b) is revised and an authority note is added following the section to read as follows:

§ 19.1 Purpose.

* * * * *

(b) Any electric cap lamp that meets the requirements set forth in this part will be termed "permissible" by MSHA and, if actively marketed, will be listed as such in publications relating to permissible electric cap lamps. MSHA will test only electrical equipment that in the opinion of its qualified representatives is constructed of suitable materials, is of good quality workmanship, is based on sound engineering principles, and is safe for its intended use. MSHA reserves the right to modify design, construction, and test requirements to obtain the same degree of protection as provided by the tests described in this part.

* * * * *

Note.—Paragraph (b) of this section is issued under the authority of Sec. 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91–173 as amended by Pub. L. 95–164, 91 Stat. 1291 (30 U.S.C. 811). All other paragraphs in this section continue under the original authority.

2. Section 19.7(a) is revised and an authority note is added following the section to read as follows:

§ 19.7 Protection against explosion hazard.

* * * * *

(a) *Safety device or design.* The headpiece shall have a safety device to prevent the ignition of explosive mixtures of methane and air if the bulb glass surrounding the filament is broken. Alternatively, if the lamp is designed and constructed to prevent the ignition of explosive mixtures of methane and air by protecting the bulb from breakage and preventing exposure of the hot filament, no safety device is required.

* * * * *

Note.—Paragraph (a) of this section is issued under the authority of Sec. 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91–173 as amended by Pub. L. 95–164, 91 Stat. 1291 (30 U.S.C. 811). All other paragraphs in this section continue under the original authority.

3. Section 19.9 is corrected by revising paragraph (b) to read as follows:

§ 19.9 Performance.

* * * * *

(b) *Bulb life.* The average life of the bulbs shall be not less than 200 hours, and at least 92 percent of the bulbs shall have a life of 150 hours. * * *

* * * * *

[FR Doc. 82-7086 Filed 3-15-82; 8:45 am]

BILLING CODE 4510-43-M

30 CFR Part 23

Telephones and Signaling Devices

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Final rule.

SUMMARY: This rule amends the Mine Safety and Health Administration's (MSHA) regulations governing approval of telephones and signaling devices for use in underground mines. The amendment enables MSHA to approve telephones and signaling devices which are designed to operate from a mine power or lighting circuit if they are equipped with a standby power source. Because of hazards associated with operation of telephones and signaling devices from mine power and lighting circuits, the previous rule permitted the approval of only battery powered devices. Developments in communications technology have now eliminated such hazards. The final rule permits approval of improved equipment incorporating new technology.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: John J. Mulhern, Assistant Director for Safety, Office of Technical Support, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203, (703) 235–1590.

SUPPLEMENTARY INFORMATION:

I. Rulemaking Background

On August 22, 1980, MSHA published in the **Federal Register** (45 FR 56312) a proposal to amend 30 CFR 23.2 and 23.7 to permit the approval of telephones and signaling devices operated from mine power or lighting circuits if they are provided with a standby power source. Interested persons were given until October 21, 1980, to submit comments. MSHA received four comments on the proposal, none of which requested a hearing.

II. Discussion of Final Rule

Prior to this amendment, the definition of a "signaling device" in the previous

regulation permitted MSHA to approve only telephones and signaling devices which were designed to operate independently of the mine power or lighting circuits. MSHA could therefore approve only battery powered devices. The final rule removes this design restriction. In addition, to assure continuous communication capabilities in case the power fails or is cut off, the final rule requires that line powered telephones and signaling devices be equipped with a standby power source, e.g., batteries. Although all commenters supported MSHA's proposal, they also submitted some suggestions.

With respect to the requirement for a standby power source, one commenter pointed out that the proposal could be interpreted to require a standby power source in each unit of a telephone or signaling device system. The agency did not intend to exclude the use of a centralized standby power source for telephone or signaling device systems. Therefore, the language of the final rule is clarified to include the use of a centralized standby power source. MSHA has also made other minor revisions to improve the clarity of this section of the final rule.

Another commenter was concerned about the application of the proposed rule to radio or cable remote controls used in mining equipment. This final rule has no effect on the approval of cable remote control systems. Cable remote control systems will continue to be treated as components for use on or with machines and approved under 30 CFR Part 18. Radio remote control systems will continue to be approved under Part 23.

Several commenters recommended that MSHA require that telephones and signaling devices or systems be equipped with a warning system that would notify mine operators if the batteries of the standby power source become depleted. One of these commenters further suggested that the rule require the maintenance of standby batteries at no less than 75 percent of their rated capacity and an audible warning if the capacity drops below this level. MSHA agrees with the commenters that the standby power sources required for line powered telephones and signaling devices perform an important safety function. Without standby power sources, if the mine power were interrupted, the telephones and signaling devices might not operate when most needed.

MSHA, however, does not believe that the maintenance of standby power sources is a proper subject for additional specific criteria under this approval regulation. Proper maintenance of telephones and signaling devices, including standby power sources, is the responsibility of the equipment user, that is, the mine operator. This compliance responsibility is appropriately addressed in existing regulations in 30 CFR Parts 57 and 75 which require electrical equipment, including telephones and signaling devices, together with the necessary standby power sources, to be maintained in permissible and safe operating condition. However, because the maintenance of standby power sources is so essential to the safe use of line powered telephones and signaling devices, the final rule includes a general requirement that manufacturers furnish instructions to operators concerning the proper maintenance of standby power sources.

MSHA believes that an important goal of this regulation is to provide manufacturers with the flexibility necessary to design and construct improved equipment which incorporates new technology, and thereby results in increased miner health and safety. Toward this end, MSHA especially encourages manufacturers to develop any appropriate features for standby power sources, including, but not limited to, low capacity warning devices, which would improve the maintenance and reliability of such power sources.

The ultimate purpose of this final rule is to make safe, modern equipment available for use in underground mines, which will enhance the safety and health of the miners. Upon the effective date of this rule, MSHA will promptly investigate applications for approval of newly designed telephones and signaling devices so that, if they meet MSHA requirements, they can be approved for use a soon as reasonably possible.

III. Regulatory Impact Analysis

MSHA has determined that this rule does not meet any of the criteria for a major rule under Executive Order 12291 and therefore a Regulatory Impact Analysis is not necessary. The rule removes restrictions in MSHA's Approval and Certification requirements for telephones and signaling devices. It includes no new requirements and will result in no additional costs.

IV. Regulatory Flexibility Analysis

This rule is exempt from the requirements of the Regulatory Flexibility Act (Act) becauuse it was proposed prior to January 1, 1981. However, consistent with the purposes of that Act, MSHA has evaluated whether this action will have a significant economic impact on a substantial number of small entities. MSHA has determined that no economic impact will result from this action because this rule removes certain restrictions in the current regulation and thereby lessens the regulatory burden on the affected public.

V. Paperwork Reduction Act

This rule does not contain an information collection requirement.

IV. Drafting Information

The principal persons responsible for preparation of this rule were: Salwa El Bassioni and Kenneth Sproul, Technical Support, MSHA; Herbert P. LeVan, Office of Standards, Regulations and Variances, MSHA; and Inga A. Watkins and Barry F. Wisor, Office of the Solicitor, Department of Labor.

Dated: March 11, 1982.

Ford B. Ford,

Assistant Secretary for Mine Safety and Health.

PART 23—TELEPHONE AND SIGNALING DEVICES

30 CFR Part 23 is amended as follows:

1. Section 23.2(f) is revised and an authority note is added following the section to read as follows:

* * * * *

§ 23.2 Definitions.

(f) "Signaling device." As used in this part, a signaling device is one that gives visual or audible signals.

* * * * *

Note.—Paragraph (f) of this section is issued under the authority of Sec. 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91–173 as amended by Pub. L. 95–164, 91 Stat. 1291 (30 U.S.C. 811). All other paragraphs in this section continue under the original authority.

2. Section 23.7(g) is added and an authority note is added following the section to read as follows:

§ 23.7 Specific requirements for approval.

* * * * *

(g) Line powered telephones and signaling devices or systems shall be equipped with standby power sources that have the capacity to enable the devices or systems to continue functioning in the event the line power fails or is cut off. Manufacturers shall furnish instructions for the proper maintenance of standby power sources.

Note.—Paragraph (g) of this section is issued under the authority of Sec. 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91–173 as amended by Pub. L. 95–164, 91 Stat. 1291 (30 U.S.C 811). All other paragraphs in this section continue under the original authority.

[FR Doc. 82–7057 Filed 3–15–82; 8:45 am]

BILLING CODE 4510–43–M

30 CFR PART 36

Electrical Components and Headlights for Mobile Diesel-Powered Transportation Equipment

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Final rule.

SUMMARY: This final rule amends the Mine Safety and Health Administration's (MSHA) regulations governing the approval of mobile diesel-powered transportation equipment for use in gassy metal and nonmetal mines. The final rule removes certain design restrictions and allows the use of permissible electric-powered accessories on mobile diesel-powered transportation equipment to recognize improvements in technology.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: John J. Mulhern, Assistant Director for Safety, Office of Technical Support, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virgina 22203, (703) 235–1590.

SUPPLEMENTARY INFORMATION:

I. Rulemaking Background

On August 22, 1980, MSHA published in the **Federal Register** (45 FR 56308) a proposal to amend 30 CFR Part 36 as to the construction, design and test requirements for approval and certification of mobile diesel-powered transportation equipment for gassy metal and nonmetal mines. Sixty days were allowed for public comment. Comments were received from five interested parties. No public hearings were requested.

II. Summary of the Rule and Discussion of Comments

The previous regulation prohibited the use of all electrical devices, except self-contained battery-powered headlights, on permissible mobile diesel-powered transportation equipment used in gassy metal and nonmetal mines. Because electric-powered devices have been produced which, MSHA believes, no longer present a hazard as an ignition source in gassy mines, the final rule removes this prohibition. As a result of this change, MSHA will investigate, for approval and certification, mobile diesel-powered transportation equipment containing (1) electrical components which satisfy the requirements of 30 CFR Part 18 (Electric Motor-Driven Mine Equipment and Accessories), Part 20 (Electric Mine Lamps Other Than Standard Cap Lamps), or Part 27 (Methane-Monitoring Systems); or (2) electrical systems which meet the requirements of either Part 18 or 27.

The previous regulation also restricted the use of headlight units on mobile diesel-powered transportation equipment to those that are self-contained, locked or sealed units containing the battery. This final rule deletes this restriction. MSHA recognizes that certain lighting systems may illuminate more effectively than self-contained battery-powered units and may provide equivalent protection against explosion hazards. Therefore, under this regulation, manufacturers may submit for approval equipment that provides either engine-driven lighting systems which meet the requirements of Part 18, or self-contained headlights that are approved under Part 20. This rule retains, with minor revisions for clarity, two requirements found in the previous regulation concerning headlights: the headlight units must be mounted on the mobile equipment and protected from external damage; and at least one headlight unit must be provided on the front and rear of each piece of equipment.

Section 36.51, which required that headlight units be inspected and tested according to the criteria contained in Part 20, is revoked because under the final rule, the applicable criteria to be met are referenced in §§ 36.32 and 36.33. In addition, the rule renumbers the retained paragraphs and changes the section headings to assure that all provisions of the regulation are internally consistent.

These changes are made to update MSHA's regulations to recognize improvements in technology and will allow operators of gassy metal and nonmetal mines to obtain electric-powered systems or components for diesel equipment. Miners in such mines using diesel haulage equipment will also benefit by having improved equipment which will result in safer working conditions. Moreover, the added flexibility in the rule is intended to encourage research and development of improved devices for use in gassy mine atmospheres.

The previous regulation prohibited the use of electric starting devices on diesel equipment and the proposal expressly retained this prohibition. MSHA did, however, specifically solicit comment on this issue. The final rule retains the prohibition against electric starting. Although the commenters favored use of electric starting, they did not submit sufficiently detailed information to support a change in the regulation at this time. In addition, the Agency is currently without an adequate information base to establish appropriate technical requirements.

However, in response to the commenters' concerns, MSHA will continue to closely monitor the progress of permissible electric starting systems to determine if they are safe. The Agency will also gather data to develop adequate test criteria for electric starting systems.

Another commenter asked whether the proposed rule would allow the installation of intrinsically safe system warning lights and intrinsically safe, electrically-operated liquid level sensors for water scrubber systems. The final rule specifically allows the use of electrical components that are certified or approved under Part 18 and the use of electrical systems that meet the requirements of Part 18. A commenter asked whether the proposed revisions would also be applicable to Part 32 (Mobile Diesel-Powered Equipment for Noncoal Mines). Part 32 is applicable to underground metal and nonmetal mines in general, while the more stringent criteria in Part 36 apply specifically to gassy metal and nonmetal mines. The final rule affects only Part 36.

One commenter requested clarification of the types of electrifically powered accessories that may be approved for use on diesel equipment. The final rule, like the proposal, provides that any electrical component that has been certified or approved under Part 18, Part 20, or Part 27 is acceptable for installation under this regulation. Any electrical system which meets the requirements of Part 18 or Part 27 is also acceptable.

One commenter was concerned about the possibility of delay in processing equipment approvals because of the potential increase in applications following these regulatory changes. MSHA does not anticipate such delays and will promptly investigate applications for equipment approval and certification under Part 36, so that, if they meet MSHA requirements, they can be approved for use as soon as reasonably possible.

III. Regulatory Impact Analysis

MSHA has determined that this rule does not meet any of the criteria for a major rule under Executive Order 12291, and therefore a Regulatory Impact Analysis is not necessary. The final rule removes restrictions in MSHA's approval and certification requirements

for mobile diesel-powered transportation equipment. It includes no new requirements and will result in no additional costs.

IV. Regulatory Flexibility Analysis

This rule is exempt from the requirements of the Regulatory Flexibility Act (Act) because it was proposed prior to January 1, 1981. However, consistent with the purposes of that Act, MSHA has evaluated whether this action will have a significant economic impact on a substantial number of small entities. MSHA has determined that no economic impact will result from this action because this rule removes certain restrictions in the current regulation and thereby lessens the regulatory burden on the affected public.

V. Paperwork Reduction Act

This rule does not contain an information collection requirement.

VI. Drafting Information

The principal persons responsible for preparation for this final rule are: George J. Dvorznak, Approval and Certification Center; Herbert P. Levan, Office of Standards, Regulations and Variances, MSHA, and Mitchell M. Eskenazi, Division of Mine Safety and Health, Office of the Solicitor, Department of Labor.

Dated: March 11, 1982.

Ford B. Ford,

Assistant Secretary for Mine Safety and Health.

PART 36—MOBILE DIESEL-POWERED TRANSPORTATION EQUIPMENT FOR GASSY NONCOAL MINES AND TUNNELS

30 CFR Part 36 is amended as follows:

1. Section 36.32 is revised and an authority note is added following the section to read as follows:

§ 36.32 Electrical components and systems.

(a) Electrical components on mobile diesel-powered transportation equipment shall be certified or approved under Part 18, 20 or 27 of this chapter, as applicable, and shall bear the certification number assigned by MSHA.

(b) Electrical systems on mobile diesel-powered transportation equipment shall meet the requirements of Part 18 or 27 of this chapter, as applicable.

(Sec. 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91–173 as amended by Pub. L. 95–164, 91 Stat. 1291 (30 U.S.C. 811))

2. Section 36.33 is amended by removing paragraphs (a) and (b); revising paragraphs (c) and (d) and redesignating them as paragraphs (a) and (b); and adding an authority note following the section to read as follows:

§ 36.33 Headlights and fixtures.

(a) Headlights and lighting fixtures on mobile diesel-powered transportation equipment shall be protected from external damage by recessing them in the equipment frame, enclosing them within a shield of substantial construction, or by any other method that provides equivalent protection.

(b) Mobile diesel-powered transportation equipment shall be equipped with at least one headlight on each end.

(Sec. 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91–173 as amended by Pub. L. 95–164, 91 Stat. 1291 (30 U.S.C. 811))

§ 36.51 [Removed]

3. Section 36.51 is removed.

(Sec. 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91–173 as amended by Pub. L. 95–164, 91 Stat. 1291 (30 U.S.C. 811))

[FR Doc. 82-7088 Filed 3-15-82; 8:45 am]

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federal register

Tuesday
March 16, 1982

Part III

Department of Labor

Public Contracts Property Management; Small Business and Small Disadvantaged Business Program; Final Rule

DEPARTMENT OF LABOR

41 CFR Part 29-1

Public Contracts Property Management; Small Business and Small Disadvantaged Business Program

AGENCY: Labor Department.

ACTION: Final rule.

SUMMARY: This rule revises the Department of Labor Procurement Regulations. (DOLPR) to incorporate current policies, procedures, and contract clauses regarding the Department's small business and small disadvantaged business program, and establishes policies and procedures for its Labor Surplus Area Program and Minority Business Enterprises Program. It formally assigns to the Office of Small and Disadvantaged Business Utilization, under the Office of the Under Secretary, responsibility for administering and managing the small business, small disadvantaged business, labor surplus area, and minority business programs; updates procedures for carrying out the goals of the programs; and sets out the duties of official personnel to be involved in the programs.

EFFECTIVE DATE: April 15, 1982.

FOR FURTHER INFORMATION CONTACT: Katherine M. Lee, Office of Small and Disadvantaged Business Utilization, 202-523-9151.

SUPPLEMENTARY INFORMATION: This rule revises the Department of Labor Procurement Regulations (DOLPR) to incorporate current policies, procedures, and contract clauses regarding the Department's small business and small disadvantaged business program, consistent with Pub. L. 95-507 and subsequent issuances by the Office of Federal Procurement Policy (OFPP) and the General Services Administration (GSA), and establishes policies and procedures for its Labor Surplus Areas Program and Minority Business Enterprises Program. It formally assigns to the Office of Small and Disadvantaged Business Utilization, under the Office of the Under Secretary, responsibility for administering and managing the programs under Sections 8 (small disadvantaged business) and 15 (small business and labor surplus areas business) of the Small Business Act, as amended, and the minority business program required by Executive Order 11458 and 11625 dated March 5, 1969 and October 13, 1971, respectively; updates procedures for carying out the goals of the programs; and sets out the duties of official personnel to be involved in the programs.

On May 24, 1978, Pub. L. 95-507 was enacted, amending the Small Business Act and the Small Business Investment Act of 1958. This new law strengthened the (1) socially and economically disadvantaged business (8(a)) program, (2) small business set-aside program, and (3) small business subcontracting program. It also require the establishment of an Office of Small and Disadvantaged Business Utilization (OSDBU) within each Federal agency.

In compliance with Pub. L. 95-507, the Department of Labor (DOL) established, by Secretary's Order 10-79, its Office of Small and Disadvantged Business Utilization in July 1979. The policies and procedures prescribed in this final rule revise the Department of Labor Procurement Regulations (DOLPR) to comply with the above law and implementing issuances for carrying out the preferential programs.

A proposed rule was published at 45 FR 83548-83554 (December 19, 1980), and invited comments for 60 days ending February 17, 1981. Only the Small Business Administration (SBA) commented. The following summarizes SBA's comments and DOL's action.

The Small Business Administration offered two general comments: (1) The term "small and disadvantaged business" and used throughout the regulations, rather than small business and small disadvantaged business," may be misinterpreted to mean that large disadvantaged businesses may avail themselves of the assistance delineated under Pub. L. 95-507. We are accepting SBA's comments and are changing the term "small and disadvantaged business" to "small business and small disadvantaged business" where appropriate. (2) The regulations should include the regulations elements of OFPP Policy Letters 80-1 and 80-2, in particular, the subcontracting procedures, notifications to SBA regarding contract awards which include subcontracting plans, and the handling of contracting plans in contracts for commercial products. We do not agree with SBA that such instructions should be published in the Code of Federal Regulations (CFR); rather they should be covered in internal procedures. We are including the OFPP instructions in the Procurement Section of the Department of Labor Manual Series.

The Small Business Administration made several specific comments as follows:

1. The definition of a "small business" (§ 29-1.701) should emphasize that "the primary concern is not the definition of a small business but it is the standard industrial classification code number that the contracting officer selects for the acquisition." SBA suggested further that we use the definition for disadvantaged business concerns which is stated in OFPP Policy Letter 80-2, rather than the definition in Pub. L. 95-507, as the latter is somewhat restrictive to 8(a) concerns.

Response: We have determined that because the definition of small business is provided in the Federal Procurement Regulations (FPR), 41 CFR 1-1.701, there is no need for its inclusion in the DOLPR. For this same reason, we are not adopting § 29-1.701(a), entitled "Definitions" as it was written in the proposal. However, because the FPR does not provide a definition for "small disadvantaged business," we are adopting the definition as used in OFPP Policy Letter 80-2 for § 29-1.701 as suggested by SBA.

2. It is not clear in § 29-1.704-4(b)(7) as to who makes the final determination concerning eligibility of small disadvantaged business concerns.

Response: This concern is covered in the revision as discussed in paragraph D below.

3. The Small Business Administration's other comments were of a clerical nature; appropriate actions have been taken.

In addition to responding to SBA comments, the Department determined that certain areas of the proposed rule needed clarification and that certain data was too detailed for the CFR. Such information should be covered in internal procedures. Therefore, we have made the following administrative changes in this final rule.

A. We are deleting the term "labor surplus area" concerns from the provision of Subpart 29-1.7, inasmuch as provisions for labor surplus area concerns are provided in the new Subpart 29-1.8. However, since the law does not provide separate provisions for businesses owned by women, and since provisions for small women-owned business may be covered under the small business program, we are adopting the term "small women-owned business" concerns in the final DOLPR.

B. We are deleting § 29-1.704-1(c) defining additional responsibilities for the Director, OSDBU, since these responsibilities concern the Department only.

C. Sections 29-1.704-2 concerning DOL Agency heads, and § 29-1.704-3 concerning DOL procuring activities, have been revised to redefine and reallocate responsibilities.

D. Section 29-1.704-4, which defines responsibilities for the small and disadvantaged business specialists has been revised in its entirety. Paragraphs (a) and (b) of the section have been deleted and new paragraphs (a)-(i) have been substituted in lieu thereof to identify only those duties applicable to the public. Other duties are identified in internal procedures.

E. Sections 29-1.704-50—"Goals" and 29-1.704-51—"Reports" have been removed. A new § 29-1.704-50 entitled "Reports" has been substituted in lieu thereof. The new section is redefined and incorporates the goals requirement.

F. We are deleting §§ 29-1.706-1 and 29-1.706-3 since these provisions are covered by 41 CFR 1-1.706.

G. We are deleting § 29-1.710-3 entitled "Required Clauses" since this is covered by 41 CFR 1-1.710.

H. Other minor technical and clarifying changes also have been made.

Effective Date. This rule shall be effective upon April 15, 1982.

Drafting Information: This document was prepared by Mrs. Katherine M. Lee, of OSDBU, under the direction and control of WALTER C. TERRY, Director, Office of Small and Disadvantaged Business Utilization, Office of the Under Secretary.

Regulatory Impact Analysis Under Executive Order 12291

The Department of Labor has determined that the final rule in this document is not a major regulation that requires the preparation of a regulatory impact analysis within the meaning of Executive Order 12291. This is because the rule is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, no regulatory impact analysis is required.

Regulatory Flexibility Act

Because this rule was issued in proposed form prior to January 1, 1981, the Department is not required to prepare a regulatory flexibility analysis under the Regulatory Flexibility Act (Section 3(a) of Pub. L. No. 96-354, 91 Stat. 1164, 5 U.S.C. 601 *et seq.*). See Note at 5 U.S.C. 603.

Accordingly, Part 29-1 of Title 41 of the Code of Federal Regulations is amended by revising Subpart 29-1.7; by adding two new entries, Subparts 29-1.8 and 29-1.13; and by amending the table of section headings and the authority; to read as follows:

PART 29-1—GENERAL

* * * * * *

Subpart 29-1.7—Small Business and Small Disadvantaged Business Concerns

Sec.
29-1.700 General.
29-1.701 Definitions.
29-1.702-50 General policy.
29-1.704 Agency program direction and operation.
29-1.704-1 DOL headquarters.
29-1.704-2 DOL agency heads.
29-1.704-3 DOL procuring activities.
29-1.704-4 Small and disadvantaged business specialists.
29-1.704-5 Responsibilities of the procurement office.
29-1.704-50 Reports.
29-1.706-50 Procurement set-asides for small business when an SBA representative is not available.
29-1.706-54 Small business set-asides for proposed procurements.
29-1.708 Certificate of competency program.
29-1.710 Subcontracting with small and small disadvantaged business concerns.
29-1.710-1 General.
29-1.713 Contracts with the Small Business Administration.
29-1.713-1 Authority.
29-1.713-2 Policy.
29-1.713-50 Procurement of technical requirements.

Subpart 29-1.8—Labor Surplus Area Concerns

29-1.802 Labor surplus area policy.
29-1.802-1 General policy.

* * * * * *

Subpart 29-1.13—Minority Business Enterprise

29-1.1300 Scope of subpart.
29-1.1302 Agency programs.
29-1.1302-50 DOL implementation.

Authority. 63 Stat. 389 (40 U.S.C. 486(c)); 80 Stat. 379 (5 U.S.C. 301); sec. 202, Pub. L. 95-507, 92 Stat. 1761 (15 U.S.C. 637(a)); sec. 221, Pub. L. 95-507, 92 Stat. 1770 (15 U.S.C. 644).

* * * * * *

Subpart 29-1.7—Small Business and Small Disadvantaged Business Concerns

§ 29-1.700 General.

This subpart sets forth the responsibilities and policies for implementing a Small Business and Small Disadvantaged Business Program, including small women-owned business, within the Department of Labor.

§ 29-1.701 Definitions.

(a) The term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Business Act, as amended (15 U.S.C. 632), and relevant regulations promulgated pursuant thereto (13 CFR Part 121-3-8 and 41 CFR (FPR) 1-1.701-1).

(b) The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern—

(1) Which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(2) Whose management and daily business operations are controlled by one or more of such individuals.

(c) The term "socially disadvantaged individuals" shall mean those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.

(d) The term "economically disadvantaged individuals" shall mean those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged.

(e) The term "socially and economically disadvantaged business groups" shall include but is not limited to, Black Americans, Hispanic Americans, Native Americans and Asian-Pacific Americans. The term "Native Americans" shall mean American Indians, Eskimos, Aleuts and native Hawaiians. The term "Asian-Pacific Americans" shall mean U.S. citizens whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, or Taiwan.

(f) Other individuals may qualify as socially and economically disadvantaged under procedures which have been separately established by the Small Business Administration at 13 CFR 124.1-1(c)(3)(iv).

(g) The term "DOL" shall mean the U.S. Department of Labor.

(h) The term "OSDBU" shall mean the DOL Office of Small and Disadvantaged Business Utilization.

(i) The term "SDBS" shall mean the small and disadvantaged business specialist within individual DOL procuring activities.

§ 29–1.702–50 General policy.

The Department of Labor (DOL) fully supports the Government's small business and small disadvantaged business program for placing a fair proportion of its private sector purchases and contracts for supplies, research and development, and services (including contracts for maintenance, repairs, and construction) with small business and small disadvantaged business concerns. Every effort should be made to encourage participation by such concerns in the acquisition of equipment, supplies, and services that are within their capabilities.

§ 29–1.704 Agency program direction and operation.

§ 29–1.704–1 DOL headquarters.

(a) The Office of Small and Disadvantaged Business Utilization (OSDBU), Office of the Under Secretary, is responsible for the overall management and direction of the DOL Small Business and Small Disadvantaged Business Program. Any changes made in the program will originate in and be the responsibility of this office. All comments or inquiries concerning the program should be directed to the Director, OSDBU.

(b) The responsibilities of the Director, OSDBU, include, but are not limited to, developing standards, procedures and operating guidelines for effective administration of the program; developing, in coordination with agency heads and the Small Business Administration (SBA), departmental goals; reviewing and evaluating agency objectives, procedures, and accomplishments, and recommending changes or corrective actions where appropriate; exercising functional authority over SDBS in matters relating to small business and small disadvantaged business; advising the Under Secretary and other DOL officials on matters relating to the program; and representing DOL before other Government agencies on matters primarily affecting small business and small disadvantaged business concerns.

§ 29–1.704–2 DOL Agency heads.

Each Agency head within the Department of Labor is responsible for insuring that all policies, procedures, and regulations pertaining to the Department's small business and small disadvantaged business program are effectively implemented at all operational levels under his/her jurisdiction. Each Agency head shall develop annual advance procurement plans in order to establish aggressive small business and small disadvantaged business goals. Such plans shall be incorporated into and reconciled with the final annual advance procurement plan which is to be submitted to the Department's Office of the Comptroller by October 1 of each fiscal year.

§ 29–1.704–3 DOL procuring activities.

(a) The head of each DOL procuring activity, including regional officials, is responsible for the effective implementation and success of the Department's small business and small disadvantaged business program within his/her respective activity. Such individual shall take action to assure that program personnel, as well as contracting personnel, take maximum practicable action to increase the level of participation by small business and small disadvantaged business concerns in DOL procurement activities.

(b) Each head of procuring activities shall, in consultation with the Director, OSDBU, appoint by name and in writing, a qualified, senior level, small and disadvantaged business specialist (SDBS). While SDBS will normally be appointed from members of operating staffs, he/she shall be directly responsible to the appointing official in matters relating to small business and small disadvantaged business concerns and shall not be subject to the direction of his/her immediate line of procurement supervision or technical personnnel. The SDBS is not precluded from being assigned responsibility for the Labor Surplus Area Program or the Minority Business Enterprise Program as prescribed by FPR Subparts 1–1.8 and 1–1.13 respectively. The Office of Small and Disadvantaged Business Utilization shall be notified, in writing, of each appointment.

§ 29–1.704–4 Small and disadvantaged business specialists.

The small and disadvantaged business specialist (SDBS) shall serve as advisor to the head of his/her respective activity, and shall be the central point of contact for inquiries pertaining to the small business and small disadvantaged business program. The SDBS shall perform the following specific duties, as well as perform any additional functions as prescribed in the furtherance of the OSDBU program:

(a) Assist contracting and technical personnel in determining requirements which may be suitable for small business and small disadvantaged business set asides, to afford such firms an equitable opportunity to participate in the Department's procurement activities;

(b) Initiate action, in writing, to assure that adequate specifications are drawn, wherever possible, so as not to preclude participation by small business;

(c) Advise and assist small business in the proper procedure for participating in Government procurements;

(d) Assure that the subcontracting clause entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals" as prescribed by the Temporary Regulation 50, Supplement 2, (45 FR 35809, May 28, 1980), is included in applicable solicitations;

(e) Participate in the evaluation of a prime contractor's small business subcontracting plan;

(f) Provide, upon request, small disadvantaged business concerns with a source list of firms solicited for any proposed procurements which contains the subcontracting clause entitled "Utilization of Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals";

(g) Assure that the procuring activity maintains a list of products and services which have been placed as repetitive small business set-asides; and

(h) Act as liaison between his procurement office, the contracting officer, and the appropriate SBA office is connection with Set-asides, certificates of competency, size classification, and any other matter in which the small business programs may be involved.

§ 29–1.704–5 Responsibilities of the procurement office.

(a) Each DOL procurement offfice shall take positive action to identify equipments, products and services where a potential exists for increasing the small and disadvantaged business concern's share of contract awards. Each procurement office shall, to the maximum extent feasible, arrange for the making of unilateral small business set asides on all contracting action which qualify. The procurement office shall take appropriate action to provide maximum advance and current information, assistance, and counseling of such nature and extent as to enable small business concerns to take full advantage of available DOL business opportunities and to compete for contracts.

(b) In accordance with FPR 1–2.205, each procurement office shall maintain bidders mailing lists. Each office shall insure that bidder's mailing lists identify small and disadvantaged business concerns and that all solicitations state the applicable small business size standard and product classification.

§ 29–1.704–50 Reports.

The Director, OSDBU is required from time to time to inform the Congress, Small Business Administration, General Services Administration, and Department of Commerce of the Department's activities undertaken to comply with laws and regulations concerning the Federal small business and small disadvantaged business programs. Such reports include annual goals, progress reports, minority banking reports and other data as requested. Therefore, each DOL Agency must submit to OSDBU, as directed by the Director, OSDBU, annual procurement goals for each of the Department's small business and small disadvantaged business programs, quarterly reports concerning actual procurement actions and dollar values of awards for each of the small business and small disadvantaged business programs, quarterly minority banking reports, and any other report required by that office.

§ 29–1.706–50 Procurement set-asides for small business when an SBA representative is not available.

If no SBA representative is available, the SDBS shall initiate recommendations to the contracting officer for small business set-asides with respect to individual procurements or classes of procurements or portions thereof. The SDBS's set-aside recommendations shall be in writing and shall state the reasons for the type of set-aside recommended or the reasons for recommending against a set-aside. The recommendation unltimately shall be placed in the contract file.

§ 29–1.706–54 Small business set-asides for proposed procurements.

(a) All procurements under $10,000, awarded through small purchase procedures (except for mandatory services), shall be set aside for small business concerns when the contracting officer can expect to receive two or more offers from small business concerns who are competitive in market prices and in terms of quality and delivery of items being purchased.

(b) Each proposed procurement for construction estimated to cost between $10,000 and $2 million shall be set aside for exclusive small business participation. Such set-asides shall be considered to be unilateral small business set-asides, and shall be withdrawn, in accordance with the procedures of FPR 1–1.706–3 and DOLPR 29–1.706–3, only if found not to serve the best interest of the Government.

(c) Small business set-aside preferences for construction procurements in excess of $2 million shall be considered on a case-by-case basis.

(d) In addition to paragraphs (a) and (b) of this section, contracting officers are authorized to seek set-asides for all susceptible procurements including architectural engineering, research, development, and evaluation.

§ 29–1.708 Certificate of competency program.

The Small Business Administration has statutory authority (15 U.S.C. 637(b)(7)(A)) to certify the competency of any small business concern as to all elements of responsibility, including, but not limited to, capability, competency, capacity, credit, integrity, perseverance, and tenacity to receive and perform a specific Government contract.

§ 29–1.710 Subcontracting with small business and small disadvantaged business concerns.

§ 29–1.710–1 General.

(a) It is the Department of Labor's policy to support the Government's effort to enable small business concerns and small disadvantaged business concerns to be treated fairly as subcontractors performing work or rendering services to prime contractors or subcontractors under DOL contracts, and to assure that prime contractors and subcontractors carry out this policy.

(b) Procuring activities shall maintain lists of active prime contracts containing the clause entitled "Subcontracting Plan for Small Business and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals."

(c) The OSDBU shall review all solicitations that meet the $500,000 threshold prior to release to the public. In addition, prior to execution of any negotiated contractual document requiring subcontracting plan, the OSDBU shall be provided an opportunity to review the total procurement package, including the proposed subcontracting plan.

§ 29–1.713 Contracts with Small Business Administration.

§ 1.713–1189Authority.

This section sets forth provisions for contracting with the Small Business Administrationunder Section 8(a) of the Small Business Act (15 U.S.C. 637(a)). The "Section 8(a)" contract program is a socio-economic, Congressionally-mandated and Presidentially-sponsored program aimed at opening the doors of Government contracting opportunities to small disadvantaged businesses unable or unlikely to compete successfully for a contract.

§ 29–1.713–2 Policy.

(a) It is the policy of DOL to give full consideration to contracting with SBA in order to foster and assist in the establishment and growth of Section 8(a) firms to the maximum extent practicable so that these firms may be self-sustaining, viable, competitive business entities within a reasonable period of time.

(b) To promote the policy in paragraph (a) of this section, DOL procurement activities are to enter into contracts with the Small Business Administration (SBA), and SBA may subcontract with Section 8(a) firms. The authority to negotiate these subcontracts may be delegated to DOL by SBA. In addition, DOL procurement activities shall take the necessary steps to:

(1) Invite appropriate SBA field representatives to identify needs for Section 8(a) contracts and to provide for cooperation and assistance on the part of DOL in verifying the availability or nonavailability of requirements, funding, and other pertinent factors; and

(2) Propose any requirement which appear to offer potential opportunity for contracting with SBA under authority of Section 8(a) of the Small Business Act, for consideration by approporiate SBA field representatives.

(c) The basis for entering into a Section 8(a) contract will be SBA's certification to DOL that SBA, through the Section 8(a) firm, is competent to perform a specific DOL requirement. The signing of the contract document may be accepted as SBA's certification.

(b) As is true of small businesses in general, Section 8(a) firms have varying degrees of experience in the business world, and some may not have knowledge of the complexity of Government procedures and of obligations the procedures impose on the contractor. Prior to initiating formal negotiations with a Section 8(a) firm, contracting personnel and small disadvantaged business specialists should make a special effort to ascertain whether the prospective contractor needs assistance in understanding Government procurement procedures. Whenever possible, assistance should be provided promptly, and the prospective contractor should be advised that additional management and technical assistance is available from the Small Business Administration.

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§ 29–1.713–50 Procurement of technical requirements.

(a) *Source selection.* The Section 8(a) program is a business development program, and the policy expressed in FPR 1–3.101(d) does not apply. Additionally, SBA has ultimate responsibility for nomination of a Section 8(a) subcontractor for a proposed Section 8(a) requirement and may elect to deviate from the usual source nomination procedures.

(b) *Debriefing.* A debriefing, when requested in writing, shall be provided by the contracting officer to a Section 8(a) firm that has been unsuccessful in a Section 8(a) competition.

(c) *Liaison with the Small Business Administration.* Procuring activities will maintain a continuous liaison with the Office of Business Development, SBA, to ensure that the overall goals of each activity are achieved. In the event of a dispute between a procuring activity and an SBA representative regarding any aspects of Section 8(a) contracting, the procuring activity must promptly notify the OSDBU.

(1) Each Section 8(a) firm or group of firms nominated for a specific Section 8(a) requirement must be approved by SBA for that particular Section 8(a) requirement prior to any DOL discussions with the firm(s).

(2) The business development responsibility of SBA requires them to assist in and monitor the growth and development of all Section 8(a) firms. It is incumbent upon DOL to assist SBA in this effort by utilizing the nomination process in a manner that would make use of the largest possible number of Section 8(a) firms.

(d) *Contract termination.* The OSDBU and SBA are to be notified prior to initiating final action to terminate a Section 8(a) contract. (See paragraph (c) of the "Special 8(a) Contract Conditions" prescribed as set forth in FPR 1–1.713–3(d)(1).I37* * * * * *

Subpart 29–1.8—Labor Surplus Area Concerns

§ 29–1.802 Labor surplus area policy.

§ 29–1.802–1 General policy.

It is the policy of the Department of Labor to award contracts with eligible labor-surplus area concerns. All procuring activities shall take positive action to award contracts to concerns that will perform substantially in labor-surplus areas. Each Small and Disadvantaged Business Specialist, assigned in accordance with DOLPR 29–1.704–2, of this part shall serve as liaison officer and shall have responsibility to administer the program within his/her area in accordance with policies and procedures defined in DOLPR 29–1.704–4.

* * * * *

Subpart 29–1.13—Minority Business Enterprise

§ 29–1.1300 Scope of subpart.

This subpart prescribes Department of Labor policies, procedures, and contract clauses which establish a minority business enterprise program pursuant to the provisions of FPR 1–1.13. This subpart is in addition to the policies and procedures for contracts with the Small Business Administration pursuant to Section 8(a) of the Small Business Act and other small disadvataged business concerns as prescribed under FPR 1–1.7 and DOLPR 29–1.7 of this part and as otherwise prescribed by law.

§ 29–1.1302 Agency programs.

§ 29–1.1302–50 DOL implementation.

(a) In accordance with provisions of Executive Order 11625, it is the policy of DOL to foster and assist in the establishment and growth of minority-owned and controlled business concerns to the maximum practicable extent, in order that such concerns may become self-sustaining, viable, and competitive enterprises.

(b) The Office of Small and Disadvantaged Business Utilization (OSDBU) is responsible for the general supervision of the Department's minority business enterprise program. This office is specifically responsible for:

(1) Managing the DOL Minority Business Enterprise Program;

(2) Providing staff guidance to activities of the Department;

(3) Establishing effective working relations with the minority business community nationwide;

(4) Representing DOL before other Government agencies on matters primarily affecting minority business affairs;

(5) Providing data and information relating to the minority business program to the Secretary and all sources internal and external to DOL; and

(6) Serving as the Department's monitoring and coordinating point for all matters concerning the Department's minority business enterprise program.

(c) The policies and procedures of DOLPR 29–1.704 are applicable to the minority business enterprise program.

Signed at Washington, D.C., on this 11th day of March 1982.

Alfred M. Zuck,

Assistant Secretary for Administration and Management.

[FR Doc. 82–7101 Filed 3–15–82; 8:45 am]

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federal register

Tuesday
March 16, 1982

Part IV

Securities and Exchange Commission

Adoption of Integrated Disclosure System and Proposed Revision of Trading Practices Rule

V 47 51 MR 16 82

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 201, 229, 230, 239, 240, 249, 250, 260, and 274

[Release Nos. 33-6383; 34-18524; 35-22407; 39-700; IC-12264; AS-306]

Adoption of Integrated Disclosure System

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission today announced the adoption of a comprehensive revision to the rules and forms governing the registration of securities under the Securities Act of 1933. This action integrates the disclosure systems under the various Federal securities laws and simplifies and improves the disclosure requirements imposed under these systems. Specifically, this action involves (1) the adoption of three registration forms which constitute the basic framework for registration statements under the Securities Act; (2) the expansion and reorganization of Regulation S-K as the repository for the uniform disclosure requirements of documents filed with the Commission under the Securities Act and the Securities Exchange Act of 1934; (3) the revision of the procedures which govern the registration of securities under the Securities Act and the registration and reports of certain issuers under the Exchange Act; (4) the adoption of a temporary rule governing the shelf registration of securities; (5) the adoption of a rule identifying certain circumstances bearing upon the reasonableness of the investigation to discharge one's obligation under section 11(b) of the Securities Act and upon what contsitutes reasonable grounds for belief under that section; (6) the adoption of rules permitting the voluntary disclosure of security ratings in registration statements under the Securities Act; (7) the revision of various rules, forms and schedules under the Securities Act and the Exchange Act to implement and to reflect other changes; and (8) the rescission of obsolete and rarely used forms under the Securities Act and the Exchange Act.

DATES: *Effective date:* Except with respect to Rule 415 (17 CFR 230.415), these amendments are effective May 24, 1982, for all documents filed on or after that date. Rule 415 (delayed or continuous offerings) is effective March 16, 1982 and will be effective until December 10, 1982.

Compliance date: Registrants are permitted, however, to use Rule 415 immediately and to use the other provisions amended herein in filings made after publication of this release in the **Federal Register**. If a registrant elects to comply with the provisions amended herein prior to May 24, 1982, it must comply with all the applicable provisions adopted herein (other than Rule 415) upon the election to do so and in any subsequent filings. Notwithstanding the above, registrants are permitted, in filings made after publication of this release in the **Federal Register**, to comply solely with the provisions of Instruction 5 to Item 103 of Regulation S-K amended herein when disclosing environmental proceedings and paragraph (d) of Item 503 of Regulation S-K with respect to the ratio of earnings to fixed charges.

FOR FURTHER INFORMATION CONTACT: Prior to the effective date, questions relating to these actions should be directed to the Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 as follows:

(1) Forms S-1, S-2, and S-3, Catherine Collins McCoy or Robert Pincus (202-272-2589);

(2) Regulation S-K, Robert Pincus (202-272-2589);

(3) Regulations C and 12B, W. Scott Cooper (202-272-2589);

(4) Shelf registration, Catherine Collins McCoy (202-272-2589) or William L. Larsen (202-272-2604);

(5) Liability issues, Gregory H. Mathews, (202-272-2589);

(6) Security ratings, Susan P. Davis, (202-272-2604);

(7) Securities Act implementing amendments, William L. Larsen (202-272-2604); and

(8) Exchange Act implementing amendments, Susan P. Davis (202-272-2604).

After the effective date, questions should be directed to the Office of Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-272-2573) as follows:

(1) Forms S-1, S-2 and S-3, William E. Morley;

(2) Regulation S-K, Norman R. Schou;

(3) Regulation C and 12B, William E. Toomey;

(4) Shelf registration, David B. H. Martin;

(5) Liability issues, Michael R. Kargula;

(6) Security ratings, Ann M. Glickman;

(7) Securities Act implementing amendments, Michael R. Kargula; and

(8) Exchange Act implementing amendments, Ann M. Glickman. For questions concerning market related matters, particularly in connection with at the market offerings under Rule 415, contact Eric B. Miller, Division of Market Regulation (202-272-2882). For questions concerning the ratio of earnings to fixed charges, contact Howard P. Hodges, Jr., Division of Corporation Finance (202-272-2553), or Clarence M. Staubs, Office of the Chief Accountant (202-272-2133). For questions concerning investment companies, contact Sandra Molley, Division of Investment Management (202-272-2033).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the adoption of various rules, registration forms and disclosure requirements under the Securities Act of 1933 (the "Securities Act") [15 U.S.C. 77a et seq. (1976 and Supp. III 1979), as amended by the Small Business Incentive Act of 1980, Pub. L. No. 96-477 (October 21, 1980)] and the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a et seq. (1976 and Supp. III 1979)]. This action, in conjunction with the rescission of the Guides for the Preparation and Filing of Registration Statements (the "Guides"),[1] represents the final stage of the Commission's program to implement an integrated disclosure system under the Securities Act and the Exchange Act.[2] Specifically, the Commission has adopted: (1) Three new registration forms (Forms S-1, S-2 and S-3) (17 CFR 239.11, 239.12 and 239.13) which will serve as the basic framework for the registration of securities under the Securities Act; (2) amendments to

[1] *See* Release No. 33-6384 (March 3, 1982) which announces the rescission of the majority of the Guides and the reclassification of the remaining Guides as industry guides (the "1982 Industry Guides Release").

[2] The Commission, at this time, is not adopting the proposed revisions to Items 8, 9 and 22 of Schedule 14A under the proxy rules (17 CFR 240. 14a-100) and current Items 4 and 6 of Regulation S-K (17 CFR Part 229) which originally were published in Release No. 34-17517 (February 5, 1981) [46 FR 11954] and were reproposed without change in Release No. 33-6336 (August 6, 1981) [46 FR 42042] (the "Exchange Act Coordinating Release") and in Release No. 33-6332 (August 6, 1981) [46 FR 41925] (the "S-K Release"). These proposed amendments, relating to (1) business and other relationships between registrants and directors, (2) full board consideration of shareholder nominations, (3) the vote needed for election to office, (4) management indebtedness and remuneration, (5) beneficial ownership and (6) certain amendments affecting shareholder proposals, will be considered as a part of the Commission's general review of the rules governing proxy solicitations.

Regulation S-K (17 CFR Part 229) which expand and reorganize this regulation, thereby creating a repository for the disclosure requirements of registration statements and reports filed with the Commission under the Securities Act and the Exchange Act, and which adopt provisions relating to the ratio of earnings to fixed charges and an amendment (to Instruction 5 of Item 103) which substantially revises the Commission's environmental disclosure requirement by establishing additional thresholds for disclosure; and (3) amendments to Regulation C (17 CFR 230.400 through 230.494) and Regulation 12B (17 CFR 240.12b-1 through 240.12b-36) which update and coordinate the procedures for filing registration statements and reports with the Commission under the Securities Act and the Exchange Act, respectively.[3] In addition to the revision of various forms, rules and schedules under the Securities Act and the Exchange Act to implement the integrated disclosure system and the rescission of obsolete and rarely used forms, the Commission has taken action to provide guidance on liability issues arising in the integrated disclosure system, to address by temporary rule the registration and sale of securities on a delayed or continuous basis, and to permit the disclosure of security ratings. With respect to liability issues, the Commission has adopted Rule 176 (17 CFR 230.176) identifying certain circumstances bearing upon the reasonableness of the investigation conducted to discharge one's obligation under section 11(b) of the Securities Act and upon what constitutes reasonable grounds for belief under that Section.[4] With respect to the registration and sales of securities that are to be offered and sold on a delayed or continuous basis in the future ("shelf registration"), the Commission has adopted Rule 415 in Regulation C establishing conditions for such registration on a temporary basis. With respect to security ratings, the Commission has set forth a statement of policy in Regulation S-K to permit the voluntary disclosure of security ratings in registration statements under the Securities Act and has adopted amendments to Rule 134 (17 CFR 230.134) and Rule 436 of Regulation C to facilitate such disclosure.

The Commission determined to announce the adoption of these actions in one release in order that registrants, their counsel and other interested persons would have a single document to which they could refer for an understanding of the integrated disclosure system. Attention is directed to the text of the forms and rules, which is presented in the order in which it will appear in the Code of Federal Regulations, for a more complete understanding.

The discussion of the newly adopted registration forms, rules and disclosure requirements has been organized in the same manner as a registrant and its counsel would approach the integrated disclosure system for guidance as to the applicable requirements for the registration of securities under the Securities Act or the preparation of registration statements or periodic reports under the Exchange Act.[5] First, the registrant would look to the registration or report forms to determine the proper form to be used. Second, after choosing the proper form, the registrant would be directed by the form to Regulation S-K for the specific disclosure requirements for each form. Third, after identifying the disclosure requirements, the registrant would look to Regulation C or Regulation 12B for the procedures to be followed in preparing and filing the particular registration statement or report. Moreover, the registrant, its counsel and other persons involved in the registration process should be aware of the statutory obligations and duties under the Securities Act. The following Table of Contents indicates the order and specific components of the discussion set forth herein.

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5. Item 201—Market Price of and Dividends on the Registrant's Common Equity and Related Stockholder Matters.
6. Item 202—Description of Registrant's Securities.
7. Item 301—Selected Financial Data.
8. Item 302—Supplementary Financial Information.
9. Item 503—Summary Information, Risk Factors and Ratio of Earnings to Fixed Charges.
10. Item 504—Use of Proceeds.
11. Item 506—Dilution.
12. Item 508—Plan of Distribution.
13. Item 510—Disclosure of Commission Position on Indemnification for Securities Act Liabilities.
14. Item 512—Undertakings.
15. Item 601—Exhibits.
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[3] The Commission is withdrawing certain rules and forms that were proposed at various stages in connection with the Commission's integration program, but are not being adopted. *See* Release No. 33-6385 (March 3, 1982).

[4] The Commission also has adopted Rule 412 (17 CFR 230.412, proposed as Rule 418) under Regulation C to resolve questions of liability in the context of modified or superseded statements which are found in documents incorporated by reference into other documents.

[5] In light of this organization, certain issues which were highlighted by the use of separate releases at the proposal stage will be discussed in the context of the part of the integrated disclosure system in which they are located. For example, *see* the discussion of shelf registration in Part IV, "Procedural Provisions," and the discussion of security ratings in Part III, "Substantive Disclosure Provisions."

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C. Safe Harbor Rules for Projections

I. Background

The concept of integrating the various disclosure systems under the Federal securities laws has been the subject of theoretical discussion for quite some time.[6] It was long clear that the transaction-oriented framework of the Securities Act and the disclosure system which developed thereunder often overlap with, and produce disclosure duplicative of, that prepared independently in response to the status-oriented framework of the Exchange Act and the continuous disclosure system operating thereunder. The Commission's program [7] to integrate the two disclosure systems has focused on two principal objectives: first, a comprehensive evaluation of the disclosure policies and procedures under both Acts to identify the information which is material to security holders and investors in both the distribution process and the trading markets, such as the minimum information package;[8] and, second, a determination of the circumstances under which information should be disseminated to security holders, investors and the marketplace.[9] The goal of the Commission's integrated disclosure program has been to revise or eliminate overlapping or unnecessary disclosure and dissemination requirements wherever possible, thereby reducing burdens on registrants while at the same time ensuring that security holders, investors and the marketplace have been provided with meaningful, nonduplicative information upon which to base investment decisions.

This rulemaking action is the culmination of several rulemaking proceedings initiated by the Commission over the past several years.[10] Specifically, this action is based on eight major proposals published for comment in August 1981.[11] Based upon the comment received [12] and its own experience, the Commission has determined to adopt the proposals substantially as published for comment.

II. Forms

The registration and report forms under the Securities Act and the Exchange Act provide the starting point for registrants complying with the integrated disclosure system. Each of the various Securities Act registration forms establishes the type and amount of disclosure required by registrants able to use the form. The Exchange Act forms establish the type and amount of disclosure required to be provided in the Exchange Act reports which registrants must file.

A. Securities Act Registration Forms

1. *Forms S–1, S–2 and S–3.*

a. *Operation of the three-tier registration system.*—New Forms S–1, S–2 [13] and S–3 provide the basic framework for the registration of securities under the Securities Act. These Forms establish three categories for registration statements. The same information will be required to be part of Securities Act registration statements in all categories, either presented in, or delivered with, the prospectus or incorporated by reference from another document. Differences among the three Forms reflect the Commission's determination as to (1) when this required information must be presented in full in the prospectus delivered to investors, (2) when certain of the delivered information may be presented on a streamlined basis and supplemented by documents incorporated by reference, and (3) when certain information may be incorporated by reference from documents in the Exchange Act continuous reporting system without delivery to investors.

Generally, it is the registrant-oriented portion of the information relating to a public offering, as opposed to the transaction-specific information, which sometimes may be satisfied otherwise than through full prospectus presentation. Much of this registrant-oriented information is the same as that which is required to be presented in annual reports to the Commission on Form 10–K and in annual reports to security holders, as well as in quarterly and current reports on Forms 10–Q (17 CFR 249.308a) and 8–K (17 CFR 249.308), respectively. Information about the offering, however, will not have been reported on in any other disclosure document or other wise have been publicly disseminated and thus will be required to be presented in the prospectus in all cases.

The registration statement for the first category is Form S–1. It requires complete disclosure to be set forth in the prospectus and permits no incorporation by reference. Form S–1 is to be used by registrants in the Exchange Act reporting system for less than three years and also may be used by any registrants who choose to do so or for whom no other form is available.

The second category of registration statement is Form S–2, which combines reliance on incorporating Exchange Act reports by reference with delivery to investors of streamlined information. Registrants in the Exchange Act reporting system for three years may use this Form, which allows them to choose to either: (1) Deliver a copy of their annual report to security holders along with the prospectus describing the offering or (2) present registrant-oriented information comparable to that of the annual report in the prospectus along with the description of the offering. In either case, the more complete information in the Form 10–K is incorporated by reference into the prospectus.

Form S–3, in reliance on the efficient market theory, allows maximum use of incorporation by reference of Exchange Act reports and requires the least disclosure to be presented in the prospectus and delivered to investors. Generally, the Form S–3 prospectus will present the same transaction-specific information as will be presented in a Form S–1 or S–2 prospectus. Information concerning the registrant will be incorporated by reference from Exchange Act reports. The prospectus will not be required to present any information concerning the registrant unless there has been a material change in the registrant's affairs which has not been reported in an Exchange Act filing or the Exchange Act reports incorporated by reference do not reflect certain restated financial statements or other financial information.

Most public commentators supported the proposed three-tier Securities Act registration framework in general and agreed that criteria determining prospectus disclosure and delivery requirements based on reporting history and following in the marketplace are more appropriate than criteria related to the quality of the registrant. Accordingly, the Commission has determined to adopt Forms S–1, S–2 and S–3 substantially as proposed.

b. *Revisions in Forms as Adopted.*—(1) *Form S–1.* Form S–1 is adopted essentially unchanged from proposed Form S–1. Complete information about both the transaction and the registrant is required to be presented in the prospectus. Reference is made to Regulation S–K and, with respect to financial statements, to Regulation S–X (17 CFR Part 210) for specific content provisions. Commentators generally applauded the proposed Form S–1's simplification, the use of references to the uniform disclosure provisions of Regulation S–K, and the elimination of unnecessary or outmoded disclosure provisions that previously had been required.

The few minor changes from the proposal are as follows. First, General Instruction III relating to the omission of or the filing of substituted financial statements in certain cases has been deleted because it unnecessarily repeats the provisions of Rule 3–13 of Regulation S–X.[14] Second, an instruction has been added to the Instructions as to Summary Prospectuses to clarify the requirements relating to such prospectuses where securities being registered are to be offered pursuant to an exchange offer. Third, revisions were made to correspond to changes made in items of Regulation S–K (specifically, the change of proposed Item 510, Indemnification of Directors and Officers, into Item 510, Disclosure of Commission Position on Indemnification for Securities Act Liabilities, and Item 702, Indemnification of Directors and Officers, with the new Item 510 placed in Part I of the registration statement).[15] Finally, several changes were made in the numbering and terminology of certain provisions of Forms S–1 for purposes of clarification and consistency.

(2) *Form S–2.* Form S–2 as adopted reflects no major changes from the Form as proposed. The proposal received general support and few specific comments or objections. While a few commentators were concerned about the Form's optional use of the annual report to security holders and believed it should be expanded to include the optional use of Form 10–K, the Commission has made no change in the formulation of the multiple document delivery aspect of Form S–2. The Commission continues to believe that, by providing an opportunity to make use of the highly readable annual report to security holders, an existing disclosure document, the Form not only affords an opportunity to affect savings in the cost of registration but also promotes the goal of concise, effective communication in the Securities Act context.

A few commentators suggested changing the Form S–2 formulation regarding Exchange Act documents incorporated by reference to allow subsequently filed reports to be incorporated into Form S–2 as is permitted on Form S–3. The Commission has determined not to make this change because it does not believe that companies using Form S–2 are sufficiently widely followed to insure sufficient dissemination of information in Exchange Act reports in the context of an offering of securities under the Securities Act.

A number of changes, of a generally clarifying nature, have been made in response to commentators' suggestions. In the order in which these changes appear in the Form, they are as follows:

First, General Instruction I.G. has been expanded to clarify that Form S–2 may be used by subsidiaries who do not themselves meet the tests for use of the Form but whose parents meet the Form S–2 eligibility requirements and guarantee the securities offered.

Second, Item 11 (Information with Respect to the Registrant) has been changed in several respects. [16] An instruction has been added to Item 11 to codify the discussion in the S–1–2–3 Release which indicated that where the multiple document delivery option is chosen, each document must be delivered with the preliminary prospectus but need not be redelivered with the final prospectus if the recipient already has been given the document along with the preliminary prospectus. Item 11 also is changed to correct an oversight in proposed Form S–2 by adding to Item 11(b)(2), which sets forth the prospectus disclosure requirements if the annual report option is not chosen, a requirement for interim financial information and a requirement relating to restated financial statements. The provision requiring restated financial statements where there have been business combinations accounted for by the pooling of interest method subsequent to the most recent fiscal year end has been limited so that the item as adopted requires the restated financial statements only when the acquired businesses meet the test of a significant subsidiary. [17]

Several commentators mentioned the possible conflict between Item 11 of proposed Forms S–2 and S–3, which requires restated financial statements when poolings have occurred subsequent to year end, and Paragraph 61 of APB Opinion No. 16, which does not permit the issuance of restated financial statements of combined entities until after the financial statements of the combining entity have been issued. In such circumstances, the staff has permitted inclusion in the filing of the separate financial statements of the combining entities and supplemental pro forma information of the combined entity. This matter will be considered for inclusion in the Commission's final pro forma rules.

Third, Item 12 (Incorporation of Certain Information by Reference) is changed (1) to clarify in paragraph one that only specific portions of the annual and quarterly reports to security holders

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[6] *See e.g.*, Cohen, "Truth in Securities Revisited," 79 Harv. L. Rev. 1340 (1966).

[7] For a comprehensive discussion of the integration program, including its legislative and administrative background, *see* Release No. 33–6235 (September 2, 1980) [45 FR 63693] (the "ABC Release").

[8] *See* the ABC Release; Release No. 33–6231 (September 2, 1980) [45 FR 63630] adopting major revisions to Form 10–K (17 CFR 249.310) and the annual report to security holders pursuant to Rule 14a–3 (CFR 240.14a–3); and Release No. 33–6331 (August 6, 1981) [46 FR 41902] proposing three new forms which would represent a comprehensive revision of the system for registration under the Securities Act (the "S–1–2–3 Release") for expanded discussions of the development of the minimum information package.

[9] The dissemination requirements have been developed, in part, on the premise that information regularly furnished to the marketplace through formal Exchange Act periodic reports and informal corporate communications may be reflected in the price of the outstanding securities and thus need not always be reiterated in a prospectus in the context of a distribution. For a comprehensive discussion of this premise, *see* the S–1–2–3 Release and the ABC Release.

[10] *See* the S–1–2–3 Release, 46 FR at 41903, for a summary of the actions taken in the 10–K Release, the proposals in Release No. 33–6276 (December 23, 1980) [46 FR 76] (the "Guides Release") and the other rulemaking projects designed to implement the integrated disclosure system.

[11] *See* the S–1–2–3 Release; the S–K Release; Release No. 33–6333 (August 6, 1981) [46 FR 41971] (the "Regulation C Release"); Release No. 33–6334 (August 6, 1981) [46 FR 42001] (the "Shelf Release"); Release No. 33–6335 (August 6, 1981) [46 FR 42015] (the "Liability Release"); Release No. 33–6336 (August 6, 1981) [46 FR 42024] (the "Security Ratings Release"); Release No. 33–6337 (August 6, 1981) [46 FR 42029] (the "Securities Act Coordinating Release"); and the Exchange Act Coordinating Release.

[12] Pursuant to the Commission's request for comment on the eight releases set forth above, 146 commentators submitted 203 letters addressing one or more of those releases. The letters are available for public inspection and copying at the Commission's Public Reference Room. (*See* File Nos. S7–893 through S7–900). The Commission has placed in the files a copy of highlights of the public comments prepared by the Division of Corporation Finance.

[13] New Form S–1 represents a substantial revision of existing Form S–1. Existing Form S–2 (for shares of certain corporations in the development stage) will no longer exist; it is being replaced by new Form S–2, which bears no relationship to existing Form S–2.

[14] For the same reason, General Instruction C, Filing of Other Financial Statements in Certain Cases, has been deleted from Form S–2.

[15] Similar changes were made in Forms S–2, S–3 and the other Securities Act Forms amended herein to coordinate with this change in Regulation S–K.

[16] Commentators also pointed out that the requirement in Item 11 of proposed Forms S–2 and S–3 to furnish restated financial statements when poolings have occurred subsequent to year end was duplicative of Rule 3–05 of Regulation S–X. In the recent release proposing revisions to the pro forma financial information rules, the current Rule 3–05 requirements for such restated information are proposed to be included in a revised Article 11 of Regulation S–X. *See* Release No. 33–6260 (September 24, 1981) [46 FR 48304]. Accordingly, no changes have been made to this provision in the final Form S–2 and S–3 requirements. The financial information requirements of Forms S–2 and S–3 relating to restated financial statements, Rule 3–07 and 3–08 transactions and material dispositions of assets outside the normal course of business will be reviewed and any necessary changes made when final action is taken on the pro forma proposals.

[17] The term "significant subsidiary" is defined identically in Rule 1–02 of Regulation S–X (adopted in Release No. 33–6338,) November 6, 1981) [46 FR 56171]) and in Rule 405 of Regulation C as adopted herein.

must be incorporated by reference, if applicable, and (2) to add an instruction directing registrants' attention to Rule 439 of Regulation C regarding consents to use of material incorporated by reference. [18]

Finally, the signature provision of Form S–2 has been changed to add a reasonable belief standard to the requirement that the registrant certify that it meets the requirements for filing on Form S–2. [19] The proposed signature provision would have required those signing the registration statement on behalf of the registrant to certify that the registrant meets the requirements for filing on Form S–2. The Commission believes that requiring the registrant to certify that it has reasonable grounds to believe that it meets the tests for use of the Form will insure that sufficient attention is devoted to those tests without at the same time imposing an unnecessary burden or giving rise to the liability concerns to which several commentors expressed objection.

(2) *Form S–3.* The greatest commentator response was directed to Form S–3, particularly to the criteria for use of the Form. Commentators generally agreed that Form S–3's dual eligibility requirements, *i.e.*, registrant requirements and transaction requirements, adequately meet the objective of relating short-form registration to the existence of widespread following in the marketplace. Moreover, commentators directed substantial attention to the specific transaction requirements for primary offerings and generally believed that (a) a test based on the registrant's float, *i.e.*, the aggregate market value of outstanding voting stock held by non-affiliates, is an appropriate measure of marketplace following and (b) a float of $150 million is the appropriate level at which short-form registration should be allowed. In addition, a number of commentators supported the alternative transaction requirement on which the Commission specifically requested comment, which would allow use of the Form by registrants with a smaller float who have a minimum volume of shares traded on an annual basis. Accordingly, the Commission has determined to adopt the $150 million float transaction requirement for the use of Form S–3 by certain registrants and to add an alternative test of $100 million float and 3 million share annual trading volume.

The use of Form S–3 to register primary offerings of certain high grade non-convertible debt securities received overwhelming commentator support. Commentators agreed that short-form prospectuses are appropriate for issues of investment grade debt regardless of the registrant's float, because such securities are generally purchased on the basis of interest rates and security ratings. In addition, commentators supported expansion of the test to include high grade non-convertible preferred stock regardless of the registrant's float. The Commission is adopting this transaction requirement, with an expansion to include preferred stock offerings, and is retaining the use of security ratings to define what constitutes an investment grade security. The definition of investment grade for purposes of the use of Form S–3 also is clarified to indicate that a rating in one of the generic rating categories which signify investment grade is required and that typically it is the four highest rating categories (within which there may be gradations, such as pluses or minuses, to indicate relative standing) which signify investment grade.

With respect to transactions involving secondary offerings (*i.e.*, offerings of outstanding securities to be offered for the account of any person other than the registrant), Form S–3 was proposed to be available for offerings of securities of registrants who meet the registrant requirements and the $150 million float transaction requirement. [20] Most of the commentators who responded to the Commission's specific inquiry as to this change from the provisions of Form S–16 (17 CFR 239.27), which did not impose any float test upon secondary offerings, [21] objected to this aspect of the proposal. These commentators asserted that the Form S–3 test would impact adversely venture capital companies and their investors and such other shareholders as directors and other affiliates of companies acquired in transactions subject to Rule 145 (17 CFR 230.145). They cited the similarities between these shareholders and other holders who purchase their shares in secondary market transactions and the absence of any evidence of abuse related to the more expanded availability of Form S–16 for secondary offerings. [22]

As a result of the comments received, the Commission further analyzed the secondary offering transactions registered on Form S–16 and concluded that most secondary offerings are more in the nature of ordinary market transactions than primary offerings by the registrant, and, thus, that Exchange Act reports may be relied upon to provide the marketplace the information needed respecting the registrant. Accordingly, if the registrant meets the Exchange Act reporting and other registrant requirements, Form S–3 will be available for registering secondary offerings of securities listed on an exchange or quoted on the automatic quotation system of a national securities association. [23]

In addition to the changes discussed above, Form S–3 has been revised in several further respects, largely in response to public comments. First, the provisions relating to the use of Form S–3 by subsidiaries have been placed in a new General Instruction C which is intended to clarify that the Form may be used if: (a) The subsidiary itself meets the various eligibility requirements; (b) the parent meets the eligibility requirements and guarantees the securities offered; or (c) the parent meets the registrant requirements (Exchange Act reporting history, *etc.*) and the securities offered are investment grade debt or preferred stock. The Commission believes that this revision responds to those commentators whose concerns suggested a lack of clarity in the provision as proposed. In addition, the expansion of the investment grade securities test to include preferred stock responds to the concerns of those commentators who advocated relaxing the requirement for parent guarantees or otherwise expanding the use of Form S–3 by subsidiaries. The Commission does not believe any further expansion for subsidiaries is necessary or appropriate for short form registration.

Second, a new General Instruction D has been added to allow foreign private issuers who meet certain registrant criteria to use Form S–3 to register securities to be offered upon the exercise of certain outstanding rights. Such rights offerings previously have been allowed to be registered on Form S–16. The new instruction is intended to maintain the status quo for rights offerings by foreign private issuers until such time as the Commission takes final action with respect to the outstanding proposals for an integrated disclosure system for foreign private issuers. [24]

Third, Item 9 (Description of Securities to be Registered) and Item 12 (Incorporation of Certain Information by Reference) have been revised to allow the description of securities to be incorporated by reference from Exchange Act reports, rather than presented in the prospectus, where capital stock is being registered and securities of the same class are registered pursuant to Section 12 of the Exchange Act.

Fourth, Item 11 (Material Changes) has been revised in several respects in light of substantial comment. Paragraph (b) has been revised to provide that the restated financial statements and other financial information specified therein may be incorporated by reference in lieu of prospectus presentation not only from those Exchange Act reports which Item 12(a) requires to be incorporated by reference (Form 10–K and all other reports filed pursuant to section 13(a) or 15(d) of the Exchange Act), but also from other documents filed with the Commission (proxy statements pursuant to section 14(a) of the Exchange Act or Rule 424(c) prospectuses under the Securities Act) which may contain the specified information. The provisions specifying the necessary additional financial information have been clarified and a materiality standard relating to the test for a significant subsidiary has been added to the requirement for restated financial statements for acquisitions accounted for by the pooling of interests method. While some commentators believed the additional financial information required by Item 11(b) is inappropriate in a short form prospectus, it should be noted that such financial statements and information would need to be presented in the prospectus only if not disclosed in reports on Forms 10–K, 8 (17 CFR Part 249. 460), 8–K or 10–Q, in proxy statements or in previous Securities Act prospectuses which are incorporated by reference into the registration statement. [25]

The final change to Item 11 is the deletion of proposed paragraph (b)(2), which would have required a brief prospectus description of the transaction, accounting change, correction or disposition with respect to which financial information is incorporated by reference. The Commission agrees with the commentators, who opposed this mandatory description provision, that prospectus descriptions of the information incorporated by reference should be addressed more flexibly, relying on registrant discretion and on the facts of individual cases.

The Commission has determined to adopt Form S–3 as proposed with respect to a number of matters on which public comment was received. First, commentators widely applauded the proposal to provide that registration statements relating solely to dividend or interest reinvestment plans become effective automatically on the twentieth day after filing.

Commentators also supported the decision reflected in the S–1–2–3 Release to maximize the flexibility provided in Form S–3 by not mandating a specific minimum time period between filing and effectiveness of a registration statement on Form S–3. The Commission believes that it can deal effectively with this issue through its administrative discretion to grant requests for acceleration, and, therefore, that it is not necessary to impair Form S–3's flexibility by imposing a specified minimum time period requirement before Form S–3 registration statements may become effective.

While a number of commentators advocated making Forms S–3 and S–2 available for registering securities issued in an exchange offer for securities of another person, the Commission has determined not to make these Forms available for exchange offer registration at this time. For the reasons more fully described in the S–1–2–3 Release, the Commission believes it is more appropriate to address the appropriate form and content for exchange offer registration statements as part of the separate business combination project which the staff will be considering this year.

2. *Rescission of Forms S–7 and S–16 and Replacement of Existing Form S–2.* As a consequence of the adoption of new Forms S–2 and S–3, the Commission is rescinding Forms S–7 (17 CFR 239.28) and S–16 (17 CFR 239.27) and replacing existing Form S–2.

3. *Rescission of Obsolete Forms.* In an effort to streamline further the Securities Act registration system, the Commission proposed to rescind the following infrequently used or obsolete forms: Form C–2 (17 CFR 239.4) (for Certain Types of Certificates of Interest in Securities); Form D–1 (17 CFR 239.6) (for Certificates of Deposit); Form D–1A (17 CFR 239.7) (for Certificates of Deposit Issued by Issuers of Securities Called for Deposit); Form S–10 (17 CFR 239.17) (for Oil or Gas Interests or Rights); and Form S–13 (17 CFR 239.25) (for Registration under the Securities Act of 1933 of Voting Trust Certificates). [26] Commentators generally supported rescission of these Forms, but urged that the Commission state what forms registrants should employ instead of those rescinded. The Commission is rescinding the Forms as proposed and believes that any questions with respect to the appropriate form to be used can be answered by the staff on a case by case basis.

4. *Amendments to Other Securities Act Forms.* In addition to adopting the basic Securities Act registration framework consisting of Forms S–1, S–2 and S–3, the Commission reviewed the other major Securities Act registration forms and proposed a number of changes in certain forms. [27] These proposed changes were intended to be consistent with the new registration framework and to clarify, streamline and integrate disclosure requirements by (1) substituting, where possible, the uniform disclosure items of Regulation S–K for existing disclosure items; (2) eliminating unnecessary and burdensome disclosure items; and (3) standardizing certain other aspects of the forms, such as instructions and signature clauses. Public comment on the proposed changes was predominantly favorable. Therefore, the Commission is adopting most of the coordinating and technical amendments to the Securities Act forms as proposed. However, in certain instances discussed below, the Commission has made some changes in response to public comments or where otherwise deemed appropriate.

[18] A reference to Rule 439 also is added to Item 12 of Form S–3.

[19] The signature provision of Form S–3 and the other Securities Act forms amended herein are similarly changed.

[20] For secondary offerings of securities acquired pursuant to an offering registered on Form S–8 (17 CFR 239.16b), only the registrant requirements or certain volume limitations specified in Form S–8 must be met.

[21] Form S–16, which is replaced by Form S–3, is being rescinded as part of the rulemaking actions affected in this release.

[22] Form S–16 has permitted use of short form registration statements for secondary offerings since its adoption in 1970. *See* Release No. 33–5117 (December 23, 1970) [36 FR 777].

[23] Because this determination reflects only a difference as to actual delivery (the Exchange Act reports would be incorporated by reference into the registration statement), the selling security holder retains statutory responsibility for the accuracy of the entire registration statement.

[24] Release No. 33–6360 (November 20, 1981) [46 FR 58511].

[25] A number of commentators expressed concern that outdated financial statements from the latest Form 10–K would be incorporated by reference when restated financial statements are included in the prospectus or are incorporated by reference because of an accounting change or pooling subsequent to the most recent fiscal year end. Additionally, concern was expressed that the staff may require an accountant's consent for such outdated financial statements. Rule 412 of Regulation C would operate to make the restated financial statements supersede the Form 10–K financial statements and would render the superseded items not a part of the registration statement or prospectus for purposes of the Securities Act. Therefore, no consent would be required for the superseded financial statements.

[26] Securities Act Coordinating Release.

[27] Securities Act Forms proposed to be amended in the Securities Act Coordinating Release included Forms S–8, S–11 (17 CFR 239.18), S–14 (17 CFR 239.23) and S–15 (17 CFR 239.39).

There are two minor changes that affect all of the Forms proposed to be amended. The signature requirement for all of the Forms has been changed in the same respect as has that of Forms S–2 and S–3 so that registrants need only certify that they have reasonable grounds to believe that they meet all of the requirements for filing a particular form. In addition, a change in the format of amended Regulation S–K will be reflected in all of the Forms so that they now will include, in the prospectus, an item calling for disclosure of the Commission position on indemnification for Securities Act liabilities [28] and, in Part II of the registration statement, an item requiring certain information regarding the indemnification of directors and officers. This change necessitated renumbering of certain items in all of the Forms. Finally, where necessary, coordinating changes have been made in all of the Forms to reflect changes in numeration or other technical changes that have been made in Regulation C and other parts of the integrated disclosure system.

Other respects in which the amendments to the Forms differ from the proposals are as follows:

a. *Form S–8.*—The number of additional copies required by Rules 402 and 472 of Regulation C as specified in Instruction D has been raised from two to three to meet the Commission's data processing requirements. In addition, several commentators requested that Form S–8 be made available for resales by affiliates. The Commission continues to believe that it would be inappropriate to allow the use of Form S–8 for resales by affiliates.[29] Moreover, Form S–3 is available for resales of securities acquired pursuant to Form S–8 by affiliates of the issuer pursuant to registration under Rule 415, provided that the registrant satisfies the Registrant Requirements for use of Form S–3, which are the same as the eligibility requirements for the use of Form S–2.

b. *Form S–11.*—With the exception of the general changes discussed above, the revisions to Form S–11 are adopted substantially as proposed.

c. *Form S–14.*—General Instruction D regarding the cross-reference sheet has been relocated as an Instruction to Item 1 of the Form. The Commission has eliminated proposed Item 5 regarding dilution because it does not wish to alter existing practice with respect to disclosure in merger transactions pending consideration of the separate business combination project. Form items are renumbered accordingly. Paragraph (a) of Item 6 (Additional Information Required for Reoffering by Persons and Parties Deemed to be Underwriters) is replaced by a reference to Item 507 of Regulation S–K (Selling Security Holders), which calls for substantially the same information.

d. *Form S–15.*—Similar to the treatment given parallel Item 6(a) of Form S–14, paragraph (a) of Item 10, which calls for information on selling security holders, is replaced by a reference to Item 507 of Regulation S–K (Selling Security Holders).

B. *Exchange Act Reporting and Registration Forms.* In the Exchange Act Coordinating Release, the Commission proposed to revise the remaining [30] major component in the periodic reporting system, Form 8–K, for current reporting pursuant to Section 13 or 15(d) of the Exchange Act, and to revise Forms 10, 8–A and 8–B (17 CFR 249.210, 249.208a and 249.208b), for the registration of securities pursuant to Section 12(b) or (g) of the Exchange Act, in order to clarify, streamline and otherwise improve their disclosure requirements. In the same release, the Commission proposed several clarifying amendments to Form 10–K, as well as two amendments to elicit certain fourth quarter information in order to produce a continuous flow of corporate information. In addition, the Commission proposed to amend the instructions to Forms 10–K and 10–Q to clarify the conditions pursuant to which informal annual or quarterly reports to shareholders may be combined with the required Form 10–K or 10–Q information. Finally, several Exchange Act reports and registration forms, Forms 12 (17 CFR 249. 212), 14 (17 CFR 249.214), 16 (17 CFR 249.216), 14–K (17 CFR 249.314), 16–K (17 CFR 249.316) and 4–MD (17 CFR 249.404), were proposed to be rescinded. Through these proposals, which are explained in more detail in the Exchange Act Coordinating Release, the Commission intended substantially to complete its program to ensure the proper functioning of Exchange Act reports and registration statements in the integrated disclosure system.

The comments of the few commentators who specifically commented on the proposed revisions to Exchange Act reports and registration statements were generally favorable. Accordingly, the Commission is adopting the proposed amendments, with several minor changes discussed below made in response to commentators' suggestions or where otherwise deemed appropriate.

1. *Rescission of Obsolete Forms.* The Commission is rescinding, as proposed, three registration forms, Form 12 (for Issuers Filing Reports With Other Federal Agencies), Form 14 (for Certificates of deposit Issued by a Committee) and Form 16 (for Voting Trust Certificates), and three annual report forms, Forms 14–K and 4–MD (Annual Reports for Certificates of Deposit Issued by a Committee) and Form 16–K (Annual Report for Voting Trust Certificates). The proposal met with no opposition, although one commentator requested that the Commission clarify what form a registrant should use instead of any of the rescinded Forms. As in the case of the rescinded Securities Act Forms, any questions with respect to the appropriate form to be used can be answered by the staff on a case by case basis.

2. *Forms 10, 8–A and 8–B.* The Commission is adopting amendments to revise Exchange Act registration Forms 10, 8–A and 8–B as proposed with one minor renumbering change. [31]

3. *Form 8–K.* Form 8–K plays a critical role in the periodic reporting system, which is intended to provide investors with a continuous stream of corporate information. Reports on Form 8–K are used to provide material information concerning certain specified events that may have occurred since the latest annual report on Form 10–K or quarterly report on Form 10–Q was filed. In addition, registrants may, and in fact are encouraged to, file voluntary reports on Form 8–K pursuant to Item 5 describing any other events that may be of interest to investors.

Commentators were very supportive of most of the proposed amendments to Form 8–K, which included, among other things, new instructions relating to incorporation by reference of press releases and filing of required financial statements for an acquired business up to 60 days after the Form 8–K is filed.[32]

[28] This item would require prospectus disclosure only in the unusual cases where, because no request for acceleration of effective date is made, the undertaking required by Item 512(i) is not required to be included in the registration statement.

[29] *See* Release No. 33–5787 (November 22, 1976) [41 FR 52862] where the Commission amended Form S–8 to prohibit the use of the Form for reoffers or resales because Form S–8 prospectuses do not provide adequate notice of or information with respect to the registered reoffer.

[30] Forms 10–K and 10–Q were revised in earlier phases of the integration program. *See* the 10–K Release and Release No. 33–6286 (February 9, 1981) [46 FR 12460].

[31] Due to the renumbering of Regulation S–K Item 510(a) as Item 702, Item 11 of Form 10 (Indemnification of Directors and Officers), which as proposed referred to Item 510(a), is changed to refer to Item 702.

[32] The Commission recently solicited comment (Release No. 33–6350) on whether Form 8–K should

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The only proposal that received substantial comment was that replacing the requirement to file a report pursuant to Item 5 of Form 8–K (Other Materially Important Events) within 10 days after the event with a statement encouraging registrants to file "promptly" after the event. While several commentators applauded the increased flexibility that would be afforded to registrants under the new provision, other commentators were concerned that the change would create an unnecessary ambiguity as to the time for filing voluntary reports on Form 8–K. Since reports pursuant to Item 5 are voluntary, the Commission believes it is inconsistent to establish a specific time by which such reports must be filed. Accordingly, the Commission is adopting the Item 5 timing requirement as proposed.

The Commission also is making an additional change in Item 5 suggested by a commentator. Item 5 is being amended to make clear that registrants may file voluntary reports not only to report material events, but also to inform their security holders of other matters that may be of interest. The amendment is intended to encourage further voluntary reports on Form 8–K and to remove any reluctance that registrants may have to file voluntary reports pursuant to Item 5 on the basis that they will be deemed to have admitted the materiality of the event reported.[33]

4. *Form 10–K.* The Commission is adopting several amendments to Form 10–K to eliminate ambiguities and close disclosure gaps that came to light after the Commission's revision of that Form in December 1980. First, the Commission is requiring that a registrant include information relating to the fourth quarter of its fiscal year concerning terminated legal proceedings and matters submitted to a vote of security holders. In connection with these amendments, the Commission also is amending Instruction J of Form 10–K, as suggested by one commentator, to permit certain wholly-owned subsidiaries to omit fourth quarter information relating to matters submitted to a vote of security holders. These changes are intended to make the disclosure requirements relating to a registrant's fourth quarter consistent with those in Form 10–Q relating to the registrant's other fiscal quarters.[34]

Second, the Commission is adopting the proposed note to the cover page intended to clarify the staff's position with respect to calculating the aggregate market value of voting stock held by non-affiliates, but it is revising the proposal, as suggested by a commentator, to incorporate the "unreasonable effort and expense" standard of Exchange Act Rule 12b–21. Finally, the Commission is eliminating the last sentence of General Instruction C(1) as unnecessary in view of the Instruction's reference to Rule 12b–13.

III. Disclosure Provisions

A. *Operation and Philosophy of Regulation S–K.* Since its initial adoption,[35] Regulation S–K has evolved beyond a source of certain standardized registrant-related disclosure provisions to become a more complete compendium of disclosure requirements applicable to Securities Act and Exchange Act filings.[36] This evolution was noted in the S–K Release and endorsed by the commentators. The adopted revisions represent a major step in the consolidation of disclosure requirements into Regulation S–K. The Commission intends to continue this consolidation of disclosure requirements in Regulation S–K.[37]

In general, Regulation S–K is not self-executing: inclusion of the information specified in the Regulation is required only to the extent a form or schedule governing a document specifically directs inclusion of the information prescribed by an Item of Regulation S–K. There are two exceptions to this general rule in the Regulation as adopted today. The Commission policies outlined in the General section of the Regulation with respect to projections and security ratings are applicable to all disclosure documents, without direct reference in the schedule or form to the specific provision of the Regulation setting forth such policies and whether or not the schedule or form incorporates any Item of Regulation S–K. Likewise, the Industry Guides listed in the last section of the Regulation are applicable to the disclosure documents indicated in the list, whether or not the applicable form or schedule refers to Regulation S–K or to the Industry Guide.[38]

B. *Synopsis of Revisions.* The proposed reorganization of Regulation S–K into nine major sections met with the general approval of the commentators. However, to simplify CFR references, the numbering of the Items has been revised to permit direct citation to specific Items of the Regulation, rather than to the nine sections of the Regulation. The only changes to the proposed reorganization are an incorporation of the requirements regarding disclosure of the ratios of earnings to fixed changes in the Registration Statement and Prospectus Provisions section of the Regulation and the relocation of paragraph (a) of proposed Item 510 specifying the required description of indemnification provisions into the Miscellaneous section of the Regulation. The move of the ratio disclosure requirements from the Financial Information section reflects the fact that such information is required only in Securities Act filings and the move of the indemnification provisions is based on the fact that such disclosure is required in Form 10 registration statements under the Exchange Act, as well as in Securities Act filings.

There follows a brief discussion of the more substantive changes made to the Items as proposed in the S–K Release.

1. *General.* The only change to the General section of the Regulation is the inclusion in paragraph (c) of the Commission's Policy on Security Ratings.

2. *Item 101—Description of Business.* Since, as noted in the S–K Release, Items 101, 102, 103, 401, 402 and 403 of Regulation S–K will be the subject of future "sunset" review, no major reconsideration of these Items was undertaken.[39] Commentators'

be revised to require pro forma financial information for consummated transactions, as was suggested by one commentator in response to the Exchange Act Coordinating Release. The Commission will consider the issue as part of its final action with respect to the pro forma proposals.

[33] In addition, the amendment to Item 5 is intended to clarify that reports on Form 8–K may be used as vehicles to file information or exhibits with the Commission which otherwise would require disclosure in a Form S–3 or would necessitate a post-effective amendment thereto.

[34] Disclosure of matters submitted to a vote of security holders by certain wholly-owned subsidiaries is not required by Form 10–Q.

[35] *See* Release No. 33–5893 (December 23, 1977) [42 FR 65554].

[36] The disclosure requirements being added to Regulation S–K were taken from Guides of general applicability (*See* the Guides Release and the S–K Release), from Regulation C provisions containing disclosure requirements (*See* the Regulation C Release), and from various rules and forms. The Commission has endeavored, to the extent practicable, to make the disclosure requirements of the various Securities Act and Exchange Act rules and forms consonant by substituting the uniform disclosure items of Regulation S–K for existing disclosure items. This substitution of Regulation S–K items has occurred in almost every form to some extent and is discussed in greater detail in the Securities Act Coordinating Release and the Exchange Act Coordinating Release, as well as in relation to amendments to particular forms discussed above. In addition, where forms contained a preexisting reference to an Item of Regulation S–K, the references have been revised to reflect the reorganized structure of Regulation S–K, as now adopted.

[37] The next step will be to expand Regulation S–K to include a list of currently applicable interpretive releases relating to disclosure in Commission filings to which Regulation S–K is applicable.

[38] See the 1982 Industry Guides Release.

[39] It should be noted that Items 401, 402 and 403 vary from those included in the S–K Release to the

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suggestions with respect to the Items will be considered in connection with such future rulemaking projects. Several changes have been made in Item 101, however, principally for clarification purposes.

Reference to required updating has been revised throughout the Regulation, including paragraphs (b)(2) and (d)(3) of Item 101, to make clear that such requirements apply where interim financial statements are included voluntarily, as well as where they are required by Regulation S–K to be included in the document.

Paragraph (c)(vii) has been revised to require the name of certain customers of the registrant and its subsidiaries only where the loss of such customer would have a material adverse effect on the registrant and its subsidiaries taken as a whole.

Paragraph (d) reflects two changes which make it parallel the provisions of paragraph (b) of Item 101. Subparagraph (1) refers to operating profit and loss of the registrant's geographic area, rather than profitability and permits cross-reference to the financial statements where the required information is included therein. Neither of these revisions is intended to effect a substantive change.

3. *Item 102—Description of Property.* Item 102 has been amended to delete the requirements of paragraph (b) with respect to oil and gas operations. The Commission's proposal to move the provisions of paragraph (b) into an Industry Guide was overwhelmingly endorsed by the commentators and such relocation has been effected.[40] The provisions of paragraph (b) have been reformulated, without substantive change from those proposed in the S–K Release, as new Industry Guide 2 (Disclosure of Oil and Gas Operations).

While the Commission requested comment with respect to possible revision of Item 102 to permit disclosure of any kind of reserves with appropriate discussion, it has determined to postpone any consideration of such a change until the Financial Accounting Standards Board (the "FASB") completes its review of disclosures concerning oil and gas producing activities.[41]

Instruction 5 to Item 102 was proposed to be revised to permit disclosure of less than proved or probable reserves in certain cases where the staff of the Commission could be shown that such disclosure was required by foreign law or was necessary to prevent the disclosure from being misleading. The conditions proposed as the basis for inclusion of such information were the subject of commentator criticism. As a result, Instruction 5 has been revised to permit disclosure of less than proved oil and gas reserves, or proved or probable reserves in other cases, where such information is required by foreign or state law to be disclosed in the document. The Instruction now also permits such reserve data to be disclosed where it has been provided previously to a person (or any of its affiliates) that is engaged in an acquisition of the registrant or its equity securities.

4. *Items 103—Legal Proceedings.* Instruction 5 of proposed Item 103 reflects the adoption of amendments to the instruction relating to environmental disclosure which the Commission proposed in May 1981.[42] The proposed amendments were designed to establish thresholds for disclosure of environmental proceedings involving governmental authorities and would have required that registrants list, or make available upon request, the names and addresses of those governmental authorities from which to obtain compliance-related reports associated with disclosable environmental proceedings.

Most commentators who addressed the general effect of the proposals believed that adoption of materiallity thresholds similar to those proposed would alleviate many of the problems experienced with the existing requirements. Clause (a) of Instruction 5, which requires disclosure of all environmental proceedings, including governmental proceedings, that are material to the business or financial condition of the registrant, was overwhelmingly endorsed by the commentators and is adopted without change.

Clause (b) of Instruction 5, which requires disclosure of damage actions or governmental proceedings involving potential monetary sanctions, capital expenditures, deferred charges or charges to income in which the amount involved, exclusive of interest and costs, exceeds 10 percent of current assets on a consolidated basis, was supported by the commentators, and it, too, is being adopted as proposed.

Proposed clause (c) would have required disclosure of governmental proceedings involving potential monetary sanctions unless the registrant reasonably beleives that such proceedings will result in fines of less than $100,000. Although a majority of the commentators supported the addition of a dollar amount threshold, many contended that, in view of the difficulty in making meaningful predictions about the outcome of pending proceedings, it would be preferable to base disclosure on the actual damages imposed at the conclusion of the proceeding. The Commission believes, however, that after-the-fact disclosure would be less useful to investors and that the "reasonable belief" standard is appropriate because, as a number of commentators pointed out, it is similar to the standard registrants currently utilize for determining the proper accounting treatment of financial contingencies.[43] The majority of commentators opined that the proposed $100,000 figure would be appropriate if the reasonable belief standard were adopted.

Several commentators believed that a burdensome data collection and evaluation effort would be required in order to determine whether the potential fines likely to be imposed in similar proceedings would meet the $100,000 threshold of clause (c). In response to this concern, the definition of "proceeding" is revised to clarify that aggregation of similar proceedings is not required for purposes of clause (c). It should be noted that since clause (c) concerns proceedings involving potential monetary sanctions, permit proceedings and requests for waivers or variances would not be disclosable pursuant to clause (c).

Several commentators asserted that the increasing number of legislative and regulatory provisions which arguably relate to environmental matters sometimes makes it difficult to determine whether disclosure is

extent that the revisions proposed in Release No. 34–17517 are not reflected and the currently effective provisions of Items 4 and 8 of Regulation S–K which were proposed to be revised have been reinstated. *See* Note 2, *supra.*

[40] *See* the 1982 Industry Guides Release.

[41] The Commission notes that the possible revisions of Item 102 elicited a wide range of responses. Three commentators supported the possible revision. Three commentators believed such disclosure is too speculative and would be generally misleading. Four other commentators suggested that the FASB project may have some bearing on this issue and therefore that the Commission may wish to wait until the FASB completes its project. *See* FASB Invitation to Comment on Disclosures About Oil and Gas Producing Activities (May 13, 1981).

[42] Release No. 33–6315 (May 4, 1981) [46 FR 25638]. 110 comment letters were submitted and are available for public inspection and copying at the Commission's Public Reference Room (File No. S7–894). The Commission has placed in the files a copy of highlights of the public comments prepared by the Division of Corporation Finance.

[43] *See generally,* Financial Accounting Standards Board, *Statement of Financial Accounting Standards No. 5: Accounting For Contingencies* (1975).

required because of the Instruction's reference to proceedings arising from provisions "* * * otherwise relating to the protection of the environment." In order to eliminate any ambiguity in the language, the Commission is substituting the phrase "or primarily for the purpose of protecting the environment." Another change provides that aggregration of proceedings only is required with respect to proceedings involving the same "legal and factual" issues. Accordingly, the Commission is adopting clause (c) as proposed and amending the definition of "proceeding" in the manner described above.[44]

There was extensive adverse reaction to the proposal to delete the current provision allowing similar legal proceedings to be grouped and described generically. Because generic descriptions would be more efficient and may be more intelligible to investors, the option of a generic discussion is being retained in the final form of the Instruction.

Most commentators criticized the proposal to require disclosure of the governmental authorities from whom compliance-related reports can be obtained. In view of these objections and the absence of any expressed desire for such information by a substantial number of investors, the Commission is withdrawing this proposed requirement.

Finally, the Commission solicited comment on the need for, and feasibility of, an additional provision which would require brief aggregate disclosure of the number of, and total amount involved in, governmental proceedings not otherwise subject to disclosure under proposed clause (a), (b) or (c). A large number of commentators argued that such a provision would reimpose most of the administrative burdens the proposed revisions sought to eliminate and that the resulting disclosures would be meaningless and confusing to investors. Consequently, the Commission has determined not to adopt such an additional provision.

5. *Item 201—Market Price of and Dividends on the Registrant's Common Equity and Related Stockholder Matter.* Other than clarifying changes, only two substantive changes have been made to Item 201. The first revises the "over-hang" disclosure required. The Commission has determined that specific disclosure requirements with respect to securities "over-hanging" the market for a registrant's common equity is needed primarily where common equity securities are being registered on a Form S–1 or Form 10 and there is no established public trading market for such securities. In such cases, the likely development of a public trading market and the commencement of public reporting under the Exchange Act gives rise in itself to the possibility of a material market overhang. The deletion of the specific requirements of proposed paragraph (a)(3) with respect to market overhang does not rescind the general disclosure obligation to set forth those facts that the registrant knows which reasonably suggest that the historical market prices reported will be materially adversely affected by securities overhanging the market for the registrant's common equity. Further, the reference in paragraph (a)(2) to common equity "which may be registered under the Securities Act for sale by security holders" has been revised to refer to common equity "that the registrant has agreed to register under the Securities Act for sale by security holders."

Paragraph (c) has been amended to permit cross-reference to descriptions of dividend limitations and discussion thereof in the financial statements and the management's discussion and analysis of financial condition and operating results, thereby eliminating duplicative disclosure of the terms of such restrictions. Where the current or future payment of dividends is, or is reasonably expected by the registrant to be, materially limited, such fact still must be noted in connection with the disclosure of information concerning dividends paid in the last two fiscal years.

Instruction 5 defining common equity has been deleted because a definition of common equity is included in Regulations C and 12B as adopted herein.

6. *Item 202—Description of Registrant's Securities.* In addition to clarifying changes, Item 202 incorporates one major revision. Paragraph (a)(5) with respect to antitakeover provisions has been revised substantially. A number of provisions previously specified in paragraph (a)(5), such as classification of the board of directors, super-majority rules and restrictions on alienability of the stock are addressed in the list in paragraph (a)(1) of disclosable terms of the securities. Paragraph (a)(5) has been redrafted to require a discussion of the effect on control of the registrant of certain charter and by-law provisions where such provisions are effective only in the case of a major corporate transaction, such as a merger, liquidation, sale of substantially all assets or tender offer, and where they would delay, deter or prevent a change in control of the registrant.

7. *Item 301—Selected Financial Data.* Item 301 has been amended to delete all reference to the ratio of earnings to fixed charges. The requirements applicable to disclosure of such ratio are included in Items 503 and 601 of Regulation S–K.

Instruction 2 to the Item also has been revised to delete reference to the qualified auditor's report and to require instead a brief note as to matters affecting the comparability of the five year information, as well as certain contingencies.

8. *Item 302—Supplementary Financial Information.* As the Commission noted in the S–K Release, because the criteria specified in paragraph (a) as to registrants required to include certain historical quarterly financial data appear to have little relevance to those upon which the integrated disclosure system is based, the Commission anticipates undertaking a reconsideration of the requirements in paragraph (a) in the near future.[45]

9. *Item 503—Summary Information, Risk Factors and Ratio of Earnings to Fixed Charges.* Provisions regarding disclosure of the ratio of earnings to fixed charges are being adopted as paragraph (d) of Item 503.[46] The provisions are located in the Registration Statement and Prospectus Provisions section of the Regulation because the ratio only is being required in certain Securities Act filings.

In addition to editorial changes of a clarifying nature, the proposed ratio rules have been changed in the

[44] Several commentators raised questions about the types of matters covered by the term "proceeding," in a previous interpretive release the Commission expressed its views regarding the scope of the definition of "proceeding" and registrants should consult this release for further guidance. Release No. 33–6130 (September 27, 1979) [42 FR 44660].

[45] Item 302(b) has been revised to reflect the issuance of Statement of Financial Accounting Standards No. 54, "Financial Reporting and Changing Prices: Investment Companies."

[46] The requirements governing disclosure of the ratio of earnings to fixed charges were proposed initially in Release No. 33–6285 (February 6, 1981) [46 FR 12758] and reproposed without change in the S–K Release. No amendments to those provisions of Rules 13e–3 (17 CFR 240.13e–3) and 13e–4 (17 CFR 240.13e–4) and Schedules 13E–3 (17 CFR 240.13e–100) and 13E–4 (17 CFR 240.13e–101)relating to the ratio of earnings to fixed charges are being adopted because the Commission believes the transactions subject to those rules present unusual disclosure issues. Until reexamination of the ratio requirements in these rules, registrants are expected to compute the ratios in accordance with the Item 503(d) provisions adopted today.

Accounting Series Release ["ASR"] Nos. 119 and 122 are being rescinded and Topics 3B and 9B of Staff Accounting Bulletin ["SAB"] No. 40 are being withdrawn in a concurrently issued release because they discuss elements of the computation of the ratio which are covered in the new rules. *See* Accounting Series Release No. 307 (March 3, 1982).

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following respects. First, the present practice of requiring the ratio of earnings to fixed charges in debt offerings and the combined ratio in preferred stock offerings is being retained. The Commission agrees with the view of many of the commentators that the combined ratio may not be meaningful to a potential debtholder since the preferred stockholder has a subordinate claim on the registrant's earnings. Of course, registrants may choose to disclose one or both ratios in other filings.

Second, the proposal has been revised to incorporate Topic 9B of Staff Accounting Bulletin No. 40, which requires disclosure of the ratio of a registrant's parent as well as the registrant's ratio when the registrant's parent company is artificially maintaining the registrant's ratio of earnings to fixed charges, for example, in order to meet the minimum borrowing standard stipulated by a state agency. In addition, disclosure of the parent's ratio is required if the registrant's parent is guaranteeing the registrant's debt securities or preferred stock.

Third, the proposed definition of earnings for purposes of computation of the ratio has been changed to exclude earnings from discontinued operations. Commentators believed that comparisons between years and companies would be facilitated by computation of the ratios on the basis of only continuing operations because such earnings are more stable and consistent.

Finally, Item 503(d) permits an earnings adjustment equal to the amortization of current and prior year's capitalized interest. Many commentators agreed that such an adjustment was desirable but noted the problems involved in requiring such an adjustment in all situations.

10. *Item 504—Use of Proceeds.* Instruction 6 has been revised to delete the "reasonably probable" test objected to by the commentators as too vague. Instead, the exception to the disclosure required by Instruction 6 will be available only where Regulation S–X would not require inclusion of financial statements of the company to be acquired and disclosure of the required information would jeopardize the acquisition.

11. *Item 506—Dilution.* The requirement to discuss dilution has been revised to minimize instances where such disclosure would be required of more seasoned companies whose securities are selling on the basis of earnings, and where dilution of book value generally is not material to the investor.

12. *Item 508—Plan of Distribution.* A new paragraph (j) has been added to this item to elicit disclosure regarding any principal underwriter's intentions to sell to their discretionary accounts. As was the case pursuant to previous Item 2 of Form S–1, this disclosure is required only where the registrant was not subject to Exchange Act reporting requirements.

13. *Item 510—Disclosure of Commission Position on Indemnification for Securities Act Liabilities.* As noted above, paragraph (a) of proposed Item 510 is adopted as Item 702 of Regulation S–K. Item 510 as adopted is comprised of paragraph (b) of proposed Item 510 without substantive change.

14. *Item 512—Undertakings.* The undertaking specified in paragraph (a) has been revised by adding an instruction regarding managing underwriters as described below in the discussion of shelf registration.

15. *Item 601—Exhibits.* A number of revisions have been made to Item 601 as proposed in the S–K release. The majority of these changes have been made in response to public comment and seek to clarify the description of the various exhibit items. Other revisions have been made in order to implement certain aspects of the integrated disclosure system.

a. *Revisions to the exhibit table.*[47]— Instruction 2 to the exhibit table has been revised in order to make clear that an exhibit filed with the Commission in connection with a Securities Act registration statement subsequently may be incorporated by reference as an exhibit to an Exchange Act report, even if such exhibit was not previously filed with every exchange on which the registrant's securities have been listed.

Exhibit Item 1 [Underwriting agreements] will be required to be filed with all underwritten offerings on Form S–14, although this requirement had been proposed to be deleted.[48] After reconsideration, the Commission has determined that this exhibit may be relevant in connection with transactions registered on that Form.

Exhibit Item 2 [Plan of acquisition, reorganization, arrangement, liquidation or succession] will be required to be filed with a report on Form 10–Q where such plan is described in the report. This change is made for clarification only, as Exhibit Item 19 [Previously unfiled documents] otherwise would require that this exhibit be filed.

Exhibit Item 9 [Voting trust agreement] will be required to be filed in connection with an annual report on Form 10–K. In light of the importance of this exhibit to shareholders, investors and others and the fact that this exhibit may be incorporated by reference from a previously filed document, the Commission does not believe that this requirement will place an undue burden upon registrants.

Exhibit Item 12 [Statement re computation of ratios] will be required to be filed with all Securities Act registration statements for debt or preferred stock offerings.

b. *Revisions to the description of exhibits.*— Exhibit Item 1 [Underwriting agreement], as revised, may be filed with a report on Form 8–K, where such report is incorporated into a registration statement subsequent to its effectiveness.

Exhibit Item 4 [Instruments defining the rights of security holders—including indentures] has been revised for clarification and, with respect to Forms 8–K and 10–Q, to delete the requirement to file the exhibit where additional securities or indebtedness of a class outstanding are issued or reissued. Because the information elicited by such requirement is already on file with the Commission, there is no need for registrants to refile it.

Exhibit Item 5, paragraph (ii) [Opinion re legality] has been revised for clarification in response to public comment. The description, as revised, allows registrants to file either an opinion of counsel or an Internal Revenue Service determination letter regarding the legality of securities issued pursuant to a plan subject to the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) both when the plan is adopted originally and when it is amended subsequently.

Exhibit Items 6 [Opinion re discount on capital shares] and 7 [Opinion re liquidation preferences] have been amended in response to comment to allow counsel to refer specifically to any applicable constitutional or statutory provisions in his opinion, rather than setting forth each provision.

Exhibit Item 10 [Material contracts] has been revised in response to comment to expand the exemption proposed to be included in paragraph (iii)(B)(6) to exempt wholly-owned subsidiaries of registered companies from filing copies of remunerative plans, contracts or arrangements in connection with the registration of non-voting preferred stock on Form S–2.

Exhibit Item 12 [Statement re computation of ratios] has been revised for clarification.

Exhibit Item 15 [Letter re unaudited financial information], as revised, may be filed with a report on Form 10–Q, where such report is incorporated by reference into a Securities Act registration statement. This revision has been adopted to give registrants the option of filing this letter with their Form 10–Q report, with their Securities Act registration statement or as an amendment thereto.

Exhibit Item 19 [Previously unfiled documents], which is primarily a quarterly updating requirement, has been rewritten for clarification only.

Exhibit Item 22 [Subsidiaries of the registrant] has been amended to allow registrants to incorporate by reference their list of subsidiaries if an accurate and complete list is contained in one document previously filed with the Commission.

Exhibit Item 24 [Consents of experts and counsel] has been revised to implement Rule 439. This revision gives registrants the option of filing an otherwise required consent as an exhibit to a report on Form 8–K, 10–Q or 10–K when such report is incorporated by reference into a Securities Act registration statement subsequent to its effectiveness.

Exhibit Items 24 and 25 [Power of attorney] have been revised to make clear that consents or powers of attorney may be filed in a separate part of the registration statement or document filed therewith, so long as a reference is made in the exhibit index to the part of the registration statement or document which contains such consent or power.

Exhibit Item 26 [Statement of eligibility of trustee] has been revised to make clear that such statement, contained in a Form T–1, is also a filing under the Trust Indenture Act of 1939 and, therefore, for the convenience of the staff, shall be separately bound.

16. Item 702—*Indemnification of directors and officers.*—This item is taken without substantive change from paragraph (a) of Proposed Item 510.

C. *Security Ratings.*—In the Security Ratings Release, the Commission announced its determination to permit registrants to disclose, on a voluntary basis, ratings assigned by nationally recognized statistical rating organizations ("NRSROs") to classes of debt securities, convertible debt securities and preferred stock in registration statements and in periodic reports. Prior to that time, the Commission staff has discouraged disclosure of security ratings except in limited circumstances.[49]

The Commission, however, had been reconsidering its position against disclosure of security ratings for several years. Public comment was solicited in 1977 concerning, among other things, the appropriateness of encouraging or requiring ratings disclosure and the impact of subjecting rating organizations to potential liability as experts under Section 11 of the Securities Act in connection with ratings disclosed in registration statements.[50] On the basis of the comments received on the 1977 Release, the Commission had determined that it would not be appropriate to mandate disclosure of ratings. Nonetheless, it recognized the importance of security ratings to investors and the marketplace and the significance attached to ratings by various regulatory entities.

After further considering the benefit that investors may derive from security ratings disclosure and determining to condition the availability of proposed Form S–3, for certain issuers registering investment grade non-convertible debt securities, on the rating assigned to such securities by an NRSRO, the Commission determined to permit disclosure of ratings in registration statements and in periodic reports. In the Security Ratings Release, the Commission set forth its views on certain matters to be considered when including a rating, such as the inclusion of additional information, additional ratings and rating changes.

The Commission also proposed two rule amendments to facilitate disclosure of ratings. First, a new paragraph (g) was proposed to be added to Rule 436 under the Securities Act to provide that a rating assigned by an NRSRO to debt and convertible debt securities and preferred stock would not be considered a part of a registration statement under Sections 7 and 11 of the Securities Act. The rule amendment would eliminate the requirement to file the consent of any NRSRO in connection with any registration statement disclosing such a rating, thus exempting the NRSRO from section 11 liability. The proposed exemption from section 11 liability was based on the practical problems of requiring the consent of NRSROs and the recognition that such organizations already are subject to the antifraud provisions of the federal securities laws.[51] Second, Rule 134 under the Securities Act was proposed to be amended to permit disclosure of security ratings assigned by NRSROs to debt and convertible debt securities and preferred stock in certain communications deemed not to be a prospectus ("tombstone advertisements") on the basis that such disclosure is consistent with disclosure of security ratings in registration statements.

The Commission received approximately forty comment letters on its new policy and related proposals. Although some commentators objected to disclosure of security ratings in Commission filings under any circumstances, the majority of commentators supported voluntary disclosure of ratings and the proposed amendments. Commentators did request, however, additional guidance as to the application and operation of the new policy and rules.

The Commission continues to believe that ratings should be permitted to be disclosed in Commission filings and tombstone advertisements and that it is appropriate to exempt NRSROs from Section 11 liability if their ratings are included in Securities Act registration statements. Accordingly, the Commission today is affirming its new policy and adopting the proposed amendments to Rules 436 and 134.[52]

Furthermore, although disclosure of security ratings remains entirely voluntary, the Commission, as suggested by commentators, is setting forth its views on ratings disclosure in Regulation S–K in order to provide additional guidance and certainty. The Commission believes inclusion of the policy in Regulation S–K is consistent with the Regulation's function as the repository of uniform disclosure requirements and with the treatment of the Commission's policy on projections, which also is set forth in Regulation S–

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[47] If the revisions to Form S–18 (17 CFR 239.28) are adopted as proposed, the exhibit table will be revised further to include a column setting forth those exhibits which will be required to be filed with such form. *See* Release No. 33–6386 (March 3, 1982).

[48] *See* the S–K Release, 46 FR at 41936.

[49] Security ratings have been permitted in investment company registration statements provided the rating organization's consent, or a waiver of consent, has been obtained. In addition, material changes in security ratings of registrants' outstanding securities may be reported under Rule 408 under the Securities Act (17 CFR 230.408), Rule 12b–20 (17 CFR 240.12b–20), Rule 14a–9 (17 CFR 240.14a–9) of Schedule 14A under the Exchange Act or Item 5 of Form 8–K.

[50] Release No. 33–5882 (November 3, 1977) [45 FR 80414] (the "1977 Release").

[51] Section 17(a) of the Securities Act and section 10(b) of the Exchange Act and Rule 10b–5 (17 CFR 240.10b–5) thereunder; and when registered as investment advisers, NRSROs are subject to section 206 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.)

[52] The Commission wishes to make clear that its new policy and rules are limited to disclosure of security ratings. They do not extend to disclosure of policyholder ratings assigned to insurance companies. The Commission recently solicited public comment on whether disclosure of policyholder ratings should be permitted (Release No. 33–6376 (January 11, 1982) [47 FR 3130]) and will resolve that issue after it has had an opportunity to consider any comments that may be received.

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K. The policy on security ratings, which is included in Regulation S–K after the policy on projections as paragraph (d) of the General section, clarifies the views of the Commission expressed in the Security Ratings Release, with certain modifications suggested by commentators or otherwise deemed appropriate.

The policy statement provides that ratings assigned by rating organizations to classes of debt securities, convertible debt securities and preferred stock may be included in registration statements [53] and in periodic reports. The statement thus makes clear that disclosure of security ratings is not limited to Securities Act registration statements, but extends to certain Exchange Act filings as well. In addition, the statement makes clear the Commission's determination to permit disclosure of security ratings by rating organizations other than NRSROs.[54] The Commission believes that, if a registrant determines that the rating of a non-NRSRO would be of interest to investors and the marketplace, it should not be prevented by the Commission from including such rating in its registration statement or periodic report.[55]

The statement also provides that security ratings assigned by NRSROs may be included in tombstone advertisements pursuant to Rule 134.

In paragraphs (1) (i) through (iii), the policy statement provides the Commission's views on certain matters, including additional disclosures, to be considered when including a security rating in a Securities Act filing.[56] Paragraph (1)(i) sets forth certain basic considerations when filing a registration statement that includes a rating. First, the registrant should consider including every other available rating intended for public dissemination assigned to such class by an NRSRO that is materially different from any rating disclosed. The Commission has determined that, contrary to its position in the Security Ratings Release, it is not necessary for registrants to include additional available ratings that are not materially different.[57] The clause "intended for public dissemination" in paragraph (1)(i) makes clear that disclosure of non-public ratings or of non-public preliminary indications of a rating is not intended.

Second, a registrant also should consider including certain limited additional information to provide the reader with a concise explanation of the fundamental characteristics of security ratings and to make clear the source of the rating from which an investor may obtain more detailed information. In this regard, the Commission does not intend that registrants include lengthy and detailed explanations of the ratings process. However, it does not agree with certain commentators that information other than the rating and name of the rating organization is so easily accessible that it would not be useful to investors and that it would be unduly burdensome for registrants to disclose. A concise explanation of the meaning of a rating would appear to be very helpful to investors, particularly in the case where more than one rating is disclosed, and would help to ensure that investors do not place undue emphasis on such ratings.

Third, if a registrant includes a rating assigned by a rating organization that is not an NRSRO, it should include the written consent of such organization as is required under section 7 of the Securities Act. With respect to ratings assigned by NRSROs, the registrant is referred to Rule 436(g) which contains the exemption from filing such organizations' consents.[58]

Paragraphs (1) (ii) and (iii) of the policy statement set forth the Commission's views concerning the appropriate considerations in the event materially different additional ratings or rating changes become available subsequent to the filing of the registration statement. Paragraph (1)(ii) provides that, if a rating that was disclosed in the registration statement changes prior to the registration statement's effectiveness, the rating change generally should be disclosed in the final prospectus. However, if there is a material change in a disclosed rating or if a materially different additional NRSRO rating becomes available, the registrant should consider amending the registration statement to disclose the additional rating or rating change and recirculating the preliminary prospectus.

The "materially different" standard, used in paragraph (1)(ii) to indicate when an additional NRSRO rating might necessitate amending the registration statement, has been substituted for the "substantially different" standard contained in the Security Ratings Release to provide more guidance to registrants and to avoid placing excessive burdens on registrants to amend their filings. Likewise, whereas the Security Ratings Release advised consideration of an amendment to the registration statement and recirculation of the preliminary prospectus in the case of any change in a disclosed rating, the policy statement makes clear that such consideration is appropriate only in the case of a "material change."

Paragraph (1)(iii) provides that, if a materially different additional NRSRO rating becomes available after effectiveness of the registration statement, or if there is a material change in a disclosed rating at any time while offers and sales are being made, the registrant should consider disclosing such additional NRSRO rating or rating change by means of a post-effective amendment or sticker to the prospectus pursuant to Rule 424(c) under the Securities Act. However, in the case of a registration statement on Form S–3, the registrant may incorporate such information by reference. As in paragraph (1)(ii), the "materially different" and "material change" standards are used to provide guidance

[53] In the case of investment company registration statements, such ratings may be included for debt securities being registered or in connection with the company's schedule of portfolio debt securities. In addition, investment companies will continue to be permitted to include security ratings assigned to their equity securities being registered, but may not be able to rely on Rule 436(g) in connection with such ratings in view of the Rule's limitation to debt and convertible debt securities and preferred stock.

[54] The term "nationally recognized statistical rating organization" is stated in Rules 436 and 134, adopted today, to have the same meaning as in the Commission's uniform net capital rule. (17 CFR 240.15c3–1(c)(2)(vi)(F)). Several commentators objected that the net capital rule does not contain any specific definition of the term, and that, accordingly, rating organizations that are not NRSROs are not provided with sufficient guidance as to how to qualify as such. The Commission is not aware at this time of any substantial burden being imposed on rating organizations that are not NRSROs due to any absence of guidance in this area. Currently, the following organizations are accepted as NRSROs under the net capital rule: Standard & Poor's Corporation; Moody's Investors Services, Inc.; Fitch Investors Services, Inc.; and Duff and Phelps, Inc. Accordingly, the Commission believes that the determination made by the Commission staff concerning NRSRO status for net capital rule purposes is sufficient at present for security ratings disclosure purposes.

[55] Inclusion of a rating assigned by a non-NRSRO in a Securities Act registration statement, however, would require the filing of the written consent of the rating organization under Section 7 of the Securities Act.

[56] Additional disclosures, other than the name of the rating organization, may not be necessary in certain circumstances, such as in connection with the inclusion of security ratings in management's discussion and analysis of financial condition and results of operations furnished pursuant to Item 303 of Regulation S–K.

[57] The additional ratings that should be considered to be disclosed are likewise limited to materially different NRSRO ratings in other paragraphs of the policy statement concerning additional ratings assigned subsequent to the filing of the registration statement and additional ratings in Exchange Act filings.

[58] Several commentators expressed concern about the effect the exemption from Section 11 liability for NRSROs would have on the liability of issuers, officers, directors and underwriters in connection with ratings. The Commision notes that disclosure of ratings is optional and, in any event, issuers may seek to obtain an NRSRO's written consent.

and to avoid placing undue burdens on registrants.

Paragraphs (2) (i) and (ii) present the Commission's views as to the appropriate considerations when including a rating in an Exchange Act filing. Paragraph (2)(i) makes clear that, if a registrant includes a rating in an Exchange Act filing, it also should consider including any materially different additional NRSRO ratings and such additional information as would be considered for inclusion in a Securities Act registration statement disclosing a security rating. Finally, paragraph (2)(ii), consistent with current practice, provides that registrants, in the event of a material change in the ratings of their outstanding securities, should consider filing a periodic report disclosing such change.

IV. Procedural Provisions

A. Background

The third aspect of the integrated disclosure system consists of Regulation C and Regulation 12B, which contain the procedures to be used in preparing and filing registration statements and reports under the Securities Act and the Exchange Act, respectively.[59] As part of the rulemaking proceeding to develop an integrated disclosure system, the Commission proposed revisions to Regulations C and 12B to accomplish three objectives. First, revisions were proposed to centralize all disclosure requirements in Regulation S–K.[60] Second, revisions were proposed to establish Regulations C and 12B as the source of procedural requirements in the integrated disclosure system. Prior to this rulemaking proceeding, procedural provisions were found not only in Regulations C and 12B, but also in the Guides and in the instructions to registration forms and reports. Because the provisions in the Guides and the instructions were often duplicative of, and in some situations inconsistent with, the provisions of Regulations C and 12B, the Commission proposed amendments to eliminate duplications and to harmonize inconsistencies.[61] Third, revisions were proposed to modify current rules and to remove obsolete and unnecessary rules as part of a "sunset" review of Regulations C and 12B.[62] Related to the sunset review was a solicitation of public comment on the necessity of restructuring Regulation C.

B. Synopsis of Revisions

The comments received in response to the proposed revisions to Regulations C and 12B supported the Commission's objectives, with the vast majority of the comment directed toward a few specific points of interest for each commentator. However, certain commentators recommended either the development of a new procedural regulation encompassing the procedural provisions of Regulations C and 12B, as well as those of the proxy rules, or a total reorganization of Regulation C. The Commission has determined that a new procedural regulation encompassing all procedural provisions, similar to Regulation S–K for disclosure matters and Regulation S–X for accounting matters, is not appropriate because, unlike certain disclosure and accounting matters, the procedural requirements are not as interchangeable. Procedures for filing registration statements are necessarily different from the procedures for filing proxy statements, because of the different functions which such statements fulfill under the statutes. While there is some overlap in the provisions of Regulation C, Regulation 12B and the proxy regulations, the Commission has determined that the better approach is to eliminate unnecessary inconsistencies among the provisions and to continue the current pattern of separate procedural rules to which a registrant and its counsel can turn easily for specific guidance on the procedures to be used in satisfying statutory obligations.

With respect to the organization of Regulation C, in response to comment, the Commission has determined to locate the rules specifically relating to registration statements for competitive bidding [63] and to investment companies and business development companies [64] under separate headings within Regulation C.

In general, the discussion of the revisions of the rules in Regulation C and of the corresponding revisions of the rules in Regulation 12B follows the organization of Regulation C. Because of the importance of the shelf registration concepts, this subject will be discussed under a separate heading. This discussion will highlight only the significant changes made in the proposed revisions as set forth in the Regulation C Release.[65]

1. *General Requirements.* Several commentators requested that the Commission delete or otherwise modify the final clause of paragraph (g) of proposed Rule 401 which generally provided that the Commission could notify a registrant that the effectiveness of a registration statement would provide no presumption as to the appropriateness of the registration form used by the registrant.[66] They contended that a good faith, but erroneous, determination as to the availability of a registration form should not result in contingent liability for the sale of unregistered securities. Based on these and related comments and the implementation of certification requirements in the signature provisions of the registration forms, the Commission has determined to delete the last clause of Rule 401(g).

The majority of the comments on the Regulation C proposals addressed the definitions in proposed Rule 405 and proposed Rule 12b–2. Certain commentators requested that the Commission retain the current definition of the term "material" or modify the proposed definition. Since the proposed definition is based on the definition as set forth by the Supreme Court in *TSC*

[59] The rules in Regulation C and 12B which have not been revised are not reprinted in this release.

[60] The following disclosure items previously found in Regulation C have been moved to Regulation S–K: the description of securities in Rule 406; the undertakings in Rules 415 and 428; the table of contents requirement in Rule 421; the legend provisions in Rules 425, 425a, 426 and 433; and certain exhibit provisions in Rules 435, 445 and 446.

[61] Corresponding revisions in the registration forms and reports were proposed in the S–1–2–3 Release, the Securities Act Coordinating Release and the Exchange Act Coordinating Release.

[62] No overall review has been undertaken for some time. *See* the Regulation C Release, 46 FR at 41972, for a discussion of the background and the development of Regulations C and 12B.

[63] Current Rules 415, 428 and 471(b) have been recast as Rules 445, 446 and 447, respectively, under the heading "Competitive Bids."

[64] One aspect of a reorganization of Regulation C that was the subject of comment was the rules proposed for registration statements under the Securities Act for investment companies and business development companies. Since the forms for the registration of securities by such companies do not reference Regulation S–K, the provisions of Regulation C which were proposed to be transferred to Regulation S–K were set forth in four special rules, denominated by the letter "y", which were to apply only to investment companies and business development companies. Comment was requested on whether these rules and other rules which apply only to such companies should be located in a special section of Regulation C. Proposed Rule 406y, proposed Rule 425y, Rule 434d, proposed Rule 445y, proposed Rule 481y and Rule 485 have been recast as Rules 480 through 485, respectively, under the heading "Investment Companies; Business Development Companies." Rule 400 has been revised and a note has been added to Regulation C following such heading to ;make clear that these rules are applicable to such companies in addition to all of the remaining rules of Regulation C.

[65] *See* the Regulation C Release for a complete discussion of all of the proposed revisions to Regulations C and 12B.

[66] *See* the Regulation C Release, 46 FR at 41970, for a discussion of the operation of proposed Rule 401 and the purpose of the last clause of proposed Rule 401(g).

Industries, Inc. v. *Northway*,[67] the Commission has determined to adopt the definition of the term "material" as proposed. Other comments suggested that the definition of the term "executive officer" be revised to limit the scope of the definition by emphasizing policy making functions as the determining factor for classifying a person as an executive officer. The Commission has determined to adopt a uniform definition for the term "executive officer" based substantially on the proposed definition, but revised to emphasize policy making functions.[68] It should be noted that policy making functions would include business and legal decisions. Pursuant to other comments, the definition of the term "significant subsidiary" has been conformed to the definition of that term as adopted by the Commission in Regulation S–X.[69] A definition of the term "common equity" has been adopted because it is used in several places [70] and a definition of the term "business development company" has been added to avoid repetitious references. A definition of the term "managing underwriter" has been added in response to comment received on the Rule governing shelf registration.

Rule 485 relating to confidential treatment of contracts has been recast as Rule 406.

The commentators made various suggestions relating to the rules governing incorporation by reference. Certain language changes have been made to clarify the procedures of incorporation by reference. Other changes made pursuant to comment include, most notably, the incorporation of the substance of Rules 422 and 12b–24, dealing with summaries of documents, into revised Rules 411 and 12b–23 respectively.

The incorporation by reference rules are an important aspect of the operation of the integrated disclosure system. Pursuant to Rule 24 of the Commission's Rules of Practice (17 CFR 201.24), incorporation of information by reference to a document may not be made if the referred to document incorporates by reference a third document; except where incorporation by reference is expressly required. Under the Securities Act in Rule 411, subject to Rule 24, incorporation of information may be made by reference to any document filed with the Commission; except that with respect to a prospectus, information may be incorporated by reference only where the particular registration form so permits or to qualify a required summary or outline of a document. Under the Exchange Act in Rule 12b–23, subject to Rule 24, incorporation of information may be made by reference to any document, provided that such document is filed as an exhibit to the Exchange Act report or statement; except that information or documents required to be filed as exhibits to an Exchange Act report or statement may be incorporated by reference if previously filed with the Commission and no additional filing is required.

Rule 414 has been revised in response to comment to extend the coverage of the rule to certain intrastate reorganizations, where the issuer is changing only its form of organization, such as a trust to a corporation or vice verse. The extension of Rule 414 to such intrastate reorganizations is conditioned on the satisfaction by the successor issuer of the requirements of paragraphs (a) through (d) of Rule 414.

Because proposed Rule 418 has been recast as Rule 412,[71] proposed Rule 419 (Supplemental information) has been recast and adopted as Rule 418.[72] In addition to certain minor revisions, the Commission has determined to delete the paragraph on information concerning the underwriter's due diligence investigation with respect to new registrants and issues of securities about which certain risk factors are required to be disclosed.[73]

Other minor revisions have been made to the rules comprising the General Requirements.

2. *Shelf Registration.* Rule 415 is a temporary rule, effective until December 10, 1982, which governs the registration of securities that are to be offered and sold on a delayed or continuous basis in the future ("shelf registration").[74] The Rule codifies staff practice concerning shelf offerings which have occurred to date, such as securities to be offered in a continuing acquisition program.[75] Under certain circumstances, it contemplates shelf registration for primary offerings of equity securities which the registrant intends to sell on a non-fixed price basis over time depending on market conditions. Also, the Rule contemplates an issuer's selling the securities registered on the shelf in a succession of different kinds of offerings.

A substantial number of commentators expressed views on the shelf rule proposal ranging from support for the rule, as proposed or with modifications, to concern that the proposal would have worked potential impacts upon the capital raising process.[76] Recognizing the importance of the views and concerns of the commentators, the Commission is taking a series of procedural steps to afford the opportunity for continued consideration of shelf registration and is adopting the Rule, with modifications, on a temporary basis.

The procedural steps will include public hearings to explore the impact of a shelf registration rule and to give all interested parties further opportunity to present their views to the Commission. The hearings will be announced officially in a separate release published in the near future and will begin in approximately four months. During the period prior to the commencement of the hearings, interested investors, registrants and members of the securities industry may wish to form groups or task forces to organize and prepare their presentations. Following the hearings, the Commission may publish further rulemaking proposals for notice and comment.

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[67] 426 U.S. 438 (1976). *See* the Regulation C Release, 46 FR at 41977–8, for discussion of the *Northway* standard.

[68] The same definition is adopted for the Exchange Act in Rule 3b–7. As a result, definitions of the term "executive officer" previously found in Rule 13e–3, Rule 13e–4, Schedule 13D [17 CFR 240.13d–101], Rule 14a–3, Rule 14c–3 [17 CFR 240.14c–3] and Rule 14d–1 [17 CFR 240.14d–1] under the Exchange Act; and Instruction 1(b) to Item 4(a) of Regulation S–K have been deleted.

[69] *See* Release No. 33–6356.

[70] This definition is derived from the definition of the term "common equity" in Instruction 5 to proposed Item 201 of Regulation S–K. *See* the Regulation S–K Release, 46 FR at 41946.

[71] *See* discussion of liability issues in Part V, *infra*.

[72] A supplemental information rule has been added to Regulation 12B: Rule 12b–4.

[73] The deletion of this paragraph does not affect the Commission's view that, "[a] thorough and intensive underwriter's investigation is especially important in an initial public offering by companies in the development stage or those dealing with 'high technology' products or processes. Release No. 33–5275 (July 27, 1972) [37 FR 16011 at 16013].

[74] The Rule was first proposed in the Guides Release as proposed Rule 462A. It was reproposed, again as proposed Rule 462A, in conjunction with the Commission's proposed integration program in the "Shelf Release." These two proposing releases contain extensive discussion of the background and issues relating to shelf registration.

[75] It should be noted that Rule 415 replaces former Guide 4 and various no-action and interpretive letters issued by the staff concerning particular offerings to be made on a delayed or continuous basis. Accordingly, registrants should no longer rely on previous staff positions and letters and comply with Rule 415.

[76] In addition to the 55 comment letters on the shelf rule proposal (File No. S7–695) received during the official comment period ending October 30, 1981 or shortly thereafter, the Commission received 44 comment letters in the seven weeks preceding its consideration of the shelf rule on February 24, 1982. These 44 letters are not included in the comment highlights prepared by the Division of Corporation Finance (*See* Note 12, *supra*), but were accepted and included in the public record and are available for public inspection and copying at the Commission's Public Reference Room (File No. S7–695). *See* 17 CFR 202.8(b).

The temporary Rule will be effective until December 10, 1982. During that period, the Commission will monitor the operation and impact of the new Rule. Prior to the temporary Rule's expiration, the Commission expects that the further proceedings noted above will have been concluded and a determination will be made whether to adopt Rule 415 as a permanent rule, adopt a modification of Rule 415 or allow the Rule to expire.[77]

Rule 415 reflects changes from the proposal in two respects: (1) the addition of two further conditions for primary, at the market offerings of equity securities and (2) the clarification of related Item 512(a) of Regulation S–K (undertakings to file post-effective amendments) and Rule 405 (definitions) with respect to managing underwriters. The following discussion is intended to clarify certain issues raised by commentators in response to the proposed Rule and to highlight the changes made in the proposals. Because the Guides Release and the Shelf Release discussed in detail the background and major issues of shelf registration, as well as the essential features of the Rule, this release does not repeat earlier explanatory material.

a. *Bona Fide Intention to Offer and Sell.*—Rule 415(a)(1)(i) as proposed in the Shelf Release permits registration of any security on a shelf registration statement in an amount that is reasonably expected to be offered and sold within two years of the registration statement's effective date. Some commentators argued that this standard is inappropriate and unnecessary. The Commission adheres to its belief that the flexible, yet measurable, standard provided by the two-year benchmark is a proper condition to the general use of shelf registration statements for primary offerings. Paragraphs (a)(1)(ii) through (a)(1)(vii) of the Rule set forth those types of offerings that in the Commission's experience may be permitted without regard to the two-year standard and are adopted as proposed.

b. *Accurate and Current Information.*—One of the basic concerns which must be met in the context of shelf registration is ensuring that investors are provided accurate and current information where offers or sales are not to be made immediately after the registration statement becomes effective. Rule 415(a)(2) addresses this issue by setting forth when and how updating should be done, *i.e.*, when updating may be done by prospectus supplement pursuant to Rule 424(c) (a "sticker") and when a post-effective amendment to the shelf registration statement is appropriate, by requiring registrants to furnish the undertakings required by Item 512(a) of Regulation S–K to file post-effective amendments in specified circumstances. The Item 512(a) undertakings are adopted substantially as proposed.[78] They relate only to periods in which offers or sales are being made, thus making clear that there is no need to maintain an accurate and current, or "evergreen," prospectus when no offers or sales are being made pursuant to the shelf registration. The circumstances under which registrants must undertake to file post-effective amendments are: (1) To include any prospectus required by section 10(a)(3) of the Securities Act; (2) to reflect any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereto) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement; and (3) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement, including (but not limited to) any addition or deletion of a managing underwriter other than as a co-manager.

The provisions relating to updating, particularly respecting "fundamental changes," are intended to reflect current practice in determining the need for a post-effective amendment as opposed to a prospectus sticker. As indicated in the Shelf Release, the Commission believes that the filing of a post-effective amendment is appropriate in certain instances in order to ensure full statutory liability for the information disclosed and to afford the Commission's staff an opportunity to review the disclosure in appropriate cases. However, the Commission also is aware that staff practice concerning the filing of post-effective amendments and stickers, for all registration statements, has been somewhat flexible depending on the nature of the information to be disclosed or modified and the ability to reflect that information in a short sticker to the prospectus. The Commission wishes to preserve the flexibility of current practice within the context of a shelf registration statement.

Most of the commentators who addressed the provisions relating to updating generally supported the proposals. A few commentators, however, requested further guidance as to what constitutes a "fundamental" change and thus makes a post-effective amendment appropriate. While the Commission continues to believe that a detailed listing in Item 512(a) of the situations in which post-effective amendments are appropriate would impair the flexibility of current practice, it does wish to provide some guidance in this area. As the Shelf Release noted, the use of the term "fundamental" is intended to reflect current staff practice under which post-effective amendments are filed when major and substantial changes are made to information contained in the registration statement.[79] Material changes that can be stated accurately and succinctly in a short sticker will continue to be permitted. While many variations in matters such as operating results, properties, business, product development, backlog, management and litigation ordinarily would not be fundamental, major changes in the issuer's operations, such as significant acquisitions or dispositions, would require the filing of a post-effective amendment.[80] Also, any change in the business or operations of the registrant that would necessitate a restatement of the financial statements always would be reflected in a post-effective amendment.[81] At the same time, pursuant to the undertaking, a registrant using a shelf-registration statement for a series of debt offerings would be able to sticker the prospectus to reflect changes in interest rates, redemption, prices and maturities.

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[77] The Commission contemplates that, when it takes subsequent action either to adopt Rule 415 on a permanent basis (in the same or revised form) or to withdraw the Rule, registrants with then-effective shelf registration statements pursuant to Rule 415 will be subject immediately to the subsequent action. *See* Rule 401(f).

[78] The Commission is adopting as proposed the requirement in Item 512(a)(2) of Regulation S–K that registrants undertake that each post-effective amendment "shall be deemed to be a new registration statement relating to the securities offered therein and the offering of such securities at that time shall be deemed to be initial bona fide offering thereof," which results in a new statute of limitations period under Section 13 of the Securities Act. As indicated in the Guides Release and again in the Shelf Release, this undertaking reflects the Commission's view of the law in this area as well as the longstanding staff practice of requiring the inclusion of such an undertaking in many shelf registration statements.

[79] The proposal also reflects the fact that numerous small changes to information in the registration statement can become cumulatively fundamental. Cf. In re Franchard Corporation, 42 S.E.C. 163, 164–65 (1964).

[80] Similarly, a change in the registrant's capital structure caused by sales of securities under the shelf registration statement could, if sufficiently large, be such a fundamental change.

[81] *See also* the undertakings required by the staff in connection with a shelf registration for a continuing acquisition program. Letter re Beatrice Foods Co., (1973) Fed. Sec. L. Rep. (CCH) ¶ 79,351 (available January 17, 1973). These undertakings are subsumed within the undertaking to file post-effective amendments to reflect fundamental changes.

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Although such information is material to any investor in the securities, it does not represent a fundamental change in the information set forth in the registration statement when all other details remain the same.

With respect to the undertaking to file a post-effective amendment to disclose any material information relating to the plan of distribution, a few commentators urged that it would enhance the flexibility of the shelf rule to allow automatic effectiveness for such post-effective amendments. The Commission does not believe it appropriate to eliminate all possibility of review of such post-effective amendments, but will monitor this area to avoid any undue delays.

Also in connection with the Item 512(a)(1)(iii) undertaking, the Commission noted in the Shelf Release that a sticker supplement to the prospectus could be used to reflect the final terms of the transaction in the circumstance where a registration statement contained a full description of several alternative methods of distribution with the only missing information consisting of numerical details such as price and underwriting spread. The Commission emphasizes, in response to public comment, that in order to permit use of a sticker supplement the registration statement description of such alternative methods of distribution must be complete, omitting only such information as price and spread.[82] If the registration statement names several underwriters who may participate in the shelf-registered offering, the selection of any one or more of those underwriters to be the underwriter(s) with respect to a particular portion of the shelf offering may be indicated by sticker supplement to the prospectus.

The use of a single shelf registration statement for widely diverse plans of financing may be inappropriate in cases where a complete description of each plan of distribution to which the filing relates, together with a discussion of the impact on the issuer of such plan alone and in combination with the other contemplated financings, becomes so complex as to reduce substantially the effectiveness of the disclosures. In such cases, more than one registration statement may be necessary.

Undertaking (a)(1)(iii) of Item 512 of Regulation S–K recognizes the materiality to the plan of distribution of a change in managing underwriter. The proposed Rule did not define the term "managing underwriter," but the Shelf Release generally described the characteristics and duties of a managing underwriter. The release specifically requested public comment regarding the need for a definition, either in Rule 415 or in Regulation C. The commentators had no specific suggestions for a definition of managing underwriter, but two commentators urged codification of the term. The Commission agrees that it would be useful to codify a definition of the term "managing underwriter" and has decided to include the term in the definition section of Regulation C, Rule 405. The definition is similar to the description of "managing underwriter" provided in the Shelf Release. As defined, a "managing underwriter" includes an underwriter (or underwriters) who, by contract or otherwise, deals with the issuer; organizes the selling effort; receives some benefit from the underwriting which is not shared by other underwriters; or represents any other underwriters in such matters as maintaining the records of the distribution, arranging the allotments of securities offered or arranging for appropriate stabilization activities, if any.[83]

In addition to providing a definition of the term "managing underwriter," the Commission is adding two clarifying instructions to Item 512(a)(1). Instruction (1) states that a post-effective amendment need not be filed to disclose the addition or deletion of a managing underwriter as a co-manager unless there is no longer at least one managing underwriter who was named in the registration statement or the most recent post-effective amendment thereto.[84] This instruction clarifies, in response to public comment, when the addition or deletion of a co-manager must be reflected in a post-effective amendment, as opposed to a sticker supplement to the prospectus. With the addition of Instruction (1) to Item 512(a)(1), there is no need for the phrase "other than as a co-manager" at the end of the last clause of Item 512(a)(1)(iii) and it has been deleted. Instruction (2) addresses the situation where there may be more than one managing underwriter and the relationship of one underwriter to another is that of co-manager.

The Rule 415 undertakings provide an exception to the duty to update in the case of a registration statement filed on either Form S–3 or Form S–8 if the information required to be included in a post-effective amendment pursuant to Item 512 (a)(1)(i) and (a)(1)(ii) of Regulation S–K is contained in periodic reports filed under the Exchange Act and incorporated by reference in the registration statement. Two commentators suggested that registrants filing on Forms S–1 and S–2 also should be able to incorporate by reference subsequently filed Exchange Act reports. As noted in the discussion of Form S–2, the Commission has determined not to allow incorporation by reference of subsequently filed Exchange Act reports on Form S–1 or S–2 because it does not believe that there is sufficiently widespread marketplace following with respect to registrants using those forms to assure sufficient dissemination of information for purposes of the delayed or continuous offering of securities. Thus, the Commission reemphasizes that registrants filing on Forms S–2 or S–1 must meet the duty to update by filing post-effective amendments pursuant to the undertaking in Item 512(a)(1).

c. *Exemptions from Application of Shelf Rule.*—The Commission is adopting as proposed the provisions creating exemptions from the application of Rule 415 for offerings by a face amount certificate company or offerings of redeemable securities by an open-end management company or unit investment trust under the Investment Company Act and for any registration statement filed by any foreign government. The exemption relating to investment companies recognizes the specific provisions for continuous registration which are contained in the Investment Company Act. As indicated in the Shelf Release, foreign government registration statements are exempted because the Commission is still gaining experience with shelf registration by such registrants pursuant to a staff interpretive letter which set forth procedures to be followed by foreign governmental issuers in using a shelf registration that differed somewhat from the proposed Rule.[85] Until such time as the Commission determines whether to codify the interpretive release or otherwise to address foreign government shelf registration, foreign governmental issuers may continue to use the procedures set forth in the staff interpretive letter.

[82] If the plan of distribution description discloses that an offering may be distributed by an underwriting syndicate, the identity of or changes in the identity of the members of the underwriting syndicate may be indicated by sticker. If the registration statement is on Form S–3, which incorporates by reference Exchange Act reports filed subsequent to effectiveness of the registration statement, underwriting agreements or other required exhibits may be filed with a report on Form 8–K.

[83] *See* the Shelf Release, 46 FR at 42006.

[84] The remaining named managing underwriter need not be the "books-running manager."

[85] *See* Release No. 33–6240 (September 17, 1980) [45 FR 61609]. In particular, the staff imposed certain additional prospectus delivery requirements upon the registrant and limited the availability of the shelf registration to securities which the registrant proposed to sell in one year.

d. *At the Market Offerings.*—(1) *Conditions.* Rule 415 permits shelf registration of "at the market offerings" of equity securities directly by or on behalf of the registrant. Because such offerings raise concerns for the public and for the marketplace, the Shelf Release proposed the imposition of two conditions. First, the Commission proposed that those securities must be sold through an underwriter or underwriters, acting as principal(s) or agent(s) for the registrant, and that such underwriter(s) must be named in the prospectus which is part of the registration statement. Second, the Commission proposed to define an "at the market offering" as an offering of securities into an existing trading market for outstanding shares of the same class of securities at other than a fixed price on or through the facilities of a national securities exchange or to a market maker otherwise than on an exchange.

A number of commentators agreed with the Commission that it should impose conditions upon the availability of shelf registration for an at the market offering. The Commission has determined to adopt the conditions proposed and to adopt two further conditions: (1) That the registrant must meet the registrant requirements and applicable transaction requirements of Form S–3 and (2) that the amount of securities registered must not exceed ten percent of the registrant's non-affiliate float. The Commission is conditioning primary equity offerings at the market on Form S–3 availability and is limiting such offerings to ten percent of a registrant's float in view of the experimental nature of the temporary rule.[86]

The Commission is adopting the requirement for a named underwriter because it believes that the direct involvement of an underwriter can provide a desirable discipline upon such offerings of equity securities into an existing trading market [87] and that the presence of an underwriter helps to ensure that accurate and current disclosure is made to investors in the prospectus and that the prospectus delivery requirements of the Securities Act are met. A few commentators opposed this requirement or expressed concerns about related issues of liability and anti-manipulative rule application. The Commission is confident that the liability concerns will be allayed as both registrants and underwriters gain experience with the shelf rule. In addition, the Commission does not believe that the anti-manipulative rules will impose any unduly burdensome prohibitions upon underwriters named in the prospectus.[88] In this regard, it should be noted that the Commission's monitoring of the shelf rule will include attention to this requirement to determine, among other things, whether it would be appropriate to adopt a provision, as advocated by some commentators, which would require issuers to obtain the underwriter's consent to being named.

(2) *Treatment of Statutory Underwriter.* Rule 415 permits a direct distribution of securities by a registrant into an existing trading market over an extended period of time and thus raises the issue of underwriter status [89] in a novel situation. The Shelf Release set forth the Commission's views as to the status of various market professionals as statutory underwriters in an at the market offering of equity securities by a registrant under the proposed Rule. The views expressed received comment from only four commentators, three of whom generally agreed with the Commission's stated positions. The Commission has determined to reaffirm without change the positions regarding treatment as a statutory underwriter which were published in the Shelf Release.[90]

(3) *Application of Anti-Manipulative Rules.* At the market offerings of securities pursuant to Rule 415 also raise a number of questions concerning the maintenance of orderly market processes, the prevention of market manipulation, and the application of the anti-manipulative rules,[91] specifically the application of Rule 10b–6 (17 CFR 240.10b–6) under the Exchange Act, to these offerings. The Shelf Release contained an extensive discussion of the various Rule 10b–6 issues raised by at the market offerings, set forth a number of staff positions with respect to these issues, and specifically solicited comment on a number of issues.[92]

A substantial number of commentators addressed the Rule 10b–6 issues discussed in the Shelf Release and offered helpful suggestions as to how the Rule could be interpreted or modified to avoid unduly interferring with at the market offerings permitted by Rule 415 while still affording the market sufficient protection from manipulation. In addition, a number of commentators suggested that Rule 10b–6 should be modified generally, not only for purposes of shelf registrations. The Commission has considered these comments and has incorporated its determinations with respect thereto into a separate release proposing amendments to Rule 10b–6 [93] published concurrently with this release. The Rule 10b–6 Release resolves the issues raised in the Rule 415 context as well as analogous issues raised more generally. Attention is directed to that release for the text of the proposed amendments and a complete discussion thereof. In addition, the Rule 10b–6 Release indicates the staff's intention, so long as the issuer qualifies to use new Form S–2 or S–3, to follow the interpretive

[86] It should be noted that Rule 415 is not intended to allow registrants not eligible to use Form S–3 to circumvent the Form S–3 condition on at the market offerings by registering shelf offerings at a fixed price and then using frequent prospectus stickers to change price.

[87] *Cf. In re Hazel Bishop Inc.*, 40 S.E.C. 718, 729–32 (1961).

[88] Under Rule 415(a)(3), a registration statement providing for an at the market offering of equity securities registered therein could be declared effective without a named underwriter or underwriters if such an at the market offering would not begin immediately following the effective date of the registration statement. Offerings of securities under the registration statement could then be made without underwriter involvement, provided that such offerings were not made at the market.

[89] Section 2(11) of the Securities Act defines an underwriter as "any person who has purchased from an issuer with a view to, or offers or sells for an issuer in connection with, the distribution of any security, or participates or has a direct or indirect participation in any such underwriting, or participates or has a participation in the direct or indirect underwriting of any such undertaking."

[90] 46 FR at 42011.

[91] The existing regulatory framework includes rules adopted both by the Commission and by the self regulatory organizations.

[92] The issues discussed included: (1) Whether and how to define the term "distribution" for purposes of a shelf offering; (2) when a distribution should be deemed to commence with respect to a shelf registration; (3) what kinds of conditions such as "cooling off" periods should be imposed on registrants engaged in no selling efforts with respect to the shelf-registered securities; (4) whether purchases by affiliates should be treated differently from purchases by registrants; (5) what kinds of conditions should be imposed on purchases by broker-dealers with continuing agreements with the registrant to participate in the shelf offering during periods in which all sales and selling efforts have been suspended; (6) whether to clarify the applicability of Rule 10b–6 to market professionals who purchase securities in connection with a primary shelf offering; (7) whether special problems need to be addressed with respect to registrants and broker-dealers acting on behalf of registrants where there is a combination of conventional fixed price offerings and shelf offerings; (8) whether the staff position with respect to the distribution of research reports should be expanded for purposes of broker-dealers with continuing agreements with the registrant; and (9) whether a staff interpretive position regarding debt securities [Letter re American Telephone and Telegraph Company (February 28, 1975)] should be expanded.

[93] Release No. 34–18538 (March 3, 1982) (the "Rule 10b–6 Release").

positions codified in the proposed amendments on an administrative basis pending adoption of the amendments in order to facilitate the implementation of Rule 415.[94]

3. *Form and Contents of Prospectus.* The revisions to the rules comprising this section of Regulation C have been adopted substantially as proposed. In addition to the rules which were deleted because their substance was transferred to Regulation S–K, the Commission has determined to rescind Rules 430, 431, 432, 434[95] and 434c as unnecessary or obsolete. In light of such rescissions, current Rules 433, 434a and 434b have been recast as Rules 430, 431 and 432. Pursuant to comment and its own experience, the Commission has determined to revise proposed Rule 434a (renumbered as Rule 431), concerning summary prospectus eligibility and use, to permit non-United States issuers to use the Rule on the same basis as they are permitted to use Form S–3.

4. *Written Consents.* The proposed revisions to the rules, including paragraph (g) of the Rule 436, comprising this section of Regulation C have been adopted as proposed. Since the substance of Rule 435 has been transferred to Regulation S–K, the Commission has rescinded Rule 435.

5. *Competitive Bids.* This is a new section of Regulation C with contains the provisions that apply specifically to registration statements for securities to be offered at competitive bid. The previous heading of this section was "Exhibits," but that heading has been withdrawn, because the substance of the rules concerning exhibits has been transferred to Regulation S–K (Rules 445 and 446) and to Rule 411 (Rule 447). It is believed that a separate section for competitive bidding registration statements will make it easier for registrants and their counsel to comply with the requirements for such registration statements.

6. *Filings, Fees, Effective Date.* The proposed revisions to the rules comprising this section of Regulation C have been adopted substantially as proposed. Two technical changes have been made to Rule 457 to clarify the operation of that Rule. First, Rule 457 (e)(2) has been amended to include registrants with a negative book value but not in bankruptcy or receivership within the filing fee requirements of that paragraph. Second, Rule 457(k) has been revised to include all issuers of standardized options within the filing fee requirements of that paragraph.

Certain commentators objected to the treatment of insurance against liabilities arising under the Securities Act for investment companies and business development companies in proposed Rule 461(c). The Commission has determined to revise the Rule 461(c) on adoption to make clear that such insurance will not be considered a bar to acceleration of a registration statement if the cost of the insurance is borne by the insured officer or director of the registrant.

7. *Amendments, Withdrawals.* The proposed revisions to the rules comprising this section of Regulation C have been adopted substantially as revised. With respect to Rules 477 and 479, the Commission requested specific comment on the necessity of retaining the marking procedure for withdrawn or abandoned registration statements in light of the Commission's current system for retaining official documents on microfiche.[96] The commentators opined that a marking procedure was not necessary. The revised procedure provides that an order declaring a registration statement to be either withdrawn or abandoned will be placed under the same file number as the registration statement to which such order relates.

8. *Investment Companies, Business Development Companies.* This grouping of rules is a new section within Regulation C. It has been developed to bring together all of the special rules for investment companies and business development companies. The Commission emphasizes that this grouping does not mean that only these rules and not others in Regulation C apply to such companies. All rules within Regulation C are applicable to registration statements filed by investment companies and a note has been added to the Regulation to that effect. The proposed rules and the proposed revisions to existing rules have been adopted substantially as proposed.

9. *Registration by Foreign Governments.* The Commission did not propose revisions to the rules comprising this section of Regulation C nor did the commentators suggest any revisions. Hence, there have been no changes to these rules.

V. Liability Issues

A. Background

The Liability Release published for comment three proposals addressing certain issues of civil liability under the Commission's integrated disclosure program. Proposed Rule 176 would identify certain of the circumstances bearing upon the reasonableness of the investigation and the determination of what constitutes reasonable ground for belief under section 11(b) of the Securities Act.[97] Proposed Rule 412 would deem the effective date of documents incorporated by reference into a registration statement to be the document's initial filing date and proposed Rule 418 would: (1) Deem a statement contained in a document incorporated by reference to be modified or superseded to the extent that it has been modified or replaced by a statement contained in the prospectus or in any other subsequently filed document incorporated by reference; (2) provide that the making of a modifying or superseding statement shall not be deemed an admission that the modified or superseded statement constituted a violation of the federal securities laws; and (3) provide that any statement so modified or superseded shall not be deemed in its prior form to constitute a part of the registration statement or prospectus for purposes of the Securities Act.

[94] With respect to research reports distributed by broker-dealers with continuing agreements with the registrant, the staff generally has taken the position that reports complying with Rule 139 under the Securities Act (17 CFR 230.139) do not constitute prohibited inducements to purchase under Rule 10b–6. Under Rule 139, the distribution or publication by a dealer of certain types of information, opinions or recommendations concerning an issuer are deemed not to constitute an offer for sale or offer to sell securities of that issuer, for purposes of sections 2(10) and 5(c) of the Securities Act, even if the dealer is participating in an underwritten offering of the issuer's securities. The interim no action position announced in the Rule 10b–6 Release with respect to Rule 415 shelf registrations would operate to allow those persons subject to Rule 10b–6 to distribute research reports beyond those complying with Rule 139 up until three business days prior to the commencement of sales. A similar position will be taken with respect to research reports for purposes of sections 2(1) and 5(c) of the Securities Act and Rule 139 thereunder. It also should be noted that Rule 139 will be the subject of the "sunset" review of the "100" rules under the Securities Act (17 CFR 230.100 to 230.175).

[95] Summary prospectuses prepared by independent organizations and filed by a registrant as part of its registration statement shall comply with the requirements of revised Rule 431.

[96] *See* the Regulation C Release, 46 FR at 41964.

[97] Section 11(b) of the Securities Act provides that each person, other than the issuer, will not be held liable, if he can sustain the burden of proof that his conduct, under the circumstances, was reasonable. Specifically, section 11(b)(3) permits the defendant to prove that he made a reasonable investigation of and had reasonable grounds to believe in the accuracy of the non-expertised portions of the registration statement or, with respect to any part presented upon the authority of an expert other than the defendant, that he had no reasonable ground to believe and did not believe there was a material omission or misstatement. 15 U.S.C. 77k(b)(3). Section 11(c) provides that "the standard of reasonableness shall be that required of a prudent man in the management of his own property." 15 U.S.C. 77k(c).

There were relatively few comments directed to proposed Rule 176. Although commentators generally supported adoption of the proposed Rule,[98] several commentators criticized the description in the Liability Release of several information-gathering techniques which could minimize the amount of time required for investigation immediately prior to the filing of a short form registration statement. The Commission, therefore, wishes to emphasize that the techniques identified were in no way intended to be mandatory, but rather were presented to help facilitate the development of procedures compatible with the integrated approach to registration. Underwriters and others may accept or reject any of the measures described in this part of the Liability Release. The important point is that each subject person should evaluate the surrounding facts, including the extent of his prior relationship with the registrant, and utilize techniques of investigation appropriate to the circumstances of the offering.

B. Implementing Rules

1. *Rule 176.* Proposed Rule 176 would codify section 1704(g) of the proposed Federal Securities Code (the "Code"),[99] which the Commission has endorsed with certain modifications.[100] While the Rule describes some circumstances which may affect the reasonableness of an inquiry, the Commission recognizes that there are other circumstances beyond those enumerated in the Rule which may bear upon the reasonableness of the conduct of persons subject to Section 11. Judicial interpretations of section 11 have confirmed the principle that what constitutes reasonable investigation and reasonable ground for belief depends upon the circumstances of each registration.[101] The prospect of continued flexible application of that standard by the courts should provide assurance to subject persons that they will not incur unreasonable investigative burdens.

Several commentators urged that the Commission restore the reference to the underwriter's access to information which appeared in clause (b) of section 1704(g) of the Code before it was modified and endorsed by the Commission in September 1980. The Commission objected to the Code's reference to access to information because the word "access" could imply that a registrant's refusal to grant the underwriter access to pertinent information would be a ligitimate ground for not investigating. There, however, will be occasions where information cannot be investigated fully because of its unavailability. For example, the information may be in the possession of a hostile subject company.[102] To take account of circumstances such as these, the Commission is inserting in paragraph (g) the phrase "the availability of information with respect to the registrant."

Accordingly, the Commission is adopting Rule 176 as proposed with the addition to paragraph (g) described above. The Commission staff will monitor the operation of Rule 176 and Section 11 suits involving short form registration statements in order to determine whether there is need for further action by the Commission or the Congress in view of the conduct of persons subject to Section 11 and the standards to which they are held by the courts.

2. *Proposed Rule 412.* A number of commentators, for a variety of reasons, opposed the adoption of proposed Rule 412. Among other things, it was noted that the Rule seemed unnecessary and could be confusing to subject persons. In light of these problems, the Commission is withdrawing proposed Rule 412.

3. *Proposed Rule 418.* The majority of the commentators supported proposed Rule 418 and the Rule is being adopted as proposed. In view of the withdrawal of proposed Rule 412, the final Rule, originally proposed as Rule 418, is being renumbered as Rule 412.

4. *Possible Amendment of Rule 461.* In the Liability Release, the Commission specifically solicited comment on whether there is any need to amend Rule 461 (Requests for acceleration of effective date of registration statements) to require that the managing underwriter state, in connection with a request for acceleration, whether there has been time to reasonably review and comment upon documents incorporated by reference into the registration statement. Most commentators opined that such a determination already is implicit in the underwriter's participation and that such a written statement could impair the underwriter's defense in litigation arising from the offering. Accordingly, the Commission is not amending Rule 461.

VI. Implementing and Coordinating Amendments

In order to facilitate implementation of the integrated disclosure program, the Commission reviewed Securities Act and Exchange Act rules, forms and schedules generally to determine whether any coordinating amendments in addition to those discussed above were necessary. Those amendments proposed together with the other August 1981 proposals are as follows.

A. Securities Act Rules 135 and 138[103]

Rule 135 (17 CFR 230.135, Notice of certain proposed offerings) is being amended substantially as proposed in the Securities Act Coordinating Release, but now will permit dissemination of the information specified by the Rule not only with respect to exchange listed securities, but also with respect to securities quoted on the NASDAQ interdealer quotation system. Dissemination will be permitted through the facilities of the consolidated transaction reporting system and the NASDAQ system as well as through the facilities of the national exchanges and the Dow Jones broad tape. This change should assure more complete dissemination of information with respect to rights offerings of securities.

Rule 138 (17 CFR 230.138, Definition of "offer for sale" and "offer to sell" in sections 2(10) and 5(c) in relation to certain publications) is being amended as proposed in the Securities Act Coordinating Release. The changes will replace references to deleted forms.

B. Exchange Act Rules and Schedules

In the Exchange Act Coordinating Release, the Commission proposed to amend (1) Item 15 of Schedule 14A of Regulation 14A to require registrants to furnish management's discussion and analysis of financial condition and results of operations as required by Item 303 of Regulation S–K relating to proxy statements soliciting action with respect to certain authorizations or issuances of securities and the modification or

[98] It should be noted that three commentators urged the Commission to adopt, in lieu of proposed Rule 176, a safe harbor rule for underwriters with respect to documents incorporated by reference. In 1978, however, the Commission declined to adopt a proposed rule which would have provided underwriters a safe habor from liability under section 11 and section 12(2). Release No. 33–5992 (November 17, 1978) [43 FR 56034]. *See* the Liability Release for a more detailed discussion of these proposals.

[99] ALI, *Federal Securities Code* (1980).

[100] Release No. 33–6242, (September 18, 1980).

[101] For example, the Commission believes that a court would not expect the investigation undertaken in connection with a short form registration of a seasoned company to be the same as that which would be reasonable in connection with an initial public offering.

[102] *Feit* v. *Leasco Data Processing Equipment Co.*, 332 F. Supp. 544 at 586–95 (E.D.N.Y. 1971).

[103] Rules 135, 138 and 139 (discussed above in connection with the shelf rule) are among those rules which will be the subject of the "sunset" review of the "100" rules under the Securities Act which will be undertaken during the next year.

exchange of securities; (2) Rule 15c2–8 (17 CFR 240.15c2–8) regarding delivery of prospectuses to incorporate the "48-hour rule" of Release No. 33–4968; [104] and (3) Rules 13e–4 and 14d–6 (17 CFR 240.14d–6) regarding summary financial disclosure in tender offers. In addition, Appendix A of Schedule 14A was proposed to be deleted. No commentators objected to the proposals, although several changes were suggested. Accordingly, the Commissions adopting the amendments, with certain changes as discussed below, and is deleting Apendix A.[105] In addition, the Commission is making several technical changes in Regulation 14A to correct inadvertent omissions.

1. *Regulation 14A.* In addition to amending Item 15 of Schedule 14A and deleting Appendix A, the Commission is making three technical amendments to Regulation 14A. The first concerns Item 4 of Schedule 14A, which specifies information to be included in a proxy statement about certain persons who have an interest in any matter to be acted upon. It has come to light that the requirement in Item 4(b)(2) to describe, in connection with solicitations subject to Rule 14a–11 (17 CFR 240.14a–11), the interest of "any person named in answer to Item 6(b)" was inadvertently left unchanged when Item 6(b) was changed substantially in 1978.[106] Prior to 1978, Item 6(b) concerned certain persons who were a party to an arrangement or understanding pursuant to which a nominee was to be elected. Since the substance of Item 4(b)(2) was not intended to be changed when Item 6(b) was amended, the Commission is now amending Item 4(b)(2) to require information with respect to the persons formerly described in Item 6(b).

Second, the Commission has become aware that the Code of Federal Regulations does not correctly state the text of Item 20 of Schedule 14A, which specifies the disclosure required in a proxy statement if action is to be taken with respect to any amendment of the issuer's charter, bylaws or other documents. Accordingly, Item 20 is being amended to include the correct text.

Third, it also has come to light that the fee requirements applicable to the filing of proxy statements, ordinarily contained in Rule 14a–6, were inadvertently omitted from that rule when it was amended in coordination with the adoption of Form S–15.[107] Accordingly, the Commission is amending Rule 14a–6 to reinsert paragraph (i) setting forth the fee schedule. In coordination with this, existing paragraph (i) is being redesignated as paragraph (j).

2. *Rule 15c2–8.* The proposed amendment to Rule 15c2–8, which sets forth the specific steps participating brokers or dealers must follow reasonably to distribute the preliminary prospectus, required a broker-dealer to comply with the 48-hour rule in connection with any issue of securities the issuer of which had not previously been required to file reports pursuant to section 13(a) or 15(d) of the Exchange Act or is required to include in the prospectus reference to material risks pursuant to Item 501 of Regulation S–K. After further consideration, the Commission is amending Rule 15c2–8 to require compliance with the 48-hour rule only in the case of registrants not subject to the reporting requirements of section 13(a) or 15(d) and to provide that compliance is not required where a registrant is not required to file reports to section 13(a) or 15(d) because it has been exempted from those requirements pursuant to section 12(h) of the Exchange Act.

3. *Rules 13e–4 and 14d–6.* Rules 13e–4 and 14d–6 under the Exchange Act, regarding tender offer disclosure requirements, are revised to substitute the substantive summary financial information contained in paragraph (e) of Guide 59 for the references to Guide 59 previously contained in the Rules. As explained in the Exchange Act Coordinating Release, the substitutions are necessary in view of the Commission's decision to rescind Guide 59. They are intended to ensure that Rules 13e–4 and 14d–6 will continue to provide guidance as to what is sufficient to constitute a fair and adequate summary of financial information for purposes of the disclosure requirements therein.

C. Safe Harbor Rules for Projections

The Commission is amending the safe harbor rules for projections under the Exchange Act (Rule 3b–6, 17 CFR 240.3b–6), Securities Act (Rule 175, 17 CFR 230.175), and related federal securities laws [108] in order to clarify and broaden the scope of the safe harbor protection provided thereunder. The amendments make clear the Rules' original intent that safe harbor protection extend to projections made in a quarterly report on Form 10–Q, a registration statement on Form 10 or an annual report to security holders furnished to the Commission, even though the registrant has not yet been required to file an annual report on Form 10–K, as well as to the registrant's first filing on Form 10–K.

Statutory Authority and Findings

The Commission hereby adopts the rulemaking actions set forth below pursuant to the following statutory authority. The actions revising 17 CFR Parts 230 and 239 are adopted pursuant to the authority in sections 6, 7, 8, 10 and 19(a) of the Securities Act of 1933. The actions revising 17 CFR Parts 240 and 249 are adopted pursuant to the authority in sections 3(b), 12, 13, 14, 15(d) and 23(a) of the Securities Exchange Act of 1934. The action revising 17 CFR Part 250 is adopted pursuant to the authority in section 20(a) of the Public Utility Holding Company Act of 1935. The action revising 17 CFR Part 260 is adopted pursuant to the authority in section 319(a) of the Trust Indenture Act of 1939. The action revising 17 CFR Part 274 is adopted pursuant to the authority in section 38(a) of the Investment Company Act of 1940. The action revising 17 CFR Parts 200, 201 and 229 are adopted pursuant to the authority in sections 6, 7, 8, 10 and 19(a) of the Securities Act; sections 3(b), 12, 13, 14, 15(d) and 23(a) of the Exchange Act; section 20(a) of the Public Utility Holding Company Act; section 319(a) of the Trust Indenture Act; and section 38(a) of the Investment Company Act.

As required by section 23(a) of the Exchange Act, the Commission has specifically considered the impact that the rulemaking actions revising 17 CFR Parts 200, 201, 229, 240 and 249, taken pursuant to the various provisions of the Exchange Act would have on competition and has concluded that they would impose no significant burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

Pursuant to section 553(d) of the Administrative Procedure Act of 1949 (5 U.S.C. 553), the Commission finds for good cause that Rule 415 shall become effective immediately upon publication in the **Federal Register** (March 16, 1982), in view of the temporary basis on which it is adopted, and that it and the other rulemaking actions adopted herein may be used and relied upon prior to their effective dates by any persons desiring to do so.

Availability of Final Regulatory Flexibility Analysis With Regard to Forms S–1, S–2 and S–3

In accordance with 5 U.S.C. 604, the Commission has prepared a final Regulatory Flexibility Analysis with regard to Forms S–1, S–2 and S–3. The corresponding Initial Regulatory Flexibility Analysis was included in the S–1–2–3 Release at 46 FR 41923. Members of the public who wish to obtain copies of the Final Regulatory Flexibility Analysis of Forms S–1, S–2 and S–3 should contact William L. Larsen, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202–272–2604).

Text of Forms, Regulations and Rules

In accordance with the foregoing, Title 17, Chapter II, of the Code of Federal Regulations is amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. By revising paragraphs (a)(3), the first phrase, and (4) of § 200.30–1 to read as follows:

§ 200.30–1 Delegation of authority to Director of Division of Corporation Finance.

* * * * *

(a) * * *

(3) To grant applications for confidential treatment of contract provisions pursuant to Rule 406 (§ 230.406 of this chapter) under the Act; * * *

(4) To accelerate the use or publication of any summary prospectus filed with the Commission pursuant to section 10(b) of the Act (15 U.S.C. 77j(b)) and Rule 431(g) (§ 230.431(g) of this chapter) thereunder.

* * * * *

2. By revising the introductory text of paragraph (b–2) of § 200.30–5 to read as follows:

§ 200.30–5 Delegation of authority to Director of Division of Investment Management.

* * * * *

(b–2) With respect to post-effective amendments filed pursuant to paragraph (a) of Rule 485 (§ 230.485 of this chapter) under the Act.

* * * * *

3. By revising paragraph (a)(3) of § 200.30–6 to read as follows:

§ 200.30–6 Delegation of authority to Regional Administrators.

* * * * *

(a) * * *

(3) To grant applications for confidential treatment of contract provisions pursuant to Rule 406 (§ 230.406 of this chapter) under the Act.

* * * * *

4. By removing existing Forms S–1, S–2, S–7, and S–16 and by removing the proposed designation of Forms S–1, S–2 and S–3 in paragraph (b) of § 200.800 to read as follows:

§ 200.800 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) *Display.*

Information collection requirement	17 CFR part or section where identified and described	Current OMB control No.	Expiration date
* * * * *			
Form S–1	§239.11	3235–0065	June 30, 1982
Form S–2	§239.12	3235–0072	June 30, 1982
Form S–3	§239.13	3235–0073	June 30, 1982
* * * * *			

PART 201—RULES OF PRACTICE

5. By revising § 201.24 to read as follows:

§ 201.24 Incorporation by reference.

Where rules, regulations, or instructions to forms of the Commission permit incorporation by reference, a document may be so incorporated by reference to the specific document and to the prior filing in which such document was physically filed. Except where a registrant or issuer is expressly required to incorporate a document or documents by reference, reference may not be made to any document which incorporates another document by reference if the pertinent portion of the document containing the information or financial statements to be incorporated by reference includes an incorporation by reference to another document. No document on file with the Commission for more than five years may be incorporated by reference except—

(a) Documents contained in registration statements which may be incorporated by reference as long as the registrant has a reporting requirement with the Commission;

(b) Documents that the registrant specifically identifies by physical location by SEC file number reference, provided such materials have not been disposed of by the Commission pursuant to its Records Control Schedule (17 CFR 200.80f).

6. By revising in paragraph (a) the first sentence in its entirety and the second sentence up to the first comma, and in (b)(1) the first sentence up to the fourth comma, of § 201.25 to read as follows:

§ 201.25 Confidential treatment of certain matters.

(a) *Requests for confidential treatment.* Confidential treatment of material listed in § 201.25(a) may be requested for good cause where authorized by statute. Request for confidential treatment may be made pursuant to the provisions of Clause 30 of Schedule A of the Securities Act of 1933 and § 230.406 of this chapter thereunder,* * *

(b) *Procedure in confidential treatment cases.* (1) All papers containing data as to which confidential treatment is sought, together with any application making objection to the disclosure thereof, or other papers relating in any way to such application, shall be made available to the public only in accordance with orders of the Commission and/or the applicable provisions of §§ 230,406,* * *

* * * * *

7. By revising Part 229 to read as follows:

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S–K

Subpart 229.1—General.

Sec.
229.10 General.

Subpart 229.100—Business.

229.101 (Item 101) Description of business.
229.102 (Item 102) Description of property.
229.103 (Item 103) Legal proceedings.

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[104] (April 24, 1969) [34 FR 7235]. The 48-hour rule requires a broker-dealer to distribute a copy of the preliminary prospectus to each person who is expected to receive a confirmation of sale at least 48 hours prior to the mailing of such confirmation.

[105] As noted in the discussion above of Rule 405 of Regulation C, the adoption of a definition of the term "executive officer" in Rule 3b–7 necessitated deleting definitions of that term previously found in various Exchange Act rules and schedules

[106] Release No. 34–13384 (December 6, 1976) [43 FR 58522].

[107] Securities Act Release No. 33–6333 (September 2, 1981) [45 FR 63647].

[108] Specifically, Rule 103A (17 CFR 250.103A) under the Public Utility Holding Company Act of 1935, 15 U.S.C. 79a et seq., and Rule 0–11 under the Trust Indenture Act of 1939, 15 U.S.C. 77aaa–77bbbb.

Subpart 229.200—Securities of the Registrant.

229.201 (Item 201) Market price of and dividends on the registrant's common equity and related stockholder matters.
229.202 (Item 202) Description of registrant's securities.

Subpart 229.300—Financial Information.

229.301 (Item 301) Selected financial data.
229.302 (Item 302) Supplementary financial information.
229.303 (Item 303) Management's discussion and analysis of financial condition and results of operations.
229.304 (Item 304) Disagreements with accountants on accounting and financial disclosure.

Subpart 229.400—Management and Certain Security Holders.

229.401 (Item 401) Directors and executive officers.
229.402 (Item 402) Management remuneration and transactions.
229.403 (Item 403) Security ownership of certain beneficial owners and management.

Subpart 229.500—Registration Statement and Prospectus Provisions.

229.501 (Item 501) Forepart of registration statement and outside front cover page of prospectus.
229.502 (Item 502) Inside front and outside back cover pages of prospectus.
229.503 (Item 503) Summary information, risk factors and ratio of earnings to fixed charges.
229.504 (Item 504) Use of proceeds.
229.505 (Item 505) Determination of offering price.
229.506 (Item 506) Dilution.
229.507 (Item 507) Selling security holders.
229.508 (Item 508) Plan of distribution.
229.509 (Item 509) Interests of named experts and counsel.
229.510 (Item 510) Disclosure of Commission position on indemnification for Securities Act liabilities.
229.511 (Item 511) Other expenses of issuance and distribution.
229.512 (Item 512) Undertakings.

Subpart 229.600—Exhibits.

229.601 (Item 601) Exhibits.

Subpart 229.700—Miscellaneous.

229.701 (Item 701) Percent sales of unregistered securities.
229.702 (Item 702) Indemnification of directors and officers.

Subpart 229.800—List of Industry Guides.

229.801 Securities Act industry guides.
229.802 Exchange Act industry guides.

Authority: Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 12, 13, 14, 15(d), 23(a), 48 Stat. 892, 894, 901; secs. 205, 209, 48 Stat. 906, 908; sec. 203(a), 49 Stat. 704; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 301, 54 Stat. 857; secs. 8, 202, 68 Stat. 685, 686; secs. 3, 4, 5, 6, 76 Stat. 565–568, 569, 570–574; sec. 1, 79 Stat. 1051; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3–5, 28(c) 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 6, 9, 10, 11, 18, 89 Stat. 117, 118, 119, 155; 15 U.S.C. 55f, 77g, 77h, 77j, 77s(a), 78l, 78m, 78n, 78*l*(d), 78w(a).

Subpart 229.1—General

§ 229.10 General.

(a) *Application of Regulation S–K.* This part (together with the General Rules and Regulations under the Securities Act of 1933, 15 U.S.C. 77a et seq., as amended ("Securities Act"), and the Securities Exchange Act of 1934, 15 U.S.C. 78a et seq., as amended ("Exchange Act") (Parts 230 and 240 of this chapter), the Interpretative Releases under these Acts (Parts 231 and 241 of this chapter) and the forms under these Acts (Parts 239 and 249 of this chapter)) states the requirements applicable to the content of the non-financial statement portions of:

(1) Registration statements under the Securities Act (Part 239 of this chapter) to the extent provided in the forms to be used for registration under such Act; and

(2) Registration statements under section 12 (Subpart C of Part 249 of this chapter), annual or other reports under sections 13 and 15(d) (Subparts D and E of Part 249 of this chapter), annual reports to security holders and proxy and information statements under section 14 of the Exchange Act (Part 240 of this chapter), and any other documents required to be filed under the Exchange Act, to the extent provided in the forms and rules under such Act.

(b) *Commission policy on projections.* The Commission encourages the use in documents specified in Rule 175 under the Securities Act (§ 230.175 of this chapter) and Rule 3b–6 under the Exchange Act (§ 240.3b–6 of this chapter) of management's projections of future economic performance that have a reasonable basis and are presented in an appropriate format. The guidelines set forth herein represent the Commission's views on important factors to be considered in formulating and disclosing such projections.

(1) *Basis for projections.* The Commission believes that management must have the option to present in Commission filings its good faith assessment of a registrant's future performance. Management, however, must have a reasonable basis for such an assessment. Although a history of operations or experience in projecting may be among the factors providing a basis for management's assessment, the Commission does not believe that a registrant always must have had such a history or experience in order to formulate projections with a reasonable basis. An outside review of management's projections may furnish additional support for having a reasonable basis for a projection. If management decides to include a report of such a review in a Commission filing, there also should be disclosure of the qualifications of the reviewer, the extent of the review, the relationship between the reviewer and the registrant, and other material factors concerning the process by which any outside review was sought or obtained. Moreover, in the case of a registration statement under the Securities Act, the reviewer would be deemed an expert and an appropriate consent must be filed with the registration statement.

(2) *Format for projections.* In determining the appropriate format for projections included in Commission filings, consideration must be given to, among other things, the financial items to be projected, the period to be covered, and the manner of presentation to be used. Although traditionally projections have been given for three financial items generally considered to be of primary importance to investors (revenues, net income (loss) and earnings (loss) per share), projection information need not necessarily be limited to these three items. However, management should take care to assure that the choice of items projected is not susceptible of misleading inferences through selective projection of only favorable items. Revenues, net income (loss) and earnings (loss) per share usually are presented together in order to avoid any misleading inferences that may arise when the individual items reflect contradictory trends. There may be instances, however, when it is appropriate to present earnings (loss) from continuing operations, or income (loss) before extraordinary items in addition to or in lieu of net income (loss). It generally would be misleading to present sales or revenue projections without one of the foregoing measures of income. The period that appropriately may be covered by a projection depends to a large extent on the particular circumstances of the company involved. For certain companies in certain industries, a projection covering a two or three year period may be entirely reasonable. Other companies may not have a reasonable basis for projections beyond the current year. Accordingly, management should select the period most appropriate in the circumstances. In addition, management, in making a projection, should disclose what, in its opinion, is the most probable specific amount or the most reasonable range for each financial item projected based on the selected assumptions. Ranges, however, should not be so wide as to make the disclosures meaningless. Moreover, several projections based on varying assumptions may be judged by management to be more meaningful than a single number or range and would be permitted.

(3) *Investor understanding.* (i) When management chooses to include its projections in a Commission filing, the disclosures accompanying the projections should facilitate investor understanding of the basis for and limitations of projections. In this regard investors should be cautioned against attributing undue certainty to management's assessment, and the Commission believes that investors would be aided by a statement indicating management's intention regarding the furnishing of updated projections. The Commission also believes that investor understanding would be enhanced by disclosure of the assumptions which in management's opinion are most significant to the projections or are the key factors upon which the financial results of the enterprise depend and encourages disclosure of assumptions in a manner that will provide a framework for analysis of the projection.

(ii) Management also should consider whether disclosure of the accuracy or inaccuracy of previous projections would provide investors with important insights into the limitations of projections. In this regard, consideration should be given to presenting the projections in a format that will facilitate subsequent analysis of the reasons for differences between actual and forecast results. An important benefit may arise from the systematic analysis of variances between projected and actual results on a continuing basis, since such disclosure may highlight for investors the most significant risk and profit-sensitive areas in a business operation.

(iii) With respect to previously issued projections, registrants are reminded of their responsibility to make full and prompt disclosure of material facts, both favorable and unfavorable, regarding their financial condition. This responsibility may extend to situations where management knows or has reason to know that its previously disclosed projects no longer have a reasonable basis.

(iv) Since a registrant's ability to make projections with relative confidence may vary with all the facts and circumstances, the responsibility for determining whether to discontinue or to resume making projections is best left to management. However, the Commission encourages registrants not to discontinue or to resume projections in Commission filings without a reasonable basis.

(c) *Commission policy on security ratings.* In view of the importance of security ratings ("ratings") to investors and the marketplace, the Commission permits registrants to disclose, on a voluntary basis, ratings assigned by rating organizations to classes of debt securities, convertible debt securities and preferred stock in registration statements and periodic reports. In addition, the Commission permits, pursuant to Rule 134(a)(14) under the Securities Act (§ 230.134(a)(14) of this chapter), voluntary disclosure of ratings assigned by any nationally recognized statistical rating organizations ("NRSROs") in certain communications deemed not to be a prospectus ("tombstone advertisements"). Set forth herein are the Commission's views on important matters to be considered in disclosing security ratings.

(1) *Securities Act filings.* (i) If a registrant includes in a registration statement filed under the Securities Act any rating(s) assigned to a class of securities, it should consider including: (A) Any other rating intended for public dissemination assigned to such class by a NRSRO ("additional NRSRO rating") that is available on the date of the initial filing of the document and that is materially different from any rating disclosed; and (B) the name of each rating organization whose rating is disclosed; each such rating organization's definition or description of the category in which it rated the class of securities; the relative rank of each rating within the assigning rating organization's overall classification system; and a statement informing investors that a security rating is not a recommendation to buy, sell or hold securities, that it may be subject to revision or withdrawal at any time by the assigning rating organization, and that each rating should be evaluated independently of any other rating. The registrant also should include the written consent of any rating organization that is not a NRSRO whose rating is included. With respect to the written consent of any NRSRO whose rating is included, see Rule 436(g) under the Securities Act (§ 230.436(g) of this chapter).

(ii) If a change in a rating already included is available subsequent to the filing of the registration statement, but prior to its effectiveness, the registrant should consider including such rating change in the final prospectus. If the rating change is material or if a materially different rating from any disclosed becomes available during this period, the registrant should consider amending the registration statement to include the rating change or additional rating and recirculating the preliminary prospectus.

(iii) If a materially different additional NRSRO rating or a material change in a rating already included becomes available during any period in which offers or sales are being made, the registrant should consider disclosing such additional rating or rating change by means of post-effective amendment or sticker to the prospectus pursuant to Rule 424(c) under the Securities Act (§ 230.424(c) of this chapter), unless, in the case of a registration statement on Form S–3 (§ 239.13 of this chapter), it has been disclosed in a document incorporated by reference into the registration statement subsequent to its effectiveness and prior to the termination of the offering.

(2) *Exchange Act filings.* (i) If a registrant includes in a registration statement or periodic report filed under the Exchange Act any rating(s) assigned to a class of securities, it should consider including the information specified in paragraphs (c)(1)(i)(A) and (B) of this section.

(ii) If there is a material change in the rating(s) assigned by any NRSRO(s) to any outstanding class(es) of securities of a registrant subject to the reporting requirements of section 13(a) or 15(d) of the Exchange Act, the registrant should consider filing a report on Form 8–K (§ 249.308 of this chapter) or other appropriate report under the Exchange Act disclosing such rating change.

Subpart 229.100—Business

§ 229.101 (Item 101) Description of business.

(a) *General development of business.* Describe the general development of the business of the registrant, its subsidiaries and any predecessor(s) during the past five years, or such shorter period as the registrant may have been engaged in business. Information shall be disclosed for earlier periods if material to an understanding of the general development of the business.

(1) In describing developments, information shall be given as to matters such as the following: the year in which the registrant was organized and its form of organization; the nature and results of any bankruptcy, receivership or similar proceedings with respect to the registrant or any of its significant subsidiaries; the nature and results of any other material reclassification, merger or consolidation of the registrant or any of its significant subsidiaries; the

acquisition or disposition of any material amount of assets otherwise than in the ordinary course of business; and any material changes in the mode of conducting the business.

(2) Registrants, (i) filing a registration statement on Form S–1 (§ 239.11 of this chapter) under the Securities Act or on Form 10 (§ 249.210 of this chapter) under the Exchange Act, (ii) not subject to the reporting requirements of section 13(a) or 15(d) of the Exchange Act immediately prior to the filing of such registration statement, and (iii) that (including predecessors) have not received revenue from operations during each of the three fiscal years immediately prior to the filing of registration statement, shall provide the following information: (A) if the registration statement is filed prior to the end of the registrant's second fiscal quarter, a description of the registrant's plan of operation for the remainder of the fiscal year; or (B) if the registration statement is filed subsequent to the end of the registrant's second fiscal quarter, a description of the registrant's plan of operation for the remainder of the fiscal year and for the first six months of the next fiscal year. If such information is not available, the reasons for its not being available shall be stated. Disclosure relating to any plan shall include such matters as:

(*1*) In the case of a registration statement on Form S–1, a statement in narrative form indicating the registrant's opinion as to the period of time that the proceeds from the offering will satisfy cash requirements and whether in the next six months it will be necessary to raise additional funds to meet the expenditures required for operating the business of the registrant; the specific reasons for such opinion shall be set forth and categories of expenditures and sources of cash resources shall be identified; however, amounts of expenditures and cash resources need not be provided; in addition, if the narrative statement is based on a cash budget, such budget shall be furnished to the Commission as supplemental information, but not as part of the registration statement;

(*2*) An explanation of material product research and development to be performed during the period covered in the plan;

(*3*) Any anticipated material acquisition of plant and equipment and the capacity thereof;

(*4*) Any anticipated material changes in number of employees in the various departments such as research and development, production, sales or administration; and

(*5*) Other material areas which may be peculiar to the registrant's business.

(b) *Financial information about industry segments.* State for each of the registrant's last three fiscal years or for each fiscal year the registrant has been engaged in business, whichever period is shorter, the amounts of revenue (with sales to unaffiliated customers and sales or transfers to other industry segments of the registrant shown separately), operating profit or loss and identifiable assets attributable to each of the registrant's industry segments. (See Appendix A to this Item for a suggested tabular format for presentation of this information.) To the extent that financial information included pursuant to this paragraph (b) complies with generally accepted accounting principles, the registrant may include in its financial statements a cross reference to this data in lieu of presenting duplicative information about its segments in the financial statements; conversely, a registrant may cross reference to the financial statements.

(1) The prior period information shall be restated retroactively in the following circumstances, unless not material, with appropriate disclosure of the nature and effect of the restatement:

(i) When the financial statements of the registrant as a whole have been restated retroactively; or (ii) when there has been a change in the way the registrant's products or services are grouped into industry segments and such change affects the segment information being reported; restatement is not required when a registrant's reportable segments change solely as a result of a change in the nature of its operations or as a result of a segment losing or gaining in significance.

(2) If the registrant includes, or is required by Article 3 of Regulation S–X [17 CFR 210] to include, interim financial statements, discuss any facts relating to the performance of any of the segments during the period which, in the opinion of management, indicate that the three year segment financial data may not be indicative of current or future operations of the segment. Comparative financial information shall be included to the extent necessary to the discussion.

(c) *Narrative description of business.* (1) Describe the business done and intended to be done by the registrant and its subsidiaries, focusing upon the registrant's dominant industry segment or each reportable industry segment about which financial information is presented in the financial statements. To the extent material to an understanding of the registrant's business taken as a whole, the description of each such segment shall include the information specified in paragraphs (c)(1) (i) through (x) of this Item. The matters specified in paragraphs (c)(1) (xi) through (xiii) of this Item shall be discussed with respect to the registrant's business in general; where material, the industry segments to which these matters are significant shall be identified.

(i) The principal products produced and services rendered by the registrant in the industry segment and the principal markets for, and methods of distribution of, the segment's principal products and services. In addition, state for each of the last three fiscal years the amount or percentage of total revenue contributed by any class of similar products or services which accounted for 10 percent or more of consolidated revenue in any of the last three fiscal years or 15 percent or more of consolidated revenue, if total revenue did not exceed $50,000,000 during any of such fiscal years.

(ii) A description of the status of a product or segment (*e.g.* whether in the planning stage, whether prototypes exist, the degree to which product design has progressed or whether further engineering is necessary), if there has been a public announcement of, or if the registrant otherwise has made public information about, a new product or industry segment that would require the investment of a material amount of the assets of the registrant or that otherwise is material. This paragraph is not intended to require disclosure of otherwise nonpublic corporate information the disclosure of which would affect adversely the registrant's competitive position.

(iii) The sources and availability of raw materials.

(iv) The importance to the industry segment and the duration and effect of all patents, trademarks, licenses, franchises and concessions held.

(v) The extent to which the business of the industry segment is or may be seasonal.

(vi) The practices of the registrant and the industry (respective industries) relating to working capital items (*e.g.*, where the registrant is required to carry significant amounts of inventory to meet rapid delivery requirements of customers or to assure itself of a continuous allotment of goods from suppliers; where the registrant provides rights to return merchandise; or where the registrant has provided extended payment terms to customers).

(vii) The dependence of the segment upon a single customer, or a few customers, the loss of any one or more of which would have a material adverse effect on the segment. The name of any customer and its relationship, if any, with the registrant or its subsidiaries shall be disclosed if sales to the customer by one or more segments are made in an aggregate amount equal to 10 percent or more of the registrant's consolidated revenues and the loss of such customer would have a material adverse effect on the registrant and its subsidiaries taken as a whole. The names of other customers may be included, unless in the particular case the effect of including the names would be misleading. For purposes of this paragraph, a group of customers under common control or customers that are affiliates of each other shall be regarded as a single customer.

(viii) The dollar amount of backlog orders believed to be firm, as of a recent date and as of a comparable date in the preceding fiscal year, together with an indication of the portion thereof not reasonably expected to be filled within the current fiscal year, and seasonal or other material aspects of the backlog. (There may be included as firm orders government orders that are firm but not yet funded and contracts awarded but not yet signed, provided an appropriate statement is added to explain the nature of such orders and the amount thereof. The portion of orders already included in sales or operating revenues on the basis of percentage of completion or program accounting shall be excluded.)

(ix) A description of any material portion of the business that may be subject to renegotiation of profits or termination of contracts or subcontracts at the election of the Government.

(x) Competitive conditions in the business involved including, where material, the identity of the particular markets in which the registrant competes, an estimate of the number of competitors and the registrant's competitive position, if known or reasonably available to the registrant. Separate consideration shall be given to the principal products or services or classes of products or services of the segment, if any. Generally, the names of competitors need not be disclosed. The registrant may include such names, unless in the particular case the effect of including the names would be misleading. Where, however, the registrant knows or has reason to know that one or a small number of competitors is dominant in the industry it shall be identified. The principal methods of competition (*e.g.*, price, service, warranty or product performance) shall be identified, and positive and negative factors pertaining to the competitive position of the registrant, to the extent that they exist, shall be explained if known or reasonably available to the registrant.

(xi) If material, the estimated amount spent during each of the last three fiscal years on company-sponsored research and development activities determined in accordance with generally accepted accounting principles. In addition, state, if material, the estimated dollar amount spent during each of such years on customer-sponsored research activities relating to the development of new products, services or techniques or the improvement of existing products, services or techniques.

(xii) Appropriate disclosure also shall be made as to the material effects that compliance with Federal, State and local provisions which have been enacted or adopted regulating the discharge of materials into the environment, or otherwise relating to the protection of the environment, may have upon the capital expenditures, earnings and competitive position of the registrant and its subsidiaries. The registrant shall disclose any material estimated capital expenditures for environmental control facilities for the remainder of its current fiscal year and its succeeding fiscal year and for such further periods as the registrant may deem materials.

(xiii) The number of persons employed by the registrant.

(d) *Financial information about foreign and domestic operations and export sales.* (1) State for each of the registrant's last three fiscal years, or for each fiscal year the registrant has been engaged in business, whichever period is shorter, the amounts of revenue (with sales to unaffiliated customers and sales or transfers to other geographic areas shown separately), operating profit or loss and identifiable assets attributable to each of the registrant's geographic areas and the amount of export sales in the aggregate or by appropriate geographic area to which the sales are made. (See Appendix B to this Item for a suggested tabular format for presentation of this information.) To the extent that financial information included pursuant to this paragraph (d) complies with generally accepted accounting principles, the registrant may include in its financial statements a cross reference to this data in lieu of presenting duplicative data in its financial statements; conversely a registrant may cross-reference to the financial statements. The prior period information shall be retroactively restated in the following circumstances, unless not material, with appropriate disclosure of the nature and effect of the restatement:

(i) When the financial statements of the registrant as a whole have been retroactively restated, or

(ii) When there has been a change in the way a registrant's foreign operations are grouped into geographic areas and such change affects the geographic area information being reported. Restatement is not required when a registrant's geographic areas change as a result of a change in the nature of operations or as a result of an area losing or gaining in significance.

(2) Any risks attendant to the foreign operations and any dependence of one or more of the registrant's industry segments upon such foreign operations shall be described unless it would be more appropriate for this matter to be discussed in connection with the description of one or more of the registrant's industry segments pursuant to paragraph (c) of this Item.

(3) If the registrant includes, or is required by Article 3 of Regulation S–X [17 CFR 210], to include, interim financial statements, discuss any facts relating to the information furnished pursuant to this paragraph (d) that, in the opinion of management, indicate that the three year financial data for foreign and domestic operations or export sales may not be indicative of current or future operations. Comparative information shall be included to the extent necessary to the discussion.

Instructions to Item 101. 1. In determining what information about the industry segments is material to an understanding of the registrant's business taken as a whole and therefore required to be disclosed, pursuant to paragraph (c) of this Item, the registrant should take into account both quantitative and qualitative factors such as the significance of the matter to the registrant (*e.g.*, whether a matter with a relatively minor impact on the registrant's business is represented by management to be important to its future profitability), the pervasiveness of the matter (*e.g.*, whether it effects or may affect numerous items in the segment information), and the impact of the matter (*e.g.*, whether it distorts the trends reflected in the segment information). Situations may arise when information should be disclosed about a segment, althought the information in quantitative terms may not appear significant to the registrant's business taken as a whole.

2. The determination whether information about foreign and domestic operations and export sales is required in the document for a particular year shall be based upon an evaluation of interperiod comparability. For instance, interperiod comparability most likely would require that foreign and domestic operations and export sales that have been significant in the past and are expected to be significant in the future be regarded as reportable even though they are not significant in the current fiscal year.

3. The Commission, upon written request of the registrant and where consistent with the protection of investors, may permit the omission of any of the information required by this Item or the furnishing in substitution thereof of appropriate information of comparable character.

Appendix A—Industry Segments

The table set forth below is illustrative of the format that might be used for presenting the segment information required by paragraphs (b) and (c)(1)(i) of Items 101 regarding industry segments and classes of similar products or services.

FINANCIAL INFORMATION RELATING TO INDUSTRY SEGMENTS AND CLASSES OF PRODUCTS OR SERVICES

	Year		
	1	2	3
Sales to unaffiliated customers:			
Industry segment A:			
Class of product 1			
Class of product 2			
Industry segment B:			
Class of product 1			
Class of product 2			
Industry segment C			
Other industries			
Intersegment sales or transfers:			
Industry segment A			
Industry segment B			
Industry segment C			
Other industries			
Operating profit or loss:			
Industry segment A			
Industry segment B			
Industry segment C			
Other industries			
Identifiable assets:			
Industry segment A			
Industry segment B			
Industry segment C			
Other industries			

Appendix B—Foreign and Domestic Operations and Export Sales

The table set forth below is illustrative of the format that might be used for presenting the segment information required by paragraph (d) of Item 101 regarding foreign and domestic operations and export sales.

FINANCIAL INFORMATION RELATING TO FOREIGN AND DOMESTIC OPERATIONS AND EXPORT SALES

	Year		
	1	2	3
Sales to unaffiliated customers:			
United States[1]			
Geographic area A			
Geographic area B			
Sales or transfers between geographic areas:			
United States			
Geographic area A			
Geographic area B			
Operating profit or loss:[2]			
United States			
Geographic area A			
Geographic area B			
Identifiable assets:			
United States			
Geographic area A			
Geographic area B			
Export sales; United States[3]			

[1] Or appropriate area of domestic operations.
[2] Or some other reasonable measure of profitability as used in the financial statements.
[3] Identify the geographic areas to which the sales are made, if appropriate.

§ 229.102 (Item 102) Description of property.

State briefly the location and general character of the principal plants, mines and other materially important physical properties of the registrant and its subsidiaries. In addition, identify the industry segment(s) that use the properties described. If any such property is not held in fee or is held subject to any major encumbrance, so state and describe briefly how held.

Instructions to Item 102. 1. What is required is such information as reasonably will inform investors as to the suitability, adequacy, productive capacity and extent of utilization of the facilities by the registrant. Detailed descriptions of the physical characteristics of individual properties or legal descriptions by metes and bounds are not required and shall not be given.

2. In determining whether properties should be described, the registrant should take into account both quantitative and qualitative factors. See Instruction 1 to Item 101 of Regulation S–K (§ 229.101).

3. In the case of an extractive enterprise, material information shall be given as to production, reserves, locations, development and the nature of the registrant's interest. If individual properties are of major significance to an industry segment:

A. More detailed information concerning these matters shall be furnished; and

B. Appropriate maps shall be used to disclose location data of significant properties except in cases for which numerous maps would be required.

4. A. If reserve estimates are referred to in the document, the staff of the Office of Engineering, Division of Corporation Finance of the Commission, shall be consulted. That Office may request that a copy of the full report of the engineer or other expert who estimated the reserves be furnished as supplemental information and not as part of the filing. See Rule 418 of Regulation C (§ 230.418 of this chapter) and Rule 12b–4 of Regulation 12B (§ 240.12b–4 of this chapter) with respect to the submission to, and return by, the Commission of supplemental information.

B. If the estimates of reserves, or any estimated valuation thereof, are represented as being based on estimates prepared or reviewed by independent consultants, those independent consultants shall be named in the document.

5. Estimates of oil or gas reserves other than proved or, in the case of other extractive reserves, estimates other than proved or probable reserves, and any estimated values of such reserves shall not be disclosed in any document publicly filed with the Commission, unless such information is required to be disclosed in the document by foreign or state law; provided, however, that where such estimates previously have been provided to a person (or any of its affiliates) that is offering to acquire, merge or consolidate with the registrant or otherwise to acquire the registrant's securities, such estimates may be included in documents relating to such acquisition.

6. The definitions in § 210.4–10(a) of Regulation S–X [17 CFR 210] shall apply to this Item with respect to oil and gas operations.

§ 229.103 (Item 103) Legal proceedings.

Describe briefly any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the registrant or any of its subsidiaries is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceeding and the relief sought. Include similar information as to any such proceedings known to be contemplated by governmental authorities.

Instructions to Item 103. 1. If the business ordinarily results in actions for negligence or other claims, no such action or claim need be described unless it departs from the normal kind of such actions.

2. No information need be given with respect to any proceeding that involves primarily a claim for damages if the amount involved, exclusive of interest and costs, does not exceed 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis. However, if any proceeding presents in large degree the same legal and factual issues as other proceedings pending or known to be contemplated, the amount involved in such other proceedings shall be included in computing such percentage.

3. Notwithstanding Instructions 1 and 2, any material bankruptcy, receivership, or similar proceeding with respect to the registrant or any of its significant subsidiaries shall be described.

4. Any material proceedings to which any director, officer or affiliate of the registrant, any owner of record or beneficially of more than five percent of any class of voting securities of the registrant, or any associate of any such director, officer, affiliate of the registrant, or security holder is a party adverse to the registrant or any of its subsidiaries or has a material interest adverse to the registrant or any of its subsidiaries also shall be described.

5. Notwithstanding the foregoing, an administrative or judicial proceeding (including, for purposes of A and B of this Instruction, proceedings which present in large degree the same issues) arising under any Federal, State or local provisions that have been enacted or adopted regulating the discharge of materials into the environment or primary for the purpose of protecting the environment shall not be deemed "ordinary routine litigation incidental to the business" and shall be described if:

A. Such proceeding is material to the business or financial condition of the registrant;

B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or

C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than $100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Subpart 229.200—Securities of the Registrant

§ 229.201 (Item 201) Market price of and dividends on the registrant's common equity and related stockholder matters.

(a) *Market information.* (1)(i) Identify the principal United States market or markets in which each class of the registrant's common equity is being traded. Where there is no established public trading market for a class of common equity, furnish a statement to that effect. For purposes of this Item the existence of limited or sporadic quotations should not of itself be deemed to constitute an "established public trading market." In the case of foreign registrants, also identify the principal established foreign public trading market, if any, for each class of the registrant's common equity.

(ii) If the principal United States market for such common equity is an exchange, state the high and low sales prices for the equity for each full quarterly period within the two most recent fiscal years and any subsequent interim period for which financial statements are included, or are required to be included by Article 3 of Regulation S–X [17 CFR 210], as reported in the consolidated transaction reporting system or, if not so reported, as reported on the principal exchange market for such equity.

(iii) If the principal United States market for such common equity is not an exchange, state the range of high and low bid information for the equity for each full quarterly period within the two most recent fiscal years and any subsequent interim period for which financial statements are included, or are required to be included by Article 3 of Regulation S–X, as regularly quoted in the automated quotation system of a registered securities association, or where the equity is not quoted in such a system, the range of reported high and low bid quotations, indicating the source of such quotations. Indicate, as applicable, that such over-the-counter market quotations reflect inter-dealer prices, without retail mark-up, mark-down or commission and may not necessarily represent actual transactions. Where there is an absence of an established public trading market, reference to quotations shall be qualified by appropriate explanation.

(iv) Where a foreign registrant has identified a principal established foreign trading market for its common equity pursuant to paragraph (a)(1) of this Item, also provide market price information comparable, to the extent practicable, to that required for the principal United States market, including the source of such information. Such prices shall be stated in the currency in which they are quoted. The registrant may translate such prices into United States currency at the currency exchange rate in effect on the date the price disclosed was reported on the foreign exchange. If the primary United States market for the registrant's common equity trades using American Depositary Receipts, the United States prices disclosed shall be on that basis.

(v) If the information called for by this Item is being presented in a registration statement filed pursuant to the Securities Act or a proxy or information statement filed pursuant to the Exchange Act, the document also shall include price information as of the latest practicable date, and, in the case of securities to be issued in connection with an acquisition, business combination or other reorganization, as of the date immediately prior to the public announcement of such transaction.

(2) If the information called for by this paragraph (a) is being presented in a registration statement on Form S–1 (§ 239.11 of this chapter) under the Securities Act or on Form 10 (§ 249.210 of this chapter) under the Exchange Act relating to a class of common equity for which at the time of filing there is no established United States public trading market, indicate the amount(s) of common equity (i) that is subject to outstanding options or warrants to purchase, or securities convertible into, common equity of the registrant; (ii) that could be sold pursuant to Rule 144 under the Securities Act (§ 230.144 of this chapter) or that the registrant has agreed to register under the Securities Act for sale by security holders; or (iii) that is being, or has been publicly proposed to be, publicly offered by the registrant (unless such common equity is being offered pursuant to an employee benefit plan or dividend reinvestment plan), the offering of which could have a material effect on the market price of the registrant's common equity.

(b) *Holders.* (1) Set forth the approximate number of holders of each class of common equity of the registrant as of the latest practicable date.

(2) If the information called for by this paragraph (b) is being presented in a registration statement filed pursuant to the Securities Act or a proxy statement or information statement filed pursuant to the Exchange Act that relates to an acquisition, business combination or other reorganization, indicate the effect of such transaction on the amount and percentage of present holdings of the registrant's common equity owned beneficially by (i) any person (including any group as that term is used in section 13(d)(3) of the Exchange Act) who is known to the registrant to be the beneficial owner of more than five percent of any class of the registrant's common equity and (ii) each director and nominee and (iii) all directors and officers as a group, and the registrant's present commitments to such persons with respect to the issuance of shares of any class of its common equity.

(c) *Dividends.* (1) State the frequency and amount of any cash dividends declared on each class of its common equity by the registrant for the two most recent fiscal years and any subsequent interim period for which financial statements are required to be presented by § 210.3 of Regulation S–X. Where there are restrictions (including, where appropriate, restrictions on the ability of registrant's subsidiaries to transfer funds to the registrant in the form of cash dividends, loans or advances) that currently materially limit the registrant's ability to pay such dividends or that the registrant reasonably believes are likely to limit materially the future payment of dividends on the common equity so state and either (i) describe briefly (where appropriate quantify) such restrictions, or (ii) cross reference to the specific discussion of such restrictions in the Management's Discussion and Analysis of financial condition and operating results prescribed by Item 303 of Regulation S–K (§ 229.303) and the description of such restrictions required

by Regulation S-X in the registrant's financial statements.

(2) Where registrants have a record of paying no cash dividends although earnings indicate an ability to do so, they are encouraged to consider the question of their intention to pay cash dividends in the foreseeable future and, if no such intention exists, to make a statement of that fact in the filing. Registrants which have a history of paying cash dividends also are encouraged to indicate whether they currently expect that comparable cash dividends will continue to be paid in the future and, if not, the nature of the change in the amount or rate of cash dividend payments.

Instructions to Item 201. 1. Registrants, the common equity of which is listed for trading on more than one securities exchange registered under the Exchange Act, are required to indicate each such exchange pursuant to paragraph (a)(1)(i) of this Item; such registrants, however, need only report one set of price quotations pursuant to paragraph (a)(1)(ii) of this Item; where available, these shall be the prices as reported in the consolidated transaction reporting system and, where the prices are not so reported, the prices on the most significant (in terms of volume) securities exchange for such shares.

2. Market prices and dividends reported pursuant to this Item shall be adjusted to give retroactive effect to material changes resulting from stock dividends, stock splits and reverse stock splits.

3. The computation of the approximate number of holders of registrant's common equity may be based upon the number of record holders or also may include individual participants in security position listings. See Rule 17Ad-8 under the Exchange Act. The method of computation that is chosen shall be indicated.

4. If the registrant is a foreign issuer, describe briefly:

A. Any governmental laws, decrees or regulations in the country in which the registrant is organized that restrict the export or import of capital, including, but not limited to, foreign exchange controls, or that affect the remittance of dividends or other payments to nonresident holders of the registrant's common equity; and

B. All taxes, including withholding provisions, to which United States common equity holders are subject under existing laws and regulations of the foreign country in which the registrant is organized. Include a brief description of pertinent provisions of any reciprocal tax treaty between such foreign country and the United States regarding withholding. If there is no such treaty, so state.

§ 229.202 (Item 202) Description of registrant's securities.

Note.—If the securities being described have been accepted for listing on an exchange, the exchange may be identified. The document should not however, convey the impression that the registrant may apply successfully for listing of the securities on an exchange or that, in the case of an underwritten offering, the underwriters may request the registrant to apply for such listing, unless there is reasonable assurance that the securities to be offered will be acceptable to a securities exchange for listing.

(a) *Capital stock.* If capital stock is to be registered, state the title of the class and describe such of the matters listed in paragraphs (a) (1) through (5) as are relevant. A complete legal description of the securities need not be given.

(1) Outline briefly: (i) dividend rights; (ii) terms of conversion; (iii) sinking fund provisions; (iv) redemption provisions; (v) voting rights, including any provisions specifying the vote required by security holders to take action; (vi) any classification of the Board of Directors, and the impact of such classification where cumulative voting is permitted or required; (vii) liquidation rights; (viii) preemption rights; and (ix) liability to further calls or to assessment by the registrant and for liabilities of the registrant imposed on its stockholders under state statutes (*e.g.*, to laborers, servants or employees of the registrant), unless such disclosure would be immaterial because the financial resources of the registrant or other factors make it improbable that liability under such state statues would be imposed; (x) any restriction on alienability of the securities to be registered; and (xi) any provision discriminating against any existing or prospective holder of such securities as a result of such security holder owning a substantial amount of securities.

(2) If the rights of holders of such stock may be modified otherwise than by a vote of a majority or more of the shares outstanding, voting as a class, so state and explain briefly.

(3) If preferred stock is to be registered, describe briefly any restriction on the repurchase or redemption of shares by the registrant while there is any arrearage in the payment of dividends or sinking fund installments. If there is no such restriction, so state.

(4) If the rights evidenced by, or amounts payable with respect to, the shares to be registered are, or may be, materially limited or qualified by the rights of any other authorized class of securities, include the information regarding such other securities as will enable investors to understand such limitations or qualifications. No information need be given, however, as to any class of securities all of which will be retired, provided appropriate steps to ensure such retirement will be completed prior to or upon delivery by the registrant of the shares.

(5) Describe briefly or cross-reference to a description in another part of the document, any provision of the registrant's charter or by-laws that would have an effect of delaying, deferring or preventing a change in control of the registrant and that would operate only with respect to an extraordinary corporate transaction involving the registrant (or any of its subsidiaries), such as a merger, reorganization, tender offer, sale or transfer of substantially all of its assets, or liquidation. Provisions and arrangements required by law or imposed by governmental or judicial authority need not be described or discussed pursuant to this paragraph (a)(5). Provisions or arrangements adopted by the registrant to effect, or further, compliance with laws or governmental or judicial mandate are not subject to the immediately preceding sentence where such compliance did not require the specific provisions or arrangements adopted.

(b) *Debt Securities.* If debt securities are to be registered, state the title of such securities, the principal amount being offered, and, if a series, the total amount authorized and the total amount outstanding as of the most recent practicable date; and describe such of the matter listed in paragraphs (b) (1) through (10) as are relevant. A complete legal description of the securities need not be given. For purposes solely of this Item, debt securities that differ from one another only as to the interest rate or maturity shall be regarded as securities of the same class. Outline briefly:

(1) Provisions with respect to maturity, interest, conversion, redemption, amortization, sinking fund, or retirement;

(2) Provisions with respect to the kind and priority of any lien securing the securities, together with a brief identification of the principal properties subject to such lien;

(3) Provisions with respect to the subordination of the rights of holders of the securities to other security holders or creditors of the registrant; where debt securities are designated as subordinated in accordance with Instruction 1 to this Item, set forth the aggregate amount of outstanding indebtedness as of the most recent practicable date that by the terms of such debt securities would be senior to such subordinated debt and describe briefly any limitation on the issuance of such additional senior indebtedness or state that there is no such limitation;

(4) Provisions restricting the declaration of dividends or requiring the maintenance of any asset ratio or the creation or maintenance of reserves;

(5) Provisions restricting the incurrence of additional debt or the issuance of additional securities; in the case of secured debt, whether the securities being registered are to be issued on the basis of unbonded bondable property, the deposit of cash or otherwise; as of the most recent practicable date, the approximate amount of unbonded bondable property available as a basis for the issuance of bonds; provisions permitting the withdrawal of cash deposited as a basis for the issuance of bonds; and provisions permitting the release or substitution of assets securing the issue; *Provided, however,* That provisions permitting the release of assets upon the deposit of equivalent funds or the pledge of equivalent property, the release of property no longer required in the business, obsolete property, or property taken by eminent domain or the application of insurance moneys, and other similar provisions need not be described;

(6) The general type of event that constitutes a default and whether or not any periodic evidence is required to be furnished as to the absence of default or as to compliance with the terms of the indenture;

(7) Provisions relating to modification of the terms of the security or the rights of security holders;

(8) If the rights evidenced by the securities to be registered are, or may be, materially limited or qualified by the rights of any other authorized class of securities, the information regarding such other securities as will enable investors to understand the rights evidenced by the securities; to the extent not otherwise disclosed pursuant to this Item; no information need be given, however, as to any class of securities all of which will be retired, provided appropriate steps to ensure such retirement will be completed prior to or upon delivery by the registrant of the securities;

(9) If debt securities are to be offered at a price such that they will be deemed to be offered at an "original issue discount" as defined in section 1232 of the Internal Revenue Code (26 U.S.C. 1232), or if a debt security is sold in a package with another security and the allocation of the offering price between the two securities may have the effect of offering the debt security at such an original issue discount, the tax effects thereof pursuant to section 1232; and

(10) The name of the trustee(s) and the nature of any material relationship with the registrant or with any of its affiliates; the percentage of securities of the class necessary to require the trustee to take action; and what indemnification the trustee may require before proceeding to enforce the lien.

(c) *Warrants and rights.* If the securities described are to be offered pursuant to warrants or rights state:

(1) The amount of securities called for by such warrants or rights;

(2) The period during which and the price at which the warrants or rights are exercisable;

(3) The amount of warrants or rights outstanding;

(4) Provisions for changes to or adjustments in the exercise price; and

(5) Any other material terms of such rights on warrants.

(d) *Other securities.* If securities other than capital stock, debt, warrants or rights are to be registered, include a brief description (comparable to that required in paragraphs (a), (b) and (c) of Item 202) of the rights evidenced thereby.

(e) *Market information for securities other than common equity.* If securities other than common equity are to be registered and there is an established public trading market for such securities (as that term is used in Item 201 of Regulation S-K (§ 229.201 of this chapter)) provide market information with respect to such securities comparable to that required by paragraph (a) of Item 201 of Regulation S-K (§ 229.201).

Instructions to Item 202. 1. Wherever the title of securities is required to be stated, there shall be given such information as will indicate the type and general character of the securities, including the following:

A. In the case of shares, the par or stated value, if any; the rate of dividends, if fixed, and whether cumulative or non-cumulative; a brief indication of the preference, if any; and if convertible or redeemable, a statement to that effect;

B. In the case of debt, the rate of interest; the date of maturity or, if the issue matures serially, a brief indication of the serial maturities, such as "maturing serially from 1955 to 1960"; if the payment of principal or interest is contingent, an appropriate indication of such contingency; a brief indication of the priority of the issue; and, if convertible or callable, a statement to that effect; or

C. In the case of any other kind of security, appropriate information of comparable character.

2. If the registrant is a foreign registrant, include (to the extent not disclosed in the document pursuant to Item 201 of Regulation S-K (§ 229.201) or otherwise) in the description of the securities:

A. A brief description of any limitations on the right of nonresident or foreign owners to hold or vote such securities imposed by foreign law or by the charter or other constituent document of the registrant, or if no such limitations are applicable, so state;

B. A brief description of any governmental laws, decrees or regulations in the country in which the registrant is organized affecting the remittance of dividends, interest and other payments to nonresident holders of the securities being registered;

C. A brief outline of all taxes, including withholding provisions, to which United States security holders are subject under existing laws and regulations of the foreign country in which the registrant is organized; and

D. A brief description of pertinent provisions of any reciprocal tax treaty between such foreign country and the United States regarding withholding or, if there is no such treaty, so state.

3. Section 305(a)(2) of the Trust Indenture Act of 1939, 15 U.S.C. 77aaa et seq., as amended ("Trust Indenture Act"), shall not be deemed to require the inclusion in a registration statement or in a prospectus of any information not required by this Item.

4. Where convertible securities or stock purchase warrants are being registered that are subject to redemption or call, the description of the conversion terms of the securities or material terms of the warrants shall disclose:

A. Whether the right to convert or purchase the securities will be forfeited unless it is exercised before the date specified in a notice of the redemption or call;

B. The expiration or termination date of the warrants;

C. The kinds, frequency and timing of notice of the redemption or call, including the cities or newspapers in which notice will be published (where the securities provide for a class of newspapers or group of cities in which the publication may be made at the discretion of the registrant, the registrant should describe such provision); and

D. In the case of bearer securities, that investors are responsible for making arrangements to prevent loss of the right to convert or purchase in the event of redemption of call, for example, by reading the newspapers in which the notice of redemption or call may be published.

Subpart 229.300—Financial Information

§ 229.301 (Item 301) Selected financial data.

Furnish in comparative columnar form the selected financial data for the registrant referred to below, for

(a) Each of the last five fiscal years of the registrant (or for the life of the registrant and its predecessors, if less), and

(b) Any additional fiscal years necessary to keep the information from being misleading.

Instructions to Item 301. 1. The purpose of the selected financial data shall be to supply in a convenient and readable format selected financial data which highlight certain

significant trends in the registrant's financial condition and results of operations.

2. Subject to appropriate variation to conform to the nature of the registrant's business, the following items shall be included in the table of financial data: net sales or operating revenues; income (loss) from continuing operations; income (loss) from continuing operations per common share; total assets; long-term obligations and redeemable preferred stock (including long-term debt, capital leases, and redeemable preferred stock as defined in § 210.5–02.28(a) of Regulation S–X [17 CFR 210]); and cash dividends declared per common share. Registrants may include additional items which they believe would enhance an understanding of and would highlight other trends in their financial condition and results of operations.

Briefly describe, or cross-reference to a discussion thereof, factors such as accounting changes, business combinations or dispositions of business operations, that materially affect the comparability of the information reflected in selected financial data. Discussion of, or reference to, any material uncertainties should also be included where such matters might cause the data reflected herein not to be indicative of the registrant's future financial condition or results of operations.

3. Those registrants that are required to provide five year summary information in accordance with Statement of Financial Accounting Standard No. 33, "Financial Reporting and Changing Prices," may combine such information with the selected financial data appearing pursuant to this Item.

4. All references to the registrant in the table of selected financial data and in this Item shall mean the registrant and its subsidiaries consolidated.

5. If interim period financial statements are included, or are required to be included, by Article 3 of Regulation S–X, registrants should consider whether any or all of the selected financial data need to be updated for such interim periods to reflect a material change in the trends indicated; where such updating information is necessary, registrants shall provide the information on a comparative basis unless not necessary to an understanding of such updating information.

§ 229.302 (Item 302) Supplementary financial information.

(a) *Selected quarterly financial data.* Registrants specified in paragraph (a)(5) of this Item shall provide the information specified below.

(1) Disclosure shall be made of net sales, gross profit (net sales less costs and expenses associated directly with or allocated to products sold or services rendered), income (loss) before extraordinary items and cumulative effect of a change in accounting, per share data based upon such income (loss), and net income (loss), for each full quarter within the two most recent fiscal years and any subsequent interim period for which financial statements are included or are required to be included by Article 3 of Regulation S–X [17 CFR 210].

(2) When the data supplied pursuant to this paragraph (a) vary from the amounts previously reported on the Form 10–Q (§ 249.308a of this chapter) filed for any quarter, such as would be the case when a pooling of interests occurs or where an error is corrected, reconcile the amounts given with those previously reported and describe the reason for the difference.

(3) Describe the effect of any disposals of segments of a business, and extraordinary, unusual or infrequently occurring items recognized in each full quarter within the two most recent fiscal years and any subsequent interim period for which financial statements are included or are required to be included by Article 3 of Regulation S–X, as well as the aggregate effect and the nature of year-end or other adjustments which are material to the results of that quarter.

(4) If the financial statements to which this information relates have been reported on by an accountant, appropriate professional standards and procedures, as enumerated in the Statements of Auditing Standards issued by the Auditing Standards Board of the American Institute of Certified Public Accountants, shall be followed by the reporting accountant with regard to the data required by this paragraph (a).

(5) This paragraph (a) applies to any registrant (except a foreign private registrant not required to report quarterly financial information on Form 10–Q) that meets both of the following tests:

(i) First test. The registrant:

(A) Has securities registered pursuant to section 12(b) of the Exchange Act (other than mutual life insurance companies); or

(B) Is an insurance company that is subject to the reporting requirements of section 15(d) of the Exchange Act and has securities which also meet the criteria set forth in paragraphs (C)(*1*) and (C)(*2*) immediately following; or

(C) Has securities registered pursuant to section 12(g) of the Exchange Act which also

(*1*) Are quoted on the National Association of Securities Dealers Automated Quotation System, and

(*2*) Meet the following criteria:

(*i*) Three or more dealers stand willing to, and do in fact, make a market in such stock, including making regularly published bona fide bids and offers for such stock for their own accounts; or the stock is registered on a securities exchange that is exempted by the Commission from registration as a national securities exchange pursuant to section 5 of the Exchange Act; for purposes of this paragraph, the insertion of quotations into the National Association of Securities Dealers Automated Quotation System by three or more dealers on at least 10 business days during the six month period immediately preceding the fiscal year for which the financial statements are required shall satisfy the requirement that three dealers be making a market;

(*ii*) There continue to be 800 or more holders of record, as defined in Rule 12g5–1 (§ 240.12g5–1 of this chapter), under the Exchange Act, of the stock who are not officers, directors, or beneficial owners of 10 percent or more of the stock;

(*iii*) The registrant continues to be a United States corporation;

(*iv*) There are 300,000 or more of such securities outstanding in addition to shares held beneficially by officers, directors, or beneficial owners of more than 10 percent of the stock; and

(*v*) In addition, the registrant shall meet two of the three following requirements:

(A) The shares described in paragraph (5)(i)(C)(*2*)(*iv*) of this Item continue to have a market value of at least $2.5 million;

(B) The minimum representative bid price of such stock is at least $5 per share; or

(C) The registrant continues to have at least $2.5 million of capital, surplus, and undivided profits.

Instructions to Paragraph (a)(5)(i)(C)(2)(v). 1. The computation required by paragraphs (*v*)(A) and (*v*)(B) shall be based on the average of the closing representative bid prices as reported by the National Association of Securities Dealers Automated Quotation System in accordance with Rule 11Ac1–2 under the Exchange Act (§ 240.11Ac1–2 of this chapter) for the 20 business days immediately preceding the fiscal year for which the financial statements are required.

2. The computation required by paragraph (*v*)(C) shall be as at the last business day of the fiscal year immediately preceding the fiscal year for which the financial statements are required.

(ii) Second test. The registrant and its consolidated subsidiaries (A) have had a net income after taxes but before extraordinary items and the cumulative effect of a change in accounting of at least $250,000 for each of the last three fiscal years; or (B) had total assets of at least $200,000,000 for the last fiscal year-end.

(b) *Information on the effects of changing prices.* Information on the effects of changing prices on business enterprises shall be presented by registrants subject to the reporting provisions of Statements of Financial Accounting Standards Nos. 33, 39, 40, 41, and 46, "Financial Reporting and Changing Prices," in accordance with the specific provisions of those Statements. Registered investment companies are excluded from these standards by Statement of Financial Accounting Standard No. 54 "Financial Reporting and Changing Prices: Investment Companies."

§ 229.303 (Item 303) Management's discussion and analysis of financial condition and results of operations.

(a) *Full fiscal years.* Discuss registrant's financial condition, changes in financial condition and results of operations. The discussion shall provide information as specified in paragraphs (a) (1), (2) and (3) with respect to liquidity, capital resources and results of operations and also shall provide such other information that the registrant believes to be necessary to an understanding of its financial condition, changes in financial condition and results of operations. Discussions of liquidity and capital resources may be combined whenever the two topics are interrelated. Where in the registrant's judgment a discussion of segment information or of other subdivisions of the registrant's business would be appropriate to an understanding of such business, the discussion shall focus on each relevant, reportable segment or other subdivision of the business and on the registrant as a whole.

(1) *Liquidity.* Identify any known trends or any known demands, commitments, events or uncertainties that will result in or that are reasonably likely to result in the registrant's liquidity increasing or decreasing in any material way. If a material deficiency is identified, indicate the course of action that the registrant has taken or proposes to take to remedy the deficiency. Also identify and separately describe internal and external sources of liquidity, and briefly discuss any material unused sources of liquid assets.

(2) *Capital resources.* (i) Describe the registrant's material commitments for capital expenditures as of the end of the latest fiscal period, and indicate the general purpose of such commitments and the anticipated source of funds needed to fulfill such commitments.

(ii) Describe any known material trends, favorable or unfavorable, in the registrant's capital resources. Indicate any expected material changes in the mix and relative cost of such resources. The discussion shall consider changes between equity, debt and any off-balance sheet financing arrangements.

(3) *Results of operations.* (i) Describe any unusual or infrequent events or transactions or any significant economic changes that materially affected the amount of reported income from continuing operations and, in each case, indicate the extent to which income was so affected. In addition, describe any other significant components of revenues or expenses that, in the registrant's judgment, should be described in order to understand the registrant's results of operations.

(ii) Describe any known trends or uncertainties that have had or that the registrant reasonably expects will have a material favorable or unfavorable impact on net sales or revenues or income from continuing operations. If the registrant knows of events that will cause a material change in the relationship between costs and revenues (such as known future increases in costs of labor or materials or price increases or inventory adjustments), the change in the relationship shall be disclosed.

(iii) To the extent that the financial statements disclose material increases in net sales or revenues, provide a narrative discussion of the extent to which such increases are attributable to increases in prices or to increases in the volume or amount of goods or services being sold or to the introduction of new products or services.

(iv) For the three most recent fiscal years of the registrant, or for those fiscal years beginning after December 25, 1979, or for those fiscal years in which the registrant has been engaged in business, whichever period is shortest, discuss the impact of inflation and changing prices on the registrant's net sales and revenues and on income from continuing operations.

Instructions to Paragraph 303(a). 1. The registrant's discussion and analysis shall be of the financial statements and of other statistical data that the registrant believes will enhance a reader's understanding of its financial condition, changes in financial condition and results of operations. Generally, the discussion shall cover the three year period covered by the financial statements and shall use year-to-year comparisons or any other formats that in the registrant's judgment enhance a reader's understanding. However, where trend information is relevant, reference to the five year selected financial data appearing pursuant to Item 301 of Regulation S–K (§ 229.301) may be necessary.

2. The purpose of the discussion and analysis shall be to provide to investors and other users information relevant to an assessment of the financial condition and results of operations of the registrant as determined by evaluating the amounts and certainty of cash flows from operations and from outside sources. The information provided pursuant to this Item need only include that which is available to the registrant without undue effort or expense and which does not clearly appear in the registrant's financial statements.

3. The discussion and analysis shall focus specifically on material events and uncertainties known to management that would cause reported financial information not to be necessarily indicative of future operating results or of future financial condition. This would include descriptions and amounts of (A) matters that would have an impact on future operations and have not had an impact in the past, and (B) matters that have had an impact on reported operations and are not expected to have an impact upon future operations.

4. Where the consolidated financial statements reveal material changes from year to year in one or more line items, the causes for the changes shall be described to the extent necessary to an understanding of the registrant's businesses as a whole; *Provided, however,* That if the causes for a change in one line item also relate to other line items, no repetition is required and a line-by-line analysis of the financial statements as a whole is not required or generally appropriate. Registrants need not recite the amounts of changes from year to year which are readily computable from the financial statements. The discussion shall not merely repeat numerical data contained in the consolidated financial statements.

5. The term "liquidity" as used in this Item refers to the ability of an enterprise to generate adequate amounts of cash to meet the enterprise's needs for cash. Except where it is otherwise clear from the discussion, the registrant shall indicate those balance sheet conditions or income or cash flow items which the registrant believes may be indicators of its liquidity condition. Liquidity generally shall be discussed on both a long-term and short-term basis. The issue of liquidity shall be discussed in the context of the registrant's own business or businesses. For example a discussion of working capital may be appropriate for certain manufacturing, industrial or related operations but might be inappropriate for a bank or public utility.

6. Where financial statements presented or incorporated by reference in the registration statement are required by § 210.4–08(e)(3) of Regulation S–X [17 CFR Part 210] to include disclosure of restrictions on the ability of both consolidated and unconsolidated subsidiaries to transfer funds to the registrant in the form of cash dividends, loans or advances, the discussion of liquidity shall include a discussion of the nature and extent of such restrictions and the impact such restrictions have had and are expected to have on the ability of the parent company to meet its cash obligations.

7. Registrants are encouraged, but not required, to supply forward-looking information. This is to be distinguished from presently known data which will impact upon future operating results, such as known future increases in costs of labor or materials. This latter data may be required to be disclosed. Any forward-looking information supplied is expressly covered by the safe harbor rule for

projections. See Rule 175 under the Securities Act [17 CFR 230.175], Rule 3b–6 under the Exchange Act [17 CFR 240.3b–6] and Securities Act Release No. 6084 (June 25, 1979) (44 FR 38810).

8. Registrants that are required to provide narrative explanations of supplementary information disclosed in accordance with paragraph 37 of Statement of Financial Accounting Standards No. 33, "Financial Reporting and Changing Prices," (SFAS 33) may combine such explanations with the registrant's discussion and analysis required pursuant to this Item or may supply such information separately. If such statement is combined, the supplementary information required by SFAS 33 shall be located in reasonable proximity to the discussion and analysis. If such statement is not combined, the discussion of the impact of inflation otherwise required by this Item may be omitted but an appropriate cross reference to the explanation required by paragraph 37 of SFAS 33 shall be made. Foreign registrants need not comply with SFAS 33 but if, in its home country, a foreign registrant must satisfy requirements that are analogous to SFAS 33, then such analogous presentation shall be given.

9. Registrants that are not required to provide supplementary information in accordance with SFAS 33 (including foreign private registrants) may discuss the effects of inflation and changes in prices in whatever manner appears appropriate under the circumstances. Although voluntary compliance with SFAS 33 is encouraged, it is not required. All that is required is a brief textual presentation of management's views. No specific numerical financial data need be presented.

10. All references to the registrant in the discussion and in this Item shall mean the registrant and its subsidiaries consolidated.

11. Foreign private registrants also shall discuss briefly any pertinent governmental economic, fiscal, monetary, or political policies or factors that have materially affected or could materially affect, directly or indirectly, their operations or investments by United States nationals.

(b) *Interim periods.* If interim period financial statements are included or are required to be included by Article 3 of Regulation S–X (17 CFR 210), a management's discussion and analysis of the financial condition and results of operations shall be provided so as to enable the reader to assess material changes in financial condition and results of operations between the periods specified in paragraphs (b) (1) and (2) of this Item. The discussion and analysis shall include a discussion of material changes in those items specifically listed in paragraph (a) of this Item, except that the impact of inflation and changing prices on operations for interim periods need not be addressed.

(1) *Material changes in financial condition.* Discuss any material changes in financial condition from the end of the preceding fiscal year to the date of the most recent interim balance sheet provided. If the interim financial statements include an interim balance sheet as of the corresponding interim date of the preceding fiscal year, any material changes in financial condition from that date to the date of the most recent interim balance sheet provided also shall be discussed. If discussions of changes from both the end and the corresponding interim date of the preceding fiscal year are required, the discussions may be combined at the discretion of the registrant.

(2) *Material changes in results of operations.* Discuss any material changes in the registrant's results of operations with respect to the most recent fiscal year-to-date period for which an income statement is provided and the corresponding year-to-date period of the preceding fiscal year. If the registrant is required to or has elected to provide an income statement for the most recent fiscal quarter, such discussion also shall cover material changes with respect to that fiscal quarter and the corresponding fiscal quarter in the preceding fiscal year. In addition, if the registrant has elected to provide an income statement for the twelve month period ended as of the date of the most recent interim balance sheet provided, the discussion also shall cover material changes with respect to that twelve month period and the twelve month period ended as of the corresponding interim balance sheet date of the preceding fiscal year. Notwithstanding the above, if for purposes of a registration statement a registrant subject to paragraph (b) of § 210.3–06 of Regulation S–X provides a statement of income for the twelve month period ended as of the date of the most recent interim balance sheet provided in lieu of the interim income statements otherwise required, the discussion of material changes in that twelve month period will be in respect to the preceding fiscal year rather than the corresponding preceding period.

Instructions to Paragraph (b) of Item 303. 1. If interim financial statements are presented together with financial statements for full fiscal years, the discussion of the interim financial information shall be prepared pursuant to this paragraph (b) and the discussion of the full fiscal year's information shall be prepared pursuant to paragraph (a) of this Item. Such discussions may be combined.

2. In preparing the discussion and analysis required by this paragraph (b), the registrant may presume that users of the interim financial information have read or have access to the discussion and analysis required by paragraph (a) for the preceding fiscal year.

3. The discussion and analysis required by this paragraph (b) is required to focus only on material changes. Where the interim financial statements reveal material changes from period to period in one or more significant line items, the causes for the changes shall be described if they have not already been disclosed: *Provided, however,* That if the causes for a change in one line item also relate to other line items, no repetition is required. Registrants need not recite the amounts of changes from period to period which are readily computable from the financial statements. The discussion shall not merely repeat numerical data contained in the financial statements. The information provided shall include that which is available to the registrant without undue effort or expense and which does not clearly appear in the registrant's condensed interim financial statements.

4. The registrant's discussion of material changes in results of operations shall identify any significant elements of the registrant's income or loss from continuing operations which do not arise from or are not necessarily representative of the registrant's ongoing business.

5. The registrant shall discuss any seasonal aspects of its business which have had a material effect upon its financial condition or results of operation.

6. Registrants are encouraged but are not required to discuss forward-looking information. Any forward-looking information supplied is expressly covered by the safe harbor rule for projections. See Rule 175 under the Securities Act [17 CFR 230. 175], Rule 3b–6 under the Exchange Act [17 CFR 240.3b–6] and Securities Act Release No. 6084 (June 25, 1979) (44 FR 38810).

§ 229.304 (Item 304) Disagreements with accountants on accounting and financial disclosure.

If, (a) within the twenty-four months prior to the date of the most recent financial statements, a Form 8–K under the Exchange Act [17 CFR 249.308] reporting a change of accountants has been filed, (b) included in such Form 8–K there was a reported disagreement on any matter of accounting principles or practices or financial statement disclosure, (c) during the fiscal year in which the change in accountants took place or during the subsequent fiscal year there have been any transactions or events similar to those which involved the reported disagreement, and (d) such transactions or events were material and were accounted for or disclosed in a manner different from that which the former accountants apparently would have concluded was required, state the existence and nature of the disagreement and also state the effect on the financial statements if the method had been followed which the former accountants apparently would have concluded was required. These disclosures need not be made if the method asserted by the former accountants ceases to be generally accepted because of authoritative standards or interpretations subsequently issued.

Subpart 229.400—Management and Certain Security Holders

§ 229.401 Item 401. Directors and executive officers.

(a) *Identification of directors.* List the names and ages of all directors of the registrant and all persons nominated or chosen to become directors; indicate all positions and offices with the registrant held by each such person; state his term of office as director and any period(s) during which he has served as such; describe briefly any arrangement or understanding between him and any other person(s) (naming such person) pursuant to which he was or is to be selected as a director or nominee.

Instructions to Paragraph (a) of Item 401. 1. Do not include arrangements or understandings with directors or officers of the registrant acting solely in their capacities as such.

2. No nominee or person chosen to become a director who has not consented to act as such shall be named in response to this Item. In this regard, with respect to proxy statements, see Rule 14a–4(d) under the Exchange Act (§ 240.14a–4(d) of this chapter).

3. If the information called for by this paragraph (a) is being presented in a proxy or information statement, no information need be given respecting any director whose term of office as a director will not continue after the meeting to which the statement relates.

4. With regard to proxy statements in connection with action to be taken concerning the election of directors, if fewer nominees are named than the number fixed by or pursuant to the governing instruments, state the reasons for this procedure and that the proxies cannot be voted for a greater number of persons than the number of nominees named.

5. With regard to proxy statements in connection with action to be taken concerning the election of directors, if the solicitation is made by persons other than management, information shall be given as to nominees of the persons making the solicitation. In all other instances, information shall be given as to directors and persons nominated for election or chosen by management to become directors.

(b) *Identification of executive officers.* List the names and ages of all executive officers of the registrant and all persons chosen to become executive officers; indicate all positions and offices with the registrant held by each such person; state his term of office as officer and the period during which he has served as such and describe briefly any arrangement or understanding between him and any other person(s) (naming such person) pursuant to which he was or is to be selected as an officer.

Instructions to Paragraph (b) of Item 401. 1. Do not include arrangements or understandings with directors or officers of the registrant acting solely in their capacities as such.

2. No person chosen to become an executive officer who has not consented to act as such shall be named in response to this Item.

3. The information regarding executive officers called for by this paragraph (b) need not be furnished in proxy or information statements prepared in accordance with Schedule 14A under the Exchange Act (§ 240.14a–101 of this chapter) by those registrants relying on general instruction G of Form 10–K under the Exchange Act (§ 249.310 of this chapter), *Provided,* That such information is furnished in a separate item captioned "Executive officers of the registrant," and included in part I of the registrant's annual report on Form 10–K.

(c) *Identification of certain significant employees.* Where the registrant employs persons such as production managers, sales managers, or research scientists who are not executive officers but who make or are expected to make significant contributions to the business of the registrant, such persons shall be identified and their background disclosed to the same extent as in the case of executive officers. Such disclosure need not be made if the registrant was subject to section 13(a) or 15(d) of the Exchange Act or was exempt from section 13(a) by section 12(g)(2)(G) of such Act immediately prior to the filing of the registration statement, report, or statement to which this Item is applicable.

(d) *Family relationships.* State the nature of any family relationship between any director, executive officer, or person nominated or chosen by the registrant to become a director or executive officer.

Instruction to Paragraph 401(d). The term "family relationship" means any relationship by blood, marriage, or adoption, not more remote than first cousin.

(e) *Business experience.* (1) *Background.* Give a brief account of the business experience during the past five years of each director, executive officer, person nominated or chosen to become a director or executive officer, and each person named in answer to paragraph (c) of this Item, including his principal occupations and employment during that period and the name and principal business of any corporation or other organization in which such occupations and employment were carried on. When an executive officer or person named in response to paragraph (c) of this Item has been employed by the registrant or a subsidiary of the registrant for less than five years, a brief explanation shall be included as to the nature of the responsibility undertaken by the individual in prior positions to provide adequate disclosure of his prior business experience. What is required is information relating to the level of his professional competence which may include, depending upon the circumstances, such specific information as the size of the operation supervised.

(2) *Directorships.* Indicate any other directorships held by each director or person nominated or chosen to become a director in any company with a class of securities registered pursuant to section 12 of the Exchange Act or subject to the requirements of section 15(d) of such Act or any company registered as an investment company under the Investment Company Act of 1940, 15 U.S.C. 80a–1, et seq., as amended, naming such company.

(f) *Involvement in certain legal proceedings.* Describe any of the following events that occurred during the past five years and that are material to an evaluation of the ability or integrity of any director, person nominated to become a director or executive officer of the registrant:

(1) A petition under the Federal bankruptcy laws or any state insolvency law was filed by or against, or a receiver, fiscal agent or similar officer was appointed by a court for the business or property of such person, or any partnership in which he was a general partner at or within two years before the time of such filing, or any corporation or business association of which he was an executive officer at or within two years before the time of such filing;

(2) Such person was convicted in a criminal proceeding or is a named subject of a pending criminal proceeding (excluding traffic violations and other minor offenses);

(3) Such person was the subject of any order, judgment, or decree, not subsequently reversed, suspended or vacated, of any court of competent jurisdiction, permanently or temporarily enjoining him from, or otherwise limiting, the following activities:

(i) Acting as an investment adviser, underwriter, broker or dealer in securities, or as an affiliated person, director or employee of any investment company, bank, savings and loan association or insurance company, or engaging in or continuing any conduct or practice in connection with such activity;

(ii) Engaging in any type of business practice; or

(iii) Engaging in any activity in connection with the purchase or sale of any security or in connection with any violation of Federal or State securities laws;

(4) Such person was the subject of any order, judgment or decree, not subsequently reversed, suspended or vacated, of any Federal or State authority barring, suspending or otherwise limiting for more than 60 days the right of such person to engage in any activity described in paragraph (f)(3)(i) of this Item, or to be associated with persons engaged in any such activity; or

(5) Such person was found by a court of competent jurisdiction in a civil action or by the Commission to have violated any Federal or State securities law, and the judgment in such civil action or finding by the Commission has not been subsequently reversed, suspended, or vacated.

Instructions to Paragraph (f) of Item 401. 1. For purposes of computing the five year period referred to in this paragraph, the date of a reportable event shall be deemed the date on which the final order, judgment or decree was entered, or the date on which any rights of appeal from preliminary orders, judgments, or decrees have lapsed. With respect to bankruptcy petitions, the computation date shall be the date of filing for uncontested petitions or the date upon which approval of a contested petition became final.

2. If any event specified in this paragraph (f) has occurred and information in regard thereto is omitted on the grounds that it is not material, the registrant may furnish to the Commission, at time of filing (or at the time preliminary materials are filed pursuant to Rule 14a-6 or 14c-5 under the Exchange Act) (§§ 240.14a-6 and 240.14c-5 of this chapter), as supplemental information and not as part of the registration statement, report, or proxy or information statement, materials to which the omission relates, a description of the event and a statement of the reasons for the omission of information in regard thereto.

3. The registrant is permitted to explain any mitigating circumstances associated with events reported pursuant to this paragraph.

4. If the information called for by this paragraph (f) is being presented in a proxy or information statement, no information need be given respecting any director whose term of office as a director will not continue after the meeting to which the statement relates.

§ 229.402 (Item 402) Management remuneration and transactions.

(a) *Remuneration.* Furnish the information required in the table below, in substantially the tabular form specified, concerning all remuneration (except remuneration for which disclosure is required by paragraph (b)(2) or (d) of this Item) paid or distributed through the latest practicable date to, or accrued through such date for the account of, the following persons and group for services in all capacities to the registrant and its subsidiaries during the registrant's last fiscal year, or, in specified instances, certain prior fiscal years.

(1) *Five executive officers or directors.* Each of the five most highly compensated executive officers or directors of the registrant as to whom the total remuneration required to be disclosed in Columns C1 and C2 below would exceed $50,000, naming each such person.

(2) *All officers and directors.* All officers and directors of the registrant as a group, stating the number of persons in the group without naming them.

(3) *Specified Tabular Format.*

Remuneration Table

(A)	(B)	(C)		(D)
		Cash and cash-equivalent forms of remuneration		
		(C1)	(C2)	
Name of individual or number of persons in group.	Capacities in which served.	Salaries, fees, directors' fees, commissions, and bonuses.	Securities or property, insurance benefits or reimbursement, personal benefits.	Aggregate of contingent forms of remuneration.

Instructions to Paragraph (a) Item 402. 1. *Foreign private issuers.* Foreign private issuers (other than North American issuers) may respond to all of Item 402 by indicating the aggregate payments or benefits paid to or accrued on behalf of all directors and executive officers as a group unless such registrants disclose to their security holders or otherwise make public the information specified in this Item for individually named directors and executive officers, in which case such information also shall be disclosed.

2. *Columns A and B: Persons subject to paragraph (a).* A. This paragraph (a) of Item 402 applies to any individual who was an executive officer, officer, or director of the registrant at any time during the fiscal year. However, subject to the last sentence of Instruction 3B to paragraph (a) of Item 402, information need not be given for any portion of the period during which such individual was not an executive officer, officer, or director of the registrant, provided a statement to that effect is made. With respect to an individual who becomes for the first time an individual whose remuneration is to be reported in the table, it is not necessary to report remuneration that would have been reported in the table had the individual been included in prior years. For example, if a bonus was accrued for an individual and expensed for financial reporting purposes prior to the individual's becoming an officer of the amount accrued and expensed for such bonus need not be reported. This paragraph (a) of Item 402 applies to executive officers, other officers and directors.

B. Registrants shall exercise a measure of flexibility in determining which individuals shall be named in the remuneration table in order to avoid anomalous results and to assure that disclosure documents contain information on key policy-making members of management. Specifically, registrants may determine not to name a particular individual in the remuneration table when such individual otherwise might nominally be one of the five most highly remunerated executive officers or directors. The types of matters a registrant shall consider in exercising its discretion not to name an individual include:

(i) The distribution or accrual of an unusually large amount (such as a bonus or commission), otherwise required to be reflected in Column C1 or Column C2, which is not part of a recurring arrangement and is unlikely to continue under the terms of the plan or any similar plan; and

(ii) The distribution or accrual of amounts relating to overseas assignments which may be attributed predominantly to such assignments. However, a registrant shall not apply the above standards mechanically; consideration shall be given to the question of whether an individual's level of executive responsibilities, viewed in conjunction with the individual's actual level of remuneration, would give rise to a conclusion that the individual may be among the five most highly compensated, key policy-making executive officers or directors. While the criteria set forth above may be used to determine which of the executive officers or directors shall be named in the table, the same standards shall not be used as a basis for deleting such amounts from the remuneration table in response to paragraph (a)(2) of this Item. Thus, while the above standards might allow a particular individual not to be one of those individually named, all relevant amounts shall be reflected in the table's group totals with no exclusions based on the above standards. Moreover, if an individual is named in the table, the full amount of that individual's remuneration shall be included in the remuneration table in accordance with the instructions to paragraph (a) of Item 402.

3. *Column C information.* Column C shall include remuneration for services rendered during the fiscal year distributed to or for the account of the specified individual or group, or which is accrued and the measurement of benefits thereunder and the distribution or unconditional vesting thereof are not subject to future events. See Instruction 3E to paragraph (a) of Item 402. Column C shall also include any amount actually distributed in the latest fiscal year which relates to services rendered in a prior fiscal year, less any amount relating to the same contract, agreement, plan, or arrangement previously included in the remuneration table for a prior fiscal year, and less any amount which would have been so included but for the fact that the individual was not, in the earlier period,

reflected in the remuneration table either as a named individual or a member of the group. However, if this calculation results in credit, any such credit shall be reflected in Column D and not Column C. See Instruction 4B(ii) to paragraph (a) of Item 402. Column C shall include cash or cash-equivalent amounts distributed or accrued and shall be segregated into two subcolumns; the first, C1, shall include the forms of remuneration described in Instruction 3A to paragraph (a) of Item 402; the second, C2, shall include the forms of remuneration described in Instructions 3B, C and D to paragraph (a) of Item 402.

A. *Salaries.* All cash remuneration distributed or accrued in the form of salaries, fees, directors' fees, commissions and bonuses shall be included in Column C1. Where the total amount of a bonus pool for the latest fiscal year under a bonus plan is known at the time remuneration information is filed with the Commission, but the amounts allocated to each participant will not be determined until after the information is filed, the registrant shall include a footnote indicating (i) that a bonus plan exists for the latest fiscal year, (ii) the individuals named in the table who are participants in the plan, and (iii) that amounts have not been allocated from the bonus plan to the individuals and thus are not included in the remuneration table. If the bonus pool participants are all officers and directors, the aggregate amount of the bonus accrual shall be reported in the group disclosure. In addition, registrants are required to disclose amounts subsequently allocated to the individuals named in the remuneration table for the next fiscal year.

B. *Securities or property.* The spread between the acquisition price, if any, and the fair market price of all securities or property acquired, under any contract, agreement, plan or arrangement (excluding remuneration for which disclosure is called for by paragraph 402(d)), for the benefit of any of the specified individuals or group, less any amount previously reported in the remuneration table for a prior fiscal year with respect to the same contract, agreement, plan or arrangement. The fair market price of any such securities or property shall be determined as of the date during the fiscal year that either of the following events occurs, or if the plan or arrangement contemplates that both such events may occur, the fair market price shall be determined as of the date during the fiscal year that the later event occurs:

(i) The recipient exercises an election (similar to the exercise of an option or right) in connection with the contract, agreement, plan or arrangement; or

(ii) The recipient becomes entitled without further contingencies to retain the securities or property.

The foregoing disclosure is required with respect to an exercise or entitlement realized within the last fiscal year, even though, as permitted by a plan, the exercise or entitlement occurs shortly after termination, in the same year, of employment of the participant who is otherwise subject to remuneration disclosure for that year.

C. *Life or health insurance; medical reimbursement plans.* The cost of premiums paid by the registrant or any of its subsidiaries on life or health insurance policies insuring any such individual or group (unless the sole beneficiary under the policy is the registrant or its subsidiaries), and the costs of any medical reimbursement plans (which may be the benefits paid under any such plans) for the benefit of the specified individuals and the group shall be allocated to such individual and group and reflected in Column C2. Information need not be furnished pursuant to this Instruction 3C for any costs under group life, health, hospitalization, or medical reimbursement plans which do not discriminate in scope, terms or operation in favor of officers or directors of the registrant and which are available generally to all salaried employees.

D. *Personal benefits.* The value of personal benefits which are not directly related to job performance, other than those provided to broad categories of employees and which do not discriminate in scope or terms of operation in favor of officers or directors, furnished by the registrant or its subsidiaries directly or through third parties to each of the specified individuals and the group, or benefits furnished by the registrant or its subsidiaries to other persons which indirectly benefit the specified individuals.

(i) *Valuation.* Such benefits shall be valued on the basis of the registrant's and subsidiaries aggregate actual incremental costs; however, if such aggregate costs are significantly less than the aggregate amounts the recipient would have had to pay to obtain the benefits, appropriate disclosure, including the aggregate value to the recipient, shall be made in a footnote to the table. The registrant may choose to disclose such aggregate value rather than aggregate incremental costs in the table, in which event such footnote disclosure is not required.

(ii) *Conditional exclusion of personal benefits.* If the registrant cannot determine without unreasonable effort or expense the specific amount of certain personal benefits, or the extent to which benefits are personal rather than business, the amount of such personal benefits may be omitted from the table, provided that, after reasonable inquiry, the registrant has concluded that the aggregate amounts of such personal benefits which cannot be specifically or precisely ascertained do not in any event exceed $10,000 as to each individual or, in the case of a group, $10,000 for each individual in the group and has concluded that the information set forth in the table is not rendered materially misleading by virtue of the omission of the value of such personal benefits.

(iii) *Footnote disclosure.* If as to an individual named in the table an amount representing personal benefits included in Column C2 exceeds 10 percent of the aggregate amount disclosed in Columns C1 and C2 or $25,000, whichever is less, include a footnote to the table stating the dollar amount or percentage of Column C2 represented by such personal benefits and briefly describe the kinds of such benefits.

E. *Certain remuneration which is subject to future events.* Remuneration for a fiscal year under plans of the types described in Instruction 4 to paragraph (a) of Item 402 (excluding remuneration for which disclosure is called for by paragraphs (d) or (b)(2) of Item 402) shall be included in Column C for such fiscal year, if, as of the end of such fiscal year, such remuneration was distributed to or for the account of the specified individuals or group, or was accrued and the measurement and the distribution or unconditional vesting thereof were not subject to future events. If a plan provides for remuneration some of which is and some of which is not subject to future events, the former is reportable in Column D and the latter is reportable in Column C. Remuneration conditioned on substantial future service is subject to future events under this standard. Similarly, if the amount or value of, or entitlement to, remuneration is dependent on future earning performance or market values, such remuneration is subject to future events under this standard. However, if dependence on future events does not represent a true contingency, remuneration shall be reported in Column C.

4. *Column D information.* Column D shall include remuneration of the specified individuals and group in whole or in part for services rendered during the fiscal year, including but not limited to the forms of remuneration described in paragraphs A through C of this Instruction 4, if such remuneration is properly expensed for financial reporting purposes, and the measurement of benefits thereunder or the distribution or unconditional vesting thereof is subject to future events, so that the remuneration is therefore not reportable in Column C. See Instruction 3E to Paragraph (a) of Item 402. Registrants need only report remuneration in Column D as it relates to the latest fiscal year and need not report amounts expensed in previous fiscal years.

A. *Pension or retirement plans; annuities; employment contracts; deferred compensation plans.* As to each of the specified individuals and groups, include as remuneration any amount expensed for financial reporting purposes by the registrant and its subsidiaries for the fiscal year with respect to contributions, payments, or accruals for the account of any such individual or group under any existing pension or retirement plans (except remuneration for which disclosure is required by paragraph (b)(2) of Item 402), annuity contracts, deferred compensation plans, or any other similar arrangements. Such remuneration shall be reflected in the amounts and for the fiscal year in which they are expensed under all such plans or arrangements, including plans qualified under the Internal Revenue Code.

B. *Incentive and compensation plans and arrangements.* (i) With respect to remuneration under incentive or compensation plans or arrangements (other than remuneration for which disclosure is called for by paragraph (d) of Item 402) pursuant to which the measure of benefits is based on objective standards or on securities (or an amount or value of securities) of the registrant or another person, granted, awarded or entered into at any time in connection with services to the registrant or its subsidiaries, include as remuneration as to

each of the specified individuals and group any amount expensed for financial reporting purposes by the registrant and its subsidiaries for the fiscal year with respect to any such specified individual or group attributable to an interest in any such plan or arrangement.

(ii) If the registrant has expensed amounts for financial reporting purposes and reported such amounts in the remuneration table and, in a subsequent year, in connection with the same plan or arrangement, credits its remuneration expense for financial reporting purposes, for any proper reason, such credit may be reflected as a reduction of the remuneration reported in Column D. If amounts credited pursuant to this Instruction are so reflected in the table, include a footnote briefly stating the amount of such credit and describing such treatment. In situations in which there are several plans and virtually everyone in the remuneration table is a participant in each plan, to the extent that negative entries in Column D for individuals and for the group are attributable to the same factors, the footnote disclosure required by this Instruction may be generic in nature. If negative entries reflect changes in several types of plans or other factors not common to all individuals and the group, and separate disclosure would result in lengthy narrative, it is sufficient to provide a general explanation of the circumstances giving rise to negative entries without a separate explanation of the components of each negative entry for individuals or the group. Excessive detail shall be avoided.

(iii) The financial reporting expense (or credit) for any form of performance or other contingent compensation granted in tandem with options or rights under plans for which disclosure is called for by paragraph (d) of Item 402 shall be excluded from Column D, and the information required by Instruction 12 to paragraph (d) of Item 402 shall be presented.

C. *Stock purchase plans; profit sharing and thrift plans.* Include the amount of any contribution, payment or accrual for the account of each of the specified individuals and the group under any stock purchase, profit sharing, thrift, or similar plans which has been expensed during the fiscal year by the registrant and its subsidiaries for financial reporting purposes. Amounts reflecting contributions under plans qualified under the Internal Revenue Code may not be excluded.

5. *Transactions with third parties.* Paragraph (a) of Item 402, among other things, includes transactions between the registrant and a third party when the primary purpose of the transaction is to furnish remuneration to the individuals or group specified in that paragraph. Other transactions between the registrant and third parties in which persons specified in paragraph (a) of Item 402 have an interest, or may realize a benefit, generally are addressed by other disclosure requirements concerning the interests of management and others in certain transactions, particularly paragraph (f) of Item 402. Paragraph (a) of Item 402 does not require disclosure of remuneration paid to a partnership in which any officer or director was a partner; any such transactions shall be disclosed pursuant to these other disclosure requirements, and not as a note to the remuneration table presented pursuant to paragraph (a) of Item 402.

6. *Other permitted disclosure.* The registrant may provide additional disclosure through one or more footnotes to the table, through additional lines or columns, or otherwise, describing the components of aggregate remuneration in such greater detail as is appropriate.

7. *Definition of "plan."* The term "plan" as used in Item 402 includes all plans, contracts, authorizations, or arrangements, whether or not set forth in any formal documents.

(b) *Proposed remuneration.* (1) Describe briefly all remuneration payments proposed to be made in the future pursuant to any on-going plan or arrangement to the individuals and group specified in paragraph (a) of Item 402. The description shall include a summary of how each plan operates, any performance formula or measure in effect (or the criteria used to determine payment amounts), the time periods over which the measurement of benefits will be determined, payment schedules, and any recent material amendments to the plan. Information need not be furnished with respect to any group life, health, hospitalization, or medical reimbursement plans which do not discriminate in scope, terms or operation in favor of officers or directors of the registrant and which are available generally to all salaried employees.

(2) As to defined benefit and actuarial plans, include (in addition to describing such plans pursuant to paragraph (b)(1) of Item 402) a separate table showing estimated annual benefits payable upon retirement (including amounts attributable to any supplementary or excess pension award plans or arrangements) to persons in specified remuneration and years-of-service classifications. Amounts presented in the pension table shall be straight life annuity amounts notwithstanding the availability of joint survivorship provisions. In addition, the registrant shall (i) describe the remuneration covered by the plan, including the relationship of such covered remuneration reported in the table as required by paragraph (a) of Item 402, (ii) state the credited years of service under the plan for each of the individuals named in the table required by paragraph (a) of Item 402, and also their current remuneration covered by the plan if it differs substantially (by more than 10 percent for each individual) from that set forth in Column C1 of the paragraph (a) of Item 402 table, and (iii) indicate whether the benefit amounts listed in the table are subject to any deduction for Social Security or other offset amounts.

Example of Pension Table

Remuneration	Years of service				
	15	20	25	30	35
125,000	xxx	xxx	xxx	xxx	xxx
150,000	xxx	xxx	xxx	xxx	xxx
175,000	xxx	xxx	xxx	xxx	xxx
200,000	xxx	xxx	xxx	xxx	xxx
225,000	xxx	xxx	xxx	xxx	xxx

Instructions to Paragraph (b) of Item 402. 1. Paragraph (b)(1) requires a brief description of any remuneration plan or arrangement which is operable for more than the latest fiscal year, whether or not remuneration under such plan has been reported or is reportable pursuant to paragraphs (a), (c) or (d) of Item 402.

2. Remuneration levels set forth in the paragraph (b)(2) pension table shall allow for reasonable increases in existing compensation levels; alternatively, registrants may present as the highest remuneration level in the pension table an amount equal to 120 percent of the highest amount of covered remuneration of any individual named in the table required by paragraph (a) of Item 402 for the fiscal year.

3. If the registrant has a defined benefit or actuarial pension plan or plans which is such that the use of the paragraph (b)(2) pension table is inappropriate to inform stockholders of the pension benefits that the paragraph (a) of Item 402 individuals may receive because the pension benefits are not determined primarily by final compensation (or average final compensation) and years of service (such as a plan where the annual benefit is determined by a summation of a certain amount or certain percentage of compensation for each year of the individual's entire career), the registrant shall describe the plan as required by paragraph (b)(2), together with the formula by which benefits are determined, and indicate the estimated annual benefits payable upon retirement at normal retirement age for the individuals specified in paragraph (a) of Item 402. For purposes of this Instruction, normal retirement age shall mean normal retirement age as defined under the plan or, if not so defined, the earliest time at which a participant may retire without any benefit reduction because of age.

4. Under paragraph (b), a plan of deferred compensation for services as a director must be disclosed. In addition, if such arrangement is not standard for all directors, the name of each director participating in such arrangement and the amount of such remuneration earned by each shall be indicated. Cross references to the remuneration table required by Paragraph (a) of Item 402 may be used for this purpose. See also paragraph (c)(2) of Item 402.

(c) *Remuneration of directors.* (1) *Standard arrangements.* Describe any standard arrangement, stating amounts, by which directors of the registrant are compensated for all services as a director, including any additional amounts payable for committee participation or special assignments.

(2) *Other arrangements.* If a director of the registrant received remuneration for services as a director during the fiscal year in addition to or in lieu of that specified by any standard arrangement, state the name of the director and the amount of such remuneration earned by each; if this information is given as to an individual named in the table required by paragraph (a), of Item 402, a cross reference may be used.

(d) *Options, warrants, or rights.* Furnish the following information specified in paragraphs (d) (1) through (4) immediately following as to all stock appreciation rights and options to purchase securities from the registrant or any of its subsidiaries which were granted to or exercised or realized by each director or executive officer named in answer to paragraph (a)(1) of Item 402, naming each such individual, and all directors and officers of the registrant as a group, without naming them, during the registrant's last fiscal year (or, if applicable, the alternate period specified in either Instruction 5 or Instruction 6 to paragraph (d) of Item 402 and as to all options and stock appreciation rights held by such persons at the end of the last fiscal year (or of such alternate period):

(1) As to options granted during the specified period, state

(i) The title and aggregate amount of securities subject to options;

(ii) The average per share option exercise price; and

(iii) If the option exercise price was less than 100 percent of the market value of the security on the date of grant, such fact and the market price on such date shall be disclosed. The title and aggregate amount of such securities subject to options, if any, which are in tandem with stock appreciation rights should be set forth separately.

(2) As to the exercise or realization of options or stock appreciation rights held in tandem with options granted during the specified period or prior thereto, state the net value of securities (market value less any exercise price) or cash realized during the specified period.

(3) As to all unexercised options or stock appreciation rights in tandem therewith held as of the end of the specified period, state (i) the title and aggregate amount of underlying securities; and (ii) the aggregate potential (unrealized) value of such options or rights, as of the end of the specified period (market value less any exercise or base price). The title and aggregate amount of securities subject to options which are in tandem with stock appreciation rights, if any, shall be set forth separately.

(4) As to stock appreciation rights not in tandem with options, state:

(i) The number of rights granted during the specified period;

(ii) The average per share base price thereof;

(iii) The number of rights outstanding at the end of the specified period;

(iv) The net value of the shares (market value) or cash realized during the specified period upon exercise or realization of any such rights, granted during the specified period or prior thereto;

(v) The number of rights outstanding as of the end of the specified period; and

(vi) The potential (unrealized) value of all such rights outstanding as of the end of the specified period (market value less any base price).

Instructions to Paragraph (d) of Item 402. 1. The term "options" as used in this paragraph includes all options, warrants or rights, other than those issued to security holders as such on a pro rata basis. Where the average option price per share is called for, the weighted average price per share shall be given. The term "stock appreciation right" means a right representing a share of the registrant or another person under which right the holder may in the future realize compensation measurable by reference to the future market price of such share and payable in cash, securities, or other property, where a change in the market value of the share is properly taken into account in the expensing of such compensation for financial reporting purposes for the fiscal year in which the change in market value occurs. Thus, this definition may include interests in certain plans, such as some phantom stock plans, which are not denominated as stock appreciation right plans. For the purpose of this paragraph, if reference is made to a number of options or stock appreciation rights, such number shall correspond to the number of securities to which the options or rights relate.

2. The extension, regranting or material amendment of options or stock appreciation rights shall be deemed the granting of options and stock appreciation rights within the meaning of this paragraph.

3. If the options of rights relate to more than one class of securities, the information shall be given separately for each such class.

4. The information called for by this paragraph may be furnished in the form of the table set forth in the Appendix to this Item.

5. If the information called for by this paragraph is required to be presented in a registration statement filed pursuant to the Securities Act on behalf of a registrant that is not subject to the reporting provisions of section 13(a) or section 15(d) of the Exchange Act, immediately prior to the filing of the registration statement, such information regarding options and stock appreciation rights shall be given for the period since the beginning of the registrant's last fiscal year through a date not more than 30 days prior to the date of filing of the registration statement, specifying such date. Such information may, but need not, be reported separately for option and stock appreciation right transactions during the past fiscal year and such transactions since the close of the last fiscal year through such specified date, and such information regarding options and stock appreciation rights held shall be given as of the specified date.

6. With regard to any registrant, if the information called for by paragraph (d)(3) is required to be presented, rather than incorporated by reference in a registration statement filed pursuant to the Securities Act, the information required by such paragraph shall be reported for all options and stock appreciation rights in tandem therewith (regardless of who holds them) as of a date not more than 30 days prior to the date of filing of the registration statement. Instructions 1 through 5 to paragraph (d) do apply.

7. Except as provided below, a registrant reporting option and stock appreciation right information on a fiscal year basis in its registration statement filed pursuant to the Securities Act or its proxy material filed pursuant to the Exchange Act, shall, if the total market value on the granting dates of securities underlying all options or stock appreciation rights granted since the end of the last fiscal year exceeds $50,000 for any executive officer or director named pursuant to paragraph (a) of Item 402, also present the following information as to such options and rights as of the most recent practicable date: (A) the title and aggregate amount of underlying securities; (B) the exercise or base price of such options or rights; and (C) if the exercise or base price was less than 100% of the market price of the underlying security on the date of the grant, such fact and the market price of the underlying security. Where the information called for by paragraph 402(d) is incorporated by reference, rather than presented, in a registration statement filed pursuant to the Securities Act, the registrant may, but need not, comply with this Instruction.

8. In calculating the potential (unrealized) value of outstanding rights or options, the value of an option or right shall be determined as though it had been exercised or realized on the valuation date, and without regard to the fact that actual realization of any or all benefits under the option or right may be subject to unsatisfied contingencies or conditions. All outstanding rights or options with exercise or base prices above the market price on the valuation date shall be disregarded in making this calculation; the total shall reflect only options or rights with positive unrealized values and shall not be reduced by negative unrealized values.

9. If securities rather than cash are received upon the exercise or realization of a stock appreciation right, the fair market value of said securities on the date of exercise or realization shall be reported pursuant to this paragraph.

10. With regard to paragraphs (d) (3) and (4) registrants also may state, at their option, that portion of the potential (unrealized) value reported which relates to options and/or rights that are not currently vested, exercisable or realizable.

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11. The base price of a stock appreciation right is the amount used to define benefits which are available only to the extent that the market price of the underlying security exceeds such amount. For example, a stock appreciation right with a base price of $10 (the market price on date of grant) provides for payment of a benefit equal to the amount by which the market price at time of exercise exceeds $10. In the case of a phantom stock right providing for payment of the full value of a share, without reduction by or payment of any amount, the base price is zero.

12. If a performance unit or other contingent compensation right (other than an option or stock appreciation right) is in tandem with an option or stock appreciation right, the existence of such right shall be disclosed either with information about options pursuant to paragraphs (d) (1) through (3) (if such right is in tandem with an option or with a stock appreciation right which is itself in tandem with an option) or with information about stock appreciation rights pursuant to paragraph (d)(4) (if such right is in tandem only with a stock appreciation right which is not itself in tandem with an option). The value realized from such rights shall be included as value realized upon exercise or realization of options or stock appreciation rights, as the case may be, and shall not be reported pursuant to paragraph (a) or (c) of Item 402; and the potential (unrealized) value of such rights shall be taken into account in determining the potential (unrealized) value of options or stock appreciation rights, as the case may be. See Instructions 8 and 13 to this paragraph (d).

13. For purposes of this paragraph, an option shall be deemed in tandem with a stock appreciation right, and a performance unit or other contingent compensation right will be deemed in tandem with an option or stock appreciation right, and vice versa in each instance, if the benefits under one represent an alternative to or reduce the benefits available under the other. Where rights or options are in tandem with one another, a registrant shall present, as potential (unrealized) value, the maximum amount which may be realized under such rights and/or options, if all were exercised and/or realized on the valuation date, in the manner most beneficial to the holder (without counting more that one of any benefits which are alternative to one another).

(e) *Indebtedness of management.* State as to each of the following persons who was indebted to the registrant or its subsidiaries at any time since the beginning of the last fiscal year of the registrant, (1) the largest aggregate amount of indebtedness outstanding at any time during such period, (2) the nature of the indebtedness and of the transaction in which it was incurred, (3) the amount thereof outstanding as of the latest practicable date, and (4) the rate of interest paid or charged thereon: (i) each director or officer of the registrant; (ii) each nominee for election as a director; and (iii) each associate of any such director, officer or nominee.

Instructions to Paragraph (e) of Item 402.

1. Include the name of each person whose indebtedness is described and the nature of the relationship by reason of which the information is required to be given.

2. This paragraph does not apply to any person whose aggregate indebtedness did not exceed $25,000 or one percent of the registrant's total assets, whichever is less, at any time during the period specified. Exclude in the determination of the amount of indebtedness all amounts due from the particular person for purchases subject to usual trade terms, for ordinary travel and expense advances and for other transactions in the ordinary course of business.

3. Notwithstanding Instruction 2 to paragraph (e), if the registrant or any of its subsidiaries is engaged primarily in the business of making loans, and loans to any of the specified persons in excess of $25,000 or one percent of its total assets, whichever is less, were outstanding at any time during the period specified, such loans shall be disclosed. However, if the lender is a bank, savings and loan association, or broker-dealer extending credit under Federal Reserve Regulation T [12 CFR Part 220], such disclosure, may consist of a statement, if such is the case, that the loans to such persons (i) were made in the ordinary course of business, (ii) were made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons, and (iii) did not involve more than normal risk of collectibility or present other unfavorable features.

4. If any indebtedness required to be described arose under section 16(b) of the Exchange Act and has not been discharged by payment, state the amount of any profit realized, that such profit will inure to the benefit of the registrant or its subsidiaries and whether suit will be brought or other steps taken to recover such profit. If in the opinion of counsel a question reasonably exists as to the recoverability of such profit, it will suffice to state all facts necessary to describe the transactions, including the prices and number of shares involved.

5. If the information called for by this paragraph is being presented in a registration statement filed pursuant to the Securities Act or the Exchange Act, the information called for by this paragraph shall be presented for the last three fiscal years.

(f) *Transactions with management.* Describe briefly any transaction since the beginning of the registrant's last fiscal year or any presently proposed transactions, to which the registrant or any of its subsidiaries was or is to be a party, in which any of the following persons had or is to have a direct or indirect material interest, naming such person and stating the person's relationship to the registrant, the nature of the person's interest in the transaction and, where practicable, the amount of such interest:

(1) Any director or officer of the registrant;

(2) Any nominee for election as a director;

(3) Any security holder who is known to the registrant to own of record or beneficially more than five percent of any class of registrant's voting securities; and

(4) Any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same home as such person or who is a director or officer of any parent or subsidiary of the registrant.

Instructions to Paragraph (f) of Item 402.

1. No information need be given in response to this paragraph as to any remuneration or other transaction reported in response to any other paragraph of Item 402 or as to any remuneration or transaction with respect to which information may be committed pursuant to any other paragraphs of this Item 402.

2. No information need be given in answer to this paragraph as to any transactions where:

A. The rates or charges involved in the transaction are determined by competitive bids, or the transaction involves the rendering of services as a common or contract carrier, or public utility, at rates or charges fixed in conformity with law or governmental authority;

B. The transaction involves services as a bank depositary of funds, transfer agent, registrar, trustee under a trust indenture, or similar services;

C. The amount involved in the transaction or series of similar transactions, including all periodic installments in the case of any lease or other agreement providing for periodic payments or installments, does not exceed $50,000; or

D. The interest of the specified person arises solely from the ownership of securities of the registrant and the specified person receives no extra or special benefit not shared on a pro rata basis.

3. It should be noted that this paragraph calls for disclosure of indirect, as well as direct, material interests in transactions. A person who has a position or relationship with a firm, corporation, or other entity which engages in a transaction with the registrant or its subsidiaries may have an indirect interest in such transaction by reason of such position or relationship. However, a person shall be deemed not to have a material indirect interest in a transaction within the meaning of this paragraph where:

A. The interest arises only (i) from such person's position as a director of another corporation or organization (other than a partnership) which is a party to the transaction, or (ii) from the direct or indirect ownership by such person and all other persons specified in paragraphs (f)(1) through (4) of this Item, in the aggregate, of less than a 10 percent equity interest in another person (other than a partnership) which is a party to the transaction, or (iii) from both such position and ownership;

B. The interest arises only from such person's position as a limited partner in a partnership in which the person and all other persons specified in paragraph (f)(1) through (4) of this Item had an interest of less than 10 percent; or

C. The interest of such person arises solely from the holding of an equity interest (including a limited partnership interest but excluding a general partnership interest) or a creditor interest in another person which is a party to the transaction with the registrant or any of its subsidiaries and the transaction is not material to such other person.

4. The amount of the interest of any specified person shall be computed without regard to the amount of the profit or loss involved in the transaction. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transaction shall be indicated.

5. In describing any transaction involving the purchase or sale or assets by or to the registrant or any of its subsidiaries, otherwise than in the ordinary course of business, state the cost of the assets to the purchaser and, if acquired by the seller within two years prior to the transaction, the cost thereof to the seller. If the information prescribed by this Instruction is to be included in a registration statement filed on Form S–11 under the Securities Act (§ 239.18 of this chapter), disclose the aggregate depreciation claimed by the seller for Federal income tax purposes, if acquired by the seller within five years prior to the transaction. Indicate the principle followed in determining the registrant's purchase or sale price and the name of the person making such determination.

6. If the information called for by this paragraph is being presented in a registration statement filed pursuant to the Securities Act or the Exchange Act, the period for which the information called for shall be reported is the previous three years.

7. Information shall be furnished in answer to this paragraph with respect to transactions not excluded above which involve remuneration from the registrant or its subsidiaries, directly or indirectly, to any of the specified persons for services in any capacity unless the interest of such persons arises solely from the ownership individually and in the aggregate of less than 10 percent of any class of equity securities of another corporation furnishing the services to the registrant or its subsidiaries.

8. The foregoing instructions specify certain transactions and interests as to which information may be omitted in answering this paragraph. There may be situations where, although the foregoing instructions do not expressly authorize nondisclosure, the interest of a specified person in a particular transaction or series of transactions is not a material interest. In that case, information regarding such interest and transaction is not required to be disclosed in response to this paragraph. The materiality of any interest or transaction is to be determined on the basis of the significance of the information to investors in light of all of the circumstances of the particular case. The importance of the interest to the person having the interest, the relationship of the parties to the transaction with each other and the amount involved in the transaction are among the factors to be considered in determining the significance of the information to investors.

(g) *Transactions with pension or similar plans.* Describe briefly any transactions since the beginning of the registrant's last fiscal year or any currently proposed transactions, to which any pension, retirement, savings or similar plan provided by the registrant or any of its parents or subsidiaries was or is to be a party, in which any of the following persons had, or is to have, a direct or indirect material interest, naming such person and stating his relationship to the registrant, the nature of his interest in the transaction and, where practicable, the amount of such interest:

(1) Any director or officer of the registrant;

(2) Any nominee for election as a director;

(3) Any security holder who is known to the registrant to own or record or beneficially more than five percent of the outstanding voting securities of the registrant;

(4) Any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same home as such person or who is a director or officer of any parent or subsidiary of the registrant; or

(5) The registrant or any of its subsidiaries.

Instructions to Paragraph (g) of Item 402. 1. Instructions 2, 3, 4 and 5 to paragraph (f) of Item 402 shall apply to this paragraph.

2. Without limiting the general meaning of the term "transaction" there shall be included in answer to this paragraph any remuneration received or any loans received or outstanding during the period, or proposed to be received.

3. No information need be given in answer to this paragraph with respect to:

A. Payments to the plan, or payments to beneficiaries, pursuant to the terms of the plan;

B. Payment of remuneration for services not in excess of five percent of the aggregate remuneration received by the specified person during the registrant's last fiscal year from the registrant and its subsidiaries; or

C. Any interest of the registrant or any of its subsidiaries which arises solely from its general interest in the success of the plan.

(h) *Transactions with promoters.* Registrants, filing a registration statement on Form S–1 under the Securities Act (§ 239.11 of this chapter) or on Form 10 under the Exchange Act (§ 249.210 of this chapter), that have been organized within the past five years, shall:

(1) State the names of the promoters, the nature and amount of anything of value (including money, property, contracts, options or rights of any kind) received or to be received by each promoter, directly or indirectly, from the registrant and the nature and amount of any assets, services or other consideration therefor received or to be received by the registrant; and

(2) As to any assets acquired or to be acquired by the registrant from a promoter, state the amount at which the assets were acquired or are to be acquired and the principle followed or to be followed in determining such amount, and shall identify the persons making the determination and their relationship, if any, with the registrant or any promoter. If the assets were acquired by the promoter within two years prior to their transfer to the registrant, registrants also shall state the cost thereof to the promoter.

(i) *Termination of employment.* Describe, unless previously disclosed by the registrant in a proxy or information statement filed pursuant to section 14 of the Exchange Act, any remunerative plan or arrangement, including payments to be received from the registrant, with any individual named in the paragraph (a) of Item 402 remuneration table for the latest or the next preceding fiscal year, if such a plan or arrangement results or will result from the resignation, retirement or any other termination by such individual of employment with the registrant and its subsidiaries.

Instructions to Paragraph (i) of Item 402. 1. No information need be given in response to this paragraph as to any remuneration or other transactions reported in response to any other paragraphs of Item 402.

2. No information need be given in answer to this paragraph as to any plan or arrangement where the amount involved in the transaction, including all periodic payments or installments, does not exceed $50,000.

3. The term "previously disclosed" as used in this paragraph includes situations where the arrangements have been generally disclosed in prior proxy or information statements filed with the Commission, notwithstanding the fact that the precise amount to be received by a given individual has not been precisely indicated.

Appendix—Stock Options and Stock Appreciation Rights

The tables set forth below are illustrations of the presentation in tabular form of the information required by paragraph (d) of Item 402 of Regulation S–K and Instruction 3(c) to Item 9(d) of Schedule 14A under the Exchange Act (§ 240.14a–101 of this chapter) which also applies to Items 10(d) and 11(c) of Schedule 14A. Where the tables are being presented and Item 9, 10 or 11 of Schedule 14A is applicable to the disclosure, information shall be furnished for the five year period specified in Instruction 3(c) to Item 9(d) of Schedule 14A and the information in

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Table I as to shares sold and the bracketed reference at the foot of the table to options granted to employees shall be added.

Other tabular presentations, including the combination of the tables into one, are of course acceptable if they include the necessary data. Tabular presentation may not be appropriate if only a very few options or stock appreciation rights have been granted.

Table I—Stock Options and Tandem Rights

The following tabulation shows, as to certain directors and officers of the registrant and as to all directors and officers of the registrant as a group, the following information with respect to stock options and stock appreciation rights in tandem therewith (if any): (i) the title and aggregate amount of securities subject to options granted during the specified period, (ii) the average per share option exercise price thereof, (iii) the net value of shares (market value less any exercise price) or cash realized during the specified period upon the exercise or realization of such options or rights granted during the specified period or prior thereto, (iv) the number of shares sold during the specified period of the same class as those so acquired, and (v) the title and aggregate amount of securities subject to all such options or rights outstanding as of the end of the specified period, and (vi) the potential (unrealized) value of such outstanding options and rights as of the end of the specified period (market value less any exercise or base price). The title and aggregate amount of securities subject to tandem options granted during the specified period and outstanding at the end thereof are separately shown.

	John Jones	James Smith	Richard Roe	All directors and officers as a group
Granted — to —:				
Number of options without tandem rights				
Number of options with tandem rights				
Average per share exercise price[1]	$	$	$	$
Exercised — to —:				
Net value realized in shares (market value less any exercise price) or cash	$	$	$	$
Sales — to —:				
Number of shares[2]				
Outstanding at —:				
Number of options without tandem rights				
Number of options with tandem rights				
Potential (unrealized) value—(market value less exercises or base price)[3]				
In addition, during the period employees were granted options and tandem rights for a total of —— shares at an average option or base price per share of $——.[4]				

[1] If the option price was less than 100 percent of the market value of the security on the date of grant, such fact and the market price on such date must be disclosed.
[2] Sales by directors and officers who exercised options during the period from —— to ——.
[3] Of the potential (unrealized) value at the end of the period —— percent relates to exercisable options and/or tandem rights, and —— percent relates to unexercisable options and/or tandem rights.
[4] The numbers of options or rights set forth above correspond to the numbers of shares to which they relate. All share figures have been adjusted in accordance with the terms of the options or rights to reflect the stock split in 19—— and, where applicable, to give effect to share dividends.

Table II—Stock Appreciation Rights Not in Tandem With Options

The following tabulation shows, as to certain directors and officers of the registrant and as to all directors and officers of the registrant as a group, the following information with respect to stock appreciation rights (including interests in certain phantom stock plans): (i) the number of such rights granted during the specified period, (ii) the average per share base price thereof, (iii) the net value of shares (market value) or cash realized during the specified period upon exercise or realization of any such rights granted during the specified period or prior thereto, (iv) the number of such rights outstanding as of the end of the specified period, and (v) the potential (unrealized) value of all such rights outstanding as of the end of the specified period (market price less any base price).

	John Jones	James Smith	Richard Roe	All directors and officers as a group
Granted — to —:				
Number of rights				
Average base prices	$	$	$	$
Exercised or realized — to —:				
Net value realized in shares (market value) or cash	$	$	$	$
Outstanding at —:				
Number of rights				
Potential (unrealized) value (market value less any base price)[1]	$	$	$	$
In addition, during the period employees were granted rights relating to a total of —— shares at an average base price of $—— per share.[2]				

[1] Of the potential (unrealized) value at the end of period, —— percent relates to exercisable rights, and —— percent relates to unexercisable rights.
[2] The numbers of rights set forth above correspond to the numbers of shares to which they relate. All stock appreciation rights figures have been adjusted in accordance with the terms of the rights to reflect the stock split in 19—— and, where applicable, to give effect to share dividends.

§ 229.403 (Item 403) Security ownership of certain beneficial owners and management.

(a) *Security ownership of certain beneficial owners.* Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, with respect to any person (including any "group" as that term is used in section 13(d)(3) of the Exchange Act) who is known to the registrant to be the beneficial owner of more than five percent of any class of the registrant's voting securities. Show in column (3) the total number of shares beneficially owned and in column (4) the percentage of class so owned. Of the number of shares shown in column (3), indicate by footnote or otherwise the amount known to be shares with respect to which such listed beneficial owner has the right to acquire beneficial ownership, as specified in Rule 13d–3(d)(1) under the Exchange Act (§ 240.13d–3(d)(1) of this chapter).

(1) Title of class	(2) Name and address of beneficial owner	(3) Amount and nature of beneficial ownership	(4) Percent of class

(b) *Security ownership of management.* Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, as to each class of equity securities of the registrant or any of its parents or subsidiaries other than directors' qualifying shares, beneficially owned by all directors and nominees, naming them, and directors and officers of the registrant as a group, without naming them. Show in column (3) the total number of shares beneficially owned and in column (4) the percent of class so owned. Of the number of shares shown in column (3), indicate, by footnote or otherwise, the amount of shares with respect to which such persons have the right to acquire beneficial ownership as specified in Rule 13d–3(d)(1) under the Exchange Act.

(1) Title of class	(2) Name of beneficial owner	(3) Amount of nature of beneficial ownership	(4) Percent of class

(c) *Changes in control.* Describe any arrangements, known to the registrant, including any pledge by any person of securities of the registrant or any of its parents, the operation of which may at a subsequent date result in a change in control of the registrant.

Instructions to Item 403. 1. The percentages are to be calculated on the basis of the amount of outstanding securities, excluding securities held by or for the account of the registrant or its subsidiaries, plus securities deemed outstanding pursuant to Rule 13d–3(d)(1) under the Exchange Act [17 CFR 240.13d–3(d)(1)].

2. For the purposes of this Item, beneficial ownership shall be determined in accordance with Rule 13d–3 under the Exchange Act (§ 240.13d–3 of this chapter). Include such additional subcolumns or other appropriate explanation of column (3) necessary to reflect amounts as to which the beneficial owner has (A) sole voting power, (B) shared voting power, (C) sole investment power, or (D) shared investment power.

3. The registrant shall be deemed to know the contents of any statements filed with the Commission pursuant to section 13(d) or 13(g) of the Exchange Act. When applicable, a registrant may rely upon information set forth in such statements unless the registrant knows or has reason to believe that such information is not complete or accurate or that a statement or amendment should have been filed and was not.

4. For purposes of furnishing information pursuant to paragraph (a) of this Item, the registrant may indicate the source and date of such information.

5. Where more than one beneficial owner is known to be listed for the same securities, appropriate disclosure shall be made to avoid confusion.

6. Paragraph (c) of this Item does not require a description of ordinary default provisions contained in the charter, trust indentures or other governing instruments relating to securities of the registrant.

7. Where the holder(s) of voting securities reported pursuant to paragraph (a) hold more than five percent of any class of voting securities of the registrant pursuant to any voting trust or similar agreement, state the title of such securities, the amount held or to be held pursuant to the trust or agreement (if not clear from the table) and the duration of the agreement. Give the names and addresses of the voting trustees and outline briefly their voting rights and other powers under the trust or agreement.

Subpart 229.500—Registration Statement and Prospectus Provisions

§ 229.501 (Item 501) Forepart of registration statement and outside front cover page of prospectus.

(a) *Facing page.* The facing page of every registration statement shall set forth the approximate date of proposed sale to the public and, where appropriate, the delaying amendment legend as set forth in Regulation C.

(b) *Cross-reference sheet.* Immediately following such facing page, there shall be included a cross reference sheet showing the location in the prospectus of the information required to be included in the prospectus in response to the items of the form. If any such item is inapplicable, or the answer thereto is in the negative and is omitted from the prospectus, a statement to that effect shall be made in the cross reference sheet. The cross reference sheet need not be included in the prospectus.

(c) *Outside front cover page of prospectus.* The following information (to the extent appropriate) shall appear on the outside front cover page of the prospectus with appropriate cross references to more detailed discussion elsewhere in the prospectus:

(1) Name of the registrant and, in the case of a foreign private registrant, an English translation of such name. Where the name of the registrant is the same as that of another well-known company and it appears likely that the registrant may be confused with the other company, or where the name indicates a line of business in which the registrant is not engaged or is engaged to only a limited extent, a statement may be necessary to prevent the confusion of the two companies or to remove a misleading inference that may be drawn from the name as to the nature of the registrant's business. In some circumstances, however, disclosure may not be sufficient, and a change of name may be the only way to preclude confusion of the companies or misleading inferences from registrant's name. Such disclosure or name change is not necessary in the case of an established registrant that over a period of years has changed the general character of its business and the investing public is aware generally of the change and the character of the registrant's present business;

(2) Title and amount of securities offered and a brief description of such securities (unless not necessary to indicate the material terms of the securities, as in the case of an issue of common stock with full voting rights and the dividend and liquidation rights usually associated with common stock);

(3) Where any of the securities to be registered are to be offered for the account of security holders, a statement to that effect;

(4) Cross reference, where applicable to the discussion in the prospectus prescribed by Item 503 of Regulation S–K (§ 229.503), of material risks in connection with the purchase of the securities, printed in bold-face roman type at least as high as ten-point modern type and at least two points leaded, add "[4]"

(5) The following statement in capital letters printed in bold-face roman type at least as high as ten-point modern type and at least two points leaded:

THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION NOR HAS THE COMMISSION PASSED UPON

THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE;

(6) In the case of any preliminary prospectus that is circulated by registrants not subject to the reporting provisions of section 13(a) or 15(d) of the Exchange Act immediately prior to the filing of the registration statement, a bona fide estimate of the range of the maximum offering price and maximum number of shares or other units of securities to be offered, or a bona fide estimate of the principal amount of debt securities to be offered;

(7) Where securities are to be offered for cash, other than on a registration statement on Form S–8 (§ 239.16b of this chapter), the information called for by the following table, in substantially the tabular form indicated, as to all securities to be registered (estimated, if necessary):

	Price to public	Underwriting discounts and commissions	Proceeds to issuer or other persons
Per unit			
Total			

(8) In the case of any prospectus to be used prior to the effective date of the registration statement, in red ink, the caption "Preliminary Prospectus," the date of its issuance, and the following statement printed in type as large as that generally in the body of such prospectus:

A registration statement relating to these securities has been filed with the Securities and Exchange Commission but has not yet become effective. Information contained herein is subject to completion or amendment. These securities may not be sold nor may offers to buy be accepted prior to the time the registration statement becomes effective. This prospectus shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these securities in any State in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such State.

(9) Any legend or information required by the law of any State in which the securities are to be offered; and

(10) The date of the prospectus.

Instructions to Item 501. 1. The term "commissions" is defined in paragraph (17) of Schedule A of the Securities Act. Only commissions paid by the registrant or selling security holders in cash are to be included in the table. Commissions paid by other persons, and other consideration to the underwriters, shall be set forth in a note to the table with a reference thereto in the second column of the table. Any finder's fee or similar payments shall be disclosed appropriately.

2. If it is impracticable to state the price to the public, the method by which it is to be determined shall be explained. In addition, if the securities are to be offered at the market, or if the offering price is to be determined by a formula related to market prices, indicate the market involved and the market price as of the latest practicable date.

3. If the securities are to be offered on a best efforts basis, set forth the termination date of the offering, any minimum required purchase and any arrangements to place the funds received in an escrow, trust, or similar arrangement. If no such arrangements have been made, so state. The following tabular presentation of the total maximum and minimum securities to be offered shall be combined with the table required above:

	Price to public	Underwriting discounts and commissions	Proceeds to issuer or other persons
Total minimum			
Total maximum			

4. Where an underwriter has received an over-allotment option, maximum-minimum information shall be presented in the price table, or in a note thereto, based on the purchase of all or none of the shares subject to the option. The terms of the option may be described in response to Item 508 of Regulation S–K (§ 229.508) rather than on the cover page of the prospectus.

5. The total of "other expenses of issuance and distribution" called for by Item 511 of Regulation S–K (§ 229.511), stated separately for the registrant and for the selling security holders, if any, shall be set forth in a note to the proceeds column of the distribution table.

§ 229.502 (Item 502) Inside front and outside back cover pages of prospectus.

The following information, to the extent applicable, shall appear on the inside front cover page of the prospectus (except that the information required by paragraphs (e) and (g) of this Item may be set forth on the outside back cover page).

(a) *Available information.* Registrants subject to the reporting requirements of section 13(a) or 15(d) of the Exchange Act immediately prior to the filing of the registration statement shall:

(1) State that the registrant is subject to the informational requirements of the Exchange Act and in accordance therewith files reports and other information with the Securities and Exchange Commission;

(2) State that reports (and where registrant is subject to sections 14(a) and 14(c) of the Exchange Act proxy and information statements) and other information filed by the registrant can be inspected and copied at the public reference facilities maintained by the Commission in Washington, D.C., and at certain of its Regional Offices, and state the current address of each such facility (see §§ 200.11(b) and 200.80(c)(1) of this chapter), and that copies of such material can be obtained from the Public Reference Section of the Commission, Washington, D.C. 20549 at prescribed rates; and

(3) Name any national securities exchange on which the registrant's securities are listed and state that reports (and where registrant is subject to sections 14(a) and 14(c) of the Exchange Act proxy and information statements), and other information concerning the registrant can be inspected at such exchanges.

(b) *Reports to security holders.* Where a registrant may not be required to deliver an annual report to security holders (or holders of American depository receipts) pursuant to section 14 of the Exchange Act or stock exchange requirements, describe briefly the nature and frequency of reports that will be given to such holders in such event, specifying whether or not such reports will contain financial information that has been examined and reported upon, with an opinion expressed "by", an independent public or certified public accountant, and, in the case of the reports of a foreign private registrant that will not contain financial information prepared in accordance with United States generally accepted accounting principles, state whether the report will include a reconciliation of such information with such accounting principles.

(c) *Incorporation by reference.* Where any document or part thereof is incorporated by reference in the registration statement but not delivered with the prospectus, include an undertaking to provide without charge to each person to whom a prospectus is delivered, upon written or oral request of such person a copy of any and all of the information that has been incorporated by reference in the registration statement (not including exhibits to the information that is incorporated by reference unless such exhibits are specifically incorporated by reference into the information that the registration statement incorporates), and the address (including title or department) and telephone number to which such a request is to be directed.

(d) *Stabilization.* (1) If the registrant or any of the underwriters knows or has reason to believe that there is an intention to over-allot or that the price of any security may be stabilized to facilitate the offering of the registered securities, set forth a statement in substantially the following form, subject to appropriate modification where

circumstances require. Such statement shall be in capital letters, printed in bold-face roman type at least as large as ten-point modern type and at least two points leaded:

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITERS MAY OVER-ALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF (IDENTIFY EACH CLASS OF SECURITIES IN WHICH SUCH TRANSACTIONS MAY BE EFFECTED) AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH TRANSACTIONS MAY BE EFFECTED ON (IDENTIFY EACH EXCHANGE ON WHICH STABILIZING TRANSACTIONS MAY BE EFFECTED; IF NONE, OMIT THIS SENTENCE.) SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

(2) If the stabilizing began prior to the effective date of the registration statement, set forth the amount of securities bought, the prices at which bought and the period within which they were bought.

(3) If the securities being registered are to be offered to existing security holders pursuant to warrants or rights and any securities not taken by security holders are to be reoffered to the public after the expiration of the rights offering period, there shall be set forth, by supplement or otherwise, in the prospectus used in connection with such reoffering (i) the amount of securities bought in stabilization activities during the rights offering period and the price or range of prices at which such securities were bought, (ii) the amount of the offered securities subscribed for during such period, (iii) the amount of the offered securities subscribed for by the underwriters during such period, (iv) the amount of the offered securities sold during such period by the underwriters and the price, or range of prices, at which such securities were sold, and (v) the amount of the offered securities to be reoffered to the public and the public offering price.

(e) *Delivery of prospectuses by dealers.* The legend below shall be set forth inserting the expiration date of the period prescribed by section 4(3) of the Securities Act and Rule 174 thereunder (§ 230.174 of this chapter) except that this legend need not be included if, pursuant to Rule 174, dealers are not required to deliver a prospectus, or if the exemption provided by section 4(3) of the Securities Act is not applicable because of the provisions of section 24(d) of the Investment Company Act. If such expiration date is not known on the effective date of the registration statement it shall be included in the prospectus, copies of which are required to be filed pursuant to Rule 424(b) under the Securities Act (§ 230.424(b) of this chapter). The following legend shall be printed in bold-face or italic type at least as large as eight-point modern type and at least two points leaded:

Until (insert date) all dealers effecting transactions in the registered securities, whether or not participating in this distribution, may be required to deliver a prospectus. This is in addition to the obligation of dealers to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.

(f) *Enforceability of civil liabilities against foreign persons.* In the case of a foreign private registrant, a statement of how the enforcement by investors of civil liabilities under the Federal securities laws may be affected by the fact that the registrant is located in a foreign country, that certain of its officers and directors are residents of a foreign country, that certain underwriters or experts named in the registration statement are residents of a foreign country, and that all or a substantial portion of the assets of the registrant and of said persons are located outside the United States. Such disclosure need not be included on the inside front cover page of the prospectus, if it is included, under appropriate caption, elsewhere in the forepart of the prospectus.

(1) Such disclosure shall indicate:

(i) Whether investors will be able to effect service of process within the United States upon such persons;

(ii) Whether investors will be able to enforce; in United States courts, judgments against such persons judgments obtained in such courts predicated upon the civil liability provisions of the Federal securities laws;

(iii) Whether the appropriate foreign courts would enforce judgments of United States courts obtained in actions against such persons predicated upon the civil liability provisions of the Federal securities laws; and

(iv) Whether the appropriate foreign courts would enforce, in original actions, liabilities against such persons predicated solely upon the Federal securities laws.

(2) If any portions of such disclosures are stated to be based upon an opinion of counsel, such counsel shall be named in the prospectus and an appropriate manually signed consent to the use of such name and opinion shall be included as an exhibit to the registration statement.

(g) *Table of contents.* Include a reasonably detailed table of contents showing the subject matter of the various sections or subdivisions of the prospectus and the page number on which each such section or subdivision begins.

§ 229.503 (Item 503) Summary information, risk factors and ratio of earnings to fixed charges.

(a) *Summary.* Registrants should include a summary of the information contained in the prospectus where the length or complexity of the prospectus makes such a summary appropriate.

(b) *Address and telephone number.* Registrants shall include in the forepart of the prospectus the complete mailing address, including zip code, and the telephone number, including area code, of their principal executive offices.

(c) *Risk factors.* Registrants, where appropriate, shall set forth on the page immediately following the cover page of the prospectus (or following the summary, if included) under an appropriate caption, a discussion of the principal factors that make the offering speculative or one of high risk; these factors may be due, among other things, to such matters as an absence of an operating history of the registrant, an absence of profitable operations in recent periods, the financial position of the registrant, the nature of the business in which the registrant is engaged or proposes to engage, or, if common equity or securities convertible into or exercisable for common equity are being offered, the absence of a previous market for the registrant's common equity.

(d) *Ratio of earnings to fixed charges.* The ratio of earnings to fixed charges or the ratio of earnings to combined fixed charges and preferred stock dividends (the "ratio") should be disclosed pursuant to the following rules and definitions:

(1)(i) Furnish in registration statements filed under the Securities Act of 1933 (A) the ratio of earnings to fixed charges if debt securities are being registered; or (B) the ratio of earnings to combined fixed charges and preferred stock dividends if preferred stock is being registered. Disclosure of both ratios is permitted in registration statements relating to debt or preferred stock and either ratio or both ratios may be disclosed in other filings.

(ii) The ratio shall be disclosed for the following periods:

(A) Each of the last five fiscal years of the registrant (or for the life of the registrant and its predecessors, if less), and

(B) The latest interim period for which financial statements are presented.

(2) The ratio shall be computed using the amounts for the enterprise as a whole including (i) the registrant, (ii) its majority-owned subsidiaries, whether or not consolidated, (iii) its proportionate share of any fifty-percent-owned

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persons, and (iv) any income received (but not undistributed amounts) from less-than-fifty-percent-owned persons.

(3) The term "earnings" shall be defined as pretax income from continuing operations with the following adjustments:

(i) Add to the pretax income the amount of fixed charges computed pursuant to paragraph (d)(4) of this section, except that interest capitalized during the period shall be excluded from the fixed charge amount.

(ii) Only the registrant's share in the income of majority-owned subsidiaries and the distributed income of less-than-fifty-percent-owned persons shall be included in earnings, except that a registrant may include the minority interest in the income of majority-owned subsidiaries that have fixed charges.

(iii) The full amount of losses of majority-owned subsidiaries shall be considered in the computation of earnings.

(iv) Where an investment in a less-than-fifty-percent-owned person accounted for under the equity method results in the recognition of a loss, such loss shall not be considered in the computation of the ratio except where the registrant has guaranteed or otherwise undertaken, directly or indirectly to service the debt of such person. In the latter case, the registrant's equity in the loss shall be included in earnings and the fixed charges shall include the interest expense related to the guaranteed debt.

(v) Registrants other than public utilities may add to earnings the amount of previously capitalized interest amortized during the period. In the case of a registrant which is a rate-regulated public utility, interest charges shall not be reduced by any allowance for funds used during construction. The "borrowed-funds" component of any such allowance shall be included in earnings.

(4)(i) The term "fixed charges" shall mean the total of (A) interest, whether expensed or capitalized; (B) amortization of debt expense and discount or premium relating to any indebtedness, whether expensed or capitalized; (C) such portion of rental expense as can be demonstrated to be representative of the interest factor in the particular case; and (D) preferred stock dividend requirements of majority-owned subsidiaries, excluding in all cases items which would be or are eliminated in consolidation.

(ii) If the registrant is a guarantor of debt of an unaffiliated person (such as a supplier), the amount of fixed charges associated with such debt should not be included in the computation of the ratio unless the registrant has been required to satisfy the guarantee or it is probable that the registrant will be required to honor the guarantee and the amount can be reasonably estimated. A footnote to the ratio should disclose the existence of any such guarantee and the amount of the associated fixed charges and state whether or not such amount is included in the computation of the ratio.

(5) The term "preferred stock" shall include all types of preferred and preference stocks.

(6) For purposes of paragraph (4)(i)(D) above and computation of the combined ratio, the preferred stock dividend requirements shall be increased to an amount representing the pre-tax earnings which would be required to cover such dividend requirements. Therefore, the increased amount=

$$\frac{\text{Preferred Stock Dividend Requirements}}{100\%-\text{Income Tax Rate}}$$

The tax rate shall be based on the relationship of the provision for income tax expense applicable to income from continuing operations to the amount of pre-tax income from continuing operations.

(7) If either ratio computation indicates a less than one-to-one coverage, state that earnings are inadequate to cover fixed charges and disclose the dollar amount of the coverage deficiency.

(8) If the level of the registrant's ratio is maintained by its parent, for example, in order to meet the minimum borrowing standards of agencies of various states, or if the registrant's parent is guaranteeing the registrant's debt securities or preferred stock, the parent's ratio as well as the registrant's ratio shall be disclosed.

(9) A pro forma ratio shall be presented in the prospectus of any registration statement filed to register debt or preferred stock to be used in a refinancing if the effect of the refinancing changes the historical ratio by ten percent or more.

(i) A "refinancing" is defined as the extinguishment of one or more specific issues of dept with the proceeds from the sale of additional debt, or the extinguishment of one or more specific issues of preferred stock with the proceeds from the sale of additional preferred stock.

(ii) The only adjustments which shall be made to the corresponding historical ratio are to give effect to the net increase or decrease in interest expense or preferred stock dividends resulting from (A) the proposed issuance of new debt or preferred stock and (B) the corresponding retirement of any debt or preferred stock presently outstanding (but only for the period of time outstanding) which will be retired with the proceeds from the proposed offering. If only a portion of the proceeds will be used to retire presently outstanding debt or preferred stock, only a related portion of the interest or preferred dividend should be used in the pro forma adjustment.

(iii) The pro forma ratio, if applicable, shall be presented for only the most recent fiscal year and the latest interim period or, at the option of the registrant, the most recent twelve months.

§ 229.504 (Item 504) Use of proceeds.

1State the principal purposes for which the net proceeds to the registrant from the securities to be offered are intended to be used and the approximate amount intended to be used for each such purpose. Where registrant has no current specific plan for the proceeds, or a significant portion thereof, the registrant shall so state and discuss the principal reasons for the offering.

Instructions to Item 504. 1. Where less than all the securities to be offered may be sold and more than one use is listed for the proceeds, indicate the order of priority of such purposes and discuss the registrant's plans if substantially less than the maximum proceeds are obtained. Such discussion need not be included if underwriting arrangements with respect to such securities are such that, if any securities are sold to the public, it reasonably can be expected that the actual proceeds will not be substantially less than the aggregate proceeds to the registrant shown pursuant to Item 501 of Regulation S–K (§ 229.501).

2. Details of proposed expenditures need not be given; for example, there need be furnished only a brief outline of any program of construction or addition of equipment. Consideration should be given as to the need to include a discussion of certain matters addressed in the discussion and analysis of registrant's financial condition and results of operations, such as liquidity and capital expenditures.

3. If any material amounts of other funds are necessary to accomplish the specified purposes for which the proceeds are to be obtained, state the amounts and sources of such other funds needed for each such specified purpose and the sources thereof.

4. If any material part of the proceeds is to be used to discharge indebtedness, set forth the interest rate and maturity of such indebtedness. If the indebtedness to be discharged was incurred within one year, describe the use of the proceeds of such indebtedness other than short-term borrowings used for working capital.

5. If any material amount of the proceeds is to be used to acquire assets, otherwise than in the ordinary course of business, describe briefly and state the cost of the assets and, where such assets are to be acquired from affiliates of the registrant or their associates, give the names of the persons from whom they are to be acquired and set forth the principle followed in determining the cost to the registrant.

6. Where the registrant indicates that the proceeds may, or will, be used to finance acquisitions of other businesses, the identity of such businesses, if known, or, if not known, the nature of the businesses to be sought, the status of any negotiations with respect to the acquisition, and a brief description of such business shall be included. Where, however, pro forma financial statements reflecting such acquisition are not required by Regulation S–X to be included, in the registration statement, the possible terms of any transaction, the identification of the parties thereto or the nature of the business sought need not be disclosed, to the extent that the registrant reasonably determines that public disclosure of such information would jeopardize the acquisition. Where Regulation S–X (17 CFR 210) would require financial statements of the business to be acquired to be included, the description of the business to be acquired shall be more detailed.

7. The registrant may reserve the right to change the use of proceeds, provided that such reservation is due to certain contingencies that are discussed specifically and the alternatives to such use in that event are indicated.

§ 229.505 (Item 505) Determination of offering price.

(a) *Common equity.* Where common equity is being registered for which there is no established public trading market for purposes of paragraph (a) of Item 201 of Regulation S–K (§ 229.201(a)) or where there is a material disparity between the offering price of the common equity being registered and the market price of outstanding shares of the same class, describe the various factors considered in determining such offering price.

(b) *Warrants, rights and convertible securities.* Where warrants, rights or convertible securities exercisable for common equity for which there is no established public trading market for purposes of paragraph (a) of Item 201 of Regulation S–K (§ 229.201(a)) are being registered, describe the various factors considered in determining their exercise or conversion price.

§ 229.506 (Item 506) Dilution.

Where common equity securities are being registered and there is substantial disparity between the public offering price and the effective cash cost to officers, directors, promoters and affiliated persons of common equity acquired by them in transactions during the past five years, or which they have the right to acquire, and the registrant is not subject to the reporting requirements of section 13(a) or 15(d) of the Exchange Act immediately prior to filing of the registration statement, there shall be included a comparison of the public contribution under the proposed public offering and the effective cash contribution of such persons. In such cases, and in other instances where common equity securities are being registered by a registrant that has had losses in each of its last three fiscal years and there is a material dilution of the purchasers' equity interest, the following shall be disclosed:

(a) The net tangible book value per share before and after the distribution;

(b) The amount of the increase in such net tangible book value per share attributable to the cash payments made by purchasers of the shares being offered; and

(c) The amount of the immediate dilution from the public offering price which will be absorbed by such purchasers.

§ 229.507 (Item 507) Selling security holders.

If any of the securities to be registered are to be offered for the account of security holders, name each such security holder, indicate the nature of any position, office, or other material relationship which the selling security holder has had within the past three years with the registrant or any of its predecessors or affiliates, and state the amount of securities of the class owned by such security holder prior to the offering, the amount to be offered for the security holder's account, the amount and (if one percent or more) the percentage of the class to be owned by such security holder after completion of the offering.

§ 229.508 (Item 508) Plan of distribution.

(a) *Underwriters and underwriting obligation.* If the securities are to be offered through underwriters, name the principal underwriters, and state the respective amounts underwritten. Identify each such underwriter having a material relationship with the registrant and state the nature of the relationship. State briefly the nature of the obligation of the underwriter(s) to take the securities.

Instruction to Paragraph 508(a). All that is required as to the nature of the underwriters' obligation is whether the underwriters are or will be committed to take and to pay for all of the securities if any are taken, or whether it is merely an agency or the type of "best efforts" arrangement under which the underwriters are required to take and to pay for only such securities as they may sell to the public. Conditions precedent to the underwriters' taking the securities, including "market-outs," need not be described except in the case of an agency or "best efforts" arrangement.

(b) *New underwriters.* Where securities being registered are those of a registrant that has not previously been required to file reports pursuant to section 13(a) or 15(d) of the Exchange Act, or where a prospectus is required to include reference on its cover page to material risks pursuant to Item 501 of Regulation S–K (§ 229.501), and any one or more of the managing underwriter(s) (or where there are no managing underwriters, a majority of the principal underwriters) has been organized, reactivated, or first registered as a broker-dealer within the past three years, these facts concerning such underwriter(s) shall be disclosed in the prospectus together with, where applicable, the disclosures that the principal business function of such underwriter(s) will be to sell the securities to be registered, or that the promoters of the registrant have a material relationship with such underwriter(s). Sufficient details shall be given to allow full appreciation of such underwriter(s) experience and its relationship with the registrant, promoters and their controlling persons.

(c) *Other distributions.* Outline briefly the plan of distribution of any securities to be registered that are to be offered otherwise than through underwriters.

(1) If any securities are to be offered pursuant to a dividend or interest reinvestment plan the terms of which provide for the purchase of some securities on the market, state whether the registrant or the participant pays fees, commissions, and expenses incurred in connection with the plan. If the participant will pay such fees, commissions and expenses, state the anticipated cost to participants by transaction or other convenient reference.

(2) If the securities are to be offered through the selling efforts of brokers or dealers, describe the plan of distribution and the terms of any agreement, arrangement, or understanding entered into with broker(s) or dealer(s) prior to the effective date of the registration statement, including volume limitations on sales, parties to the agreement and the conditions under which the agreement may be terminated. If known, identify the broker(s) or dealer(s) which will participate in the offering and state the amount to be offered through each.

(3) If any of the securities being registered are to be offered otherwise than for cash, state briefly the general

purposes of the distribution, the basis upon which the securities are to be offered, the amount of compensation and other expenses of distribution, and by whom they are to be borne. If the distribution is to be made pursuant to a plan of acquisition, reorganization, readjustment or succession, describe briefly the general effect of the plan and state when it became or is to become operative. As to any material amount of assets to be acquired under the plan, furnish information corresponding to that required by Instruction 5 of Item 504 of Regulation S–K (§ 229.504).

(d) *Offerings on exchange.* If the securities are to be offered on an exchange, indicate the exchange. If the registered securities are to be offered in connection with the writing of exchange-traded call options, describe briefly such transactions.

(e) *Underwriters' compensation.* To the extent not set forth on the cover page of the prospectus, describe the discounts and commissions to be allowed or paid to the underwriters, and all other items that would be deemed by the National Association of Securities Dealers to constitute underwriting compensation for purposes of the Association's Rule of Fair Practice.

(f) *Underwriter's representative on board of directors.* Describe any arrangement whereby the underwriter has the right to designate or nominate a member or members of the board of directors of the registrant. The registrant shall disclose the identity of any director so designated or nominated, and indicate whether or not a person so designated or nominated, or allowed to be designated or nominated by the underwriter is or may be a director, officer, partner, employee or affiliate of the underwriter.

(g) *Indemnification of underwriters.* If the underwriting agreement provides for indemnification by the registrant of the underwriters or their controlling persons against any liability arising under the Securities Act, furnish a brief description of such indemnification provisions.

(h) *Dealers' compensation.* State briefly the discounts and commissions to be allowed or paid to dealers, including all cash, securities, contracts or other considerations to be received by any dealer in connection with the sale of the securities. If any dealers are to act in the capacity of sub-underwriters and are to be allowed or paid any additional discounts or commissions for acting in such capacity, a general statement to that effect will suffice without giving the additional amounts to be sold.

(i) *Finders.* Identify any finder and, if applicable, describe the nature of any material relationship between such finder and the registrant, its officers, directors, principal stockholders, finders or promoters or the principal underwriter(s), or if there is a managing underwriter(s), the managing underwriter(s), (including, in each case, affiliates or associates thereof).

(j) *Discretionary accounts.* If the registrant was not, immediately prior to the filing of the registration statement, subject to the requirements of section 13(a) or 15(d) of the Exchange Act, identify any principal underwriter that intends to sell to any accounts over which it exercises discretionary authority and include an estimate of the amount of securities so intended to be sold. The response to this paragraph shall be contained in a pre-effective amendment which shall be circulated if the information is not available when the registration statement is filed.

§ 229.509 (Item 509) Interests of named experts and counsel.

If (a) any expert named in the registration statement as having prepared or certified any part thereof (or is named as having prepared or certified a report or valuation for use in connection with the registration statement), or (b) counsel for the registrant, underwriters or selling security holders named in the prospectus as having given an opinion upon the validity of the securities being registered or upon other legal matters in connection with the registration or offering of such securities, was employed for such purpose on a contingent basis, or at the time of such preparation, certification or opinion or at any time thereafter, through the date of effectiveness of the registration statement or that part of the registration statement to which such preparation, certification or opinion relates, had, or is to receive in connection with the offering, a substantial interest, direct or indirect, in the registrant or any of its parents or subsidiaries or was connected with the registrant or any of its parents or subsidiaries as a promoter, managing underwriter (or any principal underwriter, if there are no managing underwriters) voting trustee, director, officer, or employee, furnish a brief statement of the nature of such contingent basis, interest, or connection.

Instructions to Item 509. 1. The interest of an expert (other than an accountant) or counsel will not be deemed substantial and need not be disclosed if the interest, including the fair market value of all securities of the registrant owned, received and to be received, or subject to options, warrants or rights received or to be received by the expert or counsel does not exceed $50,000. For the purpose of this Instruction, the term "expert" or counsel includes the firm, corporation, partnership or other entity, if any, by which such expert or counsel is employed or of which he is a member or of counsel to and all attorneys in the case of counsel, and all nonclerical personnel in the case of named experts, participating in such matter on behalf of such firm, corporation, partnership or entity.

2. Accountants, providing a report on the financial statements, presented or incorporated by reference in the registration statement, should note § 210.2–01 of Regulation S–X (17 CFR 210) for the Commission's requirements regarding "Qualification of Accountants" which discusses disqualifying interests.

§ 229.510 (Item 510) Disclosure of Commission position on indemnification for Securities Act liabilities.

In addition to the disclosure prescribed by Item 702 of Regulation S–K (§ 229.702), if the undertaking required by paragraph (i) of Item 512 of Regulation S–K (§ 229.512) is not required to be included in the registration statement because acceleration of the effective date of the registration statement is not being requested, and if waivers have not been obtained comparable to those specified in paragraph (i), a brief description of the indemnification provisions relating to directors, officers and controlling persons of the registrant against liability arising under the Securities Act (including any provision of the underwriting agreement which relates to indemnification of the underwriter or its controlling persons by the registrant against such liabilities where a director, officer or controlling person of the registrant is such an underwriter or controlling person thereof or a member of any firm which is such an underwriter) shall be included in the prospectus, together with a statement in substantially the following form:

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers or persons controlling the registrant pursuant to the foregoing provisions, the registrant has been informed that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is therefore unenforceable.

§ 229.511 (Item 511) Other expenses of issuance and distribution.

Furnish a reasonably itemized statement of all expenses in connection with the issuance and distribution of the securities to be registered, other than underwriting discounts and commissions. If any of the securities to be registered are to be offered for the account of security holders, indicate the portion of such expenses to be borne by such security holder.

Instruction to Item 511. Insofar as practicable, registration fees, Federal taxes, States taxes and fees, trustees' and transfer agents' fees, costs of printing and engraving, and legal, accounting, and engineering fees shall be itemized separately. Include as a separate item any premium paid by the registrant or any selling security holder on any policy obtained in connection with the offering and sale of the securities being registered which insures or indemnifies directors or officers against any liabilities they may incur in connection with the registration, offering, or sale of such securities. The information may be given as subject to future contingencies. If the amounts of any items are not known, estimates, identified as such, shall be given.

§ 229.512 (Item 512) Undertakings.

Include each of the following undertakings that is applicable to the offering being registered.

(a) *Rule 415 Offering.*[1] Include the following if the securities are registered pursuant to Rule 415 under the Securities Act (§ 230.415 of this chapter):

The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement, including (but not limited to) any addition or deletion of a managing underwriter;

Provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the registration statement is on Form S–3 (§ 239.13 of this chapter) Form S–8 (§ 239.16b of this chapter), and the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed by the registrant pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

Instruction. 1. For purposes of paragraph (a)(1)(iii), a post-effective amendment need not be filed to disclose the addition or deletion of a managing underwriter as a co-manager unless there no longer remains at least one managing underwriter who was named in the registration statement or a post-effective amendment thereto.

2. If only one underwriter is involved in an offering, that entity would be deemed to be the managing underwriter for purposes of this undertaking. If two or more underwriters perform substantially the functions described in Rule 405 (§ 230.405 of this chapter), each would be deemed to be a managing underwriter for the purposes of this undertaking and the relationship of one underwriter to another would be that of a co-manager.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) *Filings incorporating subsequent Exchange Act documents by reference.* Include the following if the registration statement incorporates by reference any Exchange Act document filed subsequent to the effective date of the registration statement:

The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to section 13(a) or section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) *Warrants and rights offerings.* Include the following, with appropriate modifications to suit the particular case, if the securities to be registered are to be offered to existing security holders pursuant to warrants or rights and any securities not taken by security holders are to be reoffered to the public:

The undersigned registrant hereby undertakes to supplement the prospectus, after the expiration of the subscription period, to set forth the results of the subscription offer, the transactions by the underwriters during the subscription period, the amount of unsubscribed securities to be purchased by the underwriters, and the terms of any subsequent reoffering thereof. If any public offering by the underwriters is to be made on terms differing from those set forth on the cover page of the prospectus, a post-effective amendment will be filed to set forth the terms of such offering.

(d) *Competitive bids.* Include the following, with appropriate modifications to suit the particular case, if the securities to be registered are to be offered at competitive bidding:

The undersigned registrant hereby undertakes (1) to use its best efforts to distribute prior to the opening of bids, to prospective bidders, underwriters, and dealers, a reasonable number of copies of a prospectus which at that time meets the requirements of section 10(a) of the Act, and relating to the securities offered at competitive bidding, as contained in the registration statement, together with any supplements thereto, and (2) to file an amendment to the registration statement reflecting the results of bidding, the terms of the reoffering and related matters to the extent required by the applicable form, not later than the first use, authorized by the issuer after the opening of bids, of a prospectus relating to the securities offered at competitive bidding, unless no further public offering of such securities by the issuer and no reoffering of such securities by the purchasers is proposed to be made.

(e) *Incorporated annual and quarterly reports.* Include the following if the registration statement specifically incorporates by reference (other than by indirect incorporation by reference through a Form 10–K (§ 249.310 of this chapter) report) in the prospectus all or any part of the annual report to security holders meeting the requirements of Rule 14a–3 or Rule 14c–3 under the Exchange Act) §§ 240.14a–3 and 240.14c–3 of this chapter):

The undersigned registrant hereby undertakes to deliver or cause to be delivered with the prospectus, to each person to whom the prospectus is sent or given, the latest annual report to security holders that is incorporated by reference in the prospectus and furnished pursuant to and meeting the requirements of Rule 14a–3 or Rule 14c–3 under the Securities Exchange Act of 1934; and, where interim financial information required to be presented by Article 3 of Regulation S–X are not set forth in the prospectus, to deliver, or cause to be delivered to each person to whom the prospectus is sent or given, the latest quarterly report that is specifically incorporated by reference in the prospectus to provide such interim financial information.

(f) *Employee plans on Form S–8.* Include the following if the registration

[1] Paragraph (a) reflects proposals made in Securities Act Release No. 6334 (Aug. 6, 1981).

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statement is on a Form S–8 (§ 239.16b of this chapter):

(1) The undersigned registrant hereby undertakes to deliver or cause to be delivered with the prospectus to each employee to whom the prospectus is sent or given a copy of the registrant's annual report to stockholders for its last fiscal year, unless such employee otherwise has received a copy of such report, in which case the registrant shall state in the prospectus that it will promptly furnish, without charge, a copy of such report on written request of the employee. If the last fiscal year of the registrant has ended within 120 days prior to the use of the prospectus, the annual report of the registrant for the preceding fiscal year may be so delivered, but within such 120 day period the annual report for the last fiscal year will be furnished to each such employee.

(2) The undersigned registrant hereby undertakes to transmit or cause to be transmitted to all employees participating in the plan who do not otherwise receive such material as stockholders of the registrant, at the time and in the manner such material is sent to its stockholders, copies of all reports, proxy statements and other communications distributed to its stockholders generally.

(3) Where interests in a plan are registered herewith, the undersigned registrant and plan hereby undertake to transmit or cause to be transmitted promptly, without charge, to any participant in the plan who makes a written request, a copy of the then latest annual report of the plan filed pursuant to section 15(d) of the Securities Exchange Act of 1934 (Form 11–K (§ 249.311 of this chapter)). If such report is filed separately on Form 11–K, such form shall be delivered upon written request. If such report is filed as a part of the registrant's annual report on Form 10–K, that entire report (excluding exhibits) shall be delivered upon written request. If such report is filed as a part of the registrant's annual report to stockholders delivered pursuant to paragraph (1) or (2) of this undertaking, additional delivery shall not be required.

(g) *Equity offerings of nonreporting registrants.* Include the following if equity securities of a registrant that prior to the offering had no obligation to file reports with the Commission pursuant to section 13(a) or 15(d) of the Exchange Act are being registered for sale in an underwritten offering:

The undersigned registrant hereby undertakes to provide to the underwriter at the closing specified in the underwriting agreements certificates in such denominations and registered in such names as required by the underwriter to permit prompt delivery to each purchaser.

(h) *Registration on Form S–14 or S–15 of securities offered for resale.* Include the following if the securities are being registered on Form S–14 or S–15 (§§ 239.23 or 239.29 of this chapter) in connection with a transaction specified in paragraph (a) of Rule 145 (§ 230.145 of this chapter).

(1) The undersigned registrant hereby undertakes as follows: that prior to any public reoffering of the securities registered hereunder through use of a prospectus which is a part of this registration statement, by any person or party who is deemed to be an underwriter within the meaning of Rule 145(c), the issuer undertakes that such reoffering prospectus will contain the information called for by the applicable registration form with respect to reofferings by persons who may be deemed underwriters, in addition to the information called for by the other Items of the applicable form.

(2) The registrant undertakes that every prospectus (i) that is filed pursuant to paragraph (1) immediately preceding, or (ii) that purports to meet the requirements of section 10(a)(3) of the Act and is used in connection with an offering of securities subject to Rule 415 (§ 230.415 of this chapter), will be filed as a part of an amendment to the registration statement and will not be used until such amendment is effective, and that, for purposes of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(i) *Acceleration of effectiveness.* Include the following if any acceleration is requested of the effective date of the registration statement pursuant to Rule 461 under the Securities Act (§ 230.461 of this chapter), and (1) any provision or arrangement exists whereby the registrant may indemnify a director, officer or controlling person of the registrant against liabilities arising under the Securities Act, or (2) the underwriting agreement contains a provision whereby the registrant indemnifies the underwriter or controlling persons of the underwriter against such liabilities and a director, officer or controlling person of the registrant is such an underwriter or controlling person thereof or a member of any firm which is such an underwriter, and (3) the benefits of such indemnification are not waived by such persons:

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer of controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

Subpart 229.600—Exhibits

§ 229.601 (Item 601) Exhibits.

(a) *Exhibits and index required.* (1) Subject to Rule 411(c) (§ 230.411(c) of this chapter) under the Securities Act and Rule 12b–32 (§ 240.12b–32 of this chapter) under the Exchange Act regarding incorporation of exhibits by reference, the exhibits required by in the exhibit table shall be filed as indicated, as part of the registration statement or report. (2) Each registration statement or report shall contain an exhibit index, which shall precede immediately the exhibits filed with such registration statement. For convenient reference, each exhibit shall be listed in the exhibit index according to the number assigned to it in the exhibit table. The exhibit index shall indicate, by handwritten, typed, printed, or other legible form of notation in the manually signed original registration statement or report, the page number in the sequential numbering system where such exhibit can be found. Where exhibits are incorporated by reference, this fact shall be noted in the exhibit index referred to in the preceding sentence. Further, the first page of the manually signed registration statement shall list the page in the filing where the exhibit index is located. For a description of each of the exhibits included in the exhibit table, see paragraph (b) of this Item. (3) This Item applies only to the forms specified in the exhibit table. With regard to forms not listed in that table, reference shall be made to the appropriate form for the specific exhibit filing requirements applicable thereto.

Instructions to Item 601. 1. If an exhibit to a registration statement (other than an opinion or consent), filed in preliminary form, has been changed only (A) to insert information as to interest, dividend or conversion rates, redemption or conversion prices, purchase or offering prices, underwriters' or dealers' commission, names, addresses or participation of underwriters or similar matters, which information appears elsewhere in an amendment to the registration statement, or (B) to correct typographical errors, insert signatures or make other similar immaterial changes, then, notwithstanding any contrary requirement of any rule or form, the registrant need not refile such exhibit as so amended; provided the registrant states in the amendment to the registration statement the basis provided by this Instruction for not refiling such exhibit. Any such incomplete exhibit may not, however, be incorporated by reference in any subsequent filing under any Act administered by the Commission.

2. In any case where two or more indentures, contracts, franchises, or other documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, the registrant need file a copy of only one of such documents, with a schedule identifying the other documents omitted and setting forth the material details in which such documents differ from the document a copy of which is filed. The Commission may at any time in its discretion require filing of copies of any documents so omitted.

3. Only copies, rather than originals, need be filed of each exhibit required except as otherwise specifically noted.

Exhibit Table

Instructions to the Exhibit Table. 1. The exhibit table indicates those documents that must be filed as exhibits to the respective forms listed.

2. The "X" designation indicates the documents which are required to be filed with each form even if filed previously with another document, *Provided, However,* that such previously filed documents may be incorporated by reference to satisfy the filing requirements.

3. The number used in the far left column of the table refers to the appropriate subsection in paragraph (b) where a description of the exhibit can be found. Whenever necessary, alphabetical or numerical subparts may be used.

EXHIBIT TABLE

	Securities Act forms							Exchange Act forms			
	S-1	S-2	S-3	S-8	S-11	S-14	S-15	10	8-K	10-Q	10-K
(1) Underwriting agreement	X	X	X		X	X			X		
(2) Plan of acquisition, reorganization, arrangement, liquidation or succession	X	X	X		X	X	X	X	X	X	
(3) Articles of incorporation and by-laws	X				X	X		X			X
(4) Instruments defining the rights of security holders, including indentures	X	X	X	X	X	X	X	X	X	X	X
(5) Opinion re legality	X	X	X	X	X	X	X				
(6) Opinion re discount on capital shares	X	X			X	X		X			
(7) Opinion re liquidation preference	X	X			X	X		X			
(8) Opinion re tax matters	X	X	X		X	X	X				
(9) Voting trust agreement	X				X	X					X
(10) Material contracts	X	X			X	X	X	X			X
(11) Statement re computation of per share earnings	X	X			X	X		X			X
(12) Statements re computation of ratios[1]	X	X	X		X	X	X	X		X	X
(13) Annual report to[2] security holders, Form 10-Q or quarterly report to security holders		X					X	X			X
(14) Material foreign patents	X					X		X			
(15) Letter re unaudited interim financial information	X	X	X	X	X	X	X			X	
(16) Letter re change in certifying accountant											
(17) Letter re director resignation											
(18) Letter re change in accounting principles											
(19) Previously unfiled documents										X	X
(20) Report furnished to security holders										X	X
(21) Other documents or statements to security holders										X	
(22) Subsidiaries of the registrant	X				X						
(23) Published report regarding matters submitted to vote of security holders											X
(24) Consents of experts and counsel	X	X	X	X	X	X	X			X	X
(25) Power of attorney	X	X	X	X	X	X	X	X	X[3]	X[3]	X[3]
(26) Statement of eligibility of trustee	X	X	X		X	X	X		X	X	X
(27) Invitations for competitive bids	X	X	X								
(28) Additional exhibits	X	X	X	X	X	X	X	X	X	X	X

[1] Where incorporated by reference into the text of the prospectus as permitted by the registration statement.
[2] Where incorporated by reference into a previously filed Securities Act registration statement.

(b) *Description of exhibits.* Set forth below is a description of each document listed in the exhibit tables.

(1) *Underwriting agreement*—Each underwriting contract or agreement with a principal underwriter pursuant to which the securities being registered are to be distributed; if the terms of such documents have not been determined, the proposed forms thereof. Such agreement may be filed as an exhibit to a report on Form 8–K (§ 249.308 of this chapter) which is incorporated by reference into a registration statement subsequent to its effectiveness.

(2) *Plan of acquisition, reorganization, arrangement, liquidation or succession*—Any material plan of acquisition, disposition, reorganization, readjustment, succession, liquidation or arrangement and any amendments thereto described in the statement or report. Schedules (or similar attachments) to these exhibits shall not be filed unless such schedules contain information which is material to an investment decision and which is not otherwise disclosed in the agreement or the disclosure document. The plan filed shall contain a list briefly identifying the contents of all omitted schedules, together with an agreement to furnish supplementally a copy of any omitted schedule to the Commission upon request.

(3) *Articles of incorporation and by-laws*—The articles of incorporation and by-laws of the registrant or instruments corresponding thereto as currently in effect and any amendments thereto. Whenever amendments to the articles or by-laws of the registrant are filed, there shall also be filed a complete copy of the articles or by-laws as amended. Where it is impracticable for the registrant to file a charter amendment authorizing new securities with the appropriate state authority prior to the effective date of the registration statement registering such securities, the registrant may file as an exhibit to the registration statement the form of amendment to be filed with the state authority; and in such a case, if material changes are made after the copy is filed, the registrant must also file the changed copy.

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(4) *Instruments defining the rights of security holders, including indentures*—(i) All instruments defining the rights of holders of the equity or debt securities being registered including, where applicable, the relevant portion of the articles of incorporation or by-laws of the registrant.

(ii) Except as set forth in (iii) below, for filings on Forms S–1, S–11, and S–14 under the Securities Act (§§ 239.11, 239.18 and 239.23 of this chapter) and Forms 10 and 10–K under the Exchange Act (§§ 249.210 and 249.310 of this chapter) all instruments defining the rights of holders of long-term debt of the registrant and its consolidated subsidiaries and for any of its unconsolidated subsidiaries for which financial statements are required to be filed.

(iii) Where the instrument defines the rights of holders of long-term debt of the registrant and its consolidated subsidiaries and for any of its unconsolidated subsidiaries for which financial statements are required to be filed, there need not be filed (A) any instrument with respect to long-term debt not being registered if the total amount of securities authorized thereunder does not exceed 10 percent of the total assets of the registrant and its subsidiaries on a consolidated basis and if there is filed an agreement to furnish a copy of such agreement to the Commission upon request; (B) any instrument with respect to any class of securities if appropriate steps to assure the redemption or retirement of such class will be taken prior to or upon delivery by the registrant of the securities being registered; or (C) copies of instruments evidencing scrip certificates for fractions of shares.

(iv) If any of the securities being registered are, or will be, issued under an indenture to be qualified under the Trust Indenture Act, the copy of such indenture which is filed as an exhibit shall include or be accompanied by (A) a reasonably itemized and informative table of contents; and (B) a cross-reference sheet showing the location in the indenture of the provisions inserted pursuant to sections 310 through 318(a) inclusive of the Trust Indenture Act of 1939.

(v) With respect to Forms 8–K and 10–Q under the Exchange Act which are filed and which disclose, in the text of the Form 10–Q, the interim financial statements, or the footnotes thereto the creation of a new class of securities or indebtedness or the modification of existing rights of security holders, file all instruments defining the rights of holders of these securities or indebtedness. However, there need not be filed any instrument with respect to long-term debt not being registered which meets the exclusion set forth above in paragraph (iii)(A).

Instruction. There need not be filed any instrument which defines the rights of participants (not as security holders) pursuant to an employee benefit plan.

(5) *Opinion re legality*—(i) An opinion of counsel as to the legality of the securities being registered, indicating whether they will, when sold, be legally issued, fully paid and non-assessable, and, if debt securities, whether they will be binding obligations of the registrant.

(ii) If the securities being registered are issued under a plan and the plan is subject to the requirements of ERISA furnish either:

(A) An opinion of counsel which confirms compliance of the provisions of the written documents constituting the plan with the requirements of ERISA pertaining to such provisions; or

(B) A copy of the Internal Revenue Service determination letter that the plan is qualified under section 401 of the Internal Revenue Code; or

(iii) If the securities being registered are issued under a plan which is subject to the requirements of ERISA and the plan has been amended subsequent to the filing of (ii) (A) or (B) above, furnish either:

(A) An opinion of counsel which confirms compliance of the amended provisions of the plan with the requirements of ERISA pertaining to such provisions; or

(B) A copy of the Internal Revenue Service determination letter that the amended plan is qualified under section 401 of the Internal Revenue Code.

(6) *Opinion re discount on capital shares*—If any discount on capital shares is shown as a deduction from capital shares on the most recent balance sheet being filed for the registrant, there shall be filed a statement of the circumstances under which such discount arose and an opinion of counsel as to the legality of the issuance of the shares to which such discount relates. The opinion shall set forth, or specifically refer to, any applicable constitutional and statutory provisions and shall cite any decisions which in the opinion of counsel are controlling.

(7) *Opinion re liquidation preference*—If the registrant has any shares the preference of which upon involuntary liquidation exceeds the par or stated value thereof, there shall be filed an opinion of counsel as to whether there are any restrictions upon surplus by reason of such excess and also as to any remedies available to security holders before or after payment of any dividend that would reduce surplus to an amount less than the amount of such excess. The opinion shall set forth, or specifically refer to, any applicable constitutional and statutory provisions and shall cite any decisions which, in the opinion of counsel, are controlling.

(8) *Opinion re tax matters*—For filings on Form S–11 under the Securities Act or those to which Securities Act Industry Guide 5 applies, an opinion of counsel or, in lieu thereof, a revenue ruling from the Internal Revenue Service, supporting the tax matters and consequences to the shareholders as described in the filing when such tax matters are material to the transaction for which the registration statement is being filed. This exhibit otherwise need only be filed with the other applicable registration forms where the tax consequences are material to an investor and a representation as to tax consequences is set forth in the filing. If a tax opinion is set forth in full in the filing, an indication that such is the case may be made in lieu of filing the otherwise required exhibit. Such tax opinions may be conditioned or may be qualified, so long as such conditions and qualifications are adequately described in the filing.

(9) *Voting trust agreement*—Any voting trust agreements and amendments thereto.

(10) *Material contracts*—(i) Every contract not made in the ordinary course of business which is material to the registrant and is to be performed in whole or in part at or after the filing of the registration statement or report or was entered into not more than two years before such filing. Only contracts need be filed as to which the registrant or subsidiary of the registrant is a party or has succeeded to a party by assumption or assignment or in which the registrant or such subsidiary has a beneficial interest.

(ii) If the contract is such as ordinarily accompanies the kind of business conducted by the registrant and its subsidiaries, it will be deemed to have been made in the ordinary course of business and need not be filed unless it falls within one or more of the following categories, in which case it shall be filed except where immaterial in amount or significance:

(A) Any contract to which directors, officers, promoters, voting trustees, security holders named in the registration statement or report, or underwriters are parties other than contracts involving only the purchase or sale of current assets having a determinable market price, at such market price;

(B) Any contract upon which the registrant's business is substantially dependent, as in the case of continuing contracts to sell the major part of registrant's products or services or to purchase the major part of registrant's requirements of goods, services or raw materials or any franchise or license or other agreement to use a patent, formula, trade secret, process or trade name upon which registrant's business depends to a material extent;

(C) Any contract calling for the acquisition or sale of any property, plant or equipment for a consideration exceeding 15 percent of such fixed assets of the registrant on a consolidated basis; or

(D) Any material lease under which a part of the property described in the registration statement or report is held by the registrant.

(iii)(A) Any management contract or any remunerative plan, contract or arrangement, including but not limited to plans relating to options, warrants or rights, pension, retirement or deferred compensation or bonus, incentive or profit sharing (or if not set forth in any formal document, a written description thereof) in which any director or any of the five most highly compensated executive officers of the registrant participates shall be deemed material and shall be filed; and any other management contract or any remunerative plan, contract, or arrangement in which any other executive officer of the registrant participates shall be filed unless immaterial in amount or significance.

(B) Notwithstanding paragraph (iii)(A) above, the following management contracts or remunerative plans, contracts or arrangements need not be filed:

(*1*) Ordinary purchase and sales agency agreements.

(*2*) Agreements with managers of stores in a chain organization or similar organization.

(*3*) Contracts providing for labor or salesmen's bonuses or payments to a class of security holders, as such.

(*4*) Any remunerative plan, contract or arrangement which pursuant to its terms is available to employees, officers or directors generally and which in operation provides for the same method of allocation of benefits between management and nonmanagement participants.

(*5*) Any remunerative plan, contract or arrangement if the registrant is a foreign private issuer that furnishes remunerative information on an aggregate basis as permitted by Instruction 1 to paragraph (a) of Item 402 (§ 229.402).

(*6*) Any remunerative plan, contract, or arrangement if the registrant is a wholly owned subsidiary of a company that has a class of securities registered pursuant to section 12 or files reports pursuant to section 15(d) of the Exchange Act and is filing a report on Form 10–K or registering debt instruments or preferred stock which are not voting securities on Form S–2.

Instruction: With the exception of management contracts, in order to comply with paragraph (iii) above, registrants need only file copies of the various remunerative plans and need not file each individual director's or executive officer's personal agreement under the plans unless there are particular provisions in such personal agreements whose disclosure in an exhibit is necessary to an investor's understanding of that individual's remuneration under the plan.

(11) *Statement re computation of per share earnings*—A statement setting forth in reasonable detail the computation of per share earnings, unless the computation can be clearly determined from the material contained in the registration statement or report. (See Securities Act Release No. 5133 (February 18, 1971) [36 FR 4483]).

(12) *Statements re computation of ratios*—A statement setting forth in reasonable detail the computation of any ratio of earnings to fixed charges, any ratio of earnings to combined fixed charges and preferred stock dividends or any other ratios which appear in the registration statement or report. See Item 503(d) of Regulation S–K (§ 229.503(d)).

(13) *Annual report to security holders, Form 10–Q or quarterly report to security holders*—The registrant's annual report to security holders for its last fiscal year, its Form 10–Q (if specifically incorporated by reference in the prospectus) or its quarterly report to security holders, if all or a portion thereof is incorporated by reference in the filing. Such report, except for those portions thereof which are expressly incorporated by reference in the filing, is to be furnished for the information of the Commission and is not to be deemed "filed" as part of the filing. If the financial statements in the report have been incorporated by reference in the filing, the accountant's certificate shall be manually signed in one copy. See Rule 411(b) (§ 230.411(b) of this chapter).

(14) *Material foreign patents*—Each material foreign patent for an invention not covered by a United States patent. If the filing is a registration statement and if a substantial part of the securities to be offered or if the proceeds therefrom have been or are to be used for the particular purposes of acquiring, developing or exploiting one or more material foreign patents or patent rights, furnish a list showing the number and a brief identification of each such patent or patent right.

(15) *Letter re unaudited interim financial information*—A letter, where applicable, from the independent accountant which acknowledges awareness of the use in a registration statement of a report on unaudited interim financial information which pursuant to Rule 436(c) under the Securities Act (§ 230.436(c) of this chapter) is not considered a part of a registration statement prepared or certified by an accountant or a report prepared or certified by an accountant within the meaning of sections 7 and 11 of that Act. Such letter may be filed with the registration statement, an amendment thereto, or a report on Form 10–Q which is incorporated by reference into the registration statement.

(16) *Letter re change in certifying accountant*—A letter from the registrant's former independent accountant regarding its concurrence or disagreement with the statements made by the registrant in the current report concerning the resignation or dismissal as the registrant's principal accountant.

(17) *Letter re director resignation*—Any letter from a former director which sets forth a description of a disagreement with the registrant that led to the director's resignation or refusal to stand for re-election and which requests that the matter be disclosed.

(18) *Letter re change in accounting principles*—Unless previously filed, a letter from the registrant's independent accountant indicating whether any change in accounting principles or practices followed by the registrant, or any change in the method of applying any such accounting principles or practices, which affected the financial statements being filed with the Commission in the report or which is reasonably certain to affect the financial statements of future fiscal years is to an alternative principle which in his judgment is preferable under the circumstances. No such letter need be filed when such change is made in response to a standard adopted by the Financial Accounting Standards Board that creates a new accounting principle, that expresses a preference for an accounting principle, or that rejects a specific accounting principle.

(19) *Previously unfiled documents*—(i) Any unfiled document, which was executed or in effect during the reporting period, shall be filed if such document would have been required to be filed as

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an exhibit to a registration statement on Form 10.

(ii) Any amendment or modification to a document which was previously filed with the Commission as an exhibit to Form 10, 10–K or 10–Q. Such amendment or modification need not be filed where such previously filed exhibit would not be currently required.

(20) *Report furnished to security holders*—If the registrant makes available to its stockholders or otherwise publishes, within the period prescribed for filing the report, a document or statement containing information meeting some or all of the requirements of Part I of Form 10–Q, the information called for may be incorporated by reference to such published document or statement provided copies thereof are included as an exhibit to the registration statement or to Part I of the Form 10–Q report.

(21) *Other documents or statements to security holders*—If the registrant makes available to its stockholders or otherwise publishes, within the period prescribed for filing the report, a document or statement containing information meeting some or all of the requirements of this form the information called for may be incorporated by reference to such published document or statement provided copies thereof are filed as an exhibit to the report on this form.

(22) *Subsidiaries of the registrant*—(i) List all subsidiaries of the registrant, the state or other jurisdiction of incorporation or organization of each, and the names under which such subsidiaries do business. This list may be incorporated by reference from a document which includes a complete and accurate list.

(ii) The names of particular subsidiaries may be omitted if the unnamed subsidiaries, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary as of the end of the year covered by this report. (See the definition of "significant subsidiary" in Rule 1–02(v) (17 CFR 210.1–02(v)) of Regulation S–X.) The names of consolidated wholly-owned multiple subsidiaries carrying on the same line of business, such as chain stores or small loan companies, may be omitted, provided the name of the immediate parent, the line of business, the number of omitted subsidiaries operating in the United States and the number operating in foreign countries are given. This instruction shall not apply, however, to banks, insurance companies, savings and loan associations or to any subsidiary subject to regulation by another Federal agency.

(23) *Published report regarding matters submitted to vote of security holders*—Published reports containing all of the information called for by Item 4 of Part II of Form 10–Q or Item 4 of Part I of Form 10–K which is referred to therein in lieu of providing disclosure in Form 10–Q or 10–K, which are required to be filed as exhibits by Rule 12b–23(a)(3) under the Exchange Act (§ 240.12b–23(a)(3) of this chapter).

(24) *Consents of experts and counsel*—(i) Securities Act filings—All written consents required to be filed shall be dated and manually signed. Where the consent of an expert or counsel is contained in his report or opinion or elsewhere in the registration statement or document filed therewith, a reference shall be made in the index to the report, the part of the registration statement or document or opinion, containing the consent.

(ii) Exchange Act reports—where the filing of a written consent is required with respect to material incorporated by reference in a previously filed registration statement under the Securities Act, such consent may be filed as exhibit to the material incorporated by reference. Such consents shall be dated and manually signed.

(25) *Power of attorney*—If any name is signed to the registration statement or report pursuant to a power of attorney, manually signed copies of such power of attorney shall be filed where the power of attorney is contained elsewhere in the registration statement or documents filed therewith a reference shall be made in the index to the part of the registration statement or document containing such power of attorney. In addition, if the name of any officer signing on behalf of the registrant is signed pursuant to a power of attorney, certified copies of a resolution of the registrant's board of directors authorizing such signature shall also be filed.

(26) *Statement of eligibility of trustee*—A statement of eligibility and qualification of each person designated to act as trustee under an indenture to be qualified under the Trust Indenture Act of 1939. Such statement of eligibility shall be bound separately from the other exhibits.

(27) *Invitations for competitive bids*—If the registration statement covers securities to be offered at competitive bidding, any form of communication which is an invitation for competitive bid which will be sent or given to any person shall be filed.

(28) *Additional exhibits*—(i) Any additional exhibits which the registrant may wish to file shall be so marked as to indicate clearly the subject matters to which they refer. (ii) Any document (except for an exhibit) or part thereof which is incorporated by reference in the filing and is not otherwise required to be filed by this Item or is not a Commission filed document incorporated by reference in a Securities Act registration statement.

§ 229.700 Miscellaneous.

§ 229.701 (Item 701) Recent sales of unregistered securities.

Furnish the following information as to all securities of the registrant sold by the registrant within the past three years which were not registered under the Securities Act. Include sales of reacquired securities, as well as new issues, securities issued in exchange for property, services, or other securities, and new securities resulting from the modification of outstanding securities.

(a) *Securities sold.* Give the date of sale and the title and amount of securities sold.

(b) *Underwriters and other purchasers.* Give the names of the principal underwriters, if any. As to any such securities not publicly offered, name the persons or identify the class of persons to whom the securities were sold.

(c) *Consideration.* As to securities sold for cash, state the aggregate offering price and the aggregate underwriting discounts or commissions. As to any securities sold otherwise than for cash, state the nature of the transaction and the nature and aggregate amount of consideration received by the registrant.

(d) *Exemption from registration claimed.* Indicate the section of the Securities Act or the rule of the Commission under which exemption from registration was claimed and state briefly the facts relied upon to make the exemption available.

Instructions. 1. Information required by this Item 701 need not be set forth as to notes, drafts, bills of exchange, or bankers' acceptances which mature not later than one year from the date of issuance.

2. If the sales were made in a series of transactions, the information may be given by such totals and periods as will reasonably convey the information required.

§ 229.702 (Item 702) Indemnification of directors and officers.

State the general effect of any statute, charter provisions, by-laws, contract or other arrangements under which any controlling persons, director or officer of the registrant is insured or indemnified in any manner against liability which he may incur in his capacity as such.

Subpart 229.800—List of Industry Guides

§ 229.801 Securities Act industry guides.

(a) Guide 1. Disclosure of principal sources of electric and gas revenues.

(b) Guide 2. Disclosure of oil and gas operations.

(c) Guide 3. Statistical disclosure by bank holding companies.

(d) Guide 4. Prospectuses relating to interests in oil and gas programs.

(e) Guide 5. Preparation of registration statements relating to interests in real estate limited partnerships.

§ 229.802 Exchange Act industry guides.

(a) Guide 1. Disclosure of principal sources of electric and gas revenues.

(b) Guide 2. Disclosure of oil and gas operations.

(c) Guide 3. Statistical disclosure by bank holding companies.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

8. By adding paragraph (a)(14) to § 230.134 to read as follows:

§ 230.134 Communications not deemed a prospectus.

* * * * *

(a) * * *

(14)(i) With respect to any class of debt securities, any class of convertible debt securities or any class of preferred stock, the security rating or ratings assigned to the class of securities by any nationally recognized statistical rating organization and the name or names of the nationally recognized statistical rating organization(s) which assigned such rating(s).

(ii) For the purpose of paragraph 14(a)(i) of this section, the term "nationally recognized statistical rating organization" shall have the same meaning as used in Rule 15c3–1(c)(2)(vi)(F) under the Securities Exchange Act of 1934 (17 CFR 240.14c3–1(c)(2)(vi)(F)).

* * * * *

9. By adding paragraph (c) to § 230.135 to read as follows:

§ 230.135 Notice of certain proposed offerings.

* * * * *

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, in the case of a rights offering of a security listed or subject to unlisted trading privileges on a national securities exchange or quoted on the NASDAQ inter-dealer quotation system information with respect to the interest rate, conversion ratio and subscription price may be disseminated through the facilities of the exchange, the consolidated transaction reporting system, the NASDAQ system or the Dow Jones broad tape, provided such information is already disclosed in a registration statement on file with the Commission.

10. By revising § 230.138 to read as follows:

§ 230.138 Definition of "offer for sale" and "offer to sell" in sections 2(10) and 5(c) in relation to certain publications.

(a) Where a registrant which meets all of the conditions for the use of Form S–2 (§ 239.12 of this chapter) has filed or proposes to file a registration statement under the Act relating solely to a nonconvertible debt security or to a nonconvertible, nonparticipating preferred stock, publication or distribution in the regular course of its business by a dealer of information, opinions or recommendations relating solely to common stock or to debt or preferred stock convertible into common stock of such issuer shall not be deemed to constitute an offer for sale or offer to sell the security to which such registration statement relates for purposes of sections 2(10) and 5(c) of the Act, even though such dealer is or will be a member of the underwriting syndicate or dealer group in connection with the distribution of the security to which such registration statement relates.

(b) Where a registrant which meets all of the conditions for the use of Form S–2 (§ 239.12 of this chapter) has filed or proposes to file a registration statement under the Act relating solely to common stock or to debt or preferred stock convertible into common stock, the publication or distribution in the regular course of its business by a dealer of information, opinions or recommendations relating solely to a nonconvertible debt security, or to a nonconvertible nonparticipating preferred stock shall not be deemed to constitute an offer for sale or offer to sell the security to which such registration statement relates for purposes of sections 2(10) and 5(c) of the Act, even though such dealer is or will be a member of the underwriting syndicate or dealer group in connection with the distribution of the security to which such registration statement relates.

11. By revising paragraphs (b)(1)(i) and (2) and (c)(3) of § 230.175 to read as follows:

§ 230.175 Liability for certain statements by issuers.

* * * * *

(b) * * *

(1) * * *

(i) At the time such statements are made or reaffirmed, either the issuer is subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 and has complied with the requirements of Rule 13a–1 or 15d–1 thereunder, if applicable, to file its most recent annual report on Form 10–K; or, if the issuer is not subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, the statements are made in a registration statement filed under the Securities Act of 1933 or pursuant to section 12(b) or (g) of the Securities Exchange Act of 1934, and

* * * * *

(2) Information relating to the effects of changing prices on the business enterprise presented voluntarily or pursuant to Item 303 of Regulation S–K (§ 229.303 of this chapter), management's discussion and analysis of financial condition and results of operations, or Item 302 of Regulation S–K (§ 229.302 of this chapter), supplementary financial information, and disclosed in a document filed with the Commission, in part I of a quarterly report on Form 10–Q or in an annual report to shareholders meeting the requirements of Rules 14a–3 (b) and (c) or 14c–3(a) and (b) under the Securities Exchange Act of 1934.

(c) * * *

(3) A statement of future economic performance contained in management's discussion and analysis of financial condition and results of operations included pursuant to Item 303 of Regulation S–K (17 CFR 229.300); or

* * * * *

12. By adding § 230.176 to read as follow:

§ 230.176 Circumstances affecting the determination of what constitutes reasonable investigation and reasonable grounds for belief under section 11 of the Securities Act.

In determining whether or not the conduct of a person constitutes a reasonable investigation or a reasonable ground for belief meeting the standard set forth in section 11(c), relevant circumstances include, with respect to a person other than the issuer.

(a) The type of issuer;

(b) The type of security;

(c) The type of person;

(d) The office held when the person is an officer;

(e) The presence or absence of another relationship to the issuer when the person is a director or proposed director;

(f) Reasonable reliance on officers, employees, and others whose duties should have given them knowledge of the particular facts (in the light of the functions and responsibilities of the particular person with respect to the issuer and the filing);

(g) When the person is an underwriter, the type of underwriting arrangement, the role of the particular person as an underwriter and the availability of information with respect to the registrant; and

(h) Whether, with respect to a fact or document incorporated by reference, the particular person had any responsibility for the fact or document at the time of the filing from which it was incorporated.

13. By removing §§ 230.406, 230.407, 230.412, 230.422, 230.425, 230.425a, 230.426, 230.430, 230.431, 230.432, 230.434, 230.434c, 230.435, 230.445, 230.446, 230.447 and 230.482.

14. By redesignating § 230.485 as § 230.406, §230.433 as § 230.430, §230.434a as 230.431, §230.434b as §230.432, §230.415 as §230.445, §230.426 as § 230.446, §230.471(b) as § 230.447, §230.434d as §230.482, and §230.465 as §230.485.

15. By amending Regulation C (§§ 230.400–230.494) by revising §§ 230.400–230.406, 230.411, 230.413–230.414, 230.421, 230.423, 230.427, 230.430–230.432, 230.436, 230.439, 230.445–230.446, 230.455, 230.457, 230.460–230.461, 230.464, 230.470–230.473, 230.477, 230.479, 230.482 and 230.485; and by adding §§ 230.412, 230.415, 230.416, and 230.280–230.494 to read as follows:

Regulation C—Registration

§ 230.400 Application of §§ 230.400 to 230.494, inclusive.

Sections 230.400 to 230.494 shall govern every registration of securities under the Act, except that any provision in a form, or an item of Regulation S–K (17 CFR 229.001 *et seq.*) referred to in such form, covering the same subject matter as any such rule shall be controlling unless otherwise specifically provided in §§ 230.400 to 230.494.

General Requirements

§ 230.401 Requirements as to proper form.

(a) The form and contents of a registration statement and prospectus shall conform to the applicable rules and forms as in effect on the initial filing date of such registration statement and prospectus.

(b) If an amendment to a registration statement and prospectus is filed for the purpose of meeting the requirements of section 10(a)(3) of the Act or pursuant to the provisions of section 24(e) or 24(f) of the Investment Company Act of 1940, the form and contents of such an amendment shall conform to the applicable rules and forms as in effect on the filing date of such amendment.

(c) The form and contents of an amendment to a registration statement and prospectus other than an amendment described in paragraph (b) of this section shall conform to the applicable rules and forms as in effect on the filing date of the latest amendment described in paragraph (b) of this section or, if no such amendment has been filed, on the initial filing date of the registration statement and prospectus.

(d) The form and contents of a prospectus forming part of a registration statement which is the subject of a stop order entered under section 8(d) of the Act, if used after the date such stop order ceases to be effective, shall conform to the applicable rules and forms as in effect on the date such stop order ceases to be effective.

(e) A prospectus filed as part of an amendment to an effective registration statement, or other amendment to such registration statement, on any form may be prepared in accordance with the requirements of any other form which would then be appropriate for the registration of securities to which the prospectus or other amendment relates, provided that all of the other requirements of such other form and applicable rules (including any required undertakings) are met.

(f) Notwithstanding the provisions of this section, a registrant (1) shall comply with the rules and forms as in effect at a date different from those specified in paragraphs (a), (b), (c) and (d) of this section if the rules or forms or amendments thereto specifically so provide; and (2) may comply voluntarily with the rules and forms as in effect at dates subsequent to those specified in paragraphs (a), (b), (c) and (d) of this section, provided that all of the requirements of the particular rules and forms in effect at such dates (including any required undertakings) are met.

(g) A registration statement or any amendment thereto shall be deemed to be filed on the proper form unless objection to the form is made by the Commission prior to the effective date.

§ 230.402 Number of copies; binding; signatures.

(a) Three copies of the complete registration statement, including exhibits and all other papers and documents filed as a part of the statement, shall be filed with the Commission. Each copy shall be bound, in one or more parts, without stiff covers. The binding shall be made on the side or stitching margin in such manner as to leave the reading matter legible. At least one such copy of every registration shall be manually signed by the persons specified in section 6(a) of the Act. Unsigned copies shall be conformed.

(b) Ten additional copies of the registration statement, similarly bound, shall be furnished for use in the examination of the registration statement, public inspection, copying and other purposes. Where a registration statement incorporates into the prospectus documents which are required to be delivered with the prospectus in lieu of prospectus presentation, the ten additional copies of the registration statement shall be accompanied by ten copies of such documents. No other exhibits are required to accompany such additional copies.

§ 230.403 Requirements as to paper, printing, language and pagination.

(a) Registration statements, applications and reports shall be filed on good quality, unglazed, white paper approximately 8½ by 11 inches or approximately 8½ by 13 inches in size, insofar as practicable. However, tables, charts, maps, and financial statements may be on larger paper if folded to that size, and the prospectus may be on smaller paper if the registrant so desires.

(b) The registration statement and, insofar as practicable, all papers and documents filed as a part thereof shall be printed, lithographed, mimeographed or typewritten. However, the statement or any portion thereof may be prepared by any similar process which, in the opinion of the Commission, produces copies suitable for a permanent record. Irrespective of the process used, all copies of any such material shall be clear, easily readable and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.

(c) The registration statement proper shall be in the English language. If any exhibit or other paper or document filed as part of the registration statement is in a foreign language, it shall be accompanied by a summary, version or translation in the English language.

(d) The manually signed original (or in the case of duplicate originals, one duplicate original) of all registrations, applications, statements, reports or other documents filed under the Act shall be numbered sequentially (in addition to any internal numbering which otherwise may be present) by handwritten, typed, printed or other legible form of notation from the first page of the document through the last page of that document and any exhibits or attachments thereto. Further, the total number of pages contained in a numbered original shall be set forth on the first page of the document.

§ 230.404 Preparation of registration statement.

(a) A registration statement shall consist of the facing sheet of the applicable form; cross reference sheet; a prospectus containing the information called for by Part I of such form; the information, list of exhibits, undertakings and signatures required to be set forth in Part II of such form; financial statements and schedules; exhibits; any other information or documents filed as part of the registration statement; and all documents or information incorporated by reference in the foregoing (whether or not required to be filed).

(b) All general instructions, instructions to items of the form, and instructions as to financial statements, exhibits, or prospectuses are to be omitted from the registration statement in all cases.

(c) The prospectus shall contain the information called for by all of the items of Part I of the applicable form, except that unless otherwise specified, no reference need be made to inapplicable items, and negative answers to any item in Part I may be omitted. A copy of the prospectus may be filed as a part of the registration statement in lieu of furnishing the information in item-and-answer form. Wherever a copy of the prospectus is filed in lieu of information in item-and-answer form, the text of the items of the form is to be omitted from the registration statement, as well as from the prospectus, except to the extent provided in paragraph (d) of this rule.

(d) Where any items of a form call for information not required to be included in the prospectus, generally Part II of such form, the text of such items, including the numbers and captions thereof, together with the answers thereto shall be filed with the prospectus under cover of the facing sheet of the form as a part of the registration statement. However, the text of such items may be omitted provided the answers are so prepared as to indicate the coverage of the item without the necessity of reference to the text of the item. If any such item is inapplicable, or the answer thereto is in the negative, a statement to that effect shall be made. Any financial statements not required to be included in the prospectus shall also be filed as a part of the registration statement proper, unless incorporated by reference pursuant to Rule 411 (§ 230.411).

§ 230.405 Definitions of terms.

Unless the context otherwise requires, all terms used in §§ 230.400 to 230.494, inclusive, or in the forms for registration have the same meanings as in the Act and in the general rules and regulations. In addition, the following definitions apply, unless the context otherwise requires:

Affiliate. An "affiliate" of, or person "affiliated" with, a specified person, is a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified.

Amount. The term "amount," when used in regard to securities, means the principal amount if relating to evidences of indebtedness, the number of shares if relating to shares, and the number of units if relating to any other kind of security.

Associate. The term "associate," when used to indicate a relationship with any person, means (1) a corporation or organization (other than the registrant or a majority-owned subsidiary of the registrant) of which such person is an officer or partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities, (2) any trust or other estate in which such person has a substantial benefical interest or as to which such person serves as trustee or in a similar capacity, and (3) any relative or spouse of such person, or any relative of such spouse, who has the same home as such person or who is a director or officer of the registrant or any of its parents or subsidiaries.

Business development company. The term "business development company" refers to a company which has elected to be regulated as a business development company under sections 55 through 65 of the Investment Company Act of 1940.

Certified. The term "certified," when used in regard to financial statements, means examined and reported upon with an opinion expressed by an independent public or certified public accountant.

Charter. The term "charter" includes articles of incorporation, declarations of trust, articles of association or partnership, or any similar instrument, as amended, affecting (either with or without filing with any governmental agency) the organization or creation of an incorporated or unincorporated person.

Common equity. The term "common equity" means any class of common stock or an equivalent interest, including but not limited to a unit of beneficial interest in a trust or a limited partnership interest.

Commission. The term "Commission" means the Securities and Exchange Commission.

Control. The term "control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

Director. The term "director" means any director of a corporation or any person performing similar functions with respect to any organization whether incorporated or unincorporated.

Dividend or interest reinvestment plan. The term "dividend or interest reinvestment plan" means a plan which is offered solely to the existing security holders of the registrant, which allows such persons to reinvest dividends or interest paid to them on securities issued by the registrant, and also may allow additional cash amounts to be contributed by the participants in the plan, provided the securities to be registered are newly issued, or are purchased for the account of plan participants, at prices not in excess of current market prices at the time of purchase, or at prices not in excess of an amount determined in accordance with a pricing formula specified in the plan and based upon average or current market prices at the time of purchase.

Employee. The term "employee" does not include a director, trustee, or officer.

Employee benefit plan. The term "employee benefit plan" means any purchase, savings, option, bonus, appreciation, profit sharing, thrift, incentive add "," pension or similar plan solely for employees, directors, trustees or officers.

Equity security. The term "equity security" means any stock or similar security, certificate of interest or participation in any profit sharing agreement, preorganization certificate or subscription, transferable share, voting trust certificate or certificate of deposit for an equity security, limited partnership interest, interest in a joint venture, or certificate of interest in a business trust; or any security convertible, with or without consideration into such a security, or carrying any warrant or right to

subscribe to or purchase such a security; or any such warrant or right; or any put, call, straddle, or other option or privilege of buying such a security from or selling such a security to another without being bound to do so.

Executive officer. The term "executive officer," when used with reference to a registrant, means its president, any vice president of the registrant in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policy making function or any other person who performs similar policy making functions for the registrant. Executive officers of subsidiaries may be deemed executive officers of the registrant if they perform such policy making functions for the registrant.

Fiscal year. The term "fiscal year" means the annual accounting period or, if no closing date has been adopted, the calendar year ending on December 31.

Foreign government. The term "foreign government" means the government of any foreign country or of any political subdivision of a foreign country.

Foreign issuer. The term "foreign issuer" means any issuer which is a foreign government, a national of any foreign country or a corporation or other organization incorporated or organized under the laws of any foreign country.

Foreign private issuer. The term "foreign private issuer" means any foreign issuer other than a foreign government.

Majority-owned subsidiary. The term "majority-owned subsidiary" means a subsidiary more than 50 percent of whose outstanding securities representing the right, other than as affected by events of default, to vote for the election of directors, is owned by the subsidiary's parent and/or one or more of the parent's other majority-owned subsidiaries.

Managing underwriter. The term "managing underwriter" includes an underwriter (or underwriters) who, by contract or otherwise, deals with the registrant; organizes the selling effort; receives some benefit directly or indirectly in which all other underwriters similarly situated do not share in proportion to their respective interests in the underwriting; or represents any other underwriters in such matters as maintaining the records of the distribution, arranging the allotments of securities offered or arranging for appropriate stabilization activities, if any.

Material. The term "material," when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters to which there is a substantial likelihood that a reasonable investor would attach importance in determining whether to purchase the security registered.

North American issuer. The term "North American issuer" means any foreign private issuer incorporated or organized under the laws of Canada or Mexico or any political subdivision thereof.

Officer. The term "officer" means a president, vice president, secretary, treasurer or principal financial officer, comptroller or principal accounting officer, and any person routinely performing corresponding functions with respect to any organization whether incorporated or unincorporated.

Parent. A "parent" of a specified person is an affiliate controlling such person directly, or indirectly through one or more intermediaries.

Predecessor. The term "predecessor" means a person the major portion of the business and assets of which another person acquired in a single succession, or in a series of related successions in each of which the acquiring person acquired the major portion of the business and assets of the acquired person.

Principal underwriter. The term "principal underwriter" means an underwriter in privity of contract with the issuer of the securities as to which he is underwriter, the term "issuer" having the meaning given in sections 2(4) and 2(11) of the Act.

Promoter. (1) The term "promoter" includes—

(i) Any person who, acting alone or in conjunction with one or more other persons, directly or indirectly takes initiative in founding and organizing the business or enterprise of an issuer; or

(ii) Any person who, in connection with the founding and organizing of the business or enterprise of an issuer, directly or indirectly receives in consideration of services or property, or both services and property, 10 percent or more of any class of securities of the issuer or 10 percent or more of the proceeds from the sale of any class of such securities. However, a person who receives such securities or proceeds either solely as underwriting commissions or solely in consideration of property shall not be deemed a promoter within the meaning of this paragraph if such person does not otherwise take part in founding and organizing the enterprise.

(2) All persons coming within the definition of "promoter" in paragraph (1) of this definition may be referred to as "founders" or "organizers" or by another term provided that such term is reasonably descriptive of those persons' activities with respect to the issuer.

Prospectus. Unless otherwise specified or the context otherwise requires, the term "prospectus" means a prospectus meeting the requirements of section 10(a) of the Act.

Registrant. The term "registrant" means the issuer of the securities for which the registration statement is filed.

Share. The term "share" means a share of stock in a corporation or unit of interest in an unincorporated person.

Significant subsidiary. The term "significant subsidiary" means a subsidiary, including its subsidiaries, which meets any of the following conditions.

(1) The registrant's and its other subsidiaries' investments in and advances to the subsidiary exceed 10 percent of the total assets of the registrant and its subsidiaries consolidated as of the end of the most recently completed fiscal year (for purposes of determining whether the past or future acquisition of another company in a business combination accounted for as a pooling of interests is significant for purposes of applying § 210.3-05 or reporting on Form 8-K, this condition is also met when the number of common shares exchanged by the registrant exceeds 10 percent of its total common shares outstanding at the date the combination is initiated); or

(2) The registrant's and its other subsidiaries' proportionate share of the total assets (after intercompany eliminations) of the subsidiary exceeds 10 percent of the total assets of the registrants and its subsidiaries consolidated as of the end of the most recently completed fiscal year; or

(3) The registrant's and its other subsidiaries' equity in the income from continuing operations before income taxes, extraordinary items and cumulative effect of a change in accounting principle of the subsidiary exceeds 10 percent of such income of the registrant and its subsidiaries consolidated for the most recently completed fiscal year.

Computational note: For purposes of making the prescribed income test the following guidance should be applied:

1. When a loss has been incurred by either the parent and its subsidiaries consolidated or the tested subsidiary, but not both, the equity in the income or loss of the tested subsidiary should be excluded from the income of the registrant and its subsidiaries consolidated for purposes of the computation.

2. If income of the registrant and its subsidiaries consolidated for the most recent fiscal year is at least 10 percent lower than the average of the income for the last five fiscal years, such average income should be substituted for purposes of the computation. Any loss years should be omitted for purposes of computing average income.

(*Subsidiary.* A "subsidiary" of a specified person is an affiliate controlled by such person directly, or indirectly through one or more intermediaries. (See also "majority owned subsidiary," "significant subsidiary," "totally held subsidiary," and "wholly owned subsidiary.")

Succession. The term "succession" means the direct acquisition of the assets comprising a going business, whether by merger, consolidation, purchase, or other direct transfer. The term does not include the acquisition of control of a business unless followed by the direct acquisition of its assets. The terms "succeed" and "successor" have meanings correlative to the foregoing.

Totally held subsidiary. The term "totally held subsidiary" means a subsidiary (1) substantially all of whose outstanding securities are owned by its parent and/or the parent's other totally held subsidiaries, and (2) which is not indebted to any person other than its parent and/or the parent's other totally held subsidiaries in an amount which is material in relation to the particular subsidiary, excepting indebtedness incurred in the ordinary course of business which is not overdue and which matures within one year from the date of its creation, whether evidenced by securities or not.

Voting securities. The term "voting securities" means securities the holders of which are presently entitled to vote for the election of directors.

Wholly owned subsidiary. The term "wholly owned subsidiary" means a subsidiary substantially all of whose outstanding voting securities are owned by its parent and/or the parent's other wholly owned subsidiaries.

§ 230.406 Contracts in general.

Public disclosure will not be made of the provisions of any material contract or portion thereof if the Commission determines that such disclosure would impair the value of the contract and is not necessary for the protection of investors. Except for requests made on or in connection with filings on form S-8 or on Form S-3 relating to a dividend or interest reinvestment plan, in any case where the registrant desires the Commission to make such a determination, the procedure set forth below shall be followed:

(a) The registrant shall omit from the registration statement as originally filed the portion of the contract which it desires to keep undisclosed, or, if the registrant desires to keep the entire contract undisclosed, any copy of the contract.

(b) The registrant shall file with the registration statement, but not bound as part thereof, (1) three copies of the contract or portion thereof which it desires to keep undisclosed, clearly marked "Confidential Treatment," and (2) an application for an order making the above described determination. The copies of the confidential portion and the application filed in accordance with this paragraph shall be enclosed in a separate envelope marked "Confidential Treatment" and addressed to The Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Such application shall set forth the consideration relied upon for obtaining such order and shall include the length of time for which nondisclosure is requested and justification for the time period selected. In addition, the registrant shall state whether or not the registrant is willing to permit the disclosure of the material contract or portion thereof to other government agencies. (Such permission is one factor which will be considered by the Commission in ruling on the application.) Pending the granting or denial by the Commission of the application, the terms and existence of the contract or portion thereof will be kept undisclosed.

(c) If the Commission determines that the application shall be granted an order to that effect will be entered. Prior to any determination denying the application, confirmed telegraphic notice of an opportunity for hearing at a specified time within 10 days after the dispatch of such notice will be sent to the agent for service. After such hearing an order granting or denying the application will be entered.

(d) If the Commission denies the application, confirmed telegraphic notice of the order of denial will be sent to the agent for service. In such case, within 10 days after the dispatch of such notice, the registrant shall have the right to withdraw the registration statement in accordance with the terms of Rule 477 (§ 230.477) but without the necessity of stating any grounds for the withdrawal or of obtaining the further assent of the Commission. In the event of such withdrawal, the contract or portion thereof filed confidentially will be returned to the registrant.

(e) If the registration statement is not withdrawn pursuant to paragraph (d) of this section the contract or portion thereof filed confidentially will be made available for public inspection as part of the registration statement, and the registrant shall amend the registration statement to include all information required to be set forth in regard to such contract or portion thereof.

§ 230.407 [Reserved]

§ 230.411 Incorporation by reference.

(a) *Prospectus.* Except as provided by this section or unless otherwise provided in the appropriate form, information shall not be incorporated by reference in a prospectus. Where a summary or outline of the provisions of any document is required in the prospectus, the summary or outline may incorporate by reference particular items, sections or paragraphs of any exhibit and may be qualified in its entirety by such reference.

(b) *Information not required in a prospectus.* Except for exhibits covered by Paragraph (c) of this section, information may be incorporated by reference in answer, or partial answer, to any item that calls for information not required to be included in a prospectus subject to the following provisions:

(1) Non-financial information may be incorporated by reference to any document;

(2) Financial information may be incorporated by reference to any document, provided any financial statement so incorporated meets the requirements of the forms on which the statement is filed. Financial statements or other financial data required to be given in comparative form for two or more fiscal years or periods shall not be incorporated by reference unless the information incorporated by reference includes the entire period for which the comparative data is given;

(3) Information contained in any part of the registration statement, including the prospectus, may be incorporated by reference in answer, or partial answer, to any item that calls for information not required to be included in the prospectus; and

(4) Unless the information is incorporated by reference to a document which complies with the time limitations of Rule 24 of the Commission's Rules of Practice (§ 201.24 of this chapter), then the document, or part thereof, containing the incorporated information is required to be filed as an exhibit.

(c) *Exhibits.* Any document or part thereof filed with the Commission pursuant to any Act administered by the Commission may, subject to the limitations of Rule 24 of the Commission's Rules of Practice, be incorporated by reference as an exhibit to any registration statement. If any modification has occurred in the text of any document incorporated by reference since the filing thereof, the registrant

shall file with the reference a statement containing the text of such modification and the date thereof.

(d) *General.* Any incorporation by reference of information pursuant to this section shall be subject to the provisions of Rule 24 of the Commission's Rules of Practice restricting incorporation by reference of documents which incorporate by reference other information. Information incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. If the information is incorporated by reference to a previously filed document, the file number of such document shall be included. Where only certain pages of a document are incorporated by reference and filed with the statement, the document from which the information is taken shall be clearly identified in the reference. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the registration statement where the information is required. Information shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

§ 230.412 Modified or superseded documents.

(a) Any statement contained in a document incorporated or deemed to be incorporated by reference shall be deemed to be modified or superseded for purposes of the registration statement or the prospectus to the extent that a statement contained in the prospectus or in any other subsequently filed document which also is or is deemed to be incorporated by reference modifies or replaces such statement.

(b) The modifying or superseding statement may, but need not, state that it has modified or superseded a prior statement or include any other information set forth in the document which is not so modified or superseded. The making of a modifying or superseding statement shall not be deemed an admission that the modified or superseded statement, when made, constituted an untrue statement of a material fact, an omission to state a material fact necessary to make a statement not misleading, or the employment of a manipulative, deceptive, or fraudulent device, contrivance, scheme, transaction, act, practice, course of business or artifice to defraud, as those terms are used in the Act, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Investment Company Act of 1940, or the rules and regulations thereunder.

(c) Any statement so modified shall not be deemed in its unmodified form to constitute part of the registration statement or prospectus for purpose of the Act. Any statement so superseded shall not be deemed to constitute a part of the registration statement or the prospectus for purposes of the Act.

§ 230.413 Registration of additional securities.

Except as provided in sections 24(e)(1) and 24(f) of the Investment Company Act of 1940, the registration of additional securities of the same class as other securities for which a registration statement is already in effect shall be effected through a separate registration statement relating to the additional securities.

§ 230.414 Registration by certain successor issuers.

If any issuer, except a foreign issuer exempted by Rule 3a12–3 (17 CFR 240.3a12–3), incorporated under the laws of any State or foreign government and having securities registered under the Act has been succeeded by an issuer incorporated under the laws of another State or foreign government for the purpose of changing the State or country of incorporation of the enterprises, or if any issuer has been succeeded by an issuer for the purpose of changing its form of organization, the registration statement of the predecessor issuer shall be deemed the registration statement of the successor issuer for the purpose of continuing the offering provided—

(a) Immediately prior to the succession the successor issuer had no assets or liabilities other than nominal assets or liabilities;

(b) The succession was effected by a merger or similar succession pursuant to statutory provisions or the terms of the organic instruments under which the successor issuer acquired all of the assets and assumed all of the liabilities and obligations of the predecessor issuer;

(c) The succession was approved by security holders of the predecessor issuer at a meeting for which proxies were solicited pursuant to section 14(a) of the Securities Exchange Act of 1934 or section 20(a) of the Investment Company Act of 1940 or information was furnished to security holders pursuant to section 14(c) of the Securities Exchange Act of 1934; and

(d) The successor issuer has filed an amendment to the registration statement of the predecessor issuer expressly adopting such statements as its own registration statement for all purposes of the Act and the Securities Exchange Act of 1934 and setting forth any additional information necessary to reflect any material changes made in connection with or resulting from the succession, or necessary to keep the registration statement from being misleading in any material respect, and such amendment has become effective.

§ 230.415 Delayed or continuous offering and sale of securities.

(a) Securities may be registered for an offering to be made on a continuous or delayed basis in the future, provided that—

(1) The registration statement pertains to:

(i) Securities in an amount which, at the time the registration statement becomes effective, is reasonably expected to be offered and sold within two years from the initial effective date of the registration statement by or on behalf of the registrant, a subsidiary of the registrant or a person of which the registrant is a subsidiary; or

(ii) Securities which are to be offered or sold solely by or on behalf of a person or persons other than the registrant, a subsidiary of the registrant or a person of which the registrant is a subsidiary; or

(iii) Securities which are to be offered and sold pursuant to a dividend or interest reinvestment plan or an employee benefit plan of the registrant; or

(iv) Securities which are to be issued upon the exercise of outstanding options, warrants or rights; or

(v) Securities which are to be issued upon conversion of other outstanding securities; or

(vi) Securities which are pledged as collateral; or

(viii) Securities which are registered on Form S–12 [17 CFR 239.19] or Form C–3 [17 CFR 239.5].

(2) The registrant furnishes the undertakings required by Item 512(a) of Regulation S–K.

(3) In the case of a registration statement pertaining to an at the market offering of equity securities by or on behalf of the registrant: (i) The registrant must meet the registrant requirements and the applicable transaction requirements of Form S–3 (17 CFR 239.13); (ii) where voting stock is registered, the amount of securities registered for such purposes must not exceed 10% of the aggregate market value of the registrant's outstanding voting stock held by non-affiliates of the registrant (calculated as of a date within 60 days prior to the date of filing); (iii) the securities must be sold through an underwriter or underwriters, acting as principal(s) or as agent(s) for the registrant; and (iv) the underwriter or underwriters must be named in the prospectus which is part of the registration statement. As used in this paragraph, the term "at the market offering" means an offering of securities into an existing trading market for outstanding shares of the same class at other than a fixed price on or through the facilities of a national securities exchange or to or through a market maker otherwise than on an exchange.

(b) This section shall not apply to any registration statement pertaining to securities issued by a face-amount certificate company or redeemable securities issued by an open-end management company or unit investment trust under the Investment Company Act of 1940 or any registration statement filed by any foreign government or political subdivision thereof.

(c) This section shall be effective until December 10, 1982.

§ 230.418 Supplemental information.

(a) The Commission or its staff may, where it is deemed appropriate, request supplemental information concerning the registrant, the registration statement, the distribution of the securities, market activities and underwriters' activities. Such information includes, but is not limited to, the following items which the registrant should be prepared to furnish promptly upon request:

(1)(i) Any reports or memoranda which have been prepared for external use by the registrant or a principal underwriter, as defined in Rule 405 (§ 230.405), in connection with the proposed offering;

(ii) A statement as to the actual or proposed use and distribution of the reports or memoranda specified in paragraph (a)(1)(i) of this section, identifying each class of persons who have received or will receive such reports or memoranda and the number of copies distributed to each such class;

(2) In the case of a registration statement relating to a business combination as defined in Rule 145(a) (17 CFR 230.145(a)), exchange offer, tender offer or similar transaction, any feasibility studies, management analyses, fairness opinions or similar reports prepared by or for any of the parties to the subject transaction in connection with such transaction;

(3) Except in the case of a registrant eligible to use Form S–2 or Form S–3 (§§ 239.12 or 239.13 of this chapter), any engineering, management or similar reports or memoranda relating to broad aspects of the business, operations or products of the registrant, which have been prepared within the past twelve months for or by the registrant, any affiliate of the registrant or any principal underwriter, as defined in Rule 405 (§ 230.405), of the securities being registered except for:

(i) Reports solely comprised of recommendations to buy, sell or hold the securities of the registrant, unless such recommendations have changed within the past six months; and

(ii) Any information contained in documents already filed with the Commission.

(4) Where there is a registration of an "offering at the market," as defined in Rule 10b–7 under the Securities Exchange Act of 1934 (17 CFR 240.10b–7), of more than 10 percent of the securities outstanding, where the offering includes securities owned by officers, directors or affiliates of the registrant and where there is no underwriting agreement, information (i) concerning contractual arrangements between selling security holders of a limited group or of several groups of related shareholders to comply with the anti-manipulation rules until the offering by all members of the group is completed and to inform the exchange, brokers and selling security holders when the distribution by the members of the group is over; or (ii) concerning the registrant's efforts to notify members of a large group of unrelated sellers of the applicable Commission rules and regulations;

(5) Where the registrant recently has introduced a new product or has begun to do business in a new industry segment or has made public its intentions to introduce a new product or to do business in a new industry segment, and this action requires the investment of a material amount of the assets of the registrant or otherwise is material, copies of any studies prepared for the registrant by outside persons or any internal studies, documents, reports or memoranda the contents of which were material to the decision to develop the product or to do business in the new segment including, but not limited to, documents relating to financial requirements and engineering, competitive, environmental and other considerations, but excluding technical documents;

(6) Where reserve estimates are referred to in a document, a copy of the full report of the engineer or other expert who estimated the reserves; and

(7) With respect to the extent of the distribution of a preliminary prospectus, information concerning:

(i) The date of the preliminary prospectus distributed;

(ii) The dates or approximate dates of distribution;

(iii) The number of prospective underwriters and dealers to whom the preliminary prospectus was furnished;

(iv) The number of prospectuses so distributed;

(v) The number of prospectuses distributed to others, identifying them in general terms; and

(vi) The steps taken by such underwriters and dealers to comply with the provisions of Rule 15c2–8 under the Securities Exchange Act of 1934 (§ 240.15c2–8 of this chapter).

(b) Supplemental information described in paragraph (a) of this section shall not be required to be filed with or deemed part of the registration statement. The information shall be returned to the registrant upon request, provided that:

(1) Such request is made at the time such information is furnished to the staff;

(2) The return of such information is consistent with the protection of investors; and

(3) The return of such information is consistent with the provisions of the Freedom of Information Act [5 U.S.C. 552].

Form and Contents of Prospectuses

§ 230.421 Presentation of information in prospectuses.

(a) The information required in a prospectus need not follow the order of the items or other requirements in the form. Such information shall not, however, be set forth in such fashion as to obscure any of the required information or any information necessary to keep the required information from being incomplete or misleading. Where an item requires information to be given in a prospectus in tabular form it shall be given in substantially the tabular form specified in the item.

(b) The information set forth in a prospectus should be presented in a clear, concise and understandable fashion. All information contained in a prospectus shall be set forth under appropriate captions or headings reasonably indicative of the principal subject matter set forth thereunder. Except as to financial statements and other tabular data, all information set forth in a prospectus shall be divided into reasonably short paragraphs or sections.

(c) All information required to be included in a prospectus shall be clearly understandable without the necessity of referring to the particular form or to the general rules and regulations. Except as

to financial statements and information required in a tabular form, the information set forth in a prospectus may be expressed in condensed or summarized form. In lieu of repeating information in the form of notes to financial statements, references may be made to other parts of the prospectus where such information is set forth.

§ 230.422 [Reserved]

§ 230.423 Date of prospectuses.

Except for a form of preliminary prospectus used after the effective date of the registration statement and prior to the opening of bids as permitted by Rule 445(c) (§ 230.445(c)), each prospectus used after the effective date of the registration statement shall be dated approximately as of such effective date; provided, however, that a revised or amended prospectus used thereafter need only bear the approximate date of its issuance. Each supplement to a prospectus shall be dated separately the approximate date of its issuance.

§ 230.427 Contents of prospectus used after nine months.

There may be omitted from any prospectus used more than 9 months after the effective date of the registration statement any information previously required to be contained in the prospectus insofar as later information covering the same subjects, including the latest available certified financial statement, as of a date not more than 16 months prior to the use of the prospectus is contained therein.

§ 230.428 [Reserved]

§ 230.430 Prospectus for use prior to effective date.

A form of prospectus filed as a part of the registration statement shall be deemed to meet the requirements of section 10 of the Act for the purpose of section 5(b)(1) thereof prior to the effective date of the registration statement, provided such form of prospectus contains substantially the information required by the Act and the rules and regulations thereunder to be included in a prospectus meeting the requirements of section 10(a) of the Act for the securities being registered, or contains substantially that information except for the omission of information with respect to the offering price, underwriting discounts or commissions, discounts or commissions to dealers, amount of proceeds, conversion rates, call prices, or other matters dependent upon the offering price. Every such form of prospectus shall be deemed to have been filed as a part of the registration statement for the purpose of section 7 of the Act.

§ 230.431 Summary prospectuses.

(a) A summary prospectus prepared and filed as a part of a registration statement in accordance with this rule shall be deemed to be a prospectus permitted under section 10(b) of the Act for the purpose of section 5(b)(1) of the Act if the form used for registration of the securities to be offered provides for the use of a summary prospectus and, if the issuer is not a registered open-end investment company, the following conditions are met:

(1)(i) The registrant is organized under the laws of the United States or any State or Territory or the District of Columbia and has its principal business operations in the United States or its territories; or

(ii) If the registrant is a foreign private issuer, such registrant files the same reports with the Commission under section 13(a) or 15(d) of the Securities Exchange Act of 1934 as a domestic registrant pursuant to paragraph (a)(3) of this section;

(2) The registrant has a class of securities registered pursuant to section 12(b) of the Securities Exchange Act of 1934 or has a class of equity securities registered pursuant to section 12(g) of that Act or is required to file reports pursuant to section 15(d) of that Act;

(3) The registrant: (i) Has been subject to the requirements of section 12 or 15(d) of the Securities Exchange Act of 1934 and has filed all the material required to be filed pursuant to sections 13, 14 or 15(d) of that Act for a period of at least thirty-six calendar months immediately preceding the filing of the registration statement; and (ii) has filed in a timely manner all reports required to be filed during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement and, if the registrant has used (during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement) Rule 12b–25(b) under the Securities Exchange Act of 1934 (§ 240.12b–25 of this chapter) with respect to a report or portion of a report, that report or portion thereof has actually been filed within the time period prescribed by that Rule; and

(4) Neither the registrant nor any of its consolidated or unconsolidated subsidiaries has, since the end of its last fiscal year for which certified financial statements of the registrant and its consolidated subsidiaries were included in a report filed pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934: (i) failed to pay any dividend or sinking fund installment on preferred stock; or (ii) defaulted on any installment or installments on indebtedness for borrowed money, or on any rental on one or more long term leases, which defaults in the aggregate are material to the financial position of the registrant and its consolidated and unconsolidated subsidiaries, taken as a whole.

(b) A summary prospectus shall contain the information specified in the instructions as to summary prospectuses in the form used for registration of the securities to be offered. Such prospectus may include any other information the substance of which is contained in the registration statement except as otherwise specifically provided in the instructions as to summary prospectuses in the form used for registration. It shall not include any information the substance of which is not contained in the registration statement except that a summary prospectus may contain any information specified in Rule 134(a) (§ 230.134(a)). No reference need be made to inapplicable terms and negative answers to any item of the form may be omitted.

(c) All information included in a summary prospectus, other than the statement required by paragraph (e) of this section, may be expressed in such condensed or summarized form as may be appropriate in the light of the circumstances under which the prospectus is to be used. The information need not follow the numerical sequence of the items of the form used for registration. Every summary prospectus shall be dated approximately as of the date of its first use.

(d) When used prior to the effective date of the registration statement, a summary prospectus shall be captioned a "Preliminary Summary Prospectus" and shall comply with the applicable requirements relating to a preliminary prospectus.

(e) A statement to the following effect shall be prominently set forth in conspicuous print at the beginning or at the end of every summary prospectus:

"Copies of a more complete prospectus may be obtained from" (Insert name(s), address(es) and telephone number(s)).

Copies of a summary prospectus filed with the Commission pursuant to paragraph (g) of this section may omit the names of persons from whom the complete prospectus may be obtained.

(f) Any summary prospectus published in a newspaper, magazine or other periodical need only be set in type at least as large as 7 point modern type.

Nothing in this rule shall prevent the use of reprints of a summary prospectus published in a newspaper, magazine, or other periodical, if such reprints are clearly legible.

(g) Eight copies of every proposed summary prospectus shall be filed as a part of the registration statement, or as an amendment thereto, at least 5 days (exclusive of Saturdays, Sundays and holidays) prior to the use thereof, or prior to the release for publication by any newspaper, magazine or other person, whichever is earlier. The Commission may, however, in its discretion, authorize such use or publication prior to the expiration of the 5-day period upon a written request for such authorization. Within 7 days after the first use or publication thereof, 5 additional copies shall be filed in the exact form in which it was used or published.

§ 230.432 Additional information required to be included in prospectuses relating to tender offers.

Notwithstanding the provisions of any form for the registration of securities under the Act, any prospectus relating to securities to be offered in connection with a tender offer for, or a request or invitation for tenders of, securities which is subject to section 14(d) of the Securities Exchange Act of 1934 shall include all of the information, not otherwise required to be included therein, required by Rule 14d–6(c)(1)(§ 240.14d–6(c)(1) of this chapter) to be included in all such tender offers, requests or invitations, published or sent or given to the holders of such securities.

Written Consents

§ 230.435 [Reserved]

§ 230.436 Consents required in special cases.

(a) If any portion of the report or opinion of an expert or counsel is quoted or summarized as such in the registration statement or in a prospectus, the written consent of the expert or counsel shall be filed as an exhibit to the registration statement and shall expressly state that the expert or counsel consents to such quotation or summarization.

(b) If it is stated that any information contained in the registration statement has been reviewed or passed upon by any persons and that such information is set forth in the registration statement upon the authority of or in reliance upon such persons as experts, the written consents of such persons shall be filed as exhibits to the registration statement.

(c) Notwithstanding the provisions of paragraph (b) of this section, a report on unaudited interim financial information (as defined in paragraph (d) of this section) by an independent accountant who has conducted a review of such interim financial information shall not be considered a part of a registration statement prepared or certified by an accountant or a report prepared or certified by an accountant within the meaning of sections 7 and 11 of the Act.

(d) The term "report on unaudited interim financial information" shall mean a report which consists of the following: (1) a statement that the review of interim financial information was made in accordance with established professional standards for such reviews; (2) an identification of the interim financial information reviewed; (3) a description of the procedures for a review of interim financial information; (4) a statement that a review of interim financial information is substantially less in scope than an examination in accordance with generally accepted auditing standards, the objective of which is an expression of opinion regarding the financial statements taken as a whole, and, accordingly, no such opinion is expressed; and (5) a statement about whether the accountant is aware of any material modifications that should be made to the accompanying financial information so that it conforms with generally accepted accounting principles.

(e) Where a counsel is named as having acted for the underwriters or selling security holders, no consent will be required by reason of his being named as having acted in such capacity.

(f) Where the opinion of one counsel relies upon the opinion of another counsel, the consent of the counsel whose prepared opinion is relied upon need not be furnished.

(g)(1) Notwithstanding the provisions of paragraphs (a) and (b) of this section, the security rating assigned to a class of debt securities, a class of convertible debt securities, or a class of preferred stock by a nationally recognized statistical rating organization shall not be considered a part of a registration statement prepared or certified by a person within the meaning of sections 7 and 11 of the Act.

(2) For the purpose of paragraph (g)(1) of this section, the term "nationally recognized statistical rating organization" shall have the same meaning as used in Rule 15c3–1(c)(2)(vi)(F) [17 CFR 240.15c3–1(c)(2)(vi)(F)].

§ 230.438 Consent to use of material incorporated by reference.

If the Act or the rules and regulations of the Commission require the filing of a written consent to the use of any material in connection with the registration statement, such consent shall be filed as an exhibit to the registration statement even though the material is incorporated therein by reference. Where the filing of a written consent is required with respect to material incorporated in the registration statement by reference, which is to be filed subsequent to the effective date of the registration statement, such consent shall be filed as an amendment to the registration statement no later than the date on which such material is filed with the Commission, unless express consent to incorporation by reference is contained in the material to be incorporated by reference.

Competitive Bids.

§ 230.445 Competitive bidding registration statement.

(a) Any order declaring a registration statement, covering securities to be offered at competitive bidding, effective shall be deemed to declare an amendment thereto, filed to reflect the results of the bidding, the terms of the reoffering and related materials, effective in accordance with paragraph (b) of this section.

(b) An amendment to such a registration statement filed to reflect the results of the bidding, the terms of the reoffering and related materials (which may make such other changes in the registration statement as the registrant deems appropriate) shall become effective at the time such amendment is filed with the Commission at its principal office or any regional or branch office, unless the Commission has notified the registrant that it has instituted proceedings under section 8 of the Act. The amendment shall be accompanied by the consent of a managing underwriter, acting on behalf of all principal underwriters of the securities offered at competitive bidding, to the filing thereof.

(c) A prospectus relating to the securities offered at competitive bidding, when used prior to the opening of bids, need not contain information dependent upon the determination of the offering price of such securities or the acceptance of the bid, in order to meet the requirements of section 10(a) of the Act. A prospectus relating to such securities, when used after the opening of bids, shall not be deemed to meet the requirements of section 10(a) of the Act unless (1) an amendment to the

registration statement has been filed to reflect the results of the bidding, the terms of the reoffering and related materials, if required, and (2) such prospectus reflects the information contained in the registration statement, as amended, to the extent required by the applicable form.

(d) A registrant may register securities to be offered at competitive bidding and securities not to be so offered pursuant to a single joint registration statement only if all information (including offering data, etc.) required by the applicable form with respect to the securities not to be so offered is included in the registration statement prior to the initial effectiveness thereof. If such information is not so included, the Commission will not accelerate such effectiveness unless an amendment to the registration statement is first filed so as to make it cover only the securities to be offered at competitive bidding. The registrant may, however, either initially or after such amendment, register the securities not to be offered at competitive bidding pursuant to a separate registration statement. An appropriate composite form of prospectus may in any event be used for all securities registered.

§ 230.448 Invitations for competitive bids.

Any information or documents contained in a registration statement may be omitted from any communication which is only an invitation for competitive bids for securities with respect to which a registration statement has been filed, provided (a) the terms of the bidding require that each bid shall be for the purchase of the entire amount of one or more of the issues; and (b) the communication states that prior to the acceptance of any bid the bidder will be furnished a copy of a prospectus which meets the requirements of section 10(a) of the Act at that time.

§ 230.447 Authorization of agent for service for filing amendments.

A registration statement filed in connection with the registration of securities to be offered at competitive bidding may expressly confer authorization upon the agent for service named in the registration statement to amend the registration statement in accordance with the undertaking to file an amendment to the registration statement reflecting the results of the bidding, the terms of the reoffering and related matters, not later than the first use, authorized by the registrant after the opening of bids. The authorization shall be substantially in the following form:

Each person whose signature appears below hereby authorizes the agent for service named in the registration statement to execute in the name of each such person, and to file, an amendment to the registration statement pursuant to the above undertaking, which amendment may make such other changes in the registration statement as the registrant deems appropriate.

Filings; Fees; Effective Date

§ 230.455 Place of filing.

All registration statements and other papers filed with the Commission shall be filed at its principal office, except for statements on Form S–18 (§ 239.28 of this Chapter) and except as otherwise provided in Rule 445 (§ 230.445). Registration statements on Form S–18 may be filed with the Commission either at its principal office or at the Commission's regional offices as specified in General Instruction B to Form S–18. Such material may be filed by delivery to the Commission through the mails or otherwise.

§ 230.457 Computation of fee.

(a) If a filing fee based on a bona fide estimate of the maximum offering price, computed in accordance with this rule where applicable, has been paid, no additional filing fee shall be required as a result of changes in the proposed offering price. If the number of shares or other units of securities, or the principal amount of debt securities to be offered is increased by an amendment filed prior to the effective date of the registration statement, an additional filing fee, computed on the basis of the offering price of the additional securities, shall be paid. There will be no refund once the statement is filed.

(b) Where securities are to be offered at prices computed upon the basis of fluctuating market prices, the registration fee is to be calculated upon the basis of the price at which securities of the same class were sold, or upon the average of the bid and asked prices of such securities on a specified date within fifteen days prior to the date of filing of the registration statement.

(c) Where securities are to be offered at varying prices based upon fluctuating values of underlying assets, the registration fee is to be calculated upon the basis of the market value of such assets as of a specified date within fifteen days prior to the date of filing, in accordance with the method to be used in calculating the daily offering price.

(d) Where securities are to be offered to existing security holders and the portion, if any, not taken by such security holders is to be reoffered to the general public, the registration fee is to be calculated upon the basis of the proposed offering price to such security holders or the proposed reoffering price to the general public, whichever is higher.

(e) Where securities are to be offered in exchange for other securities (except where such exchange results from the exercise of a conversion privilege) or in a reclassification or recapitalization which involves the substitution of a security for another security, a merger, a consolidation, or a similar plan of acquisition, the registration fee is to be calculated as follows:

(1) Upon the basis of the market value of the securities to be received by the registrant or cancelled in the exchange or transaction as established by the price at which securities of the same class were sold, or by the average of the bid and asked prices of such security as of a specified date within 15 days prior to the date of filing.

(2) If there is no market for the securities to be received by the registrant or cancelled in the exchange or transaction, the book value of such securities computed as of the latest practicable date prior to the date of filing the registration statement shall be used, unless the issuer of such securities is in bankruptcy or receivership, or has an accumulated capital deficit, in which case one-third of the principal amount, par value or stated value of such securities shall be used.

(3) If any cash is to be received by the registrant in connection with the exchange or transaction, the amount thereof shall be added to the value of the securities to be received by the registrant or cancelled as computed in accordance with (e) (1) or (2) of this section. If any cash is to be paid by the registrant in connection with the exchange or transaction, the amount thereof shall be deducted from the value of the securities to be received by the registrant in exchange as computed in accordance with (e) (1) or (2) of this section.

(4) Securities to be offered directly or indirectly for certificates of deposit shall be deemed to be offered for the securities represented by the certificates of deposit.

(f) Where securities are to be offered pursuant to warrants or other rights to purchase such securities and the holders of such warrants or rights may be deemed to be underwriters, as defined in section 2(11) of the Act, with respect to the warrants or rights or the securities subject thereto, the registration fee is to be calculated upon the basis of the price at which the warrants or rights or securities subject thereto are to be offered to the public. If such offering price cannot be determined at the time of filing the registration statement, the registration fee is to be calculated upon the basis of the highest of the following: (1) the price at which the warrants or rights may be exercised, if known at the time of filing the registration statement; (2) the offering price of securities of the same class included in the registration statement; or (3) the price at which securities of the same class were sold, or the average of the bid and asked prices of such securities, on a specified date within 15 days prior to the date of filing the registration statement. If the fee is to be calculated upon the basis of the price at which the warrants or rights may be exercised and they are exercisable over a period of time at progressively higher prices, the fee shall be calculated on the basis of the highest price at which they may be exercised. If the warrants or rights are to be registered for distribution in the same registration statement as the securities to be offered pursuant thereto, no separate registration fee shall be required.

(g) Where securities are to be offered to employees pursuant to an employee stock purchase, savings, or similar plan, the aggregate offering price and the amount of the registration fee shall be computed only with respect to the aggregate contributions of employees, except that if employees may choose the medium in which the employer's contributions are to be invested the aggregate offering price shall include the employer's contributions. Where stock is to be offered to employees pursuant to an employee stock option plan, the aggregate offering price and the amount of the fee shall be computed upon the basis of the price at which the option may be exercised or, if such price is not known, upon the basis of the price at which stock of the same class was sold, or the average of the bid and asked prices of such stock, on a specified date within 15 days prior to the date of filing the registration statement. Where securities are to be offered to employees pursuant to a bonus plan or similar non-contributory plan, the aggregate offering price and amount of the fee shall be computed on the basis of the price at which such securities of the same class were sold, or the average bid and asked prices of such securities, on a specified date within 15 days prior to the date of filing the registration statement. If there is no market for the securities to be offered, the book value of such securities computed as of the latest practicable date prior to the date of filing the registration statement shall be used.

(h) Where convertible securities and the securities into which conversion is offered are registered at the same time, the registration fee is to be calculated on the basis of the proposed offering price of the convertible securities alone, except that if any additional consideration is to be received in connection with the exercise of the conversion privilege the maximum amount which may be received shall be added to the proposed offering price of the convertible securities.

(i) Where securities are sold prior to the registration thereof and are subsequently registered for the purpose of making an offer of rescission of such sale or sales, the registration fee is to be calculated on the basis of the amount at which such securities were sold, except that where securities repurchased pursuant to such offer of rescission are to be reoffered to the general public at a price in excess of such amount the registration fee is to be calculated on the basis of the proposed reoffering price.

(j) Notwithstanding the other provisions of this rule, the proposed maximum aggregate offering price of American Depositary Receipts registered on Form S–12 (§ 239.19 of this chapter) shall, for the purpose of calculating the registration fee, be computed upon the basis of the maximum aggregate fees or charges to be imposed in connection with the issuance of such receipts.

(k) Notwithstanding the other provisions of this rule, the proposed maximum aggregate offering price of any put or call option which is traded on an exchange and registered by such exchange or a facility thereof or which is traded over the counter shall, for the purpose of calculating the registration fee, be computed upon the basis of the maximum aggregate fees or charges to be imposed by such registrant in connection with the issuance of such option.

(l) Notwithstanding the other provisions of this rule, where the securities to be registered include (1) any note, draft, bill of exchange, or bankers' acceptance which meets all the conditions of section 3(a)(3) hereof, and (2) any note, draft, bill of exchange or bankers' acceptance which has a maturity at the time of issuance of not exceeding nine months exclusive of days of grace, or any renewal thereof the maturity date of which is likewise limited, but which otherwise does not meet the conditions of section 3(a)(3), the registration fee shall be calculated by taking one-fiftieth of 1 per centum of the maximum principal amount of only those securities not meeting the conditions of section 3(a)(3).

(m) Where the securities to be offered are guarantees of other securities which are being registered concurrently, no separate fee for the guarantees shall be payable.

§ 230.460 Distribution of preliminary prospectus.

(a) Pursuant to the statutory requirement that the Commission in ruling upon requests for acceleration of the effective date of a registration statement shall have due regard to the adequacy of the information respecting the issuer theretofore available to the public, the Commission may consider whether the persons making the offering have taken reasonable steps to make the information contained in the registration statement conveniently available to underwriters and dealers who it is reasonably anticipated will be invited to participate in the distribution of the security to be offered or sold.

(b) As a minimum, reasonable steps to make the information conveniently available would involve the distribution, to each underwriter and dealer who it is reasonably anticipated will be invited to participate in the distribution of the security, a reasonable time in advance of the anticipated effective date of the registration statement, of as many copies of the proposed form of preliminary prospectus permitted by Rule 430 (§ 230.430) as appears to be reasonable to secure adequate distribution of the preliminary prospectus.

(c) The granting of acceleration will not be conditioned upon

(1) The distribution of a preliminary prospectus in any state where such distribution would be illegal; or

(2) The distribution of a preliminary prospectus (i) in the case of a registration statement relating solely to securities to be offered at competitive bidding, provided the undertaking in Item 512(d)(1) of Regulation S–K (§ 229.512(d)(2) of this chapter) is included in the registration statement and distribution of prospectuses pursuant to such undertaking is made prior to the publication or distribution of the invitation for bids, or (ii) in the case of a registration statement relating to a security issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust if any other security of the same class is currently being offered or sold, pursuant to an effective registration statement by the issuer or by or through an underwriter, or (iii) in

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the case of an offering of subscription rights unless it is contemplated that the distribution will be made through dealers and the underwriters intend to make the offering during the stockholders' subscription period, in which case copies of the preliminary prospectus must be distributed to dealers prior to the effective date of the registration statement in the same fashion as is required in the case of other offerings through underwriters, or (iv) in the case of a registration statement pertaining to a security to be offered pursuant to an exchange offer or transaction described in Rule 145 (§ 230.145).

§ 230.461 Acceleration of effective date.

(a) Requests for acceleration of the effective date of a registration statement shall be made in writing by the registrant and the managing underwriters of the proposed issue, or, if there are no managing underwriters, by the principal underwriters of the proposed issue, and shall state the date upon which it is desired that the registration statement shall become effective. If, by reason of the expected arrangement in connection with the offering, it is to be requested that the registration statement shall become effective at a particular hour of the day, the Commission must be advised to that effect not later than the second business day before the day which it is desired that the registration statement shall become effective. A person's request for acceleration will be considered confirmation of such person's awareness of the person's obligations under the Act. Not later than the time of filing the last amendment prior to the effective date of the registration statement, the registrant shall inform the Commission as to whether or not the amount of compensation to be allowed or paid to the underwriters and any other arrangements among the registrant, the underwriters and other broker dealers participating in the distribution, as described in the registration statement, have been reviewed to the extent required by the National Association of Securities Dealers, Inc. and such Association has issued a statement expressing no objections to the compensation and other arrangements.

(b) Having due regard to the adequacy of information respecting the registrant theretofore available to the public, to the facility with which the nature of the securities to be registered, their relationship to the capital structure of the registrant issuer and the rights of holders thereof can be understood, and to the public interest and the protection of investors, as provided in section 8(a) of the Act, it is the general policy of the Commission, upon request, as provided in paragraph (a) of this section, to permit acceleration of the effective date of the registration statement as soon as possible after the filing of appropriate amendments, if any. In determining the date on which a registration statement shall become effective, the following are included in the situations in which the Commission considers that the statutory standards of section 8(a) may not be met and may refuse to accelerate the effective date:

(1) Where there has not been a bona fide effort to make the prospectus reasonably concise and readable, so as to facilitate an understanding of the information required or permitted to be contained in the prospectus.

(2) Where the form of preliminary prospectus, which has been distributed by the issuer or underwriter, is found to be inaccurate or inadequate in any material respect, until the Commission has received satisfactory assurance that appropriate correcting material has been sent to all underwriters and dealers who received such preliminary prospectus or prospectuses in quantity sufficient for their information and the information of others to whom the inaccurate or inadequate material was sent.

(3) Where the Commission is currently making an investigation of the issuer, a person controlling the issuer, or one of the underwriters, if any, of the securities to be offered, pursuant to any of the Acts administered by the Commission.

(4) Where one or more of the underwriters, although firmly committed to purchase securities covered by the registration statement, is subject to and does not meet the financial responsibility requirements of Rule 15c3–1 under the Securities Exchange Act of 1934 (§ 240.15c3–1 of this chapter). For the purposes of this paragraph underwriters will be deemed to be firmly committed even though the obligation to purchase is subject to the usual conditions as to receipt of opinions of counsel, accountants, etc., the accuracy of warranties or representations, the happening of calamities or the occurrence of other events the determination of which is not expressed to be in the sole or absolute discretion of the underwriters.

(5) Where there have been transactions in securities of the registrant by persons connected with or proposed to be connected with the offering which may have artificially affected or may artificially affect the market price of the security being offered.

(6) Where the amount of compensation to be allowed or paid to the underwriters and any other arrangements among the registrant, the underwriters and other broker dealers participating in the distribution, as described in the registration statement, if required to be reviewed by the National Association of Securities Dealers, Inc. (NASD), have been reviewed by the NASD and the NASD has not issued a statement expressing no objections to the compensation and other arrangements.

(7) Where, in the case of a significant secondary offering at the market, the registrant, selling security holders and underwriters have not taken sufficient measures to insure compliance with Rules 10b–2, 10b–6, and 10b–7 under the Securities Exchange Act of 1934 (§§ 240.10b–2, 240.10b–6 and 240.10b–7 of this chapter).

(c) Insurance against liabilities arising under the Act, whether the cost of insurance is borne by the registrant, the insured or some other person, will not be considered a bar to acceleration, unless the registrant is a registered investment company or a business development company and the cost of such insurance is borne by other than an insured officer or director of the registrant. In the case of such a registrant, the Commission may refuse to accelerate the effective date of the registration statement when the registrant is organized or administered pursuant to any instrument (including a contract for insurance against liabilities arising under the Act) that protects or purports to protect any director or officer of the company against any liability to the company or its security holders to which he or she would otherwise be subject by reason of willful misfeasance, bad faith, gross negligence or reckless disregard of the duties involved in the conduct of his or her office.

§ 230.462 [Reserved]

§ 230.464 Effective date of post-effective amendments on Form S–8 or on Form S–3 for registration statements relating to a dividend or interest reinvestment plan.

Provided, That the issuer continues to meet the requirements for filing on Form S–8 (§ 239.16b of this chapter) or on Form S–3 (§ 239.13 of this chapter) for a registration statement relating to dividend or interest reinvestment plan at the time of filing of each post-effective amendment on such Form with the Commission:

(a) The post-effective amendment shall become effective upon filing with the Commission; and

(b) With respect to securities sold on or after the filing date pursuant to a prospectus which forms a part of a Form S–8 registration statement or a Form S–3 registration statement relating to a dividend or interest reinvestment plan and which has been amended to include or incorporate new full year financial statements or to comply with the provisions of section 10(a)(3) of the act, the effective date of the registration statement shall be deemed to be the filing date of the post-effective amendment.

§ 230.465 [Reserved]

Amendments; Withdrawals

§ 230.470 Formal requirements for amendments.

Except for telegraphic amendments filed pursuant to Rule 473 (§ 230.473), amendments to a registration statement shall be filed under cover of an appropriate facing sheet, shall be numbered consecutively in the order in which filed, and shall indicate on the facing sheet the applicable registration form on which the amendment is prepared and the file number of the registration statement.

§ 230.471 Signatures to amendments.

Except as provided in Rule 447 (§ 230.447) and in Rule 478 (§ 230.478), every amendment to a registration statement shall be signed by the persons specified in section 6(a) of the Act. At least one copy of every amendment filed with the Commission shall be signed. Unsigned copies shall be conformed.

§ 230.472 Filing of amendments; number of copies.

(a) Except for telegraphic amendments filed pursuant to Rule 473 (§ 230.473), there shall be filed with the Commission three complete, unmarked copies of every amendment, including exhibits and all other papers and documents filed as part of the amendment, and eight additional copies of such amendment at least five of which shall be marked to indicate clearly and precisely, by underlining or in some other appropriate manner, the changes effected in the registration statement by the amendment. Where the amendment to the registration statement incorporates into the prospectus documents which are required to be delivered with the prospectus in lieu of prospectus presentation, the eight additional copies shall be accompanied by eight copies of such documents. No other exhibits are required to accompany such additional copies.

(b) Every amendment which relates to a prospectus shall include copies of the prospectus as amended. Each such copy of the amended prospectus shall be accompanied by a copy of the cross reference sheet required by Item 501 of Regulation S–K (§ 229.501 of this chapter) or Rule 481(a) (§230.481(a)) if the amendment of the prospectus resulted in any change in the accuracy of the cross reference sheet previously filed. Notwithstanding the foregoing provisions of this paragraph, only copies of the changed pages of the prospectus, and the cross reference sheet if amended, need be included in an amendment filed pursuant to an undertaking referred to in Item 512(d) of Regulation S–K (§ 229.512(d) of this chapter).

(c) Every amendment of a financial statement which is not included in the prospectus shall include copies of the financial statement as amended. Every amendment relating to a certified financial statement shall include the consent of the certifying accountant to the use of his certificate in connection with the amended financial statement in the registration statement or prospectus and to being named as having certified such financial statement.

§ 230.473 Delaying amendments.

(a) An amendment in the following form filed with a registration statement, or as an amendment to a registration statement which has not become effective, shall be deemed, for the purpose of section 8(a) of the Act, to be filed on such date or dates as may be necessary to delay the effective date of such registration statement (1) until the registrant shall file a further amendment which specifically states as provided in paragraph (b) of this section that such registration statement shall thereafter become effective in accordance with section 8(a) of the Act, or (2) until the registration statement shall become effective on such date as the Commission, acting pursuant to section 8(a), may determine:

> The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Commission acting pursuant to said section 8(a), may determine.

(b) An amendment which for the purpose of paragraph (a)(1) of this section specifically states that a registration statement shall thereafter become effective in accordance with section 8(a) of the Act, shall be in the following form:

> This registration statement shall hereafter become effective in accordance with the provisions of section 8(a) of the Securities Act of 1933.

(c) An amendment pursuant to paragraph (a) of this section which is filed with a registration statement shall be set forth on the facing page thereof following the calculation of the registration fee. Any such amendment filed after the filing of the registration statement, any amendment altering the proposed date of public sale of the securities being registered, or any amendment filed puresant to paragraph (b) of this section may be made by telegram or letter. Each such telegraphic amendment shall be confirmed in writing within a reasonable time by the filing of a signed copy of the amendment. Such confirmation shall not be deemed an amendment.

(d) No amendments pursuant to paragraph (a) of this section may be filed with a registration statement on Form S–8 or on Form S–3 relating to a dividend or interest reinvestment plan.

§ 230.475a Pre-effective amendments on Form S–8 and certain pre-effective amendments on Form S–3 deemed filed with consent of Commission.

Amendments to a registration statement on Form S–8 or to a registration statement on Form S–3 relating to a dividend or interest reinvestment plan filed prior to the effectiveness of such registration statement shall be deemed to have been filed with the consent of the Commission and shall accordingly be treated as part of the registration statement.

§ 230.477 Withdrawal of registration statement or amendment.

(a) Except as provided in paragraph (b) of this section, any registration statement or any amendment or exhibit thereto may be withdrawn upon application if the Commission, finding such withdrawal consistent with the public interest and the protection of investors, consents thereto.

(b) Any application for withdrawal of a registration statement filed on Form S–8 or on Form S–3 relating to a dividend or interest reinvestment plan, and/or any pre-effective amendment thereto, will be deemed granted upon filing if such filing is made prior to the effective date.

(c) The application for withdrawal under either paragraphs (a) or (b) of this section, shall be signed and shall state fully the grounds upon which made. The fee paid upon the filing of the registration statement will not be returned to the registrant. The papers

comprising the registration statement or amendment thereto shall not be removed from the files of the Commission but an order with the date of the granting of such withdrawal shall be included in the file for the registration statement in the following manner: "Withdrawn upon the request of the registrant, the Commission consenting thereto."

§ 230.479 Procedure with respect to abandoned registration statements and post-effective amendments.

When a registration statement, or a post-effective amendment to such a statement, has been on file with the Commission for a period of nine months and has not become effective the Commission may, in its discretion, proceed in the following manner to determine whether such registration statement or amendment has been abandoned by the registrant. If the registration statement has been amended, otherwise than for the purpose of delaying the effective date thereof, or if the post-effective amendment has been amended, the nine-month period shall be computed from the date of the latest such amendment.

(a) A notice will be sent to the registrant, and to the agent for service named in the registration statement, by registered or certified mail, return receipt requested, addressed to the most recent addresses for the registrant and the agent for service reflected in the registration statement. Such notice will inform the registrant and the agent for service that the registration statement or amendment is out of date and must be either amended to comply with the applicable requirements of the Act and the rules and regulations thereunder or be withdrawn within 30 days after the date of such notice.

(b) If the registrant or the agent for service fails to respond to such notice by filing a substantive amendment or withdrawing the registration statement and does not furnish a satisfactory explanation as to why it has not done so within such 30 days, the Commission may, where consistent with the public interest and the protection of investors, enter an order declaring the registration statement or amendment abandoned.

(c) When such an order is entered by the Commission the papers comprising the registration statement or amendment will not be removed from the files of the Commission but an order shall be included in the file for the registration statement in the following manner: "Declared abandoned by order dated _____."

Investment Companies; Business Development Companies

Note.—The rules which comprise this section of Regulation C (§§ 230.480 to 230.485) are applicable only to investment companies and business development companies. However, the rules comprising the rest of Regulation C (§§ 230.400 to 230.479 and §§ 230.490 to 230.494) are, unless the context specifically indicates otherwise, also applicable to such companies. See § 230.400.

§ 230.480 Title of securities.

If a registration statement is prepared on a form available solely to investment companies registered under the Investment Company Act of 1940, or a business development company which is selling or proposing to sell its securities pursuant to a registration statement which has been filed under the Act, wherever the title of securities is required to be stated there shall be given such information as will indicate the type and general character of the securities, including the following:

(a) In the case of shares, the par or stated value, if any; the rate of dividends, if fixed, and whether cumulative or non-cumulative; a brief indication of the preference, if any; and, if convertible, a statement to that effect.

(b) In the case of funded debt, the rate of interest; the date of maturity, or, if the issue matures serially, a brief indication of the serial maturities, such as "maturing serially from 1950 to 1960"; if the payment of principal or interest is contingent, an appropriate indication of such contingency; a brief indication of the priority of the issue; and, if convertible, a statement to that effect.

(c) In the case of any other kind of security, appropriate information of comparable character.

§ 230.481 Information required in prospectus.

If a registration statement is prepared on a form available solely to investment companies registered under the Investment Company Act of 1940, or a company that has elected to be regulated as a business development company under sections 55 through 65 of that Act which is selling or proposing to sell its securities pursuant to a registration statement which has been filed under the Act, the following provisions apply:

(a) The facing page of every registration statement shall set forth the approximate date of proposed sale to the public. Every registration statement shall include, immediately following the facing page, a cross reference sheet showing the location in the prospectus of the information required to be included in the prospectus in response to the items of the form. If any such item is inapplicable, or the answer thereto is in the negative and is omitted from the prospectus, a statement to that effect shall be made in the cross reference sheet.

(b) The outside front cover page of any prospectus relating to such registration statement shall contain:

(1) The following statement in capital letters printed in boldface roman type at least as large as ten-point modern type and at least two points leaded:

"THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION NOR HAS THE COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS, ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE;" AND

(2) In the case of any prospectus to be used prior to the effective date of the registration statement, in red ink, the caption "Preliminary Prospectus," the date of its issuance, and the following statement printed in type as large as that generally in the body of such prospectus:

"A registration statement relating to these securities has been filed with the Securities and Exchange Commission but has not yet become effective. Information contained herein is subject to completion or amendment. These securities may not be sold nor may offers to buy be accepted prior to the time the registration statement becomes effective. This prospectus shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these securities in any State in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such State."

(c) The forepart, or the outside back cover, of any prospectus relating to such registration statement shall include a reasonably detailed table of contents showing the subject matter of the various sections or subdivisions of the prospectus and the page number on which each section or subdivision begins.

(d) The inside front cover page of any prospectus relating to such registration statement shall contain:

(1) If the registrant or any of the underwriters knows or has reason to believe that there is an intention to over allot or that the price of any security may be stabilized to facilitate the offering of the registered securities, a statement in substantially the following form, subject to appropriate modification where circumstances require. Such statement shall be in capital letters, printed in boldface roman type as least as large as ten-point modern type and at least two points leaded:

"IN CONNECTION WITH THIS OFFERING, THE UNDERWRITERS MAY OVER-ALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF [IDENTIFY EACH CLASS OF SECURITIES IN WHICH SUCH TRANSACTIONS MAY BE EFFECTED] AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET SUCH TRANSACTIONS MAY BE EFFECTED ON [IDENTIFY EACH EXCHANGE ON WHICH STABILIZING TRANSACTIONS MAY BE EFFECTED. IF NONE, OMIT THIS SENTENCE.] SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME;" AND

(2) If the stabilizing began prior to the effective date of the registration statement, disclosure of the amount of securities bought, the prices at which bought and the period within which they were bought.

(e) If the securities being registered are to be offered to existing security holders pursuant to warrants or rights and any securities not taken by security holders are to be reoffered to the public after expiration of the rights offering period, there shall be set forth in the inside front cover, or elsewhere, in the prospectus used in connection with the reoffering

(1) The amount of securities bought in stabilization activities during the rights offering period and the price, or range of prices, at which such securities were bought,

(2) The amount of the offered securities subscribed for during such period,

(3) The amount of the offered securities subscribed for by the underwriters during such period,

(4) The amount of the offered securities sold during such period by the underwriters and the price, or range of prices, at which such securities were sold, and

(5) The amount of the offered securities to be reoffered to the public and the public offering price.

(f)(1) The inside front cover page or the back cover page of any prospectus relating to such registration statement shall contain the statement in paragraph (f)(2) of this section, inserting the expiration date of the period prescribed by section 4(3) of the Act and Rule 174 (17 CFR 230.174) thereunder, except that this statement need not be included if, pursuant to Rule 174, dealers are not required to deliver a prospectus, or if the exemption provided by section 4(3) of the Act is not applicable because of the provisions of section 24(d) of the Investment Company Act of 1940. If such expiration date is not known on the effective date of the registration statement, it shall be included in the prospectus copies of which are required to be filed pursuant to Rule 424(b) (§ 230.424(b)).

(2) The following statement required by paragraph (f)(1) of this section shall be printed in boldface type or italic type at least as large as eight point Modern type and at least two points leaded:

Until———(insert date) all dealers effecting transactions in the registered securities, whether or not participating in this distribution, may be required to deliver a prospectus. This is in addition to the obligation of dealers to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.

§ 230.482 Advertising by an investment company as satisfying requirements of section 10.

(a) An advertisement, other than one excepted from the definition of prospectus by section 2(10) of the Act and rule 134 thereunder, shall be deemed to be a prospectus under section 10(b) of the Act for the purpose of section 5(b)(1) of the Act if

(1) It is with respect to an investment company registered under the Investment Company Act of 1940, or a business development company which is selling or proposing to sell its securities pursuant to a registration statement which has been filed under the Act,

(2) It appears in a bona fide newspaper or magazine or is used on radio or television,

(3) It contains only information the substance of which is included in the section 10(a) prospectus,

(4) It states, conspicuously, from whom a prospectus containing more complete information may be obtained and that an investor should read that prospectus carefully before investing, and

(5) It contains the statement required by Rule 481(b)(2) (§ 230.481(b)(2)) when used prior to effectiveness of the company's registration statement.

(b) An advertisement made pursuant to paragraph (a) of this section need not contain the statement required by Rule 481(b)(1) (§ 230.481(b)(1)).

(c) An advertisement made pursuant to paragraph (a) of this section need not be filed as part of the registration statement filed under the Act.

Note.—Such advertisement must, however, be otherwise filed in accordance with the requirements of Rule 424 (17 CFR 230.424).

(d) In the case of an investment company which holds itself out to be a "money market" fund or has an investment policy calling for investment of at least 80% of its assets in debt securities maturing in 13 months or less, any quotation of such company's yield contained in such advertisement is based on the method of computation prescribed in Item 17 (and the instructions thereto) of Form N–1, set forth in §§ 239.15 and 274.11 of this chapter, and identifies [the date of the last day in] the period used in computing that quotation.

§ 230.483 Exhibits for certain registration statements.

If a registration statement is prepared on a form available solely to investment companies registered under the Investment Company Act of 1940, or a business development company which is selling or proposing to sell its securities pursuant to a registration statement which has been filed under the Act, the following provisions apply:

(a) Such registration statement shall contain an exhibit index, which should immediately precede the exhibits filed with such registration statement. The exhibit index shall indicate by handwritten, typed, printed or other legible form of notation in the manually signed original registration statement the page number in the sequential numbering system where such exhibit can be found. Where exhibits are incorporated by reference, this fact shall be noted in the exhibit index referred to in the preceding sentence. Further, the first page of the manually signed registration statement shall list the page in the filing where the exhibit index is located.

(b) If any name is signed to the registration statement pursuant to a power of attorney, copies of such powers of attorney shall be filed as an exhibit to the registration statement. In addition, if the name of any officer signing on behalf of the registrant, or attesting the registrant's seal, is signed pursuant to a power of attorney, certified copies of a resolution of the registrant's board of directors authorizing such signature shall also be filed as an exhibit to the registration statement.

(c) All written consents are required to be filed as an exhibit to the registration statement, together with a list thereof. Such consents shall be dated and manually signed. Where the consent of an expert or counsel is contained in his report or opinion, a reference shall be made in the list to the report or opinion containing the consent.

(d) The registrant—

(1) May file such exhibits as it may desire in addition to those required by the appropriate form. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer;

(2) In any case where two or more indentures, contracts, frachises, or other

documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, need file a copy of only one of such documents, with a schedule identifying the other documents omitted and setting forth the material details in which such documents differ from the document of which a copy is filed. The Commission may at any time in its discretion require filing of copies of any documents so omitted; and

(3) If an exhibit to a registration statement (other than an opinion or consent), filed in preliminary form, has been changed only (i) to insert information as to interest, dividend or conversion rates, redemption or conversion prices, purchase or offering prices, underwriters' or dealers' commission, names, addresses or participation of underwriters or similar matters, which information appears elsewhere in an amendment to the registration statement, or (ii) to correct typographical errors, insert signatures or make other similar immaterial changes, then, notwithstanding any contrary requirement of any rule or form, need not refile such exhibit as so amended; provided the registrant states in the amendment to the registration statement the basis provided by this rule for not refiling such exhibit. Any such incomplete exhibit may not, however, be incorporated by reference in any subsequent filing under any Act administered by the Commission.

§ 230.484 Undertaking required in certain registration statements.

If a registration statement is prepared on a form available solely to investment companies registered under the Investment Company Act of 1940, or a business development company which is selling or proposing to sell its securities pursuant to a registration statement which has been filed under the Act, if (a) any acceleration is requested of the effective date of the registration statement pursuant to Rule 461 (§ 230.461), and (b)(1) any provision or arrangement exists whereby the registrant may indemnify a director, officer or controlling person of the registrant against liabilities arising under the Act, or (2) the underwriting agreement contains provisions by which indemnification against such liabilities is given by the registrant to the underwriter or controlling persons of the underwriter and the director, officer or controlling person of the registrant is such an underwriter or controlling person thereof or a member of any firm which is an underwriter, and (3) the benefits of such indemnification are not waived by such persons; the registration statement shall include a brief description of the indemnification provisions and an undertaking in substantially the following form:

Insofar as indemnification for liability arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

§ 230.485 Effective date of post-effective amendments filed by certain registered investment companies.

(a) Except as otherwise provided in the section, a post-effective amendment to a registration statement filed by a registered open-end management investment company or unit investment trust, other than a registered separate account as defined in section 2(a)(37) or the Investment Company Act of 1940 [15 U.S.C. 80a–2(a)(37)], shall become effective on the sixtieth day after the filing thereof, unless the Commission, having due regard to the public interest and the protection of investors, declares such amendment effective on an earlier date.

(b) Except as otherwise provided in this section, a post-effective amendment to a registration statement filed by a registered open-end management investment company or unit investment trust, other than a registered separate account as defined in section 2(a)(37) of the Investment Company Act of 1940 [15 U.S.C. 80a–2(a)(37)], shall become effective on the date upon which it is filed with the Commission, or such later date designated by the registrant on the facing sheet of the amendment, which date shall be not later than twenty days after the date on which the amendment is filed, provided that the following conditions are met:

(1) It is filed for no purpose other than one or more of the following:

(i) Increasing the number or amount of securities proposed to be offered pursuant to section 24(e)(1) of the Investment Company Act of 1940 [15 U.S.C. 80a–24(e)(1)];

(ii) Registering an indefinite number or amount of securities pursuant to section 24(f) of the Investment Company Act of 1940 [15 U.S.C. 80a–24(f)] and Rule 24f–2 thereunder [17 CFR 270.24f–2]; and

(iii) Bringing the financial statements and other information up to date pursuant to section 10(a)(3) of the Act, and in conjunction therewith, making such other non-material changes as the registrant deems appropriate;

(2) Any prospectus filed as a part of such amendment does not include disclosure relating to any of the following events to the extent that such events have occurred since the effective date of the registrant's registration statement or the effective date of its most recent post-effective amendment thereto which included a prospectus, whichever is later, unless such events are disclosed in a post-effective amendment filed pursuant to paragraph (a) of this section which has not yet become effective:

(i) Termination of an investment advisory contract;

(ii) A change in the registrant's investment objectives, in any of its policies listed in section 8(b)(1) of the Investment Company Act of 1940 [15 U.S.C. 80a–8(b)(1)], or in any other investment policy which the registrant deems fundamental or which, pursuant to section 13 of the Investment Company Act of 1940 [15 U.S.C. 80a–13], is changeable only by shareholder vote;

(iii) Suspension of sales or redemptions of securities issued by the registrant;

(iv) Resignation of any of the registrant's directors, unless the registrant represents that such director did not resign due to disagreement with the registrant on any matter relating to the registrant's operations, policies or practices;

(v) A change in the registrant's independent public accountant, unless the registrant represents that there were no disagreements with the former accountant on any matter of accounting principles or practices or financial statement disclosures; or

(vi) If registrant is a unit investment trust the assets of which do not consist solely of securities issued by a management investment company, any substitution by the depositor or trustee of the trust of securities held by the trust with a value of 5% or more of the trust's net assets; and

(3) The registrant represents that no material event requiring disclosure in the prospectus, other than one listed in paragraph (b)(1) of this section, has occurred since the latest of the following three dates: (i) The effective date of the registrant's registration statement; (ii) the effective date of its most recent post-effective amendment to its registration statement which included a prospectus; or (iii) the filing date of a post-effective amendment filed pursuant to paragraph (a) of this section which has not yet become effective; and

(4) Such amendment recites on the facing sheet thereof that the registrant proposes that the amendment will become effective pursuant to paragraph (b) of this section.

(c) No amendment shall become effective pursuant to paragraph (a) of this section if, prior to the effective date of such amendment, it should appear to the Commission that the amendment may be incomplete or inaccurate in any material respect, and the Commission furnishes to the registrant written notice that the effective date of the amendment is to be suspended. Following such action by the Commission, the registrant may file with the Commission at any time a petition for review of the suspension. The Commission will order a hearing on the matter if a request for such a hearing is included in the petition. If the Commission has suspended the effective date of an amendment, the amendment shall become effective on such date as the Commission may determine, having due regard to the public interest and the protection of investors.

(d)(1) Except as provided in paragraph (d)(2) of this section, a post-effective amendment which includes a prospectus shall not become effective pursuant to paragraph (a) of this section if a subsequent post-effective amendment relating to such prospectus is filed before such amendment becomes effective.

(2) A post-effective amendment which includes a prospectus shall become effective pursuant to paragraph (a) of this section notwithstanding the filing of a subsequent post-effective amendment relating to such prospectus. *Provided,* That such subsequent amendment is filed pursuant to paragraph (b) of this section. *And provided further,* That such subsequent amendment designates as its effective date the date on which the prior post-effective amendment shall become effective pursuant to paragraph (a). If another posteffective amendment relating to the same prospectus is filed pursuant to paragraph (a) of this section before the prior amendments filed pursuant to paragraphs (a) and (b) of this section have become effective, neither the prior amendment filed pursuant to paragraph (a) of this section or the amendment filed pursuant to paragraph (b) of this section shall become effective pursuant to this section.

(e) The representations of the registrant referred to in paragraphs (b)(2)(iv), (b)(2)(v) and (b)(3) of this section shall be made by certification on the signature page of the posteffective amendment that such amendment meets all of the requirements for effectiveness pursuant to paragraph (b) of this section. If counsel prepared or reviewed the posteffective amendment filed pursuant to paragraph (b) of this section, such counsel shall furnish to the Commission at the time the amendment is filed a written representation that the amendment does not contain disclosures which would render if ineligible to become effective pursuant to paragraph (b) of this section.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

§§ 239.12, 239.17, 239.25, 239.26 and 239.27 [Removed]

16. By removing §§ 239.12, 239.17, 239.25, 239.26 and 239.27.

17. By revising Form S–1 in § 239.11 to read as follows: (Form S–1 does not appear in the Code of Federal Regulations):

§ 239.11 Form S–1, registration statement under the Securities Act of 1933.

* * * * *

Securities and Exchange Commission

Form S–1.—Registration Statement Under the Securities Act of 1933

(Exact name of registrant as specified in its charter)

(State of other jurisdiction of incorporation or organization)

(Primary Standard Industrial Classification Code Number)

(I.R.S. Employer Identification No.)

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Approximate date of commencement of proposed sale to the public ———.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933 check the following box. ☐

Calculation of Registration Fee

Title of each class of securities to be registered	Amount to be registered	Proposed maximum offering price per unit	Proposed maximum aggregate offering price	Amount of registration fee

Form S–1.—General Instructions

I. Eligibility Requirements for Use of Form S–1

This Form shall be used for the registration under the Securities Act of 1933 ("Securities Act") of securities of all registrants for which no other form is authorized or prescribed, except that this Form shall not be used for securities of foreign governments or political sub-divisions thereof.

II. Application of General Rules and Regulations

A. Attention is directed to the General Rules and Regulations under the Securities Act, particularly those comprising Regulation C (17 CFR 230.400 to 230.494) thereunder. That Regulation contains general requirements regarding the preparation and filing of the registration statement.

B. Attention is directed to Regulation S–K (17 CFR Part 229) for the requirements applicable to the content of the nonfinancial statement portions of registration statements under the Securities Act. Where this Form directs the registrant to furnish information required by Regulation S–K and the item of Regulation S–K so provides, information need only be furnished to the extent appropriate.

III. Exchange Offers

If any of the securities being registered are to be offered in exchange for securities of any other issuer the prospectus shall also include the information which would be required by Item 11 if the securities of such other issuer were registered on this Form. There shall also be included the information concerning such securities of such other issuer which would be called for by Item 9 if such securities were being registered. In connection with this instruction, reference is made to Rule 409.

Part I. Information Required in Prospectus

Item 1. *Forepart of the Registration Statement and Outside Front Cover Page of Prospectus.* Set forth in the forepart of the registration statement and on the outside front cover page of the prospectus the information required by Item 501 of Regulation S–K (§ 229.501 of this chapter).

Item 2. *Inside Front and Outside Back Cover Pages of Prospectus.* Set forth on the inside front cover page of the prospectus or, where permitted, on the outside back cover page, the information required by Item 502 of Regulation S–K (§ 229.502 of this chapter).

Item 3. *Summary Information, Risk Factors and Ratio of Earnings to Fixed Charges.* Furnish the information required by Item 503 of Regulation S–K (§ 229.503 of this chapter).

Item 4. *Use of Proceeds.* Furnish the information required by Item 504 of Regulation S–K (§ 229.504 of this chapter).

Item 5. *Determination of Offering Price.* Furnish the information required by Item 505 of Regulation S–K (§ 229.505 of this chapter).

Item 6. *Dilution.* Furnish the information required by Item 506 of Regulation S–K (§ 229.506 of this chapter).

Item 7. *Selling Security Holders.* Furnish the information required by Item 507 of Regulation S–K (§ 229.507 of this chapter).

Item 8. *Plan of Distribution.* Furnish the information required by Item 508 of Regulation S–K (§ 229.508 of this chapter).

Item 9. *Description of Securities to be Registered.* Furnish the information required by Item 202 of Regulation S–K (§ 229.202 of this chapter).

Item 10. *Interests of Named Experts and Counsel.* Furnish the information required by Item 509 of Regulation S–K (§ 229.509 of this chapter).

Item 11. *Information With Respect to the Registrant.* Furnish the following information with respect to the registrant:

(a) Information required by Item 101 of Regulation S–K (§ 229.101 of this chapter), description of business;

(b) Information required by Item 102 of Regulation S–K (§ 229.102 of this chapter), description of property;

(c) Information required by Item 103 of Regulation S–K (§ 229.103 of this chapter), legal proceedings;

(d) Where common equity securities are being offered, information required by Item 201 of Regulation S–K (§ 229.201 of this chapter), market price of and dividends on the registrant's common equity and related stockholder matters;

(e) Financial statements meeting the requirements of Regulation S–X (17 CFR Part 210) (Schedules required under Regulation S–X shall be filed as "Financial Statement Schedules" pursuant to Item 15, Exhibits and Financial Statement Schedules, of this Form), as well as any information required by Rules 3–07 and 3–08 of Regulation S–X;

(f) Information required by Item 301 of Regulation S–K (§ 229.301 of this chapter), selected financial data;

(g) Information required by Item 302 of Regulation S–K (§ 229.302 of this chapter), supplementary financial information;

(h) Information required by Item 303 of Regulation S–K (§ 229.303 of this chapter), management's discussion and analysis of financial condition and results of operations;

(i) Information required by Item 304 of Regulation S–K (§ 229.304 of this chapter), disagreements with accountants on accounting and financial disclosure;

(j) Information required by Item 401 of Regulation S–K (§ 229.401 of this chapter), directors and executive officers;

(k) Information required by Item 402 of Regulation S–K (§ 229.402 of this chapter), management remuneration and transactions; and

(l) Information required by Item 403 of Regulation S–K (§ 229.403 of this chapter), security ownership of certain beneficial owners and management.

Item 12. *Disclosure of Commission Position on Indemnification for Securities Act Liabilities.* Furnish the information required by Item 510 of Regulation S–K (§ 229.510 of this chapter).

Part II. Information not Required in Prospectus

Item 13. *Other Expenses of Issuance and Distribution.* Furnish the information required by Item 511 of Regulation S–K (§ 229.511 of this chapter).

Item 14. *Indemnification of Directors and Officers.* Furnish the information required by Item 702 of Regulation S–K (§ 229.702 of this chapter).

Item 15. *Recent Sales of Unregistered Securities.* Furnish the information required by Item 701 of Regulation S–K (§ 229.701 of this chapter).

Item 16. *Exhibits and Financial Statement Schedules.* (a) Subject to the rules regarding incorporation by reference, furnish the exhibits as required by Item 601 of Regulation S–K (§ 229.601 of this chapter).

(b) Furnish the financial statement schedules required by Regulation S–X (17 CFR Part 210) and Item 11(a)(5) of this Form. These schedules shall be lettered or numbered in the manner described for exhibits in paragraph (a).

Item 17. *Undertakings.* Furnish the undertakings required by Item 512 of Regulation S–K (§ 229.512 of this chapter).

Signatures

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of————, State of————, on————, 19——.

(Registrant) ————

By (Signature and Title)————

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

(Signature) ————

(Title)————

(Date)————

Instructions. 1. The registration statement shall be signed by the registrant, its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer and by at least a majority of the board of directors or persons performing similar functions. If the registrant is a foreign person, the registration statement shall also be signed by its authorized representative in the United States. Where the registrant is a limited partnership, the registration statement shall be signed by a majority of the board of directors of any corporate general partner signing the registration statement.

2. The name of each person who signs the registration statement shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the registration statement. Attention is directed to Rule 402 concerning manual signatures and to Item 601 of Regulation S–K concerning signatures pursuant to powers of attorney.

Instructions as to Summary Prospectuses

1. A summary prospectus used pursuant to Rule 431 (§ 230.431 of this chapter), shall at the time of its use contain such of the information specified below as is then included in the registration statement. All other information and documents contained in the registration statement may be omitted.

(a) As to Item 1, the aggregate offering price to the public, the aggregate underwriting discounts and commissions and the offering price per unit to the public;

(b) As to Item 4, a brief statement of the principal purposes for which the proceeds are to be used;

(c) As to Item 7, a statement as to the amount of the offering, if any, to be made for the account of security holders;

(d) As to Item 8, the name of the managing underwriter or underwriters and a brief statement as to the nature of the underwriter's obligation to take the securities; if any securities to be registered are to be offered otherwise than through underwriters, a brief statement as to the manner of distribution; and, if securities are to be offered otherwise than for cash, a brief statement as to the general purposes of the distribution, the basis upon which the securities are to be offered, the amount of compensation and other expenses of distribution, and by whom they are to be borne;

(e) As to Item 9, a brief statement as to dividend rights, voting rights, conversion rights, interest, maturity;

(f) As to Item 11, a brief statement of the general character of the business done and intended to be done, the selected financial data (Item 301 of Regulation S–K (§ 229.301 of this chapter)) and a brief statement of the nature and present status of any material pending legal proceedings; and

(g) A tabular presentation of notes payable, long term debt, deferred credits, minority interests, if material, and the equity section of the latest balance sheet filed, as may be appropriate.

2. The summary prospectus shall not contain a summary or condensation of any other required financial information except as provided above.

3. Where securities being registered are to be offered in exchange for securities of any other issuer, the summary prospectus also shall contain that information as to Items 9 and 11 specified in paragraphs (e) and (f) above which would be required if the securities of such other issuer were registered on this Form.

4. The Commission may, upon the request of the registrant, and where consistent with the protection of investors, permit the omission of any of the information herein required or the furnishing in substitution therefor of appropriate information of comparable character. The Commission may also require the inclusion of other information in addition to, or in substitution for, the information herein required in any case where such information is necessary or appropriate for the protection of investors.

18. By adding § 239.12 to read as follows (Form S–2 does not appear in the Code of Federal Regulations):

§ 239.12 Form S–2, for registration under the Securities Act of 1933 of securities of certain issuers.

This form may be used for registration of securities under the Securities Act of 1933 which are offered or to be offered in any transaction other than an exchange offer for securities of another person by any registrant which meets the following conditions:

(a) The registrant is organized under the laws of the United States or any State or Territory or the District of Columbia and has its principal business operations in the United States or its territories;

(b) The registrant has a class of securities registered pursuant to Section 12(b) of the Securities Exchange Act of 1934 ("Exchange Act") or has a class of equity securities registered pursuant to section 12(g) of the Exchange Act or is required to file reports pursuant to section 15(d) of the Exchange Act;

(c) The registrant: (1) has been subject to the requirements of section 12 of 15(d) of the Exchange Act and has filed all the material required to be filed pursuant to section 13, 14 or 15(d) for a period of at least thirty-six calendar months immediately preceding the filing of the registration statement on this Form; and (2) has filed in a timely manner all reports required to be filed during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement and, if the registrant has used (during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement) Rule 12b–25(b) (§ 240.12b–25(b) of this chapter) under the Exchange Act with respect to a report or a portion of a report, that report or portion thereof has actually been filed within the time period prescribed by that Rule; and

(d) Neither the registrant nor any of its consolidated or unconsolidated subsidiaries have, since the end of their last fiscal year for which certified financial statements of the registrant and its consolidated subsidiaries were included in a report filed pursuant to section 13(a) or 15(d) of the Exchange Act: (1) failed to pay any dividend or sinking fund installment on preferred stock; or (2) defaulted (i) on any installment or installments on indebtedness for borrowed money, or (ii) on any rental on one or more long term leases, which defaults in the aggregate are material to the financial position of the registrant and its consolidated and unconsolidated subsidiaries, taken as a whole.

(e) A foreign private issuer which satisfies all of the above provisions of these registrant eligibility requirements except the provisions in (a) relating to organization and principal business shall be deemed to have met these registrant eligibility requirements provided that such foreign issuer files the same reports with the Commission under section 13(a) or 15(d) of the Exchange Act as a domestic registrant pursuant to paragraph (c) of this section.

(f) If a registrant is a successor registrant it shall be deemed to have met conditions in paragraphs (a), (b), (c) and (d) of this section if: (1) its predecessor and it, taken together, do so, provided that the succession was primarily for the purpose of changing the state of incorporation of the predecessor of forming a holding company and that the assets and liabilities of the successor at the time of succession were substantially the same as those of the predecessor; or (2) all predecessors met the conditions at the time of succession and the registrant has continued to do so since the succession.

(g) If a registrant is a majority-owned subsidiary which does not itself meet the conditions of the eligibility requirements, it shall nevertheless be deemed to have met such conditions if its parent meets the conditions and if the parent fully guarantees the securities being registered as to principal and interest. Note: In such an instance the parent-guarantor is the issuer of a separate security consisting of the guarantee which must be concurrently registered but may be registered on the same registration statement as are the guaranteed securities.

Securities and Exchange Commission

Form S–2—Registration Statement Under the Securities Act of 1933

————

(Exact name of registrant as specified in its charter)

————

(State or other jurisdiction of incorporation or organization)

————

(I.R.S. Employer Identification No.)

————

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

————

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Approximate date of commencement of proposed sale to the public ————.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box. ☐

If the registrant elects to deliver its latest annual report to security holders, or a complete and legible facsimile thereof, pursuant to Item 11(a)(1) of this Form, check the following box. ☐

Calculation of Registration Fee

Title of each class of securities to be registered	Amount to be registered	Proposed maximum offering price per unit	Proposed maximum aggregate offering price	Amount of registration fee

Form S–2—General Instructions

I. Eligibility Requirements for Use of Form S–2

Any registrant which meets the following conditions may use this Form for registration of securities under the Securities Act of 1933 ("Securities Act") which are offered or to be offered in any transaction other than an exchange offer for securities of another person:

A. The registrant is organized under the laws of the United States or any State or Territory or the District of Columbia and has its principal business operations in the United States or its territories.

B. The registrant has a class of securities registered pursuant to Section 12(b) of the Securities Exchange Act of 1934 ("Exchange Act") or has a class of equity securities registered pursuant to section 12(g) of the Exchange Act or is required to file reports pursuant to section 15(d) of the Exchange Act.

C. The registrant: (1) has been subject to the requirements of section 12 of 15(d) of the Exchange Act and has filed all the material required to be filed pursuant to section 13, 14 or 15(d) for a period of at least thirty-six calendar months immediately preceding the filing of the registration statement on this Form; and (2) has filed in a timely manner all reports required to be filed during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement and, if the registrant has used (during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement) Rule 12b–25(b) (§ 240.12b–25(b) of this chapter) under the Exchange Act with respect to a report or a portion of a report, that report or portion thereof has actually been filed within the time period prescribed by that Rule.

D. Neither the registrant nor any of its consolidated or unconsolidated subsidiaries have, since the end of their last fiscal year for which certified financial statements of the registrant and its consolidated subsidiaries were included in a report filed pursuant to section 13(a) or 15(d) of the Exchange Act: (a) failed to pay any dividend or sinking fund installment on preferred stock; or (b) defaulted (i) on any installment or installments on indebtedness for borrowed money, or (ii) on any rental on one or more long term leases, which defaults in the aggregate are material to the financial position of the registrant and its consolidated and unconsolidated subsidiaries, taken as a whole.

(E) A foreign private issuer which satisfies all of the above provisions of these registrant

eligibility requirements except the provisions in I.A. relating to organization and principal business shall be deemed to have met these registrant eligibility requirements provided that such foreign issuer files the same reports with the Commission under section 13(a) or 15(d) of the Exchange Act as a domestic registrant pursuant to I.C. above.

(F) If a registrant is a successor registrant it shall be deemed to have met conditions A., B., C., and D. above if: (1) its predecessor and it, taken together, do so, provided that the succession was primarily for the purpose of changing the state of incorporation of the predecessor or forming a holding company and that the assets and liabilities of the successor at the time of succession were substantially the same as those of the predecessor; or (2) all predecessors met the conditions at the time of succession and the registrant has continued to do so since the succession.

(G) If a registrant is a majority-owned subsidiary which does not itself meet the conditions of these eligibility requirements, it shall nevertheless be deemed to have met such conditions if its parent meets the conditions and if the parent fully guarantees the securities being registered as to principal and interest. Note: In such an instance the parent-guarantor is the issuer of a separate security consisting of the guarantee which must be concurrently registered but may be registered on the same registration statement as are the guaranteed securities.

II. Application General Rules and Regulations

A. Attention is directed to the General Rules and Regulations under the Securities Act, particularly those comprising Regulation C thereunder (17 CFR 230.400 to 230.494). That Regulation contains general requirements regarding the preparation and filing of registration statements.

B. Attention is directed to Regulation S–K (17 CFR Part 229) for the requirements applicable in the content of the non-financial statement portions of registration statements under the Securities Act. Where this Form directs the registrant to furnish information required by Regulation S–K and the item of Regulation S–K so provides, information need only be furnished to the extent appropriate.

Part I. Information Required in Prospectus

Item 1. *Forepart of the Registration Statement and Outside Front Cover Page of Prospectus.* Set forth in the forepart of the registration statement and on the outside front cover page of the prospectus the information required by Item 501 of Regulation S–K (§ 229.501 of this chapter).

Item 2. *Inside Front and Outside Back Cover Pages of Prospectus.* Set forth on the inside front cover page of the prospectus or, where permitted, on the outside back cover page, the information required by Item 502 of Regulation S–K (§ 229.502 of this chapter).

Item 3. *Summary Information, Risk Factors and Ratio of Earnings to Fixed Charges:* Furnish the information required by Item 503 of Regulation S–K (§ 229.503 of this chapter).

Item 4. *Use of Proceeds.* Furnish the information required by Item 504 of Regulation S–K (§ 229.504 of this chapter).

Item 5. *Determination of Offering Price.* Furnish the information required by Item 505 of Regulation S–K (§ 229.505 of this chapter).

Item 6. *Dilution.* Furnish the information required by Item 506 of Regulation S–K (§ 229.506 of this chapter).

Item 7. *Selling Security Holders.* Furnish the information required by Item 507 of Regulation S–K (§ 229.507 of this chapter).

Item 8. *Plan of Distribution.* Furnish the information required by Item 508 of Regulation S–K (§ 229.508 of this chapter).

Item 9. *Description of Securities to be Registered.* Furnish the information required by Item 202 of Regulation S–K (§ 229.202 of this chapter).

Item 10. *Interests of Named Experts and Counsel.* Furnish the information required by Item 509 of Regulation S–K (§ 229.509 of this chapter).

Item 11. *Information with Respect to the Registrant.* Furnish the information required by either paragraph (a) or paragraph (b) of this item. *However,* if the financial statements in the registrant's latest annual report to security holders do not reflect: (1) restated financial statements if there has been a change in accounting principles or a correction of an error where such change or correction requires a material retroactive restatement of financial statements, or where one or more business combinations accounted for by the pooling of interest method of accounting have been consummated subsequent to the most recent fiscal year and the acquired businesses considered in the aggregate meet the test of a significant subsidiary; or (2) any financial information required because of a material disposition of assets outside the normal course of business, the registrant shall not provide prospectus information in the manner allowed by paragraph (a) below.

(a) If the registrant elects to deliver this prospectus together with its latest annual report to security holders, which at the time of original preparation met the requirements of either Rule 14a–3 or Rule 14c–3, or a complete and legible facsimile of its latest annual report to security holders:

(1) Indicate that the prospectus is accompanied by the registrant's latest annual report to security holders.

(2) Provide financial and other information with respect to the registrant in the form required by Part I of Form 10–Q (§ 239.308 of this chapter) as of the end of the most recent fiscal quarter which ended after the end of the latest fiscal year for which certified financial statements were included in the latest report to security holders and more than forty-five days prior to the effective date of this registration statement (or as of a more recent date) by one of the following means:

(i) Including such information in the prospectus; or

(ii) Providing without charge to each person to whom a prospectus is delivered a copy of the registrant's latest Form 10–Q; or

(iii) Providing without charge to each person to whom a prospectus is delivered a copy of the registrant's latest quarterly report which was delivered to its shareholders and which included the required financial information.

(3) If not reflected in the registrant's latest annual report to security holders, provide the information required by Rules 3–07 and 3–08 of Regulation S–X (17 CFR Part 210) where the registrant has effected or is about to effect a transaction for which such information is required.

(4) Describe any and all material changes in the registrant's affairs which have occurred since the end of the latest fiscal year for which certified financial statements were included in the latest annual report to security holders and which were not described in a Form 10–Q or quarterly report delivered with the prospectus in accordance with paragraph (a)(2)(ii) or (iii) of this item.

Instruction. Where the registrant elects to deliver its annual report to security holders, Form 10–Q or quarterly report together with the prospectus, each document must be delivered with the preliminary prospectus, but need not be redelivered with the final prospectus if the recipient has already been given the document along with the preliminary prospectus.

(b) If the registrant does not elect to deliver its latest annual report to security holders:

(1) Furnish a brief description of the business done by the registrant and its subsidiaries during the most recent fiscal year as required by Rule 14a–3 to be included in annual reports to security holders. The description also should take into account changes in its business which have occurred between the end of the last fiscal year and the effective date of the registration statement.

(2) Include financial statements and information as required by Rule 14a–3(b)(1) to be included in annual reports to security holders as well as: (i) The interim financial information required by Rule 10–01 of Regulation S–X for a filing on Form 10–Q; (ii) any information required by Rules 3–07 and 3–08 of Regulation S–X; and (iii) any financial information required because of a material disposition of assets outside the normal course of business. The financial statements shall be restated if there has been a change in accounting principles or a correction of an error where such change or correction requires a material retroactive restatement of financial statements, or where one or more business combinations accounted for by the pooling of interest method of accounting have been consummated subsequent to the most recent fiscal year and the acquired businesses, considered in the aggregate, meet the test of a significant subsidiary.

(3) Furnish information relating to industry segments, classes or similar products or services, foreign and domestic operations, and export sales required by paragraphs (b), (c)(1)(i) and (d) of Item 101 of Regulation S–K (§ 229.101 of this chapter).

(4) Where common equity securities are being offered, furnish information required by Item 201 of Regulation S–K (§ 229.201 of this chapter), market price and dividends on the registrant's common stock and related stockholder matters.

(5) Furnish selected financial data required by Item 301 of Regulations S–K (§ 229.301 of this chapter).

(6) Furnish supplementary financial information required by Item 302 of Regulation S–K (§ 229.302 of this chapter).

(7) Furnish management's discussion and analysis of the registrant's financial condition and results of operations required by Item 303 of Regulation S–K (§ 229.303 of this chapter).

(8) Furnish information concerning disagreements with accountants on accounting and financial disclosure required by Item 304 of Regulations S–K (§ 229.304 of this chapter).

Item 12. *Incorporation of Certain Information by Reference.* (a)The documents listed in (1), (2), and, if applicable, the portions of the documents listed in (3) and (4) below shall be specifically incorporated by reference into the prospectus, by means of a statement to that effect in the prospectus listing all such documents.

(1) The registrant's latest Form 10–K (§ 249.310 of this chapter) filed pursuant to Section 13(a) or 15(d) of the Exchange Act which contains certified financial statements for the registrant's latest fiscal year for which a Form 10–K was required to have been filed.

(2) All other reports filed pursuant to Section 13(a) or 15(d) of the Exchange Act since the end of the fiscal year covered by the annual report referred to in (1) above.

(3) If the registrant elects to deliver its latest annual report to security holders, pursuant to Item 11(a)(1) of this Form:

(i) description of business furnished in accordance with the provisions of Rule 14a–3(b)(5) under the Exchange Act (§ 240.14a–3(b)(5) of this chapter);

(ii) financial statements and information furnished in accordance with the provisions of Rule 14a–3(b)(1);

(iii) information relating to industry segments, classes of similar products or services, foreign and domestic operations, and export sales furnished as required by paragraphs (b), (c)(1)(i) and (d) of Item 101 of Regulation S–K (§ 229.101 of this chapter);

(iv) where common equity securities are being offered, market price and dividends on the registrant's common equity and related stockholder matters furnished as required by Item 201 of Regulation S–K (§ 229.201 of this chapter);

(v) selected financial data furnished as required by Item 301 of Regulation S–K (§ 229.301 of this chapter);

(vi) supplementary financial information furnished as required by Item 302 of Regulation S–K (§ 229.302 of this chapter);

(vii) management's discussion and analysis of financial condition and results of operations furnished as required by Item 303 of Regulation S–K (§ 229.303 of this chapter); and

(viii) information concerning disagreements with accountants on accounting and financial disclosure furnished as required by Item 304 of Regulation S–K (§ 229.304 of this chapter).

(4) If the registrant elects, pursuant to Item 11(a)(2)(iii) of this Form, to provide a copy of its latest quarterly report which was delivered to shareholders, the financial information equivalent to that required to be presented in Part I of Form 10–Q.

Instruction. Attention is directed to Rule 439 (§ 230.439 of this chapter) regarding consent to use of material incorporated by reference.

(b) The registrant may also state, if it so chooses, that specifically described portions of documents which are incorporated by reference are not a part of the registration statement. In such case, the description of portions which are not incorporated by reference or which are excluded shall be made with clarity and in reasonable detail.

Item 13. *Disclosure of Commission Position on Indemnification for Securities Act Liabilities.* Furnish the information required by Item 510 of Regulation S–K (§ 229.510 of this chapter).

Part II. Information Not Required in Prospectus

Item 14. *Other Expenses of Issuance and Distribution.* Furnish the information required by Item 511 of Regulation S–K (§ 229.511 of this chapter).

Item 15. *Indemnification of Directors and Officers.* Furnish the information required by Item 702 of Regulation S–K (§ 229.702 of this chapter).

Item 16. *Exhibits.* Subject to the rules regarding incorporation by reference, furnish the exhibits required by Item 601 ofd Regulation S–K (§ 229.601 of this chapter).

Item 17. *Undertakings.* Furnish the undertakings required by Item 512 of Regulation S–K (§ 229.512 of this chapter).

Signatures

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S–2 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of ————, State of ————, on ————, 19——.

(Registrant) ————

By (Signature and Title)————

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

(Signature) ————

(Title) ————

(Date) ————

Instructions. 1. The registration statement shall be signed by the registrant, its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer, and by at least a majority of the board of directors or persons performing similar functions. If the registrant is a foreign person, the registration statement shall also be signed by its authorized representative in the United States. Where the registrant is a limited partnership, the registration statement shall be signed by a majority of the board of directors of any corporate general partner signing the registration statement.

2. The name of each person who signs the registration statement shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the registration statement. Attention is directed to Rule 402 concerning manual signatures and to Item 601 of Regulation S–K concerning signatures pursuant to powers of attorney.

Instructions as to Summary Prospectuses

1. A summary prospectus used pursuant to Rule 431 (17 CFR (§ 230.431 of this chapter) shall at the time of its use contain such of the information specified below as is then included in the registration statement. All other information and documents contained in the registration statement may be omitted.

(a) As to Item 1, the aggregate offering price to the public, the aggregate underwriting discounts and commissions and the offering price per unit to the public,

(b) As to Item 4, a brief statement of the principal purposes for which the proceeds are to be used;

(c) As to Item 7, a statement as to the amount of the offering, if any, to be made for the account of security holders;

(d) As to Item 8, the name of the managing underwriter or underwriters and a brief statement as to the nature of the underwriter's obligation to take the securities; if any securities to be registered are to be offered otherwise than through underwriters, a brief statement as to the manner of distribution;

(e) As to Item 9, a brief statement as to dividend rights, voting rights, conversion rights, interest, maturity.

(f) As to Item 11, a brief statement of the general character of the business done and intended to be done and the selected financial data Item 301 of Regulation S–K (§ 229.301 of this chapter); and

(g) A tabular presentation of notes payable, long term debt, deferred credits, minority interests, if material, and the equity section of the latest balance sheet filed, as may be appropriate.

2. The summary prospectus shall not contain a summary or condensation of any other required financial information except as provided above.

3. The Commission may, upon the request of the registrant, and where consistent with the protection of investors, permit the omission of any of the information herein required or the furnishing in substitution therefor of appropriate information of comparable character. The Commission may also require the inclusion of other information in addition to, or in substitution for, the information herein required in any case where such information is necessary or appropriate for the protection of investors.

19. By adding § 239.13 to read as follows (Form S–3 does not appear in the Code of Federal Regulations).

§ 239.13 Form S–3, for registration under the Securities Act of 1933 of securities of certain issuers offered pursuant to certain types of transactions.

This form may be used by any registrant which meets the requirements of paragraph (a) of this section ("Registrant Requirements") for the registration of securities under the Securities Act of 1933 ("Securities Act") which are offered in any transaction specified in paragraph (b) of this section ("Transaction Requirements"), provided that the requirements applicable to the

specified transaction are met. With respect to majority-owned subsidiaries, see paragraph (c) below.

(a) *Registrant requirements.* All registrants must meet the following conditions in order to use this Form S–3 for registration under the Securities Act of securities offered in the transactions specified in (b) of this section:

(1) The registrant is organized under the laws of the United States or any State or Territory or the District of Columbia and has its principal business operations in the United States or its territories.

(2). The registrant has a class of securities registered pursuant to section 12(b) of the Securities Exchange Act of 1934 ("Exchange Act") or a class of equity securities registered pursuant to section 12(g) of the Exchange Act or is required to file reports pursuant to section 15(d) of the Exchange Act;

(3) The registrant: (i) has been subject to the requirements of section 12 or 15(d) of the Exchange Act and has filed all the material required to be filed pursuant to sections 13, 14 or 15(d) for a period of at least thirty-six calendar months immediately preceding the filing of the registration statement on this Form; and (ii) has filed in a timely manner all reports required to be filed during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement and, if the registrant has used (during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement) Rule 12b–25(b) (§ 240.12b–25(b) of this chapter) under the Exchange Act with respect to a report or a portion of a report, that report or portion thereof has actually been filed within the time period prescribed by the Rule; and

(4) Neither the registrant nor any of its consolidated or unconsolidated subsidiaries have, since the end of the last fiscal year for which certified financial statements of the registrant and its consolidated subsidiaries were included in a report filed pursuant to section 13(a) or 15(d) of the Exchange Act: (i) failed to pay any dividend or sinking fund installment on preferred stock; or (ii) defaulted (A) on any installment or installments on indebtedness for borrowed money, or (B) on any rental on one or more long term leases, which defaults in the aggregate are material to the financial position of the registrant and its consolidated and unconsolidated subsidiaries, taken as a whole.

(5) A foreign private issuer which satisfies all of the above provisions of these registrant eligibility requirements except the provisions in (a)(1) relating to organization and principal business shall be deemed to have met these registrant eligibility requirements provided that such foreign issuer files the same reports with the Commission under section 13(a) or 15(d) of the Exchange Act as a domestic registrant pursuant to (a)(3) of this section.

(6) If the registrant is a successor registrant, it shall be deemed to have met conditions in paragraph (a) (1), (2), (3), and (4) of this section if: (i) its predecessor and it, taken together, do so, provided that the succession was primarily for the purpose of changing the state of incorporation of the predecessor or forming a holding company and that the assets and liabilities of the successor at the time of succession were substantially the same as those of the predecessor; or (ii) if all predecessors met the conditions at the time of succession and the registrant has continued to do so since the succession.

(b) *Transaction Requirements.* Security offerings meeting and of the following conditions and made by registrants meeting the Registrant Requirements above may be registered on this Form:

(1) *Primary and Secondary Offerings By Certain Registrants.* Securities to be offered for cash by or on behalf of a registrant, or outstanding securities to be offered for cash for the account of any person other than the registrant, including securities acquired by standby underwriters in connection with the call or redemption by the registrant of warrants or a class of convertible securities; *provided* that the aggregate market value of the voting stock held by non-affiliates of the registrant is $150 million or more, or alternatively, the aggregate market value of the voting stock held by non-affiliates of the registrant is $100 million or more and the registrant has had an annual trading volume of such stock of 3 million shares or more.

Instructions. The aggregate market value of the registrant's outstanding voting stock shall be computed by use of the price at which the stock was last sold, or the average of the bid and asked prices of such stock, as of a date within 60 days prior to the date of filing. Annual trading volume shall be the volume of shares traded in any continuous twelve month period ended within 60 days prior to the date of filing. See the definition of "affiliate" in Securities Act Rule 405 (§ 230.405 of this chapter).

(2) *Primary Offerings of Certain Debt and Non-convertible Preferred Securities.* Non-convertible debt and preferred securities to be offered for cash by or on behalf of a registrant, provided such securities are "investment grade securities," as defined below. A non-convertible debt or preferred security is an "investment grade security" if, at the time of effectiveness of the registration statement, at least one nationally recognized statistical rating organization (as that term is used in Rule 15c3–1(c)(2)(vi)(F) under the Securities Exchange Act of 1934 (§ 240.15c3–1(c)(2)(vi)(F) of this chapter)) has rated the security in one of its generic rating categories which signifies investment grade; typically, the four highest rating categories (within which there may be sub-categories or gradations indicating relative standing) signify investment grade.

(3) *Transactions Involving Secondary Offerings.* Outstanding securities to be offered for the account of any person other than the issuer, including securities acquired by standby underwriters in connection with the call or redemption by the issuer of warrants or a class of convertible securities, if securities of the same class are listed and registered on a national securities exchange or are quoted on the automated quotation system of a national securities association. In addition, Form S–3 may be used by affiliates to register securities for resale pursuant to the conditions specified in General Instruction C to Form S–8 (§ 239.16b of this chapter).

(4) *Rights offerings, dividend or interest reinvestment plans, and conversions or warrants.* Securities to be offered (a) upon the exercise of outstanding rights granted by the issuer of the securities to be offered, if such rights are granted on a pro rata basis to all existing security holders of the class of securities to which the rights attach, or (b) pursuant to a dividend or interest reinvestment plan, or (c) upon the conversion of outstanding convertible securities or upon the exercise of outstanding transferable warrants issued by the issuer of the securities to be offered, or by an affiliate of such issuer; *provided* the issuer has sent to all record holders of such rights, or to all participants in such plans, or to all record holders of such convertible securities or transferable warrants, respectively, material containing the information required by Rule 14a–3(b) (§ 249.14a–3(b) of this chapter) under the Exchange Act and Items 401, 402, and 403 of Regulation S–K (§§ 249.401–249.403 of this chapter) within the twelve calendar months immediately preceding the filing of the registration statement, except that the information required by Items 401, 402 and 403 of Regulation S–K need only be provided to

holders of rights exercisable for common stock, holders of securities convertible into common stock, participants in plans which may invest in common stock, or in securities convertible into common stock or warrants exercisable for common stock, respectively.

(c) *Majority-owned Subsidiaries.* If a registrant is a majority-owned subsidiary, security offerings may be registered on this Form if:

(1) the registrant-subsidiary itself meets the Registrant Requirements and the applicable Transaction Requirement;

(2) the parent of the registrant-subsidiary meets the Registrant Requirements and the conditions of Transaction Requirement in paragraph (b)(1) of this section. (Primary Offerings of Certain Debt and Non-convertible Preferred Securities) are met; or

(3) the parent of the registrant-subsidiary meets the Registrant Requirements and the applicable Transaction Requirement and fully guarantees the securities being registered as to principal and interest. Note: In such an instance, the parent-guarantor is the issuer of a separate security consisting of the guarantee which must be concurrently registered but may be registered on the same registration statement as are the guaranteed securities.

(d) *Rights Offerings by Foreign Private Issuers.*

A Foreign private issuer meeting eligibility requirements in paragraphs (a)(2), (a)(3) and (a)(4) of this section may use Form S–3 to register securities to be offered upon the exercise of outstanding rights granted by the issuer of the securities to be offered if such rights are granted pro rata to all existing security holders of the class of securities to which the rights attach. In complying with Item 11 of this Form, the registrant shall describe those material changes that have occurred since the end of the latest fiscal year for which certified financial statements were included in the registrant's latest filing on Form 20–F [17 CFR 249.220f]. In complying with Item 12 of this Form, the registrant shall incorporate by reference its latest filing on Form 20–F. The registrant also shall:

(1) Furnish with the prospectus (or have furnished previously) to all its shareholders resident in the United States, including those holding under American Depository Receipts or similar arrangements, a copy of its latest annual report to security holders, if in the English language. Such annual reports or prospectus shall contain the registrant's undertaking to send promptly to any such United States holder, upon written request, a copy of the registrant's latest filing on Form 20–F; or

(2) Furnish with the prospectus a copy of its latest filing on Form 20–F.

Securities and Exchange Commission

Form S–3.—Registration Statement Under the Securities Act of 1933

_____

(Exact name of registrant as specified in its charter)

_____

(State or other jurisdiction of incorporation or organization)

_____

(I.R.S. Employer Identification No.)

_____

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

_____

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Approximate date of commencement of proposed sale to the public ————.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. ☐

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plan, check the following box. ☐

CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	Amount to be registered	Proposed maximum aggregate price per unit	Proposed maximum aggregate offering price	Amount of registration fee

Form S–3—General Instructions

I. Eligibility Requirements for Use of Form S–3.

This instruction sets forth registrant requirements and transaction requirements for the use of Form S–3. Any registrant which meets the Requirements of I.A. below ("Registrant Requirements") may use this Form for the registration of securities under the Securities Act of 1933 ("Securities Act") which are offered in any transaction specified in I.B. below ("Transaction Requirement") provided that the requirements applicable to the specified transaction are met. With respect to majority-owned subsidiaries, see Instruction I.C. below.

A. *Registrant Requirements.* All registrants must meet the following conditions in order to use this Form S–3 for registration under the Securities Act of securities offered in the transactions specified in I.B. below:

1. The registrant is organized under the laws of the United States or any State or Territory or the District of Columbia and has its principal business operations in the United States or its territories.

2. The registrant has a class of securities registered pursuant to Section 12(b) of the Securities Exchange Act of 1934 ("Exchange Act") or a class of equity securities registered pursuant to Section 12(g) of the Exchange Act or is required to file reports pursuant to Section 15(d) of the Exchange Act.

3. The registrant: (a) has been subject to the requirements of Section 12 or 15(d) of the Exchange Act and has filed all the material required to be filed pursuant to Sections 13, 14 or 15(d) for a period of at least thirty-six calendar months immediately preceding the filing of the registration statement on this Form; and (b) has filed in a timely manner all reports required to be filed during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement and, if the registrant has used (during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement) Rule 12b–25(b) (§ 240.12b–25(b) of this chapter) under the Exchange Act with respect to a report or a portion of a report, that report or portion thereof has actually been filed within the time period prescribed by the Rule.

4. Neither the registrant nor any of its consolidated or unconsolidated subsidiaries have, since the end of the last fiscal year for which certified financial statements of the registrant and its consolidated subsidiaries were included in a report filed pursuant to section 13(a) or 15(d) of the Exchange Act: (a) failed to pay any dividend or sinking fund installment on preferred stock; or (b) defaulted (i) on any installment or installments on indebtedness for borrowed money, or (ii) on any rental on one or more long term leases, which defaults in the aggregate are material to the financial position of the registrant and its consolidated and unconsolidated subsidiaries, taken as a whole.

5. A foreign private issuer which satisfies all of the above provisions of these registrant eligibility requirements except the provisions in I.a.1. relating to organization and principal business shall be deemed to have met these registrant eligibility requirements provided that such foreign issuer files the same reports with the Commission under section 13(a) or 15(d) of the Exchange Act as a domestic registrant pursuant to I.a.3. above.

6. If the registrant is a successor registrant, it shall be deemed to have met conditions 1., 2., 3., and 4. above if: (a) its predecessor and it, taken together, do so, provided that the succession was primarily for the purpose of changing the state of incorporation of the predecessor or forming a holding company and that the assets and liabilities of the successor at the time of succession were substantially the same as those of the predecessor, or (b) if all predecessors met the

conditions at the time of succession and the registrant has continued to do so since the succession.

(B) *Transaction Requirements.* Security offerings meeting any of the following conditions and made by registrants meeting the Registrant Requirements above may be registered on this Form:

1. *Primary And Secondary Offerings By Certain Registrants.* Securities to be offered for cash by or on behalf of a registrant, or outstanding securities to be offered for cash for the account of any person other than the registrant, including securities acquired by standby underwriters in connection with the call or redemption by the registrant of warrants or a class of convertible securities; *provided* that the aggregate market value of the voting stock held by non-affiliates of the registrant is $150 million or more, or alternatively, the aggregate market value of the voting stock held by non-affiliates of the registrant is $100 million or more and the registrant has had an annual trading volume of such stock of 3 million shares or more.

Instructions. The aggregate market value of the registrant's outstanding voting stock shall be computed by use of the price at which the stock was last sold, or the average of the bid and asked prices of such stock, as of a date within 60 days prior to the date of filing. Annual trading volume shall be the volume of shares traded in any continuous twelve month period ended within 60 days prior to the date of filing. See the definition of "affiliate" in Securities Act Rule 405 (§ 230.405 of this chapter).

2. *Primary Offerings of Certain Debt and Non-convertible Preferred Securities.* Non-convertible debt and preferred securities to be offered for cash by or on behalf of a registrant, provided such securities are "investment grade securities," as defined below. A non-convertible debt or preferred security is an "investment grade security" if, at the time of effectiveness of the registration statement, at least one nationally recognized statistical rating organization (as that term is used in Rule 15c3–1(c)(2)(vi)(F) under the Securities Exchange Act of 1934 (§ 240.15c3–1(c)(2)(vi)(F) of this chapter)) has rated the security in one of its generic rating categories which signifies investment grade; typically, the four highest rating categories (within which there may be sub-categories or gradations indicating relative standing) signify investment grade.

3. *Transactions Involving Secondary Offerings.* Outstanding securities to be offered for the account of any person other than the issuer, including securities acquired by standby underwriters in connection with the call or redemption by the issuer of warrants or a class of convertible securities, if securities of the same class are listed and registered on a national securities exchange or are quoted on the automated quotation system of a national securities association. In addition, Form S–3 may be used by affiliates to register securities for resale pursuant to the conditions specified in General Instruction C to Form S–8 (§ 239.16b of this chapter).

4. *Rights Offerings, Dividend or Interest Reinvestment Plans, and Conversions or Warrants.* Securities to be offered: (a) upon the exercise of outstanding rights granted by the issuer of the securities to be offered, if such rights are granted on a pro rata basis to all existing security holders of the class of securities to which the rights attach; or (b) pursuant to a dividend or interest reinvestment plan; or (c) upon the conversion of outstanding convertible securities or upon the exercise of outstanding transferable warrants issued by the issuer of the securities to be offered, or by an affiliate of such issuer; *provided* the issuer has sent to all record holders of such rights, or to all participants in such plans, or to all record holders of such convertible securities or transferable warrants, respectively, material containing the information required by Rule 14a–3(b) (§ 240.14a–3(b) of this chapter) under the Exchange Act and Items 401, 402, and 403 of Regulation S–K (§§ 249.401–249.403 of this chapter) within the twelve calendar months immediately preceding the filing of the registration statement, except that the information required by Items 401, 402 and 403 of Regulation S–K need only be provided to holders of rights exercisable for common stock, holders of securities convertible into common stock, participants in plans which may invest in common stock, or in securities convertible into common stock or warrants exercisable for common stock, respectively.

C. *Majority-owned Subsidiaries.* If a registrant is a majority-owned subsidiary, security offerings may be registered on this Form if:

1. the registrant-subsidiary itself meets the Registrant Requirements and the applicable Transaction Requirement;

2. the parent of the registrant-subsidiary meets the Registrant Requirements and the conditions of Transaction Requirement B.2. (Primary Offerings of Certain Debt and Non-convertible Preferred Securities) are met; or

3. the parent of the registrant-subsidiary meets the Registrant Requirements and the applicable Transaction Requirement and fully guarantees the securities being registered as to principal and interest.

Note.—In such an instance, the parent-guarantor is the issuer of a separate security consisting of the guarantee which must be concurrently registered but may be registered on the same registration statement as are the guaranteed securities.

D. Rights Offerings by Foreign Private Issuers. A Foreign private issuer meeting eligibility requirements A.2., A.3. and A.4. may use Form S–3 to register securities to be offered upon the exercise of outstanding rights granted by the issuer of the securities to be offered if such rights are granted pro rata to all existing security holders of the class of securities to which the rights attach. In complying with Item 11 of this Form, the registrant shall describe those material changes that have occurred since the end of the latest fiscal year for which certified financial statements were included in the registrant's latest filing on Form 20–F [17 CFR 249.220f]. In complying with Item 12 of this Form, the registrant shall incorporate by reference its latest filing on Form 20–F. The registrant also shall:

1. Furnish with the prospectus (or have furnished previously) to all its shareholders resident in the United States, including those holding under American Depository Receipts or similar arrangements, a copy of its latest annual report to security holders, if in the English language. Such annual reports or prospectus shall contain the registrant's undertaking to send promptly to any such United States holder, upon written request, a copy of the registrant's latest filing on Form 20–F; or

2. Furnish with the prospectus a copy of its latest filing on Form 20–F.

II. Application of General Rules and Regulations

A. Attention is directed to the General Rules and Regulations under the Securities Act, particularly Regulation C thereunder (17 CFR 230.400 to 230.494). That Regulation contains general requirements regarding the preparation and filing of registration statements.

B. Attention is directed to Regulation S–K (17 CFR Part 229) for the requirements applicable to the content of the non-financial statement portions of registration statements under the Securities Act. Where this Form directs the registrant to furnish information required by Regulation S–K, and the item of Regulation S–K so provides, information need only be furnished to the extent appropriate. Notwithstanding Item 501 and 502 of Regulation S–K, no table of contents and cross-reference sheet are required to be included in the prospectus or registration statement prepared on this form. In addition to the information expressly required to be included in a registration statement on this Form S–3, registrants also may provide such other information as they deem appropriate.

III. Dividend or Interest Reinvestment Plans: Filing and Effectiveness of Registration Statement; Requests for Confidential Treatment

Original registration statements on this Form S–3 solely with respect to securities offered pursuant to dividend or interest reinvestment plans will become effective automatically on the twentieth day after the date of filing (Rule 458, § 230.458 of this chapter), pursuant to the provisions of Section 8(a) of the Act (Rule 459, § 230.459 of this chapter). Pre-effective amendments to such a registration statement may be filed prior to effectiveness, and such amendments will be deemed to have been filed with the consent of the Commission (Rule 475a, § 230.475(a) of this chapter). Accordingly, the filing of a pre-effective amendment to such a registration statement will not commence a new twenty-day period. Post-effective amendments to such a registration statement on this Form shall become effective upon the date of filing (Rule 464, § 230.464 of this chapter). Delaying amendments are not permitted in connection with either original filings or amendments on such a registration statement (Rule 473(d), § 230.473(d) of this chapter), and any attempt to interpose a delaying amendment of any kind will be ineffective. All filings made on or in connection with this Form become public upon filing with the Commission. As a result, requests for confidential treatment made under Rule 406 (§ 230.406 of this chapter) must be processed with the Commission staff prior to the filing of such a registration statment. The number of copies of the registration statement and of each amendment required by Rules 402 and 472 (§§ 230.402 and 230.472 of this chapter) shall be filed with the Commission; *provided, however,* That the number of additional copies referred to in Rule 402(b) may be reduced from ten to three and the number of additional copies referred to in Rule 472(a) may be reduced from eight to three, one of which shall be marked clearly and precisely to indicate changes.

Part I. Information Required in Prospectus

Item 1. *Forepart of the Registration Statement and Outside Front Cover Page of Prospectus.* Set forth in the forepart of the registration statement and on the outside front cover page of the prospectus the information required by Item 501 of Regulation S–K (§ 229.501 of this chapter).

Item 2. *Inside Front and Outside Back Cover Pages of Prospectus.* Set forth on the inside front cover page of the prospectus or, where permitted, on the outside back cover page, the information required by Item 502 of Regulation S–K (§ 229.502 of this chapter).

Item 3. *Summary Information, Risk Factors and Ratio of Earnings to Fixed Charges.* Furnish the information required by Item 503 of Regulation S–K (§ 229.503 of this chapter).

Item 4. *Use of Proceeds.* Furnish the information required by Item 504 of Regulation S–K (§ 229.504 of this chapter).

Item 5. *Determination of Offering Price.* Furnish the information required by Item 505 of Regulation S–K (§ 229.505 of this chapter).

Item 6. *Dilution.* Furnish the information required by Item 506 of Regulation S–K (§ 229.506 of this chapter).

Item 7. *Selling Security Holders.* Furnish the information required by Item 507 of Regulation S–K (§ 229.507 of this chapter).

Item 8. *Plan of Distribution.* Furnish the information required by Item 508 of Regulation S–K (§ 229.508 of this chapter).

Item 9. *Description of Securities to be Registered.* Furnish the information required by Item 202 of Regulation S–K (§ 229.202 of this chapter), unless capital stock is to be registered and securities of the same class are registered pursuant to Section 12 of the Exchange Act.

Item 10. *Interests of Named Experts and Counsel.* Furnish the information required by Item 509 of Regulation S–K (§ 229.509 of this chapter).

Item 11. *Material Changes.* (a) Describe any and all material changes in the registrant's affairs which have occurred since the end of the latest fiscal year for which certified financial statements were included in the latest annual report to security holders and which have not been described in a report on Form 10–Q (§ 249.308a of this chapter) or Form 8–K (§ 249.308 of this chapter) filed under the Exchange Act.

(b) Include in the prospectus, if not incorporated by reference therein from the reports filed under the Exchange Act specified in Item 12(a), a proxy or information statement filed pursuant to Section 14 of the Exchange Act, or a prospectus previously filed pursuant to Rule 424(c) under the Securities Act: (i) information required by Rules 3–07 and 3–08 of Regulation S–X (17 CFR Part 210) where the registrant has effected or is about to effect a transaction for which such information is required; (ii) restated financial statements prepared in accordance with Regulation S–X if there has been a change in accounting principles or a correction of an error where such change or correction requires a material retroactive restatement of financial statements; (iii) restated financial statements prepared in accordance with Regulation S–X where one or more business combinations accounted for by the pooling of interest method of accounting have been consummated subsequent to the most recent fiscal year and the acquired businesses, considered in the aggregate, meet the test of a significant subsidiary; or (iv) any financial information required because of a material disposition of assets outside the normal course of business.

Item 12. *Incorporation of Certain Information by Reference.* (a) The documents listed in (1) and (2) below shall be specifically incorporated by reference into the prospectus, by means of a statement to that effect in the prospectus listing all such documents.

(1) the registrant's latest annual report on Form 10–K (17 CFR 249.310) filed pursuant to Section 13(a) or 15(d) of the Exchange Act which contains financial statements for the registrant's latest fiscal year for which a Form 10–K was required to have been filed;

(2) all other reports filed pursuant to Section 13(a) or 15(d) of the Exchange Act since the end of the fiscal year covered by the annual report referred to in (1) above; and

(3) if capital stock is to be registered and securities of the same class are registered under Section 12, of the Exchange Act, the description of such class of securities which is contained in a registration statement filed under the Exchange Act, including any amendment or reports filed for the purpose of updating such description.

(b) The prospectus shall also state that all documents subsequently filed by the registrant pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, prior to the termination of the offering, shall be deemed to be incorporated by reference into the prospectus.

Instruction. Attention is directed to Rule 439 (§ 230.439 of this chapter) regarding consent to use of material incorporated by reference.

Item 13. *Disclosure of Commission Position on Indemnification for Securities Act Liabilities.* Furnish the information required by Item 510 of Regulation S–K (§ 229.510 of this chapter).

Part II. Information Not Required in Prospectus

Item 14. *Other Expenses of Issuance and Distribution.* Furnish the information required by Item 511 of Regulation S–K (§ 229.511 of this chapter).

Item 15. *Indemnification of Directors and Officers.* Furnish the information required by Item 702 of Regulation S–K (§ 229.702 of this chapter).

Item 16. *Exhibits.* Subject to the rules regarding incorporation by reference, furnish the exhibits required by Item 601 of Regulation S–K (§ 229.601 of this chapter).

Item 17. *Undertakings.* Furnish the undertakings required by Item 512 of Regulation S–K (§ 229.512 of this chapter).

Signatures

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S–3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of ———, State of ———, on ———, 19—.

(Registrant) ———

By (Signature and Title) ———

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

(Signature) ———

(Title) ———

(Date) ———

Instructions. 1. The registration statement shall be signed by the registrant, its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer, and by at least a majority of the board of directors or persons performing similar functions. If the registrant is a foreign person, the registration statement shall also be signed by its authorized representative in the United States. Where the registrant is a limited partnership, the registration statement shall be signed by a majority of the board of directors of any corporate general partner signing the registration statement.

2. The name of each person who signs the registration statement shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the registration statement. Attention is directed to Rule 402 concerning manual signatures and Item 601 of Regulation S–K concerning signatures pursuant to powers of attorney.

3. Where eligibility for use of the Form is based on the assignment of a security rating pursuant to Transaction Requirement B.2, the registrant may sign the registration statement notwithstanding the fact that such security rating has not been assigned by the filing date, provided that the registrant reasonably believes, and so states, that the security rating requirement will be met by the time of effectiveness.

20. By revising the facing sheet and signature page of Form S–6 in § 239.16 to read as follows (Form S–6 does not appear in the Code of Federal Regulations):

§ 239.16 Form S–6, for unit investment trusts registered on Form N–8B–2.

* * * * *

D. Name and complete address of agent for service:

Check box if it is proposed that this filing will become effective (immediately

upon filing or on (date)) pursuant to paragraph (b) of Rule 485.

* * * * *

Signatures

Pursuant to the requirements of the Securities Act of 1933, the registrant, ..., (certifies that it meets all of the requirements for effectiveness of this Registration Statement pursuant to rule 485(b) under the Securities Act of 1933 and) has duly caused this registration statement to be signed on its behalf by the undersigned thereunto duly authorized, * * *

* * * * *

21. By removing General Instructions C and D and redesignating General Instructions E and F as General Instructions C and D; by adding Items 1–3 and 17–21; by redesignating Items 1–13 and by further updating certain references in Form S–8 in § 239.16b to read as follows (Form S–8 does not appear in the Code of Federal Regulations):

§ 239.16b Form S–8, for registration under the Securities Act of 1933 of securities to be offered to employees pursuant to certain plans.

* * * * *

A. Rule as to Use of Form S–8

* * * * *

(2) Where interests in a plan are being registered and the plan's latest annual report filed pursuant to Section 15(d) of the Securities Exchange Act is to be incorporated by reference pursuant to the requirements of Form S–8, the Plan shall either: (i) have been subject to the requirement to file reports pursuant to Section 15(d) for the prior 90 days and shall have filed all reports and other materials required to be filed by such requirements during the preceding 12 months (or for such shorter period that the plan was required to file such reports and materials) or (ii) if the plan has not previously been subject to the reporting requirements of Section 15(d), concurrently with the filing of the registration statement on Form S–8 the plan shall file an annual report in the form required under Section 15(d) for its latest fiscal year (or if the plan has not yet completed its first fiscal year, then for a period ending not more than 90 days prior to the filing date), provided that if the plan has not been in existence for at least 90 days prior to the filing date, the requirement to file an annual report shall not apply. [See instructions to Form 11–K and Rule 15d–21 (17 CFR 240.15d–21)].

B. Application of General Rules and Regulations

(1) Attention is directed to the General Rules and Regulations under the Securities Act, particularly those comprising Regulation C thereunder (17 CFR 230.400 to 230.494). That Regulation contains general requirements regarding the preparation and filing of registration statements. For purposes of this Form the term "employee" is defined as any director, trustee, officer or other employee. The term "issuer" as used in this Form means the person whose securities are to be offered pursuant to the plan.

(2) Attention is directed to Regulation S–K (17 CFR Part 229) for the requirements applicable to the content of the non-financial statement portions of registration statements under the Securities Act. Where this Form directs the registrant to furnish information required by Regulation S–K and the item of Regulation S–K so provides, information need only be furnished to the extent appropriate.

C. Unavailability of the Form S–8 Prospectus for Reoffers or Resales

The Form S–8 prospectus will not be available for reoffers or resales of securities acquired pursuant to this registration statement by affiliates of the issuer, as defined in Rule 405 under the Act. However, such affiliates may reoffer or resell such securities pursuant to registration under Rule 415 (17 CFR 230.415) by means of a separate prospectus, filed with the registration statement on this Form S–8, that is prepared in the following manner:

(1) Such prospectus may be prepared in accordance with the requirements of Form S–3 if:

(a) The issuer, at the time of filing such prospectus, satisfies the Registrant Requirements for use of Form S–3; or

(b) * * *

(2) If subparagraph (1), above, does not permit the use of a prospectus on Form S–3, registered reoffers or resales must be made by means of a separate registration statement utilizing whichever form is applicable.

Notes:

1. Registered securities may be included in a reoffer prospectus if they have been or will be acquired by the selling security holder pursuant to the plan. If after the effective date the issuer wishes to add any person who has acquired or will acquire any registered securities pursuant to the plan to the list of selling shareholders, the issuer may do so by filing a post-effective amendment.

2. Unregistered securities issued pursuant to the plan prior to the effective date of the first registration statement covering securities issued pursuant to the plan may be included in a reoffer prospectus, if each of the following conditions has been met:

(a) Such securities were issued in accordance with a lawful exemption from registration, and the issuer files as an exhibit a statement indicating the section of the Securities Act or Rule of the Commission under which exemption from registration was claimed, which statement shall set forth briefly the facts relied upon to make the exemption available.

(b) The prospectus indicates the number of previously unregistered shares being reoffered and such number does not exceed ten percent of the total number of shares issuable under the plan.

(c) All persons (including non-affiliates) holding unregistered shares to be reoffered pursuant to the prospectus are named as selling shareholders in the prospectus; *Provided, however,* That any non-affiliate who holds less than the lesser of 400 shares or 1% of the shares issuable under the plan need not be named if the prospectus indicates that certain unnamed non-affiliates, each of whom may sell up to 400 shares, may use the prospectus for reoffers and resales.

3. The term "person" as used in General Instruction C shall be the same as is set forth in Rule 144(a)(2) under the Act.

D. Filing and Effectiveness of Registration Statement; Requests for Confidential Treatment; Number of Copies

Original registration statements on this Form S–8 will become effective automatically on the twentieth day after the date of filing (Rule 456, 17 CFR 230.456), pursuant to the provisions of Section 8(a) of the Act (Rule 459, 17 CFR 230.459). Pre-effective amendments may be filed prior to effectiveness, and such amendments will be deemed to have been filed with the consent of the Commission (Rule 475a, 17 CFR 230.475a). Accordingly, the filing of a pre-effective amendment will not commence a new twenty-day period. Post-effective amendments on this form shall become effective upon the date of filing (Rule 464, 17 CFR 230.464). Delaying amendments are not permitted in connection with either original filings or amendments (Rule 473(d), 17 CFR 230.473(d)), and any attempt to interpose a delaying amendment of any kind will be ineffective. All filings made on or in connection with this form become public upon filing with the Commission. As a result, requests for confidential treatment made under Rule 406 (17 CFR 230.406) must be processed with the Commission staff prior to the filing of the registration statement. The number of copies of the registration statement and of each amendment required by Rules 402 and 472 (17 CFR 230.402, 230.472) shall be filed with the Commission; *Provided, however,* That the number of additional copies referred to in Rule 402(b) may be reduced from ten to three and the number of additional copies referred to in Rule 472(a) may be reduced from eight to three, one of which shall be marked to clearly and precisely indicate changes.

Part I. Information Required in Prospectus

Item 1. *Forepart of Registration Statement and Outside Front Cover Page of Prospectus.*

Set forth on the outside front cover page of the prospectus the information required by Item 501 of Regulation S–K (§ 229.501 of this chapter).

Item 2. *Inside Front and Outside Back Cover Pages of Prospectus.*

Set forth on the inside front cover page of the prospectus or, where permitted, on the outside back cover page, the information required by Item 502 of Regulation S–K (§ 229.502 of this chapter).

Item 3. *Summary Information, Risk Factors and Ratio of Earnings to Fixed Charges.*

Furnish the information required by Item 503 of Regulation S–K (§ 229.503 of this chapter).

Item 4. *General Information Regarding the Plan.*

* * * * *

Item 5. *Securities to be Offered and Employees Who May Participate in the Plan.*

* * * * *

Item 6. *Purchase of Securities Pursuant to the Plan.*

* * * * *

Item 7. *Payment for Securities Offered.*

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Item 8. *Contributions Under the Plan.*

* * * * *

Item 9. *Withdrawal from the Plan—Assignment of Interest.*

* * * * *

Item 10. *Defaults Under the Plan.*

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Item 11. *Administration of the Plan.*

* * * * *

Item 12. *Investment of Funds.*

* * * * *

(d) * * *

Instructions to Item 12(d).

* * * * *

Item 13. *Charges and Deductions and Liens Therefor.*

(a) Describe all charges and deductions (other than deductions described in Item 7(a) and taxes), which may be made against employees participating in the plan or against funds, securities or other property held under the plan and indicate who will receive, directly or indirectly, any part thereof. Such description should include charges and deductions which may be made upon the termination of an employee's interest in the plan, or upon partial withdrawals from the employee's account thereunder.

* * * * *

Item 14. *Description of Registrant's Securities.*

(a) If capital stock is to be registered hereunder, and such class of stock is already registered under Section 12 of the Securities Exchange Act of 1934, comply with Item 15(c).

(b) If capital stock is to be registered hereunder, and such class of stock is not registered under Section 12 of the Securities Exchange Act of 1934, furnish the information required by Item 202 of Regulation S–K (§ 229.202 of this chapter).

Item 15. *Incorporation of Certain Documents by Reference.*

The issuer and, where interests in the plan are being registered, the plan, shall incorporate by reference into the prospectus the documents listed in (a) through (c) below and shall state that all documents subsequently filed by them pursuant to Sections 13, 14 and 15(d) of the Securities Exchange Act of 1934, prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference in the prospectus and to be a part thereof from the date of filing of such documents. Copies of these documents are not required to be filed with the registration statement.

(a) * * *

* * * * *

(c) If the class of securities to be offered is registered under Section 12 of the Securities Exchange Act of 1934, the description of such class of securities which is contained in a registration statement filed under such Act, including any amendment or report filed for the purpose of updating such description.

Item 16. *Additional Information.*

Describe any material changes in the registrant's affairs which have occurred since the end of the latest fiscal year for which certified financial statements were included in an annual report or prospectus incorporated by reference in response to Item 15(a) and which have not been, nor will be, described in a timely-filed report on Form S–K or 10–Q (17 CFR 249.308 and 249.308a).

Item 17. *Interests of Named Experts and Counsel.*

Furnish the information required by Item 509 of Regulation S–K (§ 229.509 of this chapter).

Item 18. *Disclosure of Commission Position on Indemnification for Securities Act Liabilities.*

Furnish the information required by Item 510 of Regulation S–K (§ 229.510 of this chapter).

Part II. Information Not Required in Prospectus

Item 19. *Indemnification of Directors and Officers.*

Furnish the information required by Item 702 of Regulation S–K (§ 229.702 of this chapter).

Item 21. *Exhibits.*

Furnish the exhibits required by Item 601 of Regulation S–K (§ 229.601 of this chapter).

Item 20. *Undertakings.*

Furnish the undertakings required by Item 512 of Regulation S–K (§ 229.512 of this chapter).

Instruction: In most cases, annual updating can be accomplished by utilizing Exchange Act periodic reports. (*See* Securities Act Release No. 6203 (April 2, 1980) [45 FR 23653].) However, in many of those situations where annual updating cannot be completely accomplished through the filing of Exchange Act periodic reports, the staff has indicated that registrants may utilize an "appendix" to the prospectus for this purpose. (*See* Securities Act Release No. 6281 (January 15, 1981) [46 FR 8446].)

Signatures

The Registrant. Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S–8 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of ——————, State of ——————, on ——————, 19——.

(Registrant) ——————

By (Signature and Title) ——————

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the date indicated.

(Signature) ——————

(Title) ——————

(Date) ——————

The Plan. Pursuant to the requirements of the Securities Act of 1933, the plan has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of ——————, State of ——————, on the ——————— day of ——, 19——.

(The Plan)

By ——————

(Signature and Title)

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed below by the following persons in the capabilities and on the dates indicated.

(Signature) ——————

(Title) ——————

(Date) ——————

Instructions. 1. The registration statement shall be signed by the registrant (and where interests in the plan are being registered, by the plan), their principal executive officer or officers, their principal financial officer, their controller or principal accounting officer, and by at least a majority of the board of directors or persons performing similar functions. If the signing person is a foreign person, the registration statement shall also be signed by its authorized representative in the United States. Where the signing person is a limited partnership, the registration statement shall be signed by a majority of the board of directors of any corporate general partner signing the registration statement.

2. The name of each person who signs the registration statement shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the registration statement. Attention is directed to Rule 402 concerning manual signatures and Item 601 of Regulation S–K concerning signatures pursuant to powers of attorney.

22. By removing General Instructions C, D and F, Items 1, 4–6, 13–15, 17, 23 and Instructions As to Exhibits; by adding Items 1–6, 9–10, 17–18 and 28; by redesignating the General Instructions and Items to reflect additions and removals; by revising redesignated Items 7–8, 27, 29, 31–32 and 34–35; and by further updating references in Form S–11 in § 239.18 to read as follows (Form S–11 does not appear in the Code of Federal Regulations):

§ 239.18 Form S–11, for registration under the Securities Act of 1933 of securities of certain real estate companies.

* * * * *

B. Application of General Rules and Regulations

(a) Attention is directed to the General Rules and Regulations under the Securities Act, particularly those comprising Regulation C thereunder (17 CFR 230.400 to 230.494). That Regulation contains general requirements regarding the preparation and filing of registration statements.

(b) Attention is directed to Regulation S–K (17 CFR Part 229) for the requirements applicable to the content of the non-financial statement portions of registration statements under the Securities Act. Where this Form directs the registrant to furnish information

required by Regulation S–K and the Item of Regulation S–K so provides, information need only be furnished to the extent appropriate.

C. Exchange Offers

If any of the securities being registered are to be offered in exchange for securities of any other issuer, the prospectus also shall include the information which would be required by Items 9 to 16, and Item 18 if securities of such other issuer were being registered on this form. Item 20 also shall be answered as to any promoter, director, officer or security holder of such other issuer who is an affiliated person of the registrant.

D. Definitions

* * * * *

Part I. Information Required in Prospectus

Item 1. *Forepart of Registration Statement and Outside Front Cover Page of Prospectus.*

(a) Set forth on the outside front cover page of the prospectus the information required by Item 501 of Regulation S–K (§ 229.501 of this chapter).

(b) If there are any limitations on the transferability of the securities being registered, so state on the outside front cover page of the prospectus and refer to a statement elsewhere in the prospectus as to the nature of such limitations. If there is no market for securities of the same class as those being registered, so state on the outside front cover page of the prospectus; otherwise, state elsewhere in the prospectus the nature of the market for such securities and the market price thereof as of the latest practicable date prior to the filing of the registration statement or amendment thereto.

Item 2. *Inside Front and Outside Back Cover Pages of Prospectus.*

Set forth on the inside front cover page of the prospectus or, where permitted, on the outside back cover page, the information required by Item 502 of Regulation S–K (§ 229.502 of this chapter).

Item 3. *Summary Information, Risk Factors and Ratio of Earnings to Fixed Charges.*

(a) Furnish the information required by Item 503 of Regulation S–K (§ 229.503 of this chapter).

(b) Where appropriate to a clear understanding by investors, an introductory statement shall be made in the forepart of the prospectus, in a series of short, concise paragraphs, summarizing the principal factors which make the offering speculative. Where appropriate, statements with respect to the following shall also be set forth:

(1) A comparison in percentages of the securities being offered to the public and those issued or to be issued to affiliated persons;

(2) The extent to which security holders may be liable for the acts or obligations of the registrant;

(3) Allocation of cash distributions between the public security holders and security holders who are affiliated persons;

(4) The remuneration and other forms of compensation and benefits to be received, directly or indirectly, by affiliated persons, including in the case of underwriters a comparison of the aggregate compensation to be received by them with the aggregate net proceeds from the sale of the securities being registered.

Item 4. *Determination of Offering Price.*

Furnish the information required by Item 505 of Regulation S–K (§ 229.505 of this chapter).

Item 5. *Dilution.*

Furnish the information required by Item 506 of Regulation S–K (§ 229.506 of this chapter).

Item 6. *Selling Security Holders.*

Furnish the information required by Item 507 of Regulation S–K (§ 229.507 of this chapter).

Item 7. *Plan of Distribution.*

Furnish the information required by Item 508 of Regulation S–K (§ 229.508 of this chapter).

Item 8. *Uses of Proceeds.*

Furnish the information required by Item 504 of Regulation S–K (§ 229.504 of this chapter).

Item 9. *Selected Financial Data.*

(a) Furnish the information required by Item 301 of Regulation S–K (§ 229.301 of this chapter).

Instruction. If, pursuant to this Item, a statement showing the pro forma taxable operating results of the registrant is included in the registration statement, the Commission or its staff may request as supplemental information, which the registrant should be prepared to furnish promptly upon request, a schedule reconciling such pro forma results with the historical operating results (*see* Rule 3–14 of Regulation S–X).

Item 10. *Management's Discussion and Analysis of Financial Condition and Results of Operations.*

Furnish the information required by Item 303 of Regulation S–K (§ 229.303 of this chapter).

Item 11. *General Information as to Registrant.*

* * * * *

Item 12. *Policy with Respect to Certain Activities.*

* * * * *

Item 13. *Investment Policies of Registrant.*

* * * * *

Item 14. *Description of Real Estate.*

* * * * *

Item 15. *Operating Data.*

Furnish the following information with respect to each improved property which is separately described in answer to Item 14.

* * * * *

(h) * * *

Instruction. Instruction 3 to Item 14 shall apply to this Item.

Item 16. *Tax Treatment of Registrant and its Security Holders.*

* * * * *

Item 17. *Market Price of and Dividends on the Registrant's Common Equity and Related Stockholder Matters.*

Furnish the information required by Item 201 of Regulation S–K (§ 229.201 of this chapter).

Item 18. *Description of Registrant's Securities.*

Furnish the information required by Item 202 of Regulation S–K (§ 229.202 of this chapter).

Item 19. *Legal Proceedings.*

Furnish the information required by Item 103 of Regulation S–K (§ 229.103 of this chapter).

Item 20. *Security Ownership of Certain Beneficial Owners and Management.*

Furnish the information required by Item 403 of Regulation S–K (§ 229.403 of this chapter).

Item 21. *Directors and Executive Officers.*

Furnish the information required by Item 401 of Regulation S–K (§ 229.401 of this chapter).

Item 22. *Management Remuneration and Transactions.*

Furnish the information required by Item 402 of Regulation S–K (§ 229.402 of this chapter).

Item 23. *Selection, Management and Custody of Registrant's Investments.*

* * * * *

Item 24. *Policies with Respect to Certain Transactions.*

* * * * *

Item 25. *Limitations of Liability.*

* * * * *

Item 26. *Financial Statements and Information.*

Include in the prospectus the financial statements required by Regulation S–X, the supplementary financial information required by Item 302 of Regulation S–K (§ 229.302 of this chapter), and the information concerning disagreements with accountants on accounting and financial disclosure required by Item 304 of Regulation S–K. (§ 229.304 of this chapter). Although all schedules required by Regulation S–X are to be included in the registration statement, all such schedules other than those prepared in accordance with Rules 12–12, 12–28 and 12–29 of the Regulation may be omitted from the prospectus.

Item 27. *Interests of Named Experts and Counsel.*

Furnish the information required by Item 509 of Regulation S–K (§ 229.509 of this chapter).

Item 28. *Disclosure of Commission Position on Indemnification for Securities Act Liabilities.*

Furnish the information required by Item 510 of Regulation S–K (§ 229.510 of this chapter).

Part II. Information Not Required in Prospectus

Item 29. *Other Expenses of Issuance and Distribution.*

Furnish the information required by Item 511 of Regulation S–K (§ 229.511 of this chapter).

Item 30. *Sales to Special Parties.*

* * * * *

Item 31. *Recent Sales of Unregistered Securities.*

Furnish the information required by Item 701 of Regulation S–K (§ 229.701 of this chapter).

Item 32. *Indemnification of Directors and Officers.*

Furnish the information required by Item 702 of Regulation S–K (§ 229.702 of this chapter).

Item 33. *Treatment of Proceeds From Stock Being Registered.*

* * * * *

Item 34. *Financial Statements and Exhibits.*

(a) List all financial statements filed as part of the registration statement, indicating those included in the prospectus.

(b) Furnish the exhibits required by Item 601 of Regulation S–K (§ 229.601 of this chapter).

Item 35. *Undertakings.*

Furnish the undertakings required by Item 512 of Regulation S–K (§ 229.512 of this chapter).

Signatures

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S–11 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of ———, State of ———, on ———, 19—.

(Issuer) ———

By (Signature and Title) ———

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

(Signature) ———

(Title) ———

(Date) ———

Instructions. 1. The registration statement shall be signed by the registrant, its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer, and by at least a majority of the board of directors or persons performing similar functions. If the registrant is a foreign person, the registration statement shall also be signed by its authorized representative in the United States. Where the registrant is a limited partnership, the registration statement shall be signed by a majority of the board of directors of any corporate general partner signing the registration statement.

2. The name of each person who signs the registration statement shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the registration statement. Attention is directed to Rule 402 concerning manual signatures and Item 601 of Regulation S–K concerning signatures pursuant to powers of attorney.

23. By removing Instructions C and E and redesignating General Instruction D as General Instruction C; by adding Items 1–4 and 8 and redesignating Items 1–6 as Items 5–7 and 9–11; by revising redesignated Items 6–7 and 9–11; by removing Instructions as to Exhibits of Form S–14 in § 239.23 to read as follows (Form S–14 does not appear in the Code of Federal Regulations):

§ 239.23 Form S–14, for simplified registration of securities issued in certain transactions under Rules 133 and 145 [17 CFR 230.133, 230.145].

* * * * *

B. Application of General Rules and Regulations

(a). Attention is directed to the General Rules and Regulations under the Securities Act, particularly those comprising Regulation C thereunder (17 CFR 230.400 to 230.494). That Regulation contains general requirements regarding the preparation and filing of registration statements.

(b). Attention is directed to Regulation S–K (17 CFR Part 229) for the requirements applicable to the content of the non-financial statement portions of registration statements under the Securities Act. Where this Form directs the registrant to furnish information required by Regulation S–K and the item of Regulation S–K so provides, information need only be furnished to the extent appropriate.

C. Compliance with Proxy or Information Rules

* * * * *

(b) If the proxy or information material sent to such security holders is not subject to Regulation 14A or 14C, all such material shall be filed as a part of the registration statement at the time the statement is filed or as an amendment thereto prior to the use of such material.

Part I. Information Required in Prospectus

Item 1. *Forepart of Registration Statement and Outside Front Cover Page of Prospectus.*

Set forth on the outside front cover page of the prospectus the information required by Item 501 of Regulation S–K (§ 229.501 of this chapter).

Instruction. The cross-reference sheet required by Item 501 shall show the location of the information required by proxy or information rules, as specified in Item 5 of this form.

Item 2. *Inside Front and Outside Back Cover Pages of Prospectus.*

Set forth on the inside front cover page of the prospectus or, where permitted, on the outside back cover page, the information required by Item 502 of Regulation S–K (§ 229.502 of this chapter).

Item 3. *Summary Information, Risk Factors and Ratio of Earnings to Fixed Charges.*

Furnish the information required by Item 503 of Regulation S–K (§ 229.503 of this chapter).

Item 4. *Market Price of and Dividends on the Registrant's Common Equity and Related Stockholder Matters.*

Furnish the information required by Item 201 of Regulation S–K (§ 229.201 of this chapter).

Item 5. *Information Required by Proxy or Information Rules.*

* * * * *

(b) If neither the registrant nor any other person which is a party to the transaction in which the securities to be registered are to be issued is required to solicit proxies pursuant to Section 14(a), or to furnish information to security holders pursuant to Section 14(c), of the Securities Exchange Act of 1934 in regard to the transaction, then the prospectus shall contain the information which would be required to be included in a proxy or information statement of the registrant if it were subject to Section 14(a) or 14(c) and may be in form of such a proxy or information statement.

Item 6. *Additional Information Required for Reoffering by Persons and Parties Deemed To Be Underwriters.*

* * * * *

(a) Furnish the information required by Item 507 of Regulation S–K (§ 229.507 of this chapter).

* * * * *

Instruction. Information in response to Item 6(a) may be included to describe public reofferings proposed to be made, if such reofferings are subject only to consummation of the transaction described in Rule 145(a).

Item 7. *Interests of Named Experts and Counsel.*

Furnish the information required by Item 509 of Regulation S–K (§ 229.509 of this chapter).

Item 8. *Disclosure of Commission Position on Indemnification for Securities Act Liabilities.*

Furnish the information required by Item 510 of Regulation S–K (§ 229.510 of this chapter).

Part II. Information Required in Prospectus

Item 9. *Indemnification of Directors and Officers.*

Furnish the information required by Item 702 of Regulation S–K (§ 229.702 of this chapter).

Item 10. *Exhibits.*

Subject to the rules regarding incorporation by reference, furnish the exhibits required by Item 601 of Regulation S–K (§ 229.601 of this chapter).

Item 11. *Undertakings.*

Furnish the undertakings required by Item 512 of Regulation S–K (§ 229.512 of this chapter).

Signatures

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S–14 and had duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of ———, State of ———, on ———, 19—.

(Issuer) ———

By (Signature and Title) ———

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

(Signature) ———

(Title) ———

(Date) ———

Instructions. 1. The registration statement shall be signed by the registrant, its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer, and by at least a majority of the board of directors or persons performing similar functions. If the registrant is a foreign person, the registration statement

shall also be signed by its authorized representative in the United States. Where the registrant is a limited partnership, the registration statement shall be signed by a majority of the board of directors of any corporate general partner signing the registration statement.

2. The name of each person who signs the registration statement shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the registration statement. Attention is directed to Rule 402 concerning manual signatures and Item 601 of Regulation S-K concerning signatures pursuant to powers of attorney.

3. If the securities to be offered are those of a corporation, not yet in existence at the time the registration statement is filed, which will be a party to a consolidation involving two or more existing corporations, then each such existing corporation shall be deemed a registrant and shall be so designated on the cover page of this form, and the registration statement shall be signed by each such existing corporation and by the officers and directors of each such existing corporation as if each such existing corporation were the registrant.

24. By removing General Instructions C and F and Item 10; by redesignating General Instructions D and E as General Instructions C and D; by adding Items 1, 2 and 14–15; by redesignating Items 1–14 as Items 3–17; by revising redesignated Items of Form S–15 in 10–13, 16–17; § 239.29 to read as follows (Form S–15 does not appear in the Code of Federal Regulations):

§ 239.29 Form S–15, optional form for registration of securities to be offered in certain business combination transactions.

* * * * *

General Instructions

A. Rule as to Use of Form S–15

* * * * *

2. At the time of filing the registration statement, the issuer (a) meets the requirements for the use of Form S–2 (§ 239.12), (b) has furnished its latest annual report to security holders pursuant to Rule 14a–3 (§ 240.14a–3) or Rule 14c–3 (§ 240.14c–3) and (c) such report contains audited year-end financial statements as of a fiscal year-end not more than fifteen months prior to the date the registration statement becomes effective.

* * * * *

B. Application of General Rules and Regulations

1. Attention is directed to the General Rules and Regulations under the Securities Act, particularly those comprising Regulation C thereunder (17 CFR 230.400 to 230.494). That Regulation contains general requirements regarding the preparation and filing of registration statements.

2. Attention is directed to Regulation S–K (17 CFR Part 229) for the requirements applicable to the content of the non-financial statement portions of registration statements under the Securities Act. Where this Form directs the registrant to furnish information required by Regulation S–K and the Item of Regulation S–K so provides, information need only be furnished to the extent appropriate.

C. Compliance With Proxy or Information Rules

* * * * *

D. Availability of the Prospectus for Reoffers or Resales

The Form S–15 prospectus may be used by affiliates of the issuer, or by any other persons who may be deemed underwriters of such securities, for reoffers or resales of securities acquired pursuant to this registration statement, Provided that: (1) the requirements of Rule 415 (§ 230.415) are met; (2) the additional information called for by Item 10 of this Form is included in the prospectus so used; and, (3) if, after the effective date, the issuer wishes to add any person to the list of selling security holders, the issuer may do so by filing a post-effective amendment.

Part I. Information Required in Prospectus

Item 1. *Forepart of Registration Statement and Outside Front Cover Page of Prospectus.*

Set forth on the outside front cover page of the prospectus the information required by Item 501 of Regulation S–K (§ 229.501 of this chapter).

Item 2. *Inside Front and Outside Back Cover Pages of Prospectus.*

Set forth on the inside front cover page of the prospectus or, where permitted, on the outside back cover page, the information required by Item 502 of Regulation S–K (§ 229.502 of this chapter).

Item 3. *Summary Information add ";" Risk Factors and Ratio of Earnings to Fixed Charges.*

(a) Immediately following the cover page of the prospectus, set forth a summary containing the following:

(i) a brief description of the general nature of the business conducted by the issuer and by the company being acquired;

(ii) a brief description of the transaction pursuant to which the securities being registered are to be offered; and

(iii) in comparative columnar form, comparative per share data adjusted to be presented on an equivalent share basis of the issuer and the company being acquired, for the following items:

(A) book value per share as of the date of the most recent balance sheet presented in response to Item 5 or incorporated by reference in response to Item 12;

(B) cash dividends declared per share during the last full fiscal year for which financial statements are presented in response to Item 5 or incorporated by reference in response to Item 12;

(C) net earnings per share for the year ended as of the same date used for purposes of paragraph (A) of this Item, and for the year to date ended as of the end of the latest corresponding fiscal quarter which ended more than forty-five days prior to the effective date of the registration statement; and

(D) market value of securities as of the day preceding public announcement of the proposed transaction, or, if no such public announcement was made, as of the day preceding the day the agreement with respect to the transaction was entered into.

(b) In addition, the summary shall contain the information required by Item 503 of Regulation S–K (§ 229.503 of this chapter).

Item 4. *Terms of the Transaction.*

* * * * *

(e) As to each class of securities of the issuer, or of the company being acquired, which is admitted to dealing on a national securities exchange or with respect to which a market otherwise exists, and which will be materially affected by the plan, state the high and low sale prices (or, in the absence of trading in a particular period, the range of the bid and asked prices) for each quarterly period within two years. This information may be omitted if the plan involves merely the liquidation or dissolution of the issuer.

Item 5. *Description of the Company Being Acquired.*

(a) If the company being acquired has a class of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934 and has furnished an annual report to security holders pursuant to Rule 14a–3 (§ 240.14a–3) or Rule 14c–3 (§ 240.14c–3) for its latest fiscal year, then, at the issuer's option, portions of such annual report may be incorporated by reference and such annual report may be delivered in accordance with the provisions of Items 11 and 16 of this Form.

(b) * * *

(ii) market price of and dividends on the common equity of the company being acquired and related stockholder matters as required by Item 201 of Regulation S–K (§ 229.201 of this chapter).

(iii) selected financial data as required by Item 301 of Regulation S–K (§ 229.301 of this chapter).

(iv) management's discussion and analysis of financial condition and results of operation as required by Item 303 of Regulation S–K (§ 229.303 of this chapter).

(v) financial statements as would have been required to be included in an annual report furnished to security holders pursuant to Rules 14a–3(b)(1), (b)(2), (b)(3) and (b)(4) (§ 240.14a–3) or Rules 14c–3(a)(1), (a)(2), (a)(3) and (a)(4) (§ 240.14c–3), had the company being acquired been required to prepare such a report; provided, however, that the balance sheet for the year preceding the latest full fiscal year and the income statements for the two years preceding the latest full fiscal year need not be audited if they have not previously been audited; and

* * * * *

Item 6. *Voting Information.*

* * * * *

(c) * * *

(ii) *Beneficial Ownership.* Furnish the information required by Item 403 of Regulation S–K (§ 229.403 of this chapter) with respect to both the issuer of the securities being registered and the company being acquired. To the extent that this information is already furnished pursuant to paragraph (a) of this Item, a statement to that effect will suffice.

(iii) *Executive Officers and Directors.* With respect to the issuer, furnish the information required by Item 401 of Regulation S–K (§ 229.401 of this chapter). With respect to the company being acquired, identify each of the executive officers and directors and indicate the principal occupation or employment of each such person and the name and principal business of any organization by which such person is so employed.

Item 7. *Interest of Certain Persons in the Transaction.*

* * * * *

Item 8. *Additional Information With Respect to the Issuer.*

(a) * * *

(iii) delivering to each person to whom a prospectus is delivered a copy of the issuer's latest quarterly report which was delivered to its security holders and which included the required financial and other information.

(b) Describe any and all material changes in the issuer's affairs which have occurred since the end of the latest fiscal year for which certified financial statements were included in the latest annual report to security holders. Financial information may be required in the prospectus if the financial statements in the annual report to security holders do not reflect the results of a significant business combination accounted for as a pooling of interests or as a purchase or a change in accounting principles or a correction of an error where such change or correction requires a substantial retroactive restatement of financial statements where there has been a material disposition of assets outside the normal course of business.

Item 9. *Additional Information With Respect to the Company Being Acquired.*

(a) If the company being acquired has a class of securities registered under Section 12 of the Securities Exchange Act of 1934, has furnished an annual report to security holders pursuant to Rule 14a–3 for its latest fiscal year, and such annual report is incorporated by reference into and delivered with the prospectus pursuant to the option provided by Item 5(a), provide financial and other information with respect to the company being acquired in the form required by Part I of Form 10–Q as of the end of the most recent of the first three fiscal quarters which ended more than forty-five days prior to the effective date of this registration statement or as of a more recent date by one of the following means:

* * * * *

(iii) delivering to each person to whom a prospectus is delivered a copy of the latest quarterly report which was delivered to the security holders of the company being acquired and which included the required financial and other information.

(b) Describe any and all material changes in the affairs of the company being acquired which have occurred since the end of the latest fiscal year for which certified financial statements have been included either:

(i) in the annual report to security holders delivered pursuant to Item 17 of this Form; or

(ii) in the prospectus as a result of the provisions of paragraph (b)(v) of Item 5 of this Form.

Financial information may be required in the prospectus if such financial statements do not reflect the results of a significant business combination accounted for as a pooling of interests or as a purchase or a change in accounting principles or a correction of an error where such change requires a substantial retroactive restatement of financial statements or where there has been a material disposition of assets outside the normal course of business.

* * * * *

(d) * * *

(iii) include an undertaking to provide without charge to each person to whom a prospectus is delivered, on the written or oral request of such person, a copy of any and all of the information which has been incorporated by reference in the registration statement, other than exhibits to such information. Indicate the address (including title or department) and telephone number to which such a request is to be directed.

Item 10. *Additional Information Required for Reoffering by Persons and Parties Deemed to be Underwriters.*

* * * * *

(a) Furnish the information required by Item 507 of Regulation S–K (§ 229.507 of this chapter).

* * * * *

Item 11. *Information Delivered.*

A statement shall be made indicating that the prospectus is accompanied by the following documents, specified portions of which are incorporated by reference (See Item 12):

(a) the issuer's latest annual report to security holders; and

(b) if the company being acquired has a class of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934, has furnished its annual report for its latest fiscal year to security holders pursuant to and meeting the requirements of Rule 14a–3 (§ 240.14a–3) or Rule 14c–3 (§ 240.14c–3), and the issuer has elected pursuant to the option provided by Item 5(a) to incorporate by reference from such annual report and deliver it with the prospectus, such annual report.

Item 12. *Incorporation of Certain Information by Reference.*

(a) The information listed in (i), (ii), (iii) and, if applicable, (iv) below shall be specifically incorporated by reference into the prospectus by means of a statement to that effect in the prospectus listing all such information:

(i) The following information contained in the annual report(s) to security holders delivered with the prospectus:

(A) description of business furnished in accordance with the provisions of Rule 14a–3(b)(5);

(B) certified financial statements furnished in accordance with the provisions of Rule 14a–3(b);

(C) supplementary financial information furnished in accordance with the provisions of Rule 14a–3(b)(3);

(D) information concerning disagreements with accountants furnished in accordance with the provisions of Rule 14a–3(b)(4);

(E) information relating to industry segments, classes of similar products or services, foreign and domestic operations and export sales furnished in accordance with the provisions of Item 101 of Regulation S–K (§ 229.101 of this chapter);

(F) market price of and dividends on issuer's common equity and related stockholder matters furnished in accordance with Item 201 of Regulation S–K (§ 229.201 of this chapter);

(G) selected financial data furnished in accordance with Item 301 of Regulation S–K (§ 229.301 of this chapter); and

(H) management's discussion and analysis of financial condition and results of operations furnished in accordance with Item 303 of Regulation S–K (§ 229.303 of this chapter).

(ii) Any reports filed pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 by the issuer on or after the end of the issuer's latest fiscal year reported on in the annual report to security holders delivered with the prospectus pursuant to Item 16 and prior to the date the vote or consent solicited pursuant to the registration statement is final under applicable state law or, if no such vote or consent is solicited, the date the transaction described in the registration statement is fully consummated.

(iii) Any reports filed pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 by the company being acquired on or after the end of such company's latest fiscal year as reported on in the annual report to security holders delivered with the prospectus pursuant to Item 16 or as reported on in the prospectus pursuant to Item 5 and prior to the date the vote or consent solicited pursuant to the registration statement is final under applicable state law or, if no such vote or consent is solicited, the date the transaction in the registration statement is fully consummated.

(iv) If the issuer elects, pursuant to Item 8(a)(iii), or 9(a)(iii), to deliver a copy of the latest quarterly report which was delivered to its security holders, financial information therein equivalent to that required to be presented in Part I of Form 10–Q.

(b) The issuer may also state, if it so chooses, that specifically described portions of documents which are incorporated by reference are not a part of the registration statement. In such case, the description of portions which are incorporated by reference or which are excluded shall be made with clarity and in reasonable detail.

Item 13. *Interests of Named Experts and Counsel.*

Furnish the information required by Item 509 of Regulation S–K (§ 229.509 of this chapter).

Item 14. *Disclosure of Commission Position on Indemnification for Securities Act Liabilities.*

Furnish the information required by Item 510 of Regulation S–K (§ 229.510 of this chapter).

Part II: Information Not Required in Prospectus

Item 15. *Indemnification of Directors and Officers.*

Furnish the information required by Item 702 of Regulation S-K (§ 229.702 of this chapter).

Item 16. *Exhibits.*

Subject to the rules regarding incorporation by reference, furnish the exhibits as required by Item 601 of Regulation S-K (§ 229.601 of this chapter).

Item 17. *Undertakings.*

Furnish the undertakings required by Item 512 of Regulation S-K (§ 229.512 of this chapter).

Signatures

Pursuant to the requirements of the Securities Act of 1933, the issuer certifies that it has reasonable grounds to believe that it meets all the requirements for filing on Form S-15 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of ———, State of ———, on ———, 19 ——.

(Issuer) ———

By (Signature and Title)———

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

(Signature) ———

(Title) ———

(Date) ———

Instructions. 1. The registration statement shall be signed by the issuer, its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer, and by at least a majority of the board of directors or persons performing similar functions. If the issuer is a foreign person, the registration statement shall also be signed by its authorized representative in the United States. Where the issuer is a limited partnership, the registration statement shall be signed by a majority of the board of directors of any corporate partner signing the registration statement.

2. The name of each person who signs the registration statement shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the registration statement. Attention is directed to Rule 402 concerning manual signatures and Item 601 of Regulation S-K (§ 229.601 of this chapter) concerning signatures pursuant to powers of attorneys.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

25. By revising § 240.3b-2 to read as follows:

§ 230.3b-2 Definition of "officer."

The term "officer" means a president, vice president, secretary, treasury or principal financial officer, comptroller or principal accounting officer, and any person routinely performing corresponding functions with respect to any organization whether incorporated or unincorporated.

26. By revising paragraphs (b)(1)(i) and (2) and (c)(3) of § 240.3b-6 to read as follows:

§ 240.3b-6 Liability for certain statements by issuers.

* * * * *

(b) * * *

(1) * * *

(i) At the time such statements are made or reaffirmed, either the issuer is subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 and has complied with the requirements of Rule 13a-1 or 15d-1 thereunder, if applicable, to file its most recent annual report on Form 10-K; or add "," if the issuer is not subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, the statements are made in a registration statement filed under the Securities Act of 1933 or pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934, and

* * * * *

(2) Information relating to the effects of changing prices on the business enterprise presented voluntarily or pursuant to Item 303 of Regulation S-K (§ 229.303 of this chapter), management's discussion and analysis of financial condition and results of operations, or Item 302 of Regulation S-K (§ 229.302 of this chapter), supplementary financial information, and disclosed in a document filed with the Commission, in Part I of a quarterly report on Form 10-Q, or in an annual report to shareholders meeting the requirements of Rule 14a-3 (b) and (c) or Rule 14c-3 (a) and (b) under the Securities Exchange Act of 1934.

(c) * * *

(3) A statement of future economic performance contained in management's discussion and analysis of financial condition and results of operations pursuant to Item 303 of Regulation S-K add ";" or

* * * * *

27. By revising § 240.3b-7 to read as follows:

§ 240.3b-7 Definition of "executive officer."

The term "executive officer," when used with reference to a registrant, means its president, any vice president of the registrant in charge of a principal business unit, division of function (such as sales, administration or finance), any other officer who performs a policy making function or any other person who performs similar policy making functions for the registrant. Executive officers of subsidiaries may be deemed executive officers of the registrant if they perform such policy making functions for the registrant.

28. By revising paragraph (k) of § 240.10b-7 to read as follows:

§ 240.10b-7 Stabilizing to facilitate a distribution.

* * * * *

(k) *Disclosure of stabilizing.* Any person subject to this rule who sells to, or purchases for the account of, any person, any security or any right or warrant to subscribe to any such security, where the price of such security, right or warrant has been stabilized, shall give or send to such person, at or before the completion of each transaction entered into while the distribution is in progress, written notice that stabilizing purchases may be or have been effected. If, however, at or before the completion of the transaction, the purchaser receives a prospectus, offering circular, confirmation or other writing containing a statement similar to that comprising the legend provided for in Item 502(d) of Regulation S-K (§ 229.502(d) of this chapter), then no other written notice with respect to stabilizing need be given to such purchaser.

* * * * *

29. By removing § 240.12b-4 and by removing and reserving § 240.12b-24.

30. By amending Regulation 12B (17 CFR 240.12b-1 to 240.12b-36) by revising § 240.12b-1; by removing the paragraph designations in § 240.12b-2 and leaving the terms in alphabetical order; by revising the definition of the terms "certified," "control," "material," "promoter," "significant subsidiary," and "totally held subsidiary" in § 240.12b-2; by adding the definition of the terms "common equity," "managing underwriter" and "North American issuer" in § 240.12b-2 in alphabetical sequence; by revising §§ 240.12b-11, 240.12b-12 and 240.12b-23; and by adding § 240.12b-4 to read as follows:

Regulation 12B: Registration and Reporting—General

§ 240.12b-1 Scope of regulation.

The rules contained in this regulation shall govern all registration statements pursuant to Sections 12(b) and 12(g) of the Act and all reports filed pursuant to Sections 13 and 15(d) of the Act, including all amendments to such statements and reports, except that any provision in a form covering the same subject matter as any such rule shall be controlling.

§ 240.12b-2 Definitions.

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Certified. The term "certified," when used in regard to financial statements, means examined and reported upon with an opinion expressed by an independent public or certified public accountant.

* * * * *

Common equity. The term "common equity" means any class of common stock or an equivalent interest, including but not limited to a unit of beneficial interest in a trust or a limited partnership interest.

* * * * *

Control. The term "control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

* * * * *

Managing underwriter. The term "managing underwriter" includes an underwriter (or underwriters) who, by contract or otherwise, deals with the registrant; organizes the selling effort; receives some benefit directly or indirectly in which all other underwriters similarly situated do not share in proportion to their respective interests in the underwriting; or represents any other underwriters in such matters as maintaining the records of the distribution, arranging the allotments of securities offered or arranging for appropriate stabilization activities, if any.

* * * * *

Material. The term "material," when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters to which there is a substantial likelihood that a reasonable investor would attach importance in determining whether to buy or sell the securities registered.

North American issuer. The term "North American issuer" means any foreign private issuer incorporated or organized under the laws of Canada or Mexico or any political subdivision thereof.

* * * * *

Promoter. (1) The term "promoter" includes:

(i) Any person who, acting alone or in conjunction with one or more other persons, directly or indirectly takes initiative in founding and organizing the business or enterprise of an issuer; or

(ii) Any person who, in connection with the founding and organizing of the business or enterprise of an issuer, directly or indirectly receives in consideration of services or property, or both services and property, 10 percent or more of any class of securities of the issuer or 10 percent or more of the proceeds from the sale of any class of such securities. However, a person who receives such securities or proceeds either solely as underwriting commissions or solely in consideration of property shall not be deemed a promoter within the meaning of this paragraph if such person does not otherwise take part in founding and organizing the enterprise.

(2) All persons coming within the definition of "promoter" in paragraph (1) of this definition may be referred to as "founders" or "organizers" or by another term provided that such term is reasonably descriptive of those persons' activities with respect to the issuer.

* * * * *

Significant subsidiary. The term "significant subsidiary" means a subsidiary, including its subsidiaries, which meets any of the following conditions:

(1) The registrant's and its other subsidiaries' investments in and advances to the subsidiary exceed 10 percent of the total assets of the registrant and its subsidiaries consolidated as of the end of the most recently completed fiscal year (for purposes of determining whether the past or future acquisition of another company in a business combination accounted for as a pooling of interests is significant for purposes of applying § 210.3-05 or reporting on Form 8-K, this condition is also met when the number of common shares exchanged by the registrant exceeds 10 percent of its total common shares outstanding at the date the combination is initiated); or

(2) The registrant's and its other subsidiaries' proportionate share of the total assets (after intercompany eliminations) of the subsidiary exceeds 10 percent of the total assets of the registrants and its subsidiaries consolidated as of the end of the most recently completed fiscal year; or

(3) The registrant's and its other subsidiaries' equity in the income from continuing operations before income taxes, extraordinary items and cumulative effect of a change in accounting principle of the subsidiary exceeds 10 percent of such income of the registrant and its subsidiaries consolidated for the most recently completed fiscal year.

Computational note: For purposes of making the prescribed income test the following guidance should be applied:

1. When a loss has been incurred by either the parent and its subsidiaries consolidated or the tested subsidiary, but not both, the equity in the income or loss of the tested subsidiary should be excluded from the income of the registrant and its subsidiaries consolidated for purposes of the computation.

2. If income of the registrant and its subsidiaries consolidated for the most recent fiscal year is at least 10 percent lower than the average of the income for the last five fiscal years, such average income should be substituted for purposes of the computation. Any loss years should be omitted for purposes of computing average income.

* * * * *

Totally held subsidiary. The term "totally held subsidiary" means a subsidiary (1) substantially all of whose outstanding securities are owned by its parent and/or the parent's other totally held subsidiaries, and (2) which is not indebted to any person other than its parent and/or the parent's other totally held subsidiaries in an amount which is material in relation to the particular subsidiary, excepting indebtedness incurred in the ordinary course of business which is not overdue and which matures within one year from the date of its creation, whether evidenced by securities or not.

* * * * *

§ 240.12b-4 Supplemental information.

The Commission or its staff may, where it is deemed appropriate, request supplemental information concerning the registrant, a registration statement or a periodic or other report under the Act. This information shall not be required to be filed with or deemed part of the registration statement or report. The information shall be returned to the registrant upon request, provided that:

(a) Such request is made at the time such information is furnished to the staff;

(b) The return of such information is consistent with the protection of investors; and

(c) The return of such information is consistent with the provisions of the Freedom of Information Act (5 U.S.C. 552).

§ 240.12b-11 Number of copies; signatures; binding.

(a) Except as provided in a particular form, three complete copies of each statement or report, including exhibits and all other papers and documents filed as a part thereof, shall be filed with the Commission. At least one complete copy of each statement shall be filed with each exchange on which the securities covered thereby are to be registered. At least one complete copy of each report under section 13 of the Act shall be filed with each exchange on which the registrant has securities registered.

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(b) At least one copy of each statement or report filed with the Commission and one copy thereof filed with each exchange shall be manually signed in the manner prescribed by the appropriate form.

(c) Each copy of a statement or report filed with the Commission or with an exchange shall be bound in one or more parts. Copies filed with the Commission shall be bound without stiff covers. The statement or report shall be bound on the left side in such a manner as to leave the reading matter legible.

§ 240.12b–12 Requirements as to paper, printing and language.

(a) Statements and reports shall be filed on good quality, unglazed white paper approximately 8½ by 11 inches or approximately 8½ by 13 inches in size, insofar as practicable. However, tables, charts, maps and financial statements may be on larger paper if folded to that size.

(b) The statement or report and, insofar as practicable, all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed, or typewritten. However, the statement or report of any portion thereof may be prepared by any similar process which, in the opinion of the Commission, produces copies suitable for a permanent record. Irrespective of the process used, all copies of any such material shall be clear, easily readable and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.

(c) The body of all printed statements and reports and all notes to financial statements and other tabular data included therein shall be in roman type at least as large and as legible as 10-point modern type. However, to the extent necessary for convenient presentation, financial statements and other tabular data, including tabular data in notes, may be in roman type at least as large and as legible as 8-point modern type. All such type shall be leaded at least 2 points.

(d) Statements and reports shall be in the English language. If any exhibit or other paper or document filed with a statement or report is in a foreign language, it shall be accompanied by a summary, version or translation in the English language.

General Requirements as to Contents

§ 240.12b–23 Incorporation by reference.

(a) Except for information filed as an exhibit which is covered by Rule 12b–32 (17 CFR 240.12b–32), information may be incorporated by reference in answer, or partial answer, to any item of a registration statement or report subject to the following provisions:

(1) Financial statements incorporated by reference shall satisfy the requirements of the form or report in which they are incorporated. Financial statements or other financial data required to be given in comparative form for two or more fiscal years or periods shall not be incorporated by reference unless the material incorporated by reference includes the entire period for which the comparative data is given;

(2) Information in any part of the registration statement or report may be incorporated by reference in answer, or partial answer, to any other item of the registration statement or report; and

(3) Copies of any information or financial statement incorporated into a registration statement or report by reference, or copies of the pertinent pages of the document containing such information or statement, shall be filed as an exhibit to the statement or report, except that a proxy or information statement incorporated by reference in response to Part III of Form 10–K (17 CFR 249.310) need not be filed as an exhibit.

(b) Any incorporation by reference of matter pursuant to this section shall be subject to the provisions of Rule 24 of the Commission's Rules of Practice (§ 201.24 of this chapter) restricting incorporation by reference of documents which incorporate by reference other information. Material incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. Where only certain pages of a document are incorporated by reference and filed as an exhibit, the document from which the material is taken shall be clearly identified in the reference. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement or report where the information is required. Matter shall not be incorporated by reference in any case where such incorporation would render the statement or report incomplete, unclear or confusing.

§ 240.12b–24 [Reserved]

31. By revising Instruction C of § 240.13d–101 to read as follows:

§ 240.13d–101 Schedule 13D—Information to be included in statements filed pursuant to § 240.13d–1(a) and amendments thereto filed pursuant to § 240.13d–2(a).

* * * * *

C. If the statement is filed by a general or limited partnership, syndicate, or other group, the information called for by Items 2–6, inclusive, shall be given with respect to (i) each partner of such general partnership; (ii) each partner who is denominated as a general partner or who functions as a general partner of such limited partnership; (iii) each member of such syndicate or group; and (iv) each person controlling such partner or member. If the statement is filed by a corporation or if a person referred to in (i), (ii), (iii) or (iv) of this Instruction is a corporation, the information called for by the above mentioned items shall be given with respect to (a) each executive officer and director of such corporation; (b) each person controlling such corporation; and (c) each executive officer and director of any corporation or other person ultimately in control of such corporation.

* * * * *

32. By removing paragraph (a)(2); by redesignating paragraphs (a)(3)–(a)(5) as paragraphs (a)(2)–(a)(4); and by revising paragraphs (c)(2), (e)(3)(ii) and (f)(1) and by revising the introductory texts of redesignated paragraphs (a)(3), (a)(3)(i) and (a)(3)(iii) of § 240.13e–3 to read as follows:

§ 240.13e–3 Going private transactions by certain issuers or their affiliates.

(a) * * *

(3) A "Rule 13e–3 transaction" is any transaction or series of transactions involving one or more of the transactions described in paragraph (a)(3)(i) of this section which has either a reasonable likelihood or a purpose of producing, either directly or indirectly, any of the effects described in paragraph (a)(3)(ii) of this section;

(i) The transactions referred to in paragraph (a)(3) of this section are:

* * * * *

(ii) The effects referred to in paragraph (a)(3) of this section are:

* * * * *

(c) * * *

(2) An issuer or affiliate which is subject to paragraph (c)(1) of this section and which is soliciting proxies or distributing information statements in connection with a transaction described in paragraph (a)(3)(i)(A) of this section may elect to use the timing procedures for conducting a solicitation subject to Regulation 14A (§§ 240.14a–1 to 240.14a–103) or a distribution subject to Regulation 14C (§§ 240.14c–1 to 240.14c–101) in complying with paragraphs (d), (e) and (f) of this section, provided that if an election is made, such solicitation or distribution is conducted in accordance with the requirements of the respective regulations, including the filing of preliminary copies of soliciting materials or an information statement at the time specified in Regulation 14A or 14C, respectively.

* * * * *

(e) * * *

(3) * * *

(ii) set forth on the outside front cover page, in capital letters printed in bold face roman type at least as large as ten point modern type and at least two points leaded, the statement in paragraph (e)(3)(ii)(A) of this section, if the Rule 13e–3 transaction does not involve a prospectus, or the statement in paragraph (e)(3)(ii)(B) of this section, if the Rule 13e–3 transaction involves a prospectus, and in the latter case such statement shall be used in lieu of that required by Item 501(c)(5) of Regulation S–K (§ 229.501 of this chapter).

(f) * * *

(1) If the Rule 13e–3 transaction involves a purchase as described in paragraph (a)(3)(i)(A) of this section or a vote, consent, authorization, or distribution of information statements as described in paragraph (a)(3)(i)(C) of this section, the issuer or affiliate engaging in the Rule 13e–3 transaction shall:

* * * * *

33. By removing paragraph (a)(7); by redesignating paragraph (a)(6) as paragraph (a)(7); and by revising Instruction B(1) to paragraph (d) of § 240.13e–4 to read as follows:

§ 240.13e–4 Tender offers by issuers.

* * * * *

(d) * * *

Instruction:

* * * * *

B. * * *

(1) The following summary financial information for (i) the two most recent fiscal years and (ii) the latest year-to-date interim period and corresponding interim period of the preceding year:

Income Statement:
- Net sales and operating revenues and other revenues
- Income before extraordinary items
- Net income

Balance Sheet (at end of period):
- Working capital
- Total assets
- Total assets less deferred research and development charges and excess of cost of assets acquired over book value
- Total indebtedness
- Shareholders' equity

Per Share*
- Income per common share before extraordinary items
- Extraordinary items
- Net income per common share (and common share equivalents, if applicable)
- Net income per share on a fully diluted basis

* Average number of shares of common stock outstanding during each period was . . . . . (as adjusted to given effect to stock dividends or stock splits)

* * * * *

34. By redesignating paragraphs (b)(4)–(12) as paragraphs (b)(5)–(13); adding a new paragraph (b)(4) and a new paragraph (e); and revising paragraphs (b)(3), and redesignated paragraphs (b)(5)–(9) and (12); and by revising redesignated paragraphs (b)(10), Note, and (11), introductory text, of § 240.14a–3 to read as follows:

§ 240.14a–3 Information to be furnished to security holders.

* * * * *

(b) * * *

(3) The report shall contain the supplementary financial information required by item 302 of Regulation S–K (§ 229.302 of this chapter).

(4) The report shall contain information concerning disagreements with accountants on accounting and financial disclosure required by Item 304 of Regulation S–K (§ 229.304 of this chapter).

(5)(i) The report shall contain the selected financial data required by Item 301 of Regulation S–K (§ 229.301 of this chapter).

(ii) The report shall contain management's discussion and analysis of financial condition and results of operations required by Item 303 of Regulation S–K (§ 229.303 of this chapter).

* * * * *

(7) the report shall contain information relating to the issuer's industry segments, classes of similar products or services, foreign and domestic operations and export sales required by paragraphs (b), (c)(1)(i) and (d) of Item 101 of Regulation S–K (§ 229.101 of this chapter).

Notes.—Paragraph (b)(11) of this section permits the information required by this paragraph to be set forth in any form deemed suitable by management

(8) The report shall identify each of the issuer's directors and executive officers, and shall indicate the principal occupation or employment of each such person and the name and principal business of any organization by which such person is employed.

(9) The report shall contain the market price of and dividends on the issuer's common equity and related stock holder matters required by Item 201 of Regulation S–K (§ 229.201 of this chapter).

(10) * * *

Note.—Pursuant to the undertaking required by paragraph (b)(10) of this section, an issuer shall furnish a copy of its annual report on Form 10–K (§ 249.310 of this chapter) to a beneficial owner of its securities upon receipt of a written request from such person. Each request must set forth a good faith representation that, as of the record date for the annual meeting of the issuer's security holders, the person making the request was a beneficial owner of securities entitled to vote at such meeting.

(11) Subject to the foregoing requirements, the report may be in any form deemed suitable by management and the information required by paragraphs (b)(5) to (b)(10) of this section may be presented in an appendix or other separate section of the report, provided that the attention of security holders is called to such presentation.

* * * * *

(12) Paragraphs (b)(5) through (b)(11) of this section shall not apply to an investment company registered under the Investment Company Act of 1940. Subject to the requirements of paragraphs (b)(1) through (b)(4) of this section, the annual report to security holders of such investment company may be in any form deemed suitable by management.

* * * * *

(e) An annual report to security holders prepared on an integrated basis pursuant to General Instruction H to Form 10–K (§ 249.310) may also be submitted in satisfaction of this rule. When filed as the annual report on Form 10–K, responses to the Items of that form are subject to section 18 of the Act notwithstanding paragraph (c).

* * * * *

35. By revising paragraphs (i) and (j) to § 240.14a–6 to read as follows:

§ 240.14a–6 Material required to be filed.

* * * * *

(i) At the time of filing the preliminary proxy solicitation material, the persons upon whose behalf the solicitation is made, other than companies registered under the Investment Company Act of 1940, or where an application or declaration under the Public Utility Holding Company Act of 1935 is involved, shall pay to the Commission the following applicable fee: (1) For preliminary proxy material which solicits proxies for election of directors or other business for which a stockholder vote is necessary, but apparently no controversy is involved, a fee of $125; (2) for proxy material where a contest as set forth in Rule 14a–11 is involved, a fee of $500 from each party to the controversy; and (3) for proxy material involving acquisitions or mergers, a fee of $1,000. Where both

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companies involved in the acquisition or merger must file proxy material with the Commission, each shall pay $500 of the fee. There shall be no refunds.

(j) Notwithstanding the foregoing provisions of this section, any proxy statement, form of proxy or other soliciting material included in a registration statement filed under the Securities Act of 1933 on Form S–14 (§ 239.23 of this chapter) or Form S–15 (§ 239.29 of this chapter) shall be deemed filed both for the purposes of that Act and for the purposes of this section, but separate copies of such material need not be furnished pursuant to this section nor shall any fee be required under paragraph (i) of this section. However, any additional soliciting material used after the effective date of the registration statement on Form S–14 or Form S–15 shall be filed in accordance with this section but separate copies of such material need not be filed as an amendment of such registration statement.

36. By removing Item 14(b)(9); and revising Items 4(b)(2), 5(d), (e) and (g); 6(a); 7; 9(c) and (d) and Instructions 1 and 3(c) thereunder; 10(c) and (d) and Instruction 1 thereunder; 11(b) and (c) and Instruction 1 thereunder; 14(b)(8); 15(a) and 20 of Schedule 14A in § 240.14a–101 to read as follows:

§ 240.14a–101 Schedule 14A. Information required in proxy statement.

* * * * *

Item 4. *Interest of certain persons in matters to be acted upon.*

* * * * *

(b) * * *

(2) With respect to any person, other than a director or officer of the issuer acting solely in that capacity, who is a party to an arrangement or understanding pursuant to which a nominee for election as director is proposed to be elected, describe any substantial interest, direct or indirect, by security holdings or otherwise, that he has in any matter to be acted upon at the meeting, and furnish the information called for by Item 4(b) and (c) of Schedule 14B.

Item 5. *Voting securities and principal holders thereof.*

* * * * * *

(d) Furnish the information required by Item 403(a) of Regulation S–K (§ 229.403(a) of this chapter) to the extent known by the persons on whose behalf the solicitation is made.

(e) Furnish the information required by Item 403(b) of Regulation S–K (§ 229.403(b) of this chapter).

* * * * *

(g) Furnish the information required by Item 403(c) of Regulation S–K (§ 229.403(c) of this chapter).

Item 6. *Directors and executive officers.*

* * * * *

(a) The information required by Item 401 of Regulation S–K (§ 229.401 of this chapter).

* * * * *

Item 7. *Remuneration of directors and executive officers.* (See Note C at the beginning of Schedule 14A).

Furnish the information required by Item 402 (§ 229.402 of this chapter) and Instruction 4 to Item 103 of Regulation S–K (§ 229.103 of this chapter) if action is to be taken with regard to (i) the election of directors, (ii) any bonus, profit sharing or other remuneration plan, contract, or arrangement in which any director, nominee for election as a director, or officer of the issuer will participate, (iii) any pension or retirement plan in which any such person will participate or (iv) the granting or extension to any such person of any options, warrants or rights to purchase any securities, other than warrants or rights issued to security holders as such, on a pro rata basis. However, if the solicitation is made on behalf of persons other than the issuer, the information required need be furnished only as to nominees of the persons making the solicitation and associates of such nominees.

* * * * *

Item 9. *Bonus, profit sharing and other remuneration plans.*

* * * * *

(c) State the name and position with the issuer of each person specified in Item 402(a) of Regulation S–K (§ 229.402(a) of this chapter) who will participate in the plan and the amount which each such person would have received under the plan for the last fiscal year of the issuer if the plan had been in effect.

(d) Furnish such information, in addition to that required by this Item and Item 402 of Regulation S–K (§ 229.402 of this chapter), as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, stock option, stock purchase, deferred compensation, or other remuneration or incentive plans, now in effect or in effect within the past five years, for (i) each director or officer named in answer to Item 402(a) of Regulation S–K (§ 229.402(a) of this chapter) who may participate in the plan to be acted upon; (ii) all present directors and officers of the issuer as a group, if any director or officer may participate in the plan, and (iii) all employees, if employees may participate in the plan.

* * * * *

Instructions. 1. The term "plan" as used in this item means any plan as defined in Instruction 7 to Item 402(a) of Regulation S–K (§ 229.402(a) of this chapter).

* * * * *

3. * * *

(c) If action is to be taken with respect to any plan in which directors or officers may participate, the information called for Items 402(d) (1) and (2) of Regulation S–K (§ 229.402 of this chapter) shall be furnished for the last five fiscal years of the issuer and any period subsequent to the end of the latest such fiscal year, in aggregate amounts for the entire period for each such person and group. If any named person, or any other director or officer, purchased securities through the exercise of options during such period, state the aggregate amount of securities of that class sold during the period by such named person and by such named person and such other directors and officers as a group. The information called for by this Instruction 3(c) is in lieu of the information since the beginning of the issuer's last fiscal year called for by Items 402(d) (1) and (2) of Regulation S–K (§ 229.402 of this chapter). If employees may participate in the plan to be acted upon, state the aggregate amount of securities called for by all options granted to employees during the five-year period and, if the options were other than "restricted" or "qualified" stock options or options granted pursuant to an "employee stock purchase plan", as the quoted terms are defined in sections 422 through 424 of the Internal Revenue Code, state that fact and the weighted average option price per share. The information called for by this instruction may be furnished in the form of the table illustrated in Item 402 of Regulation S–K (§ 229.402 of this chapter).

* * * * *

Item 10. *Pension and retirement plans.*

* * * * *

(c) State (1) the name and position with the issuer of each person specified in Item 402(a) of Regulation S–K (§ 229.402(a) of this chapter) who will be entitled to participate in the plan, (2) the amount which would have been paid or set aside by the issuer and its subsidiaries for the benefit of such person for the last fiscal year of the issuer if the plan had been in effect, and (3) the amount of the annual benefit estimated to be payable to such person in the event of retirement at normal retirement date.

(d) Furnish such information, in addition to that required by this item and Item 402 of Regulation S–K (§ 229.402 of this chapter), as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, stock option, stock purchase, deferred compensation or other remuneration or incentive plans, now in effect or in effect within the past five years, for (i) each director or officer named in answer to Item 402(a) of Regulation S–K (§ 229. 402(a) of this chapter) who may participate in the plan to be acted upon; (ii) all present directors and officers of the issuer as a group, if any director or officer may participate in the plan; and (iii) all employees, if employees may participate in the plan.

* * * * *

Instructions. 1. The term "plan" as used in this item means any plan as defined in Instruction 7 to Item 402(a) of Regulation S–K (§ 229.402(a) of this chapter). Instruction 2 to Item 9 shall apply to this item.

* * * * *

Item 11. *Options, warrants or rights.*

* * * * *

(b) State separately the amount of options, warrants, or rights received or to be received by the following persons, naming each such person: (i) each director or officer named in answer to Item 402(a) of Regulation S–K (§ 229.402(a) of this chapter); (ii) each nominee for election as a director of the issuer; (iii) each associate of such directors, officers or nominees; and (iv) each other person who received or is to receive 5 percent of such options, warrants or rights. State also the total amount of such options, warrants or rights received or to be received by all directors and officers of the issuer as a group, without naming them.

(c) Furnish such information, in addition to that required by this item and Item 402 of Regulation S–K (§ 229.402 of this chapter), as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, stock option, stock purchase, deferred compensation, or other remuneration or incentive plans, now in effect or in effect within the past five years, for (i) each director or officer named in answer to Item 402(a) of Regulation S–K (§ 229.

may be in any form deemed suitable by management.

* * * * *

§ 240.14d–1 [Amended]

40. By removing paragraph (a)(6) and by redesignating paragraphs (a)(7) and (a)(8) as paragraphs (a)(6) and (a)(7) of § 240.14d–1.

41. By revising paragraph (e)(1)(viii) of § 240.14d–6 to read as follows:

§ 240.14d–6 Disclosure requirements with respect to tender offers.

* * * * *

(e) * * *

(1) * * *

(viii) The disclosure required by Item 9 of Schedule 14D–1 or a fair and adequate summary thereof. (Under normal circumstances, the following summary financial information for the period covered by the financial information furnished in response to Item 9 will be a sufficient summary. If the information required by Item 9 is summarized, appropriate instructions shall be included stating how complete financial information can be obtained).

Income Statement:
- Net sales and operating revenues and other revenues
- Income before extraordinary Items
- Net income

Balance sheet (at end of period):
- Work capital
- Total assets
- Total assets less deferred research and development charges and excess cost of assets acquired over book value
- Total indebtedness
- Shareholders' equity

Per Share [1]
- Income per common share before extraordinary items
- Extraordinary items

Net income per common share (and common share equivalents, if applicable)
Net income per share on a fully diluted basis

* * * * *

* * * * *

42. By revising Item 11(e) of Schedule 14D–1 in § 240.14d–100 to read as follows:

240.14d–100 Schedule 14D–1. Tender offer statement pursuant to section 14(d)(1) of the Securities Exchange Act of 1934.

* * * * *

Item 11. Material to be filed as exhibits.

* * * * *

(e) In a exchange offer where securities of the bidder have been or are to be registered under the Securities Act of 1933, the prospectus containing the information to be included therein by Rule 432 (§ 230.432 of this chapter) of that Act;

* * * * *

43. By redesignating paragraphs (b)–(h) as paragraphs (c)–(i) of § 240.15c2–8 and adding a new paragraph (b) to that section to read as follows:

§ 240.15c2–8 Delivery of prospectus.

* * * * *

(b) In connection with an issue of securities, the issuer of which has not previously been required to file reports pursuant to sections 13(a) or 15(d) of the Securities Exchange Act of 1934, unless such issuer has been exempted from the requirement to file reports thereunder pursuant to section 12(h) of the Act, such broker or dealer shall deliver a copy of the preliminary prospectus to any person who is expected to receive a confirmation of sale at least 48 hours prior to the mailing of such confirmation.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

44. By removing §§ 249.212, 249.214, 249.216, 249.314, 249.316 and 249.404.

45. By removing Items 1, 2, and 3: adding a new Item 1; and renumbering Item 4 as Item 2 of Form 8–A in § 249.208a to read as follows: (Form 8–A does not appear in the Code of Federal Regulations).

§ 240.208a Form 8–A, for registration of certain classes of securities pursuant to section 12(b) or (g) of the Securities Exchange Act of 1934.

* * * * *

Information Required in Registration Statement

Item. 1. *Description of Registrant's Securities to be Registered.*

Furnish the information required by Item 202 of Regulation S–K (§ 229.202 of this chapter).

Instruction. If a description of the securities comparable to that required here is contained in any other filing with the Commission, such description may be incorporated by reference to such other filing in answer to this item. If the securities are to be registered on a national securities exchange and the description has not previously been filed with such exchange, copies of the description shall be filed with copies of the application filed with the exchange.

Item 2. *Exhibits.*

* * * * *

46. By removing Items 4, 5, and 6; adding a new Item 4; renumbering Item 7 as Item 5; and revising the Instructions as to Exhibits of Form 8–B in § 249.208b to read as follows (Form 8–B does not appear in the Code of Federal Regulations):

§ 249.208b Form 8–B, for registration of securities of certain successor issuers pursuant to section 12(b) or (g) of the Securities Exchange Act of 1934.

* * * * *

Item 4. *Description of Registrant's Securities to be Registered.*

Furnish the information required by Item 202 of Regulation S–K (§ 229.202 of this chapter).

Instruction. If a description of the securities comparable to that required here is contained in any other filing with the Commission, such description may be incorporated by reference to such other filing in answer to this item. If the securities are to be registered on a national securities exchange and the description has not previously been filed with such exchange, copies of the description shall be filed with copies of the application filed with the exchange.

Item 5. *Financial Statements and Exhibits.*

* * * * *

Instructions as to Exhibits

Subject to Rule 12b–32 (17 CFR 240.12b–32) regarding the incorporation of exhibits by reference, the following exhibits shall be filed as a part of the application or statement. Such exhibits shall be appropriately lettered or numbered for convenient reference. Exhibits incorporated by reference may be referred to by the designation given in the previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits called for under Item 5.

* * * * *

47. By amending Form 10 in § 249.210 to read as follows: (Form 10 does not appear in the Code of Federal Regulations):

§ 249.210 Form 10, general form for registration of securities pursuant to section 12(b) or (g) of the Securities Exchange Act of 1934.

* * * * *

Item 1. *Business.*

Furnish the information required by Item 101 of Regulation S–K (§ 229.101 of this chapter).

Item 2. *Financial Information.*

Furnish the information required by Items 301 and 303 of Regulation S–K (§§ 229.301 and 229.303 of this chapter).

Item 3. *Properties.*

Furnish the information required by Item 102 of Regulation S–K (§ 229.102 of this chapter).

Item 4. *Security Ownership of Certain Beneficial Owners and Management.*

Furnish the information required by Item 403 of Regulation S–K (§ 229.403 of this chapter).

Item 5. *Directors and Executive Officers.*

Furnish the information required by Item 401 of Regulation S–K (§ 229.401 of this chapter).

Item 6. *Management Remuneration and Transactions.*

Furnish the information required by Item 402 of Regulation S–K (§ 229.402 of this chapter).

Item 7. *Legal Proceedings.*

Furnish the information required by Item 103 of Regulation S–K (§ 229.103 of this chapter).

* * * * *

Item 8. *Market Price of and Dividends on the Registrant's Common Equity and Related Stockholder Matters.*

Furnish the information required by Item 201 of Regulation S–K (§ 229.201 of this chapter).

Item 9. *Recent Sales of Unregistered Securities.*

Furnish the information required by Item 701 of Regulation S–K (§ 229.701 of this chapter).

Item 10. *Description of Registrant's Securities to be Registered.*

Furnish the information required by Item 202 of Regulation S–K (§ 229.202 of this chapter).

Item 11. *Indemnification of Directors and Officers.*

Furnish the information required by Item 702 of Regulation S–K (§ 229.702 of this chapter).

Item 12. *Financial Statements and Supplementary Data.*

Furnish all financial statements required by Regulation S–X and the supplementary financial information required by Item 302 of Regulation S–K (§ 229.302 of this chapter).

Item 13. *Disagreements With Accountants on Accounting and Finoncial Disclosure.*

Furnish the information required by Item 304 of Regulation S–K (§ 229.304 of this chapter).

Item 14. *Financial Statements and Exhibits.*

(a) List separately all financial statements filed as part of the registration statement.

(b) Furnish the exhibits required by Item 601 of Regulation S–K (§ 229.601 of this chapter).

Signatures

Pursuant to the requirements of Section 12 of the Securities Exchange Act of 1934, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized.

(Registrant)
Date
By
(Signature) [*]

48. By adding a new Instruction F and a new Instruction 4 to Item 7(a); renumbering current Instruction 4 to Item 7(a) as Instruction 5; and revising General Instructions A, B, C and D, Items 1(b), 4(d), 5 and 7(b) and renumbered Instruction 5 to Item 7(a) of Form 8–K in § 249.308 to read as follows (Form 8–K does not appear in the Code of Federal Regulations):

§ 249.308 Form 8–K, for current reports.

* * * * *

General Instructions

A. Rule as to Use of Form 8–K

Form 8–K shall be used for current reports under Section 13 or 15(d) of the Securities Exchange Act of 1934, filed pursuant to Rule 13a–11 (17 CFR 240.13a–11) or Rule 15d–11 (17 CFR 240.15d–11).

B. Events to be Reported and Time for Filing of Reports

1. A report of this form is required to be filed upon the occurrence of any one or more of the events specified in Items 1–4 and 6 of this form. Reports of events specified in those items are to be filed within 15 days after the occurrence of the earliest such event reported.

2. Since a report on this form pursuant to Item 5 is optional, there is correspondingly no mandatory time for filing. Registrants are encouraged, however, to file promptly after the occurrence of any event therein reported.

3. If substantially the same information as that required by this form has been previously reported by the registrant, an additional report of the information on this form need not be made. The term "previously reported" is defined in Rule 12b–2 (17 CFR 240.12b–2).

4. When considering current reporting on this form, particularly of other events of importance pursuant to Item 5, registrants should have due regard for the accuracy, completeness and currency of the information in registration statements filed under the Securities Act of 1933 which incorporate by reference information in reports filed pursuant to the Securities Exchange Act of 1934, including reports on this form.

C. Application of General Rules and Regulations

1. The General Rules and Regulations under the Act (17 CFR Part 240) contain certain general requirements which are applicable to reports on any form. These general requirements should be carefully read and observed in the preparation and filing of reports on this form.

2. Particular attention is directed to Regulation 12B (17 CFR 240.12b–1 et seq.) which contains general requirements regarding matters such as the kind and size of paper to be used, the legibility of the report, the information to be given whenever the title of securities is required to be stated, and the filing of the report. The definitions contained in Rule 12b–2 should be especially noted. See also Regulations 13A (17 CFR 240.13a–1 et seq.) and 15D (17 CFR 240.15d–1 et seq.).

D. Preparation of Report

This form is not to be used as a blank form to be filled in, but only as a guide in the preparation of the report on paper meeting the requirements of Rule 12b–12 (17 CFR 240.12b–12). The report shall contain the numbers and captions of all applicable items, but the text of such items may be omitted, provided the answers thereto are prepared in the manner specified in Rule 12b–13 (17 CFR 240.12b–13). All items that are not required to be answered in a particular report may be omitted and no reference thereto need be made in the report. All instructions should also be omitted.

* * * * *

F. Incorporation by Reference

If the registrant makes available to its stockholders or otherwise publishes, within the period prescribed for filing the report, a press release or other document or statement containing information meeting some or all of the requirements of this form, the information called for may be incorporated by reference to such published document or statement, in answer or partial answer to any item or items of this form, provided copies thereof are filed as an exhibit to the report on this form.

Information To Be Included in the Report

Item 1. Changes in Control of Registrant.

* * * * *

(b). Furnish the information required by Item 403(c) of Regulation S–K (§ 229.403(c) of this chapter).

* * * * *

Item 4. Changes in Registrant's Certifying Accountants.

* * * * *

(d) The registrant shall request the former accountant to furnish the registrant with a letter addressed to the Commission stating whether he agrees with the statements made by the registrant in response to this item and, if not, stating the respects in which he does not agree. The registrant shall file copies of the former accountant's letter as an exhibit to the report on this form. If the former accountant's letter is unavailable at the time of filing, it shall be filed within thirty days thereafter.

* * * * *

Item 5. Other Events.

The registrant may, at its option, report under this item any events, with respect to which information is not otherwise called for by this form, that the registrant deems of importance to security holders.

* * * * *

Item 7. Financial Statements and Exhibits.

List below the financial statements and exhibits, if any, filed as part of this report.

(a) * * *

Instructions.

* * * * *

4. Extension of Time for Filing.

If the required financial statements for an acquired business are not available at the time the report on Form 8–K is filed, the registrant should so indicate in the Form 8–K report, and should file such of the required financial statements as are available. In such circumstances, the registrant may also, at its option, include unaudited financial statements in the report on Form 8–K. In all cases, the required financial statements for an acquired business should be filed under cover of Form 8 as soon as available but not later than 60 days after the report on Form 8–K is filed. The Commission may, upon the written request of the registrant and where consistent with the protection of investors, extend the time for filing the financial statements herein required beyond that provided above. A written request for such relief should be submitted separately from the subject report or cover letter to the report and, where necessary for a determination of the request, shall set forth the same information as called for in Instruction 5 below.

[1] Average number of share of common stock outstanding during each period was . . . (as adjusted to given effect to stock dividends or stock splits).

[*] Print name and title of the signing officer under his signature.

5. Filing of Other Financial Information in Certain Cases.

The Commission may, upon the written request of the registrant and where consistent with the protection of investors, permit the omission of one or more such financial statements or the filing in substitution therefor of appropriate statements or information of comparable character, if the required audited financial statements are not reasonably available to the registrant, because the obtaining thereof would involve unreasonable effort, expense or practical difficulties. A written request for such relief should be submitted separately from the subject report or the cover letter to the report.

The request shall set forth the following information:

(a) The reason(s) for the unavailability of the audited financial statements;

(b) The estimated costs of the audit;

(c) An explanation of any other practical auditing problems;

(d) A letter from the registrant's independent auditors confirming the above representation; and

(e) A tabular presentation of the following items of information, comparing the acquired business(es) with the registrant on a consolidated basis (excluding the acquired business(es)):

(1) gross sales and operating revenues;
(2) net income;
(3) total assets;
(4) total stockholder equity; and
(5) total purchase price compared to total assets of registrant.

The Commission may also by informal written notice require the filing of other financial statements in addition to, or in substitution for, the statements and information herein required in any case where such statements are necessary or appropriate for an adequate presentation of the financial condition of any person whose financial statements are required, or whose statements are otherwise necessary for the protection of investors.

(b) Exhibits. The exhibits shall be furnished in accordance with the provisions of Item 601 of Regulation S–K (§ 229.601 of this chapter).

* * * * *

40. By adding a new General Instruction E; redesignating General Instructions E, F and G as F, G and H; and revising redesignated General Instructions F and H, Item 2 in Part I, and Items 1 and 6(a) in Part II of Form 10–Q in § 249.308a as follows (Form 10–Q does not appear in the Code of Federal Regulations):

§ 249.308a Form 10–Q, for quarterly reports under section 13 or 15(d) of the Securities Exchange Act of 1934.

* * * * *

General Instructions

* * * * *

E. Integrated Reports to Security Holders

Quarterly reports to security holders may be combined with the required information of Form 10–Q and will be suitable for filing with the Commission if the following conditions are satisfied:

1. The combined report contains full and complete answers to all items required by Part I of this form. When responses to a certain item of required disclosure are separated within the combined report, an appropriate cross-reference should be made.

2. If not included in the combined report, the cover page, appropriate responses to Part II, and the required signatures shall be included in the Form 10–Q. Additionally, as appropriate, a cross-reference sheet should be filed indicating the location of information required by the items of the form.

F. Filed Status of Information Presented

1. Pursuant to Rule 13a–13(d) and Rule 15d–13(d), the information presented in satisfaction of the requirements of Items 1 and 2 of Part I of this form, whether included directly in a report on this form, incorporated therein by reference from a report, document or statement filed as an exhibit to Part I of this form pursuant to Instruction D(1) above, included in an integrated report pursuant to Instruction E above, or contained in a statement regarding computation of per share earnings or a letter regarding a change in accounting principles filed as an exhibit to Part I pursuant to Item 601 of Regulation S–K (§ 229.601 of this chapter), except as provided by Instruction F(2) below, shall not be deemed filed for the purpose of Section 18 of the Act or otherwise subject to the liabilities of that section of the Act but shall be subject to the other provisions of the Act.

* * * * *

H. Omission of Information by Certain Wholly-Owned Subsidiaries

* * * * *

1. * * *

c. There is prominently set forth, on the cover page of the Form 10–Q, a statement that the registrant meets the conditions set forth in General Instruction H(1) (a) and (b) of Form 10–Q and is therefore filing this Form with the reduced disclosure format.

* * * * *

Part I—Financial Information

* * * * *

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

Furnish the information required by Item 303 of Regulation S–K (§ 229.303 of this chapter).

Part II—Other Information

* * * * *

Item 1. Legal Proceedings.

Furnish the information required by Item 103 of Regulation S–K (§ 229.103) of this chapter). As to such proceedings which have been terminated during the period covered by the report, provide similar information, including the date of termination and a description of the disposition thereof with respect to the registrant and its subsidiaries.

Instruction * * *

* * * * *

Item 6. Exhibits and Reports on Form 8–K (§ 249.308 of this chapter).

(a) Furnish the exhibits required by Item 601 of Regulation S–K (§ 229.601 of this chapter).

* * * * *

50. By adding a new General Instruction H, Item 4 and Item 9; redesignating General Instructions H and I as I and J; renumbering Items 4, 9, 10 and 11 as Items 12, 10, 11 and 13; and revising General Instructions C, D and G, redesignated Instructions I and J, Items 1, 2, 3, 5, 6, 7 and 8 and renumbered Items 10, 11, 12 and 13 of Form 10–K in § 249.310 as follows (Form 10–K does not appear in the Code of Federal Regulations):

§ 249.310 Form 10–K, annual report pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934.

* * * * *

General Instructions

* * * * *

C. Preparation of Report

(1) This Form is not to be used as a blank form to be filled in, but only as a guide in the preparation of the report on paper meeting the requirements of Rule 12b–12. Except as provided in General Instruction G, the answers to the items shall be prepared in the manner specified in Rule 12b–13.

(2) * * *

* * * * *

D. Signature and Filing of Report

(1) Three complete copies of the report, including financial statements, financial statement schedules, exhibits, and all other papers and documents filed as a part thereof, and five additional copies which need not include exhibits, shall be filed with the Commission. At least one complete copy of the report, including financial statements, financial statement schedules, exhibits, and all other papers and documents filed as a part thereof, shall be filed with each exchange on which any class of securities of the registrant is registered. At least one complete copy of the report filed with the Commission and one such copy filed with each exchange shall be manually signed. Copies not manually signed shall bear typed or printed signatures.

(2)(a) The report shall be signed by the registrant, and on behalf of the registrant by its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer, and by at least the majority of the board of directors or persons performing similar functions. Where the registrant is a limited partnership, the report shall be signed by the majority of the board of directors of any corporate general partner who signs the report. (b) The name of each person who signs the report shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the report. Attention is directed to Rule 12b–11 (17 CFR 240.12b–11) concerning manual signatures and signatures pursuant to powers of attorney.

* * * * *

G. Information to be Incorporated by Reference

* * * * *

(2) The information called for by Parts I and II of this Form (Items 1 through 9 or any portion thereof) may, at the registrant's option, be incorporated by reference from the registrant's annual report to security holders furnished to the Commission pursuant to Rule 14a–3(b) or Rule 14c–3(b) or Rule 14c–(a) or from the registrant's annual report to security holders, even if not furnished to the Commission pursuant to Rule 14a–3(b) or Rule 14c–3(a), provided such annual report contains the information required by Rule 14a–3.

Note.—In order to fulfill the requirements of Part I of Form 10–K, the incorporated portion of the annual report to security holders must contain the information required by Items 1–3 of Form 10–K, to the extent applicable.

(3) The information required for by Part III (Items 10, 11 and 12) shall be incorporated by reference from the registrant's definitive proxy statement (filed or to be filed pursuant to Regulation 14A) or definitive information statement (filed or to be filed pursuant to Regulation 14C) which involves the election of directors, if such definitive proxy statement or information statement is filed with the Commission not later than 120 days after the end of the fiscal year covered by the Form 10–K. However, if such definitive proxy or information statement is not filed with the Commission in the 120-day period, the Items comprising the Part III information must be filed as part of the Form 10–K, or as an amendment to the Form 10–K under cover of Form 8, not later than the end of the 120-day period. It should be noted that the information regarding executive officers required by Item 401 of Regulation S–K (§ 229.401 of this chapter) may be included in Part I of Form 10–K under an appropriate caption. See Instruction 4 to Item 401(b) of Regulation S–K (§ 229.401(b) of this chapter).

(4) No item numbers of captions of items need be contained in the material incorporated by reference into the report. However, the registrant's attention is directed to Rule 12b–23(e) (17 CFR 240.12b(e)) regarding the specific disclosure required in the report concerning information incorporated by reference. When the registrant combines all of the information in Parts I and II of this Form (Items 1 through 9) by incorporation by reference from the registrant's annual report to security holders and all of the information in Part III of this Form (Items 10, 11 and 12) by incorporation by reference from a definitive proxy statement or information statement involving the election of directors, then, notwithstanding General Instruction C(1), this Form shall consist of the facing or cover page, those sections incorporated from the annual report to security holders, the proxy or information statement, and the information, if any, required by Part IV of this Form, signatures, and a cross reference sheet setting forth the item numbers and captions in Parts I, II and III of this Form and the page and/or pages in the referenced materials where the corresponding information appears.

H. Integrated Reports to Security Holders

Annual reports to security holders may be combined with the required information of Form 10–K and will be suitable for filing with the Commission if the following conditions are satisfied:

(1) The combined report contains full and complete answers to all items required by Form 10–K. When responses to a certain item of required disclosure are separated within the combined report, an appropriate cross-reference should be made. If the information required by Part III of Form 10–K is omitted by virtue of General Instruction G, a definitive proxy or information statement shall be filed.

(2) The cover page and the required signatures are included. As appropriate, a cross-reference sheet should be filed indicating the location of information required by the items of the Form.

I. Registrants Filing on Form S–18

If the registrant is subject to the reporting requirements of Section 15(d) of the Exchange Act and such obligation arises solely because the registrant has filed a registration statement on Form S–18 (17 CFR 239.28) which has become effective during the last fiscal year, the registrant may comply with the disclosure requirements of Form S–18 Item 6, Description of Business: Item 10, Remuneration of Directors and Officers; and Item 13, Interest of Management and Others in Certain Transactions, in lieu of complying with the disclosure requirements of Item 1, Business, and Item 11, Management Remuneration and Transactions, herein. Item 6 of this Form, Selected Financial Data, may be omitted at the election of such registrant.

* * * * *

J. Omission of Information by Certain Wholly-Owned Subsidiaries

* * * * *

(2) * * *

(b) Such registrants may omit the list of subsidiaries exhibit required by Item 601 of Regulation S–K (§ 229.601 of this chapter).

(c) Such registrants may omit the information called for by the following otherwise required Items: Item 4, Submission of Matters to a Vote of Security Holders; Item 10, Directors and Executive Officers of the Registrant; Item 11, Management Remuneration and Transactions; and Item 12, Security Ownership of Certain Beneficial Owners and Management.

* * * * *

Securities and Exchange Commission, Washington, D.C. 20549

Form 10–K

Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

* * * * *

State the aggregate market value of the voting stock held by non-affiliates of the registrant. The aggregate market value shall be computed by reference to the price at which the stock was sold, or the average bid and asked prices of such stock, as of a specified date within 60 days prior to the date of filing. (See definition of affiliate in Rule 405, 17 CFR 230.405).

Note.—If a determination as to whether a particular person or entity is an affiliate cannot be made without involving unreasonable effort and expense, the aggregate market value of the common stock held by non-affiliates may be calculated on the basis of assumptions reasonable under the circumstances, provided that the assumptions are set forth in this Form.

* * * * *

Part I

* * * * *

Item 1. Business.

Furnish the information required by Item 101 of Regulation S–K (§ 229.101 of this chapter) except that the discussion of the development of the registrant's business need only include developments since the beginning of the fiscal year for which this report is filed.

Item 2. Properties.

Furnish the information required by Item 102 Regulation S–K (§ 229.102 of this chapter).

Item 3. Legal Proceedings.

(a) Furnish the information required by Item 103 of Regulation S–K (§ 229.103 of this chapter).

(b) As to any proceeding that was terminated during the fourth quarter of the fiscal year covered by this report, furnish information similar to that required by Item 103 of Regulation S–K (§ 229.103 of this chapter), including the date of termination and a description of the disposition thereof with respect to the registrant and its subsidiaries.

Item 4. Submission of Matters to a Vote of Security Holders.

If any matter was submitted during the fourth quarter of the fiscal year covered by this report to a vote of security holders, through the solicitation of proxies or otherwise, furnish the following information:

(a) The date of the meeting and whether it was an annual or special meeting.

(b) If the meeting involved the election of directors, the name of each director elected at the meeting and the name of each other director whose term of office as a director continued after the meeting.

(c) A brief description of each other matter voted upon at the meeting and the number of affirmative votes and the number of negative votes cast with respect to each such matter.

(d) A description of the terms of any settlement between the registrant and any other participant (as defined in Rule 14a–11 (17 CFR 240.14a–11) of Regulation 14A under the Act) terminating any solicitation subject to Rule 14a–11, including the cost or anticipated cost to the registrant.

Instructions:

1. If any matter has been submitted to a vote of security holders otherwise than at a meeting of such security holders, corresponding information with respect to such submission shall be furnished. The solicitation of any authorization or consent (other than a proxy to vote at a stockholders'

meeting) with respect to any matter shall be deemed a submission of such matter to a vote of security holders within the meaning of this item.

2. Paragraph (a) need be answered only if paragraph (b) or (c) is required to be answered.

3. Paragraph (b) need not be answered if (i) proxies for the meeting were solicited pursuant to Regulation 14A under the Act, (ii) there was no solicitation in opposition to the management's nominees as listed in the proxy statement, and (iii) all of such nominees were elected. If the registrant did not solicit proxies and the board of directors as previously reported to the Commission was re-elected in its entirety, a statement to that effect in answer to paragraph (b) will suffice as an answer thereto.

4. Paragraph (c) need not be answered as to procedural matters or as to the selection or approval of auditors.

5. If the registrant has furnished to its security holders proxy soliciting material containing the information called for by paragraph (d), the paragraph may be answered by reference to the information contained in such material.

6. If the registrant has published a report containing all of the information called for by this item, the item may be answered by a reference to the information contained in such report.

Part II

* * * * *

Item 5. Market for Registrant's Common Equity and Related Stockholder Matters.

Furnish the information required by Item 201 of Regulation S–K (§ 229.201 of this chapter).

Item 6. Selected Financial Data.

Furnish the information required by Item 301 of Regulation S–K (§ 229.301 of this chapter).

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operation.

Furnish the information required by Item 303 of Regulation S–K (§ 229.303 of this chapter).

Item 8. Financial Statements and Supplementary Data.

Furnish financial statements meeting the requirements of Regulation S–X (§ 210 of this chapter) and the supplementary financial information required by Item 302 of Regulation S–K (§ 229.302 of this chapter). Financial statements of the registrant and its subsidiaries consolidated [as required by Rule 14a–3(b)] shall be filed under this item. Other financial statements and schedules required under Regulation S–X may be filed as "Financial Statement Schedules" pursuant to Item 13, Exhibits, Financial Statement Schedules, and Reports on Form 8–K, of this Form.

* * * * *

Item 9. Disagreements on Accounting and Financial Disclosure.

Furnish the information required by Item 304 of Regulation S–K (§ 229.304 of this chapter).

Part III

* * * * *

Item 10. Directors and Executive Officers of the Registrant.

Furnish the information required by Item 401 of Regulation S–K (§ 229.401 of this chapter).

Item 11. Management Remuneration and Transactions.

Furnish the information required by Item 402 Regulation S–K (§ 229.402 of this chapter).

Item 12. Security Ownership of Certain Beneficial Owners and Management.

Furnish the information required by Item 403 of Regulation S–K (§ 229.403 of this chapter).

Part IV

Item 13. Exhibits, Financial Statement Schedules, and Reports on Form 8–K.

(a) * * *

(3) Those exhibits required by Item 601 of Regulation S–K (§ 229.601 of this chapter) and by paragraph (c) below. Where any financial statement, financial statement schedule, or exhibit is incorporated by reference, the incorporation by reference shall be set forth in the list required by this item. For purposes of all rules concerning incorporation by reference a financial statement schedule shall constitute an "exhibit." See Rule 12b–23 (§ 240.12b–23 of this chapter).

* * * * *

(c) Registrants shall file, as exhibits to this Form, the exhibits required by Item 601 of Regulation S–K (§ 229.601 of this chapter).

* * * * *

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

51. By revising paragraphs (b)(1)(i) and (2) and (c)(3) of § 250.103A to read as follows:

§ 250.103A Liability for certain statements by issuers.

* * * * *

(b) * * *

(1) * * *

(i) At the time such statements are made or reaffirmed, either the issuer is subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 and has complied with the requirements of Rule 13a–1 or 15d–1 thereunder, if applicable, to file its most recent annual report on Form 10–K; or, if the issuer is not subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, the statements are made in a registration statement filed under the Securities Act of 1933 or pursuant to section 12(b) or (g) of the Securities Exchange Act of 1934, and

* * * * *

(2) Information relating to the effects of changing prices on the business enterprise presented voluntarily or pursuant to Item 303 of Regulation S–K (§ 229.303 of this chapter), management's discussion and analysis of financial condition and results of operations, or Item 302 of Regulation S–K (§ 229.302 of this chapter), supplementary financial information, and disclosed in a document filed with the Commission, in Part I of a quarterly report on Form 10–Q, or in an annual report to shareholders meeting the requirements of Rules 14a–3 (b) and (c) or 14c–3 (a) and (b) under the Securities Exchange Act of 1934.

(c) * * *

(3) A statement of future economic performance contained in management's discussion and analysis of financial condition and results of operations, or Item 302 of Regulation S–K (§ 229.302 of this chapter), supplementary financial information, and disclosed in a document filed with the Commission, in Part I of a quarterly report on Form 10–Q, or in an annual report to shareholders meeting the requirements of Rules 14a–3 (b) and (c) or 14c–3 (a) and (b) under the Securities Exchange Act of 1934.

(c) * * *

(3) A statement of future economic performance contained in management's discussion and analysis of financial condition and results of operations included pursuant to Item 303 of Regulation S–K (§ 229.303 of this chapter); or

* * * * *

PART 260—GENERAL RULES AND REGULATIONS, TRUST INDENTURE ACT OF 1939

52. By revising paragraphs (b) (1)(i), (2) and (c)(3) of § 260.0–11 to read as follows:

§ 260.0–11 Projections of future economic performance by issuers.

* * * * *

(b) * * *

(1) * * *

(i) At the time such statements are made or reaffirmed, either the issuer is subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 and has complied with the requirements of Rule 13a–1 or 15d–1 thereunder, if applicable, to file its most recent annual report on Form 10–K; or, if the issuer is not subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, the statements are made in a registration statement filed under the Securities Act of 1933 or pursuant to section 13(b) or (g) of the Securities Exchange Act of 1934, and

* * * * *

(2) Information relating to the effects of changing prices on the business enterprise presented voluntarily or pursuant to Item 303 of Regulation S–K (§ 229.303 of this chapter), management's discussion and analysis of financial condition and results of operations, or Item 302 of Regulation S–K (§ 229.302 of this chapter), supplementary financial information, and disclosed in a document filed with the Commission, in Part I of a quarterly report on Form 10–Q, or in an annual report to shareholders meeting the requirements of Rule 14a–3 (b) and (c) or 14c–3 (a) and (b) under the Securities Exchange Act of 1934.

(c) * * *

(3) A statement of future economic performance contained in management's discussion and analysis of financial condition and results of operations pursuant to Item 303 of Regulation S–K (§ 229.303 of this chapter); or

* * * * *

53. By revising the facing sheet, signature page and Instructions as to Summary Prospectuses of Form N–1 in § 274.11 to read as follows (Form N–1 does not appear in the Code of Federal Regulations):

§ 274.11 Form N–1, registration statement of open end management investment companies.

* * * * *

☐ Check box if it is proposed that this filing will become effective (immediately upon filing or on (date)) pursuant to paragraph (b) of Rule 485.

* * * * *

Signatures

Pursuant to the requirements of the Securities Act of 1933, the registrant, ..., (certifies that it meets all of the requirements for effectiveness of this Registration Statement pursuant to Rule 485(b) under the Securities Act of 1933 and) has duly caused this registration statement to be signed on its behalf by the undersigned thereunto duly authorized, * * *

* * * * *

Instructions as to Summary Prospectuses

The summary prospectus to be used pursuant to Rule 431 (§ 230.431 of this chapter) for companies whose securities are registered on Form N–1 shall be available only if (1) a Registration Statement relating to these securities has been filed, * * *

* * * * *

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 68 Stat. 685; Sec. 306(a)(2), 90 Stat. 57; Secs. 3(b), 12, 13, 14, 15(d), 23(a), 48 Stat. 882, 892, 894, 895, 901; secs. 203(a), 1, 3, 8, 49 Stat. 704, 1375, 1377, 1379; sec. 202, 68 Stat. 686; secs. 4, 5, 6(d), 78 Stat. 569, 570–574; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 28(c), 1, 2, 3, 4, 5, 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 89 Stat. 117, 118, 119; sec. 308(b), 90 Stat 57; sec. 16, 89 Stat. 155; secs. 202, 203, 204, 91 Stat. 1494, 1498–1500; sec. 20(a), 49 Stat. 833; sec. 319, 53 Stat. 1173; sec. 38, 54 Stat. 841; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78c(b), 78*l*, 78m, 78n, 78o(d), 78w(a), 79t(a), 77sss(a), 80a-37)

By the Commission.

George A. Fitzsimmons,

Secretary.

March 3, 1982.

[FR Doc. 82–7084 Filed 3–15–82; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release Nos. 33–6386; 34–18527; AS–307; File No. S7–872]

Rescission of Certain Accounting Series Releases Relating to the Computation of the Ratio of Earnings to Fixed Charges

AGENCY: Securities and Exchange Commission.

ACTION: Rescission of interpretive releases.

SUMMARY: The Commission announces rescission of two interpretive releases relating to the computation and presentation of the ratio of earnings to fixed charges and the ratio of earnings to combined fixed charges and preferred dividends in filings with the Commission. The interpretations provided in Accounting Series Release Nos. 119 and 122 are no longer necessary because of amendments to the requirements for these ratios adopted in a separate action announced today. Similarly, the guidance for computing these ratios provided in Topics 3–B and 9–B of Staff Accounting Bulletin No. 40 is no longer necessary and is also being deleted.

EFFECTIVE DATE: March 3, 1982.

FOR FURTHER INFORMATION CONTACT: John W. Albert, Office of the Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549 (202–272–2133).

SUPPLEMENTARY INFORMATION: In a separate action announced today, the Commission adopted a comprehensive revision to the rules and forms governing the registration of securities under the Securities Act of 1933.[1] These rule amendments include, among other things, the adoption of requirments for the presentation of the ratio of earnings to fixed charges and the ratio of earnings to combined fixed charges and preferred dividends. Under these rules, requirements governing the computation and disclosure of these ratios on an historical and pro forma basis have been revised and standardized.

Prior to the adoption of these rules instructions for the computation and presentation of these ratios were contained in various Commission forms and were supplemented by related interpretations set forth in certain accounting series releases. Accounting Series Release No. 119[2] prohibits the deduction of actual or imputed interest income, investment income, or gains on retirement of debt from fixed charges for purposes of computing either the historical or pro forma ratio of earnings to fixed charges. Similarly, Accounting Series Release No. 122[3] sets forth conditions under which the ratio of earnings to fixed charges should also be presented on a total enterprise basis. These interpretations have been incorporated, with minor revisions, into the revised rules.

In view of the revised requirements for presentation of the ratio of earnings to fixed charges and the ratio of earnings to combined fixed charges and preferred dividends adopted today, the interpretations provided in Accounting Series Release Nos. 119 and 122 are no longer necessary and are hereby rescinded. Similarly, the guidance provided in Topics 3–B and 9–B of Staff accounting Bulletin No. 40 is no longer necessary and is also being deleted.[4]

PART 211—INTERPRETIVE RELEASES RELATING TO ACCOUNTING MATTERS

COMMISSION ACTION: The Commission hereby rescinds and removes the following releases in the accounting series, Part 211 of Title 17, Chapter II, of the Code of Federal Regulations: Accounting Series Release Nos. 119, 122.

* * * * *

(Sections 6, 7, 8, 10 and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, 77s(a)) of the Securities Act of 1933 and Sections 12, 13, 15(d) and 23(a) [15 U.S.C. 78*l*, 78m, 78o(d), 78w(a)] of the Securities Exchange Act of 1934)

By the Commission.

George A. Fitzsimmons,

Secretary.

March 3, 1982.

[FR Doc. 82–6615 Filed 3–13–82; 8:45 am]

BILLING CODE 8010–01–M

[1] Release No. 33–6383, "Adoption of Integrated Disclosure System" (March 3, 1982) (Published elsewhere in this issue).

[2] "Computation of Ratio of Earnings to Fixed Charges," June 15, 1971 (36 FR 11918).

[3] "Coverage of Fixed Charges," August 10, 1971 (36 FR 15527).

[4] Topics 3–B and 9–B provide guidance on computing the income tax effects of preferred stock dividends and determining when a parent company ratio should also be presented, respectively. This guidance has also been incorporated into the revised rules.

17 CFR Parts 231 and 241

[Release Nos. 33-6384, 34-18525]

Rescission of Guides and Redesignation of Industry Guides

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission today authorized (1) the rescission of the Guides for the Preparation and Filing of Registration Statements and Reports, with the exception of those guides which set forth disclosure guidelines for registrants in particular industries; (2) the redesignation of the remaining guides as Securities Act and Exchange Act Industry Guides; and (3) the recasting of the disclosure requirements for oil and gas operations, formerly contained in Item 2(b) of Regulation S-K, as an industry guide. This action is taken as part of the Commission's program to integrate the disclosure requirements of the Securities Act of 1933 and the Securities Exchange Act of 1934.

EFFECTIVE DATE: May 24, 1982.

FOR FURTHER INFORMATION CONTACT: Prior to the effective date, contact Robert Pincus, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-272-2589); thereafter contact Norman R. Schou, Office of Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-272-2573).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today authorized the rescission by the Division of Corporation Finance of all of the Guides for the Preparation and Filing of Registration Statements and Reports ("the Guides") under the Securities Act of 1933 [15 U.S.C. 77a et seq., as amended] ("Securities Act") and the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq., as amended] ("Exchange Act"), other than those which set forth disclosure guidelines applicable to specific industries.[1] The remaining guides have been redesignated as Securities Act Industry Guides and Exchange Act Industry Guides and a listing of such guides is contained in Items 801 and 802 of Regulation S-K [17 CFR Part 229], the central repository of disclosure requirements under the Securities Act and the Exchange Act.[2] The Division also has recast the disclosure requirements for oil and gas operations, formerly contained in Item 2(b) of Regulation S-K, as an industry guide.

The Guides, as originally adopted in 1968,[3] served as an expression of the policies and practices of the Division of Corporation Finance. They were of assistance to issuers, their counsel and others preparing registration statements and reports, as well as to the Commission's staff. Subsequently, the Guides were modified and expanded and additional guides added serially on an ad hoc basis.[4] Prior to 1980, however, the Guides had never been the subject of an overall review. Consistent with the Commission's "sunset" review of existing rules and regulations and the recommendation of the Advisory Committee on Corporate Disclosure,[5] the Commission undertook a sunset review of the Guides.

This review of the Guides was an integral part of the integration program and was undertaken in three stages. Initially, the Commission issued a concept release in December 1979, soliciting comments to assist in the reevaluation of the Guides.[6] In response to those comments the Commission issued a second release proposing the deletion of certain guides, as well as the centralization of others into its rules and regulations.[7] In August 1981, the final integration proposals with respect to the Guides were published.[8]

In response to the comments received with respect to these proposals, outdated or inappropriate guides were deleted while centralizing others into its rules and regulations.[9] Those guides which relate to procedural matters have been incorporated into Regulation C (17 CFR 230.400 through 230.494) and the General Rules under the Securities Act and Exchange Act, while those guides relating to disclosure requirements have been conformed and incorporated into Regulation S-K.

Those guides which set forth disclosure guidelines applicable to specific industries have been redesignated as Industry Guides which will be listed in Items 801 (Securities Act Industry Guides) and 802 (Exchange Act Industry Guides) of Regulation S-K. The list of industry guides has been moved into Regulation S-K, which serves as the central repository of disclosure requirements under the Securities Act and the Exchange Act, in order to more effectively put registrants on notice of their existence. These guides remain as an expression of the policies and practices of the Division of Corporation Finance and their status is unaffected by this change.

I. Synopsis

This section is organized into three parts: (1) The rescission of Guide 57 (Registration statements relating to "insurance premium funding" programs); (2) the redesignation of those existing guides which are industry specific, as industry guides under the Securities Act and the Exchange Act; and (3) the designation of the new guides which are adopted today.

A. Rescission of Guide 57

Securities Act Guide 57—Registration Statements Relating to "Insurance Premium Funding" Programs.

Although Guide 57 was proposed to be reclassified as an industry guide in the S-K Release,[10] the Commission has determined that it is outdated and therefore is rescinding it.

B. Redesignation of Existing Guides

1. Securities Act Guide 30—Disclosure of Principal Sources of Electric and Gas Revenues.

Guide 30 has been redesignated as Securities Act Industry Guide 1.[11]

2. Securities Act Guide 55—Prospectuses Relating to Interests in Oil and Gas Programs.

Guide 55 has been redesignated as Securities Act Industry Guide 4.

3. Securities Act Guide 60—Preparation of Registration Statements Relating to Interests in Real Estate Limited Partnerships.

Guide 60 has been redesignated as Securities Act Industry Guide 5.[12]

4. Securities Act Guide 61 and Exchange Act Guide 3—Statistical Disclosure by Bank Holding Companies.

These guides have been redesignated as Securities Act Industry Guide 3 and Exchange Act Industry Guide 3, respectively.

5. All other Securities Act and Exchange Act Guides have been rescinded.

C. Designation of New Industry Guides

1. Exchange Act Industry Guide 1—Disclosure of Principal Sources of Electric and Gas Revenues.

Pursuant to industry practice, the information called for by Guide 30 is included in registration statements on Form 10 and reports filed on Form 10-K under the Exchange Act. Accordingly, this guide has been modified to make it applicable to the Exchange Act and designated as Exchange Act Industry Guide 1.

2. Disclosure of Oil and Gas Operations.

The disclosure requirement for oil and gas operations, which formerly was contained in Item 2(b) of Regulation S-K, has been recast as Securities Act Industry Guide 2 and Exchange Act Industry Guide 2. This change is consistent with the determination to place all industry specific information into the Industry Guides.

II. Text of New Industry Guides and Amendments to Redesignated Guides

The text of the new industry guides is set out in full below. Additionally, amendments to those redesignated industry guides, which were required to conform with the various components of the integrated disclosure system, also are set forth.

A. Securities Act Industry Guides[13]

Guide 1. Disclosure of Principal Sources of Electric and Gas Revenues.

In registration statements filed on Form S-1 or S-2 by electric or gas utilities, the principal classes of service from which electric or gas revenues are derived should be furnished.

Guide 2. Disclosure of Oil and Gas Operations.

If oil and gas operations are material to the registrant's and its subsidiaries' business operations or financial position, the disclosure specified in this Guide should be included under appropriate captions (in tabular form, if practicable, and with cross references, where applicable, to related information disclosed in financial statements). *Provided however,* That limited partnerships or joint ventures that conduct, operate, manage, or report upon oil and gas drilling or income programs, that acquire properties either for drilling and production, or for production of oil, gas, or geothermal steam or water, need not include such disclosure and, *Provided further,* That any registrant qualifying for the exemption provided in § 210.4-10(k) of Regulation S-X need not provide any such information.

Note.—Limited partnerships exempted from the disclosure required in this Guide by the first proviso above remain subject to disclosure requirements of § 210.4-10(k) of Regulation S-X. See discussion in Accounting Series Release No. 257 (Dec. 19, 1978) [43 FR 60404]; and Staff Accounting Bulletin No. 40, Topic 6(d)(3)(c) [17 CFR 211] (Jan. 23, 1981).

1. Reserves

A. As of the end of each of the last three fiscal years estimated net quantities of:

(i) Proved oil and gas reserves;

(ii) Proved developed oil and gas reserves;

(iii) Oil and gas applicable to long-term supply or similar agreements with foreign governments or authorities in which the registrant acts as producer; and

(iv) The registrant's share of reserves of investees accounted for by the equity method.

B. For each of the net quantities reported, the present value of estimated future net revenues, computed in accordance with § 210.4-10(k)(6) of Regulation S-X.

C. *Instructions.* If these reserves are located entirely within the registrant's home country, that fact should be disclosed. If some or all of the reserves are located in foreign countries, the disclosure of net quantities of reserves of oil and gas and present value of estimated future net revenues (as required above) should be reported separately for the entity's home country (if significant reserves are located there) and each foreign geographic area in which significant reserves are located. Foreign geographic areas should consist of those individual countries or groups of countries, as appropriate, for meaningful disclosure in the circumstances.

Disclosure should be given of the effect on ownership of reserves of any takeover or nationalization within the most recent fiscal year by foreign governments of properties owned by the registrant, including any change of a property interest into a long-term supply, purchase or similar agreement.

If any foreign government restricts the disclosure of estimated reserves for properties under its governmental authority or amounts under long-term supply, purchase or similar agreements, the registrant should notify the Office of Engineering, Division of Corporation Finance, of the Commission. If the required information is not disclosed or if categories of reserves other than proved are disclosed because of requirements of foreign or state law, the documents should identify the country or state, cite the law or regulation which restricts or requires such disclosure, and indicate that the reported reserve estimates or amounts do not include figures for the named country or that the reserve estimates included reserves other than proved.

If no major discovery or other favorable or adverse event that is believed to have caused a significant change in the estimated proved reserves has occurred since the end of the most recent fiscal year, a statement to that effect should be made; otherwise, an explanation of any such discovery or event should be provided, including, to the extent reasonable, an estimate of the proved oil and gas reserves associated with such discovery or event.

2. Reserves Reported to Other Agencies

Any estimates of total, proved net oil or gas reserves filed with or included in reports to any other Federal authority or agency since the beginning of the last fiscal year (or a statement that there were none), together with the name of the authority or agency and an explanation of the reasons for differences, if any, between such estimates and the estimates included in the document. This requirement should not apply if the difference between the total reserve estimate included in the Commission filing and the total reserve estimate file with the Federal authority or agency does not exceed five percent. However, a statement that the difference does not exceed five percent should be included.

3. Production

A. Net quantities of oil (including condensate and natural gas liquids) and of gas produced for each of the last

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[1] The existing Guides which are retained are: Securities Act Guide 30—Disclosure of Principal Sources of Electric and Gas Revenues; Securities Act Guide 55—Prospectuses Relating to Interests in Oil and Gas Programs; Securities Act Guide 60—Preparation of Registration Statements Relating to Interests in Real Estate Limited Partnerships; and Securities Act Guide 61 and Exchange Act Guide 3—Statistical Disclosure by Bank Holding Companies.

[2] *See* Release No. 33-6383 (March 3, 1982) (the "1982 Integration Release").

[3] *See* Release No. 33-4936 (December 9, 1968) [33 FR 18617].

[4] Fifty-three Guides were adopted in December of 1968, and subsequently ten guides for the preparation and filing of registration statements under the Securities Act, as well as five guides for the preparation and filing of periodic reports under the Exchange Act have been added.

[5] *See* Report of the Advisory Committee on Corporate Disclosure to the Securities and Exchange Commission, Committee Print 95-29, House Committee on Interstate and Foreign Commerce, 95th Cong., 1st Sess. (1977).

[6] *See* Release No. 33-6130 (December 5, 1979) [44 FR 72304].

[7] *See* Release No. 33-6270 (December 23, 1980) [46 FR 78].

[8] *See* Release No. 33-6331 (August 18, 1981) [46 FR 41925] (the "S-K Release") for a table indicating the disposition of each of the Guides.

[9] *See* 1982 Integration Release, specifically Regulation S-K and Regulation C, for the centralization of the guides.

[10] *See* the S-K Release, 46 FR at 41971.

[11] *See* Paragraph C.1. below for the designation of Securities Act Guide 30 as Exchange Act Industry Guide 1.

[12] *See* Release No. 33-6354 (October 14, 1981) [46 FR 50553] for the proposed revisions to Guide 60. The Commission expects to act on these proposals shortly.

[13] Securities Act Industry Guide 3 [Statistical Disclosure by Bank Holding Companies] is not set forth in this section, as no changes have been made to its text. For the full text of this guide *see* Release Nos. 33-5735 (August 31, 1976) [41 FR 36097]; and 33-6221 (July 8, 1980) [45 FR 47138].

three fiscal years and the net quantities of each received during each of these years applicable to long-term supply or similar agreements with foreign governments or authorities in which the registrant acts as producer, by areas no larger than the geographic areas used for estimated reserves in paragraph 1 of this Guide.

B. For each of the last three fiscal years by the same geographic areas for which production data are required:

(i) The average sales price (including transfers) per unit of oil produced and of gas produced;

(ii) The average production cost (lifting cost) per unit of production.

C. *Instructions.* Generally, net production should include only production that is owned by the registrant and produced to its interest, less royalties and production due others. However, in special situations (e.g., foreign production) net production before royalties may be provided if more appropriate. If "net before royalty" production figures are furnished, the change from the common usage of "net production" should be noted.

Any part of natural gas liquids production obtained through or from processing plant ownership rather than through leasehold ownership should be reported separately, if material.

Production of natural gas should include only marketable production of gas on an "as sold" basis. Production will include dry, residue, and wet gas, depending on whether liquids have been extracted before the registrant passed title. Flared gas, injected gas and gas consumed in operations should be omitted. Recovered gas-lift gas and reproduced gas should not be included until sold.

The transfer price of oil and gas produced should be determined in accordance with § 210.4–10(k)(4) of Regulation S–X.

The average production cost per unit of production should be computed using production costs disclosed pursuant to § 210.4–10(k)(3) of Regulation S–X. Units of production should be expressed in common units of production with oil or gas converted to a common unit of measure on the basis used in computing amortization (relative energy content or gross revenue method). *See* § 210.4–10(e)(3) or § 210.4–10(i)(3)(iii) of Regulation S–X, whichever is appropriate.

4. Productive Wells and Acreage

A. As of a reasonably current date or as of the end of the most recent fiscal year, the total gross and net productive wells, expressed separately for oil and gas, and the total gross and net developed acres (i.e., acres spaced or assignable to productive wells) by the geographic areas for which production data are required pursuant to paragraph 3 of this Guide.

B. *Instructions.* For purposes of this paragraph, one or more completions in the same bore hole should be counted as one well. A footnote should disclose the number of wells with multiple completions. If one of the multiple completions in a given well is an oil completion, the well should be classified as an oil well.

A gross well or acre is a well or acre in which a working interest is owned. The number of gross wells is the total number of wells in which a working interest is owned.

A net well or acre is deemed to exist when the sum of fractional ownership working interests in gross wells or acres equals one. The number of net wells or acres is the sum of the fractional working interests owned in gross wells or acres expressed as whole numbers and fractions thereof.

For those unusual situations in which gross and net data cannot be supplied, alternative disclosure should be furnished that adequately describes the registrant's productive wells and developed acreage.

Productive wells are producing wells and wells capable of production.

5. Undeveloped Acreage

As of a reasonably current date or as of the end of the most recent fiscal year, the amounts of undeveloped acreage, both leases and concessions, if any, expressed in both gross and net acres by appropriate geographic area, together with an indication of acreage concentrations, and, if material, the minimum remaining terms of leases and concessions. Undeveloped acreage is considered to be those leased acres on which wells have not been drilled or completed to a point that would permit the production of commercial quantities of oil and gas regardless of whether or not such acreage contains proved reserves. Undeveloped acreage should not be confused with undrilled acreage Held by Production under the terms of a lease.

6. Drilling Activity

A. For each of the last three fiscal years by appropriate geographic areas:

(i) The number of net productive and dry exploratory wells drilled; and

(ii) The number of net productive and dry development wells drilled.

B. *Instructions.* A dry well (hole) is an exploratory or a development well found to be incapable of producing either oil or gas in sufficient quantities to justify completion as an oil or gas well.

A productive well is an exploratory or a development well that is not a dry well.

The number of wells drilled refers to the number of wells (hole) completed at any time during the fiscal years, regardless of when drilling was initiated.

The term "completion" refers to the installation of permanent equipment for the production of oil or gas, or, in the case of a dry hole, to the reporting of abandonment to the appropriate agency.

7. Present Activities

Present activities, such as the number of wells in process of drilling (including wells temporarily suspended), waterfloods in process of installation, pressure maintenance operations, and any other related operations of material importance by appropriate geographic areas. This description of present activities should be provided for an "as of" date as close to the date of filing the document as reasonably possible or as of the end of the most recent fiscal year. The disclosure of wells in the process of being drilled should include only those wells actually being drilled at the "as of" date and should be expressed in terms of both gross and net wells. The disclosure should not include wells planned but not commenced, unless there are factors which make such information material.

8. Delivery Commitments

If the registrant is obligated to provide a fixed and determinable quantity of oil or gas in the future under existing contracts or agreements, material information concerning the estimated availability of oil and gas from any principal sources.

A. Such information should be furnished as to current and future reserves and supplies, and should:

(i) Identify the principal sources of oil and gas to be relied upon and the total available amounts expected to be received from each principal source and from all sources combined;

(ii) Disclose the total quantities of oil and gas which are subject to delivery commitments; and

(iii) Indicate steps taken to insure available reserves and supplies are sufficient to meet such commitments. Such future information should be provided for an appropriate period of one to three years.

B. The term "availability" is used herein to mean an estimate of that quantity of oil and gas which can be produced from current proved developed reserves using presently installed equipment under existing economic and operating conditions and an estimate of amounts that can be delivered to the registrant under long-term contracts or agreements on a per-day, per-month or per-year basis.

C. The registrant should develop disclosure based upon the facts and circumstances of its particular situation, including disclosure by appropriate geographic areas. Such disclosure should be in a form understandable to investors and should include, but not be limited to, a description of the following factors:

(i) Significant supplies dedicated or contracted to the registrant;

(ii) Any significant amounts of reserves or supplies subject to priorities or curtailments which may affect quantities delivered to certain classes of customers, such as customers receiving services under low priority and interruptible contracts;

(iii) Any priority allocations or price limitations imposed by Federal or State regulatory agencies, as well as other factors beyond the control of the registrant which may affect the ability of the registrant to meet its contractual obligations (detailed discussions of price regulation need not be furnished);

(iv) Any other factors beyond the control of the registrant, such as other parties having control over the drilling of new wells, competition for the acquisition of reserves and supplies, and the availability of foreign reserves and supplies which may affect the ability of the registrant to acquire additional reserves and supplies, or to maintain or increase the availability of reserves and supplies; and

(v) Any impact on the registrant's earnings and financing needs resulting from its inability to meet short or long-term contractual obligations. See Item 303 of Regulation S–K.

D. If within the last three years the registrant has been unable to meet any significant delivery commitments, describe the circumstances concerning such events and the impact on the registrant.

Guide 4. Prospectus Relating to Interests in Oil and Gas Programs.[14]

Disclosure in prospectuses relating to oil and gas drilling programs should appear in the sequence indicated below, except that the table of contents, required by Item 502(g) of Regulation S–K to be included in the forepart of the prospectus may be inserted at any appropriate place in the sequence of disclosures.

* * * * *

1. Summary of Program. * * *

The tabular presentation specified in Item 501(g) of Regulation S–K may be omitted;

* * * * *

11. Management. Include the disclosures required by Items 401 through 403 of Regulation S–K as to, respectively, the management and operating companies.

* * * * *

Guide 5. Preparation of Registration Statements Relating to Interests in Real Estate Limited Partnerships.[15]

* * * * *

1. Cover page.

* * * * *

B. The cover page should set forth, in addition to basic information about the offering, the termination date of the offering, any minimum required purchase and any arrangements to place the funds received in an escrow trust or similar arrangement.

* * * * *

4. Compensation and fees to the general partners and affiliates.

* * * * *

D. Where the General Partner or an affiliate receives a disproportionate interest in the partnership in relation to its own contribution, registrants attention is directed to Item 506 of Regulation S–K. A bar chart comparison of the various interests and contributors should be provided.

* * * * *

6. Fiduciary responsibility of the General partner.

* * * * *

Indemnification.

* * * * *

Registrant's attention is also directed to Items 510 and 512(i) of Regulation S–K relating to disclosure of indemnification agreements.

7. Risk factors.

A. This section should include a carefully organized series of short, concise subcaptioned paragraphs, with cross-references to fuller discussion where appropriate, summarizing the principal risk factors applicable to the offering and to the partnership's particular plan of operations. The risk factors section should be brief.

* * * * *

8. Prior performance of the general partner and affiliates.

* * * * *

B. The information required by Item 401(f) of Regulation S–K applies to the General Partner (its officer and directors, if a corporation) or any of its affiliates who may be doing business with the partnership should be included.

* * * * *

9. Management.

A. If a material portion of the maximum net proceeds (allowing for reserves) is not committed to specific properties, disclosure should be made of the identity of the individuals who will make the investment decisions with appropriate background information including that required by Item 401(f) of Regulation S–K.

* * * * *

21. Undertakings.

* * * * *

D. * * *

The registrant undertakes to file a current report on Form 8–K to reflect each commitment (i.e., the signing of a binding purchase agreement made after the effective date of the offering involving the use of 10% or more (on a cummulative basis) of the net proceeds of the offering and to provide the information contained in such report to the Limited Partners at lest once each quarter after the distribution period of the offering has expired. The report to Limited Partners will contain the financial statements required by Rule 3–14 of Regulation S–X, or, at the discretion of the registrant, a summary of the full financial statements with a statement that the full financial statements will be sent upon request.

* * * * *

Table II

* * * * *

9. CASH GENERATED (DEFICIENCY)[3] $——

10. Cash Distribution to Partners $——

* * * * *

12. Special Items[4]

* * * * *

Federal Income Tax Deductions [5]

* * * * *

Cash Distribution to Partners

* * * * *

[3] All sources and uses of cash from refinancings, purchase and sales of properties, loans and other similar items not directly associated with partnership operations, which result in a material cash effect, should be individually disclosed in line 13 for those periods in which such transactions occur.

[4] Any expense items challenged by IRS should be indicated in a footnote.

[5] In any interim period * * *

[14] For the full text of Securities Act Industry Guide 4, *see* Release No. 33–5036 (January 19, 1970).

[15] For the full text of Securities Act Industry Guide 5, *see* Release Nos. 33–5465 (March 1, 1974) [39 FR 10276]; and 33–5745 (September 27, 1976) [41 FR 43398].

Instruction: The foregoing tabulation should include: (a) Summary Income and Expense Data prepared on the basis of Generally Accepted Accounting Principles (GAAP), (b) adjustments necessary to GAAP Net Income (Loss) to compute Taxable Income (Loss), (c) adjustments necessary to Taxable Income to compute Cash Generated (Deficiency) and (d) Tax Deductions and cash distribution data both on an income and cash basis.

B. Exchange Act Industry Guides [16]

Guide 1. Disclosure of Principal Sources of Electric or Gas Revenues.

In registration statements filed on Form 10 or reports filed on Form 10-K by electric or gas utilities, the principal classes of service from which electric or gas revenues are derived should be furnished.

Guide 2. Disclosure of Oil and Gas Operations.

(The text of this Guide is the same as Securities Act Industry Guide 2—Disclosure of Oil and Gas Operations)

III. Revisions of 17 CFR Parts 231 and 241

17 CFR Chapter II is amended as follows:

PART 231—INTERPRETIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

* * * * *

1. Part 231 is amended by rescinding the following guides of the Guides for the Preparation and filing of Registration Statements Under the Securities Act of 1933:

Guide 1—Pre-filing conferences with registrants.
Guide 2—Letter of comment.
Guide 3—Applicability of amended rules and forms to previously filed statements.
Guide 4—Registration of securities for delayed offering.
Guide 5—Preparation of prospectuses.
Guide 6—Introductory statements.
Guide 7—Dating of prospectuses.
Guide 8—Pictorial or graphic representation in prospectuses.
Guide 9—Promoters.
Guide 10—Registration of options, warrants or rights and other securities issued or sold to underwriters.
Guide 11—Finders.
Guide 12—Over-the-counter trading in rights or warrants.
Guide 13—Market quotations—Absence of established market.
Guide 14—Underwriters' compensation from conversion of funds into foreign currency.
Guide 15—Expenses of issuance and distribution.
Guide 16—Underwriters' experience and due diligence inquiry.
Guide 17—Disclosure of underwriting discounts and commissions.
Guide 18—Original issue discount of debt securities.
Guide 19—Distribution of preliminary prospectus.
Guide 20—Mailing of amended preliminary prospectus to regional offices.
Guide 21—Use of proceeds.
Guide 24—Currencies in which amounts are to be stated by foreign issuers.
Guide 25—Manner of showing distributions by real estate syndicates and real estate investment trusts.
Guide 27—Names of customers and competitors.
Guide 28—Disclosure of extractive reserves and natural gas supplies.
Guide 29—Disclosure of material long-term leases.
Guide 31—Disclosure of recent developments—Backlog.
Guide 32—Liability of shareholders to laborers, servants or employees under state law.
Guide 33—Notice of redemption of convertible securities or callable warrants.
Guide 34—Executive committee.
Guide 35—Identification of members of board of directors selected by the underwriters.
Guide 36—Effect of issuance of options or warrants to certain persons.
Guide 37—Consents of accountants.
Guide 38—Consents of attorneys.
Guide 39—Charter amendments authorizing new securities.
Guide 40—Underwriting agreements.
Guide 41—Specimen bond.
Guide 42—Reports or memoranda concerning the registrant.
Guide 43—Representations from selling security holders.
Guide 44—Securities Act exemption for shares subject to option.
Guide 45—Information as to over-the-counter market for securities to be registered.
Guide 46—Statement as to indemnification.
Guide 47—Enforceability of civil liabilities under the Act against foreign persons.
Guide 48—Annual reports to security holders.
Guide 49—Revision of prospectuses where a company and its employee plan have different fiscal years.
Guide 50—Disclosure of confidential material to other government agencies.
Guide 51—Release of price data on subscription offerings by listed companies.
Guide 52—Disclosure as to listing on an exchange.
Guide 53—Secondary distributions "at the market".
Guide 54—Misleading character of certain registrants' names.
Guide 56—Interests of counsel and experts in the registrant.
Guide 57—Registration statements relating to "insurance premium funding" programs.
Guide 58—Disclosure in prospectus of registrant's business address and telephone number.
Guide 59—Summary of disclosure in the prospectus.
Guide 62—Disclosure of projections of future economic performance.
Guide 63—Disclosure relating to management remuneration by certain foreign private issuers.

2. Part 231 is amended by redesignating Guide 30—"Disclosure of Principal Sources of Electric and Gas Revenues" of the Guides for the Preparation and Filing of Registration Statements under the Securities Act of 1933 as Securities Act Industry Guide 1.

3. Part 231 is amended by redesignating Guide 55—"Prospectuses Relating to Interests in Oil and Gas Programs" of the Guides for the Preparation and Filing of Registration Statements under the Securities Act of 1933 as Securities Act Industry Guide 4.

4. Part 231 is amended by redesignating Guide 60—"Preparation of Registration Statements Relating to Interests in Real Estate Limited Partnerships" of the Guides for Preparation and Filing of Registration Statements under the Securities Act of 1933 as Securities Act Industry Guide 5.

5. Part 231 is amended by redesignating Guide 61—"Statistical Disclosure by Bank Holding Companies" of the Guides for Preparation and Filing of Registration Statements under the Securities Act of 1933, as Securities Act Industry Guide 3.

6. Part 231 is amended by adding this release, Release No. 33-6384 (March 3, 1982) to the list of interpretive releases set forth thereunder.

PART 241—INTERPRETIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND THE GENERAL RULES AND REGULATIONS THEREUNDER

7. Part 241 is amended by rescinding the following Guides for the Preparation and Filing of Reports and Proxy and Registration Statements under the Securities Exchange Act of 1934:

Guide 2—Disclosure of extractive reserves and natural gas supplies.
Guide 4—Integrated reports to security holders.
Guide 5—Disclosure of projections of future economic performance.

8. Part 241 is amended by redesignating Guide 3—"Statistical Disclosure by Bank Holding Companies" of the Guides for the Preparation and Filing of Reports and Proxy and Registration Statements under the Securities Exchange Act of 1934, as Exchange Act Industry Guide 3.

9. Part 241 is amended by adding this Release, Release No. 34-18525 (March 3, 1982) to the list of interpretive releases set forth thereunder.

By the Commission.

George A. Fitzsimmons,

Secretary.

March 3, 1982.

[FR Doc. 82-6668 Filed 3-12-82; 8:45 am]

BILLING CODE 8010-01-M

[16] Exchange Act Industry Guide 3 [Statistical Disclosures by Bank Holding Companies] is not set forth in this section, as no changes were made to its text. For the full text of this guide *see* Release No. 33-5735 (August 31, 1976) [41 FR 39007]; and 33-6221 (July 8, 1980) [45 FR 47138].

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230 and 239

[Release Nos. 33-6385; 34-18526; IC-12265]

Withdrawal of Rule Proposals Relating to Integrated Disclosure System

AGENCY: Securities and Exchange Commission.

ACTION: Withdrawal of proposals.

SUMMARY: The Commission is withdrawing three proposed forms and six proposed rules that were published for comment in connection with the Commission's integrated disclosure program. As a result of public comment and further study, the Commission believes that these proposals are unnecessary or superfluous in light of other components of the integrated disclosure system adopted in final form today. Proposed Forms A, B and C were replaced by Forms S-3, S-2 and S-1, respectively, as the major Securities Act of 1933 registration forms. Changes in Regulation S-K and Regulation C have obviated several proposed technical and procedural amendments. Finally, the Commission is withdrawing, in response to public comment, a proposed rule that would have provided that the effective date of an incorporated document for purposes of section 11(a) of the Securities Act of 1933 is the date of its initial filing with the Commission.

EFFECTIVE DATE: March 16, 1982.

FOR FURTHER INFORMATION CONTACT: William L. Larsen (202-272-2804), Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: In a separate release issued today,[1] the Commission announced the adoption of a comprehensive revision of the rules and forms governing the registration of securities under the Securities Act of 1933 (the "Securities Act"). This action represents the final step in the Commission's program to integrate the disclosure systems under the various Federal securities laws and to simplify and improve the disclosure requirements imposed under these systems. In this release, the Commission is withdrawing certain rules and forms that were proposed at various stages in connection with the Commission's integration program but are not being adopted.

Proposed Forms A, B and C were published for comment in September 1980.[2] The three Forms were intended to become the basic forms used to register securities under the Securities Act in the Commission's proposed integrated disclosure system. As discussed in a subsequent release issued in August 1981,[3] both as the result of commentators' suggestions and of further study by the Commission, proposed Forms A, B and C were replaced by proposed Forms S-3, S-2 and S-1, respectively. After further public comment, Forms S-1, S-2 and S-3 were adopted today.[4]

The ABC Release also proposed a technical amendment to Securities Act Rule 170, (17 CFR 230.170.)[5] To coordinate with the Summary Information item of proposed Forms A, B and C, the proposed amendment would have allowed condensed pro forma financial statements in the prospectus summary even though an offering was not on a firm commitment or best-efforts "all or none" basis. Since a prospectus summary is no longer required in Forms S-1, S-2 and S-3, but may be included where appropriate, the proposed amendment to Rule 170 is no longer necessary.[6]

As part of the integrated disclosure program, the Commission proposed, in December 1980, to reorganize Regulation S-K and to eliminate the Guides for the Preparation and Filing of Registration Statements and Reports while incorporating some of the Guide requirements onto Regulation S-K, Regulation C or into other rules and regulations under the Securities Act and the Securities Exchange Act of 1934 (the "Exchange Act").[7] In connection with this proposal, the Commission proposed that four rules be added to Regulation C. Rule 400a was proposed to incorporate aspects of Guide 1, Pre-Filing Conferences with Registrants.[8] Rule 400b was proposed to incorporate aspects of Guide 16, Underwriters' Experience and Due Diligence Inquiry; Guide 17, Disclosure of Underwriting Discounts and Commissions; and Guide 45, Information as to Over-the-Counter Market for Securities to be Registered.[9] Rule 424a was proposed to incorporate aspects of Guide 42, Reports or Memoranda Concerning the Registrant.[10] incorporate aspects of Guide 49, Revision of Prospectuses Where a Company and its Employee Plan Have Different Fiscal Years.[11]

Proposed Rule 400a is being withdrawn because the Commission agrees with the public comment that Rule 202.2 of the Commission's Informal and Other Procedures (17 CFR 202.2) adequately covers prefiling conferences.[12] Rule 424a is being withdrawn because its provisions are incorporated substantially in newly adopted Rule 418 (17 CFR 230.418).[13] The Commission also has determined after further study and public comment that Rules 400b and 434a, which were proposed to be adopted in the Guides Release, are unnecessary.[14]

Finally, the Commission is withdrawing proposed Rule 412, which would have provided that the effective date of an incorporated document for purposed of section 11(a) of the Securities Act is the date of its initial filing with the Commission.[15] A number of commentators opposed the adoption of proposed Rule 412 as unnecessary and confusing to subject persons. In light of these problems, the Commission is withdrawing proposed Rule 412.[16]

Dated: March 3, 1982.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-6755 Filed 3-12-82; 8:45 am]

BILLING CODE 8010-01-M

[1] Release No. 33-6383 (March 3, 1982) (the "1982 Integration Release").

[2] Release No. 33-6235, 45 FR 63693 (September 2, 1980) (the "ABC Release")

[3] Release No. 33-6331, 46 FR 41902 (August 6, 1981) (the "S-1-2-3 Release")

[4] 1982 Integration Release, *supra*, note 1.

[5] 45 FR 63703, note 65.

[6] *See* Release No. 33-6332, 46 FR 41934, note 22 (August 6, 1981) (the "S-K Release").

[7] *See* Release No. 33-6276 46 FR 78 (December 23, 1980) (the "Guides Release").

[8] Guides Release at 46 FR 86.

[9] *Id.* at 85, 94 and 96.

[10] *Id.* at 85 and 96.

[11] *Id.* at 86 and 98.

[12] *See* Release No. 33-6333, 46 FR 41971, 41980 (August 6, 1981) (the "Regulation C Release").

[13] *Id.* At the time the Regulation C Release was issued, Rule 418 was designated Rule 419, but the Rule was renumbered in the 1982 Integration Release, *supra*, note 1.

[14] S-K Release at 46 FR 41920. With respect to proposed Rule 400b, *see* the 1982 Integration Release, *supra* note 1.

[15] *See* Release No. 33-6335, 46 FR 42015, 42022 (August 6, 1981) (the "Liability Release").

[16] 1982 Integration Release, *supra*, note 1.

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17 CFR Part 240

[Release No. 33-6387; 34-18528; IC-12266; File No. S7-921]

Prohibitions Against Trading by Persons Interested in a Distribution

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is proposing for comment amendments to Rule 10b-6 under the Securities Exchange Act of 1934 ("Act") that regulates trading in securities by persons who are participating in a distribution of those securities. If adopted, the amendments, among other things, would define the term "distribution" for purposes of that rule, permit participants in a distribution of securities to continue trading such securities until three business days before commencement of the sales of the securities being distributed, and clarify the applicability of the rule to persons who participate in a delayed offering of securities by the issuer. In addition, the amendments would codify several existing staff positions under the rule with respect to the applicability of the exceptions to the rule. The Commission also is publishing for comment an amendment to Rule 10b-8 under the Act which applies to purchases during rights offerings. The amendment will extend the scope of the rule to cover purchasing activity by broker-dealers who act as "standby underwriters" in connection with a call for redemption by an issuer of its convertible securities. Finally, the Commission is proposing for comment certain technical conforming amendments to Rule 10b-6 and to Rule 10a-1 under the Act which governs short sales.

DATE: Comments should be submitted on or before April 30, 1982.

ADDRESSES: Interested persons should submit six copies of their written data, views and arguments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C., 20549, and should refer to File No. S7-921. All submissions will be available for public inspection at the Commission's Public Reference Section, Room 6101, 1100 L Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Any of the following attorneys in the Office of Legal Policy and Trading Practices, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C., 20549: John B. Manning, Jr. (202-272-2874); Mary Chamberlin (202-272-2880); M. Blair Corkran, Jr. (202-272-2853); Kenneth B. Orenbach (202-272-2871); Carlos M. Morales (202-272-2876); Joel M. Bludman (202-272-2846); Allyn C. Shepard (202-272-2878); Eric E. Miller (202-272-2882); or Eneida Rosa (202-272-2828).

SUPPLEMENTARY INFORMATION:

Introduction

The Securities and Exchange Commission is publishing for comment amendments to Rule 10b-6 (§ 240.10-6) under the Act. If adopted, these amendments generally would define the term "distribution" for purposes of rule, relax the prohibitions of the rule and codify existing staff positions concerning some of the exceptions to the rule. In addition, the Commission is publishing for comment a related amendment to Rule 10b-8 (§ 240.10b-8) under the Act which applies to purchases during rights offerings. The amendment will extend the scope of the rule to cover purchasing activity by broker-dealers who act as "standby underwriters" in connection with a call for redemption by an issuer of its convertible securities.

Rule 10b-6 is an anti-manipulative rule that, subject to certain exceptions, prohibits persons who are engaged in a distribution of securities from bidding for or purchasing, or inducing other persons to bid for or purchase, such securities, any security of the same class and series as those securities, or any right to purchase any such security until they have completed their participation in the distribution. The purpose of the rule is to prevent participants in a distribution from artificially conditioning the market for the securities in order to facilitate the distribution. The rule is designed to protect the integrity of the auction market as an independent pricing mechanism and thereby enhance investor confidence in the marketplace. The rule contains eleven exceptions to its general prohibitions that are designed to facilitate an orderly distribution of securities or limit disruption in the trading market for the securities being distributed.

Rule 10b-6 was adopted together with Rules 10b-7 (§ 240.10b-7) and 10b-8 in 1955[1] after years of Commission and industry experience under the antifraud and anti-manipulative provisions of the federal securities laws. In large measure, the rules codified principles established in prior administrative interpretations and proceedings concerning trading activity in connection with distributions.[2] Rule 10b-6 has been, and continues to be, one of the most important means of ensuring that the marketplace is free of manipulative practices.

Nevertheless, since 1955, the structure and operation of the securities markets have changed dramatically. The dissemination of market information with respect to securities transactions has been vastly improved. Also since that time, the techniques that have been developed to effect distributions of securities, including public offerings an in connection with business combinations, have become increasingly complex while the entire process by which securities are registered for sale has been streamlined.

Many of these developments have raised questions under Rule 10b-6 that were not contemplated when the rule was adopted, or have involved transactions that would be prohibited if the rule were literally applied but which do not present a significant opportunity for manipulative abuse. Through the exemptive and no-action interpretive process, the Commission and its staff have attempted to accommodate the rule to changing business needs to the extent consistent with its anti-manipulative purpose. A result of this process, however, has been the development of staff positions concerning the interpretation of the rule in the context of various kinds of transactions which have required application to the Commission for exemptive relief, or which have not received adequate publicity and therefore have created a degree of uncertainty among members of the securities community. The Commission believes that the amendments will eliminate much of this uncertainty and substantially reduce the need to seek interpretive relief under the rule.

The changes in the markets since the rule was adopted also have raised the more fundamental question of whether the general prohibitions of the rule are more restrictive than necessary to accomplish its purposes. Under existing standards of the rule, for example, broker-dealers that participate in an underwritten public offering on behalf of an issuer whose securities are traded exclusively on a national securities exchange are often prohibited from making any market purchases of these securities that are not specifically excepted by the rule for a substantial period before the registration statement is declared effective. In many cases, this period may be longer than is necessary to dissipate the market effect of purchases by those broker-dealers. In addition, although the rule permits certain participants in a distribution of securities that are traded in the over-the-counter market to continue market-making activity in those securities until ten business days before the commencement of the distribution, it has been argued that the length of the "cooling-off" period has resulted in a significant decrease in liquidity in the market for those securities and adversely affected the pricing of the

[1] Securities Exchange Act Release No. 5194 (July 5, 1955). *See also* Securities Exchange Act Release Nos. 5260 (May 18, 1955) (publishing proposals for comment), and 5190 (April 18, 1955) (publishing revised proposals for comment).

[2] *See, e.g.*, Securities Exchange Act Release Nos. 3505 and 3926 (November 16, 1943).

offered securities.[3] In this regard, the National Association of Securities Dealers ("NASD") has submitted a letter, dated November 19, 1981, discussing this problem and related concerns under the rule, and has suggested revisions to the rule.[4]

The application of Rule 10b–6 has also raised special concerns in the context of Rule 415 under the Securities Act of 1933 ("Securities Act") which now permits, on a temporary basis, additional kinds of "shelf" offerings by issuers.[5] Among the issues raised are the manner in which the term "distribution" should be interpreted in the context of these kinds of offerings, and the applicability of the rule generally to persons who participate in such offerings. The Commission solicited comment on these and other market-related issues in the two releases proposing Rule 415, then denominated as Rule 462A, for comment.[6]

In light of all of these concerns, the Commission has re-examined Rule 10b–6 and is publishing for comment comprehensive amendments to the rule. These proposals not only would codify existing staff interpretations of the rule, but also would significantly relax the prohibitions of the rule generally in a manner that the Commission believes should continue to preserve the integrity of the marketplace. If the proposals are adopted, the rule would permit underwriters and prospective underwriters to continue purchasing activity until three business days before commencement of any offers or sales in a distribution. The rule would not distinguish between distributions of securities traded in the over-the-counter market and those traded on an exchange. In addition, the rule would permit issuers and certain related persons to make purchases of the issuer's stock that is the subject of a distribution until three business days before commencement of any offers or sales in the distribution. The amendments also would clarify the applicability of the rule to persons who participate in "shelf" offerings under new Rule 415.

The Commission also is proposing to define the term "distribution" for purposes of the rule. The definition would codify the principles established through administrative and judicial decisions, and would provide that sales of securities that are made in compliance with the volume and manner of sale limitations of Rule 144 (§ 230.144) under the Securities Act will not constitute distributions for purposes of Rule 10b–6.

The discussion concerning the proposed amendments to Rule 10b–6 is divided into three parts. The first discusses the proposed definition of the term "distribution" for purposes of the rule, including the Commission's views on the manner in which that term would be interpreted in the context of shelf offerings under Rule 415. The second part discusses the relaxation of the rule's prohibitions generally by amendment to Exception (xi) and proposed Exception (xii) which would be available to issuers and other persons. A specific discussion has been included concerning the operation of these exceptions in an offering conducted under Rule 415. The third part of the discussion details the proposed amendments to exceptions (ii), (iii), (iv) and (vii) of the rule (and certain conforming changes to Rule 10a–1 (§ 240.10a–1) under the Act and Rule 10b–8), proposed new exceptions that relate to purchases of certain debt securities, the status of "overallotment" options for purposes of the rule, and the proposed amendment to Rule 10b–8 in connection with standby underwriting arrangements.

I. The Term "Distribution" for Purposes of Rule 10b–6

A. Proposed Definition

Rule 10b–6 does not expressly define the term "distribution." Nevertheless, judicial and administrative cases consistently have held that the primary indicia of a distribution for purposes of the rule are the magnitude of the offering or the types of selling efforts and selling methods utilized by the seller or its agents.[7] While employing these factors to determine the existence of a distribution, the Commission historically has declined to adopt an explicit definition of the term, preferring instead to determine on a case-by-case basis whether a particular transaction or series of transactions constitutes a distribution for purposes of Rule 10b–6.[8] The primary advantage of such an *ad hoc* approach has been the flexibility it provides for the courts and the Commission to apply the rule to a large and continually evolving variety of transactions that may give rise to manipulative potential. On the other hand, this approach has resulted in a lack of certainty for persons engaged in the securities business as to the parameters of the concept of distribution for purposes of the rule.

The Commission has reconsidered its traditional position and is now proposing a definition of the term distribution in order to provide guidance to the investment community concerning the scope of Rule 10b–6.[9] The NASD, in connection with its proposed revisions to various portions of Rule 10b–6, has also suggested a definition of distribution.[10] The Commission shares the NASD's concern that persons potentially subject to the prohibitions of Rule 10b–6 should be provided added assistance in determining whether their activities constitute a distribution within the meaning of the rule. Indeed, substantial benefits may be realized from an added degree of predictability concerning the types of activities that are contemplated by the term.

The Commission's proposed definition would, in broad terms, codify the current case law. The proposed definition distribution for purposes of Rule 10b–6 from ordinary trading transactions and the normal conduct of a securities business by reference to the magnitude of the offering or the presence of special selling efforts or the payment of increased amounts of compensation in connection with the sale of the subject securities.[11] It also would provide that transactions which comply with the volume and manner of sale provisions of Rule 144 under the Securities Act will not be deemed to constitute distributions for purposes of Rule 10b–6.

The NASD's proposal would define the term distribution as any "public offering" of securities, whether or not subject to registration under the Securities Act, provided that the amount of securities to sold exceeds that permitted by paragraph (e) of Rule 144. Furthermore, the NASD, like the Commission, would distinguish a distribution from ordinary selling activities by requiring the presence of selling efforts or compensation, either of which is greater than that normally found in connection with the ordinary trading activities of market professionals.

A "public offering" is a term that under the Securities Act, has a generally accepted meaning.[12] In a "public offering" the securities to be sold must be offered only pursuant to an effective registration statement. The effective date of a registration statement controls the commencement of a public offering under the Securities Act. For purposes of Rule 10b–6, however, the Commission has consistently taken the position that a distribution of securities to be sold pursuant to a public offering under the Securities Act may commence not only before a registration statement with respect to those securities has become effective, but even before such statement has been filed with the Commission. A distribution commences at the point when the incentive to enage in manipulative conduct is first present. Accordingly, with respect to the issuer, a distribution generally is deemed to commence at the time that a determination to go forward with the public offering is made. An underwriter is deemed to be a participant in a distribution from the time it reaches an agreement with the issuer with respect to a future public offering. In addition, the Commission has held that a distribution for purposes of Rule 10b–6 is not limited to a "public offering under the Securities Act."[13] This position recognizes the fact that the potentially manipulative market effects that Rule 10b–6 was designed to prevent may occur in connection with non-public offerings that are distinguishable from ordinary trading transactions.[14] These long-standing interpretations under Rule 10B–6 make it evident that a distribution and a public offering are not synonymous for purposes of the rule.[15]

The Commission also is not inclined to adopt a *per se* volume test in order to determine the existence of a distribution for purposes of Rule 10b–6. Concentrating solely on the magnitude of the offering ignores the fact that the sale of an amount of securities that is within the volume limits of Rule 144 may nevertheless, as a result of the selling methods utilized, give rise to a distribution for purposes of Rule 10b–6.[16] The Commission proposes, however, to codify the staff's view that sales of any securities made in compliance with both the volume limitations [17] and the "manner of sale" provisions [18] of Rule 144 will not be deemed to be a distribution for purposes of the Rule 10b–6.

Pursuant to the "manner of sale" provisions of Rule 144, securities must be sold either in brokerage transactions [19] or in transactions directly with a "market maker" within the meaning of the Act.[20] The purpose of these restrictions is to ensure that sales pursuant to Rule 144 will be made only in routine trading transactions and in a manner expressly designed not to disrupt normal market operations. In order to qualify for the protection from liability that Rule 144 provides, a seller is also prohibited from either soliciting orders from prospective purchasers to buy the securities or making any special compensation arrangements in connection with the sale of such securities.[21] A Rule 10b–6 distribution is often evidenced by extraordinary selling methods and efforts to dispose of the securities that are greater than those normally engaged in by market participants in the day-to-day transaction of their business. In view of the conditions imposed by Rule 144 on both the amount of securities that may be sold and the manner in which such sales are required to take place, the Commission believes that it would be difficult to identify a distribution if all such conditions are satisfied.

Commentators are specifically requested to address the question of whether the proposed definition would meet the perceived need for certainty within the context of Rule 10b–6 or whether it would be preferable to retain the current practice of determining the existence of a distribution for purposes of Rule 10b–6 on a case-by-case basis.

B. Application of the Term "Distribution to Shelf-Registered Offerings

The term "distribution" will have special significance in the context of certain of the offerings now permitted by Rule 415 under the Securities Act. That rule permits the registration of securities that are to be offered and sold on a delayed or continuous basis. Among other things, the rule permits an issuer to sell securities registered on a shelf in a succession of different kinds of offerings. It is designed to facilitate capital formation by granting ready access to the trading market. In the releases proposing Rule 462A for comment,[22] the Commission specifically requested comment on how the term distribution should be interpreted in connection with these offerings.

In the Commission's view, the determination of whether a distribution exists for purposes of Rule 10b–6 in the context of a shelf-registered offering should depend on the same factors that indicate an incentive to manipulate in connection with any offering of securities. Accordingly, the definition of distribution proposed above would have the same application in the context of a shelf-registered offering as in the more traditional forms of distributions. Whether a shelf-registration will constitute a distribution for purposes of Rule 10b–6 will depend on factors that include the number of shares that are to be registered for sale by the issuer and the percentage of the outstanding shares, the public float and the trading volume that those shares represent. If the registrant, when disclosing its proposed plan of distribution, reserves the right to utilize techniques that might entail selling efforts or compensation of the type normally associated with a distribution, the entire shelf-registered offering will be deemed to constitute a single distribution for purposes of Rule 10b–6.[23] Applying this analysis, the Commission believes that many shelf-registered offerings will constitute Rule 10b–6 distributions.[24]

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[3] *See* Section II.A., *infra*.

[4] *See* letter dated November 19, 1981 from Frank J. Wilson, Esq., Executive Vice President, NASD, to Douglas Scarff, Director, Division of Market Regulation ("NASD Letter") which is publicly available in File No. S7–621.

[5] *See* Securities Act Release No. 6383, (March 3, 1982), adopting the integrated disclosure proposals. Rule 415 has been adopted for a period of nine months. In June, 1982, the Commission will hold public hearings on issues raised by Rule 415.

[6] *See* Securities Act Release Nos. 6276 (December 23, 1980), 46 FR 76 (1980); 6334 (August 18, 1981) 46 FR 42001 (1981).

[7] *See, e.g., In the Matter of Bruns, Nordeman & Co.*, 40 SEC 652 (1961). These criteria identify offerings of securities that may present an incentive for participants to engage in manipulative purchasing activities.

[8] *See, e.g., In the Matter of Collins Securities Corp.*, Securities Exchange Act Release No. 11760 (Oct. 23, 1975) *rev'd on other grounds, Collins Securities Corp. v. SEC*, 562 F.2d 320 (D.C. Cir. 1977); *In the Matter of F.S. Johns & Co., Inc.*, 43 SEC 124 (1966); *In the Matter of Theodore A. Landau*, 40 SEC 1119 (1962).

[9] Following its review of any comments received with respect to the proposed definition of distribution, the Commission intends to publish a release, in a question and answer format, addressing specific situations and fact patterns that have caused uncertainty in connection with the scope of a distribution within the meaning of Rule 10b–6.

[10] *See* NASD Letter at 6–7.

[11] Payment of increased compensation gives rise to an incentive on the part of an agent acting for the issuer or selling shareholder to engage in special selling efforts, including the solicitation of customer orders to purchase the securities being sold.

[12] *See, e.g.*, Section 4(2) of the Securities Act and Rules 146, 152 and 155 thereunder.

[13] *See, e.g., In the Matter of J.H. Goddard & Co., Inc.*, Securities Exchange Act Release No. 7018 (June 4, 1965).

[14] *See, e.g., In the Matter of Collins Securities Corp.*, Securities Exchange Act Release No. 11760 (Oct. 23, 1975) at 13–14.

[15] *See id.* at 13.

[16] *See* Securities Act Release Nos. 6079 (Sept. 12, 1979) and 6225 (Feb. 6, 1981) at nn. 7 and 13.

[17] Rule 144(e).

[18] Rule 144(f).

[19] "Brokerage transactions" are described in paragraph (f) of Rule 144.

[20] Section 3(a)(38) of the Act defines "market maker."

[21] Rule 144(f)(1)–(2).

[22] *See* note 6, supra.

[23] The same factors will be employed to determine whether a secondary offering of securities registered on the shelf will give rise to a distribution for purposes of Rule 10b–6. For purposes of a Rule 10b–6 distribution, a secondary offering made pursuant to Rule 415 will be treated in the same way as a primary shelf-registered offering.

[24] The commentators that addressed the question of the interpretation of the term "distribution" in the context of shelf-registered offerings suggested that issuers and market professionals should be viewed

Continued

For purposes of shelf-registered offerings, an issuer should be deemed to be engaged in a distribution of its securities from the time it determines to proceed with a shelf-registration of equity securities that meets the criteria of a distribution.[35] The Commission agrees with certain of the commentators on proposed Rule 462A, however, that issuers should not be subject to the strict prohibitions of Rule 10b–6 throughout the life of the shelf. Accordingly, as discussed more fully elsewhere in this release,[36] the Commission is proposing a new exception, analogous to the current Exception (xi), that would reduce the impact of the rule's strict prohibitions on issuers.

A broker-dealer that has a continuing agreement with the registrant to sell the securities registered on a shelf will be deemed to have commenced its participation at the time it reaches such an agreement. Since the arrangement in connection with a shelf-registered offering may last for a substantial length of time, the Commission is also proposing an amendment to Exception (xi) of the rule [37] to permit such broker-dealers to effect bids for or purchases of the securities that are the subject of the distribution until three business days before the commencement of any sale. The rule as revised will continue to apply to other broker-dealers who participate from time to time in the registrant's distribution in much the same way that it does currently. When a broker-dealer accepts an invitation to participate in the sale of securities that are registered on the shelf, the rule's prohibitions would not apply until the later of that time or three business days before commencement of any sales.

II. General Relaxation of Trading Restrictions

A. Exception (xi)

Exception (xi) currently permits underwriters, prospective underwriters and dealers who are participants in a distribution of securities to bid for or purchase the security which is the subject of the distribution until ten business days prior to the proposed commencement of such distribution (or five business days in the case of unsolicited purchases) provided that such bids and purchases are made otherwise than on a securities exchange. At the time of its adoption, this exception was designed to address the special liquidity problems caused by the operation of Rule 10b–6 in markets for unlisted over-the-counter securities during distributions of those securities.[38] When issuers whose securities are traded in the over-the-counter market decide to raise capital by engaging in a public offering of their securities, they typically select broker-dealers that make a market in their securities to act as underwriters. These market makers ordinarily constitute the principal market for the security, are knowledgeable about the security and generally are aware of the extent of investor interest in the security. Without the relief afforded by Exception (xi), however, each of these market makers would generally be prohibited from making a market in the security from the time it decided to accept an invitation to participate in the distribution. As a result, since this time often is far in advance of the actual commencement of selling efforts, the depth and liquidity of the market for the securities could be significantly reduced, which in turn might adversely affect the pricing of the issue.

In view of these significant concerns, the Commission believed at the time Rule 10b–6 was adopted that Exception (xi), in conjunction with the other exceptions to the rule, including Exception (viii), which permits stabilization not in violation of Rule 10b–7, constituted a suitable compromise between the Rule 10b–6 policy that distributions should be carried out free of the influence of any bids and purchases by participants and the need to preserve liquidity in the markets for unlisted over-the-counter securities that are the subject of distributions. At that time, ten business days was believed to be the time needed to ensure the elimination of participant influence.

Since the adoption of Rule 10b–6 in 1955, the securities markets have undergone significant change. In view of these changes and on the basis of the Commission's experience in administering the rule, the Commission now believes that Rule 10b–6 generally and Exception (xi) specifically may be more restrictive than necessary to accomplish the rule's purpose.

The application of Rule 10b–6 has also raised special concerns in the context of new Rule 415 that permits new kinds of "shelf" offerings by issuers and others.[39] Under Rule 10b–6, broker-dealers that have continuing agreements with the issuer to sell from time to time securities that are registered on the shelf would be deemed to be participants from the time they enter into such agreements until the earlier of the termination of the agreement or the completion of the sales which are covered by the agreement.[40] Such broker-dealers would therefore be subject to the prohibitions of Rule 10b–6 for a substantial period of time, and possibly, far in advance of their participation in any sales of the securities registered on the shelf. The restrictions on these broker-dealers for extended periods of time would have an adverse impact on liquidity in the markets for the securities that are the subject of the distribution. In addition, if broker-dealers were so strictly limited, issuers would not be able to take advantage of favorable market conditions in the manner envisioned by new Rule 415 in both the exchange and over-the-counter markets. In response to these problems, several commentators on the releases proposing Rule 462A for comment suggested that Rule 10b–6 be amended to address the problems of broker-dealers who had a continuing agreement with the issuer. Since the problems that are encountered under Rule 10b–6 by broker-dealers that participate in distributions involving a shelf offering are analogous to the problems that are perceived to exist with respect to Exception (xi), the Commission believes that these problems should be addressed at the same time.

In addition, the NASD recently proposed that the Commission replace current Exception (xi) with two new exceptions to Rule 10b–6.[41] The first would permit participants to make a market in the security that is the subject of a distribution until two business days before the commencement of the distribution and would permit such participants to make unsolicited purchases until the commencement of

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as being engaged in a series of distributions rather than a single distribution. The underlying concern appeared to be that if the Commission took the single distribution position, it would significantly interfere with purchasing activity in the issuer's securities by participants in the distribution during periods when no sales were being made off the shelf. The commentators agreed with the Commission, however, that under either approach, a short cooling-off period would be appropriate between market purchases and sales off the shelf. This is the approach the Commission has taken in the proposed amendment to Exception (xi) and in proposed Exception (xii). *See* Section II., *infra.*

[35] *See* Section I.A., *supra.*

[36] *See* Section II.B., *supra.*

[37] *See* Section II.A., *supra.*

[38] The provisions of Rule 10b–6 do not give rise to similar liquidity problems in markets for exchange-traded securities. In the exchange markets, specialists continue to maintain markets in securities that become the subject of distributions for purposes of Rule 10b–6 even after the broker-dealers participating in the distributions are required to cease bidding for and purchasing the subject securities.

[39] *See* text & nn. 5–6, *supra.*

[40] *See* Section I.B., *supra.*

[41] *See* NASD Letter at 2–3.

the offering. The other exception would permit participants who are registered as market makers with the inter-dealer quotation system in which they propose to make stabilizing bids and purchases to engage in market-making during the two business days prior to the commencement of a firm commitment offering at a price not in excess of the highest independent bid for such security displayed in that system on the third business day prior to the commencement of the offering.

The Commission is proposing that current Exception (xi) be amended generally to reduce the ten business day cooling-off period to three business days for solicited purchases and to permit unsolicited purchases until the commencement of sales.[42] As amended, Exception (xi) no longer would distinguish between bids and purchases made on an exchange and those made in the over-the-counter market. It would permit bids and purchase of a security in distribution until three business days before the commencement of sales of the security both in the context of shelf-registered distributions contemplated by Rule 415 and in the context of traditional kinds of distributions. These proposed amendments, detailed below, are designed to accommodate the changes in the market that have taken place since the adoption of Rule 10b–6, and to facilitate the use of new techniques for distributing securities.

For several reasons, the Commission is not proposing to amend Rule 10b–6 at this time to permit limited market-making activity during the three day cooling-off period as suggested by the NASD. First, although the use of pre-effective stabilization has not developed in the past, the Commission believes that where the cooling-off period is as short as three days many of the problems previously encountered by syndicate managers contemplating pre-effective stabilization will be remedied.[43] In addition, to the extent that pre-effective stabilization generally becomes more feasible, it will become more practicable for members of syndicates in the over-the-counter market to make multiple stabilizing bids and purchases as permitted by Rule 10b–7(e), provided that the bids and purchases are made on behalf of the syndicate account as required by Rule 10b–7(e). Moreover, the Commission is concerned that to go beyond what is currently permissible under Rule 10b–7 during the very short cooling-off period being proposed today might result in uncoordinated stabilizing by members of the underwriting syndicate for their own account. Such activity might ultimately cause disruption in the capital markets and in fact compromise the independence of the market as a pricing mechanism. Commentators, however, are invited to address this point specifically.

1. *Three day cooling-off period.* The Commission is proposing to amend Exception (xi) to permit underwriters, prospective underwriters or dealers to make bids or purchases of the security being distributed (and the other securities covered by the rule) up until three business days before the commencement of an offering, and to eliminate the current distinction between exchange and over-the-counter transactions for purposes of Exception (xi). Although Exception (xi) was originally prompted by a need to assure continued liquidity in the over-the-counter markets to the extent consistent with the rule's purposes, the Commission believes that the ten day cooling-off period that it imposes is unnecessarily long. In view of the speed with which information is disseminated in today's market place, the Commission believes that a three day cooling-off period, at least with respect to certain securities, generally should be sufficient to dissipate the market impact of a participating broker-dealer's purchases prior to the commencement of sales. Although this amendment would appreciably reduce the cooling-off period, the Commission does not believe that the amendment should sacrifice the integrity of the markets. Together with the general antifraud and anti-manipulative provisions of the federal securities laws, particularly section 9(a)(2) and section 10(b) and Rule 10b–5 thereunder, Rule 10b–6 should continue to provide sufficient investor protection. The Commission has some concern, however, that the potential for manipulative abuse may be greater in the context of distributions of securities conducted on behalf of issuers that are required to use new Form S–1 under the Securities Act of 1933 which the Commission has adopted as part of its integrated disclosure system.[44] The market for these securities may be less stable relative to the markets for securities of issuers that are qualified to use Forms S–2, or S–3. In addition, issuers required to use Form S–1 will not have extensive reporting histories and there will be less publicly-available information concerning such issuers. For these reasons, the Commission solicits comment on whether it would be appropriate to provide for a longer cooling-off period in Exception (xi) in the context of distributions of certain securities, such as securities of an issuer qualified only to use Form S–1, or whether it would be appropriate to consider other criteria in determining the appropriate length of the cooling-off period such as the depth and liquidity of the market for the subject security.

The Commission also is reconsidering whether Exception (xi) should continue to be available solely for over-the-counter transactions. Although such a limitation would be consistent with the original limited purpose of the exception, Rule 415 will permit shelf-registered distributions in both the exchange and over-the-counter markets. As a result, a broker-dealer that has a continuing agreement with an issuer relating to such an offering may be a participant in a distribution, for purposes of Rule 10b–6, for extensive periods of time, irrespective of whether the security in distribution is traded over-the-counter or on an exchange. Because of the quality of available information regarding exchange-traded securities, including last sale information, there appears to be no reason in this context to continue to distinguish participants' purchasing transactions on the basis of whether they are effected in the over-the-counter market market or on an exchange. Moreover, since the only distinction between delayed offerings of securities made pursuant to Rule 415 and other more conventional registered offerings is the fact of shelf-registration and not the distribution mechanisms that will be used. Accordingly, the Commission is proposing to amend Exception (xi) to make it available in all distributions.[45]

2. *Broker-dealers.* If Exception (xi) is amended as proposed, it will permit broker-dealers to bid for or purchase a security in distribution until the later of three business days before the commencement of sales or such other time as they become participants. A broker-dealer that has a continuing

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[42] The Commission does not believe that unsolicited purchases by participants as principal prior to the commencement of sales generally present the potential for manipulative abuse to which Rule 10b–6 is addressed.

[43] Pre-effective stabilization has not developed in the past, at least in part, because an underwriting syndicate often was not established ten days before an offering was due to commence. In addition, even if the syndicate were formed at that time stabilizing for ten days would involve placing a significant amount of capital at risk. Moreover, uncertainty may exist ten days before the proposed commencement of an offering as to whether the offering will go forward at all.

[44] *See* note 6, *supra.*

[45] Offerings made pursuant to Rule 415 may be effected through a variety of distribution mechanisms, including fixed priced underwritings, best efforts offerings and, if the issuer qualifies for the use of Form S–3, through brokerage transactions.

agreement with an issuer regarding a shelf distribution would be required to be out of the market three full business days prior to the commencement of any sales of that security in which it participates. Other broker-dealers that participate in sales off the shelf on a more limited basis would be required to be out of the market from the later of three business days before the commencement of sales or the time they agree to participate in sales.[36] The Commission believes that the implementation of this proposed amendment would strike an appropriate balance between the Commission's interest in protecting investors and its interest in permitting issuers to proceed with Rule 415 offerings on a temporary basis.

In order to facilitate the participation of broker-dealers in shelf distributions by issuers, and to reduce the perceived liquidity problems in the over-the-counter market, the staff will not recommend that the Commission take enforcement action under Rule 10b–6 if broker-dealers participating in distributions subject to Rule 10b–6 that are conducted on behalf of issuers or other persons where the issuer is qualified to use new Forms S–2 or S–3 under the Securities Act, conform their trading activity to the proposed amendments from and after the date of this release until the Commission takes final action on these proposals.[37] For the reasons discussed earlier in this release,[38] the staff does not believe that it would be appropriate to extend this interim no-action position in the context of distributions of securities of issuers that are qualified only to use Form S–1.

B. Proposed Exception (xii)

Underlying Rule 10b–6 has been the policy that it is inappropriate for issuers or other persons on whose behalf the distribution is being made ("selling shareholders"), and affiliates of issuers, to purchase the securities of the issuer at times when the securities are the subject of a distribution. These persons may have the incentive to bid up the price of these securities in order to facilitate their sales. Thus, issuers, selling shareholders and their affiliates have been prohibited from bidding for and purchasing such securities from the time they determine to go forward with an offering of their securities which constitutes a distribution until the distribution is completed.

The Commission believes that these prohibitions may be overly restrictive, and is proposing to relax the rule as it applies to issuers and selling shareholders, and to limit coverage of the rule to affiliated purchasers of issuers and selling shareholders, as defined in new paragraph (c)(6) of the rule. An affiliated purchaser would be defined as a person acting in concert with the issuer or other person for the purpose of acquiring the issuer's securities, or an affiliate who, directly or indirectly, controls the issuer's or other person's purchases of such securities, whose purchases are controlled by the issuer or such other person or whose purchases are under common control with those of the issuer or such other person. This definition is a modified form of the term "affiliated purchaser" contained in proposed Rule 13e–2 under the Act.[39] This amendment reflects the view that purchases by affiliates who are acting in concert with the issuer or who control the issuer's purchasing determinations may present more potential for manipulative activity than purchases by other affiliates.

The proposed exception, to be denominated Exception (xii), would permit issuers, selling shareholders or their affiliated purchasers to bid for or purchase the security that is the subject of the distribution and certain related securities [40] until three business days prior to any sales of the securities. Within the three day cooling-off period and thereafter until the completion of the distribution, Rule 10b–6 would prohibit solicited and unsolicited bids for our purchases of the security in distribution and related securities by issuers, selling shareholders and their affiliated purchasers.

Issuers, selling shareholders and their affiliated purchasers may, however, have a special interest in facilitating distributions of their securities. The Commission solicits comment on whether it would be appropriate to distinguish between purchasers and bids made by these persons and those made by broker-dealers and, if so, whether it would be appropriate to impose additional conditions on purchases by these persons, such as imposing a cooling-off period that is longer than three business days.

Because of the special problems that might otherwise arise for issuers engaged in shelf-offerings pursuant to Rule 415, the staff will not recommend that the Commission take enforcement action under Rule 10b–6 if issuers, selling shareholders and their affiliated purchasers rely on proposed Exception (xii) in connection with their purchasing activity in the context of a distribution involving a shelf-registered offering, from and after the effective date of Rule 415 until the Commission takes final action on these proposals, provided that the issuer is qualified to use Forms S–2 or S–3 under the Securities Act.[41] Since this is a major departure from the present application of Rule 10b–6 in this area, however, the staff will not take this interim no-action position with respect to bids or purchases by these persons during a distribution of securities not effected pursuant to Rule 415.

C. Issuer Repurchases During Distributions Resulting From Mergers

Proposed Exception (xii) is intended to address the issue of repurchases by issuers during distributions, at least in the context of public offerings. Issuer repurchases during distributions pursuant to mergers and other acquisitions, however, may raise different concerns.

The issuance of securities pursuant to a merger in many cases constitutes a distribution for purposes of Rule 10b–6. If the merger does constitute a distribution, it has been deemed to commence at least from the time the issuer reaches an agreement in principle with respect to the merger. Accordingly, subsequent to that time, an issuer may not purchase shares of the security being distributed in connection with the merger (and the other securities covered by Rule 10b–6) unless specifically exempted from or excepted by Rule 10b–6. Under such circumstances, the staff routinely has granted exemptions to permit issuers and their affiliates to purchase shares of the security being distributed in the merger until the earlier of thirty days prior to the shareholder vote on the merger or five business days prior to the mailing of the proxy materials in connection with the merger. In addition, if there are periods during which the market price of the offered security will be a factor in determining the consideration to be paid pursuant to the merger ("valuation period"), the exemption has required the issuer to cease bidding for and purchasing the security five business days prior to and for the duration of any such period.

In light of the new proposed Exception (xii), and the rationale underlying it, the Commission believes that it may be appropriate to reduce the five business day cooling-off period to three business days before the mailing of proxy solicitation materials and prior to valuation periods. The Commission believes that it may be appropriate to codify these positions regarding issuer repurchases during merger distributions if Exception (xii) is adopted in order to eliminate the *ad hoc* exemptive process. During the pendency of these proposals, however, the Commission will continue to grant exemptions on a case-by-case basis to permit purchases during the kinds of distributions discussed above. The Commission solicits comments on the specific proposed changes in the positions concerning issuer repurchases during merger distributions. In addition, the Commission solicits comments on whether an amendment to the rule or an interpretive release discussing the positions outlined above would be more appropriate.

III. Other Amendments to Rule 10b–6

A. Exception (ii)

Exception (ii) to the rule excepts "unsolicited privately negotiated purchases, each involving a substantial amount of such security, effected neither on an exchange nor from or through a broker or dealer." The exception was drafted in response to industry comments made when the rule was under consideration concerning the need to permit the underwriters to purchase, in unsolicited transactions, blocks of securities "overhanging" the market prior to or during a distribution. The provisions of Exception (ii), however, not only permit purchases by underwriters but also allow those purchases to be effected by the issuer, selling shareholders and other participants in a distribution.

Purchases made in reliance on Exception (ii) must not be effected on an exchange. Because exchange last sale tickers afforded publicity to transactions effected on an exchange, it was believed that substantial purchases by persons interested in a distribution could have significant market impact and should not be excepted. Transactions effected in the over-the-counter market or otherwise off an exchange, however, did not raise those concerns since they generally were not publicly disseminated.

In 1972 the Commission adopted Rule 17a–15 [§ 240. 17a–15] under the Act requiring every registered national securities exchange, every national securities association and every broker-dealer not a member of an exchange or association who effected transactions in exchange-traded securities which were not reported by an exchange or association to file with the Commission a plan providing for the collection, processing and dissemination of last sale reports in securities registered or admitted to unlisted trading privileges on an exchange. Rule 17a–15 was subsequently amended and redesignated Rule 11Aa3–1 [§ 240.11Aa3–1]. The joint industry plan filed pursuant to Rule 17a–15 and declared effective by the Commission in May, 1974 requires that all trades in certain exchange-traded securities ("reported securities") wherever effected, be publicly disseminated through the consolidated transaction reporting system ("consolidated system"). Thus, third market trades of reported securities are now included in the consolidated system and are publicized in the same manner as exchange trades. In view of the fact that all transactions in reported securities, whether effected on an exchange or over-the-counter, are now reported in the consolidated system, the staff for some time has interpreted the exception to permit purchases that otherwise qualify under the exception to be effected on an exchange. In its view, the need for the exception has outweighed the potential for manipulative abuse. The Commission is proposing to codify this position. Because of the changes in the reporting system implemented as a result of the implementation of the consolidated system, it is the Commission's belief that the disparate treatment given exchange and over-the-counter transactions that is reflected in Exception (ii) is no longer necessary or justified.

The Commission believes that deleting the requirement that transactions effected in reliance on the exception not be made on an exchange will not increase the opportunity for abuse. Transactions effected in reliance on the exception must be "privately negotiated," and "unsolicited" and not made from or through a broker or dealer.[42] The Commission believes that these requirements are sufficient to preclude the use of Exception (ii) in any systematic scheme to manipulate the price of a security. Accordingly, the Commission proposes to amend Exception (ii) by deleting the requirement that purchases not be effected on an exchange, and by codifying the position that the term "substantial amount," for purposes of the exception, means a block of such security. At such time as final action is taken on these proposals, the Commission intends to codify the staff's position that the term block for purposes

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[36] A determination of the time at which a broker-dealer who is only named in a shelf-registration statement (as opposed to a broker-dealer who has a continuing agreement with the issuer) will be deemed a participant in the issuer's distribution will depend on the facts and circumstances surrounding the broker-dealer's relationship with the issuer and its relationship with other broker-dealers acting on the issuer's behalf. Absent some agreement with the issuer relating to its participation, the Commission does not believe that a broker-dealer should necessarily be deemed to be a participant solely because it is identified in the registration statement as a possible underwriter, particularly if it has not consented to being named. Nevertheless, a broker-dealer that is named as an underwriter in the registration statement would be subject to the three day cooling-off period in connection with any offers and sales in which it acts as underwriter.

One commentator noted that, in the context of all the market offerings contemplated by Rule 415, issuers may decide to sell shares into the exchange markets in normal brokerage transactions effected through its managing underwriter as agent for the issuer. The issuer's managing underwriter may on occasion use a "two-dollar" broker to effect transactions on the exchange. The commentator suggested that the two-dollar broker should not be deemed to be a participant in the distribution by the issuer, as the managing underwriter would be. The Commission believes that a two-dollar broker performing its normal broker functions should not be deemed to be a participant in such distribution absent special arrangements with the issuer or its managing underwriter.

In addition, the Commission reaffirms its position that market professionals who acquire securities directly from the issuer, or from broker-dealers acting for the issuer, for purposes of Rule 10b–6, are not deemed to be involved in a distribution by the issuer if such securities were acquired in the ordinary course of their business and they were not paid any special compensation and had not made any special arrangements with the issuer or its broker. *See* Securities Act Release No. 6334, 46 FR at 43012–3.

[37] This interim no-action position will not, however, be available with respect to the exercise of exchange-traded call options by participants in a distribution of the security underlying such options. As the Commission noted in Securities Exchange Act Release No. 17600 (March 6, 1981), purchases of stock in response to the exercise of exchange-traded options may have significant impact in the market for a security in distribution. Thus, the Commission has taken the position that the exercise of these options is not excepted from Rule 10b–6 under Exception (vii) to the rule and is proposing to codify that position. *See* Section III.D., *infra*. The Commission believes, however, that the prohibitions of Rule 10b–6 should also be amended in this context. Since the market impact occurs after the exercise of the option, it appears that it may be appropriate to subject the exercise of the option to a cooling-off period in excess of three business days. The Commission requests comment on the latest time before commencement of sales in a distribution of the underlying stock that persons subject to Rule 10b–6 should be permitted to exercise exchange-traded call options.

[38] See text and n. 34, *supra*.

[39] *See* Securities Exchange Act Release No. 17222 (October 17, 1980) 45 FR 70690 (1980).

[40] The exception would permit the covered persons to bid for and purchase a security of the same class and series as the security in distribution or any right to purchase such security as provided for in paragraph (a) of Rule 10b–6. In addition, paragraph (b) of Rule 10b–6 provides that when convertibles, warrants or options are the subject of distributions, the securities underlying these securities are also placed in distribution. Proposed Exception (xii) would permit the covered persons to purchase the convertibles, warrants or options and the securities underlying them until three business days before the commencement of sales of these securities.

[41] *See* text and n. 34, *supra*.

[42] The staff interprets the phrase "from or through a broker or dealer" to disqualify a broker or a dealer from participating on the "sell" side of a transaction. However, the exception obviously permits a broker-dealer on the "buy" side of the transaction.

of Exception (ii) has the same meaning as the term block in paragraph (a)(16)(B) of proposed Rule 13e–2 under the Act.[43]

B. Exception (iii)

Exception (iii) to the rule provides that purchases by an issuer that are effected more than forty days after the commencement of a distribution for the purpose of satisfying a sinking fund or similar obligation to which the issuer is subject,[44] are not prohibited by the rule. The exception is available only when the issuer effects purchases to satisfy this sinking fund obligation and does not apply to situations in which purchases of the debt security are made for other purposes.[45] Exception (iii) is intended to permit the issuer to fulfill its obligation to satisfy the mandatory sinking fund provisions of the debt instrument. In addition, because the issuer is obligated to purchase pursuant to the sinking fund provisions, it is highly unlikely that those purchases will be effected for the purpose of manipulating the market for the subject security.

Both the purpose of the exception and its formulation imply that Exception (iii) was intended solely to permit satisfaction of sinking fund obligations that are mandatory. Indeed, that has been the staff's interpretation of the exception. Furthermore, although not currently articulated in the rule, the staff's position has been that, in order for an issuer to avail itself of the provisions of Exception (iii) purchases may be made only to satisfy mandatory sinking fund obligations that become due within 12 months of the date of purchase. When the issuer purchases to satisfy sinking fund obligations that become due in the more distant future, the issuer's obligation may no longer outweigh the manipulative potential of such purchases. Thus, the Commission is proposing an amendment to Exception (iii) that will permit an issuer to effect purchases to satisfy sinking fund obligations that are both mandatory and current.

C. Exception (iv)

The Commission is proposing for public comment certain amendments to Exception (iv) to Rule 10b–6. Exception (iv) currently provides that Rule 10b–6 shall not prohibit "odd-lot transactions (and the offsetting round-lot transactions hereinafter referred to) by a person registered as an odd-lot dealer in such security on a national securities exchange who offsets such odd-lot transactions in such security by round-lot transactions as promptly as possible."

Today, there do not remain any registered odd-lot dealers on the national securities exchanges, and the function formerly performed by such dealers is now performed by exchange specialists and other broker-dealers. Accordingly, the Commission proposes to amend Exception (iv) to Rule 10b–6. As amended, Exception (iv) would continue to except from Rule 10b–6 the function formerly performed by registered odd-lot dealers by excepting all "odd-lot transactions and the round-lot transactions associated therewith by a person who acts in a dealer capacity in effecting odd-lot transactions." This exception would recognize that such odd-lot transactions and the accompanying round-lot transactions do not ordinarily raise manipulative concerns that require the absolute bar of Rule 10b–6. The associated round-lot transactions may precede as well as follow the odd-lot transactions that they offset. For the above reasons, the Commission is also proposing corresponding changes in Rules 10b–8(a)(2) and 10a–1(e)(3)–(4).

D. Exception (vii)

Exception (vii) to the rule provides an exception for "the exercise of any right or conversion privilege to acquire any security." This exception is intended to permit transactions involving the exercise or conversion of an issuer's security where the new security is obtained directly from the issuer. Such transactions do not involve any market impact and are thus not subject to the concerns at which Rule 10b–6 is directed.

Recently, the Commission's staff declined to take a "no-action" position to allow the exercise of exchange-traded call options by participants in a distribution of the underlying securities,[46] since such exercises may have a significant market impact on the underlying security.[47]

This position appears consistent with the purpose of Rule 10b–6 and Exception (vii), which were drafted before the advent of exchange-traded options. Accordingly, the Commission, is proposing to amend Exception (vii) by adding the words "directly from the issuer" at the end of the exception.

E. Overallotment Options

In connection with a firm commitment public offering, the underwriters may create a syndicate short position by selling more than the maximum number of securities they have to distribute, *i.e.*, they will oversell the offering.[48] One of the primary purposes for this practice is to anticipate customer cancellations.[49] In order to cover the syndicate short position, the managing underwriters may negotiate with the issuer to obtain an overallotment option, also known as a Green Shoe option. The option enables the underwriters to require that the issuer sell a specified additional amount of securities which may be used to cover the short position.

Paragraph (c)(3)(B) of Rule 10b–6 specifies the conditions under which an underwriter shall be deemed to have completed its participation in a distribution. The rule provides that an underwriter has completed its participation in distribution when its alloted securities have been distributed and all stabilization arrangements or trading restrictions among underwriters, to which it is a party, have been terminated.[50] It has been the staff's position that, for purposes of the rule, a distribution in connection with a public offering has not been completed until any overallotment option granted in connection with the distribution has been either exercised or cancelled.[51] The rule in its present form does not specifically refer to the effect of an overallotment option on the termination of a distribution of securities. The position is appropriate, however, because securities made available by a seller to an underwriter pursuant to an overallotment option do not constitute a distinct or separate category or class, but are merely additional to the maximum amount of the offered securities and have been sold as such by the underwriter.[52]

Because sales of the securities subject to the overallotment option are made in connection with the distribution of such securities by the underwriter, the underwriter is not deemed to have completed its participation in the distribution until any overallotment option is either exercised or cancelled. The Commission is proposing to codify this requirement in paragraph (c)(3)(B) of the rule.

F. Exception (xiii)

The Commission is proposing for public comment a new exception to Rule 10b–6 that would allow persons subject to the rule to purchase certain investment grade debt securities of an issuer during a distribution of other debt securities of the same class and series of that issuer.

In a no-action letter concerning American Telephone and Telegraph Company ("AT&T") dated February 20, 1975, the staff, with the Commission's concurrence, granted no-action relief to permit the purchase of debt securities of the same class and series as those being distributed if the following conditions were met: (1) the issuer must be subject to the regular reporting requirements of Section 13 or Section 15(d) or the security being purchased must be registered with the Commission pursuant to Section 12(b); (2) the securities being distributed and the securities being purchased must be non-convertible debt securities with fixed interest rates; (3) both the securities being distributed and the securities being purchased must be rated "BBB" or better by Standard and Poor's Corporation and "Baa" or better by Moody's Investor Service, Inc.; and (4) the total outstanding public debt of the issuer must aggregate $100 million or more in face amount.

The Commission is proposing to codify the interpretive position taken in the AT&T letter as new Exception (xiii) to Rule 10b–6, modified to the extent set forth below. This position has been adhered to by the staff since 1975, and is predicated on the belief that it is very difficult, if not impossible, to manipulate the price of investment grade debt. Investment grade debt securities are generally thought to trade in accordance with a concept of relative value, *i.e.*, such securities are to a large degree fungible, so that investors generally evaluate new offerings by looking at comparably rated securities of other issuers. Debt securities that are not of investment grade may pose a greater potential manipulative threat, since those securities tend not to be fungible. Investors are therefore more likely to compare yields of new non-investment grade debt offerings with those of outstanding debt securities of the same issuer.

The Commission is proposing to include as a condition to Exception (xiii) the requirement set forth in the AT&T letter that the issuer be subject to the regular reporting requirements of section 13 or section 15(d) or the security being purchased must be registered with the Commission pursuant to section 12(b). The Commission solicits comment on whether this condition is necessary.

The AT&T letter required that the securities being distributed and the securities being purchased have fixed interest rates. There does not appear to be any basis for excluding from the exception the increasing number of floating rate securities whose interest rates are tied to a benchmark, such as the prime rate or the yield on certain government securities. Accordingly, proposed Exception (xiii) does not contain this condition.

The AT&T letter required that both the securities being distributed and the securities being purchased be rated "BBB" or better by Standard & Poor's Corporation and "Baa" or better by Moody's Investor Service, Inc. In recognition of the fact that other rating organizations have been or may be recognized as "nationally recognized statistical rating organizations" for purposes of Rule 15c3–1(1)(2)(vi)(F) under the Act, relating to the treatment of non-convertible debt securities for net capital purposes, the Commission proposes that this condition be slightly modified to require only that both the debt securities being distributed and those being purchased be rated in one of the four highest rating categories by at least two nationally recognized statistical rating organizations.

The fourth criterion for no-action relief set forth in the AT&T letter—that the outstanding public debt of an issuer must aggregate $100 million or more in face amount—is to some degree inconsistent with the concept that investment grade debt securities trade on the basis of their relative values and financial ratings, but may provide some additional assurance that manipulation of those securities would not be practicable. It appears that the aggregate outstanding public debt requirement does not, however, necessarily achieve the result intended. For example, an issuer may have more than $100 million in outstanding public debt, but less than $1 million outstanding of a particular issue that may be the only one comparable to the security being distributed. Moreover, even a large aggregate amount of outstanding public debt does not ensure the liquidity that makes manipulation difficult, since the debt securities may be held by a very few institutional investors.

Although the Commission is proposing to include the $100 million criterion as a condition to Exception (xiii), comment is solicited on whether this or any other quantity criterion is necessary to achieve the purposes of Rule 10b–6.

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[43] Paragraph (a)(16)(B) of proposed Rule 13e–3 would define the term block as a quantity of stock that either

(i) Has a purchase price of $200,000 or more; or

(ii) Is at least 5,000 shares and has a purchase price of at least $50,000; or

(iii) Is at least 20 round lots of the security and totals 150 percent or more of the trading volume for that security or, in the event that trading volume data are unavailable, is at least 20 round lots of the security and totals at least one-tenth of one percent (.001) of the outstanding shares of the security, exclusive of any shares owned by any affiliate.

See Securities Exchange Act Release No. 17222 (October 17, 1980), 45 FR 70980 (1980).

[44] A sinking fund is a reserve of capital that is set aside on an annual basis out of current earnings, for the purpose of providing funds to retire a given bond issue or debt security, in whole or part, prior to its maturity date. The fund is usually controlled by a trustee and may be composed of cash or securities (generally the bonds or other debt security being retired). Payments to the fund are made periodically by the issuer of the subject security and may be in the form of the bonds or debt securities themselves purchased in the open market or called at a price stated in the instrument or cash deposits. The purpose of having a sinking fund is both to protect the debt instrument and to reduce the amount of the issue outstanding and therefore make it easier to repay the balance at maturity. F. Thompson & R. Norgaard, *Sinking Funds Their Use and Value* (1967).

[45] *See* no-action letter issued to Glen Alden Corporation, Schenley Industries, Inc. (Feb. 17, 1972).

[46] The amendments to Exception (xi) that the Commission is proposing today would permit the exercise of exchange-traded call options by participants in a distribution of the underlying securities until three business days before the commencement of the distribution. *But see* note 37, *supra*.

[47] *See* Securities Exchange Act Release No. 17809 (March 6, 1981). In that release, the Commission recognized that the degree of market impact depended upon the extent to which those who are assigned exercise notices purchase the underlying stock in the open market, rather than deliver portfolio or borrowed securities.

[48] It is the staff's position that overallotment options are appropriate only in a firm commitment offering in which the underwriter purchases the securities from the issuer or other person on whose behalf the offering is made before it commences sales to the public. The underwriter hence is subject to market risk. In a "best efforts" offering, however, the underwriter has no capital at risk, but acts merely as agent for the seller. Under these circumstances, the underwriter receives compensation from the seller on the basis of the amount of securities actually sold.

[49] Another reason for underwriters to overallot is to create buying power to support the market price so as to facilitate the distribution of securities. As early as 1943, the Director of the Commission's Trading and Exchange Division expressed the view that purchases made to cover overallotments may facilitate the distribution of securities.

> * * * A syndicate overallotment is customarily made for the purpose of facilitating the orderly distribution of the offered securities by creating buying power which can be used for the purpose of supporting the market price. Thus, it would appear, in the absence of circumstances indicating the contrary, that purchases made for the purpose of covering the "short position" of the syndicate are effected for the purpose of facilitating the distribution. Securities Exchange Act Release No. 3508 (November 10, 1943).

[50] The purpose of the provision is to permit an underwriter participating in a distribution to determine when it is free from the prohibitions of the rule, allowing it to resume normal operations.

[51] An underwriter with an overallotment option is required to cancel its option prior to purchasing in the open market. If open market purchases are made before the option is exercised, the staff's position is that the option, at that point, has been cancelled. If the underwriter were to exercise the option after making some open market covering purchases (because the market price rises above the option exercise price before the syndicate short position is covered), these market purchases would violate the rule since they had been made before the completion of the distribution (*i.e.*, prior to the cancellation of the option).

[52] Individuals purchasing overallotted securities must receive a prospectus and the shares sold are subject to the underwriting discount.

Commentators are also invited to suggest an appropriate alternative formulation, perhaps one that combines a lower level of aggregate outstanding public debt with additional criteria responding to the concerns expressed herein.

Since some issuers may desire to use Rule 415 to shelf-register offerings of debt securities immediately after that rule becomes effective, the staff will not recommend that the Commission take enforcement action under Rule 10b–6 if issuers and other participants in a distribution of debt securities make purchases of other classes of debt securities if all of the conditions of proposed Exception (xiii) are met.

In the case of debt securities that do not come within the parameters of proposed Exception (xiii), the staff intends to adhere to the position taken in a no-action letter dated January 11, 1974 concerning Gamble-Skogmo, Inc. In that letter, the staff took the position that outstanding debt securities of an issuer that varied by at least one percent in the coupon interest rate and by at least ten years in the maturity date from those of the debt securities being distributed would not be deemed to be of the "same class and series."

Although the *Gamble-Skogmo* no-action position is not being codified, comments are specifically solicited with regard to whether the staff should modify its position in light of the amendments to Rule 10b–6 being proposed and recent changes in the bond markets, including the dramatic increase in interest rates since 1974[65] and the trend to shorter bond terms.

G. Amendment to Rule 10b–8

When it issues a series of redeemable convertible debentures or redeemable convertible preferred stock (collectively, the "Convertibles"), a company may reserve the right to redeem those securities and generally will commit itself to do so, if at all, at a price that represents a slight premium over the face value of the Convertible.[66] Once an issuer determines to redeem a series of convertible securities and a redemption notice has been issued, holders of the Convertible generally have some period of time ("Redemption Period") during which to make their investment decision. During the Redemption Period, as long as the market price of the underlying security remains substantially above the price at which the Convertible may be converted,[67] holder of Convertibles can be expected to convert them into shares of the underlying security, rather than allow them to be redeemed by the issuer.[68]

Should the market price of the underlying security decline significantly during the Redemption Period, however,[69] holders of Convertibles may find it more profitable to permit the issuer to redeem their securities than to convert them.[70] An issuer, therefore, frequently will enter into an agreement with an underwriter pursuant to which the underwriter will agree to make an offer to purchase Convertibles tendered to it by holders ("Standby Offer"), to convert all such securities into common stock,[71] and thereafter to sell the common stock.[72] The underwriter also will agree to purchase from the issuer, and to resell, the common stock underlying any Convertibles that the issuer actually redeems.

In order to reduce its own exposure to market fluctuations, the underwriter may employ a strategy that is designed to minimize the risk that the underwriter will find itself, at the conclusion of the Redemption Period, holding large amounts of the issuer's common stock. Pursuant to this strategy, the underwriter will sell short shares of the common stock. It may purchase Convertibles, either in the market or pursuant to the Standby Offer and convert them into common stock, as it is obligated to do under the terms of its agreement with the issuer. Finally, the underwriter uses that stock to cover its short position or sells it directly pursuant to a Securities Act registration statement.[73] This strategy is analogous to that employed in connection with "Shields Plan" pro rata rights offerings.[74]

The agreement of the underwriter to participate in the offering of the common stock obtained upon conversion of the Convertibles marks the commencement of its participation in a distribution for purposes of Rule 10b–6. Rule 10b–6 prohibits a participant from bidding for or purchasing the security in distribution, any security that is convertible into or exchangeable for that security or any right to purchase any such security (including the security being redeemed), unless the bid or purchase is excepted by or exempted from the rule.[75]

Rule 10b–6(a)(3)(ix) ("Exception ix") permits participants in a distribution of securities offered through rights issued on a pro rata basis to bid for or purchase those rights in compliance with certain conditions set forth in Rule 10b–8 under the Act.[76] Convertibles, although they generally would be deemed to be "rights to purchase" the underlying common stock in the context of a redemption call by an issuer, are not "rights issued on a pro rata basis," purchases of which are specifically addressed by Rule 10b–8 and Exception (ix). An underwriter therefore must request a written exemption from Rule 10b–6 each time a standby agreement is signed in connection with an issuer's redemption of a series of convertible securities. Because purchases of Convertibles and purchases during rights offerings are both made pursuant to the "Shields Plan" strategy described above, the staff since 1973 has routinely granted these exemption requests, subject to the condition that purchases of Convertibles in the market and all sales of common stock are effected in compliance with Rule 10b–8 as if the Convertibles were "rights issued on a pro rata basis to security holders."[77]

Because standby redemptions of Convertibles conducted in compliance with the pertinent provisions of Rule 10b–8 appear to present little potential for manipulative abuse, the Commission proposes to amend Rule 10b–8 so that it applies directly to purchases by underwriters of convertible securities in connection with calls for redemptions of such by the issuers thereof. Such purchases then would be specifically excepted from the scope of Rule 10b–8 pursuant to Exception ix.

IV. Regulatory Flexibility Act Considerations

The Regulatory Flexibility Act, which became effective on January 1, 1981, imposes new procedural steps applicable to agency rulemaking which has a "significantly economic impact on a substantial number of small entities."[78] The Chairman of the Commission has certified pursuant to the Regulatory Flexibility Act that the proposed amendments to Rules 10b–6, 10b–8 and 10a–1, if adopted, will not have a significant economic impact on a substantial number of small entities, or any other entities, because the amendments would alleviate the burdens that the Rules presently impose on issuers and certain broker-dealers, and the amendment to Rule 10b–8 would eliminate a layer of regulation imposed in connection with "redemption standby" transactions. Specifically, the amendments to Rule 10b–8 would increase the time period in which broker-dealers can engage in purchasing activity prior to the commencement of a distribution, and would for the first time permit issuers and certain affiliates to bid for or purchase securities that are the subject of a distribution for a certain period prior to the commencement of the offering. The amendment to Rule 10b–8 would have the effect of exempting from regulation under Rule 10b–6 purchases of certain convertible securities made in compliance with Rule 10b–8.

V. Statutory Basis

The proposed amendments to Rule 10b–8 would be adopted under the Act, 15 U.S.C. 78a *et seq.*, and particularly Sections 2, 3, 9(a)(6), 10(a), 10(b), 13(e), 15(c) and 23(a), 15 U.S.C. 78b, 78c, 78i(a)(6), 78j(a), 78j(b), 78m(e), 78o(c) and 78w(a).

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES AND EXCHANGE ACT OF 1934

On the basis of the above discussion and analysis, the Commission is proposing to amend Part 240 of Chapter II of Title 17 of the Code of Federal Regulations as follows:

Note.—The text of the following proposed amendments uses ► ◄ arrows to indicate additions and [ ] brackets to indicate deletions:

1. By revising § 240.10a–1(e) (3) and (4) as follows:

§240.10a–1 Short sales

* * * * *

(e) * * *

(3) any sale [by an odd-lot dealer on an exchange with which it is registered for such security, or any over-the-counter sale by a third market maker] ►by a person who acts in a dealer capacity in effecting odd-lot transactions◄ to offset odd-lot orders of customers; (4) any sale [by an odd-lot dealer on an exchange with which it is registered for such security, or any over-the-counter sale by a third market maker] ►by a person who acts in a dealer capacity in effecting odd-lot transactions◄ to liquidate a long position which is less than a round-lot, provided such sale does not change the position of such [odd-lot] dealer [or such market maker] by more than one unit of trading;

* * * * *

2. By amending § 240.10b–6 and by revising (a)(2), (3) (ii), (iii), (iv), (vii), and (xi), and (c)(3)(i), and adding (a)(3) (xii), and (xiii), and (c) (5), and (6) as follows:

§ 240.10b–6 Prohibitions against trading by persons interested in a distribution.

(a) * * *

(2) who is the issuer or other person on whose behalf such a distribution is being made, or ►who is an affiliated purchaser, as that term is defined in paragraph (c)(6) of this Rule, of such issuer or other person, or◄

(3) * * *

(ii) unsolicited privately negotiated purchases, each involving [a substantial amount of such security,] ►at least a block of such security◄ [effected neither on a securities exchange nor] ►that are not effected◄ from or through a broker or dealer; or

(iii) purchases by an issuer effected more than forty days after the commencement of the distribution for the purpose of satisfying a sinking fund or similar obligation to which it is subject ►which becomes due as of a date that does not exceed twelve months from the date of purchase;◄

(iv) odd-lot transactions [() and the [offsetting] round-lot transactions [hereinafter referred to)] ►associated therewith◄ by a person [registered as an odd-lot dealer in such security on a national securities exchange who offsets such odd-lot transactions in such security by round-lot transactions as promptly as possible] ►who acts in a dealer capacity in effecting all-lot transactions;◄

* * * * *

(vii) the exercise of any right or conversion privilege to acquire any security ► directly from the issuer; or◄

* * * * *

(xi) [purchases or bids] ►bids or purchases◄ by an underwriter, prospective underwriter or dealer [otherwise than on a securities exchange, 10 or more business days prior to the proposed commencement of such distribution [or 5 or more business days in the case of unsolicited purchases] ►made prior to the later of (A) 3 business days before the commencement of offers or sales of the securities to be distributed [or the day such offers or sales commence in the case of unsolicited bids or purchases] or (B) such other time as those persons become participants in the distribution,◄ if none of such bids or purchases is for the purpose of creating actual, or apparent, active trading in or raising the price of such security [.] ►;◄ [In the case of securities offered pursuant to an effective registration statement under the Securities Act of 1933 the distribution shall not be deemed to commence for purposes of this clause (a)(3)(xi) of this section prior to the effective date of the registration statement.]

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[65] For example, a 2% difference in coupon rates when prevailing interest rates are 15% may be less significant to an investor comparing two debt securities in making an investment decision than a 1% difference was thought to be when prevailing interest rates were 6%.

[66] The redemption price of a Convertible is specified in the indenture or other similar document under which the Convertible was issued. The redemption price of a convertible debenture is stated as a percentage of the face value of the security, while that of convertible preferred stock generally is stated as a specified dollar amount.

[67] When the market price of the common stock equals or exceeds the conversion price, the Convertible is said to be "in-the-money."

[68] For this reason, redemptions under such circumstances are frequently referred to as "forced conversions" or "forced calls."

[69] The Redemption Period is usually approximately 30 days.

[70] The risk that large amount of Convertibles will be redeemed by holders increases as the spread between the market price and the Conversion Price narrows and is especially great during periods when market conditions are volatile.

[71] Although Convertibles are most often convertible into the issuer's common stock, they also may on occasion be exchangeable for shares of preferred stock. *See, e.g., Lehman Brothers Kuhn Loeb, Inc.* (November 25, 1980).

[72] Although the underwriter's transactions would generally be subject to the short swing trading restrictions of Section 16 under the Act, Rule 16b–2(a)(1) excepts transactions by a person who is "engaged in the business of distributing securities and is participating in good faith, in the ordinary course of such business, in the distribution * * *" 17 CFR § 240.16b–2(a)(1).

[73] In addition, the underwriter may engage in stabilizing transactions with respect to the issuer's common stock, which must be conducted in compliance with Rule 10b–7 under the Act.

[74] Shields Plans were developed for use in connection with rights offerings conducted in compliance with Rules 10b–8 under the Act.

[75] Section 240.10b–6(a)(3). Convertibles are deemed by the staff to constitute a "right to purchase" the underlying security for purposes of Rule 10b–6 when it is economically beneficial for the holder of the Convertible to convert it, *i.e.*, when the Convertible would likely be used as a means of obtaining the underlying security. That situation arises whenever the relative prices of the Convertible and the underlying security are such that there is a reasonable expectation that significant amounts of Convertibles will be converted. Such conversions may act to facilitate the distribution of the underlying security.

[76] Section 240.10b–8(d) (A) through (G).

[77] Market purchases made pursuant to the Standby Offer to holders of Convertibles, other than stabilizing purchases, must be aggregated for the purpose of determining whether paragraphs (d)(A)–(G) of Rule 10b–8 apply to market purchases. Paragraphs (d)(A)–(G) of Rule 10b–8 impose conditions under which bids for or purchases of rights may be made and apply whenever the price of the underlying security is being stabilized or the underwriter has a long position in the underlying security. The restrictions contained in those paragraphs, however, apply only to market purchases of Convertibles.

[78] Although section 601(b) of the Regulatory Flexibility Act defines the term "small entity," the statute permits agencies to formulate their own definitions. The Commission has adopted definitions of the term small entity for purposes of Commission rulemaking in accordance with the Regulatory Flexibility Act. Those definitions, as relevant to this proposed rule-making, are set forth in Rule 0–10, 17 CFR 240.0–10. *See* Securities Exchange Act Release No. 34–18452 (January 28, 1982). An issuer is a "small business" or "small organization" under Rule 0–10 if the issuer, on the last business day of its most recent fiscal year, had total assets of $3,000,000 or less. A broker or dealer generally is a "small business" or "small organization" if it had total capital of less than $500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to § 240.17a–5(d). *See* Rule 0–10(c).

►(xii) bids or purchases by an issuer or other person on whose behalf the distribution is being made, or by any affiliated purchaser [as defined in paragraph (c)(6) of this section] of such issuer or other person if such bids or purchases are made no later than 3 business days before the commencement of any offers or sales of the securities to be distributed, if none of such bids or purchases is for the purpose of creating actual, or apparent, active trading in or raising the price of such security;

(xiii) transactions in debt securities that are not convertible into another security, *provided, however,* that (A) either the issuer of such securities is subject to the regular reporting requirements of Section 13 or section 15(d) of the Act or the securities are registered pursuant to section 12(b) of the Act; (B) both the securities being distributed and the securities to be purchased are rated in one of the four highest rating categories by at least two nationally recognized statistical rating organizations; and (C) all of the outstanding public debt of the issuer amounts in the aggregate to at least $100 million in face amount.◄

* * * * *

(c) * * *

(3) * * *

(i) an underwriter, when he has distributed his participation, including all other securities of the same class acquired in connection with the distribution, and any stabilization arrangements and trading restrictions with respect to such distribution to which he is a party have been terminated; ►*provided, however,* that an underwriter will not be deemed to have completed his participation until any option obtained in connection with that distribution pursuant to which he may purchase from the issuer an additional amount of the securities has been exercised or cancelled◄

* * * * *

►(5) For purposes of this section only, the term "distribution" means an offering of securities, whether or not subject to registration under the Securities Act of 1933, which is distinguished from ordinary trading transactions by the magnitude of the offering or the presence of either special selling efforts and selling methods or the payment of compensation greater than that normally paid in connection with ordinary trading transactions; *provided, however,* that the sale of securities will not constitute a distribution for purposes of this section if the sale has been made in compliance with both the volume limitations and the manner of sale provisions contained in paragraphs (e) and (f) of Rule 144 under the Securities Act of 1933.

(6) The term "affiliated purchaser" means (i) A person acting in concert with the issuer or other person for the purpose of acquiring the issuer's securities, or (ii) An affiliate who, directly or indirectly, controls the issuer's or other person's purchases of such securities, whose purchases are controlled by the issuer or such other person or whose purchases are under common control with those of the issuer or such other person.◄

* * * * *

3. By amending § 240.10b–8 by revising (c)(2) and adding a new sentence at the end of the introductory text of paragraph (d) as follows:

§ 240.10b–8. Distributions through rights.

* * * * *

(c)(2) odd-lot transactions [(] and the [off-setting] round-lot transactions [hereinafter referred to)] ►associated therewith◄ by a person [registered as an odd-lot dealer in such security on a national securities exchange who off-sets such odd-lot transactions in such security by round-lot transactions as promptly as possible] ►who acts in a dealer capacity in effecting odd-lot transactions;◄

* * * * *

(d) * * * ►Any conditions imposed upon bids for or purchases of rights in paragraphs (d)(1)—(7) of this section shall also apply to bids for or purchases of convertible securities effected pursuant to a standby underwriting agreement with the issuer in connection with a call for redemption of such securities.◄

* * * * *

VI. Solicitation of Comments

All interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should submit six copies thereof to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, not later than April 30, 1982. Reference should be made to File No. S7–921. All submissions will be made available for public inspection at the Commission's Public Reference Section, Room 6101, 1100 L Street N.W., Washington, D.C.

By the Commission.

Dated: March 3, 1982.

George A. Fitzsimmons,

Secretary.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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